

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

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HONORABLE EDWARO RAFFEOIE, DISTRICT COURT JUDGE PRESIDING

- - - - -

UNITED STATES OF AMERICA, )

PLAINTIFF, )

VS. )

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

JUAN RAMON MATTA-BALLESTEROS )

DEL POZO, RUBEN ZUNO-ARCE, )

JUAN JOSE BERNABE-RAMIREZ, )

ANV JAVIER VASQUEZ-VELASCO, )

DEFENDANTS. )

THIS VOLUME SUPERSEDES &  
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REPORTERS' TRANSCRIPT OF PROCEEDINGS

FRIDAY, JULY 13, 1990

LOS ANGELES, CALIFORNIA

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

SPANISH INTERPRETERS

1 LOS ANGELES + CALIFORNIA FRIDAY, JULY 13, 1990  
2 + 9:30 A.M.  
3

4 (JURY PRESENT.)

5 THE COURT: GOOD TO SEE YOU ALL GOT HERE THIS  
6 MORNING. I WASN'T SURE IF YOU WOULD.

7 COUNSEL, YOU MAY CONTINUE WITH YOUR ARGUMENT.

8 MR. STOLAR: THANK YOU.  
9

10 CLOSING ARGUMENT + FOR MATTIA BALLESTEROS  
11

12 MR. STOLAR: GOOD MORNING.

13 HECTOR CERVANTES SANTOS HAD TO BE, WHEN HE  
14 FIRST APPEARED IN THIS COURT, YOUR WORST NIGHTMARE OF WHAT A  
15 THUG LOOKS LIKE. AS MUCH EXPERIENCE IN DOING TRIALS AS I'VE  
16 HAD, I DON'T BELIEVE I'VE EVER SEEN A WITNESS STAND UP AND  
17 SWEAR TO TELL THE TRUTH IN AN AMERICAN COURTROOM AND LOOK LIKE  
18 A NAZI. HE WAS FRIGHTENING, ABSOLUTELY FRIGHTENING IN  
19 APPEARANCE.

20 AND WHAT IS MORE FRIGHTENING IS WHAT HE IS  
21 ATTEMPTING TO CONVINCING YOU HAPPENED IN THIS CASE. HIS  
22 APPEARANCE WAS SO BAD THAT IT IS REASONABLE INFERENCE TO THINK  
23 THAT SOMEBODY TOLD HIM TO CHANGE HIS SUIT THE NEXT DAY. IT  
24 MIGHT EVEN BE REASONABLE TO ASSUME THAT THE GOVERNMENT WENT  
25 OUT AND BOUGHT HIM A NEW SUIT. HOW DO YOU KNOW IT IS A NEW

1 SUIT, BECAUSE THEY DIDN'T EVEN HAVE TIME TO TAKE THE TAG OFF  
2 THE SLEEVE. MAYBE TRYING TO CLEAR UP HIS APPEARANCE.

3 HE'S A FRAUD, AN ABSOLUTE OUT AND OUT FRAUD.  
4 NOW, HOW DO YOU TELL IF SOMEBODY IS LYING? HOW DO YOU TELL?  
5 FOR ONE THING, YOU FIND THERE IS ABSOLUTELY NO CORROBORATION  
6 FOR WHAT HE SAYS. FOR THE GOVERNMENT TO STAND UP IN FRONT O  
7 YOU AND SAY HE'S CORROBORATED ABOUT THE MEETINGS BECAUSE, IN  
8 FACT, CAMARENA WAS KIDNAPPED, IS A LOGICAL FALACY AND FOOLIS  
9 ABSOLUTELY FOOLISH.

10 THAT MEANS I COULD WALK IN AND SAY JURORS  
11 NUMBER 1, 4 AND 12 WERE AT MEETINGS WHERE THEY DISCUSSED THE  
12 KIDNAPPING OF CAMARENA. I REMEMBER THAT; THEREFORE, BECAUSE  
13 CAMARENA WAS ACTUALLY KIDNAPPED, I'M CORRECT IN WHAT I SAY.  
14 THERE IS ABSOLUTELY NO DIFFERENCE BETWEEN TWO SITUATIONS, NON  
15 WHATSOEVER.

16 ONE OF THE CLEAREST EXAMPLES -- CLEAREST  
17 EXAMPLES -- OF HOW TO SEE THAT CERVANTES WAS MAKING THINGS UP  
18 GOING ON RUMOR, THINGS THAT HE HAD HEARD AROUND, THINGS THAT  
19 HE HAD HEARD FROM PERHAPS GARATE, THINGS THAT HE MAYBE HEARD  
20 AROUND GUADALAJARA WHERE HE LIVED, WAS HIS DESCRIPTION TO YOU  
21 WHEN HE SAYS THERE IS A LION ON THE PLACE.

22 NOW, THAT IS A GREAT RUMOR. HEY, THIS GUY  
23 BARBA HERNANDEZ, HE HAS A LION OUT ON THE RANCH. THAT IS A  
24 GREAT RUMOR THAT GOES FLOATING AROUND.

25 IN FACT, ESPERANZA AND THERESA TOLD US WHAT IS

1 ON THE RANCH; IT IS A LIONESS, A FEMALE LION, UNA LEONA. TH  
2 WAS A FEMALE LION. BY PERSONAL KNOWLEDGE THAT THEY HAVE,  
3 THEY'RE ABLE TO TELL US THAT IT IS A LIONESS, NOT SOMETHING  
4 THAT IS PICKED UP BY RUMOR, THAT IS FLOATING AROUND AND THEN  
5 SPAT OUT TO YOU AS IF HE KNOWS WHAT IS GOING ON.

6 HE WORKED FOR THE MAN WHO HE KEPT CALLING  
7 LICENCIADO AND APPARENTLY SHOWED GREAT RESPECT FOR FOR A LONG  
8 TIME. AND YET, YET, HE COULDN'T TELL YOU THE ADDRESS OF THE  
9 PLACE. HE COULDN'T TELL YOU THE ADDRESS. IT'S AMAZING.

10 LOOK AT LA QUINTA. RIGHT. THIS PICTURE THAT  
11 WAS SEEN BY ESPERANZA ON THE WITNESS STAND, WHO HAD NEVER MET  
12 ME BEFORE IN HER LIFE. AND I SHOWED IT TO HER AND SHE LOOKED  
13 AT IT AND IN QUITE THE MOST OPEN CREDIBLE FASHION SHE SAYS,  
14 THAT'S LA QUINTA.

15 AND IF YOU LOOK AT LA QUINTA, THE NUMBER 114 I  
16 IN BIG PROMINENT LETTERS RIGHT OUT THERE. ONE-FOURTEEN,  
17 THAT'S THE ADDRESS. BUT CERVANTES DIDN'T KNOW IT.

18 HE USED THE TELEPHONE ALL THE TIME. HE PICKED  
19 IT UP, HE MADE PHONE CALLS ON IT, HE SAID. SO WHAT IS THE  
20 TELEPHONE NUMBER? SORRY, HE CAN'T GIVE IT TO US. HE COULDN'T  
21 GIVE IT TO US.

22 NOW, OF COURSE, WE KNOW WHY HE COULDN'T GIVE IT  
23 TO US. FOR AN ABSOLUTE MATTER, WE KNOW WHY HE COULDN'T GIVE  
24 IT TO US. NOT THAT HE DIDN'T REMEMBER IT, NOT THAT IT WASN'T  
25 WRITTEN DOWN SOMEPLACE, BUT BECAUSE THERE WAS NO TELEPHONE

1 THERE. THE MOST TELLING PIECE OF EVIDENCE PRESENTED TO YOU  
2 THE DEFENSE. THE MOST TELLING PIECE.

3 THE TELEPHONE IS NOT A COLLATERAL QUESTION, I  
4 IS NOT SOMETHING THAT IS A MINOR ISSUE. THERE WAS AFFIRMATI  
5 TESTIMONY GIVEN TO YOU BY HIM OF A SO-CALLED INCRIMINATING  
6 NATURE, VERY INCRIMINATING NATURE, THAT HE HEARD THINGS SAID  
7 OVER THE TELEPHONE, THAT HE RECEIVED PHONE CALLS ON THE  
8 TELEPHONE AT LA QUINTA. WE NOW KNOW THAT IN THE ENTIRE  
9 NEIGHBORHOOD THERE WAS ZERO TELEPHONE LINES IN 1984 AND 1985.  
10 ZERO.

11 IF HE'S LYING ABOUT THAT -- AND IT IS A STONE  
12 COLD LIE, IT IS NOT A MISTAKE, IT'S AN ABSOLUTE LIE -- THEN  
13 WHAT ELSE IS HE LYING ABOUT? HOW MUCH ELSE IS HE LYING ABOUT

14 HE WAS ASKED OVER AND OVER AND OVER AGAIN DID  
15 YOU SIGN A COOPERATING INDIVIDUAL AGREEMENT? DID YOU HAVE A  
16 WRITTEN AGREEMENT WITH THE D.E.A.? OVER AND OVER AGAIN HE WA  
17 ASKED THAT. ANSWER: NO. ABSOLUTELY? NO.

18 LO AND BEHOLD, DEFENSE EXHIBIT 4 F'S FLUNKS  
19 THE MAN. 4 F'S. AND IT'S PROPHETIC THAT IT'S 4 F'S BECAUSE  
20 THIS PUTS THE NAIL IN HECTOR CERVANTES' COFFIN IN TERMS OF  
21 THIS CASE. HE SIGNED IT. THERE IT IS.

22 IT SAYS HE'S GOING TO DO THINGS. IT SAYS HE  
23 WON'T DO CERTAIN THINGS. HE'LL TESTIFY, HE'LL DO THIS AND DO  
24 THAT. THEY'RE IT IS. HE DENIED THAT THIS EXISTED, HE DENIED  
25 THAT HE EVER SIGNED IT. THERE IS HIS SIGNATURE IDENTIFIED FOR

1 YOU BY THE AGENT WHO SIGNED THE AGREEMENT WITH HIM.

2 NOW WHAT ARE YOU GOING TO MAKE OF THIS GUY?  
3 THE JUDGE MAY CHARGE YOU IF YOU FIND ONE PART OF SOMEBODY'S  
4 TESTIMONY FALSE, YOU HAVE THE RIGHT TO ABSOLUTELY DISREGARD  
5 ALL OF IT. ABSOLUTELY DISREGARD IT. THAT'S WHAT YOU SHOULD  
6 DO.

7 HE CLAIMED HE DIDN'T SEE PICTURES OF MR. MATTA  
8 AND THEN ALL OF A SUDDEN HE TURNED AROUND AND SAID HE DID. I  
9 ALSO SAID YES, I REMEMBER SEEING PICTURES OF MR. MATTA IN  
10 THOSE GROUP PHOTOGRAPHS. GROUP OF TEN PHOTOGRAPHS. AND YET  
11 WE HAD TESTIMONY FROM THE AGENT WHO SHOWED THEM THE  
12 PHOTOGRAPHS THAT THERE IS ABSOLUTELY NO PICTURE OF MR. MATTA  
13 IN THE GROUP PHOTOGRAPH.

14 HOW DOES HE MAKE HIS IDENTIFICATION? THE SAME  
15 WAY THAT AGENTS LEYVA AND AGUILAR MAKE THEIR IDENTIFICATION.  
16 THE MAN HE IDENTIFIES IN COURT HE SAYS, MR. MATTA, IS THE MAN  
17 THAT HE SAW, THE COLOMBIAN -- NOT THE HONDURAN THAT MR. MATTA  
18 IS, BECAUSE THE COLOMBIAN -- THAT HE SAW AT THE AIRPORT AND  
19 PICKED UP AT THE AIRPORT. AND HE LOOKS THE SAME NOW AS HE DID  
20 THEN. MOUSTACHE AND ALL. THAT IDENTIFICATION COMES FROM  
21 DEFENSE -- OR PROSECUTION'S 171-A.

22 CERVANTES SANTOS, BY TESTIMONY THAT CAME TO YOU  
23 BY STIPULATION, WAS SHOWN THIS WITH FIVE PICTURES ON IT,  
24 INCLUDING MR. MATTA, A RECENT PHOTO TAKEN BY THE MARSHALS  
25 SERVICE HERE IN LOS ANGELES, LOOKING IDENTICAL TO THE WAY HE



1 LOOKS NOW.

2 IN PREPARATION FOR HIS TESTIMONY, HE WAS SHOWI  
3 THIS AND SHOWN IT AND SHOWN IT. THAT IS WHO HE IDENTIFIED,  
4 THE MAN WITH THE MOUSTACHE WHO HE CLAIMS TO REMEMBER FROM THE  
5 BRIEF TIME THAT HE SAW HIM FIVE YEARS AGO.

6 MR. MATTA DID NOT HAVE A MOUSTACHE IN 1984.  
7 THERE IS A REASONABLE AMOUNT OF PROOF OF THAT. REASONABLE  
8 AMOUNT. AN ABSOLUTE CERTAINTY? NO. BUT REMEMBER THAT THE  
9 DEFENSE DOES NOT BEAR THE BURDEN OF PROOF BEYOND A REASONABLE  
10 DOUBT, THE PROSECUTION BEARS THE BURDEN OF PROOF BEYOND A  
11 REASONABLE DOUBT. AND IF THEY DON'T MAKE THAT PROOF, YOU  
12 CANNOT CONVICT. THEY HAVE TO FILL UP THE CUP. IF THE CUP IS  
13 HALF FULL, THAT'S NOT ENOUGH.

14 APRIL OF 1985, MR. MATTA IS DETAINED IN  
15 CARTAGENA AND TAKEN TO BOGOTA WHERE HE SPEAKS WITH THE D.E.A.  
16 AGENTS. THESE TWO PICTURES, WHICH ARE DEFENSE EXHIBIT R --  
17 DEFENSE EXHIBIT R -- ARE THE PICTURES TAKEN OF MATTA BY THE  
18 BOGOTA POLICE IN APRIL OF 1985. NO MOUSTACHE ON THOSE  
19 PICTURES. NO MOUSTACHE.

20 SURE. IS THERE A REASONABLE DOUBT? SURE,  
21 THERE IS A REASONABLE DOUBT, HE COULD HAVE SHAVED IT. BUT  
22 THAT'S HIS APPEARANCE. AND IF YOU NOTICE THE PICTURES, THERE  
23 IS NO PARTICULAR WHITE OR LIGHTER SKIN TONE ON HIS UPPER LIP.  
24 FOR SOMEBODY WHO'S IN THE SUN, THAT MIGHT BE SOME INDICATION  
25 THAT IT IS A RECENT ALTERATION, BUT THERE IS NONE THERE.

1                   GOVERNMENT'S EXHIBIT 65, THE PHOTOGRAPH OF MR  
2                   MATTA AND MR. FELIX, THE COPY OF THE PHOTOGRAPH. STRANGELY,  
3                   THE ORIGINAL HAS DISAPPEARED. STRANGELY, THE ORIGINAL HAS  
4                   DISAPPEARED. IT WAS IN D.E.A. CUSTODY ACCORDING TO THE AGENT  
5                   WHO RECEIVED IT. IT WAS DISAPPEARED ONE WAY OR THE OTHER, WE  
6                   DON'T KNOW HOW. ALL WE HAVE IS A COPY.

7                   THIS PICTURE IS TAKEN OUT OF A BUNCH OF  
8                   SNAPSHOTS IN FELIX'S TOP DRAWER OF HIS DESK FROM HIS HOME. A  
9                   MOUSTACHE. IN FEBRUARY OF 1985, NO MOUSTACHE ON MR. MATTA.  
10                  NONE WHATSOEVER.

11                  PICTURES TAKEN FROM WHERE MR. MATTA WAS IN  
12                  RESIDENCE WHEN HE WAS DETAINED IN 1985, APRIL OF '85, SHOW TWO  
13                  PASSPORT-TYPE PICTURES OF MR. MATTA. ONE OF THEM HAS A  
14                  MOUSTACHE ACCORDING TO THIS XEROX. ACCORDING TO THE XEROX.  
15                  BUT ALL THE REST OF MR. MATTA, ON A HORSE WITH HIS CHILD,  
16                  WEARING A SOMBRERO, AT A PARTY ON A HORSE, ON A HORSE WITH HIS  
17                  CHILD -- ALL OF THEM, ALL THESE PICTURES SHOW MR. MATTA WITH  
18                  NO MOUSTACHE AT ALL. THE MOUSTACHE ON THE ONE THAT IS SHOWN  
19                  LOOKS LIKE IT IS ALMOST HAND DRAWN IN.

20                  PROOF BEYOND A REASONABLE DOUBT? AM I OFFERING  
21                  YOU THAT HE DIDN'T HAVE A MOUSTACHE? NO, I CAN'T DO THAT. I  
22                  CAN'T DO THAT, BECAUSE INTERESTINGLY ENOUGH, THERE IS NO  
23                  SURVEILLANCE PHOTOS OF MR. MATTA BEING IN GUADALAJARA AROUND  
24                  THAT PERIOD OF TIME.

25                  WE HAD AGENT TOMMY GOMEZ, WHO WAS IN

1 GUADALAJARA IN OCTOBER-NOVEMBER OF 1984 FOLLOWING FELIX  
2 GALLARDO AROUND. FOLLOWING HIM AROUND. NEVER SAW MATTA,  
3 NEVER HAD ANY PICTURES OF MATTA.

4 THE D.E.A. COULD HAVE SAVED US A GREAT DEAL OF  
5 DIFFICULTY IF THEY HAD ONLY CAUGHT A PICTURE OF MR. MATTA WHEN  
6 HE WAS IN GUADALAJARA THEN, AS THEY SAY HE WAS.

7 THE ABSENCE OF ANY SURVEILLANCE PHOTO OF MR.  
8 MATTA IS SOME INDICATION, SOME DOUBT ABOUT WHETHER OR NOT HE  
9 WAS THERE. THE PERSON WHO WAS IDENTIFIED IN COURT IS THE  
10 PERSON WHOSE PICTURE WAS SHOWN TO THE WITNESSES.

11 HECTOR CERVANTES SANTOS NEVER MET JUAN  
12 RAMON MATTA BECAUSE JUAN RAMON MATTA WAS NEVER IN GUADALAJARA  
13 WHEN HE SAYS HE WAS.

14 HECTOR CERVANTES SANTOS JOINS THE PREVENTIVE  
15 POLICE BY DEFENSE EXHIBIT D D D. HE'S DISCHARGED IN '81 BUT  
16 HE REENLISTS AGA IN '83, AND THEN HE'S DISCHARGED IN '84. HE  
17 IS SENT INACTIVE AND THEN HE GETS BACK INTO THE SUPPORT  
18 SQUADRON AND HE'S DISCHARGED NOVEMBER 16, '89. IT'S NOT LIKE  
19 HE VOLUNTARILY LEFT HIS JOB. IT DOESN'T SAY RESIGNED.  
20 DISCHARGED. DISCHARGED.

21 HE'S OUT OF A JOB. AND WHAT DOES HE DO? I  
22 GUESS HE STARTS LOOKING FOR A NEW ONE AND HE GOES, AS SO MANY  
23 WITNESSES IN THIS CASE HAVE GONE, TO HIS OLD COMANDANTE,  
24 ANTONIO GARATE BUSTAMANTE, A MAN WHO SHOULD HAVE BEEN  
25 INDICTED. A MAN WHO, IF YOU BELIEVE THE TESTIMONY OF

1 PLASCENCIA ABOUT THIS MEETING AT LA BAJADITA, WAS THERE  
2 DISCUSSING, COMMENTING ABOUT KILLING CAMARENA -- WHAT IS  
3 CALLED BY THAT WITNESS'S TESTIMONY, THE INITIAL MEETING TO  
4 DISCUSS IT, NOT A MEETING THAT TAKES PLACE SOMETIME IN  
5 SEPTEMBER OR OCTOBER.

6 HE'D NOT INDICTED. INSTEAD, HE BECOMES A  
7 WITNESS FACTORY, A WITNESS FACTORY FOR THE D.E.A.. HE  
8 PRODUCES WITNESSES THAT ARE NEEDED. HE PRODUCES PLASCENCIA,  
9 HE PRODUCES HARRISON, HE PRODUCES CERVANTES SANTOS WHO NEEDS A  
10 JOB, WHO COMES UP HERE AND GETS MORE MONEY THAN HE HAS EVER  
11 SEEN. AND HE HAS GOT A GREAT JOB AND HE LOVES IT.

12 WHY DID HE WANT TO COME TO THE UNITED STATES?  
13 NOT TO HELP OUT AND TESTIFY BEFORE YOU, BUT BECAUSE HE WANTED  
14 TO GET A JOB, HE WANTED TO LEAVE MEXICO, HE WANTED TO MAKE A  
15 BETTER HOME FOR HIS FAMILY. DID HE TAKE TO GARATE ABOUT THAT?  
16 UNDOUBTEDLY GARATE THROUGH PLASCENCIA, LA PANTERA -- THE  
17 PANTHER AND THE BIG. LA PANTERA AND EL PUERCO.

18 DAVID MACIAS BARAJAS IS POSSIBLY THE MOST  
19 CREDIBLE WITNESS YOU SAW IN THIS ENTIRE TRIAL. THE MOST  
20 CREDIBLE. I HAVE NEVER MET THE MAN, AS HE SAID IN HIS  
21 TESTIMONY. AND I ASKED HIM IF HECTOR CERVANTES SANTOS HAD A  
22 NICKNAME AND HE GAVE IT TO YOU. HE GAVE IT TO YOU. DO YOU  
23 THINK HE DIDN'T KNOW CERVANTES SANTOS? EL PUERCO.

24 AND HE DESCRIBED HIM TO A "T", ABSOLUTELY DOWN  
25 TO A "T". CERVANTES. DEALING DRUGS. LITTLE DRUGS. NICKEL

1 BAGS ON THE STREET CORNERS IN GUADALAJARA. THAT'S NOT SO  
2 INCREDIBLE, SOUNDS PERFECTLY CREDIBLE. PERFECTLY CREDIBLE.  
3 THE GUY IS OUT OF A JOB FOR YEARS, SO HE HAS TO MAKE A BUCK SO  
4 HE'S DEALING LITTLE BOXES OF MARIJUANA ON THE STREET CORNER.

5 HE'S A THIEF AS WELL, MR. SANTOS IS. AS WELL  
6 AS BEING A THUG AND A LIAR AND A FRAUD, HE'S A THIEF. AND IT  
7 SOUNDS LIKE HE DESERVED TO GET BEAT UP BY MR. MACIAS AND HIS  
8 FRIENDS BECAUSE HE STOLE THE MONEY. IT IS A ROUGH WORLD, BUT  
9 HE GOT CAUGHT. NOW HE'S PRESENTED TO YOU AS SOMEBODY WHO'S  
10 SPARKLING CLEAN. LOOK AT THIS WONDERFUL PERSON. PLEASE DON'T  
11 BUY THAT. FOR GOD'S SAKE, DON'T BUY THAT.

12 HOW DO YOU TELL SOMEBODY IS LYING? HE'S  
13 INCONSISTENT IN WHAT HE SAYS. HIS DEemeanOR ON THE WITNESS  
14 STAND IS NO GOOD. HE CHANGES FROM DAY TO DAY WHAT HE SAID.  
15 HE ABSOLUTELY DENIES HAVING MADE STATEMENTS TO D.E.A. AGENTS  
16 AND YET WHEN THEY TESTIFY HERE, THEY SAY YES, THAT'S WHAT HE  
17 SAID TO ME.

18 AGENT SALAZAR WAS CANDID GOING FROM HIS  
19 REPORTS. HE WOULDN'T WRITE SOMETHING DOWN THAT WASN'T SAID TO  
20 HIM. WHY DOES CERVANTES GET UP THERE AND DENY IT THEN? HE  
21 DENIES THE USE OF DRUGS. NEVER SAW PICTURES. HE IS  
22 INCREDIBLE. ABSOLUTELY INCREDIBLE. HE CAN'T GET HIS STORY  
23 STRAIGHT.

24 ONE OF THE THINGS THE JUDGE IS GOING TO CHARGE  
25 YOU AT THE END OF THE CASE WITH RESPECT TO ALL THE CRIMES THAT

1 MR. MATTA IS ACCUSED OF IN THE INDICTMENT HERE IS THAT YOU  
2 HAVE TO FIND -- ONE OF THE ELEMENTS -- BEYOND A REASONABLE  
3 DOUBT THAT THE CONDUCT BY MR. MATTA OCCURRED ON OR AFTER  
4 OCTOBER 12, 1984. ON OR AFTER OCTOBER 12, 1984. YOU HAVE TO  
5 FIND THAT ELEMENT BEYOND A REASONABLE DOUBT.

6 NOW, THE ONLY CONDUCT THAT I HAVE HEARD  
7 TESTIMONY ABOUT CONCERNING MR. MATTA IS HIS PRESENCE ACCORDING  
8 TO CERVANTES -- MR. CREDIBILITY -- AT THIS MEETING, TWO  
9 MEETINGS THAT HAPPENED AROUND THE WEDDING SOMETIME IN OCTOBER.  
10 SOMETIME IN OCTOBER. THAT WAS HIS TRIAL TESTIMONY. SOMETIME  
11 IN OCTOBER.

12 IN ONE OF HIS DEBRIEFINGS WITH THE D.E.A. HE  
13 SAID WELL, THE FIRST ONE WAS EARLY OCTOBER, THE SECOND ONE WAS  
14 LATE OCTOBER. BUT THAT'S NOT THE TESTIMONY HE GAVE HERE. HE  
15 SAID THESE MEETINGS TOOK PLACE SOMETIME IN OCTOBER OF 1984.  
16 WAS IT BEFORE OCTOBER 12 OR AFTER OCTOBER 12?

17 ARE YOU SURE BEYOND A REASONABLE DOUBT THAT IT  
18 WAS AFTER OCTOBER 12? BECAUSE IF YOU'RE NOT, THEN THAT ONE  
19 ELEMENT -- ONE OF THE KEY ELEMENTS, BECAUSE THAT IS THE ONLY  
20 CONDUCT ATTRIBUTED TO MR. MATTA IN THIS ENTIRE CASE -- YOU  
21 HAVE TO SAY NOT GUILTY. YOU HAVE TO. YOU HAVE TO.

22 WHAT DO YOU HAVE TO RELY ON AS TO WHEN IN  
23 OCTOBER THIS OCCURRED? ONE PRIME EXAMPLE. ONE PRIME EXAMPLE.  
24 I COULD SPEND PROBABLY TWO OR THREE HOURS GOING THROUGH HECTOR  
25 CERVANTES SANTOS. I WON'T, ALTHOUGH IT MIGHT BE AN

1 INTERESTING EXERCISE.

2 WHAT MR. MEDVENE DID YESTERDAY ABSOLUTELY  
3 APPLIES TO THE CASE AGAINST MR. MATTA. HE IS THE ENTIRE CASE  
4 HE'S THE WHOLE CASE. IF YOU BUY HIS STORY COMPLETELY, 100  
5 PERCENT, COME IN HERE AND SAY GUILTY AND THEN WATCH YOUR BACK  
6 BECAUSE THE NEXT PERSON THAT GETS PUTS IN THE WITNESS CHAIR  
7 COULD BE YOU WHEN SOMEONE COMES IN AND MAKES UP A STORY. IT  
8 IS SO SIMPLE TO DO.

9 I COULD WALK OUTSIDE TO A POLICEMAN RIGHT NOW  
10 AND SAY: "YOU, SIR. I REMEMBER THIS IS THE MAN. HE STUCK M  
11 UP AT KNIFE POINT THIS MORNING. I SWEAR IT'S TRUE AND HE TOO  
12 \$50 OFF ME." RIGHT? THEY FIND \$50 IN HIS POCKET. THAT'S  
13 CONSISTENT WITH MY STORY. I'M SWEARING IT'S YOU AND YOU'RE A  
14 DEFENDANT. YOU ARE A DEFENDANT. YOU'RE NOW THE ACCUSED  
15 SITTING OVER IN THAT CHAIR.

16 I GET UP ON THE WITNESS STAND AND I SWEAR IT'S  
17 TRUE THAT YOU STUCK ME UP AT KNIFE POINT. WHERE IS THE KNIFE  
18 WE DON'T NEED THE KNIFE, I SWEAR IT'S TRUE. HERE I AM A  
19 DISTINGUISHED LAWYER, WHY WOULD I TELL A LIE? IT'S SO SIMPLE  
20 TO. SO SIMPLE TO DO.

21 A ONE-WITNESS CASE IS THE MOST DANGEROUS KIND  
22 OF CASE IN THE WORLD. A ONE WITNESS CASE WITH NO  
23 CORROBORATION AT ALL. IT THREATENS THE LIBERTY AND LIVES OF  
24 EACH AND EVERYONE OF US TO LET SOMETHING LIKE THAT HAPPEN.  
25 THAT IS WHAT IT IS, AND THAT'S THE WHOLE CASE AGAINST MR.

1 MATTA. THE ENTIRE CASE. THERE IS NOTHING ELSE. NOTHING.  
2 CORROBORATION OF THE OTHER ONE. YOU KNOW MR.  
3 MATTA IS A MAN ACCUSED OF BEING A COCAINE DEALER AND YOU  
4 KNOW -- YOU KNOW THAT IF HE IS GOING TO BE CONVICTED OF THAT,  
5 THAT'S NOT YOUR RESPONSIBILITY. BUT IF THAT'S TRUE, WE HAVE  
6 STEADY FLOW OF INCOME COMING IN. NO INTERRUPTION. THEREFORE  
7 NO MOTIVE.

8 AND THE JUDGE WILL CHARGE YOU THAT THAT IS  
9 SOMETHING IS THAT YOU CAN TAKE INTO CONSIDERATION, MOTIVE.  
10 MOTIVE. WHO HAS GOT MOTIVE IN THIS CASE? THE MARIJUANA  
11 DEALERS CERTAINLY HAVE MOTIVE IN THIS CASE. FIVE BILLION  
12 DOLLARS WORTH OF MOTIVE. FIVE BILLION DOLLARS WORTH OF MOTIVE  
13 IN THIS CASE.

14 LOOK AT THE TAPES, THE SO-CALLED INTERROGATION  
15 TAPES. IS MR. MATTA MENTIONED? IS ANYTHING THAT MR. MATTA IS  
16 SUPPOSED TO BE CONCERNED ABOUT QUESTIONED ABOUT ON THOSE  
17 TAPES? IT'S ALL ABOUT MARIJUANA AND WHAT THE D.E.A. AGENTS  
18 ARE DOING WITH MARIJUANA. NOT A WORD ABOUT COCAINE. NOT A  
19 WORD ABOUT MR. MATTA.

20 IF HE'S INVOLVED TRYING TO IDENTIFY THIS GUY --  
21 OH, THIS IS -- THAT'S RIGHT. CERVANTES SAYS AT THIS MEETING  
22 WHERE THE GREAT SILENCE IS GOLDEN COMMENT IS SUPPOSED TO HAVE  
23 BEEN MADE, THAT MATTA IS SUPPOSED TO BE READING THESE REPORTS  
24 AND SAYING YES, I HAD TROUBLE WITH THIS AGENT DOWN SOUTH.

25 WHAT EVIDENCE DO YOU HAVE THAT THIS AGENT,



1 SUPPOSEDLY MR. CAMARENA, WAS INVOLVED DOWN SOUTH? WHAT  
2 EVIDENCE DO YOU HAVE ABOUT THAT? IF HE'S SUPPOSED TO BE  
3 INVOLVED IN DEALING COCAINE, THEN MAYBE YOU COULD TAKE A  
4 REASONABLE INFERENCE AND SAY OH, COCAINE -- PERU, COLOMBIA  
5 HONDURAS, WHO KNOWS? DOWN SOUTH, SOUTH OF MEXICO.

6 WHERE IS THE EVIDENCE THAT CAMARENA WAS DOING  
7 ANY OF THAT? NONE. IT IS NOT THERE BECAUSE HE WASN'T.

8 HOW CAN CERVANTES STAND UP HERE AND SAY -- THAT  
9 SMELLS LIKE A COOKED UP STORY IN ORDER TO BRING MR. MATTA INTO  
10 THIS, TO BRING HIM IN. CERVANTES COMES UP THE 23RD OF  
11 NOVEMBER, GETS A BIG DEBRIEFING ON THE 30TH OF NOVEMBER.

12 DOES HE MENTION MR. MATTA? THEY SAY TELL US  
13 EVERYTHING YOU KNOW ABOUT THIS STUFF. MR. MATTA IS NOT  
14 MENTIONED AT ALL. MATTA IS NOT MENTIONED UNTIL JANUARY,  
15 SOMETIME IN JANUARY WHEN ALL OF A SUDDEN CERVANTES SANTOS  
16 COOKS UP THESE VARIOUS MEETINGS.

17 WHY DOES HE COOK THEM UP? MAYBE HE'S ASKED  
18 WHAT ABOUT MATTA? WHAT ABOUT MATTA? WHAT ABOUT MATTA? WE  
19 HAVE BEEN WANTING MATTA FOR FIVE YEARS, YOU HAVE GOT TO GIVE  
20 US SOME INFORMATION ABOUT MATTA. AND LO AND BEHOLD, HE  
21 MANUFACTURES UP SOME STORIES ABOUT MATTA LIKE HE MANUFACTURES  
22 UP SOME STORIES ABOUT BARBA AND OTHER PEOPLE. TOTALLY  
23 MANUFACTURED.

24 RAFAEL CARO QUINTERO HAD A MOTIVE, SO DID  
25 ERNESTO FONSECA. MARIJUANA TRAFFICKERS. THE FINANCIERS ARE

1 THE PEOPLE WHO GOT BURNED. THEY WERE TRIED AND CONVICTED IN  
2 MEXICO. THEY'RE DOING BIG TERMS IN MEXICO. SO MUCH FOR THE  
3 CORRUPTION OF MEXICO.

4 KIKI CAMARENA. THAT'S WHAT THEIR IN JAIL FOR.  
5 THEY'RE NAMED IN THIS INDICTMENT, BUT THEY'RE NOT GOING TO BE  
6 HERE BECAUSE THEY HAVE A PREVIOUS ENGAGEMENT IN THE SLAMMER IN  
7 MEXICO.

8 YOU KNOW MATTA IS NOT CHARGED IN THIS CASE  
9 UNTIL VERY LATE. VERY LATE. YOU HEARD TESTIMONY IN COURT  
10 FROM A DEFENDANT. HE WAS ARRESTED SOMETIME IN JULY OF '89,  
11 RIGHT? AND HE NEVER SAW MR. MATTA IN COURT UNTIL MARCH OF  
12 1990 AFTER HECTOR CERVANTES SANTOS MADE UP SOME STORY.

13 THE OTHER EVIDENCE IN THIS CASE THAT THEY CLAIM  
14 PROVES SOMETHING OR OTHER WAS ALL IN HAND IN JANUARY OR THE  
15 END OF FEBRUARY, RATHER, OF 1989. THE SO-CALLED HAIR  
16 COMPARISONS, THE SO-CALLED SPOTTING OF HIM ON FEBRUARY 12TH,  
17 THE MAN WHO RESEMBLED MR. MATTA, THE STATEMENT THAT HE MADE  
18 DENYING KNOWLEDGE, ALL THAT INFORMATION WAS IN THE HANDS OF  
19 THE D.E.A. AND THE GOVERNMENT ONE YEAR BEFORE CERVANTES SANTOS  
20 APPEARS ON THE SCENE.

21 SO IT'S ONLY WITH CERVANTES SANTOS THAT HE IS  
22 INDICTED AND IS BROUGHT BEFORE YOU. NOTHING ELSE. NOTHING  
23 ELSE. THE REST OF THAT EVIDENCE WASN'T EVEN ENOUGH TO MAKE AN  
24 ACCUSATION WITH. IT'S MEANINGLESS. SANTOS IS THE CASE. NONE  
25 OTHER.

1                   OPERATION LEYENDA -- SOMETHING -- A HOMICIDE  
2                   INVESTIGATION -- SOMETHING A LITTLE OUT OF THE ORDINARY FOR  
3                   THE D.E.A., WHICH HAS BEEN INVOLVED WITH NARCOTICS TRAFFICKERS  
4                   AND DRUG INVESTIGATIONS. THEY'RE NOT SOPHISTICATED HOMICIDE  
5                   DETECTIVES, EVEN THOUGH SOME HAVE SOME EXPERIENCE.

6                   AND THEY HAVE A TREMENDOUS, TREMENDOUS MOTIVE.  
7                   AND TOTALLY UNDERSTANDABLE. TOTALLY UNDERSTANDABLE. ONE OF  
8                   THEIR BROTHERS HAS BEEN TAKEN AND KILLED. THERE IS NOTHING  
9                   QUITE LIKE THAT TO MOTIVATE A POLICE DEPARTMENT, WITH EVERY  
10                  GOOD REASON WHY.

11                  WHAT IT DOES SOMETIMES, THOUGH, IS TO MOTIVATE  
12                  A LITTLE TOO MUCH AND SOMETIMES THE RULES GET BROKEN. THE  
13                  FAILURE TO PRODUCE THE 6'S, SOME D.E.A. 6'S ON SOME VERY  
14                  SIGNIFICANT PARTS OF THIS INVESTIGATION, SUCH AS  
15                  IDENTIFICATIONS ALLEGEDLY BEING MADE OF MR. MATTA. NO 6'S ON  
16                  THAT. WHENEVER HE LOOKED AT THIS PICTURE, THERE WAS NO 6.  
17                  AND HE WAS SHOWN IT MANY, MANY TIMES, INCLUDING, INCLUDING  
18                  SHORTLY BEFORE HE TOOK THE WITNESS STAND AND WAS ASKED TO MAKE  
19                  THE IDENTIFICATION.

20                  I MEAN CERVANTES SANTOS IS SUCH A BAD WITNESS  
21                  THAT HE TESTIFIED THAT ON A TUESDAY, A TUESDAY MORNING  
22                  SOMETIME BETWEEN 10 AND 11, MAYBE 9:30 TO 11:30, HE WAS WITH  
23                  MR. MEDRANO PREPARING HIS TESTIMONY. RIGHT? IT'S A GOOD  
24                  THING MR. MEDRANO HAD 18 ALIBI WITNESSES HERE WHO SAW HIM IN  
25                  COURT THAT MORNING, OTHERWISE MAYBE WE'D HAVE MR. MEDRANO

1 ACCUSED OF SOMETHING BY HECTOR CERVANTES SANTOS WHEN WE KNOW  
2 HE WAS RIGHT HERE.

3 HE HAS NO CREDIBILITY AT ALL. YET HE IS THE  
4 MAN WHO WAS USED, PRODUCED FOR YOU THROUGH GARATE BUSTAMANTE,  
5 WHO APPARENTLY IS EXPIATING HIS GUILT PERHAPS, OR MAYBE IT IS  
6 BEING DISREGARDED BECAUSE HE'S ABLE TO PRODUCE.

7 HE'S ABLE TO PRODUCE A WITNESS ON DEMAND.  
8 WE NEED A WITNESS TO DO THIS: OUT COMES HARRISON. WE NEED A  
9 WITNESS TO DO THIS: OUT COMES PLASCENCIA. WE NEED A WITNESS  
10 FOR THAT: OUT COMES CERVANTES SANTOS. CONVENIENTLY, ALL  
11 THESE FOLKS SEEM TO NEED JOBS. AND AUGUSTA BUENO GARCIA COMES  
12 OUT AT THE SAME TIME.

13 PEOPLE CAN GET MIXED UP ON DATES, THEY CAN GET  
14 MIXED UP. A FINE EXAMPLE IS MATTY MAHER, MATTHEW MAHER,  
15 SPECIAL AGENT MAHER. HE TOOK TAPES, THE INTERROGATION TAPES,  
16 COPIAS TWO AND FOUR FROM TWO D.E.A. HEADQUARTERS AND HE LISTS  
17 THEM. AND THESE ARE SERIOUS EVIDENCE. THIS IS D.E.A., IT'S  
18 CAMARENA, THEY'RE GOING TO FINALLY GET AHOLD OF THESE TAPES  
19 THAT ARE GOING GIVE THEM SUPER EVIDENCE FOR THE CASE THEY'RE  
20 INTERESTED IN, AND MAYBE FIND OUT WHO WAS INVOLVED IN THE  
21 INTERROGATION. SO THIS IS SERIOUS BUSINESS TO HIM.

22 THE TAPE PULLS LOOSE AND GETS MESSED UP. CAN  
23 YOU IMAGINE? HERE HE IS, NOW HE'S IN CUSTODY OF THESE TAPES  
24 WHICH THE ENTIRE D.E.A. IS WATCHING AND WANTS TO KNOW WHAT IS  
25 ON THEM AND HE SCREWS UP THE TAPE. IT PULLS LOOSE. IT'S

1 GOING GET DESTROYED. THE GUY MUST GET PANICKED. A FAIRLY  
2 SIGNIFICANT EVENT IN HIS LIFE. AND HE REMEMBERED THAT IT  
3 HAPPENS IN AUGUST OF 1986, A VERY SIGNIFICANT EVENT.

4 EXCEPT WHEN HE GETS REFRESHED FROM LOOKING AT  
5 HIS REPORT, HE SAYS OH, MY GOD, IT HAPPENED IN APRIL OF 1987.  
6 AN HONEST MISTAKE PERHAPS. AN HONEST MISTAKE. BUT IF HE  
7 DIDN'T HAVE THAT REPORT AND SOMETHING IMPORTANT RELIED ON THE  
8 FACT THAT IT WAS AUGUST OF '86, THERE WAS SOME SIGNIFICANT  
9 EVENTS IN AUGUST OF '86 THAT HE WAS TESTIFYING TO YOU, AND  
10 THERE WAS NOTHING TO CORROBORATE OR TELL HIM OR REMIND HIM,  
11 THEN AUGUST OF '86 WOULD HAVE BEEN THE DATE THAT THE TAPE  
12 PULLED LOSE, AND THERE IS NOTHING ONE WAY OR THE OTHER TO TELL  
13 YOU WHETHER IT'S TRUE OR NOT.

14 THAT IS THE PROBLEM WITH CERVANTES SANTOS.  
15 THAT IS THE PROBLEM. THREE VERY CREDIBLE WITNESSES TESTIFIED  
16 FOR THE DEFENSE. THE ATMOSPHERE IN THIS COURTROOM TURNED  
17 AROUND, TOTALLY TURNED AROUND WHEN YOU HEARD DAVID MACIAS,  
18 ESPERANZA AND THERESA.

19 THE GOVERNMENT HAD EVERY OPPORTUNITY TO CROSS-  
20 EXAMINE THOSE WITNESSES TO TRY TO DEMONSTRATE TO YOU THAT THEY  
21 WERE LYING, THAT THEY WERE MISTAKEN, THAT THEY WERE MAKING  
22 THINGS UP, THAT THEY WERE FILLED WITH BIAS, WITH PREJUDICE,  
23 INTERESTS, CORRUPTION, JUST LIKE WE DID TO THEIR WITNESSES,  
24 WHICH WE HAVE THE OBLIGATION TO DO AND DID.

25 THE CROSS-EXAMINATION OF THOSE THREE DEFENSE

1 WITNESSES WAS MARSHMALLO. NOTHING HAPPEN. THERE WAS EVERY  
2 OPPORTUNITY TO SHOW THAT PERHAPS THESE PEOPLE WERE MAKING  
3 THINGS UP. THERE WAS NO CROSS-EXAMINATION THAT DAMAGED THEIR  
4 CREDIBILITY IN THE SLIGHTEST. NONE WHATSOEVER.

5 THOSE THREE PEOPLE ARE TELLING THE TRUTH.  
6 THOSE THREE PEOPLE, AGAIN, PUT THE LIE TO HECTOR CERVANTES  
7 SANTOS. THEY DON'T CORROBORATE HIM, THEY CUT THE PROPS RIGHT  
8 OUT FROM UNDER HIM.

9 I TALKED A LITTLE BIT YESTERDAY ABOUT SMOKE  
10 SCREENS. THE SMOKE SCREEN OF MR. MATTA ALLEGED TO BE A BIG  
11 COCAINE DEALER, THE SMOKE SCREEN OF CORRUPTION, THE ALLEGED  
12 CORRUPTION OF THE GOVERNMENT OF ALL OF MEXICO, ALL OF THE  
13 GOVERNMENT OF MEXICO.

14 THE OTHER SMOKE SCREEN, AND I DON'T MEAN TO  
15 DENIGRATE IT BY ANY MEANS, HAS TO DO WITH THE RATHER  
16 SYMPATHETIC, HIGHLY EMOTIONAL FACT OF THE DEATH OF KIKI  
17 CAMARENA, ALFREDO ZAVALA, MR. WALKER AND MR. RADELAT.

18 THERE IS A PLAGUE ON THOSE DEATHS. IT'S  
19 ANOTHER ATTEMPT TO DIVERT THE ATTENTION AWAY FROM ACTUALLY  
20 WHAT IS THE ISSUE HERE. IN ANY HOMICIDE CASE, IN ANY HOMICIDE  
21 CASE THERE IS ALWAYS SOMEBODY WHO'S KILLED, OTHERWISE IT  
22 WOULDN'T BE A HOMICIDE CASE. BUT THE QUESTION IS WHO DID IT  
23 AND UNDER WHAT CIRCUMSTANCES.

24 IT IS A VERY EMOTIONAL THING AND IT'S AN  
25 ATTEMPT -- THE GOVERNMENT DID MAKE AN ATTEMPT TO MISLEAD YOU

1 FROM THAT. HOW MANY TIMES WHEN JERRY DOUGLAS SPENCER  
2 TESTIFIED, AND OTHERS, DID WE HAVE TESTIMONY ABOUT THE PUTRID  
3 ODOR OF DECAYING HUMAN FLESH?

4 HOW MANY TIMES WAS THAT PHRASE USED? OVER AND OVER  
5 AGAIN. WHY? WHY WAS THAT PHRASE USED? WAS THAT SOMEHOW TO  
6 IDENTIFY THE REMAINS? WAS THAT THE MEANS OF SAYING THE  
7 CLOTHING WAS BURIED WITH THEM?

8 THE INTERPRETER: YOUR HONOR, I'M SORRY TO INTERRUPT  
9 BUT WE ARE HAVING A LOT OF PROBLEMS UNDERSTANDING WHAT MR.  
10 STOLAR IS SAYING BECAUSE HE'S TURNED AWAY FROM US.

11 IS THERE ANY WAY WE CAN TURN UP THE MICROPHONE?

12 THE COURT: HE COULD USE THE MICROPHONE.

13 MR. STOLAR: THE MIKE WASN'T WORKING VERY WELL,  
14 ACTUALLY.

15 THE COURT: IF THEY'RE HAVING TROUBLE HEARING YOU,  
16 YOU'D BETTER USE IT.

17 MR. STOLAR: WELL, SEE, IT'S NOT WORKING HARDLY AT  
18 ALL, JUDGE.

19 THE COURT: IT'S WORKING VERY WELL, ISN'T IT? CAN  
20 YOU HEAR THAT?

21 MR. STOLAR: CAN YOU HEAR THIS? IT IS NOT AS LOUD  
22 AS IT HAS BEEN FOR A WHILE, BUT WE'LL TRY IT ANYWAY.

23 THE INTERPRETER: THANK YOU.

24 MR. STOLAR: ANYWAY, WHY DO YOU HEAR ALL THAT ALL  
25 THE TIME? IT'S ANOTHER ATTEMPT TO DIVERT YOUR ATTENTION AWAY

1 FROM WHAT THE ISSUES IN THE CASE ARE. PLEASE, YOU CAN'T DO  
2 THAT. YOU CAN'T DO THAT. IT WON'T WORK.

3 WELL, YOU WANT TO KNOW WHAT IS GOING ON HERE?  
4 MR. MEDRANO IN HIS CLOSING STATEMENT SPOKE ABOUT ALL THE  
5 ALLEGED CORRUPTION AMONG LAW ENFORCEMENT OFFICERS AND LAW  
6 ENFORCEMENT IN MEXICO.

7 AND YET WHO ARE THE KEY WITNESSES WHO THEY  
8 BRING IN? LAW ENFORCEMENT OFFICERS FROM MEXICO, FROM THE  
9 I.P.S., FROM THE D.F.S., HECTOR, HARRISON, PLASCENCIA. ARE  
10 THESE ALL CORRUPT POLICEMEN? WHY AREN'T THESE CORRUPT  
11 POLICEMEN TO BE DISREGARDED BY YOU AS OPPOSED TO THE OTHER  
12 CORRUPT POLICEMEN? THEY CAN'T HAVE IT BOTH WAYS. AND IT IS A  
13 TRICK, AN ATTEMPT TO TOOL YOU TO THINK THAT SOMETHING EXISTS  
14 WHEN IT DOESN'T.

15 WHY ISN'T GARATE IN JAIL? GOOD QUESTION. WHY  
16 ISN'T HE HERE ON TRIAL? WELL, AMONG OTHER THINGS, IT IS NOT  
17 OUR FUNCTION TO SOLVE THE CRIME HERE. THAT'S NOT WHAT THE  
18 DEFENSE DOES. WE CAN'T GIVE YOU EXPLANATIONS FOR WHY ALL  
19 THESE THINGS ARE THE WAY THEY ARE.

20 WHAT WE DO KNOW IS THAT IT'S UP TO YOU TO  
21 PRESERVE THE SYSTEM OF JUSTICE IN THIS COUNTRY IN THE FACE OF  
22 ALL OF THE SMOKE SCREENS THAT HAVE BEEN LAID OUT IN FRONT OF  
23 YOU. THIS IS THE U.S.A.. THIS IS NOT MEXICO. THIS IS NOT  
24 ANY OTHER COUNTRY IN THE WORLD. THIS IS THE U.S.A.

25 AND ONE OF THE KEY CORNERSTONES ENSHRINED IN



1 THE CONSTITUTION OF THIS COUNTRY IS THE JURY SYSTEM. THE FA  
2 THAT ANY DEFENDANT WHO IS BROUGHT BEFORE A COURT IS PRESUMED  
3 INNOCENT; THAT THE GOVERNMENT BEARS THE BURDEN OF PROVING A  
4 PERSON'S GUILT BEYOND A REASONABLE DOUBT; THAT A PERSON  
5 ACCUSED OF A CRIME HAS AN ABSOLUTE RIGHT TO SIT THERE AND SAY  
6 NOTHING AND NOT HAVE 12 PEOPLE FROM THE COMMUNITY SAY IF HE'S  
7 KEEPING QUIET, HE MUST HAVE SOMETHING TO HIDE. ABSOLUTE  
8 RIGHT.

9 AN ABSOLUTE RIGHT THAT APPLIES TO YOU, IT  
10 APPLIES TO EVERY SINGLE ONE OF US. IT'S ONE OF THE THINGS  
11 THAT MAKES THIS COUNTRY UNIQUE. UNIQUE. THE ENTIRE BILL OF  
12 RIGHTS. THE ENTIRE BILL OF RIGHTS IS BUILT ON RESTRICTIONS  
13 AGAINST GOVERNMENT MISCONDUCT. THAT'S WHAT IT'S BASED ON,  
14 AGAINST OVERREACHING OF AN OVERZEALOUS GOVERNMENT. IT'S  
15 DESIGNED TO PROTECT THE CITIZENS AND RESTRICT WHAT THE  
16 GOVERNMENT CAN DO.

17 THIS COURT IS A LIVING, BREATHING EMBODIMENT OF  
18 THE BILL OF RIGHTS. IT PROTECTS MR. MATTA IN THE SAME WAY  
19 THAT IT PROTECTS YOU. AND WHEN YOU GO BACK AND YOU DELIBERATE  
20 AND YOU THINK ABOUT HAVE THEY PROVEN THE CASE BEYOND A  
21 REASONABLE DOUBT, THINK ABOUT YOURSELF, THINK ABOUT A RELATIVE  
22 OF YOURS, THINK LIKE THIS.

23 ASSUME THAT THROUGHOUT THIS ENTIRE TRIAL THERE  
24 HAD BEEN A SCREEN IN FRONT OF MR. MATTA. YOU DON'T KNOW WHO  
25 THE DEFENDANT IS, YOU DON'T KNOW WHAT HE LOOKS LIKE. YOU MAY

1 NOT EVEN KNOW HIS NAME. YOU'RE GIVEN THE EVIDENCE IN THE  
2 CASE, YOU GO BACK AND DELIBERATE AND YOU HAVE REACHED THE  
3 VERDICT. YOU'VE REACHED THE VERDICT AND AS YOU COME OUT HERE  
4 AND YOU'RE ABOUT TO ANNOUNCE YOUR VERDICT THE SCREEN IS LIFTE  
5 AND THERE YOU SEE YOUR BROTHER OR YOUR SISTER OR YOUR FATHER  
6 OR YOUR MOTHER.

7 DO YOU WANT TO SCRATCH YOUR HEAD AND SAY  
8 WHOOPS, I THINK I'D BETTER THINK THIS THROUGH A LITTLE BIT  
9 MORE. THIS IS A LITTLE MORE SERIOUS THAN I THOUGHT IT WAS.  
10 THINK ABOUT IT LIKE THAT. THAT IS HOW SERIOUS IT IS. THAT IS  
11 WHO MR. MATTA IS WHEN YOU GO BACK AND THINK ABOUT IT. THAT IS  
12 WHO HE REPRESENTS: EACH AND EVERY ONE OF US AND EACH AND  
13 EVERY ONE OF YOU. THAT'S WHAT THE CASE IS ABOUT.

14 THE PRESUMPTION OF INNOCENCE IS HERE. THE  
15 GOVERNMENT'S CASE IS FULL OF HOLES. THERE IS ONLY ONE VERDICT  
16 YOU CAN BRING BACK IN THIS CASE AND THAT'S NOT GUILTY AND I'LL  
17 THANK YOU FOR IT WHEN YOU DO.

18 THANK YOU.

19 THE COURT: WE'LL HEAR NOW FROM COUNSEL FOR MR.  
20 BERNABE.

21 THE INTERPRETER: COULD WE TRY TO TURN THE  
22 MICROPHONES UP A LITTLE BIT? WE ARE NOT HEARING THEM THE WAY  
23 WE WERE BEFORE.

24 (BRIEF INTERRUPTION.)

25 CLOSING ARGUMENT + FOR BERNABE RAMIREZ

1  
2 MR. MEZA: GOOD MORNING. HAPPY FRIDAY THE 13TH TO  
3 YOU ALL. A LITTLE KNOWLEDGE IS A DANGEROUS THING. THAT'S  
4 WHAT THIS CASE IS ABOUT AGAINST JUAN JOSE BERNABE RAMIREZ.

5 TOOK A LITTLE BIT OF KNOWLEDGE, A LITTLE OF  
6 WHAT HE KNEW AND PADDED IT AND TRIED TO MAKE SOME EASY MONEY  
7 OFF OF IT AND INSTEAD OF MAKING SOME EASY MONEY, HE ENDS UP  
8 GETTING INDICTED AND HE ENDS UP IN THIS COURTROOM BEFORE YOU  
9 NOW.

10 WE ARE GOING TO SPEND SOME TIME TALKING ABOUT  
11 WHAT HE KNEW AND WHAT HE REALLY KNEW. BEFORE I GET INTO THAT,  
12 I JUST WANT TO TALK A LITTLE BIT ABOUT WHAT IS GOING ON IN THE  
13 COURTROOM. AS YOU KNOW BY NOW, THE DEFENSE ONLY GETS TO SPEAK  
14 TO YOU ONCE AND THE PROSECUTOR IS GOING TO GET AN OPPORTUNITY  
15 TO SPEAK TO YOU AGAIN, AND THAT'S AS IT SHOULD BE.

16 I'M JUST GOING TO ASK YOU ONE FAVOR. WHEN YOU  
17 GO BACK INTO THE COURTROOM OR INTO THE JURY ROOM, RATHER, AND  
18 IF MR. MEDRANO HAS RAISED A POINT THAT WE HAVEN'T DISCUSSED, I  
19 WOULD ASK YOU JUST TO TAKE A LITTLE TIME OUT AND ASK  
20 YOURSELVES WHAT WOULD THE LAWYERS SAY IN RESPONSE TO THE  
21 PROSECUTOR'S POINT?

22 I'M NOT ASKING YOU TO BUY IT, JUST TAKE OUT A  
23 LITTLE BIT OF TIME AND TRY TO FIGURE OUT HOW WE WOULD RESPOND  
24 TO IT IF GIVEN THE OPPORTUNITY. WE WANT THE OPPORTUNITY BUT  
25 JUST WON'T HAVE IT.

1                   NOW, YOU'VE HEARD A LITTLE TALK ABOUT COMMON  
2                   SENSE AND I AGREE WITH EVERYBODY ELSE. YOU DON'T LEAVE IT,  
3                   YOU DON'T PARK IT ON THE COURTHOUSE STEPS WHEN WALK IN HERE  
4                   AND PICK IT BACK UP WHEN YOU LEAVE. AND THIS IS THE TYPE OF  
5                   CASE WHERE YOU'RE GOING TO NEED YOUR COMMON SENSE, BECAUSE  
6                   IT'S THE TYPE OF CASE WHERE YOU'RE GOING TO NEED YOUR INSIGHT  
7                   TO SEE WHAT IS REALLY GOING ON WITH THE EVIDENCE IN THIS CASE.

8                   THE JUDGE IS GOING TO INSTRUCT YOU, HE'S GOING  
9                   GIVE YOU A LOT OF INSTRUCTIONS, AND ONE OF THEM IS GOING TO BE  
10                  ON REASONABLE DOUBT.

11                  I'M NOT GOING TO GO OVER WHAT THE DEFINITION OF  
12                  REASONABLE DOUBT IS ABOUT, BUT LET ME JUST TALK A LITTLE BIT  
13                  ABOUT THE PROCESS. AND I THINK THE PROCESS OF REASONABLE  
14                  DOUBT IS VERY STRAIGHTFORWARD AND IT GOES SOMETHING LIKE THIS.  
15                  IF YOU HAVE NO DOUBT THAT JUAN IS GUILTY OF THESE CRIMES, IF  
16                  YOU HAVE ABSOLUTELY NO DOUBT, THEN YOU HAVE TO FIND HIM  
17                  GUILTY. THAT IS YOUR DUTY. YOU HAVE NO CHOICE IN THE MATTER.

18                  ON THE OTHER HAND, AFTER HAVING HEARD THE  
19                  EVIDENCE AND THE ARGUMENT, IF YOU HAVE SOME DOUBT THAT HE'S  
20                  GUILTY OR NOT GUILTY, THEN IT IS YOUR DUTY TO DECIDE WHETHER  
21                  OR NOT YOUR DOUBT IS BASED ON THE EVIDENCE AND BASED ON SOME  
22                  REASON. AND IF IT IS, THAT DOUBT IS GROUNDED IN EVIDENCE AND  
23                  GROUNDED IN REASON AND GROUNDED IN YOUR COMMON SENSE, THEN  
24                  IT'S YOUR DUTY TO FIND HIM NOT GUILTY. IT IS A VERY SIMPLE,  
25                  STRAIGHTFORWARD PROCESS.

1           YOU KNOW, IT TOOK A LOT OF COURAGE FOR JUAN TO  
2           GET UP THERE IN FRONT OF YOU AND TESTIFY. HE WAS AN OPEN  
3           BOOK. REMEMBER WE STARTED FROM THE DAY HE WAS BORN TO THE DAY  
4           HE GOT ARRESTED. HE WAS AN OPEN BOOK. THE PROSECUTOR COULD  
5           ASK HIM ANY QUESTION THAT HE CHOSE TO ASK HIM.

6           JUAN DIDN'T WANT TO TESTIFY. THEY'RE GOING TO  
7           HATE ME BECAUSE I WORKED FOR FONSECA. THEY'RE NOT GOING  
8           BELIEVE ME BECAUSE I WORKED FOR FONSECA. THE SYSTEM DOESN'T  
9           WORK THAT WAY. THE SYSTEM HAS RULES. THE SYSTEM WORKS  
10          BECAUSE THE JURORS FOLLOW THE RULES. THAT'S THE TYPE OF  
11          PEOPLE THEY ARE.

12          AND THE RULES, AS I INDICATED TO YOU BEFORE,  
13          ARE GOING TO BE READ TO YOU IN THE FORM OF THE INSTRUCTIONS BY  
14          THE COURT. NOW, THAT IS GOING TO TAKE THE BETTER PART OF AN  
15          HOUR TO READ AND YOU HAVE BEEN SITTING HERE LONG ENOUGH.  
16          TRYING TO CONCENTRATE FOR AN HOUR WHILE ONE PERSON IS TALKING  
17          IS DIFFICULT AND IT'S EASY TO MISS THINGS.

18          SO WHAT I'VE DONE IS I'VE TAKEN COPIES OF THE  
19          JURY INSTRUCTIONS AND HAD THEM XEROXED AND HAD THEM BLOWN UP A  
20          LITTLE BIT. AND I FOCUSED IN YELLOW ON THE AREAS THAT GO TO  
21          THE DEFENSE IN OUR CASE. I'D ASK YOU JUST TO MAKE A LITTLE  
22          NOTATION OF THEM BECAUSE IT WOULD BE EASY TO MISS THEM WHILE  
23          THE JUDGE IS READING THEM, AND THEY GO TO THE HEART OF OUR  
24          CASE. THEY'RE OUR DEFENSE. THERE IS NOTHING ELSE THAT WE CAN  
25          RELY UPON IN THE RULES OF THIS COURTROOM TO CONVINCING YOU THAT

1 JUAN IS NOT GUILTY.

2 NOW, THIS ONE IS AN EXCERPT FROM THE CONSPIRACY  
3 INSTRUCTION AND IN YELLOW IT BASICALLY STATES: "THAT A PERSON  
4 DOES NOT BECOME A MEMBER OF THE CONSPIRACY MERELY BY  
5 ASSOCIATING WITH ONE OR MORE PERSONS WHO ARE CO-CONSPIRATORS,  
6 NOR BY MERELY KNOWING OF THE EXISTENCE OF THE CONSPIRACY."

7 IN OTHER WORDS, ASSOCIATING WITH A CONSPIRATOR  
8 IS NOT ENOUGH TO CONVICT YOU OF A CRIME. EVEN KNOWING THAT  
9 THERE IS A CONSPIRACY GOING ON ISN'T ENOUGH TO CONVICT YOU OF  
10 A CRIME.

11 THE JUDGE WILL ALSO TELL YOU -- THIS IS THE  
12 AIDING AND ABETTING INSTRUCTION. IT SAYS, IN PART: "IT IS  
13 NOT ENOUGH THAT THE DEFENDANT MERELY ASSOCIATED WITH THE  
14 PERSON OR PERSONS WHO COMMITTED THE CRIME OR WAS PRESENT AT  
15 THE SCENE OF THE CRIME, OR KNOWINGLY OR UNINTENTIONALLY DID  
16 THINGS THAT WERE HELPFUL TO THE PRINCIPAL."

17 IN OTHER WORDS, AGAIN, RESTATES THE CONSPIRACY  
18 THEORY. JUST KNOWING THESE PEOPLE, ASSOCIATING WITH THESE  
19 PEOPLE, HANGING AROUND WITH THESE PEOPLE ISN'T ENOUGH. BEING  
20 AT THE SCENE OF A CRIME ISN'T ENOUGH, EVEN THOUGH SOMETHING IS  
21 HAPPENING, ISN'T ENOUGH TO MAKE YOU A PARTICIPANT, IS NOT  
22 ENOUGH TO MAKE YOU RESPONSIBLE FOR WHAT IS HAPPENING AT THE  
23 SCENE OF THAT CRIME.

24 LASTLY, HERE IS THE MERE PRESENCE, WHICH AGAIN  
25 RESTATES BASICALLY THE SAME PRINCIPLES: "THAT MERE PRESENCE

1 AT THE SCENE OF A CRIME AND KNOWLEDGE THAT THE CRIME IS BEING  
2 COMMITTED ARE NOT SUFFICIENT TO ESTABLISH THAT THE DEFENDANT  
3 AIDED AND ABETTED THE CRIME UNLESS YOU FIND BEYOND A  
4 REASONABLE DOUBT THAT THE DEFENDANT WAS A PARTICIPANT AND NOT  
5 MERELY A KNOWING SPECTATOR."

6 AGAIN, ASSOCIATION, BEING PRESENT, KNOWING WHAT  
7 IS GOING ON ISN'T ENOUGH IN THIS COUNTRY TO GET YOU CONVICTED  
8 OF A CRIME.

9 NOW, THE GOVERNMENT'S CASE, THEIR THEORY IS  
10 PRETTY SIMPLE. THE DEFENDANT IS A BODYGUARD FOR FONSECA. HE  
11 HANGS AROUND WITH FONSECA, HE ASSOCIATES WITH FONSECA.  
12 THEREFORE, HE IS RESPONSIBLE FOR EVERYTHING THAT FONSECA HAS  
13 DONE.

14 WELL, LET'S LOOK AT JUAN AND HIS RESPONSIBILITY  
15 THROUGH HIS LIFE. HE STARTS OUT AT A VERY YOUNG AGE, 18 YEARS  
16 OLD, GOES TO THE POLICE ACADEMY IN JALISCO AND WORKS THERE FOR  
17 ABOUT FOUR YEARS AND THEN HE RESIGNED.

18 WE HAVE GOT A COPY OF THAT RESIGNATION. IT'S  
19 DEFENDANT'S EXHIBIT 4-F. IT SHOWS THAT HE RESIGNED IN  
20 NOVEMBER 1982. WHY IS THAT IMPORTANT? BECAUSE IN THE  
21 INDICTMENT THE VERY FIRST THING YOU HEAR ABOUT JUAN, THE VERY  
22 FIRST THING YOU HEAR ABOUT JUAN IN THE INDICTMENT WAS THAT IN  
23 FEBRUARY 1985, HE WAS A JALISCO STATE POLICE OFFICER.

24 THE VERY FIRST THING YOU READ IN THE INDICTMENT  
25 AND YOU HEAR ABOUT JUAN IS JUST FLAT WRONG. THE GOVERNMENT

1 NEVER PROVED IT, THEY NEVER ATTEMPTED TO PROVE IT BECAUSE THE  
2 COULDN'T PROVE IT. THE VERY FIRST THING THEY SAY ABOUT HIM I  
3 INCORRECT.

4 YOU KNOW THAT FROM THE POLICE DEPARTMENT HE  
5 GOES IN AND STARTS WORKING SECURITY. HE WORKS PERSONAL  
6 SECURITY, HE WORKS FOR FACTORIES AND PROTECTS PROPERTY. THER  
7 IS AN OCCASION WHERE HE WORKS FOR THIS COMPANY SERVICOPOSA.  
8 WE HAVE A PHOTOGRAPH OF HIM, 4-G, WHICH SHOWS WHAT HE LOOKS  
9 LIKE IN DECEMBER OF 1983. IT SHOWS THAT HE WORKED FOR THE  
10 COMPANY.

11 WE SHOW THAT IN THE MIDDLE OF 1983, HE GETS  
12 ASSIGNED TO A PERSON BY THE NAME OF ORELIO LOPEZ ROACHES.  
13 THIS IS THE ASSIGNMENT FROM HIS BOSS, FROM THE COMPANY THAT  
14 HIRED HIM, SERVICOPOSA.

15 NOW WHY IS THAT IMPORTANT? IT'S IMPORTANT A  
16 LITTLE BIT LATER ON IN THE CASE. BUT FOR RIGHT NOW, IT'S  
17 IMPORTANT. HE TOLD YOU. WHAT DID YOU DO FOR HIM? I WAS HIS  
18 BODYGUARD. WHAT DID THIS GUY DO? HE WORKED FOR CANADA SHOE  
19 FACTORY. IT IS A HUGE COMPANY. IT IS A HUGE COMPANY IN  
20 MEXICO. HE WORKED FOR THEM. WHAT DO YOU DO FOR THEM? WELL,  
21 I WAS THE GUY'S BODYGUARD.

22 WHAT DOES THAT SUGGEST TO YOU? MR. ROACHES HAS  
23 NEVER EVEN BEEN MENTIONED, EVEN REMOTELY, IN CONNECTION WITH  
24 DRUG DEALERS OR WRONGFUL CONDUCT. SO WHAT DOES THAT TELL YOU?  
25 THAT EVEN LAW ABIDING CITIZENS, PEOPLE WHO HAVE HIGH PROFILES



1 IN GUADALAJARA, NEED BODYGUARDS. NOT EVERYBODY IN GUADALAJARA  
2 WHO HAS A BODYGUARD IS A BAD GUY.

3 THEN HE GOES WORK AT THE PALENQUE. THIS IS THE  
4 COCKFIGHTING ARENA. NOW, IT IS NOT A PARTICULARLY POSITIVE  
5 SPORT, HAVING CHICKENS FIGHTING EACH OTHER, OKAY, BUT IT IS  
6 NOT ILLEGAL IN MEXICO AND THERE IS THIS HUGE ARENA THAT HE  
7 WORKS FOR THAT SEATS 1500 PEOPLE. THERE IS A BAR AND A  
8 RESTAURANT AND THESE PEOPLE COME AND IT IS NOT SOME LITTLE  
9 DIVE, IT IS A BIG DEAL IN GUADALAJARA. IT'S WHAT THE SPORTING  
10 PEOPLE, I GUESS, DO DOWN THERE.

11 WHILE HE'S THERE, HE MEETS THIS D.F.S.  
12 COMANDANTE, ERNESTO FONSECA. THAT IS HOW HE'S INTRODUCED TO  
13 HIM. NOW, IS THAT BALONEY? IS THAT SOMETHING THAT IS HARD TO  
14 BELIEVE, THAT FONSECA COULD PASS HIMSELF OFF AS A D.F.S.  
15 OFFICER?

16 WELL, WE HEARD MR. HARRISON TALK ABOUT MR.  
17 FONSECA, BEING ASSIGNED AS TO THIS D.F.S. OFFICER TO DO A  
18 COMMUNICATION SYSTEM, RIGHT? WHO IS THAT COMMUNICATION SYSTEM  
19 BEING BUILT FOR? ERNESTO FONSECA.

20 HE HAS AN I.P.S. CREDENTIAL. HE HAS A D.F.S.  
21 CREDENTIAL. MR. HARRISON TELLS US THAT FONSECA EVEN  
22 PARTICIPATED IN POLICE INVESTIGATIONS AND DID POLICE WORK, SO  
23 IT IS NOT SO HARD TO SEE HOW SOMEBODY COULD BELIEVE THAT  
24 FONSECA, WHEN YOU'RE FIRST INTRODUCED TO HIM, IS A COMANDANTE

25 I THINK THE GOVERNMENT WANTS YOU TO BELIEVE

1 EVERYBODY KNEW WHO FONSECA WAS. HOW COULD ANYBODY BELIEVE  
2 THAT? THIS IS A CITY OF EIGHT AND A HALF MILLION PEOPLE.  
3 GUADALAJARA ISN'T SOME LITTLE TOWN, SOME LITTLE STOP WHERE  
4 EVERYBODY KNOWS WHAT EVERYBODY ELSE IS DOING.

5 YOU DON'T THINK THERE ARE DRUG DEALERS IN LOS  
6 ANGELES? DO YOU KNOW WHO THEY ARE? WOULD YOU KNOW THEM JUST  
7 BY BEING INTRODUCED TO THEM? NO, OF COURSE NOT. SO HE GETS  
8 OFFERED A JOB SOMETIME LATER, NOT THAT NIGHT, SOMETIME LATER.  
9 A FEW WEEKS, A COUPLE MONTHS LATER.

10 HE GETS OFFERED A JOB WITH THIS D.F.S.  
11 COMANDANTE. COME ON OVER WORK FOR US DOING THE SAME STUFF YOU  
12 HAVE BEEN DOING AT THE PALENQUE. LET'S GO TO THE, WHAT IS IT,  
13 THE RACKET CLUB, THE TENNIS CLUB. SO HE'S OVER THERE AND  
14 OBVIOUSLY HE'S DOING A GOOD JOB SUPERVISING PEOPLE, TAKING  
15 CARE OF THINGS, AND HE GETS PROMOTED. SUCH AS THE PROMOTION  
16 TURNS OUT TO BE.

17 HE'S NOT THERE VERY LONG BECAUSE IT DOESN'T  
18 TAKE A GENIUS TO FIGURE IT OUT. WHEN HE REALIZES, WHEN HE  
19 GETS ASSIGNED, HE SAYS HEY, GO WITH FONSECA'S BROTHER. WHERE  
20 DOES HE END UP? HE ENDS UP AT A FARM WHERE THEY'RE MANICURING  
21 MARIJUANA. SO IT DOESN'T TAKE -- AND HE SEES ALL THIS MONEY  
22 COMING IN AND OUT -- SO IT DOESN'T TAKE A GENIUS TO FIGURE OUT  
23 MAYBE THIS GUY HAS SOMETHING ELSE GOING IN HIS EMPLOYMENT  
24 BACKGROUND OTHER THAN BEING A D.F.S. COMANDANTE.

25 HE THINKS ABOUT LEAVING. SAID HE DIDN'T LEAVE.

1 WHY? BECAUSE HAS AFRAID. IS THAT HARD TO UNDERSTAND?

2 WHAT HAPPENED TO HARRISON WHEN HE TRIED TO  
3 CHANGE COURSES? HE GOT SHOT NINE TIMES, IN SEPTEMBER OF 1984  
4 JUST BEFORE OR ABOUT THE TIME JUAN STARTED WORKING FOR  
5 FONSECA. YOU DON'T THINK THAT WORD GETS PASSED AROUND? YOU  
6 MESS WITH US GUYS AND YOU'RE NOT GOING TO BE BREATHING VERY  
7 MUCH LONGER, SO YOU JUST GO ALONG WITH THE PROGRAM.

8 WHAT DID JUAN DO AT THE HOUSE? HE JUST TOOK  
9 CARE OF IT. HE TOLD YOU FONSECA WAS USING IT AS AN OFFICE.  
10 HARRISON TALKED ABOUT BAJADITA. PLASCENCIA TALKED ABOUT IT.  
11 IT WAS AN OFFICE. FONSECA SHOWED UP TWO OR THREE DAYS OUT OF  
12 THE WEEK. DIDN'T SPEND THE NIGHT; HE STAYED THERE FOR A FEW  
13 HOURS OUT OF THE DAY.

14 WHAT DID JUAN DO? HE TOOK CARE OF THE HOUSE  
15 THE REST OF THE TIME, THE OTHER FIVE OR SIX DAYS OUT OF THE  
16 WEEK. HE WAS JUST TAKING CARE OF THE HOUSE, HELPING WITH THE  
17 MAINTENANCE AND DOING WHATEVER NEEDED TO BE DONE. TOOK CARE  
18 OF FONSECA WHEN HE WAS THERE, WHICH WASN'T VERY OFTEN.

19 BY THE WAY, YOU WERE TOLD -- JUAN TOLD US WHEN  
20 THE MEETINGS TOOK PLACE IN THE OFFICE, HE WAS NEVER A PARTY TO  
21 THEM. WELL, YOU COULD SAY WELL, THAT'S EASY TO SAY. HOW DO  
22 YOU PROVE IT? WELL, REMEMBER PLASCENCIA TALKED ABOUT GOING TO  
23 A MEETING IN BAJADITA AND HOW HE WENT INTO THE ROOM, INTO THE  
24 OFFICE AND CLOSED THE DOOR.

25 DO YOU THINK IF JUAN WOULD HAVE BEEN AT THAT

1 MEETING MR. PLASCENCIA WOULD HAVE SAID OH, YES, JUAN WAS IN  
2 THAT MEETING. HE KNEW WHAT WAS GOING ON. IN FACT, MR.  
3 PLASCENCIA DIDN'T SAY ANYTHING ABOUT JUAN BECAUSE HE PROBABLY  
4 DIDN'T SEE HIM BECAUSE JUAN, IF HE WAS WORKING, WAS PROBABLY  
5 OFF IN THE HOUSE TAKING CARE OF HIS OTHER DUTIES.

6 JUAN TOLD YOU ABOUT GOING TO THE HOUSE IN  
7 FEBRUARY. HE HAD BEEN WORKING ABOUT FOUR AND HALF MONTHS OR  
8 SO. ALL THIS ACTIVITY. THE M.F.J.P. OFFICER COMES IN WITH  
9 HIS GROUP OF GUYS, THEY GO INTO THE OFFICE. FONSECA COMES  
10 OUT. COME ON, LET'S GO. THEY GO TO THIS HOUSE.

11 JUAN DESCRIBES THE HOUSE. HE DOESN'T GIVE YOU  
12 AN ADDRESS. HE TALKS ABOUT THE CROSS STREETS, DESCRIBES THE  
13 HOUSE. AND HOW DID HE DESCRIBE IT? IT HAD A BIG GATE, A BIG  
14 METAL GATE. WE HEARD A NUMBER OF PEOPLE TALKING ABOUT WHAT  
15 LOPE DE VEGA LOOKED LIKE. AND THE GUY WHO LIVED THERE,  
16 REMEMBER WHO RENTED THE PLACE FOR A YEAR OR COUPLE YEARS, HE  
17 TALKED ABOUT HOW IT HAD A BIG METAL GATE.

18 JUAN COULD HAVE TOLD YOU, HEY, I WAS NEVER  
19 THERE. I DON'T KNOW WHAT WAS GOING ON, I JUST HEARD ABOUT IT.  
20 HE TOLD YOU THAT BECAUSE IT WAS THE TRUTH AND IT HANGS  
21 TOGETHER BECAUSE IT IS THE TRUTH.

22 AFTER THEY LEAVE THE HOUSE, HE GOES BACK TO  
23 BAJADITA AND THEN THEY'RE ON THE RUN. AGAIN, IT DOESN'T TAKE  
24 MUCH TO FIGURE OUT WHY FONSECA IS ON THE RUN, ALL RIGHT? I  
25 MEAN IT IS IN THE PAPERS WITHIN A MATTER OF HOURS. THIS AGENT

1 HAS BEEN KIDNAPPED AND IT'S CONNECTED WITH THE DRUG DEALERS  
2 AND THERE THEY GO. THERE GOES JUAN.

3 THE GOVERNMENT WANTS YOU TO BELIEVE THAT IT WA  
4 JUAN AND FONSECA, THESE TWO CONFIDANTS, THAT ARE TRIPING OFF  
5 INTO THE FARMLAND. WELL, JUAN SAID IT WAS MORE LIKE 15 OR 20  
6 PEOPLE.

7 THE GOVERNMENT TOLD YOU THAT WAS SOMEWHERE  
8 ALONG THIS TRIP JUAN WAS CONFIDED IN BY FONSECA THAT -- HE  
9 TOLD HIM HE WAS CONNECTED TO CAMARENA. WELL, YOUR MEMORY  
10 HOLDS, BUT JUAN NEVER SAID THAT. JUAN NEVER SAID THAT HE AND  
11 FONSECA SAT DOWN AND TALKED ABOUT THE CAMARENA AFFAIR.

12 JUAN TOLD YOU THAT THE OTHER PEOPLE WERE  
13 TALKING ABOUT IT. THE OTHER GUYS HE WAS WORKING WITH. THAT'S  
14 WHERE HE GOT THE INFORMATION, NOT FROM MR. FONSECA.

15 ON THE TAPE, AND I'M NOT GOING TO GO INTO GREAT  
16 DETAIL ON THE TAPE BECAUSE MRS. KELLY IS GOING TO TALK TO YOU.  
17 THE JUDGE HAS ALLOWED US TO SPLIT OUR ARGUMENT, AND SHE'S  
18 GOING TO FOCUS ON THE TAPE AND THE VARIOUS DISCUSSIONS THAT  
19 THE GOVERNMENT HAS REFERRED TO.

20 BUT ON THE TAPE, FOR EXAMPLE, JUAN TALKS ABOUT  
21 FONSECA PUTTING UP HIS BAIL. AND THE ARGUMENT HAS BEEN MADE  
22 WELL, GOSH, LOOK HOW POWERFUL MR. FONSECA WAS. HE COULD GET  
23 JUAN OUT OF JAIL. WELL, FIRST OFF, IF FONSECA WAS SO POWERFUL  
24 HE WOULDN'T STILL BE IN JAIL AFTER FIVE YEARS. IF HE WAS SO  
25 POWERFUL, HE WOULD HAVE GOTTEN HIMSELF OUT, NOT JUAN.

1                   HOW MUCH DID HE PUT UP? ON THE WALL IT SAID  
2                   \$250 BAIL. WHY DO YOU THINK FONSECA PUT THAT MONEY UP?  
3                   BECAUSE HE KNEW THAT JUAN WASN'T GUILTY. HE KNEW THAT JUAN  
4                   HAD NOTHING TO DO WITH THE DECISIONS THAT FONSECA MADE. IT  
5                   WAS PROBABLY THE ONLY DECENT THING THAT FONSECA HAS EVER DONE  
6                   IN HIS LIFE.

7                   WHILE JUAN IS OUT ON BAIL FOR TWO YEARS, HE  
8                   GETS ACQUITTED. REMEMBER THAT WAS THE QUESTION -- I DIDN'T  
9                   ASK THAT, THE GOVERNMENT ASKED THAT QUESTION. HE GETS  
10                  ACQUITTED AT THE END OF TWO YEARS AND FOUND NOT GUILTY. SO H  
11                  GETS OUT AND WHAT DOES HE DO WHEN HE GETS OUT OF JAIL, THIS  
12                  GUY WHO ASSOCIATES WITH DRUG DEALERS, WHO THEY WANT YOU TO  
13                  BELIEVE IS AN EVIL PERSON. DOES HE GO BACK WITH DRUG DEALERS?

14                  YEAH, HERE I'M OUT. LETS GO RIGHT BACK TO WORK  
15                  TO DOING WHAT I HAVE BEEN DOING. HE GOES RIGHT BACK TO THE  
16                  PALENQUE WHERE HE STARTED WORKING BEFORE HE GOT HOOKED UP WITH  
17                  FONSECA. AND HE WORKS THERE FOR TWO YEARS JUST WORKING, DOING  
18                  HIS LEGITIMATE JOB, NOT BOTHERING ANYBODY, DOING WHAT HE  
19                  ORIGINALLY WAS DOING TO BEGIN WITH.

20                  DURING THAT TIME PERIOD HE TAKES A COURSE, A  
21                  500-HOUR COURSE, AND HE GETS A CERTIFICATE IN INDUSTRIAL  
22                  SECURITY, INDUSTRIAL HYGIENE. DOES THAT SOUND LIKE THE TYPE  
23                  OF PERSON WHO WANTS TO GET INVOLVED IN DRUGS, WHO DOESN'T WANT  
24                  TO WORK FOR A LIVING, WHO ISN'T A LAW ABIDING PERSON, WHO  
25                  WANTS TO BE PRODUCTIVE?

1 SO HE GOES TO WORK FOR A COUPLE OF FACTORIES  
2 AND THEN IN AN EFFORT TO IMPROVE HIMSELF, HE GETS A JOB AS A  
3 SECURITY CHIEF WITH EVISSA HOTELS, AND HE STARTS WITH THE  
4 ARANSASUE AND HE IS A -- EXCUSE ME A SECOND.

5 I HAVE HIS I.D. HERE -- IT WAS ADMITTED INTO  
6 EVIDENCE. HE ALSO STARTS WORKING FOR THE EL PARADOR. AND YOU  
7 CAN SEE BY COMPARING THE TWO THAT THE PHOTOGRAPH IS THE SAME,  
8 IT'S JUST THAT HE HAS DIFFERENT BADGES FROM THE DIFFERENT  
9 HOTELS.

10 WHILE HE'S AT THE EL PARADOR, AGAIN WORKING AT  
11 A LEGITIMATE JOB, NO HINT OF WRONGDOING, HE GETS APPROACHED BY  
12 MR. CASTEL. HE BECOMES MR. CASTELL'S TARGET. REMEMBER WHAT  
13 AGENT BERRELLEZ TOLD YOU WHEN HE FIRST SPOKE OF CASTELL?

14 HEY, I GOT SOMEBODY HERE. HE TALKED TO HIM ON  
15 THE PHONE FROM MEXICO. I'VE GOT SOMEBODY HERE WHO WAS  
16 ARRESTED WITH FONSECA. I THINK YOU MIGHT WANT TO TALK TO HIM.  
17 I'LL BRING HIM UP.

18 NOW, DOES HE APPROACH HIM IN AN OPEN MANNER AND  
19 SAY HEY, WE'D LIKE TO GET SOME INFORMATION. NO, HE BECOMES A  
20 TARGET, HE HAS TO BE FOOLED INTO COMING UP HERE.

21 HOW DOES MR. CASTEL PROPOSE TO DO THAT?  
22 REMEMBER MR. CASTEL, THERE IS ANOTHER BUDDY OF MR. GARATE.  
23 RIGHT? THEY GO BACK A LONG WAYS. WE HAVE GOT PLASCENCIA WHO  
24 KNEW GARATE WAY BEFORE IN THE '80S. GARATE WAS HIS BOSS.

25 WE'VE GOT HARRISON WHO MOVED UP TO SEAL BEACH

1 IN THE '80S TO DO HOUSE SECURITY FOR MR. GARATE.

2 YOU'VE GOT MR. CERVANTES WHO USED TO BE UNDER  
3 MR. PLASCENCIA.

4 HERE IS MR. CASTEL, ANOTHER PART OF THIS GROUP  
5 WHAT DOES CASTEL -- HOW DOES HE PROPOSE TO GET JUAN UP TO THE  
6 UNITED STATES?

7 HEY, I'VE GOT A DRUG DEAL I WANT YOU TO COME U  
8 AND WORK ON. I'VE GOT A BODYGUARD OR SOMEBODY I WANT YOU TO  
9 BE A BODYGUARD FOR. I HAVE SOME OTHER UNLAWFUL REASON FOR YO  
10 TO COME UP TO THE UNITED STATES. NO. HE SAYS LOOK, I WANT T  
11 HIRE YOU TO WORK FOR MY BUSINESS. HERE'S THE PROSPECTUS, 4-J  
12 THIS IS WHAT CASTEL'S BUSINESS GIVES TO PROSPECTIVE CUSTOMERS

13 HE GIVES THAT TO JUAN AND SAYS THIS IS MY  
14 BUSINESS. COME OVER AND SEE MY OFFICE. THERE IS THE DOGS,  
15 THERE IS THE VETERINARIANS, THERE IS THE TRAINERS AND WHATNOT

16 JUAN COMES UP HERE BECAUSE HE BELIEVES IT IS A  
17 LEGITIMATE BUSINESS OPPORTUNITY, IT IS A LEGITIMATE BUSINESS  
18 TRIP. . BUT FOR THAT FOUR MONTHS THAT HE SPENT WITH FONSECA,  
19 FOUR OR SO MONTHS HE SPENT WITH FONSECA, HE WAS A LAW ABIDING  
20 CITIZEN, NEVER A HINT OF TROUBLE OR HINT OF WRONGDOING.

21 SO JUAN COMES UP HERE, THINKS IT IS A  
22 LEGITIMATE BUSINESS TRIP. AND ON THE FLIGHT UP, NOT BEFORE HE  
23 LEAVES, BUT ON THE FLIGHT UP WHEN THE PLANE IS NOT GOING TO  
24 TURN AROUND, CASTEL TELLS HIM OH, THE RULES ARE CHANGING A  
25 LITTLE BIT. YOU THOUGHT YOU WERE COMING TO A POKER GAME;



1 WELL, GOSH, WE ARE PLAYING PINOCHLE. OKAY.

2 YOU'RE GOING TO MEET MY COMPADRE. REMEMBER  
3 COMPADRE? COMPADRES ARE LIKE THIS (INDICATING), THEY'RE  
4 PROBABLY CLOSER THAN BROTHERS. AND YOU'RE GOING TO MEET MY  
5 COMPADRE, WHO JUST HAPPENS TO BE A COMPADRE OF "R I", OF  
6 RAFAEL CARO QUINTERO.

7 YOU CAN IMAGINE WHAT IS GOING THROUGH JUAN'S  
8 MIND. GOD, I THOUGHT I LEFT THESE GUYS FIVE YEARS AGO.  
9 NOW, WHEN I ARRIVE, THEY'RE GOING TO BE SITTING THERE WITH  
10 ARMS OPEN WAITING FOR HIM. THEY'RE GOING TO BE WAITING FOR M  
11 BOSS. WHAT AM I GETTING MYSELF INTO? I THOUGHT I WAS  
12 FINISHED WITH THESE GUYS A LONG TIME AGO.

13 CASTEL TELLS HIM HEY, YOU KNOW, GO ALONG WITH  
14 THE PROGRAM. DON'T WORRY ABOUT IT. EVERYTHING WILL BE OKAY.

15 SO THEN THE ROLE STARTS. YOU'VE GOT CASTEL ON  
16 ONE END TELLING JUAN -- IN FACT, YOU HAVE GOT CASTEL BEING  
17 DIRECTED BY AGENT BERRELLEZ, WHO'S ALSO DIRECTING THE OTHER  
18 END, TO REASSURE THIS GUY. HE REALLY LIKES YOU, JUST DO A  
19 FAVOR FOR HIM.

20 JUST DO A FAVOR FOR HIM? JUAN KNEW THESE GUYS  
21 WHEN THESE GUYS ASKED YOU TO DO A FAVOR FOR THEM, YOU DON'T  
22 SAY NO. YOU DON'T SAY I'LL GET BACK TO YOU, CALL ME LATER.  
23 YOU DO A FAVOR BECAUSE THESE GUYS ARE SERIOUS PEOPLE, THEY  
24 DIDN'T MESS AROUND AND YOU DON'T MESS AROUND WITH THEM.

25 OH, AND BY THE WAY, YOU KNOW, IF YOU JUST GO

1 DOWN AND DO THIS FAVOR FOR THEM, YOU CAN MAKE \$10,000. ALL  
2 YOU'VE GOT TO DO IS JUST REASSURE THEM, GET THEM TO COME TO  
3 MEXICO. DO YOUR BEST.

4 THE NEXT DAY: WE'LL, YOU'RE NOT DOING YOUR  
5 BEST BECAUSE HE'S NOT QUITE REASSURED YET. THAT WENT ON DAY  
6 AFTER DAY AFTER DAY. YOU'RE NOT DOING QUITE ENOUGH, YOU'RE  
7 NOT DOING QUITE ENOUGH. COME ON, A LITTLE BIT MORE. YOU  
8 KNOW, WE'RE DEALING WITH MEXICO, AND YOU'LL GET YOUR \$10,000.

9 THIS IS THE SAME GUY WHO GAVE JUAN \$500 THE  
10 FIRST DAY, AND THEN WHEN HE'S ARRESTED, COMES BACK TO THE WIF  
11 AND ASKS FOR IT LATER ON. WONDERFULLY WARM, CONSCIENTIOUS  
12 HUMAN BEING. MR. CASTEL.

13 YOU KNOW, IT'S LIKE -- THE ANALOGY I THINK OF  
14 IS THIS OPERATION LEYENDA, IT'S LIKE A NET THAT IS THROWN OUT  
15 ON THE WATER. YOU KNOW THE TUNA FISHERMEN THAT GO OUT, WHEN  
16 THEY WANT TO CATCH TUNA, AND WHAT HAPPENS? THEY END UP  
17 CATCHING THE DOLPHINS AND THE LITTLE FISH ALONG WITH IT, JUST  
18 BECAUSE THEY'RE HANGING AROUND, SWIMMING IN THE SAME  
19 DIRECTION. BUT ALL OF THEM GET CAUGHT UP IN IT.

20 WHAT IS PART OF THEIR NET? CASTEL IS PART OF  
21 THAT NET, HARRISON IS PART OF THAT NET, CERVANTES IS PART OF  
22 THAT NET, AND THEY GET ANYBODY WHO GETS IN THEIR WAY.  
23 EVERYBODY WHO GETS IN THEIR WAY GETS SCOOPED UP.

24 SO JUAN STARTS HIS REASSURING, AND IN SOME  
25 RESPECTS IT'S EMBARRASSING. I WAS EMBARRASSED WHEN I READ

1 SOME OF THAT TAPE. IT WAS ALMOST PATHETIC. GOSH, YOU KNOW,  
2 I'M A REAL CAUTIOUS GUY. I WRITE MY PHONE NUMBERS BACKWARDS  
3 I WRITE THOSE SIX DIGITS BACKWARDS SO MY WIFE WON'T FIND OUT  
4 ABOUT IT.

5 NOW THERE IS SOME REAL HIGH TECH STUFF. THERE  
6 IS REAL 0 0 7. THAT'S IS SOMETHING THAT IS GOING TO CONVINC  
7 R 1'S COMPADRE THAT THIS GUY MEANS BUSINESS. THERE IS A REAL  
8 THREAT, HIS WIFE, TO THE SECURITY OF R-1.

9 HE TALKS ABOUT NOT CARRYING ANY IDENTIFICATION  
10 I'M A CAREFUL GUY, I DON'T CARRY I.D. NOBODY WILL KNOW WHO  
11 AM.

12 WHAT DO WE HEAR ABOUT WHEN HE WAS ARRESTED?  
13 REMEMBER WHEN HE WAS ARRESTED? THESE WERE THE ITEMS THAT WER  
14 TAKEN OFF HIM. THERE ARE FOUR PIECES OF IDENTIFICATION IN  
15 THERE WITH HIS NAME ON IT. ONE OF THEM HAS HIS PHOTOGRAPH.  
16 YES, THERE IS A GUY WHO'S REAL CAUTIOUS. NOBODY IS GOING TO  
17 FIND OUT WHO THIS GUY IS.

18 TALK ABOUT THE BOOTS. REMEMBER THE BOOTS.  
19 THAT WAS FLASHED ON THE SCREEN UP HERE. RAFA BOUGHT ME SOME  
20 BOOTS WHEN I WAS AN AGENT FOR THE M.F.J.P.. WHAT EVIDENCE IS  
21 THERE THAT HE WAS EVER AN AGENT OF THE M.F.J.P.? EVER?  
22 THERE WASN'T ONE WITNESS WHO CAME IN AND SAID THAT.

23 THE ONLY PERSON WHO SAID IT WAS JUAN ON THAT  
24 TAPE BECAUSE HE WAS STROKING THESE GUYS. THEY WERE STROKING  
25 HIM AND HE WAS STROKING THEM. HE REALLY PUT HIS FOOT IN HIS

1 MOUTH.

2 HE REALLY PUT HIS FOOT IN HIS MOUTH WHEN HE  
3 TALKED ABOUT THE AIRPORT. REMEMBER? THAT IS KIND OF THE  
4 GOVERNMENT'S LYNCH PIN HERE. THAT'S HOW YOU CAN REALLY TELL  
5 THAT JUAN ISN'T JUST JIVING THESE GUYS, TALKING TRASH, RIGHT.  
6 BECAUSE HE TALKED ABOUT THE AIRPORT.

7 AND WE GOT AGENT LEYVA UP THERE AND LEYVA SAID  
8 YES, THAT'S THE GUY. THAT'S THE GUY AT THE AIRPORT. I  
9 REMEMBER BECAUSE WE WERE JUST A FEW FEET APART, STARING AT  
10 EACH OTHER.

11 LET ME TALK ABOUT AGENT LEYVA'S IDENTIFICATION  
12 HIS IDENTIFICATION COMES FIVE YEARS LATER. REMEMBER AGENT  
13 LEYVA TOLD US THAT WHEN HE WENT TO THE AIRPORT, HE HAD BEEN UI  
14 FOR ALMOST 24 STRAIT HOURS. HE WAS BEAT. HE WAS TIRED.

15 WHEN HE GOES TO THE AIRPORT, WHO DOES HE SEE?  
16 THERE IS A CONFRONTATION, AND WHAT DOES HE LOOK AT? HE LOOKS  
17 AT THE GUY'S EYES. REMEMBER I ASKED HIM ABOUT THE  
18 DESCRIPTIONS? REMEMBER HE WROTE A REPORT. HE DESCRIBES SEVEN  
19 PEOPLE IN DETAIL.

20 AND I PROVIDED THE REPORT TO AGENT LEYVA SO HE  
21 COULD LOOK AT IT AND SEE THE SEVEN PEOPLE THAT HE TALKED  
22 ABOUT, AND THEY WERE IN DETAIL, HEIGHT, WEIGHT, DESCRIPTION,  
23 WHAT THEY WERE WEARING, THE GUNS THEY WERE CARRYING. IT WENT  
24 INTO GREAT DETAIL.

25 AGENT LEYVA, THE PERSON YOU TALKED ABOUT WITH

1 THE EYES THAT YOU REMEMBER, WHICH ONE OF THOSE SEVEN PEOPLE  
2 YOU DESCRIBE? THIS IS THE SAME GUY THAT HE HAD NIGHTMARES  
3 ABOUT. WHICH OF THOSE SEVEN PEOPLE DID YOU DESCRIBE?

4 WELL, UM, UM, I DON'T THINK HE'S IN THIS  
5 REPORT. I DON'T THINK I MENTIONED HIM IN THIS REPORT. NO,  
6 I -- AND IF HE'S THERE, I CAN'T EVEN TELL YOU WHICH OF THE  
7 SEVEN I'M TALKING ABOUT.

8 WHEN DID AGENT LEYVA IDENTIFY? REMEMBER HE  
9 TALKED ABOUT IT. HE SAID I IDENTIFIED HIS PHOTOGRAPH. WHEN  
10 WHEN DID HE IDENTIFY THE PHOTOGRAPH? AGENT BERRELLEZ TOLD U  
11 THAT HE SHOWED HIM A BOOK OF PHOTOGRAPHS. I THINK THIS IS I  
12 (BOOK FALLS OPEN TO PLASTIC COVERED PAGE.) HE SHOWED HIM TH  
13 BOOK OF PHOTOGRAPHS.

14 THERE IS ABOUT 100 OR SO PHOTOGRAPHS IN THERE  
15 BUT HE SHOWED IT, AND AGENT LEYVA PICKED THE PHOTOGRAPH OUT.  
16 IT'S NUMBER 28 IN THIS BOOK. HE PICKED THE PHOTOGRAPH OUT.  
17 NEVER SEEN THE PHOTOGRAPH BEFORE.

18 IT'S INTERESTING THE COINCIDENCE THAT THE  
19 PHOTOGRAPH WASN'T SHOWN TO HIM BEFORE JUAN MADE THE  
20 STATEMENTS, ONLY AFTER JUAN MADE THE STATEMENTS.

21 AND THIS PHOTOGRAPH, NUMBER 28, HAS BEEN AROUND  
22 A LONG TIME. REMEMBER AGENT GONZALEZ, SANDALIO GONZALES FROM  
23 COSTA RICA, THE ONE WHO ARRESTED CARO QUINTERO. REMEMBER HE  
24 SAID -- I ASKED HIM TO LOOK AT THESE PHOTOGRAPHS AND HE SAID  
25 OH, YES, I SHOWED THESE SAME SETS OF PHOTOGRAPHS TO SOMEBODY

1 IN 1987. THREE YEARS AGO. AND HE KNEW THEY WERE THE SAME SET  
2 OF PHOTOGRAPHS BECAUSE THE NUMBERS UNDERNEATH EACH PICTURE IS  
3 THE SAME. HE VERIFIED IT INTERNALLY. WE KNOW THAT THIS  
4 PHOTOGRAPH NUMBER 28 HAS BEEN AROUND A LONG TIME.

5 REMEMBER JUAN TESTIFIED ABOUT THE ALARMA  
6 MAGAZINE WHEN HE WAS ARRESTED. AND THE STORY TALKS ABOUT HIM  
7 BEING ARRESTED WITH FONSECA. AND IF YOU LOOK AT THAT  
8 PHOTOGRAPH, THAT'S THE SAME PHOTOGRAPH AS NUMBER 28. THIS  
9 MAGAZINE CAME OUT IN MAY OF 1985. THAT PHOTOGRAPH HAS BEEN  
10 AROUND A LONG TIME.

11 REMEMBER THE AGENT TOLD US, AGENT KUYKENDALL,  
12 THE RESIDENT AGENT, SAID HE WOULD READ THESE MAGAZINES TO GET  
13 LEADS, TO GET CLUES, TO FIGURE OUT -- GET SOME IDEA WHERE  
14 THINGS WERE GOING WITH THIS CASE. WHY? BECAUSE SOME OF WHAT  
15 THEY SAID IN THESE MAGAZINES WAS TRUE AND ACCURATE BECAUSE  
16 THEY REPRINTED THE DECLARATIONS.

17 REMEMBER THE DECLARATIONS OF ONTIVEROS? IF YOU  
18 LOOKED HARD ENOUGH, YOU COULD FIND ONTIVEROS' DECLARATION IN  
19 ONE OF THESE ALARMAS.

20 WHAT A COINCIDENCE THAT AGENT LEYVA JUST  
21 HAPPENS TO IDENTIFY JUAN'S PHOTOGRAPH AFTER JUAN IS ARRESTED,  
22 AFTER JUAN SAYS HE WAS AT THE AIRPORT. HE WAS NEVER MENTIONED  
23 IN LEYVA'S REPORT.

24 ANOTHER INTERESTING COINCIDENCE. YOU COULD GO  
25 TO THIS BOOK, NEVER HAVING SEEN IT, AND YOU COULD TURN THIS

1 BOOK OF OVER 100 PHOTOGRAPHS -- YOU COULD TURN TO THE PAGE  
2 THAT JUAN APPEARS ON.

3 IT'S REAL SIMPLE. YOU JUST OPEN AND FLIP IT  
4 LIKE THIS. THIS IS THE ONLY PAGE THAT HAS A PLASTIC WRAPPER  
5 AROUND IT. THE ONLY ONE. AND THERE IS ONLY ONE PERSON ON  
6 THAT PAGE THAT EVEN REMOTELY LOOKS LIKES JUAN.

7 IS AGENT LEYVA LYING? NO, YOU KNOW, I THINK F  
8 BELIEVES IT. HE HAS CONVINCED HIMSELF. BUT THAT IS PART OF  
9 THE PROBLEM AREA WITH THIS CASE AND WITH THIS EVIDENCE.

10 HE WANTS YOU TO SEE -- THEY WANT YOU TO SEE  
11 WITH LEYENDA EYES. THEY WANT YOU TO REMEMBER WITH LEYENDA  
12 MEMORY. THEY WANT YOU TO HEAR WITH LEYENDA EARS.

13 THERE IS ONLY ONE REASON FOR OPERATION LEYENDA  
14 TO BE IN EXISTENCE; THAT IS TO INVESTIGATE THIS CRIME. THERE  
15 ARE SOME PROBLEMS. PROBLEM AREAS. I THINK YOU UNDERSTAND WHY  
16 THEY WANT TO DO IT. IT'S PERFECTLY REASONABLE. BUT THERE ARE  
17 PROBLEM AREAS.

18 ONE, THEY'RE NOT SET UP TO DO A HOMICIDE  
19 INVESTIGATIONS. I MEAN ALL THE TECHNICAL THINGS, THEY HAD TO  
20 GO TO THE F.B.I. REMEMBER ALL THESE EXPERTS UP THERE.  
21 THEY'RE F.B.I. AGENTS. THOSE ARE THE GUYS WHO ARE SET UP TO  
22 DO HOMICIDE INVESTIGATIONS, THE F.B.I.

23 THE F.B.I. SHOULD HAVE BEEN DOING THIS  
24 INVESTIGATION. AND PROBABLY MORE IMPORTANTLY, THE MAIN REASON  
25 THE F.B.I. SHOULD HAVE BEEN DOING THIS INVESTIGATION IS THEY

1 DON'T HAVE AN AX TO GRIND. THEY DON'T HAVE AN AGENDA TO MEET  
2 THEY CAN JUST DO IT IN AN OBJECTIVE, STRAIGHTFORWARD AND  
3 PROFESSIONAL FASHION.

4 WELL, EVEN THE PROSECUTOR SAID ABOUT THE  
5 AIRPORT SCENE, HE SAID WELL MAYBE, YOU GOT A PROBLEM WITH  
6 AGENT LEYVA'S IDENTIFICATION. ALL YOU'OVE GOT TO DO IS LISTEN  
7 TO THE TAPE. LISTEN TO THE TAPE AND YOU'LL HEAR THE DETAIL  
8 WITH WHICH JUAN DESCRIBED BEING AT THE AIRPORT. AND THAT IS  
9 AN EXCELLENT IDEA. THAT IS AN EXCELLENT IDEA.

10 REMEMBER JUAN TOLD US, HE SAID I HEARD ABOUT  
11 THE AIRPORT BY SOME PEOPLE WHO TOLD ME THEY WERE THERE. SO  
12 ACCORDING TO JUAN ON THE TAPE, HE WAS JUST GIVING THE STORY  
13 BACK THAT HE HAD HEARD.

14 WHAT DID AGENT LEYVA TELL US? HE TOLD US THAT  
15 HE LEFT FROM THE POLICE STATION WITH PAVON, AND OTHER  
16 COMANDANTES AND WENT TO THE AIRPORT. WHEN THEY GOT TO THE  
17 AIRPORT, THERE WAS A PLANE OF FIVE OR SIX OR SEVEN OR EIGHT  
18 PEOPLE STANDING OUT AROUND THE PLANE.

19 WHAT DID JUAN SAY? I MEAN, YOU SAW IT FLASHED  
20 UP ON THE BOARD. HE SAID "I LEFT WITH COMANDANTE GONZALEZ.  
21 WE LEFT FROM THE NORTH JAIL AND WENT TO THE AIRPORT. WE WENT  
22 TO THE NORTH JAIL, LEFT FROM THE NORTH JAIL AND WENT TO THE  
23 AIRPORT WITH 25 OTHER PEOPLE. WHEN WE GOT TO THE AIRPORT  
24 THERE WAS THE PLANE AND THERE WAS FIVE OR SIX PEOPLE."

25 REMEMBER HOW ON THE TAPE HE DESCRIBED IT.



1       THERE WERE TWO HERE AND TWO THERE AND ONE OVER THERE.

2               JUAN SAID THAT THERE WAS THIS CONFRONTATION  
3       BETWEEN THAT GROUP AND ANOTHER GROUP. AND THE GROUPS WERE  
4       EQUAL SIZE. IN OTHER WORDS, 25 AGAINST 25, NOT 50 AGAINST SIX  
5       OR SEVEN, AS AGENT LEYVA TALKED ABOUT.

6               REMEMBER JUAN TOLD HIM, YOU KNOW, THEY HAD THIS  
7       CONFRONTATION. EVERYBODY PULLED THEIR BADGES OUT AND STARTED  
8       YELLING THEY WERE FROM THIS PARTICULAR LAW ENFORCEMENT AGENCY  
9       OR ANOTHER. AGENT LEYVA SAID NOBODY PULLED THEIR BADGES.  
10      WHEN I ASKED HIM THE QUESTION, HE LOOKED AT ME LIKE WHAT ARE  
11      YOU TALKING ABOUT? NOBODY PULLED THEIR BADGES OUT.

12              AGENT LEYVA. DO YOU REMEMBER HE TESTIFIED --  
13      IT'S RIGHT HERE IN THE TRANSCRIPT. HE SAID WHAT HAPPENED TO  
14      THE GUARDS AROUND THE PLANE? OH, ONE OTHER THING. JUAN  
15      SAYS -- ON THE BOARD IT SAYS: "WHEN I ARRIVED AT THE AIRPORT  
16      WITH THIS GROUP OF 25 MEN WITH COMANDANTE GONZALEZ, THE  
17      ENGINES WERE RUNNING."

18              REMEMBER AGENT LEYVA SAID NO, THE ENGINES  
19      WEREN'T RUNNING WHEN WE GOT THERE. THEY STARTED RUNNING AFTER  
20      THE CONFRONTATION, AFTER IT CALMED DOWN, AFTER PAVON REYES  
21      STARTED TO WALK BACK TO THE HANGAR TO MAKE A PHONE CALL, THEN  
22      SOMEBODY SAID WHERE IS THE PILOT? AND SOME WOMAN COMES  
23      RUNNING OUT OF THE PLANE AND SAYS DON'T SHOOT. DON'T SHOOT.  
24      I'LL GET HIM. I'LL GET HIM. AND SHE RUNS INTO A HANGAR AND  
25      GOES AND GETS THE PILOT AND BRINGS HIM BACK OUT AND THEN THE

1 PLANE STARTS.

2 AGENT LEYVA WAS ASKED: WHAT HAPPENS TO THE SI  
3 OR SEVEN PEOPLE ON THE PLANE? THEY GET ON THE PLANE AND LEAV  
4 WITH CARO? HIS GUARDS -- EXCEPT FOR GUY WITH THE SHOTGUN  
5 STANDING BY THE STATION WAGON -- EVERYBODY ELSE GETS ON THE  
6 PLANE AND LEAVES.

7 WHAT DID JUAN TELL YOU ON THE TAPE? HE SAID  
8 AFTER IT WAS OVER WITH, HE AND THE REST OF THE GUYS GOT BACK  
9 IN THE TRUCK AND LEFT AND WENT BACK TO GUADALAJARA AND WERE  
10 CONCERNED THAT THEY MIGHT BE ARRESTED FOR CONFRONTATION.

11 LASTLY, JUAN TALKS ABOUT THE CANADA HANGAR.  
12 HE'S THE ONLY ONE THAT TALKS ABOUT THE AIRPORT THAT MENTIONS  
13 THE CANADA HANGAR. WHY DO YOU THINK HE MENTIONED THAT? WHY  
14 WOULD THAT STICK IN HIS MEMORY?

15 REMEMBER WHEN WORKED BODYGUARD FOR SERVICOPOSA  
16 FOR THE CANADA PEOPLE? HE SAID HE WENT TO THE HANGAR. HE  
17 USED TO FLY OUT OF THAT HANGAR. THAT'S HOW HE REMEMBERS IT,  
18 THAT'S HOW HE TAKES HIS LITTLE BITS OF INFORMATION AND PIECES  
19 THEM TOGETHER AND TRIES TO MAKE A STORY OUT OF THEM.

20 WHEN JUAN WAS TALKING ON THE TAPE AND GIVING  
21 HIS DETAILS, DOES THAT SOUND LIKE A STORY FROM SOMEONE WHO HAD  
22 BEEN THERE? WAS THAT CONSISTENT WITH AGENT LEYVA'S STORY OF  
23 WHAT HAPPENED? DID THAT SOUND LIKE SOMEBODY WHO HAD BEEN  
24 THERE OR DID THAT SOUND LIKE THE STORY OF SOMEONE WHO HAD BEEN  
25 TOLD BY SOMEONE WHO SAID THEY HAD BEEN THERE?

1                   THERE IS ANOTHER EXAMPLE I JUST -- ON THIS  
2 LISTENING WITH LEYENDA EARS, HEARING IT THE WAY LEYENDA WANTS  
3 YOU TO HEAR BECAUSE THEY HAVE SUCH A HIGH STAKE IN THE OUTCOM  
4 OF THIS.

5                   REMEMBER AGENT BERRELLEZ TESTIFIED. HE  
6 TESTIFIED TWO TIMES, ONCE ON DIRECT AND ONCE ON REBUTTAL.  
7 JUAN TOLD ME THAT HE WAS AT 881 LOPE DE VEGA. ARE THOSE HIS  
8 EXACT WORDS? REMEMBER THERE WAS A LITTLE BIT OF EXCHANGE AND  
9 I GOT KIND OF ANGRY -- AND I APOLOGIZE FOR THAT. I APOLOGIZE  
10 FOR THAT, BUT IT WAS ANGER BORNE OUT OF FRUSTRATION. YOU GET  
11 TIRED OF ASKING STRAIGHT QUESTIONS AND NOT GETTING STRAIGHT  
12 ANSWERS.

13                   REMEMBER THE PROSECUTOR THE OTHER DAY SAID --  
14 TALKED ABOUT THE CROSS-EXAMINATION AND HOW IT WENT ON AD  
15 NAUSEUM? THEY WENT ON AD NAUSEUM -- GOD, THESE GUYS JUST  
16 DON'T KNOW WHEN TO GIVE UP, THESE DEFENSE LAWYERS. WELL, THE  
17 PROBLEM WAS WHEN HE ASKED HIS WITNESSES QUESTIONS, THEY GAVE  
18 STRAIGHT ANSWERS. NO PROBLEM. WENT RIGHT THROUGH THE LINE.

19                   WHEN THE DID DEFENSE LAWYERS GOT UP THERE AND  
20 STARTED ASKING QUESTIONS, WHAT WAS THE MOST POPULAR PHRASE?  
21 IF YOU HEARD IT ONCE, YOU HEARD IT 500 TIMES. GOSH, I CAN'T  
22 REMEMBER. THEN YOU HAVE TO BRING OUT THE REPORTS, BRING OUT  
23 THE GRAND JURY TRANSCRIPTS. DOES THAT HELP YOU A LITTLE BIT?  
24 OH, YES, GOSH, NOW I REMEMBER. THANKS A LOT. IT WAS LIKE  
25 PULLING TEETH.

1                   WHEN THE PROSECUTOR ASKED QUESTIONS THEIR  
2 MEMORY IS VELCRO. WHEN THE DEFENSE ASKS THE QUESTIONS THEIR  
3 MEMORY TURNS TO TEFLON, NOTHING STICKS. YOU CAN'T REMEMBER  
4 DARN THING. IT WAS FRUSTRATING.

5                   SO I ASKED HIM ABOUT 881 LOPE DE VEGA. ARE  
6 THOSE HIS EXACT WORDS? YES, THAT'S WHAT I HEARD. THAT'S  
7 EXACTLY WHAT HE SAID. IT'S A SMALL POINT, BUT IT ILLUSTRATES  
8 DO THE WORDS 881 APPEAR ANYWHERE ON THIS TRANSCRIPT? AFTER  
9 ABOUT FIVE MINUTES OF DISCUSSION EVERYBODY AGREED NO, THOSE  
10 WORDS AREN'T -- THOSE WORDS AREN'T EVEN THERE, MUCH LESS  
11 SPOKEN BY JUAN. BY ANYONE.

12                   ARE THE WORDS LOPE DE VEGA IN THERE? YES. WF  
13 IS THE THE FIRST ONE THAT MENTIONS THEM? AGENT BERRELLEZ.  
14 THE ONLY TIME THE WORDS LOPE DE VEGA COME OUT OF JUAN'S MOUTH  
15 IS IN THE FORM OF A QUESTION? LOPE DE VEGA? OH, YOU MEAN TH  
16 PLACE WHERE THIS THING IS SUPPOSED TO HAVE HAPPENED?

17                   NOW THAT IS A FAR CRY FROM "JUAN SAID 881 LOPE  
18 DE VEGA AND I WAS THERE." WAS AGENT BERRELLEZ LYING ABOUT  
19 THAT? NO, BUT HE HAS A PERSPECTIVE, HE HAS AN AGENDA, HE HAS  
20 SOMEPLACE HE WANTS TO GO, AND THAT'S WHAT HE WANTS TO HEAR.  
21 THAT'S WHAT HE NEEDS TO HEAR AND SO HE HEARS IT. AND THEN HE  
22 TELLS YOU THAT.

23                   THE COURT: THE COURT WILL TAKE A MORNING RECESS AT  
24 THIS TIME.

25                   THE CLERK: PLEASE RISE.

1 (JURY EXCUSED.)

2 THE COURT: COUNSEL, THE COURT HAS DIRECTED THAT A  
3 COMPLETE COPY OF THE INSTRUCTIONS BE PREPARED AND SUBMITTED T  
4 YOU THAT THE COURT INTENDS TO GIVE. I WANT YOU TO REVIEW  
5 THOSE INSTRUCTIONS.

6 IF -- AND I DON'T WANT YOU TO ARGUE OBJECTIONS  
7 THAT YOU HAVE MADE BEFORE, BUT IF THERE IS ANYTHING NEW OR  
8 DIFFERENT THAT YOU WISH TO SUGGEST TO THE COURT, I WANT IT  
9 DONE IN THE FORM OF A PROPOSED AMENDMENT OR CHANGE.

10 IN OTHER WORDS, I WANT A COMPLETE COPY OF THE  
11 INSTRUCTION AS YOU WOULD LIKE TO SEE IT SO THAT -- AND JUST  
12 THE WAY THE -- IN THE SAME FORM THAT THEY APPEAR.

13 THERE IS ALSO A REDACTED INDICTMENT WHICH I  
14 WOULD WANT COUNSEL TO CHECK. AND IF I HEAR -- DON'T HEAR FRO  
15 ANY OF YOU ON THE RECORD EITHER WITH RESPECT TO THE  
16 INSTRUCTIONS OR REDACTED INDICTMENT, I WILL ASSUME THERE ARE  
17 NO OBJECTIONS.

18 IF YOU WISH TO BRING ANYTHING TO THE COURT'S  
19 ATTENTION, LET THE CLERK KNOW.

20 MR. NICOLAYSEN: YOUR HONOR, MAY I ADDRESS THE COUR  
21 JUST ON TIME LIMITS FOR A MOMENT?

22 I WOULD ASK IF YOUR HONOR WOULD GIVE SERIOUS  
23 CONSIDERATION TO SETTING A STRICT DEADLINE FOR GOVERNMENT'S  
24 REBUTTAL. I WAS HELD TO NO MORE THAN A HALF HOUR OVER MY ONE  
25 HOUR TIME ESTIMATE. I KNOW YOUR HONOR IS VERY CONCERNED ABOU

1 TIME LIMITS. AND YOU HAD GIVEN THE GOVERNMENT THREE HOURS IN  
2 TOTAL --

3 THE COURT: I'LL GIVE YOU THE TIME THAT EVERYBODY  
4 HAS USED HERE.

5 THE GOVERNMENT HAS USED THREE HOURS AND NINE  
6 MINUTES.

7 MR. NICOLAYSEN: AND YOU GAVE THEM THREE HOURS  
8 COMBINED BETWEEN THEIR OPENING AND THEIR REBUTTAL.

9 THE COURT: YOU USED AN HOUR AND 36 MINUTES.

10 MR. NICOLAYSEN: AND I GAVE YOU AN HOUR ESTIMATE.

11 THE COURT: AND MR. MEDVENE USED TWO HOURS AND FORTY  
12 MINUTES, WHICH EXCEEDED HIS ESTIMATE.

13 MR. STOLAR USED AN HOUR AND 50 MINUTES.

14 MR. STOLAR: RIGHT ON THE MONEY.

15 THE COURT: MR. MEZA HAS USED 40 MINUTES SO FAR OF  
16 HIS TIME.

17 WELL, YOU USED UP YOUR REBUTTAL TIME SO --

18 MR. MEDRANO: I'M VERY MUCH AWARE OF THAT, YOUR  
19 HONOR. I DO APOLOGIZE FOR THAT, BUT THERE WAS A LOT OF  
20 MATERIAL AND I STREAMLINED IT AS BEST I COULD. I DID NOT  
21 REPEAT ANYTHING THAT CAME BEFORE, SO I WOULD HOPE THAT YOU  
22 WOULD GIVE US ADEQUATE TIME TO DEAL WITH OVER 8 HOURS, I  
23 THINK, TOTAL OF DEFENSE CLOSING ARGUMENTS, YOUR HONOR.

24 THE COURT: WELL, HOW MUCH TIME DO YOU THINK YOU  
25 WOULD NEED?

1 MR. MEDRANO: TO BE HONEST, YOUR HONOR, I WAS JUST  
2 THINKING ABOUT IT RIGHT NOW. I'M ESTIMATING ABOUT TWO HOURS  
3 ON THE GOVERNMENT'S REBUTTAL.

4 THE COURT: TWO HOURS?

5 MR. MEDRANO: YES, YOUR HONOR. OF COURSE I WILL TR  
6 TO BRING IT WITHIN THAT, BUT THAT'S ON THE OUTER RANGE, YOUR  
7 HONOR.

8 MR. NICOLAYSEN: I COULD HAVE SPOKEN FOR TWO AND A  
9 HALF HOURS, AS WELL, BUT I WAS MINDFUL OF YOUR HONOR'S --

10 THE COURT: LET ME SAY THAT IN MAKING THESE LIMITS  
11 TRY TO SAVE YOU FROM YOURSELVES.

12 (COURTROOM LAUGHTER.)

13 MR. NICOLAYSEN: WELL, I DON'T FEEL THAT I WAS SAVE  
14 FROM MYSELF IN ANY RESPECT BY BEING HELD TO AN HOUR AND A  
15 HALF.

16 I THINK IT IS ONLY FAIR THAT THE GOVERNMENT BE  
17 HELD TO THE RANGE OF THREE HOURS.

18 THE COURT: I THINK ONE VERY FINE ARGUMENT YESTERDA  
19 WAS DIMINISHED SOMEWHAT BY TAKING TOO MUCH TIME.

20 WHAT IS YOUR POINT?

21 MR. NICOLAYSEN: MY POINT IS THAT I HAD A LOT OF  
22 MATERIAL THAT I STILL COULD HAVE COVERED. IN MY PERSONAL  
23 OPINION, I WAS NOT DIMINISHING MY ABILITY TO COMMUNICATE BY  
24 GOING INTO THAT AREA.

25 YOUR HONOR FELT TO THE CONTRARY AND WANTED ME

1 TO STOP WITHIN SIX MINUTES, WHICH KEPT ME TO AN HOUR AND A  
2 HALF, ONLY 30 MINUTES OVER MY ESTIMATE.

3 THE GOVERNMENT HAS SPOKEN OVER ITS ENTIRE  
4 ALLOTTED TIME FOR BOTH THE OPENING AND THE REBUTTAL AND NOW  
5 WANTS AN ADDITIONAL TWO-HOUR ALLOTMENT, WHICH IS SUBSTANTIAL  
6 BEYOND THAT.

7 AND I THINK, NOT ONLY MYSELF BUT MY COLLEAGUE  
8 FOR THE DEFENSE ARE SHORTCHANGED BY THAT.

9 THE COURT: THE FACT OF THE MATTER IS THAT THERE H  
10 BEEN ABOUT EIGHT HOURS OR SO OF DEFENSE ARGUMENTS THAT  
11 WARRANTS A REBUTTAL.

12 MR. NICOLAYSEN: THIS IS SOMETHING THAT THE  
13 GOVERNMENT COULD HAVE ANTICIPATED AT THE BEGINNING. THIS IS  
14 NOT A SURPRISE TO THEM.

15 THE COURT: THE COURT WILL PERMIT THE GOVERNMENT  
16 ENOUGH TIME TO MAKE A REASONABLE REBUTTAL. BUT I DON'T THINK  
17 YOU NEED TWO HOURS.

18 MR. MEDRANO: VERY WELL, YOUR HONOR. I'LL TRY TO  
19 BRING IT WELL WITHIN THAT, BUT I'M JUST TRYING TO ORGANIZE IT  
20 IN MY MIND RIGHT NOW.

21 THE COURT: I THINK YOU SHOULD TRY TO DO IT IN AN  
22 HOUR AT THE MOST.

23 MR. MEDRANO: I'LL DO MY BEST, YOUR HONOR. THANK  
24 YOU.

25 THE CLERK: PLEASE RISE. THIS COURT IS NOW IN



1 RECESS.

2 (BRIEF RECESS.)

3 (JURY PRESENT.)

4 THE COURT: YOU MAY CONTINUE.

5

6 CONTINUED CLOSING ARGUMENT + FOR BERNABE RAMIREZ

7

8 MR. MEZA: THANK YOU.

9 LET'S GO TO EXHIBIT 63, WHICH BY NOW IS PRETTY  
10 FAMOUS IN THIS TRIAL. EXHIBIT 63, THAT'S ONE, THE PHOTOGRAPH  
11 OF THE THREE PEOPLE THAT WERE FOUND IN MR. GALLARDO'S HOUSE,  
12 THE SEARCH ONE WITH THE AGENT CAMARENA RIGHT HERE. TWO OTHER  
13 PEOPLE, ONE OF WHOM WAS IDENTIFIED.

14 AND THE OTHER ONE, REMEMBER MR. CERVANTES.  
15 REMEMBER THE PROSECUTOR SAID WELL THERE IS EVEN SOME EVIDENCE  
16 THAT JUAN WAS IN THIS PHOTOGRAPH. EVEN THE PROSECUTOR  
17 COULDN'T BRING HIMSELF TO SAY THAT IS JUAN IN THE PHOTOGRAPH.

18 WHO TOLD YOU THAT JUAN WAS IN THIS PHOTOGRAPH;  
19 MR. CERVANTES, WHEN WE ASKED HIM TO LOOK AT THE PHOTOGRAPH.  
20 REMEMBER WHEN HE GAVE THE ANSWER "I THINK THAT'S HIM." THANK  
21 YOU. THANK YOU, VERY MUCH.

22 THE REASON I THANKED HIM IS BECAUSE JUAN IS NO  
23 IN THIS PHOTOGRAPH. I KNEW JUAN WASN'T IN THIS PHOTOGRAPH.  
24 YOU DON'T HAVE TO TAKE MY WORD FOR IT. LOOK AT IT. YOU KNOW  
25 WHAT JUAN LOOKS LIKE. WE HAVE PHOTOGRAPHS OF HIM. REMEMBER

1 THIS PHOTOGRAPH WAS TAKEN ABOUT 1983? REMEMBER THAT WAS THE  
2 TESTIMONY.

3 WE HAVE A PHOTOGRAPH OF JUAN IN 1983. WE HAVE  
4 PHOTOGRAPHS OF JUAN IN 1989. YOU KNOW WHAT JUAN LOOKS LIKE  
5 NOW. YOU HAVE A PHOTOGRAPH OF JUAN IN 1985, TAKEN AT THE TIME  
6 OF HIS ARREST. THAT IS NOT JUAN IN THERE. MR. CERVANTES  
7 DROPPED THE BALL AGAIN.

8 NOW, MR. CASTEL. REMEMBER WE STARTED TO ASK  
9 HIM ABOUT CASTEL. FIRST QUESTION ABOUT MR. CASTEL AND EVERY  
10 QUESTION ABOUT MR. CASTEL MET WITH A GOVERNMENT OBJECTION.  
11 IRRELEVANT. THEY DIDN'T WANT YOU TO HEAR ABOUT CASTEL. WHY?  
12 BECAUSE THAT WOULD PUT A LITTLE CLOUD ON THEIR STORY.

13 REMEMBER WHEN AGENT BERRELLEZ FINISHED  
14 TESTIFYING, THE IMPRESSION YOU HAD WAS THAT THE REASON JUAN  
15 WAS HERE WAS TO MEET THE DRUG DEALERS. THAT WAS THE  
16 IMPRESSION YOU WERE LEFT WITH.

17 IT WAS ONLY AFTER WE FOUND OUT ABOUT CASTEL'S  
18 ROLE IN IT THAT WE REALIZED THE ONLY REASON JUAN ORIGINALLY  
19 CAME UP HERE WAS BECAUSE HE WAS IN A BUSINESS, A LEGITIMATE  
20 BUSINESS, DOING LEGITIMATE THINGS, COMING UP TO LOOK AT  
21 SECURITY DOGS. HE WAS A VETERINARIAN. REMEMBER THE  
22 VETERINARIANS GOT SO UPSET THEY LEFT BECAUSE NOTHING WAS  
23 HAPPENING.

24 JUAN TOLD US ABOUT WHAT CASTEL WAS DOING,  
25 MANEUVERING HIM, MASSAGING HIM, GETTING HIM TO GO IN THE

1 DIRECTION THEY WANT. YOU CAN GET BET THAT IF JUAN WASN'T  
2 TELLING THE TRUTH ABOUT WHAT CASTEL SAID, THE GOVERNMENT WOULD  
3 HAVE CASTEL IN HERE IN ONE FLAT SECOND TELLING YOU I NEVER  
4 SAID THAT TO JUAN. JUAN IS LYING. JUAN IS NOT TELL YOU THE  
5 TRUTH. CASTEL WAS NEVER PUT UP THERE BY THE GOVERNMENT  
6 BECAUSE HE WASN'T GOING TO SAY ANYTHING THAT JUAN DIDN'T  
7 ALREADY TESTIFY.

8 OKAY. MOST OF THIS CASE, THE GOVERNMENT'S  
9 CASE -- ALL OF THE GOVERNMENT'S CASE IS SUBJECTIVE. IT'S  
10 BASED UPON THE LEYENDA INTERPRETATION OF THE EVIDENCE. BUT  
11 THERE IS OTHER EVIDENCE IN THIS CASE, MORE OBJECTIVE EVIDENCE.  
12 I HEARD ABOUT JUAN. HE HAD HAIR SAMPLES TAKEN? REMEMBER MR.  
13 MALONE?

14 YES, I COMPARED HIM TO THAT POOL OF 500. NO  
15 MATCH. FINGERPRINTS WERE TAKEN. NO MATCH.

16 REMEMBER THE TESTIMONY ABOUT THE AGENTS THAT  
17 CAME IN AND DID THE VOICE IDENTIFICATION, LISTENED TO THE  
18 COPIAS TWO AND FOUR AND SPENT HOURS AND HOURS AND HOURS TRYING  
19 TOO MATCH THESE VOICES UP. THERE WERE UNIDENTIFIED VOICES,  
20 VOICES THEY COULDN'T MATCH UP.

21 THERE WASN'T ONE AGENT WHO MADE ANY ATTEMPT TO  
22 MATCH THE VOICES ON COPIAS -- THE UNIDENTIFIED VOICES ON  
23 COPIAS TWO AND FOUR WITH JUAN'S VOICE, EVEN THOUGH THERE WERE  
24 HOURS OF TAPES WITH JUAN'S VOICE. NOBODY MADE ANY EFFORT AND  
25 THE REASON THEY DIDN'T IS BECAUSE THEY KNEW JUAN WASN'T THERE.

1 IF JUAN WAS SUCH A BAD GUY, HE WAS THIS EVIL  
2 PERSON THAT THE GOVERNMENT WANTS YOU TO BELIEVE THAT HE IS,  
3 WHY AFTER HE WAS ARRESTED -- WHY WOULD THE GOVERNMENT PUSH HIM  
4 TO COOPERATE? THEY OFFERED HIM ALL KINDS OF THINGS TO  
5 COOPERATE.

6 IF THAT WASN'T TRUE, AGENT BERRELLEZ HAD EVERY  
7 OPPORTUNITY TO GET UP THERE AND TELL YOU I NEVER SAID THAT TO  
8 HIM. HE IS MAKING IT UP.

9 WHAT ELSE DID AGENT BERRELLEZ TELL HIM? HE  
10 SAID YOU KNOW, YOU DON'T GO ALONG WITH THE PROGRAM YOU'RE  
11 GOING TO SPEND THE REST OF YOUR LIFE IN PRISON.

12 HOW DO WE KNOW IT'S TRUE? ONE, BECAUSE AGENT  
13 BERRELLEZ NEVER GOT UP AND DENIED THAT'S WHAT HE SAID, AND  
14 TWO, YOU DON'T HAVE TO LOOK ANY FURTHER THAN THE INDICTMENT TO  
15 SEE THAT THAT PROMISE HAS COME TRUE. THE FIRST TWO COUNTS OF  
16 THE INDICTMENT DEAL WITH THE SO-CALLED LA LANGOSTA MURDERS,  
17 AND JUAN IS NOT CHARGED WITH THOSE BECAUSE THEY WERE NEVER  
18 INVESTIGATING HIM THEN.

19 SORT OF COINCIDENTALLY -- WELL, I'VE GIVEN  
20 THAT.

21 THERE ARE SIX COUNTS THAT DEAL WITH THE AGENT  
22 CAMARENA AND MR. ZAVALA. JUAN IS THE ONLY DEFENDANT WHO'S  
23 CHARGED WITH EACH AND EVERY COUNT. HE IS THE ONLY ONE. EVEN  
24 ACCORDING TO THE GOVERNMENT'S ANALYSIS, HE'S THE LOW MAN ON  
25 THE TOTEM POLE. BUT HE'S THE ONLY ONE CHARGED IN EVERY COUNT.

1 THE PILOT ZAVALA, I DIDN'T HEAR TOO MUCH  
2 TESTIMONY ABOUT HIM. BUT HE DISAPPEARED ABOUT THE SAME TIME.  
3 HE WORKED WITH AGENT CAMARENA, DISAPPEARED ABOUT THE SAME TIME  
4 AS AGENT CAMARENA, ALMOST WITHIN HOURS OF EACH OTHER. THEIR  
5 BODIES WERE FOUND TOGETHER. THERE IS SOME FIBER EVIDENCE THAT  
6 IS FOUND ON SOME CLOTHES ASSOCIATED WITH MR. ZAVALA THAT  
7 CONNECTS HIM TO LOPE DE VEGA.

8 SO YOU DON'T HAVE TO BE A MENTAL GIANT TO  
9 FIGURE OUT THAT GOSH, THERE IS A CONNECTION BETWEEN THESE TWO  
10 GUYS, RIGHT? MAYBE WHEN AGENT CAMARENA WAS TAKEN, PART OF THE  
11 PLAN WAS TO TAKE MR. ZAVALA, TOO, AND DO A PACKAGE KIDNAPPING,  
12 AS IT WERE.

13 JUAN IS THE ONLY DEFENDANT WHO IS CHARGED IN  
14 THE ZAVALA COUNT. THERE HAS NEVER BEEN ANY EVIDENCE THAT HE  
15 WAS PART OF THE PLANNING OF ANY KIDNAPPING. THERE HAS BEEN  
16 EVIDENCE OF OTHER DEFENDANTS WHO WERE IN ON THE PLANNING. AND  
17 IF THEY WERE IN ON THE PLANNING OF CAMARENA, THEN IT'S  
18 REASONABLE TO ASSUME THEY WERE IN ON THE PLANNING OF CAPTAIN  
19 ZAVALA, BUT THEY'RE NOT CHARGED WITH IT. JUAN IS THE ONLY ONE  
20 CHARGED.

21 THE FELONY MURDER COUNT, THE GOVERNMENT SAYS  
22 THAT -- IF YOU WANT TO BELIEVE THEIR CASE, BELIEVE THEIR  
23 ARGUMENT -- WELL, MR. ZUNO WAS IN ON THE PLANNING AND  
24 KIDNAPPING. AND THE FELONY MURDER RULE SAYS THAT ANY HOMICIDE  
25 IN THE COURSE -- OR ANY DEATH IN THE COURSE OF A KIDNAPPING

1 YOU'RE RESPONSIBLE FOR, NOT ONLY THE PEOPLE WHO DID THE ACTUAL  
2 KIDNAPPING, BUT THE PEOPLE WHO PLANNED IT.

3 THE GOVERNMENT SAYS GEE, MR. ZUNO PLANNED THE  
4 KIDNAPPING; THEREFORE, HE SHOULD BE RESPONSIBLE ACCORDING TO  
5 THE GOVERNMENT'S THEORY, FOR THE DEATH UNDER THE FELONY MURDER  
6 THEORY. JUAN IS CHARGED WITH IT; MR. ZUNO IS NOT.

7 THE GOVERNMENT TALKS A LOT ABOUT -- REMEMBER  
8 THEY'RE TALKING -- THEIR THEORY IS THAT JUAN IS A BODYGUARD;  
9 THEREFORE, HE'S RESPONSIBLE FOR ALL OF THESE ACTS.

10 MR. JAVIER VASQUEZ. REMEMBER HOW MUCH TIME THE  
11 GOVERNMENT SPENT TALKING ABOUT JAVIER VASQUEZ AND HOW HE WAS A  
12 BODYGUARD AT FIRST THE PLANNING MEETING AND THE SECOND  
13 PLANNING MEETING, AND HE WAS AT BAJADITA FOR THE THIRD  
14 PLANNING MEETING AND HE WAS THIS BODYGUARD.

15 WELL, IF THE GOVERNMENT'S THEORY ABOUT BEING A  
16 BODYGUARD AND BEING RESPONSIBLE WAS TO HOLD TRUE, THEN MR.  
17 VASQUEZ VELASCO WOULD ALSO BE CHARGED IN COUNTS 6 THROUGH 8.

18 JUAN IS THERE BY HIMSELF IN EACH AND EVERY  
19 COUNT BECAUSE HE'S BEING PUNISHED FOR NOT GOING ALONG WITH THE  
20 PROGRAM AND NOT JOINING THE TEAM LEYENDA.

21 REMEMBER I TOLD YOU JUAN TOOK A CHANCE BY  
22 TESTIFYING. HE OPENED HIMSELF AND WAS AN OPEN BOOK. WHAT WAS  
23 THE PROSECUTOR'S RESPONSE? WHAT WAS THE PROSECUTOR'S RESPONSE  
24 AND HIS ARGUMENT? HE SAID 95 PERCENT OF WHAT JUAN TELLS YOU  
25 IS TRUE. HE AGREES THAT HE WAS TELLING THE TRUTH. 95

1 PERCENT. THE PROSECUTOR CAN'T EVEN SAY THAT ABOUT HIS OWN  
2 WITNESSES, THAT THEY WERE TELLING 95 PERCENT OF THE TRUTH.

3 IT'S AN INTERESTING TWIST OF LOGIC. WHEN JUAN  
4 AGREES WITH THE PROSECUTOR, HE IS A VERY TRUTHFUL PERSON, BUT  
5 WHEN HE DISAGREES WITH HIM, GOSH, HE'S A LIAR. LOOK, EITHER  
6 JUAN IS TELLING THE TRUTH OR HE'S NOT TELLING THE TRUTH. YOU  
7 CAN'T HAVE IT BOTH WAYS, YOU JUST CAN'T HAVE IT BOTH WAYS.

8 THE EVIDENCE IN THIS CASE IS THAT FOR A VERY  
9 SHORT TIME OUT OF JUAN'S LIFE HE HUNG AROUND WITH THE WRONG  
10 PEOPLE, CAME UP TO L.A., OPENED HIS BIG MOUTH TRYING TO  
11 IMPRESS SOME PEOPLE AND HE GOT HIMSELF INDICTED. BUT HE  
12 DIDN'T COMMIT THESE CRIMES.

13 THANK YOU.

14 THE COURT: ALL RIGHT. DOES YOUR COLLEAGUE NOW WISH  
15 TO ADDRESS ANOTHER ISSUE IN THE CASE?

16 MS. KELLY: YES, YOUR HONOR.

17  
18 CONTINUED CLOSING FOR + DEFENDANT BERNABE-RAMIREZ

19  
20 MS. KELLY: YOUR HONOR, MEMBERS OF THE PROSECUTION  
21 TEAM, LADIES AND GENTLEMEN OF THE JURY, DEFENSE COUNSEL AND  
22 -- (INTERRUPTION)-- MEN WHO ARE ACCUSED OF THIS CRIME -- I'M  
23 NOT SURE, YOUR HONOR, IF THE MICROPHONE IS SUFFICIENT.

24 CAN YOU HEAR ME?

25 THE COURT: OKAY.

1 MS. KELLY: I KNOW THAT SOME OF YOU HAVE BEEN JURORS  
2 BEFORE AND SOME OF YOU HAVE PROBABLY HEARD THE PRINCIPLES I'M  
3 GOING TO TALK ABOUT. MY COLLEAGUES HAVE TOUCHED ON THEM ABOUT  
4 REASONABLE DOUBT AND PRESUMPTION OF INNOCENCE.

5 I WANT TO TALK TO YOU BRIEFLY ABOUT THEM AT THE  
6 OUTSET BEFORE I GET INTO THE TAPE EVIDENCE BECAUSE THEY'RE  
7 REALLY IMPORTANT CONCEPTS AND THEY'RE CONCEPTS THAT YOU HEAR  
8 ABOUT SO OFTEN THAT SOMETIMES THEY JUST FLOW RIGHT PAST YOU.

9 THIS IS A DIFFERENT CASE FROM A CIVIL CASE.  
10 SOME OF YOU MAY HAVE SAT ON A CIVIL CASE WHERE MONEY IS  
11 GENERALLY AT STAKE AND THERE IS A DIFFERENT STANDARD OF PROOF.  
12 IT IS A LESSER STANDARD OF PROOF.

13 THIS IS A CRIMINAL CASE WITH A HIGHER STANDARD  
14 OF PROOF. AND THE REASON FOR THAT IS BECAUSE SOMEBODY'S  
15 LIBERTY IS AT STAKE. THERE IS ANOTHER REASON WHY THERE IS A  
16 HIGHER STANDARD OF PROOF, AND THAT IS TO GUARD AGAINST THE  
17 TENDENCY THAT WE ALL HAVE AS HUMAN BEINGS TO MAKE ASSUMPTIONS,  
18 TO MAKE ASSUMPTIONS THAT MY CLIENT IS GUILTY BECAUSE HE HAS  
19 BEEN INDICTED BY THE UNITED STATES GOVERNMENT.

20 IF HE WASN'T GUILTY, WHAT IS HE DOING HERE?  
21 THAT'S A REAL NATURAL TENDENCY FOR ALL OF US TO ASK.  
22 OBVIOUSLY, THESE ARE TERRIBLE CRIMES, HORRIBLE CRIMES, AND  
23 THIS MAN STANDS ACCUSED OF THAT. AND WHAT IS HE DOING? AND  
24 IF HE'S NOT GUILTY, WHY DOESN'T HE JUST GET UP THERE AND PROVE  
25 IT?



1 WELL, IN OUR COUNTRY THAT'S NOT HIS BURDEN.  
2 IT'S SIMPLY NOT HIS BURDEN TO PROVE THAT HE'S INNOCENT. IN  
3 ASSUMING SOMEBODY IS GUILTY BECAUSE THEY'RE CHARGED WITH A  
4 VERY SERIOUS CRIME IS A VERY HUMAN REACTION, BUT YOU ALSO NEED  
5 TO GUARD AGAINST IT, BECAUSE WHEN YOU TOOK THAT OATH AS  
6 JURORS, YOU PROMISED THAT AS DIFFICULT AS IT MIGHT BE, YOU PUT  
7 THAT TENDENCY ASIDE.

8 YOU WOULD LOOK AT THE EVIDENCE AND YOU WOULDN'T  
9 JUMP TO CONCLUSIONS AND YOU WOULDN'T MAKE ASSUMPTIONS. THAT'S  
10 ONE OF THE PURPOSES FOR HAVING YOU TAKE THE OATH.

11 THE JURY SYSTEM IS NOT JUST A FORMALITY, IT IS  
12 NOT JUST A RUBBER STAMP OF THE PROSECUTION, AND IT'S NOT JUST  
13 A RUBBER STAMP OF WHAT THE UNITED STATES GOVERNMENT, WHATEVER  
14 YOUR IDEA OF WHAT IT MEANS.

15 WHY DO WE HAVE JURY TRIALS AND WHY DO WE HAVE  
16 JURORS? WELL, BECAUSE YOU'RE WHAT STANDS BETWEEN THE SMALL  
17 INDIVIDUAL AND AN OVERZEALOUS PROSECUTION. AND YOU HAVE SEEN  
18 IN THIS CASE THE MULTITUDE OF RESOURCES THAT THE PROSECUTION  
19 HAS AT IT'S HANDS.

20 IT HAS THE D.E.A., THE F.B.I., THE MONEY TO FLY  
21 PEOPLE IN FROM ALL OVER THE COUNTRY. THE RESOURCES ARE  
22 SOMEWHAT STAGGERING AND OVERWHELMING, AND THE JURY -- THE JURY  
23 IS THE ONE WHO WILL LOOK AT THE EVIDENCE AND WEIGH IT AND  
24 DECIDE, BASED ON THE EVIDENCE, WHAT IS THE TRUTH.

25 THE JURY STANDS AS A SHIELD BETWEEN THE AWESOME

1 POWER OF THE PROSECUTION AND THE SMALL POWERLESSNESS OF AN  
2 INDIVIDUAL.

3 NOW, I'M NOT SAYING AND I DON'T WANT TO GIVE  
4 YOU THE IMPRESSION THAT WE HAVE A JURY SYSTEM BECAUSE THE  
5 PROSECUTION ARE SOMEHOW EVIL PEOPLE OR THE D.E.A. MEMBERS ARE  
6 LIARS OR THEY'RE TERRIBLE PEOPLE. I'M SAYING THERE IS A JURY  
7 SYSTEM BECAUSE THE FRAMERS OF THE CONSTITUTION KNEW THAT A  
8 GOVERNMENT, NO MATTER HOW BIG AND HOW GREAT IS STILL BASED ON  
9 INDIVIDUAL PEOPLE.

10 AND INDIVIDUAL PEOPLE MAKE MISTAKES, THEY JUMP  
11 TO CONCLUSIONS, THEY MAKE ASSUMPTIONS, THEY TEND TO SEE WHAT  
12 THEY WANT TO BELIEVE. AND SOMETIMES PEOPLE LET THEIR BELIEFS  
13 TURN INTO WHAT THEY VIEW AS REALITY.

14 BUT YOU PROMISED NOT TO DO THAT. YOU PROMISED  
15 TO MAKE A DECISION BASED ON THE EVIDENCE. YOU PROMISED NOT TO  
16 MAKE A DECISION BASED ON PASSION OR SYMPATHY. YOU PROMISED  
17 NOT MAKE YOUR DECISION BASED SIMPLY ON THE FACT THAT A  
18 HORRIBLE CRIME WAS COMMITTED IN MEXICO AND MEXICAN NATIONALS  
19 STAND IS ACCUSED OF IT.

20 AND THIS IS A HORRIBLE TRAGEDY. WHAT HAPPENED  
21 TO AGENT CAMARENA AND CAPTAIN ZAVALA IS AN ATROCITY AND THERE  
22 IS NOBODY HERE WHO'S GOING TO GET UP AND TELL YOU ANY  
23 DIFFERENT. IT IS A HORRIBLE CRIME AND NOTHING JUSTIFIES WHAT  
24 HAPPENED TO THEM AND THERE IS NOTHING THAT CAN COMPENSATE  
25 THEIR FAMILY FOR THAT LOSS AND MY HEART DOES GO OUT TO THEM.

1 ANY OF YOU WHO HAS LOST A PARENTS, A CHILD  
2 MAYBE, A BROTHER OR SISTER OR A SPOUSE, YOU KNOW WHAT THAT IS  
3 LIKE, THAT ACHING LONELINESS THAT DOESN'T GO AWAY. I'M NOT  
4 TRYING TO TAKE ANYTHING AWAY FROM THE FAMILIES OF THESE PEOPLE  
5 AT ALL.

6 I REALIZE THE TERRIBLE PAIN THEY'RE IN AND THIS  
7 IS A TERRIBLE TRAGEDY, BUT THAT DOESN'T MEAN THAT MY CLIENT  
8 SHOULD BE THE SACRIFICIAL LAMB FOR THE SINS OF HIS PAST  
9 EMPLOYER. AND THAT'S WHAT YOU HAVE GOT TO DO. YOU HAVE GOT  
10 TO SEPARATE OUT WHAT IS THIS CASE ABOUT? WHO'S RESPONSIBLE?

11 IS MY CLIENT RESPONSIBLE BECAUSE HE WORKED FOR  
12 FONSECA IN THE PAST AS A BODYGUARD, AS A CHIEF OF SECURITY?  
13 DOES THAT MAKE HIM RESPONSIBLE FOR DEATHS OF CAPTAIN ZAVALA  
14 AND AGENT CAMARENA?

15 I UNDERSTAND THE DESIRE OF THE AGENTS WHO ARE  
16 WORKING ON THE OPERATION LEYENDA TEAM. THEY'RE OUTRAGED.  
17 THIS IS A TERRIBLE CRIME, THAT WAS ONE OF THEIR BROTHER AGENTS  
18 AND THEY'RE RIGHTEOUSLY, RIGHTEOUSLY ANGRY ABOUT IT. AND THEY  
19 WANT VENGEANCE. THERE IS NOTHING WRONG WITH THAT.

20 THEY WANT TO SEE THOSE PEOPLE WHO ARE  
21 RESPONSIBLE BROUGHT TO JUSTICE. I'M NOT SAYING THERE IS  
22 ANYTHING WRONG WITH THAT, I'M JUST SAYING TO YOU THAT THE  
23 BOTTOM LINE HERE IS THAT THOSE WHO ARE RESPONSIBLE SHOULD BE  
24 BROUGHT TO CONVICTION AND THOSE WHO AREN'T, SHOULDN'T.

25 AND THE RIGHTEOUS DESIRE FOR VENGEANCE DOES NOT

1 JUSTIFY TWISTING THE EVIDENCE AND BASING A CONVICTION ON GUILT  
2 BY ASSOCIATION OR INNUENDO. THE END DOES NOT JUSTIFY THE  
3 MEANS.

4 I THINK -- AND YOUR VIEW CONTROLS, BUT I THINK  
5 THERE HAS BEEN AN OVERZEALOUS PROSECUTION WITH RESPECT TO MY  
6 CLIENT. THE TRUTH HAS BEEN SOMEWHAT SHADED, SOMEWHAT TAINTED  
7 AND BASICALLY IGNORED.

8 HOW DO WE KNOW THAT? WE KNOW THAT FROM THE  
9 OPENING ARGUMENT OF THE PROSECUTION. THEY SHOWED YOU A  
10 BLOW-UP OF THE JULY 25TH TRANSCRIPT, AND YOU REMEMBER ALL THE  
11 BRUHABA WE SPENT OVER THAT, AND I'LL BE GOING INTO THAT IN A  
12 LOT OF DETAIL.

13 BUT THERE WAS A LOT OF TESTIMONY ABOUT THAT, A  
14 LOT ABOUT THIS, AND WE SPENT A LOT OF TIME ON IT. AND YET,  
15 THEY SHOWED YOU THEIR VERY FIRST TRANSCRIPT WHICH THEY KNOW IS  
16 INACCURATE BECAUSE IT DOESN'T CONTAINING THE WORDS "NO, NO,  
17 NO."

18 AND HOW DO WE KNOW THAT? BECAUSE IN THEIR  
19 REBUTTAL CASE THEY BROUGHT IN TWO INTERPRETERS WHO AGREED THAT  
20 THEY HEARD THE WORDS "NO, NO" WHEN AGENT BERRELLEZ SAYS "AND  
21 YOU WERE ALREADY THERE WHEN HE THEY WERE TORTURING THE  
22 GRINGO?". IT'S HARD TO HEAR BECAUSE AGENT BERRELLEZ DOESN'T  
23 WANT TO HEAR THAT. HE WANTS TO HEAR WHAT HE WANTS TO HEAR,  
24 WHICH IS MY CLIENT IS RESPONSIBLE.

25 I JUST WANT TO SHOW YOU WHAT I'M TALKING ABOUT

1 IN TERMS OF THIS TRANSCRIPT.

2 YOUR HONOR, WOULD IT BE POSSIBLE FOR ME TO  
3 LOWER THE LIGHTS A LITTLE BIT?

4 THE COURT: YES. I'M NOT SURE THAT WILL HELP.

5 MS. KELLY: YOUR HONOR, I DID TRY IT THE OTHER DAY,  
6 AND IF THESE LIGHTS ARE LOWERED --

7 THE COURT: WOULD YOU LOWER THEM?

8 (AGENT KUEHL GOING OUT TO LOWER THE LIGHTS.)

9 MS. KELLY: AT THE RISK OF MAYBE OVERKILL, I'M GOING  
10 TO PLAY THAT TAPE FOR YOU AGAIN, ONLY I'M GOING TO PLAY THE  
11 ENHANCED VERSION THAT THE PROSECUTION INTRODUCED INTO  
12 EVIDENCE.

13 BEFORE I GET TO THAT, JUST AT THE OUTSET I WANT  
14 YOU TO SEE THE TRANSCRIPT THAT THEY OFFERED TO YOU. THIS IS  
15 THE SECTION, THE "YES, YES, BECAUSE -- AND BELIEVE ME, I  
16 UNDERSTAND YOU. I MEAN, YOU WERE ALREADY THERE WHEN THE HEAT  
17 WAS TURNED ON THE GRINGO."

18 AND THAT IS WHERE YOU CAN HEAR MY CLIENT, JUAN,  
19 SAY "NO, NO", BY EVERYBODY'S STANDARDS, BY THE PROSECUTION'S  
20 EVIDENCE, BY THE DEFENSE EVIDENCE. THAT IS THE TRUTH.

21 AND THAT TRUTH IS NOT THERE AND IT WASN'T THERE  
22 IN THE OPENING ARGUMENT EITHER. AND THAT IS WHAT I MEAN WHEN  
23 I SAY THEY WANT YOU TO BELIEVE WHAT THEY WANT TO BELIEVE. AND  
24 DOES THAT MEAN THEY'RE ALL LIARS AND ALL EVIL? NO. IT MEANS  
25 THAT THEY HAVE AN AGENDA, AS MY CO-COUNSEL SAID.

1                   LOOK AT THE TRANSCRIPT THAT THE DEFENSE -- YOU  
2                   HEARD THE TESTIMONY OF MR. JOSE OROSCO, FEDERALLY CERTIFIED  
3                   COURT INTERPRETER. LIVED IN MEXICO FOR A NUMBER OF YEARS.  
4                   HIS TRANSLATION HAS THE "NO, NO, NO". AND IT ALSO HAS "I  
5                   DIDN'T SAY THAT."

6                   LATER ON I'LL SHOW YOU THE TRANSCRIPTS OF THE  
7                   PROSECUTION'S EVIDENCE -- I'M SORRY, THE REBUTTAL EVIDENCE.  
8                   MAYBE I'LL SHOW IT TO YOU NOW. IT WOULD PROBABLY BE BETTER.

9                   HERE WE HAVE MS. SOCORO, WHO TESTIFIED THAT  
10                  THIS WAS THE ONLY TAPED TRANSLATION SHE HAD DONE THIS YEAR, A  
11                  FEDERALLY CERTIFIED COURT INTERPRETER.

12                  THIS IS THE SPANISH TRANSLATION THAT MS. SOCORO  
13                  DID, AND YOU SEE V-2, RIGHT AFTER THE "SI, SI, POR QUE", THERE  
14                  IS A "NO, NO, Y YA." AND WHAT DOES THAT MEAN? THAT MEANS  
15                  "NO, NO." AND WHEN DOES HE SAY IT? RIGHT AFTER "YES, YES,  
16                  BECAUSE -- AND LOOK, I UNDERSTAND YOU. I MEAN, YOU WERE THERE  
17                  ALREADY WHEN THEY WERE TORTURING THE GRINGO."

18                  HE SAYS "NO, NO." THAT IS THEIR REBUTTAL  
19                  EVIDENCE. BUT THEY DON'T WANT YOU TO HEAR THAT. THEY DON'T  
20                  WANT TO YOU HEAR THE FACT THAT MY CLIENT SAID NO.

21                  NOW, THERE IS A DISPUTE ABOUT WHETHER HE SAID  
22                  AFTERWORDS, "I DIDN'T SAY THAT. I DIDN'T SAY THAT." MS.  
23                  SOCORO THINKS THAT HE SAID "-- UNINTELLIGIBLE -- I TOLD HIM, I  
24                  CLEARLY TOLD HIM AND -- UNINTELLIGIBLE."

25                  OUR INTERPRETER, MR. OROSCO AND MS. KATO,

1 ANOTHER FEDERALLY CERTIFIED COURT INTERPRETER, WITH MASTERS  
2 DEGREES, WORKING ON HER DOCTORATE, AND MS. GARCIA, ANOTHER  
3 FEDERALLY CERTIFIED COURT INTERPRETER WITH A MASTERS DEGREE IN  
4 LINGUISTICS AND SPANISH, TESTIFIED THAT THE WORDS "NO YO LE  
5 DIJE" WERE IN THE TAPE.

6 BUT I DON'T WANT TO GET BOGGED DOWN BY THAT.  
7 THE IMPORTANT THING IS THE DENIAL, THE "NO, NO". AND YOU  
8 DON'T NEED A COLLEGE EDUCATION AND YOU DON'T NEED A SPANISH  
9 DEGREE IN ORDER TO HEAR THOSE WORDS. AND WE'LL GET BACK TO  
10 THAT ABOUT THE COLLEGE DEGREE FOR NORMAN PEARL

11 BECAUSE THEY WANT TO MAKE YOU THINK THAT  
12 BECAUSE NORMAN PEARL DIDN'T HAVE A COLLEGE EDUCATION, AND  
13 BECAUSE NORMAN PEARL ONE TIME MADE A MISTAKE AND TESTIFIED  
14 UNDER OATH THAT HE HAD AN A.A. DEGREE IN CRIMINAL JUSTICE,  
15 WHICH HAS ABSOLUTELY NOT ONE SHREAD OF ANYTHING TO DO WITH  
16 TAPE ENHANCEMENT, THAT HE MENTIONED THAT UNDER OATH IN SOME  
17 PRIOR CASE MANY YEARS AGO, THAT HE'S A LIAR AND A PERJUROR AND  
18 SO HE'S HIDING THE TRUTH FROM YOU.

19 YOU REMEMBER THE PROSECUTION TRYING TO MAKE IT  
20 SOUND LIKE MR. PEARL PUT THOSE WORDS "NO, NO, NO" WITH HIS  
21 COMPUTER, HE PUT THOSE WORDS IN THERE. HE TRIED TO MAKE YOU  
22 THINK THAT BY INSINUATION AND INNUENDO.

23 WHEN YOU HEAR THAT TAPE, LADIES AND GENTLEMEN,  
24 THE TAPE THAT THEIR EXPERT, THE F.B.I. EXPERT WITH THE COLLEGE  
25 EDUCATION AND ALL KINDS OF DEGREES, HE STILL COMES UP WITH THE

1 SAME TRUTH. SO THE COLLEGE EDUCATION IS A RED HERRING. AND  
2 THE PERSONAL ATTACK ON MR. PEARL IS A RED HERRING.

3 IT DOESN'T MATTER IF HE THOUGHT AT ONE TIME HE  
4 WAS A PEACE OFFICER FOR MODESTO, THAT HE TOOK AN OATH AND HE  
5 HAS A BADGE FOR IT. SO WHAT? WHAT IS THE TRUTH HERE, LADIES  
6 AND GENTLEMEN? THAT IS THE TRUTH: "NO, NO" AND "ALREADY."

7 AND YOU HEARD MS. SOCORRO ADMIT THAT SOMETIMES  
8 "NO, NO Y YA" MEANS NO, NO AND THAT'S ENOUGH.

9 WHY WOULD HE BE SAYING NO, NO, THAT'S ENOUGH?  
10 NOT SURPRISING. BECAUSE THEY TAKE HIM OUT ON THE 25TH, THEY  
11 GET HIM DRUNK -- AND WE'LL GET INTO THAT -- THEY GET HIM DRUNK  
12 AND THEN THEY POUND HIM WITH QUESTIONS AFTER THEY PUMMEL A FEW  
13 BEERS, THEY POUND HIM WITH QUESTIONS.

14 I KNOW IT PROBABLY SOUNDS FUNNY TO YOU BUT I  
15 THINK IT'S OUTRAGEOUS. I REALLY DO. I'M SORRY TO EXPRESS  
16 SUCH INDIGNATION TO YOU ABOUT IT, IF YOU THINK -- I'M BEING  
17 SINCERE ABOUT IT THOUGH.

18 HERE IS THE TRANSCRIPT WITH THE COMPARISON THAT  
19 MR. PEARL PREPARED FOR YOU. NOW, I KNOW HE DOESN'T HAVE A  
20 COLLEGE EDUCATION AND HE JUST GRADUATED FROM HIGH SCHOOL, BUT  
21 HE HAD A COMPUTER AND HE GOT DOWN AND SHOWED YOU HOW HE USED  
22 THAT COMPUTER.

23 AND WHAT DID HE BASICALLY DO? HE TURNED UP THE  
24 VOLUME, HE MADE IT A LITTLE BIT CLEARER. IF YOU HAVE A  
25 GRAPHIC EQUALIZER ON YOUR MACHINES AND YOUR TAPE RECORDERS AT



1 HOME OR YOUR RADIO, HE PLAYED AROUND WITH THE TREBLE AND THE  
2 BASE.

3 WHAT DID THE F.B.I. EXPERT TELL YOU THAT WAS  
4 ANY DIFFERENT? NOTHING. BASICALLY, HE DID THE SAME THING.  
5 HE JUST GAVE YOU ONE RECORDED CHANNEL, HE MADE IT A MONO  
6 RECORDING INSTEAD OF A STEREO RECORDING SO IT WOULD BE EASIER  
7 FOR YOU TO HEAR. THE WORDS ARE STILL THERE.

8 THAT BRINGS ME TO MY POINT ABOUT REBUTTAL  
9 ARGUMENTS. ALL THE COUNSEL HAVE MENTIONED TO YOU THAT THEY  
10 WON'T HAVE A CHANCE ON REBUTTAL, AND THAT'S WHY -- I MEAN, I  
11 THINK THIS IS A PERFECT EXAMPLE OF WHY WE ASK YOU TO PLEASE  
12 CAREFULLY LOOK AT WHAT IS SAID ON REBUTTAL. THOSE WORDS ARE  
13 THE TRUTH, AND THEY'RE NOT BEING PRESENTED TO YOU.

14 DON'T LET THE WOOL BE PULLED OVER YOUR EYES  
15 ABOUT WHAT THE EVIDENCE IS. IS IT A FAIR CONCLUSION TO REACH  
16 OR IS IT A GIANT LEAP OF LOGIC THAT THEY'RE ASKING YOU TO DO  
17 FROM BEING A BODYGUARD, IN THEIR VIEW, AND FROM HIS ADMISSIONS  
18 "I WAS THERE, I WAS OUTSIDE IN THE STATION WAGON. I WAS IN  
19 THE CAMYNATAS (PHONETIC)" -- FROM THAT TO I WAS INSIDE BEATING  
20 HIM UP. THAT'S WHAT THEY WANT YOU TO TAKE THOSE WORDS AND SAY  
21 NO, HE DIDN'T MEAN THAT, HE MEANT THIS.

22 THE COURT: DO YOU NEED THESE LIGHTS DIMMED ANY  
23 MORE?

24 MS. KELLY: YOUR HONOR, I WOULD PREFER TO LEAVE THEM  
25 DIM BECAUSE I HAVE OTHER TRANSPARENCIES THAT I'M GOING TO BE

1 USING.

2 THE COURT: ALL RIGHT.

3 MS. KELLY: NOW, IT IS NOT MY BURDEN, IT'S NOT THE  
4 DEFENSE BURDEN, IT WASN'T JUAN'S BURDEN TO GET UP ON THE STAND  
5 AND TESTIFY BEFORE YOU AND SUBJECT HIMSELF TO HUMILIATION,  
6 HAVING THE PROSECUTOR SAY TO HIM "AND YOU WOULD LIE, WOULDN'T  
7 YOU, FOR MONEY?"

8 WELL, WHO'S LYING IN THIS CASE, LADIES AND  
9 GENTLEMEN? EVERYBODY IS LYING IN THIS CASE. EVERYBODY IS  
10 PLAYING A ROLE. THEY GET HIM UP HERE. THERE IS DECEPTION TO  
11 GET HIM UP HERE. WHY? OH, THE GAME PLAN. IT'S JUST A SIMPLE  
12 INVESTIGATION. WE'RE ONLY GOING TO INVESTIGATE TO FIND OUT  
13 WHAT HIS INVOLVEMENT IS.

14 I THINK MR. MEDRANO USED THE WORD "BULL" THE  
15 OTHER DAY, AND THAT'S THE APPROPRIATE TERM FOR WHAT THEIR  
16 CHARACTERIZATION OF THIS INVESTIGATION IS. THAT'S NOT WHAT  
17 THEY WERE DOING.

18 THEY ALREADY KNEW HE WAS ARRESTED WITH ERNESTO  
19 FONSECA AND HE WAS RELEASED FROM JAIL. THEY KNEW THAT HE  
20 WORKED FOR ERNESTO FONSECA. HE'S GUILTY BY ASSOCIATION. AND  
21 THAT IS WHAT THEY WANT TO PROVE TO YOU HERE, AND THEY WANT TO  
22 PRESENT ALL OF HIS DENIALS, JUST OVERLOOK THOSE DENIALS  
23 BECAUSE THEY WANT YOU TO BELIEVE THAT BECAUSE HE WAS  
24 ASSOCIATED WITH THIS MAN AND HE WAS LET GO, ACQUITTED, THAT HE  
25 IS GUILTY.

1                   NOW, THAT BRINGS ME TO A POINT ABOUT REASONABLE  
2 DOUBT. AND THE COURT WILL INSTRUCT YOU WHAT REASONABLE DOUBT  
3 IS, THAT IT IS A DOUBT THAT YOU MUST BE FIRMLY CONVINCED OF  
4 THE DEFENDANT'S GUILT.

5                   BUT THE ILLUSTRATION I LIKE TO USE IS A SCENE  
6 FROM "12 ANGRY MEN", AND THAT IS AN OLD MOVIE FROM A TIME  
7 PERIOD WHEN WOMEN WEREN'T ON THE JURY. BUT THE JURORS ARE  
8 BACK IN THE ROOM DELIBERATING AND THEY'RE TRYING TO -- THEY  
9 HAVE ELECTED A FOREMAN AND THEY'RE TRYING TO MAKE A DECISION.  
10 SO THEY TAKE A VOTE TO SEE WHERE EVERYBODY IS AT, AND THERE IS  
11 ONE PERSON WHO'S NOT VOTING FOR GUILTY. AND I FORGET WHO THE  
12 ACTOR IS, BUT HE LOOKS DOWN VERY ANGRILY AT HENRY FONDA AND  
13 GOES "WHAT MAKES YOU THINK THIS GUY IS SO INNOCENT?" AND  
14 HENRY FONDA LOOKS BACK AND SAYS "I'M NOT SURE HE'S INNOCENT,  
15 I'M JUST NOT SURE HE'S GUILTY."

16                   AND THAT IS IS THE POINT HERE, LADIES AND  
17 GENTLEMEN. DON'T LET THE ISSUES GET CONFUSED. THE BURDEN  
18 REMAINS AND STAYS WITH THE PROSECUTION IN THIS CASE. IT  
19 NEVER, EVER SHIFTS TO MR. BERNABE RAMIREZ.

20                   JUST BECAUSE HE TESTIFIED BEFORE YOU DOESN'T  
21 MEAN THAT HE HAS TO GET UP HERE AND PROVE HIS INNOCENCE. YOU  
22 HAVE HEARD A LOT OF EVIDENCE OVER THE LAST TWO MONTHS, AND I  
23 THINK THERE HAVE BEEN THREE PROSECUTION WITNESSES WHO  
24 TESTIFIED AS TO MR. BERNABE'S INVOLVEMENT.

25                   WE HAVE GOT HECTOR CERVANTES SANTOS, WHO SAYS

1 HE DROVE IN A CAR BEHIND MR. FONSECA, STAYED OUTSIDE, NEVER  
2 ENTERED THE RESIDENCE. BUT YET THE PROSECUTION WANTS TO USE  
3 THAT PIECE OF EVIDENCE AND SAY THAT SOMEHOW HE'S CONNECTED TO  
4 THE PLANNING MEETING WHERE THE KIDNAPPING WAS DISCUSSED OF  
5 AGENT CAMARENA BECAUSE HE WAS THERE, OUTSIDE.

6 THERE IS ABSOLUTELY NO EVIDENCE THIS GUY, IF IT  
7 IS TRUE -- IF IT IS TRUE WHAT MR. CERVANTES SAYS -- THERE IS  
8 NO EVIDENCE THAT HE HAD ANY KNOWLEDGE OF WHAT WAS TAKING PLACE  
9 INSIDE THAT PLACE.

10 AND HOW DO WE KNOW THAT? HOW DO WE KNOW WHAT  
11 HE SAYS IS TRUE? I WAS A PEON. WELL, YOU HEARD THE  
12 GOVERNMENT'S WITNESSES, YOU HEARD VICTOR LAWRENCE HARRISON.  
13 REMEMBER THE FORMER "S.D.S." MEMBER WHO TOOK COURSES AT  
14 BERKLEY? YOU HEARD HIM TESTIFY.

15 THERE WAS A CLEAR HIERARCHY. THERE WAS A CAST  
16 SYSTEM. THERE WERE THE HALVES AND THE HAVE NOTS. THERE WERE  
17 THE PEOPLE IN THE KNOW AND THE KNOW-NOTS. AND THE BODYGUARDS  
18 AND SERVANTS WERE THE KNOW-NOTS. THEY WEREN'T INCLUDED IN ANY  
19 OF THE DECISIONS, THEY WEREN'T ALLOWED INTO THE LIVING ROOM  
20 WHEN DECISIONS WERE BEING MADE.

21 I MEAN, WHAT'S ARE YOU GOING TO DO; ARE YOU  
22 GOING TO TRY TO GET THE COOKS UP HERE AND MAYBE SOMEHOW THE  
23 COOK HAD HEARD SOMETHING, SO NOW THE COOK IS RESPONSIBLE, THE  
24 COOK WHO COOKED FOR MR. FONSECA?

25 WHAT IS THE GAME PLAN HERE? LET'S GO BACK TO

1 THE GAME PLAN ABOUT THE INVESTIGATION. YOU HEARD AGENT  
2 BERRELLEZ SAY IT WAS TO DETERMINE THE EXTENT OF MY CLIENT'S  
3 INVOLVEMENT. AND HOW DO THEY GO ABOUT MAKING THAT  
4 DETERMINATION?

5 THEY HAVE AN INFORMANT WORKING ON HIM. THEY  
6 START WITH THE TRIP OVER HERE. MIDSTREAM, IN FLIGHT, JUAN  
7 TELLS YOU HE STARTS MENTIONING THAT "I EVER A PROBLEM WITH  
8 FONSECA BECAUSE I HAVEN'T GONE TO SEE HIM IN FIVE YEARS.  
9 THERE WAS SOME GOSSIP ABOUT ME THAT I GOT OUT. I MUST HAVE  
10 HAVE SAID SOMETHING ABOUT FONSECA. I MUST HAVE SAID SOMETHING  
11 TO GET MYSELF OUT OF PRISON."

12 WHY IS THAT IMPORTANT? BECAUSE HE SPENDS THE  
13 NEXT FOUR DAYS TRYING TO CONVINCER MR. COMPADRE, RAFA, THAT HE  
14 NEVER GAVE UP FONSECA. HE NEVER SAID ANYTHING TO INCRIMINATE  
15 HIM. HE SPENDS THE NEXT ENTIRE TIME SAYING, "I JUST SAID I  
16 WAS A SERVANT. OH, HOW I LIKE YOU RAFA. OH, HOW I LIKE  
17 FONSECA. OH, YES, I'M VERY GRATEFUL. OH, YES, YES, YES. AND  
18 WE'RE SO -- I'VE LEARNED SO MUCH FROM HIM AND I HAVE SO MUCH  
19 RESPECT FOR HIM.

20 WHO DO WE KNOW THAT'S TRUE? FIRST OF ALL, LIKE  
21 MR. MEZA POINTED OUT TO YOU, CASTEL NEVER COMES IN AND TELLS  
22 YOU ANY DIFFERENT. BUT THERE IS A REFERENCE TO IT ON THE JULY  
23 25TH TAPE, AND I'LL GET TO THAT LATER, AND I'LL SHOW YOU A  
24 TRANSPARENCY OF THAT.

25 BUT THERE IS A REFERENCE THERE WERE MR. BERNABE

1 RAMIREZ IS SAYING -- "AND I KNOW WILL SEE THEM AND YOU WILL  
2 TELL THEM, FONSECA AND RAFA, BE YOUR MEETING WITH ME. AND I  
3 KNOW THAT IF THEY DIDN'T WANT ME TO BE ALIVE, I WOULDN'T BE  
4 ALIVE. "

5 SO WHEN HE'S TALKING ABOUT FONSECA AUTHORIZING  
6 HIS RELEASE FROM PRISON, YOU KNOW THAT PORTION OF THE TAPE  
7 THAT WAS BEAMED UP ON THE WALL FOR YOU, WHAT WAS LEFT OUT AND  
8 WHAT WAS ONLY BROUGHT OUT ON CROSS-EXAMINATION OF AGENT  
9 BERRELLEZ -- I MEAN, I DRAGGED IT OUT OF HIM ON CROSS-  
10 EXAMINATION -- WAS THAT, IN FACT, HE WOULD HAVE HAD A HEART  
11 ATTACK IN PRISON IF FONSECA DIDN'T WANT HIM TO GET OUT."

12 IN OTHER WORDS, IF FONSECA HAD IT IN FOR THE  
13 GUY, HE WOULDN'T BE AROUND HERE. SO THAT'S WHAT HE MEANS WHEN  
14 HE AUTHORIZED HIM TO GET HIM OUT, AUTHORIZED HIS RELEASE.

15 MR. CASTEL DEL ORO OFFERS JUAN EMPLOYMENT,  
16 EXTRA MONEY. LET'S GO UP TO THE UNITED STATES, ALL EXPENSES  
17 PAID. BRING YOUR WIFE. HE BRINGS HIS KIDS. THEY BRING TWO  
18 VETERINARIANS ALONG WITH THEM, TOO. THIS IS A LEGITIMATE  
19 BUSINESS TRIP, RIGHT?

20 MR. CASTEL GIVES HIM \$500 IN FUN MONEY. THAT'S  
21 A LOTS OF MONEY BY MEXICAN STANDARDS, I BELIEVE. THERE HAS  
22 BEEN TESTIMONY THAT THAT IS A LOT OF MONEY.

23 MRS. CASTEL GOES ON SHOPPING SPREES AND TAKES  
24 MRS. BERNABE ALONG. THEY GO TO DISNEYLAND, TO MAGIC MOUNTAIN,  
25 AND ALL THE TIME THAT CASTEL IS ALONE WITH MR. BERNABE

1 RAMIREZ, WITH JUAN, HE'S WORKING HIM.

2 HE'S SAYING COME ON, WE HAVE GOT TO GET THIS  
3 ACCOUNT. LET'S LAND THIS ACCOUNT. YOU HEARD JUAN TELL YOU.  
4 THERE MIGHT BE REAL ESTATE OPPORTUNITIES FOR THEM WHERE CASTEL  
5 COULD COME BACK TO MEXICO, SO HOW DID THEY START WORKING HIM  
6 OVER?

7 THEY START ACTING LIKE THEY'RE BIG GUYS.  
8 REMEMBER AGENT BERRELLEZ SAID THAT HE MADE THE FACT THAT HE  
9 WAS A NARCOTICS TRAFFICKER, WHICH SHOULD HAVE BEEN KNOWN TO  
10 JUAN, BECAUSE HE WAS A COMPADRE OF RAFA'S. SO IF HE'S A  
11 COMPADRE TO RAFAS, THEN HE'S A KNOWN NARCOTICS TRAFFICKER. SO  
12 WHAT DO THEY DO?

13 MR. MEZA HAS ALREADY TOUCHED ON THE 20TH, THE  
14 JULY 20TH MEETING AND HOW THOSE WORDS WERE TWISTED BY AGENT  
15 BERRELLEZ.

16 NOW LET'S TALK ABOUT THE NEXT MEETING THAT THEY  
17 HAVE, JULY 21ST. WHAT WORDS WERE TWISTED THERE?

18 WELL, THIS IS THE FIRST TIME THAT THEY BRING UP  
19 THE CAMARENA INCIDENT, TO ASK HIM QUESTIONS ABOUT IT. THEY  
20 TRY TO FIND OUT WHAT THE EXTENT OF HIS KNOWLEDGE IS. HOW DOES  
21 AGENT BERRELLEZ START THAT OUT?

22 HE STARTS IT OUT -- REMEMBER ON  
23 CROSS-EXAMINATION AND I ASKED HIM ABOUT THIS ESPINO VERDIN.  
24 AND AGENT BERRELLEZ STARTS ASKING JUAN, OH, CAN YOU FIND OUT  
25 ANYTHING ABOUT HOW THE TRIAL IS GOING FOR VERDIN? AND JUAN

1 SAYS I DON'T KNOW THAT GUY.

2 AND SO THEY GO THROUGH WHETHER HE WORKS FOR THE  
3 STATE DEPARTMENT, WORKS FOR THE MILITARY, WHO DOES HE WORK  
4 FOR. AND THEN CASTEL SAYS HE'S THE ONE FROM THE STATE  
5 DEPARTMENT, AND HE SAYS THAT IS THE ONE. AND JUAN CHIMES IN  
6 OH, WELL THEN THAT'S THE ONE.

7 SO AGENT BERRELLEZ SAYS YES, HE KNEW ESPINO  
8 VERDIN, HE KNEW ESPINO VERDIN. HE DIDN'T KNOW ESPINO VERDIN.  
9 ON THE 24TH, ON THE FOLLOWING DAY WHEN HE'S TALKING TO AGENT  
10 BERRELLEZ ABOUT IT, HE SAYS TO HIM OH, YES, ABOUT THAT ESPINO  
11 PERSON THAT YOU WANTED ME TO GET THAT -- THAT YOU WANTED ME TO  
12 GET THAT LAWYER TO HELP YOU OUT. YOU DON'T TALK ABOUT PEOPLE  
13 LIKE THAT IF YOU KNOW WHO THEY ARE, "THAT ESPINO PERSON".

14 WHY DID THEY WANT YOU TO THINK THAT HE KNOWS  
15 ESPINO VERDIN? BECAUSE ESPINO VERDIN IS ON THE TORTURE TAPES,  
16 THOSE HORRIBLE, AWFUL TAPES THAT WERE PLAYED FOR YOU WHERE  
17 AGENT CAMARENA WAS BRUTALLY TORTURED.

18 HE'S THE COMANDANTE, THAT'S THE GOVERNMENT'S  
19 THEORY. HE'S THE COMANDANTE THAT'S GRILLING AGENT CAMARENA.  
20 SO IF JUAN KNOWS ESPINO VERDIN, HE MUST HAVE BEEN THERE, HE  
21 MUST BE GUILTY. HE'S GUILTY BY ASSOCIATION.

22 NOW, YOU'VE GOT TO REMEMBER THAT THERE HAS BEEN  
23 EVIDENCE HERE THAT ERNESTO FONSECA WAS A MAN THAT ALWAYS HAD A  
24 LOT OF PEOPLE AROUND HIM.

25 VICTOR LAWRENCE TESTIFIED THAT THERE WAS ALWAYS



1 30 PEOPLE, AT LEAST, AT THE HOUSE. MEMBERS OF THE JUDICIAL  
2 POLICE, HIS OWN EMPLOYEES, HIS PERSONAL BODYGUARD, RAZON,  
3 SAMUEL RAMIREZ RAZON.

4 AND THE PROSECUTION WOULD HAVE YOU BELIEVE THAT  
5 JUAN IS A BIG MAN BECAUSE HE'S HEAD OF SECURITY AND HE  
6 SUPERVISES THREE PEOPLE AT LA BAJADITA. I DON'T KNOW IF ANY  
7 OF YOU HAVE HAD A JOB AS A SECURITY GUARD, BUT I HAVE GOT  
8 BROTHERS WHO HAVE BEEN SECURITY GUARDS AND THEY WERE NEVER  
9 ANYTHING IMPORTANT IN THIS COUNTRY. SO IT IS HARD TO BELIEVE  
10 THAT IN MEXICO THEY'RE GOING TO BE BIG CHEESES OVER THERE.

11 IN FACT, AS MR. MEZA POINTED OUT TO YOU,  
12 BETWEEN THE TIME OF THE ARREST OF JUAN, WHERE HE WAS ARRESTED,  
13 MIND YOU, WITH 30 OF MR. FONSECA'S CLOSEST BODYGUARDS, AND  
14 SOMEHOW BECAUSE HE'S ARRESTED WITH THESE 30 PEOPLE, HE BECOMES  
15 A CONFIDANT OF FONSECA'S.

16 THERE IS NO EVIDENCE OF THAT. THE EVIDENCE IS  
17 THAT HE GOT ARRESTED WITH THESE 30 PEOPLE. THE FACT THAT HE  
18 WAS ARRESTED WITH ERNESTO FONSECA IN PUERTO VALLARTA DOES NOT  
19 PROVE THAT HE HAD ANY KNOWLEDGE ABOUT WHAT WAS GOING ON WITH  
20 AGENT CAMARENA.

21 IT DOESN'T PROVE THAT HE WAS INSIDE THAT HOUSE  
22 WHEN THE AGENT WAS BEING TORTURED. IT DOESN'T DO ANYTHING TO  
23 REFUTE HIS STATEMENT THAT HE CONSISTENTLY TOLD AGENT BERRELLEZ  
24 FROM DAY 1: YES, I WAS AT THAT HOUSE. I FOUND OUT LATER THAT  
25 AGENT CAMARENA WAS BEING TORTURED.

1                   WHAT DOES AGENT BERRELLEZ WANT TO DO WITH IT?  
2                   THAT HE WAS INSIDE. THAT HE WAS INSIDE. WE'LL COME BACK TO  
3                   THAT. BUT ON THE 21ST, HE SAYS, "DIDN'T YOU GO INSIDE THE  
4                   HOUSE?" AND ONCE AGAIN, JUAN SAYS, "NO, NO, NO."

5                   NOW DID -- I ASKED AGENT BERRELLEZ ON  
6                   CROSS-EXAMINATION DID YOU EVER ASK HIM THAT QUESTION AGAIN?  
7                   OH, I DIDN'T HAVE TO. THAT'S WHAT HE TOLD YOU, HE KEPT SAYING  
8                   "I DIDN'T HAVE TO ASK HIM AGAIN.' I DIDN'T HAVE TO ASK HIM  
9                   AGAIN BECAUSE HE ALREADY TOLD ME HE WAS THERE. HE ALREADY  
10                  TOLD ME HE WAS THERE WHEN THE AGENT WAS GETTING TORTURED.

11                  DOES "NO, NO, NO" SOUND LIKE HE WAS ALREADY  
12                  THERE? THEY DON'T WANT TO HEAR IT.

13                  NOW THE INSECURITY -- I WANT TO TOUCH ON THIS  
14                  AGAIN -- THAT THEY'RE MAKING HIM INSECURE. IS THERE  
15                  CORROBORATING EVIDENCE OF THAT, THAT THEY'RE TRYING TO MAKE  
16                  JUAN FEEL INSECURE, THAT HE HAS A PROBLEM WITH FONSECA? YOU  
17                  BET. IT IS ON THE JULY 21ST TAPE, AND THAT WAS ESTABLISHED ON  
18                  CROSS-EXAMINATION.

19                  OH, YES, HE'S GOT TROUBLE WITH FONSECA. CASTEL  
20                  STARTS SAYING TO AGENT BERRELLEZ, OH, COMPADRE, THIS YOUNG  
21                  MAN, CAN'T YOU HELP HIM? YOU KNOW, THERE IS ALL THIS GOSSIP  
22                  THAT BECAUSE HE GOT OUT IN A MONTH -- HE GOT OUT BECAUSE HE  
23                  SAID SOMETHING, AND HE HASN'T GONE TO SEE HIM IN FIVE YEARS.  
24                  AND YOU KNOW, SILENCE -- SILENCE CAN BE A PROBLEM.

25                  SO JUAN STARTS THINKING GEEZ, AFTER FIVE YEARS

1 ALL OF A SUDDEN I'VE GOT ALL THESE GUYS BREATHING DOWN MY  
2 NECK. WELL, IF YOU THOUGHT THAT WAS THE CASE, WOULDN'T YOU BE  
3 FALLING ALL OVER YOURSELF TO SAY YEAH, YEAH, I LIKE THAT RAFA.

4 OH, BOY, I LIKE HIM A WHOLE LOT MORE THAN I  
5 LIKE FONSECA, TOO. AND THEY DID EVERYTHING FOR ME AND THEY  
6 WERE GOOD TO ME AND I DON'T HAVE ANY COMPLAINTS AND I DON'T  
7 REGRET GOING TO JAIL FOR THEM. AND I'D DO IT AGAIN. I'LL BE  
8 THERE BULL. I'M NOT AFRAID TO DIE.

9 EVERYBODY IS BEING MR. MACHO MAN IN THIS CASE,  
10 NOT JUST JUAN. JUAN IS NOT THE ONLY ONE WHO USES THE "F"  
11 WORD. OH, NO. BUT THE PROSECUTION WOULD HAVE YOU THINK THAT.  
12 THAT'S THE ONLY THING THEY BEAMED ON THE WALL, WAS HIS  
13 PROFANITY, SAYING CABRONE AND THIS AND THAT AND EVERY OTHER  
14 KIND OF WORD.

15 BUT THEY DON'T SHOW YOU ANY OF THE DIRTY JOKES  
16 THAT THE AGENTS ARE TELLING OR ANY OF THE SEXIST REMARKS THAT  
17 ARE AGENTS ARE MAKING. THEY'RE MAKING THEM LOOK PRETTY CLEAN.

18 THE POINT IS THAT EVERYBODY IS ACTING HERE.  
19 THERE IS A BIG ROLE. IT IS A BUNCH OF GUYS AND THEY'RE HAVING  
20 SOME BEERS. I'M NOT A GUY, BUT YOU GUYS WHO ARE ON THE JURY,,  
21 OBVIOUSLY -- YOU'RE LAUGHING -- YOU KNOW WHAT I'M TALKING  
22 ABOUT.

23 THERE ARE A BUNCH OF GUYS, DRINKING A BUNCH OF  
24 BEERS, TALKING BIG TALK. THEY'RE TALKING ABOUT WOMEN, THEY'RE  
25 TALKING ABOUT WHAT THEY'RE GOING TO DO, THEY'RE TALKING ABOUT

1 MONEY, THIS AND THAT AND THE OTHER THING.

2 AND THEN THEY'RE TALKING ABOUT FINDING OUT OH,  
3 AGENT BERRELLEZ, MR. COMPADRE, HE'S SO WORRIED. HE WAS  
4 MENTIONED, HE HEARD HE HAD PROBLEMS. HE SAID TO RON, I HAD  
5 PROBLEMS DOWN THERE. I HEARD I WAS MENTIONED. I HEARD THE  
6 GRINGO MENTIONED -- GRINGO? JUAN SAYS. GRINGO? OH, YES, I  
7 HEARD I WAS MENTIONED DOWN THERE IN THOSE -- AND LATER ON  
8 AGENT BERRELLEZ -- WE'LL GET TO THAT ON THE 25TH -- THE HOT  
9 ONES. THEY'RE TALKING ABOUT THE INTERROGATION, THE  
10 DECLARATIONS OF ALL THESE PEOPLE WHEN THEY ARRESTED THE  
11 MEXICAN GOVERNMENT.

12 SO WHAT DOES JUAN SAY? IF YOU'RE WORRIED ABOUT  
13 IT, WE'LL HIRE A LAWYER. THEY CAN GET THE PHOTOSTATIC COPIES  
14 OF ALL THE DECLARATIONS. YOU CAN READ THEM. YOU CAN SEE IF  
15 YOUR NAME IS MENTIONED. YOU CAN SEE IF YOU'RE IMPLICATED.

16 IS THERE ANYTHING ILLEGAL ABOUT THAT? NO.

17 THE COURT: WELL TAKE OUR AFTERNOON RECESS. I WANT  
18 TO RECONVENE AT 1:15 TODAY FOR RESUMPTION OF THE ARGUMENT.  
19 1:15.

20 THE CLERK: PLEASE RISE.

21 (NOON RECESS.)

22 ---0---

23

24

25

1 LOS ANGELES + CALIFORNIA, FRIDAY, JULY 13, 1990

2 + 1:15 P.M.

3 (JURY PRESENT.)

4 THE COURT: COUNSEL, YOU MAY PROCEED WITH YOUR  
5 ARGUMENT.

6 MS. KELLY: THANK YOU, YOUR HONOR.

7 LADIES AND GENTLEMEN, I JUST WANT TO SHOW YOU  
8 ON THE TRANSPARENCY THE CORROBORATION ABOUT THE DECEPTION THAT  
9 AGENT BERRELLEZ AND CASTEL LED MY CLIENT TO BELIEVE THAT HE  
10 HAD SOME TROUBLE WITH FONSECA.

11 AND YOU CAN SEE A REFERENCE TO IT ON THE JULY  
12 25TH TRANSCRIPT THAT IS IN EVIDENCE. BOTH THE PROSECUTION  
13 VERSIONS AND THE DEFENSE VERSION OF THE TRANSCRIPT IS IN  
14 EVIDENCE, THE WHOLE, ENTIRE TRANSCRIPT. I'M JUST EMPHASIZING  
15 THIS PAGE.

16 THE PAGES OVER HERE REFER TO THE PROSECUTION'S  
17 PAGE NUMBERS ON THEIR EXHIBIT 165. OUR EXHIBIT NO. IS V V V.  
18 HERE, JUAN IS SAYING "I KNOW THAT IF DON ERNESTO DIDN'T LIKE  
19 ME, I WON'T BE HERE. WE ARE TALKING ABOUT FIVE YEARS AGO."

20 AND THERE IS A MALE VOICE "YES."

21 AND HE SAYS, "I WOULDN'T BE HERE ANYMORE, BUT I  
22 KNOW THAT THROUGH YOU HE WILL HEAR ABOUT ME."

23 "YES, THAT'S RIGHT."

24 "AND I WILL SAY AGAIN THAT I THINK HIGHLY OF  
25 THE MAN."

1           THERE ARE REFERENCES TO THAT ON THE JULY 21ST  
2           AND 24TH TAPES, BUT THOSE WERE NOT BROUGHT OUT FOR YOU IN THE  
3           SELECTED PORTIONS OF THE VIDEO THAT THE PROSECUTION SHOWED TO  
4           YOU.

5           AND WHY IS THAT? BECAUSE THEY WANTED THOSE  
6           STATEMENTS TAKEN OUT OF CONTEXT SO THAT YOU WOULD THINK THAT  
7           MY CLIENT NOW REALLY, REALLY LIKES RAFA. AND YOU HEARD THAT  
8           IN THE PROSECUTION'S OPENING ARGUMENT.

9           I MENTIONED TO YOU BEFORE WHAT ELSE DO YOU  
10          THINK THIS MAN IS GOING TO SAY WHEN HE'S CONFRONTED WITH THE  
11          FACT THAT FONSECA, THIS REALLY BAD GUY, THINKS THAT HE GOT OUT  
12          OF JAIL OR HE IS SUSPICIOUS THAT HE GOT OUT OF JAIL BECAUSE HE  
13          SAID SOMETHING THAT IMPLICATED FONSECA.

14          HE'S GOING TO SAY TO HIM I DIDN'T SAY ANYTHING.  
15          I TOLD THEM I WAS JUST A SERVANT, I DIDN'T KNOW A THING.

16          WHY DID THEY WANT TO USE THAT PIECE OF  
17          AMMUNITION? THEY WANT TO USE THAT SO THEY CAN ARGUE TO YOU  
18          THAT JUAN JOSE WAS LYING WHEN TOOK THE WITNESS STAND. NOW  
19          THEY WANT HIM ALSO TO BE A TRUTH TELLER, SO THERE IS A LITTLE  
20          BIT OF A CONFLICT THERE.

21          HE'S A TRUTH TELLER WHEN HE'S CORROBORATING THE  
22          PROSECUTION'S EVIDENCE AND HE'S A LIAR IF HE SAYS SOMETHING ON  
23          HIS OWN BEHALF. THEY WANT YOU TO THINK THAT HE'S A REAL  
24          EXPERIENCED WITNESS. AND HE SAYS THAT. I GOT OUT OF JAIL  
25          BECAUSE I KNOW HOW TO TESTIFY, I KNOW HOW TO DO A DECLARATION.

1 I DIDN'T SAY ANYTHING ABOUT FONSECA. I REALLY LIKED THESE  
2 GUYS AND I'M GRATEFUL THEM. I HAVE NO REGRETS ABOUT BEING  
3 ARRESTED.

4 I SUBMIT TO YOU THAT IF ANYBODY HAS GOT  
5 EXPERIENCE TO TESTIFY, IT'S AGENT BERRELLEZ, AND HE EVEN  
6 ADMITTED THAT DURING MR. MEDVENE'S CROSS-EXAMINATION, THAT HE  
7 WAS AN EXPERIENCED WITNESS, THAT HE HAD TESTIFIED. DOES THAT  
8 MEAN THAT HE'S LYING TO YOU? NO, JUST BECAUSE HE HAS  
9 EXPERIENCE TESTIFYING.

10 WHAT IS THE GAME PLAN HERE, TO USE THE  
11 PROSECUTION'S WORDS? THE GAME PLAN HERE IS TO GET ENOUGH  
12 EVIDENCE TO ARREST JUAN. AND REMEMBER, THAT DIDN'T HAPPEN  
13 UNTIL THE 25TH.

14 AGENT BERRELLEZ TOLD YOU HE DIDN'T HAVE ENOUGH  
15 TO ARREST JUAN UNTIL THE 25TH OF JULY, THE LAST DAY, BECAUSE  
16 THEY WANTED TO PRESSURE HIM IN TO COOPERATING. BUT HE DIDN'T  
17 KNOW ANYTHING, HE COULDN'T GIVE THEM ANYTHING BUT WHAT HE HAD  
18 ALREADY TOLD THEM, SO HE WINDS UP WITH MORE COUNTS AGAINST HIM  
19 IN THIS INDICTMENT THAN THE PLANNERS. INCREDIBLE.

20 THEY DIDN'T WANT TO LISTEN TO HIS WORDS. AND  
21 HOW DO WE KNOW THAT? WHOSE WORDS DO THEY WANT TO LISTEN TO?  
22 THEY WANT TO LISTEN TO THEIR OWN WORDS, THEY WANT TO BELIEVE  
23 WHAT THEY WANT TO BELIEVE.

24 ON THE 21ST OF JULY, REMEMBER, I HAD TO PULL  
25 THIS OUT ON CROSS-EXAMINATION OF AGENT BERRELLEZ, IT WASN'T ON

1 THE VIDEO SCREEN. HE TOLD THEM ABOUT GOING TO THE HOUSE,  
2 SEEING A CONFRONTATION WITH FONSECA, BUT WHAT DOES HE SAY  
3 ABOUT IT?

4 HE SAYS WELL, THAT'S WHAT I HEARD. HOW DO WE  
5 KNOW HE HEARD IT; BECAUSE IT'S PRINTED IN THE NEWSPAPER. YOU  
6 CAN TAKE A LOOK AT IT. THESE HAVE BEEN TRANSLATED FOR YOU.  
7 THIS STUFF WAS ALL OVER THE NEWSPAPERS, THAT FONSECA HAD A  
8 CONFRONTATION.

9 DO YOU THINK THAT FONSECA IS SOMEONE WHO'S  
10 TAKING THIS LOW-LEVEL EMPLOYEE INTO HIS CONFIDENCE WHEN  
11 THEY'RE ON THE RUN AND WHEN HE HAS 30 OTHER BODYGUARDS WITH  
12 HIM? THERE IS NO TESTIMONY, THERE IS NO EVIDENCE THAT OUR  
13 CLIENT WAS ANYTHING MORE THAN A CHIEF OF SECURITY, SOMEONE WHO  
14 SUPERVISED SECURITY AT THE HOUSE AND SOMETIMES ACTED AS A  
15 BODYGUARD.

16 WHOSE WORDS ARE THEY LISTENING TO? THEY'RE NOT  
17 LISTENING TO JUAN JOSE'S WORDS ON THE 21ST WHEN HE SAYS I  
18 DIDN'T GO INSIDE THAT HOUSE, I STAYED OUTSIDE IN STATION  
19 WAGON.

20 WHEN AGENT BERRELLEZ SAYS DID YOU EVER GO  
21 INSIDE? NO, WE DIDN'T KNOW ANYTHING. WE WERE PEONS. BUT  
22 THEY DON'T WANT TO LISTEN TO THAT SO THEY TRY SOMETHING ELSE.

23 DOES HE KNOW ESPINO? THAT GETS THEM NOWHERE.

24 DID HE EVER HEAR THAT THEY HAD SENT A DOCTOR?  
25 THAT GETS THEM NOWHERE. NO, I NEVER HEARD ABOUT THAT.



1 DID HE EVER HEAR THAT THERE WERE INTERROGATION  
2 TAPES? NEVER HEARD ABOUT THAT. HE NEVER EVEN HEARD ABOUT  
3 LIZARRAGA, THE BIG DOPER ROLE THAT AGENT BERRELLEZ WAS  
4 PLAYING. HE NEVER EVEN HEARD OF HIM.

5 ON THE 24TH -- THAT'S NOT ON THE VIDEO SCREEN  
6 EITHER THAT IS PLAYED FOR YOU ON THE 24TH. HE IS ASKED TWICE,  
7 DIDN'T YOU EVER HEAR ABOUT LIZARRAGA? DIDN'T THAT GUY EVER  
8 SAY ANYTHING ABOUT ME? DIDN'T YOU EVER HEAR ABOUT IT? NO, HE  
9 SAYS.

10 BUT THERE IS A LITTLE ASSERTION OF FACT IN  
11 THERE, ISN'T THERE? DIDN'T THAT GRINGO EVER SAY ANYTHING  
12 ABOUT ME? WE'LL SEE THIS LATER. WE'LL SEE THIS ON THE  
13 25TH, HOW THERE IS AN ASSERTION OF FACTS AND THEN A QUESTION,  
14 AN ASSERTION OF FACTS AND THEN A QUESTION. AND THAT'S HOW  
15 THEY GET THE WORDS OUT THAT THEY WANT TO HEAR.

16 LET'S TALK ABOUT THE FIRST DATE. I JUST WANT  
17 TO GO BACK TO THAT FIRST DATE, THE 20TH, WHEN THE PROSECUTOR  
18 ARGUED IN HIS OPENING STATEMENT TO YOU, IN HIS OPENING  
19 ARGUMENT TO YOU THAT JUAN JOSE SAID HE WAS AT 881 LOPE DE VEGA  
20 WHEN THE EVENTS OCCURRED. THAT'S NOT WHAT HE SAID.

21 IN RESPONSE TO WHAT AGENT BERRELLEZ SAID, HE  
22 SAID "OH, WHERE THE EVENT SUPPOSEDLY OCCURRED." THAT'S A BIG  
23 DIFFERENCE, BUT THAT IS THE KIND OF DIFFERENCE THAT YOU'RE  
24 GOING TO CONVICT SOMEBODY ON? THE TWISTING OF THE WORDS.  
25 THEY WANT YOU TO BELIEVE HE SAID THAT.

1                   SO WHAT HAPPENS ON THE 21ST? I'VE ALREADY  
2 EMPHASIZED TO YOU SOME OF THE THINGS THAT WERE TALKED ABOUT,  
3 THAT HE DIDN'T KNOW WHAT WAS GOING ON. AND HE IS TALK TO  
4 THEM, THEY'RE HAVING BEERS, THEY'RE TALKING, HE'S TALKING TO  
5 THE COMPADRE ABOUT THIS. HE'S NOT GOING TO MAKE HIMSELF OUT  
6 TO BE SOME BIG CHEESE IF HE KNOWS THIS STUFF IS GOING TO GET  
7 BACK TO THEM. HE KNOWS THEY KNOW HE DOESN'T KNOW ANYTHING.  
8 WHAT IS HE GOING TO TELL THEM? HE KNOWS EVERYTHING.

9                   THEN THERE IS THE ISSUE OF THE BODIES. WHO DUG  
10 UP THE BODIES? THEY'RE TRYING TO FIND OUT IF HE KNOWS WHO DUG  
11 UP THOSE BODIES AT PRIMAVERA PARK. JUAN STILL DOESN'T KNOW.

12                   AGENT BERRELLEZ SAYS "YEAH, IT WAS REALLY A  
13 STUPID THING, WASN'T IT? REALLY STUPID." MORE PROFANITY --  
14 "ONE OF THE STUPIDEST THINGS THAT EVER HAPPENED." AND YES,  
15 THEY GO ON AND ON.

16                   BUT BOY, DO THEY WANT TO ZING HIM ON THE 25TH  
17 WHEN HE SAYS "YEAH, THE PERSON WHO SHOULDN'T BE HERE ANYMORE  
18 IS THE PERSON WHO DUG UP THOSE BODIES."

19                   WHO PUT THAT IDEA IN HIS MIND? AGENT  
20 BERRELLEZ. CASTEL. HE'S AGREEING WITH THEM. YEAH, PRETTY  
21 STUPID. HE DOESN'T KNOW WHO IT WAS.

22                   NOW, ON THE 24TH IS THE FIRST DAY WHERE WE SEE  
23 THE TECHNIQUE OF USING A STATEMENT OF FACT FOLLOWED BY A  
24 QUESTION. AND THIS IS IN THE AREA OF THE LIZARRAGA, AND  
25 THAT ALSO WASN'T ON THE VIDEO FOR YOU BUT IT CAME OUT IN THE

1 CROSS-EXAMINATION OF AGENT BERRELLEZ.

2 HE WAS ASKED IF HE KNEW ABOUT MANUEL LIZARRAGA  
3 AND AGENT BERRELLEZ SAID TO HIM, "YOU MEAN YOU DON'T EVEN KNOW  
4 HIM? YOU NEVER HEARD OF LIZARRAGA?" THEY ASKED HIM TWICE AND  
5 THEY'RE REALLY STRIKING OUT ON THAT. AND HE MAKES A STATEMENT  
6 OF FACT.

7 HE SAYS, "WELL, BECAUSE I'M A GRINGO, THEY SAID  
8 THAT I WAS MENTIONED THERE. I MEAN THE GRINGO. BUT YOU NEVER  
9 HEARD OF HIM? YOU NEVER HEARD OF LIZARRAGA?" "NO", MY CLIENT  
10 SAYS, "I NEVER HEARD OF LIZARRAGA."

11 WHAT ELSE HAPPENS ON THE 24TH. OH, HE TELLS  
12 THEM AGAIN HOW MUCH HE LIKES RAFA, HOW MUCH HE LIKES ERNESTO  
13 FONSECA. HE GAVE ME A CHRISTMAS BONUS. I'M GOT TO BUY SOME  
14 PROPERTY THAT I'M STILL PAYING ON FOR. I'M REALLY GRATEFUL TO  
15 HIM. REALLY GRATEFUL TO HIM.

16 NOW, BEFORE THIS NIGHT, THEY'RE NOT GETTING  
17 ANYWHERE WITH HIM. JUAN JOSE TOLD HIM THAT HE HAD A  
18 CONVERSATION WITH CASTEL WHERE CASTEL SAID TO HIM COME ON,  
19 YOU'VE GOT TO MAKE THIS GUY TRUST YOU. YOU HAVE GOT TO MAKE  
20 THIS GUY BELIEVE THAT YOU CAN GET HIM THESE PHOTOCOPIES, THAT  
21 YOU CAN GET SOME INFORMATION FOR HIM ABOUT WHETHER HE'S  
22 IMPLICATED OR NOT.

23 SO HE DECIDES TO TELL HIM THAT HE KNOWS ABOUT  
24 RAFA. THE PROSECUTION SAYS THAT THAT STORY ABOUT RAFA SHOWS  
25 THAT HE'S LYING. WELL, I SUBMIT TO YOU, LADIES AND GENTLEMEN,

1 THAT WHEN YOU LOOK -- IF YOU LOOK AT THE VIDEOTAPE AND SEE THE  
2 KIND OF DETAIL THAT HE GIVES WHEN HE'S ARRESTED AT PUERTO  
3 VALLARTA, THAT IS WHERE HE WAS.

4 HE'S WITH FONSECA AFTER THE ARREST. HE'S NOT  
5 WITH RAFA. DO YOU THINK THESE PEOPLE WHO USE THESE BODYGUARDS  
6 ARE FUNGIBLE? THAT'S NOT WHAT HARRISON TOLD YOU.

7 SO THAT'S THE EVIDENCE AS OF THE 24TH. THEY  
8 DON'T HAVE ANYTHING. THE ONLY THING THEY KNOW IS THAT HE'S  
9 OUTSIDE. BUT THEY HAVE GOT A STATEMENT THAT RAFA GAVE HIM  
10 SOME BOOTS WHEN HE WAS WITH THE FEDERAL AGENTS. HE WAS NEVER  
11 WITH THE FEDERAL AGENTS.

12 THEY'VE GOT A STATEMENT THAT HE REALLY LIKES  
13 RAFA. THEY HAVE GOT A STATEMENT ABOUT BEING AT THE AIRPORT.  
14 THEY'RE GETTING A LITTLE HAPPIER, MAYBE A LITTLE WARMER. HAVE  
15 ANOTHER BEER.

16 HE STARTS -- BERRELLEZ STARTS AGAIN: "OH, I  
17 UNDERSTAND THE GRINGO MENTIONED ME." THIS IS ON THE 24TH. "I  
18 MENTIONED THIS ALREADY TO YOU." AND MY CLIENT SAYS TO HIM,  
19 "GRINGO? HUH?"

20 HE OBVIOUSLY HAS NO IDEA. BUT HE SAYS TO HIM,  
21 "I'M SCARED IT WILL COME UP AND I WOULDN'T BE ABLE TO GET BACK  
22 TO MEXICO BECAUSE OF THE HEAT SINCE YOU -- SINCE YOU WERE  
23 INVOLVED IN THAT MATTER, IF AT ANY TIME YOU SAW OR MAYBE YOU  
24 COULD TELL ME YOU SAW THAT THE GRINGO MADE A STATEMENT OR  
25 SOMETHING -- MANUEL LIZARRAGA OR SOMETHING LIKE THAT. I MEAN,

1 DON'T YOU RECALL HAVING HEARD MY NAME?"

2 AND JUAN JOSE SAYS, "PERSONALLY -- PERSONALLY,  
3 I DON'T REMEMBER HIM SAYING." THEY WOULD MAKE YOU BELIEVE  
4 THAT THIS GAVE THEM SOME CLUE THAT HE WAS REALLY THERE. HE  
5 WAS REALLY PRESENT. HE'S OBVIOUSLY ANSWERING THE QUESTION  
6 THAT HE NEVER HEARD OF LIZARRAGA.

7 AGENT BERRELLEZ TRIES AGAIN: "YOU'RE SURE.  
8 YOU'RE SURE YOU NEVER HEARD OF HIM? MAZATLAN?" "NO, SIR.  
9 NOT PERSONALLY, SIR. NO, SIR. SIR, BUT I COULD GET THE  
10 PHOTOCOPIES FOR YOU, SIR. I KNOW A LAWYER AND I CAN GET THE  
11 NUMBER FOR YOU. I'LL BE HAPPY TO DO THAT."

12 HE PERSISTS: "WELL, THEY TOLD ME, WHEN THE DUDE --  
13 WHEN THEY WERE WARMING HIM UP, THE GRINGO, THAT THERE WERE A  
14 LOT OF THINGS THAT WERE SAID AND THAT HE MENTIONED SOME PEOPLE  
15 IN THE STING AND MY NAME CAME OUT. AND THAT'S WHY I GOT  
16 SCARED. AND THAT'S WHY I'M TELLING YOU. I MEAN, DID HE KNOW  
17 WHERE A LIZARRAGA, AN ADOLFO LIZARRAGA, IN MAZATLAN, MAY HAVE  
18 BEEN?"

19 YOU SEE, AGAIN HE REFERS TO THE FACTORS, FOLLOWED BY  
20 A QUESTION.

21 "NO, SIR," HE SAYS IN RESPONSE. WHAT'S HE ANSWERING?  
22 HE HASN'T HEARD OF ANY LIZARRAGA.

23 LATER IN THE CONVERSATION, CASTEL BRINGS IT UP AGAIN.  
24 HE SAYS TO JUAN JOSE THAT DURING THOSE DEPOSITIONS THAT WERE  
25 TAKEN OF EVERYBODY WHO WAS ARRESTED IN PUERTO VALLARTA, DIDN'T

1           THEY MENTION ANYTHING ABOUT A LIZARRAGA?

2                   JUAN JOSE SAYS NO. BUT HE'S GETTING THE MESSAGE:  
3           THIS IS PRETTY IMPORTANT. HE DOESN'T KNOW ANY LIZARRAGA,  
4           BUT -- BUT HE DOESN'T KNOW NAMES, HE TELLS THEM.

5                   "OH, NO. I DON'T TAKE DOWN NAMES. SO I MIGHT NOT  
6           KNOW ABOUT IT, BUT I CAN GET YOU THOSE STATEMENTS." HE  
7           DOESN'T WANT TO LOSE HIS JOB.

8                   BUT AGENT BERRELLEZ IS STILL PLAYING A LITTLE HARD TO  
9           GET. HE HASN'T QUITE COMMITTED. SO THEY DECIDE THEY'LL MEET  
10          AGAIN THE FOLLOWING NIGHT.

11                   AND THEY GIVE MR. CASTEL AN OPPORTUNITY TO MEET WITH  
12          JUAN JOSE. THEY HAVE A VERY QUIET, LONG WALK AND TALK. AND  
13          HOW DO WE KNOW THAT'S TRUE? IS THAT CORROBORATED?

14                   JUAN JOSE TELLS YOU THAT. CASTEL NEVER DENIES IT.  
15          BUT IT'S ON THE TAPES. IT'S ON THE JULY 25TH TRANSCRIPT: "WE  
16          WALKED ALL THIS WAY," HE SAYS. "AND WE WALKED SO WE COULD  
17          HAVE IT PRIVATE, SO THAT WE WOULD NOT HAVE A TAIL DURING THAT  
18          CONVERSATION."

19                   AND JUAN JOSE TELLS YOU WHAT'S BEING DISCUSSED WITHIN  
20          THAT CONVERSATION. HE SAYS, "I DON'T KNOW ANYTHING ABOUT THAT  
21          MATTER."

22                   BUT CASTEL REASSURES HIM: "JUST TELL GUY THAT YOU  
23          DON'T KNOW ANYTHING ABOUT WHAT WAS SAID AND THERE'S NO PROBLEM  
24          FOR HIM, BUT YOU'LL GET THE DECLARATION. JUST GIVE HIM SOME  
25          REASSURANCE. HE THINKS YOU KNOW SOMETHING. GIVE HIM

1 REASSURANCE. REASSURE HIM. TELL HIM YOU'LL GET THOSE  
2 DECLARATIONS. WE'LL MAKE A LOT OF MONEY OFF OF THIS.

3 "TELL HIM YOU DIDN'T HEAR ANYTHING, YOU'RE NOT AWARE  
4 OF ANYTHING, HE DIDN'T MENTION THE NAME."

5 CASTEL NEVER COMES IN HERE AND TELLS YOU THAT HE  
6 DIDN'T SAY THAT.

7 NOW, WHAT HAPPENS ON JULY 26TH? THE AGENTS WOULD  
8 HAVE YOU BELIEVE THAT, GEE, THEY JUST -- JUST GOT SO BUSY THEY  
9 COULDN'T VIDEOTAPE IT. OH, AGENT SCHMIDT JUST WASN'T AROUND.

10 NOW, THIS IS OPERATION LEYENDA. THEY ARE  
11 INVESTIGATING THE DEATH OF THEIR BROTHER AGENT. THEY HAVE  
12 RESOURCES AT THEIR BECK AND CALL LIKE YOU WOULDN'T BELIEVE.

13 WE'VE SEEN THEM IN THIS TRIAL. WE SAW A WITNESS FLY  
14 DOWN FROM NORTHERN CALIFORNIA TO PERSONALLY HAND-DELIVER A  
15 MICROCASSETTE TAPE TO AN F.B.I. EXPERT IN WASHINGTON, D.C.

16 NOW, IF THEY'VE GOT THOSE KINDS OF RESOURCES, YOU  
17 CAN'T TELL ME THAT THEY DON'T HAVE SOMEBODY IN THE L.A. FIELD  
18 OFFICE WHO CAN OPERATE A VIDEOCAMERA FOR THEM THERE AT HOWARD  
19 JOHNSON'S WHERE ALL THE OTHER UNDERCOVER MEETINGS ARE GOING  
20 ON.

21 WHY IS IT IMPORTANT? BECAUSE THEY DON'T HAVE THE  
22 EVIDENCE THEY NEED TO ARREST HIM. SO WHAT DO THEY DO? THEY  
23 TAKE HIM OUT TO A BAR. AND WHY DO THEY DO THAT? THEY KNOW IT  
24 WON'T LOOK TOO GOOD ON A VIDEOCAMERA RECORDING TO SEE THESE  
25 MEN DRINKING 10 BEERS. BUT THEY DON'T WANT YOU TO KNOW THAT.

1       THEY WANTED TO OPERATE THAT.  THEY REMEMBERED THAT, OH, IT WAS  
2       JUST A LITTLE BIT OF TIME; IT WAS VERY HUMOROUS.

3                 AGENT BERRELLEZ WAS PRETTY HONEST WHEN HE SAID,  
4       "WELL, I REMEMBER I HAD ABOUT FIVE BEERS IN A HALF AN HOUR."

5                 THEY WANT TO TELL YOU THAT JUAN JOSE IS LYING.  HE'S  
6       LYING IF HE SAYS HE'S DRUNK.  HIS WIFE IS LYING.

7                 AND NOW I SUPPOSE WHEN THEY GET UP IN REBUTTAL  
8       THEY'RE GOING TO TELL YOU MRS. TERRY ALVAREZ WAS LYING, TOO.  
9       SHE'S NOT A TRUTH TELLER, EITHER.

10                NOW, SHE DOESN'T KNOW THIS MAN FROM ANYONE.  SHE IS A  
11       WAITRESS AT THE EL TORITO BAR, AND SHE CAME IN AS AN  
12       INDEPENDENT WITNESS TO SAY WHAT SHE REMEMBERED.

13                AND WHAT DID SHE REMEMBER?  SHE REMEMBERED AGENT  
14       SALAZAR:  BIG MUSTACHE.  RIGHT?

15                REMEMBER THE STIPULATION.  SHE IDENTIFIED HIM AS  
16       BEING THERE ON THAT NIGHT.  OH, HOW COULD SHE REMEMBER A YEAR  
17       LATER?  HOW COULD SHE REMEMBER THAT?  HOW COULD THAT BE?

18                WELL, HE REMINDED HER OF A FRIEND, HE WAS UNUSUAL  
19       LOOKING, AND HE SPOKE TO HER IN ENGLISH WHEN THE WHOLE GROUP  
20       WAS SPEAKING SPANISH AND HE WAS LIKewise SPEAKING IN SPANISH.  
21       AND THAT, SHE TOLD YOU, IS HOW WAITRESSES REMEMBER PEOPLE:  BY  
22       DRINK, BY WHERE THEY SIT, BY WHAT THEY ORDER AND HOW THEY  
23       APPEAR, IF THEY REMIND THEM OF SOMEONE.

24                AND SHE EVEN MARKED FOR YOU ON THE PHOTOGRAPH WHERE  
25       THEY WERE SITTING.  THAT'S HOW VIVID HER MEMORY OF THAT WAS.



1 AND WHAT JOGGED HER MEMORY OF IT WAS THE JOURNAL TAPE.

2 AND YOU HEARD TIMOTHY MULLENS COME IN, AND HE SHOWED  
3 YOU THE JOURNAL TAPE. HE CREATED THE JOURNAL TAPE, AND HE  
4 MARKED IN PINK ALL THE TRANSACTIONS SHE HAD FOR JULY 25TH.  
5 AND HE SAID, "YOU READ THE TAPE GOING FROM THE PINK LINE  
6 UPWARD. "

7 SO IF YOU WANT TO CHECK IT OUT, TAKE THAT JOURNAL  
8 TAPE OUT AND LOOK AT THE PINK LINES.

9 BUT THERE'S ANOTHER WAY YOU CAN LOOK AT IT. THERE'S  
10 A SUMMARY. THERE'S A SUMMARY THAT WAS PREPARED THAT TERRY  
11 SAYS -- MRS. ALVAREZ SAYS THAT SHE REVIEWED ALL THE  
12 TRANSACTIONS AND IT ACCURATELY REFLECTED ALL THE TRANSACTIONS  
13 SHE HAD THAT NIGHT; BECAUSE, REMEMBER, THE JOURNAL TAPE IS FOR  
14 ALL THE TRANSACTIONS THROUGHOUT THE WHOLE BAR ON JULY 25TH.  
15 AND SHE CIRCLED NO. 33, SO IT'S JUST -- IT'S JUST HERS. IT'S  
16 JUST HER TRANSACTIONS THAT WE'RE CONCERNED WITH.

17 SO LET'S ASSUME -- LET'S ASSUME JUAN JOSE'S WIFE IS A  
18 LIAR BECAUSE SHE LOVED HER HUSBAND. SHE COMES IN HERE AND SHE  
19 LIES TO YOU: SHE DIDN'T SMELL ANY BEER ON HER HUSBAND'S  
20 BREATH. HE WASN'T SLURRING HIS WORDS. OKAY.

21 LET'S TAKE A LOOK AT WHAT THE TRUTH IS. NOW, WE'VE  
22 HEARD TESTIMONY ABOUT WHAT THESE AGENTS WERE DRINKING. AGENT  
23 BERRELLEZ TOLD YOU HE WAS DRINKING CORONA -- COROLLA --  
24 CORONA, JUST TAKING IN THOSE BEERS HIMSELF; BUT HE BELIEVED  
25 THAT AGENT SALAZAR WAS DRINKING A BUDWEISER; MY CLIENT MAY

1 HAVE BEEN DRINKING BUDWEISER OR AN IMPORT BEER.

2 HE DIDN'T REMEMBER EXACTLY IF CASTEL DRANK A SOFT  
3 DRINK. BUT I ASKED HIM IF HE WAS, IF HE DID, AND HE SAID IT  
4 WAS POSSIBLE.

5 SO WHERE'S THE FIRST SERIES OF FOUR DRINKS? RIGHT  
6 HERE: IMPORT, DOMESTIC, CORONA, SOFT DRINK. AND TERRY  
7 ALVAREZ TOLD YOU THAT'S WHAT SHE SERVED THOSE AGENTS ON THE  
8 NIGHT OF THE 25TH.

9 AND WHAT TIME IS IS THAT? 1642, WHICH IS MILITARY  
10 TIME FOR 4:42. THAT'S WHAT SHE TOLD YOU: THAT MEANT 4:42.  
11 SO IT WASN'T EARLY EVENING THAT THAT THEY CAME INTO THIS BAR;  
12 IT WAS LATE AFTERNOON.

13 THAT'S WHAT WE'RE TALKING ABOUT. BUT THEY DON'T WANT  
14 TO BELIEVE THAT. THEY WANT TO REMEMBER IT DIFFERENTLY,  
15 BECAUSE THIS MIGHT SUGGEST THAT THERE'S A REASONABLE DOUBT  
16 ABOUT WHAT THE STATEMENTS WERE MADE -- ABOUT WHAT STATEMENTS  
17 WERE MADE AND WHETHER THEY WERE MADE KNOWINGLY.

18 SO HERE, HERE WE ARE AT 4:42 AND WE'VE GOT ONE ROUND,  
19 AND THEN WE'VE GOT ANOTHER ROUND 10 MINUTES LATER, AND THERE'S  
20 A DOMESTIC BEER. SHE DIDN'T REMEMBER IF THEY'D HAD THAT  
21 DOMESTIC BEER. BUT ONCE AGAIN WE SEE ANOTHER ROUND HERE, A  
22 SOFT DRINK, DOMESTIC, IMPORT, CORONA.

23 PAGE 2 OF THE SUMMARY: IMPORT BEER, DOMESTIC DRAFT.  
24 THERE'S NO EVIDENCE THAT THERE WERE ANY DRAFTS BEING HAD BY  
25 THESE PEOPLE.

1 IMPORT BEER, DOMESTIC, IMPORT BEER, CORONA, AND A  
2 SOFT DRINK. RIGHT HERE.

3 HOW LONG WERE THEY AT THAT BAR? WELL, IT CONTINUES,  
4 PAGE 3: HERE'S ANOTHER CORONA. HERE'S A SOFT DRINK. THESE  
5 ARE GUACAMOLE DIPS, IMPORT BEER.

6 THE JURY: (LAUGHTER.)

7 MS. KELLY: THERE WAS SOME TESTIMONY THAT THEY WERE  
8 EATING IN ADDITION TO DRINKING; THEY WEREN'T JUST DRINKING.  
9 AND THEY WERE TALKING, TOO. AND I'LL GET TO THAT IN A MINUTE.

10 IMPORT AND DOMESTIC BEER, A CORONA AND A SOFT DRINK.  
11 MORE CORONAS HERE.

12 YOU CAN TAKE A LOOK AT THE SUMMARY. YOU CAN DO YOUR  
13 OWN CALCULATIONS. BUT THERE ARE OVER 10 IMPORT AND DOMESTIC  
14 BEERS BEING DRUNK HERE.

15 NOW, THIS IS A DIFFERENT SERVER. THIS IS A DIFFERENT  
16 SERVER. SO EVEN IF YOU ASSUME THAT THEY LEFT, THAT THEY  
17 STOPPED HAVING THE DRINKS ON THE DATE, AT THE TIME WHEN  
18 TERRY -- WHEN MRS. TERRY ALVAREZ WENT OFF DUTY, YOU CAN STILL  
19 SEE FROM THE SUMMARY THAT THERE IS A TOTAL OF 10 BEERS, 10  
20 DOMESTIC BEERS, AND THERE ARE ALSO -- AND THE IMPORT BEERS.  
21 AT SOME POINT, MY CLIENT TELLS YOU HE WAS ALSO DRINKING  
22 DOMESTIC BEER.

23 SO WHAT'S THE POINT OF THIS? OH, AND AGENT SALAZAR  
24 ALSO TOLD YOU THAT WHEN THEY PICKED UP THE INFORMANT AND MY  
25 CLIENT, WHERE DID THEY PICK HIM UP? A HOTEL BAR. AND WHAT

1 WAS HE DRINKING? A BEER.

2 NOW, I'M NOT TRYING TO TELL YOU THIS IS EVIDENCE THAT  
3 HE DIDN'T SAY WHAT IS ON THE TAPE. I'M JUST ASKING YOU PUT IT  
4 IN CONTEXT. WHAT'S GOING ON HERE? WHAT'S THE TRUTH?

5 AND IF THEY WANT TO SAY TO YOU, "UNGH-UH, THEY  
6 WEREN'T DRUNK. OH, NO. NO ONE WAS DRINKING," THEN TAKE A  
7 LOOK AT THE TRANSCRIPT V V V, ON THE VERY FIRST PAGE, WHEN  
8 AGENT BERRELLEZ SAYS IT'S 1998.

9 NOW, THAT COULD HAVE BEEN AN INNOCENT MISTAKE; THAT'S  
10 TRUE. BUT HERE WE GO: "SIT DOWN AND LET HIM URINATE. SIT  
11 DOWN AND LET HIM URINATE."

12 NOW, DO PEOPLE NORMALLY URINATE IN THE MIDDLE OF THE  
13 STREET IF THEY'RE NOT DRINKING?

14 COURTROOM: (LAUGHTER.)

15 MS. KELLY: COME ON.

16 COURTROOM: (LAUGHTER.)

17 MS. KELLY: WHAT ELSE DO WE SEE FROM THE TRANSCRIPT?  
18 "DID I HIT THE CURB? DID I HIT THE SIDEWALK?"

19 COURTROOM: (LAUGHTER.)

20 MS. KELLY: NOW, DO PEOPLE NORMALLY DRIVE ON THE  
21 SIDEWALK UNLESS THEY'RE UNDER THE INFLUENCE OF ALCOHOL?

22 MAYBE THERE ARE INNOCENT EXPLANATIONS FOR IT. THAT'S  
23 POSSIBLE. BUT I'M JUST SAYING TO YOU THAT IT'S DISINGENUOUS,  
24 IT'S NOT CREDIBLE, FOR THEM TO TELL YOU THAT THERE'S NO  
25 ALCOHOL HERE: TWO OR THREE BEERS.

1           AND I'M NOT SAYING THAT THIS PROVES THAT MY CLIENT  
2 DIDN'T SAY WHAT THEY'VE GOT ON THOSE TAPES. I'M JUST SAYING  
3 THAT YOU CAN SURE UNDERSTAND THE CONFUSION WHEN YOU SEE THE  
4 TECHNIQUE THAT'S USED ON THE 25TH, BECAUSE, REMEMBER, THEY  
5 DON'T HAVE ANY EVIDENCE SUFFICIENT TO ARREST MY CLIENT UNTIL  
6 THE 25TH. BUT THEY WANT IT, SO THEY DO EVERYTHING THEY CAN TO  
7 GET IT.

8           AND THIS IS HOW THE INVESTIGATION GOES. FIRST THEY  
9 START WITH THE "HE -- HE KNOWS." NOW, THIS REFERENCE TO "HE  
10 KNOWS" IS WHERE THERE'S TALKING ABOUT, "HE WAS TELLING ME HE  
11 WAS THERE WHEN THEY BEAT THE HELL OUT OF THE GRINGO."

12           JUST SO YOU KNOW WHERE WE'RE AT HERE, WE'RE AT THE  
13 MALE VOICE RIGHT HERE: HE KNOWS, I KNOW.

14           NOW, ON THE GOVERNMENT TRANSCRIPT, THEY'VE  
15 ATTRIBUTED, "HE WAS TELLING ME THAT HE WAS THERE WHEN THEY  
16 BEAT THE HELL OF THE GRINGO" -- THAT'S ATTRIBUTED TO AGENT  
17 SALAZAR.

18           YOU'LL RECALL AGENT SALAZAR TOLD YOU HE HAD A  
19 CONVERSATION WITH MY CLIENT IN THE BAR AND JUAN JOSE TOLD HIM,  
20 "OH, YEAH. I WAS THERE WHEN THEY WERE BEATING THE HELL OUT OF  
21 THE GRINGO."

22           WELL, THAT'S THE SAME THING HE TOLD THEM ON THE 21ST:  
23 "YEAH, I WAS THERE. I FOUND OUT LATER THEY WERE BEATING THE  
24 HELL OUT OF THE GRINGO. "

25           HE SAYS TO THEM, "HE KNOWS."

1           WHO'S HE REFERRING TO? BERRELLEZ. AGENT BERRELLEZ,  
2           COMPADRE, ALREADY KNOWS, BECAUSE HE'S ALREADY HAD THAT  
3           DISCUSSION WITH HIM.

4           AND WHAT WAS THAT DISCUSSION? THAT DISCUSSION WAS  
5           THAT HE WASN'T INSIDE THE HOUSE. YEAH, HE WAS THERE, AND HE  
6           FOUND OUT LATER. AND, YES, HE GOT ARRESTED WITH FONSECA  
7           BECAUSE THEY WENT ON THE RUN.

8           BUT THAT DOESN'T PROVE, LADIES AND GENTLEMEN -- THAT  
9           DOESN'T PROVE THAT HE IS TELLING THEM HE WAS INSIDE THE HOUSE  
10          AND HAD PARTICIPATED IN THAT TORTURE AND BEATING. COME ON.

11          AND THEN HE GOES, "WELL, AND THE GRINGO DIDN'T  
12          IMPLICATE ME?"

13          "NOT AT ALL, SIR. THE THING IS" -- WHAT'S HE  
14          CONCERNED ABOUT?

15          "THE THING IS, WHEN THEY ROUNDED UP 30 OF US, YOU  
16          KNOW WHAT, WE DON'T KNOW WHO SAID ANYTHING ABOUT YOU. WE JUST  
17          DON'T KNOW WHO SAID WHAT ABOUT YOU."

18          THAT'S WHAT HE'S INTERESTED IN. HE WANTS TO GET  
19          THOSE DECLARATIONS.

20          OH. SO THEY CONTINUE ON. "I TOLD YOU," HE SAYS. "I  
21          TOLD YOU SOMEONE CAN GET THEM, AN ATTORNEY CAN GET THEM. "

22          ON AND ON: THE ATTORNEY. I'LL PAY HIM SO MUCH.  
23          I'LL CALL YOU ON THE TELEPHONE. I'LL DELIVER THOSE TO YOU.

24          "OH, BUT THIS IS WHAT HAS ME WORRIED, BERNA. AS YOU  
25          WERE EXPLAINING" -- WHOSE WORDS ARE THOSE? ARE THOSE HIS

1 WORDS? NO, THEY'RE NOT HIS WORDS.

2 "AS YOU WERE EXPLAINING, YOU WERE THERE WHEN THEY  
3 BEAT THE HELL OUT OF HIM AND HE DIDN'T MENTION IT; IS THAT  
4 RIGHT?"

5 "NOT AT ALL."

6 IS THAT A CLEAR STATEMENT TO YOU: "YES, I WAS IN THE  
7 HOUSE AND I HEARD THEM WHEN THEY WERE BEATING HIM, BECAUSE MY  
8 COMPADRE TOLD ME"?

9 THIS IS NOT TRUE. IT'S NOT TRUE. WE'RE NOT AFRAID  
10 OF THOSE WORDS. THE PROSECUTION PUTS THEM UP THERE LIKE IT  
11 PROVES THEIR CASE.

12 THERE'S CONFUSION HERE. THERE'S CONFUSION ABOUT  
13 WHAT'S GOING ON. AND YOU GET THIS GUY FULL OF BEER AND THEN  
14 YOU START QUESTIONING HIM. THIS ISN'T THE WAY THE QUESTIONING  
15 WENT BEFORE, ON THE 21ST AND THE 24TH. THEY WERE ASKING HIM  
16 QUESTIONS. THEY WERE HAVING A DISCUSSION.

17 THIS IS LIKE -- AND YOU LISTEN TO THE TAPE, AND WE'LL  
18 PLAY IT IN A FEW MINUTES. IT'S A VERY PRECIOUS CONVERSATION.

19 CARRYING ON: "OH, THE ARREST WARRANT. I'M SURE  
20 YOU'LL FIND" -- GIVING HIM REASSURANCES. "I'M SURE EVERYTHING  
21 IS FINE, BUT LET THE ATTORNEY GET IT IN PROPER ORDER. LET THE  
22 ATTORNEY GET IT IN PROPER ORDER TO BE COMPLETELY CLEAR, TAKE  
23 THE DAMNED CAT BY THE EAR, AND I'LL GO TO MEXICO. I'LL SEE  
24 THAT HE RETURNS SATISFIED."

25 DO YOU THINK -- DO YOU THINK AGENT BERRELLEZ SAYS

1       THERE'S ANY INFORMATION OR STATEMENTS TO BE DISCOVERED OR DID  
2       EVERYTHING COME OUT ALL RIGHT?

3               EVERYTHING CAME OUT ALREADY. IT'S ALL RIGHT ALREADY.  
4       LET'S GET THE DECLARATION.

5               OH COMPADRE, YOU HAVE TO GO WITH US. OH, HOW LONG  
6       CAN IT BE? HOW LONG CAN IT BE? I'LL GIVE YOU MONEY. HE'S MY  
7       FRIEND. I'LL GO TO THE ATTORNEY. YOU HAVE TO BE SURE --

8               WELL, HERE WE GO AGAIN. SEE, THEY'RE STILL NOT  
9       SATISFIED THEY'VE GOT HIM, EITHER. WHY DO YOU THINK THEY'RE  
10      STILL QUESTIONING HIM? IF THEY THOUGHT THEY HAD HIM, THEY'D  
11      LEAVE HIM ALONE. THEY'RE NOT SURE THEY'VE GOT HIM.

12              "WELL, LOOK, WHAT I WANT, DO YOU KNOW FOR A FACT THAT  
13      THE GRINGO DIDN'T IMPLICATE ME?"

14              "NO, NOT AT ALL, SIR."

15              IS HE SAYING THERE, "YES, I WAS INSIDE AND I HEARD  
16      HIM AND I WAS PARTICIPATING IN THAT BEATING AND TORTURE, AND I  
17      KNOW FOR A FACT THAT HE DIDN'T IMPLICATE YOU; THERE WAS NO  
18      MENTION OF YOUR NAME"?

19              NO, HE'S NOT SAYING THAT.

20              "NO, NOT AT ALL. WHAT DOES THAT MEAN?"

21              "BUT YOU KNOW, YOU HEARD, THAT HE DIDN'T IMPLICATE  
22      ME."

23              "I DID NOT HEAR."

24              "YOU ARE SURE?"

25              "YES."



1 "YOU ARE ABSOLUTELY SURE?"

2 "YES, I 'M SURE."

3 BUT WHAT I 'M INTERESTED IN -- WHAT I 'M INTERESTED IN  
4 IS WHAT IS WRITTEN, THE DECLARATION, BECAUSE YOU CAN'T BE SURE  
5 OF WHAT EVERYBODY ELSE SAID.

6 "OH," AGENT BERRELLEZ SAYS, COMPADRE SAYS: "THAT 'S  
7 RIGHT. THAT 'S RIGHT. WELL, THEN, THAT IS WHY; RIGHT? THAT  
8 IS WHY WE HAVE TO GET THAT. AND NOW YOU 'VE REMOVED ANY DOUBT  
9 THAT I HAD BECAUSE OF WHAT 'S BEEN MENTIONED TO ME, THAT WHEN  
10 THE GRINGO WAS BEING BEATEN UP, I 'D GET IMPLICATED, BECAUSE  
11 THAT 'S A WORRY, BECAUSE I WAS TOLD THAT.

12 "NOW, YOU WERE AWARE OF THE GUY. YOU WERE THERE AND  
13 DIDN'T HEAR THE GUY."

14 "NOT AT ALL," HE SAYS.

15 "YOU WERE THERE?"

16 "YES," HE SAYS.

17 THIS ISN'T ANYTHING DIFFERENT THAN WHAT HE TOLD HIM  
18 ON THE 21ST.

19 "YOU KNOW THAT HE DIDN'T IMPLICATE ME?"

20 "NOT AT ALL. WHAT DOES THAT MEAN?"

21 "WELL, WE HAVE TO SEE WHAT THE WHOLE BUNCH HAS TO  
22 SAY."

23 THEY'RE STILL NOT CONVINCED. THEY'RE STILL NOT  
24 CONVINCED THAT THEY HAVE WHAT THEY NEED. AND SO THEY ASK HIM  
25 ONE FINAL TIME. AND THIS TIME THEY SAY TO HIM, "YOU WERE

1       THERE, YOU WERE ALREADY THERE, WHEN THEY WERE BEATING THE  
2       GRINGO."

3               AND THIS IS WHERE YOU HEAR THE DENIAL, LADIES AND  
4       GENTLEMEN. AND I WANT TO PLAY THIS TAPE TO YOU, BECAUSE, JUST  
5       IN CASE -- AND THIS IS THE GOVERNMENT'S TAPE.

6               JUST IN CASE THERE'S ANY DOUBT IN YOUR MIND OF ANY  
7       INFERENCE OF TAMPERING WITH THE EVIDENCE BY THE DEFENSE, THAT  
8       WE'RE NOT TELLING YOU THE TRUTH, HERE'S THEIR EXHIBIT, MR.  
9       KOENIG'S, THE F.B.I. EXPERT. THIS IS THEIR TAPE. HE PREPARED  
10      IT. THIS ISN'T MR. PERLE'S TAPE. (PAUSE.)

11              IT'S NOT PLUGGED IN. I'M SORRY.

12              (TAPE PLAYED.)

13              MS. KELLY: NOW, THAT'S NOT REAL EASY TO HEAR, BUT  
14      YOU'RE ALSO -- YOU'RE WELCOME TO LISTEN TO THIS TAPE. YOU CAN  
15      HEAR THAT "NO, NO, NO." NOBODY DISPUTES IT. NO ONE. THERE'S  
16      NOT ONE SINGLE INTERPRETER, EXCEPT THE FIRST INTERPRETER WHO  
17      LISTENED TO THE TAPE, THE UNENHANCED TAPE, FOR THE  
18      PROSECUTION; BUT ALL THE PROSECUTION AND REBUTTAL WITNESSES  
19      AND OUR WITNESSES AGREE THAT JUAN JOSE IS SAYING, "NO, NO."

20              AND MRS. GARCIA SAYS THAT IT'S, "NO, NO," AND,  
21      "THAT'S ENOUGH. I DIDN'T SAY THAT. I DIDN'T SAY THAT."

22              NOW, WHETHER HE SAID, "I DIDN'T SAY THAT," OR, "I  
23      ALREADY TOLD YOU ABOUT THAT," AND, "I TOLD YOU ABOUT THAT,"  
24      AND "I DIDN'T TELL YOU I WAS INSIDE," HE'S TELLING THE GUY,  
25      "NO, NO. I WASN'T IN THERE. NO, I WASN'T ALREADY THERE WHEN

1           THEY WERE BEATING THE GUY UP."

2                   AND SO LATER ON IN THE TRANSCRIPT, LATER ON IN THE  
3           TRANSCRIPT, WHEN THEY MENTION THE FACT THAT HE'S BEATEN AND  
4           JUAN JOSE -- WHEN THEY ASK JUAN JOSE ABOUT, "WAS HE ALL -- WAS  
5           HE SWOLLEN? WAS HE BEATEN PRETTY BADLY?" AND HE SAYS, "YEAH,  
6           HE WAS BEATEN PRETTY BADLY; HE WAS SWOLLEN," THAT'S THE SAME  
7           THING HE TOLD THEM ON THE 21ST, THAT HE HAD HEARD THAT BY THE  
8           TIME THEY GOT TO THE HOUSE THE AGENT HAD ALREADY BEEN BEATEN  
9           BADLY.

10                   THAT'S THE SAME THING REPORTED IN THESE MAGAZINES.  
11           THAT WAS COMMON KNOWLEDGE ALL OVER GUADALAJARA. SO IT'S NOT  
12           LIKE IT WAS ANY SECRET THAT WAS GOING ON.

13                   YOU CAN SEE BY THOSE TRANSPARENCIES, YOU CAN SEE BY  
14           THE WAY THE STATEMENTS ARE MADE, THERE'S CONFUSION; THERE'S  
15           CONFUSION IN, "NO, NOT AT ALL. NO, NOT AT ALL."

16                   BUT WHAT'S IMPORTANT IS HE DENIED IT. HE DENIED IT.  
17           AND THEY DON'T WANT YOU TO HEAR THAT, AND THEY DON'T WANT YOU  
18           TO HEAR THE EVIDENCE THAT HE WAS DRINKING BEERS. WHY?  
19           BECAUSE IT MIGHT CREATE A REASONABLE DOUBT.

20                   NOW, I JUST WANT TO ADDRESS THE -- BRIEFLY, THE ISSUE  
21           OF THE HOT -- THE INTERROGATION WHERE AGENT BERRELLEZ TOLD YOU  
22           THAT THE REFERENCE IN THE GOVERNMENT'S TRANSCRIPT TO "HOT  
23           ONES" MEANT SOMEHOW THAT MY CLIENT WAS REFERRING TO THE AGENT  
24           BEING BEATEN. AND THAT'S THIS PARTICULAR SECTION

25                   "I'M POSITIVE THAT IN THE STATEMENTS" -- "I'M

1 POSITIVE THAT IN THE STATEMENTS, IN THE HOT ONES, YOU WEREN'T  
2 MENTIONED."

3 WELL, IF YOU LOOK AT THAT SAME PAGE REFERENCE, IN THE  
4 DEFENSE PROSECUTION (PHONETIC), YOU'LL SEE THE TRANSLATION IS:  
5 "I'M POSITIVE THAT IN THE DECLARATIONS, IN THE INTERROGATION,  
6 YOU WERE NOT MENTIONED."

7 IT DOESN'T HAVE ANYTHING TO DO WITH AGENT CAMARENA  
8 BEING BEATEN. IT HAS EVERYTHING TO DO WITH THE DECLARATIONS.

9 THAT'S THE TRUTH, LADIES AND GENTLEMEN. YOU CAN'T  
10 CHANGE WHAT'S ON THAT TAPE. AND THEY CAN TRY -- THEY CAN TRY  
11 TO MAKE YOU BELIEVE THAT SOMEHOW NORM PERLE, WITH HIS LACK OF  
12 EDUCATION, MAGICALLY PUT THOSE WORDS IN THERE. BUT IT'S A RED  
13 HERRING.

14 AND WHY IS IT A RED HERRING? WHY IS THE PERSONAL  
15 ATTACK ON NORM PERLE A RED HERRING? FIRST OF ALL, HE DID  
16 SOMETHING SIMPLE FOR US. HE TOLD YOU ALL HE DID WAS BASICALLY  
17 AMPLIFY IT. I'VE GONE OVER THAT.

18 NOT ONLY DID HE TELL YOU WHAT HE DID, HE GOT DOWN IN  
19 THE WELL AND HE SHOWED YOU WHAT HE DID, WITH HIS COMPUTER. HE  
20 DID IT RIGHT IN FRONT OF YOU. NO HOCUS POCUS, NO MAGIC  
21 PRESTO, NO NOTHING. DID HE LOOK LIKE HE DIDN'T KNOW WHAT HE  
22 WAS DOING?

23 THIRD, THEIR OWN EXPERT, THE F.B.I. MAN, WAS NEVER  
24 EVEN ASKED BY THE PROSECUTION TO LOOK AT THE DEFENSE TAPE.  
25 NOW, IF THERE WAS A PROBLEM WITH THAT TAPE, DON'T YOU THINK

1           THEY WOULD HAVE HAD THAT CHECKED OUT?

2                     IT WAS JUST INNUENDO. IT WAS JUST TO MAKE YOU THINK  
3           THE DEFENSE WAS PUTTING UP A SMOKE SCREEN.

4                     WELL, THE DEFENSE IS TELLING YOU THE TRUTH, AND THE  
5           TRUTH IS ON THEIR OWN EXPERT'S TAPE. THE WORDS "NO, NO, NO"  
6           ARE THERE. SO DON'T FALL FOR THAT RED HERRING ABOUT NORM  
7           PERLE. NORM PERLE IS NOT ON TRIAL HERE.

8                     DON'T FORGET, THOUGH, ALL THESE CERTIFIED, FEDERALLY  
9           CERTIFIED, COURT INTERPRETERS HEARD THOSE WORDS, "NO, NO, NO."  
10          THEY CAN'T CHANGE THAT.

11                    NOW, I WANT TO JUST LEAVE YOU WITH AN ANALOGY THAT  
12          MR. MEZA AND I WERE TALKING ABOUT AS WE WALKED IN, AND I'D  
13          LIKE TO GIVE HIM THE CREDIT FOR THIS, BECAUSE AS WE WALKED IN  
14          TODAY AND WE WERE GOING THROUGH THE METAL DETECTOR IN THE  
15          COURTHOUSE, HE SAID TO ME, "YOU KNOW, THESE MARSHALS, IT'S  
16          LIKE THEY'RE BODYGUARDS. THEY'RE PROTECTING THE COURTHOUSE;  
17          THEY PROTECT THE JUDGES. DO YOU THINK THOSE MARSHALS ARE  
18          RESPONSIBLE FOR THE JUDGES' DECISIONS?

19                    I SUBMIT TO YOU THEY'RE NOT. THEY'RE NO MORE  
20          RESPONSIBLE THAN MY CLIENT WAS RESPONSIBLE.

21                    THIS INVESTIGATION WAS DESIGNED TO GET INFORMATION IN  
22          THE NATURE OF EVIDENCE SUFFICIENT TO ARREST MY CLIENT. AND  
23          THE TECHNIQUES THAT WERE USED WERE TO TAKE MY CLIENT OUT AND  
24          GET HIM DRUNK AND BADGER HIM.

25                    LISTEN TO THAT 25TH TAPE AND SEE HOW FAST THAT

1 CONVERSATION IS GOING. WHOSE WORDS ARE BEING SPOKEN HERE?  
2 THOSE ARE AGENT BERRELLEZ'S WORDS. MY CLIENT'S WORDS WERE  
3 DENIAL; AN ABSOLUTE, UNEQUIVOCAL DENIAL.

4 NOW, MAYBE HE'S NO ANGEL BECAUSE HE WAS ASSOCIATED  
5 WITH ERNESTO FONSECA, BUT HE DIDN'T DO THIS CRIME AND HE  
6 SHOULD NOT BE MADE TO BE THE SACRIFICIAL LAMB FOR SOMEONE  
7 ELSE'S ATROCITIES. AND I ASK YOU TO CONSIDER ALL THE EVIDENCE  
8 AND RETURN A VERDICT OF NOT GUILTY.

9 THANK YOU VERY MUCH.

10 THE COURT: NOW, LADIES AND GENTLEMEN, AT THIS TIME  
11 THE GOVERNMENT'S COUNSEL WILL HAVE AN OPPORTUNITY FOR HIS  
12 REBUTTAL ARGUMENT.

13 MR. MEDRANO: YOUR HONOR, MAY WE HAVE JUST A COUPLE  
14 OF MINUTES TO TURN ON THE LIGHTS AND SET UP?

15 THE COURT: YES.

16 MR. MEDRANO: THANK YOU.

17 (PAUSE IN PROCEEDINGS.)

18 MR. STOLAR: YOUR HONOR MAY MYSELF AND MR. NICOLAYSEN  
19 GO SIT ON THE OTHER SIDE? (DOES SO.)

20 MR. MEDVENE: MAY WE GO TO THE OTHER SIDE, TOO?

21 THE COURT: (NODS HEAD UP AND DOWN.)

22 MR. MEDRANO: THANK YOU, YOUR HONOR.

23 THE COURT: YOU MAY PROCEED.

24 REBUTTAL ARGUMENT +

25 MR. MEDRANO: GOOD AFTERNOON, LADIES AND GENTLEMEN.

1 I'LL TRY TO BE BRIEF. THERE'S BEEN ABOUT EIGHT HOUR  
2 OF CLOSING ARGUMENT BY RESPECTIVE DEFENSE COUNSEL, AND I DON'  
3 WANT TO HOLD YOU UP ANY MORE THAN I HAVE TO. WHAT I WANT  
4 TO TRY TO DO, THOUGH, IS TRY TO CORRECT WHAT HAVE BEEN,  
5 UNFORTUNATELY, INNUMERABLE MISREPRESENTATIONS ABOUT THE  
6 EVIDENCE THAT YOU'VE HEARD.

7 ALL THAT MATTERS IS WHAT YOU RECALL. IT DOESN'T  
8 MATTER REALLY WHAT I SAY OR WHAT ANY DEFENSE LAWYER SAYS. BUT  
9 I ASK YOU TO DO JUST ONE THING: WHEN YOU PUT ALL YOUR HEADS  
10 TOGETHER WHEN YOU'RE BACK THERE DELIBERATING, I SUBMIT TO YOU  
11 THAT YOU'LL BE IN A POSITION JOINTLY, COLLECTIVELY, TO RECALL  
12 WHAT REALLY HAPPENED, AND I HOPE YOU DO THAT, BECAUSE, AGAIN  
13 UNFORTUNATELY, THERE HAVE BEEN TOO MANY MISREPRESENTATIONS BY  
14 RESPECTIVE DEFENSE COUNSEL AS TO THE TESTIMONY THAT YOU'VE  
15 HEARD.

16 I JUST WANT TO BRIEFLY TOUCH ON, FIRST, THE  
17 IDENTIFICATION OF JAVIER VASQUEZ BY MR. PLASCENCIA. THERE'S  
18 NO DOUBT THAT THAT'S THE MAN HE SAW AT LA LANGOSTA. IN LATE  
19 89, HE WAS SHOWN A PHOTOSPREAD. YOU'VE HEARD TESTIMONY THEY  
20 SHOWED HIM PHOTOS, AND HE SAID THIS IS ALL THEY SAID TO HIM:  
21 "DO YOU KNOW ANYBODY?"

22 NO ONE TOLD HIM, "LOOK AT NO. 8. CAN YOU TELL US WHO  
23 THAT IS?"

24 IT WAS NOT SUGGESTIVE IN ANY FORM OR FASHION. THEY  
25 JUST ASKED HIM, "DO YOU KNOW ANYBODY?"

1 HE SAID, "YES, I DO." HE POINTED OUT THE DEFENDANT  
2 HERE.

3 ANALOGOUSLY, IN EXHIBIT 179, FAMILY PHOTOS OF THE  
4 TIERRA LIBRE FAMILY, I ASKED HIM ON THE STAND, "DO YOU  
5 RECOGNIZE ANYONE IN THIS PHOTO?" YOU HEARD MY QUESTIONS.

6 AND HE PUT A LITTLE ARROW TO WHERE JAVIER VASQUEZ IS.

7 NOW, NO IN-COURT IDENTIFICATION, FOR TWO REASONS, I  
8 SUBMIT TO YOU. ONE IS THE CHANGED APPEARANCE OF THE DEFENDANT  
9 OVER ALMOST FIVE YEARS AGO. AND AGAIN, COMPARE THE PHOTOS TO  
10 HOW HE LOOKS NOW.

11 BUT THERE'S A SECOND REASON, AND THIS JUST DAWNED ON  
12 ME AFTER MR. NICOLAYSEN'S CLOSING ARGUMENT.

13 YOU'LL RECALL WHEN HE WAS TALKING ABOUT THE  
14 IDENTIFICATION HIS CLIENT, HE TURNED TO HIS CLIENT AND TOLD  
15 HIM TO STAND. AND THEN MR. NICOLAYSEN TOLD YOU, AND I QUOTE:

16 "HE'S PROBABLY THE ONE DEFENDANT THAT MOST OF YOU  
17 HAVE NOT BEEN ABLE TO SEE."

18 AND AS YOU'LL ALSO NOTE MR. OROSCO, THE TRANSLATOR,  
19 SITS FORWARD; THE DEFENDANT OBVIOUSLY LEANS BACK. AND I  
20 SUBMIT TO YOU -- BUT THIS IS UP TO YOU TO DECIDE -- THAT WHEN  
21 YOU'RE SEATED IN THAT CHAIR, IT IS HARD TO SEE IN THAT CORNER.  
22 AND THE BEST PROOF OF THAT IS THAT AFTER THAT WITNESS  
23 TESTIFIED, AFTER MR. PLASCENCIA TESTIFIED, THE ENSUING  
24 GOVERNMENT WITNESSES, WHEN ASKED TO IDENTIFY THE DEFENDANTS IN  
25 THIS COURTROOM, MOST OF THE TIME THEY ASKED PERMISSION OF



1 JUDGE RAFEEDIE TO STEP DOWN IN INTO THE WELL TO BE ABLE TO  
2 SEE.

3 INDEED, CERVANTES HAD TROUBLE SEEING. HE WALKED ALL  
4 THE WAY OVER HERE, YOU MAY RECALL, TO MAKE HIS IN-COURT  
5 IDENTIFICATION.

6 YOU PUT THAT TOGETHER, AND I SUBMIT TO YOU THAT'S WHY  
7 MR. PLASCENCIA DID NOT MAKE AN IN-COURT IDENTIFICATION OF THE  
8 DEFENDANT.

9 NOW, MR. NICOLAYSEN TOLD YOU SOMETHING THAT IS  
10 ABSOLUTELY CORRECT. HE TOLD YOU THAT HIS CLIENT IS HERE --

11 THE COURT: COUNSEL, JUST A MOMENT. WHERE IS MR.  
12 NICOLAYSEN?

13 MR. NICOLAYSEN: YOUR HONOR, I'M HERE SO THAT I CAN  
14 SEE THE GOVERNMENT'S EXHIBIT.

15 COURTROOM: (LAUGHTER.)

16 MR. NICOLAYSEN: THERE'S NO IN-COURT IDENTIFICATION  
17 OF ME.

18 MR. MEDRANO: MAY I ASK MR. NICOLAYSEN TO STAND, YOUR  
19 HONOR?

20 THE JURY: (LAUGHTER.)

21 THE COURT: GO AHEAD.

22 MR. MEDRANO: HE TOLD YOU BASICALLY -- IT'S BEEN A  
23 LONG HAUL, I KNOW.

24 HE TOLD YOU ESSENTIALLY THAT HIS CLIENT IS HERE FOR  
25 RADELAT-WALKER AND NOT BECAUSE HE'S A BODYGUARD.

1 WELL, THAT'S PARTIALLY TRUE, BECAUSE I GUESS YOU  
2 CAN'T BE HELD ACCOUNTABLE INCRIMINATELY BECAUSE YOU ARE A  
3 BODYGUARD.

4 BUT WE PUT ON THE EVIDENCE OF HIS ROLE OF BEING A  
5 BODYGUARD ALONG WITH BERNABE RAMIREZ BECAUSE IT'S IMPORTANT  
6 FOR YOU TO UNDERSTAND WHERE JAVIER VASQUEZ FITS IN THE BIG  
7 PICTURE.

8 ANALOGOUSLY, WE DID THAT WITH MATTA. WE PORTRAYED  
9 HIM AS ONE OF THE LEADERS AND ONE OF THE DECISION MAKERS, ONE  
10 OF THE HEAVYWEIGHTS.

11 ZUNO WAS A FACILITATOR BECAUSE OF HIS POLITICAL  
12 CONTACTS.

13 AND WE HAVE TO EXPLAIN IT TO YOU TO MAKE SENSE  
14 OUTSIDE OF THIS ENORMOUS, COMPLICATED CASE WHO JAVIER VASQUEZ  
15 WAS.

16 SO IN THAT SENSE LADIES AND GENTLEMEN, IT IS  
17 IMPORTANT THAT HE IS A BODYGUARD. AND MORE IMPORTANT, IT'S  
18 IMPORTANT THAT HE'S A BODYGUARD IN THIS CARTEL, THIS  
19 ENTERPRISE, BECAUSE IT SHOWS HIS ASSOCIATION WITH OTHER PEOPLE  
20 THAT ARE INVOLVED IN CRIMINAL ACTIVITY.

21 I'M NOT GOING REPEAT ALL THE TESTIMONY, BUT YOU'VE  
22 HEARD THAT HE WAS A BODYGUARD AT LA QUINTA REPEATEDLY. YOU'VE  
23 HEARD THAT HE WAS AT LA BAJADITA AT THAT MEETING OF DECEMBER  
24 1984. HE WAS A BODYGUARD AND HE KNEW MANY OF THE PLAYERS IN  
25 THIS CASE.

1           NOW, LET ME ADDRESS JUST ONE THING ABOUT JORGE BARBA.  
2           YOU'LL RECALL MR. PLASCENCIA MADE REFERENCE TO HIM AND THAT HE  
3           WAS PRESENT AT LA LANGOSTA. AND CLEARLY THE EVIDENCE SUGGESTS  
4           THAT JORGE BY THAT TIME WAS DEAD.

5           WELL, THAT'S NOT THAT BIG A DEAL, AND I'LL TELL YOU  
6           WHY RIGHT NOW: JORGE WAS ONE OF THE PEOPLE THERE AMONG 40 OR  
7           50 OTHER INDIVIDUALS, TRAFFICKERS AND BODYGUARDS. PLASCENCIA  
8           TOLD THAT YOU FROM THE GET-GO. HE ALSO TOLD YOU WHERE HE SAT,  
9           OR HE THOUGHT HE SAT, LEAST.

10           BUT WHAT YOU NEED TO FOCUS ON IS WHAT PLASCENCIA TOLD  
11           YOU IN TERMS OF HIS IDENTIFICATION OF JAVIER VASQUEZ. AND  
12           I'LL REITERATE THAT JUST BRIEFLY FOR YOU.

13           HE SAYS, "WHEN I WAS HERE AT THE SWINGING DOORS AT  
14           THE ENTRANCE, RIGHT NEXT TO GONZALEZ ONTIVEROS, LOOKING  
15           INSIDE, THIS IS WHERE I SEE JAVIER VASQUEZ. HE IS WITH THIS  
16           NUMBER, THIS VICTIM, NO. 4" -- THE ONE CLOSEST TO THE SWINGING  
17           DOORS, THE ONE CLOSEST TO PLASCENCIA -- "AND JAVIER VASQUEZ ON  
18           THIS SIDE OF THE NO. 4, AND CAN I SEE HIS FACE. AND I CAN SEE  
19           HIM HITTING THE VICTIM."

20           THAT UNEQUIVOCALLY ESTABLISHES THAT HIS  
21           IDENTIFICATION OF JAVIER IS CLEAR. IF HE MESSED UP ON JORGE,  
22           IT'S NOT THAT BIG A DEAL, BECAUSE JORGE WAS ELSEWHERE IN THE  
23           RESTAURANT AT THAT TIME.

24           NOW, WE NEED TO LAY TO REST SOMETHING IMMEDIATELY,  
25           BECAUSE, AGAIN, IT'S PARTIALLY MISLEADING.

1           EXHIBIT P: MR. NICOLAYSEN SPENT A SIGNIFICANT TIME,  
2 IF NOT ALL OF IT, ON THIS TELEX PREPARED BY ROBERT CASTILLO  
3 AND THAT HE SENT TO HEADQUARTERS AFTER HE SAT IN ON A  
4 QUESTIONING OF THIS GONZALEZ ONTIVEROS.

5           AND I THINK MR. NICOLAYSEN'S ARGUMENT TO YOU IN  
6 ESSENCE IS THAT THE FOLLOWING: GONZALEZ CONFESSED TO BEING  
7 INVOLVED IN RADELAT-WALKER, AND BECAUSE HE CONFESSED, HIS  
8 CONFESSION CONTRADICTS WHAT PLASCENCIA SAYS, BECAUSE YOU'LL  
9 RECALL PLASCENCIA SAID THAT GONZALEZ WAS WITH HIM THE WHOLE  
10 TIME AND THAT THEY LEFT BACK TO THE I.P.S. OFFICE AFTERWARDS.

11           AND, FURTHER, HE SAYS THAT CASTILLO WAS SO IMPRESSED  
12 WITH THE INTERVIEW OF GONZALEZ BY THE M.F.J.P. COMANDANTE THAT  
13 HE SAT DOWN AND PREPARED A TELEX IMMEDIATELY AND FORWARDED IT  
14 TO HEADQUARTERS.

15           WELL, LET'S SET THE RECORD STRAIGHT HERE. YES, MR.  
16 NICOLAYSEN'S CORRECT: I MADE NO MENTION OF EXHIBIT P. AND  
17 THE REASON IS, IS BECAUSE THAT PIECE OF PAPER IS NOT WORTH THE  
18 PAPER THAT IT'S WRITTEN ON. IT HAS ABSOLUTELY NO CREDIBILITY,  
19 AND I'LL TELL YOU WHY.

20           FIRST OF ALL, IT WAS NOT A CONFESSION OF BOBBY  
21 CASTILLO. BOBBY CASTILLO WAS INVITED BY THE M.F.J.P. HE JUST  
22 SITS THERE, IS AN OBSERVER, ASKS NO QUESTIONS. THE ONLY  
23 PERSON ASKING THE QUESTIONS IS THE M.F.J.P. COMANDANTE.

24           AND I ENCOURAGE YOU TO READ THAT EXHIBIT P. DO SO,  
25 PLEASE, BECAUSE WHEN YOU LOOK AT PARAGRAPHS 1 THROUGH 5 OF

1 DEFENSE EXHIBIT P, YOU'LL SEE THAT IT BASICALLY SAYS IT'S  
2 DESCRIBING HOW CASTILLO WAS READING A DECLARATION OF WHAT  
3 GONZALEZ HAS ALREADY SAID.

4 WELL, IF HE'S READING A DECLARATION, THAT MEANS THE  
5 GUY'S ALREADY BEEN INTERROGATED. AND IF HE'S ALREADY BEEN  
6 INTERROGATED -- AND HERE'S THE MILLION DOLLAR POINT -- HE WAS  
7 TORTURED AND HE WAS BEATEN. AND IF THAT'S THE CASE, ANYTHING  
8 THAT THAT MAN SAYS HAS NO CREDIBILITY.

9 I MEAN, COME ON: IF YOU'RE BEATEN, TORTURED  
10 BLINDFOLDED AND YOUR HANDS TIED BEHIND YOUR BACK, YOU'RE GOING  
11 TO SAY WHATEVER THAT M.F.J.P. COMANDANTE WANTS TO HEAR.

12 INDEED, YOU KNOW THERE'S PROOF OF THAT, BECAUSE I'D  
13 ASK YOU TO LOOK AT GOVERNMENT'S EXHIBIT 190. WRITE IT DOWN:  
14 190. THAT'S THE RECANTATION OF THAT SAME WITNESS, GONZALEZ.

15 AND WHAT GONZALEZ SAYS IN THIS RECANTATION, IT'S  
16 SWEET AND TO THE POINT: "THEY TAKE ME, AFTER I'M ARRESTED, TO  
17 ONE ROOM. I'M HANDCUFFED, I'M BLINDFOLDED. THEY BEAT ME AND  
18 THEY'RE TELLING ME THEY'RE GOING TO KILL ME, AND I HEAR A  
19 WOMAN AND KIDS CRYING IN THE ROOM NEXT DOOR; I THOUGHT IT WAS  
20 MY FAMILY.

21 "THEN I'M TAKEN TO MEXICO CITY. AGAIN I'M  
22 BLINDFOLDED, AGAIN I'M BEATEN, AND I'M TOLD IF I DON'T SIGN  
23 THIS DECLARATION, "WE'RE GOING TO BEAT YOU AGAIN."

24 EXHIBIT P, WHAT MR. NICOLAYSEN RELIED ON SO HEAVILY  
25 AND SO STRONGLY, IS WORTHLESS. AND THAT'S WHY I DIDN'T EVEN

1 BRING IT TO YOUR ATTENTION. I'M NOT HERE TO MISGUIDE YOU, TO  
2 ASK YOU TO RELY ON DOCUMENTS THAT HAVE NO CREDIBILITY. I  
3 WOULDN'T BE DOING MY JOB OTHERWISE.

4 I ASK YOU TO TAKE EXHIBIT P, READ IT, COMPARE IT TO  
5 GOVERNMENT'S EXHIBIT 190, AND THEN THROW BOTH ASIDE, BECAUSE  
6 GONZALEZ WAS TORTURED.

7 AND IN FURTHER SUPPORT OF THAT, LADIES AND GENTLEMEN,  
8 YOU'VE HEARD THE TESTIMONY OF AGENTS: THE METHOD OF OPERATION  
9 OF MEXICAN INTERROGATORS IS TO BEAT AND TORTURE WHEN THEY  
10 INTERROGATE.

11 AND WHAT GREATER PROOF OF THAT IS THERE THAN WHAT  
12 HAPPENED TO THAT FEDERAL AGENT, CAMARENA: HE WAS BEATEN, HE  
13 WAS INTERROGATED, AND HE WAS TORTURED. AND THAT'S WHAT  
14 HAPPENED TO GONZALEZ ONTIVEROS.

15 AND FINALLY, I ASK YOU THIS: WHERE IS THIS EYE  
16 WITNESS GONZALEZ? WHY DO WE HAVE TO RELY ON A PIECE OF PAPER?

17 WHEN WE PUT ON OUR WITNESSES, THEY'RE OPEN TO  
18 CROSS-EXAMINATION. WE DON'T PUT ON A LITTLE PIECE OF PAPER  
19 AND ASK YOU TO BELIEVE IT.

20 MR. NICOLAYSEN: THAT, I'M GOING TO OBJECT TO: IN  
21 TERMS OF NOT PRODUCING MR. ONTIVEROS HERE AT TRIAL.

22 THE COURT: THERE IS NO REQUIREMENT THAT ANY PARTY  
23 PRODUCE ANY WITNESS. PARTICULARLY, DEFENDANTS ARE NOT  
24 REQUIRED TO PRODUCE ANY WITNESSES. THEY'RE NOT REQUIRED TO  
25 PUT ON ANY EVIDENCE.

1 MR. MEDRANO: THANK YOU, YOUR HONOR.

2 LADIES AND GENTLEMEN, AND IN TERMS OF THE VALUE OF  
3 THIS TELEX, BECAUSE MR. NICOLAYSEN LEFT YOU WITH THE  
4 IMPRESSION THAT CASTILLO WAS SO IMPRESSED WITH IT HE WENT BACK  
5 TO HIS OFFICE, WHIPPED OFF THIS TELEX AND SENT IT TO  
6 HEADQUARTERS.

7 WELL, YES, HE DID THAT; THAT'S HIS JOB. ANY TIME  
8 THEY GET ANY LEADS, REGARDLESS OF HOW THEY WERE GENERATED,  
9 HE'S SUPPOSED TO WRITE A TELEX AND HE SENDS TO IT  
10 HEADQUARTERS. THAT DOESN'T MEAN THAT HE HAS FAITH IN THE  
11 DECLARATION PROVIDED BY GONZALEZ.

12 AND NOTE THIS: HE DID NOT EVEN SIT DOWN AND WRITE A  
13 D.E.A.-6 INVESTIGATIVE REPORT. YOU KEEP HEARING THAT D.E.A.-6  
14 MATERIAL. WELL, THIS IS THE REPORT THAT THE AGENTS WRITE.  
15 AND CLEARLY, CASTILLO DIDN'T EVEN THINK IT WARRANTED A  
16 D.E.A.-6 REPORT.

17 KEEP THIS IN MIND: WE HEARD MR. NICOLAYSEN DISCUSS  
18 WITH YOU JUST PREVIOUSLY THE INTERVIEW OF HIS CLIENT BY ABEL  
19 REYNOSO ON ABOUT JULY 14 OF LAST YEAR. MR. NICOLAYSEN  
20 ESSENTIALLY IS TRYING TO CONVEY TO YOU THE FOLLOWING: THAT  
21 WAS GOOD THAT THAT HAPPENED, BECAUSE IT SHOWS A COUPLE OF  
22 THINGS; ONE, THAT HIS CLIENT MUST BE INNOCENT BECAUSE HE'S  
23 COOPERATING WITH THE D.E.A.; AND FURTHERMORE, MR. REYNOSO WAS  
24 SO IMPRESSED WITH JAVIER VASQUEZ THAT HE TRIED TO RECRUIT HIM  
25 AS AN INFORMANT. HE INDEED HAD HIM SIGN THAT COOPERATING

1 INDIVIDUAL AGREEMENT.

2 WELL, AGAIN, LET'S CLEAR UP THE RECORD HERE. I ASK  
3 YOU TO GO BACK TWO DAYS BEFORE THAT. I ALREADY FLAGGED THIS  
4 FOR YOU, ON JULY 12, WHEN REYNOSA FIRST TRIED TO INTERVIEW  
5 THIS SUPPOSEDLY COOPERATIVE MAN, COOPERATING MAN.

6 JAVIER VASQUEZ SAID, "I WANT TO TALK TO MY BROTHERS  
7 FIRST. I DON'T WANT TO TALK TO YOU UNLESS YOU CUT ME A DEAL."

8 AND FINALLY, "WHAT I KNOW MIGHT POSSIBLY GET ME  
9 KILLED."

10 AND IF YOU GO TO THE JULY 14 INTERVIEW WITH AGENT  
11 REYNOSO, I THINK AGENT REYNOSO GAVE YOU A DIFFERENT IMPRESSION  
12 THAN MR. NICOLAYSEN ABOUT THE COOPERATIVE ATTITUDE ABOUT  
13 JAVIER VASQUEZ.

14 REMEMBER WHAT REYNOSA TOLD YOU? HE WAS VERY TRICKY  
15 DURING THE INTERVIEW.

16 AND THEN -- THIS IS VERY INTERESTING -- MR.  
17 NICOLAYSEN ARGUES TO YOU THAT BECAUSE JAVIER VASQUEZ BROUGHT  
18 HIS NEPHEW, ANTONIO OCHOA, IN FOR A SECOND INTERVIEW, THIS  
19 AGAIN SHOWS JUST HOW INNOCENT AND JUST HOW COOPERATIVE HIS  
20 CLIENT IS.

21 WELL, LET'S CUT THROUGH THE SMOKE AND SEE WHAT REALLY  
22 HAPPENED.

23 THAT MAN JAVIER VASQUEZ IS BRINGING HIS NEPHEW IN FOR  
24 A COUPLE OF REASONS AND NONE OF THEM FOR THE LOFTY GOALS THAT  
25 MR. NICOLAYSEN WOULD HAVE YOU BELIEVE. HE BRINGS HIM IN FOR



1 DIFFERENT REASONS.

2 FIRST OF ALL, WHEN HE COMES IN, HE SITS IN, AND  
3 DURING THE ENTIRE INTERVIEW, JUNIOR, VASQUEZ OCHOA, IS NEVER  
4 LEFT ALONE WITH REYNOSO. AND I SUBMIT TO YOU HE DOES THAT TO  
5 KEEP AN EYE ON HIM AND TO COACH HIM.

6 INDEED, REYNOSO TOLD YOU THAT DURING THE INTERVIEW OF  
7 THE NEPHEW, VASQUEZ KEPT INTERJECTING, KEPT PUTTING IN HIS TWO  
8 CENTS' WORTH, AS IF HE WAS COACHING HIM; AND HE KEEPS  
9 CORRECTING HIM. WHY IS THIS MAN CORRECTING VASQUEZ OCHOA  
10 UNLESS JAVIER VASQUEZ WAS THAT ACTUALLY THERE AND HE KNEW WHAT  
11 HAPPENED?

12 AND I SUBMIT TO YOU THE FOLLOWING: WHAT GREATER  
13 MOTIVE IS THERE THAN TO TRY TO MEET WITH AN OFFICER, AN AGENT,  
14 ANYONE WHO JUST COMES BY TO ASK YOU QUESTIONS? DON'T YOU  
15 THINK IT WOULD ENGENDER MORE SUSPICION IF YOU DON'T MEET WITH  
16 HIM? ISN'T IT SMARTER ON YOUR SIDE, ON YOUR PART, TO MEET  
17 WITH THE GUY AND TRY TO PULL THE WOOL OVER HIS EYES SO THAT HE  
18 CAN LEAVE YOU THE HECK ALONE?

19 I SUBMIT TO YOU THAT'S EXACTLY WHAT HAPPENED HERE.  
20 AND IF THERE'S ANY QUESTION OR ISSUE AT ALL ABOUT THE  
21 RELIABILITY OF JAVIER VASQUEZ, REYNOSO HIT THE NAIL ON THE  
22 HEAD: "YES, HE SIGNED THAT AGREEMENT; BUT AFTER A PERIOD OF  
23 TIME, IT WAS MANIFEST THAT HE WAS SO UNRELIABLE, SO  
24 UNTRUTHFUL, WE STOPPED EVEN TALKING TO HIM."

25 WELL, ISN'T THAT INTERESTING? BECAUSE I SUGGEST TO

1 YOU THAT IT REPRESENTS WHAT IS IN ESSENCE THE ATTITUDE OF THE  
2 D.E.A. AGENTS IN THIS CASE AND THIS INVESTIGATION, AND THAT  
3 IS: THEY WANT THE TRUTH. THEY WANT INFORMANTS THAT WILL TELL  
4 THE TRUTH TO JURORS LIKE YOURSELF; AND IF THEY DO NOT FULFILL  
5 THAT GOAL, THEN THEY ARE NOT USED AND, MORE IMPORTANT, THEY  
6 ARE NOT BROUGHT TO TRIERS OF FACT LIKE YOURSELF.

7 WHAT'S INTERESTING ABOUT MR. NICOLAYSEN'S' COMMENTS  
8 ON THE JULY 14 INTERVIEW IS: AT NO TIME DID HE ADDRESS THE  
9 SUBSTANCE, WHAT WAS SAID BY JAVIER VASQUEZ. AND I'VE TOLD YOU  
10 WHAT JAVIER VASQUEZ SAID IN HIS ATTEMPT TO DECEIVE THE AGENT.

11 HE OWNS UP TO SO MUCH DETAIL THAT ONLY A MAN WHO WAS  
12 PRESENT AT THOSE EVENTS WOULD BE ABLE TO SEE WHAT HE DID. AND  
13 I SUBMIT TO YOU THAT WHAT HE SAID IN THAT INTERVIEW WITH AGENT  
14 REYNOSO WAS ABSOLUTELY CORRECT.

15 MR. NICOLAYSEN ALSO RAISES THIS NOTION OR SPECTER OF  
16 THE LACK OF GOVERNMENT INTEGRITY BECAUSE OF THE WAY THEY  
17 HANDLED PLASCENCIA AGUILAR. I THINK THE ARGUMENT BY MR.  
18 NICOLAYSEN IS THAT THEY KNEW ABOUT PLASCENCIA AGUILAR BECAUSE  
19 GUADALAJARA AGENTS INTERVIEWED HIM IN 1987.

20 WELL, IF THEY KNEW THAT, AS MR. NICOLAYSEN HAS ARGUED  
21 TO YOU, WELL, WHY DIDN'T THEY MOVE ON THIS CASE SOONER? OR  
22 WHY DIDN'T THEY DO SOMETHING WITH EXHIBIT P?

23 YES, THE D.E.A. HAD THAT SINCE THE END OF 1985, AND  
24 HERE'S A PURPORTED STATEMENT THAT COMPLETELY CONTRADICTS  
25 PLASCENCIA AGUILAR. SO WHAT'S WRONG WITH THE D.E.A.? HOW CAN

1       THEY DROP THE BALL IN THIS FASHION? THAT'S MR. NICOLAYSEN'S  
2       ARGUMENT TO YOU.

3                AGAIN, I'M GOING TO BE SAYING THIS REPEATEDLY BECAUSE  
4       I FEEL COMPELLED TO: LET'S SET THE RECORD STRAIGHT. FIRST OF  
5       ALL, GUADALAJARA INTERVIEWED PLASCENCIA, NOT THE L.A. D.E.A.  
6       TEAM OF THE LEYENDA TEAM.

7                SECONDLY OF ALL, MR. BERRELLEZ, WHO IS THE SUPERVISOR  
8       OF THE LEYENDA TEAM, DID NOT BECOME THE CHIEF OF THIS UNIT  
9       UNTIL EARLY 1989. AND HE TESTIFIED FOR YOU THAT AFTER HE  
10      BECAME THE BOSS, HE TRIED TO READ AS MANY OF THE REPORTS AS HE  
11      COULD, BUT CLEARLY HE DIDN'T GET ALL OF THEM.

12              AND FINALLY, ASSUMING THAT D.E.A. REPORTS WERE  
13      GENERATED AS A RESULT OF THE INTERVIEW OF PLASCENCIA IN 1987  
14      IN GUADALAJARA, LADIES AND GENTLEMEN, THERE ARE OFFICES OF THE  
15      D.E.A. THROUGHOUT THE WORLD, THEY ARE DISTRIBUTED ALL OVER THE  
16      PLACE. THERE IS NO ASSURANCE THAT A REPORT GENERATED IN  
17      GUADALAJARA IS GOING TO EVENTUALLY MAKE ITS WAY TO L.A.

18              IF YOU PUT ALL THESE FACTORS TOGETHER, LADIES AND  
19      GENTLEMEN, THAT'S WHY PLASCENCIA, I GUESS, WAS NOT BROUGHT TO  
20      THE GRAND JURY EARLIER THAN MAY OF LAST YEAR.

21              MR. NICOLAYSEN ALSO SUGGESTS TO YOU THAT IF YOU JUST  
22      TAKE PLASCENCIA'S STORY AT FACE VALUE, IN AND OF ITSELF IT IS  
23      SO ILLOGICAL OR IMPLAUSIBLE THAT IT COLLAPSES. WELL, AND I  
24      GUESS AS EXAMPLES OF THAT, HE SAYS, "HOW COINCIDENTAL THAT  
25      WHEN EVERYONE IS IN THE VAN, RIGHT HERE (INDICATING) THAT

1 GONZALEZ ONTIVEROS JUST HAPPENS TO TURN AROUND INSTINCTIVELY  
2 AND SEES ONE OF THE AMERICANS BEING JERKED BACK, AND THAT'S  
3 WHEN HE GIVES THE ORDER TO 'LET'S GO INSIDE.'

4 AND I THINK THE SECOND EXAMPLE HE GAVE IS: YOU'RE  
5 SUPPOSED TO BELIEVE THAT WHEN THEY'RE WATCHING THIS TERRIBLE  
6 TRAGEDY TRANSPIRING, THAT GONZALEZ ONTIVEROS IS GOING TO TURN  
7 TO HIS MEN AND, I GUESS, BASICALLY PROFESSIONALLY SAY, "OKAY.  
8 LET'S GO NOW. LET'S LEAVE."

9 I DON'T SEE THE IMPLAUSIBILITY OF THAT FOR A COUPLE  
10 OF REASONS. ONE IS GONZALEZ ONTIVEROS TURNING AROUND: LOOK  
11 WHERE THE VAN IS. HE'S THE DRIVER. HE'S IN THE DRIVER'S  
12 SEAT.

13 HE'S WAITING FOR THE LAST PERSON TO GET INSIDE THE  
14 VAN. HE TURNS AROUND TO MAKE SURE THAT PLASCENCIA IS ABOUT TO  
15 CLOSE THE SLIDING DOOR ON THE RIGHT SIDE OF THE VAN. AND WHEN  
16 HE DOES THAT, THAT'S WHEN HE SEES THE AMERICANS.

17 AS TO GONZALEZ TELLING HIS MEN, "OKAY, LET'S GO,"  
18 DURING THE BEATINGS, WHAT'S SO IMPLAUSIBLE ABOUT THAT? THEY  
19 WERE WITH THE I.P.S. THESE PEOPLE INVESTIGATE -- THEY DO  
20 POLITICAL INVESTIGATIONS, NOT HOMICIDES, NOT MURDERS, NOT DRUG  
21 CASES.

22 THIS WAS NONE OF THEIR BUSINESS. THEY SAW WHAT WAS  
23 GOING ON; THEY LEFT.

24 AND FURTHERMORE, BECAUSE I ASKED PLASCENCIA THIS:  
25 "WHY DIDN'T YOU DO SOMETHING, MR. PLASCENCIA? WHY DIDN'T YOU

1 TRY TO PUT A STOP TO THIS? YOU'RE A LAW ENFORCEMENT OFFICIAL  
2 SINCE YOU'RE WITH THE I.P.S."

3 AND HIS RESPONSE -- MAYBE IT'S NOT ONE WE WANT TO  
4 HEAR, BUT THIS WAS THE FACTS OF LIFE IF YOU LIVED IN  
5 GUADALAJARA DURING THESE TERRIBLE YEARS -- FOR HIM TO PIPE UP,  
6 TO TRY TO INTERVENE, TO TRY TO REPORT IT TO ANYONE, WOULD HAVE  
7 BEEN SUICIDAL.

8 INDEED, THE PEOPLE IN THAT ROOM WITH CARO QUINTERO  
9 AND FONSECA AND JAVIER BARBA WERE LAW ENFORCEMENT OFFICIALS  
10 THEMSELVES. HE WOULD HAVE BEEN A DEAD MAN.

11 AND NO ONE, NO ONE, SAID IT BETTER IN THIS ENTIRE  
12 CASE IN TWO AND A HALF MONTHS OF TRIAL, OF TRIAL AND  
13 TESTIMONY, THAN VIRGINIA REYNOSA, A SECRETARY FOR THE M.F.J.P.  
14 FOR SEVERAL YEARS. SHE KNEW CAMARENA. CAMARENA FREQUENTLY  
15 WENT TO THE OFFICE TO TALK TO THE M.F.J.P. AGENTS.

16 AND SHE WAS ASKED, "WELL, IF YOU KNEW WHAT WAS GOING  
17 ON, WHY DIDN'T YOU TELL ANYONE THAT YOU WERE AN INFORMANT OR  
18 REPORT TRAVESTIES?"

19 AND SHE REPLIED, "I'D BE SIX FEET UNDER."

20 WELL, SO WOULD PLASCENCIA. SO WOULD ANYONE ELSE WHO  
21 TRIED TO REPORT THE TYPES OF EVENTS THAT WERE HAPPENING IN  
22 GUADALAJARA DURING THESE YEARS.

23 LADIES AND GENTLEMEN, THE DEFENSE FOCUSES STRONGLY ON  
24 AN ARGUMENT THAT BECAUSE THERE IS NOT MORE THAN ONE EYE  
25 WITNESS TO THIS CASE, THAT YOU SHOULD ASSIGN NO CREDIBILITY

1 MR. PLASCENCIA. WELL, FIRST OF ALL, LET'S BE REALISTIC. IT  
2 IS MIRACULOUS, I RESPECTFULLY SUBMIT TO YOU, THAT THERE'S ANY  
3 EYE WITNESS TO THIS, IN LIGHT OF THE TYPE OF CHARACTERS THAT  
4 WE ARE DEALING WITH IN MEXICO AND GUADALAJARA DURING THESE  
5 YEARS.

6 AND, IN ADDITION TO THAT, JUDGE RAFEEDIE WILL, AFTER  
7 I FINISH, READ YOU SOME JURY INSTRUCTIONS. AND ONE OF THEM IS  
8 VERY IMPORTANT. IT DEALS WITH THE DIFFERENCES BETWEEN  
9 CIRCUMSTANTIAL EVIDENCE AND DIRECT EVIDENCE.

10 AND IN TEN WORDS OR LESS, WHEN YOU CUT THROUGH ALL  
11 THE LEGAL JARGON, DIRECT EVIDENCE IS WHEN PLASCENCIA TOOK THE  
12 STAND AND TOLD WHAT YOU HE SAW.

13 BUT WHEN THERE WAS A GUN UP THERE THAT BELONGED TO  
14 RAFAEL CARO QUINTERO, WITH R-1 ON, THAT'S DIRECT EVIDENCE  
15 VERSUS CIRCUMSTANTIAL EVIDENCE, WHICH IS EVIDENCE THAT TENDS  
16 TO PROVE SOMETHING ELSE.

17 SO IF YOU WALK IN HERE ONE DAY AND THERE'S THESE  
18 MUDDY FOOTPRINTS THROUGHOUT, THE FINGERPRINTS ARE  
19 CIRCUMSTANTIAL EVIDENCE THAT SOMEONE WAS IN THE COURTROOM. SO  
20 THAT'S AN IMPORTANT DISTINCTION.

21 BUT THERE'S ONE MORE LINE IN THAT JURY INSTRUCTION  
22 THAT REALLY DRIVES IT HOME. AND THAT IS THAT THERE'S NO  
23 DIFFERENCE BETWEEN DIRECT AND CIRCUMSTANTIAL EVIDENCE; IN THE  
24 LAW AND IN YOUR EYES THEY ARE GIVEN EQUAL WEIGHT.

25 AND THAT IS ABSOLUTELY NECESSARY WHEN YOU THINK ABOUT

1 IT, BECAUSE OTHERWISE IT WOULD BE VIRTUALLY IMPOSSIBLE TO  
2 CONVICT SOME PEOPLE OF ANYTHING, BECAUSE HOW DIFFICULT IS IT  
3 SOMETIMES TO GET DIRECT EVIDENCE? HOW DIFFICULT IS IT  
4 SOMETIMES TO GET A WITNESS WHO ACTUALLY EYEBALLED AND SAW THE  
5 CRIME?

6 SOMETIMES IT'S VIRTUALLY IMPOSSIBLE. AND WHEN IT IS  
7 IMPOSSIBLE, YOU RELY ON CIRCUMSTANTIAL EVIDENCE.

8 AND YOU HAVE TONS OF CIRCUMSTANTIAL EVIDENCE IN THIS  
9 CASE WITH REGARD TO JAVIER VASQUEZ. YOU HAVE THE EVIDENCE  
10 THAT HE'S A MEMBER OF THE ENTERPRISE, THAT HE WAS A BODYGUARD  
11 FOR MANY OF THE PLAYERS IN THIS CASE.

12 HE WAS NO DIFFERENT, I SUBMIT TO YOU RESPECTFULLY,  
13 THAN SOMEONE LIKE HUMBERTO ZENDEJAS, THE MAN WHO ALMOST TRIED  
14 TO MURDER GARCIA BUENO, THE PARAPLEGIC. THAT MAN WAS A  
15 BODYGUARD, HE WAS A SOLDIER, HE WAS A GOFER. SO WAS JAVIER  
16 VASQUEZ AND SO WAS BERNABE. THEY'RE IN THE SAME LEAGUE.

17 THAT, IN CONJUNCTION WITH PLASCENCIA AND WHAT HE TOLD  
18 YOU THAT HE SAW AT THE RESTAURANT, AND THEN THE PHONE CALL  
19 THAT CERVANTES -- WHEN JAVIER VASQUEZ CALLS CERVANTES AND  
20 TELLS HIM TO TELL BARBA, "TELL BARBA THE AMERICANS ARE DEAD.  
21 THEY WERE ICE-PICKED TO DEATH."

22 WITH THE LOGIC OF MR. NICOLAYSEN, WHICH IS BASICALLY  
23 "YOU NEED MORE THAN ONE EYE WITNESS," WELL, THEN YOU KNOW WHAT  
24 YOU OUGHT TO DO? YOU OUGHT TO LET THE REMAINING THREE  
25 DEFENDANTS IN THIS CASE WALK OUT OF THIS COURTROOM, BECAUSE

1       THERE'S NO EYE WITNESS TESTIMONY FOR WHAT HAPPENED TO  
2       CAMARENA. THERE'S NO SUCH WITNESS, BECAUSE WE DON'T HAVE ONE.  
3       BUT WHAT YOU DO HAVE IS SIGNIFICANT CIRCUMSTANTIAL EVIDENCE  
4       THAT PROVES THIS CASE.

5               MR. MEDVENE PUT ON, IN MY LIMITED YEARS OF PRACTICE,  
6       ONE OF THE MOST OVERWHELMING DOG AND PONY SHOWS I'VE EVER  
7       SEEN: 38 CHARTS, AT LEAST. I LOST COUNT. BEAUTIFUL  
8       DIAGRAMS, MULTI-COLORED, TALLER THAN MYSELF. YOU NEED TWO OR  
9       THREE ASSISTANTS TO PUT THEM YOU UP, THEY'RE SO HEAVY.

10              LADIES AND GENTLEMEN, THE DIFFICULTY WITH THESE  
11       CHARTS, BESIDES THE FACT THAT THEY CONTAIN SO MUCH DETAIL IN  
12       AN EFFORT, I SUBMIT TO YOU RESPECTFULLY, TO TRY TO CONFUSE  
13       YOU, IS THAT IF YOU'RE FAST READER -- AND I WAS TRYING TO TAKE  
14       A LOT OF NOTES AS TO WHAT WAS WRITTEN ON THESE CHARTS -- NOT  
15       INFREQUENTLY THEY CONTAINED MISREPRESENTATIONS. THEY SAID  
16       THINGS THAT SIMPLY NEVER CAME OUT ON THAT WITNESS CHAIR.

17              AND AGAIN, I IMPLORE YOU JUST TO RELY ON YOUR JOINT  
18       RECOLLECTIONS, BECAUSE WHEN YOU DO SO, YOU'LL DECIDE WHAT WAS  
19       REALLY TESTIFIED TO IN THIS CASE.

20              BUT AMONG THE EXAMPLES -- AND THESE ARE JUST THE MOST  
21       PROFOUND ONES, BECAUSE THERE WERE MANY OTHERS -- A SUGGESTION  
22       BY MR. MEDVENE THAT ANTONIO GARATE IS A MURDERER AND HE WAS AT  
23       THAT MEETING AT LA BAJADITA WHEN THE CAMARENA PHOTO WAS PASSED  
24       AROUND.

25              WELL, LADIES AND GENTLEMEN, MY RECOLLECTION OF THE



1 TESTIMONY IS THAT: YES, HE WAS THERE, ALONG WITH PLASCENCIA.  
2 BUT HE WAS OUT TO TAKE OUT PADILLA DE LA MORA, THE GUY WITH  
3 HIS TONGUE STICKING OUT, TOUCHING THE TIP OF HIS NOSE; AND HE  
4 DECLINED. HE SAID, "NO I CAN'T DO THAT AND I WON'T DO THAT."  
5 AND THEN THE PHOTOS WERE PASSED AROUND.

6 THERE'S NO EVIDENCE THAT MR. GARATE WAS INVOLVED IN  
7 THE PLANNING TO MURDER ANYBODY.

8 A SECOND MISLEADING STATEMENT IN THESE FANCY SCHMANCY  
9 CHARTS, THE SUGGESTIONS TO YOU THAT PLASCENCIA TOLD YOU -- AND  
10 THIS IS, I GUESS, TO CONTRADICT CERVANTES -- THAT THE FIRST  
11 MEETING TO DISCUSS THE KIDNAPPING OF CAMARENA WAS AT LA  
12 BAJADITA. AND MR. MEDVENE SAID, "PLASCENCIA TOLD YOU THAT."

13 WELL, YES, HE SAID THAT. BUT THAT'S THE ONLY MEETING  
14 THAT HE WAS AWARE OF. THAT DOES NOT PRECLUDE THE  
15 POSSIBILITY -- AND I KNOW THAT THIS IS COMMON-SENSICAL, AND I  
16 HOPE YOU SEE THROUGH ALL THE SMOKE -- THAT THERE WERE OTHER  
17 MEETINGS, AND CERVANTES WAS AT THOSE MEETINGS, AND HIS  
18 MEETINGS PREDATED LA BAJADITA. SO, AGAIN, SMOKE SCREENS,  
19 CONFUSION, AND EFFORTS TO MISREPRESENT THINGS SO THAT YOU'LL  
20 GET OFF THE TRACK OF THE TRUTH IN THIS CASE.

21 ONE EXAMPLE THAT WAS PARTICULARLY IRKSOME: A BIG  
22 CHART OF CERVANTES, AND ON THERE IT SAYS, WELL, CERVANTES WAS  
23 PROMISED A THROUGH E, AND TWO OF THOSE THINGS WERE RIGHT.  
24 ONE THAT HE WAS PAID \$37,000.00; AND SECOND, THAT THERE WAS  
25 RELOCATION.

1                   AND THEN HE ADDS THE FOLLOWING, AND THERE WAS NO  
2 TESTIMONY TO THIS: THE PROMISE OF A NEW JOB.

3                   WHERE DID THAT COME FROM?

4                   IMMUNITY? NO ONE EVER TESTIFIED TO THAT.

5                   AND FINALLY: LIFELONG PAYMENTS.

6                   CERVANTES WAS ASKED BY MR. MEDVENE ON  
7 CROSS-EXAMINATION, "HOW LONG DO YOU EXPECT TO GET ALL THESE  
8 BUCKS?"

9                   AND HE WAS HONEST WITH YOU: "I DON'T KNOW. I'M AT  
10 THE HANDS OF THE D.E.A., WHATEVER THEY WANT TO DO."

11                   AND THEN MR. BERRELLEZ TOOK THE STAND AND TOLD YOU,  
12 "HE WILL RECEIVE THIS MONEY AS LONG AS NECESSARY."

13                   CERVANTES DOESN'T KNOW THAT. THAT'S WHAT MR.  
14 BERRELLEZ TOLD YOU.

15                   AGAIN, ANOTHER EXAMPLE OF MISREPRESENTATIONS TO YOU.

16                   THE ELECTRIC GATE. GOD. THE GATE. SOMEHOW MR.  
17 MEDVENE HAS THE NOTION THAT HARRISON TOLD YOU THAT, "BARBA  
18 SENT ME TO GO FIX AN ELECTRIC GATE."

19                   WELL, I ASK YOU TO RECALL WHAT HAPPENED. HARRISON  
20 SAID, "BARBA TOLD ME TO GO TO LOPE DE VEGA. THAT HOUSE  
21 BELONGS TO CARO. GO SEE THE GATE."

22                   AND THEN HARRISON TOLD YOU THAT HE ASSUMED IT WAS AN  
23 ELECTRIC GATE, BUT HE WASN'T SURE, AND HE WENT TO THE HOUSE,  
24 THE CARETAKER SAID, "CARO'S NOT HERE RIGHT NOW. COME BACK  
25 LATER."

1            THAT 'S WHAT CAME DOWN, THAT 'S WHAT WAS SAID; NOT THIS  
2            ISSUE ABOUT AN ELECTRIC GATE.

3            IN ADDITION, THE SUGGESTION IN ONE OF THE CHARTS THAT  
4            CERVANTES TESTIFIES ON THE STAND FOR FOUR DAYS THAT ALL THEY  
5            DISCUSSED DURING THESE FOUR MEETINGS WAS AN AGENT OF THE  
6            D.E.A.; AND THEN MR. MEDVENE SAYS, "BUT THE D.E.A. REPORT  
7            SAID -- MENTIONS CAMARENA. IT SAYS 'CAMARENA.' CERVANTES IS  
8            LYING TO YOU."

9            WELL, THEN MY COLLEAGUE PUT ON MR. DELBERT SALAZAR,  
10           AND MR. SALAZAR WAS ASKED ABOUT THAT. AND SALAZAR SAID,  
11           "CERVANTES NEVER SAID 'CAMARENA.' I PUT THAT IN THERE. THAT  
12           WAS MY CONSTRUCTION, MY INTERPRETATION. CERVANTES NEVER SAID  
13           THAT."

14           BUT AGAIN, IT TYPIFIES WHAT THE PURPOSE OF THESE  
15           CHARTS WAS, AND THAT WAS TO CONVICT YOU -- PARDON ME. TO  
16           MISLEAD YOU AND TO LEAVE YOU WITH THE WRONG IMPRESSION.

17           THERE 'S A SUGGESTION THAT BECAUSE ZUNO IS NOT  
18           MENTIONED ON THE INTERROGATION TAPES, HE 'S NOT INVOLVED. AND  
19           MR. MATTA 'S COUNSEL ALSO MADE THE SAME ARGUMENT.

20           WELL, A LOT OF PEOPLE AREN'T MENTIONED ON THOSE  
21           TAPES, BUT YOU KNOW THEY'RE INVOLVED. AND THERE 'S PLENTY OF  
22           EVIDENCE ALONG THOSE LINES.

23           AND THE SECOND PROBLEM WITH THAT ARGUMENT, THAT YOU  
24           SHOULD LET THESE MEN WALK OUT OF THIS COURTROOM BECAUSE THEIR  
25           NAMES ARE NOT ON THE TORTURE TAPES -- THERE 'S TWO PROBLEMS

1 WITH IT: ONE -- AND YOU HEARD THE TAPES -- YOU PUSH A BUTTON  
2 AND YOU START WATCHING THEM AND THEY START MIDSTREAM. THEY  
3 DON'T START WITH, "OKAY. WE'RE GOING TO BEGIN THIS NOW.  
4 OKAY? THERE WE GO."

5 THEY START MIDSTREAM AND THEY END MIDSTREAM. BOTH  
6 COPIAS 2 AND 4 DID THAT.

7 BUT THESE ARE THE ONLY TAPES THAT WERE PROVIDED TO US  
8 BY THE MEXICAN GOVERNMENT. WHO KNOWS IF THERE'S MORE AND WHO  
9 KNOWS WHERE THOSE OTHER TAPES ARE ARE?

10 MR. STOLAR: OBJECTION. THAT'S IMPROPER REBUTTAL,  
11 YOUR HONOR.

12 THE COURT: OVERRULED.

13 MR. MEDRANO: AND THE SECOND PROBLEM WITH ANY  
14 ARGUMENT THAT "LET ZUNO GO BECAUSE HE'S NOT ON THE TAPES," IS:  
15 WHO DID WE GET THE TAPES FROM?

16 YOU HEARD THE TESTIMONY THAT IN AUGUST OF 1985, OUR  
17 REPRESENTATIVE, WALTER WHITE, MET WITH IBARRA, THE DIRECTOR OF  
18 THE M.F.J.P., AND ANOTHER REPRESENTATIVE OF THE ATTORNEY  
19 GENERAL'S OFFICE. THEY GAVE US THE TAPES. WE DIDN'T FIND  
20 THEM; THEY GAVE THEM TO US.

21 AND ISN'T IT UNUSUAL, I SUBMIT TO YOU, ISN'T IT  
22 UNIQUE, THAT THERE WAS NO HIGH-RANKING OFFICIALS MENTIONED IN  
23 ANY OF THOSE TRANSCRIPTS?

24 I SUBMIT TO YOU THAT THE REASON FOR THAT IS THAT  
25 THOSE WERE SANITIZED, AND THEY WERE REDACTED, AND THAT'S WHY

1 WE GET WHAT THEY'RE WILLING TO GIVE US, LADIES AND GENTLEMEN,  
2 AND THAT'S WHY PEOPLE LIKE ZUNO AND MATTA AND BERNABE ARE NOT  
3 MENTIONED ON THE TAPES. THERE'S A LOGICAL EXPLANATION.

4 IN ADDITION, MR. MEDVENE ARGUED TO YOU THAT CERVANTES  
5 IS LYING FOR THE FOLLOWING REASON: THAT WHEN THEY TOOK  
6 ZACATECAS DOWN IN MAY OF 1984, KUYKENDALL AND CAMARENA MET  
7 WITH REPRESENTATIVES OF THE ATTORNEY'S GENERAL OFFICE AND,  
8 BECAUSE THE D.E.A. TOLD THEM ABOUT ZACATECAS, THEREFORE -- AND  
9 THEY MET WITH IBARRA. THEREFORE, IBARRA KNOWS WHO IS  
10 RESPONSIBLE. THEREFORE, CERVANTES IS LYING.

11 WELL, LADIES AND GENTLEMEN, THINK ABOUT IT. THAT  
12 MEETING WAS TO CONVEY INFORMATION. IBARRA HAS NO IDEA WHETHER  
13 THE AGENTS THAT HE'S MEETING WITH ARE THE POINT MEN, WERE THE  
14 MEN OUT ON THE FIELD, OUT ON THE STREET, THE ONES WHO HAD THE  
15 ACTUAL KNOWLEDGE.

16 AND YOU KNOW THAT'S TRUE, BECAUSE YOU HEARD TESTIMONY  
17 FROM THE AGENTS BASICALLY ALONG THE LINES THAT, "WE WOULD GIVE  
18 TO THE M.F.J.P. THE INFORMATION, BUT NEVER, EVER DISCLOSE  
19 SOURCES OR THE INFORMANTS." AND THE REASON FOR THAT, AS  
20 VIRGINIA REYNOSO MARTINEZ TOLD YOU, BECAUSE THEN THOSE SOURCES  
21 AND THOSE INFORMANTS WOULD ALSO BE SIX FEET UNDER.

22 A VERY UNUSUAL THING, TOO: YOU'LL RECALL WHEN  
23 CERVANTES TESTIFIED ABOUT WHEN THE BOMB EXPLODED AND EVERYONE  
24 WAS GETTING OUT OF TOWN. WELL, AND THEN HE TELLS YOU HOW  
25 BARBA GOES TO A HOUSE OF ZUNO TO GET GUNS TO ARM THE 25

1 EMPLOYEES WHO THAT ARE GOING TO MOVE THE MASCOTA FIVE TONS.

2 WELL, THAT'S UNUSUAL AND THAT'S INTERESTING, FOR THE  
3 FOLLOWING REASONS: I SUBMIT TO YOU THAT ZUNO'S HOUSE THAT  
4 HE'S GOING TO IS LOPE DE VEGA. AND YOU KNOW THAT AND YOU CAN  
5 BELIEVE BECAUSE MR. MALONE TOLD YOU THAT IN THE UPSTAIRS  
6 BEDROOM THERE WERE GUN RACKS THAT TOOK UP TWO WHOLE WALLS OF  
7 THAT UPSTAIRS BEDROOM AND THOSE GUN RACKS HELD 40 OR 50 GUNS.

8 MR. MEDVENE: OH, PLEASE. THIS IS IMPROPER REBUTTAL.  
9 MR. ZUNO HASN'T BEEN IN THE HOUSE FOR YEARS AT THIS POINT.  
10 THERE'S A TENANT IN THERE.

11 THE TENANT HAD BEEN IN THE HOUSE FOR FIVE YEARS, YOUR  
12 HONOR. IT'S IMPROPER REBUTTAL.

13 THE COURT: THE OBJECTION IS OVERRULED.

14 MR. MEDRANO: MISREPRESENTATION AFTER  
15 MISREPRESENTATION.

16 THE DISCHARGE PAPERS ABOUT CERVANTES INCLUDE -- THEY  
17 PUT UP THIS FANCY FORM AND IT SAYS, "DISCHARGE, X DATE;  
18 DISCHARGE, Y DATE."

19 AND THEN I THINK IT WAS MR. STOLAR SAID, "THAT MAN  
20 WAS FIRED. WHEN YOU'RE FIRED, OF COURSE YOU'VE GOT TO GO LOOK  
21 FOR NEW WORK. AND COINCIDENTALLY, THE D.E.A. STARTS HELPING  
22 OUT, AND THAT WAS HIS NEW JOB."

23 WELL, IF ANY OF YOU HAVE SERVED IN THE MILITARY,  
24 LADIES AND GENTLEMEN, "DISCHARGE" DOES NOT MEAN THAT YOU'VE  
25 BEEN FIRED. ONE CAN BE HONORABLY DISCHARGED FROM THE SERVICE.

1 THAT DOESN'T MEAN YOU'RE FIRED; YOU'RE BEING RELEASED OR YOU  
2 CAN LEAVE OF YOUR OWN VOLITION.

3 AND, IN FACT, THAT'S WHAT HAPPENED TO MR. CERVANTES.  
4 MR. PLASCENCIA TOLD YOU THAT HE WAS AWARE THAT CERVANTES LEFT  
5 HIS JOB AT ONE TIME BECAUSE HE HAD TO BE THERE SIX MONTHS  
6 WITHOUT SEEING HIS FAMILY.

7 MR. MEDVENE: EXCUSE ME, YOUR HONOR. YOU KNOW IN  
8 LIGHT OF THE RECORD THAT THAT'S AN IMPROPER ARGUMENT. YOU  
9 KNOW WHAT THE FACTS ARE.

10 THAT'S AN IMPROPER ARGUMENT, AND COUNSEL KNOWS WHAT  
11 THE FACTS ARE AND WHAT "DISCHARGE" MEANS.

12 THE COURT: COUNSEL, I INSTRUCTED THE JURY ALREADY  
13 THAT COUNSEL'S STATEMENTS ARE NOT EVIDENCE.

14 AND YOU HEARD AND SAW THE EVIDENCE, AND YOU DECIDE.  
15 IF YOUR RECOLLECTION DIFFERS FROM COUNSEL'S, YOU RELY ON YOUR  
16 OWN RECOLLECTION.

17 MR. MEDRANO: WELL, "MR. ZUNO IS INNOCENT BECAUSE IN  
18 SEPTEMBER OF 1986 HE MET WITH KUYKENDALL."

19 AND, AGAIN, WE HAVE A BIG CHART FOR THIS SOMEWHERE  
20 BEFORE YOU, I'M SURE.

21 "AND HE MET AND BASICALLY HE WAS THERE VOLUNTARILY.  
22 THERE WAS NO ARREST WARRANT. HE FLEW TO THE STATES, FLEW TO  
23 SAN ANTONIO. THAT SHOWS GOOD GOOD FAITH. IT SHOWS A GOOD  
24 ATTITUDE, ONE OF INNOCENCE," MUCH LIKE JAVIER VASQUEZ, I  
25 GUESS, WHEN HE MET WITH AGENT REYNOSO.

1 WELL, THERE ARE SEVERAL FLAWS WITH THAT ARGUMENT,  
2 LADIES AND GENTLEMEN. THERE ARE SEVERAL FLAWS WITH THAT, IF  
3 IT LEADS YOU TO BELIEVE THAT THAT SUGGESTS INNOCENCE IN ANY  
4 WAY.

5 FIRST OF ALL, AGENT KUYKENDALL -- AND YOU'VE HEARD  
6 TESTIMONY ABOUT THIS -- WAS OFF THE LEYENDA AND CAMARENA  
7 INVESTIGATION SINCE 1985. SO WHEN KUYKENDALL TOLD YOU -- AND  
8 HE WAS BEING ABSOLUTELY TRUTHFUL -- THAT AT THE TIME OF THE  
9 1986 INTERVIEW OF ZUNO, HE WASN'T AWARE OF HIS INVOLVEMENT IN  
10 CAMARENA, THAT'S WHAT HE KNEW. BUT HE WAS NO LONGER A MEMBER  
11 OF THE LEYENDA TEAM; SO HE DIDN'T HAVE ALL THE INFORMATION, I  
12 SUBMIT TO YOU.

13 SECOND OF ALL, IN TERMS OF COOPERATION, YOU HEARD  
14 TESTIMONY THAT ZUNO WAS INTERVIEWED BY AN I.N.S. OFFICER. HER  
15 NAME WAS BORIS. SHE GAVE A DIFFERENT PICTURE, THAT WHEN SHE  
16 INTERVIEWED HIM, HE AT TIMES WAS EVASIVE AND DIDN'T ANSWER  
17 QUESTIONS IMMEDIATELY.

18 I'D LIKE TO DEAL WITH MR. HARRISON BRIEFLY, BECAUSE  
19 AGAIN, IT'S MY DOMINANT THEME HERE WITH YOU, THAT IS AN EFFORT  
20 TO GET TO SORT OF THE MISREPRESENTATIONS THAT HAVE BEEN PASSED  
21 ON TO YOU DURING DEFENDANTS' CLOSING ARGUMENTS.

22 ONE IS, HARRISON NEVER HEARD ZUNO'S VOICE ON THE  
23 RADIO, SO THEREFORE ZUNO'S NOT GUILTY.

24 WELL, HARRISON NEVER HEARD MATTA'S VOICE ON THE  
25 RADIO, AND MATTA IS CLEARLY A MEMBER OF THIS CARTEL. HARRISON



1 DIDN'T HEAR A LOT OF PEOPLE, BUT THAT DOESN'T MEAN THEY  
2 WEREN'T INVOLVED.

3 RELATED TO THIS, I GUESS, IS THE ARGUMENT, THROUGH  
4 DEFENSE WITNESSES THAT -- AND THIS WAS MR. VELASCO, THE MAN  
5 WHO RENTED THE LOPE DE VEGA HOUSE FOR A WHOLE -- ACTUALLY FOR  
6 YEARS, FROM RUBEN ZUNO ARCE.

7 HE SAID THAT, "I LIVED THERE THAT THE WHOLE TIME," I  
8 GUESS TO SUGGEST THAT CARO COULD NOT HAVE BEEN THERE; AND,  
9 SECOND OF ALL, THAT THERE WAS NEVER ANY RADIO THERE.

10 THAT IS NOT CONSISTENT WITH ANYTHING THE GOVERNMENT  
11 WAS TOLD.

12 ON THE ISSUE OF VELASCO, VELASCO MUST BE -- I SUBMIT  
13 TO YOU, REPECTFULLY, THAT HE IS A BIASED WITNESS. THIS IS A  
14 MAN WHO LEASED PROPERTY FOR FOUR OR FIVE YEARS FROM THAT MAN  
15 IN THAT CORNER. VELASCO'S THE MAN WHO ADMITTED, ALTHOUGH  
16 RELUCTANTLY, THAT HE HAD HAD BUSINESS RELATIONSHIPS WITH ZUNO.  
17 SO I SUBMIT AS TO YOU THAT YOU SHOULD HAVE EVERY RIGHT TO  
18 QUESTION HIS CREDIBILITY.

19 AND AS TO THE ISSUE OF RADIOS: AGAIN,  
20 MISREPRESENTATION.

21 HARRISON TOOK THAT STAND AND TOLD YOU THAT HE SET UP  
22 A NEW, MODERN SYSTEM, WHICH CONSISTED OF HAND-HELD RADIOS,  
23 RADIOS WHICH WORKED, BECAUSE HE HAD THESE ENORMOUS REPEATERS  
24 ON MOUNTAINTOPS. DO YOU REMEMBER THAT?

25 SO IT'S NOT INCONSISTENT TO HAVE A RADIO AT LOPE DE

1 VEGA THAT CAN FIT IN YOUR HAND OR YOUR POCKET. YOU DON'T HAVE  
2 TO HAVE ONE OF THE BIG RADIO SYSTEMS.

3 SO, CLEARLY, AN EFFORT TO MISLEAD YOU.

4 MR. MEDVENE SUGGESTS THAT IT MAKES NO SENSE THAT AT  
5 THE CARO QUINTERO BIRTHDAY PARTY, WITH THE DANCING HORSE AND  
6 MACHINE-GUNNING OF THE ARMORED L.T.D. THAT HARRISON KNOWS ZUNC  
7 BUT WOULD NOT GO OVER AND SAY HELLO TO THE MAN. HE SAYS IT'S  
8 ILLOGICAL, SO THEREFORE HARRISON IS LYING.

9 IT'S NOT ILLOGICAL AT ALL. HARRISON TOLD YOU -- AND  
10 AGAIN, HE'S INCREDIBLY FRANK -- "I KNEW MY PLACE. I WAS A  
11 SOLDIER. I DID WHAT I WAS TOLD AND FOLLOWED ORDERS. THERE  
12 WERE CLEAR LINE DISTINCTIONS BETWEEN THE BOSSES AND ME AND THE  
13 OTHERS, THE SOLDIERS."

14 HE TOLD THAT TO YOU, SO WHY, AT THIS HUGE PARTY, WITH  
15 THESE HEAVY HITTERS, INCLUDING CORRUPT LAW ENFORCEMENT  
16 OFFICIALS AND OTHER BIGWIGS, WHY DIDN'T HE GO OVER TO ZUNO TO  
17 GREET HIM AS IF HE WAS A BROTHER?

18 BUT EVEN BEYOND THAT, HERE IS THE GREATEST PROOF, THE  
19 EVIDENCE THAT DEALS WITH THIS ISSUE: HARRISON AND CERVANTES,  
20 WHEN THEY TESTIFIED ABOUT THAT MAN RUBEN ZUNO ARCE, THEY  
21 ADDRESSED HIM IN THIS FASHION: "DON RUBEN."

22 IT'S FUNNY; ISN'T IT? AFTER ALL THESE YEARS, THEY  
23 STILL HOLD THIS MAN, I GUESS, AT A CERTAIN LEVEL IN LIGHT HIS  
24 POSITION IN MEXICO. THEY CALLED HIM "DON RUBEN" -- CERVANTES,  
25 FOR DAYS, "DON RUBEN" -- BECAUSE THAT WAS THE CALIBER OR LEVEL

1 OF POSITION OF ZUNO IN THOSE YEARS. AND, IN FACT, THESE  
2 WITNESSES STILL REGARD HIM AS SUCH.

3 SO IT MAKES PERFECT SENSE THAT HARRISON WOULD NOT GO  
4 OVER AND PUT HIS ARM AROUND ZUNO AND SAY, "HOW'VE YOU BEEN?  
5 HAVEN'T SEEN YOU IN A LONG TIME."

6 AND, LADIES AND GENTLEMEN, THE DEFENSE HAS SUGGESTED  
7 TO YOU THAT THAT HOUSE AT LOPE DE VEGA WAS NOT SOLD TO CARO  
8 QUINTERO BY MR. ZUNO.

9 AND THEY FURTHER WANT YOU TO BELIEVE THAT CARO DID  
10 NOT KNOW ZUNO, DESPITE THE EVIDENCE THAT YOU'VE HEARD HERE.

11 WELL, THERE'S DIFFICULTIES WITH THAT, AS WELL. AND I  
12 SUBMIT TO YOU THE FOLLOWING: WHY WOULD A MAN OF ZUNO'S  
13 POSITION -- AFFLUENT, POLITICALLY CONNECTED -- WHY IS HE GOING  
14 TO GO OUT AND SELL PROPERTY DIRECTLY TO A MAN LIKE CARO  
15 QUINTERO? YOU GO THROUGH A MIDDLEMAN.

16 THERE WAS THIS DOCTOR, RUBEN SANTOS BARBA, THE MAN  
17 WHO RECEIVES THE PROPERTY AND THEN GOES OVER TO TIERRA NOVA.  
18 LADIES AND GENTLEMEN, I SUBMIT TO YOU THAT THAT COMPANY,  
19 TIERRA NOVA, WAS USED SORT OF LIKE MIDDLE PERSON TO DISGUISE  
20 OR HIDE ANY REAL ESTATE TRANSACTION BETWEEN ZUNO AND CARO  
21 QUINTERO.

22 MR. MEDVENE MADE THIS ARGUMENT TO YOU, THAT IF  
23 NARCOTICS TRAFFICKERS PERVADED ALL LEVELS OF LAW ENFORCEMENT  
24 WHY WOULD THEY NEED A MAN LIKE ZUNO?

25 WELL, LADIES AND GENTLEMEN, AT NO TIME HAS THE

1 GOVERNMENT IN THIS CASE SUGGESTED TO THAT YOU HE WAS THE ONLY  
2 FACILITATOR, THAT HE WAS THE ONLY MAN TO PROVIDE PROTECTION.  
3 HE WAS ONE OF SEVERAL. AND CLEARLY, THERE'S PLENTY OF  
4 EVIDENCE THAT THERE WERE OTHERS, AS WELL.

5 AND YOU KNOW HE'S A POWERFUL MAN. IN THE I.N.S.  
6 STATEMENT, WHICH YOU WILL READ -- AND I ENCOURAGE YOU TO -- HE  
7 TELLS YOU ABOUT THE PROPERTY THAT HE HOLDS; HE TELLS YOU THAT  
8 HE USED TO HOLD A HIGH-RANKING GOVERNMENT POSITION; HE TELLS  
9 YOU THAT HE'S WELL CONNECTED, HIS BROTHER-IN-LAW'S A FORMER  
10 PRESIDENT OF MEXICO.

11 THE DEFENSE WANTS YOU TO BELIEVE THAT BECAUSE ZUNO  
12 WAS NEVER AT ANY OF THE SEIZURES, THAT HE'S NOT PART OF THIS  
13 CARTEL. WELL, THAT ARGUMENT DOESN'T HOLD WATER, EITHER, FOR  
14 SEVERAL REASONS.

15 WHAT WAS THE METHOD OF OPERATION FOR TARGETS OF  
16 D.E.A. INVESTIGATIONS IN THIS CASE: ZACATECAS, BUFALO, OTHER  
17 EXAMPLES? WHEN THE GOOD GUYS FINALLY GOT OUT THERE TO TAKE  
18 DOWN THESE QUANTITIES OF CONTRABAND AND DESTROY THEM, WHERE  
19 WERE THE DOPE DEALERS?

20 THEY HAD ALL LEFT, BECAUSE THEY'D BEEN TIPPED OFF.  
21 AND I SUBMIT TO YOU THAT THAT WOULD MAKE PERFECT SENSE AS TO  
22 WHY WE DON'T FIND ZUNO AT THE SEIZURES, WHY WE DON'T FIND  
23 MATTA AT THE SEIZURES.

24 IN CONJUNCTION WITH THAT, THERE'S ANOTHER REASON.  
25 YOU KNOW, THESE MEN, ZUNO AND MATTA, ARE THE LEE IACOCAS OF

1 THEIR CORPORATION. AND I ASSURE YOU THAT LEE IACOCCA IS NOT  
2 OUT AT THE PLANT WORKING ON ONE OF HIS CARS. THAT'S NOT HIS  
3 FUNCTION. THAT'S NOT HIS JOB.

4 HE IS A DECISION MAKER. HE MEETS IN A BIG OFFICE  
5 WITH OTHER PEOPLE OF EQUIVALENT LEVELS AND THEY MAKE CRUCIAL  
6 DECISIONS.

7 DOESN'T THAT SOUND LIKE ZUNO AND DOESN'T THAT SOUND  
8 LIKE MATTA?

9 MR. STOLAR: OBJECTION. IMPROPER ARGUMENT WITH  
10 RESPECT TO MR. MATTA.

11 THE COURT: I DIDN'T HEAR YOU.

12 MR. STOLAR: I SAID THAT'S IMPROPER ARGUMENT WITH  
13 RESPECT TO MR. MATTA. THAT ARGUMENT WAS NOT MADE BY COUNSEL.

14 THE COURT: OVERRULED.

15 MR. MEDRANO: MR. MEDVENE ARGUES TO YOU, "WELL, IT'S  
16 ILLOGICAL AND ANOTHER REASON CERVANTES IS LYING TO YOU.  
17 CERVANTES IS THE BIGGEST LIAR THAT EVER EXISTED."

18 AND I'M GOING TO ADDRESS HIM IN A MOMENT.

19 "BUT YOU KNOW CERVANTES IS LYING BECAUSE IT MAKES NO  
20 SENSE FOR ZUNO TO MOVE FIVE TONS. I MEAN, WHY WOULD HE WANT  
21 TO DO THAT? WHO CARES? WHO'S AFTER HIS DOPE?"

22 TAKE YOURSELF OUT OF THIS COURTROOM FOR JUST A MOMENT  
23 AND PLANT YOURSELF IN GUADALAJARA IN THE FRENETIC DAYS WITH  
24 THE DISAPPEARANCE OF ENRIQUE CAMARENA.

25 YOU HAVE FEDERAL AGENTS FROM ALL OVER THE WORLD

1 COMING IN TO HELP FIND A FALLEN COLLEAGUE. THE M.F.J.P.,  
2 AFTER A TREMENDOUS AMOUNT OF PRESSURE BY THE U.S. GOVERNMENT  
3 AND D.E.A. AGENTS, ARE FINALLY GETTING OFF THEIR BUTTS AND  
4 LOOKING AT HOUSES, DOING SEARCH WARRANTS, TRYING TO FIND  
5 PEOPLE.

6 ALL HELL HAS BROKEN LOOSE IN GUADALAJARA. AND IT  
7 MAKES PERFECT SENSE THAT ZUNO HAS REASON TO BE CONCERNED AND  
8 WORRIED ABOUT HIS FIVE TONS OUT IN MASCOTA, BECAUSE FOR ALL HE  
9 KNOWS, THEY'RE GOING TO TAKE HIS STUFF. IT MAKES PERFECT  
10 SENSE THAT THAT DISCUSSION, AS CERVANTES DESCRIBED TO YOU,  
11 OCCURRED SHORTLY AFTER THE ABDUCTION OF CAMARENA.

12 NOW, THE DEFENSE HAS MADE THIS ALSO -- AND SEVERAL  
13 DEFENSE LAWYERS HAVE TOLD YOU THIS, THAT THERE'S MANY FLAWS IN  
14 THE GOVERNMENT CASE, ACCORDING TO THEM; BUT PERHAPS THE  
15 BIGGEST ONE IS: WHY HAS NOT THE GOVERNMENT BROUGHT TO YOU  
16 MORE WITNESSES? WHY DIDN'T WE BRING IN ONE WITNESS FROM THE  
17 WEDDING, ONE WITNESS FROM THE BAPTISM? WHY DIDN'T WE BRING IN  
18 RECORDS TO SHOW THIS OR RECORDS TO SHOW THAT?

19 WELL, LADIES AND GENTLEMEN, THE GOVERNMENT HAS THE  
20 BURDEN OF PROOF IN THIS CASE. YOU'VE BEEN TOLD THAT BEFORE  
21 THE CASE STARTED, AND YOU'RE GOING TO BE TOLD THAT AGAIN AFTER  
22 ALL US LAWYERS SIT DOWN AND SHUT UP FINALLY.

23 AND THAT'S THE WAY IT SHOULD BE. THAT'S THE SYSTEM.  
24 AND NOBODY IN THIS COURTROOM COULD ASK FOR A DIFFERENT KIND OF  
25 SYSTEM.

1           AND THE DEFENSE HAS ABSOLUTELY NO OBLIGATION. THEY  
2 DO NOT HAVE TO PUT ON A SINGLE WITNESS. AND IF THEY HAD NOT  
3 AND THE GOVERNMENT HAD NOT MET ITS BURDEN AT THE CONCLUSION OF  
4 OUR CASE IN CHIEF, THEN THEY SHOULD WALK OUT OF HERE. THAT'S  
5 THE WAY IT IS, AND THAT'S THE WAY IT SHOULD BE.

6           BUT IF THEY PUT ON A DEFENSE, I SUBMIT TO YOU, YOU  
7 HAVE EVERY RIGHT TO SCRUTINIZE IT, TO LOOK AT IT CAREFULLY, TO  
8 EVALUATE IT, JUST LIKE THE DEFENSE IS ASKING YOU TO DO WITH  
9 THE GOVERNMENT'S CASE.

10           AND I SUBMIT TO YOU THAT YOU OUGHT TO SCRUTINIZE  
11 THEIR CASES VERY CAREFULLY, AND YOU SHOULD ALSO KEEP IN MIND  
12 THAT THEY ALSO HAVE THE RIGHT TO SUBPEONA WITNESSES; NOT JUST  
13 THE GOVERNMENT. BOTH SIDES CAN DO THAT.

14           THAT ASIDE, THOUGH, YOU'RE LEFT WITH THE IMPRESSION  
15 AFTER THE DEFENSE CLOSING THAT THE GOVERNMENT DID NOT GO OUT  
16 TO THE MEXICAN GOVERNMENT AND GAIN THEIR SUPPORT TO GET  
17 RECORDS FOR THIS OR WITNESSES FOR THIS OR THAT.

18           WELL, YOU KNOW, THIS CASE COMES ON THE HEELS OF AN  
19 INCREDIBLE HISTORY OF, QUITE FRANKLY, NOT INSIGNIFICANT  
20 OBSTRUCTION BY THE MEXICAN GOVERNMENT SHORTLY AFTER THE LOSS  
21 OF CAMARENA. AND THERE'S COUNTLESS EXAMPLES LEADING RIGHT UP  
22 TO IT.

23           YOU KNOW, WHEN PAVON REYES TIPS OFF MATTA SO THEY CAN  
24 GET AWAY FROM THE HOTEL. WHEN THEY TIP OFF THE ZACATECAS DOPE  
25 DEALERS; AND THEN, LO AND BEHOLD, THERE'S NOBODY THERE. WHEN

1       THEY TIP OFF THE CHIHUAHUA DRUG DEALERS AND SUDDENLY NO ONE IS  
2       THERE. I MEAN, THERE'S COUNTLESS EXAMPLES OF THAT.

3               SO -- YOU'RE ALL SMART PEOPLE -- IN THE FACE OF THAT  
4       KIND OF PURPORTED COOPERATION FROM THAT GOVERNMENT, WHY GO TO  
5       THEM FOR ANYTHING, LET ALONE EYE WITNESSES TO PEOPLE LIKE CARO  
6       QUINTERO AND MATTA, WHO ARE SO ENTRENCHED WITHIN THIS MEXICAN  
7       GOVERNMENT THROUGH THEIR CONTACTS? AND ZUNO. HE FALLS IN  
8       THAT SAME CATEGORY.

9               MR. MEDVENE SUGGESTS TO YOU, AND AGAIN IT'S ONE OF  
10      THOSE CHARTS, THAT -- AND MR. STOLAR RAISES THIS, AS WELL --  
11      WE ARE HERE TODAY, I GUESS, THANKS TO ANTONIO GARATE.

12              I'M TRYING TO REMEMBER THE EXACT WORDS OF MR. STOLAR.  
13      "HE IS A WITNESS PRODUCING FACTS," OR WORDS ALONG THOSE LINES.

14              FIRST OF ALL, THERE'S NO EVIDENCE TO SUGGEST THAT.  
15      SECOND OF ALL, PLASCENCIA TOLD YOU WHEN HE TESTIFIED THAT HIS  
16      MARCHING ORDERS HAVE ALWAYS BEEN, "I DO NOT TALK TO OTHER  
17      WITNESSES, AND I CERTAINLY DON'T TALK TO OTHER INFORMANTS.  
18      THAT IS PROHIBITED."

19              AND FINALLY, IF THERE'S ANY QUESTION IN YOUR MIND,  
20      THEY COULD HAVE SUBPOENAED ANTONIO GARATE. LET'S FIND OUT.

21              THEY DID NOT.

22              THE DOCUMENTS, AND THIS TIES IN TO THE INFAMOUS  
23      EXHIBIT TRIPLE M. I THINK THAT'S THE RIGHT EXHIBIT NUMBER,  
24      THE TELEPHONE RECORD FROM GUADALAJARA.

25              LADIES AND GENTLEMEN, THE GOVERNMENT BRINGS TO YOU



1 LIVE WITNESSES. ZUNO BRINGS YOU A PIECE OF PAPER, SUPPOSEDLY  
2 FROM THE TELEPHONE COMPANY. YOU CAN'T CROSS-EXAMINE A PIECE  
3 OF PAPER.

4 WITH ALL THE 38 CHARTS AND ALL THE MONEY THEY SPENT  
5 ON THAT AND ALL THEIR LAWYERS, I GUESS THEY COULD HAVE FLOWN  
6 UP THAT CUSTODIAN OF RECORDS FROM THE TELEPHONE COMPANY. THEY  
7 DID NOT.

8 AND ISN'T IT UNUSUAL, BY THE WAY, IN LIGHT OF ALL THE  
9 OBSTRUCTION AND LACK OF MEXICAN COOPERATION, THAT THE ONLY  
10 PERSON THAT INTRODUCED RECORDS FROM MEXICO IN THIS CASE WAS  
11 ZUNO?

12 AND IN LIGHT OF THE OBSTRUCTION THAT I'VE DESCRIBED  
13 FOR YOU ALREADY, THE GOVERNMENT DIDN'T PUT ON ANY RECORDS; YOU  
14 FIGURE OUT WHY.

15 BUT THE ONLY ONE THAT DID THAT IS ZUNO. AND WHAT HE  
16 COMES FORWARD WITH IS THIS TELEPHONE RECORD, AND IT'S SUPPOSED  
17 TO STAND FOR THE PROPOSITION THAT THERE WAS NO TELEPHONE,  
18 EVER. AND THE ADDRESS THEY USE, BY THE WAY, IS 1114 TONALA,  
19 WHICH IS THE WRONG LA QUINTA. I'VE ALREADY TOLD YOU THAT.

20 BUT TO COVER THEMSELVES, THEY ALSO GO ON TO SAY THAT  
21 IN THE ENTIRE TONALA DISTRICT THERE WAS NEVER ANY PHONE  
22 SERVICE UNTIL, I THINK, 1988 OR SOMETHING.

23 WELL, LADIES AND GENTLEMEN, YOU HAVE PHOTOGRAPHS OF  
24 THAT AREA. I ASK YOU TO LOOK AT THEM. YOU CAN TELL THAT IT'S  
25 A PRETTY MODERN RESIDENTIAL AREA.

1           AND THERE'S TWO OTHER THINGS THAT JUST BLOW OUT OF  
2 THE WATER THE ARGUMENT THAT THERE WAS NO PHONE THERE; AND,  
3 AGAIN, AN ATTEMPT TO CONTRADICT CERVANTES.

4           ONE IS: YOU KNOW -- AND, IN FACT, I THINK IT'S  
5 COMMON SENSE -- AS HARRISON TOLD YOU, THAT COMMUNICATIONS WAS  
6 THE HEART AND SOUL OF DRUG DEALERS. THAT'S WHY HARRISON WAS  
7 SO INVALUABLE. THAT'S WHY FONSECA WOULDN'T CUT HIM LOOSE:  
8 BECAUSE HE NEEDED HIM TO MAINTAIN THIS ELABORATE HAND-HELD  
9 RADIO AND TRANSMITTER SYSTEM, COMMUNICATIONS SYSTEM.

10           YOU TELL ME NOW THAT, IN LIGHT OF THE FACT THAT  
11 COMMUNICATIONS IS TO CRUCIAL, THAT THEY'RE NOT GOING TO HAVE A  
12 TELEPHONE AT LA QUINTA. THAT MAKES NO SENSE.

13           AND BEYOND THAT, LADIES AND GENTLEMEN, THIS IS A  
14 NARCOTICS ENTERPRISE THAT HAS THE CAPACITY, POWER AND WEALTH  
15 TO PUT AN OASIS OUT IN THE MIDDLE OF THE DESERT OUTSIDE OF  
16 BUFALO. THEY PUT UP UNDERWATER PUMPS TO BRING UP THE WATER.  
17 THEY SET UP ELECTRICAL LINES, LINES WHICH WENT BY VILLAGES IN  
18 AREAS WHERE THERE'S NO ELECTRICAL POWER.

19           IF THEY HAVE THE POWER TO DO THAT SORT OF THING, REST  
20 ASSURED THEY HAVE THE POWER TO SET UP A PHONE AT LA QUINTA, NO  
21 MATTER WHAT ANY TELEPHONE RECORD SAYS. AND THAT ASSUMES THAT  
22 YOU EVEN GIVE ANY CREDENCE TO THAT TELEPHONE RECORD.

23           LADIES AND GENTLEMEN, A GOOD NUMBER OF MR. MEDVENE'S  
24 CHARTS DEALT WITH THE THEME OF INCONSISTENCIES WITH CERVANTES.  
25 AND I'D LIKE TO JUST BRIEFLY ADDRESS THAT ISSUE. I'M NOT

1 GOING TO GO INTO INCONSISTENCIES BECAUSE I'D BE HERE FAR TOO  
2 LONG, MORE THAN YOU COULD STAND.

3 BUT FIRST OF ALL, THE D.E.A. AGENTS TOLD YOU  
4 REPEATEDLY THAT THE REPORTS ARE NOT ALL-ENCOMPASSING. THEY  
5 ARE MERE SUMMARIES.

6 SECOND OF ALL -- AND THEN MR. MEDVENE QUOTES STUFF  
7 FROM THE GRAND JURY TRANSCRIPTS. YOU ALSO KNOW THAT THE  
8 WITNESS ONLY ANSWERS THE QUESTIONS THAT ARE ASKED OF HIM. IF  
9 THE QUESTION'S NOT ASKED OR IF IT'S IS ASKED POORLY OR THERE'S  
10 A TRANSLATOR PROBLEM, IT COMES UP KIND OF MESSED UP ON THE  
11 GRAND JURY TRANSCRIPT.

12 NOW, CERVANTES WAS FRANK, AND HE TOLD YOU EXACTLY  
13 WHAT HAPPENED IN THIS CASE. HE COMES UP HERE IN OCTOBER OR  
14 NOVEMBER, IS NERVOUS BECAUSE HIS FAMILY IS STILL IN MEXICO.  
15 HE WANTS TO COOPERATE, BUT HE'S USED TO A SYSTEM WHERE, IN  
16 MEXICO, YOU CAN GET ARRESTED JUST BECAUSE YOU'RE BEING  
17 INVESTIGATED.

18 SO THEY HAVE TO APPEASE HIM AND PUT HIM AT EASE THAT  
19 HE'S NOT GOING TO BE ARRESTED JUST BECAUSE HE CROSSED THE  
20 BORDER. AND ONCE HE'S HERE -- THE AGENTS TOLD YOU THIS,  
21 LADIES AND GENTLEMEN, DELBERT AND SALAZAR -- PARDON ME.

22 SALAZAR AND HECTOR BERRELLEZ, THEY TOLD YOU THAT THE  
23 FIRST INTERVIEWS WITH HECTOR CERVANTES WERE CONVERSATIONS.  
24 THEY WERE NOT SET, ESTABLISHED, QUESTION AND ANSWER  
25 INTERVIEWS, THEY WERE MERELY CONVERSATIONAL.

1           AND THE ENTIRE GOAL OF THOSE INTERVIEWS WAS TO PUT  
2           THE MAN AT EASE. THAT'S WHY THERE WAS NO TAPING. THAT'S WHY  
3           THERE WAS NO NOTES.

4           THE DEFENSE IS GETTING HYSTERICAL OVER THE FACT THAT  
5           THERE WEREN'T MORE REPORTS. WELL, THERE'S A REASON FOR THAT,  
6           LADIES AND GENTLEMEN: WHEN YOU'RE TRYING TO PUT A MAN AT  
7           EASE, YOU'RE NOT GOING SIT THERE WITH YOUR PAD, LOOKING UP AND  
8           DOWN, AND ASKING THE GUY QUESTIONS. CERVANTES WOULD HAVE  
9           GOTTEN OUT OF HERE SO FAST EVERYONE'S HEAD WOULD HAVE SPUN.

10           YOU'VE TO MAKE THE GUY COMFORTABLE. AND THEN THIS IS  
11           WHAT HAPPENS, AND THE AGENTS TOLD YOU THIS: WHEN HIS FAMILY  
12           IS HERE FINALLY, HE TOLD THE AGENTS WHAT HE KNEW. HE  
13           DESCRIBED ALL THE MEETINGS. HE TESTIFIED ON THE STAND.

14           AND, YOU KNOW, THERE WAS A LOT OF CROSS-EXAMINATION,  
15           AND I DIDN'T MEAN ANY DISRESPECT WHEN I SAY "AD NAUSEAM." I  
16           WAS TRYING TO SAY THAT IT WENT ON FOR A LONG TIME, IT SEEMED  
17           TO ME AT LEAST.

18           BUT IN THAT CROSS-EXAMINATION ONE THING WAS  
19           UNFLAPPABLE; AND THAT WAS THAT WHAT CERVANTES TOLD US ON  
20           DIRECT, HE TOLD YOU ON CROSS-EXAMINATION. HE SAID X  
21           HAPPENED, ON DIRECT, TO THE GOVERNMENT, AND HE HELD TO THAT ON  
22           Y, CROSS-EXAMINATION BY THE DEFENSE, DESPITE THE FACT THAT  
23           STOLAR AND MEDVENE ARE HOLDING THESE REPORTS UP IN THE AIR  
24           SAYING, "WAIT A MINUTE. YOU SAID SOMETHING DIFFERENT HERE."

25           WELL, THAT'S NOT TRUE. THAT'S YET ANOTHER

1 MISREPRESENTATION.

2 THE AGENTS TOLD YOU THAT BECAUSE THEY TOOK NO  
3 NOTES -- THEY WERE SITTING THERE, IT WAS A CONVERSATION, IT  
4 WAS LIKE THEY WERE HAVING A BEER WITH SOMEONE -- LATER,  
5 SOMETIMES DAYS LATER, SALAZAR AND BERRELLEZ WOULD GET  
6 TOGETHER, PUT THEIR HEADS TOGETHER AND TRY TO REMEMBER WHAT  
7 HAPPENED; AND THEN THEY WOULD WRITE THE REPORT.

8 AND SALAZAR WENT A STEP FURTHER, AND HE TOLD YOU  
9 THAT -- BECAUSE HE WROTE VIRTUALLY ALL THE REPORTS, HE SAID,  
10 "WHEN I WROTE THE REPORT, I TRIED TO REMEMBER WHAT HAPPENED,  
11 AND I GAVE THE INTERVIEW A FRAMEWORK. I GAVE IT A  
12 CHRONOLOGICAL SKELETON."

13 AND HE THEN ASSIGNED THE DATES TO IT. THAT'S WHAT  
14 HAPPENED.

15 BUT THE WAY THE DEFENSE PRESENTS IT TO YOU, CERVANTES  
16 IS A BALD-FACED LIAR BECAUSE THERE'S INCONSISTENCIES BETWEEN  
17 WHAT HE SAID WHEN HE GOT HERE IN OCTOBER OR NOVEMBER AND WHAT  
18 HE SAID ON THE STAND STARTING MAY 23.

19 THOSE INCONSISTENCIES ARE THERE. NO ONE DENIES THAT,  
20 LADIES AND GENTLEMEN. BUT THERE'S AN EXPLANATION FOR THOSE  
21 REASONS.

22 AND THERE'S ANOTHER EXPLANATION, WHICH I THINK ALL OF  
23 US HERE CAN PROBABLY IDENTIFY WITH MORE. AND THAT IS THE  
24 FOLLOWING: FALLACY. IT IS A FALLACY THAT YOUR MEMORY IS  
25 BETTER CLOSER TO THE TIME OF THE ACTUAL EVENT.

1            THAT'S A FALLACY, AND I'LL TELL YOU WHY. IF I GAVE  
2 EACH OF YOU A PAD -- I DON'T HAVE TO, BECAUSE YOU EACH HAVE A  
3 PAD ALREADY -- AND I ASK YOU, "YOU LOOK ME IN THE EYE AND YOU  
4 TELL ME WHAT YOU DID JULY OF 1989," YOU WOULD LOOK AT ME AND  
5 YOU WOULD JUST STARE AT ME. THEN YOU'D LOOK AT YOUR PAD AND  
6 YOU WOULD STARE AT YOUR PAD.

7            AND I KNOW WHAT'S GOING TO HAPPEN: YOU'RE NOT GOING  
8 TO BE ABLE TO WRITE ANYTHING DOWN, BECAUSE YOU DRAW A BLANK.

9            BUT THEN WHAT HAPPENS?

10           "JULY, JULY. OKAY. THERE'S THE 4TH OF JULY. MOM  
11 AND DAD WERE IN TOWN. WE GOT TOGETHER. MY SISTER CAME IN, AS  
12 WELL.

13           "OKAY. I REMEMBER NOW. WE WENT TO DISNEYLAND. IT  
14 WAS INCREDIBLY CROWDED. THERE WAS A ONE-HOUR WAIT FOR THE  
15 LINES."

16           AND YOU START REMEMBERING. YOU START MASSAGING AND  
17 WORKING ON THAT MEMORY. AND WITH TIME, YOU'RE ABLE TO  
18 REMEMBER BETTER.

19           THAT'S CERVANTES. IF YOU EXPECT CERVANTES, WHEN HE  
20 WALKED IN COLD OFF THE STREET IN NOVEMBER, TO LAY OUT  
21 EVERYTHING HE TOLD YOU ON DIRECT EXAMINATION, DON'T HOLD YOUR  
22 BREATH, BECAUSE THAT'S NOT THE WAY THE HUMAN MIND WORKS.

23           THE WAY THE HUMAN MIND WORKS IS: YOU HAVE TO WORK ON  
24 YOUR MEMORY; AND WHEN DO, YOU'RE ABLE TO REMEMBER BETTER, AND  
25 EVENTUALLY IT ALL COMES TOGETHER; AND THEN, BAM, YOU TESTIFY.

1 AND THAT'S WHAT CERVANTES DID FOR YOU, LADIES AND GENTLEMEN.

2 AND AGAIN I REMIND YOU, ON DIRECT AND ON CROSS, FOR  
3 FOUR OR FIVE DAYS, HIS TESTIMONY DID NOT CHANGE: "THERE WERE  
4 FOUR MEETINGS. THESE PEOPLE WERE PRESENT AT THOSE, THOSE  
5 PEOPLE WERE PRESENT AT THIS MEETING."

6 HE WAS UNFLAPPABLE, AND THAT'S THE GREATEST PROOF OF  
7 THIS FALLACY THAT THE MEMORY IS CLOSER TO THE TIME OF THE  
8 EVENT. (PAUSE.)

9 YOUR HONOR, MIGHT THIS BE A CONVENIENT TIME JUST TO  
10 TAKE FIVE MINUTES? OR I COULD CONTINUE, IF YOU WOULD LIKE.

11 THE COURT: GO AHEAD.

12 MR. MEDRANO: THANK YOU.

13 ON THE ISSUE OF ACCUSATIONS AGAINST THE GOVERNMENT  
14 WITNESSES THAT THEY ARE LYING, I WANT TO LAY THAT TO REST,  
15 BECAUSE, AGAIN, YOU KNOW, MR. MEDVENE TOLD YOU REPEATEDLY, AND  
16 I'M A FULL -- FULLY SUPPORTIVE OF THIS PROPOSITION: DON'T  
17 LEAVE YOUR COMMON SENSE AT HOME. KEEP IT WITH YOU WHEN YOU'RE  
18 BACK THERE DELIBERATING IN THE JURY ROOM.

19 AND LET'S TALK ABOUT THESE INFORMANTS AND PLASCENCIA  
20 AND CERVANTES.

21 ALL RIGHT. IF CERVANTES WAS LYING, IF PLASCENCIA WAS  
22 LYING TO YOU, IF HARRISON WAS LYING TO YOU, THEY WOULD HAVE  
23 EMBELLISHED THEIR STORIES TO A DEGREE THAT THERE WOULD BE  
24 ABSOLUTELY NO QUESTION IN YOUR MINDS ABOUT THE INVOLVEMENT OF  
25 THE DEFENDANTS IN THIS COURTROOM. BUT DOESN'T HAPPEN.

1 HARRISON COMES UP HERE AND HE SAYS, "I WORKED FOR  
2 FONSECA. I DID THE RADIO SYSTEM. AND ON TWO OCCASIONS I SAW  
3 ZUNO WITH CARO, AND ONCE WITH FONSECA."

4 THAT'S ALL HE SAYS.

5 MR. MEDVENE: IF THE COURT PLEASE, THAT MISSTATES THE  
6 RECORD. IT'S ONCE AND ONCE HE ALLEGES. HE DOESN'T SAY TWICE  
7 AND ONCE.

8 THE COURT: THE RECORD SPEAKS FOR ITSELF, AND THE  
9 JURY HAS HEARD THE EVIDENCE AND THEY WILL DECIDE.

10 MR. MEDRANO: THANK YOU, YOUR HONOR.

11 THAT'S ALL HARRISON SAID. HE DIDN'T ELABORATE. HE  
12 DIDN'T SAY THAT ZUNO -- THAT HE PUT HIS EAR TO THE DOOR AND  
13 COULD HEAR ZUNO TALKING ABOUT DOPE DEALS OR TRYING TO KIDNAP  
14 CAMARENA. HE DIDN'T DO THAT.

15 CERVANTES DOES THE SAME THING. HE PLACES MATTA AT  
16 ONLY -- AT TWO MEETINGS, THE WEDDING DAY. HE DOESN'T PUT HIM  
17 AT THE BAPTISM. HE DOESN'T PUT HIM AT THE PREABDUCTION  
18 MEETING IN FEBRUARY OF 1985. HE'S VERY SPECIFIC

19 "NO. MATTA, I WENT FOR HIM AT THE AIRPORT. HE WAS  
20 THERE AT TWO MEETINGS."

21 PLASCENCIA. PLASCENCIA COULD HAVE TOLD YOU, IN HIS  
22 DESCRIPTION OF MOST OF THE TERRIBLE EVENTS AT LA LANGOSTA  
23 RESTAURANT, THAT HE TOLD -- WITNESSED THE TWO MEN, AS THEY'RE  
24 BEING CARRIED, AND HE POKES HIS HEAD IN THE DOOR THERE IN THE  
25 STORAGE ROOM AND SEES JAVIER VASQUEZ KILLING OR STABBING



1 SOMEONE .

2 HE DID NOT SAY THAT. HE WAS VERY SPECIFIC AND  
3 LIMITED IN WHAT HE TOLD YOU, BECAUSE HE 'S BEING HONEST.

4 "I SAW THE GUYS BEING BEATEN, THEY WERE WALKING IN  
5 THE DIRECTION OF THE STORAGE ROOM. JAVIER VASQUEZ WAS ONE OF  
6 THEM."

7 MY POINT IN THIS, LADIES AND GENTLEMEN -- AGAIN, I  
8 COULD GO ON WAY TOO LONG WITH THIS EXAMPLE -- IS THAT IF THE  
9 WITNESSES ARE LYING TO YOU, THEY COULD HAVE DONE A HELL OF A  
10 BETTER JOB. BUT THEY 'RE NOT, BECAUSE THEY 'RE BEING TRUTHFUL.

11 AND IF THE DEFENSE DOESN'T LIKE WHAT THEY SAY OR  
12 DOESN'T LIKE WHAT THEY HEAR FROM THESE WITNESSES, THEY TRY TO  
13 HIT THEM HARD IN ANY WAY THEY CAN; AND THEN THEY COME FORWARD  
14 WITH THESE CHARTS AND THESE MISREPRESENTATIONS.

15 ONE OF THE MOST STUNNING STATEMENTS MADE IN THIS  
16 COURTROOM, I WOULD SUBMIT TO YOU, IS YOU'RE TOLD BY BOTH MR.  
17 STOLAR AND MR. MEDVENE THAT PROBABLY THE MOST CREDIBLE WITNESS  
18 DURING THIS TWO-AND-A-HALF MONTH TRIAL, OUTSIDE OF THE AGENTS,  
19 I HOPE, IS DAVID MACIAS BARAJAS.

20 IT'S A PRETTY AMAZING STATEMENT, BECAUSE YOU HEARD  
21 HIS TESTIMONY; YOU SAW HIS Demeanor ON CROSS-EXAMINATION.

22 BY THE WAY, I HOPE THAT YOU KNOW THAT LIFE IN A  
23 COURTROOM HAS NOTHING TO DO WITH WHAT PERRY MASON USED TO DO  
24 ON CROSS-EXAMINATION OF THE WITNESSES, WHERE THEY'D BREAK DOWN  
25 IN TEARS AND SAY, "I DID IT. I CONFESS."

1 LADIES AND GENTLEMEN, THAT DOESN'T HAPPEN IN REAL  
2 LIFE. YOU HAVE PEOPLE HERE WHO HAVE HAD MONTHS TO THINK ABOUT  
3 WHAT THEY'RE GOING TO TELL YOU IF THEY DECIDE TO TESTIFY.

4 BERNABE DID. HE HAD HIS STORY IN MIND. HE TOLD YOU  
5 WHAT HE WANTED TO SAY.

6 BUT IN REAL LIFE, WHEN YOU CROSS-EXAMINE A WITNESS --  
7 AND I'M NOT SAYING THAT MR. CARLTON AND I ARE REAL EXPERTS AT  
8 THIS; WE TRY OUR BEST -- BUT ALL YOU TRY TO DO IS TRY TO GET  
9 LITTLE DETAILS FROM THEM THAT HOPEFULLY SOMEDAY YOU CAN USE IN  
10 A CLOSING ARGUMENT.

11 AND WHAT'S NOT GOING TO HAPPEN, AS MR. STOLAR,  
12 PERHAPS, AND MR. MEDVENE WANT YOU TO BELIEVE, IS THAT A  
13 WITNESS IS GOING TO COLLAPSE UNDER STRENUOUS CROSS-EXAMINATION  
14 BY MEDRANO, BECAUSE, NO. 1, I'M NOT GOOD ENOUGH TO DO THAT,  
15 AND, NO. 2, THAT'S NOT REAL LIFE, LADIES AND GENTLEMEN.  
16 THAT'S JUST NOT THE WAY IT HAPPENS IN A REAL COURT OF LAW.

17 BUT MACIAS, ONE HAS TROUBLE TRYING TO IMAGINE HOW TO  
18 COUNT THE WAYS THAT MACIAS LACKS CREDIBILITY.

19 WENDELL BOYD, THIS GENTLEMAN FROM THE M.D.C., COMES  
20 HERE AND TELLS YOU STATEMENTS THAT DIRECTLY CONTRADICT MACIAS.

21 MACIAS TOOK THE STAND ON BEHALF OF ZUNO AND TELLS YOU  
22 THAT, YOU KNOW, "I HAD NO CONTACT WITH ZUNO. OH, I DID SEE  
23 HIM IN THE CHURCH, BUT WE WERE IN SEPARATE UNITS." AND, YOU  
24 KNOW, THAT'S WHAT HE WANTS YOU TO BELIEVE.

25 MR. BOYD COME IN HERE AND SAYS THAT IN JUST THE ONE

1 WEEK THAT HE HAD THE TWO OF THEM TOGETHER IN 6 SOUTH, HE SAW  
2 AT LEAST THE FOLLOWING: TWO TO THREE TIMES, BOTH MEN AT THE  
3 SAME TABLE. THE GROUP WAS PLAYING CARDS. HE DOESN'T KNOW  
4 WHICH ONE OF THE MEN WAS HOLDING CARDS.

5 THAT WAS HIS TESTIMONY. IN ADDITION TO THAT: ONE OF  
6 TWO TIMES, THE LATE 9 O'CLOCK SNACK, WHERE THE HISPANICS WOULD  
7 GET TOGETHER, ABOUT 8, 10, 12 MEN OR WHATEVER, BOTH OF THOSE  
8 TIMES, ZUNO WAS WITH MACIAS BARAJAS.

9 THEY HAD CONTACT. THEY HAD OPPORTUNITY TO GET  
10 TOGETHER. AND ZUNO HAD HIS OPPORTUNITY TO REACH OUT TO THIS  
11 MAN AND BRIBE HIM. AND THAT'S WHY MACIAS WAS BROUGHT INTO  
12 THIS COURTROOM, AND THAT'S WHY MACIAS WAS LYING THROUGH HIS  
13 TEETH TO YOU.

14 MACIAS -- LADIES AND GENTLEMEN, WHEN I REFERENCED THE  
15 FACT THAT HE'S A NARCOTICS TRAFFICKER, THE DEFENSE LAWYER  
16 IMMEDIATELY CAPITALIZED ON THAT TO SAY, "WELL, THE  
17 GOVERNMENT'S WITNESSES ARE ALSO DRUG DEALERS, SO WHY ARE THEY  
18 ANY BETTER THAN OURS?"

19 WELL, THERE IS A DIFFERENCE. THERE'S A VERY PROFOUND  
20 DIFFERENCE.

21 FIRST OF ALL, WHEN THE GOVERNMENT WITNESSES COME IN,  
22 THERE'S A GOVERNMENT EFFORT TO TRY TO CORROBORATE ANYTHING  
23 THEY TOLD YOU. SO IF RETAMOZA SAID, I WENT TO MEET WITH  
24 GALLARDO AND MATTA IN GUADALAJARA, THEN MR. WALTER SCHUMACHER  
25 AND PATRICK HOSMANN ALSO CAME IN. AND THEY SAID, "WE GO TO

1 THE GUADALAJARA AIRPORT TO TRY TO SELL AN AEROCOMMANDER 1,000;  
2 THEN THERE'S MATTA, WITH FELIX GALLARDO."

3 SEE, THAT'S THE DIFFERENCE WITH THE GOVERNMENT  
4 WITNESSES AND THOSE OF THE DEFENSE.

5 BUT WHEN I WANTED YOU TO FOCUS ON NARCOTICS  
6 TRAFFICKING BY DAVID MACIAS BARAJAS, IT WAS JUST SO THAT YOU  
7 WOULD KNOW THAT HE WASN'T EVEN COMING CLEAN WITH THEM. WHEN  
8 THE GOVERNMENT'S WITNESSES TOLD YOU THAT THEY WERE DRUG  
9 DEALERS, THEY LAID IT ALL OUT.

10 HARRISON TOLD YOU HE DID FOUR CARAVANS, ONCE TO  
11 MASCOTA.

12 FRANK RETAMOZA TOLD YOU HE MADE TONS OF MONEY DRIVING  
13 DRUGS MOSTLY BACK TO GUADALAJARA. I FORGOT WHAT HE SAID:  
14 FOUR HUNDRED, FIVE HUNDRED THOUSAND DOLLARS.

15 THEY CAME CLEAN, AND THEY GOT HAMMERED ON  
16 CROSS-EXAMINATION. I MEAN, LET'S NOT DENY THAT. BUT THEY  
17 CAME CLEAN.

18 MACIAS BARAJAS TAKES THAT STAND AND HE TELLS YOU --  
19 HE TOLD YOU A STORY. I ASKED HIM, "OKAY. HOW MANY TIMES IN  
20 THE STATES HAVE YOU GONE DOWN ON SELLING OR BEING INVOLVED IN  
21 NARCOTICS TRAFFICKING?"

22 "OH, JUST TWO. 86, THE HEROIN; AND 83, THE  
23 MARIJUANA."

24 LADIES AND GENTLEMEN, OVER 50 KILOS OF MARIJUANA IN  
25 1988 IS NOT THE WORK OF A NOVICE. YOU KNOW, YOU MAY START OUT

1 WITH JOINTS OR SOMETHING, BUT YOU DON'T WORK UP TO BEING A  
2 KILO DEALER WITHOUT HAVING PREVIOUSLY BEEN INVOLVED.

3 SO HE DOESN'T COME CLEAN WITH DRUG TRAFFICKING IN THE  
4 STATES. AND YOU KNOW WHY? BECAUSE IF HE DOES, HE COULD BE  
5 PROSECUTED FOR THAT IN THE UNITED STATES.

6 ALL HE OWNS UP TO IS DRUG DEALING IN MEXICO: "OH,  
7 YEAH. I DID IT DOWN IN MEXICO SO MANY TIMES I DON'T EVEN  
8 REMEMBER, AND MANY TIMES WITH CERVANTES."

9 HE'S BEYOND THE JURISDICTION OF THE UNITED STATES, SO  
10 OF COURSE HE'S GOING TO COME CLEAN ON ANYTHING IN MEXICO. BUT  
11 HE DIDN'T COME CLEAN ON WHAT HAPPENED IN THE UNITED STATES.

12 THAT, IN CONJUNCTION WITH HIS DENIAL THAT HE SPENT NO  
13 TIME WITH ZUNO, AND MR. BOYD DIRECTLY CONTRADICTED THAT: THE  
14 MAN IS A LIAR.

15 DEFENSE, IN ITS EFFORTS TO CONTRADICT AND DISCREDIT  
16 CERVANTES, RELIED ON THREE WITNESSES.

17 MACIAS BARAJAS, I SUBMIT YOU CAN PUT HIM ASIDE,  
18 BECAUSE HIS TESTIMONY IS WORTHLESS.

19 AND THEN ESPERANZA, THE SISTER-IN-LAW OF JAVIER  
20 VASQUEZ, AND HER DAUGHTER THERESA. LADIES AND GENTLEMEN, HOW  
21 TRUTHFUL WERE THE WOMEN TO YOU WHEN THEY TESTIFIED?

22 FIRST OF ALL, THERE'S THE OBVIOUS BIAS FACTOR.  
23 THEY'RE RELATIVES OF ONE OF THE DEFENDANTS IN THIS COURTROOM.

24 SECOND OF ALL, THEY WERE INCONSISTENT AMONG  
25 THEMSELVES.

1 MOM SAYS -- ESPERANZA -- "I USED TO GO TO LA QUINTA  
2 THREE TIMES A MONTH, 8 TO 15 DAYS A SHOT."

3 THAT'S OVER 45 DAYS A MONTH, BY THE WAY.

4 "AND I DID THAT INCLUDING THROUGH 85."

5 YOU ASK THE DAUGHTER, "HOW OFTEN WAS MOM AT THE  
6 HOUSE?"

7 THERESA WOULD SAY, "VERY RARELY."

8 THEY CAN'T EVEN GET THEIR STORIES STRAIGHT.

9 REMEMBER THE DESCRIPTIONS OF THE HOUSE? ONE HAS  
10 BEDROOMS IN THE BACK, ONE HAS THEM ON THE SIDE.

11 THE MOTHER, ESPERANZA, COULD NOT IDENTIFY JAVIER  
12 VASQUEZ IN THE COURTROOM, YET SHE WANTS YOU TO BELIEVE WHEN  
13 SHE TELLS YOU, "I NEVER SAW BARBA WITH JAVIER VASQUEZ,  
14 TOGETHER. YES, WITH ELISEO, BUT NEVER WITH JAVIER VASQUEZ."

15 THIS MAKES NO SENSE, LADIES AND GENTLEMEN.

16 MATTA. AT NO TIME, I BELIEVE, DID I COME UP HERE AND  
17 TELL YOU THAT THE TWO PHOTOS FOUND AT THE GALLARDO HOUSE WERE  
18 IMMEDIATELY NEXT TO EACH OTHER.

19 MR. STOLAR TOLD YOU I SAID THAT. IF I SAID THAT, I  
20 MISSPOKE.

21 I THINK WHAT I SAID, THEY WERE BOTH FOUND IN THE SAME  
22 ROOM, IN THE LIBRARY ROOM IN THE HOUSE OF GALLARDO. AGAIN,  
23 MISREPRESENTATIONS.

24 MR. STOLAR ACCUSED ME OF LYING AND SAYING THAT  
25 HARRISON TESTIFIED THAT MATTA'S RADIO CALL SIGNAL WAS "PONY."

1 LADIES AND GENTLEMEN, I NEVER TOLD YOU THAT. I TOLD YOU  
2 RETAMOZA SAID THAT THIS WAS A CALL SIGNAL OF MATTA.

3 MR. STOLAR ACCUSES ME OF DECEPTION BY HOLDING UP A  
4 PHOTO OF LA QUINTA AND SAYING, "LOOK, NO TELEPHONE," BECAUSE,  
5 "LOOK FOR THE TELEPHONE WIRES."

6 LADIES AND GENTLEMEN, I NEVER TOLD YOU THAT. I ASKED  
7 YOU TO LOOK AT THE PHOTOGRAPH SIMPLY FOR THE PROPOSITION THAT  
8 IT'S A MODERN RESIDENTIAL AREA.

9 MISREPRESENTATION NO. 4, THAT CERVANTES IS LYING TO  
10 YOU BECAUSE HE CAN'T EVEN REMEMBER THE ADDRESS. WELL, LOOK AT  
11 THE PHOTOGRAPHS OF LA QUINTA, THE REAL ONE, THE ONE THE  
12 GOVERNMENT TELLS YOU IS LA QUINTA. THERE IS NO NUMBER ON  
13 THERE, LADIES AND GENTLEMEN. THAT'S WHY CERVANTES DOESN'T  
14 EVEN KNOW THE NUMBER OF THAT PLACE.

15 THIS IS AMAZING. MR. STOLAR TELLS YOU YOU HAVE NO  
16 EVIDENCE THAT THE COCAINE RECEIVED IN YOUNG, ARIZONA -- THAT  
17 THE COCAINE THAT WAS ANALYZED BY MR. ROBERT FULKERSON, THE  
18 BESPECTACLED CHEMIST YOU MAY RECALL, WAS NOT THE COKE RECEIVED  
19 IN YOUNG, ARIZONA.

20 LADIES AND GENTLEMEN, WERE ALL OF US HERE AT THE SAME  
21 TIME? HE TOLD YOU THAT BYRON MILLS -- HE TESTIFIED FOR YOU --  
22 SENT HIM THE COCAINE FOR ANALYSIS. BYRON MILLS WAS THE POINT  
23 MAN ON INVESTIGATING THE COCAINE AT THE YOUNG SEIZURE.

24 MR. STOLAR: OBJECTION, YOUR HONOR. IT MISSTATES THE  
25 RECORD. IT CAME FROM THE EVIDENCE CLERK.

1 THE COURT: OVERRULED.

2 MR. MEDRANO: IN ADDITION, MR. FULKERSON WAS ASKED  
3 WHAT NAMES WERE ON THE REPORT TO INDICATE WHAT PEOPLE WERE  
4 ARRESTED; AND THE NAMES HE GAVE YOU WERE THE SAME NAMES GIVEN  
5 OF THE PEOPLE ARRESTED IN YOUNG, ARIZONA. AGAIN, LADIES AND  
6 GENTLEMEN, AN EFFORT TO MISLEAD YOU.

7 MR. STOLAR TELLS YOU THAT WHEN FUENTES TESTIFIED THE  
8 FIRST TIME, WHEN CALLED BY THE GOVERNMENT, THAT MR. NICOLAYSEN  
9 STOOD UP AND ASKED ON CROSS-EXAMINATION ABOUT THE DATES, AND  
10 THAT SHE GAVE A SPECIFIC DATE AND THE ALIBI.

11 WELL, THAT'S NOT TRUE. YOUR RECOLLECTION CONTROLS,  
12 BUT SHE NEVER, EVER GAVE ANY EXACT DATES.

13 MR. NICOLAYSEN ASKED HER, "WERE THERE ANY OTHER  
14 TRIPS?"

15 SHE BASICALLY REPLIED, AS I RECALL, "TWO, THREE,  
16 TRIPS, SOMETIME BETWEEN JANUARY AND MARCH," AND THAT'S ALL SHE  
17 SAID.

18 AND I TOLD YOU THAT BECAUSE IT INDICATES THAT SHE  
19 LIED WHEN SHE CAME BACK. SHE TRIED TO GIVE AN ALIBI FOR HER  
20 ESTRANGED HUSBAND.

21 MR. STOLAR FOCUSES ON THE FACT THAT THERE IS --  
22 CERVANTES IS UNBELIEVABLE TO YOU BECAUSE OF HIS, QUOTE,  
23 "STORY" THAT THERE WAS A LINE AT LA QUINTA. AND I REMEMBER  
24 THAT DAY DISTINCTLY, BECAUSE ALL OF US AND SOME OF THE MEMBERS  
25 HERE IN THE BACK OF THE COURTROOM CHUCKLED WHEN MR. CERVANTES



1 SAID THAT.

2 I DON'T THINK THAT'S SO PECULIAR. I MEAN, WE HAVE TO  
3 TAKE OURSELVES OUTSIDE THE PRESENT DAY AND PUT OURSELF IN THE  
4 TIME FRAME OF GUADALAJARA DURING THOSE BIZARRE CORRUPT YEARS.

5 AND, LADIES AND GENTLEMEN, WHEN YOU'RE WEALTHY AND  
6 AFFLUENT, YOU CAN DO WHATEVER THE HECK YOU WANT. IF YOU WANT  
7 A LION IN YOUR BACKYARD, YOU CAN.

8 REMEMBER, VIRGINIA REYNOSA TOLD YOU THAT SHE ONCE  
9 WENT TO A HOTEL WHERE GILBERTO HERNANDEZ, ONE OF THE  
10 DEFENDANTS IN THIS CASE -- HE'S NOT IN CUSTODY, OBVIOUSLY --  
11 HAD A LION CUB THERE. THESE ARE PEOPLE WHO, WHEN THEY'RE SO  
12 RICH, THEY DO WHATEVER THEY WANT. THEY BUY DANCING HORSES AND  
13 SHOW THEM OFF TO PEOPLE AT PARTIES.

14 THEY BUY ARMOR-PLATED L.T.D. CARS AND THEN PULL OUT  
15 AN AK-47 AND SHOOT AT IT TO IMPRESS THE GUESTS. I MEAN, THIS  
16 IS -- THIS IS THE ATMOSPHERE IN GUADALAJARA IN 1984 AND 1985.

17 SO WHEN VIEWED IN THAT CONTEXT, IF CERVANTES TOLD YOU  
18 THAT THERE IS A LION IN THE BACKYARD, I SUBMIT TO YOU THAT YOU  
19 CAN DARN WELL BELIEVE IT.

20 MR. STOLAR FLAGGED AND WAVED IN THE AIR THIS  
21 COOPERATION AGREEMENT SIGNED BY CERVANTES AND HE SAID, "HE  
22 LIED TO YOU WHEN HE SAID HE HAD NEVER SIGNED ANY AGREEMENT."

23 YOUR RECOLLECTION CONTROLS, OBVIOUSLY. BUT I SUBMIT  
24 TO YOU THAT WHAT HAPPENED IS, IT WAS ONE OF THE DEFENSE  
25 LAWYERS ASKING QUESTIONS ON CROSS-EXAMINATION, AND THE ISSUE

1 WAS: "WERE THERE ANY AGREEMENTS ABOUT HOW LONG YOU WERE GOING  
2 TO BE PAID?" AND THE WITNESSES REPLIES, "NO."

3 AND THAT'S ABSOLUTELY TRUE. I DON'T HAVE IT HERE,  
4 BUT IF YOU HELD UP -- AND I WANT YOU TO READ THE COOPERATION  
5 AGREEMENT. ALL IT SAYS -- AND IT'S THE SAME ONE THAT JAVIER  
6 VASQUEZ SIGNED WHEN HE MET WITH AGENT REYNOSO IN JULY OF 89.

7 ALL IT SAYS IS THAT YOU'LL TELL THE TRUTH AND YOU  
8 WON'T BREAK ANY LAWS. THAT'S ALL IT SAYS. THERE IS NO  
9 AGREEMENT ABOUT MONEY. THAT IS WHY CERVANTES, ON  
10 CROSS-EXAMINATION, SAID THAT THERE WAS NEVER ANY PROMISE OF  
11 MONEY.

12 LET THERE BE NO DOUBT, LADIES AND GENTLEMEN, OF THE  
13 POSITIVE IDENTIFICATION OF MATTA ON FEBRUARY 12 AT THE PLAZA  
14 DEL SOL HOTEL.

15 IF YOU ACCEPT THE ARGUMENTS OF MR. STOLAR, THEN LEYVA  
16 IS LYING TO YOU; AGUILAR IS LYING TO YOU; I GUESS NOW WALTER  
17 SCHUMACHER IS LYING TO YOU; I GUESS PATRICK HOSMANN IS LYING  
18 TO YOU; I GUESS FRANK RETAMOZA IS LYING TO YOU.

19 ALL THESE PEOPLE THAT TOOK THAT STAND IDENTIFIED  
20 MATTA AS BEING INVOLVED; BUT I GUESS ALL OF THESE WITNESSES  
21 ARE LYING TO YOU, OR ALL OF THESE WITNESSES,  
22 SOMEWHERE/SOMEPLACE, WERE SHOWN A PHOTOGRAPH OF MATTA, AND  
23 THAT'S WHY THEY WERE ABLE TO IDENTIFY HIM IN COURT.

24 BUT THAT'S NOT THE WAY IT IS. THEY IDENTIFIED MATTA  
25 BECAUSE THEY EITHER DEALT WITH HIM OR THEY SAW HIM WHEN THEY

1 SAID THEY SAW HIM.

2 NOW, MR. STOLAR MAKES A BIG DEAL ABOUT THE TRAVESTY  
3 THAT WHEN MATTA MAKES THIS STATEMENT IN APRIL OF 1985 IN  
4 COLOMBIA, THERE ARE THESE PHOTOGRAPHS FOUND, AND IN THE  
5 PHOTOGRAPHS THERE IS NO MUSTACHE ON MATTA. AND THAT'S  
6 IMPORTANT TO MR. STOLAR BECAUSE HE CLAIMS -- AND THIS IS A  
7 MISREPRESENTATION -- THAT LEYVA AND AGUILAR TOLD YOU THAT THE  
8 MATTA THEY SAW HAD A MUSTACHE.

9 THAT'S NOT THE TESTIMONY, I SUBMIT TO YOU. WHAT BOTH  
10 MEN SAID IS THAT THE MAN THEY SEE IN THE COURTROOM TODAY LOOKS  
11 LIKE THE MAN THAT THEY SAW ON FEBRUARY 12TH. THEY NEVER SAID  
12 THAT HE DID OR DID NOT HAVE A MUSTACHE.

13 AGAIN, IT'S AN EFFORT TO CONFUSE YOU HERE. THAT'S  
14 WHY HE GOES OFF INTO THESE WEIRD, TANGENTIAL ARGUMENTS.

15 DO YOU KNOW WHAT THE GREATEST PROOF IS HERE?

16 I DON'T THINK I HAVE THE PHOTOGRAPH HERE, BUT ALL  
17 THESE PHOTOS THAT MR. STOLAR SHOWED TO YOU, I WANT YOU TO SIT  
18 DOWN AND LOOK AT THEM CAREFULLY, THE PHOTOS WITH THE  
19 MUSTACHE -- PARDON ME. WITHOUT THE MUSTACHE, MR. STOLAR'S  
20 PHOTOS, GOVERNMENT EXHIBIT 183, AND ONE OF THEM HAS A PHOTO OF  
21 MATTA WITH A MUSTACHE.

22 AND YOU MAKE A MENTAL PICTURE OF THIS MAN THAT SITS  
23 IN THIS COURTROOM TODAY, AND I RESPECTFULLY SUBMIT TO YOU  
24 THAT, WITH OR WITHOUT THE MUSTACHE, MR. MATTA HAS SUCH UNIQUE  
25 FACIAL CHARACTERISTICS THAT YOU WOULD BE ABLE TO IDENTIFY HIM

1 WITH OR WITHOUT THE MUSTACHE.

2 THAT IS THE LITMUS TEST HERE. AND IF YOU DO THAT,  
3 YOU'LL SEE THE IRRELEVANCY AND THE SMOKE SCREEN OF ALL THIS  
4 ISSUE BY MR. STOLAR ABOUT THE PHOTOGRAPHS.

5 MAY I HAVE JUST ONE MOMENT, YOUR HONOR?

6 TWO HAIRS FOUND AT LOPE DE VEGA MATCH THE HAIR FROM  
7 THE HEAD OF MATTA BALLESTEROS. HERE IS THE REASON WHY: MR.  
8 MALONE HAS BEEN AROUND THE BLOCK. YOU EITHER ACCEPT HIS  
9 TESTIMONY OR YOU DON'T.

10 HE KNOWS WHAT. HE'S DOING -- HE'S AN EXPERT IN THIS  
11 AREA. I SUBMIT TO YOU YOU SHOULD BELIEVE HIM.

12 WHY ARE THESE HAIRS FROM MATTA? SEVERAL REASONS. 20  
13 CHARACTERISTICS WERE MATCHED UP, NOT ONE OR TWO; 20. AND THAT  
14 INCLUDED SUBCLASSES OF CHARACTERISTICS.

15 SECOND, HE TOLD ME ABOUT THE HAIR RELATING TO MATTA  
16 FOUND IN THE GUEST HOUSE. HE SAID IT WAS ABSOLUTELY  
17 INDISTINGUISHABLE, THERE WERE NO DISSIMILARITIES, AND THAT  
18 THIS WAS THE KICKER: UNIQUE RACIAL CHARACTERISTICS OF  
19 MONGOLOID AND NEGROID, SOMETHING HE HAD SEEN ONLY TWICE IN  
20 ABOUT 15 YEARS.

21 I SUBMIT TO YOU: THAT IS HAIR THAT COMES FROM THE  
22 HEAD OF MATTA.

23 I MEAN, LOOK AT HIS EXPERIENCE. HE'S REVIEWED  
24 THOUSANDS AND THOUSANDS OF HISPANIC HAIRS. AND, ALSO, LADIES  
25 AND GENTLEMEN --

1 MR. BURNS: OBJECTION. THAT IS INCONSISTENT WITH  
2 TESTIMONY OF THE HAIR EXPERT.

3 THE COURT: OVERRULED.

4 MR. MEDRANO: WELL, FINALLY, LET'S TRY TO ACCEPT SOME  
5 OF THE DEFENSE LAWYERS' ARGUMENTS.

6 I'M NOT GOING TO PULL IT OUT, BUT I'M GOING TO MAKE  
7 THIS ARGUMENT TO YOU.

8 ALL RIGHT. THERE'S A GRAND CONSPIRACY TO GET MATTA  
9 IF YOU BELIEVE THE DEFENSE, OVERZEALOUS, CRAZY D.E.A. AGENTS  
10 THAT CONSTITUTE THE LEYENDA TEAM ARE OUT TO GET ANYONE AND  
11 ANYBODY THEY CAN. ALL RIGHT? SO LET'S SAY THAT'S TRUE, FOR  
12 JUST ONE MOMENT.

13 YOU'RE GOING TO BELIEVE THAT SOMEONE GRABBED TWO OF  
14 MATTA'S HAIRS, THEY GO UP TO THE LOPE DE VEGA HOUSE, CLIMB UP  
15 THE STAIRS TO THE UPSTAIRS BEDROOM, AND PLANT ONE IN THE  
16 BATHROOM OF THAT BEDROOM, NO. 4. THEN THEY GO BACK  
17 DOWNSTAIRS. THEY GO OUTSIDE TO THE BACK WHERE THE GUEST HOUSE  
18 IS, AND THEY GO IN THE GUEST HOUSE AND THEY PLANT THE SECOND  
19 HAIR OF MATTA.

20 I SEE SOME GRINS HERE, BUT THE POINT IS, YOU SEE HOW  
21 LUDICROUS IT IS. THAT HAIR IS THERE BECAUSE IT CAME FROM  
22 MATTA. THAT HAIR CAME FROM MATTA BECAUSE MATTA WAS THERE.

23 AND FURTHERMORE, YOU KNOW THAT THE HAIR AT LOPE DE  
24 VEGA WAS NOT THERE ONE OR TWO YEARS. YOU KNOW THAT BECAUSE  
25 STARTING FROM JANUARY OF 1985 ON, THAT PLACE HAD BEEN

1 REFURNISHED, REPAINTED AND RECARPETED. IT HAD BEEN SANITIZ  
2 SO ANYTHING FOUND AFTER JANUARY HAD TO BE PUT THERE  
3 BY PEOPLE WHO WERE THERE AFTER JANUARY. AND AFTER JANUARY,  
4 CAMARENA WAS ABDUCTED AND TORTURED IN THE GUEST HOUSE, AND  
5 MATTA WAS THERE, LADIES AND GENTLEMEN.

6 THAT'S THE EXPLANATION. AND THIS CORROBORATES  
7 CERVANTES WHEN HE TELLS YOU THESE MEETINGS OCCURRED. THIS  
8 TROUBLES MR. STOLAR WHEN I MAKE THAT ARGUMENT TO YOU, BUT  
9 THAT'S ONE OF THE STRONGEST ARGUMENTS IN THIS CASE.

10 WHAT GREATER PROOFS THAT MEETINGS OCCURRED TO KIDNAP  
11 AND INTERROGATE AN AGENT THAN THAT FACT THAT IT OCCURRED? F  
12 WAS KIDNAPPED. HE WAS INTERROGATED AND HE WAS TORTURED.

13 THE ISSUE OF NO PRINTS, THAT'S A RED HERRING. THE  
14 PLACE HAD BEEN CLEANED BY THE M.F.J.P. BY THE TIME THEY LET  
15 MALONE IN THERE.

16 REMEMBER, THE MEXICAN TECHNICIAN, ON APRIL 12, THAT  
17 IS SEEN SCURRYING OUT OF THERE WITH EVIDENCE? AND THE WALLS  
18 HAVE BEEN FRESHLY PAINTED? THAT PLACE WAS CLEANED UP BY  
19 CORRUPT OFFICIALS, AND THAT'S WHY THERE'S NO PRINTS, LADIES  
20 AND GENTLEMEN.

21 AND BESIDES, KEEP IN MIND THIS: YOU CAN BE CAREFUL  
22 ABOUT TRYING NOT TO LEAVE PRINTS ANYPLACE. YOU CAN WEAR  
23 GLOVES, KEEP YOUR HANDS IN YOUR POCKET, JUST NOT SUCH  
24 ANYTHING. BUT HAIR? YOU HAVE NO CONTROL OVER THAT. MALONE  
25 TOLD YOU THAT.

1           YOU KNOW, YOU'RE GOING TO LOSE SOME HAIR OUT OF YOUR  
2 HEAD ON A DAILY BASIS, COME HELL OR HIGH WATER, AND YOU HAVE  
3 NO CONTROL OVER THAT. AND THAT'S MATTA'S HAIR THERE, BECAUSE  
4 MATTA WAS THERE, I WOULD SUBMIT TO YOU.

5           NOW, LADIES AND GENTLEMEN, THE ARGUMENT HAS BEEN MADE  
6 TO YOU THAT EVEN IF YOU BELIEVED A LOT OF THE GOVERNMENT'S  
7 EVIDENCE, WE STILL HAVEN'T ESTABLISHED A MOTIVE FOR YOU. AND  
8 THE REASON WE HAVEN'T IS, YOU HEAR ALL THESE HUGE QUANTITIES:  
9 30 TONS OF COCAINE COMING IN THROUGH THAT LA PUENTE HOUSE.

10           WELL, IF THAT'S THE CASE, 1400 POUNDS IN YOUNG,  
11 ARIZONA: WHO CARES? I MEAN, THAT'S A DROP IN THE BUCKET.  
12 THAT'S THE ARGUMENT OF MR. STOLAR, AND THAT'S WHY HE WANTS YOU  
13 TO FIND THAT THERE WAS NO MOTIVE HERE. BUT THAT'S MISLEADING  
14 FOR SEVERAL REASONS.

15           FIRST OF ALL, YOU LEARNED ABOUT FUTURE LOSSES. IF  
16 SOMEONE TAKES DOWN ONE OF YOUR LOADS, YOU HAVE OTHER LOADS TO  
17 WORRY ABOUT. SO IT IS A CONCERN FOR YOU, EVEN IF IT'S A SMALL  
18 AMOUNT IN THE BIG PICTURE.

19           SECOND OF ALL, WHEN THEY TOOK DOWN THAT LOAD AT  
20 YOUNG, ARIZONA, IT JUST WASN'T THE ONE PLANE AND THE DOPE IN  
21 IT; IT'S A WHOLE OPERATION.

22           YOU LOSE THE AIRSTRIP. YOU LOSE THE CERTAIN ROUTE,  
23 THE SURREPTITIOUS ROUTE THAT YOU WERE USING TO GET THERE.  
24 YOU'VE LOST YOUR GROUND CREW; YOU'VE GOT TO GO OUT AND FIND A  
25 NEW GROUND CREW. IF YOUR PLANE HAS BEEN SPOTTED, YOU'VE GOT

1 TO GO OUT AND BUY A NEW PLANE.

2 THE RAMIFICATIONS ARE NOT INCONSEQUENTIAL. SO IT'S  
3 MISLEADING TO SAY THAT IT'S A DROP IN THE BUCKET.

4 AND, LADIES AND GENTLEMEN, THE GREATEST PROOF THAT  
5 MATTA HAD A MOTIVE WITH REGARD TO LOSS OF ANYTHING, GIVEN IT  
6 WAS 1400 POUNDS, IS: LOOK AT THE TESTIMONY YOU'VE HEARD IN  
7 THIS CASE.

8 REMEMBER RETAMOZA TOLD YOU THAT HE WAS DRIVING THIS  
9 MOTORHOME WITH ALL THE MONEY IN IT TO GUADALAJARA? ON ONE  
10 VISIT THERE WAS \$150,000.00 SHORTAGE. AND HE TOLD YOU THAT  
11 GALLARDO AND MATTA WENT BANANAS.

12 MR. STOLAR: SORRY. IT WAS FELIX GALLARDO. IT  
13 WASN'T MR. MATTA.

14 THE COURT: OVERRULED.

15 MR. MEDRANO: THEY LOOKED --

16 THE COURT: JUST A MOMENT, COUNSEL. LET'S TAKE A  
17 RECESS AT THIS POINT.

18 THE JURY MAY BE EXCUSED.

19 (JURY ABSENT:)

20 THE COURT: COUNSEL, I WANT YOU TO WRAP UP; YOU'RE  
21 EXCEEDING THE TIME.

22 MR. MEDRANO: I CAN DO IT IN 20 OR 25 MINUTES AND  
23 I'M DONE.

24 THE COURT: WELL, YOU'VE GOT TO DO IT FASTER THAN  
25 THAT.



1 MR. MEDRANO: YES, YOUR HONOR. THANK YOU. I WILL

2 THE COURT: NOW, HAVE YOU ALL SEEN THE JURY

3 INSTRUCTIONS? I UNDERSTAND THIS MORNING YOU WERE EACH GIVEN

4 SET --

5 MR. STOLAR: YES, YOUR HONOR.

6 THE COURT: -- OF THE PROPOSED JURY INSTRUCTIONS.

7 MR. NICOLAYSEN: WHEN WOULD BE THE APPROPRIATE TIME

8 TO ADDRESS A COUPLE OF COMMENTS ON THEM, YOUR HONOR?

9 THE COURT: WELL, NOW MIGHT.

10 (BRIEF INTERRUPTION.)

11 THE COURT: THESE ARE NOT COMMENTS THAT HAVE BEEN

12 RAISED BEFORE, ARE THEY?

13 MR. NICOLAYSEN: THEY ARE NOT, YOUR HONOR. I HAVE

14 VERY QUICK ONE THAT IS EASILY SOLVED BECAUSE I HAVE THE TYPEI

15 CORRECTED VERSION HERE.

16 THE COURT: ALL RIGHT. WHAT IS IT?

17 MR. NICOLAYSEN: NUMBER 18, YOUR HONOR.

18 THE COURT: NUMBER 18?

19 MR. NICOLAYSEN: THE PROBLEM WITH NUMBER 18 IS THAT

20 THE PARENTHETICAL REFERENCE FROM THE FIRST PARAGRAPH OF THE

21 CHARGES AGAINST MY CLIENT ONLY REFER TO AIDING AND ABETTING.

22 AND ZUNO'S COUNSEL HAS BEEN KIND ENOUGH TO

23 CORRECT THAT TO PROVIDE FOR THE PHRASE "BEING A PRINCIPAL IN

24 AND AIDING AND ABETTING"; AND I HAVE THAT HERE AND I'D BE GLA

25 TO HAND IT TO YOUR CLERK, YOUR HONOR.

1 THE COURT: I HAVE IT HERE. DO YOU HAVE A  
2 SUBSTITUTE?

3 MR. STOLAR: THE ONE THAT WAS SUBMITTED THIS  
4 MORNING?

5 THE COURT: WITH THE CORRECTION?

6 MR. NICOLAYSEN: I HAVE THE CORRECTED VERSION THAT  
7 CAN HAND TO THE CLERK NOW WHICH HAS THE ADDITIONAL LANGUAGE  
8 "BEING A PRINCIPAL IN."

9 MR. STOLAR: THERE ARE OTHER CORRECTIONS IN THAT,  
10 WELL, THAT I THINK WOULD BE APPROPRIATE.

11 THE COURT: LOOK, I WON'T GIVE THIS IF --

12 MR. STOLAR: NO, WE LIKE IT. IT IS THE NEW, QUOTE,  
13 "ZUNO INSTRUCTION," OR THE ONE THAT --

14 MR. CARLTON: YOUR HONOR, MR. ZUNO'S LAWYERS  
15 PREPARED AN AMENDED VERSION OF 18 THIS MORNING, WHICH I  
16 BELIEVE IS ACCEPTABLE TO EVERYBODY.

17 MR. STOLAR: YES.

18 THE COURT: WELL, IF IT IS, THEN LET'S --

19 MR. NICOLAYSEN: THEN WHAT I'M HANDING TO THE CLERK  
20 SOLVES THE PROBLEM FROM EVERYONE'S POINT OF VIEW.

21 THE COURT: ALL RIGHT. THAT WILL BE FINE.

22 MR. NICOLAYSEN: THANK YOU. MAY I HAND THAT IN?

23 THE COURT: YES.

24 MR. STOLAR: ASIDE FROM THE TWO PROBLEMS THAT I HAD  
25 WITH THE CONSPIRACY CHARGE AGAINST MY CLIENT IN THIS

1 INDICTMENT WITH 1959 --

2 THE COURT: WE HAVE BEEN THROUGH THAT.

3 MR. STOLAR: I KNOW, BUT THERE IS IN THE -- I DON'T  
4 HAVE IT TYPED OUT FOR YOU, BUT IT IS SIMPLE. THE CONSPIRACY  
5 DESCRIPTION WHERE YOU'RE DEALING WITH THE 1959 COUNT, THAT  
6 NEEDS TO HAVE AN OCTOBER 12, 1984, DATE ADDED TO IT.

7 THE COURT: WELL, WHAT IS THE INSTRUCTION?

8 MR. STOLAR: I BELIEVE IT IS 32 -- I BELIEVE IT IS  
9 INSTRUCTION NUMBER 32.

10 MR. NICOLAYSEN: IN NUMBER 32, YOUR HONOR, THE COURT  
11 HAS ALREADY GRANTED MY REQUEST BY THE GOVERNMENT'S STIPULATION  
12 TO DELETE THE REFERENCES TO COUNTS ONE AND TWO.  
13 UNFORTUNATELY, THAT DIDN'T WORK ITS WAY INTO THE FINAL DRAFT.

14 THE COURT: WELL, BUT COUNTS ONE, TWO, THREE AND  
15 FOUR ALL DO CHARGE 18 U.S.C. 1959.

16 MR. NICOLAYSEN: CORRECT, BUT AS GOVERNMENT COUNSEL  
17 STIPULATED WHEN I FIRST RAISED IT EARLIER THIS WEEK, THE THREE  
18 PARAGRAPHS ARE UNIQUE TO THE OTHER COUNTS; THEY DON'T IN ANY  
19 WAY PERTAIN TO THE WALKER-RADELAT MURDERS.

20 AND THE COURT ACKNOWLEDGED THAT EARLIER AND  
21 GRANTED THE DELETION OF COUNTS ONE AND TWO. I'M RAISING THAT  
22 NOW BECAUSE YOU'LL SEE, YOUR HONOR, THAT THE REFERENCES TO ONE  
23 AND TWO ARE STILL IN THE FINAL DRAFT.

24 THE COURT: WELL I SEE THEY ARE, YES.

25 ALL RIGHT. WE HAVE, APPARENTLY, CORRECTED

1 THAT ALREADY.

2 MR. NICOLAYSEN: THANK YOU, YOUR HONOR. I  
3 APPRECIATE THAT.

4 MR. STOLAR: IN INSTRUCTION 32, THERE SHOULD BE A  
5 FOURTH ELEMENT ADDED, WHICH IS: "THAT THE DEFENDANT BECAME  
6 MEMBER OF AND/OR PARTICIPATED ON OR AFTER OCTOBER 12, 1984."

7 THAT'S NOT MAKING ANY KIND OF CONCESSION THAT  
8 I AGREED THERE SHOULD BE A CONSPIRACY ON THE 1959 CHARGE, BUT  
9 IF IT IS GOING TO BE CHARGED, IT HAS TO HAVE THAT LANGUAGE IN  
10 IT.

11 THE COURT: DO YOU WISH TO BE HEARD ON THAT?

2 12 MR. CARLTON: YES, YOUR HONOR. I BELIEVE THAT IF  
13 THAT LANGUAGE IS TO BE INCLUDED, IT SHOULD TRACK THE LANGUAGE  
14 OF INSTRUCTION NUMBER 36, WHICH DEALS WITH THIS ISSUE IN  
15 RELATION TO THE CONSPIRACY CHARGED IN COUNT FIVE.

16 MR. STOLAR: I HAVE NO PROBLEM WITH THAT.

17 MR. CARLTON: I THINK INSTRUCTION NUMBER 36 IS AN  
18 ACCURATE STATEMENT OF THAT PARTICULAR ELEMENT AS IT RELATES TO  
19 EITHER OF THESE TWO CONSPIRACIES.

20 MR. STOLAR: RIGHT. SO IF YOU TAKE 36 AND RESTATE  
21 IT AS 32-1/2, THAT WOULD WORK.

22 THE COURT: HAVE YOU LOOKED AT INSTRUCTION 21?

23 MR. STOLAR: INSTRUCTION 21 IS -- I BELIEVE DEALS  
24 WITH THE DEFINITION OF 1959.

25 THE COURT: NO.

1 MR. CARLTON: YES, I THINK 21 DEALS WITH THE ISSUE  
2 THAT HE'S RAISING.

3 MR. STOLAR: RIGHT. BUT HERE -- HERE --

4 THE COURT: 21 DEALS WITH THE ISSUE THAT YOU'RE  
5 RAISING.

6 MR. STOLAR: I KNOW THAT. BUT AGAIN, WHEN YOU LAY  
7 OUT THE ELEMENTS OF THE CRIME, AS YOU DO IN COUNT FIVE AND  
8 COUNT SIX AND COUNT EIGHT, THE STATEMENT AS AN ELEMENT THAT  
9 HAS TO BE PROVEN BEYOND A REASONABLE DOUBT OF OCTOBER 12, 19  
10 IS LISTED AS ONE OF THE ELEMENTS.

11 SO ALL I'M ASKING IS THAT IT BE CONSISTENT WI  
12 ONE OF THE ELEMENTS HERE.

13 MR. NICOLAYSEN: YOUR HONOR, I HAVE ONE MORE MATTEI  
14 (DISCUSSION HELD OFF THE RECORD BETWEEN THE COURT  
15 AND HIS LAW CLERK.)

16 THE COURT: WE WILL INCLUDE THAT AS AN ELEMENT.

17 MR. STOLAR: THANK YOU.

18 THE ONLY TWO OTHER - AND I DON'T RECALL IF WE  
19 SPECIFICALLY ELIMINATED THEM IN DISCUSSION - HAVE TO DO WITH  
20 HOW THE JURY SHOULD SCRUTINIZE ACCOMPLICE TESTIMONY AND HOW  
21 THEY SHOULD SCRUTINIZE TESTIMONY OF A WITNESS WHO HAS BEEN  
22 GIVEN IMMUNITY.

23 THE COURT: FIRST OF ALL, WHAT WITNESS?

24 MR. STOLAR: FRANK RETAMOZA WAS GIVEN IMMUNITY.

25 THE COURT: WELL I'M NOT GOING TO GIVE SEPARATE

1 INSTRUCTIONS. THE ONE I HAVE I THINK --

2 MR. STOLAR: IT DOESN'T COVER IT.

3 THE COURT: WHAT DOES IT COVER?

4 MR. STOLAR: IT DOESN'T COVER IT. IT COVERS A  
5 WITNESS WHO'S BEING PAID TO BE AN INFORMANT.

6 MR. NICOLAYSEN: YES. THAT'S NUMBER 9, YOUR HONOR  
7 THE COURT HAS ONE INSTRUCTION ABOUT HOW --

8 THE COURT: IT SAYS "COMPENSATION OR OTHER BENEFIT  
9 DOESN'T IT?

10 MR. NICOLAYSEN: YES, IT DOES. THAT'S COURT'S  
11 NUMBER 9.

12 I WAS GOING TO ASK IF YOUR HONOR WOULD LOOK  
13 AGAIN AT ZUNO'S PROPOSED NUMBER 13, WHICH THE COURT HAS AGRE  
14 TO GIVE. AND THAT ONE IS A LITTLE BIT MORE SPECIFIC TO THE  
15 ISSUE OF IMMUNITY FROM PUNISHMENT, AND SPECIFICALLY USE OF TI  
16 WORD "INFORMER."

17 MS. FULGINITI: YOUR HONOR, IF I COULD ADDRESS THAT  
18 FOR JUST A MOMENT. I THINK THE COURT INADVERTENTLY HAD  
19 FORGOTTEN TO INCLUDE DEFENDANTS' PROPOSED INSTRUCTION NUMBER  
20 13.

21 WHEN YOU HAD GONE THROUGH THE INSTRUCTIONS, YO  
22 HAD RECOMMENDED THAT THIS WOULD BE GIVEN TO THE JURY.

23 THE COURT: WHAT DOES IT READ?

24 MS. FULGINITI: IT READS: "THE TESTIMONY OF AN  
25 INFORMER WHO PROVIDES EVIDENCE AGAINST A DEFENDANT FOR PAY, OR

1 FOR" --

2 THE COURT: YES, THAT WAS AN INTENTIONAL OMISSION.  
3 I DID NOT WISH TO GIVE THAT INSTRUCTION.

4 MR. NICOLAYSEN: YOUR HONOR HAD APPROVED IT, THOUGH  
5 EARLIER THIS WEEK.

6 THE COURT: WELL, I CHANGED MY MIND. I THINK IT IS  
7 ARGUMENTATIVE; PARTICULARLY THE FIRST SENTENCE OF IT IS  
8 ARGUMENTATIVE. AND I THINK THE ONE THAT WE'VE SUBSTITUTED IS  
9 A BETTER FORM. IT'S MORE NEUTRAL.

10 MR. NICOLAYSEN: ALL RIGHT. ANOTHER INSTRUCTION  
11 THAT IS OMITTED BUT YOUR HONOR DID APPROVE EARLIER THIS WEEK  
12 IS DEFENDANT VASQUEZ'S PROPOSED NUMBER ONE.

13 THE COURT: WHAT IS IT?

14 MR. NICOLAYSEN: WHICH HAS TO DO WITH PHOTOGRAPHS  
15 THAT ARE IN THE POSSESSION OF THE D.E.A. THIS INSTRUCTION IS  
16 BASICALLY SAYING JUST BECAUSE THE PHOTOGRAPH OF A DEFENDANT IS  
17 IN THE POSSESSION OF THE POLICE DOESN'T MEAN ANYTHING.

18 THE COURT: WELL, I DID APPROVE THAT.

19 MR. NICOLAYSEN: YOU DID APPROVE THAT, YOUR HONOR.

20 THE COURT: IT SHOULD BE IN THE SET.

21 MR. NICOLAYSEN: IT IS NOT IN THE FINAL SET. MAY I  
22 HAND IT TO YOUR CLERK, THEN?

23 THE COURT: YES.

24 MR. NICOLAYSEN: THANK YOU.

25 THE COURT: ALL RIGHT.

1 MS. KELLY: YOUR HONOR, WE HAD JUST A FEW OTHER  
2 ADDITIONAL ITEMS. WITH REGARD TO THE INFORMER INSTRUCTION --

3 THE COURT: WHICH FORMER INSTRUCTION?

4 MS. KELLY: THE INFORMER INSTRUCTION THAT YOU'RE  
5 NOW REFUSING TO GIVE.

6 THE COURT: WHAT IS THE ONE WE'RE GOING TO GIVE NOW  
7 NUMBERED?

8 MS. KELLY: IT'S NUMBER 9, I BELIEVE. I WOULD  
9 REQUEST, IF POSSIBLE --

10 THE COURT: NUMBER 9.

11 MS. KELLY: -- THAT IN ADDITION TO "COMPENSATION AND  
12 OTHER BENEFITS," THAT MAYBE THE COURT COULD ALSO INCLUDE  
13 IMMUNITY, SPECIFICALLY SINCE A VARIETY OF CONFIDENTIAL  
14 INFORMANTS TESTIFIED ON THE STAND THAT THEY WERE GRANTED  
15 IMMUNITY, LORENZO HARRISON BEING ONE OF THEM, AS WELL AS FRANK  
16 RETAMOZA.

17 THE COURT: WELL, WE CAN STATE IT: "COMPENSATION,  
18 IMMUNITY OR OTHER BENEFITS."

19 MS. FULGINITI: JUST FOR THE RECORD, YOUR HONOR, IN  
20 THE LAST TRIAL A SEPARATE IMMUNITY INSTRUCTION WAS GIVEN, AS  
21 WELL AS A SEPARATE INFORMER INSTRUCTION, AS WELL AS A SEPARATE  
22 COMPENSATION INSTRUCTION.

23 THE COURT: WELL, WE LEARN FROM EXPERIENCE.

24 MS. FULGINITI: YOUR HONOR, WE'D JUST LIKE TO KNOW  
25 THE OBJECTION, POSSIBLY, TO GIVING A SEPARATE INSTRUCTION AS



1 OPPOSED TO COMBINING IT ALL IN ONE SENTENCE AND ONE  
2 INSTRUCTION.

3 THE COURT: I DIDN'T FOLLOW THAT.

4 MS. FULGINITI: SINCE THE MAJORITY OF WITNESSES  
5 AGAINST THE DEFENDANTS IN THIS CASE HAVE BEEN PAID MONEY AND  
6 GIVEN IMMUNITY --

7 THE COURT: WELL, THAT'S WHY IT SAID WITNESSES THAT  
8 HAVE RECEIVED COMPENSATION. DON'T YOU THINK THAT COVERS THAT

9 MS. FULGINITI: NO. WE FELT THAT THEY SHOULD BE  
10 GIVEN SEPARATE INSTRUCTIONS, GIVEN THE FACT THAT THE ONLY  
11 TESTIMONY AGAINST THE DEFENDANTS ARE PEOPLE WHO HAVE RECEIVED  
12 SOME MONEY.

13 THE COURT: WELL, WHAT DOES THAT SAY: "WITNESSES  
14 WHO HAVE RECEIVED COMPENSATION"? I DON'T KNOW HOW YOU COULD  
15 SAY IT ANY CLEARER.

16 MS. FULGINITI: WITH SEPARATE INSTRUCTIONS, YOUR  
17 HONOR, WE SUBMIT SEPARATE --

18 THE COURT: IN OTHER WORDS, YOU WANT ME TO GIVE TWO  
19 INSTRUCTIONS?

20 MS. FULGINITI: NOT THE IDENTICAL LANGUAGE, YOUR  
21 HONOR, JUST THE INSTRUCTION THAT YOUR HONOR DID GIVE AT THE  
22 LAST TRIAL. WE THOUGHT THAT WAS FAIR AND THERE WAS NO REASON  
23 NOT TO GIVE A SEPARATE INSTRUCTION.

24 THE COURT: WELL, I THINK THIS COVERS THE WHOLE  
25 GAMUT.

1 MS. FULGINITI: IN ADDITION, YOUR HONOR, WE OBJECT  
2 TO THE AGREED INSTRUCTION NUMBER THREE. I KNOW YOUR HONOR  
3 STATED THAT YOU TRIED TO COMBINE DEFENDANT ZUNO'S PROPOSED --

4 THE COURT: WELL, WE'VE GONE OVER THAT ALREADY AND  
5 IT NEED NOT BE DISCUSSED ANY MORE.

6 MS. FULGINITI: JUST FOR THE RECORD, YOUR HONOR, WE  
7 DID NOT MAKE, I DON'T THINK, AN ARGUMENT WITH REGARD TO THIS  
8 INSTRUCTION.

9 THE COURT: WELL, THERE WAS A LOT OF ARGUMENT ABOUT  
10 THIS.

11 MS. FULGINITI: BUT THERE IS SOME CRITICAL LANGUAGE  
12 THE COURT: LIKE WHAT?

13 MS. FULGINITI: WHERE IT EXPLAINS IN THE SECOND  
14 PARAGRAPH OF OUR PROPOSED INSTRUCTION, WHICH IS RIGHT FROM  
15 DEVITT AND BLACKMAR, WHICH AGAIN WAS GIVEN AT THE LAST TRIAL,  
16 WHICH REALLY, AT LEAST, EXPLAINS TO ASSIST THE JURY IN  
17 UNDERSTANDING REASONABLE DOUBT.

18 THE COURT: READ IT. WHAT IS IT?

19 MS. FULGINITI: IT SAYS HERE THAT:

20 "IT IS NOT REQUIRED THAT THE GOVERNMENT  
21 PROVE GUILT BEYOND ALL POSSIBLE DOUBT. THE TEST IS  
22 ONE OF REASONABLE DOUBT. A REASONABLE DOUBT IS A  
23 DOUBT BASED UPON REASON AND COMMON SENSE, THE KIND OF  
24 DOUBT THAT WOULD MAKE A REASONABLE PERSON HESITATE TO  
25 ACT.

1 "PROOF BEYOND A REASONABLE DOUBT MUST  
2 THEREFORE BE PROOF OF SUCH A CONVINCING CHARACTER  
3 THAT A REASONABLE PERSON WOULD NOT HESITATE TO RELY  
4 AND ACT UPON IT IN THE MOST IMPORTANT OF HIS OWN  
5 AFFAIRS."

6 THE COURT: I DON'T LIKE THAT LANGUAGE AND NEVER  
7 HAVE, AND I BELIEVE THAT THE LANGUAGE WHICH HAS BEEN  
8 SUBSTITUTED FOR IT BY THE NINTH CIRCUIT JURY COMMITTEE IS MOR  
9 APPROPRIATE.

10 THAT LANGUAGE HAS SUBJECTIVE MEANINGS TO A LOT  
11 OF PEOPLE AND I DON'T THINK IT'S VERY HELPFUL. I THINK  
12 "FIRMLY CONVINCED" IS MORE HELPFUL TO THE JURY AND A BETTER  
13 GUIDE, AND THAT IS THE REASON THAT I ADOPTED THAT RATHER THAN  
14 THE LANGUAGE YOU QUOTE.

15 MS. FULGINITI: IN REGARDS TO A FEW OTHER  
16 INSTRUCTIONS, SPECIFICALLY INSTRUCTION NUMBERS 19, 20 AND 24,  
17 ALL THREE OF THOSE REFERENCE --

18 THE COURT: 19 -- LET'S TAKE THEM ONE AT A TIME.  
19 WHAT IS WRONG WITH 19? IT'S JUST A STATEMENT OF THE STATUTE;  
20 ISN'T IT?

21 MS. FULGINITI: YES. BUT IN PART A, YOUR HONOR, THE  
22 THIRD LINE WHERE IT SAYS "ANYTHING OF A PECUNIARY VALUE FROM  
23 THE ENTERPRISE ENGAGED IN RACKETEERING ACTIVITY," TO BE  
24 CONSISTENT WITH YOUR HONOR'S DECISION YESTERDAY REGARDING  
25 PECUNIARY VALUE AND ELIMINATING THAT DEFINITION, WE FEEL THAT

1           PECUNIARY VALUE SHOULD BE ELIMINATED FROM THE LANGUAGE IN  
2           THESE THREE INSTRUCTIONS, GIVEN THAT YOUR DECISION TO DO THA  
3           WAS BECAUSE THERE WAS NO EVIDENCE AND THAT'S NOT THE  
4           GOVERNMENT'S POSITION, THAT ANYONE DID ANY OF THIS FOR ANY  
5           PECUNIARY VALUE ALLEGEDLY.

6           THE COURT: WELL, THAT'S TRUE. THERE WAS NO  
7           EVIDENCE, DIRECT EVIDENCE, THAT SOMEBODY WAS PAID A SPECIFIC  
8           SUM; BUT ON THINKING THIS OVER, I SUPPOSE TAKING THE  
9           GOVERNMENT'S THEORY, COULD BE -- IT COULD BE WITHIN THE  
10          APPROPRIATE MEANING HERE THAT THESE PEOPLE THAT THE GOVERNMENT  
11          ALLEGES WERE INVOLVED WERE ACTUALLY DOING IT FOR SOME  
12          PECUNIARY VALUE.

13          THERE WAS EVIDENCE, IF YOU REMEMBER, THAT THEY  
14          WERE PAID MONEY FROM TIME TO TIME BY -- SO I DON'T SEE ANY  
15          HARM IN LEAVING IT THERE. WHAT IS THE PROBLEM WITH IT?

16          WHY DO YOU THINK THAT --

17          MS. FULGINITI: I THOUGHT IT WAS JUST INCONSISTENT  
18          WITH YOUR HONOR'S REMARKS YESTERDAY WHEN YOU HAD SAID THE  
19          REASON WHY YOU DID NOT INCLUDE THE DEFINITION --

20          THE COURT: I'LL BE VERY GLAD TO STRIKE IT OUT IF  
21          THERE IS NO DISAGREEMENT ABOUT IT.

22          MS. FULGINITI: THE INDICTMENT ITSELF, YOUR HONOR,  
23          SAYS "MAINTAINING A POSITION," AS OPPOSED TO THE WORDS  
24          "PECUNIARY" --

25          THE COURT: WELL, THAT IS WHAT THE INDICTMENT SAYS

1 AND THAT'S WHY I ORIGINALLY DECIDED TO DO THAT.

2 MS. KELLY: I JOIN IN THAT.

3 THE COURT: THE INDICTMENT SPEAKS ONLY OF THE  
4 PURPOSE OF GAINING ENTRANCE TO OR MAINTAINING OR INCREASING  
5 POSITION IN AN ENTERPRISE, SO THAT THE PHRASE "OR AS  
6 CONSIDERATION FOR A PROMISE OR AGREEMENT TO PAY ANYTHING OF  
7 PECUNIARY VALUE FROM AN ENTERPRISE," ET CETERA, PERHAPS SHOU  
8 BE STRICKEN OUT.

9 WHAT DO YOU THINK ABOUT THAT?

10 MR. CARLTON: WELL, YOUR HONOR --

11 THE COURT: YOU DIDN'T ALLEGE IT IN YOUR INDICTMENT  
12 TAKE A LOOK AT YOUR INDICTMENT BEFORE YOU ARGUE.

13 MR. CARLTON: I UNDERSTAND THAT, BUT IT SEEMS TO ME  
14 THAT RECEIVING SOMETHING OF PECUNIARY VALUE IS JUST PART OF  
15 MAINTAINING ONE'S POSITION IN AN ENTERPRISE, WHEN THE POSITIO  
16 IN THE ENTERPRISE INVOLVES RECEIVING PAYMENTS OF MONEY.

17 AND THE EVIDENCE IN THIS CASE HAS ESTABLISHED  
18 THAT MR. ZUNO DELIVERED D.F.S. CREDENTIALS AND RECEIVED  
19 PAYMENTS OF MONEY. AND LOTS OF PEOPLE RECEIVED PAYMENTS OF  
20 MONEY, AND THAT IS AN ASPECT OF BEING A MEMBER OF THE  
21 ENTERPRISE, MAINTAINING THE POSITION.

22 IT'S PART OF THE INVOLVEMENT THAT YOU RECEIVE  
23 SOMETHING OF PECUNIARY VALUE. AND IT'S TO MAINTAIN YOUR  
24 ABILITY TO RECEIVE THAT ASPECT.

25 THE COURT: JUST A MOMENT. IF YOU READ THIS, THE

1 PAYMENT OF MONEY RELATES TO A KIDNAPPING OR KILLING. MURDER  
2 OR KIDNAPPING.

3 NOW, IF MR. ZUNO RECEIVED MONEY FOR PROVIDING  
4 CREDENTIALS, THAT DOESN'T HAVE ANYTHING TO DO WITH RECEIVING  
5 MONEY FOR MURDER OR KIDNAPPING, DOES IT?

6 MR. CARLTON: NOT NECESSARILY. WE DON'T KNOW WHY  
7 THOSE AMOUNTS OF MONEY WERE PAID TO HIM, YOUR HONOR.

8 BE THAT AS IT MAY, THIS LANGUAGE IS IN THE  
9 STATUTE. IT GIVES CONTEXT --

10 THE COURT: IT'S IN THE STATUTE BUT NOT IN THE  
11 INDICTMENT.

12 MR. CARLTON: THAT IS CORRECT, YOUR HONOR.

13 THE COURT: SO I THINK THAT PHRASE MAY BE STRICKEN.  
14 THE PHRASE BEGINNING ON LINE 9, "OR AS CONSIDERATION FOR A  
15 PROMISE OR AGREEMENT TO PAY ANYTHING OF PECUNIARY VALUE."

16 IT SHOULD READ, I SUPPOSE:

17 "WHOEVER, FOR THE PURPOSE OF GAINING  
18 ENTRANCE TO OR MAINTAINING OR INCREASING POSITION IN  
19 AN ENTERPRISE ENGAGED IN RACKETEERING ACTIVITY  
20 MURDERS OR KIDNAPS OR CONSPIRES TO DO SO."

21 SO THAT YOU WOULD STRIKE OUT, AS WELL: "AS  
22 CONSIDERATION FOR THE RECEIPT OF," AND YOU WOULD GO FROM  
23 "WHOEVER" TO "FOR THE PURPOSE," AND YOU WOULD STRIKE OUT, IN  
24 OTHER WORDS, THE FIRST --

25 MR. STOLAR: THE FIRST THREE LINES.

1 THE COURT: THE FIRST THREE LINES, PLUS THE FOURTH  
2 LINE "ACTIVITY OR."

3 MR. STOLAR: RIGHT.

4 THE COURT: SO IT WOULD READ: "WHOEVER FOR THE  
5 PURPOSE OF GAINING ENTRANCE TO," ET CETERA.

6 NOW LET'S SEE IF THAT REQUIRES CHANGING OTHER  
7 THINGS HERE.

8 MR. STOLAR: INSTRUCTION 20.

9 MS. FULGINITI: YES, YOUR HONOR. INSTRUCTION NUMBER  
10 20. IN THE FOURTH ELEMENT, IT ALSO CONTAINS THE SAME LANGUAGE

11 THE COURT: THE FOURTH ELEMENT. THAT WOULD HAVE TO  
12 BE MODIFIED, TOO.

13 MR. STOLAR: THE WORDS "TO OBTAIN" IN LINE 20 GO, AN  
14 ALL OF LINE 21.

15 THE COURT: ALL RIGHT. IS THERE ANOTHER ONE  
16 AFFECTED?

17 MS. FULGINITI: YES, THERE IS, YOUR HONOR.  
18 INSTRUCTION NUMBER 24.

19 THE COURT: 21?

20 MS. FULGINITI: EXCUSE ME. I'M SORRY. 24.

21 THE COURT: I THOUGHT I ORDERED THIS TO BE DONE.

22 WHAT LINE?

23 MS. FULGINITI: LINE NUMBER 10, YOUR HONOR. AND  
24 PROBABLY ON LINE NUMBER 9.

25 THE COURT: LINE NUMBER 10 IN ITS ENTIRETY?

1 MR. STOLAR: YES. AND THE WORD TO, T-O, EITHER AT  
2 THE END OF LINE 9 OR THE BEGINNING OF LINE 11. TAKE YOUR PIC

3 THE COURT: WELL, IT SHOULDN'T BE "TO," REALLY; IT  
4 SHOULD BE "FOR THE PURPOSE OF" -- NO. STRIKE THAT.

5 I DON'T THINK "PURPOSE" NEEDS TO BE IN THERE.  
6 "FOR THE PURPOSE."

7 MS. FULGINITI: I AGREE WITH YOUR HONOR.

8 THE COURT: IT SIMPLY SHOULD READ "TO GAIN ENTRANCE  
9 SO THAT THE CRIME -- "FOR THE PURPOSE TO" ON LINE 9 SHOULD BE  
10 STRICKEN AND THE "TO" ON LINE 11, BEGINNING LINE 11, SO IT  
11 WOULD READ -- (BRIEF PAUSE.)

12 THAT'S NOT RIGHT. THAT DOESN'T READ RIGHT.  
13 THAT HAS TO BE REVISED.

14 WELL, WE'LL MAKE THE PROPER CHANGE. IS THERE  
15 ANYTHING ELSE?

16 MS. FULGINITI: JUST A FEW MORE, YOUR HONOR. I  
17 APOLOGIZE. IT'S JUST TO MAKE A RECORD.

18 ON 24, ALSO, YOUR HONOR, IT APPEARS TO BLUR THE  
19 DISTINCTION BETWEEN THE ENTERPRISE AND KIDNAPPING. AND UPON  
20 READING IT, IT APPEARS THAT --

21 THE COURT: JUST A MOMENT. WHERE ARE YOU?

22 MS. FULGINITI: I'M GOING TO STAY WITHIN INSTRUCTION  
23 24.

24 THE COURT: I KNOW, BUT WHAT LINE ARE YOU ON?

25 MS. FULGINITI: I AM SPEAKING ABOUT THE INSTRUCTION



1 IN ITS ENTIRETY.

2 THE COURT: YES.

3 MS. FULGINITI: IT APPEARS TO BLUR THE DISTINCTION  
4 BETWEEN THE ENTERPRISE AND KIDNAPPING. IT IMPRESSES AT THE  
5 BEGINNING THAT IF YOU FIND THE ENTERPRISE PART SHOULD NOT  
6 EXIST, THEN YOU MUST RETURN A NOT GUILTY VERDICT. AND THEN IT  
7 GOES ON TO THE CONSPIRACY COMPONENT.

8 IT DOESN'T REALLY -- AT LEAST IT DOESN'T UPON  
9 DEFENSE COUNSEL'S FOR ZUNO ARCE READING OF THIS -- TO SEPARATE  
10 THE ENTERPRISE AND KIDNAPPING.

11 IN FACT, IT SEEMS TO JUST CONSTRUE THAT  
12 ENTERPRISE -- OR THE JURY MAY BE ABLE TO CONSTRUE THAT  
13 ENTERPRISE IS ONLY ONE ELEMENT, AND IF THEY FIND THAT A  
14 PARTICULAR DEFENDANT IS IN THE ENTERPRISE THEY COULD POSSIBLY  
15 FIND THE DEFENDANT, YOU KNOW, ENGAGED IN EVERYTHING ELSE  
16 INCLUDING CONSPIRACY WITHOUT SEPARATELY HAVING TO NOT ONLY FIN  
17 HIM IN THE ENTERPRISE BUT ALSO SEPARATELY FINDING HE CONSPIRED

18 THE COURT: WELL, WHAT DO YOU SUGGEST?

19 MS. FULGINITI: A SEPARATE SENTENCE WHICH WE HAD  
20 INITIALLY PLACED IN OUR DEFENDANTS' PROPOSED INSTRUCTION NUMBER  
21 21, AT THE END OF IT, IN WHICH YOU'D SAY SOMETHING TO THE  
22 EFFECT THAT YOU MUST NOT ONLY FIND THAT THE PERSON'S, YOU KNOW,  
23 CHARGED IN THE ENTERPRISE, BUT SEPARATELY THAT THEY HAVE  
24 CONSPIRED - SOMETHING TO THAT EFFECT - TO KIDNAP.

25 THE COURT: THERE REALLY SHOULD BE AN INSTRUCTION

1       HERE, PROBABLY, EXPLAINING TO THE JURY THAT THERE ARE TWO --  
2       THAT THERE IS ONE SET OF CRIMES BASED ON ENTERPRISE AND ONE OF  
3       CONSPIRACY. SHOULDN'T THAT BE THE CASE?

4               MR. STOLAR: THAT'S WHERE WE GET INTO THE PROBLEMS  
5       HERE, BECAUSE ONE OF THE CRIMES THAT IS CHARGED INVOLVING  
6       CONSPIRACY, UNDER THE WAY THE COURT IS CHARGING, INCLUDES AN  
7       ENTERPRISE.

8               THE COURT: WELL, THAT'S TRUE.

9               MS. FULGINIT: EXCUSE ME, YOUR HONOR. THE LANGUAGE  
10      THAT I --

11              THE COURT: THERE IS ALSO A CONSPIRACY TO KIDNAP.

12              MR. STOLAR: YES. THAT'S A WHOLE SEPARATE BALL GAME  
13      THOUGH.

14              MS. FULGINITI: MAYBE THIS LANGUAGE WOULD BE  
15      APPROPRIATE, IF IT WAS SOMETHING TO THE EFFECT:

16                       "EVEN IF YOU FIND THAT A PARTICULAR  
17                       DEFENDANT WAS A EVENTUALLY CHARGED WITH CONSPIRACY,  
18                       THAT DOES NOT BY ITSELF MEAN THAT HE PLANNED OR  
19                       COMMITTED THE KIDNAPPING OF ENRIQUE OR KIKI CAMARENA.  
20                       YOU MUST SEPARATELY DETERMINE EACH DEFENDANT'S  
21                       PARTICIPATION."

22              AND THEN THERE WAS ANOTHER SENTENCE THAT ALSO SAID:

23                       "ON THE OTHER HAND, THAT IF YOU FIND THAT  
24                       THE DEFENDANT WAS NOT A MEMBER OF THE CHARGED  
25                       CONSPIRACY, YOU ARE TO RETURN A VERDICT OF NOT

1 GUILTY."

2 THE COURT: WHAT ARE YOU READING FROM?

3 MS. FULGINITI: I'M READING FROM DEFENDANTS' PROPOSE  
4 INSTRUCTION NUMBER 21, THE END OF IT, WHERE THERE WAS SOME  
5 ADDITIONAL LANGUAGE WE HAD ADDED ON BECAUSE WE WERE CONCERNED  
6 THAT THE JURORS MIGHT BE CONFUSED BECAUSE THE CHARGE IS REALLY  
7 NOT -- ESPECIALLY THE WAY THIS PARTICULAR INSTRUCTION IS  
8 WORDED, IT'S NOT REALLY LAID OUT THAT, YOU KNOW, IF YOU FIND  
9 ONE YOU MUST FIND THE OTHER.

10 THE COURT: WELL, I AGREE THAT THIS INSTRUCTION IS  
11 NOT A MODEL OF CLARITY. SINCE IT'S BEGINNING TO LOOK LIKE I  
12 MAY NOT GET TO INSTRUCT THIS JURY TODAY, WHICH I WAS HOPING TO  
13 DO, PERHAPS YOU'D BETTER SUBMIT AN INSTRUCTION.

14 MS. FULGINITI: THANK YOU, YOUR HONOR. I WILL WORK  
15 ON IT TODAY, AND I WILL SUBMIT AN INSTRUCTION.

16 THE COURT: NOW, WHAT ELSE?

17 MS. FULGINITI: GOING BACK TO NUMBER 20 JUST BRIEFLY,  
18 IN THE THIRD ELEMENT, IN THE PARAGRAPH AT THE END, AFTER YOU  
19 HAVE GOT EITHER A, B OR C, WE WOULD REQUEST SOMETHING IN THE  
20 FORM OF SPECIAL VERDICT FORM SO THAT WE CAN BE ASSURED AND  
21 ENSURE THAT THE JURY HAS UNANIMOUSLY AGREED ON EITHER A, B  
22 OR C.

23 AND AS IT'S WRITTEN NOW, IT SEEMS TO ME -- IT  
24 SEEMS IT COULD BE CONFUSED AND MAYBE THAT THE LANGUAGE COULD BE  
25 CHANGED, THAT THERE MUST BE UNANIMOUS AGREEMENT AMONG THE

1 JURORS THAT THE DEFENDANT ENGAGED IN AT LEAST ONE OF THESE  
2 THREE TYPES OF CONDUCT.

3 MAYBE THESE SHOULD BE SPELLED OUT, "ENGAGED IN  
4 EITHER A," DEFINED FOR FINDING A, OR B OR C, AS OPPOSED TO  
5 SAYING, YOU KNOW, IT GOES TO CONDUCT.

6 AND IN ADDITION, WE WOULD REQUEST A SPECIAL  
7 VERDICT FORM.

8 MR. CARLTON: YOUR HONOR, THE GOVERNMENT DOES NOT  
9 DISAGREE WITH THE SUGGESTION THAT THERE SHOULD BE SOME  
10 CLARIFICATION HERE. PERHAPS IT COULD BE ADDED THAT THERE MUST  
11 BE UNANIMOUS AGREEMENT AMONG THE JURORS AS TO WHICH OF THE  
12 THREE TYPES THE DEFENDANT ENGAGED IN.

13 THE COURT: WELL, THAT'S WHAT IT SAYS.

14 MR. CARLTON: NO, IT SAYS THAT THE DEFENDANT ENGAGED  
15 IN AT LEAST ONE OF THE THREE TYPES. BUT I THINK THE JURORS  
16 HAVE TO UNANIMOUSLY AGREE ON WHICH OF THOSE THREE IT IS.

17 THE COURT: WELL, I THINK THAT MIGHT BE RIGHT.

18 MS. FULGINITI: YOUR HONOR, WE ARE JUST MERELY  
19 RECOMMENDING THAT INSTEAD OF THREE TYPES, JUST, AGAIN  
20 OUTLINE --

21 THE COURT: WELL, YOU CAN DO IT; GET TOGETHER WITH  
22 COUNSEL AND SUBMIT A PROPOSED NEW INSTRUCTION.

23 MR. STOLAR: YOUR HONOR, I WOULD LIKE -- I WOULD  
24 INDICATE, ALSO, THAT IT WOULD HAVE BEEN AND IS OUR PREFERENCE,  
25 BECAUSE IT'D BE BETTER FOR THE JURY INSTRUCTIONS/ALTERNATES,

1 WHAT WITH LOSING MONOPOLY (PHONETIC), IF WE DO INSTRUCT THEM  
2 MONDAY MORNING RATHER THAN THIS AFTERNOON.

3 THE COURT: WELL, I'M COMING TO THAT CONCLUSION  
4 MYSELF BECAUSE OF THE TIME DELAY HERE.

5 MR. STOLAR: MAY I ASK, THOUGH, ARE WE GOING TO DO IT  
6 MONDAY?

7 THE COURT: YES, WE CAN. LET'S SEE. JUST A MINUTE.  
8 (PAUSE.) YES, BUT WE WOULD DO IT MONDAY AT 8:30 OR -- 9:00.  
9 9:00 A.M. MONDAY.

10 MR. STOLAR: OKAY. THANK YOU.

11 MS. FULGINITI: YOUR HONOR, I JUST HAVE ONE MORE.  
12 DEFENDANTS' PROPOSED INSTRUCTION NUMBER 16 WAS INITIALLY --

13 THE COURT: WHICH ONE?

14 MS. FULGINITI: PROPOSED INSTRUCTION NUMBER 16.

15 THE COURT: READ IT FOR ME, BECAUSE I DON'T HAVE IT  
16 HERE.

17 MS. FULGINITI: IT DEALS WITH INCONSISTENT  
18 STATEMENTS, YOUR HONOR.

19 THE COURT: PARDON?

20 MS. FULGINITI: IT DEALS WITH INCONSISTENT STATEMENTS  
21 OF WITNESSES THAT HAVE TESTIFIED AT THE TRIAL. AND YOU HAD  
22 SAID THAT THAT WAS ALREADY INCLUDED IN --

23 THE COURT: I THINK IT'S COVERED.

24 MS. FULGINITI: -- INSTRUCTION NUMBER 8. I WOULD,  
25 FOR THE RECORD, LIKE TO STATE THAT THIS INSTRUCTION IN ITS

1 ENTIRETY WAS PRESENTED LAST TIME, AT THE FORMER TRIAL; AND  
2 GIVEN THE FACT THAT IT IS VERY CRUCIAL TO THE DEFENSE TO HAVE  
3 SEPARATE INSTRUCTION ON THE INCONSISTENT STATEMENTS --

4 THE COURT: WELL, YOU SHOULDN'T PLACE ANY GREAT STOR  
5 IN WHAT WAS PRESENTED LAST TIME, BECAUSE THAT MAY HAVE BEEN  
6 AGREED TO.

7 MS. FULGINITI: OH, I UNDERSTAND, YOUR HONOR. I  
8 UNDERSTAND. IT'S JUST, IT SEEMED TO ME THAT --

9 THE COURT: NOW, FRANKLY, I BELIEVE IN LESS RATHER  
10 THAN MORE INSTRUCTIONS; AND SO WHEREVER INSTRUCTIONS TEND TO B  
11 DUPLICATIVE, I ELIMINATE THEM. THAT WAS BASICALLY THE REASON,  
12 THAT I THINK THERE WAS ENOUGH HERE TO INDICATE THAT TO THE  
13 JURY.

14 NOW, THE PORTION THAT YOU'RE TALKING ABOUT IS  
15 WHAT? WHAT DOES THAT READ? READ THAT.

16 MS. FULGINITI: THERE IS LANGUAGE THAT IS NOT IN --  
17 PARAGRAPH 8:

18 "WHEN A WITNESS IS SHOWN KNOWINGLY TO HAVE  
19 TESTIFIED FALSELY ON ANY MATERIAL MATTER, YOU HAVE A  
20 RIGHT TO DISTRUST SUCH WITNESS'S TESTIMONY IN OTHER  
21 PARTICULARS AND YOU MAY REJECT ALL OF THE TESTIMONY  
22 OF THAT WITNESS OR GIVE IT SUCH CREDIBILITY AS YOU  
23 MAY DEEM IT DESERVES."

24 THAT LANGUAGE IS NOWHERE REFLECTED IN ANY OF THE  
25 INSTRUCTIONS. THE MOST THAT WE GET IS AN INSTRUCTION NUMBER 8

1 IN PARAGRAPH 6, WHICH IS ONE LINE: WAS THE WITNESS'S TESTIMONY  
2 CONTRADICTED?

3 THE COURT: WELL, IT ALSO SPEAKS ABOUT: THE JURY  
4 SHOULD DETERMINE WHETHER THE CONTRADICTION IS AN INNOCENT LACK  
5 OF MEMORY OR AN INTENTIONAL FALSEHOOD.

6 MS. FULGINITI: YES, SIR. I WAS JUST ASKING IF  
7 POSSIBLY THIS -- NOT THIS PARTICULAR LANGUAGE, BUT THAT THIS  
8 THOUGHT IS NOT INSTILLED IN HERE, THAT IT COULD MAYBE EITHER  
9 BE --

10 THE COURT: THERE IS ALSO ANOTHER INSTRUCTION HERE  
11 THAT TELLS THE JURY THEY'RE NOT REQUIRED TO BELIEVE  
12 UNCONTRADICTED TESTIMONY.

13 MS. FULGINITI: OH, I UNDERSTAND THAT. I UNDERSTOOD  
14 BUT THIS IS DIFFERENT, BECAUSE THIS IS REALLY GOING TO WHEN  
15 THEY HEAR FALSE TESTIMONY OR WHAT THEY MAY CONSIDER TO BE FALSE  
16 TESTIMONY, WHAT THEY CAN DO WITH IT, WHICH IS, YOU KNOW,  
17 NOTHING OR --

18 THE COURT: WELL, ALL RIGHT. YOU MAY SUBMIT NOT THE  
19 WHOLE INSTRUCTION, BUT --

20 MS. FULGINITI: SUBMIT A PORTION OF IT? THANK YOU.

21 THE COURT: YOU EITHER MAY REVISE 8 TO INCLUDE  
22 SOMETHING OF THAT NATURE AT THE APPROPRIATE PLACE OR YOU MAY  
23 SUBMIT A SEPARATE INSTRUCTION.

24 IS THERE ANYTHING ELSE?

25 MS. FULGINITI: NO. THAT'S ALL, YOUR HONOR. THANK

1 YOU.

2 THE COURT: ALL RIGHT. YOU'VE ALL HAD AN OPPORTUNIT  
3 TO SEE THE REDACTED INDICTMENT?

4 MR. STOLAR: NO. THAT, WE DIDN'T GET.

5 THE COURT: WELL, YOU'RE NOT GOING TO GET IT, BUT IT  
6 IS AVAILABLE. I WANT TO HEAR FROM YOU IF THERE ARE ANY  
7 OBJECTIONS TO IT.

8 THE CLERK: MS. KELLY HAS IT, YOUR HONOR.

9 THE COURT: MS. KELLY HAS IT.

10 MR. STOLAR: I JUST TOOK IT.

11 MS. KELLY: THEY HAVE IT, YOUR HONOR. I DON'T HAVE  
12 IT, YOUR HONOR

13 COURTROOM: (LAUGHTER.)

14 MS. FULGINITI: YOU DON'T WANT TO INVITE COMMENTS TO  
15 BE MADE BEFORE; RIGHT?

16 THE COURT: PARDON?

17 MS. FULGINITI: THE ONLY QUESTION IS ABOUT WHETHER  
18 THE NUMBING IS CORRECT; ISN'T THAT RIGHT?

19 THE COURT: WELL, I JUST WANTED TO SEE IF THAT WAS  
20 REDACTED IN LIEU OF THE COURT DISMISSING COUNT 3 AS  
21 MULTIPLICITOUS. SO LOOK JUST AT IT AND LET ME KNOW BEFORE THE  
22 MATTER GOES TO THE JURY.

23 WE'LL TAKE A SHORT BREAK HERE.

24 THE CLERK: PLEASE RISE.

25 (JURY PRESENT:)



1 THE COURT: ALL RIGHT, COUNSEL. YOU MAY CONCLUDE YO  
2 ARGUMENT.

3 MR. MEDRANO: THANK YOU, YOUR HONOR, I'LL BE BRIEF.

4 LADIES AND GENTLEMEN, 1400 POUNDS MAY APPEAR  
5 INSIGNIFICANT IN THE BIG PICTURE, BUT IT ISN'T, ONLY BECAUSE  
6 ANY LOSS BY THE MEMBERS OF THIS ENTERPRISE WAS TAKEN SERIOUSL'

7 AND AS I'VE INDICATED, YOU KNOW THEY TOOK ANY LOSS  
8 SERIOUSLY. AND MY FIRST EXAMPLE WAS THE \$150,000.00 MISSING  
9 FROM THE MOTORHOME AND EVERYONE IS UPSET ABOUT IT.

10 YOU REMEMBER THE SECOND EXAMPLE OF GALLARDO WHEN TWO  
11 TO SIX KILOS ARE MISSING, BECAUSE RETAMOZA SCREWED UP HIS  
12 EFFORTS TO SELL THEM, AND GALLARDO GOT MAD ABOUT THAT AND HELD  
13 HIM ACCOUNTABLE FOR THEM.

14 AND THE THIRD EXAMPLE, IN TERMS OF JUST THE ATTITUDE  
15 OF THE HEADS OF THIS ENTERPRISE AND HOW STRONGLY THEY FELT  
16 ABOUT ANYBODY WHO TRIED TO BUCK THE SYSTEM OR IF THERE WERE AN  
17 LOSSES: YOU'VE HEARD TESTIMONY TESTIMONY OF RETAMOZA, WHEN  
18 RETAMOZA ADVISED FELIX GALLARDO AND MATTA THAT DIEGO WAS TRYIN  
19 TO RECRUIT HIM AWAY. MATTA WAS LIVID AND MATTA THREATENED TO  
20 KILL THE FAMILY OF DIEGO FOR SUCH A TRANSGRESSION.

21 THE POINT OF ALL THIS IS THAT ANY LOSS WAS  
22 SIGNIFICANT, AND YET 1400 POUNDS IN THE BIG PICTURE, I GUESS,  
23 DOESN'T SEEM LIKE A LOT. BUT IT IS, BECAUSE ANY LOSS MIGHT  
24 AFFECT FUTURE DEALS FOR LOADS THAT ARE COMING INTO TOWN.

25 NOW BOTH MR. STOLAR AND MR. MEDVENE ESSENTIALLY TOLD

1 YOU THAT ALL THE DRUG EVIDENCE PUT ON BY THE GOVERNMENT WAS PU  
2 ON SIMPLY TO DISTRACT YOU, THAT IT WAS A SMOKE SCREEN, I  
3 BELIEVE WAS THE TERMINOLOGY USED BY THE DEFENSE LAWYERS.

4 LADIES AND GENTLEMEN -- AND I REITERATE PART OF WHAT  
5 THEY TOLD YOU -- THESE MEN AREN'T HERE FOR THE DRUG CHARGES.  
6 THAT IS ABSOLUTELY TRUE. THEY'RE NOT ON TRIAL FOR THAT HERE.

7 BUT ALL THAT OVERWHELMING EVIDENCE OF NARCOTICS  
8 INVOLVEMENT WAS BROUGHT TO YOU AN IS IMPORTANT FOR TWO REASONS  
9 NO. 1, TO SHOW YOU THE GRAND SCOPE OF THIS ENTERPRISE  
10 AS I'VE POINTED OUT TO YOU IN THIS PART, WITH THE LEADERS, THE  
11 SOLDIERS AND THE CORRUPT OFFICIALS.

12 AND SECONDLY, IT'S IMPORTANT BECAUSE IT EXPLAINS  
13 MOTIVE. PEOPLE DON'T GO AROUND KILLING A FEDERAL AGENT WITHOU'  
14 A MOTIVE.

15 AND TO SHOW A MOTIVE, WE BROUGHT ON THIS EVIDENCE SO  
16 YOU COULD SEE THAT THERE WERE THESE NARCOTICS ACTIVITIES IN  
17 PROGRESS AND THEY WERE AFFECTED BY PEOPLE LIKE CAMARENA. AND  
18 AS A RESULT, THE CARTEL STRUCK BACK.

19 NOW, LADIES AND GENTLEMEN, DURING MR. STOLAR'S  
20 CLOSING, FOR VIRTUALLY HIS ENTIRE CLOSING ARGUMENT, HE PUT THIS  
21 LITTLE PROP HERE FOR YOU TO STARE AT. AND I THINK THE ESSENCE  
22 OF HIS ARGUMENT FOR YOU WITH REGARD TO THIS GRENADE IS IN  
23 ESSENCE THE FOLLOWING: THAT THING LOOKS DANGEROUS. I GUESS IT  
24 LOOKS GUILTY. BUT YOU HAVE TO PRESUME IT'S INNOCENT, AND HE'S  
25 RIGHT ABOUT THAT, BECAUSE THAT'S THE WAY IT SHOULD BE UNDER OUR

1 LAW. BUT IT LOOKS DANGEROUS.

2 ANALOGOUSLY, MATTA LOOKS DANGEROUS BECAUSE OF THE  
3 EVIDENCE, THE GOVERNMENT'S EVIDENCE, THAT SHOWS THAT HE'S A  
4 NARCOTICS TRAFFICKER AND HE WAS AT THOSE MEETINGS THAT  
5 CERVANTES HAS TOLD YOU.

6 BUT THERE IS ONE KEY ELEMENTARY DIFFERENCE BETWEEN A  
7 PROP LIKE THIS THAT IS PUT THERE SOLELY TO DISTRACT YOU, AND A  
8 MAN OF THE CALIBER OF MATTA: THIS LITTLE TOY, THIS LITTLE  
9 PAPERWEIGHT IS NOT LOADED. IT HAS NO SUBSTANCE. IT'S NOT  
10 GUILTY.

11 THIS MAN TO MY RIGHT, MATTA BALLESTEROS, IS LOADED, H  
12 IS ARMED, HE IS GUILTY.

13 THAT IS THE DIFFERENCE.

14 MR. BURNS: THAT MISSTATES THE TESTIMONY WITH REGARD  
15 TO AGENT BERRELLEZ AND THE OTHER DEFENDANTS.

16 THE COURT: OVERRULED.

17 MR. MEDRANO: NOW, SEVERAL LAWYERS HAVE GONE TO GREAT  
18 LENGTH TO TELL YOU -- AND AGAIN, WE HAVE A CHART FOR THIS  
19 SOMEPLACE -- THAT THE U.S. HAS PURCHASED OR BOUGHT THE  
20 TESTIMONY THAT YOU HEARD THROUGH THE GOVERNMENT WITNESSES.

21 WELL, LET'S TALK ABOUT MONEY SPENT HERE, OKAY?  
22 BECAUSE I THINK THERE ARE SOME DIFFERENCES THAT YOU SHOULD BE  
23 COGNIZANT OF.

24 LET'S TALK ABOUT FIRST IN TERMS OF AMOUNTS. YOU KNOW,  
25 FRANK RETAMOZA, WHEN HE MADE HIS WEEKLY RUNS TO GUADALAJARA

1 WITH THE MOTORHOME, CAN TAKE ABOUT \$5 MILLION A SHOT, TOTAL OF  
2 ABOUT \$150 MILLION.

3 WELL, ISN'T IT FUNNY OR IRONIC THAT PROBABLY ALL OF  
4 THE MONEY IN ONE OF THOSE MOTORHOMES IS PROBABLY FIVE, TEN  
5 TIMES MORE THAN THE MONEY SPENT IN THIS CASE. THE AMOUNTS ARE  
6 ARE SO VASTLY DIFFERENT AND DISPROPORTIONATE THAT YOU HAVE TO  
7 KEEP THAT IN MIND.

8 GOOD GUYS -- I.E., THE GOVERNMENT -- YES, THEY SPEND  
9 MONEY. WELL, HOW ELSE CAN YOU DO SOPHISTICATED INVESTIGATIONS  
10 OF A HOMICIDE THAT OCCURS ON FOREIGN SOIL?

11 BUT, YOU KNOW, THERE'S A SECOND DIFFERENCE IN TERMS OF  
12 DOLLARS SPENT. WHEN MEN LIKE MATTA AND ZUNO AND THE SOLDIERS  
13 GET PAID, IT'S TONS OF MONEY, INCREDIBLE AMOUNT OF MONEY. AND  
14 WHAT'S THE PURPOSE OF THAT MONEY?

15 WELL, THE PURPOSE OF IT IS GREED, BECAUSE IT'S THE  
16 PRODUCT OF AN ILLICIT DRUG THAT CROSSES INTERNATIONALLY INTO  
17 OUR BORDERS AND AFFECTS OUR FAMILIES.

18 WHAT'S THE DIFFERENCE BETWEEN THEIR PURPOSE IN  
19 SPENDING MONEY AND THE UNITED STATES OF AMERICA'S?

20 YES, MONEY IS SPENT. YES, CERVANTES HAS TO BE  
21 RELOCATED, AS DOES HARRISON. YES, RETAMOZA HAS TO BE  
22 PROTECTED. YES, THIS SOPHISTICATED WITNESS SECURITY PROGRAM  
23 RUN BY THE UNITED STATES MARSHALS, ALL THAT COSTS MONEY. BUT  
24 IT IS NECESSARY.

25 AND TO STAND UP HERE LIKE THE DEFENSE LAWYERS DID AND

1 TO SUGGEST TO YOU THAT IT'S MONEY THAT IS USED TO BUY WITNESS  
2 IS MISLEADING AN DISINGENUOUS, I WOULD RESPECTFULLY SUBMIT TO  
3 YOU.

4 AND FINALLY, LET'S TALK ABOUT THESE GREAT, QUOTE,  
5 "DEALS" MADE BY INFORMANTS AND THE WITNESSES ON BEHALF OF THE  
6 GOVERNMENT. LET'S TALK ABOUT THE GREAT SWEET DEALS THEY GOT.

7 FIRST OF ALL, MEXICAN NATIONALS ARE BROUGHT TO A  
8 FOREIGN LAND AND THEY DON'T EVEN SPEAK ENGLISH. OKAY. THEY  
9 RECEIVE, LIKE CERVANTES, THE GRAND AMOUNT OF AT LEAST \$3,000.  
10 A MONTH TO COVER BASIC EXPENSES: RENT, FIRST AND LAST MONTH'S  
11 RENT; FOOD, UTILITIES. AND IF THERE'S ANY MONEY ON TOP OF  
12 THAT -- WHICH, BY THE WAY, IS NOT PAID TO THEM. IT'S PAID TO  
13 THE HOTEL. WHEN THEY'RE RELOCATED, IT'S PAID TO THE SECOND  
14 HOUSE THAT THEY HAD TO BE RELOCATED TO BECAUSE OF THE  
15 DANGEROUSNESS OF THE PEOPLE, OF THE ACCUSED IN THIS COURTROOM.

16 MR. STOLAR: IMPROPER ARGUMENT, YOUR HONOR. IT GOES  
17 TO CHARACTER.

18 THE COURT: COUNSEL, THAT IS NOT A PROPER ARGUMENT TO  
19 MAKE. CONCENTRATE ON DISCUSSING THE EVIDENCE HERE.

20 MR. MEDRANO: VERY WELL, YOUR HONOR.

21 IN TERMS OF THE DEALS WITH THESE WITNESSES, MOST OF  
22 THEM -- AND IT IS YOUR RECOLLECTION THAT CONTROLS -- HAD NO  
23 IMMUNITY, HAD NO JOBS PROMISED TO THEM, HAD NO AGREEMENTS AS T  
24 HOW LONG THEY COULD STAY IN THE UNITED'S STATES, ET CETERA, ET  
25 CETERA, LADIES AND GENTLEMEN.

1           AND ALL OF THIS IS NECESSARY. AND AGAIN, BECAUSE MI  
2 REYNOSA SAID IT SO ELOQUENTLY, TO GO BACK TO THEIR FOREIGN --  
3 TO THEIR HOME COUNTRY NOW, WOULD MEAN THAT THEY'D BE DEAD.

4           PLASCENCIA TOLD YOU THAT, CERVANTES TOLD YOU THAT,  
5 HARRISON TOLD YOU THAT. THEY ALL TOLD YOU THAT.

6           NOW, IF THERE'S ANY QUESTION OR CONFUSION IN YOUR MI  
7 AS TO THE ROLE OF BERNABE RAMIREZ IN THIS CASE, LET'S LAY IT  
8 REST RIGHT NOW. I RESPECTFULLY SUBMIT TO YOU THAT BERNABE HA  
9 A COUPLE OF FUNCTIONS WITH REGARD TO THE MURDER OF CAMARENA A  
10 WITH REGARD TO THE MURDER OF ZAVALA.

11           HE IS A BODYGUARD TO PROTECT FONSECA, AND FONSECA WA  
12 INVOLVED IN THIS. THAT IS A SLAM-DUNK ISSUE. THERE'S NO  
13 QUESTION ABOUT THAT.

14           FONSECA TAKES THIS CLOSE CONFIDANT OF HIS TO LOPE DE  
15 VEGA AND BERNABE IS A GUARD. HE'S A BODYGUARD.

16           AND I SUBMIT TO YOU THAT WHEN BERNABE IS THERE, AND  
17 FACT WHEN HE SAYS ON THE TRANSCRIPTS THAT HE SAW THAT -- THE  
18 GRINGO AND THAT HE WAS ALL SWOLLEN AND BEATEN AND BARELY  
19 CONSCIOUS, HE'S THERE AS A GUARD, TO MAKE SURE THAT PEOPLE LI  
20 CAMARENA AND ZAVALA ARE NOT ALLOWED TO LEAVE.

21           THAT IS HIS ROLE: NO. 1, TO PROTECT FONSECA; AND NO.  
22 2 TO KEEP THE VICTIMS AT THE HOUSE WHERE THEY'RE BEING  
23 TORTURED.

24           MR. MEZA: I'M GOING TO OBJECT TO THE CONTINUED  
25 DISTORTION OF THE EVIDENCE BY THIS --

1 THE COURT: COUNSEL, STOP OBJECTING TO THE EVIDENCE,  
2 BECAUSE I'VE ALREADY SAID A THOUSAND TIMES TO THIS JURY THAT  
3 THEY DECIDE WHAT THE EVIDENCE IS.

4 I'M NOT GOING TO SETTLE DISPUTES OVER THE EVIDENCE.  
5 WE HAVE BEEN HEARING TESTIMONY HERE FOR TWO MONTHS.

6 MR. MEDRANO: COUNSEL FOR BERNABE HAS TOLD YOU THAT  
7 HIS HAIR WAS NOT FOUND AT THE LOPE DE VEGA HOUSE. WELL, LADI  
8 AND GENTLEMEN -- NOR HIS PRINTS, BY THE WAY. THERE IS A  
9 LOGICAL EXPLANATION FOR ALL THIS, I SUBMIT TO YOU.

10 FIRST OF ALL, WE KNOW HOW CONTAMINATED THE CRIME SCE  
11 WAS, THANKS TO THE M.F.J.P. OFFICIALS THERE. THEY HAVE ONE G  
12 LIVING THERE. THEY'RE TRAMPLING ALL OVER THE PLACE.

13 THE COURT: COUNSEL, YOU'VE ALREADY COVERED THIS  
14 TRAINING.

15 MR. MEDRANO: VERY WELL, YOUR HONOR. THANK YOU.

16 THERE'S AN ADDITIONAL ARGUMENT HERE BY COUNSEL FOR  
17 BERNABE THAT THE GOVERNMENT HAS EMBARKED ON A PROGRAM OF  
18 GETTING THEIR MAN, AND NO MATTER WHAT IT TAKES, GETTING THEIR  
19 MAN, COME HELL OR HIGH WATER. AND THEN THERE'S THIS ANALOGY (   
20 A TUNA NET AND GETTING INNOCENT DOLPHINS OR SOMETHING.

21 LADIES AND GENTLEMEN, THAT'S A SMOKE SCREEN, BECAUSE  
22 THE CONDUCT OF THE D.E.A. IN THIS CASE HAS ALWAYS BEEN  
23 ABOVEBOARD, AND THERE IS NO QUESTION ABOUT THAT.

24 AND ON THE ISSUE OF CASTEL BEING SOMEHOW RESPONSIBLE  
25 FOR ENTRAPPING OR TRICKING BERNABE, AGAIN BOTH SIDES HAVE

1 SUBPOENA POWER. CASTEL COULD HAVE BEEN BROUGHT IN BY THE  
2 DEFENSE.

3 AND IN TERMS OF QUESTIONING THE INTEGRITY OF THE  
4 PEOPLE IN THIS COURTROOM AND THE TYPE OF TESTIMONY YOU'VE  
5 HEARD, YOU HAVE HEARD OUR GOVERNMENT WITNESSES, WHO'VE COME  
6 CLEAN, TELL YOU WHAT THEY WERE IN THE PAST AND THAT THEY'RE  
7 HERE TO TESTIFY TRUTHFULLY.

8 AND COMPARE THAT TO PEOPLE PUT ON BY THE DEFENSE, LIKE  
9 MACIAS; BY ESPERANZA AND THE DAUGHTER; BY ESTELLA FUENTES, WHEN  
10 SHE COMES BACK THE SECOND TIME; MR. NORMAN PERLE; AND FINALLY,  
11 CULMINATING IN BERNABE RAMIREZ, WHEN HE BLATANTLY LIED TO YOU.

12 LADIES AND GENTLEMEN, PUT ASIDE AND LAY TO REST ONCE  
13 AND FOR ALL MY NOTION THAT BERNABE WAS DRUNK ON JULY 25. THIS  
14 WAITRESS, TERRY ALVAREZ, COMES HERE. SHE HAS THIS TALLY SHEET;  
15 AND I THINK THE INSINUATION IS THAT EVERY BEER ON THAT TALLY  
16 SHEET WAS DRUNK BY THREE AGENTS -- TWO AGENTS, AN INFORMANT AND  
17 BERNABE.

18 WELL, I PUT OUT THIS FOR YOU, TWO VERY IMPORTANT  
19 THINGS: MISS ALVAREZ NEVER, EVER SAID THAT ANY OF THE MEN SHE  
20 SERVED, PARTICULARLY THE TABLE IN QUESTION HERE, WERE DRUNK.  
21 SHE NEVER SAID THAT, DID SHE?

22 AND SECOND, YOU HEARD THE TAPES, STARTING FROM JULY 21  
23 AND CULMINATING ON JULY 25. AND OBVIOUSLY, SOME OR MOST OF YOU  
24 MAY NOT SPEAK SPANISH, BUT YOU CAN HEAR. AND YOU HEARD  
25 BERNABE, BEFORE JULY 25, WHEN WAS UP ON THE VIDEOTAPE AND YOU



1 HEARD HIM ON JULY 25.

2 ASK YOURSELVES, AND JOINTLY PUT YOUR HEADS TOGETHER:  
3 WAS THERE ANY DIFFERENCE IN HIS INFLECTION? DID HE SLUR? DID  
4 HAVE TROUBLE TALKING?

5 NO. HE SPOKE AT THE SAME PACE, THE SAME INFLECTION  
6 FOR ALL THE TAPES. THE MAN WAS NOT DRUNK, LADIES AND  
7 GENTLEMEN.

8 AND THEN THIS NOTION SUGGESTED BY THE DEFENSE LAWYER  
9 THAT THE D.E.A. WERE MEAN AND AWFUL BECAUSE THEY TRICKED  
10 BERNABE TO COME UP HERE. WELL, COME ON. ARE YOU SUPPOSED TO  
11 SEND BERNABE AN INVITATION, SIGNED BY THE D.E.A., "MR. BERNABE,  
12 PLEASE COME UP TO THE L.A. D.E.A. OFFICE. WE THINK YOU MAY  
13 HAVE HAD SOMETHING TO DO WITH CAMARENA, AND WE'D LIKE TO  
14 QUESTION YOU ABOUT IT."

15 THAT'S NOT THE WAY UNDERCOVER WORK WORKS IN THE REAL  
16 WORLD. AND, IN FACT, ONE OF THE QUESTIONS ASKED OF YOU WHEN  
17 YOU WERE YOU ALL SELECTED AS JURORS, AND I JUST WANT TO REMIND  
18 YOU ABOUT THIS, IS: WERE ANY OF YOU PERTURBED OR BOTHERED BY  
19 THE FACT THAT D.E.A. USED INFORMANTS OR USED UNDERCOVER  
20 OPERATIONS TO BRING PEOPLE OR TO WORK ON A CASE?

21 AND ALL OF YOU SAID, NO, THAT WAS NOT PROBLEMATIC.

22 AND THAT'S THE WAY IT SHOULD BE. WITHOUT THAT KIND OF  
23 INVESTIGATIVE TECHNIQUE, THE BAD GUYS WOULD NEVER BE CAUGHT.  
24 THEY WOULD WALK AROUND FREE, BECAUSE SOMEHOW IT'S NOT CONDONED  
25 THAT THE D.E.A. LIES TO A DRUG DEALER.

1 WELL, BIG DEAL. HOW ELSE ARE YOU GOING TO GET THEM UP  
2 HERE?

3 LADIES AND GENTLEMEN -- AND THERE'S BEEN A SUGGESTION  
4 BY COUNSEL FOR BERNABE THAT HE WAS PUFFING OR LYING, HE MADE IT  
5 UP OR GOT IT FROM A NEWSPAPER OR THIS MAGAZINE THAT'S NOT HERE  
6 NOW, THE 'ALARMA.' AND I WANT YOU TO LOOK AT THAT, BECAUSE  
7 IT'S A RAG MAGAZINE. IT'S OUR 'NATIONAL ENQUIRER', IN ESSENCE.

8 WELL, TWO PROBLEMS WITH THAT ARGUMENT, THAT HE READ IT  
9 OR MADE IT UP. NO. 1, THE DETAIL. YOU SAW THE TAPES, YOU  
10 HEARD THEM. THE DETAIL IS TOO SIGNIFICANT TO COME OUT OF A  
11 MAGAZINE.

12 AND SECOND OF ALL, ISN'T THIS PECULIAR? THEY PUT AND  
13 SHOW TO BERNABE SOME MAGAZINES, GOING BACK TO 1985, THAT DETAIL  
14 WHAT HAPPENED TO CAMARENA. HOW PECULIAR THAT BERNABE STILL HAS  
15 THOSE MAGAZINES?

16 YOU KNOW, IT'S REMINISCENT OF GROWING UP IN THE  
17 SOUTHWEST AND OUR LOCAL NEWSPAPER, WHEN IN ELEMENTARY SCHOOL  
18 YOU MADE THE HONOR ROLE, THEY PUBLISHED THE NAMES OF THE KIDS  
19 IN OUR ELEMENTARY SCHOOL.

20 I REMEMBER GOING OUT FOR THE PAPER, AND THERE WAS MY  
21 NAME, AND I CUT IT OUT AND I SAVED IT. AND I SAVED IT BECAUSE  
22 I WAS INVOLVED IN IT, IT WAS A PART OF ME, I HAD SOMETHING TO  
23 DO WITH IT.

24 LADIES AND GENTLEMEN, WHY DO YOU THINK THIS MAN STILL  
25 HAS THOSE MAGAZINES? BECAUSE HE WAS THERE. ONE OF THEM HAS

1 HIS PICTURE. AND EVEN THOUGH IT IS A PICTURE THAT SHOWS HE WAS  
2 ARRESTED, IT IS STILL PART OF HIM. HE WAS INVOLVED IN IT. AND  
3 THAT'S WHY HE STILL HAS THOSE MAGAZINES.

4 FINALLY, I'M ABOUT TO END, LADIES AND GENTLEMEN. YOU  
5 KNOW, WHAT YOU HAVE HERE, YOU KNOW, IN GROWING UP, THERE IS  
6 THIS BATTLE OF THE BAND CONTEST THAT I'M SURE EVERY CITY HAS  
7 SOMEPLACE, SOMEWHERE. WELL, I THINK WHAT WE'VE HEARD HERE IS  
8 THE BATTLE OF THE INTERPRETERS.

9 YOU KNOW, I GUESS YOU CAN BELIEVE SOME OR YOU CAN  
10 BELIEVE THE OTHERS. WELL, YOU KNOW WHAT? I THINK THAT YOU  
11 COULD JUST PUT THAT WHOLE ISSUE ASIDE. JUST TAKE THAT ONE  
12 SEGMENT ASIDE THAT THE DEFENSE HAS ENHANCED AND THEN WE HAD TO  
13 REENHANCE AND ENHANCE IN THE REBUTTAL. AND NOW THERE IS A  
14 MILLION INTERPRETERS IN HERE WITH DIFFERENT THINGS ABOUT WHAT  
15 THEY HEARD OR DIDN'T HEAR.

16 WELL, IF THERE'S ANY QUESTION IN YOUR MIND, PUT IT  
17 ASIDE AND RELY ON THE REST OF THE TRANSCRIPTS WHICH WERE PLAYED  
18 FOR YOU AND WHICH WERE NOT CHALLENGED BY THE DEFENSE AND WHICH  
19 WERE NOT ENHANCED. AND WHEN YOU DO SO -- AND THIS IS SO  
20 REPRESENTATIVE AND CHARACTERISTIC OF BERNABE ON THE TAPES:

21 "YOU KNOW FOR A FACT THAT THE GRINGO DIDN'T SCREW ME  
22 OVER."

23 "NO, NOT AT ALL, SIR. "

24 "ALL RIGHT. BUT YOU KNOW IT'S FOR A FACT THAT HE --  
25 YOU HEARD THAT HE DIDN'T SCREW ME OVER."

1 "I DIDN'T HEAR, SIR."

2 "ARE YOU PERFECTLY AWARE OF IT?"

3 "YES, I'M SURE."

4 "NOW YOU'VE CLEARED UP MY DOUBTS" --

5 THIS IS ANOTHER TRANSCRIPT, STILL FROM THE UNDERCOVER  
6 TAPES, ABOUT "THE GRINGO," AND "THEY WERE BEATING THE SHIT OUT  
7 OF HIM," AND "HE FINGERED ME."

8 "NOW, YOU DIDN'T HEAR. YOU WERE THERE AND YOU DIDN'T  
9 HEAR THE GUY."

10 "NO, NOT AT ALL."

11 "WERE YOU THERE?"

12 "YES."

13 "AND YOU'RE AWARE THAT THE GUY DIDN'T FUCK ME OVER."

14 "NOT AT ALL."

15 TAKE THEIR ENHANCED TRANSCRIPTS, TAKE OURS. IF YOU  
16 DON'T BELIEVE THE GOVERNMENT'S AND YOU DON'T BELIEVE THEIRS AND  
17 YOU'RE CONFUSED -- BECAUSE I'M CONFUSED BY NOW WITH ALL THESE  
18 ENHANCED VERSIONS -- PUT THEM ASIDE AND RELY ON THE REST OF THE  
19 TRANSCRIPTS.

20 AND WHEN YOU DO THAT, WHEN YOU REVIEW THE TRANSCRIPTS  
21 AS A WHOLE, BERNABE WAS GUILTY AND BERNABE WAS THERE WHEN HE  
22 CLAIMS ON THE TAPES THAT HE WAS THERE.

23 FINALLY, LADIES AND GENTLEMEN, YOU CAN REST ASSURED  
24 THAT BERNABE WAS WITH FONSECA AT LOPE DE VEGA AND THAT HE WAS  
25 INSIDE THE HOUSE AND THAT HE SAW CAMARENA --

1 MR. MEZA: AS HE SAYS ON THE TRANSCRIPTS.

2 MR. MEDRANO: IF YOU BELIEVE --

3 MS. KELLY: OBJECTION, YOUR HONOR. THAT'S TWICE. AND  
4 HE NEVER SAID ON THAT TRANSCRIPT THAT HE SAW HIM.

5 THE COURT: COUNSEL -- ALL RIGHT, COUNSEL. SIT DOWN,  
6 PLEASE.

7 MR. MEDRANO: YOU CAN BELIEVE -- THANK YOU, YOUR  
8 HONOR.

9 YOU CAN BELIEVE THAT HE WAS WITH FONSECA FOR THE  
10 FOLLOWING COMMON-SENSICAL REASON:

11 YOU KNOW THAT BERNABE IS A TRUSTED CONFIDANT/EMPLOYEE  
12 OF FONSECA, TO SUCH A DEGREE THAT FONSECA MAKES HIM THE CHIEF  
13 OF SECURITY, FIRST AT THE SPORTS CLUB, AND THEN FINALLY AT  
14 BAJADITA, THE OFFICE WHERE THE BAD GUYS AND THE DECISION MAKERS  
15 GET TOGETHER AND DISCUSS DOPE AND DISCUSS CAMARENA, WHEN THEY  
16 DID IN DECEMBER OF 1984.

17 THIS IS AN IMPORTANT PLACE. AND WHO DOES FONSECA MAKE  
18 THE CHIEF OF SECURITY THERE, WHICH BERNABE ADMITS THROUGH HIS  
19 OWN MOUTH ON TESTIMONY: BERNABE.

20 AND I SUBMIT TO YOU RESPECTFULLY THAT A MAN WHO HAS  
21 THAT KIND OF RELATIONSHIP WITH FONSECA IS A MAN WHO WAS AT LOPE  
22 DE VEGA, AS HE ADMITTED ON THE TAPES BEFORE HE HAD A CHANCE TO  
23 THINK ABOUT IT AND MAKE UP A STORY, AS HE DID PRIOR TO HIS  
24 TESTIMONY.

25 MR. MEDRANO: LADIES AND GENTLEMEN, IN CLOSING,

1 WILLIAM SHAKESPEARE ONCE SAID THE FOLLOWING:

2 "COWARDS SUFFER MANY DEATHS BEFORE THEY DIE,  
3 BUT THE VALIANT SUFFER DEATH ONLY ONCE."

4 AND I THINK THAT APPLIES HERE BECAUSE -- BECAUSE OF  
5 THE FACTS AND BECAUSE OF WHAT YOU HEARD AND THE TRAVESTIES THAT  
6 WERE COMMITTED AGAINST A HUMAN BEING, SEVERAL HUMAN BEINGS.

7 THESE FOUR MEN IN THIS COURTROOM AND THE MEN THAT THEY  
8 ASSOCIATED WITH, WHO UNFORTUNATELY ARE NOT HERE, EITHER, TO  
9 FACE THE MUSIC FOR THEIR CONDUCT, ARE COWARDS FOR THREE  
10 REASONS:

11 FIRST, BECAUSE OF WHAT THEY DO FOR A LIVING. IT'S  
12 EASY MONEY, GOING INTO DRUG TRAFFICKING. YOU DON'T PAY TAXES.  
13 IT'S QUICK, FAST MONEY, AN ENORMOUS WEALTH. RETAMOZA GAVE YOU  
14 SOMEWHAT OF A HINT OF THE DOLLAR AMOUNTS.

15 MR. STOLAR: THIS IS NOT REBUTTAL ARGUMENT.

16 THE COURT: YES. THE OBJECTION IS SUSTAINED.

17 MR. MEDRANO: LADIES AND GENTLEMEN, THE FOUR MEN IN  
18 THIS COURTROOM ARE RESPONSIBLE AND GUILTY FOR WHAT THEY DID.  
19 THREE OF THEM WERE INVOLVED IN THE PLAN AND SCHEME TO KIDNAP,  
20 INTERROGATE AND TORTURE ENRIQUE CAMARENA, AS WELL AS ALFREDO  
21 ZAVALA.

22 ONE OF THESE MEN WAS AT LA LANGOSTA AND WAS  
23 RESPONSIBLE FOR THE MURDERS OF JOHN WALKER AND ALBERTO RADELAT.

24 NOW, I ASK YOU TO PUT THE EVIDENCE TOGETHER AND TO  
25 SCRUTINIZE IT CAREFULLY, AS WELL AS THE DEFENSE CASE. AND I

1 SUBMIT TO YOU THAT WHEN YOU DO THAT, YOU CAN COME BACK WITH  
2 ONLY ONE VERDICT FOR EACH AND EVERY ONE OF THE DEFENDANTS THAT  
3 ARE IN THE COURTROOM TODAY:

4 JUAN RAMON MATTA BALLESTEROS, GUILTY.

5 RUBEN ZUNO ARCE, GUILTY.

6 JUAN JOSE BERNABE RAMIREZ, GUILTY.

7 JAVIER VASQUEZ VELASCO, GUILTY.

8 (CONCLUSION OF GOVERNMENT'S REBUTTAL ARGUMENT.)

9 THE COURT: LADIES AND GENTLEMEN, I HAD HOPED TO  
10 INSTRUCT YOU TODAY, BUT IT IS GETTING LATE AND I'M NOT GOING TO  
11 DO IT. INSTEAD, I'M GOING TO INSTRUCT YOU TO, WHICH WILL BE  
12 THE LAST ORDER OF BUSINESS BEFORE YOU START DELIBERATING, ON  
13 MONDAY MORNING.

14 AT 9:00 MONDAY MORNING I WILL INSTRUCT YOU AND  
15 THEN YOU WILL BEGIN TO DELIBERATE. NOW, UNTIL THAT TIME PLEASE  
16 KEEP IN MIND THE ADMONITION THAT I HAVE REPEATED TO YOU  
17 THROUGHOUT THE TRIAL THAT IS MOST IMPORTANT, PARTICULARLY NOW.

18 ALL RIGHT. YOU MAY BE EXCUSED.

19 (JURY EXCUSED.)

20 MS. KELLY: YOUR HONOR, BACK WHEN WE PRESENTED -- THE  
21 PROSECUTION PRESENTED ITS EVIDENCE AND THEY INTRODUCED THE  
22 TAPES OF JULY 21 AND 24, THE UNDERLYING TAPES, NOT THE VIDEO,  
23 THERE WAS NO TRANSLATION INTRODUCED. AND THERE WERE SEGMENTS  
24 OF IT THAT WERE OBJECTED TO THAT THE PROSECUTION AGREED WERE  
25 IMPROPER FOR THE JURY.

1                   AND AT THAT TIME I REPRESENTED TO THE COURT THAT  
2 I WAS CONCERNED THAT IF THE TAPES WENT BACK TO THE JURY, --  
3 THERE WERE TWO JURORS WHO SPOKE SPANISH -- THEY WOULD LISTEN TO  
4 THE WHOLE THING, AND THEY NEED TO BE REDACTED.

5                   SO, YOUR HONOR, I WOULD JUST REQUEST THAT IF THE  
6 JURORS REQUEST THOSE TAPES THAT WE DEAL WITH THEM AT THAT  
7 APPROPRIATE TIME, BUT THAT THEY NOT GO BACK FOR PLAYING BECAUSE  
8 THEY CONTAIN MATERIAL THAT WE FEEL --

9                   THE COURT: WELL, IF THERE IS NO TRANSLATION  
10 ACCOMPANYING THEM, THEY WOULD NOT SERVE ANY PURPOSE AND THEY  
11 SHOULD NOT GO BACK.

12                  MS. KELLY: VERY WELL, YOUR HONOR. ALL RIGHT.

13                  MR. NICOLAYSEN: WOULD THE COURT CONSIDER MAKING THE  
14 TRANSCRIPT OF THE TRIAL AVAILABLE TO THE JURY? THEY'VE ALREADY  
15 BEEN DONE; IT IS NOT A QUESTION OF HAVING THEM DONE. THERE HAS  
16 BEEN SO MUCH COLLATERAL FINGER POINTING ON BOTH SIDES ABOUT  
17 MISREPRESENTATIONS IN THE TRIAL, AND GIVEN THE LENGTH OF THE  
18 TRIAL, IT MIGHT HELP.

19                  THE COURT: NO, SIR, I WOULD NOT CONSIDER DOING THAT  
20 FOR THE USUAL REASON THAT I DON'T WANT THESE PEOPLE TO GET HUNG  
21 UP ON SOME PORTION OF THE TRIAL. I WANT THEM TO CONSIDERING  
22 THE EVIDENCE AS A WHOLE AND TO MAKE THEIR DECISION BASED ON ALL  
23 OF THE EVIDENCE.

24                  IF AT ANY TIME THEY INDICATE A NEED FOR SOME  
25 PORTION OF SOME WITNESS'S TESTIMONY, I WOULD CONSIDER THAT AT



1 THAT TIME.

2 MR. NICOLAYSEN: ALL RIGHT.

3 THE COURT: ALL RIGHT. WE'LL SEE YOU MONDAY MORNING  
4 AT 9:00.

5 THE CLERK: PLEASE RISE. THIS COURT IS NOW IN  
6 RECESS.

7 (COURT STANDS IN RECESS UNTIL MONDAY, JULY 16, 1990  
8 AT 9:00 A.M.)

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LOS ANGELES	+	CALIFORNIA	FRIDAY, JULY	4 1
JULY 13, 1990	+	9:30 A.M.		4 2
CLOSING ARGUMENT	+	FOR MATTA BALLESTEROS		4 10
CLOSING ARGUMENT	+	FOR BERNABE RAMIREZ		26 25
CLOSING ARGUMENT	+	FOR BERNABE RAMIREZ		57 6
CONTINUED CLOSING FOR	+	DEFENDANT BERNABE-RAMIREZ		63 18
LOS ANGELES	+	CALIFORNIA, FRIDAY, JULY		85 1
JULY 13, 1990	+	1:15 P.M. (JURY		85 2
REBUTTAL ARGUMENT	+	MR. MEDRANO:		110 24
AND BEHOLD, DEFENSE	EXHIBIT	4 F'S FLUNKS THE		7 18
WHICH ARE DEFENSE	EXHIBIT	R -- DEFENSE EXHIBIT		9 16
EXHIBIT R -- DEFENSE	EXHIBIT	R -- ARE THE PICTURES		9 17
GOVERNMENT'S	EXHIBIT	65, THE PHOTOGRAPH OF		10 1
POLICE BY DEFENSE	EXHIBIT	D D D. HE'S		11 15
IT'S DEFENDANT'S	EXHIBIT	4-F. IT SHOWS THAT		31 19
LET'S GO TO	EXHIBIT	63, WHICH BY NOW IS		57 9
FAMOUS IN THIS TRIAL.	EXHIBIT	63, THAT'S ONE, THE		57 10
PAGE NUMBERS ON THEIR	EXHIBIT	165. OUR EXHIBIT NO.		85 17
EXHIBIT 165. OUR	EXHIBIT	NO. IS V V V. HERE,		85 17
TRUTH, HERE'S THEIR	EXHIBIT	, MR. KOENIG'S, THE		106 8
ANALOGOUSLY, IN	EXHIBIT	179, FAMILY PHOTOS OF		112 3
SEE THE GOVERNMENT'S	EXHIBIT	.		113 14
MISLEADING.	EXHIBIT	P: MR. NICOLAYSEN		116 1
I MADE NO MENTION OF	EXHIBIT	P. AND THE REASON		116 16
YOU TO READ THAT	EXHIBIT	P. DO SO, PLEASE,		116 24
THROUGH 5 OF DEFENSE	EXHIBIT	P, YOU'LL SEE THAT IT		117 1
LOOK AT GOVERNMENT'S	EXHIBIT	190. WRITE IT DOWN:		117 13
BEAT YOU AGAIN."	EXHIBIT	P, WHAT MR.		117 24
I ASK YOU TO TAKE	EXHIBIT	P, READ IT, COMPARE		118 4
IT TO GOVERNMENT'S	EXHIBIT	190, AND THEN THROW		118 5
DO SOMETHING WITH	EXHIBIT	P? YES,		122 22
IN TO THE INFAMOUS	EXHIBIT	TRIPLE M. I THINK		144 23
THAT'S THE RIGHT	EXHIBIT	NUMBER, THE TELEPHONE		144 23
PHOTOS, GOVERNMENT	EXHIBIT	183, AND ONE OF THEM		163 20

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REPORTERS' CERTIFICATION

WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS FOR THE UNITED STATES DISTRICT COURTS, HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

Julie A. Churchill  
JULIE A. CHURCHILL, CSR  
OFFICIAL COURT REPORTER

DATED: July 12, 1991

Susan A. Lee  
SUSAN A. LEE, CSR  
OFFICIAL COURT REPORTER

DATED: July 12, 1991