

1

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

HONORABLE EDWARD RAFEEDIE, DISTRICT COURT JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
) PLAINTIFF,)
)
) VS.) CASE NO: CR 87-422(F)-ER
)
) JUAN RAMON MATTA-BALLESTEROS)
) DEL POZO, RUBEN ZUNO-ARCE,)
) JUAN JOSE BERNABE-RAMIREZ)
) AND JAVIER VASQUEZ-VELASCO,)
)
) DEFENDANTS.)
)
) VOLUME 27

REPORTERS' TRANSCRIPT OF PROCEEDINGS
TUESDAY, JULY 10, 1990
LOS ANGELES, CALIFORNIA

JULIE CHURCHILL, CSR
SUSAN A. LEE, CSR
OFFICIAL REPORTERS
U.S. DISTRICT COURT, 442-C
312 N. SPRING STREET
LOS ANGELES, CA 90012
(213) 626-6353
(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 DEL POZO:

MARTIN R. STOLAR, ESQ.
MICHAEL J. BURNS, ESQ.
ADOLFO Z. AGUILA, ESQ.
351 NORTH 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.
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064-1683
(213) 312-3150

FOR DEFENDANT JUAN JOSE BERNABE-RAMIREZ:

MARY KELLY, ESQ.
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, TUESDAY, JULY 10, 1990

2 + 9:30 A.M.

3 (JURY PRESENT:)

4 THE COURT: GOOD MORNING.

5 YOU MAY CALL YOUR NEXT WITNESS.

6 MR. CARLTON: YOUR HONOR, THE GOVERNMENT CALLS SOCORRO
7 CORONA.

8
9 MARIA SOCORRO CORONA + REBUTTAL WITNESS, SWORN

10
11 THE CLERK: PLEASE BE SEATED.

12 PLEASE STATE YOUR FULL NAME FOR THE RECORD AND SPELL
13 YOUR LAST NAME.

14 THE WITNESS: MY NAME IS MARIA SOCORRO CORONA, AND MY
15 LAST NAME IS C O R O N A.

16 DIRECT EXAMINATION +

17 BY MR. CARLTON:

18 Q MISS CORONA, WHAT IS YOUR PRESENT EMPLOYMENT?

19 A I'M AN OFFICIAL COURT INTERPRETER, FEDERALLY CERTIFIED.

20 Q AND ARE YOU FLUENT IN SPANISH?

21 A YES, I AM.

22 Q HOW DID YOU OBTAIN THAT FLUENCY?

23 A THROUGH VARIOUS METHODS.

24 I WAS BORN IN MEXICO, MY PARENTS ARE MEXICAN, AND I
25 CAME TO THE STATES WHEN I WAS ABOUT FIVE YEARS OLD; BUT, AFTER

1 THAT, WE CONTINUED GOING BACK TO MEXICO. AND I HAVE A LOT OF
2 RELATIVES WHO ARE STILL SPANISH-SPEAKING, EVEN THOUGH THEY LIVE
3 IN THIS COUNTRY.

4 AND I DID CONTINUE STUDYING SPANISH, AND I OBTAINED A
5 B.A. FROM U.C.L.A. IN SPANISH.

6 Q HOW LONG HAVE YOU BEEN A FEDERALLY CERTIFIED COURT
7 INTERPRETER?

8 A I'M NOT EXACTLY SURE WHEN I PASSED THE TESTS. I THINK IT
9 WAS IN ABOUT 81 OR 82, BUT I DIDN'T START WORKING HERE UNTIL
10 ABOUT 83 OR 84.

11 Q WERE YOU AN INTERPRETER -- WERE YOU EMPLOYED AS AN
12 INTERPRETER PRIOR TO THAT TIME?

13 A YES, I WAS.

14 Q WHERE WAS THAT?

15 A I WAS DOING MOSTLY CIVIL WORK IN INTERPRETING.

16 Q I WOULD ASK YOU, PLEASE, TO LOOK IN FRONT OF YOU AT WHAT
17 HAS BEEN MARKED AS EXHIBIT 184 C, WHICH WOULD BE IN THE
18 PLASTIC BAG.

19 A YES.

20 Q DO YOU SEE THAT?

21 A YES.

22 Q DO YOU RECOGNIZE THAT?

23 A YES.

24 Q WHAT IS IT?

25 A THIS IS THE TAPE THAT I WAS ASKED TO LISTEN TO.

1 Q AND I WOULD ASK YOU, THEN, TO LOOK AT WHAT HAS BEEN MARKED
2 AS EXHIBIT 185.

3 A YES.

4 Q NOW, DOES EXHIBIT 185 CONTAIN A SPANISH TRANSCRIPTION
5 PREPARED BY YOU OF THE TAPE THAT IS 184 C?

6 A THAT'S CORRECT.

7 Q AND, ALSO, DOES EXHIBIT 185 CONTAIN AN ENGLISH TRANSLATION
8 OF THAT SPANISH TRANSCRIPTION?

9 A THAT'S CORRECT.

10 Q IS THE SPANISH TRANSCRIPTION CORRECT, TO THE BEST OF YOUR
11 ABILITIES A CORRECT REFLECTION OF THE TAPE?

12 A YES, IT IS.

13 Q HOW MANY TIMES DID YOU LISTEN TO THE TAPE IN ORDER TO
14 PREPARE THAT SPANISH TRANSCRIPTION?

15 A I CAN'T TELL YOU EXACTLY. BUT IT WAS MUST HAVE BEEN ABOUT
16 30 OR 40 DIFFERENT TIMES.

17 Q ARE YOU AS CERTAIN AS YOU CAN BE THAT THE SPANISH
18 TRANSCRIPTION IS AN ACCURATE REFLECTION OF THE TAPE?

19 A OF WHAT I HEARD, YES.

20 Q IS THE ENGLISH TRANSLATION AN ACCURATE ENGLISH TRANSLATION
21 OF THE SPANISH TRANSCRIPTION?

22 A IT IS, EXCEPT FOR ONE ADDITION THAT I WANTED TO MAKE.

23 Q YES. AND WHAT'S THAT?

24 A THE SECOND LINE TO THE LAST, IT SHOULD READ: EVERYTHING --
25 THE COURT: IS THAT A QUESTION OR AN ANSWER? WELL,

1 STRIKE THAT.

2 READ THE STATEMENT THAT IS PRESENTLY THERE, AND THEN
3 STATE THE CHANGE THAT YOU WOULD MAKE IN IT.

4 THE WITNESS: YES, YOUR HONOR.

5 IT READS: EVERYTHING, AND THAT'S IT.

6 BY MR. CARLTON:

7 Q AND HOW WOULD YOU CHANGE THAT?

8 A "EVERYTHING FOR," AND THEN IN BRACKETS I WOULD PUT EITHER
9 "YOU," "HIM," OR "HER," DEPENDING ON WHO IT IS REFERRING TO,
10 END BRACKETS, "AND THAT'S IT."

11 MR. CARLTON: YOUR HONOR, WITH THE COURT'S PERMISSION.
12 MAY I HAVE MS. CORONA WRITE THAT CORRECTION INTO THE EXHIBIT
13 185?

14 THE COURT: YES.

15 THE WITNESS: (COMPLYING.) OKAY.

16 BY MR. CARLTON:

17 Q MISS CORONA, IS IT STANDARD PROCEDURE IN THE COURT
18 INTERPRETERS' OFFICE HERE, WHEN LISTENING TO A SPANISH TAPE, TO
19 FIRST PREPARE A SPANISH TRANSCRIPT?

20 A THAT'S CORRECT.

21 Q AND THEN TO PREPARE AN ENGLISH TRANSLATION FROM THE
22 TRANSCRIPT?

23 A THAT'S CORRECT.

24 MR. CARLTON: YOUR HONOR, I WOULD MOVE AT THIS TIME
25 THAT EXHIBIT 185 BE RECEIVED.

1 THE COURT: HAS IT BEEN PREVIOUSLY?

2 MR. CARLTON: NO, IT HASN'T.

3 THE COURT: ALL RIGHT. THAT MAY BE RECEIVED.

4 (EXHIBIT 185 # RECEIVED IN EVIDENCE.)

5 MR. CARLTON: NOTHING FURTHER.

6 THE COURT: YOU MAY CROSS EXAMINE THE WITNESS.

7 CROSS-EXAMINATION +

8 BY MS. KELLY:

9 Q GOOD MORNING, MS. CORONA.

10 A GOOD MORNING, MS. KELLY.

11 Q NOW, ON THIS TRANSCRIPTION THAT YOU DID OF THIS PARTICULAR
12 TAPE, YOU HEARD THE WORDS, "NO, NO"; IS THAT CORRECT?

13 A "NO, NO." YES, I DID.

14 Q AND AFTER THAT FIRST LINE OF, "NO, NO," YOU HAVE THE WORD
15 "Y YA" (PHONETIC); IS THAT CORRECT?

16 A THAT'S CORRECT.

17 Q AND DOES "Y YA" MEAN "THAT'S ENOUGH" OR "ALREADY"?

18 A I PUT AN "ALREADY." THAT'S WHAT I THOUGHT IT MEANT,
19 ACCORDING TO THE CONTEXT.

20 Q IN ANOTHER CONTEXT, COULD "Y YA" ALSO MEAN "THAT'S ENOUGH"?

21 A IT COULD.

22 Q NOW, IN YOUR CAPACITY IN REVIEWING THESE TAPES, DID YOU
23 REVIEW ANY OTHER TAPES?

24 A NO, I DID NOT.

25 Q SO YOU ONLY LISTENED TO ONE PARTICULAR SEGMENT OF A TAPE;

1 IS THAT RIGHT?

2 A THAT IS CORRECT. JUST THESE LINES THAT ARE HERE.

3 Q DID YOU ASK TO LISTEN ANY OTHER TAPES?

4 A NO.

5 Q WERE YOU OFFERED TO LISTEN -- DID ANYBODY OFFER ANY OTHER
6 TAPE FOR YOU TO LISTEN TO?

7 A NO.

8 Q NOW, IN YOUR TRANSCRIPT, DO THE WORDS -- DOES THE WORD
9 "BIEN," B-I-E-N, APPEAR?

10 A YES.

11 Q AND WHAT DOES THAT MEAN, THAT WORD?

12 A IN THIS CONTEXT, I PUT THAT IT MEANT "CLEARLY."

13 Q AND DID YOU HAVE THE OPPORTUNITY TO REVIEW ANY OTHER
14 PERSON'S TRANSLATION OF THIS PARTICULAR SEGMENT OF THE TAPE?

15 A NO, I HAVE NOT.

16 Q NOW, I WANT TO ASK YOU ABOUT A WORD CALLED "CAMIONETA."
17 DOES THAT WORD MEAN "STATION WAGON"?

18 A YES, IT DOES.

19 Q AND, FINALLY, AS BETWEEN TWO INTERPRETERS, ONE OF WHOM HAS
20 HEARD A PERSON'S VOICE -- A PERSON WHOSE VOICE IS BEING
21 TRANSLATED -- ON ANOTHER OCCASION, ON A NUMBER OF OCCASIONS,
22 AND SOMEONE LIKE YOURSELF WHO'S LISTENING COLD TO A TAPE, WHO
23 DO YOU THINK IS IN A BETTER POSITION TO TRANSLATE A PARTICULAR
24 TAPE?

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

1 HONOR .

2 THE COURT: SUSTAINED.

3 BY MS. KELLY:

4 Q HOW MANY -- IN YOUR EXPERIENCE, IS A PERSON WHO IS
5 TRANSLATING A GIVEN TAPE -- AND ASSUME THAT PERSON HAS HAD THE
6 OPPORTUNITY TO HEAR OTHER TAPES THAT THE PERSON WHOSE VOICE IS
7 BEING TRANSLATED HAS SPOKEN, IS THAT PERSON IN A BETTER
8 POSITION TO TRANSLATE A TAPE THAN A PERSON WHO HAS NEVER HEARD
9 THE PERSON WHOSE VOICE HAS BEEN TRANSLATED?

10 MR. CARLTON: OBJECTION. SPECULATION.

11 THE COURT: SUSTAINED.

12 BY MS. KELLY:

13 Q MRS. CORONA, HOW MANY TAPES HAVE YOU TRANSLATED IN THE PAST
14 YEAR?

15 A IN THE PAST YEAR?

16 Q YES.

17 A THIS IS THE ONLY ONE.

18 MS. KELLY: NOTHING FURTHER.

19 THE COURT: ANY FURTHER QUESTIONS?

20 MR. CARLTON: MAY I HAVE JUST ONE MINUTE, YOUR HONOR?

21 THE COURT: PARDON.

22 MR. CARLTON: MAY I HAVE JUST A MOMENT? (PAUSE.)

23 NOTHING FURTHER.

24 THE COURT: YOU MAY STEP DOWN.

25 THE WITNESS: THANK YOU.

1 THE COURT: CALL YOUR NEXT REBUTTAL WITNESS.

2 MR. CARLTON: YES. THE GOVERNMENT CALLS DELBERT
3 SALAZAR TO THE STAND.

4 (WITNESS SUMMONED TO THE COURTROOM.)

5 MR. MEZA: YOUR HONOR, MR. SALAZAR WAS NOT ON THE LIST
6 THAT WAS HANDED TO US.

7 MR. NICOLAYSEN: I JOIN IN THAT OBJECTION, YOUR HONOR.
8 I DON'T HAVE ANY OF HIS REPORTS HERE, BECAUSE I WAS NOT
9 NOTIFIED THAT HE WAS GOING TO BE CALLED.

10 THE COURT: WELL, HE MAY BE CALLED ANYWAY.

11

12 DELBERT SALAZAR + REBUTTAL WITNESS, SWORN

13

14 THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR FULL
15 NAME FOR THE RECORD AND SPELL YOUR LAST NAME?

16 THE WITNESS: DELBERT A. SALAZAR, S A L A Z A R.
17 BY MR. CARLTON:

18 Q AGENT SALAZAR, WOULD YOU PLEASE LOOK AT EXHIBITS 51-A AND
19 B, WHICH ARE IN FRONT OF YOU?

20 A YES, SIR.

21 Q DO YOU RECOGNIZE THOSE?

22 A YES, I DO.

23 Q WHAT ARE THEY?

24 A THEY'RE PHOTOS THAT I TOOK IN GUADALAJARA, IN EARLY
25 NOVEMBER OF '89, OF A LOCATION THAT WAS POINTED OUT TO ME AS

1 BEING LA QUINTA.

2 Q AND DO YOU RECALL THE STREET THAT THOSE -- THAT THAT
3 LOCATION WAS LOCATED ON?

4 A YES, SIR. IT WAS ON CARRETERA TONALA.

5 Q I WOULD ASK YOU TO LOOK AT EXHIBIT O, WHICH I BELIEVE IS
6 ALSO NEXT TO YOU.

7 MR. NICOLAYSEN: YOUR HONOR, I'M GOING TO OBJECT TO
8 THE TESTIMONY IN THAT THE RESIDENCE IN EXHIBITS 51 AND 52 WERE
9 POINTED OUT TO HIM BY SOME UNKNOWN THIRD PARTY AS BEING LA
10 QUINTA. THAT'S CLEARLY HEARSAY, AND I MOVE TO STRIKE THAT
11 REFERENCE.

12 MS. KELLY: I JOIN, YOUR HONOR; AND LACK OF
13 FOUNDATION. WHAT THE RESIDENCE WAS IN NOVEMBER OF '89 DOES NOT
14 REPRESENT WHAT WAS GOING ON IN 1985.

15 THE COURT: THE OBJECTIONS ARE OVERRULED.

16 BY MR. CARLTON:

17 Q DO YOU RECOGNIZE EXHIBIT O?

18 A YES, SIR; I DO.

19 Q HOW DO YOU RECOGNIZE THAT?

20 A FROM HAVING PASSED IN FRONT OF THIS LOCATION ON THE SAME
21 DATE THAT I TOOK THE PHOTOS OF LA QUINTA.

22 Q WHAT IS EXHIBIT O?

23 A IT'S A RESIDENCE LOCATED ON CARRETERA TONALA IN
24 GUADALAJARA -- I'M SORRY. IN TONALA.

25 MR. CARLTON: JUST A MOMENT, YOUR HONOR.

1 Q DID YOU NOTICE, WHEN YOU SAW THESE TWO LOCATIONS, HOW FAR
2 APART THEY WERE?

3 A YES, SIR. I BELIEVE THAT THEY'RE APPROXIMATELY FOUR OR
4 FIVE RESIDENCES APART, DOWN THE STREET.

5 MR. CARLTON: NOTHING FURTHER, YOUR HONOR.

6 THE COURT: YOU MAY CROSS-EXAMINE.

7 CROSS-EXAMINATION +

8 BY MR. NICOLAYSEN:

9 Q NOW, AGENT SALAZAR, YOU HAVE NO FIRSTHAND KNOWLEDGE OF LA
10 QUINTA, DO YOU? IN OTHER WORDS, YOUR KNOWLEDGE IS BASED ON
11 WHAT HAS BEEN TOLD TO YOU; IS THAT CORRECT?

12 A AND WHAT I WAS SHOWN, YES.

13 Q YES. YOU HAVE NEVER BEEN INSIDE A RESIDENCE CALLED LA
14 QUINTA, HAVE YOU?

15 A NO, SIR. I HAVE NOT.

16 Q AND YOU CERTAINLY DID NOT KNOW ANY PLACE CALLED LA QUINTA
17 BACK IN 1984 OR 1985, DID YOU?

18 A NO, SIR. I DID NOT.

19 MR. NICOLAYSEN: THANK YOU. NOTHING FURTHER.

20 THE COURT: ANY FURTHER QUESTIONS?

21 MR. STOLAR: YOUR HONOR, I'D LIKE TO SEE IF I COULD
22 FIND THE STREET MAP OF GUADALAJARA WHICH IS IN EVIDENCE AND ASK
23 THE AGENT TO POINT OUT TO US WHERE THESE TWO RESIDENCES ARE ON
24 THE STREET MAP.

25 THE COURT: WELL, IS THAT STREET MAP HANDY?

1 MR. MEDRANO: EXHIBIT 4, YOUR HONOR.

2 (EXHIBIT 4 PLACED ON THE EASEL.)

3 MR. STOLAR: WITH THE COURT'S PERMISSION I WOULD ASK
4 THAT AGENT SALAZAR PLEASE STAND AND POINT TO THE STREET MAP
5 WHICH IS GOVERNMENT'S EXHIBIT 4, THE LOCATION OF THE HOUSE THAT
6 HE PHOTOGRAPHED AND OF THE --

7 THE COURT: IS THERE A STREET INDEX ON THERE?

8 MR. STOLAR: WELL, LET ME ASK HIM IF HE CAN FIND IT.

9 CROSS-EXAMINATION +

10 BY MR. STOLAR:

11 Q DO YOU KNOW ON THE MAP WHERE THAT HOUSE IS?

12 A THE GENERAL AREA, I CAN FIND IT. I BELIEVE I CAN FIND IT.

13 THE COURT: ALL RIGHT.

14 (BRIEF PAUSE.)

15 BY MR. STOLAR:

16 Q ARE YOU ABLE TO LOCATE IT?

17 A NO, SIR. I AM NOT. NOT ON -- IT WOULD REQUIRE A MAP OF A
18 LITTLE BIT MORE DETAIL.

19 Q HOW MANY PEOPLE DID YOU GO WITH ON YOUR PICTURE-TAKING
20 EXPEDITION?

21 A FOUR.

22 Q WAS HECTOR CERVANTES SANTOS ONE OF THEM?

23 A NO, SIR.

24 Q CAN YOU TELL US WHAT THE STREET ADDRESS IS OF THE RESIDENCE
25 OR THE RANCH THAT IS DEPICTED IN EXHIBITS 51-A AND B?

1 A TO MY KNOWLEDGE, AT THIS TIME THERE IS NO STREET ADDRESS.

2 Q AND FIVE BLOCKS AWAY -- OR FIVE HOUSES AWAY, YOU SAY, IS
3 NUMBER 114, WHICH IS THE OTHER PHOTO, DEFENDANTS' EXHIBIT 0?

4 A APPROXIMATELY, YES.

5 Q ON THE SAME STREET?

6 A ON CARRETERA TONALA.

7 51-A DEPICTS THE ENTRANCE TO THE RESIDENCE. BUT THAT
8 PHOTO WAS NOT TAKEN FROM CARRETERA TONALA. IT'S TAKEN FROM AN
9 ACCESS ROAD ON THE SIDE.

10 Q WHAT ABOUT 51-B?

11 A 51-B WAS TAKEN FROM THE SAME SIDE ACCESS ROAD, OVERLOOKING
12 THE WALL.

13 Q DID YOU MAKE ANY 6'S, D.E.A. REPORTS, OF YOUR PHOTOGRAPHING
14 EXPEDITION?

15 A NO, SIR.

16 Q DO YOU KNOW IF ANYBODY ELSE DID?

17 A NO, SIR.

18 Q NO, YOU DON'T KNOW; OR NOBODY DID?

19 A NO, I DON'T KNOW.

20 Q AND YOU CANNOT TELL US THE ADDRESS OF 51-A OR B. YOU HAVE
21 NO NUMBER, IS THAT CORRECT, OR YOU DON'T REMEMBER WHAT IT WAS?

22 A I DID NOT SEE A NUMBER ON IT.

23 MR. STOLAR: I HAVE NOTHING FURTHER. THANK YOU.

24 THE COURT: ANY FURTHER QUESTIONS? ANY REDIRECT?

25 MR. CARLTON: NOTHING FURTHER, YOUR HONOR.

1 THE COURT: YOU MAY STEP DOWN.

2 MR. MEDRANO: AT THIS TIME, YOUR HONOR, THE GOVERNMENT
3 WILL CALL ABEL REYNOSO TO THE STAND.

4
5 ABEL REYNOSO + REBUTTAL WITNESS, PREVIOUSLY SWORN

6
7 THE CLERK: HAVING PREVIOUSLY BEEN SWORN, PLEASE
8 RESTATE YOUR NAME FOR THE RECORD, PLEASE.

9 THE WITNESS: MY FIRST NAME IS ABEL, A B E L; LAST
10 NAME IS REYNOSO, R E Y N O S O.

11 DIRECT EXAMINATION +

12 BY MR. MEDRANO:

13 Q MR. REYNOSO, YOU'RE A SPECIAL AGENT WITH THE D.E.A.,
14 CORRECT?

15 A THAT IS CORRECT, SIR.

16 Q SIR, I'D LIKE TO DIRECT YOUR ATTENTION TO ABOUT JANUARY OF
17 THIS YEAR, 1990. AT OR ABOUT THAT TIME, DID YOU HAVE ANY
18 CONTACT WITH A WOMAN BY THE NAME OF ESTELLA FUENTES?

19 A YES, SIR. I DID.

20 Q AND HOW WAS THAT? WAS THAT IN LOS ANGELES?

21 A YES. IT WAS HERE IN L.A., SIR.

22 Q BE MORE SPECIFIC. WHERE DID YOU MEET HER, SIR?

23 A AT THE U.S. ATTORNEY'S OFFICE.

24 Q WELL, IN FACT, WERE YOU PRESENT WHEN MS. FUENTES WAS
25 INTERVIEWED BY GOVERNMENT ATTORNEYS?

1 A YES, I WAS.

2 Q YOU WERE PRESENT DURING THE ENTIRE INTERVIEW, I TAKE IT?

3 A THAT'S CORRECT, SIR.

4 Q AT THAT TIME, SIR, DURING THAT INTERVIEW, DID SHE DISCLOSE
5 ANY PARTICULAR DATES THAT SHE WAS AWARE OF, IN TERMS OF HER
6 CONTACTS WITH JAVIER VASQUEZ VELASCO?

7 A MISS FUENTES REVEALED TO ME -- OR TO US -- THAT SHE COULD
8 REMEMBER A TRIP THAT SHE TOOK TO THE AREA OF OCOTLAN, JALISCO,
9 IN 1980 -- DECEMBER OF '84 TO ABOUT JANUARY 2ND OF 1985.

10 Q LET ME FOCUS ON THAT TRIP. DID SHE GIVE YOU SPECIFIC DATES
11 FOR THAT TRIP, TO THE BEST OF YOUR RECOLLECTION?

12 A SHE TOLD ME THAT SHE WENT TO THE AREA OF OCOTLAN TO SEE MR.
13 VASQUEZ, TO SPEND THE HOLIDAYS WITH HIM. THAT WOULD BE
14 CHRISTMAS AND NEW YEAR'S EVE.

15 Q AND DID SHE INDICATE TO YOU WHEN IT WAS THAT SHE GOT BACK
16 TO HER HOME STATE IN THE UNITED STATES?

17 A SHE SAID IT WAS JANUARY 2ND, DUE TO THE FACT THAT HER KIDS
18 HAD TO GO BACK TO SCHOOL.

19 Q IN ADDITION TO THAT PARTICULAR TRIP, DID SHE DESCRIBE FOR
20 YOU ANY OTHER TRIPS THAT SHE POSSIBLY MIGHT HAVE TAKEN WITH
21 JAVIER VASQUEZ?

22 A SHE MENTIONED TO US --

23 Q IN MEXICO. I'M SORRY.

24 A YES. SHE MENTIONED TO US THAT SHE RETURNED TO MEXICO ON
25 THREE OCCASIONS. SHE COULD NOT RECALL THE DATES. SHE WAS NOT

4 []
1 SURE. SHE SAID THERE WAS THREE TIMES; SHE WENT BACK TO OCOTLAN
2 TO VISIT MR. VASQUEZ.

3 Q COULD SHE GIVE YOU ANY OF THE SPECIFIC DATES OR THE MONTH
4 FOR ANY OF THOSE THREE TRIPS?

5 A NOT THAT -- I DON'T RECALL. SHE COULDN'T REMEMBER THE
6 DATES. SHE JUST COULDN'T REMEMBER THAT.

7 I REMEMBER I ASKED HER SEVERAL TIMES, AND SHE JUST
8 COULDN'T REMEMBER THEM.

9 Q IN ADDITION, MR. REYNOSO, IN YOUR CONTACT WITH MISS FUENTES
10 HAVE YOU, MR. REYNOSO, AT ANY TIME EVER INSTRUCTED MISS FUENTES
11 NOT TO HAVE ANY CONTACT WITH OR TO MEET WITH OR TO TALK TO THE
12 DEFENSE COUNSEL OR ANY REPRESENTATIVE OF THE DEFENSE COUNSEL?

13 A ABSOLUTELY NOT, SIR.

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

15 (DISCUSSION HELD OFF THE RECORD BETWEEN GOVERNMENT
16 COUNSEL.)

17 MR. MEDRANO: THANK YOU, YOUR HONOR. THAT CONCLUDES
18 DIRECT.

19 THE COURT: YOU MAY CROSS-EXAMINE.

20 CROSS-EXAMINATION +

21 BY MR. NICOLAYSEN:

22 Q AGENT REYNOSO, DID YOU PREPARE ANY D.E.A.-6 INTERVIEW
23 REPORTS REGARDING YOUR MEETING WITH ESTELLA FUENTES IN JANUARY
24 OF THIS YEAR?

25 A NO, SIR. I DID NOT.

1 Q DO YOU HAVE ANY NOTES WITH YOU?

2 A NO, SIR.

3 Q ARE THERE ANY NOTES?

4 A THERE WERE SOME NOTES, YES.

5 Q DO YOU HAVE THEM AVAILABLE TO YOU?

6 A I WOULD HAVE TO LOOK FOR THEM, SIR.

7 MR. NICOLAYSEN: YOUR HONOR, I WOULD ASK TO BE HEARD
8 AT THE RECESS REGARDING THOSE.

9 AT THIS TIME, I HAVE NOTHING FURTHER. THANK YOU.

10 THE COURT: ANY OTHER QUESTIONS?

11 MR. MEDRANO: NONE BY THE GOVERNMENT, YOUR HONOR.

12 THE COURT: YOU MAY STEP DOWN.

13 MR. MEDRANO: YOUR HONOR, AT THIS JUNCTURE, WE ARE IN
14 A POSITION TO FINISH OR TO -- THAT IS THE CONCLUSION OF OUR
15 REBUTTAL CASE, RESERVING, OF COURSE, THE RESOLUTION OF THE
16 ADMISSION OF CERTAIN EXHIBITS. AND, IN ADDITION, I'D LIKE TO
17 ADVISE THE COURT AND DEFENSE COUNSEL THAT MR. ROBERT CASTILLO
18 OF THE D.E.A. IS AVAILABLE FOR THAT PARTICULAR HEARING, IF THE
19 COURT IS SO INCLINED, THAT WE DISCUSSED ON FRIDAY.

20 OTHER THAN THAT, YOUR HONOR, THE GOVERNMENT AT THIS
21 TIME CLOSES ITS REBUTTAL CASE.

22 MR. STOLAR: BUT, YOUR HONOR, THERE WAS ONE AREA OF
23 CROSS-EXAMINATION OF AGENT BERRELLEZ WE ACTUALLY DISCUSSED ON
24 FRIDAY AND I'D LIKE TO DO THAT BEFORE THE CLOSE.

25 THE COURT: YES. YOU MAY DO THAT.

1 AGENT BERRELLEZ.

2

3 HECTOR BERRELLEZ + REBUTTAL WITNESS, PREVIOUSLY SWORN

4

5 THE CLERK: HAVING PREVIOUSLY BEEN SWORN, PLEASE

6 RESTATE YOUR NAME FOR THE RECORD.

7

THE WITNESS: HECTOR BERRELLEZ.

8

CROSS-EXAMINATION +

9

BY MR. STOLAR:

10

Q GOOD MORNING, SIR.

11

A GOOD MORNING, SIR.

12

Q HOW LONG IS IT THAT YOU HAVE BEEN A D.E.A. AGENT?

13

A 17 YEARS, APPROXIMATELY.

14

Q AND IN THE COURSE OF THAT TIME, WOULD IT BE FAIR TO SAY

15

THAT YOU HAVE PARTICIPATED IN NUMEROUS ARRESTS OF PEOPLE

16

ACCUSED OF VIOLATING NARCOTICS LAWS?

17

A YES, SIR.

18

Q IS IT ALSO FAIR TO SAY THAT ON OCCASION, WHEN YOU ARREST

19

MORE THAN ONE PERSON IN THE COURSE OF SINGLE OPERATION, THAT

20

THERE ARE TIMES WHEN YOU SEEK THE COOPERATION OF ONE POTENTIAL

21

CO-DEFENDANT AS OPPOSED TO ANOTHER?

22

MR. MEDRANO: OBJECTION ON RELEVANCE AS TO ALL OF

23

THIS, YOUR HONOR.

24

THE COURT: OVERRULED.

25

THE WITNESS: DO WE SEEK THE COOPERATION OF OTHERS?

1 YES, WE -- THAT'S A NORMAL PRACTICE.

2 BY MR. STOLAR:

3 Q AND IF YOU ARE IN A POSITION OF SEEKING THE COOPERATION OF
4 ONE PERSON THAT YOU ARREST, AS OPPOSED TO ANOTHER OR OTHERS, IS
5 IT NOT YOUR PRACTICE TO ADVISE ANY INSTITUTION WHERE THEY MIGHT
6 BE DETAINED, LIKE A JAIL, TO KEEP THEM SEPARATE? THAT IS, KEEP
7 THE PERSON WHOM YOU ARE TRYING TO GET COOPERATION FROM SEPARATE
8 FROM OTHER PEOPLE.

9 MR. MEDRANO: OBJECTION, RELEVANCE.

10 THE COURT: OVERRULED.

11 THE WITNESS: I HAVE NEVER -- I'VE NEVER -- I DON'T
12 RECALL EVER DOING THAT MYSELF, SIR.

13 BY MR. STOLAR:

14 Q WELL, IS IT NOT A FAIR STATEMENT TO SAY THAT WHILE THE
15 BUREAU OF PRISONS MAKES DECISIONS ABOUT WHERE PEOPLE ARE
16 HOUSED, THAT THE BUREAU OF PRISONS RECEIVES INFORMATION
17 CONCERNING INMATES THAT ARE BROUGHT IN, FROM AGENTS SUCH AS
18 YOURSELF, WHO HAVE MORE KNOWLEDGE OF THEM?

19 MR. MEDRANO: OBJECTION: SPECULATION, LACK OF
20 FOUNDATION AND RELEVANCE.

21 THE COURT: OVERRULED.

22 THE WITNESS: I HAVE NEVER HAD AN OCCASION TO ASK THAT
23 FROM THE BUREAU OF PRISONS, SIR.

24 BY MR. STOLAR:

25 Q WELL, DON'T YOU PROVIDE INFORMATION TO THE BUREAU OF

1 PRISONS CONCERNING SOMEBODY THAT YOU BRING IN?

2 A NO, I DO NOT, SIR.

3 Q DO YOU KNOW IF THE UNITED STATES ATTORNEY DOES THAT, BASED
4 UPON INFORMATION THAT YOU MIGHT GIVE TO THE UNITED STATES
5 ATTORNEY?

6 A I KNOW THAT IF A PERSON IS WRITTEN DOWN, IT IS DONE THROUGH
7 THE U.S. ATTORNEY'S OFFICE, NOT THROUGH US, SIR.

8 Q WELL, HAVE YOU EVER BROUGHT IN SOMEBODY WHOM YOU MIGHT
9 CONSIDER TO BE SUICIDAL?

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

11 THE COURT: SUSTAINED.

12 BY MR. STOLAR:

13 Q IS IT YOUR TESTIMONY THAT YOU HAVE NEVER ADVISED A BUREAU
14 OF PRISONS OFFICIAL OR A MARSHAL, FOR THAT MATTER, SOMEBODY
15 WHO'S RESPONSIBLE FOR THE HOUSING AND CUSTODY OF SOMEBODY WHO
16 YOU ARRESTED, OF ANY BACKGROUND INFORMATION CONCERNING THAT
17 PERSON?

18 MR. MEDRANO: OBJECTION: ASKED AND ANSWERED.

19 THE COURT: OVERRULED.

20 THE WITNESS: I DON'T RECALL THAT I HAVE EVER TALKED
21 TO A MARSHAL OR ANYBODY OF WHERE THEY SHOULD HOUSE ANYBODY,
22 SIR.

23 BY MR. STOLAR:

24 Q BUT CONCERNING THE -- WELL, WOULD IT BE FAIR TO SAY THAT
25 YOU HAVE PROVIDED INFORMATION CONCERNING PEOPLE WHO YOU BROUGHT

1 IN TO THE PEOPLE RESPONSIBLE FOR DETAINING THEM?

2 MR. MEDRANO: OBJECTION: ASKED AND ANSWERED.

3 THE COURT: OVERRULED.

4 THE WITNESS: I HAVE NEVER HAD AN OCCASION WHERE
5 ANYBODY WAS SUICIDAL OR WHERE I GAVE ANYBODY ANY INSTRUCTIONS
6 AS TO WHAT TO DO, SIR.

7 BY MR. STOLAR:

8 Q I'M NOT ASKING WHETHER YOU GAVE INSTRUCTIONS. I'M ASKING
9 YOU WHETHER YOU HAVE PROVIDED INFORMATION TO THE PEOPLE WHO ARE
10 RESPONSIBLE FOR DETAINING SOMEBODY THAT YOU BROUGHT IN.

11 A NOT ME, SIR.

12 Q OTHER PEOPLE HAVE?

13 A I DON'T KNOW, SIR.

14 Q DID YOU EVER PROVIDE INFORMATION CONCERNING PEOPLE YOU
15 BROUGHT IN TO THE U.S. ATTORNEY WHO'S RESPONSIBLE FOR THE CASE?

16 A THAT IS DONE BY THE U.S. ATTORNEY'S OFFICE, SIR. I HAVE
17 NEVER HAD OCCASION TO DO THAT.

18 Q BUT DON'T THEY GET INFORMATION FROM YOU? DON'T YOU GIVE
19 INFORMATION TO THE U.S. ATTORNEY WHEN YOU BRING SOMEBODY IN?

20 MR. MEDRANO: OBJECTION. RELEVANCE.

21 THE COURT: SUSTAINED.

22 MR. STOLAR: NOTHING FURTHER.

23 THE COURT: ANYTHING FURTHER?

24 MR. MEDRANO: NO QUESTIONS, YOUR HONOR.

25 THE COURT: NOW, THAT CONCLUDES -- YOU'VE FINISHED

1 YOUR REBUTTAL EVIDENCE?

2 MR. MEDRANO: THAT CONCLUDES THE GOVERNMENT'S REBUTTA
3 CASE.

4 THE COURT: ALL RIGHT. IS THERE ANY SURREBUTTAL TO B
5 PRESENTED ON BEHALF OF ANY DEFENDANT?

6 MS. KELLY: YES, YOUR HONOR; ON BEHALF OF DEFENDANT
7 BERNABE RAMIREZ.

8 YOUR HONOR, THE DEFENSE CALLS CAROL KATO.

9 MAY I HAVE PERMISSION TO GET HER?

10 THE COURT: YES.

11 (WITNESS SUMMONED TO COURTROOM.)

12
13 CAROL KATO + SURREBUTTAL WITNESS, SWORN

14
15 THE CLERK: PLEASE BE SEATED.

16 MS. KELLY: COULD I HAVE PERMISSION TO APPROACH THE
17 CLERK WITH AN EXHIBIT?

18 THE COURT: YES.

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

21 THE WITNESS: IT'S CAROL KATO, K A T O.

22 MS. KELLY: YOUR HONOR, THIS EXHIBIT WILL BE MARKED
23 NEXT IN ORDER, DEFENSE NEXT IN ORDER, WHICH I BELIEVE IS --

24 THE COURT: YES.

25 MS. KELLY: I'M NOT CERTAIN WHAT IT IS, YOUR HONOR,

1 BUT I'LL MARK IT AFTERWARDS.

2 THE COURT: I THINK THAT'S 10-K.

3 (COURTROOM LAUGHTER.)

4 DIRECT EXAMINATION +

5 BY MS. KELLY:

6 Q MISS KATO, HOW ARE YOU EMPLOYED?

7 A I'M A COURT -- A CERTIFIED COURT INTERPRETER.

8 Q AND ARE YOU CERTIFIED BOTH WITH THE FEDERAL COURT AND IN
9 THE STATE COURT?

10 A YES. I AM CERTIFIED BY THE FEDERAL COURT AND BY THE STATE
11 COURT AND BY THE SUPERIOR COURT OF THE COUNTY OF LOS ANGELES.

12 Q AND HOW LONG HAVE YOU BEEN A CERTIFIED COURT INTERPRETER?

13 A SINCE 1976.

14 Q AND HOW DID YOU BECOME FAMILIAR WITH THE SPANISH LANGUAGE?

15 A I BEGAN MY STUDIES HERE IN THE UNITED STATES, AND I STUDIED
16 AT OCCIDENTAL COLLEGE AND AT SAN DIEGO STATE COLLEGE.

17 I THEN WENT ON A SCHOLARSHIP TO THE NATIONAL
18 AUTONOMOUS UNIVERSITY OF MEXICO, THE (SPEAKS IN SPANISH) Y
19 LETRAS, WHERE I COMPLETED MY -- A DEGREE CALLED THE
20 LICENCIATURA (PHONETIC) AND LETRAS ESPANOLAS, WHICH IS PRETTY
21 CLOSE TO A MASTER'S DEGREE HERE.

22 AND I ALSO COMPLETED MY STUDIES FOR THE MAESTRIA,
23 WHICH SOUNDS LIKE IT SHOULD BE A MASTER'S DEGREE, BUT IS
24 ACTUALLY -- THE LICENCIATURA IS CLOSER TO THE MASTER'S THAN THE
25 MAESTRIA, WHICH IS MORE OF A TEACHING DEGREE. AND I DID THOSE,

1 AS I SAY, AT THE NATIONAL UNIVERSITY OF MEXICO.

2 I THEN WENT TO THE UNIVERSITY OF ARIZONA FOR
3 PREDOCTORAL WORK, AND I ALSO TAUGHT SPANISH AT THE UNIVERSITY
4 OF ARIZONA. AND I LATER DID ADDITIONAL PREDOCTORAL WORK AT
5 THE -- IN SPANISH, ALL IN SPANISH -- AT THE UNIVERSITY OF
6 SOUTHERN CALIFORNIA HERE IN LOS ANGELES.

7 Q NOW, IN YOUR CAPACITY AS A FEDERAL -- A CERTIFIED FEDERAL
8 COURT INTERPRETER, DO YOU HAVE OCCASION TO TRANSLATE TAPES FOR
9 THE PROSECUTION AS WELL AS THE DEFENSE?

10 A YES.

11 Q AND, IN FACT, ARE YOU CURRENTLY TRANSLATING TAPES FOR THE
12 UNITED STATES ATTORNEY'S OFFICE?

13 A I HAVE JUST FINISHED AN ASSIGNMENT FOR THE -- FOR AN
14 A.U.S.A.

15 Q NOW, I'D LIKE YOU TO LOOK AT WHAT HAS BEEN MARKED AS NEXT
16 IN ORDER, DEFENSE EXHIBIT, AND ASK YOU IF YOU RECOGNIZE THAT
17 PARTICULAR TAPE.

18 A I CAN'T SAY THAT I RECOGNIZE IT EXACTLY. IT LOOKS LIKE A
19 TAPE THAT I HAVE SEEN.

20 Q AND IN WHAT CAPACITY DID YOU SEE A PARTICULAR TAPE?

21 A I WAS WITH YOU AND ONE OF THE DEFENDANTS IN THE CASE AND
22 ANOTHER ATTORNEY WHO'S PRESENT IN THE COURTROOM, DOING AN
23 INTERVIEW OF -- ASSISTING YOU TO DO AN INTERVIEW OF YOUR
24 DEFENDANT, AND THAT WAS AT METROPOLITAN DETENTION CENTER.

25 Q AND AT THAT TIME, DID I ASK YOU TO LISTEN TO A PARTICULAR

1 TAPE RECORDING AND ASK YOU TO TELL ME WHAT YOU HEARD?

2 A YOU ASKED ME TO LISTEN TO ONE SEGMENT, A BRIEF SEGMENT OF
3 PARTICULAR RECORDING AND TELL YOU WHAT I HEARD.

4 Q AND CAN YOU RELATE FOR THE COURT AND MEMBERS OF THE JURY
5 WHAT IT IS THAT YOU RECALL HEARING?

6 A YES. THE FIRST TIME I HEARD THE TAPE, I WAS UNCLEAR,
7 BECAUSE ANOTHER VOICE WAS STRONGER THAN THE VOICE THAT I WAS
8 ATTEMPTING TO LISTEN TO, FOLLOWING A TRANSCRIPT.

9 THE SECOND TIME, I HEARD, "YO NO LO DIJE"; AND THE
10 THIRD TIME, I HEARD, "YO NO LO DIJE."

11 I'M SORRY. I'M SAYING THAT IN SPANISH.

12 Q AND WHAT DOES THAT MEAN IN ENGLISH?

13 A "I DIDN'T SAY IT."

14 Q AND THE TRANSCRIPT THAT YOU WERE REVIEWING, DO YOU RECALL
15 WHO PREPARED THAT VERSION OF THE TRANSCRIPT?

16 A YES. THAT WAS PREPARED BY SOCORRO CORONA.

17 Q WHO IS ALSO A MEMBER OF THE FEDERAL COURT INTERPRETERS'
18 OFFICE?

19 A YES, SHE IS.

20 Q SO, IN OTHER WORDS, YOU CAME TO A DIFFERENT CONCLUSION THAN
21 MISS SOCORRO DID?

22 A AS TO WHAT THE SPOKEN SPANISH WAS, YES.

23 Q AND YOU DEFINITELY HEARD THE WORDS, "NO, NO, NO"?

24 A I DID NOT HEAR THE WORDS, "NO, NO, NO." I DID -- I HEARD
25 THE WORDS, "YO NO LO DIJE."

1 Q AND THAT'S A PARTICULAR SEGMENT THAT I REQUESTED YOU TO
2 LISTEN TO?

3 A THAT WAS EXACTLY THE SEGMENT THAT YOU REQUESTED ME TO
4 LISTEN TO.

5 MS. KELLY: NOTHING FURTHER.

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

7 WE'RE HAVING SOME TROUBLE HEARING YOU, SO I'M DOING TO
8 MOVE THIS JUST A LITTLE. YOU DON'T NEED TO -- YOU JUST STAY AT
9 THE SAME LEVEL. WE'LL JUST GET THIS CLOSER. THEY'LL HEAR YOU
10 BETTER THAT WAY.

11 CROSS-EXAMINATION +

12 BY MR. CARLTON:

13 Q GOOD MORNING, MISS KATO.

14 A GOOD MORNING.

15 Q HOW MANY TIMES DID YOU LISTEN TO THAT PORTION OF THE TAPE?

16 A I BELIEVE THREE TIMES.

17 Q DID YOU HAVE HEADPHONES ON?

18 A NO, I DID NOT.

19 Q DID YOU PREPARE A SPANISH TRANSCRIPT?

20 A EXCUSE ME. I COULDN'T HEAR YOU.

21 Q I'M SORRY. DID YOU PREPARE A SPANISH TRANSCRIPT OF THE
22 TAPE?

23 A NO, I DID NOT, SIR. NO.

24 Q DO YOU PREPARE A ENGLISH TRANSLATION?

25 A NO. I DID NOT, SIR.

1 MR. CARLTON: NOTHING FURTHER.

2 THE COURT: YOU MAY STEP DOWN.

3 IS THERE ANY OTHER SURREBUTTAL WITNESS?

4 MS. KELLY: YES, YOUR HONOR. MR. JOSE OROSCO.

5 THE WITNESS: EXCUSE ME, YOUR HONOR. WHO SHOULD I
6 GIVE THIS TO?

7 THE COURT: JUST LEAVE IT RIGHT THERE.

8 THE WITNESS: THANK YOU, YOUR HONOR.

9 MS. KELLY: I CALL JOSE OROSCO.

10

11 JOSE OROSCO + SURREBUTTAL WITNESS, PREVIOUSLY SWORN

12

13 THE CLERK: HAVING PREVIOUSLY BEEN SWORN, PLEASE
14 RESTATE YOUR NAME FOR THE RECORD, PLEASE.

15 THE WITNESS: YES. JOSE RAUL OROSCO.

16

GOOD MORNING, SIR.

17

DIRECT EXAMINATION +

18

BY MS. KELLY:

19

Q MR. OROSCO, DO YOU SEE BEFORE YOU WHAT HAS MARKED AS THE
20 DEFENDANT'S NEXT IN ORDER?

21

A YES.

22

Q AND HAVE YOU SEEN THAT PARTICULAR TAPE BEFORE?

23

A I BELIEVE I SAW THAT THIS MORNING.

24

Q AND IS THIS A TAPE THAT YOU LISTENED TO THIS MORNING?

25

A YES.

1 Q WITH HEADPHONES?

2 A WITH HEADPHONES.

3 Q AND WERE YOU LISTENING TO IT TO SEE IF YOU WERE GOING TO
4 COME TO A DIFFERENT CONCLUSION ABOUT YOUR PREVIOUS TRANSLATION
5 OF A PARTICULAR SEGMENT OF THE TAPE?

6 A GENERALLY, I WAS JUST ASKED TO LISTEN TO IT.

7 Q AND DO YOU RECALL WHAT YOU HEARD?

8 A YES.

9 Q AND CAN YOU RELATE THAT TO US?

10 MR. CARLTON: I'LL OBJECT TO THIS AS CUMULATIVE, YOUR
11 HONOR.

12 THE COURT: HAS THIS WITNESS -- HE HAS PREVIOUSLY
13 SUBMITTED A TRANSCRIPT OF WHAT HE HEARD?

14 MS. KELLY: RIGHT, YOUR HONOR. BUT THIS IS THE
15 GOVERNMENT TAPE THAT MR. KOENIG HAD.

16 THE COURT: THE WITNESS MAY ANSWER.

17 THE WITNESS: MAY I HAVE THE QUESTION AGAIN, PLEASE?

18 BY MS. KELLY:

19 Q YES. DID YOU FIND ANY DIFFERENCE BETWEEN -- IN YOUR
20 TRANSLATION, BETWEEN THIS PARTICULAR TAPE AND THE TAPE THAT YOU
21 HAD PREVIOUSLY TRANSLATED FOR MEMBERS OF THE JURY THAT WAS
22 PROVIDED TO YOU BY MR. PERLE?

23 A NO.

24 Q AND DO YOU RECALL WHAT WORDS YOU HEARD ON THE TAPE?

25 A WELL, I HEARD THE PARTICULAR PASSAGE ABOUT WHICH I

1 TESTIFIED BEFORE. I HEARD, "NO, NO, NO"; AND THEN, A COUPLE
2 SENTENCES AFTERWARDS, "YO NO LO DIJE; YO NO DIJE ESO": "I
3 DIDN'T SAY THAT."

4 Q SO YOUR OPINION HAS NOT CHANGED -- WELL, STRIKE THAT.

5 IN YOUR OPINION, THEN, THE COPY OF THE TAPE GIVEN TO
6 YOU IN DEFENDANTS' NEXT IN ORDER AND THE TAPE GIVEN TO YOU BY
7 MR. PERLE, YOU HAVE TRANSLATED THE EXACT SAME LANGUAGE; IS THAT
8 RIGHT?

9 A YES.

10 MS. KELLY: NOTHING FURTHER, YOUR HONOR.

11 THE COURT: CROSS-EXAMINE.

12 CROSS-EXAMINATION +

13 BY MR. CARLTON:

14 Q MR. OROSCO, HOW MANY TIMES DID YOU LISTEN TO THE TAPE THIS
15 MORNING?

16 A THIS TAPE?

17 Q YES.

18 A ABOUT A HALF A DOZEN TIMES.

19 Q NOW, DID YOU PREPARE A SPANISH TRANSLATION OF THIS TAPE?

20 A THIS MORNING?

21 Q YES.

22 A NO, SIR.

23 Q ENGLISH OR SPANISH TRANSCRIPT?

24 A NOT THAT, EITHER.

25 Q ENGLISH TRANSLATION?

1 A NO.

2 MR. CARLTON: NOTHING FURTHER.

3 THE COURT: YOU MAY STEP DOWN.

4 THE WITNESS: THANK YOU.

5 MS. KELLY: YOUR HONOR, THERE IS ONE ADDITIONAL
6 WITNESS, BUT SHE IS -- SHE WAS UPSTAIRS. IF I COULD HAVE A
7 MOMENT, YOUR HONOR.

8 (BRIEF PAUSE.)

9 MS. KELLY: YOUR HONOR, THE WITNESS IS NOT HERE; BUT
10 SHE WAS EXPECTED TO BE HERE AT 10:30. SHE'S IN JUDGE KELLER'S
11 COURTROOM, YOUR HONOR.

12 COULD WE TAKE OUR MORNING RECESS, YOUR HONOR, AT THIS
13 TIME?

14 THE COURT: ARE THERE ANY OTHER WITNESSES TO BE CALLED
15 IN SURREBUTTAL BY ANY DEFENDANT?

16 MR. STOLAR: WE HAVE NONE, SUBJECT OF COURSE TO THAT
17 ONE EVIDENTIARY MATTER THAT WE HAVE OUTSTANDING.

18 MR. NICOLAYSEN: THE ONLY THING REMAINING FOR
19 DEFENDANT VASQUEZ VELASCO IS THE COURT'S RULING ON THE MOTION.

20 THE COURT: WELL, I'M ASKING IF THERE ANY OTHER
21 WITNESSES TO BE CALLED.

22 MR. NICOLAYSEN: NO WITNESSES, YOUR HONOR,

23 THE COURT: NO WITNESSES?

24 ALL RIGHT. WE'LL TAKE A SHORT RECESS AT THIS TIME.

25 THE JURY MAY BE EXCUSED.

1 THE CLERK: PLEASE RISE.

2 (JURY EXCUSED.)

3 THE COURT: YOU MAY BE SEATED.

4 NOW, WE HAVE SEVERAL MOTIONS THAT THE COURT IS
5 PREPARED TO DEAL WITH AT THIS TIME.

6 THE DEFENDANT VASQUEZ'S MOTION TO DISMISS FOR LACK OF
7 JURISDICTION: THE COURT HAS READ AND CONSIDERED THE MOTION AND
8 THE OPPOSITION. IT MIRRORS THE PREVIOUS MOTION FILED BY
9 ANOTHER DEFENDANT ON THE SAME GROUNDS, AND THE COURT IS GOING
10 TO DENY THIS MOTION AND BELIEVES IT IS APPROPRIATE TO DENY IT
11 FOR SAME REASONS THAT I HAVE PREVIOUSLY STATED. THE --

12 MR. NICOLAYSEN: IS THE COURT INVITING ARGUMENT ON
13 THIS, YOUR HONOR?

14 THE COURT: WELL, I WILL EXPLAIN TO YOU WHAT THE
15 REASONS ARE; AND THEN IF YOU BELIEVE THAT YOU CAN PERSUADE THE
16 COURT TO CHANGE ITS VIEW, YOU MAY HAVE A GO.

17 THE NINTH CIRCUIT, AS I INDICATED TO YOU BEFORE, HAS
18 ARTICULATED A TWO-PART TEST FOR DETERMINING JURISDICTION FOR
19 CRIMES COMMITTED EXTRATERRITORIALLY IN THE CASE OF UNITED
20 STATES VERSES DAVIS, WHICH WAS A VERY RECENT CASE, MAY 21,
21 1990.

22 THE FIRST IS THAT CONGRESS MUST HAVE AUTHORIZED GIVING
23 EXTRATERRITORIAL EFFECT TO THE STATUTE.

24 SECOND IS THE MATTER OF CONSTITUTIONAL LAW. THE
25 APPLICATION OF THE STATUTE TO THE ACTS IN QUESTION MUST NOT

1 VIOLATE THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT. THERE
2 MUST BE A SUFFICIENT NEXUS BETWEEN THE DEFENDANT AND THE UNITED
3 STATES SO THAT SUCH APPLICATION WOULD NOT BE ARBITRARY OR
4 FUNDAMENTALLY UNFAIR.

5 I'M QUOTING NOW.

6 WHILE NOT CONTROLLING, THE CASE SAID, INTERNATIONAL
7 LAW PRINCIPLES MAY BE USEFUL AS A ROUGH GUIDE OF WHETHER A
8 SUFFICIENT NEXUS EXISTS BETWEEN A DEFENDANT AND THE UNITED
9 STATES SO THAT APPLICATION OF THE STATUTE IN QUESTION WOULD NOT
10 VIOLATE DUE PROCESS.

11 THE COURT HAS PREVIOUSLY ANALYZED THE CONGRESSIONAL
12 INTENT IN ADOPTING SECTION 1959, WITH WHICH THIS DEFENDANT IS
13 CHARGED, IN RESPONSE TO THE MOTION FILED BY OTHER DEFENDANTS,
14 AND DETERMINED THEN, AND TOLD YOU THEN, THAT CONGRESS HAS
15 AUTHORIZED EXTRATERRITORIAL APPLICATION OF THE CHARGING
16 STATUTE.

17 THE COURT FINDS THAT EXTRATERRITORIAL APPLICATION OF
18 SECTION 1959 IS AUTHORIZED.

19 THE COURT NOTES THAT WHEN THE CONSEQUENCES OF LIMITING
20 THE LOCUS OF THE STATUTE TO THE STRICTLY TERRITORIAL
21 JURISDICTION WOULD GREATLY CURTAIL THE SCOPE AND USEFULNESS OF
22 IT, CONGRESS HAS NOT THOUGHT IT NECESSARY TO MAKE SPECIFIC
23 PROVISION IN THE LAW THAT THE LOCUS SHALL INCLUDE THE HIGH SEAS
24 AND FOREIGN COUNTRIES, BUT ALLOWS IT TO BE INFERRED FROM THE
25 NATURE OF THE OFFENSE.

1 THAT WAS THE CASE OF STEGMAN (PHONETIC) VERSUS THE
2 UNITED STATES, A NINTH CIRCUIT CASE, 1970.

3 THE COURT HERE FINDS THERE IS A SUFFICIENT NEXUS
4 BETWEEN THE DEFENDANT -- THIS DEFENDANT AND THE UNITED STATES,
5 AND THE COURT FINDS THAT REFERENCE TO INTERNATIONAL LAW HELPS
6 IN MAKING THIS DETERMINATION. EXERCISE OF JURISDICTION OVER
7 DEFENDANT VASQUEZ ACCORDS WITH THE OBJECTIVE TERRITORIAL
8 PRINCIPLE OF INTERNATIONAL LAW WITH REGARD TO BOTH COUNTS
9 CHARGED AND WITH THE PASSIVE PERSONALITY PRINCIPLE WITH REGARD
10 TO THE WALKER MURDER.

11 THE INDICTMENT ALLEGES THAT THESE ACTS WERE TAKEN WITH
12 THE SPECIFIC PURPOSE AND INTENT OF RETALIATING AGAINST THE
13 D.E.A. AND ITS INFORMANTS IN MEXICO AND IN FURTHERANCE OF THE
14 NARCOTICS CARTEL TRAFFICKING NARCOTICS TO THE UNITED STATES.
15 AS SUCH, THESE ACTS WERE INTENDED TO PRODUCE EFFECTS WITHIN THE
16 UNITED STATES BORDERS; NAMELY, THE IMPORTATION AND DISTRIBUTION
17 OF COCAINE AND MARIJUANA AND THE FRUSTRATION OF THE D.E.A.'S
18 EFFORTS TO STEM THIS ACTIVITY. THIS IS A SUFFICIENT NEXUS
19 BETWEEN THE DEFENDANT AND THIS COUNTRY TO PERMIT PROSECUTION IN
20 THIS COURT.

21 THAT IS BASICALLY THE SAME REASONING THAT I MADE IN
22 THE LAST MOTION.

23 DO YOU WISH TO BE HEARD?

24 MR. NICOLAYSEN: I DO, YOUR HONOR, ON THE SECOND OF
25 THE TWO PARTS OF THE NINTH CIRCUIT TEST.

1 I'LL CERTAINLY ACCEPT YOUR HONOR'S READING OF THE --
2 OF CONGRESS'S TEST FOR THE INTENT AS FAR AS APPLICATION OF 1959
3 EXTRATERRITORIALLY; BUT IN TERMS OF THE NEXUS BETWEEN MY CLIENT
4 AND THE U.S., I THINK THERE IS A SERIOUS PROBLEM HERE.

5 THE COURT'S RULING SEEMS TO HINGE ON THE ALLEGATIONS
6 IN THE INDICTMENT. AND, CERTAINLY, IF THIS MOTION WERE MADE
7 PRETRIAL THAT WOULD BE THE APPROPRIATE GROUNDS FOR DENYING IT.
8 BUT I WOULD RESPECTFULLY ASK THE COURT NOT TO LOOK AT THE
9 INDICTMENT, BUT TO LOOK AT WHAT WAS PRESENTED BY THE GOVERNMENT
10 HERE IN TRIAL.

11 THERE WAS NO EVIDENCE OF ANY KIND TO SUGGEST THAT WHAT
12 HAPPENED AT THE LA LANGOSTA RESTAURANT HAD ANY CONNECTION TO
13 THE D.E.A. WE ALL KNOW THAT WHAT THE GOVERNMENT WANTED TO SHOW
14 WAS THAT SOMEBODY IN THE RESTAURANT MADE COMMENTS ABOUT THESE
15 TWO VICTIMS BEING D.E.A. INFORMANTS AND THAT THE SUBJECTIVE
16 PERCEPTION OF THE GANG MEMBERS WHO GRABBED THESE GUYS WAS THAT
17 THESE TWO FELLOWS WERE D.E.A. INFORMANTS, EVEN THOUGH THAT WAS
18 WRONG.

19 BUT THAT HEARSAY WAS EXCLUDED BY YOUR HONOR, AND THAT
20 LEFT A MAJOR GAP IN THE GOVERNMENT'S PRIMA FACIE CASE. THAT
21 GAP GOES SQUARELY TO THE RETALIATORY MOTIVE THAT IS THE ESSENCE
22 OF THIS MOTION HERE.

23 I WOULD ASK YOUR HONOR TO CAREFULLY EXAMINE WHERE IN
24 THE GOVERNMENT CASE THERE IS ANY SHOWING OF A D.E.A.
25 CONNECTION --

1 THE COURT: WELL, IT IS CONTAINED IN AN EXHIBIT WHICH
2 YOU ARE SEEKING TO HAVE THE COURT RECEIVE.

3 MR. NICOLAYSEN: WELL, THAT MAY BE. BUT THAT -- I
4 THINK, YOUR HONOR -- I THINK I'VE JUST RECEIVED YOUR RULING ON
5 MY OTHER MOTION, PERHAPS.

6 BUT THAT MAY BE -- AS I WAS LOOKING AT DEFENSE EXHIBIT
7 P, INCIDENTALLY, I RECOGNIZED THAT MIGHT BE THE ULTIMATE IRONY
8 IN THIS CASE.

9 BUT ASIDE FROM WHAT I'M ASKING THE COURT TO ADMIT,
10 BECAUSE THAT'S NOT YET IN EVIDENCE, THERE IS NOTHING THAT THE
11 GOVERNMENT HAS PROFFERED TO SHOW THAT WALKER AND RADELAT WAS
12 KILLED BECAUSE OF THE MISTAKEN BELIEF THEY WERE D.E.A. AGENTS
13 AND THAT THEREFORE THE HOMICIDES HAD ANY RETALIATORY MOTIVE TO
14 UNDERSCORE THEM WHATSOEVER.

15 WITHOUT THAT RETALIATORY MOTIVE BEING SHOWN, THE
16 TERRITORIAL PRINCIPLE AND THE PASSIVE PRINCIPLE SIMPLY DON'T
17 APPLY. THESE ARE JUST RANDOM HOMICIDES THAT OCCURRED IN
18 GUADALAJARA.

19 THE COURT: ALL RIGHT. TAKEN IN ITS TOTALITY, THE
20 EVIDENCE IS SUFFICIENT TO PROVIDE THAT NEXUS. THE
21 JUSTAPOSITION OF THESE TWO CRIMES, BEING ONE WEEK APART, IS
22 SOME INDICATOR OF IT, AND THE REMAINDER OF THE EVIDENCE THAT
23 HAS BEEN PRESENTED SATISFIES THE COURT THAT THAT IS SUFFICIENT.

24 SO THIS MOTION IS DENIED.

25 NOW -- OH, YES, MS. KELLY. YOU FILED A VERY LENGTHY

1 MEMORANDUM IN SUPPORT OF FURTHER CROSS-EXAMINATION OF THE
2 WITNESS HARRISON.

3 MS. KELLY IS NOT HERE?

4 MR. MEZA: SHE STEPPED OUT, YOUR HONOR. I'LL BE HER
5 ALTER EGO FOR ONCE.

6 THE COURT: WELL, ALL RIGHT. WELL, WE'LL PASS THAT
7 FOR THE MOMENT.

8 THIS MOTION HAS BEEN FILED BY DEFENDANT VASQUEZ TO
9 ADMIT DEFENSE TRIAL EXHIBIT B FOR THE TRUTH OF THE MATTER
10 STATED PURSUANT TO FEDERAL RULE OF EVIDENCE 804(B)(3). I HAVE
11 DISCUSSED THIS WITH YOU PREVIOUSLY AND INDICATED TENTATIVELY
12 THAT I WAS CONSIDERING ADMITTING THIS EXHIBIT INTO EVIDENCE
13 UNDER 804(B)(3). AND THE GOVERNMENT RAISED THE QUESTION ABOUT
14 THE RETRACTION BY THIS WITNESS OF HIS STATEMENT; THAT IS, HIS
15 LATER STATEMENT IN WHICH HE DENIED HIS INVOLVEMENT IN THE
16 WALKER AND RADELAT KILLINGS AT THE LA LANGOSTA OR THEIR SEIZURE
17 THERE AND WHATEVER ELSE TOOK PLACE.

18 IN THE ONE INSTANCE, HE ADMITTED BEING A PARTICIPANT
19 AND TRANSPORTING THE BODIES AND APPARENTLY BEING PRESENT DURING
20 THE TIME THEY WERE BURIED AND DOING OTHER THINGS; AND THE NEXT,
21 HE REDACTED THAT STATEMENT, IN A LATER STATEMENT IN WHICH HE
22 SAYS THAT THE FIRST STATEMENT WAS PROVIDED BECAUSE OF TORTURE
23 AND BEATINGS AND BECAUSE HE WAS COMPELLED TO GIVE THE ANSWERS
24 THAT HE GAVE.

25 THE COURT HAS MADE THIS DETERMINATION: THIS IS A

1 CLOSE CALL, BUT THE COURT BELIEVES THAT THE CABLE SHOULD BE
2 ADMITTED, BUT THAT THE LATER RECANTATION OF THAT CABLE OUGHT TO
3 ALSO BE ADMITTED.

4 NOW, THE OTHER DAY, YOU MADE NO OBJECTION TO THAT.
5 MR. NICOLAYSEN: THAT'S PERFECTLY ACCEPTABLE TO THE
6 DEFENSE, YOUR HONOR.

7 THE COURT: THE DEFENDANTS --

8 MR. NICOLAYSEN: HAS THE COURT BY ANY CHANCE RECEIVED
9 MY SUPPLEMENTAL FILING?

10 THE COURT: I HAVE, AND -- REQUESTING THE ENTRY OF --
11 RECEIPT THESE OTHER STATEMENTS?

12 MR. NICOLAYSEN: FOR NON-HEARSAY PURPOSES, BECAUSE
13 WE'RE NOW IN A BIT OF CREDIBILITY WAR, AS FAR AS HOW MUCH
14 WEIGHT THE JURY SHOULD ACCORD TO THE CABLE.

15 THE COURT: YES. I DON'T INTEND TO RECEIVE THOSE,
16 COUNSEL. I DON'T BELIEVE IT WOULD BE APPROPRIATE.

17 THIS RULE PERMITS THE ADMISSION OF THE STATEMENT OF AN
18 UNAVAILABLE DECLARANT IF THE STATEMENT WAS MADE AGAINST THE
19 DECLARANT'S PENAL INTERESTS AND THERE ARE CORROBORATING
20 CIRCUMSTANCES WHICH CLEARLY INDICATE THE TRUSTWORTHINESS OF THE
21 STATEMENTS; AND THE WHOLE ISSUE HERE IS CENTERED AROUND THE
22 CORROBORATION.

23 IT REQUIRES SUFFICIENT CORROBORATION TO CLEARLY PERMI
24 A REASONABLE MAN TO BELIEVE THAT THE STATEMENT MIGHT HAVE BEEN
25 MADE IN GOOD FAITH AND THAT IT COULD BE TRUE.

1 THE SUPREME COURT HAS SUGGESTED THAT WHERE THE
2 STATEMENT SOUGHT TO BE INTRODUCED IS CRITICAL TO THE DEFENSE
3 AND THE DEFENDANT'S CONSTITUTIONAL RIGHT TO CALL WITNESSES IS
4 AT STAKE, THE HEARSAY RULES SHOULD NOT BE APPLIED
5 MECHANISTICALLY TO THAT SITUATION.

6 I HAVE PREVIOUSLY FOUND THIS DECLARANT TO BE
7 UNAVAILABLE.

8 THE COURT NOW FINDS THAT THERE IS SUFFICIENT
9 CORROBORATION TO ADMIT THIS OTHERWISE HEARSAY STATEMENT,
10 PURSUANT TO RULE 804(B); BUT I BELIEVE THE LATER RECANTATION
11 SHOULD BE PLACED BEFORE THE JURY TO MITIGATE THE PLAINTIFF'S
12 INABILITY TO CROSS-EXAMINE THIS DECLARANT REGARDING HIS
13 NOVEMBER 14 STATEMENT, SUPPORTED BY THE NOVEMBER 15TH D.E.A.
14 CABLE, THAT IS -- THAT IS DESCRIBED IN THAT CABLE.

15 THE CORROBORATION CAN FOUND IN THE STATEMENTS OF PACO
16 TEJEDA AND RAZO RAMIREZ, WHICH TEND TO CORROBORATION ONTIVEROS'
17 STATEMENT. FURTHER ONTIVEROS' NOVEMBER 14 STATEMENT WAS
18 STRONGLY AGAINST HIS PENAL INTEREST; AND IN MAKING STATEMENTS
19 IMPLICATING THESE MAJOR DRUG DEALERS, HE MAY HAVE PLACED HIS
20 LIFE IN DANGER TO THE -- BY INDICATING THE PEOPLE WHO WERE
21 INVOLVED. THESE CONSIDERATIONS WOULD SUGGEST THAT HE HAD NO
22 MOTIVE TO LIE.

23 THE GOVERNMENT SAID THAT ONTIVEROS' STATEMENTS WERE
24 MADE UNDER DURESS, AS EVIDENCED BY HIS LATER RECANTATION OF
25 THAT STATEMENT. HOWEVER, AT THE TIME OF THE RECANTATION,

1 ONTIVEROS WAS FACING CRIMINAL CHARGES FOR THE PRECISE EVENT TO
2 WHICH HE TESTIFIED EARLIER, SO HE HAD SOME REASON TO RECANT HIS
3 EARLIER STATEMENT ADMITTING HIS INVOLVEMENT.

4 GIVEN THE CRITICAL NATURE OF THE EVENTS IN ONTIVEROS'
5 STATEMENT AND THE STATEMENTS OF OTHERS WHICH TEND TO
6 CORROBORATE ONTIVEROS' STATEMENT, THE COURT IS GOING TO FIND,
7 AND BECAUSE -- STRIKE THAT. THE COURT FINDS THAT THE
8 DEFENDANTS' EXHIBIT B SHOULD BE ADMITTED AND THAT THE
9 GOVERNMENT MAY INTRODUCE THE DEFENDANT'S RECANTATION IF IT SO
10 CHOOSES.

11 (EXHIBIT B # RECEIVED IN EVIDENCE.)

12 DO YOU WISH TO BE HEARD, COUNSEL?

13 MR. MEDRANO: YES, VERY BRIEFLY. THANK YOU, YOUR
14 HONOR.

15 FIRST OF ALL, I'D JUST LIKE TO BRING TO THE COURT'S
16 ATTENTION, AS I'VE INDICATED, MR. ROBERT CASTILLO WAS KIND
17 ENOUGH TO JOIN US FOR TODAY IN CASE HIS FURTHER TESTIMONY WAS
18 NEEDED.

19 AND, YOUR HONOR, YOU SAID SOMETHING VERY IMPORTANT,
20 THAT ONE OF THE LINCHPINS THAT YOU'RE RELYING ON IS SORT OF THE
21 CREDIBILITY OF THE PACO TEJEDA STATEMENT, WHICH WAS ALSO
22 OFFERED BY MR. NICOLAYSEN TO YOU, AS FURTHER EVIDENCE OF
23 CORROBORATION.

24 I'D LIKE TO MAKE THIS PROFFER TO YOU, YOUR HONOR,
25 BECAUSE I'D JUST LIKE TO MAKE YOU AWARE OF IT: MR. CASTILLO IS

1 OUTSIDE AND IS PREPARED TO TESTIFY FOR YOU IN FIVE MINUTES AND
2 BASICALLY TELL YOU THAT HE WAS PRESENT FOR THE INTERVIEW OF
3 PACO TEJEDA; THAT PACO TEJEDA WAS BEATEN, SLAPPED; HE WAS
4 BLINDFOLDED THE WHOLE TIME; HIS HANDS WERE TIED BEHIND HIS
5 BACK; AND IN ADDITION TO THAT, HE'S TAKEN TO THE ADJACENT ROOM,
6 HIS HEAD IS STUFFED INSIDE THE TOILET AND IT'S FLUSHED; AND IN
7 ADDITION TO THAT, MINERAL WATER IS FORCED DOWN HIS NOSTRILS,
8 YOUR HONOR.

9 SO I WANT YOU TO BE AWARE OF THAT, BECAUSE PACO TEJEDA
10 HAD NO CREDIBILITY, BECAUSE HE, LIKE THE OTHER STATEMENTS THAT
11 WERE ELICITED BY THE MEXICAN GOVERNMENT, WERE THE PRODUCT OF
12 COERCION AND TORTURE.

13 THE COURT: WELL, THAT'S -- THAT'S NOT TRUE OF THE
14 CARO QUINTERO STATEMENT.

15 MR. MEDRANO: AND -- YOU'RE RIGHT, YOUR HONOR. I HAVE
16 NO AFFIRMATIVE EVIDENCE THAT HE WAS TORTURED.

17 THE COURT: IN FACT, THERE HAS BEEN EVIDENCE THAT HE
18 WAS TREATED WITH KID GLOVES.

19 MR. MEDRANO: I UNDERSTAND, YOUR HONOR. BUT I JUST
20 WANTED YOU TO BE AWARE SO THAT -- MR. CASTILLO PURPORTED TO
21 FILE A STATEMENT BECAUSE HE FEELS SIMPLY ELICITED FROM TORT --
22 BY TORTURE.

23 THE COURT: AND MR. CASTILLO, OF COURSE, TESTIFIED
24 THAT HE OBSERVED NO TORTURE OR PHYSICAL DURESS IMPOSED ON THIS
25 WITNESS --

1 MR. MEDRANO: I UNDERSTAND.

2 THE COURT: -- DURING THE TIME THAT STATEMENT WAS
3 TAKEN.

4 MR. MEDRANO: I UNDERSTAND, YOUR HONOR.

5 IN LIGHT OF YOUR RULING, THEN, YOUR HONOR, I WOULD ASK
6 YOU THE FOLLOWING, BECAUSE I THINK JUSTICE MANDATES IT IN LIGHT
7 OF THE ADMISSION OF THIS PARTICULAR EXHIBIT IN MR. NICOLAYSEN'S
8 DEFENSE CASE.

9 YOU'RE BEING FAIR TO US, BECAUSE YOU'RE ALLOWING THE
10 RECANTATION TO COME IN; BUT IN ADDITION TO THAT, YOUR HONOR, I
11 WOULD SUGGEST AND ASK YOU THE FOLLOWING, AS PART OF OUR
12 SURREBUTTAL -- OR REBUTTAL TO THEIR REBUTTAL.

13 MR. CASTILLO IS HERE. WE KNOW THAT MR. NICOLAYSEN IN
14 HIS CLOSING ARGUMENT IS GOING TO WAVE THAT CABLE AND SAY THAT
15 CASTILLO TOLD THE JURY THAT HE -- THAT ONTIVEROS WAS NOT
16 TORTURED, AND HENCE, YOU SHOULD ATTACH CREDIBILITY TO IT.

17 MR. NICOLAYSEN: I WILL NOT -- BECAUSE THERE IS NO
18 TESTIMONY SPECIFICALLY BEFORE THE JURY BY AGENT CASTILLO THAT
19 ONTIVEROS WASN'T TORTURED, AS SUCH. I'M NOT GOING TO MAKE THAT
20 ARGUMENT BEFORE THE JURY.

21 THE COURT: IT WOULD NOT BE PROPER TO MAKE THAT
22 ARGUMENT.

23 MR. MEDRANO: WELL, IN ONE WAY OR ANOTHER, THOUGH, IN
24 ONE FASHION OR ANOTHER, YOUR HONOR, I SUSPECT THAT --

25 THE COURT: WELL, WHAT IS THE POINT?

1 MR. MEDRANO: WELL, HERE'S THE POINT: THAT WE WOULD
2 ASK YOUR PERMISSION, AS PART OF OUR REBUTTAL TO THE
3 SURREBUTTAL, TO PUT ON CASTILLO TO ADD AND FLUSH OUT WHAT HE
4 HAS OBSERVED IN THE 15 OR DOZEN INTERVIEWS OF THE MEXICAN
5 NATIONALS THAT HE HAS OBSERVED, WHERE TORTURE AND INTERROGATION
6 IS PART AND PARCEL OF THE METHODS OF THE MEXICANS.

7 AND I THINK THAT WOULD BE FAIR, BECAUSE OUR WHOLE
8 POSITION IN OUR CLOSING ARGUMENT IS THAT THAT CABLE HAS NO
9 CREDIBILITY IN LIGHT OF THE M.O. OF THE MEXICAN POLICE
10 OFFICIALS.

11 SO WE WOULD ASK YOU TO HAVE THE OPPORTUNITY TO PUT ON
12 CASTILLO FOR FIVE MINUTES FOR THAT LIMITED PURPOSE, AS PART OF
13 OUR REBUTTAL CASE.

14 THE COURT: YOU MEAN BEFORE THE JURY?

15 MR. MEDRANO: YES, YOUR HONOR.

16 THE COURT: THAT IS DENIED.

17 MR. MEDRANO: FINALLY, YOUR HONOR, THEN, WITH YOUR
18 PERMISSION, WE'D LIKE -- PERHAPS, IF THE COURT STILL HAS ITS
19 COPY OF THE TRANSLATION OF THE RECANTATION, AND IF THAT CAN BE
20 PROVIDED TO MADAM CLERK, WE'D LIKE THAT DESIGNATED AS
21 GOVERNMENT'S NEXT IN ORDER, 190, AND HAVE THAT ADMITTED AT THIS
22 TIME.

23 THE COURT: THAT MAY BE MARKED. AND BOTH EXHIBIT P
24 AND 190 WILL BE RECEIVED IN EVIDENCE.

25 (EXHIBIT 190 # RECEIVED IN EVIDENCE.)

1 (EXHIBIT P # RECEIVED IN EVIDENCE.)

2 MR. MEDRANO: THANK YOU, YOUR HONOR.

3 THE COURT: IS MS. KELLY BACK HERE YET?

4 MR. MEZA: NO, YOUR HONOR. SHE ISN'T.

5 THE COURT: NOW, LET'S TALK A LITTLE BIT ABOUT
6 ARGUMENT HERE, STARTING WITH THE ADAGE THAT I COINED A FEW
7 YEARS AGO THAT AN ARGUMENT, TO BE IMMORTAL, NEED NOT BE
8 ETERNAL.

9 (COURTROOM LAUGHTER.)

10 THE COURT: AND, THEREFORE, I WANT SOME ESTIMATES HERE
11 FROM COUNSEL OF WHAT -- HOW MUCH TIME THEY BELIEVE THEY'LL NEED
12 IN CLOSING ARGUMENT.

13 MR. MEDRANO: MAY I HAVE JUST ONE MOMENT, YOUR HONOR.
14 (PAUSE.)

15 YOUR HONOR, AS THE OPENING PART OF OUR CLOSING
16 ARGUMENT, WE ESTIMATE BETWEEN TWO AND THREE HOURS, HOPEFULLY
17 CLOSER TO TWO HOURS, ON THE OPENING PORTION. ON THE REBUTTAL
18 PORTION OF IT, YOUR HONOR, WE IMAGINE BETWEEN AN HOUR, AN HOUR
19 AND 15 MINUTES, OR AN HOUR AND A HALF, DEPENDING ON WHAT THE
20 DEFENSE SAYS.

21 THE COURT: WHAT ABOUT DEFENSE COUNSEL? WHAT --

22 MR. STOLAR: YOUR HONOR, ONCE, SEVERAL YEARS BACK, I
23 TRIED A MURDER CASE AND I SUMMED UP FOR THREE AND A HALF DAYS;
24 BUT I THINK IN THIS CASE I COULD SAFELY SAY IT WOULD BE MORE
25 THAN AN HOUR AND LESS THAN TWO.

1 THE COURT: OKAY.

2 MR. NICOLAYSEN: FOR DEFENDANT VASQUEZ, YOUR HONOR, UP
3 TO ONE HOUR.

4 MR. MEZA: ON BEHALF OF DEFENDANT BERNABE, WE WOULD
5 SUGGEST SOMEWHERE BETWEEN TWO AND TWO AND A HALF HOURS; AND WE
6 WOULD ALSO REQUEST OF THE COURT THAT BOTH COUNSEL BE PERMITTED
7 TO ARGUE. WE'RE MINDFUL OF THE DUAL ARGUMENTS IN THE LAST
8 TRIAL, AND WE HAVE MADE EFFORTS TO STRIVE TO MAKE EFFORTS NOT
9 TO GO OVER THE SAME AREA, AT LEAST THAT'S OUR INTENTION

10 THE COURT: WHAT -- YOU MEAN I PERMITTED COUNSEL TO
11 DIVIDE AN ARGUMENT IN THE LAST TRIAL?

12 MR. MEZA: YES.

13 THE COURT: WHICH COUNSEL WAS THAT?

14 MR. MEZA: I BELIEVE IT WAS PANSER (PHONETIC) AND --

15 THE COURT: MR. VERDUGO'S LAWYERS.

16 MR. MEZA: VERDUGO'S LAWYERS, RIGHT.

17 THE COURT: DO YOU THINK YOU'LL NEED TWO TO TWO AND A
18 HALF HOURS, YOU SAY?

19 MR. MEZA: ACTUALLY, I THINK IT WILL BE LESS THAN
20 THAT, BUT JUST IN AN ABUNDANCE OF CAUTION.

21 THE COURT: WELL, IN MAKING THIS INQUIRY, OF COURSE,
22 I'M TRYING TO SAVE COUNSEL FROM THEMSELVES; BUT IT APPEARS THAT
23 COUNSEL HERE ARE FAIRLY MINDFUL THAT THE MIND CAN ONLY ABSORB
24 WHAT THE SEAT CAN ENDURE. AND SO I THINK WE CAN LIVE WITH
25 THIS, AND I'LL TRY -- I WOULD LIKE THE GOVERNMENT TO TRY TO

1 FINISH BOTH THEIR OPENING ARGUMENT AND THEIR REBUTTAL IN THREE
2 HOURS, WHICH I THINK YOU CAN DO.

3 MR. MEDRANO: YOUR HONOR, I DON'T THINK WE HAVE HEARD
4 FROM MR. ZUNO'S COUNSEL ON THE LENGTH OF THEIR CLOSING
5 ARGUMENT.

6 THE COURT: THAT IS RIGHT.

7 MR. MEDVENE: I DIDN'T KNOW IF THAT MEANT --

8 THE COURT: THAT'S RIGHT; WE HAVEN'T HEARD.

9 MR. MEDVENE: I DIDN'T KNOW IF THAT MEANT YOU WERE
10 GOING TO GRANT OUR RULE 29 MOTION, YOUR HONOR; BUT ASSUMING --
11 (COURTROOM LAUGHTER.)

12 THE COURT: IF I DO, YOU CAN ARGUE ANYWAY.

13 MR. MEDVENE: WELL, WE'LL ARGUE ANYWAY, FOR PRACTICE,
14 EVEN IF YOU GRANT OUR MOTION.

15 I WOULD SAY TWO HOURS, GIVE OR TAKE A HALF HOUR ON
16 EITHER SIDE, YOUR HONOR.

17 MR. NICOLAYSEN: YOUR HONOR, I WOULD LIKE TO RENEW A
18 RULE 29 MOTION. I DON'T KNOW IF THE COURT WANTS THIS HEARD NOW
19 OR AFTER THE RECESS, BUT I WOULD LIKE TO HAVE A COMPLETE
20 MOTION --

21 THE COURT: LET'S WAIT UNTIL THE EVIDENCE IS FINISHED
22 HERE.

23 MR. NICOLAYSEN: MY UNDERSTANDING WAS THE REBUTTAL WAS
24 COMPLETE.

25 THE COURT: WELL, WE HAVE ANOTHER WITNESS.

1 MR. NICOLAYSEN: OH, I'M SORRY. WE HAVE ONE MORE. I
2 APOLOGIZE.

3 THE COURT: NOW, MS. KELLY, YOU HAVE FILED WITH THE
4 COURT A MEMORANDUM IN SUPPORT OF FURTHER CROSS-EXAMINATION OF
5 THE WITNESS HARRISON, WHICH I READ, EVEN THOUGH IT'S QUITE
6 LENGTHY AND CONTAINS MANY EXHIBITS. I READ THEM ALL, AND IT'S
7 VERY INTERESTING.

8 (COURTROOM LAUGHTER.)

9 MS. KELLY: THANK YOU, YOUR HONOR. BUT YOU DIDN'T
10 FIND IT PERSUASIVE? THAT'S THE MORE IMPORTANT QUERY, YOUR
11 HONOR.

12 THE COURT: I CAN'T, FOR THE LIFE OF ME, IMAGINE WHAT
13 THIS -- WHAT YOU WOULD DO WITH THIS WITNESS HARRISON AFTER YOU
14 HEARD THE EXAMINATION OF HIM THE OTHER DAY.

15 MS. KELLY: WELL, YOUR HONOR, I STILL BELIEVE THAT
16 THERE IS THIS CONNECTION BETWEEN THE D.F.S. AND THE C.I.A.
17 WHICH WAS ALLUDED TO BY AGENT KUYKENDALL.

18 THE COURT: YOU THINK YOU CAN PROVE IT THROUGH
19 HARRISON?

20 MS. KELLY: I BELIEVE SO, BECAUSE I THINK THAT
21 HARRISON IS TALKING ABOUT THE D.F.S. AND ABOUT NAZAR HARO, IF
22 I'M PRONOUNCING HIS NAME RIGHT, BEING AT THE TOP OF THE PILE -
23 THAT'S THE DIRECT QUOTE FROM THE RECORD OF TRANSCRIPT - AND HIS
24 SUPERIOR UNDER HIM WAS MARTINEZ; AND SERGIO ESPINO VERDIN WAS
25 IN THE D.F.S., AND THEN FONSECA, WHO IS MY CLIENT'S BOSS, WAS

1 IN THE D.F.S.

2 THE COURT: WELL, I KNOW YOU MENTIONED THAT. YOU
3 KNOW, THIS HAD THE APPEARANCE OF A BRIEF IN SEARCH OF A THEME.
4 THERE WERE A LOT OF THINGS ATTACHED HERE, BUT THERE IS NO
5 SHOWING MADE THAT YOU CAN PROVE ANY OF THESE THINGS THROUGH
6 SOME COMPETENT WITNESS.

7 AND THE OTHER QUESTION IS, YOU KNOW, THE TRIAL IS NOT
8 IN THE NATURE OF A DISCOVERY PROCEEDING. THE DISCOVERY IS
9 SUPPOSED TO TAKE PLACE BEFOREHAND.

10 I KNOW THAT CERTAIN THINGS WEREN'T TURNED OVER TO YOU
11 UNTIL JUST BEFORE THE TRIAL, BUT MANY OTHER THING WERE
12 AVAILABLE TO YOU FROM THE PHONE -- FROM THE PRIOR TRIAL; AND
13 MANY OF THEM ARE SHOWN IN HERE. SO YOU SHOULD HAVE DONE SOME
14 INVESTIGATION ON THOSE THINGS AND PRODUCED COMPETENT WITNESSES
15 THAT HAD SOME FIRSTHAND KNOWLEDGE, THAT COULD TESTIFY. I WOULD
16 HAVE PERMITTED TO YOU TO DO THAT.

17 BUT THIS WOULD BE NOTHING MORE THAN WHAT WE WENT
18 THROUGH WITH HARRISON THE OTHER DAY. THERE IS NOTHING HERE TO
19 INDICATE THAT HE HAD ANY PERSONAL KNOWLEDGE OF ANY OF THE
20 EVENTS THAT YOU DESCRIBED HERE.

21 YOU PUT TOGETHER A CONGLOMERATION OF DIFFERENT THINGS
22 AND EVENTS AND INTELLIGENCE REPORTS THAT HAVE BEEN MADE, AND I
23 DON'T SEE ANY BASIS HERE FOR ALLOWING THE FURTHER
24 CROSS-EXAMINATION OF THAT WITNESS.

25 MS. KELLY: WELL, YOUR HONOR, WITH ALL DUE RESPECT,

1 THE MATERIAL WITH RESPECT TO HARRISON WAS NOT TURNED OVER TO US
2 UNTIL THE MIDST OF THE TRIAL.

3 THE COURT: I KNOW IT.

4 MS. KELLY: AND THAT PROVIDED THE MOST CLEAR LINK
5 BETWEEN THE C.I.A. AND THE D.F.S. AND MY CLIENT'S BOSS, IF YOU
6 WILL.

7 NOW, THIS MAN HAS TESTIFIED UNDER OATH THAT HE MET
8 WITH A GUY BY THE NAME OF DALE; DALE LED HIM TO BELIEVE THAT HE
9 WAS WITH THE C.I.A. NOBODY IN THE C.I.A. SAYS, "I'M WITH THE
10 C.I.A. HERE IS MY C.I.A. BADGE." BUT UNDER THE CIRCUMSTANCES
11 IN WHICH HE WAS PERFORMING, THAT FONSECA HAD CONTRA
12 CONNECTIONS.

13 DALE, THEN, IS ON THE 14TH FLOOR WHEN THIS WITNESS IS
14 BEING EXAMINED DURING TRIAL, AND WE STILL DON'T KNOW WHO DALE
15 IS; AND WE STILL DON'T KNOW WHO THIS BENNY IS, EITHER, EVEN
16 THOUGH HE'S WITH THE D.E.A.

17 AND SO -- I MEAN, I KNOW WE ARE IN THE MIDST OF THE
18 TRIAL AND DISCOVERY IS OVER; BUT HAD I HAD THIS INFORMATION
19 BEFORE, I MIGHT HAVE HAD OTHER MEANS OF FINDING OUT WHO DALE IS
20 AND WHO BENNY IS.

21 IT SEEMS THAT DALE IS A WITNESS WITHIN THE GOVERNMENT
22 CONTROL AND THAT FURTHER INQUIRY INTO WHO DALE IS AND WHAT HIS
23 CONNECTION IS MIGHT ELUCIDATE WHETHER, IN FACT, THE
24 CONFIRMATION BY DALE AS TO FONSECA'S CONTRA CONNECTIONS WAS
25 TRUE; AND THAT COULD PROVIDE, AS YOUR HONOR -- I TRIED TO

1 EXPLAIN IN THE BRIEF, YOUR HONOR, THAT THE RACKETEERING
2 ENTERPRISE ASPECT, THAT ELEMENT OF THE OFFENSE, IF IT IS
3 SANCTIONED BY THE C.I.A. -- IT ONLY GOES TO THAT ASPECT.
4 I'M NOT TRYING TO SAY THAT THE C.I.A. --

5 THE COURT: THERE IS NO QUESTION IT WOULD BE RELEVANT
6 IF YOU HAD EVIDENCE THAT THE C.I.A. WAS ASSISTING THE NARCOTICS
7 TRAFFICKERS IN ORDER TO HAVE THEM RECIPROCATE BY PROVIDING GUNS
8 TO THE CONTRAS. BUT THERE IS -- IF YOU HAVE COMPETENT EVIDENCE
9 TO THAT EFFECT, YOU COULD HAVE PRESENTED IT DURING THE TRIAL;
10 BUT THERE ISN'T ANY.

11 AND I THINK THE COURT DETERMINED THE OTHER DAY MR.
12 HARRISON IS WITHOUT ANY PERSONAL KNOWLEDGE AND IS MERELY
13 REPEATING WHAT HAS BEEN SAID AND HEARD AND WHAT HE WAS TOLD BY
14 OTHERS, AND THAT IS NOT EVIDENCE BY WHICH YOU CAN PROVE THESE
15 ALLEGATIONS.

16 MS. KELLY: WHAT ABOUT THE DISCLOSURE OF THIS UNKNOWN
17 PERSON BY THE NAME OF DALE, DALE LANU (PHONETIC), LAST NAME
18 UNKNOWN?

19 THE COURT: THE TESTIMONY REGARDING THAT I DON'T THINK
20 WARRANTS ANY FURTHER EXAMINATION; SO THE MOTION IS DENIED.

21 MS. KELLY: VERY WELL, YOUR HONOR.

22 MR. MEZA: YOUR HONOR, THERE WAS -- THE MOTION WAS
23 ALSO IN SUPPORT OF OPENING -- REOPENING CROSS-EXAMINATION WITH
24 AGENT KUYKENDALL, AND THE SUBJECT MATTER -- IT WOULD COVER THE
25 SAME SUBJECT MATTER.

1 WHEN AGENT KUYKENDALL INITIALLY TESTIFIED ON
2 CROSS-EXAMINATION, HE DISCUSSED THE CONNECTION -- THAT THERE
3 WAS A CONNECTION BETWEEN THE D.F.S. AND THE C.I.A., THAT HE HAD
4 VOICED HIS DISPLEASURE AS A RESULT OF THAT CONNECTION.

5 I HAVE SPOKEN WITH AGENT KUYKENDALL SINCE THEN, AND IT
6 IS HIS POSITION THAT, IN FACT, THE C.I.A. WAS PROTECTING THE
7 D.F.S., AND THAT'S WHAT THE PROBLEM IS -- THIS ARGUMENT TURNED
8 OUT TO BE BETWEEN HE AND THE C.I.A. PERSONNEL SHORTLY AFTER
9 AGENT CAMARENA CAME UP MISSING.

10 SO I THINK AGENT KUYKENDALL HAS FACTS IN HIS KNOWLEDGE
11 UPON WHICH HE BASED THE OPINION THAT THE C.I.A. WAS PROTECTING
12 THE D.F.S.

13 THE COURT: THE MOTION IS DENIED AS TO HIM, TOO.

14 ALL RIGHT. NOW, IF THERE ARE NO MORE WITNESSES TO BE
15 PRESENTED HERE TODAY -- IS THAT CORRECT?

16 MR. MEDRANO: NONE BY THE GOVERNMENT, YOUR HONOR,

17 THE COURT: YOU HAVE A WITNESS THAT YOU'RE GOING TO
18 PRESENT ON THE HEARING.

19 MS. KELLY: YOUR HONOR, THERE IS ONE ADDITIONAL
20 WITNESS, MISS GARCIA.

21 THE COURT: OH, YES. IS SHE NOW READY?

22 MS. KELLY: SHE'S NOW READY.

23 THE COURT: WELL, AFTER A FEW MINUTES, WE'LL -- IS SHE
24 AN INTERPRETER, TOO?

25 MS. KELLY: YES, SHE IS, YOUR HONOR.

1 THE COURT: WELL, WHAT IS THE NEED FOR THAT?

2 MS. KELLY: WELL, SHE HAS PREPARED A TRANSCRIPT, YOUR
3 HONOR, WHICH SEEMS TO BE THE SUBJECT OF CROSS-EXAMINATION, THAT
4 NONE OF THE INTERPRETERS BEFORE PREPARED A TRANSCRIPT, YOUR
5 HONOR; AND SHE JUST COMPLETED IT YESTERDAY EVENING.

6 AND, YOUR HONOR, WE'LL -- WE'RE WILLING TO -- ONE OF
7 THE GOVERNMENT WITNESSES WAS NOT ABLE TO MAKE IT TODAY, WAS
8 STUCK ON A TRAIN. AND WE'RE WILLING TO STIPULATE THAT HER
9 TRANSCRIPT COMES IN, AND WE WOULD LIKE TO HAVE THE OPPORTUNITY
10 TO PRESENT A WITNESS WHO HAS LISTENED TO IT -- THE TAPE AND
11 PREPARED A TRANSCRIPT.

12 MR. CARLTON: YOUR HONOR, WE WOULD OBJECT. THIS IS
13 JUST CUMULATIVE. IT'S TURNING INTO A BATTLE OF MULTIPLE
14 INTERPRETERS. WE THINK BRINGING IN ANOTHER INTERPRETER IS --
15 THERE IS ENOUGH EVIDENCE.

16 THE COURT: WELL, IS THIS SIMPLY DUPLICATIVE OF WHAT
17 THE LAST WITNESS TESTIFIED TO?

18 MS. KELLY: WELL, I DON'T BELIEVE SO, YOUR HONOR,
19 BECAUSE THE OTHER --

20 THE COURT: WELL, WHAT IS -- WHAT IS THIS WITNESS
21 GOING TO TESTIFY TO?

22 MS. KELLY: SHE'S GOING TO TESTIFY THAT SHE LISTENED TO
23 THE ENHANCED COPY OF THE DESIGNATED PORTION AND PREPARED A
24 TRANSCRIPT. AND, YOUR HONOR, THE OTHER WITNESSES DID NOT
25 PREPARE A TRANSCRIPT, AND THAT SEEMS TO BE THE SUBJECT OF

1 CROSS-EXAMINATION.

2 AND, YOUR HONOR, THE GOVERNMENT'S WITNESSES -- THERE
3 ARE TWO GOVERNMENT WITNESSES, REBUTTAL WITNESSES, WHO PREPARED
4 TRANSCRIPTS OF THAT DESIGNATED PORTION. AND, YOUR HONOR, I
5 WOULD LIKE TO HAVE THE OPPORTUNITY TO PRESENT A TRANSCRIPT, A
6 COUNTERTRANSCRIPT, A SURREBUTTAL TRANSCRIPT TO THAT PORTION.

7 MR. CARLTON: YOUR HONOR, WE ONLY INTRODUCED ONE
8 TRANSCRIPT. THIS IS JUST GETTING OUT OF HAND. WE CAN'T
9 INTRODUCE ANOTHER. BUT --

10 THE COURT: ALL RIGHT. THE OBJECTION IS OVERRULED.

11 MR. CARLTON: MAY WE HAVE PERMISSION, THEN, YOUR
12 HONOR, TO REOPEN SUFFICIENTLY TO ALLOW IN THE STIPULATED SECOND
13 TRANSCRIPT OF OUR OTHER INTERPRETER?

14 MS. KELLY: NO OBJECTION, YOUR HONOR.

15 THE COURT: YES.

16 MS. KELLY: I ALREADY HAD AGREED TO THAT, YOUR HONOR,
17 THAT HER TRANSCRIPT COULD COME IN.

18 THE COURT: ALL RIGHT. WELL, WE'LL -- THIS IS
19 PRESENTLY WHAT THE COURT PLANS TO DO: I PLAN TO GET THIS CASE
20 TO THE JURY BEFORE THE END OF THE WEEK, SO THAT THIS AFTERNOON,
21 OR AFTER WE RELEASE THE JURY TODAY, WE'LL SETTLE THE JURY
22 INSTRUCTIONS THAT WILL BE GIVEN IN THIS CASE. AND WE WILL
23 START THE ARGUMENT TOMORROW MORNING AND HOPE TO FINISH IT
24 WITHIN THE TIME FRAME THAT WE HAVE DISCUSSED HERE, SO THAT
25 THERE WILL BE SUFFICIENT TIME ON FRIDAY, NOT THURSDAY, TO

1 INSTRUCT THE JURY AND TO GIVE THE CASE TO THE JURY.

2 MR. MEDRANO: THE ONLY OTHER OUTSTANDING THING, YOUR
3 HONOR, IS A FEW EXHIBITS.

4 THE COURT: WELL, WE'LL TAKE CARE OF THE EXHIBITS.

5 MR. MEDRANO: VERY WELL.

6 THE COURT: ANY EXHIBITS, TRY TO AGREE ON THEM. IF
7 THERE IS ANY DISPUTE, I'LL RESOLVE ANY DISPUTE ABOUT THE
8 EXHIBITS.

9 I WILL NEED COUNSEL, ALL COUNSEL, TO BE AVAILABLE. WE
10 WILL ALSO HOLD THIS HEARING, AFTER THE JURY IS ADJOURNED, IN
11 ORDER TO HEAR FROM THIS -- MR. ZUNO'S WITNESS REGARDING THE
12 MARRIAGE AND BIRTH REGISTRATION LAWS IN MEXICO, TO DETERMINE
13 WHETHER OR NOT THOSE DOCUMENTS THAT HAVE BEEN SUBMITTED TO THE
14 COURT SHOULD BE RECEIVED IN EVIDENCE.

15 I THINK THAT WILL -- THEN I'LL HEAR ANY MOTIONS THAT
16 YOU WISH TO MAKE WHEN THE EVIDENCE HAS BEEN CONCLUDED.

17 MR. NICOLAYSEN: AS FAR AS DEFENSE EXHIBIT P IS
18 CONCERNED, CAN THE COURT USE THE COPY THAT I HAVE ALREADY
19 SUBMITTED, OR SHOULD I SUBMIT A SEPARATE ONE TO THE CLERK?

20 THE COURT: WELL, I THINK IT IS BETTER, IF YOU HAVE A
21 SEPARATE ONE, TO SUBMIT IT.

22 MR. NICOLAYSEN: I'LL DO THAT.

23 THE COURT: IF YOURS IS ATTACHED TO ALL THIS, WE'LL
24 SUBMIT A SEPARATE ONE.

25 ALL RIGHT.

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

2 (BRIEF RECESS.)

3 (JURY PRESENT.)

4 THE COURT: CALL YOUR NEXT WITNESS.

5 MS. KELLY: YES, YOUR HONOR. THE DEFENSE WOULD CALL

6 IRMA LOURDES GARCIA.

7

8 IRMA GARCIA + SURREBUTTAL WITNESS, SWORN

9

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

12 THE WITNESS: IRMA LOURDES GARCIA, G A R C I A.

13 DIRECT EXAMINATION +

14 BY MS. KELLY:

15 Q MISS GARCIA, HOW ARE YOU EMPLOYED?

16 A I'M AN INTERPRETER FOR THIS COURT.

17 Q AND ARE YOU FEDERALLY CERTIFIED?

18 A YES, I AM.

19 Q COULD YOU TELL US HOW YOU CAME TO BECOME FAMILIAR WITH THE
20 SPANISH LANGUAGE?

21 A WELL, I GREW UP IN TEXAS. MY PARENTS WERE MEXICAN,
22 MEXICAN-AMERICAN, SO I GREW UP WITH SPANISH AND ENGLISH.

23 Q AND HAVE YOU STUDIED ANY OF THE SPANISH LANGUAGE?

24 A YES, I HAVE. I HAVE A MASTER'S IN SPANISH AND IN
25 BILINGUISTICS, AND ALSO EDUCATIONAL PSYCHOLOGY.

1 Q NOW, I DIRECT YOUR ATTENTION TO WHAT HAS BEEN MARKED AS
2 EXHIBIT FOUR P AND FOUR O. IT'S RIGHT IN FRONT OF YOU. THE
3 TAPES, I BELIEVE?

4 A YES.

5 Q DO YOU SEE TWO CASSETTE TAPES IN FRONT OF YOU?

6 A YES, I DO.

7 Q I BELIEVE THEY'RE MARKED FOUR O, AND THE OTHER IS MARKED
8 FOUR P?

9 A THAT'S CORRECT.

10 Q AND HAVE YOU SEEN THESE TAPES BEFORE?

11 A YES, I HAVE.

12 Q AND HAVE YOU LISTENED TO THESE TAPES IN CONNECTION WITH THE
13 REQUEST TO PRODUCE A TRANSLATION?

14 A YES, I DID.

15 Q AND WHAT HAS PREVIOUSLY BEEN MARKED AS EXHIBIT FOUR Q, I
16 BELIEVE?

17 A THAT'S CORRECT.

18 Q AND WHAT IS THAT?

19 A THIS IS A TRANSLATION THAT I PREPARED OF A DESIGNATED
20 PORTION OF A TAPE.

21 Q AND WOULD THOSE BE THE TAPES THAT ARE MARKED FOUR O AND
22 FOUR P? IS THAT CORRECT?

23 A THAT IS CORRECT. THOSE ARE THE TAPES THAT I LISTENED TO.

24 MS. KELLY: YOUR HONOR, I WOULD MOVE THE ADMISSION OF FOUR
25 O, FOUR P AND FOUR Q.

1 THE COURT: THEY MAY BE RECEIVED.
2 (EXHIBIT FOUR O # RECEIVED IN EVIDENCE.)
3 (EXHIBIT FOUR P # RECEIVED IN EVIDENCE.)
4 (EXHIBIT FOUR Q # RECEIVED IN EVIDENCE.)

5 BY MS. KELLY:

6 Q NOW, ON THAT PARTICULAR TRANSLATION -- I'M SORRY.

7 IN THAT PARTICULAR TRANSLATION, YOU PREPARED THAT
8 AFTER REVIEWING THE TAPES ABOUT HOW MANY TIMES?

9 A I LISTENED TO THE TAPES, OH, I WOULD SAY MORE THAN 50
10 TIMES.

11 Q NOW, I'D ALSO LIKE TO DIRECT YOUR ATTENTION TO WHAT HAS
12 BEEN MARKED AS EXHIBIT 157, WHICH IS IN FRONT OF YOU, A SPANISH
13 TRANSCRIPT.

14 A THIS ONE?

15 Q YES.

16 A AND NEAR THE DESIGNATION WITH THE SECOND "BERNABE RAMIREZ"
17 IN THE SECOND SENTENCE, DO YOU SEE THE WORD "CAMIONETAS"?

18 A YES.

19 Q AND CAN YOU TELL US WHAT "CAMIONETAS" MEANS?

20 A "CAMIONETAS" HAS TWO MEANINGS. IT CAN BE A PICKUP. IT CAN
21 ALSO BE A STATION WAGON.

22 MS. KELLY: I HAVE NOTHING FURTHER.

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

24 MR. CARLTON: NOTHING, YOUR HONOR.

25 THE COURT: YOU MAY STEP DOWN.

1 (WITNESS EXCUSED.)

2 MS. KELLY: YOUR HONOR, THAT CONCLUDES SURREBUTTAL.

3 THE COURT: ALL RIGHT.

4 MR. NICOLAYSEN: AT THIS TIME, YOUR HONOR, THE DEFENSE
5 WOULD MOVE EXHIBIT P INTO EVIDENCE.

6 THE COURT: EXHIBIT P MAY BE RECEIVED.

7 MR. NICOLAYSEN: AND EXHIBIT 190, TOO.

8 THE COURT: AND EXHIBIT 190 MAY ALSO BE RECEIVED.

9 (EXHIBIT P # RECEIVED IN EVIDENCE.)

10 (EXHIBIT 190 # RECEIVED IN EVIDENCE.)

11 THE COURT: NOW, LADIES AND GENTLEMEN, OF THE JURY --

12 MR. CARLTON: YOUR HONOR, MAY I REQUEST PERMISSION TO
13 INTRODUCE THE STIPULATION THAT WE HAD DISCUSSED EARLIER?

14 THE COURT: YES,

15 MR. CARLTON: YOUR HONOR, THE STIPULATION IS THAT
16 MAIRA STONE, M A I R A, IS A FEDERALLY CERTIFIED -- IF
17 CALLED AND SWORN, WOULD TESTIFY AS FOLLOWS:

18 THAT SHE IS A FEDERALLY CERTIFIED COURT INTERPRETER
19 FOR THE SOUTHERN DISTRICT OF CALIFORNIA, FLUENT IN SPANISH AND
20 ENGLISH; THAT SHE HAS LISTENED TO THE TAPE WHICH IS EXHIBIT
21 184 C ON MULTIPLE OCCASIONS AND HAS PREPARED A SPANISH
22 TRANSCRIPT OF THAT TAPE AND AN ENGLISH TRANSLATION OF THAT
23 SPANISH TRANSCRIPT, AND THAT THE SPANISH TRANSCRIPT AND THE
24 ENGLISH TRANSLATIONS ARE EXHIBIT 185 A.

25 AND I WOULD MOVE AT THIS TIME --

1 MS. KELLY: SO STIPULATED, YOUR HONOR.

2 MR. CARLTON: I WOULD MOVE AT THIS TIME THAT EXHIBIT
3 185 A BE RECEIVED.

4 THE COURT: IT MAY BE RECEIVED.

5 (EXHIBIT 185 A # RECEIVED IN EVIDENCE.)

6 THE COURT: NOW, LADIES AND GENTLEMEN OF THE JURY, I
7 THINK THIS CONCLUDES THE EVIDENCE THAT YOU WILL HEAR IN THIS
8 CASE FROM WITNESSES. AND THE NEXT ORDER OF BUSINESS WILL BE
9 ARGUMENT, WHICH WILL BEGIN TOMORROW.

10 THE REST OF THE DAY THE COURT NEEDS FOR VARIOUS OTHER
11 MATTERS, TO SETTLE THE JURY INSTRUCTIONS THAT WILL BE REQUIRED
12 TO BE GIVEN IN THE CASE AND TO DEAL WITH OTHER MATTERS. SO
13 YOU'RE GOING TO HAVE A SHORT DAY TODAY.

14 YOU WILL BE EXCUSED, AND I'M GOING TO ASK YOU TO
15 RETURN HERE TOMORROW MORNING AT 9:30, THE USUAL TIME. PLEASE
16 BE PROMPT, IF YOU CAN, TOMORROW SO THAT YOU GET HERE AT LEAST
17 15 MINUTES BEFORE THE APPOINTED TIME.

18 REMEMBER, AGAIN, KEEP IN MIND WHAT I HAVE BEEN TELLING
19 YOU THROUGHOUT THE TRIAL. EVEN THOUGH YOU'RE CLOSE TO THE TIME
20 WHEN YOU MAY BEGIN TO DISCUSS THIS CASE, YOU MAY NOT YET DO SO;
21 AND YOU MAY NOT EXPRESS ANY OPINIONS OR CONCLUSIONS ABOUT THIS
22 CASE, NOR DISCUSS IT WITH ANYONE ELSE, NOR SHOULD YOU READ
23 ANYTHING ABOUT THIS CASE OR LISTEN TO ANY BROADCAST OR
24 TELEVISION NEWS THAT MAY RELATE TO THIS CASE.

25 (JURY EXCUSED.)

1 THE CLERK: YOU MAY BE SEATED.

2 MR. NICOLAYSEN: YOUR HONOR, I WOULD RESPECTFULLY ASK
3 TO BE HEARD ON A RENEWAL OF A RULE 29 MOTION.

4 THE COURT: YOU'RE MAKING A MOTION TO -- FOR A
5 JUDGMENT OF ACQUITTAL?

6 MR. NICOLAYSEN: THAT IS CORRECT, YOUR HONOR,

7 THE COURT WILL RECALL THAT I INITIALLY MADE THE MOTION
8 AT THE CLOSE OF THE GOVERNMENT'S CASE. SINCE THAT TIME, IN MY
9 JUDGMENT, WHATEVER WEIGHT THE GOVERNMENT'S CASE HAD TO
10 SURVIVE A RULE 29 HAS SUBSTANTIALLY BEEN DIMINISHED, IN THE
11 FOLLOWING RESPECTS:

12 AS THE COURT KNOWS, FROM THIS MORNING'S RULING, THE
13 PRINCIPAL WITNESS AGAINST MY CLIENT, MR. PLASCENCIA AGUILAR,
14 HAS NOW BEEN SUBSTANTIALLY, IF NOT TOTALLY, DISCREDITED BY
15 DEFENSE EXHIBIT P, THE ONTIVEROS CABLE. I WON'T TAKE UP THE
16 TIME TO GO THROUGH IT, BECAUSE I KNOW THE COURT HAS TAKEN A LOT
17 OF TIME TO CONSIDER THAT CABLE, AND I APPRECIATE THE COURT'S
18 RULING; BUT THE IMPEACHMENT VALUE OF EXHIBIT P, IN MY OPINION,
19 IS SO SUBSTANTIAL THAT IT COMPLETELY DISCREDITS THE ACCOUNT OF
20 THE EVENT AT LA LANGOSTA.

21 IN ADDITION, WHAT WE HAVE LEFT OF THE GOVERNMENT'S
22 CASE IS NOTHING MORE THAN HECTOR CERVANTES SANTOS, AT LEAST IN
23 TERMS OF THE CRUCIAL ELEMENTS OF A MURDER THAT'S CALLED FOR IN
24 SECTION 1959. AND THE ONLY TESTIMONY THAT WOULD IN ANY WAY PUT
25 THE FINGER ON MY CLIENT IS HIS STATEMENT THAT MY CLIENT

1 TELEPHONED LA QUINTA THE DAY AFTER THE LA LANGOSTA EVENT AND
2 ALLEGEDLY CONFESSED.

3 NOW, SINCE I FIRST MADE MY RULE 29 MOTION, WE HAVE HAD
4 A FAIR AMOUNT OF EVIDENCE CONCERNING THE ABSENCE OF A TELEPHONE
5 THERE: THE TWO WITNESSES WHO TESTIFIED, AS YOUR HONOR WILL
6 RECALL, FROM GUADALAJARA; BUT PRINCIPALLY, THE CORROBORATIVE
7 VALUE OF THE TELEPHONE RECORD, EXHIBIT TRIPLE N, THAT YOUR
8 HONOR ADMITTED LAST FRIDAY, WHICH, IN MY JUDGMENT, PUT THE
9 FINAL SEAL TO THE QUESTION OF WHETHER THERE EVER WAS A PHONE.

10 BECAUSE THERE WAS NO PHONE, THERE WAS NO TELEPHONE
11 CONFESSION; BECAUSE ENRIQUE PLASCENCIA'S TESTIMONY HAS BEEN SO
12 SEVERELY DISCREDITED BY DEFENSE EXHIBIT B - AND, I WOULD ADD,
13 YOUR HONOR, AS THE COURT WILL RECALL, MR. PLASCENCIA WASN'T
14 EVEN A WITNESS TO ANY MURDER; ANYWAY - THERE IS SIMPLY NOTHING
15 LEFT TO THE GOVERNMENT'S CASE.

16 THAT IS A SHORT SCENARIO, BUT I THINK THAT IT COVERS
17 THE SCOPE OF THE DEFENSE CASE AND CERTAINLY PUTS THE BURDEN ON
18 THE GOVERNMENT TO SURVIVE A RULE 29.

19 THE COURT: DO YOU WISH TO RESPOND?

20 MR. MEDRANO: CERTAINLY, YOUR HONOR.

21 THE BURDEN WHICH THE GOVERNMENT HAS EASILY SATISFIED
22 UNDER THE RULE 29 STANDARDS -- OF COURSE, THE EVIDENCE MUST BE
23 VIEWED IN THE LIGHT MOST FAVORABLE TO THE GOVERNMENT AND ALL OF
24 THE POSSIBLE INFERENCES DRAWN IN FAVOR OF THE GOVERNMENT.

25 MR. PLASCENCIA PLACES THAT MAN AT THAT RESTAURANT.

1 CERVANTES PLACES THAT MAN LEAVING FROM THE RESTAURANT WITH
2 BARBA TO LA QUINTA. MR. CERVANTES PLACES THAT MAN COMING BACK
3 TO THE HOUSE AFTER THE MURDER AND BASICALLY ADMITTING HIS
4 INVOLVEMENT IN THE MURDER OF RADELAT AND WALKER.

5 EVERYTHING THAT MR. NICOLAYSEN DESCRIBES GOES TO THE
6 WEIGHT AND CREDIBILITY, YOUR HONOR; AND IT IS THE JURY, THE
7 TRIER OF FACT, WHO SHOULD RESOLVE THESE ISSUES. SO WE WOULD
8 ASK TO YOU DENY THE RULE 29 MOTION.

9 THE COURT: THE MOTION IS DENIED.

10 IS THERE ANY OTHER MOTION?

11 MR. STOLAR: I HAVE SUCH A MOTION, BUT I WOULD LIKE TO
12 RESERVE IT UNTIL WE HEAR FROM THE ATTORNEY FROM MEXICO TO SEE
13 IF THE COURT IS WILLING TO RECEIVE THE VARIOUS DOCUMENTS
14 CONCERNING THE BAPTISM AND LACK OF A WEDDING REPORTED IN
15 MEXICO.

16 THE COURT: ALL RIGHT.

17 MR. MEZA: WE WOULD ALSO -- ALSO RESERVE.

18 THE COURT: ALL RIGHT.

19 MR. MEDVENE: WE HAVE A WITNESS HERE NOW.

20 THE COURT: ALL RIGHT. IS THE WITNESS HERE NOW?

21 MR. MEDVENE: WE HAVE A WRITTEN MOTION COMING DOWN,
22 YOUR HONOR, SO WE WOULD LIKE TO RESERVE, ALSO.

23 OUR UNDERSTANDING ON THE WITNESS, YOUR HONOR, WAS --
24 HE WAS FROM HERE FROM MEXICO FRIDAY -- WAS THAT HE COULD BE
25 HERE FIRST THING IN THE AFTERNOON. HE TEACHES CLASSES AT LAW

1 SCHOOL DOWN THERE IN THE MORNING. HE IS SUPPOSED TO BE -- HE'S
2 DUE IN AT NOON TODAY AND WOULD BE HERE FOR 1:30.

3 THE COURT: WELL, THAT'S ENCROACHING ON THE TIME THE
4 COURT WANTED TO GET INTO THESE JURY INSTRUCTIONS. I THOUGHT
5 THE WITNESS WAS HERE AND WAS GOING TO BE HERE THIS MORNING.

6 MR. MEDVENE: HE WAS HERE. HE WAS HERE ON FRIDAY,
7 YOUR HONOR.

8 IT WAS OUR UNDERSTANDING THE CASE WOULD TAKE THE
9 MORNING. SO WE APOLOGIZE, YOUR HONOR.

10 MR. MEDRANO: YOUR HONOR, WE WOULD OBJECT, BECAUSE MR.
11 CASTILLO MIGHT HAVE TESTIFIED TODAY, AND HE'S BEEN HERE SINCE 7
12 O'CLOCK THIS MORNING, OR WHATEVER. SO I THINK IT'S
13 INAPPROPRIATE TO WAIT ANY LONGER, ESPECIALLY ON AN ISSUE THAT
14 IT IS OUR POSITION WOULD NOT RESULT IN THE ADMISSION OF THESE
15 DOCUMENTS.

16 WE WOULD OBJECT, YOUR HONOR, AND ASK THAT THIS THING
17 BE FINISHED AND WE GO FORWARD WITH IT.

18 THE COURT: WELL, I TOLD THEM THEY COULD PRESENT THIS
19 WITNESS, AND THEY BROUGHT HIM UP FOR THAT PURPOSE; SO I'LL LET
20 HIM --

21 MR. STOLAR: YOUR HONOR, I THINK THAT WE COULD MAKE
22 USE OF THE NEXT HALF HOUR BY TRYING TO SETTLE THE EXHIBITS WITH
23 THE CLERK.

24 THE COURT: WELL, YOU SHOULD DO THAT, YES.

25 AND THE WAY I'M HANDLING THESE INSTRUCTIONS, I'M

1 REVIEWING THE OBJECTIONS AND THE PROPOSED INSTRUCTIONS AND THE
2 COUNTERPROPOSED INSTRUCTIONS, AND I'M BASICALLY -- WHEN I HAVE
3 FINISHED, I WILL MEET WITH YOU AND TELL YOU THE DECISIONS THAT
4 I HAVE MADE WITH RESPECT TO THE INSTRUCTIONS AND I WILL HEAR
5 FROM YOU BRIEFLY WITH REGARD TO THOSE DECISIONS; AND I DON'T
6 THINK WE'LL HAVE TOO MUCH OF A PROBLEM RESOLVING THE
7 INSTRUCTIONS.

8 MR. STOLAR: I DON'T THINK SO, EITHER.

9 THE COURT: ALL RIGHT.

10 WELL, THEN, YOU'RE EXCUSED FOR NOW. YOU SHOULD GET
11 TOGETHER WITH THE CLERK AND DETERMINE WHAT EXHIBITS SHOULD BE
12 ADMITTED, AND THOSE THAT ARE IN DISPUTE -- UNLESS I HEAR FROM
13 YOU ON THE RECORD OR THROUGH THE CLERK THAT CERTAIN EXHIBITS
14 ARE IN DISPUTE, I WILL ASSUME THERE ARE NO DISPUTES. AND I
15 WILL RESOLVE ANY DISPUTES THERE ARE.

16 MR. STOLAR: THANK YOU.

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

18 (NOON RECESS.)

19 ---0---

20

21

22

23

24

25

1 LOS ANGELES + CALIFORNIA, TUESDAY, JULY 10, 1990

2 + 1:30 P.M.

3 (HEARING OUT OF THE + PRESENCE OF THE JURY:)

4 THE COURT: ARE YOU PREPARED TO CALL YOUR WITNESS
5 REGARDING THE AUTHENTICATION WITH RESPECT TO THE MARRIAGE AND
6 BIRTH RECORDS?

7 MR. DI NICOLA: YES, WE ARE, YOUR HONOR.

8 THE COURT: VERY WELL. CALL YOUR WITNESS.

9 MR. DI NICOLA: WE WOULD CALL ANTONIO CUELLAR SALAS.

10
11 ANTONIO CUELLAR SALAS + DEFENSE WITNESS, SWORN

12 (WITNESS TESTIFYING THROUGH INTERPRETER)

13
14 THE CLERK: YOU MAY BE SEATED. THANK YOU.

15 PLEASE STATE YOUR FULL NAME FOR THE RECORD AND SPELL
16 YOUR LAST NAME.

17 THE WITNESS: MY NAME IS ANTONIO CUELLAR SALAZAR, C U
18 E DOUBLE L A R.

19 THE INTERPRETER: YOUR HONOR, MAY I HAVE PERMISSION TO
20 APPROACH MS. ZAHLER?

21 THE COURT: YES.

22 THE INTERPRETER: SHE HAS SOMETHING FOR ME. THANK
23 YOU.

24 (BRIEF PAUSE IN PROCEEDINGS.)

25 DIRECT EXAMINATION +

1 BY MR. DI NICOLA:

2 Q GOOD AFTERNOON, MR. CUELLAR.

3 A GOOD AFTERNOON.

4 Q MR. CUELLAR, WHERE DO YOU RESIDE, SIR?

5 A IN MEXICO CITY, FEDERAL DISTRICT OF MEXICO.

6 Q AND ARE YOU A CITIZEN OF MEXICO, SIR?

7 A YES.

8 Q WHAT IS YOUR OCCUPATION?

9 A I AM AN ATTORNEY.

10 Q ARE YOU LICENSED TO PRACTICE LAW IN MEXICO?

11 A YES.

12 Q HOW LONG HAVE YOU BEEN AN ATTORNEY IN MEXICO?

13 A 30 YEARS.

14 Q MR. CUELLAR, WOULD YOU PLEASE DESCRIBE YOUR EDUCATIONAL
15 BACKGROUND AND TRAINING IN THE LAW?

16 A I STUDIED LAW AT THE LAW SCHOOL OF THE UNIVERSIDAD AUTONOMA
17 DE MEXICO.

18 Q AND DID YOU RECEIVE A DEGREE FROM THE UNIVERSITY?

19 A YES.

20 Q AND WHAT WAS THAT DEGREE?

21 A THE ATTORNEY-AT-LAW DEGREE; IN OTHER WORDS, AN ATTORNEY.

22 Q UPON GRADUATION, DID YOU COMMENCE THE PRACTICE OF LAW?

23 A YES.

24 Q AND HOW LONG HAVE YOU PRACTICED LAW?

25 A SINCE I FINISHED MY STUDIES IN 1959. I DID MY PROFESSIONAL

1 STUDIES BETWEEN 1955 AND 1959 AT THE UNIVERSITY.

2 Q YOU'VE BEEN PRACTICING LAW CONTINUOUSLY, THEN, SINCE 1959;
3 IS THAT CORRECT, SIR?

4 THE COURT: COUNSEL, LET'S NOT ASK EVERY QUESTION
5 THREE TIMES. HE'S ALREADY SAID HE'S BEEN PRACTICING FOR 30
6 YEARS.

7 MR. DI NICOLA: VERY WELL, YOUR HONOR. I'LL MOVE ON.

8 Q MR. CUELLAR, HAVE YOU HELD ANY TEACHING POSITIONS IN YOUR
9 LEGAL CAREER?

10 A YES. I HAVE BEEN A TEACHER, A PROFESSOR IN THE LAST -- FOR
11 THE LAST 20 YEARS AT VARIOUS LAW SCHOOLS.

12 Q WOULD YOU PLEASE DESCRIBE THE TEACHING POSITIONS THAT
13 YOU'VE HELD?

14 A I HAVE BEEN A PROFESSOR AT THE LAW SCHOOL OF THE
15 UNIVERSIDAD NACIONAL AUTONOMA DE MEXICO, TEACHING COURSES IN
16 LICENSING; ALSO, AT THE SAME UNIVERSITY, AT THE SAME LAW
17 SCHOOL, BUT TEACHING COURSES IN THE DOCTORATE DEGREE.

18 I TEACH COURSES IN THE MASTER'S PROGRAM AT THE
19 UNIVERSIDAD PAN AMERICANA, AT THE UNIVERSIDAD AUTONOMA DE
20 CHIHUAHUA, AT THE UNIVERSIDAD AUTONOMA OF HIDALGO, AT THE
21 NATIONAL INSTITUTE OF CRIMINAL SCIENCES.

22 Q MR. CUELLAR, OTHER THAN YOUR TEACHING RESPONSIBILITIES,
23 HAVE YOU HAD OCCASION TO LECTURE OR TO SPEAK ON THE LAW?

24 A IN MY PROFESSIONAL LIFE, I HAVE PRACTICED AS A LITIGATOR,
25 PRACTICED AS A PROFESSOR, AND I HAVE ALSO BEEN A PUBLIC

1 OFFICIAL IN THE JUDICIAL BRANCH.

2 Q I'D LIKE TO FOLLOW UP ON THAT, MR. CUELLAR. HAVE YOU HELD
3 ANY NATIONAL POSITIONS IN MEXICO IN YOUR CAPACITY AS A LAWYER?

4 A YES. I HAVE HAD -- I HAVE HELD PUBLIC OFFICE. YES, I HAVE
5 HAD SOME.

6 Q COULD YOU DESCRIBE THOSE POSITIONS THAT YOU HAVE HELD IN A
7 LEGAL CAPACITY.

8 A I HAVE BEEN AN ATTORNEY AT VARIOUS PUBLIC AGENCIES. I HAVE
9 BEEN THE DIRECTOR OF THE LEGAL DEPARTMENT OF THE NATIONAL
10 INSTITUTE OF HOUSING. I HAVE BEEN THE GENERAL DIRECTOR OF
11 PROFESSIONS. I HAVE BEEN AN ADVISOR TO THE SENATE OF THE
12 REPUBLIC.

13 Q COULD YOU DESCRIBE YOUR RESPONSIBILITIES IN YOUR CAPACITY
14 AS THE DIRECTOR OF PROFESSIONS?

15 A IN MEXICO, THE NATIONAL DIRECTORATE OF PROFESSIONS IS IN
16 CHARGE OF REGISTERING ALL THE PROFESSIONAL PROFESSIONS, AND
17 IT'S ALSO IN CHARGE OF ISSUING ALL THE LICENSES OR PATENTS FOR
18 THOSE PROFESSIONS

19 Q COULD YOU GIVE ME AN EXAMPLE OF THE PROFESSIONS THAT ARE
20 REGULATED BY THE DIRECTOR OF PROFESSIONS?

21 A ATTORNEYS, ENGINEERS, ARCHITECTS, PHYSICIANS,
22 VETERINARIANS, GEOLOGISTS, VARIOUS OTHERS. PROFESSIONS IN
23 THEMSELVES.

24 Q MR. CUELLAR, IN THE SPAN OF YOUR CAREER, WOULD YOU PLEASE
25 DESCRIBE THE AREAS OF LAW THAT YOU HAVE BEEN INVOLVED IN EITHER

1 AS A PRACTITIONER OR AS A PROFESSOR?

2 A THEY HAVE BEEN VERY BROAD SINCE THE BEGINNING OF MY
3 PRACTICE IN TRIALS AND CIVIL MATTERS, FAMILY MATTERS, BUSINESS
4 MATTERS, LABOR MATTERS; PROBLEMS IN GENERAL, AROUND THE KINDS
5 OF PROBLEMS THAT PEOPLE HAVE.

6 Q AND IN YOUR LEGAL CAREER AS A PRACTITIONER, AND AS A LAW
7 PROFESSOR, HAVE YOU HAD OCCASION TO STUDY AND APPLY THE
8 FEDERAL, STATE AND LOCAL LAWS OF MEXICO?

9 A YES. ONE OF THE -- YES.

10 Q AND IN YOUR COURSE OF YOUR LEGAL CAREER, HAVE YOU BECOME
11 FAMILIAR WITH THE LAWS GOVERNING THE FILING AND THE RECORDING
12 OF DOCUMENTS IN THE CIVIL REGISTRIES OF MEXICO?

13 A YES. IN MY PROFESSIONAL PRACTICE, ESPECIALLY DURING THE
14 LAST FEW YEARS, I HAVE DEALT WITH WHAT IN MEXICO IS CALLED THE
15 RELIEF OR REMEDY MATTERS. THIS IS AN ACTION THAT IS FILED
16 EITHER AGAINST LAWS OR ACTIONS TAKEN BY AUTHORITIES WHEN THESE
17 VIOLATE THE CIVIL RIGHTS OR THE CONSTITUTIONAL RIGHTS OF
18 PEOPLE.

19 Q HAS YOUR LEGAL CAREER CAUSED YOU TO BECOME FAMILIAR WITH
20 THE LAW GOVERNING THE REQUIREMENTS FOR THE FILING, IF ANY, OF
21 BIRTH AND MARRIAGE RECORDS?

22 A EVERY ATTORNEY MUST KNOW ABOUT THOSE DOCUMENTS OR THOSE
23 PROCEEDINGS, BECAUSE THEY ARE FUNDAMENTAL PROCEEDINGS THAT COME
24 INTO PLAY IN AN ATTORNEY'S PROFESSION.

25 Q AND THESE ARE MATTERS THAT YOU HAVE HAD OCCASION TO STUDY

1 AND APPLY IN THE COURSE OF YOUR CAREER?

2 A YES.

3 Q AND IN THE COURSE OF YOUR LEGAL CAREER, HAVE YOU STUDIED
4 AND BECOME FAMILIAR WITH VARIOUS STRUCTURES OF GOVERNMENT IN
5 MEXICO AT THE NATIONAL AND STATE LEVEL?

6 A YES. THOSE ARE SUBJECTS THAT ARE TAUGHT IN COURSES; AND
7 ASIDE FROM THAT, DURING YOUR PROFESSIONAL PRACTICE YOU LEARN
8 ABOUT THEM.

9 MR. DI NICOLA: YOUR HONOR, AT THIS TIME THE DEFENSE
10 WOULD OFFER MR. CUELLAR AS A LEGAL EXPERT WITH RESPECT TO THE
11 RECORDING REQUIREMENTS THAT ARE AT ISSUE.

12 THE COURT: WELL, HE MAY TESTIFY.

13 BY MR. DI NICOLA:

14 Q MR. CUELLAR, YOU INDICATED FAMILIARITY WITH VARIOUS
15 STRUCTURES OF GOVERNMENT AT THE NATIONAL AND LOCAL LEVEL?

16 A YES.

17 Q IS THE URBAN AREA OF GUADALAJARA COMPRISED OF VARIOUS
18 MUNICIPALITIES?

19 A YES.

20 Q CAN YOU NAME THE MUNICIPALITIES THAT COMPRISE THE GREATER
21 GUADALAJARA AREA?

22 A ACCORDING TO THE LAW, THE GUADALAJARA AREA IS COMPRISED OF
23 FOUR MUNICIPALITIES. THEY ARE GUADALAJARA, TONALA,
24 TLAQUEPAQUE, AND ZAPOPAN.

25 Q MR. CUELLAR, IS THERE A SYSTEM FOR THE RECORDING OF PUBLIC

1 DOCUMENTS RELATING TO BIRTHS AND MARRIAGES IN MEXICO?

2 A YES. YES.

3 Q WHAT IS THAT SYSTEM CALLED, AND CAN YOU DESCRIBE IT?

4 A YES. IT'S THE CIVIL REGISTRY. THERE IS A CIVIL REGISTRY
5 IN EACH ONE OF THE STATES OF THE REPUBLIC AND ALSO IN THE
6 FEDERAL DISTRICT. THAT IS TO SAY, THERE ARE 31 STATES PLUS THE
7 FEDERAL DISTRICT, AND EACH ONE OF THEM -- THAT IS TO SAY ALL 32
8 OF THEM -- HAS THEIR OWN CIVIL REGISTRY.

9 AND THAT CIVIL REGISTRY IS GOVERNED BY THE CIVIL CODE
10 OF EACH ONE OF THOSE STATES.

11 Q IS THERE AN OFFICE OF THE CENTRAL REGISTRY LOCATED IN EACH
12 MUNICIPALITY?

13 A THERE IS ONE CIVIL REGISTRY IN EACH ONE OF THE STATES,
14 FIRST OF ALL; AND AFTER THAT, EACH STATE ORGANIZES OR ARRANGES
15 IT SO THAT THERE IS ONE CENTRAL REGISTRY IN THE STATE, AND
16 THERE IS ONE REGISTRY IN EACH ONE OF THE MUNICIPALITIES.

17 Q WHEN YOU SAY, "ONE REGISTRY IN EACH OF THE MUNICIPALITIES,"
18 DO YOU MEAN THAT THERE IS ONE OFFICE, OR IS THERE MORE THAN ONE
19 OFFICE IN EACH OF THE MUNICIPALITIES?

20 A IT DEPENDS ON THE MUNICIPALITY. THE REPUBLIC OF MEXICO IS
21 VERY LARGE, AND EACH ONE OF THOSE MUNICIPALITIES WOULD HAVE ONE
22 REGISTRY.

23 THERE ARE SMALL MUNICIPALITIES AND LARGE
24 MUNICIPALITIES. IN SOME MUNICIPALITIES, THEY MAY HAVE ONE OR
25 TWO OFFICES; AND THERE ARE OTHER MUNICIPALITIES WHERE THERE MAY

1 BE MORE.

2 BUT THEY ARE ALL -- ALL THE RECCRDS ARE CONCENTRATED
3 IN ONE REGISTRY OFFICE IN EACH ONE OF THOSE MUNICIPALITIES.

4 Q SO IS THERE A CENTRAL REGISTRY THAT IS A PLACE WHERE ALL OF
5 THE RECORDS FOR A PARTICULAR MUNICIPALITY ARE KEPT IN EACH
6 MUNICIPALITY?

7 A YES. THERE IS A CENTRAL OFFICE FOR THE REGISTRY IN EACH
8 MUNICIPALITY, AND THAT IS WHERE ALL OF THE RECORDS ARE COMPILED
9 FOR THAT MUNICIPALITY. AND AFTER THAT, THE MUNICIPAL ONES ARE
10 CONCENTRATED -- ARE COMPILED INTO THE STATE REGISTRY.

11 Q SO EACH OF THE MUNICIPALITIES THAT YOU REFERRED TO
12 PREVIOUSLY -- GUADALAJARA, ZAPOPAN AND TONALA, AND
13 TLAQUEPAQUE -- DO THEY EACH HAVE A REGISTRY LOCATED IN THAT
14 MUNICIPALITY?

15 A YES. THEY MUST HAVE IT.

16 Q DOES ANY ONE OF THOSE MUNICIPALITIES HAVE MORE THAN ONE
17 CENTRAL REGISTRY?

18 A THEY MUST HAVE A CENTRAL REGISTRY OFFICE; AND IF THEY HAVE
19 A SPECIAL AGREEMENT OR UNDERSTANDING, YOU WOULD HAVE TO SEE
20 THAT SPECIAL AGREEMENT OR UNDERSTANDING. THEY MIGHT HAVE OTHER
21 OFFICES, DEPENDING ON THE DISTANCE OR THE AREA THAT IS COVERED.
22 THEY MAY HAVE EXTRA OFFICES.

23 Q ARE YOU FAMILIAR, MR. CUELLAR, WITH WHETHER OR NOT THE
24 MUNICIPALITY OF TLAQUEPAQUE HAS MORE THAN ONE CENTRAL REGISTRY?

25 A THERE IS AN AGREEMENT WHEREBY TWO REGISTRIES OR TWO OFFICES

1 ARE SET UP IN TLAQUEPAQUE.

2 Q MR. CUELLAR, IN MEXICO, DOES THE LAW REQUIRE THAT ALL
3 BIRTHS BE RECORDED?

4 A YES. IT'S ONE OF THE OBLIGATIONS, ACCORDING TO CIVIL LAW,
5 FOR THE PARENTS TO REGISTER ALL THEIR CHILDREN.

6 Q AND IS THIS A UNIFORM REQUIREMENT THROUGHOUT MEXICO?

7 A YES. IN ALL OF THE STATES, THERE IS THE SAME REQUIREMENT.

8 Q HOW IS A BIRTH RECORDED?

9 A IT'S SET FORTH IN THE LAW, WHEN A CHILD IS BORN IT IS THE
10 OBLIGATION OF THOSE PARENTS TO GO AND REGISTER THAT CHILD. IF
11 THE PARENTS ARE NOT THERE, THEN THE PATERNAL GRANDPARENTS. IF
12 THE PATERNAL GRANDPARENTS ARE NOT AVAILABLE, THEN THE MATERNAL
13 GRANDPARENTS MUST DO IT.

14 AND THEY MUST PRESENT THE CHILD BEFORE THE REGISTRAR
15 OF THE CIVIL REGISTRY AND AT THAT POINT STATE ALL THE PERTINENT
16 FACTS ABOUT THAT CHILD -- WHERE WAS HE BORN, WHEN WAS HE BORN,
17 WHO ARE THE PARENTS, WHO ARE THE GRANDPARENTS -- AND DRAW UP A
18 DOCUMENT, A RECORD, STATING ALL OF THAT.

19 AND THEY MUST IMPRINT THE FINGERPRINT OF THE CHILD.

20 Q WHERE ARE BIRTHS REQUIRED TO BE RECORDED?

21 A AT THE CIVIL REGISTRY.

22 Q ARE BIRTHS RECORDED IN ANY PARTICULAR CIVIL REGISTRY AS IT
23 RELATES TO WHERE THE BIRTH TOOK PLACE?

24 A IN THE PLACE, THE AREA, WHERE THEY WERE BORN.

25 Q MR. CUELLAR, DOES THE APPLICABLE --- DOES MEXICAN LAW

1 REQUIRE THAT ALL MARRIAGES BE RECORDED?

2 A YES. YES. ACCORDING TO MEXICAN LAW, THE MARRIAGE IS A
3 SOLEMN ACT THAT MUST NECESSARILY BE CARRIED OUT IN FRONT OF THE
4 REGISTRAR OF THE CIVIL REGISTRY.

5 Q IS A MARRIAGE VALID UNDER MEXICAN LAW IF IT IS NOT RECORDED
6 IN THE CIVIL REGISTRY?

7 A NO. SUCH A MARRIAGE -- OR THE MARRIAGE DOES NOT EXHIBIT
8 UNLESS IT'S DONE BEFORE THE CIVIL REGISTRY.

9 Q MR. CUELLAR, CAN A RELIGIOUS MARRIAGE TAKE PLACE IF THE
10 CIVIL MARRIAGE HAS NOT BEEN RECORDED?

11 A ACCORDING TO THE LAW -- ACCORDING TO THE LAW, THE MEXICAN
12 LAW, THERE IS ONLY ONE TYPE OF MARRIAGE, AND THAT IS A CIVIL
13 MARRIAGE.

14 BUT THERE IS AN EXCEPTION TO -- A RELIGIOUS EXCEPTION.
15 AND THE MEXICAN POPULATION IS A CATHOLIC POPULATION, AND IT IS
16 THE CUSTOM TO ALSO MARRY IN A RELIGIOUS CEREMONY.

17 BUT GENERALLY, WHEN A RELIGIOUS CEREMONY IS CARRIED
18 OUT, IT IS REQUESTED -- IT IS ASKED -- THAT THE CIVIL CEREMONY
19 HAVE BEEN CARRIED OUT BEFOREHAND, TO BE ABLE TO MARRY THEM BY
20 THE CHURCH.

21 IT'S THE PRACTICE, BECAUSE THE MINISTERS OF THE CHURCH
22 WANT FOR PEOPLE TO COMPLY WITH THE LEGAL REQUIREMENTS, BECAUSE
23 THE ONLY MARRIAGE THAT HAS ANY LEGAL EFFECT IS THE CIVIL
24 MARRIAGE.

25 Q MR. CUELLAR, WHAT IS THE PROCEDURE FOR DETERMINING WHETHER

1 A MARRIAGE OR A BIRTH HAS BEEN RECORDED IN THE CIVIL REGISTRY?

2 A THE CIVIL REGISTRY, ACCORDING TO MEXICAN LAW, IS A PUBLIC
3 REGISTRY; AND THAT MEANS THAT ANY PERSON CAN REQUEST
4 INFORMATION OR DATA. AND ONCE THOSE ARE REQUESTED, THEY ARE
5 PROVIDED, AND THEY CAN GET THEM.

6 Q MR. CUELLAR, DIRECTING YOUR ATTENTION TO THE EXHIBITS THAT
7 ARE IN THE AREA IN FRONT OF YOU THERE, EXHIBITS E E
8 THROUGH -- TRIPLE E THROUGH TRIPLE I AND TRIPLE J THROUGH
9 TRIPLE L, TRIPLE O AND TRIPLE P, COULD YOU PLEASE TAKE A
10 MOMENT AND REVIEW THOSE?

11 A (COMPLIES.)

12 Q FOR THE RECORD, EXHIBITS TRIPLE E THROUGH TRIPLE I ARE
13 CERTIFICATES OF NONEXISTENCE OF MARRIAGE OF JORGE BARBA
14 HERNANDEZ FOR THE YEARS 1984 AND 85 FOR THE MUNICIPALITIES OF
15 GUADALAJARA, TONALA, ZAPOPAN, AND TLAQUEPAQUE.

16 EXHIBITS TRIPLE J, TRIPLE K, TRIPLE L, TRIPLE O, AND
17 TRIPLE P ARE CERTIFICATES OF NONEXISTENCE OF THE BIRTH OF
18 YUREMI BARBA ARROYA FOR CORRESPONDING MUNICIPALITIES.

19 Q MR. CUELLAR, HAVE YOU HAD AN OPPORTUNITY TO REVIEW THESE
20 EXHIBITS?

21 A YES.

22 Q UNDER MEXICAN LAW, DO THESE EXHIBITS ESTABLISH THE
23 NONEXISTENCE OF A RECORD RELATING TO THE MARRIAGE OR BIRTH TO
24 WHICH THEY REFER?

25 A THESE ARE PHOTOCOPIES. THEY CORRESPOND TO DOCUMENTS WHICH

1 IN MEXICO ARE CALLED PUBLIC DOCUMENTS, BECAUSE THEY WERE ISSUED
2 BY AN AUTHORITY; AND WHEN AN AUTHORITY ISSUES A STATEMENT, THEY
3 ARE CONSIDERED PUBLIC DOCUMENTS ACCORDING TO THE LAW.

4 Q DO THESE DOCUMENTS REFLECT THE NONEXISTENCE OF A MARRIAGE
5 OR BIRTH RECORD, AS THE CASE MAY BE, IN THE MUNICIPALITIES TO
6 WHICH THEY CORRESPOND?

7 A YES. THESE ARE RECORDS THAT CONTAIN A NEGATIVE REGISTER.
8 THAT IS TO SAY, SOMEONE CAME TO REQUEST SOME DOCUMENT OR SOME
9 RECORD THAT WAS REGISTERED. A SEARCH WAS CARRIED OUT IN THE
10 BOOKS OF THE CIVIL REGISTRIES AND THE REQUESTED RECORD WAS NOT
11 FOUND; AND THAT'S REASON WHY THE STATEMENT OF NONEXISTENCE WAS
12 ISSUED.

13 Q EXCEPT FOR THE FACT THEY ARE PHOTOSTATIC COPIES, MR.
14 CUELLAR, DO THESE DOCUMENTS MEET THE REQUIREMENTS OF MEXICAN
15 LAW TO ESTABLISH NONEXISTENCE OF THE BIRTH OR MARRIAGE TO WHICH
16 THEY REFER?

17 A YES. THE ORIGINALS MUST BE HELD TO BE TRUE DOCUMENTS,
18 BECAUSE THEY WERE ISSUED BY SOME AUTHORITY WHILE THEY WERE
19 CARRYING OUT THEIR DUTIES IN THE POST THAT THEY WERE ASSIGNED
20 TO.

21 MR. DI NICOLA: NOTHING FURTHER, YOUR HONOR.

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

23 CROSS-EXAMINATION +

24 BY MR. MEDRANO:

25 Q GOOD AFTERNOON, MR. CUELLAR.

1 A GOOD AFTERNOON.

2 Q MR. CUELLAR, IN ADDITION TO THE FOUR MUNICIPALITIES THAT
3 YOU'VE DESCRIBED THAT ARE THE GUADALAJARA AREA, THERE IS ALSO
4 MUNICIPALITIES IMMEDIATELY OUTSIDE THAT AREA, CORRECT?

5 MR. STOLAR: OBJECTION. IT'S IRRELEVANT, YOUR HONOR.

6 THE COURT: OVERRULED.

7 THE WITNESS: YES, THERE IS MANY MUNICIPALITIES.

8 BY MR. MEDRANO:

9 Q GIVE US SOME OF THE NAMES OF THESE MUNICIPALITIES
10 IMMEDIATELY ADJACENT TO THE FOUR THAT YOU'VE ALREADY MENTIONED
11 FOR US.

12 A THE ONES THAT ARE IMMEDIATELY ADJACENT, I DON'T -- I AM
13 FROM MEXICO CITY, FROM THE FEDERAL DISTRICT, AND THEREFORE I
14 DON'T KNOW THE EXACT GEOGRAPHICAL AREAS. I DON'T KNOW THE
15 GEOGRAPHIC AREAS WHERE ALL THESE OTHER MUNICIPALITIES ARE THAT
16 MAKE UP THE WHOLE STATE.

17 Q I UNDERSTAND THAT.

18 A IN THE WHOLE REPUBLIC OF MEXICO, THERE ARE APPROXIMATELY
19 2,800 MUNICIPALITIES.

20 Q I UNDERSTAND THAT. LET ME JUST HAVE YOU FOCUS ON
21 GUADALAJARA.

22 IN ADDITION TO THE FOUR YOU'VE MENTIONED, WHAT ARE
23 SOME OTHER MUNICIPALITIES IMMEDIATELY ADJACENT TO THOSE FOUR?

24 MR. STOLAR: OBJECTION. ASKED AND ANSWERED.

25 THE COURT: THE WITNESS HAS ANSWERED THE QUESTION. HE

1 HASN'T NAMED ANY, BUT HE SAID HE DIDN'T KNOW THEM.

2 MR. MEDRANO: VERY WELL, YOUR HONOR.

3 Q YOU DON'T KNOW THE NAMES OF ANY OF THOSE; CORRECT?

4 MR. STOLAR: OBJECTION. ASKED AND ANSWERED.

5 THE WITNESS: (IN SPANISH:) SI.

6 THE COURT: SUSTAINED.

7 MR. MEDRANO: VERY WELL.

8 Q THESE MUNICIPALITIES, IN ADDITION TO THE FOUR YOU'VE
9 MENTIONED, ALSO HAVE CIVIL REGISTRIES; CORRECT, SIR?

10 A (THROUGH INTERPRETER:) YES.

11 Q AND THESE ADDITIONAL MUNICIPALITIES THAT YOU DON'T KNOW THE
12 NAMES OF HAVE A CENTRAL CIVIL REGISTRY AND, DEPENDING ON THE
13 SIZE, THEY MAY HAVE ALSO ADDITIONAL CIVIL REGISTRIES; CORRECT?

14 A YES. ALL MUNICIPALITIES THROUGHOUT THE REPUBLIC OF MEXICO
15 HAVE THEIR OWN CIVIL REGISTRY.

16 Q AND SOME MUNICIPALITIES, DEPENDING ON SIZE, HAVE MORE THAN
17 ONE; CORRECT? MORE THAN ONE OFFICE?

18 A YES.

19 Q NOW, LET'S FOCUS ON THE FOUR YOU'VE MENTIONED ALREADY.

20 GUADALAJARA HAS A CENTRAL CIVIL REGISTRY?

21 A THERE ARE FOUR MUNICIPALITIES. ONE IS GUADALAJARA, AND IT
22 DOES HAVE A CENTRAL CIVIL REGISTRY.

23 Q I UNDERSTAND THAT. AND FOR THE MUNICIPALITY OF
24 GUADALAJARA, THERE IS OTHER CIVIL REGISTRIES IN ADDITION TO THE
25 CENTRAL ONE; CORRECT?

1 A (CONSULTS WITH INTERPRETER.)

2 Q YES OR NO, SIR?

3 A NO. THERE ARE OFFICES.

4 Q THERE'S MORE THAN ONE OFFICE; RIGHT?

5 A YES.

6 Q IN GUADALAJARA MUNICIPALITY?

7 A YES, YES.

8 Q FOR THE MUNICIPALITY OF TONALA, THERE'S MORE THAN ONE
9 OFFICE FOR THE CIVIL REGISTRY?

10 A YES.

11 Q THE SAME ANSWER FOR ZAPOPAN?

12 A YES.

13 Q AND THE OTHER ONE -- FORGIVE MY PRONUNCIATION.

14 THE INTERPRETER: TLAQUEPAQUE?

15 THE WITNESS: TLAQUEPAQUE.

16 MR. MEDRANO: TLAQUEPAQUE. THANK YOU, MRS. COHEN
17 (PHONETIC).

18 MRS. COHEN: YOU'RE WELCOME.

19 THE COURT: LET ME ASK A COUPLE OF QUESTIONS.

20 THESE FOUR MUNICIPALITIES THAT YOU YOU TESTIFIED ABOUT
21 WOULD ONLY CONTAIN THE RECORDS OF PEOPLE WHO WENT TO THE CIVIL
22 REGISTRIES IN THOSE FOUR MUNICIPALITIES AND ENTERED INTO A
23 MARRIAGE?

24 THE WITNESS: YES. THESE WOULD CONTAIN THE ONES THAT
25 WERE RECORDED IN THAT ONE PLACE, BUT FOR THE WHOLE

1 MUNICIPALITY.

2 THE COURT: ALL RIGHT. FOR THE WHOLE.

3 IF SOMEONE WERE MARRIED IN ANOTHER MUNICIPALITY, WITH
4 ANOTHER REGISTRY, THE RECORD OF THAT MARRIAGE WOULD NOT APPEAR
5 IN THESE FOUR MUNICIPALITIES?

6 THE WITNESS: IF THEY MARRIED AT A DIFFERENT
7 MUNICIPALITY, THEY WOULDN'T HAVE TO APPEAR BEFORE ONE OF THESE.

8 THE COURT: THAT WAS -- THE QUESTION WAS: WOULD THERE
9 BE A RECORD OF THEIR MARRIAGE IN ONE OF THESE FOUR
10 MUNICIPALITIES?

11 THE WITNESS: IF THE MARRIAGE WAS CARRIED OUT IN
12 GUADALAJARA, IT WOULD HAVE TO BE IN ONE OF THOSE FOUR
13 MUNICIPALITIES.

14 THE COURT: NO. I'M ASKING: IF THE MARRIAGE WAS
15 CARRIED OUT OUTSIDE OF GUADALAJARA, IN ANOTHER MUNICIPALITY,
16 WOULD THERE BE A RECORD OF IT IN ONE OF THESE FOUR
17 MUNICIPALITIES?

18 THE WITNESS: NO.

19 THE COURT: AND THE SAME IS TRUE OF A BIRTH? IF A
20 BIRTH WAS RECORDED SOMEPLACE OTHER THAN THESE FOUR
21 MUNICIPALITIES, WOULD THERE BE A RECORD OF IT IN THE FOUR
22 MUNICIPALITIES?

23 THE WITNESS: NO. ONLY WHAT TAKE PLACE OR HAPPENS IN
24 THAT ONE MUNICIPALITY.

25 THE COURT: ALL RIGHT. ANYTHING FURTHER?

1 MR. MEDRANO: YES. YOU'VE COVERED MOST OF THAT, YOUR
2 HONOR. JUST A COUPLE MORE QUESTIONS.

3 Q IT IS POSSIBLE TO BE MARRIED SOLELY RELIGIOUSLY WITHIN THE
4 CHURCH; ISN'T THAT CORRECT, MR. CUELLAR?

5 A YES, IT IS POSSIBLE, BUT IT IS NOT THE CUSTOM.

6 Q BUT IT IS POSSIBLE?

7 A YES.

8 MR. MEDRANO: MAY I HAVE A MOMENT, YOUR HONOR?

9 (GOVERNMENT COUNSEL CONFER OFF THE RECORD.)

10 BY MR. MEDRANO:

11 Q FINALLY, MR. CUELLAR, IT IS NOT UNUSUAL FOR A CHILD TO BE
12 BORN OUTSIDE OF A HOSPITAL IN MEXICO; IS THAT CORRECT? AT
13 HOME, FOR EXAMPLE?

14 A OH, YES.

15 Q AND AFTER THAT, IT'S THE RESPONSIBILITY OF THE PARENTS, IF
16 THEY'RE ALIVE, TO GO REGISTER THE CHILD, THE BIRTH OF THE
17 CHILD?

18 A YES. THEY MUST REGISTER HIM. IT'S AN OBLIGATION OF
19 THEIRS.

20 MR. MEDRANO: ONE MOMENT, YOUR HONOR.

21 (GOVERNMENT COUNSEL CONFER OFF THE RECORD.)

22 BY MR. MEDRANO:

23 Q AND FINALLY, MR. CUELLAR, IF A CHILD IS BORN
24 ILLEGITIMATELY, IT IS STILL THE RESPONSIBILITY OF A PARENT TO
25 REGISTER THE CHILD; CORRECT?

1 A THE RESPONSIBILITY BELONGS TO THE PARENTS. BUT IT COULD
2 HAPPEN THAT ONLY THE MOTHER TAKES THE CHILD TO BE REGISTERED.

3 Q AND IT IS ALSO POSSIBLE, IS IT NOT, MR. CUELLAR, THAT
4 CHILDREN ARE BORN IN MEXICO AND SIMPLY NEVER REGISTERED? THAT
5 HAS HAPPENED; CORRECT?

6 A IN VERY DISTANT AREAS.

7 MR. MEDRANO: THANK YOU, YOUR HONOR. THAT'S IT.

8 THE INTERPRETER: EXCUSE ME, YOUR HONOR. THAT IS
9 "REMOTE": "REMOTE" AREAS, NOT "DISTANT."

10 MR. MEDRANO: EXCUSE ME.

11 THE COURT: "REMOTE," NOT "DISTANT."

12 THE INTERPRETER: "REMOTE," NOT "DISTANT."

13 MR. MEDRANO: THANK YOU.

14 CROSS-EXAMINATION +

15 BY MR. STOLAR:

16 Q WHAT ARE THE POTENTIAL CONSEQUENCES TO A CHILD WHO IS NOT
17 ON THE CIVIL REGISTRY?

18 MR. MEDRANO: YOUR HONOR, I WOULD OBJECT. THIS IS NOT
19 HIS WITNESS.

20 MR. STOLAR: THIS WITNESS IS EXTREMELY IMPORTANT, YOUR
21 HONOR.

22 THE COURT: JUST A MOMENT. YOU MAY ANSWER.

23 THE WITNESS: THAT HE CANNOT -- THAT HE WOULD NOT BE
24 ABLE TO ESTABLISH HIS IDENTITY; IN OTHER WORDS, ALL KINDS OF
25 PROBLEMS. HE WOULD NEED TO ESTABLISH THAT TO BE ABLE TO STUDY,

1 TO BE ABLE TO EXERCISE ANY KIND OF A RIGHT. IN OTHER WORDS,
2 THAT IS NEED FOR EVERY KIND OF PROCEDURE THAT YOU NEED TAKE
3 CARE OF.

4 Q SO IT'S A VERY STRONG INDUCEMENT TO A PARENT TO HAVE A
5 CHILD REGISTERED; IN FACT, IT IS THE NORMAL PRACTICE IN MEXICO,
6 PARTICULARLY IN URBAN AREAS. IS THAT RIGHT?

7 A YES. YES, BECAUSE IF THEY DON'T REGISTER, THEN THEY CANNOT
8 BE PROVIDED EDUCATION. THEY CANNOT RECEIVE MEDICAL ATTENTION
9 AT THE SOCIAL SECURITY HOSPITALS. THEY CAN NOT ENFORCE
10 THEIR -- EXERCISE THEIR CIVIL RIGHTS.

11 THERE'S A LOT OF PROBLEMS THAT COME ABOUT BECAUSE OF
12 NOT BEING REGISTERED.

13 Q WHAT KIND OF CONSEQUENCES ARE THERE IF A WEDDING OR A
14 MARRIAGE IS NOT CIVILLY REGISTERED?

15 A THEN THE MARRIAGE DOES NOT EXIST. THAT CANNOT BE, BECAUSE
16 IN MEXICO, THE ONLY MARRIAGE THAT EXISTS IS A CIVIL MARRIAGE,
17 AND YOU MUST HAVE THE RECORD TO PROVE IT.

18 IT'S A FORMAL PROCEEDING THAT REQUIRES THE CEREMONY
19 BEFORE THE REGISTRAR OF THE CIVIL REGISTRY.

20 Q HOW LONG IS -- I'M SORRY. GO AHEAD.

21 A WITHOUT MEETING THAT REQUIREMENT, IT DOES NOT EXIST UNDER
22 MEXICAN LAW.

23 Q DOES THAT MEAN, FOR EXAMPLE THAT IF A HUSBAND DIED, A WIFE
24 COULD NOT INHERIT THE PROPERTY?

25 A A MARRIAGE BRINGS ABOUT RIGHTS AND OBLIGATIONS. IF THERE

1 IS NO MARRIAGE. THEN THOSE RESPONSIBILITIES OR THOSE RIGHTS ARE
2 NOT THERE. THEY DO NOT EXIST.

3 Q YOU SPOKE ON YOUR TESTIMONY ABOUT A CUSTOM OR A PRACTICE OF
4 MINISTERS IN RELIGIOUS CEREMONIES TO REQUIRE A CIVIL CEREMONY.

5 A YES.

6 Q COULD YOU EXPAND UPON THAT A LITTLE BIT, EXPAND UPON THAT,
7 EXPLAIN IT?

8 MR. MEDRANO: OBJECTION. LACK OF FOUNDATION AS TO
9 WHAT CHURCHES DO, YOUR HONOR.

10 THE COURT: SUSTAINED.

11 BY MR. STOLAR:

12 Q ARE YOU FAMILIAR WITH THE PRACTICE OF --

13 THE COURT: THE WITNESS IS NOT CALLED HERE TO TESTIFY
14 ABOUT THE PRACTICE OF THE CHURCHES. HE'S A LEGAL EXPERT TO
15 TESTIFY ABOUT MEXICAN LAW.

16 BY MR. STOLAR:

17 Q DOES PART OF THE PRACTICE OF LAW THAT YOU HAVE CONCERN
18 FAMILY MATTERS?

19 A IN MY PROFESSIONAL PRACTICE?

20 Q ARE YOU FAMILIAR, IN THE COURSE OF YOUR PROFESSIONAL
21 PRACTICE IN FAMILY MATTERS, WITH THE PRACTICE OF CHURCHES WITH
22 RESPECT TO MARRIAGES?

23 A THERE CAN BE LEGAL CONSEQUENCES. A COUPLE WHO IS LIVING
24 TOGETHER BUT WHO IS NOT MARRIED, THAT CAN CAUSE CERTAIN LEGAL
25 CONSEQUENCES. IN LEGAL TERMS, IT'S CALLED --

1 INTERPRETER: "CONCUBINAGE," I BELIEVE?

2 MR. STOLAR: CONCUBINE.

3 THE INTERPRETER: CONCUBINE.

4 BY MR. STOLAR:

5 Q ARE YOU FAMILIAR GENERALLY WITH THE NATURE OF THE AREA
6 OUTSIDE THE FOUR MUNICIPALITIES OF GUADALAJARA?

7 MR. MEDRANO: OBJECTION. ASKED AND ANSWERED, AND
8 AMBIGUOUS AS TO NATURE.

9 THE COURT: OVERRULED.

10 BY MR. STOLAR:

11 Q FOR EXAMPLE, IS IT LARGE AND HEAVILY POPULATED, OR IS IT
12 FARMLAND, RURAL?

13 A WHAT AREA?

14 Q OUTSIDE OF THE FOUR MUNICIPALITIES THAT ENCOMPASS
15 GUADALAJARA.

16 A THAT'S A RURAL AREA. AND AFTER THAT, THERE'S OTHER TOWNS,
17 BUT THEY'RE FURTHER AWAY.

18 Q IS IT LIGHTLY POPULATED?

19 A WHICH ONE?

20 Q OUTSIDE OF THE CITY.

21 A NO. IT'S A RURAL AREA.

22 Q BUT THAT MEANS IT DOESN'T HAVE VERY MUCH POPULATION; IS
23 THAT RIGHT?

24 A THAT'S RIGHT.

25 MR. STOLAR: MAY I HAVE ONE MOMENT? (PAUSE.)

1 THANK YOU, SIR.

2 THE COURT: ANYTHING FURTHER OF THIS WITNESS?

3 MR. MEDRANO: NO, YOUR HONOR. THANK YOU.

4 THE COURT: ALL RIGHT. YOU MAY STEP DOWN.

5 THE WITNESS: THANK YOU.

6 THE COURT: WELL, COUNSEL, WHAT DO YOU THINK THAT YOU
7 HAVE SHOWN BY THIS TESTIMONY? OBVIOUSLY, ONE FALSE PREMISE OR
8 ASSUMPTION ON YOUR PART: THAT JORGE BARBA HERNANDEZ HAD TO BE
9 MARRIED BEFORE ONE OF THESE FOUR CIVIL REGISTRIES OR THAT HIS
10 CHILD HAD TO BE BORN WITHIN THE PROVINCE OR JURISDICTION OF ONE
11 OF THESE FOUR MUNICIPALITIES, AND THEREFORE THE ABSENCE OF A
12 RECORDING, IF EITHER THE MARRIAGE OR THE BIRTH IS ABSENT, THAT
13 IS EVIDENCE THAT NEITHER EVENT TOOK PLACE. THAT ISN'T TRUE.

14 THERE'S AN ASSUMPTION HERE THAT IT HAD TO BE IN THESE
15 FOUR MUNICIPALITIES. OBVIOUSLY, IT DOES NOT HAVE TO BE. IT
16 COULD BE IN ANY MUNICIPALITY. THE CIVIL CEREMONY COULD BE IN
17 ONE MUNICIPALITY AND THE RELIGIOUS IN ANOTHER.

18 THE BIRTH OF THIS CHILD COULD HAVE BEEN ANYWHERE. WE
19 DON'T KNOW WHERE.

20 THOSE ARE THE TWO FACTS THAT ARE ABSENT HERE THAT
21 WOULD LEND SUPPORT TO YOUR POSITION.

22 MR. DI NICOLA: YOUR HONOR, I THINK IT PRESENTS AN
23 INTERESTING ISSUE, BECAUSE IT REALLY GOES TO: TO WHAT DEGREE
24 DO YOU HAVE TO PROVE THE PREDICATE FACT TO ADMIT EVIDENCE OF
25 THIS NATURE? AND THE GOVERNMENT, I THINK, WOULD SUBMIT THAT WE

1 WOULD HAVE TO PROVE TO AN ABSOLUTE CERTAINTY THAT THE MARRIAGE
2 TOOK PLACE IN ONE THESE FOUR MUNICIPALITIES OR THAT THE BIRTH
3 TOOK PLACE IN ONE OF THE FOUR MUNICIPALITIES.

4 OF COURSE, THAT'S A PROPOSITION THAT WE'RE TRYING TO
5 REFUTE WITH THE EVIDENCE; BUT THE GOVERNMENT WOULD SUBMIT THAT
6 IN ORDER TO SUBMIT THIS EVIDENCE TO REFUTE THAT CONTENTION, WE
7 HAVE TO ESTABLISH THAT THE RECORD, AS IT SITS, ESTABLISHES THE
8 MARRIAGE IN THE FOUR MUNICIPALITIES OR THE BIRTH.

9 YOUR HONOR, I'D LIKE TO JUST VERY BRIEFLY --

10 THE COURT: YOU SHOULD READ THE RULE UPON WHICH YOU
11 DEPEND TO BRING THIS EVIDENCE IN. IT IS OBVIOUSLY INTENDED TO
12 BE IN A SITUATION WHERE THE FACT OF BIRTH OR FACT OF MARRIAGE
13 IS KNOWN TO HAVE OCCURRED IN A PARTICULAR PLACE. THEN THE
14 ABSENCE OF A RECORD IN THE PLACE WHERE A REPORT WAS REGULARLY
15 REQUIRED BY LAW TO BE MADE WOULD BE SIGNIFICANT.

16 BUT WHERE IT IS NOT KNOWN WHERE THE BIRTH OR MARRIAGE
17 TOOK PLACE, THE FACT THAT THESE FOUR MUNICIPALITIES DO NOT
18 CONTAIN A RECORD IS MEANINGLESS.

19 IT WOULD BE MEANINGFUL IF WE HAD THE RECORDS FROM
20 EVERY MUNICIPALITY IN MEXICO, THE 2,000 OR SOME, TO SEARCH.
21 THEN PERHAPS IT WOULD BE.

22 BUT I'LL READ YOU THE RULE. IT STATES THAT: RECORDS
23 OR DATA COMPILATIONS IN ANY FORM OR BIRTHS, FETAL DEATHS, OR
24 MARRIAGES, IF THE REPORT THEREOF WAS MADE TO A PUBLIC OFFICE
25 PURSUANT TO THE REQUIREMENT OF THE LAW --

1 MR. DI NICOLA: YOUR HONOR -- (CONFERS WITH MR.
2 BLANCARTE.)

3 THE COURT: JUST A MOMENT. YOU'RE NOT LISTENING, AND
4 THEREFORE I'M NOT GOING TO EXPLAIN IT TO YOU ANY FURTHER. AND
5 YOUR FRIEND THERE INTERRUPTED WHILE I WAS TRYING TO EXPLAIN IT
6 TO YOU.

7 HOW DO YOU OVERCOME THAT FAULTY PRESUMPTION ON YOUR
8 PART?

9 MR. DI NICOLA: YOUR HONOR, IF I COULD JUST VERY
10 BRIEFLY SUMMARIZE THE EVIDENCE IN THE RECORD RIGHT NOW ABOUT
11 WHERE THE MARRIAGE TOOK PLACE AND WHERE THE BIRTH TOOK PLACE,
12 THE INFERENCE THAT CAN BE DRAWN FROM THAT EVIDENCE.

13 FACT NO. 1, YOUR HONOR, IS THAT CERVANTES SAYS -- AND
14 WE HAVE THE REFERENCE TO THE RECORD -- THAT THE WEDDING, THE
15 RELIGIOUS WEDDING, TOOK PLACE IN A CHURCH IN GUADALAJARA.
16 THAT'S FACT NO. 1.

17 FACT NO. 2, YOUR HONOR, IS THAT CERVANTES TESTIFIES
18 THAT THE GROOM, JORGE BARBA HERNANDEZ, LIVES IN GUADALAJARA.
19 HE GIVES AN ADDRESS FOR THE GROOM.

20 FACT NO. 3: THE BRIDE, WHO HE IDENTIFIES AS ROSA
21 FIGUEROA TEJEDA, LIVED IN GUADALAJARA.

22 FACT NO. 4: THE RECEPTION TOOK PLACE AT LA QUINTA, IN
23 TONALA, ADJACENT TO GUADALAJARA, ONE OF THE MUNICIPALITIES THAT
24 WE HAVE SEARCHED.

25 WE SUBMIT, YOUR HONOR, THAT BASED ON THOSE FACTS IT

1 FOLLOWS THAT THE WEDDING, IF IT TOOK PLACE AT ALL, TOOK PLACE
2 IN THE CITY OF GUADALAJARA.

3 WITH RESPECT TO -- AND WE'VE GONE BEYOND GUADALAJARA
4 TO SEE, YOUR HONOR. WE'VE PICKED UP THE SURROUNDING
5 MUNICIPALITIES.

6 WE COULDN'T GO TO THE CHURCHES, BECAUSE HE DIDN'T
7 REMEMBER THE CHURCH. IF HE HAD GIVEN US THE NAME OF THE CHURCH
8 OR THE LOCATION OF THE CHURCH, WE'D HAVE TRIED TO SEARCH THAT
9 CHURCH. WE'D HAVE CHECKED WITH THE -- WITH THAT CHURCH.

10 WITH RESPECT TO THE BIRTH, YOUR HONOR, WE KNOW FROM
11 THE RECORD THAT JAVIER BARBA HERNANDEZ HAD TWO HOUSES IN THE
12 GUADALAJARA AREA, ONE IN TONALA, ONE IN GUADALAJARA.

13 CERVANTES TESTIFIED THAT HE LIVED IN THE HOUSE IN
14 GUADALAJARA WITH HIS WIFE AND WITH THE ALLEGED CHILD, YUREMI.
15 HE SAID HE WENT TO WORK FOR JAVIER BARBA IN DECEMBER OF 1982.

16 THIS WOULD HAVE COVERED THE PERIOD OF ANY ALLEGED
17 BIRTH OF ANY CHILD, AND THE CHILD HE ALLEGED WAS BORN HE SAYS
18 LIVED IN THE HOUSE WITH JAVIER IN THE CITY OF GUADALAJARA. THE
19 BAPTISM TOOK PLACE AT LA QUINTA, IN TONALA, ADJACENT TO
20 GUADALAJARA.

21 JAVIER BARBA GREW UP IN GUADALAJARA. THERE'S
22 EXTENSIVE TESTIMONY ABOUT GOING TO SCHOOL, HE GREW UP, HE OWNED
23 TWO HOUSES THERE, THE CHILD LIVED WITH HIM THERE. THE
24 TESTIMONY COMES THROUGH THE MOUTH OF A WITNESS WHO IS EMPLOYED
25 BY HIM FOR THAT ENTIRE PERIOD OF TIME.

1 WE WOULD SUBMIT, YOUR HONOR, THAT THIS EVIDENCE GOES
2 TO -- THE QUESTIONS POSED BY THE COURT GO TO THE WEIGHT OF THE
3 EVIDENCE, YOUR HONOR, AND NOT THE ADMISSIBILITY.

4 UNDER THE EXCEPTION TO THE HEARSAY RULE THAT WE'VE
5 CITED, 803.9, 803.10, WE THINK WE'VE SATISFIED THE REQUIREMENTS
6 THERE, YOUR HONOR, BECAUSE THE PREDICATE FACT THAT THE ALLEGED
7 MARRIAGE OR BAPTISM TOOK PLACE IN THIS REGION IS ESTABLISHED ON
8 THE STATE OF THE RECORD AS IT EXISTS RIGHT NOW.

9 THE COURT: ALL RIGHT. DO YOU WISH TO BE HEARD?

10 MR. MEDRANO: JUST BRIEFLY, YOUR HONOR.

11 THIS EVIDENCE IS CLEARLY INADMISSIBLE UNDER RULE 403,
12 BECAUSE DEFENSE COUNSEL'S OBLIGATION UNDER RULE 104, WHICH
13 DEALS WITH RELEVANCY AND YOUR PRELIMINARY DECISION AS TO
14 WHETHER OR NOT TO ADMIT EVIDENCE, IS THAT THIS IS RELEVANCY
15 CONDITIONED ON A FACT; AND THE FACT THAT THEY'VE ASSUMED HERE
16 IS THAT THE MARRIAGE AND THE BIRTH OCCURRED WITHIN THOSE FOUR
17 MUNICIPALITIES.

18 WELL, YOUR HONOR, THAT HASN'T BEEN ESTABLISHED TO THE
19 COURT'S SATISFACTION UNDER 104(B). THEREFORE, THIS EVIDENCE IS
20 NOT PROPERLY ADMISSIBLE.

21 I THINK YOU'VE HIT THE NAIL ON THE HEAD AS TO WHAT THE
22 FLAWS ARE IN THE DOCUMENTS THEY'VE GIVEN US. THEY'VE ZEROED IN
23 ON FOUR PARTICULAR MUNICIPALITIES AND ASSUMED THAT THE MARRIAGE
24 AND THE BIRTH OCCURRED WITHIN THE BOUNDARIES OF THOSE FOUR
25 MUNICIPALITIES, WHEN IN FACT, YOUR HONOR, THERE'S NO SPECIFIC

1 EVIDENCE MILITATING IN FAVOR OF FINDING THAT RESULT.

2 AS YOU'VE JUST SAID, ONE CAN GET MARRIED IN THE
3 CHURCH, WHICH IS ALLOWED ACCORDING TO MR. CUELLAR, BECAUSE
4 THERE'S A RELIGIOUS EXCEPTION, AND NEVER EVEN HAVE TO REGISTER
5 IT CIVILLY.

6 SO I WOULD SUBMIT TO YOU THAT IT'S NOT, AS MR. CUELLAR
7 PRESENTS, THAT IT'S -- IT FOLLOWS LOGICALLY THAT YOU HAVE TO
8 REGISTER ALWAYS IN A CIVIL CAPACITY, BECAUSE THERE'S A
9 RELIGIOUS EXCEPTION.

10 FINALLY, YOUR HONOR, AS TO THE ISSUE OF REGISTRATION
11 OF BIRTHS OF CHILDREN, THAT IS INCUMBENT UPON THE PARENTS. MR.
12 CUELLAR STATED THAT IF THEY DON'T DO THAT, THAT CHILD WOULD
13 NEVER SHOW UP IN THE CIVIL RECORDS.

14 AND I WOULD SUBMIT IT TO YOU THAT IN LIGHT OF THE FACT
15 THAT IT'S -- I THINK IT'S FAIR TO ASSUME THAT BIRTHS CAN AND DO
16 OCCUR OUTSIDE A HOSPITAL SETTING, THAT IT WOULD NOT BE UNUSUAL
17 TO HAVE A FAILURE TO REGISTER BIRTHS.

18 WE WOULD SUBMIT IT, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 MR. STOLAR: MAY I BRIEFLY BE HEARD, YOUR HONOR? THIS
21 RECORD IS CLEARLY IMPORTANT TO US.

22 THE COURT: WELL, GO AHEAD.

23 MR. STOLAR: THE EVIDENCE IS THE SAME AS THE HAIR
24 EVIDENCE. IT'S EXACTLY THE SAME.

25 THE HAIR EVIDENCE IN THE CASE DOESN'T PROVE A THING.

1 IT PROVES THAT TWO HAIRS ARE CONSISTENT WITH EACH OTHER, AND
2 YET THE COURT ALLOWS IT TO COME INTO EVIDENCE.

3 THE GOVERNMENT'S GOING STAND UP ON SUMMATION AND SAY
4 THAT THE HAIR EVIDENCE PROVES THAT MR. MATTA WAS AIDING OR
5 TORTURING KIKI CAMARENA. THAT'S GOING TO HAPPEN, EVEN IF, AS
6 YOU KNOW, THAT THAT'S NOT POSSIBLE.

7 THEY CAN ARGUE ALL THEY WANT ON THESE RECORDS THAT YOU
8 DON'T HAVE TO GO TO REGISTER A MARRIAGE, YOU DON'T HAVE TO GO
9 TO REGISTER A BIRTH. NOBODY DISAGREES WITH THAT.

10 BUT THE QUESTION, THEN, GOES TO THE WEIGHT, ACCORDING
11 TO THESE RECORDS, NOT TO THEIR ADMISSIBILITY. IT'S IDENTICAL
12 IN THAT SENSE TO THE HAIR EVIDENCE.

13 AND ALL THE EVIDENCE, FROM OUR POINT OF VIEW -- WHAT
14 MR. DI NICOLA CITED ABOUT WHERE THESE PEOPLE WERE RESIDENTS --
15 THERE'S NOTHING TO INDICATE THAT THEY WERE NOT LAW-ABIDING IN
16 TERMS OF THE WAY THEY RECORDED PROPERTY, BOUGHT PROPERTY,
17 CONDUCTED BIRTHS, MARRIAGES, BAPTISMS. AND THE CONSEQUENCES TO
18 A CHILD ARE ENORMOUS, THE CONSEQUENCES TO A MARRIAGE ARE
19 ENORMOUS, OF NOT BEING REGISTERED.

20 LET THEM ARGUE THAT ALL THIS PROVES IS THAT THE
21 MARRIAGE WASN'T REGISTERED. BUT THE RECORDS THEMSELVES SHOULD
22 COME IN, BECAUSE MR. CERVANTES SANTOS HIMSELF WILL PROVIDE ALL
23 THE INFORMATION ABOUT IT.

24 AND HIS TESTIMONY IS THAT IT TOOK HIM ABOUT AN HOUR TO
25 GET TO THE CHURCH AND COME BACK. HE SAID THEY WENT TO A CHURCH

1 IN GUADALAJARA, NOT IN SOME OTHER PLACE.

2 THE LOGIC IS JUST OVERWHELMING THAT THE RECORDS SHOULD
3 COME IN.

4 THE COURT: ALL RIGHT. THE RECORDS WILL NOT COME IN.
5 THEIR ADMISSIBILITY IS DENIED FOR THE REASONS I'VE STATED AND
6 TRIED TO STATE.

7 I BELIEVE THIS SECTION WAS INTENDED TO COVER A
8 SITUATION WHERE THE KNOWN FACTS OF WHERE THE MARRIAGE AND WHERE
9 THE BIRTH OCCURRED ARE WELL ESTABLISHED. THE ABSENCE OF A
10 RECORD THERE WOULD BE MEANINGFUL.

11 IN THIS CASE, IT IS NOT CLEAR THAT THE CIVIL REGISTRY
12 COULD HAVE OCCURRED IN ONE OF THE ADJOINING MUNICIPALITIES OR
13 IN MEXICO CITY OR SOMEPLACE ELSE. THE FACT THAT A RELIGIOUS
14 CEREMONY OCCURRED IS NOT CONCLUSIVE. IT SIMPLY DOESN'T EVEN
15 NEED NECESSARILY TO FOLLOW THE CIVIL CEREMONY IMMEDIATELY.

16 THE SAME IS TRUE WITH RESPECT TO THIS CHILD. WE DON'T
17 KNOW HOW OLD THE CHILD WAS AT THE TIME OF THIS, WE DON'T KNOW
18 WHAT THE DATE OF BIRTH WAS, SO THAT THIS IS NOT TRUSTWORTHY
19 EVIDENCE.

20 AND I BELIEVE THE PRELIMINARY FACT, AS THE PROSECUTOR
21 POINTED, OUT IS ABSENT, THAT THIS IS BASED ON A FALSE PREMISE.

22 IT SHOULD NOT BE RECEIVED FOR THE JURY TO SPECULATE
23 UPON. THEREFORE, IT IS DENIED.

24 NOW, THESE EXHIBITS THAT I UNDERSTAND ARE IN DISPUTE,
25 DEFENDANTS' EXHIBIT M, FOR EXAMPLE: WHO'S OFFERING THIS?

1 MS. KELLY: YOUR HONOR, WE ARE, ON BEHALF OF DEFENDANT
2 BERNABE RAMIREZ.

3 THE COURT: WHAT IS THIS? WHY SHOULD IT BE RECEIVED?

4 MS. KELLY: YOUR HONOR, THIS SHOWS THE CHANGE IN
5 CUSTODY, WITH RESPECT TO THE TAPE, FROM AGENT BERRELLEZ TO
6 WAYNE SCHMIDT AND THE DATES.

7 THE COURT: WELL, IS THERE A DISPUTE ABOUT THAT?

8 MS. KELLY: APPARENTLY SO, YOUR HONOR.

9 THE COURT: WHAT CHAIN OF CUSTODY ARE YOU REFERRING
10 TO?

11 MS. KELLY: TO THE UNDERCOVER CONVERSATIONS BETWEEN
12 AGENT BERRELLEZ AND MY CLIENT, YOUR HONOR.

13 MR. CARLTON: I'M NOT AWARE OF ANY DISPUTE CONCERNING
14 THE CHAIN OF CUSTODY, YOUR HONOR. AGENT SCHMIDT TESTIFIED
15 ABOUT THE CHAIN OF CUSTODY. THE REPORT IS JUST HEARSAY. THE
16 EVIDENCE IS IN, AND WE WOULD OBJECT TO THE REPORT AS BEING
17 CUMULATIVE.

18 THE COURT: WELL, IT IS. IT IS CUMULATIVE AND
19 UNNECESSARY AND HEARSAY. THEREFORE, IT'S DENIED.

20 THESE AREN'T THE KIND OF DISPUTES THAT I WAS HOPING TO
21 RESOLVE.

22 NOW, THE NEXT EXHIBITS ARE TRIPLE Y AND TRIPLE Z.
23 ARE THEY OFFERED BY YOU, ALSO, COUNSEL?

24 MS. KELLY: YES, YOUR HONOR.

25 THE COURT: WHAT ARE THESE?

1 MS. KELLY: YOUR HONOR. THESE ARE DOCUMENTS
2 ESTABLISHING CHAIN OF CUSTODY BETWEEN THE ORIGINAL JULY 25TH
3 TAPES FROM D.E.A. AGENTS TO MR. PERLE AND BACK TO THE D.E.A.

4 YOUR HONOR, THE REASON WHY THAT'S IMPORTANT IS, IF
5 YOU'LL RECALL, DURING THE CROSS-EXAMINATION OF MR. PERLE THERE
6 WAS A SUGGESTION BY MR. CARLTON OF SOME IMPROPRIETY WITH
7 RESPECT TO THE JULY 25TH TAPE, SUCH THAT MR. PERLE COULD HAVE
8 INSERTED THE WORDS, "NO, NO, NO."

9 YOUR HONOR, THIS SHOWS THAT COPIES WERE MADE OF THE
10 TAPE, ONE-TO-ONE RERECORDING COPIES WERE MADE OF THE TAPE AT
11 THAT TIME, YOUR HONOR.

12 MR. CARLTON: AGAIN, YOUR HONOR, THERE'S BEEN COPIOUS
13 TESTIMONY AS TO THE CHAIN OF CUSTODY OF THESE TAPES. WE SUBMIT
14 THAT AGAIN IT'S HEARSAY AND IT'S CUMULATIVE.

15 THE COURT: WELL, ASIDE FROM THE FACT THAT IT'S VERY
16 HARD TO READ, AS WELL, WHAT IS THERE THAT THESE PROVIDE THAT'S
17 NOT ALREADY IN THE RECORD?

18 MS. KELLY: WELL, YOUR HONOR, IT PROVIDES -- I DON'T
19 BELIEVE AGENT -- I BELIEVE THAT AGENT SCHMIDT SAID THAT THERE
20 WAS SOME KIND OF IMPROPER RECORDING EQUIPMENT, WITH MR. PERLE
21 MAKING THE ONE-TO-ONE RECORDING, THAT HE DIDN'T HAVE THE PROPER
22 MICROCASSETTE.

23 THERE'S SOME SUGGESTION, YOUR HONOR, BY THE GOVERNMENT
24 THAT SOMEHOW MR. PERLE HAS ALTERED THE ORIGINAL TAPE, WHICH IS
25 NOT THE CASE. AND I BELIEVE THAT SHOWING THE CHAIN OF CUSTODY

1 WITH RESPECT TO THE GOVERNMENT'S EXHIBIT, WHICH IS IN EVIDENCE,
2 AND ALSO THE ORIGINAL EXHIBIT, JULY 25TH TAPE, IS IMPORTANT FOR
3 THE DEFENSE CREDIBILITY.

4 THE COURT: THE EXHIBITS ARE DENIED. THEY'RE
5 CUMULATIVE.

6 EXHIBIT 165?

7 MS. KELLY: NO, YOUR HONOR. THAT WAS MISTAKENLY
8 PLACED IN YOUR PILE.

9 THE COURT: THAT IS NOT IN DISPUTE?

10 MS. KELLY: THAT IS NOT.

11 THE COURT: IT MAY BE ADMITTED.

12 (EXHIBIT 165 # RECEIVED IN EVIDENCE.)

13 NOW, WE HAVE EXHIBITS FOUR L, FOUR K AND FOUR J (AS
14 STATED), I GUESS THEY ARE: PHOTOGRAPHS?

15 MR. MEZA: YES, YOUR HONOR. THOSE PARTICULAR
16 EXHIBITS, FOUR L, FOUR K, AND ALSO --

17 THE COURT: ARE YOU OFFERING THESE?

18 MR. MEZA: YES. -- AND FOUR G ALL FALL IN THE SAME
19 CLASS. THEY ARE ALL COPIES OF OR ACTUAL IDENTIFICATIONS WITH
20 OUR CLIENT'S PHOTOGRAPH ON THEM INDICATING VARIOUS STAGES OF
21 EMPLOYMENT, AS HE TESTIFIED TO.

22 THE COURT: WELL, WHAT'S THE OBJECTION?

23 MR. CARLTON: THE OBJECTION, YOUR HONOR, IS THAT HE'S
24 TESTIFIED TO HIS EMPLOYMENT AND THAT THEY'RE OFFERING THESE
25 THINGS ESSENTIALLY TO ESTABLISH THAT HE WORKED AT THESE

1 LOCATIONS. THERE'S A HEARSAY OBJECTION TO EACH OF THESE, AND
2 THEY'RE CUMULATIVE. THEY JUST REPEAT HIS TESTIMONY.

3 MR. MEZA: YOUR HONOR, THAT CUMULATIVE ARGUMENT CAN BE
4 MADE FOR ANY PHOTOGRAPH THAT WAS TESTIFIED TO, INCLUDING EVERY
5 GOVERNMENT PHOTOGRAPH.

6 THE COURT: WELL, DOES THIS PROVE THAT HE WORKED
7 THERE?

8 MR. MEZA: IT CORROBORATES WHAT OUR CLIENT'S POSITION
9 IS, THAT HE WORKED THERE.

10 THE INFERENCE FROM THE GOVERNMENT'S OPENING REMARKS
11 THROUGH THEIR EVIDENCE WAS THAT OUR CLIENT WAS CONSISTENTLY
12 INVOLVED IN DRUG TRAFFICKING, AND THESE DOCUMENTS HAVE A
13 TENDENCY TO CORROBORATE OUR CLIENT'S POSITION THAT THERE WAS
14 ONLY A SIX-MONTH PERIOD IN HIS LIFE WHERE THAT OCCURRED.

15 THE COURT: THE EXHIBITS MAY BE RECEIVED.

16 (EXHIBITS GGGG, KKKK, LLLL # RECEIVED IN EVIDENCE.)

17 MR. MEZA: THANK YOU.

18 MR. MEDRANO: YOUR HONOR, WHICH EXHIBIT NUMBER WOULD
19 THAT BE?

20 THE COURT: THEY'RE THE ONES I MENTIONED.

21 MR. MEZA: DOES THAT --

22 MR. CARLTON: DOES THAT INCLUDE G G G, YOUR HONOR?

23 THE COURT: YES. G G G, K K K K, AND L L L L.

24 NOW, WHAT ARE THESE NEXT THINGS HERE: EXHIBITS FOUR
25 F; FOUR F'S, THE I; FOUR G, FOUR H, FOUR I? WHAT ARE THESE,

1 THIS GROUP HERE?

2 MR. MEZA: YOUR HONOR, FOUR F-1, IS THE COPY OF THE
3 ACCEPTANCE OF MR. BERNABE'S RESIGNATION FROM THE JUDICIAL STATE
4 POLICE, I BELIEVE IN 1982.

5 THE COURT: A COPY OF HIS WHAT?

6 MR. MEZA: HIS -- A COPY OF THE -- I BELIEVE THE
7 ORIGINAL OF THE ACCEPTANCE OF HIS RESIGNATION FROM THE JUDICIAL
8 STATE POLICE.

9 IF THE COURT WILL RECALL, IN THE INDICTMENT IT IS
10 ALLEGED IN MORE THAN ONE PARAGRAPH THAT IN FEBRUARY OF 1985,
11 WHILE THESE ACTS WERE BEING COMMITTED, OUR CLIENT WAS A MEMBER
12 OF THE STATE JUDICIAL POLICE.

13 THIS DOCUMENT CLEARLY SHOWS --

14 THE COURT: WHAT TESTIMONY WAS GIVEN IN REGARD TO
15 THAT? DID DEFENDANT TESTIFY TO THAT?

16 MR. MEZA: DEFENDANT TESTIFIED, YES, THAT HE RESIGNED
17 IN 1982.

18 THE COURT: WELL, DID HE IDENTIFY THIS DOCUMENT?

19 MR. MEZA: YES. HE IDENTIFIED IT, YES. AND I BELIEVE
20 IT'S PROPERLY AUTHENTICATED.

21 MR. MEDRANO: THERE'S A HEARSAY PROBLEM WITH THAT,
22 HOWEVER, YOUR HONOR. IT'S PLAINLY HEARSAY. THEY HAVEN'T
23 BROUGHT IN A CUSTODIAN. IT'S NOT CERTIFIED IN ANY WAY.

24 MR. MEZA: I DON'T NEED --

25 THE COURT: I DON'T THINK YOU NEED A CUSTODIAN FOR THE

1 DEFENDANT TO SAY THIS IS WHAT HE RECEIVED.

2 THIS MAY BE RECEIVED.

3 (EXHIBIT FFFF-1 # RECEIVED IN EVIDENCE.)

4 MR. MEZA: THANK YOU.

5 THE COURT: AND THE EXHIBIT FOUR H, WHAT IS THAT?

6 MR. MEZA: YES, YOUR HONOR. THAT IS A -- WAS IN
7 CONNECTION WITH A -- FOUR G. THAT IS AN ASSIGNMENT FROM THE
8 SERVA CAPOSA (PHONETIC) SECURITY SERVICE TO -- ASSIGNMENT TO A
9 MR. ROCHA, WHO WAS THE EXECUTIVE FOR THE CANADA SHOE FACTORY.
10 IT INDICATES SPECIFICALLY BY NAME THAT OUR CLIENT WAS ASSIGNED
11 TO, AS OUR CLIENT SAID, TO BE HIS BODYGUARD DURING THAT TIME
12 PERIOD.

13 THE COURT: ALL RIGHT. THIS MAY BE RECEIVED.

14 (EXHIBIT HHHH # RECEIVED IN EVIDENCE.)

15 MR. MEZA: THANK YOU.

16 THE COURT: EXHIBIT FOUR I, WHAT IS THIS?

17 MR. MEZA: YES, YOUR HONOR. THAT IS THE
18 DEFENDANT'S -- OR A COPY OF THE DEFENDANT'S MEXICAN DECLARATION
19 WHICH HE GAVE SHORTLY AFTER HE WAS ARRESTED IN PUERTA VALLARTA.

20 THE COURT: THAT HE GAVE TO THE MEXICAN POLICE?

21 MR. MEZA: YES. AND IT'S SIGNED BY HIM, WITH INITIALS
22 ON EACH PAGE. HE IDENTIFIED HIS SIGNATURE, AND -- WHICH I
23 BELIEVE HE WAS REQUIRED TO SIGN EACH PAGE WHICH HE IDENTIFIED.

24 MR. MEDRANO: YOUR HONOR, THIS WAS PREVIOUSLY GIVEN TO
25 YOU. YOU DENIED IT PREVIOUSLY BECAUSE IT WAS HEARSAY.

1 THE COURT: YES, I THINK I DID. I'LL DENY IT AGAIN.

2 MR. MEZA: WELL, YOUR HONOR, IT WAS OFFERED WITHOUT
3 THE ADDITIONAL FOUNDATION.

4 THE ARGUMENT IS THIS, IS THAT -- AND I WOULD OFFER IT
5 UNDER EITHER 801(D)(1)(B) OR UNDER 803 SUBPARAGRAPH 24.

6 ON THE 20TH, I BELIEVE AGAIN ON THE 21ST OR THE 24TH,
7 OUR CLIENT MAKES REPRESENTATIONS TO THE UNDERCOVER AGENT THAT
8 HE WAS ACTING LIKE A CAT -- HE SORT OF FIT INTO A LITTLE
9 AREA -- AND THAT THE AGENT TESTIFIED THAT MR. BERNABE TOLD HIM
10 WHAT HE TOLD THE MEXICAN AUTHORITIES WAS THAT HE NEVER GAVE ANY
11 INFORMATION ABOUT FONSECA'S DRUG ACTIVITIES AND NEVER --

12 THE COURT: WELL, THIS IS THE ARGUMENT YOU MADE
13 BEFORE.

14 MR. MEZA: WELL, BUT IT'S NOT BEING OFFERED FOR THE
15 TRUTH OF THE MATTER, YOUR HONOR. THAT'S THE POINT.

16 THE COURT: WHAT'S IT BEING OFFERED FOR?

17 MR. MEZA: IT'S BEING OFFERED TO SHOW THAT THE
18 INFORMATION THAT OUR CLIENT GAVE TO THE UNDERCOVER AGENT WAS
19 TRUE.

20 IT'S NOT -- WE'RE NOT SAYING THAT WHAT'S IN HERE---

21 THE COURT: THAT MEANS THAT IT'S BEING OFFERED TO
22 PROVE THAT THIS IS TRUE.

23 MR. MEZA: NO. IT'S BEING OFFERED TO SHOW WHAT HE
24 TOLD THE MEXICAN AUTHORITIES.

25 NOW, WHETHER WHAT HE TOLD THE MEXICAN AUTHORITIES IS

1 ACCURATE OR NOT ACCURATE IS NOT AT ISSUE. WHAT IT'S BEING
2 OFFERED TO SHOW IS THAT WHAT HE TOLD AGENT BERRELLEZ ISN'T --
3 ISN'T TRUE; AND AGENT BERRELLEZ ALSO KNOWS THAT, BECAUSE HE
4 SAID -- HE REFERRED TO IT.

5 NOW, THE IMPRESSION THE GOVERNMENT'S BEING PERMITTED
6 TO ARGUE IS THAT HE FIT INTO THIS LITTLE NICHE AND WAS JUST A
7 MERE SERVANT, BECAUSE HE CHARACTERIZED HIMSELF TO THE
8 UNDERCOVER AGENT. IT'S CLEAR THAT HE DID MUCH MORE THAN THAT
9 THROUGH THE MEXICAN AUTHORITIES.

10 THE COURT: THIS EXHIBIT IS DENIED ADMISSION.

11 THE NEXT ONE IS FOUR I'S-1. ARE YOU OFFERING THIS,
12 TOO?

13 MR. MEZA: THAT'S THE TRANSLATION, YOUR HONOR, OF THE
14 DECLARATION.

15 THE COURT: ALL RIGHT. THAT'S DENIED, ALSO.

16 FOUR J.

17 MR. MEZA: YES, YOUR HONOR. THAT IS A COPY OF THE
18 PROSPECTUS THAT WAS PROVIDED TO OUR CLIENT BY THE UNDERCOVER
19 OPERATIVE, CASTEL DEL ORO.

20 THE COURT: THAT MAY BE RECEIVED.

21 MR. MEDRANO: YOUR HONOR, MAY WE HAVE JUST FOR THE
22 RECORD A HEARSAY OBJECTION? THEY'RE OFFERING IT FOR WHAT THAT
23 REPRESENTS, THAT THERE'S THIS COMPANY AND THAT'S THE PROSPECTUS
24 FOR IT. THERE'S NO HEARSAY EXCEPTION FOR IT.

25 THE COURT: THE OBJECTION OVERRULED, AND IT MAY BE

1 RECEIVED.

2 (EXHIBIT IIII-1 # RECEIVED IN EVIDENCE.)

3 THE COURT: JJ-1?

4 MR. MEZA: YES, THAT'S JUST THE TRANSLATION OF THAT
5 DOCUMENT.

6 THE COURT: THAT MAY BE RECEIVED, ALSO.

7 (EXHIBIT JJ-1 # RECEIVED IN EVIDENCE.)

8 THE COURT: NOW, FINALLY, THERE'S AN EXHIBIT NNNN
9 HERE. WHO'S OFFERING THIS? ARE YOU OFFERING THIS?

10 MR. STOLAR: OH, THAT WAS ONE THAT I TRIED TO OFFER
11 BEFORE AND THE COURT DECLINED THAT. THAT AND THE OTHER EXHIBIT
12 ARE TWO OF ADDITIONAL PHOTOS THAT WERE SEIZED IN CARAGENA IN 85
13 THAT THE GOVERNMENT CHOSE NOT TO OFFER.

14 THE COURT: ALL RIGHT. I DENIED THIS BEFORE?

15 MR. MEDRANO: YES, YOUR HONOR.

16 MR. STOLAR: YOU DENIED IT BEFORE, YOUR HONOR.

17 THE COURT: AND DENY IT AGAIN.

18 MS. KELLY: YOUR HONOR, THERE'S --

19 MR. STOLAR: WAIT A MINUTE.

20 MS. KELLY: SORRY.

21 THE COURT: ALL RIGHT. IS THERE SOMETHING ELSE?

22 MR. STOLAR: YES, THERE WAS. EITHER DEFENDANTS -- OR
23 GOVERNMENT'S EXHIBIT 171, WHICH IS THE PHOTOGRAPHS OF THE FIVE
24 PEOPLE, THE FOUR DEFENDANTS HERE AND DR. MACHAIN, THE ONES THAT
25 WERE TAKEN BY THE UNITED STATES ATTORNEY.

1 I WAS COMPLETELY UNDER THE IMPRESSION THROUGHOUT THE
2 COURSE OF THE TRIAL THAT THAT WAS IN EVIDENCE OR THAT THE
3 DEFENDANTS' E WAS IN EVIDENCE, WITH THE MARKS, THAT IS,
4 COVERED UP. THE WITNESSES TESTIFIED ABOUT IT, THEY TALKED
5 ABOUT IT, ET CETERA. IT TURNS OUT IT'S NOT IN EVIDENCE.

6 THE COURT: WELL, I --

7 MR. STOLAR: THIS IS A PHOTOGRAPH OF MY CLIENT OF
8 RECENT DATE, WHICH WAS SHOWN TO ALL THE WITNESSES WHO
9 IDENTIFIED HIM HERE IN COURT, AND THAT'S HOW HE LOOKED.

10 THE COURT: THIS IS DEFENDANTS' E HERE.

11 MR. STOLAR: RIGHT.

12 171 HAS THE U.S. MARSHAL'S BADGE ON IT.

13 BECAUSE THE OTHER DEFENDANTS IN THE CASE HAVE AN
14 OBJECTION TO THEIR PICTURES COMING IN, WHAT I WOULD ASK THE
15 COURT TO DO WOULD BE TO ALLOW US TO BASICALLY SLICE MR. MATTA'S
16 PICTURE OUT OF GOVERNMENT'S 171 AND THEN JUST PUT THAT IN
17 EVIDENCE AS 171 A.

18 THE COURT: JUST HIS PICTURE?

19 MR. STOLAR: JUST HIS TWO PICTURES, BECAUSE EVERYBODY
20 ELSE OBJECTS TO IT; AND I'LL TAKE THE ONE OFF OF 171 OR THE ONE
21 OFF OF DEFENDANTS' E.

22 MR. MEDRANO: OBJECTION, YOUR HONOR, FOR A COUPLE OF
23 REASONS.

24 FIRST OF ALL, THOSE PHOTOGRAPHS WERE SHOWN FOR
25 HEARINGS OUTSIDE THE PRESENCE OF THE JURY. THE WITNESSES,

1 PARTICULARLY CERVANTES AND BERRELLEZ AND LEYVA AND EVERYBODY
2 ELSE --

3 THE COURT: WELL, THESE WERE SHOWN BEFORE THE JURY,
4 ALSO.

5 MR. STOLAR: YES, THEY WERE. THAT'S RIGHT, YOUR
6 HONOR.

7 MR. MEDRANO: EVEN IF THEY WERE, YOUR HONOR, THEY'RE
8 NOT RELEVANT TO THE PROCEEDINGS. ALL THE OTHER ATTORNEYS
9 OBJECT TO THEM. WE CERTAINLY OBJECT TO THEM.

10 THE COURT: WELL, I DON'T KNOW WHAT THE OBJECTION IS
11 BY THE OTHER ATTORNEYS.

12 THE PICTURES SHOULD BE SHOWN IN THE SAME CONTEXT AS
13 THEY WERE DISCUSSED BY THE WITNESSES. AND I DON'T THINK IT
14 WOULD BE MEANINGFUL TO REMOVE ONE PICTURE OUT OF THE ENTIRE
15 GROUP AND HAVE THAT IN EVIDENCE. IT WOULD HAVE NO MEANING TO
16 THE JURY.

17 MR. MEDVENE: IT WASN'T SHOWN, IF YOUR HONOR PLEASE,
18 IN FRONT OF THE JURY. THEY WERE SHOWN OUTSIDE THE PRESENCE OF
19 THE JURY.

20 I THINK WHAT THE GOVERNMENT AND -- EVERYONE BUT MR.
21 STOLAR BASICALLY DON'T WANT MUG SHOTS IN. I THINK ALL MR.
22 STOLAR WANTS IT IN FOR IS SOMETHING THAT DOESN'T IMPINGE ON
23 ANYBODY ELSE. HE JUST WANTS TO SHOW MAYBE THAT HE LOOKED
24 DIFFERENT.

25 SO WE WOULDN'T BE IN ANY WAY DOING ANYTHING CONTRARY

1 TO WHAT WAS DONE BEFORE THE JURY TO JUST LET THE ONE PHOTO IN.

2 THE COURT: WELL, IT'S ALL OR NONE.

3 MR. STOLAR: WELL, YOUR HONOR, I DON'T WANT TO PUT
4 MYSELF AT ODDS WITH MY CODEFENDANTS, BUT THAT PHOTO IS CRUCIAL
5 TO MY CASE. AS I TOLD YOU, I'M GOING TO ARGUE TO THE JURY THAT
6 THE IN-COURT IDENTIFICATIONS ARE BASED ON THE WITNESSES SEEING
7 THAT PHOTOGRAPH IMMEDIATELY BEFORE THEY TESTIFIED.

8 THE COURT: WELL, WHO TESTIFIED TO THAT?

9 MR. STOLAR: HECTOR CERVANTES SANTOS, JOSEPH LEVYA
10 AND -- SALVADOR LEYVA AND JOSE AGUILAR. THE ONLY THREE
11 IN-COURT I.D.'S OF MY CLIENT, THOSE PHOTOGRAPHS WERE SHOWN TO
12 THEM.

13 THAT PHOTO WAS ON THE LEYENDA WALL UPSTAIRS. LEYVA
14 SAID THAT'S WHAT HE SAW, AND I'M GOING TO ARGUE THAT'S WHAT THE
15 IN-COURT I.D. IS BASED ON.

16 MR. MEDRANO: THAT'S A MISREPRESENTATION, YOUR HONOR,
17 BECAUSE ALL THE WITNESSES SAID THEY WERE SHOWN FIVE PHOTOS,
18 WITH NO INSTRUCTIONS, NO UNDUE SUGGESTIVENESS, AND THEY PICKED
19 THE ONE OUT.

20 SO THAT'S WHY I JUST DON'T SEE HOW YOU CAN JUST CUT
21 ONE OUT AND ARGUE THAT AND KEEP OUT THE REMAINING OF THE
22 PICTURES, BECAUSE THEN WE CAN'T ARGUE THAT THERE WERE FOUR
23 OTHER --

24 MR. STOLAR: I WILL NOT --

25 THE COURT: I THINK THE WHOLE EXHIBIT SHOULD COME IN

1 THAT WAS REFERRED TO BY THE WITNESSES, AND THAT'S WAY IT SHOULD
2 COME IN.

3 MR. NICOLAYSEN: YOUR HONOR, I OBJECT TO THE PHOTO OF
4 JAVIER VASQUEZ COMING IN. IT'S NOT BEING OFFERED FOR THAT
5 PURPOSE.

6 ALL OF A SUDDEN NOW MY CLIENT, BECAUSE MY CODEFENDANT
7 COUNSEL WANTS TO MAKE AN ARGUMENT FOR HIS CLIENT -- AND NOW,
8 ALL OF A SUDDEN A MUG SHOT AS TO JAVIER VASQUEZ IS BECOMING A
9 PART OF THE PORTFOLIO OF TRIAL EXHIBITS. THAT'S UNDULY
10 PREJUDICIAL.

11 THE COURT: WHY IS IT?

12 MR. NICOLAYSEN: BECAUSE A MUG SHOT, AS THE COURT WELL
13 KNOWS, GIVES THE IMPRESSION TO THE JURORS THAT MY CLIENT'S A
14 BAD GUY.

15 THE COURT: IT DOESN'T GIVE ANY SUCH IMPRESSION.

16 MR. NICOLAYSEN: YOUR HONOR, I THINK THE CASE LAW THAT
17 SPEAKS TO THE SIMMONS TYPE ISSUES REGARDING PHOTOGRAPHIC
18 EVIDENCE COMMENTS IN EXACTLY THAT FASHION. A MUG SHOT HAS AN
19 INHERENTLY PREJUDICIAL QUALITY. YOUR HONOR HAS BEEN SENSITIVE
20 TO THAT IN EXCLUDING IT UP UNTIL NOW.

21 WHY CAN'T WE JUST SCISSOR OUT THE PICTURE OF MATTA --

22 THE COURT: IT WAS AN EXHIBIT USED BY WITNESSES IN
23 THIS TRIAL.

24 MR. NICOLAYSEN: NO. IT HAS NEVER BEEN BEFORE THE
25 JURY.

1 MR. STOLAR: YES, IT HAS.

2 THE COURT: I THINK THAT IT'S IMPORTANT, FOR EXAMPLE,
3 IF A WITNESS TESTIFIED THAT HE WAS SHOWN THIS AND ASKED IF HE
4 KNOWS ANYONE AND THAT HE IDENTIFIED MR. MATTA, THAT THAT WOULD
5 BE IMPORTANT.

6 MR. NICOLAYSEN: WELL, I WOULD SUGGEST THAT WE CUT OUT
7 MR. MATTA'S PICTURE AND NOT SUBJECT MY CLIENT, MR. ZUNO, AND --

8 THE COURT: THEN THE CONTEXT OF THE IDENTIFICATION IS
9 LOST, IF THE EVIDENCE WAS THAT HE LOOKED AT THIS PICTURE OF
10 FIVE PEOPLE AND PICKED OUT MR. MATTA OR SOMEONE ELSE.

11 MR. NICOLAYSEN: I BELIEVE IT WAS ONLY AT THE SIMMONS
12 HEARING WHERE THIS WAS MARKED AS AN EXHIBIT. IT'S NEVER BEEN
13 THE SUBJECT OF TESTIMONY BEFORE THE JURY.

14 THE COURT: HAS THIS BEEN BEFORE THE JURY?

15 MR. STOLAR: I'M SORRY. THIS WAS THE SUBJECT OF
16 TESTIMONY BEFORE THE JURY. IT WAS SPECIFICALLY PUT IN FRONT OF
17 WITNESSES BY ME --

18 THE COURT: WELL, I THOUGHT IT WAS.

19 MR. STOLAR: -- AND I ASKED THEM ABOUT IT; AND NOT ONLY
20 THAT, I WILL MAKE A COMMITMENT TO THE COURT AND TO COUNSEL FOR
21 THE GOVERNMENT AND FOR DEFENDANTS THAT ANY TIME IN CLOSING THAT
22 I REFER TO THAT PHOTO OF MR. MATTA, I WILL SAY, "THIS IS ONE OF
23 THE PEOPLE IN THE FIVE PICTURES THAT WAS SEEN, BUT HERE IS THE
24 PICTURE THAT WAS PART OF IT."

25 I WILL NOT SAY, "THIS IS THE ONLY ONE THAT WAS PUSHED

1 AT HIM."

2 IT'S ONE OF THE FIVE. I CERTAINLY CAN MAKE AN EASY
3 COMMITMENT TO THAT.

4 THE COURT: IN OTHER WORDS, YOU WOULD SAY THIS PICTURE
5 WAS ON A BOARD --

6 MR. STOLAR: ON A PIECE OF PAPER.

7 THE COURT: WITH FOUR OTHERS.

8 MR. STOLAR: WITH FOUR OTHERS.

9 THE COURT: AND THIS IS -- THEY PICKED ONE OUT.

10 I THINK THEN --

11 MR. MEDRANO: WE WOULD OBJECT TO THAT, YOUR HONOR.

12 THE COURT: WHAT?

13 MR. MEDRANO: WE WOULD OBJECT TO THAT. I MEAN, IT
14 ROBS THE PHOTOSPREAD OF ITS ENTIRE CONTEXT. THE JURY SHOULD
15 SEE THAT.

16 THE COURT: I'LL RECEIVE THE PICTURE OF MR. MATTA,
17 SEPARATED FROM THE OTHERS --

18 MR. STOLAR: THANK YOU, YOUR HONOR.

19 THE COURT: -- CONDITIONED UPON THAT COUNSEL NOT ARGUE
20 OTHERWISE.

21 (MATTA PHOTO # RECEIVED IN EVIDENCE.)

22 MR. STOLAR: ABSOLUTELY.

23 MR. NICOLAYSEN: IS YOUR HONOR THEN EXCISING THE
24 PICTURE OF MATTA FROM THE REST OF THE DEFENDANTS? IS THAT THE
25 COURT'S RULING?

1 MR. STOLAR: YES.

2 MR. NICOLAYSEN: I DIDN'T QUITE HEAR IT. WAS THAT THE
3 COURT'S RULING?

4 MR. STOLAR: IT WAS.

5 MR. NICOLAYSEN: THANK YOU, YOUR HONOR.

6 THE COURT: THAT CONCLUDES THE EXHIBITS; RIGHT?

7 MS. KELLY: NO, YOUR HONOR. THERE'S ONE OTHER
8 EXHIBIT, YOUR HONOR; THAT'S EXHIBIT 174 A, WHICH IS THE RED
9 BOOK, THE PHOTOGRAPH.

10 THE COURT: YES.

11 MS. KELLY: I THOUGHT THAT WAS IN EVIDENCE, YOUR
12 HONOR. GOVERNMENT COUNSEL INDICATED IT WAS NOT.

13 THE COURT: I THOUGHT IT WAS IN EVIDENCE, TOO.

14 MR. MEDRANO: NO, YOUR HONOR.

15 THE COURT: I TOLD YOU YOU COULD KEEP CUSTODY OF IT.

16 MR. MEDRANO: NO, YOUR HONOR.

17 IT WAS ALWAYS OUR POSITION THAT THAT'S AN
18 INVESTIGATIVE TOOL WE USE IN CONTINUING THE INVESTIGATION, THAT
19 A COPY WOULD BE MADE FOR THE RECORD, BUT THAT AT ALL TIMES WE
20 NEEDED TO HOLD ON TO THE ORIGINAL. THAT'S THE ONLY ORIGINAL WE
21 HAVE OF THAT RED BOOK, YOUR HONOR.

22 THE COURT: WELL, WHAT DO YOU THINK IS GOING HAPPEN TO
23 IT?

24 MR. MEDRANO: WELL, THE POINT IS, YOUR HONOR, THAT IT
25 TAKES -- IT TAKES A LOT OF WORK TO GET IT OUT OF EVIDENCE ONCE

1 IT GETS INTO THE RECORD.

2 WE NEED THAT THING. WHAT IF WE COME UP WITH WITNESSES
3 IN A MONTH AND THIS INVESTIGATION IS STILL GOING FORWARD? WE
4 NEED THAT RED BOOK.

5 THE COURT: WELL, WASN'T THERE AN AGREEMENT ABOUT A
6 COPY BEING MADE?

7 MR. MEDRANO: AND WE AGREED THAT A COPY WOULD BE MADE
8 AND SUBMITTED IN PLACE OF IT, AND THAT'S WHAT WAS OUR TENTATIVE
9 AGREEMENT DURING THE COURSE OF THE TRIAL.

10 MR. MEZA: WE HAVE NO OBJECTION, ONCE THE ARGUMENT'S
11 BEEN CONCLUDED, FOR AN ORDER TO REMOVE THAT EXHIBIT. BUT WE'D
12 AT LEAST LIKE TO HAVE IT AVAILABLE IN ITS PRESENT CONDITION TO
13 ARGUE -- TO USE IT IN ARGUMENT.

14 THE COURT: WELL, THAT SOUNDS ALL RIGHT. I DON'T SEE
15 WHY WE CAN'T USE IT IN THE ARGUMENT.

16 MR. MEDRANO: THEY CAN USE IT DURING CLOSING, YOUR
17 HONOR. JUST AFTERWARDS WE'D LIKE IT BACK; THAT'S ALL.

18 MR. MEDVENE: MAY I WRESTLE WITH ONE OTHER POINT, YOUR
19 HONOR, VERY QUICKLY?

20 THE COURT: YES.

21 MR. MEDVENE: I THINK YOU ASKED US AT THE CONCLUSION
22 OF THE EVIDENCE TO RENEW OUR REQUEST TO YOU THAT YOU DAVID
23 MACIAS, WHO TESTIFIED DURING THE TRIAL, BE RELEASED FROM OUR
24 MATERIAL WITNESS WARRANT. WE'D HAD A WARRANT. WE'D ASKED FOR
25 HIS RELEASE. THE GOVERNMENT SAID THEY MIGHT CALL -- THEY

1 DIDN'T KNOW IF THEY WERE GOING TO CALL HIM BACK AS A WITNESS.
2 HE WAS NOT. ALL THE EVIDENCE IS IN, AND WE ASK THAT HE BE
3 RELEASED NOW FROM THE WARRANT.

4 MR. MEDRANO: YOUR HONOR, MAY I JUST SAY SOMETHING ON
5 THAT POINT?

6 I, FOR ONE, HAVE NO PROBLEM WITH THAT; BUT JUST
7 LOOKING FORWARD TO A REMAINING DEFENDANT THAT STILL POSSIBLY
8 MAY BE TRIED, AND WHO KNOWS WHO ELSE MAY BE ARRESTED -- I'M
9 JUST THINKING ALOUD -- IS THERE SOME FUTURE DEFENSE ARGUMENT
10 THAT: HERE WAS A PERCIPIENT WITNESS THAT SERVED TO EXCULPATE
11 ONE OF THE DEFENDANTS IN THIS CASE; THEREFORE, THAT THE
12 GOVERNMENT HAD AN OBLIGATION TO FILE AN AT-LIB WARRANT WITH THE
13 COURT TO CONTINUE TO HOLD HIM?

14 I DON'T KNOW THE ANSWER TO THESE QUESTIONS, BUT I JUST
15 WANT TO FLAG IT FOR THE COURT, BECAUSE IT'S OF CONCERN TO ME;
16 AND I JUST DON'T KNOW HOW TO DEAL WITH IT, ALMOST JUST SHOOTING
17 FROM THE HIP, AND I THINK THE COURT SHOULD BE COGNIZANT OF THAT
18 ISSUE.

19 THE COURT: WELL, IF YOU THINK HE'S A MATERIAL
20 WITNESS, YOU SHOULD PETITION THE COURT TO FIND HIM SO.

21 MR. MEDRANO: WELL, BUT HE WOULDN'T BE FOR THE
22 GOVERNMENT, YOUR HONOR. BUT STILL, THE GOVERNMENT HAS AN
23 OBLIGATION AT TIMES TO TAKE CARE OF THE DEFENSE AND THINK ABOUT
24 THEM IF THERE'S POTENTIALLY EXCULPATORY MATERIAL.

25 AND -- I -- MR. MEDVENE MAYBE CAN OFFER --

1 THE COURT: YOU'RE GETTING MR. MEDVENE ALL EXCITED.

2 MR. MEDRANO: I'M NOT HERE TO KEEP THAT MAN IN JAIL.

3 I'M JUST TRYING TO SAY THAT, FOR EXAMPLE, IN I.N.S. CASES, YOUR
4 HONOR, WE HAVE TO MOVE TO DETAIN SOMEONE FOR THE DEFENSE
5 BECAUSE THEY OFFER EXCULPATORY TESTIMONY.

6 IT SEEMS TO ME MACIAS IS IN THE SAME -- THE SAME
7 SITUATION. AND AGAIN, I DON'T KNOW THE ANSWER TO THIS, BUT I'M
8 JUST SAYING TO THE COURT THAT THE --

9 THE COURT: THE ONLY EXCULPATORY TESTIMONY THAT HE
10 OFFERED WAS AS TO MR. ZUNO.

11 MR. MEDRANO: YES. WELL, THAT'S CORRECT.

12 WELL, YES AND NO, YOUR HONOR, BECAUSE AT SOME POINT,
13 AND THIS IS GOING FORWARD, AND I HAVE NO IDEA HOW YOU'RE GOING
14 TO RULE ON THE MACHAIN ISSUE, BUT LET'S ASSUME WE TRY MACHAIN,
15 CERVANTES IS GOING TO TESTIFY AGAIN FOR THE GOVERNMENT, AND
16 ARGUABLY, JUST ARGUABLY, THAT MACIAS IS SOME KIND OF
17 IMPEACHMENT WITNESS OF HIM ON A COLLATERAL MATTER OR BECAUSE OF
18 WHAT HAPPENED AT LA QUINTA.

19 SO IF THAT'S THE CASE, THEN, ARE WE UNDER OBLIGATION
20 TO HOLD ON TO HIM? I DON'T KNOW.

21 MR. MEDVENE: IF THE COURT PLEASE, HOW CAN THE
22 GOVERNMENT HAVE AN OBLIGATION? THE ONLY TESTIMONY IS HE WASN'T
23 IN GUADALAJARA IN 84 AND THE SPRING OF 85 WHEN THIS HAPPENED.
24 I MEAN, THAT'S ALL THE EVIDENCE. HE WASN'T IN GUADALAJARA. SO
25 HE COULDN'T HAVE ANYTHING TO DO WITH LA QUINTA.

1 AND WE ASKED --

2 THE COURT: YOU HAVE AN OBLIGATION TO HOLD ON TO
3 PEOPLE THAT ARE UNDER YOUR CONTROL. THIS MAN IS NOT UNDER YOUR
4 CONTROL. HE'S UNDER A JUDICIAL WARRANT AS A MATERIAL WITNESS.

5 AND I DON'T SEE HOW HE CAN BE CONTINUED TO BE HELD
6 SIMPLY TO ANTICIPATE SOME PROBLEM, IN LIGHT OF --

7 MR. MEDRANO: I'M NOT ASKING THAT HE BE HELD, YOUR
8 HONOR. I JUST WANTED TO RAISE THE NOTION, THAT'S ALL.

9 THE COURT: WELL, I THINK HE CAN BE RELEASED NOW THAT
10 THE EVIDENCE IS CLOSED, AND HE CAN SUBMIT AN APPROPRIATE ORDER.

11 MR. MEDVENE: YES, YOUR HONOR.

12 THE COURT: WE HAVE A --

13 MS. KELLY: YOUR HONOR, THERE'S ONE OTHER MATTER.

14 I HAD INADVERTENTLY MOVED INTO EVIDENCE DEFENSE
15 EXHIBIT VVV -- THAT'S THREE V'S, YOUR HONOR -- WHICH WAS A
16 COMPLETE TRANSCRIPT OF THE JULY 25TH MEETING; AND, YOUR HONOR,
17 I HAD MADE A PREVIOUS MOTION EXCLUDING PORTIONS OF THAT.

18 SO, YOUR HONOR, I WOULD LIKE TO CORRECT THAT FOR THE
19 RECORD AND NOT HAVE THE ENTIRE TRANSCRIPTS MOVED INTO EVIDENCE;
20 REMOVE THAT EXHIBIT FROM EVIDENCE.

21 THE COURT: REMOVE EXHIBIT VVV?

22 MS. KELLY: YES, YOUR HONOR.

23 THE COURT: DO YOU HAVE ANY OBJECTION?

24 MR. CARLTON: WE'D OBJECT. IT'S BEEN INTRODUCED INTO
25 EVIDENCE, YOUR HONOR. IT'S A COMPLETE TRANSCRIPT. THE DEFENSE

1 HAS PREPARED --

2 THE COURT: A TRANSCRIPT OF WHAT?

3 MR. CARLTON: OF THE JULY 25TH UNDERCOVER MEETING.

4 THE COURT: WELL, WHY SHOULDN'T THAT BE IN EVIDENCE?
5 THAT'S THE ONLY EVIDENCE OF WHAT TOOK PLACE.

6 MS. KELLY: WELL, YOUR HONOR, IT WAS --

7 THE COURT: THE PLAYING OF THE TAPE, IF IT WAS
8 PLAYED -- I DON'T EVEN RECALL NOW -- IS NOT EVIDENCE TO THE
9 ENGLISH-SPEAKING JURY. THE EVIDENCE IN THIS CASE, CONTRARY TO
10 THE USUAL SITUATION, IS THE TRANSCRIPT, THE ENGLISH WORDS.

11 MS. KELLY: YOUR HONOR, THEY -- PORTIONS OF THAT HAVE
12 BEEN PLAYED TO THE JURY, BUT THERE ARE OTHER PORTIONS IN THE
13 TRANSCRIPT WHICH WE BELIEVE ARE PREJUDICIAL, THAT WERE THE
14 SUBJECT OF A PREVIOUS MOTION.

15 THE COURT: WHAT WAS THE RULING ON THE PREVIOUS
16 MOTION?

17 MS. KELLY: YOU HAD -- THE GOVERNMENT ACTUALLY HAD
18 AGREED THAT CERTAIN PORTIONS OF IT SHOULD BE EXCISED, YOUR
19 HONOR.

20 MR. CARLTON: I DON'T BELIEVE THAT WAS TRUE -- WELL,
21 MAYBE IN RELATION TO THE JULY 25TH HEARING. BUT EVEN IF IT
22 WAS, YOUR HONOR, MS. KELLY PREPARED THE TRANSCRIPT HERSELF. WE
23 DEALT WITH ANOTHER TRANSCRIPT IN DETERMINING WHICH WAS
24 PREJUDICIAL AND WHICH WAS NOT.

25 SHE INTRODUCED IT. SHE INTRODUCED TESTIMONY ABOUT IT.

11

1 IT'S IN EVIDENCE. IT SHOULD GO TO THE JURY.

2 THE COURT: WELL, SHE MAY WITHDRAW IT IF SHE WANTS.
3 DO YOU WANT OFFER IT?

4 MR. CARLTON: YES. WE WILL OFFER IT, YOUR HONOR.

5 THE COURT: THEN I THINK IT SHOULD REMAIN IN EVIDENCE.

6 MS. KELLY: WELL, IN THAT CASE, YOUR HONOR, THEN I
7 THINK THAT THE GOVERNMENT'S TRANSCRIPT, 165, SHOULD GO INTO
8 EVIDENCE, AS WELL, WHICH IS THE GOVERNMENT TRANSCRIPT OF THE
9 SAME THING --

10 THE COURT: WELL, IT IS IN EVIDENCE.

11 MS. KELLY: IT WAS NOT.

12 MR. CARLTON: THAT WAS NOT, BUT I DON'T OBJECT TO IT
13 BEING THERE.

14 THE COURT: WELL, THEN IT WILL BE RECEIVED, HAS TO BE.
15 THAT'S THE ONLY EVIDENCE OF THE CONVERSATION, OTHER THAN WHAT
16 THE JURY HEARD.

17 MS. KELLY: WELL, IT ISN'T, YOUR HONOR. THERE'S BEEN
18 TESTIMONY ABOUT WHAT TRANSPIRED AND THERE WAS ALSO -- THE
19 GOVERNMENT HAD A -- PORTIONS OF THE TRANS -- PORTIONS OF THE
20 CONVERSATION BEING --

21 THE COURT: WELL, I DON'T KNOW IF YOU WANT THE JURY --
22 TO HAVE TO SET UP ALL SORTS OF EQUIPMENT TO HAVE THIS PLAYED
23 BACK FOR THE JURY. IT'S JUST AS WELL FOR THE JURY TO HAVE THE
24 TRANSCRIPT. AND THEN IF THERE'S DISPUTES ABOUT IT, YOU CAN
25 ARGUE ABOUT IT.

1 MS. KELLY: I'M SORRY, YOUR HONOR?

2 THE COURT: WELL, YOU SAID 165 SHOULD BE IN. HE SAID
3 HE HAD NO OBJECTION---

4 MS. KELLY: VERY WELL, YOUR HONOR.

5 THE COURT: -- SO IT'S RECEIVED.

6 (EXHIBIT 165 # RECEIVED IN EVIDENCE.)

7 MR. MEDRANO: YOUR HONOR. ONE FINAL THING: IN PRIOR
8 LARGE CASES, WE AT TIMES HAVE SUBMITTED FOR THE JURY A REDACTED
9 AND APPROVED-BY-ALL VERSION OF THE EXHIBIT LIST SO THAT THE
10 JURY CAN EASIER TRACK DOWN DOCUMENTS.

11 THE COURT: I THINK THAT'S A GOOD IDEA.

12 MR. MEDRANO: WELL, WE WOULD RESPECTFULLY ASK TO
13 PREPARED A REDACTED, CLEANSED VERSION, SHARE IT WITH ALL THE
14 DEFENSE LAWYERS, SEE THAT THEY APPROVE IT, AND THEN GIVE IT TO
15 THE COURT SO THAT THE JURY CAN HAVE IT.

16 THERE'S A LOT OF EVIDENCE, YOUR HONOR.

17 THE COURT: THE JURY SHOULD HAVE IT.

18 MR. MEDRANO: VERY WELL. THEN WE'LL -- WE'LL PUT THAT
19 TOGETHER.

20 THE COURT: IN FACT, I ORDER THAT. IN A MANY-EXHIBIT
21 CASE, IT SHOULD BE REQUIRED.

22 MR. MEDRANO: VERY WELL.

23 THE COURT: ALL RIGHT. COUNSEL STAND BY

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

25 (RECESS TAKEN TILL 5:15 P.M.)

12 1 (JURY ABSENT:)

2 THE COURT: LET THE RECORD SHOW THE COURT HAS CONVENED
3 IN COURT WITH ALL COUNSEL AND ALL DEFENDANTS PRESENT.

4 FIRST, THE COURT HAS REVIEWED ALL OF THE INSTRUCTIONS
5 THAT HAVE BEEN SUBMITTED, AS WELL AS THE OBJECTIONS THAT HAVE
6 BEEN MADE TO ANY INSTRUCTIONS. AND I BASICALLY ONLY HAVE TIME
7 TODAY TO TELL YOU WHAT MY INTENTIONS ARE WITH RESPECT TO THESE
8 INSTRUCTIONS.

9 IN SOME INSTANCES, THE COURT HAS PREPARED ITS OWN
10 INSTRUCTIONS, OF WHICH YOU WILL BE PROVIDED COPIES.

11 WE WILL MEET AGAIN TOMORROW MORNING AT 8:30 TO HEAR
12 ANY FURTHER OBJECTIONS. BECAUSE I WILL NOT HAVE TIME TODAY TO
13 HEAR YOU ON THIS.

14 FIRST, I WANT TO DEAL WITH THE JOINTLY AGREED-UPON
15 INSTRUCTIONS WHICH WERE SUBMITTED. THESE WERE AGREED ON BY ALL
16 PARTIES.

17 MR. MEZA: I DON'T BELIEVE THAT'S TRUE, YOUR HONOR. I
18 THINK THE JOINT -- THE SO-CALLED JOINT INSTRUCTIONS WERE AGREED
19 UPON BETWEEN THE GOVERNMENT AND TWO OF THE PARTIES, AND WE
20 REFERRED TO THEM AS "JOINT" SIMPLY BECAUSE THAT IS THE WAY THEY
21 WERE OFFERED TO THE COURT.

22 THE COURT: YOU WERE INSTRUCTED TO ALL AGREE ON THESE.

23 MR. MEZA: WELL, THAT'S TRUE. THE GOVERNMENT OFFERED
24 THESE BEFORE WE SPOKE TO THEM ABOUT IT. I THOUGHT WE MADE THAT
25 CLEAR. AT LEAST IN A COUPLE OF AREAS WE ARE CONCERNED.

1 THE COURT: UNBELIEVABLE. IN ANY EVENT, THESE
2 INSTRUCTION THAT WERE SUBMITTED TO THE COURT AS AGREED JURY
3 INSTRUCTIONS, WHETHER YOU AGREE WITH THEM OR NOT. HAVE YOU
4 READ THEM?

5 MR. MEZA: YES, YOUR HONOR. I HAVE SUBMITTED
6 OBJECTIONS ON THE --

7 THE COURT: WELL, THEN, I DEALT WITH YOUR OBJECTIONS.

8 MR. MEZA: THANK YOU.

9 THE COURT: THE INSTRUCTION NUMBER 2 IS REPETITIOUS OF
10 INSTRUCTION NUMBER 1. I DON'T SEE WHY WE NEED BOTH, SO I WILL
11 NOT GIVE NUMBER 2. I WILL GIVE NUMBER 1, AND ALL THE OTHERS,
12 EXCEPT NUMBER 16 I'VE FLAGGED AND ASKED WHY THIS IS NECESSARY.

13 IS THIS A THEORY OF THE CASE, THAT ANYBODY HERE DID
14 ANYTHING FOR PECUNIARY VALUE OR MONEY, OR WHETHER IT SIMPLY WAS
15 TO ENHANCE THEIR POSITION OR FOR ENTRY INTO THE ENTERPRISE?
16 WHY IS THIS NECESSARY?

17 MR. CARLTON: WELL, YOUR HONOR, FIRST OF ALL, BECAUSE
18 IT IS IN THE LANGUAGE OF THE STATUTE --

19 THE COURT: I KNOW IT'S IN THE STATUTE --

20 MR. CARLTON: -- THE JURY MAY WISH TO KNOW THAT.

21 THE COURT: -- BUT WHERE IS THE EVIDENCE? THE FACT
22 THAT IT'S IN --

23 MR. CARLTON: THE OTHER INDICATION, YOUR HONOR, IS
24 THAT THE CONTINUING FINANCIAL SUCCESS OF THE ENTERPRISE, OF
25 COURSE, WOULD BE OF PECUNIARY VALUE TO THE MEMBERS OF THE

1 ENTERPRISE WHO SOUGHT TO PROFIT FROM IT; AND ANYTHING, THE
2 PRIMARY SIGNIFICANCE OF WHICH IS ECONOMIC ADVANTAGE, WOULD BE
3 AN ELEMENT OF THE 1959.

4 THE COURT: WELL, IF YOU READ THE STATUTE, IT DOESN'T
5 SEEM TO READ THAT WAY; BUT I HAVE NO OBJECTION TO GIVING THIS.
6 IT IS BASICALLY COINED IN TERMS THAT ARE CONTAINED IN THE
7 STATUTE. I SIMPLY DIDN'T THINK THIS WAS YOUR EVIDENTIARY
8 THEORY IN THIS CASE.

9 MR. MEZA: WELL, WE WOULD AGREE WITH THE COURT, THAT
10 THERE IS NO EVIDENCE TO SUPPORT THAT INSTRUCTION, YOUR HONOR.

11 MR. MEDVENE: WE WOULD AGREE, ALSO, YOUR HONOR.

12 MR. NICOLAYSEN: YES, I CERTAINLY JOIN THAT IN TERMS
13 OF LA LANGOSTA. THAT'S NEVER BEEN ARGUED BY THE GOVERNMENT.

14 MR. MEZA: IN FACT, IN RULE 29, IF YOU RECALL THE
15 GOVERNMENT'S CASE, THAT WAS OUR ARGUMENT; AND IN THE RULE 29,
16 WE ARE GOING TO REASSERT THAT ARGUMENT.

17 THE COURT: I DON'T THINK THAT HAS ANYTHING TO DO WITH
18 RULE 29. I UNDERSTOOD THE STATUTE IS THAT SOMEBODY COMMITS AN
19 ACT FOR MONEY OR PROMISE OF PAYMENT, SOMETHING PECUNIARY.

20 MR. CARLTON: MONEY, PROMISE OF PAYMENT, OR FOR THE
21 PURPOSE OF GAINING ENTRANCE TO OR MAINTAINING ONE'S POSITION.

22 THE COURT: THOSE ARE ALL SEPARATE ALTERNATIVES.

23 MR. CARLTON: RIGHT. AND THEN OUR THEORY, OR AT LEAST
24 ONE OF OUR THEORIES, IS CERTAINLY THAT THE D.E.A.'S EFFORTS TO
25 INVESTIGATE THE CARTEL'S ACTIVITY, TO TAKE IT DOWN, TO THREATEN

1 THE EXISTENCE --

2 THE COURT: YOUR INDICTMENT DID NOT ALLEGE THIS, DID
3 IT?

4 MR. CARLTON: WELL, YOUR HONOR, WE THINK THAT THIS IS
5 BASICALLY THE SAME AS MAINTAINING ONE'S POSITION IN THE CARTEL,
6 IN THE SENSE THAT --

7 THE COURT: WHY DO YOU NEED BOTH, THEN?

8 MR. CARLTON: THE FACT THAT IT IS IN THE STATUTE AND
9 IT JUST EXPLAINS WHAT THE STATUTE IS ABOUT.

10 THE COURT: I DON'T THINK IT DOES, BUT -- I'M NOT
11 GOING TO GIVE IT.

12 YOU'RE TALKING ABOUT NEGOTIABLE INSTRUMENTS,
13 COMMERCIAL INTEREST, OR ANYTHING ELSE, THE PRIMARY SIGNIFICANCE
14 OF WHICH IS ECONOMIC ADVANTAGE. I DON'T READ THAT IN THE
15 STATUTE. I DON'T THINK WE NEED THAT.

16 NOW, THE NEXT ONE IS NUMBER 18; AND THE ONLY QUESTION
17 I HAVE ABOUT THIS IS THAT IT'S COINED IN TERMS OF ACTS OR
18 OMISSIONS, ACTS OR FAILING TO ACT. THERE IS NO THEORY OF
19 LIABILITY ABOUT FAILING TO ACT HERE, IS THERE? ALL THESE
20 PEOPLE ARE CHARGED WITH ACTS, AREN'T THEY?

21 DO WE NEED THE LANGUAGE "OR FAILED TO ACT," FOR
22 EXAMPLE, IN THIS INSTRUCTION?

23 MR. STOLAR: I DON'T THINK SO, YOUR HONOR.

24 MR. CARLTON: NO, YOUR HONOR.

25 MR. NICOLAYSEN: WE DO NOT, YOUR HONOR.

1 MR. STOLAR: AND ALSO THE WORDS "OR OMISSIONS" COULD
2 BE STRUCK.

3 THE COURT: YES. WELL, THEN, WE'LL STRIKE THOSE OUT.
4 WHERE IS -- THAT IS "OR OMISSIONS," YES. THAT'S WHY I FLAGGED
5 THAT. I'LL STRIKE THOSE OUT.

6 NUMBER 21, I SIMPLY FLAGGED THAT TO SAY THIS IS OKAY,
7 EXCEPT THAT I DON'T USUALLY READ THE COUNT FROM THE INDICTMENT,
8 BECAUSE IT'S GENERALLY DEFINED IN THE FOLLOWING INSTRUCTION.
9 WHICH TELLS WHAT THE ELEMENTS OF THE OFFENSE ARE. SO THERE IS
10 NO POINT IN READING IT AND THEN HAVING TO TELL THE JURY THAT
11 "TITLE 18 UNITED STATES CODE SECTION 1201 PROVIDES IN PART AS
12 FOLLOWS."

13 HERE IS THE STATUTE GIVEN THERE, AND THEREAFTER THE
14 ELEMENT WILL BE GIVEN.

15 MR. STOLAR: THAT'S FINE WITH US.

16 MR. CARLTON: THAT'S FINE, YOUR HONOR.

17 THE COURT: ALL RIGHT. SO 22 IS OKAY.

18 23, THE LAST PARAGRAPH MAY NOT BE NECESSARY.

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

20 THE COURT: PARDON?

21 MR. CARLTON: THAT'S CORRECT.

22 THE COURT: SO STRIKE THAT OUT.

23 COUNT 6, AGAIN, IS -- I WILL NOT READ THE COUNT FROM
24 THE INDICTMENT, FOR THE SAME REASONS I HAVE STATED BEFORE; BUT
25 OTHERWISE, IT'S OKAY.

1 COUNT 25 (AS STATED). AGAIN, THERE WILL BE NO
2 READING, BUT THE INSTRUCTION IS ALL RIGHT.

3 COUNT 26 -- I MEAN, INSTRUCTION 26 IS OKAY AS IS.
4 INSTRUCTION 27 IS OKAY.

5 INSTRUCTION 28. WHO IS CHARGED IN COUNT 8: BERNABE
6 RAMIREZ ONLY? I HAVE A NOTE HERE.

7 MR. CARLTON: THERE ARE OTHERS, YOUR HONOR, BUT ONLY
8 BERNABE RAMIREZ IS PRESENT IN COURT NOW.

9 THE COURT: YES, I UNDERSTAND THAT.

10 I HAVE A NOTE HERE. WHAT IS THE EVIDENCE REGARDING
11 ZAVALA, OTHER THAN THE FACT THAT HE DISAPPEARED AT THE SAME
12 TIME AS AGENT CAMARENA AND THAT HIS BODY WAS FOUND TOGETHER
13 WITH HIS? WHAT IS THE EVIDENCE THAT TIES THIS DEFENDANT TO
14 THAT CRIME?

15 MR. MEDRANO: SIMPLY, YOUR HONOR, YOU HAVE -- WELL,
16 LUIS ZAVALA, OF COURSE, ADVISING THE COURT, AS WELL AS MR.
17 KUYKENDALL -- LUIS ZAVALA WAS THE SON, AND AGENT KUYKENDALL
18 ADVISING YOU HOW ZAVALA WORKED CLOSELY AS AN INFORMANT FOR
19 CAMARENA. KUYKENDALL TOLD YOU THAT ZAVALA FLEW THEM AROUND TO
20 LOOK FOR THE MARIJUANA FIELDS AND THAT FREQUENTLY KUYKENDALL
21 AND CAMARENA RECEIVED INFORMATION FROM ZAVALA.

22 THE COURT: WAIT JUST A MINUTE. I THINK I MAY HAVE
23 MISSPOKE HERE. THIS IS COUNT 8, WHICH IS THE ACCESSORY AFTER
24 THE FACT; RIGHT?

25 MR. CARLTON: YES, YOUR HONOR.

1 THE COURT: WHICH OF THESE DEFENDANTS IS CHARGED WITH
2 THE KILLING OF ZAVALA?

3 MR. MEZA: ONLY DEFENDANT BERNABE, YOUR HONOR. HE'S
4 THE ONLY ONE THAT IS CHARGED WITH ZAVALA.

5 THE COURT: THAT'S WHAT I HAD IN MIND. WHAT IS THE
6 EVIDENCE THAT CONNECTS HIM TO THAT?

7 I DIDN'T HEAR MUCH ABOUT HIM, OTHER THAN THE FACT THAT
8 HE WAS MISSING AND HE WAS A -- THAT HE USED TO ASSIST AND WAS
9 AN INFORMANT AND THAT HE WAS MISSING THE SAME TIME AS AGENT
10 CAMARENA AND THE BODY WAS LATER DISCOVERED WITH HIM.

11 MR. MEDRANO: WELL, MR. MALONE'S EXTENSIVE FORENSIC
12 EVIDENCE THAT PLACES ZAVALA AT THE HOUSE, AS WELL. YOU WILL
13 RECALL THE CARPET FIBERS BEING FOUND ON THE REMAINS OF THE
14 CLOTHES OF ZAVALA.

15 THE COURT: ALL RIGHT.

16 MR. MEDRANO: SO THAT'S WHAT TIES HIM TO LOPE DE VEGA,
17 AS WELL AS CAMARENA. THE FORENSICS EVIDENCE IS WHAT DOES IT.

18 THE COURT: AND THAT'S IT?

19 MR. MEDRANO: THAT AND AN OFFERING I'VE ALREADY STATED
20 TO YOU THAT PLACES HIM BASICALLY WORKING ALONG WITH THE D.E.A.
21 AND CAMARENA; YES, YOUR HONOR.

22 THE COURT: THE INSTRUCTION ON NUMBER 29, WHICH IS ALL
23 OKAY -- HAVE I RULED ON THE MOTION YET REGARDING THE
24 EXTRATERRITORIAL EFFECT OF THIS?

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

1 THE COURT: THAT'S STILL PENDING. WELL, IT'S OKAY,
2 SUBJECT TO MY DENYING THAT MOTION.

3 NUMBER 30 IS OKAY.

4 NUMBER 31 IS OKAY.

5 NUMBER 32 IS OKAY.

6 WHAT I MEAN BY "OKAY" IS THAT THE COURT WILL GIVE IT.

7 NUMBER 33, "THE PUNISHMENT IS NOT TO BE DISCUSSED BY
8 THE JURY," IS APPROPRIATE; AND I, OF COURSE, EXPECT COUNSEL TO
9 ADHERE THAT IN THE ARGUMENT. I DON'T WANT TO HEAR ANY COUNSEL
10 TELLING THIS JURY THAT "MY CLIENT FACES LIFE IN PRISON." THAT
11 WOULD BE CLEARLY IMPROPER.

12 MR. MEZA: WELL, YOUR HONOR, THERE WAS TESTIMONY
13 CONCERNING ONE OF THE AGENTS THAT RELATES TO MY CLIENT,
14 ATTEMPTING TO GET HIM TO COOPERATE, AND ONE OF THE INDUCEMENTS
15 WAS THAT HE WAS LOOKING AT A LOT OF YEARS IN PRISON.

16 THE COURT: WELL, IT'S PERMISSIBLE TO DISCUSS THAT AS
17 PART OF THE INDUCEMENT.

18 MR. MEZA: ALL RIGHT. THANK YOU.

19 THE COURT: BUT IN TERMS OF DISCUSSING THE
20 CONSEQUENCES OF CONVICTION --

21 MR. MEZA: NO, I UNDERSTAND.

22 THE COURT: -- THAT IS IMPROPER, TO DISCUSS WHAT KIND
23 OF A SENTENCE MAY BE IMPOSED UPON YOUR CLIENT.

24 MR. MEZA: I AGREE. THANK YOU.

25 THE COURT: NUMBER 34 IS APPROVED.

1 NUMBER 35 IS APPROVED.

2 NUMBER -- THAT'S ALL OF THE SO-CALLED AGREED JURY
3 INSTRUCTIONS.

4 NOW, THERE IS A GOVERNMENT-PROPOSED SUPPLEMENTAL JURY
5 INSTRUCTION. WE'LL GO THROUGH THOSE -- I ONLY HAVE ABOUT FIVE
6 MORE MINUTES, AND THEN WE'LL HAVE TO HAVE ADJOURN.

7 FIRST OF ALL, THIS REASONABLE DOUBT INSTRUCTION: THE
8 COURT HAS DRAFTED THE NEW ONE, WHICH I COMBINED BOTH OF THE
9 INSTRUCTION VERSIONS THAT HAVE BEEN SUBMITTED; AND YOU WILL BE
10 PROVIDED WITH A COPY OF THAT AND I'LL HEAR YOU ON IT TOMORROW.

11 SO, NUMBER 1 -- IN OTHER WORDS, I'M NOT GIVING THE ONE
12 THAT WAS PROFFERED BY THE GOVERNMENT OR THE ONE PROFFERED BY
13 SOME OF THE DEFENDANTS, BUT I HAVE CREATED A COMBINATION.

14 NUMBER 2 I THINK WILL BE COVERED -- STRIKE THAT.
15 NUMBER 2 IS THE -- THE COURT WILL GIVE THIS INSTRUCTION.

16 NUMBER 3 I DON'T BELIEVE IS APPROPRIATE, BECAUSE IT
17 JUST DEALS WITH A LOT OF THINGS THAT ARE NOT NECESSARILY
18 INVOLVED IN THIS CASE AND TENDS TO BE ARGUMENTATIVE; AND I
19 DON'T THINK IT IS NECESSARY. WE ARE NOT TALKING HERE ABOUT
20 PRIVATE TRANSACTION AND OTHER THINGS, BUSINESS OR EMPLOYMENT,
21 ORDINARY HABITS OF LIFE. I DON'T THINK THAT IS A PROPER
22 INSTRUCTION, SO THE COURT DOES NOT INTEND TO GIVE THAT.

23 NUMBER 4: I WILL AMEND NUMBER 4 TO ADD THE LINE AT
24 THE END, "SO LONG AS SUCH DATE OR DATES WERE AFTER OCTOBER 12,
25 1984," TO MEET AN OBJECTION THAT WAS MADE BY DEFENDANTS.

1 NUMBER 5 --

2 MR. MEDRANO: YOUR HONOR, THAT OCCURRED AFTER WHAT
3 DATE, AGAIN?

4 THE COURT: OCTOBER 12TH 1984.

5 MR. MEDVENE: IF THE COURT PLEASE, WE WOULD
6 RESPECTFULLY OBJECT TO THAT ADDITION IN THAT FORM. WE THINK
7 THE "ON OR ABOUT" MEANS YOU DON'T HAVE TO HAVE THE DATE. "ON
8 OR ABOUT," IT CAN WITHIN A FEW DAYS.

9 I THINK IF YOU ADD WHAT YOU ADDED AS YOU DID, IT WOULD
10 SEEM LIKE THE DATE COULD BE MONTHS OFF AND THAT WOULD BE FINE,
11 AND I DON'T THINK THAT'S WHAT YOU MEAN TO BE SAYING. I THINK
12 IT IS A DIFFERENT POINT YOU'RE MAKING.

13 THE COURT: WELL, IT ALREADY SAID, "IT IS SUFFICIENT
14 IF THE EVIDENCE IN THE CASE ESTABLISHES THAT THE OFFENSES WERE
15 COMMITTED ON A DATE OR DATES REASONABLY NEAR THE DATES ALLEGED,
16 SO LONG AS SUCH DATE OR DATES WERE AFTER OCTOBER 12TH 1984,"
17 AND THE INDICTMENT SAYS: OCTOBER 1984. THAT'S THE WAY IT'S
18 ALLEGED.

19 NOW, NUMBER 5: I QUESTION WHETHER WE NEED THE
20 PORTIONS OF THIS INSTRUCTION ON LINE 13 DEALING WITH "MAIMS,
21 ASSAULTS WITH A DANGEROUS WEAPON, COMMITS ASSAULT RESULTING IN
22 SERIOUS BODILY INJURY UPON."

23 IS THERE A DANGER HERE THAT A DEFENDANT MAY BE FOUND
24 GUILTY IF THE JURY SIMPLY FINDS THAT AGENT CAMARENA WAS MAIMED
25 OR ASSAULTED WITH A DANGEROUS WEAPON, NEITHER OF WHICH IS

1 CHARGED?

2 MR. NICOLAYSEN: YOUR HONOR, LIKEWISE AS TO WALKER AND
3 RADELAT: THE INDICTMENT ALLEGES MURDER, NOT THAT THEY WERE
4 BEATEN.

5 THE COURT: WELL, THAT'S WHAT I PROPOSE TO LEAVE IN
6 THE INSTRUCTION: ENGAGE IN RACKETEERING ACTIVITY, MURDERS,
7 KIDNAP; BUT ELIMINATING MAIMED, ASSAULTS WITH A DANGEROUS
8 WEAPON, COMMITS ASSAULT RESULTING IN SERIOUS BODILY INJURY.

9 DO YOU THINK WE -- DO YOU WANT -- IS IT NECESSARY TO
10 HAVE THAT? IT IS NOT CHARGED.

11 I MEAN, THOSE ARE CHANGES THAT CAN BROUGHT AGAINST AN
12 INDIVIDUAL UNDER THIS STATUTE IF SOMEONE IS MAIMED OR ASSAULTED
13 WITH A DANGEROUS WEAPON, BUT HERE WE HAVE A KIDNAPPING AND
14 MURDER.

15 MR. MEDRANO: YES, YOUR HONOR. WITH YOUR PERMISSION,
16 IF WE MAY HAVE SOME TIME TO RESEARCH THIS, BECAUSE I WONDER IF
17 IT IS NOT A LESSER INCLUDED OFFENSE THAT ARGUABLY COULD BE
18 GIVEN TO THE JURY.

19 I DON'T KNOW THE ANSWER TO THAT, BUT AS I --

20 THE COURT: WELL, I DON'T THINK IT WOULD BE A -- WHERE
21 YOU HAVE A COMPLETED DEATH, I DON'T THINK YOU COULD HAVE
22 ANYTHING LESS. CAN YOU?

23 MR. MEDRANO: WELL, BUT HOW ABOUT --

24 THE COURT: ANYWAY, I'VE RAISED THE QUESTION --

25 MR. MEDRANO: YES, YOUR HONOR.

1 THE COURT: -- BECAUSE IT SEEMS TO ME THAT THAT MIGHT
2 NOT BE APPROPRIATE. OTHERWISE, THE INSTRUCTION IS OKAY.

3 NOW, INSTRUCTION NUMBER 6: I WANT EITHER THE
4 GOVERNMENT -- OR I DON'T KNOW. I'LL PLACE THIS RESPONSIBILITY
5 ON MR. MEDVENE'S GROUP.

6 I WANT AN INSTRUCTION THAT BASICALLY SUMMARIZES FOR
7 THE JURY THE GENERAL INSTRUCTIONS TO BE GIVEN JUST AHEAD OF THE
8 SUBSTANTIVE INSTRUCTIONS, WHAT EACH DEFENDANT IS CHARGED WITH
9 AND WHAT COUNT.

10 IN OTHER WORDS -- AND I WANT A CONCISE SUMMARY OF THE
11 ALLEGATIONS: VIOLENT ACT IN FURTHERANCE OF RACKETEERING;
12 NAMELY, KIDNAP AND MURDER.

13 IF THAT IS -- IN COUNT 1, FOR EXAMPLE, THE DEFENDANT
14 JAVIER VASQUEZ VELASCO IS CHARGED WITH VIOLENT ACT, ET CETERA.

15 YOU CAN USE THE TERMINOLOGY THAT IS IN THE CAPTION OF
16 THE INDICTMENT, PERHAPS, SO THAT FOR EACH DEFENDANT THE JURY IS
17 TOLD OUT FRONT WHAT THE COUNTS ARE THAT PERTAIN TO THE
18 DEFENDANT AND THE NATURE OF THE CHARGE THAT IS INVOLVED; NOT,
19 OF COURSE, A DETAILED STATEMENT, BUT THE NATURE OF THE CHARGE.

20 I WOULD LIKE TO HAVE YOU DO THAT, AND I WOULD THEN
21 TAKE IT OUT OF THIS INSTRUCTION, AND I DON'T THINK IT BELONGS
22 THERE. INSTRUCTION NUMBER 6 SHOULD SIMPLY STATE THE ELEMENTS.

23 WE HAVE, I THINK, REVISED THIS INSTRUCTION; AND WE'LL
24 PROVIDE YOU WITH A COPY; BUT I WOULD LIKE A SEPARATE
25 INSTRUCTION TO BE PREPARED TELLING THE JURY WHAT EACH DEFENDANT

1 IS CHARGED WITH, THE COUNT THAT HE'S CHARGED WITH, AND THE
2 NATURE OF THE CRIME ALLEGED IN THAT COUNT.

3 MR. MEDVENE: ON A DEFENDANT-BY-DEFENDANT BASIS.

4 THE COURT: YES.

5 MR. MEDVENE: YES, SIR.

6 THE COURT: INSTRUCTION NUMBER 7: I WILL GIVE THIS AS
7 AMENDED. I STRIKE OUT THE LAST SENTENCE AND WILL GIVE IT.

8 INSTRUCTION NUMBER 8 I WILL GIVE AS AMENDED. I
9 BELIEVE THAT ON LINE -- IT LOOKS LIKE LINE 12. STRIKE THAT.

10 LINE 13, THERE IS SOME WORDS ADDED IN THERE THAT ARE
11 NOT IN THE STATUTE, BEGINNING AT LINE 11: FOR THE PURPOSE OF
12 MAINTAINING OR INCREASING POSITION IN AN ENTERPRISE ENGAGED IN
13 RACKETEERING ACTIVITY.

14 THAT WOULD REQUIRE STRIKING THE WORD "THE" ON LINE 12,
15 AT THE END OF LINE 12, AND STRIKING OUT THE LETTER "S" FROM THE
16 WORD "POSITIONS" AND "OF ANY PERSON." THOSE ARE NOT -- THIS,
17 IN EFFECT, WOULD SIMULATE WHAT IS IN THE STATUTE.

18 MR. NICOLAYSEN: YOUR HONOR, THIS INSTRUCTION IS
19 CLEARLY WRITTEN WITH THE CONSPIRACY REGARDING CAMARENA AND
20 ZAVALA IN MIND. I WOULD ASK THAT THE REFERENCE TO COUNT 1 AND
21 2 BE TAKEN OFF THIS INSTRUCTION, BECAUSE THERE IS NO
22 APPLICABILITY TO WALKER/RADELAT HERE. I'M REFERRING TO LINES 3
23 AND 4.

24 THE COURT: WELL, I DON'T WANT TO HEAR THE ARGUMENT
25 NOW. WE'LL DEAL WITH THAT IN THE MORNING.

1 MR. NICOLAYSEN: ALL RIGHT.

2 THE COURT: BUT I HAVE TO LEAVE VERY SHORTLY.

3 MR. NICOLAYSEN: MAY I BE HEARD IN THE MORNING ON
4 THAT, YOUR HONOR?

5 THE COURT: YES.

6 MR. NICOLAYSEN: THANK YOU.

7 MR. STOLAR: I'M SORRY, YOUR HONOR, BUT THERE IS ONE
8 BRIEF MATTER I'D LIKE TO RAISE BEFORE YOU LEAVE.

9 THE COURT: WHAT IS THAT?

10 MR. STOLAR: IT HAS TO DO WITH: TWO ATTORNEYS WHO
11 REPRESENT MR. MATTA IN HONDURAS ARE DUE IN TONIGHT, AND THEY'RE
12 ON A TIGHT SCHEDULE; AND THE MARSHALS COMMUNICATED THEY'D LIKE
13 THE COURT'S OKAY. IN FACT, THE GENTLEMEN DON'T REPRESENT MR.
14 MATTA HERE; THEY REPRESENT HIM IN A CASE IN HONDURAS, AND ALSO
15 THEY FILED IN THE INTERNATIONAL COURT.

16 THE COURT: WHAT IS IT THEY WANT TO DO?

17 MR. STOLAR: THEY WANT TO VISIT MR. MATTA DOWNSTAIRS.

18 THE COURT: WHAT ARE THEIR NAMES?

19 MR. STOLAR: THEIR NAMES ARE MIGUEL ANGEL IZAPIRRE, I
20 Z A P I R R E, AND NORMAN TORRES HERRERA. THEY'RE BOTH
21 MEMBERS OF THE BAR. MR. IZAPIRRE IS A FORMER JUDGE.

22 THE COURT: THREE OF THEM?

23 MR. STOLAR: TWO.

24 THE COURT: TWO.

25 THE STOLAR: TWO. MR. NORMAN TORREZ HERRERA AND

1 MIGUEL ANGEL IZAPIRRE.

2 THE COURT: WELL, THEY MAY VISIT.

3 MR. STOLAR: THANK YOU.

4 MR. MEDVENE: IF THE COURT, PLEASE --

5 THE COURT: I'M READY TO LEAVE.

6 MR. MEDEVENE: I KNOW YOU'RE IN A HURRY.

7 OF THE UTMOST IMPORTANCE, WE HAVE JUST COME ACROSS TWO
8 DOCUMENTS THAT HAVE JUST BEEN SENT TO US FROM MEXICO THAT WE
9 THINK GO TO THE VERY INTEGRITY OF THE PROCESS.

10 BUT, YOUR HONOR, ONE DOCUMENT -- AFTER YOUR HONOR
11 INDICATED PRELIMINARILY THAT THERE WAS NO MARRIAGE OF JORGE
12 BARBA, YOU WERE INCLINED NOT TO ADMIT, WE LOOKED FURTHER AND
13 HAD THE THOUGHT THAT A DEATH CERTIFICATE OF JORGE BARBA MIGHT
14 INDICATE HIS MARITAL STATUS.

15 AND WE JUST -- WE JUST GOT IT FROM FEDERAL EXPRESS, A
16 DEATH CERTIFICATE THAT IS PROPERLY CERTIFIED IN MEXICO AND
17 CERTIFIED HERE BY THE CONSULATE --

18 THE COURT: WHAT WAS THE DATE OF DEATH?

19 MR. MEDVENE: THE DATE OF DEATH WAS NOVEMBER OF 1984,
20 AND IT SHOWS ON THE DEATH CERTIFICATE THAT HE IS SINGLE.

21 WE THINK IT GOES TO THE INTEGRITY OF THE PROCESS, YOUR
22 HONOR, BECAUSE THE GOVERNMENT, AS YOU KNOW, INTRODUCED IN
23 EFFECT THE MARITAL STATUS AND INTRODUCED THE WEDDING.

24 WHILE YOUR HONOR RULED THAT WE COULD GET IN THE NO
25 MARRIAGE CERTIFICATE, THIS REALLY GOES TO THE HEART OF IT. IT

1 WOULD REALLY BE UNFAIR FOR THE JURY NOT TO HAVE IT.

2 IT'S A DEATH CERTIFICATE. IT SPEAKS AFTER THE FACT
3 AND SAYS THE MAN WAS DEAD AND THE MAN IS SINGLE. THAT'S THE
4 FIRST DOCUMENT.

5 THE SECOND DOCUMENT THAT IS CERTIFIED IS -- YOUR HONOR
6 SAID ON FRIDAY THAT YOU THOUGHT OUR INTERPRETATION WAS WRONG -
7 AND I WILL BE QUICK - AND DENIED OUR EXHIBIT ON LA PRIMAVERA,
8 BECAUSE YOU SAID HE WAS TALKING ABOUT LA PRIMAVERA AND NOT THE
9 WILDERNESS.

10 WE HAVE A DOCUMENT - A PROPERLY CERTIFIED,
11 AUTHENTICATED DOCUMENT - NOW SAYING THAT ZUNO NEVER OWNED ANY
12 LAND IN LA PRIMAVERA, IN THE TOWN OF LA PRIMAVERA. WE DIDN'T
13 KNOW THAT THAT WAS OUR PROBLEM UNTIL FRIDAY. AS YOU REMEMBER,
14 WE THOUGHT IT WAS A NATIONAL PARK.

15 WE HAVE THOSE TWO DOCUMENTS. THEY HAVE JUST BEEN
16 GIVEN TO THE GOVERNMENT. THEY HAVE BEEN CERTIFIED PROPERLY IN
17 MEXICO AND AUTHENTICATED. THEY HAVE BEEN CERTIFIED BY THE
18 MEXICAN CONSULATE. AND WE WOULD ASK YOUR HONOR TO -- I KNOW
19 YOU'RE IN A HURRY -- BUT TO TAKE IT UP AT 8:30 IN THE MORNING.
20 WE WILL HAVE A WITNESS IF YOU NEED HIM.

21 THE COURT: WHAT WILL THE WITNESS DO?

22 MR. MEDVENE: I DON'T BELIEVE WE NEED A WITNESS.

23 I DON'T BELIEVE WE REALLY NEED A WITNESS.

24 THE COURT: THIS IS OFFERED UNDER THE SAME THEORY AS
25 THE OTHER DOCUMENT WAS; IS THAT CORRECT?

1 MR. MEDVENE: YES, YOUR HONOR.

2 WE THINK UNDER 9024 IT'S AUTHENTICATED, AND UNDER
3 803.9 THE RECORD OF DEATH IS AN EXCEPTION TO THE HEARSAY RULE;
4 AND UNDER 803.10 AND 14, THE LA PRIMEVERA RECORD COMES IN AS
5 NOT HEARSAY.

6 THE COURT: WELL, WE'LL DEAL WITH IT IN THE MORNING.

7 MR. MEDVENE: YES, YOUR HONOR.

8 MR. MEDRANO: WE WOULD OBJECT, AND I CAN STATE THAT IN
9 THE MORNING OR NOW, WHATEVER WOULD YOU LIKE.

10 THE COURT: WELL, ALL RIGHT. WE'LL DEAL WITH IT IN
11 THE MORNING. WE'LL ADJOURN AND RECONVENE AT 8:30 TOMORROW.

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

13 (PROCEEDINGS ADJOURNED TILL JULY 11, 1990.)

14 ----0----

15

16

17

18

19

20

21

22

23

24

25

			PG	LN
(EXHIBIT 185	#	RECEIVED IN EVIDENCE.)	8	4
(EXHIBIT B	#	RECEIVED IN EVIDENCE.)	41	11
(EXHIBIT 190	#	RECEIVED IN EVIDENCE.)	44	25
(EXHIBIT P	#	RECEIVED IN EVIDENCE.)	45	1
(EXHIBIT FOUR O	#	RECEIVED IN EVIDENCE.)	58	2
(EXHIBIT FOUR P	#	RECEIVED IN EVIDENCE.)	58	3
(EXHIBIT FOUR Q	#	RECEIVED IN EVIDENCE.)	58	4
(EXHIBIT P	#	RECEIVED IN EVIDENCE.)	59	9
(EXHIBIT 190	#	RECEIVED IN EVIDENCE.)	59	10
(EXHIBIT 185 A	#	RECEIVED IN EVIDENCE.)	60	5
(EXHIBIT 165	#	RECEIVED IN EVIDENCE.)	97	12
GGGG. KKKK. LLLL	#	RECEIVED IN EVIDENCE.)	98	16
(EXHIBIT FFFF-1	#	RECEIVED IN EVIDENCE.)	100	3
(EXHIBIT HHHH	#	RECEIVED IN EVIDENCE.)	100	14
(EXHIBIT IIII-1	#	RECEIVED IN EVIDENCE.)	103	2
(EXHIBIT JJ-1	#	RECEIVED IN EVIDENCE.)	103	7
(MATTA PHOTO	#	RECEIVED IN EVIDENCE.)	109	21
(EXHIBIT 165	#	RECEIVED IN EVIDENCE.)	117	6
LOS ANGELES	+	CALIFORNIA. TUESDAY, JULY	4	1
JULY 10, 1990	+	9:30 A.M. (JURY	4	2
MARIA SOCORRO CORONA	+	REBUTTAL WITNESS, SWORN	4	9
DIRECT EXAMINATION	+	BY MR. CARLTON: Q	4	16
CROSS-EXAMINATION	+	BY MS. KELLY: Q GOOD	8	7
DELBERT SALAZAR	+	REBUTTAL WITNESS, SWORN	11	12
CROSS-EXAMINATION	+	BY MR. NICOLAYSEN: Q	13	7
CROSS-EXAMINATION	+	BY MR. STOLAR: Q DO	14	9
ABEL REYNOSO	+	REBUTTAL WITNESS.	16	5
DIRECT EXAMINATION	+	BY MR. MEDRANO: Q MR.	16	11
CROSS-EXAMINATION	+	BY MR. NICOLAYSEN: Q	18	20
HECTOR BERRELLEZ	+	REBUTTAL WITNESS.	20	3
CROSS-EXAMINATION	+	BY MR. STOLAR: Q	20	8
CAROL KATO	+	SURREBUTTAL WITNESS, SWORN	24	13
DIRECT EXAMINATION	+	BY MS. KELLY: Q MISS	25	4
CROSS-EXAMINATION	+	BY MR. CARLTON: Q	28	11
JOSE ORUSCO	+	SURREBUTTAL WITNESS	29	11
DIRECT EXAMINATION	+	BY MS. KELLY: Q MR.	29	17
CROSS-EXAMINATION	+	BY MR. CARLTON: Q	31	12
IRMA GARCIA	+	SURREBUTTAL WITNESS, SWORN	56	8
DIRECT EXAMINATION	+	BY MS. KELLY: Q MISS	56	13
LOS ANGELES	+	CALIFORNIA, TUESDAY JULY	66	1
JULY 10, 1990	+	1:30 P.M.	66	2
(HEARING OUT OF THE	+	PRESENCE OF THE JURY:)	66	3
ANTONIO CUELLAR SALAS	+	DEFENSE WITNESS, SWORN	66	11
DIRECT EXAMINATION	+	BY MR. DI NICOLA: Q	66	25
CROSS-EXAMINATION	+	BY MR. MEDRANO: Q	77	23
CROSS-EXAMINATION	+	BY MR. STOLAR: Q	83	14

			PG	LN
HAS BEEN MARKED AS	EXHIBIT	184 C. WHICH WOULD BE	5	17
HAS BEEN MARKED AS	EXHIBIT	185. A YES. Q	6	2
YES. Q NOW, DOES	EXHIBIT	185 CONTAIN A SPANISH	6	4
Q AND ALSO, DOES	EXHIBIT	185 CONTAIN AN	6	7
CORRECTION INTO THE	EXHIBIT	185? THE	7	12
AT THIS TIME THAT	EXHIBIT	185 BE RECEIVED.	7	25
(	EXHIBIT	185 # RECEIVED IN	8	4
YOU PLEASE LOOK AT	EXHIBIT	5 51-A AND B, WHICH	11	18
ASK YOU TO LOOK AT	EXHIBIT	0 WHICH I BELIEVE IS	12	5
THAT THE RESIDENCE IN	EXHIBIT	5 51 AND 52 WERE	12	8
DO YOU RECOGNIZE	EXHIBIT	0? A YES, SIR; I	12	17
QUINTA. Q WHAT IS	EXHIBIT	0? A IT'S A	12	22
MR. MEDRANO:	EXHIBIT	4 YOUR HONOR.	14	1
HONOR. (	EXHIBIT	4 PLACED ON THE	14	2
WHICH IS GOVERNMENT'S	EXHIBIT	4 THE LOCATION OF	14	5
THAT IS DEPICTED IN	EXHIBIT	5 51-A AND B? A	14	25
PHOTO, DEFENDANTS'	EXHIBIT	0? A	15	3
ADMISSION OF CERTAIN	EXHIBIT	5. AND IN ADDITION.	19	16
THE CLERK WITH AN	EXHIBIT	? THE	24	17
YOUR HONOR, THIS	EXHIBIT	WILL BE MARKED NEXT	24	22
IN ORDER DEFENSE	EXHIBIT	. AND ASK YOU IF YOU	26	16
IT IS CONTAINED IN AN	EXHIBIT	WHICH YOU ARE SEEKING	37	1
LOOKING AT DEFENSE	EXHIBIT	P. INCIDENTALLY, I	37	6
ADMIT DEFENSE TRIAL	EXHIBIT	B FOR THE TRUTH OF	38	9
ADMITTING THIS	EXHIBIT	INTO EVIDENCE UNDER	38	12
THAT THE DEFENDANTS'	EXHIBIT	B SHOULD BE ADMITTED	41	8
(	EXHIBIT	B # RECEIVED IN	41	11
OF THIS PARTICULAR	EXHIBIT	IN MR. NICOLAYSEN'S	43	7
BE MARKED. AND BOTH	EXHIBIT	P AND 190 WILL BE	44	23
(	EXHIBIT	190 # RECEIVED IN	44	25
(	EXHIBIT	P # RECEIVED IN	45	1
AND CONTAINS MANY	EXHIBIT	5. I READ THEM ALL.	48	6
YOUR HONOR IS A FEW	EXHIBIT	5. THE	55	3
TAKE CARE OF THE	EXHIBIT	5. MR.	55	4
THE COURT: ANY	EXHIBIT	5 TRY TO AGREE ON	55	6
ANY DISPUTE ABOUT THE	EXHIBIT	5. I WILL	55	8
AS FAR AS DEFENSE	EXHIBIT	P IS CONCERNED, CAN	55	17
HAS BEEN MARKED AS	EXHIBIT	FOUR P AND FOUR O.	57	2
BEEN MARKED AS	EXHIBIT	FOUR Q. I BELIEVE?	57	15
(	EXHIBIT	FOUR O # RECEIVED IN	58	2
(	EXHIBIT	FOUR P # RECEIVED IN	58	3
(	EXHIBIT	FOUR Q # RECEIVED IN	58	4
HAS BEEN MARKED AS	EXHIBIT	157. WHICH IS IN	58	12
DEFENSE WOULD MOVE	EXHIBIT	P INTO EVIDENCE.	59	5
THE COURT:	EXHIBIT	P MAY BE RECEIVED.	59	6
MR. NICOLAYSEN: AND	EXHIBIT	190 TOO.	59	7
THE COURT: AND	EXHIBIT	190 MAY ALSO BE	59	8
(	EXHIBIT	P # RECEIVED IN	59	9
(	EXHIBIT	190 # RECEIVED IN	59	10
TO THE TAPE WHICH IS	EXHIBIT	184 C ON MULTIPLE	59	20
TRANSLATIONS ARE	EXHIBIT	185 A.	59	24
AT THIS TIME THAT	EXHIBIT	185 A BE RECEIVED.	60	2
(	EXHIBIT	185 A # RECEIVED IN	60	5

		PG	LN
BY DEFENSE	EXHIBIT P. THE ONTIVEROS	61	15
IMPEACHMENT VALUE OF	EXHIBIT P. IN MY OPINION, IS	61	18
THE TELEPHONE RECORD.	EXHIBIT TRIPLE N. THAT YOUR	62	7
BY DEFENSE	EXHIBIT B - AND, I WOULD ADD,	62	12
TRYING TO SETTLE THE	EXHIBIT S WITH THE CLERK,	64	22
AND DETERMINE WHAT	EXHIBIT S SHOULD BE ADMITTED,	65	11
CLERK THAT CERTAIN	EXHIBIT S ARE IN DISPUTE, I	65	13
THE MARRIAGE DOES NOT	EXHIBIT UNLESS IT'S DONE	75	7
YOUR ATTENTION TO THE	EXHIBIT S THAT ARE IN THE	76	6
FRONT OF YOU THERE.	EXHIBIT S E E THROUGH --	76	7
Q FOR THE RECORD	EXHIBIT S TRIPLE E THROUGH	76	12
AND TLAQUEPAQUE.	EXHIBIT S TRIPLE J. TRIPLE K.	76	16
TO REVIEW THESE	EXHIBIT S? A YES. Q	76	20
MEXICAN LAW. DO THESE	EXHIBIT S ESTABLISH THE	76	22
NOW. THESE	EXHIBIT S THAT I UNDERSTAND	94	24
DISPUTE. DEFENDANTS'	EXHIBIT M FOR EXAMPLE:	94	25
NOW. THE NEXT	EXHIBIT S ARE TRIPLE Y AND	95	22
TO THE GOVERNMENT'S	EXHIBIT WHICH IS IN	97	1
AND ALSO THE ORIGINAL	EXHIBIT JULY 25TH TAPE IS	97	2
THE COURT: THE	EXHIBIT S ARE DENIED.	97	4
CUMULATIVE	EXHIBIT 165? MS.	97	6
(	EXHIBIT 165 # RECEIVED IN	97	12
NOW. WE HAVE	EXHIBIT S FOUR L, FOUR K AND	97	13
THOSE PARTICULAR	EXHIBIT S, FOUR L, FOUR K.	97	16
THE COURT: THE	EXHIBIT S MAY BE RECEIVED.	98	15
(	EXHIBIT S GGGG KKKK, LLLL #	98	16
YOUR HONOR WHICH	EXHIBIT NUMBER WOULD THAT BE?	98	18
NEXT THINGS HERE:	EXHIBIT S FOUR F; FOUR F'S.	98	24
(	EXHIBIT FFFF-1 # RECEIVED IN	100	3
THE COURT: AND THE	EXHIBIT FOUR H. WHAT IS THAT?	100	5
(	EXHIBIT HHHH # RECEIVED IN	100	14
THE COURT:	EXHIBIT FOUR I. WHAT IS THIS?	100	16
THE COURT: THIS	EXHIBIT IS DENIED ADMISSION.	102	10
(	EXHIBIT IIII-1 # RECEIVED IN	103	2
ALSO. (	EXHIBIT JJ-1 # RECEIVED IN	103	7
FINALLY, THERE'S AN	EXHIBIT HNNN HERE. WHO'S	103	8
THAT AND THE OTHER	EXHIBIT ARE TWO OF ADDITIONAL	103	11
-- OR GOVERNMENT'S	EXHIBIT 171, WHICH IS THE	103	23
I THINK THE WHOLE	EXHIBIT SHOULD COME IN THAT	106	25
PORTFOLIO OF TRIAL	EXHIBIT S. THAT'S UNDULY	107	9
THE COURT: IT WAS AN	EXHIBIT USED BY WITNESSES IN	107	22
THIS WAS MARKED AS AN	EXHIBIT IT'S NEVER BEEN	108	12
THAT CONCLUDES THE	EXHIBIT S; RIGHT?	110	6
THERE'S ONE OTHER	EXHIBIT YOUR HONOR; THAT'S	110	8
YOUR HONOR; THAT'S	EXHIBIT 174 A. WHICH IS THE	110	8
ORDER TO REMOVE THAT	EXHIBIT BUT WE'D AT LEAST	111	11
INTO EVIDENCE DEFENSE	EXHIBIT VVV -- THAT'S THREE	114	15
EVIDENCE; REMOVE THAT	EXHIBIT FROM EVIDENCE.	114	20
THE COURT: REMOVE	EXHIBIT VVV? MS.	114	21
(	EXHIBIT 165 # RECEIVED IN	117	6
VERSION OF THE	EXHIBIT LIST SO THAT THE JURY	117	9
THAT. IN A MANY-	EXHIBIT CASE, IT SHOULD BE	117	20
- AND DENIED OUR	EXHIBIT OR LA PRIMAVERA	133	7

CERTIFICATION

WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS FOR THE U.S. DISTRICT COURTS, CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

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

Julie A. Churchill
JULIE A. CHURCHILL
OFFICIAL COURT REPORTER

DATED: July 10, 1991

Susan A. Lee
SUSAN A. LEE
OFFICIAL COURT REPORTER

DATED: July 10, 1991