

COPY

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

HONORABLE EDWARD RAFFEDIE, DISTRICT COURT JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
) PLAINTIFF,)
)
) VS.) CASE NO: CR 87-422(F)-ER
) C.A. NO: 91-50351
JUAN RAMON MATTA-BALLESTEROS,)
RUBEN ZUNO-ARCE,)
JUAN JOSE BERNABE-RAMIREZ,)
AND JAVIER VASQUEZ-VELASCO,)
)
) DEFENDANTS.)
-----) VOLUME 18

REPORTER'S TRANSCRIPT OF PROCEEDINGS
THURSDAY, JUNE 21, 1990; 9:30 A.M.
LOS ANGELES, CALIFORNIA

BY DIRECTION OF THE COURT:
THIS TRANSCRIPT IS FURNISHED
PURSUANT TO THE CRIMINAL JUSTICE
ACT AND PAID FOR BY GOVERNMENT
FUNDS. IT SHALL NOT BE MADE
AVAILABLE TO NON-CJA COUNSEL
FOR ANY PURPOSE DURING OR AFTER
TRIAL, AND SHALL NOT BE REPRO-
DUCED EXCEPT BY ORDER OF THE
COURT.

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

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

GARY A. FEES,
UNITED STATES ATTORNEY
BY: MANUEL A. MEDRANO
JOHN L. CARLTON
ASSISTANT U.S. ATTORNEYS
1200 UNITED STATES COURTHOUSE
312 NORTH SPRING STREET
LOS ANGELES, CALIFORNIA 90012
(213) 894-0619/894-6682

FOR DEFENDANT JUAN RAMON MATTA-BALLESTEROS:

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

FOR DEFENDANT RUBEN ZUNO-ARCE:

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

FOR DEFENDANT JUAN JOSE BERNABE-RAMIREZ:

MARY KELLY
ATTORNEY AT LAW
827 MORAGA DRIVE
BEL AIR, CALIFORNIA 90049
(213) 472-7121

AND

BRIDGMAN, MORDKIN, GOULD & SHAPIRO, INC.
BY: MICHAEL S. MEZA, ESQ.
17050 BUSHARD STREET, STE. 200
FOUNTAIN VALLEY, CALIFORNIA 92708
(714) 898-0461; (213) 924-6606

APPEARANCES (CONTINUED):

FOR DEFENDANT JAVIER VASQUEZ-VELASCO:

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

ALSO PRESENT:

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

SPANISH INTERPRETERS

1 LOS ANGELES + CALIFORNIA THURSDAY, JUNE 21, 1991

2 + 9:00 A.M.

3
4 (JURY PRESENT.)

5 MR. STOLAR: GOOD MORNING.

6 THE COURT: GOOD MORNING. CALL YOUR NEXT WITNESS.

7 MR. CARLTON: YOUR HONOR, THE GOVERNMENT CALLS
8 HECTOR BERRELLEZ.

9 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

10 HECTOR BERRELLEZ + PLAINTIFF'S WITNESS, SWORN

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

13 THE WITNESS: MY NAME IS HECTOR BERRELLEZ. SPELL
14 THE LAST NAME B E R R E L L E Z.

15 DIRECT EXAMINATION +

16 BY MR. CARLTON:

17 Q. MR. BERRELLEZ, WHAT IS YOUR PRESENT EMPLOYMENT?

18 A. I'M A SPECIAL AGENT WITH THE UNITED STATES DRUG
19 ENFORCEMENT ADMINISTRATION. I AM THE SUPERVISOR FOR THE TASK
20 FORCE OPERATION LEYENDA, WHICH HAS BEEN ASSIGNED
21 RESPONSIBILITIES OF INVESTIGATING THE KIDNAP MURDER OF SPECIAL
22 AGENT ENRIQUE CAMARENA.

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

24 A. APPROXIMATELY 17 YEARS.

25 Q. IN THE COURSE OF YOUR DUTIES WITH THE D.E.A., HAVE YOU

1 EVER BEEN ASSIGNED TO THE COUNTRY OF MEXICO?

2 A. YES, SIR, I HAVE. IN 1987 I WAS ASSIGNED TO THE
3 MAZATLAN, SINALOA, MEXICO RESIDENT OFFICE. I WAS THE RESIDENT
4 AGENT IN CHARGE OF THAT OFFICE, SIR.

5 Q. HOW LONG WERE YOU IN THAT OFFICE?

6 A. I WAS THERE ONLY A YEAR AND TWO MONTHS. I WAS EVACUATED
7 OUT, SIR.

8 Q. ARE YOU FLUENT IN BOTH SPANISH AND ENGLISH?

9 A. YES, SIR, I AM.

10 Q. BOTH IN WRITING AND ORALLY?

11 A. YES, SIR.

12 Q. DID YOU HAVE ANY PRIOR LAW ENFORCEMENT EXPERIENCE PRIOR
13 TO YOUR EMPLOYMENT BY THE D.E.A?

14 A. YES, SIR, I DID. PRIOR TO COMING ON TO THE D.E.A., I
15 WORKED FOR THE ARIZONA DEPARTMENT OF PUBLIC SAFETY FOR TWO
16 YEARS.

17 AND PRIOR TO THAT, I WAS EMPLOYED WITH THE SOUTH
18 TUCSON, ARIZONA POLICE DEPARTMENT FOR TWO YEARS.

19 Q. IN THE COURSE OF YOUR WORK IN THE LEYENDA INVESTIGATION,
20 DID YOU PARTICIPATE IN AN UNDERCOVER INVESTIGATION OF ONE OF
21 THE DEFENDANTS IN THIS CASE, JUAN JOSE BERNABE RAMIREZ?

22 A. YES, SIR, I DID.

23 Q. AND IN THE COURSE OF THAT INVESTIGATION, DID YOU MEET
24 WITH DEFENDANT BERNABE RAMIREZ?

25 A. YES, SIR. I DID.

1 Q. WHEN IS THE FIRST TIME MET HIM?

2 A. IT WAS ON JULY 20, 1989 AT THE LOS ANGELES INTERNATIONAL
3 AIRPORT, SIR.

4 Q. NOW, DURING THAT MEETING, WERE YOU ACTING IN AN
5 UNDERCOVER CAPACITY?

6 A. YES, SIR, I WAS.

7 Q. AND WHAT WAS YOUR ROLE IN THIS UNDERCOVER INVESTIGATION?

8 A. I WAS PURPORTING TO BE A DRUG -- A DRUG LORD, A BIG
9 NARCOTICS TRAFFICKER. AND I EVEN TOOK THE IDENTITY OF A
10 TRAFFICKER BY THE NAME OF MANUEL LIZARRAGA.

11 Q. WHAT WAS YOUR PLAN IN THIS INVESTIGATION? WHAT WERE YOU
12 ATTEMPTING TO DO?

13 A. THE OBJECT OF THE INVESTIGATION WAS TO INVESTIGATE MR.
14 BERNABE RAMIREZ TO SEE WHAT INVOLVEMENT, IF ANY, HE HAD HAD IN
15 THE KIDNAP MURDER OF DRUG ENFORCEMENT SPECIAL AGENT ENRIQUE
16 CAMARENA.

17 Q. NOW, WHEN YOU MET WITH DEFENDANT BERNABE -- I WANT TO ASK
18 YOU AT THIS TIME, AS A MATTER OF FACT, TO STAND, PLEASE, LOOK
19 AROUND THE COURTROOM AND SEE IF YOU RECOGNIZE JUAN JOSE
20 BERNABE RAMIREZ, THE PERSON WHOM YOU MET FOR THE FIRST TIME ON
21 JULY 20, 1989?

22 A. YES SIR. THE GENTLEMAN WITH THE, I BELIEVE, IT IS A
23 LIGHT BLUE SHIRT, GLASSES, MOUSTACHE. HE WOULD BE THE ONE,
24 TWO, THREE, FOUR -- FIFTH PERSON FROM MY RIGHT.

25 MR. CARLTON: YOUR HONOR, MAY THE RECORD REFLECT

1 THAT HE HAS IDENTIFIED THE DEFENDANT?

2 THE COURT: WELL, THE COUNT -- THE FIFTH PERSON, YOU
3 SAID, FROM THE RIGHT?

4 THE WITNESS: YES SIR, STARTING FROM THE REAR TABLE
5 FROM THE RIGHT, SIR. FROM THE RIGHT, REAR TABLE.

6 THE COURT: ALL RIGHT. THAT WOULD INDICATE MR.
7 BERNABE RAMIREZ.

8 BY MR. CARLTON:

9 Q. DID ANYONE ACCOMPANY YOU WHEN YOU FIRST MET WITH BERNABE
10 AT THE AIRPORT, SIR?

11 A. YES, SIR. I WAS ACCOMPANIED BY SPECIAL AGENT DELBERT
12 SALAZAR AND ABEL REYNOSO.

13 Q. WERE THEY ALSO ACTING IN AN UNDERCOVER CAPACITY?

14 A. YES, SIR. THEIR ROLE IN THE UNDERCOVER INVESTIGATION WAS
15 TO PURPORT TO BE BODYGUARDS OF MINE AND ALSO DRUG DISTRIBUTORS
16 THAT I USED IN MY DRUG ORGANIZATION.

17 Q. AND WHEN YOU MET WITH DEFENDANT BERNABE ON THIS OCCASION,
18 WAS HE ACCOMPANIED BY ANYONE?

19 A. YES, SIR, HE WAS. HE WAS ACCOMPANIED BY HIS WIFE, THE
20 INFORMANT, THE INFORMANT'S WIFE, THE INFORMANT'S TWO CHILDREN,
21 AND THERE WERE ALSO TWO FEMALE VETERINARY DOCTORS.

22 Q. DID YOU KNOW WHERE ALL OF THESE INDIVIDUALS WERE COMING
23 FROM WHEN YOU MET THEM AT LOS ANGELES INTERNATIONAL AIRPORT?

24 A. YES, SIR. THEY WERE COMING FROM GUADALAJARA, JALISCO,
25 MEXICO.

1 Q. WHEN YOU MET WITH THEM ON THIS OCCASION, ON JULY 20TH,
2 WHAT DID YOU DO?

3 A. WE GOT INTO TWO UNDERCOVER VEHICLES AND WE DROVE THEM
4 FROM THE AIRPORT TO THE EMBASSY SUITES IN ARCADIA, CALIFORNIA.

5 Q. WHO RODE -- WELL, YOU GOT INTO ONE UNDERCOVER VEHICLE,
6 CORRECT?

7 A. YES, SIR. IN THE UNDERCOVER VEHICLE THAT I OCCUPIED,
8 THAT VEHICLE WAS BEING DRIVEN AT THE TIME BY SPECIAL AGENT
9 REYNOSO.

10 IN THAT VEHICLE ALSO WERE THE INFORMANT AND
11 MR. BERNABE RAMIREZ. AND THAT WAS THE TOTALITY OF THE PEOPLE
12 IN CAR THAT I RODE IN.

13 Q. WHEN YOU BEGAN THIS DRIVE TO THE EMBASSY SUITES, DID THE
14 PERSONS IN THE CAR ENGAGE IN SOME CONVERSATION?

15 A. YES, SIR, WE ENGAGED IN CONVERSATION.

16 Q. AND DID DEFENDANT BERNABE APPEAR TO BE NERVOUS OR
17 APPREHENSIVE IN ANY WAY?

18 A. YES, SIR. INITIALLY HE APPEARED APPREHENSIVE. DURING
19 THE FIRST MAYBE TEN MINUTES OF THE DRIVE HE DIDN'T SAY VERY
20 MUCH, SIR.

21 Q. NOW, AGENT BERRELLEZ, YOU HAVE BEEN EMPLOYED BY THE
22 D.E.A. FOR WHAT, 17 YEARS?

23 A. ALMOST. YES, SIR.

24 Q. AND IN THAT 17 YEARS, HOW MANY UNDERCOVER INVESTIGATIONS
25 HAVE YOU BEEN INVOLVED IN?

1 A. I WOULD SAY THAT I HAVE PARTICIPATED PROBABLY IN THE
2 VICINITY OF 400 UNDERCOVER INVESTIGATIONS.

3 Q. AND HOW MANY TIMES DO YOU THINK THAT YOU'VE MET WITH
4 PERSONS IN AN UNDERCOVER CAPACITY?

5 MS. KELLY: OBJECTION, YOUR HONOR. RELEVANCE.

6 THE COURT: SUSTAINED.

7 BY MR. CARLTON:

8 Q. WELL, IN YOUR EXPERIENCE, AGENT BERRELLEZ -- IN YOUR
9 EXPERIENCE CONDUCTING UNDERCOVER OPERATIONS, IS IT -- DO
10 PERSONS INITIALLY, WHEN MEETING WITH YOU, TALK FREELY ABOUT
11 INVOLVEMENT IN CRIMINAL ACTIVITIES?

12 MS. KELLY: OBJECTION AS TO WHAT OTHER PERSONS DO,
13 ON THE BASIS OF RELEVANCE.

14 THE COURT: YES. THE OBJECTION IS SUSTAINED.

15 BY MR. CARLTON:

16 Q. ALL RIGHT. AGENT BERRELLEZ, WHAT WAS YOUR FIRST PRIORITY
17 IN THIS INVESTIGATION, IN DEALING WITH DEFENDANT BERNABE?

18 A. THE FIRST PRIORITY IN THIS CASE, AS IN OTHER UNDERCOVER
19 INVESTIGATIONS, IS TO INITIALLY TRY TO DEVELOP A RAPPORT, A
20 TRUST SO YOU CAN GET THE PEOPLE TO TALK TO YOU -- THE PEOPLE
21 YOU'RE WORKING UNDERCOVER INTO. THE FIRST PRIORITY IS TO
22 ESTABLISH SOME TYPE OF DIALOGUE WITH THEM.

23 AND A LOT OF TIMES IT TAKES SEVERAL DAYS OF
24 UNDERCOVER MEETINGS TO BE ABLE TO GET -- TO BUILD UP THIS
25 TRUST THAT YOU NEED WITH CRIMINAL SUSPECTS.

1 Q. SO THAT WAS THE FIRST THING THAT YOU ATTEMPTED TO DO THEN
2 IN DEALING WITH DEFENDANT BERNABE?

3 A. YES, SIR.

4 Q. NOW, IN THE COURSE OF THIS DRIVE FROM LOS ANGELES
5 INTERNATIONAL AIRPORT TO THE EMBASSY SUITES, DID DEFENDANT
6 BERNABE MAKE ANY COMMENTS OR STATEMENTS?

7 A. YES, SIR, HE DID.

8 Q. IN THE COURSE OF THIS CONVERSATION THEN, DID DEFENDANT
9 BERNABE MENTION WHETHER HE HAD EVER BEEN EMPLOYED BY THE STATE
10 POLICE IN MEXICO?

11 A. YES, SIR. HE TOLD ME THAT HE HAD BEEN EMPLOYED AS A
12 STATE JUDICIAL POLICE AGENT.

13 Q. AND DURING THIS DRIVE TO THE EMBASSY SUITES, DID
14 DEFENDANT BERNABE DISCUSS ERNESTO FONSECA AT ALL?

15 A. YES, SIR. HE TOLD ME THAT HE HAD WORKED FOR ERNESTO
16 FONSECA AND THAT HE HAD BEEN ARRESTED IN PUERTO VALLARTA IN
17 '85 WITH ERNESTO FONSECA.

18 Q. DID HE TELL YOU WHAT HE HAD SAID TO THE POLICE AFTER HIS
19 ARREST ON THAT OCCASION?

20 A. YES, SIR. HE TOLD ME THAT HAD TOLD ARRESTING MEXICAN
21 AUTHORITIES THAT HE HAD BEEN BUT A MERE SERVANT FOR FONSECA.

22 Q. AND DID HE TELL YOU, AGENT BERRELLEZ, ABOUT AN INDIVIDUAL
23 WHOM HE KNEW WAS INVOLVED IN THE PUERTO VALLARTA INCIDENT WHO
24 HAD COME TO THE UNITED STATES?

25 A. YES, SIR. HE TOLD ME THAT ANOTHER INDIVIDUAL --

1 MS. KELLY: YOUR HONOR, I HAVE AN OBJECTION TO THIS
2 ON RELEVANCE GROUNDS.

3 THE COURT: OVERRULED.

4 THE WITNESS: YES, SIR. WHAT HE TOLD ME WAS THAT
5 ANOTHER INDIVIDUAL, WHO HE DIDN'T NAME BY NAME, THAT HAD BEEN
6 ARRESTED WITH FONSECA AT PUERTO VALLARTA, THAT THAT PERSON HAD
7 COME UP HERE, THAT HE HAD GONE INTO A BAR, SAID TOO MUCH, AND
8 BECAUSE HE HAD TALKED TOO MUCH ABOUT WHAT HAD HAPPENED THERE,
9 HE HAD BEEN ARRESTED.

10 BY MR. CARLTON:

11 Q. NOW, WHEN YOU ARRIVED AT THE EMBASSY SUITES ON JULY 20TH,
12 WHAT DID DEFENDANT BERNABE DO?

13 A. UPON ARRIVING AT THE EMBASSY SUITES, ALL I RECALL IS THAT
14 WE EXITED THE UNDERCOVER VEHICLES, ROOMS WERE PROCURED AND WE
15 LEFT, TELLING THEM THAT BE WOULD MEET AGAIN ON THE FOLLOWING
16 DAY, SIR.

17 Q. DID YOU, IN FACT, MEET WITH THE DEFENDANT THE FOLLOWING
18 DAY?

19 A. YES, SIR, WE DID.

20 Q. THAT WOULD BE JULY 21ST, 1989?

21 A. THAT IS CORRECT, SIR.

22 Q. WHERE DID YOU MEET WITH HIM ON THAT OCCASION?

23 A. WE MET WITH HIM AT THE HOWARD JOHNSON'S HOTEL IN THE CITY
24 OF MONROVIA, CALIFORNIA.

25 Q. AND WHO ELSE PARTICIPATED IN THIS MEETING?

1 A. PRESENT DURING THIS MEETING WERE MYSELF, OF COURSE,
2 SPECIAL AGENT DELBERT SALAZAR, THE INFORMANT IN THE CASE AND
3 MR. BERNABE RAMIREZ, SIR.

4 THE COURT: THESE STATEMENTS THAT YOU'RE ELICITING
5 FROM THIS WITNESS ARE OFFERED ONLY AGAINST THE DEFENDANT
6 BERNABE RAMIREZ; IS THAT CORRECT?

7 MR. CARLTON: THAT IS CORRECT, YOUR HONOR.

8 THE COURT: I WILL SO INSTRUCT THE JURY THAT THE
9 STATEMENTS THAT THIS WITNESS TESTIFIES TO THAT MAY HAVE BEEN
10 MADE TO HIM BY MR. BERNABE RAMIREZ, MAY ONLY BE CONSIDERED AS
11 EVIDENCE IN HIS CASE AND NOT AGAINST ANY OTHER DEFENDANT.

12 AND THAT IS TRUE ALSO OF THE STATEMENTS
13 TESTIFIED TO YESTERDAY BY AGENT SALAZAR

14 MR. STOLAR: THANK YOU.

15 BY MR. CARLTON:

16 Q. AGENT BERRELLEZ, JUST RETURNING BRIEFLY TO THE
17 CONVERSATION IN THE AUTOMOBILE ON JULY 20TH, AT ANY TIME
18 DURING THAT CONVERSATION, WAS YOUR UNDERCOVER IDENTITY AS A
19 DRUG TRAFFICKER REVEALED TO DEFENDANT BERNABE?

20 A. YES, SIR. I WAS INTRODUCED TO BERNABE BY THE INFORMANT
21 AS BEING MANUEL LIZARRAGA, A COMPADRE, VERY CLOSE ASSOCIATE OF
22 RAFAEL CARO QUINTERO, REFERRED TO AS "R-1" OR ALSO KNOWN AS
23 "R-1", SIR.

24 Q. WAS THIS EARLY IN THE CONVERSATION THAT THIS IDENTITY WAS
25 DISCLOSED?

1 A. I WOULD SAY PROBABLY IN THE MIDDLE OF THIS CONVERSATION,
2 SIR.

3 Q. NOW, GOING BACK THEN TO THE MEETING ON JULY 21ST, WHERE
4 AT THE HOWARD JOHNSON'S DID THIS MEETING TAKE PLACE?

5 A. IT TOOK PLACE IN ONE OF THE ROOMS. I DON'T REMEMBER THE
6 ROOM NUMBER, SIR.

7 Q. WAS THIS MEETING RECORDED ON VIDEOTAPE?

8 A. YES, SIR, IT WAS.

9 Q. WAS AN AUDIO RECORDING ALSO BEING MADE?

10 A. YES, SIR, IT WAS.

11 Q. AND DURING THIS CONVERSATION, DID BERNABE DESCRIBE
12 EFFORTS THAT HE UNDERTOOK TO ASSURE THAT THE TELEPHONE NUMBERS
13 HE USED WERE NOT KNOWN?

14 A. YES, SIR. I RECALL HIM TELLING ME THAT HE WAS CAUTIOUS,
15 THAT EVEN WHEN RECORDING TELEPHONE NUMBERS, THAT HE WOULD
16 WRITE THEM IN REVERSE SEQUENCE.

17 AND I REMEMBER HIM TELLING ME THAT EVEN IF HIS WIFE
18 TRIED TO FIND OUT WHAT NUMBERS HE HAD, THAT NOT EVEN HIS WIFE
19 COULD DECODE THEM.

20 Q. AGAIN, DURING THIS CONVERSATION ON JULY 21ST, DID BERNABE
21 AGAIN DESCRIBE THE ARREST OF ERNESTO FONSECA AND HIS PEOPLE AT
22 PUERTO VALLARTA IN 1985?

23 A. YES, SIR, HE DOES. HE DOES DESCRIBE WHAT HAPPENED THERE
24 AT PUERTO VALLARTA DURING THE ARREST OF ERNESTO FONSECA.

25 Q. DID HE MENTION WHETHER HE WAS ARMED -- WHETHER DEFENDANT

1 BERNABE HIMSELF WAS ARMED AT THE TIME?

2 A. YES - SIR. I RECALL THAT HE TOLD ME HE WAS ARMED, AND
3 RIGHT PRIOR TO THE MEXICAN AUTHORITIES COMING IN TO THE
4 RESIDENCE WHERE THEY WERE, THAT HE HAD DISPOSED OF THE GUN IN
5 THE GARBAGE -- OF THE WEAPON IN THE GARBAGE.

6 Q. DID HE SAY WHAT KIND OF WEAPON IT WAS?

7 A. I DON'T RECALL. I JUST RECALL THAT HE USED THE WORD
8 WEAPON.

9 Q. DID HE DISCUSS AGAIN HIS IMPERSONATING A SERVANT AFTER
10 HIS ARREST?

11 A. YES, SIR. AGAIN, HE DESCRIBED TO ME HOW HE HAD DECEIVED
12 ARRESTING MEXICAN OFFICIALS BY TELLING THEM THAT HE SERVED
13 FONSECA AS A MERE SERVANT.

14 Q. DID DEFENDANT BERNABE DISCUSS ANY PROPERTY THAT HE HAD
15 ACQUIRED IN MEXICO?

16 A. YES, SIR. HE TOLD ME THAT MR. FONSECA HAD GIVEN HIM
17 MONEYS WHICH HE USED TO BUY PROPERTIES.

18 Q. AND DURING THE COURSE OF THIS CONVERSATION, DID DEFENDANT
19 BERNABE DISCUSS THE CITIZENSHIP OF D.E.A. SPECIAL AGENT
20 ENRIQUE CAMARENA?

21 A. YES - SIR. HE -- TO THE BEST OF MY RECOLLECTION, HE SAID
22 THAT -- THE WAY HE STATED IT WAS THAT CAMARENA WAS NOT -- WELL
23 AT LEAST CAMARENA WAS NOT A GRINGO, THAT CAMARENA WAS FROM
24 MEXICALI, MEXICO, THAT HE WAS A NATURALIZED NORTH AMERICAN.

25 Q. AND AT ANY POINT DURING THIS CONVERSATION, DID DEFENDANT

1 BERNABE MENTION WHETHER HE HAD EVER BEEN AT THE RESIDENCE AT
2 881 LOPE DE VEGA?

3 A. ON THAT OCCASION, HE TOLD ME HE HAD GONE TO 881 LOPE DE
4 VEGA WITH FONSECA AND THREE OTHER MEN IN A PICKUP TRUCK, YES,
5 SIR.

6 Q. DID HE SAY WHETHER HE KNEW WHETHER AGENT CAMARENA OR
7 SOMEONE SUCH AS AGENT CAMARENA WAS AT THAT LOCATION AT THAT
8 TIME WHEN HE WAS THERE?

9 A. HE TOLD -- HE TOLD ME THAT HE HAD GONE TO THAT LOCATION,
10 AS I STATED BEFORE, WITH THREE OTHER MEN AND FONSECA, AND THAT
11 HE HAD STAYED OUTSIDE, AND THAT HE WAS AWARE THAT SOMEBODY WAS
12 BEING HELD THERE. AND LATER HE FOUND OUT IT WAS CAMARENA THAT
13 WAS BEING HELD THERE, SIR.

14 Q. AND DID HE --

15 THE COURT: COUNSEL, WHY IS IT NECESSARY TO ELICIT
16 THIS CONVERSATION IF YOU'RE GOING TO PLAY IT HERE?

17 MR. CARLTON: THIS PORTION OF THE CONVERSATION IS
18 NOT ON THE EXCERPTS THAT WE ARE GOING TO PLAY.

19 THE COURT: OH, ALL RIGHT.

20 BY MR. CARLTON:

21 Q. AND DID HE SAY WHETHER HE HAD AT THAT TIME ANY
22 UNDERSTANDING ABOUT THE PHYSICAL CONDITION OF THE PERSON BEING
23 HELD AT THAT HOUSE?

24 A. WHAT HE TOLD ME ON THAT OCCASION WAS THAT HE HAD STAYED
25 OUTSIDE THE HOUSE AND THAT HE HAD COME TO KNOW THAT THAT

1 PERSON WAS VERY BADLY BEAT UP.

2 Q. DID HE SAY WHETHER HE HAD GONE INSIDE THE HOUSE HIMSELF?

3 A. ON THAT OCCASION HE TOLD ME HE HAD NOT GONE INSIDE THE
4 HOUSE, THAT HE HAD STAYED BY THE PICKUP TRUCK OUTSIDE.

5 Q. DID HE DESCRIBE AN ARGUMENT BETWEEN ERNESTO FONSECA AND
6 RAFAEL CARO QUINTERO THAT YOU SAW ON THAT OCCASION?

7 A. YES, SIR. HE STATED THAT SHORTLY AFTER FONSECA HAD
8 ENTERED THE 881 LOPE DE VEGA RESIDENCE, THAT SHORTLY
9 THEREAFTER, FONSECA HAD EXITED THE HOUSE FOLLOWED BY RAFAEL
10 CARO QUINTERO AND THAT IN HIS PRESENCE THERE HAD BEEN AN
11 ARGUMENT.

12 HE STATED THAT FONSECA HAD EXPRESSED BEING UPSET
13 THAT THE PERSON WAS BEAT UP SO BAD, AND THAT HE TOLD CARO
14 QUINTERO THAT HE HAD TO BE BUMPED OFF NOW.

15 Q. NOW, IN THE COURSE OF THIS CONVERSATION, DID DEFENDANT
16 BERNABE USE SOME SORT OF NICKNAME IN REFERRING TO ERNESTO
17 FONSECA?

18 A. YES, SIR. HE REFERRED TO HIM AS EL SENOR, "THE BOSS",
19 "THE MAN".

20 Q. NOW, IF YOU WOULD, PLEASE, I'D ASK YOU TO LOOK AT WHAT
21 HAS BEEN MARKED AS EXHIBIT 156 BEFORE YOU.

22 A. 166?

23 Q. 156. IT SHOULD BE AN EVIDENCE BAG WITH RECORDINGS IN IT.

24 A. OH, YES, SIR, I SEE IT HERE.

25 Q. DO YOU RECOGNIZE THAT?

1 A. YES, SIR, I DO.

2 Q. IS THAT THE VIDEOTAPE AND THE AUDIO RECORDING OF THE
3 MEETING AT THE HOTEL ON JULY 21ST OF LAST YEAR?

4 A. YES, SIR. IT IS.

5 Q. NOW, HAVE YOU LISTENED AND WATCHED THAT TAPE IN IT'S
6 ENTIRETY?

7 A. YES. SIR, I HAVE.

8 Q. IS IT AN ACCURATE RECORDING OF EVERYTHING THAT TRANSPIRED
9 DURING THAT MEETING?

10 A. YES, SIR, IT IS.

11 Q. LOOKING AT EXHIBIT 157, IF YOU WOULD, WHICH IS A
12 TRANSCRIPT --

13 A. YES, SIR. I SEE IT.

14 Q. DO YOU RECOGNIZE THAT?

15 A. YES, SIR. THIS IS A TRANSCRIPT OF THE CONVERSATION OF
16 JULY 21, 1989.

17 Q. A SPANISH TRANSCRIPT?

18 A. YES, SIR, IT IS.

19 Q. HAVE YOU READ THAT TRANSCRIPT?

20 A. YES, SIR, I HAVE.

21 Q. IS IT AN ACCURATE TRANSCRIPT OF THE TAPE?

22 A. YES, SIR, IT IS.

23 MR CARLTON: YOUR HONOR, I WOULD MOVE AT THIS TIME
24 TO INTRODUCE EXHIBIT 156 AND EXHIBIT 159, WHICH ARE THE VIDEO
25 EXCERPTS WITH THE ENGLISH SUBTITLES OF A PORTION OF EXHIBIT

1 156.

2 THE COURT: YES, THEY MAY BE RECEIVED.

3 (EXHIBIT # 156 RECEIVED IN EVIDENCE.)

4 (EXHIBIT # 159 RECEIVED IN EVIDENCE.)

5 MR. CARLTON: AND I WOULD ALSO AT THIS TIME ASK
6 PERMISSION TO SHOW EXHIBIT 159, WHICH IS A SHORT EXCERPT OF
7 THIS PARTICULAR CONVERSATION ON JULY 21ST, AND THEN RETURN TO
8 QUESTIONING ABOUT SUBSEQUENT MEETINGS.

9 THE COURT: THAT MAY BE SHOWN.

10 MS. KELLY: YOUR HONOR, COULD WE HAVE PERMISSION TO
11 MOVE SO WE COULD SEE THE SHOW?

12 THE COURT: (GESTURING.)

13 (COUNSEL MOVING AROUND TO SEE THE PRESENTATION ON
14 THE WALL.)

15 MR. CARLTON: YOUR HONOR, MAY WE HAVE A STIPULATION
16 THAT THE COURT REPORTER DOES NOT HAVE TO REPORT THIS?

17 THE COURT: YES. IS THAT STIPULATED, THAT THE COURT
18 REPORTER DOES NOT NEED TO REPORT THE DIALOGUE?

19 MR. NICOLAYSON: SO STIPULATED.

20 MS. KELLY: YES, YOUR HONOR.

21 MR. MEDVENE: YES, SIR.

22 MR. STOLAR: YES, YOUR HONOR.

23 THE COURT: YOU MAY PROCEED.

24 (VIDEOTAPE IDENTIFIED AS EXHIBIT 159 WAS PLAYED FOR
25 THE COURT AND JURY.)

1 BY MR. CARLTON:

2 Q. HOW DID THIS MEETING ON JULY 21ST COME TO AN END?

3 A. IT CAME TO AN END BY AGREEING THAT WE WOULD MEET AGAIN,
4 SIR.

5 Q. DID YOU, IN FACT, MEET AGAIN?

6 A. YES, SIR, WE DID.

7 Q. WHEN WAS THAT?

8 A. ON JULY 24, 1989.

9 Q. WHERE WAS THIS NEXT MEETING?

10 A. AGAIN, WITHIN A HOTEL ROOM IN THE HOWARD JOHNSON'S OF
11 MONROVIA, CALIFORNIA.

12 Q. WAS IT ALSO IN A ROOM AT THAT HOTEL?

13 A. YES, SIR, IT WAS.

14 Q. WHO WAS PRESENT AT THIS NEXT MEETING ON THE 24TH OF JULY?

15 A. MYSELF, SPECIAL AGENT DELBERT SALAZAR, THE INFORMANT, MR.
16 BERNABE RAMIREZ AND ALSO, SPORADICALLY, WE HAD SPECIAL AGENT
17 TOM MORALES AND ABEL REYNOSO IN AND OUT OF THE ROOM AT TIMES.

18 Q. WAS THIS MEETING ALSO RECORDED?

19 A. YES, SIR, IT WAS.

20 Q. WAS IT RECORDED ON AUDIO TAPE?

21 A. YES, SIR, IT WAS.

22 Q. WAS THERE A VIDEO RECORDING AS WELL?

23 A. YES, SIR.

24 Q. NOW, IN THE COURSE OF THIS CONVERSATION, DID BERNABE
25 TALKING ABOUT HIS RELEASE FROM JAIL?

1 A. YES, SIR, HE DID.

2 Q. AFTER THE ARREST IN PUERTO VALLARTA?

3 A. YES, SIR, HE DID.

4 Q. DID HE SAY WHO AUTHORIZED THAT?

5 A. HE TOLD ME THAT HE HAD BEEN RELEASED BECAUSE MR. ERNESTO
6 FONSECA CARRILLO HAD AUTHORIZED HIS RELEASE.

7 Q. NOW, IN THE COURSE OF YOUR CONVERSATIONS WITH DEFENDANT
8 BERNABE, DID YOU EXPRESS SOME CONCERN TO HIM ABOUT WHAT AGENT
9 CAMARENA HAD SAID WHILE BEING INTERROGATED?

5
10 A. YES, SIR. AS PART OF MY UNDERCOVER ROLE, I ELICITED HIS
11 ASSISTANCE IN FINDING OUT OR HIM TELLING ME IF -- WHEN SPECIAL
12 AGENT CAMARENA WAS BEING TORTURED, I ASKED HIM IF HE HAD
13 MENTIONED THE NAME MANUEL LIZARRAGA.

14 AND I REMEMBER THAT HE ANSWERED "I PERSONALLY DON'T
15 KNOW. I PERSONALLY DON'T KNOW" -- OR SOMETHING TO THAT
16 EFFECT.

17 Q. AND DID YOU AT SOME POINT DURING THIS CONVERSATION ASK
18 HIM "DIDN'T YOU HEAR -- HEAR ANY LIZARRAGA AND ABOUT LIZARRAGA
19 FROM MAZATLAN OR ANYTHING?"

20 A. YES, SIR. I ASKED HIM IF HE HAD HEARD ABOUT -- IF HE,
21 WHEN CAMARENA WAS BEING INTERROGATED, IF HE HAD HEARD SPECIAL
22 AGENT CAMARENA MENTIONED LIZARRAGA FROM MAZATLAN. AND I
23 RECALL THAT HE ANSWERED NO, SIR.

24 Q. AND AGAIN DURING THIS CONVERSATION ON THE 24TH OF JULY,
25 DID BERNABE DESCRIBE HIS CAUTION IN WRITING DOWN TELEPHONE

1 NUMBERS?

2 A. YES, SIR. AGAIN, HE TELLS ME HOW HE IS A CAUTIOUS
3 OPERATOR AND THAT WHEN WRITING TELEPHONE NUMBERS DOWN, HE
4 WRITES THEM IN REVERSE SEQUENCE.

5 Q. I WOULD ASK YOU, PLEASE, TO LOOK AT WHAT HAS BEEN MARKED
6 AS EXHIBIT 160 BEFORE YOU. IT SHOULD BE A BAG, AN EVIDENCE
7 BAG WITH SOME CASSETTES IN IT.

8 A. I SEE IT SIR,

9 Q. DO YOU RECOGNIZE THOSE?

10 A. YES, SIR, I DO.

11 Q. AND WHAT ARE THEY?

12 A. THESE ARE THE CASSETTES OF THAT MEETING ON JULY 24TH,
13 SIR.

14 Q. HAVE YOU REVIEWED THOSE CASSETTES IN THEIR ENTIRETY?

15 A. YES, SIR, I HAVE.

16 Q. DO THEY ACCURATELY RECORD BOTH VISUALLY AND ON AUDIO WHAT
17 TRANSPIRED AT THAT MEETING?

18 A. YES, SIR. I REVIEWED THEM AND THEY DO.

19 Q. I'D ALSO ASK YOU TO LOOK AT WHAT HAS BEEN MARKED AS
20 EXHIBIT 161.

21 A. YES, SIR, I SEE IT.

22 Q. DO YOU RECOGNIZE THAT?

23 A. YES. SIR, I DO. THIS IS A TRANSCRIPTION OF WHAT WAS SAID
24 ON THAT DATE, JULY 24TH, 1989.

25 Q. IS THAT AN ACCURATE SPANISH TRANSCRIPTION?

1 A. YES, SIR, I HAVE REVIEWED IT FOR ACCURACY, AND IT IS
2 ACCURATE.

3 MR. CARLTON: YOUR HONOR, AT THIS TIME I WOULD MOVE
4 THAT EXHIBIT 160, WHICH IS THE ORIGINAL TAPE RECORDINGS, AND
5 EXHIBIT 163, WHICH ARE VIDEO EXCERPTS WITH ENGLISH SUBTITLES,
6 OR PORTIONS OF THAT TAPE RECORDING, BE RECEIVED.

7 MS. KELLY: YOUR HONOR, I HAVE NO OBJECTION TO THAT
8 PENDING PUTTING ON THE RECORD THE DISCUSSION THAT MR. CARLTON
9 AND I HAD.

10 WE REACHED AN AGREEMENT ABOUT CERTAIN ASPECTS
11 OF THAT TAPE THAT I'D LIKE TO BRING TO YOUR HONOR'S ATTENTION
12 AT THE BREAK.

13 THE COURT: I DON'T UNDERSTAND WHAT YOU'RE SAYING,
14 COUNSEL.

15 MS. KELLY: I DON'T HAVE ANY OBJECTION IN VIEW OF AN
16 AGREEMENT THAT MR. CARLTON AND I REACHED ABOUT THOSE TAPES,
17 BUT I'D LIKE TO STATE IT AT THE BREAK.

18 THE COURT: ALL RIGHT, THAT'S FINE.

19 MR. CARLTON: AT THIS TIME, YOUR HONOR, I WOULD ASK
20 PERMISSION TO PLAY EXHIBIT 163, WHICH ARE EXCERPTS FROM THIS
21 JULY 24TH CONVERSATION, POINTING OUT THERE WILL BE SEVERAL
22 SHORT BREAKS IN IT BECAUSE THESE ARE EXCERPTS, AND THAT'S JUST
23 THE EDITING OF THE TAPE.

24 THE COURT: ALL RIGHT.

25 (TAPE IDENTIFIED AS EXHIBIT 163 WAS PLAYED FOR THE

1 COURT AND JURY.)

2 BY MR. CARLTON:

3 Q. NOW, AGENT BERRELLEZ, HOW DID THIS MEETING ON THE 24TH OF
4 JULY COME TO AN END?

5 A. IT CAME TO AN END WITH PARTIES AGREEING THAT WE WOULD
6 MEET AGAIN ON THE FOLLOWING DAY, SIR.

7 Q. THE 25TH OF JULY?

8 A. YES, SIR.

9 Q. DID YOU MEET WITH DEFENDANT BERNABE THEN ON THE 25TH OF
10 JULY?

11 A. YES, SIR, WE DID.

12 Q. APPROXIMATELY WHAT TIME?

13 A. I DON'T RECALL THE EXACT TIME. IT WAS IN THE LATE
14 AFTERNOON, EARLY EVENING HOURS, SIR.

15 Q. WHERE DID YOU MEET WITH HIM INITIALLY?

16 A. MYSELF AND SPECIAL AGENT DELBERT SALAZAR PICKED MR.
17 BERNABE RAMIREZ AND THE INFORMANT UP AT THE EMBASSY SUITES IN
18 ARCADIA, CALIFORNIA.

19 Q. DID YOU DRIVE FROM THERE TO SOMEWHERE ELSE?

20 A. YES, SIR. FROM THERE WE DROVE TO THE EL TORITO
21 RESTAURANT IN COVINA, CALIFORNIA.

22 Q. WHY DID YOU GO TO THE EL TORITO RESTAURANT TO MEET?

23 A. I CHOSE THAT LOCATION BECAUSE UPON LEAVING THE OFFICE, WE
24 WERE RUNNING LATE. I HADN'T HAD TIME TO EQUIP THE CONCEALED
25 RECORDER IN THE UNDERCOVER VEHICLE WITH A BLANK MICRO-

1 CASSETTE.

2 AND WHAT I -- WHAT I -- THE REASON I CHOSE THAT
3 LOCATION WAS BECAUSE I WANTED THAT -- ONCE I HAD THE
4 OPPORTUNITY TO PUT THE MICROCASSETTE INTO THE CONCEALED TAPE
5 RECORDER, I WANTED THERE TO BE ENOUGH DISTANCE FROM WHEREVER
6 WE MET TO THE HOTEL WHERE THEY WERE STAYING, WHICH WOULD ALLOW
7 ME ENOUGH TIME TO BE ABLE TO RECORD A LONG ENOUGH
8 CONVERSATION.

9 AND I KIND OF PROJECTED THAT FROM THE EL TORITO TO
10 THE HOTEL THEY WERE STAYING WOULD BE BETWEEN A 30 TO 45-MINUTE
11 DRIVE.

12 Q. SO WAS THERE A CONVERSATION IN THE CAR ON THE WAY TO THE
13 RESTAURANT?

14 A. YES, SIR, THERE WAS.

15 Q. WAS THAT RECORDED?

16 A. NO, SIR, BECAUSE I HADN'T HAD THE OPPORTUNITY TO PUT THE
17 BLANK MICROCASSETTE INTO THE CONCEALED RECORDER IN THE
18 UNDERCOVER VEHICLE.

19 Q. WHEN YOU GOT TO THE RESTAURANT, WHAT DID YOU DO?

20 A. I EXCUSED MYSELF FROM THAT MEETING IN THE RESTAURANT AND
21 I INVITED THE INFORMANT TO COME WITH ME.

22 AND THE REASON I EXCUSED MYSELF WAS BECAUSE I WANTED
23 TO EQUIP THE UNDERCOVER VEHICLE -- YOU KNOW, THE RECORDER
24 CONCEALED IN THE UNDERCOVER VEHICLE -- WITH THE MICROCASSETTE.

25 Q. HOW LONG HAD YOU BEEN IN THE RESTAURANT BY THE TIME YOU

1 EXCUSED YOURSELF AND WENT OUT TO THE VEHICLE?

2 A. I WOULD SAY AROUND 30 MINUTES.

3 Q. AND WAS ANY OF THE CONVERSATION IN THE RESTAURANT
4 RECORDED?

5 A. NO, SIR.

6 Q. AFTER YOU HAD EQUIPPED THE UNDERCOVER CAR WITH THE
7 RECORDING DEVICE THAT YOU'VE DESCRIBED, WHAT DID YOU THEN DO?

8 A. I DROVE BACK -- WELL, I ACTIVATED THE --

9 Q. DID YOU GO BACK INTO THE RESTAURANT?

10 A. YES, SIR.

11 Q. WHAT DID YOU DO IN THE RESTAURANT?

12 A. I AGAIN MET WITH -- WELL, THE INFORMANT ACCOMPANIED ME
13 BACK TO THE RESTAURANT. AND THE INFORMANT AND MYSELF MET WITH
14 SPECIAL AGENT DELBERT SALAZAR AND MR. BERNABE RAMIREZ BACK
15 INSIDE THE RESTAURANT.

16 Q. DID YOU REMAIN THERE FOR ANY PERIOD OF TIME?

17 A. I WOULD SAY WE REMAINED THERE MAYBE TEN TO 15 MINUTES,
18 SIR.

19 Q. DID YOU GO OUT TO THE CAR?

20 A. YES, SIR. WE THEN ALL DEPARTED IN THE CAR.

21 Q. BEFORE GETTING TO THE CAR, DID YOU MEET PRIVATELY WITH
22 SPECIAL AGENT SALAZAR?

23 A. YES, SIR. WE MET FOR A BRIEF MOMENT IN THE MEN'S ROOM.

24 Q. NOW, DURING THE PERIOD THAT YOU HAD LEFT THE RESTAURANT
25 TO EQUIP THE UNDERCOVER CAR WITH THE RECORDING DEVICE, HAD

1 AGENT SALAZAR AND DEFENDANT BERNABE REMAINED IN THE
2 RESTAURANT?

3 A. YES, SIR, THEY STAYED BEHIND.

4 Q. WHEN YOU MET PRIVATELY WITH AGENT SALAZAR, AS YOU WERE
5 GOING OUT TO THE CAR, DID YOU HAVE ANY CONVERSATION WITH HIM
6 ABOUT HIS CONVERSATION WITH DEFENDANT BERNABE?

7 A. YES, SIR. BRIEFLY, HE TOLD ME THAT IN MY ABSENCE MR.
8 BERNABE RAMIREZ HAD TOLD HIM THAT HE HAD BEEN PRESENT AT THE
9 HOUSE WHEN SPECIAL AGENT CAMARENA WAS TORTURED AND
10 INTERROGATED.

11 Q. THEN DID YOU GO BACK OUT TO THE CAR?

12 A. YES, SIR, WE DID.

13 Q. DID EVERYONE GET INTO THE CAR?

14 A. YES, SIR, WE ALL FOUR DID.

15 Q. DID YOU THEN DRIVE FROM THE RESTAURANT BACK TO THE
16 EMBASSY SUITES IN ARCADIA?

17 A. YES, SIR, WE DID.

18 Q. WAS THERE ANY CONVERSATION IN THE AUTOMOBILE DURING THAT
19 DRIVE?

20 A. YES, SIR, THERE WAS A LOT OF CONVERSATION.

21 Q. WAS THAT CONVERSATION RECORDED?

22 A. YES, SIR, IT WAS.

23 Q. DID YOU REVIEW THE AUDIO TAPE OF THAT RECORDING?

24 A. YES, SIR, I HAVE.

25 Q. IS THAT AUDIO TAPE AN ACCURATE RECORDING OF THE

1 CONVERSATION THAT ENSUED IN THE VEHICLE DURING THE DRIVE FROM
2 THE EL TORITO RESTAURANT TO THE EMBASSY SUITES?

3 A. YES, SIR, IT IS.

4 Q. I WOULD ASK YOU TO LOOK AT EXHIBIT 165, IF YOU WOULD.
5 THAT'S A TRANSCRIPT.

6 A. I SEE IT.

7 Q. HAVE YOU -- WELL, DO YOU RECOGNIZE THAT?

8 A. YES, SIR, I DO.

9 Q. WHAT IS IT?

10 A. THIS IS A TRANSCRIPT OF THE UNDERCOVER CONVERSATION WHICH
11 TOOK PLACE IN THE GOVERNMENT CAR ON JULY 25TH 1989.

12 Q. IS THAT IN BOTH SPANISH AND ENGLISH?

13 A. YES, SIR, IT IS.

14 Q. HAVE YOU COMPARED THE SPANISH TRANSCRIPT TO THE AUDIO
15 RECORDING OF THE CONVERSATION?

16 A. YES, SIR, I HAVE.

17 Q. IS IT AN ACCURATE SPANISH TRANSCRIPT?

18 A. YES, SIR, IT IS.

19 MR. CARLTON: YOUR HONOR, I BELIEVE THERE IS A
20 STIPULATION THAT EXHIBIT 164, WHICH IS A CASSETTE TAPE, IS A
21 ONE-TO-ONE RECORDING OF THE ORIGINAL MICROCASSETTE RECORDING
22 OF THE JULY 25TH CONVERSATION.

23 MS. KELLY: YES, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 MR. CARLTON: I WOULD MOVE AT THIS TIME THAT EXHIBIT

1 164 AND EXHIBIT 166, WHICH IS A VIDEOTAPE SHOWING ENGLISH
2 SUBTITLES WITH AN AUDIO EXCERPT OF THE JULY 25TH RECORDING, BE
3 RECEIVED INTO EVIDENCE.

4 THE COURT: THEY MAY BE RECEIVED.

5 (EXHIBIT # 164 RECEIVED IN EVIDENCE.)

6 (EXHIBIT # 166 RECEIVED IN EVIDENCE.)

7 MR. CARLTON: I WOULD ASK ALSO AT THIS TIME THAT
8 EXHIBIT 166 BE SHOWN.

9 THE COURT: IT MAY BE SHOWN.

10 (EXHIBIT # 166 DISPLAYED FOR THE COURT AND JURY.)

11 (BACK ON THE RECORD.)

12 BY MR. CARLTON:

13 Q. NOW, AGENT BERRELLEZ, ON THAT TAPE YOU REFERRED IN THE
14 TRANSLATION TO "MY BUDDY".

15 WHO ARE YOU REFERRING TO? WHAT PHRASE DID YOU USE
16 IN SPANISH?

17 A. "MY COMPADRE", REFERRING TO RAFAEL CARO QUINTERO.

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

19 (BRIEF PAUSE.)

20 MR. CARLTON: NOTHING FURTHER, YOUR HONOR.

21 (BRIEF PAUSE.)

22 MAY I JUST ASK ONE OR TWO MORE QUESTIONS? I'M
23 SORRY.

24 BY MR. CARLTON:

25 Q. HOW DID THIS MEETING END?

7
1 A. THIS MEETING ENDED WITH ME AGREEING TO BRING SOME MONEY
2 TO MR. BERNABE RAMIREZ ON THE FOLLOWING DAY, WHICH HE WOULD
3 USE TO PAY OFF THE ATTORNEY THAT WOULD GET THE DECLARATIONS
4 TAKEN BY THOSE ARRESTED FOR THE MURDER OF CAMARENA IN MEXICO.

5 Q. AND AT SOME POINT DID YOU LEAVE DEFENDANT BERNABE OFF AT
6 THE EMBASSY SUITES?

7 A. YES, SIR. YES, SIR, WE DID.

8 MR. CARLTON: NOTHING FURTHER.

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

10 CROSS-EXAMINATION +

11 BY MS. KELLY:

12 Q. GOOD MORNING, AGENT BERRELLEZ.

13 A. GOOD MORNING.

14 Q. I JUST WANT TO START WITH THE LAST COMMENT YOU MADE ABOUT
15 "PAYING OFF THE ATTORNEY" AND ASK YOU TO DIRECT YOUR ATTENTION
16 TO THE TRANSCRIPT OF THE JULY 25TH MEETING, WHICH I BELIEVE IS
17 EXHIBIT 165, I BELIEVE, IN FRONT OF YOU.

18 (BRIEF PAUSE.)

19 THE COURT: DO YOU HAVE THAT?

20 THE WITNESS: YES, YOUR HONOR. I JUST FOUND IT.

21 BY MS. KELLY:

22 Q. IF YOU WILL DIRECT YOUR ATTENTION TO THE VERY LAST PAGE,
23 WHICH IS PAGE 25.

24 A. I SEE IT.

25 Q. CAN YOU POINT OUT TO ME WHERE YOU SAY THAT YOU'RE GOING

1 TO GO GET SOME MONEY TO "PAY OFF THE ATTORNEY"?

2 A. I DON'T SAY THAT BUT IT IS UNDERSTOOD.

3 Q. CAN YOU POINT THAT OUT TO ME WHERE YOU SAY IT'S
4 UNDERSTOOD?

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

7 THE COURT: OVERRULED.

8 THE WITNESS: IT'S UNDERSTOOD --

9 BY MS. KELLY:

10 Q. COULD YOU POINT IT OUT ON THE TRANSCRIPT.

11 A. IT'S SOMEWHERE IN THE TRANSCRIPT. WITHOUT REVIEWING THE
12 WHOLE TRANSCRIPT, YOUR HONOR, IT'S UNDERSTOOD THAT HE'S GOING
13 TO GO BACK AND BRING BACK DECLARATIONS FOR ME.

14 AND THEN I TELL HIM I'M GOING TO PAY HIS AIR FARE
15 AND EXPENSES FOR THESE TRANSCRIPTS OR THE DECLARATIONS THAT
16 HE'S SUPPOSED TO BRING.

17 I DON'T REMEMBER EXACTLY WHAT LINE OR WHAT PAGE,
18 JUST WHERE I CAN LOCATE THIS WITHOUT LOOKING AT THE WHOLE
19 TRANSCRIPT.

20 MS. KELLY: YOUR HONOR, I BELIEVE THE TESTIMONY WAS
21 THAT HE ENDED THE CONVERSATION WITH SAYING HE WAS GOING TO
22 "PAY OFF THE ATTORNEY" ON THE COPIES OF THE TRANSCRIPTS OF THE
23 CONVERSATION.

24 THE COURT: DO YOU HAVE ANOTHER QUESTION YOU WISH TO
25 ASK THE WITNESS?

1 MS. KELLY: YES, YOUR HONOR.

2 BY MS. KELLY:

3 Q. DIRECTING YOUR ATTENTION TO PAGE 45, YOU ENDED THE
4 CONVERSATION BY SAYING THAT YOU WOULD COME -- "B" REFERS TO
5 YOU. LET ME START WITH THAT. DOESN'T IT? ON THE
6 TRANSCRIPT, THE LETTER "B", DOES THAT REFER TO YOU?

7 A. YES, IT DOES.

8 Q. THE LETTERS "B R" REFER TO MY CLIENT; IS THAT RIGHT?

9 A. (NODDING HEAD.)

10 Q. AND THIS IS A TRANSCRIPT THAT WAS PREPARED BY A
11 FEDERALLY-CERTIFIED COURT INTERPRETER, RIGHT?

12 A. YES.

13 Q. BUT THAT PERSON DID NOT IDENTIFY ANY OF THE VOICES ON THE
14 TAPE; IS THAT RIGHT?

15 A. NO.

16 Q. AND THE PERSON WHO IDENTIFIED THE VOICES ON THE TAPE IS
17 AGENT SALAZAR, RIGHT?

18 A. THAT'S CORRECT.

19 Q. SO DIRECTING YOUR ATTENTION TO PAGE 45 WHEN IT SAYS:
20 "I'LL COME TO TALK TO YOU TOMORROW AND WE'LL SEE WHAT WE WORK
21 OUT TO FINALIZE PLANS FOR WHEN -- FOR YOU TO LEAVE TOMORROW,
22 RIGHT?"

23 THAT'S YOUR STATEMENT, CORRECT?

24 A. YES, IT IS.

25 Q. AND MY CLIENT, JUAN BERNABE RAMIREZ SAYS: "WELL, I

1 UNDERSTAND WE'RE LEAVING TOMORROW." IS THAT CORRECT?

2 A. YES.

3 Q. AND YOU SAY: "WELL, THAT'S WHY I'LL COME TALK TO YOU
4 EARLY TOMORROW."

5 AND JUAN BERNABE RAMIREZ SAYS: "VERY WELL."

6 IS THAT RIGHT?

7 A. YES.

8 Q. SO THERE WAS ACTUALLY NO STATEMENT THAT AN ATTORNEY WAS
9 GOING TO BE PAID OFF, WAS THERE?

10 A. NOT AT THAT POINT IN THE CONVERSATION.

11 Q. SO YOU'RE SAYING AT SOME OTHER POINT IN THE CONVERSATION
12 THERE WAS A STATEMENT THAT AN ATTORNEY WAS GOING TO BE PAID
13 OFF?

14 A. NOT SPECIFICALLY THAT AN ATTORNEY WOULD BE PAID OFF; THAT
15 EXPENSES WOULD BE PAID FOR DECLARATIONS THAT WOULD BE OBTAINED
16 BY AN ATTORNEY -- FOR THE DECLARATIONS.

17 Q. FOR THE COST OF THE PHOTOCOPIES OF THE DECLARATIONS?

18 A. FOR COST OF THE PHOTOCOPIES AND WHATEVER OTHER EXPENSES
19 WERE INCURRED IN PROCURING THE DECLARATION MATTERS.

20 Q. THANK YOU. NOW. THIS INVESTIGATION ACTUALLY STARTED
21 BEFORE -- I'M SORRY, THE INVESTIGATION REGARDING MY CLIENT,
22 JUAN BERNABE RAMIREZ -- ACTUALLY STARTED BEFORE THE 20TH OF
23 JULY; ISN'T THAT RIGHT?

24 A. THE UNDERCOVER INVESTIGATION STARTED ON THE 20TH.

25 Q. OKAY. WHEN DID YOU MAKE -- OR LET ME JUST ASK YOU.

1 DID YOU MAKE A PLAN WITH MR. CASTEL DEL ORO THAT HE
2 WOULD ATTEMPT TO HIRE MY CLIENT TO COME AND WORK FOR HIM IN A
3 SECURITIES BUSINESS IN GUADALAJARA?

4 A. NO, I DID NOT.

5 Q. DID YOU HAVE ANY KNOWLEDGE THAT THIS WAS SOMETHING THAT
6 MR. CASTEL DEL ORO WAS GOING TO DO?

7 A. NO, I DID NOT.

8 Q. WAS MR. CASTEL DEL ORO WORKING AS AN INFORMANT FOR YOU AT
9 ANY TIME PRIOR TO JULY 20TH, 1989?

10 A. YES, HE WAS.

11 Q. AND WHEN DID HE START WORKING FOR YOU AS AN INFORMANT?

12 A. WELL, HE'S WORKED FOR THE D.E.A. AS AN INFORMANT FOR
13 SEVERAL YEARS.

14 I DID NOT COME INTO CONTACT WITH HIM UNTIL PROBABLY
15 AROUND AUGUST -- EXCUSE ME, NOT AUGUST -- JUNE.

16 Q. JUNE OF 1989?

17 A. THAT'S CORRECT.

18 Q. AND YOU'RE SAYING YOUR TESTIMONY IS THAT MR. CASTEL DEL
19 ORO JUST ON HIS OWN DECIDED THAT HE WOULD ATTEMPT TO ENGAGE
20 MR. BERNABE RAMIREZ IN EMPLOYMENT IN GUADALAJARA?

21 A. THAT'S NOT WHAT I SAID.

22 Q. OKAY. LET ME PUT IT THIS WAY.

23 DID THE D.E.A. HAVE ANY INVOLVEMENT IN MR. CASTEL
24 DEL ORO'S ENGAGEMENT OF JUAN BERNABE RAMIREZ IN THE SECURITY
25 BUSINESS IN GUADALAJARA?

1 A. I HAVE NO KNOWLEDGE OF THAT.

2 Q. SO, AS FAR AS YOU KNOW, MR. CASTEL DEL ORO DECIDED ON HIS
3 OWN TO ENGAGE MY CLIENT IN THE SECURITY BUSINESS DOWN IN
4 GUADALAJARA; IS THAT RIGHT?

5 MR. CARLTON: OBJECTION. CALLS FOR SPECULATION.

6 MS. KELLY: I'M ASKING IF HE KNOWS, YOUR HONOR.

7 THE COURT: YOU'RE ASKING THE SAME QUESTION IN
8 ANOTHER WAY. YOU'VE ALREADY ASKED HIM THIS QUESTION AND HE
9 HAS ANSWERED.

10 BY MS. KELLY:

11 Q. WELL, DID THE D.E.A. PAY FOR MR. CASTEL DEL ORO'S TICKET
12 FROM GUADALAJARA TO LOS ANGELES?

13 A. I BELIEVE SO, YES.

14 Q. DID HE ALSO PAY FOR HIS FAMILY'S TICKET FROM GUADALAJARA
15 TO LOS ANGELES?

16 A. HE WAS GIVEN MONIES. I DON'T KNOW IF SPECIFICALLY THE
17 D.E.A. BOUGHT THE TICKETS, NO. HE WAS GIVEN MONEY.

18 Q. HE WAS GIVEN MONEY TO TRAVEL FROM GUADALAJARA TO LOS
19 ANGELES; IS THAT RIGHT?

20 A. YES. HE WAS GIVEN EXPENSE MONIES.

21 Q. AND THAT EXPENSE MONEY ALSO COVERED PAYING FOR TRAVEL FOR
22 MY CLIENT TO ARRIVE FROM GUADALAJARA TO LOS ANGELES AS WELL;
23 ISN'T THAT RIGHT?

24 A. I HAVE NO KNOWLEDGE OF WHO PAID FOR WHAT.

25 Q. YOU'RE THE CASE AGENT ON THIS CASE, AREN'T YOU?

1 A. YES, I AM. NO, I'M THE SUPERVISOR OF THIS
2 INVESTIGATION, I'M NOT THE CASE AGENT.

3 Q. YOU'RE THE SUPERVISOR. BUT IN CONNECTION WITH YOUR
4 DUTIES AS A SUPERVISOR, DO YOU REVIEW DOCUMENTS THAT ARE
5 PERTINENT TO THE INVESTIGATION, SUCH AS D.E.A. 12 FORMS OR
6 D.E.A. 358 FORMS?

7 A. YES, I DO.

8 Q. AND WHEN YOU'RE WORKING CLOSELY WITH AN INFORMANT WHO'S
9 BEING PAID, THERE IS A DETAILED RECORD OF ALL PAYMENTS BEING
10 MADE TO INFORMANTS WITHIN THE D.E.A., AREN'T THERE?

11 A. THERE IS A RECORD. I DON'T KNOW HOW DETAILED. WHENEVER
12 MONIES ARE PAID, THERE IS A RECORD MADE OF MONIES THAT WERE
13 PAID. HOW THEY'RE EXPENDED SPECIFICALLY, WE DON'T KEEP
14 RECORDS OF THOSE.

15 WE GIVE THE INFORMANT A CERTAIN AMOUNT OF MONEY AND
16 HOW -- WE DON'T RECORD -- ON A USUAL BASIS, WE DON'T ASK THE
17 INFORMANT HOW HE SPENT THE MONEY.

18 Q. THERE IS SOME RECORD OF HOW MUCH MONEY WAS GIVEN TO MR.
19 CASTEL DEL ORO FOR PURPOSES OF THIS INVESTIGATION -- I'M
20 REFERRING TO THE INVESTIGATION CONCERNING MY CLIENT -- ISN'T
21 THERE?

22 A. AS I STATED BEFORE, YES, THERE IS A RECORD OF PAYMENTS
23 MADE.

24 Q. DO YOU HAVE ACCESS TO THE RECORD OF PAYMENTS MADE?

25 A. YES, I DO.

1 Q. AND WHERE WOULD THE RECORD OF THOSE PAYMENTS BE
2 MAINTAINED?

3 MR. CARLTON: OBJECTION, YOUR HONOR. BEYOND THE
4 SCOPE AND IRRELEVANT.

5 THE COURT: OVERRULED.

6 THE WITNESS: RECORDS ARE KEPT AT OUR OFFICE, AT THE
7 D.E.A. BUILDING ADDRESS OF 350 SOUTH FIGUEROA STREET.

8 Q. NOW, IN CONNECTION WITH THE -- DID YOU HAVE SOME
9 CONVERSATION WITH MR. CASTEL DEL ORO CONCERNING THE TRAVEL OF
10 MR. BERNABE RAMIREZ FROM GUADALAJARA TO LOS ANGELES?

11 A. ON THE TELEPHONE, YES.

12 Q. AND WHAT WAS THE SUBSTANCE OF THAT CONVERSATION?

13 MR. CARLTON: OBJECTION, YOUR HONOR, HEARSAY.

14 THE COURT: OVERRULED.

15 THE WITNESS: HE TOLD ME HE WAS BRINGING A PERSON TO
16 LOS ANGELES THAT HAD BEEN ARRESTED WITH FONSECA IN PUERTO
17 VALLARTA.

18 BY MS. KELLY:

19 Q. AND PRIOR TO THIS TIME YOU HAD NOT BEEN INVOLVED IN ANY
20 CAPACITY WITH RESPECT TO THE INVESTIGATION OF MY CLIENT? THIS
21 IS THE FIRST TIME YOU -- STRIKE THAT, THAT'S COMPOUND.

22 THIS WAS THE FIRST TIME YOU HAD HEARD ANYTHING ABOUT
23 THE INVESTIGATION CONCERNING MY CLIENT, JUAN BERNABE RAMIREZ?

24 A. NO, THAT IS NOT THE FIRST TIME.

25 Q. WITH RESPECT TO MR. CASTEL DEL ORO, WAS THERE ANOTHER

1 CONVERSATION BEFORE THAT TIME?

2 A. YES. MA'AM THERE WAS.

3 Q. AND AT ANY POINT DID MR. CASTEL DEL ORO TELL YOU THAT MR.
4 BERNABE RAMIREZ WAS WORKING FOR HIM IN THE SECURITY BUSINESS
5 IN GUADALAJARA?

6 MR. CARLTON: OBJECTION, HEARSAY.

7 THE COURT: OVERRULED.

8 THE WITNESS: YES. HE TOLD ME THAT MR. BERNABE
9 RAMIREZ HAD BEEN ARRESTED WITH ERNESTO FONSECA AT PUERTO
10 VALLARTA AFTER CAMARENA'S DEATH.

11 HE ALSO TOLD ME THAT THIS PERSON WAS WORKING FOR HIM
12 IN THE SECURITY BUSINESS.

13 BY MS. KELLY:

14 Q. NOW, THIS IS A SECURITY BUSINESS THAT WAS JUST
15 TEMPORARILY SET UP; ISN'T THAT RIGHT?

16 A. NO, THAT IS NOT CORRECT. I HAVE NO KNOWLEDGE OF THAT.

17 I KNOW DIFFERENT, BUT I HAVE NO PERSONAL KNOWLEDGE
18 OF IT.

19 Q. DID MR. CASTEL DEL ORO TELL YOU THAT HE CLOSED DOWN THE
20 SECURITY BUSINESS AFTER MR. BERNABE RAMIREZ WAS ARRESTED?

21 MR. CARLTON: OBJECTION, HEARSAY.

22 THE COURT: OVERRULED.

23 THE WITNESS: HE TOLD ME THAT HE WOULD BE LOSING THE
24 BUSINESS BECAUSE HE COULD NOT RETURN TO MEXICO, AND THAT IT
25 WASN'T CLOSED DOWN UNTIL HE WAS ALREADY RESIDING HERE.

9
1 LIKE I SAID, I DON'T HAVE ANY PERSONAL
2 KNOWLEDGE OF IT, BUT I CAN ONLY RELY ON WHAT MR. CASTEL EL ORO
3 TOLD ME.

4 BY MS. KELLY:

5 Q. AND THAT'S ALL I'M TRYING TO FIND OUT.

6 A. THAT'S ALL I KNOW, MA'AM.

7 Q. ALL YOU KNOW IS WHAT HE TOLD YOU, WAS THAT HE WAS LOSING
8 THE BUSINESS BECAUSE HE COULDN'T RETURN TO MEXICO AFTER
9 MR. BERNABE RAMIREZ WAS ARRESTED?

10 A. HE DIDN'T TELL ME HE WAS LOSING IT, HE TOLD ME HE
11 COULDN'T OPERATE WITHOUT HIM THERE.

12 Q. HE COULDN'T OPERATE THE BUSINESS WITHOUT MR. BERNABE
13 RAMIREZ THERE?

14 A. WITHOUT HIM, MR. CASTEL DEL ORO, BEING THERE.

15 Q. AND HE TOLD YOU HE COULDN'T RETURN TO MEXICO ANYMORE
16 AFTER MR. BERNABE RAMIREZ WAS ARRESTED; IS THAT RIGHT?

17 A. I ADVISED HIM THAT IT WOULD BE BETTER FOR SECURITY
18 REASONS THAT HE NOT RETURN.

19 Q. AND AT THAT POINT HE TOLD YOU HE WOULD BE LOSING THE
20 BUSINESS; IS THAT HOW THE CONVERSATION WENT?

21 A. HE WAS VERY CONCERNED. HE WAS VERY CONCERNED ABOUT NOT
22 BEING ABLE TO GO BACK AND DO SOMETHING WITH THE BUSINESS,
23 EITHER SELLING IT OR MAKING ARRANGEMENTS FOR SOMEBODY ELSE TO
24 MANAGE IT.

25 HE -- YES, HE EXPRESSED A LOT OF CONCERN ABOUT NOT

1 BEING ABLE TO GO BACK.

2 Q. NOW, HE WAS WORKING ON A PRETTY REGULAR BASIS FOR D.E.A.
3 AT THIS POINT IN TIME, WASN'T HE, AS AN INFORMANT?

4 A. HE WAS WHAT, MA'AM?

5 Q. HE WAS WORKING ON A PRETTY REGULAR BASIS AS AN INFORMANT
6 FOR THE D.E.A. AT THIS TIME? THIS TIME BEING AUGUST OF '89.

7 A. I HAVE NO PERSONAL KNOWLEDGE OF THAT. I ONLY CAN TELL
8 YOU AT THE POINT THAT I BECAME INVOLVED WITH MR. CASTEL.

9 Q. YOU HAD NO PERSONAL KNOWLEDGE OF MR. CASTEL DEL ORO
10 WORKING RELATIONSHIP WITH THE D.E.A. PRIOR TO JUNE OF 1989?

11 A. I HAD PERSONAL KNOWLEDGE THAT HE WORKED FOR D.E.A.

12 YOUR QUESTION WAS THAT HE WORKED ON A REGULAR BASIS,
13 AND I HAVE NO PERSONAL KNOWLEDGE AS TO HOW REGULAR HE HAD
14 CONTACT WITH THE D.E.A. OTHER AGENTS.

15 Q. THERE ARE RECORDS REFLECTING HIS PAYMENTS FROM THE TIME
16 HE BEGAN INFORMING, RIGHT?

17 A. WHAT WAS YOUR QUESTION?

18 Q. THERE ARE RECORDS OF PAYMENTS MADE TO HIM FROM TIME HE
19 BEGAN AS A PAID INFORMANT FOR THE D.E.A.; IS THAT RIGHT?

20 A. THERE ARE RECORDS OF PAYMENTS THAT WERE MADE BY OUR
21 DIVISION HERE, THE L.A. DIVISION. I HAVE NOT -- I DON'T
22 RECALL SEEING ANY PAYMENTS THAT WERE MADE BY OTHER OFFICES
23 PRIOR TO ME BECOMING INVOLVED WITH HIM.

24 Q. WELL, BEFORE HE BECAME INVOLVED WITH YOU IN AUGUST OF
25 1989, WAS HE AT ALL INVOLVED IN THE LOS ANGELES FIELD

1 DIVISION?

2 A. I HAVE NO KNOWLEDGE OF THAT.

3 Q. WHO WOULD HAVE KNOWLEDGE OF THAT?

4 MR. CARLTON: OBJECTION, YOUR HONOR, CALLS FOR
5 SPECULATION.

6 MS. KELLY: IF YOU KNOW.

7 THE COURT: OVERRULED.

8 THE WITNESS: I DON'T KNOW.

9 BY MS. KELLY:

10 Q. IS THERE A CASE AGENT ASSIGNED TO THIS INVESTIGATION?

11 A. YES, THERE IS.

12 Q. WHO WOULD THAT BE?

13 A. THAT WOULD BE SPECIAL AGENT DOUG KUEHL.

14 Q. AND DO YOU KNOW IF SPECIAL AGENT -- SPECIAL AGENTS HAVE
15 RESPONSIBILITY FOR THE OVERALL INVESTIGATION; IS THAT RIGHT?

16 A. YES, I DO.

17 Q. NOW, ALL OF THE CONVERSATIONS THAT YOU PERSONALLY HAD
18 WITH MY CLIENT WERE RECORDED; ISN'T THAT RIGHT?

19 A. YES, THEY WERE.

20 Q. IN FACT, THE JULY 20TH CONVERSATION WAS RECORDED, WASN'T
21 IT?

22 A. YES, IT WAS.

23 Q. DID YOU ALSO OPERATE THAT RECORDING MACHINE, AS WELL,
24 LIKE YOU DID ON THE 25TH OF JULY?

25 A. I WORE IT.

1 Q. YOU WORE IT. HOW DO YOU MEAN, YOU WORE A TRANSMITTER?

2 A. I WORE A CONCEALED BELT MIKE, YES.

3 Q. YOU DIDN'T HAVE TO ACTUALLY INSERT A BLANK CARTRIDGE INTO
4 A MACHINE AND TURN IT OVER OR ANYTHING LIKE THAT, DID YOU?

5 A. WE WERE USING ANOTHER TYPE OF EQUIPMENT ON THAT DATE.

6 NO, I DID NOT HAVE TO INSERT THE CASSETTE OR ANYTHING ON THAT
7 DATE.

8 Q. WHAT TYPE OF EQUIPMENT WERE YOU USING ON THAT DATE?

9 A. A CONCEALED BODY RECORDER.

10 Q. DO YOU KNOW THE NAME OF IT?

11 A. DO I KNOW THE NAME OF THE EQUIPMENT?

12 Q. YES. THE NAME OF THE CONCEALED BODY RECORDER?

13 A. I DIDN'T LOOK AT THE TRADE NAME.

14 Q. IT IS NOT A NAGRA BODY RECORDER, IS IT?

15 A. A WHAT?

16 Q. A NAGRA?

17 A. NO, IT WAS NOT A NAGRA.

18 Q. THE D.E.A. DOES HAVE NAGRA RECORDERS, RIGHT?

19 A. AMONG OTHERS, YES.

20 Q. HAVE YOU PERSONALLY EVER USED A NAGRA BODY RECORDER?

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

22 THE COURT: SUSTAINED.

23 WE'LL TAKE OUR MORNING RECESS AT THIS TIME.

24 (JURY EXCUSED.)

25 THE COURT: YOU SAID YOU HAVE A STIPULATION THAT YOU

1 WANTED TO STATE FOR THE RECORDS.

2 MS. KELLY: YOUR HONOR, MR. CARLTON AND I, BEFORE
3 THE PROCEEDINGS, HAD DISCUSSED THE ORIGINAL TAPE RECORDINGS.
4 AND MY CONCERN WAS THAT IF THEY WENT INTO EVIDENCE, YOUR HONOR
5 HAD RULED THAT CERTAIN PORTIONS WERE NOT ADMISSIBLE.

6 IF THE JURY WANTED TO HEAR THEM PLAYED, THAT THOSE
7 PORTIONS HADN'T BEEN -- THERE WASN'T A COPY WITH AN EXCISED
8 PORTION AVAILABLE FOR THE JURY.

9 SO MR. CARLTON SAID IN THAT EVENT, WE WOULD
10 OBVIOUSLY DECIDE TOGETHER WHAT PORTIONS SHOULD BE PLAYED AND
11 WE NOT OPPOSE NOT PLAYING THE ONES YOU BRIEFLY RULED ON.

12 SO I JUST WANTED TO MAKE A RECORD OF THAT.

13 THE COURT: WHAT WAS IT THAT WAS PREVIOUSLY RULED
14 ON; THE REFERENCE TO YOUR CLIENT'S ABILITY TO OBTAIN THIS
15 INFORMATION FROM THE ATTORNEY?

16 YOU OBJECTED TO THAT AND I --

17 MS. KELLY: TO BE PERFECTLY FRANK WITH YOUR HONOR, I
18 HAVE BEEN CONFUSED ABOUT WHAT, EXACTLY, IT WAS. AND I HAVE
19 ASKED THE COURT REPORTER TO CHECK HER NOTES TO SEE WHAT
20 PORTIONS YOU HAD EXCISED.

21 I KNOW THAT YOU EXCISED A PORTION --

22 THE COURT: THE POINT IS THAT YOU MADE A MOTION TO
23 EXCLUDE THAT AND I GRANTED IT. BUT YOU ELICITED THAT EVIDENCE
24 YOURSELF WHEN WERE YOU CROSS-EXAMINING THE WITNESS YESTERDAY.

25 MS. KELLY: YOUR HONOR, I DON'T BELIEVE I ELICITED

1 ANYTHING THAT I DISCUSSED --

2 THE COURT: WELL, YOU HAD MADE A MOTION THAT
3 STATEMENTS OF YOUR CLIENT RELATING TO HIS ABILITY TO OBTAIN
4 GOVERNMENT RECORDS FROM MEXICO THROUGH AN ATTORNEY -- YOU
5 ASKED THAT THOSE BE EXCLUDED.

6 DO YOU REMEMBER THAT? THAT WAS PART OF THE MOTION
7 TO EXCLUDE THAT YOU HAD.

8 MS. KELLY: NO, YOUR HONOR, I THOUGHT I WAS TRYING
9 TO EXCLUDE WHAT I PERCEIVED TO BE --

10 THE COURT: YOU WERE EXCLUDING -- ASKING TO EXCLUDE
11 OTHER THINGS, BUT THAT WAS AMONG THEM. AND THAT WAS ONE OF
12 THE THINGS THAT I SAID COULD BE EXCLUDED. BUT YOU ELICITED IT
13 DURING THE CROSS-EXAMINATION AND IT HAS BEEN INCLUDED IN ALL
14 OF THIS EVIDENCE.

15 MS. KELLY: IF I DID THAT, YOUR HONOR, IT WAS
16 INADVERTENT. I DIDN'T MEAN TO EXCLUDE THAT.

17 THE COURT: YOU DIDN'T MEAN TO EXCLUDE THAT?

18 MS. KELLY: NO, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 MS. KELLY: I WAS MORE CONCERNED WITH --

21 THE COURT: NOW LET'S DEAL WITH THIS SUBPOENA THAT
22 WAS SERVED ON MYRON SCHOLBERG, THE DEFENDANT'S HAIR ANALYST.

23 THE DEFENDANT MATTA HAS MOVED TO QUASH THE
24 GOVERNMENT'S SUBPOENA, WHICH I NOTICE IS NOT A SUBPOENA DUCES
25 TECUM, BUT A SUBPOENA TO APPEAR AND TESTIFY.

1 THE GOVERNMENT HAS NOT RESPONDED TO THIS MOTION.

2 MR. CARLTON: WE DO NOT OPPOSE IT, YOUR HONOR.

3 THE COURT: WELL, THEN THE MOTION IS GRANTED.

4 MR. STOLAR: THANK YOU.

5 MR. MEDVENE: IF THE COURT PLEASE, MIGHT I BRIEFLY
6 ADDRESS YOU, YOUR HONOR, BEFORE --

7 THE COURT: ALL RIGHT.

8 MR. MEDVENE: IF THE COURT PLEASE, WITH THE GREATEST
9 RESPECT, WE WOULD MOVE FOR A MISTRIAL ON BEHALF OF MR. ZUNO
10 BASED ON WHAT WE PERCEIVE AS THE PREJUDICIAL EFFECT OF THE
11 VIDEOTAPES.

12 WE MOVE FOR A MISTRIAL AND RENEW OUR MOTION FOR A
13 SEVERANCE.

14 THE COURT: WHICH VIDEOTAPE ARE YOU REFERRING TO
15 NOW?

16 MR. MEDVENE: THE VIDEOTAPES THAT HAVE JUST BEEN
17 PLAYED BY AGENT BERRELLEZ AND THE TESTIMONY THAT HAS BEEN
18 ELICITED.

19 WE THINK A MISTRIAL AND/OR A RENEWAL OF THE
20 SEVERANCE MOTION IS APPROPRIATE. NOTWITHSTANDING THE COURT'S
21 INSTRUCTION, WE THINK THE TAPES ARE SO EMOTIONALLY CHARGED AND
22 THE TESTIMONY SO PREJUDICIAL, BECAUSE IT TIES IN MR. FONSECA,
23 MR. QUINTERO, MR. BERNABE. YOU HAVE COMMON OTHER DEFENDANTS
24 IN THIS CASE. WE JUST DON'T THINK THE JURY CAN DISASSOCIATE.

25 IF YOUR HONOR DENIES THE MOTION FOR MISTRIAL AND

1 DENIES THE RENEWED MOTION FOR SEVERANCE, WE WOULD ASK YOUR
2 HONOR, WHILE WE DON'T THINK IT WOULD CURE IT -- WE WOULD
3 RESPECTFULLY ASK YOUR HONOR FOR ANOTHER INSTRUCTION TO THE
4 JURY SOMEWHAT SIMILAR TO THE INSTRUCTION YOU GAVE BEFORE THE
5 INTERROGATION TAPES WERE PLAYED, IN WHICH YOUR HONOR LAID OUT
6 THE FACT THAT WHAT YOU'RE HEARING MAY BE PREJUDICIAL AND
7 EMOTIONAL, BUT IT SHOULD NOT BE CONSIDERED AGAINST CERTAIN
8 DEFENDANTS AND/OR YOU SHOULDN'T LET EMOTION GET IN YOUR WAY,
9 YOU SHOULD KEEP YOUR EYE ON THE EVIDENCE.

10 AND YOUR HONOR DID SOMETHING LIKE THAT AND I WOULD
11 ASK YOU TO DO IT AGAIN.

12 THE COURT: ALL RIGHT. THE MOTION FOR MISTRIAL IS
13 DENIED, THE MOTION TO SEVER IS DENIED, THE MOTION FOR
14 ADDITIONAL INSTRUCTION IS THE DENIED.

15 THIS VIDEO HERE DOES NOT RISE TO THE LEVEL OF THE
16 PREVIOUS ONE AND IS HARDLY EMOTIONAL AT ALL. THEREFORE, ALL
17 OF THE REQUESTS ARE DENIED.

18 MR. MEDRANO: YOUR HONOR, MAY I JUST REPORT BACK TO
19 YOU OF AN INQUIRY YOU MADE TO US YESTERDAY CONCERNING DR.
20 MACHAIN. I CHECKED WITH MY COLLEAGUE --

21 THE COURT: YES. THAT HAS BEEN FILED.

22 MR. MEDRANO: YES, THAT WAS FILED ON MONDAY. I JUST
23 WANTED TO LET YOU KNOW THAT THAT HAD BEEN TAKEN CARE OF.

24 THE COURT: YES.

25 MR. MEDRANO: THANK YOU, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2 THE CLERK: THIS COURT IS NOW IN RECESS.

3 (BRIEF RECESS.)

4 (JURY PRESENT.)

5 THE COURT: YOU MAY PROCEED.

6 MS. KELLY: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION + CONTINUED

8 BY MS. KELLY:

9 Q. AGENT BERRELLEZ, DO YOU KNOW HOW MUCH MONEY YOU HAVE PAID
10 CASTEL DEL ORO IN CONNECTION WITH THE INVESTIGATION OF MR.
11 BERNABE RAMIREZ?

12 MR. CARLTON: OBJECTION, BEYOND THE SCOPE.

13 THE COURT: RESTATE THE QUESTION, PLEASE.

14 MS. KELLY: VERY WELL, YOUR HONOR.

15 BY MS. KELLY:

16 Q. DO YOU KNOW HOW MUCH MONEY THE D.E.A. HAS PAID CASTEL DEL
17 ORO IN CONNECTION WITH THIS PART OF THE INVESTIGATION
18 CONCERNING MY CLIENT.

19 MR. CARLTON: I'LL RENEW THE OBJECTION; BEYOND THE
20 SCOPE AND IRRELEVANT.

21 THE COURT: SUSTAINED.

22 MS. KELLY: YOUR HONOR, COULD I BE HEARD?

23 THE COURT: NO. LATER YOU CAN.

24 BY MS. KELLY:

25 Q. YOU HAD A CONVERSATION -- YOUR FIRST CONVERSATION WITH

1 MR. CASTEL DEL ORO WAS IN JUNE OF 1989; IS THAT RIGHT?

2 A. I BELIEVE SO.

3 Q. AND DID YOU CALL HIM OR DID HE CALL YOU?

4 A. I BELIEVE HE CALLED ME.

5 Q. DID HE TELL YOU WHERE HE WAS CALLING FROM?

6 A. YES, HE DID.

7 Q. WAS THAT GUADALAJARA?

8 A. YES, IT WAS.

9 Q. AND THIS IS THE CONVERSATION WHERE HE MENTIONED THAT MR.
10 BERNABE RAMIREZ WAS WORKING FOR HIM IN A SECURITY BUSINESS AND
11 HAD BEEN ARRESTED WITH MR. FONSECA; IS THAT RIGHT?

12 A. THAT IS CORRECT.

13 Q. AND DID YOU SUGGEST TO HIM AT THAT TIME THAT HE SHOULD
14 MAKE ARRANGEMENTS TO BRING HIM UP TO LOS ANGELES FOR FURTHER
15 INVESTIGATION?

16 A. YES, I DID.

17 Q. AND DID YOU TELL HIM THAT THE D.E.A. WOULD PAY FOR
18 WHATEVER EXPENSES WERE INCURRED IN TRAVELING TO LOS ANGELES?

19 A. YES, I DID.

20 Q. AND DID YOU TELL HIM THAT THE D.E.A. WOULD PAY FOR HIS
21 FAMILY AS WELL?

22 A. NOT SPECIFICALLY.

23 Q. AND DID YOU AND MR. CASTEL DEL ORO COME TO AN
24 UNDERSTANDING ABOUT THE PLAN THAT YOU WOULD USE DURING THE
25 INVESTIGATION DURING THAT CONVERSATION?

1 A. WHAT I RECALL TELLING MR. CASTEL WAS THAT I WOULD ASSUME
2 THE IDENTITY OF A DRUG LORD THAT WAS A COMPADRE, CLOSE FRIEND,
3 OF RAFAEL CARO QUINTERO.

4 Q. THAT WAS YOUR FIRST CONTACT WITH MR. CASTEL DEL ORO, THAT
5 FIRST PHONE CALL; IS THAT RIGHT?

6 A. I DON'T RECALL IF THAT WAS DURING THE FIRST CALL.

7 Q. WELL, LET'S SEE. HE ARRIVED HERE IN CONNECTION WITH THIS
8 INVESTIGATION ON JULY 20TH, 1989?

9 A. THAT'S CORRECT.

10 Q. AND FROM JUNE OF 1989 TO JULY OF 1989 DID YOU HAVE ANY
11 FURTHER DISCUSSIONS AFTER THE INITIAL DISCUSSION YOU HAD WITH
12 HIM?

13 A. WE TALKED ON THE PHONE NUMEROUS TIMES. I RECALL TALKING
14 TO HIM ABOUT OTHER ISSUES.

15 BUT, YES, I DID TALK TO HIM BEFORE THEY CAME UP.

16 Q. AND DID ANY OF THESE CONVERSATIONS CONCERN THE
17 INVESTIGATION OF MY CLIENT?

18 A. YES, THEY DID.

19 Q. DID YOU MAKE ANY RECORD OF ANY OF THESE TELEPHONE CALLS?

20 A. NO, I DID NOT.

21 Q. DID YOU PREPARE A CASE INITIATION REPORT CONCERNING THE
22 INVESTIGATION OF MY CLIENT?

23 A. I DIDN'T.

24 Q. DID ANYBODY, TO YOUR KNOWLEDGE?

25 A. I DON'T RECALL.

1 Q. YOU'RE THE CASE AGENT, RIGHT?

2 A. NO, I'M THE SUPERVISOR.

3 Q. I'M SORRY. BUT IN CONNECTION WITH YOUR DUTIES AS A
4 SUPERVISOR, YOU REVIEW ALL OF THE REPORTS THAT ARE GENERATED
5 WITH RESPECT TO A PARTICULAR INVESTIGATION, AS A SUPERVISOR;
6 ISN'T THAT RIGHT?

7 A. YES, I DO.

8 Q. AND IF A CASE INITIATION REPORT EXISTED, THERE WOULD BE
9 ONE IN A D.E.A. FILE CONCERNING THE INVESTIGATION OF MY
10 CLIENT; ISN'T THAT RIGHT?

11 A. YES.

12 Q. AND IF YOU LOOKED AT THAT FILE, THAT WOULD REFRESH YOUR
13 RECOLLECTION AS TO WHETHER ONE WAS INITIATED; ISN'T THAT
14 RIGHT?

15 A. WOULD IT?

16 Q. YES.

17 A. YES, I ASSUME IT WOULD.

18 Q. NOW DO, YOU RECALL, AS YOU'RE SITTING HERE TODAY, HOW
19 MUCH MONEY MR. CASTEL DEL ORO WAS GIVEN WITH RESPECT TO THE
20 TRAVEL ARRANGEMENTS TO COME UP TO MEXICO?

21 A. NO I DO NOT.

22 Q. AND IF YOU LOOKED AT THE RECORD OF PAYMENTS THAT WERE
23 MADE TO MR. CASTEL DEL ORO IN CONNECTION WITH THIS
24 INVESTIGATION, THOSE RECORDS BEING THE ONES THAT ARE IN THE
25 LOS ANGELES FIELD DIVISION, WOULD YOU BE ABLE TO REFRESH YOUR

1 RECOLLECTION AS TO THE AMOUNT OF MONEY THAT WAS GIVEN TO HIM?

2 A. IT WOULD.

3 Q. NOW, ESSENTIALLY, YOU BROUGHT -- OR YOU AND MR. CASTEL
4 DEL ORO DEvised A PLAN TO BRING MY CLIENT TO LOS ANGELES TO
5 GET INFORMATION FROM HIM; IS THAT RIGHT?

6 A. TO INVESTIGATE HIM.

7 Q. AND YOU MADE A DECISION TO RECORD ALL OF THE CONVER-
8 SATIONS; IS THAT RIGHT?

9 A. YES.

10 Q. AND DID YOU TELL MR. CASTEL DEL ORO THAT YOU WERE GOING
11 TO BE RECORDING ALL THE CONVERSATIONS?

12 A. I DON'T RECALL.

13 Q. DID YOU EVER MEET WITH HIM IN PERSON PRIOR TO JULY 20TH,
14 1989; HIM, BEING CASTEL DEL ORO?

15 A. YES, I MET WITH HIM SOMETIME PRIOR.

16 Q. DO YOU RECALL WHEN THAT WAS?

17 A. IT WOULD HAVE BEEN IN APRIL OF '89.

18 Q. SO THAT WOULD NOT HAVE BEEN IN CONNECTION WITH THIS CASE?

19 A. NO, IT WAS NOT.

20 Q. DID YOU EVER MEET WITH MR. CASTEL DEL ORO CONCERNING THIS
21 INVESTIGATION BETWEEN JULY -- I'M SORRY -- BETWEEN JUNE, WHEN
22 YOU FIRST TALKED TO HIM AND JULY 20TH, WHEN HE FIRST CAME UP?

23 A. NOT IN PERSON. I NEVER MET HIM.

24 Q. DID HE EVER TELL YOU HOW LONG HE HAD BEEN OPERATING THE
25 SECURITY BUSINESS IN GUADALAJARA?

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

2 MS. KELLY: YOUR HONOR, THIS IS RELEVANT. I'D LIKE
3 TO BE HEARD AT THE SIDE BAR. I'M ASKING ABOUT THE BUSINESS.
4 IT'S PART OF THE RUSE.

5 THE COURT: THE OBJECTION IS SUSTAINED. I'LL HEAR
6 YOU LATER.

7 MS. KELLY: VERY WELL, YOUR HONOR.

8 BY MS. KELLY:

9 Q. DID MR. CASTEL DEL ORO EVER GIVE YOU ANY DOCUMENTATION
10 CONCERNING HIS SECURITY BUSINESS?

11 MR. CARLTON: OBJECTION, IRRELEVANT.

12 THE COURT: SUSTAINED.

13 BY MS. KELLY:

14 Q. DURING THE COURSE OF YOUR CONVERSATIONS WITH MY CLIENT,
15 HE DID DISCUSS WITH YOU THE FACT THAT HE WAS EMPLOYED BY MR.
16 CASTEL DEL ORO IN HIS SECURITY BUSINESS, DIDN'T HE?

17 A. YES.

18 Q. NOW, WHEN THE PARTIES WERE BROUGHT TO THE EMBASSY SUITES
19 ON JULY 20TH, HOW LONG, TO YOUR KNOWLEDGE, DID THEY STAY
20 THERE? HOW MANY NIGHTS?

21 A. TO MY KNOWLEDGE, FIVE OR SIX NIGHTS.

22 Q. AND DO YOU KNOW WHO PAID FOR THE HOTEL BILL?

23 A. I DON'T HAVE ANY PERSONAL KNOWLEDGE OF THAT.

24 Q. IS THERE ANY RECORD THAT YOU REVIEWED THAT INDICATES WHEN
25 OR WHO PAID THIS HOTEL BILL?

1 A. NO.

2 Q. SO THERE IS ABSOLUTELY NO RECORD IN ANY OF THE D.E.A.
3 FILES THAT YOU REVIEWED CONCERNING WHAT THE COST OF THE HOTEL?

4 A. AS FAR AS I RECALL, NO.

5 Q. AGAIN, IF YOU LOOKED IN THE FILES CONCERNING THE PAYMENTS
6 THAT WERE MADE TO THE INFORMANT AND THE CASE FILES OF THE
7 INVESTIGATION OF MY CLIENT, WOULD THAT REFRESH YOUR
8 RECOLLECTION IF THERE WERE ANY RECORDS OF PAYMENTS?

9 A. I DON'T RECALL. I WASN'T THERE WHEN THE HOTEL ROOMS WERE
10 PAID FOR.

11 Q. NO, NO. I'M ASKING IF YOU WENT AND LOOKED IN A FILE.
12 WOULD THAT REFRESH YOUR RECOLLECTION AS TO WHETHER THERE WERE
13 ANY DOCUMENTS THAT YOU HAD REVIEWED THAT INDICATED WHO PAID
14 FOR THE HOTEL AND HOW MUCH WAS PAID?

15 A. IN WHAT FILE, MA'AM?

16 Q. IN THE CASE FILE THAT THE D.E.A. MAINTAINS ON THE
17 INVESTIGATION OF MY CLIENT?

18 A. DO YOU WANT ME TO READ THE WHOLE FILE; IS THAT WHAT
19 YOU'RE ASKING ME TO DO?

20 Q. IF YOU DID REVIEW THE FILE, WOULD THAT REFRESH YOUR
21 RECOLLECTION?

22 A. IF IT IS DOCUMENTED, IT WOULD.

23 Q. SO YOU DOCUMENT --

24 THE COURT: JUST A MOMENT. I'M GOING TO ASK THE
25 JURY TO TAKE A BRIEF RECESS.

1 THE CLERK: PLEASE RISE.

2 (JURY EXCUSED.)

3 THE COURT: NOW, COUNSEL, YESTERDAY YOU BOGGED DOWN
4 THE CROSS-EXAMINATION CONSIDERABLY AND YOU'RE OFF ON A
5 DIFFERENT TRACK TODAY. IT IS NOT MY JOB TO INTERFERE WITH
6 THAT, BUT IT IS MY JOB TO SEE THAT WE STAY ON THE SUBJECT.

7 YOU'RE ASKING THIS WITNESS QUESTIONS AS THOUGH HE
8 WERE THE INFORMANT. YOU'RE ASKING QUESTIONS AS THOUGH THE
9 INFORMANT HAD TESTIFIED ABOUT WHAT WAS PAID, WHO PAID FOR HIS
10 HOTEL BILL.

11 I FAIL TO SEE WHAT CONNECTION THAT HAS WITH THE
12 STATEMENTS THAT YOUR CLIENT ALLEGEDLY MADE TO THIS WITNESS.

13 MS. KELLY: YOUR HONOR, THIS AGENT HAS JUST
14 TESTIFIED THAT CASTEL DEL ORO OUT OF THE CLEAR BLUE SKY CALLED
15 HIM UP AND SAID I HAVE SOMEBODY WORKING FOR ME.

16 THE COURT: WHAT DIFFERENCE DOES IT MAKE, EVEN IF
17 THAT'S NOT TRUE? THE EVIDENCE THAT IS PRESENTED HERE IS THAT
18 YOUR CLIENT MADE THESE STATEMENTS.

19 MS. KELLY: YES, YOUR HONOR. I UNDERSTAND THAT.

20 THE COURT: WHAT DIFFERENCE DOES IT MAKE HOW HE CAME
21 TO MAKE THEM; WHETHER IT WAS OUT OF THE CLEAR BLUE OR WHETHER
22 IT WAS ARRANGED IN SOME OTHER WAY?

23 MS. KELLY: WELL, YOUR HONOR, I THINK THE
24 INFORMANT'S INVOLVEMENT IN THE INVESTIGATION HAS A LOT TO DO
25 WITH THE CASE AND A LOT TO DO WITH THE STATEMENTS THAT MY

1 CLIENT MADE, AND I THINK I'M ENTITLED TO EXPLORE --

2 THE COURT: WHY DON'T YOU CALL THE INFORMANT AS A
3 WITNESS AND EXPLORE IT WITH HIM?

4 MS. KELLY: WELL, YOUR HONOR, I THINK I SHOULD BE
5 ABLE TO FIND OUT HOW THE INVESTIGATION WAS FORMULATED WITH
6 RESPECT TO THIS PARTICULAR AGENT.

7 THE COURT: BUT YOU BOG YOURSELF DOWN IN MINUTIAE
8 AND YOU TAKE A GREAT DEAL OF TIME. I ASSUME THAT YOU HAVE
9 PREPARED YOURSELF TO ELICIT CERTAIN FACTS FROM THIS WITNESS
10 THAT YOU WISH TO DO.

11 MS. KELLY: I HAVE.

12 THE COURT: AND I WOULD LIKE YOU TO GET TO THOSE
13 FACTS. I'M NOT GOING TO RESTRICT YOUR RIGHT TO CROSS-EXAMINE,
14 BUT I THOUGHT I WOULD BRING THIS TO YOUR ATTENTION BECAUSE YOU
15 HAVE SPENT A HALF HOUR TRYING TO DETERMINE HOW MUCH WAS PAID
16 TO THE INFORMANT AND WHO PAID THE HOTEL BILL.

17 NUMBER ONE, YOU HAVE BEEN PROVIDED WITH A RECORD OF
18 ALL PAYMENTS MADE TO INFORMANTS, HAVE YOU NOT?

19 MS. KELLY: NO, I HAVEN'T, YOUR HONOR. I HAVE NOT
20 BEEN PROVIDED WITH A RECORD OF THIS INFORMANT. I HAVE NOT.

21 AND I HAVE NOT BEEN PROVIDED WITH A CASE INITIATION
22 REPORT. AND I UNDERSTAND, BASED ON MY EXPERIENCE IN D.E.A.
23 CASES, THAT ALWAYS A CASE INITIATION REPORT HAS BEEN DONE.

24 I WAS NOT PROVIDED WITH ANY WRITINGS LETTING ME KNOW
25 THAT MY CLIENT HAD MADE POST-ARREST STATEMENTS. AND, YOUR

3
1 HONOR, GIVEN THE INADVERTENCE WITH RESPECT TO IDENTIFICATIONS,
2 I THINK I SHOULD BE ENTITLED TO AT LEAST FIND OUT ARE THESE
3 DOCUMENTS IN EXISTENCE AND WHAT IS GOING ON?

4 THE COURT: WELL, YOU CAN DO THAT BY ASKING A
5 QUESTION OR TWO. BUT YOU HAVE BEEN WITH THIS WITNESS NOW FOR
6 SOME TIME AND YOU HAVEN'T GOTTEN PAST THE PAYMENTS THAT WERE
7 MADE OR THE EXISTENCE OF THE SO-CALLED SECURITY BUSINESS IN
8 GUADALAJARA.

9 MS. KELLY: ALL RIGHT, YOUR HONOR. I APOLOGIZE FOR
10 THAT, BUT THE WITNESS IS BEING SOMEWHAT CIRCUMSPECT IN SAYING
11 WELL, I HAVE NO PERSONNEL KNOWLEDGE, YOUR HONOR. I MEAN, HE
12 IS THE SUPERVISOR WHO SIGNS OFF ON ALL THESE REPORTS.

13 SO, IF HE DOESN'T HAVE PERSONAL KNOWLEDGE OF IT
14 BECAUSE HE DON'T SEE IT OR HE DIDN'T PAY THE BILL, BUT IN FACT
15 HE REVIEWED SOME RECORD THAT INDICATES IT IN HIS FILE, THAT'S
16 WHY I HAVE TO ASK THE QUESTION, BECAUSE HE'S RESTRICTING
17 HIMSELF TO PERSONAL KNOWLEDGE.

18 THE COURT: YOU CAN ASK THE QUESTIONS AND I'LL RULE
19 ON THE OBJECTIONS, IF ANY ARE MADE.

20 LET'S BRING THE JURY BACK IN HERE.

21 I'M TRYING TO GIVE YOU SOME COUNSEL, THAT'S
22 ALL.

23 MS. KELLY: ALL RIGHT. BUT SHOULD I BE HEARD ON THE
24 AREA OF WHY -- DOES THAT MEAN YOUR RULING APPLIES TO THE
25 SECURITY BUSINESS AS WELL? YOU DON'T WANT ME TO GO INTO THAT

1 AREA OF EXAMINATION?

2 THE COURT: YOU CAN GO INTO WHATEVER AREA YOU WISH,
3 COUNSEL.

4 (JURY PRESENT.)

5 THE COURT: ALL RIGHT. YOU MAY PROCEED, COUNSEL.

6 MS. KELLY: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION + CONTINUED

8 BY MS. KELLY:

9 Q. DIRECTING YOUR ATTENTION TO THE RECORDINGS THAT WERE
10 MADE. THE RECORDING THAT YOU USED ON THE 20TH OF JULY; YOU
11 REFERRED TO THAT AS A BODY RECORDER.

12 WAS IT AN ACTUAL RECORDER OR WAS IT A TRANSMITTER?

13 A. IT WAS A TRANSMITTER.

14 A. SO YOU DID NOT ACTUALLY HAVE TO INSERT ANY CASSETTE TAPES
15 INTO ANY MACHINE; IS THAT RIGHT?

16 A. YES.

17 THE COURT: THAT'S YES, THAT'S RIGHT?

18 THE WITNESS: YES. YES, THAT'S RIGHT, YOUR HONOR.

19 BY MS. KELLY:

20 Q. AND DO YOU KNOW WHO WAS OPERATING THE TAPE RECORDING
21 MACHINE WHILE THE CONVERSATION WAS GOING ON?

22 A. YES, I DO.

23 Q. AND WHO WAS THAT?

24 A. SPECIAL AGENT WAYNE SCHMIDT.

25 Q. NOW, WERE THERE TWO RECORDERS THAT WERE BEING USED TO

1 MAKE TAPE RECORDINGS OF THIS CONVERSATION, IF YOU KNOW?

2 A. I BELIEVE SO.

3 Q. AND DO YOU KNOW WHAT THE PURPOSE OF THAT WAS FOR?

4 A. WELL, WE HAD A BACKUP. I BELIEVE WE HAD A BACKUP ON THAT
5 OCCASION.

6 Q. SO ONE WAS A BACKUP RECORDER IN CASE ANYTHING HAPPENED TO
7 THE FIRST RECORDER?

8 A. THAT'S CORRECT.

9 Q. DID YOU HAVE A BACKUP RECORDER ON THE 25TH OF JULY?

10 A. NO, I DON'T BELIEVE WE DID.

11 Q. WAS THERE SOME REASON WHY YOU DIDN'T HAVE A BACKUP
12 RECORDER FOR THE 25TH OF JULY?

13 A. NO, NO PARTICULAR REASON.

14 Q. YOU WEREN'T USING THE SAME MACHINE ON JULY 25 EITHER; IS
15 THAT RIGHT?

16 A. THAT IS CORRECT.

17 Q. BY THAT I MEAN YOU USED DIFFERENT MACHINES THAN YOU USED
18 ON THE 20TH?

19 A. IT WAS A DIFFERENT TYPE OF MACHINERY.

20 Q. IT'S MACHINERY THAT YOU OPERATED; IS THAT CORRECT?

21 I'M SORRY, THAT WAS VAGUE. ON THE 25TH OF JULY YOU
22 OPERATED THAT TAPE MACHINE; IS THAT RIGHT?

23 A. I ACTIVATED IT AND I LOADED THE CASSETTE, MICROCASSETTE
24 CARTRIDGE INTO THE TAPE RECORDER AND I TURNED IT ON.

25 Q. AND WAS THERE A CAPACITY FOR SOMEONE ELSE TO BE LISTENING

1 TO THE RECORDING WHILE IT WAS GOING ON?

2 A. NOT ON THAT DATE, ON THE 25TH.

3 Q. NOW, I BELIEVE YOU SAID THAT ON THE 20TH, YOU INTRODUCED
4 YOURSELF AS MANUEL LIZARRAGA TO MY CLIENT, MR. BERNABE
5 RAMIREZ; IS THAT RIGHT?

6 A. THAT'S WHAT I SAID.

7 Q. DID YOU TELL HIM THAT YOU WERE A MAJOR NARCOTICS
8 TRAFFICKER AT THAT TIME?

9 A. DID I TELL YOUR CLIENT?

10 Q. YES.

11 A. I INDICATED THROUGH WHAT I SAID AND MY ACTIONS AND THE
12 WAY I WAS DRESSED AND THE WAY I HANDLED MYSELF. I INDICATED
13 TO HIM IN MORE THAN ONE WAY THAT I WAS A DRUG TRAFFICKER.

14 Q. NO, I ASKED YOU DID YOU TELL HIM THAT YOU WERE A MAJOR
15 NARCOTICS TRAFFICKER?

16 A. A MAJOR NARCOTICS TRAFFICKER -- I DIDN'T USE THOSE WORDS
17 WHEN I TALKED TO HIM. I TOLD HIM I WAS A COMPADRE OF RAFAEL
18 CARO QUINTERO, A VERY CLOSE ASSOCIATE OF RAFAEL CARO QUINTERO.

19 Q. WELL, YOU REVIEWED THE TRANSCRIPTS FOR JULY 20TH, THE
20 TRANSCRIPTS OF THE CONVERSATION THAT OCCURRED; ISN'T THAT
21 RIGHT?

22 A. YES, I HAVE.

23 Q. AND DO YOU RECALL SEEING ANYWHERE WHERE YOU INTRODUCED
24 YOURSELF AS MANUEL LIZARRAGA?

25 A. I THINK IF I DIDN'T INTRODUCE MYSELF, THE INFORMANT DID.

1 Q. DO YOU HAVE A COPY OF THE JULY 20TH TRANSCRIPT?

2 A. I BELIEVE IN THIS STACK SOMEWHERE THERE IS A COPY OF
3 THAT.

4 Q. COULD I HAVE JUST ONE MOMENT?

5 APPARENTLY IT HAS NOT BEEN MARKED AS AN EXHIBIT YET
6 SO I'LL COME BACK TO IT AFTER THE BREAK.

7 NOW, IN ALL OF THE CONVERSATIONS THAT YOU HAD AND
8 YOU RECORDED THEM, YOU DID THIS BECAUSE YOU WANTED TO HAVE AN
9 ACCURATE RECORD OF WHAT WAS BEING SAID, RIGHT?

10 A. YES.

11 Q. AND IS THE TAPE RECORDING OF AN UNDERCOVER CONVERSATION A
12 GOOD EVIDENCE TECHNIQUE, A GOOD EVIDENCE COLLECTION TECHNIQUE?

13 A. YES, IT IS.

14 Q. NOW, WHEN YOU WERE TESTIFYING TO CERTAIN STATEMENTS THAT
15 WERE MADE BY MY CLIENT THAT WERE NOT ON THE SCREEN, YOU WERE
16 NOT USING THE VERBATIM LANGUAGE THAT WAS USED; IS THAT RIGHT?

17 A. NO, BECAUSE THE CONVERSATIONS WERE IN SPANISH.

18 Q. AND WHEN YOU SET OUT ON THIS UNDERCOVER OPERATION TO
19 INVESTIGATE MY CLIENT, YOU WERE TRYING TO COLLECT EVIDENCE
20 AGAINST HIM, WEREN'T YOU?

21 A I WAS TRYING TO COLLECT EVIDENCE -- NOT JUST EVIDENCE --
22 WHETHER IMPLICATING HIM OR -- EVIDENCE COULD BE OTHERWISE --
23 JUST EVIDENCE.

24 Q. WELL YOU HAD ALREADY COME TO THE CONCLUSION THAT MY
25 CLIENT HAD PARTICIPATED IN THE TORTURE AND KIDNAPPING OF AGENT

1 CAMARENA, HADN'T YOU?

2 A. DEFINITELY NOT.

3 Q. YOU WERE AWARE OF THE FACT THAT HE HAD BEEN ARRESTED WITH
4 ERNESTO FONSECA IN PUERTO VALLARTO SOMETIME IN APRIL OF 1985,
5 RIGHT?

6 A. YES, I WAS AWARE OF THOSE FACTS.

7 Q. AND YOU WERE AWARE THAT HE WAS ONE OF FOUR PEOPLE THAT
8 WERE RELEASED SHORTLY AFTER THAT; IS THAT RIGHT?

9 A. I WAS AWARE HE WAS RELEASED. I DIDN'T KNOW THE AMOUNT OF
10 THE PEOPLE THAT WERE RELEASED.

11 Q. AND YOU DESIGNED A PLAN, TOGETHER WITH CASTEL DEL ORO, TO
12 BRING HIM TO THIS COUNTRY, RIGHT?

13 MR. CARLTON: ASKED AND ANSWERED, YOUR HONOR.

14 MS. KELLY: I DON'T BELIEVE THAT PARTICULAR QUESTION
15 WAS ASKED, YOUR HONOR.

16 THE COURT: ALL RIGHT. YOU MAY ANSWER.

17 THE WITNESS: REPEAT YOUR QUESTION, PLEASE.

18 BY MS. KELLY:

19 Q. YOU AND CASTEL DEL ORO DESIGNED THE UNDERCOVER OPERATION
20 TO BRING MY CLIENT TO THE UNITED STATES; ISN'T THAT RIGHT?

21 A. I DON'T THINK CASTEL DEL ORO HAD ANYTHING TO DO WITH
22 DESIGNING ANYTHING. I WAS THE ONE THAT DECIDED AND ORDERED TO
23 PROCEED IN THAT MANNER WITH THE INVESTIGATION.

24 Q. AND DID YOU MAKE THAT DECISION AFTER YOUR CONVERSATION
25 WITH CASTEL DEL ORO ON JUNE OF 1989?

- 1 A. YES, I DID.
- 2 Q. NOW, YOU HAD THREE CONVERSATIONS WITH MY CLIENT ON JULY
3 20TH, JULY 21ST, JULY 24TH. AND DURING THOSE CONVERSATIONS HE
4 NEVER TOLD YOU THAT HE WAS PRESENT AT ANY TIME DURING THE
5 INTERROGATION OR TORTURE OF AGENT CAMARENA, RIGHT?
- 6 A. NOT ON THOSE THREE.
- 7 Q. NOT ON THOSE THREE DATES?
- 8 A. NOT ON THOSE THREE DATES.
- 9 Q. AND ON THOSE THREE DATES, YOU DIDN'T ARREST HIM, RIGHT?
- 10 A. NO, I DIDN'T.
- 11 Q. AND THE ARREST CAME ONLY AFTER THE JULY 25TH
12 CONVERSATION?
- 13 A. ONLY AFTER HE TOLD ME THAT HE HAD BEEN PRESENT DURING THE
14 TORTURE AND MURDER OF OUR SPECIAL AGENT DID I DECIDE TO ARREST
15 HIM.
- 16 Q. HE DIDN'T ACTUALLY USE THOSE WORDS, "I WAS PRESENT DURING
17 THE TORTURING AND KIDNAPPING OF SPECIAL AGENT CAMARENA", DID
18 HE?
- 19 A. NOT THOSE SPECIFIC WORDS.
- 20 Q. IN FACT, HE NEVER SAID THOSE WORDS AT ALL, DID HE?
- 21 A. THE WORDS HE USED WAS EN LAS CALENTALA IN SPANISH
22 (PHONETIC), WHICH TRANSLATES TO "IN THE BEATINGS."
- 23 Q. HE SAID "I WAS THERE IN THE BEATINGS"?
- 24 A. EN LAS CALENTALA, IN SPANISH.
- 25 Q. COULD YOU PLEASE TURN TO THE TRANSCRIPT OF JULY 25TH,

1 WHICH WE INDICATED WAS EXHIBIT 165. AND REVIEW IT, PLEASE,
2 FOR ME AND SHOW ME WHERE HE SAID "I WAS PRESENT IN THE
3 BEATINGS."

4 A. JULY 25TH.

5 Q. YES. WELL, THAT'S THE FIRST -- THAT'S THE ONLY TIME HE
6 EVER MADE THAT STATEMENT, RIGHT?

7 A. I BELIEVE SO.

8 THE COURT: HAVE YOU DIRECTED THE WITNESS TO A
9 PARTICULAR PORTION OF THAT?

10 MS. KELLY: I DON'T BELIEVE THOSE WORDS APPEAR
11 ANYWHERE. I'M ASKING HIM TO FIND WHERE THOSE WORDS ARE.

12 THE COURT: THAT SHOULD BE DONE DURING THE RECESS --

13 MS. KELLY: VERY WELL, YOUR HONOR.

14 THE COURT: -- RATHER THAN TAKE THE JURY'S TIME.
15 GO ON TO SOMETHING ELSE.

16 Q. NOW, AS THE SUPERVISING AGENT IN THIS PARTICULAR CASE,
17 ARE YOU RESPONSIBLE FOR REVIEWING THE REPORTS THAT ARE WRITTEN
18 BY YOUR SUPERVISEES?

19 A. BY THE PEOPLE THAT SUPERVISE ME?

20 Q. NO. I MEANT -- BY THE TERM SUPERVISEE, I MEANT THE
21 PEOPLE WHOM YOU SUPERVISE.

22 A. YES, I AM.

23 Q. AND IN CONNECTION WITH THIS INVESTIGATION, WHO ARE THOSE
24 PEOPLE? AGENT SALAZAR?

25 MR. CARLTON: OBJECTION. YOUR HONOR. IRRELEVANT AND

1 BEYOND THE SCOPE.

2 MS KELLY: YOUR HONOR --

3 THE COURT: JUST A MINUTE. YOU MAY ANSWER THAT
4 QUESTION.

5 THE WITNESS: DID YOU WANT ME TO NAME EVERYBODY IN
6 THE TASK FORCE THAT WRITES REPORTS?

7 BY MS. KELLY:

8 Q. NO, NO, NO. I'M HERE TODAY JUST CONCERNED ABOUT THE
9 INVESTIGATION OF MY CLIENT. SO WITH RESPECT TO THE
10 INVESTIGATION OF MY CLIENT, THE UNDERCOVER OPERATION OF MY
11 CLIENT, WHO DO YOU SUPERVISE?

12 FOR EXAMPLE - DO YOU SUPERVISE AGENT SALAZAR?

13 A. YES, I DO.

14 Q. AND AGENT REYNOSO?

15 A. YES, I DO.

16 Q. IS THERE ANYBODY ELSE THAT WAS CONNECTED WITH THE
17 INVESTIGATION OF MY CLIENT FOR WHOM YOU HAVE SUPERVISORY
18 RESPONSIBILITY?

19 A. WELL, I BELIEVE THE TEAM WAS INVOLVED IN SOME WAY OR
20 ANOTHER. IF THEY WEREN'T ON SURVEILLANCE, THEY WERE
21 OPERATING ANY KIND OF EQUIPMENT. AND THOSE THAT WEREN'T DOING
22 THAT WERE WORKING UNDER COVER WITH ME.

23 DO YOU WANT ME TO NAME EVERYBODY NOW?

24 Q. NO --

25 A. JUST WHO WROTE REPORTS; IS THAT YOUR QUESTION?

1 Q. YES, WHO WROTE REPORTS.

2 A. TO THE BEST OF MY RECOLLECTION, THE ONLY AGENT THAT WROTE
3 REPORTS WAS SPECIAL AGENT WAYNE SCHMIDT. AND THOSE REPORTS
4 WERE TO THE CHAIN OF CUSTODY OF THE TAPES.

5 AND I KNOW THAT DELBERT SALAZAR ALSO WROTE REPORTS
6 OF INVESTIGATION.

7 AND I'M TRYING TO RECALL IF THERE WAS ANYBODY ELSE
8 THAT WROTE A REPORT, BUT IT DOESN'T COME TO MIND RIGHT NOW.

9 Q. DIRECTING YOUR ATTENTION TO THE REPORT CONCERNING THE
10 CHAIN OF CUSTODY OF THOSE TAPES, IS THAT A REPORT THAT YOU
11 REVIEWED AS SUPERVISOR IN THIS CASE?

12 A. I BELIEVE I DID.

13 Q. AND THAT'S - THAT IS A FORM D.E.A.-7; ISN'T THAT RIGHT?

14 A. YES, IT IS.

15 Q. AT SOME POINT THEN EVIDENCE IS TAKEN IN BY THE D.E.A. AND
16 TURNED OVER TO AN EVIDENCE CUSTODIAN; ISN'T THAT RIGHT?

17 A. WHAT IS YOUR QUESTION; IS THAT REPORTED OR IS IT TURNED
18 IN?

19 Q. EVIDENCE -- WHEN YOU ACQUIRE EVIDENCE, DO YOU MARK IT,
20 IDENTIFY IT, SEAL IT, AND THEN TURN IT OVER TO AN EVIDENCE
21 CUSTODIAN IN THE LOS ANGELES FIELD DIVISION?

22 A. WE DO ALL OF THAT, YES.

23 Q. AND THAT SHOULD BE DONE AS SOON AS PRACTICAL, RIGHT?

24 A. THAT IS DONE AS SOON AS WE, YOU KNOW, REVIEW IT. A LOT
25 OF TIMES MAKE NOTATIONS OFF OF IT.

1 IT IS NOT TAKEN FROM THE MACHINE AND PROCESSED
2 IMMEDIATELY WHEN DEALING WITH TAPES. WHEN DEALING WITH DRUG
3 EVIDENCE, OBVIOUSLY, YOU TAKE IT AND YOU SEND IT TO THE LAB
4 IMMEDIATELY.

5 BUT WHEN YOU'RE DEALING WITH NON-DRUG EVIDENCE, A
6 LOT OF TIMES YOU HOLD ON TO IT TO REVIEW IT AND MAKE SURE THAT
7 THE TAPE CAME OUT, MAKE SURE IT'S ACCURATE AND THINGS OF THAT
8 NATURE.

9 BUT EVENTUALLY, SOON THEREAFTER, IT IS TURNED OVER
10 TO THE EVIDENCE CUSTODIAN FOR SAFEKEEPING, YES.

11 Q. WHAT IS THE POINT OF TURNING IT OVER TO THE EVIDENCE
12 CUSTODIAN FOR SAFEKEEPING?

13 A. WHAT IS THE POINT?

14 Q. YES. WHAT IS THE PURPOSE?

15 A. TO KEEP IT IN A SAFE PLACE, TO KEEP IT IN ITS ORIGINAL
16 FORM, TO ENSURE THAT IT IS NOT TAMPERED WITH. IT IS JUST GOOD
17 PRACTICE TO SECURE EVIDENCE.

18 Q. AND IT IS GOOD PRACTICE TO SECURE THE EVIDENCE SHORTLY
19 AFTER IT IS ACQUIRED, ISN'T IT?

20 A. DEPENDING ON THE TYPE OF EVIDENCE.

21 Q. SO DEPENDING ON THE TYPE OF EVIDENCE, YOU CAN SECURE IT
22 OR NOT SECURE IT: IS THAT WHAT YOU'RE SAYING?

23 A. NO, YOU'RE ALWAYS GOING TO SECURE THE EVIDENCE.

24 MAYBE I'M NOT UNDERSTANDING YOUR QUESTION.

25 Q. WELL, DO YOU WANT TO TELL ME UNDER WHAT CIRCUMSTANCES YOU

1 DON'T HAVE TO SECURE THE EVIDENCE OR YOU CAN WAIT TO SECURE
2 THE EVIDENCE. IS THAT THE WHAT YOU'RE SAYING?

3 MR. CARLTON: OBJECTION, COMPOUND QUESTION.

4 MS. KELLY: I'LL REPHRASE IT, YOUR HONOR.

5 BY MS. KELLY:

6 Q. ARE YOU SAYING THAT YOU DON'T HAVE TO SECURE CERTAIN
7 KINDS OF EVIDENCE?

8 Q. I NEVER SAID THAT YOU DON'T SECURE THE EVIDENCE. I NEVER
9 TESTIFIED TO THAT, I'M SORRY. WHAT I SAID WAS YOU SECURE THE
10 EVIDENCE -- AND A LOT OF TIMES -- WHAT I SAID WAS -- YOU DON'T
11 IMMEDIATELY TURN IT OVER TO THE EVIDENCE CUSTODIAN BECAUSE YOU
12 WANT TO REVIEW, YOU WANT TO KNOW WHAT YOU HAVE.

13 YOU WANT TO KNOW IF YOU GOT A TAPE THAT HAS GOT
14 SOMETHING ON IT. YOU WANT TO CHECK IT TO MAKE SURE THAT THE
15 EQUIPMENT DIDN'T MALFUNCTION. YOU MIGHT WANT TO MAKE NOTES
16 OFF OF THAT EVIDENCE BEFORE YOU TURN IT IN WHEN DEALING WITH
17 TAPES.

18 NOW, WHEN DEALING WITH OTHER TYPES OF EVIDENCE, LIKE
19 HEROIN OR COCAINE OR THINGS OF THIS NATURE, YOU PROBABLY WANT
20 TO TURN IT IN AS SOON AS POSSIBLE TO THE EVIDENCE CUSTODIAN OR
21 FORWARD IT TO THE LABORATORY TO BE ANALYZED.

22 BUT YOU ALWAYS SECURE THAT EVIDENCE AND YOU ALWAYS
23 MAKE SURE THAT IT'S KEPT IN PLACES WHERE IT IS NOT GOING TO BE
24 TAMPERED WITH.

25 Q. WELL, WHEN IT -- DURING TIME BETWEEN WHEN YOU GET IT AND

1 IT'S NOT SECURED -- LET'S SAY AN EXAMPLE THAT YOU USED OF
2 TAPES -- THERE IS NO RECORD OF -- ANY KIND OF LOCK AND KEY --
3 KEEPING THE EVIDENCE UNDER LOCK AND KEY; IS THAT RIGHT?

4 A. MY ANSWER TO THAT WOULD BE THAT I FEEL THAT IF I HAVE THE
5 EVIDENCE WITH ME, PHYSICALLY WITH ME, I FEEL THAT EVIDENCE IS
6 SECURE WITH ME.

7 Q. THE D.E.A., THOUGH, HAS CERTAIN POLICIES ON THE
8 ACQUISITION OF NON-DRUG PROPERTY, DON'T THEY?

9 A. DO THEY HAVE POLICY ON IT?

10 Q. YES.

11 A. THERE IS A POLICY, YES, THAT YOU SECURE THE EVIDENCE AND
12 YOU KEEP IT SECURED.

13 Q. AND IN DOING THAT, YOU IDENTIFY IT AND YOU MARK IT AND
14 YOU SEAL IT; IS THAT RIGHT?

15 A. AMONG OTHER THINGS, YES.

16 Q. AND AFTER YOU HAVE SEALED IT, YOU TURN IT OVER TO THE
17 EVIDENCE CUSTODIAN, RIGHT?

18 A. YES.

19 Q. NOW, WITH RESPECT TO TAPES, ORIGINAL TAPES, YOU WANT TO
20 BE CAREFUL THAT NOTHING IS TAMPERED WITH THEM, RIGHT? THAT
21 THERE IS -- NOTHING HAPPENS TO THEM, I SHOULD SAY.

22 A. THAT'S TRUE.

23 Q. SO, IN REVIEWING THEM AND MAKING TRANSCRIPTS AND THE
24 LIKE, YOU CAN MAKE DUPLICATE COPIES OF THOSE TAPES; ISN'T THAT
25 RIGHT?

1 A. CAN WE MAKE DUPLICATES?

2 Q. YES.

3 A. YES, WE CAN.

4 Q. AND, IN FACT, WHEN YOU HAVE TRANSCRIPTS MADE, YOU GIVE
5 THE TRANSCRIBER A DUPLICATE COPY OF THE TAPE; ISN'T THAT
6 RIGHT?

7 A. SOMETIMES YOU USE THE ORIGINAL.

8 Q. WHEN WOULD YOU USE THE ORIGINAL?

9 A. WHEN THERE ARE NO COPYING FACILITIES, OR FACILITIES ARE
10 UNAVAILABLE AND YOU WANT TO GET TO THE TAPE TO GET DETAILS OF
11 THE CONVERSATION, YOU MIGHT NOT IMMEDIATELY AN ALL OCCASIONS
12 TAKE IT FOR DUPLICATION.

13 THERE HAVE BEEN TIMES WHEN THE MACHINES HAVE BEEN
14 DOWN OR THEY'RE FIXING THE MACHINES OR THEY'RE IN USE AND YOU
15 CAN'T GET TO THEM.

16 Q. NOW, IN THIS PARTICULAR CASE, DO YOU RECALL WHAT HAPPENED
17 WITH THE ORIGINAL TAPES?

18 A. I RECALL THAT I TOOK CUSTODY OF THEM. I RECALL THAT I
19 MIGHT HAVE WORKED ON SOME OF THEM. BY WORK, I MEAN LISTENING
20 TO THEM AND TAKING SOME OF THE INFORMATION OUT OF THEM.

21 AND AT ONE POINT THEY WERE GIVEN TO SPECIAL AGENT
22 WAYNE SCHMIDT BY ME, AS A SUPERVISOR, TO PROCESS, SEAL AND SO
23 FORTH, AND GIVEN TO THE EVIDENCE CUSTODIAN.

24 Q. DO YOU KNOW HOW LONG A TIME PERIOD WAS BETWEEN THE TIME
25 YOU TOOK CUSTODY OF THE ORIGINAL TAPES AND TURNING THEM OVER

1 FOR PROCESSING AND SECURING WITH THE EVIDENCE CUSTODIAN?

2 A. WELL, THAT WOULD DEPEND ON THE TAPE, I GUESS.

3 I DON'T RECALL -- I DO RECALL THAT I DIDN'T GIVE
4 THEM TO WAYNE RIGHT AWAY -- SPECIAL AGENT SCHMIDT -- EXCUSE
5 ME -- RIGHT AWAY. I RECALL THAT SOME OF THEM I KEPT FOR
6 SEVERAL DAYS TO REVIEW AND MAKE NOTATIONS FROM THEM OR -- JUST
7 REVIEW, ACTUALLY.

8 Q. DID YOU KEEP ALL OF THEM OR JUST SOME OF THEM?

9 A. I DON'T RECALL IF I KEPT ALL OF THEM OR SOME OF THEM.

10 Q. BUT DO YOU HAVE ANYTHING THAT WOULD REFRESH YOUR
11 RECOLLECTION AS TO WHETHER YOU KEPT ALL OF THEM OR SOME OF
12 THEM?

13 A. NOT IN FRONT OF ME.

14 Q. WELL, WHAT WOULD IT BE THAT WOULD REFRESH YOUR
15 RECOLLECTION?

16 A. A D.E.A. FORM 7-A.

17 Q. AND THAT HAS A RECORD OF WHAT HAPPENED BETWEEN THE TIME
18 THAT YOU TOOK POSSESSION OF THEM AND THE TIME IT WAS TURNED
19 OVER TO WAYNE SCHMIDT?

20 A. I BELIEVE SO.

21 Q. WAS THERE MORE THAN ONE D.E.A.-7 REPORT SUBMITTED WITH
22 RESPECT TO THESE TAPES?

23 A. FROM MY RECOLLECTION, I BELIEVE THEY'RE ALL IN ONE 7-A
24 REPORT.

25 MS. KELLY: YOUR HONOR, CAN I APPROACH THE WITNESS

1 WITH AN EXHIBIT? HE SAID IT WOULD REFRESH HIS RECOLLECTION
2 AS TO THE LENGTH OF TIME.

3 THE COURT: ALL RIGHT.

4 BY MS. KELLY:

5 Q. THAT EXHIBIT I JUST PLACED BEFORE YOU, IS THAT A COPY OF
6 THE D.E.A.-7 REPORT THAT YOU PREPARED?

7 A. YES. YES, IT IS.

8 Q. NOW, IS THAT A RECORD THAT YOU PREPARED OR DID SOMEONE
9 ELSE PREPARE THAT?

10 A. IT IS A RECORD PREPARED BY SPECIAL AGENT WAYNE SCHMIDT.

11 Q. AND DOES YOUR SIGNATURE APPEAR ANYWHERE?

12 A. I SEE MY NAME ON IT, BUT IT IS A BAD PHOTOCOPY. I DON'T
13 SEE WHERE I SIGNED OFF, BUT I PROBABLY DID SIGN OFF ON IT.

14 Q. YOU THINK THERE MAY BE A COPY THAT EXISTS WITH YOUR
15 SIGNATURE APPEARING ON IT?

16 A. I BELIEVE THERE IS. MY TYPED NAME APPEARS HERE AND I
17 HAVE NO REASON TO DISBELIEVE THAT I DIDN'T SIGN IT. I
18 PROBABLY SIGNED IT.

19 Q. WOULD A SIGNED COPY ALSO BE IN THE D.E.A. FILE OF THE
20 CASE INVESTIGATION THAT YOU MAINTAINED ON THIS ASPECT OF THE
21 INVESTIGATION CONCERNING MY CLIENT?

22 A. IF I SIGNED IT, I'M SURE IT EXISTS. AND I BELIEVE I DID
23 SIGN IT.

24 Q. SO DOES THAT MEAN IT WOULD EXIST, IT WOULD BE IN A FILE?

25 A. I WOULD HOPE SO, YES.

1 Q. NOW, DOES THIS PARTICULAR DOCUMENT REFRESH YOUR
2 RECOLLECTION AS TO THE LENGTH OF TIME BETWEEN WHEN YOU
3 OBTAINED THE ORIGINAL TAPES AND WHEN YOU TURNED THEM OVER TO
4 WAYNE SCHMIDT FOR MARKING AND SEALING AND TURNING OVER TO THE
5 EVIDENCE CUSTODIAN?

6 A. YES. THE REPORT REFLECTS THAT EXHIBIT N-550 WAS RETAINED
7 ON THE 20TH, THAT N-551 WAS RETAINED ON THE 21ST, THAT N-552
8 WAS RETAINED ON THE 24TH, AND THAT EXHIBIT N-553 WAS RETAINED
9 ON THE 25TH.

10 THE REPORT INDICATES THAT THESE TAPES WERE IN MY
11 CUSTODY UNTIL THE 16TH OF AUGUST OF '89, AND THAT ON THE 17TH,
12 THE FOLLOWING DAY, SPECIAL AGENT SCHMIDT SUBMITTED THESE TO
13 THE NUMBER GIVEN AS CUSTODIAN OF THE L.A. DIVISION FOR
14 SAFEKEEPING.

15 Q. NOW, WHEN THAT EVENT OCCURS, WHEN EVIDENCE IS TURNED OVER
16 TO THE EVIDENCE CUSTODIAN FOR SECURING IN THE EVIDENCE SAFE,
17 THE EVIDENCE CUSTODIAN SIGNS THE D.E.A.-7 REPORT; ISN'T THAT
18 RIGHT?

19 A. YES, IT IS.

20 Q. AND CAN YOU LOOK ON THAT REPORT AND TELL ME IN THERE IS
21 ANY SIGNATURE OF THE EVIDENCE CUSTODIAN?

22 MR. CARLTON: OBJECTION - YOUR HONOR, NO FOUNDATION
23 AS TO WHETHER HE WOULD RECOGNIZE THAT SIGNATURE.

24 THE COURT: HE MAY ANSWER IT.

25 THE WITNESS: NOT ON THIS REPORT.

1 BY MS. KELLY:

2 Q. NOW IF, IN FACT -- IF, IN FACT, EVIDENCE IS TURNED OVER
3 TO THE EVIDENCE CUSTODIAN, THE EVIDENCE CUSTODIAN, AS A MATTER
4 OF PRACTICE IN THE D.E.A., SIGNS THE D.E.A.-7, RIGHT?

5 A. YES, HE DOES.

6 Q. NOW, WERE ANY OF THE -- STRIKE THAT.

7 WERE YOU MADE AWARE OF ANY CONVERSATIONS BETWEEN MY
8 CLIENT AND THE INFORMANT AT ALL BETWEEN JULY 20TH AND JULY
9 25TH?

10 A. NO, I WAS NOT. I DON'T RECALL.

11 Q. DID THE INFORMANT EVER RELATE TO YOU THAT HE HAD HAD ANY
12 CONVERSATIONS AT ALL WITH MY CLIENT AT ANY TIME DURING THAT
13 TIME PERIOD?

14 MR. CARLTON: OBJECTION, HEARSAY.

15 THE COURT: OVERRULED.

16 BY MS. KELLY:

17 Q. I RECALL THAT HE TOLD ME THEY HAD BEEN TO DISNEYLAND AND
18 THEY HAD DONE NUMEROUS THINGS WITH THEIR WIVES. I BELIEVE HE
19 TOLD ME THEY WENT TO CHINATOWN. THAT TYPE OF THING, YES.

20 Q. GENERAL CONVERSATION?

21 A. YES.

22 Q. SO IS IT FAIR FOR ME TO SAY THAT THE INFORMANT NEVER
23 DESCRIBED TO YOU ANY CONVERSATION BEARING ON THIS
24 INVESTIGATION THAT HE HAD WITH MY CLIENT DURING THAT TIME
25 PERIOD, THE 20TH TO THE 25TH?

1 A. THAT'S CORRECT.

2 Q. NOW, DO YOU RECALL DURING THE 25TH THAT THERE WAS MENTION
3 MADE OF THE FACT THAT THE INFORMANT AND MY CLIENT HAD WALKED A
4 GREAT DISTANCE, THAT YOU HAD DRIVEN PAST, IN FACT, WHILE YOU
5 WERE IN THE UNDERCOVER CAR, AND THAT THEY WERE WALKING OUTSIDE
6 BECAUSE THERE COULD BE NO TAIL ON THEM.

7 DO YOU RECALL THAT CONVERSATION?

8 MR. CARLTON: OBJECTION, CUMULATIVE, YOUR HONOR.
9 THIS WAS GONE EVER YESTERDAY.

10 THE COURT: SUSTAINED.

11 BY MS. KELLY:

12 Q. YOUR HONOR, THIS PARTICULAR ASPECT OF THE CONVERSATION --

13 THE COURT: STRIKE THAT. THE OBJECTION IS
14 OVERRULED. THIS WITNESS WAS NOT QUESTIONED YESTERDAY.

15 MR. CARLTON: THE EXACT PORTION OF THE TRANSCRIPT
16 WAS READ.

17 THE COURT: SHE MAY ASK THE QUESTION OF THIS
18 WITNESS.

19 MS. KELLY: DO YOU HAVE MY QUESTION IN MIND?

20 THE WITNESS: YES, I RECALL THE QUESTION, YOUR
21 HONOR. AND YES, I RECALL THAT CONVERSATION.

22 BY MS. KELLY:

23 Q. DID YOU EVER ASK THE INFORMANT ABOUT WHAT KIND OF A
24 CONVERSATION TOOK PLACE OUT ON THE STREET WHERE NO TAIL COULD
25 BE MADE ON THE PARTIES?

1 A. I NEVER DID.

2 Q. AND HE NEVER VOLUNTEERED IT TO YOU; IS THAT RIGHT?

3 A. I DON'T RECALL ME EVER BEING TOLD WHAT THEY TALKED ABOUT
4 OR WHERE THEY WALKED.

5 Q. AND YOU DON'T HAVE ANY REPORT CONCERNING THAT; IS THAT
6 RIGHT?

7 A. NO, I DON'T.

8 Q. I'D LIKE TO DIRECT YOUR ATTENTION AGAIN TO THE JULY 25TH
9 TRANSCRIPT, WHICH I BELIEVE YOU HAVE IN FRONT OF YOU.

10 IN PARTICULAR, PAGE 7. AND THIS IS IN THE BEGINNING
11 OF THE CONVERSATION. JUST FOR CONTEXT, AGENT SALAZAR WAS IN A
12 CAR FOR A PORTION OF THE CONVERSATION; IS THAT RIGHT?

13 A. YES.

14 Q. AND THE INFORMANT WAS PRESENT FOR A PORTION OF THE
15 CONVERSATION; IS THAT RIGHT?

16 A. YES, HE WAS.

17 Q. NOW, WAS THERE ANYBODY ELSE IN THE CAR BESIDES THE FOUR
18 OF YOU? AND THAT WOULD INCLUDE YOURSELF AND MY CLIENT
19 BERNABE?

20 A. NO, THERE WASN'T.

21 Q. SO THAT WHEN THE INFORMANT AND AGENT SALAZAR LEFT THE
22 CAR, IT WAS JUST YOU AND MY CLIENT JUAN BERNABE RAMIREZ,
23 RIGHT?

24 A. THAT'S ALL.

25 Q. NOW, PRIOR TO THEM LEAVING THE CAR, "THEM" BEING -- I'M

1 REFERRING HERE TO AGENT SALAZAR AND THE INFORMANT -- YOU HAD
2 SOME DISCUSSION ABOUT THE FILES AGAIN THAT MY CLIENT WAS GOING
3 TO GET FOR YOU, IS THAT RIGHT?

4 A. YES, WE DID.

5 Q. AND IN MEXICO, IF YOU KNOW - AREN'T TRIALS COND'CTED BY
6 DECLARATIONS THAT ARE SUBMITTED TO THE COURT?

7 A. I HAVE NO KNOWLEDGE OF THAT.

8 Q. NOW, IN CONNECTION WITH YOUR INVESTIGATION, YOU'VE
9 REVIEWED NUMEROUS DECLARATIONS THAT WERE TAKEN BY THE MEXICAN
10 GOVERNMENT; ISN'T THAT RIGHT?

11 A. SOME. I REMEMBER THERE WAS A FEW.

12 Q. AND DID YOU REVIEW THE DECLARATION THAT WAS GIVEN TO THE
13 MEXICAN GOVERNMENT BY MY CLIENT?

14 MR. CARLTON: OBJECTION TO THE FORM, YOUR HONOR. NO
15 FOUNDATION.

16 THE COURT: RESTATE YOUR QUESTION.

17 BY MS. KELLY:

18 Q. DID THERE EVER COME A TIME WHEN YOU REVIEWED OR READ THE
19 DECLARATION THAT WAS GIVEN TO THE MEXICAN GOVERNMENT BY MY
20 CLIENT?

21 MR. CARLTON: SAME OBJECTION, YOUR HONOR.

22 THE COURT: WHAT IS THE OBJECTION?

23 MR. CARLTON: OBJECT TO THE FORM OF QUESTION.
24 ASSUMES A FACT NOT IN EVIDENCE.

25 THE COURT: OVERRULED.

1 THE WITNESS: YES, I DID.

2 BY MS. KELLY:

3 Q. AND DO YOU REMEMBER WHEN THAT WAS THAT YOU REVIEWED THAT
4 DECLARATION?

5 A. SOMETIME BEFORE JULY 20TH, 1989.

6 Q. NOW, WHEN YOU ASK THE QUESTIONS ABOUT MY CLIENT'S
7 PRESENCE AT THE TORTURE AND KIDNAPPING -- THE TORTURE
8 ACTUALLY, OF AGENT CAMARENA, YOU USUALLY PRECEDED IT WITH A
9 REFERENCE TO GETTING THE FILES IN THE MEXICAN COURT; ISN'T
10 THAT RIGHT?

11 A. DID I?

12 Q. YES.

13 A. I DON'T RECALL THAT I DID. I KNOW THAT I WASN'T REALLY
14 INTERESTED IN THOSE FILES.

15 WHAT I WANTED TO KNOW ABOUT YOUR CLIENT, IS IF HE --
16 IF HE HAD BEEN THERE, AND IF HE COULD TELL ME FROM PERSONAL
17 KNOWLEDGE THAT MANUEL LIZARRAGA WAS MY NAME.

18 THE THING WITH THE FILES, I DIDN'T REALLY WANT.

19 Q. THAT WAS JUST A PRETEXT?

20 A. THAT WAS JUST A PRETEXT.

21 Q. AND WHAT YOU REALLY WANTED, WAS YOU WANTED MY CLIENT TO
22 SAY HE WAS INSIDE AND PRESENT AT THE TORTURE AND KIDNAPPING;
23 ISN'T THAT WHAT YOU REALLY WANTED?

24 A. NO. I DIDN'T WANT ANYTHING. WHAT I WANTED FROM YOUR
25 CLIENT WAS TO KNOW WHETHER HE WAS INVOLVED OR WHETHER HE

1 WASN'T INVOLVED.

2 SO EITHER -- TO EITHER KNOW FOR MYSELF THAT HE WAS,
3 AND IF HE WASN'T, BY THE SAME TAKEN, NOT TO ARREST HIM. IF HE
4 WASN'T INVOLVED, THEN HE WAS NOT GOING TO BE ARRESTED. AND I
5 WASN'T WANTING ANYTHING OTHER THAN THE TRUTH.

6 Q. WELL, THEN, HE DID TELL YOU THAT HE WAS -- ON THE 21ST
7 AND ON THE 24TH, DIDN'T HE TELL YOU THAT -- ACCORDING TO THE
8 TRANSCRIPTS THAT YOU HAVE AND ACCORDING TO YOUR REVIEW OF THE
9 TAPES THAT YOU HAVE -- THAT HE WASN'T INSIDE THE LOPE DE VEGA
10 HOUSE?

11 A. HE DID SAY THAT. AND HE ALSO KEPT SAYING THAT TO HIS
12 KNOWLEDGE MY NAME WAS NEVER MENTIONED.

13 AND I NEEDED TO KNOW HOW HE KNEW THAT MY NAME WAS
14 NEVER MENTIONED. WAS IT BECAUSE SOMEBODY TOLD HIM THAT MY
15 NAME WAS NEVER MENTIONED OR WAS IT BECAUSE HE WAS THERE?

16 AND UP UNTIL THE 25TH, I DIDN'T KNOW.

17 Q. WELL, OVER THE BREAK, WILL YOU PLEASE EXAMINE THE
18 TRANSCRIPTS OF JULY 21ST AND JULY 24TH AND LOCATE THE PORTION
19 WHERE MY CLIENT SAID THAT HE HAD SOME -- INDICATED TO YOU THAT
20 HE HAD SOME PERSONAL KNOWLEDGE OF YOUR NAME BEING MENTIONED OR
21 NOT BEING MENTIONED.

22 A. I WILL.

23 Q. OKAY.

24 THE COURT: WE'LL TAKE OUR NOON RECESS.

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

1 RECESS.

2 (JURY EXCUSED.)

3 THE COURT: YOU MAY STEP DOWN.

4 THE WITNESS: THANK YOU, YOUR HONOR.

5 (WITNESS EXCUSED.)

6 THE CLERK: YOU MAY BE SEATED.

7 THE COURT: COUNSEL FOR -- COUNSEL FOR MR. VASQUEZ,
8 THE COURT HAS THIS MOTION THAT HAS BEEN PENDING REGARDING
9 PRIOR OUT-OF-COURT IDENTIFICATION OF THE DEFENDANT VASQUEZ
10 MADE BY THE WITNESS, ENRIQUE PLASCENCIA AGUILAR.

11 I BELIEVE I TOLD YOU ON MONDAY OR TUESDAY THAT THE
12 COURT WOULD CONDUCT A SIMMONS-TYPE HEARING TO DETERMINE, FIRST
13 OF ALL, WHAT AND UNDER WHAT CIRCUMSTANCES PICTURES WERE SHOWN
14 TO THIS WITNESS AND TO DETERMINE IF THERE WAS ANY
15 SUGGESTIBILITY.

16 IF THE WITNESS -- IF THE COURT DETERMINES THAT THERE
17 WAS NO VIOLATION OF DUE PROCESS INVOLVED IN THE SHOW-UP, THE
18 WITNESS WILL BE PERMITTED TO TESTIFY TO THE OUT-OF-COURT
19 IDENTIFICATION THAT HE HAS PREVIOUSLY MADE.

20 MR. NICOLAYSEN: YOUR HONOR, I BELIEVE THE COURT
21 RESERVED RULING AS TO THE INITIAL --

22 THE COURT: I AM NOW RULING.

23 MR. NICOLAYSEN: WHAT I MEAN BY THAT IS THAT THE
24 COURT HAD INITIALLY ADVISED COUNSEL THAT THE COURT WAS NOT
25 EVEN CLEAR AS TO WHETHER A SIMMONS HEARING WOULD EVEN BE

1 ALLOWED.

2 THE COURT: WELL, I THINK I INDICATED THAT WE WOULD
3 HAVE A SIMMONS HEARING.

4 MR. NICOLAYSEN: MY POSITION, YOUR HONOR, IF I MAY
5 BE HEARD, IS THAT UNDER RULE 801, THE UNDERLYING LOGIC IN
6 HAVING THIS TYPE OF PRIOR OUT-OF-COURT PHOTO IDENTIFICATION
7 EVIDENCE IS TO ALLOW THE JURY TO HEAR TESTIMONY REGARDING THE
8 WITNESS'S KNOWLEDGE OF THE DEFENDANT AT POINT IN TIME WHEN
9 MEMORY WAS FRESHER, IF YOU WILL.

10 AND ALL OF THE CASES CONSTRUING THAT SECTION IN
11 REGARD TO THIS ISSUE DEAL WITH SITUATIONS TOTALLY AT VARIANCE
12 TO WHAT WE ARE DEALING WITH; THAT IS, WHERE THERE IS A CLOSE
13 PROXIMITY OF TIME BETWEEN THE OCCURRENCE OF THE CRIME AND THE
14 OCCURRENCE OF THE PRETRIAL PHOTO IDENTIFICATION.

15 IN FACT, U.S. VERSUS OWENS, WHICH ORIGINATED IN
16 THIS CIRCUIT AND WAS RECENTLY RULED ON BY THE SUPREME COURT,
17 DEALT SPECIFICALLY WITH THAT TYPE OF PROXIMITY OF TIME.

18 HERE WE HAVE EXACTLY THE INVERSE SITUATION. THE
19 DISTANCE AND TIME OR THE LAPSE IN TIME BETWEEN THE CRIME WHICH
20 OCCURRED ON JUNE 30, 1985 --

21 THE COURT: COUNSEL, I READ YOUR OPPOSITION AND
22 YOU'RE JUST RECITING IT OVER AGAIN.

23 MR. NICOLAYSEN: IT'S AN IMPORTANT POINT TO
24 EMPHASIZE, YOUR HONOR.

25 THE COURT: IT IS NOT NECESSARY TO EMPHASIZE WHAT I

1 HAVE ALREADY READ. YOU'RE TAKING UP TIME UNNECESSARILY.

2 MR. NICOLAYSEN: VERY WELL, YOUR HONOR.

3 THE COURT: THIS IS NOT AN IDEAL SITUATION, I AGREE
4 WITH YOU, WHERE THE EARLIER I.D. OCCURRED SHORTLY AFTER THE
5 EVENT.

6 MR. NICOLAYSEN: NO, IT DID NOT, YOUR HONOR.

7 THE COURT: THE TRIAL TESTIMONY OCCURRED LONG
8 THEREAFTER -- AND THE TRIAL TESTIMONY OCCURRED LONG
9 THEREAFTER. IT IS NOT TOTALLY UNREASONABLE, HOWEVER, FOR THE
10 WITNESS TO HAVE FORGOTTEN VASQUEZ'S FACE SINCE THE DECEMBER
11 I.D. OR SINCE THE PRETRIAL EXHIBIT B I.D.

12 FURTHERMORE, HERE IN THIS CASE, THE JURY HAS ALREADY
13 WITNESSED THE INABILITY OF THE WITNESS TO IDENTIFY MR. VASQUEZ
14 IN COURT.

15 THIS, OF COURSE, WOULD SEVERELY UNDERCUT THE
16 PROBATIVE VALUE OF ANY OUT-OF-COURT IDENTIFICATION. IF THE
17 PHOTO SPREAD IDENTIFICATIONS THAT WERE SHOWN TO THIS WITNESS
18 ARE NOT UNDULY SUGGESTIVE, THEY MAY BE OFFERED INTO EVIDENCE
19 AND THE WITNESS MAY BE PERMITTED TO TESTIFY ABOUT THESE
20 IDENTIFICATIONS.

21 THE RECENT NATURE OF THE IDENTIFICATIONS WILL BE
22 REVEALED TO THE JURY AND THE JURY CAN DETERMINE WHAT WEIGHT TO
23 GIVE THESE EARLIER PHOTO SPREAD IDENTIFICATIONS IN LIGHT OF
24 AGUILAR'S INABILITY TO IDENTIFY VASQUEZ AT THE TRIAL.

25 I AM STILL A LITTLE BIT DISTURBED ALSO BY THE FACT

1 THAT THE DEFENDANT, PARTICULARLY WHEN THE INTERPRETER IS
2 LEANING FORWARD, IS COMPLETELY OBSCURED FROM UP HERE.

3 AND WHILE I HAVE SAID I WOULD NOT PERMIT THE
4 DEFENDANT -- THE GOVERNMENT -- TO HAVE ANOTHER SHOT AT
5 IDENTIFICATION, I BELIEVE THEY ARE ENTITLED TO HAVE THE
6 OUT-OF-COURT IDENTIFICATION PRESENTED TO THE JURY, IF THE
7 SHOW-UP THAT WAS SHOWN TO THE WITNESS WAS NOT SUGGESTIVE,
8 WHICH WE WILL DETERMINE AT A HEARING OUTSIDE THE PRESENCE OF
9 THE JURY.

10 MR. MEDRANO: ON THAT SUBJECT. YOUR HONOR, I JUST
11 WANTED TO ADVISE YOU THAT AFTER MR. BERRELLEZ FINISHES, THE
12 GOVERNMENT IS READY, ESSENTIALLY, TO CLOSE. SO THAT'S THE
13 ONLY ISSUE THAT HAS TO BE RESOLVED.

14 SO WE WOULD BE READY TO DO THAT OUT-OF-JURY PRESENCE
15 HEARING --

16 THE COURT: YOU WOULD BE READY TO GO WITH AGUILAR?

17 MR. MEDRANO: HE'S WAITING UPSTAIRS, YOUR HONOR.

18 THE COURT: WE CAN DO THAT. BUT THERE REMAINS ALSO
19 THE RESUMPTION AND COMPLETION OF THE SIMMONS HEARING RELATING
20 TO CERVANTES, AND THAT YOU COUNSEL WERE TO GET TOGETHER TO TRY
21 TO DETERMINE WHETHER YOU WISH TO EXAMINE MR. MEDRANO OR MR.
22 MORALES

23 MR. STOLAR: OVER THE LUNCH RECESS, THAT'S WHAT WE
24 INTEND TO DO.

25 THE COURT: ALL RIGHT. WELL LET ME KNOW.

1 WHEN WE ARE FINISHED THEN WITH THE WITNESS
2 BERRELLEZ, YOU 'LL NOT HAVE ANY ADDITIONAL WITNESSES TO CALL.

3 THERE MAY STILL BE SOME -- WILL THE DEFENDANTS HAVE
4 ANYTHING FURTHER IN THIS PART OF THE CASE OTHER THAN THE
5 RESOLUTION OF THESE SIMMONS HEARINGS?

6 MR. NICOLAYSEN: I AM NOT SURE I UNDERSTAND WHAT THE
7 COURT MEANS. BUT I WOULD RESPECTFULLY ASK YOUR HONOR TO ALLOW
8 US TO BE HEARD -- I'M SURE EACH OF US WOULD LIKE TO BE HEARD
9 AS TO SCHEDULING OF DEFENSE WITNESSES.

10 IT IS MY POSITION THAT I MAY BE ABLE TO COVER TWO
11 GOVERNMENT WITNESSES TOMORROW AND POSSIBLY ONE PERCIPIENT OR,
12 RATHER, ONE LAY WITNESS, IF YOU WILL.

13 BUT I DO NEED THE COURT'S INDULGENCE AS TO
14 FLEXIBILITY ON TIMING.

15 THE COURT: THERE IS NO REASON WHY YOU HAVE TO GO
16 FIRST. THERE ARE OTHER DEFENDANTS HERE. I EXPECT ENOUGH
17 WITNESSES TO TAKE UP EACH DAY. I'M NOT GOING TO SIT WHILE YOU
18 WAIT FOR WITNESSES.

19 YOU HAVE HAD NOTICE SINCE MONDAY THAT THE
20 GOVERNMENT WAS GOING TO FINISH UP.

21 MR. STOLAR: JUDGE, IT MIGHT BE APPROPRIATE FOR US
22 TO -- TO THE EXTENT THE GOVERNMENT FINISHES ITS CASE THIS
23 AFTERNOON -- TO DISCUSS RULE 29 MATTERS THIS AFTERNOON. AND
24 IF IT IS AT ALL POSSIBLE, FOR SCHEDULING PURPOSES, TO PUT THE
25 CASE OVER TO TUESDAY WHEN WE WILL HAVE HAD AN OPPORTUNITY TO

1 GET OUR WITNESSES TOGETHER, SCHEDULE THINGS, AND WE WILL BE
2 ABLE THEN NEXT WEEK TO GO ALONG MUCH MORE SMOOTHLY THAN IF WE
3 TRY TO JUGGLE SOME WITNESSES IN TOMORROW AND WE DON'T KNOW WHO
4 THEY ARE OR WHICH DEFENDANT IS CALLING THEM.

5 IT IS A SUGGESTION THAT, I THINK, OUGHT TO BE TAKEN
6 UNDER CONSIDERATION THAT WE SPEND THE REST OF THE AFTERNOON ON
7 RULE 29.

8 THE COURT: WE WILL DEAL WITH THAT IF AND WHEN WE
9 FINISH THESE OTHER MATTERS.

10 MR. MEDRANO: YOUR HONOR, ON THAT SUBJECT, AT
11 EARLIER REQUEST OF DEFENSE COUNSEL, WE HAVE A GOOD HALF A
12 DOZEN OF GOVERNMENT WITNESSES -- AGENTS WE'VE FLOWN IN FROM
13 OUT OF TOWN TO BE AVAILABLE TODAY AND TOMORROW.

14 SO THOSE WITNESSESS ARE HERE, YOUR HONOR, AND THERE
15 IS NO REASON FOR DOWN TIME.

16 MR. STOLAR: YES, THERE IS. I HAVEN'T TALKED TO
17 THEM YET. I'VE GOT TO TALK TO THEM AND LOOK AT THE DOCUMENTS
18 THEY BROUGHT IN.

19 THE COURT: THAT'S NOT A GOOD REASON.

20 MR. STOLAR: HOW COULD I PUT A WITNESS ON I HAVEN'T
21 MET?

22 THE COURT: YOU SHOULD HAVE HAD AN INVESTIGATOR TALK
23 TO THEM.

24 MR. STOLAR: THESE ARE D.E.A. AGENTS FROM
25 WASHINGTON. THEY DON'T TALK TO INVESTIGATORS.

1 MR. MEDRANO: AGAIN, YOUR HONOR, THEY MAY NOT EVEN
2 WANT TO TALK TO COUNSEL BEFOREHAND.

3 THE POINT IS THEY'RE AVAILABLE AND THEY SHOULD BE
4 PUT ON SO --

5 THE COURT: WELL, WE'LL DECIDE. I'M NOT -- I'LL
6 TELL YOU NOW I'M NOT SYMPATHETIC TO GIVING YOU ANOTHER DAY
7 OR -- THIS IS WHAT, THURSDAY?

8 MR. STOLAR: YES, TODAY IS THURSDAY.

9 THE COURT: I'M NOT SYMPATHETIC TO HAVING A DEAD DAY
10 SO THAT YOU PEOPLE CAN ORGANIZE WHO TO CALL.

11 THERE ARE WITNESSES AVAILABLE THAT YOU'VE INDICATED
12 YOU WANTED. AND YOU'VE HAD NOTICE SINCE MONDAY THAT THIS CASE
13 WAS GOING TO BE CONCLUDED SOMETIME THIS WEEK, SO I WILL
14 PROBABLY EXPECT TO PROCEED TOMORROW.

15 MR. STOLAR: THE SUGGESTION IS, THOUGH, THAT WE MAY
16 NOT EVEN BE ABLE TO FILL UP THE DAY TOMORROW, AND THAT WE'LL
17 BE ABLE TO FILL UP THE ENTIRETY OF NEXT WEEK WITH WITNESSES ON
18 A SMOOTH BASIS.

19 THE COURT: WELL, WE'LL SEE WHAT HAPPENS AFTER
20 TODAY.

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

23 (NOON RECESS TAKEN.)
24
25

1 LOS ANGELES + CALIFORNIA THURSDAY, JUNE 21, 1990

2 + 1:30 P.M.

3
4 (JURY PRESENT.)

5 THE COURT: YOU MAY CONTINUE YOUR CROSS-EXAMINATION.

6 MS. KELLY: THANK YOU, YOUR HONOR.

7 CROSS-EXAMINATION + (RESUMED)

8 BY MS. KELLY:

9 Q. AGENT BERRELLEZ, ARE YOU THE PERSON WHO CAUSED
10 TRANSCRIPTS OF THE TAPES TO BE MADE?

11 A. DID I WHAT?

12 Q. ARE YOU THE PERSON WHO CAUSED TRANSCRIPTS OF THE VARIOUS
13 TAPES, TAPE RECORDINGS OF THE CONVERSATIONS, TO BE MADE?

14 A. DID I CAUSE THEM TO BE MADE?

15 Q. YES.

16 A. I REQUESTED THEY BE MADE, YES.

17 Q. DO YOU KNOW WHO WAS THE PERSON WHO MADE THE TRANSCRIPTS?

18 A. COURT INTERPRETERS, I BELIEVE. TRANSLATORS WERE ASKED TO
19 TRANSLATE THEM.

20 Q. THE FEDERAL COURT INTERPRETERS' OFFICE?

21 A. I DON'T KNOW EXACTLY IF THEY WORK WITH THE FEDERAL COURT
22 OR NOT.

23 Q. WELL, DID YOU -- ARE YOU THE PERSON RESPONSIBLE FOR
24 ORDERING TRANSCRIPTS TO BE MADE?

25 A. YES, I AM.

1 Q. AND IT IS YOUR UNDERSTANDING THEY WERE DONE BY THE
2 FEDERAL COURT INTERPRETERS' OFFICE?

3 MR. CARLTON: ASKED AND ANSWERED, YOUR HONOR.

4 THE COURT: SUSTAINED.

5 BY MS. KELLY:

6 Q. WITH WHOM DID YOU SPEAK IN THE FEDERAL COURT INTERPRETERS
7 OFFICE ABOUT --

8 THE COURT: COUNSEL, THIS IS IRRELEVANT.

9 MS. KELLY: YOUR HONOR, I'M TRYING TO FIND OUT WHO
10 PREPARED THE TRANSCRIPTS.

11 THE COURT: THOSE ARE NOT IN DISPUTE, AS FAR AS I
12 KNOW, SO WHAT IS THE POINT?

13 MS. KELLY: BUT THEY ARE IN DISPUTE, YOUR HONOR.

14 THE COURT: YOU HAVEN'T INDICATED THAT BEFORE.

15 MS. KELLY: YOUR HONOR, I BELIEVE THAT --

16 THE COURT: IF YOU HAVE SOME DISPUTE, YOU'VE NEVER
17 RAISED IT BY MOTION, HAVE YOU?

18 MS. KELLY: NO, YOUR HONOR.

19 THERE WERE THREE TRANSCRIPTS, AND --THE TRANSCRIPTS
20 OF THE 20TH AND THE TRANSCRIPT OF THE 21ST AND THE 24TH WERE
21 ALL PREPARED BY THE SAME PERSON, ACCORDING TO AGENT SALAZAR.

22 AND I'M WONDERING IF THAT IS YOUR RECOLLECTION, AS
23 WELL?

24 MR. CARLTON: YOUR HONOR, I BELIEVE THAT
25 MISCHARACTERIZES THE TESTIMONY YESTERDAY.

1 MS. KELLY: I'LL ASK A DIFFERENT QUESTION THEN.

2 THE COURT: GO AHEAD.

3 BY MS. KELLY:

4 Q. WAS A CONTRACT EMPLOYEE OF THE D.E.A. THE PERSON WHO
5 PREPARED THE TRANSCRIPTS OF THE 20TH, THE 21ST AND THE 24TH?

6 A. I'M NOT AWARE. I ASKED FOR TRANSCRIPTS TO BE PREPARED.
7 I DO NOT KNOW WHO DID THEM. ALL I ASKED IS THAT THEY WERE
8 COURT-APPROVED TRANSLATORS.

9 Q. AND WHO DID YOU ASK THIS OF?

10 A. I DELEGATED THAT TO SPECIAL AGENTS DELBERT SALAZAR AND
11 MANUEL MARTINEZ.

12 Q. AND IS THERE ANY WRITTEN RECORD OF THAT DELEGATION?

13 A. NO, I DIDN'T PUT IT IN WRITING.

14 Q. DO YOU RECALL WHEN IT IS THAT YOU ASKED THEM TO DO THIS?

15 A. NO, I DON'T.

16 Q. NOW, FROM JULY 25TH UNTIL AUGUST 16TH WHEN THE TAPES WERE
17 IN YOUR POSSESSION, WHERE DID YOU KEEP THESE STORED?

18 A. IN MY SAFE IN MY OFFICE.

19 Q. YOU HAVE A SAFE, A PERSONAL SAFE IN YOUR OFFICE?

20 A. YES, I DO.

21 Q. AND WHAT KIND OF SAFE IS THAT?

22 A. A MOSER.

23 Q. AND YOU'RE THE ONLY PERSON WHO HAS THE KEY?

24 A. I'M THE ONLY PERSON WHO HAS THE COMBINATION.

25 Q. NOW, IT IS A FACT, ISN'T IT, THAT THE WRITTEN D.E.A.

1 POLICY IS THAT ALL NON-DRUG EVIDENCE IS TO BE MARKED,
2 IDENTIFIED, SEALED AND TURNED OVER TO THE EVIDENCE CUSTODIAN
3 AS SOON AS POSSIBLE; ISN'T THAT RIGHT?

4 A. "AS SOON AS POSSIBLE" COULD BE INTERPRETED AS SOON AS
5 YOU'RE THROUGH PERUSING IT AND REVIEWING IT. YES, THAT'S
6 TRUE.

7 Q. IN FACT, THE WRITTEN POLICY IS THAT IT'S SUPPOSED TO BE
8 DONE THAT SAME DAY, ISN'T IT?

9 A. NO, THAT'S NOT THE WRITTEN POLICY.

10 Q. WHAT IS THE WRITTEN POLICY ACCORDING TO YOUR
11 UNDERSTANDING?

12 A. THE WRITTEN POLICY IS THAT EVIDENCE MUST BE SECURED
13 IMMEDIATELY. THE WRITTEN POLICY IS THAT IT SHOULD BE TURNED
14 OVER TO A DRUG CUSTODIAN -- OR NOT A DRUG CUSTODIAN, BUT AN
15 EVIDENCE CUSTODIAN FOR SAFEKEEPING.

16 Q. AND, IN FACT, THERE IS ACTUALLY A WRITTEN POLICY
17 CONCERNING CONSENSUAL AND NONCONSENSUAL TAPE RECORDINGS OF
18 CONVERSATIONS, ISN'T THERE, IN THE D.E.A. MANUAL?

19 A. IF THERE IS, I'M NOT AWARE OF IT.

20 Q. ARE YOU AWARE OF ANY ORAL POLICY THAT TAPE RECORDINGS ARE
21 TO BE IMMEDIATELY IDENTIFIED AND SEALED AND SUBMITTED TO THE
22 EVIDENCE CUSTODIAN?

23 MR. CARLTON: OBJECT TO RELEVANCE, YOUR HONOR.

24 THE COURT: OVERRULED.

25 THE WITNESS: I HAVE NO KNOWLEDGE OF ANY VERBAL

1 ORDERS HAVING BEEN GIVEN ME TO THAT EFFECT, MA'AM.

2 BY MS. KELLY:

3 Q. YOU'RE NOT AWARE OF ANY WRITTEN POLICY TO THAT EFFECT,
4 EITHER; IS THAT RIGHT?

5 A. THERE COULD BE SOME, BUT I'M NOT AWARE OF THEM.

6 Q. NOW, IT'S TRUE, ISN'T IT, THAT ONCE THE NON-DRUG PROPERTY
7 OR THE EVIDENCE THAT HAS BEEN GIVEN TO THE EVIDENCE CUSTODIAN
8 IS GOING TO BE RELEASED TO SOMEONE, SAY, FOR EXAMPLE, A D.E.A.
9 AGENT, THIS FACT IS DOCUMENTED ON ANOTHER FORM CALLED A
10 D.E.A.-12 FORM; ISN'T THAT TRUE?

11 A. THE D.E.A.-12 FORM IS A RECEIPT FORM, A RECEIPT OF ANY
12 ITEM, WHETHER IT BE EVIDENCE OR CASH OR ANYTHING, JUST THE
13 RECEIPT FORM USED BY THE D.E.A.

14 Q. RIGHT. AND IT'S ALSO USED BY THE EVIDENCE CUSTODIAN TO
15 DOCUMENT WHEN AN EXHIBIT IS RELEASED OR A PIECE OF EVIDENCE IS
16 RELEASED; ISN'T THAT RIGHT?

17 A. I DON'T KNOW IF IT IS WRITTEN POLICY THAT IT HAS TO BE
18 DONE THAT WAY.

19 I KNOW THAT ON OCCASION IT IS DONE THAT WAY.

20 Q. IN YOUR EXPERIENCE WITH THE D.E.A., HAVE YOU EVER BEEN
21 ABLE TO ACQUIRE EVIDENCE THAT HAS BEEN SECURED FROM THE
22 EVIDENCE CUSTODIAN WITHOUT SOME KIND OF DOCUMENTATION THAT IT
23 HAS BEEN RELEASED TO YOU?

24 A. YES. I HAD TO SIGN DOCUMENTATION WHEN I GOT THE ITEM,
25 BUT NOT ALWAYS A D.E.A.-12.

1 Q. BUT THERE IS SOME DOCUMENTATION EVERY TIME YOU TAKE SOME
2 EVIDENCE OUT OF THE EVIDENCE CUSTODIAN'S CUSTODY; ISN'T THAT
3 TRUE?

4 A. YES. ANOTHER FORM THAT WE USE A LOT OF TIMES IS THE FORM
5 48 FORM.

6 Q. SO THERE IS SOME DOCUMENTATION OF ANY RELEASE OF EVIDENCE
7 TO SOMEONE, RIGHT?

8 A. YES, THERE IS.

9 Q. NOW IN THIS PARTICULAR INVESTIGATION, EITHER BEFORE --
10 I'M SORRY, STRIKE THAT.

11 AFTER JULY 20TH, AFTER THE JULY 20TH MEETING WHERE
12 THE PARTICIPANTS REGISTERED AT THE HOTEL, DID YOU HAVE ANY
13 CONVERSATION WITH CASTEL DEL ORO ABOUT THE UNDERCOVER PLAN FOR
14 THE FOLLOWING DAY?

15 A. I DON'T BELIEVE I DID.

16 Q. DID YOU HAVE ANY DISCUSSION WITH HIM ABOUT ANY OF THE
17 CONTENTS OF THE DISCUSSION THAT YOU HAD ON THE 20TH?

18 A. NO, I DID NOT.

19 Q. AND YOU DID NOT HAVE ANY DISCUSSION WITH HIM ABOUT THAT
20 AT ANY POINT FROM JULY 20TH TO JULY 25TH?

21 A. NOT THAT I CAN RECALL.

22 Q. ON JULY 21ST WHEN YOU MET WITH THE INFORMANT AND MY
23 CLIENT AT THE HOWARD JOHNSON'S HOTEL, DID YOU HAVE ANY
24 CONVERSATION WITH THE INFORMANT BEFORE THE MEETING CONCERNING
25 WHAT WAS GOING TO TRANSPIRE AT THE MEETING?

1 A. NO, I DID NOT. I SAW HIM WHEN I SAW YOUR CLIENT, AT THE
2 SAME TIME.

3 Q. DID YOU DELEGATE THAT TASK TO ANY OTHER OFFICER; THAT
4 TASK BEING DISCUSSING WITH THE INFORMANT WHAT WAS TO TRANSPIRE
5 AT THE JULY 21ST MEETING?

6 A. NO, I DID NOT.

7 Q. NOW, AFTER THE JULY 21ST MEETING, DID YOU HAVE ANY
8 DISCUSSION WITH THE INFORMANT ABOUT THE EVENTS THAT HAD
9 TRANSPIRED DURING THE JULY 21ST CONVERSATION?

10 A. I DON'T RECALL THAT I DID.

11 Q. DO YOU HAVE ANY REPORT THAT WOULD REFRESH YOUR
12 RECOLLECTION AS TO WHETHER YOU DID?

13 A. NO. I DON'T.

14 Q. I PRESUME YOU HAVE NO REPORT -- I PRESUME YOU HAVE NO
15 REPORT OF THE 20TH, EITHER, THAT WOULD REFRESH YOUR
16 RECOLLECTION EITHER AS TO WHETHER YOU HAD A CONVERSATION
17 AFTERWARDS ABOUT THE EVENTS OF THE 20TH OR THE PLAN FOR THE
18 FOLLOWING DAY?

19 A. NO, I DID NOT.

20 Q. DID YOU AT ANY TIME PRIOR TO THE JULY 24TH UNDERCOVER
21 MEETING HAVE A CONVERSATION WITH THE INFORMANT ABOUT WHAT WAS
22 TO TRANSPIRE AT THAT MEETING?

23 A. I DON'T RECALL ANY CONVERSATION WITH THE INFORMANT PRIOR
24 TO THE 24TH.

25 Q. DID YOU HAVE ANY CONVERSATION ON THE 24TH ABOUT WHAT WAS

1 GOING TO HAPPEN ON THE 24TH?

2 A. NO, I DON'T RECALL ANY.

3 Q. DID YOU HAVE ANY CONVERSATION AFTER THE 24TH ABOUT WHAT
4 HAD TRANSPIRED OR WHAT WAS GOING TO HAPPEN THE FOLLOWING DAY,
5 ON THE 25TH?

6 A. NO, OTHER THAN WHAT WE DISCUSSED IN FRONT OF YOUR CLIENT.

7 Q. DID YOU HAVE ANY DISCUSSIONS WITH THE INFORMANT ABOUT
8 WHAT WAS GOING TO TAKE PLACE WHEN YOU LEFT WITH THE INFORMANT
9 ON THE 25TH BRIEFLY, FOR THE 30-MINUTE PERIOD THAT YOU
10 TESTIFIED TO WHEN YOU WENT TO INSERT THE TAPE, THE CASSETTE
11 TAPE INTO THE TAPE PLAYER?

12 A. I DON'T RECALL.

13 Q. DO YOU HAVE ANY REPORT THAT WOULD REFRESH YOUR
14 RECOLLECTION ABOUT THAT?

15 A. NO, I DO NOT.

16 Q. AND THEN FOLLOWING THE EVENTS ON THE 25TH OF JULY, DID
17 YOU HAVE ANY DEBRIEFING OF THE INFORMANT ABOUT ANY
18 CONVERSATIONS THAT HE MAY HAVE HAD WITH MY CLIENT?

19 A. I DID NOT.

20 Q. SO FROM JULY 20TH UNTIL JULY 25TH, YOU HAD NO
21 CONVERSATIONS WITH THE INFORMANT ABOUT ANY CONVERSATIONS THAT
22 HE HAD WITH MY CLIENT PERTAINING TO THIS INVESTIGATION?

23 A. NOT TO MY RECOLLECTION. MY ONLY CONTACT WITH THE
24 INFORMANT DURING THAT PERIOD OF TIME WAS WHEN YOUR CLIENT WAS
25 PRESENT.

1 I DON'T RECALL MEETING WITH THE INFORMANT AT ANY
2 TIME IN BETWEEN THE UNDERCOVER MEETINGS OR TALKING TO HIM.

3 Q. DO YOU RECALL DELEGATING THAT TASK TO ANY OF YOUR -- THE
4 AGENTS WHOM YOU WERE SUPERVISING?

5 A. NO, I DID NOT.

6 Q. NOW, THE PLAN TO TAKE MY CLIENT TO THE EL TORITO BAR,
7 THAT WAS A PREARRANGED DECISION, RIGHT?

8 A. THAT WAS A DECISION I MADE THAT DAY.

9 Q. NOW, WHY DID YOU CHOOSE TO GO TO THAT BAR INSTEAD OF
10 HAVING THE THIRD MEETING ACCOMPLISHED AT THE HOWARD JOHNSON
11 HOTEL WHERE YOU HAD THE OTHER TWO UNDERCOVER MEETINGS?

12 A. THE REASON THAT I CHOSE TO DO IT AT THE EL TORITO WAS
13 BECAUSE ON THE DATE OF THE UNDERCOVER MEETING OF THE 25TH, FOR
14 SOME REASON I DON'T RECALL, I DIDN'T HAVE A BODY TRANSMITTER
15 AND WE WOULD HAVE TO RELY ON THE HIDDEN TAPE RECORDER IN THE
16 CAR.

17 AND THE REASON I CHOSE THE EL TORITO IS BECAUSE I'M
18 FAMILIAR WITH THAT AREA. I'M FAMILIAR WITH HOW FAR THE EL
19 TORITO IS FROM THE EMBASSY SUITES IN ARCADIA, AND I WANTED
20 THERE TO BE DISTANCE WHERE WHEN WE -- IT WOULD GIVE US TIME IN
21 THE CAR.

22 AND I ESTIMATED THAT THE DRIVING DISTANCE FROM THE
23 EL TORITO BACK TO THE EMBASSY SUITES IN ARCADIA, WHERE YOUR
24 CLIENT WAS STAYING, WOULD GIVE US A 30- TO 45-MINUTE
25 OPPORTUNITY TO TALK IN THE CAR WHERE WE COULD USE A TAPE

1 RECORDER, THE CONCEALED TAPE RECORDER IN THE VEHICLE.

2 Q. MY QUESTION TO YOU IS WHY DIDN'T YOU USE THE AUDIO VISUAL
3 TECHNIQUE THAT YOU HAD USED TWO DAYS BEFORE, THE VIDEO TAPING,
4 AT THE HOWARD JOHNSON'S HOTEL?

5 A. I DON'T RECALL. IT MIGHT HAVE BEEN BECAUSE SPECIAL AGENT
6 SCHMIDT, WHO RUNS THAT EQUIPMENT, WAS SIGNED UP TO DO
7 SOMETHING ELSE.

8 AND I DECIDED TO GO WITH THE HIDDEN MIKE OR HIDDEN
9 TAPE RECORDER IN THE CAR ON THAT OCCASION.

10 Q. SO YOUR RECOLLECTION IS THAT AGENT SCHMIDT WAS TIED UP
11 WITH SOMETHING ELSE AND WASN'T AVAILABLE?

12 A. I SEEM TO THINK THAT RIGHT NOW. I REALLY DON'T REMEMBER
13 WHAT THE CIRCUMSTANCES WERE THAT LED ME TO MAKE THAT DECISION,
14 BUT A DECISION WAS MADE THAT WE WOULD DO IT IN THE CAR.

15 AND I REALLY DON'T REMEMBER WHY I DECIDED THAT
16 TODAY.

17 Q. AND A DECISION WAS ALSO MADE TO HAVE AGENT SALAZAR HAVE A
18 PRIVATE CONVERSATION THAT'S NOT RECORDED WITH MY CLIENT IN A
19 BAR; ISN'T THAT RIGHT?

20 A. A DECISION WAS MADE THAT I WOULD HAVE TO GET AWAY FROM
21 YOUR CLIENT AT ONE POINT TO GO AND INSERT A TAPE IN THE
22 CONCEALED TAPE RECORDER OF THE UNDERCOVER CAR.

23 Q. WELL, IN ORDER TO ACCOMPLISH -- WHEN WAS THAT?

24 LET'S BACK UP.

25 WHEN WAS THAT DECISION MADE?

1 A. RIGHT PRIOR TO THE THE MEETING, FOR THE MEETING WITH YOUR
2 CLIENT.

3 Q. AND TO WHOM DID YOU COMMUNICATE THAT DECISION?

4 A. I DON'T RECALL.

5 Q. ONCE YOU GOT TO THE EL TORITO, DID YOU MAKE THE DECISION
6 TO SIT IN THE BAR?

7 A. THAT I PERSONALLY SIT IN THE BAR?

8 Q. DIDN'T ALL FOUR OF YOU GO IN THE RESTAURANT TOGETHER?

9 A. YES.

10 Q. THERE WAS A RESTAURANT AREA AND A BAR AREA, RIGHT?

11 A. YES.

12 Q. WHO MADE THE DECISION TO GO INTO THE BAR AREA?

13 A. WE JUST WALKED IN THERE. I DON'T RECALL. I MIGHT HAVE
14 MADE THE DECISION.

15 Q. WAS IT ALSO PREARRANGED THAT YOU WOULD LEAVE MY CLIENT
16 WITH AGENT SALAZAR, DRINKING ALCOHOLIC BEVERAGES?

17 Q. WAS IT PREARRANGED TO DO THAT?

18 A. YES.

19 Q. IT WAS PREARRANGED THAT AT SOME POINT DURING THIS MEETING
20 THAT I HAD TO GET AWAY FROM THERE AND PREPARE THE VEHICLE FOR
21 TAPING. THAT'S WHAT WAS AGREED UPON.

22 Q. SO YOU DIDN'T PREARRANGE TO HAVE MY CLIENT DRINKING
23 ALCOHOLIC BEVERAGES ON THE 25TH; IS THAT WHAT YOU'RE SAYING?

24 A. TO ANSWER YOUR QUESTION, MY INTENTION WAS TO HAVE DINNER.
25 WHEN WE GOT THERE, WE WENT INTO THE BAR AREA. AND

1 UPON ACKNOWLEDGING -- ORDERING A DRINK -- THAT WE COULD B
2 SERVED THERE, WE DECIDED TO STAY IN THE EL TORITO -- I GU
3 IT IS THE BAR AREA OF THE RESTAURANT.

4 BUT OUR INTENTIONS WERE TO ACTUALLY HAVE DINNER
5 THERE.

6 Q. AND YOU ACTUALLY HAD DINNER THERE?

7 A. WELL, WE ORDERED APPETIZERS AND SO FORTH.

8 AND I RECALL THAT UPON US EATING THE APPETIZERS,
9 THAT POINT I DECIDED I'D BETTER GO GET THE CAR READY AND
10 THAT'S WHEN I LEFT.

11 Q. SO HOW LONG WOULD YOU SAY YOU HAD BEEN IN THE BAR ARE

12 A. MAYBE 30 MINUTES.

13 Q. DID YOU HAVE ANY ALCOHOLIC BEVERAGES?

14 A. YES, I DID.

15 Q. WHAT WERE YOU DRINKING?

16 A. WHAT WAS I DRINKING?

17 Q. YES.

18 A. I WAS DRINKING CORONA BEER.

19 Q. HOW MANY BEERS DID YOU HAVE?

20 A. I THINK AT THAT TIME I MIGHT HAVE HAD BETWEEN THREE AN
21 FOUR.

22 Q. AND DO YOU REMEMBER WHAT -- DO YOU REMEMBER WHAT MY
23 CLIENT WAS DRINKING?

24 A. I DON'T REMEMBER WHAT BRAND OF BEER HE WAS DRINKING, B
25 HE WAS DRINKING BEER.

1 STATEMENTS REFERS TO THE DECLARATIONS THAT YOU REPEATEDLY ARE
2 INDICATING THAT YOU WANT, RIGHT?

3 A. WELL, WITHOUT GETTING INTO WHAT WAS PREVIOUSLY SAID IN
4 THE REPORT, YOUR QUESTION EARLIER TO ME WAS DID MY CLIENT TELL
5 YOU THAT HE WAS PRESENT DURING THE BEATINGS?

6 AND I TOLD YOU THAT HE DID, YES, AND THAT THE WORD
7 CALIENTAS OR CALIENTALOS WAS USED.

8 AND YOU ASK ME TO LOOK IT UP IN THE TRANSCRIPT, AND
9 I HAVE, AND I FOUND YOU EXACTLY THAT EXCERPT.

10 Q. OKAY. SO WHAT YOU'RE SAYING IS THAT "I'M POSITIVE THAT
11 IN THE STATEMENTS IN THE HOT ONES THAT YOU AREN'T MENTIONED,"
12 THAT, TO YOU, MEANS THAT MY CLIENT SAID, QUOTE: "I WAS
13 PRESENT DURING THE BEATINGS", END QUOTE?

14 A. THAT'S EXACTLY THE WAY I INTERPRET IT.

15 Q. BUT THAT'S NOT WHAT IS THE LITERAL STATEMENT, IS IT?

16 A. WHAT HE SAID WAS AT THE BEATINGS, WHILE CAMARENA WAS
17 BEING BEATEN, I WAS NOT MENTIONED. OR THE NAME MANUEL
18 LIZARRAGA WAS NOT MENTIONED.

19 Q. I DON'T WANT TO ARGUE WITH YOU.

20 THE COURT: THE WORDS SPEAK FOR THEMSELVES. HE READ
21 THE WORDS. THERE IS NO POINT IN DEBATING IT.

22 MS. KELLY: ALL RIGHT, YOUR HONOR.

23 BY MS. KELLY:

24 Q. WELL, AGENT BERRELLEZ, YOU CAME TO A LOT OF CONCLUSIONS
25 ABOUT STATEMENTS THAT WERE MADE BY MY CLIENT, RIGHT?

1 A. NOT CONCLUSIONS, I CAME TO A LOT OF UNDERSTANDINGS.

2 Q. AND, FOR EXAMPLE, YOU CONCLUDED ALSO THAT AT SOME POINT
3 MY CLIENT HAD SAID THAT HE WAS PRESENT AT THE TIME WHEN AGENT
4 CAMARENA WAS BEING TORTURED AND HE DID NOT HEAR YOUR NAME
5 MENTIONED, AND THAT THAT OCCURRED ON THE 24TH OF JULY, RIGHT?

6 A. NO, I DID NOT CONCLUDE THAT. I ASKED HIM "WERE YOU
7 THERE?" AND HE SAID, "YES, SIR" HE ANSWERED.

8 Q. ON THE 24TH?

9 A. ON THE 25TH.

10 Q. ON THE 25TH.

11 Q. I THOUGHT THERE WAS SOME MENTION ON JULY 24TH ABOUT BEING
12 QUESTIONED ABOUT YOUR NAME, MANUEL LIZARRAGA, AND WHETHER YOU
13 ASSERTED THAT HE INDICATED AT SOME POINT PRIOR TO THE 25TH
14 THAT HE HAD BEEN PRESENT DURING THE KIDNAPPING AND TORTURE?

15 A. I DON'T UNDERSTAND YOUR QUESTION. WHAT IS IT YOU WANT ME
16 TO ANSWER?

17 Q. IS THERE ANY TIME BEFORE THE 25TH OF JULY THAT MY CLIENT
18 INDICATED TO YOU THAT HE WAS PRESENT INSIDE DURING THE TORTURE
19 AND KIDNAPPING OF AGENT CAMARENA?

20 A. HE TOLD ME THAT I KNEW THAT HE WAS PRESENT.

21 DID I KNOW THAT WAS THE 25TH? YOU'RE CONFUSING ME,
22 COUNSELOR.

23 Q. I APOLOGIZE FOR THAT. YOU'VE GOT THE WRITTEN WORD RIGHT
24 IN FRONT OF YOU.

25 A. I HAVE THE 25TH AND THAT'S THE ONE YOU ASKED ME TO

1 PERUSE. AND I HAVE PERUSED IT, AND I DON'T BELIEVE THAT I
2 TESTIFIED THAT HE ADMITTED TO ME PRIOR TO THE 25TH THAT HE HAD
3 BEEN PRESENT.

4 I DON'T THINK I TESTIFIED TO THAT.

5 Q. FINE. SO THE RECORD IS CLEAR, THE ONLY TIME THAT HE EVER
6 SAID THAT HE WAS PRESENT OR THAT HE ADMITTED BEING PRESENT
7 WHEN THE TORTURE WENT ON WAS ON JULY 25TH, RIGHT?

8 A. BEING PRESENT ON THE 25TH, AS I RECALL, IS THE ONLY TIME
9 THAT HE TOLD ME THAT HE WAS PRESENT DURING THE BEATING AND
10 TORTURE OF CAMARENA.

11 Q. AND THE ONLY REFERENCE THAT YOU COULD FIND WHERE YOU
12 BELIEVE THAT THAT 'BEING PRESENT DURING THE BEATING' WAS IN
13 THE REFERENCE THAT YOU JUST READ TO US; IS THAT RIGHT?

14 A. NO, THERE IS REFERENCE THROUGHOUT OUR CONVERSATION ON THE
15 25TH.

16 Q. OKAY. STARTING WITH THE FIRST REFERENCE, I DIRECT YOUR
17 ATTENTION TO PAGE 7159, WHICH IS PAGE 7 ON JULY 25TH.

18 A. PAGE 7?

19 Q. YES. IF YOU LOOK IN THE MIDDLE OF THE PAGE, AGENT
20 SALAZAR IS SAYING:

21 "NO. HE WAS TELLING ME --"

22 AND THEN MY CLIENT, BERNABE RAMIREZ SAYS: "WE'LL GO
23 TOGETHER, SIR. ONLY THERE IS JUST ONE LITTLE THING TO FIGURE
24 OUT. WHAT YOU TOLD MY FRIEND."

25 AND YOU SAY: "YES, THAT'S RIGHT."

1 AND AGENT SALAZAR SAYS: "NO. WELL, AS I WAS ASKING
2 YOU THERE, WELL --"

3 AND MY CLIENT SAYS: "TO BE RATHER SURE OF WHAT?"

4 AND THEN AGENT SALAZAR INTERRUPTS AND SAYS: "NO.
5 THE ONLY PROBLEM, AS I TOLD YOU, IS THAT THE INFORMATION WE
6 HAVE IS THAT THEY HAD DONE A RECORDING THERE."

7 MR. CARLTON: I WOULD OBJECT TO THE CUMULATIVE
8 NATURE OF THIS, YOUR HONOR.

9 THIS EXACT PORTION OF THE TRANSCRIPT WAS GONE OVER
10 WITH AGENT SALAZAR YESTERDAY.

11 MS. KELLY: YOUR HONOR --

12 THE COURT: WELL-- OVERRULED.

13 BY MS. KELLY:

14 Q. AND MY CLIENT INDICATES TO YOU THAT THAT IS NOT TRUE,
15 RIGHT?

16 A. THAT IS WHAT THE TRANSCRIPT READS, THAT'S RIGHT.

17 Q. AND THEN MY CLIENT GOES ON TO SAY -- AGENT SALAZAR AGAIN
18 SAYS: "AND THAT THIS ONE" -- OR THIS GUY -- THAT'S IN
19 PARENTHESES -- "HAD BEEN MENTIONED."

20 AND YOU SAY: "THAT'S A DILEMMA."

21 AND MY CLIENT SAYS: "IT'S NOT TRUE. THERE --" AND
22 THERE IS SOMETHING UNINTELLIGIBLE -- "AND BESIDES, IN MEXICO
23 WHAT HAS BEEN SAID IS GONE. WHAT COUNTS IS WHAT IS WRITTEN.
24 AND WHAT I CAN -- AS I'VE ALREADY TOLD YOU."

25 AND YOU INDICATE YOU'RE GOING TO TRUST HIM AND

1 YOU'RE GOING TO LEAVE TOMORROW. THEN YOU ASK HIM: "YES,
2 THAT'S WHY I WANT -- YOU SEE, HE WAS TELLING ME THAT HE HAD
3 BEEN THERE WHEN THEY BEAT THE SHIT OUT OF THE GRINGO."

4 THAT'S AGENT SALAZAR WHO SAID THAT.

5 A. AND THEN YOU'LL FIND THE ANSWER: "THAT I KNOW IF HE WAS
6 THERE."

7 Q. NO. MY CLIENT SAYS -- THE EXACT WORDS ARE: "HIM -- HE
8 KNOWS."

9 A. REFERRING TO ME -- THAT I KNOW.

10 Q. WE DON'T KNOW WHO HE WAS REFERRING TO.

11 A. WELL, I WAS THERE. HE REFERRED TO ME.

12 Q. AND THAT'S YOUR INTERPRETATION, AGAIN, THAT HE REFERRED
13 TO YOU?

14 A. NO. HE POINTED AT ME.

15 Q. OH, HE POINTED AT YOU.

16 BUT THERE IS NO VIDEO OF THIS PARTICULAR TAPE,
17 RIGHT?

18 A. NO.

19 Q. AND THEN MY CLIENT SAYS, RIGHT AFTER YOU SAY, "YES, I
20 KNOW, " MY CLIENT SAYS, "NO"; RIGHT?

21 A. YES, HE DOES.

22 Q. AND THEN YOU INDICATE THAT YOU KNOW.

23 AND THEN AGENT SALAZAR AGAIN SAYS: "AND THAT THEY
24 DID NOT MENTION" --

25 AND AN UNIDENTIFIED VOICE SAYS: "THE GRINGO

1 DIDN'T -- DIDN'T FUCK ME OVER"; RIGHT?

2 THAT'S WHAT THE TRANSCRIPT INDICATES, CORRECT?

3 A. THAT'S WHAT THE TRANSCRIPT READS.

4 Q. THEN MY CLIENT SAYS: "NOT AT ALL, SIR" TO THAT ANSWER -
5 AND GOES ON TO SAY IMMEDIATELY: "THE THING IS JUST THAT THE
6 OTHER PEOPLE -- SINCE THEY PULLED OUT 30 OF THOSE FUCKERS, I
7 DON'T KNOW WHO OR WHO KNEW YOU OR ANYTHING."

8 NOW, HOW MANY PEOPLE WAS MY CLIENT ARRESTED WITH IN
9 PUERTO VALLARTA?

10 A. ABOUT 30.

11 Q. SO HE'S TALKING HERE ABOUT THE 30 PEOPLE THAT HE WAS
12 ARRESTED WITH, CORRECT?

13 A. THAT'S EXACTLY WHAT HE'S TALKING ABOUT.

14 Q. AND YOU SAY THAT'S WHAT YOU'RE INTERESTED IN, TOO.

15 AND THEN MY CLIENT SAYS: "TO GET THE -- THE
16 PHOTOSTATIC COPIES OF THE STATEMENTS -- HAVE TO BE OBTAINED
17 FROM THERE. AND I HAVE ALREADY TOLD YOU THAT I HAVE SOMEONE
18 WHO CAN GET THEM, AND THERE IS NOTHING BESIDES THE ONES WITHIN
19 THE LAW." RIGHT?

20 THAT'S WHAT HE SAYS, CORRECT?

21 A. THAT'S WHAT THAT REPORT SHOWS HERE, YES.

22 Q. AND YOU'VE LISTENED TO THIS REPORT AND YOU'VE LISTENED TO
23 THE TAPES AND YOU FOUND THAT THIS WAS AN ACCURATE
24 REPRESENTATION OF WHAT WAS SAID, RIGHT?

25 A. I SURE DID.

1 Q. LET'S GO ON TO THE NEXT REFERENCE, WHICH IS ON PAGE 7162.
2 AND, AGAIN, AGENT SALAZAR MENTIONS: "BUT THOSE ARE THE FILES
3 FROM WITHIN THE LAW."

4 AND MY CLIENT SAYS: "WITHIN THE LAW?"

5 AND AGENT SALAZAR SAYS: "WHAT -- WHAT THE PROBLEM
6 WE HAD IS THE GRINGO'S FILE IS OUTSIDE OF THE LAW."

7 AND MY CLIENT SAYS: "OUTSIDE OF THE LAW?"

8 AND YOU SAY: "AND THAT IS WHAT -- THAT IS WHAT HAS
9 GOT ME HANGING ON THE -- "

10 AND AGENT SALAZAR SAYS: "AS I WAS EXPLAINING, YOU
11 WERE THERE WHEN HE WAS BEATEN UP AND HE DIDN'T MENTION ME,
12 RIGHT?"

13 AND MY CLIENT SAYS: "NOT AT ALL."

14 A. WHAT PAGE IS THAT ON?

15 Q. PAGE 7162 TO 7163.

16 A. OH, OKAY. PAGE 11, OKAY. I FOUND IT.

17 Q. ISN'T THAT RIGHT?

18 A. YES, THAT'S ALL RIGHT.

19 Q. SO HE'S ANSWERING: "NOT AT ALL."

20 AND I THINK IN SPANISH, THE TERM IS "POR NADA",
21 RIGHT?

22 A. "BA" -- "BADA NADA" FOR NOTHING OR NOT AT ALL.

23 Q. AND THEN LATER ON HE TELLS YOU AGAIN IN THE SAME PAGE:
24 "AND JUST -- WHAT I'M INTERESTED IN IS WHAT IS WITHIN THE LAW,
25 BECAUSE WHAT CAN HURT YOU IS WHAT IS WITHIN THE LAW, YES, NOT

1 OUTSIDE THE LAW."

2 YOU WERE ALREADY TALKING ABOUT FIVE -- 20 YEARS
3 OUTSIDE ALREADY; ISN'T THAT RIGHT?

4 A. WE ARE TALKING ABOUT WHAT, NOW?

5 Q. I'M ASKING YOU IF THAT'S WHAT THE TRANSCRIPT SAYS ON PAGE
6 11?

7 A. THAT'S THE WAY IT READS, YES.

8 Q. AND THEN, AGAIN, ON PAGE 71, WHICH IS PAGE 14 OF THE
9 TRANSCRIPT, YOU AGAIN DISCUSS GETTING THE FILES TO BE MORE
10 CERTAIN.

11 AND MY CLIENT SAYS: "I REPEAT AGAIN, SIR, THROUGH
12 PEOPLE IN GUADALAJARA, A LOT OF PEOPLE AND EVERYTHING, THERE
13 IS NO PROBLEM, REALLY. JUST GIVE ME -- "

14 AND YOU SAY: "COULD YOU TAKE CARE OF IT IN A WEEK?"

15 THE COURT: JUST A MOMENT. IF YOU'RE GOING TO READ,
16 READ IT SO THE REPORTER CAN TAKE IT. YOU'RE TENDING TO LET
17 YOUR WORDS FADE AND YOU'RE READING A LITTLE TOO FAST.

18 MS. KELLY: I'M SORRY, YOUR HONOR.

19 BY MS. KELLY:

20 Q. THEN THERE IS ANOTHER MENTION ON PAGE 19 OF THE
21 TRANSCRIPT. AND, ACTUALLY, HERE AGENT SALAZAR INDICATES TO
22 YOU THAT HE AND MY CLIENT WERE WAITING FOR YOU TO HAVE DINNER;
23 ISN'T THAT RIGHT?

24 A. THAT'S THE REASON WE WENT THERE, TO HAVE DINNER.

25 Q. SO YOU DIDN'T ACTUALLY EAT WITH THEM, YOU LEFT WHILE THEY

1 WERE EATING THE HORS D'OEUVRES; IS THAT RIGHT?

2 A. I DID. WE NEVER ATE DINNER. WE HAD THE HORS D'OEUVRES
3 AND THE BEERS.

4 Q. AND WHAT DID YOU SAY WAS THE REASON FOR NOT HAVING DINNER
5 THEN?

6 A. WHAT IS THAT, MA'AM?

7 Q. WHAT WAS THE REASON FOR NOT HAVING DINNER ONCE YOU
8 RETURNED FROM THE AUTOMOBILE?

9 A. I DON'T REMEMBER WHY. MAYBE WE WEREN'T HUNGRY ANYMORE.
10 I DON'T KNOW. WE HAD A LOT OF HORS D'OEUVRES.

11 WE ORDERED THE REAL BIG PLATE AND THERE WERE A LOT
12 OF TORTILLAS AND CHIPS AND A LOT OF STUFF AND BEANS. AND
13 MAYBE WE WEREN'T HUNGRY. I DON'T REMEMBER.

14 Q. AND THERE IS NOTHING IN YOUR REPORT TO REFRESH YOUR
15 RECOLLECTION, RIGHT?

16 A. NO, WE DIDN'T WRITE A REPORT ON WHAT WE ATE.

17 Q. THERE IS NOTHING IN YOUR REPORT ON THE EVENTS ON THE 25TH
18 THAT WOULD REFRESH YOUR RECOLLECTION?

19 A. NO.

20 Q. LET'S GO TO THE NEXT STATEMENT, WHICH IS THE STATEMENT
21 THAT COULD BE ATTRIBUTED TO MY CLIENT AS AN ADMISSION, WHICH I
22 BELIEVE IS ON PAGE 7184, WHICH IS PAGE 32.

23 AND ONCE AGAIN YOU ASK: "ALL RIGHT. LOOK, WHAT I
24 WANT, YOU KNOW, FOR A FACT THAT THE -- THE -- THE -- THE
25 GRINGO DIDN'T FUCK ME OVER."

1 AND MY CLIENT SAYS: "NO, NOT AT ALL, SIR."

2 AND HE'S REFERRING TO YOU AS "SIR" ALL THE TIME;
3 ISN'T THAT RIGHT?

4 A. YES, HE IS.

5 Q. AND AGAIN, YOU SAY: "ALL RIGHT. BUT YOU KNOW IT FOR A
6 FACT, AND HE DIDN'T -- YOU HEARD THAT HE DIDN'T FUCK ME OVER?"

7 AND MY CLIENT SAYS: "I DIDN'T HEAR, SIR."
8 ISN'T THAT RIGHT?

9 A. THAT'S WHAT HE ANSWERS, YES.

10 Q. AND THEN YOU SAY: "ARE YOU PERFECTLY AWARE OF IT?"

11 AND MY CLIENT SAYS: "YES, I'M SURE."

12 AND YOU SAY: "ALL RIGHT."

13 AND MY CLIENT SAYS: "THE ONLY THING I'M INTERESTED
14 IN KNOWING IS WHAT IS WRITTEN."

15 ISN'T THAT RIGHT?

16 A. YOU'RE READING IT VERY WELL, YES.

17 Q. THEN TO CONTINUE DOWN THE PAGE, YOU AGAIN MAKE A
18 REFERENCE TO THE WRITINGS AND WHAT YOU'RE INTERESTED IN, AND
19 THAT YOU CAN'T BE AWARE OF WHAT STATEMENTS WERE GIVEN BY
20 EVERYONE.

21 AND ON PAGE 7185, YOU AGAIN MENTION THAT YOU'RE
22 CONCERNED AND YOU ARE WORRIED. AND YOU SAY: "NOW, YOU WERE
23 AWARE THAT THE GUY -- YOU DIDN'T HEAR -- YOU WERE THERE AND
24 YOU DIDN'T HEAR THAT THE GUY --"

25 AND MY CLIENT SAYS: "NOT AT ALL, ONCE AGAIN."

1 RIGHT?

2 AND THEN YOU SAY: "WERE YOU THERE?"

3 AND HE ANSWERS: "YES."

4 AND YOU SAY AGAIN: "ARE YOU AWARE THAT THE GUY
5 DIDN'T FUCK ME OVER?"

6 AND HE SAYS: "NOT AT ALL."

7 AND THEN YOU GO BACK TO: "NOW, THAT REMAINS TO BE
8 SEEN."

9 AND THERE IS A REFERENCE AGAIN TO THE WRITINGS;
10 ISN'T THAT RIGHT?

11 A. YES.

12 Q. THE DOCUMENTS, CORRECT?

13 SO IN ALL OF THE STATEMENTS THAT MY CLIENT IS
14 MAKING, HE'S ANSWERING YOUR ASSERTIONS; ISN'T THAT RIGHT?

15 THE COURT: THE WORDS SPEAK FOR THEMSELVES, COUNSEL.

16 MS. KELLY: ALL RIGHT, YOUR HONOR.

17 BY MS. KELLY:

18 Q. NOW, PRIOR TO THIS DATE YOU DID NOT BELIEVE THAT YOU HAD
19 ENOUGH EVIDENCE TO ARREST MY CLIENT; ISN'T THAT RIGHT?

20 MR. CARLTON: OBJECTION, YOUR HONOR; IRRELEVANT.

21 THE COURT: OVERRULED.

22 MR. CARLTON: AMBIGUOUS, AS WELL. PRIOR TO WHAT
23 DATE?

24 THE COURT: WHAT?

25 MR. CARLTON: AMBIGUOUS AS WELL. PRIOR TO WHAT

1 DATE?

2 THE COURT: RESTATE YOUR QUESTION.

3 MS. KELLY: VERY WELL, YOUR HONOR.

4 BY MS. KELLY:

5 Q. PRIOR TO JULY 25TH, YOU DID NOT BELIEVE THAT YOU HAD
6 ENOUGH EVIDENCE TO ARREST MY CLIENT; ISN'T THAT RIGHT?

7 A. PRIOR TO THAT DATE, I WASN'T SATISFIED IN MY MIND THAT HE
8 HAD BEEN PRESENT WHILE SPECIAL AGENT CAMARENA WAS TORTURED AND
9 KILLED.

10 AFTER THAT DATE OR DURING THIS MEETING OF THE 25TH,
11 I BELIEVED THEN, AS I BELIEVE NOW, THAT HE WAS PRESENT WHEN
12 SPECIAL AGENT CAMARENA WAS TORTURED AND KILLED. AND THAT'S
13 WHY I ORDERED HIS ARREST.

14 Q. NO, I UNDERSTAND THAT'S YOUR BELIEF, AND I APPRECIATE
15 THAT.

16 MY QUESTION TO YOU WAS IF YOU THOUGHT YOU HAD ENOUGH
17 EVIDENCE TO ARREST HIM ON THE 24TH.

18 AS OF JULY 24TH, DID YOU BELIEVE YOU HAD ENOUGH
19 EVIDENCE TO ARREST HIM?

20 A. AND I ANSWERED THAT I DIDN'T BELIEVE IT UNTIL THE 25TH.

21 Q. FINE. AND THAT'S -- SO YOU -- SO YOU -- AFTER THE
22 24TH -- WELL, ACTUALLY, DID YOU MAKE ANY PLANS ON THE 24TH AT
23 ALL WITH ANYONE ABOUT WHAT WAS GOING TO HAPPEN THE FOLLOWING
24 DAY AT THE UNDERCOVER CONVERSATION ON THE 25TH?

25 A. NO, NOT ON THE 24TH. ON THE 25TH -- WELL, WE HAD MADE

1 ARRANGEMENTS TO MEET WITH HIM AGAIN ON THE 25TH, ON THE DAY OF
2 THE 24TH. BUT THE ONLY ARRANGEMENTS THAT WE HAD ON THE 24TH
3 WAS A MEETING FOR THE FOLLOWING DAY.

4 Q. THAT WAS ALL?

5 A. YES, THAT'S WHAT I RECALL.

6 Q. DID YOU MAKE ANY ATTEMPT WHATSOEVER TO SPEAK WITH AGENT
7 SCHMIDT AND MAKE ARRANGEMENTS FOR ANY KIND OF VIDEO EQUIPMENT
8 FOR THE CONVERSATION THAT WAS GOING TO TAKE PLACE ON THE 25TH?

9 A. AS I TESTIFIED BEFORE, I TRIED TO REMEMBER WHY HE WASN'T
10 OUT THERE THAT DAY WITH THE EQUIPMENT AND I DON'T REMEMBER.

11 Q. SO THE ANSWER TO MY QUESTION IS YOU DON'T KNOW IF YOU
12 TALKED TO AGENT SCHMIDT ABOUT ARRANGING FOR VIDEO EQUIPMENT
13 FOR 25TH?

14 A. MY ANSWER WOULD BE THAT I DON'T REMEMBER.

15 Q. AND IS THERE ANY REPORT THAT WOULD REFRESH YOUR
16 RECOLLECTION?

17 A. NO, THERE ARE NOT.

18 Q. AND DO YOU HAVE ANY -- DO YOU HAVE ANY RECORDS IN YOUR
19 POSSESSION OR IN THE D.E.A. FILES TO INDICATE HOW MUCH MONEY
20 WAS SPENT AT THE EL TORITO BAR?

21 A. HOW MUCH MONEY?

22 Q. YES.

23 A. I DON'T HAVE ANY RECORDS IN MY POSSESSION, NO.

24 Q. AND YOU FORMULATED -- SO YOU FORMULATED A PLAN TO TAKE MY
25 CLIENT TO THE BAR AND SERVE HIM ALCOHOLIC BEVERAGES AND GET

1 HIM TO MAKE AN ADMISSION AND TO ANSWER YES TO YOUR QUESTIONS?

2 YOU FORMULATED THAT PLAN ON THE SAME DAY THE PLAN
3 OCCURRED, THE 25TH, RIGHT?

4 MR. CARLTON: OBJECTION, YOUR HONOR. COMPOUND
5 QUESTION.

6 THE COURT: SUSTAINED.

7 MS. KELLY: I'LL BREAK IT DOWN.

8 BY MS. KELLY:

9 Q. YOU MADE PLANS TO TAKE MY CLIENT TO THE BAR AND SERVE HIM
10 ALCOHOLIC BEVERAGES ON THE 25TH SO YOU COULD GET HIM TO SAY
11 YES IN RESPONSE TO YOUR QUESTIONS ABOUT HIS PRESENCE AT LOPE
12 DE VEGA; RIGHT?

13 A. THAT IS NOT RIGHT.

14 Q. YOU DIDN'T HAVE ANY PLAN TO TAKE MY CLIENT OUT AND HAVE
15 ALCOHOLIC BEVERAGES ON THE 25TH?

16 A. WE HAD DINNER PLANS.

17 Q. AND YOU JUST SOMEHOW WOUND UP IN THE BAR?

18 A. WE SOMEHOW ALWAYS DO.

19 (COURTROOM LAUGHTER.)

20 Q. DOES THAT MEAN YOU'RE A BIG DRINKER?

21 A. I DRINK. I'M NOT AN ALCOHOLIC, IF THAT'S WHAT YOU'RE
22 ALLUDING TO.

23 Q. NOW, DIRECTING YOUR ATTENTION TO THE -- BACK IN THE
24 BEGINNING ON THE 20TH, YOU ACTUALLY WERE NEVER REALLY
25 INTRODUCED TO MY CLIENT AT ALL, WERE YOU, BY NAME? BY THE

1 NAME MANUEL LIZARRAGA?

2 A. I THINK THAT I TOLD HIM WHAT MY NAME WAS AT SOME POINT OR
3 SOMEBODY DID.

4 Q. WELL, I DIRECT YOUR ATTENTION TO THE TRANSCRIPT OF THAT
5 DATE AND ASK YOU TO LOOK AT THE VERY FIRST PAGE AND THE SECOND
6 PAGE.

7 A. I DON'T THINK I HAVE ONE OF THE 20TH.

8 (BRIEF PAUSE.)

9 DO I HAVE ONE OF THE 20TH?

10 Q. I BELIEVE YOU WERE LOOKING AT IT EARLIER.

11 A. NO, I DON'T HAVE ONE.

12 Q. THAT'S THE NON-MARKED EXHIBIT.

13 MS. KELLY: YOUR HONOR, COULD I APPROACH?

14 THE COURT: NO.

15 BY MS. KELLY:

16 Q. WELL, DO YOU RECALL BEING INTRODUCED -- DO YOU RECALL
17 COMING TO THE AIRPORT AND SEEING YOUR COMPADRE, YOUR FRIEND
18 CASTEL DEL ORO, AND THE FACT THAT MY CLIENT WAS NOT INTRODUCED
19 BY NAME TO YOU?

20 A. YOUR QUESTION IS YOUR CLIENT WAS NOT INTRODUCED TO ME BY
21 HIS NAME?

22 Q. RIGHT.

23 A. NO. HE WAS INTRODUCED TO ME AS BERNA, AND I KIND OF
24 HEARD IT WRONG AND I THOUGHT IT WAS "BENJA". AND I REMEMBER
25 THAT I KEPT REFERRING TO HIM AS "BENJA".

1 AND I FINALLY CAUGHT ON, AND HE SAYS NO, IT'S BER-NA
2 BECAUSE OF BER-NA-BE. BERNA WAS SHORT FOR BERNABE. BUT AT
3 FIRST I WAS CALLING HIM "BENJA". I GUESS I HEARD WRONG.

4 Q. THE INFORMANT CALLS HIM "BENJA", RIGHT?

5 A. I DON'T THINK SO. I THINK HE REFERRED TO HIM AS "BERNA".

6 Q. I'D LIKE YOU TO -- YOU DON'T HAVE ANY COPY OF THE 20TH UP
7 THERE, SO AT THE BREAK I'LL TRY TO FIND YOU ONE SO WE TALK
8 ABOUT THE 20TH AND I'LL GO ON TO THE 21ST.

9 AND I DIRECT YOUR ATTENTION TO PAGES 6859 --

10 A. OF THE 21ST, MA'AM?

11 Q. YES. DO YOU HAVE THE NUMBERS AT THE BOTTOM OF THE PAGE
12 OR THE TOP?

13 A. I HAVE NUMBERS AT THE BOTTOM, BUT I DON'T HAVE ANY PAGE
14 NUMBERS.

15 Q. IS THERE A NUMBER 6859?

16 A. NOT ON SIDE ONE. LET ME SEE IF I COULD FIND IT ON SIDE
17 TWO. 6859?

18 Q. YES. IF THERE ARE NUMBERS ON THE TOP, IT WOULD BE
19 PAGE 7.

20 THE BOTTOM RIGHT-HAND CORNER IS WHERE THE PAGE
21 NUMBER APPEARS.

22 A. NO, I DON'T.

23 Q. YOU DON'T SEE ANY NUMBER ON THE BOTTOM RIGHT CORNER?

24 A. YES, I DO, BUT WHAT I HAVE HERE -- I HAVE JULY 21ST, SIDE
25 ONE, AND THE LAST NUMBER THAT YOU REFERRED TO ON SIDE ONE IS

1 6852.

2 AND THEN I'M LOOKING AT A COPY OF JULY 21ST, SIDE
3 TWO, AND THE FIRST NUMBER AT THE BOTTOM IS 6911. SO MAYBE I'M
4 MISSING SOME UP HERE.

5 Q. WELL, ARE THERE ANY REFERENCES TO PAGE NUMBERS AT THE TOP
6 IN THE BAR SECTION?

7 A. YES, I SEE THEM NOW. WHAT PAGE?

8 Q. PAGE 7.

9 A. OF SIDE TWO?

10 Q. OF SIDE ONE.

11 A. OH. THE BOTTOM NUMBER IS 6801?

12 Q. DOES IT INDICATE THAT IT'S PAGE 758 ON SIDE ONE OF JULY
13 21ST?

14 A. SIDE ONE, JULY 21ST, 1989, PAGE 7. THEN I HAVE A NUMBER
15 AT THE BOTTOM THAT SAYS 6801.

16 Q. I'LL PASS THAT THEN. I DON'T KNOW --

17 MS. KELLY: COULD I HAVE A MOMENT, YOUR HONOR?

18 (BRIEF INTERRUPTION.)

19 BY MS. KELLY:

20 Q. WELL, JUST LOOK AT THE PAGE THAT SAYS PAGE 7, OKAY?

21 A. OKAY.

22 Q. DO YOU SEE A REFERENCE TO SOME NUMBERS THERE? THAT'S THE
23 INFORMANT'S NUMBER; ISN'T THAT RIGHT?

24 A. YES, I SEE THAT.

25 Q. ALL RIGHT. AND IS THERE A REFERENCE THERE: "UM, BENJA

1 WAS TELLING ME --"?

2 A. NO, NOT ON THIS PAGE. WE MIGHT NOT HAVE THE SAME PAGES.

3 OH, YES, I SEE IT NOW. TOWARDS THE END OF THE
4 SENTENCE.

5 YES, YES, I SEE IT.

6 Q. DO YOU HAVE IT NOW? DO YOU SEE IT NOW?

7 A. YES, I DO.

8 Q. IT SAYS -- AND THAT'S THE INFORMANT, RIGHT? HE'S CALLING
9 MY CLIENT BENJA; RIGHT?

10 A. I BELIEVE THAT HE CALLED HIM --

11 Q. DOES THE WORD "BENJA" APPEAR THERE?

12 A. YES, IT DOES.

13 Q. IF YOU LOOK DOWN AT THE BOTTOM OF THE PAGE, THE WORD
14 BENJA, B-E-N-J-A, APPEARS AGAIN, DOESN'T IT?

15 A. YES, IT DOES.

16 Q. AND THAT'S IN REFERENCE TO WHAT THE INFORMANT SAID,
17 RIGHT?

18 A. YES.

19 Q. NOW, AT SOME POINT DURING THE INVESTIGATION YOU'RE TRYING
20 TO ELICIT FROM MY CLIENT WHETHER HE KNOWS A MAN BY THE NAME OF
21 ESPINO VERDIN; ISN'T THAT TRUE?

22 A. YES, IT'S TRUE.

23 Q. AND MY CLIENT TELLS YOU THAT HE DOES NOT KNOW HIM; ISN'T
24 THAT RIGHT?

25 A. NO, HE DOESN'T SAY THAT. HE TALKED ABOUT "ESPINO VERDIN

1 IS FINALLY UP HERE."

2 AFTER OUR LITTLE CONVERSATION HE TALKS, I THINK,
3 ABOUT ANOTHER VERDIN, AND THEN FINALLY HE'S SAYS, "OH, YES.
4 THE ONE THAT I KNEW HE ALSO KNEW."

5 Q. SO WHAT YOU RECALL IS THAT HE DID KNOW ESPINO. HE
6 SAID -- HE TOLD YOU THAT HE KNEW ESPINO VERDIN?

7 A. AT SOME POINT, I BELIEVE HE DID.

8 Q. AND DO YOU HAVE ANY RECOLLECTION OF WHERE THAT IS?

9 A. GEE, I SURE DON'T.

10 Q. MAYBE AT THE BREAK YOU CAN CHECK AND SEE. WOULD THAT BE
11 POSSIBLE?

12 A. I'LL BE MORE THAN GLAD TO COMPLY.

13 Q. NOW, PART OF YOUR PLAN AND YOUR ATTEMPT TO GET MY CLIENT
14 TO TRUST YOU, QUOTE-UNQUOTE, WAS TO UTILIZE A ROLE; ISN'T THAT
15 RIGHT? YOU WERE ACTING, RIGHT?

16 A. UNDERCOVER, YES.

17 Q. AND THE INFORMANT WAS ACTING, RIGHT?

18 A. YES, HE WAS.

19 Q. HE WAS ACTING LIKE MY CLIENT HAD BEEN A LONG-TIME
20 EMPLOYEE OF HIS, RIGHT?

21 A. WELL, I CAN'T REALLY SAY THAT THE INFORMANT WAS ACTING.
22 HE WAS JUST KIND OF GOING ALONG WITH MY ACT.

23 Q. WELL, MY QUESTION TO YOU IS WAS HE ACTING LIKE MY CLIENT
24 HAD BEEN A LONG-TIME EMPLOYEE?

25 A. OF WHOSE?

1 Q. OF THE INFORMANTS.

2 A. I DON'T UNDERSTAND YOUR QUESTION.

3 Q. WAS THE INFORMANT ACTING LIKE MY CLIENT WAS A LONG-TIME
4 EMPLOYEE OF THE INFORMANT?

5 A. NO, HE WAS -- WHAT HE SAID WAS THAT HE HAD KNOWN HIM FOR
6 A LONG TIME. I DON'T REMEMBER HIM TELLING ME HE HAD BEEN A
7 LONG-TIME EMPLOYEE OF HIM OR ACTING AS SUCH.

8 Q. HE ACTED AS IF HE KNEW MY CLIENT FOR A LONG TIME AND THAT
9 HE TRUSTED HIM VERY MUCH, RIGHT?

10 A. HE TOLD ME HE DID, YES.

11 Q. AND DID YOU THINK IT WAS ODD THAT HE KEPT REFERRING TO
12 HIM AS "BENJA"?

13 MR. CARLTON: OBJECTION, YOUR HONOR; IRRELEVANT.

14 THE COURT: SUSTAINED.

15 BY MS. KELLY:

16 Q. NOW, DIRECTING YOUR ATTENTION TO PAGE 3280 OF THE JULY
17 21ST TRANSCRIPT.

18 A. WHAT WAS THE PAGE NUMBER?

19 Q. I'M SORRY. JULY 24TH, THE JULY 24TH. DO YOU HAVE THAT
20 PAGE?

21 A. WHAT PAGE WAS IT?

22 Q. 3280.

23 A. YES, I HAVE IT.

24 Q. AND AT THE VERY BOTTOM MR. BERNABE RAMIREZ TELLS YOU
25 THAT, "IN THOSE DAYS WE WERE LIKE PEONS. WE COULDN'T GIVE OUR

1 OPINION. 'YOU SHUT UP.' 'WHAT'S EVEN MORE, WHAT FOR.'

2 ISN'T THAT RIGHT?

3 A THAT'S WHAT IT READS, YES.

4 Q. AND ON PAGE 3295 OF JULY 4TH --

5 A. I HAVE IT.

6 Q. I'M SORRY. IT'S 3295. AT THE BOTTOM OF THE PAGE, YOU'RE
7 ASKING -- THE INFORMANT ASKS IF DURING THE STATEMENTS AND THE
8 DEPOSITIONS ONCE MY CLIENT WAS ACCUSED, WHETHER THEY EVER
9 ASKED ABOUT YOU, MANUEL LIZARRAGA, OR, RATHER, LOUIS
10 LIZARRAGA, RIGHT?

11 A. YES.

12 Q. AND HE SAID, "NO, IT'S JUST THAT I DON'T KNOW. I DON'T
13 KNOW UNTIL NOW THAT I ASKED YOUR NAME, SIR"; ISN'T THAT RIGHT?

14 A. THAT'S WHAT IT READS.

15 Q. AND HE TOLD YOU ON A NUMBER OF OCCASIONS THAT HE HAD
16 NEVER HEARD THE NAME LIZARRAGA; ISN'T THAT RIGHT?

17 A. THAT'S CORRECT.

18 Q. NOW, THERE'S ALSO A REFERENCE TO KNOWING THAT -- DID YOU
19 ASK HIM IF HE KNEW A MR. PAVON OR COMANDANTE PAVON?

20 A. I MIGHT HAVE.

21 Q. AND HE ALSO TOLD YOU HE DIDN'T KNOW HIM, CORRECT?

22 A. I DON'T REMEMBER.

23 Q. WELL, ON THE 24TH WHEN HE IS DESCRIBING TO YOU GOING TO
24 THE AIRPORT --

25 A. WHAT HE TOLD ME WAS THAT HE FIRST MET ARMANDO REYES AT

1 THE AIRPORT. THAT'S WHAT HE TOLD ME.

2 Q. OKAY. MY QUESTION IS ON THE 24TH WHEN HE'S DESCRIBING TO
3 YOU GOING TO THE AIRPORT, WHEN CARO QUINTERO'S PLANE --

4 A. THAT'S WHEN HE TELLS ME THAT HE FIRST MEETS COMANDANTE
5 ARMANDO PAVON REYES.

6 Q. THAT'S NOT MY QUESTION TO YOU. BUT SINCE YOU MENTIONED
7 IT, LET'S GO BACK TO THE STATEMENT. I THINK THE TEXT IS
8 ACTUALLY THAT HE MET HIM IN PRISON; ISN'T THAT RIGHT?

9 A. I THINK IT WAS AFTER THE AIRPORT INCIDENT THAT HE MET HIM
10 IN PRISON.

11 Q. THAT'S RIGHT. NOW, WITH RESPECT TO THE JULY 24TH -- I'M
12 SORRY, THE 24TH MEETING, MY CLIENT -- WHEN YOU'RE ASKING
13 REPEATEDLY IF MY CLIENT WAS THERE -- IF MY CLIENT EVER RECALLS
14 HEARING MY NAME -- HEARING YOUR NAME, HE INDICATES AGAIN THAT
15 HE HAS NEVER HEARD YOUR NAME, CORRECT?

16 A. THAT'S CORRECT.

17 Q. AND HE TELLS YOU AGAIN ON THE 24TH, ON A NUMBER OF
18 OCCASIONS, THAT HE COULD GET PHOTOCOPIES OF THE STATEMENTS
19 THAT EXIST FROM THE LAWYER WHO HE KNOWS, RIGHT?

20 A. THAT'S CORRECT.

21 Q. AND YOU, ON THE 24TH, ARE USING THE SAME TECHNIQUE,
22 ASKING HIM, "DO YOU KNOW WHAT INTERESTS ME? LOOK, FROM WHAT I
23 UNDERSTAND" -- AND THIS IS ON PAGE 7077.

24 "I'M GOING TO BE FRANK WITH YOU AND I'M
25 GOING TO TRUST YOU. THEY TOLD ME THAT --

1 THAT WHEN THE DUDE -- WHEN THEY WERE WARMING
2 HIM UP, THE GRINGO, THAT THEY GOT A LOT OF
3 THINGS OUT OF HIM.

4 "AND THAT IN THAT THING WAS THE --
5 THE -- WHAT HE MENTIONED ABOUT PEOPLE THAT HE
6 WAS SEEING AND THAT SHIT. AND THAT MY NAME
7 HAD COME OUT AND THAT'S WHY I GOT SCARED AND
8 I SAID, 'TELL THEM I WON'T STOP.'

9 "THAT'S WHY I'M TELLING YOU TRY
10 TOMORROW. I MEAN, DIDN'T YOU HEAR ANY
11 LIZARRAGA AND -- ANYTHING ABOUT LIZARRAGA IN
12 MAZATLAN OR ANYTHING?"
13 AND MY CLIENT SAYS, "NO, SIR." ISN'T THAT
14 RIGHT?

15 A. YES.

16 Q. SO, IN FACT, MY CLIENT NEVER EVER SAID THAT HE HEARD THE
17 NAME, THAT HE PERSONALLY WAS THERE, AND NEVER HEARD LIZARRAGA
18 BEING MENTIONED, RIGHT?

19 A. NO, THAT IS NOT CORRECT. HE NEVER SAID THAT HE WAS NOT
20 PERSONALLY THERE. HE TOLD ME HE WAS THERE.

21 Q. NO, NO. I'M SAYING HE NEVER TOLD YOU THAT HE WAS -- HE
22 NEVER TOLD YOU THAT HE WAS PRESENT AND HEARD THE NAME
23 LIZARRAGA, RIGHT?

24 A. HE TOLD ME HE WAS PRESENT BUT THAT HE DID HEAR THE NAME
25 LIZARRAGA.

1 Q. WHERE IS THAT?

2 A. THE JULY 25TH TRANSCRIPT.

3 Q. HE TOLD YOU THAT HE DID HEAR THE NAME LIZARRAGA?

4 A. NO, NEVER DID.

5 Q. BUT THE NAME LIZARRAGA CAME UP AGAIN ON THE JULY 25TH
6 TRANSCRIPT?

7 A. I BELIEVE IT DID.

8 Q. DO YOU REMEMBER WHERE THAT OCCURS?

9 A. I DON'T REMEMBER.

10 Q. WE JUST WENT OVER ALL OF THE ADMISSIONS OF THE -- THE
11 ADMISSIONS THAT -- MY CLIENT ANSWERING YOUR QUESTIONS ABOUT
12 THE GRINGO. AND DO YOU RECALL THAT THE NAME LIZARRAGA WAS IN
13 ANY OF THOSE?

14 A. COUNSELOR, I THINK YOU MISUNDERSTOOD ME. WHAT I
15 TESTIFIED TO WAS THAT HE TOLD ME HE WAS THERE, MEANING THAT HE
16 WAS THERE WHEN CAMARENA WAS TORTURED AND MURDERED. THAT'S
17 WHAT I SAID, NOT THAT HE HAD MENTIONED MY NAME AT THAT POINT.

18 THAT'S HOW I ANSWERED IT. BUT I THINK YOU'RE
19 TURNING IT AROUND, COUNSELOR. AT LEAST I FEEL THAT YOU DID.

20 Q. ALL RIGHT. SORRY ABOUT THAT.

21 AS FAR AS YOU RECALL NOW THEN, ON THE 25TH THE NAME
22 MANUEL LIZARRAGA DID NOT COME UP; IS THAT RIGHT?

23 A. I DON'T THINK SO.

24 Q. DIRECTING YOUR ATTENTION TO PAGE 7074, DO YOU REMEMBER A
25 TIME WHEN MY CLIENT IS DISCUSSING COMING TO THE UNITED STATES

1 AND HE INDICATES TO YOU THAT HE DIDN'T CHANGE HIS NAME UPON
2 ENTERING THIS COUNTRY; ISN'T THAT RIGHT?

3 A. WHAT DATE? WHAT TRANSCRIPT?

4 Q. JULY 24TH, I'M SORRY. PAGE 7074.

5 A. 7074?

6 Q. YES. WELL, REALLY, DO YOU RECALL THAT HE TOLD YOU THAT?

7 A. YES, I DO RECALL THAT.

8 Q. DO YOU RECALL THAT MY CLIENT TOLD YOU THAT HE WAS NOT
9 PAID WELL IN THE MEXICAN GOVERNMENT?

10 A. IN THE AMERICAN GOVERNMENT?

11 Q. MEXICAN GOVERNMENT.

12 A. YES, HE TOLD ME THAT.

13 Q. AND HE TOLD YOU THAT HE WAS -- HE WAS WORKING HARD SINCE
14 HE HAD GOTTEN OUT OF PRISON; ISN'T THAT RIGHT?

15 A. YES, HE DID.

16 Q. AND, ACTUALLY, WHEN THE -- THE FIRST TIME THE
17 CONVERSATION CAME UP ABOUT WHO WAS THE BODIES BEING DUG UP AND
18 THE PERSON WHO -- YOU RECALL THAT STATEMENT ON THE 25TH, WHERE
19 MY CLIENT MENTIONS THAT THE PERSON WHO DUG UP THE BODIES WAS
20 THE PERSON WHO SHOULD BE SHOT, OR WHATEVER IT SAYS --
21 SOMETHING TO THAT EFFECT -- THAT THE PERSON WHO DUG UP THE
22 BODIES WAS STUPID?

23 A. THE WAY I RECALL THE CONVERSATION WAS --

24 Q. DO YOU REMEMBER THAT? THAT'S MY QUESTION.

25 A. WELL, MAYBE NOT IN THE WAY YOU STATED IT, BUT I REMEMBER

1 A CONVERSATION TO THAT EFFECT, YES.

2 Q. DO YOU REMEMBER THAT YOU BROUGHT THAT SUBJECT UP ON PRIOR
3 CONVERSATIONS?

4 A. THAT I SAID THAT?

5 Q. UH-HUH.

6 A. THAT I SAID SOMEBODY OUGHT TO BE -- OUGHT TO GET KILLED?

7 Q. WELL, WHAT YOU SAID WAS THAT YOU THOUGHT IT WAS BIG
8 MISTAKE?

9 A. OH, I SAID THAT I AGREED WITH HIM THAT IT WAS A MISTAKE,
10 BUT I DIDN'T ALLUDE TO THE FACT OR EVER STATED THAT SOMEBODY
11 SHOULD GET KILLED.

12 Q. NO, YOU SAID IT WAS -- IT WAS STUPIDITY, RIGHT? MEANING
13 WHO COULD THINK OF SUCH A STUPID THING TO DO, RIGHT?

14 A. I SAID -- SOMEWHERE ALONG THE LINE I SAID THAT I AGREED,
15 THAT -- IN MY UNDERCOVER PORTRAYAL OF THIS BAD DRUG LORD, THAT
16 I SAID THAT.

17 Q. WELL, THIS PORTRAYAL OF THIS UNDERCOVER DRUG LORD, DO
18 DRUG LORDS TALKING ABOUT NAILING VETERINARIANS?

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

20 THE COURT: SUSTAINED.

21 BY MS. KELLY:

22 Q. WELL, YOU MADE A LOT OF COMMENTS ABOUT THE WOMEN
23 VETERINARIANS WHO ACCOMPANIED THEM; ISN'T THAT RIGHT?

24 A. YES, I DID.

25 Q. AND YOU MADE A LOT OF COMMENTS ABOUT WANTING TO DO

1 CERTAIN THINGS SEXUALLY TO THEM, RIGHT?

2 A. ON --

3 MR. CARLTON: OBJECTION; IRRELEVANT, YOUR HONOR.
4 ARGUMENTATIVE.

5 THE COURT: SUSTAINED.

6 BY MS. KELLY:

7 Q. WELL, DIRECTING OUR ATTENTION TO PAGE 6950. IT'S YOU,
8 ISN'T IT, WHO BRINGS UP THE SUBJECT ABOUT THE PERSON BEING
9 STUPID WHO DUG UP THE BODIES; ISN'T THAT TRUE?

10 A. WHAT DATE? WHAT TRANSCRIPT?

11 Q. ON JULY 21ST, PAGE 6950.

12 A 6960?

13 Q. 6950.

14 A. OH, 59- .

15 Q. 6950, 6-9-5-0.

16 A. EXCUSE ME. I HAVE A LOT OF TRANSCRIPT UP HERE.

17 THE COURT: WE'LL TAKE OUR AFTERNOON RECESS.

18 THE CLERK: PLEASE RISE.

19 (JURY EXCUSED.)

20 THE COURT: COUNSEL, YOU DO NOT HAVE LIMITLESS TIME
21 IN WHICH TO COMPLETE THIS CROSS-EXAMINATION. IT'S NOT MY JOB
22 TO TELL YOU HOW TO DO YOUR CROSS EXAMINATION, BUT I SUGGEST TO
23 YOU THAT MUCH OF WHAT YOU'RE DOING IS POINTLESS. IT APPEARS
24 TO BE DISORGANIZED AND RAMBLING.

25 YOU MAY HAVE A DIFFERENT CONCEPT OF IT AND YOU MAY

1 HAVE SOME NOTION OF WHAT IT IS THAT YOU ARE TRYING TO DO, BUT
2 I WISH YOU WOULD GET IT TOGETHER AND ELICIT FROM THIS WITNESS
3 WHATEVER IT IS YOU WANT TO ELICIT AND GET IT DONE. I'M NOT
4 GOING TO PERMIT YOU TO JUST GO ON AND ON AND ON.

5 MS. KELLY: YOUR HONOR, I DO WANT TO INQUIRE ABOUT
6 THE TRANSCRIPTS BECAUSE THERE'S PORTIONS THAT --

7 THE COURT: THAT IS PERFECTLY PROPER TO INQUIRE
8 ABOUT THE TRANSCRIPTS, BUT IF YOU WERE TO SIT UP HERE AND
9 LISTEN TO WHAT YOU'RE DOING OUT THERE, I THINK YOU'D GET A
10 DIFFERENT VIEW OF WHETHER OR NOT IT'S HAVING ANY EFFECT ON THE
11 JURY. YOU'RE READING THESE THINGS THAT DON'T MEAN ANYTHING TO
12 ANYBODY, THAT'S HARDLY INTELLIGIBLE. IF YOU WANT TO ASK THIS
13 WITNESS WHETHER YOUR CLIENT SAID A CERTAIN THING, WHY NOT SAY
14 IT THAT WAY.

15 MS. KELLY: WELL, YOUR HONOR, FRANKLY, THE WITNESS
16 IS NOT REPEATING WHAT IS IN THE TRANSCRIPT, SO THE TRANSCRIPT
17 NEEDS TO BE READ.

18 THE COURT: WELL, IS IT YOUR INTENTION TO READ THE
19 ENTIRE TRANSCRIPT?

20 MS. KELLY: NO, YOUR HONOR, BUT I'D LIKE TO READ
21 PORTIONS OF IT.

22 THE COURT: WELL, YOU'VE READ PRACTICALLY ALL OF IT.

23 MS. KELLY: WELL, YOUR HONOR, I DON'T BELIEVE I
24 HAVE. FOR EXAMPLE --

25 THE COURT: HOW MUCH MORE TIME DO YOU INTEND TO

1 SPEND ON THIS?

2 MS. KELLY: WELL, YOUR HONOR, THIS A VERY IMPORTANT
3 WITNESS AGAINST MY CASE.

4 THE COURT: I UNDERSTAND THAT, BUT I ALSO UNDERSTAND
5 THAT SOME OF THE CROSS-EXAMINATION THAT YOU'RE ENGAGING IN HAS
6 NOTHING TO DO WITH ANYTHING IN RELATION TO YOUR CLIENT'S
7 INVOLVEMENT IN THIS CASE.

8 MS. KELLY: YOUR HONOR, FOR EXAMPLE, THIS WITNESS
9 HAS REPEATEDLY TRIED TO CONVINCING THE JURY THAT MY CLIENT SAID
10 CERTAIN WORDS THAT HE JUST SIMPLY DIDN'T SAY. HE NEVER SAID,
11 "I WAS THERE WHILE AGENT CAMARENA WAS BEATEN AND TORTURED."
12 HE ANSWERED QUESTIONS PUT TO HIM BY THIS WITNESS.

13 THE COURT: WELL, I UNDERSTAND THAT.

14 MS. KELLY: AND THIS IS NOT -- BUT THIS IS IMPROPER.
15 HE GIVES THE IMPRESSION THAT THAT GOES ON. SO THE ONLY WAY TO
16 RESPOND TO THAT, YOUR HONOR, IS TO READ THE TRANSCRIPT TO
17 PROVE TO THE JURY THAT THAT'S NOT TRUE.

18 THE COURT: BUT YOU WERE READING PORTIONS OF THE
19 TRANSCRIPT THAT HAD NOTHING TO DO WITH ANYTHING, AS FAR AS THE
20 COURT IS ABLE TO SEE. THAT'S YOUR BUSINESS. YOU'RE THE
21 LAWYER HERE AND YOU REPRESENT THIS CLIENT, BUT I JUST WANT TO
22 TELL YOU THAT I CAN'T LET YOU GO ON FOREVER ON THIS.

23 YOU'VE BEEN ON THIS A GOOD DEAL OF TIME ALREADY.
24 HOW MUCH MORE TIME DO YOU EXPECT YOU WILL NEED?

25 MS. KELLY: WELL, YOUR HONOR, I WOULD LIKE TO THINK

1 THAT I COULD HAVE THE AFTERNOON BECAUSE, I MEAN, SEEING THAT
2 WE WERE ABLE TO CROSS-EXAMINE HARRISON FOR A LONG TIME AND
3 THAT WAS -- THIS WITNESS IS A CRUCIAL WITNESS IN MY CASE.

4 THE COURT: WELL, DO YOU THINK YOU NEED THE REST OF
5 THE AFTERNOON TO CROSS-EXAMINE THE WITNESS?

6 MS. KELLY: WELL, I MEAN, I'M NOT CERTAIN I'LL NEED
7 THE WHOLE AFTERNOON.

8 THE COURT: DO YOU HAVE SOME NOTION OF WHAT IT IS
9 YOU'RE GOING TO ASK HIM? YOU DON'T HAVE TO TELL ME, BUT HAVE
10 YOU PLANNED OUT SOME STRATEGY HERE?

11 MS. KELLY: YES, YOUR HONOR, AND I HAVE EVEN TYPED
12 IT.

13 (COURTROOM LAUGHTER.)

14 THE COURT: YES. WELL, ALL RIGHT. LET'S TAKE A
15 BREAK.

16 MR. NICOLAYSEN: YOUR HONOR, MAY I BE HEARD FOR JUST
17 A MOMENT?

18 PREVIOUSLY, COUNSEL FOR THE GOVERNMENT HAS ASKED THE
19 COURT IF DEFENSE COUNSEL COULD STATE ON THE RECORD THE STATUS
20 OF RULE 16-B RECIPROCAL DISCOVERY.

21 IF YOUR HONOR WOULD LIKE FOR ME TO BE HEARD ON THAT,
22 I WOULD LIKE TO STATE ON THE RECORD THAT I'VE RECEIVED A
23 NUMBER OF DOCUMENTS THAT I'M NOW GOING TO BE TURNING OVER TO
24 THE GOVERNMENT SO THAT THE COURT KNOWS EXACTLY WHAT MY
25 DISCLOSURE POSITION IS AT THIS TIME.

1 I JUST RECEIVED AT 8:00 O'CLOCK LAST NIGHT BY DHL
2 ABOUT 3,000 PAGES OF THE OFFICIAL FILE FROM GUADALAJARA ON THE
3 LA LANGOSTA PROSECUTION. I ANTICIPATE, AND I'VE ADVISED
4 COUNSEL THAT I WILL ASK THE COURT FOR PERMISSION TO USE A VERY
5 SMALL PORTION OF IT CONSISTING OF PUBLIC RECORDS.

6 BUT I'LL BE TURNING OVER THE FILE IN ITS ENTIRETY
7 FOR INSPECTION TO THE GOVERNMENT, FAR BEYOND RULE 16
8 REQUIREMENTS IN GOOD FAITH. AND I WANTED THE COURT TO KNOW
9 THAT, AND I WILL BE COORDINATING THE DISCLOSURE WITH
10 GOVERNMENT COUNSEL AT THE END OF TODAY.

11 THE COURT: ALL RIGHT. NOW, COUNSEL, EARLIER WHEN I
12 TALKED ABOUT WHETHER OR NOT THE TAPES WERE IN DISPUTE, I MEANT
13 THE TRANSLATION. THE TRANSLATIONS THAT HAVE BEEN PROVIDED
14 HAVE NOT BEEN IN DISPUTE, AND I DID NOT UNDERSTAND THAT THERE
15 WAS ANY DISPUTE REGARDING THE TRANSLATIONS.

16 MS. KELLY: THERE ARE DISPUTES ABOUT THE
17 TRANSLATIONS, YOUR HONOR. I DON'T BELIEVE THAT ANY OF THESE
18 EARLIER TRANSLATIONS WERE DONE BY A FEDERALLY-CERTIFIED COURT
19 INTERPRETER.

20 THE COURT: WELL, EARLY IN THIS CASE I THOUGHT I MADE
21 IT VERY CLEAR THAT IF THERE WERE GOING TO BE ANY CONTESTS TO
22 THE MEANINGS OF THESE TRANSLATIONS, THAT THAT SHOULD BE
23 RESOLVED BEFORE THE WITNESS GETS ON THE STAND OR BEFORE THAT
24 IS PRESENTED TO THE JURY.

25 OR YOU CAN PRESENT YOUR OWN TRANSLATION, IF YOU

1 THINK THERE IS SOMETHING WRONG WITH THE TRANSLATION. YOU
2 NEVER INDICATED TO ME AND I ASSUMED THAT THE TRANSLATIONS WERE
3 CORRECT TRANSLATIONS BECAUSE IT HAS NEVER BEEN INDICATED
4 OTHERWISE.

5 YOU TAKE A POSITION THAT SOME OF THE TRANSLATIONS
6 ARE INCORRECT?

7 MS. KELLY: YES, YOUR HONOR. FOR EXAMPLE, THE TERM
8 THAT MY CLIENT MET WITH FONSECA, HEARD FONSECA SAY "HE HAS TO
9 BUMP HIM OFF", THAT IS NOT WHAT TOPALA (PHONETIC) MEANS.
10 ACCORDING TO THE FEDERAL INTERPRETERS, CERTIFIED COURT
11 INTERPRETERS, IT MEANS --

12 THE COURT: WELL, WHAT DOES IT MEAN?

13 MS. KELLY: IT MEANS GO FOR IT.

14 AND I THINK THAT'S --

15 THE COURT: WHAT IS THE WORD?

16 MS. KELLY: I'M SURE I'M BUTCHERING THE
17 PRONOUNCIATION. TOPILAT. TOPALA. I DON'T SPEAK THE
18 LANGUAGE, YOUR HONOR, BUT IT IS SOMETHING LIKE THAT.

19 AND THE WAY THE GOVERNMENT, THE D.E.A. CONTRACT
20 PERSON -- IF THAT'S WHO DID IT -- I STILL CAN'T FIND OUT WHO
21 DID THESE TRANSCRIPTS -- IF THAT'S WHO TRANSLATED IT TO BE
22 "BUMPED HIM OFF", THAT'S NOT THE WAY IT'S INTERPRETED ON THE
23 25TH.

24 THE COURT: WELL, HOW LONG HAVE YOU HAD THESE
25 TRANSCRIPTS AND THESE TAPES? SINCE JULY?

1 MS. KELLY: ACTUALLY, SINCE SEPTEMBER.

2 THE COURT: SINCE SEPTEMBER.

3 MS. KELLY: YES, YOUR HONOR.

4 THE COURT: YOU NEVER BROUGHT A MOTION TO THE COURT
5 SUGGESTING THAT THESE PROPOSED TRANSCRIPTS WERE INCORRECT.

6 MS. KELLY: WELL, ACTUALLY, YOUR HONOR, I JUST WAS
7 ABLE TO GET SOME -- THE 20TH AND 25TH -- I WAS ABLE TO GET
8 THOSE CLEAN SO THAT THE INTERPRETER COULD COMPLETE THEM. BUT
9 IT WAS A VERY DIFFICULT PROCESS. BUT THE INTERPRETER HAD
10 COMPLETED THE 21ST AND THE 24TH TRANSLATIONS.

11 THE COURT: BUT YOU'VE MADE SOME OBJECTIONS TO THE
12 CONTENTS OF THESE TAPES. YOU FILED A WRITTEN MOTION WHICH I
13 RULED UPON. AND NOT INCLUDED IN THAT WAS ANY REFERENCE TO THE
14 FACT THAT IT HAD BEEN INCORRECTLY INTERPRETED, WAS THERE?

15 MS. KELLY: NO, YOUR HONOR. BECAUSE, YOU KNOW, I'M
16 ASSUMING THAT, AT LEAST BASED ON THE LAST TRIAL, WHAT HAPPENED
17 WAS WHEN I READ THE TRANSCRIPT, IT APPEARED TO ME, YOUR HONOR,
18 THAT WHAT YOU DID WAS YOU LET --

19 THE COURT: IN THE LAST TRIAL, I TOLD COUNSEL THAT
20 IF THEY DID NOT OBJECT IN WRITING TO THE TRANSLATIONS THAT
21 WERE OFFERED, THAT THEY WOULD BE DEEMED TO HAVE BEEN WAIVED;
22 THAT THE COURT HAD THE RIGHT TO ASSUME THAT THOSE WERE
23 ACCURATE AND CORRECT BECAUSE THINGS OF THAT NATURE HAVE TO BE
24 CORRECTED.

25 IF THERE IS A DISPUTE, IF THEY COULDN'T AGREE ON IT

1 AND THEY DISPUTED IT, THEN I GAVE THEM THE RIGHT TO PRESENT
2 THEIR OWN EVIDENCE OF THE MEANING. THAT IS THE WAY IT WAS
3 HANDLED.

4 MS. KELLY: I UNDERSTOOD THAT I WOULD JUST BE
5 PRESENTING MY OWN -- PRESENTING THE TRANSLATION THROUGH MY
6 CASE.

7 THE COURT: WELL, YOU'RE ENTITLED, IF YOU DISPUTE
8 THE TRANSLATION. BUT IF IT WAS SOMETHING THAT SHOULD HAVE
9 BEEN IRONED OUT BEFOREHAND, THERE IS NO POINT IN PRESENTING
10 TWO VERSIONS TO THE JURY. WE MIGHT HAVE BEEN ABLE TO RESOLVE
11 IT BY PRETRIAL MOTIONS.

12 IS THAT THE ONLY DISPUTE YOU HAVE WITH THE
13 TRANSLATION, THE WORD "BUMP OFF"?

14 MS. KELLY: NO, YOUR HONOR. THERE ARE A COUPLE OF
15 OTHER WORDS.

16 THE COURT: DO YOU KNOW WHAT THEY ARE?

17 MS. KELLY: NOT OFF THE TOP OF MY HEAD. I CAN LET
18 YOU KNOW. DO YOU WANT ME TO DO IT IN WRITING?

19 THE COURT: DO YOU INTEND TO PRESENT SOME EVIDENCE
20 OF YOUR OWN REGARDING WHAT THE WORDS MEAN?

21 MS. KELLY: I BELIEVE SO, YOUR HONOR.

22 THE COURT: WELL, THEN YOU CAN DO IT THAT WAY.

23 MS. KELLY: VERY WELL. YOUR HONOR, COULD I APPROACH
24 TO SEE IF THERE IS A TRANSCRIPT OF JULY 20TH AVAILABLE?

25 THE COURT: YES.

1 THE CLERK: PLEASE RISE.

2 (RECESS TAKEN.)

3 (JURY PRESENT.)

4 THE COURT: YOU MAY PROCEED, COUNSEL.

5 BY MS. KELLY:

6 Q. AGENT BERRELLEZ, DO YOU HAVE TWO COPIES OF THE JULY 25TH
7 TRANSCRIPT IN FRONT OF YOU UP THERE; ONE WITH THE BUNCH OF
8 YELLOW STICKYS ON IT?

9 A. YES, I DO.

10 Q. AND ON THE BACK OF THERE ARE THERE SOME NOTES?

11 A. YES, SOME NOTES I MADE FOR MYSELF.

12 Q. SO, THAT'S YOUR HANDWRITING?

13 A. YES, IT IS.

14 Q. AND THOSE ARE HANDWRITTEN NOTES CONCERNING THE 25TH; IS
15 THAT RIGHT?

16 A. I BELIEVE SO, YES.

17 Q. ARE THOSE NOTES THAT YOU REFERRED TO TO REFRESH YOUR
18 RECOLLECTION IN PREPARING FOR TESTIMONY TODAY?

19 A. NOTES THAT I MADE RIGHT AFTER I READ IT, YES.

20 Q. IS THAT THE TRANSCRIPT YOU'VE BEEN REFERRING TO OR HAVE
21 YOU BEEN USING THE EXHIBIT MARKED FOR COURT PURPOSES?

22 A. I WAS USING THE EXHIBIT THAT WAS MARKED FOR COURT
23 PURPOSES. THIS ONE I HAD ON THIS SIDE OVER HERE.

24 Q. WELL, I HAVE NOW PLACED BEFORE YOU EXHIBIT -- WHAT HAS
25 BEEN MARKED AS EXHIBIT N. DEFENSE N IS A COPY OF THE JULY

1 20TH TRANSCRIPT, AND I'D LIKE YOU TO TAKE A LOOK AT THAT.

2 A. YES, I SEE THAT.

3 Q. AND YOU'VE HAD A CHANCE TO REVIEW THIS TRANSCRIPT; ISN'T
4 THAT RIGHT?

5 A. YES, I HAVE.

6 Q. AND WILL YOU TAKE A LOOK AT THE FIRST PAGE WHERE YOU'RE
7 GREETING THE INFORMANT AND TELL ME WHERE THE INTRODUCTION OF
8 MY CLIENT OR YOURSELF APPEARS?

9 A. ON THE VERY FIRST PAGE?

10 Q. UH-HUH.

11 A. I DON'T SEE IT.

12 Q. OKAY. AND ON THE SECOND PAGE?

13 A. NO, I DON'T SEE IT HERE, EITHER.

14 Q. BUT THERE IS A REFERENCE ON THAT PAGE, ON THAT SECOND
15 PAGE THAT THE INFORMANT TELLS YOU THAT MY CLIENT IS A MAN OF
16 TRUST; ISN'T THAT RIGHT?

17 A. YES.

18 Q. AND THAT ON THE FOLLOWING PAGE, ON PAGE 2661, YOU SAY TO
19 MY CLIENT, I BELIEVE: "YOU LOOK FAMILIAR, BROTHER. WHERE DID
20 WE MEET EACH OTHER; THERE IN THE BAJADITA (PHONETIC); ISN'T
21 THAT RIGHT?

22 A. YES.

23 Q. AND THEN THE INFORMANT MENTIONS THAT MY CLIENT IS A
24 COMPADRE OF RAFA; ISN'T THAT RIGHT?

25 A. HE WAS REFERRING TO ME, THAT I AM RAFAEL CARO QUINTERO'S

1 COMPADRE .

2 Q. AND YOU -- THEN YOU INDICATE THAT YOUR COMPADRE, RAFA,
3 GOT INTO A MAJOR PROBLEM; ISN'T THAT RIGHT?

4 A. HE SURE DID.

5 Q. BUT THAT'S WHAT YOU'RE REFERRING TO HERE; ISN'T THAT
6 RIGHT?

7 A. YES.

8 Q. I'M TRYING TO BE SERIOUS ABOUT THIS.

9 A. I AM, TOO, MA'AM.

10 Q. SO WHEN HE'S -- THIS IS HOW THE INTRODUCTION OCCURS;
11 ISN'T IT?

12 A. THAT'S CORRECT.

13 Q. AND YOUR NAME ISN'T MENTIONED?

14 A. MY NAME, NO.

15 Q. AND MY CLIENT'S NAME ISN'T MENTIONED?

16 A. NOT ON THE THIRD PAGE, NO.

17 Q. AND DURING THIS THE COURSE OF THIS TRIP, YOU MAKE A
18 TELEPHONE CALL; ISN'T THAT RIGHT?

19 A. YES, SIR, I DO.

20 Q. AND YOU AND THE INFORMANT ARE HAVING CONVERSATION BACK
21 AND FORTH; ISN'T THAT RIGHT?

22 A. ME AND WHO?

23 Q. MR. CASTEL DEL ORO?

24 A. WHEN I'M ON THE PHONE?

25 Q. NO, I MEAN IN ADDITION TO BEING ON THE PHONE, YOU'RE

1 HAVING A CONVERSATION BETWEEN YOURSELF AND MR. CASTEL DEL ORO?

2 A. AFTER I HANG UP ON THE PHONE OR WHILE I'M TALKING TO
3 SOMEBODY ELSE ON THE PHONE?

4 Q. BEFORE YOU'RE ON THE PHONE AND AFTER YOU'RE ON THE PHONE?

5 A. YES. WHEN I'M ON THE PHONE I'M TALKING TO ANOTHER
6 PERSON.

7 Q. AND THIS CONVERSATION, THAT'S BASICALLY BETWEEN YOU AND
8 THE INFORMANT, RIGHT?

9 A. YES, IT IS.

10 Q. AND HOW LONG WAS THE CAR RIDE, IF YOU RECALL?

11 A. ABOUT 30 TO 40 MINUTES.

12 Q. NOW, DIRECTING YOUR ATTENTION TO PAGE 2663, THE FIFTH
13 LINE FROM THE BOTTOM, DO YOU SEE THAT THE INFORMANT, RIGHT
14 FROM THE BEGINNING OF THE ENCOUNTER IS REFERRING TO MY CLIENT
15 AS "BENJA"?

16 A. YES, HE IS.

17 Q. AND YOU UNDERSTOOD FROM THIS CONVERSATION THAT MY CLIENT
18 AND THE INFORMANT HAD COME TO LOS ANGELES OBSTENSIBLY TO LOOK
19 AT DOGS FOR THE SECURITY BUSINESS; ISN'T THAT RIGHT?

20 A. YES.

21 Q. THAT WAS THE PURPOSE FOR BRINGING THE VETERINARIANS;
22 ISN'T THAT RIGHT?

23 A. YES.

24 Q. AND THERE IS SOME MORE REFERENCES TO "BENJA" IN THIS
25 TRANSCRIPT BY THE INFORMANT. YOU CAN TURN TO PAGE 2669.

1 THE INFORMANT IS TELLING YOU THAT "BENJA" WAS AN
2 AGENT OF THE STATE POLICE; ISN'T THAT RIGHT?

3 A. THAT'S CORRECT.

4 Q. SO, IN FACT, IT WAS THE INFORMANT WHO TOLD YOU THAT
5 "BENJA" WAS A MEMBER OF THE STATE POLICE; IT WASN'T MY CLIENT,
6 RIGHT?

7 A. WELL, NOT ON THIS PAGE.

8 Q. YOU BELIEVE THERE IS SOME OTHER PAGE THAT MY CLIENT TELLS
9 YOU THAT HE WORKED FOR THE STATE POLICE?

10 A. I ASKED IF HE WAS COMMISSIONED AND HE TOLD ME THAT HE WAS
11 COMMISSIONED.

12 Q. AND THAT HAPPENED ON THE 20TH?

13 A. I DON'T RECALL.

14 Q. WELL, IF IT DID HAPPEN, IT WOULD BE ON THE TRANSCRIPTS;
15 ISN'T THAT RIGHT?

16 A. COULD I PERUSE AND HAVE A LITTLE TIME TO SEE IF I COULD
17 FIND IT FOR YOU?

18 Q. NOW, I WAS GOING TO DIRECT YOUR ATTENTION TO THE
19 FOLLOWING PAGE WHERE THERE'S ANOTHER REFERENCE TO "BENJA" ON
20 PAGE 2670.

21 A. DID YOU HAVE A QUESTION FOR ME?

22 Q. NO. YOU NOTICE THAT ON THE FOLLOWING PAGE "BENJA" WAS
23 ALSO USED BY THE INFORMANT AGAIN?

24 A. I'D LIKE TO CLARIFY THAT. THE INFORMANT ALWAYS REFERRED
25 TO HIM AS "BERNA". WHERE THIS "BENJA" CAME FROM -- I CALLED

1 HIM "BENJA" BECAUSE I DIDN'T HEAR RIGHT, BUT....

2 Q. I'M ASKING YOU TO LOOK AT THE DOCUMENT, AND DOESN'T THE
3 WORD "BENJA" APPEAR?

4 A. ON WHAT PAGE, MA'AM?

5 Q. STARTING WITH PAGE 2663.

6 A. YES, IT DOES. I'VE SEEN IT SEVERAL TIMES.

7 Q. AND PAGE 2669. "BENJA" APPEARS TWICE THERE; ISN'T THAT
8 RIGHT? AND THAT'S THE INFORMANT SAYING "BENJA" ON BOTH PAGES,
9 CORRECT?

10 A. THAT'S THE WAY IT READS, YES.

11 Q. AND YOU REVIEWED THESE TRANSCRIPTS AND YOU SAID THEY WERE
12 ACCURATE; RIGHT?

13 A. YES, THEY ARE.

14 Q. AND THEN, AGAIN ON PAGE 2679, THE INFORMANT ONCE AGAIN,
15 ON TWO SEPARATE INSTANCES REFERS TO MY CLIENT AS "BENJA,"
16 CORRECT?

17 A. YES.

18 Q. AND ON PAGE 2681, THE INFORMANT AGAIN REFERS AS "BENJA"?

19 A. YES.

20 Q. CORRECT? NOW ON THIS DATE, AS WELL ON THIS PARTICULAR
21 OCCASION, YOU ARE THE PERSON WHO BRINGS UP THE HOUSE ON LOPE
22 DE VEGA; ISN'T THAT RIGHT?

23 A. THAT'S CORRECT.

24 Q. AND MY CLIENT TELLS YOU THAT HE WAS THERE ONE TIME; ISN'T
25 THAT RIGHT?

1 A. YES.

2 Q. AND YOU TELL HIM THAT YOU UNDERSTOOD THAT LOPE DE VEGA
3 WAS EMPTY, CORRECT?

4 A. YES.

5 Q. NOW, DIRECTING YOUR ATTENTION BACK TO -- I'M SORRY, NOW
6 ON THE 21ST -- DIRECTING YOUR ATTENTION TO THE 21ST -- STRIKE
7 THAT.

8 THROUGHOUT THIS -- THROUGHOUT THIS UNDERCOVER
9 OPERATION, ALL THE MALES INVOLVED IN THE UNDERCOVER OPERATION
10 USED PROFANITY; ISN'T THAT RIGHT?

11 A. YES.

12 Q. YOU USED PROFANITY?

13 A. YES, I DID.

14 Q. THE INFORMANT USED PROFANITY?

15 A. YES, HE DID.

16 Q. AGENT SALAZAR USED PROFANITY?

17 A. YES, HE DID.

18 Q. AND MY CLIENT USED FROM PROFANITY, RIGHT?

19 A. YES, HE DID.

20 Q. AND THERE WAS GENERALLY A LOT OF GENERAL DISCUSSION,
21 CORRECT, IN ADDITION TO TRYING TO INVESTIGATE THE PARTICULAR
22 CIRCUMSTANCES SURROUNDING THIS CASE, RIGHT?

23 A. YES.

24 Q. AND AT LEAST ON THE 25TH OF JULY YOU WERE AWARE OF ONE
25 TIME WHERE THE INFORMANT HAD INDICATED THAT HE AND MY CLIENT

1 HAD A VERY LONG CONVERSATION DURING A VERY LONG WALK THE NIGHT
2 BEFORE HE MADE THE ADMISSIONS TO YOUR STATEMENTS ON JULY 25TH;
3 ISN'T THAT RIGHT?

4 A. THAT'S NOT CORRECT.

5 Q. WELL, I'D LIKE TO DIRECT YOUR ATTENTION THEN TO THAT
6 TRANSCRIPT.

7 A. I AM FAMILIAR WITH THAT. I DON'T NEED TO BE DIRECTED AT
8 IT, I'M FAMILIAR WITH THAT PORTION OF IT. WHAT WAS SAID THERE
9 IS THAT THEY WENT FOR A WALK, HE DIDN'T SAY HOW LONG THEY
10 WALKED.

11 Q. BUT, ACTUALLY, THERE IS AN INDICATION THAT THEY'RE
12 POINTING OUT THEY WALKED ALL THIS DISTANCE; ISN'T THAT RIGHT?

13 A. THEY WALKED ALL THIS DISTANCE. THEY DIDN'T APPEAR TO
14 BE -- THAT THEY WERE POINTING OUT MILES, THEY WERE POINTING
15 OUT A SIDEWALK.

16 Q. ALL RIGHT. I DIRECT YOUR ATTENTION TO PAGE 7178, AND MY
17 CLIENT SAYS, "WE WALKED ALL THIS ON FOOT."

18 AND THE INFORMANT SAYS, "ALL THIS."

19 AND THE INFORMANT AGAIN SAYS, "ALL THIS."

20 AND MY CLIENT SAYS, "HERE."

21 AND THE INFORMANT SAYS, "ALL OF IT. THESE GUYS WENT
22 TO THE -- "

23 AND THEN MY CLIENT SAYS, "WE WALKED LIKE HELL, BUT
24 ONE NEEDS TO BECAUSE ON THE STREET ONE CAN TALK BETTER ALL THE
25 TIME."

1 THAT 'S WHAT THE INFORMANT SAYS, "ALL THE TIME."

2 AND THEN MY CLIENT SAYS, "YES, THAT'S RIGHT."

3 AND YOU SAY, "YES, THAT'S RIGHT."

4 AND MY CLIENT SAYS, "ON FOOT, AND THERE IS NO TAIL";
5 ISN'T THAT RIGHT?

6 A. THAT 'S WHAT THE TRANSCRIPT READS, BUT YOUR QUESTION WAS
7 TO ME THEY WALKED A LONG TIME, AND I COULDN'T ANSWER THAT.
8 THEY JUST POINTED TO THE SIDEWALK A BLOCK BEFORE WE GOT TO THE
9 EMBASSY SUITES. THEY SAID "WE WALKED ALL THIS."

10 Q. YOU DON'T HAVE ANY OTHER -- THERE 'S NO OTHER RECORD OF
11 ACTUALLY WHAT WAS SAID EXCEPT THIS PARTICULAR TRANSCRIPT;
12 ISN'T THAT RIGHT?

13 A. THERE 'S NO OTHER RECORD, NO.

14 Q. NOW, I WANT TO GO BACK TO THE JULY 20TH TRANSCRIPT YOU
15 HAVE IN YOUR POSSESSION AND REFERRING YOU TO THE PAGE WITH
16 RESPECT TO THE STATEMENT ABOUT LOPE DE VEGA, WHICH IS 2677 --
17 NOW, WAS THERE ANY DIFFICULTY WITH THE TAPE RECORDER AT THIS
18 POINT IN TIME THAT YOU'RE AWARE OF?

19 A. NO, MA 'AM.

20 Q. AND, AS FAR AS YOU KNOW, IT WASN'T STOPPED OR STARTED?

21 A. NO. IT WASN'T.

22 Q. NOW, IF YOU LOOK AT PAGE 2678 AFTER MY CLIENT SAYS, "YES,
23 IT WAS EMPTY. I WAS THERE ONLY ONCE. ONCE -- ONLY WHEN I
24 WENT THERE."

25 YOU SAY, "THAT'S BEAUTIFUL."

1 AND THEN THE INFORMANT SAYS, "DID YOU EVER SEE IT?
2 IT WAS A RED CONVERTIBLE."

3 THERE'S AN IMMEDIATE CHANGE IN THE CONVERSATION; IS
4 THAT RIGHT? IN THE SUBJECT OF THE CONVERSATION?

5 A. YES.

6 Q. NOW, WHEN WE'RE DEALING -- WE'RE DEALING NOW WITH THE
7 TRANSCRIPT ON JULY 21ST, AND DIRECTING YOUR ATTENTION TO PAGE
8 6859. ONCE AGAIN, THE INFORMANT IS REFERRING TO MY CLIENT AS
9 "BENJA," RIGHT?

10 A. YES.

11 Q. ON TWO SEPARATE OCCASIONS?

12 A. THAT'S CORRECT.

13 Q. AND IF YOU LOOK AT PAGE 6864, THE INFORMANT ONCE AGAIN
14 REFERS TO MY CLIENT AS "BENJA," CORRECT?

15 A. YES, HE DID.

16 Q. AND IF YOU LOOK AT PAGE 25, WHICH IS ALSO PAGE 6877, THE
17 INFORMANT AGAIN REFERS TO MY CLIENT AS "BENJA," CORRECT?

18 A. YES.

19 Q. SO, IN FACT, HE'S REFERRING TO MY CLIENT AS "BENJA"
20 THROUGHOUT; ISN'T THAT RIGHT?

21 A. ACCORDING TO THE TRANSCRIPT.

22 Q. NOW, IN FACT, ON THE 21ST YOU ARE THE PERSON WHO'S
23 REQUESTING THE NAME OF A TRUSTWORTHY LAWYER WHO CAN FIND
24 DOCUMENTS FOR YOU; ISN'T THAT RIGHT?

25 A. THAT'S CORRECT.

1 Q. NOW, YOU TOLD ME EARLIER YOU DON'T HAVE ANY PERSONAL
2 KNOWLEDGE OF THE FACT THAT THE MEXICAN GOVERNMENT TRIES THEIR
3 CASES WITH DOCUMENTS, SO HOW DID YOU COME TO KNOW ABOUT ASKING
4 HIM ABOUT THIS?

5 HOW DID YOU COME TO CHOOSE THIS AS A PLAN IN YOUR
6 INVESTIGATION?

7 A. BECAUSE I KNOW THAT THEY TAKE DECLARATIONS, AND I WORKED
8 IN MEXICO AND I'VE BEEN PRESENT WHEN DECLARATIONS OR
9 STATEMENTS THAT WE HAVE WERE TAKEN HERE, IN THE STATES. IT'S
10 A COMMON POLICE PRACTICE NOT ONLY IN MEXICO, BUT AS IT IS
11 HERE.

12 Q. YOU DON'T KNOW WHAT THEY USED THEM FOR IN MEXICO; IS THAT
13 WHAT YOU'RE SAYING?

14 A. I KNOW WHAT WE USED THEM FOR HERE. I CAN ONLY ASSUME
15 THEY USE IT FOR THE SAME THING OVER THERE.

16 BUT I DON'T KNOW IF THEY STAND ON THEIR OWN MERIT OF
17 STATEMENT WITHOUT HAVING THE PERSON THAT MADE THE STATEMENTS
18 PRESENT, LIKE WE DO HERE IN THIS COUNTRY. I'VE NEVER
19 TESTIFIED IN A MEXICAN COURT.

20 Q. THAT WAS MY QUESTION; DID YOU KNOW. AND YOU DON'T KNOW,
21 RIGHT?

22 A. I DON'T KNOW.

23 Q. NOW, DIRECTING YOUR ATTENTION TO PAGE --

24 MS. KELLY: COULD I HAVE ONE MOMENT, YOUR HONOR?

25 BY MS. KELLY:

1 Q. NOW, THERE ARE VARIOUS FACTS THAT YOU ATTEMPTED TO ELICIT
2 FROM MY CLIENT TO DETERMINE WHETHER -- FACTS THAT YOU KNEW
3 ABOUT THINGS THAT HAD HAPPENED DURING THE INVESTIGATION AND
4 DURING THE TORTURE AND INTERROGATION OF AGENT CAMARENA; ISN'T
5 THAT TRUE?

6 A. WELL, ONE FACT THAT I DO RECALL WAS THE TAPE RECORDINGS
7 THAT -- WE ASKED HIM IF HE -- WHAT KNOWLEDGE HE HAD OF SPECIAL
8 AGENT CAMARENA BEING TAPE RECORDED WHILE HE WAS BEING
9 TORTURED.

10 Q. YOU SAID THAT -- ACTUALLY, IN YOUR UNDERCOVER CAPACITY
11 YOU SAID YOU HAD LEARNED OF INFORMATION THAT THIS, IN FACT,
12 HAD HAPPENED. YOU ASKED HIM THAT ON MORE THAN ONE OCCASION,
13 RIGHT?

14 A. YES, SIR, WE DID. I MEAN, YES, MA'AM.

15 Q. AND, IN FACT, HE TOLD YOU THAT IT WASN'T TRUE, RIGHT?

16 A. HE TOLD ME THERE WAS NO TAPES MADE.

17 Q. DIDN'T HE TELL YOU IT WASN'T TRUE?

18 A. I WASN'T TRUE THAT TAPES WERE MADE.

19 Q. AND YOU ALSO ASKED HIM IF SOMEONE HAD SENT FOR A DOCTOR;
20 ISN'T THAT RIGHT?

21 A. YES, I DID.

22 Q. AND HE TOLD YOU THAT WASN'T TRUE?

23 A. I BELIEVE THAT'S WHAT HE ANSWERED, YES.

24 Q. AND HE DIDN'T KNOW ABOUT THAT, RIGHT?

25 A. HE HAD KNOWLEDGE OF A DOCTOR BEING SENT OR BEING

1 SUMMONED.

2 Q. AND THAT'S ANOTHER FACT THAT YOU DISCOVERED IN THE COURSE
3 OF YOUR INVESTIGATION, ISN'T THAT RIGHT, THAT SOME DOCTOR
4 APPARENTLY WAS PRESENT AT SOME POINT DURING THE INTERROGATION?

5 A. COULD YOU HIT ME WITH THAT QUESTION ONE MORE TIME,
6 PLEASE?

7 Q. I'M NOT HITTING WITH YOU WITH A QUESTION.

8 A. PLEASE ASK IT ONE MORE TIME. I DON'T -- YOU KNOW, I WAS
9 TRYING TO ANSWER THE LAST ONE AND THEN YOU ASKED ME THIS ONE.

10 Q. I'M SORRY. DURING THE COURSE OF YOUR INVESTIGATION A
11 FACT THAT YOU BELIEVED TO BE TRUE IS THAT A DOCTOR AT SOME
12 POINT ATTENDED TO AGENT CAMARENA DURING THE INTERROGATION; IS
13 THAT CORRECT?

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

15 BY MS. KELLY:

16 Q. IS THAT --

17 THE COURT: OVERRULED.

18 THE WITNESS: YES. WE HAD SOME INFORMATION THAT A
19 DOCTOR HAD BEEN PRESENT AT SOME TIME.

20 BY MS. KELLY:

21 Q. AND THIS IS A FACT THAT YOU ATTEMPTED TO CORROBORATE
22 THROUGH MY CLIENT, CORRECT?

23 A. YES, I DID.

24 Q. AND THE CLIENT TOLD YOU HE DIDN'T KNOW ANYTHING ABOUT
25 THAT, RIGHT?

1 A. HE SAID THAT HE DIDN'T KNOW ANYTHING ABOUT THAT.

2 Q. NOW, I'M GOING TO DIRECT YOUR ATTENTION TO PAGE 6866 AND
3 THE DISCUSSION ABOUT SERGIO VERDIN. YOU INDICATED THAT AT
4 SOME POINT MY CLIENT DID TELL YOU THAT HE KNEW SERGIO VERDIN.

5 A. WHAT DATE?

6 Q. OH, JULY 21ST.

7 A. JULY 21ST. WHAT WAS THE PAGE NUMBER?

8 Q. IT'S PAGE 14 OF 58, AND ON THE RIGHT BOTTOM CORNER THERE
9 IS A PAGE NUMBER -- PAGE REFERENCE OF 6866.

10 A. YES. WHAT PORTION OF IT?

11 Q. THIS IS THE REFERENCE TO ESPINO VERDIN, AND HE TELLS US
12 THAT HE DOESN'T KNOW ANYTHING ABOUT THE TRIAL OF ESPINO
13 VERDIN, CORRECT?

14 WELL, LET ME ASK, DO YOU RECALL THAT HE TOLD YOU HE
15 DIDN'T KNOW ANYTHING ABOUT THAT?

16 A. JUST A MINUTE. I THINK I FOUND THE RIGHT ONE. I WAS
17 LOOKING AT THE SPANISH ONE BECAUSE I HAVE THEM IN SPANISH AND
18 ENGLISH, BOTH, HERE.

19 Q. WELL, WHY DON'T YOU PUT THE SPANISH ONES ASIDE.

20 A. I DON'T HAVE ENOUGH ROOM HERE.

21 Q. AS PART OF THE COURSE OF YOUR INVESTIGATION, YOU ACTED AS
22 IF YOU WERE ATTEMPTING TO FIND OUT INFORMATION OR YOU WANTED
23 TO FIND OUT INFORMATION ABOUT HOW THE TRIAL OF ESPINO VERDIN
24 WAS GOING IN MEXICO, RIGHT?

25 A. YES, I DID.

1 Q. AND YOU WERE ATTEMPTING TO ELICIT SOME INFORMATION AS TO
2 WHETHER MY CLIENT KNEW HIM OR NOT, RIGHT?

3 A. YES, I DID.

4 Q. AND HE ASKED YOU OR YOU ASKED HIM ABOUT THE PROCESS OF
5 THIS TRIAL; ISN'T THAT RIGHT?

6 A. YES, I DID.

7 Q. AND HE INDICATED TO YOU HE DOESN'T KNOW ANYTHING ABOUT
8 THAT, RIGHT?

9 A. WELL, IT'S NOT CLEAR IN THIS TRANSCRIPT, THE WAY IT'S
10 WRITTEN.

11 Q. WELL, HE SAYS -- UNDER BERNABE RAMIREZ IT SAYS: "I DON'T
12 KNOW ANYTHING ABOUT THAT. I DON'T KNOW." RIGHT?

13 A. WELL, BUT BEFORE THAT THERE IS MENTION OF WHAT IS --
14 THERE'S TALK ABOUT A SHIP HERE.

15 HE SAYS, "WELL, WE WERE DISCUSSING PRIOR TO THAT,
16 DISCUSSING ABOUT THE SHIP, ABOUT THE ONES THAT WERE GRABBED OR
17 THAT GRABBED THE SHIP."

18 AND THEN -- AND THEN THE INFORMANT SAYS, "UH-HUH."

19 AND THEN HE SAYS, "I DON'T KNOW ANYTHING ABOUT THAT.
20 I DON'T KNOW."

21 AND I REALLY DON'T KNOW MYSELF WHAT SHIP WAS BEING
22 TALKED ABOUT HERE, EITHER.

23 Q. WELL, THEN, DIRECTING YOUR ATTENTION TO PAGE 6869, THE
24 SUBJECT COMES UP AGAIN. AND AT THIS POINT IN TIME MY CLIENT
25 TELLS YOU THAT "IT'S JUST THAT I PROBABLY DON'T KNOW HIM."

1 AND THE INFORMANT INDICATES THAT HE'S PROBABLY FROM
2 THE STATE DEPARTMENT.

3 AND YOU SAID, "YES, HE'S FROM THE STATE DEPARTMENT."

4 AND THE INFORMANT SAYS, "AH, WELL, THAT'S ESPINO."
5 AND MY CLIENT SAYS, "ESPINO."

6 AND THE INFORMANT SAYS, "THE ONE FROM THE I.P.S.."

7 AND MY CLIENT SAYS, "THEN THAT'S THE ONE."

8 AND THEN YOU SAY --

9 AND THE INFORMANT SAYS, "HE'S THE SAME ONE."

10 A. YES. WE ALL AGREED THAT IT'S ESPINO FROM THE I.P.S.
11 DEPARTMENT IN MEXICO.

12 Q. THERE'S NO STATEMENT HERE BY MY CLIENT THAT HE KNOWS
13 ESPINO; IS THAT CORRECT?

14 A. WHAT HE SAYS IS THAT -- HE ACKNOWLEDGES, "THAT'S THE
15 ONE", REFERRING TO THE ESPINO VERDIN FROM I.P.S..

16 Q. BUT THERE'S NO STATEMENT HERE THAT HE KNOWS HIM, CORRECT?

17 A. NOT IN THAT FASHION, NO.

18 Q. AND ONCE AGAIN, HE TELLS YOU ON THE FOLLOWING PAGE THAT
19 "IT'S A MATTER OF LOOKING INTO THE JUDICIALS AND FIGURING OUT
20 WHICH JUDICIAL SYSTEM HE'S IN"; ISN'T THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. NOW, DIRECTING YOUR ATTENTION TO PAGE 6909. MY CLIENT
23 TELLS YOU THAT IT WAS UNDERSTOOD THAT AGENT CAMARENA WAS
24 PRETTY BEAT UP ALREADY; ISN'T THAT TRUE?

25 THAT'S WHAT THE TRANSCRIPT SAYS, CORRECT?

1 A. I'M TRYING TO FIND IT NOW.

2 Q. IT'S RIGHT AT THE TOP AT PAGE 6909.

3 A. YES. HE SAYS HE WAS QUITE --

4 Q. NO, YOU SAY YOUR STATEMENT IS, "WAS HE PRETTY BEAT UP
5 ALREADY?"

6 AND MY CLIENT SAYS, "THAT'S WHAT WAS UNDERSTOOD,"
7 RIGHT?

8 A. THAT'S RIGHT.

9 Q. NOW, HE NEVER SAYS THAT HE UNDERSTOOD AT THE TIME HE WAS
10 PRESENT OUTSIDE OF LOPE DE VEGA THAT SOMEONE WAS BEING BEATEN
11 UP, DOES HE?

12 A. WHAT HE'S SAYING IS THAT HE UNDERSTOOD SOMEBODY WAS BEAT
13 UP.

14 Q. BUT HE'S NOT SAYING HE UNDERSTOOD AT THAT TIME WHEN HE
15 WAS STANDING OUTSIDE LOPE DE VEGA; THAT'S NOT WHAT THOSE WORDS
16 ARE, IS IT?

17 MR. CARLTON: OBJECTION, YOUR HONOR. THE WORDS
18 SPEAK FOR THEMSELVES. THEY'VE BEEN READ.

19 THE COURT: SUSTAINED.

20 BY MS. KELLY:

21 Q. WELL, DIRECTING YOUR ATTENTION THEN TO THE REFERENCE, I
22 BELIEVE -- YOUR TESTIMONY ABOUT THE -- MY CLIENT'S KNOWLEDGE
23 OF THE CITIZENSHIP OF AGENT CAMARENA IS REFLECTED ON PAGE 6900
24 OF THE SAME TRANSCRIPT.

25 AND THE SUBJECT IS BROUGHT UP BY THE INFORMANT AND

1 HE INDICATES THAT AT SOME POINT DURING THE MORNING MY CLIENT
2 TOLD HIM THAT -- MY CLIENT "BENJA" HAD TOLD HIM THAT AGENT
3 CAMARENA, HE UNDERSTOOD, WAS NOT A GRINGO; ISN'T THAT RIGHT?

4 A. AND THEN YOUR CLIENT ANSWERS HE UNDERSTOOD HE WASN'T.

5 Q. CORRECT. BUT THE SUBJECT IS BROUGHT UP BY THE INFORMANT,
6 RIGHT?

7 A. THAT'S RIGHT.

8 Q. NOW, DID YOU DEBRIEF -- YOU DID NOT DEBRIEF THE INFORMANT
9 ABOUT THIS CONVERSATION THAT HE HAD WITH MY CLIENT, RIGHT?

10 A. NO, I DID NOT.

11 Q. ALL RIGHT. AND THEN DIRECTING YOUR ATTENTION TO PAGE
12 6902 OF THE SAME TRANSCRIPT, THERE IS A DISCUSSION OF THIS.
13 MY CLIENT SAYS, "AND WHEN THAT ONE MATTER, WE GOT TO THE HOUSE
14 THAT YOU MENTIONED, THE HOUSE THAT YOU MENTIONED, AND THAT WAS
15 THE -- HOW YOU MENTIONED ON JULY 20TH OF LOPE DE VEGA," RIGHT?

16 A. UH-HUH.

17 Q. AND HE INTERJECTS THAT DON CAME OUT SUPER PISSED OFF.
18 AND YOU SAID THAT.

19 AND THEN MY CLIENT SAYS, "YES, SUPER PISSED OFF. WE
20 WERE OUTSIDE, I MEAN, WE WERE AWARE OF THAT."

21 AND YOU SAY, "YES. WE LEFT, THE MAN CAME OUT --
22 WELL, NOT A QUESTION OR ANYTHING. LET'S GO. WE GOT TO THE
23 HOUSE AND DON ERNESTO CAME OUT."

24 AND YOU SAID "MAD?" OH, I'M SORRY, THE INFORMANT
25 SAID, "MAD?"

1 AND MY CLIENT SAYS, "AND RAFA CAME OUT."

2 AND NOW, AND SAYS -- MY CLIENT CONTINUES, "NO,
3 COMPADRE, BUT KNOW WHAT? IT ISN'T WORTH SHIT," HE SAYS. "IT
4 ISN'T WORTH SHIT, BUT NOW WE HAVE TO BUTT HEADS WITH HIM.
5 YOU'VE GOT TO CUT HIM OFF."

6 AND YOU CONTINUE, "YES."

7 AND THEN FURTHER DOWN YOU ASK, "DID THEY ALREADY
8 HAVE THE GRINGO OVER THERE?"

9 AND MY CLIENTS SAYS TO YOU, "WE DIDN'T EVEN KNOW
10 SHIT. BUT LATER, AFTERWARDS --"

11 AND YOU SAY, "YES."

12 AND HE SAYS, "WELL, IT WAS CORRECT, RIGHT?"

13 AND THEN YOU SAY, "BUT THEY ALREADY HAD HIM THERE?"

14 AND YOU SAID, "YES."

15 AND MY CLIENT SAYS, "YES."

16 AND YOU AGAIN SAID, "YES, AND WHY DID HE GET PISSED
17 OFF?"

18 AND MY CLIENT SAYS, "WELL, I THINK THE BOSS KNEW IT
19 WAS GOING TO TURN TO SHIT, FOR WHAT IT WAS WORTH."

20 AND CONTINUING FURTHER DOWN MY CLIENT SAYS, "I
21 IMAGINE THAT'S WHY -- AND THE BOSS, I DON'T KNOW. I -- AT THE
22 TIME I KNEW HIM, I SAW HIM AS VERY CALCULATING AND SHARP."

23 AND YOU SAY, "VERY SHARP."

24 AND MY CLIENT SAYS, "SHARP." AND THEN MY CLIENT
25 INDICATES THAT HE SAW HIM COME OUT MAD, AND HE CAME OUT AND

1 SAID "SON OF A BITCH", AND WE LEFT." IS THAT RIGHT?

2 A. THAT'S ALL JUST AS YOU READ IT, MA'AM.

3 Q. AND THEN FURTHER ON, HE AGAIN TELLS YOU THAT, WHEN YOU
4 WERE ASKING FOR MORE INFORMATION ABOUT THE ARGUMENT BETWEEN
5 THE PARTIES --

6 THE COURT: COUNSEL, IS THIS TESTIMONY THAT WAS
7 SHOWN TO THE JURY ALREADY?

8 MS. KELLY: NO, YOUR HONOR. THIS TESTIMONY WAS NOT
9 SHOWN TO THE JURY.

10 THE COURT: THIS WAS NOT SHOWN. ALL OF THESE RELATE
11 TO TESTIMONY THAT WAS NOT SHOWN?

12 MS. KELLY: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT.

14 BY MS. KELLY:

15 Q. AND IN THE -- THERE'S A DISCUSSION ABOUT WHAT MY CLIENT'S
16 SAYING, AGAIN, ON PAGE 6905. AND HE TELLS YOU THAT HE WAS IN
17 THE PICKUP; ISN'T THAT RIGHT?

18 A. THAT'S WHAT I TESTIFIED TO, YES.

19 Q. AND LATER ON AT PAGE 6906, HE INDICATES TO YOU THAT HE
20 REMEMBERS THAT THE HOUSE HAD AN ILLUMINATED GATE, RIGHT?

21 A. YES.

22 Q. AND THEN ON PAGE 6908, YOU ARE PRETENDING YOU'LL TRY TO
23 FIND OUT WHY IT IS THAT THE -- OR WHO IT IS THAT WOULD BE
24 SENDING THE DOCTOR TO THE HOUSE.

25 AND MY CLIENT SAYS, "WHAT I HEARD, ALSO -- I MEAN,

1 WHAT -- I MORE OR LESS GOT THE GIST OF THE MATTER WHEN WE GOT
2 TO THE HOUSE -- THEY HAD ALREADY MESSED HIM UP QUITE A BIT."

3 AND THEN HE SAID -- THEN YOU ASKED HIM, "WAS HE
4 PRETTY BEAT UP? WAS HE PRETTY BEAT UP ALREADY?"

5 AND MY CLIENT INDICATES TO YOU THAT THAT WAS WHAT
6 WAS UNDERSTOOD, RIGHT?

7 A. THAT IS THE WAY THE CONVERSATION WENT, YES.

8 Q. AND HE AGAIN INDICATES TO YOU THAT -- THAT THE -- THAT
9 FONSECA THEN LEFT IN HIS CAR AND TOOK THREE PEOPLE WITH, HIM
10 AND HE DIDN'T HEAR ANYTHING MORE AND HE DIDN'T EVEN KNOW WHO
11 IT WAS ABOUT; RIGHT?

12 A. UNTIL LATER.

13 Q. AND ONCE AGAIN, ON PAGE 6910 WHEN YOU'RE ASKING FOR MORE
14 DETAILS, HE AGAIN TELLS YOU THAT FONSECA WENT INTO THE HOUSE
15 FOR JUST A MINUTE AND HE CAME OUT AND HE MADE SOME GESTURE AND
16 THAT HE'S PISSED OFF AND HE AGAIN TELLS YOU FURTHER DOWN THE
17 PAGE THAT HE WAS LEFT OUTSIDE; ISN'T THAT RIGHT?

18 A. THAT'S WHAT HE TOLD ME ON THAT OCCASION, THAT'S CORRECT.

19 Q. NOW, I WANT -- BEFORE THE BREAK WE WERE TALKING ABOUT WHO
20 BROUGHT UP THE SUBJECT OF THE PERSON WHO DUG UP THE BODIES
21 BEING STUPID.

22 I WANT TO DIRECT YOUR ATTENTION TO PAGE 6951 OF THAT
23 SAME TRANSCRIPT. ACTUALLY, 6950. IT'S THE SAME TRANSCRIPT
24 YOU WERE JUST IN. 6950.

25 A. YES.

1 Q. AND IF YOU LOOK DOWN AT THE BOTTOM OF THE PAGE, THE
2 INFORMANT IS SAYING SOMETHING ABOUT YOU AND MY CLIENT BEING
3 FROM THE SAME THOUGHT AND GETTING ANGRY WITH THOSE TYPES OF
4 PEOPLE.

5 AND YOU SAY, "YES, MA'AM. AND THEN THE IDEA,
6 REALLY, TO PUT THE GODDAMN BODIES OUT FRONT THERE, I THINK
7 THAT WAS THE WINNER."

8 AND THE INFORMANT SAYS, "I THINK THAT WAS THE WORST
9 POSSIBLE STUPIDITY, FRIEND.

10 AND MY CLIENT SAYS, "IT'S JUST THAT THERE WAS --
11 THERE WAS ALREADY PROOF."

12 AND THEN IF YOU TURN THE PAGE, PAGE 6951, THE
13 INFORMANT AGAIN SAYS, "AND WHO COULD THINK UP THOSE
14 STUPIDITIES, MAN? WHO COULD THINK UP THAT STUPIDITY?"

15 A. DID YOU HAVE A QUESTION FOR ME, COUNSELOR?

16 Q. YOU'RE THE ONE WHO BROUGHT THAT SUBJECT UP; YOU AND THE
17 INFORMANT ARE THE PEOPLE WHO BROUGHT UP THE SUBJECT THAT THE
18 PERSONS WHO DUG UP BODIES WERE BEING STUPID; CORRECT?

19 A. YES, THE INFORMANT AND I TALKED ABOUT IT.

20 Q. NOW, IN YOUR -- IN YOUR INVESTIGATION OR IN YOUR
21 EXPERIENCE IN AN INVESTIGATION, WRITING NUMBERS BACKWARDS IS A
22 REAL SOPHISTICATED TECHNIQUE -- SECRETIVE TECHNIQUE OF
23 NARCOTICS TRAFFICKERS; IS THAT RIGHT?

24 A. IS IT A SECRET TECHNIQUE.

25 Q. YES, A TECHNIQUE AGAINST -- A TECHNIQUE AGAINST

1 DETENTION?

2 A. I DON'T THINK IT'S A SOPHISTICATED TECHNIQUE. IT'S A
3 TECHNIQUE THAT TRAFFICKERS USE. I DON'T FIND THE
4 SOPHISTICATION IN THERE.

5 Q. IS IT A TECHNIQUE THAT PEOPLE WHO ARE CHEATING ON THEIR
6 SPOUSES MIGHT USE, AS WELL, TO PREVENT THEIR SPOUSE FROM
7 FINDING OUT A TELEPHONE NUMBER?

8 THE COURT: OBJECTION; SPECULATION, YOUR HONOR.
9 IRRELEVANT.

10 THE COURT: SUSTAINED.

11 BY MS. KELLY:

12 Q. NOW, ONE OF THE -- ONE OF THE FACTS THAT YOU FOUND
13 SUSPICIOUS WAS THE FACT THAT MY CLIENT CLAIMED TO HAVE
14 DECEIVED THE MEXICAN AUTHORITIES; RIGHT?

15 A. DID I FIND IT WHAT, MA'AM?

16 Q. SUSPICIOUS -- THAT MY CLIENT ADMITTED TO YOU -- OR NOT
17 SUSPICIOUS, BUT ONE OF THE THINGS THAT YOU FOUND IMPORTANT IN
18 YOUR INVESTIGATION WAS THAT MY CLIENT ADMITTED TO YOU THAT HE
19 HAD DECEIVED THE MEXICAN AUTHORITIES; IS THAT RIGHT?

20 A. THAT'S CORRECT.

21 Q. AND YOU WOULD ATTEMPT TO CORROBORATE THAT, WOULDN'T YOU?

22 A. I READ HIS DECLARATION THAT HE GAVE IN MEXICO.

23 Q. AND HE TOLD YOU, DIDN'T HE, THAT HE HAD NEVER GIVEN ANY
24 INFORMATION ABOUT -- ABOUT MR. FONSECA, ISN'T THAT RIGHT, THAT
25 WOULD HAVE HARMED HIM IN ANY WAY?

1 A. HE TOLD ME HE PROTECTED AGAINST.

2 Q. AND HE TOLD YOU THAT HE DIDN'T GIVE ANY RESIDENCES OR HE
3 DIDN'T GIVE ANY LOCATIONS OF ANY RESIDENCES, CORRECT?

4 A. YES.

5 Q. AND HE TOLD YOU THAT HE -- THAT HE ONLY SAID HE WAS A
6 MERE SERVANT, RIGHT?

7 A. THAT'S CORRECT.

8 Q. BUT, IN FACT, IN HIS DECLARATION, HE ADMITS, DOESN'T HE,
9 THAT HE WAS THE NIGHT WATCHMAN?

10 MR. CARLTON: OBJECTION, YOUR HONOR, HEARSAY.

11 MS. KELLY: YOUR HONOR --

12 MR. CARLTON: IT'S A DECLARATION GIVEN IN MEXICO BY
13 THE DEFENDANT.

14 THE COURT: THE OBJECTION IS SUSTAINED.

15 MS. KELLY: YOUR HONOR, I'D LIKE TO BE HEARD ON
16 THIS.

17 THE COURT: ALL RIGHT. SOME OTHER TIME. AT THE
18 RECESS.

19 BY MS. KELLY:

20 Q. NOW, YOU WERE ALSO TRYING TO OBTAIN FROM MY CLIENT
21 WHETHER HE WAS THE PERSON WHO DUG UP THE BODIES; ISN'T THAT
22 RIGHT?

23 A. YES.

24 Q. AND MY CLIENT TOLD YOU HE DIDN'T KNOW?

25 A. THAT'S CORRECT.

1 Q. NOW, THE FACT THAT MY CLIENT ADMITTED TO YOU ON THE FIRST
2 TIME -- FIRST TIME HE MET YOU THAT HE HAD DECEIVED THE MEXICAN
3 AUTHORITIES, YOU STILL THOUGHT THAT HE DIDN'T HAVE -- HE WAS
4 -- YOU VERY SUSPICIOUS OF HIM?

5 MR. CARLTON: OBJECTION. VAGUE AND AMBIGUOUS.

6 THE COURT: RESTATE YOUR QUESTION.

7 MS. KELLY: ALL RIGHT. YOU BELIEVE THAT ON THE 20TH
8 OF JULY WHEN YOU MET MY CLIENT, HE WAS SUSPICIOUS OF YOU,
9 RIGHT?

10 A. SUSPICIOUS OF ME?

11 A. YES. I FELT HE DIDN'T TRUST ME. AND I BELIEVE YOU COULD
12 SAY THAT I FELT THAT MAYBE HE WAS SUSPICIOUS I MIGHT BE AN
13 UNDERCOVER AGENT.

14 Q. YET HE TOLD YOU THAT HE DECEIVED THE MEXICAN GOVERNMENT
15 WITH RESPECT TO HIS STATUS AS A SERVANT, RIGHT?

16 A. YES, HE DID.

17 Q. AND IN YOUR PRACTICE AND YOUR EXPERIENCE AS A D.E.A.
18 AGENT, IS IT LIKELY THAT IF SOMEONE BELIEVED THAT YOU WERE AN
19 UNDERCOVER AGENT, WOULD THEY TELL YOU THAT THE ACQUITTAL THEY
20 HAD RECEIVED IN ANOTHER GOVERNMENT WAS ESSENTIALLY FRAUDULENT?

21 A. I DON'T KNOW WHAT WAS IN HIS MIND WHEN HE SAID THAT. I
22 CAN'T ANSWER THAT.

23 Q. NOW, IN FACT, CASTEL DEL ORO GAVE YOU A FAIRLY LENGTHY,
24 LONGER LIST OF THE REASONS -- FOR THE BUSINESS REASONS FOR
25 WHICH HE AND MY CLIENT CAME UP TO THIS CITY TO ACCOMPLISH;

1 ISN'T THAT RIGHT?

2 A. THEY TOLD ME THEY WERE HERE TO BUY SUPPLIES FOR HIS
3 SECURITY OUTFIT AGENCY IN GUADALAJARA.

4 Q. AND HE LISTED ALL HIS VARIOUS THINGS HE WAS GOING TO
5 PURCHASE, RIGHT?

6 A. YES, HE DID.

7 Q. AND HE ALSO TOLD YOU THAT HE WAS THINKING OF BRANCHING
8 THE BUSINESS OUT TO A VETERINARIAN SERVICE?

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

10 THE COURT: OVERRULED.

11 THE WITNESS: YES, HE DID.

12 BY MS. KELLY:

13 Q. AND, IN FACT, MY CLIENT TOLD YOU ON A NUMBER OF OCCASIONS
14 THAT HE WAS WORKING FOR MR. CASTEL DEL ORO IN THE SECURITY
15 BUSINESS, RIGHT?

16 A. YES, HE DID.

17 Q. HE TOLD YOU -- THAT INFORMANT TOLD YOU, ACTUALLY, THAT MY
18 CLIENT NEEDED FINANCIAL HELP, RIGHT?

19 A. HE DIDN'T ASK ME FOR MONEY, BUT HE TOLD ME THAT HE --
20 HE -- HIS FINANCES WERE LOW, YES.

21 Q. AND HE TOLD YOU THAT THE BUSINESS THAT HIS WIFE HAD WAS
22 NOT MAKING VERY MUCH MONEY, CORRECT?

23 A. CORRECT.

24 Q. AND WHEN MY CLIENT WAS TELLING YOU THAT -- HOW HE HAD
25 DEDICATED HIMSELF TO HARD WORK FOR HIS WAGES SINCE HIS RELEASE

1 FROM PRISON, DO YOU RECALL THE INFORMANT TELLING HIM THAT IT
2 WAS GOING TO BE GOOD FOR HIM?

3 A. YES, I DO.

4 Q. DO YOU RECALL THAT YOU THEN SAID, "AH-HAH, AH, "UH-HUH,"
5 GOOD"?

6 A. YES.

7 Q. NOW, AS THE SUPERVISING AGENT, YOU ARE THE PERSON WHO
8 MAKES THE FINAL DECISION AS TO WHAT COURSE AN INVESTIGATION IS
9 GOING TO TAKE; IS THAT RIGHT?

10 A. I DIRECT IT, I SUPERVISE IT, I MAKE SURE THAT EVERYBODY
11 IS, YOU KNOW, DOING THE RIGHT THING IN THE INVESTIGATION.

12 I DON'T STEER THE COURSE OF ANY INVESTIGATION; YOU
13 CAN'T DO THAT.

14 Q. WELL, CERTAIN OBJECTIVES ARE SET OUT AT THE BEGINNING;
15 ISN'T THAT RIGHT?

16 A. YES, THEY ARE.

17 Q. AND, IN FACT, THAT'S THE PURPOSE FOR A CASE INITIATION
18 REPORT, ISN'T IT?

19 A. A CASE INITIATION REPORT?

20 Q. HAVE YOU EVER WORKED -- I THOUGHT THAT IN D.E.A. THERE
21 WAS A PRACTICE OF ESTABLISHING A CASE INITIATION REPORT WHEN
22 AN INVESTIGATION IS OPENED?

23 A. YES. AND THERE IS ONE IN THIS CASE THAT WAS WRITTEN BACK
24 IN '85, WHEN THE INVESTIGATION WAS OPENED.

25 Q. AND WHEN THE SUSPECTS OR THE OBJECTIVES OF THE

1 INVESTIGATION CHANGED, THAT FACT IS DOCUMENTED, ISN'T IT?

2 A. YES, IT WAS DOCUMENTED IN -- AS IT WAS DOCUMENTED IN THIS
3 CASE.

4 Q. IN YOUR INITIAL REPORT?

5 A. WHAT WAS THAT QUESTION AGAIN?

6 Q. I'M SORRY. IN YOUR INITIAL REPORT ON JULY 21ST, 1989?

7 A. I DON'T REMEMBER WHAT DATE THE REPORT WAS WRITTEN, BUT I
8 GUESS IT WAS A REPORT WRITTEN ON THE UNDERCOVER MEETING OF
9 YOUR CLIENT.

10 Q. AND THE DOCUMENT -- YOU'RE REFERRING TO THE DOCUMENT --
11 THE CHANGE IN THE SUSPECTS AND THE TARGETS OF THE
12 INVESTIGATION. THAT WOULD BE THE VERY FIRST UNDERCOVER REPORT
13 THAT YOU WROTE IN THIS INVESTIGATION, CORRECT?

14 A. I DON'T UNDERSTAND ABOUT WHEN YOU'RE SAYING THERE WAS A
15 CHANGE.

16 Q. WELL, I THOUGHT -- EXCUSE ME. PERHAPS I GOT THIS WRONG.
17 I THOUGHT YOU JUST SAID THAT ONCE A CASE INITIATION REPORT IS
18 PREPARED AND THE OBJECTIVES OR THE TARGETS OF THE
19 INVESTIGATION CHANGE, THAT FACT IS DOCUMENTED?

20 A. WELL, WHEN WE WRITE UP THAT CASE INITIATION REPORT, IT IS
21 VERY DIFFICULT TO TARGET PEOPLE BY NAME AND KNOW AT THE END OF
22 YOUR INVESTIGATION HOW MANY PEOPLE ARE INVOLVED.

23 AS OUR INVESTIGATION PROGRESSES, OBVIOUSLY, MORE
24 NAMES WILL BE ADDED IF THERE IS PROOF THAT OTHER PEOPLE WERE
25 INVOLVED.

1 NOW, I HAVEN'T PERUSED THE CASE INITIATION REPORT
2 THAT WAS DRAFTED BACK IN 1985 WHEN THIS INVESTIGATION WAS
3 OPENED, AND I COULDN'T TELL YOU IF ANY CHANGES WERE MADE.

4 I DO KNOW THAT ADDITIONS OF SUSPECTS WERE MADE IN
5 THE INVESTIGATION, BUT YOU'RE TALKING ABOUT CHANGES HERE. I
6 DON'T KNOW WHAT CHANGES HAVE BEEN MADE.

7 Q. I'M ASKING YOU IF, IN FACT, THE TARGETS -- IF THE TARGETS
8 CHANGED, IF THAT IS REFLECTED IN YOUR REPORT, THAT THE
9 TARGET -- I'M ASSUMING YOU DIDN'T TARGET MR. BERNABE RAMIREZ
10 AS A SUSPECT IN 1985.

11 AT SOME POINT THE FOCUS OF THE INVESTIGATION
12 CHANGED, AND I'M WONDERING IF THERE IS A REPORT THAT YOU WROTE
13 THAT DOCUMENTS THAT.

14 A. I STATED BEFORE I HAVE A PROBLEM WITH YOUR QUESTION
15 BECAUSE THE INVESTIGATION NEVER CHANGED. THE INVESTIGATION'S
16 OBJECTIVES ARE TO INVESTIGATE AND ARREST ALL THOSE THAT WERE
17 INVOLVED IN ANY WAY WITH THE KIDNAP, TORTURE AND MURDER OF
18 SPECIAL AGENT CAMARENA. OF THAT PARTICULAR CHANGE -- THERE
19 HAS BEEN NO CHANGE, MA'AM.

20 Q. I UNDERSTAND THAT. I'M TALKING ABOUT THE TARGETS.

21 A. THERE HAS BEEN NO CHANGE.

22 Q. THERE IS NO CHANGE IN THE TARGETS?

23 A. NO, MA'AM.

24 Q. NOW, WHEN YOU TAKE -- DIRECTING YOUR ATTENTION BACK TO
25 THE AREA OF ACQUIRING NON-DRUG PROPERTY SUCH AS THE TAPES IN

1 THIS PARTICULAR CASE, THE CIRCUMSTANCES SURROUNDING THE
2 ACQUISITION OF THE NON-DRUG PROPERTY ARE SUPPOSED TO BE
3 DOCUMENTED IN AN INVESTIGATIVE REPORT LIKE THE D.E.A. 6; ISN'T
4 THAT TRUE?

5 A. NOT NECESSARILY.

6 Q. IS IT JUST UP TO THE AGENT'S DISCRETION?

7 A. AND THE SUPERVISOR'S DISCRETION.

8 Q. SO YOU CAN DETERMINE WHEN AND UNDER WHAT CIRCUMSTANCES A
9 D.E.A. 6 REPORT WILL BE WRITTEN CONCERNING THE ACQUISITION OF
10 NON-DRUG PROPERTY?

11 A. WELL, A D.E.A. 7-A WILL ALWAYS BE A REPORT THAT WILL BE
12 REQUIRED.

13 NOW, IF THE AGENT WRITING THE REPORT ALLUDES --
14 CHOOSES TO ALLUDE TO THE NON-DRUG EXHIBIT IN HIS D.E.A. 6,
15 IT'S CALLED STYLE.

16 OR IF I FEEL, AS A SUPERVISOR, THAT HE SHOULD HAVE
17 ALLUDED TO IT, THEN I WOULD RECOMMEND THAT HE DO SO IN HIS
18 REPORT AND HAVE THEM CHANGE THE REPORT.

19 THOSE ARE PRACTICES THAT THE D.E.A. HAS.

20 Q. AND IT'S NOT A MATTER OF WRITTEN NORMAL POLICY THAT THE
21 CIRCUMSTANCES SURROUNDING THE ACQUISITION SHOULD BE RECORDED?

22 A. I HAVE NEVER SEEN ANYTHING WRITTEN IN ANY D.E.A. MANUAL
23 THAT SAYS THAT YOU HAVE TO ALLUDE TO YOUR NON-DRUG EXHIBIT IN
24 THE BODY OF A D.E.A. 6.

25 Q. YOU WOULD AGREE THAT INVESTIGATIVE RECORDS SHOULD FULLY

1 DESCRIBE WHATEVER IS BEING REPORTED?

2 A. I WOULD AGREE THAT AN INVESTIGATIVE REPORT IS A SUMMARY
3 OF EVENTS. THEY ARE NOT TOTALLY ENCOMPASSING AND TOTALLY
4 INCLUSIVE OF EVERYTHING. THEY'RE JUST A REPORT SUMMARIZING AN
5 EVENT OR A CONVERSATION.

6 Q. WELL, YOU KNOW THEY'LL BE USED LATER ON IN COURT? THEY
7 MAY BE USED, RIGHT?

8 A. AND I ALSO REALIZE THAT IT'S VERY DIFFICULT FOR AGENTS TO
9 TAKE NOTES WHILE THEY'RE UNDERCOVER OF EVERY DETAIL, AND THEY
10 HAVE TO RESORT TO MEMORY, BECAUSE TO TAKE NOTES WHEN YOU'RE
11 WORKING UNDERCOVER WOULD DEFINITELY GIVE YOU UP.

12 Q. THAT WASN'T MY QUESTION. AND I UNDERSTAND THAT MAYBE YOU
13 WANT TO EXPLAIN YOUR ANSWERS, AND YOU'LL BE ABLE TO DO SO, BUT
14 I'D JUST APPRECIATE IF YOU WOULD LISTEN TO MY QUESTION AND
15 GIVE ME AN ANSWER.

16 I'M JUST MERELY ASKING YOU IF IN WRITING THE REPORTS
17 A COUPLE OF DAYS LATER, AFTER THE UNDERCOVER EVENT, IT'S
18 IMPORTANT TO FULLY DESCRIBE WHATEVER IT IS THAT YOU'RE
19 REPORTING?

20 A. IT IS IMPORTANT. AND AS I STATED BEFORE, THAT
21 INVESTIGATIVE REPORTS ARE NOT ALWAYS FULLY ENCOMPASSING OR
22 TOTALLY INCLUSIVE OF WHAT HAPPENED. THE UNDERCOVER AGENT,
23 WHEN HE GETS BACK TO THE OFFICE, WILL HAVE TO USE MEMORY IN
24 WRITING HIS REPORT.

25 Q. AND THE REPORTS ARE SUPPOSED TO BE WRITTEN WITHOUT

1 OPINION OR EXPOSITION, RIGHT?

2 A. THAT IS CORRECT. OPINIONS ARE NOT ENCOURAGED IN A D.E.A.
3 REPORT.

4 Q. YOU'RE SUPPOSED TO JUST DESCRIBE PLAINLY AND EXACTLY WHAT
5 HAPPENED?

6 A. WELL, IT ALL DEPENDS ON THE UNDERCOVER REPORT, TOO.

7 Q. I'M TALKING ABOUT A D.E.A. 6 REPORT.

8 A. WELL, THERE ARE INTELLIGENT D.E.A. 6'S, WHERE AGENTS
9 ARE -- MAY ON OCCASION EXPLAIN THINGS OR WHY THEY ASSUMED
10 DIFFERENT THINGS, BECAUSE OF INFORMATION THAT HAS BEEN
11 COLLECTED.

12 Q. THAT'S AN INTELLIGENCE, RIGHT? THERE ARE TWO DIFFERENT
13 KINDS OF THINGS WE'RE TALKING ABOUT. WE'RE TALKING ABOUT
14 INTELLIGENCE AND INVESTIGATION, RIGHT. AND THEY'RE TWO
15 DIFFERENT LAW ENFORCEMENT ACTIVITIES THAT THE D.E.A. ENGAGES
16 IN? INTELLIGENCE GATHERING AND INVESTIGATION, RIGHT?

17 A. AND THEY'RE BOTH -- THAT IS WHY I EXPLAINED -- THEY'RE
18 BOTH WRITTEN ON D.E.A. 6 FORMS.

19 Q. I'M NOT CONCERNED RIGHT NOW IN TALKING ABOUT
20 INTELLIGENCE, I'M CONCERNED WITH INVESTIGATION. I'M TALKING
21 ABOUT INVESTIGATIVE D.E.A. 6 REPORTS, OKAY?

22 AND WHEN YOU'RE WRITING THOSE, THEY SHOULD BE
23 PLAINLY AND EXACTLY WRITTEN; RIGHT?

24 A. WELL, THEY SHOULD BE WRITTEN AND THEY SHOULD REPORT A
25 SUMMARY OF EVENTS THAT TRANSPIRED OR AN INCIDENT THAT

1 OCCURRED.

2 Q. AND THAT SHOULD BE PLAINLY AND EXACTLY, CORRECT?

3 MR. CARLTON: OBJECTION, YOUR HONOR. ASKED AND
4 ANSWERED.

5 THE COURT: SUSTAINED.

6 BY MS. KELLY:

7 Q. NOW, AS A SUPERVISOR, YOU REVIEW ALL THE D.E.A. 6
8 INVESTIGATION REPORTS, CORRECT? RIGHT?

9 A. ONLY OF THE AGENTS ASSIGNED TO THE CAMARENA MURDER
10 INVESTIGATION.

11 Q. AND YOU, AS THE SUPERVISOR, YOU REVIEW THE REPORTS FOR
12 ACCURACY AND ADEQUACY OF CONTENTS, CORRECT?

13 A. WELL, IF, YOU KNOW -- ONLY IF I WAS THERE, I COULD MAKE
14 AN OPINION AS TO HOW ACCURATE THEY ARE, BASICALLY THE STYLE OF
15 THE REPORT.

16 AND IF I FEEL THAT AN ITEM SHOULD HAVE BEEN
17 EXPOUNDED ON, MAYBE I'LL ASK THE AGENT TO EXPOUND ON IT. I
18 ALSO CHECK IT FOR GRAMMAR AND MAKE SURE ALL THE BLANKS ARE
19 FILLED OUT ACCURATELY.

20 Q. AND YOU SIGN THOSE REPORTS AS A SUPERVISOR, RIGHT?

21 A. YES, MA'AM, I DO.

22 Q. TO YOUR KNOWLEDGE, THERE WAS NO D.E.A. AGENT OR D.E.A.
23 OPERATIVE PRESENT WITH MY CLIENT OUTSIDE THE TIME PERIODS THAT
24 YOU HAVE TESTIFIED TO TODAY?

25 A. THAT IS NOT CORRECT.

1 Q. CAN YOU TELL ME WHEN, IF EVER, ON ANY OTHER OCCASION THEY
2 WERE PRESENT AND WHO IT WAS?

3 A. I'M NOT SURE. I DO KNOW THAT SPECIAL AGENT SALAZAR
4 TRANSPORTED SOMEBODY TO DISNEYLAND. AND SEEING THAT I WASN'T
5 THERE, I'M NOT SURE WHETHER YOUR CLIENT WAS THERE OR NOT.

6 Q. THERE WAS -- FOR EXAMPLE, THERE WAS NO D.E.A. AGENT OR
7 ANY OTHER D.E.A. OPERATIVE WHO WAS PRESENT WITH MY CLIENT
8 WHILE HE -- TO YOUR KNOWLEDGE -- WHILE HE WAS WALKING WITH
9 CASTEL DEL ORO?

10 A. I'M NOT AWARE OF THAT.

11 Q. AND THERE WAS NOBODY ELSE PRESENT WHEN HE HAD THE MORNING
12 CONVERSATION WITH CASTEL DEL ORO CONCERNING THE CITIZENSHIP OF
13 AGENT CAMARENA, CORRECT?

14 A. I HAVE NO KNOWLEDGE OF THAT CONVERSATION THAT TOOK PLACE.
15 THE CONVERSATION NEVER TOOK PLACE -- EXCUSE ME.

16 Q. WAS THERE SOME INDICATION IN THE TRANSCRIPTS OF THAT
17 CONVERSATION TAKING PLACE?

18 A. I'M AWARE THAT -- THAT CONVERSATION WAS RELAYED TO ME BY
19 YOUR CLIENT, AS REFLECTED IN THE TRANSCRIPT, BUT MAYBE I
20 MISUNDERSTOOD YOUR QUESTION.

21 Q. IN THE TRANSCRIPT DOESN'T IT INDICATE THAT -- DOESN'T
22 CASTEL DEL ORO SAY TO YOU "THIS MORNING BENJA WAS TELLING
23 ME..." ET CETERA, ET CETERA, ET CETERA?

24 A. AND YOUR QUESTION WAS, WAS I PRESENT WHEN HE TOLD --

25 Q. NO, I'M SAYING -- I'M JUST SAYING TO YOUR KNOWLEDGE, WAS

1 ANY D.E.A. AGENT OR OPERATIVE PRESENT DURING THAT
2 CONVERSATION? OF COURSE, ASIDE FROM CASTEL DEL ORO?

3 A. I HAVE NO KNOWLEDGE OF THAT.

4 Q. NOW, DID YOU -- DID YOU DO ANY INVESTIGATION OF MR.
5 CASTEL DEL ORO BEFORE YOU UTILIZED HIM AS AN INFORMANT?

6 MR. CARLTON: OBJECTION, YOUR HONOR. IRRELEVANT;
7 BEYOND THE SCOPE.

8 THE COURT: SUSTAINED.

9 MR. CARLTON: WELL, YOUR HONOR, THEN I WOULD ASK
10 THAT I COULD RECALL THIS WITNESS IN MY CASE FOR THIS ISSUE.

11 THE COURT: YOU MAY ASK.

12 MS. KELLY: COULD I BE HEARD ON THE RELEVANCY OF IT?

13 THE COURT: YOU MAY.

14 MS. KELLY: AT THE CLOSE OF THE DAY?

15 THE COURT: YES.

16 BY MS. KELLY:

17 Q. NOW TO YOUR KNOWLEDGE, MR. CASTEL DEL ORO HAS -- IN OTHER
18 INVESTIGATIONS HE HAS TAPE RECORDED CONVERSATIONS THAT HE HAS
19 HAD WITH PEOPLE, HASN'T HE?

20 MR. CARLTON: OBJECTION; IRRELEVANT, BEYOND THE
21 SCOPE.

22 THE COURT: SUSTAINED.

23 MS. KELLY: YOUR HONOR, DOES THAT MEAN THAT ALL OF
24 THE QUESTIONS CONCERNING THE INFORMANT --

25 THE COURT: I HAVE TO HEAR THE QUESTIONS.

1 MS. KELLY: ALL RIGHT.

2 BY MS. KELLY:

3 Q. IS IT TRUE THAT IT'S A POLICY OF THE D.E.A. THAT
4 INFORMANTS ARE SUPPOSED TO BE DEBRIEFED ON A REGULAR BASIS?

5 A. IF THEY HAVE SOMETHING SIGNIFICANT TO REPORT. OTHER THAN
6 THAT, THEY ARE DEBRIEFED EVERY SO OFTEN.

7 Q. AND IF AN INFORMANT IS MAINTAINING ANY NOTES DURING AN
8 INVESTIGATION, THOSE NOTES ARE SUPPOSED TO BE TURNED OVER TO
9 YOU; ISN'T THAT RIGHT?

10 A. THEY ARE SUPPOSED TO BE?

11 I'VE NEVER HAD AN INFORMANT TURN OVER NOTES TO ME
12 THAT I CAN RECALL RIGHT NOW.

13 Q. AND BEFORE AN INFORMANT COMMENCES WORKING FOR THE D.E.A.,
14 THE D.E.A. IS SUPPOSED TO HAVE A CONVERSATION WITH THEM WHERE
15 THE RULES AND REGULATIONS WITH RESPECT TO THE COURSE AND
16 CONDUCT OF THE INVESTIGATIONS ARE SET FORTH FOR THE INFORMANT;
17 ISN'T THAT RIGHT?

18 MR. CARLTON: OBJECTION, YOUR HONOR. THIS IS BEYOND
19 THE SCOPE.

20 THE COURT: SUSTAINED.

21 BY MS. KELLY:

22 Q. OVER THE LUNCH BREAK WERE YOU ABLE TO REVIEW ANY RECORDS
23 THAT MIGHT REFRESH YOUR RECOLLECTION AS TO HOW MUCH THE
24 INFORMANT CASTEL DEL ORO WAS PAID IN THIS PARTICULAR
25 INVESTIGATION?

1 A. NO, I WAS NOT.

2 Q. WOULD YOU BE ABLE TO DO THAT AT SOME POINT?

3 A. I GUESS I COULD.

4 THE COURT: COUNSEL, THAT IS A GENERALIZED REQUEST.
5 TO REVIEW THE RECORDS TO REFRESH HIS RECOLLECTION REGARDING
6 WHAT?

7 MS. KELLY: REGARDING THE STATEMENTS THAT WERE
8 RECEIVED BY THE INFORMANT WITH RESPECT TO THIS INVESTIGATION
9 THAT WERE PAID BY D.E.A.

10 YOUR HONOR, I ASKED HIM EARLIER --

11 THE COURT: NO.

12 BY MS. KELLY:

13 Q. YOU ARE ALSO SUPPOSED TO RECORD THE MONETARY
14 CONSIDERATION THAT'S GIVEN TO INFORMANTS; ISN'T THAT RIGHT?

15 MR. CARLTON: OBJECTION; IRRELEVANT, YOUR HONOR.
16 BEYOND THE SCOPE.

17 THE COURT: SUSTAINED.

18 MS. KELLY: YOUR HONOR, COULD I BE HEARD WITH
19 RESPECT TO MY CLIENT'S DECLARATION?

20 THE COURT: YES.

21 MS. KELLY: DO YOU WANT ME TO DO THIS NOW?

22 THE COURT: WHEN WE ADJOURN.

23 MS. KELLY: YES, YOUR HONOR.

24 BY MS. KELLY:

25 Q. WAS THERE A TIME THAT MY CLIENT MENTIONED TO YOU THAT HE

1 HAD WORKED AT A BAR, PUBLIC BAR IN GUADALAJARA DE RIA, AND HE
2 HAD HEARD A LOT OF STORIES ABOUT THE CAMARENA INCIDENT?

3 A. NO, HE TOLD ME HE HAD WORKED AT A BAR AT THE GUADALAJARA
4 DE RIA OWNED BY LA CUMACHE (PHONETIC).

5 Q. I DON'T REMEMBER WHO IT WAS OWNED BY, TO TELL YOU THE
6 TRUTH.

7 A. THAT'S WHAT HE TOLD BE.

8 Q. YOU WERE DISCUSSING, WEREN'T YOU, A LOT OF -- "A LOT OF
9 DUMMIES WHO LIKED TO TALK A LOT ABOUT BEING INVOLVED, AND ALL
10 THEY WANTED TO DO IS IMPRESS PEOPLE."

11 YOU RECALL THAT CONVERSATION?

12 A. SOMEWHAT, YES.

13 Q. THAT WAS ON THE VERY FIRST DAY THAT YOU MET WITH MY
14 CLIENT ON JULY 20TH?

15 A. THAT'S CORRECT.

16 Q. AND YOU, IN FACT, TOLD MY CLIENT THAT THERE WERE A LOT
17 OF PEOPLE THAT HAVE TRIED TO IMPRESS YOU WITH THEIR
18 INVOLVEMENT; IS THAT RIGHT?

19 A. I BELIEVE I DID.

20 Q. AND RIGHT AFTER YOU SAID THAT, HE TOLD YOU THAT HE USED
21 TO WORK AT THE GUADALAJARA EL RIA (SIC) AND HE USED TO HEAR
22 SUCH STUPIDITY AND LIES HIMSELF, DIDN'T HE?

23 A. NOT IN REFERENCE TO CAMARENA. BUT A LOT OF PEOPLE LIKE
24 TO TALK AND BUILD THEMSELVES UP TO BE -- AS BEING PERSONS THAT
25 THEY WERE NOT.

1 Q. WELL, I'D LIKE TO DIRECT YOUR ATTENTION TO THE FIRST
2 TRANSCRIPT OF JULY 20TH.

3 Q. YOU JUST FINISHED DISCUSSING THE PERSON THAT MY CLIENT
4 REFERS TO AS COMING UP HERE AND TALKING AND GETTING ARRESTED,
5 RIGHT?

6 A. WHAT WAS YOUR QUESTION?

7 Q. ON PAGE 2683 YOU HAD A CONVERSATION ABOUT -- THAT YOU
8 TESTIFIED TO ON DIRECT EXAMINATION -- THAT MY CLIENT MENTIONED
9 SOMEONE WHO CAME HERE AND DISCUSSED SOMETHING IN A BAR AND WAS
10 ARRESTED -- ABOUT CAMARENA; IS THAT CORRECT?

11 A. THAT'S CORRECT.

12 Q. AND IF YOU LOOK AN PAGE 2683, FOLLOWING THAT CONVERSATION
13 ABOUT HIS ARREST OR HIS INVOLVEMENT WITH CAMARENA, YOU SAY,
14 "BECAUSE THERE ARE A LOT OF DUMMIES THAT LIKE TO TALK 'I WAS
15 INVOLVED,' AND I KNOW VERY WELL THAT THEY WEREN'T, THAT THEY
16 ONLY WANT TO IMPRESS."

17 AND THEN THE INFORMANT SAYS, "THEY TRIED TO IMPRESS
18 YOU, COMPADRE?"

19 AND YOU SAY, "YES, THAT I WAS THERE, THAT'S MY
20 COMPADRE."

21 AND MY CLIENT SAYS, "WE KNOW HOW THE WATER RUNS,
22 YES. WE KNOW HOW THE WATER RUNS. I USED TO WORK AT
23 GUADALAJARA DE RIA. YOU KNOW, THAT'S THE ONE WHERE EVERY ONE
24 GOES TO DRINK WINE AND PICK UP WOMEN."

25 AND YOU SAID, "YES."

1 AND HE SAYS, "I USED TO HEAR SUCH STUPIDITY THAT,
2 LIKE YOU SAY, MUCH LIES"; ISN'T THAT TRUE?

3 A. YES, THAT 'S WHAT I SAID, THAT THEY DO TALK ABOUT BUILDING
4 THEIR STATURE UP AND THAT THEY LIE.

5 Q. AND MY CLIENT -- YOU HAVE JUST FINISHED TALKING ABOUT THE
6 CAMARENA -- IF YOU DIRECT YOUR ATTENTION TO THE REFERENCE
7 ABOVE.

8 IT'S TRUE, ISN'T IT, THAT JUST PRIOR TO THE
9 STATEMENT ABOUT -- THAT YOU'RE MAKING ABOUT "A LOT OF DUMMIES
10 WANTING TO TALK THAT THEY WERE INVOLVED", YOU'RE DISCUSSING
11 THE FACT THAT SOMEONE CAME HERE TO LOS ANGELES AND WAS
12 ARRESTED FOR TALKING ABOUT THE CAMARENA INCIDENT; ISN'T THAT
13 SO?

14 A. IT'S INFERRED, BUT NO. AND WHEN YOU WENT BY THE LINE
15 YOURSELF, LIKE COUNSELOR TALKED ABOUT, THAT HE CAME UP HERE
16 AND TALKED ABOUT CAMARENA, THAT 'S NOT THE WAY IT SAID IT --
17 JUST THAT SOMEBODY CAME UP HERE AND TALKED. AND IT'S
18 UNDERSTOOD THAT THEY'RE TALKING ABOUT CAMARENA, BUT THE
19 TRANSCRIPT DOES NOT REFLECT THAT.

20 Q. IF YOU'LL TURN TO THE FOLLOWING PAGE, 2682, THERE'S A
21 REFERENCE TO THE FACT THAT -- THAT THERE WAS A PERSON WHO WAS
22 INVOLVED IN THE VALLARTA DEAL; ISN'T THAT RIGHT?

23 I REALIZE THAT THE EXACT WORDS ABOUT CAMARENA ARE
24 NOT THERE, BUT YOU UNDERSTOOD THE CONVERSATION -- IN REGARD
25 TO YOUR DIRECT TESTIMONY, YOU MENTIONED THAT MY CLIENT WAS

1 REFERRING TO THE ONE WHO HAD COME HERE AND WAS ARRESTED IN THE
2 CAMARENA CASE, TRUE?

3 MR. CARLTON: ASKED AND ANSWERED, YOUR HONOR.

4 THE COURT: SUSTAINED.

5 (BRIEF PAUSE.)

6 MS. KELLY: YOUR HONOR. COULD I HAVE A MOMENT?

7 THE COURT: YES.

8 (BRIEF PAUSE.)

9 BY MS. KELLY:

10 Q. NOW, WHEN YOU WERE WRITING YOUR INVESTIGATIVE REPORTS
11 CONCERNING THE EVENTS THAT TRANSPIRED ON THE 20TH, THE 21ST
12 AND THE 24TH AND THE 25TH, YOU NEVER INDICATED IN ANY OF THOSE
13 REPORTS THAT YOU WERE CONSUMING ALCOHOLIC BEVERAGES, DID YOU?

14 MR. CARLTON: OBJECTION, YOUR HONOR. THERE'S BEEN
15 NO TESTIMONY THAT AGENT BERRELLEZ WROTE ALL OF THOSE REPORTS.
16 IMPROPER QUESTION; OBJECT TO THE FORM.

17 MS. KELLY: I'LL RESTATE IT, YOUR HONOR.

18 THE COURT: RESTATE THE QUESTION.

19 BY MS. KELLY:

20 Q. YOU WROTE THE REPORT FOR THE EVENTS THAT TRANSPIRED ON
21 THE 25TH; ISN'T THAT RIGHT?

22 A. YES, I DID.

23 Q. AND ON THAT DATE -- AND IN THAT REPORT DID YOU EVER REFER
24 TO THE FACT THAT YOU HAD TAKEN MY CLIENT TO A BAR AND CONSUMED
25 ALCOHOLIC BEVERAGES?

1 A. I STATE IN MY REPORT WHERE I TOOK HIM OR WHERE WE MET
2 AND --

3 Q. MY QUESTION IS DID YOU EVER INDICATE THAT YOU HAD TAKEN
4 HIM TO A BAR AND THAT YOU AND HE HAD CONSUMED ALCOHOLIC
5 BEVERAGES?

6 A. NO, BECAUSE THE EL TORITO IS A RESTAURANT/BAR, AND IT'S
7 WRITTEN IN MY REPORT WHERE I TOOK HIM.

8 AND TO ANSWER YOUR QUESTION ABOUT THE ALCOHOLIC
9 BEVERAGES, NO, I DID NOT IN MY REPORT MENTION THAT WE HAD
10 ALCOHOLIC BEVERAGES.

11 Q. ON THE 24TH OF JULY WHEN YOU -- YOU WERE PRESENT, IS THAT
12 TRUE, AT THAT EVENT?

13 A. YES, MA'AM, I WAS.

14 Q. BUT THAT REPORT WAS WRITTEN BY AGENT SALAZAR, RIGHT?

15 A. YES, IT WAS.

16 Q. AND YOU REVIEWED IT AND YOU SIGNED IT AS HIS SUPERVISOR,
17 CORRECT?

18 A. YES, I DID.

19 Q. AND DID YOU EVER INDICATE THERE THAT DURING THE COURSE OF
20 THE UNDERCOVER OPERATION THAT YOU AND MY CLIENT DURING YOUR
21 CONVERSATIONS WERE CONSUMING ALCOHOLIC BEVERAGES?

22 A. NO, I DID NOT. I FIGURED THAT IF THEY PLAYED A VIDEO
23 THAT IT REFLECTED WE WERE DRINKING ALCOHOLIC BEVERAGES.

24 Q. ARE YOU -- LET ME ASK YOU ABOUT THE 21ST. DID YOU PUT
25 THE FACT THAT YOU HAD -- YOU AND MY CLIENT CONSUMED ALCOHOLIC

1 BEVERAGES IN THE REPORT? I BELIEVE IT WAS BY AGENT SALAZAR.

2 DID YOU TELL HIM THAT HE SHOULD CORRECT HIS REPORT
3 TO REFLECT THAT FACT?

4 A. NO, I DID NOT.

5 Q. NOW, AT SOME POINT THE ENGLISH TRANSLATIONS OF THE JULY
6 21ST CONVERSATION WERE CORRECTED; IS THAT RIGHT?

7 A. I'M NOT AWARE OF IT.

8 Q. YOU DID NOT DIRECT THAT THE ENGLISH TRANSLATIONS BE
9 CORRECTED?

10 A. I HAVE NO KNOWLEDGE OF THAT.

11 Q. AND YOU HAVE NO KNOWLEDGE OF WHO DIRECTED THAT THE
12 ENGLISH TRANSLATIONS BE CORRECTED?

13 A. I HAVE NO KNOWLEDGE OF THAT, MA'AM.

14 Q. AND THE TERM FOR HAVING A BEER IS CERVEZA; IS IT NOT?

15 A. YES, IT IS.

16 Q. NOW, AFTER YOUR --

17 THE COURT: JUST A MOMENT. CERVEZA IS BEER, ISN'T
18 IT?

19 THE WITNESS: YES, YOUR HONOR. BEER.

20 THE COURT: NOT "HAVING A BEER"?

21 MS. KELLY: NO, THAT'S WHAT I MEANT TO SAY, YOUR
22 HONOR. IT MEANS BEER.

23 THE WITNESS: CERVEZA MEANS BEER, YES.

24 BY MS. KELLY:

25 Q. WHEN YOU WROTE YOUR JULY 20TH REPORT, YOU CONCLUDED FROM

1 THE CONVERSATION THAT YOU HAD WITH MY CLIENT THAT HE
2 ACKNOWLEDGED KNOWING THAT AGENT CAMARENA HAD BEEN TORTURED AND
3 INTERROGATED AT LOPE DE VEGA; ISN'T THAT RIGHT?

4 A. HE STATED THAT'S WHAT HE ASSUMED -- TOLD ME -- THAT'S
5 WHERE THE INCIDENTS OCCURRED. AND I ALLUDED IN MY REPORT THAT
6 HE WAS REFERRING TO WHERE CAMARENA WAS HELD CAPTIVE, TORTURED
7 AND MURDERED.

8 Q. I'M ASKING YOU IN YOUR REPORT OF WHAT -- THE EVENTS THAT
9 TRANSPIRED ON THE 20TH, IF YOU INDICATED THAT MY CLIENT SAID,
10 "OH, THE HOUSE WHERE THE EVENTS SUPPOSEDLY OCCURRED"?

11 A. AS I STATED BEFORE, THE INVESTIGATIVE REPORTS --

12 Q. NO, BUT THIS -- IF YOU COULD EXPLAIN -- I JUST WANT AN
13 ANSWER TO THAT QUESTION, IF YOU CAN.

14 DID YOU PUT THAT IN YOUR REPORT?

15 A. I PUT THAT IN MY REPORT IN ALL FAIRNESS, TO SAY THAT
16 THAT'S WHERE THE HOUSE WHERE THE INCIDENT OCCURRED, ALLUDING
17 TO THE DEATH OF CAMARENA AND THE MURDER OF CAMARENA.

18 Q. YOU QUOTE -- YOU DID PUT THAT IN THE REPORT?

19 MR. CARLTON: OBJECTION, YOUR HONOR. ASKED AND
20 ANSWERED.

21 BY MS. KELLY:

22 Q. WELL, I'D LIKE YOU TO -- DO YOU HAVE A COPY OF YOUR
23 REPORT IN FRONT OF YOU?

24 A. YES, I DID PUT IT IN MY REPORT.

25 Q. DO YOU HAVE A COPY IN FRONT OF YOU?

1 A. NO, I DON'T.

2 MS. KELLY: YOUR HONOR, I'D JUST LIKE TO READ ON
3 THE -- READ FROM THE REPORT, AND THIS IS THE REPORT DATED JULY
4 21ST, 1989, PARAGRAPH FOUR.

5 "BERNABE RAMIREZ ADMITTED ON ONE
6 OCCASION HAVING BEEN AT 881 LOPE DE VEGA,
7 GUADALAJARA, JALISCO, MEXICO, THE RESIDENCE
8 OWNED BY DRUG OVERLORD RAFAEL CARO QUINTERO.

9 "BERNABE RAMIREZ ACKNOWLEDGED KNOWING
10 THAT THAT RESIDENCE HAD BEEN THE LOCATION
11 WHERE SPECIAL AGENT ENRIQUE CAMARENA HAD BEEN
12 HELD CAPTIVE, INTERROGATED AND TORTURED."

13 BY MS. KELLY:

14 Q. IS THAT THE PARAGRAPH YOU'RE REFERRING TO THAT INDICATES
15 THAT MY CLIENT SAID THAT'S THE RESIDENCE WHERE IT SUPPOSEDLY
16 OCCURRED?

17 MR. CARLTON: I'LL OBJECT TO THIS, YOUR HONOR. IT'S
18 HEARSAY AND IRRELEVANT.

19 THE COURT: OVERRULED. YOU MAY ANSWER.

20 THE WITNESS: YOUR HONOR, AS I TESTIFIED BEFORE,
21 THAT'S WHAT I TESTIFIED THAT I HAD WROTE IN MY REPORT. AND I
22 DON'T ARGUE WITH THAT FACT. THAT'S WHAT I SAID.

23 BY MS. KELLY:

24 Q. NOW, GOOD INVESTIGATION -- YOU DON'T JUST -- IN A GOOD
25 INVESTIGATION OR IN YOUR INVESTIGATIONS, IN YOUR EXPERIENCE,

1 YOU DON'T JUST RELY ON THE ADMISSIONS OR THE STATEMENTS THAT
2 PEOPLE MAKE TO YOU; ISN'T THAT TRUE?

3 A. NO, WE TRY TO CORROBORATE STATEMENTS AND ADMISSIONS AS
4 MUCH AS POSSIBLE.

5 MS. KELLY: YOUR HONOR, THE ONLY OTHER AREA THAT I'D
6 LIKE TO BE ALLOWED TO GO INTO IS THE AREA OF THE
7 DECLARATIONS --

8 THE COURT: I CAN'T HEAR YOU, COUNSEL.

9 MS. KELLY: -- THE INFORMANT AREA AND THE AREA OF
10 THE DECLARATIONS IN WHICH YOUR HONOR INDICATED I SHOULD TAKE
11 UP WITH YOU AT THE BREAK.

12 THE COURT: ALL RIGHT.

13 IS THERE ANY REDIRECT? DO ANY OTHER COUNSEL WANT TO
14 ASK --

15 MR. STOLAR: I JUST WANT TO CHECK SOMETHING.

16 (DISCUSSION HELD OFF THE RECORD AMONG DEFENSE
17 COUNSEL.)

18 MS. KELLY: YOUR HONOR, ONE OTHER QUESTION.

19 THE COURT: NO.

20 MS. KELLY: OH.

21 MR. STOLAR: I'LL DO IT.

22

23 CROSS-EXAMINATION +

24 BY MR. STOLAR:

25 Q. GOOD AFTERNOON.

1 A. GOOD AFTERNOON.

2 Q. YOU INDICATED, DID YOU NOT, THAT YOU AND MS. KELLY'S
3 CLIENT DISCUSSED DECLARATIONS OF THOSE WHO WERE ARRESTED FOR
4 THE MURDER IN MEXICO; IS THAT CORRECT?

5 A. THAT WE DISCUSSED THAT, SIR?

6 Q. YES. YOU DID DISCUSS THAT, DIDN'T YOU?

7 A. WITH WHO?

8 Q. WITH MS. KELLY'S CLIENT, THE DECLARATIONS OF THOSE PEOPLE
9 WHO HAD BEEN ARRESTED FOR THE MURDER IN MEXICO?

10 A. YES. WE DISCUSSED THE FACT THAT HE SHOULD GET THEM.

11 Q. DO YOU KNOW HOW MANY PEOPLE HAD BEEN ARRESTED FOR THE
12 MURDER IN MEXICO?

13 MR. CARLTON: OBJECTION; IRRELEVANT. LACK OF
14 FOUNDATION.

15 THE COURT: SUSTAINED.

16 BY MR. STOLAR:

17 Q. HOW MANY DECLARATIONS WERE YOU TALKING ABOUT GETTING; DO
18 YOU KNOW?

19 A. YES. THOSE -- AS REFLECTED IN THE TRANSCRIPT, THOSE THAT
20 DEALT WITH THE ARREST OF ESPINO VERDIN.

21 Q. NOT -- ONLY ESPINO VERDIN, NOT ANYBODY ELSE? DON'T THE
22 TRANSCRIPTS -- YOU TALKING ABOUT GETTING -- OR BERNABE TALKS
23 ABOUT GETTING THE TRANSCRIPTS, THE DECLARATIONS OF THE PEOPLE
24 ARRESTED IN MEXICO FOR THE MURDER?

25 A. THAT'S TRUE, SIR.

1 Q. DO YOU KNOW HOW MANY DECLARATIONS HE WAS GOING TO GET FOR
2 YOU?

3 A. I HAVE NO IDEA, SIR.

4 Q. YOU INDICATED THAT IT WAS SOMEWHAT DIFFICULT FOR AN AGENT
5 WHO WAS WORKING UNDERCOVER TO TAKE NOTES; ISN'T THAT RIGHT?

6 A. I HAVE NEVER SEEN ONE DO THAT, SIR.

7 Q. BUT IT'S NOT VERY DIFFICULT TO TAKE NOTES WHEN YOU'RE NOT
8 WORKING UNDERCOVER, IS IT?

9 A. DEPENDING ON WHERE YOU'RE AT. IF YOU'RE IN A CAR, IT'S
10 DIFFICULT. IF YOU'RE IN A PLACE WHERE YOU CAN'T GET TO A PEN,
11 IT'S KIND OF DIFFICULT TO DO ALSO, SIR.

12 Q. BUT IF YOU'RE GOING OUT TO DO AN INTERVIEW AS AN AGENT,
13 YOU TAKE A PEN AND A PAD WITH YOU, DON'T YOU?

14 A. A LOT OF TIMES WE CHOOSE NOT TO DO THAT, SIR.

15 Q. SO YOU DON'T CREATE NOTES?

16 A. NO, NOT FOR THAT REASON.

17 Q. YOU INDICATED, I BELIEVE, THAT MR. CASTEL DEL ORO IS THE
18 ONE WHO CONTACTED YOU IN CONNECTION WITH MR. BERNABE RAMIREZ;
19 IS THAT RIGHT?

20 A. THAT'S THE WAY I RECALL IT, YES, SIR.

21 Q. WAS IT ANTONIO GARATE BUSTAMANTE WHO GOT CASTEL DEL ORO
22 TO CALL YOU?

23 MR. CARLTON: OBJECTION. LACK OF FOUNDATION, CALLS
24 FOR HEARSAY.

25 THE COURT: OVERRULED. YOU MAY ANSWER.

1 THE WITNESS: WHAT WAS THE QUESTION AGAIN, SIR?

2 BY MR. STOLAR:

3 Q. WAS IT ANTONIO GARATE BUSTAMANTE WHO GOT CASTEL DEL ORO
4 ON TO YOU?

5 A. BEFORE THE BERNABE ISSUE CAME UP, YES, SEVERAL MONTHS --
6 WELL, LIKE I SAID, YES AND NO. IT WAS A D.E.A. AGENT IN
7 GUADALAJARA FOR WHICH MR. CASTEL DEL ORO WAS WORKING, AND I
8 GUESS MR. GARATE ALSO INFORMED ME OF HIM.

9 Q. HE WAS WORKING FOR YOU AT THE TIME, RIGHT?

10 A. WHO; MR. GARATE?

11 Q. YES.

12 A. YES, SIR, HE WAS.

13 Q. GIVING YOU INFORMATION, PROVIDING YOU WITNESSES AND
14 THINGS OF THAT NATURE; ISN'T THAT RIGHT?

15 MR. CARLTON: OBJECTION, YOUR HONOR. IRRELEVANT,
16 BEYOND THE SCOPE.

17 THE COURT: SUSTAINED.

18 MR. STOLAR: I'LL TALK TO YOU LATER.

19 THE WITNESS: YES, SIR.

20 THE COURT: ANY OTHER QUESTIONS? DO YOU HAVE ANY
21 REDIRECT?

22 MR. CARLTON: VERY BRIEF, YOUR HONOR.

23

24

REDIRECT EXAMINATION +

25 BY MR. CARLTON:

1 Q. AGENT BERRELLEZ, I DIRECT YOUR ATTENTION, PLEASE, TO THE
2 JULY 24TH TRANSCRIPT, PAGE 3296.

3 A. YES, SIR.

4 Q. NOW, IS IT CORRECT THAT DURING THE MEETING THAT YOU HAD
5 WITH DEFENDANT BERNABE ON THAT DAY HE SAID THE FOLLOWING:

6 "BUT I DON'T -- I DON'T LIKE TO KNOW
7 NAMES (UNINTELLIGIBLE) (LOW VOICE) ADDRESSES,
8 TELEPHONES. I DON'T LIKE -- THAT'S THE WAY
9 IT SHOULD BE. THEY CAN CUT MY BALL OFF AND I
10 WOULDN'T BE ABLE TO SAY SHIT, BECAUSE I
11 DON'T.

12 "I TELL YOU, I WRITE THEM BACKWARDS IF I
13 HAVE AN AGENDA, WHICH IS MY AGENDA AND WIFE
14 SOMETIMES ASKS ME, SHE SAYS, 'HEY, THIS
15 TELEPHONE NUMBER IS STRANGE.'

16 'YES, THAT'S BECAUSE THEY'RE NEW
17 LINES.'

18 IS THAT CORRECT. DID HE SAY THAT?

19 A. THAT'S CORRECT, SIR.

20 MR. CARLTON: NOTHING FURTHER.

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

22 THE WITNESS: THANK YOU, YOUR HONOR.

23 THE COURT: THANK YOU.

24 WE'LL, ADJOURN AT THIS TIME AND RECONVENE TOMORROW
25 MORNING AT 9:30.

1 I WANT -- JUST A MOMENT, PLEASE.

2 I WANT THE JURY TO KEEP IN MIND THAT IT'S YOUR DUTY
3 NOT TO DISCUSS THIS CASE WITH EACH OTHER OR WITH ANYONE ELSE
4 AND NOT TO EXPOSE YOURSELF TO PUBLICITY ABOUT THIS CASE.

5 YOU'RE NOT TO READ ANYTHING OR HEAR ANYTHING OR
6 WATCH ANYTHING RELATING TO THIS CASE. IF YOU DO, YOU MAY BE
7 BOUNCED OFF THE JURY IF THE COURT LEARNS OF IT.

8 THAT IS ABSOLUTELY FORBIDDEN AND SHOULD NOT BE DONE
9 BY ANY MEMBER OF THE JURY.

10 FURTHERMORE, I WANT TO PUT IN PERSPECTIVE ANY
11 COLLOQUY THAT OCCURS BETWEEN THE COURT AND COUNSEL. YOU
12 SHOULD ATTACH NO IMPORTANCE TO ANYTHING THAT I SAY TO THE
13 ATTORNEYS. THAT IS NOT EVIDENCE IN THE CASE AND IT SHOULD NOT
14 BE CONSIDERED AS EVIDENCE NOR SHOULD IT BE TAKEN AS AN
15 INDICATION THAT I HAVE AN ATTITUDE ONE WAY OR THE OTHER ABOUT
16 WHAT YOUR VERDICT SHOULD BE. THAT IS ENTIRELY UP TO YOU.

17 IT'S THE COURT'S RESPONSIBILITY TO CONTROL THE
18 PROCEEDINGS, AND ANY STATEMENTS THAT ARE MADE TO COUNSEL
19 SHOULD NOT BE HELD AGAINST COUNSEL OR AGAINST COUNSEL'S
20 CLIENT. THEY'RE TOTALLY IRRELEVANT TO YOUR CONSIDERATION OF
21 THE CASE. THESE ARE IMPORTANT THINGS TO REMEMBER.

22 YOU MAY BE EXCUSED NOW AND WE'LL SEE YOU TOMORROW
23 MORNING.

24 THE CLERK: PLEASE RISE.

25 (JURY EXCUSED.)

1 THE CLERK: YOU MAY BE SEATED.

2 THE COURT: NOW, MS. KELLY, YOU --

3 MS. KELLY: YES, YOUR HONOR. I WOULD LIKE TO BE
4 ABLE TO INQUIRE OF THIS WITNESS, SINCE HE TESTIFIED ON DIRECT
5 EXAMINATION THAT IN THE COURSE OF HIS INVESTIGATION HE
6 REVIEWED MY CLIENT'S DECLARATION BEFORE THE INVESTIGATION
7 STARTED.

8 SO, YOUR HONOR, I WOULD LIKE TO QUESTION HIM ABOUT
9 THAT BECAUSE IF THAT, IN FACT, IS TRUE, THEN HE HAD TO KNOW
10 THAT THAT DECLARATION IS COMPLETELY AT ODDS WITH WHATEVER MY
11 CLIENT WAS TELLING HIM ABOUT REPRESENTING THAT HE WAS A MERE
12 SERVANT. THAT IS NOT THE CASE.

13 THE COURT: WHAT IF IT WAS AT ODDS?

14 MS. KELLY: WELL --

15 THE COURT: WHAT IS THE RELEVANCE OF THAT?

16 MS. KELLY: THE RELEVANCE IS THAT IT SHOWS THAT HE
17 IS DOING THE SAME THING THAT THEY'RE DOING. EVERYBODY'S
18 POSTURING, EVERYBODY'S ACTING, EVERYONE IS TRYING TO IMPRESS
19 EACH OTHER WITH THEIR SELF IMPORTANCE, AND WHAT I TRIED TO SAY
20 BEFORE WITH THIS MALE MACHO BRAVADO. AND I THINK IT IS
21 RELEVANT.

22 THE COURT: ARE YOU SAYING THAT THIS DECLARATION
23 MADE BY YOUR CLIENT TO THE MEXICAN POLICE SHOULD BE RECEIVED
24 IN EVIDENCE BECAUSE THIS WITNESS HAS STATED THAT HE REVIEWED
25 IT BEFORE HE -- AT SOME POINT IN TIME?

1 MS. KELLY: AND THAT -- NO, NOT ONLY THAT, YOUR
2 HONOR.

3 THE COURT: IS THIS A WAY OF GETTING IN THE CONTENTS
4 OF THAT DECLARATION AS THE TRUTH?

5 MS. KELLY: NO, YOUR HONOR. I AM MERELY TRYING TO
6 ELICIT CERTAIN ASPECTS FROM THAT TO SHOW THAT IF, IN FACT,
7 THIS WITNESS HAD REVIEWED THE DECLARATION, HE WOULD HAVE SEEN
8 THAT, IN FACT, MY CLIENT ACKNOWLEDGED AND DID TELL ABOUT
9 CERTAIN RESIDENCES--AND STATED THAT HE DID PERFORM SECURITY
10 SERVICES FOR ERNESTO FONSECA.

11 AND THE FACT THAT HE DIDN'T (SIC) TRY TO PALM
12 HIMSELF OFF AS A SIMPLE SERVANT. AND, YOUR HONOR, I THINK THE
13 GOVERNMENT HAS MADE A TREMENDOUS DEAL OUT OF THIS FACT AND
14 THEY HAVE ALSO BEAMED IT UP ON THE WALL --

15 THE COURT: OUT OF WHAT FACT?

16 MS. KELLY: THE FACT THAT MY CLIENT IS -- HAS
17 DECEIVED THE MEXICAN GOVERNMENT AND THAT'S WHY HE GOT OUT,
18 BECAUSE HE REPRESENTED HE WAS A MERE SERVANT.

19 AND I THINK IN ALL FAIRNESS, YOUR HONOR, IT GIVES
20 THE JURY THE IMPRESSION THAT MY CLIENT LIED UNDER OATH TO GET
21 OUT OF JAIL. AND I THINK THAT IN FAIRNESS, IF THIS WITNESS
22 REVIEWED IT AND HE WAS BASING HIS INVESTIGATION, IN PART --
23 CONTINUING THE INVESTIGATION, IN PART, ON THE FACT THAT MY
24 CLIENT LIED TO THE MEXICAN GOVERNMENT, IF HE HAD REVIEWED THE
25 DECLARATION HE WOULD HAVE SEEN THAT, IN FACT, MY CLIENT DID

1 SAY THINGS, OTHER THAN HE WAS A SIMPLE SERVANT.

2 THE COURT: WELL, I HAVEN'T HEARD ANY TENABLE THEORY
3 OF ADMISSIBILITY FOR THIS EVIDENCE FROM WHAT YOU HAVE SAID
4 AND, THEREFORE --

5 MS. KELLY: WELL, YOUR HONOR, CAN I -- BEFORE YOU
6 RULE ON IT, COULD I HAVE THE OPPORTUNITY TO PRESENT SOMETHING
7 TO YOU IN WRITING?

8 THE COURT: YES, YOU CAN.

9 MS. KELLY: ALL RIGHT. THANK YOU.

10 THE COURT: WAS THERE SOMETHING ELSE?

11 MS. KELLY: YES, I ALSO WANTED TO EXAMINE THE
12 WITNESS WITH RESPECT TO THE INVESTIGATION OF -- NOT THE
13 INVESTIGATION -- I'M SORRY, YOUR HONOR -- WITH RESPECT TO THE
14 INFORMANT STATUS, THE INFORMANT AND HOW THE INFORMANT BECAME
15 INVOLVED IN THIS INVESTIGATION, HOW MUCH HE WAS PAID, BECAUSE
16 HE --

17 THE COURT: OF COURSE, YOU'VE ASKED A LOT OF THAT
18 ALREADY.

19 MS. KELLY: YES, YOUR HONOR. AND HE'S CLAIMING THAT
20 HE DOESN'T RECALL.

21 THE COURT: WHY IS THAT RELEVANT? WHAT IS THE
22 PURPOSE? WHY DO YOU WANT THAT?

23 MS. KELLY: WELL, YOUR HONOR, BECAUSE THERE ARE
24 CONVERSATIONS THAT THE INFORMANT HAD WITH MY CLIENT THAT ARE
25 VERY RELEVANT AND I WOULD LIKE --

1 THE COURT: YOU HAVE THE OPPORTUNITY TO CALL THE
2 INFORMANT, COUNSEL.

3 MS. KELLY: YES, YOUR HONOR. BUT, YOU KNOW, I WOULD
4 LIKE TO BE ABLE TO HAVE SOME DOCUMENTARY EVIDENCE OR I WOULD
5 LIKE TO HAVE SOME INDICATION FROM THE D.E.A. WHAT THEY SAY,
6 BECAUSE, YOUR HONOR, THE FUTURE RESEMBLES THE PAST.

7 WE KNOW THAT WHEN THESE WITNESSES GET UP, THEY CLAIM
8 THEY CAN'T REMEMBER WHAT THEY WERE PAID. THEY WERE PAID
9 \$2,000; THEN IT TURNS OUT THEY WERE PAID \$10,000 A MONTH.

10 THE COURT: IT'S TRUE WHEN AN INFORMANT TESTIFIES
11 YOU SHOULD HAVE THAT INFORMATION, BUT THE INFORMANT HAS NOT
12 TESTIFIED.

13 MS. KELLY: WELL, YOUR HONOR, WE HAVE SUBPOENAED
14 HIM.

15 THE COURT: WELL, THEN WHEN HE TESTIFIES, THEN
16 YOU'LL BE ABLE TO ASK HIM ABOUT THAT AND I WILL REQUIRE THE
17 GOVERNMENT TO PROVIDE YOU WITH THAT INFORMATION.

18 MS. KELLY: VERY WELL, YOUR HONOR. THEN I WOULD
19 ALSO LIKE TO ASK HIM ABOUT -- I WOULD LIKE TO ALSO ASK THE
20 AGENT ABOUT CERTAIN POLICIES WITH RESPECT TO INVESTIGATIONS
21 THAT ARE CONDUCTED BY INFORMANTS.

22 THE COURT: THIS IS WHAT YOU'VE SPENT A GOOD DEAL OF
23 TIME ON ALREADY. APPARENTLY YOU'VE ACQUIRED ONE OF THEIR
24 HANDBOOKS OR SOMETHING --

25 MS. KELLY: NO, I HAVEN'T, YOUR HONOR.

1 THE COURT: -- BECAUSE I NOTICE YOUR --

2 MS. KELLY: I WISH I HAD.

3 THE COURT: -- GREAT PREOCCUPATION WITH D.E.A.

4 REPORTS, REGULATIONS AND PROCEDURES. AND WE'RE NOT -- THIS
5 WITNESS IS NOT ON TRIAL FOR HAVING NOT COMPLIED WITH REPORTS.

6 IT'S TRUE THAT YOU CAN INQUIRE IF THERE IS AN
7 INCONSISTENCY -- FOR EXAMPLE, HE HAS NOT REPORTED OR HE'S MADE
8 PRIOR INCONSISTENT REPORTS THAT ARE INCONSISTENT WITH HIS
9 TESTIMONY.

10 BUT YOUR INQUIRY SEEMS TO BE A GENERALIZED INQUIRY
11 INTO HOW THE D.E.A. OPERATES AND WHAT THE REGULATIONS MANDATE
12 AND WHAT THE PROCEDURES ARE AND WHAT SHOULD BE DONE AND WHAT
13 SHOULD BE DONE WITH EVIDENCE, WHETHER IT SHOULD BE GIVEN TO
14 THE CUSTODIAN NOW OR RIGHT AWAY.

15 MS. KELLY: THAT'S VERY CRUCIAL, YOUR HONOR.

16 THE COURT: WHAT?

17 MS. KELLY: THAT'S VERY IMPORTANT IN THIS CASE.

18 THE COURT: WELL, I UNDERSTAND THAT MIGHT BE OF SOME
19 IMPORTANCE WITH RESPECT TO THE TAPES IN THE CASE.

20 MS. KELLY: WELL, YES, YOUR HONOR. I WOULD SAY IT
21 IS IMPORTANT, AND SO I FELT THAT IT WAS IMPORTANT TO ESTABLISH
22 THAT.

23 NOW I'D LIKE TO HAVE THE OPPORTUNITY TO GO OVER
24 WHAT -- WHAT ARE THE POLICIES WITH RESPECT TO INFORMANTS,
25 BECAUSE IT'S MY UNDERSTANDING, BASED ON MY EXPERIENCE FROM

1 CASES THAT I'VE DONE, THAT THERE ARE CERTAIN REQUIREMENTS WITH
2 RESPECT TO CONTACTS WITH INFORMANTS.

3 THE COURT: YOU'VE ASKED A NUMBER OF QUESTIONS ABOUT
4 POLICIES REGARDING INFORMANTS OF THIS WITNESS. WHAT MORE DO
5 YOU WANT TO ASK ABOUT?

6 MS. KELLY: WELL, YOUR HONOR SUSTAINED OBJECTIONS TO
7 THE QUESTIONS THAT I WAS TRYING TO ELICIT ABOUT THE CONTACTS
8 WITH INFORMANTS.

9 THE COURT: THE WHAT?

10 MS. KELLY: CONTACTS WITH INFORMANTS AND WRITING
11 REPORTS. I MEAN, I WAS ALLOWED TO INQUIRE ABOUT --

12 THE COURT: WHY IS IT -- SUPPOSE THE D.E.A. HAS A
13 POLICY. IT IS IMPORTANT WHAT WAS DONE IN THIS CASE, NOT WHAT
14 THE GENERAL POLICY IS.

15 MS. KELLY: WELL, IT'S IMPORTANT IF THERE'S A
16 GENERAL POLICY AND IT WASN'T FOLLOWED IN THE CASE.

17 THE COURT: WELL, THEN YOU CAN ELICIT THAT.

18 MS. KELLY: IN ORDER TO ELICIT THAT, I'VE GOT TO
19 ELICIT THAT THERE'S A GENERAL POLICY, AND THEN I CAN ELICIT --

20 THE COURT: YOU'VE DONE THAT.

21 MS. KELLY: I HAVEN'T, YOUR HONOR, WITH RESPECT TO
22 INFORMANTS. I MEAN, I AGREE WITH --

23 THE COURT: IN THE LAST 20 MINUTES, I WROTE DOWN
24 ABOUT FIVE OR SIX DIFFERENT AREAS THAT YOU INQUIRED INTO WHICH
25 ESCAPED ME WHY YOU WERE DOING SO.

1 FOR EXAMPLE, WE SPENT SEVERAL MINUTES ASKING THIS
2 WITNESS ABOUT PROFANITY. HE'S ALREADY PREVIOUSLY TESTIFIED
3 THAT THERE WAS CONSIDERABLE PROFANITY IN THIS CASE. THE OTHER
4 AGENT TESTIFIED THE SAME WAY, THAT DURING THEIR DEALINGS WITH
5 YOUR CLIENT THERE WAS CONSIDERABLE PROFANITY BY EVERYONE. IT
6 WAS SHOWN AMPLY ON THE TAPE --

7 MS. KELLY: BY MY CLIENT, YOUR HONOR. MY CLIENT'S
8 PROFANITY WAS SHOWN ON THE TAPE.

9 THE COURT: BY WHOEVER. AND IT SEEMED TO ME THAT IT
10 WAS UNNECESSARY TO SPEND ANY TIME ASKING ABOUT IT. YOU KNOW,
11 THAT'S THE TROUBLE WITH PREPARING A LONG LAUNDRY LIST OF
12 THINGS YOU WANT TO INQUIRE ABOUT. OCCASIONALLY YOU OUGHT TO
13 REVIEW IT TO DETERMINE WHETHER IN THE POSTURE OF THE EVIDENCE
14 THAT YOU REALLY WANT TO FOLLOW EVERYTHING THAT YOU HAVE
15 WRITTEN DOWN THERE THAT YOU CAREFULLY THOUGHT OUT BEFOREHAND.

16 AND THAT'S MY SUGGESTION TO YOU, THAT YOU DO THAT.

17 • IN ANY EVENT --

18 MS. KELLY: WELL, YOUR HONOR, I REALIZE THAT YOU DID
19 ALLOW ME TO ASK A FEW QUESTIONS ABOUT INFORMANTS, BUT YOU
20 SUSTAINED ON RELEVANCY GROUNDS A NUMBER OF THEM.

21 THE COURT: WELL, THE REASON IS THIS WITNESS IS
22 BASICALLY CALLED TO TESTIFY TO A CONVERSATION HE HAD WITH YOUR
23 CLIENT. NOT ONLY WAS THE CONVERSATION TAPE RECORDED AND
24 VIDEOTAPED ON ONE OCCASION AND PLAYED FOR THE JURY ON ANOTHER
25 OCCASION, IT WAS AUDIOTAPED AND PLAYED.

1 THERE ARE TRANSCRIPTS THAT HAVE BEEN PREPARED THAT
2 ARE NOT GENERALLY IN DISPUTE AS TO THEIR ACCURACY. SO IT
3 Baffles me a little bit why it is necessary -- when all this
4 witness has testified to are conversations with your client --
5 why it is necessary to launch into these other areas.

6 I don't -- that kind of escapes me.

7 MS. KELLY: WELL, YOUR HONOR, BECAUSE THERE IS AN
8 INFORMANT WHO IS INVOLVED HERE. HE'S SHOWN ON THE SCREEN.
9 ALTHOUGH HE'S NOT TESTIFYING, HE IS TESTIFYING, IN A SENSE.

10 THE COURT: IF HE WAS TESTIFYING, THEN THESE WOULD
11 ALL BE LEGITIMATE INQUIRIES.

12 MS. KELLY: WELL, I CAN'T ASK THE INFORMANT ABOUT
13 D.E.A. POLICIES.

14 THE COURT: WELL, THE INFORMANT HASN'T TESTIFIED, SO
15 MAYBE A D.E.A. POLICY IS NOT RELEVANT.

16 ANYWAY, YOU DID ASK A GOOD MANY QUESTIONS ABOUT
17 D.E.A. POLICY AND I GAVE YOU WIDE LATITUDE IN DOING SO. BUT
18 WHAT IS IT THAT YOU'RE ASKING FOR SPECIFICALLY NOW?

19 YOU WANT TO RECALL THIS WITNESS AND ASK HIM ABOUT
20 PAYMENTS TO INFORMANTS?

21 MS. KELLY: YES, YOUR HONOR, I WANT TO ASK HIM ABOUT
22 THE PAYMENTS. HE TOLD ME THAT HE DIDN'T RECALL, THAT THERE --
23 HE ACKNOWLEDGED THAT THERE IS A RECORD OF WHAT THE PAYMENTS
24 ARE THAT WERE MADE TO CASTEL DEL ORO.

25 THE COURT: AND HOW DOES THIS HELP THE JURY DECIDE

1 WHETHER YOUR CLIENT MADE THESE STATEMENTS OR NOT?

2 MS. KELLY: WELL, YOUR HONOR, THERE IS EVIDENCE
3 ALREADY IN THE RECORD THAT THE INFORMANT HAD AT LEAST TWO
4 CONVERSATIONS WITH MY CLIENT THAT WERE NOT TAPE RECORDED AND
5 THAT NO ONE WAS PRESENT AT.

6 THE COURT: AND NO ONE HAS TESTIFIED ABOUT THEM.

7 MS. KELLY: I UNDERSTAND THAT, YOUR HONOR. BUT WE
8 HAVE SUBPOENAED -- YOU'VE ALREADY SAID THAT ONLY --

9 THE COURT: IF YOU'RE GOING TO CALL THIS INFORMANT
10 AS A WITNESS, I WILL REQUIRE THAT THE PAYMENT RECORD BE MADE
11 AVAILABLE TO YOU.

12 MS. KELLY: YOUR HONOR -- WELL, THEN, IN VIEW OF
13 THAT, WILL YOU ALLOW ME TO RECALL AGENT BERRELLEZ AT THAT
14 JUNCTURE AND QUESTION HIM ABOUT -- FOR THE LIMITED INQUIRY
15 ABOUT THE POLICIES WITH RESPECT TO INFORMANT CONTACTS?

16 THE COURT: WELL, I'LL PERMIT YOU TO DO THAT.

17 MS. KELLY: THANK YOU, YOUR HONOR.

18 MR. MEDRANO: YOUR HONOR, JUST TO RAISE AGAIN A
19 REQUEST WE MADE EARLIER IN THE WEEK --

20 THE COURT: YES.

21 MR. MEDRANO: IT'S MY UNDERSTANDING THAT MR. MEDVENE
22 HAS FILED AT LEAST THREE IN-CAMERA SUBMISSIONS FOR THE COURT,
23 AND I WOULD JUST LIKE TO ASK THE COURT IF WE WILL HAVE A
24 CHANCE TO OPPOSE THESE OR AT LEAST HAVE ACCESS TO THEM.

25 EARLIER WHEN I MENTIONED TO THE COURT, I BELIEVE YOU

1 HADN'T RECEIVED OR REVIEWED THEM YET, AND I MADE A LOT OF --

2 THE COURT: I SUGGEST TO YOU THAT ONE OF THEM IS ONE
3 THAT YOU SUGGESTED.

4 MR. MEDRANO: I'M CONFUSED. I'M SORRY, YOUR HONOR.

5 THE COURT: IT RELATES TO A MATERIAL WITNESS.

6 MR. MEDRANO: OKAY. AND THE OTHER TWO, YOUR HONOR,
7 MAY WE HAVE AN OPPORTUNITY TO EITHER OPPOSE THOSE OR,
8 ALTERNATIVELY --

9 THE COURT: WELL, SINCE I DON'T KNOW WHAT THEY ARE
10 AT THE MOMENT, I'M NOT ABLE TO ANSWER YOU.

11 MR. MEDRANO: VERY WELL, YOUR HONOR. THAT'S FINE.
12 THANK YOU.

13 THE COURT: WELL, WE'LL ADJOURN THEN AT THIS TIME.

14 THE CLERK: PLEASE RISE.

15 MR. MEDRANO: YOUR HONOR, I'M SORRY. JUST TO ADVISE
16 THE COURT AGAIN, SINCE WE FINISHED WITH MR. BERRELLEZ, IS IT
17 THE COURT'S UNDERSTANDING THAT WE'LL START WITH MR. PLASCENCIA
18 AGUILAR ON THAT HEARING?

19 THE COURT: I THINK THAT WOULD BE A GOOD IDEA.

20 MR. MEDRANO: VERY WELL, YOUR HONOR.

21 THE COURT: HAVE YOU REACHED ANY OTHER DECISION ON
22 THE OTHER WITNESSES FOR THE SIMMONS HEARING?

23 MR. MEDRANO: YES, YOUR HONOR.

24 MR. STOLAR: WE HAD A DISCUSSION THIS AFTERNOON AND
25 WE'LL PUT IT ON THE RECORD TOMORROW MORNING.

1 THE COURT: VERY WELL.

2 MR. MEDRANO: IS IT COUNSELS' INTENT TO CALL ANY
3 OTHER WITNESSES ON THAT SIMMONS ISSUE UNRELATED TO MR.
4 PLASCENCIA AGUILAR, YOUR HONOR?

5 MR. STOLAR: -- MYSELF AND MR. MEZA -- I DON'T THINK
6 THERE'S A REASON TO CALL -- YOUR HONOR, I WANT TO PUT ON THE
7 RECORD WHAT WE DISCUSSED AND LET THE COURT CONSIDER THAT
8 ESSENTIALLY TO BE THE TESTIMONY THAT WOULD HAVE BEEN OF
9 INTEREST.

10 MR. MEZA: YOUR HONOR, IF THERE IS, THEN THERE'S
11 GOING TO BE ONE ADDITIONAL WITNESS. AGENT BERRELLEZ CONCERNS
12 THE PHOTO IDENTIFICATIONS MADE BY AGENT LEYVA. THAT'S THE
13 ONLY OTHER ADDITIONAL WITNESS.

14 MS. KELLY: AND THEN, YOUR HONOR, IN LIGHT OF THAT,
15 IN LIGHT OF THAT, YOU WERE GOING TO RULE WHETHER -- WHETHER
16 YOU WERE GOING TO ALLOW FURTHER CROSS-EXAMINATION OF AGENT
17 LEYVA.

18 THE COURT: YES.

19 MS. KELLY: AND, YOUR HONOR, I'D ALSO LIKE TO JUST
20 FOR THE RECORD STATE THAT YOU'LL GIVE ME AN OPPORTUNITY TO
21 PRESENT IN WRITING WHY I WOULD LIKE TO INQUIRE AS TO THE
22 DECLARATION.

23 THE COURT: YES.

24 MS. KELLY: COULD I DO THAT ON MONDAY YOUR HONOR?

25 THE COURT: WELL, THAT'S ALL RIGHT.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. KELLY: THANK YOU.

MR. MEDRANO: THANK YOU, YOUR HONOR.

(PROCEEDINGS ADJOURNED.)

C E R T I F I C A T E

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

Julie A. Churchill
JULIE A. CHURCHILL, CSR, RPR
OFFICIAL COURT REPORTER

2-1-92
DATE

			PG	LN
(EXHIBIT # 156 RECEIVED IN EVIDENCE.)			18	3
(EXHIBIT # 159 RECEIVED IN EVIDENCE.)			18	4
(EXHIBIT # 164 RECEIVED IN EVIDENCE.)			28	5
(EXHIBIT # 166 RECEIVED IN EVIDENCE.)			28	6
(EXHIBIT # 166 DISPLAYED FOR THE COURT			28	10
LOS ANGELES + CALIFORNIA THURSDAY, JUNE			4	1
JUNE 21, 1991 + 9:00 A.M.			4	2
HECTOR BERRELLEZ + PLAINTIFF'S WITNESS, SWORN			4	10
DIRECT EXAMINATION + BY MR. CARLTON: Q.			4	15
CROSS-EXAMINATION + BY MS. KELLY: Q. GOOD			29	10
CROSS-EXAMINATION + CONTINUED BY MS. KELLY:			46	7
CROSS-EXAMINATION + CONTINUED BY MS. KELLY:			56	7
LOS ANGELES + CALIFORNIA THURSDAY,			85	1
JUNE 21, 1990 + 1:30 P.M.			85	2
CROSS-EXAMINATION + (RESUMED) BY MS. KELLY:			85	7
CROSS-EXAMINATION + BY MR. STOLAR: Q.			182	23
REDIRECT EXAMINATION + BY MR. CARLTON: Q.			185	24
HAS BEEN MARKED AS EXHIBIT 156 BEFORE YOU. A.			16	21
IS. Q. LOOKING AT EXHIBIT 157, IF YOU WOULD,			17	11
TIME TO INTRODUCE EXHIBIT 156 AND EXHIBIT 159,			17	24
EXHIBIT 156 AND EXHIBIT 159, WHICH ARE THE			17	24
OF A PORTION OF EXHIBIT 156. THE			17	25
(EXHIBIT # 156 RECEIVED IN			18	3
(EXHIBIT # 159 RECEIVED IN			18	4
PERMISSION TO SHOW EXHIBIT 159, WHICH IS A SHORT			18	6
IDENTIFIED AS EXHIBIT 159 WAS PLAYED FOR			18	24
HAS BEEN MARKED AS EXHIBIT 160 BEFORE YOU. IT			21	6
HAS BEEN MARKED AS EXHIBIT 161. A. YES, SIR,			21	20
I WOULD MOVE THAT EXHIBIT 160, WHICH IS THE			22	4
TAPE RECORDINGS, AND EXHIBIT 163, WHICH ARE VIDEO			22	5
PERMISSION TO PLAY EXHIBIT 163, WHICH ARE			22	20
(TAPE IDENTIFIED AS EXHIBIT 163 WAS PLAYED FOR			22	25
ASK YOU TO LOOK AT EXHIBIT 165, IF YOU WOULD.			27	4
IS A STIPULATION THAT EXHIBIT 164, WHICH IS A			27	20
AT THIS TIME THAT EXHIBIT 164 AND EXHIBIT 166,			27	25
THAT EXHIBIT 164 AND EXHIBIT 166, WHICH IS A			28	1
(EXHIBIT # 164 RECEIVED IN			28	5
(EXHIBIT # 166 RECEIVED IN			28	6
AT THIS TIME THAT EXHIBIT 166 BE SHOWN.			28	8
SHOWN. (EXHIBIT # 166 DISPLAYED FOR			28	10
WHICH I BELIEVE IS EXHIBIT 165, I BELIEVE, IN			29	17
NOT BEEN MARKED AS AN EXHIBIT YET SO I'LL COME BACK			59	5
WE INDICATED WAS EXHIBIT 165. AND REVIEW IT,			62	1
THE WITNESS WITH AN EXHIBIT ? HE SAID IT WOULD			70	1

		PG	LN
KELLY: Q. THAT	EXHIBIT I JUST PLACED BEFORE	70	5
REPORT REFLECTS THAT	EXHIBIT N-550 WAS RETAINED	71	6
ON THE 24TH, AND THAT	EXHIBIT N-553 WAS RETAINED ON	71	8
OR SINCE THE PRETRIAL	EXHIBIT B I.D.	80	11
TO DOCUMENT WHEN AN	EXHIBIT IS RELEASED OR A	89	15
THAT'S THE NON-MARKED	EXHIBIT . MS.	117	12
YOU BEEN USING THE	EXHIBIT MARKED FOR COURT	137	21
I WAS USING THE	EXHIBIT THAT WAS MARKED FOR	137	22
NOW PLACED BEFORE YOU	EXHIBIT -- WHAT HAS BEEN	137	24
HAS BEEN MARKED AS	EXHIBIT N. DEFENSE N IS A	137	25
TO THE NON-DRUG	EXHIBIT IN HIS D.E.A. 6, IT'S	166	14
TO YOUR NON-DRUG	EXHIBIT IN THE BODY OF A	166	23