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

- - - - -

HONORABLE EDWARD RAFEEDIE, DISTRICT COURT JUDGE PRESIDING

- - - - -

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, JANUARY 30, 1990; 4:45 P.M.

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

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APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

GARY A. FEES,  
UNITED STATES ATTORNEY  
BY: MANUEL A. MEDRANO, AUSA  
JOHN CARLTON, AUSA  
1200 UNITED STATES COURTHOUSE  
312 NORTH SPRING STREET  
LOS ANGELES, CALIFORNIA 90012  
(213) 894-0619

FOR THE DEFENDANT RUBEN ZUNO-ARCE:

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

ALSO PRESENT:

SPANISH INTERPRETERS

1 LOS ANGELES, CALIFORNIA TUESDAY, JANUARY 30, 1990

2 + 4:45 P.M.

3  
4 THE COURT: WE'LL RECONVENE THIS KASTIGAR HEARING IN  
5 THE UNITED STATES VERSUS RAPHAEL CARO QUINTERO CASE.

6 DO YOU HAVE FURTHER QUESTIONS YOU WISH TO ASK THIS  
7 WITNESS?

8 MR. MEDVENE: YES, I DO, YOUR HONOR.

9 THE COURT: ALL RIGHT. GO AHEAD.

10 MR. MEDVENE: THANK YOU, YOUR HONOR.

11  
12 CROSS-EXAMINATION + (CONTINUED)

13 BY MR. MEDVENE:

14 Q. OTHER THAN YOURSELF, AS OF NOVEMBER 30 OF LAST YEAR, TO  
15 YOUR KNOWLEDGE, PRIOR TO CI-2'S GRAND JURY APPEARANCE, DID HE  
16 MEET WITH OR HAVE ANY CONTACT WITH ANY OTHER D.E.A. --

17 THE COURT: SHORTEN YOUR SENTENCES, PLEASE, AND MAKE  
18 A POINT HERE, COUNSEL. YOU'RE DRAGGING THIS THING ON. WHAT DO  
19 YOU WANT TO ASK THE WITNESS? GET TO IT.

20 MR. MEDVENE: I WAS ASKING A QUESTION, YOUR HONOR.  
21 I'D LIKE TO REPEAT IT.

22 THE COURT: WELL, I WISH YOU WOULD TRY TO BE MORE  
23 CONCISE AND NOT ASK COMPOUNDED QUESTIONS. IT WILL BE A LOT  
24 EASIER AND WE'D MOVE ALONG A LOT FASTER.

25 BY MR. MEDVENE:

1 Q. OTHER THAN YOURSELF, AGENT, DID ANYONE ELSE FROM THE  
2 D.E.A. TO YOUR KNOWLEDGE HAVE ANY CONTACT WITH CI-2 PRIOR TO  
3 NOVEMBER 30 OF LAST YEAR?

4 A. COUNSELOR, I WOULD LIKE TO EXPIATE THE TESTIMONY THAT I  
5 PROVIDED YESTERDAY.

6 Q. I'M SORRY?

7 A. I WOULD LIKE TO EXPIATE, CORRECT THE TESTIMONY THAT I  
8 PROVIDED YESTERDAY. WHILE ON MY WAY HOME AFTER TESTIFYING HERE  
9 YESTERDAY I REMEMBERED THAT NOVEMBER 30TH WAS NOT THE FIRST  
10 TIME THAT I HAD OR OTHER AGENTS HAD CONTACT WITH WITNESS NUMBER  
11 2. I RECALLED THAT, IN FACT, A WEEK PRIOR TO NOVEMBER 30TH,  
12 1989, I HAD CONTACT WITH WITNESS NUMBER 2 FOR THE FIRST TIME.

13 Q. NOW, WHEN YOU SAY A WEEK -- STRIKE THAT.

14 IS THERE ANYTHING ELSE YOU WANT TO CORRECT?

15 A. NO, SIR, THAT IS THE ONLY THING. I REMEMBERED AFTER I  
16 TESTIFIED HERE THAT, IN FACT, YES, HE HAD BEEN UP HERE A WEEK  
17 PRIOR TO NOVEMBER 30TH, 1989.

18 Q. AND WHEN YOU SAY A WEEK PRIOR, DID YOU LOOK AT CERTAIN  
19 REPORTS AFTER YOU TESTIFIED LAST NIGHT THAT HELPED YOU REFRESH  
20 YOUR RECOLLECTION?

21 A. NO, SIR, I DID NOT.

22 Q. HAVE YOU LOOKED AT ANY SINCE YOU TESTIFIED YESTERDAY? ANY  
23 REPORTS OF ANY KIND?

24 A. NO, SIR, I HAVE NOT. I RECALLED IT FROM THE TOP OF MY  
25 HEAD. I HAVE NOT READ THE REPORTS. IT'S JUST AFTER TESTIFYING

1 AND I WAS RIDING HOME I REMEMBERED THAT, IN FACT, I HAD TALKED  
2 TO CI WITNESS NUMBER 2 A WEEK BEFORE.

3 Q. ALL RIGHT, SIR. WHEN YOU SAY A WEEK BEFORE, IS IT CORRECT  
4 THAT HE TESTIFIED, CI-2, BEFORE THE GRAND JURY ON NOVEMBER  
5 30TH?

6 A. YES, SIR. THAT IS CORRECT, SIR.

7 Q. SO WHEN YOU SAY A WEEK BEFORE, DO YOU MEAN APPROXIMATELY  
8 NOVEMBER 23RD WAS THE TIME THAT YOU MET WITH HIM?

9 A. I RECALL THAT IT WAS AROUND THANKSGIVING, A DAY OR SO  
10 AROUND THANKSGIVING, SIR.

11 Q. A DAY OR SO BEFORE THANKSGIVING?

12 A. OR DURING THANKSGIVING I DON'T RECALL BUT IT WAS --

13 Q. ALL RIGHT.

14 A. -- AROUND THAT TIME, SIR.

15 Q. AND DID THAT MEETING TAKE PLACE IN LOS ANGELES?

16 A. YES, SIR, IT DID.

17 Q. ALL RIGHT. COULD YOU TELL US WHAT OCCASIONED THE MEETING?  
18 HOW DID YOU KNOW ABOUT CI-2 AND HAVE OCCASION TO SET UP A  
19 MEETING WITH HIM?

20 A. I WAS CALLED BY WITNESS OR CI NUMBER 1 AND I WAS TOLD THAT  
21 WITNESS NUMBER 2 WAS IN LOS ANGELES, THAT HE WAS AT A HOTEL  
22 ROOM HERE IN THE DOWNTOWN AREA AND I TRAVELED TO THAT HOTEL  
23 WHERE I MET WITH WITNESS NUMBER 2, SIR.

24 Q. SO WAS YOUR TESTIMONY THEN INACCURATE YESTERDAY WHEN YOU  
25 DISCUSSED MAKING ARRANGEMENTS FOR CI-2 TO COME TO THIS COUNTRY?

1 A. NO, THAT WAS CORRECT EXCEPT I WAS CONFUSING -- I WAS  
2 CONFUSED. YOU KNOW, IT WAS FOR THE PURPOSE OF HIM COMING UP  
3 THE FIRST TIME, SIR.

4 Q. I SEE. HE CAME UP THE FIRST TIME THEN HE WENT BACK AND  
5 THEN HE CAME BACK TO TESTIFY BEFORE THE GRAND JURY?

6 A. THAT'S EXACTLY COR- -- RIGHT, SIR.

7 Q. ALL RIGHT, SIR. SO GOING BACK THEN TO RIGHT AROUND  
8 THANKSGIVING, IMMEDIATELY BEFORE YOU MET CI-2, DO I UNDERSTAND  
9 CORRECTLY YOU EITHER MET OR RECEIVED A CALL FROM CI-1?

10 A. THAT IS CORRECT.

11 Q. OKAY. AND DID YOU MEET WITH HIM OR RECEIVE A CALL FROM  
12 HIM? FROM CI-1?

13 A. I RECEIVED A CALL.

14 Q. AND WHAT DID HE SAY TO YOU?

15 MR. MEDRANO: OBJECTION, YOUR HONOR.

16 THE COURT: WHAT IS THE OBJECTION?

17 MR. MEDRANO: IT MIGHT GO TO THE IDENTITY OF THESE  
18 WITNESSES.

19 THE COURT: WHAT DID THE -- THE QUESTION RELATES TO  
20 WHAT THIS C-2 SAID TO HIM?

21 MR. MEDRANO: THAT WAS THE QUESTION, YOUR HONOR.

22 BY MR. MEDVENE:

23 A. NO. YES. WHAT DID C-1 SAY TO THE WITNESS? I'M NOT  
24 ASKING FOR C-1'S IDENTITY. I JUST WANT TO KNOW WHAT HE SAID TO  
25 THE WITNESS. THIS IS PURPORTEDLY BEFORE THE WITNESS MET CI-2.

2  
1 MR. MEDRANO: OBJECTION, YOUR HONOR. THAT'S TOO  
2 BROAD, AS WELL AS COVERED BY GRAND JURY SECRECY, BECAUSE IT'S  
3 IN THE TRANSCRIPT WHICH IS FILED IN CAMERA WITH THE COURT. TO  
4 GO INTO THE SUBSTANCE OF THE CI'S TESTIMONY, YOU MIGHT AS WELL  
5 GIVE AWAY THE IDENTITY, BECAUSE THAT'S WHAT COUNSEL IS SEEKING  
6 FROM HIM.

7 THE COURT: WELL, IF HE'D ASKED WHAT C-1 SAID TO C-2,  
8 IS THAT WHAT YOU'RE ASKING?

9 MR. MEDVENE: YES, SIR.

10 THE COURT: WELL, HOW DOES THAT GIVE AWAY ANYTHING?

11 MR. MEDRANO: IT DEPENDS ON WHAT THE AGENT TESTIFIES  
12 TO, YOUR HONOR.

13 THE COURT: WELL, IS THERE SOMETHING IN THE  
14 TRANSCRIPT THAT WOULD INDICATE THERE WOULD BE A DISCLOSURE OF  
15 THE INFORMANT BY THAT ANSWER?

16 MR. MEDRANO: WHY DON'T WE LET THE WITNESS ANSWER  
17 THAT SPECIFIC QUESTION THEN, YOUR HONOR. THANK YOU.

18 THE COURT: ALL RIGHT.

19 THE WITNESS: COUNSELOR, WOULD YOU RESTATE YOUR  
20 QUESTION, PLEASE.

21 BY MR. MEDVENE:

22 Q. YES, SIR. WHEN YOU RECEIVED A CALL FROM CI-1, WHAT DID HE  
23 SAY?

24 A. THAT CI-2 WAS IN TOWN.

25 Q. IS THAT EVERYTHING HE SAID?

1 A. THAT'S -- TO THE BEST OF MY RECOLLECTION, THAT'S ALL HE  
2 YOU TOLD ME DURING THAT PHONE CALL, YES, SIR.

3 THE COURT: DID HE TELL YOU WHERE HE WAS?

4 THE WITNESS: YES, SIR. HE TOLD ME HE WAS IN TOWN.  
5 HE TOLD ME HE WAS WITH HIM AT A DOWNTOWN HOTEL, SIR.  
6 BY MR. MEDVENE:

7 Q. IS IT CORRECT THEN, IF THAT'S IN SUBSTANCE ALL HE SAID,  
8 THAT SHORTLY BEFORE THAT TIME YOU HAD A PREVIOUS CONVERSATION  
9 WITH HIM DEALING WITH HIM TRYING TO FIND CI-2?

10 A. NO, SIR. THAT IS NOT THE CASE, NOT WITH HIM TRYING TO  
11 FIND CI-2. HE HAD CALLED ME TO TELL ME THAT THERE WAS A PERSON  
12 THAT HAD INFORMATION ON THE CAMARENA MURDER IN MEXICO AND  
13 SHOULD HE ASK HIM TO COME OUT SO I COULD TALK TO HIM? AND I  
14 TOLD HIM, "YES, BY ALL MEANS."

15 Q. OH, SO YOU HAD THAT CONVERSATION WITH HIM BEFORE THE  
16 CONVERSATION YOU JUST TOLD US ABOUT A DAY OR SO BEFORE  
17 THANKSGIVING? IS THAT WHAT YOU'RE SAYING?

18 A. YES, SIR.

19 Q. OKAY. LET'S GO TO THE EARLIER CONVERSATION, IF WE CAN.  
20 ABOUT HOW MANY DAYS WAS THAT BEFORE THE TELEPHONE CALL AROUND  
21 THANKSGIVING?

22 A. THAT WAS A DAY BEFORE WITNESS 2 ARRIVED, SIR.

23 Q. AND IN THAT CONVERSATION, YOU SAID THAT HE TOLD YOU THAT  
24 HE HAD A WITNESS THAT HAD INFORMATION ABOUT THE CAMARENA  
25 SITUATION, OR WHATEVER YOU SAID HE SAID; IS THAT CORRECT?



1 A. THAT'S WHAT I SAID, SIR, YES.

2 Q. AND DID HE TELL YOU WHO THE WITNESS WAS?

3 A. NO, SIR, HE DIDN'T.

4 Q. DID HE TELL YOU WHO THE WITNESS HAD TESTIMONY ABOUT?

5 A. NO, NOT DURING THAT CONVERSATION, NO, SIR.

6 Q. WHEN WAS THE FIRST TIME HE TOLD YOU WHO THE WITNESS HAD  
7 TESTIMONY ABOUT?

8 A. I DIDN'T KNOW WHO HAD -- WHO HE HAD TESTIMONY ABOUT UNTIL  
9 I MET WITH WITNESS 2 MYSELF, SIR.

10 Q. SO YOU'RE SAYING HE DIDN'T KNOW THE UNTIL THE FOLLOWING  
11 DAY WHEN YOU MET WITH HIM?

12 A. WHAT I'M SAYING, SIR, IS THAT I WAS NOT TOLD SPECIFICALLY  
13 WHO HE HAD INFORMATION ABOUT OTHER THAN THE FACT THAT HE HAD A  
14 PERSON WHO HAD INFORMATION ON THE MURDER OF CAMARENA WITHOUT  
15 TELLING ME SPECIFICALLY WHO.

16 Q. WELL, ARE YOU SAYING HERE, SIR, THAT THE FIRST TIME YOU  
17 HAD ANY INFORMATION OF ANY KIND THAT THIS INDIVIDUAL C-2 THAT  
18 YOU MET ON OR ABOUT THANKSGIVING DAY HAD ANY INFORMATION ABOUT  
19 RUBEN ZUNO WAS WHEN YOU MET HIM?

20 A. YES, SIR.

21 Q. YOU RECEIVED NO ADVANCE WARNING FROM CI-1 OR ANYONE ELSE  
22 THAT C-2 WOULD -- MIGHT HAVE SOME INFORMATION ABOUT RUBEN  
23 ZUNO-ARCE. IS THAT WHAT YOU'RE SAYING, SIR?

24 A. THAT'S WHAT I'M SAYING, SIR. HE TOLD ME THAT HE HAD  
25 INFORMATION ABOUT PEOPLE THAT WERE, PERSONS, PLURAL, THAT WERE

1 INVOLVED IN THE MURDER OF SPECIAL AGENT CAMARENA, WITHOUT  
2 TELLING ME AHEAD OF TIME THE NAMES OF THOSE THAT I WAS GOING TO  
3 BE TOLD ABOUT OR WERE GOING TO BE REPORTED TO ME.

4 Q. AND YOU DIDN'T ASK HIM?

5 A. NO, SIR, I DID NOT.

6 Q. AND YOU JUST -- BASED ON THAT, YOU JUST SAID COME TO LOS  
7 ANGELES?

8 A. YES, SIR. BASED ON THE FACT THAT CI-1 TOLD ME THAT HE HAD  
9 A PERSON THAT HAD INFORMATION OF PERSONS THAT WERE INVOLVED IN  
10 KILLING SPECIAL AGENT CAMARENA. I INSTRUCTED CI-1 TO HAVE THAT  
11 PERSON TRAVEL TO LOS ANGELES WHERE I COULD TALK TO HIM.

12 Q. OKAY. CI-1, WHEN YOU RECEIVED THE CALL, WAS IN LOS  
13 ANGELES?

14 A. WHEN I RECEIVED THE CALL?

15 Q. YES. IN OTHER WORDS, WHEN CI-1 CALLED YOU, HE WAS IN LOS  
16 ANGELES AND SAID, IN SUBSTANCE, HE HAD THIS PERSON IN MEXICO;  
17 IS THAT CORRECT?

18 A. WELL, HE WAS IN LOS ANGELES COUNTY, NOT THE CITY OF LOS  
19 ANGELES, SIR.

20 Q. OH. WHEN WAS THE PRECEDING OCCASION YOU SPOKE TO CI-1?  
21 IN OTHER WORDS, THE OCCASION BEFORE, THE DAY OR SO BEFORE  
22 THANKSGIVING WHEN HE CALLED YOU WITH THIS INFORMATION ABOUT THE  
23 INDIVIDUAL IN MEXICO?

24 A. WHEN WAS THAT DATE, SIR?

25 Q. YES. ON OR ABOUT THAT DATE, YES. WAS IT A DAY BEFORE OR

1 A WEEK BEFORE?

2 A. IT WAS A DAY BEFORE, SIR. A DAY BEFORE HE ARRIVED, SIR.

3 Q. ALL RIGHT. YOU'VE TOLD US ALREADY THAT CONVERSATION.

4 A. WHAT IS IT THAT YOU'D LIKE ME TO TELL YOU, SIR?

5 Q. I'M TRYING TO GET TO THE CONVERSATION BEFORE THAT ONE.

6 A. ON THE DAY THAT HE TOLD ME --

7 THE COURT: COUNSEL, YOUR QUESTIONS ARE VERY  
8 CONFUSING, EVEN TO THE COURT. IF YOU DON'T --

9 MR. MEDVENE: I'M SORRY, SIR.

10 THE COURT: TELL THE WITNESS THE PARTICIPANTS IN THE  
11 CONVERSATION YOU'RE ASKING ABOUT AND THE DATE IT TOOK PLACE SO  
12 HE KNOWS, INSTEAD OF SAYING "THE ONE BEFORE, THE ONE BEFORE".

13 BY MR. MEDVENE:

14 Q. CAN WE REFER TO THE ONE CONVER- -- THE CONVERSATION YOU'VE  
15 TOLD US ABOUT AS THE CONVERSATION A DAY BEFORE THANKSGIVING?

16 A. YES, SIR, THAT WAS MY FIRST CONVERSATION.

17 Q. WITH CI-1 ABOUT BRINGING CI-2 HERE?

18 A. YES, SIR.

19 Q. WHAT WAS YOUR CON- -- WHAT CONVERSATION -- WHEN DID YOU  
20 HAVE A CONVERSATION WITH CI-1 PRIOR TO THAT?

21 MR. CARLTON: OBJECTION, YOUR HONOR, ON THE BASIS OF  
22 RELEVANCE. THE FIRST CONVERSATION --

23 THE COURT: SUSTAINED.

24 MR. MEDVENE: MAY I BE HEARD, YOUR HONOR?

25 THE COURT: NO, YOU MAY NOT. YOU KNOW, I TOLD YOU

1 YESTERDAY I DIDN'T THINK THIS WAS GOOD FAITH FILING OR I  
2 SUSPECTED IT AND YOU'RE PROVING IT TO ME ALL THE MORE. THIS IS  
3 NOTHING MORE THAN A DISCOVERY PROCEEDING THAT YOU'RE TRYING TO  
4 CONDUCT HERE AND IMPROPERLY.

5 MR. MEDVENE: I WOULD SAY TO YOUR HONOR WITH THE  
6 GREATEST RESPECT TO YOUR HONOR I VERY MUCH RESENT YOUR COMMENT.  
7 IT'S UNTRUE THAT WHAT I WAS TRYING TO DO, YOUR HONOR, WAS NOT  
8 SEEK DISCOVERY BUT ATTEMPT TO FIND OUT WHAT INFORMATION WAS  
9 GIVEN TO CI-1 TO CAUSE HIM TO GET TO CI-2 AND SEE IF WE CAN  
10 TRACE IT.

11 THE COURT: YOU HAVE BEEN ASKING THIS WITNESS THAT  
12 SAME QUESTION FOR ABOUT TWO HOURS NOW. THIS IS NOT AN  
13 UNLIMITED HEARING.

14 MR. MEDVENE: WELL, I WAS --

15 THE COURT: YOU'RE NOT GOING TO BE ABLE TO STAND  
16 THERE FOR HOURS AND DO THIS.

17 MR. MEDVENE: YOUR HONOR, I --

18 THE COURT: ESPECIALLY WHEN YOU COME IN HERE 15  
19 MINUTES LATE AFTER I SCHEDULED THIS AT THE END OF THE DAY.

20 MR. MEDVENE: I REALIZE WE WERE A FEW MINUTES LATE,  
21 YOUR HONOR. WE CALLED AND SAID WE WERE CAUGHT IN TRAFFIC WE  
22 HAVEN'T BEEN HERE FOR HOURS.

23 WE DON'T WANT TO GET INTO A DISPUTE WITH YOUR HONOR.  
24 IF WE ARE PERMITTED TO ASK THE QUESTIONS, WE'LL ASK THEM. IF  
25 NOT, WE WON'T. BUT I VERY MUCH TAKE OFFENSE TO ANY INDICATION

1 THAT THIS ISN'T IN GOOD FAITH. THE WITNESS CAME IN HERE AND  
2 BEFORE WE ASKED OUR FIRST QUESTION, SIR, HE SAID HE WANTED TO  
3 CHANGE HIS TESTIMONY FROM YESTERDAY AND ALL WE'RE TRYING TO DO  
4 IS SORT THAT OUT. AND I'M TRYING TO FIND OUT WHO HAD  
5 CONVERSATIONS WITH CI-1 TO TO SEE IF INFORMATION FROM THE GRAND  
6 JURY WAS GIVEN TO HIM. IF I CAN'T ASK IT, I UNDERSTAND. YOU  
7 SUSTAINED THE OBJECTION. BUT I'M DOING IT IN GOOD FAITH.

8 THE COURT: ASK YOUR NEXT QUESTION IF YOU HAVE ONE.

9 MR. MEDVENE: I HAVE ONE, SIR.

10 BY MR. MEDVENE:

11 Q. COULD YOU TELL ME, SIR, OTHER THAN YOURSELF, PRIOR TO THE  
12 TIME THAT CI-2 TESTIFIED BEFORE THE GRAND JURY, DID HE HAVE  
13 OCCASION TO MEET WITH OR HAVE CONTACT WITH ANY OTHER D.E.A.  
14 AGENTS, WHETHER IN THIS COUNTRY OR MEXICO?

15 A. YES, SIR, IN THIS COUNTRY HE MET WITH SPECIAL AGENT  
16 DELBERT SALAZAR, AND I WAS WITH SPECIAL AGENT DELBERT SALAZAR  
17 WHEN WE MET WITH WITNESS 2, SIR.

18 Q. ANY OTHER D.E.A. AGENTS, SIR?

19 A. NO, SIR.

20 Q. ANY REPRESENTATIVES OF THE U.S. GOVERNMENT?

21 A. NO, SIR.

22 Q. IS IT CORRECT THEN THAT THE ONLY GOVERNMENT, U.S.  
23 GOVERNMENT OFFICIAL HE MET, INCLUDING U.S. ATTORNEYS OFFICE  
24 PEOPLE, PRIOR TO TESTIFYING BEFORE THE GRAND JURY WAS YOURSELF  
25 AND AGENT SALAZAR?

1 A. YES, SIR.

2 Q. DID HE MEET, TO YOUR KNOWLEDGE, WITH ANY MEXICAN  
3 GOVERNMENTAL OFFICIALS BEFORE COMING UP HERE?

4 A. NOT TO MY KNOWLEDGE, SIR.

5 Q. DID YOU EVER MENTION RUBEN ZUNO-ARCE'S NAME TO CI-1 PRIOR  
6 TO NOVEMBER 30TH?

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

9 THE COURT: WELL, I BELIEVE IT WAS AND YOU ASKED A  
10 NUMBER OF QUESTIONS THAT YOU ASKED YESTERDAY.

11 MR. MEDVENE: IS THE OBJECTION SUSTAINED, YOUR HONOR?

12 THE COURT: THAT'S RIGHT.

13 BY MR. MEDVENE:

14 Q. OTHER THAN D.E.A. AGENT SALAZAR, MORALES AND ABEL REYNOSO,  
15 WHO YOU IDENTIFIED YESTERDAY AS COMING INTO CONTACT AND DEALING  
16 WITH CI-1 PRIOR TO YOUR MEETING CI-2, DID ANY OTHER U.S.  
17 GOVERNMENT EMPLOYEES, D.E.A. AGENTS, U.S. ATTORNEY'S OFFICE  
18 PERSONNEL HAVE OCCASION, TO YOUR KNOWLEDGE, TO MEET WITH CI-1?

19 MR. CARLTON: OBJECTION, YOUR HONOR. THAT'S  
20 OVERBROAD AND NOT RELATED SPECIFICALLY TO CI-2. AND IRRELEVANT  
21 TO THE EXTENT THAT IT'S OVERBROAD.

22 THE COURT: RESTATE YOUR QUESTION IF YOU CAN BE MORE  
23 SPECIFIC.

24 MR. MEDVENE: YES, SIR.

25 BY MR. MEDVENE:

1 Q. OTHER THAN THE D.E.A. AGENTS YOU REFERRED TO YESTERDAY,  
2 DID ANY OTHER U.S. GOVERNMENTAL PERSONNEL HAVE CONTACT WITH  
3 CI-1 PRIOR TO THE TIME YOU FIRST MET CI-2?

4 A. YES, SIR. THERE WAS CONTACT MADE WITH CI-1 PRIOR TO OUR  
5 MEETING WITH CI-2.

6 Q. WHO WAS THE CONTACT WITH, SIR?

7 A. WELL, HE SENT -- CI-1 HAS HAD CONTACT WITH NUMEROUS AGENTS  
8 OF THE D.E.A. SINCE 1987, SIR.

9 Q. COULD YOU TELL ME THE AGENTS, PLEASE, SIR. I WANT THE  
10 NAMES, IF YOU WOULD.

11 MR. MEDRANO: OBJECTION, YOUR HONOR. IT'S OVERBROAD  
12 AND IRRELEVANT IN TERMS OF THE SCOPE OF DIRECT YESTERDAY. ALL  
13 WE ARE CONCERNED ABOUT IS CI-2 AS AN INDEPENDENT BASE FOR  
14 EVIDENCE AGAINST RUBEN ZUNO-ARCE. THIS GOES WELL BEYOND THAT  
15 SCOPE, YOUR HONOR.

16 THE COURT: WELL, NOT NECESSARILY. THE ISSUE IS  
17 WHETHER THERE WAS A LEGITIMATE SOURCE OF THIS EVIDENCE.

18 MR. MEDRANO: VERY WELL, YOUR HONOR. THANK YOU.

19 THE WITNESS: IN ANSWER TO YOUR QUESTION: YES, SIR,  
20 WITNESS ONE HAS MET WITH NUMEROUS D.E.A. AGENTS SINCE 1987,  
21 SIR. PRIOR TO ME MEETING WITH CI-2, SIR.

22 Q. I'D LIKE THE NAMES, SIR?

23 A. THE NAMES OF THE AGENTS?

24 Q. YES, SIR.

25 A. ALL THE NAMES OF ALL THE AGENTS, SIR?

1 Q. YES, SIR.

2 A. WELL, BACK IN 1987 CI-1, TO MY KNOWLEDGE, HAD CONTACT WITH  
3 SPECIAL AGENTS TONY AYALA, SPECIAL AGENT BENNY MAESTAS.

4 Q. HOW WOULD YOU SPELL THE LAST NAME?

5 A. BENECIO MAESTAS. SPELLING M A E S T A S.

6 SPECIAL AGENT ROBERT BAGGS, SPECIAL AGENT JOE BAEZA,  
7 SPECIAL SPECIAL AGENT ERNESTO ORTIZ, SPECIAL AGENT DALE  
8 STINSON, MYSELF, SPECIAL AGENT BILL WATERS, SPECIAL AGENT JOE  
9 GONZALEZ.

10 Q. THE LAST NAME, SIR?

11 A. GONZALEZ.

12 Q. YES, SIR.

13 A. SPECIAL AGENT RAY SEPULVEDA, SPECIAL AGENT SAM HERRERA.

14 Q. SIR, I'M SORRY, THE NEXT TO THE LAST NAME?

15 A. SAM, FULL NAME, SAMWAYNE HERRERA.

16 Q. AFTER GONZALEZ THERE WAS HERRERA AND THEN THERE WAS ONE  
17 OTHER NAME.

18 A. RAY SEPULVEDA.

19 Q. WITH AN S?

20 A. AND THAT'S ALL I CAN RECALL RIGHT OFF THE TOP OF MY HEAD,  
21 SIR. I'M SURE HE HAD CONTACT WITH OTHERS SINCE 1987.

22 Q. ALL RIGHT. AND THAT TAKES US UP FROM '87 THROUGH THE  
23 TIME, TO THE BEST OF YOUR KNOWLEDGE, THROUGH THE TIME THAT CI-2  
24 APPEARED?

25 A. YES, SIR.



1 Q. DO YOU HAVE ANY PERSONAL KNOWLEDGE, AND WE CAN GO AGENT BY  
2 AGENT, BUT JUST TO SAVE TIME, DO YOU HAVE ANY PERSONAL  
3 KNOWLEDGE IF, ONE WAY OR THE OTHER, IF ANY OF THE AGENTS WHO  
4 YOU JUST IDENTIFIED HAD OCCASION TO EITHER READ ANY OF  
5 ZUNO-ARCE'S GRAND JURY TESTIMONY AND/OR BE ADVISED IN ANY WAY  
6 OF WHAT HE SAID IN ANY PART DURING HIS GRAND JURY TESTIMONY?

7 DO YOU KNOW ONE WAY OR THE OTHER AS TO ANY OF THE  
8 AGENTS?

9 A. TO MY KNOWLEDGE, NONE OF THE AGENTS THAT I MENTIONED EVER  
10 HAD ACCESS TO THE GRAND JURY TRANSCRIPT OF -- OR, YOU KNOW,  
11 CONCERNING MR. RUBEN ZUNO-ARCE.

12 Q. DO YOU KNOW ONE WAY OR THE OTHER IF THEY HAD CONVERSATIONS  
13 WITH ANYONE IN THE U.S. ATTORNEY'S OFFICE OR HAD OCCASION TO  
14 LOOK AT ANY OF THE GRAND JURY TESTIMONY?

15 A. TO MY KNOWLEDGE THEY DID NOT, SIR.

16 Q. DID THEY ALL CONTINUE TO WORK, THE GENTLEMEN YOU NAMED,  
17 DID THEY CONTINUE TO WORK ON THE CASE AFTER AUGUST 24TH OF  
18 1989?

19 A. SOME OF THE AGENTS THAT I MENTIONED THAT HAD CONTACT WITH  
20 CI-1 NEVER WORKED THIS CASE, SIR, THEY WERE WORKING OTHER  
21 CASES. YOU ASKED ME WHAT AGENTS HAD CONTACT WITH HIM AND I  
22 MENTIONED ALL THE AGENTS THAT I HONESTLY COULD REMEMBER MIGHT  
23 HAVE CONTACT WITH CI-1, BUT THESE AGENTS WERE NOT ASSIGNED -- A  
24 LOT OF THESE AGENTS WERE NOT ASSIGNED TO THIS PARTICULAR  
25 HOMICIDE INVESTIGATION, SIR.

1 Q. ALL RIGHT, SIR. TO YOUR KNOWLEDGE, DID ANY OF THESE  
2 AGENTS HAVE ANY CONTACT WITH CI-1 AT ANY TIME AFTER AUGUST  
3 24TH?

4 A. I DID.

5 Q. YES, SIR.

6 A. AND SO DID SPECIAL AGENT DELBERT SALAZAR, SPECIAL AGENT  
7 TOM MORALES, SPECIAL AGENT ABEL REYNOSO AND POSSIBLY SPECIAL  
8 AGENT MARTY MARTINEZ.

9 Q. DID ANY PERSON OTHER THAN CI-2 TESTIFY BEFORE THE GRAND  
10 JURY IN THIS MATTER DEALING WITH THE PURPORTED MEETING THAT  
11 OCCURRED THE FIRST WEEK IN FEBRUARY OF 1985 AT THE HOME OF  
12 JAVIER BARBERA HERNANDEZ, PARTICIPATED IN ALLEGEDLY BY  
13 HERNANDEZ, CARO QUINTERO AND ERNESTO FONSECA?

14 A. NOT TO MY KNOWLEDGE, SIR.

15 Q. OTHER THAN CI-2, DID ANY OTHER PERSON TESTIFY BEFORE THE  
16 INDICTING GRAND JURY? AND BY THAT, MAY WE UNDERSTAND TOGETHER  
17 THAT I MEAN THE GRAND JURY THAT BROUGHT FORTH WHAT IS CALLED  
18 SUPERSEDING INDICTMENT NUMBER 5. IS THAT AGREEABLE, SIR? THAT  
19 WHEN WE SAY GRAND JURY, THAT'S WHAT I'M REFERRING TO?

20 A. YES, SIR.

21 Q. DID ANY PERSON OTHER THAN CI-2 TESTIFY BEFORE THAT GRAND  
22 JURY DEALING WITH WHETHER OR NOT RUBEN ZUNO-ARCE WAS A MEMBER  
23 OF THE GUADALAJARA DRUG CARTEL?

24 A. YES, SIR, I BELIEVE THERE WAS. THERE WERE OTHER  
25 WITNESSES.

1 Q. WERE ANY OF THESE OTHER WITNESSES CONFIDENTIAL INFORMANTS?

2 A. YES, SIR, THEY WERE.

3 Q. AND WAS IT ONE OR MORE THAN ONE?

4 A. NOT QUITE. I'M A LITTLE CONFUSED HERE, COUNSELOR. THE  
5 FIFTH SUPERSEDING INDICTMENT, WAS THAT -- WOULD YOU TELL ME  
6 WHAT WAS CHARGED IN THAT INDICTMENT SO I'LL BE SPEC- -- YOU  
7 KNOW --

8 Q. YES, SIR.

9 A. -- MAKE SURE THAT I'M TESTIFYING RIGHT HERE.

10 Q. YEAH. REAL SPECIFIC, THE ONLY THING I'M INTERESTED IN,  
11 FOR NOW, IS IF ANYBODY TESTIFIED BEFORE THE GRAND JURY THAT  
12 BROUGHT FORTH THAT INDICTMENT THAT RUBEN ZUNO-ARCE WAS A MEMBER  
13 OF WHAT'S CALLED THE QUADALAJARA DRUG CARTEL? JUST LIMIT IT TO  
14 RUBEN ZUNO-ARCE.

15 A. I BELIEVE SO. YES, SIR.

16 Q. ALL RIGHT, SIR. AND OTHER THAN CI-2, WAS IT ONE OR MORE  
17 WHAT WOULD YOU TERM A CONFIDENTIAL INFORMANT?

18 A. YES. ONE WAS A CONFIDENTIAL INFORMANT.

19 Q. WITH RESPECT TO THAT ONE, MAY WE CALL HIM CI-3?

20 A. YES, SIR.

21 Q. IS THAT ACCEPTABLE?

22 A. YES, SIR.

23 Q. WITH RESPECT TO HIM, HOW DID YOU FIND CI-3? I DON'T WANT  
24 HIS IDENTITY, I JUST WANT TO KNOW HOW YOU FOUND HIM. AS WE  
25 TRACED HOW YOU FOUND CI-2, I WANT TO DO THE SAME THING WITH

1 CI-3.

2 MR. MEDRANO: YOUR HONOR, WITH THE COURT'S  
3 PERMISSION, AND JUST TO CLEAR UP THE RECORD BECAUSE I DON'T  
4 WANT ANYONE TO WASTE THEIR TIME, IF I MIGHT INTERJECT THAT I  
5 THINK AGENT BERRELLEZ IS CONFUSING THE GRAND JURY THAT INDICTED  
6 ZUNO FOR PERJURY AND, YOUR HONOR, IN THAT CASE OTHER WITNESSES  
7 TESTIFIED CONCERNING THE PERJURY CHARGES, BUT AS TO THE MURDER  
8 CASE, YOUR HONOR, THERE WAS ONLY AGENT BERRELLEZ AND CI-2.

9 AND I THOUGHT I WOULD BRING THAT TO COUNSEL'S  
10 ATTENTION BECAUSE I BELIEVE PERHAPS AGENT BERRELLEZ HAS  
11 CONFUSED THE TWO GRAND JURIES.

12 THE WITNESS: THAT IS THE CASE, SIR. I WAS CONFUSING  
13 THE TWO GRAND JURIES, SIR. THAT'S WHY I ASKED YOU TO TELL ME  
14 WHAT WAS CHARGED SO I COULD, YOU KNOW, BE MORE --

15 MR. MEDVENE: THAT'S FINE, SIR.

16 THE WITNESS: NOW I UNDERSTAND.

17 BY MR. MEDVENE:

18 Q. LET'S GO, THEN, BACK BECAUSE WE'RE TALKING ABOUT A POINT  
19 IN TIME AFTER MR. ZUNO TESTIFIED BEFORE THE GRAND JURY.  
20 SOMETIME IN SEPTEMBER, APPROXIMATELY, THERE WAS ANOTHER GRAND  
21 JURY THAT CAUSED AN INDICTMENT FOR PERJURY -- JUST TO SET IT IN  
22 YOUR MIND --

23 A. YES, SIR. OKAY.

24 Q. OKAY. AT THAT GRAND JURY, IF WE COULD START UP AT THE TOP  
25 AGAIN, WAS THERE - AND I DON'T WANT THE NAME - WAS THERE ANYONE

1 THAT TESTIFIED CONCERNING ZUNO-ARCE BEING PURPORTEDLY PRESENT  
2 AT A MEETING IN EARLY FEBRUARY OF '85 AT THE HOUSE OF JAVIER  
3 BARBERA HERNANDEZ?

4 MR. MEDRANO: WE WOULD OBJECT, YOUR HONOR. THE  
5 PERJURY GRAND JURY HAS NOTHING TO DO WITH THE CAMARENA MURDER  
6 GRAND JURY.

7 THE COURT: THE OBJECTION IS SUSTAINED.

8 MR. MEDVENE: IF IT CAME FROM ILLEGAL --

9 THE COURT: I DON'T WANT TO HEAR ANY ARGUMENT,  
10 COUNSEL. JUST ASK YOUR NEXT QUESTION, IF YOU HAVE ONE.

11 MR. MEDVENE: IF YOU JUST -- AND I'LL SAY NO MORE.  
12 THERE IS JUST ONE FACT I JUST WANT TO BRING TO YOUR ATTENTION  
13 THAT, AS YOUR HONOR KNOWS, THE CASES KASTIGAR HOLDS - AND WE  
14 HAVE THE LANGUAGE, IF YOU WANT IT - THAT ANY EVIDENCE THE  
15 GOVERNMENT SEEKS TO PRESENT, EITHER AT A GRAND JURY AND/OR AT  
16 TRIAL HAS TO BE FREE OF ANY TAINTING.

17 THE COURT: COUNSEL, I TOLD YOU I DIDN'T WANT ANY  
18 ARGUMENT.

19 MR. MEDVENE: SORRY, SIR.

20 IS IT CORRECT, SIR, THEN THAT I CAN'T ASK ANY  
21 QUESTIONS --

22 THE COURT: IF YOU HAVE ANOTHER QUESTION, ASK IT,  
23 OTHERWISE I'LL TERMINATE YOUR CROSS-EXAMINATION.

24 BY MR. MEDVENE:

25 Q. SIR, DO YOU -- IN ADDITION TO CI-2, ARE THERE ANY OTHER

1 CONFIDENTIAL INFORMANTS - AND AGAIN I DON'T WANT THEIR NAMES -  
2 THAT YOU KNOW OF THAT HAVE EVIDENCE THAT RUBEN ZUNO-ARCE  
3 ATTENDED A MEETING IN FEBRUARY OF 1985 AT THE HOME OF JAVIER  
4 BARBERA HERNANDEZ?

5 MR. MEDRANO: OBJECTION, YOUR HONOR; IRRELEVANT. THE  
6 ISSUE IS WHAT WITNESSES TESTIFIED BEFORE THE CAMARENA GRAND  
7 JURY, NOT WHAT OTHER WITNESSES EXIST IN THE WORLD.

8 THE COURT: THE OBJECTION IS SUSTAINED.

9 MR. MEDVENE: AGAIN, MAY I NOT BE HEARD, YOUR HONOR?

10 THE COURT: YES, THAT'S CORRECT.

11 MR. MEDVENE: IF I WERE TO ASK - I DON'T WANT TO TAKE  
12 YOUR HONOR'S TIME - IF I WERE TO ASK THE SAME QUESTION WITH  
13 RESPECT TO PARTICIPATION IN THE GUADALAJARA DRUG CARTEL AND  
14 PARTICIPATION ALLEGEDLY IN THE TORTURE AND MURDER AND AIDING  
15 AND ABETTING THE CARTEL, IF I WERE TO ASK THOSE QUESTIONS, YOU  
16 WOULD SUSTAIN THOSE OBJECTIONS, SIR?

17 THE COURT: I WOULD.

18 MR. MEDVENE: YES, SIR.

19 THE COURT: THE PURPOSE OF THIS IS TO COMPEL THE  
20 PROSECUTION TO PROVE THAT THE EVIDENCE IT PROPOSES TO USE IS  
21 DERIVED FROM A LEGITIMATE SOURCE WHOLLY INDEPENDENT OF THE  
22 IMMUNIZED TESTIMONY. YOU'RE STRAYING FAR AFIELD. THAT'S WHY I  
23 SAY YOU'RE CONDUCTING A DISCOVERY PROCEEDING HERE.

24 MR. MEDVENE: NO, SIR. UNDER KASTIGAR, WE'RE RIGHT  
25 ON THE BUTTON BECAUSE THEY HAVE THE BURDEN OF PROVING ALL THE

1 EVIDENCE IT PROPOSES TO USE. AND WE'RE ASKING IF THERE'S ANY  
2 OTHER EVIDENCE THEY PROPOSE TO USE. SO WE'RE RIGHT ON THE  
3 BUTTON IN ASKING FOR THIS.

4 THE COURT: NO, YOU'RE NOT ENTITLED TO KNOW THE  
5 EVIDENCE THAT THEY PROPOSE TO USE.

6 MR. MEDVENE: I'M NOT --

7 THE COURT: YOU'RE ENTITLED TO KNOW IF THE EVIDENCE  
8 THAT THEY PROPOSE TO USE WAS OBTAINED ILLEGITIMATELY.

9 MR. MEDVENE: SIR, KASTIGAR AT 227 SAYS THEY HAVE THE  
10 BURDEN OF PROVING ALL THE EVIDENCE THEY PROPOSE TO USE WAS  
11 DERIVED FROM LEGITIMATE INDEPENDENT SOURCES.

12 THE COURT: THAT'S RIGHT.

13 MR. MEDVENE: THE NINTH CIRCUIT SAYS IN CROSEN:  
14 "THEY MUST SHOW THAT ANY EVIDENCE THEY HAVE IS DERIVED FROM THE  
15 SOURCE INDEPENDENT." THERE IS NO WAY I CAN FIND OUT IF IT'S A  
16 SOURCE INDEPENDENT OTHER THAN ASKING HIM, "HOW DID IT GET TO  
17 CI-3?" IF HE HAS A CI-3 THAT HAS INFORMATION, THERE IS NO WAY  
18 I CAN GET TO IT OTHER THAN BY ASKING HIM THAT QUESTION. AND I  
19 ASK YOUR HONOR MOST RESPECTFULLY WOULD YOU RECONSIDER?

20 THE COURT: NO.

21 BY MR. MEDVENE:

22 Q. DID CI-2 TELL YOU HE WAS A PRECIPIENT WITNESS TO WHATEVER  
23 HE TOLD YOU ABOUT RUBEN ZUNO-ARCE?

24 A. YES, SIR.

25 THE COURT: SEE THAT QUESTION WAS WHOLLY IMPROPER AS

1 FAR AS I'M CONCERNED. THERE WAS NO OBJECTION. YOU'RE NOT  
2 ENTITLED TO KNOW EXCEPT INSOFAR AS IT RELATES TO THE SOURCE OF  
3 THIS INFORMATION WHICH HAS ALREADY BEEN FULLY COVERED WITH THIS  
4 WITNESS WHAT THIS WITNESS TOLD HIM, THIS CI-2.

5 MR. MEDVENE: I CAN TELL YOU WHY WE ASK IT, YOUR  
6 HONOR. IF HE SAID HE DID NOT HAVE PERSONAL KNOWLEDGE, I THINK  
7 WE WOULD BE ENTITLED TO FIND OUT OR ATTEMPT TO FIND OUT WHO  
8 CI-2 HEARD FROM TO BE ABLE TO TRY TO TRACE OUT, DID THEY GET  
9 ANY INFORMATION FROM ANY D.E.A. PEOPLE ABOUT WHAT WAS IN THE  
10 GRAND JURY.

11 BUT AT ANY RATE, IT'S MOOT BECAUSE THE GENTLEMAN SAID  
12 THAT HE HAD KNOWLEDGE.

13 BY MR. MEDVENE:

14 Q. WAS CI-2 KNOWN TO THE D.E.A. PRIOR TO YOUR FIRST MEETING  
15 WITH HIM AROUND THANKSGIVING OF LAST YEAR?

16 MR. MEDRANO: OBJECTION. ASKED AND ANSWERED ALREADY,  
17 YOUR HONOR.

18 THE COURT: SUSTAINED.

19 MR. MEDVENE: I NEVER ASKED THAT QUESTION. I ASKED  
20 IF THIS WITNESS KNEW HIM, BUT I DIDN'T ASK THE QUESTION. WAS  
21 HE KNOWN TO ANYBODY IN THE D.E.A. TO HIS KNOWLEDGE?

22 THE COURT: WELL, IT SEEMS TO --

23 MR. MEDVENE: I DID NOT ASK THAT.

24 THE COURT: IT SEEMS TO ME YOU DID ASK.

25 MR. MEDVENE: NO, I JUST ASKED -- WELL, I'M SORRY,



1 SIR. I DON'T THINK I DID.

2 THE COURT: ALL RIGHT. YOU CAN ANSWER THE QUESTION.

3 MR. MEDVENE: THANK YOU, YOUR HONOR.

4 THE WITNESS: NO, SIR, NOT TO MY KNOWLEDGE.

5 BY MR. MEDVENE:

6 Q. COULD YOU PINPOINT FOR US IN ANY WAY WHAT IT WAS THAT WAS  
7 SAID TO CI-1 TO CAUSE HIM TO CALL YOU AT OR AROUND THANKSGIVING  
8 AND TELL YOU HE HAD A WITNESS THAT TURNED OUT HAD TESTIMONY  
9 ABOUT RUBEN ZUNO-ARCE?

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

12 THE COURT: SUSTAINED. THAT WAS ALL FULLY COVERED  
13 YESTERDAY.

14 BY MR. MEDVENE:

15 Q. WOULD YOU TELL ME, SIR, WHAT DID CI-2 TELL YOU WHEN YOU  
16 MET WITH HIM?

17 MR. MEDRANO: OBJECTION, YOUR HONOR. GOES TO THE  
18 SUBSTANCE, WHICH IS COVERED BY THE GRAND JURY TRANSCRIPT, WHICH  
19 IS COVERED BY RULE 6, YOUR HONOR. AND IN ADDITION, YOUR HONOR,  
20 WE HAVE INVOKED AND THE COURT HAS PERMITTED THE ROVIARO SECTION  
21 OF THE INFORMANT TO DISCLOSE THE SUBSTANCE HARDLY COULD  
22 POSSIBLY LEAD TO THE IDENTITY OF THE WITNESS, YOUR HONOR.

23 THE COURT: OBJECTION SUSTAINED.

24 MR. MEDVENE: MAY I BE HEARD, YOUR HONOR?

25 THE COURT: NO.

1 BY MR. MEDVENE:

2 Q. YOU HAD HOW MANY MEETINGS WITH CI-2 AT OR AROUND  
3 THANKSGIVING? WAS IT ONE MEETING WITH HIM BEFORE HE WENT BACK  
4 TO MEXICO OR MORE THAN ONE?

5 MR. MEDRANO: OBJECTION. ASKED AND ANSWERED.

6 THE COURT: SUSTAINED.

7 MR. MEDVENE: I DIDN'T ASK THAT QUESTION.

8 THE COURT: I SUSTAINED THE OBJECTION.

9 BY MR. MEDVENE:

10 Q. OTHER THAN YOURSELF, WHO MET WITH CI-2 AT OR AROUND THE  
11 DAY BEFORE THANKSGIVING OF LAST YEAR?

12 A. MYSELF AND SPECIAL AGENT DELBERT SALAZAR.

13 THE COURT: THAT'S BEEN ASKED A COUPLE TIMES.

14 MR. MEDVENE: THE ANSWER HE GAVE, SIR, WAS: THAT WAS  
15 A MEETING THAT HAPPENED A DAY BEFORE HE WENT TO THE GRAND JURY.  
16 BUT IT HAS NOT BEEN ASKED A WEEK BEFORE, WHICH IS -- THE FIRST  
17 TIME HE TOLD US ABOUT IT WAS TODAY.

18 BY MR. MEDVENE:

19 Q. WAS THAT THE ONLY MEETING THAT OCCURRED ON THIS FIRST  
20 VISIT OF CI-2 TO LOS ANGELES?

21 A. YES, SIR.

22 Q. AND THEN YOUR NEXT TIME YOU SAW HIM WAS A WEEK LATER WHEN  
23 YOU MET WITH HIM AGAIN WITH AGENT SALAZAR?

24 A. YES, SIR.

25 Q. AND THEN WITH MR. MEDRANO?

1 A. YES, SIR.

2 Q. DOES THAT COVER ALL THE MEETINGS WITH HAVE THAT TOOK PLACE  
3 WITH HIM BEFORE HE TESTIFIED BEFORE THE GRAND JURY?

4 A. YES, SIR.

5 Q. IF I ASKED THIS YESTERDAY, I APOLOGIZE, BUT WITH RESPECT  
6 TO THE MEETINGS THAT YOU HAD WITH HIM, THE ONE MEETING AT OR  
7 ABOUT THANKSGIVING AND THE SEVERAL MEETINGS BEFORE HE TESTIFIED  
8 BEFORE THE GRAND JURY, DID YOU OR ANYONE ELSE TO YOUR KNOWLEDGE  
9 DO ANY MEMORANDUM OF THOSE MEETINGS?

10 MR. MEDRANO: OBJECTION, YOUR HONOR. AGAIN GOES INTO  
11 DISCOVERY ISSUES. THAT IS NOT THE MECHANISM OF THIS KASTIGAR  
12 HEARING.

13 THE COURT: THE OBJECTION IS SUSTAINED.

14 MR. MEDVENE: EXCUSE ME A SECOND, YOUR HONOR.

15 BY MR. MEDVENE:

16 Q. THE 2:00 IN THE MORNING CONTACT THAT YOU TOLD US OF  
17 YESTERDAY, SIR, WAS THAT THEN THE SECOND MEETING YOU HAD WITH  
18 HIM WHEN YOU MET HIM AT 2:00 IN THE MORNING AT THE AIRPORT?

19 A. YES, SIR.

20 Q. AND THEN THE THIRD MEETING WITH HIM WAS WITH AGENT SALAZAR  
21 DURING THE DAY OF THE 30TH?

22 A. WELL, AGENT SALAZAR WAS WITH ME AT --

23 Q. AT THE AIRPORT.

24 A. AT THE AIRPORT AT 2:00 A.M. AND THEN HE WAS AGAIN WITH ME  
25 DURING THE MEETING DURING THE DAY, YES, SIR.

1 Q. ALL RIGHT. AND THEN DURING THE DAY, BEFORE MR. MEDRANO,  
2 OR WHOEVER WAS FROM THE U.S. ATTORNEYS OFFICE PARTICIPATED, YOU  
3 MET AGAIN WITH AGENT SALAZAR WITH CI-2?

4 A. YES, I WAS. I BELIEVE IT WAS SPECIAL AGENT DELBERT  
5 SALAZAR AND MYSELF THAT TRANSPORTED CI-2 FROM THE HOTEL ROOM TO  
6 MR. MEDRANO'S OFFICE, SIR.

7 Q. DID YOU JUST PICK HIM UP AND TRANSPORT HIM OR DID YOU HAVE  
8 A MEETING WITH HIM SOMEWHERE PRIOR TO HIM MEETING MR. MEDRANO  
9 ON THE DAY HE TESTIFIED?

10 MR. MEDRANO: OBJECTION, YOUR HONOR. IT'S CLEAR  
11 THERE WERE ONLY 3 MEETINGS.

12 THE COURT: WHAT'S THAT?

13 MR. MEDRANO: OBJECTION. IT'S CLEAR THERE WERE ONLY  
14 3 MEETINGS. THIS HAS BEEN ASKED AND ANSWERED ALREADY.

15 THE COURT: SUSTAINED.

16 MR. MEDVENE: MAY I BE HEARD? I JUST HAVE TO ASK FOR  
17 THE RECORD.

18 THE COURT: YOU DON'T HAVE TO BE HEARD ON EVERY  
19 OBJECTION, COUNSEL.

20 MR. MEDVENE: WELL, I --

21 THE COURT: JUST TO --

22 MR. MEDVENE: I HAVEN'T BEEN HEARD ON ANY.

23 THE COURT: WELL, THAT'S CORRECT. YOU CAN ACCEPT THE  
24 COURT'S RULINGS. YOU DON'T NEED TO BE HEARD ON OBJECTIONS.

25 MR. MEDVENE: WELL, I --

1 THE COURT: THE COURT IS RULING ON EVIDENTIARY  
2 OBJECTIONS. I'M NOT GOING TO HOLD A HEARING ON EACH  
3 EVIDENTIARY OBJECTION.

4 MR. MEDVENE: I UNDERSTAND, YOUR HONOR, THE ONLY  
5 THING I'D SAY IS IT MAKES IT VERY DIFFICULT WHEN THE GOVERNMENT  
6 CAN MAKE AN OBJECTION AND WE HAVE NO OPPORTUNITY TO RESPOND TO  
7 IT. IT SEEMS RATHER ONE SIDED --

8 THE COURT: WELL, THEY JUST STATED -- THEY STATED  
9 THEIR GROUNDS. I HAVEN'T HEARD ANY ARGUMENT FROM THEM, EITHER.  
10 THEY JUST STATED THEIR GROUNDS. THAT IS ALL THAT'S NECESSARY.  
11 BY MR. MEDVENE:

12 Q. DID CI-2 TELL YOU THAT HE PERSONALLY MET RUBEN ZUNO-ARCE?

13 MR. MEDRANO: OBJECTION, YOUR HONOR. GOES AGAIN TO  
14 THE SUBSTANCE OF THE CI'S TESTIMONY WHICH IS AGAIN GRAND JURY  
15 TESTIMONY.

16 THE COURT: SUSTAINED.

17 MR. MEDVENE: IF THE COURT PLEASE, IN LIGHT OF YOUR  
18 HONOR'S RULINGS HERE, THERE ARE NO OTHER QUESTIONS I CAN ASK AT  
19 THIS TIME PRIOR TO RECEIVING, IF YOUR HONOR WILL PERMIT IT, THE  
20 DOCUMENTS THAT WE REQUESTED YESTERDAY. WE HAVE FILED, PURSUANT  
21 TO YOUR HONOR'S REQUEST, A BRIEF WITH YOU THIS MORNING AND WE  
22 HAVE ASKED FOR TWO TYPES OF THINGS. ONE, THOSE PERTINENT  
23 PORTIONS OF THE WITNESS'S GRAND JURY TESTIMONY, BECAUSE IT WAS  
24 OPENED NOT BY US, BUT BY THE GOVERNMENT. WE'VE ASKED FOR --

25 THE COURT: DO YOU WANT THIS WITNESS'S GRAND JURY

1 TESTIMONY?

2 MR. MEDVENE: THE PERTINENT PORTIONS THAT DEALT WITH  
3 HIS DIRECT TESTIMONY BY THE GOVERNMENT. IN OTHER WORDS, 26-2  
4 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE --

5 THE COURT: I READ YOUR BRIEF.

6 MR. MEDVENE: -- APPEAR TO PERMIT US TO HAVE MATERIAL  
7 HE PREPARED THAT'S RELEVANT TO WHAT THE GOVERNMENT PUT HIM ON  
8 FOR. BUT THEY PUT HIM ON AND OPENED THE GRAND JURY TESTIMONY.  
9 SO WE'RE ASKING FOR SO MUCH OF IT AS IS RELEVANT TO WHERE THEY  
10 OPENED THEM UP AND WE ARE ASKING FOR --

11 THE COURT: THAT'S AN EASY ONE. THAT'S DENIED.  
12 YOU'RE NOT ENTITLED TO THIS WITNESS'S GRAND JURY TESTIMONY.

13 NOW, WHAT ELSE IS IT THAT YOU'RE ASKING FOR?

14 MR. MEDVENE: SO THE RECORD IS CLEAR, OR EVEN THE  
15 PORTION THAT -- WHICH IS ALL WE ARE ASKING FOR THAT RELATES TO  
16 HIS TESTIMONY. WE ARE NOT ENTITLED TO THAT, EITHER.

17 THE COURT: ANY PORTION OF IT. THAT IS CORRECT.

18 MR. MEDVENE: WE'RE ASKING IF WE MIGHT SEE ANY  
19 REPORTS THAT THIS WITNESS PREPARED OR HAD ANY PART IN THE  
20 PARTICIPATION OF OR APPROVED THAT DEALT WITH HIS DEALINGS WITH  
21 C-1 THAT LED UP TO C-2 APPEARING. WE ARE NOT LOOKING FOR THE  
22 NAMES OR ANYTHING, BUT IF YOUR HONOR --

23 THE COURT: I HAVEN'T HEARD ANY EVIDENCE THAT THERE IS  
24 ANY SUCH REPORT.

25 MR. MEDVENE: YES. I BELIEVE, SIR -- I DON'T MEAN TO

1 MISSTATE -- THE WITNESS CAN CORRECT THIS, BUT I BELIEVE THAT  
2 THE WITNESS STATED YESTERDAY THAT THERE WERE REPORTS THAT HE  
3 DID OR THAT WERE DONE HAVING TO DO WITH CERTAIN OF THE CONTACTS  
4 WITH BOTH C-1 AND C-2.

5 AND IT IS THOSE REPORTS DEALING WITH BOTH C-1 AND C-2  
6 THAT HE WAS PUT ON ABOUT AND THAT WE QUESTIONED HIM ABOUT THAT  
7 WE BELIEVE WE ARE ENTITLED TO.

8 THE COURT: YOU'VE CHANGED YOUR REQUEST. YOU SAID  
9 FIRST THE DEALINGS WITH C-1 AND NOW YOU'VE INCLUDED C-2. NOW,  
10 IF THERE ARE ANY REPORTS INVOLVING THIS C-2 THAT CONTAIN  
11 INFORMATION THAT WOULD TEND TO IDENTIFY THE PERSON, THAT I  
12 WOULD NOT PERMIT, OF COURSE. FIRST, LET ME ASK IF THERE ARE  
13 ANY REPORTS OF THE TYPE DESCRIBED BY COUNSEL?

14 MR. MEDRANO: REPORTS CONCERNING C-1, YOUR HONOR? OR  
15 C-2?

16 THE COURT: WELL, YOU HEARD WHAT HE SAID.

17 MR. MEDRANO: WELL, THE QUESTION WAS UNCLEAR TO ME,  
18 YOUR HONOR, TO BE FRANK.

19 THE COURT: DID THIS WITNESS PREPARE ANY REPORTS  
20 REGARDING HIS DEALINGS WITH THIS C-1 INVOLVING THE SUBJECT OF  
21 HIS TESTIMONY HERE AND HOW HE OBTAINED CI-2?

22 MR. MEDRANO: MAY WE SIMPLY ASK THE WITNESS, YOUR  
23 HONOR.

24 THE COURT: DO YOU UNDERSTAND THAT QUESTION?

25 THE WITNESS: YES, YOUR HONOR. IF I UNDERSTOOD IT

1 CORRECTLY, THE QUESTION WAS DID I GENERATE OR CAUSE TO BE  
2 GENERATED --

3 THE COURT: NO, DID YOU MAKE A REPORT --

4 THE WITNESS: DID I MAKE ONE --

5 THE COURT: -- DESCRIBING YOUR RELATIONSHIP WITH THIS  
6 CI-1 INSOFAR AS IT RELATED TO CI-2?

7 THE WITNESS: NO, SIR, I DID NOT. NO, YOUR HONOR.

8 MR. MEDVENE: CAN I BE HEARD?

9 THE COURT: DO YOU WANT TO ASK HIM A QUESTION ABOUT  
10 THAT?

11 MR. MEDVENE: YES. OKAY?

12 THE COURT: ALL RIGHT.

13 BY MR. MEDVENE:

14 Q. DID YOU REVIEW ANY REPORTS THAT WERE PREPARED, FOR  
15 EXAMPLE, BY AGENT SALAZAR OF YOUR MEETING OR MEETINGS WITH CI-1  
16 OR CI-2?

17 A. DID I REVIEW ANY REPORTS? WAS THAT THE QUESTION?

18 MR. MEDRANO: OBJECTION, YOUR HONOR. EVEN IF SUCH  
19 REPORTS EXIST, THEY'RE NOT JENKS-TYPE MATERIAL AS TO THIS  
20 WITNESS.

21 THE COURT: YOU ASKED FOR WITNESSES' STATEMENTS. THE  
22 RULE THAT YOU CITED TALKS OF WITNESSES STATEMENTS, SO I DON'T  
23 BELIEVE THAT I CAN INTERPRET IT AS BROADLY AS YOU DO. SO WE'RE  
24 TALKING ABOUT WHETHER THIS WITNESS HAS MADE ANY STATEMENT.

25 MR. MEDVENE: WHAT I'M TRYING TO FIND OUT, SIR, IS IF



1 THE OTHER PERSON WROTE THE REPORT AND THIS WITNESS SIGNED OFF  
2 ON THE REPORT. I JUST AT LEAST WOULD LIKE YOUR HONOR TO SEE IT  
3 TO SEE IF YOU THINK IT COMES WITHIN 26-2. THAT IS WHAT I'M  
4 TRYING TO GET AT.

5 THE COURT: WE HAVE BEEN UNABLE TO FIND THAT OUT.  
6 THE WITNESS SAID HE DID NOT PREPARE ANY REPORT DESCRIBING THE  
7 ACTIVITIES THAT HE HAS TESTIFIED ABOUT WITH RESPECT TO HIS CI-1  
8 AND CI-2. IS THAT A CORRECT STATEMENT OR NOT?

9 THE WITNESS: YES, YOUR HONOR, THAT'S WHAT I  
10 TESTIFIED TO.

11 BY MR. MEDVENE:

12 Q. DID AGENT SALAZAR?

13 Q. WOULD YOU REASK THE QUESTION? DID AGENT -- I'M CONFUSED,  
14 COUNSELOR.

15 DID AGENT SALAZAR DO WHAT, NOW? PREPARE A REPORT TO  
16 WHAT, SIR?

17 Q. DID HE PREPARE ANY REPORTS TO YOUR KNOWLEDGE OF HIS  
18 CONTACT WITH CI-1 THAT LED TO CI-1 BRINGING TO YOU CI-2?

19 MR. MEDRANO: OBJECTION. RELEVANCE, YOUR HONOR.

20 THE COURT: ANSWER THE QUESTION.

21 THE WITNESS: NO, SIR, NOT TO MY KNOWLEDGE, HE DIDN'T  
22 WRITE A REPORT TO THAT EFFECT.

23 BY MR. MEDVENE:

24 Q. WERE THERE ANY REPORTS PREPARED OF ANY KIND TO YOUR  
25 KNOWLEDGE ABOUT YOUR MEETINGS WITH CI-2?

1 A. YES, SIR, THERE WERE REPORTS PREPARED.

2 Q. WHO PREPARED THOSE?

3 A. SPECIAL AGENT DELBERT SALAZAR UNDER MY INSTRUCTIONS, SIR.

4 Q. AND YOU REVIEWED THE REPORTS?

5 A. YES, SIR.

6 Q. AND THEY WERE CORRECT?

7 A. YES, SIR.

8 Q. AND HE REPORTED CORRECTLY THE FACTS THAT YOU HEARD AND  
9 OBSERVED IN YOUR MEETINGS WITH CI-2; IS THAT CORRECT?

10 MR. MEDRANO: OBJECTION; IRRELEVANT, YOUR HONOR.

11 THE COURT: YES. SUSTAINED.

12 NOW, WE'VE JUST -- YOU'VE FINISHED YOUR EXAMINATION.  
13 YOU ASKED ABOUT REPORTS. WE HAVE BEEN TRYING TO FIND OUT IF  
14 THERE ARE ANY REPORTS. I DON'T BELIEVE FROM WHAT I'VE HEARD  
15 THERE ARE ANY REPORTS THAT YOU'RE ENTITLED TO SEE. THERE  
16 APPEAR TO BE NO REPORTS, PERIOD.

17 MR. MEDVENE: I IMAGINE THE QUESTION IS, IS THIS FOR  
18 PURPOSES OF 26-2 OR ANY OTHER RULE, A REPORT OF HIS, IF HE WAS  
19 PRESENT, HE ORDERED IT PREPARED AND IT WAS PREPARED AND HE  
20 AGREED WITH WHAT WAS IN IT? I GUESS THAT IS THE ISSUE. AND IF  
21 YOUR HONOR SAID WE ARE NOT ENTITLED, THEN THAT'S IT.

22 THE COURT: YES.

23 MR. MEDVENE: IS THAT WHAT YOU SAY?

24 THE COURT: YES.

25 MR. MEDVENE: YOUR HONOR, WE ALSO CITED CROSEN AND

1 MENTIONED, SIR, THAT IT WAS CASE WHERE AGENTS OF THE GOVERNMENT  
2 DID TESTIFY ON CROSS-EXAMINATION, NOT JUST BY AFFIDAVIT.  
3 REMEMBER WE TALKED YESTERDAY THEY TESTIFIED ON  
4 CROSS-EXAMINATION AND THE NINTH CIRCUIT THERE ORDERED THAT  
5 DEFENDANT BE PROVIDED WITH ALL DOCUMENTS ESTABLISHING PRIOR  
6 INDEPENDENT SOURCES FOR THE GOVERNMENT EVIDENCE, INCLUDING A  
7 LIST OF EVIDENCE OBTAINED IN CHRONOLOGICAL ORDER. AND WE ASK  
8 YOUR HONOR MOST RESPECTFULLY THAT THAT BE PRODUCED.

9 THE COURT: THAT'S DENIED. THIS CASE DOES NOT STAND  
10 FOR THAT PROPOSITION, EVEN THOUGH THAT MAY HAVE BEEN DONE IN  
11 THAT PARTICULAR CASE. THIS DOES NOT STAND FOR THE PROPOSITION  
12 THAT THIS IS REQUIRED.

13 MR. MEDVENE: WHEN YOU SAY IT DOESN'T STAND FOR IT, I  
14 BELIEVE I CORRECTLY READ WHAT THE NINTH CIRCUIT SAID, SO I  
15 DON'T UNDERSTAND WHAT YOU MEAN WHEN YOU SAY IT DOESN'T STAND  
16 FOR IT. THAT'S WHAT THE COURT SAID.

17 THE COURT: THAT IS NOT A HOLDING OF THE CASE, NOR  
18 DOES IT SAY THAT THIS IS ABSOLUTELY REQUIRED.

19 MR. MEDVENE: IT DOES NOT SAY IT'S ABSOLUTELY  
20 REQUIRED.

21 THE COURT: THAT IS CORRECT, IT DOES NOT. IN FACT,  
22 IN THE ROGERS CASE, THE NINTH CIRCUIT UPHELD THE KASTIGAR  
23 HEARING AT WHICH THE GOVERNMENT FILED ONLY SWORN DECLARATIONS  
24 BY PROSECUTORS, INVESTIGATORS AND WITNESSES.

25 THEY BOTH DENIED ACCESS TO THE DEFENDANT'S IMMUNIZED

1 TESTIMONY AND AFFIRMATIVELY SPECIFIED THE INDEPENDENT SOURCES  
2 OF EVIDENCE UPON WHICH THE GOVERNMENT ACTUALLY RELIED. THE  
3 NINTH CIRCUIT SAID IN THAT CASE THAT THE DEFENDANT'S OBJECTION  
4 TO THIS PROCEDURE WAS UNTENABLE IN LIGHT OF THIS EXHAUSTIVE --  
5 HE CALLED IT AN EXHAUSTIVE FILING -- NOTHING BUT AFFIDAVITS.  
6 THAT'S IN UNITED STATES VERSUS ROGERS. WE LET YOU GO FAR  
7 BEYOND THAT.

8 MR. MEDVENE: UNDER NO STRETCH OF ANYONE'S  
9 IMAGINATION COULD ANYONE CALL WHAT WE HAVE DONE SO FAR  
10 EXHAUSTIVE, SIR.

11 THE COURT: I'M SAYING THAT WHAT THEY CALLED IT IN  
12 THAT CASE WAS CALLED EXHAUSTIVE, EVEN THOUGH THERE WAS NOTHING  
13 BUT AFFIDAVITS.

14 MR. MEDVENE: WELL, I UNDERSTAND, SIR, BUT THERE WERE  
15 AFFIDAVITS, SWORN DECLARATIONS, BUT THEY SAY THAT THEY WERE  
16 EXHAUSTIVE. THAT WASN'T DONE IN THIS CASE.

17 THE COURT: IN THIS CASE THE GOVERNMENT HAS PUT THIS  
18 WITNESS ON TO TESTIFY THAT HIS TESTIMONY BEFORE THE GRAND JURY  
19 WAS NOT DRAWN FROM OR WAS NOT TAINTED BY THE IMMUNIZED  
20 TESTIMONY OF THE DEFENDANT BUT WAS OBTAINED THROUGH INDEPENDENT  
21 SOURCES.

22 HE HAS STATED WHAT THE INDEPENDENT SOURCES OF HIS  
23 INFORMATION WAS AND HE HAS TESTIFIED TO THE METHOD IN WHICH  
24 THIS C-2 CAME TO THE GOVERNMENT'S ATTENTION. NOW YOU MAY NOT  
25 LIKE HIS ANSWERS, BUT THAT'S WHAT HE SAID. NOW, IN ADDITION,

1 IN THIS CASE, TO ENSURE THAT ALL IS PROPER, IT IS THE INTENTION  
2 OF THE COURT TO EXAMINE THE GRAND JURY TESTIMONY OF BOTH THE  
3 DEFENDANT AND THIS WITNESS.

4 AND IT IS FURTHER THE INTENTION OF THE COURT THAT  
5 THIS MATTER NOT NECESSARILY BE CLOSED. IF ANYTHING ELSE  
6 DEVELOPS DURING THE COURSE OF THE TRIAL, OR EVEN AFTER THAT,  
7 SUGGESTS THAT THE IMMUNIZED TESTIMONY OF THE DEFENDANT WAS USED  
8 IN ANY WAY, THEN THE REMEDIES THAT MAY BE AVAILABLE TO YOU WILL  
9 STILL BE AVAILABLE TO YOU. THE COURT CAN'T HOLD A MINI-TRIAL  
10 HERE ON THIS ISSUE. I THINK THAT HOWEVER MUCH YOU MIGHT LIKE  
11 TO DO THAT, THE COURT DOES NOT HAVE THE TIME TO DO THAT.

12 MR. MEDVENE: SIR, IT'S NOT A QUESTION OF WANTING TO  
13 DO IT. WE'RE TRYING TO FOLLOW WHAT THE LAW IS. LET ME RAISE  
14 ONE PRACTICAL PROBLEM FOR YOU. I'M NOT GOING TO ARGUE OR  
15 ANYTHING, JUST FOR YOUR HONOR TO THINK ABOUT.

16 AND IF YOU THINK IT'S APPROPRIATE, WE'RE GOING TO  
17 DEAL WITH IT ANOTHER TIME BEFORE TRIAL, THAT'S FINE.

18 ONE ISSUE WE ARE GOING TO HAVE AT TRIAL IS, AND I'M  
19 THINKING ABOUT HOW WE EXPEDITE THE TRIAL, IS IF THEY PUT ON --  
20 WE TALKED ABOUT CI-2. IF THEY PUT ON CI-3 AND CI-4 AT TRIAL,  
21 WE ARE GOING TO HAVE THE ISSUE THAT WE WEREN'T PERMITTED TO  
22 DEAL WITH NOW ABOUT DID THAT PERSON COME TO THEIR KNOWLEDGE  
23 BECAUSE OF ANY OF ZUNO'S TESTIMONY.

24 THE COURT: WELL, WE CAN DEAL WITH IT THEN.

25 MR. MEDVENE: IF THAT'S YOUR DESIRE, WE CAN DO THAT.

1 BUT I JUST WANTED TO SAY, YOUR HONOR, WE DIDN'T WANT TO GET  
2 INVOLVED IN THE FLOW OF THE TRIAL. I'M JUST SAYING THAT AT  
3 SOME TIME WE HAVE TO DEAL WITH IT. WE KNOW YOUR HONOR WANTS TO  
4 MOVE THE TRIAL AND WE THOUGHT THIS WAS AS GOOD A TIME AS ANY.

5 THE COURT: THERE IS A LIMITATION HERE ON DEALING  
6 WITH IT AT THIS TIME FOR TWO REASONS: THE SECRECY RULE OF THE  
7 GRAND JURY AND THE PROTECTION OF THIS UNIDENTIFIED INFORMANT.  
8 THE COURT IS SATISFIED THERE IS A GOOD BASIS FOR THAT SECRECY.

9 SO IT REQUIRES THE COURT TO MAKE LIMITATIONS TO  
10 PROTECT THE GRAND JURY PROCEEDINGS AND ALWAYS TO PROTECT THE  
11 DISCLOSURE OF THIS INFORMANT. IN DUE COURSE YOU WILL KNOW WHO  
12 THIS INFORMANT IS AND YOU'LL BE PROVIDED WITH WHAT THE LAW  
13 AUTHORIZES YOU TO HAVE ABOUT THAT INFORMANT AT THE APPROPRIATE  
14 TIME. BECAUSE OF THESE LIMITATIONS, IT MAY BE THAT DURING THE  
15 TRIAL SOMETHING WILL SURFACE THAT WOULD INDICATE A TAIN. IF  
16 SO, THE COURT IS NOT FORECLOSING TAKING APPROPRIATE REMEDIAL  
17 ACTION AT THAT TIME.

18 MR. MEDVENE: IF YOUR HONOR PLEASE, IS A LOT OF YOUR  
19 RULINGS -- I UNDERSTAND YOU JUST SAID INCLUDING SOME OF TODAY'S  
20 HAVE BEEN BECAUSE OF FEAR FOR THE SAFETY OF THE INFORMANT. AND  
21 TO MY KNOWLEDGE UP TO NOW, THERE BE HAS BEEN NO EVIDENCE OF ANY  
22 KIND PRESENTED THAT ZUNO-ARCE HAS EVER THREATENED ANYBODY ABOUT  
23 ANYTHING.

24 AND MIGHT I RESPECTFULLY ASK THAT THE GOVERNMENT BE  
25 REQUIRED TO MAKE SOME SHOWING THAT HE HAS THREATENED ANYBODY

1 WHICH, TO THE BEST OF OUR KNOWLEDGE, ISN'T TRUE, BECAUSE A LOT  
2 OF YOUR RULINGS ARE BASED ON THE NEED FOR THIS SECRECY AND  
3 THEY'RE PREMISED ON THE FEAR OF VIOLENCE, AND THERE IS NO  
4 EVIDENCE OF ANY KIND THAT THIS MAN WOULD DO THAT OR HAS  
5 THREATENED TO DO IT TO ANYBODY. AND I WOULD ASK IF THE  
6 GOVERNMENT COULD MAKE A SHOWING OF WHAT THEY HAVE INDICATING  
7 THAT THIS MAN HAS THREATENED ANY WITNESS.

8 THE COURT: WE HAVE HAD PRIOR SHOWINGS IN THIS CASE.

9 MR. MEDVENE: NOT WITH RESPECT TO HIM.

10 THE COURT: WELL NOT WITH RESPECT TO HIM, PERHAPS,  
11 BUT WITH OTHERS WITH WHOM HE IS ALLEGED TO HAVE BEEN  
12 ASSOCIATED.

13 MR. MEDVENE: SO YOUR HONOR FEELS THEN THAT SUCH A  
14 HEARING WOULD BE --

15 THE COURT: I THINK THAT, FIRST, THIS IS A -- THE  
16 GOVERNMENT HAS AN INTEREST IN NOT DISCLOSING THE TESTIMONY OR  
17 THE IDENTITY OF THIS WITNESS. AND BY LAW, THEY ARE GIVEN THE  
18 RIGHT TO DO THAT. WHEN THE WITNESS IS CALLED AT TRIAL, THEY  
19 HAVE TO DISCLOSE HIS IDENTITY AND ANY STATEMENTS THAT HE HAS  
20 MADE PREVIOUSLY AND ALL THE REST OF IT. BUT THEY DON'T HAVE TO  
21 DO IT NOW.

22 MR. MEDVENE: IF THE COURT PLEASE, WE WOULD BE --  
23 YOU'VE BEEN PATIENT WITH US. MY LAST REQUEST OF YOU TODAY.  
24 THE GOVERNMENT HAS SAID THAT BEFORE CI-2 APPEARED THAT CERTAIN  
25 OTHER AGENTS, NAMELY, I BELIEVE, SALAZAR, MORALES, REYNOSO --

1 THE COURT: DON'T RECITE ALL THE NAMES.

2 MR. MEDVENE: IT WAS JUST FOUR, BUT I WON'T RECITE  
3 THE OTHER ONE -- HAD CONTACT WITH CI-1. AND WE THINK AS THE  
4 GOVERNMENT PRODUCED THIS WITNESS THAT WE ARE ENTITLED, AS WE  
5 UNDERSTAND THE LAW, TO EXAMINE THOSE INDIVIDUALS TO SEE WHAT  
6 ACCESS THEY HAD TO THE GRAND JURY TESTIMONY AND WHAT  
7 CONVERSATIONS THEY MIGHT HAVE HAD WITH CI-1.

8 WE WOULD ALSO ASK TO EXAMINE A REPRESENTATIVE OF THE  
9 U.S. ATTORNEY'S OFFICE WHO COULD INDICATE OR STATE WHO HAD  
10 ACCESS TO THE GRAND JURY TESTIMONY, EITHER BEING ABLE TO READ  
11 IT AND/OR BEING ORALLY COMMUNICATED TO THEM OR COMMUNICATED  
12 THROUGH MEMOS.

13 THE COURT: I'M GOING TO READ IT MYSELF. ISN'T THAT  
14 GOOD ENOUGH?

15 MR. MEDVENE: NO, NO. I WASN'T ASKING FOR THAT  
16 REASON. THE REASON WAS BECAUSE IT'S DIFFICULT TO TRACE OUT AND  
17 WE WANT TO TRY TO TRACE --

18 THE COURT: WELL, WAIT A MINUTE.

19 MR. MEDVENE: YES, SIR.

20 THE COURT: THE BURDEN HERE IS ON THE GOVERNMENT TO  
21 PROVE THAT THE EVIDENCE IS NOT TAINTED OR THAT THEY DIDN'T MAKE  
22 USE OF THE DEFENDANT'S IMMUNIZED TESTIMONY.

23 MR. MEDVENE: YES, SIR.

24 THE COURT: I DON'T UNDERSTAND THAT TO MEAN THAT YOU  
25 HAVE A RIGHT TO START BRINGING IN WITNESSES. IF THEY WANT TO



1 RELY ON ONE OR TWO OR THREE WITNESSES, THAT'S THEIR  
2 RESPONSIBILITY BECAUSE THEY HAVE THE BURDEN.

3 IF THEY FAIL TO ESTABLISH TO THE COURT'S SATISFACTION  
4 BY A PREPONDERANCE OF THE EVIDENCE, THEN THEY LOSE ON THAT  
5 ISSUE.

6 MR. MEDVENE: BUT THE ISSUE IS THERE'S THESE THREE  
7 OTHER OR FOUR OTHER PEOPLE OUT THERE, AND IF THEY PICK THIS  
8 ONE, YOU KNOW, WHO DIDN'T SEE THE GRAND JURY TESTIMONY, I KNOW  
9 THAT ONE OF THE AGENTS -- AGENT REYNOSO, I KNOW WAS AT THE  
10 GRAND JURY, BECAUSE I WAS OUTSIDE THE ROOM AND HE WAS OUTSIDE  
11 THE ROOM. SO I KNOW HE WAS THERE, I KNOW HE PARTICIPATED.

12 THE COURT: WHAT IS YOUR SUGGESTION? THAT YOU WANT  
13 TO --

14 MR. MEDVENE: I'D LIKE TO EXAMINE REYNOSO TO SEE IF  
15 HE SPOKE TO C-1 AND GAVE HIM ANY INFORMATION OR LEARNED  
16 ANYTHING FROM THE GRAND JURY.

17 THE COURT: YOU'RE MAKING A BIZARRE REQUEST HERE, I  
18 THINK, COUNSEL.

19 DO YOU WISH TO BE HEARD?

20 MR. MEDRANO: JUST VERY BRIEFLY, YOUR HONOR. I JUST  
21 WANT TO REMIND THE COURT AND COUNSEL THAT MR. BERRELLEZ HAS  
22 TESTIFIED THAT TO HIS KNOWLEDGE NOT ONLY HAS HE NOT READ ZUNO'S  
23 GRAND JURY TRANSCRIPT, BUT THE OTHER AGENTS REFERENCED BY  
24 MR. MEDVENE --

25 THE COURT: WELL, NOT -- BY LAW, THAT IS NOT

1 PERMITTED FOR ANYBODY TO READ IT, ISN'T IT?

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

3 THE COURT: WE HAVE A SECRECY RULE AND WE CAN'T  
4 ASSUME THAT THESE PEOPLE ARE VIOLATING THAT.

5 MR. MEDRANO: IN ADDITION, YOUR HONOR, AS YOU,  
6 YOURSELF, HAVE INDICATED THE BURDEN IS ON THE GOVERNMENT. WE  
7 PUT FORTH THAT EVIDENCE, YOUR HONOR, AND NO CASE LAW SUPPORTS  
8 MR. MEDVENE'S POSITION THAT THEY SHOULD BE ALLOWED TO TAKE THE  
9 INITIATIVE TO CALL WITNESSES. IT'S OUR BURDEN. WE PUT THAT  
10 EVIDENCE FORWARD, NOT HIM, YOUR HONOR.

11 THE COURT: JUST A MOMENT. WE'VE INTERRUPTED THIS.  
12 DID YOU HAVE ANY FURTHER QUESTIONS FOR THIS WITNESS?

13 MR. MEDRANO: NO REDIRECT, YOUR HONOR.

14 THE COURT: YOU MAY STEP DOWN.

15 THE WITNESS: THANK YOU, YOUR HONOR.

16 MR. MEDVENE: ONE LAST COMMENT?

17 THE COURT: WAIT A MINUTE. DO YOU HAVE ANY OTHER  
18 EVIDENCE TO PRESENT IN SUPPORT OF THIS MOTION?

19 MR. MEDRANO: JUST WHAT WE OFFERED TO THE COURT, YOUR  
20 HONOR. IF I MAY SPEAK JUST VERY BRIEFLY TO THAT POINT. NO  
21 LIVE WITNESS TESTIMONY, YOUR HONOR.

22 WE WOULD SUBMIT, AS PERMITTED BY NINTH CIRCUIT CASE  
23 LAW, THAT YOU EXAMINE IN-CAMERA AGENT BERRELLEZ' GRAND JURY  
24 TESTIMONY, WHICH WE SUBMIT CORROBORATES EVERYTHING HE TESTIFIED  
25 ABOUT TODAY.

1 WE ALSO SUBMIT, YOUR HONOR, FOR YOUR IN-CAMERA REVIEW  
2 CI-2'S GRAND JURY TESTIMONY, WHICH WAS THE BASIS FOR ZUNO'S  
3 INDICTMENT ON THE MURDER CHARGES. AND UNDER NINTH CIRCUIT LAW,  
4 THAT IS PERMITTED AS WELL, YOUR HONOR. AND WE WOULD SUBMIT  
5 THAT IN CAMERA GRAND JURY TRANSCRIPTS -- AND WE WOULD ALSO ASK  
6 THAT YOU REVIEW -- AND WE'VE GIVEN IT TO YOU, JUDGE -- ZUNO'S  
7 GRAND JURY TRANSCRIPT WHEN HE TESTIFIED. AND WE SUBMIT THOSE  
8 IN CAMERA FOR THE COURT TO REVIEW, YOUR HONOR, AND THAT IS  
9 PERMITTED BY NINTH CIRCUIT LAW.

10 THE COURT: WELL, I'VE ORDERED THOSE TO BE FILED AND  
11 I WILL REVIEW THEM.

12 MR. MEDRANO: VERY WELL, YOUR HONOR.

13 THE COURT: TO MAKE SURE THAT -- THAT THERE WAS NO  
14 IMPROPER USE OF THAT TESTIMONY GIVEN BY THE DEFENDANT IN THIS  
15 CASE. DO YOU PROPOSE TO REST ON THIS?

16 MR. MEDRANO: YES, YOUR HONOR. AND JUST MAKE A  
17 ONE-MINUTE PITCH FOR THE COURT, IF YOU'RE SO INCLINED, YOUR  
18 HONOR, AS TO WHY THE GOVERNMENT FEELS IT HAS MET ITS BURDEN.  
19 WITH YOUR PERMISSION.

20 THE COURT: ALL RIGHT. GETTING BACK TO YOUR REQUEST  
21 THAT YOU SHOULD BE PERMITTED TO INTERVIEW OTHER WITNESSES OR  
22 EXAMINE OTHER WITNESSES. IF YOU'RE MAKING THAT REQUEST FOR ME  
23 TO ORDER THOSE PEOPLE IN HERE SO YOU CAN QUESTION THEM, I'M  
24 DENYING IT.

25 MR. MEDVENE: YOUR HONOR, I'LL SIT DOWN. I HAVE NO

1 ARGUMENT. I'M SURE YOU UNDERSTAND. THE GOVERNMENT -- THE  
2 QUESTION IS INDEPENDENCE. THE GOVERNMENT HAND PICKS A WITNESS  
3 THAT HASN'T SEEN THE GRAND JURY TESTIMONY. THEY LEAVE OUT A  
4 WITNESS WHO IS IN -- VIRTUALLY OUTSIDE THE GRAND JURY ROOM.  
5 THEY DON'T WANT TO PRODUCE THAT WITNESS.

6 IF THEY BRING SOMEBODY THAT HASN'T READ THE TESTIMONY  
7 AND KNOWS NOTHING ABOUT IT, THE WITNESS THAT WAS OUTSIDE -- THE  
8 PERSON THAT IS OUTSIDE THE GRAND JURY ROOM, IT'S  
9 INCOMPREHENSIBLE THAT THERE HAS BEEN NO DISCUSSION BETWEEN THE  
10 AGENT AND THE GOVERNMENT ABOUT WHAT WAS SAID. YOU COULDN'T RUN  
11 AN INVESTIGATION UNLESS THEY SAID "CHECK OUT THIS, CHECK OUT  
12 THAT."

13 AND IF THE U.S. ATTORNEY WANTS TO STAND UP AND SAY HE  
14 DID NOT DISCLOSE TO ANYBODY IN THE D.E.A. ANYTHING RUBEN  
15 ZUNO-ARCE SAID, THAT'S FINE. BUT I THINK HE SHOULD HAVE TO SAY  
16 THAT, JUDGE, BECAUSE OR ELSE THEY CAN PICK SOMEBODY WHO DOESN'T  
17 KNOW ANYTHING ABOUT THIS PARTICULAR POINT. WHEN THE PERSON  
18 THAT KNOWS SOMETHING, POSSIBLY AGENT REYNOSO, THEY DON'T  
19 PRODUCE HIM.

20 AND ALL I'M SAYING IS, WITH DUE RESPECT, EITHER ASK  
21 THEM TO TELL YOU THEY DIDN'T SHOW OR THEY DIDN'T TELL ANYBODY  
22 IN THE D.E.A. ANYTHING ABOUT HIS TESTIMONY, AND IF THEY WON'T  
23 DO THAT, LET'S SEE WHAT REYNOSO SAYS.

24 THE COURT: COUNSEL, ARE YOU PREPARED TO MAKE A  
25 REPRESENTATION ABOUT THAT?

1 MR. MEDRANO: YOUR HONOR, I DO APOLOGIZE. I MISSED  
2 THE LAST PART OF MR. MEDVENE'S STATEMENT.

3 THE COURT: HE WANTS YOUR ASSURANCE THAT THE  
4 TESTIMONY GIVEN BEFORE THE GRAND JURY WAS NOT DISSEMINATED --  
5 EITHER THE TESTIMONY OF MR. ZUNO OR THE OTHER WITNESS -- WAS  
6 NOT DISSEMINATED TO D.E.A. AGENTS FOR THE PURPOSE OF FURTHER  
7 INVESTIGATION.

8 MR. MEDVENE: IN WHOLE OR IN PART.

9 MR. MEDRANO: MAY I JUST BRIEFLY CONSULT MY  
10 CO-COUNSEL, YOUR HONOR?

11 THE WITNESS: YOUR HONOR, MAY I BE EXCUSED?

12 THE COURT: YES.

13 THE WITNESS: THANK YOU.

14 MR. MEDRANO: YOUR HONOR, OFF THE TOP OF OUR HEADS,  
15 YOUR HONOR, I'M NOT SURE WHETHER OR NOT OTHER AGENTS HAVE  
16 REVIEWED ZUNO'S GRAND JURY TRANSCRIPT. TO THE EXTENT THEY --  
17 UNDER THE IN CAMERA RULE 6 LIST OF PEOPLE WHO ARE PERMITTED TO  
18 REVIEW SUCH MATERIAL, I WOULD HAVE TO LOOK AT THAT LIST AND ASK  
19 THOSE PARTICULAR PEOPLE WHETHER OR NOT THEY'VE REVIEWED IT.

20 BUT BEYOND THAT, IF I MAY STATE ONE THING, YOUR  
21 HONOR. WHEN YOU SIT DOWN AND LOOK AT ZUNO'S GRAND JURY  
22 TRANSCRIPT, YOUR HONOR, I WOULD SUBMIT THAT YOU'LL FIND THE  
23 FOLLOWING: THAT NOTHING HE TESTIFIES ABOUT IN HIS GRAND JURY  
24 TRANSCRIPT COMES OUT AT ANY LATER POINT.

25 WHAT HE SAYS IS IRRELEVANT. HE DENIES EVERYTHING, HE

1 CLAIMS NOT TO KNOW A SOUL IN THE WORLD. NONE OF -- THAT  
2 INFORMATION, YOUR HONOR, IS ABSOLUTELY OF NO VALUE. SO I WOULD  
3 SUBMIT, YOUR HONOR, EVEN ASSUME THE WORST CASE, AND LET'S JUST  
4 ASSUME THAT YOU HAVE MAYBE ONE OR TWO D.E.A. AGENTS WHO WERE ON  
5 THE RULE 6 LIST AND WHO REVIEWED ZUNO'S GRAND JURY TESTIMONY.

6 YOUR HONOR, AFTER YOU REVIEW IT, YOU WILL FIND THAT  
7 THERE IS NOTHING IN THERE OF ANY USE. AND THAT'S WHY, YOUR  
8 HONOR, I WOULD COME BACK TO ONE OF YOUR EARLIER POINTS, THAT  
9 THE SOLE PURPOSE OF THIS HEARING IS SIMPLY SOME TYPE OF  
10 DISCOVERY MECHANISM TO FIND OUT INFORMATION, BECAUSE THERE IS  
11 NO BASIS FOR THIS HEARING, YOUR HONOR.

12 MR. MEDVENE: IF THE COURT PLEASE, JUST ONE COMMENT.  
13 THE GOVERNMENT BEFORE YOU MANY MONTHS AGO, WHEN WE ARGUED  
14 MATERIAL WITNESS AND SHOULD ZUNO BE HELD, ARGUED THE EVIDENCE  
15 HE TESTIFIED TO WAS RELEVANT. THEY ARGUED YOU OUGHT TO HOLD  
16 HIM IN JAIL FOR THE BERNABE-RAMIREZ TRIAL, THE VERY TRIAL THAT  
17 HE'S SUBSEQUENTLY BEEN INDICTED IN THE SAME CASE. THEY ARGUED  
18 HERE IN FRONT OF YOU AS OFFICERS OF THE COURT THAT HIS  
19 TESTIMONY BEFORE THE GRAND JURY WAS SO MATERIAL THEY WANTED IT,  
20 AND NOW THEY'RE SAYING IT'S WORTHLESS.

21 THE COURT: THEY BELIEVED HE KNEW A LOT MORE THAN HE  
22 SAID HE KNEW.

23 MR. MEDVENE: NO, NO, NO. NOT BEFORE HE TESTIFIED,  
24 AFTER HE TESTIFIED WE CAME IN AND SAID, "RELEASE HIM." THE  
25 GOVERNMENT SAID AFTER HE TESTIFIED, "DON'T RELEASE HIM, JUDGE.

1 HE HAS MATERIAL TESTIMONY." HE GAVE MATERIAL TESTIMONY.

2 THE COURT: THAT'S TRUE.

3 MR. MEDVENE: OKAY. THAT'S DIFFERENT THAN WHAT HE'S  
4 SAYING NOW.

5 MR. MEDRANO: YOUR HONOR, THAT'S COMPARING APPLES AND  
6 ORANGES. AT THE TIME, THE SOLE ISSUE WAS A MATERIAL WITNESS  
7 ISSUE SOLELY, YOUR HONOR. AND ON THAT POINT, THE TESTIMONY WAS  
8 RELEVANT. I DON'T DISPUTE THAT. BUT NOW THE ISSUE IS WHETHER  
9 WHAT HE SAID IN FRONT OF THE GRAND JURY FURTHERED THE MURDER  
10 INVESTIGATION. THAT'S THE MILLION-DOLLAR QUESTION. IT HAS NOT  
11 FURTHERED THAT INVESTIGATION, YOUR HONOR, AND ZUNO'S GRAND JURY  
12 TRANSCRIPT WILL MANIFESTLY PROVE THAT POINT WHEN YOU REVIEW IT.

13 MAY I CLOSE VERY BRIEFLY, YOUR HONOR, WITH SOME FINAL  
14 COMMENTS?

15 THE COURT: YES.

16 MR. MEDRANO: THANK YOU.

17 YOUR HONOR, I WOULD SUBMIT WE MET OUR BURDEN IN THIS  
18 MATTER IN TWO BASIC WAYS. ONE, IS MR. BERRELLEZ TESTIFIED FOR  
19 YOU THAT HE TESTIFIED IN FRONT OF THE GRAND JURY AND HE GAVE  
20 YOU FIVE OR SIX POINTS THAT HE TOLD THE GRAND JURY THAT  
21 EVENTUALLY INDICTED RUBEN ZUNO-ARCE FOR MURDER.

22 AND THEN HE PROCEEDS TO TELL YOU THE BASIS FOR EACH  
23 OF THAT PIECE OF INFORMATION. AND AS HE TESTIFIED UNDER OATH,  
24 YOUR HONOR, IT'S ALL PREVIOUSLY KNOWN. A GOOD EXAMPLE IS WHO  
25 OWNED 881 LUPE DE VEGA WHERE THE TORTURE TOOK PLACE? WE'VE

1 KNOWN, ACCORDING TO BERRELLEZ, SINCE 1986, WHEN AGENT  
2 KIRKENDAHL INTERVIEWED ZUNO. SO THAT'S THE TYPE OF INFORMATION  
3 THAT HE TESTIFIED ABOUT AND HE'S EXPLAINED UNEQUIVOCALLY THAT  
4 THAT WAS PREVIOUSLY KNOWN TO AUGUST 24, 1989 WHEN ZUNO-ARCE  
5 TESTIFIED IN FRONT OF THE GRAND JURY.

6 IN ADDITION, YOUR HONOR -- AND HERE, I THINK, IS THE  
7 MAIN POINT. WHEN YOU SIT DOWN AND REVIEW ZUNO'S GRAND JURY  
8 TESTIMONY, I THINK YOU WILL FIND QUITE CLEARLY THAT NOTHING HE  
9 SAYS IS OF ANY USE BECAUSE HE EITHER DENIES EVERYTHING, DENIES  
10 KNOWING PEOPLE, IS EVASIVE IN HIS RESPONSES, ET CETERA, ET  
11 CETERA. AND WHEN YOU LOOK AT IT, YOUR HONOR, AND STUDY IT,  
12 YOU'LL FIND THAT NOTHING HE TOLD YOU IS OF ANY USE AT ALL IN  
13 THE CURRENT INVESTIGATION.

14 AND FINALLY, YOUR HONOR, AS AGENT BERRELLEZ HAS  
15 TESTIFIED, THERE IS SIMPLY AN INDEPENDENT BASIS FOR ALL THE  
16 EVIDENCE THAT THE CAMARENA GRAND JURY HEARD BEFORE INDICTING  
17 ZUNO-ARCE.

18 IN ADDITION, YOUR HONOR, WE HAVE SUBMITTED FOR YOU  
19 IN-CAMERA CI-2'S GRAND JURY TRANSCRIPT, WHICH IS ALSO THE BASIS  
20 FOR ZUNO'S INDICTMENT FOR MURDER. I ENCOURAGE YOU TO LOOK AT  
21 THAT AS WELL, BECAUSE WHEN YOU COMPARE THAT TESTIMONY TO WHAT  
22 ZUNO TOLD HIS GRAND JURY, THEY HAVE NOTHING IN COMMON, YOUR  
23 HONOR. ONE WAS COMPLETELY INDEPENDENT THAT WITNESS CAME  
24 FORWARD AND THEN CI-2 DID IN MID NOVEMBER, APPROACHED THE  
25 SECOND CI AND SAID HE HAD INFORMATION AND THEN HE WAS BROUGHT



1 TO L.A. AND THAT'S WHEN HE TESTIFIED TRUTHFULLY BEFORE THE  
2 GRAND JURY.

3 FINALLY, YOUR HONOR, LET ME JUST STATE THIS TO YOU,  
4 IF IT ISN'T CLEAR YET. ZUNO-ARCE, WHEN HE GAVE HIS TESTIMONY,  
5 WAS IN FRONT OF GRAND JURY X. AND I WON'T MENTION THE  
6 FOREMAN'S NAME AT THIS POINT AT HIS REQUEST, YOUR HONOR. NOW,  
7 HE TESTIFIED IN FRONT OF X. HE WAS IMMUNIZED. THAT GRAND JURY  
8 LATER FOUND THAT HE HAD LIED AND THEY INDICTED HIM FOR PERJURY.

9 NOW LATER, YOUR HONOR, WE HAVE GRAND JURY Y. THIS IS  
10 THE GRAND JURY THAT HAS INVESTIGATED ZUNO FOR THE MURDER CASE.  
11 THIS Y GRAND JURY NEVER HEARD ANYTHING PRESENTED TO X, YOUR  
12 HONOR, SO THEY'RE ENTIRELY DIFFERENT GRAND JURIES AND THE  
13 FACT -- THE FACT THAT WE PROCEEDED IN THIS WAY, I.E., HAVE  
14 TWO SEPARATE GRAND JURIES, HAS SECURED WHAT HAS PROBABLY OR  
15 POTENTIALLY BEEN MR. MEDVENE'S MAIN ARGUMENT FOR DISMISSAL OF  
16 THE CASE AND THAT IS TRYING TO USE THE SAME GRAND JURY FOR  
17 IMMUNIZED TESTIMONY AND, ULTIMATELY, INDICTMENT FOR MURDER. A  
18 SEPARATE UNRELATED GRAND JURY WAS USED. THAT, IN CONJUNCTION  
19 WITH THE INDEPENDENT EVIDENCE WE PRESENTED TO YOU, WE SUBMIT  
20 SHOWS THAT AT THIS POINT THAT THIS WAS AN UTTERLY MERITLESS  
21 CASE.

22 AND FINALLY, YOUR HONOR, AS YOU YOURSELF HAVE  
23 INDICATED, IF AT ANY POINT PRETRIAL, AT THE EVE OF TRIAL OR  
24 DURING THE COURSE OF TRIAL THE COURT FEELS THAT THERE IS ANY  
25 HINT OF TAIN T FROM ZUNO'S GRAND JURY IMMUNIZED TESTIMONY, THEN

1 THAT AT THAT POINT, IN A VERY SHORT BRIEF PROCESS, YOUR HONOR,  
2 YOU CAN CONDUCT ANOTHER KASTIGAR-TYPE HEARING AND, IN FACT,  
3 YOUR HONOR, IN MY EXPERIENCE IT IS NOT UNUSUAL TO OCCASIONALLY  
4 HAVE A KASTIGAR HEARING WELL AFTER THE COMPLETION OF A TRIAL.

5 SO WE ARE NOT FORECLOSED TODAY, IF YOU DEEM IT  
6 APPROPRIATE TO RAISE THIS ISSUE AGAIN, SHOULD MR. MEDVENE FEEL  
7 THAT THE FUTURE TESTIMONY AT TRIAL HAS BEEN TAINTED IN ANY  
8 FASHION.

9 AND, YOUR HONOR, UNLESS THE COURT HAS SPECIFIC  
10 QUESTIONS, THE GOVERNMENT WOULD SUBMIT AT THIS POINT.

11 THE COURT: NO, I HAVE NO QUESTIONS.

12 MR. MEDRANO: THANK YOU, YOUR HONOR.

13 THE COURT: I'LL LET YOU BE HEARD ON THAT SAME ISSUE  
14 THAT HE DISCUSSED. IN OTHER WORDS, EVALUATING AND ASSESSING  
15 THE EVIDENCE THAT HAS BEEN PRESENTED AND WHETHER THEY HAVE MET  
16 THEIR BURDEN. BUT, OF COURSE, ALL THE EVIDENCE IS NOT BEFORE  
17 THE COURT YET BECAUSE I HAVE NOT YET READ THE TESTIMONY  
18 PRESENTED TO THE GRAND JURY BY THE DEFENDANT AND THE OTHER  
19 WITNESS. BUT I -- IF YOU'RE GOING TO MAKE SOME MORE PROCEDURAL  
20 ARGUMENTS, I DON'T WANT TO HEAR THEM.

21 MR. MEDVENE: NO, SIR.

22 THE COURT: OKAY.

23 MR. MEDVENE: I'LL BE JUST --

24 THE COURT: OKAY.

25 MR. MEDVENE: -- WHAT ALL WE CAN DO.

1 THE COURT: GOOD.

2 MR. MEDVENE: THE GOVERNMENT SAYS THEY'RE DIFFERENT  
3 GRAND JURIES. WHAT THE GOVERNMENT DOESN'T SAY IS THE SAME  
4 PROSECUTOR WHO BASICALLY EITHER ASKED THE QUESTIONS OR WAS IN  
5 THE ROOM WHEN THE QUESTIONS WERE BEING ASKED IN THE PERJURY  
6 CASE IS THE SAME PROSECUTOR WHO'S LEAD COUNSEL IN THIS CASE,  
7 FIRST THING.

8 THE SECOND THING, WE RESPECTFULLY SUBMIT THE  
9 GOVERNMENT AT THIS STAGE, IN LIGHT OF THE FACT THAT MR. MEDRANO  
10 WAS BASICALLY VERY MUCH INVOLVED IN BOTH GRAND JURIES AND WAS  
11 NOT ISOLATED IN ANY WAY -- A PRACTICE THAT ONE OR MORE OF THE  
12 CASES HAS DISAPPROVED OF -- WE WOULD SAY THAT, IN ADDITION, THE  
13 GOVERNMENT HAS NOT SHOWN THAT ANY OF THE THREE OR FOUR  
14 ENUMERATED OTHER WITNESSES WHO APPARENTLY HAD CONTACT WITH  
15 CI-1, AGENTS WHO APPARENTLY HAD CONTACT WITH CI-1 POSSIBLY  
16 AFTER ZUNO-ARCE TESTIFIED. THEY HAVE NOT SHOWN THAT THOSE  
17 PEOPLE DID NOT TALK TO CI-1 OR IMPART ANY KNOWLEDGE. THEY HAVE  
18 NOT SHOWN THAT THERE ISN'T THAT LINK TO CI-2.

19 IN ADDITION, THEY HAVEN'T PERMITTED QUESTIONS AS TO  
20 WHAT WERE THE CONVERSATIONS LEADING UP TO THE SUDDEN APPEARANCE  
21 OF THIS WITNESS, AFTER STATING IN EARLY 1987 THAT ALL OF A  
22 SUDDEN WHEN ZUNO-ARCE IS OUT ON BAIL READY TO FACE THE PERJURY  
23 TRIAL, THAT ALL OF A SUDDEN AT THAT TIME WHEN HE'S OUT ON BAIL  
24 THAT THIS WITNESS CAME UP AND DIDN'T COME UP FOUR YEARS BEFORE.  
25 THAT'S WHAT WE WERE TRYING TO GET TO. HOW DID THIS WITNESS

1 SUDDENLY APPEAR? WHERE WAS HE BEFORE? WHAT WAS SAID THAT  
2 CAUSED THIS WITNESS TO APPEAR?

3 NOW, WE'VE GOT A CONVERSATION WHERE CI-1 TELLS THE  
4 AGENT THAT TOOK THE STAND, "HE'S HERE." PRIOR TO THAT WE HAVE  
5 A CONVERSATION, "I'M GOING TO BRING SOMEBODY HERE." INCREDIBLE  
6 THAT HE DOESN'T SAY: WHO? WHY? WHAT? IT BOGGLES THE  
7 IMAGINATION THAT HE WOULDN'T BE THAT CURIOUS OR HE WOULD  
8 AUTHORIZE PAYMENT FOR SOMEBODY TO COME FROM MEXICO UP HERE  
9 WITHOUT ANY PRELIMINARY KNOWLEDGE.

10 EVEN IF YOU ACCEPT THAT, WHY AT THAT POINT IN TIME  
11 DOES THIS WITNESS APPEAR? WE JUST THINK THEY HAVEN'T CARRIED  
12 THEIR BURDEN. THE CASES SEEM TO SAY, IN CLOSING, YOUR HONOR,  
13 THAT THEY HAVE TO BUTTON DOWN THAT THERE IS NO USE MADE. AND I  
14 DON'T THINK THEY HAVE BUTTONED IT DOWN. THEY JUST PUT ONE  
15 WITNESS ON.

16 THE COURT: WELL, THEY MADE THEIR -- THAT'S WHAT  
17 THEY'RE RELYING ON.

18 MR. MEDVENE: YES, SIR.

19 THE COURT: IF THAT'S NOT SUFFICIENT, THEN THE COURT  
20 WILL HOLD ACCORDINGLY.

21 MR. MEDVENE: YES, SIR. THAT IS ALL I HAVE, SIR.

22 THE COURT: ALL RIGHT. THANK YOU.

23 MR. MEDVENE: THANK YOU VERY MUCH.

24 THE COURT: THE MATTER WILL BE SUBMITTED UNTIL THE  
25 COURT HAS HAD THE OPPORTUNITY TO READ THE IN CAMERA TESTIMONY

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THE GRAND JURY.

MR. MEDRANO: THANK YOU, YOUR HONOR.

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

\_\_\_\_\_ DATED: \_\_\_\_\_

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