

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

- - -

HONORABLE EDWARD RAFEEDIE, JUDGE PRESIDING

- - -

UNITED STATES OF AMERICA, )  
 )  
 PLAINTIFF, )  
 )  
 VS. ) NO. CR 87-422(F)-ER  
 )  
 RUBEN ZUNO-ARCE, ET AL., )  
 )  
 DEFENDANTS. )  
 \_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA

MONDAY, JULY 16, 1990

VOLUME 31

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I N D E X

PROCEEDINGS

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MONDAY, JULY 16, 1990

JURY INSTRUCTIONS

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LOS ANGELES, CALIFORNIA, MONDAY, JULY 16, 1990, 10:00 A.M.

1 THE CLERK: CRIMINAL 87-422(F), UNITED STATES OF  
2 AMERICA VS. RUBEN ZUNO-ARCE AND OTHERS.

3 THE COURT: GOOD MORNING. LADIES AND GENTLEMEN,  
4 IT IS MY PLEASURE THIS MORNING TO INSTRUCT YOU IN THE LAW  
5 THAT YOU MUST APPLY IN THIS CASE. NOW THAT YOU HAVE HEARD  
6 ALL THE EVIDENCE AND THE ARGUMENTS OF ATTORNEYS, IT IS THE  
7 COURT'S DUTY TO INSTRUCT YOU ON THE LAW WHICH APPLIES TO  
8 THIS CASE. A COPY OF THESE INSTRUCTIONS WILL BE AVAILABLE  
9 IN THE JURY ROOM FOR YOU TO CONSULT IF YOU FIND IT  
10 NECESSARY.

11 IT IS YOUR DUTY TO FIND THE FACTS FROM ALL THE  
12 EVIDENCE IN THE CASE. YOU REMEMBER MY TELLING YOU THAT  
13 YOU ARE FACT FINDERS. THAT IS BASICALLY WHAT YOU ARE HERE  
14 FOR, TO RESOLVE WHAT THE FACTS ARE. AND TO THOSE FACTS  
15 YOU WILL APPLY THE LAW AS I GIVE IT TO YOU. YOU MUST  
16 FOLLOW THE LAW AS I GIVE IT TO YOU WHETHER YOU AGREE WITH  
17 IT OR NOT.

18 AND YOU MUST NOT BE INFLUENCED BY ANY PERSONAL  
19 LIKES OR DISLIKES, OPINIONS, PREJUDICES, OR SYMPATHY.  
20 THAT MEANS THAT YOU MUST DECIDE THE CASE SOLELY ON THE  
21 EVIDENCE BEFORE YOU. YOU WILL RECALL THAT YOU TOOK AN  
22 OATH PROMISING TO DO SO AT THE BEGINNING OF THE CASE.

23 IN FOLLOWING MY INSTRUCTIONS YOU MUST FOLLOW ALL  
24 OF THEM AND NOT SINGLE OUT SOME AND IGNORE OTHERS. THEY  
25 ARE ALL EQUALLY IMPORTANT. AND YOU MUST NOT READ INTO

1 THESE INSTRUCTIONS OR INTO ANYTHING THE COURT MAY HAVE  
2 SAID OR DONE ANY SUGGESTION AS TO WHAT VERDICT YOU SHOULD  
3 RETURN. THAT IS A MATTER ENTIRELY UP TO YOU.

4 THE INDICTMENT IN THIS CASE ACCUSES EACH  
5 DEFENDANT WITH CERTAIN CRIMES. EACH OF THE DEFENDANTS HAS  
6 PLEADED NOT GUILTY TO THE CHARGES AGAINST HIM IN THE  
7 INDICTMENT.

8 THE INDICTMENT IS NOT EVIDENCE. THE DEFENDANT  
9 IS PRESUMED TO BE INNOCENT AND DOES NOT HAVE TO TESTIFY OR  
10 PRESENT ANY EVIDENCE TO PROVE INNOCENCE. THE GOVERNMENT  
11 HAS THE BURDEN OF PROVING EVERY ELEMENT OF EVERY CHARGE  
12 BEYOND A REASONABLE DOUBT FOR EACH DEFENDANT. IF IT FAILS  
13 TO DO SO, YOU MUST RETURN A NOT GUILTY VERDICT.

14 THE LAW PRESUMES A DEFENDANT TO BE INNOCENT OF  
15 CRIME. THUS A DEFENDANT, ALTHOUGH ACCUSED, BEGINS THE  
16 TRIAL WITH A CLEAN SLATE, WITH NO EVIDENCE AGAINST HIM.  
17 AND THE LAW PERMITS NOTHING BUT LEGAL EVIDENCE PRESENTED  
18 BEFORE THE JURY TO BE CONSIDERED IN SUPPORT OF ANY CHARGE  
19 AGAINST THE ACCUSED. SO THE PRESUMPTION OF INNOCENCE  
20 ALONE IS SUFFICIENT TO ACQUIT A DEFENDANT, UNLESS THE  
21 JURORS ARE SATISFIED BEYOND A REASONABLE DOUBT OF THE  
22 DEFENDANT'S GUILT AFTER CAREFUL AND IMPARTIAL  
23 CONSIDERATION OF ALL THE EVIDENCE IN THE CASE.

24 IT IS NOT REQUIRED THAT THE GOVERNMENT PROVE  
25 GUILT BEYOND ALL POSSIBLE DOUBT. THE TEST IS ONE OF

1 REASONABLE DOUBT. A REASONABLE DOUBT IS A DOUBT BASED  
2 UPON REASON AND COMMON SENSE AND MAY ARISE FROM A CAREFUL  
3 AND IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE OR FROM  
4 LACK OF EVIDENCE. PROOF BEYOND A REASONABLE DOUBT IS  
5 PROOF THAT LEAVES YOU FIRMLY CONVINCED THAT THE DEFENDANT  
6 IS GUILTY.

7 IF, AFTER CAREFUL AND IMPARTIAL CONSIDERATION  
8 WITH YOUR FELLOW JURORS OF ALL THE EVIDENCE, YOU ARE NOT  
9 CONVINCED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS  
10 GUILTY, IT IS YOUR DUTY TO FIND THE DEFENDANT NOT GUILTY.  
11 ON THE OTHER HAND, IF, AFTER A CAREFUL AND IMPARTIAL  
12 CONSIDERATION WITH YOUR FELLOW JURORS OF ALL THE EVIDENCE,  
13 YOU ARE CONVINCED BEYOND A REASONABLE DOUBT THAT A  
14 DEFENDANT IS GUILTY, IT IS YOUR DUTY TO FIND THAT  
15 DEFENDANT GUILTY.

16 THE EVIDENCE FROM WHICH YOU ARE TO DECIDE WHAT  
17 THE FACTS ARE CONSISTS OF THE SWORN TESTIMONY OF  
18 WITNESSES, BOTH ON DIRECT AND CROSS-EXAMINATION,  
19 REGARDLESS OF WHO CALLED THE WITNESS; THE EXHIBITS WHICH  
20 HAVE BEEN RECEIVED INTO EVIDENCE; AND ANY FACTS TO WHICH  
21 ALL THE LAWYERS HAVE AGREED OR STIPULATED.

22 THE LAW DOES NOT COMPEL A DEFENDANT IN A  
23 CRIMINAL CASE TO TAKE THE WITNESS STAND AND TESTIFY, AND  
24 NO PRESUMPTION OF GUILT MAY BE RAISED, AND NO INFERENCE OF  
25 ANY KIND MAY BE DRAWN, FROM THE FAILURE OF A DEFENDANT TO

1 TESTIFY.

2 THE LAW NEVER IMPOSES UPON A DEFENDANT IN A  
3 CRIMINAL CASE THE BURDEN OR DUTY OF CALLING ANY WITNESSES  
4 OR PRODUCING ANY EVIDENCE.

5 IN REACHING YOUR VERDICT YOU MAY CONSIDER ONLY  
6 THE TESTIMONY AND EXHIBITS RECEIVED INTO EVIDENCE.  
7 CERTAIN THINGS ARE NOT EVIDENCE, AND YOU MAY NOT CONSIDER  
8 THEM IN DECIDING WHAT THE FACTS ARE. I WILL LIST THEM FOR  
9 YOU.

10 ARGUMENTS AND STATEMENTS BY LAWYERS ARE NOT  
11 EVIDENCE. THE LAWYERS ARE NOT WITNESSES. WHAT THEY HAVE  
12 SAID IN THEIR OPENING STATEMENTS, CLOSING ARGUMENTS AND AT  
13 OTHER TIMES IS INTENDED TO HELP YOU INTERPRET THE  
14 EVIDENCE, BUT IT IS NOT EVIDENCE. IF THE FACTS AS YOU  
15 REMEMBER THEM DIFFER FROM THE WAY THE LAWYERS HAVE STATED  
16 THEM, YOUR MEMORY OF THEM CONTROLS.

17 QUESTIONS AND OBJECTIONS BY LAWYERS ARE NOT  
18 EVIDENCE. ATTORNEYS HAVE A DUTY TO THEIR CLIENTS TO  
19 OBJECT WHEN THEY BELIEVE A QUESTION IS IMPROPER UNDER THE  
20 RULES OF EVIDENCE. YOU SHOULD NOT BE INFLUENCED BY THE  
21 OBJECTION OR BY THE COURT'S RULING ON IT.

22 TESTIMONY THAT HAS BEEN EXCLUDED OR STRICKEN, OR  
23 THAT YOU HAVE BEEN INSTRUCTED TO DISREGARD, IS NOT  
24 EVIDENCE AND MUST NOT BE CONSIDERED. IN ADDITION, SOME  
25 TESTIMONY AND EXHIBITS HAVE BEEN RECEIVED ONLY FOR A



1 LIMITED PURPOSE. WHERE I HAVE GIVEN A LIMITING  
2 INSTRUCTION, YOU MUST FOLLOW IT.

3 ANYTHING YOU MAY HAVE SEEN OR HEARD WHEN THE  
4 COURT WAS NOT IN SESSION IS NOT EVIDENCE. YOU ARE TO  
5 DECIDE THE CASE SOLELY ON THE EVIDENCE RECEIVED AT THE  
6 TRIAL.

7 EVIDENCE MAY BE DIRECT OR CIRCUMSTANTIAL.  
8 DIRECT EVIDENCE IS DIRECT PROOF OF A FACT, SUCH AS  
9 TESTIMONY OF AN EYEWITNESS. CIRCUMSTANTIAL EVIDENCE IS  
10 INDIRECT EVIDENCE, THAT IS, PROOF OF A CHAIN OF FACTS FROM  
11 WHICH YOU COULD FIND THAT ANOTHER FACT EXISTS, EVEN THOUGH  
12 IT HAS NOT BEEN PROVED DIRECTLY. YOU ARE TO CONSIDER BOTH  
13 KINDS OF EVIDENCE. THE LAW PERMITS YOU TO GIVE EQUAL  
14 WEIGHT TO BOTH, BUT IT IS FOR YOU TO DECIDE HOW MUCH  
15 WEIGHT TO GIVE TO ANY EVIDENCE.

16 IN DECIDING WHAT THE FACTS ARE, YOU MUST  
17 CONSIDER ALL THE EVIDENCE. AND IN DOING THIS YOU MUST  
18 DECIDE WHAT TESTIMONY TO BELIEVE AND WHAT TESTIMONY NOT TO  
19 BELIEVE. YOU MAY DISBELIEVE ALL OR ANY PART OF ANY  
20 WITNESSES' TESTIMONY. IN MAKING THAT DECISION YOU MAY  
21 TAKE INTO ACCOUNT A NUMBER OF FACTORS, INCLUDING THE  
22 FOLLOWING:

23 FIRST, WAS THE WITNESS ABLE TO SEE OR HEAR OR  
24 KNOW THE THINGS ABOUT WHICH THAT WITNESS TESTIFIED?

25 HOW WELL WAS THE WITNESS ABLE TO RECALL AND

1 DESCRIBES THOSE THINGS?

2 WHAT WAS THE WITNESS'S MANNER WHILE TESTIFYING?

3 DID THE WITNESS HAVE AN INTEREST IN THE OUTCOME  
4 OF THIS CASE OR ANY BIAS OR PREJUDICE CONCERNING ANY PARTY  
5 OR ANY MATTER INVOLVED IN THE CASE?

6 HOW REASONABLE WAS THE WITNESS'S TESTIMONY  
7 CONSIDERED IN LIGHT OF ALL THE EVIDENCE IN THE CASE?

8 WAS THE WITNESS'S TESTIMONY CONTRADICTED BY WHAT  
9 THAT WITNESS HAS SAID OR DONE AT ANOTHER TIME OR BY THE  
10 TESTIMONY OF OTHER WITNESSES OR BY OTHER EVIDENCE?

11 IF THE WITNESS IS SHOWN TO HAVE TESTIFIED  
12 FALSELY CONCERNING ANY MATERIAL FACTS, YOU HAVE A RIGHT TO  
13 DISTRUST THAT WITNESS'S TESTIMONY IN OTHER PARTICULARS,  
14 AND YOU MAY REJECT ALL THE TESTIMONY OF THAT WITNESS OR  
15 GIVE IT SUCH CREDIBILITY AS YOU MAY THINK IT DESERVES.

16 IN DECIDING WHETHER OR NOT TO BELIEVE A WITNESS,  
17 KEEP IN MIND THAT PEOPLE SOMETIMES FORGET THINGS. YOU  
18 NEED TO CONSIDER, THEREFORE, WHETHER A CONTRADICTION IS AN  
19 INNOCENT LAPSE OF MEMORY OR AN INTENTIONAL FALSEHOOD, AND  
20 THAT MAY DEPEND ON WHETHER IT HAS TO DO WITH AN IMPORTANT  
21 FACT OR WITH ONLY A SMALL DETAIL.

22 THE WEIGHT OF THE EVIDENCE PRESENTED BY EACH  
23 SIDE DOES NOT NECESSARILY DEPEND ON THE NUMBER OF  
24 WITNESSES TESTIFYING ON ONE SIDE OR THE OTHER. YOU MUST  
25 CONSIDER ALL THE EVIDENCE IN THE CASE, AND YOU MAY DECIDE

1 THAT THE TESTIMONY OF A SMALLER NUMBER OF WITNESSES ON ONE  
2 SIDE HAS GREATER WEIGHT THAN THAT OF A LARGER NUMBER ON  
3 THE OTHER.

4 YOU SHOULD JUDGE THE TESTIMONY OF A DEFENDANT  
5 JUST AS YOU SHOULD JUDGE THE TESTIMONY OF ANY OTHER  
6 WITNESS.

7 YOU HAVE HEARD TESTIMONY THAT WITNESSES HAVE  
8 RECEIVED COMPENSATION, IMMUNITY, AND OTHER BENEFITS FROM  
9 THE GOVERNMENT IN CONNECTION WITH THIS CASE. YOU SHOULD  
10 EXAMINE THESE WITNESSES' TESTIMONY WITH GREATER CAUTION  
11 THAN THAT OF ORDINARY WITNESSES. IN EVALUATING THAT  
12 TESTIMONY YOU SHOULD CONSIDER THE EXTENT TO WHICH IT MAY  
13 HAVE BEEN INFLUENCED BY THE RECEIPT OF COMPENSATION,  
14 IMMUNITY, OR OTHER BENEFITS FROM THE GOVERNMENT.

15 YOU ARE NOT REQUIRED TO ACCEPT TESTIMONY EVEN  
16 THOUGH THE TESTIMONY IS UNCONTRADICTED AND THE WITNESS IS  
17 NOT IMPEACHED. YOU MAY DECIDE, BECAUSE OF THE WITNESS'S  
18 BEARING AND Demeanor, OR BECAUSE OF THE INHERENT  
19 IMPROBABILITY OF HIS TESTIMONY, OR FOR OTHER REASONS  
20 SUFFICIENT TO YOU THAT SUCH TESTIMONY IS NOT WORTHY OF  
21 BELIEF.

22 ON THE OTHER HAND, THE GOVERNMENT IS NOT  
23 REQUIRED TO PROVE THE ESSENTIAL ELEMENTS OF THE OFFENSE AS  
24 DEFINED IN THESE INSTRUCTIONS BY ANY PARTICULAR NUMBER OF  
25 WITNESSES. THE TESTIMONY OF A SINGLE WITNESS MAY BE

1 SUFFICIENT TO CONVINCING YOU BEYOND A REASONABLE DOUBT OF  
2 THE EXISTENCE OF AN ESSENTIAL ELEMENT OF THE OFFENSE  
3 CHARGED IF YOU BELIEVE THAT THE WITNESS HAS TRUTHFULLY AND  
4 ACCURATELY RELATED WHAT IN FACT OCCURRED.

5 YOU ARE HERE ONLY TO DETERMINE WHETHER EACH OF  
6 THE DEFENDANTS IS GUILTY OR NOT GUILTY OF THE CHARGES  
7 AGAINST HIM IN THE INDICTMENT. YOUR DETERMINATION MUST BE  
8 MADE ONLY FROM THE EVIDENCE IN THE CASE. THE DEFENDANTS  
9 ARE NOT ON TRIAL FOR ANY CONDUCT OR OFFENSE NOT CHARGED IN  
10 THE INDICTMENT. YOU SHOULD CONSIDER EVIDENCE ABOUT THE  
11 ACTS, STATEMENTS, AND INTENTIONS OF OTHERS OR EVIDENCE  
12 THAT OTHER ACTS OF EACH OF THE DEFENDANTS ONLY AS THEY  
13 RELATE TO THESE CHARGES AGAINST THAT DEFENDANT.

14 ONE OF THE WITNESSES, ENRIQUE PLACENCIA-AGUILAR,  
15 TESTIFIED THAT A PHOTOGRAPH OF THE DEFENDANT JAVIER  
16 VASQUEZ WAS SHOWN TO HIM BY THE DRUG ENFORCEMENT  
17 ADMINISTRATION. THE DEA COLLECTS PICTURES OF MANY PEOPLE  
18 FROM MANY DIFFERENT SOURCES AND FOR MANY DIFFERENT  
19 PURPOSES. THE FACT THAT THE DEA HAD A PICTURE OF  
20 MR. VASQUEZ DOES NOT MEAN THAT HE COMMITTED THIS OR ANY  
21 OTHER CRIME.

22 NOW, A SEPARATE CRIME IS CHARGED AGAINST ONE OR  
23 MORE OF THE DEFENDANTS IN EACH COUNT. THE CHARGES HAVE  
24 BEEN JOINED FOR TRIAL. YOU MUST DECIDE THE CASE OF EACH  
25 DEFENDANT ON EACH CRIME CHARGED AGAINST THAT DEFENDANT

1 SEPARATELY. YOUR VERDICT ON ANY COUNT AS TO ANY DEFENDANT  
2 SHOULD NOT CONTROL YOUR VERDICT ON ANY OTHER COUNT OR AS  
3 TO ANY OTHER DEFENDANT.

4 ALL OF THE INSTRUCTIONS APPLY TO EACH DEFENDANT  
5 AND TO EACH COUNT UNLESS A SPECIFIC INSTRUCTION STATES  
6 THAT IT APPLIES ONLY TO A SPECIFIC DEFENDANT OR A SPECIFIC  
7 COUNT.

8 YOU ARE TO CONSIDER ONLY THE EVIDENCE IN THE  
9 CASE. BUT IN YOUR CONSIDERATION OF THE EVIDENCE YOU ARE  
10 NOT LIMITED TO THE BALD STATEMENTS OF THE WITNESSES. IN  
11 OTHER WORDS, YOU ARE NOT LIMITED SOLELY TO WHAT YOU SEE  
12 AND HEAR AS THE WITNESSES TESTIFY.

13 YOU ARE PERMITTED TO DRAW FROM FACTS WHICH YOU  
14 FIND HAVE BEEN PROVED SUCH REASONABLE INFERENCES AS SEEM  
15 JUSTIFIED IN THE LIGHT OF YOUR EXPERIENCE.

16 INFERENCES ARE DEDUCTIONS OR CONCLUSIONS WHICH  
17 REASON AND COMMON SENSE LEAD THE JURY TO DRAW FROM FACTS  
18 WHICH HAVE BEEN ESTABLISHED BY THE EVIDENCE IN THE CASE.

19 YOU HAVE HEARD TESTIMONY THAT EACH OF THE  
20 DEFENDANTS MADE A STATEMENT. IT IS FOR YOU TO DECIDE  
21 WHETHER THE DEFENDANT MADE THE STATEMENT AND, IF SO, HOW  
22 MUCH WEIGHT TO GIVE TO IT. IN MAKING THOSE DECISIONS YOU  
23 SHOULD CONSIDER ALL OF THE EVIDENCE ABOUT THE STATEMENT,  
24 INCLUDING THE CIRCUMSTANCES UNDER WHICH THE DEFENDANT MAY  
25 HAVE MADE IT.

1           YOU HAVE HEARD TESTIMONY FROM PERSONS DESCRIBED  
2 AS EXPERTS. PERSONS WHO BY EDUCATION AND EXPERIENCE HAVE  
3 BECOME EXPERT IN SOME FIELD MAY STATE THEIR OPINION ON  
4 MATTERS IN THAT FIELD AND MAY ALSO STATE THEIR REASONS FOR  
5 THE OPINION.

6           EXPERT TESTIMONY SHOULD BE JUDGED JUST LIKE ANY  
7 OTHER TESTIMONY. YOU MAY ACCEPT IT OR REJECT AND GIVE IT  
8 AS MUCH WEIGHT AS YOU THINK IT DESERVES, CONSIDERING THE  
9 WITNESS'S EDUCATION AND EXPERIENCE, THE REASONS GIVEN FOR  
10 THE OPINION, AND ALL OTHER EVIDENCE IN THE CASE.

11           CERTAIN CHARTS AND SUMMARIES HAVE BEEN RECEIVED  
12 INTO EVIDENCE TO ILLUSTRATE FACTS BROUGHT OUT IN THE  
13 TESTIMONY OF SOME WITNESSES. CHARTS AND SUMMARIES ARE  
14 ONLY AS GOOD AS THE UNDERLYING EVIDENCE THAT SUPPORTS  
15 THEM. YOU SHOULD, THEREFORE, GIVE THEM ONLY SUCH WEIGHT  
16 AS YOU THINK THE UNDERLYING EVIDENCE DESERVES.

17           YOU WILL NOTE THAT THE INDICTMENT CHARGES THAT  
18 THE OFFENSES WERE COMMITTED ON OR ABOUT CERTAIN DATES.  
19 THE PROOF NEED NOT ESTABLISH WITH CERTAINTY THE EXACT DATE  
20 OF THE ALLEGED OFFENSE. IT IS SUFFICIENT IF THE EVIDENCE  
21 IN THE CASE ESTABLISHES BEYOND A REASONABLE DOUBT THAT THE  
22 OFFENSES WERE COMMITTED ON A DATE OR DATES REASONABLY NEAR  
23 THE DATES ALLEGED SO LONG AS SUCH DATE OR DATES WERE AFTER  
24 OCTOBER 12, 1984.

25           I WILL NOW DESCRIBE FOR YOU THE CHARGES AGAINST

1 EACH DEFENDANT.

2 THE DEFENDANT JAVIER VASQUEZ-VELASCO IS CHARGED  
3 IN COUNT 1 OF THE INDICTMENT WITH A VIOLENT ACT, BEING A  
4 PRINCIPAL IN AND AIDING AND ABETTING THE MURDER OF JOHN  
5 WALKER IN SUPPORT OF AN ENTERPRISE ENGAGED IN RACKETEERING  
6 IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS  
7 1959 AND 2; AND IN COUNT 2 OF THE INDICTMENT WITH A  
8 VIOLENT ACT, BEING A PRINCIPAL AND AIDING AND ABETTING THE  
9 MURDER OF ALBERTO RADELAT IN SUPPORT OF AN ENTERPRISE  
10 ENGAGED IN RACKETEERING IN VIOLATION OF THE SAME STATUTE.  
11 SO DEFENDANT VASQUEZ IS CHARGED IN COUNTS 1 AND 2 ONLY.

12 NO OTHER DEFENDANT WAS CHARGED IN THOSE COUNTS.

13 THE DEFENDANT JUAN RAMON MATTA-BALLESTEROS IS  
14 CHARGED IN COUNT 3 OF THE INDICTMENT WITH A VIOLENT ACT,  
15 THE KIDNAPPING AND MURDER OF SPECIAL AGENT ENRIQUE  
16 CAMARENA-SALAZAR IN SUPPORT OF AN ENTERPRISE ENGAGED IN  
17 RACKETEERING IN VIOLATION OF TITLE 18, UNITED STATES CODE,  
18 SECTIONS 1959 AND 2. THAT IS COUNT 3. IN COUNT 5 OF THE  
19 INDICTMENT WITH CONSPIRACY TO KIDNAP A FEDERAL AGENT IN  
20 VIOLATION OF TITLE 18, UNITED STATE CODE, SECTION 1201(C),  
21 AND IN COUNT 6 OF THE INDICTMENT WITH AIDING AND ABETTING  
22 THE KIDNAPPING OF A FEDERAL AGENT ON ACCOUNT OF THE  
23 PERFORMANCE OF HIS OFFICIAL DUTIES IN VIOLATION OF 18,  
24 UNITED STATES CODE, SECTIONS 1201(A)(5) AND 2. IN COUNT 7  
25 OF THE INDICTMENT WITH MURDER OF SPECIAL AGENT ENRIQUE

1 CAMARENA-SALAZAR IN VIOLATION OF 18 UNITED STATES CODE  
2 SECTIONS 1111(A), 1114, AND 2. SO MR. MATTA IS CHARGED IN  
3 COUNT 3, COUNT 5, COUNT 6, AND COUNT 7.

4 THE DEFENDANT RUBEN ZUNO-ARCE IS CHARGED IN  
5 COUNT 3 OF THE INDICTMENT WITH A VIOLENT ACT, THE  
6 KIDNAPPING AND MURDER OF SPECIAL AGENT ENRIQUE CAMARENA-  
7 SALAZAR IN SUPPORT OF AN ENTERPRISE ENGAGED IN  
8 RACKETEERING IN VIOLATION OF 18 USC, SECTIONS 1959 AND 2;  
9 IN COUNT 5 OF THE INDICTMENT WITH CONSPIRACY TO KIDNAP A  
10 FEDERAL AGENT IN VIOLATION OF 18 USC, SECTION 1201(C); AND  
11 IN COUNT 6 OF THE INDICTMENT WITH AIDING AND ABETTING THE  
12 KIDNAPPING OF A FEDERAL AGENT ON ACCOUNT OF THE  
13 PERFORMANCE OF HIS OFFICIAL DUTIES IN VIOLATION OF 18 USC  
14 1201(A)(5) AND 2. THERE ARE THREE COUNTS AGAINST  
15 MR. ZUNO.

16 THE DEFENDANT JUAN JOSE BERNABE-RAMIREZ IS  
17 CHARGED IN COUNT 3 OF THE INDICTMENT WITH A VIOLENT ACT,  
18 THE KIDNAPPING AND MURDER OF SPECIAL AGENT ENRIQUE  
19 CAMARENA-SALAZAR, IN SUPPORT OF AN ENTERPRISE ENGAGED IN  
20 RACKETEERING IN VIOLATION OF 18 USC, SECTIONS 1959 AND 2;  
21 IN COUNT 4 OF THE INDICTMENT WITH A VIOLENT ACT IN SUPPORT  
22 OF AN ENTERPRISE ENGAGED IN RACKETEERING IN VIOLATION OF  
23 18 USC 1959 AND 2; IN COUNT 5 OF THE INDICTMENT WITH  
24 CONSPIRACY TO KIDNAP A FEDERAL AGENT IN VIOLATION OF 18  
25 USC, SECTION 1201(C); IN COUNT 6 OF THE INDICTMENT WITH



1 AIDING AND ABETTING THE KIDNAPPING OF A FEDERAL AGENT ON  
2 ACCOUNT OF THE PERFORMANCE OF HIS OFFICIAL DUTIES IN  
3 VIOLATION OF 18 USC 1201(A)(5) AND 2; IN COUNT 7 OF THE  
4 INDICTMENT WITH THE MURDER OF SPECIAL AGENT ENRIQUE  
5 CAMARENA-SALAZAR IN VIOLATION OF 18 USC 1111(A), 1114 AND  
6 2; AND IN COUNT 8 OF THE INDICTMENT WITH BEING AN  
7 ACCESSORY AFTER THE FACT TO THE KIDNAPPING AND MURDER OF  
8 SPECIAL AGENT ENRIQUE CAMARENA-SALAZAR AND ALFREDO ZAVALA-  
9 AVELAR IN VIOLATION OF 18 USC, SECTION 3.

10 NOW I AM GOING TO TELL YOU WHAT THESE COUNTS  
11 ALLEGE. COUNTS 1, 2, 3 AND 4 OF THE INDICTMENT CHARGE  
12 VIOLATIONS OF TITLE 18, UNITED STATES CODE, SECTION 1959,  
13 VIOLENT ACTS IN SUPPORT OF AN ENTERPRISE ENGAGED IN  
14 RACKETEERING.

15 TITLE 18, UNITED STATES CODE, SECTION 1959,  
16 PROVIDES IN PERTINENT PART AS FOLLOWS:

17 "WHOEVER, FOR THE PURPOSE OF GAINING  
18 ENTRANCE TO OR MAINTAINING OR INCREASING  
19 POSITION IN AN ENTERPRISE ENGAGED IN  
20 RACKETEERING ACTIVITY, MURDERS OR KIDNAPS OR  
21 CONSPIRES SO TO DO SHALL BE GUILTY OF AN OFFENSE  
22 AGAINST THE UNITED STATES."

23 IN ORDER TO ESTABLISH THE OFFENSES CHARGED IN  
24 COUNTS 1, 2, 3 AND 4 OF THE INDICTMENT, THE FOLLOWING  
25 ESSENTIAL ELEMENTS MUST BE ESTABLISHED BEYOND A REASONABLE

1 DOUBT:

2 FIRST: THE EXISTENCE OF AN ENTERPRISE ENGAGED  
3 IN RACKETEERING ACTIVITY;

4 SECOND: THE ACTIVITIES OF THE ENTERPRISE  
5 AFFECTED INTERSTATE OR FOREIGN COMMERCE;

6 THIRD: THE DEFENDANT ACTED WITH A PURPOSE TO  
7 GAIN ENTRANCE TO OR MAINTAIN OR INCREASE POSITION IN THE  
8 ENTERPRISE; AND

9 FOURTH: EITHER THE DEFENDANT PARTICIPATED IN  
10 THE COMMISSION OF THE VIOLENT ACT AS CHARGED OR THE  
11 DEFENDANT AIDED AND ABETTED IN THE COMMISSION OF THE  
12 VIOLENT ACTS AS CHARGED OR THAT THE DEFENDANT CONSPIRED IN  
13 THE COMMISSION OF THE VIOLENT ACTS AS CHARGED. THERE MUST  
14 BE UNANIMOUS AGREEMENT AMONG THE JURORS THAT THE DEFENDANT  
15 ENGAGED IN AT LEAST ONE OF THE TYPES OF CONDUCT DESCRIBED  
16 ABOVE. THAT IS, EITHER HE WAS A DIRECT PARTICIPANT OR  
17 AIDED AND ABETTED OTHERS IN COMMITTING THE VIOLENT ACTS OR  
18 THAT HE CONSPIRED IN THE COMMISSION OF THE VIOLENT ACTS.

19 IN ORDER TO FIND THE DEFENDANT GUILTY ON COUNT 3  
20 ON THE BASIS OF CONSPIRING IN THE COMMISSION OF THE  
21 VIOLENT ACTS AS CHARGED, YOU MUST DECIDE WHETHER THE  
22 CONSPIRACY CHARGED IN COUNT 3 EXISTED AND, IF IT DID  
23 EXIST, WHO AT LEAST SOME OF ITS MEMBERS WERE. IF YOU FIND  
24 THE CONSPIRACY CHARGED IN COUNT 3 DID NOT EXIST, THEN YOU  
25 CANNOT RETURN A GUILTY VERDICT ON THIS COUNT BASED ON THE

1 CONDUCT OF CONSPIRING, EVEN THOUGH YOU MAY FIND THAT SOME  
2 OTHER CONSPIRACY EXISTED.

3 SIMILARLY, IF YOU FIND THAT ANY DEFENDANT WAS  
4 NOT A MEMBER OF THE CONSPIRACY CHARGED IN COUNT 3, THEN  
5 YOU CANNOT RETURN A GUILTY VERDICT ON THIS COUNT BASED ON  
6 THE CONDUCT OF CONSPIRING, EVEN THOUGH THE DEFENDANT MAY  
7 HAVE BEEN A MEMBER OF SOME OTHER CONSPIRACY.

8 THE TERM ENTERPRISE AS DEFINED BY TITLE 18,  
9 UNITED STATES CODE, SECTION 1959(B)(2), INCLUDES ANY  
10 PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER LEGAL  
11 ENTITY, AND UNION OR GROUP OF INDIVIDUALS ASSOCIATED IN  
12 FACT, ALTHOUGH NOT A LEGAL ENTITY, WHICH IS ENGAGED IN OR  
13 THE ACTIVITIES OF WHICH AFFECT INTERSTATE OR FOREIGN  
14 COMMERCE.

15 YOU MUST DECIDE WHETHER THE ENTERPRISE CHARGED  
16 IN THE INDICTMENT EXISTED, AND, IF IT DID, WHO AT LEAST  
17 SOME OF ITS MEMBERS WERE. IF YOU FIND THAT THE ENTERPRISE  
18 CHARGED DID NOT EXIST, THEN YOU MUST RETURN A NOT GUILTY  
19 VERDICT, EVEN THOUGH YOU MAY FIND THAT SOME OTHER  
20 ENTERPRISE EXISTED.

21 SIMILARLY, IF YOU FIND THAT ANY DEFENDANT DID  
22 NOT CONSPIRE TO COMMIT OR COMMIT THE VIOLENT ACTS CHARGED  
23 IN COUNT 1 THROUGH 4 TO GAIN ENTRANCE TO OR TO MAINTAIN  
24 OR INCREASE POSITION IN THE ENTERPRISE CHARGED, THEN YOU  
25 MUST FIND THE DEFENDANT NOT GUILTY, EVEN THOUGH THAT

1 DEFENDANT MAY HAVE CONSPIRED TO COMMIT OR COMMITTED THOSE  
2 ACTS IN CONNECTION WITH SOME OTHER ENTERPRISE NOT CHARGED.

3 EVEN IF YOU FIND THAT A PARTICULAR DEFENDANT WAS  
4 A MEMBER OF THE CHARGED ENTERPRISE, THAT DOES NOT BY  
5 ITSELF MEAN THAT THE DEFENDANT PARTICIPATED IN ANY WAY IN  
6 THE KIDNAPPING AND MURDER OF ENRIQUE CAMARENA. YOU MUST,  
7 IN ADDITION, SEPARATELY FIND THAT THE DEFENDANT EITHER  
8 PARTICIPATED, AIDED AND ABETTED, OR CONSPIRED TO COMMIT  
9 THE VIOLENT ACTS AS CHARGED. IF YOU DO NOT, YOU MUST FIND  
10 THE DEFENDANT NOT GUILTY.

11 THE TERM RACKETEERING ACTIVITY AS DEFINED IN  
12 TITLE 18, UNITED STATES CODE, SECTION 1961(1) INCLUDES THE  
13 FELONIOUS, MANUFACTURE, IMPORTATION, RECEIVING,  
14 CONCEALMENT, BUYING, SELLING, OR OTHERWISE DEALING IN  
15 NARCOTIC OR OTHER DANGEROUS DRUGS PUNISHABLE UNDER ANY LAW  
16 OF THE UNITED STATES.

17 YOU ARE INSTRUCTED THAT THE IMPORTATION,  
18 SMUGGLING INTO THE UNITED STATES, POSSESSION, AND  
19 DISTRIBUTION OF MARIJUANA AND COCAINE ARE PUNISHABLE UNDER  
20 THE LAW OF THE UNITED STATES.

21 THE GOVERNMENT IS REQUIRED TO SHOW BEYOND A  
22 REASONABLE DOUBT THAT THE ENTERPRISE IS ENGAGED IN OR  
23 AFFECTS INTERSTATE COMMERCE OR FOREIGN COMMERCE.  
24 INTERSTATE COMMERCE MEANS COMMERCE BETWEEN THE SEVERAL  
25 STATES. FOREIGN COMMERCE MEANS COMMERCE BETWEEN TWO OR

1 MORE COUNTRIES.

2 INTENT ORDINARILY MAY NOT BE PROVED DIRECTLY  
3 BECAUSE THERE IS NO WAY OF FATHOMING OR SCRUTINIZING THE  
4 OPERATIONS OF THE HUMAN MIND. BUT YOU MAY INFER A  
5 DEFENDANT'S INTENT FROM THE SURROUNDING CIRCUMSTANCES.  
6 YOU MAY CONSIDER ANY STATEMENT MADE AND DONE OR OMITTED BY  
7 THE DEFENDANT AND ALL OTHER FACTS AND CIRCUMSTANCES IN  
8 EVIDENCE WHICH INDICATE HIS STATE OF MIND.

9 YOU MAY CONSIDER IT REASONABLE TO DRAW THE  
10 INFERENCE AND FIND THAT A PERSON INTENDS THE NATURAL AND  
11 PROBABLE CONSEQUENCES OF ACTS KNOWINGLY DONE OR KNOWINGLY  
12 OMITTED. AS I HAVE SAID, IT IS ENTIRELY UP TO YOU TO  
13 DECIDE WHAT FACTS TO FIND FROM THE EVIDENCE.

14 AN ACT IS DONE KNOWINGLY IF THE DEFENDANT IS  
15 AWARE OF THE ACT AND DOES NOT ACT THROUGH IGNORANCE,  
16 MISTAKE OR ACCIDENT. THE GOVERNMENT IS NOT REQUIRED TO  
17 PROVE THAT THE DEFENDANT KNEW THAT HIS ACTS WERE UNLAWFUL.  
18 YOU MAY CONSIDER EVIDENCE OF THE DEFENDANT'S WORDS OR ACTS  
19 ALONG WITH ALL OTHER EVIDENCE IN DECIDING WHETHER THE  
20 DEFENDANT ACTED KNOWINGLY.

21 TITLE 18, UNITED STATES CODE, SECTION 2 PROVIDES  
22 IN PERTINENT PART AS FOLLOWS:

23 "WHOEVER COMMITS AN OFFENSE AGAINST THE  
24 UNITED STATES OR AID, ABETS, COUNSELS,  
25 COMMANDS, INDUCES, OR PROCURES ITS COMMISSION IS

1 PUNISHABLE AS A PRINCIPAL. AND WHOEVER  
2 WILLFULLY CAUSES AN ACT TO BE DONE WHICH IS  
3 DIRECTLY PERFORMED BY HIM OR ANOTHER WOULD BE AN  
4 OFFENSE AGAINST THE UNITED STATES IS PUNISHABLE  
5 AS A PRINCIPAL."

6 TO PROVE A DEFENDANT GUILTY OF AIDING AND  
7 ABETTING THE GOVERNMENT MUST PROVE BEYOND A REASONABLE  
8 DOUBT:

9 FIRST: THAT THE OFFENSE WAS COMMITTED;  
10 SECOND: THAT THE DEFENDANT KNOWINGLY AND  
11 INTENTIONALLY AIDED, COUNSELED, COMMANDED, INDUCED, OR  
12 PROCURED ANOTHER PERSON OR PERSONS TO COMMIT THE OFFENSE;  
13 AND

14 THIRD: THE DEFENDANT ACTED BEFORE THE CRIME WAS  
15 COMPLETED.

16 IT IS NOT ENOUGH THAT THE DEFENDANT MERELY  
17 ASSOCIATED WITH THE PERSON OR PERSONS WHO COMMITTED THE  
18 CRIME OR WAS PRESENT AT THE SCENE OF THE CRIME OR  
19 UNKNOWINGLY OR UNINTENTIONALLY DID THINGS THAT WERE  
20 HELPFUL TO THE PRINCIPAL.

21 THE EVIDENCE MUST SHOW BEYOND A REASONABLE DOUBT  
22 THAT THE DEFENDANT ACTED WITH THE KNOWLEDGE AND INTENTION  
23 OF HELPING COMMIT THE CRIME.

24 A DEFENDANT MAY BE FOUND GUILTY OF CONSPIRING TO  
25 VIOLATE TITLE 18, UNITED STATES CODE, SECTION 1959, AS

1 CHARGED IN COUNT 3. IN ORDER FOR A DEFENDANT TO BE FOUND  
2 GUILTY OF THAT CHARGE THE GOVERNMENT MUST PROVE EACH OF  
3 THE FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT:

4 FIRST: BEGINNING AT A TIME UNKNOWN AND  
5 CONTINUING TO ON OR ABOUT FEBRUARY 9, 1985, THERE WAS AN  
6 AGREEMENT TO COMMIT THE OFFENSE OR OBJECTS ALLEGED IN  
7 COUNT 3: TO KIDNAP AND MURDER AN AGENT OF THE UNITED  
8 STATES DRUG ENFORCEMENT AGENCY FOR THE PURPOSE OF  
9 MAINTAINING OR INCREASING POSITION IN AN ENTERPRISE  
10 ENGAGED IN RACKETEERING ACTIVITY;

11 SECOND: THE DEFENDANT WAS A MEMBER OF THE  
12 CONSPIRACY AFTER THE LAW CAME INTO EFFECT ON OCTOBER 12,  
13 1984, KNOWING OF AT LEAST ONE OF ITS OBJECTS AND INTENDING  
14 TO HELP ACCOMPLISH IT;

15 THIRD: ONE OF THE MEMBERS OF THE CONSPIRACY  
16 PERFORMED AT LEAST ONE OVERT ACT FOR THE PURPOSE OF  
17 CARRYING OUT THE CONSPIRACY AFTER OCTOBER 12, 1984, AND  
18 WHILE THE DEFENDANT WAS A MEMBER OF THE CONSPIRACY WITH  
19 ALL OF YOU AGREEING ON A PARTICULAR OVERT ACT THAT YOU  
20 FIND WAS COMMITTED.

21 I WILL DISCUSS WITH YOU BRIEFLY THE LAW RELATING  
22 TO EACH OF THESE FOUR ELEMENTS -- TO EACH OF THESE  
23 ELEMENTS.

24 A CONSPIRACY IS A KIND OF CRIMINAL  
25 PARTNERSHIP -- AN AGREEMENT BETWEEN TWO OR MORE PERSONS TO

1 COMMIT ONE OR MORE CRIMES. THE CRIME IS THE AGREEMENT TO  
2 DO SOMETHING UNLAWFUL; IT DOES NOT MATTER WHETHER THE  
3 CRIME AGREED UPON WAS COMMITTED.

4 FOR A CONSPIRACY TO HAVE EXISTED, IT IS NOT  
5 NECESSARY THAT THE CONSPIRATORS MADE A FORMAL AGREEMENT OR  
6 THAT THEY AGREED ON EVERY DETAIL OF THE CONSPIRACY. BUT  
7 IT IS NOT ENOUGH THAT THEY SIMPLY MET, DISCUSSED MATTERS  
8 OF COMMON INTEREST, ACTED IN SIMILAR WAYS OR PERHAPS  
9 HELPED ONE ANOTHER. YOU MUST FIND BEYOND A REASONABLE  
10 DOUBT THAT THERE WAS A JOINT PLAN TO KIDNAP A FEDERAL  
11 AGENT.

12 ONE BECOMES A MEMBER OF A CONSPIRACY BY  
13 WILLFULLY PARTICIPATING IN THE UNLAWFUL PLAN WITH THE  
14 INTENT TO ADVANCE OR FURTHER SOME OBJECT OR PURPOSE OF THE  
15 CONSPIRACY, EVEN THOUGH THE PERSON DOES NOT HAVE FULL  
16 KNOWLEDGE OF ALL THE DETAILS OF THE CONSPIRACY.  
17 FURTHERMORE, ONE WHO WILLFULLY JOINS AN EXISTING  
18 CONSPIRACY IS CHARGED WITH THE SAME RESPONSIBILITY AS IF  
19 THAT PERSON HAD BEEN ONE OF THE ORIGINATORS OF IT.

20 ON THE OTHER HAND, ONE WHO HAS NO KNOWLEDGE OF A  
21 CONSPIRACY, BUT HAPPENS TO ACT IN A WAY WHICH FURTHERS  
22 SOME OBJECT OR PURPOSE OF THE CONSPIRACY, DOES NOT THEREBY  
23 BECOME A MEMBER MERELY BY ASSOCIATING WITH ONE OR MORE  
24 PERSONS WHO ARE CONSPIRATORS, NOR MERELY BY KNOWING OF THE  
25 EXISTENCE OF A CONSPIRACY.



1 AN OVERT ACT DOES NOT ITSELF HAVE TO BE  
2 UNLAWFUL. A LAWFUL ACT MAY BE AN ELEMENT OF A CONSPIRACY  
3 IF IT WAS DONE FOR THE PURPOSE OF CARRYING OUT THE  
4 CONSPIRACY. THE GOVERNMENT IS NOT REQUIRED TO PROVE THAT  
5 THE DEFENDANT PERSONALLY DID ONE OF THE OVERT ACTS. ONCE  
6 YOU HAVE DECIDED THAT THE DEFENDANT WAS A MEMBER OF A  
7 CONSPIRACY, THE DEFENDANT IS RESPONSIBLE FOR WHAT OTHER  
8 CONSPIRATORS SAID OR DID TO CARRY OUT THE CONSPIRACY,  
9 WHETHER OR NOT THE DEFENDANT KNEW WHAT THEY SAID OR DID.

10 A CONSPIRACY MAY CONTINUE FOR A LONG PERIOD OF  
11 TIME AND MAY INCLUDE THE PERFORMANCE OF MANY TRANSACTIONS.  
12 IT IS NOT NECESSARY THAT ALL MEMBERS OF THE CONSPIRACY  
13 JOIN IT AT THE SAME TIME, AND ONE MAY BECOME A MEMBER OF A  
14 CONSPIRACY WITHOUT FULL KNOWLEDGE OF ALL THE DETAILS OF  
15 THE UNLAWFUL SCHEME OR THE NAMES, IDENTITIES, OR LOCATIONS  
16 OF ALL OF THE OTHER MEMBERS.

17 EVEN THOUGH A DEFENDANT DID NOT DIRECTLY  
18 CONSPIRE WITH OTHER CONSPIRATORS IN THE OVERALL SCHEME,  
19 THE DEFENDANT WOULD, IN EFFECT, HAVE AGREED TO PARTICIPATE  
20 IN THE CONSPIRACY IF THE GOVERNMENT PROVES BEYOND A  
21 REASONABLE DOUBT THAT THE DEFENDANT DIRECTLY CONSPIRED  
22 WITH ONE OR MORE CONSPIRATORS TO CARRY OUT AT LEAST ONE OF  
23 THE OBJECTS OF THE CONSPIRACY AND, SECOND, THAT THE  
24 DEFENDANT KNEW OR HAD REASON TO KNOW THAT OTHER  
25 CONSPIRATORS WERE INVOLVED WITH THOSE WITH WHOM THE

1 DEFENDANT DIRECTLY CONSPIRED AND, THREE, THE DEFENDANT HAD  
2 REASON TO BELIEVE THAT WHATEVER BENEFITS THE DEFENDANT  
3 MIGHT GET FROM THE CONSPIRACY WERE PROBABLY DEPENDENT UPON  
4 THE SUCCESS OF THE ENTIRE VENTURE.

5 IT IS NO DEFENSE THAT A PERSON'S PARTICIPATION  
6 IN A CONSPIRACY WAS MINOR OR FOR A SHORT PERIOD OF TIME.

7 COUNT 5 CHARGES DEFENDANTS JUAN RAMON MATTA-  
8 BALLESTEROS, RUBEN ZUNO-ARCE, AND JUAN JOSE BERNABE-  
9 RAMIREZ WITH CONSPIRACY TO KIDNAP A FEDERAL AGENT IN  
10 VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1201.

11 TITLE 18, UNITED STATES CODE, SECTION 1201,  
12 PROVIDES IN PART AS FOLLOWS:

13 "WHOEVER UNLAWFULLY SEIZES, CONFINES,  
14 KIDNAPS, ABDUCTS, OR CARRIES AWAY AND HOLDS FOR  
15 RANSOM OR REWARD OR OTHERWISE ANY PERSON WHERE  
16 THE PERSON IS AMONG THOSE OFFICERS AND EMPLOYEES  
17 DESIGNATED IN SECTION 1114 OF THIS TITLE, SUCH  
18 AS A SPECIAL AGENT OF THE DRUG ENFORCEMENT  
19 ADMINISTRATION, AND ANY SUCH ACT AGAINST THE  
20 PERSON IS DONE ON ACCOUNT OF THE PERFORMANCE OF  
21 HIS OFFICIAL DUTIES SHALL BE GUILTY OF AN  
22 OFFENSE AGAINST THE UNITED STATES.

23 "IF TWO OR MORE PERSONS CONSPIRE TO VIOLATE  
24 THIS SECTION AND ONE OR MORE OF SUCH PERSONS DO  
25 ANY OVERT ACT TO EFFECT THE OBJECT OF THE

1           CONSPIRACY, EACH SHALL BE GUILTY OF AN OFFENSE  
2           AGAINST THE LAWS OF THE UNITED STATES."

3           IN REGARD TO COUNT 5, IN ORDER TO RETURN A  
4           GUILTY VERDICT AS TO A PARTICULAR DEFENDANT, YOU MUST FIND  
5           THAT THAT DEFENDANT WAS A MEMBER OF THE CONSPIRACY AFTER  
6           THE LAW CAME INTO EFFECT ON OCTOBER 12, 1984, AND THAT AT  
7           LEAST ONE MEMBER OF THE CONSPIRACY COMMITTED AN ACT IN  
8           FURTHERANCE OF THE CONSPIRACY AFTER OCTOBER 12, 1984, AND  
9           WHILE THE DEFENDANT WAS A MEMBER OF THE CONSPIRACY. IF  
10          YOU DO NOT SO FIND, YOU MUST FIND THAT DEFENDANT NOT  
11          GUILTY.

12          TO KIDNAP MEANS TO FORCIBLY AND UNLAWFULLY  
13          ABDUCT OR STEAL OR CARRY AWAY A PERSON AND DETAIN OR KEEP  
14          OR CONFINE HIM AGAINST HIS WILL.

15          YOU MUST DECIDE WHETHER THE CONSPIRACY CHARGED  
16          IN COUNT 5 EXISTED AND, IF IT DID, WHO AT LEAST SOME OF  
17          ITS MEMBERS WERE. IF YOU FIND THE CONSPIRACY CHARGED IN  
18          COUNT 5 DID NOT EXIST, THEN YOU MUST RETURN A NOT GUILTY  
19          VERDICT ON THAT COUNT, EVEN THOUGH YOU MAY FIND THAT SOME  
20          OTHER CONSPIRACY EXISTED.

21          SIMILARLY, IF YOU FIND THAT ANY DEFENDANT WAS  
22          NOT A MEMBER OF THE CONSPIRACY CHARGED IN COUNT 5, THEN  
23          YOU MUST FIND THE DEFENDANT NOT GUILTY ON THAT COUNT, EVEN  
24          THOUGH THE DEFENDANT MAY HAVE BEEN A MEMBER OF SOME OTHER  
25          CONSPIRACY.

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

7           COUNT 6 CHARGES DEFENDANTS JUAN RAMON MATTA-  
8           BALLESTEROS, RUBEN ZUNO-ARCE AND JUAN JOSE BERNABE-RAMIREZ  
9           WITH VIOLATING TITLE 18, UNITED STATES CODE, SECTION  
10          1201(A)(5) AND SECTION 2 IN RELATION TO THE KIDNAPPING OF  
11          DRUG ENFORCEMENT ADMINISTRATION SPECIAL AGENT ENRIQUE  
12          CAMARENA-SALAZAR.

13          FIVE ELEMENTS ARE REQUIRED TO BE PROVED IN ORDER  
14          TO ESTABLISH THAT A DEFENDANT COMMITTED THE OFFENSE OF  
15          KIDNAP AS CHARGED IN COUNT 6:

16          FIRST: THE DEFENDANT PARTICIPATED OR AIDED AND  
17          ABETTED THE SEIZURE, CONFINEMENT, KIDNAPPING OR CARRYING  
18          AWAY OF ENRIQUE CAMARENA-SALAZAR;

19          SECOND: THAT THE DEFENDANT'S PARTICIPATION OR  
20          AIDING AND ABETTING OCCURRED ON OR AFTER OCTOBER 12, 1984;

21          THIRD: AT THE TIME OF SUCH CONDUCT, ENRIQUE  
22          CAMARENA-SALAZAR WAS A SPECIAL AGENT OF THE DRUG  
23          ENFORCEMENT ADMINISTRATION;

24          FOURTH: THE DEFENDANT ACTED WHILE ENRIQUE  
25          CAMARENA WAS ENGAGED IN, OR ON ACCOUNT OF, THE PERFORMANCE

1 OF OFFICIAL DUTIES; AND

2 FIFTH: THE DEFENDANTS HELD ENRIQUE CAMARENA FOR  
3 RANSOM, REWARD, OR OTHER BENEFIT.

4 EACH MEMBER OF A CONSPIRACY IS RESPONSIBLE FOR  
5 THE ACTIONS OF OTHER MEMBERS PERFORMED DURING THE COURSE  
6 AND IN FURTHERANCE OF THE CONSPIRACY. IF ONE MEMBER OF A  
7 CONSPIRACY COMMITS A CRIME IN FURTHERANCE OF A CONSPIRACY,  
8 THE OTHER MEMBERS HAVE ALSO, UNDER THE LAW, COMMITTED THE  
9 CRIME. THEREFORE, YOU MAY FIND THE DEFENDANT GUILTY OF  
10 KIDNAPPING OF A DRUG ENFORCEMENT ADMINISTRATION SPECIAL  
11 AGENT, AS CHARGED IN COUNT 6 OF THE INDICTMENT, IF THE  
12 GOVERNMENT HAS PROVED EACH OF THE FOLLOWING ELEMENTS  
13 BEYOND A REASONABLE DOUBT:

14 FIRST: THE DEFENDANT WAS A MEMBER OF THE  
15 CONSPIRACY AFTER THE LAW CAME INTO EFFECT ON OCTOBER 12,  
16 1984;

17 SECOND: A PERSON NAMED IN COUNT 6 OF THE  
18 INDICTMENT AIDED, ABETTED, COUNSELED, INDUCED, PROCURED,  
19 CAUSED OR OTHERWISE WILLFULLY PARTICIPATED IN UNLAWFULLY  
20 SEIZING, CONFINING, KIDNAPPING OR CARRYING AWAY SPECIAL  
21 AGENT ENRIQUE CAMARENA WHILE SPECIAL AGENT ENRIQUE  
22 CAMARENA WAS ENGAGED IN, OR ON ACCOUNT OF, THE PERFORMANCE  
23 OF HIS OFFICIAL DUTIES AFTER OCTOBER 12, 1984, AND WHILE  
24 THE DEFENDANT WAS A MEMBER OF THE CONSPIRACY;

25 THIRD: THE PERSON WAS A MEMBER OF THE

1 CONSPIRACY CHARGED IN COUNT 6 OF THE INDICTMENT; AND  
2 FOURTH: THE PERSON ACTED IN FURTHERANCE OF A  
3 CONSPIRACY.

4 COUNT 7 CHARGES DEFENDANTS JUAN RAMON MATTA-  
5 BALLESTEROS AND JUAN JOSE BERNABE-RAMIREZ WITH MURDER AS A  
6 CONSEQUENCE OF THEIR PARTICIPATION AND PERPETRATION OF  
7 KIDNAPPING SPECIAL AGENT ENRIQUE CAMARENA.

8 UNITED STATES CODE, SECTION 1111 PROVIDES IN  
9 PERTINENT PART:

10 "MURDER IS THE UNLAWFUL KILLING OF A HUMAN  
11 BEING WITH MALICE AFORETHOUGHT. EVERY MURDER  
12 COMMITTED IN THE PERPETRATION OF KIDNAPPING IS  
13 MURDER IN THE FIRST DEGREE. WHOEVER IS GUILTY  
14 OF MURDER IN THE FIRST DEGREE SHALL BE GUILTY OF  
15 AN OFFENSE AGAINST THE UNITED STATES."

16 THE FOLLOWING ESSENTIAL ELEMENTS ARE REQUIRED TO  
17 BE PROVED IN ORDER TO ESTABLISH THE OFFENSE OF FELONY  
18 MURDER CHARGED IN COUNT 7 OF THE INDICTMENT:

19 FIRST: THAT DRUG ENFORCEMENT ADMINISTRATION  
20 SPECIAL AGENT ENRIQUE CAMARENA WAS KILLED;

21 SECOND: THAT HE WAS KILLED WITH MALICE  
22 AFORETHOUGHT;

23 THIRD: THAT SUCH ACT WAS DONE IN THE  
24 PERPETRATION OF THE KIDNAPPING, UNLAWFUL SEIZURE, OR  
25 CONFINEMENT OF AGENT ENRIQUE CAMARENA; AND

1           FOURTH: THAT THE DEFENDANT DIRECTLY  
2 PARTICIPATED IN SUCH ACT OR ACTS OR AIDED AND ABETTED THE  
3 COMMISSION OF SUCH ACTS WITH THE INTENT TO PERPETRATE THE  
4 KIDNAPPING; AND

5           FIFTH: THAT THE DEFENDANT'S PARTICIPATION OR  
6 AIDING AND ABETTING OCCURRED ON OR AFTER OCTOBER 12, 1984.

7           TO KILL WITH MALICE AFORETHOUGHT MEANS TO KILL  
8 EITHER DELIBERATELY AND INTENTIONALLY OR RECKLESSLY WITH  
9 EXTREME DISREGARD FOR HUMAN LIFE.

10           MALICE AFORETHOUGHT MAY BE INFERRED IF YOU FIND  
11 THAT THE KILLING WAS COMMITTED DURING THE PERPETRATION OR  
12 ATTEMPTED PERPETRATION OF THE KIDNAPPING OR CONFINEMENT  
13 ALLEGED IN THE INDICTMENT.

14           COUNT 8 CHARGES DEFENDANT JUAN JOSE BERNABE-  
15 RAMIREZ WITH BEING AN ACCESSORY AFTER THE FACT TO THE  
16 KIDNAPPING AND MURDER OF SPECIAL AGENT ENRIQUE CAMARENA  
17 AND MR. ALFREDO ZAVALA-AVELAR.

18           TITLE 18, UNITED STATES CODE, SECTION 3,  
19 PROVIDES IN PERTINENT PART AS FOLLOWS:

20           "WHOEVER, KNOWING THAT AN OFFENSE AGAINST  
21 THE UNITED STATES HAS BEEN COMMITTED, RECEIVES,  
22 RELIEVES, COMFORTS OR ASSISTS THE OFFENDER IN  
23 ORDER TO HINDER OR PREVENT HIS APPREHENSION,  
24 TRIAL, OR PUNISHMENT IS AN ACCESSORY AFTER THE  
25 FACT. AN ACCESSORY AFTER THE FACT SHALL BE

1 GUILTY OF AN OFFENSE AGAINST THE UNITED STATES."

2 TO ESTABLISH THE CRIME OF ACCESSORY AFTER THE  
3 FACT IN COUNT 8 AS TO DEFENDANT JUAN JOSE BERNABE-RAMIREZ,  
4 THE GOVERNMENT MUST PROVE THE FOLLOWING ELEMENTS BEYOND A  
5 REASONABLE DOUBT:

6 FIRST: THAT HE KNEW THAT DEFENDANT RAFAEL CARO-  
7 QUINTERO HAD PARTICIPATED IN OR CAUSED THE KIDNAPPING AND  
8 MURDER OF SPECIAL AGENT ENRIQUE CAMARENA AND/OR  
9 MR. ALFREDO ZAVALA;

10 SECOND: THAT HE HELPED RAFAEL CARO-QUINTERO  
11 WITH THE INTENT TO HINDER OR PREVENT RAFAEL CARO-  
12 QUINTERO'S APPREHENSION, TRIAL OR PUNISHMENT.

13 YOU HAVE HEARD EVIDENCE IN THIS CASE INVOLVING  
14 ALLEGED DRUG DEALING BY CERTAIN DEFENDANTS. THE  
15 DEFENDANTS ARE NOT ON TRIAL IN THIS CASE FOR THAT ALLEGED  
16 CONDUCT. ALL OF THE -- ALL OF THIS EVIDENCE HAS BEEN  
17 ADMITTED FOR LIMITED PURPOSES.

18 THEREFORE, THIS DRUG EVIDENCE OF CERTAIN  
19 DEFENDANTS IS TO BE USED BY YOU FOR THE FOLLOWING PURPOSES  
20 AND NO OTHER: TO PROVE: FIRST, THE EXISTENCE OF A DRUG  
21 ENTERPRISE; SECOND, THE DEFENDANT'S RELATIONSHIP TO THE  
22 DRUG ENTERPRISE; THIRD, EACH DEFENDANT'S MOTIVE; AND,  
23 FOURTH, EACH DEFENDANT'S INTENT.

24 NOW, WHEN YOU RETIRE, YOU SHOULD SELECT ONE  
25 MEMBER OF THE JURY AS YOUR FOREMAN. HE OR SHE WILL



1 PRESIDE OVER THE DELIBERATIONS AND SPEAK FOR YOU HERE IN  
2 COURT.

3 YOU WILL THEN DISCUSS THE CASE WITH YOUR FELLOW  
4 JURORS TO REACH AGREEMENT IF YOU CAN DO SO. YOUR VERDICT,  
5 WHETHER GUILTY OR NOT GUILTY, MUST BE UNANIMOUS.

6 EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF,  
7 BUT YOU SHOULD DO SO ONLY AFTER YOU HAVE CONSIDERED ALL  
8 THE EVIDENCE, DISCUSSED IT FULLY WITH THE OTHER JURORS,  
9 AND LISTENED TO THE VIEWS OF YOUR FELLOW JURORS.

10 DO NOT BE AFRAID TO CHANGE YOUR OPINION IF THE  
11 DISCUSSION PERSUADES YOU THAT YOU SHOULD. BUT DO NOT COME  
12 TO A DECISION SIMPLY BECAUSE OTHER JURORS THINK IT IS  
13 RIGHT.

14 IT IS IMPORTANT THAT YOU ATTEMPT TO REACH A  
15 UNANIMOUS VERDICT BUT, OF COURSE, ONLY IF EACH OF YOU CAN  
16 DO SO AFTER HAVING MADE YOUR OWN CONSCIENTIOUS DECISION.  
17 DO NOT CHANGE AN HONEST BELIEF ABOUT THE WEIGHT AND EFFECT  
18 OF THE EVIDENCE SIMPLY TO REACH A VERDICT.

19 YOUR VERDICT MUST BE BASED SOLELY ON THE  
20 EVIDENCE AND ON THE LAW AS I HAVE GIVEN IT TO YOU IN THESE  
21 INSTRUCTIONS. HOWEVER, NOTHING THAT I HAVE SAID OR DONE  
22 IS INTENDED TO SUGGEST WHAT YOUR VERDICT SHOULD BE. THAT  
23 IS ENTIRELY FOR YOU TO DECIDE.

24 THE ARGUMENTS AND STATEMENTS OF THE ATTORNEYS  
25 ARE NOT EVIDENCE. IF YOU REMEMBER THE FACTS DIFFERENTLY

1 FROM THE WAY THE ATTORNEYS HAVE STATED THEM, YOU SHOULD  
2 BASE YOUR DECISION ON WHAT YOU REMEMBER.

3 SOME OF YOU HAVE TAKEN NOTES DURING THE TRIAL.  
4 SUCH NOTES ARE ONLY FOR THE PERSONAL USE OF THE PERSON WHO  
5 TOOK THEM.

6 UNDER THESE INSTRUCTIONS YOU MAY FIND ONE OR  
7 MORE OF THE ACCUSED GUILTY OR NOT GUILTY, AS CHARGED. AND  
8 AT ANY TIME DURING YOUR DELIBERATIONS, YOU MAY RETURN INTO  
9 COURT YOUR VERDICT OF GUILTY OR NOT GUILTY AS TO ANY  
10 DEFENDANT CONCERNING WHOM YOU HAVE UNANIMOUSLY AGREED.

11 THE PUNISHMENT PROVIDED BY LAW FOR THESE CRIMES  
12 IS FOR THE COURT TO DECIDE. YOU MAY NOT CONSIDER  
13 PUNISHMENT IN DECIDING WHETHER THE GOVERNMENT HAS PROVED  
14 ITS CASE AGAINST THE DEFENDANT BEYOND A REASONABLE DOUBT.  
15 THAT SHOULD NOT BE CONSIDERED NOR DISCUSSED. THAT IS,  
16 PUNISHMENT SHOULD NOT BE CONSIDERED OR DISCUSSED BY THE  
17 JURY.

18 AFTER YOU HAVE REACHED UNANIMOUS AGREEMENT ON A  
19 VERDICT, YOUR FOREMAN WILL FILL IN THE FORM THAT HAS BEEN  
20 GIVEN TO YOU, SIGN AND DATE IT, AND ADVISE THE MARSHAL OR  
21 BAILIFF OUTSIDE YOUR DOOR THAT YOU ARE READY TO RETURN TO  
22 THE COURTROOM.

23 WHAT YOU WILL HAVE IS A VERDICT FORM FOR EACH  
24 DEFENDANT. IT WILL CONTAIN ON IT THE COUNTS THAT THAT  
25 DEFENDANT IS CHARGED WITH. YOU WILL HAVE A PLACE -- A

1 BLANK LINE -- ON WHICH YOU WILL WRITE THE WORD GUILTY OR  
2 NOT GUILTY AS CHARGED IN COUNT 2 OF THE INDICTMENT, GUILTY  
3 OR NOT GUILTY AS CHARGED IN COUNT 5 OF THE INDICTMENT,  
4 GUILTY OR NOT GUILTY AS CHARGED IN COUNT 6 OF THE  
5 INDICTMENT -- WHATEVER COUNTS ARE ON A PARTICULAR VERDICT  
6 FORM. SO THERE ARE FOUR VERDICT FORMS, ONE FOR EACH  
7 DEFENDANT, AND EACH ONE CONTAINS THE CHARGES AGAINST THAT  
8 PARTICULAR DEFENDANT.

9 WHEN YOU HAVE AGREED ON A VERDICT AS TO A  
10 PARTICULAR DEFENDANT, ALL OF THE BLANKS SHOULD BE FILLED  
11 IN AND IT SHOULD BE DATED AND SIGNED BY YOUR FOREMAN AND  
12 THEN YOU SHALL RETURN WITH IT TO THIS COURTROOM. SO THERE  
13 IS ONE FOR EACH DEFENDANT, AND THAT WILL BE WITH YOU IN  
14 THE JURY ROOM.

15 IF IT BECOMES NECESSARY DURING YOUR  
16 DELIBERATIONS TO COMMUNICATE WITH ME, YOU MAY SEND A NOTE  
17 THROUGH THE MARSHAL OR BAILIFF, SIGNED BY YOUR FOREPERSON  
18 OR BY ONE OR MORE MEMBERS OF THE JURY. NO MEMBER OF THE  
19 JURY SHOULD EVER ATTEMPT TO COMMUNICATE WITH ME EXCEPT BY  
20 A SIGNED WRITING, AND I WILL COMMUNICATE WITH ANY MEMBER  
21 OF THE JURY ON ANYTHING CONCERNING THE CASE ONLY IN  
22 WRITING, OR ORALLY HERE IN OPEN COURT.

23 REMEMBER THAT YOU ARE NOT TO TELL ANYONE,  
24 INCLUDING ME, HOW THE JURY STANDS, NUMERICALLY OR  
25 OTHERWISE -- THAT IS, YOU SHOULD NEVER SEND A NOTE OUT

1 TELLING ME HOW THE JURY STANDS, NUMERICALLY OR OTHERWISE;  
2 THAT SHOULD NOT BE DONE -- ON THE QUESTION OF GUILT OF A  
3 DEFENDANT, THAT IS, HOW THE JURY STANDS NUMERICALLY OR  
4 OTHERWISE, ON THE QUESTION OF GUILT OF A DEFENDANT UNTIL  
5 AFTER YOU HAVE REACHED A UNANIMOUS VERDICT OR HAVE BEEN  
6 DISCHARGED.

7 NOW, THAT CONCLUDES THE INSTRUCTIONS THAT I AM  
8 GOING TO GIVE YOU. I WANT TO SAY A FEW MORE THINGS BEFORE  
9 WE -- LET'S SWEAR THE BAILIFFS TO TAKE CHARGE OF THE JURY  
10 FIRST.

11 (THE BAILIFFS WERE SWORN BY THE CLERK.)

12 THE COURT: LADIES AND GENTLEMEN OF THE JURY,  
13 ALL EXHIBITS THAT HAVE BEEN RECEIVED INTO EVIDENCE WILL BE  
14 PROVIDED TO YOU IN THE JURY ROOM. THERE WILL BE THINGS  
15 THAT WERE REFERRED TO DURING THE TESTIMONY AND DURING THE  
16 TRIAL THAT WILL NOT BE IN THE JURY ROOM, AND YOU SHOULD  
17 NOT ASK FOR THOSE THINGS BECAUSE THEY ARE NOT EXHIBITS.

18 FOR EXAMPLE, IF A WITNESS TESTIFIED CONCERNING A  
19 REPORT, THE TESTIMONY REGARDING THE REPORT IS THE EVIDENCE  
20 THAT YOU WILL CONSIDER. THE REPORT ITSELF MAY NOT BE IN  
21 EVIDENCE, AND THEREFORE YOU SHOULD NOT REQUEST THINGS  
22 BECAUSE WE INTEND TO GIVE YOU ALL THE EXHIBITS WHICH ARE  
23 IN EVIDENCE THAT YOU NEED TO HAVE. SO THAT WILL EXPLAIN  
24 WHY SOME THINGS ARE NOT THERE THAT YOU EXPECT TO SEE  
25 BECAUSE YOU HEARD ABOUT THEM. THE EVIDENCE CONCERNING

1 THOSE THINGS IS THE TESTIMONY GIVEN BY THE WITNESSES  
2 REGARDING THEM.

3 THE LAW USED TO REQUIRE US TO SEQUESTER JURIES  
4 AFTER A CASE HAS BEEN SUBMITTED TO THEM. BY THAT I MEAN  
5 TO KEEP YOU TOGETHER IN A HOTEL AND NOT ALLOW YOU TO GO  
6 HOME. WE DON'T DO THAT ANYMORE. WE CAN DO IT, BUT I AM  
7 NOT GOING TO IN THIS CASE PROVIDED THE JURY FOLLOWS  
8 CERTAIN INSTRUCTIONS, AND THAT IS THE INSTRUCTIONS THAT I  
9 HAVE GIVEN YOU THROUGHOUT THE TRIAL WILL STILL BE IN  
10 EFFECT.

11 YOU MAY NOT DISCUSS THE CASE. YOU MAY DISCUSS  
12 THE CASE WITH EACH OTHER ONLY IN THE JURY ROOM AND ONLY  
13 WHEN ALL 12 JURORS ARE PRESENT, NOT SEPARATELY OR IN SMALL  
14 GROUPS OR OVER THE TELEPHONE. THAT IS NOT PERMITTED.

15 YOU MAY NOT ALLOW ANYONE ELSE TO TALK TO YOU  
16 ABOUT THE CASE OR DISCUSS THE CASE WITH ANYONE ELSE. THAT  
17 MEANS PEOPLE AT HOME, MEMBERS OF YOUR FAMILY, FRIENDS,  
18 RELATIVES, CHILDREN, OR ANYONE. YOU SHOULD NOT DISCUSS  
19 THE CASE AT ALL.

20 YOU SHOULD NOT EXPRESS ANY OPINION OR CONCLUSION  
21 ABOUT THE CASE EXCEPT IN THE JURY ROOM, AND ONLY THEN WHEN  
22 ALL 12 JURORS ARE PRESENT.

23 UNDER THOSE CONDITIONS THE COURT WILL PERMIT YOU  
24 TO SEPARATE AT THE END OF THE DAY AS WE HAVE THROUGHOUT  
25 THE TRIAL.

1           IT IS VERY IMPORTANT ALSO THAT YOU CONTINUE TO  
2 OBSERVE THE RULES ABOUT READING, HEARING, OR SEEING  
3 ANYTHING ABOUT THIS CASE. IT IS ABSOLUTELY IMPORTANT THAT  
4 YOU CONTINUE TO ABIDE BY THAT RULE.

5           NOW, THE INSTRUCTIONS WILL BE IN THE JURY ROOM  
6 SO THAT YOU WILL HAVE THEM AVAILABLE IF YOU NEED TO REFER  
7 TO THEM.

8           THERE IS NO TRIAL TRANSCRIPT. BY THAT I MEAN  
9 THAT THE JURY WILL NOT BE PROVIDED WITH THE TRANSCRIPT OF  
10 THE TESTIMONY THAT WAS GIVEN DURING THE TRIAL, ALTHOUGH  
11 YOU MAY HAVE HEARD TRIAL TRANSCRIPTS OF TESTIMONY REFERRED  
12 TO DURING THE TRIAL. YOU SHOULD RELY ON YOUR OWN  
13 RECOLLECTION OF THE EVIDENCE AS YOU HEARD IT IN DECIDING  
14 THIS CASE.

15           ORDINARILY I DON'T ENCOURAGE YOU, UNLESS IT IS  
16 ABSOLUTELY NECESSARY, TO ASK TO HAVE TESTIMONY REREAD. IF  
17 YOU FEEL IT IS ABSOLUTELY NECESSARY AND YOU HAVE NARROWED  
18 THE SCOPE DOWN TO EXACTLY WHAT IT IS YOU MIGHT WANT OR  
19 NEED, THE COURT WILL CONSIDER THAT. WE PREFER NOT TO HAVE  
20 THAT IF WE CAN AVOID IT. BUT IF YOU THINK IT IS  
21 NECESSARY, YOU MAY ASK THE COURT FOR THAT.

22           YOU WILL, OF COURSE, NOW BE GOING TO LUNCH  
23 TOGETHER, AND THAT HAS BEEN ARRANGED. DURING THE TIME OF  
24 YOUR DELIBERATIONS YOU WILL BE GOING TO LUNCH TOGETHER.

25           THERE WILL ALSO BE A COPY OF THE INDICTMENT

1 AVAILABLE FOR YOU TO SEE IF YOU NEED TO LOOK AT IT.

2 I THINK I HAVE COVERED EVERYTHING. I WISH YOU  
3 WELL IN YOUR DELIBERATIONS. YOU HAVE BEEN A VERY  
4 CONSCIENTIOUS JURY, ONE OF THE BEST I HAVE HAD HERE. YOU  
5 HAVE PAID ATTENTION, AND YOU HAVE BEEN ON TIME, AND I  
6 THINK YOU WILL CARRY OUT YOUR RESPONSIBILITY AND THE  
7 REASON FOR YOUR BEING HERE.

8 YOU MAY BE EXCUSED, THE JURORS. THE ALTERNATES  
9 WILL PLEASE REMAIN UNLESS YOU HAVE THINGS IN THE JURY ROOM  
10 YOU WISH TO RETRIEVE. IF YOU DO, YOU MAY GO AND GET WHAT  
11 YOU HAVE UP IN THE JURY ROOM AND BRING IT BACK HERE.

12 I WANT TO MEET WITH THE ALTERNATES TO THANK THEM  
13 FOR THEIR SERVICE ON THIS CASE IN MY CHAMBERS.

14 YOU MAY BE EXCUSED.

15 (THE JURORS AND ALTERNATES LEFT THE  
16 COURTROOM.)

17 MR. STOLAR: YOUR HONOR, I WANTED TO ASK THE  
18 COURT WHEN YOU MEET WITH THE ALTERNATES THAT ARE BEING  
19 DISCHARGED, WOULD THE COURT ADVISE THEM THAT THEY ARE FREE  
20 TO SPEAK WITH US IF THEY WISH; THAT THEY HAVE NO  
21 OBLIGATION TO. BUT I AND OTHER COUNSEL ARE CURIOUS TO  
22 SPEAK WITH THEM, AND WE WOULD BE COURTEOUS TO THEM, YOUR  
23 HONOR.

24 THE COURT: WE RECOMMEND AGAINST IT.

25 MR. MEDRANO: YOUR HONOR, ALSO TO MY

1 UNDERSTANDING THE ALTERNATES WILL BE ON CALL.

2 THE COURT: NO, THEY WILL NOT BE.

3 MR. MEDRANO: YOUR HONOR, WHAT HAPPENS IF ONE OF  
4 THE JURORS TAKES ILL DURING DELIBERATIONS OR HAS AN  
5 ACCIDENT OR WHATEVER? WHAT IS THE POSTURE OF THE COURT?

6 THE COURT: THE FEDERAL RULES REQUIRE THAT THESE  
7 ALTERNATES BE DISCHARGED ONCE THE CASE HAS BEEN SUBMITTED,  
8 AND THERE IS A RULE THAT PROVIDES THAT YOU MAY PROCEED  
9 WITH ONE JUROR ABSENT IF SOMETHING HAPPENS.

10 MR. MEDRANO: VERY WELL, YOUR HONOR.

11 THE COURT: IF THE JUROR IS UNABLE TO CONTINUE.  
12 THE ONLY OTHER WAY YOU CAN HOLD AN ALTERNATE IS IF  
13 EVERYBODY SIGNED A WRITTEN STIPULATION AGREEING TO IT.

14 MR. MEDRANO: IN ADDITION, YOUR HONOR, I HAVE  
15 TWO QUESTIONS FOR THE COURT. THERE ARE CERTAIN EXHIBITS  
16 THAT ARE TYPICALLY HELD ONTO BY THE GOVERNMENT -- THE  
17 FIREARMS FOR EXAMPLE AND FORENSIC EVIDENCE. I JUST WANTED  
18 THE COURT'S GUIDANCE ON WHAT TO DO WITH THAT EVIDENCE AT  
19 THIS TIME.

20 THE COURT: DO YOU MEAN THE FIREARM WITH THE "R"  
21 ON IT?

22 MR. MEDRANO: YES.

23 THE COURT: I THINK THAT CAN BE SUBMITTED. I  
24 THINK THE JURY IS ENTITLED TO SEE THAT.

25 MR. MEDRANO: HOW ABOUT THE FORENSIC EVIDENCE?



1 THE COURT: BLOOD?

2 MR. MEDRANO: NO, YOUR HONOR. THE SAMPLES OF  
3 CLOTHING, THE SHROUD, THE BLINDFOLD, THINGS OF THAT  
4 NATURE, YOUR HONOR. WHAT WOULD YOU LIKE TO DO WITH THOSE?

5 MR. STOLAR: I DON'T REALLY THINK THAT IS --

6 MR. MEDRANO: THERE IS A DISTINCT ODOR TO THEM.  
7 THAT IS WHY I THOUGHT IT MIGHT BE PROBLEMATIC.

8 MR. STOLAR: THERE ARE PHOTOGRAPHS OF THOSE  
9 ITEMS.

10 THE COURT: LET'S SAY THAT THOSE EXHIBITS NEED  
11 NOT BE SENT IN UNLESS REQUESTED.

12 MR. MEDRANO: VERY WELL.

13 THE COURT: JUST HAVE A SEAT, AND I WILL HAVE  
14 YOU FOLKS GO INTO CHAMBERS.

15 MR. MEDRANO: YOUR HONOR, JUST FOR THE RECORD,  
16 THE GOVERNMENT'S POSITION, HAVING GIVEN SOME THOUGHT TO  
17 THE ISSUE YOU RAISED PRELIMINARILY, IS THAT A HEARING  
18 WOULD BE THE PREFERENCE OF THE GOVERNMENT ON LIMITED  
19 QUESTIONING TO THE --

20 THE COURT: YOU SHOULD HAVE BROUGHT THAT TO THE  
21 COURT'S ATTENTION.

22 MR. MEDRANO: VERY WELL.

23 MR. MEDVENE: IF THE COURT PLEASE, WE HAVE GIVEN  
24 THE GOVERNMENT A COPY OF OUR EXHIBIT LIST. COULD WE GET A  
25 COPY OF --

1 THE COURT: THE EXHIBITS SHOULD BE HELD UNTIL  
2 EVERYBODY HAS AGREED ON ALL THE EXHIBITS WITH THE CLERK.  
3 IF I DON'T HEAR ANYTHING FROM YOU ON THE RECORD, I WILL  
4 DEEM THAT AS EVIDENCE THAT EVERYBODY HAS CONSENTED AND  
5 HAVE CHECKED THE EXHIBITS AND MADE SURE THEY ARE  
6 APPROPRIATE.

7 ALL RIGHT. WE ARE ADJOURNED, AND I WANT COUNSEL  
8 TO REMAIN AVAILABLE UNTIL FURTHER NOTICE, THAT IS, WITHIN  
9 THE BUILDING. NOTIFY THE CLERK WHERE YOU CAN BE REACHED.

10 MR. STOLAR: WHAT TIME IS LUNCH?

11 THE COURT: 12:00 O'CLOCK.

12 (PROCEEDINGS CONCLUDED.)

13 - - -

14 I HEREBY CERTIFY THAT THE FOREGOING IS A CORRECT  
15 TRANSCRIPT OF THE PROCEEDINGS HAD ON THE RECORD  
16 IN THE ABOVE-ENTITLED MATTER.

17  
18 Velma B. Thomas

9/5/90

19 OFFICIAL REPORTER

DATE