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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3 -----
4 HONORABLE EDWARD RAFFEDIE, DISTRICT COURT JUDGE PRESIDING
5 -----

6
7 UNITED STATES OF AMERICA,)
8 PLAINTIFF,)
9 VS.)
10 JUAN RAMON MATTA-BALLESTEROS)
11 DEL POZO, RUBEN ZUNO-ARCE,)
12 JUAN JOSE BERNABE-RAMIREZ,)
13 AND JAVIER VASQUEZ-VELASCO,)
14 DEFENDANTS.)

ORIGINAL

CASE NO: CR 87-422(F)-ER

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17 REPORTER'S TRANSCRIPT OF PROCEEDINGS

18 TUESDAY, MAY 1, 1990; 2:00 P.M.

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22 JULIE CHURCHILL, CSR
23 OFFICIAL REPORTER
24 U.S. DISTRICT COURT, 442-C
25 312 N. SPRING STREET
LOS ANGELES, CA 90012
(213) 617-8227

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APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

GARY A. FEES,
UNITED STATES ATTORNEY
BY: MANUEL A. MEDRANO
JOHN L. CARLTON
ASSISTANT U.S. ATTORNEYS
1200 UNITED STATES COURTHOUSE
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(213) 894-0619/894-6682

FOR DEFENDANT JUAN RAMON MATTA-BALLESTEROS DEL POZO:

MARTIN J. STOLAR
MICHAEL BURNS
ADOLFO Z. AGUILAR
ATTORNEYS AT LAW
351 NORTH BROADWAY, 4TH FLOOR
NEW YORK, NEW YORK 10013
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ALSO PRESENT:

DOUGLAS KUEHL, SPEC. AGT. D.E.A.
MS. DENA KOHN, SPANISH INTERPRETER

1 LOS ANGELES + CALIFORNIA TUESDAY, MAY 1, 1990

2 2:00 P.M.

3
4 THE COURT: LET THE RECORD SHOW THAT THE DEFENDANT
5 MATTA IS PRESENT, TOGETHER WITH ALL COUNSEL, AS PREVIOUSLY
6 ANNOUNCED THIS MORNING.

7 THE COURT IS CONVENED TO HEAR THIS MOTION BY THE
8 DEFENDANT MATTA TO SUPPRESS EVIDENCE, THE EVIDENCE BEING
9 STATEMENTS THAT WERE ALLEGEDLY ELICITED FROM HIM AT THE TIME OF
10 HIS ARREST.

11 HE HAD MOVED TO SUPPRESS STATEMENTS WHICH HE ALLEGES
12 WERE MADE IN VIOLATION OF HIS MIRANDA RIGHTS AND ARE
13 INADMISSIBLE IN THE PROSECUTOR'S CASE IN CHIEF.

14 THE PURPOSE OF THIS HEARING IS BASICALLY TO DETERMINE
15 TWO THINGS: FIRST OF ALL, WAS HE GIVEN -- STRIKE THAT. WAS HE
16 GIVEN A MIRANDA WARNING AT THE TIME WHEN HE WAS IN CUSTODY AND
17 SUBJECT TO INTERROGATION AND -- INTERROGATION BY AMERICAN
18 AGENTS; AND SECONDLY, IF WHETHER OR NOT ANY STATEMENTS HE MADE
19 WERE VOLUNTARY, FREELY AND VOLUNTARILY MADE AND NOT THE PRODUCT
20 OF GOVERNMENT COERCION OR PRESSURE.

21 THOSE ARE THE ISSUES THAT THE COURT HAS INDICATED
22 PREVIOUSLY WOULD BE THE SUBJECT OF THIS HEARING, AND THE
23 STATEMENTS WERE STATEMENTS MADE AT THE TIME OF HIS ARREST ON
24 THE APRIL 29TH, 1985.

25 IS THAT AN ACCURATE STATEMENT OF WHAT WE'RE DOING

1 HERE TODAY?

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

3 MR. STOLAR: ALTHOUGH I BELIEVE THE STATEMENTS THAT
4 ARE THE SUBJECT OF THE HEARING ARE ONES MADE ON APRIL 30TH. HE
5 WAS ARRESTED IN CARTEGENA AND BROUGHT TO BOGOTA AND THAT IS
6 WHERE THE --

7 THE COURT: THEREFORE HE IS MOVING TO DISMISS THE
8 STATEMENTS MADE ON APRIL THE 30TH.

9 MR. STOLAR: THAT IS RIGHT.

10 MR. MEDRANO: THAT'S CORRECT.

11 THE COURT: IN BOGOTA.

12 MR. STOLAR: YES.

13 THE COURT: HIS CONTENTION IS THAT THESE STATEMENTS
14 WERE IN RESPONSE TO QUESTIONING BY AMERICAN AGENTS.

15 MR. STOLAR: YES.

16 THE COURT: AND THAT THEY WERE MADE WITHOUT PRIOR
17 MIRANDA WARNING.

18 MR. STOLAR: WELL, THEY WERE MADE WITHOUT PROVISION
19 FOR LEGAL COUNSEL BEING PROVIDED WHILE HE WAS BEING
20 INTERROGATED.

21 THE COURT: WAS IT YOUR CONTENTION ALSO THAT HE WAS
22 NOT GIVEN MIRANDA WARNING?

23 MR. STOLAR: YES. IT IS OUR CONTENTION THAT HE ASKED
24 FOR A LAWYER AND IT WASN'T PROVIDED FOR HIM.

25 THE COURT: ALL RIGHT. NOW, CAN WE FOLLOW THE SAME

1 PROCEDURE IN THIS MATTER AS WE DID WITH RESPECT TO THE
2 JURISDICTION MOTION? AND THAT IS THAT THE DECLARATIONS WHICH
3 HAVE BEEN FILED BY THE GOVERNMENT IN THEIR OPPOSITION MAY BE
4 RECEIVED IN EVIDENCE AS THE DIRECT TESTIMONY OF THE INDIVIDUAL
5 DECLARANT, SUBJECT TO THE AVAILABILITY OF THOSE DECLARANTS FOR
6 CROSS EXAMINATION.

7 MR. STOLAR: I THINK WITH RESPECT TO THE ISSUES THAT
8 ARE BEFORE THE COURT FOR THIS HEARING, THE ONLY DECLARATION
9 THAT NEEDS TO BE PUT IN IS THE DECLARATION OF MICHAEL S. VIGIL,
10 THE AGENT WHO TOOK THE STATEMENTS IN BOGOTA. THE OTHER
11 DECLARATIONS DEAL WITH THE SEARCH OF THE HOUSE IN CARTAGENA AND
12 THAT THE COURT HAS RULED IS NOT RELEVANT.

13 THE COURT: I HAVE ALREADY RULED THAT THAT WAS NOT
14 SUBJECT TO SUPPRESSION.

15 MR. MEDRANO: NO OBJECTION; YOUR HONOR. WE WOULD
16 SUBMIT THE DECLARATION OF MICHAEL VIGIL AND HE IS AVAILABLE
17 IMMEDIATELY FOR CROSS-EXAMINATION BY MR. STOLAR.

18 MR. STOLAR: MR. BURNS WILL DO IT.

19 MR. MEDRANO: MAY WE CALL MR. VIGIL TO THE STAND.

20 MR. BURNS: CERTAINLY.

21 THE COURT: THE COURT WILL RECEIVE THIS DECLARATION
22 IN EVIDENCE AS THE GOVERNMENT'S FIRST EXHIBIT.

23 (EXHIBIT 1 # RECEIVED IN EVIDENCE.)

24
25 MICHAEL VIGIL + DEFENDANT'S WITNESS, SWORN

1 THE CLERK: PLEASE STATE YOUR FULL NAME FOR THE
2 RECORD AND SPELL YOUR LAST NAME.

3 THE WITNESS: MY NAME IS MICHAEL S. VIGIL, V, AS IN
4 VICTOR, I G I L.

5

6 CROSS-EXAMINATION +

7 BY MR. BURNS:

8 Q. GOOD AFTERNOON, AGENT VIGIL.

9 A. GOOD AFTERNOON.

10 Q. ON APRIL 30 YOU WERE IN BOGOTA, COLUMBIA?

11 A. THAT IS CORRECT.

12 Q. AND YOU WENT TO THE OFFICE OF COLOMBIAN NATIONAL POLICE
13 KNOWN AS F-2?

14 A. THAT'S CORRECT.

15 Q. WHAT WAS YOUR PURPOSE IN GOING THERE?

16 A. TO INTERVIEW JUAN RAMON MATTA BALLESTEROS.

17 Q. WHY DID YOU WANT TO INTERVIEW JUAN RAMON MATTA
18 BALLESTEROS?

19 A. TO OBTAIN INFORMATION RELATIVE TO HIS KNOWLEDGE ON
20 NARCOTIC TRAFFIC.

21 Q. IT HAD NOTHING TO DO WITH THE ARREST THE PREVIOUS NIGHT BY
22 THE C.N.P., THE COLUMBIA NATIONAL POLICE; IS THAT CORRECT?

23 A. THAT IS CORRECT.

24 Q. ALTHOUGH YOU DID PARTICIPATE IN THE ARREST AT THAT TIME?

25 A. I DID NOT PARTICIPATE IN THE ARREST. I WAS PRESENT AT THE

1 SITE, BUT I WAS NOT A DIRECT PARTICIPANT, SIR.

2 Q. WHAT TIME OF DAY YOU GO SEE MR. MATTA?

3 A. IF I RECALL CORRECTLY, THIS WAS AROUND NOON.

4 Q. AND DO YOU REMEMBER THE ADDRESS IN BOGOTA WHERE YOU WENT?

5 A. I DON'T RECALL THE EXACT ADDRESS, NO.

6 Q. BUT YOU'VE BEEN IN COLOMBIA FOR APPROXIMATELY TWO OR THREE
7 YEARS.

8 A. ASSIGNED TO MEDELLIN, BARRANQUILLA.

9 Q. YOU'D BEEN TO BOGOTA BEFORE THAT?

10 A. FOR VERY SHORT PERIODS OF TIME.

11 Q. AND YOU'D BEEN TO THAT OFFICE BEFORE?

12 A. ON ONE OTHER OCCASION; TWICE, YES.

13 Q. WERE YOU ASSIGNED TO BOGOTA SINCE THAT TIME?

14 A. NO, I WAS NOT ASSIGNED TO BOGOTA.

15 Q. SO YOU CAN'T RECALL THE ADDRESS?

16 A. NO, I DON'T.

17 Q. WHO ELSE WAS WITH YOU WHEN YOU WENT TO SEE MR. MATTA?

18 A. PARDON ME?

19 Q. WHO ELSE WAS WITH YOU?

20 A. I WAS ACCOMPANIED BY SPECIAL AGENT RALPH AGILLA.

21 Q. SPECIAL AGENT OF THE DEA?

22 A. THAT'S CORRECT.

23 Q. AND DID YOU HAVE ANY TROUBLE INTERVIEWING -- STRIKE THAT.

24 DID YOU HAVE ANY TROUBLE MEETING MR. MATTA?

25 A. NO, WE DID NOT.

1 Q. THE C.N.P. DIDN'T TELL YOU THAT YOU SHOULD CHECK IF YOU
2 WANTED A LAWYER?

3 A. THE C.N.P.?

4 Q. DID THEY TELL YOU THAT IF YOU WANT TO SPEAK TO MR. MATTA,
5 YOU SHOULD FIRST MAKE SURE THAT --

6 THE COURT: WHO IS THE C.N.P., FOR RECORD?

7 MR. BURNS: FOR THE RECORD, THE C.N.P. IS THE
8 COLOMBIAN NATIONAL POLICE.

9 THE COURT: WHO MADE THE ARREST?

10 THE WITNESS: THE COLUMBIA NATIONAL POLICE, YOUR
11 HONOR.

12 BY MR. BURNS:

13 Q. WHO DID YOU SPEAK TO AT THIS LOCATION IN BOGOTA TO SEE MR.
14 MATTA; DO YOU RECALL?

15 A. THERE WERE SEVERAL MEMBERS OF THE COLOMBIAN NATIONAL
16 POLICE, THE F-2 SECTION THERE. I DON'T RECALL SPECIFICALLY.

17 Q. COULD YOU REMEMBER THEIR FACES IF YOU SAW THEM AGAIN?

18 A. I REMEMBER ONE OF THEM BEING SECOND LIEUTENANT CARLOS
19 MALAVER.

20 Q. WOULD YOU SPELL THAT FOR US, PLEASE.

21 A. M A L A V E R. THE V, AS IN VICTOR.

22 Q. AND WHEN YOU WENT TO SEE MR. MATTA, DID YOU SEE MR.
23 MATTA'S ATTORNEY OUTSIDE?

24 A. NO, I DID NOT.

25 Q. DID ANYONE FROM THE C.N.P., THE COLOMBIAN NATIONAL POLICE,

1 INFORM YOU THAT MR. MATTA'S ATTORNEY HAD CALLED THEM?

2 A. NO, THEY DID NOT.

3 Q. DID THEY MENTION -- THE C.N.P. -- DID THEY MENTION MR.
4 MATTA'S ATTORNEY AT ALL TO YOU?

5 A. NO.

6 Q. COULD YOU DESCRIBE TO US WHERE YOU HAD TO GO IN THE
7 BUILDINGS. WAS IT BEHIND SECURE DOORS?

8 A. THIS WAS IN A SMALL INTERVIEW ROOM LOCATED WITHIN THE F-2
9 HEADQUARTERS.

10 THE COURT: WHAT HEADQUARTERS?

11 THE WITNESS: THE COLOMBIAN NATIONAL POLICE F-2
12 HEADQUARTERS.

13 THE COURT: F-2?

14 THE WITNESS: THAT'S CORRECT. THAT'S THE OPERATIONAL
15 BRANCH OF THE COLOMBIAN NATIONAL POLICE.

16 BY MR. BURNS:

17 Q. DID YOU YOU HAVE TO GO THROUGH A RECEPTIONIST TO GET TO
18 THIS INTERVIEW ROOM?

19 A. THAT IS CORRECT.

20 Q. DID YOU SHOW YOUR I.D. OR DID THEY RECOGNIZE YOU OR MR.
21 AGILLA?

22 A. THEY RECOGNIZED US.

23 Q. SO YOU DIDN'T SHOW ANY IDENTIFICATION?

24 A. NOT THAT I RECALL.

25 Q. HOW LONG DID THIS INTERVIEW LAST?

1 A. I THINK THE INTERVIEW LASTED APPROXIMATELY AN HOUR.

2 Q. AND DURING THIS TIME DID YOU VIDEOTAPE THE INTERVIEW?

3 A. NO.

4 Q. DID YOU MAKE ANY WRITTEN NOTES DURING THIS INTERVIEW?

5 A. NOT THAT I RECALL.

6 MR. MEDRANO: YOUR HONOR, MAY I HAVE ONE MOMENT? MAY
7 I CONSULT WITH COUNSEL FOR JUST ONE MOMENT?

8 THE COURT: YES.

9 MR. MEDRANO: THANK YOU, YOUR HONOR.

10 BY MR. BURNS:

11 Q. THERE CAME A POINT, THOUGH, WHEN YOU WROTE A REPORT ABOUT
12 THIS INTERVIEW?

13 A. THAT IS CORRECT.

14 Q. THAT WAS AS FEW MONTHS LATER; IS THAT CORRECT?

15 A. A FEW MONTHS LATER?

16 Q. A FEW MONTHS LATER.

17 A. NO, I DON'T BELIEVE IT WAS THAT LONG.

18 Q. DO YOU HAVE ANY IDEA HOW LONG?

19 A. I WOULD HAVE TO REVIEW THE REPORT.

20 Q. BUT IT COULD HAVE BEEN?

21 A. NO, I'M SURE IT WAS NOT TWO MONTHS.

22 Q. ONE MONTH?

23 A. I'D SAY A WEEK OR SO. MAYBE EVEN LESS THAN THAT.

24 THE COURT: WHAT IS THIS TIME PERIOD THAT YOU'RE
25 REFERRING TO?

1 THE WITNESS: THIS TOOK PLACE ON APRIL 30TH, 1985 IN
2 BOGOTA. MR. MATTA BALLESTEROS WAS APPREHENDED BY THE COLUMBIA
3 NATIONAL POLICE ON APRIL 29TH IN CARTAGENA.

4 HOWEVER, BECAUSE OF THE LACK OF SECURITY IN
5 CARTAGENA, THE COLOMBIAN NATIONAL POLICE COLONEL IN CHARGE OF
6 THAT PARTICULAR DEPARTMENT OR STATE SENT MR. MATTA INTO BOGOTA
7 WHERE THERE WERE MORE SECURITY FACILITIES, MORE SECURE
8 FACILITIES.

9 THE COURT: WELL, THIS TIME PERIOD THAT COUNSEL WAS
10 ASKING YOU HOW LONG, WHETHER IT WAS A WEEK OR MONTHS OR TWO
11 MONTHS, WHAT IS THAT --

12 THE WITNESS: TO THE BEST OF MY KNOWLEDGE, THE
13 REPORT, YOUR HONOR, WAS WRITTEN A FEW DAYS AFTER THE INTERVIEW
14 OF MR. MATTA.

15 THE COURT: SO YOU'RE REFERRING TO THE WRITTEN
16 REPORT.

17 THE WITNESS: TO THE WRITTEN REPORT, YES, SIR.
18 BY MR. BURNS:

19 Q. NOW, IT IS YOUR TESTIMONY THAT YOU WERE PRESENT WHEN MR.
20 AGILLA READ MR. MATTA HIS MIRANDA RIGHTS; IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. DO YOU KNOW IF UNDER COLUMBIA LAW HE'S ENTITLED TO AN
23 ATTORNEY OR DO YOU NOT WORRY ABOUT THAT?

24 A. WE ADVISED MR. MATTA, WE GAVE HIM THE MIRANDA WARNING IN
25 ITS ENTIRETY. HOWEVER, WE ALSO STIPULATED THAT BECAUSE OF THE

1 CIRCUMSTANCES AND BECAUSE OF THE FACT THAT HE WAS IN A FOREIGN
2 COUNTRY THAT THE U.S. GOVERNMENT COULD NOT PROVIDE HIM WITH AN
3 ATTORNEY.

4 Q. SO YOU HAVE NO KNOWLEDGE ABOUT WHETHER UNDER COLUMBIA LAW
5 HE'S ENTITLED TO AN ATTORNEY OR NOT?

6 A. NO, I AM NOT.

7 Q. ARE YOU FAMILIAR -- HAVE YOU EVER INTERVIEWED ANYONE WHERE
8 YOU'VE HAD A WRITTEN WAIVER FORM?

9 A. YES.

10 Q. DO YOU HAVE A WRITTEN WAIVER FORM FOR MR. MATTA'S WAIVER
11 OF THE MIRANDA RIGHTS THAT YOU SAY YOU READ TO HIM?

12 A. NO, I DO NOT HAVE ONE.

13 Q. YOU DO NOT HAVE ONE ON YOU?

14 A. CORRECT.

15 Q. DID YOU HAVE ONE AVAILABLE TO YOU?

16 A. TO MY KNOWLEDGE, I DON'T KNOW IF WE HAD THOSE FORMS AT THE
17 BOGOTA OFFICE.

18 Q. AND ISN'T IT TRUE THAT IF MR. MATTA HAD BEEN A UNITED
19 STATES CITIZEN, YOU WOULD HAVE HAD TO HAVE HAD A WRITTEN
20 WAIVER?

21 MR. MEDRANO: OBJECTION, YOUR HONOR. CALLS FOR A
22 CONCLUSION AND SPECULATION BY THE WITNESS.

23 THE COURT: YES. SUSTAINED. RESTATE YOUR QUESTION.
24 BY MR. BURNS:

25 Q. THERE ARE A LOT OF WRITTEN WAIVER FORMS THAT THE D.E.A.

1 HAS; IS THAT CORRECT?

2 A. THAT IS CORRECT.

3 Q. AND YOU DO USE THEM ON OCCASION; IS THAT CORRECT?

4 A. ON OCCASION, YES.

5 Q. AND YOU DO USE THEM WHEN YOU INTERVIEW UNITED STATES
6 CITIZENS; IS THAT CORRECT?

7 A. ON OCCASION.

8 MR. BURNS: MAY I HAVE A MOMENT, YOUR HONOR.

9 BY MR. BURNS:

10 Q. DID YOU HAVE A TAPE RECORDER WHEN YOU WHEN YOU INTERVIEWED
11 MR. MATTA?

12 A. NO, SIR.

13 Q. BUT YOU DID HAVE TAPE RECORDERS AVAILABLE TO YOU IN
14 COLUMBIA WHEN YOU WANTED TO USE THEM?

15 A. CORRECT.

16 Q. DID THE COLUMBIAN POLICE PREVENT YOU FROM BRINGING A TAPE
17 RECORDER IN?

18 A. NO, SIR.

19 Q. AND I WOULD JUST ASK YOU ONCE AGAIN, YOU'RE AWARE THAT THE
20 UNITED STATES LAW IS THAT WHEN A D.E.A. AGENT INTERVIEWS A
21 UNITED STATES CITIZEN OUTSIDE THE UNITED STATES THEY MUST HAVE
22 A WRITTEN WAIVER OF THE MIRANDA FORMS.

23 MR. MEDRANO: OBJECTION CALLS FOR A LEGAL CONCLUSION.

24 THE COURT: RESTATE YOUR QUESTION.

25 BY MR. BURNS:

1 Q. I'LL TRY ASKING YOU MORE OF A FOUNDATION. YOU ARE
2 FAMILIAR WITH THE APPLICATION OF YOU --

3 HOW LONG HAVE YOU BEEN A D.E.A. AGENT?

4 A. APPROXIMATELY 16 AND A HALF YEARS.

5 Q. AND YOU'VE HAD EXTENSIVE TRAINING IN BEING A D.E.A. AGENT;
6 IS THAT CORRECT?

7 A. CORRECT.

8 Q. AND YOU'RE INFORMED ABOUT CHANGES IN THE LAW THROUGH THE
9 D.E.A. OFFICE IN WASHINGTON OR YOUR SUPERIORS IN WHATEVER
10 COUNTRY YOU'RE STATIONED IN; IS THAT TRUE?

11 A. CORRECT.

12 Q. SO YOU KNOW -- YOU'RE TRAINED IN HOW TO OPERATE IN A
13 FOREIGN COUNTRY, CORRECT?

14 A. THAT IS CORRECT.

15 Q. AND YOU ARE AWARE OF THE PROPER PROCEDURES TO BE USED IN A
16 FOREIGN COUNTRY WHEN INTERVIEWING PEOPLE?

17 A. CORRECT.

18 Q. AND THOSE PROCEDURES, ARE THEY DIFFERENT FOR A UNITED
19 STATES CITIZEN THAN FOR A PERSON WHO IS NOT A UNITED STATES
20 CITIZEN IN REGARDS TO THEIR MIRANDA WARNINGS AND THEIR WAIVERS?

21 A. I HAVE INTERVIEWED AMERICAN CITIZENS ABROAD AND I HAVE
22 NEVER BEEN AWARE OF A LAW THAT INDICATES THAT YOU HAVE TO USE A
23 WAIVER OF RIGHTS FORM IF YOU INTERVIEW AN AMERICAN CITIZEN.

24 Q. SO YOU NEVER BEEN AWARE OF THAT LAW?

25 A. I HAVE NEVER SEEN IT.

1 Q. NO ONE HAS EVER TOLD YOU ABOUT IT?

2 A. CORRECT.

3 MR. BURNS: I DON'T BELIEVE THERE IS ANY FURTHER
4 QUESTIONS.

5 THE COURT: ALL RIGHT. DO YOU HAVE ANY?

6 (BRIEF DISCUSSION HELD OFF THE RECORD.)

7 BY MR. BURNS:

8 Q. I'M SORRY, AGENT.

9 THIS INTERROGATION OR INTERVIEW, AS YOU CALL IT, THIS
10 WAS MOSTLY ABOUT ENRIQUE CAMARENA, WAS IT NOT?

11 A. SOME OF IT WAS, YES.

12 Q. AND THAT WAS THE PURPOSE FOR THE INVESTIGATIVE INTERVIEW?

13 A. SOME OF IT, YES.

14 Q. YOU WEREN'T THAT INTERESTED IN THE REASON FOR MR. MATTA'S
15 ARREST THE PREVIOUS DAY, WERE YOU?

16 A. WELL THAT CAME INTO PLAY, YES.

17 Q. DID MR. MATTA EVER MAKE A WRITTEN CONFESSION?

18 A. NO, HE DID NOT.

19 Q. AND YOU DID NOT MAKE ANY NOTES UNTIL, AS YOU JUST
20 TESTIFIED TO, A FEW DAYS LATER, IS THAT CORRECT? IS THAT YOUR
21 TESTIMONY?

22 A. THE REPORT, YES.

23 MR. BURNS: NO FURTHER QUESTIONS.

24 THE COURT: NOW, AT THE TIME YOU INTERVIEWED MR.
25 MATTA, HE WAS IN CUSTODY OF THE COLOMBIAN NATIONAL POLICE?

1 THE WITNESS: YES, SIR HE WAS.

2 THE COURT: IN THEIR FACILITY?

3 THE WITNESS: THAT IS CORRECT, YOUR HONOR.

4 THE COURT: HE HAD NOT BEEN GIVEN OVER TO AMERICAN
5 CUSTODY AT THAT POINT IN TIME?

6 THE WITNESS: NO, HE HAD NOT. NO, YOUR HONOR. HE
7 WAS STILL IN THE CUSTODY OF THE COLOMBIAN AUTHORITIES.

8 THE COURT: DO YOU HAVE ANY REDIRECT EXAMINATION OF
9 THIS WITNESS?

10 MR. MEDRANO: NO REDIRECT, YOUR HONOR.

11 THE COURT: THEN YOU MAY STEP DOWN.

12 (WITNESS EXCUSED.)

13 THE COURT: DOES THE GOVERNMENT HAVE ANY OTHER
14 EVIDENCE TO PRESENT AT THIS TIME OR DO YOU REST?

15 MR. MEDRANO: WE REST, YOUR HONOR.

16 MR. STOLAR: WE WOULD CALL ATTORNEY GUTIERREZ FROM
17 BOGOTA. THERE WAS NO DECLARATION FOR THIS MAN, SO I WOULD ASK
18 WE DO A BRIEF DIRECT.

19 THE COURT: ALL RIGHT.

20

21 JORGE ENRIQUE GUTIERREZ-AVILA +
22 DEFENDANT'S WITNESS, SWORN THROUGH SPANISH INTERPRETER

23

24 THE CLERK: PLEASE STATE YOUR FULL NAME FOR THE
25 RECORD.

THE WITNESS: MY NAME IS JORGE ENRIQUE GUTIERREZ

1 AVILA.

2 THE CLERK: PLEASE SPELL YOUR NAME FOR THE RECORD,
3 PLEASE?

4 THE WITNESS: J O R G E, NEXT WORD E N R I Q
5 U E, G U T I E R R E Z, A V I L A.

6

7 DIRECT EXAMINATION +

8

9 BY MR. STOLAR:

10 Q. THANK YOU.

11 MR. GUTIERREZ, COULD YOU DESCRIBE FOR THE COURT,
12 PLEASE, YOUR BUSINESS OR OCCUPATION OR PROFESSIONAL BACKGROUND
13 AND EDUCATION?

14 A. I'M A CRIMINAL ATTORNEY. I COMPLETED MY SECONDARY STUDIES
15 IN 1966, I DID MY UNIVERSITY STUDIES IN LAW AT THE UNIVERSITY
16 OF GRAND COLOMBIA IN BOGOTA, I FINISHED MY STUDIES IN 1971.

17 I WAS LATER ASSIGNED IN BOGOTA AS JUDGE NUMBER 55 IN
18 THE MUNICIPAL COURT. I WAS ELEVATED TO JUDGE NUMBER 69 IN THE
19 CRIMINAL SUPERIOR COURT LEVEL, AND I WAS ASSIGNED TO THE
20 JUDICIAL POLICE AT THAT PERIOD OF TIME.

21 SUBSEQUENTLY I OPENED UP MY OWN OFFICE AS AN
22 ATTORNEY, AND I HAVE BEEN CARRYING OUT THAT PROFESSION FOR A
23 PERIOD OF AROUND 12 YEARS.

24 Q. LET ME DIRECT YOUR ATTENTION TO APRIL OF 1985, APRIL THE
25 29TH, TO BE EXACT. WERE YOU PRACTICING LAW BY YOURSELF AS AN

1 INDIVIDUAL OR DID YOU HAVE AN PARTNER AT THAT TIME?

2 A. AT THAT TIME, I HAD DR. MANUEL GUILLERMO SILVA GONZALEZ
3 WITH ME. HE WAS ALSO A CRIMINAL ATTORNEY.

4 Q. NOW, ON APRIL 29TH DID ANYTHING HAPPEN WITH RESPECT TO --
5 THAT YOU KNEW ABOUT WITH RESPECT TO MR. -- LET ME TAKE THAT
6 BACK.

7 ON APRIL 29TH, WERE YOU AN ATTORNEY WHO WAS
8 REPRESENTING MR. MATTA OR HIS FAMILY?

9 A. I HAVE BEEN HIS ATTORNEY FOR DIFFERENT CONSULTATIONS WHICH
10 HIS FAMILY HAS HAD WITH ME AND HE HIMSELF HAS HAD WITH ME SINCE
11 APPROXIMATELY 1980.

12 Q. NOW, ON APRIL 29TH, 1985, DID YOU RECEIVE CERTAIN
13 INFORMATION WITH RESPECT TO MR. MATTA?

14 A. YES, I DID. I WAS IN MY OFFICE WHEN I WAS INFORMED BY THE
15 FAMILY THAT MR. MATTA HAD BEEN ARRESTED IN THE CITY OF
16 CARTAGENA. THEY ASKED ME TO GO.

17 I LOOKED INTO THE MATTER, INVESTIGATED WHETHER I
18 COULD GO TO CARTAGENA, BUT THERE WERE NO FLIGHTS AT THAT TIME
19 BECAUSE THE CITY OF CARTAGENA IS ABOUT AN HOUR OR AN HOUR AND A
20 HALF AWAY BY PLANE.

21 IN THE EVENING HOURS, I WAS INFORMED THAT MR. MATTA
22 HAD BEEN TRANSFERRED TO THE CITY OF BOGOTA. THEREFORE, I WENT
23 ALONG WITH MY PARTNER, MR. SILVA GONZALEZ TO THE OFFICES OF THE
24 DIJIN, THAT'S D I J I N, WHICH MEANS THE DEPARTMENT OF
25 INVESTIGATIONS OF THE NATIONAL POLICE. THIS BUILDING WAS

1 LOCATED AT THAT TIME --

2 Q. WHEN -- I'M SORRY.

3 WHEN WAS IT THAT YOU WENT THERE?

4 A. APRIL 30, 1985.

5 Q. THE NEXT MORNING?

6 A. AT 8:00 O'CLOCK IN THE MORNING. YES. CORRECT.

7 Q. GO AHEAD.

8 A. THE OFFICES HAD BEEN SET UP AT THAT TIME AT CARERRA -- IS
9 BETWEEN 10TH AND 11TH STREETS, DIRECTLY NEXT TO A CHURCH. WHAT
10 IS THE NAME OF IT -- I DON'T REMEMBER THE NAME OF THE CHURCH.

11 OH, YES, THE VOTO NATIONALE, THE NATIONAL VOTE, OR
12 NATIONAL PRAYER, I SHOULD SAY.

13 Q. WHAT HAPPENED AT THE POLICE STATION?

14 A. WE INVESTIGATED WHETHER MR. MATTA WAS PRESENT AND WE WERE
15 INFORMED THAT HE WAS BEING SUBJECTED TO AN INTERROGATION.
16 THAT'S WHY WE REQUESTED THAT WE BE PRESENT DURING THE
17 INTERROGATION, BUT WE WERE NOT ALLOWED ACCESS TO OUR CLIENT.

18 A CERTAIN OFFICER, PERHAPS SEVERAL OFFICERS, INFORMED
19 US THAT BECAUSE OF THIS IMPOSSIBILTY, THAT WE WOULD HAVE TO
20 SPEAK WITH THE CO-DIRECTOR OR CO-HEAD OF THIS DEPARTMENT WHO
21 WAS THE ONLY OFFICIAL, ACCORDING TO WHAT THEY SAID, WHO COULD
22 BE FOUND AT THAT OFFICE AT THAT TIME.

23 IF I'M NOT MISTAKEN, A CERTAIN COLONEL TALKED TO US.
24 I DON'T REMEMBER IF HIS LAST NAME WAS PINADA.

25 Q. DO YOU HAVE ANYTHING WITH YOU THAT WOULD HELP YOU REFRESH

1 YOUR RECOLLECTION?

2 A. YES, I DO.

3 MR. STOLAR: WITH THE COURT'S PERMISSION.

4 THE WITNESS: MAY I CONSULT?

5 THE COURT: WHAT IS IT YOU HAVE?

6 THE WITNESS: A STATEMENT, POSSIBLY A STATEMENT FROM
7 MY PARTNER, MR. SILVA GONZALEZ, WHICH WAS GIVEN DURING A
8 PROCEEDING WHICH WAS CARRIED OUT BY THE NATIONAL PROSECUTORS
9 OFFICE WITH RESPECT TO HIS BEING DENIED THE RIGHT TO DEFEND THE
10 CLIENT AND NOT EVEN HAVING THE MOST MINIMAL RIGHTS WHICH PEOPLE
11 ARRESTED IN COLOMBIA HAVE THE RIGHT TO HAVE.

12 THE COURT: THIS WAS A STATEMENT WRITTEN BY YOUR
13 ASSOCIATE?

14 THE WITNESS: YES. BEFORE THAT JUDICIAL BODY.
15 CORRECT.

16 MR. STOLAR: IT IS ONLY TO REFRESH HIS RECOLLECTION.

17 THE COURT: I UNDERSTAND THAT. BUT YOU HAVE THIS
18 DOCUMENT WITH YOU?

19 THE WITNESS: YES, YOUR HONOR.

20 THE COURT: YOU MAY REFER TO IT TO SEE IF IT
21 REFRESHES YOUR RECOLLECTION.

22 THE WITNESS: THANK YOU VERY MUCH.

23 YES. THIS IS A STATEMENT WHICH MR. SILVA GONZALEZ
24 GAVE.

25 BY MR. STOLAR:

1 Q. NOW, EXCUSE ME, DOCTOR. ALL WE'RE USING IT FOR IS TO HELP
2 YOU REMEMBER THE NAME OF THE COLONEL.

3 A. OKAY. THANK YOU. EXCUSE ME.

4 YES. CORRECT. THAT WAS THE LAST NAME THAT HE HAD
5 THE LAST NAME THAT WAS USED IN THAT STATEMENT, AND THE LAST
6 NAME THAT HE USED ANSWERING OUR CLAIMS AS HIS ATTORNEYS.

7 THE COURT: WELL, WHAT WAS THE NAME?

8 BY MR. STOLAR:

9 Q. WHAT WAS THE COLONEL'S NAME?

10 A. PINADA. PINADA.

11 Q. DID YOU TRY TO SPEAK TO THE SUPERINTENDENT?

12 A. YES. MR. SILVA GONZALEZ AND I DID SPEAK WITH THE
13 SUPERINTENDENT AND WE COULDN'T UNDERSTAND WHY IT WAS THAT THEY
14 WERE IMPEDING US FROM ASSISTING AND GIVING OUR PROFESSIONAL
15 SERVICES TO MR. MATTA.

16 HE KNEW VERY WELL, JUST LIKE ALL OF THE AUTHORITIES
17 IN COLOMBIA DO, THAT OUR NATIONAL CONSTITUTION, OUR LAWS,
18 ORDER, GUARANTEE THE RIGHT TO HAVE LEGAL ASSISTANCE TO ANY
19 PERSON WHO'S ACCUSED. GIVEN THESE FACTS, THE OFFICER SAID TO
20 US THAT IT ACTUALLY WAS AN IRREGULARITY, BUT HE COULD NOT GIVE
21 US ACCESS TO HIM BECAUSE HE HAD ORDERS FROM HIS SUPERIORS.

22 THAT'S HOW IT OCCURRED. THAT'S WHY WE LEFT HIS
23 OFFICE. WE STAYED AT THE DOOR ON THE FIRST FLOOR OF THE
24 BUILDING, WAITING FOR THE OPPORTUNITY TO SPEAK WITH OUR CLIENT.

25 Q. DID YOU KEEP ASKING FOR PERMISSION TO SPEAK TO MR. MATTA?

1 A. IT'S CLEAR THAT WE INSISTED SEVERAL TIMES TO THIS OFFICER.

2 Q. I'M SORRY. DID YOU ASK OR TELL ANY OF THE OFFICERS WHO
3 YOU SPOKE TO THAT YOU DID NOT WANT MR. MATTA QUESTIONED?

4 A. WITHOUT ANY QUESTION, FROM THE BEGINNING, BECAUSE WE WERE
5 FACING A VIOLATION OF THE LAW AND WE COULD NOT ACCEPT IT. WE
6 MADE CERTAIN THAT THE OFFICIAL WOULD KNOW, THE OFFICER WOULD
7 KNOW THAT IN OUR COUNTRY THAT WAS AN ILLEGAL PROCEEDING.

8 NOTWITHSTANDING OUR LEGAL WARNINGS TO THEM, THEY
9 IMPEDED US FROM SPEAKING TO OUR CLIENT, AND TO AN EXTENT, THE
10 INTERROGATION WHICH WAS CARRIED OUT AT THAT UNIT.

11 Q. HOW LONG DID YOU STAY AT THAT BUILDING?

12 A. WE WERE THERE FROM 8:00 O'CLOCK IN THE MORNING UNTIL 1:30
13 IN THE AFTERNOON. I WAS ACCOMPANIED BY DR. SILVA. HE WENT
14 BACK TO OUR OFFICE, WENT BACK TO OUR HOUR OFFICE BETWEEN 11:00
15 AND 11:30 IN THE MORNING TO TAKE CARE OF OTHER MATTERS IN THE
16 OFFICE.

17 I STAYED, TRYING TO SPEAK TO MY CLIENT. AND AT 1:30
18 IN THE AFTERNOON THEY TOOK HIM OUT AND THEY TOLD HIM THAT THEY
19 WERE TAKING HIM TO THE DEPARTMENT -- THE ADMINISTRATIVE
20 DEPARTMENT OF SECURITY, WHICH IS CALLED DAS, D A S.

21 Q. DID THERE FINALLY COME A TIME WHEN YOU GOT TO SPEAK TO
22 MR. MATTA?

23 A. YES. OVER AT THE ADMINISTRATIVE DIVISION OF SECURITY.

24 Q. AND WHAT TIME OF DAY WAS THAT, APPROXIMATELY?

25 A. MORE OR LESS BETWEEN 2:30 AND 3:00 O'CLOCK IN THE

1 AFTERNOON.

2 Q. COULD YOU DESCRIBE HIS PHYSICAL CONDITION.

3 A. YES, HE WAS -- HE LOOKED VERY WORN OUT, OBVIOUSLY, BECAUSE
4 IN THE CITY OF CARTAGENA IT'S VERY, VERY HOT. HE WAS
5 TRANSFERRED IN INAPPROPRIATE CLOTHING TO BOGOTA, BECAUSE BOGOTA
6 IS A COLD CITY.

7 HE TOLD US THAT HE HADN'T BEEN GIVEN FOOD; NEITHER IN
8 CARTAGENA NOR IN BOGOTA, AND I BELIEVE THAT BECAUSE THE POLICE
9 REALLY DON'T HAVE A BUDGET FOR THOSE PURPOSES THERE. AS I
10 SAID, HE LOOKED VERY DESTROYED. HE COMPLAINED THAT HE HAD BEEN
11 MISTREATED DURING THE ARREST, THAT THE HANDCUFFS -- AND THAT
12 DURING THE STATEMENT THAT HE WAS GIVING BEFORE THE OFFICIAL
13 FROM DAS, HE MADE A STATEMENT TO THE EFFECT THAT HE HAD
14 SUFFERED, HE HAD BEEN HURT, HE HAD BEEN WOUNDED.

15 Q. DID YOU SEE ANY PHYSICAL MARKS ON HIM?

16 A. YES, THE SAME ONES WHICH WERE STATED IN THE STATEMENT THAT
17 HE MADE.

18 Q. WHEN YOU SPOKE TO HIM, DID HE INDICATE TO YOU THAT HE HAD
19 BEEN ASKING FOR YOUR PRESENCE WHILE HE WAS BEING QUESTIONED?

20 A. THE FIRST THING THAT HE TOLD ME WAS THAT --

21 THE INTERPRETER: THERE'S MORE.

22 MR. MEDRANO: EXCUSE ME. OBJECTION HERE, YOUR HONOR.
23 THE DEFENDANT CAN TESTIFY TO THIS PORTION.

24 THE COURT: YES. SUSTAINED.

25 BY MR. STOLAR:

1 Q. JUST ONE OTHER THING. LET ME ASK YOU TO TAKE A LOOK
2 AROUND THE COURTROOM, IF YOU CAN, AND LOOK AT THE PEOPLE
3 SITTING HERE AND TAKE A LOOK AND SEE IF YOU CAN RECOGNIZE
4 ANYBODY SITTING IN THIS COURTROOM WHO YOU MIGHT HAVE SEEN AT
5 THE POLICE STATION ON APRIL 30, 1985?

6 A. NO, I DON'T SEE ANYONE THAT I RECOGNIZE, AND THERE IS A
7 VERY LOGICAL EXPLANATION.

8 MR. MEDRANO: OBJECTION, YOUR HONOR.

9 THE COURT: THE WITNESS NEED NOT EXPLAIN HIS ANSWER.

10 THE WITNESS: EXCUSE ME.

11 BY MR. STOLAR:

12 Q. DID YOU SPEAK AT ALL TO THE UNITED STATES D.E.A., ANY
13 OFFICIAL OF THE UNITED STATES D.E.A., ON APRIL 30TH OR SHORTLY
14 THEREAFTER CONCERNING THE QUESTIONING OF MR. MATTA?

15 A. AT NO TIME.

16 MR. STOLAR: THANK YOU VERY MUCH, DOCTOR.

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

18 LET ME UNDERSTAND THIS. WHEN YOU SPOKE WITH MR.
19 MATTA, WHAT TIME WAS IT?

20 THE WITNESS: MORE OR LESS BETWEEN 2:30 AND 3:00
21 O'CLOCK IN THE AFTERNOON, IN A DIFFERENT INSTITUTION THAN THAT
22 OF THE POLICE STATION.

23 THE COURT: AND THAT WAS ON APRIL 30?

24 THE WITNESS: THE 30TH OF APRIL.

25 THE COURT: AND YOU ARRIVED AT THE POLICE STATION THE

1 FIRST TIME AT 8:00 A.M.?

2 THE WITNESS: YES. THAT'S CORRECT, YOUR HONOR.

3 THE COURT: AND YOU WENT FROM ONE FACILITY TO
4 ANOTHER?

5 THE WITNESS: YES. THAT'S CORRECT.

6 THE COURT: WHAT TIME DID YOU LEAVE THE FIRST
7 FACILITY TO GO TO THE OTHER?

8 THE WITNESS: AT 1:30 WHEN THEY TOOK MR. MATTA OUT
9 WITH HIS DESTINATION BEING THE OTHER FACILITY.

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

11

12

CROSS-EXAMINATION +

13

BY MR. MEDRANO:

14

Q. WHEN YOU FINALLY GOT TO SEE YOUR CLIENT, JUAN RAMON MATTA
15 BALLESTEROS, CAN YOU TELL US SPECIFICALLY WHAT PHYSICAL MARKS
16 HE HAD ON HIM?

17

A. I WAS ABLE TO SEE, FOR EXAMPLE, MARKINGS FROM THE
18 HANDCUFFS ON HIS HANDS, AND HE WAS COMPLAINING ABOUT HAVING
19 BEEN HIT IN THE BACK AND A DIFFICULTY IN BREATHING, PERHAPS THE
20 COLD.

21

Q. THAT'S ALL THE MARKS YOU SAW ON MATTA; IS THAT CORRECT?

22

A. YES. AS I SAID, THE OFFICIAL WHO TOOK DOWN THE STATEMENT
23 WROTE SOMETHING DOWN ABOUT THAT FACT.

24

Q. AFTER WERE YOU DENIED ACCESS TO YOUR CLIENT IN BOGOTA,

25

THAT ANGERED YOU, DID IT NOT?

1 A. YES, IT DID.

2 Q. AND WEREN'T YOU UPSET ABOUT THE PHYSICAL CONDITION THAT
3 YOU FOUND YOUR CLIENT IN IN THE AFTERNOON WHEN YOU FINALLY GOT
4 TO SEE HIM?

5 A. IT'S TO BE EXPECTED THAT THOSE EVENTS WOULD CAUSE
6 INDIGNATION.

7 Q. IN LIGHT OF THIS INDIGNATION, MR. AVILA, YOU FILED A
8 COMPLAINT WITH THE POLICE DEPARTMENT, DID YOU NOT?

9 A. SUBSEQUENTLY, THE MINISTER OF JUSTICE IN THAT PERIOD OF
10 TIME -- I INFORMED THE MINISTER OF JUSTICE AT THAT TIME OF NOT
11 ONLY ABOUT THESE EVENTS, BUT OTHER EVENTS.

12 Q. DID YOU DO THAT IN PERSON OR IN WRITING?

13 A. WE DID IT IN WRITING.

14 Q. AND DID YOU EVER FILE A LAWSUIT IN COLOMBIA AGAINST THE
15 POLICE DEPARTMENT FOR THE WAY THEY HAD TREATED YOU AND YOUR
16 CLIENT?

17 MR. STOLAR: I'M GOING TO OBJECT TO THE QUESTION ON
18 THE BASIS THAT THERE IS NO FOUNDATION FOR KNOWING WHETHER THERE
19 IS ACTUALLY THE ABILITY TO FILE SUCH A LAWSUIT OR EQUIVALENT OF
20 A 1983 --

21 THE COURT: OVERRULED. YOU MAY ANSWER.

22 THE WITNESS: WHAT WAS THE QUESTION, PLEASE?

23 BY MR. MEDRANO:

24 Q. DID YOU EVER FILE A LAWSUIT IN COLOMBIA AGAINST THE POLICE
25 OR ANY OTHER GOVERNMENT AGENCY FOR THEIR FAILURE TO LET YOU SEE

1 YOUR CLIENT WHEN YOU DEMANDED?

2 A. YES, I DID.

3 Q. WHEN DID YOU FILE THAT LAWSUIT?

4 A. I DON'T REMEMBER EXACTLY, BUT I BELIEVE IT WAS AROUND
5 AUGUST OF 1985 --

6 Q. AND YOU FILED --

7 THE COURT: JUST A MOMENT. GO AHEAD.

8 THE WITNESS: -- TO THE MINISTER. WE PRESENTED HIM
9 THE COMPLAINT.

10 THE COURT: THE QUESTION WAS WHEN. THAT'S THE ONLY
11 QUESTION.

12 THE WITNESS: EXCUSE ME.

13 BY MR. MEDRANO:

14 Q. CAN I SEE, MR. AVILA, THE COPY OF THE LETTER YOU SENT TO
15 THE MINISTER OF JUSTICE?

16 A. YES. WITH PLEASURE. I SENT IT WITH MY PARTNER, AND IT'S
17 THIS.

18 MR. MEDRANO: MAY I APPROACH JUST BRIEFLY, YOUR
19 HONOR?

20 MR. STOLAR: THIS LETTER IS NOT IN EVIDENCE.

21 THE COURT: I UNDERSTAND.

22 THE WITNESS: THIS WAS THE ANSWER FROM THE MINISTER
23 OF JUSTICE.

24 BY MR. MEDRANO:

25 Q. DO YOU HAVE A COPY OF THE LAWSUIT THAT YOU FILED IN AUGUST

1 OF '85?

2 A. THAT'S WHAT THE PROSECUTOR HAS NOW.

3 Q. DO YOU HAVE A COPY OF THE LAWSUIT THAT YOU FILED IN AUGUST
4 OF '85?

5 MR. STOLAR: OBJECT. I'M GOING TO OBJECT.

6 THE COURT: HE'S SAYING THAT'S WHAT YOU HAVE.

7 MR. MEDRANO: I ASKED IF THIS WAS THE LETTER AND HE
8 SAID THIS WAS THE LETTER, YOUR HONOR. NOW I'M ASKING IF HE HAS
9 A COPY OF THE COMPLAINT OR LAWSUIT THAT HE FILED.

10 THE WITNESS: IT'S THAT.

11 BY MR. MEDRANO:

12 Q. YOU'RE, OF COURSE, AWARE, MR. AVILA, THAT YOUR CLIENT WAS
13 RELEASED FROM CUSTODY BY THE COLOMBIA POLICE SHORTLY AFTER HIS
14 ARREST, ARE YOU NOT?

15 A. I DON'T UNDERSTAND THE QUESTION.

16 Q. YOU ARE AWARE, SIR, THAT YOUR CLIENT WAS RELEASED BY THE
17 COLOMBIA POLICE SHORTLY AFTER HIS ARREST?

18 A. THE ONLY THING THAT I DO KNOW IS THAT THE PROCEEDING
19 INDICATED AND THAT'S WHAT THE POLICE DID. ONCE HE WENT INTO
20 THE CUSTODY OF DAS, SUBSEQUENTLY THEY TRANSFERRED HIM TO THE
21 PICOTA JAIL, WHICH IS UNDER THE JURISDICTION OF THE MINISTER OF
22 JUSTICE, TO CARRY OUT THE EXTRADITION PROCEEDINGS OF WHICH MR.
23 MATTA WAS THE SUBJECT.

24 Q. WHEN WAS MATTA RELEASED FROM CUSTODY BY THE COLOMBIANS,
25 MR. AVILA?

1 MR. STOLAR: OBJECTION. OBJECTION.

2 THE COURT: WHAT'S THE OBJECTION?

3 MR. STOLAR: THERE HAS BEEN NO TESTIMONY HE WAS
4 RELEASED FROM CUSTODY.

5 THE COURT: WELL, THE WITNESS MAY ANSWER THAT, IF HE
6 KNOWS.

7 THE WITNESS: AT THE EXACT SAME TIME THAT HE WAS PUT
8 INTO THE HANDS OF THE MINISTRY OF JUSTICE, THE MINISTER OF
9 JUSTICE.

10 BY MR. MEDRANO:

11 Q. WERE YOU INVOLVED IN THE EFFORT TO RELEASE YOUR CLIENT
12 FROM COLOMBIAN CUSTODY?

13 A. THAT'S CORRECT.

14 MR. MEDRANO: MAY I HAVE JUST A MOMENT, YOUR HONOR?

15 (BRIEF PAUSE.)

16 YOUR HONOR, NO FURTHER CROSS.

17 MAY I RETURN THIS DOCUMENT TO MR. AVILA?

18 THE COURT: YES.

19 MR. MEDRANO: I'LL GIVE IT TO MR. STOLAR.

20 THE COURT: WHAT WAS YOUR UNDERSTANDING OF WHY MR.
21 MATTA WAS IN CUSTODY?

22 THE WITNESS: YOUR HONOR, WE ONLY CAME TO FIND OUT
23 THAT ONCE WE WERE AT THE OFFICES OF DAS, THEY TOLD US THAT HE
24 WAS BEING SOUGHT FOR EXTRADITION PURPOSES BY THE UNITED STATES
25 GOVERNMENT.

1 THE COURT: ALL RIGHT. ANY --

2

3

DIRECT EXAMINATION +

4

BY MR. STOLAR:

5

Q. BUT THE BASIS -- DID YOU EVER FIND OUT THE BASIS FOR THE
6 ARREST OF MR. MATTA IN CARTAGENA?

7

A. NO, I DID NOT FIND THAT OUT.

8

MR. STOLAR: I HAVE NOTHING FURTHER, YOUR HONOR.

9

THANK YOU.

10

MR. MEDRANO: NOTHING FURTHER, YOUR HONOR.

11

THE WITNESS: THANK YOU.

12

MAY I BE IN THE COURTROOM OR OUTSIDE?

13

THE COURT: YOU MAY BE IN THE COURTROOM.

14

THE WITNESS: THANK YOU, VERY MUCH.

15

MR. STOLAR: WE HAVE NO FURTHER WITNESSES TO THE

16

HEARING.

17

MR. MEDRANO: NONE BY THE GOVERNMENT, YOUR HONOR.

18

THE COURT: DO YOU WISH TO ARGUE THE MATTER BRIEFLY?

19

MR. STOLAR: WELL, BRIEFLY, I THINK IT IS VERY, VERY

20

CLEAR THAT A VIOLATION, DIRECT VIOLATION OF COLOMBIAN LAW

21

OCCURRED WHEN MR. MATTA WAS DENIED ACCESS, DENIED THE RIGHT TO

22

HAVE HIS ATTORNEY WHEN HIS ATTORNEY SPENT ALMOST SIX HOURS

23

OUTSIDE THE JAIL WHERE HE WAS BEING HELD, INCLUDING THE TIME

24

WHEN THESE AGENTS WERE QUESTIONING HIM.

25

THEY GAVE HIM ADVICE CONCERNING AMERICAN LAW, WHICH I

1 DON'T KNOW WHETHER IT APPLIES OR NOT. THE STANDARD HERE IS
2 WHAT IS THE LAW IN COLOMBIA WAS, THE LAW THAT COLOMBIA
3 FOLLOWED. AND THE LAW IN COLOMBIA, CLEARLY FROM THIS
4 GENTLEMAN, WHO'S AN ABSOLUTE EXPERT, IF YOU'RE THERE, YOU HAVE
5 TO BE ALLOWED TO GO IN TO SEE YOUR CLIENT.

6 AND HE WAS THERE LONG BEFORE THE D.E.A. AGENTS,
7 ACCORDING TO THE TESTIMONY, CAME TO SPEAK TO MR. MATTA, AND HIS
8 ACCESS WAS DENIED, AND IT WAS ADMITTED BY THE COLONEL, OR THE
9 OFFICIAL THAT HE SPOKE TO, THAT THIS WAS AN IRREGULARITY, THAT
10 HE KNEW THE LAW JUST AS WELL AS MR. GUTIERREZ DID, AND THAT
11 THERE WAS AN IRREGULARITY HERE BECAUSE WERE ORDERS COMING DOWN
12 FROM HIGHER UP. SO THERE WAS A VIOLATION OF COLOMBIAN LAW IN
13 TERMS OF ACCESS, AND THAT CARRIES OVER TO HOW THIS STATEMENT
14 COULD BE MADE WITHOUT THE ATTORNEY BEING PRESENT.

15 AND THE MIRANDA WARNINGS ARE TOTAL NONSENSE WHEN THE
16 COLOMBIAN OFFICIALS, THE COLOMBIAN POLICE, KNEW VERY WELL THAT
17 THE ATTORNEY WAS OUTSIDE WAITING THERE THE ENTIRE DAY TO SEE
18 HIM. THAT'S OUR POINT.

19 THE COURT: ALL RIGHT.

20 DO YOU WISH WOULD BE HEARD ON THAT, COUNSEL?

21 MR. MEDRANO: YOUR HONOR, THE GUIDING PRINCIPLE HERE
22 IS THE TOTALITY OF THE CROSS-EXAMINATION. IF YOU PUT WHAT
23 MATTA HAS TOLD YOU THROUGH HIS DECLARATION AND THE TESTIMONY OF
24 MR. VIGIL, I THINK IT'S CLEAR THAT MATTA WAS PROBABLY
25 MIRANDIZED IN SPANISH, AS HE SHOULD HAVE BEEN, AND THAT AT NO

1 TIME WHEN HE WAS BEING INTERVIEWED BY THIS SPECIAL AGENT VIGIL
2 DID HE EVER REQUEST TO SEE AN ATTORNEY.

3 THAT'S IMPORTANT, BECAUSE I WOULD DIRECT THE COURT,
4 IF I MAY, TO THE DECLARATION FILED BY MATTA BALLESTEROS IN
5 SUPPORT OF HIS MOTION TO SUPPRESS THESE STATEMENTS.

6 MR. STOLAR: WHICH WAS TO NOT IN EVIDENCE AT THE
7 HEARING.

8 MR. MEDRANO: YOUR HONOR, IT WAS SUBMITTED BY HIM AS
9 PART OF HIS MOVING PAPERS. THAT IS PART OF THE RECORD. SIMPLY
10 BECAUSE I DON'T CROSS-EXAMINE THE WITNESS, THAT DOESN'T MEAN
11 THAT THEREAFTER THE DECLARATION IS REJECTED.

12 THE COURT: WELL, WHAT IS IN THE DECLARATION?

13 MR. MEDRANO: WELL, WHAT'S OF SIGNIFICANCE, YOUR
14 HONOR, IS THAT FOR THE FIRST TIME OUT IS THERE ANY SUGGESTION
15 OR ALLEGATION OF COERCION THROUGH A NON-PRECIPIENT WITNESS, AS
16 MR. AVILA HERE, THAT HIS CLIENT WAS COERCED OR PRESSURED IN
17 SOME WAY? YOU WILL NOTE THAT THAT SPECIFIC ALLEGATION IS NOT
18 FOUND IN MATTA'S INITIAL DECLARATION THAT WAS FILED IN SUPPORT
19 OF THIS MOTION TO SUPPRESS THESE STATEMENTS.

20 NOW, I ALSO FLAG FOR YOUR HONOR THE FOLLOWING. AND I
21 DIRECTED MR. VIGIL'S EXAMINATION, WHICH IS ADOPTED AS THE
22 GOVERNMENT'S DIRECT EXAMINATION HERE.

23 MATTA WALKS INTO THIS INTERVIEW, HE'S ARROGANT, HE'S
24 JOKING, HE'S COMPLETELY AT EASE. WHICH COMPLETELY CONTRADICTS
25 WHAT MR. AVILA, THE ATTORNEY HERE, WOULD HAVE YOU BELIEVE IN

1 TERMS OF HIS TESTIMONY. MR. AVILA'S TESTIMONY IS ENTIRELY
2 SELF-SERVING, AND EVEN IF YOU ADOPT, YOUR HONOR, I WOULD
3 RESPECTFULLY SUBMIT THE FACTS IN THE MANNER THAT MR. STOLAR
4 WANTS YOU TO, THAT IS, THAT YOU DO HAVE AN ATTORNEY KNOCKING AT
5 THE DOOR OUTSIDE THE INTERVIEW ROOM TRYING TO GET TO THE
6 CLIENT.

7 THE POINT, YOUR HONOR, IS THAT MR. VIGIL WAS NEVER
8 AWARE ABOUT IT, NO ONE EVER TOLD HIM; THAT IS, THE COLOMBIAN
9 NATIONAL POLICE NEVER ADVISED HIM THAT THE ATTORNEY WAS TRYING
10 TO REACH HIS CLIENT. YOU HAVE MR. AVILA GIVEN AN OPPORTUNITY
11 TO IDENTIFY SPECIAL AGENT VIGIL AND THAT DID NOT OCCUR.

12 SO, CLEARLY, THE MOST IMPORTANT PERSON THAT -- IF
13 THEY HAD KNOWN THAT AN ATTORNEY WAS OUTSIDE, THAT PARTICULAR
14 PERSON IS VIGIL, AND HE WAS NEVER ADVISED OF THAT FACT, YOUR
15 HONOR. SO, IT'S REALLY IRRELEVANT WHETHER OR NOT THE ATTORNEY,
16 MR. AVILA, WAS OUTSIDE, BECAUSE SPECIAL AGENT VIGIL WAS NEVER
17 COGNIZANT OF THAT FACT.

18 FINALLY, YOUR HONOR, LET MY JUST CLOSE WITH THE
19 FOLLOWING COMMENTS. IN TERMS OF THE CREDIBILITY OF THE MAIN
20 DECLARANT HERE, WHICH IS MR. MATTA BALLESTEROS, ON THE ONE HAND
21 HE ASKED YOU TO BELIEVE THAT HE WAS COERCED AND NOT MIRANDIZED
22 PROPERLY AND THAT HE ASKED FOR AN ATTORNEY. THAT'S ON THE ONE
23 HAND.

24 ON THE OTHER HAND, HOWEVER, YOUR HONOR, LET'S SEE
25 WHAT INTERNAL INCONSISTENCIES EXIST IN HIS POST-ARREST

1 STATEMENTS. HE LIES REPEATEDLY TO THE INTERVIEW AGENTS. ONE,
2 HE SAYS HIS NAME IS LOPEZ, WE KNOW THAT'S NOT HIS NAME AND, IN
3 FACT, WE FIND A BOGUS VENEZUELAN PASSPORT IN YET A DIFFERENT
4 NAME. HE TELLS AGENT VIGIL THAT THE LAST TIME WAS IN
5 GUADALAJARA WAS FIVE MONTHS AGO. THIS -- OF COURSE, HIS
6 INTERVIEW WAS IN APRIL OF '85. WELL, THAT'S FALSE. EVIDENCE
7 WILL BE PRESENTED TO YOU DURING THE CAMARENA CASE, YOUR HONOR,
8 THAT HE WAS ONLY SEEN ABOUT TWO MONTHS BEFORE HIS ARREST IN
9 COLOMBIA AT A GUADALAJARA HOTEL, AND THE D.E.A. AGENTS WILL
10 TESTIFY TO THAT EFFECT.

11 FINALLY, HE SAYS TO AGENT VIGIL THAT THE ONLY THING
12 HE KNOWS ABOUT CAMARENA IS THROUGH THE MEDIA, AGAIN ON THE ONE
13 HAND. AND YET, YOUR HONOR, THEN HE COMES IN WITHIN THAT SAME
14 STATEMENT AND ADMITS WELL, HE DOES HAVE PERSONAL PERCIPIENT
15 KNOWLEDGE, BUT HE'S RELUCTANT TO DISCUSS IT WITH THE AGENTS.

16 MY POINT, YOUR HONOR, IS THAT THE MAIN ISSUE HERE IS
17 CREDIBILITY OF MATTA, AND THAT YOU REALLY HAVE NO EVIDENCE TO
18 BELIEVE ANYTHING HE'S TELLING YOU, BECAUSE FROM THE GET GO,
19 FROM THE VERY BEGINNING HE WAS LYING TO THE AGENTS. AND I
20 SUBMIT TO YOU, RESPECTFULLY, THAT HE'S LYING TO YOU STILL TO
21 THIS DAY. SO, YOUR HONOR, UNDER THE TOTALITY OF THE
22 CIRCUMSTANCES, WE SUGGEST TO YOU THAT THOSE STATEMENTS ARE
23 ENTIRELY ADMISSIBLE AT THE UP-COMING TRIAL. THANK YOU.

24 MR. STOLAR: MAY I BRIEFLY RESPOND? JUST BRIEFLY.

25 THE COURT: ALL RIGHT. BRIEFLY.

1 MR. STOLAR: MR. MEDRANO IS ARGUING FROM A DEA-6,
2 WHICH IS NOT IN EVIDENCE, AND THE WITNESS CAN EVEN DESCRIBE
3 WHAT IT WAS THAT MATTA SAID. THAT'S NOT IN EVIDENCE AT THE
4 HEARING.

5 MATTA'S CREDIBILITY IS NOT THE QUESTION. THE
6 QUESTION IS DID THE COLOMBIANS, THE COLOMBIAN POLICE
7 DELIBERATELY VIOLATE THIS MAN'S RIGHTS UNDER THE CONSTITUTIONAL
8 LAWS OF COLOMBIA, WHEN HIS ATTORNEY IS OUT KNOCKING AT THE DOOR
9 FOR SIX HOURS AT THE ORDERS OF SOMEBODY HIGHER UP, ADMITTING
10 THERE IS AN IRREGULARITY.

11 MR. GUTIERREZ'S CREDIBILITY IS IMPEACHED, HIS
12 KNOWLEDGE OF THE LAW IS DEEP; HE KNOWS EXACTLY WHAT HAPPENED
13 AND THE POLICE THERE KNEW WHAT WAS GOING ON AND THEY DIRECTLY
14 DENIED HIM ACCESS. IT'S THE EQUIVALENT OF IF YOU CAN'T HAVE
15 SOMEBODY WAIVE THEIR RIGHT TO AN ATTORNEY, ESSENTIALLY, WITHOUT
16 THE ATTORNEY BEING PRESENT WHEN THE ATTORNEY IS PRESENT. YOU
17 CAN'T DELIBERATELY KEEP THEM AWAY.

18 AND THAT'S WHAT HAPPENED HERE. THEY ADMITTED THAT'S
19 WHAT HAPPENED. WE CAN AGREE THAT IT'S OKAY TO ALLOW VIOLATIONS
20 OF THE COLOMBIAN LAW WHICH ARE ADMITTED VIOLATIONS, WHICH WE
21 OVERCOME HERE, WHEN WE'RE DEALING WITH THOSE RIGHTS, I DON'T
22 THINK IS PROPER.

23 THE COURT: ALL RIGHT. WELL, UNDER THE LAW OF
24 MIRANDA, THE PURPOSE OF IT WAS TO EXPAND THE HOLDING AND THE
25 PROTECTION OF THE FIFTH AMENDMENT TO A DEFENDANT WHO HAS BEEN

1 TAKEN INTO CUSTODY AND WHO HAS BEEN ARRESTED, CHARGED WITH A
2 SPECIFIC CRIME OR ACCUSED OF A SPECIFIC CRIME, AND THEN IS
3 SUBJECT TO INTERROGATION BY A LAW ENFORCEMENT OFFICER WHO IS
4 INTENDING TO ELICIT FROM HIM INCRIMINATING STATEMENTS.

5 THE MIRANDA COURT SAID THAT BECAUSE A DEFENDANT IS
6 ISOLATED FROM THE OUTSIDE WORLD IN THE PSYCHOLOGICALLY-
7 DOMINATED POLICE ATMOSPHERE, THAT HE SHOULD NOT BE QUESTIONED
8 WITHOUT FIRST GIVEN -- BEING GIVEN THE APPROPRIATE WARNING.
9 THE ONLY EVIDENCE BEFORE THE COURT, THAT IS, THE ONLY EVIDENCE
10 PRESENTED BY ANY WITNESS IS THAT HE WAS PROPERLY GIVEN HIS
11 MIRANDA WARNING.

12 NOW, YOU HAVE APPARENTLY MADE THE THRUST OF YOUR
13 MOTION BASED UPON A VIOLATION OF COLOMBIAN LAW; THAT IS, DENIAL
14 OF ACCESS TO THE LAWYER WHO APPEARED AT THE STATION. IT SEEMS
15 TO ME THAT IF THE EVIDENCE IS TO BE SUPPRESSED, THERE MUST BE
16 THAT THIS CANNOT BE IMPUTED TO THE AMERICAN AGENTS UNLESS THEY
17 HAD KNOWLEDGE OF IT OR UNLESS THEY PRECIPITATED IT IN SOME WAY
18 TO FORECLOSE ACCESS TO THE LAWYER.

19 THE EVIDENCE IS THAT THERE IS NO EVIDENCE BEFORE THE
20 COURT OF ANY DIRECT INVOLVEMENT OR INDIRECT INVOLVEMENT BY ANY
21 AMERICAN AGENT. IT APPEARS TO BE AN ENTIRELY COLOMBIAN
22 OPERATION. THE OFFICER THAT TALKED TO THE ATTORNEY STATED THAT
23 HE HAD HIS ORDERS FROM HIS SUPERIOR, WHICH WOULD SUGGEST THAT
24 THAT WAS ALSO COLOMBIA, THAT HE WAS NOT TO PERMIT HIM TO SEE
25 HIS CLIENT.

1 THEREFORE, IT SEEMS TO THE COURT BASED ON THE
2 EVIDENCE BEFORE IT, THE COURT IS SATISFIED THAT THE DEFENDANT
3 WAS GIVEN HIS MIRANDA WARNINGS. AND THOSE WARNINGS INCLUDE THE
4 RIGHT TO REMAIN SILENT AND INCLUDE THE RIGHT NOT TO SPEAK TO
5 THE PERSON DOING THE QUESTIONING. AND HAD MR. MATTA CHOSEN TO
6 EXERCISE THAT RIGHT, IT WOULD HAVE HAD TO BE HONORED BY THE
7 OFFICER OR THE STATEMENTS WOULD HAVE BEEN EXCLUDABLE.

8 ON THE BASIS OF THE EVIDENCE BEFORE THE COURT, I DO
9 NOT SEE, FIRST, A VIOLATION BASED ON MIRANDA; AND SECONDLY,
10 THERE IS NOT ANY EVIDENCE TO SUGGEST THAT THE STATEMENTS,
11 WHATEVER THEY WERE THAT WERE MADE BY MR. MATTA DURING THIS
12 ONE-HOUR INTERVIEW WITH THE AMERICAN AGENTS, WERE LESS THAN
13 FREELY AND VOLUNTARILY MADE.

14 THERE IS NO EVIDENCE OF DURESS OR COERCION OR
15 PRESSURE OF ANY KIND. THEREFORE, THE COURT WOULD DENY THE
16 MOTION TO SUPPRESS THE STATEMENTS MADE BY THE DEFENDANT DURING
17 THAT INTERVIEW FOR THE REASONS STATED, AS REFLECTED IN THE
18 COURT REPORTER'S NOTES.

19 ALL RIGHT. I THINK THAT CONCLUDES THIS MOTION.

20 NOW, LET ME -- I DON'T HAVE ALL THE OTHER COUNSEL
21 HERE, BUT IT APPEARS THAT IT WOULD NOT BE PRACTICAL BECAUSE OF
22 THE SHORTAGE OF JURORS AND BECAUSE OF THE FACT THAT THERE IS
23 ANOTHER CASE IN PROGRESS AT THIS TIME IN THIS COURTHOUSE WHERE
24 THEY'VE BEEN TRYING TO SELECT A JURY FOR SEVERAL WEEKS IN A
25 FAIRLY LENGTHY TRIAL THAT WE CAN GET A JURY PANEL THIS WEEK.

1 IT IS, THEREFORE, THE INTENTION OF THE COURT TO
2 PROCEED WITH THE SELECTION OF THE JURY ON TUESDAY OF NEXT WEEK.
3 AT THAT TIME WE'LL HAVE A FRESH PANEL OF JURORS, I UNDERSTAND,
4 THAT IS, ONE THAT HAS NOT BEEN THROUGH THIS PROCESS THAT IS
5 ONGOING.

6 MR. STOLAR: HOW MANY ARE YOU BRINGING IN?

7 THE COURT: I THINK 250, AND MAYBE MORE THAN THAT.
8 SO, WE SHOULD PASS THAT ON TO ALL OTHER COUNSEL.

9 MR. MEDRANO: ON THAT SUBJECT, YOUR HONOR --

10 THE COURT: WHAT?

11 MR. MEDRANO: -- WHEN MS. MARY KELLY WAS KIND ENOUGH
12 TO OFFER TO PUT TOGETHER THE QUESTIONNAIRE --

13 THE COURT: YES.

14 MR. MEDRANO: -- MIGHT I CONVEY TO HER, WITH YOUR
15 PERMISSION, WHEN THAT HAS TO BE SUBMITTED TO THE COURT, SO WE
16 CAN ALL REVIEW IT, SO IT WILL BE READY TO START PROPERLY ON
17 TUESDAY?

18 THE COURT: WELL, I THINK THAT WOULD BE A GOOD IDEA
19 THAT IT SHOULD BE -- IT'S ATTACHED TO HER MOTION AND IT SHOULD
20 BE IN THAT SAME FORM EXCEPT FOR THE ITEMS THAT I ORDERED
21 DELETED, SO YOU CAN REVIEW IT.

22 MR. MEDRANO: I UNDERSTAND, YOUR HONOR. MAY WE
23 SUGGEST TO MS. KELLY THAT IT'LL TRY TO BE FILED BY TOMORROW
24 AFTERNOON SOMETIME WITH THE COURT AND ALL COUNSEL FOR REVIEW.

25 MR. STOLAR: SINCE SHE'S NOT HERE TO OPPOSE IT,

1 SPEAKING ON MS. KELLY'S BEHALF -- SHE KNOWS WHAT SHE'S DOING.
2 SHE'LL GET IT IN AS QUICKLY AS POSSIBLE.

3 THE COURT: I TOLD HER TO DO IT AS QUICKLY AS
4 POSSIBLE, AND I THINK SHE GENERALLY ACTS VERY PROMPTLY.

5 MR. MEDRANO: VERY WELL.

6 THE COURT: BUT YOU CAN TALK TO HER AND SUGGEST AND
7 FIND OUT WHAT THE STATUS OF IT IS AND TELL HER THAT THE COURT
8 AND ALL COUNSEL HAVE AN INTEREST IN HAVING THOSE AVAILABLE AS
9 SOON AS POSSIBLE. WE DON'T WANT THEM PRESENTED AT THE LAST
10 MINUTE.

11 MR. MEDRANO: IN TERMS OF OUR WITNESS SCHEDULING,
12 YOUR HONOR, DOES THAT MEAN ON TUESDAY, MAY 8TH, WE'LL START
13 SIMPLY WITH PASSING OUT THE QUESTIONNAIRES?

14 THE COURT: NO. WE WILL START WITH MY -- FIRST,
15 WE'RE GOING TO START AT 9:00 CLOCK ON TUESDAY MORNING WITH THE
16 PANEL OR AS MANY OF THEM AS WE CAN FIT IN HERE, STARTING IN
17 HERE.

18 THOSE PERSONS THEN THAT ARE FOUND TO BE ABLE TO SERVE
19 FOR THE PERIOD OF TIME WILL THEN BE GIVEN THE QUESTIONNAIRES.
20 THEY WILL THEN GO UPSTAIRS TO FILL OUT THE QUESTIONNAIRES.

21 IF THERE IS ANOTHER GROUP THEN TO BE BROUGHT IN,
22 THEY'LL BE BROUGHT IN FOLLOWING THEM AND WE'LL REPEAT THAT
23 PROCEDURE UNTIL WE HAVE A SUFFICIENT NUMBER WHO ARE TIME
24 QUALIFIED.

25 AFTER THAT, YOU WILL RECEIVE THEIR QUESTIONNAIRES ON

1 THE SAME DAY. THE JURORS WILL -- FOLLOWING THEIR COMPLETION OF
2 THE QUESTIONNAIRES, THEY'LL BE ALLOWED TO GO HOME AND ASKED TO
3 RETURN THE FOLLOWING DAY. AND DURING THE FOLLOWING DAY IS WHEN
4 WE'LL QUALIFY THEM REGARDING THE PUBLICITY ASPECT.

5 MR. MEDRANO: VERY WELL. THANK YOU.

6 MR. STOLAR: DID YOU HAVE A CHANCE TO LOOK AT THE
7 IN-CAMERA FILING?

8 THE COURT: YES. THAT'S -- I HAVE HAD A CHANCE TO
9 LOOK AT IT. I'M NOT YET PREPARED TO RULE ON IT.

10 MR. STOLAR: THANK YOU.

11 THE COURT: WE WILL ADJOURN AT THIS TIME.

12 THE CLERK: PLEASE RISE.

13 THIS COURT IS NOW IN RECESS.

14 MR. STOLAR: HOLD IT A SECOND, JUDGE. I'M SORRY.

15 JUST ONE FURTHER THING THAT'S A MATTER OF --

16 THE COURT: THAT'S A CARDINAL SIN.

17 MR. STOLAR: MR. GUTIERREZ, WHO HAS COME UP FROM
18 BOGOTA, WOULD LIKE TO HAVE A CONSULTATION WITH MR. MATTA IN
19 WHATEVER SITUATION THE MARSHALS WILL ALLOW. HE IS NOT FORMALLY
20 ADMITTED TO THE BAR HERE AND SO I HAVE BEEN ASKED TO ASK YOU IF
21 YOU WOULD AUTHORIZE HIM TO HAVE A CONSULT WITH MR. MATTA.

22 THE COURT: HE MAY TALK TO HIM AND THAT CAN BE
23 ARRANGED, I'M SURE, BY THE MARSHALS.

24 MR. STOLAR: THANK YOU. THANK YOU, VERY MUCH.

25 THE COURT: ALL RIGHT.

(PROCEEDING CONCLUDED.)

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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE
RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

_____ DATED: _____

JULIE A. CHURCHILL, CSR NO. 6155
OFFICIAL COURT REPORTER