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

HONORABLE EDWARD RAFFEDIE, DISTRICT COURT JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
) PLAINTIFF,)
)
) VS.)
)
) JUAN RAMON MATTA-BALLESTEROS)
) DEL POZO, RUBEN ZUNO-ARCE,)
) JUAN JOSE BERNABE-RAMIREZ,)
) AND JAVIER VASQUEZ-VELASCO,)
)
) DEFENDANTS.)

COPY

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

VOLUME 12

REPORTERS' TRANSCRIPT OF PROCEEDINGS

TUESDAY, JUNE 5, 1990

LOS ANGELES, CALIFORNIA

JULIE CHURCHILL, CSR
SUSAN A. LEE, CSR
OFFICIAL REPORTERS
U.S. DISTRICT COURT, 442-C
312 N. SPRING STREET
LOS ANGELES, CA 90012
(213) 626-6353
(213) 617-8227

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
312 NORTH SPRING STREET
LOS ANGELES, CALIFORNIA 90012
(213) 894-0619/894-6682

FOR DEFENDANT JUAN RAMON MATTA-BALLESTEROS DEL POZO:

MARTIN R. STOLAR
MICHAEL J. BURNS, ESQ.
ADOLFO Z. AGUILAR, ESQ.
ATTORNEYS AT LAW
351 NORTH BROADWAY, 4TH FLOOR
NEW YORK, NEW YORK 10013
(212) 219-1919; (213) 855-8888 EXT. 314

FOR DEFENDANT RUBEN ZUNO-ARCE:

MITCHELL, SILBERBERG & KNUPP
BY: EDWARD M. MEDVENE, ESQ.
RONALD DI NICOLA, ESQ.
JAMES BLANCARTE, ESQ.
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064-1683
(213) 312-3150

FOR DEFENDANT JUAN JOSE BERNABE-RAMIREZ:

MARY KELLY
ATTORNEY AT LAW
827 MORAGA DRIVE
BEL AIR, CALIFORNIA 90049
(213) 472-7121
AND
BRIDGMAN, MORDKIN, GOULD & SHAPIRO, INC.
BY: MICHAEL S. MEZA, ESQ.
17050 BUSHARD STREET, STE. 200
FOUNTAIN VALLEY, CALIFORNIA 92708
(714) 898-0461; (213) 924-6606

APPEARANCES (CONTINUED):

FOR DEFENDANT JAVIER VASQUEZ-VELASCO:

FEDERAL LITIGATORS GROUP
BY: GREGORY NICOLAYSEN, ESQ.
8530 WILSHIRE BOULEVARD, STE. 404
BEVERLY HILLS, CALIFORNIA 90211
(213) 854-5135

ALSO PRESENT:

DOUGLAS KUEHL, SPEC.AGT., D.E.A.

SPANISH INTERPRETERS

1 LOS ANGELES + CALIFORNIA TUESDAY, JUNE 6, 1990

2 + 9:30 A.M.

3
4 (JURY PRESENT.)

5 THE COURTROOM: GOOD MORNING.

6 THE COURT: IS THERE ANY FURTHER EXAMINATION OF THIS
7 WITNESS?

8 MR. MEZA: YES, YOUR HONOR. I RESERVED CROSS. IN
9 CONCLUSION OF MINE, I'D LIKE TO REOPEN JUST A COUPLE VERY
10 LIMITED AREAS THAT SHOULDN'T TAKE MORE THAN FIVE OR TEN
11 MINUTES, MAX.

12 THE COURT: ALL RIGHT.

13 MR. MEZA: THANK YOU.

14
15 SALVADOR LEYVA + PLAINTIFF'S WITNESS, PREVIOUSLY SWORN
16 CROSS-EXAMINATION +

17 BY MR. MEZA:

18 Q. DIRECTING YOUR ATTENTION TO THE TIME THAT YOU WERE AT THE
19 AIRPORT AND YOU'RE FOLLOWING PAVON REYES JUST AFTER YOU HAVE
20 EXCITED THE VEHICLE AND YOU'RE RUNNING TOWARD THE JET PLANE,
21 HAVING THAT IN MIND, DIRECTING YOUR ATTENTION TO THESE GUARDS,
22 AS WERE YOU RUNNING, DID ANY OF THOSE GUARDS MOVE OR DID THEY
23 REMAIN STATIONARY?

24 A. I CAN'T RECALL THAT.

25 Q. IF I WERE TO SHOW YOU A COPY OF YOUR GRAND JURY TESTIMONY

1 OF APRIL 1ST 1987, DO YOU THINK THAT WOULD HELP REFRESH YOUR
2 RECOLLECTION AS TO WHETHER OR NOT ANY PERSONS RAN -- ANY OF THE
3 GUARDS RAN?

4 A. YES, SIR.

5 MR. MEZA: MAY I APPROACH OR MAY I JUST READ IT?

6 THE COURT: YES.

7 (TRANSCRIPT TENDERED TO THE WITNESS.)

8 (WITNESS READING THE GRAND JURY TESTIMONY TO
9 HIMSELF.)

10 THE WITNESS: THANK YOU.

11 BY MR. MEZA:

12 Q. DID READING IT HELP REFRESH YOUR RECOLLECTION?

13 A. YES.

14 Q. AND DID ANY OF THE GUARDS START RUNNING AS YOU APPROACHED?

15 A. WHAT I MEANT --

16 Q. THE QUESTION IS DID ANY OF THE GUARDS START RUNNING AS YOU
17 APPROACHED?

18 A. THE GUARDS THAT WERE WITH US, IS WHAT I MEANT. THE POLICE
19 OFFICERS, THE AGENTS THAT WERE WITH US STARTED RUNNING, IS WHAT
20 I MEANT TO SAY DURING MY TESTIMONY.

21 Q. THAT'S NOT WHAT YOU SAID AT THE GRAND JURY; ISN'T THAT
22 RIGHT?

23 A. THAT'S WHAT I MEANT TO SAY, SIR.

24 Q. WHAT WAS SAID AT THE GRAND JURY IS AS FOLLOWS, AT PAGE 10
25 LINES 14 THROUGH 19:

1 "Q. WHAT HAPPENED AT THAT TIME? WE ARE AT THE POINT WHERE I
2 BELIEVE WERE YOU SAYING PAVON REYES IS RUNNING TOWARDS THE
3 AIRCRAFT AND YOU WERE FOLLOWING HIM.

4 "A. YES. WE ALL FOLLOWED HIM AND SOME OF THE PEOPLE WHAT WERE
5 GUARDING THIS AIRCRAFT STARTED RUNNING."

6 NOW, WAS THERE ANY -- PRIOR TO THE TIME THAT YOU
7 WERE -- YOU SAID WERE YOU FACING THIS ONE PERSON DOWN THAT HAD
8 AN AUTOMATIC WEAPON, WAS THERE ANY SHOOTING THAT TOOK PLACE
9 PRIOR TO THAT?

10 A. SHOOTING?

11 Q. SHOOTING, YES.

12 A. NO.

13 Q. WAS THERE ANY SHOOTING DURING ANY OF THIS AIRPORT
14 INCIDENT?

15 A. NO SHOOTING. SHOUTING.

16 Q. DIDN'T YOU TESTIFY AT THE GRAND JURY THAT THERE WAS
17 SHOOTING AND THEN THERE WAS A STAND-OFF?

18 A. NO, SIR. PROBABLY THERE WAS A MISUNDERSTANDING.
19 SHOOTING. SHOUTING.

20 Q. IN RESPONSE TO THE LAST QUESTION THAT I JUST QUOTED FROM
21 THE GRAND JURY, YOUR ANSWER WAS: "YES, WE ALL FOLLOWED HIM,
22 AND SOME OF THE PEOPLE THAT WERE GUARDING THIS AIRCRAFT STARTED
23 RUNNING, AND SO EVERYBODY -- THERE WAS SHOOTING AND THERE WAS A
24 STAND-OFF."

25 AND THEN AGAIN AT PAGE 12, STARTING AT LINE 3 THROUGH

1 5:

2 "Q. WHAT HAPPENED AT THAT TIME?

3 "A. THERE WAS SHOOTING. THERE WAS A STAND-OFF A FEW MINUTES,
4 LIKE 'DROP THE WEAPONS'", END QUOTE.

5 NOW, WHEN PAVON REYES FIRST APPROACHED THIS PERSON
6 YOU LATER FOUND OUT WAS CARO QUINTERO, DID HE THEY APPEAR TO
7 KNOW EACH OTHER?

8 A. NOT AT THE BEGINNING. IT WAS A MATTER OF SECONDS.
9 THEY -- COMANDANTE PAVON APPROACHED CARO QUINTERO. THEY TALKED
10 FOR --

11 THE COURT: THE QUESTION WAS DID THEY APPEAR TO KNOW
12 EACH OTHER AND YOU HAVE ALREADY ANSWERED THAT: "NOT AT THE
13 BEGINNING."

14 MR. MEZA: RIGHT.

15 THE WITNESS: THANK YOU, YOUR HONOR.

16 BY MR. MEZA:

17 Q. IT WAS ONLY LATER ON DURING THIS MEETING THAT THEY
18 APPEARED TO BECOME MORE FRIENDLY WITH ONE ANOTHER; IS THAT FAIR
19 TO SAY?

20 A. YES, SIR.

21 Q. AND FINALLY, YOU READ A BOOK ON THIS AIRPORT INCIDENT; DID
22 YOU NOT, OR A BOOK THAT HAD THE AIRPORT INCIDENT CONTAINED IN
23 IT?

24 MR. MEDRANO: OBJECTION, YOUR HONOR. RELEVANCY AND
25 HEARSAY.

1 THE COURT: SUSTAINED. WELL, IT'S NOT HEARSAY. AND
2 WHETHER READ IT IS IRRELEVANT.

3 MR. MEZA: YES. THANK YOU.

4 BY MR. MEZA:

5 Q. DID YOU READ A BOOK WHEREIN THE AIRPORT INCIDENT WAS
6 DESCRIBED?

7 THE COURT: THE OBJECTION IS SUSTAINED AS TO
8 RELEVANCY.

9 MR. MEZA: I'M SORRY. I HAVE NOTHING FURTHER. THANK
10 YOU, JUDGE.

11 THE COURT: ANY FURTHER QUESTIONS?

12 MR. STOLAR: NOTHING.

13 MR. MEDRANO: BRIEFLY, YOUR HONOR. THANK YOU.

14

15 FURTHER REDIRECT EXAMINATION + *

16 BY MR. MEDRANO:

17 Q. AGENT LEYVA, LET ME JUST DIRECT YOU AGAIN TO THAT PORTION
18 OF THE GRAND JURY TRANSCRIPT THAT MR. MEZA ASKED YOU ABOUT.

19 DO YOU RECALL THAT THE WORD SHOOTING IS USED IN THE
20 GRAND JURY TRANSCRIPT? DO YOU RECALL THAT?

21 A. IT MUST BE MY ACCENT. I SAID SHOUTING, NOT SHOOTING.

22 Q. WAS IT YOUR RECOLLECTION THAT AT THE TIME OF THE GRAND
23 JURY APPEARANCE THAT YOU SAID SHOUTING?

24 A. YES, SIR.

25 Q. AND TO THE BEST OF YOUR RECOLLECTION AT NO TIME DID YOU

1 SAY THE WORD SHOOTING WITH REGARDS TO THE AIRPORT INCIDENT ON
2 FEBRUARY 9?

3 A. THAT IS CORRECT, SIR.

4 MR. MEDRANO: THAT CONCLUDES REDIRECT. THANK YOU,
5 YOUR HONOR.

6 THE COURT: YOU MAY STEP DOWN.

7 THE WITNESS: THANK YOU, YOUR HONOR.

8 (WITNESS EXCUSED.)

9 THE COURT: CALL YOUR NEXT WITNESS.

10 MR. CARLTON: THE GOVERNMENT CALLS MARY BORIS.

11 (WITNESS SUMMONED TO THE COURTROOM.)

12
13 MARY BORIS + PLAINTIFF'S WITNESS, SWORN

14
15 THE COURT: PLEASE BE SEATED AND STATE YOUR FULL NAME
16 AND SPELL YOUR LAST NAME.

17 THE WITNESS: MARY BORIS, B O R I S.

18
19 DIRECT EXAMINATION +

20 BY MR. CARLTON:

21 Q. GOOD MORNING, MRS. BORIS. WHAT IS YOUR PRESENT
22 EMPLOYMENT?

23 A. I'M AN IMMIGRATION INSPECTOR AT THE SAN ANTONIO AIRPORT.

24 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY THE IMMIGRATION
25 SERVICE?

1 A. APPROXIMATELY TEN YEARS.

2 Q. HOW LONG HAVE YOU BEEN ASSIGNED AS TO THE SAN ANTONIO
3 AIRPORT.

4 A. TWO -- TWO YEARS.

5 Q. CAN YOU BRIEFLY DESCRIBE WHAT YOUR DUTIES ARE AT THE SAN
6 ANTONIO AIRPORT?

7 A. AS A UNITED STATES IMMIGRATION INSPECTOR, I INSPECT
8 PASSENGERS ARRIVING FROM A FOREIGN COUNTRY, AND I MAINLY
9 INSPECT THEIR DOCUMENTS.

10 Q. NOW, WERE YOU ON DUTY ON AUGUST 9 OF LAST YEAR?

11 A. YES, SIR.

12 Q. AND WHAT WAS YOUR ASSIGNMENT ON THAT DATE?

13 A. ON THAT DATE, I WAS WORKING THE 10:00 MORNING A 'TIL 6:00
14 P SHIFT, AND I WAS WORKING THE SECONDARY BOOTH.

15 Q. AT THE SAN ANTONIO AIRPORT?

16 A. AT THE SAN ANTONIO AIRPORT, YES, SIR.

17 Q. WHAT IS THE SECONDARY BOOTH?

18 A. A SECONDARY BOOTH IS A BOOTH STATION FOR PASSENGERS THAT
19 ARE DIRECTED FROM THE PRIMARY BOOTH TO BE FURTHER INSPECTED.

20 Q. NOW, WHILE WERE YOU ON DUTY AT THE SECONDARY BOOTH ON
21 AUGUST 9, DID YOU HAVE OCCASION TO SPEAK WITH AN INDIVIDUAL
22 NAMED RUBEN ZUNO ARCE?

23 A. YES, SIR.

24 Q. AND THIS WAS AT THE SECONDARY BOOTH?

25 A. YES, SIR.

1 Q. NOW, AT THIS POINT I'D LIKE YOU TO STAND AND LOOK AROUND
2 THE COURTROOM, IF YOU WOULD, AND SEE IF YOU COULD IDENTIFY THE
3 INDIVIDUAL WITH WHOM YOU SPOKE ON AUGUST 9TH.

4 (WITNESS STANDING.)

5 A. THE GENTLEMAN WITH THE GRAY SUIT.

6 THE COURT: COULD YOU GIVE SOME FURTHER
7 IDENTIFICATION?

8 THE WITNESS: THE FOURTH ONE TO THE LEFT, SIR.

9 THE COURT: THAT WOULD BE MR. ARCE, MR. ZUNO.

10 BY MR. CARLTON:

11 Q. MRS. BORIS, ON AUGUST 9TH THEN, DID YOU HAVE OCCASION TO
12 ASK MR. ZUNO ARCE SOME QUESTIONS?

13 A. YES, SIR.

14 Q. AND PRIOR TO ASKING THESE QUESTIONS, DID YOU INFORM HIM OF
15 HIS CONSTITUTIONAL RIGHTS?

16 A. YES, I DID.

17 Q. DID HE AGREE TO WAIVE THOSE RIGHTS?

18 A. YES, HE DID.

19 Q. DID HE AGREE TO ANSWER YOUR QUESTIONS?

20 A. YES, HE DID.

21 Q. WHEN YOU BEGAN SPEAKING WITH HIM -- FIRST OF ALL, ARE YOU
22 FLUENT IN SPANISH?

23 A. YES, I AM.

24 Q. ARE YOU A NATIVE SPANISH SPEAKER?

25 A. YES, I AM.

1 Q. DID YOU BEGIN TO SPEAK WITH HIM IN SPANISH?

2 A. I DID.

3 Q. AS HE RESPONDED TO YOUR QUESTIONS, DID HE DO SO IN
4 SPANISH?

5 A. YES, HE DID.

6 Q. AT SOME POINT DURING YOUR QUESTIONING AND HIS RESPONSES,
7 DID THE CONVERSATION CHANGE INTO ENGLISH?

8 A. YES, THEY (SIC) DID.

9 Q. WHY WAS THAT

10 A. THE CONVERSATION STARTED WITH THE ENGLISH, AND AS IT
11 CONTINUED, IT WENT INTO SPANISH -- EXCUSE ME. WE STARTED OFF
12 IN SPANISH AND THEN IT CONTINUED AND WENT ON INTO ENGLISH.

13 Q. HOW DID IT TURN INTO ENGLISH? WE CONTINUED WITH THE
14 INSPECTION, AND AS WE CONTINUED, I WENT INTO ASKING HIM
15 QUESTIONS, AS STATED ON THIS ONE STATEMENT.

16 AND MR. ZUNO DID STATE THAT HE SPOKE ENGLISH. AND I
17 ASKED HIM IF I COULD ASK HIM THE QUESTIONS IN ENGLISH, AND HE
18 AGREED.

19 Q. AND FROM THAT POINT ON THEN WAS THE CONVERSATION IN
20 ENGLISH?

21 A. IT WAS IS IN ENGLISH. YES, SIR.

22 Q. ABOUT HOW LONG DID THIS CONVERSATION LAST?

23 A. APPROXIMATELY -- I WOULD SAY ABOUT A GOOD HOUR AND A HALF.
24 HOUR, HOUR AND A HALF.

25 Q. AND AT SOME POINT DID YOU BEGIN TO RECORD WHAT YOUR

1 QUESTIONS WERE AND WHAT HIS ANSWERS WERE?

2 A. YES, SIR.

3 Q. HOW DID YOU DO THAT?

4 A. IT WAS IN THE PROCESS OF THE STATEMENT. AS IT WAS TAKEN,
5 IT WAS DONE IN TYPING. AS I ASKED THE QUESTIONS, HE WOULD
6 RESPOND AND THE ANSWER WAS TYPED IN AS I TYPED IN THE QUESTION.

7 Q. SO YOU TYPED IN THE QUESTION JUST AS YOU ASKED IT?

8 A. YES.

9 Q. DID YOU TYPE HIS ANSWER IN AS HE RESPONDED?

10 A. YES.

11 Q. NOW AT SOME POINT DURING THIS QUESTIONING AND ANSWERING,
12 DID YOU SHOW TO MR. ZUNO THE TYPED QUESTIONS AND ANSWERS?

13 A. YES, I DID.

14 Q. AND WHAT WAS THE PURPOSE OF THAT?

15 A. WELL, THE PURPOSE IS TO CLARIFY THAT WHAT IS BEING ASKED
16 AND HOW HE HAS RESPONDED IS CORRECT, AND THAT THERE ARE NO
17 MISTAKES OR THERE ARE NO INCORRECT TYPOS OR INCORRECT
18 MISINTERPRETATION OF THE ANSWER.

19 MR. CARLTON: WITH THE COURT'S PERMISSION, I WOULD
20 ASK THAT MADAM CLERK PRESENT TO THE WITNESS EXHIBIT 57, WHICH I
21 BELIEVE SHE HAS.

22 THE COURT: ALL RIGHT.

23 (EXHIBIT 57 PLACED BEFORE THE WITNESS.)

24 BY MR. CARLTON:

25 Q. MRS. BORIS, DO YOU RECOGNIZE EXHIBIT 57?

1 A. YES, I DO.

2 Q. WHAT IS THAT?

3 A. THIS IS A RECORD OF SWORN STATEMENT TAKEN BY MYSELF
4 DIRECTED TO MR. ZUNO.

5 Q. IS THAT THE DOCUMENT THAT YOU TYPED UP WHILE SPEAKING WITH
6 HIM ON AUGUST 9TH?

7 A. YES, SIR.

8 Q. IS THAT THE DOCUMENT THAT CONTAINS YOUR TYPED QUESTIONS
9 AND HIS ANSWERS?

10 A. YES, SIR.

11 Q. DID YOU GO OVER THAT DOCUMENT WITH HIM?

12 A. YES, I DID.

13 Q. AND WHAT WAS YOUR PROCEDURE IN GOING OVER THAT DOCUMENT?

14 A. WE WENT THROUGH THE PROCESS OF GOING THROUGH EACH
15 INDIVIDUAL QUESTION. I WOULD ASK MR. ZUNO IF THERE WERE ANY
16 ADDITIONS OR DELETIONS. AND IF THERE WERE, WE WOULD GO INTO
17 THAT.

18 IF THERE WERE ANY CORRECTIONS BY MR. ZUNO, I ASKED
19 HIM IF HE COULD ABBREVIATE -- EXCUSE ME-- INITIAL HIS INITIALS
20 ON ANY OF THE CORRECTIONS THAT WERE DONE.

21 Q. DID HE, IN FACT, MAKE SOME CHANGES ON THAT DOCUMENT?

22 A. YES, HE DID.

23 Q. DID HE INITIAL THOSE CHANGES?

24 A. YES, HE DID.

25 Q. DID YOU ALSO DISCUSS HIS ANSWERS IN SPANISH?

1 A. OH, YES, WE DID. YES.

2 Q. DID YOU AT THE CONCLUSION OF THIS PROCESS ASK MR. ZUNO TO
3 SIGN THIS DOCUMENT?

4 A. YES, I DID.

5 Q. AND DID YOU EXPLAIN TO HIM WHY YOU WANTED HIM TO SIGN?

6 A. YES, I DID.

7 Q. WHAT WAS THAT REASON?

8 A. THE REASON WHY HE IS ADVISED TO SIGN IS THAT HE STATES
9 THAT HE IS WILLING TO GIVE US A STATEMENT REGARDING THE
10 QUESTIONS I WAS TO ASK, AND THAT HE IS CERTIFYING THAT THE
11 ABOVE STATEMENT IS TRUE AND CORRECT.

12 Q. DID YOU EXPLAIN THAT TO HIM BEFORE HE SIGNED IT?

13 A. YES, I DID.

14 Q. AND HE DID, IN FACT, SIGN IT?

15 A. YES, YES.

16 Q. DOES HIS SIGNATURE APPEAR ON THE LAST PAGE OF THAT
17 DOCUMENT?

18 A. YES, IT IS.

19 Q. NOW, DOES YOUR SIGNATURE ALSO APPEAR ON THE LAST PAGE?

20 A. YES, SIR. AT THE TIME IT WAS VILLALON.

21 Q. I'D LIKE TO DIRECT YOUR ATTENTION TO TWO PARTICULAR
22 RESPONSES. ONE OF THE QUESTIONS THAT APPEARS ON THIS IS:

23 "WHERE DID YOU LIVE BEFORE?"

24 AND THE RESPONSE, AT LEAST IN PART, IS: "IN
25 GUADALAJARA, I LIVED AT LOPE DE VEGA, NUMBER 881, FROM 1970 TO

1 1982."

2 WAS IT YOUR UNDERSTANDING IN SPEAKING TO MR. ZUNO
3 THAT HE LIVED AT THAT ADDRESS CONTINUOUSLY DURING THE PERIOD?

4 MR. MEDVENE: OBJECTION. CALLS FOR A CONCLUSION OF
5 THE WITNESS, YOUR HONOR, WHAT HER UNDERSTANDING WAS.

6 THE COURT: THE UNDERSTANDING OF THE WITNESS IS
7 IRRELEVANT. WHAT WAS SAID IS THE EVIDENCE THAT HAVE SHOULD BE
8 PRESENTED.

9 BY MR. CARLTON:

10 Q. DID HE TELL YOU THAT HE LIVED THERE CONTINUOUSLY DURING
11 THAT PERIOD?

12 A. YES. YES, HE DID.

13 Q. LOOKING DOWN AT ANOTHER QUESTION WHICH SAYS: "HAVE YOU
14 EVER LIVED IN THE U. S.?"

15 YOUR RESPONSE IS: "NO, BUT TEMPORARY ONLY FOR ABOUT
16 TWO MONTHS."

17 IN RELATION TO THAT, DID HE REPRESENT THAT HE HAD
18 LIVED IN THE U.S. ON TEMPORARY OCCASIONS MORE THAN ONCE?

19 MR. MEDVENE: OBJECTION, LEADING AND SUGGESTIVE, YOUR
20 HONOR.

21 THE COURT: THE OBJECTION IS SUSTAINED. YOU MAY ASK
22 WHAT THE DEFENDANT SAID.

23 BY MR. CARLTON:

24 Q. DID HE ELABORATE IN ANSWER TO THAT QUESTION ANY FURTHER
25 THAN HE THIS HERE?

1 A. YES, HE DID. HE STATED THAT HE WOULD COME IN OCCASIONALLY
2 TO THE UNITED STATES. HE WOULD STAY NOT ANY MORE THAN TWO
3 MONTHS, SO HE WAS COMING INTO THE UNITED STATES, IN AND OUT.

4 Q. NOW, DID HE RESPOND IMMEDIATELY TO THAT QUESTION?

5 A. NO, HE DIDN'T.

6 Q. HOW DID HE RESPONDS?

7 A. HE HESITATED QUITE A BIT AND THEN HE DID RESPOND.

8 Q. NOW, WHAT WAS MR. ZUNO'S ATTITUDE AS HE PROGRESSED THROUGH
9 THIS QUESTIONING AND ANSWERING?

10 A. MR. ZUNO WOULD --

11 MR. MEDVENE: OBJECTION. CALLS FOR A CONCLUSION,
12 YOUR HONOR, AND SPECULATIVE.

13 THE COURT: OVERRULED.

14 YOU MAY ANSWER.

15 THE WITNESS: MR. ZUNO WAS VERY COOPERATIVE IN
16 ANSWERING MY QUESTIONS FROM THE EXCEPTION OF (SIC) AS WE GOT
17 FURTHER INTO THE INTERVIEW, HE DID HESITATE AND HE SEEMED TO BE
18 A LITTLE -- A LITTLE NERVOUS. HE WAS A LITTLE EVASIVE, IN
19 FACT.

20 Q. AS YOU PROGRESSED THROUGH THE INTERVIEW?

21 A. AS WE PROGRESSED, YES.

22 MR. CARLTON: YOUR HONOR, I WOULD MOVE AT THIS TIME
23 THAT EXHIBIT 57 BE RECEIVED.

24 THE COURT: THAT MAY BE RECEIVED.

25 (EXHIBIT 57 # RECEIVED IN EVIDENCE.)

1 MR. CARLTON: NO FURTHER QUESTIONS.

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

3
4 CROSS-EXAMINATION +

5 BY MR. MEDVENE:

6 Q. GOOD MORNING, MRS. BORIS.

7 A. GOOD MORNING.

8 Q. MRS. BORIS, ON AUGUST 9TH, TO YOUR KNOWLEDGE, MR. ZUNO WAS
9 COMING TO SAN ANTONIO FROM MEXICO; IS THAT CORRECT?

10 A. YES, SIR.

11 Q. AND HE WAS TRAVELING UNDER HIS OWN NAME?

12 A. YES, SIR.

13 Q. AND HE WAS COMING IN, TO YOUR KNOWLEDGE, ON A
14 REGULARLY-SCHEDULED AIRLINE; IS THAT CORRECT?

15 A. YES, SIR.

16 Q. DID YOU FIRST SEE HIM WHEN HE CAME UP TO YOUR COUNTER, THE
17 SECONDARY COUNTER?

18 A. NOT INSTANTLY, NO. I HAD A LINE OF PEOPLE. THERE WERE
19 QUITE OF BIT OF PEOPLE IN FRONT OF HIM.

20 Q. WAS THE REASON YOU SAW HIM BECAUSE THERE -- WHEN MR. ZUNO
21 GAVE HIS NAME, IT WAS TYPED INTO THE COMPUTER AND THERE ARE WAS
22 SOME INDICATION HE SHOULD BE STOPPED AND QUESTIONED?

23 A. YOU'RE ASKING ME -- I'M SORRY. I DIDN'T QUITE UNDERSTAND.

24 Q. MY QUESTION IS, IS THE REASON YOU QUESTIONED MR. ZUNO IS
25 BECAUSE WHEN HE GAVE YOU HIS TRUE FULL NAME YOU TYPED IT INTO A

1 COMPUTER AND THERE WAS SOMETHING IN THE COMPUTER INDICATING
2 THAT HE SHOULD BE FURTHER QUESTIONED?

3 A. FIRST OF ALL, I DID NOT TYPE IT. IT WAS A PRIMARY OFFICER
4 THAT DID. I WAS WORKING SECONDARY.

5 WHEN MR. ZUNO APPROACHED ME, HIS NAME ALREADY HAD
6 BEEN TYPED.

7 Q. IS WHAT HAPPENED, TO THE BEST OF YOUR KNOWLEDGE, THAT HIS
8 NAME WAS -- THAT HE GAVE HIS TRUE, CORRECT, FULL NAME TO THE
9 PRIMARY OFFICER, THE PRIMARY OFFICER TYPED IT INTO THE COMPUTER
10 AND THERE WAS SOME INDICATION THAT HE SHOULD BE STOPPED OR
11 QUESTIONED?

12 A. YES, SIR.

13 Q. AND AT THAT POINT IN TIME THE, PRIMARY OFFICER TURNED HIM
14 OVER TO YOU?

15 A. YES, SIR.

16 Q. NOW, WHEN HE CAME UP TO YOU, YOU ASKED HIM HIS NAME; IS
17 THAT CORRECT?

18 A. YES, SIR.

19 Q. AND HE GAVE YOU HIS TRUE NAME?

20 A. YES, SIR.

21 Q. DID YOU THEN TELL HIM TO PLEASE WAIT, THAT YOU WOULD HAVE
22 TO DO SOME CHECKING?

23 A. AT THAT POINT, YES, SIR.

24 Q. AND YOU THEN WENT FROM YOUR STATION INTO A NEARBY OFFICE
25 TO DO SOME CHECKING?

1 A. YES.

2 Q. AND WHEN YOU WENT INTO THAT OFFICE, YOU MADE SOME CONTACT
3 OR TRIED TO FIND OUT WHAT YOU WERE TO DO WITH THIS PERSON OR
4 WHAT YOU WERE TO ASK HIM; IS THAT CORRECT?

5 A. YES. WELL, I DON'T QUITE UNDERSTAND YOUR QUESTION.

6 Q. WHEN HE WENT INTO THIS NEARBY OFFICE, YOUR PURPOSE IN
7 DOING THAT WAS TO FIND OUT WHAT YOU WERE SUPPOSED TO DO WITH
8 MR. ZUNO; IS THAT CORRECT?

9 A. I WAS CHECKING FURTHER INTO THE REASON WHY WE HAD HIM IN
10 SECONDARY.

11 Q. BECAUSE FROM WHAT YOU SAW, HE HAD VALID ENTRY PAPERS;
12 ISN'T THAT CORRECT?

13 A. AT THAT POINT IN SECONDARY, HE DID, YES.

14 Q. WHEN YOU SAY AT THAT POINT, TO THE BEST OF YOUR KNOWLEDGE,
15 HE HAD THEM WHEN HE FIRST WENT TO THE PRIMARY STATION; ISN'T
16 THAT CORRECT?

17 A. RIGHT, BECAUSE I HAD THE DOCUMENT.

18 Q. YES. AND WHEN HE CAME TO YOU, HE ALSO --

19 A. HE HAD THE DOCUMENTS, RIGHT.

20 Q. SO HE HAD VALID ENTRY PAPERS?

21 A. YES, SIR.

22 Q. WHAT YOU WANTED THE TO FIND OUT WAS WHY, REALLY, WAS HE AT
23 YOUR STATION AND WHAT WERE YOU TO DO.

24 A. EXACTLY.

25 Q. SO AT THAT TIME, DID YOU MAKE SOME CALLS TO FIND OUT WHAT

1 YOU WERE TO DO?

2 A. NO, SIR, I DID NOT.

3 Q. DID YOU TALK TO ANYONE?

4 A. I'M SORRY?

5 Q. DID YOU TALK TO ANYONE TO FIND OUT WHAT YOU WERE TO DO?

6 A. MY SUPERVISOR, I DID.

7 Q. AND DID YOUR SUPERVISOR INDICATE TO YOU THAT YOU WERE TO
8 ASK HIM CERTAIN QUESTIONS?

9 A. MY SUPERVISOR ORDERED ME TO NOT ASK QUESTIONS AT THAT
10 POINT.

11 Q. DID THERE COME A TIME WHEN YOUR SUPERVISOR TOLD YOU TO ASK
12 QUESTIONS?

13 A. YES, SIR.

14 Q. WAS THAT AFTER YOU OR YOUR SUPERVISOR MADE A PHONE CALL TO
15 SOMEONE?

16 A. NO, SIR. THAT WAS AFTER WE HAD RECEIVED MORE INFORMATION
17 FROM CUSTOMS, WHICH IS THE AGENCY THAT IS SET UP WITH THE TEXT
18 MACHINE THAT MR. ZUNO'S NAME HAPPENED TO APPEAR.

19 Q. SO A STOP WAS PUT BY MR. ZUNO'S NAME BY CUSTOMS OR THE
20 D.E.A.?

21 A. BY D.E.A.

22 Q. OKAY. AND WHEN THAT HAPPENS, WHEN A PERSON COMES INTO THE
23 U.S. EVEN WITH VALID PAPERS, AS MR. ZUNO DID, YOU DO WHAT
24 YOU'RE REQUESTED TO DO BY THE D.E.A. BEFORE YOU RELEASE THE
25 PERSON?

1 A. YES, SIR.

2 Q. NOW, SO WE ARE TO THE POINT WHERE WE KNOW THE D.E.A. HAS
3 REQUESTED YOU TO DO SOMETHING. HOW DID YOU FIND OUT WHAT THE
4 D.E.A. WANTED YOU TO ASK MR. ZUNO?

5 A. AT THAT POINT, WHERE I WAS WITH MR. ZUNO, I --

6 Q. I'M SORRY, MA'AM.

7 A. I DIDN'T QUITE UNDERSTAND YOUR QUESTION.

8 Q. I DIDN'T ASK IT VERY WELL. HOW DID YOU FIND -- STRIKE
9 THAT.

10 DID THERE COME A TIME YOU FOUND OUT WHAT THE D.E.A.
11 WANTED YOU TO ASK MR. ZUNO?

12 A. IF THERE WAS A TIME THAT THE D.E.A. ASKED US TO ASK --
13 WHAT TO ASK MR. ZUNO?

14 IS THAT YOUR QUESTION?

15 Q. YES. WAS THERE A TIME BEFORE YOU STARTED QUESTIONING THAT
16 YOU FOUND OUT WHAT YOU WERE SUPPOSED TO ASK HIM?

17 MR. CARLTON: OBJECTION, YOUR HONOR. THERE HAS BEEN
18 NO TESTIMONY THAT SHE WAS SUPPOSED TO ASK HIM ANYTHING.

19 THE COURT: OVERRULED.

20 THE WITNESS: YES, THERE WAS A POINT.

21 BY MR. MEDVENE:

22 Q. OKAY. WAS THAT A HALF HOUR OR SO LATER AFTER MR. ZUNO WAS
23 ORIGINALLY STOPPED?

24 A. THAT WAS -- I CAN'T GIVE YOU THE APPROXIMATE TIME, NO,
25 SIR.

1 Q. IT WAS SOMETIME LATER?

2 A. YES, IT WAS.

3 Q. AND YOU WERE FURNISHED A NUMBER OF QUESTIONS YOU WERE TO
4 ASK MR. ZUNO?

5 A. I WAS FURNISHED -- OUR STANDARD PROCEDURE IS -- ARE THE
6 QUESTIONS THAT I ASKED HIM. I WAS NOT GIVEN QUESTIONS, NO.

7 Q. YOU WERE GIVEN SOME ADDITIONAL QUESTIONS YOU WERE SUPPOSED
8 TO ASK HIM, WEREN'T YOU?

9 A. I WANT TO SAY YES, BECAUSE AT ONE POINT, I BELIEVE MY
10 SUPERVISOR WAS LOOKING AT SOME OF THE QUESTIONS THAT I WAS
11 ASKING. SO I'M GOING TO HAVE TO SAY YES.

12 Q. NOW, WHEN YOU HAD THE INFORMATION ON THE QUESTIONS YOU
13 WERE TO ASK HIM, YOU ASKED HIM TO STEP INTO A NEARBY ROOM OR
14 OFFICE; IS THAT CORRECT?

15 A. YES, SIR. IT IS A WAITING ROOM WHERE IT IS IN FULL VIEW
16 OF THE PUBLIC.

17 Q. AND WHEN HE WENT INTO THAT ROOM, DID HE HAVE A SUITCASE
18 AND A BRIEFCASE WITH HIM?

19 A. YES, SIR.

20 Q. YES?

21 A. YES, HE DID.

22 Q. AND YOU ASKED HIM TO PUT THE SUITCASE AND THE BRIEFCASE ON
23 THE TABLE?

24 A. YES, SIR.

25 Q. AND YOU THEN WENT THROUGH THE SUITCASE; DID YOU NOT?

1 A. YES, SIR.

2 Q. AND THERE WAS NOTHING IN THE SUITCASE IMPROPER OF ANY
3 KIND; ISN'T THAT TRUE?

4 A. I'M SORRY?

5 Q. THERE WAS NOTHING IMPROPER IN THE SUITCASE?

6 A I DID NOT FIND ANYTHING, NO, SIR.

7 Q. YOU THEN ASKED HIM TO OPEN HIS BRIEFCASE?

8 A. YES, SIR.

9 Q. AND YOU WENT THROUGH ITEM BY ITEM THE THINGS IN HIS
10 BRIEFCASE?

11 A. YES, I DID.

12 Q. AND YOU ASKED HIM QUESTIONS ABOUT THE THINGS IN HIS
13 BRIEFCASE; DID YOU NOT?

14 A. YES, I DID.

15 Q. DID YOU WRITE DOWN HIS ANSWERS?

16 A. WE WERE IN THE LOBBY AREA. I MIGHT HAVE HAD A PAD WITH
17 ME. I DON'T REMEMBER. I DON'T RECALL.

18 Q. YOU WERE IN THE ROOM, MA'AM, WEREN'T YOU, BECAUSE --
19 HAVEN'T YOU JUST TOLD US YOU ASKED HIM TO PUT THE BRIEFCASE AND
20 VALISE UP ON A TABLE OR WHATEVER IN THIS INTERVIEWING ROOM OR
21 WHATEVER YOU CALLED IT?

22 A. UH-HUH. YES, I DID. I ASKED HIM TO.

23 Q. YOU'RE STILL TALKING TO HIM IN SPANISH; ARE YOU NOT?

24 A. YES, I AM.

25 Q. AND HE'S ANSWERING IN SPANISH?

1 A. YES.

2 Q. WHEN YOU WENT THROUGH THE BRIEFCASE ITEM BY ITEM AND HE
3 GAVE YOU ANSWERS ITEM BY ITEM, DID YOU WRITE DOWN THE ANSWERS?

4 A. OKAY. I'M GOING TO SAY -- BECAUSE IT HAPPENED TO WHERE I
5 WAS WRITING SOME OF THEM AND I DID NOT WRITE OTHERS --

6 Q. YOU CHOSE WHAT YOU WOULD WRITE DOWN AND WHAT YOU WOULD NOT
7 WRITE DOWN?

8 A. NO, SIR. I WAS GETTING A LOT OF INTERRUPTIONS. I HAD
9 LIKE THREE DIFFERENT CUSTOMS OFFICERS ASKING ME CERTAIN
10 QUESTIONS. I HAD TWO OTHER IMMIGRATION INSPECTORS ALSO
11 INVOLVED IN THE CASE.

12 IF I DID WRITE ANYTHING DOWN, IT WAS BECAUSE I WAS
13 TRYING NOT TO GET SIDETRACKED. I WAS NOT CHOOSING QUESTIONS TO
14 WRITE DOWN, NO.

15 Q. YOU WOULD WRITE DOWN SOME ANSWERS AND NOT WRITE DOWN
16 OTHERS?

17 A. YES, I DID.

18 Q. AND THAT CONTINUED DURING THE COURSE OF THE ENTIRE
19 INTERVIEW; ISN'T THAT CORRECT?

20 A. NO, SIR, NOT THROUGH THE ENTIRE -- NO.

21 Q. LET'S GO BACK TO THIS POINT WHERE YOU'RE WRITING DOWN SOME
22 ANSWERS AND NOT OTHERS. YOU SAID THERE WERE OTHER PEOPLE
23 ASKING YOU QUESTIONS AND A COUPLE OTHER INSPECTORS INVOLVED IN
24 THE CASE.

25 A. RIGHT.

1 Q. LET ME TALK TO YOU ABOUT THAT FOR A MOMENT.

2 A. ALL RIGHT.

3 Q. THE OTHER PEOPLE ASKING YOU QUESTIONS, WERE THEY INVOLVED
4 IN OTHER MATTERS?

5 A. THEY WERE INVOLVED IN OTHER MATTERS AND SOME WERE INVOLVED
6 WITH HIS.

7 Q. SO THERE WAS A LOT GOING ON WHEN YOU WERE ASKING HIM
8 QUESTIONS AND HE WAS ANSWERING THE QUESTIONS?

9 A. I'M GOING SAY WITHIN THE FIRST FIVE MINUTES THERE WERE,
10 BECAUSE WE WERE TRYING TO DETERMINE IN HIS -- IN THE TEXT. THE
11 TEXT MACHINE PUTS OUT A PRINTOUT, AND IMMIGRATION DOES NOT HAVE
12 ACCESS TO THAT COMPUTER, ONLY CUSTOMS DOES.

13 SO CUSTOMS WILL ASSIST US IN PUTTING OUT ANY MATERIAL
14 OR ANY INFORMATION THAT COMES OUT ON A PASSENGER.

15 Q. YOU MEAN LIKE THINGS TO ASK HIM?

16 A. NO, NO. IT IS A PRINTOUT; IT IS A DOCUMENT, A PRINTOUT.

17 Q. NOW, YOU COULD TELL HE WAS MORE FLUENT IN SPANISH THAN
18 ENGLISH; ISN'T THAT CORRECT?

19 A. NO, SIR.

20 Q. YOU DON'T KNOW IF HE'S MORE FLUENT IN SPANISH?

21 A. NO, SIR. NO,

22 Q. NOW, WE ARE STILL AT THE POINT WHERE YOU'RE QUESTIONING
23 HIM ABOUT WHAT IS IN THE BRIEFCASE.

24 A. YES.

25 Q. DO YOU HAVE ANY NOTES AT ALL OF YOUR QUESTIONING OF MR.

1 ZUNO?

2 A. NO, SIR.

3 Q. THE NOTES YOU ORIGINALLY HAD, DID YOU THROW THEM AWAY?

4 A. YES, I DID.

5 Q. WHEN?

6 A. I BELIEVE IT WAS WHEN I WAS GOING TO START -- WE WERE
7 SITTING -- WHEN WE HAD HIM IN LOBBY AREA, THAT WAS PART OF THE
8 QUESTIONING.

9 AS WE MOVED INTO THE SWORN STATEMENT ITSELF, MR. ZUNO
10 HAD TO BE ESCORTED INTO THE OFFICES. WE DON'T HAVE A
11 TYPEWRITER IN THE LOBBY AREA, SO MY NOTES, OF COURSE, WENT WITH
12 MR. ZUNO.

13 WE WERE BOTH LOOKING AT WHAT I WAS WRITING, AND OF
14 COURSE, HE WAS HE WASN'T ANY FURTHER AWAY FROM ME (INDICATING),
15 LIKE HE COULD SEE EVERYTHING I WAS TYPING AND WRITING.

16 Q. MY QUESTION, MA'AM, IS DID YOU WRITE NOTES IN YOUR HAND,
17 IN HANDWRITING OF SOME OF HIS ANSWERS?

18 A. YES, I DID.

19 Q. DID YOU THROW THOSE NOTES AWAY?

20 A. I DON'T HAVE THEM.

21 Q. DID YOU THROW THEM AWAY?

22 A. I DON'T KNOW.

23 Q. DO YOU KNOW WHERE THEY ARE, IF THEY'RE NOT THROWN AWAY?

24 A. I WANT TO SAY I THREW THEM AWAY BECAUSE I DON'T HAVE THEM.

25 Q. ALL RIGHT. DO YOU REMEMBER WHEN YOU THREW THEM AWAY?

1 A. I DON'T KNOW, SIR.

2 Q. DID YOU THINK THERE WAS SOME IMPORTANCE TO THE QUESTIONS
3 YOU WERE ASKING HIM AND THE ANSWERS HE WAS GIVING?

4 A. IT'S STANDARD PROCEDURE. I WRITE DOWN MANY, MANY OF THE
5 ANSWERS AND QUESTIONS, SIR.

6 Q. IS THERE SOME REASON THEN, IF THERE WAS SOME IMPORTANCE TO
7 THE ANSWERS, YOU WOULD THROW THE NOTES AWAY?

8 MR. CARLTON: OBJECTION, YOUR HONOR. IRRELEVANT AND
9 SPECULATION.

10 THE COURT: OVERRULED.

11 BY MR. MEDVENE:

12 Q. IS THERE SOME REASON, MA'AM, YOU WOULD THROW THE NOTES
13 AWAY?

14 A. NO, SIR, THERE ISN'T.

15 Q. NOW, WE'RE TO THE POINT WHERE YOU'VE LOOKED THROUGH HIS
16 BRIEFCASE?

17 A. RIGHT.

18 Q. AND THERE WAS NOTHING -- YOU LOOKED THROUGH IT ITEM BY
19 ITEM; DID YOU NOT?

20 A. YES, SIR.

21 Q. AND THERE WAS NOTHING IMPROPER IN ANY WAY IN HIS
22 BRIEFCASE; IS THAT CORRECT?

23 A. I DON'T QUITE UNDERSTAND YOUR QUESTION.

24 Q. THERE WAS NO CONTRABAND OF ANY KIND IN HIS BRIEFCASE, WAS
25 THERE?

1 A. I DID NOT FIND ANY, BUT THEN IF I SHOULD SUSPECT, IT GOES
2 TO CUSTOMS.

3 Q. DID YOU SUSPECT?

4 A. NO, SIR.

5 Q. SO THERE WAS NO CONTRABAND IN HIS BRIEFCASE TO THE BEST OF
6 YOUR KNOWLEDGE; IS THAT CORRECT?

7 A. TO THE BEST OF MY KNOWLEDGE, NO SIR.

8 Q. AND THERE WAS NOTHING INAPPROPRIATE OR IMPROPER IN HIS
9 BRIEFCASE TO THE BEST OF YOUR KNOWLEDGE; ISN'T THAT CORRECT?

10 MR. CARLTON: OBJECTION, YOUR HONOR. ASKED AND
11 ANSWERED.

12 THE COURT: OVERRULED.

13 THE WITNESS: NO, SIR.

14 BY MR. MEDVENE:

15 Q. WHEN YOU SAY "NO, SIR", YOU MEAN I'M CORRECT?

16 A. YES, SIR.

17 Q. MR. ZUNO -- STRIKE THAT. YOU -- STRIKE THAT.

18 THE QUESTIONING THAT YOU HAVE TOLD US ABOUT TOOK SOME
19 SEVERAL HOURS; IS THAT TRUE, MA'AM?

20 A. MY QUESTIONING?

21 Q. YES, MA'AM.

22 A. IT TOOK ABOUT AN HOUR, HOUR AND A HALF.

23 Q. AND MR. ZUNO, YOU TOLD US, WAS COOPERATIVE; IS THAT TRUE?

24 A. FROM THE BEGINNING, YES, SIR.

25 Q. BUT HE TOLD YOU HE WAS ANXIOUS TO LEAVE BECAUSE HE HAD

1 NEVER BEEN QUESTIONED LIKE THIS BEFORE IN ALL HIS TRIPS TO THE
2 UNITED STATES; ISN'T THAT TRUE?

3 A. YES, SIR.

4 Q. NOW, WHEN YOU STARTED QUESTIONING, AFTER YOU FINISHED WITH
5 THE BRIEFCASE, WAS IT JUST YOU THERE DURING THE QUESTIONING OR
6 DID YOU HAVE THESE OTHER PEOPLE YOU MENTIONED EARLIER THAT WERE
7 ALSO INVOLVED IN THIS MATTER WITH YOU?

8 A. WE HAVE -- THE OFFICE IS SET UP TO WHERE THERE IS A LOT OF
9 PEOPLE COMING IN AND OUT, BUT I'M TALKING ABOUT IMMIGRATION
10 OFFICERS ONLY.

11 Q. WERE THERE A FEW OTHER IMMIGRATION OFFICERS THERE WITH YOU
12 WHILE YOU WERE QUESTIONING?

13 A. THERE WAS ONE ONLY.

14 Q. SO THE TWO OF YOU, IN EFFECT, WERE THERE DURING THE
15 QUESTIONING?

16 A. RIGHT.

17 Q. AND IT'S FROM YOUR EXPERIENCE, WORKING TEN YEARS, PEOPLE
18 ARE OFTEN NERVOUS, AREN'T THEY, WHEN TALKING TO SOMEONE SUCH AS
19 YOURSELF?

20 A. WITH MY EXPERIENCE, NO, SIR. THERE'S MANY PEOPLE THAT DO
21 NOT GET NERVOUS.

22 Q. BUT MR. ZUNO ANSWERED YOUR QUESTIONS; DID HE NOT?.

23 A. YES, SIR, HE DID.

24 Q. AND HE DIDN'T TELL YOU WITH RESPECT TO ANY QUESTION THAT
25 HE WOULD NOT ANSWER IT; DID HE?

1 A. NO, SIR, HE ANSWER EVERYTHING.

2 Q. EVERYTHING YOU ASKED HIM, HE ANSWERED?

3 A. YES, SIR.

4 Q. NOW, WHEN YOU ASKED HIM A QUESTION, DID YOU START OUT
5 ASKING HIM THE QUESTIONS IN SPANISH?

6 A. I STARTED OFF ASKING HIM IN -- IN THE SWORN STATEMENT, THE
7 QUESTIONS WERE IN ENGLISH.

8 Q. BUT DID YOU START ASKING HIM THE QUESTIONS IN SPANISH AND
9 THEN LATER TYPE OUT THE SWORN STATEMENT?

10 A. NO.

11 Q. WELL, WHEN YOU ASKED HIM THE QUESTIONS, DID YOU WRITE DOWN
12 IN SPANISH A SUMMARY OF HIS ANSWER?

13 A. NO.

14 Q. DID YOU WRITE DOWN IN ENGLISH THE SUMMARY OF HIS ANSWER?

15 A. NO, SIR.

16 Q. YOU DIDN'T WRITE EVERY QUESTION AND ANSWER; DID YOU?

17 A. NO, I DIDN'T.

18 Q. YOU WROTE DOWN SOME QUESTIONS AND SOME ANSWERS AND LEFT
19 OUT OTHER QUESTIONS AND ANSWERS; ISN'T THAT CORRECT?

20 A. NO, SIR.

21 Q. WELL, IS IT TRUE THAT YOU DID NOT INCLUDE IN WHAT HAS BEEN
22 MARKED 57 EVERY QUESTION YOU ASKED AND EVERY ANSWER HE GAVE?

23 A. I'M SORRY. I DON'T QUITE UNDERSTAND, BECAUSE YOU'RE
24 TALKING ABOUT TWO DIFFERENT AREAS.

25 THE FIRST AREA WAS IN THE LOBBY, RIGHT? AND THAT IS

1 WHEN I ASKED HIM CERTAIN QUESTIONS, AND I DID WRITE DOWN.

2 WHEN WE MOVED ON INTO THE OFFICE WHERE THE TYPEWRITER
3 WAS, I WAS NOT WRITING ANYTHING DOWN.

4 Q. LET'S GO BACK TO THE LOBBY AGAIN. IN THE LOBBY, YOU STATE
5 YOU DID WRITE IT DOWN.

6 ARE YOU SAYING IN THE LOBBY YOU HAD A TYPEWRITER WITH
7 YOU?

8 A. NO, I DID NOT.

9 Q. WHEN YOU SAY YOU WROTE DOWN, YOU MEAN YOU MADE NOTES IN
10 YOUR HAND?

11 A. NO, I HAD A PAD THERE. THERE IS USUALLY SOME PAPER.

12 Q. SO YOU ASKED HIM QUESTIONS AND HE GAVE YOU ANSWERS, AND
13 YOU WROTE THE ANSWERS DOWN?

14 A. RIGHT. YES, SIR.

15 Q. THOSE QUESTIONS AND ANSWERS THAT YOU WROTE DOWN, IS THAT
16 WHAT HAS BEEN THROWN AWAY?

17 A. THAT IS WHAT I DON'T KNOW.

18 Q. THAT'S WHAT YOU THINK YOU THREW AWAY?

19 A. YES, SIR.

20 THE COURT: THESE ANSWERS THAT YOU WROTE DOWN ON THE
21 PAD, DID THEY ULTIMATELY FIND THEIR WAY INTO THIS OTHER
22 QUESTIONNAIRE?

23 THAT IS, THAT INFORMATION THAT YOU OBTAINED FROM HIM
24 THERE, WAS THAT PART OF THE --

25 THE WITNESS: YES, SIR. THE SWORN STATEMENT. IN

1 FACT, IT WAS THE FIRST THREE QUESTIONS THAT I WROTE DOWN.

2 I ASKED HIM HIS NAME, WHERE HE WAS BORN, AND THEN
3 THOSE, I PROCEEDED AND PICKED THEM UP WITH ME AND TOOK THEM
4 INSIDE TO THE OFFICE.

5 BY MR. MEDVENE:

6 Q. LET'S GET IT CLEAR, IF WE CAN. IN THE LOBBY, YOU ASKED
7 HIM A NUMBER OF QUESTIONS?

8 A. I ASKED HIM JUST THE FIRST THREE.

9 Q. JUST THE FIRST THREE?

10 A. THAT'S IT. AND I WROTE THESE DOWN.

11 Q. AND THEN YOU GO INTO THE OFFICE AND YOU ASKED HIM THE
12 REMAINDER OF THE QUESTIONS?

13 A. I DID ASK HIM THE REMAINDER OF THE QUESTIONS.

14 Q. DID YOU, WHEN YOU ASKED HIM THE REMAINDER OF THE QUESTIONS
15 AFTER THE FIRST THREE -- AND THE FIRST THREE ARE: "ARE YOU
16 WILLING TO ANSWER MY QUESTIONS"; IS THAT CORRECT?

17 AND "DO YOU SWEAR TO TELL THE TRUTH?"

18 AND "DO YOU WISH TO HAVE A LAWYER?"

19 ARE THOSE THE FIRST THREE?

20 A. NO, SIR. THOSE WERE NOT THE FIRST THREE.

21 Q. WHAT WERE THE FIRST THREE YOU'RE TALKING ABOUT?

22 A. THE FIRST THREE WERE THE ONES WHEN I HAD ASKED HIM THAT IN
23 THE SECONDARY. I HAD -- I'M GOING TO BACKTRACK, BECAUSE THAT'S
24 ONE WAY OF REMEMBERING WHAT I'M GOING TO TELL YOU.

25 Q. YES, MA'AM.

1 A. IN THE SECONDARY BOOTH, I ASKED HIS FULL NAME, HIS
2 CORRECT, FULL NAME. AND I ASKED HIM HIS PURPOSE IN COMING INTO
3 THE UNITED STATES AND FOR HOW LONG HE WOULD BE STAYING. HE
4 ANSWERED ALL THREE.

5 WHEN I TOOK HIM TO THE LOBBY AREA AND HE TOOK HIS
6 LUGGAGE WITH HIM, I ASKED HIM THE SAME THREE QUESTIONS AGAIN;
7 HOWEVER, I WROTE THOSE DOWN. OKAY?

8 NOW, I DID NOT -- LIKE I SAID, I DON'T REMEMBER WHAT
9 HAPPENED TO THOSE THREE WHEN I WROTE THEM DOWN.

10 WHEN I TOOK HIM TO OUR OFFICE WHERE THE TYPEWRITER
11 WAS AND WE STARTED THE SWORN STATEMENT, THEN I MADE NO NOTES.

12 Q. SO WE HAVE THREE AREAS THEN: THE SECONDARY AREA WHERE YOU
13 ASKED HIM THE THREE QUESTIONS?

14 A. RIGHT.

15 Q. YOU THEN GO TO THE LOBBY AREA?

16 A. AND I ASKED HIM THE SAME THREE AGAIN.

17 Q. YOU ASKED HIM THE SAME THREE?

18 A. YES.

19 Q. AND THEN DO YOU GO TO YOUR OFFICE?

20 A. THEN WE WENT INTO THE OFFICE, RIGHT.

21 Q. SO IN THE LOBBY AREA, YOU JUST ASKED HIM THE THREE
22 QUESTIONS, THE SAME THREE YOU HAD ASKED HIM PREVIOUSLY?

23 A. RIGHT.

24 Q. IS THERE A REASON YOU ASKED HIM THE SAME THREE QUESTIONS
25 AGAIN?

1 A. IT'S STANDARD PROCEDURE, SIR. WE ASK AGAIN.

2 Q. ALL RIGHT. THEN YOU GO INTO THE OFFICE AND CONDUCTED THE
3 REST OF THE INTERVIEW?

4 A. WE CONDUCTED -- YES, SIR.

5 Q. IN THE OFFICE?

6 A. IN THE OFFICE.

7 Q. AND IS IT TRUE THAT IN THE OFFICE YOU DID NOT WRITE DOWN
8 EVERY QUESTION AND EVERY ANSWER?

9 A. NO, SIR, I DIDN'T.

10 Q. I'M SORRY?

11 A. I DID NOT.

12 Q. YOU DID NOT WRITE DOWN EVERY QUESTION AND EVERY ANSWER?

13 A. NO.

14 Q. WERE ANY NOTES MADE AT ALL IN THE OFFICE OR JUST TYPING ON
15 THE TYPEWRITER?

16 A. THERE WAS JUST TYPING.

17 Q. AND DO YOU KNOW, AS YOU SIT HERE, WHAT QUESTIONS YOU ASKED
18 HIM IN THE OFFICE AND WHAT ANSWERS HE GAVE THAT YOU DID NOT
19 TYPE OUT?

20 A. NO. I DON'T QUITE UNDERSTAND. ARE YOU ASKING ME IF I
21 ASKED HIM A QUESTION THAT IS NOT ON HERE? IS THAT WHAT YOU'RE
22 ASKING?

23 I DON'T UNDERSTAND.

24 THE COURT: YES, I THINK THAT'S WHAT HE'S ASKING.

25 THE WITNESS: NO. EVERY QUESTION I ASKED WAS TYPED

1 AND THE RESPONSE WAS PUT IN.

2 BY MR. MEDVENE:

3 Q. SO YOU'RE SAYING NOW THAT EVERY QUESTION YOU ASKED HIM IN
4 THE OFFICE --

5 A. YES.

6 Q. -- YOU HAVE ON YOUR FORM?

7 A. YES.

8 Q. AND YOU DIDN'T LEAVE ANY OFF?

9 A. NO, SIR.

10 Q. WELL, LET'S GO, FOR EXAMPLE, MA'AM, TO THE THIRD PAGE?

11 A.. UH-HUH.

12 Q. FIVE QUESTIONS DOWN, DO YOU SEE THE QUESTION THAT STATES:
13 "YOU STATED --"?

14 A. UH-HUH.

15 "Q. YOU STATED YOU BOUGHT A HOUSE AT 11622 CAPRA IN 1979 UNDER
16 YOUR NAME. DO YOU LIVE IN THAT HOUSE?"

17 DO YOU SEE THAT QUESTION?

18 A. YES, SIR.

19 Q. NOW, YOU SAY THERE MA'AM, "YOU STATED". WHERE DID YOU
20 STATE IT?

21 A. HE TALKED ABOUT IT.

22 Q. WHERE IS IT IN YOUR REPORT?

23 A. HE TALKED ABOUT IT IN THE LOBBY AREA WHEN THE DOCUMENTS --
24 HE HAD HIS DRIVER'S LICENSE AND EVERYTHING ELSE.

25 Q. MA'AM, I'M TRYING TO GO THROUGH WITH YOU EVERYTHING HE

1 SAID TO YOU. AND I HAD THOUGHT YOU ASKED HIM THREE QUESTIONS.

2 A. THAT I WROTE DOWN. THERE WAS MANY OTHER QUESTIONS ASKED,
3 YES.

4 Q. THERE WAS MANY OTHER QUESTIONS ASKED AND ANSWERS HE GAVE
5 IN THE LOBBY AREA?

6 A. YES, SIR.

7 Q. AND YOU DIDN'T WRITE ANY OF IT DOWN?

8 A. OR DID YOU WRITE IT DOWN AND YOU THREW AWAY THE PAPER?

9 A. NO, SIR, I DID NOT WRITE IT DOWN.

10 Q. IT WAS JUST AN INTERVIEW WHERE YOU ASKED QUESTIONS AND HE
11 GAVE ANSWERS?

12 A. IN THAT FIRST SECONDARY AREA, YES, WE ASKED QUESTIONS.

13 Q. AND YOU DON'T WRITE WHAT PEOPLE SAY DOWN?

14 A. NO, SIR.

15 Q. WHAT OTHER QUESTIONS DID YOU ASK HIM IN THE LOBBY AREA?

16 A. I ASKED HIM AGAIN, LIKE I SAID, THE NORMAL QUESTIONS WE
17 ASKED: "HOW LONG ARE YOU GOING TO BE STAYING?"

18 I ASKED HIM IF HE HAD A HOUSE IN SAN ANTONIO. HE WAS
19 VERY COOPERATIVE IN ANSWERING THE QUESTIONS.

20 Q. DOES HE HAVE A HOUSE IN SAN ANTONIO IS A QUESTION YOU
21 ORDINARILY REQUEST PEOPLE COMING IN?

22 A. YES, SIR, WE DO ASK.

23 Q. WHAT OTHER QUESTIONS DID YOU ASK HIM?

24 A. I ASKED IF HE HAD A DRIVER'S LICENSE. AND I ASKED IF THAT
25 WAS HIS HOUSE ON THE DRIVER'S LICENSE, AND HE STATED THAT HE

1 DID HAVE IT AT ONE TIME. HE SOLD IT.

2 HE WAS COMING IN TO VISIT A COMPADRE OF HIS. HE GAVE
3 ME HIS ADDRESS THAT WAS STATED ON THE CUSTOM'S DECLARATION.
4 NORMAL QUESTIONS.

5 Q. BUT YOU DON'T WRITE ANY OF IT DOWN?

6 A. NO, SIR. WE HAVE TOO MANY PEOPLE. WE COULDN'T BE WRITING
7 EVERYTHING DOWN.

8 Q. YOU KNEW THERE WAS GOING TO COME A TIME WHEN YOU WERE
9 GOING TO HAVE TO WRITE THINGS DOWN. YOU WERE TOLD TO WRITE
10 THINGS DOWN?

11 A. RIGHT.

12 Q. YOU DECIDED YOU WOULD WRITE THEM DOWN AT A LATER TIME?

13 A. YES, SIR.

14 Q. NOW, THE VERY NEXT QUESTION -- STRIKE THAT.

15 THE HOUSE -- THERE IS A HOUSE REFERRED TO AS 4638
16 TRAILWOOD. HAD YOU ASKED HIM ABOUT THAT HOUSE EARLIER?

17 A. NO, SIR.

18 Q. IF YOU HADN'T ASKED HIM ABOUT THE HOUSE EARLIER, HOW DO
19 YOU EXPLAIN THE FACT THAT THE QUESTION READS: "WHAT ABOUT THE
20 HOUSE AT 4638 TRAILWOOD?"

21 IN OTHER WORDS, HOW DID YOU KNOW ABOUT THAT HOUSE IF
22 YOU HADN'T ASKED HIM ABOUT IT EARLIER?

23 A. I ASKED HIM -- OKAY. SEE, THIS IS THE -- THIS IS WHY I'M
24 STOPPING AND EXPLAINING, IS BECAUSE WHEN THEY ARE SENT TO THE
25 SECONDARY BOOTH, THE CUSTOMS DECLARATION STATES THE U.S.

1 ADDRESS. THAT IS THE ADDRESS MR. ZUNO NOTED ON THERE. I ASKED
2 HIM ABOUT THAT, YES.

3 THAT WAS MY THREE QUESTIONS WHEN I GET HIM IN THE
4 SECONDARY AREA. "WHERE ARE YOU GOING? WHERE ARE YOU GOING TO
5 STAY?" THAT QUESTION, THE 4638 TRAILWOOD IS ON THE CUSTOMS
6 DECLARATION.

7 Q. WITHOUT LOOKING AT THE FORM, MA'AM, WAS THERE ANY QUESTION
8 THAT MR. ZUNO WAS ASKED THAT IN YOUR VIEW HE DIDN'T ANSWER
9 FULLY?

10 MR. MEDRANO: OBJECTION. AMBIGUOUS, YOUR HONOR.

11 THE COURT: RESTATE YOUR QUESTION.

12 THE WITNESS: PARDON?

13 MR. MEDVENE: I'M SORRY. I'LL RESTATE IT.

14 BY MR. MEDVENE:

15 Q. DID MR. ZUNO ANSWER, TO THE BEST OF YOUR KNOWLEDGE, EVERY
16 QUESTION FULLY THAT YOU ASKED HIM?

17 MR. CARLTON: OBJECTION, YOUR HONOR. CALLS FOR
18 SPECULATION.

19 THE COURT: WELL, YES. DID OBJECTION IS SUSTAINED.

20 BY MR. MEDVENE:

21 Q. MR. ZUNO, TO THE BEST OF YOUR KNOWLEDGE, WAS NOT EVASIVE
22 IN ANSWERING ANY QUESTION, WAS HE?

23 A. YES, SIR, HE WAS.

24 Q. WHAT QUESTION? WHAT SPECIFIC QUESTION?

25 A. IT WAS -- I BELIEVE THERE WAS ABOUT TWO QUESTIONS THAT I

1 CAN RECALL. ONE OF THEM WAS ON THE RESIDENCE.

2 Q. WHAT WAS THE QUESTION OF THE RESIDENCE? JUST TELL ME FROM
3 MEMORY, AND THEN WE'LL GO BACK TO IT.

4 A. I'M GOING TO TRY TO REMEMBER. LIKE I SAID, WE GET MANY,
5 MANY PEOPLE THERE AT THE AIRPORT. THIS IS STANDARD PROCEDURE,
6 WHAT I DID WITH MR. ZUNO.

7 Q. ABOUT HOW MANY PEOPLE DO YOU GET AT THE AIRPORT?

8 A. ON THAT ONE FLIGHT, IT WAS LIKE 168 THAT ONE AFTERNOON.

9 Q. EVERYDAY, HOW MANY DO YOU GET, APPROXIMATELY?

10 A. APPROXIMATELY, ABOUT A GOOD 500, CLOSE TO 600.

11 Q. HOW MANY DO YOU ORDINARILY QUESTION ON A DAY'S WORK?

12 A. QUITE A BIT, SIR. I'M NOT GOING TO PUT DOWN STATISTICS,
13 BECAUSE I DON'T KNOW, BECAUSE I GET SO MANY AND SO MANY OTHER
14 OFFICERS GET OTHERS.

15 Q. WOULD YOU SAY BETWEEN THIS TIME IN AUGUST OF '79 AND TODAY
16 THERE HAVE BEEN LITERALLY THOUSANDS?

17 A. NOT THOUSANDS.

18 Q. HUNDREDS?

19 A. HUNDREDS, YES.

20 Q. CAN YOU REMEMBER EACH INTERVIEW ON AN INDIVIDUAL BASIS
21 WITHOUT LOOKING AT NOTES THAT YOU DID?

22 A. I CAN'T REMEMBER EVERY INTERVIEW. I CAN REMEMBER AND I
23 CAN RECALL CERTAIN THINGS, NOT EVERYTHING.

24 Q. NOW, WHAT QUESTION DID YOU FEEL MR. ZUNO WAS EVASIVE ON?

25 A. RESIDENCE. ON HIS RESIDENCE.

1 Q. WHERE HE LIVED?

2 A. YES, SIR.

3 Q. AND WHAT DID HE SAY?

4 A. WELL, LIKE I SAID, I'M GOING TO TRY TO REMEMBER. BUT ON
5 THE RESIDENCE, HE WOULD HESITATE WHEN I ASKED HIM WHERE HE
6 LIVED.

7 Q. YOU SAID: "WHERE DO YOU LIVE?"

8 A. AND HE HESITATED.

9 Q. HOW LONG DID HE TAKE TO ANSWER? JUST LOOK AT ME, MA'AM,
10 IF YOU WOULD.

11 A. I DON'T KNOW.

12 MR. MEDRANO: OBJECTION, YOUR HONOR.

13 MR. MEDVENE: WE HAVE TWO COUNSEL HERE, YOUR HONOR.

14 MR. CARLTON HAD THE WITNESS.

15 THE COURT: JUST LEAVE THAT TO ME.

16 MR. MEDVENE: YES, SIR. I APOLOGIZE, YOUR HONOR.

17 THE WITNESS: I CAN'T GIVE YOU AN APPROXIMATE TIME,
18 SIR, NO.

19 BY MR. MEDVENE:

20 Q. AS YOU SIT HERE, HUNDREDS OF INTERVIEWS LATER, YOU HAVE
21 TOLD US THAT WHEN YOU SAID "WHERE DO YOU LIVE", HE HESITATED.

22 YOU HAVE NO NOTES OF ANY KIND THAT HE HESITATED; DO
23 YOU?

24 A. NO.

25 Q. DO YOU?

1 A. NO, SIR.

2 Q. YOU DIDN'T WRITE ANYTHING DOWN ANYWHERE TO SAY HE
3 HESITATED; DID YOU?

4 A. NO, SIR, I DIDN'T.

5 Q. HOW MANY SECONDS WAS IT BEFORE HE ANSWERED THAT YOU RECALL
6 HERE?

7 A. I'D GIVE IT ABOUT A GOOD 30 SECONDS.

8 Q. YOU REMEMBER THAT CLEARLY, DO YOU?

9 A. NO, I DON'T, BUT I'M SAYING APPROXIMATE 30 SECONDS. I'M
10 NOT GOING TO -- YOU ARE TELLING ME NOT TO LOOK AT YOU. I WAS
11 TRYING TO THINK, WHEN I PUT MY HEAD DOWN.

12 I DON'T KNOW, SIR. I CAN'T GIVE YOU -- I CAN'T TELL
13 YOU ONE WAS 30 AND ANOTHER ONE WAS 50.

14 Q. OR FIVE OR TWO?

15 A. OR FIVE OR TWO, NO.

16 Q. OR TEN?

17 A. BUT THERE WAS A HESITANCE, YES.

18 Q. SO IT COULD HAVE BEEN TWO SECONDS OR FIVE SECONDS OR TEN
19 SECONDS?

20 A. THERE COULD HAVE BEEN, YES.

21 Q. AND WHEN HE ANSWERED "WHERE DO YOU LIVE" AFTER HE WAITED
22 TWO SECONDS OR FIVE SECONDS OR TEN SECONDS, OR WHATEVER THE
23 PERIOD OF TIME WAS, WHAT DID HE SAY?

24 A. HE STATED THAT NO, HE DOES NOT LIVE HERE. HE DOES NOT
25 LIVE IN THE UNITED STATES.

1 Q. SO THAT WAS THE QUESTION AND ANSWER YOU WERE TALKING ABOUT
2 WHEN YOU SAID HE WAS EVASIVE; IS THAT CORRECT?

3 A. RIGHT. BECAUSE HE WENT INTO STATING THAT, BUT ONLY
4 TEMPORARILY. HE HESITATED ON THAT, TOO.

5 Q. LET'S GO ONE AT A TIME. SO ON THE QUESTION "WHERE DO YOU
6 LIVE" OR "DO YOU LIVE IN THE UNITED STATES" IT TOOK HIM TWO OR
7 FIVE OR TEN SECONDS, OR WHATEVER, YOU'RE NOT SURE NOW, AND HE
8 SAID HE DOES NOT PERMANENTLY LIVE IN THE UNITED STATES; ISN'T
9 THAT CORRECT?

10 A. RIGHT.

11 Q. NOW, THERE WAS ONE OTHER QUESTION WHERE YOU SAID -- OR
12 STRIKE THAT.

13 WAS THERE ANY OTHER QUESTION THAT YOU ASKED WHERE YOU
14 SAY HE WAS EVASIVE?

15 A. IT WAS TOWARD THE END. IT'S VERY MUCH TOWARD THE END. I
16 ASKED HIM ABOUT -- MAY I LOOK?

17 Q. I'M GOING TO LET YOU LOOK IN A MINUTE TO WHATEVER YOU
18 WANT, BUT SINCE YOU'RE TELLING US YOUR MEMORY OF TWO SECONDS
19 HESITATION, I JUST WANT TO CHECK YOUR MEMORY. SO I'D LIKE YOU
20 TO DO IT JUST WITH ME.

21 A. OKAY. IT WAS VERY TOWARDS THE END WHEN I ASKED HIM
22 ABOUT -- SEE, HE SPOKE ABOUT HIS BACKGROUND. NOT A LOT, BUT HE
23 DID TALK ABOUT HIS FAMILY, AND HE SPOKE ABOUT HIS FATHER, AND
24 HE SPOKE ABOUT HOW THEY HAD, I BELIEVE, TAKEN HIM HOSTAGE OR
25 WERE GOING TAKE HIM HOSTAGE.

1 AND WHEN I ASKED HIM ABOUT THAT, HE WOULD ANSWER
2 CERTAIN THINGS AND OTHER THINGS HE WOULDN'T. AND I DIDN'T
3 QUITE UNDERSTAND. SEE, I DID NOT -- I DON'T KNOW MR. ZUNO, SO
4 WHEN I WOULD ASK HIM, "WELL, WHAT ACTUALLY HAPPENED, MR. ZUNO?"
5 HE WOULD TELL ME CERTAIN THINGS AND THEN HE WOULD GET AWAY FROM
6 IT AND THEN SOMETIMES WE WOULD COME BACK TO TALKING ABOUT THE
7 FAMILY.

8 Q. THE WAY THAT'S HANDLED IS ONE QUESTION AND ONE ANSWER?

9 A. RIGHT.

10 Q. THAT'S THE WAY THAT'S HANDLED IN THE QUESTIONNAIRE,
11 CORRECT?

12 A. RIGHT.

13 Q. ARE YOU SAYING THAT AT DIFFERENT TIMES IN THE QUESTIONING
14 TOPICS WOULD COME UP AND THEN THEY WOULD COME UP AGAIN, AND THE
15 WAY YOU WOULD HANDLE THEM WAS TO THE BEST OF YOUR RECOLLECTION,
16 YOU WOULD DOWN A COMPOSITE ANSWER?

17 A. YOU ASKED WHAT WAS THE OTHER QUESTION, AND THAT WAS THE
18 ONLY ONE WHERE WE -- WHERE HE ELABORATED A LITTLE REGARDING --

19 Q. WELL, WHAT -- I'M SORRY.

20 A. THAT WAS THE ONLY THING THAT I CAN REMEMBER THAT WAS
21 EVASIVE, BECAUSE HE WOULD TALK, AND THEN HE WOULD STOP, AND
22 THEN HE WOULD TALK AGAIN.

23 Q. WELL, WHAT YOU WROTE DOWN HERE -- AND YOU MIGHT LOOK AT
24 IT, IT IS THE LAST LINE -- IS:

25 "QUESTION: HAVE YOU EVER HAD ANY PROBLEMS WITH THE

1 MEXICAN GOVERNMENT OR THEIR AGENCIES?"

2 "ANSWER: YES, WITH THE MEXICAN GUERRILLAS IN MEXICO
3 WHEN MY FATHER WAS A MEMBER OF EX-PRESIDENT (L. ECHIVERRA) OF
4 MEXICO, THEY ATTACKED MY FAMILY AND TRIED TO TAKE MY FATHER
5 HOSTAGE."

6 IS THAT A CORRECT READING OF THE QUESTION AND ANSWER?

7 A. YES, SIR.

8 Q. IS THAT THE QUESTION YOU'RE TALKING ABOUT?

9 A. YES, SIR.

10 Q. NOW, DID YOU WRITE DOWN ON THAT ANSWER EVERY WORD THAT HE
11 SAID?

12 A. YES, SIR.

13 Q. WELL, DID YOU ASK HIM "WHEN WAS YOUR FATHER TAKEN
14 HOSTAGE?"

15 HE CERTAINLY TOLD YOU THAT; DIDN'T HE? AND YOU'RE
16 FREE TO LOOK AT THE FORM NOW, MA'AM, OR ANYTHING ELSE YOU WANT.

17 A. I BELIEVE THAT'S WHEN HE TOLD ME THAT HIS FATHER WAS TAKEN
18 HOSTAGE, WAS WHEN THE EX-PRESIDENTE, L. ECHIVERRA, WAS THE
19 PRESIDENT AT THE TIME.

20 Q. THAT'S NOT WAS IT SAYS, THOUGH. THAT'S NOT WHAT YOU
21 WROTE, THOUGH, IS IT?

22 A. NO.

23 Q. IT DOESN'T MAKE ANY SENSE WHAT YOU WROTE; DOES IT?

24 A. I WAS TRYING MY BEST TO WRITE DOWN AND PARAPHRASE IT
25 BECAUSE IT WAS A LONG, EXTENSIVE INTERVIEW, AND IT WASN'T THAT

1 EASY TO TRY TO GET IT ALL TOGETHER.

2 Q. I'M NOT FAULTING YOU IN ANY WAY. WHAT I'M SAYING IS YOU
3 DIDN'T WRITE DOWN EVERYTHING HE SAID; DID YOU?

4 A. NOT EVERYTHING, NO, SIR.

5 Q. BECAUSE IT WAS A LONG INTERVIEW AND YOU TRIED TO
6 PARAPHRASE AND SUMMARIZE?

7 A. YES, YES, RIGHT.

8 Q. NOW, AT THE CONCLUSION OF THE INTERVIEW AND AFTER HE
9 ANSWERED -- STRIKE THAT.

10 OTHER THAN THOSE TWO INSTANCES YOU'VE TOLD US ABOUT,
11 PUTTING THEM TO THE SIDE, IS IT CORRECT THAT AT LEAST TO THE
12 BEST OF YOUR KNOWLEDGE MR. ZUNO ANSWERED FULLY AND COMPLETELY
13 EACH AND EVERY OF YOUR QUESTIONS?

14 MR. CARLTON: OBJECTION, YOUR HONOR. AGAIN, CALLS
15 FOR SPECULATION.

16 THE COURT: SUSTAINED.

17 BY MR. MEDVENE:

18 Q. YOU'RE NOT SUGGESTING MR. ZUNO WAS EVASIVE ON ANY OTHER
19 QUESTIONS; IS THAT CORRECT?

20 MR. CARLTON: OBJECTION, YOUR HONOR, SAME OBJECTION.

21 THE COURT: OVERRULED.

22 BY MR. MEVENE:

23 Q. IS THAT CORRECT, MA'AM?

24 A. THAT'S CORRECT ON THE RESIDENCE, YES.

25 Q. AT THE CONCLUSION OF THE INTERVIEW, YOU TOLD MR. ZUNO HE

1 WAS FREE TO GO; IS THAT TRUE?

2 A. I'M SORRY?

3 Q. AT THE CONCLUSION OF YOUR MEETING WITH HIM, YOU TOLD
4 MR. ZUNO HE WAS FREE TO GO; IS THAT CORRECT?

5 A. I TOLD HIM HE WAS FREE TO GO?

6 Q. YES.

7 A. NO, SIR.

8 Q. DID MR. ZUNO THEN LEAVE, TO THE BEST OF YOUR KNOWLEDGE?

9 A. NO, SIR.

10 MR. MEDVENE: I HAVE NOTHING FURTHER.

11 OH, IF YOU COULD HOLD ONE MINUTE, YOUR HONOR.

12 (DISCUSSION HELD OFF THE RECORD BETWEEN COUNSEL.)

13 BY MR. MEDVENE:

14 Q. AFTER YOUR QUESTIONING, WAS MR. ZUNO HELD FOR ANOTHER
15 THREE, THREE AND A HALF HOURS?

16 A. I CAN'T GIVE YOU THE APPROXIMATE TIME, SIR, BUT HE WAS
17 HELD.

18 Q. FOR A NUMBER OF HOURS?

19 A. I CAN'T GIVE YOU THE MANY HOURS (SIC).

20 Q. A NUMBER OF HOURS?

21 A. A NUMBER.

22 Q. HE WAS THEN GIVEN HIS PAPERS BACK AND PERMITTED TO LEAVE;
23 IS THAT CORRECT?

24 A. I DON'T KNOW, SIR.

25 Q. YOU KNOW HE LEFT IMMIGRATION; DID HE NOT?

1 A. YES, HE DID LEAVE IMMIGRATION.

2 Q. AND WENT TO SAN ANTONIO?

3 A. YES, SIR.

4 Q. TO THE BEST OF YOUR RECOLLECTION, HE WAS GIVEN HIS PAPERS
5 BACK; ISN'T THAT TRUE?

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

8 THE COURT: OVERRULED.

9 THE WITNESS: I DON'T KNOW. WHEN YOU'RE SAYING
10 PAPERS, I DON'T KNOW WHAT PAPERS YOU'RE TALKING ABOUT.

11 BY MR. MEDVENE:

12 Q. HE WAS GIVEN HIS RELEASE BACK?

13 A. I DON'T KNOW, SIR.

14 Q. HIS BRIEFCASE BACK?

15 A. I DON'T KNOW.

16 Q. AND HIS ENTRY PAPERS?

17 A. I DON'T KNOW.

18 Q. TO THE BEST OF YOUR KNOWLEDGE, HIS VALISE WAS NOT HELD?

19 A. NO, SIR.

20 Q. HIS VALISE, HIS BAG WITH HIS CLOTHES, WAS NOT HELD; WAS
21 IT?

22 A. I DON'T KNOW. I DON'T KNOW.

23 Q. DID YOU HOLD IT?

24 A. NO, SIR.

25 Q. DO YOU HAVE ANY INFORMATION THAT HIS ENTRY PAPERS WERE NOT

1 GIVEN BACK TO HIM SO HE COULD LEAVE AND GO TO SAN ANTONIO?

2 A. I DON'T KNOW, SIR.

3 Q. YOU DON'T KNOW ONE WAY OR THE OTHER?

4 A. I DON'T KNOW, BECAUSE THERE WAS ANOTHER AGENCY THAT TOOK
5 OVER. IT WAS NOT IMMIGRATION AFTER THAT.

6 Q. WHAT AGENCY WAS WAITING FOR HIM AFTER YOU FINISHED?

7 A. I DON'T KNOW. THERE WERE OTHER AGENCIES THERE. I DON'T
8 KNOW.

9 Q. YOU WERE KIND OF DOING THIS FOR THE OTHER AGENCIES, AND
10 THEN THE OTHER AGENCIES TOOK OVER; IS THAT CORRECT?

11 MR. CARLTON: OBJECTION, YOUR HONOR. ASKED AND
12 ANSWERED. SHE TESTIFIED WHAT SHE DID.

13 THE COURT: YOU'RE DEALINGS WITH HIM ENDED AT THE
14 TIME YOU FINISHED THE QUESTIONNAIRE?

15 THE WITNESS: THE SWORN STATEMENT, YES, SIR.

16 THE COURT: THEREAFTER, HE WAS TAKEN FROM YOUR
17 PRESENCE SOMEWHERE ELSE?

18 THE WITNESS: YES, HE WAS.

19 THE COURT: FROM THAT POINT FORWARD, DO YOU KNOW WHAT
20 HAPPENED?

21 THE WITNESS: NO, SIR, I DON'T.

22 BY MR. MEDVENE:

23 Q. DO YOU KNOW WHERE HE WAS TAKEN?

24 A. NO, SIR.

25 Q. DO YOU KNOW WHO TOOK HIM?

1 A. NO, SIR.

2 Q. YOU NEVER ASKED?

3 MR. CARLTON: OBJECTION, YOUR HONOR. IRRELEVANT.

4 THE COURT: SUSTAINED.

5 IS THERE ANY REDIRECT EXAMINATION?

6 MR. CARLTON: YES, YOUR HONOR.

7

8

REDIRECT EXAMINATION +

9 BY MR. CARLTON:

10 Q. MRS. BORIS, YOU TESTIFIED THAT A STOP HAD BEEN PUT ON
11 MR. ZUNO ARCE BY THE D.E.A. AND THIS RESULTED IN A PRINTOUT; IS
12 THAT CORRECT?

13 A. YES, SIR.

14 Q. DID YOU SEE THAT PRINTOUT?

15 A. YES, I DID.

16 Q. DID THAT REFLECT WHEN THE STOP HAD BEEN PUT INTO THE
17 COMPUTER SYSTEM BY THE D.E.A.?

18 A. YES, IT DID.

19 Q. WHEN WAS THAT?

20 MR. MEDVENE: OBJECTION. HEARSAY, YOUR HONOR.

21 THE COURT: SUSTAINED.

22 BY MR. CARLTON:

23 Q. WHEN YOU MET WITH MR. ZUNO ARCE IN THE SECONDARY AREA, DID
24 YOU ASK HIM THE NORMAL STANDARD QUESTIONS YOU WOULD ASK?

25 A. YES, I DID.

1 MR. MEDVENE: OBJECTION, YOUR HONOR.

2 THE COURT: OVERRULED.

3 BY MR. CARLTON:

4 Q. DID YOU ASK HIM ANY OTHERS, OTHER THAN THOSE STANDARD
5 ORDINARY QUESTIONS IN THE SECONDARY AREA?

6 A. NOT IN THE SECONDARY AREA, SECONDARY BOOTH.

7 Q. RIGHT. IN THE LOBBY AREA, DID YOU ALSO JUST ASK THE
8 NORMAL STANDARD QUESTIONS?

9 A. YES, I DID.

10 Q. SO YOU DIDN'T BEGIN TO ASK OTHER THAN NORMAL QUESTIONS
11 UNTIL REACHING THE OFFICE?

12 MR. MEDVENE: OBJECTION. LEADING AND SUGGESTIVE,
13 YOUR HONOR.

14 THE COURT: SUSTAINED.

15 BY MR. CARLTON:

16 Q. WHEN YOU REACHED THE OFFERS AND YOU TYPED OUT THE
17 QUESTIONS AND ANSWERS, IS THE ONLY ANSWER WHICH YOU PARAPHRASED
18 THE ANSWER IN WHICH HE TALKED ABOUT HIS FAMILY?

19 MR. MEDVENE: OBJECTION. LEADING AND SUGGESTIVE,
20 YOUR HONOR.

21 THE COURT: OVERRULED.

22 THE WITNESS: THERE WERE -- I BELIEVE THERE WERE
23 OTHERS. YES, THERE WAS MORE PARAPHRASE.

24 BY MR. CARLTON:

25 Q. DID YOU GIVE MR. ZUNO AN OPPORTUNITY TO READ THIS ENTIRE

1 STATEMENT?

2 A. YES, I DID.

3 Q. AND DID YOU TELL HIM OR ASK HIM WHETHER EACH OF THESE
4 QUESTIONS OR HIS ANSWERS TO EACH OF THESE QUESTIONS WAS TRUE?

5 MR. MEDVENE: OBJECTION, YOUR HONOR. IT'S OUTSIDE THE
6 SCOPE OF CROSS AND LEADING AND SUGGESTIVE.

7 THE COURT: OVERRULED.

8 THE WITNESS: YES.

9 BY MR. CARLTON:

10 Q. DID YOU SEE HIM READ EACH OF THESE ANSWERS?

11 A. YES, SIR. WE WENT THROUGH EACH AND EVERY INDIVIDUAL
12 QUESTION.

13 Q. DID YOU TELL HIM HE COULD CHANGE ANY ONE THAT DISAGREED
14 WITH WITH IN ANY WAY?

15 A. IF THERE WAS AN INCORRECT SPELLING, IF IT WAS NOT CORRECT,
16 THE NAME OF A DATE OR YEAR OR ANYTHING, I ASKED HIM TO PLEASE
17 BE FREE AND TO INITIAL HIS INITIALS ON THE DOCUMENT, IF THERE
18 WERE ANY CHANGES.

19 A. DID HE DO THAT?

20 A. YES, HE DID.

21 Q. DID HE TELL YOU THAT EACH OF THE ANSWERS WAS CORRECT AS
22 FAR AS HE WAS CONCERNED?

23 A. YES. YES, HE DID.

24 Q. WHEN YOU ASKED HIM AT THE END TO CERTIFY THAT THE WHOLE
25 STATEMENT WAS CORRECT, DID HE DO THAT?

1 A. YES, HE DID.

2 Q. WHY WAS IT THAT MR. ZUNO WAS BROUGHT TO YOUR AREA FOR
3 FURTHER QUESTIONING?

4 A. TO THE SECONDARY BOOTH?

5 Q. YES.

6 A. MR. ZUNO WAS BROUGHT TO THE SECONDARY BOOTH WHERE I WAS
7 WORKING FOR THE MAIN REASON THAT HE WAS "A HIT".

8 WHEN I'M SAYING "A HIT", IT MEANS THAT HIS NAME IS
9 PUT INTO THE COMPUTER --

10 THE COURT: COUNSEL, THIS HAS ALL BEEN COVERED
11 BEFORE. I'M NOT GOING TO HAVE IT GONE THROUGH AGAIN.

12 BY MR. CARLTON:

13 Q. WHEN MR. ZUNO WAS TALKING ABOUT HIS FAMILY, DID HE APPEAR
14 TO BE CHOOSING HIS WORDS CAREFULLY?

15 MR. MEDVENE: OBJECTION. CALLS FOR A CONCLUSION.

16 THE COURT: SUSTAINED.

17 MR. CARLTON: MAY I HAVE JUST A MOMENT, YOUR HONOR?

18 (DISCUSSION HELD OFF THE RECORD BETWEEN COUNSEL.)

19 BY MR. CARLTON:

20 Q. DO YOU KNOW WHETHER THE INFORMATION IN THE COMPUTER WAS
21 ALREADY THERE BEFORE MR. ZUNO ARRIVED ON THE SCENE THAT
22 AFTERNOON?

23 A. NO, SIR.

24 MR. CARLTON: NOTHING FURTHER.

25 MR. MEDVENE: JUST ONE.

1 THE COURT: THERE CAN'T BE ANY MORE, COUNSEL, BECAUSE
2 OF THIS EXAMINATION?

3 MR. MEDVENE: JUST ONE POINT.

4 THE COURT: GO AHEAD.

5 BY MR. MEDVENE:

6 Q. DID YOU READ BACK THE ANSWERS IN ENGLISH OR SPANISH?

7 A. THEY WERE DONE IN ENGLISH.

8 Q. YOU USED ONE WORD IN ANSWER TO MR. CARLTON'S QUESTION AND
9 THERE WAS NOTHING ELSE ASKED, BUT YOU USED THE WORD "HIT".

10 THAT DOESN'T MEAN MR. ZUNO IS A BAD MAN OR ANYTHING
11 LIKE THAT, THAT'S SLANG IN THE IMMIGRATION SERVICE; IS THAT
12 CORRECT?

13 MR. CARLTON: OBJECTION. ARGUMENTATIVE.

14 THE COURT: THAT'S A PROPER QUESTION.

15 MR. CARLTON: LACK OF FOUNDATION, AS WELL.

16 THE COURT: YOU MAY DESCRIBE WHAT YOU MEANT BY THE
17 WORD "HIT".

18 THE WITNESS: HE IS "A LOOK OUT".

19 BY MR. MEDVENE:

20 Q. IN OTHER WORDS, THE D.E.A. IN THIS CASE, TO YOUR
21 KNOWLEDGE, SAID THAT THEY WANT YOU TO STOP HIM AND TALK TO HIM;
22 IS THAT WHAT YOU MEAN BY THE WORD FOR THIS PURPOSE?

23 A. BY "LOOK OUT"?

24 Q. YES.

25 A. OR FOR ANY OTHER AGENCY, SIR, FOR THAT MATTER.

1 Q. YES. BUT IN THIS CASE, TO YOUR KNOWLEDGE, IT WAS THE
2 D.E.A., CORRECT?

3 A. YES, SIR.

4 MR. MEDVENE: THANK YOU VERY MUCH.

5 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

6 (WITNESS EXCUSED.)

7 THE COURT: CALL YOUR NEXT WITNESS.

8 MR. CARLTON: THE GOVERNMENT CALLS RON RAWALT.

9 (WITNESS SUMMONED TO THE COURTROOM.)

10
11 RONALD C. RAWALT + PLAINTIFF'S WITNESS, SWORN

12
13 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR
14 FULL NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

15 THE WITNESS: MY NAME IS RONALD C. RAWALT,
16 R A W A L T.

17 DIRECT EXAMINATION +

18 BY MR. CARLTON:

19 Q. MR. RAWALT, BY WHOM ARE YOU PRESENTLY EMPLOYED?

20 A. I'M A SPECIAL AGENT WITH THE FEDERAL BUREAU OF
21 INVESTIGATION?

22 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY THE F.B.I.?

23 A. SINCE 1972, APPROXIMATELY 18 YEARS.

24 Q. WHAT IS YOUR PRESENT ASSIGNMENT?

25 A. I'M ASSIGNED TO THE OHAMA FIELD DIVISION AS A CRIMINAL

1 INVESTIGATOR.

2 Q. HOW LONG HAVE YOU BEEN THERE?

3 A. TWO YEARS.

4 Q. WERE YOU EVER ASSIGNED TO THE F.B.I. LABORATORY?

5 A. YES, SIR.

6 Q. FOR WHAT PERIOD OF TIME?

7 A. APPROXIMATELY NINE YEARS; FROM 1979 THROUGH 1988.

8 Q. OKAY. DID YOU HAVE A SPECIALTY WHILE YOU WERE ASSIGNED
9 THERE?

10 A. YES, SIR.

11 Q. WHAT WAS THAT?

12 A. MY SPECIALTY WAS FORENSIC MINEROLOGY, WHICH IS THE
13 EXAMINATION OF EVIDENCE THAT DEALS WITH EITHER NATURALLY
14 OCCURRING OR MAN-ALTERED MATERIAL OF GEOLOGIC ORIGIN.

15 Q. AND WHAT WERE YOUR DUTIES WHEN YOU WERE IN THAT POSITION?

16 A. MY DUTIES WERE TO EXAMINE EVIDENCE SUBMITTED TO ME FROM
17 LAW ENFORCEMENT AGENCIES THROUGHOUT THE UNITED STATES AND FREE
18 WORLD.

19 IN PARTICULAR, EXAMINE EVIDENCE THAT RELATES TO SOIL,
20 GLASS, BUILDING MATERIAL, GEM STONES, AND TO CONDUCT CRIME
21 SCENE EXAMINATIONS, AS REQUIRED.

22 Q. DID YOU, IN FACT, CONDUCT SOME CRIME SCENE EXAMINATIONS
23 WHILE YOU WERE AT THE F.B.I. LABORATORY?

24 A. ON NUMEROUS OCCASIONS.

25 MR. CARLTON: MAY I HAVE JUST ONE MOMENT, YOUR HONOR?

1 (BRIEF PAUSE.)

2 BY MR. CARLTON:

3 Q. AGENT RAWALT, IF YOU WOULD LOOK AT THE CART JUST TO YOUR
4 RIGHT, I BELIEVE YOU WILL FIND SOME EXHIBITS.

5 IF YOU WOULD PLEASE LOOK AT WHAT HAS BEEN MARKED AS
6 EXHIBITS 90 AND 91.

7 DO YOU RECOGNIZE THOSE?

8 A. YES, SIR.

9 Q. WHAT ARE THOSE?

10 A. EXHIBIT 90 IS A PLASTIC BAG THAT CONTAINS A SMALL PILLBOX.
11 THE PILLBOX IS CARDBOARD.

12 CONTAINED WITHIN THIS PILLBOX IS SOIL THAT WAS
13 REMOVED FROM THE RIGHT KNEE OF SPECIAL AGENT ENRIQUE CAMARENA
14 DURING A CRIME SCENE THAT WAS PROCESSED BY SPECIAL AGENT
15 DILLON.

16 Q. LOOKING AT EXHIBIT 91, DO YOU RECOGNIZE THAT?

17 MR. STOLAR: I'M GOING TO OBJECT AND MOVE TO STRIKE
18 WHETHER IT WAS REMOVED FROM UNLESS HE REMOVED IT.

19 MR. NICOLAYSEN: I JOIN IN THAT OBJECTION, YOUR
20 HONOR. IT ASSUMES A FACT NOT IN EVIDENCE, THAT IT WAS THE BODY
21 OF CAMARENA.

22 THE COURT: HOW DO YOU KNOW? DID YOU DO IT
23 PERSONALLY.

24 THE WITNESS: NO, SIR. IT WAS RELATED TO ME BY THE
25 INDIVIDUAL WHO REMOVED IT, AND THE MARKINGS ON THE BOX REFLECT

1 THE AREA.

2 MR. STOLAR: MOVE TO STRIKE.

3 MR. NICOLAYSEN: MOVE TO STRIKE, YOUR HONOR, AS
4 HEARSAY AND LACKING FOUNDATION.

5 THE COURT: ARE YOU INTENDING TO TIE THAT UP?

6 MR. CARLTON: I'LL TIE IT UP WITH THE WITNESS WHO
7 SAID IT TO THIS WITNESS, YOUR HONOR. BUT AT THIS POINT, I CAN
8 REPHRASE THE QUESTION AND WE CAN PROCEED.

9 THE COURT: I'LL STRIKE THE ANSWER AND THE JURY WILL
10 DISREGARD IT.

11 BY MR. CARLTON:

12 Q. WHEN DID YOU FIRST SEE EXHIBITS 90 AND 91?

13 A. I FIRST SAW THEM IN THE F.B.I. LABORATORY WHEN THEY WERE
14 GIVEN TO ME BY THE EVIDENCE CONTROL CENTER IN THE LABORATORY.

15 Q. DO YOU RECALL WHEN THAT WAS?

16 A. IT WAS DURING THE MIDDLE OF APRIL 1985.

17 Q. AND AT THAT TIME, DID YOU HAVE OCCASION TO OPEN THE
18 PILLBOXES?

19 A. YES, I DID.

20 Q. WERE THEY SEALED PRIOR TO YOUR OPENING THEM?

21 A. YES, SIR.

22 Q. WHAT DID YOU FIND INSIDE?

23 A. CONTAINED IN EACH PILLBOX WERE SMALL COHERENT LUMPS OF
24 SOIL.

25 Q. DID YOU PERFORM ANY TESTS ON THE SOIL IN EACH OF THOSE

1 EXHIBITS?

2 A. YES, SIR.

3 Q. AND WHAT WAS THE PURPOSE OR THE OBJECT OF THIS TESTING?

4 A. THE INITIAL TESTS WERE REQUESTED TO DETERMINE WHETHER OR
5 NOT THE SOIL ORIGINATED FROM A SOURCE OF SOIL IN MICHOACAN, A
6 PORTION OF CENTRAL MEXICO.

7 Q. WHAT DID YOU TEST THE SOIL FOR?

8 A. I TESTED THE SOIL FOR ITS COMPONENTS OF COLOR, TEXTURE,
9 TYPE, COMPOSITION. THE COMPOSITION BREAKS DOWN INTO ORGANIC
10 DEBRIS AND MINERAL MATTER.

11 I LOOKED AT THE MINERAL GRAINS, THEIR SIZE, THEIR
12 SHAPES, THE TEXTURES OF THE GRAINS, AND ULTIMATELY IDENTIFIED
13 ALL THE MINERAL TYPES THAT WERE PRESENT IN THE SOIL WITH
14 RESPECT TO EACH OTHER.

15 I DID AN EXAMINATION THAT GAVE ME RELATIVE ABUNDANCE
16 AND IDENTIFIED EACH TYPE OF MINERAL PRESENT IN THE SOIL.

17 Q. NOW, IF YOU WOULD ALSO LOOK AT WHAT HAS BEEN MARKED AS
18 EXHIBIT 101-B, WHICH I BELIEVE IS IN THE CART.

19 DO YOU SEE THAT?

20 A. YES.

21 Q. HAVE YOU EVER SEEN THAT BEFORE?

22 A. YES, SIR.

23 Q. HOW DO YOU RECOGNIZE THAT?

24 A. I RECOGNIZE IT BY THE SERIES OF NUMBERS AND LETTERS AND
25 INITIALS THAT I PLACED ON THE BOXES.

1 Q. AND WHEN WAS IT THAT YOU FIRST SAW THAT?

2 A. I FIRST SAW THESE ITEMS AS A PORTION OF A SUBMISSION THAT
3 I RECEIVED FROM THE EVIDENCE CONTROL CENTER IN THE F.B.I.
4 LABORATORY IN MID APRIL OF 1985.

5 Q. WHAT DOES EXHIBIT 101-B CONSIST OF?

6 A. 101-B CONSISTS OF SOIL SAMPLES TAKEN FROM AN AREA
7 REPRESENTED AS MICHUACAN OR BRAVO RANCH.

8 MR. NICOLAYSEN: I OBJECT. LACK OF FOUNDATION UNLESS
9 HE WAS A PARTICIPANT IN THAT.

10 THE COURT: YES. THE OBJECTION IS SUSTAINED. THE
11 ANSWER WILL BE STRICKEN.

12 BY MR. CARLTON:

13 Q. DID YOU HAVE OCCASION TO OPEN EACH OF THOSE CONTAINERS
14 WHEN YOU FIRST SAW THESE ITEMS?

15 A. YES, SIR.

16 Q. HAD THEY BEEN SEALED PRIOR TO YOUR OPENING THEM?

17 A. YES, SIR.

18 Q. WHEN YOU OPENED THE CONTAINERS, WHAT DID YOU FIND INSIDE?

19 A. I FOUND IN EACH OF THE THREE CONTAINERS A DARK GREENISH-
20 BLACK, VERY GLASSY VOLCANIC SOIL.

21 Q. JUST WITH THE NAKED EYE, DID THAT SOIL APPEAR TO BE
22 SIMILAR TO THE SOIL YOU SAW IN EXHIBITS 90 AND 91?

23 A. THE SOIL IN EXHIBITS 90 AND 91 IS VESICULAR ASH SOIL,
24 WHICH IS A VERY LIGHT, WINDBLOWN TYPE OF SOIL.

25 THE COURT: THE QUESTION WAS DID THEY APPEAR TO BE

1 SIMILAR?

2 THE WITNESS: NO, SIR, THEY'RE TOTALLY DIFFERENT.

3 BY MR. CARLTON:

4 Q. DID YOU PERFORM ANY TESTS ON THE SOIL FOUND IN EXHIBIT
5 101-B?

6 A. YES.

7 Q. AND AGAIN, WHAT DID YOU TEST THAT SOIL FOR?

8 A. I LOOKED AT THE COLOR, TEXTURE AND TYPE OF THAT SOIL TO
9 DETERMINE WHETHER OR NOT ANY COMPONENTS WERE SIMILAR WITH THE
10 QUESTIONED SOILS.

11 Q. WHEN YOU SAY THE QUESTIONED SOILS, WHAT DO YOU MEAN?

12 A. EXHIBITS 90 AND 91.

13 Q. DID YOU, IN FACT, THEN COMPARE THE SOILS IN EXHIBIT 101-B
14 WITH THE SOILS IN EXHIBIT 90 AND 91?

15 A. YES.

16 THE COURT: JUST A MOMENT. WE'LL TAKE OUR MORNING
17 RECESS AT THIS TIME.

18 THE JURY WILL BE EXCUSED.

19 (JURY EXCUSED.)

20 THE COURT: COUNSEL.

21 YOU MAY BE SEATED.

22 MR. STOLAR, YOU HAVE BEEN GUILTY OF TWO PROFESSIONAL
23 TRANSGRESSIONS HERE THIS MORNING, WHICH I'M GOING TO BRING TO
24 YOUR ATTENTION BECAUSE I DON'T WANT THAT REPEATED AGAIN.

25 EARLIER DURING THESE PROCEEDINGS YOU WERE SITTING AT

1 THE TABLE MOUTHING WORDS TO ONE OF THE MEMBERS OF THE PRESS,
2 WHO WAS IN THE FRONT ROW. AND LATER ON, WITHOUT PERMISSION
3 FROM THE COURT, YOU WALKED OUT OF THE COURTROOM, APPARENTLY
4 WITH HIM.

5 MR. STOLAR: NO. THAT'S NOT TRUE.

6 THE COURT: WELL, YOU WALKED OUT TOGETHER.

7 MR. STOLAR: HE WALKED OUT. I WALKED OUT WITH MY
8 CLIENT'S WIFE, TO SPEAK WITH HER ABOUT A MATTER.

9 THE COURT: YOU'RE TELLING ME YOU DIDN'T SPEAK WITH
10 HIM?

11 MR. STOLAR: I SAID HI TO HIM IN THE HALL AND THEN
12 WENT AROUND THE CORNER.

13 THE COURT: IT'S VERY IMPROPER FOR YOU TO BE SITTING
14 THERE MOUTHING WORDS TO SOMEBODY IN THE AUDIENCE BEYOND THE
15 RAIL. IT IS NOT ONLY DISTRACTING, THERE IS NO TELLING WHAT THE
16 JURY MAKES OF THAT.

17 IT'S UNPROFESSIONAL. I DON'T TOLERATE THAT IN THIS
18 COURT AND I DON'T WANT THAT TO HAPPEN.

19 MR. STOLAR: I UNDERSTAND AND I APOLOGIZE, YOUR
20 HONOR.

21 THE COURT: ALL RIGHT.

22 THE CLERK: PLEASE RISE. THIS COURT IS NOW IN
23 RECESS.

24 (BRIEF RECESS.)

25 //

1 (JURY PRESENT:)

2 THE COURT: YOU MAY CONTINUE.

3 DIRECT EXAMINATION + (RESUMED)

4 BY MR. CARLTON:

5 Q NOW, AGENT RAWALT, DID YOU HAVE OCCASION TO COMPARE THE
6 SOILS IN EXHIBIT 90 AND 91, AS WELL AS EXHIBIT 101 B?

7 A YES, SIR.

8 Q DID YOU FIND ANY SIMILARITIES OR DISSIMILARITIES BETWEEN
9 THOSE SOILS?

10 A I NOTED GROSS DISSIMILARITIES BETWEEN THE SOIL IN EXHIBIT
11 90 AND 91 AND 101 B.

12 Q AND CAN YOU EXPLAIN IT OR ELABORATE A LITTLE FURTHER ON IT?

13 A THE SOILS CONTAINED IN 90 AND 91 WERE SO DIFFERENT IN
14 MINERAL COMPOSITION AND MAKEUP THAT IT COULD BE CONCLUDED THAT
15 THEY DID NOT ORIGINATE FROM THE SOURCES REPRESENTED IN EXHIBIT
16 101 B AND IN FACT DID NOT EVEN ORIGINATE IN THE AREA IN WHICH
17 THESE SOILS WOULD HAVE BEEN DEPOSITED AND REMOVED.

18 Q WAS THAT, IN FACT. YOUR CONCLUSION?

19 A YES.

20 Q NOW, DID YOU HAVE OCCASION TO GO TO GUADALAJARA IN APRIL OF
21 1985?

22 A YES.

23 Q DO YOU RECALL DATE THAT YOU WENT THERE?

24 A THE 12TH OF APRIL 1985.

25 Q AND WHAT WAS YOUR PURPOSE OF GOING THERE ON THAT OCCASION?

1 A THERE WERE TWO ESTABLISHED GOALS FOR THE TRIP TO
2 GUADALAJARA, AND NEITHER GOAL TOOK PRECEDENT OVER THE OTHER,
3 BUT THEY WERE: ONE, TO CONDUCT ON-SITE ANALYSIS OF SOIL AT AN
4 AREA REPRESENTED TO ME AS PRIMAVERA PARK, A LARGE WILDERNESS
5 PARK OUTSIDE OF GUADALAJARA; AND TO PROCESS A RESIDENCE THAT
6 WAS RELATED TO ME AS POSSIBLY BEING INVOLVED TO HOLD AGENT
7 CAMARENA DURING THE KIDNAPPING, WHICH WAS LOCATED IN THE 881
8 LOPE DE VEGA IN GUADALAJARA.

9 Q NOW, WHEN DID YOU ARRIVE IN GUADALAJARA?

10 A WE ARRIVED IN A D.E.A. AIRCRAFT IN THE LATE AFTERNOON OF
11 THE 12TH.

12 Q AND DID YOU HAVE OCCASION TO GO TO THE LOPE DE VEGA
13 ADDRESS?

14 A YES. I WENT DIRECTLY FROM THE AIRPORT, BY WAY OF THE
15 CONSULATE, TO THE 81 LOPE DE VEGA ADDRESS.

16 Q WHAT TIME DID YOU ARRIVE THERE?

17 A ARRIVED THERE BETWEEN 5:30 AND 6 O'CLOCK IN THE EVENING.

18 Q WERE YOU ACCOMPANIED BY ANYONE?

19 A YES, SIR.

20 Q WHO?

21 A SPECIFICALLY, I WAS ACCOMPANIED BY MEMBERS OF THE DRUG
22 ENFORCEMENT ADMINISTRATION, A SPECIAL GROUP THAT WAS
23 INVESTIGATING THE DISAPPEARANCE AND HOMICIDE OF AGENT CAMARENA
24 AND THAT WERE ASSIGNED TO THE GUADALAJARA CONSULATE.

25 I WAS ACCOMPANIED BY AN F.B.I. SPECIAL AGENT ASSIGNED

1 TO THE MEXICO CITY LEGAT; I WAS ACCOMPANIED BY SPECIAL AGENT
2 MICHAEL MALONE OF THE F.B.I. LABORATORY, WHICH WAS PART OF MY
3 GROUP AND MY STAFF, AND TWO LATENT FINGERPRINT SPECIALISTS, AL
4 ROSE AND CARL COLLINS, WASHINGTON, D.C.

5 AND IN ADDITION TO THAT, THERE WERE NUMEROUS MEMBERS
6 OF THE MEXICO FEDERAL JUDICIAL POLICE ALSO WITH THEM.

7 Q WHEN YOU GOT TO THE HOUSE, WHAT DID YOU DO?

8 A THE FIRST THING THAT I DID WHEN I GOT TO THE HOUSE WAS TO
9 GET TOGETHER WITH MY TEAM OF PEOPLE FROM THE F.B.I. LABORATORY,
10 FROM LATENTS, AND WALK THROUGH THE HOUSE AND DECIDE THE ORDER
11 OF PROGRESSION THAT WE WOULD PROCEED THROUGH THE RESIDENCE.

12 WE WERE LOOKING FOR AN OBVIOUS CRIME SCENE AREA WITHIN
13 THE LOCATION AND THE BEST WAY TO ATTACK THAT TYPE OF CRIME
14 SCENE. SO WE WALKED AROUND AND LOOKED AT THE PREMISES FOR A
15 PERIOD OF TIME DECIDING JUST HOW WE WOULD HANDLE THE PROBLEM AT
16 HAND.

17 Q AND THAT EVENING, DID YOU ASSIST SPECIAL AGENT MALONE IN
18 PROCESSING THE SCENE?

19 A YES, SIR.

20 Q WHAT WAS IT THAT YOU DID IN RELATION TO THAT?

21 A WITH RELATIONSHIP TO THE HOUSE AT 881 LOPE DE VEGA, A
22 BEDROOM IN AN AREA THAT WE DESCRIBED AS THE GUEST HOUSE WAS
23 PROCESSED BUYER VACUUMING FOR MICROSCOPIC BITS OF EVIDENCE:
24 FIBERS AND HAIRS.

25 I ASSISTED IN HANDLING THE PLASTIC BAGS AND LABELING

1 THE PLASTIC BAGS RELATIVE TO EACH QUADRANT REPRESENTING THE
2 PROCESSING OF A CERTAIN ROOM AND SEALED THE EVIDENCE FOR
3 SPECIAL AGENT MALONE AS HE PROCESSED OR VACUUMED THOSE AREAS.

4 Q DID YOU GO BACK THE NEXT DAY AND DO THE SAME KIND OF
5 THINGS?

6 A YES, SIR.

7 Q HOW LONG DID YOU REMAIN PROCESSING EVIDENCE AT THE LOPE DE
8 VEGA ADDRESS ON THIS OCCASION?

9 A ON THE FIRST OCCASION, THE DAY THAT I GOT THERE, WE
10 REMAINED UNTIL APPROXIMATELY 11 O'CLOCK AT NIGHTTIME. THE
11 FOLLOWING DAY, WE REMAINED UNTIL THE VERY EARLY AFTERNOON,
12 POSSIBLY 1:30 OR 2:00 O'CLOCK IN THE AFTERNOON.

13 Q AND BEFORE RETURNING TO WASHINGTON, D.C., DID YOU THEN HAVE
14 OCCASION TO GO TO PRIMAVERA PARK?

15 A YES, SIR.

16 Q AND WHAT DID YOU DO AT PRIMAVERA PARK?

17 A I SPENT ON ENTIRE DAY EXAMINING SOIL SAMPLES FROM THE NORTH
18 SIDE OF PRIMAVERA PARK, ALON PUBLIC ACCESS ROUTES AND ROUTES
19 THAT YOU COULD READILY WALK TO.

20 I WAS EXAMINING THE SOIL SAMPLES FOR THEIR MINERAL
21 COMPOSITION TO DETERMINE WHETHER OR NOT THE CORRECT SWEEP OF
22 MINERALS WAS PRESENT IN THE SOILS WHICH WOULD INDICATE POSSIBLE
23 BURIAL AREA FOR SPECIAL AGENT CAMARENA.

24 Q AND DID YOU FIND ANY SUCH SOILS ON THE NORTH SIDE OF THE
25 PARK?

1 A I DID NOT FIND ANY SOILS FOR THE NORTH SIDE OF THE PARK
2 THAT HAD THE PREREQUISITE MINERALS PRESENT.

3 Q WHEN DID YOU RETURN TO WASHINGTON, D.C.?

4 A FOUR DAYS AFTER I ARRIVED ON THE 12TH. I BELIEVE IT WAS
5 THE 16TH.

6 Q NOW, DID YOU THEN AT A LATER DATE RETURN TO GUADALAJARA?

7 A YES, SIR.

8 Q DO YOU RECALL WHEN THAT WAS?

9 A JUNE 24TH 1985.

10 Q AND WHAT WAS THE OCCASION FOR THIS SECOND VISIT TO
11 GUADALAJARA?

12 A THERE WAS, AGAIN, A TWOFOLD REASON FOR RETURNING TO
13 GUADALAJARA. ONE WAS TO CONTINUE THE PROCESSING OF THE
14 RESIDENCE AT 881 LOPE DE VEGA -- IN OTHER WORDS, PROCESS ROOMS
15 THAT WE HAD NOT BEEN ALLOWED TO PROCESS ON THE FIRST TRIP --
16 AND SECONDLY TO ASSIST IN THE SOIL EXAMINATION AT AN AREA ON
17 THE SOUTH SIDE OF LA PRIMAVERA, IN PARTICULAR AT THE BURIAL
18 SITES OF TWO INDIVIDUALS DESCRIBED AS RADELAT AND WALKER.

19 Q NOW, WHEN DID YOU GO TO THE LOPE DE VEGA ADDRESS ON THIS
20 SECOND TRIP TO GUADALAJARA?

21 A ON THE SECOND TRIP TO GUADALAJARA, I WENT TO THE LOPE DE
22 VEGA ADDRESS ON THE 25TH, THE DAY AFTER I ARRIVED IN
23 GUADALAJARA.

24 Q WHEN DID YOU ARRIVE THERE ON THAT DATE?

25 A I ARRIVED AT THE LOPE DE VEGA ADDRESS WITH A D.E.A.

1 CONTINGENT -- AND I ALSO HAD A LATENT FINGERPRINT EXAMINER WITH
2 ME -- IN MID-MORNING, SOMEWHERE BETWEEN 9:00 AND 10 O'CLOCK IN
3 THE MORNING.

4 WHEN WE ARRIVED AT THE RESIDENCE, WE WERE DENIED
5 ACCESS TO THE RESIDENCE, AND WE WENT TO THE M.F.J.P.
6 HEADQUARTERS IN GUADALAJARA TO FIND OUT WHY WE HAD BEEN DENIED
7 ACCESS, AND WE STAYED THERE UNTIL THE LATE AFTERNOON.

8 Q WERE YOU EVENTUALLY ALLOWED INTO THE HOUSE?

9 A YES, SIR.

10 Q WHEN WAS THAT?

11 A IN THE LATE AFTERNOON. I BELIEVE IT WAS SOMEWHERE AROUND
12 BETWEEN 4:00 AND 5'O'CLOCK, SOMEWHERE IN THAT PERIOD OF TIME.

13 Q NOW, WHEN YOU WERE EVENTUALLY ALLOWED INTO THE HOUSE, WERE
14 YOU ACCOMPANIED BY ANY M.F.J.P. AGENTS?

15 A THERE WAS A LARGE CONTINGENT OF M.F.J.P. OFFICERS PRESENT
16 AT THE HOUSE AND ONES THAT FOLLOWED US FROM THE HEADQUARTERS TO
17 THE HOUSE THAT AFTERNOON.

18 Q AND LIKEWISE, ON THE PRIOR OCCASION WHEN YOU WERE AT LOPE
19 DE VEGA, WERE THERE M.F.J.P. AGENTS AT THE HOUSE WHILE YOU WERE
20 GOING ABOUT YOUR BUSINESS?

21 A YES. THERE WAS NEVER A TIME THAT I WAS AT THE RESIDENCE
22 WHERE I WAS NOT ACCOMPANIED BY M.F.J.P.

23 Q OKAY. NOW, AGAIN, RETURNING TO YOUR JUNE VISIT TO THE
24 HOUSE, ONCE YOU WERE ALLOWED IN, WHAT WAS IT THAT YOU DID?

25 A I PROCESSED, BY VACUUMING, FOUR BEDROOMS ON THE LOWER LEVEL

1 OF THE MAIN HOUSE. IN PARTICULAR, I VACUUMED THESE AREAS AND
2 REMOVED DEBRIS ASSOCIATED WITH THE CARPET AREAS OF THOSE
3 BEDROOMS AND DEBRIS ASSOCIATED WITH THE ADJOINING BATHROOMS OF
4 EACH INDIVIDUAL BEDROOM.

5 Q NOW, WHEN YOU SAID THAT YOU VACUUMED THESE AREAS, DID YOU
6 USE A PARTICULAR KIND OF VACUUM?

7 A YES.

8 Q WOULD YOU DESCRIBE THAT?

9 A THE VACUUM CLEANER IS VACUUM DESIGNED FOR COLLECTION OF
10 EVIDENCE. IT'S PRODUCED BY A COMPANY KNOWN AS THE SIRCHI
11 MANUFACTURING COMPANY. IT PRODUCES ALL TYPES OF EVIDENCE
12 COLLECTION EQUIPMENT.

13 IT HAS SMALL SILK FILTERS AND SMALL COLLECTION
14 CHAMBERS IN IT THROUGH WHICH YOU CAN SUCH MICROSCOPIC DEBRIS
15 AND TRAP IT AND THEN REMOVE IT AND CLEAN THE CHAMBER AND PLACE
16 ANOTHER SILK FILTER SYSTEM IN IT SO YOU CAN CONTINUE THE
17 PROCESS.

18 THIS ALLOWS YOU TO VACUUM UP MICROSCOPIC MATERIAL,
19 PLACE IT INTO ANOTHER CONTAINER AND MOVE IT BACK TO THE F.B.I.
20 LABORATORY FOR ULTIMATE EXAMINATION, UTILIZING A MICROSCOPE.

21 Q WHEN YOU SAY THAT THIS VACUUM ALLOWS YOU TO TRAP
22 MICROSCOPIC MATERIAL, DOES THAT INCLUDE HAIRS?

23 A THE HAIR WOULD BE MORE IN THE MACROSCOPIOC-TO-VISIBLE
24 RANGE. BUT CERTAINLY FRAGMENTS OF HAIR AND STUFF WOULD BE DOWN
25 IN THE SIZE RANGE OF MICROSCOPIC, SOMETHING YOU WOULD NOT

1 READILY SEE.

2 Q WOULD THIS FILTER TRAP HAIRS AS WELL AS OTHER OBJECTS?

3 A YES, SIR.

4 Q ALL RIGHT. NOW, WHAT WAS YOUR PROCEDURE THAT YOU UTILIZED
5 IN VACUUMING EACH OF THESE GROUPS?

6 A WOULD I IDENTIFY QUADRANTS IN THE ROOM, KNOWING HOW MUCH
7 DEBRIS I COULD OBTAIN AT ONE TIME WITH THE VACUUM CLEAR, AND I
8 WOULD GO INTO THE ROOM AND BEGIN PROCESSING THE CARPET BY
9 VACUUMING IT IN THE QUADRANTS.

10 I WOULD REMOVE THE DEBRIS, PLACE IT IN A PLASTIC
11 ZIPLOC BAG, SEAL THE BAG WITH EVIDENCE TAPE, AND THEN EITHER
12 PLACE A QUADRANT DESIGNATION ON THE BAG OR, IF SOMEBODY WAS
13 ASSISTING ME AT THAT TIME, I WOULD HAVE THEM PLACE A QUADRANT
14 DESIGNATION ON THE BAG, WHICH WOULD ALLOW ME TO IDENTIFY WHERE
15 THAT PARTICULAR DEBRIS ORIGINATED FROM.

16 Q AND DID YOU FOLLOW THAT SAME PROCEDURE IN EACH OF THE ROOMS
17 THAT YOU VACUUMED ON THIS OCCASION?

18 A YES, SIR.

19 Q I WOULD ASK YOU TO LOOK TO YOUR RIGHT IN THE EXHIBIT THAT'S
20 ON THE EASEL.

21 A YES, SIR.

22 Q DO YOU SEE THAT? DO YOU RECOGNIZE THAT?

23 A YES, SIR.

24 Q AND WHAT DID YOU RECOGNIZE OF IT AS?

25 A EXHIBIT 139 IS A RENDITION OF THE RESIDENCE LOCATED AT 881

1 LOPE DE VEGA, IN PARTICULAR THE FIRST FLOOR AND THE SECOND
2 FLOOR OF THE MAIN HOUSE.

3 Q IS THAT A DIAGRAM OF THE HOUSE?

4 A YES, SIR.

5 Q AND DOES THAT DIAGRAM REFLECT THE ROOMS THAT YOU VACUUMED
6 ON THIS OCCASION WHEN YOU WENT THERE IN JUNE OF 1985?

7 A AMONG OTHERS. IT REFLECTS THE ROOMS I VACUUMED AND OTHERS.

8 MR. CARLTON: WITH THE COURT'S PERMISSION, I WOULD ASK
9 AGENT RAWALT TO JUST STEP DOWN DOWN AND POINT TO THE FOUR ROOMS
10 THAT HE VACUUMED.

11 THE COURT: YOU MAY DO SO.

12 THE WITNESS: (AT EASEL.) THE ROOMS THAT I PROCESSED
13 BY VACUUMING, ON THAT SECOND OCCASION, IT WAS THE BEDROOM AREA
14 REFERRING AT THE BACK TO BEDROOM 4 -- 3, BEDROOM 2, BEDROOM 1
15 AND THE ADJOINING BATHROOMS TO EACH OF THE BEDROOMS.

16 Q WOULD YOU PLEASE POINT TO THE BATHROOM ADJOINING BEDROOM 4?

17 A (COMPLIES.)

18 Q ALL RIGHT, AGENT RAWALT. THANK YOU

19 A (RETURNS TO WITNESS STAND.)

20 Q NOW, IF YOU WOULD LOOK, PLEASE, IN THE CART NEXT TO THE
21 WITNESS STAND I BELIEVE THERE IS AN EXHIBIT 107, MARKED 107.

22 DO YOU RECOGNIZE THAT?

23 A YES, SIR.

24 Q WHAT IS IT?

25 A EXHIBIT 107 IS A PLASTIC ZIPLOC BAG, SEALED WITH EVIDENCE

1 TAPE, CONTAINING DEBRIS REMOVED FROM THE REAR-MOST BEDROOM AS
2 REFLECTED ON THE DIAGRAM AS BEDROOM NO. 4.

3 IN PARTICULAR, IT IS DEBRIS REMOVED FROM THE QUADRANT
4 REFERRED AS THE WINDOW, RIGHT SIDE OF BED AND FOOT AREA.

5 Q AND IS THIS DEBRIS THAT YOU COLLECTED ON THIS OCCASION IN
6 JUNE OF 1985?

7 A YES, SIR.

8 Q HOW DO YOU RECOGNIZE THAT AS THE DEBRIS THAT YOU COLLECTED?

9 A IT WAS NUMBERED AND BEARS AN EXAMINATION SYMBOL THAT I
10 PLACED ON THE DEBRIS.

11 Q DID YOU ALSO COLLECT DEBRIS FROM THE ADJOINING BATHROOM TO
12 BEDROOM NO. 4?

13 A YES, SIR.

14 Q HOW DID YOU PROCESS THAT DEBRIS?

15 A THE SAME WAY. THE FLOOR AND COUNTER SPACE OF THE BATHROOM
16 WAS VACUUMED WITH THE EVIDENCE-PROCESSING VACUUM CLEAR.

17 Q WHAT DID YOU DO WITH THE DEBRIS AFTER YOU FINISHED
18 VACUUMING THAT ADJOINING BEDROOM?

19 A THE DEBRIS WAS LACED IN A ZIPLOC BAG AND WAS MARKED IN THE
20 SAME MANNER.

21 Q NOW, AFTER YOU COMPLETED YOUR VACUUMING ON THIS OCCASION,
22 WHAT DID YOU DO WITH EACH OF THE BAGS OF DEBRIS THAT YOU HAD
23 PREPARED?

24 A EACH OF THE BAGS OF DEBRIS WERE PLACED IN A LARGER BAG, THE
25 BAG WAS SEALED AND REMOVED TO THE AMERICAN CONSULATE IN

1 GUADALAJARA.

2 Q DID YOU DO THAT?

3 A YES, SIR.

4 Q WHEN YOU GOT TO THE CONSULATE, WHAT DID YOU DO WITH THE BAG
5 OF DEBRIS?

6 A ULTIMATELY, I PLACED IT IN A SHIPPING CONTAINER THAT I
7 BROUGHT FROM WASHINGTON, D.C., SEALED SHIPPING CONTAINER,
8 ADDRESSED TO IT MYSELF, AND ARRANGED TO HAVE IT DELIVERED FROM
9 GUADALAJARA BACK TO WASHINGTON, D.C.

10 Q AND DID YOU IN FACT THEN RECEIVE THIS PACKAGE IN
11 WASHINGTON, D.C.?

12 A YES, SIR.

13 Q WAS IT STILL SEALED IN THE MANNER THAT YOU HAD SEALED IT?

14 A YES, SIR. BOTH THE EXTERIOR SEALS AROUND THE BOX, AS WELL
15 AS ALL THE INTERIOR SEALS INSIDE OF THE BOX, WERE IN PLACE.

16 Q ONCE YOU RECEIVED IT IN WASHINGTON, D.C., WHAT DID YOU DO
17 WITH THE CONTENTS?

18 A THE CONTENTS WAS CHECKED IN AND AN ITEMIZED LISTING WAS
19 COMPARED WITH MY LISTING THAT I BROUGHT BACK FROM MEXICO, AND
20 THEN WAS PASSED OUT TO THE EXAMINERS ASSIGNED TO EXAMINE THE
21 EVIDENCE IN THE F.B.I. LABORATORY, IN PARTICULAR TO THE AGENTS
22 ASSIGNED IN EACH UNIT, WITH THEIR RESPECTIVE SPECIALTIES.

23 Q NOW, HOW LONG DID YOU REMAIN PROCESSING EVIDENCE AT THE
24 LOPE DE VEGA ADDRESS ON THE OCCASION THAT YOU VACUUMED THESE
25 ROOMS?

1 A IT TOOK ME APPROXIMATELY FOUR TO FIVE HOURS TO PROCESS
2 THOSE FOUR BEDROOMS.

3 Q DID YOU THEN LEAVE FOR THE NIGHT?

4 A I COMPLETED MY PROCESSING, ASSISTED SPECIAL -- OR ASSISTED
5 LATENT FINGERPRINT EXAMINER CARL COLLINS IN PLACING WHAT ARE
6 CALLED SUPERGLUE BOMBS IN ALL THE BEDROOMS, TO SEAL THE
7 BEDROOMS UP SO THAT THE PROCESSING FOR FINGERPRINTS COULD BE
8 CONDUCTED IN THE MORNING, AND THEN WE SEALED THE HOUSE UP AND
9 LEFT FOR THE EVENING, APPROXIMATELY 11 O'CLOCK IN THE NIGHT,
10 WHEN WE LEFT FOR GOOD.

11 Q DID THAT COMPLETE YOUR PROCESS ON THIS INVESTIGATION?

12 A YES, SIR.

13 Q NOW, I'D LIKE TO YOU LOOK AGAIN TO THE EVIDENCE CART AT THE
14 RIGHT TO WHAT HAS BEEN MARKED FOR IDENTIFICATION AS EXHIBIT
15 108.

16 A (COMPLIES.)

17 Q HAVE YOU SEEN THAT BEFORE?

18 A YES, I HAVE.

19 Q WHEN WAS THE FIRST TIME THAT YOU SAW IT?

20 A THE FIRST TIME THAT I SAW EXHIBIT 108 WAS IN THE F.B.I.
21 LABORATORY.

22 Q AND DO YOU RECALL WHEN THAT WAS?

23 A I BELIEVE IT WAS AUGUST OF 85. IT WAS SEVERAL MONTHS AFTER
24 I WAS DOWN THERE IN JUNE; AUGUST OR SEPTEMBER OF 85.

25 Q AND WHAT WAS YOUR PURPOSE IN DEALING WITH THAT EXHIBIT AT

1 THE TIME?

2 A THE PURPOSE OF THE EXHIBIT WAS TO EXAMINE EXHIBIT 108 AS A
3 KNOWN STANDARD OF SOIL AND COMPARE IT BACK TO EXHIBITS 90 AND
4 91.

5 Q DID YOU PERFORM ANY TESTS ON EXHIBIT 108?

6 A YES, I DID.

7 Q AND WHAT WAS THE NATURE OF THOSE TESTS? WHAT WERE YOU
8 LOOKING FOR?

9 A I WAS LOOKING FOR THE ENTIRE COMPOSITIONAL MAKEUP OF SOIL:
10 THE COLOR OF THE SOIL, THE TEXTURE OF THE SOIL, THE TYPE THAT
11 THE SOIL WAS, THE MINERAL GRAIN, THE SHAPE AND SIZES, AND THE
12 INDEPENDENT MINEROLOGY THAT WAS REPRESENTED WITHIN THE SOIL
13 SAMPLE OTHERWISE, THE IDENTIFICATION OF ALL THE MINERALS
14 PRESENT AND IN ABUNDANCE, RELEVANCY TOWARDS ITSELF AND TOWARDS
15 THE WHOLE SAMPLE.

16 Q DID YOU THEN COMPARE THIS SOIL WHICH YOU FOUND IN EXHIBIT
17 108 TO THE SOIL WHICH YOU FOUND IN EXHIBITS 90 AND 91?

18 A YES, SIR.

19 Q WERE THERE ANY SIMILARITIES BETWEEN THE SOILS IN EXHIBIT
20 108 AND THE SOILS THAT YOU FOUND IN EXHIBITS 90 AND 91?

21 A DURING THE INITIAL COMPARISON, I COMPARED ALL QUALITIES OF
22 THE SOIL, WITH THE EXCEPTION OF COLOR. I COMPARED THE TEXTURE,
23 THE TYPE, THE COMPOSITION, THE INDEPENDENT MINEROLOGY AND ALL
24 THE MINERALS THAT WERE PRESENT WITHIN THE SOIL AND THE ORGANIC
25 DEBRIS.

1 I WAS NOT ABLE AT THAT POINT IN TIME TO COMPARE THE
2 COLOR. COLOR EXAMINATION WAS CONDUCTED AT A SOMEWHAT LATER
3 DATE.

4 Q DID YOU ARRIVE AT ANY CONCLUSIONS AS A RESULT OF YOUR
5 COMPARISON?

6 A YES, SIR.

7 Q WHAT WERE YOUR CONCLUSIONS?

8 A MY CONCLUSIONS WERE THAT I COULD FIND NO DIFFERENCES BASED
9 ON THE TESTS THAT I CONDUCTED ON THE SOIL CONTAINED IN EXHIBITS
10 90 AND 91 AND THE SOIL CONTAINED IN EXHIBIT 108.

11 Q WERE THE SOILS THEN CONSISTENT WITH COMING FROM THE SAME
12 SOURCE?

13 A THE SOILS IN 90 AND 91 WERE CONSISTENT WITH ORIGINATING
14 FROM THE SOURCE REPRESENTED BY 108.

15 Q WERE THERE ANY DISSIMILARITIES IN THE SOIL?

16 A I COULD FIND NO DISSIMILARITIES.

17 Q NOW, AGENT RAWALT, I BELIEVE THERE ARE SOME PHOTOGRAPHS IN
18 FRONT OF YOU, UNDERNEATH THE EXHIBIT WE JUST DISCUSSED, AND I
19 BELIEVE THOSE SHOULD BE MARKED 12 A THROUGH H.

20 DO YOU SEE THOSE?

21 A YES.

22 Q LOOKING AT THE PHOTOGRAPH WHICH IS 12 A, MARKED 12 A, DO
23 YOU RECOGNIZE THAT?

24 A YES, I DO.

25 Q WHAT IS IT?

1 A 12 A DEPICTS THE -- A PORTION OF THE FRONT OF THE
2 RESIDENCE LOCATED AT 881 LOPE DE VEGA, IN PARTICULAR, THE FRONT
3 PORCH AREA AND THE DRIVE-IN AREA, WHICH WOULD BE A GARAGE OR
4 PORTICO, AND THE SECOND STORY OF THE FRONT OF THE HOUSE.

5 Q AND LOOKING AT 12 B, PLEASE.

6 A 12 B IS A SIMILAR SHOT, ONLY FURTHER AWAY, SHOWING MORE OF
7 THE FRONT OF THE RESIDENCE, INCLUDING THE PORCH, AND THEN THE
8 SIDE OF THE HOUSE, WHERE THE BEDROOMS BEGIN AND RUN BACK.

9 Q WOULD YOU PLEASE THEN ALSO LOOK AT 12 C.

10 A 12 C IS A CLOSE-UP OF THE FRONT-DOOR REGION OF THE HOUSE
11 AND THE FENCE AND THE UPSTAIRS PORTION OF THE HOUSE,
12 REPRESENTING THE FRONT BEDROOM AND THE BAR STRUCTURE OF THE
13 BEDROOM OVER THE WINDOW STRUCTURE.

14 Q DO YOU RECOGNIZE 12 D?

15 A YES.

16 Q WHAT IS THAT?

17 A 12 D IS AN EARLY PHOTOGRAPH OF THE COMPOUND AT 881 LOPE DE
18 VEGA AND THE ADJACENT AREA. THE COMPOUND RUNS FROM THE FRONT,
19 WHICH IS THE RED-TILE-ROOFED HOUSE, THROUGH TO THE BACK STREET,
20 ENCOMPASSING THE TENNIS COURT AND THE ADJOINING GROUNDS IN THE
21 COMPOUND.

22 Q AND 12 E.

23 A 12 E IS THE -- ONE OF TWO SIDE STREET ENTRANCES INTO THE
24 BACK OF THE COMPOUND. IT IS DIRECTLY ADJACENT TO AN AREA THAT
25 I REFER TO AS THE GUEST HOUSE PORTION OF THE COMPOUND. IT'S A

1 DRIVE-THROUGH AND THEN A WALK-THROUGH AND CAN BE LOCATED ON 12
2 D AS THIS PORTION OF THE PHOTOGRAPH (INDICATING).

3 I'M SORRY. THIS PORTION. (INDICATING.) THIS WILL BE
4 THE GUEST HOUSE. AND RIGHT IN FRONT OF THE GUEST HOUSE IS THIS
5 DRIVE-THROUGH.

6 MR. CARLTON: YOUR HONOR, AT THIS TIME I WOULD MOVE
7 THAT EXHIBITS 12 A THROUGH D BE RECEIVED.

8 MR. STOLAR: NO OBJECTION.

9 THE COURT: MAY BE RECEIVED.

10 (EXHIBITS 12 A-D # RECEIVED IN EVIDENCE.)

11 MR. CARLTON: I WOULD ALSO MOVE THAT EXHIBITS 90, 91,
12 101 B, 107 AND 108 BE RECEIVED.

13 MR. NICOLAYSEN: YOUR HONOR, I OBJECT. THERE'S A LACK
14 OF FOUNDATION FOR THAT AND JOIN PREVIOUS OBJECTION THAT WAS
15 SUSTAINED, AS WELL.

16 THE COURT: WE'LL DEFER THOSE UNTIL LATER.

17 MR. CARLTON: NOTHING FURTHER AT THIS TIME.

18 MR. STOLAR: JUDGE, I WOULD ASK THE COURT'S PERMISSION
19 TO RESERVE CROSS-EXAMINATION ON THIS WITNESS.

20 THE COURT: WELL, I WILL DENY THAT.

21 MR. STOLAR: IF I MAY BE HEARD.

22 THE COURT: NOT NOW.

23 ANY OTHER COUNSEL WISH TO CROSS-EXAMINE THIS WITNESS?

24 MR. NICOLAYSEN: NOTHING, YOUR HONOR.

25 MS. KELLY: NOTHING, YOUR HONOR.

1 (NO OTHER RESPONSE.)

2 MR. STOLAR: MAY I BE HEARD AND SIDEBAR?

3 THE COURT: YES.

4 MR. STOLAR: THANK YOU.

5 (AT SIDEBAR:)

6 MR. STOLAR: THIS WITNESS WAS NOT ON THE LIST THAT THE
7 GOVERNMENT WILL GIVEN US ON THURSDAY, AND I WAS NOT NOTIFIED
8 YESTERDAY THAT HE WAS TO BE CALLED. SO I DO NOT HAVE ANY OF
9 THE MATERIALS WITH RESPECT TO THIS WITNESS WITH ME IN COURT
10 TODAY.

11 I UNDERSTAND A PHONE CALL WAS MADE TOO MR. MEDVENE'S
12 OFFICE LATE YESTERDAY AFTERNOON ADVISING THAT THIS WITNESS
13 WOULD BE CALLED. CERTAINLY, THAT INFORMATION NEVER CAME TO US.

14 THE COURT: IS THAT THE ONLY NOTICE YOU'VE GIVEN?

15 MR. CARLTON: WELL, YOUR HONOR, ALL OF THE MATERIALS
16 PERTAINING TO THIS WITNESS WERE PROVIDED MANY, MANY WEEKS AGO.
17 WE HAD TO MOVE UP THE WITNESS UNEXPECTEDLY BECAUSE OF A CHANGE
18 IN HIS SCHEDULE.

19 I DID NOTIFY MR. MEDVENE, AND MR. STOLAR WAS NOT
20 NOTIFIED, THROUGH AN OVERSIGHT; THAT'S CORRECT.

21 MR. STOLAR: I MEAN, I CERTAINLY WOULD HAVE BROUGHT
22 THE MATERIALS WITH ME IF I'D KNOWN ABOUT HIM.

23 THERE ARE SOME QUESTIONS THAT ARE SOMEWHAT SIGNIFICANT
24 THAT I WANT TO ASK THE WITNESS.

25 THE COURT: WELL, CAN YOU DO IT THIS AFTERNOON.

1 MR. STOLAR: IF I COULD GET SOMEBODY TO GO BACK TO THE
2 HOTEL, UNLESS SOMEBODY ELSE --

3 THE COURT: HOW ABOUT NOONTIME. YOU CAN GO BACK TO
4 THE HOTEL.

5 MR. MEDRANO: ALTERNATIVELY, ACTUALLY WE COULD GIVE
6 MR. STOLAR ANOTHER COPY OF THE JENCKS MATERIAL SO HE COULD DO
7 IT AFTER LUNCH.

8 MR. STOLAR: THAT WOULD BE ALL RIGHT.

9 THE COURT: YOU SHOULD GIVE NOTICE OF WHO YOU'RE GOING
10 TO CALL SO THESE PEOPLE CAN BE READY TO EXAMINE THE WITNESSES.

11 MR. CARLTON: WE NORMALLY DO. THIS WAS UNEXPECTED.

12 MR. STOLAR: IT WAS UNEXPECTED BY ME, TOO.

13 THE COURT: I'LL GRANT THAT CROSS-EXAMINATION MAY BE
14 DEFERRED. IF WE CAN DO IT TODAY, I PREFER TO DO IT.

15 MR. STOLAR: THERE'S NO PROBLEM IF THEY'LL GIVE ME A
16 SET OF THE 3500 MATERIAL. I CAN GO BACK AFTER IT --

17 THE COURT: WE CAN DO IT AFTER LUNCH. HE CAN DO THE
18 CROSS.

19 THE COURT: DO YOU HAVE ANOTHER WITNESS IN THE
20 MEANTIME?

21 MR. MEDRANO: YES, YOUR HONOR. WE CAN PROCEED.

22 MR. CARLTON: ALL RIGHT.

23 MR. STOLAR: THANK YOU.

24 (OPEN COURT:)

25 THE COURT: WE'LL DEFER CROSS. THE CROSS-EXAMINATION

1 OF THIS WITNESS WILL BE DEFERRED UNTIL LATER TODAY.

2 NOW YOU MAY STEP DOWN AND BE ON CALL.

3 THE WITNESS: THANK YOU, YOUR HONOR.

4 THE COURT: CALL YOUR NEXT WITNESS.

5 MR. MEDRANO: THANK YOU, YOUR HONOR. AT THIS TIME,
6 THE GOVERNMENT WOULD CALL WILLIAM TERRAZAS TO THE STAND.

7 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

8

9 WILLIAM TERRAZAS + PLAINTIFF'S WITNESS, SWORN

10

11 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
12 NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

13 THE WITNESS: MY NAME IS BILL TERRAZAS; SPELLING: T E
14 R R A Z A S.

15

DIRECT EXAMINATION +

16 BY MR. MEDRANO:

17 Q WHO ARE YOU EMPLOYED BY, MR. TERRAZAS?

18 A I'M EMPLOYED BY THE UNITED STATES DEPARTMENT OF JUSTICE
19 DRUG ENFORCEMENT ADMINISTRATION.

20 Q HOW LONG HAVE YOU SERVED WITH THE D.E.A.?

21 A APPROXIMATELY EIGHT YEARS.

22 Q WHAT CITY IS YOUR CURRENT ASSIGNMENT WITH IN D.E.A.?

23 A I AM CURRENTLY ASSIGNED TO THE DALLAS, TEXAS FIELD
24 DIVISION.

25 Q OTHER THAN YOUR D.E.A. EXPERIENCE, DO YOU HAVE ANY OTHER

1 LAW ENFORCEMENT EXPERIENCE, MR. TERRAZAS?

2 A YES, SIR. PRIOR TO D.E.A., I WAS IN THE IMMIGRATION
3 SERVICE, BORDER PATROL, APPROXIMATELY THREE AND A HALF YEARS.
4 BEFORE THAT, I WAS WITH THE CITY OF FLAGSTAFF, ARIZONA, POLICE
5 DEPARTMENT FOR APPROXIMATELY FOUR AND A HALF YEARS.

6 Q IF I CAN DIRECT YOUR ATTENTION TO ABOUT JANUARY AND
7 FEBRUARY OF 1985, AT THAT TIME WHAT WAS YOUR ASSIGNMENT? WHAT
8 CITY WERE YOU ASSIGNED TO?

9 A AT THAT TIME, I WAS ASSIGNED, TEMPORARY ASSIGNMENT, TO
10 MEXICO, AND I WAS IN THE CITY OF URAUPAN, MICHOACAN.

11 Q THE NAME OF CITY? WOULD YOU SAY IT AGAIN?

12 A URAUPAN.

13 A CAN YOU SPELL THE CITY NAME FOR THE COURT REPORTER, IF YOU
14 KNOW?

15 A U R A U P A N, I BELIEVE.

16 Q AND THE STATE OF MICHOACAN?

17 A MICHOACAN; YES, SIR.

18 Q AND WERE YOU ASSIGNED TO -- STRIKE THAT.

19 DID YOU HAVE A SPECIFIC ASSIGNMENT WHEN YOU WERE ON
20 TEMPORARY DUTY IN THE STATE OF MICHOACAN?

21 A YES, SIR. I WAS ASSIGNED TEMPORARY DUTY TO THE ERADICATION
22 PROGRAM OF MARIJUANA AND THE OPIUM -- POPPY PLANTS.

23 Q DID THIS OPERATION HAVE A PARTICULAR NAME ATTACHED TO IT?

24 A YES, SIR; IT WAS OPERATION VANGUARD.

25 Q LET ME DIRECT YOUR ATTENTION NOW TO ABOUT FEBRUARY 8TH OF

1 1985. ON OR ABOUT THIS DATE, DO YOU HAVE AN OCCASION TO BE
2 REASSIGNED WITHIN THE REPUBLIC OF MEXICO?

3 A YES, SIR; I DID.

4 Q AND WHERE WERE YOU ASSIGNED TO?

5 A I WAS REASSIGNED TO THE CITY OF GUADALAJARA, MEXICO.

6 Q AND FOR WHAT PURPOSE?

7 A THE INVESTIGATION OF THE KIDNAPPING-MURDER OF ENRIQUE
8 CAMARENA.

9 Q NOW, LET ME DIRECT YOUR ATTENTION, IF I MAY, AGENT
10 TERRAZAS, TO ABOUT FEBRUARY 12TH 1985. ON THIS SPECIFIC DAY,
11 ARE YOU STILL ON DUTY IN THE CITY OF GUADALAJARA, MEXICO?

12 A YES, SIR; I WAS.

13 Q AND ON THIS PARTICULAR DATE ARE YOU STILL PART OF THE
14 INVESTIGATIVE TEAM REGARDING THE DISAPPEARANCE OF SPECIAL AGENT
15 CAMARENA?

16 A YES, SIR.

17 Q AT ANY POINT, SIR, ON THIS DAY, FEBRUARY 12, DO YOU HAVE AN
18 OCCASION TO BE AT A HOTEL BY THE NAME OF PLAZA DEL SOL?

19 A YES, SIR; I WAS.

20 Q AND WHY ARE YOU AT THAT HOTEL ON THIS DAY?

21 A ON THIS DATE, WE'D RECEIVED INFORMATION THAT JUAN RAMON
22 MATTA BALLESTEROS WAS AT THE --

23 MR. STOLAR: OBJECTION. MOVE TO STRIKE.

24 THE WITNESS: PLAZA DEL SOL HOTEL.

25 MR. STOLAR: INFORMATION HE RECEIVED INDICATING THAT

1 MR. MATTA WAS AT THAT HOTEL.

2 MR. MEDRANO: NOT OFFERED FOR HEARSAY PURPOSE.

3 THE COURT: WHAT IS IT OFFERED FOR?

4 MR. MEDRANO: TO INDICATE THAT WHETHER AGENT WAS GOING
5 TO DO NEXT, AFTER LEARNING THIS INFORMATION.

6 THE COURT: WELL, YOU CAN ASK HIM: DID HE RECEIVE
7 SOME INFORMATION WHICH TOOK HIM TO THIS LOCATION?

8 I WILL INSTRUCT THE JURY THAT THAT EVIDENCE MAY BE
9 RECEIVED SOLELY FOR THE PURPOSE OF EXPLAINING WHY THIS WITNESS
10 WENT TO THE HOTEL, BUT NOT TO PROVE THAT MR. MATTA WAS THERE.
11 THAT INFORMATION CANNOT BE CONSIDERED FOR THAT PURPOSE.

12 MR. MEDRANO: THANK YOU, YOUR HONOR.

13 Q NOW, AGENT TERRAZAS WHEN YOU ARE AT THE PLAZA DEL SOL
14 HOTEL, WHAT ARE YOU DOING SPECIFICALLY?

15 A I WAS ON SURVEILLANCE, SIR.

16 Q OUTSIDE OR INSIDE?

17 A OUTSIDE.

18 THE INTERPRETER: YOUR HONOR, CAN WE ASK --

19 THE COURT: HAVING TROUBLE HEARING?

20 THE INTERPRETER: YES, THANK YOU.

21 THE COURT: MOVE THIS TO THE SIDE HERE.

22 THE WITNESS: (ADJUSTS MICROPHONE.

23 THE COURT: SPEAK UP A LITTLE, TOO.

24 THE WITNESS: YES, SIR.

25 BY MR. MEDRANO:

1 Q YOU WERE OUTSIDE -- STRIKE THAT.

2 THANK YOU, YOUR HONOR,

3 YOU WERE DOING SURVEILLANCE OUTSIDE THE PLAZA DEL SOL?

4 A YES, SIR; THAT'S CORRECT.

5 Q AND WHILE OUTSIDE THE HOTEL, ARE YOU ABLE TO OBSERVE
6 ANYTHING?

7 A YES, SIR.

8 Q WHAT, PLEASE?

9 A OUTSIDE THE HOTEL, WE WERE ABLE TO OBSERVE PEOPLE STATIONED
10 AROUND THE HOTEL; PEOPLE WALKING AROUND THE HOTEL; VEHICLES
11 PARKED IN THE VICINITY OF THE HOTEL, WITH MEN SITTING IN THEM;
12 THINGS OF THIS NATURE.

13 Q WHEN MEN -- MEN WERE SITTING INSIDE PARKED CARS?

14 A YES, SIR.

15 Q AND WHERE WERE THESE CARS, SPECIFICALLY?

16 A THEY WERE SITUATED AROUND THE HOTEL, PLAZA DEL SOL.

17 Q AND YOU'D SEEN THESE MEN OUTSIDE THE HOTEL?

18 A YES, SIR.

19 Q SIR, WERE YOU ABLE TO DETERMINE WHETHER THE MEN THAT WERE
20 OUTSIDE THE PLAZA DEL SOL WERE ARMED OR NOT?

21 A YES, SIR.

22 Q TELL US WHAT YOU WERE ABLE ABLE TO PERCEIVE OUTSIDE THE
23 HOTEL.

24 A OUTSIDE THE HOTEL, I PERSONALLY SAW MEN STANDING BY THE
25 CARS, SITTING IN THE CARS, AND OTHER PEOPLE WALKING AROUND. AT

1 SOME POINTS, I WAS ABLE TO SEE THE BUTT OF A SEMI-AUTOMATIC
2 WEAPON, EITHER STUCK THE FRONT WAISTBAND OR THE REAR. AT OTHER
3 TIMES, YOU COULD SEE BULGES IN THE SIDES, SHIRTS, OF THE MEN
4 THAT WERE STANDING OUTSIDE.

5 Q AND IN TERMS OF THE BUTT OF THE GUN, ARE YOU REFERRING TO
6 THE HANDLE OR THE BUTT?

7 A YES.

8 Q AND YOU WERE ACTUALLY ABLE TO SEE THAT OUT BY THE HOTEL?

9 A YES, SIR.

10 Q ON THE PRESENCE OF THE MEN THAT YOU OBSERVED OUTSIDE?

11 A YES, SIR.

12 Q NOW, DID YOU EVER HAVE AN OPPORTUNITY, WHEN YOU WERE DOING
13 YOUR SURVEILLANCE, TO ALSO GO INSIDE THE HOTEL?

14 A YES, SIR; I DID.

15 Q WHAT DO YOU SEE THERE?

16 A AS I WALK INTO THE HOTEL, AGAIN, ONCE INSIDE I COULD SEE
17 THERE WAS MAYBE A DOZEN MEN, MAYBE MORE, THERE; AND AGAIN I
18 COULD SEE THE BULGES IN THE WAISTBAND, EITHER CLOSE TO THE BACK
19 OR UP FRONT.

20 Q NOW, AT ANY POINT DURING THIS SURVEILLANCE -- STRIKE THAT.

21 MR. TERRAZAS CAN YOU GIVE US A TIME FRAME WHEN YOU'RE
22 DOING THE SURVEILLANCE OUTSIDE AND INSIDE HOTEL?

23 A OUTSIDE THE HOTEL, IT WAS IN THE AFTERNOON TO LATE
24 AFTERNOON. SURVEILLANCE INSIDE THE HOTEL WAS AT NIGHT.

25 Q NOW, WHEN YOU'RE DOING THE OUTSIDE SURVEILLANCE, LATE

1 AFTERNOON, AT ANY POINT ARE YOU BY ANYONE?

2 A NO, SIR.

3 Q NOW, AT ANY POINT, DO YOU HAVE AN OPPORTUNITY TO LEAVE THE
4 PLAZA DEL SOL HOTEL ON FEBRUARY 12, 1985?

5 A YES, SIR.

6 Q WHERE DID YOU PROCEED TO, IF ANYWHERE?

7 A I WAS ASKED TO PROCEED TO THE OFFICE OF THE MEXICO FEDERAL
8 JUDICIAL POLICE THERE IN GUADALAJARA.

9 Q IS THAT THE HEADQUARTERS OF THE M.F.J.P.?

10 A YES, SIR.

11 Q WHILE THERE, ARE THERE ANY OTHER D.E.A. AGENTS THAT ARE
12 ALSO IN ATTENDANCE?

13 A YES, SIR.

14 Q WHO WOULD THAT BE, IF YOU RECALL?

15 A TO THE BEST OF MY RECOLLECTION, IT WAS THE SUPERVISOR,
16 HORACIO AYALA, SPECIAL AGENT JOSEPH GONZALEZ, SPECIAL AGENT --
17 I BELIEVE IT WAS ALAN BACHELIER, M.F.J.P. COMANDANTE PAVON
18 REYES, AND MYSELF. AND THERE WERE SOME OTHER MEXICAN JUDICIAL
19 POLICE COMANDANTES IN THERE, BUT I CAN'T RECALL WHO THEY WERE.

20 Q NOW, ALL THESE PEOPLE YOU'VE MENTIONED ARE AT THE M.F.J.P.
21 HEADQUARTERS WHEN YOU ARE?

22 A YES, SIR.

23 Q DOES ANYTHING HAPPEN WHILE YOU ARE THERE?

24 A AT THIS -- AT THIS POINT, AS WE WERE GETTING READY TO
25 LEAVE, I OBSERVED COMANDANTE PAVON REYES WALK OUT OF THE

1 OFFICE. WITHIN SECONDS LATER I FOLLOWED, AND I KIND OF
2 SURPRISED HIM AS HE WAS ON THE TELEPHONE. AND AS HE SEES ME,
3 HE CLOSES THE DOOR IN MY FACE.

4 Q AND WHEN YOU SAW HIM, HE WAS USING THE TELEPHONE?

5 A HE WAS ON THE PHONE, TALKING ON THE PHONE.

6 Q SHORTLY THEREAFTER, DO YOU LEAVE THE M.F.J.P. HEADQUARTERS
7 OFFICE?

8 A YES, SIR; I DID.

9 Q AND WHAT IS IT -- STRIKE THAT.

10 WHY IS IT YOU LEAVE THE OFFICE, AGENT TERRAZAS?

11 A AT THIS TIME, I WAS GIVEN AN ASSIGNMENT TO TAKE A PORTABLE
12 RADIO TO TWO AGENTS THAT WERE ALREADY ON SURVEILLANCE WITHIN
13 THE HOTEL, PLAZA DEL SOL.

14 Q AND -- STRIKE THAT. DO YOU LEAVE THE HOTEL AS A RESULT?

15 A LEFT THE M.F.J.P. HEADQUARTERS, YES.

16 Q PARDON ME. I MISSPOKE.

17 YOU LEAVE THE M.F.J.P. HEADQUARTERS?

18 A YES.

19 Q HOW DO YOU GO TO THE HOTEL?.

20 A I WAS DRIVEN TO THE PLAZA DEL SOL SHOPPING CENTER, WHICH IS
21 NEXT TO THE HOTEL, BY SPECIAL AGENT JOSEPH GONZALEZ.

22 Q ARE YOU DROPPED OFF THEN?

23 A YES, SIR; I AM.

24 Q WHAT HAPPENS WHEN YOU'RE DROPPED OFF BY AGENT GONZALEZ?

25 A AS SOON AS AGENT GONZALEZ LEAVES, TWO MEN APPEAR FROM THE

1 DARKNESS AND FOLLOW ME TO THE HOTEL.

2 Q CAN YOU GIVE ME -- STRIKE THAT.

3 DO YOU END UP EVER ENTERING THE PLAZA DEL SOL HOTEL?

4 A YES, SIR; I DO.

5 Q AND AS YOU'RE DOING THAT, WHAT HAPPENS TO THE TWO MEN THAT
6 ARE FOLLOWING YOU?

7 A THERE WAS -- I PASSED BY A CAR THAT HAD TWO OR THREE PEOPLE
8 SITTING IN IT. THE PASSENGER SIDE DOOR WAS OPENED.

9 AS I PASSED THE CAR I TURNED TO SEE THESE MEN. THEY
10 STOPPED AT THAT CAR. ONE OF THE MEN THAT STOPPED AT THE CAR
11 KIND OF NODDED TOWARDS MY DIRECTION. AND AT THAT POINT, ALL OF
12 THE MEN LOOKED AT ME AND JUST STARED AT ME FOR A WHILE, AND I
13 WENT INTO THE HOTEL.

14 Q SO ARE YOU TALKING ABOUT FOUR MEN NOW?

15 A IT WAS TWO MEN THAT WERE FOLLOWING ME, AND AT LEAST TWO MEN
16 IN THE CAR.

17 Q AND WHEN YOU ENTERED THE HOTEL, AS FAR AS YOU COULD TELL,
18 THEY WERE LOOKING AT YOU?

19 A YES, SIR.

20 Q WHAT HAPPENS ONCE YOU ENTER THE PLAZA -- -- STRIKE THAT.

21 WHAT HAPPENS, AGENT TERRAZAS, AFTER YOU ENTER THE
22 PLAZA DEL SOL HOTEL?

23 A I WALKED INTO THE LOBBY. I MET WITH SPECIAL AGENT SALAZAR
24 LEVY AND SPECIAL AGENT JOSE AGUILAR.

25 Q WHERE? WHERE DO YOU MEET WITH THEM, IF YOU RECALL?

1 A IN THE LOBBY.

2 Q WHAT HAPPENS NEXT?

3 A I THEN TELL AGENT LEYVA THAT I HAVE THE RADIO AND ASK HIM
4 TO FOLLOW ME INTO THE BATHROOM SO I CAN GIVE HIM THE RADIO.

5 Q WHERE -- STRIKE THAT.

6 DOES ANYTHING ELSE HAPPEN -- STRIKE THAT.

7 WHERE DO YOU ACTUALLY GIVE HIM THE RADIO?

8 MR. STOLAR: OBJECTION. HE HADN'T GIVEN TO IT HIM
9 YET, BY THE EVIDENCE.

10 MR. MEDRANO: I'LL REPHRASE, YOUR HONOR.

11 Q WHERE DO YOU MEET WITH AGENT LEYVA?

12 A I MET AGENT LEYVA IN THE BATHROOM AND GAVE HIM THE RADIO.

13 Q AND WHILE ARE WERE THERE, DID ANYTHING ELSE HAPPEN?

14 A AS WE WERE WALKING INTO THE BATHROOM, WE WERE FOLLOWED IN
15 BY TWO OTHER MEN.

16 Q WHAT HAPPENS?

17 A AS SOON AS WE WALK INTO THE BATHROOM, THE TWO MEN COME IN.
18 ONE STANDS, I BELIEVE, BEHIND ME. THE OTHER ONE COMES IN NEXT
19 TO ME AND WANTS TO KNOW WHO I AM AND WHAT AM I DOING THERE?

20 A DO YOU REPLY?

21 A I TOLD HIM I WAS ON VACATION; I WAS FROM LOS ANGELES.

22 Q HOW ABOUT THESE TWO MEN THAT WERE IN THE BATHROOM WITH YOU?
23 COULD YOU ASCERTAIN WHETHER OR NOT THEY WERE ARMED?

24 A THEY BOTH HAD TWO BULGES UNDER THEIR SHIRT, IN THEIR
25 WAISTBAND.

1 Q AFTER YOU GIVE THE RADIO TO AGENT LEYVA, WHAT DO YOU DO
2 NEXT?

3 A I GO BACK OUT INTO THE LOBBY, SIT OUT -- SIT AT THE TABLE
4 AND WAIT FOR MR -- OR SPECIAL AGENT LEYVA TO COME OUT AND JOIN
5 US AT THE TABLE. A SHORT WHILE AFTER THAT, THEN I LEAVE THE
6 HOTEL.

7 Q WHERE DID YOU PROCEED, SPECIFICALLY?

8 A I WALKED BACK TO THE PLAZA DEL SOL SHOPPING CENTER AND
9 WAITED FOR SPECIAL AGENT JOE GONZALEZ TO PICK ME UP.

10 Q AND DOES HE DO SO?

11 A YES, SIR.

12 Q THEREAFTER, DO YOU DO YOU CONTINUE WITH YOUR EXTERNAL OR
13 OUTSIDE SURVEILLANCE?

14 A YES, SIR; I DID.

15 Q AND ULTIMATELY WAS THAT SURVEILLANCE CALLED OFF?

16 A YES, SIR.

17 MR. MEDRANO: YOUR HONOR, THAT CONCLUDES DIRECT.

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

19 CROSS-EXAMINATION +

20 BY MR. STOLAR:

21 Q GOOD MORNING, AGENT TERRAZAS.

22 A GOOD MORNING.

23 Q THE WORK THAT YOU DID IN CONNECTION WITH WHAT YOU TESTIFIED
24 ABOUT, THE SURVEILLANCE AND THE TURNING OVER OF THE RADIO AND
25 YOUR CONTACT WITH THE UNIDENTIFIED MEN THAT YOU'VE DESCRIBED AS

1 ARMED, DID YOU CONSIDER THAT TO BE A SIGNIFICANT EVENT,
2 SIGNIFICANT INVESTIGATIVE EVENT?

3 MR. MEDRANO: OBJECTION. AMBIGUOUS, YOUR HONOR.

4 MR. STOLAR:

5 Q WELL, LET ME ASK YOU -- I'LL REPHRASE THE QUESTION.

6 DID YOU WRITE ANY KIND OF A REPORT ABOUT WHAT HAD
7 OCCURRED?

8 A NO, SIR.

9 Q HAVE YOU EVER TESTIFIED BEFORE A GRAND JURY ABOUT WHAT YOU
10 OBSERVED?

11 A NO, SIR.

12 Q DID YOU EVER TELL ANYBODY WHAT IT WAS, WHAT YOU OBSERVED,
13 OTHER THAN THIS JURY?

14 A I DON'T UNDERSTAND WHAT YOU MEAN BY "ANYBODY."

15 Q WELL, A SUPERIOR?

16 A YES, SIR.

17 Q WHO DID YOU TELL?

18 A TONY AYALA.

19 Q ANYBODY ELSE?

20 A NO, NOT TO THE BEST OF MY RECOLLECTION.

21 Q DID YOU SPEAK WITH PAVON REYES OR ANYBODY IN THE M.F.J.P.
22 ABOUT IT?

23 A NO, SIR.

24 Q I BELIEVE IN RESPONSE TO A QUESTION MR. MEDRANO ASKED YOU,
25 YOU INDICATED THAT ON FEBRUARY THE 8TH, YOU WERE ASSIGNED TO

1 INVESTIGATE THE KIDNAPPING AND MURDER OF AGENT CAMARENA. WAS
2 THAT YOUR ANSWER?

3 A YES, SIR.

4 Q IN FACT, YOU DID NOT KNOW THERE WAS A MURDER ON FEBRUARY
5 8TH, DID YOU?

6 A NOT AT THAT TIME; NO, SIR.

7 Q SO YOU MISSPOKE, THEN, RIGHT, IN YOUR ANSWER TO THE
8 QUESTION?

9 A (NO AUDIBLE RESPONSE.)

10 Q YOU WERE THERE TO INVESTIGATE THE DISAPPEARANCE OF AGENT
11 CAMARENA, PERIOD. THAT'S ALL YOU KNEW ON THE 8TH; RIGHT?

12 A THAT'S CORRECT, ALL I KNEW.

13 Q THAT'S ALL ALL THE D.E.A. KNEW ON THE 8TH; CORRECT?

14 A THAT'S CORRECT.

15 Q NOW, HAD YOU HAD A PRIOR OCCASION TO MEET MR. MATTA?

16 A NO, SIR.

17 Q DO YOU KNOW WHO MR. MATTA IS?

18 A YES, I KNOW WHO HE IS.

19 Q THE GENTLEMAN SITTING OVER HERE, I'M POINTING TO?

20 A I CAN'T SEE HIM, SIR.

21 Q WELL, TAKE A LOOK THIS GENTLEMAN RIGHT HERE.

22 A (WITNESS STANDS UP, NODS HEAD.)

23 Q HAD YOU HAD OCCASION TO MEET HIM?

24 A NO, SIR.

25 Q HAD YOU EVER CONDUCT A SURVEILLANCE WHERE YOU HAD SEEN HIM?

1 A NO, SIR.

2 Q PAVON REYES WAS THE COMANDANTE OF THE M.F.J.P.; IS THAT
3 RIGHT?

4 A HE WAS THE PREMIER COMANDANTE IN CHARGE; YES, SIR.

5 Q WOULD IT BE FAIR TO SAY THAT THE COMANDANTE OF THE M.F.J.P.
6 MIGHT BE ENTITLED TO PRIVACY WHEN HE'S ON THE TELEPHONE?

7 MR. MEDRANO: OBJECTION, YOUR HONOR. RELEVANCE AND
8 CALLS FOR SPECULATION.

9 THE COURT: WELL, THE OBJECTION IS SUSTAINED

10 BY MR. STOLAR:

11 Q DID YOU HEAR WHAT PAVON REYES WAS SAYING ON THE TELEPHONE?

12 A NO, SIR.

13 Q DID YOU KNOW WHO HE WAS TALKING TO?

14 A NO, SIR.

15 Q DID HE SLAM THE DOOR IN YOUR FACE?

16 A CLOSED IT IN MY FACE.

17 Q DID IT APPEAR THAT HE MIGHT HAVE BEEN OFFENDED BECAUSE YOU
18 WERE INVADING HIS PRIVACY

19 MR. MEDRANO: OBJECTION, YOUR HONOR. CALLS FOR A
20 CONCLUSION. RELEVANCE.

21 THE COURT: SUSTAINED.

22 BY MR. STOLAR:

23 Q WHEN YOU MADE TELEPHONE CALLS, DID YOU EVER MAKE ANY
24 TELEPHONE CALLS FROM THE M.F.J.P. OFFICE?

25 A NOT TO MY RECOLLECTION.

1 Q THE PORTABLE RADIO THAT YOU BOUGHT TO THE HOTEL, WHERE WAS
2 THE BASE FOR THAT? WHO DID IT COMMUNICATE WITH?

3 A THE BASE, YOU COULD SAY, WAS AT OUR D.E.A. OFFICE.

4 Q AT THE CONSULATE?

5 A YES, SIR.

6 Q DID OTHER AGENTS, TO YOUR KNOWLEDGE, ALSO HAVE RADIOS
7 OPERATING ON THE SAME FREQUENCY?

8 A YES, SIR.

9 Q APPROXIMATELY HOW MANY.

10 A I DON'T RECALL.

11 Q 10, 20, 30?

12 A NO, NOT THAT MANY.

13 Q MORE THAN 10?

14 A MAYBE A DOZEN.

15 Q MAYBE A DOZEN.

16 YOUR INITIAL ASSIGNMENT IN THE DEALING WITH MARIJUANA
17 AND OPIUM POPPIES STARTED WHEN?

18 A I DON'T -- I DON'T REALLY RECALL. I BELIEVE IT WAS
19 PROBABLY 30 DAYS PRIOR TO THAT.

20 Q JANUARY 8TH PROBABLY?

21 A JANUARY.

22 Q AND YOU WERE ASSIGNED OUT OF YOUR OFFICE, WHERE?

23 A I WAS AT THAT TIME ASSIGNED TO THE LOS ANGELES DIVISION.

24 Q WAS ANYBODY ELSE ASSIGNED WITH YOU FROM THE SAME OFFICE?

25 A NO, NOT TO MY RECOLLECTION.

1 Q WHILE YOU WERE ON THAT ASSIGNMENT, WHAT WERE YOUR DUTIES?

2 A THE DUTIES WERE TO WORK WITH THE MEXICO FEDERAL JUDICIAL
3 POLICE AND THE PROTOCOL'S OFFICE TO SPOT AND VERIFY THE
4 ERADICATION OF MARIJUANA AND POPPY PLANTATIONS.

5 Q AND DID YOU DO THAT?

6 A YES, I DID.

7 Q AND IN THE COURSE OF CARRYING OUT YOUR DUTIES WITH
8 OPERATION VANGUARD, DID YOU CARRY A WEAPON?

9 A YES, I DID.

10 Q AND WHEN YOU CAME TO GUADALAJARA ON THE 8TH, DID YOU HAVE A
11 WEAPON WITH YOU?

12 A YES, I DID.

13 Q WHO ELSE, IN FEBRUARY, CAME WITH YOU TO GUADALAJARA, ON THE
14 8TH?

15 A I TRAVELED BY MYSELF.

16 Q HOW DID YOU GET THERE?

17 A AIRLINE.

18 Q COMMERCIAL?

19 A COMMERCIAL.

20 Q ON THE 12TH, YOU INDICATED YOU WENT TO THE HOTEL PLAZA DEL
21 SOL; IS THAT CORRECT?

22 A YES, SIR.

23 Q WHERE DID YOU GO FROM?

24 A I DON'T UNDERSTAND THE QUESTION.

25 Q FROM WHERE? WHERE WERE YOU IMMEDIATELY BEFORE YOU WENT TO

1 THE HOTEL?

2 A TO THE BEST OF MY RECOLLECTION, I WAS AT THE CONSULATE.

3 Q AND HOW DID YOU GET TO THE HOTEL?

4 A I WAS WITH SPECIAL AGENT JOE GONZALEZ.

5 Q YOU DROVE THERE?

6 A YES, SIR.

7 Q DID ANYBODY ELSE GO WITH YOU?

8 A JUST THE TWO OF US.

9 Q WAS THERE A MEETING AT THE CONSULATE, IN THE D.E.A. OFFICE,
10 CONCERNING THE CONDUCTING OF THE SURVEILLANCE AT THE HOTEL
11 BEFORE YOU LEFT?

12 A THERE WAS A MEETING AT THE M.F.J.P. OFFICE.

13 Q AND WHO WAS PRESENT FOR THAT MEETING, IF YOU RECALL?

14 A THERE WERE SEVERAL PEOPLE. I MEAN, IT WAS MOST OF THE
15 D.E.A. AGENTS THAT WERE THERE, MANY OF THE MEXICAN FEDERAL
16 JUDICIAL POLICEMEN WERE THERE; NUMEROUS PEOPLE.

17 Q TO THE BEST OF YOUR RECOLLECTION, HOW MANY AGENTS WERE
18 ASSIGNED TO DO SURVEILLANCE AT THE HOTEL ON THE 12TH OF
19 FEBRUARY?

20 A TO THE BEST OF MY RECOLLECTION, ALL THE AGENTS, SAFE THE
21 ONE THAT WAS TO STAY AT THE D.E.A. OFFICE, WERE OUT IN THE
22 FIELD THAT DAY.

23 Q HOW MANY WENT TO THE HOTEL? YOU AND GONZALEZ -- WELL, YOU
24 AND LEYVA WERE ASSIGNED TO DO SURVEILLANCE AT THE HOTEL; RIGHT?

25 A YES, SIR.

1 Q AND YOU'VE INDICATED THAT AT LEAST LEYVA AND AGUILAR WERE
2 ASSIGNED TO DO SURVEILLANCE AT THE HOTEL; CORRECT?

3 A THAT'S CORRECT.

4 Q WHO ELSE?

5 A AS FAR AS I KNOW, EVERYONE ELSE WAS OUT THERE.

6 Q AT THE HOTEL, WHEN YOU WERE THER?

7 A AROUND THE HOTEL, ON SURVEILLANCE.

8 Q WHERE WERE YOU PARTICULARLY ON YOUR SURVEILLANCE WHEN YOU
9 WERE OUTSIDE THE HOTEL?

10 A I WAS ON A MOVING SURVEILLANCE, SO I HAD NO SPECIFIC PLACE.
11 I WAS CIRCLING, SITTING, WATCHING, AS A MOVING SURVEILLANCE.

12 Q WERE YOU ABLE TO OBSERVE ANY OF THE OTHER AGENTS DOING
13 SIMILAR SURVEILLANCE?

14 A I'M SURE I DID.

15 Q DO YOU RECALL WHO?

16 A NO, SIR.

17 Q CAN YOU GIVE US ANY OF THE NAMES OF ANY OF THE D.E.A.
18 AGENTS, THE 25 OR SO OR 20 -- HOWEVER MANY IT WERE -- WHO WENT
19 AND WERE ASSIGNED TO DO SURVEILLANCE AT THE HOTEL?

20 MR. MEDRANO: OBJECTION. NO TESTIMONY TO THAT EFFECT:
21 20 OR 25.

22 THE COURT: YES. REPHRASE.

23 MR. STOLAR: I'LL REPHRASE.

24 Q HOW MANY? HOW MANY WERE ASSIGNED TO DO SURVEILLANCE?

25 A WELL, AS I SAY, TO THE BEST OF MY RECOLLECTION, WE ALL

1 WENT.

2 Q HOW MANY IS "WE ALL"?

3 A I HAVE NO IDEA. I MEAN, WE ALL WERE TOLD TO GO AND DO
4 SURVEILLANCE. NOW, I DON'T KNOW HOW MANY OTHERS HAD ANOTHER
5 JOB TO DO BEFORE THEY WENT. I DON'T KNOW HOW MANY OTHERS WERE
6 TOLD TO MAYBE DO SOMETHING ELSE.

7 THE ONLY THING I KNOW IS THAT WE WERE ALL ASKED TO GO
8 ON SURVEILLANCE, AND WE WENT.

9 I DON'T KNOW HOW MANY OF THEM WENT RIGHT AWAY OR HOW
10 MANY OF THEM DIDN'T.

11 Q YOUR TESTIMONY, THOUGH IS -- AND CORRECT ME IF I'M WRONG --
12 THAT YOU WERE ALL ASSIGNED TO DO SURVEILLANCE AT THE HOTEL
13 PLAZA DEL SOL; IS THAT RIGHT?

14 A TO THE BEST OF MY RECOLLECTION, THAT WAS CORRECT.

15 Q NOW, ARE WE TALKING ABOUT 10 AGENTS, AT LEAST?

16 A YOU HAVE TO UNDERSTAND THERE'S DIFFERENT JOBS TO BE DONE BY
17 DIFFERENT AGENTS.

18 NOW, ALL I CAN SAY IS WHAT I WAS TOLD TO DO. AND I
19 WAS TOLD TO GO OUT ON SURVEILLANCE.

20 IT WAS MY UNDERSTANDING THAT EVERYONE, AT THAT POINT
21 IN TIME, WOULD BE OUT THERE ON THAT SURVEILLANCE.

22 Q NOT ALL AT THE SAME TIME NECESSARILY, OR ALL AT THE SAME
23 TIME?

24 A I DON'T KNOW.

25 Q WELL, WASN'T THERE A PLANNING MEETING TO DISCUSS WHAT YOU

1 WERE GOING TO DO?

2 A YOU'RE GOING TO HAVE TO UNDERSTAND THAT THERE WAS A
3 PLANNED -- THERE WAS A MEETING, BUT THEN WE WERE ALL TASKED TO
4 GO OUT AND DO DIFFERENT ASPECTS OF THE SURVEILLANCE.

5 Q AT THE HOTEL?

6 A YES, SIR.

7 Q WHAT DIFFERENT TYPES OF ASPECTS OF THE SURVEILLANCE WOULD
8 THERE BE?

9 Q UNDERCOVER SURVEILLANCE, WHICH SPECIAL AGENT SAL LEYVA AND
10 JOSE AGUILAR WERE DOING. THERE WAS AND UNCOVER SURVEILLANCE
11 THAT I DID THERE, WHEN I TOOK RADIO TO THEM INSIDE. THERE WAS
12 MOVING SURVEILLANCES OUTSIDE. THERE WERE LIAISON WITH THE
13 MEXICAN FEDERAL JUDICIAL POLICE; WE HAD TO COMMUNICATE WITH
14 THEM. THERE WERE MANY JOBS.

15 Q WERE THERE ANY FIXED SURVEILLANCE POSTS?

16 A IF THERE WERE, I'M NOT AWARE OF THEM.

17 Q DID ANYBODY HAVE PHOTOGRAPHIC EQUIPMENT ASSIGNED TO THEM?

18 A NOT THAT I WAS AWARE OF.

19 Q HOW ABOUT BINOCULARS?

20 A BINOCULARS, YES.

21 Q DO YOU RECALL WHO IT WAS THAT MIGHT HAVE HAD BINOCULARS,
22 WHERE THAT PERSON MIGHT HAVE BEEN STATIONED?

23 A NO, SIR.

24 Q ALL OF YOU WERE ARMED, I TAKE IT?

25 A I WAS ARMED.

1 Q WHAT KIND OF WEAPON DID YOU HAVE?

2 A AT THAT TIME, I HAD A 9 MILLIMETER SEMI-AUTOMATIC PISTOL.

3 MR. STOLAR: JUST ONE MOMENT, PLEASE.

4 (MR. STOLAR CONFERS WITH MR. BURNS OFF THE RECORD.)

5 BY MR. STOLAR:

6 Q WERE ANY OF THE M.F.J.P. PEOPLE ASSIGNED TO THE
7 SURVEILLANCE?

8 A YES, SIR.

9 Q WERE THEY IN PLAINCLOTHES, ALSO?

10 A YES, SIR.

11 Q THE MEN THAT YOU SAY YOU SAW OUTSIDE THE HOTEL -- BY THE
12 WAY, DID YOU SEE ANY WOMEN OUTSIDE THE HOTEL OR IN THE LOBBY?

13 A OUTSIDE THE HOTEL, NO, SIR.

14 Q IN THE LOBBY?

15 A YES, SIR.

16 Q WERE ANY OF THEM ARMED?

17 A NOT THAT I COULD TELL.

18 Q THE MEN THAT YOU SAW OUTSIDE THE HOTEL, EITHER WALKING OR
19 IN CARS: DO YOU KNOW WHETHER OR NOT THEY WERE M.F.J.P. AGENTS?

20 A IT WAS MY UNDERSTANDING THAT --

21 Q DO YOU KNOW: WHETHER OR NOT THEY WERE M.F.J.P. AGENTS? A
22 NO, I DO NOT.

23 Q YOU CERTAINLY HAD NEVER BEEN IN GUADALAJARA TO MEET THE
24 M.F.J.P. CREW THEN, HAD YOU?

25 A NO, I HAD NOT.

1 Q NOW, THE PEOPLE INSIDE HOTEL -- THE MEN WHO YOU SAY
2 APPEARED TO BE ARMED, IF YOU MAY PARAPHRASE YOU -- DO YOU KNOW
3 WHETHER THEY WERE M.F.J.P. AGENTS?

4 A NO, SIR.

5 Q YOU WERE ALSO AWARE THAT THERE WAS ANOTHER AGENCY KNOWN AS
6 THE D.F.S., WEREN'T YOU?

7 A THAT'S CORRECT.

8 Q DO YOU KNOW WHETHER OR NOT ANY OF THE MEN INSIDE OR OUTSIDE
9 OR EVEN THE ONES THAT CONFRONTED YOU IN THE BATHROOM AND WANTED
10 TO KNOW WHAT YOUR BUSINESS WAS WERE D.F.S. PEOPLE?

11 A I -- YOU'RE ASKING ME IF THEY WERE?

12 Q NO. I'M ASKING YOU WHETHER YOU KNOW WHETHER THEY WERE OR
13 NOT.

14 A NO, SIR.

15 Q FINALLY, BEFORE YOU TESTIFIED TODAY, WERE YOU SHOWN A
16 PICTURE OF MR. MATTA?

17 A NO, SIR.

18 MR. STOLAR: THANK YOU. I HAVE NOTHING FURTHER.

19 THE COURT: IS THERE ANY REDIRECT?

20 MR. MEDRANO: BRIEFLY, YOUR HONOR.

21 REDIRECT EXAMINATION +

22 BY MR. MEDRANO:

23 Q AGENT TERRAZAS, WHAT DO YOU MEAN WHEN YOU SAY "A MOVING
24 SURVEILLANCE"? WHAT DOES THAT MEAN?

25 A IT MEANS THAT I AM NOT IN A FIXED LOCATION LOOKING AT ONE

1 PARTICULAR DOOR OR ONE PARTICULAR ROOM. I'M IN A VEHICLE AND
2 I'M MOVING AROUND, AT DIFFERENT LOCATIONS, LOOKING AT DIFFERENT
3 VIEWS.

4 Q WAS IT YOUR UNDERSTANDING THAT OTHER D.E.A. AGENTS WERE
5 ALSO TO HELP WITH SURVEILLANCE AT THE PLAZA DEL SOL HOTEL?

6 A YES, SIR.

7 Q YOU'RE NOT AWARE OR YOU DON'T KNOW WHAT SHIFTS THEY WERE ON
8 AT THE HOTEL?

9 A NO, SIR; I DO NOT.

10 Q WHAT AGENTS COVERED WHAT PARTICULAR AREAS OF THE HOTEL?

11 A NO, SIR.

12 Q WHEN YOU WERE -- STRIKE THAT.

13 EARLIER AT SOME POINT, YOU WERE AT THE M.F.J.P.
14 HEADQUARTERS IN GUADALAJARA; CORRECT?

15 A YES, SIR; THAT'S RIGHT.

16 Q AND THERE WERE M.F.J.P. AGENTS THAT ALSO SAT IN ON
17 BRIEFINGS WITH YOU; IS THAT RIGHT, TOO?

18 A ALL M.F.J.P. AGENTS WERE THERE AT THE COMMANDANCIA. THEY
19 WERE THERE ALL TODAY. AND THAT'S WHERE THEY RECEIVED THEIR
20 ORDERS AND THAT'S WHERE THEY LEFT TO, WHATEVER JOBS THEY HAD TO
21 DO. AND THAT'S WHERE THEY RETURNED.

22 Q YOU NEVER SAW ANY OF THOSE M.F.J.P. AGENTS AT THE HOTEL,
23 THE PLAZA DEL SOL, DID YOU?

24 A NO, SIR.

25 MR. MEDRANO: THAT CONCLUDES REDIRECT, YOUR HONOR.

1 MR. STOLAR: MAY I JUST HAVE A MINUTE TO ASK HIM SOME
2 QUESTIONS?

3 RECROSS-EXAMINATION +

4 BY MR. STOLAR:

5 Q CAN YOU TELL US WHAT TIME IT WAS THAT YOU LEFT THE M.F.J.P.
6 TO TAKE THE PORTABLE RADIO, TO GO OVER THERE?

7 A IT WAS IN THE EVENING. I BELIEVE THE PLAZA DEL SOL
8 SHOPPING CENTER CLOSES AT 10:00 P.M. AND WHEN THEY DROPPED ME
9 OFF, THE SHOPS WERE ALREADY CLOSED.

10 Q THEY WERE ALREADY CLOSED?

11 A THEY WERE ALREADY CLOSED.

12 Q SO IT WOULD BE AFTER 10 O'CLOCK THAT YOU GAVE THE RADIO TO
13 LEYVA; IS THAT RIGHT?

14 A YES, SIR.

15 Q DO YOU HAVE A SPECIFIC RECOLLECTION OF THAT?

16 A I REMEMBER THAT THE SHOPS, SAFE A FEW RESTAURANTS, WERE ALL
17 CLOSED.

18 Q AND IF YOU CAN, HOW LONG WAS IT -- HOW LONG WERE YOU
19 INVOLVED WITH LEYVA FROM THE TIME YOU ARRIVED THERE UNTIL THE
20 TIME YOU LEFT? THAT IS, THE INCIDENT IN THE BATHROOM, ET
21 CETERA.

22 A APPROXIMATELY 30 MINUTES.

23 Q ALL RIGHT. AND THEN YOU WENT BACK TO THE SHOPPING CENTER;
24 IS THAT RIGHT?

25 A YES, SIR.

1 Q AND THE SHOPS WERE STILL CLOSED?

2 A YES, SIR.

3 Q HOW LONG DID YOU WAIT FOR GONZALEZ?

4 A I DIDN'T WAIT. HE MET ME AS I WAS WALKING THROUGH THE
5 SHOPPING CENTER.

6 Q AND THEN YOU CAME BACK AND CONTINUED YOUR OUTSIDE
7 SURVEILLANCE; IS THAT RIGHT?

8 A YES, SIR.

9 Q CAN YOU GIVE US A TIME ESTIMATE AS TO WHEN IT IS THAT YOU
10 RECOMMENCED YOUR OUTSIDE SURVEILLANCE?

11 A IMMEDIATELY AFTER BEING PICKED UP BY JOE GONZALEZ.

12 Q THAT WOULD BE WHAT, AROUND 10:30, 11 O'CLOCK? 11:30?

13 A IT WAS ABOUT THAT TIME, YES.

14 Q I'VE GIVEN YOU A WHOLE HOUR'S RANGE. 11 O'CLOCK FAIR?

15 A YOU MEAN --

16 Q 11:30?

17 A IT WAS, JUST, ANY TIME AFTER THAT: 10:30, 11:00.

18 MR. STOLAR: THANK YOU, SIR.

19 MR. MEDRANO: NOTHING ELSE, YOUR HONOR.

20 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. WE'LL TAKE
21 OUR NOON RECESS AT THIS TIME.

22 THE CLERK: PLEASE RISE.

23 (NOON RECESS.)

24 ---0---

25

1 LOS ANGELES + CALIFORNIA, TUESDAY, JUNE 6, 1990

2 + 1:30 P.M.

3 (JURY PRESENT:)

4 MR. CARLTON: YOUR HONOR, AT THIS TIME, I UNDERSTAND
5 THAT MR. STOLAR IS WILLING TO RESUME THE CROSS-EXAMINATION OF
6 AGENT RAWALT.

7 THE COURT: WELL, YOU MAY CROSS-EXAMINE THE WITNESS.

8 MR. STOLAR: THANK YOU, YOUR HONOR.

9
10 RONALD RAWALT + PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

11
12 CROSS-EXAMINATION +

13 BY MR. STOLAR:

14 Q GOOD AFTERNOON, AGENT.

15 A GOOD AFTERNOON, COUNSEL.

16 Q I BELIEVE YOU'VE INDICATED YOU ARE A SPECIALIST IN FORENSIC
17 EXAMINATIONS AND THE SWEEPINGS OF FORENSIC SITES.

18 A THE SPECIALTY THAT I WAS ASSIGNED IS THE SPECIALTY OF
19 FORENSIC MINEROLOGY, WHICH INCLUDES THE RETRIEVAL OF EVIDENCE.

20 Q OKAY. YOU MENTIONED, DURING THE CONCLUSION OF YOUR
21 DESCRIPTION OF WHAT YOU DID IN JUNE, THERE A YOU PUT A
22 SUPERGLUE BOMB IN THE BEDROOMS; IS THAT RIGHT?

23 A THAT IS WHAT IT'S REFERRED TO, YES. IT'S JUST A LITTLE
24 PACKET THAT YOU OPEN AND ALLOW THE FUMES TO PROPAGATE THROUGH
25 THE ROOM AND COLLECT ON ANY AMINO ACID TYPE OF SUBSTANCE.

1 Q THAT'S SO THAT ANY SORT OF LATENT FINGERPRINTS THAT ARE
2 THERE MIGHT BE ABLE TO COME UP?

3 A THAT IS THE TECHNIQUE, YES.

4 Q ANY OTHER THINGS? BLOOD SAMPLES, FOR EXAMPLE, WOULD SHOW
5 UP?

6 A I DON'T KNOW THE BLOOD SAMPLES. I KNOW THAT IT WORKS FOR
7 LATENT FINGERPRINTS THROUGH THE PROTEIN AND AMINO ACID, BUT I
8 DON'T KNOW ANYTHING ABOUT THE BLOOD.

9 Q AFTER YOU SET OFF THE SUPERBLUE BOMB, YOU SAID YOU SEALED
10 THE BEDROOM?

11 A THAT'S RIGHT.

12 Q AND THE PURPOSE TO SEAL THE BEDROOMS THAT WAS TO PRESERVE
13 THE SITE?

14 A NO. THE PURPOSE OF SEALING THE BEDROOM WAS TWOFOLD: ONE
15 WAS TO CONCENTRATE THE FUMES, ALLOW THEM THEN TO WORK ON THE
16 FINGERPRINTS; AND TWO WAS AS TO SEAL THE BEDROOM FROM
17 INTRUSION.

18 Q FROM INTRUSION?

19 A YES.

20 Q AND IN FACT, IN THE SEARCHING OF CRIME SCENES FOR FORENSIC
21 EVIDENCE, SEALING THE SCENES TO PREVENT INTRUSION IS A RATHER
22 SIGNIFICANT STEP, IS IT NOT?

23 A WHEN POSSIBLE, YES.

24 Q IT PREVENTS ANY DISTURBANCE OF WHAT IS ON THE SCENE; IS
25 THAT CORRECT?

1 A THE SEALING OF THE SCENE WILL NOT ONLY PREVENT THAT, IT CAN
2 PRESENT CONTAMINATION FROM SOMEBODY BRINGING SOMETHING IN OR
3 CARTING SOMETHING OFF.

4 Q RIGHT. WHEN YOU FIRST CAME TO GUADALAJARA, IT WAS IN APRIL
5 OF 1985; IS THAT RIGHT? MID-APRIL?

6 A YES, SIR.

7 Q AND YOU HAD BEEN ADVISED THEN, HAD YOU NOT, THAT THE BODY
8 OF AGENT CAMARENA HAD BEEN DISCOVERED IN EARLY MARCH, MARCH 6TH
9 OR SO; IS THAT RIGHT?

10 A I DON'T RECALL THE EXACT DATE, BUT IT WAS APPROXIMATELY A
11 MONTH BEFORE I WENT TO GUADALAJARA.

12 Q AND IT WAS ALSO APPROXIMATELY A MONTH BEFORE THAT THAT,
13 FEBRUARY THE 7TH, THAT AGENT CAMARENA HAD BEEN REPORTED
14 MISSING; IS THAT RIGHT?

15 A YES.

16 Q AND THE SUSPICION WAS THAT HE HAD BEEN HELD AT 881 LOPE DE
17 VEGA; IS THAT CORRECT?

18 A THAT IS CORRECT.

19 Q SO THERE WAS A LITTLE OVER A TWO-MONTH PERIOD BETWEEN THE
20 TIME THAT A LONG TIME CAMARENA MAY HAVE BEEN HELD THERE AND THE
21 TIME THAT YOU WERE -- GAINED ACCESS TO 881 TO DO YOUR FORENSIC
22 EXAMINATION; IS THAT RIGHT?

23 A THAT IS CORRECT, SIR.

24 Q WOULD IT BE FAIR TO SAY THE SCENE WAS NOT SECURED DURING
25 THAT TWO-MONTH PERIOD?

1 A IT CERTAINLY WAS NOT SECURE WHEN I WENT IN, HAVING POLICE
2 OFFICERS PRESENT RIGHT BEFORE I GOT THERE. I DON'T KNOW WHAT
3 HAPPENED THE PREVIOUS TWO MONTHS.

4 Q IN FACT, YOU HAVE NO IDEA WHO WAS IN AND OUT OF THAT PLACE
5 IN THAT TWO-MONTH PERIOD, DO YOU?

6 A THAT'S CORRECT.

7 Q AND YOU CAN'T GIVE US, CAN'T GIVE THE JURY, ANY ASSURANCE
8 THAT THERE WERE NOT OTHER PEOPLE WHO MARCHED IN AND MARCHED
9 OUT, DISTURBED THINGS, REMOVED THINGS OR LEFT THINGS THERE; IS
10 THAT CORRECT?

11 A THAT'S CORRECT.

12 Q AND THEN, YOU CAME BACK, WHAT: IN JUNE? ABOUT SIX MONTHS
13 LATER? JUNE THE 25TH OR SO?

14 A IT WAS ABOUT, I BELIEVE, WHAT: 10 WEEKS LATER?

15 Q YOU'RE RIGHT. ABOUT 10 WEEKS LATER.

16 AND, SAY IN THAT TWO-MONTH TIME OR TWO-MONTH --
17 CHANGE -- PERIOD OF TIME, CAN YOU PROVIDE ANY ASSURANCE THAT
18 THE SCENE THAT YOU WERE GOING BACK TO TO GET MORE FORENSIC
19 EVIDENCE WAS NOT DISTURBED.

20 MR. CARLTON: OBJECTION, YOUR HONOR. IMPROPER
21 QUESTION, ASKING FOR ASSURANCES FROM THE WITNESS.

22 THE COURT: RESTATE YOUR QUESTION.

23 BY MR. STOLAR:

24 Q WELL, DO YOU KNOW WHETHER OR NOT THINGS WERE REMOVED FROM
25 881 DURING THAT TWO-MONTH PERIOD?

1 A YES.

2 Q THINGS WERE REMOVED, WEREN'T THEY?

3 A YES, SIR.

4 Q THINGS WERE DISTURBED IN THERE, WEREN'T THEY?

5 A YES, SIR.

6 Q IT APPEARS FROM YOUR, AT LEAST, GROSS EXAMINATION OF THE
7 SCENE THAT THERE HAD BEEN ACCESS TO 881 BY PERSONS UNKNOWN TO
8 YOU; IS THAT RIGHT?

9 A THAT IS CORRECT.

10 Q ON YOUR FIRST VISIT THERE, YOU WENT WITH SPECIAL AGENT
11 MICHAEL MALONE; IS THAT RIGHT?

12 A THAT IS CORRECT.

13 Q FAIR TO SAY HE'S YOUR SUPERIOR, OR IS HE THE SAME LEVEL AS
14 YOU?

15 A AT THE TIME, HE WAS THE SAME LEVEL AS I WAS. HOWEVER, I
16 WAS ASSIGNED AS THE CASE AGENT FOR THE EXAMINATION AND WAS
17 RESPONSIBLE FOR INSURING THAT THE GOALS OF THE INVESTIGATION
18 WERE MET DOWN THERE.

19 Q OKAY. YOU ALSO WENT WITH ANOTHER GENTLEMAN FROM THE F.B.I.
20 DIDN'T YOU FRANK QUEJADA (PHONETIC)?

21 A NO, SIR. FRANK QUEJADA WAS THE ASSISTANT LEGAT STATIONED
22 IN MEXICO CITY. HE CAME TO GUADALAJARA AT MY REQUEST SO THAT I
23 COULD HAVE SOMEBODY AT THE SITE TO ASSIST ME IN TAKING NOTES OR
24 MEASUREMENTS, HOLDING THE END OF A TAPE, PHOTOGRAPHING, IF
25 NECESSARY, OR WHATEVER I DEEMED NECESSARY AT THE TIME.

1 Q WHAT'S A LEGAT? IS THAT L E G A T?

2 A YES.

3 Q WHAT'S THAT?

4 A THAT'S A LEGAL ATTACHE, FOR ABBREVIATION. HE WAS THE
5 ASSISTANT LEGAL ATTACHE IN THE COUNTRY OF MEXICO AT THE TIME.

6 Q AND YOU HAVE LATENT FINGERPRINT SPECIALISTS CARL COLLINS
7 AND AL ROSE WITH YOU?

8 A YES, SIR.

9 Q AS WELL AS D.E.A. SPECIAL AGENTS VICTOR WALLACE AND RALPH
10 ARROYO (PHONETIC); IS THAT RIGHT?

11 A THAT IS CORRECT, AND THERE WERE ADDITIONAL D.E.A. OFFICERS.

12 Q THERE WERE ADDITIONAL PEOPLE THERE?

13 A YES.

14 Q NOW, AFTER MAKING A -- ACTUALLY BEFORE WERE ABLE TO DO ANY
15 OF YOUR VACUUMING, YOU HAD TO HOOK UP THE ELECTRICITY, DIDN'T
16 YOU?

17 A YES, SIR.

18 Q BECAUSE THE ELECTRICAL WIRES HAD BEEN EITHER CUT OR RIPPED
19 OUT; IS THAT CORRECT?

20 A THAT IS CORRECT.

21 Q AND YOU HAD TO PUT THEM BACK TOGETHER SO YOUR VACUUM
22 CLEANER WOULD WORK AND YOU'D HAVE LIGHT?

23 A YES, SIR.

24 Q WERE YOU ABLE TO DO THAT?

25 A YES, SIR.

1 Q WAS THE M.F.J.P. THERE WITH YOU, AGENTS FROM THE M.F.J.P.?

2 A THERE WAS A RATHER LARGE CONTINGENT OF M.F.J.P. THERE WHEN
3 WE FIRST ARRIVED. IT THINNED OUT OVER THE NEXT FEW DAYS.

4 Q AT ALL TIMES WHEN YOU WERE DOING YOUR FORENSIC WORK, WAS
5 THERE AN M.F.J.P. AGENT ACCOMPANYING YOU?

6 A NO, SIR. THERE WAS INITIALLY, BUT THEY BECAME BORED WITH
7 US AND LEFT US ALONE. THEY'D BE OUT IN THE HALLWAY, BUT WOULD
8 NOT BE WATCHING US THE ENTIRE TIME, AS THEY'D STARTED OUT TO.

9 Q IN THE GUEST HOUSE BATHROOM YOU TOOK A THROW RUG FROM THAT
10 BATHROOM; IS THAT RIGHT?

11 A ANYTHING THAT WAS SEIZED FROM THE GUEST HOUSE AND GUEST
12 HOUSE BATHROOM WAS SEIZED BY SPECIAL AGENT MALONE, AND I DON'T
13 RECALL WHAT ALL WAS THERE. I WAS SIMPLY INITIALING BAGS FOR
14 HIM AT THAT POINT IN TIME.

15 Q WELL, THERE WERE FIVE SETS OF VACUUM SWEEPINGS FROM THE
16 CARPET IN THE BATHROOM AND THE GUEST HOUSE BATHROOM; IS THAT
17 RIGHT?

18 A THERE WOULD BE, I BELIEVE, FOUR FROM THE CARPET AND ONE
19 FROM THE BATHROOM, IF I RECALL CORRECTLY.

20 Q ALL RIGHT. THERE WERE SOME ITEMS TAKEN FROM THE BATHROOM
21 FLOOR AND MARKED?

22 A THERE WERE SEVERAL ITEMS TAKEN FROM THE BATHROOM. I
23 BELIEVE A P TRAP, POSSIBLY A THROW RUG. THERE WERE SOME LOOSE
24 ITEMS IN THERE.

25 Q THE DRAIN WAS TAKEN FROM THE SINK THERE, TOO; RIGHT?

1 A THAT'S THE P TRAP. YES, SIR.

2 Q ALL RIGHT. THEN YOU WENT TO -- YOU ALSO WENT TO THE TOP
3 FLOOR BEDROOM; IS THAT RIGHT?

4 A YES, SIR.

5 Q AN THERE YOU TOOK TWO SETS OF VACUUM SWEEPINGS FROM THE
6 CARPET?

7 A AGAIN, I DON'T RECALL THE SPECIFIC NUMBER. THEY WERE
8 SEIZED BY SPECIAL AGENT MALONE. I WAS SIMPLY LETTERING THE
9 BAGS FOR HIM AT THAT POINT IN TIME.

10 Q DID YOU DO THE VACUUMING?

11 A NO. SPECIAL AGENT MALONE DID THE VACUUMING.

12 Q THE BED CLOTHING WAS TAKEN FROM THERE, TOO?

13 A YES, SIR.

14 Q AND A CARPET SAMPLE OF THE WALL-TO-WALL CARPET; IS THAT
15 RIGHT.

16 A THAT IS CORRECT.

17 Q IN THE TOP FLOOR BATHROOM, SOME VACUUM SWEEPINGS FROM TAKEN
18 FROM THE FLOOR OF THAT, WERE THEY NOT?

19 A YES, SIR.

20 Q THE DRAIN FROM THE SINK WAS TAKEN AGAIN?

21 A I BELIEVE YOU'RE CORRECT.

22 Q AND COME CLOTH, A PIECE OF CLOTH, WAS TAKEN OUT OF THERE;
23 RIGHT?

24 A YES, SIR.

25 Q AND ALSO FROM THE TOP FLOORY TILE FOYER, YOU TOOK SWEEPINGS

1 FROM THE FLOOR; IS THAT RIGHT?

2 A YES, SIR.

3 Q YOU WENT OUT TO THE TENNIS COURT AND YOU FOUND A SYRINGE
4 OUT THERE; RIGHT?

5 A YES, I DID.

6 Q ON THE REAR GROUNDS, YOU FOUND VARIOUS PAPERS, SOME GRAY
7 TAPE AND SOME RED TAPE; IS THAT RIGHT?

8 A THERE WAS A LOT OF DIFFERENT DEBRIS FOUND IN THE REAR
9 GROUNDS.

10 Q AND YOU ALSO TOOK CARPET SAMPLES FROM THE FRONT BEDROOM THE
11 FRONT HALLWAY THE DINING/LIVING ROOM AREA, THE MIDDLE BEDROOM
12 AND THE RIGHT SIDE OF THE THIRD BEDROOM AND THE RIGHT SIDE OF
13 THE FOURTH BEDROOM; IS THAT CORRECT?

14 A SPECIAL AGENT MALONE TOOK THOSE. I WAS WITH HIM WHEN HE
15 TOOK THOSE.

16 Q OKAY. THEN YOU WANTED TO DO A SWEEP, A FORENSIC SWEEP, OF
17 THE FOUR MAIN HOUSE BATHROOMS; IS THAT RIGHT?

18 A YES, SIR.

19 Q BUT YOU COULDN'T DO THAT ON THAT DAY; IS THAT RIGHT?

20 A THAT IS CORRECT.

21 Q AND THAT'S BECAUSE THE M.F.J.P. BASICALLY TERMINATED YOUR
22 SEARCH PROCEDURE; IS THAT RIGHT?

23 A YES, SIR.

24 Q ON THE 15TH, YOU DID SOME MORE SOIL SAMPLES AND CARPET
25 SAMPLES AND THINGS LIKE THAT; IS THAT RIGHT?

1 A (NO AUDIBLE RESPONSE.)

2 Q YOU WENT TO RANCHO LA AURORA AT PUENTE GRANDE IN MEXICO;
3 RIGHT?

4 A THAT IS CORRECT.

5 Q AND, ALSO, ON THE 15TH, YOU RECEIVED PERMISSION FROM MRS.
6 ALFREDO ZAVELAR (SIC) TO EXAMINE HER RESIDENCE FOR CARPET; IS
7 THAT RIGHT?

8 A I DID NOT EXAMINE HER RESIDENCE, SIR.

9 Q YOU RECEIVED PERMISSION TO EXAMINE THE RESIDENCE.

10 A YES. THAT WAS DONE BY A D.E.A. AGENT AND BY MICHAEL
11 MALONE.

12 Q ALL RIGHT. IT WAS DETERMINED THAT THE RESIDENCE HAD NO
13 CARPET; IS THAT CORRECT?

14 A THAT IS CORRECT.

15 Q ALSO, ON THE 13TH, YOU ALSO DID SOME SWEEPING AND GOT SOME
16 FORENSIC EVIDENCE FROM A VOLKSWAGEN, BEIGE VOLKSWAGEN, LOCATED
17 UNDER THE CARPORT AT 881; IS THAT RIGHT?

18 A TECHNICALLY, YES. WE PROCESSED THAT VEHICLE. IT WAS NOT
19 LOCATED UNDER THE CARPET. IT WAS RIGHT NEXT TO THE CARPORT.

20 Q OKAY. YOU TOOK VARIOUS ITEMS FROM THE TRUNK; IS THAT
21 CORRECT?

22 A THAT IS CORRECT.

23 Q INCLUDING VACUUM SWEEPINGS?

24 A AGAIN, THE VACUUM SWEEPINGS WOULD HAVE BEEN TAKEN BY
25 SPECIAL AGENT MALONE. I SIMPLY ASSISTED HIM IN THE PROCESSING

1 OF THE VEHICLE THEN.

2 Q ALL RIGHT. YOU ALSO CHECKED THE FRONT SEAT AREA OF THE
3 CAR; CORRECT? YOU AND MALONE TOGETHER?

4 A SPECIAL AGENT MALONE AND THE LATENT FINGERPRINT SPECIALIST
5 DID, AND ALL I DID WAS TAKE NOTES AND HANDLE THINGS FOR THEM
6 WHEN THEY REMOVED THEM FROM THE VEHICLE.

7 Q OKAY. IN THE FRONT SEAT AREA, THERE WERE VACUUM SWEEPINGS
8 TAKEN FROM THE FLOOR AND FROM THE SEAT; IS THAT RIGHT?

9 AS I BELIEVE THAT IS CORRECT.

10 Q AND VARIOUS CIGARETTES AND FABRIC PIECES AND MISCELLANEOUS
11 ITEMS?

12 A YES, SIR.

13 Q YOU ALSO DID THE REAR SEAT AREA; CORRECT?

14 A YES, SIR.

15 Q TAKING VACUUM SWEEPINGS FROM THE FLOOR AND FROM THE SEAT?

16 A AGAIN, SPECIAL AGENT MALONE DID; YES, SIR.

17 Q ALL RIGHT. MISCELLANEOUS ITEMS, THE REAR WINDOW LIGHTER,
18 AND THE REAR PASSENGER ASHTRAY; RIGHT?

19 A YES, SIR.

20 Q WHEN YOU GOT BACK TO THE LAB IN WASHINGTON, D.C., YOU
21 REMOVED THE VARIOUS EVIDENCE BAGS THAT YOU HAD OBTAINED IN THE
22 APRIL AND THE JUNE FORENSIC SEARCHES; IS THAT CORRECT?

23 A YES, SIR.

24 Q AND WAS IT YOUR PRACTICE, THEN, WITH AN UNKNOWN SAMPLE --
25 THAT IS, SOMETHING TAKEN FROM, SAY, THE REAR BEDROOM, THE ONE

1 YOU IDENTIFIED BEFORE FOR THE JURY -- TO MARK THAT OR GIVE IT A
2 DIFFERENT NUMBER A Q NUMBER, AS "QUESTIONED SAMPLE"? IS THAT
3 WHAT YOU DID?

4 A YES, SIR.

5 Q THE EXHIBIT THAT YOU HAD IN FRONT OF YOU, THAT -- AND I
6 DON'T REMEMBER THE NUMBER; I'M SORRY -- THAT YOU SAY CAME FROM
7 THE REAR BEDROOM, THE BEDROOM MARKED NO. 4, DO YOU HAVE THAT IN
8 FRONT OF YOU?

9 THAT IS GOVERNMENT'S EXHIBIT NUMBER?

10 A PLAINTIFF'S EXHIBIT 107.

11 Q 107. DID THAT BECOME MARKED -- WELL, DID THAT BECOME
12 MARKED WITH A Q NUMBER?

13 A YES, IT DID.

14 Q AND WHAT'S THE Q NUMBER ON THAT?

15 A THE Q NUMBER RELATIVE TO THAT ITEM IS Q 106.

16 Q 106? THAT WOULD BE VACUUM SWEEPINGS FROM THE CARPET ON THE
17 RIGHT SIDE OF THE FOOT OF THE BED; IS THAT CORRECT?

18 A YES, SIR.

19 Q IN THE BEDROOM THERE, CAN YOU TELL US AND, IF THE
20 GOVERNMENT DOESN'T MIND, CAN YOU MARK FOR WITH US A PEN WHERE
21 THE BED WAS, SO THAT WE KNOW WHERE THE RIGHT SIDE AND FOOT OF
22 THE BED IS, WHERE THESE CAME FROM?

23 A YES, SIR.

24 Q DO YOU HAVE A PROBLEM? (CONFERS WITH GOVERNMENT COUNSEL
25 OFF THE RECORD.)

1 WE'RE GOING TO GIVE YOU A POST-IT NOTE AND SEE IF YOU
2 CAN TEAR IT DOWN TO SCALE.

3 A (PLACES POST-IT PAPER ON CHART.)

4 Q DO YOU HAVE A PEN THERE?

5 A I DO NOT.

6 Q WOULD YOU PUT YOUR INITIALS THERE?

7 A NOW, UNDERSTANDING THIS ISN'T TO SCALE, IT WOULD ACTUALLY
8 BE MUCH LONGER AND WIDER? (INITIALS POST-IT PAPER.)

9 Q NOW, WHERE WOULD THE WINDOWS ON THAT BEDROOM BE?

10 A HERE. (PLACES TWO POST-ITS ON CHART.)

11 Q YOU PUT TWO MORE POST-ITS TOGETHER, INDICATING THE WINDOWS
12 ON THE RIGHT SIDE OF IT.

13 WOULD YOU PUT YOUR INITIALS ON THAT

14 A (COMPLIES.)

15 Q WHILE YOU'RE UP THERE, YOU INDICATED THERE WAS ANOTHER
16 SAMPLE. SWEEPINGS WERE TAKEN FROM THE BATHROOM ASSOCIATED WITH
17 THAT BEDROOM; IS THAT CORRECT?

18 A YES, SIR.

19 Q AND SHOW US AGAIN WHICH BATHROOM THAT IS?

20 A THE BATHROOM ADJOINING THE REAR BEDROOM.

21 Q CAN YOU TELL US WHICH PORTION OF THE BATHROOM? THAT IS,
22 THE ONE CLOSEST TO THE OUTER WALL, THE INNER WALL, NEAR THE
23 SHOWER?

24 A NO, SIR. THERE WAS NOT A LARGE AMOUNT OF DEBRIS. IT WAS
25 PROCESSED IN WHOLE, IN TOTAL. THE FLOOR AND COUNTER WAS

1 PROCESSED AT ONE TIME.

2 Q ALL TOGETHER, SWEEPED AT ONCE?

3 A YES.

4 Q AND STUFFED IN THE SAME BAG?

5 A YES, SIR.

6 Q THAT BECAME Q NO. 104?

7 A I WOULD HAVE TO SEE THE -- IF YOU'RE READING DIRECTLY FROM
8 THAT, IT WOULD BE THE REAR BEDROOM.

9 Q THE REASON I'M ASKING YOU IS THAT WHAT WAS INDICATED HERE
10 IS THAT THE SWEEPINGS WERE FROM THE BATHROOM FLOOR. IT SAID
11 NOTHING ABOUT COUNTERS.

12 WOULD THAT BE Q 104?

13 A YES. 104. I HAVEN'T REVIEWED THAT STUFF SINCE THAT DATE.

14 Q OKAY.

15 A DID YOU STILL WANT ME TO MARK IT? YOU ASKED ME WHERE THE
16 SWEEPINGS CAME FROM.

17 Q IN THE BATHROOM?

18 A NO, YOU ASKED ME ORIGINALLY.

19 Q OH. WELL, YOU SAID TO US IT CAME FROM THE RIGHT SIDE AND
20 THE FOOT OF THE BED.

21 A YES, AND YOU ASKED ME TO MARK THE BED AND MARK WHERE THE
22 THING WAS. I ONLY MARKED THE BED. DID YOU WANT ME TO --

23 Q NO, I THINK WE CAN FIGURE OUT WHERE THE FOOT OF THE BED IS
24 ON THE RIGHT SIDE OF THE --

25 A THANK YOU.

1 Q WELL, ACTUALLY, NO. WAS IT THE RIGHT SIDE NEAR THE WINDOW
2 OR THE RIGHT SIDE NEAR THE INSIDE WALL?

3 A THE RIGHT SIDE WOULD BE AS FACING IT.

4 Q OKAY.

5 A THAT WOULD BE BETWEEN THE WINDOWS AND THE FOOT OF THE BED.
6 SO IT WOULD REPRESENT THIS QUADRANT OF THE BED.

7 Q OKAY. INDICATING THE OUTER WALL --

8 A YES.

9 Q -- UNDER THE WINDOWS, ESSENTIALLY.

10 A AND THE VERY FOOT PORTION OF THE BED.

11 Q WAS THERE FURNITURE IN THAT BEDROOM THE FIRST TIME YOU WERE
12 THERE?

13 A THERE WAS A TABLE -- I BELIEVE IT WAS AN ENAMEL TABLE --
14 AGAINST THE WALL, A BED WITH A HEADBOARD THAT MATCHED.

15 Q LIKE A NIGHT TABLE?

16 A MORE OR LESS. IT WOULD BE A BEDROOM-TYPE TABLE.

17 Q ANY OTHER FURNITURE IN THE BEDROOM THAT YOU RECALL?

18 A I DON'T RECALL AT THIS TIME.

19 Q OH, YES. PLEASE SIT BACK DOWN. I'M SORRY. BEG YOUR
20 PARDON.

21 A (COMPLIES.)

22 Q THE SECOND TIME YOU WENT BACK THERE -- THAT WOULD BE IN
23 JUNE; IS THAT RIGHT?

24 A YES, SIR.

25 Q -- DID YOU DETERMINE THAT SOMEBODY HAD ACTUALLY BEEN LIVING

1 IN ONE OF THOSE BEDROOMS?

2 MR. CARLTON: OBJECTION, YOUR HONOR. LACK OF
3 FOUNDATION.

4 THE COURT: OVERRULED.

5 THE WITNESS: I'M SORRY, YOUR HONOR?

6 THE COURT: YOU MAY ANSWER.

7 THE WITNESS: THERE WAS EVIDENCE THAT SOMEONE HAD BEEN
8 STAYING IN BEDROOM NO. 1, DUE TO THE FACT THAT THE BED WAS
9 MADE, IT WAS RUMPLED, AND THERE WAS SOME CLOTHING LAYING ON IT.
10 BY MR. STOLAR:

11 Q AND WERE YOU ABLE TO DETERMINE THAT IT WAS THE CARETAKER OF
12 THE PROPERTY AND HIS WIFE AND TWO CHILDREN?

13 A NO, SIR. IT WAS AN M.F.J.P. OFFICER.

14 Q WHO STAYED THERE?

15 A WELL, I SAW HIM SLEEPING IN THE BED. I WOULD HAVE TO SAY
16 THAT HE WAS THERE.

17 Q DO YOU KNOW IF HIS FINGERPRINTS WERE EVER TAKEN FOR
18 COMPARISON PURPOSES?

19 A I HAVE NO IDEA.

20 Q DO YOU KNOW IF A HAIR SAMPLE WAS EVER TAKEN FROM HIM?

21 A I HAVE NO IDEA.

22 Q DO YOU KNOW WHETHER OR NOT ANY LATENT OR PATENT, THAT IS,
23 ANY FINGERPRINTS AT ALL WERE TAKEN FROM THE SCENE EITHER ON THE
24 FIRST VISIT ON THE SECOND VISIT?

25 A COULD YOU DESCRIBE -- WHAT DO YOU MEAN *SCENE*?

1 Q FROM 881, THE INTERIOR OF 881 OR THE GUEST BEDROOM, THE
2 GUEST ROOM.

3 A THERE WERE CERTAINLY ITEMS PROCESSED FROM THE SCENE
4 YIELDING PRINTS, YES.

5 Q NOW, FINALLY, ARE YOU STILL ASSIGNED TO THE F.B.I. LAB AS
6 OF TODAY?

7 A NO, SIR.

8 Q WERE ARE YOU NOW?

9 A OMAHA FIELD DIVISION.

10 Q AS AN INVESTIGATOR?

11 A YES, SIR, AS AN INVESTIGATOR.

12 Q AND, IN FACT, YOU WERE ASSIGNED OUT THERE, WHEN: IN THE
13 BEGINNING OF 88? IS THAT CORRECT?

14 A I ARRIVED IN THE END OF MARCH OF 88.

15 Q ALL RIGHT. SO YOU BASICALLY LEFT THE LAB AND WENT TO
16 BECOME AN INVESTIGATOR; IS THAT RIGHT?

17 A YES, SIR.

18 Q OKAY. OH, AND YOU DO HAVE A COLLEGE DEGREE IN EARTH
19 SCIENCES; IS THAT CORRECT?

20 A THAT IS CORRECT.

21 Q BUT NO MASTER'S OR PH.D. IN ANY OF THE FIELDS YOU TESTIFIED
22 ABOUT?

23 A NO, SIR. I DID ATTEND GRADUATE SCHOOL IN GEOLOGY AND
24 DISCONTINUED MY FORMAL EDUCATION WHEN OFFERED A POSITION WITH
25 THE F.B.I. IN 72.

1 MR. STOLAR: THANK YOU, SIR. NOTHING FURTHER.

2 THE COURT: ANY REDIRECT?

3 MR. CARLTON: NOTHING, YOUR HONOR.

4 THE COURT: YOU MAY STEP DOWN.

5 THE WITNESS: THANK YOU, YOUR HONOR. AM I EXCUSED?

6 THE COURT: YES.

7 CALL YOUR NEXT WITNESS.

8 MR. MEDRANO: YOUR HONOR, WE WOULD CALL JOSE AGUILAR
9 TO THE STAND AT THIS TIME.

10 (WITNESS SUMMONED TO COURTROOM.)

11 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

12

13 JOSE G. AGUILAR + PLAINTIFF'S WITNESS, SWORN

14

15 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
16 NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

17 THE WITNESS: JOSE G. AGUILAR. A G U I L A R.

18

DIRECT EXAMINATION +

19 BY MR. MEDRANO:

20 Q WHO ARE YOU EMPLOYED BY, MR. AGUILAR?

21 A I'M EMPLOYED BY THE DRUG ENFORCEMENT ADMINISTRATION.

22 Q HOW LONG HAVE YOU SERVED WITH THE D.E.A.?

23 A 10 YEARS.

24 Q WHAT IS YOUR CURRENT ASSIGNMENT, IN TERMS OF CITY OR
25 LOCATION?

1 A I'VE JUST BEEN TRANSFERRED TO MC ALLEN, TEXAS.

2 Q AND JUST PRIOR TO MC ALLEN, WHERE WERE YOU?

3 A SIR?

4 Q JUST PRIOR TO MC ALLEN, WHERE WERE YOU ASSIGNED?

5 A BROWNSWORTH, TEXAS.

6 Q ANY OTHER LAW ENFORCEMENT EXPERIENCE OTHER THAN YOUR D.E.A.
7 EXPERIENCE?

8 A YES, SIR. I WAS A BORDER PATROL AGENT FOR APPROXIMATELY
9 TWO AND A HALF YEARS.

10 Q AGENT AGUILAR, ARE YOU FLUENT IN ANY LANGUAGE OTHER THAN
11 ENGLISH?

12 A YES, SIR; SPANISH.

13 Q ORAL AND WRITTEN SKILLS?

14 A YES, SIR.

15 Q LET ME DIRECT YOUR ATTENTION, IF I MAY, TO ABOUT FEBRUARY
16 OF 1985. AT THAT JUNCTURE, WHERE WERE YOU ASSIGNED?

17 A I WAS ASSIGNED TO A TEMPORARY DETAIL IN MEXICO.

18 Q NOW, JUST PRIOR TO THAT, THOUGH, WHERE WERE YOU ASSIGNED?

19 WELL, LET ME REPHRASE THAT QUESTION, ACTUALLY.

20 AT SOME POINT IN ABOUT FEBRUARY OF 85, YOU WERE

21 ASSIGNED TO THE REPUBLIC OF MEXICO?

22 A YES, SIR; AND I WAS ON A TEMPORARY ASSIGNMENT IN THE STATE
23 OF OAXACA.

24 Q COULD I ASK YOU TO SPELL OAXACA?

25 A O A X A C A.

1 Q AND WHY WERE YOU IN OAXACA?

2 A I WAS PARTICIPATING IN A PROGRAM NAMED OPERATION VANGUARD.

3 Q IS THAT AN ERADICATION PROGRAM?

4 A YES, SIR; IT IS.

5 Q NOW, LET ME DIRECT YOUR ATTENTION TO ABOUT FEBRUARY 8TH OF
6 1985. ON THIS DATE, DO YOU HAVE AN OCCASION TO TRAVEL
7 ELSEWHERE IN THE REPUBLIC OF MEXICO?

8 A YES, SIR. EARLY DURING THAT MORNING, I WAS CONTACTED AT --
9 IN OAXACA, OAXACA, AND TOLD TO TRAVEL TO GUADALAJARA, JALISCO,
10 MEXICO.

11 Q AND FOR WHAT PURPOSE?

12 A I WAS ADVISED THAT ENRIQUE CAMARENA HAD BEEN TAKEN EARLIER
13 DURING THAT WEEK AND I WAS TO TRAVEL TO GUADALAJARA TO ASSIST
14 WITH THE INVESTIGATION.

15 Q NOW, BETWEEN FEBRUARY 8TH AND FEBRUARY 11, I'D LIKE TO
16 DIRECT YOUR ATTENTION TO THAT THREE-DAY PERIOD.

17 WERE YOU INVOLVED IN INVESTIGATIVE EFFORTS REGARDING
18 THE DISAPPEARANCE OF CAMARENA DURING THAT TIME PERIOD?

19 A YES, SIR; I WAS.

20 Q JUST GIVE ME SOME IDEA WHAT YOU WERE DOING DURING THAT
21 THREE-DAY PERIOD?

22 A WE PERFORMED SURVEILLANCE, DID RAIDS, IN CONJUNCTION WITH
23 M.F.J.P. WE CONDUCTED INTERVIEWS. WE PERFORMED INVESTIGATIVE
24 FOLLOW-UPS IN GUADALAJARA AND THE SURROUNDING AREAS.

25 Q LET ME DIRECT TO YOU FEBRUARY 12, 1985. ON THIS DATE, DO

1 YOU EVER HAVE AN OCCASION TO BE AT THE M.F.J.P. HEADQUARTERS IN
2 THE CITY OF GUADALAJARA?

3 A YES, SIR; I WAS.

4 Q WHY WERE YOU THERE?

5 A BY THAT TIME, WE HAD BEEN MOVED OUT OF THE CONSULATE IN
6 GUADALAJARA AND WE WERE STANDING BY AT THE M.F.J.P.
7 HEADQUARTERS IN GUADALAJARA, AWAITING ANY WORD OF THE
8 INVESTIGATION, OR TO FOLLOW UP ANYTHING RELATED TO THE
9 INVESTIGATION: SURVEILLANCE OR A RAID OR WHATEVER.

10 Q LET ME STOP YOU THERE. WERE YOU WAITING FOR INSTRUCTIONS
11 AS WELL, WHEN YOU WERE AT THE M.F.J.P. HEADQUARTERS ON FEBRUARY
12 12TH?

13 A YES, SIR.

14 Q AT ANY POINT, AGENT AGUILAR, HAVE YOU EVER BEEN TO A HOTEL
15 BY THE NAME OF THE PLAZA DEL SOL IN GUADALAJARA?

16 A YES, SIR; I WAS.

17 Q WHY DO YOU GO THAT HOTEL?

18 A I WAS ADVISED BY --

19 MR. STOLAR: OBJECTION. HEARSAY.

20 THE COURT: WE DON'T NEED TO GO INTO THAT.

21 MR. MEDRANO: I'LL REPHRASE, YOUR HONOR.

22 THE COURT: GO TO THE NEXT.

23 MR. MEDRANO: THANK YOU.

24 Q JUST ONE MORE BACKGROUND QUESTION, MR. -- OR AGENT
25 AGUILAR. BEFORE YOU -- WELL, STRIKE THAT.

1 YOU DO HAVE AN OPPORTUNITY TO GO TO THE HOTEL;
2 CORRECT?

3 A YES, SIR; I DO.

4 Q NOW, PRIOR TO THAT, YOU'RE AT THE M.F.J.P. HEADQUARTERS?

5 A YES, SIR; I WAS

6 Q CAN YOU RECALL, CAN YOU TELL US, IF THERE ARE ANY D.E.A.
7 AGENTS WITH YOU AT THE M.F.J.P. HEADQUARTERS?

8 A YES, SIR; THERE WERE.

9 Q JUST BRIEFLY, WHO WERE THERE?

10 A HORACIO AYALA, KNOWN AS TONY AYALA. JOE GONZALEZ, SALVADOR
11 LEYVA, WILLIAM TERRAZAS, CHARLIE LUGO.

12 Q WERE THERE ANY M.F.J.P. AGENTS WITH YOU, AS WELL?

13 A YES, SIR; THERE WERE?

14 Q DO YOU KNOW A MAN BY THE NAME OF COMANDANTE ARMANDO PAVON
15 REYES?

16 A YES, SIR; I DO.

17 Q AND WAS HE AT THE M.F.J.P. HEADQUARTERS, AS WELL?

18 A YES, SIR. HE WAS THE COMANDANTE AT THE TIME, IN
19 GUADALAJARA.

20 Q AT SOME POINT, SIR, YOU DO GO TO THE HOTEL PLAZA DEL SOL;
21 IS THAT RIGHT?

22 A YES, SIR; I DO.

23 Q ANBD BEFORE YOU GO THERE, DO YOU CARRY OR TAKE WITH YOU ANY
24 TYPE OF FIREARM?

25 A YES, SIR; I DO.

1 Q WHAT DO YOU TAKE WITH YOU AGENT AGUILAR?

2 A I HAD MY PERSONAL SIDEARM AND A FULLY AUTOMATIC WEAPON, A
3 RIFLE.

4 Q AND DO YOU RECALL TYPE OF HANGGUN YOU HAD?

5 A IT WAS AN AR-15.

6 Q HANDGUN.

7 A THE HANDGUN WAS A.38 REVOLVER, MODEL 13.

8 Q HOW DO YOU GET TO THE PLAZA DEL SOL HOTEL?

9 A I WAS DRIVEN TO THE HOTEL BY SPECIAL AGENT JOE GONZALEZ.

10 Q AND IS ANYONE WITH YOU WHEN YOU'RE DROPPED OFF?

11 A SPECIAL AGENT SALVADOR LEYVA.

12 Q NOW, CAN YOU TELL US WHAT HAPPENS WHEN YOU ARRIVE AT THE
13 PLAZA DEL SOL?

14 A I ARRIVED AT THE PLAZA DEL SOL AROUND 10 O'CLOCK ON THE
15 EVENING OF THE 12TH. AND I WAS THERE TO PERFORM AN UNDERCOVER
16 TYPE SURVEILLANCE UP ON THE 17TH FLOOR OF THE PLAZA DEL SOL.

17 Q NOW, AT ANY POINT, DO YOU ATTEMPT TO REGISTER AT THE PLAZA
18 DEL SOL?

19 A YES, SIR. I REGISTERED AT THE PLAZA DEL SOL WHEN WE
20 ARRIVED THERE.

21 Q AND -- STRIKE THAT.

22 NOW, WHEN YOU'RE AT THE REGISTRATION DESK, IS THIS IN
23 THE LOBBY OF THE HOTEL?

24 A YES, SIR; IT IS.

25 Q WHEN WHEN YOU'RE IN THE LOBBY OF THE HOTEL, DO YOU OBSERVE

1 OTHER PEOPLE AROUND?

2 A YES, SIR; I DO.

3 Q CAN YOU TELL US BRIEFLY WHAT IT IS THAT YOU SEE IN THE
4 VICINITY OF THE LOBBY?

5 A I OBSERVED A LARGE NUMBER OF MALE INDIVIDUALS IN THE LOBBY
6 AREA AND OUTSIDE OF THE LOBBY AND THE ENTRANCE TO THE HOTEL.

7 Q NOW, WHEN YOU REGISTER, AGENT AGUILAR, ARE YOU ENDEAVORING
8 TO GET A ROOM ON A PARTICULAR FLOOR?

9 A YES, SIR; I WAS.

10 Q AND IS THAT -- ARE YOU ABLE TO DO THAT?

11 A YES, SIR.

12 Q ULTIMATELY, DO YOU REMEMBER WHAT ROOM YOU GOT YOUR --
13 STRIKE THAT.

14 ULTIMATELY, DO YOU REMEMBER WHAT FLOOR YOU GOT THE
15 ROOM ON?

16 A YES, SIR. THE SEVENTH FLOOR.

17 Q AND AT SOME POINT, DO YOU AND AGENT LEYVA GO UP TO THAT
18 ROOM?

19 A YES, SIR; I DO.

20 Q NOW, WHILE DOING SO, DO YOU STOP ON VARIOUS FLOORS IN THE
21 ELEVATOR.

22 A YES, SIR.

23 MR. STOLAR: OBJECTION. LEADING.

24 BY MR. MEDRANO:

25 Q I DIDN'T HEAR YOUR ANSWER. I'M SORRY?

1 A YES, SIR. AS WE -- AS MYSELF AND AGENT LEYVA WALKED TO THE
2 HOTEL, WE OBSERVED ONE OF THE INDIVIDUALS IN THE LOBBY LOOKING
3 AT US AND FOLLOWING US TO THE ELEVATOR.

4 AS WE ENTERED THE ELEVATOR, WE PUNCHED EVERY BUTTON ON
5 THE ELEVATOR, AND THE INDIVIDUAL THAT FOLLOWED US DIDN'T GET
6 ON.

7 Q AND YOU -- DO YOU STOP AT EVERY FLOOR?

8 A YES, SIR; I DID.

9 Q EVENTUALLY, DO YOU AND AGENT LEYVA ARRIVE AT YOUR SEVENTH
10 FLOOR ROOM?

11 A THAT IS CORRECT.

12 Q DO YOU ENTER THE ROOM, THE TWO OF YOU?

13 A YES, SIR; WE DID.

14 Q AGENT AGUILAR, AT ANY TIME DO YOU LEAVE THE ROOM?

15 A YES, SIR. WHEN WE GOT INTO THE ROOM, I NOTICED THAT THE
16 ROOM WAS NOT IN THE AREA THAT I NEEDED TO BE IN FOR THE
17 SURVEILLANCE.

18 Q WHAT DID YOU DO THEN?

19 A I ADVISED AGENT LEYVA THAT I WOULD BE GOING DOWN TO THE
20 LOBBY AND ATTEMPTING TO GET A ROOM AT A HIGHER LEVEL, WHERE WE
21 WERE SUPPOSED TO BE AT.

22 Q DID YOU IN FACT, AGENT AGUILAR, HEAD DOWN TO THE LOBBY
23 AREA?

24 A YES, SIR; I DID.

25 Q BY YOURSELF?

1 A BY MYSELF.

2 Q CAN YOU TELL US WHAT HAPPENS WHEN YOU GOT DOWN TO THE LOBBY
3 AREA?

4 A I GOT TO THE REGISTRATION DESK AND I TOLD THE REGISTRATION
5 CLERK THAT WE NEEDED A ROOM AT A HIGHER FLOOR, THAT WE WEREN'T
6 SATISFIED WITH THE ROOM WE HAD GOTTEN; AND HE ADVISED ME THAT
7 HE HAD A ROOM ON THE 17TH FLOOR.

8 AT THAT TIME. I LOOKED OVER TO THE CASHIER'S DESK,
9 THE CHECKOUT AREA OF THE PLAZA DEL SOL.

10 Q DID YOU SEE ANYTHING THERE?

11 A YES, SIR. I OBSERVED TWO MEXICAN MALES CHECKING OUT OF THE
12 HOTEL.

13 Q LET ME STOP YOU.

14 A YES, SIR.

15 Q WHEN YOU SAY "MEXICAN," ARE YOU TRYING TO SAY THAT THEY
16 WERE MEXICAN NATIONALITY, OR ARE YOU REFERRING TO LATIN MALES?

17 A THEY WERE LATIN MALES.

18 Q NOW, PLEASE, GO AHEAD. WHAT HAPPENS WHEN YOU SEE THESE TWO
19 LATIN MALES?

20 A WELL, THE TIME -- AT THE TIME, THE TIME WAS MORE OR LESS
21 10:30 IN THE EVENING; AND I NOTICED THAT IT WAS AN ODD HOUR OF
22 THE NIGHT FOR SOMEBODY TO BE CHECKING OUT. IT DIDN'T -- IT
23 DIDN'T LOOK AS A THING TO BE DOING.

24 I NOTICED THAT ONE OF THE MALES WAS A MAN THAT HAD
25 BEEN PREVIOUSLY SHOWN TO ME IN A PHOTOGRAPH AS BEING RAMON

1 MATTA BALLESTEROS.

2 Q AGENT AGUILAR, WITH THE COURT'S PERMISSION, IF I CAN ASK
3 YOU TO ST, AND AND IF YOU CAN TELL ME IF YOU SEE ANY OF THOSE
4 TWO MALES YOU SAW ON FEBRUARY 12 IN THIS COURTROOM TODAY.

5 A YES, SIR (STANDS.) THE MAN SITTING NEXT TO THE WOMAN IN
6 THE WHITE DRESS.

7 MR. STOLAR: INDICATING THAT'S MR. MATTA.

8 THE COURT: THE RECORD WILL INDICATE DEFENDANT MATTA.

9 BY MR. MEDRANO:

10 Q AGENT AGUILAR, DO YOU REMEMBER WHAT MATTA WAS WEARING WHEN
11 YOU SAW HIM NEAR THE CASHIER'S DESK?

12 A YES, SIR. HE WAS WEARING A SUIT TYPE OF ATTIRE.

13 A A SUIT ATTIRE?

14 A YES, SIR. A SUIT JACKET AND SLACKS.

15 Q NOW, THERE WAS A SECOND MALE WITH HIM?

16 A YES, SIR.

17 Q DO YOU RECALL, IF YOU CAN, WHAT IT WAS THAT HE WAS WEARING?

18 A HE WAS ALSO WEARING A SUIT.

19 Q AGENT LEYVA -- PARDON ME -- AGUILAR, IF I CAN ASK YOU, SIR,
20 TO MOVE THAT MICROPHONE TO YOUR LEFT.

21 A YES, SIR.

22 Q JUST A LITTLE BIT MORE.

23 A YES, SIR.

24 Q VERY GOOD. BUT STILL CONTINUE SPEAKING UP, OKAY?

25 A YES, SIR.

1 Q AT ANY POINT, DOES MATTA AND THE SECOND MALE DO ANYTHING?

2 A YES, SIR. I NOTICED THAT THEY PAID THEIR BILL, AND THEY
3 HAD SOME LUGGAGE WITH THEM.

4 Q AND WHO WAS CARRYING THAT LUGGAGE, IF YOU RECALL?

5 A THE OTHER SUBJECT WITH MR. BALLESTEROS.

6 Q THE SECOND LATIN MAN?

7 A YES, SIR.

8 Q WHAT HAPPENS NEXT?

9 A I CONTINUED KILLING TIME RIGHT THERE BY THE REGISTRATION
10 DESK; AND I OBSERVED THEM GO BY ME, AND THEY WERE LAUGHING AND
11 JOKING, AND THEY PROCEEDED TO GO OUT OF THE FRONT ENTRANCE OF
12 THE PLAZA DEL SOL, AND INTO A DRIVEWAY THAT WAS OUTSIDE THE
13 HOTEL, PARKING LOT TYPE OF DRIVEWAY.

14 Q ARE YOU ABLE TO FOLLOW THE TWO MEN WHEN THIS WAS HAPPENING?

15 A YES, SIR; I WAS.

16 Q WHAT HAPPENS NEXT?

17 A I FOLLOWED BOTH MR. BALLESTEROS AND THE OTHER MALE SUBJECT
18 TO A BROWN IMPALA. THEY WENT TO THE IMPALA AND OPENED THE
19 TRUNK AND LOADED THE LUGGAGE THAT THEY HAD IN THE TRUNK.

20 AND THEN, AS THEY DROVE OUT OF, I TOOK DOWN THE
21 LICENSE NUMBER OF THE VEHICLE, AND I ATTEMPTED TO NOTIFY
22 SURVEILLANCE AGENTS OUT IN THE HOTEL PARKING LOT. AND WHEN I
23 COULDN'T FIND ANY, I WENT BACK INTO THE HOTEL AND WENT UP TO
24 THE SEVENTH FLOOR ROOM THAT WE HAD.

25 Q LET ME STOP YOU THERE, AGENT AGUILAR. DID YOU PERSONALLY

1 OBSERVE MATTA AND THE SECOND MALE ENTER THE BROWN IMPALA?

2 A YES, SIR; I DID.

3 Q AND ARE YOU ABLE TO OBSERVE THAT CAR THEN DRIVE AWAY, SIR?

4 A YES, SIR; I WAS.

5 Q THEREAFTER, IS THAT WHEN YOU THEN RETURNED TO THAT SEVENTH
6 FLOOR ROOM?

7 A YES, SIR.

8 Q WHEN YOU GO TO THAT ROOM, DID YOU EVER SEE AGENT LEYVA
9 AGAIN?

10 A YES. HE'S IN THE ROOM.

11 Q NOW, CAN YOU DESCRIBE WHAT HAPPENS AFTER THAT, AGENT LEYVA?

12 A WELL, AT THIS TIME, I TOLD AGENT LEYVA THAT WE HAD GOTTEN A
13 ROOM UP ON THE 17TH FLOOR. AND WE WENT BACK DOWN -- WENT UP TO
14 THE 17TH FLOOR, AND -- CORRECT THAT.

15 WE WENT DOWNSTAIRS, INTO THE LOBBY, AND WE CAME OUT OF
16 THE LOBBY AND WE WENT OUT THE FRONT ENTRANCE, UP A CIRCULAR
17 STAIRWELL THAT WAS ADJACENT TO THE PARKING LOT DRIVEWAY. AND
18 AS WE WERE WALKING UP THE STAIRWELL, WE NOTICED TWO INDIVIDUALS
19 STANDING ON TOP OF THE STAIRWELL LOOKING DOWN AT THE AREA WHERE
20 THE BROWN IMPALA HAD BEEN.

21 Q LET ME JUST STOP YOU THERE. THANK YOU.

22 WHILE YOU'RE WALKING, AGENT LEYVA IS WITH YOU?

23 A YES, SIR.

24 Q WHAT HAPPENS NEXT, PLEASE?

25 A WE WENT AROUND THE TWO MALES, AND THEY LOOKED AT US AND WE

1 JUST CONTINUED BY THEM AND WE WENT BACK THROUGH A WALKWAY THAT
2 LED TO THE TOWER AT THE PLAZA DEL SOL, WHERE WE WERE -- WHERE
3 THE ROOM THAT WE WERE IN WAS. WE GOT ON THE ELEVATOR AND WENT
4 UP TO THE 17TH FLOOR.

5 Q AND YOU EVENTUALLY -- STRIKE THAT.

6 DO YOU AND AGENT LEYVA EVENTUALLY GO INTO THE
7 SEVENTH -- 17TH FLOOR ROOM?

8 A YES, SIR; WE DID.

9 Q THEREAFTER, INTO THE EVENING, DID SURVEILLANCE, BY YOURSELF
10 AND OTHER AGENTS, CONTINUE?

11 A YES, SIR; IT DID.

12 Q AND IN YOUR SUBSEQUENT -- YOUR CONTINUING SURVEILLANCE, DO
13 YOU EVER HAVE OCCASION TO SEE MATTA BALLESTEROS AGAIN?

14 A NO, SIR.

15 Q AND AT SOME POINT, SIR, IS THE SURVEILLANCE CONCLUDED AT
16 THE PLAZA DEL SOL HOTEL?

17 A YES, SIR; AT APPROXIMATELY 7 O'CLOCK OR 8 O'CLOCK THE
18 NEXT -- THE FOLLOWING MORNING.

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

20 THE COURT: YES.

21 (PAUSE IN PROCEEDINGS.)

22 MR. MEDRANO: YOUR HONOR, THAT CONCLUDES DIRECT.

23 THE COURT: CROSS-EXAMINE.

24 MR. NICOLAYSEN: NOTHING, YOUR HONOR.

25 MS. KELLY: NO QUESTIONS, YOUR HONOR.

1 CROSS-EXAMINATION +

2 BY MR. STOLAR:

3 Q GOOD AFTERNOON, SIR. JUST PRIOR TO YOUR ASSIGNMENT TO
4 OPERATION VANGUARD, WHERE WERE YOU WORKING?

5 A IN MC ALLEN, TEXAS.

6 Q AND HOW LONG -- WHEN WAS IT THAT YOU WERE ASSIGNED TO
7 VANGUARD?

8 A I WAS ASSIGNED TO OPERATION VANGUARD IN DECEMBER.

9 Q 84?

10 A SIR?

11 Q DECEMBER 1984?

12 A YES, SIR.

13 Q AND IN CONNECTION WITH YOUR WORK WITH OPERATION VANGUARD,
14 DID YOU RECEIVE ANY TRAINING OR INSTRUCTION CONCERNING ANY OF
15 YOUR DUTIES OR POWERS IN THE REPUBLIC OF MEXICO AS A LAW
16 ENFORCEMENT AGENT FROM THE UNITED STATES?

17 A YES, SIR.

18 Q AND THAT INCLUDED, FOR EXAMPLE, THAT YOU HAD NO ARREST
19 POWER?

20 A THAT IS CORRECT.

21 Q WERE YOU ALSO INSTRUCTED THAT YOU WERE NOT PERMITTED TO
22 CARRY A FIREARM?

23 A NO, SIR.

24 Q I SEE. YOU WERE INSTRUCTED THAT YOU COULD NOT CONDUCT
25 SEARCHES WITHOUT WARRANTS OR DO WIRETAPS; THINGS LIKE THAT?

1 A NO, SIR.

2 Q WERE YOU INSTRUCTED THAT YOU HAD TO WORK IN COOPERATION
3 WITH THE M.F.J.P.?

4 A YES, SIR.

5 Q CAN YOU TELL US WHAT TIME OF DAY IT WAS WHEN YOU GOT
6 NOTIFIED TO GO TO GUADALAJARA?

7 A NO, SIR. I DON'T REMEMBER.

8 Q CAN YOU TELL US HOW YOU GOT THERE?

9 A INITIALLY, I STARTED OUT IN A DC-3, BUT IT BURNED AN ENGINE
10 OUT OVER CIUDAD VICTORIA, TAMAULIPAS, AND WE RETURNED BACK TO
11 MC ALLEN.

12 Q WAS THIS DAYTIME?

13 A DAYTIME.

14 Q THEN WHAT DID YOU DO, WHEN YOU GOT BACK THERE?

15 A I HAD A LATER FLIGHT ON CONTINENTAL AIRLINES, AND I FLEW
16 CONTINENTAL THROUGH HOUSTON AND HOUSTON TO MEXICO CITY.

17 Q DID YOU GO: HOUSTON TO MEXICO CITY?

18 A YES, SIR.

19 Q AND WHAT TIME DID YOU GET INTO MEXICO CITY, DO YOU KNOW?

20 A I DON'T REMEMBER.

21 A DAYTIME, NIGHTTIME?

22 A I DON'T REMEMBER.

23 Q AND HOW LONG DID YOU STAY IN MEXICO CITY?

24 A TWO DAYS.

25 Q THIS WAS -- DIDN'T THERE COME A TIME WHEN YOU WENT TO

1 GUADALAJARA?

2 A SIR?

3 Q YES?

4 A I DIDN'T HEAR YOU FIRST.

5 Q DIDN'T THERE COME A TIME WHEN YOU WENT TO GUADALAJARA?

6 A YES, SIR. THAT'S CORRECT.

7 Q WASN'T THAT THE 8TH?

8 A NO, SIR.

9 Q WHEN WAS THAT?

10 A THE 8TH OF WHAT?

11 Q FEBRUARY?

12 A YES, SIR. I WENT TO -- BUT I GOT INTO MEXICO CITY IN
13 JANUARY.

14 Q OH.

15 A AND FROM MEXICO CITY, I WENT TO OAXACA. AND FROM OAXACA --

16 Q FINE. WE MISUNDERSTOOD EACH OTHER. I APOLOGIZE.

17 WHAT I WAS INTERESTED IN WAS FROM THE TIME YOU GOT
18 NOTIFIED TO GO TO GUADALAJARA ON THE 8TH.

19 A YES, SIR.

20 Q OF FEBRUARY?

21 A YES, SIR.

22 Q I'M INTERESTED IN THE ROUTE THAT YOU TOOK FROM YOUR PRIOR
23 POST TO GUADALAJARA.

24 A OH. THEN, WHILE I WAS IN OAXACA --

25 Q RIGHT.

1 A I WENT FROM OAXACA TO MEXICO CITY. IN MEXICO CITY I
2 BOARDED ANOTHER FLIGHT AND FLEW INTO GUADALAJARA.

3 Q AND DO YOU REMEMBER WHAT TIME OF DAY IT WAS ON THE 8TH, OR
4 IF WAS THE MORNING OR NIGHT THAT YOU GOT THERE?

5 A YES, I DO. I GOT IN ABOUT OH, 1 O'CLOCK, 2 O'CLOCK IN THE
6 AFTERNOON.

7 Q ALL RIGHT. DO YOU RECALL WHAT THE WEATHER WAS?

8 A NO.

9 Q OKAY.

10 A IT WAS CLOUDY.

11 COURTROOM: (LAUGHTER.)

12 Q AND THEN YOU IMMEDIATELY GOT SOME INSTRUCTION AND WENT TO
13 WORK; IS THAT RIGHT?

14 A YES, SIR.

15 Q YOU SAID YOU WERE CONDUCTING, FOR THE NEXT THREE DAYS,
16 SURVEILLANCES, RAIDS WITH THE M.F.J.P., INTERVIEWS AND VARIOUS
17 OTHER INVESTIGATIVE FOLLOW-UPS; IS THAT RIGHT?

18 A YES, SIR.

19 Q WERE YOU WORKING WITH A PARTNER OR ALONE?

20 A I WAS WORKING WITH A PARTNER MOST OF THE TIME.

21 Q WHO WAS THE PARTNER? WAS IT THE SAME ONE MOST OF THE TIME?

22 A AN M.F.J.P. AGENT.

23 Q RIGHT.

24 A YES, SIR.

25 Q AND WERE YOU DOING ALL-NIGHT SURVEILLANCES, AS WELL?

1 A YES, SIR. WE WENT 24 HOURS A DAY.

2 Q NO SLEEP?

3 A WELL, WE SLEPT WHENEVER WE COULD CATCH A WINK.

4 Q HOW ABOUT MEALS?

5 A WHENEVER WE COULD EAT.

6 Q SO IT WAS FAIR TO SAY THAT BY THE TIME, THAT EVENING OF THE
7 12TH, YOU WERE REASONABLY TIRED?

8 A YES, SIR.

9 Q YOUR TESTIMONY IS THAT YOU ARRIVED AT THE PLAZA DEL SOL
10 HOTEL AT APPROXIMATELY 10 O'CLOCK AT NIGHT?

11 A THAT IS CORRECT.

12 Q NOW, LET ME ASK YOU THIS: BEFORE THAT, IN CONNECTION WITH
13 THE OTHER INVESTIGATIVE WORK THAT YOU WERE DOING, WERE YOU
14 MAKING NOTES OF THE RESULTS OF VARIOUS INTERVIEWS AND THINGS
15 YOU'D SEEN ON SURVEILLANCES AND THINGS RECOVERED OR NOT
16 RECOVERED IN VARIOUS RAIDS?

17 A NO. I WAS JUST A -- I WAS JUST ONE OF THE AGENTS ASSIGNED
18 THERE, AND THERE WERE OTHER AGENTS THAT WERE TAKING CARE OF THE
19 REPORT WRITING. WE WOULD COME BACK AND JUST REPORT TO THEM
20 WHAT WE HAD DONE, AND THEY WOULD WRITE -- TAKE CARE OF THE
21 REPORTS.

22 Q WHO WAS IT YOU REPORTED TO, DO YOU RECALL?

23 A WE WOULD REPORT BACK TO HORACIO AYALA.

24 Q TONY AYALA?

25 A YES, SIR.

1 Q ALL RIGHT. ANYBODY ELSE WHO WAS THERE? WAS ED HEATH
2 THERE?

3 A YES, HE WAS.

4 Q WOULD YOU REPORT TO ED HEATH, AS WELL?

5 A OUR REPORTS WERE RELAYED TO HIM DIRECTLY.

6 Q OKAY. NOW, YOU ARRIVED APPROXIMATELY 10 O'CLOCK, AND YOU
7 WERE WITH LEYVA; IS THAT RIGHT?

8 A THAT IS CORRECT.

9 Q AND WERE YOU CARRYING SUITCASES OR DUFFEL BAGS?

10 A I WAS CARRYING A GARMENT BAG?

11 Q A GARMENT BAG?

12 A YES.

13 Q WHAT WAS LEYVA CARRYING, IF ANYTHING?

14 A I DON'T REMEMBER.

15 Q WHERE WAS THE MACHINE GUN KEPT?

16 A IN THE GARMENT BAG.

17 Q HOW MANY DID YOU HAVE WITH YOU?

18 A I HAD ONE.

19 Q DO YOU KNOW IF LEYVA HAD ONE?

20 A I DON'T REMEMBER.

21 Q WOULD IT BE FAIR TO ASSUME THAT HE DID?

22 MR. MEDRANO: OBJECTION, YOUR HONOR. CALLS FOR
23 SPECULATION?

24 THE COURT: SUSTAINED.

25 BY MR. STOLAR:

1 Q WERE YOU THERE AT THE OFFICE WHEN MACHINE GUNS WERE PASSED
2 OUT?

3 A I WAS THERE WHEN I RECEIVED MINE.

4 COURTROOM: (LAUGHTER.)

5 BY MR. STOLAR:

6 Q DID YOU SEE LEYVA GET HIS?

7 A I DON'T REMEMBER IF AGENT LEYVA HAD A WEAPON.

8 Q YOUR INSTRUCTIONS WERE TO ESTABLISH A STATION OR A
9 SURVEILLANCE AT THE HOTEL; IS THAT CORRECT?

10 A YES, SIR.

11 Q YOU CHARACTERIZED OR IT WAS CHARACTERIZED AS UNDERCOVER
12 SURVEILLANCE; IS THAT RIGHT?

13 A YES, SIR.

14 Q WAS THAT BECAUSE YOU WERE PASSING YOURSELF AS SOMEBODY
15 OTHER THAN THE PERSON YOU WERE?

16 A YES, SIR.

17 Q UNDER WHAT NAME DID YOU REGISTER AT THE HOTEL?

18 A I DON'T REMEMBER.

19 Q DO YOU REMEMBER HOW YOU PAID FOR IT: WHETHER YOU HAD TO
20 SHOW THEM A CREDIT CARD?

21 A I PAID CASH.

22 Q YOU PAID CASH?

23 A YES, SIR.

24 Q UP FRONT?

25 A I DON'T REMEMBER.

1 Q DO YOU REMEMBER HOW MUCH YOU PAID?

2 A NO, SIR.

3 Q DO YOU REMEMBER IF YOU GOT THE MONEY FROM THE D.E.A. BEFORE
4 YOU WENT THERE?

5 A YES, I DID.

6 Q HOW MUCH DID THEY GIVE YOU?

7 A I GOT AN -- I HAD RECEIVED AN ADVANCE OF ABOUT \$3,000.00
8 PRIOR TO LEAVING MC ALLEN, TEXAS.

9 Q WAS THAT YOUR OWN MONEY OR FOR INVESTIGATIVE --

10 A NO. IT WAS TRAVEL ADVANCE, A GOVERNMENT TRAVEL ADVANCE.

11 Q NOW, DID YOU ALSO REGISTER LEYVA UNDER A PHONY NAME?

12 A NO, SIR.

13 Q DID YOU REGISTER HIM AT ALL?

14 A NO, SIR.

15 Q DID HE -- DID IT APPEAR ON THE REGISTRATION THAT THERE WAS
16 MORE THAN A PARTY OF ONE?

17 A I DON'T REMEMBER. HE WAS WITH ME WHEN WE REGISTERED, BUT I
18 DON'T REMEMBER IF I LISTED HIM OR DIDN'T.

19 Q AND THIS IS ON THE 12TH OF FEBRUARY AT APPROXIMATELY 10
20 O'CLOCK P.M.; IS THAT RIGHT?

21 A THAT IS CORRECT.

22 Q BY THE WAY, BEFORE YOU GOT IN AND YOU WENT INTO THE HOTEL,
23 DID YOU NOTICE A BUNCH OF ARMED MEN STANDING OUTSIDE, AROUND
24 THE HOTEL?

25 A I NOTICED A BUNCH OF MEN.

1 Q ALL RIGHT.

2 A I COULDN'T TELL YOU IF THEY WERE ARMED OR NOT.

3 Q ALL RIGHT. DID YOU NOTICE A BUNCH OF MEN SITTING IN CARS
4 OUTSIDE THE HOTEL BEFORE CAME IN TO CHECK IN?

5 A NO, SIR.

6 Q YOU WENT IN AND YOU GOT A ROOM ON THE SEVENTH FLOOR; IS
7 THAT CORRECT?

8 A YES, SIR.

9 Q DO YOU REMEMBER WHAT ROOM NUMBER?

10 A NO, SIR.

11 Q AND THEN YOU WENT UP TO YOUR ROOM; IS THAT CORRECT?
12 YOU WENT UP TO YOUR ROOM?

13 A UP TO THE SEVENTH FLOOR.

14 Q UP TO THE SEVENTH FLOOR. BUT WHEN YOU GOT ON THE ELEVATOR,
15 YOU PUNCHED OVER BUTTON; IS THAT RIGHT?

16 A YES, SIR.

17 Q AND THE REASON YOU PUNCHED EVERY BUTTON IS BECAUSE YOU
18 WANTED TO SHAKE THE GUY WHO WAS ON YOUR TAIL?

19 A THAT IS CORRECT.

20 Q YOU DO REMEMBER THAT?

21 A I REMEMBER.

22 Q AND THAT'S THE REASON WHY YOU PUNCHED EVERY BUTTON AND
23 STOPPED AT EVERY FLOOR?

24 A YES, SIR.

25 Q OKAY. SO YOU GOT TO THE SEVENTH FLOOR AND YOU NOTICED IT

1 WASN'T WHERE YOU WANTED TO BE FOR SURVEILLANCE BECAUSE IT
2 WASN'T HIGH ENOUGH?

3 A NO. WE WERE ON THE WRONG FLOOR.

4 Q I SEE. SO YOU WANTED TO BE ON A HIGHER LEVEL AND YOU WENT
5 DOWN BY YOURSELF, IS THAT RIGHT, TO THE LOBBY?

6 A THAT'S CORRECT.

7 Q YOU WERE STANDING OVER -- APPROXIMATELY HOW FAR AWAY FROM
8 THE CLERK'S OFFICE OR THE CHECK-IN COUNTER, WHERE YOU WERE, IS
9 THE CHECKOUT COUNTER?

10 A FROM WHERE I AM TO WHERE YOU ARE.

11 Q SAY ABOUT 20 FEET?

12 A THAT WOULD BE A GOOD APPROXIMATION.

13 Q OKAY. AND YOU'RE STANDING THERE TELLING THE CLERK -- WELL,
14 WERE THEY ALONG THE SAME COUNTER OR IS ONE OVER TO THE CORNER,
15 SIDEWAYS?

16 A IT WAS A SEPARATE COUNTER, BUT IT WAS JUST BROKEN, HAD A
17 PARTIAL IN THE MIDDLE AND THEN THE OTHER COUNTER, THE CASHIER'S
18 COUNTER.

19 Q THAT WOULD BE A STRAIGHT LINE?

20 A YES.

21 Q SO YOU WOULD HAVE TO TURN YOUR HEAD TO THE SIDE, TO THE
22 LEFT OR THE RIGHT?

23 A YOU HAD TO TURN YOUR HEAD TO THE SIDE.

24 Q WHICH SIDE DID YOU HAVE TO TURN YOUR HEAD TO?

25 A TO THE LEFT.

1 Q AND THERE, YOU SAY YOU SAW TWO MEN WHO APPEARED TO BE
2 CHECKING OUT?

3 A THEY WERE CHECKING OUT.

4 Q DID YOU OVERHEAR THEIR CONVERSATION?

5 A (PAUSE.) THEY WERE CHECKING OUT. I HAD BEEN, BY THEN,
6 AROUND MEXICAN HOTELS ENOUGH TO KNOW THAT THEY WERE CHECKING
7 OUT.

8 Q FROM YOUR VAST EXPERIENCE IN MEXICAN HOTELS; IS THAT RIGHT?

9 A YES, SIR.

10 Q WHAT KIND OF SUITS WERE THESE MEXICAN MALES DRESSED IN?

11 A JUST THE TYPE OF SUIT THAT YOU'RE WEARING: COAT, SLACKS.

12 Q TIE?

13 A I DON'T REMEMBER.

14 Q YOU DON'T REMEMBER THE TIE. DO YOU REMEMBER COLOR ON THE
15 SUIT OF EITHER MAN?

16 A IT WAS LIGHT COLOR. NO, NOT PARTICULARLY; NO, SIR.

17 Q CAN YOU DESCRIBE THE HEIGHT OR WEIGHT OF EITHER MAN,
18 APPROXIMATELY?

19 A ONE, MR. MATTA, WAS 5-6. THE OTHER MALE WAS ABOUT 5-8.

20 Q CAN YOU CHARACTERIZE THE BUILD?

21 MR. MEDRANO: AMBIGUOUS. WHICH --

22 BY MR. STOLAR:

23 Q EITHER. EITHER ONE?

24 A BOTH WERE -- NOT OVERWEIGHT, JUST NORMAL, AVERAGE WEIGHT.

25 Q DID EITHER ONE OF THEM WEAR GLASSES?

1 A I DON'T REMEMBER.

2 Q COULD YOU DESCRIBE THE COLOR OF HAIR OF EITHER ONE?

3 A DARK BROWN OR BLACK.

4 Q DID EITHER ONE OF THEM HAVE FACIAL HAIR?

5 A I DON'T REMEMBER.

6 Q THEY WERE LAUGHING AND JOKING, YOU SAY, AFTER THEY FINISHED
7 THEIR CHECKING OUT?

8 A THEY WERE LAUGHING AS THEY WALKED OUT.

9 Q AND MEANWHILE, YOU WERE STILL TALKING WITH THE CLERK ABOUT
10 GETTING YOUR 17TH FLOOR ROOM; IS THAT RIGHT?

11 A NO, SIR. BY THEN I HAD GOTTEN THE ROOM ASSIGNED TO ME AND
12 I WAS JUST STANDING THERE KILLING TIME.

13 Q AND THEN YOU FOLLOWED THEM -- I PRESUME NOT IN AN OBVIOUS
14 FASHION -- OUT THROUGH THE DOOR AND SAW THEM GET INTO A CAR; IS
15 THAT RIGHT?

16 A YES, SIR.

17 Q AS YOU FOLLOWED THEM OUT THE DOOR, BOTH OF THEIR BACKS WERE
18 TURNED TO YOU, WERE THEY NOT?

19 A THAT IS CORRECT.

20 Q YOU INDICATED YOU GOT THE LICENSE NUMBER ON THE CAR THAT
21 THEY GOT INTO; IS THAT CORRECT?

22 A YES, SIR.

23 Q DO YOU RECALL WHAT THAT IS? WHAT --

24 A NO, SIR.

25 Q WELL, AMONG OTHER THINGS, YOU WERE SENT TO THE HOTEL TO SEE

1 IF YOU COULD SPOT THIS MAN NAMED JUAN RAMON MATTA; RIGHT?

2 A THAT IS CORRECT.

3 Q AND YOU SPOTTED HIM, DIDN'T YOU?

4 A YES, SIR.

5 Q IN FACT, YOU EVEN IDENTIFIED CAR THAT HE GOT INTO; RIGHT?

6 A THAT IS CORRECT.

7 Q YOU WROTE A REPORT ON IT, DIDN'T YOU?

8 A NO, SIR.

9 Q WHAT? NO REPORT?

10 A NO, SIR.

11 Q THIS WAS A SIGNIFICANT CONTACT, WAS IT NOT?

12 A YES, SIR.

13 Q YOU REPORTED THE INFORMATION ORALLY TO SOMEBODY?

14 A YES, SIR.

15 Q YOU REPORTED TO ED HEATH?

16 A NO. I GAVE MY REPORT OVER THE TELEPHONE TO TONY AYALA, AND
17 THAT'S AS FAR AS IT WENT.

18 Q DID YOUR REPORT SAY THAT THREE PERSONS WERE CHECKING OUT OF
19 THE HOTEL, ONE OF WHICH RESEMBLED JUAN RAMON MATTA BALLESTEROS?

20 A I DON'T RECALL IT.

21 Q DID YOU SAY THAT TWO OF THE PEOPLE DEPARTED THE HOTEL IN A
22 1984 BUICK CENTURY?

23 A I DON'T RECALL THAT.

24 Q THAT THE CENTURY WAS MAROON IN COLOR?

25 A I DON'T RECALL IT.

1 Q THAT IT HAD AN JALISCO, MEXICO, LICENSE PLATE J F L 288?
2 DID YOU REPORT THAT?

3 A I KNOW I REPORTED A LICENSE PLATE AND I REPORTED A VEHICLE
4 AND THE TWO MALES ENTERING THE VEHICLE AND LEAVING IN THE
5 VEHICLE.

6 Q AS FAR AS YOU KNOW, YOU'RE THE ONLY ONE WHO SAW THAT CAR
7 LEAVE THE HOTEL; ISN'T THAT RIGHT?

8 A AT THE TIME.

9 MR. MEDRANO: OBJECTION, YOUR HONOR. CALLS FOR
10 SPECULATION AND CONCLUSION.

11 THE COURT: SUSTAINED.

12 BY MR. STOLAR:

13 Q ARE YOU AWARE OF ANY OTHER AGENTS WHO SAW --

14 MR. MEDRANO: SAME OBJECTION.

15 BY MR. STOLAR:

16 Q -- WHO SAW THE CAR LEAVE THE HOTEL?

17 MR. MEDRANO: LACK OF FOUNDATION.

18 THE COURT: OVERRULED.

19 THE WITNESS: COULD YOU REPEAT THE QUESTION?

20 BY MR. STOLAR:

21 Q ARE YOU AWARE OF ANY OTHER AGENT WHO SAW THE CAR LEAVE THE
22 HOTEL?

23 A I WASN'T AWARE OF IT AT THE TIME.

24 Q WELL, IF ED HEATH SENT A CABLE INDICATING THAT WAS THE
25 LICENSE PLATE, THAT WOULD HAVE TO COME FROM YOUR INFORMATION,

1 WOULDNT IT?

2 A THAT IS CORRECT.

3 MR. MEDRANO: OBJECTION, YOUR HONOR. THAT CALLS FOR
4 SPECULATION AND CONCLUSION AS TO WHAT ANOTHER AGENT WROTE.

5 THE COURT: OVERRULED.

6 BY MR. STOLAR:

7 Q THAT COULD COME FROM YOUR INFORMATION: RIGHT?

8 A THAT IS CORRECT.

9 Q AS FAR AS YOU KNOW, YOU AND LEYVA -- WELL. (PAUSE.)

10 WHILE YOU WERE OUT IN THE LOBBY DOING THAT, DID LEYVA
11 COME DOWN IN THE LOBBY?

12 A I WASN'T AWARE THAT HE HAD COME DOWN.

13 Q LATER ON, DID HE TELL YOU THAT HE HAD SEEN MATTA, TOO?

14 A NO, SIR.

15 Q WHEN YOU WENT BACK UP TO THE ROOM, AFTER YOU SAW THE CAR
16 DRIVE OFF, DID YOU TELL LEYVA WHAT YOU HAD SEEN?

17 A YES, SIR; I DID.

18 Q THEN DIDNT YOU GUYS LOOK OUT THE WINDOW AND SEE THE CAR
19 AGAIN, SEE MATTA GETTING INTO THE CAR AGAIN?

20 A NO, SIR.

21 Q YOU SURE?

22 A I DIDNT.

23 Q YOU DIDNT?

24 A NO, SIR.

25 Q SO AS FAR AS KNOW, YOU ARE THE ONLY PERSON THAT SAW MATTA

1 AT THE HOTEL --

2 MR. MEDRANO: OBJECTION.

3 BY MR. STOLAR:

4 Q -- ON FEBRUARY 12TH; IS THAT CORRECT?

5 MR. MEDRANO: ASKED AND ANSWERED. CALLS FOR
6 SPECULATION.

7 THE COURT: SUSTAINED.

8 MR. STOLAR: NO. I ASKED ABOUT THE CAR BEFORE BEFORE,
9 YOUR HONOR.

10 MR. MEDRANO: SAME OBJECTION, YOUR HONOR.

11 THE COURT: OBJECTION IS SUSTAINED.

12 BY MR. STOLAR:

13 Q WHEN YOU REPORTED IN WHO YOU HAD SEEN, IS IT NOT TRUE THAT
14 YOU SAID YOU HAD SEEN SOMEBODY WHO RESEMBLED JUAN RAMON MATTA.

15 MR. MEDRANO: OBJECTION. ASKED AND ANSWERED?

16 THE COURT: NO. OVERRULED.

17 THE WITNESS: I -- IT'S POSSIBLE.

18 BY MR. STOLAR:

19 Q NOW, YOU HADN'T PREVIOUSLY BEEN INTRODUCED TO MR. MATTA,
20 HAD YOU?

21 A NO, SIR.

22 Q YOU HADN'T PREVIOUSLY CONDUCTED ANY KIND OF SURVEILLANCE
23 WHERE YOU HAD PERSONALLY SEEN HIM, HAD YOU?

24 A NO, SIR.

25 Q YOU TESTIFIED, I BELIEVE, THAT YOU SAID YOU WERE SHOWN A

1 PHOTOGRAPH SOMETIME OF MR. MATTA; IS THAT RIGHT?

2 A PRIOR TO GOING OUT ON THE SURVEILLANCE, I WAS SHOWN A
3 PHOTOGRAPH.

4 Q AND WHERE WERE YOU SHOWN THAT PHOTOGRAPH?

5 A AT THE M.F.J.P. OFFICE OF COMANDANTE PAVON REYES.

6 Q COULD YOU DESCRIBE THAT PHOTOGRAPH, WHAT THE MAN IN THE
7 PHOTOGRAPH LOOKED LIKE?

8 A YES, SIR.

9 Q TELL ME?

10 A IT WAS A SNAPSHOT OF TWO MALE SUBJECTS LEANING ON A
11 VEHICLE.

12 Q UH-HUH?

13 A AND ONE OF THEM WAS IDENTIFIED AS RAMON MATTA BALLESTEROS.

14 Q AND THAT WAS THE ONLY TIME THAT YOU HAD EVER SEEN A PICTURE
15 OF MATTA?

16 A THAT IS CORRECT.

17 Q NOW, BETWEEN AFTER YOU -- THE SURVEILLANCE, DID YOU BACK TO
18 EITHER M.F.J.P. HEADQUARTERS OR D.E.A. -- THE D.E.A. OFFICE AND
19 LOOK AT PHOTOGRAPHS IN A BOOK TO SEE IF YOU COULD IDENTIFY,
20 MAKE SURE THAT THAT WAS THE MAN THAT YOU SAW?

21 A NO, SIR.

22 Q DID YOU EVER ATTEMPT TO LOOK THROUGH PICTURES TO IDENTIFY
23 THE MAN WHO WAS WITH THE MAN YOU SAY IS MATTA?

24 A NO, SIR.

25 Q BETWEEN FEBRUARY THE 12TH AND TODAY, HAVE YOU BEEN SHOWN OR

1 HAVE YOU SEEN ANY PHOTOGRAPHS OF JUAN RAMON MATTA?

2 A YES, I HAVE.

3 Q AND ON WHAT OCCASION?

4 A I'VE SEEN PHOTOGRAPHS OF HIM.

5 Q WELL, HOW ABOUT BEFORE YOU TESTIFIED TODAY: DID YOU SEE A
6 PHOTOGRAPH OF HIM?

7 A NO.

8 Q HOW ABOUT YESTERDAY, MONDAY?

9 A NO.

10 Q HOW ABOUT SUNDAY?

11 A NO.

12 Q SATURDAY?

13 A NO.

14 Q FRIDAY?

15 MR. MEDRANO: OBJECTION, YOUR HONOR.

16 THE WITNESS: NO.

17 MR. MEDRANO: CAN WE BE MORE SPECIFIC WITH THE TIME
18 FRAME?

19 BY MR. STOLAR:

20 Q DURING THE 24 HOURS OF FRIDAY, DID YOU SEE A PHOTOGRAPH
21 THAT YOU COULD IDENTIFY AS MR. MATTA?

22 A NO, SIR.

23 MR. STOLAR: MADAM CLERK, COULD WE HAVE DEFENDANTS C,
24 THE FIVE PHOTOS.

25 THE CLERK: THESE?

1 MR. STOLAR: IT'S 174?

2 IT'S ALSO MARKED AS GOVERNMENT'S EXHIBIT 171. I'M
3 SORRY.

4 (CLERK SEARCHES FOR EXHIBIT.)

5 THE CLERK: COUNSEL, I'M UNABLE TO LOCATE 171.

6 MR. STOLAR: ALL RIGHT. I THINK I CAN GET TO AN
7 AGREEMENT HERE.

8 (MR. STOLAR CONFERS WITH GOVERNMENT COUNSEL OFF THE
9 RECORD.)

10 MR. STOLAR: THIS IS APPARENTLY TWO PHOTOCOPIES TO BE
11 USED AS A SUBSTITUTE, PER MR. MEDRANO.

12 THE COURT: WHERE IS THE EXHIBIT?

13 MR. STOLAR: I THOUGHT IT WAS MARKED AS DEFENDANTS C.

14 THE CLERK: HERE IT IS.

15 MR. STOLAR: AH, THERE IT IS.

16 THE COURT: YOU SHOULD NOT HAVE DUPLICATE EXHIBITS.
17 IF IT'S MARKED AS A GOVERNMENT'S EXHIBIT, THAT SHOULD BE
18 SUFFICIENT.

19 (EXHIBIT PLACED BEFORE WITNESS.)

20 BY MR. STOLAR:

21 Q SHOWING YOU GOVERNMENT'S EXHIBIT 171, WHICH YOU HAVE IN
22 YOUR HAND NOW, HAVE YOU EVER SEEN THAT SET OF PHOTOS BEFORE?

23 A YES, SIR, I HAVE.

24 Q WHEN DID YOU SEE IT?

25 A LAST WEEK.

1 Q IN PREPARATION FOR YOUR TESTIMONY?

2 A NO, SIR. IT'S IN A -- IT'S ON A WALL IN A ROOM HERE IN THE
3 COURTHOUSE.

4 Q UP AT THE U.S. ATTORNEY'S OFFICE?

5 A YES, ON THAT FLOOR; ON THE 14TH FLOOR.

6 Q THE OPERATION LEYENDA TASK FORCE ROOM?

7 A YES, SIR.

8 Q THAT EXHIBIT CONTAINS ALMOST AN EXACT REPLICA OF MR. MATTA,
9 SITTING IN COURT, DOES IT NOT?

10 A (EXAMINES EXHIBIT AND LOOKS IN DIRECTION OF COUNSEL TABLE.)

11 IT'S NOT VERY GOOD PHOTO, BUT -- (NODS HEAD UP AND
12 DOWN.)

13 Q THAT'S THE MAN; RIGHT?

14 A YES.

15 Q AND IS THAT PHOTO AND THAT MAN RESEMBLE OR IS IDENTICAL TO
16 THE MAN THAT YOU SAY YOU SAW IN THE HOTEL FIVE YEARS AGO?

17 A THE MAN IS IDENTICAL.

18 Q IN EVERY RESPECT?

19 A YES, SIR.

20 Q NOW, THE FINAL QUESTION OR A FINAL TOTAL: DO YOU KNOW THE
21 POPULATION OF GUADALAJARA?

22 A NO, SIR.

23 Q IN 1985?

24 A IT WAS OVER A MILLION. I DON'T KNOW EXACTLY.

25 Q AND WOULD IT BE FAIR TO SAY YOU SAW NUMEROUS OTHER PEOPLE

1 IN GUADALAJARA, JUST BEING IN GUADALAJARA, ON FEBRUARY THE 12TH
2 1985? IS THAT RIGHT?

3 A THAT IS CORRECT.

4 Q THOUSANDS OF PEOPLE WHO WERE THERE; RIGHT?

5 A YES, SIR.

6 Q WHO REVEALED THAT THEY WERE IN GUADALAJARA THAT DAY; RIGHT?

7 A PROBABLYL.

8 MR. STOLAR: NOTHING FURTHER, I DON'T THINK. EXCUSE
9 ME.

10 THE COURT: ANY REDIRECT?

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

13 MR. STOLAR: (CONFERS WITH MR. BURNS.) NOTHING.

14 REDIRECT EXAMINATION +

15 BY MR. MEDRANO:

16 Q AGENT AGUILAR, YOU DID NOT WRITE ANY REPORTS AS TO WHAT YOU
17 OBSERVED IN THE HOTEL ON FEBRUARY 12TH; IS THAT CORRECT?

18 A THAT IS CORRECT.

19 Q AND IS IT ALSO CORRECT THAT YOU NEVER REVIEWED ANY REPORTS
20 WRITTEN BY ANYONE ELSE PERTAINING TO THE ACTIVITIES OF FEBRUARY
21 12TH?

22 A THAT IS CORRECT.

23 MR. MEDRANO: YOUR HONOR, THAT CONCLUDES REDIRECT.

24 RECROSS-EXAMINATION

25 BY MR. STOLAR:

1 Q FOR EXAMPLE, YOU NEVER REVIEWED SALVADOR LEYVA'S REPORT OF
2 WHAT YOU DID AT THE HOTEL, DID YOU?

3 A THAT IS CORRECT.

4 Q BECAUSE HE NEVER WROTE ONE, DID HE?

5 A I DON'T KNOW.

6 Q THANK YOU.

7 THE COURT: YOU MAY STEP DOWN.

8 THE WITNESS: THANK YOU, YOUR HONOR.

9 THE COURT: CALL YOUR NEXT WITNESS.

10 MR. MEDRANO: YOUR HONOR, THE GOVERNMENT WILL CALL
11 HORACIO AYALA TO THE STAND AT THIS TIME.

12 (WITNESS SUMMONED TO COURTROOM.)

13 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

14

15 HORACIO M. AYALA + PLAINTIFF'S WITNESS, SWORN.

16

17 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
18 NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

19 THE WITNESS: HORACIO M AYALA, AND IT'S SPELLED A Y
20 A L A .

21 MR. MEDRANO: YOUR HONOR, IF I MAY ASK OF MADAM CLERK
22 THAT SHE PLACE BEFORE THE WITNESS GOVERNMENT'S EXHIBIT 63 AT
23 THIS TIME.

24 THANK YOU, MADAM CLERK.

25

DIRECT EXAMINATION +

1 BY MR. MEDRANO:

2 Q MR. AYALA, WHO ARE YOU EMPLOYED BY, SIR?

3 A WOULD YOU REPEAT THE QUESTION, SIR?

4 Q WHO ARE YOU EMPLOYE BY, SIR?

5 A D.E.A., DRUG ENFORCEMENT ADMINISTRATION.

6 Q SPECIAL AGENT?

7 A YES, SIR; I AM A SPECIAL AGENT.

8 Q HOW LONG IN TOTAL HAVE YOU BEEN WITH THE D.E.A.?

9 A SINCE 1973, JULY 1ST.

10 Q YOUR CURRENT ASSIGNMENT IS IN WHAT CITY?

11 A DENVER, COLORADO.

12 Q AND IN WHAT CAPACITY ARE YOU THERE?

13 A I'M THE ASSISTANT SPECIAL AGENT IN CHARGE.

14 Q FINALLY, ANY LAW ENFORCEMENT EXPERIENCE OTHER THAN YOUR
15 D.E.A. CAREER?

16 A I WAS WITH THE U.S. CUSTOMS SERVICE, 1971 TO 1973.

17 Q IF I MAY DIRECT YOUR ATTENTION TO ON OR ABOUT FEBRUARY 11TH
18 OF 1985, ON THIS PARTICULAR DAY WERE YOU STATIONED IN A
19 PARTICULAR CITY?

20 A I WAS ASSIGNED TO GUADALAJARA.

21 Q AND WHY IS IT THAT YOU WERE STATIONED TO GUADALAJARA?

22 A I WAS PULLED IN FROM LAREDO, TEXAS, WHERE I WAS THE AGENT
23 IN CHARGE OF THE OFFICE, TO ASSIST IN THE CAMARENA
24 INVESTIGATION.

25 Q AND ON FEBRUARY 11TH, SIR, OF 1985, DO YOU HAVE OCCASION TO

1 GO TO A RESIDENCE LOCATED ON CALLE, C A L L E, MIXCOATL, M
2 I X C O A T L?

3 A YES, SIR; I DID.

4 Q WHY DO YOU GO THOUGH THAT RESIDENCE?

5 A I WANT TO THE RESIDENCE TO ASSIST THE MEXICAN FEDERAL
6 JUDICIAL POLICE IN SEARCHING THAT RESIDENCE.

7 Q AND -- WELL, THERE 'S M.F.J.P. AGENTS WITH YOU?

8 A YES, SIR; THERE WERE.

9 Q AND ARE THERE OTHER D.E.A. AGENTS, AS WELL?

10 A YES, SIR; THERE WERE.

11 Q NOW, UPON YOUR ARRIVAL, SIR -- STRIKE THAT.

12 WAS A COMANDANTE BY THE NAME OF ARMANDO PAVON REYES
13 WITH YOU AT THE RESIDENCE ON THIS DAY?

14 A YES, SIR; HE WAS.

15 Q AND WAS ANOTHER MEXICO OFFICIAL BY THE NAME OF ESPINO ALSO
16 WITH YOU?

17 A JORGE ESPINO.

18 Q JORGE ESPINO?

19 NOW, SIR, WHOSE RESIDENCE WAS THIS?

20 MR. STOLAR: OBJECTION. FOUNDATION.

21 THE COURT: SUSTAINED.

22 BY MR. MEDRANO:

23 Q WHEN YOU ARE AT THE RESIDENCE, SIR, DO YOU FIND ANYBODY AT
24 THE HOUSE?

25 A YES, SIR. WE DID

1 Q AND DO ANY OF THESE PEOPLE IDENTIFY THEMSELVES TO YOU?

2 A YES, SIR THEY DID.

3 Q AND ARE THERE ANY WOMEN THAT ARE THERE, AS WELL?

4 A YES, SIR.

5 Q AND DO ANY OF THE WOMEN IDENTIFY THEMSELVES?

6 A THAT'S WHO I WAS REFERRING TO, THAT IDENTIFIED HERSELF. IT
7 WAS A FEMALE.

8 Q AND WHAT DID SHE IDENTIFY HERSELF AS?

9 A SHE IDENTIFIED HERSELF --

10 MR. MESA: OBJECTION.

11 THE COURT: OVERRULED. RISE WHEN YOU MAKE OBJECTIONS.

12 BY MR. MEDRANO:

13 Q GO AHEAD.

14 A AS THE WIFE OF MIGUEL FELIX GALLARDO, ELVIRA FELIX --
15 ELVIRA MURRILLO DE FELIX.

16 Q SHE WAS THE WIFE OF FELIX GALLARDO?

17 A THAT IS CORRECT, SIR.

18 Q NOW, WHILE AT THE HOUSE, DO YOU ASSIST OR PARTICIPATE IN
19 THE SEARCH OF THIS RESIDENCE?

20 A YES, SIR; I DID.

21 Q NOW, CAN YOU TELL US WHAT YOU OBSERVED OR WHAT OCCURRED AS
22 PART OF YOUR SEARCH?

23 A YES, SIR AFTER THE HOUSE WAS SECURED, WE ASSISTED THE
24 MEXICO FEDERAL JUDICIAL POLICE IN A SEARCH OF THE HOUSE.

25 DURING SEARCH, COMANDANTE JORGE ESPINO REACHED UP INTO A

1 BOOKSHELF THAT WAS BEHIND A DESK IN WHAT WAS IDENTIFIED BY
2 ELVIRA AS MIGUEL FELIX'S OFFICE AND RETRIEVED A BAG, A SMALL
3 BAG. AS HE RETRIEVED THE BAG, IT OPENED, OR HE OPENED IT, AND
4 SOME DOCUMENTS AND A PHOTOGRAPH FELL TO THE FLOOR.

5 Q WHAT HAPPENS NEXT?

6 A I REACHED FOR THE PHOTOGRAPH; AND AS I LOOKED AT IT, I SAW
7 THAT IT WAS PICTURE OF SPECIAL AGENT ENRIQUE CAMARENA.

8 Q I'D LIKE TO DIRECT YOU -- HOPEFULLY IN FRONT OF YOU THERE
9 SHOULD BE AND PHOTOGRAPH OR AN EXHIBIT, GOVERNMENT'S EXHIBIT
10 63. DO YOU FIND THAT?

11 A YES, SIR.

12 Q CAN YOU TELL US WHAT GOVERNMENT'S EXHIBIT 63 IS, AGENT
13 AYALA?

14 A YES, SIR. THIS IS A PHOTOGRAPH OF SPECIAL AGENT ENRIQUE
15 CAMARENA. IT LOOKS LIKE A PHOTOCOPY OF THE PHOTO THAT I FOUND
16 AT MIGUEL FELIX'S HOUSE.

17 Q EVEN THOUGH IT IS A PHOTOCOPY, DOES IT RESEMBLE THE
18 PHOTOGRAPH THAT YOU FOUND AT THAT GALLARDO RESIDENCE?

19 A YES, SIR; IT DOES.

20 MR. MEDRANO: YOUR HONOR, WE SEEK ADMISSION OF EXHIBIT
21 63 AT THIS TIME.

22 THE COURT: MAY BE RECEIVED.

23 MR. MEDRANO: ALTHOUGH I BELIEVE IT'S ALREADY IN
24 EVIDENCE. THANK YOU.

25 (EXHIBIT 63 # RECEIVED IN EVIDENCE.)

1 MR. MEDRANO: MAY I HAVE JUST ONE MOMENT, YOUR HONOR.

2 (GOVERNMENT COUNSEL CONFER OFF THE RECORD.)

3 MR. MEDRANO: YOUR HONOR, THAT CONCLUDES THE DIRECT OF
4 AGENT AYALA.

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

6 CROSS-EXAMINATION +

7 BY MR. STOLAR:

8 Q GOOD AFTERNOON, SIR.

9 A GOOD AFTERNOON SIR.

10 Q THE DAY THAT YOU WENT TO DO THE SEARCH WAS WHAT DAY?

11 A THAT WAS FEBRUARY THE 11TH.

12 Q FEBRUARY THE 11TH 1985?

13 A 1985; YES, SIR.

14 Q AND YOU WERE ACCOMPANIED BY ANOTHER -- OTHER D.E.A. AGENTS?

15 A YES, SIR; I WAS.

16 Q WHO WAS THAT?

17 A I BELIEVE IT WAS THE COUNTRY ATTACHE OF MEXICO, MR. ED
18 HEATH; AND I BELIEVE THAT MIKE ACUNA WAS ALSO PRESENT.

19 Q DO YOU KNOW WHETHER OR NOT THE M.F.J.P. GOT A SEARCH
20 WARRANT FOR THIS PARTICULAR RESIDENCE?

21 A NO, SIR. I DON'T HAVE THAT INFORMATION.

22 Q DO YOU KNOW WHETHER ONE WAS REQUIRED UNDER THE LAW OF THE
23 REPUBLIC OF MEXICO AND THE STATE OF JALISCO?

24 MR. MEDRANO: OBJECTION, YOUR HONOR. CALLS FOR A
25 LEGAL CONCLUSION.

1 THE COURT: SUSTAINED.

2 BY MR. STOLAR:

3 Q WELL, DID YOU SEE -- HOW LONG HAD YOU BEEN WORKING IN
4 MEXICO?

5 A WELL, I'D JUST ARRIVED IN MEXICO FEBRUARY THE 9TH, SO THAT
6 SHOULD HAVE BEEN MY SECOND DAY.

7 Q AND DID YOU RECEIVE ANY INSTRUCTION OR INFORMATION FROM
8 YOUR SUPERIORS ABOUT HOW YOU WERE TO CONDUCT YOURSELF IN
9 MEXICO?

10 A I DON'T RECALL ANY SPECIFIC INFORMATION THAT I RECEIVED,
11 SIR.

12 Q WAS THAT THE FIRST TIME YOU'D EVER BEEN ASSIGNED TO A JOB
13 IN MEXICO?

14 A NO, SIR; IT WAS NOT.

15 Q WHEN WERE YOU IN MEXICO BEFORE?

16 A I WAS IN MEXICO FROM 1981 TO 1984.

17 Q DID YOU HAVE ANY OPPORTUNITY, SIR, IN THAT PERIOD OF TIME,
18 TO PARTICIPATE, IN CONJUNCTION THE M.F.J.P., IN SEARCHES OF
19 RESIDENCES, OFFICES OR BUILDINGS?

20 A YES, SIR; I DID.

21 Q DO YOU KNOW WHETHER OR NOT WARRANTS WERE OBTAINED PRIOR TO
22 THOSE SEARCHES BEING UNDERTAKEN?

23 MR. MEDRANO: OBJECTION. RELEVANCE, YOUR HONOR.

24 THE COURT: SUSTAINED.

25 BY MR. STOLAR:

1 Q DID YOU ASSIST THE M.F.J.P. IN SEARCHING THE RESIDENCE?

2 A YES, SIR; I DID.

3 Q NOW, DO YOU KNOW WHETHER HEATH AND ACUNA ALSO ASSISTED THE
4 M.F.J.P.?

5 A THAT IS CORRECT, SIR.

6 Q HOW MANY M.F.J.P. OFFICERS ALSO PARTICIPATED IN THE SEARCH?

7 A I COULDN'T GIVE A SPECIFIC NUMBER, SIR.

8 Q WELL, DO YOU KNOW IT WASN'T 50?

9 A MAYBE 15?

10 A WAS EVERY ROOM IN THE RESIDENCE SEARCHED?

11 A I COULDN'T TELL YOU THAT, SIR. I ONLY PARTICIPATED IN THE
12 SEARCH OF THAT ONE PARTICULAR PLACE.

13 Q AND WHAT WAS THE NATURE OF THE OTHER DOCUMENTS THAT FELL
14 OUT OF THE BAG?

15 A I DON'T RECALL EXACTLY WHAT THEY WERE, SIR.

16 Q WHAT KIND OF BAG WAS IT?

17 A IT WAS A SMALL -- A SMALL BAG, MAYBE APPROXIMATELY, IF I
18 RECALL CORRECTLY, MAYBE 12, 14 INCHES IN LENGTH AND MAYBE
19 APPROXIMATELY 6 INCHES IN WIDTH.

20 Q WAS IT A PAPER BAG?

21 A IT WAS A BAG THAT IS USUALLY CARRIED BY MALES IN MEXICO TO
22 CARRY DOCUMENTS AND OTHER THINGS.

23 Q LIKE A HANDBAG?

24 A A HANDBAG.

25 Q A MAN'S HANDBAG?

1 A EXACTLY.

2 Q AND YOU HAVE NO RECOLLECTION OF WHAT THE NATURE OF THE
3 OTHER DOCUMENTS WERE THAT FELL OUT?

4 A NO, SIR. IT COULD HAVE BEEN BUSINESS CARDS, THINGS LIKE
5 THAT; BUT IT WASN'T ANY LARGE PIECE OF DOCUMENT.

6 Q DID YOU RECOVER OR LOOK AT ANY OTHER PIECES OF THINGS THAT
7 HAD EVIDENTIARY VALUE WHILE YOU WERE AT THE HOUSE?

8 A WELL, I DON'T RECALL EXACTLY HOW MANY PIECES I LOOKED AT,
9 BUT I DID LOOK AT OTHER DOCUMENTATION.

10 Q WERE OTHER THINGS SHOWN TO YOU BY HEATH OR ACUNA OR OTHER
11 M.F.J.P. AGENTS?

12 A I'M SURE THAT THEY DID; YES, SIR.

13 Q LET ME ASK YOU WHETHER OR NOT -- DO YOU SEE THIS GENTLEMAN
14 I'M POINTING TO? YOU KNOW WHO MR. MATTA IS?

15 A (STANDS AND LOOKS AT DEFENDANT.)

16 A I KNOW WHO HE IS, SIR.

17 Q OKAY. DID YOU SEE HIM BEFORE?

18 A NO, SIR. I'D NEVER SEEN HIM BEFORE. I DIDN'T SEE HIM
19 THERE.

20 Q OH.

21 A WAS THAT YOUR QUESTION?

22 Q YES.

23 A NO, I DIDN'T SEEM.

24 Q ON THE DAY THAT YOU PARTICIPATED IN THE SEARCH, DID YOU SEE
25 A PHOTOGRAPH OF MR. MATTA?

1 A I DON'T RECALL IF IT WAS THAT SPECIFIC DAY. IT COULD HAVE
2 BEEN THAT DAY OR MAYBE THE FOLLOWING DAY. BUT I DID SEE A
3 PARAGRAPH OF MR. MATTA.

4 Q TAKEN FROM THE HOUSE OF -- THIS HOUSE?

5 A YES, SIR; I BELIEVE IT WAS.

6 Q AFTER THE PHOTOGRAPH OF AGENT CAMARENA WAS RECOVERED -- BY
7 YOU, YOU SAY? YOU'RE THE ONE THAT PICKED IT UP?

8 A I'M THE ONE THAT PICKED IT UP; YES, SIR.

9 Q ALL RIGHT. DID IT STAY IN YOUR CUSTODY OR DID YOU TURN IT
10 OVER TO THE M.F.J.P.?

11 A NO. I TURNED IT OVER, IF I BELIEVE CORRECTLY, TO THE
12 CUSTODY OF MR. JAIME KUYKENDALL.

13 Q OH. YOU BROUGHT IT BACK OR WAS KUYKENDALL THERE?

14 A NO, I BROUGHT IT BACK TO THE OFFICE AND GAVE IT TO MR.
15 KUYKENDALL.

16 Q WHAT ABOUT THE PICTURE OF MR. MATTA THAT YOU THINK YOU
17 MIGHT HAVE SEEN THERE? WAS THAT TAKEN BY THE M.F.J.P. OR BY
18 THE D.E.A.?

19 A I BELIEVE THAT WAS TAKEN BY A D.E.A. AGENT, BUT I CAN'T
20 RECALL EXACTLY.

21 Q DO YOU KNOW WHICH AGENT MIGHT HAVE TAKEN IT?

22 A IF I REMEMBER CORRECTLY, IT COULD HAVE BEEN MIKE ACUNA.

23 Q DO YOU REMEMBER HAVING A CONVERSATION WITH ACUNA AT THE
24 RESIDENCE THAT THIS WAS PICTURE OF MATTA?

25 AS I DON'T REMEMBER THAT, SIR; NO. I'M SORRY.

1 Q THIS PICTURE WAS A FAIRLY SIGNIFICANT FIND, WAS IT NOT?

2 MR. MEDRANO: OBJECTION. AMBIGUOUS, YOUR HONOR, AND
3 RELEVANCE.

4 THE COURT: SUSTAINED.

5 BY MR. STOLAR:

6 Q DID YOU DO ANY WRITING? DID YOU WRITE A 6 OR WRITE ANY
7 KIND OF REPORT CONCERNING YOUR RECOVERY OF THIS PHOTOGRAPH?

8 A YES, SIR; I DID.

9 MR. STOLAR: MAY I HAVE ONE MOMENT, PLEASE.

10 (DEFENSE COUNSEL CONFER OFF THE RECORD.)

11 MR. STOLAR: JUDGE RAFEEDIE, I HAVE NO MORE QUESTIONS
12 OF THIS WITNESS, SUBJECT TO RECALL, POSSIBLY.

13 THE COURT: ALL RIGHT.

14 MR. STOLAR: THANK YOU.

15 THE COURT: ANY REDIRECT?

16 MR. MEDRANO: MAY WE HAVE ONE MOMENT, YOUR HONOR?

17 (GOVERNMENT COUNSEL CONFER OFF THE RECORD.)

18 MR. MEDRANO: YOUR HONOR, NO REDIRECT OF THE WITNESS.

19 THE COURT: YOU MAY STEP DOWN.

20 THE WITNESS: THANK YOU, YOUR HONOR.

21 THE COURT: CALL YOUR NEXT WITNESS.

22 MR. MEDRANO: YOUR HONOR, AT THIS TIME, THE GOVERNMENT
23 WOULD CALL MIKE ACUNA TO THE STAND.

24 YOUR HONOR, IF I MAY INQUIRE OF MADAM CLERK IF EXHIBIT
25 65 MAY BE PLACED BEFORE THE WITNESS.

1 THE CLERK: (NODS HEAD UP AND DOWN.)

2 MR. MEDRANO: THANK YOU.

3 THE COURT: THE WITNESS WILL COME FORWARD, PLEASE.
4 THIS WAY.

5 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

6

7 MIGUEL R. ACUNA + PLAINTIFF'S WITNESS, SWORN

8

9 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
10 NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

11 THE WITNESS: MIGUEL R. ACUNA. I'LL SPELL THE LAST
12 NAME: A C U N A.

13 MR. MEDRANO: YOUR HONOR, WITH THE COURT'S PERMISSION,
14 WHILE I CONTINUE WITH MY DIRECT, MAY I HAVE AGENT KUEHL
15 RETRIEVE A PHOTO FROM THE BACK FOR THIS WITNESS?

16 THE COURT: YES.

17 MR. MEDRANO: THANK YOU, YOUR HONOR.

18 DIRECT EXAMINATION +

19 BY MR. MEDRANO:

20 Q AGENT ACUNA, WHO ARE YOU EMPLOYED BY, SIR?

21 A THE DRUG ENFORCEMENT ADMINISTRATION.

22 Q HOW LONG WITH D.E.A.?

23 A 17 YEARS.

24 Q ARE YOU FLUENT IN ANY SPANISH (SIC) OTHER THAN ENGLISH?

25 COURTROOM: (LAUGHTER.)

1 THE WITNESS: YES, SIR.

2 MR. MEDRANO: DID THAT COME OUT WRONG, YOUR HONOR?

3 THE COURT: DID YOU MEAN: ARE YOU FLUENT IN ANY
4 ENGLISH OTHER THAN SPANISH?

5 COURTROOM: (LAUGHTER.)

6 MR. MEDRANO: YOUR HONOR, MAY I DO MY DIRECT IN
7 SPANISH?

8 COURTROOM: (LAUGHTER.)

9 MR. MEDRANO: I'M SORRY, YOUR HONOR. IT'S CLOSE TO
10 RECESS.

11 Q LET ME START OVER, MR. ACUNA: DO YOU SPEAK ANY LANGUAGE
12 OTHER ENGLISH?

13 A YES, SIR; I DO.

14 Q WHAT LANGUAGE IS THAT?

15 A SPANISH.

16 Q ARE YOU FLUENT IN THE SPANISH LANGUAGE?

17 A YES, SIR; I AM.

18 Q BOTH ORAL AND WRITTEN SKILLS?

19 A YES, SIR; I AM.

20 Q IN FACT, SIR, WHEN YOU WERE YOUNGER, WHAT WAS YOUR NATIVE
21 LANGUAGE ORIGINALLY?

22 A SPANISH.

23 Q AT ANY TIME, HAVE YOU HAD AN OPPORTUNITY TO SERVE WITH THE
24 D.E.A. OUTSIDE OF THE UNITED STATES?

25 A YES, SIR; I HAVE.

1 Q AND WHERE WAS THAT?

2 A THE FIRST ASSIGNMENT WAS IN MEXICO CITY, IN 1980 THROUGH
3 1985.

4 Q AND WERE YOU THERE IN THE CAPACITY OF A D.E.A. SPECIAL
5 AGENT?

6 A YES, I WAS, SIR.

7 Q LET ME DIRECT YOUR ATTENTION TO ABOUT APRIL OF 1984. IN
8 THAT TIME FRAME, WERE YOU STILL ASSIGNED TO THE REPUBLIC OF
9 MEXICO?

10 A YES, I WAS.

11 Q IN WHAT SPECIFIC CITY?

12 A MEXICO CITY.

13 Q NOW, ON OR ABOUT -- STRIKE THAT.

14 IN OR ABOUT THE MONTH OF APRIL 1984, DO YOU HAVE AN
15 OPPORTUNITY TO CONDUCT A SURVEILLANCE OF ANY SORT?

16 A YES, I DID, SIR.

17 Q AND WHERE -- WELL, TELL US ABOUT IT. WHERE WAS THIS?

18 A IT WAS THE CITY OF GUADALAJARA. I WAS ASSIGNED ON A
19 TEMPORARY DUTY ASSIGNMENT TO THE ASSIST IN THE ONGOING
20 INVESTIGATION BETWEEN OUR MEXICO CITY OFFICE AND GUADALAJARA.

21 Q CAN I ASK YOU TO SPEAK UP JUST A BIT, AGENT ACUNA?

22 THANK YOU. GO AHEAD.

23 A OKAY. I WAS ASSIGNED ON A TEMPORARY BASIS TO ASSIST AN
24 INVESTIGATION THAT WAS BEING CONDUCTED OUT OF THE MEXICO CITY
25 OFFICE, AND THERE WERE CERTAIN THINGS THAT WE HAD TO FOLLOW UP

1 IN THE GUADALAJARA OFFICE. TO THAT END, I TRAVELED TO
2 GUADALAJARA TO ASSIST IN SOME SEARCH AND SURVEILLANCES THAT
3 WERE GOING TO BE CONDUCTED IN THE AREA.

4 Q IN THE MONTH OF APRIL OF 1984 --

5 THE COURT: JUST A MOMENT. THE INTERPRETER CAN'T HEAR
6 YOU. CAN YOU MOVE A LITTLE BIT CLOSER?

7 THE WITNESS: (COMPLIES.)

8 THE COURT: THANK YOU.

9 THE WITNESS: YES, SIR.

10 MR. MEDRANO: IS THAT RECEIVED, YOUR HONOR, OR WOULD
11 YOU LIKE THAT REPEATED?

12 THE COURT: YES.

13 MR. STOLAR: MAY I ASK FOR AN OFFER OF PROOF, ASK THE
14 COURT TO GET AN OFFER OF PROOF? WE'RE TALKING ABOUT APRIL OF
15 84.

16 MR. MEDRANO: THE RELEVANCY WILL BE ESTABLISHED
17 SHORTLY, YOUR HONOR.

18 THE COURT: YES. THE OBJECTION IS OVERRULED.

19 PROCEED.

20 MR. MEDRANO: THANK YOU.

21 Q AGENT ACUNA, IN THE MONTH OF APRIL OF 1984, ARE YOU EVER
22 WORKING WITH AN AGENT BY THE NAME OF ROGER KNAPP?

23 A YES, I WAS.

24 Q AND IN APRIL OF 84, ARE YOU BOTH DOING A SURVEILLANCE
25 TOGETHER?

1 A YES WE WERE.

2 Q NOW, CAN YOU DESCRIBE FOR US WHAT OCCURRED IN THE MONTH OF
3 APRIL OF 84 WITH REGARD TO THAT SPECIFIC SURVEILLANCE?

4 A WE WERE SURVEILLING AN AREA NEAR MOTEL LAS AMERICAS, AND
5 THE PURPOSE OF THE SURVEILLANCE WAS TO LOCATE THE OFFICE BEING
6 USED BY MIGUEL FELIX GALLARDO TO CONDUCT CERTAIN BUSINESSES.

7 WHEN I SAY "OFFICE," I MEAN IN THE SENSE THAT THEY
8 WERE USING THE PLACE FOR BUSINESS, BUT THE REST -- THE ADDRESS
9 WE WERE ACTUALLY LOOKING FOR, WE HAD INFORMATION TO BE A
10 CONDOMINIUM, AND IT WAS LOCATED IN A STREET BY THE NAME OF
11 CHIMALPOPOCA.

12 Q COULD YOU SPELL THAT FOR THE COURT REPORTER?

13 COURTROOM: (LAUGHTER.)

14 THE WITNESS: C H I M O -- NO. IT'S C H I M
15 A L O P O C A. CLOSE ENOUGH.

16 BY MR. MEDRANO:

17 Q NOW, ARE YOU WITH KNAPP?

18 A YES, I WAS. WE WERE IN A VEHICLE.

19 Q WHAT TYPE OF VEHICLE?

20 A A GOVERNMENT VEHICLE. IT WAS CROWN VICTORIA. AND MR.
21 NICOLAYSEN WAS DRIVING. I WAS A PASSENGER IN THE VEHICLE.

22 Q AND YOU'RE LOOKING FOR THIS FELIX GALLARDO OFFICE?

23 A RIGHT. FOR THE RESIDENCE. WE HAVE A NUMBER, BUT IN
24 PREVIOUS TRIPS TO THE AREA, WE HAVE NOT BEEN ABLE TO LOCATE THE
25 CORRECT SEQUENCES. YOU KNOW, THE SEQUENCE WOULD STOP AND IT

1 WOULD JUMP TO ANOTHER SEQUENCE AND IT WOULD NOT CORRELATE WITH
2 THE NUMBERS WE HAD.

3 SO WHAT WE DECIDED TO DO WAS TO JUST FOLLOW
4 CHIMALPOPOCA FROM THE BEGINNING OF THE END IN ORDER, TO FIND
5 THAT PARTICULAR NUMBER, TO THE PLACE, THE ADDRESS, EXACTLY WHEN
6 WE HAD IT.

7 Q ARE YOU IN CIVILIAN CLOTHES OR ATTIRE?

8 A YES, SIR; I WAS.

9 Q THE CAR THAT YOU'RE IN, IS IT AN UNMARKED CAR VEHICLE.

10 A RIGHT. IT WAS UNMARKED.

11 Q THAT IS, IT DOESN'T SAY "D.E.A." ON THE SIDE OR ANYTHING?

12 A NO, SIR.

13 Q DO YOU RECALL THE TYPE OF CAR IT WAS?

14 A A CROWN VICTORIA, FOUR-DOOR.

15 Q AND THIS STREET, CHIMALPOPOCA, WHERE IS IT IN RELATIONSHIP
16 TO -- WHERE IS IT IN RULING TO -- YOU MENTIONED A HOTEL LAS
17 AMERICAS?

18 A RIGHT. IT'S RIGHT BEHIND IT. LET'S SEE. CHIMALPOPOCA RAN
19 MORE OR LESS EAST AND WEST. AND THE HOTEL LAS AMERICAS WOULD
20 BE SOUTH OF THE LOCATION, VERY CLOSE BY, WITHIN HALF A MILE,
21 QUARTER OF A MILE.

22 THERE WAS ANOTHER HOTEL, THE HYATT REGENCY, THAT WAS
23 ALSO WITHIN THREE OR FOUR BLOCKS OF THE AREA. IN THAT GENERAL
24 AREA, ALSO, THE PLAZA DEL SOL, I BELIEVE IT WAS CALLED.

25 Q AT ANY POINT ON CHIMALPOPOCA AVENUE, DO YOU OBSERVE --

1 A SORRY.

2 Q AT ANY POINT ON CHIMALPOPOCA STREET, DID YOU OBSERVE
3 ANYTHING?

4 A YES, SIR.

5 Q WHAT IS THAT?

6 A I DON'T REMEMBER THE TIME. IT MUST HAVE BEEN EARLY
7 AFTERNOON SOME TIME. WE OBSERVED THREE VEHICLES PROCEEDING ON
8 CHIMALPOPOCA. AND THE WAY WE WERE DRIVING, WE KIND OF MORE OR
9 LESS FELL BEHIND THEM, AND AS WE WERE DRIVING ON CHIMALPOPOCA,
10 THE VEHICLES APPROACHED AN INTERSECTION, CROSSED THE
11 INTERSECTION AND THE VEHICLES STOPPED.

12 TWO OF THE VEHICLES PROCEEDED FORWARD. ONE OF THE
13 VEHICLES, A KIND OF A GOLDISH BROWN VICTORIA -- NO, EXCUSE
14 ME -- GRAND MARQUIS, STOPPED AND WE CONTINUED ON CHIMALPOPOCA
15 AS THE VEHICLE WAS MOVING.

16 THE VEHICLE CONTINUED TO MOVE IN A REVERSE DIRECTION,
17 BACKING UP INTO AN OPEN GARAGE.

18 Q AND THIS WAS A GARAGE THAT WAS PART OF A CONDOMINIUM
19 COMPLEX?

20 A PART OF A CONDOMINIUM COMPLEX.

21 Q AND AS THAT HAPPENS, ARE YOU DRIVING BY WHEN THAT -- GRAND
22 MARQUIS, OR WHATEVER, IS BACKING UP?

23 A EXACTLY. WHAT WAS HAPPENING IS: HE'S BACKING UP AND WE'RE
24 DRIVING CONTINUALLY ON CHIMALPOPOCA. AND AS WE PASSED RIGHT IN
25 FRONT OF THE RESIDENCE IN QUESTION, OR THE CONDOMINIUM IN

1 QUESTION. I LOOKED OVER TO MY RIGHT SIDE AND OBSERVED THAT THE
2 DRIVER OF THAT GRAND MARQUIS WAS MIGUEL FELIX GALLARDO.

3 Q I'D LIKE TO DIRECT YOUR ATTENTION TO THE RIGHT OF YOU. DO
4 YOU SEE A GOVERNMENT'S EXHIBIT ENTITLED GOVERNMENT EXHIBIT 15?

5 A YES, I DO.

6 Q CAN YOU TELL ME WHAT THAT IS?

7 A IT'S A PICTURE OF MIGUEL FELIX GALLARDO.

8 Q NOW, AS GALLARDO IS BACKING UP, DO YOU CONTINUE DRIVING
9 DOWN CHIMALPOPOCA?

10 A WE CONTINUED TO DRIVE BY THE ADDRESS AND TRIED TO LOOK AT
11 NONCHALANT AS WE POSSIBLY COULD, NOT TO DRAW ANY ATTENTION TO
12 US.

13 Q WHAT HAPPENS THEN, IF ANYTHING?

14 A WE MAKE THE BLOCK. AND THE AREA IN QUESTION, ALSO, IS NOT
15 AN OPEN AREA IN WHICH YOU HAVE STREETS CONTINUING INDEFINITELY.
16 THEY WERE DEAD END STREETS AND IT WAS KIND OF A CLOSE AREA,
17 BORDERED BY MAJOR STREETS.

18 SO BECAUSE OF THAT, WE MADE THE BLOCK. WE WENT AROUND
19 AND WE TRIED TO GET OUT OF THE AREA. AS MR. KIDNAP POINTED OUT
20 TO ME, HE SAYS, "MIGUEL PROBABLY OBSERVED US, AND WE'D BETTER
21 BE CAREFUL AND PROCEED OUT OF THE AREA AS SOON AS POSSIBLE."

22 Q WHAT HAPPENS NEXT, IF ANYTHING?

23 A WE ARE ON OUR WAY OUT OF THE IMMEDIATE AREA WHEN WE
24 OBSERVED A WHITE MUSTANG BEING -- FOLLOWING US, FROM -- AT
25 CLOSE DISTANCE.

1 Q CAN YOU TELL US HOW MANY PEOPLE ARE IN THAT CAR?

2 A AT THAT PARTICULAR TIME, NO. WE JUST OBSERVED THE MUSTANG.
3 IN FACT, MR. KNAPP IS THE ONE WHO FIRST OBSERVED IT AND SAYS,
4 "WE'RE BEING FOLLOWED BY A WHITE MUSTANG."

5 Q WHAT HAPPENS NEXT?

6 A I IMMEDIATELY TOLD MR. KNAPP, I SAYS, "PROBABLY, SINCE
7 FELIX SAW US GOING BY THE HOUSE, WE GOT TO BE CAREFUL."

8 I SAID, "I'M GOING TO OPEN THE LID WHERE THE GLOVE
9 COMPARTMENT IS LOCATED," BECAUSE WE HAD A TWO-WAY RADIO THERE,
10 "TO MAKE SURE THAT THEY SEE THE RADIO, AND WE'RE JUST GOING TO
11 HAVE TO TELL THEM THAT," WHOEVER IT IS, "THAT WE'RE LOOKING
12 FOR, YOU KNOW, A HOUSE HERE, SOMEONE THAT'S BEING TRANSFERRED."

13 Q WELL, ARE YOU SAYING THAT THIS WHITE MUSTANG TRIED TO STOP
14 YOUR CAR?

15 A I'M SORRY. YES, SIR.

16 Q AND IN WHAT FASHION DO THEY DO THAT, I UN WHAT MANNER?

17 A BY STICKING SOME GUNS OUT OF THE WINDOW, TWO PEOPLE
18 STICKING SOME GUNS OUT OF THE WINDOW ON THE PASSENGER SIDE OF
19 THE VEHICLE. THE WHITE MUSTANG APPROACHED OUR VEHICLE FROM
20 THERE LEFT TO -- FROM THEIR RIGHT TO OUR LEFT.

21 Q OKAY. SO DID YOU SEE GUNS WAVING OUT OF THE CAR?

22 A RIGHT, SIR.

23 Q NOW, THEREFORE, DO YOU STOP -- DO YOU AND MR. KNAPP STOP
24 YOUR GOVERNMENT CAR?

25 A YES, WE DO.

1 Q NOW, WHAT'S THE NEXT THING THAT HAPPENS?

2 A I EXIT VEHICLE, BUT AFTER I TOLD MR. KNAPP THAT WE'VE GOT
3 TO BE CAREFUL, I EXIT THE VEHICLE. I GO AROUND THE REAR OF THE
4 VEHICLE AND APPROACH THE CAR WITH THE -- YOU KNOW, AT THIS TIME
5 WE CAN SEE THE FOUR INDIVIDUALS. ALL OF THEM ARE ARMED.

6 TWO OF THEM ALREADY ARE OUTSIDE THE VEHICLE BY THE
7 TIME I'M APPROACHING THE REAR OF MINE. THEY APPROACH ME AND
8 ASK FOR MY IDENTIFICATION. I IN TURN ASK THEM FOR THEIR
9 IDENTIFICATION.

10 Q DO YOU EVER SEE ANY GOVERNMENT CREDENTIALS ON ANY OF THOSE
11 FOUR LATIN MALES?

12 A YES. THE -- THEY IDENTIFIED THEMSELVES AS D.F.S. AGENTS,
13 DIRECCION FEDERAL DE SEGURIDAD.

14 Q LET ME STOP YOU THERE. AT ANY POINT, DO YOU SHOW ANY I.D.
15 OF YOURS TO THESE FOUR LATIN MALES?

16 A YES. THEY ASKED FOR IDENTIFICATION, AND I SHOWED THEM MY
17 OFFICIAL MEXICAN -- IT WAS DIPLOMATIC IDENTIFICATION.

18 Q AND AT SOME POINT, DO THE D.F.S. AGENTS PERMIT YOU TO
19 LEAVE?

20 A YES, THEY DID.

21 MR. MEDRANO: YOUR HONOR, MIGHT THIS BE A GOOD
22 OPPORTUNITY YOU WANT TO BREAK? I CAN CONTINUE. WHATEVER YOU
23 LIKE.

24 THE COURT: YES. IT'S TIME FOR OUR AFTERNOON RECESS.

25 THE CLERK: PLEASE RISE.

1 (JURY ABSENT:)

2 THE CLERK: YOU MAY BE SEATED.

3 THE COURT: YES. YOU WANTED TO TAKE UP SOMETHING?

4 MR. STOLAR: I WOULD ASK THE COURT TO ENTERTAIN A
5 MOTION TO STRIKE THIS PART OF AGENT ACUNA'S TESTIMONY AS HAVING
6 ABSOLUTELY NO RELEVANCE TO THIS CASE.

7 AND THAT HE WAS STOPPED BY SOME PEOPLE AFTER HE DROVE
8 BY FELIX GALLARDO'S HOUSE IN APRIL OF 84 IS HARDLY RELEVANT TO
9 PROVE ANYTHING IN CONNECTION THIS CASE, PARTICULARLY GIVEN THAT
10 THE ADDRESS IS NOT THE ONE THAT WAS TALKED ABOUT FOR WHERE THE
11 PHOTO WAS TAKEN FROM, AND THE FACT THAT THE TESTIMONY
12 CONCERNING THE ASSAULT ON ROGER KNAPP'S CAR HAS BEEN EXCLUDED.

13 WHAT IS THIS TESTIMONY FOR?

14 THE COURT: WHAT IS THE RELEVANCE?

15 MR. MEDRANO: BRIEFLY, YOUR HONOR, FIRST OF ALL, THIS
16 IS IN APRIL OF 84. YOU, OF COURSE, ARE AWARE THAT MEETINGS OF
17 CO-CONSPIRATORS HAD TAKEN PLACE AS EARLY AS 1984.

18 THE COURT: YOU MEAN SEPTEMBER OF 84.

19 MR. MEDRANO: PARDON?

20 THE COURT: AS EARLY AS SEPTEMBER.

21 MR. MEDRANO: THAT'S CORRECT, YOUR HONOR. I'M SORRY.
22 PERHAPS I MISSPOKE.

23 AND MR. STOLAR IS CORRECT. YOU EXCLUDED THE KNAPP
24 EVIDENCE BECAUSE THERE WAS, I IMAGINE, IN YOUR VIEW, NO DIRECT
25 CORRELATION OR CONNECTION BETWEEN SURVEILLANCE BY A D.E.A.

1 AGENT AND A RETALIATORY ACT.

2 THIS, YOUR HONOR, CONFORMS WITH THE GOVERNMENT'S
3 THEORY OF THE CASE, WHICH IS OUTLINED IN THE INDICTMENT, THAT
4 D.E.A. IS DOING THEIR JOB EITHER IN THE FORM OF ERADICATION OF
5 MARIJUANA FIELDS, TAKING DOWN COCAINE LOADS OR DOING
6 SURVEILLANCE OF TARGETS IN 1984. AND WHEN THIS MAN AND MR.
7 KNAPP ARE DOING EXACTLY THAT, ONLY SECONDS AFTER THEY DRIVE BY
8 GALLARDO AND GALLARDO SEES THEM, LO AND BEHOLD, THIS OTHER CAR
9 COMES OUT OF NOWHERE AND STOPS THEM TO QUESTION THEM.

10 THIS, YOUR HONOR, IS PART OF THE GOVERNMENT'S THEORY
11 OF THE CASE THAT IT'S A RETALIATORY ACT DIRECTED BY MEMBERS OF
12 THE CARTEL. SO IT'S DIRECTLY RELEVANT, YOUR HONOR, TO THE
13 MANNER IN WHICH THE INDICTMENT IS FRAMED FOR THE JURY.

14 THE COURT: WELL, IT'S OF MINIMAL RELEVANCE, HAS
15 MINIMAL RELEVANCE.

16 MR. STOLAR: YOUR HONOR, MAY I BE HEARD BRIEFLY?

17 MR. CARLTON: ONE ADDITIONAL POINT. THIS SPECIFIC
18 INCIDENT AND AGENT ACUNA ARE REFERRED TO IN THE INTERROGATION
19 TAPES BY AGENT CAMARENA. THIS HELPS TO AUTHENTICATE THESE
20 INTERROGATION TAPES. THAT'S THE REAL -- THE MAIN POINT HERE.

21 MR. MEDRANO: RIGHT, AND I FORGOT TO STATE THAT, YOUR
22 HONOR.

23 MR. STOLAR: THERE'S NO CONTEST ABOUT WHETHER THE
24 INTERROGATION TAPES ARE AUTHENTIC. I MEAN, WE'RE PREPARED, AS
25 THE COURT MAY KNOW, TO STIPULATE -- AT LEAST THIS COUNSEL'S

1 PREPARED TO STIPULATE TO AUTHENTICITY AND WHO IS ON THEM.

2 BUT THIS TESTIMONY, THE WHITE CAR THAT THE AGENT
3 DESCRIBED IS NOT EVEN LINKED WITH ONE OF THE TWO CARS THAT WERE
4 WITH FELIX. HOW IS THE WHITE CAR LINKED TO FELIX GALLARDO?

5 THE COURT: THE MOTION TO STRIKE IS DENIED.

6 MR. MEDRANO: THANK YOU, YOUR HONOR.

7 MR. STOLAR: THERE ARE A COUPLE OF OTHER MATTERS WHICH
8 WE THINK WE HAVE TO TAKE UP WITH THE COURT, PERHAPS -- THEY
9 MIGHT BE A LITTLE MORE LENGTHY -- HAVING TO DO WITH THE HAIR
10 TESTIMONY, THE PROPOSED STIPULATION ON THE TAPES, MS. KELLY'S
11 MOTION ON THE TAPES THAT SHE HAS, IF I'M CORRECT -- I THINK
12 THAT PRETTY MUCH IS IT -- THAT THEY MIGHT BE FAIRLY LENGTHY
13 DISCUSSIONS, SO MAYBE THEY MIGHT BE RESERVED FOR THE END OF THE
14 DAY.

15 THE COURT: I WANT TO YOU TELL ME WHAT THEY ARE, SO
16 THAT --

17 MR. STOLAR: ALL RIGHT. I'M SORRY. I'M SPEAKING FOR
18 OTHER PEOPLE.

19 WE HAVE A -- THERE ARE TWO PENDING MOTIONS WITH
20 RESPECT TO THE HAIR.

21 THE COURT: IS ONE WHERE YOU SOUGHT FURTHER
22 EXAMINATION OF THE HAIR?

23 MR. STOLAR: RIGHT AND THE SECOND --

24 THE COURT: YOU JUST FILED A REPLY THIS MORNING
25 WITH --

1 MR. STOLAR: YES. THAT REPLY ALSO COVERS OUR MOTION
2 TO EXCLUDE THE GOVERNMENTS OPTICAL TESTIMONY BECAUSE IT'S
3 UNSCIENTIFIC AND NOT SCIENTIFICALLY SUITABLE FOR EVIDENTIARY
4 PURPOSES.

5 THE COURT: WHAT OPTICAL TESTIMONY?

6 MR. STOLAR: THEY DO OPTICAL COMPARISONS OF HAIR.

7 THE COURT: THE HAIR COMPARISON?

8 MR. STOLAR: HAIR COMPARISON TESTIMONY.

9 THE COURT: YOU WANT TO EXCLUDE THAT?

10 MR. STOLAR: YES.

11 THE COURT: YOU WANT ME TO RULE MATTER OF LAW THAT
12 THEIR METHODS ARE NOT PROPER.

13 MR. STOLAR: IT'S NOT SUFFICIENTLY SCIENTIFICALLY
14 ACCEPTED FOR USE IN COURT. IT'S IN THE NATURE OF POLYGRAPH
15 EXAMINATION TESTS, AS OPPOSED TO FINGERPRINTS.

16 THE COURT: WELL, I'LL DENY THAT MOTION. I THINK THAT
17 DOES NOT RELATE TO ADMISSIBILITY, BUT TO THE WEIGHT TO BE GIVEN
18 TO IT.

19 MR. STOLAR: UNDER FRYE VERSUS UNITED STATES, SOME
20 EVIDENCE MUST MEET CERTAIN CRITERIA TO BE ACCEPTED IN EVIDENCE.
21 HAIR TESTIMONY OF THOSE KINDS OF OF COMPARISONS HAS NEVER BEEN
22 CHALLENGED IN A COURT.

23 AND THE AFFIDAVIT --

24 THE COURT: DID YOU FILE A MOTION ON THIS?

25 MR. STOLAR: WE FILED MOTION ON IT AND THE REPLY THAT

1 WAS --

2 THE COURT: WELL, I MEAN OTHER THAN YOUR MOTION.

3 MR. STOLAR: WE HAVE TWO MOTIONS ON HAIR. ONE IS FOR
4 EXAMINATION ON HAIR BY A SCANNING ELECTRON MICROSCOPE. THE
5 OTHER IS FOR EXCLUSION, BECAUSE IT IS NOT SUFFICIENTLY
6 SCIENTIFICALLY ACCEPTED, OF OPTICAL COMPARISONS?

7 THE COURT: HOW DO YOU KNOW THAT? HOW ARE YOU GOING
8 TO ESTABLISH THAT.

9 MR. STOLAR: WITH PROFESOR SIEGESMUND.

10 THE COURT: YOU WANT ME TO RELY ON HIS DECLARATION TO
11 MAKE A --

12 MR. STOLAR: HE PROVIDED US A REPORT AND HE'S
13 INDICATED THAT OPTICALS -- OR HAVE A HEARING, YES, AS TO
14 WHETHER IT'S ACCEPTABLE.

15 THE GOVERNMENT SAYS OUR SCANNING ELECTRON MICROSCOPE
16 TECHNIQUE IS UNSCIENTIFIC IN BASIS AND SHOULD NOT BE ACCEPTED,
17 EITHER.

18 THE COURT, I THINK, SHOULD CONDUCT A FRYE HEARING TO
19 HAVE THE EXPERT TESTIMONY BROUGHT IN TO YOU BY PROFESSOR
20 SIEGESMUND, WHO IS A RESPECTED RESEARCHER AND IS PUBLISHED, TO
21 TESTIFY. HE INDICATES THAT THE TYPE OF HAIR EVIDENCE THAT
22 GOVERNMENT WISHES TO PRESENT IS SCIENTIFICALLY VALID TO EXCLUDE
23 IS PEOPLE BU IS NOT SCIENTIFICALLY VALID TO INCLUDE AN
24 IDENTIFICATION.

25 THE COURT: WELL, ARE YOU GOING TO HAVE SOME CONTRARY

1 EVIDENCE TO THE FOUNDATION?

2 MR. CARLTON: I'M NOT SURE I UNDERSTAND YOUR QUESTION.

3 THE COURT: WELL, IF HE'S GOT A WITNESS THAT SAYS THIS
4 TESTING THAT YOU DID IS NOT PROPER TO INCLUDE BUT IS ONLY
5 PROPER TO EXCLUDE PEOPLE.

6 MR. CARLTON: WELL, ABSOLUTELY, YOUR HONOR. WE HAVE
7 THE F.B.I. HAIR AND FIBERS EXPERT THAT TESTIFIED AT THE LAST
8 TRIAL, WOULD BE AVAILABLE AND CAN TESTIFY TO THAT EFFECT.

9 I THINK, YOUR HONOR, I JUST WOULD LIKE TO POINT OUT
10 NOW THAT THE CASES THEY HAVE CITED IN THE PAPERS THAT THEY
11 FILED TODAY APPEAR -- AND I HAVEN'T HAD A CHANCE TO ACTUALLY
12 READ THEM IN TOTAL, BUT THEY APPEAR TO HAVE BEEN CASES IN WHICH
13 EVIDENCE WAS PUT ON AND THE TESTIMONY WAS TO THE EFFECT THAT A
14 HAIR COMPARISON WAS LIKE A FINGERPRINT.

15 AND WE'RE NOT APPROACHING THE CASE IN THAT WAY. WE
16 DON'T CONTEND THAT AN IDENTIFICATION OR A HAIR COMPARISON IS
17 LIKE A FINGERPRINT.

18 WE DON'T INTEND TO PUT ON EVIDENCE SAYING THAT THIS
19 HAIR MUST BE DEFENDANT MATTA'S HAIR. BUT WE DO INTEND TO PUT
20 ON EVIDENCE THAT THE HAIR COMPARISONS FOUND NO DISSIMILARITIES
21 IN ANY CHARACTERISTICS, AND ESSENTIALLY THIS GOES THE THE
22 WEIGHT OF THE EVIDENCE. THIS KIND OF EVIDENCE HAS BEEN
23 ACCEPTED FOR OVER 40 YEARS.

24 MR. STOLAR: YOUR HONOR, THEY OPENED AND SAID THAT
25 MATTA WAS THERE AT 881; THIS IS HOW THEY PROVE IT.

1 OUR POSITION IS IT IS SCIENTIFICALLY UNACCEPTABLE
2 PROOF AND SHOULD NOT BE ALLOWED IN.

3 THE COURT: BUT THAT ISN'T SOMETHING I COULD DECIDE ON
4 A MOTION. THEY'RE REQUIRED TO LAY FOUNDATION THAT THE EVIDENCE
5 IS SCIENTIFICALLY RELIABLE AND PRODUCE A WITNESS WHO HAS THE
6 QUALIFICATIONS TO SAY SO AND TO TESTIFY. THAT GOES FOR ALL
7 SCIENTIFIC EVIDENCE. THAT MUST BE ESTABLISHED.

8 MR. STOLAR: AND WE THINK THAT THE COURT SHOULD
9 CONDUCT A HEARING, WHERE I THINK WE WILL PROBABLY HAVE THE TWO
10 EXPERTS TESTIFY OUTSIDE THE PRESENCE OF THE JURY ON THE
11 QUESTION OF ADMISSIBILITY. AND THAT WOULD BE AGENT MAHER FROM
12 THE F.B.I. LAB AND PROFESSOR SIEGESMUND?

13 THE COURT: WHY SHOULD I CONDUCT THAT OUTSIDE THE
14 PRESENCE OF THE JURY?

15 MR. STOLAR: BECAUSE THE JURY SHOULD NOT -- IT'S NOT
16 ACCEPTABLE EVIDENCE UNDER ERYE AND UNDER THE FEDERAL RULES TO
17 BE PERMITTED EVEN TO COME IN. THAT IS OPINION EVIDENCE. IT IS
18 PERMITTED IF THERE IS A SUFFICIENT BASIS FOR IT UNDER THE
19 RULES. HOWEVER --

20 THE COURT: ACTUALLY, OPINION EVIDENCE IS ADMISSIBLE
21 WITHOUT THE NEED FOR THE BASIS OF BEING DISCLOSED.

22 MR. STOLAR: EXCEPT THAT -- WHEN IT'S CHALLENGED. FOR
23 EXAMPLE, WOULD THE COURT PERMIT EVIDENCE OF A POLYGRAPH
24 EXAMINATION TO BE BROUGHT IN, LET THE JURY CONSIDER WHAT WEIGHT
25 TO GIVE TO IT, BUT IT'S ADMISSIBLE IN EVIDENCE?

1 THE COURTS HAVE RULED THAT IS NOT A SCIENTIFICALLY
2 ACCEPTABLE TECHNIQUE, SUFFICIENTLY ACCEPTABLE TO BE ADMITTED
3 INTO EVIDENCE IN THE FIRST PLACE.

4 THE COURT: YOU HAVE FILED A MOTION?

5 MR. STOLAR: YES, SIR.

6 THE COURT: HAVE YOU RESPONDED?

7 MR. MEDRANO: WELL, YOUR HONOR, THE ORIGINAL MOTION
8 WAS FOR --

9 THE COURT: HE SAYS HE'S FILED A SECOND MOTION.

10 MR. CARLTON: I NEVER GOT TWO MOTIONS. WE GOT ONE
11 MOTION IN WHICH THERE WAS A THROW-AWAY LINE AT THE END SAYING
12 OUR ANALYSIS WAS NOT CORRECT.

13 BUT THE THRUST OF THE ORIGINAL MOTION WAS THAT THEIR
14 S.E.M. EXPERTS HAVE ACCESS TO THE HAIR. WE REPLIED TO THAT AND
15 THEN THIS MORNING WE GET THIS DOCUMENT, WHICH HE APPARENTLY
16 CALLED A SECOND MOTION. WE GOT THIS THIS MORNING.

17 THE COURT: WAS THERE A SECOND MOTION?

18 MR. STOLAR: YES, SIR.

19 THE COURT: WHAT IS IT CALLED?

20 MR. STOLAR: I'M LOOKING FOR IT.

21 THE COURT: DID YOU SERVE IT?

22 MR. STOLAR: YES, OF COURSE.

23 THIS IS A MOTION ENTITLED: DEFENDANT MATTA'S MOTION
24 IN LIMINE TO EXCLUDE GOVERNMENT'S FORENSIC HAIR ANALYSIS
25 EVIDENCE.

1 THE COURT: WHEN WAS IT SERVED?

2 MR. BURNS: IT SAYS ON THE FIRST PAGE.

3 THE COURT: WHEN WAS IT FILED?

4 MR. STOLAR: IT'S DATED MAY 15. WHEN DO YOU HAVE IT
5 SERVED? DO YOU HAVE IT?

6 THE COURT: IT WAS FILED ON MAY 15TH?

7 MR. STOLAR: NO. I HAVE A DATE OF MAY 15TH ON THE
8 MOTION. IT WAS FILED AT SOME TIME AROUND THAT.

9 THE COURT: WELL, ALL RIGHT. ON THIS -- I'M PREPARED
10 TO RULE ON THIS MOTION TO PERMIT FURTHER EXAMINATION OF THIS
11 HAIR.

12 HAVE YOU READ IT? HAVE YOU READ THE MOST RECENT
13 REPLY, THAT WAS FILED TODAY?

14 MR. CARLTON: YES, YOUR HONOR. I READ THE REPLY THAT
15 WAS FILED THIS MORNING.

16 THE COURT: DO YOU WISH TO BE HEARD REGARDING THIS?

17 MR. CARLTON: WELL, YOUR HONOR, IF -- WE COULD FILE
18 SOMETHING IN THE MORNING, IF YOU THINK THAT WOULD BE HELPFUL TO
19 YOUR DECISION.

20 THE COURT: I DON'T THINK IT WOULD BE.

21 MR. CARLTON: ALL RIGHT.

22 THE COURT: THE DEFENDANT HAS MADE A SHOWING HERE THAT
23 THIS IS EVIDENCE THAT WOULD BE HELPFUL TO THE DEFENSE, THAT IT
24 IS SCIENTIFICALLY RECOGNIZED AND RELIABLE, AND THEREFORE THE
25 COURT BELIEVES THEY SHOULD BE PERMITTED TO MAKE THE NECESSARY

1 TESTS.

2 NOW, IN ORDER TO DO THAT AND PROTECT THE INTEGRITY OF
3 THE EXISTING SAMPLES, THAT IS SOMETHING THAT YOU SHOULD WORK
4 OUT, THE BEST WAY THAT SHOULD BE DONE. BUT I BELIEVE THEY'RE
5 ENTITLED TO MAKE THOSE TESTS.

6 MR. CARLTON: YES, YOUR HONOR.

7 MR. STOLAR: THERE WERE A COUPLE OF OTHER MATTERS
8 WHICH OTHER COUNSEL, I THINK HAD.

9 MR. BLANCARTE: YES, YOUR HONOR. THE GOVERNMENT
10 INTENDS TO CALL AGENT KUYKENDALL, AND WE WOULD ASK THE COURT TO
11 ENTERTAIN THE TRIAL MEMORANDUM IN SUPPORT OF STIPULATION BY ALL
12 COUNSEL THERE WAS IN FACT AN INTERROGATION AND A TORTURE,
13 MAKING IT UNNECESSARY TO PLAY THE TAPES, WHICH ARE IN SPANISH,
14 FOR THE JURY.

15 THE COURT: WELL, BUT THERE ARE ENGLISH TRANSLATIONS.

16 MR. BLANCARTE: WE WOULD SUGGEST THAT THE TRANSCRIPTS,
17 WHICH ARE IN ENGLISH, COULD BE PROVIDED TO THE JURY, BUT THE
18 ACTUAL PLAYING OF THE TAPES, WHICH ARE IN SPANISH -- WHAT WE
19 ARE SAYING, WE WOULD STIPULATE AS TO THE INTERROGATION AND THE
20 TORTURE ASPECT OF IT, MAKING IT UNNECESSARY FOR THE PLAYING OF
21 THESE SPANISH LANGUAGE TAPES.

22 THE COURT: AND HOW WILL YOU STIPULATE TO THAT?

23 MR. BURNS: ALL DEFENSE COUNSEL HAVE STIPULATED TO IT,
24 THAT THAT TOOK PLACE.

25 THE COURT: WILL THERE BE A WRITTEN STIPULATION, THAT

1 CONTAINS CERTAIN FACTS?

2 MR. BLANCARTE: YES, THERE'S A WRITTEN STIPULATION,
3 YOUR HONOR.

4 MR. STOLAR: AND I BELIEVE THE WRITTEN STIPULATION WAS
5 LODGED WITH THE COURT THIS MORNING, AND A COPY WAS SERVED ON
6 THE GOVERNMENT.

7 THE COURT: IT WAS NOT.

8 MR. MEDVENE: WE HAVE A STIPULATION SIGNED BY ALL
9 DEFENSE COUNSEL, YOUR HONOR.

10 THE COURT: WELL, I'LL BE GLAD TO -- HAVE YOU GIVEN IT
11 TO COUNSEL?

12 MR. MEDVENE: WE SERVED IT.

13 MR. STOLAR: YES, SIR.

14 THE COURT: HAVE YOU SEEN IT?

15 MR. CARLTON: YES, SIR; I HAVE SEEN IT, YOUR HONOR.
16 IT JUST SAYS:

17 "THE UNDERSIGNED RESPECTIVE COUNSEL OF
18 RECORD HEREIN...THAT ENRIQUE CAMARENA SALAZAR WAS
19 INTERROGATED AND TORTURED."

20 WE BELIEVE THAT THE TAPES THEMSELVES ARE THE BEST
21 EVIDENCE OF WHAT THEY CONTAIN.

22 MR. NICOLAYSEN MADE A FORCEFUL ARGUMENT IN FAVOR OF
23 PLAYING SPANISH TAPE RECORDINGS LAST WEEK. THIS IS A DIFFERENT
24 SITUATION, IN WHICH THE SPANISH IS TRANSLATED CONTEMPORANEOUSLY
25 ON THE SCREEN WITH AN ENGLISH TRANSLATION SO THAT THE JURY IS

1 ENABLED TO NOT ONLY HEAR THE TAPES AND TO HEAR WHAT WAS BEING
2 SAID, BUT TO SEE IT AS WELL. AND WE HAVEN'T AGREED TO A
3 STIPULATION.

4 WHAT THEY WOULD LIKE, OF COURSE, IS NOT TO PLAY THE
5 COPIAS. WE WISH TO PLAY THE COPIAS.

6 THIS STIPULATION, IN ANY CASE, IS ENTIRELY
7 INSUFFICIENT FOR ANY REASON AT ALL.

8 MR. STOLAR: I THINK DEFENSE COUNSEL WOULD BE PREPARED
9 TO GO FURTHER ON THE STIPULATION.

10 THE COURT: WELL, YES. THE STIPULATION IS RATHER
11 SKIMPY.

12 COURTROOM: (LAUGHTER.)

13 MR. STOLAR: YES, I KNOW THAT.

14 THE COURT: AND THERE MAY BE A NUMBER OF REASONS --
15 THAT IS, EVIDENTIARY REASONS -- WHY THE TAPES -- WHY THE
16 GOVERNMENT WOULD WANT TO PLAY THE TAPES.

17 MR. STOLAR: WELL, FOR EXAMPLE, WE'RE PREPARED TO
18 STIPULATE THAT THE TAPES ARE AUTHENTIC TAPES AND THAT THE
19 VOICES AND THE TAPE ARE THE VOICE OF AGENT CAMARENA AND THAT
20 THE OTHER VOICES HEARD ON THE TAPES ARE THE TAPES (SIC) OF TWO
21 OTHER IDENTIFIED PEOPLE, NONE OF WHOM ARE DEFENDANTS HERE.

22 AND THAT WOULD PRECLUDE PRETTY MUCH ANY REASON TO HAVE
23 THEM PLAYED IN SPANISH.

24 MR. NICOLAYSEN: YOUR HONOR, THE GOVERNMENT IS NOT
25 DEPRIVED OF ANY CONTENT OF THE TAPES BY VIRTUE OF HAVING THE

1 TRANSCRIPTS INTRODUCED.

2 AT THE SAME TIME, UNDER RULE 403, WE ARE CONCEIVABLY
3 EXPOSED TO THE PREJUDICIAL IMPACT OF THE SOUND OF THE VOICE,
4 THE PAINFUL SOUNDS OF THE AGENT BEING TORTURED AND SO FORTH.
5 MUCH OF THAT IS THE FOCUS OF THE CONCERN HERE, AT LEAST FROM MY
6 CLIENT'S PERSPECTIVE.

7 I THINK IT'S APPROPRIATE TO WAIVE OBJECTIONS UNDER THE
8 BEST EVIDENCE RULE AND USE THE ALTERNATIVE EVIDENCE OF THE.
9 THE GOVERNMENT IS NOT IN ANY WAY BEING DEPRIVED OF THE CONTENT
10 OF THE DISCUSSIONS BY USING THE TRANSCRIPTS, BUT THE
11 INFLAMMATORY IMPACT OF THE TAPED CONVERSATIONS ARE BEING LEFT
12 OUT OF THIS TRIAL.

13 THE COURT: OF COURSE, I'M AWARE THAT THAT IS THE
14 REASON FOR THIS MOTION. IT IS TO AVOID ANY PREJUDICIAL IMPACT
15 RESULTING FROM THE TAPE.

16 MR. BLANCARTE: NOT ONLY THAT, YOUR HONOR, BUT THE
17 GOVERNMENT HAS SAID THAT THE ONLY PURPOSE FOR WHICH THEY WANT
18 TO PLAY THE TAPE IS TO DEMONSTRATE THE VERY VOICE INFLECTIONS
19 ON THE TAPE, WHICH HARDLY OUTWEIGHS THE PREJUDICIAL ASPECT OF
20 PLAYING THE TAPES, WHICH ARE IN SPANISH.

21 MR. CARLTON: WELL, YOUR HONOR, LET ME SAY THIS:
22 THESE PEOPLE HAVE KNOWN SINCE THE BEGINNING OF THIS CASE THAT
23 WE HAVE THESE TAPES. THEY'VE KNOWN THAT THEY WERE PLAYED
24 DURING THE LAST AND THAT WE INTENDED TO PLAY THEM DURING THIS
25 TRIAL.

1 THEY'RE TRYING TO DICTATE HOW THE GOVERNMENT IS GOING
2 TO PUT ON ITS CASE, BY OFFERING TO STIPULATE, AT THE VERY LAST
3 MOMENT -- THESE TAPES ARE COMING UP HERE EITHER LATE THIS
4 AFTERNOON OR TOMORROW.

5 WE REPRESENTED TO THE JURY THAT WE WERE GOING TO PLAY
6 THESE TAPES, OR WE EXPECTED TO BE ABLE TO PLAY THEM. WE HADN'T
7 RECEIVED ANY OBJECTION PRIOR TO THAT TIME OTHER THAN THE
8 AUTHENTICITY MOTION WHICH YOUR HONOR DENIED EARLY ON IN THE
9 CASE.

10 AGAIN, THIS IS THE KIND OF LAST MINUTE GESTURE, TRYING
11 TO CONTROL HOW THE GOVERNMENT IS ABLE TO PUT ON ITS CASE.

12 WE BELIEVE THAT WITH THE --

13 THE COURT: IT SHOULD HAVE BEEN BROUGHT SOONER,
14 BECAUSE THE TAPES WERE NO SECRET, AND HAD THEM FOR A LONG TIME.

15 MR. STOLAR: THAT'S CERTAINLY TRUE.

16 THE COURT: NEVERTHELESS, THERE ARE CASES IN WHICH
17 PREJUDICIAL EVIDENCE HAS BEEN ORDERED TO BE KEPT OUT ON AN
18 OFFER OF STIPULATION, WHERE THE THE GOVERNMENT IS GIVEN, BY
19 STIPULATION, WHATEVER IT NEEDS TO PROVE A FACT, FOR EXAMPLE,
20 THAT IS NECESSARY.

21 THE CASE THAT I CAN THINK OF IS A FELON WITH A GUN.
22 IN THE POSSESSION OF A GUN, IT HAS BEEN HELD THAT IF HE REFUSED
23 AN OFFER TO STIPULATE THAT HE COMMITTED THE UNDERLYING FELONY
24 SO AS AS TO AVOID HAVING TO TESTIFY ABOUT IT, THEN IT IS
25 PREJUDICIAL, THAT IT BECOMES REALLY A POSSESSION CASE, AND THAT

1 IS ALL THE JURY NEEDS TO HEAR, THE EVIDENCE OF POSSESSION, THE
2 GOVERNMENT HAVING STIPULATED THAT HE WAS A PRIOR FELON.

3 AND THERE WERE OTHERS, AS I RECALL, IN THE LAST TRIAL.

4 MR. CARLTON: I BELIEVE IN THE LAST TRIAL, AS WELL --

5 THE COURT: IN THE LAST TRIAL, MRS. CAMARENA WAS NOT
6 CALLED TO TESTIFY ON THAT SAME BASIS, BECAUSE THE DEFENDANTS
7 WERE WILLING TO STIPULATE TO THE IDENTIFICATION OF THE BODY AS
8 AGENT CAMARENA, THEREFORE NOT REQUIRING HIS WIFE TO TESTIFY.

9 BUT IN ANY EVENT, THAT SHOULD BE LOOKED INTO.

10 AND YOU HAVEN'T HAD A CHANCE TO RESPOND HERE TO THIS?

11 MR. CARLTON: NO. I SHOULD POINT OUT, YOUR HONOR,
12 THAT THE DEFENSE HAS NOT AGREED TO ANY STIPULATIONS IN THIS
13 ENTIRE CASE SO FAR. THIS IS THE FIRST ONE.

14 THE COURT: IT'S IRRELEVANT.

15 MR. CARLTON: ALL RIGHT.

16 THE COURT: THE ONLY QUESTION IS WHETHER THIS IS A
17 SITUATION IN WHICH THE PREJUDICE REQUIRES TO YOU ACCEPT THAT
18 STIPULATION. YOU HAVE TO DECIDE THAT.

19 AND IF -- YOU KNOW, I THINK A LOT DEPENDS ON WHETHER
20 OR NOT THERE ARE ANY INDEPENDENT REASONS FOR PLAYING THIS TAPE
21 OTHER THAN TO DEMONSTRATE THAT HE WAS KIDNAPPED AND TORTURED
22 AND INTERROGATED. THAT IS, IF THE SOLE PURPOSE OF PLAYING THE
23 TAPE IS TO SHOW THAT HE WAS TORTURED AND INTERROGATED, AND
24 THERE ARE NO OTHER REASONS --

25 MR. CARLTON: THERE ARE MANY, MANY REASONS.

1 THE COURT: WELL, THEN, THOSE ARE THE REASONS I WANT
2 TO KNOW.

3 MR. CARLTON: VERY GOOD, YOUR HONOR. MAY I JUST ASK:
4 WHEN SHALL WE PRESENT THESE TO YOU, SINCE THE TAPE PLAYING --

5 THE COURT: AS SOON AS YOU CAN.

6 MR. BLANCARTE: YOUR HONOR, JUST ONE POINT, ON THE
7 MOTION TO EXCLUDE THE PORTION OF MR. ZUNO'S STATEMENT. WE
8 WOULD ONLY ASK THE COURT TO CONSIDER, AT THE POINT WHERE AGENT
9 KUYKENDALL WAS GOING TO BE PRESENTED BY THE GOVERNMENT, AT THAT
10 TIME, THE AGENT -- WE'D DEFER THAT FOR THE COURT'S CONVENIENCE.

11 THE COURT: I'M NOT SURE I FOLLOW WHAT YOU'RE ASKING.

12 MR. BLANCARTE: WE HAVE MOTION BEFORE YOUR HONOR TO
13 EXCLUDE A PORTION OF THE STATEMENT MADE BY MR. ZUNO TO MR.
14 KUYKENDALL. IF MR. KUYKENDALL NOT GOING TO BE PERMITTED TODAY

15 --

16 THE COURT: WELL, ON WHAT BASIS IS THIS MOTION MADE?
17 IS IT A MOTION TO SUPPRESS?

18 MR. BLANCARTE: YES, YOUR HONOR.

19 THE COURT: WELL, THAT WOULD BE SUBJECT TO SAME RULING
20 AS THE OTHER MOTION, OR THE OTHER STATEMENT.

21 MR. BLANCARTE: IT'S A MOTION TO EXCLUDE, YOUR HONOR.

22 THE COURT: WELL, IT'S THE SAME THING, ISN'T IT?
23 WHAT'S THE BASIS FOR IT?

24 MR. BLANCARTE: THE BASIS IS THAT IT'S HEARSAY, IT'S
25 GOSSIP BY THE CHARACTERIZATION OF AGENT KUYKENDALL, PER HIS OWN

1 D.E.A.-6. IT'S NOT A --

2 THE COURT: DID YOU FILE A MOTION ON THIS?

3 MR. BLANCARTE: YES, YOUR HONOR.

4 THE COURT: I'LL LOOK AT THAT.

5 THE CLERK: PLEASE RISE. THIS COURT IS NOW RECESS

6 (BRIEF RECESS.)

7 (JURY PRESENT.)

8 THE COURT: YOU MAY CONTINUE.

9 MR. MEDRANO: WAS IT REDIRECT OR CONTINUED CROSS?

10 I'M SORRY.

11 THE COURT: YOU HAVEN'T COMPLETED YOUR EXAMINATION
12 OF THIS WITNESS; HAVE YOU?

13 MR. MEDRANO: THANK YOU, YOUR HONOR.

14

15 DIRECT EXAMINATION + CONTINUED

16 BY MR. MEDRANO:

17 Q. AGENT ACUNA, LET ME DIRECT YOUR ATTENTION NOW TO ABOUT
18 FEBRUARY OF 1985.

19 IN THAT TIME FRAME, SIR, WERE YOU ASSIGNED ON A
20 TEMPORARY BASIS TO GUADALAJARA?

21 A. YES, SIR, I WAS.

22 Q. DURING FEBRUARY OF 1985, WERE YOU INVOLVED IN THE
23 INVESTIGATION CONCERNING THE DISAPPEARANCE OF SPECIAL AGENT
24 CAMARENA?

25 A. YES, I WAS.

1 Q. AND AGAIN, DURING THAT TIME PERIOD DID YOU HAVE AN
2 OPPORTUNITY TO SEARCH THE RESIDENCES IN GUADALAJARA?

3 A. YES, SIR, I DID.

4 Q. AT ANY POINT DO YOU HAVE AN OPPORTUNITY TO GO TO A
5 RESIDENCE ON CALLE, C A L L E, MIXCOATL, M I X C O A T L?

6 A. YES, I DID, SIR.

7 Q. WERE YOU THERE, SIR, TO CONDUCT A SEARCH?

8 A. YES, I WAS.

9 Q. WHEN THERE, OTHER THAN YOURSELF AND ANY OTHER D.E.A.
10 AGENTS, WERE ANY REPRESENTATIVES OF THE M.F.J.P. PRESENT AS
11 WELL?

12 A. THERE WERE. AFFIRMATIVE, YES, SIR.

13 Q. AT SOME POINT DO YOU AND -- STRIKE THAT.

14 DO YOU RECALL WHAT OTHER D.E.A. AGENTS WERE AT THE
15 HOUSE ALONG WITH THE M.F.J.P.?

16 A. RIGHT NOW, IT WAS AGENT TONY AYALA, AGENT DELGADO, RAUL
17 DELGADO, AND I DON'T REMEMBER ANY OF THE OTHER AGENTS THERE.
18 THERE WAS PROBABLY ABOUT 8 OR 10 PEOPLE IN THE HOUSE AT THE
19 SAME TIME.

20 Q. AND YOURSELF, AS WELL?

21 A. AND MYSELF, YES.

22 Q. COULD YOU JUST BRIEFLY DESCRIBE THE HOUSE.

23 A. BEGINNING AT STREET LEVEL, WAS A LARGE CONCRETE SLASH
24 KIND OF BRICK-TYPE FENCE COMPLETELY SURROUNDING THE HOUSE, A
25 WOODEN DOOR THAT LED INTO A SMALL COURTYARD.

1 THAT COURTYARD LED INTO THE PRINCIPAL PART OF THE
2 HOUSE. THE MAIN DOOR OPENED INTO A LARGE LIVING ROOM AREA,
3 DINING ROOM, AND KITCHEN. AND TO THE RIGHT, THERE WAS A
4 LIBRARY, HUGE LIBRARY, AND UPSTAIRS WERE THE BEDROOMS.

5 Q. WAS IT A LARGE HOUSE?

6 A. VERY LARGE HOUSE. IN FACT, IT HAD A SWIMMING POOL AND A
7 TENNIS COURT.

8 Q. AND WHEN YOURSELF AND M.F.J.P. AGENTS ARRIVE AT THE HOUSE,
9 WAS ANYONE ELSE THERE OTHER THAN LAW ENFORCEMENT?

10 A. THERE WAS SOME OCCUPANTS IN THE HOUSE. ONE WOMAN WAS
11 IDENTIFIED AS BEING THE WIFE OF MIGUEL FELIX GALLARDO.

12 Q. WHILE WERE YOU AT THE HOUSE, IS IT SEARCHED?

13 A. YES, IT WAS SEARCHED THOROUGHLY UP AND DOWN EVERYPLACE.
14 AND OUR MAIN PURPOSE OF THE SEARCH WAS LOOKING FOR AGENT
15 CAMARENA --

16 Q. I'M SORRY, I CUT YOU OFF.

17 A. -- TO OBTAIN ANY EVIDENCE OR LEADS THAT MIGHT LEAD US TO
18 HIS LOCATION.

19 Q. DO YOU PERSONALLY ALSO PARTICIPATE IN THE SEARCH?

20 A. YES, I DID, SIR.

21 Q. DO YOU RECALL WHAT ROOM OR ROOMS THAT YOU SEARCHED AS PART
22 OF YOUR ASSISTANCE?

23 A. MY MAIN SEARCH -- IN FACT, THE ONLY REAL SEARCH I DID WAS
24 IN AN AREA OF THE LIBRARY -- WHAT WE CALLED THE LIBRARY IN THE
25 HOUSE. AND I CONCENTRATED LARGELY ON THE DESK THAT WAS LOCATED

1 INSIDE THAT ROOM.

2 Q. DID YOU SEARCH THAT DESK?

3 A. YES, I DID, SIR.

4 Q. WOULD YOU TELL US BRIEFLY WHAT YOU FOUND INSIDE THE DESK.

5 A. I FOUND MULTIPLE RECEIPTS, BUSINESS CARDS AND PHOTOGRAPHS,
6 PENCILS AND REGULAR STATIONERY MATERIAL.

7 Q. THE BUSINESS CARDS, DO YOU KNOW WHAT NAME THEY WERE IN?

8 A. YES. MOSTLY WERE IN THE NAME OF MIGUEL FELIX GALLARDO
9 OWNING PHARMACIES AND OTHER SMALL BUSINESSES, REAL ESTATE
10 BUSINESSES.

11 Q. WHAT ELSE DID YOU FIND IN THAT DESK, IF ANYTHING?

12 A. A LOT OF PHOTOGRAPHS. QUITE A LARGE NUMBER OF
13 PHOTOGRAPHS.

14 Q. WERE YOU ABLE TO IDENTIFY ANYBODY THAT WAS IN -- THAT WERE
15 IN THE PHOTOGRAPHS?

16 A. YES, SIR. I WAS ABLE TO IDENTIFY A GREAT MANY PEOPLE IN
17 THE PHOTOGRAPHS.

18 Q. COULD YOU BE MORE SPECIFIC?.

19 A. MIGUEL FELIX GALLARDO WAS AMONG THEM. MATTA BALLESTEROS
20 WAS ALSO IN SEVERAL OF THE PHOTOGRAPHS. TOMAS VALLES CORRAL,
21 ANOTHER FEW ALFREDO, SEVERAL OTHER PEOPLE WE WERE INVESTIGATING
22 AT THE TIME.

23 Q. DID YOU EVER FIND INSIDE THE DESK PHOTOS OF FELIX GALLARDO
24 BY HIMSELF?

25 A. YES, I DID, SIR.

1 Q. DID YOU EVER FIND IN THE DESK PHOTOS OF MATTA BALLESTEROS
2 BY HIMSELF?

3 A. YES, I DID.

4 Q. DID YOU EVER FIND ANY PHOTOS OF THE TWO TOGETHER, FELIX
5 WITH MATTA BALLESTEROS?

6 A. YES, I DID.

7 Q. YOUR HONOR, WITH THE COURT'S PERMISSION, IF I COULD ASK
8 YOU TO STAND, AGENT ACUNA, AND TELL ME IF YOU SEE IN THE
9 COURTROOM THE SAME MATTA BALLESTEROS IN COURT THAT YOU SAW IN
10 THOSE PHOTOGRAPHS THAT YOU SEARCHED IN FEBRUARY OF 1985?

11 A. YES, SIR. IT IS THE GENTLEMEN SITTING AT DEFENSE COUNSEL
12 TABLE WEARING THE DARK GRAY SUIT, WHITE SHIRT.

13 MR. STOLAR: INDICATING MR. MATTA.

14 THE COURT: YES. THE RECORD WILL SO INDICATE.

15 BY MR. MEDRANO:

16 Q. DO YOU HAVE IN FRONT OF YOU, AGENT ACUNA, A GOVERNMENT
17 EXHIBIT IDENTIFIED AS 65?

18 A. YES, SIR, I DO.

19 Q. WOULD YOU TELL US WHAT THAT IS, SIR?

20 A. IT IS AN EXACT REPRODUCTION OF A PHOTOGRAPH THAT I FOUND
21 INSIDE THAT REFERENCE DESK AT THE HOUSE OF MIGUEL FELIX
22 GALLARDO.

23 AND THIS IS THE REPRODUCTION OF A PICTURE THAT WAS A
24 LITTLE MORE RECTANGULAR IN APPEARANCE, AND THE COLOR SATURATION
25 WAS MUCH BETTER THAN THIS. BUT IT DEPICTS THE SCENE PERFECTLY.

1 Q. WHAT YOU HAVE IN FRONT OF YOU, EXHIBIT 65, IS AN EXACT
2 REPRODUCTION OF THE ITEM YOU DISCOVERED?

3 A. YES, SIR, IT IS.

4 MR. MEDRANO: YOUR HONOR, WE SEEK ADMISSION OF
5 EXHIBIT 65 AT THIS TIME.

6 THE COURT: THAT MAY BE RECEIVED.

7 (EXHIBIT 65 # RECEIVED IN EVIDENCE.)

8 BY MR. MEDRANO:

9 Q. AGENT ACUNA, CAN YOU TELL ME WHO IS DEPICTED IN THAT
10 PHOTOGRAPH?

11 A. THERE ARE TWO INDIVIDUALS. ONE IS MATTA BALLESTEROS AND
12 THE OTHER IS FELIX GALLARDO.

13 Q. IS THERE ANYTHING ELSE IN THE PHOTOGRAPH?

14 A. THERE IS AN AUTOMOBILE, ROLLS ROYCE FOUR-DOOR.

15 MR. MEDRANO: YOUR HONOR, THAT CONCLUDES DIRECT OF
16 THE WITNESS.

17 THE COURT: CROSS-EXAMINE.

18 MR. STOLAR: THANK YOU.

19

20

CROSS-EXAMINATION +

21 BY MR. STOLAR:

22 Q. GOOD AFTERNOON, SIR.

23 A. GOOD AFTERNOON.

24 Q. JUST BRIEFLY LET ME ASK YOU A QUESTION OR TWO ABOUT THE
25 APRIL VISIT. YOU SAID YOU DROVE PAST FELIX'S HOUSE AFTER FELIX

1 BACKED INTO HIS CONDOMINIUM GARAGE; IS THAT CORRECT?

2 A. THAT IS CORRECT.

3 Q. WHAT HAPPENED TO THE OTHER TWO CARS THAT WERE APPARENTLY
4 DRIVING WITH FELIX?

5 A. THEY DROVE BY, AND THEY CONTINUED TO DRIVE ALONG THE SAME
6 CHIMALPOPOCA STREET.

7 Q. AND THEN ANOTHER CAR, THIS WHITE CAR, CAME UP AND THAT'S
8 THE ONE THAT STOPPED YOU; IS THAT CORRECT?

9 A. NO, SIR. I THINK THAT WAS ONE OF THE CARS THAT WAS ALONG
10 WITH FELIX AT THE TIME.

11 Q. BUT YOU'RE NOT SURE?

12 A. NOT RIGHT NOW, SIR, NO.

13 Q. DO YOU WRITE A REPORT OF THIS INCIDENT?

14 A. WE WROTE A TELETYPE ADVISING OF THE INCIDENT.

15 Q. TO WHOM?

16 A. TO OUR HEADQUARTERS IN WASHINGTON, D.C.

17 Q. AN AUTHOR OF THAT TELETYPE?

18 A. NO, SIR, I'M NOT.

19 Q. DID YOU CONTRIBUTE TO THE INFORMATION IN THE TELETYPE?

20 A. YES, I DID.

21 Q. DID YOUR NAME APPEAR AT THE BOTTOM OF THE TELETYPE?

22 A. I DON'T RECOLLECT. I DON'T THINK SO. I THINK IT WAS -- I
23 DON'T RECOLLECT, SIR.

24 Q. IT MAY HAVE, IN OTHER WORDS?

25 A. I DON'T THINK SO, BECAUSE I DIDN'T WRITE IT.

1 THE NAME -- BOTH ROGER KNAPP'S AND MY NAME WOULD
2 APPEAR IN THE BODY OF THE TELETYPE ADVISING THEM WHAT HAD
3 HAPPENED.

4 Q. NOW, LET'S GO TO THE SEARCH OF THE OTHER HOUSE. THIS
5 IS -- WHAT YOU HAVE DESCRIBED AS HAPPENING IN FEBRUARY IS A
6 SEARCH OF A COMPLETELY DIFFERENT HOUSE; IS THAT RIGHT?

7 A. YES, SIR.

8 Q. AND IT WAS FEBRUARY THE 11TH THAT YOU SEARCHED THIS HOUSE?

9 A. THAT'S CORRECT.

10 Q. AND ALSO PRESENT, YOU SAID, WERE TONY AYALA; IS THAT
11 RIGHT?

12 A. RIGHT, SIR.

13 Q. AND RAUL DELGADO?

14 A. THAT IS CORRECT, SIR.

15 Q. WHAT ABOUT ED HEATH; WAS HE THERE?

16 A. I DON'T RECOLLECT, SIR. HE MIGHT HAVE BEEN.

17 HE WAS SERVING IN GUADALAJARA DURING THE SAME TIME WE
18 WERE, AND AT THIS STAGE IN TIME, I DON'T REMEMBER IF HE WAS
19 THERE.

20 Q. DO YOU RECALL IF THIS IS THE SEARCH WHERE A PHOTOGRAPH OF
21 AGENT CAMARENA WAS FOUND BY AYALA?

22 A. SAME SEARCH. SAME TIME, SAME AREA.

23 Q. WAS IT FOUND IN THE SAME ROOM?

24 A. YES, SIR.

25 Q. ROUGHLY AROUND THE SAME TIME?

1 A. YES. WITHIN 15 MINUTES, TEN MINUTES.

2 Q. ALL RIGHT.

3 A. THERE WERE SEVERAL PEOPLE -- SEVERAL SEARCHING THE
4 LARGE -- THE ROOM WAS QUITE LARGE, AND ONE TOOK ONE SIDE OF THE
5 ROOM AND THE OTHER TOOK THE OTHER SIDE OF THE ROOM.

6 SO WE WEREN'T EXACTLY LOOKING AT EACH OTHER AS WE
7 WERE CONDUCTING THE SEARCH.

8 Q. NOW, PRIOR TO GOING TO THIS RESIDENCE, HAD YOU EVER MET
9 MR. MATTA?

10 A. NO, I HAD NEVER.

11 Q. HAD YOU EVER CONDUCTED ANY PERSONNEL SURVEILLANCE ON HIM?

12 A. NO, SIR.

13 Q. HAD YOU SEEN ANY PHOTOGRAPHS OF HIM?

14 A. MANY, MANY TIMES, SIR.

15 Q. MANY TIMES BEFORE FEBRUARY 11, 1985 YOU HAD SEEN
16 PHOTOGRAPHS; IS THAT RIGHT?

17 A. YES, SIR. I WAS CHARGE OF THE INVESTIGATION.

18 Q. ALL RIGHT. THAT'S ENOUGH. (BRIEF PAUSE.)

19 MAYBE IT IS NOT. AM I GOING TO SEE YOU IN THE FALL?

20 A. PARDON ME?

21 Q. WILL I SEE YOU IN SEPTEMBER?

22 MR. MEDRANO: OBJECTION, YOUR HONOR. RELEVANCE.

23 THE COURT: SUSTAINED.

24 BY MR. STOLAR:

25 Q. YOU HAD RECEIVED INFORMATION BEFORE YOU WENT TO THE

1 RESIDENCE THAT A PERSON FITTING MATTA'S DESCRIPTION HAD BEEN
2 SEEN THERE, RIGHT?

3 A. I DON'T RECOLLECT THAT, SIR.

4 MR. STOLAR: MAY I SHOW THE WITNESS A DOCUMENT IN AN
5 ATTEMPT TO REFRESH HIS RECOLLECTION?

6 THE COURT: YES.

7 (DOCUMENT TENDERED TO THE WITNESS.)

8 (WITNESS READING DOCUMENT.)

9 BY MR. STOLAR:

10 Q. DOES THAT REFRESH YOUR RECOLLECTION?

11 A. THAT'S A DIFFERENT ADDRESS.

12 THE COURT: JUST A MOMENT. THE QUESTION WAS DOES IT
13 REFRESH YOUR RECOLLECTION?

14 THE WITNESS: YES, SIR IT, DOES.

15 THE COURT: ALL RIGHT.

16 BY MR. STOLAR:

17 Q. AND THE DESCRIPTION OF MATTA WAS IN CONNECTION WITH A
18 DIFFERENT ADDRESS; IS THAT RIGHT?

19 A. THE ADDRESS YOU SHOWED ME THERE IS 231 CHIMALPOPOCA.

20 Q. RIGHT.

21 A. THE ADDRESS WE SEARCHED WAS 445 MIXCOATL.

22 Q. I UNDERSTAND THAT. ALL I'M SAYING IS YOU RECEIVED
23 INFORMATION ABOUT SOMEBODY WHO FIT THE PHYSICAL DESCRIPTION OF
24 JUAN RAMON MATTA, IS THAT RIGHT, PRIOR TO GOING TO THIS
25 PARTICULAR HOUSE?

1 A. YES, SIR.

2 Q. AND YOU WROTE THAT DOWN IN YOUR REPORT: "PHYSICAL
3 DESCRIPTION IS THE SAME FOR JUAN RAMON MATTA BALLESTEROS"; IS
4 THAT RIGHT?

5 A. YES, SIR.

6 Q. THOSE FOUR WORDS APPEAR IN YOUR REPORT, CORRECT?

7 A. YES.

8 Q. NOW, YOU THEN DID THE SEARCH THAT YOU JUST DESCRIBED HERE,
9 AND YOU HAD SAID THAT IT MET WITH RATHER DISAPPOINTING RESULTS;
10 ISN'T THAT CORRECT?

11 A. RIGHT, SIR.

12 Q. IN FACT, YOU DESCRIBE IN YOUR REPORT THAT NUMEROUS
13 PHOTOGRAPHS AND BUSINESS CARDS WERE TAKEN; IS THAT CORRECT?

14 A. THAT IS CORRECT.

15 Q. AND YOU THEN DESCRIBED IN YOUR REPORT SEVERAL OTHER
16 PHOTOGRAPHS, IDENTIFYING THEM IN THE BODY OF YOUR REPORT; DID
17 YOU NOT?

18 A. YES, SIR, I DID.

19 Q. YOU WROTE THAT SPECIAL AGENT CAMARENA'S PHOTOGRAPH TAKEN
20 AT THE M.F.J.P. OFFICE WAS FOUND, CORRECT?

21 A. THAT IS CORRECT.

22 Q. AND THAT TOMAS T O M A S, VALLES, V A L L E S, CORRAL,
23 C O R R A L; THAT PHOTOGRAPH WAS FOUND, CORRECT?

24 A. THAT IS CORRECT.

25 Q. HERMAN HARPER?

1 A. THAT IS CORRECT.

2 Q. JOSE MELO?

3 A. CORRECT.

4 Q. JOHN RILEY, A/K/A HENRY DONALDSON?

5 A. THAT'S CORRECT.

6 Q. AND OTHER UNIDENTIFIED INDIVIDUALS?

7 A. YES, SIR.

8 Q. YOU DID NOT IDENTIFY THE PHOTOGRAPH OR ANY PHOTOGRAPH OF
9 JUAN RAMON MATTA IN YOUR REPORT; DID YOU?

10 A. NO, I DID NOT.

11 Q. DID YOU TAKE CUSTODY OF ANY OF THE PHOTOGRAPHS OF
12 MR. MATTA OR FELIX GALLARDO?

13 A. YES, SIR, I DID.

14 Q. AND DOES THAT INCLUDE WHAT IS NOW GOVERNMENT EXHIBIT
15 NUMBER 65?

16 A. I'M NOT 100 PERCENT SURE IF AT THE TIME -- AGAIN, I SWEAR
17 TO THE FACT THERE WERE SEVERAL PEOPLE CONDUCTING THE SEARCH,
18 SEVERAL PEOPLE COLLECTING THE INFORMATION WE WERE FINDING, AND
19 I MAY HAVE AT THAT TIME HAVE GIVEN IT TO TONY AYALA. I MAY NOT
20 HAVE.

21 WHAT I DO REMEMBER IS THAT WE DID COLLECT ALL THE
22 PHOTOGRAPHS AND DOCUMENTS WE FOUND INSIDE THAT HOUSE, AND WE
23 TOOK IT TO THE MEXICAN FEDERAL JUDICIAL POLICE OFFICE. AND AT
24 THAT TIME, I REMEMBER SOME OF THE PHOTOGRAPHS AND DOCUMENTS
25 WERE RETAINED IN THE CUSTODY OF THE JUDICIAL POLICE, SOME OF

1 THE OTHER DOCUMENTS AND PHOTOGRAPHS WERE RETAINED BY THE
2 D.E.A..

3 I COULD NOT SPECIFY TODAY WHICH DOCUMENTS WERE TAKEN
4 BY WHOM OR WHERE THEY WENT.

5 Q. THE PHOTOGRAPH THAT THE GOVERNMENT EXHIBIT IS A COPY OF
6 WAS OTHERWISE A LARGER COLOR PICTURE; IS THAT RIGHT?

7 A. IT WAS LIKE A 35 MILLIMETER PRINT; IN OTHER WORDS,
8 RECTANGULAR.

9 Q. WAS IT TOGETHER WITH A BUNCH OF OTHER PHOTOGRAPHS THAT HAD
10 APPARENTLY COME FROM THE SAME ROLE?

11 A. YES, SIR. THE LOCALES WERE VERY SIMILAR, AND I REMEMBER
12 THERE WAS A DATE STAMPED, LIKE WHEN YOU DEVELOP THE PHOTOGRAPH,
13 YOU STAMP A DATE ON THE BACK.

14 Q. WHAT WAS THE DATE?

15 A. IT WAS A COUPLE OF YEARS BEFORE '85.

16 Q. A COUPLE OF YEARS BEFORE?

17 A. YES. '82 OR '83.

18 Q. REALLY? DID YOU WRITE THAT DOWN ANYPLACE?

19 A. NO, SIR.

20 Q. DO WE HAVE THOSE ORIGINALS ANYPLACE? DO YOU KNOW WHERE
21 THEY ARE?

22 A. NO, SIR.

23 Q. WHAT YEAR IS THE ROLLS ROYCE?

24 A. THE ROLLS ROYCE REALLY GO BY MODELS.

25 Q. WHAT MODEL IS IT?

1 A. IT'S REALLY DIFFICULT TO PINPOINT THE MODEL. IT WAS LIKE
2 A SILVER SHADOW TO ME.

3 Q. SILVER SHADOW. DO YOU KNOW WHAT YEAR?

4 A. NO, SIR.

5 Q. DID YOU EVER FIND AN AUTOMOBILE REGISTRATION FOR THAT
6 ROLLS ROYCE IN FELIX'S HOUSE?

7 A. NO, SIR.

8 Q. THE OTHER PICTURES, DID MR. MATTA LOOK LIKE HE LOOKS IN
9 THAT PICTURE AND THE OTHER PICTURES IN MR. FELIX'S HOUSE?

10 A. VERY SIMILAR.

11 Q. VERY SIMILAR?

12 A. VERY SIMILAR.

13 Q. WHAT HAPPENED TO THOSE PICTURES?

14 A. I DON'T KNOW, SIR.

15 Q. WERE THERE PICTURES OF MATTA THAT WERE NOT TAKEN AT THE
16 LOCALE THAT YOU DESCRIBED AS THE 35 MILLIMETER PHOTO?

17 A. I DON'T UNDERSTAND WHAT YOU MEAN.

18 Q. WERE THERE OTHER PICTURES OF MR. MATTA THAT MAYBE CAME
19 FROM A DIFFERENT ROLE THAN THIS ONE?

20 A. THEY MIGHT HAVE, YES, SIR.

21 Q. NOW, D.E.A. HAS A REPORTING FORM CALLED A D.E.A. 7; DOES
22 IT NOT?

23 A. THAT IS CORRECT.

24 Q. THAT'S FOR THE D.E.A.'S ACQUISITION OF SO-CALLED NON-DRUG
25 PROPERTY; IS THAT RIGHT?

1 A. THAT'S CORRECT.

2 Q. THE PHOTOGRAPHS THAT YOU TOOK ON THAT PARTICULAR DAY WOULD
3 FIT EXACTLY UNDER THAT CATEGORY; WOULD THEY NOT?

4 A. IT DEPENDS ON THE SCOPE OF THE INVESTIGATION. AT THAT
5 TIME, WE'RE LOOKING FOR AN AGENT THAT WAS MISSING.

6 WE HAD BEEN WORKING PRETTY MUCH 24 HOURS A DAY, FOUR
7 DAYS STRAIGHT, AND OUR PRIMARY AIM WAS TO LOCATE MR. CAMARENA
8 AND NOT TO PROCESS EVIDENCE OF WHAT MIGHT LATER BE EVIDENCE.

9 AT THAT TIME, IT HAD NO EVIDENTIARY VALUE, AS FAR AS
10 I WAS CONCERNED. I MADE THE DECISION NOT TO FILL OUT THE A-7.
11 I WASN'T CONCERNED WITH THAT AT THE TIME.

12 Q. THIS PICTURE HAD NO EVIDENTIARY VALUE IN CONNECTION WITH
13 THE INVESTIGATION ABOUT CAMARENA; IS THAT YOUR TESTIMONY?

14 A. AT THAT TIME?

15 Q. YES.

16 A. AT THAT PARTICULAR TIME, BACK ON FEBRUARY 11, 1985, I WAS
17 ONLY CONCERNED WITH FINDING MR. CAMARENA, RATHER THAN PROCESS
18 ACCORDING TO MANUAL A PHOTOGRAPH.

19 Q. WELL, YOU WERE INTERESTED IN FINDING LEADS TO CAMARENA,
20 RIGHT?

21 A. I CAN'T HEAR YOU, SIR.

22 Q. YOU WERE INTERESTED ALSO IN FINDING LEADS TO WHERE HE
23 MIGHT BE?

24 A. UH-HUH.

25 Q. SO YOU MUST HAVE THOUGHT THE PHOTO HAD SOME EVIDENTIARY

1 VALUE?

2 A. TO US, WE KNEW, BECAUSE I RAN THE INVESTIGATION IN MEXICO,
3 THE ASSOCIATION BETWEEN MR. MATTA BALLESTEROS AND MIGUEL FELIX
4 GALLARDO.

5 Q. I'M NOT INTERESTED IN THAT AND THAT'S NOT WHAT I'M ASKING
6 FOR RIGHT NOW.

7 MR. MEDRANO: YOUR HONOR, THE WITNESS IS NOT BEING
8 ALLOWED TO FINISH HIS ANSWER BEFORE COUNSEL INTERRUPTS.

9 THE COURT: WELL, HE HAS FINISHED THE ANSWER.

10 BY MR. STOLAR:

11 Q. THE INVESTIGATION OF THE ASSOCIATION BETWEEN MATTA
12 BALLESTEROS AND FELIX GALLARDO WAS THE SUBJECT OF A PENDING
13 INDICTMENT IN THIS COURT, ISN'T IT, NOT TRIED YET, ISN'T THAT
14 CORRECT?

15 MR. MEDRANO: RELEVANCE. BEYOND THE SCOPE OF DIRECT
16 AND LACK OF FOUNDATION.

17 THE COURT: SUSTAINED.

18 BY MR. STOLAR:

19 Q. ARE YOU AWARE THAT THERE IS A PENDING INDICTMENT AGAINST
20 MR. MATTA, WHICH IS DUE TO GO TO TRIAL IN SEPTEMBER?

21 THE COURT: AN OBJECTION IS SUSTAINED BY THE COURT.

22 BY MR. STOLAR:

23 Q. WHEN YOU TURNED THE PICTURES OVER TO SOMEBODY AT THE
24 M.F.J.P. OFFICE, WHO DID YOU TURN THEM OVER TO?

25 A. IT WAS A COMANDANTE NAMED PAVON. HE WAS IN CHARGE OF THE

1 INVESTIGATION BY THE M.F.J.P.

2 WE HAD TWO OTHER AGENTS ASSIGNED AS GROUP
3 SUPERVISORS. AT THAT TIME, ONE WAS TONY AYALA AND THE OTHER
4 WAS JAMES KUYKENDALL.

5 MR. HEATH AT THAT PARTICULAR TIME WAS THE COUNTRY
6 ATTACHE IN MEXICO -- WAS ALSO THERE -- BUT HE TOOK MORE A
7 DIRECTOR'S VIEW OF THE WAY THINGS WERE GOING. THE ACTUAL
8 SUPERVISOR OF THE THREE PEOPLE I JUST NAMED: PAVON, KUYKENDALL
9 AND AYALA WERE ALL TOGETHER AT THE M.F.J.P.'S OFFICE, DECIDING
10 WHAT STEPS TO FOLLOW AT THE TIME.

11 Q. I'M CONCERNED ABOUT TRACING THE CUSTODY OF THE PHOTOGRAPHS
12 THAT YOU TOOK BACK AT THE M.F.J.P. OFFICE?

13 A. SIR, AS I STATED BEFORE, THE PHOTOS THAT WERE TAKEN THERE
14 I HAVE NO IDEA WHERE IT WENT, WHERE THEY WIND UP. TO TELL YOU
15 THE TRUTH, I JUST DON'T KNOW.

16 Q. HAVE YOU BEEN ASKED TO DO ANY--KIND OF A SEARCH TO TRY TO
17 TRACE BACK?

18 A. YES, SIR.

19 Q. WHAT ARE THE RESULTS OF YOUR SEARCH? WHAT HAVE YOU FOUND?

20 A. WE HAVEN'T BEEN ABLE TO LOCATE THE PHOTOGRAPH. I HAVE
21 BEEN IN CONTACT, SINCE I WAS APPROACHED ABOUT THIS PHOTOGRAPH,
22 WITH THE ANALYST THAT ORIGINALLY ASSISTED IN THE INVESTIGATION.

23 Q. WHO WAS THAT?

24 A. INTELLIGENCE ANALYST ANN PHILLIPS.

25 Q. ANN PHILLIPS, RIGHT.

1 A. SHE'S IN CHARGE RIGHT NOW OF THE INVESTIGATION WHAT YOU'RE
2 REFERENCING ABOUT --

3 Q. ABOUT THE OTHER TRIAL?

4 A. THE OTHER TRIAL, RIGHT.

5 AND OUR CONCERN WAS TO LOCATE THIS PHOTOGRAPH. AND
6 WE JUST HAVEN'T BEEN ABLE TO DO SO. IT'S OBVIOUSLY --

7 Q. DID YOU CHECK BACK WITH THE CASE AGENT ON THE OTHER CASE
8 TO SEE IF HE HAD A RECORD OF IT?

9 A. ON THE CASE YOU'RE TALKING ABOUT FOR SEPTEMBER?

10 Q. YES.

11 A. YES, SIR. WE'RE WORKING TOGETHER ON IT.

12 Q. WERE YOU ABLE TO DETERMINE HOW THAT COPY -- I'M SORRY
13 WITHDRAWN -- WHEN THAT COPY WAS MADE?

14 A. NO, SIR. ALL I CAN TELL YOU IS THE CONTENTS IS EXACT WHAT
15 I SAW.

16 Q. IS THAT A POLAROID?

17 A. THIS APPEARS TO BE A POLAROID PICTURE.

18 Q. DID YOU CHECK WITH THE POLAROID COMPANY TO SEE WHEN THE
19 FILM WAS MANUFACTURED?

20 A. WITHOUT GETTING INTO --

21 THE COURT: JUST A MOMENT. DID YOU HEAR THE
22 QUESTION?

23 THE WITNESS: NO, SIR, I DID NOT.

24 BY MR. STOLAR:

25 Q. DID YOU CHECK WITH APODACA OR ANYBODY AT THE D.E.A. OFFICE

1 IN WASHINGTON OR THE D.E.A. OFFICE IN WASHINGTON, D.C., WHICH
2 IS IN CHARGE OF THAT OTHER CASE WE TALKED ABOUT, FOR THEIR
3 RECORDS ABOUT THIS PARTICULAR PHOTOGRAPH?

4 A. YES, SIR, I HAVE.

5 Q. AND WERE THEY ABLE TO HELP YOU AT ALL?

6 A. NO, SIR. THIS IS THE ONLY COPY THAT EXISTS IN ALL OF OUR
7 SEARCHES. PEOPLE HERE IN LOS ANGELES HAVE SEARCHED FOR IT,
8 PEOPLE IN WASHINGTON HAVE SEARCHED FOR THE ORIGINAL. WE HAVE
9 NOT BEEN ABLE TO FIND IT.

10 Q. HAS ANYBODY CHECKED WITH THE M.F.J.P.?

11 A. TO MY KNOWLEDGE, I CAN'T ANSWER THAT. I DON'T KNOW. I
12 DIDN'T.

13 Q. YOU DIDN'T. THE PHOTOGRAPH FROM WHICH THAT WAS MADE, WAS
14 IT CRUMPLED? AND THE OTHER PHOTOGRAPHS OF MR. MATTA AND MR.
15 FELIX, WERE THEY CRUMPLED IN THE DRAWER?

16 A. NO, THEY WERE LOOSELY -- THEY WERE LOOSE INSIDE THE
17 DRAWER.

18 Q. LOOSE IN THE DRAWER.

19 A. SPREAD OUT THROUGHOUT THE DRAWER. THE DRAWER WAS A CENTER
20 DRAWER, WHICH WAS ABOUT MAYBE 35 INCHES 36 INCHES IN WIDTH AND
21 2 INCHES IN HEIGHT.

22 Q. WHAT ABOUT THE BUSINESS CARDS; WHERE DID THEY GO?

23 A. THE SAME ROUTE AS THE PHOTOGRAPH. AS I SAID, THERE WAS A
24 PILE OF BUSINESS CARDS, DOCUMENTS THAT WERE TAKEN FROM THE
25 RESIDENCE AND BROUGHT TO THE M.F.J.P. OFFICE, AND THEY WERE

1 SEPARATED THERE.

2 Q. WERE THERE ANY WOMEN DEPICTED IN ANY PHOTOGRAPHS?

3 A. ANY WHAT, SIR?

4 Q. FEMALES.

5 A. YES, SIR.

6 Q. PICTURES OF MR. FELIX GALLARDO'S WIFE?

7 A. I DON'T REMEMBER THE FEMALES RIGHT NOW, SIR.

8 Q. PICTURES OF MR. MATTA'S WIFE PERHAPS?

9 A. I DON'T REMEMBER SEEING PICTURES. THERE MIGHT HAVE, BEEN
10 BUT I DON'T REMEMBER RIGHT NOW.

11 Q. TAKE A LOOK AROUND THE COURTROOM AND SEE IF YOU SEE ANY
12 FEMALE PERSON WHO YOU MIGHT HAVE SEEN IN ANY OF THOSE PICTURES.

13 MR. MEDRANO: OBJECTION. BEYOND THE SCOPE OF DIRECT.

14 THE COURT: SUSTAINED.

15 BY MR. STOLAR:

16 Q. THAT PARTICULAR PICTURE, THE FACT THAT IT IS IN THE
17 POSSESSION OF THE UNITED STATES GOVERNMENT, WOULD THAT INDICATE
18 THAT IT ORIGINALLY WAS ONE OF THOSE PHOTOGRAPHS THAT WENT TO
19 THE D.E.A. OFFICE RATHER THAN TO THE M.F.J.P. OFFICE WHEN THE
20 SPLIT UP WAS DONE?

21 MR. MEDRANO: OBJECTION. AMBIGUOUS AND
22 INCOMPREHENSIBLE.

23 THE COURT: OVERRULED.

24 THE WITNESS: AGAIN, THE PHOTOGRAPHS WERE ALL TAKEN
25 FIRST TO THE M.F.J.P. OFFICE.

1 BY MR. STOLAR:

2 Q. RIGHT.

3 A. THAT'S THE POINT WHERE THEY WERE SEPARATED. THE M.F.J.P.
4 KEPT CERTAIN COPIES, THE D.E.A. RETAINED OTHER COPIES.

5 Q. CORRECT.

6 A. THE POSSIBILITY IS THE ORIGINAL PHOTOGRAPH WAS TAKEN TO
7 THE GUADALAJARA OFFICE, OUR D.E.A. OFFICE.

8 Q. RIGHT.

9 A. AND A COPY COULD HAVE BEEN MADE THERE. WE HAVE THE
10 ABILITY WITH COPY MACHINES THERE. IT COULD HAVE BEEN TAKEN
11 DIRECTLY TO THE WASHINGTON -- OUR WASHINGTON HEADQUARTERS AND
12 THE COPY COULD HAVE BEEN MADE THERE. I CANNOT TESTIFY.

13 Q. IN OTHER WORDS, WHAT I'M SAYING IS THE LIKELIHOOD IS THAT
14 THAT PARTICULAR PHOTO DID NOT STAY WITH PAVON REYES, BUT IT
15 STAYED WITH THE D.E.A.?

16 A. ABSOLUTELY. RIGHT, SIR, OTHERWISE WE WOULD NOT HAVE THE
17 COPY.

18 Q. EXACTLY. SO THAT THE CHAIN OF CUSTODY ON THAT PICTURE
19 COULD ONLY BE TRACED BACK THROUGH THE UNITED STATES GOVERNMENT
20 PEOPLE; IS THAT RIGHT?

21 A. IT SHOULD BE.

22 Q. YOU SHOULD BE ABLE TO FIND OUT WHERE THE ORIGINAL IS;
23 SHOULDN'T YOU?

24 MR. MEDRANO: OBJECTION. THAT CALLS FOR CONCLUSION
25 AND SPECULATION, YOUR HONOR.

1 THE COURT: OBJECTION SUSTAINED.

2 BY MR. STOLAR:

3 Q. IN THE FILES, WHEN YOU CHECKED WITH ANN PHILLIPS OR ED
4 APODACA OR EVEN KEVIN CONNOLLY, WHO'S THE PROSECUTOR ON THE
5 OTHER CASE --

6 MR. MEDRANO: OBJECTION, YOUR HONOR, COUNSEL IS
7 TESTIFYING. OBJECTION TO THE FORM OF THE QUESTION.

8 THE COURT: COUNSEL, AVOID THIS COMMENTARY. JUST ASK
9 QUESTIONS.

10 MR. STOLAR: I'LL REPHRASE IT.

11 BY MR. STOLAR:

12 Q. IN YOUR CHECKS WITH ANN PHILLIPS OR ED APODACA TO
13 DETERMINE WHERE THE ORIGINAL OF THAT WAS, DID YOU DETERMINE
14 THAT THEY HAD THE ORIGINALS OF ANY OF THE OTHER PHOTOGRAPHS
15 THAT WERE SEIZED ON THAT DATE?

16 A. I DON'T THINK I ASKED -- LET ME REANSWER THAT.

17 WE WERE LOOKING FOR OTHER THAN PHOTOGRAPHS. TO THE
18 BEST OF MY KNOWLEDGE, I DON'T THINK THERE IS ANY OF THE
19 ORIGINALS AVAILABLE TO US AT THIS TIME.

20 Q. NONE OF THE OTHER PHOTOGRAPHS?

21 A. NO, SIR.

22 Q. THAT WERE TAKEN OUT OF FELIX'S HOUSE THAT DEPICT --

23 A. OUT OF THE DESK, THE ONES THAT I SAW.

24 Q. -- THAT DEPICT MATTA ALONE OR MATTA WITH FELIX GALLARDO;
25 NONE OF THOSE OTHER ORIGINALS EXIST IN THE FILES OF THE D.E.A.

1 IN D.C.?

2 A. I DON'T THINK SO, SIR. NO. I'M IN DAILY CONTACT WITH ANN
3 PHILLIPS AND WE HAVE DISCUSSED THE PHOTOGRAPH ISSUE SEVERAL
4 TIMES, AND I DON'T REMEMBER HER SAYING "AT LEAST WE HAVE X-Y-Z
5 PHOTOGRAPH THAT WAS FOUND AT THE TIME".

6 Q. TAKE A LOOK AT THE PICTURE OF MR. MATTA ON THERE, WOULD
7 YOU?

8 A. YES, SIR.

9 Q. MR. MATTA DOES NOT HAVE A MOUSTACHE; DOES HE?

10 A. THAT IS CORRECT.

11 MR. STOLAR: THANK YOU.

12 THE COURT: ANY REDIRECT?

13 MR. MEDRANO: ONE MOMENT, YOUR HONOR.

14

15 REDIRECT EXAMINATION +

16 BY MR. MEDRANO:

17 Q. AGENT ACUNA, WHEN YOU FIRST FOUND THE ORIGINAL OF THAT
18 PHOTOGRAPH ON FEBRUARY 11, 1985, DID YOU INDICATE THAT THERE
19 WAS A DATE ON THE BACK OF THAT ROLLS ROYCE PHOTOGRAPH?

20 A. YES, SIR, THERE WAS.

21 Q. DO YOU RECALL WHAT THAT DATE WAS?

22 A. NO, SIR. VAGUELY, THE YEAR, WHICH WAS A COUPLE OF YEARS
23 BEFORE THE ACTUAL DATE WE FOUND THE PHOTOGRAPH. SOMEWHERE IN
24 '83, MAYBE '82.

25 Q. DO YOU KNOW IF THAT'S THE DATE WHEN THE PHOTOGRAPH WAS

1 TAKEN OR IF THAT WAS SIMPLY A DATE THAT WAS SCRIBBLED IN?

2 A. NO, SIR. IT WOULD HAVE BEEN THE DATE THAT IT WAS
3 DEVELOPED. SO TECHNICALLY, THE PHOTOGRAPH COULD HAVE BEEN
4 TAKEN -- WHO KNOWS?

5 Q. SO IT IS THE DATE OF DEVELOPMENT, BUT NOT NECESSARILY THE
6 DATE WHEN IT WAS TAKEN?

7 A. YOU KNOW HOW THEY STAMP THE DATE USUALLY IN RED INK THAT
8 SAYS OCTOBER OR WHATEVER?

9 Q. DO YOU RECALL MR. STOLAR'S REFERENCE TO THAT D.E.A. REPORT
10 THAT YOU GENERATED WITH REGARD TO THE SEARCH?

11 A. YES, SIR.

12 Q. NOW, IN YOUR D.E.A. REPORT OF 1985, DO YOU INDICATE THAT
13 SEVERAL PHOTOGRAPHS WERE FOUND?

14 A. RIGHT, SIR.

15 Q. AND DO YOU ALSO INDICATE THAT YOU DON'T IDENTIFY MANY OF
16 THE NAMES OF THE PEOPLE WHO WERE DEPICTED IN THOSE PHOTOGRAPHS?

17 A. RIGHT, SIR.

18 Q. AM I CORRECT IN SAYING THAT YOU DO NOT MENTION MATTA OR
19 GALLARDO BY NAME IN YOUR D.E.A. REPORT?

20 A. THAT IS CORRECT, SIR.

21 Q. COULD YOU EXPLAIN TO US WHY THAT IS?

22 A. PART OF IT MIGHT HAVE BEEN OVERSIGHT ON MY PART, BUT
23 GENERALLY, I EXPLAINED TO YOU WHAT I WAS TRYING TO DO IN THAT I
24 WAS NAME SOME OF THE PEOPLE THAT WE JUST SUSPECTED PRIOR TO THE
25 KIDNAPPING OF BEING INVOLVED WITH MIGUEL FELIX AT ALL.

1 AND I JUST WANT TO POINT OUT THAT OUR SUSPICIONS WERE
2 PROBABLY VERY ACCURATE IN THAT WE FOUND THOSE PHOTOGRAPHS
3 INSIDE MR. FELIX'S RESIDENCE.

4 Q. DID YOU FIND IT REDUNDANT IN ANY WAY TO INDICATE YOU FOUND
5 A GALLARDO PHOTO IN A GALLARDO RESIDENCE?

6 A. THAT'S WHAT I SAID EARLIER. IT WAS -- AT LEAST AMONGST
7 THE PEOPLE INVOLVED IN THE NARCOTICS INVESTIGATION AGAINST
8 THESE PEOPLE, WE KNEW THE ASSOCIATIONS WAY BEFOREHAND. IT WAS
9 MORE OR LESS WIDELY KNOWN AND ACCEPTED.

10 SO I DID NOT PLACE MUCH WEIGHT ON THAT ASSOCIATION.

11 Q. AND AT THIS TIME, IN TERMS OF YOUR STATE OF MIND FOR THE
12 INVESTIGATION, YOU'RE LOOKING FOR NEW LEADS AND NEW SUSPECTS?

13 A. RIGHT, SIR.

14 Q. AS OF THAT DATE ON FEBRUARY 11, 1985, DID YOU REGARD MATTA
15 AND GALLARDO AS NEW OR OLD SUSPECTS?

16 A. VERY OLD.

17 Q. IS THAT THE REASON YOU DIDN'T INCLUDE THEM BY NAME IN THE
18 REPORT?

19 A. THAT'S PERHAPS WHY.

20 MR. MEDRANO: YOUR HONOR, THAT CONCLUDES REDIRECT.
21 THANK YOU.

22 RE-CROSS-EXAMINATION +.

23 BY MR. STOLAR:

24 Q. YOU HAVE A VERY VAGUE RECOLLECTION THAT IT WAS 1982 OR
25 1983; IS THAT RIGHT?

1 A. YES, SIR.

2 Q. THE BEST WAY TO FIND OUT EXACTLY WHEN THAT PHOTOGRAPH WAS
3 DEVELOPED WOULD BE TO HAVE THE ORIGINAL; WOULD IT NOT?

4 A. I WOULD AGREE WITH YOU, SIR.

5 Q. SOMEHOW THE D.E.A. HAS DISAPPEARED THAT (SIC); HAVEN'T
6 THEY?

7 MR. MEDRANO: OBJECTION, YOUR HONOR.
8 MISCHARACTERIZES THE TESTIMONY, AND IT'S ARGUMENTATIVE.

9 THE COURT: RESTATE YOUR QUESTION.

10 BY MR. STOLAR:

11 Q. IT IS THE D.E.A. THAT HAS LOST THE ORIGINAL; ISN'T THAT
12 RIGHT?

13 MR. MEDRANO: SAME OBJECTION. NO FOUNDATION

14 THE COURT: OVERRULED.

15 THE WITNESS: SOMEONE LOST IT, SIR. I AGREE.

16 BY MR. STOLAR:

17 Q. WHO COULD HAVE LOST IT?

18 A. PERHAPS THE D.E.A. -- SOMEBODY IN THE D.E.A.

19 Q. SOMEBODY IN THE D.E.A. LOST IT?

20 A. (NODDING HEAD AFFIRMATIVELY.)

21 Q. YOU WROTE YOUR REPORT, SIX-PAGE REPORT, ABOUT WHAT YOU HAD
22 DONE ON FEBRUARY 10TH AND 11TH ON THE MARCH 25TH; ISN'T THAT
23 RIGHT?

24 A. THAT IS CORRECT, SIR.

25 Q. YOU HAD A REASONABLY LARGE -- OR IT WAS A MORE RELAXED

1 TIME IN ORDER TO SIT DOWN AND WRITE YOUR REPORT; ISN'T THAT
2 RIGHT?

3 A. RIGHT, SIR.

4 Q. AND YOU DID NOT, IN YOUR REPORT, INDICATE THAT A
5 PHOTOGRAPH OF MATTA HAD BEEN FOUND IN FELIX'S HOUSE; DID YOU?

6 A. NO, SIR, I DID NOT.

7 Q. IN FACT, YOU HAD A WHOLE INDEXING SECTION IN THIS REPORT;
8 DID YOU NOT?

9 A. THAT IS CORRECT, SIR.

10 Q. WHERE YOU INDEXED ROUGHLY 16 NAMES OF PEOPLE, INCLUDING
11 PEOPLE YOU HAD SPOKEN TO AND PEOPLE WHO WERE IDENTIFIED AS
12 BEING IN SOME OF THE PHOTOGRAPHS, RIGHT?

13 A. THAT IS CORRECT.

14 Q. AND AMONG THOSE 16 NAMES, THE NAME JUAN RAMON MATTA
15 BALLESTEROS DOES NOT APPEAR; DOES IT?

16 A. I DON'T REMEMBER. IF YOU LET ME SEE MY REPORT -- IF YOU
17 SAY IT DOESN'T APPEAR, THEN PERHAPS, NO.

18 Q. DO YOU TAKE MY WORD?

19 A. I TAKE YOUR WORD.

20 MR. STOLAR: THANK YOU. NOTHING FURTHER.

21 THE COURT: ANYTHING FURTHER?

22 MR. MEDRANO: NO REDIRECT, YOUR HONOR.

23 THE COURT: YOU MAY STEP DOWN.

24 THE WITNESS: THANK YOU, SIR.

25 (WITNESS EXCUSED.)

1 MR. MEDRANO: THE GOVERNMENT CALLS JOSEPH GONZALES TO
2 THE STAND.

3 THE COURT: WHAT IS THE NAME?

4 MR. MEDRANO: JOSEPH GONZALES, YOUR HONOR?

5 YOUR HONOR, MAY I PLACE GOVERNMENT EXHIBIT 170 IN
6 FRONT OF THE WITNESS?

7 THE COURT: THE WITNESS WILL COME FORWARD.

8 (WITNESS SUMMONED TO THE COURTROOM.)

9
10 JOSEPH GONZALES + PLAINTIFF'S WITNESS, SWORN

11
12 THE CLERK: PLEASE STATE YOUR FULL NAME FOR THE
13 RECORD AND SPELL YOUR LAST NAME.

14 THE WITNESS: JOSEPH GONZALES. G O N Z A L E S.

15
16 DIRECT EXAMINATION +

17 BY MR. MEDRANO:

18 Q. ARE YOU WITH THE D.E.A., MR. GONZALES?

19 A. YES, SIR, I AM.

20 Q. SPECIAL AGENT?

21 A. YES. I'M A GROUP SUPERVISOR FOR THE D.E.A.

22 Q. HOW LONG HAVE YOU BEEN WITH THE D.E.A., TOTAL?

23 A. JUST A LITTLE OVER 20 YEARS WITH THE D.E.A. AND ITS
24 PREDECESSOR AGENCIES.

25 Q. WHAT CITY IS YOUR CURRENT ASSIGNMENT?

1 A. SAN YSIDRO, CALIFORNIA.

2 Q. IS THAT IN THE CAPACITY AS A GROUP SUPERVISOR?

3 A. YES, SIR, IT IS.

4 Q. BRIEFLY, WHAT DOES THAT ENTAIL? WHAT DOES THAT MEAN?

5 A. I SUPERVISE APPROXIMATELY 12 -- A GROUP OF COMBINED
6 AGENTS, D.E.A., CUSTOMS, ALCOHOL TOBACCO FIREARMS, STATE
7 NARCOTICS, SAN DIEGO POLICE DEPARTMENT. THERE ARE 12 AGENTS IN
8 MY GROUP AT THIS TIME.

9 Q. AGENT GONZALES, DID YOU KNOW ENRIQUE CAMARENA?

10 A. YES, I DID.

11 Q. WHERE DID YOU MEET HIM?

12 A. I MET HIM WHEN WAS STATIONED IN CALEXICO.

13 Q. WHAT TIME FRAME WOULD THAT HAVE BEEN THAT YOU MET HIM? .

14 A. IT WOULD HAVE BEEN IN THE 1970'S. I DON'T REMEMBER THE
15 EXACT YEARS.

16 Q. IN THE '70S?

17 A. IN THE '70'S, YES.

18 Q. DIRECTING YOUR ATTENTION TO ABOUT FEBRUARY OF 1985, WHAT
19 WAS YOUR ASSIGNMENT AT THAT TIME?

20 A. AT THAT TIME I WAS THE SENIOR SPECIAL AGENT IN SAN DIEGO,
21 CALIFORNIA.

22 Q. AT ANY POINT, SIR, DO YOU HAVE AN OPPORTUNITY TO TRAVEL TO
23 GUADALAJARA, MEXICO?

24 A. YES, I DID.

25 Q. DO YOU RECALL WHEN IT WAS THAT YOU ARRIVED IN GUADALAJARA?

1 A. IT WAS FEBRUARY THE 9TH, 1985.

2 Q. WHAT IS IT THAT TAKES YOU TO GUADALAJARA?

3 A. I WENT DOWN TO ASSIST ON THE INVESTIGATION OF SPECIAL
4 AGENT CAMARENA. HE WAS MISSING AT THE TIME.

5 Q. WERE YOU THERE TO ASSIST WITH THE INVESTIGATION?

6 A. YES, SIR, I WAS.

7 Q. ON OR ABOUT FEBRUARY 9, WERE THERE OTHER D.E.A. AGENTS WHO
8 WERE ALSO JOINING YOU IN GUADALAJARA?

9 A. YES. THERE WERE NUMEROUS D.E.A. AGENTS ARRIVING IN
10 GUADALAJARA FROM THE UNITED STATES AND OTHER POINTS IN MEXICO.

11 Q. LET ME DIRECT YOUR ATTENTION TO ABOUT MARCH 6 OF 1985.

12 WHAT OCCURS ON OR ABOUT THIS DATE, AGENT GONZALES?

13 A. MARCH 6, 1985, AT ABOUT 7:00 A.M. IN THE MORNING, I HAD
14 BEEN WATCHING A NEWSREEL IN MY HOTEL ROOM THAT MORNING, AND I
15 HEARD IN THE NEWS THAT SOME BODIES HAD BEEN DISCOVERED IN THE
16 ADJOINING STATE OF MICHOACAN NEAR ZAMORA.

17 AND NEWS REPORTS AT THAT TIME INDICATED THAT THEY
18 COULD HAVE BEEN MR. CAMARENA AND MR. ZAVALA.

19 Q. AND COMMENSURATE WITH THIS ARE YOU ALSO ADVISED OF THE
20 SAME INFORMATION BY M.F.J.P. OFFICIALS?

21 A. LATER THAT MORNING WE WERE ASKED TO PROCEED TO THEIR
22 OFFICE -- MR. EDWARD HEATH, MYSELF AND ANOTHER AGENT.

23 AND THEY TOOK US VIA HELICOPTER FROM GUADALAJARA TO
24 ZAMORA, MICHOACAN, AND WE WENT TO ZAMORA AND WENT TO THE RED
25 CROSS HOSPITAL AND WERE SHOWN TWO CADAVERS AT THAT TIME.

1 Q. LET ME BACK UP JUST A MINUTE. ZAMORA -- CAN YOU GIVE US
2 SOME IDEA OF WHERE ZAMORA IS.

3 A. ZAMORA IS A SMALL, AGRICULTURAL FARMING COMMUNITY. IT
4 WOULD BE SOUTHEAST OF GUADALAJARA ABOUT 70, 75 MILES.

5 Q. AND 70 MILES SOUTHEAST OF GUADALAJARA?

6 A. YES, SIR.

7 Q. AGRICULTURAL AREA?

8 A. YES. A FARMING COMMUNITY, NOT A METROPOLITAN CITY, A
9 SMALL TOWN.

10 Q. AND ZAMORA IS IN WHAT STATE IN MEXICO?

11 A. IT'S IN THE STATE OF MICHOACAN. IT'S AN ADJOINING STATE
12 TO JALISCO, WHICH IS THE STATE THAT GUADALAJARA IS LOCATED IN.

13 Q. CAN YOU TELL ME, OTHER THAN YOURSELF, WHAT OTHER D.E.A.
14 REPRESENTATIVES ARE TRANSPORTED BY HELICOPTER TO ZAMORA?

15 A. MR. EDWARD HEATH, WHO WAS THE COUNTRY ATTACHE IN MEXICO AT
16 THE TIME, AND SPECIAL AGENT ROBERT CASTILLO.

17 Q. IN ADDITION, ARE -- STRIKE THAT.

18 IN ADDITION, DO M.F.J.P. AGENTS ALSO ACCOMPANY YOU TO
19 ZAMORA?

20 A. YES. THERE WERE M.F.J.P. AGENTS THAT EXCORTEDED US THERE.
21 AND PRIOR TO LEAVING, WE WERE MET -- WE WAITED FOR AND WERE
22 ACCOMPANIED BY -- I CAN'T REMEMBER THE MAN'S NAME. HE WAS THE
23 SECRETARY OR ASSISTANT TO THE M.F.J.P. COMANDANTE AT THE TIME
24 FOR MR. IBARRA.

25 Q. WHERE DO YOU GO TO FIRST IN THE TOWN OF ZAMORA?

1 A. WE LANDED, WE WERE DRIVEN TO THE RED CROSS HOSPITAL IN
2 ZAMORA.

3 Q. UPON YOUR ARRIVAL THERE, ARE YOU MET BY ANY OFFICIAL WITH
4 THE M.F.J.P.?

5 A. PRIOR TO ENTERING THE HOSPITAL, WE WERE MET MY COMANDANTE
6 PAVON REYES.

7 Q. ANY DOCTORS MET YOU, AS WELL?

8 A. YES. DOCTORS WHO WERE -- WE MET THEM -- I CAN'T REMEMBER
9 WHETHER THEY MET US -- THEY MET US AT THE ENTRANCE OR WE MET
10 THEM LATER IN THE HOSPITAL ITSELF.

11 Q. ARE THESE MEXICAN DOCTORS OR AMERICAN DOCTORS?

12 A. MEXICAN DOCTORS.

13 Q. WERE THEY AFFILIATED WITH THE RED CROSS AT ALL; DO YOU
14 KNOW?

15 A. YES, THEY WORKED -- THEY APPEARED TO BE EMPLOYED AT THE
16 RED CROSS THERE.

17 Q. NOW, TELL US WHAT HAPPENS WHEN YOU WENT TO THE MORGUE.

18 A. WELL, WE ENTERED THE HOSPITAL AND THERE WAS A LARGE
19 PASSAGEWAY, A LONG PASSAGEWAY, AND WE WERE LED BY MR. PAVON
20 REYES, WHO TOOK US TO -- THERE WERE TWO SHEETS LYING ON THE
21 FLOOR.

22 AND EACH SHEET CONTAINED SOME CLOTHING, SOME ROPE
23 TIES. AND EACH SHEET HAD A TAG ON IT OR A PIECE OF PAPER THAT
24 HAD CADAVER 1 AND CADAVER 2.

25 Q. LET ME STOP YOU THERE. ARE YOU STAYING THERE ARE TWO

1 PILES OF CLOTHING?

2 A. YES.

3 Q. ONE PERTAINING TO CADAVER 1 AND ONE PERTAINING TO CADAVER
4 2?

5 A. YES.

6 Q. LET'S DEAL WITH ONE OF THEM AT A TIME. TELL ME WHAT THE
7 CLOTHING CONSISTED OF WHEN YOU SAW IT.

8 A. CADAVER NUMBER 1 CONSISTED OF A PAIR OF BROWN --

9 MR. MEZA: OBJECTION. THERE IS NO FOUNDATION. THERE
10 IS NO FOUNDATION AS TO WHAT THE CONNECTION IS BETWEEN THE --

11 THE COURT: THE OBJECTION IS OVERRULED.

12 MR. MEDRANO: GO AHEAD.

13 THE WITNESS: CADAVER NUMBER 1, THE CLOTHING THAT WAS
14 TAGGED CADAVER NUMBER 1 CONSISTED OF A PAIR OF DIRTY, LIGHT
15 BLUE DENIM TROUSERS, A PAIR OF SOCKS, T-SHIRT, SWEAT SHIRT AND
16 ANOTHER SHIRT.

17 AND IT ALSO HAD A PAIR OF ROPE -- DIRTY BROWN ROPE
18 TIES THAT APPEARED TO HAVE BEEN CUT.

19 BY MR. MEDRANO:

20 Q. LET'S DISCUSS THOSE ROPE TIES. CAN YOU BE MORE SPECIFIC
21 AND DESCRIBE THOSE FOR US.

22 A. THE ROPE TIES APPEARED TO BE THE ROPES THAT YOU SEE ON A
23 VENETIAN BLIND, THE SMALL, LITTLE ROUND ONES. THEY WERE BROWN
24 AND DIRTY.

25 AND THESE PARTICULAR ROPE TIES HAD LOOPS. THERE WERE

1 TWO LOOPS -- ACTUALLY, THERE WERE FOUR LOOPS. TWO LOOPS
2 TOGETHER AND A STRING THAT WENT DOWN, AND TWO ADDITIONAL LOOPS
3 ON THE OTHER ONE. AND THAT WAS THE CLOTHING.

4 AND THERE WERE SOME -- THERE WAS ALSO SOME GAUZE AND
5 SOME TAPE THERE.

6 Q. WAS THERE ANY DIRT ON THOSE ROPE TIES THAT YOU JUST
7 DESCRIBED?

8 A. YES, THERE WAS. THEY WERE BROWN AND THE ONLY -- NORMALLY,
9 THEY WOULD BE APPEAR TO BE GRAY, BUT THEN THE GRAY APPEARED
10 WHERE THEY HAD BEEN CUT.

11 Q. NOW, IF I COULD DIRECT YOUR ATTENTION TO THE SECOND PILE
12 OF CLOTHING, COULD YOU DESCRIBE THAT FOR US, PLEASE?

13 A. THE SECOND PILE OF CLOTHING CONSISTED OF A PAIR OF DIRTY
14 JOCKEY SHORTS, THE ROPE TIES SIMILAR TO THE OTHER ONES, SOME
15 GAUZE TAPE. I BELIEVE THERE WAS SOME KIND OF SHOWER CURTAIN.

16 Q. WERE THERE ANY TYPES OF SHEETS THERE, AS WELL, FOR THAT
17 SECOND PILE?

18 A. IT WAS EITHER SHEETS OR A SHOWER CURTAIN.

19 Q. ANY TYPE OF PATTERN ON THIS SHEET OR SHOWER CURTAIN?

20 A. IT WAS A GREEN, FLORAL PATTERN.

21 Q. I DIDN'T HEAR THAT.

22 A. IT WAS A GREEN FLORAL PATTERN.

23 Q. AND THE ROPE TIES, IS THEIR DESCRIPTION SIMILAR TO THE
24 FIRST PAIR OF ROPE TIES YOU'VE ALREADY DESCRIBED FOR US?

25 A. YES, SIR. IT WAS.

1 Q. ANY TYPE OF BLINDFOLD FOR THE SECOND PILE?

2 A. THE BLINDFOLDS CONSISTED OF THE GAUZE AND TAPE.

3 Q. BOTH SETS OF CLOTHING: DIRTY?

4 A. YES, DIRTY. THEY WERE BROWN AND VERY DIRTY.

5 MR. MEDRANO: MAY I HAVE JUST ONE MOMENT, YOUR
6 HONOR?

7 (BRIEF PAUSE.)

8 BY MR. MEDRANO:

9 Q. ULTIMATELY ARE YOU SHOWN TWO CADAVERS OR CORPSES AT THE
10 MORGUE?

11 A. YES. SHORTLY AFTER WE VIEWED THE CLOTHING, WE WERE TAKEN
12 INTO A SMALL ROOM AND THERE WERE TWO CADAVERS IN THE ROOM.

13 Q. RELATED TO THAT, AGENT GONZALES, AT ANY POINT DO YOU EVER
14 SEE ANY TYPE OF LARGE PLASTIC BAGS?

15 A. YES. WE WERE TOLD THAT THE BODIES, THE CADAVERS HAD BEEN
16 CONTAINED IN --

17 MR. MEZA: OBJECTION, YOUR HONOR. MOVE TO STRIKE.
18 HEARSAY.

19 THE COURT: OBJECTION SUSTAINED.

20 BY MR. MEDRANO:

21 Q. DESCRIBE THE BAGS, PLEASE.

22 A. THEY WERE BAGS CLOSE TO THE CLOTHING. AND THEY WERE WHITE
23 PLASTIC BAGS WITH GREEN LETTERING ON THEM, AND THEY WERE
24 FERTILIZER BAGS.

25 Q. WERE THEY EMPTY?

1 A. YES, THEY WERE.

2 Q. APPROXIMATELY HOW MANY SUCH BAGS DID YOU OBSERVE THERE?

3 A. I BELIEVE THERE WERE FOUR.

4 Q. WERE THESE FOUR PLASTIC BAGS TRANSPARENT?

5 A. NO, THEY WERE NOT.

6 Q. AND THE COLOR AGAIN, PLEASE?

7 A. IT WAS A WHITE. THEY WERE WHITE. IT WAS A HEAVY GAUGE
8 PLASTIC.

9 Q. THICK PLASTIC?

10 A. THICK PLASTIC, YES.

11 Q. BRIEFLY, IF YOU CAN, JUST DESCRIBE THE CONDITION OF THE
12 BODIES THAT YOU OBSERVED?

13 A. THE DOCTORS THAT WERE THERE TOOK US TO THE BODIES AND THE
14 BODIES WERE ON TWO SLABS. THERE WAS A BODY LOCATED ON A HIGH
15 SLAB AND THEN THERE WAS A BODY LOCATED ON A SLAB ABOUT 2 FEET
16 OFF THE GROUND.

17 THE BODY ON THE HIGH SLAB WAS THE BODY OF A HISPANIC
18 MALE BETWEEN 35 AND 40 YEARS OF AGE, BADLY DECOMPOSED,
19 UNIDENTIFIABLE.

20 THE CADAVER HAD A VERY HEAVY BLOW TO THE SKULL THAT
21 HAD CRUSHED A PORTION OF THE SKULL IN.

22 MR. STOLAR: OBJECT AND MOVE TO STRIKE.

23 THE COURT: I DON'T HEAR ANY GROUNDS. THE MOTION IS
24 DENIED.

25 MR. STOLAR: I'M SORRY. HE CANNOT TELL -- THERE IS

1 NO FOUNDATION FOR HIS KNOWLEDGE.

2 THE COURT: THE ANSWER MAY BE STRICKEN. YOU MAY
3 DESCRIBE WHAT IT LOOKED LIKE WITHOUT INDICATING HOW IT WAS
4 CAUSED.

5 THE WITNESS: THE CADAVER HAD A PORTION OF ITS SKULL
6 CRUSHED. YOU COULD SEE THE LESIONS AROUND THE WRISTS AND THE
7 ANKLES. A PORTION OF ONE OF THE ARMS APPEARED TO BE BROKEN OR
8 THE SKIN WAS BROKEN.

9 THE CADAVER APPEARED TO BE IN SOME KIND OF A PARTIAL
10 MUMMIFIED STATE.

11 BY MR. MEDRANO:

12 Q. AND THIS MUMMIFIED STATE, DID IT CHARACTERIZE BOTH CORPSES
13 THAT YOU OBSERVED?

14 MS. KELLY: OBJECTION, YOUR HONOR. THERE IS NO
15 FOUNDATION THAT THIS WITNESS KNOWS WHAT A MUMMIFIED STATE IS.

16 THE COURT: STRIKE THAT ANSWER.

17 BY MR. MEDRANO:

18 Q. WERE BOTH IN A STATE OF DECOMPOSITION?

19 A. YES.

20 Q. UNRECOGNIZABLE BY FACE, AT LEAST?

21 A. FACIAL FEATURES WERE UNRECOGNIZABLE.

22 Q. AT ANY POINT, SIR, DO YOU LEAVE THIS RED CROSS MORGUE AND
23 PROCEED TO ANY SITE AWAY FROM THE MORGUE?

24 A. YES.

25 Q. HOW DO YOU GET THERE?

1 A. WE WERE TAKEN BY M.F.J.P. WITH -- IN THEIR VEHICLES. WE
2 WERE TAKEN THERE BY COMANDANTE PAVON REYES.

3 Q. AND CAN YOU TELL US, IF YOU RECALL, WHERE IT WAS
4 APPROXIMATELY THAT YOU WERE TAKEN TO?

5 A. WE WERE TAKEN TO A SITE ON THE ROADSIDE BETWEEN THE BRAVO
6 RANCH AND MICHOACAN, BETWEEN THE BRAVO RANCH AND ABOUT 1500
7 YARDS TOWARD ZAMORA.

8 I WOULD IMAGINE IT WOULD BE SOUTHEAST ON THE ROAD, ON
9 THE ROADSIDE THERE. THAT'S WHERE COMANDANTE PAVON TOLD US THAT
10 THE BODIES HAD BEEN DISCOVERED.

11 Q. WHEN YOU GET THIS -- IS THIS ON A MAJOR -- OR IS IT ON A
12 MEXICAN ROAD OR INTERSTATE OF ANY SORT?

13 A. IT IS ON A MEXICAN MAJOR HIGHWAY.

14 Q. ARE YOU STILL SOUTHEAST OF GUADALAJARA?

15 A. YES. IT IS THE ROAD THAT LEADS FROM GUADALAJARA THROUGH
16 ZAMORA TO OTHER CITIES IN THE STATE OF MICHOACAN.

17 Q. AND THIS ROADSIDE, IS IT IN OR OUTSIDE THE CITY OF ZAMORA?

18 A. IT IS OUTSIDE THE CITY OF ZAMORA.

19 Q. AND IF YOU KNOW, APPROXIMATE DISTANCE OF THE SITE THAT
20 YOU'RE TAKEN TO FROM GUADALAJARA?

21 A. ABOUT 60 TO 65 MILES.

22 Q. WHEN YOU GET THERE, ARE THERE PEOPLE THERE ALREADY?

23 A. YES. THERE IS QUITE A FEW PEOPLE AT THE SITE ALREADY.
24 THERE ARE PEOPLE MULLING AROUND THERE.

25 Q. UPON YOUR ARRIVAL, DO YOU HAVE A CHANCE TO EXAMINE THE

1 SITE?

2 A. YES, I DID.

3 Q. TELL US BRIEFLY WHAT YOU DO.

4 A. WELL, I WENT TO THE SITE WHERE MR. PAVON TOLD US THAT THE
5 BODIES HAD BEEN DISCOVERED.

6 MR. STOLAR: OBJECTION. MOVE TO STRIKE.

7 THE COURT: OVERRULED.

8 MR. STOLAR: HEARSAY.

9 THE COURT: DENIED.

10 THE WITNESS: -- AND OBSERVED -- THE ODOR WAS STILL
11 THERE, THE DECOMPOSING BODIES.

12 THERE WERE PIECES OF HAIR STILL ON THE UNDERGROWTH
13 AND BRANCHES OF THE SHRUBBERY AND SO FORTH IN THAT AREA.

14 I DID NOT OBSERVE ANY SEEPAGE OF ANY BODY FLUID OR
15 ANYTHING OF THAT NATURE.

16 BY MR. MEDRANO:

17 Q. IN THIS ROAD, WERE YOU ABLE TO ASCERTAIN IF IT WAS A
18 HEAVILY OR LIGHTLY-TRAVELED ROAD?

19 A. THIS IS AN AGRICULTURAL COMMUNITY. THERE ARE FIELDS
20 GROWING ON BOTH SIDES OF THE ROAD, AND IT'S A HEAVILY-TRAVELED
21 ROAD BY THE PEOPLE THAT WORK ON THE FIELDS.

22 Q. NOW, STRIKE THAT. NO BODY SEEPAGE; IS THAT CORRECT?

23 A. NO, NOT THAT I COULD FIND.

24 Q. ON THE BASIS OF THIS, DID YOU FORM AN OPINION AS TO
25 WHETHER OR NOT THE BODIES HAD BEEN THERE FOR A VERY LONG PERIOD

1 OF TIME?

2 MR. STOLAR: OBJECTION. NO FOUNDATION.

3 THE COURT: SUSTAINED.

4 BY MR. MEDRANO:

5 Q. IN ADDITION, AGENT GONZALES, WHAT SIDE OF THE ROAD WERE
6 THE BODIES: NORTH, SOUTH? COULD YOU TELL US?

7 A. THEY WOULD HAVE BEEN ON THE ROAD -- IT WOULD HAVE BEEN ON
8 THE NORTH SIDE OF THE ROAD.

9 Q. AND LOCATION SITE OFF THE MAIN ROAD, IS THAT WHAT YOU'RE
10 STATING?

11 A. THEY WERE ABOUT FROM -- THIS IS AN ESTIMATE -- ANYWHERE
12 FROM ABOUT 8 TO 15 YARDS OFF THE SIDE OF THE ROAD, OFF THE EDGE
13 OF THE ROADWAY.

14 Q. WHILE THERE, WERE YOU ABLE TO CONDUCT ANY INTERVIEWS OF
15 ANYONE?

16 A. YES, I WAS.

17 Q. OF WHO?

18 A. I CONDUCTED AN INTERVIEW OF A YOUNG MAN THAT I WAS ADVISED
19 HAD INITIALLY DISCOVERED THE BODIES ON THE ROADSIDE.

20 Q. AFTERWARDS, DO YOU HAVE AN OPPORTUNITY TO RETURN TO
21 GUADALAJARA?

22 A. YES, I DID.

23 Q. BEFORE THAT, DID YOU FIRST GO TO ZAMORA AND THEN
24 GUADALAJARA?

25 A. NO. WE LEFT THAT SITE AND WENT TO THE BRAVO RANCH. I

1 CONDUCTED ANOTHER INTERVIEW THERE, AND THEN WENT DIRECTLY TO
2 GUADALAJARA.

3 Q. DO YOU RECALL HOW IT WAS THAT YOU WERE TRANSPORTED BACK TO
4 GUADALAJARA?

5 A. I'M NOT -- I BELIEVE I RODE IN A VEHICLE WITH THE M.F.J.P.

6 Q. YOU SHOULD HAVE IN FRONT OF YOU, SIR, GOVERNMENT EXHIBIT
7 170. DO YOU HAVE THAT IN FRONT OF YOU?

8 A. YES.

9 Q. CAN YOU YOU TELL ME WHAT THAT IS?

10 A. THIS IS THE SITE WHERE THE -- WHERE I WAS ADVISED THAT THE
11 CADAVERS WERE DISCOVERED.

12 MR. MEDRANO: YOUR HONOR, WE SEEK ADMISSION OF 170 AT
13 THIS TIME.

14 THE COURT: THAT MAY BE RECEIVED.

15 MR. MEDRANO: YOUR HONOR, THAT CONCLUDES DIRECT.

16 THE COURT: WE'LL TAKE OUR AFTERNOON RECESS AT THIS
17 TIME. WE'LL RECONVENE THIS CASE TOMORROW MORNING AT THE USUAL
18 TIME.

19 THE CLERK: PLEASE RISE.

20 (JURY EXCUSED.)

21 (WITNESS EXCUSED.)

22 THE COURT: YOU MAY BE SEATED.

23 NOW, COUNSEL, BEFORE WE ADJOURN I WANT TO DISCUSS
24 SOME OF THESE MOTIONS THAT YOU HAVE INDICATED WERE PENDING.

25 COUNSEL, PAY ATTENTION.

1 THIS MOTION THAT YOU HAVE FILED, IN WHICH YOU HAD
2 REQUESTED THE COURT EXCLUDE THE GOVERNMENT HAIR EVIDENCE ON THE
3 GROUNDS THAT IT IS NOT SCIENTIFICALLY RECEIVED, I DO NOT INTEND
4 TO HOLD A HEARING ON THAT.

5 IF YOU -- IF THE GOVERNMENT IS UNABLE TO LAY A PROPER
6 FOUNDATION FOR IT, YOU CAN MAKE AN OBJECTION. THE REASON I'M
7 NOT HOLDING A HEARING IS BECAUSE THE UNTIMELINESS OF THE
8 REQUEST. THIS IS NO MORE THAN AN AFTERTHOUGHT THROWN TO THE
9 COURT AT THE LAST MINUTE WHEN YOU HAVE HAD THIS EVIDENCE FOR A
10 LONG, LONG TIME.

11 THE HAIR EVIDENCE IN THIS CASE WAS OFFERED IN THE
12 LAST TRIAL OVER TWO YEARS AGO. THE TRANSCRIPT OF THAT TRIAL
13 WAS AVAILABLE TO YOU. THE FACT THAT YOU NOW HAVE FOUND A
14 WITNESS WHO SAYS THAT THIS EVIDENCE IS NOT SCIENTIFICALLY
15 ACCEPTED DOES NOT REQUIRE ME TO HOLD A HEARING TO THAT EFFECT.
16 THIS SHOULD HAVE BEEN A PRETRIAL HEARING.

17 MR. STOLAR: MAY I BE HEARD BRIEFLY?

18 THE COURT: YES.

19 MR. STOLAR: THE HAIR EVIDENCE AT THE LAST TRIAL WAS
20 UNCONTESTED. NOBODY CHALLENGED IT.

21 THE COURT: NEVERTHELESS, YOU KNEW ABOUT IT AND YOU
22 KNEW THAT IT WAS GOING TO BE OFFERED IN THIS TRIAL.

23 MR. STOLAR: MR. MATTA WAS NOT IN THE LAST TRIAL.

24 THE COURT: NEVERTHELESS, YOU KNEW ABOUT THE HAIR AND
25 MR. MATTA A LONG TIME AGO. OVER TWO YEARS AGO THEY REQUESTED

1 THE HAIR SAMPLES.

2 MR. STOLAR: BUT THEY DIDN'T GIVE US THE HAIR
3 ANALYSIS UNTIL THE DISCOVERY. AFTER I ENTERED THIS CASE ON
4 FEBRUARY 5TH, WHEN WE WERE ARRAIGNED, WE KEPT GETTING A PILE OF
5 DISCOVERY AND A PILE OF DISCOVERY. INCLUDED AMONG THAT
6 DISCOVERY WAS THE HAIR ANALYSIS.

7 WE THEN WENT OUT AND FOUND AN EXPERT WHO'S WILLING TO
8 DO THIS KIND OF WORK FOR US. AND WE MADE THE MOTION AS TIMELY
9 AS WE POSSIBLY COULD. IT COULD NOT HAVE BEEN MADE BY THE
10 CUT-OFF DATE.

11 THE COURT: WHEN WAS IT MADE?

12 MR. STOLAR: I'M SORRY?

13 THE COURT: WAS IT MADE TODAY?

14 MR. STOLAR: THE MOTION I'M TALKING ABOUT NOW?

15 THE COURT: YES.

16 MR. STOLAR: NO. IT WAS FILED -- THE MOTION IS DATED
17 THE 15TH OF MAY, SOMETIME AGO.

18 MR. MEDRANO: YOUR HONOR --

19 THE COURT: NEVERTHELESS, THE MOTION IS UNTIMELY, IN
20 MY VIEW. AND I'M ADVISING ALL COUNSEL. THESE AFTERTHOUGHT
21 MOTIONS ARE NOT GOING TO BE CONSIDERED BY THE COURT.

22 IF THE COURT DETERMINES THAT YOU HAVE HAD SUFFICIENT
23 TIME TO RAISE THESE MOTIONS AND YOU HAVE NOT DONE SO AND YOU
24 THROW THEM AT THE COURT, MAKING IT IMPOSSIBLE FOR THE COURT,
25 TAXING THE RESOURCES OF THE COURT, THE COURT IS NOT GOING TO

1 TAKE THEM.

2 THIS MOTION -- I WILL NOT HOLD A HEARING. THE
3 GOVERNMENT MAY PRESENT ITS WITNESS AND HIS QUALIFICATIONS AND
4 YOU MAY CROSS-EXAMINE THAT WITNESS. YOU MAY OBJECT TO HIS
5 QUALIFICATIONS, YOU MAY EXCEPT TO THE SCIENTIFIC ACCEPTABILITY
6 OF THE EVIDENCE, AND YOUR WITNESS MAY GET UP AND TESTIFY TO THE
7 CONTRARY.

8 AND HE MAY TESTIFY TO THE UNACCEPTABILITY, BUT I DO
9 NOT INTEND TO HOLD A HEARING. BECAUSE IF I HAVE THESE
10 WITNESSES CONTRADICTING EACH OTHER ON THE ISSUE OFF WHETHER OR
11 NOT THIS IS SCIENTIFICALLY ACCEPTABLE, THE COURT IS NOT IN A
12 POSITION REALLY TO DO ANYTHING ABOUT THAT UNLESS WE HAVE MORE
13 THAN THE ACTUAL WITNESSES WHO ARE GOING TO TESTIFY, OTHER
14 WITNESSES, WHO WOULD BE BROUGHT IN ONE WAY OR THE OTHER ON THE
15 ISSUE OF THE SCIENTIFIC ACCEPTABILITY.

16 AND THAT IS NOT WHAT YOU INTEND; YOU INTEND TO CALL
17 YOUR OWN WITNESS.

18 MR. STOLAR: WE WERE GOING TO PUT IN SEVERAL OF THE
19 SCHOLARLY JOURNALS BEFORE THE COURT AND HAVE THE WITNESS REFER
20 TO THEM, WHICH DISCUSSED THE PROBLEMS WITH OPTICAL AND
21 MICROSCOPE HAIR ANALYSIS.

22 THE COURT: YOU CAN STILL DO THAT IF IT'S ACCEPTABLE
23 EVIDENCE.

24 MR. STOLAR: IT WOULDN'T BE ACCEPTABLE EVIDENCE FOR
25 THE JURY; IT WOULD CERTAINLY BE ACCEPTABLE FOR THE COURT ON A

1 PRE-EVIDENTIARY DETERMINATION AS TO WHETHER THE EVIDENCE IS
2 PERMITTED TO BE PRESENTED TO THE JURY.

3 THE COURT: THERE WILL BE NO HEARING.

4 MR. STOLAR: LET ME THEN ON THE TIMELINESS QUESTION,
5 JUST RAISE SOMETHING WITH YOU SO WE DON'T GET CRITICIZED ON
6 IT.

7 THE GOVERNMENT LAST WEEK MADE SOME NOISE, SO TO
8 SPEAK, MADE AN INDICATION THAT THEY INTEND TO PRESENT A WITNESS
9 TO TESTIFY AS AN EXPERT ABOUT THE OPERATION OF THE DRUG CARTEL.
10 WE HAD NOT KNOWN THAT AN EXPERT OF THAT NATURE WAS GOING TO BE
11 PRESENTED. WE ARE OPPOSED IT AND WE ARE PREPARING A WRITTEN
12 MOTION IN LIMINE TO EXCLUDE THAT EVIDENCE FROM THIS TRIAL.

13 THE COURT: MOTIONS THAT ARE NECESSITATED BY RECENT
14 DISCLOSURE ARE FINE; I HAVE NO OBJECTION TO THAT. I OBJECT TO
15 MOTIONS BEING RAISED AT THE LAST MINUTE WHICH COULD HAVE BEEN
16 RAISED LONG BEFORE, WHERE THE COURT WOULD HAVE HAD AN
17 OPPORTUNITY TO PROPERLY DEAL WITH THE MOTION.

18 MR. STOLAR: JUDGE RAFEEDIE, DEFENSE COUNSEL HAS TO
19 HAVE AN OPPORTUNITY TO ADEQUATELY DEFEND ITS CLIENTS, AND IF
20 YOU RECALL, WE WERE UNDER INTENSE PRESSURE IN GETTING READY FOR
21 TRIAL.

22 THE COURT: YOU'VE HAD A LOT OF TIME. YOU JUST HAD
23 FOUR DAYS OFF. YOU HAVE THREE DAYS OFF EACH WEEK, YOU HAVE
24 EVERY EVENING, YOU HAVE A FULL WEEK COMING UP NEXT WEEK IN
25 WHICH YOU WILL BE OFF, AND YOU HAD BETTER SIT DOWN AND THINK OF

1 EVERY MOTION YOU CAN THINK OF THAT NEEDS TO BE FILED, BECAUSE
2 IF THEY'RE FILED UNTIMELY, OR AT THE LAST MINUTE, THE COURT IS
3 NOT GOING TO CONSIDER THEM.

4 MR. STOLAR: I RESPECTFULLY OBJECT TO THE
5 UNTIMELINESS OF THAT MOTION.

6 THE COURT: ALL RIGHT. I MEAN THAT FOR ALL COUNSEL.
7 LOOK AHEAD A LITTLE BIT.

8 ALL RIGHT. WE'LL ADJOURN THIS CASE AT THIS TIME.

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

10 (DISCUSSION HELD OFF THE RECORD BETWEEN COUNSEL.)

11 MR. MEDRANO: NOTHING ELSE FOR GOVERNMENT, YOUR
12 HONOR.

13 MS. KELLY: I JUST WANT TO POINT OUT TO THE COURT
14 THAT I DID FILE A MOTION TODAY. I JUST SERVED IT ON THE
15 GOVERNMENT. THEY HAVEN'T HAD AN OPPORTUNITY TO RESPOND TO IT.

16 THE COURT: IS IT A MOTION THAT IS TIMELY?

17 MS. KELLY: I BELIEVE SO, YOUR HONOR. IT'S DEALING
18 WITH TRANSCRIPTS THAT HAVE BEEN DESIGNATED BY THE GOVERNMENT,
19 AND I JUST --

20 THE COURT: OF WHAT?

21 MS. KELLY: OF MY CLIENT'S CONVERSATIONS, WHICH
22 PORTIONS THE GOVERNMENT SEEKS TO INTRODUCE. AND I WAS JUST
23 LAST WEDNESDAY GIVEN NOTICE OF IT, YOUR HONOR.

24 THE COURT: HOW SO?

25 MS. KELLY: WELL, MR. MEZA AND I MET WITH MR. CARLTON

1 AND HE OUTLINED THE VARIOUS PORTIONS OF THE TRANSCRIPT THAT HE
2 WOULD SEEK TO INTRODUCE.

3 AND THEN, YOUR HONOR, ON SATURDAY AFTERNOON AT 3:00 I
4 WAS GIVEN A COPY OF A VIDEOTAPE, WHICH -- I'M SORRY, THAT WAS
5 THURSDAY NIGHT THAT WE HAD THE CONFERENCE. AND THEN SATURDAY I
6 WAS GIVEN A COPY OF THE VIDEOTAPE AT MY OFFICE BY THE D.E.A.
7 AGENTS, WITH THE VIDEO SUBTITLES THAT WILL BE USED IN
8 CONNECTION WITH PORTIONS OF THE GOVERNMENT SEEKING TO
9 INTRODUCE. MY COPY IS NOT COMPLETE ON MY TAPES, SO I'M GETTING
10 A COMPLETE COPY TONIGHT, YOUR HONOR.

11 THE COURT: WHAT TAPE ARE YOU REFERRING TO?

12 MS. KELLY: THESE ARE SOME VIDEOTAPED CONVERSATIONS
13 OF MY CLIENT, AND THEY'RE ALSO AUDIOTAPED CONVERSATIONS. AND
14 THE GOVERNMENT HAS TAKEN PORTIONS OF THAT SPANISH VIDEOTAPED
15 CONVERSATION AND SUPERIMPOSED ENGLISH SUBTITLES ON IT.

16 AND THEN WITH RESPECT TO THE AUDIO PORTION OF THE
17 TAPED CONVERSATION, THERE IS JUST A BLANK SCREEN WITH ENGLISH
18 SUBTITLES. SO I FILED A MOTION WITH RESPECT TO CERTAIN
19 REFERENCES THAT ARE MADE IN THE PORTION OF THE GOVERNMENT
20 DESIGNATION THAT I BELIEVE ARE IMPROPER UNDER RULE 404(B), OR
21 ARE IRRELEVANT.

22 AND THE GOVERNMENT HAS NOT HAD AN OPPORTUNITY TO
23 RESPOND BECAUSE I JUST FILED THAT THIS MORNING, BUT I JUST
24 WANTED TO BRING IT TO YOUR HONOR'S ATTENTION.

25 THE COURT: ALL RIGHT.

1 MS. KELLY: ALSO, THERE IS AN EX-PARTE APPLICATION,
2 YOUR HONOR. WE HAVE HAD SOME CONVERSATION ABOUT WHETHER THE
3 EVIDENCE AS TO THE TAPE RECORDINGS OF MY CLIENT'S CONVERSATIONS
4 ARE GOING TO BE PRESENTED TO THE TRIAL THIS WEEK.

5 THE GOVERNMENT HAS INDICATED THERE IS SOME
6 POSSIBILITY. IN AN ABUNDANCE OF CAUTION, I WANT TO BRING TO
7 YOUR HONOR THE PROBLEM THAT MY EXPERT HAS NOT BEEN -- ONLY
8 YESTERDAY WAS ABLE TO GET ACCESS TO THE D.E.A.'S
9 SPECIALLY-MANUFACTURED SURVEILLANCE TAPE MACHINE TO MAKE AN
10 EXEMPLAR.

11 AND I PREVIOUSLY FILED AN EX-PARTE APPLICATION FOR AN
12 ORDER COMPELLING THAT DISCLOSURE BECAUSE THE GOVERNMENT
13 ORIGINALLY REFUSED TO PROVIDE ACCESS. BUT UPON THE APPLICATION
14 IN THE INTERIM BEFORE YOUR HONOR HAD A CHANCE TO RULE ON IT,
15 THEY DID AGREE.

16 HOWEVER, THE ONLY DAY THAT THE EVIDENCE TECHNICIAN
17 WAS AVAILABLE WAS ON MONDAY. SO I'M JUST BRINGING THIS TO YOUR
18 HONOR'S ATTENTION IN THE EVENT THAT WE DO COME TO -- THE
19 GOVERNMENT SEEKS TO INTRODUCE THAT EVIDENCE BEFORE FRIDAY, MY
20 EXPERT WILL NOT HAVE HAD THE OPPORTUNITY TO COMPLETE THE
21 FORENSIC ANALYSIS ON THE JULY 25TH TAPE. SO I WOULD BE
22 REQUESTING --

23 THE COURT: WHY HAVEN'T YOU HAD THE TIME OR
24 OPPORTUNITY?

25 MS. KELLY: BECAUSE HE HASN'T HAD ACCESS TO THE

1 MACHINE TO MAKE THE EXEMPLAR, YOUR HONOR, THE GOVERNMENT
2 MACHINE.

3 THE COURT: I UNDERSTAND THAT. HAVE YOU BEEN DENIED
4 ACCESS?

5 MS. KELLY: I WAS DENIED ACCESS, YOUR HONOR. I MADE
6 AN APPLICATION TO YOUR HONOR --

7 THE COURT: I KNOW ABOUT THAT, BUT THEY SAID THAT WAS
8 ALL RESOLVED SEVERAL DAYS AGO.

9 MS. KELLY: YES, YOUR HONOR. AND MONDAY WAS THE
10 FIRST AVAILABLE DAY THAT THE TECHNICIAN HAD FOR MY EXPERT TO GO
11 AND MAKE THE EXEMPLAR, WHICH HE DID. AND THAT WAS YESTERDAY.

12 THE COURT: SO HE HAS AN EXEMPLAR NOW?

13 MS. KELLY: HE MADE THE EXEMPLAR YESTERDAY, BUT HE'LL
14 NOT BE ABLE TO COMPLETE THE FORENSIC ANALYSIS BY FRIDAY, YOUR
15 HONOR. AND IT MAY BE A MOOT POINT, YOUR HONOR. I'M JUST
16 BRINGING IT TO YOUR ATTENTION THAT HE --

17 THE COURT: I SUGGEST THAT HE TRY VERY HARD TO DO SO
18 IN CASE HE NEEDS IT.

19 MS. KELLY: HE IS TRYING VERY HARD, BUT I FILED THE
20 EX-PARTE APPLICATION IN THE EVENT THE ANALYSIS CANNOT BE
21 COMPLETED, THAT THE TESTIMONY CONCERNING THAT ASPECT OF THE
22 CASE BE DEFERRED UNTIL WE RETURN FROM THE WEEK BREAK.

23 THE COURT: ALL RIGHT. COUNSEL.

24 MR. MEDVENE: MAY I ADDRESS YOU ON ONE FURTHER POINT,
25 YOUR HONOR? THERE MAY WELL BE NO PROBLEM, BUT WE UNDERSTAND

1 THAT THE GOVERNMENT WITNESS WILL BE LORENZO HARRISON.

2 WE WANT SOME AID FROM THE COURT -- IT MIGHT NOT BE
3 NECESSARY, BUT JUST TO REQUEST OF THE GOVERNMENT THAT THEY MAKE
4 AVAILABLE TO DEFENSE COUNSEL THE PHOTOS OR WHAT MEANS WAS USED
5 BY MR. HARRISON TO IDENTIFY ANY OF THE DEFENDANTS HE'S GOING TO
6 TALK ABOUT.

7 WE'D LIKE TO OBTAIN THE NEED FOR ANY HEARING ON
8 IDENTIFICATION. WE DON'T KNOW IF MR. HARRISON HAS BEEN SHOWN
9 PHOTOS OR WHATEVER, AND WE'RE ASKING THE COURT -- IT MAY BE
10 UNNECESSARY -- THE GOVERNMENT MAY WELL BE WILLING TO DO IT, BUT
11 I JUST WANT TO TAKE IT UP AT AN EARLY MOMENT.

12 MR. CARLTON: THAT'S NO PROBLEM. ANY PHOTOS WILL BE
13 MAKE AVAILABLE.

14 MR. MEDVENE: WE'LL WORK IT OUT WITH MR. CARLTON
15 THEN, YOUR HONOR.

16 THE COURT: ALL RIGHT. FINE.

17 MR. CARLTON: YOUR HONOR, I WOULD LIKE TO ADDRESS
18 WHAT MS. KELLY HAS RAISED JUST BRIEFLY, IF I COULD, WITH THE
19 TAPES AND HER EXPERT'S ACCESS TO THOSE TAPES.

20 I JUST WANT TO POINT OUT THAT THEY HAVE HAD THE TAPES
21 FOR MANY, MANY MONTHS. BERNABE WAS ARRESTED LAST JULY, AND
22 THEY HAD THEM MOST OF THAT TIME.

23 AT SOME POINT, APPROXIMATELY A MONTH OR SIX WEEKS
24 AGO, I BELIEVE MS. KELLY MADE AN EX-PARTE APPLICATION FOR THE
25 APPOINTMENT OF AN EXPERT. THAT WAS THE FIRST TIME THAT SHE DID

1 THAT, AND YOUR HONOR ORDERED THAT AN EXPERT BE ALLOWED TO MAKE
2 AN EXEMPLAR, OR ACTUALLY, TO COPY THE ACTUAL RECORDINGS AND
3 TAKE THE ORIGINALS WITH HIM.

4 THE COURT: WHAT IS YOUR POINT?

5 MR. CARLTON: WHAT I'M GETTING AT IS HE HAS HAD THE
6 ORIGINALS. THIS IS ALL HE ORIGINALLY REQUESTED FOR A MONTH OR
7 SIX WEEKS. IT WAS ONLY LAST WEEK OR JUST PRIOR TO THAT THAT HE
8 SAYS HE NEEDS ACCESS TO THE ACTUAL RECORDING DEVICE.

9 AND WE RESPONDED AS QUICKLY AS WE COULD. I JUST WANT
10 THE COURT TO BE AWARE THAT WE HAVEN'T BEEN DELAYING THAT, AND
11 AS THE EXPERT HAS REQUESTED TO DO THINGS, WE HAVE MADE THINGS
12 AVAILABLE FOR HIM TO DO. THAT'S ALL THE POINT I WANT TO MAKE.
13 WE'LL PROBABLY GET TO THAT THIS WEEK.

14 MS. KELLY: THERE WAS A SEVERAL WEEK DELAY IN GETTING
15 THE ORIGINAL TAPES BY SERVING THE ORIGINAL ORDER ON THE
16 GOVERNMENT. THIS IS A LITTLE DISINGENUOUS.

17 THE COURT: THAT'S ENOUGH. THIS CASE IS ADJOURNED.

18 (COURT STANDS IN RECESS UNTIL WEDNESDAY, JUNE 6, 1990
19 AT 9:30 A.M.)
20
21
22
23
24
25

			PG	LN
(EXHIBIT 57	#	RECEIVED IN EVIDENCE.)	17	25
(EXHIBITS 12 A-D	#	RECEIVED IN EVIDENCE.)	78	10
(EXHIBIT 63	#	RECEIVED IN EVIDENCE.)	161	25
(EXHIBIT 65	#	RECEIVED IN EVIDENCE.)	199	7
		BY		
EXAMINATION +	*	BY MR. MEDRANO: Q.	8	15
LOS ANGELES	+	CALIFORNIA TUESDAY, JUNE	4	1
JUNE 6, 1990	+	9:30 A.M.	4	2
SALVADOR LEYVA	+	PLAINTIFF'S WITNESS,	4	15
CROSS-EXAMINATION	+	BY MR. MEZA: Q.	4	16
REDIRECT EXAMINATION	+	* BY MR. MEDRANO: Q.	8	15
MARY BORIS	+	PLAINTIFF'S WITNESS, SWORN	9	13
DIRECT EXAMINATION	+	BY MR. CARLTON: Q.	9	19
CROSS-EXAMINATION	+	BY MR. MEDVENE: Q.	18	4
REDIRECT EXAMINATION	+	BY MR. CARLTON: Q.	50	8
RONALD C. RAWALT	+	PLAINTIFF'S WITNESS, SWORN	55	11
DIRECT EXAMINATION	+	BY MR. CARLTON: Q.	55	17
DIRECT EXAMINATION	+	(RESUMED) BY MR. CARLTON:	63	3
WILLIAM TERRAZAS	+	PLAINTIFF'S WITNESS, SWORN	81	9
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q WHO	81	15
CROSS-EXAMINATION	+	BY MR. STOLAR: Q GOOD	91	19
REDIRECT EXAMINATION	+	BY MR. MEDRANO: Q	102	21
RECROSS-EXAMINATION	+	BY MR. STOLAR: Q CAN	104	3
LOS ANGELES	+	CALIFORNIA, TUESDAY, JUNE	106	1
JUNE 6, 1990	+	1:30 P.M. (JURY	106	2
RONALD RAWALT	+	PLAINTIFF'S WITNESS,	106	10
CROSS-EXAMINATION	+	BY MR. STOLAR: Q GOOD	106	12
JOSE G. AGUILAR	+	PLAINTIFF'S WITNESS, SWORN	123	13
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q WHO	123	18
CROSS-EXAMINATION	+	BY MR. STOLAR: Q GOOD	136	1
REDIRECT EXAMINATION	+	BY MR. MEDRANO: Q	156	14
HORACIO M. AYALA	+	PLAINTIFF'S WITNESS, SWORN.	157	15
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q MR.	157	25
CROSS-EXAMINATION	+	BY MR. STOLAR: Q GOOD	162	6
MIGUEL R. ACUNA	+	PLAINTIFF'S WITNESS, SWORN	168	7
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q	168	18
DIRECT EXAMINATION	+	CONTINUED BY MR. MEDRANO:	194	15
CROSS-EXAMINATION	+	BY MR. STOLAR: Q.	199	20
REDIRECT EXAMINATION	+	BY MR. MEDRANO: Q.	216	15
RECROSS-EXAMINATION	+	BY MR. STOLAR: Q.	218	22
JOSEPH GONZALES	+	PLAINTIFF'S WITNESS, SWORN	221	10
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q.	221	16

	EXHIBIT		PG	LN
TO THE WITNESS	EXHIBIT	57, WHICH I BELIEVE	13	20
RIGHT. (	EXHIBIT	57 PLACED BEFORE THE	13	23
DO YOU RECOGNIZE	EXHIBIT	57? A. YES, I	13	25
AT THIS TIME THAT	EXHIBIT	57 BE RECEIVED.	17	23
(	EXHIBIT	57 # RECEIVED IN	17	25
YOU WILL FIND SOME	EXHIBIT	S. IF YOU	57	4
HAS BEEN MARKED AS	EXHIBIT	S 90 AND 91.	57	6
WHAT ARE THOSE? A.	EXHIBIT	90 IS A PLASTIC BAG	57	10
Q. LOOKING AT	EXHIBIT	91, DO YOU RECOGNIZE	57	16
DID YOU FIRST SEE	EXHIBIT	S 90 AND 91? A. I	58	12
SOIL IN EACH OF THOSE	EXHIBIT	S? A. YES, SIR.	59	1
HAS BEEN MARKED AS	EXHIBIT	101-B, WHICH I	59	18
Q. WHAT DOES	EXHIBIT	101-B CONSIST OF?	60	5
THE SOIL YOU SAW IN	EXHIBIT	S 90 AND 91? A.	60	22
A. THE SOIL IN	EXHIBIT	S 90 AND 91 IS	60	23
ON THE SOIL FOUND IN	EXHIBIT	101-B? A. YES.	61	4
DO YOU MEAN? A.	EXHIBIT	S 90 AND 91. Q.	61	12
COMPARE THE SOILS IN	EXHIBIT	101-B WITH THE SOILS	61	13
WITH THE SOILS IN	EXHIBIT	90 AND 91? A.	61	14
COMPARE THE SOILS IN	EXHIBIT	90 AND 91, AS WELL AS	63	6
90 AND 91, AS WELL AS	EXHIBIT	101 B? A YES,	63	6
BETWEEN THE SOIL IN	EXHIBIT	90 AND 91 AND 101 B.	63	10
REPRESENTED IN	EXHIBIT	101 B AND IN FACT	63	15
TO YOUR RIGHT IN THE	EXHIBIT	THAT'S ON THE EASEL.	70	19
OF IT AS? A	EXHIBIT	139 IS A RENDITION OF	70	25
I BELIEVE THERE IS AN	EXHIBIT	107, MARKED 107. DO	71	21
Q WHAT IS IT? A	EXHIBIT	107 IS A PLASTIC	71	25
FOR IDENTIFICATION AS	EXHIBIT	108. A	74	14
FIRST TIME THAT I SAW	EXHIBIT	108 WAS IN THE F.B.I.	74	20
IN DEALING WITH THAT	EXHIBIT	AT THE TIME? A	74	25
THE PURPOSE OF THE	EXHIBIT	WAS TO EXAMINE	75	2
WAS TO EXAMINE	EXHIBIT	108 AS A KNOWN	75	2
COMPARE IT BACK TO	EXHIBIT	S 90 AND 91. Q	75	3
PERFORM ANY TESTS ON	EXHIBIT	108? A YES, I	75	5
WHICH YOU FOUND IN	EXHIBIT	108 TO THE SOIL WHICH	75	16
WHICH YOU FOUND IN	EXHIBIT	S 90 AND 91? A	75	17
BETWEEN THE SOILS IN	EXHIBIT	108 AND THE SOILS	75	19
THAT YOU FOUND IN	EXHIBIT	S 90 AND 91? A	75	20
THE SOIL CONTAINED IN	EXHIBIT	S 90 AND 91 AND THE	76	9
THE SOIL CONTAINED IN	EXHIBIT	108. Q WERE THE	76	10
YOU, UNDERNEATH THE	EXHIBIT	WE JUST DISCUSSED,	76	18
I WOULD MOVE THAT	EXHIBIT	S 12 A THROUGH D BE	78	7
(	EXHIBIT	S 12 A-D # RECEIVED	78	10
WOULD ALSO MOVE THAT	EXHIBIT	S 90, 91, 101 B, 107	78	11
YES, SIR. Q THE	EXHIBIT	THAT YOU HAD IN FRONT	117	5
THAT IS GOVERNMENT'S	EXHIBIT	NUMBER? A	117	9
A PLAINTIFF'S	EXHIBIT	107. Q 107. DID	117	10
AS GOVERNMENT'S	EXHIBIT	171. I'M SORRY.	154	2
(CLERK SEARCHES FOR	EXHIBIT	.) THE	154	4
COURT: WHERE IS THE	EXHIBIT	? MR.	154	12
NOT HAVE DUPLICATE	EXHIBIT	S. IF IT'S MARKED AS	154	16
AS A GOVERNMENT'S	EXHIBIT	, THAT SHOULD BE	154	17
(	EXHIBIT	PLACED BEFORE	154	19

			PG	LN
YOU GOVERNMENT'S	EXHIBIT	171, WHICH YOU HAVE	154	21
YES, SIR. Q THAT	EXHIBIT	CONTAINS ALMOST ON	155	8
NOT? A (EXAMINES	EXHIBIT	AND LOOKS IN	155	10
WITNESS GOVERNMENT'S	EXHIBIT	63 AT THIS TIME.	157	22
AND PHOTOGRAPH OR AN	EXHIBIT	, GOVERNMENT'S	161	9
EXHIBIT, GOVERNMENT'S	EXHIBIT	63. DO YOU FIND	161	9
US WHAT GOVERNMENT'S	EXHIBIT	63 IS, AGENT AYALA?	161	12
WE SEEK ADMISSION OF	EXHIBIT	63 AT THIS TIME.	161	20
YOU. (	EXHIBIT	63 # RECEIVED IN	161	25
OF MADAM CLERK IF	EXHIBIT	65 MAY BE PLACED	167	24
SEE A GOVERNMENT'S	EXHIBIT	ENTITLED GOVERNMENT	175	4
ENTITLED GOVERNMENT	EXHIBIT	15? A YES, I DO.	175	4
ACUNA, A GOVERNMENT	EXHIBIT	IDENTIFIED AS 65?	198	17
HAVE IN FRONT OF YOU,	EXHIBIT	65, IS AN EXACT	199	1
WE SEEK ADMISSION OF	EXHIBIT	65 AT THIS TIME.	199	5
(	EXHIBIT	65 # RECEIVED IN	199	7
IS NOW GOVERNMENT	EXHIBIT	NUMBER 65? A. I'M	205	14
THAT THE GOVERNMENT	EXHIBIT	IS A COPY OF WAS	206	5
I PLACE GOVERNMENT	EXHIBIT	170 IN FRONT OF THE	221	5
YOU, SIR, GOVERNMENT	EXHIBIT	170. DO YOU HAVE	234	6

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REPORTERS' CERTIFICATION

WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS FOR THE UNITED STATES DISTRICT COURTS, HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF THIS DATE'S PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

Julie A. Churchill
JULIE A. CHURCHILL, CSR
OFFICIAL COURT REPORTER

DATED: JUNE 5, 1990

Susan A. Lee
SUSAN A. LEE, CSR
OFFICIAL COURT REPORTER

DATED: JUNE 5, 1990