

COPY

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

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HONORABLE EDWARD RAFEEDIE, DISTRICT COURT JUDGE PRESIDING

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UNITED STATES OF AMERICA, )

PLAINTIFF, )

VS. )

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

C.A. NO: 91-50351

JUAN RAMON MATTA-BALLESTEROS, )

RUBEN ZUNO-ARCE, )

JUAN JOSE BERNABE-RAMIREZ, )

AND JAVIER VASQUEZ-VELASCO, )

DEFENDANTS. )

VOLUME 16

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, JUNE 19, 1990; 9:30 A.M.  
LOS ANGELES, CALIFORNIA

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

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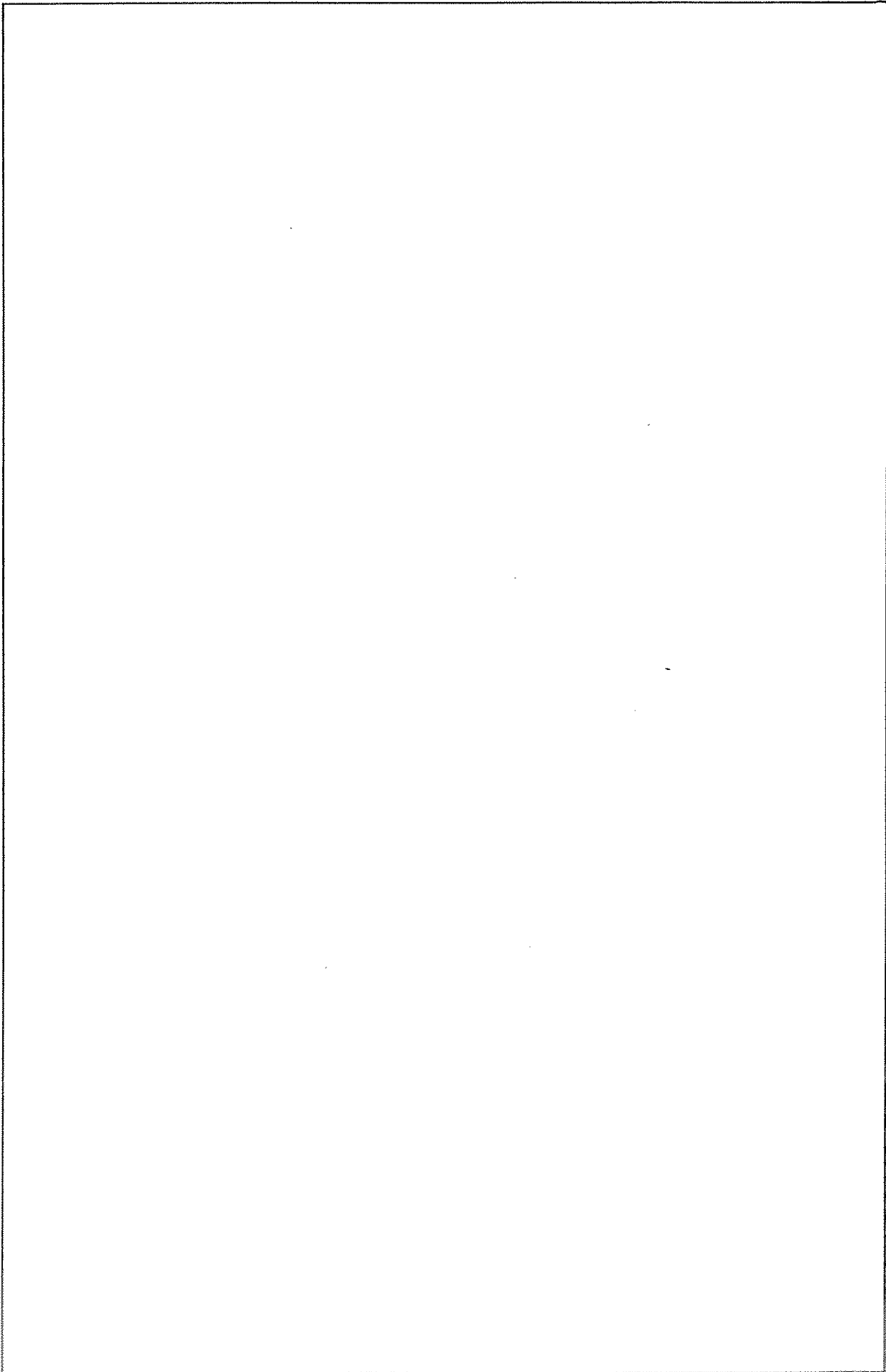
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ALSO PRESENT:

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

SPANISH INTERPRETERS



1 LOS ANGELES + CALIFORNIA TUESDAY, JUNE 19, 1990

2 + 9:30 A.M.

3  
4 (JURY PRESENT.)

5 THE COURT: GOOD MORNING.

6 THE COURTROOM: GOOD MORNING.

7 THE COURT: GOOD MORNING.

8 CALL YOUR NEXT WITNESS.

9 MR. CARLTON: THE GOVERNMENT CALLS WAYNE OAKES.

10 THE CLERK: PLEASE STATE YOUR FULL NAME FOR THE  
11 RECORD AND SPELL YOUR LAST NAME.

12 THE WITNESS: MY NAME IS WAYNE W. OAKES THE LAST  
13 NAME IS SPELLED O A K E S.

14  
15 WAYNE W. OAKES + PLAINTIFF'S WITNESS, SWORN

16 DIRECT EXAMINATION +

17 BY MR. CARLTON:

18 Q. MR. OAKES, WHAT IS YOUR CURRENT EMPLOYMENT?

19 A. I'M A SUPERVISORY SPECIAL AGENT WITH THE F.B.I., THE  
20 FEDERAL BUREAU OF INVESTIGATION.

21 MR. BURNS: EXCUSE ME, YOUR HONOR. COULD THE  
22 WITNESS USE THE MICROPHONE. THE TRANSLATOR IS HAVING TROUBLE.

23 THE COURT: PULL THIS OVER A LITTLE BIT.

24 MR. CARLTON: WOULD YOU LIKE THAT ANSWER REPEATED?

25 MR. BURNS: YES.

1 BY MR. CARLTON:

2 Q. WHAT IS YOUR PRESENT EMPLOYMENT, MR OAKES?

3 A. I'M A SUPERVISORY SPECIAL AGENT WITH THE F.B.I., WITH THE  
4 FEDERAL BUREAU OF INVESTIGATION.

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

6 A. APPROXIMATELY 12-1/2 YEARS.

7 Q. WHAT IS YOUR CURRENT ASSIGNMENT?

8 A. I AM PRESENTLY, AND HAVE BEEN FOR THE LAST NINE YEARS,  
9 ASSIGNED TO THE LABORATORY DIVISION OF THE F.B.I. LOCATED IN  
10 OUR WASHINGTON, D.C. HEADQUARTERS. SPECIFICALLY, I'M ASSIGNED  
11 TO THE HAIRS AND FIBERS UNIT.

12 Q. WHAT ARE YOUR DUTIES IN THE HAIRS AND FIBERS UNIT?

13 A. TO CONDUCT EXAMINATIONS AND COMPARISON OF HAIRS AND  
14 TEXTILE FIBERS. AND TO CONDUCT CRIME SCENE SEARCHES IN THE  
15 FIELD IN AN EFFORT TO COLLECT FORENSIC EVIDENCE.

16 Q. DID YOU HAVE OCCASION TO CONDUCT A CRIME SCENE SEARCH IN  
17 GUADALAJARA, MEXICO IN 1985?

18 A. YES, I DID.

19 Q. WHEN WAS THAT?

20 A. THE SEARCH WAS ACTUALLY CONDUCTED ON THURSDAY, MARCH 28,  
21 1985.

22 Q. WHEN DID YOU TRAVEL TO GUADALAJARA?

23 A. ON WEDNESDAY MARCH 27, 1985.

24 Q. WHAT WAS YOUR PURPOSE IN TRAVELING THERE AT THAT TIME?

25 A. TO CONDUCT A SEARCH OF A 1983 BLACK MERCURY MARQUIS, GRAN

1 MARQUIS .

2 Q. WHO DID YOU TRAVEL WITH, IF ANYONE?

3 A. I TRAVELED WITH A FINGERPRINT EXAMINER FROM THE F.B.I. BY  
4 THE NAME OF CARL COLLINS .

5 Q. WHEN YOU ARRIVED IN GUADALAJARA, WHERE DID YOU GO?

6 A. WE WENT IMMEDIATELY TO THE D.E.A. OFFICE LOCATED AT THE  
7 U.S. CONSULATE AND MET WITH JAMES KUYKENDALL .

8 Q DID YOU RECFTVE A BRIEFING THERE?

9 A. YES, I DID .

10 Q. AFTER YOUR BRIEFING AT THE D.E.A. OFFICE, WHERE DID YOU  
11 GO NEXT?

12 A. WE PROCEEDED TO THE HEADQUARTERS IN GUADALAJARA, AT THE  
13 MEXICAN FEDERAL JUDICIAL POLICE .

14 Q. WHAT DID YOU DO THERE?

15 A. WE SPOKE, OR AT LEAST THE PERSON THAT I WAS WITH, SPOKE  
16 WITH THE OFFICIALS AT THE M.F.J.P. HEADQUARTERS. AND WE WERE  
17 ALLOWED TO VIEW FROM AN EXTERIOR POINT THE BLACK MERCURY  
18 MARQUIS THAT WAS LOCATED AT THE M.F.J.P. COMPOUND .

19 Q. WHAT DID YOU NOTICE, IF ANYTHING, ABOUT THE MARQUIS AT  
20 THAT TIME?

21 A. NOTHING IN PARTICULAR, OTHER THAN I BELIEVE IT WAS SEALED  
22 IN SOME WAY. WE WERE NOT ALLOWED AT THAT POINT IN TIME TO  
23 COMMENCE THE SEARCH OR TO GET INSIDE OF THE VEHICLE AT THAT  
24 TIME .

25 Q. WERE YOU EVENTUALLY GIVEN PERMISSION BY THE MEXICAN

1 AUTHORITIES TO SEARCH THAT VEHICLE?

2 A. YES, I WAS.

3 Q. AND DID YOU, IN FACT, CONDUCT A SEARCH?

4 A. YES.

5 Q. WHEN WAS THAT?

6 A. THE FOLLOWING DAY.

7 Q. WHERE DID THAT SEARCH TAKE PLACE?

8 A. AT THE M.F.J.P. HANGAR LOCATED AT THE GUADALAJARA  
9 AIRPORT.

10 Q. HAD THE CAR BEEN MOVED TO THAT LOCATION?

11 A. YES, IT HAD.

12 Q. WHEN YOU ARRIVED AT THAT LOCATION, WAS ANYONE ELSE  
13 ACCOMPANYING YOU?

14 A. YES. IT WOULD HAVE BEEN CARL COLLINS AS WELL AS ONE OF  
15 OUR REPRESENTATIVES FROM THE EMBASSY IN MEXICO CITY.

16 Q. NOW, I BELIEVE IN FRONT OF YOU SHOULD BE A PHOTOGRAPH  
17 MARKED EXHIBIT 11-C. DO YOU SEE THAT?

18 A. YES, I DO.

19 Q. DO YOU RECOGNIZE IT?

20 A. IT APPEARS TO BE THE BLACK MERCURY MARQUIS, WHICH I  
21 SEARCHED, AND IT APPEARS TO BE LOCATED AT THE M.F.J.P. HANGAR  
22 AT THE GUADALAJARA AIRPORT.

23 Q. NOW, ONCE YOU ARRIVED AT THE SCENE AT THE GUADALAJARA  
24 AIRPORT ON MARCH 28, WHAT DID YOU DO IN RELATION TO YOUR CRIME  
25 SCENE INVESTIGATION?



1 A. WELL, WE COMMENCED WITH THE SEARCH, WHICH WAS INITIATED  
2 BY COLLECTING FROM THE INTERIOR PORTIONS OF THE VEHICLE THOSE  
3 ITEMS WHICH WERE REMOVABLE AND WHICH MIGHT LEND THEMSELVES TO  
4 LATENT FINGERPRINT EXAMINATION AT A LATER DATE.

5 FOR INSTANCE, IF THERE WAS A PAPER CUP IN THE CAR, I  
6 WOULD HAVE REMOVED THAT AND BROUGHT THAT BACK TO F.B.I.  
7 HEADQUARTERS FOR LATER FINGERPRINT PROCESSING; THE REASON  
8 BEING IT'S ALWAYS EASIER TO CONDUCT THESE EXAMINATIONS USING  
9 YOUR OWN FACILITIES RATHER THAN DOING IT IN THE FIELD.

10 SO THAT WOULD HAVE BEEN THE FIRST STEP I WOULD HAVE  
11 FOLLOWED.

12 Q. AND AFTER REMOVING ITEMS THAT MIGHT HAVE CONTAINED LATENT  
13 FINGERPRINTS, WHAT DID YOU DO NEXT?

14 A. I WOULD HAVE LOOKED FOR TRACE EVIDENCE, NAMELY IN THE  
15 FORM OF HAIRS AND/OR TEXTILE FIBERS, AND REMOVED ANY ITEMS  
16 THAT MIGHT LEND THEMSELVES TO HAIR AND FIBER EVIDENCE.

17 FOR INSTANCE, THE FLOOR MATS OF THE VEHICLE,  
18 CONDUCTING A VISUAL SEARCH, LOOKING FOR LOOSE HAIRS, WHATNOT,  
19 AND THEN PROCEEDING WITH A VACUUMING OF THE INTERIOR OF THE  
20 VEHICLE, TO INCLUDE THE TRUNK COMPARTMENT.

21 Q. NOW, DID YOU HAVE ANY SPECIAL VACUUM CLEANERS WITH YOU?

22 A. YES, I DID.

23 Q. AND WHAT VACUUM CLEANER DID YOU USE?

24 A. IT'S SIMPLY A SMALL, PORTABLE VACUUM CLEANER THAT HAS A  
25 TRAPPING MECHANISM WHICH ALLOWS ME TO VACUUM A PARTICULAR

1 AREA, FOR INSTANCE, THE TRUNK, AND WITH A TRAP COLLECT THE  
2 DEBRIS THAT WOULD COME FROM THE TRUNK.

3 AND THEN BY REPLACING A FILTER SYSTEM, I COULD THEN  
4 PROCEED TO ANOTHER AREA, SO I COULD KNOW WITH REASONABLE  
5 CERTAINTY THAT THE DEBRIS THAT I COLLECTED WAS FROM ONE AREA  
6 AS OPPOSED TO ANOTHER AREA OF A PARTICULAR VEHICLE.

7 Q. NOW, IN FACT, DID YOU REMOVE ANY ITEMS FROM THE  
8 AUTOMOBILE THAT YOU THOUGHT MIGHT CONTAIN TRACE EVIDENCE?

9 A. YES, I DID.

10 Q. WHAT DID YOU REMOVE?

11 A. IN PARTICULAR, THE FLOOR MATS.

12 Q. NOW, LOOKING IN FRONT OF YOU, I BELIEVE THERE IS AN  
13 EXHIBIT MARKED FOR IDENTIFICATION AS 103?

14 A. YES. 103 IS A PLASTIC BAG CONTAINING A GRAY COLORED  
15 FLOOR MAT.

16 Q. IS THAT ONE OF THE FLOOR MATS THAT YOU REMOVED FROM THE  
17 AUTOMOBILE?

18 A. YES, IT IS. THE BAG HAS MY INITIALS ON IT, AS WELL AS  
19 THE NUMBER 15, WHICH JUST REPRESENTS THE 15TH ITEM THAT I  
20 COLLECTED FROM THE SEARCH OF THAT VEHICLE.

21 Q. AND FROM WHAT AREA OF THE AUTOMOBILE DID YOU REMOVE THIS  
22 FLOOR MAT?

23 A. ITEM 15, OR GOVERNMENT'S EXHIBIT 103, IS THE RIGHT REAR  
24 FLOOR MAT OF THAT VEHICLE.

25 Q. NOW, DID YOU, IN FACT - ALSO VACUUM CERTAIN PORTIONS OF

1 THE AUTOMOBILE?

2 A. YES, I DID.

3 Q. WHICH PORTIONS DID YOU VACUUM?

4 A. THE TRUNK, THE BACK SEAT AND THE RIGHT FRONT SEAT.

5 Q. NOW, I BELIEVE YOU HAVE IN FRONT OF YOU AN EXHIBIT WHICH  
6 HAS BEEN MARKED EXHIBIT 104.

7 A. YES, I DO.

8 Q. DO YOU RECOGNIZE THAT?

9 A. YES. IT IS A PLASTIC ZIPLOCK BAG, AND IT CONTAINS MY  
10 INITIALS, "W W O", AS WELL AS "ITEM NUMBER 30", AGAIN, JUST  
11 THE 30TH ITEM THAT I REMOVED FROM THAT VEHICLE. AND IT'S  
12 VACUUM SWEEPINGS, FRONT SEAT. AND IT WAS THE RIGHT FRONT  
13 SEAT.

14 Q. OF THE MERCURY MARQUIS?

15 A. YES, SIR.

16 Q. NOW, AFTER YOU COLLECTED THESE ITEMS, WHAT DID YOU DO  
17 WITH THEM?

18 A. I PERSONALLY DELIVERED THEM TO F.B.I. HEADQUARTERS, THE  
19 LABORATORY DIVISION, IN WASHINGTON, D.C.

20 Q. DID YOU SEAL THEM AT THE SCENE?

21 A. YES, I DID.

22 Q. AND DID THEY REMAIN SEALED UNTIL YOU DELIVERED THEM TO  
23 THE F.B.I. HEADQUARTERS IN WASHINGTON, D.C.?

24 A. YES, THEY DID.

25 Q. AND WHEN YOU DELIVERED THEM TO THE F.B.I. HEADQUARTERS,

1 TO WHOM DID YOU DELIVER THEM?

2 A. SPECIAL AGENT RON RAWALT.

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

4 THE COURT: YES.

5 (DISCUSSION HELD OFF THE RECORD BETWEEN COUNSEL.)

6 MR. CARLTON: NOTHING FURTHER.

7 THE COURT: YOU MAY CROSS-EXAMINE THE WITNESS

8 CROSS-EXAMINATION +

9 BY MR. STOLAR:

10 Q. GOOD MORNING, SIR.

11 A. GOOD MORNING.

12 Q. IT WAS YOUR PRIMARY PURPOSE WHEN YOU WENT TO GUADALAJARA  
13 TO EXAMINE THE PARTICULAR VEHICLE IN QUESTION; WASN'T IT?

14 A. THAT'S CORRECT.

15 Q. AND THE PURPOSE OF YOUR EXAMINATION WAS TO TRY TO  
16 ASSOCIATE THAT VEHICLE WITH AGENT CAMARENA; ISN'T THAT RIGHT?

17 A. WELL, TO ASSOCIATE OR DISASSOCIATE. THE PURPOSE OF HAIR  
18 AND FIBER EXAMINATIONS OR ANY EXAMINATION IS TO DETERMINE  
19 WHETHER OR NOT A PERSON CAN OR CANNOT BE ASSOCIATED WITH A  
20 PARTICULAR VEHICLE, ENVIRONMENT OR OBJECT.

21 Q. BUT IT'S TRUE THAT YOUR PRIMARY PURPOSE WAS TO ATTEMPT TO  
22 ASSOCIATE THE VICTIM OF THE CRIME, AGENT CAMARENA, WITH THAT  
23 VEHICLE; ISN'T THAT RIGHT?

24 A I BELIEVE IT WAS THE OPINION OF THE INVESTIGATORS THAT  
25 THAT VEHICLE MAY HAVE BEEN INVOLVED, AND I WAS ASKED TO GATHER

1 TRACE EVIDENCE WHICH MAY PROVE OR DISPROVE THAT THEORY.

2 Q. THAT WAS YOUR PRIMARY PURPOSE, RIGHT?

3 A. I, MYSELF, HAD NO THEORY OF THE CASE.

4 Q. NO. BUT THAT WAS YOUR PRIMARY PURPOSE TO DO THAT?

5 A. YES.

6 Q. THANK YOU. THE VEHICLE, ITSELF, YOU INDICATED IT WAS  
7 SEALED; IS THAT RIGHT?

8 A. YES. MY RECOLLECTION IS THAT THERE WAS TAPE SEALING THE  
9 OPENINGS OF THE DOORS.

10 A. DO YOU HAVE ANY IDEA WHEN THE TAPE WAS PUT ON?

11 A. NO, SIR.

12 Q. DO YOU KNOW WHETHER OR NOT THAT VEHICLE HAD BEEN SECURED  
13 PRIOR TO YOUR EXAMINING IT OTHER THAN YOUR SEEING THE TAPE?

14 A. I HAVE NO PERSONAL KNOWLEDGE.

15 Q. IN FACT, YOU WOULD AGREE, WOULD YOU NOT, THAT IT IS  
16 SOMEWHAT IMPORTANT FOR YOUR FORENSIC CRIME SCENE SEARCHES THAT  
17 THE AREA REMAIN SECURE?

18 A. IT IS IMPORTANT THAT IT REMAIN SECURE IN THAT TRACE  
19 EVIDENCE THAT MAY BE THERE COULD BE LOST, YES.

20 Q. OR COULD BE PLACED THERE. SOMETHING COULD BE BROUGHT IN  
21 SUBSEQUENT TO THE EVENT; ISN'T THAT RIGHT?

22 A. I WOULD HAVE NO KNOWLEDGE WHETHER THAT HAPPENED OR NOT.

23 Q. NO. BUT THAT'S ONE OF THE REASONS WHY YOU, AS A FORENSIC  
24 CRIME SCENE SEARCHER, LIKES TO HAVE THE CRIME SCENE SEALED  
25 OFF, SO NOBODY CAN COME IN AND BRING SOMETHING IN OR REMOVE

1 SOMETHING FROM THE SCENE, RIGHT?

2 A. CERTAINLY.

3 Q. OKAY. IN FACT, OF THE FEW ITEMS THAT YOU TALKED ABOUT  
4 HERE, YOU REMOVED AT LEAST 34 ITEMS FROM THAT VEHICLE; DID YOU  
5 NOT?

6 A THAT'S CORRECT.

7 Q. INCLUDING ATTEMPTING TO GET LATENT PRINTS FROM THINGS  
8 LIKE ROLLS OF FILM, A SIREN THAT WAS IN THE VEHICLE, THE RIGHT  
9 REAR VIEW MIRROR, THE LEFT REAR VIEW MIRROR, THINGS LIKE THAT;  
10 IS THAT RIGHT?

11 A. ALL OF THOSE ITEMS WERE REMOVED TO PROCESS THEM AT A  
12 LATER DATE FOR LATENT FINGERPRINT EVIDENCE, YES.

13 Q. WERE YOU INVOLVED IN WITH THE PROCFSSING AT A LATER DATE?

14 A. NO.

15 Q. ALSO, ONE OF THE THINGS OR SOME OF THE THINGS YOU REMOVED  
16 WERE HAIRS; IS THAT RIGHT?

17 A. YES.

18 Q. AND YOU REMOVED HAIRS IN TWO FASHIONS; DID YOU NOT?

19 A. YES.

20 Q. THE FIRST FASHION BEING THAT YOU REMOVED HAIRS BY  
21 ACTUALLY PHYSICALLY SEEING A HAIR, PICKING UP A HAIR, AND  
22 TAKING THAT INDIVIDUAL HAIR AND PLACING THAT IN THE EVIDENCE  
23 BAG; IS THAT RIGHT?

24 A. YES.

25 Q. AND THE OTHER WAY IS THAT YOU ATTEMPTED TO -- WELL, WHEN

1 YOU DID YOUR SWEEPING, YOUR VACUUM SWEEPING, YOU GOT HAIR  
2 FRAGMENTS THAT WERE NOT COMPLETELY VISIBLE TO YOU, RIGHT?

3 A. WHEN I DO THE VACUUMING, I DON'T KNOW WHAT I'M GETTING.  
4 YOU WOULD ONLY KNOW WHAT IS IN THE VACUUM SWEEPINGS UPON DOING  
5 AN EXAMINATION AT A LATER DATE.

6 Q. AND DID YOU DO THAT?

7 A. NO, I DID NOT DO THE SUBSEQUENT EXAMINATION.

8 Q. BUT THE VISIBLE HAIRS, THAT IS, THE ONES THAT WERE AT  
9 LEAST LARGE ENOUGH FOR YOU TO SEE, YOU REMOVED INDIVIDUALLY;  
10 CORRECT?

11 A. I REMOVED WHAT HAIRS THAT I COULD SEE, THAT'S CORRECT.

12 Q. AND IT IS ENTIRELY POSSIBLE THAT THE VACUUM SWEEPING  
13 PICKED UP SMALLER HAIR FRAGMENTS; IS THAT RIGHT?

14 A. OR LARGE HAIRS THAT WERE JUST LYING IN A PARTICULAR WAY  
15 THAT I COULDN'T SEE THEM EASILY WITH A NAKED EYE.

16 Q. YOU ALSO INDICATED THAT -- I BELIEVE YOU WENT WITH A  
17 REPRESENTATIVE, YOU SAID, OF THE EMBASSY TO MEXICO; IS THAT  
18 RIGHT?

19 A. OUR REPRESENTATIVE TO THE EMBASSY IN MEXICO CITY, YES.

20 A. DO YOU RECALL WHO THAT WAS?

21 A. FRANK TEJEDA.

22 Q. DO YOU RECALL WHAT YEAR THIS AUTOMOBILE WAS?

23 A. I BELIEVE IT WAS A 1983.

24 Q. DO YOU RECALL THE LICENSE PLATE?

25 A. YES, I DO.

1 Q. WHAT WAS IT?

2 A. F X X R 7 9 DURANGO.

3 Q. VERY GOOD. DO YOU RECALL THE VEHICLE IDENTIFICATION  
4 NUMBER?

5 A. NO, I DON'T.

6 Q. OKAY. IF YOU HAD YOUR REPORT YOU COULD SEE IT, THOUGH,  
7 RIGHT?

8 A. YES, I COULD. IT'S IN WRITING.

9 Q. BECAUSE IT WAS IN WRITING.

10 MR. STOLAR: THANK YOU, SIR.

11 THE WITNESS: YOU'RE WELCOME.

12 THE COURT: ANY FURTHER QUESTIONS FOR THIS WITNESS  
13 FROM DEFENSE COUNSEL?

14 MS. KELLY: NO, YOUR HONOR.

15 MR. NICOLAYSEN: NOTHING, YOUR HONOR.

16 THE COURT: ANY REDIRECT?

17 MR. CARLTON: NO, YOUR HONOR.

18 THE COURT: YOU MAY STEP DOWN.

19 THE WITNESS: THANK YOU, YOUR HONOR.

20 (WITNESS EXCUSED.)

21 THE COURT: CALL YOUR NEXT WITNESS.

22 MR. CARLTON: YOUR HONOR, THE GOVERNMENT CALLS WAYNE  
23 SCHMIDT.

24 WAYNE SCHMIDT + PLAINTIFF'S WITNESS, SWORN

25 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR



1 FULL NAME FOR THE RECORD AND SPELL YOUR LAST NAME.

2 THE WITNESS: WAYNE SCHMIDT. S C H M I D T.

3

4 DIRECT EXAMINATION +

5 BY MR. CARLTON:

6 Q. MR. SCHMIDT, WHAT IS YOUR PRESENT EMPLOYMENT?

7 A. I'M A SPECIAL AGENT WITH THE UNITED STATES DEPARTMENT OF  
8 JUSTICE, DRUG ENFORCEMENT ADMINISTRATION.

9 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY THE D.E.A.?

10 A. APPROXIMATELY SIX YEARS.

11 Q. HAVE YOU HAD ANY PRIOR LAW ENFORCEMENT EXPERIENCE?

12 A. I WAS A CRIMINAL INVESTIGATOR FOR THE CITY OF NEW YORK  
13 FROM 1976 UNTIL I CAME ON BOARD WITH THE D.E.A. IN 1983.

14 Q. WHAT IS YOUR PRESENT ASSIGNMENT?

15 A. I'M ASSIGNED TO THE LOS ANGELES FIELD DIVISION, GROUP 13,  
16 OPERATION LEYENDA.

17 Q. NOW, IS OPERATION LEYENDA THAT OPERATION WHICH IS TASKED  
18 WITH INVESTIGATING THE ABDUCTION AND MURDER OF SPECIAL AGENT  
19 ENRIQUE CAMARENA?

20 A. YES, SIR, IT IS.

21 Q. NOW, IN THE COURSE OF YOUR WORK ON OPERATION LEYENDA, DID  
22 YOU HAVE OCCASION TO MEET AN INDIVIDUAL NAMED JUAN RAMON MATTA  
23 BALLESTEROS?

24 A. YES, SIR, I DID.

25 Q. WHEN DID YOU MEET HIM?

1 A. APPROXIMATELY THE 26TH OF JANUARY 1989.

2 Q. AND WHAT WAS THE PURPOSE OF YOUR MEETING HIM AT THAT  
3 TIME?

4 A. TO OBTAIN HEAD HAIRS FROM MR. BALLESTEROS.

5 Q. DID YOU, IN FACT, OBTAIN HEAD HAIRS FROM MR. BALLESTEROS  
6 AT THAT TIME?

7 A. YES, SIR, I DID.

8 Q. HOW DID YOU DO THAT?

9 A. I EXTRACTED THE HEAD HAIRS FROM VARIOUS AREAS OF HIS HEAD  
10 BY THE METHOD OF EITHER PLUCKING CERTAIN AREAS OF THE HEAD  
11 HAIRS AND ALSO BY HAVING THEM FALL OUT.

12 Q. AS YOU COMBED HIS HAIR?

13 A. YES. SIR.

14 Q. AND WHEN YOU GATHERED THOSE HAIRS, WHAT DID YOU DO WITH  
15 THEM?

16 A. I PLACED THEM IN BOTTLES, LABELED BOTTLES AS TO WHAT AREA  
17 OF THE HEAD THE HAIRS CAME FROM, AND THEN SEALED THEM IN  
18 D.E.A. EVIDENCE ENVELOPES.

19 Q. WHAT DID YOU THEN DO WITH THOSE D.E.A. EVIDENCE  
20 ENVELOPES?

21 A. I SUBSEQUENTLY TRANSPORTED THEM BACK TO THE LOS ANGELES  
22 FIELD DIVISION WHERE I SECURED THEM WITHIN OUR OFFICE AREA,  
23 WHICH IS A LIMITED ACCESS AREA, AND LOCKED THEM IN A LOCKER TO  
24 WHICH I HAD THE ONLY KEY TO THE LOCKER.

25 Q. DID THE EVIDENCE ENVELOPES IN WHICH THOSE BOTTLES HAD

1 BEEN PLACED REMAIN SEALED DURING THAT ENTIRE PERIOD OF TIME?

2 A. YES, THEY DID.

3 Q. DID YOU EVENTUALLY RETRIEVE THE SEALED EVIDENCE ENVELOPES  
4 WITH THE BOTTLES FROM THE PLACE IN WHICH YOU HAD LOCKED THEM?

5 A. YES, SIR, I DID.

6 Q. DO YOU RECALL WHEN THAT WAS?

7 A. THE 30TH OF JANUARY, 1989

8 Q. WHAT DID YOU DO WITH THEM AT THAT TIME?

9 A. I SENT THE EVIDENCE ENVELOPES IN THE SEALED BOX TO  
10 SPECIAL AGENT MIKE MALONE OF THE FEDERAL BUREAU OF  
11 INVESTIGATION BY REGISTERED CERTIFIED MAIL, RETURN RECEIPT  
12 REQUESTED.

13 Q. NOW, IF YOU WOULD, PLEASE, AGENT SCHMIDT, I'D ASK YOU TO  
14 STAND AND LOOK AROUND THE COURTROOM AND SEE IF YOU COULD  
15 IDENTIFY --

16 MR. STOLAR: INDICATING MR. MATTA. THERE IS NO  
17 CONTEST ABOUT THAT.

18 THE COURT: ALL RIGHT. IT IS APPARENTLY STIPULATED  
19 THAT THAT IS THE GENTLEMAN THAT YOU OBTAINED THESE HAIR  
20 SAMPLES FROM?

21 THE WITNESS: YES, YOUR HONOR.

22 THE COURT: ALL RIGHT. INDICATING MR. MATTA.

23 MR. CARLTON: NOTHING FURTHER, YOUR HONOR.

24 THE COURT: YOU MAY CROSS-EXAMINE THIS WITNESS.

25 CROSS-EXAMINATION +

1 BY MR. STOLAR:

2 Q. GOOD MORNING, AGENT SCHMIDT.

3 A. GOOD MORNING, SIR.

4 Q. IN ORDER TO OBTAIN THESE -- WELL, LET ME PUT IT BACK IS  
5 THIS THE FIRST TIME THAT YOU ATTEMPTED TO OBTAIN HAIR SAMPLES  
6 FROM MR. MATTA?

7 A. IT IS THE FIRST TIME I OBTAINED HEAD HAIRS FROM MR.  
8 MATTA.

9 Q. DID YOU EVER OBTAIN OTHER HAIRS THAT YOU BELIEVED WERE  
10 ASSOCIATED WITH MR. MATTA?

11 A. YES, SIR.

12 Q. WHY DON'T YOU TELL US ABOUT THAT?

13 A. THERE CAME A POINT IN TIME -- I DON'T HAVE THE EXACT  
14 DATE, I'D HAVE TO HAVE LOOK AT MY REPORTS -- WHERE I OBTAINED  
15 HAIRS WHICH HAD FALLEN OFF OF MR. MATTA WHILE HE STAYED IN A  
16 CELL IN -- I BELIEVE IT WAS MARION, ILLINOIS.

17 Q. AND, IN FACT, THAT WAS A CELL THAT HE WAS PUT INTO, LEFT  
18 OVERNIGHT, AND THEN TAKEN OUT OF, AND YOU WENT IN THERE  
19 WITHOUT A SEARCH WARRANT AND TOOK HAIRS OFF THE SHEETS AND  
20 PILLOW CASES; DIDN'T YOU?

21 MR. CARLTON: OBJECT, YOUR HONOR. IMPROPER  
22 QUESTION.

23 THE COURT: YES. OBJECTION SUSTAINED.

24 BY MR. STOLAR:

25 Q. WELL, DID YOU HAVE A SEARCH WARRANT TO OBTAIN THE HAIRS

1 FROM THE CELL?

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

3 THE COURT: IRRELEVANT.

4 BY MR. STOLAR:

5 Q. IN ANY EVENT, YOU TOOK HAIR FROM MR. MATTA OR WHAT YOU  
6 BELIEVE WERE ASSOCIATED WITH MR. MATTA, ON ONE PRIOR OCCASION;  
7 DID YOU NOT?

8 A. CORRECT, SIR.

9 Q. WHAT DID YOU DO WITH THOSE HAIRS?

10 A. THEY WERE SEALED IN A BOTTLE AND SEALED IN AN EVIDENCE  
11 ENVELOPE, AND THEN FORWARDED TO THE FEDERAL BUREAU OF  
12 INVESTIGATION FOR ANALYSIS.

13 Q. AND THEN YOU WENT BACK A SECOND TIME, IS THAT RIGHT, TO  
14 GET HAIRS THAT YOU PERSONALLY TOOK FROM MR. MATTA?

15 A. THAT IS CORRECT, SIR.

16 Q. AND YOU TOOK THEM FROM DIFFERENT PARTS OF HIS HEAD; IS  
17 THAT CORRECT, SIR?

18 A. YES, SIR.

19 Q. WHY DID YOU DO THAT?

20 A. BASED ON MY CONVERSATION WITH SPECIAL AGENT MALONE OF THE  
21 F.B.I., WHO'S WELL VERSED IN HEAD HAIRS, HE REQUESTED A GOOD  
22 SAMPLE FROM VARIOUS PORTIONS -- VARIOUS AREAS OF THE HEAD.

23 Q. BECAUSE PERHAPS THE HAIRS MIGHT BE DIFFERENT IN DIFFERENT  
24 AREAS OF THE HEAD; IS THAT RIGHT?

25 MR. CARLTON: OBJECTION, YOUR HONOR, CALLS FOR

1 SPECULATION. NO FOUNDATION.

2 MR. STOLAR: OH, IT'S HARDLY SPECULATION, YOUR  
3 HONOR.

4 THE COURT: WELL, THE OBJECTION IS SUSTAINED WITHOUT  
5 A FOUNDATION THAT THIS WITNESS --

6 BY MR. STOLAR:

7 Q. DO YOU KNOW WHY YOU TOOK HAIRS FROM DIFFERENT PARTS OF  
8 HIS HEAD?

9 A. I BELIEVE IT WAS TO OBTAIN A VARYING SAMPLE FROM  
10 DIFFERENT AREAS OF THE HEAD.

11 Q. AND HOW MANY HAIRS DID YOU TAKE FROM WHAT AREA OF HIS  
12 HEAD?

13 A. I WOULD SAY, IN ALL, TOTAL, APPROXIMATELY 50 HEAD HAIRS  
14 TOTAL.

15 Q. WELL, WHEN YOU PUT THEM IN EVIDENCE ENVELOPES, DID YOU  
16 SPECIFY FROM WHAT PART OF THE HEAD THEY CAME?

17 A. I SPECIFIED IT, YES.

18 Q. AND CAN YOU TELL US WHAT AREAS OF MR. MATTA'S HEAD YOU  
19 TOOK THE HAIRS FROM?

20 A. THE SIDES, THE BACK, THE TOP AND THE FRONT.

21 Q. THAT PRETTY MUCH COVERS IT.

22 A. (NODDING HEAD.)

23 Q. WHEN YOU COMBED HIS HAIR -- OR DID YOU BRUSH IT -- COMB  
24 OR BRUSH IT?

25 A. I BELIEVE I PROBABLY BRUSHED IT WITH MY FINGERS.

1 Q. NOT WITH A TOOL OR IMPLEMENT LIKE A COMB?

2 A. I DON'T RECALL.

3 Q. ALL RIGHT. SO YOU NOT ONLY -- BUT YOU ALSO PLUCKED SOME  
4 HAIRS; IS THAT RIGHT?

5 A. CORRECT.

6 Q. AND WITH THE ONES THAT YOU PLUCKED, YOU GET A ROOT, DON'T  
7 YOU?

8 A. CORRECT.

9 Q AND WITH THE ONFS THAT YOU SORT OF BRUSHED, YOU GENERALLY  
10 DON'T GET A ROOT; IS THAT RIGHT?

11 A- I'M NOT AN AUTHORITY IN THE AREA, SIR.

12 Q. DID YOU SEPARATE THE ONES THAT YOU PLUCKED FROM THE ONES  
13 THAT YOU BRUSHED?

14 A. YES, I DID.

15 Q. AND HOW MANY EVIDENCE ENVELOPES ARE THERE OF THE BRUSHED  
16 HAIRS?

17 A. I'D HAVE TO LOOK AT THE ENVELOPES, BUT -- I CAN'T GIVE  
18 YOU AN EXACT FIGURE. I'D HAVE TO LOOK AT THE ENVELOPES.

19 Q. DID YOU WRITE A REPORT ABOUT THIS?

20 A I ENCLOSED IT ALL ON MY D.E.A. 7(A).

21 Q. A D.E.A. 7(A) IS WHAT?

22 A. IT IS A CUSTODY FORM FOR NON-DRUG EVIDENCE.

23 Q. NORMALLY FILLED OUT BY AN AGENT WHEN SOMETHING THAT IS  
24 NOT DRUGS IS OBTAINED AS A PIECE OF EVIDENCE; IS THAT RIGHT?

25 A. CORRECT, SIR.

1 Q. DID YOU BRUSH FRONT, BACK, SIDES AND TOP SEPARATELY?

2 A. YES, SIR.

3 Q. AND SO THAT MEANS WE WOULD HAVE AT LEAST FOUR SEPARATE,  
4 MAYBE FIVE SEPARATE ENVELOPES WITH BRUSHED HAIRS?

5 A. IT SHOULD BE. I'D HAVE TO LOOK AT THE ENVELOPES.

6 Q. AND FIVE SEPARATE ENVELOPES WITH PLUCKED HAIRS; IS THAT  
7 RIGHT?

8 A. IT IS POSSIBLE. I'D HAVE TO LOOK AT THE ENVELOPES.

9 Q. HOW LONG HAVE YOU BEEN WITH OPERATION LEYENDA?

10 A. I BELIEVE I STARTED WITH OPERATION LEYENDA IN 1987.

11 Q. OPERATION LEYENDA IS NOT A NORMAL D.E.A.-TYPE OPERATION,  
12 IS IT?

13 A. I DON'T UNDERSTAND. IN WHAT RESPECT?

14 Q. WELL, PRIOR TO THAT, WHEN WERE YOU WORKING WITH D.E.A.,  
15 YOU WERE INVOLVED IN DRUG ENFORCEMENT; ISN'T THAT RIGHT?

16 A. CORRECT.

17 Q. THIS WAS INVESTIGATION OF A KIDNAPPING AND A MURDER, IS  
18 THAT RIGHT, NOT THE USUAL RUN OF THE MILL FOR WHAT D.E.A.  
19 DOES, CORRECT?

20 A. RIGHT.

21 MR. STOLAR: EXCUSE ME.

22 (BRIEF PAUSE.)

23 BY MR. STOLAR:

24 Q. YOU SENT THE HAIRS TO MALONE CERTIFIED RETURN RECEIPT; IS  
25 THAT RIGHT?



1 A. YES, SIR.

2 Q. DID THE RETURN RECEIPT COME BACK?

3 A. I BELIEVE IT DID.

4 Q. YOU DON'T KNOW?

5 A I BELIEVE IT CAME BACK. I HAD A TELEPHONE CONVERSATION  
6 WITH SPECIAL AGENT MALONE A COUPLE DAYS AFTER I SENT THE  
7 PARCEL, AND HE ACKNOWLEDGED THAT HE GOT IT.

8 Q. HE DID GET IT?

9 A. YES, SIR.

10 Q. BUT YOU THINK THE MAIL SERVICE ALSO GAVE IT BACK TO YOU;  
11 IS THAT RIGHT?

12 A. I BELIEVE SO, YES, SIR.

13 MR. STOLAR: THANK YOU, SIR.

14 THE COURT: ANY OTHER QUESTIONS FOR THIS WITNESS?

15 MR. NICOLAYSEN: NOTHING, YOUR HONOR.

16 MR. MEZA: WE DON'T HAVE ANYTHING WITHIN THE SCOPE,  
17 BUT WE'D LIKE THE WITNESS TO REMAIN AVAILABLE, YOUR HONOR.

18 THE COURT: ANYTHING ON REDIRECT?

19 MR. CARLTON: JUST A COUPLE OF QUESTIONS THAT I  
20 DIDN'T ASK THE FIRST TIME, YOUR HONOR.

21 THE COURT: ALL RIGHT.

22 REDIRECT EXAMINATION +

23 BY MR. CARLTON:

24 Q. AGENT SCHMIDT, IF YOU WOULD LOOK, I BELIEVE IN FRONT OF  
25 YOU, YOU WILL SEE AN EXHIBIT THAT HAS BEEN MARKED -- A NUMBER

1 OF EXHIBITS MARKED 110-A THROUGH -H.

2 THE COURT: WOULD YOU ASSIST THE WITNESS HERF.

3 (CLERK ASSISTING THE WITNESS LOCATE THE EXHIBITS.)

4 THE COURT: HAVE THOSE EXHIBITS BEEN PLACED BEFORE  
5 THE WITNESS?

6 (EXHIBITS PLACED BEFORE THE WITNESS.)

7 BY MR. CARLTON:

8 Q. NOW, AGENT SCHMIDT - DO YOU RECOGNIZE THOSE ITEMS?

9 A. YES, SIR, I DO.

10 Q. WHAT ARE THEY?

11 A. THESE ARE THE GLASS BOTTLES WITH MY HANDWRITING ON THEM  
12 FURTHER CONTAINED INSIDE D.E.A. EVIDENCE ENVELOPES WITH MY  
13 HANDWRITING ON IT, INDICATING THE HAIRS THAT I REMOVED FROM  
14 MR. BALLESTEROS.

15 Q. SO THESE WERE THE CONTAINERS IN WHICH YOU PLACED THE  
16 HAIRS THAT YOU HAD REMOVED FROM MR. MATTA?

17 A. YES, SIR.

18 Q. THESE ARE THE ENVELOPES THAT YOU SEALED AND SENT BACK TO  
19 THE F.B.I. LAB WITH BOTTLES INSIDE?

20 A. YES, SIR.

21 Q. IS THERE ANY INDICATION ON EACH OF THOSE ENVELOPES OR  
22 BOTTLES AS TO THE LOCATION FROM WHICH YOU OBTAINED THE HAIRS?

23 A. YES, SIR.

24 Q. OKAY. JUST, IF YOU COULD, INDICATE ON 110-A; WHERE DOES  
25 THAT COME FROM?

1 A. 110-A WAS A COMBED SAMPLE TAKEN FROM THE BACK OF THE  
2 HEAD.

3 Q. HOW ABOUT 110-B?

4 A. 110-B WAS A PULLED SAMPLE TAKEN FROM THE BACK OF THE  
5 HEAD.

6 Q. AND 110-C?

7 Q. 110-C WAS A COMBED SAMPLE TAKEN FROM THE LEFT SIDE OF THE  
8 HEAD.

9 Q. D?

10 A. D WAS PULLED SAMPLE TAKEN FROM THE LEFT SIDE OF THE HEAD.

11 Q. E?

12 A. WAS A COMBED SAMPLE TAKEN FROM THE RIGHT SIDE OF THE  
13 HEAD.

14 Q. F?

15 A. WAS A PULLED SAMPLE TAKEN FROM THE TOP OF THE HEAD.

16 Q. G?

17 A. WAS A PULLED SAMPLE TAKEN FROM THE RIGHT SIDE OF THE  
18 HEAD.

19 Q. AND H?

20 A. WAS A COMBED SAMPLE TAKEN FROM THE TOP OF THE HEAD.

21 MR. CARLTON: ALL RIGHT. NOTHING FURTHER, YOUR  
22 HONOR.

23 THE COURT: CROSS-EXAMINE OR RECROSS?

24 RECROSS-EXAMINATION +

25 BY MR. STOLAR:

1 Q. YOU'VE INDICATED BY LOOKING AT THAT, I BELIEVE, THAT YOU  
2 SAID THEY WERE COMBED SAMPLES; IS THAT RIGHT?

3 A. CORRECT.

4 Q. SO YOU ACTUALLY DID USE A COMB, DIDN'T YOU?

5 A. AS I SAID, I MAY HAVE OR I MAY HAVE USED MY FINGERS TO  
6 COMB IN A COMBING MOTION (INDICATING WITH HIS HAND).

7 Q. WELL, IF YOU USE YOUR FINGERS IN A COMBING MOTION,  
8 WOULDN'T YOU HAVE WRITTEN DOWN THAT YOU FLAKED IT OUT OR SHOOK  
9 IT OUT?

10 A NO, I COULD HAVE USED THE WORD "COMB" TO INDICATE THAT.

11 Q. I SEE. BUT YOU REALLY DON'T HAVE A SPECIFIC RECOLLECTION  
12 NOW OF WHETHER YOU USED A COMB OR WHETHER YOU USED YOUR HAND;  
13 IS THAT RIGHT?

14 A. NOT EXACTLY, SIR.

15 Q. HOW LONG AGO WAS THIS?

16 A. THIS WAS THE 26TH OF JANUARY 1989.

17 Q. WERE YOU ACCOMPANIED BY ANY OTHER AGENTS?

18 A. YES, SIR.

19 Q. WHO WAS THAT?

20 A. SPECIAL AGENT KUEHL.

21 Q. THIS GENTLEMAN RIGHT HERE; IS THAT RIGHT?

22 A. CORRECT.

23 Q. I DON'T EVEN HAVE TO ASK YOU TO LOOK AROUND THE COURTROOM  
24 BECAUSE YOU KNOW WHO HE IS, DON'T YOU?

25 A. CORRFCT.

1 Q. HE'S ALSO PART OF LEYENDA; IS THAT RIGHT?

2 A. CORRECT.

3 MR. STOLAR: THANK YOU, SIR.

4 THE COURT: ANY OTHER QUESTIONS FOR THIS WITNESS?

5 MR. NICOLAYSEN: NONE, YOUR HONOR.

6 MR. CARLTON: NOTHING, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT  
8 WITNESS.

9 (WITNESS EXCUSED )

10 THE COURT: YOUR HONOR, THE GOVERNMENT CALLS MICHAEL  
11 MALONE.

12 MR. STOLAR: LET ME INDICATE THAT WITH RESPECT TO  
13 THIS WITNESS, THERE IS A WRITTEN MOTION THAT WE FILED LAST  
14 WEEK WITH RESPECT TO A VERY LIMITED PORTION OF HIS TESTIMONY.

15 THE COURT: YES, I HAVE SEEN IT AND THE WITNESS MAY  
16 PROCEED.

17 MICHAEL P. MALONE + PLAINTIFF'S WITNESS, SWORN

18 THE CLERK: PLEASE STATE YOUR FULL NAME FOR THE  
19 RECORD AND SPELL YOUR LAST NAME.

20 THE WITNESS: MICHAEL P. MALONE.

21 THAT'S M A L O N E.

22 DIRECT EXAMINATION +

23 BY MR. CARLTON:

24 Q. NOW, MR. MALONE, WOULD YOU PLEASE STATE YOUR PRESENT  
25 EMPLOYMENT?

1 A. I'M A SPECIAL AGENT OF THE FEDERAL BUREAU OF  
2 INVESTIGATION. I'M CURRENTLY ASSIGNED TO THE F.B.I. LAB IN  
3 WASHINGTON, D.C.

4 Q. WHAT IS YOUR POSITION AT THE F.B.I. LABORATORY?

5 A. I'M THE SENIOR EXAMINER OF THE HAIRS AND FIBERS UNIT OF  
6 THE F.B.I. LAB.

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

8 A. 19 YEARS.

9 Q. AND DURING THAT PERIOD, WHAT POSITIONS HAVE YOU HELD?

10 A. MY FIRST ASSIGNMENT WAS IN THE CINCINNATI FIELD OFFICE OF  
11 THE F.B.I. WHERE I WORKED KIDNAPPINGS AND BANK ROBBERIES.

12 MY SECOND ASSIGNMENT WAS IN THE NEW YORK FIELD  
13 OFFICE OF THE F.B.I. WHERE I WORKED ORGANIZED CRIME MATTERS.

14 THEN IN 1974 I WAS ASSIGNED TO THE HAIRS AND FIBERS  
15 UNIT OF THE LAB.

16 Q. NOW, IN THE COURSE OF YOUR WORK WITH THE HAIRS AND FIBERS  
17 UNIT AT THE F.B.I. LAB, HAVE YOU HAD ANY TRAINING RELATIVE TO  
18 THE FORENSIC COMPARISON OF HAIRS AND FIBERS AND RELATED  
19 MATERIALS?

20 A. YES. MY FIRST FULL YEAR AT THE LAB WAS -- ENTIRELY  
21 CONSISTED OF INTENSIVE TRAINING. THE FIRST PART OF THE  
22 TRAINING, I ATTENDED THE HAIR AND FIBER SCHOOLS AT THE F.B.I.  
23 ACADEMY AT QUANTICO, VIRGINIA, AND READ THE AVAILABLE  
24 LITERATURE IN THE FIELD, ATTENDED SEMINARS.

25 BUT WITH HAIRS AND FIBERS, THERE IS ONLY ONE WAY TO

1 LEARN HAIRS AND FIBERS, AND THAT IS TO LITERALLY LOOK AT  
2 THOUSANDS AND THOUSANDS OF HAIRS AND FIBERS. SO THIS IS WHAT I  
3 SPENT MOST OF THAT YEAR DOING.

4 AT THE END OF THE YEAR, MY SUPERVISOR GAVE ME WHAT  
5 YOU MIGHT WANT TO CALL A FINAL EXAM IN HAIRS. WHAT HE DID WAS  
6 HE WENT OUT AND GOT HAIRS FROM 50 DIFFERENT INDIVIDUALS AND HE  
7 MOUNTED THESE HAIRS ON GLASS MICROSCOPE SLIDES.

8 AND THEN HE WENT AND GOT KNOWN HAIR SAMPLES FROM THE  
9 SAME 50 PEOPLE AND HE MOUNTED THESE ON GLASS MICROSCOPE  
10 SLIDES. BUT THE SECOND SET, HE MIXED ALL UP. SO WHAT I HAD  
11 TO DO TO BE QUALIFIED AS A HAIR EXAMINER AT THE F.B.I. LAB WAS  
12 TO MATCH THE 50 UNKNOWN HAIR SAMPLES CORRECTLY BACK TO THE 50  
13 ORIGINAL PEOPLE. IN OTHER WORDS, GET THEM ALL RIGHT, WHICH I  
14 DID.

15 Q. YOU GOT ALL OF THEM RIGHT?

16 A. THAT'S CORRECT.

17 Q. AND THEN WERE YOU EVENTUALLY QUALIFIED AS A HAIR AND  
18 FIBER EXAMINER AT THE F.B.I. LAB?

19 A. YES, I DID.

20 Q. WHEN WAS THAT?

21 A. 1975, SEPTEMBER.

22 Q. NOW, SINCE THAT TIME, HOW MANY CASES HAVE YOU WORKED ON  
23 FOR THE PURPOSE OF ATTEMPTING TO IDENTIFY HAIRS AND FIBERS?

24 A. TO DATE, I'VE WORKED OVER 4,000 CASES.

25 Q. THAT'S TOTAL CASES, INCLUDING HAIRS AND FIBERS?

1 A. THAT IS CORRECT. BASICALLY, HAIRS AND FIBERS NORMALLY  
2 COMPLEMENT EACH OTHER. THEY'RE USUALLY DONE IN THE SAME  
3 CASES, SO I'VE DONE OVER 4,000 FEDERAL, STATE AND LOCAL CASES.

4 Q. NOW, IN THE COURSE OF YOUR WORK AT THE F.B.I. LABORATORY,  
5 DO YOU EXAMINE OTHER THINGS BESIDES HAIRS AND FIBERS?

6 A. YES. SINCE WE ARE THE FIBER UNIT - WE WILL EXAMINE WHAT  
7 ARE CALLED FIBER-RELATED MATERIALS. FIBER-RELATED MATERIALS  
8 WOULD CONSIST OF FABRICS, ROPES, TAPES, THINGS SUCH AS THIS.

9 Q. NOW, HAVE YOU EVER PUBLISHED ANY MATERIALS IN THE AREA OF  
10 HAIRS AND FIBER COMPARISONS?

11 A. YES. SEVERAL ITEMS.

12 Q. CAN YOU IDENTIFY SOME OF THOSE?

13 A. I PUBLISHED ARTICLES WHICH HAVE APPEARED IN THREE ISSUES  
14 OF THE LAW ENFORCEMENT BULLETIN -- THAT IS ONE OF THE PRIMARY  
15 JOURNALS OF LAW ENFORCEMENT -- DEALING WITH THE USE OF HAIRS  
16 AND FIBERS IN THE INVESTIGATION OF SERIAL MURDER AND HOMICIDE  
17 CASES.

18 PORTIONS OF MY ARTICLES ARE NOW APPEARING IN A BASIC  
19 TEXTBOOK OF FORENSIC SCIENCE, WHICH IS EDITED BY SAPPERSTEIN  
20 (PHONETIC). IT'S CALLED THE CRIMINALISTIC INTRODUCTION TO --  
21 INTRODUCTION TO FORENSIC SCIENCE.

22 AND FINALLY, IN 1985 AS A RESULT OF ALL THE SERIAL  
23 MURDERS THAT WERE GOING ON AROUND THE UNITED STATES -- A FEW  
24 HERE IN L.A., ITSELF -- THE NATIONAL INSTITUTE OF JUSTICE  
25 DECIDED THAT IT WAS BECOMING A SERIOUS PROBLEM. AND THEY



1 DECIDED TO PUBLISH A MANUAL ON HOW TO INVESTIGATE A SERIAL  
2 MURDER CASE. IT IS A MUCH MORE DIFFICULT AND COMPLICATED CASE  
3 THAN THE NORMAL CASE.

4 SO THEY INVITED PEOPLE WITH EXPERIENCE IN SERIAL  
5 MURDER CASES FROM ALL OVER THE UNITED STATES TO A CONFERENCE  
6 IN PHOENIX, ARIZONA I WAS THE ONLY FORENSIC PERSON INVITED  
7 TO THAT CONFERENCE.

8 AND THEY PUBLISHED A MANUAL ON HOW TO INVESTIGATE A  
9 SERIAL MURDER CASE THAT HAS BEEN DISTRIBUTED TO EVERY LAW  
10 ENFORCEMENT AGENCY IN THE UNITED STATES.

11 Q. NOW, HAVE YOU EVER TAUGHT ANY COURSES OR SEMINARS IN THE  
12 AREA OF HAIR AND FIBER COMPARISONS?

13 A. IN THE EARLY PART OF ANY CAREER, I TAUGHT EXTENSIVELY  
14 WITH THE AIR FORCE O.S.I. THAT'S THEIR CRIMINAL  
15 INVESTIGATIONS, THEIR FORENSIC PROGRAM IN WASHINGTON, D.C.

16 AFTER A FEW YEARS AT THE LAB, I STARTED TEACHING  
17 SOME OF THE HAIR AND FIBER SCHOOLS AT THE F.B.I. ACADEMY IN  
18 QUANTICO, VIRGINIA. AND AT THESE SCHOOLS, WE WOULD BRING IN  
19 LOCAL LAB EXAMINERS FROM ALL OVER THE COUNTRY TO GIVE THEM THE  
20 BASICS OF HAIR AND FIBER EXAMINATION.

21 AND THEN AROUND 1975, I STARTED GOING ALL OVER THE  
22 UNITED STATES. LECTURING IN INTERNATIONAL, NATIONAL AND  
23 REGIONAL SEMINARS ON, BASICALLY, THE ROLE OF HAIR AND FIBER  
24 COMPARISONS IN SERIAL MURDER AND HOMICIDE INVESTIGATIONS.

25 Q. HAVE YOU EVER QUALIFIED AS AN EXPERT IN THE

1 IDENTIFICATION AND COMPARISON OF HAIRS AND FIBERS AND RELATED  
2 MATERIALS?

3 A. TO DATE, I HAVE TESTIFIED OVER 350 TIMES IN 44 STATES,  
4 THE DISTRICT OF COLUMBIA, ST. THOMAS AND ST. CROIX OF THE  
5 VIRGIN ISLANDS, AND THE COMMONWEALTH OF THE NORTHERN MARIANAS  
6 ISLANDS IN THE PACIFIC.

7 Q. IN THE COURSE OF YOUR CAREER, AGENT MALONE, HOW MANY  
8 HAIRS DO YOU THINK YOU'VE EXAMINED?

9 A. WITH RESPECT TO KNOWN SAMPLES, I'D SAY OVER 10,000. WITH  
10 RESPECT TO UNKNOWN SAMPLES, LITERALLY HUNDREDS OF THOUSANDS.

11 MR. CARLTON: YOUR HONOR, AT THIS TIME THE  
12 GOVERNMENT WOULD PROFFER MICHAEL MALONE AS AN EXPERT IN THE  
13 FIELD OF IDENTIFICATION OF HAIRS, FIBERS AND RELATED  
14 MATERIALS.

15 MR. BURNS: EXCUSE ME, YOUR HONOR. COULD WE HAVE A  
16 FEW VOIR DIRE QUESTIONS OF MR. MALONE?

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

18 THE COURT WOULD ACCEPT THIS WITNESS AND PERMIT HIM  
19 TO EXPRESS HIS OPINIONS RELATED TO THE SUBJECT OF HAIR AND  
20 FIBER EXAMINATIONS AND RELATED MATERIALS.

21 BY MR. CARLTON:

22 Q. NOW, AGENT MALONE, IF YOU WOULD, COULD YOU JUST TELL US A  
23 LITTLE ABOUT WHAT THE F.B.I. LABORATORY DOES.

24 IS IT AN AGENCY OR A LABORATORY WORKING ONLY FOR THE  
25 F.B.I. AND F.B.I. CASES?

1 A. THE F.B.I. LABORATORY WAS CREATED IN THE 1930'S BY AN ACT  
2 OF CONGRESS. FORENSIC SCIENCE WAS JUST COMING INTO ITS OWN AT  
3 THE TIME. AND BASICALLY, THE PROBLEM WAS THAT MANY STATE  
4 AND/OR SMALL LOCAL POLICE DEPARTMENTS DID NOT HAVE ACCESS TO A  
5 CRIME LAB.

6 CONGRESS CREATED THE LAB WITH THE INTENT TO HAVING A  
7 KIND OF A NATIONAL CRIME LAB THAT ANY ACCREDITED LAW  
8 ENFORCEMENT AGENCY COULD USE. SO WE WOULD DO INVESTIGATIONS  
9 NOT ONLY FOR THE F.B.I. AND ALL OTHER FEDERAL AGENCIES, BUT  
10 FOR ANY ACCREDITED STATE AND LOCAL LAW ENFORCEMENT AGENCY.

11 Q. NOW, IN THE COURSE OF YOUR WORK AT THE F.B.I. LAB, DID  
12 YOU HAVE SOME INVOLVEMENT IN THE INVESTIGATION OF THE  
13 ABDUCTION AND MURDER OF AGENT ENRIQUE CAMARENA?

14 A. YES, I DID.

15 Q. WHEN DID YOU FIRST BECOME INVOLVED IN THAT INVESTIGATION?

16 A. IN -- BASICALLY, IN MARCH OF 1985.

17 A. AND HOW DID THAT COME ABOUT?

18 A. I WAS DESIGNATED THE HAIR AND FIBER EXAMINER TO DO ALL  
19 THE HAIR AND FIBER EXAMINATIONS RELATED TO THE CAMARENA CASE.

20 Q. AND IN THAT CAPACITY, DID YOU TRAVEL TO GUADALAJARA AT  
21 SOME POINT?

22 A. YES, ON TWO DIFFERENT OCCASIONS

23 Q. WHEN WAS THE FIRST TIME THAT YOU WENT TO GUADALAJARA?

24 A. THE FIRST TIME I WENT TO GUADALAJARA WAS ON APRIL 12TH OF  
25 1985.

1 Q. DID ANYONE GO WITH YOU?

2 A. YES. I WAS ACCOMPANIED BY SPECIAL AGENT RAWALT OF THE  
3 SOILS UNIT, AND TECHNICIANS CARL COLLINS AND AL RHODES OF  
4 THE -- THEY ARE LATENT FINGERPRINT SPECIALISTS FROM OUR  
5 FINGERPRINT SECTION.

6 Q. WHAT WAS THE PURPOSE OF YOUR TRIP TO GUADALAJARA AT THAT  
7 TIME?

8 A. WE WERE ADVISED THAT A RESIDENCE HAD BEEN LOCATED THAT  
9 BOTH THE M.F.J.P. AND THE D.E.A. BELIEVED WAS USED TO HOLD,  
10 INTERROGATE AND EVENTUALLY MURDER SPECIAL AGFNT CAMARENA.

11 Q. WHAT WERE YOU TO DO AT THIS RESIDENCE?

12 A. OUR MISSION WAS TO PROCESS THIS RESIDENCE, REMOVE ANY  
13 FORENSIC EVIDENCE THAT WE FOUND THERE, AND ANALYZE IT IN ORDER  
14 TO SEE IF THIS WAS, IN FACT, THE RESIDENCE.

15 Q. NOW, WHEN YOU ARRIVED IN GUADALAJARA, WHAT DID YOU DO?

16 A. I ARRIVED LATE ON THE AFTERNOON OF THE 12TH. I WAS FLOWN  
17 DOWN IN A D.E.A. PLANE, MET BY D.E.A. AT THE GUADALAJARA  
18 AIRPORT.

19 OUR EQUIPMENT WAS TAKEN OFF OF THE PLANE AND LOADED  
20 ON TO D.E.A. VEHICLES AND WE WERE DRIVEN STRAIGHT TO THE  
21 RESIDENCE AT 881 LOPE DE VEGA IN GUADALAJARA.

22 Q. THAT WAS THE RESIDENCE THAT YOU HAD BEEN SENT DOWN THERE  
23 TO EXAMINE?

24 A. THAT IS CORRECT, YES.

25 Q. WHAT EQUIPMENT DID YOU TAKE WITH YOU?

1 A. I TOOK A FORENSIC VACUUM CLEANER, I TOOK A CRIME SCENE  
2 KIT. THIS IS WHAT I TOOK (INDICATING). PLUS, WE TOOK  
3 FINGERPRINT EVIDENCE AND SOIL EQUIPMENT TO PROCESS SOIL  
4 SAMPLES.

5 Q. WHAT IS A CRIME SCENE KIT?

6 A. IT IS JUST A KIT WITH THE PROPER PACKAGING MATERIALS,  
7 ZIPLOCK BAGS, PLASTIC BAGS, MARKING PENS, BASICALLY MAGNIFYING  
8 GLASSES, FLASH LIGHTS, ANYTHING YOU'RE GOING TO NEED TO  
9 PROCESS AN AREA FOR TRACE EVIDENCE.

10 Q. NOW, WERE THE VACUUM CLEANERS THAT YOU TOOK THE SPECIAL  
11 VACUUM CLEANERS WITH THE REMOVABLE FILTERS?

12 A. YES. WE HAVE THREE AT THE THESE VACUUM CLEANERS AT THE  
13 LAB. THEY ARE ESPECIALLY DESIGNED FOR PROCESSING FOR HAIRS  
14 AND FIBERS.

15 YOU HAVE A VACUUM CLEANER WITH A NOZZLE, BUT BETWEEN  
16 THE NOZZLE AND THE CLEANER IS A SPECIAL COLLECTION CHAMBER.  
17 THESE COLLECTION CHAMBERS HAVE CLOTH FILTERS SO YOU CAN VACUUM  
18 AN AREA AND ALL THE HAIRS AND FIBERS ARE CAUGHT IN THIS  
19 CHAMBER, AND EVERY TIME YOU WANT TO VACUUM A NEW AREA, YOU  
20 JUST TAKE THE OLD FILTER OUT OF THE CHAMBER, PACKAGE IT IN A  
21 ZIPLOCK BAG, PUT A NEW FILTER IN AND PROCEED.

22 THIS WAY YOU CAN SEPARATE AN AREA INTO QUADRANTS OR  
23 WHATEVER YOU WANT TO DO AND IDENTIFY THE AREA WHERE YOU FOUND  
24 WHATEVER HAIRS AND FIBERS THAT YOU MAY HAVE FOUND.

25 Q. NOW, WHAT TIME ON APRIL 12TH DID YOU ARRIVE AT THE LOPE

1 DE VEGA RESIDENCE?

2 A. WELL, WE ARRIVED LATE ON THE AFTERNOON OF THE 12TH, BUT  
3 WE WERE NOT IMMEDIATELY ALLOWED INTO THE RESIDENCE. SO BY THE  
4 TIME WE GOT IN THERE, IT WAS ALMOST EARLY EVENING.

5 Q. WERE THERE ALREADY MEXICAN AUTHORITIES AT THIS LOCATION  
6 WHEN YOU FIRST ARRIVED THERE?

7 A. WELL, THERE WAS A FULL SQUAD OF FEDERALE OFFICERS  
8 ACTUALLY LIVING AT THE COMPOUND, AND THERE WAS A MEXICAN  
9 FORENSIC TEAM THAT WAS IN THERE BEFORE US THAT WERE SUPPOSEDLY  
10 REMOVING OBVIOUS ITEMS OF EVIDENCE.

11 Q. AND WERE YOU WAITING FOR PERMISSION FROM THE MEXICAN  
12 AUTHORITIES TO ENTER THIS RESIDENCE?

13 A. YES, WE WERE.

14 Q. ONCE YOU WERE ALLOWED TO ENTER THE RESIDENCE, WHAT DID  
15 YOU DO FIRST?

16 A. THE FIRST THING WE DID WAS WE WALKED AROUND THE ENTIRE  
17 RESIDENCE. WE WALKED THROUGH THE MAIN HOUSE, THE OUT  
18 BUILDING, ALL THE GROUNDS, KIND OF SURVEYING THE EVIDENCE.

19 WHAT WE WERE LOOKING FOR -- SPECIAL AGENT RAWALT AND  
20 OURSELVES WERE EXPERIENCED INVESTIGATORS, SO WE WERE LOOKING  
21 FOR THE MOST LOGICAL PLACE THAT YOU WOULD HOLD A PRISONER IF  
22 YOU WERE GOING TO KEEP A PRISONER AT THAT COMPOUND.

23 AND BASICALLY, WE CAME UP WITH WHAT WE THOUGHT WAS  
24 THE PRIMARY AREA AND A SECONDARY AREA.

25 Q. NOW, I BELIEVE, AGENT MALONE, YOU SHOULD HAVE IN FRONT OF

1 YOU A POINTER OF SOME SORT; DO YOU SEE THAT?

2 A. YES, SIR.

3 Q. AND I BELIEVE THAT EXHIBIT 138, IF YOU CAN SEE THAT TO  
4 YOUR RIGHT ON THESE DIAGRAMS, IS A -- WELL, DO YOU RECOGNIZE  
5 WHAT THAT IS?

6 A. YES. I HAD THIS PREPARED BY OUR EXHIBIT SECTION.

7 Q. AND WHAT IS IT?

8 A. THIS IS A DIAGRAM OF THE GROUNDS AT 881 LOPE DE VEGA.

9 MR. STOLAR: IS IT POSSIBLE TO PUT THE DIAGRAM OVER  
10 ON THE OTHER SIDE OF THE JURY?

11 THE COURT: DO YOU HAVE ONE OF THOSE LIGHT  
12 INDICATORS?

13 MR. CARLTON: YES, YOUR HONOR. THE WITNESS HAS A  
14 LASER POINTER. WE WILL HAVE OTHER DIAGRAMS --

15 THE COURT: IF YOU MOVE OVER HERE, YOU'LL BE ABLE TO  
16 SEE WHAT THE WITNESS DOES WITH IT. IF YOU WILL MOVE TO THIS  
17 SIDE.

18 (MR. STOLAR AND MR. BURNS MOVING UP CLOSER  
19 TO THE BENCH.)

20 MR. STOLAR: NOT EXACTLY, I'M AFRAID.

21 THE COURT: YOU WILL. WAIT UNTIL HE USES THE  
22 POINTER.

23 MR. STOLAR: WE CAN'T EVEN SEE THE FRONT OF THE  
24 DIAGRAMS, YOUR HONOR.

25 MR. CARLTON: SHALL I TURN IT A BIT?

1 THE COURT: TURN IT A LITTLE BIT. THAT'S BETTER.

2 MR. STOLAR: FINE. THANK YOU.

3 BY MR. CARLTON:

4 Q. NOW, AGENT MALONE, IN THE COLLOOUY BETWEEN COUNSEL, I  
5 DIDN'T CATCH YOUR LAST ANSWER AS TO WHAT THIS ITEM IS?

6 A. THIS IS A DIAGRAM OF THE COMPOUND, THE RESIDENCE AND THE  
7 GROUNDS AT 881 LOPE DE VEGA.

8 Q. THIS WAS PREPARED AT YOUR REQUEST?

9 A. YES, IT WAS.

10 Q. DID YOU EXAMINE THIS ENTIRE COMPOUND?

11 A. YES, I DID.

12 Q. DOES THIS DIAGRAM ACCURATELY REFLECT THE PLACEMENT OF THE  
13 BUILDINGS AND THE PHYSICAL LAYOUT OF THE VARIOUS OBJECTS AT  
14 THAT LOCATION?

15 A. YES, IT DOES.

16 Q. ALL RIGHT. NOW, I BELIEVE YOU TESTIFIED THAT YOU AND  
17 AGENT RAWALT EXAMINED THE ENTIRE COMPOUND LOOKING FOR  
18 PARTICULAR AREAS THAT YOU THOUGHT WERE THE MOST LOGICAL PLACES  
19 FOR SOMEONE TO BE HELD?

20 A. THAT IS CORRECT, YES.

21 Q. AND YOU WERE ABLE TO NARROW THIS DOWN TO TWO PARTICULAR  
22 AREAS?

23 A. THAT IS CORRECT.

24 Q. AND USING YOUR POINTER AS YOU DESCRIBE THE VARIOUS AREAS  
25 IN THE COMPOUND, POINTING TO THE DIAGRAM THAT YOU JUST



9 1 DESCRIBED, WHAT WAS THE FIRST OR THE MOST LOGICAL PLACE THAT  
2 YOU CONCLUDED A PERSON WOULD HAVE BEEN HELD AT IN THIS  
3 COMPOUND?

4 THE WITNESS: YOUR HONOR, MAY I STEP DOWN? I DON'T  
5 WANT TO ZAP ANYBODY. I'M POINTING RIGHT THROUGH THE  
6 PROSECUTORS.

7 THE COURT: WE'LL HAVE THEM MOVE IF THEY'RE IN THE  
8 WAY.

9 MR. MEDRANO: YOUR HONOR, MAY WE MOVE TO THIS SIDE  
10 OF THE COUNSEL TABLE?

11 THE COURT: YES, YOU MAY.

12 (ALL PARTIES AT PLAINTIFF'S TABLE MOVING  
13 TO OTHER SIDE OF TABLE.)

14 THE WITNESS: AFTER SURVEYING THE ENTIRE GROUNDS --  
15 THIS IS A WALLED-IN ENCLOSURE -- WE CAME UP WITH TWO AREAS.  
16 RIGHT HERE (INDICATING), BEHIND THE MAIN RESIDENCE IS AN OUT  
17 BUILDING. AND WITHIN THAT OUT BUILDING, RIGHT HERE  
18 (INDICATING), IS A LITTLE ROOM THAT WE LABELED AS THE GUEST  
19 ROOM.

20 IT HAS VERY THICK WALLS, THICK STUCCO WALLS, IT HAS  
21 ONE DOOR GOING IN AND OUT AND ONE SMALL WINDOW IN THE FRONT.  
22 IT HAS A BATHROOM ATTACHED, BUT THESE ARE ALL SOLID WALLS  
23 ENCLOSING THIS GUEST ROOM.

24 THE DOOR OF THE ROOM WAS STEEL WITH STEEL BARS OVER  
25 THE STEEL DOOR. THE WINDOW WAS VERY SMALL. IT WOULD BE

1 ALMOST IMPOSSIBLE TO GET OUT OF.

2 IT WAS DETACHED FROM THE MAIN RESIDENCE SO THAT ANY  
3 NOISE THAT WENT ON IN THE BUILDING WOULD NOT BE HEARD OUT ON  
4 THE STREETS OUTSIDE. ACTUALLY, WE CONCLUDED IT WAS ALMOST A  
5 PERFECT LITTLE JAIL CELL OR COULD BE USED FOR THAT PURPOSE ON  
6 THE COMPOUND.

7 BY MR. CARLTON:

8 Q. NOW, I NOTICED THAT THIS LOCATION, WHICH FOR CONVENIENCE  
9 WE'LL CALL THE GUEST HOUSE --

10 A. THAT'S WHAT WE CALLED IT, YES.

11 Q. ALL RIGHT. THERE APPEAR TO BE OTHER ROOMS IN THE SAME  
12 OUT BUILDING THERE. WAS THIS GUEST HOUSE LOCATION ACCESSIBLE  
13 THROUGH ANY DOORWAYS, OR WHATEVER, TO THESE OTHER ROOMS?

14 A. NO. THESE OTHER ROOMS -- THIS IS ACTUALLY AN OUT  
15 BUILDING -- ARE ALL STORAGE ROOMS. AND THEY'RE OPEN TO THE  
16 OUTSIDE.

17 NOW, BASICALLY, TO THE REAR OF THE GUEST HOUSE WAS A  
18 LITTLE ROOM WHERE THE CARETAKER AND HIS FAMILY WERE LIVING.  
19 THAT'S RIGHT HERE (INDICATING), BUT IT WAS AN OPEN AREA. AND  
20 THEN THERE WAS ANOTHER STORAGE ROOM RIGHT HERE (INDICATING)  
21 THAT CONTAINED ALL THE FILTERS AND PUMPING EQUIPMENT FOR THE  
22 SWIMMING POOL HERE.

23 BUT THE ACTUAL GUEST HOUSE ITSELF WAS COMPLETELY  
24 ENCLOSED BY THE STUCCO WALLS AND ONLY HAD THE ONE DOOR IN AND  
25 OUT.

1 Q. WHAT WAS IT ABOUT THIS GUEST HOUSE THAT LED YOU TO  
2 CONCLUDE THIS WAS THE MOST LOGICAL PLACE TO HOLD SOMEBODY?

3 A. WELL, IT DID NOT HAVE ANY FURNITURE IN IT AT ALL. AND  
4 AGAIN, ONCE YOU SHUT THAT DOOR, IT WOULD HAVE BEEN VIRTUALLY  
5 IMPOSSIBLE TO GET OUT, IF YOU WERE HOLDING SOMEBODY IN THERE.

6 AND THE OTHER THING WAS THAT IF ANY NOISE WENT ON IN  
7 THAT GUEST HOUSE, IT IS SEPARATED FROM THE STREET AND THE MAIN  
8 RESIDENCE, SO YOU WOULDN'T BE ABLE TO HEAR A THING.

9 Q. WAS THERE ANY FURNITURE OR CARPETING IN THE ROOM AT THE  
10 TIME YOU FIRST ENTERED IT?

11 A. THERE WAS JUST ONE -- THERE WAS NO FURNITURE AT ALL, JUST  
12 ONE LIGHT BEIGE CARPET.

13 Q. DID THAT HAVE SOME SIGNIFICANCE TO YOU WHEN YOU FIRST SAW  
14 IT?

15 A. YES, BECAUSE I WAS ON THE LOOKOUT JUST FOR THAT. A LIGHT  
16 BEIGE CARPET, BECAUSE I HAD FOUND PRIOR EVIDENCE THAT WOULD  
17 GIVE ME A CLUE AS TO THAT'S WHAT WE WERE LOOKING FOR.

18 Q. NOW, AFTER YOU FOCUSED ON THIS PARTICULAR LOCATION, YOU  
19 SAID THERE WAS ANOTHER LOCATION, SORT OF SECOND MOST LOGICAL  
20 PLACE TO HOLD SOMEONE?

21 A. THE SECOND PLACE WE WERE LOOKING AT WAS AN UPSTAIRS  
22 BEDROOM. THE DOOR WAS LOCKED. THERE WAS ONLY ONE WAY IN AND  
23 OUT OF THIS BEDROOM HERE (INDICATING), AND THAT WAS UP THROUGH  
24 A STAIRS.

25 Q. IF I COULD STOP YOU JUST FOR A MOMENT, AGENT MALONE, I

1 BELIEVE YOU'RE POINTING NOW TO A DIAGRAM MARKED EXHIBIT 139.

2 A. THAT IS CORRECT.

3 Q. IS THIS A DIAGRAM OF THE ACTUAL RESIDENCE AT 881 LOPE DE  
4 VEGA?

5 A. THAT'S CORRECT. EXHIBIT 138 IS ACTUALLY THE MAIN HOUSE  
6 OF THE COMPOUND. 139 DEPICTS THE MAIN RESIDENCE DEPICTED IN  
7 138, SO 139 IS A DETAILED DIAGRAM OF THE MAIN RESIDENCE.

8 Q. ALL RIGHT. YOU CAN CONTINUE THEN DESCRIBING THIS SECOND  
9 LOCATION THAT YOU CONSIDERED TO BE MOST LOGICAL TO HOLD  
10 SOMEONE.

11 A. AGAIN, THERE WAS ONE UPSTAIRS BEDROOM, WHICH WAS LOCKED.  
12 IT HAD THICK WALLS. THERE WAS ONLY ONE DOOR IN AND OUT.  
13 THERE WAS ONE WINDOW, BUT THE WINDOW WAS HEAVILY BARRED, AND  
14 AGAIN, WE CONSIDERED THIS THE SECOND MOST LIKELY PLACE TO HOLD  
15 SOMEBODY.

16 WHAT WE DIDN'T LIKE ABOUT IT AS MUCH AS THE GUEST  
17 HOUSE WAS THAT IF ANY NOISE WAS COMING OUT OF THAT, IT COULD  
18 HAVE BEEN HEARD ON THE FRONT STREET THERE, 881 LOPE -- OR LOPE  
19 DE VEGA.

20 Q. NOW, YOU SAID THAT THIS ROOM WAS LOCKED?

21 A. WHEN WE FIRST ENTERED THE RESIDENCE, YES.

22 Q. WERE YOU EVENTUALLY ABLE TO ENTER THAT ROOM?

23 A. WE WERE ABLE TO ENTER IT THE NEXT MORNING. THE FEDERALES  
24 ACTUALLY HAD TO OPEN IT FOR US.

25 Q. NOW, AFTER RECONNOITERING THE GROUNDS COMPLETELY, WHAT

1 DID YOU DO?

2 A. WELL, THE NEXT THING WE DECIDED TO DO WAS START  
3 PROCESSING THE GUEST HOUSE -- OR I DECIDED TO DO -- WAS START  
4 PROCESSING THE GUEST HOUSE FOR HAIRS AND FIBERS.

5 THE HAIR AND FIBER PROCESSING ALWAYS HAS TO BE DONE  
6 FIRST, THEN YOU CAN COME BACK AND DO THE BLOOD OR FINGERPRINTS  
7 OR WHATEVER YOU HAVE TO DO. SO I WENT IN WITH MY FORENSIC  
8 VACUUM CLEANER AND BASICALLY DIVIDED THE CARPET HERE IN THE  
9 GUEST HOUSE INTO FOUR QUADRANTS AND VACUUMED EACH QUADRANT  
10 SEPARATELY AND BAGGED THESE VACUUM SWEEPINGS.

11 AND THEN I ENDED UP FINISHING WITH THE BATHROOM JUST  
12 TO THE REAR OF THE GUEST HOUSE, RIGHT HERE.

13 Q. NOW, I BELIEVE IN THE CART TO YOUR RIGHT SHOULD BE A  
14 SERIES OF PHOTOGRAPHS MARKED 111-A THROUGH -J -- JUST TO THE  
15 RIGHT OF THE WITNESS STAND.

16 DO YOU SEE THOSE?

17 A. YES, I DO.

18 Q. IF YOU WOULD LOOK AT THE PHOTO MARKED 111-A.

19 THE WITNESS: CAN I STEP DOWN, YOUR HONOR?

20 THE COURT: YES.

21 THE WITNESS: 111-A --

22 BY MR. CARLTON:

23 Q. A -- 111-A THROUGH -J, ACTUALLY.

24 A. I HAVE THEM.

25 Q. ALL RIGHT. ACTUALLY, IF YOU COULD TAKE ALL OF THOSE

1 PHOTOGRAPHS, I'D LIKE YOU TO TALK ABOUT THEM FROM THE STAND,  
2 IF YOU COULD.

3 Q. NOW, LOOKING AT 111-A, DO YOU RECOGNIZE THAT?

4 A. YES, I DO.

5 Q. WHAT IS IT?

6 A. 111-A IS A VIEW OF THE ARCHED WALL THAT SEPARATES THE  
7 MAIN COURTYARD OR THE REAR COURTYARD OF THE LOPE DE VEGA FROM  
8 THE MAIN RESIDENCE HERE.

9 Q. USING YOUR POINTER, CAN YOU INDICATE ON THE DIAGRAM OF  
10 THE GROUNDS WHERE THAT ARCHED WALL IS?

11 A. THE ARCHED WALL WOULD BE RIGHT HERE (INDICATING).

12 MR. CARLTON: YOUR HONOR, I WOULD MOVE THAT THIS BE  
13 RECEIVED.

14 THE COURT: THAT MAY BE RECEIVED.

15 MR. CARLTON: MAY THE WITNESS SHOW IT TO THE JURY?

16 THE COURT: YES, YOU MAY HOLD IT UP.

17 (EXHIBIT # 111-A RECEIVED IN EVIDENCE.)

18 THE WITNESS: 111-A. THIS IS THE ARCHED --

19 THE COURT: THERE IS NO QUESTION PENDING. THAT'S  
20 ENOUGH.

21 BY MR. CARLTON:

22 Q. NOW, LOOKING AT 111-B, IF YOU WOULD, DO YOU RECOGNIZE  
23 THAT?

24 A. YES - I DO.

25 Q. WHAT IS THAT?

1 A. 111-B IS A VIEW OF THE DINING ROOM OF 881 LOPE DE VEGA.

2 Q. COULD YOU INDICATE THAT ON THE DIAGRAM OF THE HOUSE?

3 A. THE DINING ROOM WOULD BE RIGHT HERE (INDICATING).

4 Q. ALL RIGHT.

5 MR. CARLTON: I MOVE THAT THAT BE RECEIVED

6 THE COURT: THAT MAY BE RECEIVED.

7 (EXHIBIT # 111-B RECEIVED IN EVIDENCE.)

8 MR. STOLAR: WE HAVE NO OBJECTION, IF HE WOULD AT  
9 LEAST FLASH IT TOWARD US, AS WEIL.

10 THE COURT: ALL RIGHT. SHOW IT TO THE OTHER SIDE.

11 MR. STOLAR: THANK YOU.

12 THE COURT: SHOW THE JURY.

13 MR. CARLTON: SHOW THE JURY AS WELL.

14 BY MR. CARLTON:

15 Q. IF YOU WOULD, LOOK AT 111-C. DO YOU RECOGNIZE THAT?

16 A. YES, I DO.

17 Q. WHAT IS IT?

18 A. 111-C IS A PHOTOGRAPH OF THE POOL AND THE COVERED PATIO  
19 AREA OF 881 LOPE DE VEGA.

20 Q. I SEE. COULD YOU ALSO INDICATE THAT WITH YOUR POINTER?

21 A. ON EXHIBIT 138, THE POOL WOULD BE RIGHT HERE, AND THE  
22 COVERED PATIO WOULD BE TO THE LEFT (INDICATING).

23 MR. CARLTON: I MOVE THAT THAT BE RECEIVED, YOUR  
24 HONOR.

25 THE COURT: THAT MAY BE RECEIVED.

1 (EXHIBIT # 111-C RECEIVED IN EVIDENCE.)

2 BY MR. CARLTON:

3 Q. AND IF YOU WOULD THEN LOOK AT 111-D. DO YOU RECOGNIZE  
4 THAT?

5 A. YES, I DO.

6 Q. WHAT IS IT?

7 A. 111-D IS A PHOTOGRAPH OF THE TENNIS COURT TO THE VERY  
8 REAR OF THE COMPOUND. THIS PHOTOGRAPH WAS TAKEN FROM THE BATH  
9 HOUSE, THE TOP OF THE BATH HOUSE AND THE SPA.

10 Q. AND IF COULD YOU INDICATE THAT ON THE DIAGRAM.

11 A. ON 138, THE TENNIS COURT WOULD BE HERE. THE PHOTOGRAPH  
12 WAS TAKEN FROM THIS BATH HOUSE AND SPA RIGHT HERE.

13 MR. CARLTON: I MOVE THAT THAT BE RECEIVED.

14 (EXHIBIT # 111-D RECEIVED IN EVIDENCE.)

15 BY MR. CARLTON:

16 Q. 138-E (SIC); WHAT IS THAT?

17 A. 111-E IS A PHOTOGRAPH OF THE SLIDING GLASS DOORS OF THE  
18 DEN AND THE LIVING ROOM AREA.

19 Q. AND COULD YOU PLEASE INDICATE THAT ON THE DIAGRAM OF THE  
20 HOUSE?

21 A. ON THE DIAGRAM OF THE MAIN RESIDENCE, THE DEN WOULD BE  
22 RIGHT HERE, THE LIVING ROOM AREA WOULD BE RIGHT HERE.

23 MR. CARLTON: AND I MOVE THAT 111-F BE RECEIVED.

24 THE COURT: THAT MAY BE RECEIVED.

25 (EXHIBIT # 111-E RECEIVED IN EVIDENCE.)



1 BY MR. CARLTON:

2 Q. OKAY. LOOKING AT THE NEXT IN ORDER, 111-F, DO YOU  
3 RECOGNIZE THAT?

4 A. YES, I DO.

5 Q. WHAT IS THAT?

6 A. EXHIBIT 111-F IS A PHOTOGRAPH OF THE GUEST HOUSE BUILDING  
7 TAKEN FROM THE REAR COURTYARD THROUGH THE ARCHED WALLS.

8 Q. COULD YOU AGAIN INDICATE ON THE DIAGRAM OF THE COMPOUND  
9 THE LOCATION THAT IS DEPICTED IN THE PHOTOGRAPH AND THE  
10 LOCATION FROM WHICH THE PHOTOGRAPH WAS TAKEN.

11 A. THE PHOTOGRAPH WOULD HAVE BEEN TAKEN FROM RIGHT HERE  
12 (INDICATING), THIS IS THE REAR COURTYARD OR GROUNDS. AND IT  
13 WOULD BE LOOKING THROUGH THIS ARCHED WALL INTO THE GUEST HOUSE  
14 BUILDING.

15 MR. CARLTON: I MOVE THAT THAT BE RECEIVED, YOUR  
16 HONOR.

17 THE COURT: YES. THAT MAY BE RECEIVED.

18 (EXHIBIT # 111-F RECEIVED IN EVIDENCE.)

19 BY MR. CARLTON:

20 Q. NOW, IF YOU WOULD LOOK AT EXHIBIT 111-G. WHAT IS THAT A  
21 PHOTOGRAPH OF?

22 A. EXHIBIT 111-G IS A PHOTOGRAPH OF THE FRONT OF THE GUEST  
23 HOUSE OUTBUILDING SPECIFICALLY SHOWING THE DOOR AND SMALL  
24 WINDOW TO WHAT WE CALLED THE GUEST ROOM OF THE OUTBUILDING.

25 Q. NOW, IS THAT THE SEALED DOOR THAT YOU PREVIOUSLY

1 DESCRIBED?

2 A. YES, IT IS.

3 Q. AGAIN, WOULD YOU USE YOUR POINTER TO INDICATE ON THE  
4 DIAGRAM WHAT IS DEPICTED IN THE PHOTOGRAPH AND THE LOCATION  
5 FROM WHICH THE PHOTOGRAPH WAS TAKEN?

6 A. THE PHOTOGRAPH WAS TAKEN FROM DIRECTLY IN FRONT OF THE  
7 OUTBUILDING AND IT SHOWS THE OUTBUILDING, THE DOOR TO THE  
8 GUEST ROOM AND THE SMALL WINDOW IN THE FRONT.

9 MR. CARLTON: I MOVE THAT THAT BE RECEIVED, YOUR  
10 HONOR.

11 THE COURT: THAT MAY BE RECEIVED.

12 (EXHIBIT # 111-G RECEIVED IN EVIDENCE.)

13 BY MR. CARLTON:

14 Q. AND THEN LOOKING AT 111-H, IF YOU WOULD.

15 A. I BELIEVE I DIDN'T GET 111-H.

16 Q. ALL RIGHT.

17 (EXHIBIT PLACED BEFORE THE WITNESS.)

18 DO YOU RECOGNIZE THAT PHOTOGRAPH?

19 A. YES, I DO.

20 Q. WHAT IS THAT?

21 A. EXHIBIT 111-H IS A PHOTOGRAPH OF THE SHOWER STALL IN THE  
22 BATHROOM DIRECTLY TO THE REAR OF THE GUEST ROOM.

23 Q. NOW, COULD YOU AGAIN INDICATE ON THE DIAGRAM WHERE THIS  
24 BATHROOM AND SHOWER STALL WERE.

25 A. THE BATHROOM WAS PART, ACTUALLY PART OF THE GUEST ROOM.

1 IT WAS DIRECTLY CONNECTED TO IT AND PART OF THE ROOM. IT WAS  
2 DIRECTLY TO THE REAR AND THE SHOWER STALL WAS TO THE LEFT.

3 MR. CARLTON: I MOVE THAT THAT BE RECEIVED, YOUR  
4 HONOR.

5 THE COURT: THAT MAY BE RECEIVED.

6 (EXHIBIT # 111-H RECEIVED IN EVIDENCE.)

7 (PHOTOGRAPH DISPLAYED TO THE COURT AND JURY.)

8 BY MR. CARLTON:

9 Q. AGENT MALONE, I THINK YOU CAN JUST PUT THOSE OFF TO THE  
10 SIDE AND GET THEM OUT OF YOUR WAY, IF YOU NEED SOME ROOM. IN  
11 THE COURSE OF YOUR RECONNOITERING THESE GROUNDS ON APRIL 12TH,  
12 DID YOU COME ACROSS AN AUTOMOBILE?

13 A. YES, WE DID.

14 Q. AND WHERE WAS THAT?

15 A. IT WAS A SMALL BEIGE-COLORED VOLKSWAGON ATLANTIC, WHICH  
16 WAS PARKED UNDERNEATH A CARPORT DIRECTLY TO THE REAR OF THE  
17 GUEST BUILDING.

18 Q. CAN YOU INDICATE ON THE DIAGRAM OF THE COMPOUND WHERE  
19 THIS CAR WAS FOUND BY YOU?

20 A. THE CAR WAS FOUND RIGHT HERE. IT DOESN'T SHOW IN THE  
21 DIAGRAM, BUT THIS IS AN ACTUAL CARPORT. ACCESS IS GAINED  
22 THROUGH THIS SIDE GATE. THE VOLKSWAGEN ATLANTIC WAS ACTUALLY  
23 PARKED UNDER THE CARPORT.

24 Q. NOW, TWO PHOTOGRAPHS MARKED 111-I AND -J, IF YOU COULD  
25 GET THOSE?

1 A. (WITNESS COMPLIES.)

2 Q. LOOKING AT 111-I, DO YOU RECOGNIZE THAT?

3 A. YES, I DO.

4 Q. WHAT IS THAT?

5 A. EXHIBIT 111-I IS A PHOTOGRAPH OF THE VOLKSWAGEN ATLANTIC,  
6 AS WE FOUND IT UNDER THE CARPORT.

7 MR. CARLTON: I MOVE THAT THAT BE RECEIVED, YOUR  
8 HONOR.

9 THE COURT: THAT MAY BE RECEIVED.

10 (EXHIBIT # 111-I RECEIVED IN EVIDENCE.)

11 BY MR. CARLTON:

12 Q. AND THEN LOOKING AT 111-J, COULD YOU TELL US WHAT THAT  
13 IS?

14 A. EXHIBIT 111-J IS A MUCH CLOSER OR CLOSE-UP PHOTOGRAPH OF  
15 THE VOLKSWAGEN ATLANTIC PARKED IN THE CARPORT.

16 MR. CARLTON: AGAIN, YOUR HONOR, I MOVE THAT THAT BE  
17 RECEIVED.

18 THE COURT: THAT MAY BE RECEIVED.

19 (EXHIBIT # 111-J RECEIVED IN EVIDENCE.)

20 (PHOTOGRAPH DISPLAYED.)

21 BY MR. CARLTON:

22 Q. NOW THEN, GOING BACK TO YOUR EXAMINATION OF THE GUEST  
23 HOUSE, WHAT DID YOU NOTICE ABOUT THE INSIDE OF THE GUEST HOUSE  
24 WHEN YOU FIRST WALKED INTO IT?

25 A. WELL, I NOTICED SOMETHING THAT WAS RATHER ODD. THE RUG

1 WAS FAIRLY OLD, BUT THE WALLS LOOKED AS IF THEY HAD JUST BEEN  
2 RECENTLY REPAINTED. THERE WASN'T A MARK ON THE WALLS.

3 Q. DID YOU GO INTO THE BATHROOM THAT WAS ADJACENT TO THIS  
4 ONE-ROOM GUEST HOUSE?

5 A. YES, I DID.

6 Q. AND DID YOU NOTICE ANYTHING ABOUT THAT THAT YOU  
7 CONSIDERED SIGNIFICANT?

8 A. YES, I NOTICED SOMETHING ELSE ODD ABOUT THE BATHROOM.  
9 THE BATHROOM WAS FAIRLY DIRTY AND LOOKED LIKE IT HAD NOT WHEN  
10 CLEANED IN A LONG TIME EXCEPT FOR THE SHOWER STALL. THE  
11 SHOWER STALL WAS JUST GLEAMING WHITE, SPIC AND SPAN, AND ALL  
12 THE WALLS OF THE SHOWER STALL HAD BEEN CLEANED UP TO A HEIGHT  
13 OF ABOUT SIX FEET.

14 AND YOU COULD SEE A CLEAR LINE OF DEMARCATION AND  
15 THEN IT GOT DIRTY AGAIN HIGHER THAN THAT.

16 Q. NOW, YOU TESTIFIED EARLIER THAT BEFORE YOU BEGAN YOUR  
17 VACUUM SWEEPING OF THE GUEST HOUSE, YOU DIVIDED IT INTO  
18 QUADRANTS. WHAT DO YOU MEAN BY THAT?

19 A. WELL, WHAT I DID WAS IT WAS A VERY LARGE RUG, SO I  
20 DIVIDED THE RUG INTO FOUR QUADRANTS SO THAT I COULD PROCESS  
21 EACH QUADRANT AND HAVE A FAIRLY GOOD IDEA, IF I DID FIND  
22 HAIRS, ON WHAT PORTION OF THE RUG THEY CAME FROM.

23 Q. SO, CAN YOU DESCRIBE WHAT YOU ACTUALLY DID IN THE  
24 PHYSICAL PROCESS OF VACUUMING EACH OF THESE QUADRANTS. HOW  
25 DID YOU DO THAT?

1 A. BASICALLY, WE LABELED THE QUADRANTS A, B, C AND D. AND I  
2 STARTED ON A. VACUUMED -- JUST GOT DOWN ON MY HANDS AND KNEES  
3 AND THOROUGHLY VACUUMED THE RUG WITH THIS HAND VACUUM.

4 BY THE TIME I FINISHED WITH QUADRANT A, THE CHAMBER  
5 OF THE FORENSIC VACUUM WAS PRETTY FULL SO I HAD TO STOP, EMPTY  
6 OUT THE CONTENTS INTO A ZIPLOCK BAG, CHANGE THE FILTER, PUT A  
7 NEW FILTER IN AND PROCEED ON TO THE NEXT QUADRANT. I DID THIS  
8 ON ALL FOUR QUADRANTS.

9 Q. NOW, IF YOU WOULD, LOOK -- I BELIEVE IN THE BOX IN FRONT  
10 OF YOU, YOU SHOULD SEE AN EXHIBIT MARKED 112. DO YOU SEE  
11 THAT?

12 A. YES, I DO.

13 Q. DO YOU RECOGNIZE THAT?

14 A. YES, I DO.

15 Q. WHAT IS THAT?

16 A. EXHIBIT 112 IS A SMALL SEALED ZIPLOCK BAG. INSIDE ARE  
17 THE VACUUMED DEBRIS AND THE FILTER FROM QUADRANT A OF THE  
18 GUEST HOUSE.

19 Q. AND THEN LOOKING AT WHAT HAS BEEN MARKED AS EXHIBIT 113,  
20 DO YOU RECOGNIZE THAT?

21 A. YES, I DO.

22 Q. WHAT IS THAT?

23 A. EXHIBIT 113 AGAIN IS A SMALL ZIPLOCK BAG. INSIDE OF THIS  
24 ZIPLOCK BAG ARE THE VACUUM SWEEPINGS AND FILTER FROM QUADRANT  
25 B OF THE GUEST HOUSE RUG.

1 Q. AND THEN LOOKING AT EXHIBIT 114?

2 A. EXHIBIT 114 IS A THIRD SMALL ZIPLOCK BAG. INSIDE IT  
3 CONTAINED THE VACUUM SWEEPING AND THE FILTER FROM QUADRANT  
4 NUMBER C OF THE GUEST HOUSE RUG.

5 Q. NOW, AFTER YOU COLLECTED THE SWEEPINGS IN EACH OF THESE  
6 QUADRANTS, WHAT DID YOU DO WITH THEM?

7 A. I SEALED THEM UP AND EVENTUALLY THEY WERE STORED AT THE  
8 D.E.A. OFFICE IN GUADALAJARA.

9 Q. DID YOU FIND HAIRS IN EACH OF THESE QUADRANTS THAT YOU  
10 JUST DESCRIBED?

11 A. YES, THEY WERE LOADED WITH HAIRS.

12 Q. AND AFTER SWEEPING THE GUEST HOUSE, AFTER COMPLETING YOUR  
13 SWEEP OF THESE VARIOUS QUADRANTS, WHAT DID YOU DO NEXT?

14 A. WELL, I PROCESSED THE BATHROOM FOR HAIRS AND FIBERS AND  
15 REMOVED THE DRAINS FROM THE SHOWER AND THE SINK THAT WAS IN  
16 HERE.

17 Q. WHEN YOU SAY YOU PROCESSED THE BATHROOM FOR HAIRS AND  
18 FIBERS, DID YOU AGAIN USE YOUR VACUUM CLEANER IN DOING THAT?

19 A. YES, I DID.

20 Q. AFTER COMPLETING YOUR PROCESSING OF THE GUEST HOUSE  
21 BATHROOM, DID YOU PROCEED TO PROCESS OTHER AREAS OF THE  
22 RESIDENCE?

23 A. WELL, THE NEXT THING I DID IS I WAS LOOKING FOR CARPET  
24 FIBERS ALSO. I HAD, AGAIN, FROM PREVIOUS EVIDENCE AN IDEA  
25 THAT THERE WOULD BE CARPET FIBERS INVOLVED IN THIS MATTER. SO

1 I THEN TOOK A KNOWN CARPET SAMPLE FROM THE GUEST HOUSE AND  
2 EVERY OTHER RUG IN THE RESIDENCE.

3 Q. NOW, LOOKING IN FRONT OF YOU AT WHAT HAS BEEN MARKED  
4 EXHIBIT 115, IF YOU WOULD. DO YOU RECOGNIZE THAT?

5 A. YES, I DO.

6 Q. WHAT IS IT?

7 A. EXHIBIT 115 IS BASICALLY A SMALL SQUARE CARPET SAMPLE  
8 FROM THE GUEST HOUSE AT 881 LOPE DE VEGA.

9 Q. LOOKING AT 116.

10 MR. BURNS: EXCUSE ME, YOUR HONOR, WE HAVE TWO  
11 EXHIBITS 115.

12 THE COURT: YES. THE LAST ONE WAS 116, WAS IT NOT,  
13 COUNSEL?

14 MR. CARLTON: NO, YOUR HONOR. THE LAST ONE THAT HE  
15 JUST DESCRIBED RIGHT NOW WAS 115.

16 THE COURT: THE CARPET SAMPLE WAS WHAT?

17 MR. CARLTON: 115.

18 MR. BURNS: I THOUGHT THAT WAS QUADRANT D, THE  
19 VACUUM SWEEPINGS.

20 MR. CARLTON: NO, I BELIEVE THAT WAS 114. THE  
21 VACUUM SWEEPINGS FROM THE GUEST HOUSE SHOULD BE 112, 113 AND  
22 114. AGENT MALONE, ARE THEY MARKED THAT WAY?

23 THE WITNESS: THAT'S CORRECT. WE DIDN'T INTRODUCE  
24 QUADRANT D.

25 MR. CARLTON: ALL RIGHT. AND THEN I WOULD MOVE AT



1 THIS TIME THAT 112, 113 AND 114 BE RECEIVED.

2 THE COURT: THEY MAY BE RECEIVED.

3 (EXHIBITS # 112, 113 & 114 RECEIVED IN EVIDENCE.)

4 BY MR. CARLTON:

5 Q. TURNING AGAIN, 115 IS THE CARPET SAMPLE THAT YOU REMOVED  
6 FROM THE GUEST HOUSE?

7 A. 115 WAS THE GUEST HOUSE CARPET SAMPLE, YES.

8 Q. ALL RIGHT. THEN LOOKING AT 116, IF YOU WOULD?

9 A. EXHIBIT 116 AGAIN IS A SMALL SAMPLE OF THE BEDROOM THAT  
10 WAS DESIGNATED AS BEDROOM NUMBER ONE IN THE MAIN RESIDENCE.

11 Q. WOULD YOU PLEASE INDICATE WITH YOUR POINTER ON THE  
12 DIAGRAM OF THE RESIDENCE EXACTLY WHERE BEDROOM NUMBER ONE IS  
13 LOCATED.

14 A. THERE ARE FOUR BEDROOMS AND BEDROOM NUMBER ONE WOULD BE  
15 THE BEDROOM THAT WOULD BE CLOSEST TO THE MAIN STREET OF LOPE  
16 DE VEGA. RIGHT HERE. WHAT WE CALL THE FRONT BEDROOM.

17 Q. LOOKING THEN AT WHAT HAS BEEN MARKED EXHIBIT 117, DO YOU  
18 RECOGNIZE THAT?

19 A. YES, I DO.

20 Q. WHAT IS THAT?

21 A. EXHIBIT 117 WOULD BE A SMALL CARPET SAMPLE OF THE HALLWAY  
22 THAT GOES BETWEEN DINING ROOM AND THE BEDROOMS IN LOPE DE  
23 VEGA.

24 Q. CAN YOU INDICATE ON THE DIAGRAM WHERE THAT HALLWAY IS.

25 A. THE HALLWAY WOULD BE RIGHT HERE GOING BETWEEN THE DINING

1 ROOM AND THE BEDROOMS .

2 Q. BY THE WAY, TALKING ABOUT THE CARPET THAT YOU FOUND IN  
3 BEDROOM NUMBER ONE, WHAT COLOR WAS THAT?

4 A. THE CARPETING IN BEDROOM NUMBER ONE, EXHIBIT 116, WAS A  
5 LIGHT BEIGE IN COLOR.

6 Q. WAS IT SIMILAR TO THE COLOR OF THE CARPET IN THE GUEST  
7 HOUSE?

8 A. YES, IT WAS.

9 Q. AND THEN AGAIN THE CARPET THAT IS EXHIBIT 117 THAT YOU  
10 FOUND IN THE HALLWAY, WHAT COLOR IS THAT?

11 A. THE HALLWAY CARPET EXHIBIT 117 WAS KIND OF A VERY PALE OR  
12 LIGHT ROSE COLOR.

13 Q. IF YOU WOULD LOOK AT WHAT HAS BEEN MARKED AS EXHIBIT 118.  
14 DO YOU RECOGNIZE THAT?

15 A. YES, I DO.

16 Q. WHAT IS IT?

17 A. EXHIBIT 118 IS A SMALL CARPET SAMPLE OF THE RUG FROM THE  
18 DINING ROOM, LIVING ROOM. IT WAS THE SAME RUG.

19 Q. THE SAME RUG --

20 A. YES.

21 Q. -- IN THE DINING ROOM AND THE LIVING ROOM?

22 A. CORRECT.

23 Q. I SEE. CAN YOU INDICATE ON THE DIAGRAM WHERE YOU FOUND  
24 THIS PIECE OF CARPETING?

25 A. THIS CARPETING WAS ONE CONTINUOUS PIECE OF CARPETING FROM

3  
1 THE DINING ROOM AND LIVING ROOM.

2 Q. AND, AGAIN, WHAT COLOR WAS THIS PIECE OF CARPETING?

3 A. THIS WAS ALSO A LIGHT BEIGE COLOR.

4 Q. LOOKING AT EXHIBIT 119 IF YOU WOULD, DO YOU RECOGNIZE  
5 THAT?

6 A. YES, I DO.

7 Q. HOW DO YOU RECOGNIZE IT?

8 A. IT HAS A SPECIMEN NUMBER AND MY INITIALS.

9 Q. WHAT IS IT?

10 A. THE EXHIBIT 119 WOULD BE THE RIGHT SIDE BEDROOM WHERE  
11 WE -- IT'S A CARPET SAMPLE FROM WHAT WE DESIGNATED AS BEDROOM  
12 NUMBER TWO.

13 Q. COULD YOU INDICATE WITH YOUR POINTER, PLEASE, ON THE  
14 DIAGRAM WHERE BEDROOM NUMBER TWO WAS.

15 A. BEDROOM NUMBER TWO WOULD BE THE SECOND BEDROOM TO THE  
16 FRONT.

17 Q. WHAT COLOR WAS THAT CARPETING?

18 A. THIS WAS ALSO A LIGHT BEIGE COLOR.

19 Q. THEN LOOKING AT WHAT HAS BEEN MARKED EXHIBIT 120.

20 A. YES.

21 Q. DO YOU RECOGNIZE THAT?

22 A. YES, I DO.

23 Q. WHAT IS THAT?

24 A. EXHIBIT 120 IS A SMALL SQUARE OR CARPET SAMPLE, KIND OF A  
25 DEEP ROSE COLOR, THAT WAS IN BEDROOM NUMBER THREE.

1 Q. WOULD YOU PLEASE INDICATE ON THE DIAGRAM WHERE BEDROOM  
2 NUMBER THREE IS.

3 A BEDROOM NUMBER THREE WOULD BE THE THIRD BEDROOM FROM THE  
4 FRONT, SO IT WOULD BE IN THIS AREA RIGHT HERE.

5 Q. AND EXHIBIT 121?

6 A. EXHIBIT 121 - AGAIN, IS A SMALL SQUARE OF CARPET SAMPLE.  
7 THIS WOULD HAVE BEEN FROM THE REAR BEDROOM, WHAT I DESIGNATED  
8 AS BEDROOM NUMBER FOUR.

9 Q. CAN YOU INDICATE ON THE DIAGRAM WHERE BEDROOM NUMBER FOUR  
10 IS, PLEASE?

11 A. BEDROOM NUMBER FOUR WOULD BE THE REAR BEDROOM OR THE ONE  
12 FURTHEST FROM THE STREET, THE FRONT STREET.

13 THE COURT: WE'LL TAKE OUR MORNING RECESS AT THIS  
14 TIME.

15 (JURY EXCUSED FROM THE COURTROOM.)

16 THE CLERK: YOU MAY BE SEATED.

17 THE COURT: COUNSEL FOR MR. MATTA, YOU EARLIER  
18 INDICATED TO THE COURT THAT YOU HAD FILED A MOTION REGARDING  
19 THE HAIR OF VERDUGO AND VERDIN AND THAT IS WHAT YOU MEANT TO  
20 REFER TO WHEN THIS WITNESS WAS CALLED TO TESTIFY.

21 MR. STOLAR: YES, IT IS.

22 THE COURT: I HAVE READ THAT MOTION AND CONSIDERED  
23 IT AND I AM GOING TO DENY IT.

24 MR. STOLAR: WELL --

25 THE COURT: THERE HAS BEEN NO SHOWING MADE OF HOW

1 THIS EVIDENCE IS UNDULY PREJUDICIAL.

2 MR. STOLAR: IT CERTAINLY DOES NOTHING EXCEPT  
3 BOLSTER THE GOVERNMENT'S CLAIMS OF A COMPARISON BETWEEN MR.  
4 MATTA AND SOME UNKNOWN HAIRS THAT WERE FOUND AT THE SITE.  
5 THERE IS NO CONTEST HERE. THESE PEOPLE ARE NOT ON TRIAL.

6 THERE IS NO CONTEST IN THE DEFENSE THAT THEY WERE  
7 PRESENT AT 881 LOPE DE VEGA, AND THERE IS, THEREFORE, NO NEED  
8 TO PUT IN THE HAIR SAMPLE COMPARISON WITH TWO PEOPLE WHO THERE  
9 IS NO COMPARISON TO CONTEST ABOUT. WHAT IT DOES THOUGH, AND  
10 THE REASON WE MADE THE MOTION IS THAT ESSENTIALLY WITH US  
11 CONCEDING THAT THOSE TWO PEOPLE WERE PRESENT THERE, THEN ALL  
12 THAT DOES IS TO BOLSTER, UNDULY BOLSTER THE HAIR SAMPLE  
13 ANALYSIS OF SOMEBODY WHO WE THINK WAS NOT THERE, AND THAT IS  
14 MR. MATTA.

15 THAT'S ALL IT DOES IS BOLSTER IT AND MAKE IT LOOK  
16 LIKE IT'S MORE LIKELY TO BE TRUE THAT BECAUSE ESPINO VERDIN  
17 AND VERDUGO'S HAIRS WERE FOUND THERE AND THAT THEY WERE THERE,  
18 IT'S MUCH MORE LIKELY THAT MATTA WAS THERE. IT CAN'T BE  
19 OFFERED FOR THAT PURPOSE AND THAT'S WHY WE DON'T THINK IT HAS  
20 ANY RELEVANCE TO THE CASE.

21 THE COURT: DO YOU WISH TO RESPOND, COUNSEL?

22 MR. CARLTON: I WHOLEHEARTEDLY AGREE. IT BOLSTERS  
23 THE GOVERNMENT'S CASE. THAT'S EXACTLY WHY WE WANT TO  
24 INTRODUCE IT. IT'S PROBATIVE. IT HELPS TO ESTABLISH THAT  
25 ESPINO AND VERDUGO WERE AT THIS LOCATION -- NOT ONLY AT THE

1 LOCATION AT 881 LOPE DE VEGA, BUT IN THE SAME LOCATION WHERE  
2 ONE OF THE HAIRS THAT WAS MATCHED WITH DEFENDANT MATTA WAS  
3 FOUND, AND WE CONTEND AND WE THINK IT'S LOGICAL AND ENTIRELY  
4 APPROPRIATE TO CONTEND, THAT THE PRESENCE OF THESE THREE HAIRS  
5 AND THE PRESENCE OF ALL OF THIS FORENSICS EVIDENCE IN ONE  
6 LOCATION IS MUTUALLY SUPPORTED. IT HELPS TO SUPPORT THE  
7 CREDIBILITY OF ALL OF THE FORENSICS EVIDENCE AND WE SUGGEST  
8 THAT'S NOT UNDULY PREJUDICIAL.

9 MR. STOLAR: THIS WITNESS IS GOING TO TESTIFY THAT  
10 HAIR EVIDENCE IS NOT A BASIS FOR AN ABSOLUTE PERSONAL  
11 IDENTIFICATION. IT IS NOT A BASIS. IT'S NOT LIKE A  
12 FINGERPRINT.

13 AND ALL HE CAN SAY IS IT HAS SIMILAR  
14 CHARACTERISTICS. THEREFORE, THE RELEVANCE AND THE PURPOSE FOR  
15 WHICH OTHER PEOPLE'S HAIR IS BEING OFFERED IS ONLY TO BOLSTER  
16 WHAT THE GOVERNMENT CLAIMS IS MR. MATTA'S HAIR.

17 THE COURT: YOU'RE REPEATING YOURSELF. THIS IS A  
18 403 MOTION.

19 MR. STOLAR: ESSENTIALLY.

20 THE COURT: ON THE THEORY THAT THE PROBATIVE VALUE  
21 OF THE EVIDENCE SUBSTANTIALLY IS OUTWEIGHED BY PREJUDICE.

22 THE PREJUDICE WHICH YOU CONTEND ARISES FROM THIS  
23 SHOWING DOES NOT MEET THE BALANCING REQUIREMENT OF SECTION 403  
24 AND, THEREFORE, THE COURT DENIES THE MOTION AND THE WITNESS  
25 MAY TESTIFY REGARDING ALL THE HAIR.

1 MR. MEDRANO: YOUR HONOR, MAY WE BE HEARD BRIEFLY ON  
2 ANOTHER MATTER?

3 THE COURT: YES.

4 MR. MEDRANO: LAST WEEK ONE OR SEVERAL DEFENSE  
5 COUNSEL FILED FOR THE COURT IN CAMERA MATTERS. AT THIS TIME,  
6 YOUR HONOR - WE RESPECTFULLY SEEK ACCESS TO THOSE MATERIALS TO  
7 EITHER OPPOSE THEM FAIRLY OR ELSE ASK THE COURT NOT TO  
8 CONSIDER THEM IN LIGHT --

9 THE COURT: WHAT MATTERS ARE YOU REFERRING TO?

10 MR. MEDRANO: I'VE GOTTEN TWO OR THREE NOTICES OF  
11 IN-CAMERA FILINGS, AT LEAST ONE BY MR. MEDVENE --

12 MR. STOLAR: YOU GOT ONE FROM ME THIS MORNING.

13 MR. MEDRANO: -- AND ONE BY MR. STOLAR AND, OF  
14 COURSE -- AND ONE BY MARY KELLY, SO AT LEAST THREE -- AND, OF  
15 COURSE, WE ARE ALL COGNIZANT OF THE COURT'S --

16 THE COURT: I'M NOT AWARE YET OF WHAT WAS FILED THIS  
17 MORNING.

18 MR. MEDRANO: VERY WELL, YOUR HONOR. ALL WE ARE  
19 ASKING IS AT LEAST EITHER ACCESS, AND IF THAT'S DENIED, AT  
20 LEAST THEN THAT THE COURT RETURN THOSE TO COUNSEL WITHOUT  
21 CONSIDERATION OF THOSE MATTERS SINCE THEY WERE FILED  
22 IN-CAMERA.

23 THE COURT: NOW, WE HAVE OTHER MOTIONS HERE THAT I  
24 HAVE PREPARED TO DEAL WITH AT THIS TIME.

25 MR. STOLAR: THERE ARE AT LEAST TWO THAT WE ARE

1 CONCERNED WITH.

2 THE COURT: WHAT ELSE ARE YOU CONCERNED WITH?

3 MR. STOLAR: WE HAVE THE TWO MOTIONS TO QUASH. WE  
4 HAVE A MOTION TO QUASH THEIR SUBPOENA OF OUR --

5 THE COURT: THAT'S NOT ONE I'M READY FOR.

6 MR. STOLAR: OKAY. AND THEN WE HAVE THEIR MOTION TO  
7 QUASH OUR SUBPOENA TO THE C.I.A. AND TO THE STATE DEPARTMENT  
8 AND THE D.E.A. CONCERNING THE RELATIONS BETWEEN THE SO-CALLED  
9 GUADALAJARA --

10 THE COURT: THOSE ARE IN ABEYANCE UNTIL THE COURT  
11 RULES ON THEM.

12 MR. STOLAR: OKAY. THAT'S ALL WE HAVE. THE ONLY  
13 OTHER THING I WANTED TO BRING TO THE COURT'S ATTENTION IS WE  
14 HAVE BEEN TALKING WITH THE GOVERNMENT ABOUT THE POSSIBILITIES  
15 OF THEM RESTING THIS WEEK. AND I THINK IT WOULD BE IMPORTANT  
16 FOR US TO HAVE SOME KIND OF A STATUS CONFERENCE TO FIGURE OUT  
17 WHAT THE COURT HAS IN MIND IN TERMS OF --

18 THE COURT: WELL, I THINK IT IS IMPORTANT TO DO  
19 THAT, AND IF THE GOVERNMENT IS INTENDING TO COMPLETE THE  
20 PRESENTATION OF THEIR CASE THIS WEEK --

21 MR. MEDRANO: THAT'S VERY LIKELY, YOUR HONOR. I  
22 THINK THAT BY THE LATTER PART OF THIS WEEK WE'LL BE IN A  
23 POSITION TO CLOSE OUR CASE IN CHIEF.

24 THE COURT: ALL RIGHT.

25 MR. MEDRANO: ACTUALLY, YOUR HONOR -- ACTUALLY,



1 DEPENDING ON THE QUANTITY OF CROSS-EXAMINATION, WE MAY CLOSE  
2 AS EARLY AS TOMORROW AFTERNOON, YOUR HONOR.

3 MR. STOLAR: WELL, IF THAT'S THE SITUATION, I'M NOT  
4 SURE HOW PREPARED AT LEAST THIS DEFENDANT IS GOING TO BE TO  
5 PUT EVIDENCE ON QUITE THAT EARLY. WE HAD -- I HAD ARRANGED  
6 WITH THE GOVERNMENT -- I HAVE GIVEN THEM A COUPLE OF  
7 SUBPOENAS, FOR EXAMPLE, AND I HAVE SOME AGENTS COMING OUT FROM  
8 WASHINGTON READY TO BE HERE THURSDAY OR POSSIBLY FRIDAY.

9 MAY I ASK -- AND WE DO HAVE SOME OTHER MATTERS THAT  
10 ARE STILL OPEN WITH THE COURT, SUCH AS THE CONTINUATION OF THE  
11 SIMMONS HEARING ON THE WITNESS CERVANTES SANTOS, PERHAPS  
12 CALLING HIM BACK TO TESTIFY SOME MORE. THE SAME WITH MR.  
13 PLACENCIA AGUILAR.

14 AND THERE IS A THIRD WITNESS WHO WE HAVEN'T EVEN  
15 CROSS-EXAMINED YET.

16 THE COURT: WHO WAS THAT?

17 MR. STOLAR: PLACENCIA, I GUESS, IS THE SECOND  
18 WITNESS.

19 COULD WE INQUIRE THROUGH THE COURT WHO IS LEFT TO  
20 TESTIFY FOR THEIR CASE AND THAT MIGHT GIVE US SOME INDICATION  
21 AS TO WHAT WE HAVE TO CROSS-EXAMINE ON.

22 MR. MEDRANO: ON THAT SUBJECT, YOUR HONOR, AND IN  
23 COMPLETE FAIRNESS, SINCE THE OUTSET OF THIS CASE WE HAVE  
24 REPEATEDLY ASKED FOR REVERSE DISCOVERY. TO DATE, YOUR HONOR,  
25 I DON'T BELIEVE WE HAVE RECEIVED ANY WITNESS NAMES, ANY JENCKS

1 MATERIAL, EVEN ANY REVERSE RULE 16 DOCUMENTS THAT WE ARE  
2 ENTITLED TO. SO I'D LIKE THE COURT TO BE AWARE OF THAT AND  
3 WE'VE ASKED REPEATEDLY FOR THOSE ITEMS BUT TO DATE NOTHING HAS  
4 BEEN PROVIDED TO THE GOVERNMENT.

5 MR. STOLAR: HE'S AVOIDING THE QUESTION. HOWEVER,  
6 FOR THE RECORD, THIS DEFENDANT AND HIS COUNSEL ARE PERFECTLY  
7 WELL AWARE OF THEIR OBLIGATIONS UNDER THE LAW AND HAVE  
8 COMPLIED WITH ALL OF THEM AND WILL CONTINUE TO DO SO.

9 THAT'S A CLASSIC GOVERNMENT RESPONSE. IT'S GOOD FOR  
10 THE GOVERNMENT -- AND WE GAVE THAT TO THEM.

11 MR. MEDRANO: IN ANSWER TO THE ORIGINAL QUESTION,  
12 YOUR HONOR, ABOUT THE NUMBER OF WITNESSES --

13 THE COURT: DOES THAT MEAN YOU'VE GIVEN HIM  
14 SOMETHING OR THAT --

15 MR. STOLAR: WE'VE COMPLIED WITH ALL OF OUR  
16 OBLIGATIONS, JUDGE RAFFEDIE, AND WE'VE GIVEN THEM NOTHING.

17 THE COURT: WELL, YOU HAVE THE OBLIGATION TO GIVE  
18 HIM SOMETHING.

19 MR. STOLAR: IF I HAVE TO GIVE HIM SOMETHING, HE'LL  
20 HAVE IT. IF I HAVE SOMETHING TO GIVE HIM, HE'LL HAVE IT.

21 MR. MEDRANO: MAY WE MAKE THE SAME INQUIRY OF  
22 CO-COUNSEL BECAUSE, AGAIN, WE HAVE YET TO RECEIVE ANYTHING.

23 MR. STOLAR: WELL, COULD WE GO BACK TO THE ORIGINAL  
24 QUESTION?

25 THE COURT: LET'S STAY ON THE SUBJECT WE'RE

1 DISCUSSING.

2 MR. MEDRANO: REMAINING WITNESSES FOR THE  
3 GOVERNMENT, YOUR HONOR, ARE MR. MALONE, TWO SPECIAL AGENTS OF  
4 THE D.E.A, HECTOR BERRELLEZ, DELBERT SALAZAR.

5 AND, OF COURSE, YOU HAVE UNDER SUBMISSION RIGHT NOW  
6 OUR MOTION TO RECALL ENRIQUE PLACENCIA AGUILAR ON THE RADELAT  
7 AND WALKER MURDERS.

8 THE COURT: YES.

9 MR. MEDRANO: SO THAT WOULD BE FOUR WITNESSES,  
10 INCLUDING MR. MALONE, WHO'S ON THE STAND AT THIS TIME.

11 MR. STOLAR: AND HECTOR CERVANTES SANTOS HAS TO COME  
12 BACK FOR MORE CROSS.

13 THE COURT: WELL, I THINK HE WAS LEFT OPEN FOR  
14 FURTHER CROSS.

15 MR. STOLAR: YES.

16 MR. MEDRANO: THE SOLE ISSUE REMAINING, YOUR HONOR,  
17 AGAIN, IS THE SIMMONS ISSUE.

18 THE COURT: IF ANYBODY WANTS TO CROSS-EXAMINE HIM.

19 MR. MEDRANO: MORE ACCURATELY, I BELIEVE, YOUR  
20 HONOR, WHAT REMAINED ON CERVANTES WAS A SIMMONS HEARING THAT  
21 WE HAD COMMENCED AT 4:30 ONE DAY. WE WENT FOR TWO HOURS.

22 THE COURT: YES.

23 MR. MEDRANO: AND YOU MAY RECALL VERY WELL, YOUR  
24 HONOR, THAT AFTER JUST DIRECT AND CROSS THE THAT YOU DID  
25 ALLOW, IT WAS PRETTY CLEAR, I THINK, THAT THAT HEARING WAS

1 GOING NOWHERE. AND, IN FACT, I THINK THAT'S WHY YOU HELD IT  
2 IN ABEYANCE.

3 MR. STOLAR: I'M SORRY. THERE ARE TWO MORE  
4 WITNESSES LEFT TO TESTIFY AT THAT HEARING.

5 THE COURT: WHO ARE THEY?

6 MR. STOLAR: THEY ARE THE OTHER AGENT WHO SHOWED  
7 PICTURES TO THE WITNESS, AND MR. MEDRANO, WHO SHOWED PICTURES  
8 TO THE WITNESS VERY SHORTLY BEFORE HE TESTIFIED.

9 THE COURT: THAT'S WHAT I ASKED YOU TO TRY TO  
10 DISPENSE WITH BY PRIVATE CONSULTATION WITH EACH OTHER. HAVE  
11 YOU MADE ANY EFFORT TO DO THAT?

12 MR. STOLAR: NO, WE HAVE NOT HAD AN OPPORTUNITY TO,  
13 BUT WE CERTAINLY WILL. WE CERTAINLY WILL. AND AT LEAST WE  
14 WANTED TO RESERVE FURTHER CROSS-EXAMINATION ON MR. CERVANTES  
15 SANTOS BASED ON WHAT WE LEARNED AT THE SIMMONS HEARING AND THE  
16 MANNER AND METHOD IN WHICH HE WAS SHOWN PICTURES, WHICH WE DID  
17 RESERVE AT THE TIME WE FINISHED CROSSING.

18 THE COURT: WELL, I THINK THERE WAS A RESERVATION  
19 MADE --

20 MR. MEDRANO: VERY WELL, YOUR HONOR.

21 THE COURT: -- AND I PERMITTED COUNSEL AN  
22 OPPORTUNITY TO DO THAT, IF THEY DESIRED TO DO SO.

23 MR. MEDRANO: AND THIS WAS AT THE SIMMONS HEARING,  
24 HOWEVER, YOUR HONOR, AFTER THE TWO AGENTS WERE CALLED --

25 THE COURT: YES.

1 MR. MEDRANO: -- ASSUMING WE CAN'T REACH AN  
2 AGREEMENT. BUT THAT'S THE LINEUP THAT REMAINS, YOUR HONOR.

3 AND FOR THAT REASON, I THINK THAT BY AS EARLY AS  
4 LATE TOMORROW AFTERNOON, CONTINGENT ON THE AMOUNT OF  
5 CROSS-EXAMINATION, WE WOULD BE IN A POSITION TO REST OUR CASE  
6 IN CHIEF.

7 THE COURT: ALL RIGHT. NOW --

8 MR. MEDVENE: IF THE COURT PLEASE, IN ALL FAIRNESS  
9 TO THE GOVERNMENT, THEY WERE NOT SURE WHETHER THEY WOULD GO  
10 THROUGH TILL FRIDAY, AND THEY DID TELL US THAT.

11 BUT WE WOULD ASK YOUR HONOR, AT LEAST ON BEHALF OF  
12 THIS DEFENDANT -- AND I MAY WELL SPEAK FOR THE OTHERS -- THAT  
13 IF THE GOVERNMENT RUNS THROUGH FRIDAY, THE DEFENSE WILL BE  
14 PREPARED TO START ON TUESDAY.

15 IF THE GOVERNMENT DOESN'T, THIS IS OUR FIRST  
16 KNOWLEDGE THEY MAY CLOSE AS EARLY AS WEDNESDAY. WE'D  
17 RESPECTFULLY ASK THAT WE DEAL WITH OTHER MATTERS AND THE  
18 DEFENSE CASE START ON TUESDAY, YOUR HONOR, BECAUSE WE'RE  
19 SOMEWHAT TAKEN ABACK NOW, AND WE FIND NO FAULT, BUT WE'RE  
20 SOMEWHAT TAKEN ABACK THAT THEY MAY CLOSE AS EARLY AS TOMORROW.

21 MR. NICOLAYSEN: I WOULD JOIN IN THAT, YOUR HONOR.

22 THE COURT: WELL, LOOK, YOU'RE ON NOTICE NOW THAT  
23 THERE'S A POSSIBILITY THAT THE GOVERNMENT WILL COMPLETE THEIR  
24 CASE IN CHIEF EARLIER THAN THEY ANTICIPATED OR YOU  
25 ANTICIPATED, SO IT'S ENCUMBENT UPON YOU TO START LINING UP

1 YOUR WITNESSES IF YOU HAVE ANY THAT YOU WISH TO CALL.

2 MR. NICOLAYSEN: YOUR HONOR --

3 THE COURT: THE COURT IS NOT GOING TO MAKE A  
4 DEFINITE STATEMENT THAT WE WILL NOT START HEARING DEFENSE  
5 WITNESSES UNTIL NEXT TUESDAY. THAT IS SIMPLY NOT IN ORDER.  
6 WHEN THE GOVERNMENT'S CASE IS OVER, I WILL CALL UPON YOU TO  
7 PRESENT WITNESSS IF YOU WISH TO DO SO.

8 MR. NICOLAYSEN: I UNDERSTAND. YOUR HONOR, I HAVE  
9 ONE WITNESS WHO WILL BE COMING IN FROM MEXICO AND I WILL DULY  
10 ADVISE THE GOVERNMENT AS TO WHO THAT PERSON IS, IN KEEPING  
11 WITH MY OBLIGATIONS.

12 MY CONCERN IS THE PERSON'S TRAVEL IS STRUCTURED FOR  
13 THIS WEEKEND, AND I'D RATHER NOT, IF I CAN HELP IT, BRING THE  
14 PERSON IN THIS WEEK AND HAVE THAT PERSON TRAIL ALL THIS WEEK,  
15 THROUGH THE WEEKEND AND INTO THE EARLY PART OF NEXT WEEK.

16 THE COURT: I CAN UNDERSTAND THAT, AND THERE IS NO  
17 WAY THE COURT CAN STATE WITH PRECISION SO THAT WE CAN TIME A  
18 WITNESS IN AND OUT WITHOUT ANY UNNECESSARY DELAYS. IT SIMPLY  
19 CAN'T BE DONE.

20 MR. NICOLAYSEN: I UNDERSTAND.

21 THE COURT: YOU'VE SEEN THE GOVERNMENT HAS HAD  
22 WITNESSES SITTING OUT HERE DAY AFTER DAY WAITING TO TESTIFY  
23 AND THEN THE SAME THING IS REQUIRED OF THE DEFENDANT.

24 MR. STOLAR: I WILL SAY, JUDGE RAFEEDIE, I THINK  
25 IT'S IMPORTANT FOR TO YOU KNOW THAT WE HAVE SAT DOWN AND MET

1 AND TRY TO MAKE SOME EFFORTS TO COORDINATE AMONG THE  
2 DEFENDANTS WHO WILL BRING WITNESSES ON HERE, HOW WE'RE TIMING  
3 AND THINGS OF THAT NATURE SO IT'S NOT LIKE WE'RE COMING IN A  
4 VACUUM. WE'VE ATTEMPTED TO DO THAT.

5 MR. NICOLAYSEN: YES.

6 THE COURT: ALL RIGHT. WELL, I THINK WE'LL PROBABLY  
7 HAVE SEVERAL MORE DAYS HERE OF OTHER THINGS, IF NOT WITNESSES  
8 TO CLEAN UP, BUT I THINK YOU SHOULD GET BUSY ON THESE  
9 WITNESSES AND GET THEM HERE.

10 ALL RIGHT. NOW, THE GOVERNMENT HAS FILED A MOTION  
11 TO INTRODUCE THE PRIOR OUT-OF-COURT IDENTIFICATIONS OF THE  
12 DEFENDANT VASQUEZ, WHICH WAS MADE BY THE WITNESS ENRIQUE  
13 PLACENCIA AGUILAR WHO DID NOT IDENTIFY MR. VASQUEZ WHILE HE  
14 WAS TESTIFYING ON THE WITNESS STAND.

15 MR. CARLTON: YOUR HONOR, MAY I JUST --

16 THE COURT: YOU HAVEN'T INDICATED WHAT WAS SAID TO  
17 THIS WITNESS AT THE TIME HE MADE THIS PHOTOGRAPH  
18 IDENTIFICATION.

19 MR. CARLTON: AGAIN, YOUR HONOR, I THINK THE  
20 APPROPRIATE MEANS OF APPROACHING THIS, AND THIS IS WHAT WE  
21 REQUESTED. I THINK, IN THIS MOTION, IS TO HAVE A SIMMONS  
22 HEARING BECAUSE THEY'LL WANT TO CROSS-EXAMINE ANY DECLARANTS  
23 WHO WOULD PROVIDE THIS KIND OF TESTIMONY.

24 AND I THINK IT WOULD SAVE EVERYONE TIME AND EFFORT  
25 TO SIMPLY HAVE THAT KIND OF A HEARING IN RELATION TO MR.

1 PLACENCIA AGUILAR. AND WE'RE PERFECTLY PREPARED TO BRING IN  
2 THE PERSONS WHO SHOWED HIM THE PHOTO SPREADS, AND TO BRING IN  
3 MR. PLACENCIA AGUILAR TO BE EXAMINED AND CROSS-EXAMINED ON  
4 THIS ISSUE, RATHER THAN --

5 THE COURT: WELL, THAT IS PROBABLY THE BEST WAY TO  
6 DO IT, IF WE'RE GOING TO DO IT, IS TO HEAR WHAT HE WAS SHOWN  
7 AND HOW HE WAS SHOWN IT, AND WHAT IF ANYTHING WAS SAID TO HIM  
8 TO DETERMINE WHETHER OR NOT THIS CAN BE ADMITTED AS AN  
9 OUT-OF-COURT IDENTIFICATION PURSUANT TO RULE 801(D)(1)(C),  
10 WHICH PROVIDES THAT THAT TYPE OF OUT-OF-COURT IDENTIFICATION  
11 MAY BE ADMITTED UNDER CERTAIN CIRCUMSTANCES.

12 MR. NICOLAYSEN: YOUR HONOR, MAY BY HEARD?

13 THE COURT: THE DEFENDANT HAS OBJECTED TO THIS AND  
14 HAS ASKED THAT IF THE TESTIMONY IS PERMITTED, THAT THE COURT  
15 INQUIRE OF THE GOVERNMENT WHETHER THEY HAVE COMPLIED WITH  
16 THEIR DUTY TO PRODUCE JENKS MATERIAL IN RESPONSE -- IN  
17 COMPLIANCE WITH THE COURT'S APRIL 11TH ORDER.

18 AT THAT TIME, THE COURT ORDERED THE GOVERNMENT TO  
19 TURN OVER ANY DOCUMENTS IN ITS POSSESSION RELATING TO THE  
20 NAMES OR STATEMENTS OF NON-TESTIFYING PERCIPIENT WITNESSES TO  
21 THE LA LANGOSTA MURDERS CHARGED IN COUNTED ONE AND TWO OF THE  
22 SIXTH SUPERCEDING INDICTMENT.

23 NOW, DEFENDANT'S COUNSEL HAS MADE SOME SHOWING THAT  
24 THE GOVERNMENT MAY NOT BE COMPLYING WITH THIS COURT'S ORDER.  
25 HE DECLARES THAT HE HAS SPOKEN WITH AN INDIVIDUAL BY THE NAME



1 OF JAUQUIN TORRES GOMEZ, WHO HEADED THE MEXICAN INVESTIGATION  
2 OF THE WALKER-RADELAT MURDERS, AND WHO TOLD HIM THAT THE  
3 MEXICAN FILES CONTAINED NUMEROUS STATEMENTS BY WITNESSES TO  
4 THE LA LANGOSTA MURDERS, INCLUDING A STATEMENT OF AGUILAR THAT  
5 HAS NOT BEEN PRODUCED TO DEFENSE COUNSEL.

6 HE CLAIMS AND STATES IN HIS MOTION THAT HE HAS ONLY  
7 RECEIVED THE GRAND JURY TESTIMONY OF AGUILAR AND A SINGLE  
8 D.E.A. 6 REPORT DESPITE THE FACT THAT THE GOVERNMENT ADMITS  
9 THAT AGUILAR HAS BEEN EXTENSIVELY DEBRIEFED BY THE D.E.A.

10 ACCORDING TO THIS GENTLEMAN, MR. TORRES, THE UNITED  
11 STATES GOVERNMENT -- THIS IS WHAT HE TOLD COUNSEL -- HAS  
12 OBTAINED VIRTUALLY EVERY DOCUMENT IN THE MEXICAN FILES. AND  
13 HE ALSO DECLARED, THAT IS, THE DEFENDANT'S COUNSEL DECLARED,  
14 THAT ACCORDING TO MR. TORRES, STRONG POLITICAL PRESSURE HAS  
15 BEEN APPLIED BY THE UNITED STATES EMBASSY IN MEXICO CITY TO  
16 PREVENT ATTORNEYS OR THEIR INVESTIGATORS FROM GAINING ACCESS  
17 TO THE FILE.

18 NOW, THESE DOCUMENTS, IF THEY EXIST, WOULD CLEARLY  
19 BE JENKS MATERIAL.

20 MR. CARLTON: MAY I ASK THAT THE WITNESS BE EXCUSED  
21 WHILE WE DEAL WITH THIS? MAY THE WITNESS BE EXCUSED, YOUR  
22 HONOR?

23 THE COURT: OH, YES. THE WITNESS MAY BE EXCUSED.

24 THE WITNESS: THANK YOU, YOUR HONOR

25 THE COURT: WHAT ABOUT THIS?

1 MR. MEDRANO: YES, YOUR HONOR. FIRST OF ALL, LET ME  
2 STATE PRELIMINARILY THAT --

3 THE COURT: FIRST OF ALL, HAVE YOU FULLY COMPLIED  
4 WITH MY APRIL 11TH ORDER THAT YOU TURN OVER ANY DOCUMENTS IN  
5 YOUR POSSESSION RELATING TO THE NAMES OR STATEMENTS OF  
6 NON-TESTIFYING PERCIPIENT WITNESSES TO THE LA LANGOSTA  
7 MURDERS?

8 MR. MEDRANO: WE HAVE, YOUR HONOR. AND JUST FOR  
9 YOUR INFORMATION, OUR OPPOSITION WAS DRAFTED YESTERDAY. WE  
10 HOPE TO FILE IT BY THE END OF THE DAY TO THIS PARTICULAR  
11 MOTION, WHICH WE JUST ONLY RECENTLY RECEIVED FROM MR.  
12 NICOLAYSEN.

13 BUT IN ANSWER TO YOUR QUESTION, THIS OPPOSITION  
14 WOULD ADVISE YOU THAT WE HAVE COMPLIED WITH OUR OBLIGATIONS,  
15 YOUR HONOR, IN TERMS OF DISCLOSING TO MR. NICOLAYSEN ANY  
16 DOCUMENTS, ANY MEXICAN DOCUMENTS, THAT WE HAVE IN OUR  
17 POSSESSION THAT IDENTIFIES OR CONTAINS STATEMENTS OF  
18 PERCIPIENT WITNESSES TO THE LA LANGOSTA MURDERS.

19 THE COURT: YOU DON'T HAVE ANY OTHERS, OTHER THAN  
20 WHAT YOU'VE PROVIDED THEM?

21 MR. MEDRANO: THAT'S CORRECT, YOUR HONOR.

22 MR. NICOLAYSEN: YOUR HONOR, I WOULD ASK, UNDER U.S.  
23 VERSES BRYANT, THAT THE PROSECUTOR MAKE A DETAILED PROFFER TO  
24 THE COURT REGARDING THE INQUIRIES MADE TO ALL INVESTIGATIVE  
25 AGENCIES CONNECTED WITH THIS CASE.

1 I'M CONCERNED THAT WHILE WHAT COUNSEL SAYS MAY BE  
2 TRUTHFUL, IT MAY BE LIMITED TO THE DOMAIN OF WHAT'S UPSTAIRS  
3 ON THE 14TH FLOOR IN THEIR FILES. AND THAT'S CLEARLY NOT THE  
4 SCOPE --

5 THE COURT: WELL, HAVE YOU MADE AN EFFORT TO OBTAIN  
6 ALL THESE --

7 MR. MEDRANO: WELL, FIRST OF ALL, YOUR HONOR, HERE'S  
8 THE RUB, AND LET ME TELL YOU WHY. WE HAVE THESE GROSS  
9 ALLEGATIONS OF GOVERNMENT COVERUP BY US AND THE MEXICAN  
10 GOVERNMENT SOLELY ON THE BASIS OF A HEARSAY STATEMENT THROUGH  
11 SOME MAN NAMED JORVES -- GOD KNOWS WHO THIS GUY IS -- WE HAVE  
12 NO SIGNED DECLARATION ON HIS BEHALF.

13 THE COURT: I UNDERSTAND THAT THAT IS NOT A  
14 STATEMENT WHICH CAN BE ACCEPTED AT FACE VALUE, BUT WHAT HAVE  
15 YOU DONE TO TRY TO DISCOVER WHETHER --

16 MR. MEDRANO: WE HAVE DONE WHAT YOU HAVE ALREADY  
17 ORDERED US PREVIOUSLY, YOUR HONOR, BECAUSE YOU MAY RECALL MR.  
18 NICOLAYSEN --

19 THE COURT: NO. HAVE YOU MADE ANY EFFORT TO --

20 MR. MEDRANO: WE HAVE, YOUR HONOR.

21 THE COURT: -- INQUIRE OF THE AGENCIES WHETHER THEY  
22 HAVE ANYTHING OF THIS TYPE?

23 MR. MEDRANO: YES, YOUR HONOR. YOU'LL RECALL THAT  
24 IN ABOUT FEBRUARY OR MARCH OF THIS YEAR, MR. NICOLAYSEN FILED  
25 A SIMILAR MOTION TO COMPEL THE GOVERNMENT TO MAKE AN INQUIRY

1 OF ALL FEDERAL AGENCIES UNDER U.S. VERSES BRYANT THAT HAD  
2 DEALT WITH THE CAMARENA CASE.

3 THE COURT: YES.

4 MR. MEDRANO: AND AT THAT TIME, WE OPPOSED IT AND  
5 YOU ORDERED US TO MAKE THAT INQUIRY. WE HAVE MADE THAT  
6 INQUIRY, YOUR HONOR. ANY DOCUMENTS THAT WE RECEIVED, WE  
7 REVIEWED? AND TO THE EXTENT THAT THEY'RE DISCOVERABLE,  
8 THEY'VE GONE OVER TO THE OTHER SIDE.

9 SO WE HAVE DONE THAT SINCE MARCH WHEN YOU ISSUED  
10 YOUR ORDER ASKING US TO MAKE THAT INQUIRY OF THE VARIOUS  
11 FEDERAL AGENCIES, YOUR HONOR. THIS IS SIMPLY A DUPLICATE OF  
12 AND WOULD NOT GENERATE ANYTHING ELSE.

13 THE COURT: DESPITE YOUR SUSPICIONS, THERE ISN'T  
14 VERY MUCH THE COURT CAN DO GIVEN THESE REPRESENTATIONS.

15 MR. NICOLAYSEN: I RESPECT THAT, YOUR HONOR, AND I  
16 THINK THE REPRESENTATION NEEDED TO BE MADE TO UPDATE THE  
17 STATUS OF THE GOVERNMENT'S COMPLIANCE WITH THE ORDER.

18 I WOULD ADD, THOUGH, THAT AS MY DECLARATION POINTS  
19 OUT, MR. TORRES DID TELL ME ON THE PHONE THAT OVER THE PAST  
20 COUPLE OF WEEKS THERE HAVE BEEN INVESTIGATIVE AGENTS FROM THE  
21 F.B.I. AND D.E.A. IN THE OFFICE OF THE MINISTRY OF THE  
22 PUBLIC -- OR RATHER, THE PUBLIC MINISTRY IN GUADALAJARA --  
23 REVIEWING THE LA LANGOSTA FILE THERE. THAT'S IN MY  
24 DECLARATION.

25 IT WAS ENCUMBENT I FELT ON ME TO BRING TO THE

1 COURT'S ATTENTION THE RECENCY OF THE U.S. GOVERNMENT'S REVIEW  
2 OF THE FILE, SO THAT THE COURT COULD BE PROPERLY ADVISED BY  
3 THE U.S. ATTORNEY'S OFFICE AS TO WHETHER THERE HAS BEEN AN  
4 ONGOING EFFORT TO COMPLY WITH THE DUTIES SET FORTH IN U.S.  
5 VERSUS BRYANT; THAT IS, TO CONTINUE MAKING A CROSS REFERENCE  
6 TO OTHER AGENCIES THAT ARE CONTINUALLY INVOLVED IN THIS CASE  
7 SO THAT I'M BEING GIVEN THE FULL BENEFIT OF THE RULE 15 DUTY.

8 I'M NOT CERTAIN THAT MR. MEDRANO'S REPRESENTATIONS  
9 ARE AS CURRENT AS THEY MIGHT BE IF HE SPENT ADDITIONAL TIME  
10 NOW CHEKING WITH THE D.E.A. AND THE F.B.I. REGARDING POSSIBLE  
11 REVIEWS OF THE FILE IN GUADALAJARA OVER THE PAST COUPLE OF  
12 WEEKS. AND I WOULD RESPECTFULLY ASK YOUR HONOR TO HOLD OFF ON  
13 MR. PLACENCIA UNTIL THERE HAS BEEN AN UPDATE ON THAT. I THINK  
14 THAT IS AN APPROPRIATE THING TO DO AT THIS TIME.

15 MR. MEDRANO: YOUR HONOR, THIS EXEMPLIFIES, I THINK,  
16 THE MAJOR QUALM WITH THIS KIND OF HEARSAY DECLARATION.

17 THE COURT: I'M NOT GOING TO WITHHOLD ANYTHING,  
18 COUNSEL. YOU HAVE ASKED FOR THIS REPRESENTATION. I THINK  
19 YOU'VE HAD A CLEAR REPRESENTATION MADE BY THE GOVERNMENT AND  
20 THAT IS THE END OF IT.

21 NOW, THIS WITNESS, ENRIQUE PLACENCIA AGUILAR, WE  
22 WILL HOLD A HEARING TO DETERMINE WHAT -- AND UNDER WHAT  
23 CIRCUMSTANCES HE WAS SHOWN PHOTOGRAPHS AND TO ASCERTAIN  
24 WHETHER OR NOT HE SHOULD BE ALLOWED TO TESTIFY AS TO HAVING  
25 PREVIOUSLY IDENTIFIED THE DEFENDANT VASQUEZ FROM A PHOTOGRAPH.

1 SO WE'LL SCHEDULE THAT SOMETIME IN BETWEEN OR AFTER TO AVOID  
2 THE JURY PROBLEM AND WE WILL RECONVENE IN ABOUT FIVE MINUTES  
3 WITH THE JURY.

4 THE CLERK: PLEASE RISE.

5 THIS COURT IS NOW IN RECESS.

6 (BRIEF RECESS.)

7 (JURY PRESENT.)

8 THE COURT: YOU MAY CONTINUE.

9 BY MR. CARLTON:

10 Q. I BELIEVE WHEN WE LEFT OFF I WAS ABOUT TO ASK YOU TO LOOK  
11 AT WHAT HAS BEEN MARKED AS EXHIBIT 122. DO YOU HAVE THAT?

12 A. YES, I DO.

13 Q. DO YOU RECOGNIZE WHAT THAT IS?

14 A. GOVERNMENT'S EXHIBIT 122 IS A SMALL SQUARE CARPET SAMPLE  
15 WHICH WAS TAKEN FROM THE REAR DEN OF 881 LOPE DE VEGA.

16 Q. WOULD YOU, PLEASE, USING YOUR POINTER INDICATE ON THE  
17 DIAGRAM WHERE THE REAR DEN WAS?

18 A. THE REAR DEN WOULD HAVE BEEN JUST OPPOSITE BEDROOM NUMBER  
19 FOUR, TO THE VERY REAR OF THE MAIN RESIDENCE.

20 Q. WHAT COLOR IS THAT CARPET?

21 A. THIS WOULD HAVE BEEN A VERY PALE OR LIGHT COLORED ROSE  
22 COLOR.

23 Q. NOW, ALL OF THESE CARPET SAMPLES THAT YOU HAVE JUST  
24 IDENTIFIED, EXHIBITS 115 TO 122, WERE COLLECTED BY YOU?

25 A. THAT'S CORRECT.

1 Q. AND IN DOING THAT, DID YOU SIMPLY PHYSICALLY CLIP A  
2 PORTION OF THE CARPET OUT?

3 A. YES. I JUST TOOK A PAIR OF SCISSORS AND ACTUALLY CUT A  
4 LITTLE HOLE IN CARPET.

5 Q. WHAT DID YOU DO WITH THESE PIECES OF CARPETING AFTER YOU  
6 CUT IT OFF OF THE LARGER CARPET?

7 A. EACH CARPET SAMPLE WAS SEALED IN ITS APPROPRIATE ZIPLOCK  
8 BAG AND ESSENTIALLY ENDED UP IN THE D.E.A. OFFICE.

9 MR. CARLTON: YOUR HONOR, I WOULD MOVE AT THIS TIME  
10 THAT EXHIBITS 115 THROUGH 122 BE RECEIVED.

11 THE COURT: THEY MAY BE RECEIVED.

12 (EXHIBITS # 115 THROUGH 122 RECEIVED IN EVIDENCE.)

13 BY MR. CARLTON:

14 Q. WHAT DID YOU NOTICE, IF ANYTHING, ABOUT THE CARPETING IN  
15 THIS RESIDENCE WHEN YOU MADE YOUR WALK-THROUGH?

16 A. IT WAS ALL VERY LIGHT COLORED, PALE TONES WITH THE  
17 EXCEPTION OF BEDROOM NUMBER THREE, WHICH WAS THE DARK ROSE  
18 COLOR. BUT WHAT REALLY PEAKED MY INTEREST IMMEDIATELY WAS THE  
19 LIGHT BEIGE CARPETS.

20 Q. WHY WAS THAT?

21 A. BECAUSE EARLIER I HAD EXAMINED AN ITEM OF EVIDENCE THAT  
22 HAD REVEALED OR PRODUCED LIGHT BEIGE CARPET FIBERS ON THAT  
23 ITEM, AND I WAS ON THE LOOKOUT FOR JUST SUCH A CARPET.

24 Q. NOW, COULD YOU TELL WHETHER SOME OF THIS CARPET WAS  
25 RELATIVELY OLD OR RELATIVELY NEW?

1 A. THE CARPETING FROM THE GUEST HOUSE WAS VERY OLD. THE  
2 CARPETING FROM THE DINING ROOM/LIVING ROOM WAS NOT NEW BUT IT  
3 DIDN'T APPEAR LIKE IT WAS VERY WORN. BUT THE CARPETING FROM  
4 THE FOUR BEDROOMS APPEARED BRAND NEW.

5 Q. HOW COULD YOU DETERMINE THAT?

6 A. WHEN YOU MANUFACTURE A CARPET, WHAT YOU DO IS YOU WEAVE  
7 THE YARNS IN AND OUT OF THE BASE. AND THEN THE TYPE OF  
8 CARPETING WE'RE DEALING WITH HERE, YOU SHEER THE TOP OF THE  
9 YARNS OFF TO GIVE YOU A NICE EVEN TEXTURE. WHEN DO YOU THAT,  
10 YOU'RE GOING TO LEAVE LITERALLY MILLIONS AND MILLIONS OF LOOSE  
11 CARPET FIBERS DOWN IN THE PILE OF THE CARPET. AND SOMETIMES  
12 YOU'LL SEE THEM AS JUST BIG TUFTS. IF ANYBODY HAS BOUGHT A  
13 BRAND NEW CARPET, USUALLY ABOUT THE FIRST TWO OR THREE TIMES  
14 YOU VACUUM IT, YOU'RE GOING TO FILL UP YOUR CARPET OR YOUR  
15 VACUUM BAG OF THE VACUUM SWEEPER WITH THESE CARPET FIBERS,  
16 BECAUSE THEY'RE VERY LOOSE.

17 THE FOUR BEDROOM CARPETS ACTUALLY HAD BIG TUFTS OF  
18 THESE LOOSE YARNS AND LOOSE FIBERS JUST ALL OVER THE PLACE.

19 Q. NOW, AFTER YOU GATHERED THESE CARPET SAMPLES, SEALED THEM  
20 IN BAGS, WHAT DID YOU DO NEXT IN RELATION TO YOUR CRIME SCENE  
21 INVESTIGATION ON APRIL 12TH?

22 A. BY THIS TIME IT WAS LATE IN EVENING. IT WAS, I BELIEVE,  
23 AFTER 10:00 AND WE WERE PRETTY TIRED, SO WE CONCLUDED THE  
24 CRIME SCENE INVESTIGATION THAT EVENING AND DECIDED TO START  
25 THE NEXT MORNING FRESH.



1 Q. WHAT DID YOU DO WITH ALL OF THESE SAMPLES OF EVIDENCE  
2 THAT YOU HAD COLLECTED THAT EVENING?

3 A. THEY WERE TAKEN BACK TO THE VAULT IN THE D.E.A. OFFICE IN  
4 U.S. CONSULATE.

5 Q. DID YOU RETURN TO THE LOPE DE VEGA RESIDENCE?

6 A. YES, I RETURNED THE NEXT MORNING, WHICH WAS A SATURDAY  
7 MORNING, THE 13TH.

8 Q. ABOUT WHAT TIME?

9 A. I BELIEVE WE WERE THERE ABOUT 8:30, 9:00 IN THE MORNING.

10 Q. WHO WENT WITH YOU, IF ANYONE?

11 A. SPECIAL AGENT RAWALT, MR. COLLINS AND MR. ROSE OF THE  
12 LATENT FINGERPRINTS SECTION, AND TWO OR THREE AGENTS FROM THE  
13 D.E.A.

14 Q. WHEN YOU HAD VISITED THE LOPE DE VEGA RESIDENCE ON APRIL  
15 12TH, WERE YOU ACCOMPANIED IN THE COURSE OF YOUR EXAMINATION  
16 BY M.F.J.P. AGENTS?

17 A. BASICALLY, WE WERE TOLD THEY WERE THERE TO GUARD US, AND  
18 THEY OBSERVED EVERYTHING WE DID. WE WERE RIGHT UNDER THEIR --  
19 THEY WERE RIGHT ON TOP OF US REALLY.

20 Q. LIKewise THEN ON APRIL 13TH, WERE THERE M.F.J.P. AGENTS  
21 IN YOUR IMMEDIATE AREA AS YOU WENT ABOUT YOUR BUSINESS?

22 A. EARLY ON IN THE MORNING OF 13TH THERE WAS. WHEN WE  
23 STARTED OUT THE CRIME SCENE THE NEXT SATURDAY MORNING, AGAIN,  
24 THEY WERE RIGHT ON STOP OF US. BUT AS THE DAY WORN ON, THEY  
25 BECAME LESS AND LESS INTERESTED.

1 Q. UPON YOUR RETURN TO THE LOPE DE VEGA RESIDENCE ON APRIL  
2 13TH, WHAT WAS YOUR OBJECT? WHAT WERE YOU TRYING TO DO?

3 A. WE WANTED TO PROCESS THE UPSTAIRS BEDROOM, WHICH I SAID  
4 WAS LOCKED, WHICH I EARLIER SAID WAS LOCKED. WE WANTED TO  
5 PROCESS THE VOLKSWAGON ATLANTIC PARKED IN THE CARPORT, AND WE  
6 WANTED TO FINISH A GROUND SEARCH IN PROCESSING THE FOUR  
7 BEDROOMS OF THE MAIN RESIDENCE.

8 Q. THE UPSTAIRS BEDROOM WAS THE LOCATION THAT YOU HAVE  
9 PREVIOUSLY DESCRIBED AS THE SECOND -- IN YOUR OPINION -- THE  
10 SECOND MOST LOGICAL PLACE TO HOLD SOMEONE?

11 A. YES.

12 Q. WERE YOU PERMITTED TO GET INTO THAT BEDROOM ON APRIL  
13 13TH?

14 A. YES. THE M.F.J.P. HAD THE DOOR OPEN BY THE TIME WE GOT  
15 THERE SO WE WERE PERMITTED TO PROCESS IT.

16 Q. WHAT DID YOU SEE WHEN YOU ENTERED THAT BEDROOM?

17 A. IT WAS KIND OF AN UNUSUAL ROOM. IT WAS A BEDROOM, ONE  
18 WINDOW OVERLOOKING THE MAIN ROAD. OF COURSE, THE WINDOW WAS  
19 HEAVILY BARRED.

20 TWO OF THE TWO WALLS WERE ALMOST COMPLETELY COVERED  
21 BY GUN RACKS, HUGE FLOOR-TO-CEILING GUN RACKS. THERE WAS ONE  
22 CARPET INSIDE THE BEDROOM AND THERE WAS A SINGLE BED IN THE  
23 BEDROOM WITH BED CLOTHING ON IT.

24 Q. WERE THERE ANY GUNS IN THESE GUN RACKS?

25 A. NO. THERE WAS NO GUNS AT ALL, NO WEAPONS.

1 Q. WOULD YOU HAVE AN ESTIMATE AS TO HOW MANY WEAPONS COULD  
2 BE HELD IN THOSE GUN RACKS?

3 A. I'D SAY --

4 MR. STOLAR: OBJECTION. RELEVANCY.

5 THE COURT: OVERRULED.

6 THE WITNESS: I'D SAY AT LEAST 50. I MEAN THERE WAS  
7 JUST ALMOST TWO COMPLETE WALLS.

8 BY MR. CARLTON:

9 Q. UPON ENTERING THE ROOM, DID YOU SEIZE ANY ITEMS OF  
10 EVIDENCE?

11 A. YES. THE FIRST THING I DID WAS TO SEIZE THE BED CLOTHING  
12 OFF OF THE BED, THE SPREAD, THE PILLOW CASE AND THE SHEETS,  
13 AND I PACKAGED THESE ITEMS.

14 Q. NOW, IF YOU WOULD LOOK AT WHAT HAS BEEN MARKED AS EXHIBIT  
15 123, DO YOU RECOGNIZE THAT?

16 A. YES, I DO.

17 Q. WHAT IS THAT?

18 A. GOVERNMENT'S EXHIBIT 123 IS A, BASICALLY, A FLORAL PRINT  
19 PILLOW CASE THAT I REMOVED OFF OF THE BED IN THE UPSTAIRS  
20 BEDROOM AT 881 LOPE DE VEGA.

21 Q. AFTER YOU REMOVED IT, WHAT DID YOU DO WITH IT?

22 A. IT WAS PACKAGED IN THIS ZIPLOCK BAG AND, AGAIN,  
23 EVENTUALLY RETURNED TO THE D.E.A. OFFICE.

24 Q. IN GUADALAJARA?

25 A. IN GUADALAJARA, RIGHT.

1 MR. CARLTON: I WOULD MOVE THAT THIS BE RECEIVED,  
2 YOUR HONOR.

3 THE COURT: IT MAY BE RECEIVED.

4 (EXHIBIT # 123 RECEIVED IN EVIDENCE.)

5 BY MR. CARLTON:

6 Q. AFTER SEIZING THE BEDCLOTHES IN THE ROOM, WHAT DID YOU DO  
7 NEXT?

8 A. I THEN DIVIDED THE CARPET INTO TWO QUADRANTS. THIS  
9 CARPET WASN'T NEARLY AS LARGE AS THE CARPET IN THE GUEST  
10 HOUSE -- AND PROCEEDED TO PROCESS IT FOR HAIRS AND FIBERS.

11 Q. YOU VACUUMED IT, AS YOU HAD THE GUEST HOUSE?

12 A. YES, I DID, EXACTLY.

13 Q. AND WHAT DID YOU DO WITH THE DEBRIS THAT YOU VACUUMED UP?

14 A. IT WAS PUT INTO ZIPLOCK BAGS.

15 Q. AFTER YOU FINISHED PROCESSING THE ROOM WITH YOUR VACUUM  
16 CLEANER, WHAT DID YOU DO NEXT IN YOUR CRIME SCENE  
17 INVESTIGATION?

18 A. WE THEN DECIDED TO PROCESS THE VOLKSWAGEN ATLANTIC THAT  
19 WAS UNDER THE CARPORT. IT WAS VERY DARK UNDER THE CARPORT SO  
20 WE ACTUALLY PUSHED THE CARPORT (SIC) OUT INTO THE MIDDLE OF  
21 THE REAR GROUNDS, OUT IN THE SUNLIGHT, SO WE COULD GET ENOUGH  
22 LIGHT TO DO THIS.

23 THE COURT: YOU SAID YOU PUSHED THE CARPORT?

24 THE WITNESS: NO, SIR, WE PUSHED THE CAR.

25 BY MR. CARLTON:

1 Q. I BELIEVE IN THE CART JUST NEXT TO YOUR WITNESS BOX WOULD  
2 BE TWO PHOTOGRAPHS MARKED 125-A AND -B. JUST TO THE RIGHT OF  
3 THE WITNESS BOX.

4 NOW, LOOKING AT 125-A, DO YOU RECOGNIZE THAT?

5 A. YES, I DO.

6 Q. WHAT IS IT?

7 A. EXHIBIT 125-A IS A PICTURE OF A VOLKSWAGEN ATLANTIC AS IT  
8 WAS PUSHED OUT INTO THE GROUNDS INTO THE SUNLIGHT, AND IT'S A  
9 PICTURE OF MYSELF PROCESSING THIS CAR FOR HAIRS AND FIBERS.

10 MR. CARLTON: I MOVE THAT THIS BE RECEIVED, YOUR  
11 HONOR.

12 THE COURT: THAT MAY BE RECEIVED.

13 (EXHIBIT # 125-A RECEIVED IN EVIDENCE.)

14 BY MR. CARLTON:

15 Q. AND THEN 125-B, CAN YOU TELL US WHAT THAT IS?

16 A. 125-B IS A PHOTOGRAPH OF THE LATENT FINGERPRINT  
17 SPECIALIST PROCESSING THE VOLKSWAGEN ATLANTIC FOR LATENT  
18 FINGERPRINTS AFTER I HAD FINISHED MY VACUUMING.

19 MR. CARLTON: I MOVE THAT THIS BE RECEIVED.

20 THE COURT: THAT MAY BE RECEIVED.

21 (EXHIBIT # 125-B RECEIVED IN EVIDENCE.)

22 BY MR. CARLTON:

23 Q. NOW, CAN YOU TELL US WHAT IT WAS THAT YOU DID IN RELATION  
24 TO YOUR CRIME SCENE INVESTIGATION CONCERNING THIS VOLKSWAGEN  
25 ATLANTIC?

1 A. A CAR HAS TO BE PROCESSED SLIGHTLY DIFFERENTLY FROM A  
2 ROOM, OF COURSE, SO WHAT I DID WAS I FIRST WENT INTO THE  
3 VOLKSWAGEN ATLANTIC AND REMOVED ALL THE LOOSE ITEMS, PAPERS OR  
4 PARAPHERNALIA. WHATEVER WAS IN THE CAR, I REMOVED IT FROM THE  
5 GLOVE BOX, FROM THE FLOOR, WHATEVER, AND PACKAGED THESE  
6 SEPARATELY.

7 I THEN OPENED THE TRUNK, REMOVED ALL THE ITEMS FROM  
8 THE TRUNK AND PACKAGED THESE SEPARATELY. YOU THEN GO IN WITH  
9 WHAT IS KNOWN AS OBLIQUE LIGHTING, THAT'S LIGHTING FROM THE  
10 SIDE, TO SEE IF YOU COULD THE FIND ANY LOOSE HAIRS OR FIBERS  
11 THAT ARE GOING TO BE VISIBLE TO THE EYE. IF YOU SEE THESE  
12 FIBERS, YOU WILL REMOVE THEM SEPARATELY AND PLACE THEM IN  
13 ZIPLOCK BAGS.

14 AND THEN, FINALLY, WHAT YOU DO AGAIN IS SEPARATE THE  
15 CAR INTO QUADRANTS OR AREAS AND VACUUM EACH OF THESE AREAS  
16 SEPARATELY.

17 Q. AND THEN DID YOU, IN RELATION TO THIS VOLKSWAGEN, VACUUM  
18 THE INTERIOR OF THE CAR?

19 A. YES, I DID.

20 Q. WHICH AREAS?

21 A. I DIVIDED IT INTO FOUR AREAS. THE FRONT FLOOR, THE FRONT  
22 SEAT, THE REAR FLOOR, THE REAR SEAT, AND -- FIVE AREAS,  
23 ACTUALLY -- AND THE TRUNK.

24 Q. NOW IF WOULD YOU LOOK IN FRONT OF YOU AT THE EXHIBIT  
25 MARKED 126, DO YOU SEE THAT? DO YOU RECOGNIZE THAT?

1 A. YES.

2 Q. WHAT IS IT?

3 A. GOVERNMENT'S EXHIBIT 126 IS THE ZIPLOCK BAG CONTAINING  
4 THE VACUUM SWEEPINGS AND FILTER FROM THE FRONT FLOOR OF THE  
5 VOLKSWAGEN.

6 Q. NOW, AFTER YOU FINISHED VACUUMING THAT PORTION OF THE  
7 CAR, WHAT DID YOU DO WITH THE SWEEPINGS?

8 A. THEY WERE RETURNED TO THE D.E.A. OFFICE IN GUADALAJARA.

9 Q. YOU SEALED THEM IN A BAG?

10 A. YES, I DID.

11 Q. LOOKING THEN AT 127, DO YOU RECOGNIZE THAT?

12 A. YES, I DO.

13 Q. WHAT IS IT?

14 A. GOVERNMENT'S EXHIBIT 127, AGAIN, IS A ZIPLOCK BAG. THIS  
15 CONTAINS THE VACUUM FILTER AND SWEEPINGS FROM THE REAR FLOOR  
16 OF THE VOLKSWAGON ATLANTIC.

17 Q. AND AFTER YOU COLLECTED THAT VACUUM DEBRIS, DID YOU ALSO  
18 SEAL IT IN A ZIPLOCK BAG?

19 A. YES, I DID.

20 MR. CARLTON: YOUR HONOR, I MOVE THAT EXHIBITS 126  
21 AND 127 BE RECEIVED.

22 THE COURT: THEY MAY BE RECEIVED.

23 (EXHIBITS # 126 AND 127 RECEIVED IN EVIDENCE.)

24 BY MR. CARLTON:

25 Q. DID YOU HAVE OCCASION TO COLLECT ANY HAIRS FROM THESE

1 VACUUM SWEEPINGS?

2 A. YES, SEVERAL.

3 Q. DID YOU HAVE OCCASION TO COMPARE THOSE SAMPLES AT A LATER  
4 DATE?

5 A. YES, I DID.

6 Q. AFTER YOU FINISHED YOUR EXAMINATION OF THIS VOLKSWAGEN,  
7 WHAT DID YOU DO NEXT?

8 A. IT WAS AROUND MID-DAY, WE DECIDED TO BREAK FOR LUNCH AND  
9 TAKE A BREAK.

10 AFTER WE DID THIS, FOR SOME REASON -- FOR SOME  
11 REASON, OUR FEDERALE GUARDS WERE NO LONGER WITH US. THEY HAD  
12 SEEMED LIKE THEY HAD LOST INTEREST AND THEY WERE ALL IN THE  
13 MAIN PART OR THE FRONT RESIDENCE AT 881.

14 SO RON RAWALT AND MYSELF KIND OF WANDERED OFF TO DO  
15 A GROUND SEARCH. WE HAD WANTED TO DO THIS ALL ALONG IN ORDER  
16 TO LOOK OVER THE GROUNDS TO SEE IF THERE WAS SOMETHING THERE  
17 THAT MAYBE HAD BEEN MISSED.

18 Q. SO WHAT DID YOU DO IN RELATION TO THIS GROUND SEARCH?

19 A. WELL, WE WALKED ALL OVER THE ENTIRE GROUNDS AND FINALLY  
20 ENDED UP AT THE TENNIS COURT TO THE VERY REAR OF THE  
21 RESIDENCE.

22 Q. AND DID YOU FIND SOMETHING OF SIGNIFICANCE AT THAT  
23 LOCATION?

24 A. YES, AS WE WERE WALKING AROUND THE TENNIS COURT -- IT WAS  
25 A VERY SUNNY DAY -- WE CAUGHT A GLIMPSE OF BLUE COLOR IN ONE



1 OF THE GRATES ALONGSIDE THE TENNIS COURT.

2 WE WALKED OVER TO THE GRATE. THESE WERE GRATES ON  
3 EACH SIDE OF THE TENNIS COURT WHICH WERE SET INTO THE MACADAM.  
4 WE LOOKED STRAIGHT DOWN INTO THE GRATE, AND THERE APPEARED TO  
5 BE A FOLDED UP LICENSE PLATE AT THE BOTTOM OF THE DRAIN.

6 Q. WHAT DID YOU DO NEXT?

7 A. WELL, WE WANTED TO RETRIEVE THE PLATE, BUT, AGAIN, THE  
8 IRON GRATE COVERING THE DRAIN WAS SET INTO THE MACADAM. WE  
9 COULD NOT GET IT OUT.

10 WHAT I DID WAS I LEFT RON BACK THERE WITH THE PLATE  
11 AND I WANDERED UP TO THE FRONT, OR THE MAIN RESIDENCE, AND  
12 ASKED THE FEDERALES IF THEY HAD A CROW BAR THAT I COULD  
13 BORROW.

14 Q. DID YOU RETURN TO THE LOCATION WHERE YOU HAD SEEN THE  
15 LICENSE PLATE?

16 A. YES. I WAS UNSUCCESSFUL WITH THE CROW BAR -- THEY SAID  
17 THEY DIDN'T HAVE ONE -- SO I WENT BACK TO THE TENNIS COURT.  
18 BUT BY THIS TIME, I HAD ALMOST THE ENTIRE CONTINGENT OF  
19 FEDERALES WITH ME.

20 Q. HAD THEIR INTEREST IN YOUR ACTIVITIES CHANGED?

21 A. BASICALLY, THEY WANTED TO KNOW WHY I NEEDED A CROW BAR.

22 Q. WHEN YOU GOT BACK TO THE TENNIS COURT, WHAT DID YOU FIND?

23 A. BY THE TIME I GOT BACK TO THE TENNIS COURT, I FOUND THAT  
24 SPECIAL AGENT RAWALT HAD MANAGED TO GET THE IRON GRATE OUT OF  
25 THE MACADAM USING A HEAVY WIRE, WHICH HE MOVED UNDER THE

1 GRATE, AND WAS ABLE TO PULL IT OUT AND WAS PHOTOGRAPHING A  
2 FOLDED LICENSE PLATE THAT WAS AT THE BOTTOM OF THE DRAIN.

3 Q. IF YOU WOULD, PLEASE, LOOK AT WHAT HAS BEEN MARKED AS  
4 EXHIBITS 109-A AND -B. AGENT MALONE, DO YOU RECOGNIZE THOSE  
5 TWO PHOTOGRAPHS?

6 A. YES, I DO.

7 Q. AND WHAT ARE THEY?

8 A. GOVERNMENT'S EXHIBIT 109-A IS A PICTURE OF THE FOLDED  
9 LICENSE PLATE AT THE BOTTOM OF THE DRAIN NEXT TO THE TENNIS  
10 COURT, WITH THE IRON GRATE REMOVED.

11 Q. WHAT IS 109-B, IF YOU RECOGNIZE IT?

12 A. 109-B IS THE PHOTO OF THE LICENSE PLATE AFTER IT WAS  
13 REMOVED FROM THE DRAIN AND PLACED ON A WROUGHT IRON BENCH AND  
14 UNFOLDED.

15 MR. CARLTON: YOUR HONOR, I MOVE THAT 109-A AND -B  
16 BE RECEIVED.

17 MR. STOLAR: WE WOULD OBJECT ON RELEVANCE GROUNDS AT  
18 THIS POINT.

19 THE COURT: OVERRULED.

20 THEY MAY BE RECEIVED.

21 (EXHIBITS # 109-A AND 109-B RECEIVED IN EVIDENCE.)

22 BY MR. CARLTON:

23 Q. NOW, AGENT MALONE, DID YOU NOTICE IN THE COURSE OF YOUR  
24 PROCESSING OF THE VW, THE VOLKSWAGEN, WHETHER IT HAD ANY  
25 LICENSE PLATES?

1 A. NO, IT DID NOT.

2 Q. DID YOU NOTICE WHETHER THERE WAS ANY MECHANISM ON THE  
3 VOLKSWAGEN FOR AFFIXING LICENSE PLATES?

4 A. WHILE IT HAD NO LICENSE PLATES, THE FRONT BUMPER HAD TWO  
5 WIRES WHERE IT APPEARED AS IF SOMETHING LIKE A LICENSE PLATE  
6 HAD BEEN ATTACHED TO THE BUMPER.

7 Q. NOW, DID YOU CONTINUE WITH YOUR CRIME SCENE INVESTIGATION  
8 AT LOPE DE VEGA AFTER FINDING THIS LICENSE PLATE?

9 A. NO, THE CRIME SCENE (SIC) CAME TO A SUDDEN HALT.

10 Q. AND WHY WAS THAT?

11 A. AFTER WE FOUND THE LICENSE PLATE, THE FEDERALES BECAME SO  
12 UPSET THAT THEY WOULD NOT LET US SEARCH ANY MORE AND  
13 IMMEDIATELY CALLED THEIR COMANDANTE AT FEDERALE HEADQUARTERS,  
14 WHICH IS ABOUT A 20-MINUTE DRIVE FROM 881 LOPE DE VEGA.

15 HE ADVISED THEM NOT TO LET US SEARCH ANY FURTHER AND  
16 NOT TO REMOVE THE LICENSE PLATE.

17 Q. SO, AT THAT POINT DID YOUR SEARCH COME TO AN END?

18 A. VERY SUDDENLY, YES.

19 Q. WERE YOU ABLE TO RETAIN THIS LICENSE PLATE?

20 A. NO. THE LICENSE PLATE WAS SEIZED FROM US. THEY DID  
21 ALLOW US TO PHOTOGRAPH AND PROCESS IT FOR FINGERPRINTS, BUT  
22 THEY SEIZED IT FROM US AND I HAVE NOT SEEN IT TO THIS DAY.

23 Q. NOW, AT THE CONCLUSION OF YOUR CRIME SCENE SEARCH ON  
24 APRIL 13TH, WHAT DID YOU DO WITH ALL OF THE ITEMS THAT YOU HAD  
25 SEIZED AND GATHERED THAT DAY?

1 A. WE HAD GATHERED FIVE LARGE PLASTIC BAGS OF EVIDENCE FROM  
2 THE VARIOUS ROOMS AND THE CAR AND WHAT WE HAD COLLECTED FROM  
3 THE GROUNDS. THEY WERE ALL SITTING ON THE PORCH OF THE MAIN  
4 HOUSE.

5 THEY WERE REMOVED RATHER SUDDENLY FROM THE RESIDENCE  
6 AND TAKEN STRAIGHT BACK TO D.E.A. OFFICE IN GUADALAJARA.

7 Q. BY YOU?

8 A. CORRECT.

9 Q. NOW, IN RELATION TO ALL OF THESE ITEMS THAT YOU GATHERED  
10 AT THE LOPE DE VEGA RESIDENCE ON APRIL 12TH AND APRIL 13TH, I  
11 BELIEVE YOU TESTIFIED THAT THEY WERE ALL TAKEN TO THE D.E.A.  
12 OFFICE IN GUADALAJARA?

13 A. THAT'S CORRECT.

14 Q. FROM THAT LOCATION, WHERE WERE THEY SENT IF YOU KNOW?

15 A. THEY WERE PLACED IN THE DIPLOMATIC POUCH FROM THE U.S.  
16 CONSULATE AND SENT STRAIGHT UP TO THE -- THEY WERE SUPPOSED TO  
17 GO TO THE STATE DEPARTMENT IN WASHINGTON, D.C. -- THEY CAME TO  
18 US FIRST.

19 Q. ALL OF THESE ITEMS WERE SEALED PRIOR TO BEING PLACED IN  
20 THE DIPLOMATIC POUCH?

21 A. YES, THEY WERE.

22 Q. DID YOU THEN RECEIVE THIS DIPLOMATIC POUCH IN WASHINGTON,  
23 D.C.?

24 A. YES.

25 Q. AT THE F.B.I. LAB?

1 A. CORRECT.

2 Q. DID YOU EXAMINE ALL OF ITEMS THAT YOU HAD PLACED IN THE  
3 POUCH IN MEXICO?

4 A. YES, I DID.

5 Q. AND WERE ALL OF THESE ITEMS STILL SEALED IN THE MANNER  
6 THAT YOU HAD SEALED THEM UPON YOUR SEEING THEM AGAIN IN THE  
7 DIPLOMATIC POUCH?

8 A. YES, THEY WERE IN EXACTLY THE SAME CONDITION.

9 Q. ONCE YOU --

10 WELL, STRIKE THAT.

11 IF YOU WOULD, PLEASE, LOOK AT WHAT HAS BEEN MARKED  
12 AS EXHIBITS 106 AND 107. 107 -- LET'S STICK WITH THAT.

13 DO YOU SEE THAT?

14 A. YES, I DO.

15 Q. AND HAVE YOU -- WELL, WHAT ARE THESE? WHAT IS EXHIBIT  
16 107?

17 A. EXHIBIT 107 IS A ZIPLOCK PLASTIC BAG. INSIDE IS THE  
18 VACUUM SWEEPINGS AND FILTER FROM WHAT WAS DESIGNATED AS  
19 BEDROOM NUMBER FOUR OF 881 LOPE DE VEGA.

20 Q. HAVE YOU EXAMINED THOSE?

21 A. YES, I HAVE.

22 Q. WHEN DID YOU EXAMINE THEM?

23 A. I RECEIVED THESE ITEMS AT THE F.B.I. LAB FROM SPECIAL  
24 AGENT RAWALT IN -- SPECIFICALLY, IN JUNE OF 1985.

25 Q. NOW, DID YOU ALSO AT THAT TIME RECEIVE FROM SPECIAL AGENT

1 RAWALT VACUUM SWEEPINGS FROM THE BATHROOM ADJACENT TO BEDROOM  
2 NUMBER FOUR?

3 A. YES, I DID.

4 Q. WHEN YOU SAY YOU RECEIVED THEM, HOW DID YOU RECEIVE THEM?

5 A. WELL, THEY WERE TAKEN DIRECTLY TO THE EVIDENCE CONTROL  
6 CENTER AT THE LAB. SPECIAL AGENT RAWALT TOOK CONTROL OF THEM  
7 AT THAT POINT AND THEN GAVE THEM DIRECTLY TO ME.

8 Q. WERE THEY IN SEALED BAGS?

9 A. YES. THEY HAD NEVER BEEN OPENED.

10 Q. DID YOU HAVE OCCASION THEN TO EXAMINE THE VACUUM  
11 SWEEPINGS FROM BEDROOM NUMBER FOUR AND THE ADJACENT BATHROOM?

12 A. YES, I DID.

13 Q. DID YOU FIND HAIRS IN THOSE VACUUM SWEEPINGS?

14 A. YES, I DID.

15 Q. DO YOU LATER HAVE OCCASION THEN TO COMPARE THOSE HAIRS  
16 FOR IDENTIFICATION PURPOSES?

17 A. YES, I DID.

18 Q. LOOKING AT WHAT HAS BEEN MARKED AS EXHIBITS 103 AND 104,  
19 IF YOU WOULD.

20 A. 103?

21 Q. YES. THAT IS A RATHER LARGE EXHIBIT, A LARGE BAG WITH A  
22 FLOOR MAT IN IT.

23 DO YOU RECOGNIZE EXHIBIT 103?

24 A. YES, I DO.

25 Q. HOW DO YOU RECOGNIZE THAT?

1 A. WELL, IT HAS A SPECIMEN NUMBER AND MY INITIALS ON IT.

2 Q. WHEN DID YOU FIRST SEE IT?

3 A. I RECEIVED THIS ITEM FROM SPECIAL AGENT OAKES OF THE  
4 F.B.I. LAB. THIS WAS IN MARCH OF 1985.

5 Q. AGAIN LOOKING AT 104, IF YOU WOULD. EXHIBIT 104 SHOULD  
6 BE A SMALL CONTAINER OF VACUUM SWEEPINGS AS WELL.

7 THE COURT: NOT UP HERE.

8 THE WITNESS: I'M SORRY. I HAVE IT NOW.

9 THE COURT: ALL RIGHT.

10 BY MR. CARLTON:

11 Q. DO YOU RECOGNIZE EXHIBIT 104?

12 A. YES, I DO.

13 Q. WHAT IS THAT?

14 A. GOVERNMENT'S EXHIBIT 104, AGAIN, IS A SMALL ZIPLOCK  
15 PLASTIC BAG. INSIDE THE PLASTIC BAG ARE A PILLBOX, VACUUM  
16 SWEEPINGS AND THE FILTER FROM THE FRONT SEAT OF A MERCURY  
17 GRAND MARQUIS.

18 Q. NOW, WHEN DID YOU FIRST RECEIVE THESE ITEMS, EXHIBITS 103  
19 AND 104?

20 A. IN MARCH OF 1985.

21 Q. HOW DID YOU RECEIVE IT?

22 A. I RECEIVED THEM DIRECTLY FROM SPECIAL AGENT OAKES OF  
23 THE --

24 Q. WERE THEY SEALED IN AN EVIDENCE BAG AT THAT TIME?

25 A. YES, THEY WERE.

1 Q. DID YOU MAINTAIN CUSTODY OF THEM AFTER THAT?

2 A. YES, I DID.

3 Q. DID YOU HAVE OCCASION TO COLLECT HAIRS FROM THESE TWO  
4 ITEMS?

5 A. YES, I DID.

6 Q. AND LATER ON, DID YOU HAVE OCCASION THEN TO COMPARE THESE  
7 HAIRS FOR IDENTIFICATION PURPOSES?

8 A. YES, I DID.

9 Q. DID YOU, AFTER YOUR -- WELL, WHEN DID YOU RETURN TO THE  
10 UNITED STATES AFTER YOU COMPLETED YOUR CRIME SCENE  
11 INVESTIGATION AT LOPE DE VEGA ON APRIL 13TH?

12 A. I CAME BACK ABOUT TWO DAYS AFTER THAT, IN APRIL OF 1985.

13 Q. AT A LATER DATE THEN, DID YOU RETURN TO GUADALAJARA?

14 A. YES. IN NOVEMBER OF 1985, I WAS NOTIFIED BY D.E.A. THAT  
15 CERTAIN ITEMS OF EVIDENCE WERE BEING MADE AVAILABLE TO THEM BY  
16 THE FEDERALES.

17 MR. MEZA: OBJECTION AND MOVE TO STRIKE.

18 MR. STOLAR: MOVE TO STRIKE FOR HEARSAY.

19 THE COURT: OVERRULED. THE QUESTION WAS DID YOU GO  
20 THERE, NOT WHY DID YOU GO THERE.

21 THE WITNESS: YES, YOUR HONOR. I DID.

22 BY MR. CARLTON:

23 Q. WHAT WAS YOUR PURPOSE IN GOING THERE?

24 A. I WAS GOING THERE TO EXAMINE CERTAIN ITEMS OF EVIDENCE  
25 THAT WERE GOING TO BE TURNED OVER TO ME BY THE MEXICAN



1 AUTHORITIES .

2 Q. AND WHEN WAS IT THAT YOU WENT TO GUADALAJARA?

3 A. IT WAS NOVEMBER -- I FIRST FLEW DOWN ON NOVEMBER 25,  
4 1985 .

5 Q. WHEN DID YOU ARRIVE?

6 A. NOVEMBER 25TH, LATE IN THE AFTERNOON .

7 Q. DID YOU EVENTUALLY THEN MEET WITH THE MEXICAN AUTHORITIES  
8 IN ORDER TO OBTAIN THESE ITEMS OF EVIDENCE THAT YOU HAD BEEN  
9 INFORMED OF?

10 A. YES. I WAS ABLE THE NEXT MORNING TO MEET THE FORENSIC  
11 PEOPLE FROM THE M.F.J.P., AND ALSO TALK TO THE CHIEF  
12 PROSECUTOR AT THE PROSECUTOR'S OFFICE, THE POLICIO FEDERALE IN  
13 GUADALAJARA .

14 Q. IS THAT WHERE YOU MET THE MEXICAN FORENSIC PERSONS AS  
15 WELL?

16 A. NO, I TALKED TO THE MEXICAN FORENSIC PEOPLE AT M.F.J.P.  
17 HEADQUARTERS. I WAS THEN TAKEN TO THE POLICIO FEDERALE TO  
18 TALK TO THE PROSECUTOR .

19 Q. AND THIS IS IN GUADALAJARA?

20 A. CORRECT .

21 Q. WAS THIS ON NOVEMBER 26, 1985?

22 A. YES, IT WAS .

23 Q. NOW, I'D ASK TO YOU LOOK AT WHAT HAS BEEN MARKED AS  
24 EXHIBIT 128 .

25 A. YES .

1 Q. DO YOU RECOGNIZE THAT?

2 A. YES, I DO.

3 Q. WHAT IS IT?

4 A. GOVERNMENT'S EXHIBIT 128 IS A ZIPLOCK PLASTIC BAG.  
5 INSIDE OF THIS BAG IS A SMALL, STAINED SAMPLE OF WHAT WAS  
6 REPRESENTED AS BEING THE BURIAL SHEET OF SPECIAL AGENT  
7 CAMARENA.

8 MR. STOLAR: OBJECTION, YOUR HONOR. MOVE TO STRIKE.

9 MR. MEZA: OBJECTION.

10 THE COURT: YES, THE ANSWER REGARDING WHAT IT WAS  
11 REPRESENTED TO BE IS STRICKEN.

12 BY MR. CARLTON:

13 Q. THIS WAS PROVIDED TO YOU BY WHOM?

14 A. THE PROSECUTOR.

15 Q. THE MEXICAN PROSECUTOR?

16 A. CORRECT.

17 Q. NOW, DID YOU NOTICE ANYTHING OF SIGNIFICANCE ABOUT THIS  
18 SAMPLE OF THE SHEET?

19 MR. STOLAR: OBJECTION. IT IS NOT IN EVIDENCE AND I  
20 DON'T THINK HE SHOULD BE ABLE TO DESCRIBE IT. THERE IS NO  
21 FOUNDATION.

22 THE COURT: HE'S TRYING TO GET IT INTO EVIDENCE.

23 MR. STOLAR: I KNOW. THERE IS NO FOUNDATION FOR  
24 WHERE THE SHEET WAS IF, INDEED, THAT'S WHAT IT IS.

25 THE COURT: DO YOU INTEND TO TIE THIS UP?

1 MR. CARLTON: ABSOLUTELY, YOUR HONOR. WE'LL TIE  
2 THIS UP IN THE CURSE OF THIS EXAMINATION.

3 THE COURT: WELL, I SUGGEST YOU DO THAT FIRST.

4 MR. CARLTON: YOUR HONOR, THIS WILL BE TIED UP  
5 THROUGH THE LENGTH OF AGENT MALONE'S EXAMINATION IN RELATION  
6 TO THE PATTERN, THE IDENTITY, THE DESCRIPTION OF THIS SHEET  
7 AND VARIOUS ITEMS THAT WERE FOUND ON IT THAT --

8 THE COURT: IS THE WITNESS GOING TO EXPRESS AN  
9 OPINION COMPARING THIS TO SOME OTHER EXHIBIT?

10 MR. CARLTON: YES, YOUR HONOR.

11 MR. STOLAR: YOUR HONOR, HE GOT THIS FROM THE CHIEF  
12 PROSECUTOR IN GUADALAJARA. WHERE DID THE CHIEF PROSECUTOR GET  
13 IT FROM? MAYBE HE DOESN'T KNOW. WE DON'T KNOW.

14 THE COURT: ALL RIGHT. YOU MAY PROCEED.

15 BY MR. CARLTON:

16 Q. DID YOU NOTICE ANYTHING OF SIGNIFICANCE ABOUT THIS SHEET?

17 A. YES, IT WAS BADLY STAINED AND SMELLED OF DECOMPOSING BODY  
18 FLUIDS.

19 Q. ARE THESE FLUIDS THAT YOU HAVE SMELLED ON PRIOR  
20 OCCASIONS?

21 A. MANY OCCASIONS.

22 Q. IS IT A PARTICULAR, UNIQUE ODOR?

23 A. YES, IT'S VERY UNIQUE. IT DOESN'T SMELL LIKE ANYTHING  
24 ELSE IN THE WORLD.

25 Q. WAS THERE A PARTICULAR TEXTURE?

1 A. IT'S VERY GREASY AND OILY.

2 Q. AND IN YOUR WORK AT THE F.B.I. LAB, HAVE YOU HAD OCCASION  
3 IN THE PAST TO EXAMINE ITEMS THAT HAVE COME INTO CONTACT WITH  
4 DECOMPOSING BODIES?

5 A. OH, YES, HUNDREDS OF THEM.

6 Q. DOES THAT GREASY, OILY TEXTURE THAT YOU'VE JUST  
7 DESCRIBED, IN YOUR EXPERIENCE, HAVE SOME RELATIONSHIP TO BEING  
8 IN CONTACT WITH DECOMPOSING BODIES?

9 A. YES. IT'S BASICALLY THE BODY FATS BREAKING DOWN INTO A  
10 LIQUIFIED STATE AND WILL BE ABSORBED INTO THE FABRIC.

11 Q. WAS THERE SOMETHING IN THE -- DID YOU NOTICE ANYTHING  
12 ABOUT THE PATTERN, IF THERE WAS ONE ON THE SHEET, THAT WAS OF  
13 SIGNIFICANCE TO YOU?

14 A. YES, I IMMEDIATELY NOTED THAT EXCEPT FOR THE COLOR, THE  
15 PATTERN AND THE WEAVE AND THE CONSTRUCTION AND EVERYTHING  
16 ABOUT THIS PIECE OF FABRIC WAS LIKE THE PILLOW CASE THAT I  
17 REMOVED FROM THE UPSTAIRS BEDROOM OF 881 LOPE DE VEGA SEVERAL  
18 MONTHS EARLIER.

19 Q. WHEN YOU SAY EVERYTHING BUT THE COLOR, HOW WAS THE COLOR  
20 DIFFERENT?

21 A. THE PILLOW CASE HAD A BLUE BACKGROUND. THE PIECE OF  
22 FABRIC THAT I GOT FROM THE, PROSECUTOR IT WAS KIND OF A  
23 GREENISH BACKGROUND.

24 Q. NOW, IF YOU WOULD, LOOK THEN AT EXHIBIT 129. DO YOU  
25 RECOGNIZE THAT?

1 A. YES, I DO.

2 Q. WHAT IS THAT?

3 A. EXHIBIT 129 IS A SMALL PILLBOX IN A ZIPLOCK BAG, AND THIS  
4 CONTAINS ALL THE DEBRIS, EXTRANEIOUS HAIRS, FIBERS, DIRT,  
5 WHATEVER, THAT I TOOK OFF OF EXHIBIT 128, THE PIECE OF FABRIC.

6 Q. AND DID YOU LATER HAVE OCCASION THEN TO FIND CARPET  
7 FIBERS IN THAT DEBRIS?

8 A. YES, I DID.

9 Q. IN THE COURSE OF YOUR INVESTIGATION, DID YOU COMPARE  
10 THOSE CARPET FIBERS FOR PURPOSES OF IDENTIFICATION?

11 A. YES, I DID.

12 Q. ALL RIGHT. LOOKING AT WHAT HAS BEEN MARKED AS EXHIBIT  
13 130, IF YOU WOULD. ARE YOU RUNNING OUT OF ROOM?

14 A. I THINK I CAN MANAGE, THANK YOU.

15 Q. ALL RIGHT. DO YOU RECOGNIZE EXHIBIT 130?

16 A. YES, I DO.

17 Q. WHAT IS IT?

18 A. GOVERNMENT'S EXHIBIT 130, AGAIN, IS A SMALL ZIPLOCK  
19 PLASTIC BAG AND CONTAINS FABRIC THAT WAS GIVEN TO ME BY THE  
20 FEDERAL PROSECUTOR IN GUADALAJARA.

21 Q. DID YOU NOTICE ANYTHING ABOUT THE FABRIC, THIS PARTICULAR  
22 PIECE OF FABRIC, THAT YOU CONSIDERED TO BE SIGNIFICANT?

23 MR. STOLAR: SAME OBJECTION FOR THE RECORD, YOUR  
24 HONOR.

25 THE COURT: OVERRULED.

1 THE WITNESS: YES, I DID. IT WAS EXACTLY THE SAME  
2 COLOR, PATTERN, CONSTRUCTION AS THE PILLOW CASE THAT I REMOVED  
3 FROM THE UPSTAIRS BEDROOM OF 881 LOPE DE VEGA.

4 Q. SO IN ALL RESPECTS VISIBLE TO THE NAKED EYE THIS APPEARED  
5 TO BE AN IDENTICAL PIECE OF FABRIC?

6 A. IT WAS EXACTLY THE SAME.

7 Q. LOOKING AT WHAT HAS BEEN MARKED AS EXHIBIT 131. DO, YOU  
8 RECOGNIZE THAT?

9 A. YES, I DO.

10 Q. WHAT IS THAT?

11 A. GOVERNMENT'S EXHIBIT 131 IS A SMALL ZIPLOCK PLASTIC BAG.  
12 NOW WITHIN THIS BAG ARE EVEN SMALLER ZIPLOCK BAGS CONTAINING  
13 ROPE, STAINED ROPE THAT WAS GIVEN TO ME BY THE PROSECUTOR AT  
14 GUADALAJARA.

15 Q. DID YOU NOTICE A DISTINCTIVE ODOR WHEN YOU OBTAINED THESE  
16 PIECES OF ROPE FROM THE PROSECUTOR?

17 A. YES, I DID.

18 Q. WHAT WAS THAT ODOR?

19 A. AGAIN, IT WAS THE CHARACTERISTIC ODOR OF DECOMPOSING BODY  
20 FLUIDS.

21 Q. LIKewise, DID THESE PIECES OF ROPE HAVE THAT SAME GREASY  
22 TEXTURE THAT THE SAMPLE SHEET HAD HAD?

23 A. YES, IT DID.

24 Q. LOOKING AT WHAT HAS BEEN MARKED AS EXHIBIT 132, DO YOU  
25 RECOGNIZE THAT?

1 A. YES, I DO.

2 Q. WHAT IS IT?

3 A. GOVERNMENT'S EXHIBIT 132, AGAIN, IS A LARGE ZIPLOCK BAG  
4 CONTAINING A SMALL BAG. NOW, WITHIN THE SMALL BAG IS A CLEAN  
5 SAMPLE OF ROPE VERY SIMILAR TO THE ROPE IN GOVERNMENT'S  
6 EXHIBIT 131.

7 Q. THIS WAS ALSO PROVIDED TO YOU BY THE PROSECUTOR IN  
8 GUADALAJARA?

9 A. YES, IT WAS.

10 Q. AND WHEN YOU SAY "CLEAN", THIS ITEM. THIS PIECE OF ROPE,  
11 DID NOT HAVE ANY ODOR OR GREASY TEXTURE TO IT?

12 A. NO ODOR, NO GREASY TEXTURE, NO STAINS.

13 Q. WHAT DID YOU DO WITH ALL OF ITEMS THAT YOU RECEIVED FROM  
14 THE PROSECUTOR IN GUADALAJARA?

15 A. I TOOK THEM DIRECTLY BACK TO THE LAB MYSELF IN  
16 WASHINGTON, D.C.

17 Q. YOU SEALED THEM UP IN GUADALAJARA?

18 A. YES, I DID.

19 Q. HOW DID YOU DO THAT?

20 A. I SEALED THEM IN ZIPLOCK BAGS AND THEN SEALED THEM  
21 ACTUALLY WITH EVIDENCE TAPE.

22 Q. DID YOU TAKE THEM BACK YOURSELF TO WASHINGTON, D.C.?

23 A. YES, I DID.

24 Q. WHAT DID YOU DO WITH THEM THERE?

25 A. I EXAMINED THESE ITEMS AT THE LAB.

1 Q. NOW, HAVE YOU EVER MET AN INDIVIDUAL NAMED RENEE VERDUGO?

2 A. YES, I HAVE.

3 Q. WHEN WAS THAT?

4 A. I WAS ASKED TO GO OVER TO THE MARSHAL'S OFFICE --

5 MS. KELLY: OBJECTION, YOUR HONOR AND MOVE TO  
6 STRIKE. IT'S NONRESPONSIVE.

7 THE COURT: YES. HE ASKED YOU WHEN WAS IT THAT YOU  
8 MET HIM.

9 THE WITNESS: YES, YOUR HONOR. I FIRST MET MR.  
10 VERDUGO IN JANUARY OF 1986.

11 BY MR. CARLTON:

12 Q. WHAT WAS YOUR PURPOSE IN MEETING WITH HIM AT THAT TIME?

13 A. TO REMOVE HAIR SAMPLES FROM HIM.

14 Q. DID YOU, IN FACT, REMOVE THOSE HAIR SAMPLES FROM MR.  
15 VERDUGO?

16 A. YES, I DID.

17 Q. FROM WHICH PORTION OF HIS BODY?

18 A. I REMOVED A HEAD HAIR SAMPLE FROM HIS SCALP AREA AND A  
19 PUBIC HAIR SAMPLE, OF COURSE, FROM HIS PUBIC REGION.

20 Q. WHAT DID YOU DO WITH THESE HAIR SAMPLES AFTER REMOVING  
21 THEM?

22 A. I TOOK THEM DIRECTLY BACK TO THE LAB.

23 Q. DID YOU SEAL THEM IN SOME FASHION?

24 A. YES, I DID.

25 Q. HOW DID YOU DO THAT?



1 A. I PLACED THE HAIR SAMPLES IN ZIPLOCK BAGS AND THEN SEALED  
2 THEM WITH EVIDENCE TAPE.

3 Q. WOULD YOU PLEASE LOOK AT WHAT HAS BEEN MARKED AS EXHIBIT  
4 133.

5 A. YES.

6 Q. DO YOU RECOGNIZE THAT?

7 A. YES, I DO.

8 Q. WHAT IS IT?

9 A. GOVERNMENT'S EXHIBIT 133 IS A ZIPLOCK BAG. INSIDE WERE  
10 THE HEAD HAIR SAMPLES THAT I OBTAINED FROM RENEE VERDUGO.

11 Q. WHEN YOU TOOK THESE BACK TO THE F.B.I. LAB, DID YOU  
12 MAINTAIN CUSTODY OF THEM ALL THAT TIME?

13 A. YES, I DID.

14 Q. DID YOU LATER HAVE OCCASION TO EXAMINE THESE HAIRS FOR  
15 IDENTIFICATION PURPOSES?

16 A. YES, I DID.

17 Q. NOW, AT SOME POINT DID YOU RECEIVE SOME ITEMS CONNECTED  
18 WITH THIS INVESTIGATION THROUGH THE F.B.I. MAIL?

19 A. YES, I DID.

20 Q. WHAT DID YOU RECEIVE?

21 A. I RECEIVED ITEMS THAT -- I RECEIVED WHAT LOOKED LIKE A  
22 BLINDFOLD, ADHESIVE TAPE, BLINDFOLD AND ROPE.

23 Q. WELL, SPECIFICALLY, WHEN YOU OBTAINED THESE ITEMS IN THE  
24 MAIL, WHAT WAS THE FIRST THING THAT YOU SAW?

25 MR. STOLAR: OBJECTION TO DESCRIBING ITEMS. YOU

1 HAVE NO WAY OF KNOWING WHAT THEY ARE. FOUNDATION.

2 THE COURT: OVERRULED. YOU MAY ANSWER.

3 BY MR. CARLTON:

4 Q. DID YOU OBTAIN A PACKAGE IN THE MAIL?

5 A. YES. THEY WERE ALL INITIALLY IN A PLASTIC SHOPPING BAG  
6 WHICH WAS, OF COURSE, IN A D.E.A. ENVELOPE.

7 Q. WAS THE D.E.A. ENVELOPE SEALED?

8 A. YES, IT WAS.

9 Q. AND WAS THE D.E.A. ENVELOPE INSIDE ANYTHING ELSE?

10 A. YES, IT WAS INSIDE AN F.B.I. MAILING ENVELOPE, WHICH WAS  
11 ALSO SEALED.

12 Q. NOW, AFTER YOU OPENED UP THESE VARIOUS ENVELOPES, WHAT  
13 DID YOU FIND INSIDE THE PLASTIC SHOPPING BAG?

14 A. INSIDE THE PLASTIC SHOPPING BAG WERE A LARGE AMOUNT OF  
15 STAINED ADHESIVE TAPE WITH HAIRS ATTACHED TO IT AND A STAINED  
16 PIECE OF ROPE.

17 Q. DID THIS ADHESIVE TAPE HAVE ANY CHARACTERISTIC ODOR?

18 A. YES. IT WAS STAINED A BROWNISH COLOR AND IT HAD A VERY  
19 DISAGREEABLE ODOR, WHICH IS CONSISTENT WITH DECOMPOSING BODY  
20 FLUIDS.

21 Q. LIKewise, DID IT HAVE A CHARACTERISTIC TEXTURE?

22 A. YES. IT WAS VERY GREASY AND OILY.

23 Q. IF YOU WOULD, PLEASE, LOOK AT WHAT HAS BEEN MARKED AS  
24 EXHIBIT 64-A.

25 DO YOU RECOGNIZE THAT?

1 A. YES, I DO.

2 Q. WHAT IS IT?

3 A. GOVERNMENT'S EXHIBIT 64-A IS THE F.B.I. MAILING ENVELOPE  
4 THAT CONTAINED THOSE ITEMS THAT I REFERRED TO.

5 Q. AND 64-B?

6 A. 64-B IS THE D.E.A. EVIDENCE ENVELOPE WHICH WAS HEAT  
7 SEALED.

8 Q. IS THERE ANYTHING ELSE IN THERE AS WELL?

9 A. YES. THERE WAS A SMALL PACKAGE, JUST A SMALL PIECE OF  
10 PAPER, WHICH WAS SEALED.

11 Q. LOOKING AT 64-C, DO YOU RECOGNIZE THAT?

12 A. YES. 64-C IS THE ADHESIVE TAPE THAT I WAS REFERRING TO  
13 EARLIER.

14 Q. THE ADHESIVE TAPE WITH THE HAIRS ON IT?

15 A. WITH THE HAIRS AND THE BODY FLUIDS YES, SIR.

16 Q. I SEE. 64-D?

17 A. GOVERNMENT'S EXHIBIT 64-D ARE TWO PLASTIC PILLBOXES. ONE  
18 CONTAINS THE HAIRS THAT WERE ADHERING TO GOVERNMENT'S EXHIBIT  
19 64-C, THE ADHESIVE TAPE, AND THE SECOND CONTAINS A SMALL  
20 PORTION OR SMALL SAMPLE OF THAT ADHESIVE TAPE.

21 Q. NOW, DID YOU REMOVE THE HAIRS FROM THE ADHESIVE TAPE  
22 YOURSELF?

23 A. YES, I DID.

24 Q. AND YOU SEALED THEM IN THE PILLBOX?

25 A. YES, I DID.

1 Q. LIKewise, DID YOU REMOVE THAT SAMPLE OF ADHESIVE TAPE?

2 A. YES, I DID.

3 Q. DID YOU LATER HAVE OCCASION THEN TO COMPARE THESE HAIRS  
4 FOR PURPOSES OF IDENTIFICATION?

5 A. YES, I DID.

6 Q. LIKewise, DID YOU HAVE OCCASION ON A LATER DATE TO  
7 ANALYZE AND COMPARE THAT PIECE OF TAPE FOR PURPOSES OF  
8 IDENTIFICATION?

9 A. YES, I DID.

10 Q. LOOK AT 64-E, IF YOU WOULD. DO YOU RECOGNIZE THAT?

11 A. YES. GOVERNMENT'S EXHIBIT 64-E IS THE STAINED ROPE WHICH  
12 I REFERRED TO EARLIER.

13 Q. WAS THIS CONTAINED IN THE PLASTIC SHOPPING BAG?

14 A. YES, IT WAS PACKAGED WITH THE ADHESIVE TAPE.

15 Q. WHEN YOU SAY IT WAS STAINED, DID THIS ALSO HAVE THE  
16 CHARACTERISTIC ODOR OF DEATH?

17 A. YES. IT WAS GREASY, OILY AND HAD THE ODOR OF DECOMPOSING  
18 BODY FLUIDS.

19 Q. IF YOU WOULD LOOK, PLEASE, AT EXHIBIT 64-F. DO YOU  
20 RECOGNIZE THAT?

21 A. YES, I DO.

22 Q. WHAT IS IT?

23 A. GOVERNMENT'S EXHIBIT 64-F, AGAIN, IS A ZIPLOCK BAG. THIS  
24 CONTAINS A MUCH LARGER PORTION OF ADHESIVE TAPE WHICH WAS --  
25 HAD ACCOMPANIED THE PREVIOUS TAPE AND THE ROPE.

1 Q. AND DID THIS PIECE OF ADHESIVE TAPE HAVE THAT ODOR TO IT  
2 THAT YOU DESCRIBED?

3 A. YES, IT DID.

4 Q. AND THE SAME GREASY TEXTURE?

5 A. YES, IT DID.

6 Q. AND LASTLY, LOOKING AT EXHIBIT 64-G, IF YOU WOULD, DO YOU  
7 RECOGNIZE THAT?

8 A. YES, I DO.

9 Q. WHAT IS IT?

10 A. GOVERNMENT'S EXHIBIT 64-G IS A RED AND WHITE PLASTIC  
11 SHOPPING BAG WHICH ORIGINALLY CONTAINED THE ADHESIVE TAPE AND  
12 THE ROPE.

13 Q. ALL OF ITEMS THAT YOU JUST DESCRIBED?

14 A. YES.

15 MR. CARLTON: YOUR HONOR, WOULD THIS BE AN  
16 APPROPRIATE TIME TO RECESS?

17 THE COURT: YES. WE'LL TAKE OUR NOON RECESS AT THIS  
18 TIME.

19 (JURY EXCUSED.)

20 (NOON RECESS TAKEN.)

21

22

23

24

25

1 LOS ANGELES + CALIFORNIA TUESDAY, JUNE 19, 1990

2 + 1:30 P.M.

3  
4 (JURY PRESENT.)

5 THE COURT: YOU MAY PROCEED.

6 MICHAEL P. MALONE + PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

7 DIRECT EXAMINATION + CONTINUED

8 BY MR. CARLTON:

9 Q. AGENT MALONE, IF YOU WOULD LOOK AT ONE OF THE EXHIBITS IN  
10 FRONT OF YOU THAT'S BEEN MARKED AS EXHIBIT NO. 89, DO YOU  
11 RECOGNIZE THAT?

12 A. YES, I DO.

13 Q. WHEN DID YOU FIRST SEE THAT?

14 A. I FIRST SAW THIS ITEM IN JUNE OF 1986.

15 Q. AND WHERE?

16 A. THIS CAME INTO THE F.B.I. LABORATORY IN WASHINGTON, D.C.

17 Q. WAS IT RECEIVED BY YOU?

18 A. YES - IT WAS.

19 Q. AND WHEN YOU RECEIVED IT, HOW DID IT ARRIVE AT THE F.B.I.  
20 LAB?

21 A. IT ARRIVED BY MAIL FROM D.E.A.

22 Q. WAS IT CONTAINED IN ANYTHING?

23 A. YES, IT WAS IT WAS CONTAINED IN A SEALED D.E.A.  
24 EVIDENCE ENVELOPE.

25 Q. WAS THE EVIDENCE ENVELOPE INSIDE ANYTHING ELSE?

1 A. OH, YES. I'M SORRY. IT WAS IN BUREAU MAIL.

2 Q. WHAT IS THAT?

3 A. THIS IS A HEAD HAIR SAMPLE REPORTED AS BEING FROM SERGIO  
4 ESPINO VERDIN.

5 Q. DID YOU HAVE OCCASION IN THE COURSE OF THIS INVESTIGATION  
6 TO PERFORM AN ANALYSIS OF THAT HAIR?

7 A. YES, I DID.

8 Q. AND TO MAKE A COMPARISON OF IT WITH OTHER HAIRS?

9 A. YES, I DID.

10 Q. NOW, ALSO IN FRONT OF YOU, IF YOU WOULD LOOK AT WHAT HAS  
11 BEEN MARKED AS EXHIBITS 110-A THROUGH -H, DO YOU RECOGNIZE  
12 THOSE ITEMS?

13 A. YES, I DO.

14 Q. WHAT ARE THEY?

15 A. THESE ARE 1, 2, 3, 4 -- THESE ARE EIGHT HEAT-SEALED  
16 PLASTIC ENVELOPES CONTAINING HEAD HAIR SAMPLES REPORTED AS  
17 BEING FROM MR. MATTA BALLESTEROS.

18 Q. WHEN WAS THE FIRST TIME THAT YOU SAW THOSE ITEMS?

19 A. I SAW THESE IN FEBRUARY OF '89.

20 Q. WHERE DID YOU SEE THEM?

21 A. AGAIN, THEY CAME BY MAIL, BY REGISTERED MAIL TO THE  
22 F.B.I. LABORATORY IN WASHINGTON, D.C.

23 Q. WHEN YOU RECEIVED THEM, WERE THE EVIDENCE ENVELOPES  
24 SEALED?

25 A. THEY WERE ALL HEAT SEALED, YES.

1 Q. WERE THE BOTTLES INSIDE, CLOSED AND SEALED?

2 A. YES, THEY WERE.

3 Q. DID YOU HAVE OCCASION THEN TO ANALYZE THE HAIRS IN THOSE  
4 BOTTLES?

5 A. YES, I DID.

6 Q. AND TO COMPARE THEM FOR PURPOSES OF IDENTIFICATION?

7 A. YES, I DID.

8 Q. NOW, IN THE COURSE OF YOUR INVOLVEMENT IN THIS  
9 INVESTIGATION, DID YOU RECEIVE ANY OTHER ITEMS OF --  
10 EVIDENTIARY ITEMS WITHIN THE CATEGORY OF HAIRS, FIBERS OR  
11 RELATED MATERIALS THAT ARE OF EVIDENTIARY SIGNIFICANCE IN THIS  
12 CASE?

13 A. NO.

14 Q. NOW, EARLIER IN YOUR TESTIMONY TODAY, YOU DESCRIBED  
15 RECEIVING OR RECEIVING DEBRIS THAT HAD BEEN SCRAPED FROM  
16 VARIOUS ITEMS OF EVIDENCE.

17 IS THERE A PARTICULAR METHOD OR PROCEDURE THAT IS  
18 UTILIZED AT THE F.B.I. LABORATORY FOR SCRAPING DOWN ITEMS IN  
19 ORDER TO REMOVE SUCH DEBRIS?

20 A. YES. OBVIOUSLY, BEFORE YOU CAN EXAMINE A HAIR OR FIBER,  
21 ESPECIALLY AN UNKNOWN HAIR OR FIBER, YOU HAVE TO REMOVE THAT  
22 HAIR OR FIBER FROM WHATEVER ITEM IT'S ON, LIKE A SWEATER OR  
23 BLANKET, OR WHATEVER. THIS HAS TO BE DONE UNDER CONTROLLED  
24 CONDITIONS.

25 Q. I THINK IN THE CART TO YOUR RIGHT YOU'LL FIND A



1 PHOTOGRAPH MARKED 134-A.

2 DO YOU RECOGNIZE THAT PHOTOGRAPH?

3 A. 134-A OR -C?

4 Q. 134-A, YES.

5 A. I'M SORRY. I HAVE 134-C. I HAVE IT.

6 Q. ALL RIGHT. DO YOU RECOGNIZE THAT?

7 A. YES, I DO.

8 Q. WHAT IS IT?

9 A. GOVERNMENT'S EXHIBIT 134-A IS JUST A PHOTOGRAPH OF A  
10 MICROSPECTROTOMETER ATTACHED ON TOP OF A MICROSCOPE.

11 Q. ALL RIGHT. IF YOU WOULD LOOK AT THE OTHER PHOTOGRAPHS  
12 MARKED 134, I BELIEVE THERE SHOULD BE A PHOTOGRAPH OF THE  
13 SCRAPING ROOM AT THE F.B.I. LAB?

14 A. THERE IS, YES.

15 Q. OKAY. CAN YOU RETRIEVE THAT, PLEASE. OH, THAT'S IT.  
16 THAT'S 134-A?

17 A. THAT'S 134-C.

18 Q. I WAS ASKING ABOUT A, I'M SORRY.

19 A. THAT'S THE MICROSPECTROTOMETER.

20 Q. ALL RIGHT. LET'S LOOK AT 134-C. I'M SORRY. AND WHAT IS  
21 134-C?

22 A. GOVERNMENT'S EXHIBIT 134-C IS A PHOTOGRAPH OF ONE OF THE  
23 THREE SCRAPING ROOMS THAT ARE SET UP AT THE F.B.I. LABORATORY  
24 FOR THE DIRECT PURPOSE OF PROCESSING AND REMOVING HAIRS AND  
25 FIBERS FROM VARIOUS ITEMS.

1 Q. CAN YOU DESCRIBE THE PROCESS OF SCRAPING THAT YOU GO  
2 THROUGH AT THE LAB?

3 A. AT THE F.B.I. LAB WE HAVE VERY, VERY STRICT RULES ABOUT  
4 HOW EVIDENCE IS PROCESSED. AND THIS IS DONE TO NEARLY  
5 ELIMINATE ANY POSSIBILITY OF CONTAMINATION.

6 WE HAVE WHAT ARE CALLED PRESCRAPING ROOMS, AND  
7 THEY'RE ALL SET UP JUST LIKE THIS ROOM IN THE PICTURE. IT'S  
8 COMPLETELY ENCLOSED ON ALL FOUR SIDES BY GLASS WALLS AND HAS  
9 ONE DOOR. WHEN YOU SHUT THE ROOM, IT'S A SEALED ENVIRONMENT.  
10 THE HUMIDITY, THE TEMPERATURE, THE VENTILATION IN AND OUT OF  
11 THIS ROOM IS CONTROLLED.

12 AND INSIDE OF THIS ROOM IS A LARGE TABLE WITH A  
13 LARGE RACK, THIS RACK IS ADJUSTABLE, IT GOES UP AND DOWN.

14 THE ITEM YOU'RE GOING TO PROCESS -- IN THIS CASE  
15 IT'S A BLANKET -- IS THEN SCRAPED DOWN BY THIS LONG  
16 SPATULA-LIKE OBJECT. NOW, BY SCRAPING IT DOWN OVER THE  
17 OBJECT, FRICTION CAUSES ALL THE HAIRS, FIBERS, DIRT, WHATEVER  
18 IS ON HERE, TO FALL INTO A LITTLE PILE UNDERNEATH WHERE IT IS  
19 COLLECTED AND PRESERVED SO YOU CAN LOOK AT THE HAIRS AND  
20 FIBERS AT A LATER DATE.

21 EVERY TIME YOU GO INTO ONE OF THESE ROOMS TO START  
22 THE PROCESS, IT'S VACUUMED OUT. AND WE HAVE STRICT RULES THAT  
23 ITEMS FROM A VICTIM HAVE TO BE DONE IN A SEPARATE ROOM THAN  
24 ITEMS FROM A SUSPECT.

25 MR. CARLTON: I WOULD MOVE THAT 134-C BE RECEIVED.

1 THE COURT: IT MAY BE RECEIVED.

2 (EXHIBIT # 134-C RECEIVED IN EVIDENCE.)

3 BY MR. CARLTON:

4 Q. AGENT MALONE, ASSUME YOU FIND SOME HAIRS IN THIS PROCESS  
5 OF SCRAPING. WHAT DO YOU DO WITH THOSE HAIRS?

6 A. THE HAIRS HAVE TO BE MOUNTED ON GLASS MICROSCOPE SLIDES  
7 SO THEY CAN BE EXAMINED MICROSCOPICALLY.

8 Q. WOULD YOU DO THE SAME THING WITH HAIRS THAT HAVE BEEN  
9 OBTAINED FROM A KNOWN SOURCE?

10 A. YES. THEY HAVE TO BE ALSO MOUNTED ON SLIDES.

11 Q. NOW, ASSUME THAT YOU HAVE A HAIR MOUNTED ON A SLIDE FROM  
12 A KNOWN SOURCE AND A HAIR MOUNTED ON A SLIDE FROM AN UNKNOWN  
13 SOURCE, SUCH AS YOU'VE JUST DESCRIBED FROM SCRAPING DOWN AN  
14 ARTICLE OF EVIDENCE.

15 HOW DO YOU COMPARE THOSE TWO HAIRS?

16 A. THE METHOD THAT IS EMPLOYED AT THE F.B.I. LAB, WHICH WE  
17 FEEL IS THE BEST METHOD, IS A THREE-STEP MICROSCOPIC  
18 EXAMINATION OF THE HAIRS BEFORE WE ARE ABLE TO REACH ANY TYPE  
19 OF CONCLUSION ABOUT THAT HAIR.

20 Q. WHAT IS THE FIRST STEP?

21 A. BASICALLY, THE HAIR HAS TO BE LOOKED AT UNDER WHAT IS  
22 CALLED A LOW POWER STEREOSCOPE, WHICH GOES UP TO ABOUT 80  
23 POWER, AND THIS GIVES YOU AN OVERALL THREE-DIMENSIONAL VIEW OF  
24 THE HAIR.

25 BY LOOKING AT THE THREE MAIN REGIONS OF THE HAIR,

1 THAT'S THE ROUTE, THE TIP AND THE SHAFT, UNDERNEATH THE  
2 STEREOSCOPE, THERE ARE CERTAIN THINGS IMMEDIATELY WE CAN TELL  
3 YOU ABOUT THAT HAIR.

4 Q. IF YOU LOOK IN THE STACK OF ITEMS NEXT TO THE WALL OVER  
5 THERE, YOU'LL FIND AN EXHIBIT THAT'S BEEN MARKED 135. IF YOU  
6 COULD PICK THAT OUT AND PUT IT ON THE EASEL NEXT TO THE WALL.

7 (WITNESS COMPLYING.)

8 NOW, DO YOU RECOGNIZE THAT CHART?

9 A. YES, I DO.

10 Q. WHAT DOES IT CONTAIN?

11 A. THIS IS A GENERAL DIAGRAM DEPICTING THE VARIOUS  
12 CHARACTERISTICS THAT CAN BE FOUND IN A HAIR.

13 Q. YOU'VE DESCRIBED THREE MAIN REGIONS OF HAIR. WHAT ARE  
14 THOSE AGAIN?

15 A. BASICALLY, YOU HAVE THE ROOT AREA WITH THE ATTACHED  
16 FOLLICLE. THIS IS COMING OUT OF THE SKIN, OF COURSE.

17 YOU HAVE THE TIP OF THE HAIR, AND YOU HAVE THE MAIN  
18 PORTION OF THE HAIR, WHICH IS KNOWN AS THE SHAFT.

19 Q. AND IN THE FIRST STEP OF YOUR COMPARISON PROCESS, YOU USE  
20 A STEREOSCOPE, YOU SAY?

21 A. YES, WE DO.

22 Q. WHAT CAN YOU TELL -- WHAT CAN YOU DETERMINE FROM THE USE  
23 OF THIS STEREOSCOPE?

24 A. BY LOOKING AT THESE THREE REGIONS UNDER THE 80 POWER  
25 STEREOSCOPE, I CAN TELL IMMEDIATELY IS IT A HUMAN HAIR OR IS

1 IT ANIMAL HAIR.

2 Q. HOW DO YOU TELL THAT?

3 A. EACH -- ANIMAL HAIRS HAVE DISTINCT CHARACTERISTICS FROM  
4 HUMAN HAIRS, AND EACH SPECIES OF ANIMALS HAVE THEIR OWN  
5 CHARACTERISTICS.

6 SO NORMALLY, WE CAN TELL YOU EXACTLY WHAT KIND OF AN  
7 ANIMAL IT IS, WHETHER IT'S A DOG OR CAT OR WHATEVER. HUMAN  
8 HAIRS HAVE THEIR OWN SET OF CHARACTERISTICS.

9 Q. WHAT ELSE CAN YOU TELL -- WHAT OTHER CHARACTERISTICS CAN  
10 YOU DEFINE BY THE USE OF THIS STEREOSCOPE?

11 A. WELL, FROM STEP ONE, THIS FIRST PART OF OUR EXAM, I CAN  
12 TELL -- THE NEXT THING I CAN TELL IS RACE. IN OTHER WORDS, I  
13 CAN GET THE HAIR DOWN TO ONE OF THE THREE MAJOR RACES OR A  
14 MEMBER OF A MIXED RACE.

15 I CAN GET IT DOWN TO SEVEN SPECIFIC AREAS OF THE  
16 BODY. IN OTHER WORDS, I CAN TELL YOU A HEAD HAIR FROM AN  
17 EYEBROW HAIR FROM A BEARD HAIR, ET CETERA.

18 I CAN BASICALLY LOOK AT THE ROOT END OF THE HAIR AND  
19 TELL YOU HOW THAT HAIR CAME OUT. THERE ARE ONLY TWO WAYS THE  
20 HAIR CAN COME OUT -- EITHER NATURALLY -- YOU'RE LOSING ABOUT  
21 100 HAIRS A DAY EVERY DAY -- OR FORCIBLY. IN OTHER WORDS, YOU  
22 TRY TO REMOVE THE HAIR WHILE IT'S ACTIVELY GROWING.

23 I CAN LOOK AT THE TIP AND TELL YOU WHETHER IT HAS A  
24 NATURAL TIP, WHETHER SOMEBODY HAS A RAZOR CUT OR SCISSOR CUT,  
25 WHETHER IT WAS CUT WITH A KNIFE OR WHETHER IT WAS BROKEN.

1 I CAN LOOK AT THE SHAFT AND TELL YOU WHETHER YOU  
2 BLEACH YOUR HAIR OR DYE YOUR HAIR OR PERM YOUR HAIR, AND I CAN  
3 ALSO FIND ANY DAMAGE OR DISEASES THAT MIGHT BE IN THE HAIR.

4 Q. YOU CAN DO ALL OF THAT IN THE FIRST STEP OF YOUR  
5 COMPARISON PROCESS?

6 A. YES, I CAN.

7 Q. WHAT IS THE NEXT STEP?

8 A. THE ACTUAL MICROSCOPIC CHARACTERISTICS THAT ARE GOING TO  
9 MAKE MY HAIR DIFFERENT FROM YOUR HAIR OR DIFFERENT FROM  
10 SOMEBODY ELSE'S ARE MUCH SMALLER. TO EVEN SEE THEM, YOU HAVE  
11 TO GET UP IN THE RANGE OF 250 TO 400 POWER.

12 SO, THE STEREOSCOPE WILL NOT GO THAT HIGH. SO WE  
13 TAKE IT OFF OF THE STEREOSCOPE AND PUT IT UNDER A SECOND  
14 MICROSCOPE CALLED A HIGH-POWERED LIGHT, L I G H T, MICROSCOPE  
15 TO OBSERVE THE INTERNAL CHARACTERISTICS.

16 Q. NOW, IF WOULD YOU LOOK AT TWO PHOTOGRAPHS, 134-A AND -B,  
17 DO YOU RECOGNIZE THOSE?

18 A. YES, I DO.

19 Q. WHAT ARE THEY? WHAT IS 134-A?

20 A. 134-A IS A PICTURE OF THE MICROSPECTROPHOTOMETER.

21 Q. WHAT IS 134-B?

22 A. 134-B IS THE ACTUAL PICTURE OF THE COMPARISON MICROSCOPE.

23 Q. NOW, THE COMPARISON MICROSCOPE THEN IS THE HIGH-POWERED  
24 MICROSCOPE YOU'VE JUST DESCRIBED?

25 A. THAT'S CORRECT.

1 MR. CARLTON: I WOULD MOVE THAT 134-B BE RECEIVED.

2 THE COURT: THAT MAY BE RECEIVED.

3 (EXHIBIT # 134-B RECEIVED IN EVIDENCE.)

4 BY MR. CARLTON:

5 Q. NOW, WHEN YOU PLACE IT -- WHEN YOU PLACE THE HAIR UNDER  
6 THE HIGH-POWERED MICROSCOPE, WHAT IS IT YOU'RE LOOKING FOR?

7 A. WELL, YOU'RE LOOKING FOR BASICALLY TWO THINGS. THE FIRST  
8 THING YOU'RE TRYING TO DO -- YOU'VE GOT TO REMEMBER THESE  
9 CHARACTERISTICS ARE VERY TINY. AGAIN, TO SEE THEM DISTINCTLY,  
10 YOU HAVE TO GET AT LEAST 250 POWER.

11 WHAT YOU'RE DOING IS EXAMINING THE THREE ANATOMICAL  
12 REGIONS OF THE HAIR. IF I JUST TAKE A LITTLE PORTION OF THE  
13 SHAFT AND BLOW IT OUT TO SHOW YOU WHAT IT MIGHT LOOK LIKE AT  
14 ABOUT 400 POWER, YOU'RE GOING TO SEE THAT THE HAIR HAS THREE  
15 DEFINITE ANATOMICAL REGIONS.

16 GOING ALONG THE OUTSIDE OF YOUR HAIR IS AN AREA  
17 CALLED THE CORTEX. IT'S VERY THIN AND MADE UP OF OVERLAPPING  
18 SCALES. UNDERNEATH THE MICROSCOPE, THEY LOOK A LITTLE BIT  
19 LIKE FISH SCALES.

20 WHAT WE ARE GOING TO LOOK FOR HERE ARE THE LENGTH OF  
21 THE SCALES, THE THICKNESS, THE COLOR AND HOW FAR THEY MIGHT  
22 STICK OUT.

23 RUNNING DOWN THE CENTER RIGHT HERE (INDICATING), IS  
24 THE SECOND AREA CALLED THE MEDULLA. IT'S KIND OF A HOLLOW  
25 CORE. WE'RE GOING TO LOOK AT COLOR, CLARITY, DISTINCTNESS AND

1 HOW IT'S DISTRIBUTED EITHER ALONG THE HAIR OR ACROSS THE HAIR.

2 BUT MOST OF YOUR HAIR IS MADE OF THE THIRD AREA,  
3 WHICH IS CALLED THE CORTEX OF THE HAIR. AND THAT LIES HERE,  
4 AND THAT'S WHERE YOU'LL FIND THE PIGMENT.

5 NOW, THE MORE PIGMENT THAT IS PACKED INTO THE  
6 CORTEX, THE DARKER YOUR HAIR IS GOING TO BE. SO BRUNETTES  
7 HAVE VERY DENSE PIGMENTS HERE AND BLONDS HAVE VERY LITTLE  
8 PIGMENT.

9 AT SOME POINT IN MOST PEOPLE'S LIVES, THE VERY BASE  
10 OF THE ROOT, WHICH IS THE ONLY LIVING PORTION OF YOUR HAIR,  
11 WILL QUIT MANUFACTURING PIGMENT. AND AS THE HAIR GROWS OUT,  
12 YOU'LL GET GRAY AND FINALLY WHITE HAIR.

13 WHAT WE'RE LOOKING FOR THERE ARE TWO THINGS. FIRST  
14 OF ALL, WE ARE TRYING TO FIND AT LEAST 15 OF THESE  
15 CHARACTERISTICS. THAT'S KIND OF OUR BOTTOM LINE NUMBER AT THE  
16 F.B.I. LAB.

17 IF I CAN'T FIND AT LEAST 15 CHARACTERISTICS IN THE  
18 HAIR, I'LL BASICALLY SAY THE HAIR IS NO GOOD. IT IS OF NO  
19 VALUE FOR COMPARISON. IF YOU TAKE MOST NORMAL HAIRS, YOU'LL  
20 HAVE ABOUT 20 CATEGORIES OF CHARACTERISTICS IN THAT HAIR.

21 Q. WELL, ASSUME THAT YOU HAVE TWO HAIRS, ONE UNKNOWN HAIR  
22 AND ONE KNOWN HAIR, AND YOU FIND AT LEAST 15 CHARACTERISTICS  
23 BETWEEN THESE TWO HAIRS THAT MATCH. WHAT CONCLUSIONS CAN  
24 YOU DRAW FROM THAT?

25 A. BASICALLY, WE HAVE TO FIND 15 JUST TO GO ON AND DO THE



1 COMPARISON. BUT IF WE DO FIND AT LEAST 15, WHAT WE ARE  
2 LOOKING FOR ARE TWO THINGS. FIRST OF ALL, HOW MANY  
3 CHARACTERISTICS THERE ARE, AND SECONDLY -- AND THIS IS THE KEY  
4 TO THE WHOLE EXAM -- HOW THEY'RE ARRANGED WITHIN THAT HAIR,  
5 BECAUSE EVERYBODY'S HAIRS ARE ARRANGED SLIGHTLY DIFFERENTLY.  
6 ALMOST EVERYBODY'S.

7 NOW, I DO NOT WANT TO MISLEAD YOU. YOU CAN NEVER  
8 SAY A HAIR CAME FROM ONE PERSON AND NO ONE ELSE IN THE WORLD  
9 LIKE YOU CAN WITH A FINGERPRINT. BUT NORMALLY, A TRAINED  
10 EXAMINER WILL HAVE NO PROBLEM SEPARATING OUT HAIRS OF  
11 DIFFERENT PEOPLE.

12 OF THE 10,000 PEOPLE I'VE LOOKED AT PERSONALLY, I'VE  
13 ONLY HAD TWO OCCASIONS OUT OF THOSE 10,000 WHERE I'VE HAD  
14 HAIRS FROM TWO DIFFERENT PEOPLE THAT I COULD NOT TELL APART.

15 SO TO GET YOUR ACTUAL CONCLUSION, YOU'RE GOING TO  
16 HAVE TO GO TO STEP 3, WHICH IS THE COMPARISON MICROSCOPE.

17 Q. ALL RIGHT. HOW DOES THAT WORK?

18 A. BASICALLY, ONCE YOU'VE IDENTIFIED WHAT CHARACTERISTICS  
19 ARE IN THE HAIR AND HOW THEY'RE ARRANGED, YOU'RE GOING TO PUT  
20 IT ON THE COMPARISON MICROSCOPE, WHICH IS ACTUALLY WHAT  
21 GOVERNMENT'S EXHIBIT 134-B IS SHOWING. IT IS A COMPARISON  
22 MICROSCOPE.

23 IT'S TWO MICROSCOPES CONNECTED TOGETHER WITH ONE  
24 EYEPIECE. SO WHAT YOU CAN DO IS LOOK AT TWO HAIRS SIDE BY  
25 SIDE AND DO A DIRECT COMPARISON OF THE CHARACTERISTICS. AND

1 WHEN YOU DO THIS, YOU COME UP WITH ONE OF TWO CONCLUSIONS  
2 ABOUT THAT HAIR.

3 FIRST OF ALL - IF THERE IS ONE DIFFERENCE BETWEEN THE  
4 UNKNOWN AND THE KNOWN, ONE SIGNIFICANT DIFFERENCE, YOU CAN SAY  
5 THIS HAIR DOES NOT MATCH THIS PERSON, AND THEREFORE ELIMINATE  
6 THAT PERSON. SO YOU CAN POSITIVELY ELIMINATE SOMEBODY.

7 THE SECOND CONCLUSION WOULD BE IF THE TWO HAIRS ARE  
8 WHAT WE CALL ABSOLUTELY INDISTINGUISHABLE, SO IT LOOKS LIKE  
9 THE SAME HAIR, THE SAME CHARACTERISTIC, THE SAME ARRANGEMENT,  
10 WE THEN SAY THIS HAIR MICROSCOPICALLY MATCHES THE HAIRS OF  
11 THAT PERSON, AND THEREFORE, THIS HAIR IS CONSISTENT WITH  
12 COMING FROM THAT INDIVIDUAL.

13 Q. NOW IN CONDUCTING THIS COMPARISON, IS IT CORRECT THEN  
14 THAT YOU TAKE TWO SLIDES THAT ARE ACTUALLY SITTING SIDE BY  
15 SIDE UNDER THIS COMPARISON MICROSCOPE AND SEE THEM AT THE SAME  
16 TIME?

17 A. ACTUALLY, THEY'RE UNDER TWO -- ON TWO DIFFERENT  
18 MICROSCOPES, BUT BECAUSE OF THE PRISMS AND THE LENSES IN THE  
19 MICROSCOPE, THAT MAKES THEM APPEAR AS THOUGH THEY'RE DIRECTLY  
20 SIDE BY SIDE.

21 Q. IS THIS PROCEDURE -- WELL, ARE THERE OTHER PROCEDURES FOR  
22 COMPARING HAIR BESIDES THE ONE YOU JUST DESCRIBED?

23 A. THERE ARE MANY THAT HAVE BEEN TRIED.

24 Q. AND ARE ANY OF THEM, OTHER THAN THE ONE YOU'VE JUST  
25 DESCRIBED, GENERALLY ACCEPTED FOR THIS PURPOSE?

1 A. NO, THEY'RE NOT.

2 Q. SO THE PROCEDURE YOU JUST DESCRIBED IS THE ONLY GENERALLY  
3 ACCEPTED PROCEDURE FOR COMPARING HAIRS?

4 A. CORRECT. IT IS THE STANDARD, UNIVERSALLY-ACCEPTED  
5 PROCEDURE IN THE FORENSIC COMMUNITY FOR EXAMINING HAIRS.

6 Q. ALL RIGHT. I THINK YOU CAN RESUME YOUR SEAT.

7 IF YOU WOULD, PLEASE, LOOK AT EXHIBIT 98, WHAT HAS  
8 BEEN MARKED AS EXHIBIT 98. IT SHOULD BE IN FRONT OF YOU.

9 A. YES.

10 Q. NOW, DO YOU RECOGNIZE THAT?

11 A. YES, I DO.

12 Q. AND WHAT IS IT?

13 A. GOVERNMENT'S EXHIBIT 98 IS A SMALL, SQUARE CARDBOARD  
14 PILLBOX. INSIDE OF THIS PILLBOX IS THE HEAD HAIR SAMPLE OF  
15 KIKI CAMARENA OR SPECIAL AGENT ENRIQUE CAMARENA.

16 Q. NOW, DID YOU HAVE OCCASION IN THE COURSE OF YOUR WORK ON  
17 THIS INVESTIGATION TO COMPARE THOSE HAIRS IN EXHIBIT 98 TO  
18 OTHER HAIRS?

19 A. YES, I DID.

20 Q. ALL RIGHT. LOOKING AT EXHIBITS -- WELL, LET'S -- DO YOU  
21 RECALL EXHIBITS 103 AND 104, WHICH WERE THE -- 103 WAS THE  
22 RIGHT REAR FLOOR MAT FROM THE MERCURY MARQUIS, IF YOU'LL  
23 RECALL, AND NUMBER 104 WAS THE VACUUM SWEEPINGS FROM A PORTION  
24 OF THE AUTOMOBILE.

25 WAS THE FLOOR MAT SUBJECTED TO THE SCRAPING PROCESS

1 THAT YOU DESCRIBED?

2 A. YES, IT WAS.

3 Q. WERE ANY HAIRS IDENTIFIED AS A RESULT OF THAT?

4 A. YES, THERE WERE.

5 Q. DID YOU COMPARE THOSE HAIRS, ANY OF THOSE HAIRS, TO THE  
6 HAIRS OF AGENT CAMARENA THAT ARE EXHIBIT 98?

7 A. YES, I DID. I COMPARED HAIRS FROM THE REAR MAT.

8 Q. ALL RIGHT. IF YOU WOULD STEP DOWN AGAIN, I BELIEVE  
9 YOU'LL FIND A CHART MARKED EXHIBIT 136 NEXT TO THE WALL.

10 (WITNESS LOCATING EXHIBIT 136 AND PLACING IT ON THE  
11 EASEL.)

12 NOW, IN COMPARING THE HAIRS THAT WERE SCRAPED FROM  
13 THE RIGHT REAR FLOOR MAT OF THE MERCURY MARQUIS WITH THE HAIRS  
14 OF AGENT CAMARENA, DID YOU FIND ANY HAIRS THAT MATCHED THOSE  
15 OF AGENT CAMARENA?

16 A. YES. ON THE FLOOR MAT I FOUND ONE HAIR.

17 Q. ALL RIGHT. AND WHAT IS THIS CHART THAT YOU JUST PUT UP?

18 A. THIS IS A CHART OF WHAT IS CALLED A PHOTO MICROGRAPH OF  
19 TWO KINDS OF HAIRS. ALL THREE PHOTOS ARE OF ONE HAIR. AND IN  
20 EACH CASE, YOU'RE BEGINNING AT THE BASE OF THE HAIR AT THE  
21 BOTTOM OF THE CHART, AND ALL YOU'RE DOING IS WORKING YOUR WAY  
22 OUTWARD TOWARD THE TIP OF THE HAIR, WHICH WOULD BE UP AT THE  
23 TOP OF THE CHART.

24 ON THE LEFTHAND COLUMN ARE THREE VIEWS OF THE HAIR  
25 FROM THE REAR FLOOR MAT OF THE MERCURY. AND ON THE RIGHTHAND

1 COLUMN ARE THREE VIEWS OF SPECIAL AGENT CAMARENA'S KNOWN HEAD  
2 HAIRS.

3 Q. WHAT CHARACTERISTICS OF THESE HAIRS LEAD YOU TO CONCLUDE  
4 THERE WAS A MATCH?

5 A. I WAS ABLE TO FIND 20 SEPARATE AND DISTINCT  
6 CHARACTERISTICS THAT MATCHED BETWEEN THE FLOOR MAT HAIRS AND  
7 SPECIAL AGENT CAMARENA'S HAIRS.

8 Q. DID YOU FIND ANY CHARACTERISTICS BETWEEN THESE TWO HAIRS THAT  
9 DID NOT MATCH?

10 A. ABSOLUTELY NOT.

11 Q. DO YOU RECALL ANY OF THE CHARACTERISTICS THAT YOU FOUND  
12 IN THESE HAIRS THAT MATCHED?

13 A. YES, I DO.

14 Q. WHAT WERE THEY?

15 A. SPECIAL AGENT CAMARENA'S HAIRS HAD A VERY THICK CUTICLE.  
16 IT WAS CLEAR IN COLOR. HE HAD A SLIGHT SCALE PROTRUSION. THE  
17 PIGMENT DENSITY -- THAT'S THE AMOUNT OF PIGMENT IN HIS  
18 HAIRS -- VARIED ANYWHERE FROM MEDIUM TO FINE.

19 BASICALLY, HIS HAIRS -- THERE WAS NOT MUCH OF A  
20 MEDULLA. WHAT MEDULLA THERE WAS WAS BASICALLY VERY NARROW,  
21 LIGHT IN COLOR, INDISTINCT IN COLOR.

22 Q HE HAD A LOT OF WHAT IS CALLED CLUMPING IN HIS  
23 HAIRS. THAT'S JUST THESE LITTLE DARK AREAS. THIS IS WHERE  
24 PIGMENT COMES TOGETHER, AND IT'S CALLED CLUMPING.

25 AS FAR AS ACCROSS THE HAIR, THE PIGMENT WAS FAIRLY

1 EVENLY DISTRIBUTED. HE HAD A LOT OF WHAT ARE CALLED CORTICO  
2 FUSI OR LITTLE AIR SPACES IN THE HAIR.

3 Q. YOU FOUND THOSE SAME CHARACTERISTICS IN THE HAIR THAT WAS  
4 TAKEN FROM THE RIGHT REAR FLOOR MAT; IS THAT CORRECT?

5 A. YES, I DID.

6 Q. ALL RIGHT. NOW, IF YOU RECALL, ALSO THERE WERE THREE  
7 EXHIBITS REFLECTING VACUUM SWEEPINGS THAT YOU TOOK FROM THE  
8 GUEST HOUSE AT LOPE DE VEGA.

9 A. THAT IS CORRECT.

10 Q. DID YOU OBTAIN ANY HAIRS FROM THOSE VACUUM SWEEPINGS?

11 A. YES, I DID.

12 Q. DID YOU HAVE OCCASION THEN TO COMPARE ANY OF THOSE HAIRS  
13 WITH THE KNOWN HAIR OF AGENT CAMARENA, WHICH WAS EXHIBIT 98?

14 A. YES, I DID.

15 Q. DID YOU FIND ANY HAIRS IN THOSE VACUUM SWEEPINGS FROM THE  
16 GUEST HOUSE WHICH, IN YOUR OPINION, MATCHED THOSE OF AGENT  
17 CAMARENA?

18 A. YES, I DID.

19 Q. HOW MANY?

20 A. ONE FROM THE GUEST HOUSE.

21 Q. AND IF YOU WOULD LOOK AT A CHART WHICH IS LEANING UP  
22 AGAINST THE WALL MARKED AS EXHIBIT 140-A, WHAT DOES THAT CHART  
23 REPRESENT?

24 A. GOVERNMENT'S EXHIBIT 140-A, AGAIN, IS A CHART SHOWING  
25 THREE VIEWS OF A HAIR THAT I REMOVED FROM QUADRANT Q-52-A OUT

1 OF THE GUEST HOUSE. AND THE RIGHT HAND COLUMN ARE THREE  
2 VIEWS, AGAIN, OF ONE OF SPECIAL AGENT CAMARENA'S HEAD HAIRS.

3 THE UNUSUAL THING ABOUT THIS PARTICULAR HEAD HAIR,  
4 TOO, WAS IT WAS FORCIBLY REMOVED. IT WASA BROKEN AT THE BASAL  
5 END, SNAPPED LIKE YOU WOULD SNAP A STRING.

6 WHAT I DID WAS I FOUND 20 CHARACTERISTICS IN THIS  
7 HAIR FROM THE GUEST HOUSE VACUUM SWEEPINGS THAT MATCHED THE  
8 HAIRS OF SPECIAL AGENT CAMARENA.

9 Q. WERE THERE ANY CHARACTERISTICS OF THESE TWO HAIRS THAT  
10 DID NOT MATCH?

11 A. NOT AT ALL.

12 Q. NOW, AGAIN, YOU MENTIONED THAT THIS HAIR THAT YOU DID  
13 MATCH WAS FORCIBLY REMOVED. WHAT IS THE DIFFERENCE BETWEEN  
14 FORCIBLE REMOVAL AND ANY OTHER KIND OF HAIR REMOVAL? AND HOW  
15 CAN YOU TELL THAT?

16 A. THERE ARE ONLY TWO WAYS FOR HAIR TO COME OUT OF YOUR  
17 HEAD. NATURALLY, AS A RESULT OF THE SHEDDING PROCESS, YOU'RE  
18 LOOSING ABOUT 100 HAIRS A DAY EVERY DAY OF YOUR LIFE.

19 THE SECOND WAY IS FORCIBLY. DEPENDING ON THE GROWTH  
20 CYCLE OF THE HAIR, IT'S GOING TO DETERMINE THE TYPE OF DAMAGE  
21 DONE TO THE HAIR.

22 NOW, IF YOU TRY TO REMOVE THE HAIR EARLY IN THE  
23 GROWTH CYCLE WHILE IT'S ACTIVELY GROWING, THE ROOT IS VERY  
24 SOFT. SO WHEN YOU RIP THE HAIR OUT OF THE FOLLICLE, YOU'LL  
25 DISTORT THE ROOT AND IT WILL SHRIVEL UP TO ALMOST NOTHING.

1 IF YOU TRY AND REMOVE IT, LATER IN THE GROWTH CYCLE,  
2 AND THIS GROWTH CYCLE GOES FROM TWO TO FIVE YEARS, DEPENDING  
3 ON THE HAIR OF THE PERSON -- IF YOU TRY TO REMOVE IT IN THE  
4 LATER STAGES OF THE GROWTH CYCLE, THE ROOT IS HARDENED UP, BUT  
5 IT IS STILL FIRMLY ATTACHED TO THE FOLLICLE.

6 SO IF YOU PULL IT OUT OF THE FOLLICLE, THE ROOT WILL  
7 STAY INTACT BUT YOU'LL END UP WITH BIG CHUNKS OF THE FOLLICLE  
8 ON THE ROOT. THESE ARE CALLED FOLLICULAR TAGS.

9 NOW, THE THIRD SCENARIO IS WHAT HAPPENED TO THIS  
10 HAIR, BASICALLY. SOMETIMES THAT ROOT IS SO FIRMLY ATTACHED IN  
11 THE FOLLICLE THAT WHEN YOU PULL THE HAIR OUT, YOU'RE GOING TO  
12 EXCEED WHAT IS CALLED THE TENSILE STRENGTH OF THE HAIR AND IT  
13 WILL SNAP RIGHT AT THE BASE, JUST LIKE YOU WOULD SNAP A  
14 STRING. AND THAT'S THIS FRAYED APPEARANCE WE SAW ON THIS  
15 HAIR.

16 Q. AND THAT'S THE CHARACTERISTICS YOU SAW ON THIS HAIR?

17 A. YES, IT IS.

18 Q. ALL RIGHT. JUST TO CHANGE THE SUBJECT VERY BRIEFLY,  
19 LOOKING UP HERE AT THIS ITEM WHICH HAS BEEN MARKED AS EXHIBIT  
20 105, DO YOU RECOGNIZE THIS?

21 A. THAT, LEANING UP AGAINST THE TABLE?

22 Q. YES, LEANING UP AGAINST THE TABLE.

23 A. YES, I DO.

24 Q. WHAT IS IT?

25 A. THIS IS A MODEL OF 881 LOPE DE VEGA THAT I HAD OUR



1 EXHIBIT SECTION AT THE F.B.I. LABORATORY PREPARE.

2 Q. DOES THIS MODEL CONFORM TO THE RESIDENCE AND THE COMPOUND  
3 AT 881 LOPE DE VEGA AS YOU SAW IT WHEN YOU WERE CONDUCTING  
4 YOUR FORENSICS EXAMINATIONS?

5 A. YES. IT CONFORMS IN EVERY ASPECT.

6 MR. CARLTON: YOUR HONOR, I WOULD MOVE THAT EXHIBIT  
7 105 BE RECEIVED.

8 THE COURT: IT MAY BE RECEIVED.

9 (EXHIBIT # 105 RECEIVED IN EVIDENCE.)

10 BY MR. CARLTON:

11 Q. NOW, AGENT MALONE, YOU RECALL THAT YOU TESTIFIED ALSO TO  
12 CERTAIN VACUUM SWEEPINGS THAT WERE MADE OF THE VOLKSWAGON  
13 ATLANTIC ON THE PROPERTY.

14 A. YES, I DO.

15 Q. I BELIEVE THAT THOSE VACUUM SWEEPINGS ARE REFLECTED IN  
16 EXHIBITS 126 AND 127.

17 DID YOU REMOVE ANY HAIRS OR DID YOU FIND ANY HAIRS  
18 IN THOSE TWO EXHIBITS?

19 A. YES, I DID.

20 Q. DID YOU THEN HAVE OCCASION TO COMPARE THOSE HAIRS TO THE  
21 KNOWN HAIRS OF AGENT CAMARENA?

22 A. YES, I DID.

23 Q. DID YOU FIND ANY HAIRS IN EXHIBIT 126 OR EXHIBIT 127  
24 WHICH, IN YOUR OPINION, MATCHED THE HAIRS OF AGENT CAMARENA?

25 A. YES, I DID.

1 Q. IN WHICH OF THOSE TWO EXHIBITS?

2 A. IT WAS THE VACUUM -- WELL, BOTH OF THEM. THE VACUUM  
3 SWEEPINGS FROM THE REAR FLOOR AND THE VACUUM SWEEPINGS FROM  
4 THE FRONT FLOOR.

5 Q. ALL RIGHT. IF YOU WOULD LOOK THEN AT THE CHART WHICH IS  
6 ON THE FLOOR, LABELED 141-A --

7 A. (WITNESS OBTAINING EXHIBIT 141-A.)

8 Q. DO YOU RECOGNIZE THAT CHART?

9 A. IT'S MY EXHIBIT.

10 Q. WHAT DOES THAT SHOW?

11 A. GOVERNMENT'S EXHIBIT 141-A IS, AGAIN, TWO SHOTS OR THREE  
12 PHOTOGRAPHS OF TWO DIFFERENT HAIRS. ON THE LEFTHAND COLUMN,  
13 GOING FROM THE BASE TO THE TIP, YOU HAVE THREE VIEWS OF THE  
14 HAIR THAT I TOOK OUT OF THE VACUUM SWEEPINGS FROM THE  
15 VOLKSWAGON.

16 ON THE RIGHTHAND SIDE WE HAVE THREE VIEWS GOING BASE  
17 TO TIP OF A HAIR IN THE KNOWN SAMPLE OF SPECIAL AGENT  
18 CAMARENA.

19 Q. HOW MANY CHARACTERISTICS DID YOU FIND BETWEEN THESE TWO  
20 HAIRS THAT MATCHED?

21 A. AGAIN, I WAS ABLE TO FIND 20 SEPARATE CHARACTERISTICS.

22 Q. WERE THERE ANY CHARACTERISTICS OF THE TWO HAIRS YOU FOUND  
23 IN THE VOLKSWAGON THAT WERE SIGNIFICANT TO YOU?

24 A. THAT WERE SIGNIFICANT? YES, IT HAD 20 SIGNIFICANT  
25 CHARACTERISTICS.

1 Q. WERE THESE HAIRS FORCIBLY REMOVED?

2 A. YES, THEY WERE.

3 Q. BOTH OF THEM?

4 A. YES, THEY WERE.

5 Q. WERE THERE ANY CHARACTERISTICS OF THE HAIRS THAT YOU  
6 FOUND IN THE VOLKSWAGON THAT DID NOT MATCH WITH THE KNOWN  
7 HAIRS OF AGENT CAMARENA?

8 A. NO. ABSOLUTELY NOT.

9 Q. NOW, I BELIEVE YOU ALSO TESTIFIED TO HAVING RECEIVED  
10 VACUUM SWEEPINGS FROM BEDROOM NUMBER FOUR AND FROM THE  
11 BATHROOM THAT IS ADJACENT TO BEDROOM NUMBER FOUR IN THE  
12 RESIDENCE OF 881 LOPE DE VEGA; CORRECT?

13 A. YES, I DID.

14 Q. AND DID YOU HAVE OCCASION TO FIND HAIRS IN THAT VACUUM  
15 SWEEPING?

16 A. YES, I DID.

17 Q. DID YOU COMPARE THOSE HAIRS TO THE KNOWN HAIRS OF AGENT  
18 CAMARENA?

19 A. YES, I DID.

20 Q. DID YOU FIND ANY HAIRS FROM EITHER OF THOSE TWO LOCATIONS  
21 THAT MATCHED THE HAIR OF AGENT CAMARENA?

22 A. YES. IN THE VACUUM SWEEPINGS FROM THE CARPET OF BEDROOM  
23 NUMBER FOUR, I DID FIND ONE FORCIBLY REMOVED HEAD HAIR THAT  
24 DID MATCH THE HEAD HAIRS OF SPECIAL AGENT CAMARENA.

25 Q. AGAIN, IF YOU WOULD LOOK AT THE CHART THAT IS MARKED

1 142-A.

2 (WITNESS OBTAINING EXHIBIT 142-A)

3 WHAT DOES THIS CHART REPRESENT?

4 A. GOVERNMENT'S EXHIBIT 142-A AGAIN IS A CHART SHOWING TWO  
5 DIFFERENT HAIRS. ON THE LEFTHAND SIDE THERE IS FOUR  
6 PHOTOGRAPHS OF A HAIR THAT CAME OUT OF BEDROOM NUMBER FOUR,  
7 THE REAR BEDROOM, GOING FROM THE BASE TO THE TIP.

8 ON THE RIGHTHAND COLUMN IS THREE VIEWS OF ONE OF  
9 SPECIAL AGENT CAMARENA'S HAIRS.

10 Q. NOW, THIS IS THE ONLY CHART WE HAVE SEEN SO FAR WHICH HAS  
11 FOUR PHOTOGRAPHS IN ONE COLUMN. WHAT DOES THE FOURTH  
12 PHOTOGRAPH, THE BOTTOM ONE, REPRESENT?

13 A. THIS IS THE VERY BASE OR ROOT OF A HAIR. AND THIS SHOWS  
14 THE TYPE OF DAMAGE THAT WAS DONE TO THE HAIR WHEN IT WAS  
15 REMOVED FROM THE FOLLICLE. AN EXTENSIVE AMOUNT OF DAMAGE.

16 SO FROM THIS DAMAGE, I WAS ABLE TO TELL THAT THIS  
17 HAIR WAS DEFINITELY FORCIBLY REMOVED.

18 Q. HOW MANY CHARACTERISTICS DID YOU FIND THAT WOULD SUPPORT  
19 YOUR CONCLUSION THAT THESE TWO HAIRS MATCHED?

20 A. AGAIN, I WAS ABLE TO FIND 20 SEPARATE CLASSES OF  
21 CHARACTERISTICS FROM THE HAIR FROM BEDROOM FOUR THAT MATCHED  
22 THE HAIRS OF SPECIAL AGENT CAMARENA.

23 Q. WERE THERE ANY CHARACTERISTICS THAT DID NOT MATCH?

24 A. NONE AT ALL.

25 Q. NOW, DO YOU RECALL EXHIBIT 94, A SAMPLE OF THE SHEET

1 OBTAINED FROM SPECIAL AGENT DILLON?

2 A. YES, I DO.

3 Q. WAS THAT SHEET SUBJECTED TO THE SCRAPING PROCESS THAT YOU  
4 PREVIOUSLY TESTIFIED TO?

5 A. YES, IT WAS.

6 Q. WERE ANY HAIRS FOUND AS A RESULT OF THAT SCRAPING  
7 PROCESS?

8 A. YES. ON THE SHEET THAT SPECIAL AGENT DILLON REMOVED AT  
9 THE AUTOPSY, THERE WERE, AGAIN, DARK BROWN --

10 MR. MEZA: OBJECTION.

11 MR. STOLAR: OBJECTION. THAT'S NOT THE TESTIMONY.

12 MR. MEZA: MOVE TO STRIKE. ASSUMES FACTS NOT IN  
13 EVIDENCE.

14 THE COURT: OBJECTION OVERRULED.

15 THE WITNESS: ON THIS PARTICULAR SHEET, THERE WERE  
16 DARK BROWN MIXED RACE HEAD HAIRS. ALL OF THEM MATCHED THE  
17 HEAD HAIRS OF SPECIAL AGENT CAMARENA.

18 Q. DO YOU RECALL HOW MANY HAIRS THERE WERE ON THAT SHEET?

19 A. THERE WERE SEVERAL HAIRS. I DON'T RECALL THE EXACT  
20 AMOUNT RIGHT NOW.

21 Q. AND DO YOU RECALL HOW MANY CHARACTERISTICS OF THESE HAIRS  
22 MATCHED THOSE OF AGENT CAMARENA?

23 A. 20 SEPARATE CLASSES OF CHARACTERISTICS.

24 Q. IN EACH CASE?

25 A. CORRECT.

1 Q. DID YOU FIND ANY OF THESE HAIRS THAT HAD CHARACTERISTICS  
2 INCONSISTENT WITH THE KNOWN HAIRS OF SPECIAL AGENT CAMARENA?

3 A. NONE AT ALL.

4 Q. THERE IS NO CHART RELATIVE TO THESE COMPARISONS?

5 A. NO, THERE IS NOT.

6 Q. DO YOU RECALL ALSO HAVING RECEIVED A TAPE BLINDFOLD WITH  
7 SOME HAIRS ON IT, CORRECT?

8 A. YES, I DO.

9 Q. DID YOU REMOVE ANY OF THOSE -- WELL, I BELIEVE YOU  
10 TESTIFIED YOU DID REMOVE SOME OF THE HAIRS FROM THAT  
11 BLINDFOLD.

12 A. YES, I DID.

13 Q. AND DID YOU HAVE OCCASION THEN TO COMPARE THOSE HAIRS  
14 WITH THE KNOWN HAIRS OF AGENT CAMARENA?

15 A. YES.

16 MR. STOLAR: OBJECTION TO CHAIN OF CUSTODY ON THE  
17 BLINDFOLD, YOUR HONOR.

18 THE COURT: OVERRULED.

19 BY MR. CARLTON:

20 Q. DID YOU ARRIVE AT ANY CONCLUSIONS IN YOUR COMPARISON OF  
21 THE HAIRS THAT YOU REMOVED FROM THE BLINDFOLD WITH THE KNOWN  
22 HAIRS OF AGENT CAMARENA?

23 A. YES, I DID.

24 Q. WHAT WAS YOUR CONCLUSION?

25 A. OF THE LITERALLY HUNDREDS OF HAIRS THAT WERE ATTACHED --

1 MR. MEZA: OBJECTION. THERE IS NO FOUNDATION TO  
2 ESTABLISH THE SOURCE OF THAT SO-CALLED BLINDFOLD OR THAT PIECE  
3 OF MATERIAL.

4 THE COURT: OVERRULED.

5 THE WITNESS: OF THE LITERALLY HUNDREDS OF HAIRS  
6 THAT WERE ON THE BLINDFOLD, I REMOVED A REPRESENTATIVE SAMPLE  
7 FROM THESE HUNDREDS OF HAIRS. I MOUNTED THEM ON GLASS  
8 MICROSCOPE SLIDES, AND IN EACH AND EVERY CASE, EVERY SINGLE  
9 HAIR FROM THE BLINDFOLD THAT I EXAMINED PERFECTLY MATCHED THE  
10 HEAD HAIRS OF SPECIAL AGENT CAMARENA IN THESE 20 CLASSES OF  
11 CHARACTERISTICS. Q. NOW, DO YOU RECALL HOW MANY HAIRS YOU  
12 COMPARED?

13 A. THERE WERE AT LEAST A DOZEN, PROBABLY AT LEAST A DOZEN  
14 HAIRS IN THE REPRESENTATIVE SAMPLE, TAKEN FROM VARIOUS AREAS  
15 OF THE BLINDFOLD.

16 Q. NOW, AGENT MALONE, I BELIEVE THAT YOU HAVE TAKEN  
17 PHOTOGRAPHS OF THESE VARIOUS HAIR COMPARISON CHARTS THAT  
18 YOU'VE JUST DESCRIBED; IS THAT CORRECT?

19 A YES, I HAVE.

20 Q. AND THAT WOULD INCLUDE PHOTOGRAPHS 140-A, 141-A, AND  
21 142-A; IS THAT CORRECT?

22 A. YES, I HAVE.

23 Q. DO YOU HAVE THOSE PHOTOGRAPHS AVAILABLE TO YOU?

24 A. YES, I DO.

25 Q. I BELIEVE THOSE WOULD RESPECTIVELY BE MARKED 140-B,

1 141-B, AND 142-B?

2 A. YES.

3 MR. CARLTON: WITH THE COURT'S PERMISSION, I WOULD  
4 ASK AGENT MALONE TO TAKE THESE THREE PHOTOGRAPHS AND TO PLACE  
5 THEM ON ONE OF THESE DIAGRAMS TO SHOW THE PARTICULAR LOCATION  
6 WHERE THE HAIR WAS FOUND, TO CLARIFY THAT LOCATION AND WHERE  
7 THE HAIR COMPARISON WAS MADE.

8 THE COURT: ALL RIGHT. YOU MAY DO THAT.

9 (WITNESS STEPPING DOWN TO EASEL NEAR PODIUM  
10 TO PLACE PICTURE ON THE CHART.)

11 BY MR. CARLTON:

12 A. NOW, AGENT MALONE, I BELIEVE THAT YOU ALSO HAVE THERE AS  
13 EXHIBIT 146-A A PHOTOGRAPH OF THE BLINDFOLD FROM WHICH YOU  
14 REMOVED THE HAIRS?

15 A YES, I DO.

16 MR. CARLTON: COULD I ASK THE COURT'S PERMISSION TO  
17 HAVE THIS PHOTOGRAPH ALSO PLACED ON THE CHART?

18 MR. STOLAR: OBJECTION. THERE'S NO TESTIMONY AS TO  
19 WHERE IN THAT HOUSE THE BLINDFOLD WAS ALLEGEDLY FOUND, IF IT  
20 WAS.

21 THE COURT: PASS THAT AND MOVE ON.

22 BY MR. CARLTON:

23 Q. NOW, AGENT MALONE, DURING THE SCRAPING PROCESS OF THE  
24 VARIOUS ITEMS THAT YOU HAVE DESCRIBED, DID YOU FIND OTHER  
25 ITEMS OF EVIDENTIARY VALUE IN ADDITION TO THE HAIR THAT YOU



1 HAVE JUST DESCRIBED?

2 A. YES. I WAS ABLE TO FIND CARPET FIBERS ON VARIOUS ITEMS.

3 Q. DID YOU MAKE ANY EFFORT TO MATCH THESE CARPET FIBERS THAT  
4 YOU FOUND IN THE SCRAPING PROCESS OR ASSOCIATED WITH IT WITH  
5 FIBERS FROM THE KNOWN SAMPLES OF CARPETS TAKEN FROM THE LOPE  
6 DE VEGA ADDRESS?

7 A YES, I DID.

8 Q. WERE YOU ABLE TO MATCH ANY OF THOSE FIBERS?

9 A. YES, I WAS.

10 Q. NOW, I THINK IF YOU LOOK ON THE FLOOR YOU'LL FIND ANOTHER  
11 CHART LABELED EXHIBIT 143.

12 (WITNESS LOCATING EXHIBIT 143.)

13 WHAT DOES THIS CHART REPRESENT?

14 A. THIS IS JUST A GENERAL DIAGRAM SHOWING FIBERS, THE TWO  
15 MAIN CATEGORIES OF FIBERS, AND THE TYPE OF CHARACTERISTICS  
16 THAT CAN BE OBSERVED FROM DOING A MICROSCOPIC EXAMINATION OF  
17 FIBERS.

18 Q. WHAT IS IT THAT YOU LOOK FOR WHEN MAKING FIBER  
19 COMPARISONS?

20 A. WHEN DOING FIBER COMPARISONS, WE'RE BASICALLY TRYING TO  
21 DO ONE OF THREE THINGS. FIRST OF ALL, WE'RE TRYING TO  
22 DETERMINE WHAT DOES THE FIBER LOOK LIKE. SECOND OF ALL, WE'RE  
23 TRYING TO DETERMINE WHAT IS THE FIBER MADE OF. AND, LASTLY,  
24 IF THE FIBER HAS A DYE, A HIGH ENOUGH CONCENTRATION OF DYE  
25 THAT WE CAN ANALYZE IT, WE'LL GO AHEAD AND ANALYZE THE DYES OF

1 THE FIBERS TO SEE IF THEY'RE THE SAME.

2 Q. WHAT KIND OF EQUIPMENT DO YOU USE TO MAKE THIS  
3 COMPARISON?

4 A. AGAIN, WE USED THE THREE-STEP PROCESS, THE THREE  
5 MICROSCOPES THAT I TALKED ABOUT EARLIER, THE STEREOSCOPE, THE  
6 HIGH-POWERED LIGHT MICROSCOPE AND THE COMPARISON MICROSCOPE.

7 BUT IN ADDITION, IF IT HAS A DYE IN IT, WE HAVE A  
8 MACHINE AT THE F.B.I. LAB THAT'S SPECIFICALLY CONSTRUCTED FOR  
9 ANALYZING DYES CALLED A MICROSPECTROPHOTOMETER.

10 Q. IS THAT THE DEVICE THAT IS PICTURED IN 134-C?

11 A. YES, IT IS.

12 MR. CARLTON: I MOVE THAT 134-C BE RECEIVED.

13 THE COURT: THAT MAY BE RECEIVED.

14 (EXHIBIT # 134-C RECEIVED IN EVIDENCE.)

15 BY MR. CARLTON:

16 Q. NOW, IN MAKING THESE COMPARISONS, WHAT CONCLUSIONS CAN  
17 YOU REACH?

18 A. BASICALLY, BY LOOKING AT THE THREE THINGS, THE  
19 MICROSCOPIC CHARACTERISTICS, OR WHAT IT LOOKS LIKE, THE SECOND  
20 THING, WHAT IT'S MADE OF, WHETHER -- GETTING IT DOWN TO ONE OF  
21 THE SEVEN GENERIC TYPES OF MANMADE FIBERS, OR WHETHER IT'S A  
22 NATURAL FIBER, AND IF YOU ANALYZE THE DYE, WHAT YOU'RE DOING  
23 IS COMPARING AN UNKNOWN FIBER BACK TO A PARTICULAR SOURCE OF A  
24 FIBER, SUCH AS A CARPET OR A BLANKET OR WHATEVER.

25 AND IF THEY MATCH IN ALL CHARACTERISTICS,

1 MICROSCOPIC CHARACTERISTICS, THE SAME COMPOSITION AND THE SAME  
2 DYES, YOU THEN SAY THIS UNKNOWN FIBER IS CONSISTENT WITH  
3 COMING FROM THAT PARTICULAR SOURCE, SUCH AS A CARPET.

4 Q. ALL RIGHT. LET'S JUST TALK ABOUT A FEW OF THESE  
5 CHARACTERISTICS. I NOTICE THAT ONE OF THEM IS WHETHER IT'S  
6 MANMADE OR NATURAL.

7 A. BASICALLY, ALMOST ALL OF YOUR FIBERS BEING COMMERCIALY  
8 USED TODAY ARE ONE OF THESE TWO TYPES, MANMADE OR NATURAL.  
9 NATURAL, OF COURSE, THE MOST COMMON BEING COTTON AND WOOL.

10 BUT OVER THE LAST, LET'S SAY, 30 YEARS, THE MANMADE  
11 FIBERS NOW FORM THE VAST BULK OF THE FIBERS THAT WE SEE.

12 AS FAR AS THE MANMADE FIBERS, THERE ARE SEVERAL  
13 DIFFERENT TYPES, SEVEN GENERIC TYPES BEING COMMERCIALY USED  
14 IN THE U.S. TODAY FOR TEXTILES.

15 Q. THERE ON THE CHART THAT YOU HAVE BEHIND YOU, THERE ARE A  
16 NUMBER OF SHAPES SHOWN FOR MANMADE FIBERS. HOW DID THEY GET  
17 THOSE DIFFERENT SHAPES?

18 A. WELL, ALL MANMADE FIBERS ARE -- THEY START OUT IN A  
19 LIQUID FORM AND THEY'RE EXTRUDED OUT THROUGH A SMALL OPENING,  
20 KIND OF LIKE YOU EXTRUDE OUT TOOTHPASTE FROM A TOOTHPASTE  
21 TUBE. BUT WHAT THEY'LL DO IS THEY'LL GIVE THEM DIFFERENT WHAT  
22 ARE CALLED CROSS-SECTIONAL SHAPES FOR DIFFERENT TYPES OF  
23 CHARACTERISTICS IN THE FIBERS. IF YOU SEE A FIBER LIKE THIS,  
24 WHICH IS CALLED A TRI-LEVEL FIBER, YOU KNOW THAT HAS TO BE A  
25 CARPET FIBER, BECAUSE ONLY CARPET FIBERS COME IN THIS

1 TRI-LEVEL SHAPE.

2 YOU SEE THIS DOG BONE SHAPE RIGHT HERE, YOU KNOW  
3 THAT'S AN ACRYLIC FIBER, LIKE WE USE IN SWEATERS, BECAUSE  
4 THAT'S THE ONLY THING THAT HAS THE DOG BONE SHAPE.

5 THIS IRREGULAR SHAPE IS A RAYON. THAT'S TYPICAL OF  
6 RAYON. IF IT'S A ROUND FIBER, IT CAN BE ONE OF SEVERAL TYPES:  
7 POLYESTER, NYLON, OLIFINS, AND THINGS LIKE THAT. BUT THAT IS  
8 A GOOD CLUE AS TO WHAT IT'S MADE UP OF.

9 Q. WHAT CONCLUSION CAN YOU ARRIVE AT IF THERE IS A SINGLE  
10 DIFFERENCE BETWEEN TWO FIBERS THAT YOU'RE COMPARING?

11 A. IF THERE'S A SINGLE DIFFERENCE IN WHAT THEY LOOKED LIKE,  
12 THE MICROSCOPIC CHARACTERISTICS, WHAT THEY'RE MADE OF OR THE  
13 DYES, IF THERE'S JUST ONE SIGNIFICANT DIFFERENCE, YOU CAN  
14 ELIMINATE THE SOURCE. IN OTHER WORDS, YOU CAN SAY, NO, THIS  
15 CARPET FIBER DID NOT COME FROM THAT RUG. POSITIVELY DO THIS.

16 Q. NOW, IF YOU WOULD LOOK -- AND I BELIEVE IN FRONT OF YOU  
17 SHOULD BE AN EXHIBIT -- WELL, 97, FABRIC FROM A SWEATSHIRT.  
18 DO YOU RECALL SCRAPING THAT DOWN?

19 A. YES, I DO.

20 Q. AND IN THE COURSE OF SCRAPING THAT FABRIC DOWN, DID YOU  
21 FIND ANY FIBERS?

22 MR. STOLAR: OBJECTION. SAME AS BEFORE, THE SOURCE  
23 OF WHERE THAT ITEM COMES FROM IS QUESTIONABLE.

24 THE COURT: OVERRULED.

25 THE WITNESS: GOVERNMENT'S EXHIBIT 97, REPORTED AS A

1 SWEATSHIRT OF CAPTAIN ZAVALA, WAS SCRAPED DOWN AND THERE WERE  
2 CARPET FIBERS THAT CAME OFF OF THIS PARTICULAR ITEM.

3 BY MR. CARLTON:

4 Q. DID THE APPLICATION --

5 MR. STOLAR: I'M SORRY. I OBJECT AND MOVE TO STRIKE  
6 THAT IT'S REPORTED THAT IT COMES FROM CAPTAIN ZAVALA.

7 THE COURT: OVERRULED.

8 MS. KELLY: YOUR HONOR, JUST FOR THE RECORD, WE JOIN  
9 IN THAT OBJECTION. LACK OF FOUNDATION.

10 THE COURT: OVERRULED.

11 BY MR. CARLTON:

12 Q. DID YOU THEN COMPARE THE FIBERS THAT YOU OBTAINED THROUGH  
13 THIS SCRAPING PROCESS TO THE KNOWN CARPET SAMPLES THAT YOU  
14 OBTAINED FROM LOPE DE VEGA?

15 A. YES, I DID.

16 Q. BASED ON THAT COMPARISON, DID YOU ARRIVE AT ANY  
17 CONCLUSION AS TO WHETHER THE FIBERS YOU OBTAINED FROM THE  
18 SWEATSHIRT MATCHED THOSE OF ANY OF THE CARPETS AT LOPE DE  
19 VEGA?

20 A. YES, THERE WERE ACTUALLY TWO CARPETS AT LOPE DE VEGA THAT  
21 IT COULD HAVE ORIGINATED FROM. AND ONE WAS THE GUEST HOUSE  
22 CARPET AND THE OTHER WAS LIVING ROOM/DINING ROOM COMBINATION  
23 CARPET.

24 Q. WHAT WAS IT ABOUT THOSE FIBERS THAT ALLOWED YOU TO MAKE  
25 THAT COMPARISON?

1 A. WELL, FIRST I ANALYZED THE FIBER AND TOOK A SAMPLE OF IT  
2 TO DUPONT. AND THEY IDENTIFIED IT AS AN UNBRANDED DUPONT  
3 NYLON CARPET FIBER.

4 I THEN COMPARED ALL THE MICROSCOPIC CHARACTERISTICS  
5 OF THE FIBERS FROM THE SWEATSHIRT TO THE FIBERS FROM THE GUEST  
6 HOUSE AND THE LIVING ROOM AND THEY MATCHED IN ALL MICROSCOPIC  
7 CHARACTERISTICS, THEY MATCHED IN COMPOSITION, INCLUDING THE  
8 MOST SENSITIVE TEST THAT CAN DONE ON A FIBER, CALLED AN FTIR,  
9 INFRARED ANALYSIS, AND THEY MATCHED IN ALL OTHER  
10 CHARACTERISTICS.

11 Q. NOW, I THINK IF YOU WILL LOOK ON THE FLOOR YOU'LL SEE AN  
12 EXHIBIT MARKED 144-A.

13 DO YOU KNOW WHAT THAT CHART REPRESENTS?

14 A. GOVERNMENT'S EXHIBIT 144-A AGAIN HAS TWO COLUMNS. THE  
15 COLUMN ON THE LEFT IS FOUR VIEWS OF THE SAME FIBER.

16 THIS FIBER WAS REMOVED FROM THE SWEATSHIRT AND IT  
17 AGAIN CONSISTED OF A LIGHT BEIGE COLOR TRI-LOBEL NYLON. THE  
18 REASON IT'S TRI-LOBEL, YOU CAN SEE HERE'S A LOBE, HERE'S A  
19 LOBE AND THEN YOU CAN SEE A LOBE RUNNING THROUGH. SOMETIMES  
20 THE LOBE WILL TWIST, BUT IT CAN ONLY BE A CARPET FIBER.

21 NOW, THAT'S A VERY COURSE FIBER. IT WAS COMPARED TO  
22 THE FIBERS FROM THE GUEST HOUSE AND THE LIVING ROOM, WHICH  
23 WERE ALSO TRI-LOBEL NYLON CARPET FIBERS. THEY MATCHED IN ALL  
24 CHARACTERISTICS AND, THEREFORE, I CONCLUDED THAT THE FIBERS  
25 FROM THE SWEATSHIRT ARE CONSISTENT WITH COMING FROM THOSE

1 PARTICULAR CARPETS.

2 Q. NOW, YOU ALSO STATED THAT YOU SUBJECTED THESE FIBERS TO  
3 AN ANALYSIS UNDER AN ACRONYM KNOWN AS FTIR.

4 A. YES. FTIR IS WHAT IS CALLED AN INFRARED ANALYSIS, USING  
5 A SOPHISTICATED MACHINE WHICH WILL IDENTIFY THE COMPOSITION OF  
6 THE FIBER.

7 NOW, IT'S THE MOST SENSITIVE TEST WE HAVE AT THE LAB  
8 FOR IDENTIFYING A FIBER. IT ANALYZED THE COMPOSITION OF THE  
9 FIBERS FROM THE SWEATSHIRT AND SAID THEY HAD EXACTLY THE SAME  
10 COMPOSITION AS THE FIBERS FROM THE GUEST ROOM.

11 Q. NOW, YOU RECALL ALSO RECEIVING A SAMPLE OF SHEET FROM THE  
12 MEXICAN PROSECUTOR, CORRECT?

13 A. YES, I DID.

14 Q. AND DID YOU THEN HAVE OCCASION TO SCRAPE THAT SAMPLE?

15 A. YES, I DID.

16 Q. DID YOU OBTAIN ANY DEBRIS FROM IT?

17 A. YES, I DID.

18 Q. AND IN THAT DEBRIS, DID FIND ANY FIBERS?

19 A. ON THE SHEET THAT I OBTAINED FROM THE PROSECUTOR, I FOUND  
20 A SECOND ENTIRELY DIFFERENT TYPE OF CARPET FIBER. IT DID  
21 NOT -- IT WAS NOT A NYLON, IT WAS A POLYESTER. I IDENTIFIED  
22 IT AS A DACRON POLYESTER, SPECIFICALLY. IT WAS ALSO A CARPET  
23 FIBER.

24 AND THEN I WENT BACK AND COMPARED IT TO THE FOUR  
25 BEDROOMS AT 881 LOPE DE VEGA IN ORDER TO SEE IF IT MATCHED ANY

1 OF THEM.

2 Q. NOW, IF YOU WOULD --

3 MR. STOLAR: I WOULD OBJECT AND MOVE TO STRIKE THE  
4 TESTIMONY. THE EXHIBIT FROM WHICH HE TOOK THE SCRAPING HAS  
5 NOT BEEN MOVED INTO EVIDENCE YET.

6 THE COURT: HAS NOT BEEN WHAT?

7 MR. STOLAR: IT HAS NOT BEEN MOVED INTO EVIDENCE.  
8 THE EXHIBIT FROM WHICH HE TOOK THE SCRAPING HAS NOT BEEN MOVED  
9 INTO EVIDENCE.

10 THE COURT: OVERRULED.

11 MR. STOLAR: YOUR HONOR, THESE ARE MATTERS THAT CAME  
12 FROM THE GUADALAJARA PROSECUTOR.

13 THE COURT: I UNDERSTAND.

14 MR. STOLAR: THEY'RE NOT EVEN EXHIBITS IN EVIDENCE.

15 THE COURT: NO ARGUMENT, COUNSEL.

16 BY MR. CARLTON:

17 Q. AGENT MALONE, IF YOU WOULD LOOK ON THE FLOOR AGAIN AT A  
18 CHART MARKED 145-A, DO YOU RECOGNIZE THAT CHART?

19 A. YES, I DO.

20 Q. WHAT DOES IT REFLECT?

21 A. GOVERNMENT'S EXHIBIT 145-A AGAIN IS A CHART SHOWING TWO  
22 SEPARATE FIBERS. THE LEFTHAND COLUMN IS THREE DIFFERENT VIEWS  
23 OF THE SAME FIBER THAT WAS TAKEN OFF THE SHEET THAT I  
24 RECEIVED.

25 THE RIGHT-HAND COLUMN ARE FIBERS THAT WERE TAKEN



1 FROM THE REAR DEN AND BEDROOM NUMBER FOUR, BECAUSE IT'S  
2 BASICALLY AN EXTENSION OF THE SAME CARPET.

3 AGAIN, IT WAS IDENTIFIED AS A TRI-LOBEL POLYESTER.  
4 DACRON IN PARTICULAR. I EXAMINED ALL THE MICROSCOPIC  
5 CHARACTERISTICS OF THESE FIBERS, THE COMPOSITION -- THEY WERE  
6 RUN ON THE FTIR -- AND ALL THE CHARACTERISTICS, AND CONCLUDED  
7 THAT THE FIBERS FROM THE SHEET BASICALLY COULD HAVE MATCHED  
8 ONE OF TWO SOURCES, THE PALE ROSE-COLORED FIBER FROM BEDROOM  
9 NUMBER FOUR OR THE LIGHT BEIGE FIBERS FROM BEDROOMS ONE AND  
10 TWO.

11 Q. NOW, WHY WAS IT THAT THIS FIBER COULD HAVE MATCHED  
12 CARPETS HAVING EITHER A LIGHT ROSE OR BEIGE COLOR? HOW CAN  
13 YOU COME TO THAT CONCLUSION?

14 A. WHEN YOU'RE LOOKING AT THE CARPET -- PIECE OF CARPET  
15 ITSELF, WHAT YOU'RE LOOKING, IN FACT, IS MILLIONS OF FIBERS.  
16 AND EACH FIBER WILL REINFORCE THE COLOR OF THE OTHER. SO THAT  
17 WHEN YOU LOOK AT A WHOLE BUNCH OF THEM, IT'S A LIGHT OR VERY  
18 PALE ROSE COLOR, WHEREAS THE OTHER ONE HAD NO COLOR AT ALL.  
19 IT WAS KIND OF A LIGHT BEIGE.

20 BUT IF YOU'RE DEALING WITH ONE PARTICULAR FIBER BY  
21 ITSELF, THERE IS SUCH A LOW DEGREE OF DYE IN HERE THAT NONE OF  
22 OUR MACHINES OR NONE OF OUR TECHNIQUES COULD PICK UP THIS DYE.  
23 SO, BASICALLY, MICROSCOPICALLY, IT WOULD MATCH EITHER ONE, THE  
24 CARPET IN BEDROOM NUMBER FOUR OR THE CARPETS IN BEDROOMS ONE  
25 AND TWO.

1 Q. SO IN ALL OTHER RESPECTS, BASED ON YOUR ANALYSIS, THESE  
2 FIBERS MATCH?

3 A. WELL, THERE WERE NO DIFFERENCES THAT WE COULD DETECT AT  
4 ALL. WE JUST COULDN'T SAY WHETHER IT CAME FROM BEDROOM FOUR  
5 OR ONE AND TWO.

6 Q. NOW, YOU RECALL ALSO RECEIVING SOME ITEMS IN THE MAIL IN  
7 JUNE OF 1986, INCLUDING A BLINDFOLD WITH SOME HAIRS ON IT?

8 A. YES, I DO.

9 Q. -- IS THAT CORRECT?

10 A. YES, I DID.

11 Q. DID YOU HAVE OCCASION TO SCRAPE THAT ITEM DOWN?

12 A. YES, I DID.

13 Q. AND DID YOU OBTAIN HAIR OR -- I'M SORRY -- DID YOU OBTAIN  
14 ANY FIBERS AS A RESULT OF THAT SCRAPING PROCESS?

15 A. YES. I ACTUALLY OBTAINED, AGAIN, TWO DIFFERENT KINDS OF  
16 CARPET FIBERS FROM THE TAPE BLINDFOLD.

17 Q. AND THAT TAPE BLINDFOLD WAS EXHIBIT 64-C?

18 A. CORRECT.

19 Q. DID YOU THEN COMPARE THESE TWO DIFFERENT TYPES OF FIBERS  
20 WITH THE KNOWN CARPET SAMPLES FROM LOPE DE VEGA?

21 THE COURT: YES, I DID.

22 MR. STOLAR: EXCUSE ME. OBJECTION ON THE SAME  
23 BASIS.

24 THE COURT: OVERRULED.

25 BY MR. CARLTON:

1 Q. IF YOU WOULD LOOK, PLEASE, ON THE GROUND AT WHAT HAS  
2 BEEN -- THE CHART THAT HAS BEEN MARKED AS 146-B.

3 A. YES.

4 Q. WHAT DOES THIS CHART REPRESENT?

5 A. THIS SHOWS ONE OF THE TWO FIBERS. THIS IS GOVERNMENT'S  
6 EXHIBIT 146-B, AND THIS IS A CHART SHOWING ONE OF THE TWO  
7 KINDS OF FIBERS THAT WAS TAKEN OFF THE BLINDFOLD.

8 THE FIRST TYPE WAS EXACTLY THE SAME AS THAT CAME OFF  
9 THE SHEET, THE VERY LIGHT COLORED TRI-LOBEL DACRON. BUT THIS  
10 WAS THE SECOND TYPE THAT I REMOVED FROM THE BLINDFOLD. THIS  
11 HAD A MUCH MORE OR A MUCH HIGHER CONCENTRATION OF DYES.

12 IT HAD AN ACTUAL COLOR THAT COULD BE DETECTED ON THE  
13 MICROSPECTROTOMETER AND WAS, IN FACT, A ROSE COLOR THAT SHOWS  
14 UP VERY WELL ON THE PHOTOMICROGRAPHS.

15 SO WHAT I DID WAS ON THE LEFTHAND COLUMN YOU HAD  
16 THREE VIEWS OF ONE OF THE FIBERS FROM THE BLINDFOLD. ON THE  
17 RIGHT HAND COLUMN YOU HAVE THREE VIEWS OF A CARPET SAMPLE OUT  
18 OF BEDROOM NUMBER THREE OF LOPE DE VEGA. AND, AGAIN, THE  
19 MICROSCOPIC CHARACTERISTICS WERE ALL THE SAME, THE  
20 COMPOSITION, INCLUDING THE FTIR ANALYSIS WAS EXACTLY THE SAME.

21 BUT THIRDLY, AND MOST IMPORTANTLY, I WAS ABLE TO  
22 ANALIZE THE DYES IN THIS PARTICULAR CARPET FIBER, AND  
23 CONCLUDED THAT IT HAD EXACTLY THE SAME KIND OF DYE AS THE  
24 CARPET FIBERS IN BEDROOM NUMBER THREE OF 881 LOPE DE VEGA.  
25 BASED ON ALL OF THIS, I SAID THIS FIBER WAS CONSISTENT WITH

1 COMING FROM BEDROOM THREE.

2 Q. AND ONLY THAT BEDROOM?

3 A. CORRECT.

4 Q. NOW, IN ANALYZING THE DYES, I BELIEVE YOU TESTIFIED THAT  
5 YOU USED THE DEVICE KNOWN AS A MICROSPECTROPHOTOMETER; IS THAT  
6 CORRECT?

7 A. CORRECT.

8 Q. WOULD YOU PLEASE LOOK AT THE CHART MARKED AS EXHIBIT 147.  
9 PERHAPS YOU CAN EXPLAIN, AGENT MALONE, FOR THE LADIES AND  
10 GENTLEMEN OF THE JURY WHAT IT IS THAT A MICROSPECTROPHOTOMETER  
11 DOES.

12 A. WHAT A MICROSPECTROPHOTOMETER DOES, IF I COULD USE MY  
13 PREVIOUS EXHIBIT, THE PHOTO OF THE MICROSPECTROPHOTOMETER --

14 Q. YES, I BELIEVE THAT'S 134-A.

15 A. CORRECT. IT'S 134-A. THIS IS A PHOTOGRAPH OF THE  
16 MICROSPECTROPHOTOMETER.

17 NOW, IT'S IN THIS SQUARE APPARATUS AND IT'S ATTACHED  
18 TO THE TOP OF THE MICROSCOPE, SO YOU CAN ANALYZE ONE FIBER AT  
19 A TIME. WHAT YOU'RE DOING IS YOU'RE SHINING A STRONG LIGHT UP  
20 THROUGH THE FIBER, THROUGH THE MICROSCOPE AND INTO THE  
21 MICROSPECTROPHOTOMETER WHICH SITS ON TOP OF THE MICROSCOPE.  
22 NOW, IT IS IN CONNECTED, IN TURN, TO A COMPUTER WHICH SITS  
23 OVER HERE, BUT IS NOT IN THE PICTURE, AND THE COMPUTER IS  
24 GOING TO PRINT OUT WHAT IS CALLED AN ABSORPTION CURVE OF THE  
25 DYE. IN OTHER WORDS, IN LAYMEN'S TERMS, IT WOULD BE A

1 SPECTRAL FINGERPRINT OF THE DYE IN THAT PARTICULAR FIBER.

2 NOW, THIS IS IMPORTANT BECAUSE RIGHT NOW THERE'S  
3 OVER 7,000 DYES BEING COMMERCIALY USED IN THE UNITED STATES,  
4 AND MANUFACTURERS DO NOT DUPLICATE EACH OTHER'S DYES. THESE  
5 ARE CLOSELY GUARDED TRADE SECRETS. SO THAT IF YOU FIND TWO  
6 FIBERS WHICH HAVE THE SAME DYE, AND YOU CAN TELL THAT FROM  
7 THIS ABSORPTION CURVE OF THE DYE, YOU KNOW BASICALLY THEY CAME  
8 FROM THE SAME MANUFACTURER.

9 GOVERNMENT'S EXHIBIT 147 IS JUST A BLOW-UP OF THE  
10 PHOTOGRAPH OF THE ABSORPTION CURVES. THE RED LINE HERE IS THE  
11 FIBERS FROM THE BLINDFOLD AND THE BURIAL CORD, WHICH WERE  
12 RECEIVED TOGETHER, AND THIS IS THE CURVE OF THE DYE.

13 THE BLUE LINE HERE IS BEDROOM NUMBER THREE. NOW,  
14 ANY UP OR DOWN VARIATION DOES NOT MATTER. THIS JUST MEANS  
15 YOU'RE LOOKING THROUGH A SLIGHTLY THICKER PART OF THE FIBER  
16 THAN HERE. WHAT YOU'RE LOOKING FOR IS A LEFT-TO-RIGHT  
17 VARIATION. BUT IF THERE IS NO LEFT-TO-RIGHT VARIATION SAYING  
18 THEY HAD THE SAME SPECTRAL FINGERPRINT, YOU CAN CONCLUDE THEY  
19 HAVE THE SAME DYE AND CAME FROM THE SAME MANUFACTURER.

20 THIS IS WHAT I'VE CONCLUDED WITH RESPECT TO THESE  
21 FIBERS.

22 Q. I NOTICE THERE'S A THIRD LINE ON THAT CHART. WHAT DOES  
23 THAT REPRESENT?

24 A. THE BLACK LINE -- BASICALLY THESE ARE ALL MOUNTED IN A  
25 MOUNTING MEDIUM CALLED PERMOUNT (PHONETIC). THIS IS A VERY

1 SENSITIVE COMPUTER. SO YOU HAVE TO RUN THE FIBERS, THE  
2 PERMOUNT BY ITSELF FIRST, AND THEN THIS LINE IS ENTERED IN THE  
3 COMPUTER, AND FROM THEN ON THE COMPUTER WILL AUTOMATICALLY  
4 ERASE IT AND THEREFORE COMPENSATE FOR THE MOUNTING UNIT.

5 Q. NOW, I BELIEVE, AGENT MALONE, THAT YOU ALSO TOOK  
6 PHOTOGRAPHS OF THREE FIBER COMPARISON CHARTS THAT WE JUST  
7 LOOKED AT; IS THAT CORRECT?

8 A. YES, I DID.

9 Q. AND IF YOU LOOK AT THOSE, I BELIEVE THEY'RE MARKED 144-B,  
10 145-C AND 146-D?

11 A. CORRECT.

12 MR. CARLTON: AND, YOUR HONOR, AT THIS TIME I WOULD  
13 ASK THAT AGENT MALONE BE GIVEN PERMISSION TO APPROACH THE  
14 CHART AGAIN AND TO PLACE THESE PHOTOGRAPHS ON THE CHARTS  
15 INDICATING WHAT ROOM THEY'RE CONNECTED WITH THROUGH THE FIBER  
16 COMPARISON.

17 THE COURT: HE MAY DO SO.

18 MR. STOLAR: OBJECTION ON THE SAME BASIS, THAT THERE  
19 IS NO FOUNDATION AS TO WHERE THE FIBERS CAME FROM.

20 MS. KELLY: I JOIN IN THE OBJECTION, YOUR HONOR.

21 THE COURT: OVERRULED.

22 BY MR. CARLTON:

23 Q. NOW, AGENT MALONE, DOES THIS CONCLUDE YOUR ANALYSIS OF  
24 FIBER EVIDENCE?

25 A. YES, IT DOES.

1 Q. NOW, IN ADDITION TO YOUR COMPARISON OF HAIRS AND YOUR  
2 COMPARISON OF FIBERS WHICH YOU'VE JUST DESCRIBED, DID YOU  
3 CONDUCT ANY OTHER COMPARISONS RELATIVE TO THIS INVESTIGATION?

4 A. YES, I DID FABRIC EXAMINATIONS.

5 Q. AND LET'S CLARIFY THEN WHAT ITEMS OF FABRIC DID YOU  
6 OBTAIN AND COMPARE IN RELATION TO THIS? I BELIEVE THAT YOU  
7 RECEIVED EXHIBIT 94, DID YOU NOT, A SAMPLE OF A SHEET OBTAINED  
8 BY AGENT DILLON?

9 A. YES, I DID.

10 Q. AND YOU OBTAINED ALSO A PORTION OF A SHEET TURNED OVER TO  
11 YOU BY THE MEXICAN PROSECUTOR, CORRECT?

12 A. YES, I DID.

13 Q. THAT WAS EXHIBIT 128?

14 A. THAT'S CORRECT.

15 Q. AND YOU ALSO FOUND A PILLOW CASE IN THE UPSTAIRS BEDROOM;  
16 IS THAT TRUE?

17 A. YES, I DID.

18 Q. THAT WAS EXHIBIT 123?

19 A. CORRECT.

20 Q. AND YOU OBTAINED A SMALL SAMPLE OF THE PILLOW CASE FROM  
21 THE MEXICAN PROSECUTOR AS WELL, CORRECT?

22 A. YES, I DID.

23 Q. EXHIBIT 130.

24 AND DID YOU ATTEMPT TO COMPARE ALL OF THESE ITEMS OF  
25 FABRIC?

1 A. YES, I DID.

2 Q. WHAT IS THE COMPARISON PROCESS THAT YOU USED IN  
3 RELATIONSHIP TO THESE FABRIC COMPARISONS?

4 A. THE FABRIC COMPARISONS ARE TRYING TO TELL ONE OF FOUR  
5 THINGS. BASICALLY, WHAT IS THE FABRIC COMPOSED OF; SECONDLY,  
6 HOW IS IT CONSTRUCTED; THIRDLY, WHAT TYPE OF COLOR DOES IT  
7 HAVE; AND FOURTHLY (SIC), WHAT KIND OF DESIGN DOES IT HAVE?

8 SO THESE ARE THE FOUR AREAS THAT WE WERE ABLE TO  
9 COMPARE FABRIC.

10 Q. IF YOU CONCLUDE THAT ALL OF THOSE CHARACTERISTICS ARE  
11 IDENTICAL WHAT CONCLUSION ARE YOU WILLING TO DRAW?

12 A. YOU CAN FIND THAT THEY'RE CONSISTENT WITH COMING FROM THE  
13 SAME SOURCE.

14 Q. NOW --

15 THE COURT: IS THERE ANY REASON FOR THIS WITNESS TO  
16 REMAIN AWAY FROM THE STAND?

17 MR. CARLTON: NOT AT THIS TIME, YOUR HONOR.

18 THE WITNESS: THANK YOU, YOUR HONOR.

19 (WITNESS RESUMED THE STAND.)

20 BY MR. CARLTON:

21 Q. IN COMPARING ALL OF THESE FABRIC SAMPLES, DID YOU ARRIVE  
22 AT A CONCLUSION?

23 MR. STOLAR: OBJECTION. THE ITEMS THAT HE USED FOR  
24 COMPARISON MAY NOT BE USED IN EVIDENCE BECAUSE THERE'S NO  
25 FOUNDATION FOR WHERE THEY CAME FROM.



1 THE COURT: OVERRULED.

2 THE WITNESS: YES, I DID.

3 BY MR. CARLTON:

4 Q. AND WHAT WAS THAT CONCLUSION?

5 A. OF THE FOUR TYPES OF FABRIC THAT I HAD, THE ONE FROM THE  
6 FIRST OR SECOND AUTOPSY, OR THE ONE FROM THE PILLOW CASE THAT  
7 I REMOVED FROM THE UPSTAIRS BEDROOM, THE ONE FROM THE SHEET  
8 THAT WAS TURNED OVER TO ME BY THE MEXICAN PROSECUTOR, AND THE  
9 ONE FROM THE PILLOW CASE THAT WAS TURNED OVER BY THE MEXICAN  
10 PROSECUTOR, I CONCLUDED THAT ALL FOUR OF THESE PIECES OF  
11 FABRIC WERE EXACTLY ALIKE IN COLOR, COMPOSITION, DESIGN AND  
12 CONSTRUCTION. AND, THEREFORE, THEY WERE CONSISTENT WITH  
13 COMING FROM THE SAME SOURCE OR SET OF BED CLOTHING.

14 Q. NOW, WERE THERE ANY DISSIMILARITIES BETWEEN ANY OF THESE  
15 ITEMS OF EVIDENCE?

16 A. NONE.

17 Q. I BELIEVE WITH REGARD TO ONE OF THESE ITEMS, YOU  
18 TESTIFIED EARLIER THAT ITS COLOR WAS SOMEWHAT DIFFERENT?

19 A. THAT'S CORRECT, IT WAS NOT IN ITS ORIGINAL COLOR DUE TO  
20 THE BODY FLUIDS.

21 Q. AND DID YOU SUBJECT THIS ITEM TO ANY PROCEDURES IN ORDER  
22 TO RESTORE IT TO ITS ORIGINAL COLOR?

23 A. YES, I HAD THE CHEMISTRY UNIT AT THE F.B.I. LAB TREAT IT  
24 TO RESTORE IT TO ITS ORIGINAL COLOR, WHICH THEY DID  
25 SUCCESSFULLY.

1 Q. HOW DID THEY DO THAT, DO YOU KNOW?

2 A. BASICALLY THEY TREATED IT WITH A DETERGENT, WHICH REMOVED  
3 THE BODY FLUIDS AND RESTORED IT TO ITS --

4 MR. MEZA: OBJECT AND MOVE TO STRIKE. THERE IS NO  
5 FOUNDATION THAT THERE WERE BODY FLUIDS THAT WERE REMOVED.

6 MR. STOLAR: AND WHAT SOMEBODY ELSE DID IS ALSO  
7 HEARSAY, AND WE JOIN IN THE OBJECTION.

8 MR. MEZA: YES.

9 THE COURT: OVERRULED.

10 BY MR. CARLTON:

11 Q. SO THEY WASHED IT WITH DETERGENT AND REMOVED THE BODY  
12 FLUIDS?

13 A. CORRECT.

14 Q. WAS THIS AT YOUR DIRECTION?

15 A. THAT'S CORRECT.

16 Q. NOW, IF YOU LOOK IN FRONT OF YOU, YOU SHOULD SEE A  
17 PHOTOGRAPH MARKED 124 -- OR PERHAPS IT'S TO THE SIDE.

18 DO YOU SEE THAT?

19 A. YES, I DO.

20 Q. AND WHAT IS THAT?

21 A. GOVERNMENT'S EXHIBIT 124 IS A PHOTOGRAPH OF THE PILLOW  
22 CASE THAT I REMOVED FROM THE UPSTAIRS BEDROOM AT 881 LOPE DE  
23 VEGA.

24 Q. NOW, ON THE GROUND WITH ALL OF THE OTHER CHARTS, I  
25 BELIEVE THERE IS A CHART MARKED 149-A. WOULD YOU PLEASE

1 RETRIEVE THAT.

2 NOW, AGENT MALONE, WHAT DOES THIS CHART REPRESENT?

3 A. GOVERNMENT'S EXHIBIT 149-A IS A CHART OF THE FABRIC MATCH  
4 I WAS ABLE TO MAKE BETWEEN THE SHEET AND THE PILLOW CASES.  
5 AND BASICALLY WHAT I DID -- THE FIRST THING I WAS CONCERNED  
6 WITH WAS COLOR.

7 SO DUE TO THE BODY FLUIDS, THE ORIGINAL COLOR OF THE  
8 SHEET HAD CHANGED FROM PALE BLUE TO THIS KIND OF GREENISH  
9 COLOR. WHAT I DID WAS TREATED THE SHEET WITH DETERGENT,  
10 REMOVING THE BODY FLUIDS RESTORING IT TO ITS ORIGINAL COLOR, A  
11 PALE BLUE WITH WHITE POLKA DOTS.

12 ON THE RIGHT IS THE PORTION OF THE PILLOW CASE FROM  
13 LOPE DE VEGA, SO I SUBJECTED IT TO THE SAME TYPE OF DETERGENT  
14 AS I DID THE SHEET. AND, AGAIN, IT CAME OUT AS IN THIS  
15 PHOTOGRAPH HERE, AND SO I WAS ABLE TO DETERMINE THEY HAD  
16 EXACTLY THE SAME COLOR, WHICH IS A PALE BLUE WITH WHITE POLKA  
17 DOTS.

18 I THEN ANALYZED THE CONSTRUCTION OF THE SHEET AND  
19 THE PILLOW CASES IN THREE CATAGORIES, WEAVE, YARN COUNT AND  
20 TWIST OF THE YARNS, AND THEY WERE EXACTLY THE SAME. PLAIN  
21 WEAVE, THE SAME YARN COUNT, THE SAME Z-TWIST EXACTLY.

22 THE FOURTH AREA I ANALYZED THE SHEETS WAS IN  
23 COMPOSITION, AND BOTH THE SHEET AND THE PILLOW CASE WERE  
24 EXACTLY THE SAME IN WHAT IS CALLED A DELUSTERED POLYCOTTON,  
25 POLYESTER COTTON.

1                   AND FINALLY, I ANALYZED THE DESIGN OF THE SHEET AND  
2 THE PILLOW CASE, AND IT WAS EXACTLY THE SAME, A FLORAL PRINT  
3 ON LIGHT BLUE BACKGROUND WITH BLUE POLKA DOTS. SO IT HAD THE  
4 SAME DESIGN.

5 Q. ALL OF THESE ITEMS THEN WERE CONSISTENT WITH THE PILLOW  
6 CASE THAT YOU TOOK FROM THE UPSTAIRS BEDROOM THREE?

7 A. EVERY ONE OF THEM, YES.

8 Q. UPSTAIRS BEDROOM, I'M SORRY.

9                   DID YOU TAKE A PHOTOGRAPH OF THIS CHART, AS WELL?

10 A. YES, I DID.

11 Q. I BELIEVE THAT'S MARKED 149-B?

12 A. THAT'S CORRECT, YES.

13                   MR. CARLTON: YOUR HONOR, I WOULD ASK PERMISSION FOR  
14 AGENT MALONE TO APPROACH THE CHART AND PLACE THESE PHOTOGRAPHS  
15 ON IT, INDICATING THE LOCATION WHERE THE FABRIC MATCH -- WHERE  
16 THE FABRIC WAS OBTAINED TO BE MATCHED.

17                   MR. STOLAR: OBJECTION ON THE SAME BASIS.

18                   THE COURT: OVERRULED. YOU MAY DO SO.

19                   THE WITNESS: YOUR HONOR.

20                   (WITNESS PLACING PHOTOGRAPH ON THE CHART.)

21 BY MR. CARLTON:

22 Q. NOW, AGENT MALONE, DID YOU ALSO IN THE COURSE OF YOUR  
23 WORK HERE HAVE OCCASION TO PERFORM COMPARISONS OF THE VARIOUS  
24 ROPE SAMPLES THAT YOU HAD OBTAINED?

25 A. YES, I DID.

1 Q. WHAT IS IT THAT YOU DO IN COMPARING SAMPLES OF ROPE SUCH  
2 AS THIS?

3 A. IT'S BASICALLY THE SAME FOUR CRITERIA AS WE DO WITH  
4 FABRICS. WE'RE COMPARING, FIRST OF ALL, THE DIAMETER OF THE  
5 ROPES, HOW WIDE THEY ARE; SECOND OF ALL, THE COMPOSITION, WHAT  
6 THEY'RE MADE OF; THIRDLY, THE CONSTRUCTION OR HOW THEY'RE  
7 MADE, HOW MANY PLYS, HOW THEY'RE TWISTED, THINGS LIKE THIS.

8 SO WE ARE DOING THE CONSTRUCTION, COMPOSITION AND .  
9 DIAMETER OF THE ROPE AND THE COLOR.

10 Q. I BELIEVE ON THE FLOOR WITH ALL THE OTHER CHARTS IS A  
11 CHART MARKED 150-A?

12 A. YES.

13 Q. IF YOU COULD OBTAIN THAT.

14 A. (WITNESS ACQUIRING EXHIBIT 150-A.)

15 Q. WHAT DOES THIS CHART SHOW?

16 A. THIS JUST IS A GENERAL CHART AT FIRST SHOWING THE TWO  
17 TYPES OF ROPES IN EXISTENCE, WHAT IS CALLED ROPE, WHICH IS  
18 TWISTED, WHAT IS CALLED CORDAGE, WHICH IS BRAIDED.

19 AND WITH RESPECT TO THE CORDAGE, IT WOULD BE THE TWO  
20 SAMPLES OF ROPE THAT I ANALYZED, ONE OF THEM BEING FROM THE  
21 PROSECUTOR IN MEXICO, A ROPE THAT WAS REPORTED AS BEING FROM  
22 THE COVERED PATIO --

23 MR. MEZA: OBJECTION AND MOVE TO STRIKE.

24 MR. STOLAR: OBJECTION. MOVE TO STRIKE.

25 MR. MEZA: HEARSAY.

1 THE COURT: RESTATE YOUR QUESTION.

2 BY MR. CARLTON:

3 Q. WHAT WERE THE ITEMS OF ROPE THAT YOU COMPARED?

4 A. A PIECE OF ROPE THAT WAS UNSTAINED AND A PIECE OF ROPE  
5 THAT WAS TAKEN AT THE AUTOPSY OF SPECIAL AGENT CAMARENA THAT  
6 WAS HEAVILY STAINED.

7 AND I COMPARED THE FOUR CHARACTERISTICS THAT I  
8 COULD, AND I FOUND OUT THAT THEY WERE BOTH 3-16THS INCHES IN  
9 DIAMETER. THEY BOTH HAD EXACTLY THE SAME CONSTRUCTION. IN  
10 OTHER WORDS, THEY WERE BOTH BRAIDED ROPE WITH EIGHT SETS OF  
11 PLIES -- EIGHT SETS OF TWO PLIES, I'M SORRY.

12 EACH ONE OF THESE INDIVIDUAL PLIES HAD TWO YARNS AND  
13 THE SAME TWIST. THEY HAD THE SAME CORE, THE SAME TYPE OF  
14 CORE. AND THEN, BASICALLY, I DID THE COMPOSITION AND FOUND  
15 OUT THAT THE OUTER PORTION OF THE SHEATH FOR THE TWO ROPES  
16 WERE WHITE COTTON.

17 AND I FOUND SOMETHING VERY UNUSUAL ABOUT THE TRACER  
18 OR THE CORE OF THE ROPES, THAT THEY WERE CONSTRUCTED OF WHAT  
19 IS CALLED AN UNDRAWN POLYESTER FIBER, WHICH IS VERY, VERY  
20 RARE.

21 Q. IN YOUR OCCASION -- I MEAN IN YOUR EXPERIENCE, HAVE YOU  
22 EVER ENCOUNTERED THIS KIND OF ROPE BEFORE?

23 MR. STOLAR: I WANT TO OBJECT AND MOVE TO STRIKE THE  
24 TESTIMONY CONCERNING THE COMPARISON BETWEEN A ROPE ALLEGEDLY  
25 OBTAINED AT THE AUTOPSY AND SOME OTHER PIECE OF ROPE OBTAINED

1 FROM THE GUADALAJARA PROSECUTOR. NO BASIS, NO RELEVANCE.

2 THE COURT: MOTION IS DENIED.

3 THE WITNESS: I HAVE BEEN LOOKING AT FIBERS FOR 15  
4 YEARS, AND THIS IS THE FIRST OCCASION THAT I HAVE EVER  
5 OBSERVED AN UNDRAWN POLYESTER FIBER. IT'S VERY RARE.

6 BY MR. CARLTON:

7 Q. NOW, ALL THESE ITEMS OF ROPE ARE THE SAME IN ALL RESPECTS  
8 THAT YOU WERE ABLE TO MENTION; CORRECT?

9 A. EVERY CHARACTERISTIC THAT WE CAN ANALYZE, CORRECT.

10 Q. YOU CAN RESUME YOUR SEAT.

11 DID YOU COMPARE ANY TAPE SAMPLES, PIECES OF TAPE, IN  
12 THE COURSE OF YOUR INVESTIGATION?

13 A. YES, I DID.

14 Q. WHAT DID YOU COMPARE?

15 A. I RECEIVED TWO PIECES OF TAPE. ONE, IN THE BLINDFOLD  
16 ADHESIVE TAPE WITH ALL THE HAIRS ON IT, AND THE SECOND WAS A  
17 PIECE OF TAPE REMOVED BY SPECIAL AGENT DILLON FROM THE  
18 AUTOPSY.

19 Q. AGAIN, HOW DID YOU GO ABOUT COMPARING PIECES OF TAPE SUCH  
20 AS THIS?

21 A. ACTUALLY, MOST ADHESIVE TAPE IS JUST A FABRIC WITH AN  
22 ADHESIVE COATING. SO YOU'RE GOING TO DO EXACTLY SAME KINDS AS  
23 DO YOU WITH FABRIC, COMPOSITION, COLOR, CONSTRUCTION AND  
24 DIAMETER OF THE TWO TAPES.

25 I CONCLUDED THESE WERE BOTH 15-16THS INCH IN WIDTH,

1       THEY HAD EXACTLY THE SAME COMPOSITION, EXACTLY THE SAME  
2       CONSTRUCTION, EXACTLY THE SAME DESIGN.

3               AND THEN I FURTHER ANALYZED THE ADHESIVES ON THE  
4       BACK OF THE TAPES AND FOUND OUT THAT THEY WERE EXACTLY THE  
5       SAME, ALSO.

6       Q.     NOW, BASED UPON THE VARIOUS ANALYSES THAT YOU PERFORMED  
7       IN THESE SEPARATE AREAS OF FORENSIC COMPARISON ANALYSIS, DID  
8       YOU REACH A CONCLUSION AS TO THE ASSOCIATION OF SPECIAL AGENT  
9       CAMARENA AND 881 LOPE DE VEGA?

10            MR. STOLAR:  OBJECTION.  HE'S NOT QUALIFIED TO GIVE  
11       THAT CONCLUSION, YOUR HONOR.  HE'S QUALIFIED TO MAKE THE HAIR  
12       COMPARISONS.

13            THE COURT:  OVERRULED.

14            THE WITNESS:  IN VIEW OF THE FACT THAT I HAD FIVE  
15       SEPARATE AND DISTINCT ASSOCIATIONS BETWEEN SPECIAL AGENT  
16       CAMARENA AND 881 LOPE DE VEGA -- THAT IS, A HAIR SAMPLE, TWO  
17       DIFFERENT KINDS OF CARPET FIBERS, A FABRIC MATCH AND A ROPE  
18       MATCH -- IN VIEW OF THESE FIVE SEPARATE INDEPENDENT EVENTS, I  
19       CONCLUDED THAT AT SOME POINT IN TIME SPECIAL AGENT CAMARENA  
20       WAS AT 881 LOPE DE VEGA.  AND WITH RESPECT TO THE GUEST HOUSE  
21       AND BEDROOM NUMBER FOUR, IN A POSITION WHERE HIS HAIRS COULD  
22       BE FORCIBLY REMOVED.

23       BY MR. CARLTON:

24       Q.     NOW, IN THE COURSE OF YOUR WORK IN THIS INVESTIGATION,  
25       DID YOU COMPARE THE KNOWN HEAD HAIRS OF SERGIO ESPINO VERDIN



1 WITH EXHIBIT 114, WHICH ARE THE HAIRS THAT WERE OBTAINED FROM  
2 A VACUUM SWEEPING OF THE GUEST HOUSE?

3 MR. STOLAR: OBJECTION. THE HAIRS OF SERGIO ESPINO  
4 VERDIN, OR WHAT ARE ALLEGED TO BE HAIRS, ARE NOT IN EVIDENCE.  
5 THIS AGENT DID NOT TAKE THEM.

6 THE COURT: OVERRULED.

7 MR. STOLAR: JUDGE RAFEEDIE, HOW DO WE KNOW THEY'RE  
8 SERGIO --

9 THE COURT: JUST A MOMENT, COUNSEL.

10 MR. STOLAR: MAY I BE HEARD AT SIDE BAR?

11 THE COURT: YES, YOU MAY BE HEARD AT THE RECESS  
12 REGARDING THAT, WHICH WE WILL TAKE NOW.

13 MR. STOLAR: THANK YOU.

14 THE CLERK: PLEASE RISE.

15 (JURY EXCUSED.)

16 THE COURT: NOW, COUNSEL, WHAT IS THE PROBLEM?

17 MR. STOLAR: GOVERNMENT'S EXHIBIT 89, I BELIEVE, IS  
18 SAID TO BE THE KNOWN HEAD HAIRS OF SERGIO ESPINO VERDIN. WE  
19 DO NOT KNOW WHERE THEY CAME FROM.

20 MR. CARLTON: THAT'S NOT CORRECT, YOUR HONOR. AGENT  
21 CASTILLO TESTIFIED SEVERAL DAYS THAT HE COLLECTED THE HAIRS OF  
22 SERGIO ESPINO VERDIN AND -- IT HASN'T BEEN ADMITTED INTO  
23 EVIDENCE. IF THAT'S THE PROBLEM, I'LL MOVE NOW THAT THEY BE  
24 RECEIVED.

25 THE COURT: WELL, YOU HAVE TO KEEP IN MIND WHEN YOU

1 MAKE THESE OBJECTIONS THAT OTHER WITNESSES HAVE PREVIOUSLY  
2 TESTIFIED. MANY OF THE OBJECTIONS THAT YOU'VE MADE OVERLOOK  
3 THE CIRCUMSTANTIAL VALUE OF OTHER EVIDENCE THAT HAS BEEN  
4 PREVIOUSLY PRESENTED. IT DOESN'T HAVE TO BE DIRECT EVIDENCE.

5 MR. STOLAR: I UNDERSTAND THAT. THE OTHER  
6 OBJECTIONS THAT I MADE, THOUGH, ON EXHIBITS 128, 129, 130, 131  
7 AND 132, WHICH WERE ITEMS THAT WERE GIVEN TO THIS GENTLEMAN BY  
8 A PROSECUTOR IN GUADALAJARA, WE HAVE ABSOLUTELY NO IDEA WHERE  
9 THOSE ITEMS CAME FROM.

10 THERE IS NO FOUNDATION FOR THEM AND THEY'RE NOT IN  
11 EVIDENCE YET. STILL, HE'S MAKING COMPARISONS AND ASSOCIATING  
12 THEM WITH 881 LOPE DE VEGA. THOSE WERE MY OBJECTIONS DURING  
13 THE TESTIMONY.

14 THE COURT: I KNOW THOSE ARE THE OBJECTIONS YOU MADE  
15 DURING THE TRIAL, THAT IS, BEFORE WE TOOK THE RECESS.

16 DO YOU WISH TO BE HEARD?

17 MR. CARLTON: ABSOLUTELY, YOUR HONOR. THE  
18 COMPARISONS THAT AGENT MALONE HAS MADE ON THESE VARIOUS PIECES  
19 OF EVIDENCE ARE THE FOUNDATIONS FOR THEIR ADMISSIONS. ALL OF  
20 THESE ITEMS OF EVIDENCE MATCH UP WITH SOMETHING OBTAINED FROM  
21 LOPE DE VEGA OR ASSOCIATED WITH AGENT CAMARENA.

22 THE FABRIC THAT WAS OBTAINED FROM THE PROSECUTOR,  
23 THE FABRIC THAT WAS OBTAINED IN THE MAIL BY AGENT MALONE, ALL  
24 MATCHES UP WITH THE -- THROUGH THE FABRIC COMPARISON WITH THE  
25 PILLOW CASE THAT HE OBTAINED FROM BEDROOM NUMBER THREE.

1 SEVERAL OF THESE ITEMS CONTAIN BODY FLUIDS AND THE  
2 CHARACTERISTIC ODOR, AS DID THE BURIAL SHEET THAT WAS  
3 ASSOCIATED WITH AGENT CAMARENA.

4 THE BLINDFOLD HAD AGENT CAMARENA'S HAIR ON IT AND  
5 THE CARPET FIBERS IN TWO DIFFERENT LOCATIONS -- ALL OF THIS IS  
6 CIRCUMSTANTIAL EVIDENCE TYING THESE MATERIALS IN TO LOPE DE  
7 VEGA AND TO THE EVENTS SURROUNDING THIS CASE.

8 AND WHETHER THE SOURCE, THE EXACT SOURCE OF THESE IS  
9 ESTABLISHED IS SIMPLY A MATTER THAT GOES TO THE WEIGHT OF THE  
10 EVIDENCE AND NOT TO THEIR ADMISSIBILITY. THE FOUNDATION, THE  
11 RELEVANCE OF ALL OF THIS HAS BEEN ESTABLISHED THROUGH THE VERY  
12 COMPARISON THAT MR. STOLAR IS NOW OBJECTING TO.

13 MR. STOLAR: LET ME GIVE YOU AN EXAMPLE, JUDGE.  
14 EXHIBIT 131, WHICH WAS A ROPE THAT HAD AN ODOR OF DECOMPOSING  
15 BODY ON IT, WAS GIVEN TO HIM BY THE GUADALAJARA PROSECUTOR.

16 EXHIBIT 132, WHICH IS A CLEAN PIECE OF ROPE, WAS  
17 GIVEN TO HIM BY THE GUADALAJARA PROSECUTOR. HE COMPARED THEM  
18 AND FOUND THEM TO BE THE SAME IN ALL CHARACTERISTICS.

19 WHERE DO THEY COME FROM, HOWEVEVER? WHAT RELEVANCE DO  
20 THEY HAVE TO THIS CASE? THEY CAME FROM THE GUADALAJARA  
21 PROSECUTOR. PERIOD.

22 THE COURT: WELL, WHAT ABOUT THAT?

23 MR. CARLTON: THEY ALL MATCH WITH THE ROPE THAT WAS  
24 ASSOCIATED WITH THE BODIES OF AGENT CAMARENA AND AGENT --  
25 ALFREDO ZAVALA.

1 THE COURT: WHICH ROPE WAS ASSOCIATED WITH THE BODY?

2 MR. CARLTON: PARDON ME?

3 THE COURT: WHICH ROPE? 131?

4 MR. STOLAR: THAT CAME FROM THE PROSECUTOR IN  
5 GUADALAJARA. WE DON'T KNOW WHERE HE GOT IT FROM.

6 THE COURT: WHERE IS THE EVIDENCE THAT IT CAME FROM  
7 THE BODY?

8 MR. CARLTON: IF YOU GIVE ME A MINUTE, I'LL GET TO  
9 THE NUMBER.

10 YES. AGENT DILLON, YOUR HONOR, OBTAINED A PIECE OF  
11 ROPE AT THE MORGUE WHEN HE WENT THERE WITH AGENT COLLINS TO  
12 IDENTIFY THE BODY OF AGENT CAMARENA. YOU WILL RECALL --

13 THE COURT: WAS THAT MARKED AS EXHIBIT 131?

14 MR. CARLTON: THAT'S EXHIBIT 99.

15 THE COURT: WHAT'S THAT GOT TO DO WITH 131?

16 MR. CARLTON: 131, THEN, IS A PIECE OF ROPE THAT WAS  
17 OBTAINED FROM THE PROSECUTOR, THE MEXICAN PROSECUTOR. AND  
18 132, WHICH IS REPRESENTED BY THE PROSECUTOR TO COME FROM THE  
19 COVERED PATIO OF 881 LOPE DE VEGA --

20 MR. STOLAR: WE DON'T KNOW --

21 MR. CARLTON: -- THESE ROPES --

22 MR. STOLAR: WE DON'T KNOW THAT. WE DON'T HAVE  
23 TESTIMONY AS TO WHERE THAT PIECE OF ROPE CAME FROM.

24 THE COURT: WHAT IS THE TESTIMONY OF WHERE THAT CAME  
25 FROM?

1 MR. CARLTON: THE TESTIMONY, YOUR HONOR, WOULD  
2 DERIVE FROM THE MEXICAN PROSECUTOR AS TO THE LOCATION WHERE --

3 THE COURT: THERE'S NO TESTIMONY HERE FROM THE  
4 MEXICAN PROSECUTOR.

5 MR. CARLTON: THAT'S CORRECT.

6 THE COURT: ARE YOU SAYING THAT MERELY THE FACT THEY  
7 WERE TURNED OVER BY A MEXICAN PROSECUTOR IS SUFFICIENT?

8 MR. CARLTON: WELL, CERTAINLY, THEY'RE ALL TIED IN  
9 TO THE BODY OF AGENT CAMARENA.

10 THE COURT: THEY'RE NOT TIED IN. YOU HAVEN'T TIED  
11 IN THE ROPE FOUND ON THE BODY OR NEAR THE BODY OR AT THE  
12 MORGUE, HAVE YOU?

13 WHO TESTIFIED TO THAT?

14 MR. CARLTON: THAT WAS AGENT DILLON, YOUR HONOR.

15 THE COURT: WHAT DID HE TESTIFY TO?

16 MR. CARLTON: HE TESTIFIED AS TO THE PILE OF  
17 MATERIAL, INCLUDING THESE ROPES, ASSOCIATED WITH THE TWO  
18 BODIES AT THE MORGUE, WHICH CONTAINED THE ODOR OF  
19 DECOMPOSITION THE, GREASY TEXTURE. HE TOOK THE SAMPLES.

20 A SAMPLE WAS ASSOCIATED WITH THE BODY NUMBER ONE.

21 THE COURT: WHAT SAMPLES DID HE TAKE?

22 MR. CARLTON: HE TOOK SAMPLES OF THE BURIAL SHEET,  
23 HE TOOK A SAMPLE OF THE VARIOUS ARTICLES OF CLOTHING THAT WERE  
24 ASSOCIATED WITH THESE TWO BODIES, INCLUDING A SAMPLE OF  
25 CAPTAIN ZAVALA'S SWEATSHIRT, THAT --

1 THE COURT: WE ARE TALKING ABOUT THIS ROPE NOW.

2 MR. CARLTON: YES. THE ROPE WAS WITH ALL THESE  
3 OTHER ITEMS.

4 THE COURT: HE DIDN'T TAKE ANY SAMPLE FROM THE ROPE,  
5 DID HE?

6 MR. CARLTON: YES, HE DID. HE TOOK A SAMPLE FROM  
7 THE ROPE AT THE SAME TIME THAT HE TOOK THE ARTICLES OF  
8 CLOTHING AND SAMPLES FROM THE BED SHEET.

9 ALL OF THESE WERE PERMEATED WITH THE SAME  
10 DECOMPOSITION FLUIDS.

11 THE COURT: HE DIDN'T TAKE A SAMPLE OF THE ROPE,  
12 THOUGH?

13 MR. CARLTON: PARDON ME? HE DID TAKE A SAMPLE OF  
14 THE ROPE.

15 MR. MEDRANO: THAT'S EXHIBIT 99, YOUR HONOR.

16 MR. CARLTON: THAT'S EXHIBIT 99.

17 THE COURT: DOES EXHIBIT 99 PURPORT TO BE THE SAME  
18 AS EXHIBIT 131?

19 MR. CARLTON: YES. AND 132. THEY'RE ALL IDENTICAL  
20 IN ALL OF THE VARIOUS --

21 THE COURT: THIS WITNESS SAYS THEY'RE IDENTICAL IN  
22 TEXTURE AND COMPOSITION.

23 MR. CARLTON: YES, IN ALL OF THE VARIOUS MEANS THAT  
24 THEY CAN CHARACTERIZE. AND THEY'RE ALSO VERY UNUSUAL -- WELL,  
25 YOU MAY RECALL HIM TESTIFYING THAT THEY CONSIST OF THE CENTER

1 AS AN UNDRAWN -- I'M SORRY, YOUR HONOR.

2 THE COURT: WELL --

3 MR. STOLAR: WE STILL DON'T KNOW WHERE 131 --

4 THE COURT: WHAT DOES IT PROVE IN THIS CASE, THESE  
5 ROPES?

6 MR. CARLTON: THESE ROPES WERE ASSOCIATED WITH THE  
7 BODIES OF AGENT CAMARENA. AND WE CONTEND THAT THE  
8 REPRESENTATION BY THE MEXICAN PROSECUTORS THAT THE CLEAN PIECE  
9 OF ROPE WAS TAKEN FROM THE COVERED PATIO AT LOPE DE VEGA IS  
10 BORNE OUT BY ALL OF THE OTHER CIRCUMSTANTIAL EVIDENCE  
11 INDICATING THAT THIS ROPE WAS INDEED THE ROPE THAT WAS USED TO  
12 BIND AGENT CAMARENA AND CAPTAIN ZAVALA.

13 MR. STOLAR: THAT'S A BOOTSTRAP ARGUMENT. WE STILL  
14 DON'T KNOW WHERE 132 CAME FROM, THAT CLEAN PIECE OF ROPE. WE  
15 DON'T KNOW WHERE IT CAME FROM. WE HAVE NO IDEA.

16 THE COURT: WE KNOW THAT IT CAME FROM THE  
17 PROSECUTOR.

18 MR. STOLAR: THAT'S RIGHT. AND WITH EXHIBIT 131, A  
19 ROPE THAT HAD THE ODOR OF DECOMPOSING BODY GIVEN TO HIM BY THE  
20 PROSECUTOR; WHERE DID THAT COME FROM?

21 THE COURT: WHY IS IT NECESSARY TO KNOW?

22 SOMETIMES THE FACT THAT IT COMES FROM THE PROSECUTOR  
23 IS -- HAS SOME EVIDENTIARY VALUE.

24 MR. STOLAR: NOT FROM THE MEXICAN PROSECUTOR,  
25 ACCORDING TO THE WAY THEY PRESENTED THE CASE, IT SEEMS TO ME.

1 MAYBE THEY GOT IT FROM SOME OTHER HOUSE. HOW DO WE KNOW?

2 MR. MEDRANO: IT ALL GOES TO THE WEIGHT, YOUR HONOR,  
3 NOT ITS ADMISSIBILITY.

4 MR. STOLAR: NOW WE GO TO THE ADMISSIBILITY --

5 MR. MEDRANO: ALL THIS OTHER CIRCUMSTANTIAL EVIDENCE  
6 IS WHAT ESTABLISHES VALIDITY, YOUR HONOR.

7 THE COURT: ALL RIGHT. THE EXHIBITS ARE RECEIVED.

8 (EXHIBITS # 99, 128, 129, 130, 131, 150-A RECEIVED  
9 IN EVIDENCE.)

10 MS. KELLY: YOUR HONOR, JUST FOR THE RECORD, WE JOIN  
11 IN THE OBJECTIONS.

12 THE COURT: NOW, COUNSEL, YOU FILED A MOTION ON  
13 BEHALF OF BERNABE FOR MISTRIAL OR RULE 16 SANCTION, REQUEST  
14 FOR NAMES OF ALL OTHER WITNESSES WHO WILL MAKE IN-COURT  
15 IDENTIFICATION OF BERNABE. THE GOVERNMENT SAYS THERE WILL BE  
16 NO OTHER IN-COURT IDENTIFICATION OF BERNABE; IS THAT CORRECT?

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

18 THE COURT: NOW --

19 MR. MEDRANO: I'M SORRY, YOUR HONOR. I'M SORRY.

20 OTHER THAN -- IN TERMS OF INFORMANTS, OF COURSE, COUNSEL IS  
21 AWARE OF THE UNDERCOVER AGENTS THAT WILL IDENTIFY THEIR  
22 CLIENT, MR. SALAZAR AND AGENT BERRELLEZ.

23 THEY'RE AWARE OF THAT, BUT OTHER INFORMANTS, THERE  
24 WILL NOT BE OTHERS, YOUR HONOR.

25 THE COURT: WELL, THE COMPLAINT IS MADE HERE AND



1 REQUEST FOR SANCTIONS IS MADE BECAUSE YOU'RE ALLEGED TO HAVE  
2 FAILED TO DISCLOSE CERTAIN ITEMS TO THE COURT -- TO THE  
3 DEFENDANT -- IN A TIMELY MANNER.

4 HAVE YOU READ THE MOTION?

5 MR. MEDRANO: YES, I HAVE, YOUR HONOR.

6 THE COURT: YOU HAD EARLIER TOLD THE COURT THAT THE  
7 NAME THAT THE COURT HAD BEEN UNDERSTOOD TO BELIEVE THAT THE  
8 NAMES OF TESTIFYING PERCIPIENT D.E.A. AGENTS WOULD BE REVEALED  
9 ONE WEEK PRIOR TO TRIAL.

10 THE DEFENDANTS AND THE COURT RELIED UPON THAT  
11 REPRESENTATION, BUT YOU FAILED TO PRODUCE THESE NAMES UNTIL  
12 AFTER THE TRIAL HAD BEGUN. AND YOU NOW SAY THAT, NO, STRIKE  
13 THAT, THAT THIS WAS INADVERTENT.

14 MR. MEDRANO: THAT IS CORRECT, YOUR HONOR. AS TO  
15 THE FACT THAT CERVANTES WOULD IDENTIFY BERNABE, THAT WASN'T  
16 INADVERTENT.

17 AS TO AGENT LEYVA, ALTHOUGH THAT WASN'T PROVIDED ONE  
18 WEEK BEFORE TRIAL, IT WAS PROVIDED DAYS BEFORE THAT WITNESS  
19 EVEN TESTIFIED.

20 AND THEN, OF COURSE, THERE WAS STRENUOUS  
21 CROSS-EXAMINATION OF BOTH WITNESSES ON THE ISSUE.

22 THE COURT: WHY WASN'T CERVANTES'S IDENTIFICATION  
23 PROVIDED?

24 MR. MEDRANO: VERY SIMPLY, YOUR HONOR, IT WAS  
25 COMPLETELY INADVERTENT. THE WAY WE WERE ERRONEOUSLY

1 CONSTRUING YOUR EARLIER ORDER, IT WAS IDENTIFICATION OF ANY  
2 INFORMANTS THAT WERE PERCIPIENT AS TO UNDERCOVER -- PARDON ME,  
3 AS TO THE MEETINGS WHERE THERE WAS THE SCHEME DISCUSSED TO  
4 KIDNAP THE AGENT.

5 ANALOGOUSLY, WF WERE ALSO CONSTRUING YOUR ORDER FOR  
6 ANY PERCIPIENT WITNESSES TO BEING INSIDE LA LANGOSTA  
7 RESTAURANT WITH REGARD TO JAVIER VASQUEZ VELASCO.

8 THAT WAS OUR FOCUS, AND THROUGH AN OVERSIGHT, YOUR  
9 HONOR, WE DIDN'T THROW IN THAT CATEGORY CERVANTES, WHO MERELY  
10 STATED, IF YOU WILL RECALL, THAT BERNABE SHOWED UP AS A GUARD  
11 ONE DAY. BUT DIDN'T PARTICIPATE IN THE MEETINGS.

12 SO THAT WAS THE ERROR, YOUR HONOR. IT WAS  
13 INADVERTANT. BUT AS WE INDICATE IN OUR PAPERS, THERE IS NO  
14 PREJUDICE TO THE DEFENSE BECAUSE THOSE WITNESSES ARE STILL  
15 AVAILABLE, WHICH ACTUALLY IS NOT EVEN NECESSARY IN LIGHT OF  
16 THE PROLONGED FOUR-DAY CROSS-EXAMINATION OF CERVANTES THAT WE  
17 ALL HEARD.

18 THE COURT: WELL, WHAT IS THE PREJUDICE HERE, MR.  
19 MEZA, OTHER THAN THAT YOU DIDN'T LIKE THIS?

20 HOW HAVE YOU BEEN PREJUDICED?

21 MR. MEZA: FIRST OFF, I INDICATED WHAT PREJUDICE  
22 THERE WAS IN THE BRIEF. I DON'T BELIEVE THAT RULF 16 REQUIRES  
23 A SHOWING OF ANY PREJUDICE FOR THE COURT TO IMPOSE SANCTIONS.

24 THE COURT: THE SANCTIONS YOU REQUEST ARE PRETTY  
25 DRASTIC; A MISTRIAL? IS THAT WHAT YOU'RE ASKING THE COURT TO

1 DO?

2 MR. MEZA: YES, YOUR HONOR. IN TERMS OF  
3 PREPARATION, WE WERE GIVEN, AFTER THE TRIAL STARTED, SOMETHING  
4 LIKE IN EXCESS OF 6,000 PAGES OF DISCOVERY. OBVIOUSLY, WE HAD  
5 TO ALLOT OUR ENERGIES IN CERTAIN AREAS.

6 WE RELIED ON THE GOVERNMENT'S REPRESENTATION  
7 CONCERNING THE LIST OF TESTIFYING CONFIDENTIAL INFORMANTS.  
8 AND IT'S MY UNDERSTANDING, AND I CONFIRM THAT IN THE LETTER I  
9 SENT TO THE GOVERNMENT, THAT THE GOVERNMENT'S OBLIGATION WAS  
10 TO GIVE US ON THAT LIST OF TESTIFYING CONFIDENTIAL INFORMANTS,  
11 THE NAMES OF THOSE INFORMANTS WHO RELATED TO OUR PARTICULAR  
12 CLIENT. THAT WAS THE COURT'S ORDER.

13 THEY GAVE US ONLY ONE NAME, AND THAT WAS CESAR LARA  
14 PEREA. AND HECTOR CERVANTES'S NAME APPEARS ON THAT LIST, BUT  
15 IT WASN'T MADE KNOWN TO US. IT'S INTERESTING, BUT I'D JUST  
16 PARENTHETICALLY LIKE TO NOTE THAT THE GOVERNMENT MENTIONED  
17 THAT CESAR LARA PEREA WAS THE ONLY ONE ON THAT LIST THAT  
18 RELATED TO OUR CLIENT. AND IN THEIR LINE-UP TODAY, THEY  
19 DIDN'T -- THEY INDICATED THAT CESAR LARA PEREA WASN'T GOING TO  
20 BE CALLED.

21 SO INSTEAD OF -- WE WERE SUPPOSED TO GET AT LEAST A  
22 MINIMUM OF 48 HOURS NOTICE AND WE DIDN'T GET EVEN 48 SECONDS  
23 WORTH OF NOTICE. SO WHAT HAPPENS IS WE'RE HAVING TO PREPARE  
24 OUR EXAMINATION --

25 THE COURT: THIS WITNESS WAS VERY THOROUGHLY

1 CROSS-EXAMINED, AND DO YOU NOW CONTEND THAT YOU HAVE SOMETHING  
2 NEW YOU'D LIKE TO DISCUSS WITH THAT WITNESS THAT HAS RESULTED  
3 FROM THIS PREJUDICE?

4 MR. MEZA: WELL, I'D LIKE TO HAVE HAD A LITTLE MORE  
5 OPPORTUNITY TO HAVE BEEN PREPARED ON IT OTHER THAN JUST A FEW  
6 HOURS. IN ADDITION TO THE -- I MADE A REPRESENTATION  
7 CONCERNING -- THAT I HAD BEEN INFORMED CONCERNING OUTSTANDING  
8 ARREST WARRANTS.

9 I RECEIVED FROM CO-COUNSEL FOR MR. ZUNO, A COPY OR  
10 COPIES OF MEXICAN DOCUMENTS WHICH PURPORTED TO BE ARREST  
11 WARRANTS IN THE NAME OF MR. CERVANTES CONCERNING VARIOUS  
12 INFRACTIONS THAT HE HAD INCURRED WHILE HE WAS WORKING FOR THE  
13 GOVERNMENT.

14 THE COURT: HE WAS QUESTIONED ABOUT THOSE.

15 MR. STOLAR: NO, SIR.

16 MR. MEZA: NO, HE WAS NOT. THAT'S NOT TRUE,  
17 BECAUSE I DIDN'T KNOW ABOUT THEM AT THE TIME.

18 THE COURT: MY RECOLLECTION IS THAT COUNSEL  
19 QUESTIONED HIM ABOUT THINGS HE HAD BEEN INDICTED FOR BY THE  
20 MEXICAN GOVERNMENT.

21 MR. CARLTON: HE WAS CROSS-EXAMINED ABOUT FOUR  
22 DIFFERENT ARRESTS AND CONVICTIONS, YOUR HONOR, WHICH HE DENIED  
23 ON THE STAND.

24 MS. KELLY: YOUR HONOR, I BELIEVE THAT TESTIMONY  
25 CAME OUT ON DIRECT EXAMINATION FROM THE PROSECUTOR WHO ASKED

1 "HAVE YOU BEEN EVER BEEN ARRESTED?" AND HE ANSWERED, "NO."

2 MR. MEZA: RIGHT.

3 MR. STOLAR: AND WE FOUND OUT LATER THERE ARE THESE  
4 OUTSTANDING ARREST WARRANTS FOR THE MAN.

5 THE COURT: LOOK, THIS MAN IS ADDRESSING A MOTION.  
6 YOU PEOPLE JUST REMAIN SEATED.

7 WELL, COUNSEL, YOU HAVE ASKED THIS COURT BASED ON  
8 THIS TO DO EITHER OF THE FOLLOWING THINGS: DISMISS THE CASE,  
9 WHICH I DENY; DECLARE A MISTRIAL, WHICH I DENY; EXCLUDE THE  
10 TESTIMONY OF CERVANTES AND AGENT LEYVA, WHICH I DENY; OR A  
11 REASONABLE CONTINUANCE WHICH I DON'T BELIEVE YOU REALLY WANT.

12 MR. MEZA: WELL, YOUR HONOR, THERE ARE SEVERAL  
13 REASONS FOR IT. ONE, I DON'T BELIEVE RULE 16 REQUIRES A  
14 SHOWING OF PREJUDICE.

15 SECONDLY, WHAT IS THE VALUE OF A COURT ORDER IF THE  
16 GOVERNMENT CAN SIMPLY COME IN AND SAY, "GOSH, IT WAS  
17 INADVERTENT." I CAN GUARANTEE YOU THAT IT WASN'T INADVERTENT  
18 UP TO THE TIME THAT THEY ASKED THE QUESTIONS CONCERNING MY  
19 CLIENT. THEY KNEW DARNED GOOD AND WELL WHAT THE ANSWER WAS  
20 GOING TO BE AND THAT WASN'T AN INADVERTENT QUESTION.

21 THE COURT: YES. BUT THE POINT IS UNLESS YOU HAVE  
22 SUFFERED SOME PREJUDICE, I'M NOT GOING TO GIVE THESE SANCTIONS  
23 THAT YOU REQUEST -- DISMISSAL OF THE CASE, BECAUSE WE HAVE THE  
24 PUBLIC INTEREST INVOLVED HERE, AS WELL.

25 MR. MEZA: THE PROBLEM I GUESS I HAVE IN ADDITION TO

1 EVERYTHING ELSE IS THAT IF THE GOVERNMENT'S WORD ISN'T WORTH  
2 THE PAPER THAT IT'S PRINTED ON, THEN WHAT'S THE POINT OF  
3 REQUIRING THEM TO DO ANYTHING?

4 THE COURT: WELL, THE COURT DOES NOT BELIEVE THAT  
5 THIS WAS DONE IN BAD FAITH BUT I BELIEVE IT WAS INADVERTENT,  
6 AS COUNSEL HAS INDICATED.

7 AND I DON'T THINK THAT THERE'S BEEN ANY PREJUDICE  
8 SUFFICIENT TO WARRANT THESE DRASTIC REMEDIES THAT YOU HAVE  
9 ASKED FOR AND, THEREFORE, I DENY IT.

10 MR. MEZA: THANK YOU.

11 THE COURT: IF THERE IS ANY PREJUDICE THAT YOU CAN  
12 SHOW TO THE COURT THAT CAN BE OVERCOME, I'D BE GLAD TO  
13 CONSIDER IT.

14 MR. MEZA: THANK YOU.

15 THE COURT: NOW, WHAT I WANT TO -- COUNSEL, I WANT  
16 YOU TO, FIRST OF ALL, GET BUSY ON JURY INSTRUCTIONS. AND I  
17 WANT THE CLERK TO PROVIDE EACH COUNSEL WITH A COPY OF THE  
18 COURT'S ORDER RELATING TO JURY INSTRUCTIONS SO YOU WILL KNOW  
19 HOW I WANT THEM PREPARED.

20 I WANT TO SAY A WORD OR TWO ABOUT JURY INSTRUCTIONS,  
21 AND THEN FIRST OFF ALL, DO NOT GET TOO CREATIVE IN PROPOSING  
22 JURY INSTRUCTIONS. THE COURT IS NOT INTERESTED IN  
23 ARGUMENTATIVE JURY INSTRUCTIONS. WHAT I AM INTERESTED IN IS  
24 AN HONEST AND OBJECTIVE AND NEUTRAL STATEMENT OF THE LAW THAT  
25 WOULD BE HELPFUL TO THE JURY IN RELATION TO THIS CASE.

1 I DO NOT WANT TAILOR-MADE INSTRUCTIONS THAT ARE  
2 REALLY NOT INSTRUCTIONS AT ALL, BUT ARE MERELY ARGUMENTS OF  
3 THE FACTS OF THE CASE WHICH YOU CAN MAKE YOURSELF DURING THE  
4 ARGUMENTS.

5 INSTRUCTIONS SHOULD ATTEMPT TO BE A NEUTRAL  
6 STATEMENT OF THE LAW AND THEY SHOULD BE PREPARED WITH AN EYE  
7 TO HELPING THE JURY UNDERSTAND WHAT THE CASE IS ABOUT. SO IF  
8 YOU SUBMIT ANY OTHER TYPE, YOU MAY BE SURE THE COURT WILL NOT  
9 ACCEPT IT.

10 TO THE EXTENT POSSIBLE, I WANT YOU AND THE  
11 PROSECUTORS TO GET TOGETHER AND TRY TO AGREE JOINTLY ON WHAT  
12 INSTRUCTIONS ARE APPROPRIATE FOR THIS CASE. THAT IS WHAT MY  
13 WRITTEN ORDER WILL TELL YOU TO DO, AND IT WILL TELL YOU HOW TO  
14 DEAL WITH THIS AGREEMENT, AND I WILL EXPECT YOU TO FOLLOW THE  
15 ORDER OF THE COURT IN THAT RESPECT.

16 NOW, I WANT YOU ALSO TO TELL ME AT THIS TIME, THERE  
17 ARE SOME UNFINISHED MOTIONS THAT I KNOW ABOUT HERE. MR. ZUNO  
18 HAS FILED A MOTION BY WHICH HE SEEKS TO DISCOVER REDACTED  
19 PORTIONS OF D.E.A. 6 REPORT PREPARED BY AGENT COONCE REGARDING  
20 THE SALE OF LOPE DE VEGA, REDACTED PORTIONS OF JENKS MATERIAL  
21 OF JORGE GONZALES, DOCUMENTS IN THE GOVERNMENT'S POSSESSION  
22 REGARDING LOPE DE VEGA, AND DOCUMENTS RELATING TO PRESIDENT  
23 ECHEVERRIA AND DEFENDANT.

24 THE MEMO WAS CONFUSED AND SOMEWHAT DIFFICULT TO  
25 FOLLOW, BUT I WILL RULE ON THIS AS SOON AS POSSIBLE.

7  
1 THE DEFENDANT BERNABE HAS FILED A MOTION TO EXCLUDE  
2 PORTIONS OF THE TAPED CONVERSATIONS BETWEEN BERNABE AND AGENT  
3 BERRELLEZ. THERE ARE SIX EXCERPTS IN ALL, WHICH HE HAS  
4 CHALLENGED. AND THE COURT HAS READ AND CONSIDERED THESE,  
5 EXCEPT EXCERPT NUMBER --

6 MR. CARLTON: YOUR HONOR --

7 THE COURT: PARDON?

8 MR. CARLTON: -- MAY WE ASK THAT THE WITNESS BE  
9 EXCUSED?

10 THE COURT: YES, HE MAY.

11 THE WITNESS: THANK YOU, YOUR HONOR.

12 (WITNESS EXCUSED.)

13 THE COURT: THE EXCERPT NUMBER ONE, JULY 21, WHICH  
14 IS EXHIBIT A TO THE GOVERNMENT'S OPPOSITION, THE DEFENDANT  
15 BERNABE STATES THAT HE RECEIVED SHOES FROM RAFA AS A CHRISTMAS  
16 PRESENT WHILE HE WAS EMPLOYED BY THE ATTORNEY GENERAL'S  
17 OFFICE.

18 HE ALSO DISCUSSES HIS ARREST WITH FONSECA IN PUERTO  
19 VALLARTA. HE STATES THAT HE DID NOT RUN, BUT CONTINUED TO  
20 STAY ON GUARD DUTY. THIS, IT SEEMS TO THE COURT, IS VERY  
21 RELEVANT BECAUSE IT TIES BERNABE TO THIS ALLEGED CARTEL. IT  
22 ALSO ESTABLISHES THAT MR. BERNABE WAS FONSECA'S BODYGUARD, AS  
23 THE GOVERNMENT HAS CHARGED.

24 EXCERPT NUMBER 2, JULY 21, EXHIBIT B TO THE  
25 GOVERNMENT'S OPPOSITION, BERNABE STATES THAT HE LIKED RAFA AND



1 LIKES FONSECA EVEN MORE - HE STATES THAT THEY WERE NICE TO  
2 HIM, THAT HE HAS NO REGRETS AND WOULD DO IT ALL OVER AGAIN.

3 AGAIN, THESE STATEMENTS TEND TO DEMONSTRATE THAT  
4 BERNABE WAS A MEMBER OF THIS ALLEGED CARTEL. IT ALSO  
5 DEMONSTRATES OR MAY BE SAID TO DEMONSTRATE HIS PLACE WITHIN  
6 THE GROUP.

7 THE THIRD EXCERPT IN WHICH BERNABE STATES THAT HE  
8 WOULD KILL ANYONE WHO GETS IN HIS WAY, THE GOVERNMENT AGREES  
9 THAT THIS PORTION OF THE TAPE IS NOT ADMISSIBLE AND WILL NOT  
10 SEEK TO HAVE IT ADMITTED AND WILL EXCISE IT, AND THAT IS  
11 PROPER.

12 BERNABE STATES THEN THAT WE WOULD NOT HAVE BEEN  
13 RELEASED FROM PRISON WITHOUT THE MAN'S, FONSECA'S,  
14 AUTHORIZATION. AGAIN THIS IS PROBATIVE OF BERNABE'S  
15 INVOLVEMENT WITH FONSECA AND WITH THIS GROUP.

16 THE THIRD PORTION OF THIS EXCERPT INVOLVES HOW  
17 BERNABE MANAGED TO DECEIVE THE MEXICAN AUTHORITIES AS TO HIS  
18 ROLE IN THE FONSECA ORGANIZATION BY CLAIMING TO BE A SERVANT.  
19 THE DEFENDANT LAUGHED ABOUT HOW HE TOLD THEM THAT HE WOULD  
20 SERVE OTHERS FOOD AND BEER. HE DESCRIBES HIMSELF AS A CAT;  
21 APPARENTLY A REFERENCE TO HIS DECEPTION OR STEALTH.

22 AGAIN, THIS APPEARS TO BE PROBATIVE OF BERNABE'S  
23 RELATIONSHIP WITH THE CARTEL. IT MAKES HIS BEING A BODYGUARD  
24 WHO MAY HAVE BEEN PRESENT AT 881 MORE LIKELY THAN NOT. IT IS  
25 A FACT THAT THE JURY MAY CONSIDER FOR THAT PURPOSE.

1 EXCERPT FOUR, THE DEFENDANT HAS NOT OBJECTED TO  
2 ADMISSION OF.

3 EXCERPT FIVE -- IN THIS EXCERPT, AGENT BERRELLEZ WAS  
4 POSING AS A MEXICAN DRUG DEALER NAMED LIZARRAGA, WHO WAS  
5 TESTING THE WATERS TO DETERMINE WHETHER HE WAS WANTED IN  
6 MEXICO IN CONNECTION WITH THE MURDER OF CAMARENA.

7 BERNABE STATES THAT NO RECORDINGS WERE MADE OF THE  
8 BEATING OF CAMARENA, THE GRINGO. HE THEN STATES THAT CAMARENA  
9 DID NOT MENTION LIZARRAGA DURING THE INTERROGATION. THIS RUNS  
10 THROUGH PAGE 11 OF THE TRANSCRIPT. THIS STATEMENT IS CLEARLY  
11 ADMISSIBLE TO ESTABLISH THAT BERNABE WAS AT THE 881 RESIDENCE  
12 DURING THE INTERROGATION. AT LEAST IT'S SUSCEPTIBLE TO THAT  
13 INFERENCE.

14 NOW, AFTER PAGE 11 OF EXHIBIT E OF THE GOVERNMENT'S  
15 OPPOSITION, THE CONVERSATION THEN CONTINUES WITH REGARD TO  
16 BERNABE OBTAINING FOR LIZARRAGA COPIES OF THE CONFESSIONS AND  
17 STATEMENTS GIVEN TO THE MEXICAN POLICE BY PERSONS ARRESTED IN  
18 CONNECTION WITH THE CAMARENA KILLING TO FURTHER SATISFY  
19 LIZARRAGA, WHO WAS REALLY AGENT BERRELLEZ, THAT HE WAS NOT  
20 IMPLICATED.

21 NOW, THIS DOES NOT APPEAR TO BE THAT RELEVANT TO  
22 THIS CASE. THE GOVERNMENT ARGUED THAT IT SHOULD BE INCLUDED  
23 BECAUSE IT PLACES THE REST OF THE CONVERSATION IN CONTEXT.  
24 I'M UNABLE TO FOLLOW THAT. AND THE GOVERNMENT ALSO SUGGESTS  
25 THAT IT SHOULD BE COMPLETED -- SHOULD BE ADMITTED FOR THE

1 PURPOSE OF COMPLETENESS. THIS CONVERSATION AFTER PAGE 11 OF  
2 EXHIBIT E SHOULD BE EXCLUDED. IT IS SIMPLY NOT RELEVANT.

3 EXCERPT SIX, WHICH IS EXHIBIT F. IN THIS EXCERPT  
4 BERNABE REPEATEDLY PLACES HIMSELF AT THE 881 LOPE DE VEGA  
5 RESIDENCE. HE DISCUSSES HOW FONSECA AND CARO ARGUED ABOUT THE  
6 EXTENT OF THE TORTURE THAT CAMARENA WAS RECEIVING AND HOW THEY  
7 ALL AGREED AT ONE POINT THAT CAMARENA WOULD DIE FROM HIS  
8 WOUNDS, SO THEY MIGHT AS WELL, QUOTE, "GO ALL THE WAY,"  
9 UNQUOTE.

10 HE AGAIN ASSURED LIZARRAGA, BERRELLEZ, THAT IS, THAT  
11 CAMARENA DID NOT MENTION HIM. HE SUGGESTS A TIME THAT HE  
12 COULD HEAR WHAT CAMARENA WAS SAYING. HE ASSURED LIZARRAGA  
13 THAT HE HAD FIRSTHAND KNOWLEDGE OF WHAT CAMARENA SAID. HE  
14 OBJECTS TO PORTIONS OF THE EXCERPT WHICH, AGAIN, TO BERNABE'S  
15 ASSISTANCE IN OBTAINING THE STATEMENTS MADE TO THE POLICE FROM  
16 A MEXICAN LAWYER.

17 IT IS THE COURT'S VIEW THAT PAGE 7186, STARTING WITH  
18 THE SECOND "YES" ON THAT PAGE, THROUGH 7188, BE EXCLUDED. BUT  
19 THE FIRST TWO PARAGRAPHS SHOULD NOT BECAUSE THEY DEMONSTRATE  
20 THAT BERNABE WAS -- THAT IS, IF IT IS BELIEVED THAT HE WAS AT  
21 THE 881 RESIDENCE, AND THEREFORE SHOULD NOT BE EXCLUDED.

22 THE FINAL EXCLUSIONARY STATEMENT WHICH HE SEEKS TO  
23 EXCLUDE IS CONTAINED IN PARAGRAPH SIX OF PAGE 7192. IN THIS  
24 PORTION OF THE EXCERPT, BERNABE STATES THAT THE PERSON WHO  
25 EXHUMED THE BODIES OF CAMARENA AND ZAVALA AND PLACED THEM ON

1 THE RANCH SO THEY WOULD BE DISCOVERED, QUOTE, "SHOULDN'T BE  
2 ALIVE," END QUOTE.

3 I BELIEVE THAT THIS SHOULD BE ADMITTED BECAUSE IT  
4 DEMONSTRATES BERNABE'S LOYALTY TO THIS GROUP AND THE PERSONS  
5 WHO KILLED CAMARENA AND ZAVALA.

6 EXCEPT, THEREFORE, FOR THE -- I WOULD EXCISE THE  
7 EXCERPT FIVE ON PAGE 7163 FROM THE WORD "AND" AND "JUST",  
8 THROUGH THE END OF THE EXCERPT AND EXCISE THE EXCERPT SIX,  
9 PAGES 7186, FROM THE SECOND "YES" TO THE FIRST LINE OF 7189,  
10 AND WOULD DENY IT IN ALL OTHER RESPECTS.

11 MR. CARLTON: TO THE FIRST LINE OF 7189, YOUR HONOR?

12 THE COURT: 7189.

13 DO YOU WISH TO BE HEARD ON THIS?

14 MS. KELLY: YOUR HONOR, I UNDERSTAND THE COURT'S  
15 RULING. I JUST WANT TO CLARIFY FOR THE COURT THAT I WASN'T  
16 SEEKING TO EXCLUDE CERTAIN ADMISSIONS, BUT RATHER, THE PORTION  
17 DEALING WITH THE BOOTS OCCURRED LONG BEFORE THIS CRIMINAL  
18 ACTIVITY.

19 THE COURT: THE PORTION DEALING WITH THE WHAT?

20 MS. KELLY: THE BOOTS. THIS IS THE FIRST EXCERPT,  
21 YOUR HONOR, CONCERNING THE BOOTS FROM CARO QUINTERO WHILE --

22 THE COURT: WELL, I THINK THAT'S ADMISSIBLE FOR THE  
23 REASONS THAT I'VE STATED, EVEN THOUGH IT WAS BEFORE. IT SHOWS  
24 SOME RELATIONSHIP BEGINNING EARLIER.

25 ALL RIGHT. WE'LL TAKE A BRIEF --

1 MR. MEDRANO: YOUR HONOR, IS THIS JUST --

2 THE COURT: THE OTHER THING THAT I WANTED TO -- YES,  
3 I'M NOT FINISHED YET.

4 I WANT, COUNSEL, NOW THAT WE'VE DISPOSED OF SOME OF  
5 THESE -- I WANT YOU TO INDICATE TO ME WHAT MATTERS REMAIN TO  
6 BE DEALT WITH THAT YOU WANT THE COURT -- ALL MATTERS, WHETHER  
7 IT BE EXAMINATION THAT HAS BEEN RESERVED, OR ANY OTHER MOTIONS  
8 THAT I HAVE NOT REFERRED TO YET, ET CETERA, SO WE KNOW WHAT WE  
9 NEED TO CLEAR UP HERE.

10 MR. STOLAR: AS FAR AS WE ARE CONCERNED, THERE ARE  
11 TWO OUTSTANDING CROSS MOTIONS TO QUASH SUBPOENAS.

12 THE COURT: TWO MOTIONS TO QUASH, YES. ONE OF  
13 THOSE -- THIS LADY THAT WROTE THIS BOOK, DESPERADOS --

14 MR. STOLAR: THAT'S A THIRD ONE.

15 THE COURT: THAT'S ANOTHER MOTION TO QUASH, WHICH I  
16 HAVE SCHEDULED FOR HEARING.

17 MR. NICOLAYSEN: I CAN SPEAK TO THAT, YOUR HONOR,  
18 WHEN MR. STOLAR IS DONE.

19 THE COURT: ALL RIGHT. BUT MR. MATTA HAS TWO  
20 MOTIONS; THAT IS, ONE BY YOU AND ONE BY THE GOVERNMENT, RIGHT?

21 MR. STOLAR: RIGHT. BUT OUR MOTION TO QUASH THEIR  
22 SUBPOENA OF OUR EXPERT -- THEIR MOTION TO QUASH OUR SUBPOENA  
23 OF THE C.I.A., F.B.I., D.E.A. AGENTS.

24 THE COURT: YOU MADE A MOTION TO QUASH THEIR  
25 SUBPOENA OF YOUR EXPERT.

1 MR. STOLAR: RIGHT. AND BOTH OF THOSE HAVE BEEN  
2 ANSWERED BY THE OTHER PARTY-

3 THE COURT: WE'LL GET TO THOSE IN THE MORNING, I'M  
4 SURE.

5 MR. STOLAR: THE OTHER OUTSTANDING MATTERS, AS FAR  
6 AS WE ARE CONCERNED, ARE THE UNFINISHED SIMMONS HEARING  
7 BUSINESS, WHICH I HOPE TO RESOLVE.

8 THE COURT: WHAT DO YOU SEE AS REMAINING IN THAT?  
9 THE SIMMONS HEARING REGARDING --

10 MR. STOLAR: CERVANTES SANTOS.

11 THE COURT: -- CERVANTES. NOW, AFTER WE -- I  
12 HEARD -- WE HEARD FROM TWO WITNESSES AND THE DEFENDANT.

13 MR. STOLAR: NO, TWO WITNESSES.

14 THE COURT: AND I LEFT IT AT THAT POINT AND ASKED  
15 YOU TO DISCUSS WITH MR. MEDRANO WHAT HIS INVOLVEMENT IN THIS  
16 WAS TO SEE IF YOU COULD IRON THAT OUT INFORMALLY. DO YOU WISH  
17 TO EXAMINE HIM?

18 MR. STOLAR: LET ME -- I'LL TALK TO MR. MEDRANO  
19 AFTER COURT TODAY IF HE'S GOT TIME, AND WE'LL SEE IF WE CAN --

20 THE COURT: ALL RIGHT. SO MEDRANO WOULD BE ONE  
21 ISSUE, AND WHAT ELSE?

22 WHAT ELSE DO YOU THINK NEEDS TO BE DONE?

23 MR. STOLAR: WASN'T THERE ONE OTHER WITNESS, D.E.A.  
24 AGENT THAT YOU SHOWED THE PICTURE?

25 TOMMY MOR- --

1 MR. MEDRANO: TOMMY MORALES?

2 MR. STOLAR: TOM MORALES. IS HE AVAILABLE TO BE  
3 SPOKEN TO?

4 THE COURT: TOM MORALES IS WHO?

5 MR. STOLAR: HE SHOWED THE GROUP PHOTOS TO THE  
6 WITNESS.

7 MR. MEDRANO: HE'S A D.E.A. AGENT WHO, I BELIEVE,  
8 ALSO SHOWED PHOTOGRAPHS TO CERVANTES.

9 THE COURT: DO YOU WISH TO EXAMINE HIM ALSO?

10 MR. STOLAR: I WANT TO TALK TO HIM. I WANT TO DO  
11 THE SAME THING AS MR. MEDRANO.

12 MR. MEDRANO: SO, IT WOULD BE MORALES AND MYSELF?

13 MR. STOLAR: YES.

14 THE COURT: IS THERE ANYONE WHO SEES THIS MOTION ANY  
15 DIFFERENTLY REGARDING CERVANTES?

16 MR. MEZA: ON SIMMONS, WE WANTED TO INCLUDE ALSO --  
17 I DON'T THINK IT WILL TAKE TOO LONG -- THE PHOTO  
18 IDENTIFICATION PROCEDURE EMPLOYED WITH AGENT LEYVA. IT WASN'T  
19 UNTIL WE GOT THE GRAND JURY TESTIMONY LAST WEEK OF AGENT  
20 BERRELLEZ THAT AGENT BERRELLEZ INDICATED IN HIS TESTIMONY THAT  
21 HE HAD DISPLAYED PHOTOS TO LEYVA BACK IN AUGUST OF LAST YEAR.

22 SO WE WOULD HAVE INCLUDED IT EARLIER, WE JUST DIDN'T  
23 KNOW ABOUT IT EARLIER.

24 MR. MEDRANO: YOUR HONOR, HE WAS AVAILABLE FOR  
25 CROSS. THIS IS A MAN WHO COMES FROM MEXICO. THEY SHOULD

1 HAVE DONE IT AT THAT TIME THAT HE WAS AVAILABLE.

2 MR. MEZA: NO, NO, I WANT TO TALK TO AGENT  
3 BERRELLEZ, NOT AGENT LEYVA.

4 MR. MEDRANO: OH, I'M SORRY, I THOUGHT YOU MEANT  
5 LEYVA.

6 THE COURT: YOU DID SAY LEYVA.

7 MR. MEZA: CONCERNING AGENT LEYVA.

8 THE COURT: ALL RIGHT. YOU WANT TO QUESTION AGENT  
9 BERRELLEZ ON WHAT KIND OF A PHOTO DISPLAY HE SHOWED TO --

10 MR. MEZA: DISPLAYED TO AGENT LEYVA.

11 THE COURT: -- LEYVA?

12 MR. MEZA: YES. CO-COUNSEL WOULD LIKE LEYVA TO BE  
13 PRESENT.

14 THE COURT: CO-COUNSEL WHO?

15 MR. MEZA: MS. KELLY.

16 MS. KELLY: I WOULD, YOUR HONOR.

17 THE COURT: FOR WHAT PURPOSE?

18 MS. KELLY: WELL, YOUR HONOR. AGENT LEYVA COULD NOT  
19 RECALL HOW MANY PHOTOGRAPHS HE HAD SEEN OR WHAT PHOTOGRAPHS HE  
20 HAD SEEN. AND I THINK THAT THE PROBLEM WITH THE NOT BEING  
21 APPRISED OF THE POSSIBLE IN-COURT IDENTIFICATION UNTIL IT  
22 HAPPENED IN COURT, IS THAT WE WERE DEPRIVED OF AN OPPORTUNITY  
23 TO MAKE ANY KIND OF SHOWING AT THE PRETRIAL --

24 THE COURT: WELL, ARE YOU ASKING FOR PERHAPS HAVING  
25 HIM AVAILABLE FOR ADDITIONAL CROSS-EXAMINATION?



1 MS. KELLY: YES, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 MR. CARLTON: WELL, YOUR HONOR, AGENT BERRELLEZ WILL  
4 BE CALLED AS A GOVERNMENT WITNESS WITHIN THE NEXT DAY OR TWO,  
5 SO HE 'LL BE AVAILABLE ANYWAY.

6 THE COURT: WELL, IN THAT CASE --

7 MS. KELLY: BUT I'M SPEAKING TO AGENT LEYVA.

8 THE COURT: -- YOU CAN CROSS-EXAMINE HIM AT THAT  
9 TIME.

10 MS. KELLY: YES, YOUR HONOR, BUT I'M ALSO SPEAKING  
11 TO AGENT LEYVA.

12 MR. MEDRANO: AS TO AGENT LEYVA, HOWEVER, YOUR  
13 HONOR, AGAIN, HE WAS HERE, HE WAS AVAILABLE FOR CROSS AT THAT  
14 TIME AND HAS TO TRAVEL FROM THE REPUBLIC OF MEXICO.

15 THE COURT: IS THAT WHERE HE IS NOW?

16 MR. MEDRANO: YES, YOUR HONOR. THAT'S WHY I  
17 QUESTIONED THE NECESSITY FOR BRINGING HIM BACK AGAIN, WHEN HE  
18 WAS HERE --

19 THE COURT: TELL ME EXACTLY WHAT IT IS YOU NEED, WHY  
20 YOU BELIEVE YOU NEED HIM HERE.

21 MS. KELLY: YOUR HONOR, I BELIEVE THAT THIS MAN DID  
22 NOT IDENTIFY MY CLIENT. HE WROTE A D.E.A. REPORT --

23 THE COURT: HE SAID HE LOOKED YOUR CLIENT IN THE EYE  
24 AND HE HAD DREAMS ABOUT HIM.

25 MS. KELLY: I UNDERSTAND THAT. I REMEMBER HIM

1 VIVIDLY, BUT HE WROTE A DESCRIPTION ABOUT FIVE PEOPLE, YOUR  
2 HONOR, AND HE DIDN'T INCLUDE A DESCRIPTION OF MY CLIENT. AND  
3 IT WAS --

4 THE COURT: WASN'T THAT GONE INTO WITH HIM ON  
5 CROSS-EXAMINATION?

6 MS. KELLY: IT WAS, YOUR HONOR. BUT THE PHOTO  
7 IDENTIFICATION THAT HE SAW, WAS NOT, THE PHOTO I.D.

8 THE COURT: I'LL TELL YOU WHAT WE'LL DO. WE WILL  
9 LET YOU CROSS-EXAMINE AGENT BERRELLEZ ON THE PHOTO SHOW UP  
10 THAT HE SHOWED TO AGENT LEYVA.

11 AND AFTER THAT, IF YOU CAN DEMONSTRATE TO ME WHAT  
12 ADDITIONAL CROSS-EXAMINATION YOU BELIEVE THAT YOU NEED THAT  
13 YOU HAVEN'T HAD THE OPPORTUNITY TO PRESENT, I WILL CONSIDER  
14 HAVING HIM ORDERED HERE.

15 MS. KELLY: THANK YOU.

16 THE COURT: ALL RIGHT.

17 NOW, WE HAVE THAT TO COMPLETE.

18 IS THAT IT ON THE SIMMONS MATTER REGARDING  
19 CERVANTES?

20 MR. STOLAR: I BELIEVE SO. AND THEN, I BELIEVE,  
21 WE'RE GOING TO WANT MR. CERVANTES BACK ON THE WITNESS STAND.

22 THE COURT: REGARDING THE PHOTO?

23 MR. STOLAR: YES, REGARDING THE IDENTIFICATION  
24 MATTER.

25 THE COURT: ALLRIGHT. NOW, WHAT ELSE DO WE NEED?

1 MR. MEDRANO: ON BEHALF OF THE GOVERNMENT, YOUR  
2 HONOR, WE HAVE OUTSTANDING OUR MOTION TO QUASH --

3 THE COURT: LET'S FIRST FINISH -- WAS THERE ANYTHING  
4 ELSE THAT --

5 MS. KELLY: YES, YOUR HONOR. YOUR HONOR HAD  
6 INDICATED THAT I SHOULD FILE A BRIEF CONCERNING WITNESS  
7 HARRISON AND THE QUESTIONS ABOUT HIS --

8 THE COURT: ABOUT THE C.I.A.?

9 MS. KELLY: YES, YOUR HONOR. THAT WOULD HAVE BEEN  
10 FILED TODAY BUT I HAD A COMPUTER PROBLEM, AND IT WILL BE FILED  
11 FIRST THING TOMORROW MORNING.

12 THE COURT: WHAT IS THE NATURE OF THE MOTION?

13 MS. KELLY: THE NATURE OF THE MOTION IS TO  
14 DEMONSTRATE TO YOUR HONOR WHY FURTHER CROSS-EXAMINATION --

15 THE COURT: BASICALLY ASKING FOR ADDITIONAL  
16 CROSS-EXAMINATION?

17 MS. KELLY: YES. YOUR HONOR TOLD ME THAT I  
18 SHOULD --

19 THE COURT: ON THE ISSUE OF HIS KNOWLEDGE OF THE  
20 C.I.A. INVOLVEMENT?

21 MS. KELLY: AND HIS KNOWLEDGE OF THE OTHER PEOPLE IN  
22 THE CARTEL. THERE WAS TESTIMONY CONCERNING FONSECA, YOUR  
23 HONOR.

24 THE COURT: WELL, SINCE THAT HAS BEEN WRITTEN AND  
25 FILED, I'LL RULE ON THAT IN DUE COURSE.

1 MS.KELLY: YES, YOUR HONOR.

2 MR. NICOLAYSEN: ON BEHALF OF MR. VASQUEZ VELASCO,  
3 YOUR HONOR, THERE IS PENDING WITH THE COURT, HAVING BEEN FILED  
4 LAST FRIDAY, A MOTION ASKING FOR PRODUCTION OF SPECIFIC D.E.A.  
5 6 REPORTS REGARDING THE LA LANGOSTA CASE.

6 I BELIEVE THE GOVERNMENT IS PLANNING TO SERVE ITS  
7 OPPOSITION LATER THIS AFTERNOON. I WANTED TO JUST ASK YOUR  
8 HONOR IF THE COURT PLANS ON RULING ON THAT SOMETIME TOMORROW.

9 THE COURT: IF I GET THE OPPOSITION. HAVE YOU FILED  
10 THE OPPOSITION?

11 MR. MEDRANO: NO, YOUR HONOR. ACTUALLY, I'VE JUST  
12 CHECKED WITH OUR SUPPORT STAFF OVER THE LUNCH HOUR. I THINK  
13 THE EARLIEST WE'LL BE ABLE TO FILE IT IS TOMORROW MORNING.  
14 UNFORTUNATELY.

15 MR. NICOLAYSEN: YOUR HONOR, I WONDER IF THIS IS THE  
16 TYPE OF MOTION THAT THE COURT WOULD BE WILLING TO HEAR THE  
17 GOVERNMENT ON ORALLY?

18 THE COURT: I MAY BE WILLING TO DO THAT.

19 WHAT EXACTLY IS IT THAT YOU ARE ASKING FOR?

20 MR. NICOLAYSEN: ALL D.E.A. 6'S, AND I DIDN'T SAY  
21 THIS SPECIFICALLY IN THE MOTION, BUT ALSO CABLE COMMUNICATIONS  
22 WITHIN THE D.E.A. SYSTEM CONCERNING THE D.E.A.'S ATTENDANCE AT  
23 THE INTERROGATION OF AN INDIVIDUAL IN MEXICO CITY BY THE NAME  
24 OF LOUIS GONZALES ONTIVEROS.

25 I SPOKE WITH AGENT CASTILLO ON MONDAY. I FILED THE

1 MOTION ON FRIDAY, SO THIS WAS NOT IN THE MOTION. AND HE  
2 CONFIRMED THAT HE, HIMSELF, WAS PRESENT WITH AGENT RAUL  
3 DELGADO AT THAT INTERROGATION. THERE'S BEEN SOME PROGRESS IN  
4 PINPOINTING THE AGENTS WHO WERE INVOLVED IN ATTENDING.

5 THE GOVERNMENT HAS AGREED TO MAKE AGENT CASTILLO  
6 AVAILABLE THIS FRIDAY FOR TESTIMONY. AND I WOULD RESPECTFULLY  
7 ASK YOUR HONOR AS SOON AS THE COURT CAN ACCOMMODATE US TO RULE  
8 ON THE MOTION. IF YOUR HONOR DOES ORDER PRODUCTION, THERE  
9 NEEDS TO BE SOME LEAD TIME SO WE CAN GET THOSE REPORTS.

10 THE COURT: ARE YOU SAYING THAT AGENT CASTILLO TOLD  
11 YOU HE ATTENDED THIS INTERROGATION OF ONTIVEROS?

12 MR. NICOLAYSEN: HE DID HE TOLD ME ON MONDAY.

13 THE COURT: AND DID HE TELL YOU THAT HE PREPARED A  
14 REPORT OF IT?

15 MR. NICOLAYSEN: TO THE BEST OF HIS RECOLLECTION,  
16 THERE IS AT LEAST ONE D.E.A. 6. HE WASN'T CERTAIN. BUT HE  
17 DID MENTION ALSO THERE WAS A CABLE THAT WAS SENT FROM MEXICO  
18 CITY PRESUMABLY TO WASHINGTON.

19 AGAIN, I'M GUESSING BECAUSE HE WAS TALKING OFF THE  
20 TOP OF HIS HEAD. AND I WOULD ASK THAT THE MOTION BE ORALLY  
21 AMENDED TO INCLUDE ALL CABLES. EACH, SPECIFICALLY, OF D.E.A.  
22 6'S.

23 THE COURT: WHY DO YOU WANT THE REPORTS? WHAT IS  
24 THE PURPOSE WHICH YOU INTEND TO MAKE IT?

25 MR. NICOLAYSEN: WELL, IT'S SPELLED OUT AT LENGTH IN

1 THE MOTION, YOUR HONOR. IF YOU WOULD LIKE, I COULD SUMMARIZE  
2 IT NOW.

3 THE COURT: WELL, SUMMARIZE IT.

4 MR. NICOLAYSEN: ALL RIGHT. THE GOVERNMENT HAS  
5 ESSENTIALLY INVESTED ITS ENTIRE CASE ON LA LANGOSTA IN ONE  
6 EYEWITNESS. HIS NAME IS PLACENCIA AGUILAR.

7 HE HAS TESTIFIED AT LENGTH BEFORE THE GRAND JURY --  
8 THE TRANSCRIPTS ARE ATTACHED AS EXHIBITS TO THE MOTION -- THAT  
9 HE WAS WITH MR. ONTIVEROS AT THE LA LANGOSTA RESTAURANT WHEN  
10 THESE MURDERS OCCURED. IN SHORT, MR. PLACENCIA'S GRAND JURY  
11 TESTIMONY DEPICTS HIMSELF AND MR. ONTIVEROS AS BEING NOTHING  
12 MORE THAN CASUAL OBSERVERS TO THESE BEATINGS. THEY WERE  
13 COMPLETELY DETACHED FROM ANY INVOLVEMENT AND DID NOTHING MORE  
14 THAN OBSERVE THE INCIDENT FROM A DISTANCE.

15 NOW, MR. ONTIVEROS IN THE PRESENCE OF THE D.E.A.  
16 SOME TIME IN 1985, IN MEXICO CITY, WAS INTERROGATED BY THE  
17 MEXICAN POLICE. NOW WE KNOW THAT AGENT CASTILLO AND AGENT  
18 DELGADO WAS THERE, AND THAT THEY TOOK NOTES AND THAT THERE'S  
19 PROBABLY AT LEAST ONE REPORT.

20 THE CONFESSION GIVEN BY MR. ONTIVEROS, WHICH IS ALSO  
21 ATTACHED AS AN EXHIBIT --

22 THE COURT: WHAT DID ONTIVEROS CONFESS TO?

23 MR. NICOLAYSEN: VIRTUALLY THE A, B, C'S, ALL THE  
24 WAY TO THE END OF THE ALPHABET ABOUT THE MURDERS AND THE  
25 DISPOSAL OF THE BODIES IN PRIMAVERA PARK.

1 THE COURT: HE DID NOT IMPLICATE YOUR CLIENT?

2 MR. NICOLAYSEN: NO, NOT AT ALL. MR. VASQUEZ  
3 VELASCO WAS NOWHERE REFERRED TO IN THE CONFESSION. NOW, THE  
4 CONFESSION, JUST FOR FOUNDATIONAL PURPOSES, WAS GIVEN TO ME BY  
5 THE U.S. ATTORNEY'S OFFICE, TRANSLATED INTO ENGLISH, AND IT IS  
6 ATTACHED AS EXHIBIT C TO MY MOTION, YOUR HONOR.

7 THE COURT: YOU HAVE THAT?

8 MR. NICOLAYSEN: THE COURT HAS IT, AS WELL. IT'S  
9 EXHIBIT C TO THE MOTION. SO WHAT I'M ASKING FOR THE COURT TO  
10 GRANT ME IS PERMISSION TO EXAMINE ALL D.E.A. REPORTS OR CABLES  
11 OR ANY OTHER KINDS OF COMMUNICATIONS THAT WOULD ESTABLISH THAT  
12 THE D.E.A. HAD DIRECT KNOWLEDGE, LITERALLY FROM THE SOURCE,  
13 THAT ONTIVEROS WAS PERSONALLY INVOLVED IN THE MURDERS AND HAD  
14 CONFESSED TO IT WHICH, IN MY OPINION, ESTABLISHES A COMPLETE  
15 CONTRADICTION TO THE PREDICATE FOR THE GOVERNMENT'S EYEWITNESS  
16 TESTIMONY.

17 IN FACT, IT MAY EVEN SUGGEST THAT THERE WAS SOME  
18 FABRICATION ON THE PART OF PLACENCIA, WHO WOULD SEEM TO  
19 SUGGEST THAT HE AND MR. ONTIVEROS WERE NOTHING MORE THAN  
20 CASUAL OBSERVERS TO THE EVENT. I THINK THAT THERE IS VERY  
21 IMPORTANT IMPEACHMENT VALUE --

22 THE COURT: ARE YOU SAYING THE FACT THAT ONTIVEROS  
23 CONFESSED CLEARS YOUR CLIENT OF ANY CULPABILITY?

24 MR. NICOLAYSEN: NO, IT'S NOT THAT SIMPLE. I'M NOT  
25 SUGGESTING THAT THE MERE FACT THAT MY CLIENT ISN'T REFERENCED

1 IN HIS CONFESSION IS, PER SE, EXCULPATORY.

2 WHAT I AM ARGUING HERE, YOUR HONOR, IS THAT THE  
3 D.E.A.'S ATTENDANCE AT THE INTERROGATION OF ONTIVEROS IN 1985  
4 SHOWS THAT THE D.E.A. WAS ON NOTICE FROM THE EARLIEST POINT OF  
5 ITS INVESTIGATION THAT ONTIVEROS VOLUNTARILY PUT HIMSELF  
6 SQUARELY IN THE MIDDLE OF THESE CRIMES.

7 THEREFORE, FOUR YEARS LATER, IN 1989, WHEN MR.  
8 PLASCENCIA GIVES THE D.E.A. HIS ACCOUNT OF WHAT HAPPENED AND  
9 GIVES HIS ACCOUNT IN A MANNER THAT DEPICTS BOTH HIMSELF AND  
10 MR. ONTIVEROS AS BEING DETACHED OBSERVERS, THAT THERE WAS A  
11 FUNDAMENTAL PROBLEM IN THE CREDIBILITY OF MR. PLASCENCIA, WHO  
12 WAS HERE AS A SOLE EYEWITNESS, TESTIFYING WITHOUT THE BENEFIT  
13 OF ANY CORROBORATING EVIDENCE OUTSIDE OF HIMSELF.

14 AND I THINK THE CONTRADICTION THAT WE SEE BETWEEN  
15 PLASCENCIA'S ACCOUNT AND THE ONTIVEROS CONFESSION THAT WAS  
16 GIVEN IN THE D.E.A.'S PRESENCE IS A VERY SIGNIFICANT  
17 IMPEACHMENT QUESTION THAT THE JURY NEEDS TO KNOW ABOUT.

18 THE COURT: WELL, WHAT --

19 MR. MEDRANO: AGAIN, YOUR HONOR, WE JUST GOT THIS  
20 MOTION. IF I HAVE A DRAFT SITTING DOWNSTAIRS, WE CAN GET THIS  
21 THING FILED TOMORROW. I THINK IT'S SUCH A -- IT IS A  
22 COMPLICATED ISSUE THAT SHOULD NOT BE ADDRESSED ORALLY RIGHT  
23 NOW BECAUSE WE'RE AT A DISADVANTAGE.

24 THE COURT: WHAT SHOULD BE ADDRESSED IS ARE THERE  
25 D.E.A. 6 REPORTS RELATING TO THIS INTERROGATION OR CABLES



1 RELATING TO IT?

2 MR. MEDRANO: LET ME -- VERY BRIEFLY, YOUR HONOR.  
3 MR. NICOLAYSEN IS REFERRING TO MEXICAN-OBTAINED CONFESSIONS OF  
4 PEOPLE DOWN IN MEXICO, INCLUDING THIS GUY NAMED GONZALES  
5 ONTIVEROS.

6 NOW, YOUR HONOR --

7 THE COURT: ARE YOU SAYING THAT THIS INTERROGATION  
8 OF MR. ONTIVEROS WAS COMPARABLE TO WHAT WHAT WE HAVE HEARD  
9 ABOUT OTHER PEOPLE BEING INTERROGATED?

10 MR. MEDRANO: ABSOLUTELY, YOUR HONOR. IN FACT, WE  
11 HAVE IN OUR POSSESSION A RECANTATION BY GONZALES ONTIVEROS OF  
12 THAT VERY STATEMENT IN WHICH HE SAYS HE WAS TORTURED AND  
13 BEATEN TO ELICIT THE FIRST STATEMENT.

14 THOSE STATEMENTS HAVE ABSOLUTELY NO RELIABILITY OR  
15 CREDIBILITY, AND IT -- CLEARLY, THE WRITING ON THE WALL FOR  
16 MR. NICOLAYSEN IS THE FOLLOWING: TO ADMIT THIS HEARSAY  
17 STATEMENT TO AN AGENT OR SOMEONE ELSE TO TRY TO EXCULPATE HIS  
18 CLIENT. BUT HE CAN'T DO THAT.

19 YOU MAY RECALL THAT YOU ASKED HIM TO SUBMIT A BRIEF  
20 ON WHETHER THERE'S A RULE 804 DECLARANT UNAVAILABLE EXCEPTION,  
21 YOUR HONOR, TO TRY TO ADMIT THAT STATEMENT.

22 MR. NICOLAYSEN: NO, THERE'S BEEN NO CATALYST FOR A  
23 BRIEF ON THAT.

24 MR. MEDRANO: YOUR HONOR, YOU ASKED HIM TO DO THAT  
25 WHEN HE TRIED TO ADMIT THIS STUFF BEFORE.

1 MR. NICOLAYSEN: I MADE A MOTION TO ADMIT ANY 804  
2 MATERIALS YET.

3 MR. MEDRANO: THE POINT, YOUR HONOR, IS THIS: THAT  
4 NO BRIEF WILL BE FORTHCOMING BECAUSE IT IS IMPOSSIBLE LEGALLY  
5 TO ADMIT SUCH RANK HEARSAY UNDER 804.

6 THE COURT: THAT IS YOUR BIG PROBLEM, IS ASSUME  
7 ONTIVEROS' INFORMATION -- WHAT CAN YOU DO?

8 MR. NICOLAYSEN: FIRST OF ALL, THE 804 ISSUE AS  
9 SUCH -- I THINK THERE IS IMPEACHMENT VALUE IN THE FACT THAT  
10 THE GOVERNMENT HAD KNOWLEDGE FROM 1985 --

11 THE COURT: WELL, THEY HAD KNOWLEDGE, IF THEY DO,  
12 THAT A PERSON CONFESSED UNDER SOME PERSUASIVE INTERROGATION.  
13 WHAT IS THE IMPLICATION OF THAT?

14 MR. NICOLAYSEN: THAT MR. PLACENCIA IS A FABRICATED  
15 WITNESS, THAT'S THE IMPLICATION. AND I BELIEVE THAT THERE IS  
16 A GOOD REASON TO SUGGEST THAT THE ACCOUNT GIVEN BY MR.  
17 PLACENCIA IS MADE OUT OF WHOLE CLOTH.

18 THE COURT: JUST A MOMENT. THE COURT WILL RULE ON  
19 THE MOTION AFTER THE GOVERNMENT HAS FILED --

20 MR. NICOLAYSEN: YOUR HONOR, I WAS GOING TO ASK, AT  
21 THE VERY LEAST, I'D LIKE A HEARING OUTSIDE OF THE JURY'S  
22 PRESENCE AS TO THE INTERROGATION ITSELF.

23 I THINK WE'RE DEALING WITH A PRESUMPTUOUS POSITION  
24 ON THE GOVERNMENT'S PART.

25 THE COURT: WE'RE NOT PRESUMING ANYTHING.

1 MR. MEDRANO: YOUR HONOR, THAT WAS NOT RAISED IN HIS  
2 WRITTEN MOTION. HE'S RAISING THIS NOW ORALLY.

3 THE COURT: YOU CAN'T SHOOT FROM THE HIP HERE. YOUR  
4 MOTION -- THE COURT WILL ADDRESS THE MOTION THAT YOU MADE.

5 MR. NICOLAYSEN: CORRECT. I'M ASKING YOUR HONOR  
6 TO --

7 THE COURT: BUT NOW YOU'RE EMBELLISHING ON IT.

8 MR. NICOLAYSEN: WELL, NO. WHAT I'M SIMPLY ASKING  
9 YOUR HONOR NOT TO DO IS TO ACCEPT AT FACE VALUE THE  
10 GOVERNMENT'S POSITION THAT THE INTERROGATION WAS SO FILLED  
11 WITH DURESS AND TORTURE THAT THERE WAS NO UNDERLYING  
12 CREDIBILITY AS TO WHAT MR. ONTIVEROS SAID.

13 THE GOVERNMENT HAS REPEATEDLY ATTEMPTED TO CONVEY  
14 THAT POSITION MANY TIMES DURING THE TRIAL. AND AT THE VERY  
15 LEAST, A HEARING AS TO THAT SHOULD BE CONDUCTED IF THE COURT  
16 FEELS THAT THAT IS A MATERIAL CONSIDERATION IN RULING ON THE  
17 MOTION.

18 THE COURT: ALL RIGHT, THAT'S ENOUGH. WHAT OTHER  
19 MATTERS DO WE NEED TODAY?

20 DO YOU HAVE SOMETHING THAT WE NEED TO TAKE UP?

21 MR. MEDVENE: YES, YOUR HONOR. WE FILED ONE MOTION  
22 YESTERDAY THAT --

23 THE COURT: IS THIS THE ONE SEEKING DISCOVERY OF  
24 REDACTED PORTIONS OF THE D.E.A. 6'S?

25 MR. MEDVENE: NO, SIR. THIS IS AN ADDITIONAL ONE.

1 IT'S CALLED MOTION TO REQUIRE DISCLOSURE OF WITNESSES AND  
2 RECORDS UPON WHICH GRAND JURY QUESTIONING WAS BASED.

3 BASICALLY, YOUR HONOR, WITH RESPECT TO MR. HARRISON  
4 AND CERVANTES, THE ONLY PEOPLE WHO HAVE MENTIONED --

5 THE COURT: JUST A MOMENT, LET ME GET THIS. THE  
6 MOTION TO REQUIRE DISCLOSURE OF WITNESSES --

7 MR. MEDVENE: WITNESSES AND RECORDS.

8 THE COURT: -- AND RECORDS --

9 MR. MEDVENE: -- UPON WHICH GRAND JURY TESTIMONY IS  
10 BASED.

11 THE COURT: UPON WHICH WHOSE GRAND JURY TESTIMONY IS  
12 BASED?

13 MR. MEDVENE: THE GRAND JURY QUESTIONING OF MR.  
14 ZUNO.

15 I HAVE MR. ZUNO'S GRAND JURY QUESTIONING, YOUR HONOR. HE WAS  
16 ASKED CERTAIN QUESTIONS -- HE WAS ASKED: "ISN'T IT TRUE YOU  
17 WERE ARRESTED WITH CARO QUINTERO?"

18 "ISN'T IT TRUE THERE ARE POLICE RECORDS THAT REFLECT  
19 THAT?"

20 THE COURT: SO YOU SEEK THE BASIS FOR THESE  
21 QUESTIONS?

22 MR. MEDVENE: YES.

23 THE COURT: THE DOCUMENTS, IF ANY?

24 MR. MEDVENE: YES, BECAUSE THEY SAY --

25 THE COURT: OR WITNESSES?

1 MR. MEDVENE: YES, BECAUSE THEY SAY: "ISN'T IT TRUE  
2 PICTURES WERE TAKEN" AND "WE HAVE THE PICTURES." WE DON'T  
3 THINK THERE IS ANY SUCH THING.

4 THE COURT: ALL RIGHT. LET ME -- YOU HAVE FILED A  
5 MOTION?

6 MR. MEDVENE: YES, SIR.

7 THE COURT: HAVE YOU FILED AN OPPOSITION?

8 MR. MEDRANO: YOUR HONOR, WE JUST GOT IT THIS  
9 MORNING.

10 THE COURT: ALL RIGHT.

11 MR. MMEDRANO: WE WILL WORK ON THE OPPOSITION AND  
12 GET THAT TO YOU IMMEDIATELY.

13 THE COURT: VERY GOOD. AS SOON AS I HAVE THE  
14 OPPOSITION, I'LL RULE ON IT.

15 MR. MEDVENE: YES, SIR.

16 THE COURT: WHAT ELSE?

17 MR. MEDVENE: SECOND, YOUR HONOR, WE FILED TODAY A  
18 MOTION TO EXCLUDE OR PRECLUDE THE GOVERNMENT FROM ASKING ON  
19 CROSS-EXAMINATION OF MR. ZUNO CERTAIN QUESTIONS OR GETTING  
20 INTO CERTAIN AREAS ON THE BASIS THEY'RE NOT RELEVANT AND/OR  
21 THEY'RE UNDULY PREJUDICIAL UNDER 403 AND/OR --

22 THE COURT: ALL RIGHT. ALL RIGHT. YOU DON'T NEED  
23 TO TELL ME. YOU FILED THE MOTION AND YOU'RE GOING TO OPPOSE  
24 THIS?

25 MR. MEDRANO: WE JUST GOT THAT THIS MORNING, YOUR

1 HONOR. WE WILL OPPOSE IT.

2 THE COURT: YOU WILL FILE SOMETHING?

3 MR. MEDRANO: (NODDING AFFIRMATIVELY.)

4 THE COURT: WHEN I GET THAT, I'LL RULE ON THAT.

5 WAS THERE ANYTHING ELSE?

6 MR. MEDVENE: YES, SIR, THERE ARE TWO OTHER MATTERS.

7 ONE WE'RE GOING TO TRY TO FILE TOMORROW.

8 WITH RESPECT TO HARRISON, AS YOU'LL REMEMBER, HE  
9 TESTIFIED THERE WASN'T MUCH IN THE WAY OF D.E.A. REPORTS.  
10 AFTER HE TESTIFIED, ON THE WAY HOME LAST FRIDAY, WE WERE  
11 HANDED A REPORT BY MR. SCHMIDT, WHICH WAS DATED, AS I  
12 REMEMBER, SEPTEMBER 8TH, PURPORTED TO BE CORRECTIONS BY MR.  
13 HARRISON OF OTHER THINGS THAT WERE SAID IN A REPORT OF  
14 SEPTEMBER 7TH. NUMEROUS CORRECTIONS.

15 THE COURT: WHAT WOULD THE MOTION BE?

16 MR. MEDVENE: THE MOTION WOULD BE TO STRIKE MR.  
17 HARRISON'S TESTIMONY --

18 THE COURT: TO STRIKE IT IN ITS ENTIRETY?

19 MR. MEDVENE: TO STRIKE IT IN ITS ENTIRETY, BECAUSE  
20 IT'S OUR UNDERSTANDING THAT THESE REPORTS THAT ARE REFERRED  
21 TO, FOR WHATEVER REASON, NO LONGER EXIST AND THE D.E.A.  
22 DOESN'T HAVE ANY.

23 THE COURT: NOW, YOU HAVEN'T FILED THIS YET, YOU'LL  
24 FILE IT TOMORROW,

25 MR. MEDVENE: WE'RE GOING TO TRY TO FILE IT

1 TOMORROW, IF WE CAN.

2 THE COURT: ALL RIGHT.

3 MR. NICOLAYSEN: YOUR HONOR, I DO PLAN TO FILE A  
4 MOTION FOR ADMISSION OF AT LEAST ONE OF THE MEXICAN  
5 INTERROGATION REPORTS UNDER RULE 804(B)(3).

6 I'VE OBTAINED, TO MY KNOWLEDGE. CERTIFIED COPIES.

7 THE COURT: WHAT WILL YOU FILE; A MOTION TO ADMIT?

8 MR. NICOLAYSEN: TO ADMIT.

9 THE COURT: TO ADMIT INTERROGATION REPORTS OF THE  
10 MEXICAN AUTHORITIES?

11 MR. NICOLAYSEN: OF ONE OR MORE OF THE SUSPECTS  
12 INTERROGATED BY MEXICAN AUTHORITIES IN CONNECTION WITH THE LA  
13 LANGOSTA CASE.

14 I HAVE FINALLY, TO MY KNOWLEDGE -- IT'S SUPPOSED TO  
15 BE AT THE OFFICE NOW -- OBTAINED CERTIFIED COPIES OF THESE  
16 REPORTS FROM MEXICO TO SATISFY AUTHENTICATION REQUIREMENTS.

17 THE COURT: ALL RIGHT. WELL, YOU FILE THE MOTION.

18 MR. NICOLAYSEN: I WILL THEN. THANK YOU.

19 MR. MEDVENE: THERE IS ONE LAST AREA, YOUR HONOR, ON  
20 MR. CERVANTES. WE'RE GOING TO SHOW THE GOVERNMENT TOMORROW  
21 CERTAIN RECORDS WE HAVE FROM MEXICO. AND IF THEY'LL AGREE  
22 THEY CAN COME IN, WE'LL MAKE NO REQUEST TO CALL THEM BACK.  
23 BUT IF NOT, WE WANT TO CALL HIM BACK --

24 THE COURT: CALL WHO BACK?

25 MR. MEDVENE: MR. CERVANTES. THE AREA ABOUT HOW HE

1 GOT HERE. WE HAVE RECORDS TO INDICATE THAT HE WAS FIRED FOR  
2 BEING, IN AWOL AND STEALING GOVERNMENT PROPERTY IN MEXICO.

3 HE WAS TERMINATED NOVEMBER 16TH FROM THE RIOT POLICE  
4 OF ED-4, AND THAT HE GETS THEN TO THE D.E.A. ABOUT FIVE DAYS  
5 LATER.

6 THE COURT: NOW, YOU'RE GOING TO FILE A MOTION ON  
7 THIS?

8 MR. MEDVENE: WHAT WE'RE GOING TO DO IS GIVE THE  
9 DOCUMENT TO THE GOVERNMENT. IF THEY'LL AGREE IT CAN COME IN,  
10 FINE.

11 WE'RE ALSO GOING TO ASK, YOUR HONOR, IF WHEN  
12 CERVANTES IS HERE, THAT WE PUT HIM BACK ON THE STAND AND  
13 QUESTION HIM IN THIS AREA BECAUSE WE DIDN'T HAVE THE DATA  
14 BEFORE.

15 THE COURT: ALL RIGHT. SEE IF YOU CAN AGREE ON  
16 THAT.

17 MR. MEDVENE: YES, SIR.

18 THE COURT: AND IF NOT --

19 MR. MEZA: ONE BRIEF MATTER, YOUR HONOR, IF I COULD.  
20 JUST BEFORE, AS THE JURY WAS LEAVING, I ASKED THE COURT TO  
21 READMONISH THE JURY ABOUT COMMUNICATING WITH LAWYERS OR OTHER  
22 PEOPLE CONNECTED WITH THIS CASE.

23 APPARENTLY, JUROR NUMBER EIGHT, AS HE WAS LEAVING  
24 EITHER COMMUNICATED OR ATTEMPTED TO COMMUNICATE WITH THE  
25 PROSECUTION TABLE REGARDING THIS EXHIBIT AT THE GRAY TABLE AND



1 SMILED.

2 THE COURT: WHAT JUROR; NUMBER EIGHT?

3 MR. MEZA: YES.

4 MR. NICOLAYSEN: I JOIN IN THAT, YOUR HONOR. THAT  
5 IS CORRECT, THERE WERE SOME FACIAL COMMUNICATIONS, SMILES AND  
6 OTHER COURTESIES.

7 MR. MEZA: WELL, HE WAS MAKING WHAT I WOULD  
8 CHARACTERIZE AS A TURNING MOTION, DIRECTING THE ATTENTION TO  
9 THE --

10 THE COURT: DID HE ASK HIM TO TURN IT THE OTHER WAY?  
11 IS THAT THE --

12 MR. MEZA: THAT'S THE IMPRESSION I GOT FROM VIEWING  
13 IT.

14 THE COURT: WELL, WHO WAS IT MADE TO?

15 MR. MEZA: WELL, I COULD ONLY SEE THE BACKS OF THE  
16 HEADS OF AGENT BERRELLEZ AND AGENT KUEHL, AND I DON'T KNOW IF  
17 THEY EVEN ATTEMPTED TO COMMUNICATE BACK. I COULDN'T SEE THEIR  
18 FACES, BUT THE JUROR I COULD SEE CLEARLY.

19 THE COURT: WHAT IS IT YOU'RE REQUESTING?

20 MR. MEZA: WELL, I'M JUST ASKING THE COURT TO  
21 READMONISH THE JURY ABOUT COMMUNICATIONS BETWEEN THEMSELVES  
22 AND OTHER PARTICIPANTS.

23 THE COURT: WELL, I THOUGHT I HAD DONE THAT PRETTY  
24 WELL.

25 MR. MEZA: WELL, APPARENTLY IT DIDN'T TAKE WITH ONE

1 OF THE JURORS.

2 MR. MEDRANO: YOUR HONOR, JUST BRIEFLY FOR  
3 GOVERNMENT OUTSTANDING BUSINESS, JUST SO YOU'LL BE AWARE OF  
4 IT, WE NEED TO HAVE THIS SIMMONS HEARING FOR THIS WITNESS  
5 PLACENCIA AGUILAR. AND I JUST WANTED TO ASK THE COURT IF YOU  
6 COULD PERHAPS SET A TIME -- MAYBE TOMORROW MORNING -- BECAUSE,  
7 ARGUABLY, THAT WITNESS COULD GO ON AS EARLY AS TOMORROW,  
8 DEPENDING ON CROSS-EXAMINATION OF MR. MALONE.

9 THE COURT: WELL, WE FIRST NEED TO DETERMINE, DON'T  
10 WE, WHETHER -- THE HEARING IS ONLY TO TAKE PLACE IF THE COURT  
11 DETERMINES THAT HE MAY BE REHABILITATED BY SHOWING A PRIOR  
12 CONSISTENT LINE-UP IDENTIFICATION.

13 MR. NICOLAYSEN: THAT'S CORRECT. YOUR HONOR HASN'T  
14 RULED WHETHER OR NOT THAT'S APPROPRIATE HERE UNDER A RULING  
15 YET.

16 MR. MEDRANO: I'M SORRY, YOUR HONOR. I THOUGHT WE  
17 HAD THIS MORNING DECIDED THAT A SIMMONS HEARING WAS NECESSARY  
18 TO --

19 THE COURT: NO, I HADN'T, NOT YET.

20 MR. MEDRANO: I'M SORRY. THEN I MISCONSTRUED THAT.  
21 EITHER WAY, JUST TO REPLY TO YOU IN TERMS OF THE  
22 GOVERNMENT'S UNFINISHED BUSINESS, AT YOUR EARLIEST  
23 CONVENIENCE, WE WOULD LIKE TO --

24 THE COURT: WELL, I HAVE THAT ON MY LIST OF THINGS  
25 TO DO.

1           MR. MEDRANO: VERY WELL. IN ADDITION, WE FILED WITH  
2 THE COURT JUST RECENTLY ANOTHER MOTION ASKING THE COURT FOR  
3 PERMISSION TO ATTEMPT TO ASK MR. PLACENCIA AGUILAR TO MAKE  
4 ANOTHER IN-COURT IDENTIFICATION FOR THE REASONS OUTLINED IN  
5 OUR PAPERS.

6           AND AMONG THE REASONS ARE THE WAY THIS COURTROOM IS  
7 SET UP, VISIONS ARE OBSTRUCTED, ET CETERA, ET CETERA. IT'S  
8 ALL LAID OUT IN THE PAPERS, YOUR HONOR, BUT THAT IS STILL WITH  
9 YOU.

10          MR. NICOLAYSEN: I RECEIVED THAT YESTERDAY AFTERNOON  
11 AND HAVE NOT HAD A CHANCE TO FILE AN OPPOSITION. I STRONGLY  
12 OBJECT TO THAT, YOUR HONOR.

13          THE COURT: WELL, ACTUALLY, IT'S NOT A BAD IDEA  
14 BECAUSE IT OCCURRED TO ME AT THE TIME, THAT FROM WHERE THIS  
15 WITNESS WAS SEATED AND SEEING THIS WHOLE GROUP OF PEOPLE, AND  
16 YOUR CLIENT IS BURIED WAY IN THE BACK.

17          MR. MEDRANO: THAT'S CORRECT, YOUR HONOR.

18          MR. NICOLAYSEN: THERE WAS AT LEAST A TWO-MINUTE, IF  
19 NOT A THREE-MINUTE PAUSE THAT WAS SUSTAINED WITH -- IN FACT,  
20 AMUSEMENT AMONG PEOPLE IN THE COURTROOM AS TO HOW LONG IT WAS  
21 EXTENDING, DURING WHICH TIME MR. PLACENCIA HAD MORE THAN  
22 ADEQUATE OPPORTUNITY TO SCAN THIS COURTROOM.

23          THE COURT: ARE YOU FILING A MOTION?

24          MR. MEDRANO: WE FILED IT, YOUR HONOR. WE'RE ASKING  
25 MR. NICOLAYSEN TO OPPOSE IT IMMEDIATELY SO YOU CAN RESOLVE IT,

1 SO WE CAN HAVE IT --

2 THE COURT: ALL RIGHT. WFL --

3 MR. NICOLAYSEN: MAY I ARGUE THE OPPOSITION ORALLY  
4 TODAY, YOUR HONOR? I DON'T KNOW THAT I'LL HAVE TIME TO FILE A  
5 WRITTEN OPPOSITION. IS THAT ACCEPTABLE TO THE COURT?

6 THE COURT: WELL, THAT'S UP TO YOU.

7 MR. NICOLAYSEN: ALL RIGHT. YOUR HONOR, THEN IF  
8 YOU'LL DEFER RULING ON THAT UNTIL TOMORROW, I'LL FILE A  
9 WRITTEN OPPOSITION.

10 THE COURT: ALL RIGHT.

11 MR. MEDVENE: WE HAVE ONE PROBLEM. WE WANT TO WRITE  
12 IT OUT A LITTLE BETTER TOMORROW, YOUR HONOR.

13 THE COURT: WHAT?

14 MR. MEDVENE: WE HAVE ONE PROBLEM THAT WE MAY HAVE  
15 TO ASK YOU TO DEAL WITH.

16 WE'VE HAD WORD, AND I DON'T WANT TO CAST ASPERSIONS,  
17 WHEN YOU'VE ASKED WHAT ELSE IS IN THE WIND --  
18 WE'VE BEEN TOLD THAT WITNESSES WE PLANNED TO CALL --

19 THE COURT: THAT YOU PLANNED TO CALL?

20 MR. MEDVENE: YES, SIR -- HAVE BEEN THREATENED.  
21 NOW, I WASN'T THERE. I DON'T KNOW WHAT WAS SAID, BUT WE WERE  
22 TOLD THEY WERE TOLD THEY'D BETTER NOT COME UP HERE. I WANT TO  
23 WRITE IT OUT A LITTLE BIT BETTER -- AND MY POSSIBLE SOLUTION  
24 ON IT IS GOING TO BE, BECAUSE ON THE SAFE PASSAGE MOTION, YOUR  
25 HONOR POINTED OUT THE DIFFERENCE BETWEEN THE EXECUTIVE AND THE

1 JUDICIAL, AND YOU COULDN'T GIVE ASSURANCES -- THAT I WANT TO  
2 CHECK IT OUT A LITTLE MORE AND POSSIBLY RAISE FOR YOU TOMORROW  
3 THE IDEA OF YOU CALLING ON THE PHONE THESE PEOPLE.

4 BECAUSE IF THIS IS HAPPENING, I DON'T KNOW WHO'S  
5 DOING IT. YOU KNOW, THERE'S A COUPLE OF POSSIBILITIES.

6 THE COURT: WELL, IF IT IS HAPPENING, I'D BE VERY  
7 INTERESTED IN IT.

8 MR. MEDVENE: I'LL GIVE YOU EVERYTHING I HAVE  
9 TOMORROW. THE ONLY REASON I'M RAISING IT MAYBE PREMATURELY IS  
10 BECAUSE YOU SAID TELL US EVERYTHING NOW.

11 WELL, WE HAVE A NUMBER OF --

12 THE COURT: BUT YOU WANT TO BE SURE THAT THESE  
13 WITNESSES ARE NOT MERELY TRYING TO GET OUT OF THIS, YOU  
14 UNDERSTAND.

15 MR. MEDVENE: I UNDERSTAND. I UNDERSTAND THAT, SIR.

16 THE COURT: WELL, LET'S TAKE A FEW MINUTES HERE.

17 (BRIEF RECESS.)

18 (JURY PRESENT.)

19 THE COURT: YOU MAY CONTINUE.

20

21 DIRECT EXAMINATION + RESUMED

22 BY MR. CARLTON:

23 Q. NOW, AGENT MALONE, I BELIEVE YOU TESTIFIED PREVIOUSLY  
24 ABOUT HAVING RECEIVED SOME HAIRS OF SERGIO ESPINO VERDIN,  
25 EXHIBIT 89; IS THAT CORRECT?

1 A. YES, I DID.

2 Q. AND DID YOU HAVE OCCASION THEN TO COMPARE THOSE HAIRS TO  
3 HAIRS YOU OBTAINED FROM VACUUMING THE GUEST HOUSE?

4 A. YES, I DID.

5 Q. AND IN PARTICULAR, DID YOU COMPARE THOSE HAIRS TO HAIRS  
6 YOU OBTAINED FROM EXHIBIT 114, WHICH WAS THE SWEEPINGS FROM  
7 QUADRANT THREE OF THE GUEST HOUSE?

8 A. YES, I DID.

9 Q. AND ON THE BASIS OF THIS COMPARISON, DID YOU FIND ANY  
10 HAIRS IN EXHIBIT 114 THAT YOU WERE ABLE TO MATCH WITH THE  
11 KNOWN HAIRS OF ESPINO VERDIN?

12 A. IN THE VACUUM SWEEPINGS FROM QUADRANT NUMBER THREE FROM  
13 THE GUEST HOUSE, I DID FIND A DARK BROWN HEAD HAIR WHICH,  
14 AGAIN, PERFECTLY MATCHED THE HEAD HAIRS OF MR. ESPINO VERDIN  
15 IN ALL CHARACTERISTICS. AND, THEREFORE, I CONCLUDED THAT THIS  
16 PARTICULAR HEAD HAIR WAS CONSISTENT WITH COMING FROM MR.  
17 ESPINO VERDIN.

18 Q. I BELIEVE ON THE FLOOR YOU'LL FIND A CHART MARKED AS  
19 NUMBER 151-A.

20 WHAT DOES THIS CHART REPRESENT?

21 A. GOVERNMENT'S EXHIBIT 151-A IS A HAIR CHART. AGAIN, THERE  
22 ARE TWO COLUMNS. ON THE LEFTHAND COLUMN ARE THREE VIEWS OF  
23 THE SAME HAIR.

24 THIS IS THE HAIR THAT CAME OUT OF THE QUADRANT  
25 NUMBER THREE VACUUM SWEEPINGS IN THE GUEST HOUSE AT 881 LOPE

1 DE VEGA. THE RIGHTHAND SIDE ARE THREE VIEWS OF THE KNOWN HEAD  
2 HAIRS OF MR. ESPINO VERDIN. AS YOU CAN SEE, THEY MATCH IN ALL  
3 MICROSCOPIC CHARACTERISTICS, 20 SEPARATE CLASSES.

4 AND, THEREFORE, I CONCLUDED THAT THIS HAIR FROM THE  
5 SWEEPINGS IN THE GUEST HOUSE WAS CONSISTENT WITH COMING FROM  
6 MR. ESPINO VERDIN.

7 Q. WERE THERE ANY DISSIMILARITIES IN THOSE HAIRS?

8 A. NOT AT ALL.

9 Q. NOW, YOU PERFORMED VACUUM SWEEPINGS AT THE GUEST HOUSE,  
10 CORRECT?

11 A. YES I DID.

12 Q. DO YOU RECALL EXHIBIT 113, WHICH ARE VACUUM SWEEPINGS  
13 THAT YOU TOOK?

14 A. YES.

15 Q. DID YOU FIND HAIRS IN EXHIBIT 113, AS WELL?

16 A. YES, I DID.

17 Q. DID YOU HAVE OCCASION TO COMPARE THOSE HAIRS TO THE KNOWN  
18 HAIRS OF RENE VERDUGO IN EXHIBIT 133?

19 A. YES, I DID.

20 Q. DID YOU FIND ANY HAIRS IN EXHIBIT 113 THAT YOU WERE ABLE  
21 TO MATCH WITH THE HAIRS OF RENE VERDUGO?

22 A. OF THE HAIRS IN EXHIBIT 113 -- THAT'S THE HAIRS FROM  
23 VACUUM SWEEPINGS OF QUADRANT NUMBER 2 -- I THEN FOUND A DARK  
24 BROWN -- OR, I'M SORRY, A BROWN HEAD HAIR, WHICH I COMPARED TO  
25 THE HEAD HAIRS OF MR. RENE VERDUGO.

1           AGAIN, I WAS ABLE TO MATCH IT IN 20 SEPARATE  
2 CHARACTERISTICS. IN OTHER WORDS, IT WAS ABSOLUTELY  
3 INDISTINGUISHABLE FROM THE HEAD HAIRS OF MR. RENE VERDUGO.  
4 AND I CONCLUDED THAT THIS PARTICULAR HAIR FROM QUADRANT NUMBER  
5 TWO OF THE GUEST HOUSE WAS CONSISTENT WITH COMING FROM RENE  
6 VERDUGO.

7 Q. ON THE FLOOR, YOU'LL FIND A CHART NUMBERED 152-A.

8           WHAT DOES THIS CHART REPRESENT?

9 A. GOVERNMENT'S EXHIBIT 152-A, AGAIN, IS A HAIR CHART.  
10 THERE ARE TWO COLUMNS OF HAIRS. ON THE LEFTHAND COLUMN IS 3  
11 VIEWS OF THE HAIR THAT I TOOK OUT OF THE QUADRANT NUMBER TWO  
12 VACUUM SWEEPINGS OF THE GUEST HOUSE.

13           THE RIGHTHAND SIDE IS THREE VIEWS OF ONE OF MR. RENE  
14 VERDUGO'S HAIRS. AND, AGAIN, I MATCHED THEM IN ALL  
15 CHARACTERISTICS AND CONCLUDED THAT THIS PARTICULAR HAIR WAS  
16 CONSISTENT WITH COMING FROM RENE VERDUGO.

17 Q. NOW, DID YOU FIND ANY OTHER ITEMS OF EVIDENTIARY  
18 SIGNIFICANCE IN QUADRANT TWO OF THE GUEST HOUSE?

19 A. YES. IN THIS PARTICULAR VACUUM SWEEPING QUADRANT, I ALSO  
20 FOUND A HAIR THAT MATCHED SPECIAL AGENT CAMARENA.

21 Q. DID YOU, AGENT MALONE, ALSO COMPARE THE HAIRS THAT YOU  
22 FOUND IN EXHIBIT 113 WITH EXHIBIT 110, THE HAIRS OF DEFENDANT  
23 JUAN RAMON MATTA BALLESTEROS?

24 A. YES, I DID.

25 Q. AND BASED UPON YOUR COMPARISON OF THOSE HAIRS IN EXHIBIT



1 113 AND THE KNOWN HAIRS OF DEFENDANT MATTA, WERE YOU ABLE TO  
2 MATCH ANY OF THE HAIRS IN EXHIBIT 113?

3 A. IN THE VACUUM SWEEPINGS FROM QUADRANT NUMBER TWO OF THE  
4 GUEST HOUSE, I FOUND A DARK BROWN HEAD HAIR, WHICH I THEN  
5 MICROSCOPICALLY COMPARED TO THE HEAD HAIRS OF MR. JUAN MATTA  
6 BALLESTEROS.

7 I WAS ABLE TO MATCH THE HAIR FROM QUADRANT NUMBER  
8 TWO IN THE GUEST HOUSE TO THE HEAD HAIRS OF MATTA BALLESTEROS  
9 ON 20 SEPARATE INDIVIDUAL CHARACTERISTICS. IN OTHER WORDS, IT  
10 WAS ABSOLUTELY INDISTINGUISHABLE FROM HIS HEAD HAIR.

11 AND I CONCLUDED THAT THIS PARTICULAR HAIR FROM  
12 QUADRANT NUMBER TWO WAS CONSISTENT WITH COMING FROM JUAN MATTA  
13 BALLESTEROS.

14 Q. WERE THERE ANY DISSIMILARITIES IN THE UNKNOWN AND THE  
15 KNOWN HAIR OF DEFENDANT MATTA?

16 A. NO.

17 Q. AGAIN, WAS THIS THE SAME QUADRANT IN WHICH THIS HAIR WAS  
18 FOUND AS THE HAIR OF RENE VERDUGO THAT YOU MATCHED AND THE  
19 HAIR OF AGENT CAMARENA?

20 A. YES, IT WAS.

21 Q. NOW, DID YOU ALSO EXAMINE VACUUM SWEEPINGS FROM THE  
22 BATHROOM ADJACENT TO BEDROOM NUMBER FOUR?

23 A. YES, I DID.

24 Q. DID YOU FIND ANY HAIRS IN THOSE VACUUM SWEEPINGS?

25 A. FROM THE VACUUM SWEEPINGS ADJACENT TO BEDROOM NUMBER

1 FOUR, I ALSO WAS ABLE TO FIND A DARK BROWN HEAD HAIR, WHICH I  
2 COMPARED TO THE HEAD HAIRS OF MR. MATTA BALLESTEROS.

3 AGAIN, I WAS ABLE TO MATCH IT ON 20 SEPARATE  
4 CHARACTERISTICS TO THE HEAD HAIRS OF MR. MATTA BALLESTEROS.  
5 AND I CONCLUDED THAT THIS ONE PARTICULAR HAIR IN THE BATHROOM  
6 OF BEDROOM FOUR IS CONSISTENT WITH COMING FROM JUAN MATTA  
7 BALLESTEROS.

8 Q. WOULD YOU PLEASE LOOK ON THE FLOOR AT THE CHART THAT HAS  
9 BEEN MARKED AS 153-A.

10 WHAT DOES THIS CHART REPRESENT?

11 A. GOVERNMENT'S EXHIBIT 151-A (SIC) IS A HAIR CHART.

12 Q. 153-A, I BELIEVE.

13 A. 151-A.

14 Q. IS THAT THE WAY IT'S MARKED?

15 A. YES.

16 Q. I HAVE ASKED YOU IF YOU COULD FIND 153-A.

17 A. I'M SORRY. I PICKED UP THE WRONG ONE.

18 YES, THIS IS GOVERNMENT'S EXHIBIT 153-A.

19 Q. AND WHAT DOES THIS SHOW?

20 A. AGAIN, THIS IS A HAIR CHART WITH TWO COLUMNS SHOWING TWO  
21 DIFFERENT HAIRS. THE LEFTHAND COLUMN SHOWS THE THREE  
22 DIFFERENT VIEWS OF THE HAIR THAT I TOOK OUT OF QUADRANT NUMBER  
23 TWO OF THE GUEST HOUSE AT 881 LOPE DE VEGA.

24 THE RIGHTHAND COLUMN IS THREE VIEWS OF ONE OF MR.  
25 MATTA BALLESTEROS' HEAD HAIRS. AGAIN, I WAS ABLE TO MATCH

1 THEM IN EACH AND EVERY CHARACTERISTIC, AND I CONCLUDED THAT  
2 THIS PARTICULAR HAIR FROM THE GUEST HOUSE WAS CONSISTENT WITH  
3 COMING FROM MR. MATTA BALLESTEROS.

4 Q. WERE EITHER OF THESE HAIRS THAT YOU WERE ABLE TO MATCH  
5 WITH THE KNOWN HAIRS OF DEFENDANT MATTA FORCIBLY REMOVED?

6 A. NO, THEY WERE NOT. THEY WERE NOT.

7 Q. WERE THERE ANY DISSIMILARITIES BETWEEN THE HAIRS THAT YOU  
8 WERE ABLE TO MATCH AND THE KNOWN HAIRS OF DEFENDANT MATTA?

9 A. NONE.

10 Q. NOW, I BELIEVE, AGENT MALONE, YOU HAVE TAKEN PHOTOGRAPHS  
11 OF EACH OF THE LAST THREE CHARTS THAT WE'VE LOOKED AT: THE  
12 HAIR COMPARISON OF ESPINO VERDIN, OF RENE VERDUGO AND OF JUAN  
13 MATTA; IS THAT CORRECT?

14 A. YES, I HAVE.

15 Q. AND I BELIEVE THOSE PHOTOGRAPHS ARE NUMBERED 151-B, 152-B  
16 AND 153-B?

17 A. YES.

18 Q. AND YOU ALSO HAVE A PHOTOGRAPH UP THERE MARKED 146-A?

19 A. YES, I DO.

20 Q. AND THAT IS A PHOTOGRAPH OF THE BLINDFOLD THAT HAS HAIRS  
21 OF AGENT CAMARENA AND FIBERS ASSOCIATED WITH TWO OF THE ROOMS  
22 OF LOPE DE VEGA ON IT?

23 A. YES, IT IS.

24 MR. CARLTON: YOUR HONOR, I WOULD ASK PERMISSION FOR  
25 AGENT MALONE TO APPROACH THE DIAGRAM AND PLACE THESE

1 PHOTOGRAPHS ON THE DIAGRAM, SHOWING WHERE THESE --

2 THE COURT: YOU MAY DO SO.

3 THE WITNESS: THANK YOU, YOUR HONOR.

4 (WITNESS PLACING PHOTOGRAPHS ON CHARTS.)

5 (WITNESS RESUMED THE STAND.)

6 BY MR. CARLTON:

7 Q. NOW, AGENT MALONE, ARE THERE PROCEDURES AT THE F.B.I. LAB  
8 FOR CONFIRMING THE RESULTS OF HAIR COMPARISONS, SUCH AS THOSE  
9 THAT YOU'VE JUST DESCRIBED IN THE COURSE OF YOUR TESTIMONY  
10 TODAY?

11 A. ARE YOU TALKING ABOUT QUALITY CONTROL MEASURES?

12 Q. RIGHT.

13 A. YES. BASICALLY, WE'VE HAD FOUR. WE USE FOUR QUALITY  
14 CONTROL MEASURES TO DETERMINE OR CONFIRM A MATCH THAT HAS BEEN  
15 MADE.

16 Q. WHAT ARE THOSE QUALITY CONTROL MEASURES?

17 A. WELL, THE FIRST, OF COURSE, IS AT THE END OF THE YEAR'S  
18 TRAINING, THE EXAMINERS ARE GIVEN THE TEST OF MATCHING THE 50  
19 UNKNOWNNS CORRECTLY BACK TO THE 50 KNOWN SAMPLES.

20 EVERY AGENT EXAMINER AT THE F.B.I. LAB HAS TO PASS A  
21 PROFICIENCY TEST SUCH AS THIS.

22 THE SECOND QUALITY CONTROL METHOD WE HAVE IS WHAT IS  
23 CALLED A BLIND STUDY TEST. AND WE HAVE A UNIT DOWN AT THE  
24 F.B.I. ACADEMY AT QUANTICO WHO BASICALLY SENDS US FAKE CASES.  
25 OF COURSE, WE DON'T KNOW THEY'RE FAKE CASES. WE HAVE NO WAY

1 OF KNOWING, AND WE WORK THE CASES AND WE ISSUE A REPORT BACK  
2 TO THE CONTRIBUTOR, AND THEY KNOW THE RESULTS AHEAD OF TIME.

3 SO IF WE MAKE AN ERRONEOUS MATCH OR COME UP WITH THE  
4 WRONG ANSWER, THEY WILL KNOW IT. AND, OF COURSE, THEY WILL  
5 TAKE APPROPRIATE ACTION.

6 Q. HAVE YOU EVER FAILED ANY OF THOSE BLIND TESTS?

7 A. I HAVE NEVER BEEN NOTIFIED. I ASSUME --

8 WE HAVE A THIRD QUALITY CONTROL SYSTEM IN THAT MY  
9 SUPERVISOR GIVES ME TWO PROFICIENCY TESTS PER YEAR IN HAIRS  
10 AND TWO IN FIBERS, WHERE SHE KNOWS THE ANSWER AHEAD OF TIME.  
11 AND I DO THE MATCH AND GIVE HER THE RESULTS, AND THEN SHE SEES  
12 IF I'VE MADE THE CORRECT ANSWERS.

13 AND FINALLY, WE HAVE A CONFIRMATION SYSTEM WHEREBY  
14 EVERY MATCH ON A HAIR HAS TO BE CONFIRMED BY -- INDEPENDENTLY  
15 CONFIRMED BY A SECOND HAIR EXAMINER AT THE LAB.

16 Q. AND EACH OF THESE COMPARISONS WAS SUBJECTED TO THAT  
17 PROCESS?

18 MR. STOLAR: OBJECTION. HEARSAY. IT'S NOT THIS  
19 WITNESS WHO DID THE COMPARISON. WE HAVE NO REPORT ON IT.

20 THE COURT: OVERRULED. HE DIDN'T ASK FOR THE  
21 RESULTS.

22 MR. STOLAR: HE'S ABOUT TO. THAT'S WHAT THE  
23 QUESTION IS GOING TO, I BELIEVE.

24 THE COURT: WELL THEN LET'S WAIT FOR THE QUESTION.  
25 BY MR. CARLTON:

1 Q. THE FIRST QUESTION WAS: EACH OF THESE COMPARISONS WAS  
2 SUBJECTED TO THAT PROCESS?

3 A. CORRECT.

4 (MR. STOLAR STANDING TO MAKE OBJECTION.)

5 (COURTROOM LAUGHTER.)

6 Q. AND DID YOU EVER RECEIVE ANY NOTIFICATION THAT YOUR  
7 COMPARISONS WERE INCORRECT?

8 MR. STOLAR: NOW I MAKE THE OBJECTION.

9 THE COURT: THE GROUNDS?

10 MR. STOLAR: THE GROUNDS ARE THAT IT IS HEARSAY,  
11 THAT WE HAVE NO REPORT ON IT AND THAT THIS WITNESS DIDN'T DO  
12 IT.

13 THE COURT: THE OBJECTION IS SUSTAINED.

14 MR. STOLAR: THANK YOU.

15 BY MR. CARLTON:

16 Q. NOW, AGENT MALONE, BASED ON YOUR EXPERIENCE, IS THERE ANY  
17 CORRELATION -- AND BASED UPON THE STUDIES THAT YOU'RE AWARE OF  
18 IN THE FIELD, IS THERE ANY CORRELATION BETWEEN THE LENGTH OF  
19 TIME THAT A HAIR OR A FIBER IS DEPOSITED ON A PIECE OF  
20 CLOTHING AND HOW LONG THE HAIR OR FIBER WILL REMAIN ON THAT  
21 PIECE OF CLOTHING?

22 A. YES, THERE IS.

23 Q. WHAT IS THAT CORRELATION?

24 A. THE GENERALLY-ACCEPTED TIME FRAME FOR THE DURABILITY OF A  
25 HAIR -- IN OTHER WORDS, ONCE A HAIR IS DEPOSITED ON A CERTAIN

1 ITEM -- IS TWO DAYS. WITHIN TWO DAYS, IT'S NORMALLY LOST.

2 Q. LIKewise, IS THERE ANY CORRELATION BETWEEN THE LENGTH OF  
3 TIME THAT A PERSON SPENDS IN A ROOM AND HIS OR HER CHANCES OF  
4 DEPOSITING HAIR IN THAT ROOM?

5 A. BASICALLY, YOU'RE LOSING ABOUT 100 HAIRS A DAY. SO,  
6 REALLY, COMMON SENSE SAYS THE LONGER YOU'RE THERE, THE MORE  
7 HAIRS YOU'RE GOING TO LOSE.

8 Q. IF YOU WOULD, PLEASE, LOOK AT THE CHART ON THE FLOOR  
9 WHICH IS MARKED AS EXHIBIT 154. IF YOU COULD RETRIEVE THAT.

10 (WITNESS OBTAINING EXHIBIT 154.)

11 WHAT DOES THIS CHART REPRESENT?

12 A. THIS IS A SUMMARY CHART OF THE FORENSIC EVIDENCE THAT I  
13 FOUND FROM THE VARIOUS VACUUM SWEEPINGS OF THE GUEST HOUSE AT  
14 881 LOPE DE VEGA.

15 Q. CAN YOU EXPLAIN IT?

16 A. BASICALLY, THERE WERE --

17 MR. STOLAR: YOUR HONOR, WE WOULD OBJECT TO THIS  
18 CHART. IT'S CUMULATIVE WITH THE OTHER CHART UP THERE AND  
19 COMPLETELY DUPLICATIVE.

20 THE COURT: YES. SUSTAINED.

21 BY MR. CARLTON:

22 Q. AGENT MALONE, IF YOU WOULD THEN LOOK AT THE CHART THAT  
23 HAS BEEN MARKED AS NUMBER 155, WHICH IS ON THE FLOOR AS  
24 WELL --

25 (WITNESS OBTAINING EXHIBIT 155.)

1                   WHAT IS THIS CHART?

2           A.    AGAIN, IT'S A SUMMARY CHART OF ALL THE FORENSIC EVIDENCE  
3           THAT I FOUND ON ALL OF THE ITEMS IN THIS CASE.

4           Q.    COULD YOU EXPLAIN THAT?

5           A.    IT'S REALLY FOUR SMALL CHARTS COMPILED INTO ONE CHART.  
6           AND WHAT I'VE DONE IS BASICALLY BROKEN THE CASE DOWN INTO  
7           DIFFERENT AREAS.

8                   THE ONE AREA WAS THE MERCURY, THE ONE AREA WOULD  
9           REPRESENT 881 LOPE DE VEGA, AND ONE AREA WOULD REPRESENT THE  
10          ITEMS THAT CAME OFF OF SPECIAL AGENT CAMARENA OR THE ITEMS  
11          ASSOCIATED WITH HIM, AND FINALLY, THE ITEMS THAT CAME OFF OF  
12          CAPTAIN ZAVALA.

13                   WITH RESPECT TO EACH AREA, WE THEN GO ACROSS THE  
14          CHART. AND JUST BY THEN GOING ACROSS THE COLUMNS, YOU CAN  
15          FIND OUT EXACTLY WHAT ITEMS OF EVIDENCE THAT I WAS ABLE TO  
16          COME UP WITH WITH RESPECT TO EACH SOURCE.

17          Q.    SO THIS CHART SUMMARIZES YOUR TESTIMONY TODAY?

18          A.    IT SUMMARIZES THE ENTIRE THING, YES.

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

20                   THE COURT:  YES.

21                   MR. CARLTON:  I WOULD MOVE AT THIS TIME THAT ALL OF  
22          THE EXHIBITS THAT AGENT MALONE HAS DISCUSSED TODAY BE  
23          RECEIVED.

24                   MR. STOLAR:  ON THE ONES WHERE THERE ARE NO  
25          FOUNDATIONA, AS WE DISCUSSED AT THE RECESS, WE LODGE AN



1 OBJECTION.

2 MR. MEZA: WE WOULD JOIN IN THAT, YOUR HONOR,  
3 INCLUDING EXHIBIT 155, FOR WHICH THERE IS NO FOUNDATION.

4 THE COURT: WELL, WHAT IS IT? EXHIBIT 155 IS THIS?

5 MR. MEZA: THE SUMMARY, YES, YOUR HONOR.

6 THE COURT: WHAT IS THE OBJECTION?

7 MR. MEZA: IT CONTAINS ITEMS AND REFERENCES ON  
8 THERE TO WHICH WE MADE FOUNDATIONAL OBJECTIONS.

9 THE COURT: WHICH I'VE RULED ON, HAVEN'T I?

10 MR. MEZA: YES. I JUST WANTED TO RENEW IT.

11 THE COURT: THE COURT WILL RECEIVE THE EXHIBITS.  
12 (EXHIBITS RECEIVED IN EVIDENCE.)

13 MR. CARLTON: THANK YOU, YOUR HONOR. I HAVE NOTHING  
14 FURTHER AT THIS TIME.

15 THE COURT: YOU MAY CROSS-EXAMINE.

16 MR. BURNS: THANK YOU, YOUR HONOR.

17 CROSS-EXAMINATION +

18 BY MR. BURNS:

19 Q. GOOD AFTERNOON, AGENT MALONE.

20 A. (NODDING HEAD AT MR. BURNS.)

21 Q. AGENT MALONE, ISN'T IT TRUE THAT HAIR COMPARISONS DO NOT  
22 CONSTITUTE A BASIS FOR ABSOLUTE PERSONAL IDENTIFICATION?

23 A. ABSOLUTE POSITIVE PERSONAL IDENTIFICATION; THAT'S  
24 CORRECT.

25 Q. AND THAT'S WHAT YOU WROTE IN YOUR REPORT WHEN YOU DID THE

1 HAIR EXAMINATIONS IN FEBRUARY OF 1989; IS THAT CORRECT?

2 A. THAT'S CORRECT, YES.

3 Q. AND YOU INCLUDE THAT IN ALL YOUR REPORTS; IS THAT RIGHT?

4 A. YES, I DO.

5 Q. BECAUSE YOU CAN'T SAY THAT YOU KNOW WHERE THE UNKNOWN  
6 HAIRS CAME FROM; IS THAT CORRECT?

7 A. BASICALLY, WE ARE JUST TELLING YOU --

8 Q. YES OR NO -- MAY I INTERRUPT.

9 MR. CARLTON: OBJECTION, YOUR HONOR.

10 THE COURT: JUST A MOMENT. IS THAT A QUESTION YOU  
11 CAN ANSWER "YES" OR "NO"?

12 THE WITNESS: NOT CLEARLY, YOUR HONOR.

13 BY MR. BURNS:

14 Q. WELL, I'LL REPHRASE THE QUESTION, YOUR HONOR.

15 YOU HAVE AN OPINION ABOUT WHERE THE UNKNOWN HAIR IN  
16 QUADRANT NUMBER TWO IN THE GUEST HOUSE, THAT YOU SAY WAS  
17 CONSISTENT WITH THE KNOWN SAMPLES OF MR. MATTA -- YOU HAVE AN  
18 OPINION ABOUT THE INDIVIDUAL WHOSE HAIR THAT IS, CORRECT?

19 A. YES, I DO.

20 Q. BUT YOU DON'T KNOW FOR SURE?

21 A. IT'S NOT A FINGERPRINT.

22 Q. IT'S NOT A FINGERPRINT.

23 NOW, THERE ARE THINGS WE CAN USE FOR ABSOLUTE  
24 PERSONAL IDENTIFICATION; ISN'T THAT TRUE?

25 A. YES, THERE IS.

1 Q. HOW ABOUT A HEEL PRINT OF A BABY?

2 A. IN SOME CASES, YES.

3 Q. DOES THAT CHANGE AS THEY GET OLDER; DO YOU KNOW?

4 A. IT DEPENDS ON THE PRINT.

5 Q. HOW ABOUT DENTAL WORK: X-RAYS, THE TEETH ARRANGEMENT,  
6 BRIDGES? IS THAT AN ABSOLUTE BASIS, IF YOU KNOW?

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

8 THE COURT: SUSTAINED.

9 BY MR. BURNS:

10 Q. YOU DO KNOW THAT FINGERPRINTS ARE AN ABSOLUTE BASIS FOR  
11 PERSONAL IDENTIFICATION?

12 A. YES, I DO.

13 Q. AND IN YOUR EXPERIENCE AS A FORENSIC EXPERT, DO YOU KNOW  
14 THAT BLOOD TYPES CAN GIVE GENERAL CATEGORIES OF ABSOLUTE  
15 PERSONAL IDENTIFICATION?

16 MR. CARLTON: OBJECTION AGAIN, YOUR HONOR.  
17 RELEVANCE.

18 THE COURT: I'LL PERMIT THE WITNESS TO ANSWER.

19 THE WITNESS: AS A FORENSIC SCIENTIST, YES, I KNOW  
20 WE CAN CATEGORIZE SOMEBODY IN PARTICULAR CATEGORIES.

21 BY MR. BURNS:

22 Q. AND ARE YOU FAMILIAR WITH H.L.A. TISSUE TYPING?

23 A. H.L.A.?

24 Q. H.L.A. TISSUE TYPING.

25 A. NO.

1 Q. YOU'RE NOT.

2 ARE YOU FAMILIAR WITH D.N.A. TYPING?

3 A. VAGUELY.

4 Q. VAGUELY.

5 DO YOU KNOW IF THE F.B.I. DOES D.N.A. TYPING?

6 A. YES, WE DO.

7 Q. IS THAT IN THE SAME BUILDING IN WASHINGTON OR IN  
8 QUANTICO, I BELIEVE YOU SAID?

9 A. NO, IT'S IN THE -- IT'S TWO DOORS DOWN FROM MY OFFICE.

10 Q. SO, IT'S ON THE SAME FLOOR? .

11 A. CORRECT.

12 Q. AND YOU DO KNOW THAT THEY DO D.N.A. TYPING IN THAT ROOM  
13 ON YOUR FLOOR; IS THAT CORRECT?

14 MR. CARLTON: ASKED AND ANSWERED, YOUR HONOR.

15 THE COURT: YES. SUSTAINED.

16 BY MR. BURNS:

17 Q. NOW, MR. MALONE, DO YOU HAVE A PH.D. IN HAIR ANALYSIS?

18 A. I DON'T HAVE A PH.D.

19 I DON'T KNOW IF THERE IS ANY SUCH THING AS A PH.D.  
20 IN HAIR ANALYSIS.

21 Q. DO YOU KNOW OF ANY INSTITUTIONS, COLLEGES OR UNIVERSITIES  
22 WHERE YOU CAN GET A DEGREE IN HAIR ANATOMY?

23 A. HAIR ANATOMY? I'M NOT SURE.

24 Q. ARE YOU AWARE OF IT; YES OR NO? IT'S A SIMPLE QUESTION.  
25 I'M DON'T MEAN TO CONFUSE YOU.

1 A. I'M NOT AWARE OF IT.

2 MR. CARLTON: OBJECTION TO THE COMMENT, YOUR HONOR.

3 THE COURT: THE WITNESS HAS STATED HE'S NOT AWARE OF  
4 ANY.

5 BY MR. BURNS:

6 Q. HAVE YOU EVER LECTURED IN AN ANATOMY CLASS AT A COLLEGE?

7 A. NO.

8 Q. OR AT AN ANATOMY CLASS AT A MEDICAL COLLEGE?

9 A. NO.

10 Q. YOU HAVE ONLY LECTURED TO POLICE AND LAW ENFORCEMENT; IS  
11 THAT CORRECT?

12 A. NO. I'VE LECTURED TO LAW SCHOOLS, TOO.

13 Q. HAVE YOU BEEN EVER BEEN PUBLISHED IN THE JOURNAL OF  
14 FORENSIC SCIENCES?

15 A. NO.

16 Q. DO YOU KNOW A MAN BY THE NAME OF MC CRONE? HAVE YOU  
17 HEARD OF HIM?

18 A. YES, I HAVE.

19 Q. DID HE WRITE A BOOK ON THE OPTICAL MICROSCOPE?

20 A. HE WROTE A BOOK ON MICROSCOPY.

21 Q. YOU'RE FAMILIAR WITH THAT BOOK?

22 A. I HAVE SEEN IT. I'M NOT REAL FAMILIAR WITH IT, NO.

23 Q. ARE YOU FAMILIAR WITH A MAN BY THE NAME OF ROSEN, S.I.  
24 ROSEN, PH.D.?

25 A. I HAVE NEVER HEARD OF HIM, NO.

1 Q. ARE YOU FAMILIAR WITH A PUBLICATION CALLED FORENSIC  
2 MEDICINE, EDITED BY C. G. TEDESCHI, T E D E S C H I?

3 A. NO.

4 Q. ARE YOU FAMILIAR WITH A MAN BY THE NAME OF GAUDETTE?

5 A. YES, I AM.

6 Q. HE WORKS FOR THE ROYAL CANADIAN MOUNTED POLICE; IS THAT  
7 NOT TRUE?

8 A. YES.

9 Q. AND HE EXAMINES HAIR FOR THE CANADIAN LAW ENFORCEMENT  
10 PEOPLE?

11 A. HE'S THE CHIEF OF THEIR BRANCH, YES.

12 Q. DO YOU EVER ATTEND CONFERENCES AND MEETINGS WHERE THERE  
13 ARE PEOPLE FROM OTHER NATIONS?

14 A. YES, I DO.

15 Q. WITH JAPANESE HAIR EXPERTS?

16 A. THE INTERNATIONAL SYMPOSIUM THAT I ATTENDED, I BELIEVE  
17 THEY DID HAVE ONE JAPANESE FORENSIC SCIENTIST THERE.

18 Q. AND THERE ARE ENGLISH SCIENTISTS WHO DO THIS, TO YOUR  
19 KNOWLEDGE; IS THAT TRUE?

20 A. YES.

21 Q. AND GERMAN HAIR EXPERTS; IS THAT TRUE?

22 A. YES.

23 Q. ARE YOU FAMILIAR WITH A MAN OR HAVE YOU HEARD OF A MAN BY  
24 THE NAME OF NICHOLAS PETRAYCO?

25 A. I BELIEVE HE WORKS FOR A POLICE DEPARTMENT IN NASSAU

1 COUNTY.

2 Q. I BELIEVE IT'S NEW YORK CITY.

3 A. I'M SORRY, NEW YORK CITY.

4 Q. CLOSE ENOUGH.

5 HOW ABOUT PETER TREFARAS?

6 A. YES, I HAVE.

7 Q. ARE YOU FAMILIAR WITH HIS WORK?

8 A. YES, I AM.

9 Q. AND A MAN BY THE NAME OF SKIP PALENICK?

10 A. SKIP PALENICK WORKS FOR MC CRONE INSTITUTE. YES, I AM  
11 FAMILIAR WITH HIM.

12 Q. NOW, THE FIRST THING I'D LIKE TO COVER -- IT'S BEEN A  
13 LONG DAY -- IS THE CARPET FIBERS.

14 NOW, DO YOU RECALL IN EACH OF YOUR CARPET SWEEPINGS  
15 IN THE DIFFERENT ROOMS HOW MANY ACTUAL CARPET FIBERS YOU GOT?

16 A. I CAN TELL YOU SPECIFICALLY. ARE YOU TALKING ABOUT THE  
17 CARPET SWEEPINGS OR THE ITEMS THEY CAME OFF OF?

18 Q. WHEN YOU DID THE VACUUM SWEEPINGS, AT A CERTAIN POINT YOU  
19 STOPPED VACUUMING AND YOU TOOK THE FILTER OUT AND PUT THAT IN  
20 A BAG, YOU SAID?

21 A. CORRECT, YES.

22 Q. AND WHEN YOU FINALLY GOT THAT BACK IN WASHINGTON, YOU  
23 TOOK THAT EVIDENCE IN THE CLEAN ROOM, THE SCRAPING ROOM?

24 A. THAT'S CORRECT.

25 Q. AND YOU COUNTED ALL THOSE CARPET FIBERS?

1 A. IN EACH ONE OF THE VACUUM SWEEPINGS, THERE WERE  
2 THOUSANDS, TENS OF THOUSANDS.

3 Q. IT IS FAIR TO SAY 10,000, AS AN AVERAGE? I'M NOT GOING  
4 TO HOLD YOU TO THE EXACT NUMBER, BUT 9,000, 10,000, 11,000?

5 A. I'LL JUST SAY THOUSANDS.

6 Q. THOUSANDS, OKAY.

7 AND THIS WAS FROM THE GUEST HOUSE?

8 A. THIS WAS FROM EVERY ROOM THAT VACUUM SWEEPINGS WERE DONE  
9 IN.

10 Q. THE OLD CARPETS AND THE NEW CARPETS?

11 A. CORRECT.

12 Q. I GUESS YOU HAVE A VERY GOOD VACUUM CLEANER.

13 A. YES, WE DO.

14 Q. NOW, THERE ARE TWO DIFFERENT TYPES OF FIBERS, YOU SAID;  
15 MAN-MADE AND THE NATURAL. AND THE VAST BULK OF THE FIBERS ARE  
16 NOW MAN-MADE?

17 A. APPROXIMATELY 80 PERCENT.

18 Q. NOW, OF THE CARPET FIBERS THAT YOU FOUND, WERE THEY  
19 MAN-MADE OR WERE THEY NATURAL?

20 A. ALL THE CARPET FIBERS WERE MAN-MADE OR SYNTHETIC FIBERS.

21 Q. AND THERE ARE SEVEN GENERIC TYPES IN THE UNITED STATES?

22 A. BEING COMMERCIALY USED IN TEXTILES, YES.

23 Q. HOW MANY IN MEXICO, IF YOU KNOW?

24 A. I KNOW THE NYLON CARPET FIBERS AND POLYESTERS ARE USED,  
25 BUT OTHER THAN THAT, I DON'T KNOW THE REST.



1 Q. HAVE YOU EVER DONE A CARPET COMPARISON FOR MEXICO BEFORE?

2 A. NO, THIS WAS THE FIRST.

3 Q. NOW, THE CARPET SAMPLES THAT YOU GOT FROM VARIOUS PEOPLE,  
4 DO YOU RECALL HOW MANY CARPET SAMPLES -- DID YOU COUNT THEM SO  
5 THAT THE SWEATSHIRT OF MR. ZAVALA -- DID YOU COUNT THE CARPET  
6 SAMPLES THAT YOU GOT?

7 A. YES, I DID.

8 Q. DO YOU RECALL WHAT THAT NUMBER WAS?

9 A. TO ANSWER EACH ONE SPECIFICALLY, I'D HAVE TO GO THROUGH  
10 MY NOTES.

11 Q. WELL, TO SAVE TIME NOW, CAN YOU RECALL IF IT WAS ONE  
12 CARPET SAMPLE, 10, 100 OR WAS IT IN THE THOUSANDS AGAIN?

13 MR. CARLTON: MAYBE WE COULD CLARIFY. YOU'RE  
14 MENTIONING CARPET SAMPLES. DO YOU MEAN FIBERS?

15 MR. BURNS: FIBER SAMPLES. FIBER SAMPLES WHICH WERE  
16 IDENTIFIED, I BELIEVE, AS CARPETS.

17 THE WITNESS: WITH RESPECT TO CAPTAIN ZAVALA, THERE  
18 WAS LESS THAN A DOZEN.

19 BY MR. BURNS:

20 Q. IS THAT A GOOD FIGURE FOR THE OTHER SAMPLES, LESS THAN A  
21 DOZEN?

22 A. EVERYTHING EXCEPT FOR THE ADHESIVE BLINDFOLD, AND IT WAS  
23 LOADED WITH THEM. IT'S THE TYPE OF THING THAT'S GOING TO PICK  
24 UP CARPET FIBERS BEAUTIFULLY.

25 Q. NOW, DID YOU DO A CROSS SECTION OF THE FIBERS?

1 A. YES, I DID.

2 Q. AND DO YOU RECALL WHAT THAT CROSS SECTION REVEALED, AS  
3 FAR AS DESCRIPTION OF THE CARPET IN CROSS SECTION?

4 A. BASICALLY, WITH RESPECT TO THE CARPET FIBERS FROM THE  
5 BANDAGE AND THE BURIAL SHEET, IT REVEALED THAT THEY WERE  
6 DACRON POLYESTERS.

7 WITH RESPECT TO THE CARPET FIBERS FROM CAPTAIN  
8 ZAVALA'S SWEATSHIRT, IT REVEALED THAT IT WAS AN UNBRANDED  
9 DUPONT NYLON.

10 Q. WHEN YOU SAY IT WAS UNBRANDED DU PONT NYLON, WHAT DO YOU  
11 MEAN BY UNBRANDED?

12 A. IN OTHER WORDS, DUPONT MAKES IT, BUT THEY DON'T GIVE IT A  
13 NAME.

14 Q. DO YOU KNOW HOW MANY CARPET FIBERS THERE ARE IN THE  
15 UNITED STATES THAT ARE MADE? DIFFERENT CARPET FIBERS?

16 A. THERE ARE FOUR MAIN COMPANIES THAT MAKE THEM, SO THERE'S  
17 ONLY REALLY FOUR BASIC BRANDS.

18 Q. AND THEY MAKE VARIOUS DIFFERENT TYPES OF ACETATE, NYLON?

19 A. CORRECT, BUT WITH CARPET FIBERS --

20 Q. OLEAN -- IS THAT THE WORD YOU SAID?

21 A. THE SYNTHETIC CARPETS WOULD PRETTY MUCH BE LIMITED TO  
22 NYLON, POLYESTER AND ACRYLIC.

23 Q. NOW, ON SOME OF THE FIBERS YOU EXAMINED, THERE WAS A DYE  
24 IN IT; IS THAT TRUE?

25 A. THAT'S CORRECT.

1 Q. AND YOU SHOWED US A NICE CHART WITH A  
2 MICROSPECTROPHOTOMETER. YOU DID A COLOR COMPARISON?

3 A. THAT IS CORRECT.

4 Q. AND YOU WERE ABLE TO IDENTIFY THE DYE?

5 A. THAT'S CORRECT.

6 Q. AND IS THERE A NAME FOR THAT DYE?

7 A. WHATEVER THE MANUFACTURER WANTS TO CALL IT. IT'S A ROSE  
8 COLORED DYE, BUT I DON'T KNOW THE SPECIFIC NAME.

9 Q. DO YOU KNOW WHO THE MANUFACTURER OF THAT DYE IS?

10 A. NO, I DON'T.

11 Q. THERE ARE ONLY 7,000 -- THERE ARE APPROXIMATELY 7,000  
12 DYES IN USE TO YOUR KNOWLEDGE?

13 A. BEING COMMERCIALY USED, YES.

14 Q. DID YOU GO TO THE MANUFACTURER AND CHECK THE ABSORPTION  
15 CURVE OF THE DYE?

16 A. I'M NOT EVEN SURE THAT DATA IS AVAILABLE; BUT, NO, I DID  
17 NOT.

18 Q. WELL, ISN'T THERE A BOOK THAT YOU CAN GO AND LOOK AT THE  
19 DIFFERENT TYPES OF CARPETS AND CROSS SECTION FIBERS?

20 A. NOT THAT I'M AWARE OF.

21 Q. YOU HAVE NEVER BEEN TO DUPONT TO LOOK AT THEIR CARPET  
22 BOOK?

23 A. YES. I SPECIFICALLY TRAVELED TO DUPONT TO HAVE THEM  
24 IDENTIFY THESE FIBERS.

25 Q. BECAUSE WHEN YOU LOOK AT A CARPET IN CROSS SECTION, THERE

1 ARE DIFFERENT SHAPES YOU CAN SEE; ISN'T THAT TRUE?

2 A. THAT'S TRUE.

3 Q. THERE ARE TRI-LOBELS THAT WILL LOOK LIKE A DUMBBELL --  
4 SOME OF THEM.

5 A. EACH CARPET MANUFACTURER PATENTS THEIR CROSS SECTIONAL  
6 SHAPES SO THAT THEY CAN IDENTIFY IT AT A LATER DATE.

7 Q. AND YOU NEVER WENT TO MANUFACTURERS TO LOOK AT THEIR  
8 BOOKS OR COLLECTION OF THIS INFORMATION ON THE CARPETS THAT  
9 THEY HAD, DID YOU?

10 A. I WENT TO THE PERSON WHO MADE THE CARPET AND THEY  
11 IDENTIFIED IT. I DIDN'T HAVE TO LOOK ANY FURTHER.

12 Q. DID YOU ASK HIM HOW MUCH OF THAT CARPET HE HAS MADE?

13 A. NO, I DID NOT.

14 Q. YOU DIDN'T GO OUT TO CHECK THE DYE MANUFACTURER SO YOU  
15 DON'T KNOW HOW MUCH OF THE DYE WAS MADE EITHER; IS THAT TRUE?

16 A. THAT'S CORRECT.

17 Q. DID YOU GO TO THE PERSON WHO SAID HE HAD MADE THE FIBER,  
18 THE CARPET FIBER, AND ASK HIM HOW MANY OR HOW MUCH OF THAT HAS  
19 BEEN SOLD IN MEXICO?

20 A. NO, I DID NOT.

21 Q. YET YOU CALLED THIS A SPECTRO FINGERPRINT ON THE  
22 MICROSPECTROPHOTOMETER?

23 A. ABOUT THE DYE, YES. SPECIFICALLY OF THE COMPONENTS OF  
24 THE DYE.

25 Q. SO YOUR TESTIMONY IS THE DYE HAS THE SAME CURVE ON THE

1 MICROSCPECTROPHOTOMETER?

2 A. CORRECT.

3 THE COURT: WE WILL TAKE OUR AFTERNOON RECESS AT  
4 THIS TIME AND RECONVENE THIS CASE TOMORROW MORNING AT THE  
5 USUAL TIME.

6 (WITNESS EXCUSED.)

7 (JURY EXCUSED.)

8 (END OF PROCEEDINGS.)

9

10 C E R T I F I C A T E

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

13 \_\_\_\_\_ DATED: \_\_\_\_\_

14 JULIE A. CHURCHILL, CSR, RPR  
15 OFFICIAL COURT REPORTER  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

			PG	LN
(EXHIBIT	#	111-A RECEIVED IN	45	17
(EXHIBIT	#	111-B RECEIVED IN	46	7
(EXHIBIT	#	111-C RECEIVED IN	47	1
(EXHIBIT	#	111-D RECEIVED IN	47	14
(EXHIBIT	#	111-E RECEIVED IN	47	25
(EXHIBIT	#	111-F RECEIVED IN	48	18
(EXHIBIT	#	111-G RECEIVED IN	49	12
(EXHIBIT	#	111-H RECEIVED IN	50	6
(EXHIBIT	#	111-I RECEIVED IN	51	10
(EXHIBIT	#	111-J RECEIVED IN	51	19
(EXHIBITS	#	112, 113 & 114 RECEIVED IN	56	3
(EXHIBITS	#	115 THROUGH 122 RECEIVED IN	78	12
(EXHIBIT	#	123 RECEIVED IN EVIDENCE.)	83	4
(EXHIBIT	#	125-A RECEIVED IN	84	13
(EXHIBIT	#	125-B RECEIVED IN	84	21
(EXHIBITS	#	126 AND 127 RECEIVED IN	86	23
(EXHIBITS	#	109-A AND 109-B RECEIVED IN	89	21
(EXHIBIT	#	134-C RECEIVED IN	114	2
(EXHIBIT	#	134-B RECEIVED IN	118	3
(EXHIBIT	#	105 RECEIVED IN EVIDENCE.)	128	9
(EXHIBIT	#	134-C RECEIVED IN	137	14
(EXHIBITS	#	99, 128, 129, 130, 131, 150-A RECEIVED IN EVIDENCE.)	167	8
LOS ANGELES	+	CALIFORNIA TUESDAY, JUNE	4	1
JUNE 19, 1990	+	9:30 A.M.	4	2
WAYNE W. OAKES	+	PLAINTIFF'S WITNESS, SWORN	4	15
DIRECT EXAMINATION	+	BY MR. CARLTON: Q.	4	16
CROSS-EXAMINATION	+	BY MR. STOLAR: Q.	11	8
WAYNE SCHMIDT	+	PLAINTIFF'S WITNESS, SWORN	15	24
DIRECT EXAMINATION	+	BY MR. CARLTON: Q.	16	4
CROSS-EXAMINATION	+	BY MR. STOLAR: Q.	18	25
REDIRECT EXAMINATION	+	BY MR. CARLTON: Q.	24	22
RE-CROSS-EXAMINATION	+	BY MR. STOLAR: Q.	26	24
MICHAEL P. MALONE	+	PLAINTIFF'S WITNESS, SWORN	28	17
DIRECT EXAMINATION	+	BY MR. CARLTON: Q.	28	22
LOS ANGELES	+	CALIFORNIA TUESDAY, JUNE	109	1
JUNE 19, 1990	+	1:30 P.M.	109	2
MICHAEL P. MALONE	+	PLAINTIFF'S WITNESS,	109	6
DIRECT EXAMINATION	+	CONTINUED BY MR. CARLTON:	109	7
DIRECT EXAMINATION	+	RESUMED BY MR. CARLTON:	204	21
CROSS-EXAMINATION	+	BY MR. BURNS: Q.	216	17
A PHOTOGRAPH MARKED	EXHIBIT	11-C. DO YOU SEE	7	17
I BELIEVE THERE IS AN	EXHIBIT	MARKED FOR	9	13
15, OR GOVERNMENT'S	EXHIBIT	103, IS THE RIGHT	9	23
IN FRONT OF YOU AN	EXHIBIT	WHICH HAS BEEN MARKED	10	5

			PG	LN
WHICH HAS BEEN MARKED	EXHIBIT	104. A. YES, I	10	6
YOU, YOU WILL SEE AN	EXHIBIT	THAT HAS BEEN MARKED	24	25
AND I BELIEVE THAT	EXHIBIT	138, IF YOU CAN SEE	38	3
THIS PREPARED BY OUR	EXHIBIT	SECTION. Q. AND	38	6
TO A DIAGRAM MARKED	EXHIBIT	139. A. THAT IS	43	1
THAT'S CORRECT.	EXHIBIT	138 IS ACTUALLY THE	43	5
IT UP. (	EXHIBIT	# 111-A RECEIVED IN	45	17
(	EXHIBIT	# 111-B RECEIVED IN	46	7
POINTER? A. ON	EXHIBIT	138, THE POOL WOULD	46	21
(	EXHIBIT	# 111-C RECEIVED IN	47	1
(	EXHIBIT	# 111-D RECEIVED IN	47	14
(	EXHIBIT	# 111-E RECEIVED IN	47	25
WHAT IS THAT? A.	EXHIBIT	111-F IS A PHOTOGRAPH	48	6
(	EXHIBIT	# 111-F RECEIVED IN	48	18
IF YOU WOULD LOOK AT	EXHIBIT	111-G. WHAT IS THAT	48	20
A PHOTOGRAPH OF? A.	EXHIBIT	111-G IS A PHOTOGRAPH	48	22
(	EXHIBIT	# 111-G RECEIVED IN	49	12
RIGHT. (	EXHIBIT	PLACED BEFORE THE	49	17
WHAT IS THAT? A.	EXHIBIT	111-H IS A PHOTOGRAPH	49	21
(	EXHIBIT	# 111-H RECEIVED IN	50	6
WHAT IS THAT? A.	EXHIBIT	111-I IS A PHOTOGRAPH	51	5
(	EXHIBIT	# 111-I RECEIVED IN	51	10
US WHAT THAT IS? A.	EXHIBIT	111-J IS A MUCH	51	14
(	EXHIBIT	# 111-J RECEIVED IN	51	19
YOU SHOULD SEE AN	EXHIBIT	MARKED 112. DO YOU	53	10
WHAT IS THAT? A.	EXHIBIT	112 IS A SMALL SEALED	53	16
HAS BEEN MARKED AS	EXHIBIT	113, DO YOU RECOGNIZE	53	19
WHAT IS THAT? A.	EXHIBIT	113 AGAIN IS A SMALL	53	23
AND THEN LOOKING AT	EXHIBIT	114? A. EXHIBIT	54	1
AT EXHIBIT 114? A.	EXHIBIT	114 IS A THIRD SMALL	54	2
WHAT HAS BEEN MARKED	EXHIBIT	115, IF YOU WOULD.	55	4
WHAT IS IT? A.	EXHIBIT	115 IS BASICALLY A	55	7
IF YOU WOULD? A.	EXHIBIT	116 AGAIN IS A SMALL	56	9
WHAT HAS BEEN MARKED	EXHIBIT	117, DO YOU RECOGNIZE	56	17
WHAT IS THAT? A.	EXHIBIT	117 WOULD BE A SMALL	56	21
BEDROOM NUMBER ONE,	EXHIBIT	116. WAS A LIGHT	57	4
THE CARPET THAT IS	EXHIBIT	117 THAT YOU FOUND IN	57	9
THE HALLWAY CARPET	EXHIBIT	117 WAS KIND OF A	57	11
HAS BEEN MARKED AS	EXHIBIT	118. DO YOU	57	13
WHAT IS IT? A.	EXHIBIT	118 IS A SMALL CARPET	57	17
Q. LOOKING AT	EXHIBIT	119, IF YOU WOULD, DO	58	4
IS IT? A. THE	EXHIBIT	119 WOULD BE THE	58	10
WHAT HAS BEEN MARKED	EXHIBIT	120. A. YES.	58	19
WHAT IS THAT? A.	EXHIBIT	120 IS A SMALL SQUARE	58	24
HERE. Q. AND	EXHIBIT	121? A. EXHIBIT	59	5
AND EXHIBIT 121? A.	EXHIBIT	121, AGAIN, IS A	59	6
HAS BEEN MARKED AS	EXHIBIT	122. DO YOU HAVE	77	11
A. GOVERNMENT'S	EXHIBIT	122 IS A SMALL SQUARE	77	14
HAS BEEN MARKED AS	EXHIBIT	123, DO YOU RECOGNIZE	82	14
A. GOVERNMENT'S	EXHIBIT	123 IS A, BASICALLY,	82	18
(	EXHIBIT	# 123 RECEIVED IN	83	4
WHAT IS IT? A.	EXHIBIT	125-A IS A PICTURE OF	84	7
(	EXHIBIT	# 125-A RECEIVED IN	84	13
(	EXHIBIT	# 125-B RECEIVED IN	84	21

		PG	LN
FRONT OF YOU AT THE	EXHIBIT	85	24
A. GOVERNMENT'S	EXHIBIT	86	3
A. GOVERNMENT'S	EXHIBIT	86	14
A. GOVERNMENT'S	EXHIBIT	89	8
ARE THESE? WHAT IS	EXHIBIT	92	15
IS EXHIBIT 107? A.	EXHIBIT	92	17
IS A RATHER LARGE	EXHIBIT	93	21
DO YOU RECOGNIZE	EXHIBIT	93	23
AT 104, IF YOU WOULD.	EXHIBIT	94	5
DO YOU RECOGNIZE	EXHIBIT	94	11
A. GOVERNMENT'S	EXHIBIT	94	14
HAS BEEN MARKED AS	EXHIBIT	96	24
A. GOVERNMENT'S	EXHIBIT	97	4
THIS TO SOME OTHER	EXHIBIT	98	9
WOULD, LOOK THEN AT	EXHIBIT	99	24
WHAT IS THAT? A.	EXHIBIT	100	3
THAT I TOOK OFF OF	EXHIBIT	100	5
HAS BEEN MARKED AS	EXHIBIT	100	12
DO YOU RECOGNIZE	EXHIBIT	100	15
A. GOVERNMENT'S	EXHIBIT	100	18
HAS BEEN MARKED AS	EXHIBIT	101	7
A. GOVERNMENT'S	EXHIBIT	101	11
HAS BEEN MARKED AS	EXHIBIT	101	24
A. GOVERNMENT'S	EXHIBIT	102	3
ROPE IN GOVERNMENT'S	EXHIBIT	102	6
HAS BEEN MARKED AS	EXHIBIT	104	3
A. GOVERNMENT'S	EXHIBIT	104	9
HAS BEEN MARKED AS	EXHIBIT	105	24
A. GOVERNMENT'S	EXHIBIT	106	3
A. GOVERNMENT'S	EXHIBIT	106	17
TO GOVERNMENT'S	EXHIBIT	106	18
YES. GOVERNMENT'S	EXHIBIT	107	11
LOOK, PLEASE, AT	EXHIBIT	107	19
A. GOVERNMENT'S	EXHIBIT	107	23
LASTLY, LOOKING AT	EXHIBIT	108	6
A. GOVERNMENT'S	EXHIBIT	108	10
THAT'S BEEN MARKED AS	EXHIBIT	109	10
A. GOVERNMENT'S	EXHIBIT	112	9
A. GOVERNMENT'S	EXHIBIT	112	22
(	EXHIBIT	114	2
THERE, YOU'LL FIND AN	EXHIBIT	115	5
(	EXHIBIT	118	3
WHAT GOVERNMENT'S	EXHIBIT	120	21
PLEASE, LOOK AT	EXHIBIT	122	7
HAS BEEN MARKED AS	EXHIBIT	122	8
A. GOVERNMENT'S	EXHIBIT	122	13
THOSE HAIRS IN	EXHIBIT	122	17
CAMARENA THAT ARE	EXHIBIT	123	6
FIND A CHART MARKED	EXHIBIT	123	9
(WITNESS LOCATING	EXHIBIT	123	10
CAMARENA, WHICH WAS	EXHIBIT	125	13
THE WALL MARKED AS	EXHIBIT	125	22
A. GOVERNMENT'S	EXHIBIT	125	24
HAS BEEN MARKED AS	EXHIBIT	127	19
EXHIBIT	MARKED 126, DO YOU		
EXHIBIT	126 IS THE ZIPLOCK		
EXHIBIT	127, AGAIN, IS A		
EXHIBIT	109-A IS A PICTURE OF		
EXHIBIT	107? A. EXHIBIT		
EXHIBIT	107 IS A ZIPLOCK		
EXHIBIT	, A LARGE BAG WITH A		
EXHIBIT	103? A. YES, I		
EXHIBIT	104 SHOULD BE A SMALL		
EXHIBIT	104? A. YES, I		
EXHIBIT	104, AGAIN, IS A		
EXHIBIT	128. A. YES.		
EXHIBIT	128 IS A ZIPLOCK		
EXHIBIT	? MR.		
EXHIBIT	129. DO YOU		
EXHIBIT	129 IS A SMALL		
EXHIBIT	128, THE PIECE OF		
EXHIBIT	130, IF YOU WOULD.		
EXHIBIT	130? A. YES, I		
EXHIBIT	130, AGAIN, IS A		
EXHIBIT	131. DO, YOU		
EXHIBIT	131 IS A SMALL		
EXHIBIT	132, DO YOU RECOGNIZE		
EXHIBIT	132, AGAIN, IS A		
EXHIBIT	131. Q. THIS WAS		
EXHIBIT	133. A. YES.		
EXHIBIT	133 IS A ZIPLOCK BAG.		
EXHIBIT	64-A. DO		
EXHIBIT	64-A IS THE F.B.I.		
EXHIBIT	64-D ARE TWO PLASTIC		
EXHIBIT	64-C, THE ADHESIVE		
EXHIBIT	64-E IS THE STAINED		
EXHIBIT	64-F. DO YOU		
EXHIBIT	64-F, AGAIN, IS A		
EXHIBIT	64-G, IF YOU WOULD,		
EXHIBIT	64-G IS A RED AND		
EXHIBIT	NO. 89, DO YOU		
EXHIBIT	134-A IS JUST A		
EXHIBIT	134-C IS A PHOTOGRAPH		
EXHIBIT	# 134-C RECEIVED IN		
EXHIBIT	THAT'S BEEN MARKED		
EXHIBIT	# 134-B RECEIVED IN		
EXHIBIT	134-B IS SHOWING. IT		
EXHIBIT	98, WHAT HAS BEEN		
EXHIBIT	98. IT SHOULD BE IN		
EXHIBIT	98 IS A SMALL, SQUARE		
EXHIBIT	98 TO OTHER HAIRS?		
EXHIBIT	98? A. YES, I		
EXHIBIT	136 NEXT TO THE WALL.		
EXHIBIT	136 AND PLACING IT ON		
EXHIBIT	98? A. YES, I		
EXHIBIT	140-A, WHAT DOES THAT		
EXHIBIT	140-A, AGAIN, IS A		
EXHIBIT	105, DO YOU RECOGNIZE		



		PG	LN
VEGA THAT I HAD OUR	EXHIBIT	128	1
I WOULD MOVE THAT	EXHIBIT	128	6
(	EXHIBIT	128	9
YOU FIND ANY HAIRS IN	EXHIBIT	128	23
IN EXHIBIT 126 OR	EXHIBIT	128	23
(WITNESS OBTAINING	EXHIBIT	129	7
CHART? A. IT'S MY	EXHIBIT	129	9
A. GOVERNMENT'S	EXHIBIT	129	11
(WITNESS OBTAINING	EXHIBIT	131	2
A. GOVERNMENT'S	EXHIBIT	131	4
NOW, DO YOU RECALL	EXHIBIT	131	25
ALSO HAVE THERE AS	EXHIBIT	135	13
ANOTHER CHART LABELED	EXHIBIT	136	11
(WITNESS LOCATING	EXHIBIT	136	12
(	EXHIBIT	137	14
OF YOU SHOULD BE AN	EXHIBIT	139	17
GOVERNMENT'S	EXHIBIT	139	25
FLOOR YOU'LL SEE AN	EXHIBIT	141	12
A. GOVERNMENT'S	EXHIBIT	141	14
THE TESTIMONY. THE	EXHIBIT	143	4
INTO EVIDENCE. THE	EXHIBIT	143	8
A. GOVERNMENT'S	EXHIBIT	143	21
TAPE BLINDFOLD WAS	EXHIBIT	145	17
THIS IS GOVERNMENT'S	EXHIBIT	146	6
THE CHART MARKED AS	EXHIBIT	147	8
COULD USE MY PREVIOUS	EXHIBIT	147	13
GOVERNMENT'S	EXHIBIT	148	9
THAT YOU RECEIVED	EXHIBIT	150	7
DID. Q. THAT WAS	EXHIBIT	150	13
DID. Q. THAT WAS	EXHIBIT	150	18
YES, I DID. Q.	EXHIBIT	150	23
A. GOVERNMENT'S	EXHIBIT	153	21
A. GOVERNMENT'S	EXHIBIT	154	3
(WITNESS ACQUIRING	EXHIBIT	156	14
ESPINO VERDIN WITH	EXHIBIT	160	1
STOLAR: GOVERNMENT'S	EXHIBIT	160	17
AN EXAMPLE, JUDGE.	EXHIBIT	162	14
PROSECUTOR.	EXHIBIT	162	16
WAS THAT MARKED AS	EXHIBIT	163	13
MR. CARLTON: THAT'S	EXHIBIT	99.	14
MR. MEDRANO: THAT'S	EXHIBIT	99, YOUR HONOR.	15
MR. CARLTON: THAT'S	EXHIBIT	99.	16
THE COURT: DOES	EXHIBIT	99 PURPORT TO BE THE	17
TO BE THE SAME AS	EXHIBIT	131? MR.	18
RIGHT. AND WITH	EXHIBIT	131, A ROPE THAT HAD	18
JULY 21, WHICH IS	EXHIBIT	A TO THE GOVERNMENT'S	14
NUMBER 2, JULY 21,	EXHIBIT	B TO THE GOVERNMENT'S	24
NOW, AFTER PAGE 11 OF	EXHIBIT	E OF THE GOVERNMENT'S	14
AFTER PAGE 11 OF	EXHIBIT	E SHOULD BE EXCLUDED.	2
EXCERPT SIX, WHICH IS	EXHIBIT	F. IN THIS EXCERPT	3
ALSO ATTACHED AS AN	EXHIBIT	-- THE	21
AND IT IS ATTACHED AS	EXHIBIT	C TO MY MOTION, YOUR	6
IT, AS WELL. IT'S	EXHIBIT	C TO THE MOTION. SO	9
TABLE REGARDING THIS	EXHIBIT	AT THE GRAY TABLE AND	25

		PG	LN
SERGIO ESPINO VERDIN,	EXHIBIT 89; IS THAT CORRECT?	204	25
YOU OBTAINED FROM	EXHIBIT 114, WHICH WAS THE	205	6
YOU FIND ANY HAIRS IN	EXHIBIT 114 THAT YOU WERE	205	10
A. GOVERNMENT'S	EXHIBIT 151-A IS A HAIR	205	21
Q. DO YOU RECALL	EXHIBIT 113, WHICH ARE VACUUM	206	12
DID YOU FIND HAIRS IN	EXHIBIT 113, AS WELL? A.	206	15
OF RENE VERDUGO IN	EXHIBIT 133? A. YES, I	206	18
YOU FIND ANY HAIRS IN	EXHIBIT 113 THAT YOU WERE	206	20
OF THE HAIRS IN	EXHIBIT 113 -- THAT'S THE	206	22
A. GOVERNMENT'S	EXHIBIT 152-A, AGAIN, IS A	207	9
THAT YOU FOUND IN	EXHIBIT 113 WITH EXHIBIT 110,	207	22
IN EXHIBIT 113 WITH	EXHIBIT 110, THE HAIRS OF	207	22
OF THOSE HAIRS IN	EXHIBIT 113 AND THE KNOWN	207	25
ANY OF THE HAIRS IN	EXHIBIT 113? A. IN THE	208	2
A. GOVERNMENT'S	EXHIBIT 151-A (SIC) IS A HAIR	209	11
THIS IS GOVERNMENT'S	EXHIBIT 153-A. Q. AND	209	18
WHICH IS MARKED AS	EXHIBIT 154. IF YOU COULD	214	9
(WITNESS OBTAINING	EXHIBIT 154.)	214	10
(WITNESS OBTAINING	EXHIBIT 155.)	214	25
YOUR HONOR, INCLUDING	EXHIBIT 155, FOR WHICH THERE	216	3
WELL, WHAT IS IT?	EXHIBIT 155 IS THIS?	216	4