

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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HONORABLE EDWARD RAFEEDIE, JUDGE PRESIDING

- - -

UNITED STATES OF AMERICA,)
)
 PLAINTIFF,)
)
 VS.) NO. CR 87-422(F)-ER
)
 RUBEN ZUNO-ARCE, ET AL.,)
)
 DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
LOS ANGELES, CALIFORNIA
MONDAY, MARCH 19, 1990

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APPEARANCES:

FOR PLAINTIFF:

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MANUEL A. MEDRANO
ASSISTANT UNITED STATES ATTORNEY
JOHN L. CARLTON
ASSISTANT UNITED STATES ATTORNEY
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LOS ANGELES, CALIFORNIA 90012

FOR ZUNO-ARCE:

MITCHELL, SILBERBERG & KNUPP
BY: EDWARD M. MEDVENE, ESQ.
JAMES E. BLANCARTE, ESQ.
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DOLORES MARTIN

I N D E X

PROCEEDINGS

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DEFENDANT'S MOTION FOR A SUPPLEMENTAL
KASTIGAR HEARING

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THE COURT'S RULING

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WITNESS

DIRECT

CROSS

REDIRECT

RECROSS

HECTOR BERRELLEZ

BY MR. MEDRANO

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BY MR. MEDVENE

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BY MR. MEDRANO

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MANUEL A. MEDRANO

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BY MR. MEDVENE

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BY MR. CARLTON

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LOS ANGELES, CALIFORNIA, MONDAY, MARCH 19, 1990, 4:30 P.M.

1 THE CLERK: ITEM NO. 14, CRIMINAL 87-422(F),
2 UNITED STATES OF AMERICA VERSUS RUBEN ZUNO-ARCE.

3 COUNSEL, PLEASE STATE YOUR NAMES FOR THE RECORD.

4 MR. MEDRANO: GOOD AFTERNOON, YOUR HONOR. FOR
5 THE UNITED STATES MANUEL MEDRANO AND JOHN CARLTON.

6 MR. MEDVENE: IF THE COURT PLEASE, MESSRS.
7 BLANCARTE, DI NICOLA, AND MEDVENE FOR ZUNO-ARCE.

8 MR. ZUNO-ARCE IS PRESENT.

9 THE COURT: ALL RIGHT. NOW, THIS HEARING IS
10 CONVENED FOR THE PURPOSE OF HEARING THE DEFENDANT'S MOTION
11 FOR A SUPPLEMENTAL KASTIGAR HEARING, WHICH WE DISCUSSED
12 THE LAST TIME. THE COURT HAD HELD AN EARLIER KASTIGAR
13 HEARING TO DETERMINE WHETHER THE FIFTH SUPERSEDING
14 INDICTMENT WAS TAINTED BY THE DEFENDANT'S IMMUNIZED
15 TESTIMONY. THE COURT DETERMINED AT THAT TIME THAT THE
16 GOVERNMENT HAD SHOWN BY A PREPONDERANCE OF THE EVIDENCE
17 THAT THE FIFTH SUPERSEDING INDICTMENT WAS NOT TAINTED.

18 THE SIXTH SUPERSEDING INDICTMENT WAS RETURNED
19 AFTER THAT, ON JANUARY 31, AND IT CONTAINS AN ADDITIONAL
20 ALLEGATION. COUNTS 3 AND 6 INCLUDE AN ALLEGATION OF AN
21 ADDITIONAL OVERT ACT, WHICH STATES: "IN OR ABOUT OCTOBER
22 1984 THE DEFENDANT" -- AND IT LISTS A NUMBER OF DEFENDANTS
23 HERE INCLUDING MR. ZUNO-ARCE, AND IT ALLEGES THAT HE MET
24 WITH THESE PEOPLE AT A RESIDENCE OF THE DEFENDANT JAVIER
25 BARBA-HERNANDEZ IN GUADALAJARA, JALISCO, MEXICO, AND

1 DISCUSSED THE KIDNAPPING OF SPECIAL AGENT ENRIQUE
2 CAMARENA-SALAZAR.

3 THE DEFENDANT HAS ASKED FOR A HEARING TO
4 DETERMINE WHETHER THIS ADDITIONAL ALLEGATION IN THE SIXTH
5 SUPERSEDING INDICTMENT WAS TAINTED BY THE DEFENDANT'S
6 IMMUNIZED TESTIMONY BEFORE AN EARLIER AND DIFFERENT GRAND
7 JURY.

8 ISN'T THAT BASICALLY WHAT YOU ARE SEEKING,
9 COUNSEL?

10 MR. MEDVENE: YES, BASICALLY.

11 THE COURT: ALL RIGHT. SO AT THIS HEARING IT IS
12 THE GOVERNMENT WHICH MUST PUT FORTH EVIDENCE, SUBJECT TO
13 CROSS-EXAMINATION, DEMONSTRATING BY A PREPONDERANCE OF THE
14 EVIDENCE THAT THE SIXTH SUPERSEDING INDICTMENT WAS BASED
15 SOLELY ON PRIOR OBTAINED OR INDEPENDENT EVIDENCE FROM
16 DEFENDANT'S IMMUNIZED TESTIMONY.

17 THAT IS THE REASON WE ARE HERE.

18 MR. MEDRANO: THANK YOU, YOUR HONOR.

19 THE COURT: ARE YOU READY TO PROCEED?

20 MR. MEDRANO: I AM READY TO PROCEED AT THIS
21 TIME, YOUR HONOR. BEFORE I CALL AGENT BERRELLEZ TO THE
22 STAND, MAY I MAKE JUST AN INITIAL PROFFER IN TERMS OF THE
23 ADOPTION OF MR. BERRELLEZ'S EARLIER TESTIMONY SO THAT WE
24 DON'T HAVE TO REINVENT THE WHEEL IN THAT REGARD, YOUR
25 HONOR?

1 THE COURT: YES.

2 MR. MEDRANO: JUST PRELIMINARILY, THOUGH, LET ME
3 SAY, YOUR HONOR, THAT I HAVE HAD A CHANCE TO REVIEW A COPY
4 OF A TRANSCRIPT FROM OUR LAST COURT APPEARANCE WHEN YOU
5 ESTABLISHED THAT A KASTIGAR HEARING WOULD BE HELD, AND
6 MR. MEDVENE WAS KIND ENOUGH TO PROVIDE ME WITH A COPY OF
7 THAT TRANSCRIPT. YOUR HONOR, I NEED TO APOLOGIZE BECAUSE
8 I WAS CLEARLY CONFUSED WHEN I WAS STATING THE GOVERNMENT'S
9 POSITION TO THE COURT, AND I WOULD LIKE TO UNEQUIVOCALLY
10 BE VERY CLEAR AT THIS POINT, IF I MAY.

11 THE BOTTOM LINE IS, YOUR HONOR, THE INFORMATION
12 THAT IS THE BASIS FOR THAT ADDITIONAL OVERT ACT THAT YOU
13 HAVE JUST DESCRIBED CAME TO THE GOVERNMENT'S -- THE
14 GOVERNMENT BECAME AWARE OF THAT INFORMATION ON OR ABOUT
15 JANUARY 11TH OR 12TH OF 1990, AND THIS IS AFTER THE FIFTH
16 SUPERSEDING INDICTMENT HAD ISSUED.

17 AND THEN THE SIXTH SUPERSEDING INDICTMENT WAS
18 RETURNED IN THIS CASE BY A FEDERAL GRAND JURY ON
19 JANUARY 31, 1990.

20 PRELIMINARILY, IN ADDITION, YOUR HONOR, LET ME
21 JUST SUMMARIZE AGENT BERRELLEZ'S TESTIMONY ON JANUARY 29TH
22 AND 30TH, AND THAT WAY I CAN JUST GO DIRECT INTO THE
23 ADDITIONAL DIRECT EXAMINATION THAT WE NEED TO ELICIT IF
24 THE COURT ALLOWS ME TO DO THAT.

25 THE COURT: WELL, WHAT YOU ARE PROPOSING HERE IS

1 TO STIPULATE THAT IF THAT WITNESS WERE ASKED THE SAME
2 QUESTIONS HE WAS ASKED AT THE LAST HEARING AND CROSS-
3 EXAMINED IN THE SAME WAY, HIS ANSWERS WOULD BE THE SAME?

4 MR. MEDRANO: THAT IS CORRECT, YOUR HONOR.

5 THE COURT: AND THAT THE COURT SHOULD ADOPT THE
6 TESTIMONY THAT HE HAS PREVIOUSLY GIVEN?

7 MR. MEDRANO: ON JANUARY 29, YOUR HONOR, THAT IS
8 CORRECT.

9 THE COURT: AND YOU WOULD THEN CALL HIM TO
10 SUPPLEMENT THAT TESTIMONY WITH RESPECT TO THESE NEW AND
11 ADDITIONAL CLAIMS?

12 MR. MEDRANO: THAT IS OUR INTENT, YOUR HONOR.

13 THE COURT: DO YOU HAVE ANY OBJECTION TO THAT?

14 MR. MEDVENE: YES, WE WOULD, YOUR HONOR. WE
15 WOULD PRELIMINARILY SAY THAT FROM THE STATEMENTS
16 MR. MEDRANO MADE TO THE COURT LAST WEEK THAT HE IS CLEARLY
17 GOING TO BE A WITNESS ALONG WITH, AS FAR AS I CAN READ THE
18 TRANSCRIPT, MR. CARLTON AT THIS HEARING.

19 THE COURT: HE IS GOING TO BE A WITNESS, ISN'T
20 HE?

21 MR. MEDRANO: AT THIS POINT, YOUR HONOR, THE
22 PROSECUTION DID NOT FEEL IT WAS NECESSARY FOR EITHER OF US
23 TO TESTIFY. WE FELT THAT AGENT BERRELLEZ'S ADDITIONAL --

24 THE COURT: YOUR ASSERTIONS ARE NOT ENOUGH. YOU
25 HAVE TO TESTIFY.

1 MR. MEDRANO: VERY WELL, YOUR HONOR. I CAN
2 TESTIFY, AND MR. CARLTON CAN DO THE DIRECT EXAMINATION AS
3 TO MYSELF.

4 MR. MEDVENE: YOUR HONOR, WE WOULD RESPECTFULLY
5 ASK THAT MR. CARLTON, MR. MEDRANO, AND MR. BERRELLEZ NOT
6 BE PERMITTED TO DISCUSS THEIR TESTIMONY WITH THE WITNESSES
7 AND THAT SOMEONE ELSE FROM THEIR OFFICE QUESTION EACH OF
8 THEM.

9 WHAT WE HAVE HERE, YOUR HONOR, IS A STATEMENT
10 FROM MR. MEDRANO, AND I TAKE IT AS UNDER OATH IF ONE IS
11 TALKING TO THE COURT, THAT HE HAD THIS EVIDENCE IN
12 NOVEMBER, AND AS A TACTICAL MATTER HE DIDN'T PUT IT BEFORE
13 THE GRAND JURY. HE SAYS IT CLEARLY, AND THEN HE SAYS
14 LATER ON, WHEN PUSHED, THAT HE GOT THE EVIDENCE IN --

15 THE COURT: DO YOU HAVE A COPY OF THIS
16 TRANSCRIPT?

17 MR. MEDVENE: YES, YOUR HONOR.

18 THE COURT: WOULD YOU SHARE IT WITH THE COURT?

19 MR. MEDVENE: YES, SIR. I BELIEVE IT WAS FILED.
20 I AM NOT POSITIVE. I AM LOOKING FIRST AT PAGE 6, YOUR
21 HONOR.

22 THE COURT: PAGE 6?

23 MR. MEDVENE: YES, SIR. THIS IS THE TRANSCRIPT.
24 PAGE 6 OF THE TRANSCRIPT, AT LINE 12, MR. MEDRANO SAYS:

25 "THE BOTTOM LINE IS THIS, YOUR HONOR. WE

1 HAD THE INFORMATION AT THE TIME OF THE FIFTH
2 SUPERSEDING INDICTMENT. WE SIMPLY DID NOT THROW
3 IT IN FRONT OF THE GRAND JURY UNTIL AFTER THE
4 FIFTH SUPERSEDING INDICTMENT. SO THE
5 INDEPENDENT BASIS IS IDENTICAL. IT REMAINS THE
6 SAME. THERE ARE NO NEW FACTS, NO CURVE BALLS OF
7 ANY SORT. IT WAS SIMPLY A FUNCTION OF
8 PROSECUTORIAL DISCRETION AS TO WHEN WE WANTED TO
9 THROW IN THAT ADDITIONAL OVERT ACT, OF WHICH
10 MR. MEDVENE NOW COMPLAINS."

11 THEN AFTER SOME COLLOQUY AND GETTING PUSHED A
12 BIT, WE HAVE MR. MEDRANO SAYING, AT PAGE 8, LINE 15:

13 "IT WAS LEARNED, MY RECOLLECTION IS, A FEW
14 DAYS BEFORE JANUARY 17."

15 THAT IS COMPLETELY CONTRADICTORY, YOUR HONOR, TO
16 WHAT HE PREVIOUSLY SAID.

17 "IT WAS LEARNED, MY RECOLLECTION IS, A FEW
18 DAYS BEFORE JANUARY 17 WHEN MYSELF AND MY CO-
19 COUNSEL, MR. CARLTON, CONTINUED TO DEBRIEF AND
20 INTERVIEW THE WITNESS, AND AT THAT MEETING HE
21 ALSO REFERENCED THE OCTOBER 1984 MEETING. THEN
22 WHEN WE HAD THAT INFORMATION, THAT IS WHEN WE
23 PRESENTED IT TO THE GRAND JURY THROUGH C.I. 2 ON
24 JANUARY 17."

25 NOW MR. MEDRANO APPARENTLY SAYS THAT THE

1 GOVERNMENT GOT THE INFORMATION ON JANUARY 11TH OR 12TH,
2 AND WE THINK, YOUR HONOR, THAT HE SAID THREE DIFFERENT
3 THINGS.

4 HE HAS PUT HIMSELF AND MR. CARLTON AS THE
5 OBTAINERS OF THIS. I REPRESENT TO YOUR HONOR THAT TO THE
6 BEST OF MY RECOLLECTION MR. MEDRANO WAS IN FRONT OF THE
7 GRAND JURY WHEN MR. ZUNO-ARCE TESTIFIED. I CANNOT BELIEVE
8 THAT MR. CARLTON ALSO WAS NOT FAMILIAR WITH THAT GRAND
9 JURY TESTIMONY, BUT WE KNOW MR. MEDRANO IS, AND HE SAYS BY
10 HIS OWN STATEMENT THE SECOND TIME AROUND THAT HE AND
11 CARLTON CONTINUED TO DEBRIEF AND INTERVIEW THE WITNESS,
12 AND AT THAT TIME IS WHEN THEY GOT THE MEETING.

13 NOW, IN THE GRAND JURY TESTIMONY WE HAVE THE
14 PAGES FLAGGED, AND THERE IS EXTENSIVE QUESTIONING ABOUT
15 IBARRA. THERE IS SOME QUESTIONING ON ALDANA, EXTENSIVE
16 QUESTIONING ON IBARRA ON A PARTICULAR PHONE CONVERSATION.
17 THEY HAD THAT INFORMATION --

18 THE COURT: YOU MEAN QUESTIONING OF MR. ZUNO?

19 MR. MEDVENE: YES, SIR, AND I HAVE THE PAGES
20 REFERENCED THAT I WENT THROUGH ON THE GRAND JURY, AND THEN
21 WE HAVE MR. MEDRANO ADMITTING THAT HE AND CARLTON THEN IN
22 THE INTERROGATION GET INFORMATION ABOUT A MEETING IN
23 OCTOBER WITH IBARRA AND ALDANA.

24 THE COURT: ALL RIGHT. WHAT IS THE POINT?

25 MR. MEDVENE: THE POINT IS THAT WE ASK THAT THE

1 WITNESSES NOT BE PERMITTED TO SPEAK WITH ONE ANOTHER, THAT
2 MR. MEDRANO AND CARLTON ARE WITNESSES BECAUSE THEY
3 INDICATE THE INTERROGATION OF THIS WITNESS TO GET THE
4 TESTIMONY; THAT THEY NOT DISCUSS WITH EACH OTHER THE
5 TESTIMONY; THAT THEY NOT DISCUSS WITH MR. BERRELLEZ THE
6 TESTIMONY, AND THAT THEY BRING SOMEBODY DOWN HERE WHO IS
7 GOING TO QUESTION THE WITNESSES OR PERMIT US TO QUESTION
8 THEM. IT IS UNFAIR BECAUSE MR. CARLTON AND MR. MEDRANO
9 ARE WITNESSES, YOUR HONOR.

10 THE COURT: WHAT?

11 MR. MEDVENE: THEY ARE CLEARLY WITNESSES FROM
12 THE PORTION WE READ TO YOU OF MR. MEDRANO'S TESTIMONY.

13 THE COURT: WELL, I THINK THIS NEEDS TO BE
14 CLARIFIED. YOU APPEAR TO HAVE SAID TWO DIFFERENT THINGS.

15 MR. MEDRANO: AND THAT CAN BE CLARIFIED RIGHT
16 NOW, YOUR HONOR. IF I MAY BE ALLOWED TO PROCEED. ALL OF
17 THIS IS READILY EXPLAINABLE, AND AS MR. MEDVENE ACCURATELY
18 NOTES, THERE ARE CONFLICTING STATEMENTS BY ME, AND I CAN
19 EXPLAIN THAT AND I'D BE HAPPY TO DO SO.

20 THE COURT: WELL, I THINK YOU SHOULD DO THAT AS
21 A WITNESS.

22 MR. MEDRANO: YES, SIR, AND I AM PREPARED TO DO
23 THAT, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 MR. MEDRANO: IN ADDITION, JUST A COUPLE OF

1 THINGS. IT IS PREPOSTEROUS TO SUGGEST THAT WITNESSES
2 CANNOT MEET AND CONFER. NORMAL CIVILIAN OR AGENCY
3 WITNESSES CANNOT BE DIRECTED ACCORDINGLY, AND THERE IS NO
4 BASIS FOR EVEN SUGGESTING THAT THE GOVERNMENT CANNOT
5 DISCUSS THIS ISSUE AMONGST ITSELF.

6 IN ADDITION, YOUR HONOR, I'D LIKE TO POINT OUT
7 THAT FOR MR. ZUNO'S GRAND JURY TESTIMONY THE AUSA'S THAT
8 WERE PRESENT WERE MYSELF AND JIMMY GURULE, WHO HAS SINCE
9 LEFT GOVERNMENT SERVICE. MR. CARLTON WAS NOT PRESENT. I
10 AM READILY AVAILABLE FOR EXAMINATION, AND IT IS ONLY
11 APPROPRIATE THAT MR. CARLTON ASK THE QUESTIONS.

12 THIS IS MERELY A SMOKE SCREEN AND A DILATORY
13 TACTIC.

14 THE COURT: IT IS YOUR BURDEN TO PROCEED HERE,
15 AND YOU MAY CALL ANY WITNESS YOU WISH, INCLUDING YOURSELF.

16 MR. MEDRANO: VERY WELL, YOUR HONOR. THEN
17 BEFORE I CALL MR. BERRELLEZ -- I WILL PUT HIM ON AND THEN
18 I WILL TESTIFY, YOUR HONOR.

19 WHAT WOULD YOU LIKE ME TO DO IN TERMS OF
20 SUMMARIZING MR. BERRELLEZ'S TESTIMONY FROM JANUARY 29TH
21 AND 30TH? IT TOOK ABOUT 30 MINUTES. WE ARE PREPARED
22 TO --

23 THE COURT: I DON'T SEE ANY REASON TO REPEAT IT
24 SINCE I HAVE HEARD IT BEFORE. IF YOU WISH TO EXAMINE HIM
25 ON ANY SUBJECT THAT RELATES TO WHAT IS BEFORE US NOW, YOU

1 MAY. I HEARD THAT TESTIMONY BEFORE, AND IT RELATED TO THE
2 OTHER INDICTMENT, AND I FOUND ON THE BASIS OF THAT
3 TESTIMONY AND EVIDENCE PRESENTED TO THE COURT IN CAMERA
4 THAT THE GOVERNMENT HAD SHOWN THAT THEY HAD NOT PROFFERED
5 IT FROM MR. ZUNO'S TESTIMONY. THIS IS A NEW MATTER.

6 MR. MEDRANO: VERY WELL, YOUR HONOR.

7 THE COURT: AND I AM NOT GOING TO REOPEN THE
8 OTHER MATTER BECAUSE I HAVE RESERVED IT UNTIL TRIAL. THIS
9 RELATES NOW TO THE ISSUES RAISED BY THIS LATEST
10 SUPPLEMENTAL KASTIGAR MOTION, WHICH DEALS WITH THE
11 ALLEGATION CONTAINED IN THE SIXTH SUPERSEDING INDICTMENT.

12 MR. MEDRANO: VERY WELL, YOUR HONOR. WE ARE
13 READY TO PROCEED.

14 THE COURT: YOU HAVE TO DEMONSTRATE TO THE COURT
15 THAT YOU DID NOT BENEFIT IN ANY WAY FROM THE TESTIMONY
16 GIVEN BY MR. ZUNO IN FRONT OF THE GRAND JURY.

17 MR. MEDRANO: VERY WELL. MAY I CALL AGENT
18 BERRELLEZ TO THE STAND?

19 THE COURT: YES.

20 MR. MEDVENE: IF THE COURT PLEASE, WE
21 RESPECTFULLY MADE A MOTION THAT, IN EFFECT, MR. MEDRANO
22 NOT CONDUCT THIS HEARING. HIS CREDIBILITY IS IN ISSUE
23 FROM THE STATEMENTS MADE BEFORE YOUR HONOR, AND HE IS A
24 WITNESS AT THIS TRIAL. WE THINK IT IS INAPPROPRIATE. WE
25 THINK YOUR HONOR -- I DON'T KNOW IF YOUR HONOR DOES, BUT

1 COURTS OFTEN SEQUESTER WITNESSES OR AT LEAST NOT PERMIT
2 ONE TO HEAR WHAT THE OTHER IS GOING TO SAY. WE ARE
3 TALKING ABOUT A MINIMUM INCONVENIENCE HERE.

4 WE HAVE A WITNESS WHO IS TAKING THE STAND WHO
5 THE LAST TIME, IF YOU REMEMBER, ON THE FIRST DAY HE
6 TESTIFIED SWORE UNDER OATH THAT HE FIRST MET THIS PERSON
7 ON A PARTICULAR DATE -- NOVEMBER 30, I BELIEVE. HE CAME
8 BACK THE NEXT DAY AND THEN SWORE THAT THAT WASN'T THE
9 RIGHT DATE. HE HAD ANOTHER DATE. HE HAD A NEW DATE, NEW
10 THINGS THAT TOOK PLACE.

11 WE THINK THE WITNESS SHOULD SAY WHATEVER HE IS
12 GOING TO SAY, AND WE THINK THERE SHOULD BE PEOPLE
13 CONDUCTING THE EXAMINATION WHO AREN'T GOING TO BE
14 INTERROGATED, AND MR. MEDRANO AND MR. CARLTON ARE TO BE
15 INTERROGATED.

16 THE COURT: MAKE YOUR POINT, COUNSEL, AND DON'T
17 HAVE THIS ENDLESS ARGUMENT. THAT MOTION IS DENIED.

18 YOU MAY PROCEED. SWEAR THIS WITNESS.

19 HECTOR BERRELLEZ, PLAINTIFF'S WITNESS, SWORN

20 THE CLERK: PLEASE BE SEATED.

21 PLEASE STATE YOUR FULL NAME FOR THE RECORD AND
22 SPELL YOUR LAST NAME.

23 THE WITNESS: HECTOR, H-E-C-T-O-R. MY LAST NAME
24 IS BERRELLEZ, B-E-R-R-E-L-L-E-Z.

25 / / /

DIRECT EXAMINATION

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BY MR. MEDRANO:

Q AGENT BERRELLEZ, ARE YOU THE GROUP SUPERVISOR FOR THE OPERATION LEYENDA OF THE DRUG ENFORCEMENT ADMINISTRATION?

A YES, SIR, I AM.

Q NOW, ARE YOU AWARE OF THE DATES, AGENT BERRELLEZ, IN WHICH DEFENDANT ZUNO GAVE HIS IMMUNIZED GRAND JURY TESTIMONY?

A YES, SIR, I AM.

Q WHAT ARE THOSE DATES?

A I BELIEVE IT WAS IN AUGUST OF '89.

Q DOES AUGUST 24 AND AUGUST 31 OF 1989 RING A BELL?

A YES, THEY DO.

Q SINCE THAT DATE AND TO THE PRESENT, AGENT BERRELLEZ, HAVE YOU EVER REVIEWED THOSE IMMUNIZED GRAND JURY TRANSCRIPTS OF DEFENDANT ZUNO?

A NO, SIR, I HAVE NEVER SEEN THEM.

THE COURT: JUST A MOMENT. THE QUESTION WAS WHETHER HE HAD REVIEWED THE GRAND JURY TRANSCRIPTS OF THIS DEFENDANT'S TESTIMONY?

MR. MEDRANO: YES, SIR.

THE COURT: I TAKE IT THAT HE WAS NOT PRESENT AT THE PROCEEDINGS?

MR. MEDRANO: THAT IS CORRECT.

THE COURT: IS THAT RIGHT?

1 THE WITNESS: THAT IS RIGHT, YOUR HONOR.

2 Q BY MR. MEDRANO: AND SINCE THEN YOU HAVE NEVER EVEN
3 REVIEWED THE TRANSCRIPTS. IS THAT CORRECT?

4 A I HAVE NEVER SEEN THEM, SIR.

5 Q AND HAVE YOU EVER DISCUSSED THE CONTENTS OF THAT
6 TESTIMONY WITH C.I. 2?

7 A NEVER, SIR.

8 Q AGENT BERRELLEZ, LET ME DIRECT YOUR ATTENTION TO
9 JANUARY OF 1990, SIR. IN THAT MONTH DID YOU HAVE AN
10 OPPORTUNITY TO MEET WITH C.I. 2 AGAIN?

11 A YES, SIR, I DID.

12 THE COURT: WHAT WAS THE DATE?

13 MR. MEDRANO: JANUARY OF 1990, YOUR HONOR.

14 THE WITNESS: TO BE SPECIFIC, ON JANUARY 11,
15 1990, SIR.

16 Q BY MR. MEDRANO: AND WHERE DID THIS MEETING TAKE
17 PLACE?

18 A THE MEETING TOOK PLACE AT A DOWNTOWN LOS ANGELES
19 HOTEL.

20 Q AGENT BERRELLEZ, ARE YOU FAMILIAR WITH OVERT ACT 1 OF
21 COUNTS 3 AND 6 OF THE SIXTH SUPERSEDING INDICTMENT THAT
22 REFERENCES A MEETING IN OCTOBER OF --

23 A YES, SIR, I AM.

24 Q WHEN YOU MET WITH C.I. 2 ON JANUARY 11, 1990, DID
25 C.I. 2 DISCUSS THAT OCTOBER 1984 MEETING WITH YOU?

1 A YES, SIR, HE DID.

2 Q WAS THIS THE FIRST TIME YOU HAD EVER DISCUSSED THAT
3 MEETING WITH C.I. 2?

4 A THAT IS THE FIRST TIME I HAD EVER HEARD THAT A
5 MEETING TOOK PLACE IN OCTOBER OF 1984, SIR.

6 Q AFTER LEARNING THIS INFORMATION FROM C.I. 2, DID YOU
7 CONTACT ANYONE FROM THE U.S. ATTORNEY'S OFFICE?

8 A YES, SIR. I CONTACTED YOU AND BRIEFED YOU OVER THE
9 TELEPHONE AS TO THE SPECIFICS OF THIS MEETING WHICH TOOK
10 PLACE IN OCTOBER, SIR.

11 Q AND DID I MAKE ANY REQUEST OF YOU ON JANUARY 11,
12 1990?

13 A YES, SIR. YOU TOLD ME TO BRING C.I. 2 TO YOUR OFFICE
14 THE FOLLOWING DAY, JANUARY 12.

15 Q DID THAT HAPPEN, AGENT BERRELLEZ?

16 A YES, SIR, IT DID.

17 Q DID YOU BRING C.I. 2 TO MY OFFICE?

18 A YES, SIR, I DID.

19 Q WAS ANY OTHER AUSA PRESENT AT THAT INTERVIEW?

20 A YOURSELF AND AUSA JOHN CARLTON.

21 Q AND AT THAT TIME DID C.I. 2 REITERATE THE FACTS
22 SUPPORTING THE OCTOBER 1984 OVERT ACT?

23 MR. MEDVENE: OBJECTION. LEADING AND
24 SUGGESTIVE.

25 THE COURT: RESTATE YOUR QUESTION.

1 MR. MEDRANO: CERTAINLY.

2 Q VERY BRIEFLY, AGENT BERRELLEZ, WHAT WAS COMMUNICATED
3 TO AUSA CARLTON AND MEDRANO ON JANUARY 12TH?

4 A HE BRIEFED YOU IN DETAIL ON A MEETING WHICH TOOK
5 PLACE IN OCTOBER 1984 WHERE THE KIDNAP/MURDER OF SPECIAL
6 AGENT CAMARENA WAS ORCHESTRATED.

7 Q TO YOUR KNOWLEDGE, SIR, WHEN DID C.I. 2 GO TO THE
8 FEDERAL GRAND JURY?

9 A I BELIEVE HE WENT BEFORE THE FEDERAL GRAND JURY ON
10 JANUARY 17, 1990.

11 Q AND TO YOUR KNOWLEDGE, WHEN WAS THE SIXTH SUPERSEDING
12 INDICTMENT IN THIS CASE RETURNED?

13 A I BELIEVE IT WAS RETURNED ON JANUARY 31, 1990.

14 Q WAS ONE OF THE NEW DEFENDANTS NAMED IN THAT LAST
15 INDICTMENT A MAN BY THE NAME OF MANUEL IBARRA-HERRERA?

16 A YES, SIR, HE WAS.

17 Q WAS ANOTHER NEW DEFENDANT A MAN BY THE NAME OF MIGUEL
18 ALDANA-IBARRA?

19 A YES, SIR, AND OTHERS.

20 Q CAN YOU TELL THIS COURT, TO YOUR KNOWLEDGE, HOW LONG
21 THOSE TWO INDIVIDUALS HAVE BEEN SUSPECTS IN THE CAMARENA
22 MURDER INVESTIGATION?

23 A THOSE TWO PERSONS HAVE BEEN SUSPECTS IN THE MURDER OF
24 SPECIAL AGENT CAMARENA OR BEING INVOLVED -- SUSPECTED OF
25 HAVING BEEN INVOLVED SINCE 1985, SIR.

1 Q AND TO THIS DAY, AGENT BERRELLEZ, YOU HAVE NEVER
2 REVIEWED THE IMMUNIZED TESTIMONY OF MR. ZUNO?

3 A SIR, I HAVE NEVER SEEN IT.

4 Q YOU HAVE NEVER DISCUSSED THE CONTENTS OF THAT
5 TESTIMONY WITH C.I. 2?

6 A NO, SIR, I HAVEN'T.

7 Q TO YOUR KNOWLEDGE HAS ANY OTHER AGENT OF THE DEA
8 DISCUSSED THE CONTENTS OF THE IMMUNIZED GRAND JURY
9 TESTIMONY WITH C.I. 2?

10 A NO, SIR.

11 MR. MEDRANO: MAY I HAVE ONE MOMENT, YOUR HONOR?

12 (DISCUSSION OFF THE RECORD.)

13 MR. MEDRANO: THAT CONCLUDES THE SUPPLEMENTAL
14 DIRECT, YOUR HONOR. THANK YOU.

15 THE COURT: YOU MAY CROSS-EXAMINE THE WITNESS.

16 CROSS EXAMINATION

17 BY MR. MEDVENE:

18 Q WHEN YOU FIRST MET WITH C.I. 2, AGENT, IN NOVEMBER,
19 WAS THAT NOVEMBER 23 OF '89?

20 A IT WAS BEFORE THANKSGIVING, YES, SIR.

21 Q AND DID YOU ASK HIM AT THAT TIME WHAT HE KNEW OF
22 ZUNO-ARCE'S INVOLVEMENT IN THE CAMARENA KIDNAPPING?

23 A YES, SIR, I DID.

24 Q AND YOU TOLD HIM IN SUBSTANCE AND EFFECT THAT YOU
25 WANTED TO KNOW EVERYTHING HE KNEW. IS THAT CORRECT?

1 A I DIDN'T TELL HIM ANYTHING. HE TOLD ME, SIR.

2 Q BUT YOU ASKED HIM FOR WHAT HE KNEW. IS THAT CORRECT?

3 A WHAT HE KNEW -- ANYTHING AND EVERYTHING THAT HE KNEW
4 OF ANYBODY THAT HAD BEEN INVOLVED IN THE CAMARENA MURDER.
5 THAT IS WHAT I ASKED HIM, SIR.

6 Q OKAY. AND YOU THEN HAD A DIALOGUE WITH HIM WHERE HE
7 GAVE YOU INFORMATION; YOU ASKED HIM QUESTIONS AND HE GAVE
8 YOU INFORMATION? IT WENT LIKE THAT FOR A PERIOD OF TIME.
9 IS THAT CORRECT?

10 A DEFINITELY.

11 Q AND WAS AGENT SALAZAR WITH YOU?

12 A I DON'T RECALL IF HE WAS WITH ME ON THAT DATE OR NOT.

13 Q AND YOU THEN DID A -- AND WAS IT ON THAT DATE THAT HE
14 DISCUSSED ZUNO-ARCE WITH YOU?

15 A YES, SIR, HE DID.

16 Q AND HE TOLD YOU ZUNO-ARCE WAS AT THE FEBRUARY 1985
17 MEETING?

18 A YES, SIR, HE DID.

19 Q AND DID HE TELL YOU HE WAS AT THE OCTOBER 1984
20 MEETING?

21 A NO, HE DID NOT, SIR.

22 Q NOW, AFTER THAT MEETING, WHICH LASTED
23 APPROXIMATELY -- HOW LONG? -- A COUPLE OF HOURS?

24 A APPROXIMATELY.

25 Q DID YOU THEN TAKE HIM AND MEET WITH HIM AND

1 MR. MEDRANO?

2 A I BELIEVE WE DID, YES, SIR.

3 Q THE NEXT DAY?

4 A COULD HAVE BEEN.

5 Q AND WAS MR. SALAZAR THERE, OR WAS IT JUST YOU,
6 YOURSELF?

7 A AT THE OFFICE OF MR. MEDRANO?

8 Q YES, SIR.

9 A I BELIEVE I WAS THERE BY MYSELF WITH MR. MEDRANO AND
10 MR. CARLTON.

11 Q PRIOR TO THE MEETING WITH MR. MEDRANO AND
12 MR. CARLTON, DID YOU MEET AGAIN WITH C.I. 2 AFTER YOUR
13 FIRST MEETING WITH HIM?

14 A DID I MEET WITH HIM AGAIN?

15 Q YES, SIR. BETWEEN YOUR FIRST MEETING AND THE MEETING
16 WITH MR. MEDRANO AND MR. CARLTON?

17 A I DON'T RECALL.

18 Q AT THE MEETING WITH MR. CARLTON AND MR. MEDRANO, YOU
19 ASKED C.I. 2 TO GO OVER THE INFORMATION HE HAD ON ZUNO-
20 ARCE AND ANY INVOLVEMENT HE MIGHT HAVE HAD IN THE CAMARENA
21 SITUATION. IS THAT CORRECT?

22 A WHAT MEETING ARE YOU REFERRING TO, SIR?

23 Q THE FIRST MEETING THAT I UNDERSTOOD YOU HAD WITH
24 MR. MEDRANO AND MR. CARLTON, WHICH I TAKE IT, WAS
25 APPROXIMATELY JANUARY 23 OR 24, SIR.

1 A YES, SIR.

2 Q THAT IS THE MEETING I AM REFERRING TO, SIR.

3 A OKAY.

4 THE COURT: YOU ARE NOT REFERRING TO A MEETING
5 HE HAD WITH THEM AFTER THAT THANKSGIVING MEETING?

6 MR. MEDVENE: NO, SIR. I BELIEVE HE TESTIFIED
7 THE SECOND TIME THAT HE FIRST MET WITH HIM BEFORE
8 THANKSGIVING.

9 THE COURT: YES. AND THEN HE TOOK HIM TO SEE
10 COUNSEL.

11 MR. MEDVENE: YES, SIR. THAT WAS THE NEXT DAY,
12 I BELIEVE, THAT WAS PRIOR TO THANKSGIVING.

13 THE COURT: WE ARE PAST THAT NOW. IS THAT IT?

14 THE WITNESS: I AM COMPLETELY CONFUSED, YOUR
15 HONOR.

16 MR. MEDVENE: IF I MIGHT TRY TO CLARIFY IT.

17 THE COURT: GO AHEAD.

18 Q BY MR. MEDVENE: THE FIRST TIME YOU MET C.I. 2 WAS
19 APPROXIMATELY WHAT DATE?

20 A THE FIRST TIME I MET HIM WAS A COUPLE OF DAYS BEFORE
21 THANKSGIVING, I BELIEVE, OR A DAY OR TWO BEFORE
22 THANKSGIVING.

23 Q AND YOU TOLD US THAT AT THAT MEETING THERE WAS A
24 QUESTION AND ANSWER SESSION ABOUT WHAT HE KNEW ABOUT ZUNO-
25 ARCE AND THE CAMARENA SITUATION?

1 A RIGHT.

2 Q AND NOW, THE NEXT DAY, YOU TOOK HIM AND YOU MET WITH
3 MR. CARLTON, MR. MEDRANO, AND C.I. 2. IS THAT CORRECT?

4 A I DON'T REMEMBER IF IT WAS RIGHT THE NEXT DAY, BUT I
5 REMEMBER TAKING HIM SOMETIME AFTER THAT, YES, SIR.

6 Q THAT WAS BEFORE THANKSGIVING OR AFTER THANKSGIVING?

7 A SIR, I TOLD YOU I MET HIM A DAY OR TWO BEFORE
8 THANKSGIVING. SO IT HAD TO BE AFTER THANKSGIVING.

9 Q SO YOU DIDN'T MEET WITH MR. CARLTON AND MR. MEDRANO
10 THE NEXT DAY; IT WAS SEVERAL DAYS LATER THAT C.I. 2 AND
11 YOU AND MR. CARLTON AND MR. MEDRANO MET. IS THAT CORRECT?

12 A TO THE BEST OF MY RECOLLECTION, YES, SIR.

13 Q DID YOU DO A MEMO OF THAT MEETING WITH MR. CARLTON
14 AND MR. MEDRANO?

15 A I DID NOT. I HAD ONE -- AN AGENT THAT WORKS WITH ME
16 WRITE ONE, BUT I DID NOT WRITE ONE.

17 Q HE WAS WITH YOU?

18 A YES, SIR.

19 Q WAS THAT AGENT SALAZAR?

20 A I BELIEVE IT WAS, YES, SIR.

21 Q ALL RIGHT. NOW, BETWEEN THE MEETING YOU TOLD US
22 ABOUT WHEN YOU FIRST MET C.I. 2 AND THE MEETING YOU HAD
23 WITH AGENT SALAZAR, MR. MEDRANO, AND MR. CARLTON, DID YOU
24 HAVE ANY MEETINGS WITH C.I. 2 BETWEEN THOSE TWO DAYS?

25 A ARE YOU TALKING ABOUT BETWEEN THE 23RD AND 30TH, SIR?

1 WHAT MEETING ARE YOU TALKING ABOUT? PLEASE HELP ME. I
2 DON'T UNDERSTAND YOUR QUESTION.

3 Q SIR, THE FIRST MEETING YOU HAD WITH C.I. 2 --

4 THE COURT: JUST A MOMENT. LET ME SEE IF I CAN
5 CLARIFY.

6 YOU SAID YOU MET WITH THIS WITNESS JUST BEFORE
7 THANKSGIVING. RIGHT?

8 THE WITNESS: THAT IS CORRECT, YOUR HONOR.

9 THE COURT: AND AFTER THAT, YOU TOOK THE WITNESS
10 TO MEET WITH MR. MEDRANO AND MR. CARLTON?

11 THE WITNESS: THAT IS CORRECT, YOUR HONOR.

12 THE COURT: I THINK THE QUESTION HERE IS BETWEEN
13 THE TIME THAT YOU FIRST MET WITH THE WITNESS AND THE TIME
14 YOU TOOK HIM TO SEE MR. MEDRANO AND MR. CARLTON, DID YOU
15 PERSONALLY HAVE ANY OTHER MEETINGS WITH HIM?

16 THE WITNESS: NO, I DID NOT.

17 WAS THAT YOUR QUESTION, SIR?

18 MR. MEDVENE: YES.

19 THE COURT: THAT IS THE QUESTION.

20 THE WITNESS: NO. NO.

21 Q BY MR. MEDVENE: DID ANY OTHER AGENTS TO YOUR
22 KNOWLEDGE?

23 A NO, SIR.

24 Q AT THE MEETING WITH MR. MEDRANO AND MR. CARLTON,
25 WOULD YOU TELL ME WHAT WAS SAID?

1 MR. MEDRANO: OBJECTION, YOUR HONOR. WE ARE
2 COVERING GROUND THAT --

3 THE COURT: ARE YOU TALKING ABOUT WHAT THE
4 WITNESS SAID?

5 MR. MEDVENE: WHAT HE SAID AND WHAT HE WAS
6 ASKED, YOUR HONOR.

7 MR. MEDRANO: THAT, YOUR HONOR, IS A DISCOVERY
8 MECHANISM. THAT IS NOT THE ISSUE HERE. THE SOLE ISSUE IS
9 INDEPENDENT BASIS FOR THE INFORMATION, NOT THE SUBSTANCE
10 OF WHAT WAS SAID. HE KNOWS WHAT THE SUBSTANCE WAS. THAT
11 IS THE OCTOBER 1984 OVERT ACT, YOUR HONOR.

12 THE COURT: WELL, I THINK THAT YOU SHOULD BE
13 FOCUSING HERE ON WHETHER OR NOT THERE WAS AN INDEPENDENT
14 SOURCE OF THIS INFORMATION OR WHETHER THERE WAS USE MADE
15 OF THE GRAND JURY TESTIMONY OF MR. ZUNO.

16 MR. MEDVENE: I UNDERSTAND. WHAT I AM TRYING --

17 THE COURT: WHAT WAS SAID HAS ALREADY BEEN
18 ESTABLISHED IN SUBSTANCE.

19 MR. MEDVENE: WHAT I AM TRYING TO SHOW YOUR
20 HONOR IS THAT THEY QUESTIONED HIM THOROUGHLY AND SO THAT
21 WE CAN ARGUE TO YOUR HONOR, IF THAT IS THE WAY THE FACTS
22 DEVELOPED, THAT IS, MR. MEDRANO SAID WHAT REALLY HAPPENED
23 WAS WHEN MESSRS. MEDRANO AND CARLTON WENT OVER WITH THE
24 WITNESS IN THE DEBRIEFING, THAT IS WHEN THIS CAME OUT.

25 THE COURT: I THINK THAT IS APPROPRIATE. IT HAS

1 ALREADY BEEN DONE WITH RESPECT TO THE FIRST MEETING WITH
2 THIS WITNESS. IN OTHER WORDS, I THINK COUNSEL WANTS TO
3 KNOW IF DURING THIS MEETING THE WITNESS WAS ENCOURAGED TO
4 TELL YOU ALL THAT HE KNEW ABOUT MR. ZUNO-ARCE'S
5 INVOLVEMENT WITH THE CAMARENA CASE.

6 THE WITNESS: YES, SIR. THAT IS THE FACT.

7 Q BY MR. MEDVENE: AND HOW LONG DID THE MEETING TAKE?

8 A HOW LONG WHAT?

9 Q HOW LONG DID THE MEETING TAKE, SIR?

10 A I WOULD SAY NO MORE THAN AN HOUR, AN HOUR AND A HALF.

11 Q AND DID THE WITNESS TELL YOU IN SUBSTANCE THAT THE
12 ONLY OCCASION HE KNEW ABOUT WHERE MR. ZUNO-ARCE
13 PARTICIPATED IN ANY WAY IN THE CAMARENA KIDNAPPING WAS
14 THIS FEBRUARY 1985 MEETING?

15 A HE DIDN'T SAY THE ONLY TIME. HE JUST SAID THAT HE
16 REMEMBERED THAT MEETING OF FEBRUARY. NO MENTION AT THAT
17 TIME OF THE OCTOBER MEETING.

18 Q IT WOULD BE FAIR TO SAY, WOULD IT NOT, AGENT, THAT
19 THE QUESTIONS ASKED HIM WERE BROAD ENOUGH TO PICK UP THAT
20 MEETING IF HE HAD ANY RECOLLECTION OF IT AT THAT TIME?
21 ISN'T THAT CORRECT?

22 A I WOULD BE SPECULATING, SIR. I DON'T REMEMBER WHAT
23 ALL QUESTIONS WERE ASKED.

24 Q WASN'T HE ASKED, SIR, WHEN HE SAW ZUNO-ARCE THAT IT
25 IN ANY WAY HAD ANYTHING TO DO WITH HIS INVOLVEMENT WITH

1 THE CAMARENA KIDNAPPING, TORTURE, AND MURDER. HE WAS
2 ASKED THAT IN SUBSTANCE, WASN'T HE, SIR, BY YOU?

3 A YES, SIR, HE WAS, AND AT THAT POINT HE RELATED THE
4 FEBRUARY MEETING, AND DID NOT MENTION AT ALL THE OCTOBER
5 MEETING. THAT IS MY ANSWER, SIR.

6 Q AND AT THE MEETING WITH MR. MEDRANO AND MR. CARLTON,
7 THEY ASKED IN SUBSTANCE THE SAME THING, DID THEY NOT?
8 "TELL ME, MR. C.I. 2, EVERYTHING YOU REMEMBER, EVERYTHING
9 YOU KNOW THAT C.I. 2 -- EVERYTHING THAT YOU KNOW ABOUT
10 ZUNO'S INVOLVEMENT IN THE CAMARENA KIDNAPPING."

11 ISN'T THAT CORRECT?

12 A THAT IS CORRECT. AND HE AGAIN ONLY MENTIONED THE
13 FEBRUARY MEETING, WITHOUT MENTIONING THE OCTOBER MEETING,
14 SIR.

15 Q NOW, AT THAT MEETING IS IT TRUE THAT HE MADE NO
16 MENTION OF MR. ALDANA?

17 A AT WHAT MEETING, SIR?

18 Q AT THE MEETING WITH MR. MEDRANO AND MR. CARLTON?

19 A AT THE MEETING BEFORE THE JANUARY MEETING, SIR?

20 THE COURT: YES.

21 THE WITNESS: YES, SIR. NO, THERE WAS NO
22 MENTION DURING THAT MEETING OF ANY OCTOBER MEETING. THERE
23 WAS NO MENTION OF ALDANA. THERE WAS NO MENTION OF IBARRA
24 AT THAT MEETING, SIR. THAT IS CORRECT.

25 Q BY MR. MEDVENE: NOW, AFTER THE MEETING WITH

1 MR. MEDRANO AND MR. CARLTON THAT YOU SAID WAS SUMMARIZED,
2 OR WHATEVER, BY AGENT SALAZAR, WAS THERE ANOTHER MEETING
3 OR CONTACT OF ANY KIND WITH C.I. 2 PRIOR TO THE TIME YOU
4 TESTIFIED BEFORE THE GRAND JURY?

5 A NOT TO MY RECOLLECTION. NOT BY ME.

6 Q TO YOUR KNOWLEDGE, WITH ANY OTHER DEA AGENT OR ANY
7 OTHER REPRESENTATIVE OF THE GOVERNMENT?

8 A I DON'T RECALL, SIR.

9 Q YOU SAY YOU DON'T RECALL. YOU MEAN THERE MIGHT HAVE
10 BEEN?

11 A I DON'T KNOW OF ONE, SIR. THAT WOULD BE MY ANSWER.

12 THE COURT: YOU DIDN'T?

13 THE WITNESS: I DID NOT, SIR. TO THE BEST OF MY
14 KNOWLEDGE, I DID NOT.

15 THE COURT: DID THE WITNESS REMAIN HERE BETWEEN
16 THANKSGIVING AND THE JANUARY APPEARANCE?

17 THE WITNESS: NO, YOUR HONOR. HE WENT BACK TO
18 MEXICO.

19 Q BY MR. MEDVENE: SO THE WITNESS TESTIFIED BEFORE THE
20 GRAND JURY AFTER THANKSGIVING. IS THAT CORRECT?

21 A THAT'S CORRECT, SIR.

22 Q AND THEN IMMEDIATELY WENT BACK TO MEXICO?

23 A SHORTLY THEREAFTER, YES, SIR.

24 Q BETWEEN THE TIME HE TESTIFIED AND BEFORE HE WENT
25 BACK, DID YOU QUESTION HIM ANY MORE ABOUT THE SUBJECT

1 MATTER OF THE CAMARENA KIDNAPPING?

2 A NO, SIR. HE WAS GONE. HE LEFT THE COUNTRY.

3 Q AND THE FIFTH SUPERSEDING INDICTMENT CAME DOWN IN
4 DECEMBER. CORRECT, SIR?

5 A YES, SIR.

6 Q WHAT CAUSED, TO YOUR KNOWLEDGE, C.I. 2 TO COME BACK
7 INTO THIS COUNTRY ON OR ABOUT JANUARY 11?

8 MR. MEDRANO: OBJECTION, YOUR HONOR. NOW WE ARE
9 DEALING WITH THE SECURITY OF THE WITNESS. THIS KIND OF
10 QUESTION IS IRRELEVANT.

11 THE COURT: YES. I SUSTAIN THE OBJECTION --
12 WHAT CAUSED HIM TO COME BACK.

13 MR. MEDVENE: I AM SORRY, SIR.

14 THE COURT: WHAT CAUSED HIM TO COME BACK DOES
15 NOT APPEAR NECESSARILY TO BE WITHIN THE COMPETENCE OF THIS
16 WITNESS.

17 MR. MEDVENE: YES, SIR.

18 Q DID YOU CALL C.I. 2 AND TELL HIM YOU WANTED HIM TO
19 COME BACK TO THIS COUNTRY AND BE QUESTIONED AGAIN?

20 MR. MEDRANO: SAME OBJECTION, YOUR HONOR. THAT
21 WOULD GO STRAIGHT TO THE NEXT QUESTION: WHEN WAS THE NEXT
22 MEETING.

23 THE COURT: WELL, I THINK THAT IS RIGHT. THAT
24 IS WHAT WE ARE CONCERNED ABOUT HERE.

25 MR. MEDVENE: BUT, WITH DUE DEFERENCE, WE ARE

1 CONCERNED ABOUT WHY HE GOT HERE AT THE TIME, AND DID IT
2 HAVE SOMETHING TO DO WITH SOMEONE READING THAT GRAND JURY
3 TESTIMONY AND TRYING TO TIE HIM IN WITH IBARRA AND ALDANA.

4 THE COURT: THEN I THINK YOU SHOULD ASK HIM THAT
5 QUESTION INSTEAD OF WHY HE WAS CAUSED TO COME BACK HERE.

6 FIRST OF ALL, YOU DETERMINED AT SOME POINT IN
7 TIME -- DID YOU DETERMINE AT SOME POINT IN TIME THAT THIS
8 WITNESS HAD ADDITIONAL INFORMATION ABOUT THE CAMARENA
9 CASE?

10 THE WITNESS: DID I, YOUR HONOR?

11 THE COURT: YES.

12 THE WITNESS: YES. THERE WAS A SERIES OF
13 DEBRIEFINGS, AND AFTER HE WAS HERE AND WORKING FOR THE
14 GRAND JURY, HE WENT BACK TO MEXICO, YOUR HONOR, AND HE
15 TOLD ME HE WAS GOING TO RETURN. HE HAD PERSONAL THINGS HE
16 HAD TO TAKE CARE OF OVER THERE, AND HE TOLD ME HE WOULD
17 RETURN. HE WAS GONE, AND THEN HE RETURNED, YOUR HONOR.

18 THE COURT: DID HE TELL YOU WHEN HE WOULD
19 RETURN?

20 THE WITNESS: HE JUST TOLD ME HE WOULD RETURN
21 AFTER HE TOOK CARE OF PERSONAL BUSINESS, AND IT WOULD TAKE
22 A MATTER OF DAYS. AND I TOLD HIM THAT WHEN HE CAME BACK,
23 WE WOULD HAVE ANOTHER MEETING, ANOTHER DEBRIEFING.

24 THE COURT: SO HE DID NOT RETURN AT YOUR
25 SPECIFIC REQUEST?

1 THE WITNESS: NO, YOUR HONOR. HE TOLD ME HE
2 WOULD BE BACK, AND HE RETURNED.

3 THE COURT: AND WHEN HE RETURNED, WHEN WAS THE
4 FIRST TIME YOU SAW HIM AGAIN AFTER HE RETURN,
5 APPROXIMATELY?

6 THE WITNESS: I REMEMBER SEEING HIM AGAIN, YOUR
7 HONOR, ON NOVEMBER 30. HE CAME BACK, AND ON NOVEMBER 30TH
8 HE CAME IN VERY LATE AT NIGHT OR IN THE MORNING --
9 ACTUALLY IN THE REAL EARLY MORNING HOURS. I PICKED HIM UP
10 AT THE AIRPORT, AND ON NOVEMBER 30TH I TOOK HIM TO
11 MR. MEDRANO'S OFFICE.

12 THE COURT: NOW, THIS WOULD BE THE SECOND TIME
13 YOU TOOK HIM THERE?

14 THE WITNESS: YES, SIR. AND THEN THERE WAS A
15 THIRD TIME, WHICH WAS ON JANUARY 12TH.

16 THE COURT: BUT THAT WAS AFTER THE INDICTMENT?

17 THE WITNESS: RIGHT, YOUR HONOR.

18 Q BY MR. MEDVENE: THE SECOND TIME YOU TOOK HIM TO
19 MR. MEDRANO'S OFFICE ON NOVEMBER 30, WHAT WAS ASKED AT
20 THAT TIME AND WHAT DID HE SAY?

21 MR. MEDRANO: YOUR HONOR, OBJECTION AGAIN. THIS
22 IS ALL IN THE JANUARY 29TH AND 30TH TESTIMONY. IT HAS
23 BEEN COVERED ALREADY. AT THAT TIME HE TELLS US ABOUT
24 THE --

25 MR. MEDVENE: EXCUSE ME, YOUR HONOR. IT IS NOT

1 FOR MR. MEDRANO TO BE A WITNESS.

2 THE COURT: OVERRULED. LET THE WITNESS ANSWER.

3 THE WITNESS: HE TELLS ME, COUNSELOR, ABOUT THE
4 FEBRUARY MEETING WHICH TOOK PLACE IN GUADALAJARA, AND
5 MAKES NO MENTION OF AN OCTOBER MEETING AT THAT MEETING.

6 Q BY MR. MEDVENE: WOULD IT BE FAIR TO SAY THAT HE TOLD
7 YOU, AT LEAST TO THE BEST OF YOUR RECOLLECTION, IN YOUR
8 QUESTIONING AND MR. MEDRANO'S AND MR. CARLTON'S WHATEVER
9 HE KNEW?

10 MR. MEDRANO: OBJECTION, YOUR HONOR. CALLS FOR
11 SPECULATION BY THIS WITNESS.

12 THE COURT: OVERRULED.

13 THE WITNESS: IT WOULD BE TOTAL SPECULATION ON
14 MY PART, SIR.

15 THE COURT: WELL, THAT WAS THE PURPOSE OF YOUR
16 MEETING, TO GET ALL HE KNEW, WASN'T IT?

17 THE WITNESS: BUT HE ASKED ME IF I GOT
18 EVERYTHING HE KNEW, I BELIEVE.

19 THE COURT: WELL, YOU GOT EVERYTHING HE WAS
20 WILLING TO TELL YOU.

21 THE WITNESS: I GOT EVERYTHING HE WAS WILLING TO
22 TELL ME AT THAT TIME.

23 Q BY MR. MEDVENE: NOW, AS FAR AS YOU KNEW, WHEN YOU
24 LEFT HIM ON NOVEMBER 30TH, YOU HAD ALL THE INFORMATION
25 THAT HE REMEMBERED AND WAS PREPARED TO GIVE YOU ABOUT THE

1 CAMARENA SITUATION. IS THAT CORRECT?

2 A AS FAR AS I KNEW, YES, SIR.

3 Q WHEN WAS THE NEXT TIME YOU SAW HIM?

4 A IN JANUARY, SIR. ON JANUARY 11TH.

5 Q NOW, DID YOU SET UP THE MEETING?

6 A NO, SIR. HE CALLED AND TOLD ME HE WAS BACK IN LOS
7 ANGELES, AND MYSELF AND SALAZAR WENT TO MEET HIM.

8 Q COMPLETELY COLD CALL? NO PREARRANGEMENT OF ANY KIND,
9 SIR?

10 A NOT TO MY RECOLLECTION, SIR.

11 Q WHAT DID HE TELL YOU IN THE TELEPHONE CONVERSATION AS
12 TO WHY HE WANTED TO MEET YOU?

13 A BECAUSE HE WAS BACK FROM MEXICO.

14 Q WELL, BECAUSE HE WAS BACK FROM MEXICO, WAS THAT A
15 REASON TO MEET YOU?

16 A YES, SIR. HE STATED HE WAS BACK FROM MEXICO AND TOLD
17 ME WHERE HE WAS, AND I TOLD HIM I WOULD GO DOWN AND MEET
18 WITH HIM.

19 Q DID HE SAY HE WANTED TO MEET WITH YOU?

20 A I DON'T RECALL WHETHER HE ASKED TO MEET WITH ME, OR
21 IF I JUST SAID, "I WILL COME DOWN AND MEET WITH YOU."
22 THAT MEETING TOOK PLACE.

23 Q SO WHEN HE CALLED AND SAID HE WAS IN LOS ANGELES, AND
24 YOU SAID, DID YOU NOT, SIR, "I WOULD LIKE TO MEET WITH
25 YOU; WHERE ARE YOU SO WE CAN MEET"?

1 A THAT IS WHAT I SAID, SIR.

2 Q AND YOU WENT WITH AGENT SALAZAR?

3 A THAT WAS TESTIFIED TO, YES, SIR.

4 Q SINCE YOU WANTED TO MEET WITH HIM, WHAT DID YOU SAY
5 TO HIM AFTER "HELLO"? WHAT DID YOU ASK HIM?

6 MR. MEDRANO: OBJECTION, YOUR HONOR. ASKED AND
7 ANSWERED.

8 THE COURT: DESCRIBE THE CONVERSATION YOU HAD
9 WITH HIM.

10 THE WITNESS: WELL, HE TOLD ME -- THE WHOLE
11 CONVERSATION, YOUR HONOR?

12 THE COURT: YES.

13 THE INTERPRETER: YOUR HONOR, I AM HAVING
14 PROBLEMS HEARING THE WITNESS. COULD HE TALK INTO THE
15 MICROPHONE?

16 THE COURT: ALL RIGHT.

17 THE WITNESS: HOW MUCH DETAIL, YOUR HONOR?

18 THE COURT: JUST IN GENERAL WHAT THE
19 CONVERSATION WAS ABOUT IN SUBSTANCE.

20 THE WITNESS: IN GENERAL WE DISCUSSED HIS FAMILY
21 SITUATION IN MEXICO.

22 WE DISCUSSED THE SUBJECT OF THE OCTOBER MEETING.
23 THAT CAME UP WHERE HE MENTIONS ALDANA AND IBARRA AND RUBEN
24 ZUNO-ARCE.

25 AND WE TALKED ABOUT HIS SITUATION HERE IN THE

1 STATES, AND HE HAD HIS FAMILY WITH HIM.

2 WE TALKED ABOUT HIS FAMILY HERE, AND WE TALKED
3 ABOUT HIS FAMILY IN MEXICO.

4 AND THAT IS IN GENERAL, YOUR HONOR, ALL I RECALL
5 WE TALKED ABOUT.

6 THE COURT: THAT WAS THE FIRST CONVERSATION,
7 THEN, IN WHICH HE REFERRED TO THIS OCTOBER MEETING AND
8 IDENTIFIED THE PEOPLE THAT WERE THERE?

9 THE WITNESS: YES, YOUR HONOR. UP TO THAT POINT
10 HE HAD NEVER MENTIONED ALDANA AND IBARRA TO ME. THAT WAS
11 THE FIRST TIME IT CAME OUT OF HIS MOUTH TO ME, YOUR HONOR.

12 Q BY MR. MEDVENE: WHAT DID YOU SAY TO HIM OR DID AGENT
13 SALAZAR SAY TO HIM BEFORE HE MENTIONED THE OCTOBER 1984
14 MEETING?

15 A I DON'T RECALL WHAT WE SAID TO HIM OTHER THAN WE
16 ASKED HIM IF HE RECALLED ANY OTHER MEETINGS OR ANYTHING
17 ELSE HE WANTED TO ADD TO WHAT HE HAD TOLD US IN THE PAST.

18 AND HE TOLD US THAT HE WANTED TO TELL US ABOUT
19 THIS MEETING, WHICH HE HADN'T TOLD US ABOUT BEFORE,
20 BECAUSE NOW HE WAS NOT GOING TO RETURN TO MEXICO AFTER
21 THIS AND --

22 Q PARDON ME?

23 A THAT HE WAS NOT GOING TO RETURN TO MEXICO AFTER THIS,
24 AND NOW HE FELT COMFORTABLE IN TELLING US ABOUT OTHER
25 MEETINGS BECAUSE HE FEARED FOR HIS LIFE BEFORE AND HE

1 HADN'T TOLD US ABOUT THEM.

2 Q DID YOU SAY IN SUBSTANCE, "WHY DIDN'T YOU FEAR FOR
3 YOUR LIFE AFTER YOU TOLD US ABOUT THE FEBRUARY '85?"

4 MR. MEDRANO: OBJECTION, YOUR HONOR.
5 IRRELEVANT.

6 THE COURT: SUSTAINED.

7 Q BY MR. MEDVENE: DID YOU OR AGENT SALAZAR --

8 THE COURT: THIS IS NOT THE TIME TO IMPEACH THE
9 WITNESS. THAT IS WHAT IT SOUNDED LIKE.

10 MR. MEDVENE: YES, YOUR HONOR.

11 THE COURT: WE ARE BASICALLY TRYING TO FIND OUT
12 WHETHER THESE PEOPLE RESORTED TO THE USE OF THE TESTIMONY
13 OF MR. ZUNO BEFORE THE GRAND JURY WHICH LED THEM TO THIS
14 INFORMATION.

15 Q BY MR. MEDVENE: DID YOU OR AGENT SALAZAR MAKE A MEMO
16 OF THIS MEETING?

17 A YES, SIR, WE --

18 MR. MEDRANO: OBJECTION, YOUR HONOR.
19 IRRELEVANT.

20 THE COURT: SUSTAINED.

21 MR. MEDVENE: IF THE COURT PLEASE, IT WOULD TEND
22 TO --

23 THE COURT: WHETHER OR NOT THEY MADE A MEMO OF
24 THIS MEETING CAN IN NO WAY ASSIST THE COURT IN DECIDING AT
25 THIS TIME WHETHER OR NOT THEY MISUSED MR. ZUNO'S

1 TESTIMONY. THAT IS WHAT IS BEFORE US NOW.

2 MR. MEDVENE: IT MIGHT SHOW WHETHER OR NOT THIS
3 INFORMATION WAS GIVEN TO THEM ON THE 11TH, YOUR HONOR, IF
4 IT IS IN A MEMO OR NOT. WE HAVE A CONTRADICTORY STATEMENT
5 BY THE ASSISTANT THAT HE GOT IT AT A LATER TIME AND HE GOT
6 IT THROUGH HIS DEBRIEFING, NOT THROUGH AGENT SALAZAR.

7 THE COURT: YOU CAN ASK HIM ABOUT THAT.

8 Q BY MR. MEDVENE: YOU WERE IN COURT THE OTHER DAY,
9 LAST WEEK, WHEN YOU THOUGHT THAT THERE WOULD BE A HEARING
10 ON THIS KASTIGAR HEARING. IS THAT CORRECT?

11 A YES, SIR.

12 Q AND, INCIDENTALLY, AT THAT TIME YOU THOUGHT YOU WOULD
13 TESTIFY LAST WEEK. IS THAT CORRECT?

14 A YES, SIR.

15 Q AND YOU HAVE READ IN THE COURTROOM A REPORT OR SOME
16 MATERIAL IN PREPARATION FOR TESTIFYING, DID YOU NOT, SIR?

17 MR. MEDRANO: OBJECTION, YOUR HONOR. THE
18 QUESTION IS IF THERE IS A REPORT, LET'S ASK THAT QUESTION.
19 THIS IS FRIVOLOUS QUESTIONING. IT IS A WASTE OF
20 EVERYONE'S TIME BY MR. MEDVENE.

21 THE COURT: YOU ARE ASKING THE WITNESS WHETHER
22 HE READ ANYTHING BEFORE HE TESTIFIED AT THE LAST HEARING?

23 MR. MEDVENE: IF HE READ ANYTHING TO REFRESH HIS
24 RECOLLECTION, YOUR HONOR. YES, SIR.

25 THE COURT: WELL, YOU MAY ANSWER THAT. DID YOU?

1 YES OR NO.

2 THE WITNESS: I BELIEVE I DID READ SOMETHING,
3 YES, SIR.

4 Q BY MR. MEDVENE: WHAT WAS IT, AGENT?

5 MR. MEDRANO: OBJECTION, YOUR HONOR. HIS MEMORY
6 IS NOT IN QUESTION SO THERE IS NO NEED FOR FOUNDATION OF
7 REFRESHING RECOLLECTION.

8 THE COURT: WHAT IS THE PURPOSE OF THIS? WHAT
9 HE READ.

10 MR. MEDVENE: IF THE WITNESS READ A REPORT OR
11 MATERIAL BEFORE HE TESTIFIED TO HELP HIM IN TESTIFYING AND
12 REMEMBERING EVENTS, WE RESPECTFULLY SUBMIT THAT WE ARE
13 ENTITLED TO SEE THAT.

14 MR. MEDRANO: WE DEALT WITH THAT AT THE LAST
15 HEARING, YOUR HONOR, AND THAT WAS OUTRIGHT REJECTED BY
16 YOU. THERE IS NO LAW OR STATUTORY BASIS FOR THAT KIND OF
17 JENCKS. IT DOESN'T APPLY.

18 THE COURT: IF A WITNESS READS SOMETHING BEFORE
19 HE TESTIFIES, THE PARTY CROSS-EXAMINING CAN SEE WHAT HE
20 READ.

21 MR. MEDRANO: BUT, YOUR HONOR, WITH ALL DUE
22 RESPECT, THAT IS A JENCKS ISSUE.

23 THE COURT: WELL, YOU CANNOT GET JENCKS MATERIAL
24 IN THAT WAY IF THAT IS WHAT THIS IS AIMED AT.

25 MR. MEDRANO: THAT IS THE PURPOSE OF THIS.

1 THE COURT: YOU ARE NOT GOING TO GET IT IN THAT
2 WAY, SO JUST FORGET ABOUT IT. THE TIME WILL COME WHEN YOU
3 WILL HAVE THAT MATERIAL, AND YOU MAY BE ABLE TO EXAMINE
4 THIS WITNESS ON IT AT THAT TIME. I TOLD YOU THAT THIS
5 ISSUE REMAINS OPEN.

6 MR. MEDVENE: JUDGE, WITH ALL DUE RESPECT, YOU
7 ARE RIGHT ON THE BUTTON. YOU SAID THAT IF HE LOOKED AT
8 IT, WE ARE ENTITLED TO SEE IT. MR. MEDRANO GETS UP AND HE
9 MAKES --

10 THE COURT: NOT IF IT IS JENCKS MATERIAL.

11 MR. MEDVENE: WE ARE NOT TALKING ABOUT JENCKS
12 MATERIAL, YOUR HONOR. I AM TALKING ABOUT WHAT HE READ TO
13 REFRESH HIMSELF TO TESTIFY, AND YOUR HONOR CORRECTLY
14 STATED THAT WE ARE ENTITLED TO IT. I AM NOT LOOKING FOR
15 JENCKS MATERIAL. I AM LOOKING FOR WHAT HE READ TO REFRESH
16 HIS RECOLLECTION TO TESTIFY.

17 THE COURT: ALL RIGHT. THE OBJECTION IS
18 SUSTAINED. LET'S MOVE ON.

19 Q BY MR. MEDVENE: WOULD YOU TELL US, AGENT BERRELLEZ,
20 WHAT WAS SAID BY THIS WITNESS WHEN YOU MET WITH HIM ABOUT
21 THE OCTOBER 1984 MEETING?

22 MR. MEDRANO: OBJECTION, YOUR HONOR. THE
23 SUBSTANCE IS KNOWN THROUGH THE OVERT ACT.

24 THE COURT: THE OBJECTION IS SUSTAINED. THE
25 ALLEGATION IS CONTAINED IN THE INDICTMENT, AND THAT IS

1 SUFFICIENT. WE ARE TALKING ABOUT WHETHER OR NOT IT WAS
2 OBTAINED THROUGH AN INDEPENDENT SOURCE. THAT IS THE
3 ISSUE.

4 Q BY MR. MEDVENE: WAS THIS THE FIRST INFORMATION OF
5 ANY KIND KNOWN TO THE GOVERNMENT TO THE BEST OF YOUR
6 KNOWLEDGE THAT THERE WAS AN OCTOBER 1984 MEETING THAT
7 MR. ZUNO-ARCE ATTENDED AT WHICH THE KIDNAPPING AND
8 INTERROGATION AND/OR MURDER OF AGENT CAMARENA WAS
9 DISCUSSED?

10 A NO, SIR. I TESTIFIED THAT THE KIDNAP/MURDER OF
11 MR. CAMARENA WAS DISCUSSED ON A FEBRUARY MEETING.

12 THE COURT: HE IS ASKING YOU IF THIS WAS YOUR
13 FIRST KNOWLEDGE OF THE OCTOBER MEETING.

14 THE WITNESS: OH, OF THE OCTOBER MEETING. VERY
15 DEFINITELY, YES, SIR. THAT WAS THE FIRST TIME.

16 Q BY MR. MEDVENE: IT WAS THE GOVERNMENT'S FIRST
17 KNOWLEDGE OF IT, TO YOUR KNOWLEDGE?

18 A OF THAT MEETING, YES, SIR.

19 Q NOW, YOU WERE IN COURT WHEN MR. MEDRANO ADDRESSED HIS
20 HONOR ON MONDAY, MARCH 12TH. ISN'T THAT CORRECT?

21 A YES, SIR.

22 Q AND YOU HEARD MR. MEDRANO SAY, DID YOU NOT, THE
23 FOLLOWING, AND I READ FROM PAGE 8, LINES 15 THROUGH 21:

24 "IT WAS LEARNED, MY RECOLLECTION IS, A FEW
25 DAYS BEFORE JANUARY 17 WHEN MYSELF AND MY CO-

1 COUNSEL MR. CARLTON CONTINUED TO DEBRIEF AND
2 INTERVIEW THE WITNESS, AND AT THAT TIME HE ALSO
3 REFERENCED THE OCTOBER 1984 MEETING."

4 YOU HEARD MR. MEDRANO SAY THAT, DID YOU NOT?

5 A THAT'S CORRECT. YES, SIR.

6 Q DID YOU SAY TO MR. MEDRANO OUTSIDE OF COURT THAT IT
7 DIDN'T HAPPEN THAT WAY; IT ORIGINALLY HAPPENED WHEN I
8 QUESTIONED THE WITNESS, NOT WHEN YOU QUESTIONED HIM?

9 MR. MEDRANO: OBJECTION, YOUR HONOR. THAT IS
10 IMPROPER IMPEACHMENT. THAT IS TO IMPEACH MR. MEDRANO, NOT
11 THIS WITNESS, YOUR HONOR. AND IT IS IRRELEVANT.

12 THE COURT: THE OBJECTION IS SUSTAINED WHETHER
13 HE SAID THAT TO MR. MEDRANO.

14 Q BY MR. MEDVENE: DID YOU DISCUSS WITH MR. MEDRANO AT
15 THE CONCLUSION OF THE COURT SESSION WHAT HE MEANT BY HIS
16 STATEMENT TO HIS HONOR THAT HE FIRST GOT THIS INFORMATION
17 WHEN HE CONTINUED TO DEBRIEF AND INTERVIEW THE WITNESS A
18 FEW DAYS BEFORE JANUARY 17?

19 A I DON'T RECALL IF I DID OR NOT, SIR. I DON'T RECALL
20 ME HAVING THAT CONVERSATION WITH MR. MEDRANO WHEN WE LEFT
21 HERE.

22 Q DID YOU CONSIDER IT IN LIGHT OF THE FACT THAT WE WERE
23 ABOUT TO HAVE A KASTIGAR HEARING IMPORTANT, AGENT
24 BERRELLEZ, AS TO WHEN AND UNDER WHAT CIRCUMSTANCES THE
25 GOVERNMENT FIRST OBTAINED KNOWLEDGE OF THE PURPORTED

1 OCTOBER 1984 MEETING?

2 MR. MEDRANO: OBJECTION, YOUR HONOR. THAT IS AN
3 OPINION AND IRRELEVANT TO THIS HEARING.

4 THE COURT: SUSTAINED. WHAT HE CONSIDERED IS
5 UNIMPORTANT TO THIS HEARING AND IRRELEVANT.

6 Q BY MR. MEDVENE: HAVE YOU EVER DISCUSSED WITH
7 MR. MEDRANO OR MR. CARLTON TO THIS DATE WHY MR. MEDRANO
8 SAID THAT HE AND MR. CARLTON FIRST GOT THIS INFORMATION IN
9 A DEBRIEFING BY MR. CARLTON AND MR. MEDRANO A FEW DAYS
10 BEFORE JANUARY 17?

11 MR. MEDRANO: OBJECTION, YOUR HONOR. IMPROPER
12 IMPEACHMENT. MR. MEDRANO IS AVAILABLE TO ADDRESS THAT.

13 THE COURT: THE OBJECTION IS SUSTAINED.

14 Q BY MR. MEDVENE: INCIDENTALLY, THE NOVEMBER 30TH
15 MEETING YOU TOLD US ABOUT, I THINK WITH MR. MEDRANO, THAT
16 YOU WERE AT, WAS AGENT SALAZAR ALSO THERE?

17 A I DON'T RECALL IF HE WAS THERE THROUGHOUT THIS
18 MEETING, SIR.

19 Q AND THAT MEETING, WAS THAT BEFORE C.I. 2'S INITIAL
20 TESTIMONY BEFORE THE GRAND JURY?

21 A YES, SIR.

22 Q WHEN WAS THE NEXT TIME YOU OR ANY DEA AGENT OR AGENT
23 OF THE GOVERNMENT SPOKE TO C.I. 2?

24 A I DON'T RECALL, SIR, THE DATES.

25 THE COURT: DO YOU MEAN AFTER JANUARY 11?

1 MR. MEDVENE: YES, SIR.

2 THE WITNESS: AFTER JANUARY 11, SOME OF MY
3 AGENTS HAVE TALKED TO HIM, AND SO HAVE I, BUT I DON'T
4 REMEMBER THE DATES.

5 THE COURT: BETWEEN THAT TIME AND THE TIME YOU
6 TESTIFIED BEFORE THE GRAND JURY?

7 THE WITNESS: YES, SIR, WE HAD TALKED WITH HIM.
8 YES, SIR, YOUR HONOR, WE HAD, MYSELF AND SOME OF MY
9 AGENTS, BUT I DON'T RECALL THE DATES.

10 Q BY MR. MEDVENE: SOME OF YOUR AGENTS TALKED TO C.I. 2
11 TO YOUR KNOWLEDGE BEFORE JANUARY 11. ISN'T THAT TRUE?

12 A YES, SIR.

13 Q AND WHAT AGENTS TALKED TO C.I. 2 BEFORE JANUARY 11?

14 MR. MEDRANO: OBJECTION, YOUR HONOR. THIS HAS
15 BEEN COVERED ALREADY.

16 THE COURT: I DON'T RECALL IT BEING COVERED.

17 MR. MEDRANO: UP TO NOVEMBER 30 IT HAS BEEN
18 COVERED.

19 THE COURT: WELL, HE IS SPEAKING ABOUT --
20 ARE YOU SPEAKING ABOUT BACK IN NOVEMBER,
21 THANKSGIVING?

22 MR. MEDVENE: I AM TALKING ABOUT FROM THE TIME
23 WHEN THE WITNESS'S KNOWLEDGE OR EXCLUSIVE KNOWLEDGE WAS
24 FEBRUARY 1985 UNTIL JANUARY 11 WHEN HE PURPORTEDLY HAD
25 KNOWLEDGE OF THIS OCTOBER 1984 MEETING.

1 THE COURT: I SUSTAIN THE OBJECTION.

2 MR. MEDVENE: I WAS ASKING FOR A SHORTER TIME
3 PERIOD THAN THE WHOLE TIME PERIOD, YOUR HONOR.

4 THE COURT: WHAT TIME PERIOD?

5 MR. MEDVENE: JUST THE TIME PERIOD BETWEEN THE
6 FIRST TIME C.I. 2 TESTIFIED BEFORE THE GRAND JURY AND THE
7 JANUARY 11 MEETING. BETWEEN NOVEMBER 30 AND JANUARY 11.

8 THE COURT: YOU MAY ANSWER.

9 THE WITNESS: NOT TO MY KNOWLEDGE, SIR. NOT TO
10 MY RECOLLECTION. I DON'T RECALL MEETING WITH HIM BETWEEN
11 THOSE DATES.

12 Q BY MR. MEDVENE: I AM SORRY?

13 A I DON'T RECALL MEETING WITH C.I. 2 BETWEEN THOSE
14 DATES.

15 Q MY QUESTION, SIR, WAS: YOU HAD INDICATED THAT OTHER
16 AGENTS MET WITH C.I. 2 AFTER JANUARY 11. DO YOU REMEMBER
17 THAT?

18 A AFTER, YES, SIR.

19 Q AND I AM ASKING YOU: ISN'T IT TRUE THAT OTHER AGENTS
20 ALSO MET WITH C.I. 2 BETWEEN NOVEMBER 30 AND JANUARY 11?

21 A AND MY ANSWER WAS "NOT TO MY RECOLLECTION."

22 Q WHAT AGENTS MET WITH C.I. 2 AFTER JANUARY 11?

23 A FOR ONE, SPECIAL AGENT DELBERT SALAZAR AND, I
24 BELIEVE, SPECIAL AGENT TOM MORALES.

25 Q I AM SORRY, SIR?

1 A TOM MORALES AND POSSIBLY SPECIAL AGENT MANUEL
2 MARTINEZ.

3 Q I AM SORRY. I APOLOGIZE. I ASKED YOU AFTER THE 11TH
4 WHEN WAS THE NEXT TIME YOU MET WITH C.I. 2?

5 A I MET WITH HIM ON THE 12TH WHEN I BROUGHT HIM OVER TO
6 MR. MEDRANO'S OFFICE, SIR.

7 Q WAS THAT THE MEETING WITH MR. MEDRANO AND MR. CARLTON
8 AND YOURSELF?

9 A YES, SIR.

10 Q AND DID MR. MEDRANO -- STRIKE THAT.

11 DID YOU DISCUSS WITH MR. MEDRANO BEFORE THE 12TH
12 ANYTHING AT ALL ABOUT THE OCTOBER '84 PURPORTED MEETING?

13 A YES, SIR, I DID VERY BRIEFLY ON THE 12TH.

14 Q WHAT DID YOU SAY?

15 A I TOLD HIM THAT C.I. 2 HAD COME UP WITH MORE
16 INFORMATION OF A MEETING WHICH TOOK PLACE IN OCTOBER OF
17 '84 IN WHICH WERE PRESENT MIGUEL ALDANA, FORMER DIRECTOR
18 OF INTERPOL OF MEXICO AND FORMER DIRECTOR MANUEL IBARRA-
19 HERRERA, FORMER DIRECTOR OF THE MEXICAN FEDERAL JUDICIAL
20 POLICE AND OTHER POLITICIANS, SIR.

21 Q DID C.I. 2 TELL YOU WHO WAS AT THE MEETING?

22 MR. MEDRANO: OBJECTION, YOUR HONOR. THAT IS IN
23 THE OVERT ACT. THAT IS ESTABLISHED.

24 THE COURT: SUSTAINED.

25 Q BY MR. MEDVENE: DID YOU ASK C.I. 2 ON JANUARY 11TH

1 OR ANY OTHER DATE WHAT REFRESHED HIS RECOLLECTION AS TO
2 THE OCTOBER 1984 MEETING?

3 MR. MEDRANO: OBJECTION, YOUR HONOR.

4 THE COURT: IF THESE ARE THE KIND OF QUESTIONS
5 THIS MAN IS GIVING YOU OVER HERE, YOU ARE WASTING OUR
6 TIME. WE ARE NOT HERE TO CONSIDER THE VERACITY OF THE
7 INFORMANT NOR TO IMPEACH HIM. WE ARE HERE TO DETERMINE
8 THE SOURCE OF THE INFORMATION AND WHETHER IT WAS
9 INDEPENDENT OF MR. ZUNO'S TESTIMONY.

10 Q BY MR. MEDVENE: DO YOU KNOW THE NATURE OF THE
11 MEETING BETWEEN AGENT SALAZAR AND C.I. 2 AFTER JANUARY 11?

12 A YES, I DO. I AM KNOWLEDGEABLE OF THE NATURE OF SOME
13 OF THE MEETINGS, YES, SIR.

14 Q WHAT WAS THE SUBJECT MATTER?

15 MR. MEDRANO: OBJECTION. OVERLY BROAD IF IT
16 GOES BEYOND JANUARY 17, THE DATE OF THE GRAND JURY
17 TESTIMONY BY C.I. 2.

18 THE COURT: DO YOU WANT TO LIMIT THAT?

19 MR. MEDVENE: YES, YOUR HONOR.

20 Q BETWEEN JANUARY 11TH AND JANUARY 17TH?

21 A I DON'T RECALL WHAT THE -- IF THERE WERE ANY MEETINGS
22 OR WHAT THEY WERE ABOUT IF THERE WERE SOME, SIR, BETWEEN
23 THOSE DATES.

24 Q WOULD THE SAME BE TRUE IF I ASKED YOU THE SAME
25 QUESTION ABOUT AGENT MORALES AND AGENT MEDRANO (SIC)?

1 A MARTINEZ?

2 Q MARTINEZ.

3 A THE SAME ANSWER.

4 Q YOU DON'T KNOW WHAT THE SUBJECT MATTER WAS?

5 A I DON'T RECALL IF THEY MET, BUT IF THEY DID, I DON'T
6 KNOW WHAT IT WOULD HAVE BEEN ABOUT, SIR.

7 Q WERE THERE ANY MEETINGS AFTER JANUARY 17?

8 MR. MEDRANO: THAT IS IRRELEVANT, YOUR HONOR,
9 BECAUSE THAT IS THE DATE THE WITNESS TESTIFIED.

10 THE COURT: SUSTAINED.

11 MR. MEDVENE: NOTHING FURTHER AT THIS TIME.

12 THE COURT: ALL RIGHT.

13 DO YOU HAVE ANY REDIRECT?

14 MR. MEDRANO: ONE QUESTION, YOUR HONOR.

15 REDIRECT EXAMINATION

16 BY MR. MEDRANO:

17 Q MR. BERRELLEZ, HAS IT BEEN YOUR EXPERIENCE WITH
18 C.I. 2 THAT THE MORE YOU GOT TO KNOW HIM AND THE MORE HE
19 GOT TO KNOW YOU, HE FELT MORE COMFORTABLE?

20 MR. MEDVENE: OBJECTION. LEADING AND
21 SUGGESTIVE, YOUR HONOR. THEY TRIED TO CUT ME OFF WHEN --

22 THE COURT: THIS SOUNDS LIKE REHABILITATION
23 EVIDENCE.

24 MR. MEDRANO: I CAN REPHRASE THE QUESTION.

25 THE COURT: ALL RIGHT. WE DON'T NEED TO

1 REHABILITATE THE WITNESS.

2 MR. MEDRANO: VERY WELL, YOUR HONOR. IN THAT
3 CASE THERE WILL BE NO REDIRECT, YOUR HONOR.

4 THE COURT: ALL RIGHT.

5 YOU MAY STEP DOWN.

6 THE WITNESS: THANK YOU, YOUR HONOR.

7 MR. MEDRANO: MAY I TAKE THE STAND AT THIS TIME,
8 YOUR HONOR?

9 THE COURT: YES.

10 MANUEL A. MEDRANO, PLAINTIFF'S WITNESS, SWORN

11 THE CLERK: PLEASE BE SEATED.

12 MR. MEDVENE: IF THE COURT PLEASE, WE WOULD
13 RESPECTFULLY REQUEST THE REPORTS WRITTEN BY AGENT -- THE
14 AGENT THAT TESTIFIED AND/OR AGENT SALAZAR ABOUT THE
15 MEETINGS WITH C.I. 2. WE THINK UNDER THE KASTIGAR LINE OF
16 CASES WE ARE ENTITLED TO THE REPORT. WE HAVE NO PROBLEM
17 IF THEY BLOCK OUT ANYTHING ABOUT IDENTITY, BUT I THINK WE
18 ARE ENTITLED TO KNOW THE NATURE OF THE QUESTIONS ASKED HIM
19 AND WHEN THE INFORMATION AND WHAT WAS CONVEYED.

20 THE COURT: THE MOTION IS DENIED. THIS IS AN
21 INAPPROPRIATE TIME. WHY ARE YOU ENTITLED TO THAT AT THIS
22 MOMENT?

23 MR. MEDVENE: WE THINK UNDER THE CASES THAT WE
24 CITED YOUR HONOR THAT WE ARE ENTITLED TO DOCUMENTARY PROOF
25 OF INDEPENDENT SOURCE AND LACK OF TAIN. WE THINK

1 MINIMALLY, WHILE WE THINK WE ARE ENTITLED TO IT, YOUR
2 HONOR SHOULD SEE THE REPORTS BY AGENT SALAZAR OR THE LAST
3 WITNESS TO ATTEST TO THE VERACITY OF WHAT WAS SAID.

4 A NUMBER OF CASES THAT WE HAVE CITED HAVE
5 INDICATED THAT WE WOULD BE ENTITLED TO THE REPORTS; THAT
6 THE GOVERNMENT CAN'T JUST PUT ON TESTIMONY IF THEY HAVE
7 ANY MEMORANDA OR DOCUMENTS.

8 HERE WE HAVE A STATEMENT BY THE PROSECUTOR OF
9 ONE SET OF FACTS THAT HE IS NOW GOING TO DISAVOW.

10 WE HAVE A STATEMENT BY THE AGENT OF A DIFFERENT
11 SET OF FACTS, WITHOUT A REAL REASON WHY THE MEETING TOOK
12 PLACE AT THAT TIME.

13 ALL WE ARE SAYING IS WOULD YOU AT LEAST LOOK AT
14 THE DOCUMENTS, SEE IF IT REFLECTS A JANUARY 11 MEETING,
15 SEE IF IT REFLECTS ANY QUESTIONING OF THE WITNESS PRIOR TO
16 THE TIME HE PURPORTEDLY GAVE THIS INFORMATION OR IF THE
17 MEMO SHOWS HE GAVE THIS INFORMATION.

18 THE COURT: ARE YOU SUGGESTING AN IN CAMERA
19 INSPECTION?

20 MR. MEDVENE: I'D BE THE LAST TO SUGGEST THAT,
21 YOUR HONOR. I'D LIKE VERY MUCH TO SEE IT, BUT IF YOU WON'T
22 LET ME SEE IT, AT LEAST I WANT SOMEBODY TO SEE IT. I THINK
23 YOU OUGHT TO LET ME SEE IT AND BLOCK OUT THE NAMES.

24 MR. MEDRANO: YOUR HONOR, VERY BRIEFLY ON THAT
25 POINT. COUNSEL MISREPRESENTS WHAT THE KASTIGAR NINTH

1 CIRCUIT CASES SAY. DOCUMENTS ARE PERMITTED TO DEFENSE
2 COUNSEL IF WE SUBMIT AFFIDAVITS IN SUPPORT OF THIS MOTION.
3 WE ARE NOT. WE ARE PROCEEDING VIA LIVE TESTIMONY, AND
4 HENCE THERE IS NO RIGHT TO THAT JENCKS MATERIAL.

5 MR. MEDVENE: I MIGHT CITE U.S. VS. CROWSON,
6 YOUR HONOR, A NINTH CIRCUIT CASE, 1987, WHERE THE COURT
7 ORDERED THE DEFENDANT BE PROVIDED WITH ALL DOCUMENTS
8 ESTABLISHING PRIOR INDEPENDENT SOURCES FOR THE
9 GOVERNMENT'S EVIDENCE, INCLUDING A LIST OF EVIDENCE NAMED
10 IN CHRONOLOGICAL ORDER. THAT IS A NINTH CIRCUIT 1987
11 CASE. IT IS IN OUR SUPPLEMENTAL MEMORANDUM, YOUR HONOR.

12 WE ALSO CITE A NUMBER OF OTHER CASES, INCLUDING
13 ZIELEZINSKI, WHICH COMPEL THE GOVERNMENT TO FILE SOME
14 DOCUMENTARY BASIS, IF THEY HAVE IT, AND THIS WITNESS HAS
15 TESTIFIED THAT HE OR A FELLOW AGENT PURPORTEDLY WROTE
16 MEMOS OF THE MEETINGS HE HAS TESTIFIED ABOUT.

17 MR. MEDRANO: THAT IS INACCURATE, YOUR HONOR.

18 THE COURT: LOOK, THESE CASES SAY THAT THE
19 BURDEN OF PROOF IS ON THE GOVERNMENT TO DEMONSTRATE THAT
20 THE EVIDENCE WAS OBTAINED FROM AN INDEPENDENT SOURCE.
21 THEY HAVE THE RIGHT TO CHOOSE THE EVIDENCE THEY WISH TO
22 PRESENT TO THE COURT. IF IT IS SUFFICIENT, IT IS; IF IT
23 ISN'T, IT WON'T BE.

24 I DENY YOUR MOTION TO HAVE THIS INFORMATION.
25 THE QUESTION OF WHETHER THE COURT SHOULD LOOK AT IT IN

1 CAMERA, I WILL RESERVE UNTIL THE CONCLUSION OF THIS
2 HEARING.

3 YOU MAY PROCEED.

4 DIRECT EXAMINATION

5 BY MR. CARLTON:

6 Q MR. MEDRANO, ARE YOU PRESENTLY AN ASSISTANT UNITED
7 STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA?

8 A THAT'S CORRECT.

9 Q HOW LONG HAVE YOU BEEN EMPLOYED ON THAT CAPACITY?

10 A THE SUMMER OF 1983.

11 Q ARE YOU PRESENTLY ASSIGNED AS THE LEAD PROSECUTOR ON
12 THIS CASE?

13 A THAT'S CORRECT.

14 Q WHEN WERE YOU INITIALLY ASSIGNED TO THIS CASE?

15 A ASSIGNED ABOUT APRIL OF 1989.

16 Q HAVE YOU BEEN CONTINUOUSLY ASSIGNED AS A PROSECUTOR
17 ON THIS CASE SINCE THAT DATE?

18 A WELL, MINIMALLY BETWEEN APRIL AND SEPTEMBER OF 1989.
19 I WAS ASSIGNED TO PROSECUTE MATTA BALLESTEROS ON A DRUG
20 CONSPIRACY BEFORE JUDGE RYMER, AND FROM SEPTEMBER OF '89 I
21 WAS FULL TIME ON THE CAMARENA INVESTIGATION.

22 Q AT THE TIME THAT YOU WERE INITIALLY ASSIGNED TO THIS
23 CASE, WERE THERE ANY OTHER ASSISTANT UNITED STATES
24 ATTORNEYS ALSO ASSIGNED TO THE INVESTIGATION?

25 A IN OR ABOUT SEPTEMBER OF 1989 JIMMY GURULE, WHO THEN

1 WAS LEAD COUNSEL, LEFT GOVERNMENT SERVICE, AND THEN
2 SUBSEQUENT TO THAT, I BELIEVE IN OCTOBER OF '89, MR. JOHN
3 CARLTON CAME ON AS CO-COUNSEL IN THE CAMARENA
4 INVESTIGATION.

5 Q NOW, DURING THE PERIOD THAT YOU HAVE BEEN ASSIGNED AS
6 A PROSECUTOR ON THIS CASE, HAVE YOU BECOME FAMILIAR WITH
7 THE INDIVIDUALS WHO ARE SUSPECTS IN THE INVESTIGATION?

8 A VERY MUCH SO.

9 Q AND DO YOU KNOW WHETHER OR WHEN, TO YOUR KNOWLEDGE,
10 MIGUEL ALDANA WAS A SUSPECT IN THIS INVESTIGATION?

11 A THAT DATES BACK TO 1985, AT LEAST.

12 Q HE WAS A SUSPECT IN THE INVESTIGATION AT THE TIME YOU
13 WERE ASSIGNED TO THE CASE?

14 A YES. MIGUEL ALDANA? YES.

15 Q WAS AN INDIVIDUAL NAMED MANUEL IBARRA-HERRERA ALSO A
16 SUSPECT IN THIS CASE AT THE TIME YOU WERE FIRST ASSIGNED?

17 A YES. WHEN I CAME ONTO THE CASE, THAT'S CORRECT.

18 Q DO YOU KNOW WHEN HE BECAME A SUSPECT IN THE CASE?

19 A I BELIEVE BOTH SUSPECTS DATE BACK TO '85, '86, THAT
20 TIME PERIOD.

21 Q NOW, DO YOU KNOW WHETHER PRIOR TO THE IMMUNIZED GRAND
22 JURY TESTIMONY OF MR. RUBEN ZUNO-ARCE ON AUGUST 24TH,
23 1989, IT WAS THE INTENT OF YOU AND MR. GURULE TO PURSUE
24 ANY AND ALL INVESTIGATIVE LEADS OF WHICH YOU MIGHT BE
25 AWARE CONCERNING MR. IBARRA?

1 A CORRECT.

2 Q AND, LIKEWISE, WAS IT YOUR INTENT PRIOR TO AUGUST 24,
3 1989 TO PURSUE ANY AND ALL INVESTIGATIVE LEADS CONCERNING
4 MR. ALDANA?

5 A CORRECT.

6 Q YOU WERE PRESENT DURING THE GRAND JURY TESTIMONY OF
7 MR. ZUNO-ARCE ON AUGUST 24, 1989?

8 A AND AUGUST 31. CORRECT.

9 Q HAVE YOU EVER DISCUSSED MR. ZUNO-ARCE'S IMMUNIZED
10 GRAND JURY TESTIMONY WITH AGENT BERRELLEZ?

11 A I DON'T BELIEVE SO, NO.

12 Q HAVE YOU EVER DISCUSSED THAT IMMUNIZED TESTIMONY WITH
13 AGENT DELBERT SALAZAR?

14 A TO MY KNOWLEDGE, NO.

15 Q HAVE YOU EVER DISCUSSED THAT IMMUNIZED TESTIMONY WITH
16 AGENT MARTINEZ?

17 A NO, I DON'T BELIEVE I HAVE.

18 Q PRIOR TO JANUARY 11 OF 1990, HAD YOU EVER HEARD ANY
19 INFORMATION OR DID YOU HAVE ANY INFORMATION CONCERNING THE
20 OCTOBER 1984 MEETING THAT IS ALLEGED AS AN OVERT ACT 1 IN
21 COUNTS 3 AND 6 OF THE SIXTH SUPERSEDING INDICTMENT?

22 A JANUARY 11 IS THE FIRST TIME I HEARD OF THAT OVERT
23 ACT.

24 Q AND WHAT WERE THE CIRCUMSTANCES WHEN YOU HEARD THAT
25 OVERT ACT?

1 A SPECIAL AGENT BERRELLEZ, THE GROUP SUPERVISOR, CALLED
2 ME BY TELEPHONE ON JANUARY 11 AND ADVISED ME THAT C.I. 2
3 HAD TOLD AGENT BERRELLEZ ABOUT AN OCTOBER 1984 MEETING.

4 Q WAS THAT THE FIRST TIME THAT YOU HEARD THAT C.I. 2
5 HAD ANY INFORMATION CONCERNING MIGUEL ALDANA?

6 A YES.

7 Q WAS THAT THE FIRST TIME THAT YOU HEARD THAT C.I. 2
8 HAD ANY INFORMATION CONCERNING MANUEL IBARRA?

9 A CORRECT.

10 Q AND DID YOU SUBSEQUENTLY MEET WITH C.I. 2 CONCERNING
11 THE OCTOBER 1984 MEETING?

12 A THE FOLLOWING DAY, I BELIEVE, IN MY OFFICE,
13 JANUARY 12TH.

14 Q AND DURING THAT MEETING DID C.I. 2 DESCRIBE FOR YOU
15 THIS OCTOBER 1984 MEETING?

16 A CORRECT.

17 Q WAS THAT THE FIRST TIME THAT HE DESCRIBED THAT
18 MEETING TO YOU?

19 A C.I. 2 TO ME IN PERSON, CORRECT, JANUARY 12TH.

20 Q IS IT TRUE THAT YOU WOULD HAVE SPOKEN WITH C.I. 2
21 ABOUT THAT MEETING EVEN IF RUBEN ZUNO-ARCE HAD NOT
22 TESTIFIED BEFORE THE GRAND JURY?

23 A THAT'S CORRECT.

24 Q DID YOU SPEAK WITH C.I. 2 AT ANY TIME BETWEEN
25 JANUARY 11TH OF 1990 AND JANUARY 17TH OF 1990 WHEN HE

1 TESTIFIED BEFORE THE GRAND JURY CONCERNING RUBEN ZUNO-
2 ARCE'S IMMUNIZED GRAND JURY TESTIMONY?

3 A I NEVER DISCUSSED THAT SUBJECT WITH C.I. 2.

4 MS. CARLTON: NOTHING FURTHER, YOUR HONOR.

5 THE COURT: YOU MAY CROSS-EXAMINE THE WITNESS.

6 CROSS EXAMINATION

7 BY MR. MEDVENE:

8 Q YOU SAID, MR. MEDRANO, THAT YOU WOULD HAVE SPOKEN
9 WITH ZUNO-ARCE ABOUT THE OCTOBER 1984 MEETING REGARDLESS
10 OF WHAT HE TESTIFIED TO IN FRONT OF THE GRAND JURY? IS
11 THAT --

12 MR. CARLTON: OBJECTION, YOUR HONOR. THAT IS
13 MISSTATING --

14 THE COURT: YES, THAT IS MISSTATING WHAT WAS
15 SAID.

16 MR. MEDVENE: I AM SORRY.

17 THE COURT: HE SAID, I THINK, THAT --

18 MR. MEDVENE: C.I. 2.

19 THE COURT: YES.

20 Q BY MR. MEDVENE: ARE YOU SAYING THAT YOU WOULD HAVE
21 SPOKEN TO C.I. 2 ABOUT THE OCTOBER 1984 MEETING REGARDLESS
22 OF ZUNO-ARCE'S TESTIMONY BECAUSE OF WHAT YOU WERE TOLD ON
23 JANUARY 11TH?

24 A NO, SIR. BECAUSE IBARRA AND ALDANA HAD BEEN TARGETS
25 OR SUSPECTS SINCE 1985 IN THE CAMARENA MURDER

1 INVESTIGATION.

2 Q WELL, ISN'T IT TRUE THAT THE GOVERNMENT'S FIRST
3 KNOWLEDGE OF THE OCTOBER 1984 MEETING THAT IS ALLEGED IN
4 THE THIRD AND SIXTH COUNTS WAS FIRST ACQUIRED, AS AGENT
5 BERRELLEZ SAID, ON JANUARY 11TH?

6 A THAT IS CORRECT, SIR.

7 Q SO IS IT TRUE THAT THE REASON YOU WOULD HAVE ASKED
8 C.I. 2 ABOUT THIS MEETING WAS BECAUSE YOU JUST HEARD ABOUT
9 IT FOR THE FIRST TIME ON JANUARY 11TH?

10 A PERHAPS I MISUNDERSTOOD, MR. MEDVENE. WOULD I HAVE
11 ASKED ABOUT THE OCTOBER '84 MEETING?

12 Q YES, SIR.

13 A GIVE ME THE QUESTION ONE MORE TIME. I AM SORRY, SIR.
14 IT IS LATE.

15 Q DO YOU CLAIM THAT THE REASON YOU WOULD HAVE ASKED
16 C.I. 2 ABOUT THE OCTOBER '84 MEETING WAS BECAUSE YOU HAD
17 JUST LEARNED OF IT FOR THE FIRST TIME ON JANUARY 11TH?

18 A YES, I LEARNED OF IT FROM MR. BERRELLEZ. CORRECT.

19 Q FOR THE FIRST TIME?

20 A YES, BY PHONE JANUARY 11TH.

21 Q NOW, YOU SAID IN COURT, DID YOU NOT, ON MONDAY,
22 MARCH 12TH, THAT YOU ACTUALLY LEARNED ABOUT THE OCTOBER
23 1984 MEETING AT THE TIME OF THE FIFTH SUPERSEDING
24 INDICTMENT? ISN'T THAT WHAT YOU SAID?

25 A THAT IS WHAT I SAID THEN. THAT IS CORRECT.

1 Q AND IS IT TRUE, SIR, THAT YOU NOT ONLY SAID THAT, BUT
2 YOU ALSO SAID THAT YOU MADE A TACTICAL JUDGMENT NOT TO
3 INCLUDE THE OCTOBER '84 MEETING IN THE FIFTH SUPERSEDING
4 INDICTMENT?

5 A THAT IS WHAT I SAID AT THE HEARING. CORRECT.

6 Q AND YOU SAID FURTHER THAT IT WAS SIMPLY A FUNCTION OF
7 PROSECUTORIAL DISCRETION, AND YOU DECIDED BASED ON
8 PROSECUTORIAL DISCRETION NOT TO INCLUDE THAT OVERT ACT IN
9 THE FIFTH SUPERSEDING INDICTMENT?

10 A THAT'S CORRECT, MR. MEDVENE. I WAS CONFUSED BECAUSE
11 I WAS THINKING OF ANOTHER OVERT ACT, AND THAT IS WHY I
12 MADE THE INCONSISTENT STATEMENT.

13 Q WHAT OVERT ACT HAD TO DO WITH ZUNO-ARCE THAT YOU WERE
14 THINKING ABOUT?

15 A I WAS THINKING --

16 MR. CARLTON: OBJECTION, YOUR HONOR. THAT IS
17 IRRELEVANT.

18 THE COURT: NO, IT IS NOT.

19 THE WITNESS: I CAN ANSWER THAT, YOUR HONOR.

20 THE COURT: ALL RIGHT. GO AHEAD.

21 THE WITNESS: I WAS MENTALLY THINKING OF
22 FEBRUARY '85.

23 Q BY MR. MEDVENE: HOW COULD YOU HAVE BEEN THINKING OF
24 FEBRUARY '85, MR. MEDRANO, WHEN YOU SAID YOU MADE A
25 CALCULATED JUDGMENT NOT TO INCLUDE IT IN THE FIFTH

1 SUPERSEDING INDICTMENT, AND THE FACT IS IN THE FIFTH
2 SUPERSEDING INDICTMENT YOU INCLUDED FEBRUARY OF '85?

3 A I WAS CONFUSED, MR. MEDVENE. I APOLOGIZE FOR THE
4 MISREPRESENTATION. I WAS THINKING FEBRUARY OF '85, BUT
5 THAT IS ALREADY IN THE INDICTMENT. AND I WAS SIMPLY
6 CONFUSED.

7 NOT UNTIL YOU STOOD UP AND ASKED THE JUDGE FOR A
8 CLARIFICATION DID THE ISSUE BECOME CRYSTALLIZED IN MY
9 MIND, AND THAT IS WHEN I STATED IT ACCURATELY FOR THE
10 COURT AT THE TAIL END OF THE HEARING.

11 Q MR. MEDRANO, YOU SAID, DID YOU NOT, AT THE LAST
12 HEARING BEFORE HIS HONOR THAT THE WAY YOU ACQUIRED THE
13 INFORMATION ABOUT THE OCTOBER 1984 MEETING WAS WHEN YOU
14 AND YOUR CO-COUNSEL MR. CARLTON -- AND I AM QUOTING --
15 "CONTINUED TO DEBRIEF AND INTERVIEW THE WITNESS, AND AT
16 THAT TIME HE ALSO REFERENCED THE OCTOBER 1984 MEETING."

17 ISN'T THAT WHAT YOU REPRESENTED TO HIS HONOR?

18 A THAT IS WHAT I SAID, BUT OBVIOUSLY I WAS MISTAKEN.

19 Q SO YOU WERE MISTAKEN IN THAT, TOO, SIR?

20 A RIGHT.

21 Q WHEN DID YOU DECIDE, MR. MEDRANO, THAT YOU AND
22 MR. CARLTON DID NOT GET THIS INFORMATION FROM C.I. 2 IN
23 THE DEBRIEFING THE WAY YOU REPRESENTED TO HIS HONOR? WHEN
24 DID YOU DECIDE THAT WAS WRONG?

25 A WHEN YOU ASKED YOUR QUESTION OF THE JUDGE FOR

1 CLARIFICATION, THAT IS WHEN IT JOGGED MY MIND AND
2 CRYSTALLIZED THE ISSUE FOR ME.

3 THE COURT: WELL, IS THAT IN THE TRANSCRIPT?

4 THE WITNESS: YES, YOUR HONOR.

5 THE COURT: WHAT PAGE? IS THAT IN THE
6 TRANSCRIPT THAT IS BEFORE THE COURT?

7 THE WITNESS: THAT IS CORRECT.

8 THE COURT: THAT IS EXHIBIT A. WHEN WAS THAT
9 DONE?

10 THE WITNESS: IF YOU WILL TURN TO PAGE 7, YOUR
11 HONOR.

12 THE COURT: PAGE 7.

13 THE WITNESS: AT THE BOTTOM MR. MEDVENE ASKS FOR
14 A CLARIFICATION AS TO WHAT THE GOVERNMENT'S POSITION IS,
15 AND AS HE IS GOING THROUGH HIS STATEMENT TO THE COURT --

16 THE COURT: MAYBE I AM LOOKING AT THE WRONG
17 PAGE.

18 THE WITNESS: I AM LOOKING AT MR. MEDVENE'S
19 MOTION CALLED "FOUNDATION FOR CALLING AUSA MEDRANO AS A
20 WITNESS," AND THERE IS AN EXHIBIT ATTACHED.

21 I HAVE A COPY HERE. IT IS THE BOTTOM OF PAGE 7.
22 IT IS MR. MEDVENE'S INQUIRY TO THE COURT FOR CLARIFICATION
23 FROM MYSELF, AND THEN WHEN YOU TURN TO PAGE 8, YOU ASKED
24 ME SPECIFICALLY, "WHAT IS THE GOVERNMENT'S POSITION?"

25 AND WITH YOUR STATEMENT AND MR. MEDVENE'S

1 INQUIRY OF THE COURT, THAT IS WHEN I REALIZED THAT I HAD
2 MISSPOKEN, YOUR HONOR, AND THAT IS WHEN I STRAIGHTENED THE
3 RECORD ON PAGE 8, I BELIEVE.

4 Q BY MR. MEDVENE: WHEN YOU SAY YOU STRAIGHTENED THE
5 RECORD --

6 THE COURT: JUST A MOMENT.

7 MR. MEDVENE: YES, SIR.

8 THE COURT: THIS OCCURRED WHEN? ON THE DATE OF
9 THE LAST HEARING, ON MARCH 12TH?

10 THE WITNESS: THAT'S CORRECT, YOUR HONOR. A
11 WEEK AGO.

12 THE COURT: AND FOR THE RECORD YOU ARE REFERRING
13 TO WHAT IS STATED ON LINE 15, PAGE 8.

14 "IT WAS LEARNED, MY RECOLLECTION IS, A FEW
15 DAYS BEFORE JANUARY 17 WHEN MYSELF AND MY CO-
16 COUNSEL MR. CARLTON CONTINUED TO DEBRIEF AND
17 INTERVIEW THE WITNESS, AND AT THAT TIME HE ALSO
18 REFERENCED THAT OCTOBER 1984 MEETING."

19 THE WITNESS: THAT'S CORRECT, YOUR HONOR.

20 THE COURT: (READING.)

21 "THEN WE HAD THAT INFORMATION, THAT IS WHEN
22 WE PRESENTED IT TO THE GRAND JURY THROUGH C.I. 2
23 ON JANUARY 17"?

24 THE WITNESS: CORRECT, YOUR HONOR. THAT WAS MY
25 CLARIFICATION. I HAD MISSPOKEN INITIALLY.

1 Q BY MR. MEDVENE: BUT ISN'T THAT CLARIFICATION,
2 MR. MEDRANO, WHAT YOU TOLD US AGAIN WAS INCORRECT?

3 A NO, SIR, UNLESS I MISUNDERSTOOD YOUR QUESTION,
4 MR. MEDVENE.

5 Q LET'S GO OVER IT AGAIN. MR. MEDRANO, ISN'T IT TRUE
6 AT THE TIME YOU SAID YOU FINALLY REALIZED WHAT HIS HONOR
7 WAS ASKING, THAT WHAT YOU SAID TO THE COURT WAS, "A FEW
8 DAYS BEFORE JANUARY 17 WHEN MYSELF AND MY CO-COUNSEL
9 MR. CARLTON CONTINUED TO DEBRIEF AND INTERVIEW THE
10 WITNESS, AND AT THAT TIME HE REFERENCED THE OCTOBER 1984
11 MEETING."

12 NOW, THAT IS WHAT YOU SAID TO HIS HONOR, IS IT
13 NOT?

14 A YES. THAT'S CORRECT.

15 Q AND ISN'T IT THE CLEAR IMPORT OF THAT AND WHAT YOU
16 SAID TO HIS HONOR, AFTER YOU PURPORTEDLY WERE REFRESHED,
17 WAS THAT YOU GOT THIS INFORMATION AND MR. CARLTON GOT THIS
18 INFORMATION FROM C.I. 2 FOR THE FIRST TIME WHEN YOU
19 DEBRIEFED HIM? THAT IS WHAT YOU SAID TO HIS HONOR. ISN'T
20 THAT CORRECT, MR. MEDRANO?

21 A THAT'S CORRECT, AND WHAT I WAS REFERRING TO WAS MY
22 JANUARY 12TH MEETING WITH C.I. 2.

23 Q NOW, MR. MEDRANO, YOU WERE AWARE IN YOUR DISCUSSIONS
24 WITH C.I. 2, THE SAME DISCUSSION YOU TOLD HIS HONOR ABOUT
25 WHEN YOU SAID THAT DISCUSSION WHEN YOU AND MR. CARLTON

1 DEBRIEFED AND INTERVIEWED THE WITNESS, AND HE GAVE YOU THE
2 OCTOBER 1984 MEETING -- YOU WERE AWARE THEN THAT MR. ZUNO-
3 ARCE HAD SAID IN HIS GRAND JURY TESTIMONY THAT HE KNEW
4 MR. IBARRA AND MR. ALDANA. ISN'T THAT CORRECT?

5 A HE MENTIONED IBARRA. I AM NOT SURE ABOUT ALDANA.
6 I'D HAVE TO REVIEW THE TRANSCRIPT AGAIN, MR. MEDVENE.

7 THE COURT: IS THAT AN EXHIBIT HERE?

8 MR. MEDVENE: NOT MR. ZUNO-ARCE'S GRAND JURY
9 TESTIMONY, YOUR HONOR.

10 MAY I APPROACH, YOUR HONOR?

11 THE COURT: JUST READ IT.

12 THE WITNESS: THAT WILL REFRESH MY MEMORY.

13 Q BY MR. MEDVENE: THIS IS OCTOBER 24, 1989, PAGE 32,
14 LINE 12:

15 "Q WAS MIGUEL ALDANA -- WERE YOU ALSO
16 CLOSE PERSONAL FRIENDS WITH HIM?

17 "A NO. I KNEW HIM WELL, BUT I WAS NOT
18 FRIENDLY WITH HIM."

19 A THAT'S CORRECT. I DID ASK ABOUT ALDANA THEN. THAT'S
20 CORRECT.

21 Q AND WITH RESPECT TO IBARRA, THERE WAS EXTENSIVE
22 TESTIMONY ABOUT IBARRA AND A TELEPHONE CONVERSATION IN
23 MARCH OF 1985?

24 A YES.

25 Q AND YOU HAD THAT INFORMATION WHEN, IN YOUR WORDS, YOU

1 AND MR. CARLTON DEBRIEFED AND INTERVIEWED THE WITNESS, AND
2 HE FOR THE FIRST TIME GAVE YOU THE OCTOBER 1984 MEETING,
3 AS REPRESENTED TO HIS HONOR. ISN'T THAT TRUE?

4 A WELL, BECAUSE I WAS PRESENT FOR THE GRAND JURY
5 TESTIMONY, YES, I HAD THAT INFORMATION.

6 Q IS THE ANSWER TO MY QUESTION YES?

7 A YES, SIR.

8 Q MR. MEDRANO, JANUARY 30 OF 1990 IN A HEARING BEFORE
9 HIS HONOR IN A DISCUSSION OF GRAND JURY TRANSCRIPT AND
10 ACCESS TO IT, YOU WERE ASKED WHAT AGENTS HAD ACCESS TO THE
11 GRAND JURY TESTIMONY IN SUBSTANCE, AND YOU SAID IT WOULD
12 DEPEND ON WHO WAS ON THE RULE 6 LIST OF AGENTS. IN OTHER
13 WORDS, THERE IS A LIST OF AGENTS THAT ARE ENTITLED TO LOOK
14 AT THE TESTIMONY?

15 A YES.

16 Q AND CAN YOU TELL US WHO THOSE AGENTS ARE? AND THE
17 ONLY TESTIMONY I AM TALKING ABOUT NOW IS ZUNO-ARCE'S
18 TESTIMONY.

19 A THERE ARE MANY, MANY PEOPLE ON THAT RULE 6 ACCESS
20 LIST. I DON'T REMEMBER THE NAMES OF ALL OF THEM OFF THE
21 TOP OF MY HEAD.

22 Q AGENT SALAZAR?

23 A HE SHOULD BE ON THAT LIST, I THINK.

24 Q AGENT KUEHL?

25 A YES.

1 Q AGENT MORALES?

2 A PEOPLE WHO ARE ON THE LIST, YES, I THINK MORALES IS
3 ON THERE AS WELL.

4 Q AGENT MARTINEZ?

5 A YES. THAT IS SHOULD WE DECIDE TO SHOW THEM THE
6 TRANSCRIPT, MR. MEDVENE.

7 Q I DON'T MEAN TO ASK A COMPOUND QUESTION, BUT JUST TO
8 SAVE TIME. I COULD ASK IT ONE AT A TIME.

9 DO YOU KNOW OF YOUR OWN PERSONAL KNOWLEDGE WHICH
10 OF THOSE AGENTS SAW THE GRAND JURY TESTIMONY?

11 A TO MY KNOWLEDGE, NONE OF THEM HAVE, MR. MEDVENE.

12 Q DID YOU DISCUSS ANY OF THE TESTIMONY WITH ANY OF
13 THEM?

14 A NO, SIR, I DON'T BELIEVE I DID.

15 MR. MEDVENE: NOTHING FURTHER, YOUR HONOR.

16 THE COURT: ANY REDIRECT?

17 MR. CARLTON: JUST ONE OR TWO QUESTIONS, YOUR
18 HONOR.

19 REDIRECT EXAMINATION

20 BY MR. CARLTON:

21 Q MR. MEDVENE, DO YOU MAINTAIN ALL THE COPIES OF
22 MR. ZUNO-ARCE'S TRANSCRIPTS IN YOUR OFFICE?

23 A THAT'S CORRECT. THEY ARE UNDER LOCK AND KEY.

24 Q AND TO YOUR KNOWLEDGE, NONE OF THE AGENTS THAT
25 MR. MEDVENE MENTIONED HAVE ACCESS TO THOSE?

1 A TO MY KNOWLEDGE, NO. THAT IS PRETTY DEFINITE BECAUSE
2 I NEED TO OPEN THAT FILE CABINET TO HAVE ACCESS, AND I
3 DON'T REMEMBER SHOWING THAT TRANSCRIPT TO ANY OF THOSE
4 PARTICULAR AGENTS.

5 MR. CARLTON: NOTHING FURTHER, YOUR HONOR.

6 THE COURT: ALL RIGHT.

7 YOU MAY STEP DOWN.

8 IS THERE ANYTHING FURTHER ON BEHALF OF THE
9 GOVERNMENT?

10 MR. MEDRANO: MAY I HAVE ONE MOMENT, YOUR HONOR?

11 (DISCUSSION OFF THE RECORD.)

12 MR. MEDRANO: NO, YOUR HONOR. I THINK THAT
13 TAKES CARE OF IT FOR THE GOVERNMENT.

14 THE COURT: DO YOU WISH TO BE HEARD REGARDING
15 THIS MOTION?

16 MR. MEDRANO: VERY BRIEFLY, YOUR HONOR. THANK
17 YOU. I DO WISH TO SAY A FEW THINGS.

18 YOUR HONOR, IN SUMMARY I DO APOLOGIZE FOR THE
19 CONFUSION ON MY PART. WHEN I REALIZED WHAT WAS GOING
20 ON -- AND THE ONLY EXPLANATION I HAVE IS THAT WE WERE
21 DEALING WITH 20 MOTIONS LAST WEEK, AND I DON'T KNOW IF
22 THAT IS A PROPER EXPLANATION.

23 WHEN I REALIZED MY ERROR, I IMMEDIATELY
24 CORRECTED IT FOR THE COURT, YOUR HONOR.

25 AND WE HAVE TODAY'S TESTIMONY BY AGENT BERRELLEZ

1 AND MYSELF IN SUPPORT OF THAT TO SHOW THERE WAS AN
2 INDEPENDENT BASIS FOR THE OCTOBER 1984 OVERT ACT OF WHICH
3 MR. MEDVENE COMPLAINS, YOUR HONOR.

4 WE KNOW A COUPLE OF THINGS: ONE, I HAVE NEVER
5 DISCUSSED THAT IMMUNIZED GRAND JURY TESTIMONY WITH ANYONE.
6 MR. BERRELLEZ HAS NEVER SHARED THAT INFORMATION WITH
7 ANYONE. INDEED, HE HAS NEVER EVEN READ THE STUFF.

8 THE FACT THAT I WAS EXPOSED TO IT ON AUGUST 24,
9 THE NAMES OF IBARRA AND ALDANA, IS IRRELEVANT, YOUR HONOR,
10 BECAUSE THOSE TWO MEN HAVE BEEN SUSPECTS IN THE CAMARENA
11 MURDER INVESTIGATION DATING BACK TO 1985 AND 1986.
12 REGARDLESS OF WHAT CAME OUT OF ZUNO'S IMMUNIZED GRAND JURY
13 TESTIMONY, THOSE PEOPLE WOULD CONTINUE TO BE TARGETS OR
14 SUSPECTS IN THIS MURDER INVESTIGATION.

15 FINALLY, YOUR HONOR, IT IS CLEAR THAT C.I. 2
16 TELLS US ABOUT THE OCTOBER '84 MEETING ON JANUARY 11TH
17 WHEN HE TELLS AGENT BERRELLEZ, AND AGENT BERRELLEZ ADVISES
18 ME BY PHONE IMMEDIATELY. WE BRING C.I. 2 INTO MY OFFICE
19 ON JANUARY 12TH, AND HE IS FURTHER DEBRIEFED. AND THEN ON
20 THE BASIS OF THAT DEBRIEFING, HE GOES IN FRONT OF THE
21 GRAND JURY ON JANUARY 17TH, AND THAT IS THE BASIS FOR THE
22 ADDITIONAL OVERT ACT WHICH WAS RETURNED BY THE GRAND JURY
23 ON JANUARY 31 OF 1990.

24 YOUR HONOR, UNLESS THERE ARE SPECIFIC INQUIRIES
25 BY THE COURT, WE WOULD SUBMIT ON THAT BASIS.

1 THE COURT: ALL RIGHT.

2 MR. MEDVENE, WHAT DO YOU THINK? I WANT YOU TO
3 ARGUE IN THIS WAY. YOU TELL ME WHAT CONCLUSION YOU THINK
4 THE COURT SHOULD DRAW FROM THE EVIDENCE THAT HAS BEEN
5 PRESENTED AND WHAT, IF ANY, ACTION YOU THINK THE COURT
6 OUGHT TO TAKE BASED ON WHAT CONCLUSION YOU THINK THE COURT
7 SHOULD MAKE.

8 MR. MEDVENE: YOUR HONOR, I THINK THE CONCLUSION
9 THE COURT, WITH DUE RESPECT, SHOULD DRAW IS THAT THE
10 GOVERNMENT HAS NOT CARRIED ITS BURDEN OF SHOWING THAT THE
11 OCTOBER 1984 MEETING WAS DERIVED INDEPENDENTLY. THE BASIS
12 FOR THAT STATEMENT IS THAT THE FOCUS ISN'T NECESSARILY
13 MESSRS. ALDANA AND IBARRA, BUT AS THE KASTIGAR CASES SAY,
14 IF THE FOCUS OF THE GOVERNMENT IS LED IN A PARTICULAR
15 DIRECTION BY THE GRAND JURY TESTIMONY -- AND WE HAVE
16 MR. ZUNO SAYING HE KNOWS ALDANA AND IBARRA, AND WE HAVE
17 MR. MEDRANO AS RECENTLY AS MINUTES AGO NOT DISAFFIRMING
18 UNDER EXAMINATION THE ACCURACY OF WHAT HE SAID ON PAGE 8,
19 WHICH IS DIFFERENT FROM AGENT BERRELLEZ, THE ACCURACY OF
20 WHAT HE SAID, WHICH WAS THE OCTOBER '84 TESTIMONY CAME
21 OUT, NOT FROM AGENT BERRELLEZ --

22 THE COURT: LET ME ASK YOU THIS. LET'S ASSUME
23 THAT IS TRUE AND HAS BEEN UNCORRECTED.

24 MR. MEDVENE: YES, SIR.

25 THE COURT: WHAT DOES THAT PROVE?

1 MR. MEDVENE: THAT PROVES THAT THE -- YOU HAVE
2 SOMEBODY THAT HAS ACCESS TO THE TESTIMONY OF MR. ZUNO-ARCE
3 ABOUT KNOWLEDGE OF IBARRA, KNOWLEDGE OF ALDANA. YOU HAVE
4 THAT WITNESS ADMITTING HE INTERROGATED OR HE INTERVIEWED
5 AND DEBRIEFED. THERE WAS REALLY NO DEBRIEFING. THE MAN
6 HAD ALREADY GIVEN HIS TESTIMONY IN NOVEMBER.

7 SO ARMED WITH THAT INFORMATION HE WAS ABLE, I
8 THINK THE COURT CAN DRAW THE CONCLUSION, TO FOCUS ON ZUNO
9 AND PUT HIM TOGETHER WITH ALDANA AND IBARRA AND TALK TO
10 THIS WITNESS ABOUT WASN'T THERE A MEETING.

11 IN OTHER WORDS, THERE IS AN APPEARANCE OF
12 IMPROPRIETY HERE. THE COURTS HAVE GONE TO GREAT LENGTHS
13 UNDER KASTIGAR TO SAY THAT IT IS NOT FAIR TO GET
14 SOMEBODY'S TESTIMONY AND TAKE A LEAD OR CHANGE FOCUS.

15 AND HERE WE HAVE SOMEBODY THAT IS IN ON THE
16 GRAND JURY TESTIMONY THAT ADMITS THEY INTERVIEWED THE
17 WITNESS AND GOT THIS, YOUR HONOR. HOW IN THE WORLD COULD
18 THEY GET THIS, YOUR HONOR? YOUR HONOR ASKED THE QUESTION
19 MUCH BETTER THAN I DID. YOU SAID, "DIDN'T YOU WANT TO GET
20 EVERYTHING YOU COULD FROM THIS WITNESS?"

21 AND HE SAID, "YES."

22 AND THAT IS TRUE FOR MR. MEDRANO AND
23 MR. CARLTON.

24 THEN THEY NEEDED, AND THEY COME AND TALK TO HIM
25 AGAIN, AND ALL OF A SUDDEN THIS MEETING COMES OUT, AND HE

1 PUTS HIM TOGETHER WITH PEOPLE THAT MR. ZUNO-ARCE SAID HE
2 KNEW.

3 THE COURT: THE QUESTION IS WHY DIDN'T THIS
4 WITNESS DISCLOSE THIS INFORMATION WHEN HE WAS ENCOURAGED
5 TO TELL EVERYTHING HE KNEW PRIOR TO THANKSGIVING OF 1989
6 AND DIDN'T REMEMBER IT UNTIL -- OR DIDN'T TELL IT, AT
7 LEAST, UNTIL JANUARY 11 OF 1990.

8 YOU WOULD HAVE THE COURT REACH THE CONCLUSION
9 THAT THERE WAS SOME SINISTER INTERVENTION BY THE
10 GOVERNMENT BETWEEN THOSE TWO DATES THAT RELIED ON
11 MR. ZUNO'S GRAND JURY TESTIMONY TO ENCOURAGE THIS WITNESS
12 TO MAKE THAT STATEMENT. THERE IS SIMPLY NO EVIDENCE TO
13 THAT.

14 THE TESTIMONY THAT HAS BEEN GIVEN BY THESE
15 WITNESSES UNDER OATH IS THAT THIS WITNESS, FOR WHATEVER
16 REASON, WHICH CAN BE EXPLORED AT THE TRIAL, DID NOT
17 DISCLOSE THIS INFORMATION IN NOVEMBER THOUGH GIVEN AN
18 OPPORTUNITY TO TELL ALL THAT HE KNEW. WHY HE DIDN'T OR
19 WHAT VERACITY SHOULD BE ATTACHED TO HIS TESTIMONY IS
20 SOMETHING THAT WOULD HAVE TO BE EXPLORED AT THE TRIAL.

21 THE INQUIRY BEFORE THE COURT IS WHETHER OR NOT
22 THIS ALLEGATION ABOUT AN OCTOBER 1984 MEETING AT WHICH
23 YOUR CLIENT IS ALLEGED TO HAVE BEEN PRESENT WAS OBTAINED
24 BY THE GOVERNMENT THROUGH INDEPENDENT MEANS.

25 THE ONLY EVIDENCE BEFORE THE COURT AT THIS TIME

1 IS THAT IT WAS OBTAINED FROM THIS WITNESS C.I. 2; THAT IT
2 WAS OBTAINED THROUGH INDEPENDENT MEANS; THAT IT WAS IN NO
3 WAY -- IT NO WAY RESULTED FROM THE USE OF MR. ZUNO'S GRAND
4 JURY TESTIMONY.

5 SO ON THE BASIS OF THIS EVIDENCE I WOULD HOLD
6 THAT THE GOVERNMENT HAD MET THEIR BURDEN TO SHOW THAT THE
7 EVIDENCE WAS INDEPENDENTLY ARRIVED AT.

8 AS I TOLD YOU BEFORE ON THE OTHER KASTIGAR
9 HEARING WE HAD, THIS IS A QUESTION THAT REMAINS OPEN. IF
10 DURING THE TRIAL OR EVEN AFTER, IT IS DISCLOSED TO THE
11 GOVERNMENT -- IT IS DISCLOSED THAT THE GOVERNMENT MISUSED
12 THE GRAND JURY TESTIMONY OF THE DEFENDANT, THE REMEDIES
13 AVAILABLE NOW ARE AVAILABLE THEN OR AT ANY TIME, AND THE
14 MATTER MAY BE RAISED AGAIN IF THERE IS ANY FURTHER
15 EVIDENCE.

16 BUT ON THE STATE OF THE EVIDENCE PRESENTED HERE,
17 IT IS THE COURT'S RULING THAT THE MOTION TO DISMISS THE
18 INDICTMENT SHOULD BE DENIED, AND THE GOVERNMENT HAS MET
19 THEIR BURDEN OF DEMONSTRATING THAT THE EVIDENCE WAS
20 OBTAINED INDEPENDENT OF THE DEFENDANT'S GRAND JURY
21 TESTIMONY.

22 MR. MEDVENE: WE DON'T WISH TO IN ANY WAY AND
23 WILL NOT QUARREL WITH YOUR HONOR'S RULING. WE WOULD ONLY
24 ASK YOUR HONOR: UNDER THE CIRCUMSTANCES IN LIGHT OF WHAT
25 THE AGENT SAID AND MR. MEDRANO'S COMPLETELY CONTRADICTIONARY

1 STATEMENT, COULD WE LOOK AT THE WITNESS'S MEMORANDA.

2 I MIGHT NOTE, YOUR HONOR --

3 THE COURT: YOU WERE ASKING BEFORE FOR THE COURT
4 TO INSPECT IT IN CAMERA.

5 MR. MEDVENE: NO, SIR. YOU PUSHED ME AND YOU
6 SHOVED ME, AND I SAID IF THAT IS THE ONLY WAY SOMEBODY CAN
7 LOOK AT IT. I DON'T THINK THAT IS APPROPRIATE. I THINK
8 YOU OUGHT TO LET US SEE IT.

9 I MIGHT NOTE, JUDGE, THAT WE ARE GETTING CLOSE
10 TO APRIL 10TH.

11 THE COURT: AND I AM ALSO GETTING CLOSE TO
12 MAKING A DECISION ON THIS QUESTION OF THE DISCLOSURE OF
13 THE INFORMANTS. I HAVE HAD THAT UNDER STUDY.
14 UNFORTUNATELY, I HAVE BEEN ILL NOW FOR THE FIFTH WEEK AND
15 HAVEN'T BEEN ABLE TO GET TO ALL OF THESE THINGS, BUT I
16 INTEND TO DO THAT, AND I THINK THAT WILL SOLVE ANY
17 PROBLEMS WHEN THAT IS DONE FOR EVERYONE.

18 MR. MEDVENE: IF IT IS NOT INAPPROPRIATE -- IF
19 IT IS, I APOLOGIZE -- WE WANT TO PRESENT TO YOUR HONOR
20 BEFORE THE RULING A SPANISH LANGUAGE PAPER. THERE IS A
21 REPRESENTATION BY SOMEBODY WHO REPRESENTS THAT HE IS A
22 GOVERNMENT AGENT; THAT ALL OF THE CONFIDENTIAL INFORMANTS
23 ARE HOUSED AT EL TORO MARINE BASE. IF THAT IS SO -- AND
24 WE ASK THE GOVERNMENT TO RESPOND. IF IT IS SO, THERE IS
25 NO REASON NOT TO -- I MEAN WE SHOULD GET THE INFORMATION,

1 ANYWAY. BUT CERTAINLY THERE IS NO REASON TO WITHHOLD IF
2 THEY ARE ALL SECURE.

3 THE COURT: THAT IS THE QUESTION I AM DEALING
4 WITH, AND OF COURSE AS THE TRIAL APPROACHES, IT IS THE
5 GOVERNMENT'S RESPONSIBILITY TO SEE THAT THESE WITNESSES
6 ARE PROTECTED BECAUSE THEIR IDENTITY CANNOT BE CONCEALED
7 FOREVER. EVENTUALLY THE DEFENDANTS ARE ENTITLED TO KNOW
8 WHO THEY ARE, AND THEY WILL KNOW.

9 NOW, THIS LAST REQUEST TO HAVE THIS STATEMENT IS
10 DENIED, AND YOUR MOTION TO HAVE ME CONSIDER IT IN CAMERA
11 IS ALSO DENIED.

12 MR. MEDVENE: I HOPE YOU WON'T CITE THAT, YOUR
13 HONOR.

14 THE COURT: I WILL SAY AGAINST YOUR VIGOROUS
15 INSISTENCE.

16 (PROCEEDINGS CONCLUDED.)

17 - - -

18 I HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT
19 TRANSCRIPT OF THE PROCEEDINGS HAD ON THE RECORD
20 IN THE ABOVE-ENTITLED MATTER.

21
22 Velma B. Thomas 5/7/90
23 OFFICIAL REPORTER DATE