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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

HONORABLE EDWARD RAFEEDIE, JUDGE PRESIDING

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

COPY

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, APRIL 20, 1990; 4:40 P.M.

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OFFICIAL COURT REPORTER
442-C U.S. COURTHOUSE
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1 APPEARANCES:

2 ON BEHALF OF THE GOVERNMENT:

3 GARY A. FEES
4 UNITED STATES ATTORNEY
5 BY: MANUEL A. MEDRANO
6 JOHN L. CARLTON
7 ASSISTANT U.S. ATTORNEYS
8 1200 U.S. COURTHOUSE
9 312 NORTH SPRING STREET
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8 ON BEHALF OF DEFENDANT JUAN RAMON MATTA BALLESTEROS:

9 MARTIN J. STOLAR
10 MICHAEL BURNS
11 ADOLFO Z. AGUILAR
12 ATTORNEYS AT LAW
13 351 NORTH BROADWAY, 4TH FLR.
14 NEW YORK, NEW YORK 10013
15 (212)219-1919/(213)855-8888, EXT. 314

13 ALSO PRESENT:

14 DOUGLAS KUEHL, SPECIAL AGENT, D.E.A.
15 MS. DENA KOHN, SPANISH INTERPRETER
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<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
JUAN RAMON MATTA-BALLESTEROS	4	24	34	--
RICHARD URBANIK, M.D.	40	42	--	--
ROBERTO ESCOBAR	--	50	--	--

E X H I B I T S

<u>DEFENDANTS'</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
B-1		39
C		39
D		39

1 LOS ANGELES, CALIFORNIA; FRIDAY, APRIL 20, 1990

2 4:40 P.M.

3
4 THE COURT: LET THE RECORD SHOW THE DEFENDANT IS
5 PRESENT WITH ALL COUNSEL PRESENT; THE INTERPRETER IS
6 PRESENT.

7 NOW, COUNSEL, HAVE YOU SWORN THE DEFENDANT?

8 THE INTERPRETER: NO.

9
10 JUAN RAMON MATTA-BALLESTEROS, DEFENDANT,

11 SWORN THROUGH THE INTERPRETER

12
13 THE COURT: COUNSEL, I ASSUME THAT YOU WANT TO
14 CALL MR. MATTA AS YOUR NEXT WITNESS.

15 MR. STOLAR: YES, I DO.

16 THE COURT: YOU MAY PROCEED.

17 MR. STOLAR: THE DECLARATION OF MR. MATTA IS IN
18 EVIDENCE AT THE HEARING.

19 THE COURT: YES.

20
21 DIRECT EXAMINATION

22 BY MR. STOLAR:

23 Q MR. MATTA, I WOULD LIKE TO DIRECT YOUR ATTENTION TO
24 APRIL 5TH 1988.

25 DID THERE COME A TIME WHEN YOU WERE TAKEN FROM

1 YOUR HOME AND PUT INTO A VAN?

2 A YES, SIR.

3 Q AND DID THERE COME A TIME WHEN THE VAN LEFT YOUR HOME
4 AND TOOK YOU SOMEPLACE ELSE AND YOU WERE PUT ABOARD AN
5 AIRPLANE?

6 A YES, SIR.

7 Q NOW, BEFORE YOU WERE PUT ABOARD THE AIRPLANE, WAS A
8 HOOD PLACED OVER YOUR HEAD?

9 A FROM THE MOMENT I WAS ARRESTED.

10 Q COULD YOU DESCRIBE FOR US WHAT HAPPENED ON THE
11 AIRPLANE, WHAT KIND OF -- IF YOU WERE UNDER SOME KIND OF
12 RESTRAINT, WHAT KIND OF RESTRAINT YOU WERE UNDER, AND WHAT
13 OCCURRED WHILE YOU WERE ON THE AIRPLANE?

14 A FROM THE MOMENT THEY BROUGHT ME FROM MY HOUSE THEY PUT
15 A HOOD ON, IT WAS A VERY TIGHT HOOD. THEY PUT ME IN A CAR,
16 THEY TOOK ME TO THE AIRPORT. I SAY "AIRPORT" BECAUSE THEY
17 SAID, "WE'RE GOING DIRECTLY TO PALMEROLA."

18 Q WHAT IS PALMEROLA?

19 A PALMEROLA -- THAT IS AN AMERICAN BASE IN MY COUNTRY.

20 Q DESCRIBE HOW YOU WERE PUT ABOARD THE AIRPLANE.

21 A I WENT ON SOME STAIRS. THEY HELD ME BY THE ARMS. A
22 PERSON CAME, AND IN SPANISH, WITH SOMETHING HE PRESSED ON MY
23 TESTICLES TELLING ME THAT I SHOULD BE VERY CAREFUL AND THAT
24 I SHOULD BEHAVE WELL.

25 AT THAT MOMENT, THEY PUT THAT AND I FELT AN

1 ELECTRIC CURRENT, A VERY STRONG ELECTRIC CURRENT. I JUMPED
2 DESPERATELY UP. THEN THEY PUSHED ME, PUT IN THE FLOOR. I
3 WANTED TO GET UP DESPERATELY AND I KEPT FEELING ON MY BACK
4 SEVERAL POKINGS ON MY BACK.

5 Q BY THE WAY, WHEN YOU WERE PUT ABOARD THE AIRPLANE,
6 WERE YOUR ARMS FREE TO MOVE?

7 A NO, MA'AM, I WAS CHAINED WITH THAT HOOD ON MY HEAD. I
8 HAD HANDCUFFS ON MY FEET.

9 Q NOW, MR. MATTA, DESCRIBE MORE WHAT HAPPENED ON THE
10 AIRPLANE.

11 A WHEN I TRIED TO STAND UP, I WAS DESPERATE, I WAS
12 CHOKING, I WAS -- I COULDN'T RESIST. IT HAD BEEN MORE THAN
13 TWO HOURS AND A HALF THAT I HAD THAT HOOD ON MY HEAD AND THE
14 NOOSE WAS VERY TIGHT ON MY NECK. AND SO I WAS DESPERATE AND
15 I WOULD ASK THAT PLEASE, THEY WOULD LOOSEN THIS.

16 THEN SOMEONE ARRIVED AND I FELT AGAIN BACK ON --
17 BACK ON MY BACK POKINGS AND THAT I SHOULD BE QUIET.

18 Q EXCUSE ME, WHEN YOU SAY "POKINGS," WHAT DO YOU MEAN,
19 POKINGS?

20 A SOMETHING THAT THEY WOULD POKE ON MY BACK. I FELT
21 SOME NEEDLES, AND THEN I FELT SOME CURRENT AND THEN I WOULD
22 JUMP UP.

23 Q CONTINUE.

24 A THEY SAID, "IF YOU CONTINUE TALKING AND SCREAMING,
25 WE'RE GOING TO CONTINUE DOING WHAT WE'RE DOING SO BE QUIET."

1 FOR THE SAKE OF GOD, I NEED -- I NEED FOR YOU TO
2 GET THIS OFF, I'M NOT ABLE TO GET OXYGEN, I NEED TO --

3 THE INTERPRETER: EXCUSE ME, I NEED TO GET THE
4 LAST OF IT.

5 THE WITNESS: THEY KEPT POKING ME, AND THEN I
6 SAID, "PLEASE LET ME GET IN ANOTHER -- SITUATE MYSELF IN A
7 BETTER WAY. I'M NOT ABLE TO -- I'M NOT ABLE TO" --
8 BY MR. STOLAR:

9 Q WERE YOU TELLING THEM YOU WERE NOT ABLE TO BREATHE?

10 A I WASN'T ABLE TO BREATHE, AND THEY KEPT TELLING ME
11 THAT I SHOULD BE QUIET, THAT I SHOULD NOT BE ABLE TO
12 COMPLAIN AND THAT I SHOULD BE QUIET.

13 Q CONTINUE.

14 A I STAYED QUIET FOR A WHILE. I COMPLAINED AGAIN, I
15 TOLD THEM THAT I WASN'T ABLE TO SUSTAIN THAT, I HAD A PAIN
16 ON MY TESTICLES. MY BACK, I WAS NOT ABLE TO RESIST THAT.
17 THEN I SUPPLICATED AGAIN THAT -- TO LOOSEN UP A LITTLE BIT,
18 THAT I WAS NOT ABLE TO SUSTAIN THIS.

19 "WELL, WE'RE GOING TO HAVE CONSIDERATION WITH
20 YOU, WE WANT TO ASK YOU A QUESTION. WHAT DO YOU KNOW OF
21 CAMARENA?"

22 "AS THERE IS A GOD, I DO NOT KNOW ANYTHING ABOUT
23 THAT."

24 "ABOUT THE MILITARY MAN FROM HONDURAS, WHAT DO
25 YOU KNOW?"

1 "THE SAME THING, I DO NOT HAVE ANYTHING TO SAY
2 ABOUT THAT, SIR."

3 THEN THEY KEPT QUIET, BUT I KEPT ON INSISTING
4 THAT THEY SHOULD HAVE SOME CONSIDERATION WITH ME TO LOOSEN
5 IT UP, THAT I WAS NOT ABLE TO SUSTAIN IT. THEY DID NOT DO
6 IT AT ANY MOMENT.

7 THEY CONTINUED, I FELT SOME CURRENT -- I FELT
8 SOME CURRENT ON THE SOLES OF MY FEET. LOGICALLY, I HAD TO
9 SCREAM, AND WHEN I JUMPED UP AND SCREAMED, THAT'S WHEN THEY
10 WANTED ME TO BE QUIET, BUT OBVIOUSLY I COULD NOT DO THAT.

11 Q WHEN THEY WERE ASKING YOU QUESTIONS -- YOU SAID THEY
12 ASKED YOU QUESTIONS ABOUT THE MILITARY AND ABOUT CAMARENA.

13 WHEN YOU GAVE ANSWERS, DID YOU GET SHOCKS WHEN
14 YOU GAVE ANSWERS?

15 A WHEN I ANSWERED THAT I DID NOT KNOW ANYTHING, THAT'S
16 WHEN I FELT THOSE POKINGS OVER IN MY HEAD, ON THE BACK AND
17 ON THE SOLES OF MY FEET.

18 Q IS IT POSSIBLE -- HOW MANY TIMES DID THEY ASK YOU
19 QUESTIONS OF THIS NATURE; WAS IT ONLY TWO TIMES OR WAS IT
20 MORE?

21 A TWO TIMES.

22 Q IS IT POSSIBLE FOR YOU TO TELL US HOW MANY TIMES YOU
23 WERE SHOCKED ON YOUR TESTICLES?

24 A AROUND FOUR TIMES I FELT A TERRIBLE THING.

25 Q FOUR TIMES?

1 A ON THE TESTICLES.

2 Q AND ON YOUR FEET?

3 A ON THE FEET SEVERAL TIMES; ON THE BACK, MANY TIMES.

4 Q COULD YOU DESCRIBE THE PAIN THAT YOU FELT?

5 A IT'S UNBELIEVABLE, IT IS A -- IT WAS SO TERRIBLE. THE
6 ONLY THING THAT I FELT WORSE THAN PUNCTURES, AND THEY WERE
7 SO STRONG THAT I WOULD JUMP UP. IT WAS A THING THAT IT'S
8 IMPOSSIBLE TO EXPLAIN WHAT I WAS FEELING AT THAT TIME. AND
9 TO KNOW THAT IT HAD BEEN QUITE SOME TIME THAT I HAD BEEN ON
10 THE AIRPLANE, AND I WAS LOSING BREATH THERE IN THE PLANE.

11 THERE WAS NO CONSIDERATION AT ANY MOMENT. IT
12 WAS SO DESPERATE THAT I WAS LOSING MY --

13 THE COURT: GO AHEAD, FINISH THE ANSWER.

14 THE INTERPRETER: IT WAS SO DESPARATE THAT I WAS
15 UNABLE TO BREATHE AND I WAS GOING TO LOSE -- I WAS GOING TO
16 LOSE MY BREATH. AND THEN I HAD TO TRY TO KEEP MYSELF FROM
17 COMPLAINING BECAUSE I KNEW IF I COMPLAINED, THEY WERE GOING
18 TO CONTINUE POKING ME.

19 THE COURT: COUNSEL, LET ME SUGGEST THAT THE
20 WITNESS HERE, BY BEING ALLOWED TO PROCEED IN A NARRATIVE
21 FASHION, IS SIMPLY CHARACTERIZING WHAT HAPPENED AND WHAT HE
22 THOUGHT. AND I SUGGEST THAT YOU ASK HIM SPECIFIC QUESTIONS.

23 MR. STOLAR: I'M GOING TO GO TO THE PICTURES.

24 THE COURT: ALL RIGHT.

25 / /

1 BY MR. STOLAR:

2 Q MR. MATTA, LET ME SHOW YOU A SERIES OF PICTURES, AND
3 THEY ARE MARKED A-1 THROUGH A-9.

4 LET ME ASK YOU TO START WITH THE FIRST ONE AND
5 TO DESCRIBE TO THE COURT MARKS THAT APPEAR ON THE PICTURES
6 AND OTHER PLACES ON YOUR -- THAT MAY NOT APPEAR SO DIRECTLY
7 ON PLACES WHERE YOU WERE INJURED IF IT IS IN THE PICTURE.

8 MR. MEDRANO: OBJECTION, YOUR HONOR; CUMULATIVE
9 IN LIGHT OF YESTERDAY'S EVIDENCE WITH DR. VALLES.

10 MR. STOLAR: I'M SORRY, DR. VALLES WAS NOT THE
11 SUBJECT.

12 THE COURT: JUST A MOMENT. NO, THAT'S NOT
13 CUMULATIVE.

14 MR. MEDRANO: YOUR HONOR, MAY I REQUEST THAT THE
15 WITNESS EITHER --

16 THE COURT: I'M NOT SURE WHAT YOU'RE ASKING THE
17 WITNESS. THE PICTURES SPEAK FOR THEMSELVES.

18 MR. STOLAR: NO, I'M ASKING HIM TO DESCRIBE
19 WHERE THESE PARTICULAR MARKS CAME FROM, AND AT WHAT POINT;
20 WAS IT ON THE AIRPLANE OR DID IT COME FROM SOME OTHER
21 BEATING OR SOME OTHER SHACKLING THAT HE HAD.

22 MR. MEDRANO: CAN HE IDENTIFY BY THE EXHIBIT
23 NUMBER, YOUR HONOR, SO I'LL KNOW WHAT HE'S REPRESENTING AS
24 HE'S DESCRIBING IT?

25 MR. STOLAR: YES, THE PICTURES ARE IN ORDER,

1 WE'RE STARTING AT A-1.

2 Q SHOW THE JUDGE WHERE YOUR INJURIES WERE ON A-1.

3 (WITNESS SHOWING THE PICTURE TO THE
4 JUDGE.)

5 THE WITNESS: THIS IS PART OF THE CORD WHERE
6 THEY TIED ME UP FROM THE BEGINNING WHERE THEY GRABBED ME IN
7 FRONT OF MY HOUSE.

8 THE COURT: THAT'S THE CORD THAT HELD THE HOOD
9 OVER YOUR HEAD, THAT CAUSED THAT?

10 THE WITNESS: I BELIEVE SO, THAT WAS THE CORD.
11 I LASTED MORE OR LESS FIVE HOURS WITH THAT NOOSE
12 VERY TIGHTLY UP UNTIL THE TIME -- TO THE AIRPORT WHEN I
13 ARRIVED IN THE U.S.

14 THE COURT: WHAT WAS THAT LAST --
15 BY MR. STOLAR:

16 Q AFTER YOU LEFT HONDURAS; IS THAT RIGHT?

17 A YES, SIR.

18 Q THE HOOD WAS TAKEN OFF SOMETIME AFTER THE AIRPLANE
19 LANDED, WAS IT NOT?

20 A I DO NOT KNOW IF IT WAS MIAMI, BUT IT WAS A PERSON
21 THAT TOOK MY FINGERPRINTS. I ASKED WHERE WAS I, I DIDN'T
22 KNOW. I ASKED THAT I WANTED TO SPEAK WITH AN ATTORNEY OR
23 SOMETHING. HE SAID, "YOU'RE IN MIAMI," THAT'S A PERSON.
24 BUT I'M NOT SURE BECAUSE I GOT OFF THE PLANE --

25 THE COURT: WE'RE WANDERING AWAY HERE FROM WHAT

1 IS INVOLVED.

2 MR. STOLAR: OKAY, LET'S GO TO THE NEXT
3 PHOTOGRAPH, A-2.

4 THE WITNESS: I BELIEVE THIS IS THE SAME
5 ABRASION OF THE NOOSE WHERE I WAS TIED.

6 THE COURT: FOR THE RECORD, THE WITNESS POINTED
7 TO THE SAME ABRASION IDENTIFIED YESTERDAY BY THE DOCTOR.

8 NOW, WHAT ELSE? YOU'RE POINTING TO SOMETHING
9 ELSE?

10 THE WITNESS: ALL THOSE POINTS THAT YOU SEE
11 HERE, YOUR HONOR?

12 THE COURT: YES.

13 THE WITNESS: THOSE WERE POKINGS THAT I FELT
14 WHEN I WAS ON THE FLOOR IN THE AIRPLANE.

15 MR. STOLAR: LET ME ASK YOU TO PUT A CIRCLE
16 AROUND THOSE.

17 (WITNESS COMPLYING WITH REQUEST.)

18 (PHOTOGRAPH TENDERED TO THE COURT.)

19 THE COURT: ALL RIGHT.

20 BY MR. STOLAR:

21 Q NOW, IF YOU WILL GO TO THE PICTURE MARKED A-3.

22 A THESE ARE THE HANDCUFFS, THE CHAINS THAT THEY PUT ON
23 ME (INDICATING).

24 THE COURT: WELL, THESE ARE MARKS MADE BY THE
25 HANDCUFFS?

1 THE WITNESS: YES, SIR. MY HANDS --

2 THE COURT: ON EACH ARM?

3 THE WITNESS: YES, SIR.

4 THE COURT: ALL RIGHT.

5 THE WITNESS: IN THE HANDS, I HAVE HERE SOME OF THE
6 PRODDINGS, THE POKINGS THAT THEY GAVE ME.

7 THE COURT: WHERE ARE THOSE? WHY DON'T YOU
8 CIRCLE THOSE.

9 (WITNESS COMPLYING WITH REQUEST.)

10 BY MR. STOLAR:

11 Q DID THAT TAKE PLACE ON THE AIRPLANE?

12 A YES, SIR.

13 (PHOTOGRAPH TENDERED TO THE COURT.)

14 THE COURT: WERE YOU ON ONE AIRPLANE OR MORE
15 THAN ONE?

16 THE WITNESS: I WAS IN AN AIRPLANE THAT BROUGHT
17 ME FROM HONDURAS TO AN AIRPORT WHERE I DON'T KNOW WHERE IT
18 WAS. LATER ON, I WAS IN OTHER AIRPLANES.

19 THE COURT: AND DID THAT GO SOMEWHERE?

20 THE WITNESS: YES, SIR.

21 THE COURT: YOU HAD TWO AIRPLANE TRIPS?

22 THE WITNESS: I WAS IN FOUR AIRPLANES.

23 BY MR. STOLAR:

24 Q MR. MATTA -- I'LL TRY TO CLARIFY IT, JUDGE.

25 WHEN THEY TOOK YOU FROM HONDURAS TO THE PLACE

1 THEY TOLD YOU WAS MIAMI, THAT WAS ONE AIRPLANE, RIGHT?

2 A YES.

3 Q THEN YOU FLEW IN ANOTHER AIRPLANE TO PUERTO RICO; IS
4 THAT RIGHT?

5 THE COURT: WAIT FOR THE INTERPRETER -- JUST A
6 MOMENT, PLEASE. FIRST THE QUESTION, THEN THE INTERPRETER
7 ANSWERS FIRST -- I MEAN, THE INTERPRETER SPEAKS THE
8 QUESTION.

9 BY MR. STOLAR:

10 Q AND THEN FROM PUERTO RICO --

11 THE INTERPRETER: EXCUSE ME, COUNSEL, THE
12 SECOND --

13 BY MR. STOLAR:

14 Q THE SECOND AIRPLANE WENT FROM WHAT YOU WERE TOLD WAS
15 MIAMI TO PUERTO RICO?

16 A YES, SIR.

17 Q AND THEN YOU WENT ON A THIRD PLANE FROM PUERTO RICO TO
18 NEW YORK CITY?

19 A YES, SIR.

20 Q THOSE LAST TWO FLIGHTS WE TALKED ABOUT WERE COMMERCIAL
21 FLIGHTS WITH OTHER PASSENGERS, WERE THEY NOT?

22 A YES, SIR.

23 Q AND THE HOOD WAS NOT ON YOU THEN, WAS IT?

24 A NO, SIR.

25 Q AND THEN FROM NEW YORK, YOU WERE TRANSFERRED TO A

1 FOURTH PLANE, WHICH WAS A SMALL PLANE, WHICH WENT FROM
2 NEW YORK TO WHAT YOU LATER LEARNED WAS MARION, ILLINOIS; IS
3 THAT RIGHT?

4 A YES, TO THE JAIL, YES, SIR.

5 Q AND THAT WAS LIKE A PRIVATE PLANE?

6 A YES, SIR, SMALL ONE.

7 THE COURT: ALL RIGHT. NOW, WE ARE CONCERNED
8 NOW WITH THE FLIGHT FROM HONDURAS TO MIAMI; IS THAT RIGHT?

9 MR. STOLAR: HONDURAS TO WASHINGTON, D.C., WHICH
10 HE BELIEVED TO BE MIAMI.

11 THE COURT: WHAT HE BELIEVED TO BE MIAMI.

12 MR. STOLAR: YES.

13 THE WITNESS: YES.

14 BY MR. STOLAR:

15 Q NOW, GO BACK TO THE EXHIBIT MARKED A-4. DESCRIBE YOUR
16 INJURIES AS YOU SEE DEPICTED THERE ON YOU.

17 A THESE ARE THE MARKS OF THE CHAINS THAT I HAD ON. I
18 FELT POKINGS IN MY ARMS AND THE CURRENT. I'M GOING TO MARK
19 THEM.

20 (WITNESS MARKS THE EXHIBIT.)

21 THE WITNESS: I HAVE ONE HERE, IT IS NOT SHOWN
22 THERE, THE ARM IS BACKWARDS.

23 THE COURT: WHERE IS THAT?

24 THE WITNESS: RIGHT HERE, SIR (INDICATING).

25 / /

1 BY MR. STOLAR:

2 Q ARE YOU EXHIBITING WHAT APPEARS TO BE A SCAR TO THE
3 JUDGE?

4 A YES, SIR.

5 THE COURT: I'M NOT ABLE TO SEE IT VERY WELL.
6 OH, HERE. WHAT DO YOU SAY CAUSED THAT?

7 THAT APPEARS TO BE ABOUT AN EIGHTH OF AN INCH,
8 IT APPEARS LIKE A BLISTER.

9 THE WITNESS: I FELT MANY -- I RECEIVED MANY
10 POKINGS WITH CURRENT.

11 BY MR. STOLAR:

12 Q IN THAT PARTICULAR AREA?

13 A YES.

14 AS YOU CAN SEE, THIS ONE OVER HERE (INDICATING),
15 I HAVE MANY MARKS THAT I STILL HAVE IN MY ARM.

16 THE COURT: YES.

17 BY MR. STOLAR:

18 Q ALL RIGHT. GO, IF YOU WOULD, TO THE PICTURE MARKED
19 A-5.

20 THE WITNESS: YOUR HONOR, THESE ARE THE POKINGS THAT I
21 FELT ON MY FEET AND ON THE SOLES OF MY FEET. ALL OVER MY
22 LEGS --

23 BY MR. STOLAR:

24 Q THERE IS AN ABRASION THAT IS SHOWN OR A CUT THAT
25 APPEARS ON THAT PICTURE; IS THAT RIGHT?

1 A YES, SIR, IT'S RIGHT HERE (INDICATING). I WAS BROUGHT
2 HERE BAREFOOTED, I DID NOT HAVE ANY SHOES, UP TO
3 PUERTO RICO, WHERE I WAS GIVEN A PAIR OF TENNIS SHOES. THEN
4 AS THE PHOTOGRAPHS SHOW, THAT'S THE WAY THEY BROUGHT ME TO
5 HONDURAS TO THE AIRPLANE.

6 THE COURT: WITHOUT SHOES?

7 THE WITNESS: WITHOUT SHOES. I DID NOT HAVE ANY
8 SHOES IN PUERTO RICO; I WAS GIVEN A PAIR OF TENNIS SHOES.

9 BY MR. STOLAR:

10 Q NOW, GO TO THE PICTURE MARKED A-6, IF YOU WOULD.

11 WHAT DOES THAT SHOW?

12 A I WAS IN THE AIRPLANE WHERE THEY WERE BRINGING ME, I
13 WAS MORE OR LESS IN THIS POSITION (INDICATING). I FELT A
14 THING THAT POKED ME, AND I JUMPED FROM THE EFFECT, I FELT
15 THE CURRENT AND IT POKED ME ON THE SOLES OF MY FEET.

16 Q GO TO THE PICTURE THAT IS NOW MARKED A-7, IF YOU
17 WOULD.

18 WHAT DOES THAT DEPICT?

19 A THESE ARE THE POKINGS THAT I FELT ON MY BACK. THOSE
20 ARE THE ONES THAT MADE ME JUMP. IT WAS A TREMENDOUS
21 SITUATION.

22 Q GO TO THE ONE THAT IS MARKED A-7, WHAT DOES THAT
23 DEPICT?

24 A THIS IS THE POSITION WHERE I FELT THE MOST CURRENT
25 BECAUSE OF THE POSITION WHERE I LANDED IN THE AIRPLANE, AND

1 THIS IS WHERE I FELT MOST OF THEM.

2 (PHOTOGRAPH HANDED TO THE COURT.)

3 THE WITNESS: THIS IS WHERE I RECEIVED PART ON
4 MY PENIS AND PART ON MY TESTICLES.

5 THE COURT: WERE YOU WEARING PANTS?

6 THE WITNESS: (SPEAKING IN SPANISH.)

7 THE COURT: WELL, IT ONLY REQUIRES A YES OR NO.

8 THE WITNESS: I GOT OUT OF MY HOUSE, AND I HAD
9 SOME -- I HAD GONE OUT TO RUN, I HAD SOME SWEATPANTS.

10 THE COURT: WELL, ARE THESE THE PANTS THAT YOU
11 WERE WEARING?

12 THE WITNESS: YES, THOSE WERE THE ONES THAT I
13 USED TO GO RUNNING WITH.

14 THE COURT: AND WERE YOU WEARING SOMETHING UNDER
15 THE PANTS?

16 THE WITNESS: YES, I HAD SKIVVIES.

17 THE COURT: AND THESE SHOCKS THAT YOU SAY WERE
18 ADMINISTERED TO YOU, WERE THEY ADMINISTERED THROUGH YOUR
19 CLOTHING?

20 THE WITNESS: YES, SIR, THAT'S THE WAY I ALSO
21 RECEIVED IT ON THE BACK, THEY WENT THROUGH THE CLOTHING.
22 BUT THAT'S NOT THE PANTS THAT I HAD.

23 THE COURT: THAT IS NOT THE PANTS?

24 THE WITNESS: THOSE ARE THE PANTS FROM THE
25 MARION JAIL.

1 THE COURT: ALL RIGHT.

2 BY MR. STOLAR:

3 Q NOW, IF YOU WOULD JUST LOOK AT THE LAST PHOTO, WHICH
4 IS PHOTO A-9.

5 WHAT IS DEPICTED IN THAT PHOTO?

6 A MY HANDS ARE FULL OF BLOOD. WHEN I LANDED ON THE
7 FLOOR OF THE AIRPLANE FACE DOWN, I HIT WITH MY NOSE AND MY
8 MOUTH AND I BLED.

9 THE COURT: WHERE DID THE BLOOD COME FROM, YOUR
10 MOUTH OR YOUR NOSE?

11 THE WITNESS: FROM MY NOSE.

12 AND HERE I ALSO HAVE SOME MARKS WHERE THEY ALSO
13 PUT THOSE INSTRUMENTS THAT THEY PUT ON ME.

14 THE COURT: ON YOUR HANDS?

15 THE WITNESS: YES, SIR.

16 THE COURT: ALL RIGHT.

17 BY MR. STOLAR:

18 Q MR. MATTA -- HOLD IT THERE FOR A MOMENT.

19 DID YOU ALSO RECEIVE SOME ELECTRONIC SHOCKS ON
20 THE TRIP FROM YOUR HOME TO THE AIRPORT IN HONDURAS AFTER YOU
21 WERE PUT IN THE VAN?

22 A YES, SIR.

23 Q DESCRIBE WHAT HAPPENED THERE.

24 A WHEN I WAS GETTING HOME, THERE WERE SOME MEN --

25 Q NO, IN THE VAN. DESCRIBE WHAT HAPPENED IN THE VAN.

1 A THEY GOT ME, THEY PUT ME INSIDE THE VAN. BEFORE THEY
2 PUT THE HOOD ON, I SAW -- I SAW THREE PERSONS THAT HAD SOME
3 INSTRUMENTS, BLACK ONES ABOUT THIS SIZE (INDICATING), THIS
4 WIDE AND THIS --

5 Q DESCRIBING A RECTANGLE ABOUT SIX INCHES BY THREE
6 INCHES?

7 THE COURT: COUNSEL, KEEP IN MIND THE SCOPE OF
8 THIS HEARING IS AFTER THE AIRPLANE, AFTER HE GETS ON THE
9 AIRPLANE.

10 MR. STOLAR: BUT THIS IS JUST BEFORE THE
11 AIRPLANE, YOUR HONOR. THERE IS A PERIOD OF TIME ON THE TRIP
12 FROM HIS HOME TO THE AIRPORT. I WOULD LIKE TO BRING OUT
13 ADDITIONAL BEATINGS AND INTERROGATIONS AND THE USE OF THE
14 STUN GUN BRIEFLY.

15 Q JUST WHILE IN THE CAR, DESCRIBE IF, AT ALL, YOU WERE
16 INTERROGATED OR IF YOU WERE SHOCKED WITH THE STUN GUN OR IF
17 YOU WERE KICKED OR PUNCHED.

18 A WHEN I LANDED FACE DOWN IN THE CAR AND THEY PUT ME IN
19 THE MIDDLE SEAT, I TRIED TO -- I WAS THERE AND I TRIED TO
20 STAND UP. WHAT FELT MOST TERRIBLE, WHEN I FELT THE
21 TIGHTENING OF THE CORD THAT I HAD ON MY NECK. AND IN THE
22 POSITION THAT I FELL IN THE VAN, I LANDED ALMOST WITH MY
23 HEAD -- LYING ON MY HEAD.

24 IN A DESPERATE MANNER, I ASKED THEM TO PLEASE
25 LET ME GET UP AND THEY DIDN'T DO IT. THE PICKUP OR VAN KEPT

1 ON. THEY ASKED ME QUESTIONS AGAIN, THE SAME ONES THAT WERE
2 ASKED IN THE AIRPLANE, WHAT DID I KNOW ABOUT THE CAMARENA
3 PROBLEM AND ABOUT THE MILITARY MAN IN HONDURAS.

4 WE ARRIVED AT A PLACE --

5 Q WAIT. DURING THE TRIP IN THE CAR, DID YOU ALSO
6 RECEIVE SHOCKS FROM THE STUN GUN?

7 A I RECEIVED KICKS, BLOWS, AND WHEN I ATTEMPTED TO GET
8 UP I FELT BLOWS, AND THEY ALSO -- BLOWS AND KICKS, AND I
9 ALSO FELT WHERE THEY PUT A FOOT ON ONE SIDE OF MY NECK TO
10 KEEP ME DOWN.

11 Q NOW, DID YOU -- YES OR NO, DID YOU RECEIVE STUN GUN
12 SHOCKS IN THE CAR, IN THE VAN?

13 A YES, THREE OR FOUR SHOCKS I FELT.

14 Q WERE THOSE CONNECTED TO THE QUESTIONS THAT WERE ASKED
15 OF YOU, OR ATTEMPTS TO GET UP?

16 A FIRST I FELT TWO WHEN I TRIED TO GET UP, AND THEN I
17 FELT THE OTHER TWO WHEN -- AT THE SAME TIME THAT THEY ASKED
18 ME, "WHAT DO YOU KNOW ABOUT CAMARENA," AND THAT'S WHEN I
19 FELT THE POKINGS.

20 Q NOW, THE PEOPLE WHO WERE WITH YOU IN THE VAN, CAN YOU
21 IDENTIFY ANY OF THEM?

22 A POSSIBLY, YES, SIR.

23 Q COULD YOU IDENTIFY ANY OF THEIR VOICES?

24 A YES, SIR.

25 Q CAN YOU DESCRIBE THE VOICES THAT YOU HEARD AND THE

1 LANGUAGE OR LANGUAGES THAT THEY WERE SPEAKING?

2 A THEY SPOKE IN SPANISH, AND I UNDERSTOOD MORE OR LESS
3 AN ACCENT, EITHER PUERTO RICAN OR CUBAN, WHICH WAS NOT THE
4 ONE OF HONDURAS. AND ALSO PERSONS AT THE SAME TIME IN THE
5 TRIP THAT WERE SPEAKING ENGLISH DURING THAT TRIP.

6 Q SAME PEOPLE OR DIFFERENT PEOPLE, IF YOU KNOW?

7 A WELL, THERE WAS ALL THE PEOPLE THAT WERE THERE, BUT
8 BEFORE THEY PUT -- THEY PUT THE HOOD ON ME, I HAD SEEN THEM,
9 THAT THEY HAD GOTTEN OUT OF A TOYOTA PICKUP.

10 Q NOW, THE PEOPLE ON THE AIRPLANE THAT WERE WITH YOU,
11 THE AIRPLANE THAT WENT FROM HONDURAS TO WHAT YOU BELIEVED TO
12 BE MIAMI, COULD YOU IDENTIFY THOSE PEOPLE?

13 A POSSIBLY YES, BECAUSE WHEN WE ARRIVED AT THE AIRPORT,
14 THEY TOOK OFF THE HOOD, AND IT WAS A TALL MAN, DARK
15 COMPLEXION --

16 Q LISTEN TO ME, PLEASE.

17 THE AIRPLANE THAT WENT FROM HONDURAS TO WHAT YOU
18 THOUGHT WAS MIAMI, NOT MIAMI TO PUERTO RICO --

19 A YES. WHEN WE ARRIVED WHERE I THINK WAS MIAMI, THEY
20 TOOK OFF THE HOOD, THERE I SAW A TALL, DARK COMPLEXIONED
21 PERSON WHO HAD A --

22 THE COURT: SCAR?

23 THE INTERPRETER: TALL, DARK COMPLEXION, AND HE
24 HAD A --

25 THE COURT: SCAR?

1 THE INTERPRETER: -- SCAR ON THE FACE.

2 THE WITNESS: A LARGE SCAR, WHITE HAIR.

3 AND THEN ANOTHER PERSON, ANGLO-LOOKING. AND
4 THOSE WERE THE PERSONS THAT GOT ME OFF THE PLANE, THEY
5 GRABBED ME BY THE ARMS AND THEY TOOK ME TO THE OFFICE AND
6 TOOK OFF THE HOOD.

7 BY MR. STOLAR:

8 Q NOW, THE PEOPLE WHO WERE ASKING YOU QUESTIONS ON THE
9 PLANE AND WHO WERE ON THE PLANE WITH YOU WHEN YOU HAD THE
10 HOOD ON, WHAT LANGUAGE WERE THEY SPEAKING?

11 A MORE OR LESS CUBAN. THEY DID NOT SPEAK TOO CLEARLY;
12 THEY SPOKE SPANISH.

13 Q HOW MANY OF THEM -- HOW MANY DIFFERENT VOICES WERE
14 INTERROGATING YOU, ASKING YOU QUESTIONS?

15 A IN THE PLANE COMING FROM HONDURAS, THERE WAS ONE
16 PERSON -- I COULD NOT IDENTIFY THE OTHERS -- THERE WAS ONE
17 PERSON THAT WAS SPEAKING TO ME AND HE SPOKE SPANISH.

18 Q WERE ANY OF THE ACCENTS THAT YOU HEARD, THE SPANISH
19 SPEAKERS THAT YOU HEARD ON THAT AIRPLANE, HONDURAN?

20 A NO, SIR.

21 MR. STOLAR: NOTHING FURTHER AT THIS TIME.

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

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CROSS-EXAMINATION

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BY MR. MEDRANO:

Q WHEN YOU WERE FIRST ARRESTED RIGHT OUTSIDE YOUR HOUSE
IN TEGUCIGALPA, IT TOOK ABOUT SIX OR SEVEN MEN TO SUBDUE
YOU; IS THAT CORRECT, MR. MATTA?

MR. STOLAR: I'M GOING TO OBJECT TO THE QUESTION
IN TERMS OF THE SCOPE THAT WE SPOKE ABOUT.

THE COURT: WELL, UNLESS HE'S ATTEMPTING TO SHOW
THAT SOME OF THE INJURIES WERE INFLICTED AT THAT TIME.

MR. STOLAR: OKAY.

THE COURT: WHAT WAS THE ANSWER?

THE WITNESS: HOW WAS THE QUESTION?

BY MR. MEDRANO:

Q WHEN YOU WERE ARRESTED OUTSIDE YOUR HOUSE IN
TEGUCIGALPA, IT TOOK ABOUT SIX OR SEVEN MEN TO SUBDUE YOU;
IS THAT CORRECT?

A NO.

Q DID YOU FIGHT BEING ARRESTED?

A THE ONLY THING THEY GAVE ME A CHANCE TO DO WAS TO SAY,
"NO, PLEASE, WHERE ARE YOU TAKING ME"?

Q HOW MANY MEN ARRESTED YOU?

A FOUR PEOPLE.

Q THEY WERE HONDURANS; IS THAT CORRECT?

A NO, SIR.

Q WHAT COUNTRY WERE THEY FROM?

1 A I DO NOT KNOW WHAT COUNTRY THEY WERE FROM, BUT I KNOW
2 THE PEOPLE IN AUTHORITY FROM HONDURAS, AND THEY WERE NOT
3 HONDURANS.

4 Q WERE THE FOUR MEN THAT ARRESTED YOU IN UNIFORM?

5 A NO, SIR.

6 Q WERE THEY IN CIVILIAN CLOTHES?

7 A CIVILIAN CLOTHING.

8 Q WHEN THESE FOUR MEN ARRESTED YOU, YOU DID NOT PUT UP
9 ANY FIGHT OR RESISTANCE?

10 A I WILL AGAIN SAY THE ONLY THING THAT I WAS ABLE TO
11 SAY, "PLEASE, WHERE ARE YOU TAKING ME?" THERE WERE FOUR
12 PEOPLE, THEY GRABBED ME RIGHT THEN AND THERE, AND THEY PUT
13 HANDCUFFS AND THEY PUT ME IN THE CAR AND THERE WAS NO WAY
14 THAT I COULD MOVE.

15 Q ISN'T IT TRUE THAT YOU KICKED AT THESE MEN?

16 A NO, SIR.

17 Q ISN'T IT TRUE THAT YOU PUNCHED AT THEM?

18 A NO, SIR.

19 Q ISN'T IT TRUE THAT YOU FELL TO THE GROUND FIGHTING
20 WITH THESE FOUR MEN?

21 A NO, SIR.

22 Q EXACTLY WHAT MOMENT WAS THIS HOOD PLACED OVER YOUR
23 HEAD, MR. MATTA?

24 A WHEN I WAS THERE ON THE FLOOR OF THE CAR, IN THE
25 MIDDLE.

1 Q THE HANDCUFFS THAT WERE PLACED ON YOU, THEY WERE
2 PLACED BEHIND YOUR BACK; ISN'T THAT CORRECT?

3 A THAT IS THE TRUTH.

4 Q AND YOU'RE LYING ON THE GROUND INSIDE THE VAN?

5 A YES, SIR.

6 Q ISN'T IT TRUE, MR. MATTA, THAT WHEN YOU'RE INSIDE THE
7 VAN, YOU'RE CONTINUING TO RESIST ARREST?

8 A NO, SIR.

9 Q HOW LONG WOULD YOU SAY YOU WERE IN THE VAN BEING
10 DRIVEN BEFORE YOU ARRIVED AT THE AIRPORT?

11 A MORE OR LESS ONE HOUR. I DO NOT KNOW EXACTLY, MORE OR
12 LESS ONE HOUR, ONE HOUR AND MINUTES. I DO NOT KNOW EXACTLY.

13 Q AND THAT WHOLE TIME, THESE MEN IN THE VAN THAT WERE
14 WITH YOU WERE BEATING YOU; IS THAT CORRECT?

15 A THERE WAS A TIME WHERE THEY BEAT ME, AS I TOLD YOU, I
16 EXPLAINED. THEN WE ARRIVED AT A PLACE AND WE WERE THERE FOR
17 AN HOUR IN THE SAME VAN.

18 Q MY QUESTION IS: WERE YOU BEING BEATEN AND STRUCK THE
19 ENTIRE DURATION OF THE RIDE TO THE AIRPORT?

20 A AT THE BEGINNING WHERE THEY GOT ME.

21 Q AND THEY KICKED YOU, CORRECT?

22 A YES, SIR.

23 Q AND THEY BEAT YOU WITH THEIR FISTS, YOU THINK?

24 A YES, SIR.

25 Q AND THEY STUNNED YOU WITH THIS ELECTRIC DEVICE,

1 CORRECT?

2 A YES, SIR.

3 Q TELL ME AGAIN HOW MANY TIMES THEY STUNNED YOU WHEN YOU
4 WERE IN THE VAN, MR. MATTA?

5 A THREE OR FOUR TIMES.

6 Q HOW MUCH OF A BRIBE DID YOU OFFER TO THOSE OFFICIALS
7 SO THEY WOULD RELEASE YOU WHEN YOU WERE IN THE VAN?

8 MR. STOLAR: OBJECTION.

9 THE COURT: WHAT'S THE RELEVANCE?

10 MR. MEDRANO: I'LL MOVE ON, YOUR HONOR. THANK
11 YOU.

12 Q WHEN YOU WERE STUNNED WITH THIS ELECTRIC DEVICE INSIDE
13 THE VAN, WHAT PARTS OF YOUR BODY DID YOU RECEIVE THE STUN
14 GUN?

15 A IN MY BODY.

16 Q WHAT EXACTLY, IF YOU REMEMBER?

17 A I DON'T REMEMBER EXACTLY THE POINT WHERE I WAS STUNNED
18 AT THAT MOMENT.

19 Q WHEN YOU'RE ON THE AIRPLANE FROM HONDURAS TO THE FIRST
20 STOP, WHICH YOU THINK IS MIAMI, HOW MANY TIMES WAS THE STUN
21 GUN USED ON YOU?

22 A MANY TIMES, MANY TIMES.

23 Q MORE THAN FIVE?

24 A MORE. MANY TIMES.

25 Q MORE THAN 10?

- 1 A THERE WERE MANY TIMES. ALL OVER MY BODY, ALL OVER MY
2 PARTS WHERE I HAVE EXPLAINED.
- 3 Q AT LEAST 10 TIMES ON THE AIRPLANE?
- 4 A I BELIEVE MORE.
- 5 Q YOU WERE ALSO HIT IN THE TESTICLES; IS THAT CORRECT?
- 6 A YES, SIR.
- 7 Q DO YOU KNOW IF YOU WERE HIT WITH AN OBJECT, OR WERE
8 YOU KICKED THERE?
- 9 A WHEN I WENT INSIDE THE PLANE -- WHEN I WENT INTO THE
10 PLANE, THEY TOLD ME TO BE QUIET AND I FELT THE SAME POKINGS
11 THAT I FELT ON MY BACK.
- 12 Q SO YOU WERE -- THE STUN GUN WAS USED IN YOUR TESTICLE
13 AREA; IS THAT CORRECT?
- 14 A YES, SIR.
- 15 Q THE INJURY THAT YOU RECEIVED TO YOUR NECK AREA,
16 MR. MATTA, HOW MANY TIMES WAS THE STUN GUN USED ON YOUR
17 NECK?
- 18 A AROUND TWO OR THREE TIMES.
- 19 Q WHEN THE STUN GUN WAS USED ON YOUR HANDS, HOW MANY
20 TIMES?
- 21 A SEVERAL TIMES WHEN I WAS -- WHEN I WAS FACE DOWN ON
22 THE AIRPLANE. I TRIED TO GET UP, I WOULD FEEL, IN THE PALMS
23 OF MY HANDS, THE POKINGS.
- 24 Q MORE THAN FIVE TIMES ON THE HANDS?
- 25 A I DON'T REMEMBER EXACTLY, SIR.

1 Q BUT IT WAS SEVERAL TIMES?

2 A YES, SIR.

3 Q WHEN THE STUN GUN WAS USED ON YOUR FOREARMS, HOW MANY
4 TIMES?

5 A SEVERAL TIMES, SIR.

6 Q WHEN THE STUN GUN WAS USED ON YOUR FEET AND ON THE
7 SOLES OF YOUR FEET, HOW MANY TIMES?

8 A SEVERAL TIMES, SIR.

9 Q WHEN THE STUN GUN WAS USED ON YOUR BACK, HOW MANY
10 TIMES, MR. MATTA?

11 A MANY TIMES, SIR.

12 Q FINALLY, WHEN IT'S APPLIED TO YOUR PENIS OR GENITAL
13 AREA, HOW MANY TIMES?

14 A EXCUSE ME, WOULD YOU REPEAT THE QUESTION?

15 Q WHEN THE STUN GUN WAS USED ON YOUR PENIS OR GENITALIA
16 AREA, HOW MANY TIMES?

17 A ONE TIME WHEN I WENT IN, MORE OR LESS THREE OR FOUR
18 TIMES.

19 Q THE RED MARKS ON YOUR HANDS, MR. MATTA, WITH REGARD TO
20 THAT, DO YOU RECALL WHEN YOU WERE FINGERPRINTED WHILE YOU
21 WERE EN ROUTE TO THE PENITENTIARY AT MARION, ILLINOIS?

22 A HOW DID YOU SAY?

23 Q AT SOME POINT, YOU WERE FINGERPRINTED AFTER YOUR
24 ARREST IN HONDURAS, CORRECT?

25 A YES, SIR.

1 Q DO YOU RECALL THAT THEY USED A RED INK PAD TO BE ABLE
2 TO GET THE PRINTS FROM YOUR HANDS?

3 A THEY WERE BLACK ONES.

4 Q WHERE DID YOU HIT YOUR NOSE SO AS TO CAUSE THIS
5 EXCESSIVE BLEEDING THAT YOU DESCRIBED?

6 A WHEN I GOT TO THE AIRPORT THEY TOOK OFF THE HOOD, AND
7 WHEN THEY TOOK OFF THE HOOD I CLEANED MY NOSE. AND I DID
8 NOT HAVE ANY PLACE TO WASH MY HANDS SO I MOVED MY HANDS, ONE
9 OVER THE OTHER.

10 Q WELL, SOME OF THE BLOOD MUST HAVE GOTTEN ON YOUR
11 CLOTHES, CORRECT?

12 A POSSIBLY, I DON'T -- IT COULD BE.

13 Q WHEN YOU GOT TO THE HOSPITAL AT -- STRIKE THAT.

14 WHEN YOU ARRIVED AT MARION, THE PENITENTIARY, DO
15 YOU REMEMBER BEING EXAMINED BY A MEDICAL DOCTOR?

16 A WHEN I ARRIVED AT MARION, I BELIEVE THE PERSON THAT
17 RECEIVED ME, I THINK IT WAS THE HEAD THERE, HE ASKED ME --
18 HE ASKED ME WHAT HAD HAPPENED TO ME, WHAT WAS THE MATTER,
19 WHY WAS I IN THAT SHAPE.

20 Q DID YOU RECEIVE A PHYSICAL EXAMINATION WHEN YOU
21 ARRIVED AT MARION, MR. MATTA?

22 A THEN THE MAN SAID THAT HE HAD TO SAFEGUARD HIS
23 RESPONSIBILITY AND THAT HE WAS GOING TO HAVE ME EXAMINED BY
24 A DOCTOR.

25 Q WERE YOU EXAMINED BY A DOCTOR AT MARION?

1 THE COURT: WHAT IS THE POINT OF ALL THIS? WE
2 KNOW HE WAS EXAMINED BY THE DOCTOR.

3 MR. MEDRANO: I'LL MOVE ON, YOUR HONOR.

4 Q YOU REPORTED TO THE DOCTOR ALL THE INJURIES YOU
5 SUFFERED; ISN'T THAT CORRECT, AT THAT TIME?

6 A HE EXAMINED ME.

7 Q AND YOU TOLD HIM OF ANY PAINS OR INJURIES THAT YOU HAD
8 SUSTAINED?

9 A YES, SIR.

10 Q WHEN YOU WERE ON THE FLIGHT ON THE WAY TO MARION,
11 ISN'T IT TRUE THAT AT ONE POINT YOU LAID DOWN TO SLEEP IN A
12 ROW OF SEATS IN THE AIRPLANE?

13 A I DON'T REMEMBER EXACTLY. I WAS IN A BAD SHAPE, I WAS
14 THERE WITH A LOT OF PAINS IN MY BODY. IT WAS HARD TO
15 SUSTAIN THEM.

16 Q DO YOU RECALL WHEN THE MARSHALS THAT WERE WITH YOU
17 GAVE YOU COFFEE AND CIGARETTES AND A SNACK?

18 MR. STOLAR: JUDGE, CAN WE HAVE A TIME FOR THIS?

19 MR. MEDRANO: ON THE AIRPLANE, YOUR HONOR.

20 MR. STOLAR: WHICH AIRPLANE?

21 MR. MEDRANO: AT ANY POINT WHEN HE WAS FLYING TO
22 MARION.

23 MR. STOLAR: I'M SORRY, THERE WERE FOUR
24 DIFFERENT AIRPLANES.

25 THE COURT: WE'RE ONLY CONCERNED WITH THE

1 HONDURAS TO MIAMI SUPPOSED FLIGHT HERE, AREN'T WE?

2 MR. MEDRANO: IF I MAY ASK, THEN, YOUR HONOR.

3 Q ON YOUR FLIGHT TO MIAMI, ISN'T IT TRUE YOU WERE GIVEN
4 CIGARETTES AND COFFEE?

5 A I ASKED FOR CIGARETTES FROM ONE OF THOSE MEN, ONLY
6 CIGARETTES.

7 THE COURT: WELL, DID HE GIVE YOU SOME?

8 THE WITNESS: YES, SIR.

9 BY MR. MEDRANO:

10 Q WHEN YOU ARRIVED IN MIAMI, YOU WERE IN A LOT OF PAIN,
11 CORRECT?

12 A YES, SIR.

13 Q AND FOR THE REMAINDER OF THE FLIGHTS TO MARION, YOU
14 CONTINUED TO COMPLAIN OF THIS PAIN; IS THAT CORRECT?

15 A YES. I WAS THERE, I WAS CHAINED AND WAS I HANDCUFFED
16 AND I WAS MOANING, BUT TO MYSELF.

17 Q BUT DID YOU COMPLAIN TO THE MARSHALLS THAT WERE WITH
18 YOU?

19 A NO, SIR. NO, SIR, I DID NOT SPEAK WITH THEM. I ONLY
20 REMEMBERED TWO OR THREE WORDS WHEN I ASKED FOR CIGARETTES.

21 MR. MEDRANO: THERE IS NO QUESTION PENDING, YOUR
22 HONOR.

23 THE COURT: THERE IS NO QUESTION.

24 BY MR. MEDRANO:

25 Q WHEN YOU ARRIVED AT MARION AND WERE INTERVIEWED BY A

1 PSYCHOLOGIST, YOU TOLD THEM ABOUT THE TORTURE, DIDN'T YOU?

2 MR. STOLAR: OBJECTION.

3 THE COURT: OVERRULED.

4 THE WITNESS: NO.

5 BY MR. MEDRANO:

6 Q ISN'T IT TRUE YOU STATED TO A PSYCHOLOGIST AT MARION
7 ON THE DAY THAT YOU ARRIVED THAT YOU HAD BEEN TORTURED BY
8 HONDURAN AUTHORITIES?

9 MR. STOLAR: OBJECTION, OUTSIDE THE SCOPE OF
10 PRIVILEGE.

11 MR. MEDRANO: IT GOES TO THE STATE OF MIND --

12 THE COURT: JUST A MOMENT. THE OBJECTION IS
13 OVERRULED.

14 THE WITNESS: NO, SIR, NOT AT ANY MOMENT HAVE I
15 EVER SAID THAT.

16 MR. MEDRANO: MAY I HAVE JUST ONE MOMENT, YOUR
17 HONOR?

18 THE COURT: YES.

19 BY MR. MEDRANO:

20 Q FINALLY, MR. MATTA, AFTER THE HANDCUFFS WERE PLACED ON
21 YOU IN TEGUCIGALPA, WHEN WERE THEY REMOVED?

22 A WHEN I ARRIVED AT MARION.

23 MR. MEDRANO: THAT CONCLUDES THE CROSS, YOUR
24 HONOR.

25 MR. STOLAR: BRIEFLY IF I MAY, YOUR HONOR.

1 REDIRECT EXAMINATION

2 BY MR. STOLAR:

3 Q MR. MATTA, YOU TESTIFIED THAT WHEN YOU WERE HANDCUFFED
4 ORIGINALLY WHEN YOU WERE TAKEN FROM YOUR HOME IN
5 TEGUCIGALPA, WERE YOU HANDCUFFED BEHIND YOUR BACK OR IN
6 FRONT?

7 A ON THE BACK.

8 Q DID THERE COME A TIME WHEN THAT CHANGED SO YOU WERE
9 HANDCUFFED IN THE FRONT?

10 A YES, SIR.

11 Q WHEN WAS THAT, IF YOU RECALL?

12 A WHEN I ARRIVED HERE. I DO NOT KNOW IF IT'S MIAMI, I'M
13 NOT SURE WHERE I ARRIVED.14 Q YOU SAID THAT FOUR MEN TOOK YOU FROM YOUR -- BASICALLY
15 FROM YOUR FRONT YARD IN HONDURAS; IS THAT RIGHT?

16 A YES, SIR.

17 Q WERE THEY CIVILIANS?

18 A YES, SIR.

19 Q WHERE DID THEY COME FROM?

20 THE COURT: DO YOU MEAN THAT LITERALLY, WHERE
21 DID THEY COME FROM?

22 BY MR. STOLAR:

23 Q NO, I MEAN WHEN YOU GOT TO YOUR HOME, WERE THEY THERE
24 THAT MORNING?

25 THE INTERPRETER: EXCUSE ME, COUNSEL, WOULD YOU

1 REPEAT THAT?

2 MR. STOLAR: WHEN HE GOT TO HIS HOME THAT
3 MORNING, WERE THOSE MEN -- WERE THOSE FOUR MEN AT HIS HOME
4 WAITING?

5 THE WITNESS: YES, SIR.

6 BY MR. STOLAR:

7 Q DID THEY DRIVE UP IN A VAN?

8 A YES, SIR.

9 Q OKAY. NOW, YOU TESTIFIED IN RESPONSE TO QUESTIONS BY
10 MR. MEDRANO THAT YOU ASKED FOR SOME CIGARETTES THAT WERE
11 GIVEN TO YOU; IS THAT RIGHT?

12 A YES, SIR.

13 Q WAS THAT WHILE YOU HAD THE HOOD ON?

14 A NO, SIR, THAT'S WHEN WE WERE IN THE SMALL AIRPLANE,
15 WHEN WE WERE GOING FROM NEW YORK TO THE JAIL IN MARION.

16 Q YOU DID NOT ASK FOR CIGARETTES ON THE TRIP FROM
17 HONDURAS TO WHAT YOU THOUGHT WAS MIAMI, DID YOU?

18 A NO. UP UNTIL THE TIME THAT WE GOT THERE IN NEW YORK,
19 THEY WENT DOWN TO PUT GASOLINE, AND THAT'S WHERE THEY GOT ME
20 DOWN AND I ASKED THERE IF THEY COULD GIVE ME A CIGARETTE.

21 Q NOW, WHEN YOU WERE EXAMINED WHEN YOU GOT TO MARION --
22 YOU REMEMBER WE SAW DR. VALLES TESTIFY YESTERDAY?

23 A YES, SIR.

24 Q YOU SPOKE TO DR. VALLES THROUGH AN INTERPRETER, DID
25 YOU NOT?

1 A YES, SIR.

2 Q DID YOU TELL DR. VALLES THAT YOU WERE FORCIBLY TAKEN
3 AWAY FROM YOUR COUNTRY AND THAT YOU WERE TORTURED WITH
4 ELECTRIC MEANS ON YOUR BACK BY POLICE ALONG THE WAY?

5 A YES, I DID TELL HIM, SIR. BUT I DON'T KNOW FROM WHAT
6 COUNTRY BECAUSE I DO NOT KNOW.

7 Q NOW, IN THE VAN -- THE LAST QUESTION -- WHILE YOU WERE
8 IN THE VAN, WHEN YOU WERE HIT WITH THE STUN GUN, WERE YOU
9 HIT ON YOUR FRONT, THE FRONT OF YOUR BODY OR ON YOUR BACK?

10 A ON MY BACK.

11 Q ANYPLACE ELSE?

12 THE COURT: COUNSEL, HE HAS GONE THROUGH -- HE
13 ELABORATELY DESCRIBED ALL THAT WITH THESE PICTURES.

14 MR. STOLAR: THIS IS JUST IN THE VAN.

15 THE WITNESS: I FELT FOUR SHOCKS ON SEVERAL
16 PARTS OF THE BODY.

17 MR. STOLAR: OKAY, THANK YOU VERY MUCH.

18 MR. MEDRANO: NO CROSS, YOUR HONOR.

19 THE COURT: ALL RIGHT, YOU MAY STEP DOWN.

20 THE WITNESS: DO YOU WANT THESE PHOTOGRAPHS?

21 (THE WITNESS IS EXCUSED.)

22 THE COURT: ANYTHING ELSE?

23 MR. STOLAR: YES, I JUST HAVE TWO OTHER THINGS
24 WHICH I'D LIKE TO MAKE SURE ARE PUT IN AS EXHIBITS. THREE
25 OTHERS, ACTUALLY.

1 ONE OF THEM IS WHAT I HAVE MARKED AS EXHIBITS --
2 DEFENSE EXHIBIT C FOR THIS HEARING. IT IS A COPY OF THE
3 NOVA TECHNOLOGIES STUN GUN REPORT, WHICH IS ATTACHED TO THE
4 MOTION TO DISMISS.

5 THE PURPOSE OF PRESENTING THIS SPECIFICALLY AND
6 CALLING THE COURT'S ATTENTION TO IT IS THE DESCRIPTION OF
7 WHAT THE STUN GUN DOES. AND WHAT THE STUN GUN DOES IS TO
8 PROVIDE AN ELECTRIC SHOCK, IT DOES NOT NECESSARILY LEAVE
9 MARKS UNLESS IT IS REALLY JAMMED INTO SOMEBODY.

10 AND THAT IS WHAT NOVA SAYS IS DESCRIBED AS THEIR
11 OPINION. THAT'S PART OF THE EXHIBIT.

12 ALSO, DEFENSE EXHIBIT D FOR THIS HEARING IS A
13 PART OF -- AN EXCERPT FROM A REPORT THAT WAS ALSO ATTACHED
14 TO THE MOTION THAT WAS PROVIDED TO US BY THE JUSTICE
15 DEPARTMENT COUNSEL AS POSSIBLY OF INTEREST IN FAIRNESS TO
16 OUR CLIENT.

17 THIS DOES INDICATE THAT THE STUN GUN, WHICH IS
18 MANUFACTURED BY NOVA TECHNOLOGIES, WHOSE REPORT YOU HAVE, IS
19 IN THE UNITED STATES MARSHAL SERVICE INVENTORY. THIS IS A
20 REPORT THAT WAS PREPARED BY THE MARSHAL SERVICE OR BY
21 SOMEBODY INVESTIGATING THE MARSHAL SERVICE OF THE UNITED
22 STATES GOVERNMENT ADMITTING THAT THIS GUN, THIS STUN GUN, IS
23 IN THE INVENTORY OF THE MARSHAL SERVICE.

24 AND FINALLY, I WOULD LIKE TO OFFER AS EXHIBIT
25 B-1 A SINGLE PAGE FROM THE MEDICAL RECORDS, WHICH IS THE

1 ONE-PAGE DESCRIPTION OF DR. VALLES' EXAMINATION OF
2 MR. MATTA FOR THE SPECIFIC PURPOSE OF THE NOTE TAKEN BY
3 DR. VALLES INDICATING THAT WHEN THE PHOTOGRAPHS THAT WERE
4 TAKEN, THEY WERE TAKEN OF DIFFERENT PARTS OF MR. MATTA'S
5 BODY, WHICH WERE AREAS OF SUSPECTED TRAUMA.

6 THAT WAS THE REASON THE PHOTOGRAPHS WERE TAKEN,
7 THAT'S WHY THE S.I.S. WAS TAKEN, THE PICTURES SUSPECTED
8 TRAUMA ON THOSE PARTS OF THE BODY.

9 WE WOULD OFFER THOSE THREE EXHIBITS INTO
10 EVIDENCE.

11 THE COURT: DO YOU HAVE ANY OBJECTIONS?

12 MR. MEDRANO: NO OBJECTION TO C, THE NOVA
13 REPORT; TO D, EITHER, YOUR HONOR. OBJECT STRENUOUSLY TO
14 B-1. WE HAD A DOCTOR YESTERDAY. COUNSEL AT NO TIME MADE AN
15 EFFORT AT THAT POINT TO INTRODUCE SPECIFIC MEDICAL RECORDS,
16 OTHER THAN THE WHOLE MEDICAL FILE, WHICH WE OBJECTED TO.

17 IN ADDITION, THE PARTS THAT HE'S TRYING TO
18 ELICIT THROUGH THIS REPORT HAVE JUST COME THROUGH -- EITHER
19 THROUGH THE CLIENT'S TESTIMONY OR DR. VALLES' YESTERDAY.

20 SO WE WOULD OBJECT, YOUR HONOR, IT IS BLATANT
21 HEARSAY AND IT'S ALREADY BEEN TESTIFIED TO.

22 MR. STOLAR: WELL, NOT THE SPECIFIC PART THAT I
23 REFERRED TO HERE, THE PHOTOGRAPHS IN COURT. THE PHOTOGRAPHY
24 IS OF THE DIFFERENT PARTS OF HIS BODY WHICH ARE AREAS OF
25 SUSPECTED TRAUMA.

1 THE COURT: WELL, I'LL RECEIVE ALL THREE
2 EXHIBITS.

3 (EXHIBITS B-1, C AND D RECEIVED
4 IN EVIDENCE.)

5 MR. STOLAR: THANK YOU. THAT WOULD COMPLETE OUR
6 PORTION OF THE HEARING.

7 THE COURT: ALL RIGHT.

8 DOES THE GOVERNMENT WISH TO CALL ANY WITNESS?

9 MR. MEDRANO: WE WOULD OFFER TWO FOR CROSS-
10 EXAMINATION, AND ONE ALSO FOR CROSS-EXAMINATION --

11 THE COURT: WELL, THE DEFENSE HAS RESTED HERE,
12 AS I UNDERSTAND IT. SO DO YOU WISH TO CALL ANY WITNESSES?

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

15 (BRIEF PAUSE.)

16 MR. MEDRANO: JUST ONE WITNESS, THEN, YOUR
17 HONOR --

18 THE COURT: ALL RIGHT.

19 MR. MEDRANO: -- FOR VERY LIMITED DIRECT.
20 DR. RICHARD URBANIK.

21 MAY WE ASK HIM TO STEP UP?

22
23 RICHARD URBANIK, M.D., GOVERNMENT WITNESS, SWORN,
24

25 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR

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

2 THE WITNESS: OKAY, I'M RICHARD URBANIK,
3 U-R-B-A-N-I-K.

4

5 DIRECT EXAMINATION

6 BY MR. MEDRANO:

7 Q MR. URBANIK, YOU ARE A PSYCHOLOGIST -- OR USED TO BE A
8 PSYCHOLOGIST AT MARION --

9 A YES, SIR.

10 Q -- BETWEEN 1985 AND '88?

11 A YES, SIR.

12 Q DID YOU INTERVIEW DEFENDANT MATTA UPON HIS ARRIVAL AT
13 MARION ON APRIL 6TH 1988?

14 A YES, SIR.

15 Q AT THAT TIME, DID MATTA STATE TO YOU WHETHER OR NOT HE
16 HAD BEEN TORTURED BY ANYBODY?

17 A YES, HE CLAIMED --

18 MR. STOLAR: I'M GOING TO OBJECT AGAIN BASED ON
19 WHAT I OBJECTED TO BEFORE WHEN HE ASKED MY CLIENT --

20 THE COURT: OVERRULED.

21 THE WITNESS: HE CLAIMED TO ME THAT HE HAD BEEN
22 TORTURED AND THAT THE HONDURAN AUTHORITIES HAD DONE IT.

23 BY MR. MEDRANO:

24 Q AFTER APRIL 6TH, DID YOU HAVE ADDITIONAL EXAMINATIONS
25 OR INTERVIEWS OF DEFENDANT MATTA?

1 A YES, SIR.

2 Q APPROXIMATELY HOW MANY, IF YOU KNOW?

3 A WELL, I SAW HIM AGAIN -- I SAW HIM LATER ON IN THE
4 EVENING OF THE 6TH, I SAW HIM ON THE MORNING OF THE 7TH AND
5 I BELIEVE AGAIN THE AFTERNOON OF THE 7TH. AND THEN AFTER
6 THAT WHEN I MADE MY REGULAR ROUNDS, SO, SAY, ONCE A WEEK OR
7 SO AFTER THAT.

8 Q SO YOU HAD FREQUENT CONTACTS WITH HIM?

9 A I WOULDN'T SAY -- IT DEPENDS ON WHAT YOU CALL A
10 CONTACT. A LOT OF TIMES I WOULDN'T HAVE AN INTERPRETER WITH
11 ME SO I COULDN'T -- YOU KNOW, I'D JUST MAKE EYE CONTACT AND
12 SORT OF HOW-YOU-DOING-TYPE THING.

13 AND THEN I DID ANOTHER FORMAL INTERVIEW
14 APPROXIMATELY THE 28TH -- 27TH, 28TH OF APRIL WAS MY LAST
15 FORMAL INTERVIEW.

16 Q AND AT ONE POINT, YOU ARE AWARE THAT HE HAD OBTAINED
17 COUNSEL; IS THAT CORRECT?

18 A YES, SIR.

19 Q AND AT A SUBSEQUENT INTERVIEW, DOES DEFENDANT MATTA
20 MAKE ANY ADDITIONAL STATEMENT TO YOU AS TO WHO IT WAS THAT
21 TORTURED HIM?

22 MR. STOLAR: OBJECTION.

23 THE COURT: OVERRULED.

24 THE WITNESS: WELL, THE BEST I CAN RECALL WAS
25 THAT IT BECAME AMERICAN AFTER THAT.

1 BY MR. MEDRANO:

2 Q COULD YOU STATE THAT AGAIN?

3 A AMERICAN AUTHORITIES. THE TORTURE, YOU MEAN? YES,
4 THAT THAT'S WHAT HAD HAPPENED, IT HAD BEEN AMERICAN
5 AUTHORITIES. AND I CAN'T PIN DOWN THE DATE, I MEAN, I CAN
6 JUST SORT OF REMEMBER IT.

7 Q OTHER THAN -- STRIKE THAT.

8 ON APRIL 6TH, MATTA COMPLAINED OF BEING
9 TORTURED; IS THAT RIGHT?

10 A YES, SIR.

11 Q AND AT SUBSEQUENT INTERVIEWS PAST APRIL 6TH, DID HE
12 EVER COMPLAIN TO YOU AGAIN ABOUT BEING TORTURED?

13 A COMPLAIN? NO, SIR.

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

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

16 MR. STOLAR: JUST A COUPLE, YOUR HONOR.

17

18 CROSS-EXAMINATION

19 BY MR. STOLAR:

20 Q WHEN YOU SPOKE TO MR. MATTA AND YOU WERE ABLE TO
21 COMMUNICATE WITH HIM VERBALLY, YOU HAD TO DO IT BY
22 INTERPRETER; IS THAT CORRECT?

23 A YES, SIR.

24 Q WHO WAS THE INTERPRETER YOU USED THE FIRST TIME YOU
25 SAW HIM?

1 A I'M TRYING TO THINK BACK. I THINK IT WAS MR. LOPEZ
2 THE FIRST TIME, BUT THERE WAS THREE OR FOUR AVAILABLE
3 INTERPRETERS AT THE TIME AT THE INSTITUTION SO --

4 Q IT WOULD BE IMPORTANT FOR YOU TO WRITE DOWN IN YOUR
5 NOTES WHO THE INTERPRETER WAS IF YOU'RE COMMUNICATING WITH
6 SOMEBODY NOT IN YOUR NATIVE LANGUAGE, WOULD IT NOT?

7 A I JUST WOULD SAY "THROUGH AN INTERPRETER."

8 Q AND THAT'S JUST WHAT YOU PUT DOWN.

9 IT WASN'T MR. SERRANO, WAS IT?

10 A IT MIGHT HAVE WELL BEEN. IT COULD HAVE BEEN HIM, IT
11 COULD HAVE BEEN MR. LOPEZ. I THINK IT WAS MR. LOPEZ,
12 THOUGH.

13 Q DID YOU SEE MR. MATTA BEFORE OR AFTER HE SAW
14 DR. VALLES?

15 A WELL, I SAW MR. MATTA AT 8:00 O'CLOCK IN THE MORNING.

16 Q DO YOU KNOW WHAT TIME HE SAW DR. VALLES?

17 A I DON'T -- I WOULDN'T -- NO, I DON'T KNOW WHAT TIME
18 EXACTLY HE SAW HIM.

19 Q ARE YOU AWARE THAT HE TOLD DR. VALLES THAT HE WAS
20 TORTURED AFTER HE WAS TAKEN OUT OF HONDURAS?

21 A NO.

22 Q YOU SAID HE INDICATED TO YOU SUBSEQUENTLY THAT IT WAS
23 AMERICAN AUTHORITIES WHO HAD TORTURED HIM?

24 A YES, SIR.

25 Q IS THAT ANYPLACE IN YOUR NOTES?

- 1 A NO, SIR.
- 2 Q YOU FAILED TO WRITE THAT DOWN?
- 3 A YES, SIR.
- 4 Q BUT HE DID DESCRIBE TO YOU SUBSEQUENTLY THAT HE HAD
5 BEEN TORTURED, DID HE NOT?
- 6 A YES, SIR.
- 7 Q WERE YOU PRESENT WHEN HE WAS EXAMINED BY A
8 DR. VANDERDECKER 10 DAYS AFTER HE WAS -- 9 DAYS AFTER HE
9 ARRIVED AT MARION?
- 10 A NO, SIR.
- 11 Q ARE YOU AWARE THAT HE DESCRIBED TO DR. VANDERDECKER
12 PRECISELY WHAT HAD HAPPENED ABOUT THE TORTURE THAT HAPPENED
13 TO HIM, SIR?
- 14 A NO, SIR, I'M NOT AWARE OF THAT.
- 15 Q YOU REMEMBER MR. MATTA; IS THAT RIGHT?
- 16 A YES.
- 17 Q UNUSUAL CASE?
- 18 MR. MEDRANO: OBJECTION; AMBIGUOUS.
- 19 BY MR. STOLAR:
- 20 Q WAS HE AN UNUSUAL CASE FOR YOU?
- 21 MR. MEDRANO: OBJECTION; SAME OBJECTION, YOUR
22 HONOR.
- 23 BY MR. STOLAR:
- 24 Q WELL, LET ME PUT IT THIS WAY: AT NO PLACE IN YOUR
25 NOTES AFTER THE FIRST ENTRY DO YOU WRITE DOWN ANYTHING ABOUT

1 TORTURE, DO YOU?

2 A NO, I DON'T THINK SO, NO, SIR.

3 Q BUT YOU DO REMEMBER IT, DON'T YOU?

4 A YES, SIR.

5 MR. STOLAR: OKAY, NOTHING FURTHER.

6 MR. MEDRANO: NO REDIRECT, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN.

8 (THE WITNESS IS EXCUSED.)

9 MR. MEDRANO: NO ADDITIONAL WITNESSES BY THE
10 GOVERNMENT, YOUR HONOR.

11 THE COURT: DO YOU HAVE ANY WITNESSES THAT WERE
12 ON BOARD THIS PLANE FROM HONDURAS TO -- I MEAN, THIS IS A
13 CREDIBILITY ISSUE AND I CAN'T DECIDE THAT ON THE BASIS OF
14 DECLARATIONS. I MUST HAVE A LIVE WITNESS.

15 MR. MEDRANO: NO, YOUR HONOR, THERE IS NO --
16 THERE IS NO U.S. REPRESENTATIVE THAT WAS ON THE AIRCRAFT ON
17 THE FIRST LEG OF THE FLIGHT BETWEEN HONDURAS AND THE
18 DOMINICAN REPUBLIC. IT'S AT THE DOMINICAN REPUBLIC THAT THE
19 U.S. MARSHALS TAKE CUSTODY OF MATTA, YOUR HONOR.

20 MR. STOLAR: WELL, THAT'S THE WHOLE POINT. THE
21 ONE DECLARATION THAT THE GOVERNMENT OFFERS WAS THE
22 DECLARATION OF ROBERTO ESCOBAR, WHO WAS WAITING IN
23 SANTO DOMINGO, WHO SAYS IN HIS DECLARATION -- ALL RIGHT --
24 HE DOESN'T SAY WHO IT WAS WHO BROUGHT MATTA TO
25 SANTO DOMINGO.

1 BUT WHEN MATTA GOT OFF, HE SAW MATTA WAS
2 HANDCUFFED AND WAS WEARING LEG IRONS. HE DOESN'T SAY
3 POINTEDLY WHO IT WAS, AND HE WAS NOT ON THAT AIRPLANE.

4 THAT'S WHY THE SUBPOENA THAT I GAVE TO THE
5 UNITED STATES MARSHAL'S SERVICE SEEKING THE IDENTITY OF THE
6 MARSHALS WHO SEQUESTERED AND TOOK MR. MATTA AND WHO WERE ON
7 THE AIRPLANE COULD BE HERE AND WE COULD ASK THEM ABOUT WHAT
8 HAPPENED ON THE AIRPLANE.

9 THE GOVERNMENT HAS POINTEDLY AVOIDED ANY
10 REFERENCE TO GIVING US THE NAMES OF THOSE UNITED STATES LAW
11 ENFORCEMENT OFFICERS WHO WERE THERE.

12 THE COURT: WHO WERE WHERE? ON THE AIRPLANE
13 COMING --

14 MR. STOLAR: ON THE AIRPLANE FROM HONDURAS.

15 THE COURT: WELL, HE JUST SAID THERE WERE NO
16 AMERICAN REPRESENTATIVES.

17 MR. STOLAR: I DON'T BELIEVE THAT FOR A MINUTE.
18 HE HAS THE RECORDS THAT PROVE THAT THERE WERE UNITED STATES
19 MARSHALS THAT TOOK MR. MATTA INTO CUSTODY. THE
20 GOVERNMENT --

21 THE COURT: WHAT ARE THOSE RECORDS?

22 MR. STOLAR: THE RECORDS THAT WERE SUBPOENAED
23 FROM THE MARSHAL SERVICE THAT HE'S FAILED TO MAKE A MOTION
24 TO QUASH AND HAS NOT TURNED OVER TO ME.

25 MR. MEDRANO: ON THAT POINT, YOUR HONOR, THE

1 RECORDS PROVIDED BY U.S. MARSHALS IN RESPONSE TO
2 MR. STOLAR'S SUBPOENA, I HAVE REVIEWED EACH AND EVERY SINGLE
3 PAGE, AND THERE IS NOTHING IN THERE THAT MR. STOLAR IS
4 ENTITLED TO.

5 I CAN FURTHER REPRESENT THAT THERE IS NO U.S.
6 REPRESENTATIVE THAT WAS ON THE FLIGHT BETWEEN HONDURAS AND
7 SANTO DOMINGO, DOMINICAN REPUBLIC. SO THERE IS NOTHING TO
8 PRODUCE ON THIS SUBJECT AREA BECAUSE THERE IS NO U.S.
9 REPRESENTATIVES ON THAT LEG OF THE FLIGHT.

10 THE FIRST TIME THE MARSHALS COME INTO THE
11 PICTURE IN TERMS OF TAKING HIM INTO CUSTODY IS IN
12 SANTO DOMINGO, WHEN HE'S MET BY ROBERTO ESCOBAR, AND THAT'S
13 WHY THAT DECLARATION IS SUBMITTED FOR THE COURT'S
14 CONSIDERATION.

15 THE COURT: SANTO DOMINGO IS WHERE?

16 MR. MEDRANO: SANTO DOMINGO IS IN THE DOMINICAN
17 REPUBLIC, YOUR HONOR.

18 AND ROBERTO ESCOBAR TELLS YOU THROUGH HIS
19 AFFIDAVIT THAT THE LEGS OF THE FLIGHT ARE FROM HONDURAS TO
20 SANTO DOMINGO, DOMINICAN REPUBLIC, AND THERE'S NO U.S.
21 REPRESENTATIVES ON THAT FLIGHT; AND THEN ROBERTO ESCOBAR TAKES
22 OVER FROM THERE AND THEN THEY GO TO SAN JUAN, PUERTO RICO;
23 AND THEN FROM SAN JUAN, PUERTO RICO TO NEW YORK CITY; AND
24 FROM NEW YORK CITY TO MARION, ILLINOIS.

25 AND FOR THREE-QUARTERS OF THAT TRIP, AS

1 MR. ESCOBAR'S DECLARATION SHOWS, THE U.S. MARSHALS WERE ON
2 THERE.

3 MR. STOLAR: WHY CAN'T WE HAVE THE IDENTITIES OF
4 THE PEOPLE WHO TOOK MR. MATTA FROM THE UNITED STATES
5 AIR FORCE BASE IN HONDURAS TO WHAT THEY CALL SANTO DOMINGO --
6 WHICH MR. MATTA WAS TOLD WAS MIAMI, AND IT MAY VERY WELL BE
7 THAT HE WAS MISTAKEN IN WHERE HE WAS.

8 THE COURT: HE JUST SAID THERE WERE NO AMERICANS
9 INVOLVED.

10 MR. STOLAR: I WANT TO SEE THE RECORDS, YOUR
11 HONOR. I'M SORRY. I THINK THERE IS NO REASON WHY I CAN'T
12 GET THE IDENTITIES OF WHO THOSE PEOPLE ARE.

13 BECAUSE AS FAR AS MR. MATTA IS CONCERNED, BY HIS
14 TESTIMONY, THEY WERE NOT HONDURANS AND THEY WERE SPEAKING
15 ENGLISH AS WELL AS SPANISH WITH NON-HONDURAN ACCENTS.

16 WHY CAN'T WE HAVE WHO THOSE PEOPLE ARE? WHAT IS
17 HE HIDING?

18 MR. MEDRANO: FIRST OF ALL, YOUR HONOR, THOSE
19 IDENTITIES ARE NOT EVEN IN THOSE DOCUMENTS. AGAIN, I
20 REPRESENT THAT I HAVE REVIEWED THEM, AND --

21 MR. STOLAR: WHO WERE THEY?

22 MR. MEDRANO: MAY I FINISH, MR. STOLAR?

23 THERE IS NO -- THERE IS NO DOCUMENT IN THOSE
24 DOCUMENTS I RECEIVED FROM THE MARSHALS THAT TELL US THE
25 IDENTITY OF WHO WAS ON THE FLIGHT IN TERMS OF WHO HAD

1 CUSTODY OF MATTA BETWEEN HONDURAS AND SANTO DOMINGO.

2 IT'S NOT IN THOSE DOCUMENTS, THOSE DOCUMENTS ARE
3 BEYOND THE SCOPE OF THIS HEARING, YOUR HONOR, WHICH WAS
4 ENTIRELY FROM THE MOMENT HE WAS PUT ON THE AIRCRAFT UNTIL HE
5 ARRIVES AT MARION.

6 MR. STOLAR: WELL, WHY WON'T YOU HAVE
7 MR. ESCOBAR COME IN HERE AND TELL US WHO GOT OFF THE
8 AIRPLANE WITH MR. MATTA WHEN MATTA WAS IN LEG IRONS AND IN
9 HANDCUFFS IN HIS FRONT, THE SAME KIND OF UNIFORM THAT HE
10 KEPT ON ALL THE WAY TO MARION.

11 MR. MEDRANO: AND I HAVE NO OBJECTION. HE WAS
12 AVAILABLE FOR CROSS, AND MR. STOLAR, HERE, DECLINED TO
13 EXAMINE HIM.

14 MR. STOLAR: YOU DIDN'T PUT HIM ON.

15 MR. MEDRANO: YOUR HONOR --

16 THE COURT: YOU DON'T HAVE TO PUT HIM ON.
17 YOU'RE SUPPOSED TO SAY YOU WANT TO CROSS-EXAMINE PEOPLE.

18 MR. STOLAR: WELL, I WOULD BE DELIGHTED TO ASK
19 HIM QUESTIONS, THEN. I DIDN'T REALIZE THAT. I THOUGHT --

20 THE COURT: IS HE HERE?

21 MR. MEDRANO: HE'S RIGHT OUTSIDE, YOUR HONOR.

22 THE COURT: WELL, BRING HIM IN.

23 (WITNESS IS SUMMONED.)

24 MR. STOLAR: I THOUGHT HE WAS GOING TO OFFER HIM
25 AS HIS NEXT WITNESS OR HE WAS NOT GOING TO INVOLVE HIM.

1 THE COURT: NO, THESE DECLARATIONS WERE RECEIVED
2 SUBJECT TO THE RIGHT TO CROSS-EXAMINE THE WITNESSES OR
3 DECLARANTS.

4 MR. STOLAR: SURE. I MISUNDERSTOOD THE
5 PROCEDURE AS SUCH. I THOUGHT HE WAS NOT GOING TO OFFER THE
6 WITNESS AT ALL.

7
8 ROBERTO ESCOBAR, GOVERNMENT WITNESS, SWORN,
9

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

12 THE WITNESS: MY NAME IS ROBERTO ESCOBAR; THAT'S
13 SPELLED E-S-C-O-B-A-R.

14 MR. MEDRANO: YOUR HONOR, MAY WE ADJUST THE
15 MICROPHONE? WE CAN'T HEAR HIM.

16 THE COURT: YES. PULL THE MICROPHONE OVER
17 THERE, THAT WILL BE FINE.

18
19 CROSS-EXAMINATION

20 BY MR. STOLAR:

21 Q DO YOU WANT TO TELL US YOUR NAME AGAIN AND WE'LL SEE
22 IF THE MIKE WORKS?

23 A ROBERTO ESCOBAR; THAT'S E-S-C-O-B-A-R.

24 Q GOOD EVENING, MR. ESCOBAR.

25 A GOOD EVENING.

1 Q MR. ESCOBAR, YOU SUBMITTED A DECLARATION IN CONNECTION
2 WITH CERTAIN ACTIVITIES THAT YOU PARTICIPATED IN ON
3 APRIL 5TH AND APRIL 6TH 1988 IN CONNECTION WITH THE
4 APPREHENSION OF MR. MATTA; IS THAT CORRECT?

5 A THAT'S CORRECT, SIR.

6 Q IN ADDITION, DID YOU PREPARE ANY WRITTEN REPORTS OR
7 SUBMIT ANY WRITTEN REPORTS OF YOUR ACTIVITIES?

8 A NO, I DIDN'T.

9 Q DID YOU CONTRIBUTE TO THE PREPARATION OF ANY WRITTEN
10 REPORTS CONCERNING YOUR ACTIVITIES AND YOUR CONNECTION WITH
11 MR. MATTA?

12 A I BELIEVE THAT I DID PREPARE SOME TYPE OF DOCUMENT,
13 WHICH IS AT MY OFFICE IN SAN JUAN.

14 Q IT IS NOT HERE?

15 A NO, IT'S NOT.

16 Q DID YOU GIVE IT TO MR. MEDRANO EVER, DID HE EVER HAVE
17 A COPY OF IT?

18 A NO, I DIDN'T.

19 Q DID YOU MAKE ANY NOTES OF ANY OF YOUR CONDUCT
20 CONCERNING YOUR BUSINESS WITH MR. MATTA?

21 MR. MEDRANO: OBJECTION; THE ISSUE IS, YOUR
22 HONOR, FIRST OF ALL, DID HE REVIEW THEM PRIOR TO COMING
23 HERE. AND EVEN IF HE DID, IT'S NOT JENKS MATERIAL, WHICH
24 DOES NOT APPLY TO PRETRIAL PROCEEDINGS. IT'S IRRELEVANT.

25 THE COURT: WELL, YOU WANTED TO CROSS-EXAMINE

1 THIS WITNESS. WHY DON'T YOU DO THAT.

2 BY MR. STOLAR:

3 Q ALL RIGHT, MR. ESCOBAR, YOU'VE TESTIFIED THROUGH YOUR
4 DECLARATION THAT YOU HAVE BEEN A MARSHAL FOR APPROXIMATELY
5 FOUR YEARS; ISN'T THAT RIGHT?

6 A THAT'S CORRECT.

7 Q THAT MEANS YOU STARTED WITH THE MARSHAL SERVICE IN
8 1986?

9 A THAT'S CORRECT.

10 Q AND YOU WERE -- WHAT DID YOU DO BEFORE THAT?

11 A I WAS A POLICE OFFICER IN PUERTO RICO FOR
12 APPROXIMATELY FOUR YEARS.

13 Q AND WHAT DID YOU DO BEFORE THAT?

14 A I WAS A STUDENT.

15 Q ALL RIGHT.

16 WERE YOU BORN IN PUERTO RICO?

17 A YES, SIR.

18 Q THAT'S WHY YOU SPEAK SPANISH?

19 A THAT'S CORRECT.

20 Q WHEN WAS IT THAT YOU BECAME ASSIGNED TO SANTO DOMINGO?

21 A IT WAS THE FIRST WEEK OF APRIL.

22 Q OF 19 --

23 A '88.

24 Q HOW DID YOU GET ASSIGNED?

25 A I WAS IN MY OFFICE, AND I RECEIVED A TELETYPE THAT

1 CAME IN FROM HEADQUARTERS SAYING THAT I WAS TO WAIT IN
2 SAN JUAN UNTIL AN INSPECTOR THAT WAS TO ARRIVE FROM
3 HEADQUARTERS TO SAN JUAN, AND FROM THERE, MOVE TO THE
4 DOMINICAN REPUBLIC.

5 Q AND WHAT WAS THE PURPOSE FOR YOUR MOVING TO THE
6 DOMINICAN REPUBLIC?

7 A WE WERE TO AWAIT THE APPREHENSION OF MATTA IN
8 HONDURAS, AND HE WAS GOING TO BE TRANSPORTED TO THE
9 DOMINICAN REPUBLIC.

10 Q NOW, THIS WAS A PLAN THAT WAS CONCEIVED WITH -- WAS
11 THIS THE FIRST TIME YOU WERE INVOLVED IN AN EFFORT TO
12 APPREHEND MR. MATTA?

13 MR. MEDRANO: OBJECTION; AMBIGUOUS.

14 BY MR. STOLAR:

15 Q WERE YOU INVOLVED IN ANY PRIOR ATTEMPTS TO APPREHEND
16 MR. MATTA IN HONDURAS?

17 A YES, I WAS.

18 Q HOW MANY?

19 A I WENT TO HONDURAS APPROXIMATELY THREE TIMES.

20 Q THREE TIMES TO TRY TO APPREHEND MR. MATTA?

21 A THAT'S CORRECT.

22 Q YOU WENT TO HONDURAS --

23 A THAT'S CORRECT.

24 Q -- WITH A TEAM OF MARSHALS; IS THAT CORRECT?

25 A THAT'S CORRECT.

1 Q AND THIS TIME YOU DIDN'T GO; IS THAT RIGHT?

2 A THAT'S CORRECT.

3 Q A DIFFERENT TEAM OF MARSHALLS WENT?

4 A I HAVE NO IDEA IF SOMEBODY DIFFERENT THAN THE PERSONS
5 THAT HAD GONE THERE PRIOR WERE THERE.

6 Q WAS IT YOUR UNDERSTANDING THAT IT WAS A TEAM OF U.S.
7 MARSHALS, THOUGH, THAT WAS GOING TO DO THE APPREHENSION IN
8 APRIL OF '88?

9 MR. MEDRANO: OBJECTION, YOUR HONOR; BEYOND THIS
10 WITNESS' -- WELL, IT CALLS FOR CONCLUSION AND SPECULATION.

11 THE COURT: WELL, IT DOES, UNLESS THERE IS SOME
12 FOUNDATION TO INDICATE HE WAS IN ON IT, ON THE PLANNING.

13 BY MR. STOLAR:

14 Q WELL, THE OTHER THREE TIMES, YOU WENT WITH HOW LARGE A
15 TEAM?

16 A FOUR OR FIVE AT THE MOST.

17 Q WERE YOU INVOLVED IN THE PLANNING?

18 A NO, I WASN'T.

19 Q ALL RIGHT.

20 WAS THE PLAN ON THOSE OTHER OCCASIONS FOR THE
21 TEAM OF MARSHALS TO APPREHEND MR. MATTA AND TAKE HIM TO
22 SANTO DOMINGO, TOO?

23 MR. MEDRANO: OBJECTION; LACK OF FOUNDATION,
24 LACK OF KNOWLEDGE.

25 THE COURT: WELL, OVERRULED. IF HE KNOWS, HE

1 MAY ANSWER.

2 THE WITNESS: COULD YOU REPEAT THE QUESTION,
3 PLEASE?

4 BY MR. STOLAR:

5 Q WAS THE PLAN ON THOSE PRIOR OCCASIONS FOR THE
6 MARSHALS TO APPREHEND MR. MATTA AND TAKE HIM TO
7 SANTO DOMINGO?

8 A THE PLANNING WAS DONE ON PREVIOUS OCCASIONS. I WAS
9 NEVER AT ANY MEETING AT ALL; OTHER MARSHALS THAT WERE WITH
10 ME WERE THERE AT THOSE MEETINGS. AND I DON'T THINK THAT WE
11 WERE THE ONES THAT WERE GOING TO APPREHEND THEM. THE
12 PLANNING WAS WITH THE LOCAL HONDURAN GOVERNMENT.

13 Q WITH THE HONDURAN GOVERNMENT?

14 A WELL, THE MILITARY OR THE POLICE THERE.

15 Q I SEE.

16 NOW, DO YOU KNOW WHO IT WAS WHO -- YOU SAY YOU
17 WERE IN SANTO DOMINGO WHEN YOU WERE CALLED BY SOMEONE TO
18 TELL YOU THAT MATTA HAD BEEN APPREHENDED; IS THAT RIGHT?

19 A THAT'S CORRECT.

20 Q WHO CALLED YOU?

21 A I WAS WITH AN INSPECTOR IN SANTO DOMINGO, HE WAS THE
22 ONE THAT GOT THE CALL AT THE HOTEL WHERE WE WERE AT. AND I
23 BELIEVE IT WAS AN INSPECTOR TONY LOPEZ, I THINK IT WAS, THE
24 NAME.

25 Q SO WHEN YOU SAY THAT YOU WERE TELEPHONICALLY ADVISED,

1 THAT'S NOT EXACTLY CORRECT, IS IT?

2 A WELL, I WASN'T THE ONE THAT SPOKE WITH HIM, I WAS
3 THERE AT THE ROOM WHEN THE CALL CAME IN.

4 Q YOU WERE ADVISED BY SOMEBODY ELSE.

5 DO YOU KNOW WHO HE GOT THE CALL FROM?

6 A I BELIEVE IT WAS TONY LOPEZ.

7 Q NO, WHO DID TONY LOPEZ GET THE CALL FROM?

8 A NO, I DON'T.

9 THE COURT: COUNSEL, WE'RE WANDERING WAY AWAY
10 FROM THE NARROW ISSUE IN THIS CASE.

11 MR. STOLAR: I UNDERSTAND.

12 THE COURT: YOU WERE ESTOPPED FROM GOING INTO
13 THE OTHER MATTERS; THAT HAS ALREADY BEEN LITIGATED
14 PREVIOUSLY. THE ONLY ISSUE HERE IS THE TORTURE ON THIS
15 AIRPLANE.

16 BY MR. STOLAR:

17 Q WHAT TIME -- THERE CAME A TIME ON APRIL 5TH WHEN A
18 SMALL AIRCRAFT ARRIVED THAT HAD MATTA IN IT; IS THAT RIGHT?

19 A THE PLANE CAME IN SOMETIME IN THE AFTERNOON OF THAT
20 DAY.

21 Q DID YOU SEE IT COME IN?

22 A YES, SIR, I DID.

23 Q YOU WERE PRESENT AT THE AIRPORT?

24 A YES, SIR.

25 Q WHO ELSE WAS PRESENT?

1 A THE INSPECTOR, WHICH I CAN'T RECALL HIS NAME, AND TWO
2 OTHER MARSHAL PERSONNEL FROM HEADQUARTERS.

3 Q ALL RIGHT.

4 DID YOU SEE THE PLANE TAXI UP?

5 A YES, SIR.

6 Q AND DESCRIBE, THEN, WHAT HAPPENED AFTER THAT.

7 A WHEN THE PLANE CAME DOWN, AFTER A WHILE, MR. MATTA
8 EXITED THE PLANE. HE WAS HANDCUFFED ON THE FRONT AND HAD
9 LEG IRONS. AND FROM THERE HE WAS TAKEN TO ANOTHER FACILITY
10 AND --

11 Q HE DIDN'T COME DOWN THE STEPS OF THE PLANE BY HIMSELF,
12 DID HE?

13 A HE WAS HELPED BY PERSONNEL.

14 Q WHO HELPED HIM?

15 A THE PILOTS OR WHOEVER WAS IN THAT PLANE. PEOPLE THAT
16 I DON'T KNOW WHO THEY WERE.

17 Q WERE THEY WEARING UNIFORMS?

18 A NO, THEY WEREN'T.

19 Q THEY WERE IN CIVILIAN CLOTHES?

20 A THAT'S CORRECT.

21 Q DID YOU SEE THE PILOTS OF THE AIRPLANE?

22 A YES, I DID.

23 Q WERE THEY IN UNIFORM?

24 A I BELIEVE THEY HAD A WHITE SHIRT WITH SOME STRIPES OR
25 SOMETHING.

1 Q AND IT'S YOUR RECOLLECTION THOSE ARE THE PEOPLE THAT
2 HELPED MR. MATTA DOWN THE STAIRS?

3 A THAT'S CORRECT.

4 Q AND THEY HAD CUSTODY OF MR. MATTA; IS THAT CORRECT?

5 A FROM WHAT I SAW, THEY DID.

6 Q WAS THERE ANYBODY ELSE ON THE AIRPLANE?

7 A NO, THERE WEREN'T.

8 Q DID YOU SEE --

9 A THERE WERE THREE PERSONS THAT EXITED. I GUESS IT WAS
10 THE CAPTAIN, CO-PILOT AND MAYBE SOMEBODY ELSE.

11 Q NOBODY ELSE?

12 A NOBODY ELSE.

13 Q WHO WAS THE SOMEBODY ELSE?

14 A I DON'T KNOW.

15 Q WAS IT A MARSHAL SERVICE PERSON; DO YOU KNOW?

16 A NOT THAT I KNOW OF.

17 Q BUT YOU DON'T KNOW THAT IT WASN'T A MARSHAL; DO YOU?

18 A NO, I DON'T.

19 Q THE LEG IRONS AND THE CUFFS THAT MR. MATTA WAS
20 WEARING, DID THOSE -- WERE THOSE UNITED STATES MARSHAL
21 SERVICE EQUIPMENT?

22 A I DON'T KNOW.

23 Q DID YOU EVER PHYSICALLY TAKE CUSTODY OF MR. MATTA?

24 A YES, I DID.

25 Q WHEN WAS THAT?

1 A WELL, AT THAT TIME, WHEN HE ARRIVED IN THE DOMINICAN
2 REPUBLIC, HE WAS TAKEN TO THAT PLACE WHERE HE WAS KEPT THERE
3 FOR APPROXIMATELY TWO HOURS. AND THEN AFTER THAT, HE
4 BOARDED AN AIRPLANE BOUND FOR SAN JUAN. AT THAT TIME, I WAS
5 AT THE AIRPLANE SITTING RIGHT BESIDE HIM.

6 Q DID YOU NOTICE THE RESTRAINTS AS BEING MARSHAL
7 SERVICE-ISSUED?

8 A I DON'T KNOW. I MEAN, IT WAS JUST A PAIR OF HANDCUFFS
9 AND A CHAIN, THEY WERE NOT MARKED.

10 Q DID YOU HAVE ANY COMMUNICATION WITH ANYBODY IN THE
11 MARSHAL SERVICE WHO WAS IN HONDURAS IN TEGUCIGALPA?

12 A COULD YOU REPEAT THE QUESTION, PLEASE?

13 A DID YOU HAVE ANY CONTACT WITH ANYBODY IN THE MARSHAL
14 SERVICE WHO WAS IN TEGUCIGALPA ON APRIL 5TH?

15 A NO, I DIDN'T.

16 Q ON THE THREE PRIOR OCCASIONS THAT YOU ATTEMPTED TO --
17 OR THAT YOU WERE PART OF THE TEAM THAT WENT TO APPREHEND
18 MR. MATTA, WERE THERE PLANS DISCUSSED AMONG YOU AS TO HOW
19 YOU WERE GOING TO GET MR. MATTA OUT OF THE COUNTRY?

20 MR. MEDRANO: OBJECTION, HE'S ALREADY TESTIFIED
21 HE WASN'T IN ON THE PLANNING STAGES, YOUR HONOR.

22 MR. STOLAR: NOT THE PLANNING STAGES, BUT THE
23 TEAM THAT WAS THERE WORKING TOGETHER.

24 THE COURT: WHAT IS THE PURPOSE OF THIS?

25 MR. STOLAR: TO SHOW A PATTERN AND PRACTICE THAT

1 THE TESTIMONY OF WHO WAS ON THE AIRPLANE, THAT IT WASN'T THE
2 MARSHAL SERVICE IS NOT CANDID.

3 MR. MEDRANO: OBJECTION, IRRELEVANT.

4 THE COURT: NO, IT'S NOT IRRELEVANT.

5 YOU MAY ANSWER THE QUESTION, IF YOU CAN.

6 THE WITNESS: COULD YOU REPEAT THE QUESTION
7 AGAIN, PLEASE?

8 BY MR. STOLAR:

9 Q ON THE PRIOR OCCASIONS WHEN YOU WENT DOWN WITH THE
10 TEAM OF MARSHALS, THE THREE PRIOR OCCASIONS, TO APPREHEND
11 MR. MATTA, WAS THE OPERATION THAT YOU WERE GOING TO PUT INTO
12 EFFECT TO TAKE MR. MATTA -- HOW WERE YOU GOING TO AFFECT
13 MR. MATTA'S REMOVAL FROM HONDURAS?

14 A WELL, THAT'S SOMETHING THAT I DON'T KNOW BECAUSE I WAS
15 NEVER PART OF THAT PLANNING. I WAS THERE, IF IT EVER WOULD
16 HAVE COME DOWN, I GUESS THEY WOULD HAVE GAVE ME INSTRUCTIONS
17 AS TO HOW MY PART WAS GOING TO BE, BUT IT NEVER CAME DOWN.

18 Q AND IT'S YOUR TESTIMONY THERE WAS JUST THE TWO PILOTS
19 AND ONE OTHER PERSON ON THE PLANE THAT ARRIVED IN
20 SANTO DOMINGO?

21 A THAT'S CORRECT.

22 Q AND MR. MATTA?

23 A AND MR. MATTA.

24 Q NOBODY ELSE?

25 A NOBODY ELSE.

- 1 Q DID THE OTHER PERSON HAVE A GUN IN HIS POSSESSION, DO
2 YOU KNOW?
- 3 A NOT THAT I KNOW OF.
- 4 Q DID EITHER OF THE TWO PILOTS HAVE A GUN?
- 5 A I HAVE NO KNOWLEDGE.
- 6 Q DID YOU SEE ANY KIND OF -- DO YOU KNOW WHAT A STUN GUN
7 IS, BY THE WAY?
- 8 A YES, SIR.
- 9 Q THAT IS IN THE MARSHAL SERVICE INVENTORY, IS IT NOT?
- 10 A YES, SIR.
- 11 Q DO YOU KNOW HOW TO USE IT?
- 12 A YES, SIR.
- 13 Q IN THE TIMES THAT YOU WENT DOWN -- THE THREE OTHER
14 TIMES THAT YOU WENT DOWN TO HONDURAS, DID YOU HAVE STUN GUNS
15 WITH YOU?
- 16 A I DID NOT.
- 17 Q YOU DID?
- 18 A I DID NOT.
- 19 Q DO YOU KNOW IF ANYBODY ELSE DID?
- 20 A I DON'T KNOW.
- 21 Q HOW ABOUT, DO YOU KNOW IF ANY OF THE THREE PEOPLE THAT
22 YOU SAY GOT OFF THE AIRPLANE HAD STUN GUNS ON THEM?
- 23 A I HAVE NO KNOWLEDGE.
- 24 Q DID YOU SEE A HOOD ON MR. MATTA?
- 25 A NO.

1 Q DO YOU RECOGNIZE MR. MATTA HERE IN THE COURT?

2 A YES, SIR.

3 Q YOU HAD BEEN STUDYING PHOTOGRAPHS OF HIM FOR, WHAT,
4 SEVERAL MONTHS BEFORE, HADN'T YOU?

5 A I HAD SEEN HIM -- I HAD SEEN PHOTOGRAPHS OF HIM.

6 Q HAD YOU SEEN HIM PERSONALLY, AS WELL?

7 A I SAW HIM THAT DAY IN SANTO DOMINGO.

8 Q BEFORE THAT?

9 A NO.

10 Q OKAY.

11 WHEN HE GOT OFF THE PLANE IN SANTO DOMINGO --
12 MAY I HAVE THE EXHIBITS FOR A MOMENT?

13 DID MR. MATTA HAVE A HOOD OVER HIS HEAD WHEN HE
14 GOT OFF THE AIRPLANE?

15 A NO, HE DIDN'T.

16 Q YOUR TESTIMONY IS THAT HE WAS IN FINE SHAPE; IS THAT
17 RIGHT?

18 A YES, SIR.

19 Q DID YOU NOTICE ANY MARKS ON HIS BODY?

20 A NO, I DIDN'T.

21 Q SORRY?

22 A I DID NOT.

23 Q ANY MARKS AROUND HIS NECK?

24 A NO.

25 Q LET ME SHOW YOU WHAT HAS PREVIOUSLY BEEN MARKED A-1

1 AND A-2 IN EVIDENCE AT THIS HEARING.

2 (COUNSEL TENDERS DOCUMENT TO THE
3 WITNESS.)

4 BY MR. STOLAR:

5 Q LET ME ASK YOU --

6 THE COURT: COUNSEL, WHAT DIFFERENCE DOES IT
7 MAKE IF HE NOTICED? WE KNOW THAT HE HAD THESE. THE WITNESS
8 HAS TESTIFIED TO THEM, YOUR CLIENT HAS TESTIFIED TO THEM,
9 THE DOCTOR HAS TESTIFIED TO THEM. WHY IS IT NECESSARY FOR
10 THIS WITNESS TO TELL YOU WHETHER HE SAW THEM OR NOT?

11 MR. STOLAR: IT HAS TO DO WITH HIS OBSERVATIONS
12 AND THE COURT'S ABILITY TO ACCEPT THE ACCURACY OF THE
13 OBSERVATIONS, YOUR HONOR.

14 THE COURT: WELL, I'M NOT GOING TO PERMIT IT FOR
15 THAT PURPOSE. I HAVE THE ABILITY TO DO THAT WITHOUT THE
16 NEED FOR THIS WITNESS TO TESTIFY TO THAT.

17 MR. STOLAR: ALL RIGHT.

18 THE COURT: I'M GOING TO ADJOURN THIS MEETING
19 HERE VERY SHORTLY. OTHERWISE I WON'T HAVE A CAR. IT'S IN
20 THE GARAGE AND I HAVE TO PICK IT UP. IT'S BEING REPAIRED.

21 BY MR. STOLAR:

22 Q DO YOU KNOW -- CAN YOU IDENTIFY FOR US THE TYPE OF
23 AIRPLANE THAT IT WAS THAT LANDED IN SANTO DOMINGO?

24 A I COULD ONLY SAY IT WAS A SMALL AIRCRAFT. I'M NOT TOO
25 GOOD ON AIRPLANES.

1 Q DID YOU NOTICE THE TAIL NUMBER ON IT?

2 A NO.

3 Q DID YOU MAKE ANY NOTES ABOUT ANYTHING THAT HAD TO DO
4 WITH IT?

5 A NO, I DIDN'T.

6 Q YOU TOOK CUSTODY OF MR. MATTA IN SANTO DOMINGO; ISN'T
7 THAT RIGHT?

8 A THAT'S CORRECT.

9 Q YOU TRAVELED WITH HIM WITH HOW MANY OTHER MEMBERS OF
10 THE MARSHAL SERVICE TO PUERTO RICO?

11 A THERE WAS ONLY ONE OTHER PERSON WITH ME, IT WAS AN
12 INSPECTOR OF THE MARSHAL'S SERVICE. AND THERE WAS A POLICE
13 OFFICER, I BELIEVE HE WAS A COLONEL, OF THE DOMINICAN
14 REPUBLIC.

15 Q DID HE TRAVEL TO PUERTO RICO WITH YOU, AS WELL?

16 A YES, HE DID.

17 Q NOW, IN PUERTO RICO, MR. MATTA WAS ASKED TO SIGN AN
18 ENTRY DECLARATION; IS THAT RIGHT?

19 A I BELIEVE HE WAS.

20 Q WERE YOU THERE WHEN HE DID THAT?

21 A YES.

22 Q AND THEN FROM PUERTO RICO, HE WENT TO NEW YORK; IS
23 THAT RIGHT?

24 A THAT'S CORRECT.

25 Q AND YOU STAYED WITH HIM ON THAT TRIP?

1 A THAT'S CORRECT.

2 Q WERE YOU ACCOMPANIED BY OTHER MEMBERS OF THE MARSHAL
3 SERVICE?

4 A IT WAS THE INSPECTOR AND ANOTHER DEPUTY FROM THE
5 SAN JUAN OFFICE.

6 Q AND FROM NEW YORK TO MARION, YOU STAYED WITH HIM,
7 DIDN'T YOU?

8 A YES, I DID.

9 Q AND OTHER MEMBERS OF THE MARSHAL SERVICE?

10 A THE INSPECTOR AND THE DEPUTY FROM SAN JUAN.

11 Q AND THIS IS INSPECTOR WHOM?

12 A I CAN'T RECALL HIS NAME.

13 Q WAS HE THE ONE WHO WOULD BE IN CHARGE OF TAKING NOTES
14 AND MAKING REPORTS ABOUT WHAT OCCURRED?

15 A YES.

16 MR. STOLAR: I HAVE NOTHING FURTHER OF THE
17 WITNESS.

18 THE COURT: DO YOU HAVE ANY QUESTIONS?

19 MR. MEDRANO: NO QUESTIONS.

20 THE COURT: YOU MAY STEP DOWN.

21 THE WITNESS: THANK YOU.

22 (THE WITNESS IS EXCUSED.)

23 THE COURT: DOES THIS CONCLUDE THE EVIDENCE?

24 MR. STOLAR: WELL, THEY HAVE OFFERED ONE OTHER
25 WITNESS, AND THAT IS DR. VANDERDECKER. DR. VANDERDECKER IS

1 THE PERSON WHO WAS CALLED OUT BY THE GOVERNMENT IN
2 WASHINGTON TO EXAMINE MR. MATTA ON APRIL 14TH 1988.

3 HAVE YOU MADE THAT DECLARATION PART OF THE
4 RECORD?

5 MR. MEDRANO: THAT'S OFFERED AS THE GOVERNMENT'S
6 DIRECT, YOUR HONOR.

7 MR. STOLAR: OKAY. THERE IS NO PARTICULAR NEED
8 FOR ME TO CROSS-EXAMINE THE WITNESS, BUT I WOULD LIKE TO
9 JUST HIGHLIGHT FOR THE COURT A COUPLE OF PORTIONS.

10 MR. MEDRANO: I WOULD OBJECT, YOUR HONOR; THIS
11 IS ARGUMENT.

12 MR. STOLAR: I COULD DO THE SAME THING ON CROSS-
13 EXAMINATION AS TO WHETHER OR NOT MATTA TOLD HIM CERTAIN
14 THINGS. SO I'M JUST ASKING THE COURT TO NOTE THE MEDICAL
15 HISTORY THAT IS GIVEN BY MR. MATTA --

16 THE COURT: ALL RIGHT, WHAT IS IT?

17 MR. STOLAR: -- TO THIS DOCTOR.

18 THE COURT: WHAT IS IT?

19 MR. STOLAR: MATTA SAYS THAT HE WAS KICKED AND
20 INJURED IN THE INITIAL SCUFFLE, AND THAT DURING THE FIRST
21 ONE AND A HALF HOURS AFTER HIS APPREHENSION -- AFTER HIS
22 APPREHENSION, HE WAS REPEATEDLY TORTURED WITH A BLACK,
23 RECTANGULAR FOUR-BY-EIGHT BOX WITH TWO NEEDLES PROTRUDING
24 FROM ONE END, WHICH WERE JABBED REPEATEDLY INTO HIS BACK AND
25 SCROTUM, AND ELECTRICITY WAS APPLIED TO HIS SKIN THROUGH

1 THEM. THIS WAS EXTREMELY PAINFUL.

2 THE INMATE ATTRIBUTED LESIONS ON HIS BACK,
3 QUESTIONABLE LESIONS ON HIS SCROTUM, AND A LARGE, MUCH
4 DIFFERENT LESION ON HIS RIGHT ULNAR FOREARM TO INJURY FROM
5 THE BLACK BOX. HE SAYS THAT MATTA SAID TO HIM --

6 MR. MEDRANO: WE DON'T OBJECT TO THIS, YOUR
7 HONOR; THIS IS THE GOVERNMENT'S DIRECT.

8 MR. STOLAR: THAT'S RIGHT.

9 MR. MEDRANO: SO THIS IS UNNECESSARY.

10 MR. STOLAR: WELL, YOU CALLED THE DOCTOR BACK.

11 THE COURT: IS IT IN THE DECLARATION?

12 MR. MEDRANO: YES, YOUR HONOR.

13 MR. STOLAR: YES, IT IS, IT'S IN THE
14 DECLARATION.

15 THE COURT: WELL, YOU'RE ARGUING NOW.

16 MR. STOLAR: I'M EMPHASIZING IT AS A WAY OF
17 AVOIDING CALLING THE DOCTOR TO THE WITNESS STAND. THAT'S
18 ALL I'M DOING.

19 THE COURT: ALL RIGHT.

20 MR. STOLAR: THAT IT IS ESSENTIALLY CONSISTENT
21 WITH THE TESTIMONY OF MR. MATTA, NOT INCONSISTENT.

22 THE COURT: ALL RIGHT. THEN THAT CONCLUDES THE
23 TESTIMONY ON THIS MATTER?

24 MR. MEDRANO: NOTHING ELSE BY THE GOVERNMENT,
25 YOUR HONOR.

1 MR. STOLAR: NOTHING ELSE BY US, EXCEPT --

2 THE COURT: I'LL GIVE YOU ABOUT TWO OR THREE
3 MINUTES TO ARGUE HERE IN VIEW OF THE LATENESS OF THE HOUR.
4 IT'S NOW 6:22. OR YOU CAN COME BACK ON MONDAY AND ARGUE
5 FURTHER, IF YOU WANT TO.

6 MR. STOLAR: WELL, I WOULD JUST AS SOON SUBMIT A
7 WRITTEN STATEMENT TO YOU.

8 THE COURT: WELL, THAT WOULD BE ACCEPTABLE, TOO,
9 TO SUBMIT WRITTEN ARGUMENTS ON THE ISSUE.

10 MR. STOLAR: A WRITTEN FACTUAL --

11 THE COURT: IN OTHER WORDS, YOU SHOULD SUBMIT AN
12 ARGUMENT THAT STATES, "YOU SHOULD DISMISS THIS CASE ON
13 JURISDICTIONAL GROUNDS BECAUSE WE HAVE DEMONSTRATED THE
14 NECESSARY LEVEL OF CRUELTY TO BRING MR. MATTA WITHIN, AND
15 THIS IS THE EVIDENCE ON WHICH I RELIED." AND YOU CAN ARGUE,
16 "AND THIS IS THE LAW WHICH SUPPORTS IT."

17 THAT'S BASICALLY ALL I NEED FROM EACH OF YOU.

18 MR. STOLAR: I UNDERSTAND. I HAVE ONE FINAL
19 REQUEST.

20 THE COURT: AND YOURS SHOULD BE THE OPPOSITE, OF
21 COURSE.

22 MR. MEDRANO: YES, SIR.

23 MR. STOLAR: I HAVE ONE FINAL REQUEST, AND THAT
24 IS THAT THE COURT EXAMINE IN CAMERA --

25 MR. MEDRANO: YOUR HONOR, ON THE ISSUE FIRST OF

1 THE PAPER TO BE FILED, MAY -- WILL MR. STOLAR FIRST FILE HIS
2 AND THEN I'LL FILE THE GOVERNMENT'S RESPONSE TO THAT?

3 THE COURT: YES.

4 MR. MEDRANO: THANK YOU.

5 AND BY WHAT DATE SHOULD THIS BE FILED, YOUR
6 HONOR?

7 THE COURT: WELL, I THINK -- IS FIVE DAYS
8 ENOUGH?

9 MR. STOLAR: FIVE TO SIX WOULD BE ENOUGH. I'LL
10 GET IT TO MR. MEDRANO BY FAX AND THAT WAY THERE WON'T BE ANY
11 PROBLEM BY SHORT SERVICE.

12 THE COURT: ALL RIGHT. WELL, GIVE IT TO HIM BY
13 NEXT FRIDAY.

14 MR. STOLAR: OKAY.

15 THE COURT: AND YOU CAN RESPOND BY -- WHAT WOULD
16 THAT BE? BY THE FOLLOWING FRIDAY.

17 MR. STOLAR: MAY I ASK, FINALLY, THAT THE COURT
18 TAKE THE DOCUMENTS THAT WERE SUBPOENAED FROM THE MARSHAL
19 SERVICE, WHICH INCLUDE AN INTERNAL REPORT ABOUT CIVIL RIGHTS
20 CLAIMS THAT MR. MATTA HAS FILED AGAINST THE MARSHAL
21 SERVICE -- AT LEAST THAT'S WHAT'S BEEN REPRESENTED TO ME BY
22 THE COUNSEL IN WASHINGTON -- THAT THE COURT, AS SOMEONE
23 SOMEWHAT DETACHED FROM THE ADVOCATE'S POSITION, WHO HAS THE
24 EVIDENCE THAT HIS ADVERSARY WANTS AND WON'T GIVE IT UP,
25 EXAMINE IT TO DETERMINE WHAT IS THERE, IF ANYTHING, IN THERE

1 THAT IS ARGUABLY RELEVANT TO THE ISSUES THAT HAVE BEEN
2 RAISED IN THIS HEARING.

3 THE COURT: WELL, WHAT SPECIFICALLY?

4 MR. STOLAR: THAT THERE WERE MARSHALS ON THE
5 AIRPLANE THAT TORTURED MR. MATTA.

6 THE COURT: OKAY.

7 MR. MEDRANO: THERE ARE NO SUCH DOCUMENTS IN
8 THERE, YOUR HONOR.

9 THE COURT: WELL, SUBMIT THE MATTER IN CAMERA
10 AND THE COURT WILL REVIEW IT.

11 MR. MEDRANO: VERY WELL, YOUR HONOR,
12 IMMEDIATELY.

13 THE COURT: ALL RIGHT, WE'RE GOING TO ADJOURN,
14 THEN.

15 MR. STOLAR: I'M SORRY, JUDGE, I'M NOT GOING TO
16 BE HERE ON MONDAY, AND I WOULD ASK YOUR INDULGENCE FOR A
17 COUPLE OF OTHER SHORT PROCEDURAL MATTERS TO TRY TO GET THIS
18 CASE READY FOR TRIAL.

19 ONE HAS TO DO WITH THE ORDER, THE INTERPRETATION
20 OF THE ORDER THAT WE SUBMITTED TO YOU DEALING WITH LEGAL
21 VISITATION TO MR. MATTA WHEN HE'S IN LOMPOC.

22 I THOUGHT "FACE TO FACE" MEANS CONTACT, NOT ON
23 THE TELEPHONE.

24 THE COURT: THAT -- I DISAGREE WITH THAT.

25 MR. STOLAR: WELL, WOULD YOU ORDER THAT, THEN?

1 THE COURT: I DON'T SEE ANY REASON TO HAVE FACE
2 TO FACE, SO LONG AS THEY CAN SEE AND HEAR EACH OTHER.

3 MR. STOLAR: EXCEPT THAT PEOPLE ARE OUTSIDE
4 LISTENING TO WHAT WE TALK ABOUT.

5 THE COURT: WELL, I -- THAT'S NOT WHAT I
6 CONTEMPLATED. I DON'T KNOW ABOUT THAT. I HAVEN'T HEARD
7 FROM THE PRISON AUTHORITIES WHAT THE PROBLEM IS WITH THAT.

8 THIS IS THE PROBLEM WITH ADDRESSING AN ORDER
9 LIKE THAT TO THE COURT WITHOUT GIVING NOTICE TO THE PEOPLE
10 INVOLVED IN EXECUTING IT.

11 MR. STOLAR: WE'LL HAVE TO TAKE IT UP, BUT IT IS
12 A PROBLEM. WE WERE ABLE TODAY TO DO SOME PREPARATION IN A
13 MUCH FREER AND MORE COMFORTABLE, SECURE FASHION THAT
14 PRESERVES OUR PRIVILEGE. WE WERE GIVEN A PRIVATE CELL
15 DOWNSTAIRS AND I WAS DELIGHTED.

16 THE COURT: DO YOU KNOW ANYTHING ABOUT THIS?

17 MR. MEDRANO: ABSOLUTELY. IN FACT, THAT'S WHY
18 WE SUBMITTED TO THE COURT A LETTER AND ATTACHED DECLARATION
19 OF THE WARDEN AT LOMPOC EXPLAINING WHY, IN LIGHT OF THE
20 PROFOUND SECURITY CONCERNS AND --

21 THE COURT: WELL, THE PROFOUND SECURITY CONCERNS
22 SHOULD NOT PRECLUDE PRIVATE CONFERENCE BETWEEN LAWYER AND
23 CLIENT.

24 MR. MEDRANO: AND PRIVATE CONFERENCES ARE
25 EXACTLY WHAT EXIST, YOUR HONOR. THAT'S WHY THE

1 MISREPRESENTATIONS BY MR. STOLAR ARE INAPPROPRIATE.

2 MR. STOLAR: IT IS NOT A MISREPRESENTATION.
3 I'VE BEEN TO LOMPOC, AND I CAN HEAR THOSE KEYS JANGLING OUT
4 THERE WHEN THE GUARDS ARE WALKING UP AND DOWN LISTENING TO
5 OUR CONVERSATIONS.

6 THE COURT: JUST A MOMENT. IS THIS WHAT YOUR
7 CLAIM IS BASED ON, WHAT YOU CAN HEAR?

8 MR. STOLAR: IF I CAN HEAR THEIR KEYS JANGLING,
9 THEY CAN HEAR ME WHEN WE TALK OVER THE SPEAKER PHONE.

10 MR. MEDRANO: AND I DISAGREE, YOUR HONOR. THEY
11 SPEAK BETWEEN A GLASS PARTITION IN A SPECIALLY BUILT SECURE
12 FACILITY TO HOUSE AN INMATE OF THE LEVEL OF MATTA. THEY
13 SPEAK BY PHONE.

14 YOU HAVE THE AFFIDAVIT OF THE WARDEN THAT
15 SPECIFICALLY REBUTS THESE ALLEGATIONS MADE BY MR. STOLAR.
16 THAT PHONE -- THOSE CONVERSATIONS, ACCORDING TO THE WARDEN'S
17 DECLARATION, ARE NOT OVERHEARD.

18 SO THE ORDER IS SATISFIED, AND I'M BASICALLY
19 CONVEYING THE INTEREST OF THE BUREAU OF PRISONS HERE, YOUR
20 HONOR. IT IS THEIR SENTIMENT THAT THEY ARE ABIDING BY THE
21 CURRENT ORDER THAT YOU'VE ISSUED, AND THAT FACE-TO-FACE
22 CONFRONTATIONS EVIDENTLY WOULD RUN DIRECTLY CONTRARY TO THE
23 SECURITY CONCERNS OF THE FACILITY.

24 THE COURT: WELL, I'M NOT CONCERNED ABOUT FACE
25 TO FACE. I AM CONCERNED ABOUT PRIVACY.

1 MR. MEDRANO: THEN, YOUR HONOR, I WOULD, THEN
2 JUST ASK YOU TO LOOK AT THE WARDEN'S AFFIDAVIT BECAUSE IT
3 SPECIFICALLY REBUTS THESE ALLEGATIONS. THAT'S WHY THE
4 WARDEN TOOK THE TIME TO WRITE IT AND SUBMIT IT TO THE COURT
5 THROUGH MY COVER SHEET.

6 MR. STOLAR: I CANNOT BELIEVE THAT THE UNITED
7 STATES PRISON SYSTEM, WITH ALL ITS TALENT, CANNOT CREATE A
8 SECURE LOCK-DOWN ROOM WHERE I CAN TALK TO MY CLIENT IN A
9 PRIVATE FASHION.

10 MR. MEDRANO: AND THAT HAS OCCURRED, YOUR HONOR.
11 THEY WENT OUT AND BUILT A SPECIAL FACILITY --

12 MR. STOLAR: IT'S NOT PRIVATE.

13 MR. MEDRANO: IT IS PRIVATE ACCORDING TO THE
14 WARDEN.

15 MR. STOLAR: LET THEM DRILL HOLES THROUGH THE
16 GLASS SO I CAN TALK TO HIM NOT THROUGH A TELEPHONE, THEN.

17 THE COURT: ALL RIGHT. THE ORDER WILL STAND.
18 THE FACILITIES THAT ARE PROVIDED WILL BE CONTINUE TO BE
19 USED, IF THEY ARE TO BE USED AT ALL.

20 AND IF YOU HAVE ANY PROBLEMS OR OTHER
21 DIFFICULTIES, OTHER THAN THIS GENERALIZED SUSPICION THAT
22 YOU'RE BEING OVERHEARD, THEN I WILL CONSIDER IT.

23 MR. STOLAR: ALL RIGHT.

24 THE COURT: ALL RIGHT.

25 MR. STOLAR: CAN I TALK ABOUT THE HAIR?

1 MR. BURNS: I'LL SPEAK FROM HERE, YOUR HONOR.
2 IN THEIR CASE, THE GOVERNMENT HAS TWO HAIR
3 SAMPLES WHICH ARE ALLEGED TO BE FOUND AT THE SCENE OF THE
4 CRIME.

5 WE HAVE BEEN SPEAKING TO TWO EXPERTS, ONE IN
6 VIRGINIA WHO HAS EXAMINED THE HAIR SAMPLES UNDER A LIGHT
7 MICROSCOPE THE SAME WAY THE F.B.I. EXPERTS EXAMINED IT.

8 WE HAVE ANOTHER EXPERT IN MILWAUKEE, A
9 DR. SIEGESMUND, S-I-E-G-E-S-M-U-N-D, AND HE WANTS TO DO AN
10 ELECTRONIC MICROSCOPE ANALYSIS OF THE HAIR SAMPLES. IT MAY
11 INVOLVE REMOVING THE HAIR SAMPLES FROM THE COVER SLIP AND
12 KEEPING THEM OVERNIGHT, BUT THEY WILL NOT BE DESTROYED IS
13 WHAT HE INFORMS ME.

14 I JUST WANT TO BRING THIS TO THE COURT'S
15 ATTENTION BECAUSE I UNDERSTAND THAT THE GOVERNMENT HAS
16 FLAGGED FOR ME THAT THAT SORT OF OPERATION MAY BE A PROBLEM
17 WITH THEM BECAUSE THEY WANT TO KEEP THE SAMPLE IN CUSTODY AT
18 ALL TIMES.

19 THE COURT: WELL, I THINK THE WAY TO DO IT,
20 THEN, IS TO DO IT IN THE PRESENCE OF SOMEBODY FROM THE
21 GOVERNMENT.

22 MR. MEDRANO: THE DIFFICULTY, YOUR HONOR, AND
23 THIS IS MY UNDERSTANDING FROM SPEAKING TO OUR HAIR EXPERT --

24 THE COURT: LOOK, COUNSEL, THEY ARE ENTITLED TO
25 HAVE EXAMINATIONS MADE OF THESE HAIR SAMPLES. REGARDLESS OF

1 HOW DIFFICULT IT IS, THEY ARE ENTITLED TO HAVE AN EXPERT
2 EXAMINE THE SAMPLES. SO SOME WAY HAS TO BE WORKED OUT TO DO
3 IT.

4 MR. MEDRANO: MAY I HAVE JUST ONE MOMENT, YOUR
5 HONOR?

6 MR. CARLTON: I BELIEVE, YOUR HONOR, MR. MEDRANO
7 IS GOING TO ADDRESS A CONCERN THAT MAY NOT EXIST ANY LONGER,
8 WHICH WAS THAT IN PRIOR TIMES, IT WAS OUR UNDERSTANDING
9 THROUGH OUR EXPERT THAT IN ORDER TO EXAMINE A HAIR WITH THE
10 USE OF AN ELECTRON MICROSCOPE, THE HAIR WOULD HAVE TO BE
11 COATED WITH METAL, THEREBY DESTROYING ITS ABILITY TO BE
12 EXAMINED BY ANY OTHER MEANS AT A LATER DATE.

13 I HAVE BEEN INFORMED BY MR. BURNS FROM HIS
14 EXPERT THAT THAT IS NO LONGER THE CASE. AND WE HAD A
15 CONVERSATION, I'D SAY ABOUT A WEEK AND A HALF OR TWO WEEKS
16 AGO ABOUT THIS, AND AS WE LEFT IT, THE TWO EXPERTS WERE
17 GOING TO CONFER AS TO THE APPROPRIATE MEANS FOR DEALING WITH
18 THIS.

19 NOW, NEITHER MR. MEDRANO NOR I HAVE HEARD BACK,
20 I UNDERSTAND, FROM MR. MATTA'S COUNSEL ABOUT THE HAIRS AT
21 ALL. SO THIS IS THE FIRST WE'VE HEARD ABOUT IT SINCE THEN.
22 WE ARE CONCERNED ABOUT MAINTAINING THE SECURITY OF THE
23 HAIRS, WE'RE CAUGHT A LITTLE OFF GUARD BECAUSE THIS COMES UP
24 WITHOUT ANY PRIOR NOTICE.

25 WE HAD LEFT THE MATTER TO BE CONFERRED BETWEEN

1 THE TWO EXPERTS AND THERE HAS BEEN NO COMMUNICATION FROM
2 ANYBODY SINCE THAT TIME.

3 THE COURT: WELL, WORK IT OUT. I THINK THEY'RE
4 ENTITLED TO HAVE THE EXAMINATION MADE IF THERE IS NO PROBLEM
5 ABOUT DESTRUCTION OF THE SAMPLES. THE GOVERNMENT IS
6 ENTITLED TO ENSURE THE INTEGRITY OF THE SAMPLE. SO SOME
7 ARRANGEMENT HAS TO BE MADE TO PROVIDE BOTH.

8 MR. CARLTON: YOUR HONOR, WE HAVE REPRESENTED
9 FROM THE MOMENT THEY ENTERED THE CASE THAT THESE HAIRS WOULD
10 BE MADE AVAILABLE ON ONE DAY'S NOTICE ANYWHERE IN THE
11 COUNTRY. NOW, WE HAVE ALSO BEEN TOLD BY THE EXPERTS --

12 THE COURT: ALL RIGHT, NOW WHY ARE WE TAKING UP
13 TIME WITH THIS, THEN?

14 MR. BURNS: I JUST WANTED TO FLAG IT FOR THE
15 COURT, YOUR HONOR, BECAUSE --

16 THE COURT: WELL, WORK IT OUT. IF THERE'S A
17 PROBLEM, LET ME KNOW. THIS IS NOT THE TIME TO BRING IN ALL
18 YOUR WALK-IN BUSINESS. WE WERE HERE FOR A SPECIAL REASON,
19 I'VE STAYED WAY OVERTIME IN ORDER TO GET IT DONE. DON'T
20 START COMING UP WITH DIFFERENT PROBLEMS.

21 IF YOU HAVE SOME, ADDRESS THEM TO THE COURT IN
22 THE PROPER WAY.

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

25 (PROCEEDINGS ADJOURNED FOR THE DAY.)

C E R T I F I C A T E

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I CERTIFY THAT THIS IS A TRUE AND ACCURATE
TRANSCRIPT MADE FROM THE STENOGRAPHIC NOTES OF THE ABOVE-
ENTITLED MATTER.

JULIE A. CHURCHILL, RPR
CSR #6155

DATED: _____