

IN THE CALIFORNIA COURT OF APPEAL
IN AND FOR THE SECOND APPELLATE DISTRICT
DIVISION FIVE

In re JOSEPH HUNT,)	Case No.:
)	
)	Los Angeles County
Petitioner,)	Superior Court Case
)	No.: A090435
)	
)	Previous Related Case:
On Habeas Corpus.)	B110428
_____)	

EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FIVE

2014.11.20

THE PEOPLE,
Plaintiff and Respondent,
v.
JOE HUNT,
Defendant and Appellant.

) B029402
)
) (Super. Ct. No. A090435)
)
)
)

COURT OF APPEAL - SECOND DIST.
FILED

NOV 23 1993

JOSEPH A. LANE Clerk
Deputy Clerk

APPEAL from a judgment of the Superior Court of Los Angeles County. Laurence J. Rittenband, Judge. Affirmed.

Daniel A. Dobrin, for Defendant and Appellant.

Daniel E. Lungren, Attorney General, George Williamson, Chief Assistant Attorney General, Carol Wendelin Pollack, Acting Assistant Attorney General, Marc E. Turchin, Supervising Deputy Attorney General and Elaine F. Tumonis, Deputy Attorney General, for Plaintiff and Respondent.

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I. INTRODUCTION

Defendant, Joe Hunt, was convicted by a jury of murder in the first degree of Ronald George Levin in violation of Penal Code section 187.^{1/} Defendant also was found guilty of robbery in violation of section 211 and that Levin was murdered while defendant was engaged in the commission of robbery within the meaning of section 190.2(a)(17). The jury fixed the penalty as life imprisonment without the possibility of parole. The court sentenced defendant to state prison for life without the possibility of parole for the murder. No sentence was imposed for the robbery.

On appeal, defendant alleges his trial was unfair because: (1) the trial court imposed unconstitutional limitations on one of his attorneys; (2) his lead attorney had a conflict of interest and was ineffective; (3) a juror committed misconduct; (4) numerous evidentiary rulings were erroneous and prejudicial; (5) evidence of the corpus delicti of robbery and murder was insufficient to support the judgment; (6) the prosecutor committed misconduct during final argument; (7) the court denied the defense access to key evidence; (8)

^{1/} All statutory references are to the Penal Code unless indicated otherwise.

the jury was not properly instructed; (9) the court improperly limited voir dire; (10) defendant was not present during significant chambers and bench conferences; (11) his law clerk was banished from the courtroom; (12) the court violated court rules governing electronic media coverage of his trial; and (13) the trial judge was pro-prosecution and hostile to the defense.

Defendant does not claim the evidence was insufficient to support the jury's verdict. He does, however, present his arguments based upon a premise that this is a weak case based solely on circumstantial evidence without body or bullets. However, we conclude that the prosecution presented overwhelming evidence that the defendant murdered Levin on the night of June 6, 1984, even though Levin's body was never found and notwithstanding defendant's evidence showing that Levin was facing criminal prosecution and civil lawsuits and may have hidden away a large sum of money giving him both a motive and the financial ability to disappear.

During the three-month guilt phase of the trial, in which 60 witnesses testified for the People, the prosecution proved that defendant developed a written plan to rob and murder Levin and that defendant had the motive, the opportunity, the enterprise, the philosophy, a henchman, and the weapons to carry out his plan, all of which was corroborated by defendant's multiple admissions that he killed

Levin. It is within this framework of strong and convincing evidence that we conclude that most of defendant's claims of error are without merit and where error occurred none were of a type which necessitate a reversal of defendant's conviction under federal or state constitutional principles.

We therefore set forth a lengthy statement of the facts, and where defendant's arguments are premised upon the same set of facts, have consolidated his arguments for purpose of appellate review and presentation of the court's decision.

II. FACTS

The plot to kill Ron Levin was testified to by Dean Karny who received immunity for his testimony. Defendant first became acquainted with Dean Karny and Ben Dosti in junior high school and became reacquainted with them in 1980 while Karny was a student at UCLA. Defendant impressed them as remarkably intelligent and well-established for a young man of their age. He told them how he had completed college by challenging exams at the University of Southern California, had become the youngest person to ever pass the CPA exam and about his employment with Peat, Marwick & Mitchell as a commodities trader. Eventually, over the next few months, defendant, Karny, Dosti, and another friend of Karny's named Ronald Pardovich became best friends.

Defendant told his friends that someday he wanted to form a group of intelligent, capable, motivated people who could succeed in business, personal and social ventures without the type of constraints and intrigues usually associated with corporate structures.

In November 1980, defendant moved to Chicago in order to trade commodities on the floor of the Mercantile Exchange to raise money so that he could start the group. Karny, his parents, and others provided defendant with over \$400,000 to invest in Chicago. While in Chicago, defendant maintained his close friendship with Karny, Dosti and Pardovich, and a new friend, Evan Dicker, whom he met through Karny and Dosti. At first it appeared that defendant was very successful at trading. However, by 1982 defendant had lost all the money. He returned to Los Angeles with only \$4 in his pocket and moved in with Karny.

The idea of forming a social group of people who shared a common philosophical belief which would grow into a business venture remained alive. To get the group started, Karny, Dosti and Pardovich socialized, met people and brought their friends around to meet defendant and expose them to his ideas. By early 1983 about 10 people were involved. Defendant, Dosti and Karny were the leaders but defendant was the final arbiter and decision-maker. The members called themselves the "Boys" and considered themselves a mini-mafia. They held their

first formal meeting, and named themselves the Bombay Bicycle Club or "BBC."^{2/}

The BBC's purpose was to make money through investing in commodities, cyclotron technology and arbitrage. A philosophy developed by defendant which he called the paradox philosophy bound the group together.^{3/} The paradox philosophy called for the group not to be bound by society's rules of law and religion. Members of the group would not blindly follow any rule but would do what was "necessary under the circumstances."

Survival of the individual was the sole end. However, disloyalty to defendant or the BBC led to expulsion. A belief in the paradox philosophy enabled a person to lie and to commit crimes; even murder would be justified by the paradox philosophy if it was convenient.

^{2/} The group chose the name "Bombay Bicycle Club", after a bar and nightclub defendant frequented when he was in Chicago. The name "Billionaire Boys Club" was coined by the media.

^{3/} A number of BBC members in addition to Korny, including Evan Dicker, Tom May, Jeff Raymond and attorney Jerome Eisenberg, testified to the BBC's philosophy, goals, investments and defendant's eventual financial dealings with Ron Levin, its consequences and aftermath.

By June 1983, money was raised, offices were rented and business appeared to be prospering through defendant's commodity trading. Over the next year, a number of people were persuaded to invest hundreds of thousands of dollars in various BBC business enterprises and commodities accounts over which defendant had trading authority based upon defendant's promise that they would receive high rates of return with little risk.^{4/} One investor, Steve Weiss, brought in his closest friends and relatives and they, alone, invested over \$1.5 million.^{5/} On the surface the BBC looked highly profitable. Defendant personally began spending a great deal of money and he sent out financial statements and personal checks to investors indicating that they also were making huge profits on their investments.

Ronald George Levin came to defendant's attention early in 1983. Defendant was told that Levin was a "scammer" and couldn't be trusted but defendant wanted to find out for

^{4/} Not surprisingly, defendant's philosophy of trading in the market was to capitalize on people's greed.

^{5/} Apparently up to 75 people became investors, including David May, \$80,000; Tom May, \$80,000; Steve Lopez, \$90,000; Alan Gore, \$10,000; and Dr. Julius Paskan, \$180,000. The Steven Weiss Family Trust invested \$502,500 in 1983 and \$1,075,730.52 in 1984.

himself. When defendant eventually met Levin that summer, he formed the opinion that Levin was wealthy and he succeeded in getting Levin to place \$5 million in a commodities trading account.^{6/} The account was in Levin's name and defendant was given the authority to trade the account on Levin's behalf. They would split the profits.

Shortly thereafter, defendant announced to the BBC that in one day he had lost all the investors' money in the commodities market with the exception of the Levin account. Defendant told the BBC they need not worry. Defendant showed them a statement indicating that he had made a \$7 million profit on the Levin account. Since defendant was entitled to one-half of the Levin profits, or \$3.5 million dollars, he would reimburse the other investors for their losses and the BBC was still going to have enough money to do all the other things they wanted to do.

By this time, the BBC's overhead expenses were approximately \$70,000 per month, the other businesses were not

^{6/} According to Levin's friends, Dean Factor and Len Marmor, Levin had the outward appearance of extreme wealth. He displayed bankbooks and checks with large amounts of money on them, including a \$1 million check mounted on his wall. In fact, he had no money. Levin typed up the bank books himself. He was a "con man" who actually bragged about "ripping people off."

making much money, and defendant was personally spending large sums of money, thus the profit from the Levin account was "a very big event." Everyone at BBC expected to get money from the Levin account.

Defendant tried to get the money from Levin, but Levin told defendant he could not pay defendant his percentage immediately because he had invested the money in a shopping center. However, according to Levin, the shopping center investment had increased defendant's \$3.5 million investment to \$13 million. Later, Levin told defendant that a Japanese company had offered to buy the shopping center bringing defendant's profit to \$30 million.

Optimism over the money which would be forthcoming from the shopping center was high in October 1983. Defendant called a BBC meeting and announced how the profits from the sale of the shopping center would be divided. The largest portion was to go to defendant. Karny and Dosti would get \$1 million each. BBC members, Tom May and Dave May, each would receive \$700,000. But the money never materialized. Defendant finally learned that Levin was a conniver and a manipulator and that he had been the victim of an incredible hoax.

Levin, posing as a representative of Network News, had contacted Jack Friedman, a broker with Clayton Brokerage Company, in June 1983 and convinced Friedman that he was making a documentary movie, entitled "The Traders," in which various

commodities' trading practices would be compared. Friedman's role was to set up a simulated trading account in which defendant's results as an outside trading advisor would be compared over a four to eight week span with the results of an in-house broker, a computer, and with merely throwing darts.^{17/} Levin told Friedman to make sure that defendant did not know the account was simulated, explaining that the emotional trading decisions would not be the same if the trader knew it was not real. Defendant was not to be told he was trading in a simulated account until the story was done.

When defendant called the brokerage house to begin trading, he was informed by Friedman that the equity in the Levin account was over \$5 million. By the time Levin closed the simulated account on August 17, 1983, defendant believed he had increased the account to \$13,997,448.46, reflecting a net profit of \$8,320,649 and that the account was being closed so that the money could be used for a real estate transaction. Sometime in October or November 1983, Friedman told defendant the money was not real. Defendant gave Friedman the impression

^{17/} Levin led Friedman to believe that the movie would be shown as a five-part series on independent television stations throughout the country. Friedman would appear as the moderator, explaining how the trades were accomplished, thereby getting free publicity.

that he knew all along that it was just a movie, but within five hours after Friedman discussed with defendant the true nature of the account, Friedman received a phone call from Levin in which Levin screamed, yelled, and threatened Friedman for violating his confidentiality. Friedman never heard from Levin again.

At about the same time that defendant learned of Levin's scam, Jim Pittman, known to the BBC members as Jim Graham, came into the picture. At first Pittman was to provide karate lessons to BBC members. As time went on, Pittman and defendant grew very close. Pittman became a BBC member, was placed in charge of security and became defendant's bodyguard.^{8/}

Defendant confronted Levin about the scam which Levin at first denied. Finally, Levin admitted to defendant that there was no shopping center and no money. However, Levin said he had used the statements from the phony trading account to con about \$1.5 out of other brokerage houses and he would give

^{8/} Pittman was known to be armed with a derringer strapped to his ankle, a pen gun, and a small black automatic pistol. BBC member Jeff Raymond and attorney Jerome Eisenberg had seen a silencer attached to the automatic pistol when Pittman test fired the gun at the BBC office in April 1984.

defendant and the BBC \$300,000 of that sum. However, Levin kept delaying in giving defendant the money which made defendant extremely angry. Defendant told Tom May he was going to get the money from Levin, "no matter what it took."

In the meantime, the real trading accounts of the other investors continued to lose huge amounts of money and the brokers were demanding additional funds from the investors to cover the accounts. By February 1984, \$300,000 was no longer a large enough sum to solve the needs of the BBC and defendant no longer believed Levin was going to give him any money. However, it was apparent that defendant still believed Levin was wealthy and had really gotten \$1.5 million from his scam. Defendant had seen stacks of bank passbooks reflecting large deposits at Levin's house. Defendant told Karny that he was going to find a way of getting that money from Levin. Defendant also told Karny that Levin was going to die one day.

Defendant continued to socialize with Levin. As he explained to Karny, defendant was going to maintain a relationship with Levin so that he could find a good opportunity to kill him. By the end of April or the beginning of May 1984, defendant told Karny he had developed a plan to get the money from Levin and to kill Levin.

Defendant's plan called for defendant to go to Levin's house for dinner. Defendant would secretly arrange to have Pittman arrive at 9:45 p.m. Pittman was to pretend he was a

mafia gunman.^{2/} Upon Pittman's arrival, defendant would tell Levin that he, defendant, owed a lot of money to the underworld as a result of his Chicago trading losses and that he had been putting them off by telling them he was expecting a lot of money from Levin. Defendant wanted Levin to believe that he, defendant, also would be in trouble if he did not get the money from Levin. Defendant believed that the appearance of Pittman, an enormous black man holding a gun who was unknown to Levin, would make the scenario work.

The date of June 6th was chosen because Levin was due to leave for New York the next morning. Defendant wanted to make it look like Levin had left on his trip, so that his disappearance would take longer to discover.

Defendant's plan first called for preparing the BBC in advance to believe that defendant and Levin were going to get involved in a business venture so that the BBC would not be surprised when it received money from Levin. Defendant drafted letters to leave in a file he planned to create at Levin's apartment to make it look like he and Levin were involved in a

^{2/} When Pittman was arrested on October 22, 1984, he was carrying a gym bag full of books with titles like, "The Hitman, A Technical Manual for Independent Contractors" and "The Black Bag Owner's Manual, Part 2, The Hit Parade," and "Survival in the Slammer."

business transaction. According to Karny, defendant believed such letters would deflect suspicion from defendant, and in the event of a trial, that such letters would create a "reasonable doubt." Defendant also drafted an options contract between Levin and Microgenisis, one of the BBC companies, purporting to be the basis for the money defendant would receive from Levin. The amount of the option was left blank. Defendant would decide the amount of the option after he got to Levin's house when he determined how much money Levin had to transfer.

Defendant set forth his plan to kill Levin in a seven page outline of lists of things to do and reviewed the lists with Karny.^{10/} Defendant explained some of the more cryptic items on the lists to Karny, such as one item that read, "Levin his situation." That meant defendant was going to explain to Levin his situation in such a way as to cause Levin to believe he was going to survive the ordeal on the theory that Levin would cooperate in signing the documents if Levin thought he was not going to be killed. An item reading, "kill dog (emphasis)," was in the event Levin would not cooperate.

^{10/} Defendant's management style was to give his people lists of things to do. Everything was organized in list format.

Anyone who knew Levin knew that he really loved his dog. If Levin failed to cooperate, defendant planned to kill Levin's dog in such a grotesque way that Levin would be shaken up and more inclined to cooperate.

Another item on the list was "Jim digs pit."

Defendant told Karny that Pittman was up in Soledad Canyon digging a pit to take Levin to after he was killed. Defendant had been helping Pittman dig the pit the day before and complained the ground was really hard.^{11/}

Items such as "get alarm code," "pack a suitcase," and "keys" were to make it look like Levin had left for his New York trip. Defendant was going to keep the keys in case he needed to return. Pittman was to go to New York and leave some of Levin's identification in a bar or an alley so that if anyone ever suspected that Levin had met with foul play, it would appear that it happened in New York rather than in Los Angeles.

Defendant's list reminded him to "create a file" so that people would draw the conclusion that there had been an

^{11/} Defendant had grown up around the Soledad Canyon area and knew it well. He had once taken Tom May there for some target shooting and had told May you could hide anything up there and no one would ever find it.

actual business transaction between him and Levin. Also on the list was a page entitled "at Levin's to do" with notes to "'close blinds, . . . ' [¶] [t]ape mouth, handcuff, put gloves on, . . . have Levin sign agreements and fill in blanks, Zerox everything so he has copies, initialed copies.'" ^{12/}

Defendant arranged his alibi in advance by telling Karny to take defendant's girlfriend, Brooke Roberts, and Jeff Raymond to the movies on the night of June 6th so that later they could say defendant was with them. ^{13/}

^{12/} Defendant even thought to make a note to "take holes with you" reminding him to take the paper caused by punching holes in documents. Karny thought that was a "nifty touch." The list was found by Levin's father in Levin's apartment and turned over to the police. The lists were in defendant's handwriting and contained both defendant's and Karny's fingerprints.

^{13/} Roberts, testifying on behalf of defendant, confirmed that on June 6, she had gone to the movies with Karny, Raymond and Raymond's girlfriend, Renee. Defendant was having dinner with Levin to discuss a business deal and was supposed to get some money from him. However, defendant was already home, in his robe, and brushing his teeth when she got home from the movies at about 10 p.m. (It takes about one and one-quarter to one and one-half hour to travel from Beverly Hills to Soledad Canyon.) Defendant was excited about the check he had gotten from Levin and they called Roberts' mother to tell her about it. Mrs. Roberts remembered receiving such a call about that time but could not remember the date of the call.

At 7 a.m. on the morning on June 7, 1984, defendant awakened Karny and told Karny he had done it, that Levin was dead. He showed him a check for \$1.5 million and the contract signed by Levin. Defendant was so excited about the check and contract he also woke up Jeff Raymond to show them to him. Defendant told Raymond that Levin was leaving for New York that very morning to see some Arab investors who wanted to buy the option. Then he went by Tom May's and showed him the check and contract and when he arrived at the office, he made copies of the check which he distributed to the BBC members.

Three days later, defendant met with Gene Browning, the inventor of a cyclotron, which was the subject of the option agreement defendant forced Levin to sign on June 6. Browning expressed concern about the capacity of the cyclotron to perform some of the processes called for in the contract. Defendant told Browning that was no particular problem because "Levin was missing and probably dead."

A few days later and in subsequent conversations, defendant described Levin's murder in detail to Karny. Defendant had picked up some take-out food from a restaurant and took it to Levin's house. Pittman arrived just as planned, pulled a gun on Levin, and Levin immediately said, "'I will do anything you want.'" Defendant told Karny he did not have to kill the dog because Levin cooperated so quickly. Defendant told Levin his mafia story and asked Levin how much money he

could be sure would clear his account. Levin said about "a million seven." Defendant decided to have Levin sign a check for "a million five," just to make sure the check would clear.

Defendant described how he was trying to get some other assets from Levin as well, but Pittman messed up his role of mafia enforcer. After getting the check signed, Defendant turned to Pittman and said, "'Is that enough?'" Pittman was supposed to say, "'No. What else have you got?'" But instead, Pittman said, "'Yeah, that's fine.'" Defendant got upset that Pittman had blown it and Levin started to whimper because he had given up the possibility that he was going to survive. When defendant tried to get Levin to tell him the alarm code Levin was so scared and nervous he could not remember the sequence and it turned out to be wrong.

They took Levin into the bedroom, put him face down on his bed and, with a silencer attached to a .25 caliber pistol, Pittman shot Levin in the back of the head. Defendant described to Karny the sounds of Levin's last breath leaving his body. It was kind of like an explosive gasp. The blood started seeping out, so they quickly wrapped Levin in the bedspread. By accident they also wrapped the television remote control in the bedspread and took it with them. They carried Levin's body out to the car and put him in the trunk. Levin's body was heavy, they were exhausted and, in their haste to get

the trunk closed, they closed part of the lid on his body and dented the trunk lid.

Levin's body was taken to the pit in Soledad Canyon. When they put Levin's body in the pit, defendant disfigured it by shooting the body so many times with a shotgun that it would not be recognizable even if it was found. Defendant told this tale to Karny in a matter-of-fact manner without any emotion other than laughing when he told Karny how, at one point, Levin's brain jumped out of his skull and landed on defendant's chest.

Defendant thought that was "kind of neat in a weird way."^{14/} Levin's distinctive watch was thrown down a storm drain because it could be traced to Levin through his special jeweler.

Levin was discovered missing early in the morning on June 7, 1984. Blanche Sturkey, Levin's housekeeper and "girl Friday" was to pick Levin up at 7 a.m. that morning to drive him to the airport. She called Levin at 6 a.m. to make sure he was up. Levin did not answer the phone. Dean Factor and

^{14/} In mid-July 1984, defendant left a heavy cotton topcoat at Dicker's house. Defendant told Dicker it had Ron Levin's brains smeared on it. Dicker did not see any bloodstains on the coat, but when he reacted in disgust, defendant assured him it had been dry cleaned.

Michael Broder, who were travelling to New York with Levin, arrived at Levin's house at approximately 7 a.m. and were worried because Levin was not there. Levin's blinds were closed, his alarm was not on which was very unusual, and his dog was acting peculiarly. When Sturkey arrived, she let them in with her key.

Sturkey, Factor and Broder searched the empty house and were puzzled by what they found. They thought it would have been very unusual for Levin to make plans and not show up. Levin's airline tickets and his new Luis Vuitton luggage were still in the house. A black toiletries case with which he always travelled was still in the linen closet. One of the pillows, a sheet, and the bedspread from Levin's bed were missing. His bed had been remade with a guest-room comforter Levin never used on his own bed. The television remote control was missing, the dog was acting queer and had urinated in the house, take-out food cartons with only a few bites missing were left out, the jogging suit and robe Levin had been wearing the day before was missing but none of his other clothes were missing. His wallet, house and car keys were gone, but his car

was still in the carport. Perhaps most peculiar, Levin had not called his answering service for messages.^{15/}

Levin's mother was called to the house and Factor and Broder went to the Beverly Hills Police Station and told a detective that they suspected Levin had been murdered. They were told that unless there was blood on the walls, there was no reason to suspect murder and there was really nothing they could do.^{16/}

Nevertheless, things were no longer going according to plan. Pittman left for New York as planned and checked into the Plaza Hotel on June 7th in Levin's name. But when he tried to pay his bill with Levin's credit cards, they were rejected.

^{15/} According to Tere Tereba who had known Levin since 1971 or 1972, Levin was constantly calling in for messages. Levin carried a beeper and would even run out of movies or leave the table at a restaurant to get his phone messages. Jerry Stone ran Levin's answering service and testified that Levin's messages began accumulating at 9 p.m. on June 6, 1984. Among the accumulated messages were four from defendant to Levin. Defendant told May he was calling Levin's answering service on a daily basis to keep up appearances.

^{16/} The coroner explained that bloodstains would be minimal if a person was placed face down and shot in the back of the head with a small caliber pistol such as a .25 caliber. A small caliber bullet would remain inside the head and a silencer causes the gun to create a smaller entry wound. A pillow placed between the head and gun also decreases the size of the wound and soaks up blood.

Pittman tried to sneak out of the hotel without paying the bill but was caught and arrested.

Defendant flew to New York and walked up to a criminal defense lawyer, Robert Ferraro, on the "stoop of the courthouse." Defendant told Ferraro he had a friend named Ron Levin whom he wanted to get out of jail. Defendant handed Ferraro a fee of \$700, plus \$2000 for "Levin" when he was released and \$2000 for the Plaza Hotel, all in cash.^{17/} Defendant then flew on to London to stall making a payment to some investors.^{18/} When he returned, defendant learned Levin's check for \$1.5 million was no good and he was hysterical.^{19/}

^{17/} Pittman was released and ordered back for trial on August 14th. He failed to appear and a bench warrant was issued.

^{18/} Telephone records, travelling receipts and defendant's passport seized from the BBC office verified a call from the New York Police Station and defendant's and Pittman's trips.

^{19/} Defendant had opened an account at the World Trade Bank in an effort to expedite the cashing of Levin's check which was drawn on a Swiss bank account. Nabil Abifadel, the operations manager of the World Trade Bank, submitted the check to Credit Suisse in Zurich on June 8. On June 15, he received a telex from Credit Suisse stating the check was dishonored due to insufficient funds and a missing signature. Pittman arranged to have Levin's Swiss bank send new checks to Levin's post office box and defendant, Karny and Dosti practiced forging Levin's name. They took turns checking the mail box with the key taken from Levin but no checks were obtained. Defendant also gave Pittman \$30,000 and sent him to Washington D.C. to see if Pittman could get the check cashed through his "underworld connections."

Roberts found defendant laying face down on his bed crying. Defendant told her he was upset because all of the BBC boys were going to laugh at him and he did not know what to do. He told Roberts he had called Levin on the phone and driven by Levin's house and could not get a hold of him.

The pressure was increasing for money in the group. BBC members kept asking defendant, Karny and Dosti why the projects they were working on were not being funded and the reason for other cutbacks. Karny thought the organization and cohesiveness of the BBC was starting to fall apart and felt uncomfortable about deceiving his friends in the BBC. Karny told defendant that if the members really understood what they were trying to accomplish and the principles of the paradox philosophy, that they also would be able to understand the killing of Levin. It was agreed that a special meeting of the BBC would be called and only those members with a sufficient orientation in the paradox philosophy would be invited to attend.

Prior to the meeting, May asked defendant what was going on. Defendant replied: "'Look, Tom, you are going to find out sooner or later. I killed Ron Levin.'" Defendant told May he had committed the "perfect crime," and that he had killed Levin in New York. May thought this was just another

one of defendant's lies until he attended the secret meeting of the BBC and heard defendant tell everyone he had killed Levin.

The meeting was held on June 24. Evan Dicker, Tom May, Steve Taglianetti, Dean Karny and Brooke Roberts were present and described the meeting. Defendant explained to the group, which also included Pittman, Dosti, and John Allen, that none of the BBC companies was doing well financially and there was no money left. He discussed great wealth and the need to acquire it and to protect it, and that to achieve greatness in the world, you must sometimes transgress the law. The BBC was going to take bold steps. Those who were unwilling to take the steps could remain with the BBC in some position of mediocrity, but they would never be able to achieve greatness. Defendant was going to discuss some sensitive things. Anyone could leave at that point in the meeting, but if they remained they would have to be responsible and "disciplined" about what they heard. No one left.

Defendant, Karny, Dosti and Pittman exited the room and were gone for a few minutes. According to Karny, during that time they discussed whether they should actually tell the others about the Levin killing. Defendant, Karny and Dosti were committed to sharing it with the others, but Pittman had reservations. Pittman believed that no one could be trusted

with that information and that someone would always talk. Eventually, Pittman came around. Karny and Dosti returned to the meeting and were joined by defendant and Pittman a couple of minutes later.

Defendant told the group, "'Jim and I knocked off Ron Levin.'" 20/ Defendant explained that all of their money had been lost and that in order for the BBC to survive, he had to do away with Levin. Defendant assured the group that "it was a perfect crime" and "'there is no way in which we would be caught.'" Defendant still held out some possibility that they were going to be able to get Levin's check cashed, 21/ they

20/ Roberts testified she had overheard defendant and Karny making plans for the June 24 meeting. She heard Karny suggest that they tell the BBC that one of them had killed Levin. They finally settled on saying that defendant and Pittman had done the killing and to make it sound believable they would make up details. Roberts said she told defendant not to make up something like that, but defendant told her not to worry. Defendant had learned that the Mays or Raymond were going to steal the cyclotron machines, he did not want to lose the business, he could pay the money back through another deal, and so he was just going to say it for effect.

21/ Dicker knew Levin's business practices and wondered how defendant got Levin to give the BBC a check for \$1.5 million. About a week after the meeting Dicker questioned defendant about the check. Defendant said the check was signed under a great deal of duress. Dicker asked defendant what he had done with Levin's body. Defendant replied that he had disposed of it with acid. Raymond also questioned defendant about his worries. Defendant told Raymond, "'Well, don't worry because it was a perfect crime . . . [¶] they will never find the body.'"

still had some money and resources and a lot of good projects, and they would get back on their feet if everyone stayed together and worked hard. Before the meeting broke up, defendant threatened that if anybody talked to the police they would end up in the East River and become "fish bait." 22/

Notwithstanding that threat, Pittman had been right when he said someone would talk. The next day, Taglianetti resigned from the BBC and called his father and told him what he had learned. Then he called David and Tom May and learned they also had told their father. Raymond moved out of the BBC apartment house. He also called David May and told him defendant had said he killed Levin and arranged a meeting with the Mays. Tom May collected copies of the Levin check and

22/ Roberts heard defendant tell the group that he and Pittman had "knocked off Levin." She thought all the boys, with the exception of Pittman, were enthusiastic. After the meeting, Pittman said to Roberts, "'You know, we didn't do that.'" Roberts assured Pittman she knew they had not done it and he replied, "'I don't think they believed us anyway'" and Roberts agreed. When Roberts was asked by Detective Leslie Zoeller if there had been a meeting where defendant had said he killed Levin, Roberts had lied to him and said no, because she was scared to death of the police. When she was questioned, about 20 policemen had arrived at her house, awakened her, refused to allow her any phone calls, and threatened to arrest her.

contract and other documents to turn over to the police. It was agreed that the Mays would report the matter to the police through their attorney.^{23/}

Defendant became suspicious that someone was talking to the police. He confirmed it by breaking into David May's apartment where he heard a message from Detective Zoeller on the answering machine.^{24/} Defendant confronted the Mays and Raymond with this information and demanded that they call the

^{23/} Dicker did not go to the police because of his loyalty to defendant and his belief in the paradox philosophy. Later he lied to the police and told them defendant had never told him about the Levin murder because he was afraid he might be considered an accessory after the fact. Finally, in November and December 1984, Dicker contacted an attorney and the police. Steve Lopez, who was not at the meeting, heard that defendant had told the BBC members he had killed Levin. Defendant admitted to Lopez he had said as much, but only to provoke a response to see how they would react and to make himself look like a tough guy. Lopez discontinued his involvement with the BBC.

^{24/} Defendant decided to blame the murder on David May or Jeff Raymond and discussed different schemes with Karny and Dicker. One scheme called for saying that David May had borrowed the BMW which had been used to transport Levin's body and had returned it late with the smell of vomit and the remote control in the back. They also discussed framing Raymond by planting the remote control on him, killing Raymond's girlfriend in a sexually gruesome way, telling people Raymond had disgusting sexual habits and getting defendant's girlfriend, Brooke Roberts to lie and say Raymond had sexually attacked her. But no one wanted to have anything to do with that plan.

police and say they had lied. Defendant also told them he had the pink slips to their cars and would exchange them for the documents they had given to the police. When they explained that was impossible, defendant threatened "to declare war" on them.^{25/} Nevertheless, Tom May continued working with the police by removing documents from the BBC office and turning them over to the police.

Detective Zoeller of the Beverly Hills Police Department arrested defendant on September 28, 1984.^{26/} Defendant waived his constitutional rights and responded to a number of the detective's questions about his financial dealings with Levin. Defendant appeared very confident and very sure of himself until Detective Zoeller confronted him with the seven pages of "things to do" which had been found at Levin's house. Defendant immediately stopped talking and went

^{25/} Defendant also told the Mays they were no longer BBC members, "much to [Tom May's] chagrin." To Raymond, defendant said that Levin was a very dear friend of his (defendant's) and he was really upset that he was missing. Defendant expressed the wish that Levin would be found and Raymond was not to say anything about defendant's "dear friend Levin." Defendant warned Raymond that "the D.A. doesn't make very much money and it would be very easy to persuade him to make it look like you (Raymond) might have something to do with Ron Levin's being missing."

^{26/} Defendant's briefcase was in his possession at the time of his arrest. When it was opened pursuant to a warrant, it revealed that, although over three months had passed since anyone had heard from Levin, defendant was still carrying around an original of the Levin option contract dated June 6, 1984.

through the lists over and over, page by page, forwards and backwards, for seven to ten minutes without speaking.

Detective Zoeller then asked defendant for the second time what he knew about the lists. Defendant stated, "I don't know anything about these," and the interview ended.

Defendant called Karny from the Beverly Hills jail and reminded him of the significance of the alibi they had arranged about going to the movies on June 6. After defendant was released from jail, defendant admitted to Karny how very surprised and shocked he was to see the lists, but he believed he had managed to mask his reaction. Thereafter, defendant and Karny had frequent discussions about the fake trail they had laid with regard to the crime, how brilliantly conceived and detailed their crime plan was and that if even a few of the BBC stuck to the story, a reasonable doubt would be created in the minds of the jury.^{27/} Defendant expressed the belief that, because he had been released from jail, even the lists did not constitute sufficient evidence to prove the case against him.^{28/}

^{27/} Defendant particularly enjoyed telling Detective Zoeller that he had not done very good police work.

^{28/} Defendant was rearrested on October 22, 1984, and once again called Karny from the jail, this time to remind Karny that whether Karny liked it or not he was going to be involved with the testimony. Karny was warned to remember there was no meeting on June 24.

The lists contained a rough but inaccurate map of what appeared to be the Indian Canyon area of Soledad Canyon. Photographs of that area containing defendant's picture had also been seized from Pittman's residence. On October 19, 1984, Detective Zoeller drove up to Indian Canyon with Taglianetti and Tom May to look for Levin's body. Later, Zoeller made three or four more trips to the area in an unsuccessful effort to locate Levin's remains.

Defendant told Karyn around the end of June that he had gone back to Soledad Canyon to see if the coyotes had dug up the body. Defendant found no trace of it.

The Department of Justice Missing Persons Unit did an investigation which included comparing Levin's "unique" dental records with unidentified deceased persons. They searched his Department of Motor Vehicles record and his criminal record. They found no trace of Levin either. At the time he disappeared, Levin left thousands of dollars in various bank accounts. Levin had purchased \$25,000 in traveler's checks before he disappeared. He had paid off debts with some of the checks and deposited \$10,000 of them in a Bank of America account. Thirty of those checks totalling \$3,000 were never cashed. Other than earning interest, there was no activity on any of Levin's accounts after June 6, 1984.

Levin's mother never heard from him again after June 6 even though Levin loved her dearly and had never let a day go by without talking to her. Levin's body was never found and Levin was never heard from again.^{29/}

^{29/} In September 1986, two people believed they saw Levin at a gas station in Tucson, Arizona. Carmen Canchola and Jesus Lopez pulled into the gas station and noticed a tall, attractive, older man pumping gas. The man was about six foot one, slender, with silver hair. His eyes were blue-gray and he had either a scar or a deep wrinkle on one side of one of his eyes. The man had a "mean" or "piercing" stare. He was wearing very nice, expensive looking clothes. He was with a man who was 15 to 20 years younger. The men appeared to be homosexuals. They drove off in a late '50's, early '60's silverish or pinkish-beige classic automobile. On November 20, 1986, Canchola saw a sketch of Levin in an Esquire magazine article about the "Billionaire Boys Club." She thought he looked familiar and after reading a description of Levin in the article, she came to believe it was Levin she saw in the gas station and went to the police.

Canchola was shown a photographic line-up and selected Levin's picture but was somewhat uncertain. When shown another line-up containing a photograph of Levin without a beard, she was 99 percent sure it was the person she had seen in the gas station. Lopez also selected a picture of Levin from the photographic lineup and was 65 percent sure it was the person he had seen in the gas station. When shown a second photograph of Levin by defense counsel he was 95 percent certain it was the man he had seen at the gas station.

III. DISCUSSION

A. COURT IMPOSED LIMITATIONS ON COCOUNSEL

The defendant's privately retained attorneys were both appointed to represent him at his trial when he was unable to pay their fee. Defendant claims that the court interfered with the sanctity of the attorney-client relationship when, as a condition of appointing and paying at government expense his lead attorney, the court simultaneously imposed limitations on his cocounsel's role and compensation. These limitations, he claims, deprived him of his constitutional right to counsel.

We set forth the factual circumstances leading to the appointment of defendant's lawyers as they are necessary to a full understanding of why we find that defendant's contentions are without merit.

Defendant had retained attorney Arthur Barens in March 1985 to represent him at trial for an agreed-upon fee of \$50,000 plus expenses. Barens brought in attorney Richard Chier to assist him and paid for his assistance out of this fee. By October 1985, defendant had paid only \$35,000 of the fee and, when no further funds were forthcoming, Barens filed

a motion pursuant to section 987, subdivision (d) for the appointment of Chier as associate counsel.^{30/}

In support of his motion, Barens submitted a declaration in which he explained that he bore the primary responsibility for preparing the defense and in that regard had reviewed a tremendous number of reports and other documentation pertaining to the case, consulted with the defendant, interviewed witnesses, researched points of law and spoken with other attorneys experienced in the defense of capital cases. Barens needed the assistance of Chier, a criminal law specialist who had been practicing for eighteen years in the following areas: the analyses of numerous complex factual and legal issues, assistance in preparing defenses to other crimes evidence which the People intended to offer pursuant to

^{30/} Section 987(d) provides: "In a capital case, the court may appoint an additional attorney as a cocounsel upon a written request of the first attorney appointed. The request shall be supported by an affidavit of the first attorney setting forth in detail the reasons why a second attorney should be appointed. Any affidavit filed with the court shall be confidential and privileged. The court shall appoint a second attorney when it is convinced by the reasons stated in the affidavit that the appointment is necessary to provide the defendant with effective representation. If the request is denied, the court shall state on the record its reasons for denial of the request."

Evidence Code section 1101; evaluation of reports of statements of prosecution witnesses and follow-up interviews; interviewing defense witnesses, and organizing their prospective testimony; reviewing and organizing the testimony from the Pittman trial;^{31/} evaluating the complex evidentiary issues including corpus delicti issues and financial records of defendant's business dealings which provided the alleged motive for murder; preparation of pretrial motions; assistance in evaluating the need for expert testimony; and drafting interlocutory appellate motions in the event of adverse trial rulings.

This motion was granted and Chier was appointed second counsel effective March 1, 1986. Thereafter, the court authorized payments to Chier at a rate of approximately \$50 per hour.^{32/}

^{31/} Pittman also was tried for Levin's murder in a separate proceeding. His trial began on May 8, 1985, and a mistrial was declared as a result of a deadlocked jury on June 24, 1985. Pittman's retrial was then continued until after defendant's trial. Pittman subsequently pleaded guilty on November 10, 1987, to accessory after the fact in violation of section 32.

^{32/} Mr. Barens did not request payment of a specific hourly fee for Mr. Chier nor did the court's order set forth a specific hourly fee. Rather, the order stated that "payment to second counsel be and hereby is authorized as provided by the provisions of Section 987(d) of the Penal Code." However, subdivision (d) of section 987 does not provide for the payment of court appointed counsel. The payment provisions are found in section 987.2 which state that court appointed counsel ". . . shall receive a reasonable sum for compensation and for necessary expenses, the amount of which shall be determined by the court, to be paid out of the general fund of the county."

Jury selection began on November 5, 1986, with both counsel conducting the defense voir dire. Six weeks later, Barens filed a motion pursuant to section 987(d) to have himself appointed as additional counsel effective December 16, 1986. In support of his motion, Barens submitted a declaration in which he explained that the trial of the case was taking far longer than was originally anticipated and the defendant's inability to pay the balance of his fees or expenses was beginning to erode his effectiveness. Barens further declared that a court appointment would tend to ensure his continuing and regular presence throughout the trial and would minimize the number of other court appearances he would have to make during the course of the trial "in order to keep the economic ship of state afloat." 33/

33/ On December 17, 1986, Barens filed another motion requesting that he be appointed as additional counsel, this time pursuant to the provisions of section 987.2. In his declaration in support of this motion, Barens indicated his willingness to accept appointment at whatever rate the court deemed appropriate in accordance with the criteria contained in section 987.3.

Section 987.3 sets forth the following factors the court must consider in determining reasonable compensation for court appointed attorneys, no one of which alone is controlling: "(a) Customary fee in the community for similar services rendered by privately retained counsel to a nonindigent client. [¶] (b) The time and labor required to be spent by the attorney. [¶] (c) The difficulty of the defense. (d) The novelty or uncertainty of the law upon which the decision depended. [¶] (e) The degree of professional ability, skill, and experience called for and exercised in the performance of the services. [¶] (f) The professional character, qualification, and standing of the attorney."

A declaration by Chier was submitted in support of Baren's motion in which he reiterated the need for Barens's appointment and stated that Barens was a well respected member of the bar; was intimately familiar with every aspect of the prosecution; was experienced in defending persons accused of homicide; and had a good working relationship with the district attorney's office.

On January 15, 1987, the court appointed Barens to represent the defendant. Barens' compensation was set at \$75 per hour and Chier's compensation was set at \$35 per hour. ^{34/} In appointing Barens, the court stated it would continue the appointment of Chier but only on one condition. Chier could assist Barens in any way that Barens wanted, with the exception that Chier could not participate actively in the trial of the case by questioning witnesses.

On January 29, 1987, a hearing was held to clarify Chier's role in the proceedings. Barens acknowledged that in seeking his own appointment, he had told the court that he

^{34/} Initially on December 30, 1986, the court had denied Baren's request for court appointment. The subsequent order appointing Barens was ordered entered as of December 16, 1986, nunc pro tunc.

needed a lawyer to help him in connection with the motions and preparation and that he had agreed to the court's limitations on Chier's participation. However, Barens requested reconsideration because the defendant was uncomfortable and had misgivings about not having two lawyers participating in his defense. Barens explained that he and Chier had prepared for trial on the basis of dividing the witnesses each would handle and, in addition, it was Chier who had the majority of contact with the defendant and had prepared the defendant to testify at trial. ^{35/}

The court found that the presumption in a death penalty case that second counsel was required had been overcome by Barens' experience and capability. The court further found

^{35/} In his written motion for clarification of the nature and extent of the participation the court intended to permit Chier during the trial, Barens informed the court that he, Chier and the defendant had been working together in harmony, with efficiency, and with specific divisions of labor. It had been agreed between them that Chier would handle all legal motions, legal objections, and other matters of law as well as examination and cross-examination of certain witnesses. Barens expressed apprehension that the court had circumscribed Chier's participation in the trial and thus defendant was being denied the effective assistance of both trial counsel.

that Chier was not needed; that Barens was fully competent to handle all examinations of witnesses himself; and that Chier's questioning of prospective jurors had antagonized and alienated the jurors and was a disservice to the defendant. Accordingly, the court ruled that Chier could fully assist Barens in all areas including arguing legal issues before the court but he must refrain from questioning witnesses and arguing in the jury's presence. If counsel was not willing to accept such limitations upon Chier, he could try the case without compensation from the county or state. Barens declined that alternative. 36/

If a criminal defendant is unable to employ private counsel, the court must appoint an attorney to represent him. (Gideon v. Wainwright (1963) 372 U.S. 335; Keenan v. Superior Court (1982) 31 Cal.3d 424, 428.) In a capital case, the right to counsel may include the appointment of an additional attorney as cocounsel when the court "is convinced...that the appointment is necessary to provide the defendant with

36/ A petition for an emergency stay and writ of mandate to direct the court to permit Chier to fully participate as cocounsel was denied by the Court of Appeal on February 2, 1987. On that same date the jury was impaneled and the prosecution's first witness was called. Counsel's petition for review to the Supreme Court was denied on February 19, 1987.

effective representation." (§ 987, subd. (d).) The appointment of two attorneys is not an absolute right, however, and the decision as to whether an additional attorney should be appointed remains within the sound discretion of the trial court. (Keenan v. Superior Court, *supra*, 31 Cal.3d at p. 430; Seaman v. Superior Court (1987) 193 Cal.App.3d 1279, 1286.)

Once a trial court has found the requested services are not reasonably necessary, an appellate court will not second-guess that determination unless "the circumstances shown compelled the [trial] court to exercise its discretion only in one way, namely, to grant the motion." (Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 323; Puett v. Superior Court (1979) 96 Cal.App.3d 96 Cal.App.3d 936, 938-939.)

As will be shown, it can not be said as a matter of law that the only decision open to the trial court was to permit cocounsel to question witnesses and argue the case before the jury in the guilt phase of the trial.^{37/} Rather, the law clearly provides that "[t]he court shall appoint a second attorney [only] when it is convinced by the reasons stated in the affidavit that the appointment is necessary to

^{37/} The court placed no limitation upon Chier with respect to the examination of witnesses at the penalty phase. Yet, Chier cross-examined only 5 of the 25 prosecution witnesses and presented the direct testimony of only 3 of the 11 defense witnesses.

provide the defendant with effective representation." (§ 987, subd. (d), emphasis added.) The court appointed cocounsel to provide, and Chier subsequently provided, exactly the assistance requested by Barens in his affidavit. Barens neither requested nor indicated in his affidavit that he needed Chier to assist him in examining witnesses or to argue the case.

Contrary to defendant's assertion and, whether or not on "the eve of trial," a court is not required to expand the duties of cocounsel beyond that set forth in lead counsel's^{38/} affidavit because counsel have taken it upon themselves, without court authorization, to privately add to or divide their respective duties in a manner inconsistent with the affidavit upon which the court relied in appointing second counsel. Nor is the fact that defendant is "uncomfortable or has misgivings" a sufficient ground for expanding counsel's

^{38/} Counsel on appeal points to the order appointing Barens which is denominated "Order Appointing Second Counsel" as an indication Barens was not the lead attorney. Clearly, Barens was the lead counsel in this case. He was the attorney originally retained by defendant in March 1985. He was the attorney who represented defendant at his preliminary hearing. He was the attorney who paid for the services of Chier until the money ran out. He was the attorney who requested the court appoint Chier as his assistant in February 1986. That he also sought appointment from the court as a result of defendant's continued indigency some 10 months after Chier was appointed did not change his status to second counsel.

duties. (§ 987, subd. (d); see e.g. Seaman v. Superior Court, supra, 193 Cal.App.3d at p. 1289, [no abuse of discretion in refusing to appoint cocounsel where attorney fails to accompany written request with an affidavit setting forth in detail why cocounsel should be appointed].)

Another area not included in Barens' application for the appointment of cocounsel was a request for the assistance of cocounsel in questioning prospective jurors. However, Chier actively participated in Hovey^{39/} voir dire and it was during that phase of the proceedings that the trial court formed the conclusion that Chier's assistance in open court before the jurors was unnecessary and possibly harmful to the defense. For example, the court found fault with Chier's repetitive questioning of a prospective juror as to how he would consider age in determining penalty.

A trial judge has a duty to control the trial proceedings and may intervene if it appears that defense counsel is making serious mistakes or exceeding reasonable limits in conducting voir dire. (§ 1044; People v. Williams (1981) 29 Cal.3d 392, 408; People v. Garcia (1986) 183

^{39/} That portion of the examination of prospective jurors which seeks to uncover their attitudes toward the death penalty is commonly called Hovey voir dire. (Hovey v. Superior Court (1980) 28 Cal.3d 1)

Cal.App.3d 335, 344-345; People v. Blackburn (1982) 139 Cal.App.3d 761, 764-765; Smith v. Superior Court, supra, at p. 560.)

In People v. Stroble (1951) 36 Cal.2d 615 the trial judge believed that one of the defendant's two lawyers acted improperly during jury voir dire and also believed that certain conduct in preparing the defense and in releasing information about it was improper. The court ordered a third public defender who was familiar with the case to handle the remainder of the trial even though the relieved public defender was the only one who had interviewed the defendant. (Id. at p. 628) The Stroble court rejected defendant's contention that his right to counsel of his choice was violated because the only public defender whom defendant had come to know personally and in whom defendant had confidence had been relieved. The court held that defendant's right to counsel does not include the right to be represented by a particular deputy public defender and the record did not sustain his charge that thereafter he was not properly and adequately represented. (Id. at p. 629) As in Stroble, no abuse of discretion occurred herein. It is clear that the court acted upon its observations of Chier and

not arbitrarily or capriciously in refusing to expand Chier's role to include handling matters before the jury.

Nor did the court abuse its discretion in allocating the fee to be paid each attorney based upon their respective duties. When subdivision (d) of section 987 was added to the Penal Code in 1984 granting the court the discretion to appoint an additional attorney in a capital case, the Legislature indicated its recognition that "the rising costs of trials necessitate the implementation of guidelines which assure the defendant's right to adequate and effective representation, but do not place an unreasonable burden on the county treasury. Therefore, it is the intent of the Legislature in amending Section 987 of the Penal Code to provide additional counsel when the need for that counsel is appropriately documented to the court." (Stats. 1984, ch. 1109, § 4, p. 3736.)

Neither counsel requested or specified that a specific minimum hourly fee was required in order to keep the "economic ship of state afloat." Nor did either object to the fee schedule as such in their arguments to the trial court or to the appellate courts until the conclusion of the case. Altogether, the defense team received well over \$100,000 in fees for the guilt phase of the trial which was more than

double Barons' original retainer agreement with defendant.^{40/}
We find no abuse of discretion under these circumstances.

Defendant's argument that the court's limitations on Chier also denied him his statutory right under section 1095 to have both attorneys argue his case to the jury is not the law. Section 1095 provides: "If the offense charged is punishable with death, two counsel on each side may argue the cause. In any other case, the court may, in its discretion, restrict the argument to one counsel on each side." Notably, section 1095 ". . . does not give the defendant in a capital case the right to have more than one counsel appointed to represent him, but merely allows a defendant who has retained multiple counsel the right to have at least two of them argue the case.'" (People v. Jackson (1980) 28 Cal.3d 264, 286, emphasis added; People v. Natale (1962) 199 Cal.App.2d 153, 157; see also Keenan v. Superior Court, supra, 31 Cal.3d at p. 429.)

^{40/} The record reveals that at the conclusion of the case, Chier sought and was granted an augmentation of the payments he had been receiving. Thus, he received a total of \$39,505 from the county for services he rendered between November 4, 1986 and March 31, 1987. In addition, the county paid him \$7800 for services prior to that time. Barons received \$35,000 from defendant, an unknown amount of which he shared with Chier. The county paid Barons another \$22,000 in fees pursuant to his court appointment for the guilt phase only.

In People v. Bonin (1988) 46 Cal.3d 659, the court found no constitutional or prejudicial error when one of the defendant's attorneys, who had assumed the "primary defense responsibilities" was erroneously precluded from participating in final argument. According to the court, "the federal and state Constitutions impliedly grant the criminal defendant the right to have defense counsel present closing argument, not each member of the defense team." (Id. at p. 694, emphasis in original.) Thus, this contention is also without merit.

B. CONFLICT OF INTEREST

Defendant also asserts that Barens' fee arrangement was negotiated without his knowledge or the knowledge or agreement of Chier and that it caused a conflict of interest between his two attorneys and himself which, in turn, led to a denial of his right to the effective assistance of counsel.

The Supreme Court recently restated the general principles applicable to a claim of conflict of interest in two cases, People v. Hardy (1992) 2 Cal.4th 86, 135 and People v. Jones (1991) 53 Cal.3d 1115, 1133-1134 as follows:

"Under the federal and state Constitutions, a criminal defendant has the right to the assistance of counsel. (U.S.

Const., 6th Amend.; Cal. Const., art. I, § 15.) These constitutional guarantees entitle a defendant "not to some bare assistance but rather to effective assistance." [Citation, italics in original.] That entitlement includes the right to representation that is free from conflicts of interest. [Citations.] It applies to a defendant who retains his own counsel as well as to a defendant who is represented by appointed counsel. [Citations.] [¶] "[W]hen counsel is burdened by an actual conflict of interest, prejudice is presumed; the presumption arises, however, "only if the defendant demonstrates that counsel 'actively represented conflicting interests' and that 'an actual conflict of interest adversely affected his lawyer's performance.'" [Citations.] [¶] 'Conflicts of interest may arise in various factual settings. Broadly, they "embrace all situations in which an attorney's loyalty to, or efforts on behalf of, a client are threatened by his responsibilities to another client or a third person or by his own interests.'" [Citations.]" (People v. Hardy, supra, 2 Cal.4th at p. 135; original italics.)

A threat to an attorney's personal interests may arise when the trial judge appoints an attorney to represent a criminal defendant as the judge possesses a potential power to exert strong pressures against the independent judgment of the lawyer. (Wood v. Georgia (1980) 450 U.S. 261, 270 fn. 17.) This occurred in Walberg v. Israel (7th Cir. 1985) 766 F.2d

1071, where the trial judge threatened not to pay the defendant's court-appointed attorney and implied that counsel's future appointments would be jeopardized if he was not on his best behavior which meant not just avoiding unethical conduct but also not pressing too hard during trial. (Id. at p. 1074.) The judge's threats appreciably reduced the likelihood that the attorney would conduct a vigorous defense. Thus, the attorney had a conflict of interest, not between two clients but between his client and himself. (Id. at p. 1076.)

Defendant compares his case to that in Walberg. However, unlike the Walberg case, the judge in this case did not threaten or pressure defense counsel into not presenting a vigorous defense. Rather, the judge believed that Barens was highly competent and able to examine all witnesses without the assistance of Chier. Thus, the court implicitly found no need for Barens to change the stratagem he had originally declared was necessary to effectively represent the defendant when he sought Chier's appointment.

Nevertheless, when, 10 months later, counsel had changed their strategy and prepared their case based upon the assumption that Chier would be allowed to examine certain witnesses, including the defendant, and then learned such was not to be the case if they wished to retain their court appointments and concomitant compensation, counsel were faced with a potential conflict between their personal interests and

that of their client. Should they forego compensation and proceed to trial based upon Chier's having prepared to examine certain witnesses? Or would that choice lead to the risk that in order to earn money counsel would have to take other cases and consequently spend less time on the defendant's case? Would the defendant then be faced with the risk that he would "'get what he paid for.'" ^{41/} (People v. Ortiz (1990) 51 Cal.3d 975, 985; People v. Castillo, supra, 233 Cal.App.3d at p. 63.)

This is not a case where it can be said as a matter of law that by accepting the court appointment Barens had an actual conflict. (See e.g. People v. Easley (1988) 46 Cal.3d 712, 724-725.) "It is a relatively common practice to appoint a retained attorney to represent a client when the client has become indigent and, for that reason, unable to pay the attorney's fees, and the public defender is not available." (People v. Castillo, supra, 233 Cal.App.3d at p. 57, citing

^{41/} This was no longer a situation where counsel could make a motion to withdraw as counsel of record. Usually, "[w]here, in a litigation matter, a retainer agreement calls for an attorney to be paid particular amounts at specified times, and there is a failure to pay when due, the attorney has a remedy; it is to ask to be relieved from the duty of further representation of the client. (Code Civ. Proc., § 284, subd. 1.)" (People v. Castillo (1991) 233 Cal.App.3d 36, 63-55, fn. omitted; Smith v. Superior Court, supra, 68 Cal.2d at p. 558.) However, a motion to withdraw as counsel must be "timely made before the case is set for trial" and will be denied where withdrawal would prejudice the defendant, the prosecution or the smooth course of the administration of justice." (People v. Murphy (1973) 35 Cal.App.3d 905, 921.)

People v. Ortiz, supra, 51 Cal.3d at p. 989; Cal. Criminal Defense Practice (1991) Criminal Justice System, § 1.12[3], p. 1-30.) If counsel believed his ability to competently represent defendant was going to be jeopardized because of the conditions set by the court, his remedy was to seek interim appellate review of the appointment order. (People v. Castillo, supra, 233 Cal.App.3d at pp. 55-57.)

One of the duties for which Chier was appointed was to draft interlocutory appellate motions in the event of adverse trial rulings. Chier fulfilled that duty by filing an emergency petition for a peremptory writ and/or writ of mandate in this court complaining that his role had been limited. When his petition was denied, he sought a petition for review of our decision denying his request for a writ. The Supreme Court having denied review and defendant having preserved his point for appeal, his attorneys properly proceeded to trial as ordered by the court.^{42/} (See e.g. In re Jackson (1985) 170

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The Supreme Court asked for and received a "letter response" from the district attorney's office which provided the court with the full record of the hearing as opposed to the selective portions of the hearing provided by Chier. Defendant's argument that Chier's presentation of his claims was "disingenuous" and would have been more effective if Barens had signed the petition is totally lacking in merit. The court was made aware of all the circumstances involving Barens' appointment and if it had found error, the remedy would have been to "annul" the limitations upon Chier by writ of mandate as requested by Chier, not to "annul" the appointment of and payment to Barens.

Cal.App.3d 773, 778; People v. Castillo, supra, 233 Cal.App.3d at p. 55-56.)

Even assuming that Barens' acceptance of the court appointment was an actual conflict of interest, which we do not, such an assumption does not lead inexorably to a reversal. The defendant still bears the burden of demonstrating that such "'conflict of interest adversely affected his lawyer's performance.'" (People v. Hardy, supra, 2 Cal.4th at p. 135; People v. Jones, supra, 53 Cal.3d at p. 1134; People v. Bonin, supra, 47 Cal.3d at p. 837-838; Strickland v. Washington, (1984) 466 U.S. 668, 692; Cuyler v. Sullivan (1980) 446 U.S. 335, 348.)

Thus, defendant "must show that counsel's representation fell below an objective standard of reasonableness under prevailing professional norms." (People v. Thomas (1992) 2 Cal.4th 489, 530.) Accordingly, we first scrutinize the record to determine if Barens was prepared to examine certain witnesses, i.e. those that Chier would have examined. Secondly, we focus on whether Barens' actual

examination of witnesses was adversely affected by a conflict of interest.^{43/}

The record reflects no lack of preparation. The time in trial before the jury was only four and one-half hours each day, leaving at least three and one-half hours of time before, during, and after the trial day to prepare. According to Barens' own statements, from the time he was appointed on January 15, 1987, until the prosecution rested on March 24, 1987, he worked every Friday, Saturday and Sunday in preparing his cross-examination. When, on the morning of the second day of trial, Barens was faced with a witness he had not originally

^{43/} On appeal, defendant has set forth a list of areas in which he argues counsel's performance was adversely affected by Barens' fear that he would lose his court appointment. Most of his arguments are a challenge to the effectiveness of his attorney's representation which bear no relationship to his attorney's fee arrangement with the court. Only defendant's claims that the examination of certain witnesses and arguments to the jury were adversely affected by the fee arrangement are tested under the conflict of interest standard. Defendant's other challenges to the effectiveness of his counsel's representation must be tested under the traditional standard which requires defendant to "affirmatively prove prejudice." (Strickland v. Washington, *supra*, 466 U.S. at p. 693.)

planned on cross-examining, the court agreed to delay calling that witness until the following afternoon so that counsel could confer with Chier and review the witness' testimony from the Pittman transcripts. In addition, to make sure Barens was prepared, the prosecution thereafter gave counsel 24 hours notice of each witness it planned to call and Chier was present for consultation in and out of the courtroom. Finally, when the prosecution rested on a Tuesday afternoon, Barens asked for only two working days to prepare the defense witnesses. He made it clear that while Chier had interviewed out-of-state defense witnesses, he did not want to rely on Chier's interviews but wanted to interview each witness himself. Instead of two days, the court granted him the rest of the week off to prepare; trial did not reconvene until the following Monday morning.

Given the foregoing factors, it is clear that Barens fulfilled his duty to his client by working diligently to be prepared. (cf. People v. McKenzie (1983) 34 Cal.3d 616, 631-632.) Defendant has failed to show that Barens was unprepared to examine any witnesses in this case.

Secondly, defendant's claim that Barens failed to impeach witnesses Karny^{44/} and Browning^{45/} in significant areas with their testimony at the Pittman preliminary hearing also is without merit. Karny's trial testimony was substantially similar to the testimony he gave at the Pittman

^{44/} According to defendant, at the Pittman preliminary hearing "Karny testified to watching [defendant] prepare the 'seven pages' during June 1984, only a few days before Levin's disappearance;" that he had only "vaguely" discussed a plan to kill Levin with defendant prior to that time; and that defendant had prepared the phony letters to Levin only days before June 6, and that his own participation with respect to these letters was limited to preventing one of them from going out in the mail. Karny also testified that when Pittman returned from New York, Pittman told him he had gone to New York to make it look as if Levin was murdered there. He contrasts this with the trial in which Karny testified he "actively assisted [defendant] in April and May 1984 in preparing phony letters to Levin and seeing to it that the letters were never actually mailed to him;" they discussed the "nuances of the letters and ...some of the other aspects of the plan to kill Ron Levin;" and Pittman did not know that Karny knew about the "whole plan" until later in time when the defendant told Pittman.

^{45/} Defendant claims that during the direct examination of Browning at trial "Browning testified that in late June, 1984, [defendant] told him . . . 'Mr. Levin was missing and probably dead. . . .' Actually, this testimony occurred during Barens' cross-examination, and Barens immediately followed up with a number of questions causing Browning to admit he had never in all of his prior depositions or testimony made such a statement. At Pittman's preliminary hearing, Browning was asked if defendant told him Levin was dead and he answered, "No."

preliminary hearing. The type of inconsistencies referred to by defendant have more to do with the difference in the way questions were asked and the context in which they were asked at each hearing. An exhaustive evaluation of Barens' actual cross-examination of all of the witnesses, but especially Karny's and Browning's, does not reveal any instance in which Barens was inept or pulled his punches because he feared that his appointment would be jeopardized by an aggressive examination.^{46/}

Defendant next argues that another example of Barens' conflict of interest is Barens' failure to renew his request to have Chier present defendant's testimony. Defendant's theory is that Barens was afraid to ask for Chier because that would

^{46/} Defendant also claims that the "most pernicious and pervasive effect of the 'arrangement'" was he lost the "aggressive, perhaps abrasive advocacy" of Chier. We recognize that a conflict of interest can lead to a reluctance to engage in "abrasive advocacy." (People v. Rhodes (1974) 12 Cal.3d 180, 184; People v. Jackson (1985) 167 Cal.App.3d 829, 833.) However, it is doubtful that the "win-loss ratio" of abrasive lawyers exceeds that of the "skilled, capable, intelligent lawyer who handle[s] his [or her] case in a manner consistent with the highest traditions of the legal profession." Sadly, "aggressive and abrasive" lawyers may make a fine show for their clients," but, like "nitpickers," their "win-loss ratio usually leaves much to be desired." (See e.g., People v. Eckstrom (1974) 43 Cal.App.3d 996, 1002; People v. Kelley (1990) 220 Cal.App.3d 1358, 1374.) We note that attorney Barens while not abrasive was persistent and assertive in his representation.

have threatened his fee arrangement. Defendant suggests that he would have testified had Chier been able to present his testimony. The record clearly belies this suggestion.

Defendant was informed of and waived his right to testify at the guilt phase of his trial. As pointed out above, Barens had plenty of time to prepare defendant's testimony for trial. The reason defendant waived his right to testify is that both counsel strongly indicated to him that he should not take the stand because he was subject to serious impeachment.

Normally, it is up to the trial attorney to determine whether a defendant should testify. But if a defendant "insists" that he or she wants to testify against the advice of the attorney, the defendant cannot be deprived of that opportunity. (People v. Harris (1987) 191 Cal.App.3d 819, 825; People v. Frierson (1985) 39 Cal.3d 803, 813.) If defendant truly wanted to testify, he had an obligation to express that desire to the court as he did just prior to the penalty phase.

The jury found defendant guilty on April 22, 1987, and on May 8, 1987, defendant for the first time informed the court that he and his attorneys were in disagreement as to whether he should be called to testify in the penalty phase of the trial. Defendant stated he was in favor of being called as a witness and both of his attorneys disagreed. Defendant requested a continuance to retain a new attorney, which would be paid for by some friends. The court denied the motion but, at Barens'

request, permitted Chier to participate in the penalty phase. Even with Chier's ability to present his testimony, defendant never again expressed a desire to, and did not, testify.^{47/}

C. INEFFECTIVE ASSISTANCE OF COUNSEL

Defendant's further contentions of incompetency of counsel are based upon (1) Barens' opening statement; (2) his elicitation of defendant's request for counsel; (3) his failure to object to the judge's gestures and other alleged judicial misconduct; (4) his failure to request limiting instructions; (5) his failure to renew his request for a hearing regarding alleged jury misconduct; and (6) his failure to make evidentiary objections. Each of these criticized actions relate to counsel's strategy and judgment which ordinarily is insulated from scrutiny based upon "the distorting effects of hindsight." (Strickland v. Washington, supra, 466 U.S. at p. 689.) Because of the difficulties inherent in making an evaluation of counsel's strategic decisions, "a court must

^{47/} When Chier was given free rein to examine witnesses during the penalty phase, he only cross-examined 5 of the prosecution's 25 witnesses, and 3 of the defense's 11 witnesses. Thus, defendant's claim that the jury's verdict of life was based upon Chier's participation is unsubstantiated.

indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.'" (Ibid; People v. Williams (1988) 44 Cal.3d 883, 943.) With these principles in mind, we review each contention seriatim.

1. Defense Opening Statement

Defendant points to 10 promises made by Barens during his opening statement which he claims were never fulfilled in the course of the trial. These statements consist of a promise that defendant would testify, that a witness saw Levin sign the Microgenesis agreement at defendant's office the day before Levin's alleged murder, that Levin's neighbors would testify that they did not see or hear anything happen to Levin, that Levin was "a wizard at bankruptcy fraud . . . who was so dangerous" and illusive that a full-time detective, Paul Edholm, had been monitoring him for years, that Levin was facing a high probability of conviction for stealing over \$1 million worth of equipment from a photographic facility, that Levin had filed bankruptcy involving hundreds and hundreds of people he had defrauded out of close to \$1 million, that Levin had no exit from the Progressive Savings lawsuit because he had

already bankrupted, that any money Levin left behind would go to his mother, and that the BBC boys ridiculed and made fun of defendant in high school.

"The sole purpose of an opening statement is to outline facts upon which an acquittal will be sought." (People v. Hayes (1971) 19 Cal.App.3d 459, 472.) And while it is the duty of counsel to refrain from referring to facts which cannot be proved (see e.g. People v. Corona (1978) 80 Cal.App.3d 684, 719), the failure to produce proffered evidence, either on account of the rules of evidence or for any other reason, does not necessarily indicate prejudice. (People v. Cooley (1962) 211 Cal.App.2d 173, 215 [disapproved on other grounds in People v. Lew (1968) 68 Cal.2d 774, 778.]

In this case, counsel's decision to make an opening statement falls well within the range of reasonable professional assistance even though counsel did not present 100 percent of the evidence promised. The trial was estimated to take three months. The decision to include in the opening statement a promise that defendant would testify to certain facts was clearly premised on a belief that defendant intended to testify. It was not until nearly the end of the trial that his attorneys decided that it would no longer be in defendant's

best interest to testify. This decision was made with full knowledge of the representations made in the opening statement. Defendant personally concurred in the decision not to testify and waived his right to testify on the record.

Defendant has not shown that he was prejudiced by his change of mind or by any other promises made in his opening statement. The explanations he would have given and counsel's other promises were presented by other witnesses and by the closing argument of counsel. Counsel pointed out in his closing argument that none of the events set forth in the "seven pages" were proved to have occurred, that defendant had an alibi for the night of the crime, and that witnesses who testified to the unsoundness of the Microgenesis option agreement were biased and had reasons to lie. Counsel referred to evidence provided by the People's witnesses which substantiated the promises made in his opening statement, the thrust of which was that Levin was not murdered but voluntarily disappeared. He argued that Levin was facing an 8-year prison term based upon 10 felony charges giving Levin an incentive to disappear; the reduction Levin arranged in his \$75,000 bail was totally unnecessary unless he was going to "jump bail" -- a reduction which resulted in a forfeiture of \$7,500 but also protected his parents' property from being forfeited in the event of his disappearance; Levin's sudden and inexplicable return of hundreds of thousands of dollars in stolen photo equipment in order to get the lien removed from his parents'

property on June 5th and his cancellation of his appointment with his attorney on June 6th. There was also proof of Levin's knowledge that his felony case was not going well, his fear of going back to jail, and his frantic efforts to close out his accounts and marshal his assets the very week preceding his disappearance which included Levin's yelling, harassing and berating bank officials to release his money because he was taking an international trip.

Evidence also was adduced that a week prior to Levin's disappearance, Fidelity Investments was intensifying its efforts to seek a criminal complaint against him for financial manipulations which had resulted in a \$75,000 loss to that institution; it was undisputed that Levin had taken \$153,000 from Progressive Savings and Loan and owed \$50,000 to Bank of America. Further, none of that money had been traced to any bank accounts. Therefore, a reasonable inference was "[f]ind the money. Find Levin." This last argument, that Levin had absconded with all the money, explains counsel's change in tactics in not trying to prove the money would be left to Levin's mother.

With respect to the signing of the Microgenesis contract on June 5, counsel pointed out in his closing argument that based upon evidence produced by the People, the Microgenesis contract contained the figure of \$1.5 million when drafted prior to June 6, that the contract was dated June 5, and that both Taglianetti and Kary saw Levin at the BBC

offices on June 5.

Counsel's tactical decision in not calling all witnesses was explained to the jurors in his closing argument when he stated: "I didn't call any of the witnesses about Ron Levin and the world is full of them. I am trying to be real with you and we have already seen a picture, as much as we are going to see, of Ron Levin. [¶] The issue is whether he is dead and the issue is whether Joe Hunt killed him that night. That is it. End of story. That is what the witnesses are about. That is what my witnesses are about and I gave you direct witnesses, witnesses with direct sensory experiences that they can come here and talk about. Not speculation. [¶] Witnesses who talked about hearing Joe's [sic] voice on the telephone on the night of June 6th. Two witnesses seeing a man they identify in the police photographs as Ron Levin."

Furthermore, no one is bound by the recitals in an opening statement and the judge admonished the jury that an opening statement is not evidence. It is because of this limitation upon the effect of an opening statement, that "one who asserts it as misconduct must prove more than the mere failure to adduce the testimony described in it." (People v. Cooley, supra, 211 Cal.App.2d at p. 215.)

Not only was the jury instructed not to consider the opening statement as evidence, the jury was properly instructed by the court, pursuant to CALJIC Nos. 2.11, 2.60, and 2.61 that neither side is required to call as witnesses all persons who

may appear to have some knowledge of the events; that it must not draw any inference from the fact that the defendant did not testify and it must neither discuss that matter nor permit it to enter into their deliberations in any way; and defendant's right to rely on the failure of the People to prove beyond a reasonable doubt every essential element of the charge against him and that his lack of testimony could not supply a failure of proof by the People.

"It is ordinarily presumed that jurors are intelligent persons capable of understanding and correlating all jury instructions that are given." (People v. Phillips (1985) 41 Cal.3d 29, 58.) "In making the determination whether the specified errors resulted in the required prejudice, a court should presume, absent challenge to the judgment on grounds of evidentiary insufficiency, that the judge or jury acted according to law." (Strickland v. Washington, supra, 466 U.S. at p. 694.) Accordingly, counsel's opening statement does not afford a basis for reversal.

2. Elicitation of Defendant's Request for Counsel

Defense counsel successfully objected on constitutional grounds to any testimony on direct examination by Detective Zoeller that defendant had invoked his right to a lawyer when confronted with the seven-page list of things to do which had been found at Levin's home after his disappearance. Then, on

cross-examination, counsel twice asked Detective Zoeller to explain that defendant stopped speaking when confronted with the "seven pages" because he wanted to confer with his attorney. Counsel refused the prosecutor's demand to state on the record that this questioning was a specific, tactical decision on his part, stating: "I don't want to oblige him. The record speaks for itself."

Defendant now complains there can be no legitimate tactical reason for such questions. However, the record supports the strong presumption required under law that, in eliciting this information, counsel made a strategic choice based upon his reasonable professional judgment that such information would dispel the inference that defendant's silence was an admission of guilt. (Strickland v. Washington, *supra*, 466 U.S. at p. 690; People v. Thomas, *supra*, 2 Cal.4th at p. 530-531.) Counsel did not ask questions out of ignorance of the constitutional principles involved, nor was the information elicited as a result of inept questioning, nor was it blurted out. Nor was counsel required to disclose his strategy on the record to the court and prosecutor. As long as the record reflects a tactical decision as opposed to an ignorant blunder, our ignorance as to why counsel acted as he did cannot be a basis for inferring that he was wrong. (People v. Bess (1984) 153 Cal.App.3d 1053, 1059.) Where the record shows that counsel's actions resulted from an informed tactical choice within the range of reasonable competence, the conviction must

be affirmed. (People v. Pope (1979) 23 Cal.3d 412, 425; People v. Fosselman (1983) 33 Cal.3d 572, 582.)

**3. Failure to Object to Gestures and
Other Alleged Judicial Misconduct**

Defendant cites incidents in which he states the court made derisive facial expressions and gestures and asked questions which reflected a judicial bias against the defense. The court's alleged bias and the attorney's alleged failure to object to the court's actions and demeanor are claimed to have prejudiced the defense. We have reviewed each of the complained of incidents and the circumstances wherein each incident is said to have occurred, and we find they fall into the following categories, (1) questions to clarify witnesses' testimony; (2) interruptions cutting off repetitious questioning; (3) humorous interjections; and (4) injudicious comments.

Contrary to defendant's contention, based upon our review of the record, we do not agree that defendant's trial was unfair and/or that counsel's alleged lack of objections or failure to describe the judge's expressions and gestures for the record are indicative of his attorney's incompetence. In reaching this conclusion with respect to categories (1) and (2), we found the analysis set forth in People v. Alfaro (1976) 61 Cal.App.3d 414, 425 particularly persuasive. There it was

stated: "It is the duty of the trial judge to keep the trial within bounds of the issues and not permit the questioning to wander off on collateral matters. The idea that trial courts should 'lean over backwards' or 'err on the side of caution' in favor of defendants in criminal cases is often advanced but is not required by case law or statute." In addition to keeping the trial within the bounds of the issues, "[t]he court may ask questions of its own and may enlarge or limit on other questions to seek the truth." (*Id.* at pp. 425-426.) We also do not agree that the court's humorous remarks were outrageous or prejudicial because they did not reflect a bias for or against either side.

We do agree with defendant that the court's remarks consisting of stereotypical characterizations of women and homosexuals were injudicious. But no matter how unwise, they were unlikely to have affected the verdict. "In a case where the evidence is close, one such remark could be prejudicial." (*People v. Alfaro*, *supra*, 61 Cal.App.3d at pp. 425-426.) But this case, like *Alfaro*, was not a close case; the evidence of guilt was overwhelming. Defendant had a motive to kill Levin; he planned Levin's killing and outlined the steps to carry it out; he told Karny of his plans and reviewed his outline with Karny; his written outline was found at Levin's home; and he told a number of BBC members that he had killed Levin. Thus, while the court's remarks were error, they did not refer to defendant. Consequently, we do not believe in this case they

were of a type which expressly or impliedly usurped the jury's ultimate factfinding power. (People v. Rodriguez (1986) 42 Cal.3d 730, 766; People v. Hefner (1981) 127 Cal.App.3d 88, 95.) Further, the jury was instructed at length that they were the "final and sole judges of the facts and the guilt or innocence of the defendant."^{48/}

Nor does the record reveal that counsel sat quietly and failed to object or respond when he deemed it appropriate. There were objections or exceptions to the court's questioning of witnesses, to the court's demeanor during Roberts' testimony, and a motion for mistrial, and a motion for new

^{48/} The full instruction read to the jury was a modified version of CALJIC No. 17.30 which stated: "I have not intended by anything I have said or done, or by any questions that I may have asked, or by any ruling I may have made, to intimate or suggest what you should find to be the facts on any questions submitted to you, or that I believe or disbelieve any witness. [¶] If anything I have done or said has seemed to so indicate, you will disregard it and form your own opinion. [¶] You are to disregard any verbal exchanges between counsel and the court or any differences among us on rulings made by the court. The decision as to the guilt or innocence of the defendant is to be decided solely by you on the evidence received and on the court's instructions. I express no opinion as to the guilt or innocence of the defendant. The participation by the court in the questioning of witnesses is encouraged by our Supreme Court which has stated that there should be placed in the trial judge's hands more power in the trial of jury cases and make him a real factor in the administration of justice in such cases instead of being in the position of a mere referee or automaton as to the ascertainment of the facts. Although I am vested with the power to comment on the facts in the case and to express my opinion on the merits of the case, I have nonetheless refrained and do refrain from doing so letting you be the final and sole judges of the facts and the guilt or innocence of the defendant."

trial were filed, each containing descriptions of the court's demeanor. The fact that on other occasions counsel did not object or take exception to the court's questioning of witnesses or remarks may be attributed to their being unobjectionable or because such objection would neither have aided the defendant nor the cause of justice. Consequently, counsel took appropriate steps to preserve objections when necessary and where no objections were made, we presume those decisions were based upon tactical considerations. The face of the record does not demonstrate that counsel was incompetent. (People v. Thomas, supra, 2 Cal.4th at p. 530-531; People v. Ghent (1987) 43 Cal.3d 739, 772-773; People v. Jackson, supra, 28 Cal.3d at pp. 291-292; People v. Frierson (1979) 25 Cal.3d 142, 158.)

4. Failure to Request Limiting Instructions

Defendant asserts that counsel also was incompetent for failing to request limiting instructions with respect to erroneously admitted "bad character evidence," alleged Doyle error and Pittman's statements.

a. Bad Character Evidence

Defendant contends the testimony about his paradox philosophy, his analysis of a "Rambo" movie, his bragging about

killing cats and Mexicans, and that a fortune teller thought he was "evil" was evidence of his bad character which should have been limited.^{49/} He argues that only counsel's ignorance of the authority set forth in People v. Enos (1973) 34 Cal.App.3d 25, 42 permitting modification of CALJIC No. 2.50 by substituting the phrase "bad acts" for the word crimes"^{50/} can

^{49/} The admission of this evidence and other evidentiary rulings made by the trial court are discussed hereafter in Section D.

^{50/} If the word "act" was substituted for the word "crime" as approved in People v. Enos, supra, 34 Cal.App.3d at p. 42, CALJIC No. 2.50 would read as follows: "Evidence has been introduced for the purpose of showing that the defendant committed [an act] [acts] other than that for which [he] [she] is on trial. [¶] Such evidence, if believed, was not received and may not be considered by you to prove that defendant is a person of bad character or that [he] [she] has a disposition to commit crimes. [¶] Such evidence was received and may be considered by you only for the limited purpose of determining if it tends to show: [¶] [The existence of the intent which is a necessary element of the crime charged;] [¶] [The identity of the person who committed the crime; if any, of which the defendant is accused;] [¶] [A motive for the commission of the crime charged;] [¶] [The defendant had knowledge of the nature of things found in [his] [her] possession;] [¶] [The defendant had knowledge or possessed the means that might have been useful or necessary for the commission of the crime charged;]

".....
 "[The crime charged is a part of a larger continuing plan, scheme or conspiracy]."

".....
 "For the limited purpose for which you may consider such evidence, you must weigh it in the same manner as you do all other evidence in the case. [¶] You are not permitted to consider such evidence for any other purpose."

explain such a tactical error. However, once again the record does not support this contention.

Counsel repeatedly objected to the admissibility of the foregoing evidence and at the time it was admitted requested limiting instructions. At the conclusion of the case counsel proposed that the court strike such evidence and instruct the jury "that you must not consider such evidence for any purpose and must strike such testimony from your minds as though you never heard it."^{51/} The prosecutor countered with a request that the court give CALJIC No. 2.50 which the defense originally agreed to but upon further contemplation flatly refused, regarding it as "the kiss of death to the record."

Counsel also requested and was refused the following instruction: "You have heard evidence about the character and

^{51/} The full text of instruction No. 5 requested by the defense and refused by the court was a modification of CALJIC No. 2.09 which read: "Certain evidence was admitted in error. [¶] For example evidence concerning an alleged critique by defendant of the film Rambo was admitted by the Court in error and should not be considered by you for any purpose. [¶] In addition you are not to consider for any purpose the following described evidence which should not have been received: [¶] 1. All references to the Chicago Mercantile Exchange; [¶] 2. All references to the manner in which investors were treated by Hunt; [¶] 3. All references to any statements by gypsy fortune tellers to Hunt or his parents; [¶] 4. All references to paradox philosophy; [¶] 5. All references to the defendant's alleged involvement in a Northern California criminal prosecution. [¶] You are again instructed that you must not consider such evidence for any purpose and must strike such testimony from your minds as though you never heard it."

reputation of Joe Hunt, the defendant. The defendant did not place his character in issue. The court should not have allowed the introduction of evidence concerning the defendant's character. You are not to consider any evidence concerning the defendant's character for any purpose whatsoever and you should strike such evidence [from] your minds as if you had never heard it."

Since counsel believed such evidence could not be considered for any legitimate purpose, it seems reasonable to presume that if counsel proposed or acquiesced to a "limiting" instruction the defense would be giving away one of their strongest appellate issues in the event of defendant's conviction. (People v. Phillips (1966) 64 Cal.2d 574, 580, fn. 4.) Neither counsel's failure to request nor the court's failure to give, sua sponte a limiting instruction was error. (People v. Bunyard (1988) 45 Cal.3d 1189, 1225-1226.)

b. Doyle Error

Defendant asserts that Doyle error occurred when the court also questioned Detective Zoeller about defendant's assertion of his right to an attorney. (Doyle v. Ohio (1976) 426 U.S. 610.) Counsel requested that the court immediately instruct the jury that it "cannot draw a negative inference of

guilt or consciousness of guilt from the exercise of the right to counsel." The court denied counsel's request but indicated it would reconsider his request at the conclusion of the case.

Defendant contends his attorney failed to renew his request for a Doyle instruction and that he was prejudiced thereby. This contention is totally without merit. At the conclusion of the case, counsel requested a detailed instruction with respect to this issue.^{52/} While this instruction also was refused, counsel fulfilled his professional obligations by renewing his request for appropriate instructions.

^{52/} Defendant's request instruction No. 50 reads:

"After taking a defendant into custody, arresting officers sometimes make accusatory statements to him or in his presence, with a view to prompting some admission of guilt. [¶] An accusatory statement, as the term suggests, is a statement which in substance or effect accuses a person of guilt. [¶] The law does not require a defendant in custody to make any reply whatever to any accusatory statement made to him, or in his presence, either orally or in writing. So neither the accusatory statement, nor any failure to make reply thereto, is evidence of any kind against the accused. [¶] That is to say, neither the accusatory statement, nor any failure to reply thereto, can create any presumption or permit any inference of guilt. [¶] The jury will always bear in mind that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence."

c. Pittman's Statements

Defendant next contends that Pittman's statements comprised a substantial part of the People's case and therefore his counsel was incompetent for failing to request that the jury be instructed pursuant to CALJIC No. 6.24.^{53/} This instruction would have precluded the jury from considering any statements made by Pittman unless the jury found the existence of a conspiracy and that such statements were made in the course of the conspiracy. On this basis, the jury also would not have been allowed to consider any of Pittman's statements occurring after June 6, 1984, if they found a conspiracy but

^{53/} CALJIC No. 6.24 states: "Evidence of a statement made by one alleged conspirator other than at this trial shall not be considered by you as against another alleged conspirator unless you determine: [¶] 1. That from other independent evidence that at the time the statement was made a conspiracy to commit a crime existed; [¶] 2. That the statement was made while the person making the statement was participating in the conspiracy and that the person against whom it was offered was participating in the conspiracy before and during that time; and [¶] 3. That such statement was made in furtherance of the objective of the conspiracy. [¶] The word 'statement' as used in this instruction includes any oral or written verbal expression or the nonverbal conduct of a person intended by that person as a substitute for oral or written verbal expression."

that the conspiracy had ended on June 6.^{54/} In a related contention, he argues that, even without a request, the court had a duty to give CALJIC No. 6.24 along with an instruction defining conspiracy.

CALJIC No. 6.24 should have been given,^{55/} (Evid. Code, § 1223; People v. Smith (1986) 187 Cal.App.3d 666,

^{54/} In briefing this issue, defendant did not point out any statements made by Pittman before June 6, 1984, that were used against him. Thus, we will consider alleged error only as to those statements occurring after June 6, 1984. (See Rossiter v. Benoit (1979) 88 Cal.App.3d 706, 710-711.) These statements include Pittman's written and oral statements in New York by which he impersonated Levin, his silence or "adoptive admission" during the June 24, 1984 BBC meeting when defendant announced that he had "knocked off" Levin, statements about getting information from his underworld connections in Washington D.C. as to how to get the money from Levin's Swiss bank account including obtaining additional checks from the account so new ones could be written, and his statement that he had seen a receipt for an overseas package in Levin's mailbox which he tried to claim but was refused because he had no identification in Levin's name.

^{55/} Defendant's argument that CALJIC No. 2.71.5 also should have been given because Pittman's silence during the June 24 meeting when defendant told the BBC that he and Pittman had killed Levin was an adoptive admission which was used against defendant is without merit. An adoptive admission is a statement "offered against a party" in which "the party" manifests a "belief in its truth" (Evid. Code § 1221) and CALJIC No. 2.71.5 relates to evaluating a defendant's silence in the face of an accusatory statement. Defendant manifested his belief that he and Pittman had killed Levin by stating it for all to hear. CALJIC No. 2.71.5 does not apply to this situation.

679-680, disapproved on other grounds in People v. Bacigalupo (1991) 1 Cal.4th 103, 126, fn. 4) but the failure to do so was harmless error. We conclude that there was independent proof of a conspiracy in which defendant and Pittman were continuous participants.

Our analysis begins with the inescapable conclusion that this case did not involve a "murder conspiracy" which ended with the death of Levin. While revenge for the commodities trading hoax perpetrated upon defendant by Levin may have been inextricably entwined with the scheme, the primary goal of the conspiracy was to obtain from Levin by force and fear the \$1.5 million which defendant believed Levin had acquired as a result of that hoax. Levin's death was necessary to facilitate the acquisition of the \$1.5 million but the conspiracy did not end until the conspirators received the money or their efforts to do so were totally frustrated. (See e.g. People v. Hardy, supra, 2 Cal.4th at pp. 143-145.)

Independent proof of that conspiracy and Pittman's participation therein was received through the testimony of Karny which was corroborated by defendant's seven page plan which listed "Jim digs Pit," and "Joe Arrives 9:00 . . . Let's Jim In . . . 9:45," plus the testimony of witnesses who saw Pittman with a gun and silencer before Levin's murder. Pittman's arrival at the Plaza Hotel in New York and use of Levin's identification and credit cards, his arrest and

defendant's efforts to bail him out on June 11th are further indications that the conspiracy continued after June 6.

Records from the travel agency corroborate Karny's testimony that Pittman flew to Washington D.C. on June 19 and returned on June 21, 1984, the purpose of which was to seek assistance in cashing the \$1.5 million check drawn on his Swiss bank account which Levin had been forced to sign. After Pittman's return, on June 24, defendant told the BBC members that there was still a possibility of getting the check cashed. After that meeting defendant told Tom May that Pittman was checking Levin's apartment to see who collected the mail and May saw defendant and Karny's efforts to forge Levin's signature. Thereafter, defendant, Karny, Dosti and Pittman checked Levin's post office box regularly to try to intercept additional checks ordered on the Swiss account. Karny got the key to the mail box on at least one occasion from Pittman. Finally, Dosti travelled to Switzerland in late August or early September 1984 to try to cash the check.

From the foregoing evidence, it is clear Pittman was participating in, and his declarations were in furtherance of, that ongoing conspiracy to cash the \$1.5 million check at the time of his declarations. Thus, neither counsel's failure to request, nor the court's failure to give CALJIC No. 6.24 requires a reversal as it is not reasonably probable that a different result would have occurred had it been given.

(People v. Hardy, supra, 2 Cal.4th at p. 147; People v. Sully (1991) 53 Cal.3d 1195, 1231; People v. Smith, supra, 187 Cal.App.3d at p. 680; People v. Earnest (1975) 53 Cal.App.3d 734, 744; People v. Watson (1956) 46 Cal.2d 818, 836.)

5. Juror Misconduct

Defendant adds a claim of ineffective assistance of counsel with respect to a "Recipe of the Week"^{56/} which was drafted and distributed by one of the jurors during the guilt phase of the trial. He contends his counsel was not diligent and conscientious because counsel did not renew a request for a hearing into its impact on the jury.

In resolving this particular claim of ineffective assistance of counsel, we find that counsel raised the issue of

^{56/} Juror Linda Mickell's "Recipe of the Week" is for "Stir Fried Inverted Butterflies (Also known as Mu Shu Porkbellies or Commodity Chop Suey)" and is prepared as follows: [¶] 1. Invert a butterfly in frying pan. [¶] 2. Add some diced porkbellies and Swiss frankfurters. [¶] 3. Simmer over low heat for 10 minutes. [¶] 4. A little margin may be called for to prevent shrinkage. [¶] 5. Add 1 can Hunt's tomato sauce and generous amounts of spice. [¶] 6. Simmer over low heat for an additional hour. This dish may be served over rice, over noodles, or over the counter. It is best prepared ahead of time - it is a futures dish. Serves 4-6 financially secure people who wish to gain. (Low in calories and nutritional value - it is not advised for people with a faint heart condition). (Emphasis in original)

juror misconduct three separate times. First, counsel requested that the juror be questioned. Upon the court's refusal, counsel moved for a mistrial which was denied. Counsel raised it for a third time in his motion for a new trial. We conclude that these three efforts were well within the range of acceptable representation. The absence of a renewed request for a hearing did not cause counsel's representation to fall "below an objective standard of reasonableness under prevailing professional norms." (People v. Thomas, supra, 2 Cal.4th at p. 530; People v. Ledesma, supra, 43 Cal.3d at pp. 216-218.)

Moreover, the court was not required to conduct an inquiry and question the juror. Not every allegation of jury misconduct requires a hearing. Both California and federal law grant the trial court wide discretion to conduct an evidentiary hearing regarding allegations of jury misconduct. (People v. Hardy, supra, 2 Cal.4th at p. 174; United States v. Hendrix (9th Cir. 1977) 549 F.2d 1225, 1227-1228; United States v. Bradshaw (10th Cir. 1986) 787 F.2d 1385, 1389.) A hearing "should be only held when the defense has come forward with evidence demonstrating a strong possibility that prejudicial misconduct has occurred. Even upon such a showing, an evidentiary hearing will generally be unnecessary unless the parties' evidence presents a material conflict that can only be

resolved at such a hearing.'" (People v. Hardy, supra, at p. 174 [quoting People v. Hedgecock (1990) 51 Cal.3d 395, 419].)

Here, the record indicates that the court accepted counsel's averments that the recipe had been distributed among the jury well before the case was submitted to the jury for their deliberations. The court also was aware that defense counsel was fully familiar with the reactions of the jury because the defense investigator had interviewed the juror who had disclosed the recipe.^{57/} The investigator had the opportunity to ask that juror about the reactions of all of the jurors and their impressions about the recipe. Thus, there were no material issues of fact in dispute which required a hearing to resolve.

The court ruled that the recipe was a "clever piece of writing" which did not "show any bias." The court refused to question the juror until the case was concluded finding there was no basis for any kind of a motion for mistrial or for disqualification of jurors.

We agree with the trial court's analysis of the recipe. While it satirized some of the evidence in the case, it did not

^{57/} The recipe was brought to the attention of defense counsel by Juror Becking who had previously been discharged from the jury.

reflect a bias against the defendant. Not all types of misconduct carry the same risk of prejudice or compel an imputation of actual bias. The recipe was not the type of matter which is inherently prejudicial and its circulation among the jurors did not expose them to information that was not part of the trial record. (See e.g. People v. Martinez (1978) 82 Cal.App.3d 1, 21-22.)

Defendant's additional contention that the juror committed prejudicial misconduct in that the recipe was a violation of the juror's oath not to discuss the case or to form or express any opinion about the case until it was submitted for jury deliberation must also be rejected. We follow the analysis set forth in the American Bar Association Standards for Criminal Justice: "A verdict of guilty must be reversed or vacated 'whenever . . . the court finds a substantial likelihood that the vote of one or more jurors was influenced by exposure to prejudicial matter relating to the defendant or to the case itself that was not part of the trial record on which the case was submitted to the jury.' (2 ABA Standards for Criminal Justice, std. 8-3.7 (2d ed. 1980) p. 8.57.)" (People v. Holloway (1990) 50 Cal.3d 1098, 1109; People v. Marshall (1990) 50 Cal.3d 907, 950-951.) Based upon our examination of the record herein and with the foregoing American Bar Association standards in mind, we cannot find there was a "strong possibility" that the misconduct was

prejudicial or that defendant suffered "actual harm." (People v. Hardy, supra, at p. 174, People v. Holloway, supra, at 1108-1110.)

6. Failure to Make Evidentiary Objections

Defendant also claims he was "poorly served" by counsel's inartfully stated objections and by failure to elicit potentially helpful testimony.^{58/} The contention is counsel should have: (1) prevented the prosecutor from attacking Roberts for not volunteering exculpatory information to the police; (2) moved to strike evidence of a \$1.6 million judgment against defendant; (3) added an Evidence Code section 352 objection to his relevancy objection to Tom May's testimony regarding the times defendant told lies about his boyhood; (4) objected to testimony regarding Pittman's "toys", i.e. surveillance and tape recording equipment and guns; (5) elicited further testimony about Tom May's movie deal; (6)

^{58/} Defendant has failed to state with any particularity what "potentially helpful testimony" was lacking from the trial. "'Where a point is merely asserted by counsel without any argument of or authority for its proposition, it is deemed to be without foundation and requires no discussion.' [Citations]." (People v. Callegri (1984) 154 Cal.App.3d 856, 865.)

moved to strike BBC attorney Eisenberg's opinion testimony; (7) made quicker or more effectual objections to the fluttering hand gestures used by the judge when asking the Arizona witnesses why they believed the person they saw in the gas station was a homosexual; and (8) posed a quicker objection to an argumentative question posed to Roberts. The foregoing list of contentions points out why "[j]udicial scrutiny of counsel's performance must be highly deferential. It is all too tempting for a defendant to second guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." (Strickland v. Washington, supra, 466 U.S. at p. 689.)

Defendant has singled out for our review 8 areas in a trial, the guilt phase of which alone, consumed 35 volumes of testimony consisting of perhaps as many as 30,000 questions and answers.

We can only conclude from the foregoing specifications of error that defendant wants us to establish a requirement of perfection as the standard for judging the competency of his attorney. We decline to do so. Each of counsel's alleged shortcomings, whether viewed singularly or collectively, was, if error at all, only of minor consequence. We conclude that, overall, counsel's representation was not only not unreasonable

but was well within the standards of reasonable professional conduct and none of defendant's claims of error convince us otherwise. Certainly, none of the acts or omissions referred to by defendant leads to a conclusion that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." (Strickland v. Washington, *supra*, at p. 686.)

Moreover, our conclusion that the court did not abuse its discretion in its evidentiary rulings including those raised here (see part D, post) further undermines these claims.

D. EVIDENTIARY ISSUES

Defendant contends a number of evidentiary errors occurred in his trial. He claims that defense witnesses were subjected to improper cross-examination and his ability to present rebuttal evidence was restricted. He also claims that character, opinion, reputation and "other crimes" evidence was improperly admitted. He further alleges that negative character evidence about Pittman was improperly admitted, hearsay evidence should have been excluded and the best evidence rule was violated. We conclude that few of defendant's contentions have merit and, where errors did occur, they were harmless.

1. Failure of Alibi Witness to Volunteer
Exculpatory Information

Defendant argues that if the prosecutor had been required to lay the foundation required under People v. Ratliff (1987) 189 Cal.App.3d 696, Roberts could not have been cross-examined about her failure to come forward until trial with her information that when defendant told the BBC members that he had killed Levin it was merely a hoax.

The Ratliff rule requires the prosecutor to lay a foundation "by first establishing that the witness knew of the pending charges in sufficient detail to realize that he possessed exculpatory information, that the witness had reason to make the information available, that he was familiar with the means of reporting it to the proper authorities, and that the defendant or his lawyer, or both, did not ask the witness to refrain from doing so." (People v. Ratliff, supra, at p. 701.) Defendant claims error with respect to the last prong of the Ratliff rule because his attorney told Roberts not to speak to the police.

We, like the court in People v. Santos (1990) 222 Cal.App.3d 723, 737, "do not necessarily agree that in every instance the People must expressly establish each factor suggested in Ratliff." Nevertheless, as in Santos, we conclude that the elements listed in Ratliff were also present in this case.

Roberts was living with defendant at the time of his arrest for murder and was in love with him. She allegedly knew of the exculpatory information prior to the June 24 meeting which was three months before defendant's arrest. She herself had been questioned by the police shortly after defendant's arrest and thus had the opportunity to provide that information to the police. Instead, she had lied to them and said the June 24 meeting never took place. Finally, it was attorney Barens who told her not to talk to the police and he was not involved in the case for at least six or seven months after defendant's arrest. Thus, all the elements of the Ratliff foundation for the impeachment of Roberts was present and no error occurred.

2. Browning's Testimony Regarding A
Judgment Against Defendant

Browning, the inventor of the cyclotron, testified that a Mr. Morton had told Browning that he had obtained a \$1.6 million judgment against defendant in Arizona and was seeking the assistance of the marshal's office in California to levy on the cyclotrons in satisfaction of the judgment. Defendant contends the admission of the foregoing testimony violated both the hearsay rule and the best evidence rule.

We conclude that neither rule was violated. The testimony was not offered for the truth of the matter stated, thus it was not inadmissible under Evidence Code section 1200.

The prosecutor's theory was that the Microgenesis contract signed by Levin was a phony contract whose only purpose was to explain how defendant came into possession of a check from Levin for \$1.5 million. Browning's testimony that the cyclotron could not grind silica as required by the terms of the contract was offered to prove the contract was phony. On the other hand, the defense sought to prove that the contract was legitimate and of substantial value. To impeach Browning's credibility, the defense tried to show that Browning, the May brothers and Raymond were making their own deal with respect to the cyclotron which did not include defendant and that was the reason why Browning terminated his business dealings with defendant. Further, the defense tried to show that Browning was angry at defendant because defendant had inserted a clause in the contract that if the conditions of the contract could not be fulfilled, Levin would get 40 percent of the business that Browning had spent 18 years developing. In rebuttal to these implications, Browning testified that he had terminated his relationship with defendant because of his belief that litigation was threatened and he did not want to be a part of it.

Since the testimony was offered by the prosecution to rebut the inference raised by the defense during cross-examination that Browning was biased and had a motive to

fabricate his testimony, it was admissible. (People v. Nichols (1970) 3 Cal.3d 150, 157.)

3. The Best Evidence Rule

The best evidence rule prevents a party from proving the contents of a writing by oral testimony, or by a copy, if the original writing itself is available. (Evid.Code § 1500.) Where the content of the writing is not in issue, the best evidence rule does not apply. (Jefferson, Synopsis of California Evidence Law, § 31.1, p. 485.) Here, the contents of the judgment were not in issue. The issue was Browning's belief that there was a judgment, thus the best evidence rule does not apply.

For the same reason, the best evidence rule also did not preclude admission of a copy of corporate minutes prepared by Dicker as defendant contends. Dicker testified that at defendant's request he prepared minutes purporting to reflect a June 7, 1984 BBC board meeting in which Dosti was authorized to go to Europe to cash the \$1.5 million check. No such board meeting occurred and Dicker destroyed the original minutes in October or November 1984 because he was afraid he was going to be arrested.

In this instance, the issue was not what was contained in the minutes. The issue was whether Dicker prepared phony

minutes at defendant's request. "A copy of a writing is not made inadmissible by the best evidence rule if the writing is not closely related to the controlling issues and it would be inexpedient to require its production." (Evid. Code, § 1504.)

Furthermore, "[a] copy of a writing is not made inadmissible by the best evidence rule if the writing is lost or has been destroyed without fraudulent intent on the part of the proponent of the evidence." (Evid. Code, § 1501.) The original was destroyed by Dicker, a non-party witness in the action. The proponent of the evidence was the prosecution who was not a party to its destruction. For all the foregoing reasons, neither oral testimony about the judgment nor the admission of a copy of the minutes was a violation of the best evidence rule.

4. Defendant's History of Telling Lies

Defendant contends the court improperly permitted Tom May to testify over defendant's relevancy and Evidence Code section 352 objections to testimony about defendant's character, specifically that defendant had a history of telling lies.

Tom May testified that a week before the June 24 BBC meeting, defendant told him that he killed Levin. It would be reasonable for the jury to assume that no one would make such a

statement if it was not true and that a person hearing such a statement would promptly report it to the police. May did not report this information to the police which tended to cast doubt on May's credibility and the truth of the statement.^{59/}

May explained his reason for not going to the police was because he believed defendant's statement was a lie and gave specific examples of other unbelievable childhood "stories" that defendant had told him in the past such as the fortune teller who had told defendant he was evil, that he used to torture and kill cats in his neighborhood, and that he killed a couple of Mexicans who attacked him one day when he was walking home from school.

May's testimony did not violate the prohibition contained in Evidence Code section 1101, subdivision (a), inasmuch as it was not offered to show defendant's character trait or propensity to commit criminal offenses to prove that he robbed and murdered Levin. Rather, it was offered to explain why May did not believe that defendant had committed such crimes.

Nor was the probative value of May's testimony substantially outweighed by the probability that its admission

^{59/} The defense also inferred that Tom May embellished his testimony because he was selling movie rights to the story.

would create a substantial danger of undue prejudice to the defendant. (Evid. Code, § 352.) The evidence buttressed rather than prejudiced the defense assertion that defendant's multiple confessions to Levin's murder was a hoax or just another one of defendant's "stories."

Nor was the trial court required to instruct on the limited purpose for which the evidence was received in the absence of such a request. This was not an extraordinary case in which "highly prejudicial" past offenses were a "dominant" part of the evidence against defendant. (People v. Lang (1989) 49 Cal.3d 991, 1020; People v. Collie (1981) 30 Cal.3d 43, 63-64.)

5. Defendant's Reputation as an Excellent Debater and Speaker

Defendant also complains that his Harvard High School reputation as "an excellent debater and speaker" was character evidence designed to show that he had the wherewithal to bring off the con schemes attributed to him. We agree with defendant's assessment, but not that it was improper character evidence whose admission was error.

While the evidence was offered on the issue of how Tom May came to know defendant in high school, it also was probative on the issue of how a young man in his early twenties

could convince so many people to part with tens of thousands of their dollars and to continue parting with their money even after being informed that defendant had lost all their money in just one day in the commodities market. Evidence of reputation or specific instances of a person's conduct is admissible to prove a person's character or a trait of his character when it has a tendency to prove any disputed fact that is of consequence to the determination of the action. (Evid. Code, §§ 210, 351, 1100.)

We also disagree with defendant's assertion that its prejudicial effect grossly outweighed its proper probative value. The evidence was not of other crimes or misconduct that is inherently prejudicial. It was not "offered to prove his . . . conduct on a specified occasion" or to prove his "disposition" to commit fraud or murder in violation of either subdivision (a) or (b) of Evidence Code section 1101. We see no error in the ruling of the trial court.

6. Pittman's Crime Books

Defendant contends that the court's "most serious error" concerning character evidence was the alleged "wholesale admission" of Pittman's gym bag containing over a dozen crime books which were seized from Pittman when he was arrested on October 22, 1984. This contention is incorrect. Only two

books were marked for identification and received in evidence, to wit, People's exhibit 85A entitled, "The Black Bag Owner's Manual, Part 2, The Hit Parade" and People's exhibit 85B entitled, "The Hit Man, A Technical Manual for Independent Contractors."^{60/}

The two books which were admitted contained information on how to kill a person, such as what kind of clothes to wear, what type of weapon to use, how to make a silencer, how to dispose of the murder weapon, how to dispose of the body as well as how to handle the moral, ethical and emotional implications of killing another human being. The books cannot properly be described as "character evidence." Rather, they were circumstantial evidence that Pittman had the knowledge and the ability to kill another human being and corroborated the testimony that defendant admitted that Pittman was the shooter. No error occurred in their admission. (See e.g. People v. Daniels (1971) 16 Cal.App.3d 36, 46.)

^{60/} The exhibits in this case contain no reference to a People's Exhibit 85 nor was the gym bag containing the remaining books marked or received in evidence. We can only assume that the purported existence of a People's Exhibit 85 refers to an exhibit received in Pittman's trial.

7. Pittman's Guns

Defendant's objection that the testimony regarding Pittman's possession of a number of guns including a handgun, a derringer, a small black automatic, a pen gun and a .357 should have been excluded because there was no showing that any of these guns were the instrumentalities used in the crime is equally without merit.

Levin's body was never found and, with the exception of defendant's statement that "Jim's silenced pistol" was used to kill Levin and a shotgun was used to destroy the identifiable parts of Levin's body, defendant did not specify with what type of gun Levin was killed. While Karny believed it was a .25 caliber pistol that he had seen at the office and at the apartment he shared with defendant at the Manning, there was no evidence as to the actual weapon used.

When the specific type of weapon used to commit a homicide is not known, it is permissible to admit into evidence weapons found in the defendant's possession that could have been the weapon employed. (People v. Riser (1956) 47 Cal.2d 566, 577, disapproved on other grounds in People v. Moise (1964) 60 Cal.2d 631; People v. Chapman (1959) 52 Cal.2d 95, 98.) The same rule applies to weapons found in the possession of Pittman as the act of one conspirator is the act of all. (People v. Harper (1945) 25 Cal.2d 862, 871.)

8. Pittman's Karate Lessons

Defendant also contends the testimony that Pittman taught karate to defendant was improper character evidence which allowed the prosecution to portray defendant and Pittman "as two deviant kindred spirits who dabbled in guns, martial arts, and finally murder." Defendant's portrayal of this evidence is exaggerated. Karate is a popular sport whose practitioners are not commonly associated with criminal behavior. Karate studios dot the landscape of cities, towns, and villages across America. Television programs such as "Kung Fu," movies such as "The Karate Kid" and "The Karate Kid II," and cult heros such as the late Bruce Lee have entertained millions of Americans. Karate is not similar to "other crimes" or "gang affiliation" evidence which, because of its inherently prejudicial impact, should be excluded unless it has substantial probative value which cannot be proved by any other less prejudicial evidence. (See People v. Thompson (1980) 27 Cal.3d 303, 316-318 and People v. Cardenas (1982) 31 Cal.3d 897, 904-905.)

The karate evidence was not offered in this case for the improper purpose of proving that either Pittman or defendant had the disposition to commit murder or to prove defendant's conduct on any particular occasion. (Evid. Code,

§ 1101, subds. (a) & (b).) The evidence was admitted to explain how and why defendant and Pittman, who came from worlds apart, grew close enough to plot murder. The record clearly reflects that the foundation of their relationship was defendant's admiration of Pittman's skill in karate. Defendant's desire to become proficient in karate led to the development of their close personal and business relationship. It was not the fact of karate but their mutual interest in karate which would explain to the jury the bond of what otherwise would have been an unlikely friendship.

9. Pittman's Exhibition to the Jury

Defendant's next complaint is that Pittman was exhibited to the jury in jail "blues" and the prejudice flowing from that exhibition outweighed the probative value of allowing the jury to observe Pittman's physical stature.

The record is not entirely clear as to how Pittman was dressed. He may have been dressed in jail clothes at the time he was identified in court by one of the New York witnesses, however, we think not. The court made efforts to see that he was wearing civilian clothes, was not in chains, and that he was seated at counsel table rather than being escorted into the courtroom from "lockup." It was defense counsel who informed the jury during his closing argument that Pittman was "in

custody awaiting trial." If he was not in jail attire, the issue was waived and no prejudice occurred.

Even assuming that, with all of the court's precautions, Pittman was seen by the jury in jail clothing, we conclude defendant was not prejudiced thereby. It is settled that the right to due process and a fair trial is abridged if the accused is compelled to "stand trial before a jury while dressed in identifiable prison clothes" (Estelle v. Williams (1976) 425 U.S. 501, 512; People v. Taylor (1982) 31 Cal.3d 488, 494; People v. Kent (1981) 125 Cal.App.3d 207, 211.) The appearance of the defendant in prison clothes impairs the fundamental presumption of innocence, impinges upon the tenets of equal protection by operating against those who cannot secure release by posting bail before trial, and compromises the credibility of a defendant who also takes the stand as a witness. (People v. Taylor, supra, at pp. 494-495; People v. Williams (1979) 93 Cal.App.3d 40, 67; People v. Froehlig (1991) 1 Cal.App.4th 260, 263-264.) When a codefendant is exhibited before the jury in jail clothing the "question is whether such procedure or practice is equally offensive to the right of a defendant to a fair trial. The answer depends on the possible effect of the procedure upon the jury's determination of the issues before it." (People v. Williams, supra, 93 Cal.App.3d at p. 67.)

In this case, Pittman was exhibited not just for identification purposes but as corroboration of the Plaza Hotel

witness's testimony as to Pittman's ability to break through the door to his room to retrieve his luggage when his fraud was discovered and that it took five security guards to prevent Pittman's escape from the hotel. Pittman's attempt to escape was "consciousness of guilt" evidence necessary to overcome the defense assertion that Pittman was in New York using Levin's credit cards with Levin's permission.

Pittman's appearance in this context did not lead to impairment of defendant's presumption of innocence because Pittman had not been convicted of any crime as the jury was informed by defense counsel during closing argument. Defendant was out on bail; consequently, there was no suggestion of an equal protection problem operating against him. Pittman did not testify; thus, his credibility was not an issue which might have been affected by jail clothing. The Pittman exhibition was brief and not in a context which would inflame the jurors against defendant. (Cf. People v. Williams, supra, 93 Cal.App.3d at p. 64-66.) And, the jury was instructed pursuant to CALJIC No. 2.11.5 to "not discuss or give any consideration to why the other person is not being prosecuted in this trial or whether [he] [she] has been or will be prosecuted." Thus, on the facts of this case, any error which may have occurred must be deemed harmless. (People v. Watson, supra, 46 Cal.2d at p. 836.)

10. The Paradox Philosophy

Defendant contends that the paradox philosophy was character evidence which should have been excluded. He argues that its only possible probative value was to explain why Karny advised defendant to tell other BBC members that he had murdered Levin and to explain why Karny and Dicker did not act earlier in turning defendant in to the police. This minimal probative value, defendant asserts, was grossly outweighed by the danger that the jury would use this evidence to infer that defendant had murdered Levin because of an amoral belief system.

Defendant's contention is premised on a misconception of character evidence. "'Character' is one of the most elusive concepts in the law of evidence, and certain basic distinctions are essential to any understanding of the highly specialized rules governing its admissibility and manner of proof." (1 Witkin, Cal. Evidence (3d ed. 1986) § 321, p. 294.) Thus, a comparison of the paradox philosophy with those rules is essential to an understanding of why it is not evidence of defendant's character.

We begin with the fact that defendant's paradox philosophy is not anyone's opinion of defendant; it is not evidence of his reputation; it is not evidence of any specific instances of his conduct. (See e.g. Evid. Code, §§ 787, 1101,

subd. (a).) It is not a crime, civil wrong or any type of "act". (See e.g. Evid. Code, §§ 788, 1101, subd. (b).) It is not a religious belief or lack thereof. (Evid. Code, § 789.) Nor is it evidence of his habits or custom. (Evid. Code, § 1105.)

That the paradox philosophy is not character evidence becomes even clearer when compared with the laws describing the admissibility of hearsay statements. A statement is defined as an "oral or written verbal expression . . . or non verbal conduct. . . ." (Evid. Code, § 225.) "'Hearsay evidence' is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated." (Evid. Code, § 1200.) The paradox philosophy fits that description. Whether one characterizes it as his "moral justification" for committing crimes or "an amoral belief system," it was defendant's own "oral" and "written verbal expression" offered to prove the circumstances in which defendant believed it was acceptable to commit unlawful acts including murder.

As so defined, the evidence that defendant believed in the paradox philosophy meets the requirements of the exception to the hearsay rule contained in Evidence Code section 1250, in that it described defendant's "then existing state of mind . . . (including a statement of intent, plan, motive, design, [and] mental feeling)" (Evid. Code § 1250, subd. (a).) As evidence of his state of mind, his belief in the paradox

philosophy, by reasonable inference, was evidence that defendant harbored malice aforethought and deliberated and premeditated Levin's murder. It also manifested defendant's incentive to commit such a crime when "justified."

We thus conclude that evidence of the paradox philosophy was admissible under both subdivisions (a) and (b) of Evidence Code Section 1250 as statements of the defendant offered to prove his state of mind and to explain his acts and conduct. Evidence such as motive or incentive to commit a crime has a direct tendency to resolve doubts as to the identity of the slayer, the degree of the offense, the insanity of the accused, or the justification or excusability for a defendant's acts, and is admissible, no matter how discreditable it may reflect upon the defendant. (People v. Gonzales (1948) 87 Cal.App.2d 867, 877-878.)

Moreover, as respondent contends, paradox philosophy evidence was properly admitted for a host of other reasons as well.^{61/} It was the principle upon which the BBC was founded and explained how the group functioned. It was integral to

^{61/} At trial the prosecution argued, and the court agreed, that the paradox philosophy was not character evidence. The People's theory was it showed what bound the BBC together and was integral to explaining the defendant's actions and the way that the witnesses perceived and reacted to them.

explaining who was selected to attend the June 24 meeting and defendant's confession to the members. It explained the role of other BBC members in the murder and its aftermath. It was even helpful to the defense view that defendant's June 24 confession was a story to hold the BBC together rather than the truth. The foregoing issues as well as the credibility of the witnesses including defendant, whose credibility as a hearsay declarant was in issue, all were of consequence to the determination of defendant's guilt. (Evid. Code, § 210.) The probative value of the paradox philosophy on these issues adds to our determination that any prejudicial effect was negated by its evidentiary importance.

11. Restriction of Rebuttal Evidence to Paradox Philosophy

Defendant contends the trial court committed error by striking defense witness Roberts' testimony that the May brothers were dealing cocaine. Roberts had testified this was an example of a time that defendant discussed the paradox philosophy at a BBC meeting. According to defense counsel, the evidence was to show that defendant typically discussed the paradox philosophy in terms of helping members resolve their problems. The court ruled that not a word about cocaine had been mentioned throughout the trial in connection with the

paradox philosophy and that the defense was using the example as a ruse for character assassination.

Whether or not this was the defense's objective, a review of the record reveals that the court's ruling did not restrict the jury from hearing favorable testimony about the paradox philosophy. Roberts testified that she heard defendant discuss the paradox philosophy with people when they had problems and were trying to have a better view of their lives, careers and goals. Roberts understanding was that the philosophy assisted a person in obtaining a more positive way of viewing life. She also referred to instances in which defendant discussed the philosophy with Karny when Karny was going through emotional problems. Roberts also testified that the paradox philosophy expression of "black is white, white is black" was used by everyone in the group to help them be objective and to change their perspective when they were having a bad day.

A trial court is vested with wide discretion in admitting or rejecting proffered evidence and its decision to exclude evidence is not grounds for reversal on appeal unless the error complained of resulted in a miscarriage of justice. (Cal. Const., art. VI, § 13; Evid. Code, § 354; People v. Wein (1977) 69 Cal.App.3d 79, 90.) We conclude that exclusion of this one example of the use of the paradox philosophy was not

an abuse of discretion and that no miscarriage of justice occurred.

12. Evidence of Defendant's Financial Dealings

Defendant acknowledges that extreme financial embarrassment is admissible to show a motive for robbery, but he argues the following evidence was cumulative and caused him to be tried as much for his financial misdeeds as for the murder of Levin: testimony that defendant lost \$484,000 in commodities trading in Chicago during 1981 and 1982; that in 1982, defendant had been "railroaded" off of the Chicago Mercantile Exchange and returned to Los Angeles with only \$4 in his pocket; that prior to August 1983, defendant and investor Weiss discussed placing a portion of their mutual profits in a trust fund for needy people; that in October 1983 Los Angeles brokerage houses did not want to do business with defendant; that in January 1984, Weiss refinanced his house in order to raise an additional \$50,000 in investment money; and that in September 1984, investor Julius Paskan loaned defendant \$2,000 which he failed to pay back.

We conclude that evidence of defendant's financial dealings cannot be isolated and analyzed in a piecemeal fashion or out of context. Defendant contended at trial, and still contends on appeal, that the BBC businesses had several

promising deals in the works. The defense developed its theory through its own witnesses and cross-examination of the People's witnesses that defendant and his businesses were not experiencing such severe difficulties that murder was a viable option.

In contrast to the defense theory, the prosecution's evidence portrayed a course of conduct engaged in by defendant that enmeshed him in a financial disaster from which there was no escape. For at least three years defendant had been successful in averting financial disaster by convincing investors to part with larger and larger sums. But each time defendant had to go back to the investors for more money, he suffered a concomitant loss of some other important advantage such as his seat on the Chicago Exchange and his credit with brokerage houses. By June 1984, the well was running dry. Investor Weiss, who sincerely admired defendant based upon his belief that they shared a desire to use their profits to help needy people and who had previously brought in hundreds of thousands of dollars in investment money, had to refinance his home to come up with additional investment money.

Defendant's financial situation was so desperate that the defense theory that defendant only had to wait for one of his "promising deals" to come to fruition was exposed as a fraud by evidence that three months after Levin's murder, defendant still was drowning financially. Investor Paskan

agreed to loan defendant \$215,076.56 and when he arrived at the BBC office to obtain defendant's signature on the promissory note he overheard defendant's secretary indicating she had not received her salary check. Thus, he loaned defendant an additional \$2,000 for his secretary which defendant also could not repay.

None of the evidence was offered to prove that defendant was predisposed to steal from investors or was involved in commodities swindles. It was offered to prove that defendant's burgeoning debt and shrinking financial support had reached crisis proportion and that only the infusion of huge sums of money could alleviate the crisis. This financial crisis provided defendant with a motive to murder Levin. "It has been held that evidence of defendant's financial situation at the time of the offense is admissible to show motive where circumstantial evidence is largely relied upon for conviction [citations]." (People v. Martin (1971) 17 Cal.App.3d 661, 668.) The fact that the evidence may also disclose information derogatory to defendant's character does not affect its pertinency nor constitute a valid objection to its admission. (Id. at p. 669; People v. Gonzales, supra, 87 Cal.App.2d at pp. 877-878.)

We find that under the facts of this case, all of defendant's financial dealings were necessary for the jury to comprehend just how desperate defendant was for money. Thus,

the reason for exclusion of evidence which is merely cumulative, that its slight probative value is outweighed by its prejudicial effect, (People v. Mincey (1992) 2 Cal.4th 408, 439; People v. Carter (1957) 48 Cal.2d 737, 749) fails in the present case.

13. Distribution of the "At Levin's To Do" List to Jurors

During the trial, and five weeks before its receipt into evidence, copies of the seven page list entitled "At Levin's To Do" were distributed to each juror by the clerk at the court's request. The jurors were permitted to read and follow along with their copies during the testimony of Martin Levin and other witnesses. The copies were retained by the jurors in their notebooks during the trial. Defendant claims that this was one of the many instances of judicial favoritism that compromised his trial and that its retention by the jurors throughout the trial was a prejudicial and unprecedented violation of procedural rules. We are of the opinion that while the procedure was unusual, it violated no rules, did not show bias on the part of the judge, and no prejudice resulted.

Section 1137 is the operative statute governing what exhibits the jurors may take with them into the jury room. It provides that "[u]pon retiring for deliberation, the jury may take with them all papers (except depositions) which have been

received as evidence in the cause, or copies of such public records or private documents given in evidence as ought not, in the opinion of the court, to be taken from the person having them in possession. They may also take with them the written instructions given, and notes of the testimony or other proceedings on the trial, taken by themselves or any of them, but none taken by any other person. The court shall provide for the custody and safekeeping of such items."

As can be seen, nothing in section 1137 precludes a court from exercising its broad authority to regulate the manner in which exhibits are displayed to the jurors during the course of a trial. Unless otherwise provided by law, the court has the discretion to control all proceedings during trial and to regulate the order of proof. (§ 1044; Evid. Code, § 320.)

Accordingly, a judge may permit counsel to display exhibits, such as photographs, films and articles, as early in the trial as opening statement. Even where items such as maps or sketches are not independently admissible in evidence, the court has the discretion to permit their display to jurors if such items will aid their understanding of the testimony. (People v. Green (1956) 47 Cal.2d 209, 215, disapproved on other grounds in People v. Morse (1964) 60 Cal.2d 631.) In the circumstances of this case, in which there was no question as to the admissibility of the exhibit, we conclude that it was

within the discretion of the trial court to distribute the seven-page exhibit to the jurors.

It also appears from the record that it was a consistently common practice throughout the trial for both sides, to show or pass various pieces of evidence to the jurors during the testimony of witnesses prior to their formal admission into evidence. For example, the defense passed around photographs of the cyclotrons, photographs of Levin, photographic lineups, Clayton Brokerage statements, and Levin's planning diary and the prosecution showed a portion of the Microgenesis contract and an enlargement of Pittman's handwriting samples. Thus, no inference of favoritism appears from the distribution of the lists.

Nor can we glean prejudice from early distribution of the exhibit. We agree with defendant that the exhibit was a highly incriminating piece of evidence but we are not persuaded that its early distribution gave it prejudicial emphasis. The jurors could have copied the information contained in the seven pages verbatim, either from testimony or the enlarged display, into their notebooks. Thus, in either event, the jury would have had the information in their possession during the remainder of the trial. Unlike a situation where jurors are exposed to information not received in evidence (see e.g. People v. Martinez, supra, 82 Cal.App.3d at p. 21-22), the usual "harmless error" test for determining prejudice applies.

Under the circumstances of this case, we are not of the opinion that it is reasonably probable that a result more favorable to defendant would have been reached in the absence of the early distribution of the exhibit to the jurors. (People v. Watson, supra, 46 Cal.2d at p. 836.)

14. Eisenberg's Opinion Testimony

On cross-examination, defense counsel elicited attorney Eisenberg's opinion that Pittman tended to exaggerate "greatly," that defendant "was always trying to look good," that saying Pittman was his bodyguard was part of defendant's "playing the role" to impress the BBC boys and the investors. On redirect, the prosecutor followed up on these questions by asking Eisenberg, "[a]nd is there a difference in your mind in the nature of that type of an attempt to make an impression on someone as opposed to someone saying to a group of people he knows, I just killed somebody?" Eisenberg replied, "Day and Night."

Initially, the court overruled defense counsel's objection. Eisenberg was then asked to explain his opinion. In response, he testified that having an attorney, as well as Pittman, the fancy furniture and the nice offices were intended to elicit a certain response from the investors, i.e. to have them put money into the entity. Then he testified that he was

not at the meeting were defendant made the statements, at which point counsel's foundation and hearsay objections were sustained and the court struck the answer "to which all of the objections were going."

Defendant contends that Eisenberg's opinion usurped the jury's fact finding powers and that because of the manner in which the court struck the answer it is unlikely that this had any real effect on the jury. Even assuming that the jury was not clear as to what answer had been stricken, this contention must be rejected.

Defendant "opened the door" to the question through his own questioning. The reasonable inference flowing from Eisenberg's responses to defense counsel's questions was that when defendant told the boys he and Pittman had killed Levin, it was just more posturing by defendant to keep them under control. The prosecutor was well within his right to further pursue the matter during redirect. (See e.g. People v. Burton (1981) 117 Cal.App.3d 382, 388.) A lay witness may give an opinion if it is "helpful to a clear understanding of his testimony." (Evid. Code, § 800, subd. (b).)

15. Defendant's Connection to the Eslaminia Homicide

Defendant, Pittman, Dosti and BBC member, Reza Eslaminia, were charged with the kidnapping and death of Eslaminia's father in Northern California. Karny's grant of

immunity encompassed both the Levin and Eslaminia cases. Defendant moved for an order allowing him to impeach Karny with evidence that he had received immunity in the Eslaminia homicide but excluding evidence that defendant was also charged in the Eslaminia case on the ground that "other crimes evidence," is inadmissible under Evidence Code sections 1101, subdivision (b) and 352.

The prosecution vigorously opposed admission of the Eslaminia immunity agreement unless the jury learned that Karny's immunity involved testifying against the defendant in that case as well. It feared that if the jury was led to believe that Karny was involved in a homicide not involving defendant, it would infer that Karny acted independently of defendant in this case and murdered Levin himself. This implication was contrary to the prosecution's case which was based upon evidence that defendant was the leader of the BBC and that Karny and the other members acted only under defendant's direction and influence.^{62/}

^{62/} During the penalty phase, Karny testified members of the BBC concocted a plan to kidnap Eslaminia's father to force him to turn over his fortune, estimated at \$30 million, and then to kill him. Karny testified that defendant coordinated all of the details of the plan and volunteered to be the "master of torture" because he did not believe the others had the emotional constitution to handle the type of torture which would be necessary to force Eslaminia to part with his fortune. Eslaminia suffocated to death in trunk being used to transport him from northern to southern California.

The court ruled that if the defense chose to cross-examine Karny about his grant of immunity in the Eslaminia case, the prosecution could ask Karny on redirect examination who the parties in that case were and their relationships. However, the prosecution was precluded from going into the facts of the Eslaminia case.

Defendant contends that the court's ruling was a de facto denial of his Sixth Amendment confrontation rights. We disagree. Notwithstanding the court's ruling, defendant chose to thoroughly cross-examine Karny regarding his immunity in the Eslaminia case. That the jury learned that defendant also was a defendant in that case was not an abuse of discretion.

The relevance and probative value of an immunity agreement is to show the witness may have a motive to fabricate testimony and such agreements are almost always admissible for that purpose. But in a situation where the jury could draw an impermissible inference from such evidence, the trial court must balance its probative value against its prejudicial impact and the possibility the jury will use the evidence improperly. (People v. Rodriguez, *supra*, 42 Cal.3d at p. 750; People v. Allen (1978) 77 Cal.App.3d 924, 931-933; United States v. Roberts (9th Cir. 1980) 618 F.2d 530, 535.)

Evidence of the full extent of Karny's immunity agreement does not bring into play the Zemavasky "rule of evidence that when any witness admits bias and prejudice on

cross-examination, on redirect the reasons for such prejudice cannot be gone into, at least where such reasons involve other alleged offenses outside the issue." (People v. Zemavasky (1942) 20 Cal.2d 56, 63; People v. Morris (1988) 46 Cal.3d 1, 39.) The reason for the Zemavasky rule is obvious. It is intended to prevent the prosecution from eliciting otherwise inadmissible other crimes evidence under the guise of rehabilitation.

However, there is no bar to admission of other crimes evidence when relevant to prove some fact other than disposition to commit such a crime. (People v. Thomas, supra, 2 Cal.4th at p. 520; People v. DeSantis (1992) 2 Cal.4th 1198, 1226-1227; People v. Manson (1976) 61 Cal.App.3d 102, 130-131.) Here, the evidence was admissible to rebut the improper inference which the prosecution correctly feared would flow from a redacted immunity agreement.

Evidence Code section 356 provides the authority for correcting such an improper inference. In the event one part of an act, declaration, conversation, or writing is admitted in evidence, the opponent is entitled to have placed in evidence any other act, declaration, conversation, or writing which is necessary to make it understood. (People v. Hamilton (1989) 48 Cal.3d 1142, 1174; People v. Ketchel (1963) 59 Cal.2d 503, 536, overruled on other grounds in People v. Morse (1964) 60 Cal.2d 631, 638, 649.)

Here, the court properly balanced the relevance and prejudice to both sides and issued a ruling consistent with Evidence Code sections 356 and 1101 which portrayed the immunity agreement fully and placed it in context so the jury was not misled about its terms or importance. The ruling was broad enough to permit defendant to fully explore on cross-examination the inducements from the prosecution that may have motivated Karny's testimony and the prosecution was precluded from eliciting any testimony about defendant's involvement in the Eslaminia homicide other than that he was a codefendant. The jury was also instructed that evidence that defendant was charged with murder in San Mateo County was received for the limited purpose of providing a complete record of the immunity agreement and could not be considered for any other purpose. Thus, no error occurred.

16. Admissibility of Out of Court Statements

Defendant contends that a number of hearsay statements ~~were admitted~~ into evidence which deprived him of his right to confront the witnesses against him. We conclude that some statements were not received for their truth, some were received without objection or the objection was waived and the remainder were harmless.

Defendant first claims as hearsay the rebuttal testimony of Detective Thomas Edmonds regarding statements of people he interviewed in Arizona while looking for Levin or the person defense witnesses, Canchola and Lopez, believed was Levin.

The defense having produced two witnesses who claimed to have seen Levin driving a classic car in a gas station in Tuscon, Arizona, it was incumbent upon the prosecution to show that the police had followed up on that lead and what, if anything, their investigation revealed. Thus, Detective Edmonds described how he went to the Vickers gas station where "Levin" was seen and spoke to the manager and his assistant who referred him to people at a classic auto dealership who in turn sent him to a Catholic church which had recently sponsored an auto show. He spoke to the priest, looked through the church records, spoke to a local police officer and finally located a gray haired man named Richard Herman who owned a classic Hornet automobile and fit the general description given by the witnesses. The officer took pictures of Herman, his automobile and the Vickers gas station where Herman purchased his gasoline and incorporated them in photographic lineups which he then showed to Canchola and Lopez. Neither Herman nor his car nor his gas station was identified by the witnesses. The officer concluded that Herman was not the person seen by the witnesses and he was never able to locate the person they did see.

The information provided to Detective Edmonds was not hearsay. Whether or not any of the interviewees told Detective Edmonds the truth was not the issue. The issue was whether the police made a concerted effort to find the person Canchola and Lopez had seen and the results of those efforts. "Evidence of a declarant's statement is not hearsay evidence if it is not being offered to prove the truth of the facts stated in the statement but to prove, as relevant to a disputed fact in an action, that the recipient or hearer of the statement obtained certain information by hearing or reading the statement and, believing such information to be true, acted in conformity with such belief." (Jefferson, Jefferson's Synopsis of California Evidence Law (1985) § 1.4, p. 21; see also People v. Tahl (1967) 65 Cal.2d 719, 739.)

Defendant next claims that Levin's conservator, David Ostrove, testified to out of court statements for their truth to dispute the defense assertion that Levin had hidden assets upon which he could live after his disappearance. He further contends such evidence should have been produced by way of properly qualified business records. (Evid. Code, § 1271, subd. (c).)

Ostrove testified that he found passbooks from various banks among Levin's possessions that had entries reflecting

that deposits in the hundreds of thousands of dollars had been made in 1971 and 1972. Ostrove wrote to the banks to collect the funds and was told by the banks that the accounts had been closed because the checks that had been used to open them were returned for nonsufficient funds. In the case of Credit Suisse, Ostrove received a bank statement reflecting a balance of only \$3.89.^{63/}

Again we conclude that neither the testimony nor the bank statement was offered for its truth. Verbal or written statements may justify an inference concerning a fact in issue, regardless of the truth or falsity of the statement itself. Where the assertion is to be disregarded, and the indirect inference, such as belief, intent, motive, or other state of mind, is to be regarded, such statements are relevant as circumstantial evidence. (1 Witkin, Cal. Evidence (3d ed. 1986) §§ 593-595, pp. 566-568.)

^{63/} Bank statements qualify as business records and are admissible upon proof of a proper foundation. (Evid. Code, § 1271; People v. Dorsey (1974) 43 Cal.App.3d 953, 960-961.) Ostrove identified People's exhibit 5 as the bank statement which he received from Credit Suisse. Defendant did not object to receipt of the bank statement, thus his hearsay objection is waived. A failure to make a timely and specific objection at trial waives assertion of error on appeal. (Evid. Code, § 353; People v. Green (1980) 27 Cal.3d 1, 22; People v. Welch (1972) 8 Cal.3d 106, 114-115, People v. Dorsey, supra, at p. 959.)

In our opinion, Ostrove's testimony was circumstantial evidence of the intent of the banks involved not to release any money. Whether or not the bank records were correct or the bank officials were telling the truth, Ostrove was unable to obtain any funds from the accounts. Ostrove was the court appointed conservator of Levin's estate with legal authority to receive Levin's funds. The banks's refusal to release money in the accounts to Ostrove, for any reason other than he had no authority to claim the money, was circumstantial evidence that the banks also would refuse to allow Levin to withdraw money from the accounts. The jury would be justified in inferring that if, the conservator of Levin's estate could not obtain any money from the accounts, neither could Levin.

Defendant also claims that Ostrove's testimony that Levin had filed lawsuits against the government for its failure to issue him a press pass was inadmissible hearsay. We also find this claim also without merit. In this instance, Ostrove's testimony was reflective of Levin's state of mind. "A declaration of a state of mind is not made inadmissible by the hearsay rule when offered to prove the acts or conduct of

the declarant. (Evid. Code, § 1250, subd. (a)(2).)*^{64/} (People v. Duran (1976) 16 Cal.3d 282, 295; People v. Ruiz (1988) 44 Cal.3d 589, 608.)

Testimony about the lawsuits was not offered to prove the matters contained therein, i.e. that Levin had the right to a press pass, but rather was offered to prove that Levin entertained the particular state of mind which he claimed in the lawsuits. The jury could reasonably conclude that it would make no sense for Levin to expend money in legal fees to prosecute lawsuits to obtain a press pass that would have no value if he planned to disappear.

Defendant acknowledges on appeal that the relevancy of the lawsuits was to show that Levin, in the months before his disappearance, had conducted himself in a manner inconsistent with an intent to voluntarily disappear. But he claims that

^{64/} Evidence Code section 1250 provides:

"(a) Subject to Section 1252, evidence of a statement of the declarant's then existing state of mind, emotion, or physical sensation (including a statement of intent, plan, motive, design, mental feeling, pain, or bodily health) is not made inadmissible by the hearsay rule when: [¶] (1) The evidence is offered to prove the declarant's state of mind, emotion, or physical sensation at that time or at any other time when it is itself an issue in the action; or [¶] (2) The evidence is offered to prove or explain acts or conduct of the declarant. [¶] (b) This section does not make admissible evidence of a statement of memory or belief to prove the fact remembered or believed."

Ostrove's testimony that Levin's press pass was the subject of the lawsuits was untrustworthy and should have been excluded unless the prosecution produced the official court records of the lawsuits pursuant to the business records exception to the hearsay rule. (Evid. Code, § 1271.) However, defendant was informed that the prosecution had copies of the pleadings available and could produce them for examination upon request. No such request was made and no foundational or best evidence objection to Ostrove's testimony was interposed. Accordingly, this contention is not cognizable on appeal. (Evid. Code, § 353; People v. Green, supra, 27 Cal.3d at p. 22; People v. Welch, supra, 8 Cal.3d at pp. 114-115.)

Defendant next argues the court improperly overruled his hearsay objections to testimony by BBC members Raymond, Dicker and Taglianetti. Raymond testified that David May told him he was investing in commodities with defendant in the spring and summer of 1983 and was doing very well. Dicker testified that Tom and David May lost money in the summer of 1983. We agree with defendant's arguments but conclude the errors were harmless. Tom May subsequently testified without objection to the amounts he and his brother had invested in accounts controlled by defendant in the spring and early summer of 1983 and that the accounts were doing well, but that in August 1983 the accounts were wiped out. Thus, the jury

properly had before it in Tom May's testimony the very statements that were erroneously admitted. When the evidence in question is cumulative of other properly admitted evidence to the same effect, no prejudicial error occurs. (People v. Green, supra, 27 Cal.3d at p. 27.)

Raymond also testified that he was introduced to defendant by David May who had told him he joined an investment club organized by defendant, and that May bragged about the affluence of the other kids who belonged to the club. Defendant failed to object to the foregoing testimony at trial. Thus, he may not claim it was inadmissible hearsay on appeal. (Evid. Code, § 353; People v. Green, supra, 27 Cal.3d at p. 22; People v. Welch, supra, 8 Cal.3d at pp. 114-115.) In any event, the testimony was admissible for the nonhearsay purpose of showing how Raymond met defendant and came to be involved in the BBC. (Evid. Code, § 1200.)

Taglianetti testified that in April 1984 he was at the BBC office when Pittman came into the office with a person he knew as "Nick." Pittman and Nick went into defendant's office and test-fired a gun. After Nick and Pittman left, Taglianetti and Eisenberg went into defendant's office and saw a gun with a silencer attached in defendant's desk drawer. As a prelude to this testimony, Taglianetti was asked: "Who was Nick?" He

replied: "From my understanding, he was a private investigator."

Defendant claims his hearsay objection to Taglianetti's reply should have been sustained as Taglianetti could only have gained his "understanding" from the hearsay testimony of others. We disagree. Taglianetti's testimony was nonhearsay evidence of Taglianetti's belief. It was not offered for the proof of the matter asserted, to wit, that Nick was a private investigator. Defendant's hearsay objection was properly overruled. (Evid. Code, § 1200.)

17. Cross-examination of Prosecution Witnesses,
May, Furstman, Karny and Weiss

Defendant contends the trial court committed reversible error by limiting his cross-examination of prosecution witnesses, May, Furstman, Karny and Weiss. We disagree. "The trial court has a clear duty to supervise the conduct of the trial to the end that it may not be unduly protracted. The control of cross-examination is not only within the discretion of the trial court, but, in the exercise of that discretion, the court may confine cross-examination which relates to matters already covered or which are irrelevant. Only a manifest abuse of the court's discretion will warrant a

reversal." (People v. Beach (1983) 147 Cal.App.3d 612, 628; People v. Kronemyer (1987) 189 Cal.App.3d 314, 352; Evid. Code, § 765.) No manifest abuse of discretion has been shown in this case in that cross-examination was not restricted as to some witnesses and it was properly curtailed as to the others.

Defense counsel's cross-examination of Tom May as to whether May and his brother were trying to market their story to the movies is an instance in which, contrary to defendant's contention, there was no improper restriction of cross-examination. Any paucity in the defense questioning on that subject appears to be a tactical decision of defense counsel.

Initially, the court sustained the prosecution's relevancy objection and warned defense counsel that since many people involved in the case were trying to market the story, he would "open the door." Defense counsel stated he did not mind since it went to May's interest in the outcome of the case and bias. The court then asked May whether he had any interest in the outcome of the case except to see that justice was done. When May replied, "None at all," counsel was permitted to ask May, without objection or interference, if he had an interest in a potential motion picture resulting from this case. May admitted that a television movie deal had been signed. Counsel

then asked no further questions, presumably because he obtained the admission he was seeking. Thus, no error occurred.

The next instance where cross-examination was not improperly curtailed relates to defendant's questioning of Levin's attorney, Furstman. Defendant claims his cross-examination was improperly restricted when he was unable to elicit from Furstman whether Levin's parents had expressed any reservations about filing a missing person report after Levin disappeared. The court sustained a hearsay objection, indicating that because both parents would be testifying in the case, counsel could ask them directly.

The issue was whether the Levins believed their son had disappeared voluntarily due to his legal problems. That inference was presented by other evidence. Furstman testified that Levin's parents did not express an interest in filing a missing person report until days after June 12, which was the date Levin was due back in Los Angeles. Carol Levin testified she let her husband take care of filing the report and they let "weeks" go by before filing the report because Furstman said, "Let's wait. Martin Levin testified he did not file a missing person report until June 21 because Furstman wanted to see if something materialized. Thus, the inference that the Levins believed their son's disappearance was related to his legal problems was clearly presented from that evidence, as well as

the evidence that the Levins' home was released as security for Levin's bail and that the Levins were consulting with Levin's criminal defense attorney.

Cross-examination of Karny regarding Pittman's posing as Levin in New York was argumentative and properly curtailed. Defense counsel asked Karny if he and Pittman had any discussion that a person of Pittman's appearance, might have difficulty impersonating a fortyish "Jewish fellow." Evidence of the dissimilarity between Pittman and Levin was before the jury as was evidence that Pittman made no effort to disguise himself or avoid calling attention to himself while he was in New York. An argumentative question is one designed to place the examiner's inferences from or interpretations of the evidence before the jury, rather than one which seeks to elicit new facts or additional information. (1 Jefferson, California Evidence Benchbook (2d ed. 1982) § 27.9, p. 764; see e.g. Estate of Loucks (1911) 160 Cal. 551, 558; Schuh v. Oil Well Supply Co. (1920) 50 Cal.App. 588, 590.)

The court also properly curtailed cross-examination of Karny as to whether he was afflicted with Meunieres Syndrome. According to defense counsel's offer of proof, Meunieres Syndrome is a type of disease which affects memory, the ability to perceive accurately, the ability to articulate the perception of truth and the ability to hear the spoken word. However, defense counsel was not seeking to prove that Karny

suffered from those symptoms. He sought to impeach Karny by showing that Karny had lied in his draft registration by claiming to suffer from Meunieres Syndrome.

The law is now clear, as it was not in 1987 when this trial took place, that specific instances of a witnesses' conduct are admissible to attack or support the credibility of that witness. (People v. Harris (1989) 47 Cal.3d 1047, 1080-1082.) However, pursuant to section 352, the court still retains the power to "prevent criminal trials from degenerating into nitpicking wars of attrition over collateral credibility issues." (People v. Wheeler (1992) 4 Cal.4th 284, 296.) Evidence that Karny may have lied to avoid the draft, while relevant to his credibility, is just such a collateral issue. Where the collateral fact involves conduct for which the witness has neither been charged nor convicted and which involves a strong reason to lie which furnishes no motive for the witness to testify falsely, its probative value is weak and it is properly excluded. (People v. Lavergne (1971) 4 Cal.3d 735, 742-743.)

In the last of his contentions in this category, defendant does not claim that his cross-examination of Weiss was restricted. Weiss had testified that defendant had signed a promissory note in which he agreed to repay the investors the money they lost within one year, if he made the money, in exchange for a release of all claims against defendant and

Financial Futures. Weiss testified that he did not know of any other source that defendant had for getting the money to pay off the promissory notes. Defense counsel asked Weiss if he was aware that defendant spent the year in which the money was to be repaid in jail. Weiss said, "Yes." At that point, defense counsel concluded his cross-examination. The judge then told counsel he did not understand the purpose of that particular question. Defense counsel responded, "impossibility is a defense of contract law, Your Honor." The judge then asked: "You mean even if the thing results from his conduct? Is that what you are saying? You create your own impossibility?" Defense counsel answered, ". . . we don't know about conduct until the jury decides, Your Honor."

Contrary to defendant's assertions, the court's question enabled the defense to give the jury a preview of the inference it was seeking to establish which was that defendant's inability to satisfy frustrated investors was caused by his being in jail. The court's questions were not prejudicial to defendant and in no way limited his cross-examination of the witness.

18. Court's Examination of Defense Witnesses

During direct examination by defense counsel, Lynn Roberts was asked if her film producer husband had a financial

interest in the outcome of the case. She answered, "No," and also testified he was not producing a film about this case. The judge, apparently reading from a newspaper article which reported that her husband had selected defendant's theatrical agents, asked Roberts (1) if she knew Burton Moss and Sy Marsh; (2) whether her husband told her he had hired theatrical agents to write defendant's life story; and (3) whether she knew if her husband was going to receive anything as a result. To these questions, Roberts testified: (1) the two men were theatrical agents who had known her husband for years; (2) her husband was contacted by Marsh and asked for an introduction to defendant; and (3) that her husband was not going to receive anything from their plan to write defendant's life story. In conclusion to the court's questions, Roberts testified that "all this has done is cost us a lot of money."

Defendant complains on appeal that the foregoing questions are objectionable in that they assume facts not in evidence. The problem with a question which assumes facts not in evidence is that the witness may have no knowledge that the facts exist and may not even believe such facts, but can not answer the question without necessarily accepting the existence of the unproved facts. (See e.g. Love v. Wolf (1964) 226 Cal.App.2d 378, 390.) Contrary to defendant's assertions, Roberts was not faced with such a problem inasmuch as she was

able to answer the court's questions without, at the same time, being forced to accept as true facts of which she was unaware or believed to be untrue. In any event, defendant did not raise this objection at trial and it is too late to urge it as error for the first time on appeal. (Evid. Code, § 353; People v. Green, supra, 27 Cal.3d at p. 22; People v. Welch, supra, 8 Cal.3d at pp. 114-115.)

Defendant also asserts that the court's questions, stimulated by the newspaper article, violated discovery rules. However, the record reflects that the judge had received the newspaper article within 30 minutes prior to questioning the witness, the judge's questioning followed the prosecution's cross-examination of the witness, defense counsel was then given the newspaper article and had the opportunity to examine it fully prior to his redirect examination, and Roberts' answers were not prejudicial to defendant.

Thus, unlike the judicial misconduct in People v. Handcock (1983) 145 Cal.App.3d Supp. 25, 31, also cited as error in Ryan v. Commission on Judicial Performance (1988) 45 Cal.3d 518, 536, the judge in this case did not conduct an independent investigation of the facts leading to the discovery of new incriminating evidence against the defendant; did not interrupt the defendant's testimony to call his own witness; and did not call his own witness with insufficient notice for

the defense to adequately prepare its questions or to more fully explore the ramifications of the evidence.

We conclude that the foregoing questions, as well as an additional question asking Lynn Roberts if she realized the significance of her testimony with respect to 10:30 p.m. on June 6 in that she was furnishing defendant with an alibi, were not argumentative. They were asked to resolve whether Roberts had a financial interest in the outcome of the case and whether she and defendant had discussed her testimony in light of other evidence that Roberts was very fond of defendant, he resided in her home, and she came to court with him. The court's questions were designed to elicit additional information not to place any particular inferences or interpretations of the evidence before the jury. (1 Jefferson, Cal. Evidence Benchbook, supra, § 27.9; Estate of Loucks, supra, 160 Cal. at p. 558; Schuh v. Oil Well Supply Co., supra, 50 Cal.App. at p. 590.)

Nor, did the court's questions exhibit partisanship to such a degree as to give rise to a reasonable possibility that they contributed to a conviction. (People v. Handcock, supra, 145 Cal.App.3d Supp. at p. 33; Chapman v. California (1967) 386 U.S. 18, 23.) Nothing about the court's questions, even if the jury was aware the court was looking at a newspaper article, telegraphed to the jury a message that Roberts' testimony was

to be disbelieved or that the court had evidence to prove the defendant's guilt.

Defendant makes the same arguments with respect to the court's questions of Canchola and Lopez as to why they believed the person they saw in Arizona was gay. However, the fact that the judge participated in the examination of the witnesses does not necessarily equate with an unwarranted, partisan interference with the case just because that participation was contrary to the desires or strategy of defense counsel. "'The duty of a trial judge, particularly in criminal cases, is more than that of an umpire; and though his [or her] power to examine the witnesses should be exercised with discretion and in such a way as not to prejudice the rights of the prosecution or the accused, still [the judge] is not compelled to sit quietly by and see one wrongfully acquitted or unjustly punished when a few questions asked from the bench might elicit the truth. It is [the judge's] primary duty to see that justice is done both to the accused and to the people. [The judge] is, moreover, in a better position than the reviewing court to know when the circumstances warrant or require the interrogation of witnesses from the bench. . . .'" (People v. Handcock, supra, 145 Cal.App.3d Supp at p. 29.) In this case, the witnesses' description of the person they saw in Arizona was unclear and the court was acting within its powers in

clarifying that testimony. Nothing about the questions would lead the jury to believe that the judge was of the opinion that the prosecution rather than the defense should prevail in the case. (Ibid.; Evid. Code, § 775; see also People v. Alfaro, supra, 61 Cal.App.3d at p. 426-427; People v. Rodriguez (1970) 10 Cal.App.3d 18, 32-33; People v. Ottey (1936) 5 Cal.2d 714, 721.)

Assuming it appeared, at the time, that the court was expressing an opinion by asking these questions, that inference was properly dispelled by the curative instructions given by the court.^{65/} (People v. Phillips, supra, 41 Cal.3d at p. 58.) The jury was instructed pursuant to CALJIC No. 1.02 that it "must never assume to be true any insinuation suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer." It was further instructed pursuant to a modified version of CALJIC No. 17.30, as follows: "I have not intended by anything I have

^{65/} Defense counsel was invited to, but did not, submit a pinpoint limiting instruction to the court. Thus, the trial court was under no duty to give any additional limiting or "curative" instructions. (People v. Wyatt (1989) 215 Cal.App.3d 255, 258; People v. Kendrick (1989) 211 Cal.App.3d 1273, 1276-1278; People v. Stelling (1991) 234 Cal.App.3d 561, 567.

said or done, or by any questions that I may have asked, or by any ruling I may have made, to intimate or suggest what you should find to be the facts on any questions submitted to you, or that I believe or disbelieve any witness. [¶] If anything I have done or said has seemed to so indicate, you will disregard it and form your own opinion." [¶] ". . . I express no opinion as to the guilt or innocence of the defendant."

19. Prosecutor's Cross-Examination of Brooke Roberts

Defendant contends the prosecutor was argumentative and expressed his personal belief that Brooke Roberts was lying. During cross-examination, Roberts was asked if she had heard anything about Levin between the date defendant purportedly went to dinner with Levin on June 6th and the date defendant returned from London. The following exchange then occurred:

[¶] "A [by Ms. Roberts]: Did I hear anything about him? [¶] Q [by Mr. Wapner]: Right, anything about him? His name? Anything? [¶] A Yeah. I think I did. Yeah. [¶] Q What? [¶] A I don't know. [¶] Q Well, if you think you heard something, what is it that you think you heard? [¶] A I can't make something up right now. I don't know. [¶] Q If I give you some time, can you make something else up? [¶] A No."

The prosecutor's question was argumentative in that it did not seek to elicit new facts or additional information, but instead placed the prosecutor's inference that Roberts was lying before the jury. (1 Jefferson, Cal. Evidence Benchbook, supra, § 27.9; Estate of Loucks, supra, 160 Cal. at p. 558; Schuh v. Oil Well Supply Co., supra, 50 Cal.App. at p. 590.)

Nevertheless, the question was responsive to Roberts' previous answer and did not fall to the level of prejudicial misconduct which occurs when a prosecutor improperly implies to the jury that he or she secretly possesses information unknown to the jury as to a witness' credibility. (See e.g. People v. Perez (1962) 58 Cal.2d 229, 246.)

In summary, the questions posed by the court and the prosecutor were not of a nature which infringed on a specific guaranty of the Bill of Rights. None were so egregious as to infect the trial with such unfairness as to make defendant's conviction a denial of due process. (People v. Pitts (1990) 223 Cal.App.3d 606, 693; People v. Handcock, supra, 145 Cal.App.3d Supp. at p. 33-34.)

E. PROOF OF CORPUS DELICTI

Defendant contends that Levin was a thief and con artist, without a wife or children. Levin was facing a prison

sentence of eight years for theft, was being investigated for income tax fraud, owed substantial sums of money to a variety of people and was facing lawsuits and other claims in excess of \$250,000. Just before his disappearance, Levin had engaged in scams or bank withdrawals which netted him large sums of money and had arranged for his bail to be reduced which would eliminate the need for his parents' property to serve as security for his bail. Levin's dead body was never found. There was no visible sign of a struggle or foul play at his residence the morning following his disappearance and two people believed they saw Levin two years later. Thus, defendant argues that homicide is only one of many possibilities explaining Levin's disappearance and without the statements of defendant and Pittman, the corpus delicti of murder was not proved. We find these arguments unpersuasive.

"The corpus delicti of murder consists of the death of the alleged victim and a criminal agency as the cause of that death." (People v. Small (1970) 7 Cal.App.3d 347, 354.) A slight or prima facie showing, based wholly on circumstantial evidence, permitting a reasonable inference that a person died as a result of a criminal agency is sufficient proof of the corpus delicti "' . . . even in the presence of an equally plausible noncriminal explanation of the event." [Citation.]" (People v. Ruiz (1988) 44 Cal.3d 589, 611; People v. Towler

(1982) 31 Cal.3d 105, 115; People v. Jacobson (1965) 63 Cal.2d 319, 327; People v. Bolinski (1968) 260 Cal.App.2d 705, 714-717.) (Emphasis added.)

The corpus delicti evidence in this case bears remarkable similarities to the circumstantial evidence found sufficient in People v. Ruiz, supra, 44 Cal.3d at pp. 610-611. In Ruiz, the victim's body was never found nor was there evidence of blood, a struggle or a weapon. However, there was evidence that she abruptly disappeared; failed to contact her friends, her mother, her physician or her pastor; failed to seek resumption of Medi-Cal and Social Security payments; and abandoned several personal effects, including her purse.

Levin also disappeared abruptly; he failed to contact his mother, friends, lawyers, business associates, and answering service; he abandoned virtually all of his clothes and other valuable personal property, including luggage, airline tickets, traveler's checks, a car, and approximately \$35,000. A comforter, sheet, bed pillow, robe, jogging suit, and television remote control were the only items found missing from his apartment. Open, uneaten cartons of take-out food were left out, his security alarm was not engaged and his dog was left unattended. These factors alone, under Ruiz, are sufficient proof of the corpus delicti of murder.

However, in this case the seven pages entitled "At Levin's To Do" discovered in Levin's apartment provides independent proof that Levin was the victim of murder and may be considered without resorting to explanations of the items contained therein given by defendant to Karny. The notes, such as "close blinds," "scan for tape recorder," "tape mouth," "hand cuff," "put gloves on," "get alarm access code and arm code," "kill dog," and "Jim digs pit," found in Levin's apartment shortly after he mysteriously disappeared provide more than adequate proof that Levin was dead as the result of a criminal agency.

Clearly, defendant's extrajudicial statements connecting him to the seven pages are inadmissible, but for purposes of satisfying the corpus delicti rule, it is unnecessary to show that defendant was connected to the seven pages or committed the offense.^{66/} "All that need be shown by independent evidence before a confession may be introduced

^{66/} Defendant was connected to the seven pages independent of his admissions to Karny by his stipulation that all seven pages were in his handwriting.

is that a crime has been committed by someone." [Citations.]'" (In re Robert P. (1981) 121 Cal.App.3d 36, 39; emphasis in original; People v. Ruiz, supra, 44 Cal.3d at p. 610.)

"The corpus delicti rule originated in the judicial perception of the unreliability of extrajudicial confessions, and in the fear that a defendant, perhaps coerced or mentally deranged (since he has confessed to a crime he did not commit) would be executed for a homicide which never occurred." (People v. Hamilton, supra, 48 Cal.3d at p. 1176.) Here, reliance upon the abstract language contained in the seven pages to show that Levin met with foul play does not do violence to the rationale supporting the corpus delicti rule. (Warszower v. United States (1941) 312 U.S. 342, 347; cf. People v. Beagle (1972) 6 Cal.3d 441, 455, fn. 5.)

Defendant also contends the corpus delicti of robbery was not proved independent of his statements. In support thereof, he points to evidence from which it could be inferred that the Microgenesis transaction between defendant and Levin could be considered an ordinary business transaction which only coincidentally was consummated about the same time Levin disappeared. Once again, the presence of a noncriminal explanation of the event is not controlling.

The corpus delicti of robbery is satisfied by evidence that force or fear was used to compel Levin to make a check

which was taken against his will.^{67/} (See e.g. People v. Richards (1885) 67 Cal. 412, 422; Pen. Code, § 7, subd. (12) ["The words 'personal property' include money, goods, chattels, things in action, and evidences of debt"].)

The elements of robbery are (1) the taking of personal property; (2) from the person or in the person's immediate presence; (3) against the person's will; and (4) by means of force or fear. (§ 211.) Again, the seven pages are significant. They not only provide circumstantial evidence that Levin was the victim of force and violence but show the connection of that force and violence to the taking of personal property from Levin. On the same pages containing the foregoing quotations such as "tape mouth," "hand cuff," "kill dog" and "Jim digs pit," are found notes such as "have Levin sign agreements and fill in blanks," "determination of consideration - Swiss bank checks," and "execution of agreement." Other pages contain notations regarding

^{67/} The People's sole theory of robbery was the taking of a \$1.5 million check from Levin at gun point. The prosecutor did not argue that Levin's credit cards also were taken by force or fear. Instead, he argued that Pittman's possession of Levin's credit cards the following day showed that Pittman participated in the murder and that Pittman went to New York to make it look like, if anything happened to Levin, it happened in New York.

"Microgenesis of North America," "Swiss Cashiers Checks," and "create a file."

Defendant's possession of a \$1.5 million Swiss check and the Microgenesis agreement, both bearing Levin's signature, on the day following Levin's unexpected disappearance along with Pittman's appearance in New York the following day with Levin's credit cards provide an equally plausible criminal explanation of the events. No other evidence was necessary to provide the corpus delicti of robbery.

F. PROSECUTORIAL MISCONDUCT

Defendant's claim of prosecutorial misconduct is based on a series of remarks by the prosecutor in his final rebuttal argument that there was no reasonable explanation for certain items of evidence; that Barens failed to explain other items of evidence during his closing argument; and that the defense failed to offer evidence of a search for Levin in Arizona. Defendant contends the prosecutor's arguments were merely a ploy to avoid the restriction contained in Griffin v. California (1965) 380 U.S. 609, 615 against making express or implied negative comments about a defendant's decision not to testify.

Virtually, the same arguments were advanced and found to be unmeritorious in People v. Miller (1990) 50 Cal.3d 954, 996-997 and People v. Bethea (1971) 18 Cal.App.3d 930, 936-937. "'Although Griffin prohibits reference to a defendant's failure to take the stand in his own defense, that rule does not extend to comments on the state of the evidence or on the failure of the defense to introduce material evidence or to call logical witnesses. [Citations.]'" (People v. Miller, supra, at p. 996.)

There is a qualitative difference between arguments which suggest there has been no "denial" or "refutation" of the People's evidence and arguing that the defense has failed to "explain" certain items of evidence. (See e.g. People v. Geoviannini (1968) 260 Cal.App.2d 597, 603-605; People v. Northern (1967) 256 Cal.App.2d 28, 30-31; People v. Ham (1970) 7 Cal.App.3d 768, 778-779, disapproved on other grounds in People v. Compton (1971) 6 Cal.3d 55, 56-60.) For example, "the word 'denial' connotes a personal response by the accused himself. Any witness could 'explain' the facts, but only defendant himself could 'deny' his presence at the crime scene." (People v. Vargas (1973) 9 Cal.3d 470, 476.)

In the context of this circumstantial evidence case in which the defendant used cross-examination of People's

witnesses and presented his own witnesses to provide alternate explanations of incriminatory evidence, we do not read the prosecutor's argument as a commentary on defendant's failure to testify.

G. DISCOVERY OF IMPEACHMENT EVIDENCE
RELATING TO "THE HOLLYWOOD HOMICIDE"

Defendant contends he was prejudiced by being denied access to police records concerning the death of Richard Mayer in a Hollywood motel during October 1986. The procedural aspects of this discovery issue, which came to be known as "the Hollywood homicide," spanned a three month period. On December 2, 1986, two months before opening statements, the prosecution disclosed that Karny was a possible suspect in the Hollywood homicide investigation and offered to provide the defense with any future investigation reports. Just the day before this disclosure, defense counsel had received a stenciled note, signed "'Friend of Honest Cop,'" which stated that there was a cover-up by Hollywood Division police officers regarding a murder at the Hollywoodland Motel involving Karny.

On December 4, the defense filed a formal noticed motion for discovery of all information relating to the Hollywood homicide. The hearing on the motion was set for

December 11, 1986. In support thereof, defense counsel stated in a sworn declaration that he was informed and believed the investigation into the homicide and the prosecution of Karny was being deliberately delayed by the prosecution and its agents in order to induce Karny "to continue bearing false witness" against defendant and "to present Karny in a false light." He further alleged on information and belief that on November 25, 1986, a meeting had been held in the offices of the Los Angeles County District Attorney in which high-ranking members of that office were present along with Vance, the prosecutor in the Eslaminia case, in which a "decision to delay and/or kill the investigation of Karny for the homicide" was discussed.

On December 9, 1986, the prosecution filed points and authorities in support of a motion to exclude any reference to Karny's possible connection with the unsolved Hollywood homicide and submitted the declaration of John Vance, in which Vance denied attending a meeting described by Barens, and further denied that he participated in a discussion to "'kill the investigation.'"

On December 10, 1986, the defense took the discovery motion off calendar and the matter was recalendared upon defense request for January 14, 1987. On January 13, 1977, the Los Angeles Police Department submitted two sworn declarations

of Antonio Diaz, the detective assigned to investigate the Hollywood homicide. Detective Diaz swore that he had definitely eliminated Karny as a suspect in the case.

Based upon the elimination of Karny as a suspect, the Los Angeles Police Department asserted that its investigative file was no longer discoverable and was privileged under Evidence Code section 1040, subdivision (b) and invited the court to review its file in camera pursuant to Evidence Code section 915, subdivision (b). The department's claim of privilege was based upon Detective Diaz's declaration that the homicide remained unsolved and release of information regarding the investigation would jeopardize his effectiveness in investigating and solving the case as others might become privy to information known only to the perpetrator(s) and the police. The court indicated its intention to review the investigative files in camera and set into motion the procedures for that review.

However, the next day, defendant formally withdrew his request for the Hollywood homicide files for "good faith, tactical" reasons which defense counsel refused to

explain.^{68/} With the motion no longer before the court, both the defense and prosecution objected to the court reviewing any documents contained in the police file. Accordingly, and with reluctance, the court agreed not to hold its previously scheduled in camera review of the files.

Subsequently, on March 3, 1987, the matter was brought back before the court upon a similar motion filed by Pittman. Defendant filed a brief notice of joinder in Pittman's motion without submitting any supporting affidavits as to why there had been a sudden change of tactics and failed to appear to argue the motion. Pittman's motion was heard and denied on March 5, 1987, just six court days before Karny took the witness stand. Based upon the original affidavits on file, the court found no necessity to hold an in camera review of the Hollywood homicide files, finding no special consideration was

^{68/} The court was perplexed at Barens' formal withdrawal of his motion and objection to its in camera review of the file, but stated it understood Barens was abandoning that phase of the case. Barens replied that all he was doing was "withdrawing the motion in this forum," that there is another case where things are going on and that "inextricably . . . these things tend to overlap." On December 2, 1986, when the matter was first discussed in chambers, the court approved defendant discussing the matter with the lawyer representing him in the Eslaminia case.

given to Karny by the prosecution since Karny had been eliminated as a suspect in that murder.^{69/}

We have set forth the time frame in which the matter was brought before the court because "[d]iscovery procedures should be conducted during the pretrial period, thereby providing all parties concerned with a fair opportunity to litigate whatever controversies may arise and avoiding the need to interrupt, stay, or compromise the trial. Even though the burden of producing the information sought may not itself be great, the very fact of being confronted with a discovery motion after the trial has commenced may jeopardize the prosecution and result in a serious interruption of the trial and harassment of counsel." (City of Alhambra v. Superior Court (1988) 205 Cal.App.3d 1118, 1139, (conc. opn. of Danielson J.))

^{69/} On the same date, the prosecution requested an order prohibiting any type of electronic media coverage of Karny's testimony. In support thereof, the prosecution filed a declaration by Special Agent Oscar Breiling in which he stated that in late 1985 he had learned of a plot to kill Karny and, as a result, he had placed Karny in a witness protection program. He also stated that Karny had been "framed" for the Hollywood homicide and after an "in depth investigation" Karny had been eliminated as a suspect in that case.

In the present case, the prosecution had provided timely notice of the Hollywood homicide to the defense and the defense failed to provide any explanation or justification for removing the matter from the earlier calendar date. The delay in seeking discovery was reason alone for denying the requested discovery since the delay was not fully and satisfactorily explained and justified or shown to be essential to the defense.

In addition to the delay in seeking discovery, the record fails to show that the information in the Hollywood homicide file would reasonably assist defendant in preparing his defense. "A motion for discovery by an accused is addressed to the sound discretion of the trial court, which has inherent power to order discovery in the interests of justice. [Citations.] [¶] An accused, however, is not entitled to inspect material as a matter of right without regard to the adverse effects of disclosure and without a prior showing of good cause." (Hill v. Superior Court (1974) 10 Cal.3d 812, 816-817; Ballard v. Superior Court (1974) 64 Cal.2d 159, 167.)

An affidavit or declaration may be considered by the trial court in support or opposition to a motion. (Code Civ. Proc., §§ 2009, 2015.5; § 1102.) "Where there is a substantial conflict in the facts presented by affidavits, the determination of the controverted facts by the trial court will not be disturbed on appeal. [Citation.] These rules are

applicable in a criminal matter." (People v. Kirk (1952) 109 Cal.App.2d 203, 207.)

Applying these rules to the present case, we cannot say as a matter of law or fact that the court abused its discretion in determining there was insufficient cause to conduct an in camera hearing to review the police files in question. While the court could consider the declarations filed by the attorneys for defendant and Pittman based upon their information and belief that Karny was a possible suspect in the Hollywood homicide (see e.g. City of Santa Cruz v. Municipal Court (1989) 49 Cal.3d 74, 93), their evidentiary significance was of far less weight than the declarations filed in opposition to defendant's discovery motion.

The declarations of the investigating officer were based upon his personal knowledge. In his sworn declaration, Detective Ruiz declared, "My partner and I are actively investigating this homicide. Based on the investigation that has been done so far Dean Karny has definitely been eliminated as a suspect in the Hollywood homicide." We conclude that the trial court was warranted in finding from Detective Ruiz's affidavits that there was no plausible justification for inspection of the records.

H. KARNY'S STATE BAR FILE

The defense served a subpoena duces tecum upon the State Bar of California seeking any documents relating to Karny which could lead to Karny's impeachment or which tended to show a bias, interest or motive on his part to give false testimony against defendant. The State Bar turned over two of its files which contained matters already made public but claimed its remaining five files were confidential and privileged.

The court conducted an in camera review^{70/} of the remaining files, designated as files 3 through 7, found nothing which could be helpful to the defense, upheld the privileges asserted by the State Bar and refused to make any of the files available to the defense. Defendant claims he had a right to determine for himself whether the State Bar's files would be helpful to the defense and questions whether, in fact, the files were privileged.

^{70/} As in People v. Barnard (1982) 138 Cal.App.3d 400, 405, footnote 1, no issue has been raised as to the sufficiency of appellant's preliminary showing of relevancy. Therefore, we follow the example of the parties and the trial court and assume that an adequate showing was made in the first instance to require the in camera hearing.

In answer to defendant's question, the files were privileged. The State Bar is a "public entity," and the information it acquires in confidence is privileged. (See Gov. Code, §§ 6001, 6252, subd. (a), 6254, subd. (f); Evid. Code, §§ 195, 200, 1040, subds. (a) & (b); Chronicle Pub. Co. v. Superior Court (1960) 54 Cal.2d 548, 566, 570-573; Reznik v. State Bar (1969) 1 Cal.3d 198, 204-205; Brotsky v. State Bar (1962) 57 Cal.2d 287, 302-303; American Federation of State etc. Employees v. Regents of University of California (1978) 80 Cal.App.3d 913, 918.)

Defendant had no right to inspect files to which a claim of privilege was asserted. It is the duty of the court to make the preliminary determination as to whether official information is privileged and it may examine records in camera if necessary in order to make that determination. (Evid. Code, §§ 400, 402, 915 subd. (b); American Federation of State etc. Employees v. Regents of University of California, *supra*, 80 Cal.App.3d at p. 916; In re Muszalski (1975) 52 Cal.App.3d 475, 482.) The records inspected by the court in camera were sealed and made part of the record for review on appeal. This procedure provides a reasonable compromise between defendant's desire to determine for himself the relevance and importance of the material and the confidentiality of those items not related to the case. (People v. Roberts (1992) 2 Cal.4th 271, 302; In

re Waltreus (1965) 62 Cal.2d 218, 223-224; People v. Barnard, supra, 38 Cal.App.3d at p. 407.)

The State Bar records have been transmitted to this court for our review with the exception of file 7. The trial transcript reveals and our in camera review of files 3 through 6 confirms that, with one exception, each file contains information acquired in confidence and each is subject to the official information privilege. (Evid. Code, § 1040, subd. (a); Chronicle Pub. Co. v. Superior Court, supra, 54 Cal.2d at p. 566.) File 3 contains information regarding a complaint made by Karny against an attorney arising out of a fee dispute in a civil case; file 4 contains two applications by Karny to take the State Bar examination and responses to the State Bar's confidential questionnaires sent to Karny's references in connection therewith; file 5 contains letters from people concerned about Karny's suitability to be admitted to the bar and the State Bar's responses thereto; file 6 contains letters and notes of the State Bar attorney and investigator concerning their investigation of Karny and file 7 is alleged to contain communications between the State Bar's attorney and the State Bar's Subcommittee on Moral Character and the Committee of Bar Examiners.

Thus, the issue before us is whether the court abused its discretion by its implied determination that the necessity for preserving the confidentiality of the information

outweighed the necessity for disclosure in the interest of justice--the principle which also guides our in camera determination. (Evid. Code, § 1040, subd. (b)(2); Shepherd v. Superior Court (1976) 17 Cal.3d 107, 124-126; Pitchess v. Superior Court (1974) 11 Cal.3d 531, 538; American Federation of State etc. Employees v. Regents of University of California, supra, 80 Cal.App.3d at p. 918.)

We find no abuse of discretion with respect to the court's determination regarding file 3. Complaints about attorneys are highly confidential unless they result in disciplinary action. Maintaining the confidentiality of such complaints protects attorneys against the "irreparable harm" which can be caused by publicity where groundless charges have been made. (Chronicle Pub. Co. v. Superior Court, supra, 54 Cal.2d at p. 569.) Karny could be subject to impeachment if it turned out that the charges filed by Karny against the attorney were groundless. Nevertheless, Karny's complaint arose out of a collateral matter not directly relevant to defendant's trial. On balance, the attorney's right to privacy and to be protected against "irreparable harm" outweighed defendant's right to possible impeachment on a collateral matter.

We also find no abuse of discretion with respect to file 4's responses to questionnaires about Karny. People who provide information to the State Bar about applicants have a right to expect the information they provide will remain

confidential so they will speak freely and honestly without fear of repercussion. The State Bar must be able to assure confidentiality to its respondents during the course of its admission proceedings or the State Bar cannot fulfill its obligation to evaluate the moral fitness of persons to become members of the bar. (See e.g. Chronicle Pub. Co. v. Superior Court, supra, at pp. 566-567.) Our review of such items in file 4 reveals no information bearing any relevancy to the evidence received at trial or that would be helpful to the defense. No disclosure was required.

However, other information contained on Karny's bar applications, also located in file 4, was not entitled to such a high degree of confidentiality. State Bar applicants obviously understand that they are accorded a much lesser standard of privacy inasmuch as they must disclose personal information in order for the State Bar to investigate their moral character.

Here, Karny's bar applications, executed under penalty of perjury, omitted the addresses of the apartments in which he had resided with defendant and omitted all relationships with the BBC and its various business enterprises contrary to his

testimony at trial.^{71/} Defendant's interest in obtaining prior inconsistent statements executed under penalty of perjury directly contradicting Karny's testimony outweighed any necessity for preserving the confidentiality of that information and it should have been disclosed. The court's refusal to disclose such information in Karny's bar applications was an abuse of discretion.

Nevertheless, we find no prejudice arising from such error. Evidence that Karny lied to the State Bar in hopes of hiding his involvement with the BBC to gain admission to the State Bar, is unlikely to have altered the jury's view of his credibility. Karny had been exposed to substantial impeachment and the jury was instructed to view his testimony with greater care than the testimony of other witnesses. Cross-examination of Karny regarding false statements on his bar application is unlikely to have persuaded the jury that Karny was not privy to inside information about the BBC as defendant now suggests on appeal. Karny's close identification with defendant and the BBC was corroborated by a number of witnesses including defense witness, Brooke Roberts. A misapplication of Evidence Code

^{71/} This information is no longer confidential having been disclosed during the course of discovery by order of the court in the Eslaminia trial.

section 1040 does not result in prejudice where the witness has been thoroughly impeached by other means. (People v. Roberts, supra, 2 Cal.4th at p. 302; People v. Gonzalez (1990) 51 Cal.3d 1179, 1241-1242; Delaware v. Van Arsdall (1986) 475 U.S. 673, 683-684.)

Turning to the contents of file 5, we find no abuse of discretion by the trial court. Nothing contained in the letters requesting an investigation of Karny's moral character was based upon the personal knowledge of the informants. Rather, it was based upon information contained in published news articles. Accordingly, the necessity for preserving the confidentiality of the complainant's identity outweighed the necessity for disclosure. (Chronicle Pub. Co. v. Superior Court, supra, at pp. 566-567.)

A different situation is presented by file 6 in that some of the information contained therein was not acquired in confidence. A State Bar investigator spoke to the investigating officers and prosecutors involved in prosecuting defendant who provided information about Karny's involvement in the deaths of Levin and Eslaminia as well as information regarding the promises made to Karny to obtain his testimony in both cases. The same information had been disclosed by such officials to the defense. Therefore, such information was not acquired in confidence by the State Bar. Information which is

not provided in confidence or which is no longer confidential because it has been provided to the defense is not privileged just because it has been placed in an "investigatory file." (Evid. Code § 1040 subd. (a); Williams v. Superior Court (1993) 5 Cal.4th 337, 355; People v. Roberts, supra, 2 Cal.4th at p. 302.) Thus, the court erred in denying defendant access to the non-privileged information located in file 6.^{72/}

To the extent that file 6 contains inter-office communications between the State Bar's investigator and the State Bar's legal counsel reflecting thought processes and recommendations based upon information obtained in confidence during the course of Karny's investigation, such documents are protected from disclosure by the work-product doctrine. (People v. Collie, supra, 30 Cal.3d at p. 59; Code of Civ. Proc., § 2018, subd. (b).) Unless such documents could lead to relevant evidence, the necessity to preserve such confidential communications outweighs any necessity for disclosure. In our

^{72/} We express no opinion as to whether the failure to disclose such documents was prejudicial because neither defendant nor respondent have had an opportunity to view the documents and to brief the issue. Counsel wishing to pursue discovery of this information may seek an order for their disclosure in connection with the related habeas corpus petition in case No. B059613.

view no items met that standard and therefore no injustice occurred by their non-disclosure in this case.

Finally, we look to whether the court erred in not ordering disclosure of the contents of file 7.^{73/} The State Bar claimed this file came within the attorney-client privilege in that its documents contained confidential communications from the State Bar's attorney to State Bar committees and its executive director. Public entities and their attorneys may assert the attorney-client privilege. Such privilege applies to legal opinions formed and advice given by the legal counsel in the course of the attorney-client relationship with the public entity. (Roberts v. City of Palmdale (1993) 5 Cal.4th 363.)

There is no dispute that the documents meet this definition and we have encountered no argument in this case

^{73/} The information contained in file 7 was not disclosed to the trial court or this court in chambers pursuant to Evidence Code section 915, subdivision (b) as the State Bar did not claim they were covered by the official information privilege contained in Evidence Code section 1040. The State Bar claimed they were subject to the absolute protection provided by the attorney-client privilege. (Evid. Code, § 952; Pen. Code, § 1054.6; Code of Civ. Proc., § 2018, subd. (c).) No order for disclosure of the documents was required in order to rule on said claim. (Evid. Code, § 915, subd. (a).)

which persuades us that the defendant's right to discovery outweighs the strong policy supporting the need for the State Bar to keep its attorney's communications about Karny confidential. We find no abuse of discretion.

I. JURY INSTRUCTIONS

Defendant contends numerous errors in jury instructions denied him a fair trial.^{74/}

1. Instruction on the Role of the Court

We begin with the court's modification of CALJIC No. 17.30 the underscored portions of which defendant claims gave the jury a mixed message and allowed the jury to imagine what sort of comment the court would have given had it so chosen: "I have not intended by anything I have said or done, or by any

^{74/} Some of the errors claimed with respect to jury instructions have been analyzed and addressed in earlier parts of this opinion and, therefore, are not included in this section.

questions that I may have asked, or by any ruling I may have made, to intimate or suggest what you should find to be the facts on any questions submitted to you, or that I believe or disbelieve any witness. [¶] If anything I have done or said has seemed to so indicate, you will disregard it and form your own opinion. [¶] You are to disregard any verbal exchanges between counsel and the court or any differences among us on rulings made by the court. The decision as to the guilt or innocence of the defendant is to be decided solely by you on the evidence received and on the court's instructions. I express no opinion as to the guilt or innocence of the defendant. The participation by the court in the questioning of witnesses is encouraged by our Supreme Court which has stated that there should be placed in the trial judge's hands more power in the trial of jury cases and make him a real factor in the administration of justice in such cases instead of being in the position of a mere referee or automaton as to the ascertainment of the facts. Although I am vested with the power to comment on the facts in the case and to express my opinion on the merits of the case, I have nonetheless refrained and do refrain from doing so letting you be the final and sole judges of the facts and the guilt or innocence of the defendant."

As respondent correctly points out, "[t]here were verbal exchanges between the court and counsel and disagreements among them concerning the court's evidentiary rulings; there were questions asked of witnesses by the court; and there were statements by counsel in response to those questions suggesting [incorrectly] that the court was acting inappropriately in questioning witnesses." Thus, we agree with respondent that it was appropriate for the court to instruct the jury on how they should view those matters.

The trial court's instruction was a correct statement of the law governing the court's right to participate in the trial. (People v. Rodriguez, supra, 42 Cal.3d 730, 766; People v. Brock (1967) 66 Cal.2d 645, 650; People v. Rigney (1961) 55 Cal.2d 236, 241; People v. Ottey, supra, 5 Cal.2d at pp. 722-723.) We find no error.

2. Refusal of Time of Offense Instruction

Defendant cites a number of cases indicating that when the date and time of an offense is material the judge has an obligation to instruct the jury to limit its consideration to the time period covered by the defendant's alibi. (People v. Jones (1973) 9 Cal.3d 546, 556, overruled on other grounds in

Hernandez v. Municipal Court (1989) 49 Cal.3d 713; People v. Wrigley (1968) 69 Cal.2d 149, 157; People v. Brown (1960) 186 Cal.App.2d Supp. 889, 892-894; People v. Neighbors (1947) 79 Cal.App.2d 202, 204; People v. Morris (1906) 1, 8-9.) Thus, he contends the court erred by refusing the following proffered instruction: [¶] The prosecution evidence has fixed the crime charged as occurring on June 6, 1984. The defendant has offered an alibi for that day. In light of the defendant's alibi defense, the time the alleged offense was committed becomes material. The jury is limited in its consideration of the evidence to the period which the prosecution has selected as the time of the commission of the offense charged. If you have a reasonable doubt that the offense was committed on that particular day the defendant is entitled to an acquittal."

Defendant cites cases for a correct principle of law, but which are not applicable to the instant case. In each of the alibi cases cited by defendant, the jury was misinstructed by the court that they could convict the defendant if they found the offense had occurred at any time instead of at the time testified to by the prosecution witnesses. In the present case, the jury was not misinstructed. Rather, instead of the defense's requested instruction, the court gave the following

standard alibi instruction set forth in CALJIC No. 4.50: [¶]
The defendant in this case has introduced evidence for the purpose of showing that he was not present at the time and place of the commission of the alleged offense for which he is here on trial. If, after a consideration of all the evidence, you have a reasonable doubt that the defendant was present at the time the crime was committed, he is entitled to an acquittal."

There was no argument or theory upon which the jury could have believed that if Levin was murdered, he was murdered at some time other than on the night of June 6, 1984. Thus, CALJIC No. 4.50 was a proper instruction on the law. No other or additional instructions were necessary or appropriate. (People v. Wright (1988) 45 Cal.3d 1126, 1134-1135.)

3. Adoptive Admissions

Defendant asserts that the court had a sua sponte duty to instruct the jurors pursuant to CALJIC No. 2.71.5 because of his lengthy silence when confronted with the "seven pages" by

Detective Zoeller.^{75/} In our view, the giving of CALJIC No. 2.71.5 would have been more harmful to defendant than helpful.

First, it is highly unlikely that the jury would not have found the foundational elements present as this evidence was not contradicted. Secondly, in light of the fact that the jury was instructed pursuant to CALJIC No. 2.03 that defendant's false or deliberately misleading statements could be considered as tending to prove a consciousness of guilt, and given that defendant stipulated that the "seven pages" were in his handwriting, defendant's silence which was followed by his denial of any knowledge of the "seven pages" would have over-emphasized the consciousness of guilt circumstance

^{75/} CALJIC No. 2.71.5 provides: "If you should find from the evidence that there was an occasion when [a] . . . defendant, 1) under conditions which reasonably afforded him an opportunity to reply, 2) failed to make a denial [or] [made false, evasive or contradictory statements] in the face of an accusation, expressed directly to [him] . . . or in [his] . . . presence, charging [him] . . . with the crime for which such defendant now is on trial or tending to connect [him] . . . with its commission, and 3) that [he] . . . heard the accusation and understood its nature, then the circumstance of [his] . . . [silence] [and] [conduct] on that occasion may be considered against [him] . . . as indicating an admission that the accusation thus made was true. Evidence of such an accusatory statement is not received for the purpose of proving its truth, but only as it supplies meaning to the [silence] [and] [conduct] of the accused in the face of it. Unless you find that . . . [the] defendant's [silence] [and] [conduct] at the time indicated an admission that the accusatory statement was true, you must entirely disregard the statement."

permitted by CALJIC No. 2.71.5. Accordingly, defendant benefitted by the failure to give CALJIC No. 2.71.5 and it is not reasonable to conclude on these facts that a result more favorable to defendant would have occurred had the instruction been given. (People v. Epperson (1985) 168 Cal.App.3d 856, 862; People v. Watson, supra, 46 Cal.2d at p. 836.)

Defendant's contention that CALJIC No. 2.71.5 should have been given with respect to Pittman's silence when defendant informed the BBC members at the June 24 meeting that he and Pittman had "knocked off" Levin is equally without merit. That issue was not in dispute. Both Karny and Brooke Roberts testified to the occurrence. The only dispute was whether defendant was telling the truth or fabricating a story to save the BBC. Pittman's silence was of no consequence;^{76/} he was either silent because he and defendant decided to fabricate a story or because they agreed to tell the truth. The giving of CALJIC No. 2.71.5 would not have guided the jury in resolving that issue. Thus, even assuming that the instruction, which refers to the consciousness of guilt of defendants not their accomplices, was applicable in this case,

^{76/} Furthermore, Pittman was not entirely silent. According to Roberts, Pittman told her after the meeting that they had not killed Levin.

the failure to give it was harmless. (People v Smith, supra, 187 Cal.App.3d at pp. 679-680; People v. Epperson, supra, 168 Cal.App.3d at p. 862; People v. Watson, supra, 46 Cal.2d at p. 836.)

4. Lack of Unanimity Instruction on Robbery Charge

Defendant also contends that some jurors could have found him guilty of robbery based upon the taking of the \$1.5 million check while others could have found him guilty based upon taking Levin's credit cards. Therefore, he argues the court had a sua sponte duty to give the jury the unanimity instruction set forth in CALJIC No. 17.01 with respect to the robbery charge.^{77/}

^{77/} If given, CALJIC No. 17.01 would have read as follows: "The defendant is accused of having committed the crime of robbery. The prosecution has introduced evidence tending to prove that there is more than one [act] . . . upon which a conviction . . . may be based. Defendant may be found guilty if the proof shows beyond a reasonable doubt that [he] . . . committed any one or more of such [acts]. . . . However, in order to return a verdict of guilty, . . . all jurors must agree that [he] . . . committed the same [act] . . . or [acts]. . . . It is not necessary that the particular [act] . . . agreed upon be stated in your verdict."

Once again we disagree. From opening statement to closing argument, the prosecution relied on only one act-- the forcible taking of the \$1.5 million check, as the basis of the robbery charge.

Our search of the transcript reveals no instance in which the prosecutor argued or that the defendant believed that, in the alternative, the taking of Levin's credit cards also could be construed as the basis of the robbery charge. Where the prosecutor has elected, as he did in this case, to rely on one act to form the basis of the charge, and where the defense is an alibi for the time that the robbery and murder were alleged to have occurred, and where the jury's verdict implies that it did not believe the defense offered, the failure of the court to instruct pursuant to CALJIC 17.01 is not prejudicial error. (People v. Diedrich (1982) 31 Cal.3d 263, 280-283; People v. Deletto (1983) 147 Cal.App.3d 458, 464-473; People v. Gonzalez (1983) 141 Cal.App.3d 786, 790-792; People v. Madden (1981) 116 Cal.App.3d 212, 216 fn. 4; People v. McIntyre (1981) 115 Cal.App.3d 899, 908-911; People v. LaMantain (1949) 89 Cal.App.2d 699, 701.)

5. Reasonable Doubt Instruction

In a supplemental brief, defendant contends that CALJIC No. 2.90 improperly equates reasonable doubt with moral certainty and thus violates his federal constitutional right to due process.^{78/} In support of his position, defendant relies on the decision of the United States Supreme Court in Cage v. Louisiana (1990) 498 U.S. 39.

Defendant's contention is without merit. This issue has specifically been addressed and decided adversely to defendant by our Supreme Court in People v. Sandoval (1992) 4 Cal.4th 155, 185-186; People v. Johnson (1992) 3 Cal.4th 1183, 1234-1235; People v. Morris (1991) 53 Cal.3d 152, 214; and

^{78/} The trial court instructed the jury as to reasonable doubt in the language of CALJIC No. 2.90, which reads:

"A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether [his] guilt is satisfactorily shown, [he] is entitled to a verdict of not guilty. This presumption places upon the People the burden of proving [him] guilty beyond a reasonable doubt. [¶] Reasonable doubt is defined as follows: It is not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge."

People v. Jennings (1991) 53 Cal.3d 334, 385-386. In People v. Sandoval, the Supreme Court held, "(a)s we noted in Jennings and Johnson, despite use of the term 'moral certainty' in CALJIC No. 2.90, the instruction does not suffer from the flaws condemned in Cage v. Louisiana (citation) 4 Cal.App.4th 155, 186."^{79/}

J. LIMITATIONS ON VOIR DIRE

Defendant urges this court to remand his case for retrial so that the following two questions can be asked on voir dire of a new jury: 1) "This case might be closely followed by local, state, national, and international electronic and print media. What does that fact indicate to you. . . .? and 2) Would you be more likely to find the defendant guilty or innocent because of the fact of the media's coverage of this case?" Defendant contends that because these two questions were eliminated by the court at his trial, he was unable to weed out those jurors who had biases against him

^{79/} The United States Supreme Court has granted certiorari in Sandoval v. California (September 28, 1993) ____ U.S. [62 U.S.L. Week 3241].)

which were triggered, not by what they had read, seen or heard, but by the mere "existence" of the media coverage itself, i.e. the lights, cameras, and microphones.

It is clear that where a case generates widespread publicity, the content of that publicity can have an impact on a person's ability to serve as an impartial juror. In such a case, the court may have a duty to make an inquiry adequate to uncover any prejudices caused by such publicity. (See e.g. United States v. Dellinger (7th Cir. 1972) 472 F.2d 340, 375.) On the other hand, it is not clear that there is any corrolation between the fact that a case generates publicity and prejudice in the minds of potential jurors. Courts have considerable discretion to "contain voir dire within reasonable limits" and need not permit inordinately extensive questioning based merely on counsel's speculation that someone "might" be prejudiced by the presence of the media. (See e.g. People v. Williams (1981) 29 Cal.3d 392, 408; Mu'Min v. Virginia (1991) ____ U.S. ____; 114 L.Ed.2d 493, 508-510; 111 S. Ct. 1899.) Reversal is required only if the doctrine is actually relevant, and the excluded questions are found "substantially likely to expose strong attitudes antithetical to defendant's cause." (People v. Williams, supra, 29 Cal.3d at p. 410; People v. Fuentes (1985) 40 Cal.3d 629, 639; emphasis added.)

The voir dire examination regarding the widespread publicity generated by this case was by no means perfunctory. We note that defendant does not claim that he was disallowed from questioning prospective jurors as to the content of media reports, i.e. whether they had been influenced by reading or hearing prejudicial and biased media accounts of the case. In fact, the jurors were thoroughly questioned during individual voir dire as to their exposure to pretrial publicity, whether the publicity would have any impact on their impartiality, and whether they would still be able to render a verdict based only on the evidence presented in court.

Nor was counsel totally precluded from asking the questions by the court's ruling. Two jurors were questioned by both the court and counsel with respect to the fact the case was generating publicity. During Hovey voir dire, juror Clements stated she had seen some television cameras in the hall and some reports on the evening news. When asked what conclusions she drew from the media attention, she repoded that she assumed it was an important case because the last time she served as a juror she saw no cameras in the hall. When asked what she meant by "important case," she responded, "Publicity attracted." During general voir dire, Chier asked juror Simon, without any objection from the court or the prosecutor, "I take it, you probably have not been able to

avoid noticing that there has been some press around the hallway from time to time. What does it suggest to you, if anything, the fact that there are news cameras around here from time to time?" Simon replied, "That this is an interesting case." Chier then asked, "And does it suggest to you or in any way imply that Mr. Hunt is guilty of anything?" Simon answered, "No." Chier's follow up question reemphasized that the defendant was presumed to be innocent which Simon indicated she understood. All of the subsequent jurors were asked whether their answers to all of the questions put to the other prospective jurors would be substantially the same. Thus, the issue was raised, notwithstanding the judge's ruling, sufficiently early in the general voir dire as to give all but one of the jurors who ultimately served on the case the opportunity to answer the questions.

— Given the foregoing record and the purely speculative theory that the fact of publicity alone might generate prejudice, we find this contention wholly without merit.

K. DEFENDANT'S RIGHT TO BE PRESENT

Defendant contends that his absence from a number of conferences held in chambers and at the bench prejudiced his trial. Specifically, he states that he should have been

present 1) on January 15, 1987, when the court appointed Barens to represent him; 2) when the court decided to distribute the "seven pages" to the jury; 3) when Barens was asked his tactical reason for eliciting evidence that defendant had asked to speak to his attorney when confronted with the "seven pages"; 4) when Barens objected to the judge's gestures during testimony of defense witnesses; 5) at the hearing regarding the juror's "recipe of the week"; and 6) at all conferences in which the court used strong language to chastise Chier. Defendant's basic assertion is that an informed client serves as an important check against counsel's errors and omissions.

Defendant's arguments are, in reality, a restatement of his earlier complaints that he was denied the effective assistance of counsel. His reliance upon cases such as People v. Ebert (1988) 199 Cal.App.3d 40, 44-47 and People v. Blye (1965) 233 Cal.App.2d 143, 147-150 is misplaced inasmuch as those cases involved instances where the defendant's attorney actually and fundamentally undermined the defense. In Blye, the defendant's attorney privately exposed to the judge and prosecutor details of his client's defense, and that he did not intend to call the defendant as a witness because he believed he would be suborning perjury. (People v. Blye, supra, at p. 148.) In Ebert, the defendant's advisory counsel moved to withdraw because she believed, perhaps incorrectly, that the

defendant planned to present false testimony. If defendant had been present he may have corrected the erroneous impression. Instead, the attorney withdrew from the case and defendant was deprived of all assistance of counsel at his trial. (People v. Ebert, supra, at p. 43.)

In the present case, defendant was fully aware of the basis upon which his attorneys were appointed to represent him and the compensation they were to receive well before the evidentiary phase of the trial began. The judge's attitude toward Chier was evident before, during, and after the guilt verdict, yet, defendant made it clear that he wished to retain the services of Chier. We have previously rejected each of defendant's complaints about his legal representation finding that counsel's representation was competent. His counsel did not engage in any conduct undermining the proper functioning of the adversarial process. (Strickland v. Washington, supra, 466 U.S. p. 686.)

The cases have uniformly held "that the accused is not entitled to be personally present either in chambers or at bench discussions which occur outside of the jury's presence on questions of law or other matters in which defendant's presence does not bear a "reasonably substantial relation to the fullness of his opportunity to defend against the charge." [Citations.] Stated in another way, "[W]hen the presence of

the defendant will be useful, or of benefit to him and his counsel, the lack of his presence becomes a denial of due process of law.' [Citations.] The burden is upon defendant to demonstrate that his absence prejudiced his case or denied him a fair and impartial trial. [Citations.]" (People v. Jackson (1980) 28 Cal.3d 264, 309-310; People v. Price (1991) 1 Cal.4th 324, 407-408; People v. Cox (1991) 53 Cal.3d 618, 653; People v. Deere (1991) 53 Cal.3d 705, 722-723; People v. Lang, supra, 49 Cal.3d at p. 1026; People v. Bittaker (1989) 48 Cal.3d 1046, 1080; People v. Hovey (1988) 44 Cal.3d 543, 573-574.) Defendant has not met that burden.

L. EXCLUSION OF DEFENDANT'S LAW CLERK FROM COURTROOM

Chier utilized the services of a third year law student as a law clerk to research motions, summarize preliminary hearing and trial transcripts and to run errands and research issues as they arose during the trial. On March 4, 1987, the trial court excluded the law clerk from the courtroom because he had violated a restraining order by making disparaging remarks about the judge to a woman who appeared to be a member of the press. In a note to the judge, and in a subsequent hearing, the woman stated that the clerk had engaged her in a

conversation in which he insinuated that the judge was unfair because he and prosecutor Wapner's father were old friends.

Defendant claims that the court's exclusion of the law clerk was error because the restraining order was ambiguous and the court disregarded established procedural rules governing contempt proceedings. He also claims his rights to a public trial and to the effective assistance of counsel were infringed.

The restraining order was prompted by the court's concern that the case would be tried in the press and it was clarified when questions arose throughout the trial. The defense "enjoyed the benefit of the order to the extent it prevented the district attorney and prosecution witnesses from making extrajudicial statements about the cause." Having done this, defendant is not in a position to complain for the first time about any ambiguity in the order after it has become history. (People v. Watson (1971) 15 Cal.App.3d 28, 42.)

Attorneys have a duty to maintain the respect due to the courts of justice and judicial officers. (Bus. & Prof. Code, § 6068, subd. (b).) This duty, by implication, requires them to supervise persons acting under their direction to assure that they too will maintain the respect due to the courts and its judicial officers. (See e.g. Code Civ. Proc., § 1209, subd. (c).) But speech reflecting upon a judicial

officer may not be punished by contempt unless it is made in the immediate presence of the judge while court is in session and in such a manner as to actually interfere with court proceedings. (Code Civ. Proc., § 1209, subd. (b).)

Here, the speech was not made in the court's presence and the court did not initiate contempt proceedings. Since the law clerk was not charged with either criminal or civil contempt, arising out of his personal attack on the integrity and dignity of the court, he was not entitled to the procedural protections set forth in Turkington v. Municipal Court (1948) 85 Cal.App.2d 631, 635 as defendant asserts.

However, short of its contempt power, a court still has the inherent power to exercise reasonable control over all proceedings connected with the litigation in order to maintain the dignity and authority of the court. (People v. Fusaro (1971) 18 Cal.App.3d 877, 887-888; Mowrer v. Superior Court (1969) 3 Cal.App.3d 223, 230.) But judges are also cautioned to exercise their powers with great prudence and caution especially when it is their integrity that has been attacked. They are required to bear in mind that they are not so much engaged in vindicating their own character, "'as in promoting the respect due to the administration of the laws.'" (Mowrer v. Superior Court, supra, 3 Cal.App.3d at p. 232.)

In our view, the exclusion of the law clerk was imprudent. We do not see why a reprimand and warning to the law clerk would not have been sufficient to prevent future conduct of the same type. Nevertheless, we see no grounds for reversal. That a lesser remedial measure might have been taken by the court does not mean that the court's actions amounted to a denial of defendant's right to a public trial.

"The requirement of a public trial is for the benefit of the accused; that the public may see he is fairly dealt with and not unjustly condemned, and that the presence of interested spectators may keep his triers keenly alive to a sense of their responsibility and to the importance of their functions. . . . In addition to ensuring that judge and prosecutor carry out their duties responsibly, a public trial encourages witnesses to come forward and discourages perjury.' [Citations.]" (People v. Woodward (1992) 4 Cal.4th 376, 385. Exclusion of Chier's law clerk did not substantially implicate those factors. No other members of the press, public, or defense team were excluded. Accordingly, the error was harmless beyond a reasonable doubt. (Id. at p. 387.)

The exclusion of his law clerk was an irritation and aggravation to Chier who complained that he was less effective because he had to spend extra time explaining issues to his clerk which could have been more readily grasped if the clerk

was seated in the courtroom. But Chier did not contend, and defendant has failed to demonstrate, that Chier was unable to investigate any facts, or that he neglected to raise pertinent points of law, or that any potentially meritorious defense went unexplored as a result of his law clerk's absence from the courtroom. It is not reasonably probable that a determination more favorable to defendant would have resulted if the law clerk had been permitted to remain in the courtroom and the error was "harmless beyond a reasonable doubt." (People v. Phillips, supra, 41 Cal.3d at p. 60; Chapman v. California, supra, 386 U.S. at p. 24.)

M. VIOLATION OF RULE 980 GOVERNING ELECTRONIC COVERAGE OF TRIAL

Defendant contends the court disregarded some of the procedures governing the photographing, recording, and broadcasting of trials by the media set forth in rule 980 of the California Rules of Court. Specifically, he claims the court ignored his right to advance notice of a request for film or electronic media coverage^{80/} and eventually allowed too

^{80/} Rule 980(b) of the California Rules of Court provides that "[f]ilm or electronic media coverage is permitted only on written order of the court." Rule 980(b)(1) sets forth the following requirement: "A request for an order shall be made on a form approved by the Judicial Council, filed a reasonable time before the portion of the proceeding to be covered. The clerk shall promptly inform the parties of the request." (Emphasis added.)

many cameras, microphones, lights, equipment operators and equipment bearing media insignias into the courtroom.^{81/} The result, he claims, was a violation of his due process right to have his case tried in a sober courtroom environment. (Chandler v. Florida (1980) 449 U.S. 560; Sheppard v. Maxwell (1966) 384 U.S. 333; Estes v. Texas (1965) 381 U.S. 532.)

We find no error in the court permitting the occasional expansion of electronic media coverage in this case which attracted such a high degree of public interest. The

^{81/} Rule 980(b)(3) of the California Rules of Court provides in pertinent part: "Unless the court in its discretion and for good cause orders otherwise, the following rules apply: [¶] (i) One television camera and one still photographer, with not more than two cameras and four lenses, are permitted. [¶] (ii) Equipment shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible. Motorized drives, moving lights, flash attachments, or sudden lighting changes shall not be used. [¶] (iii) Existing courtroom sound and lighting systems shall be used without modification. An order granting permission to modify existing systems is deemed to require that the modifications be installed, maintained, and removed without public expense. Microphones and wiring shall be unobtrusively located in places approved by the court and shall be operated by one person. [¶] (v) Equipment or clothing shall not bear the insignia or marking of a media agency."

electronic media plays an important role in disseminating public information and rule 980(b)(3) of the California Rules of Court grants the court the discretion to permit additional equipment in the courtroom. It is appropriate to grant the media access "except where to do so will interfere with the rights of the parties, diminish the dignity of the court, or impede the orderly conduct of the proceedings." (KFMB-TV Channel 8 v. Municipal Court (1990) 221 Cal.App.3d 1362, 1368-1369.)

Furthermore, we find there was substantial compliance with California Rules of Court, rule 980. The court approved each instance in which a request for electronic coverage was submitted. On 15 separate occasions between October 6, 1986 and March 30, 1987, the court signed written orders permitting electronic coverage of aspects of the trial. There is nothing in the record indicating that the clerk informed the parties of these requests as required by California Rules of Court, rule 980(b)(1), but counsel was not taken by surprise by such coverage. The defense had been informed during jury voir dire that the court was going to permit electronic coverage of the trial and the defense took advantage of such coverage by giving interviews in the hallway when the cameras were present. When the defense registered a specific objection to a television channel's request to view the "seven pages" and that one of

their witnesses not be filmed, their objections were sustained. When law enforcement objected to electronic coverage of Karny's testimony because they believed his life was in danger, the defense objected and insisted he receive the same media coverage as all other witnesses. We find no abuse of discretion by the absence of formal notice to the defense. (See e.g. People v. Spring (1984) 153 Cal.App.3d 1199, 1207.)

Nothing in the record reflects that the electronic coverage of the trial was anything other than a minor inconvenience. Usually, only one camera was present in the courtroom at any given time and there were days when no cameras were present in the courtroom at all. To avoid media contamination of the jury, the court issued gag orders to the attorneys and others to preclude them from giving the press any information that had not already been introduced in trial. The jury was strongly admonished to disregard stories appearing in the press. This admonition led to the dismissal of one juror when three other jurors and a member of the press reported to the court that the juror had been watching television and reading newspaper stories about the case.

Finally, electronic coverage of trials is no longer presumed unconstitutional as it was in Estes and there is not a scintilla of evidence in the record that even one occurrence

similar to the abuses found unconstitutional in Sheppard ^{82/} tainted defendant's trial. Defendant has failed to establish that the presence of the broadcast media had an adverse effect upon any of the participants in his trial or that the ability of the jurors to decide the case on only the evidence was compromised. Without such a showing of prejudice, a violation

^{82/} When Estes was decided in 1964, the federal courts and 48 states prohibited television in the courtroom. (Estes v. Texas, supra, 381 U.S. at p. 550.) The Supreme Court was concerned that televising trials would improperly influence jurors, impair the testimony of witnesses, distract judges and intrude into the confidential attorney-client relationship. Thus, the "probability of prejudice" caused by electronic coverage was sufficient reason alone to reverse Estes's conviction. However, the court was aware "that ever-advancing techniques of public communication and the adjustment of the public to its presence may bring about a change in the effect of telecasting upon the fairness of criminal trials." (Id. at pp. 544-552.)

Sheppard, whose trial occurred in 1952, was subjected to virulent and incriminating publicity, including being examined for over five hours without counsel in a televised three-day inquest before his trial began. The media was allowed to take over the tiny courtroom. Reporters were all over the courthouse. They hounded the defendant and most of the participants; they were assigned seats within the bar precluding privacy between the defendant and his lawyer. The jurors were thrust into the role of celebrities, and were constantly exposed to incriminating matters not introduced at the trial. The judge's failure to "fulfill his duty to protect Sheppard from the inherently prejudicial publicity which saturated the community and to control disruptive influences in the courtroom" mandated a reversal. (Sheppard v. Maxwell, supra, 384 U.S. at pp. 338-349, 363.)

of rule 980 is not an error of constitutional dimensions.
(Chandler v. Florida, supra, 449 U.S. at pp. 581-582; People v. Spring, supra, 153 Cal.App.3d at pp. 1207-1208.)

N. CONDUCT OF JUDGE

We close our analysis of the fairness of defendant's trial by examining whether any other conduct of the judge, so far not examined, showed such a pro-prosecution, anti-defense bias as to lead to a miscarriage of justice. Defendant cites instances too numerous to recount here in which he claims the court disparaged and derided the defense theory, defense witnesses and the defense attorneys and took over the examination of prosecution and defense witnesses by questions designed to elicit testimony adverse to the defendant.

Respondent acknowledges that there were a few instances where the court's conduct "veered from its proper course," but urges us not to reverse defendant's conviction because in most of the instances of claimed judicial misconduct which were preserved for review by appropriate objection, the court was properly exercising its power to control and participate in the trial. Respondent further argues that any errors were harmless in that the record as a whole establishes that both sides were treated evenhandedly. Much of the court's conduct toward

cocounsel Chier was instigated by Chier's, discourteous, disrespectful, and provocative behavior and/or did not take place in the jury's presence.

There is support in the transcript for both positions. Our reading of the trial transcript reveals that the judge walked a very fine line between partisan advocacy and impartial intervention to see that a guilty defendant was not "wrongfully acquitted or unjustly punished." (People v. Murray (1970) 11 Cal.App.3d 880, 885; internal quotations omitted.) He did, indeed, interject himself into the trial. He thoroughly questioned both prosecution and defense witnesses and actively interposed his own objections to questions asked by both sides although far more frequently to defense questions. There were times when the judges's remarks in front of the jury were caustic, but we also note that most were the result of defense counsels' inappropriate comments, arguments or speaking objections which should have been made at side bench. The court made it abundantly clear in a number of chambers and bench conferences that he did not regard Chier as the lawyer in the case, that Chier's presence was totally unnecessary and a

waste of taxpayer's money.^{83/} There are other times when the court was solicitous of Chier and listened courteously to his legal arguments. It is also clear that the court held Barens in high esteem.

The cases deciding when a judge's handling of a trial crosses the line from "activism" to reversible error are mixed. There are instances in which a court's conduct was so biased that a reversal was required without regard to the strength of the evidence against the accused. (See People v. Mahoney (1927) 201 Cal. 618, 626-627.) In other cases, the court's lack of impartiality contributed to a reversal where the evidence was not strong. (See People v. Pitts, supra, 223 Cal.App.3d at pp. 811-815; People v. Fatone (1985) 165 Cal.App.3d 1164, 1170-1175.) In still other cases, even where trial judges committed misconduct by partisan displays of impatience, irritation and sarcasm and persistently questioned witnesses, eliciting testimony seriously adverse and harmful to

^{83/} The judge's disagreements with Chier were based upon Chier's abrasive and contentious demeanor, his interruption of discussions between the court and Barens, and upon his belief that Chier wrote frivolous motions vilifying the court and then violated the court's order against speaking to the press by handing the motions out to the press without showing them to Barens, serving them on the deputy district attorney or filing them in court.

the defendant, reversal was not required if the conviction was based on overwhelming evidence of guilt. (See People v. Rigney, supra, 55 Cal.2d at pp. 241-244; People v. Williams (1962) 200 Cal.App.2d 838, 846-848; People v. Campbell (1958) 162 Cal.App.2d 776, 786-788; United States v. Poland (9th Cir. 1981) 659 F.2d 884, 892-894.) It is also true that "'[w]hen the state of mind of the trial judge appears to be adverse to one of the parties but is based upon actual observance of the witnesses and evidence given during the trial of an action, it does not amount to . . . prejudice" [Citation.]" (People v. Hamilton (1988) 45 Cal.3d 351, 378.)

Threading our way through the mixed messages contained in the foregoing cases, we return for guidance to the basic principle contained in the California Constitution, article VI, section 13 which requires us to determine whether the court's conduct caused a miscarriage of justice. With that standard to guide us, we begin by repeating that in our opinion, notwithstanding all of the evidence indicating that Levin merely disappeared of his own accord, we have found the jury's verdict is supported by overwhelming evidence that that was not the case. That defendant had the motive, the opportunity, the enterprise, the philosophy and the tools to kill Levin is corroborated by defendant's multiple admissions of responsibility for Levin's murder. In short, the evidence of defendant's guilt was overwhelming.

With the strong evidence of defendant's guilt in mind, we turn to the court's examination of the witnesses. It was extensive and rarely elicited responses which helped the defense. However, in our view, the court's questioning was unnecessary and harmless when compared with the totality of the evidence elicited through the professional and thoroughly competent manner in which the case was handled by the deputy district attorney. We find the court's questioning of witnesses did not lead to a miscarriage of justice. (People v. Harbolt (1988) 206 Cal.App.3d 140, 157-158; cf. People v. Rigney, supra, 55 Cal.2d at pp. 241-244; People v. Campbell, supra, 162 Cal.App.2d at pp. 786-788.)

Chier's inability to accept the court's rulings without continued argument or sarcasm triggered the court's vitriolic comments to him. Nevertheless, we do not approve or condone the court's remarks. There are more appropriate ways to handle abrasive attorneys than to respond in kind, because to do so is usually prejudicial to a defendant. But, in this case, we are not persuaded that the court's remarks interfered with the jury's proper fact finding process. Defendant was represented before the jury by a courteous, competent attorney who was held in high esteem by the judge. Furthermore, there are no implications in the record that the judge was biased or prejudiced against the defendant as an individual or as a member of a cognizable group; the judge at all times treated

defendant with courtesy and respect. (Cf. In re Marriage of Iverson (1992) 11 Cal.App.4th 1495 [court employed gender-based stereotypes in its decisionmaking process].) We cannot assume that the jury was incapable of evaluating the evidence in this case without regard to the interactions between the judge and attorneys. (People v. Fusaro, supra, 18 Cal.App.3d at pp. 887-891; (People v. Denton (1947) 78 Cal.App.2d 540, 548-550; People v. Knight (1941) 44 Cal.App.2d 894-898; United States v. Poland, supra, 659 F.2d at pp. 892-894.)

In fact, in addition to the standard jury instruction requiring the jury not to take its cue from the judge's questions or rulings (CALJIC No. 17.30), the jury was explicitly instructed "to disregard any verbal exchanges between counsel and the court or any differences among [them] on rulings made by the court." The jury was further instructed that "[t]he decision as to the guilt or innocence of the defendant is to be decided solely by you on the evidence received and on the court's instructions. [The court] express[es] no opinion as to the guilt or innocence of the defendant." We presume the jurors were intelligent people who followed the court's instructions. (People v. Phillips, supra, 41 Cal.3d at p. 58.)

Ultimately, in our view no miscarriage of justice, as defined under state constitutional standards, occurred in this case. (People v. Watson, supra, 46 Cal.2d at p. 836.)

Defendant's trial was not perfect. No trial is. But perfection is not required, only fairness. (Delaware v. Van Arnsdall, supra, 475 U.S. at p. 681.) As stated in Chapman v. California, supra, 386 U.S. at page 22 "judgments shall not be reversed for 'errors or defects which do not affect the substantial rights of the parties.'" We do not find that what errors or defects occurred in this case affected the substantial right of defendant or contributed to his conviction.

IV. DISPOSITION

The judgment is affirmed.

BARON, J.*

We concur:

ARMSTRONG, Acting P.J.

GODOY PEREZ, J.

*Assigned by the Chairperson of the Judicial Council.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

COURT OF APPEAL - SECOND DIST.

FILED

JAN 15 1998

JOSEPH A. LANE

Clerk

In re

JOSEPH HUNT

on

Habeas Corpus.

B110428

(Super. Ct. No. A090435)

(J. Stephen Czuleger, Judge)

Deputy Clerk

ORDER

THE COURT:

I. INTRODUCTION

In the early 1980's, petitioner formed a group which came to be known as the "Billionaire Boys Club" (BBC). The group's purpose was to invest in commodities, cyclotron technology, and arbitrage. Ronald Levin, the decedent, persuaded the group he was a wealthy individual with money to invest. In fact, Mr. Levin was a "con man" who perpetrated an elaborate hoax on petitioner and the BBC. Petitioner was convicted of murdering Mr. Levin on June 6, 1984, with the aid of James Pittman. Petitioner admitted the existence of the plot to kill Mr. Levin to fellow BBC member Dean Karny. Petitioner also phoned Mr. Karny the morning after the murder and confessed to the murder. Mr. Karny testified at petitioner's trial under a grant of immunity.

We affirmed petitioner's conviction in an unpublished opinion. (*People v. Hunt* (Nov. 23, 1993) B029402 [nonpub. opn.].) Petitioner also filed a petition for writ of habeas corpus which was heard concurrently with his appeal. We concluded petitioner had made a prima facie showing of entitlement to relief with respect to five of the many issues raised in the petition. On November 23, 1993, we issued an order to show cause in the habeas corpus proceeding directing the superior court to conduct an evidentiary hearing on the following issues. First, we issued an order to show cause concerning purported newly discovered evidence that Mr. Levin was still alive and additional impeachment evidence which casts a fundamental doubt on the accuracy and reliability of the jury's verdict. This newly discovered evidence issue was limited to: sightings of Mr. Levin; the seven-page "to do" list which was left at Mr. Levin's house prior to June 6, 1994; and evidence contained in a "Dear Dean" letter that a prosecution witness, Mr. Karny, committed perjury in another case. Second, we directed the prosecution show cause whether defense counsel's representation of petitioner fell below an objective standard of reasonable professional competence and there was a reasonable probability that the result of the trial would have been different. This purportedly was because defense counsel failed to discover or to utilize certain information. Third, we determined a hearing was justified as to whether defense counsel, Arthur Barens, had an actual conflict of interest which adversely affected his performance. This was because Mr. Barens was allegedly seeking admission to the Hillcrest Country Club and the judge who presided over the trial had the power to veto the application. Fourth, the order to show cause directed resolution of the question as to whether the prosecution failed to disclose substantial material evidence bearing on the credibility of Mr. Karny. Finally, we directed the prosecution to show cause whether it failed to disclose material evidence favorable to petitioner that Mr. Levin was under investigation by the Federal Bureau of Investigation (FBI). Los Angeles Superior Court Judge J. Stephen Czuleger conducted an evidentiary hearing (Cal. Rules of Court, rule 260) beginning on March 29, 1996. We

will refer to Judge Czuleger's rulings as those of the "trial court." Prior to the evidentiary hearing, the court resolved a number of issues on the pleadings, pursuant to the prosecutor's motion. On July 12, 1996, the trial court issued a 38-page order denying the petition for writ of habeas corpus. On March 20, 1997, petitioner filed a 472-page petition for writ of habeas corpus challenging the July 12, 1996, order. After an extensive review of the trial and habeas corpus hearing records, we deny the petition.

II. DISCUSSION

A. Claims arising from the 1996 evidentiary hearing.

1. *Faretta* motion

Petitioner contends the trial court violated his constitutional self-representation right pursuant to *Faretta v. California* (1975) 422 U.S. 806, 835, when it denied his request to represent himself at the evidentiary hearing after we issued the order to show cause. Petitioner's contention is without merit. Unlike the situation in *Faretta*, neither the structure nor the history of the Sixth Amendment has been interpreted to apply the self-representation requirement to a state court post-judgment and appeal collateral attack evidentiary hearing procedure. It may be that the Sixth Amendment self-representation right may exist in the federal collateral attack evidentiary hearing process. However, we cannot conclude that the self-representation option in a post-judgment state collateral attack evidentiary hearing process is "fundamental to the American scheme of justice" which is a test for determining the application of the Sixth Amendment to a state justice system. (*Benton v. Maryland* (1969) 395 U.S. 784, 795.) Moreover, in terms of other tests for determining whether the Fourteenth Amendment Due Process Clause requires certain procedural requirements be imposed on state courts, the self-representation option

in a post-judgment evidentiary hearing procedure cannot be characterized as “‘so rooted in the traditions and conscience of our people as to be ranked as fundamental’ [], and ‘implicit in the concept of ordered liberty,’ such that ‘neither liberty nor justice would exist if they were sacrificed’” (*Washington v. Glucksberg* (1997) __ U.S. __, __ [117 S.Ct. 2258, 2268]; e.g. *Herrera v. Collins* (1993) 506 U.S. 390, 411 [Texas limitation on post-judgment presentation of newly discovered evidence claim not violative of Due Process Clause of Fourteenth Amendment].) We note the United States Supreme Court has never held that there is a right in a state’s post-judgment habeas corpus evidentiary hearing for the petitioner to proceed in pro se. Finally, there is no state constitutional or statutory right to self-representation at a habeas corpus evidentiary hearing. (*People v. Sharp* (1972) 7 Cal.3d 448, 453.)

B. Evidence that Mr. Levin was still alive

1. “Sighting” evidence

At the hearing, the trial court heard the testimony of five witnesses who claimed to have seen Mr. Levin alive after June 6, 1984. These so-called “sighting” witnesses were Connie Gerrard, Nadia Ghaleb, Robert Robinson, Ivan Werner, and Karen Sue Marmor. The court found that Mr. Robinson and Ms. Marmor had “no credibility at all.” The court gave little weight to the testimony of Ms. Ghaleb and Mr. Werner, who had minimal contact with Mr. Levin. The alleged sightings of him were extremely brief. The court gave the greatest weight to the testimony of Ms. Gerrard, who claimed to have seen Mr. Levin alive in 1987. However, in order for petitioner to receive a new trial based on newly discovered evidence, the evidence must “undermine the entire prosecution case and point unerringly to innocence or reduced culpability.” (*People v. Gonzalez* (1990) 51 Cal.3d 1179, 1246; *In re Hall* (1981) 30 Cal.3d 408, 417.) The court ruled that the

testimony of Ms. Gerrard was not sufficient to meet this standard. After conducting independent review of the facts adduced at the hearing, we adopt the trial court's findings as our own.

Petitioner contends the court should have admitted the testimony of three additional "sighting" witnesses Louise Waller, Carmen Canchola and Jesus Lopez. Since all three witnesses testified at petitioner's trial (Ms. Canchola and Mr. Lopez at the guilt phase, and Ms. Waller at the penalty proceedings), the trial court could properly rule that this evidence was inadmissible at the habeas corpus evidentiary hearing. This is because the evidence was cumulative. (See *People v. Delgado* (1993) 5 Cal.4th 312, 328; *In re Weber* (1974) 11 Cal.3d 703, 720-722; Evid. Code, § 352.)

2. "To do list"

Petitioner wrote out his plan to kill Mr. Levin in a seven-page outline (the "to do list"). The "to do list" included such items as "tape mouth," "handcuff," "kill dog," and "have Levin sign agreements." Among the "newly discovered evidence" which petitioner claims entitles him to a new trial is a statement by Mr. Levin's former neighbor, Karen Sue Marmor. She recalled seeing the "to do" list in Mr. Levin's apartment prior to June 6, 1984. However, the trial court gave no weight to Ms. Marmor's testimony since her "vision" of the "to do list" in Mr. Levin's apartment came to her in "flashbacks" which occurred years after the murder and in fact several years after petitioner's trial (at which Ms. Marmor's husband testified). We independently adopt the trial court's findings the testimony did not meet the standard for granting habeas corpus relief based upon newly discovered evidence. (*In re Clark* (1993) 5 Cal.4th 750, 766; *In re Hall, supra*, 30 Cal.3d at p. 417.)

3. The “Dear Dean” letter

Richard Mayer was murdered in a Hollywood motel in October, 1986. Found in a shoe at the crime scene years later was a letter addressed to “Dean,” Mr. Mayer’s homosexual lover. In the letter, Mr. Mayer refers to “Dean’s” cooperation with the police. Further, the letter adverts to lies told to the authorities so that “Dean” could “get his deal.” Petitioner contends the “Dean” referred to in the letter is Mr. Karny. Further, he argues the letter proves Mr. Karny lied at trial. Petitioner contends the trial court erred when it excluded the letter as inadmissible hearsay. This contention is without merit because the letter was not “evidence” in a constitutional sense. (*In re Weber*, *supra*, 11 Cal.3d at pp. 720-722; *Walker v. Lockhart* (8th Cir. 1985) 763 F.2d 942, 948; c.f. *Wood v. Bartholomew* (1995) 516 U.S. 1, 10 [inadmissible polygraph results are for Due Process Clause purposes “not ‘evidence’ at all . . .”].) The trial court correctly concluded that the letter was not “new evidence” because it was not admissible evidence.

C. Ineffective assistance of counsel claims

We apply the following test for evaluating in effectiveness of counsel claims: “Defendant argues that certain actions and omissions of the lawyers representing him at trial amounted to ineffective assistance of counsel in violation of his right to counsel as guaranteed by the Sixth Amendment to the United States Constitution and article I, section 15 of the California Constitution. In order to demonstrate ineffective assistance, a defendant must first show counsel’s performance was deficient because the representation fell below an objective standard of reasonableness under prevailing professional norms. (*Strickland v. Washington* (1984) 466 U.S. 668, 687-688 [].) Second, he must show prejudice flowing from counsel’s performance or lack thereof. Prejudice is shown when there is a reasonable probability that, but for counsel’s

unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome. (*In re Avena* (1996) 12 Cal.4th 694, 721 [.]” (*People v. Williams* (1997) 16 Cal.4th 153, 214-215.) With this standard in mind, the trial court took evidence on the following issues.

1. Mr. Karny’s deposition testimony in the Cantor-Fitzgerald lawsuit

The trial court rejected petitioner’s claim that trial counsel should have utilized evidence that Mr. Karny lied under oath in a deposition taken in a previous civil lawsuit arising from the fraudulent activities of the BBC. The trial court correctly found that trial counsel had valid tactical reasons not to use the information. Petitioner himself had lied under oath in the same lawsuit. Further, petitioner had coached Mr. Karny regarding the deposition testimony in question.

2. Testimony by Neil Adelman regarding the purchase of cyclotron attrition mills

At trial, the People presented evidence that petitioner and the BBC were financially desperate. Therefore, it was argued petitioner had a motive to kill Mr. Levin. Petitioner would thus have a motive to obtain Mr. Levin’s money. Petitioner contends trial counsel should have called as a witness Mr. Adelman, an attorney, who would have testified that the BBC was about to realize substantial income from the sale of cyclotron attrition mill technology to William Kilpatrick, a Canadian investor. Trial counsel viewed this cyclotron evidence as “snake oil” and would not use it. The extensive testimony on this issue at the evidentiary hearing served only to confirm trial counsel’s mature and wise analysis. The testimony revealed that Mr. Kilpatrick was bankrupt, had virtually no money, had substantial legal problems, and needed the approval of Canadian

and United States authorities before he could enter into any enforceable agreements. As the court below aptly noted, "There was no enforceable contract; there was no exchange of money; there was no production of any of these 'wonder' mills. In other words, this venture sounds much like the other fraudulent activities of the BBC and Petitioner in the early 1980's." The evidence would not have aided petitioner's case and likely would have damaged it. We adopt the trial court's findings as our own.

3. An FBI investigation of Mr. Levin regarding Progressive Savings and Loan

Petitioner contends trial counsel should have developed evidence that Mr. Levin had an incentive to flee because he was being investigated by the FBI for defrauding Progressive Savings & Loan in a check kiting scheme. Trial counsel elected not to use this evidence because petitioner had issued the worthless checks which Mr. Levin had deposited. The trial court concluded, based on the trial record and evidence taken at the hearing, that Mr. Barens's failure to utilize this evidence was reasonable because: there was little chance that Mr. Levin would have been charged in the Progressive Savings matter; the jury had already heard evidence of Mr. Levin's lack of honesty and integrity (thus the evidence would have been cumulative); and the evidence would have harmed petitioner. We are in accord.

4. Testimony of Oliver Wendell Holmes

Petitioner gave Mr. Barens the name of Oliver Wendell Holmes, a friend of Mr. Levin. Mr. Holmes, a lawyer, had represented Mr. Levin in a civil case. Petitioner believed Mr. Holmes might have information about Mr. Levin which might have been helpful. Specifically, Mr. Levin planned to leave the country and flee to Brazil in order to avoid criminal prosecution. Petitioner contends Mr. Barens should have investigated Mr.

Holmes further. Also, petitioner argues Mr. Holmes should have been called as a witness at trial. Mr. Holmes testified at the habeas corpus evidentiary hearing. Mr. Levin indicated he was working on a story about bank robbers fleeing to Brazil. Mr. Levin asked Mr. Holmes if Brazil has an extradition treaty with the United States. Mr. Holmes viewed this as “journalistic interest.” Mr. Levin never indicated he planned to flee the jurisdiction because of pending criminal charges against him. The trial court reasonably could have ruled that although Mr. Holmes’ testimony might have helped petitioner, Mr. Barends’s failure to investigate further was not unreasonable under the standard set forth in *Strickland v. Washington* (1984) 466 U.S. 668, 687-688. We conclude Mr. Barends’s conduct was not below the standard of reasonably effective representation. Mr. Barends had little information on which to proceed, and in any event, this testimony would not have altered the outcome of petitioner’s trial.

5. Testimony of Ms. Marmor

Petitioner claimed trial counsel was deficient for not calling Ms. Marmor as a “sighting” witness. As noted above, the court believed Ms. Marmor was not a credible witness. The court correctly found that trial counsel could “not be faulted for failing to call a witness at trial who lacks all credibility.” We are fully in agreement with the trial court’s analysis.

6. Additional ineffective assistance of counsel issues

The court did not take evidence on the following ineffective assistance of counsel issues identified in the order to show cause: (a) the terms of former BBC member Tom May’s movie contract; (b) laboratory tests concerning the BMW used to transport Mr. Levin’s body; (c) evidence that Mr. Levin discussed dyeing his hair with his barber; (d)

documents in possession of Mr. Levin's conservator allegedly indicating \$1.2 million had been amassed prior to the disappearance; (e) Mr. Levin's lack of familial ties and abuse of his dog; (f) evidence of prior contact between Mr. Levin and Mr. Pittman; (g) evidence that Mr. Levin's neighbor heard nothing unusual on the night of June 6, 1994; and (h) Mr. Levin's missing comforter was found by the neighbor in a trash can.

Petitioner contends he did not receive a fair hearing on these claims and thus was denied due process because his counsel at the evidentiary hearing did not vigorously oppose the prosecutor's motion to have these issues resolved on the pleadings, which they in fact were. Petitioner's claim that he was denied due process is without merit. Petitioner's counsel at the evidentiary hearing made what amounted to an offer of proof on these issues. The trial court, utilizing the *Strickland* standard, properly determined that Mr. Barens had a valid tactical decision for not using the evidence. Further, the trial judge determined that even if the evidence had been presented, it would not have altered the outcome of petitioner's trial and may even have damaged his case. Having independently reviewed the record, we adopt the trial judge's findings as our own.

D. Counsel's actual conflict of interest

Petitioner contends he was deprived of due process because the trial court did not take evidence on the claim that Mr. Barens had an actual conflict of interest. This purportedly was because Mr. Barens was seeking admission to the Hillcrest Country Club. Petitioner alleged the late Laurence Rittenband, the judge who presided over the trial, had the power to "blackball" Mr. Barens's admission to the Hillcrest Country Club. This issue was resolved adversely to petitioner on the pleadings when the People, in a pretrial hearing, persuaded the trial court that: (1) there was no evidence counsel had even applied for membership before, during, or after the trial; (2) Judge Rittenband was not on any of the club's membership review committees; and (3) the record did not

demonstrate “a trial counsel who pandered to the trial judge to gain personal favor.” The simple fact is Mr. Barends aggressively represented petitioner.

E. Failure of the prosecution to disclose substantial material evidence bearing on the credibility of Mr. Karny.

The jury at petitioner’s trial was told that in exchange for his testimony, Mr. Karny had received immunity from two murder charges. Also, Mr. Karny had been granted immunity from another assault with the intent to commit murder charge. Finally, the prosecution intended to intercede on Mr. Karny’s behalf with the Securities and Exchange Commission (SEC) in connection with any investigation of the BBC. Petitioner contends the prosecution withheld from the defense information that FBI officials would also inform the SEC’s “sister” agency, the Commodity Futures Trading Commission (CFTC), of Mr. Karny’s cooperation. The court below correctly ruled that petitioner was not prejudiced by the prosecution’s failure to disclose this information, since the jury was already aware that Mr. Karny had been granted immunity for his testimony. We adopt the trial court’s findings. We have applied the materiality analysis set forth in *Kyles v. Whitley* (1995) 514 U.S. 419, 434-437. It is not reasonably probable the failure to disclose this evidence would have led to a more favorable result.

F. Failure of the prosecution to disclose to petitioner that Levin was under investigation by the FBI.

At the hearing below, petitioner and his counsel conceded that the defense had been made aware of the FBI investigation of Mr. Levin. The court below correctly ruled that in light of this concession, and petitioner’s failure to show any prejudice, the issue was without merit. We agree.

G. Claims arising from court's refusal to consider supplemental petition

On March 29, 1996, petitioner filed a supplemental petition for writ of habeas corpus raising additional ineffective assistance of counsel issues. The court correctly declined to hear the petition because the issues were not within the scope of the order to show cause. In the interest of judicial economy, we have reviewed the supplemental petition on the merits and conclude that petitioner has failed to meet his burden of showing that but for counsel's alleged errors, the outcome of his trial would have been different. (*Strickland v. Washington*, *supra*, 466 U.S. at pp. 693-694; *People v. Fosselman* (1983) 33 Cal.3d 572, 584.) Petitioner's contention that Mr. Barens' performance was so deficient that we should utilize some standard of review other than *Strickland* is without merit. The appropriate standard of review is that which has been set by the United States Supreme Court.

H. Additional claims


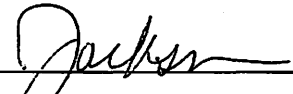
Petitioner raises additional claims concerning bias of Judge Rittenband. To the extent these claims were not raised on direct appeal, they are waived and the subject of procedural default. (*In re Harris* (1993) 5 Cal.4th 813, 826; *In re Clark*, *supra*, 5 Cal.4th at p. 765; *In re Waltreus* (1965) 62 Cal.2d 218, 225.) To the extent the failure to raise these issues was attributable to appellate counsel, we find that petitioner has no ground for a claim of ineffective assistance of his appointed attorney on appeal. (*Jones v. Barnes* (1983) 463 U.S. 745, 750; *Miller v. Keeney* (9th Cir. 1989) 882 F.2d 1428, 1434, fn. 10.)

Finally, petitioner contends there is new evidence proving his innocence which came to light only on the morning of the last day of the evidentiary hearing. That evidence was in the form of a declaration from Jonathan Milberg, a highly regarded

criminal defense attorney, who stated that in 1977 (seven years before the murder) he overheard Mr. Levin in a telephone conversation. Mr. Levin stated over the telephone that if things got “too hot” for him, he would simply disappear and “everyone would think he is dead, and that he would be ‘sitting somewhere’ laughing at everyone.” This evidence is merely cumulative of other evidence presented at trial; it did not “undermine the entire prosecution case and point unerringly to innocence or reduced culpability.” (*People v. Gonzalez, supra*, 51 Cal.3d at p. 1246; *In re Hall, supra*, 30 Cal.3d at p. 417 .) The prosecution case conclusively demonstrated petitioner killed Mr. Levin and none of the collateral notions raised in the habeas corpus petition undermined that immutable reality.

III. DISPOSITION

The petition for writ of habeas corpus is summarily denied on the merits and as noted, the court finds certain enumerated issues are also the subject of procedural default.

*  

TURNER, P.J. JACKSON, J.*

* Assigned by the Chairperson of the Judicial Council

FILED
LOS ANGELES SUPERIOR COURT

JUL 12 1996

JAMES H. DEMPSEY, CLERK

H. Kim
BY H. KIM, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In Re:)	Case No. A 040435
)	
JOSEPH HUNT,)	ORDER DENYING WRIT OF
)	HABEAS CORPUS
on Habeas Corpus.)	
)	

For the reason set forth below, Petitioner Joseph Hunt's Petition for Writ of Habeas Corpus must be and is denied. Petitioner has failed to meet his burden. Claims of newly discovered evidence, ineffective assistance or conflict of counsel, and failure by prosecution to disclose evidence, have not cast doubt on the accuracy and reliability of the trial proceedings. Nor can the Court say that but for claimed insufficiencies the results in the trial probably would have been different.

I

PROCEDURAL BACKGROUND

On November 23, 1993, the Court of Appeal in an unpublished 188-page opinion affirmed the conviction of Petitioner

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1 Hunt for the June 6, 1984, murder of Ronald Levin. People v.
2 Hunt, B029402 (Second Appellate District, Division 5,
3 November 23, 1993). On the same day, the Court issued an order
4 to show cause based upon Hunt's petition for writ of habeas
5 corpus. This order was amended on December 23, 1993. In sum,
6 the two orders remanded the case to the Los Angeles Superior
7 Court to review twenty-three specific issues pursuant to Rule
8 260, California Rules of Court.

9 Following the filing of a Return and a Traverse, as well as
10 several prehearing motions, the Rule 260 hearing began on March
11 29, 1996. On that date, this Court ruled as to which of the
12 twenty-three issues the Court would take additional live
13 testimony on, that is, "evidence beyond that contained in the
14 Petition, Return, and Traverse. Of the twenty-three issues, the
15 Court found that seven met the standard of Rule 260c.¹

16 Those seven issues focus on two areas. The first area is
17 whether allegedly newly discovered evidence "casts a fundamental
18 doubt on the accuracy and reliability of the jury's verdict."
19 (Order to Show Cause, p. 2) This topic concerns evidence of
20 sightings of Levin and evidence concerning the finding of what
21 has come to be known as the seven page "to do" murder list. (OSC
22 Issues 1(a) and 1(b))

23 The second area deals with alleged ineffective assistance of
24 counsel. This area concerns trial counsel's alleged failure to
25

26
27 ¹That rule provides in part: "An evidentiary hearing is required if after considering the verified petition, the
28 return, any denial, and affidavits or declarations under penalty of perjury and matters of judicial notice, the
Court finds there is a reasonable likelihood that the petitioner may be entitled to relief..."

1 discover and/or utilize available exculpatory information for the
2 benefit of his client and whether there is a reasonable
3 probability that the result of the trial would have been
4 different had counsel acted differently (OSC Issues: 2(a), 2(c),
5 2(e), 2(f) and 2(h)).

6 The hearing in this matter lasted thirteen days. Petitioner
7 called nineteen witnesses including himself. Respondent called
8 eleven witnesses. Hundreds of pages of documents were marked and
9 received into evidence.² The transcript of the hearing,
10 excluding closing arguments, runs over 2,200 pages. Prior to the
11 commencement of the hearing, the Court read and considered the
12 approximately 15,000 page transcript of Petitioner's Santa Monica
13 trial, as well as the thousands of pages making up the Petition,
14 Return, and Traverse and exhibits attached thereto. In sum,
15 although the case is voluminous, the issues are plain and
16 Petitioner and Respondent have been afforded a full airing of the
17 facts and their arguments.

18 II

19 EVIDENCE AT THE TRIAL

20 A brief discussion of the evidence presented at his Santa
21 Monica trial in 1986 - 1987 is appropriate in order to evaluate
22 the claims Petitioner makes in the Petition and the evidence as
23

24
25
26
27 ²Petitioner had 67 exhibits with sub-markings received into evidence. Respondent had 11 exhibits with sub-
28 markings received. Numerous other exhibits were marked, reviewed by the Court, but not received into
evidence.

1 presented in the just completed hearing.³

2 The details of the plot to kill Ronald Levin were testified
3 to by Dean Karny, who received immunity for his testimony. The
4 Petitioner first met Dean Karny in junior high school and became
5 reacquainted with him in 1980 when Karny was a student at UCLA.
6 The Petitioner impressed Karny and his friends as a remarkably
7 intelligent and well-established young man. In fact, in November
8 1980, Karny, his parents, and others provided Petitioner with
9 over \$400,000 to trade commodities. At first, Petitioner was
10 very successful at trading, however, by 1982, Petitioner had lost
11 all the capital that he had raised.

12 Undaunted by this setback, Petitioner wanted to form a group
13 of intelligent, capable, motivated people who could succeed in
14 business, personal, and social ventures without the type of
15 constraints usually associated with corporate structures. By
16 early 1983, Petitioner, along with 10 others, formed the Bombay
17 Bicycle Club ("BBC").⁴ The BBC's purpose was to invest in
18 commodities, cyclotron technology, and arbitrage. The group was
19 bound together by a philosophy developed by Petitioner called the
20 "Paradox" philosophy. This philosophy called for an individual
21 not to be bound by society's rules of law or religion.
22 Accordingly, members were encouraged to do what was "necessary
23 under the circumstances." In short, the survival of the
24

25 ³This discussion does not pretend to be exhaustive, only illustrative. A fuller recitation of the evidence can
26 be found in the Court of Appeal's opinion in People v. Hunt, *supra*, or, as this Court has done, by reading the
27 99 volumes of trial transcripts.

28 ⁴The media later created the name "Billionaire Boys Club" from the initials "BBC". That appellation has
remained to this day.

1 individual was considered paramount. By June 1983, the BBC
2 appeared to be prospering with offices rented and capital raised.

3 Early in 1983, Levin came to Petitioner's attention. The
4 Petitioner believed Levin was wealthy and he succeeded in getting
5 Levin to place \$5 million in a commodities trading account. The
6 account was in Levin's name, yet any profits were to be split
7 equally between Levin and Petitioner. Shortly thereafter,
8 Petitioner announced to the BBC that he had lost all the
9 investors' money in the commodities market with the exception of
10 the Levin account. However, Petitioner promised to reimburse the
11 investors for their losses with his share of the profits from the
12 Levin account. At this time, the BBC's overhead expenses were
13 approximately \$70,000 per month, with the other businesses
14 providing little additional income and the Petitioner personally
15 spending large sums of money.

16 At first, Levin told Petitioner he could not pay the profits
17 owed because he had already invested the profits in a shopping
18 center. Later, Levin told Petitioner that the BBC's share of the
19 profits had increased from \$3.5 million to \$13 million because a
20 Japanese company had offered to buy the shopping center.
21 However, the money never materialized -- in fact, it had never
22 existed.

23 By October 1983, Petitioner had learned that he had been the
24 victim of an incredible hoax. Levin, posing as a representative
25 of his company, Network News, had persuaded Jack Friedman, a
26 securities broker, to set up a simulated trading account for the
27 purposes of a news story that he was working on. Moreover,
28

1 Friedman was told to make sure that Petitioner did not know the
2 account was simulated. Petitioner, in turn, believed the account
3 was real and actively traded in it with substantial success.
4 Thereafter, however, the anticipated profits from the Levin
5 account proved to be illusory. Petitioner was not happy, he had
6 been "conned" by Levin.

7 When confronted, Levin admitted to the Defendant that there
8 was no shopping center and there were no profits, but he agreed
9 to give Petitioner \$300,000. In the meantime, the BBC's
10 financial affairs worsened, while Levin delayed making the
11 promised payment. Accordingly, Petitioner told Tom May, a BBC
12 member, that he was going to get the money from Levin, "no matter
13 what it took." In addition, Petitioner told Karny that he was
14 going to find a way of getting that money from Levin and that
15 Levin was going to die one day.

16 By May 1984, Petitioner told Karny that he had developed a
17 plan to kill Levin and get the money. Petitioner set forth this
18 plan in an elaborate seven-page outline of lists of things to do
19 which he reviewed with Karny.⁵ The plan involved James Pittman,
20 a karate instructor, who was in charge of security for the BBC
21 and served as Petitioner's bodyguard. Pittman was known to carry
22 firearms. Finally, Petitioner informed Karny that he was going
23 to execute his plan on June 6, 1984 because Levin was due to
24 leave for New York the next morning, thus making his
25 disappearance less obvious.

26 On the morning of June 7, 1984, Petitioner awakened Karny
27

28 ⁵The famed "to do" list.

1 and told Karny he had done it, that Levin was dead. He showed
2 him a check for \$1.5 million and the contract signed by Levin.
3 Then Petitioner made copies of the check which he distributed to
4 the BBC members. In subsequent conversations with Karny,
5 petitioner described Levin's murder in greater detail.
6 Petitioner told Karny how he and Pittman had gone to Levin's
7 Beverly Hills apartment and had coerced Levin into making out the
8 check and signing the option contract, prior to shooting him in
9 the back of the head and disposing of his body.⁶ Levin's body
10 has never been found.⁷

11 Levin was discovered missing early in the morning on June 7,
12 1984 by two friends, who had planned to travel to New York with
13 him. After searching the apartment, they found Levin's airline
14 tickets, luggage, and car at the house. However, the linens from
15 his bed, television remote controller, wallet, and key were
16 missing. Perhaps most peculiar, Levin had not called his
17 answering service for messages, as was his regular practice.

18 Also, on June 7, 1984, Pittman checked into the New York
19 Plaza Hotel in Levin's name. He was arrested when he tried to
20 pay the bill with Levin's credit cards. Petitioner flew to New
21 York and hired a lawyer to get Pittman out of jail. Three days
22 later, Petitioner met with Gene Browning, the inventor of the
23 cyclotron (discussed, *infra*), and told him that "Levin was
24 missing and probably dead."

25
26
27 ⁶Levin had earlier convinced Petitioner that he had a large amount of money in an overseas bank account.
This, like the brokerage account, was fictitious.

28 ⁷Petitioner bragged that he and Pittman had so efficiently disposed of it that it would never be located.

1 Since the cohesiveness of the BBC was crumbling, it was
2 agreed that a special meeting of the BBC would be called and only
3 those members with a sufficient orientation in the "Paradox"
4 philosophy would be invited to attend. Prior to the meeting,
5 petitioner informed Tom May that he had killed Levin and that he
6 had committed the perfect crime. The special meeting was held on
7 June 24, 1984, with numerous members of the BBC present. At the
8 meeting, Petitioner told the group that he and Pittman had
9 "knocked off Levin." He said that Levin had signed the check
10 under "duress." Moreover, he suggested that his actions were
11 necessary to the survival of the BBC and that Levin's check would
12 still be cashed despite recent difficulties in trying to do so.
13 In addition, Petitioner assured the group that it was a perfect
14 crime and that they would not be caught. However, Petitioner
15 also threatened the group by suggesting that if any member talked
16 to the police, he would end up in East River and become "fish
17 bait."

18 Despite issuing the strong warning, days later Petitioner
19 became suspicious that BBC members were talking to the police.
20 Petitioner broke into David May's apartment and heard a message
21 from Detective Zoeller of the Beverly Hills Police Department, on
22 the answering machine. Petitioner confronted May and BBC
23 associate Jeffrey Raymond with this information and demanded that
24 they call the police and say they had lied. Furthermore,
25 Petitioner told them he would exchange the documents they had
26 given to the police for the pink slips which he held to their
27 cars.
28

1 Petitioner was arrested on September 28, 1984. Petitioner
2 waived his constitutional rights and responded to the detective's
3 questions until he was confronted with the seven pages of "things
4 to do" in his handwriting which had been found at Levin's house.⁸
5 Petitioner immediately stopped talking for seven to ten minutes.
6 Finally, Petitioner told a detective that he didn't know anything
7 about the "things to do" list.

8 Petitioner called Karny from the Beverly Hills jail and
9 reminded him of the significance of the alibi that they had
10 arranged about their evening at the movies on June 6, 1984.
11 After Petitioner was released from jail, Petitioner had frequent
12 discussions with Karny about how brilliantly the murder was
13 conceived and executed.

14 Petitioner chose not to testify at trial. Defense evidence
15 at the guilt phase of the trial consisted of explanations for
16 Petitioner's numerous admissions of the Levin murder to members
17 of the BBC and his whereabouts on the night of June 6, 1984.
18 Most importantly, the defense presented two witnesses who
19 testified that they had seen Levin alive in Arizona in 1986.
20 These were two students living in Tuscon who identified a
21 photograph of Levin and testified that they had seen him in a gas
22 station in September 1986.⁹

23 III

24 NEWLY DISCOVERED EVIDENCE

25
26
27 ⁸This list included things like: "tape mouth," "handcuff," "kill dog," "have Levin sign agreements."

28 ⁹Another witness testified in the penalty phase of the trial that she knew Levin and had seen him walking into an office building in Century City in 1987. A

A. STATEMENT OF LAW

In order to succeed in his petition on grounds of newly discovered evidence, the proffered evidence must be "of such character as will completely undermine the entire structure of the case upon which the prosecution was based." In Re Lindley, 29 Cal.2d 709, 723 (1947). It must be credible evidence. In Re Hall, 30 Cal.3d 408, 417 (1981). It cannot only be cumulative of other evidence offered at the trial. People v. Delgado, 5 Cal.4th 312, 328 (1993). In summary, "such evidence, if credited, must undermine the entire prosecution case and point unerringly to innocence . . ." People v. Gonzalez, 51 Cal.3d 1179, 1246 (1990).

Petitioner's "new" evidence does not rise to the standard provided by law. The evidence either lacks credibility or does not point unerringly to Petitioner's innocence.

B. SUMMARY OF NEW EVIDENCE

Four witnesses were called by Petitioner at the hearing to say that they had seen Levin alive after June 1984. These "sighting" witnesses were Connie Gerrard, Nadia Ghaleb, Robert Robinson, and Ivan Werner. Other witnesses also testified to bolster this evidence. A fifth witness, Karen Sue Marmor, testified as to seeing the "to do" list at Levin's apartment well prior to the June 6, 1984 murder date and as to hearing comments and reactions of Levin prior to June 6, 1984 which might indicate that he was going to flee.

1. Connie Gerrard.

Connie Gerrard first met Levin in the early 1980's. She had

1 seen him about ten times. They had visited each others' homes.
2 Levin had told her that he wanted to get into the news business.
3 Gerrard was assisting her daughter and son-in-law, who owned L.A.
4 News Services and had spoken with Levin with reference to the
5 news business. She had read in the newspapers that Levin was
6 missing and that someone had been charged with his murder.

7 In December 1987, she and her husband flew to Greece for a
8 visit. On Christmas Day 1987, they were on the Greek island of
9 Mykonos looking for a restaurant during a rainstorm. After
10 finding a restaurant, they entered and waited to be served.
11 Sometime thereafter, two men came into the restaurant and sat
12 down. Gerrard recognized one to be Levin. According to Gerrard,
13 when Levin walked past he looked at her, and his face changed and
14 he quickly left the restaurant. Connie Gerrard whispered to her
15 husband, George Gerrard, that this man was Ron Levin.¹⁰ She
16 reported this sighting to her daughter and son-in-law upon her
17 return, who had earlier told her that they thought Levin was a
18 "con" man.

19 2. Nadia Ghaleb.

20 Nadia Ghaleb met Levin in the early 1970's at a celebrity
21 clothing store in Beverly Hills. She sensed, at the time, that
22 he was a "con" man. She saw him around town on occasion. Prior
23 to 1987, she remembered last seeing him at a restaurant in 1982.

24
25 ¹⁰George Gerrard testified and substantiated his wife's story. Curiously, George Gerrard had been a pool
26 builder who built a pool years earlier for a man by the name of Bobby Roberts. Roberts was a supporter of
27 Hunt's, had posted his bail, and was the father of Hunt's girlfriend. Furthermore, Hunt had resided with
28 Roberts during his trial in Santa Monica. Additionally, Gerrard's daughter and son-in-law had previous
substantial contact with Levin. Levin was involved in some of their news gathering and had offered to invest
money in their business. These relationships, however, do not seem to be dispositive of an evaluation of
Connie Gerrard's testimony.

1 In approximately March 1987, she was driving eastbound one
2 morning on San Vicente Boulevard in West Los Angeles when she
3 looked out her car window to the right and saw Levin getting into
4 a car in a parking lot. She said to herself, "there's Ron Levin"
5 and continued on to work. She said that she did not know that
6 Levin had been supposedly murdered nor of the Billionaire Boys
7 Club trial that was ongoing in Santa Monica. She said that she
8 did not follow the news. Only when she caught a story about a
9 friend of hers, Dean Martin's son being killed, did she see a
10 story about Levin's murder and realize that she had seen him
11 earlier that day.

12 Ghaleb told others that she had seen Levin alive, including
13 a secretary for one of James Pittman's attorneys.

14 3. Robert Robinson.

15 Robert Robinson was a reporter for City News Service, who
16 has since been fired and currently works as a security guard.
17 Robinson knew Levin because Levin paid him for tips. Levin's
18 partner was Gerrard's son-in-law. Despite being a reporter on
19 the "police beat" in Los Angeles, Robinson claimed not to know
20 anything about Levin being the victim of a murder in the
21 Billionaire Boys Club trial.

22 In October 1986, Robinson said that he saw Levin in
23 Westwood. According to Robinson, Levin walked up to him one
24 afternoon while in line at a movie theater and said, "Hi, Robbie".
25 Robinson knew Levin was missing but did not know he was supposed
26 to be dead. He wanted to brush Levin off because he had heard
27 that Levin was a "con" man.
28

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1 In April 1987, Robinson went to the District Attorney's
2 office to report his sighting. He later gave the story of his
3 sighting to a news competitor, the Associated Press, and was
4 fired by City News Service for this and other indiscretions.

5 4. Ivan Werner.

6 Ivan Werner worked as a funeral director at Pierce Brothers
7 Funeral Home in Westwood. In 1985 or 1986, he was working at a
8 funeral when he saw a man he later identified as Levin. This man
9 was attending the funeral for a decedent who had committed
10 suicide. The man he identified as Levin was among approximately
11 50 others who were present for the service.

12 In 1987 during Petitioner's trial, Werner saw a photograph
13 of Levin in a newspaper. From that photograph, he says he
14 recognized Levin as the man at the funeral and reported his
15 sighting to the Beverly Hills Police Department.

16 5. Karen Sue Marmor.

17 Karen Sue Marmor was Levin's neighbor. She met Levin in the
18 1970's when he came into a bank where she worked and threw a "fit"
19 over some transaction. Years later after marrying, she was
20 reintroduced to Levin by her new husband, Len Marmor.¹¹ She knew
21 Levin was "no good," but he used to visit all the time. She
22 visited his apartment as well. The two talked regularly.

23 In May 1984, Levin called her and asked her to come over.
24 He said he was planning a trip to New York. When she arrived,
25 Levin was upset and screaming that he was not going to go back to
26

27
28 ¹¹Len Marmor was a good friend of Levin's and testified at the Santa Monica trial that he had not heard from Levin since June 1984, and that it was highly unusual for Levin not to have contact with him.

1 jail. When he received a phone-call, she noticed and picked up
2 from his desk the "to do" list. Levin pulled it away from her and
3 told her not to be so nosy. He told her the paper dealt with a
4 movie script. Levin later told her that he might not come back
5 from his trip to New York.

6 Marmor never thought Levin was dead. He had discussed
7 getting rid of his old clothes, buying new clothes, shaving his
8 beard and dying his hair. As a result, she felt that Levin had
9 gone on a "permanent" vacation.

10 It was years after these events that Marmor had "flashbacks"
11 which triggered her memory of them. At the time, however she
12 said she did not think that Levin had been murdered, even though
13 Levin was an acquaintance, had been her neighbor and her husband
14 had testified in the Levin murder trial against Petitioner. Some
15 years after the trial, she said her husband told her that there
16 was some evidence that Levin was alive. This caused her to think
17 about it and come forward with her story.

18 C. DISCUSSION

19 At the outset, it is important to note that the existence of
20 witnesses Ghaleb, Robinson, and Werner was known or available to
21 Petitioner's counsel during the trial. Pittman's attorney told
22 someone representing Petitioner about Ghaleb. Petitioner's
23 counsel was told about Robinson's story and the prosecutor wrote
24 to Petitioner's counsel about the Werner sighting. In order to
25 succeed on a claim of newly discovered evidence, the proffered
26 evidence must be truly "newly discovered", that is, evidence that
27 was either unknown or could not have been discovered by diligent
28

1 investigation. In Re Hall, supra, 30 Cal.3d at 420.

2 However, disposing of these witnesses on the grounds that
3 they do not qualify as truly newly discovered is insufficient for
4 this Court's purpose. This Court heard these witnesses -- along
5 with witnesses Gerrard and Marmor -- and has come to a conclusion
6 as to their credibility and the weight to be given their stories.

7 Robert Robinson, as a witness, was pathetic.. Purporting to
8 be a professional journalist at the time, Robinson said that he
9 had run into a murder victim, in a high publicity case, in broad
10 daylight, on the crowded streets of Westwood. He feigned not
11 knowing that Levin was dead, thinking he was only missing despite
12 the fact that he was a "police beat" reporter and the high
13 publicity Billionaire Boys Club trial was ongoing. Yet, despite
14 realizing that this encounter with Levin was newsworthy, he did
15 not follow up on it because of his "journalistic ethics."¹²

16 Months later, Robinson reported his sighting to the District
17 Attorney's Office as the trial in Santa Monica was winding down.
18 He then gave the story to a rival news agency.

19 This Court attaches no significance whatever to Robinson's
20 testimony. His in-court testimony lacks all credibility and
21 therefore does nothing to assist Petitioner. For reasons that
22 are not altogether clear, he seeks to involve himself in these
23 proceedings.¹³

24
25
26 ¹²These are the same ethics that had him selling news tips to Levin and probably Gerrard's son-in-law, while working for City News Service.

27 ¹³Robinson's testimony was so lacking in credibility that any reasonable defense counsel would avoid calling
28 such a witness, especially where unimpeachable sighting witnesses like those called at Petitioner's trial were available.

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1 Ivan Werner's testimony likewise does not assist Petitioner
2 -- but for a different reason. Werner said that he saw this man
3 at a funeral for a person who had died under somewhat unusual
4 circumstances in 1985. He had minimal contact with the man who
5 was one of many at this funeral. Werner had attended hundreds of
6 funerals. Yet upon seeing a newspaper photo of Levin years later
7 in 1987, Werner said that he was able to positively identify the
8 man as being at a funeral two years earlier. The testimony is
9 not credible and is further challenged by testimony offered by
10 Respondent from the manager of the funeral home who checked the
11 records of the funeral home. No records exist which match the
12 incident described by Werner.

13 Nadia Ghaleb's testimony is much like that of Werner's.
14 Ghaleb had last seen Levin in 1982. In 1987, she was driving
15 down the street when she glanced to her right. In a parking lot,
16 getting into a car, she said that, to her surprise, she saw Levin
17 for the first time in over five years. She said at the time,
18 "Oh, my God, there's Ron Levin." This reaction from seeing Levin
19 might be more credible had she been aware that at that same time,
20 Petitioner was on trial for his murder. However, she said she
21 did not know of the Levin murder case. She only became aware of
22 it when she saw a photo of Levin on the television news
23 immediately following her sighting. Ghaleb's passing glance of
24 a man getting into a car is not sufficient. She may think she
25 saw Levin. However, the circumstances of the identification do
26 not inspire great faith.

1 The last sighting witness is Connie Gerrard. This is
2 Petitioner's best witness and the evidence which this Court has
3 most carefully evaluated. At the hearing she appeared to be
4 credible, and this Court has every reason to think that she
5 believes that she saw Levin alive in 1987. Respondent was not
6 able to materially impeach her testimony.

7 However, in order for this Court to find that Petitioner has
8 met his burden through this witness, the Court would have to find
9 that this testimony, although credited, undermines the entire
10 prosecution case and points unerringly to Petitioner's innocence.
11 People v. Gonzalez, supra, 51 Cal.3d at 1246. This the Court
12 cannot find. The other evidence in the case is too compelling in
13 favor of the opposite conclusion.

14 The evidence at trial was plain. Petitioner planned the
15 Levin murder. He had motive as well as opportunity to do it. He
16 had been conned by a con man and that fraud was about to bring
17 down his own schemes and organization. He had real animosity
18 towards Levin. He told others that he would do the murder. He
19 told others afterwards that he and Pittman had committed the
20 crime. He flew to New York the day after the murder to rescue
21 Pittman who had been arrested using Levin's credit cards. He
22 attempted to hide his deeds, fabricate evidence and thereafter,
23 he threatened those who might report his crime. In sum, the
24 evidence against him was overwhelming. Even considering the
25 allegations of numerous insufficiencies of trial counsel, the
26 evidence against Petitioner overcomes Gerrard's evidence by great
27 margin. It does not undermine the entire prosecution case. It
28

1 does not point unerringly to Petitioner's innocence. It does
2 compel the conclusion of Petitioner's guilt.

3 Karen Sue Marmor's testimony, like that of Robert Robinson,
4 has no credibility at all. Despite Marmor's protestations to the
5 contrary, her testimony demonstrated that she did not like Levin.
6 Her story of seeing the "to do" list is contrived and her
7 recitations of conversations with Levin, indicating he would
8 flee, are suspicious. Marmor's explanation of vivid dreams years
9 later which caused her to remember these "new" facts is silly.

10 To believe her story, the Court would have to find that she
11 did not know that her next door neighbor was the victim of a high
12 publicity murder trial in which her own husband was a witness.
13 The Court would have to ignore her less than credible performance
14 in Court and find that this important new information came to her
15 years after the fact, following "flashbacks." This Court does not
16 believe her or any part of her story. Therefore, it is not
17 evidence which this Court can credit.

18 D. REMAINING ISSUE

19 Another issue referred to in the Court of Appeal's OSC on
20 the subject of newly discovered evidence was what has been
21 described as the "Dear Dean" letter (OSC Issue 1(c)). This Court
22 did not take any additional evidence on this issue because there
23 was no reasonable likelihood that Petitioner was entitled to
24 relief on it. The Court did consider all of the exhibits in its
25 support.

26 Based upon a review of the pleadings and the entire record,
27 it is clear that a man named Richard Mayer was murdered in a
28

1 Hollywood motel in October 1986. What is not clear is who did
2 it. Found in a shoe at the crime scene years later was the "Dear
3 Dean" letter wherein Richard Mayer purports to be writing to
4 "Dean", his homosexual lover, about "Dean's" cooperation with the
5 police and the lies he told them to get his deal. Petitioner
6 argues that "Dean" is Dean Karny and that the letter proves that
7 Karny lied at trial.

8 Putting aside the substantial doubt which this Court has
9 regarding the origins of the letter, the letter itself is not
10 "newly discovered evidence" because, quite simply, it is not
11 admissible evidence. The Court heard a great deal of discussion
12 on the first day of the hearing in this matter as to 1) how a
13 foundation could be laid for the letter's admission, and 2) what
14 exceptions to the hearing rules allow its admission. Petitioner,
15 however, simply cannot with suitable, sufficient evidence prove
16 that the "Dean" referred to in the letter was, in fact, Dean
17 Karny. More importantly, the letter itself is hearsay and
18 therefore inadmissible. See: People v. Williams, _____
19 Cal.App.4th _____, 96 D.A.R. 8023, 8026 (June 4, 1996).
20 No exception to the hearsay rules allows its admission. No
21 further discussion of this issue is, therefore, warranted. It
22 simply is not evidence which can help Petitioner.

23 E. CONCLUSION

24 Petitioner's strongest argument to succeed in his writ is
25 his argument regarding newly discovered evidence, especially the
26 sighting testimony. Unfortunately for him, it does not measure
27 up. This evidence is flawed. It does not completely undermine
28

the entire structure of the prosecution's case. In Re Weber, 11 Cal.3d 703, 724 (1974). In affirming Petitioner's convictions on direct appeal, the Court of Appeal commented on the evidence against Levin at trial and stated, "we conclude that the prosecution presented overwhelming evidence that the defendant murdered Levin . . ." People v. Hunt, supra, slip opinion at p. 3. In evaluating a collateral attack by way of a petition for writ of habeas corpus, "all presumptions favor the truth, accuracy, and fairness of the conviction and sentence; defendant thus must undertake the burden of overturning them. Society's interest in the finality of criminal proceedings so demands, and due process is not thereby offended." In Re Avena, 12 Cal.4th 694, 710 (1996), quoting People v. Gonzalez, supra, 51 Cal.3d at 1260. This presumption combined with the evaluations of the evidence from the evidentiary hearing, causes this Court to conclude that Petitioner's new evidence fails. It is not compelling.

IV

INEFFECTIVE ASSISTANCE OF COUNSEL

A. EVIDENTIARY HEARING ISSUES

As indicated, supra, this Court ruled that Petitioner had made a sufficient showing to obtain an evidentiary hearing on five subjects related to his ineffective assistance of counsel claim. In essence, the question was whether counsel's failure to discover or utilize certain information meant that he was legally ineffective in his representation of Petitioner at trial. These issues are: 1) the use of Karny's deposition in a civil lawsuit

1 (OSC Issue 2(a)), 2) testimony regarding the sale of \$200 million
2 of equipment (OSC Issue 2(c)), 3) an FBI investigation of Levin
3 (OSC Issue 2(e)), 4) testimony that Levin was planning on leaving
4 on June 6, 1984 and fleeing to Brazil (OSC Issue 2(f)), and 5)
5 evidence of the Marmor testimony, described supra, (OSC Issue
6 2(h)).

7 B. STATEMENT OF LAW

8 The seminal case on the issue of ineffective assistance of
9 counsel is Strickland v. Washington, 466 U.S. 668 (1984). While
10 California law in the area arises from People v. Pope, 23 Cal.3d
11 412 (1979), the state law tracks Strickland. People v. Lewis, 50
12 Cal.3d 262, 288 (1990). The rule is simple. On a claim of
13 ineffective assistance of counsel, this Court must decide whether
14 trial counsel's conduct so undermined the proper functioning of
15 the adversarial process that the trial cannot be relied on as
16 having produced a just result. Such a claim requires both a
17 showing of deficient performance by counsel and proof of
18 resulting prejudice. Strickland v. Washington, supra, 466 U.S.
19 at 687-688. See: Levenson, West's California Criminal Procedure,
20 §1.08 (January, 1996).

21 Strickland provides that in evaluating the performance of
22 counsel, the ultimate question is whether "counsel's
23 representation fell below an objective standard of
24 reasonableness." Strickland v. Washington, supra, 466 U.S. at
25 688. However, in making this determination, "a court must
26 indulge a strong presumption that counsel's conduct falls within
27 the wide range of reasonable professional assistance." Id. at
28

689. Courts neither second-guess nor apply twenty-twenty hindsight to counsel's decisions. Bonin v. Calderon, 59 F.3d 815, 833 (9th Cir. 1995). Rather, a defendant making such a claim must show that "counsel's performance was inadequate when measured against the standard of a reasonably competent attorney" People v. Sanchez, 12 Cal.4th 1, 40 (1995).

If a defendant makes such a showing of deficient performance, the obligation is then on that defendant to show prejudice -- that there is a "reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." People v. Sanchez, supra 12 Cal.4th at 40. If a defendant fails to show prejudice, the Court need not determine if counsel's performance was deficient. Strickland v. Washington, supra, 466 U.S. at 697. However, prejudice may arise from the cumulative impact of multiple deficiencies. People v. Jones, _____ Cal.4th _____, 96 D.A.R. 7775, 7786 (June 27, 1996). Harris v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995).¹⁴

C. DISCUSSION OF HEARING EVIDENCE

1. Karny's Deposition in Canter-Fitzgerald Lawsuit.

Petitioner attacks his trial counsel for failure to utilize Dean Karny's perjurious testimony in February 1984 as a part of a civil lawsuit filed against Petitioner, Karny and others. This lawsuit arose from the fraudulent activities of the BBC. Karny admitted he lied under oath in that deposition and trial counsel did not utilize such in his cross-examination of Karny at trial.

¹⁴For this reason, although the Court took additional evidence on only five of the twelve OSC issues related to ineffective assistance of counsel, the Court has considered all allegations and evidence in support thereof in evaluating this issue. For details of those other issues, see discussion infra.

1 However trial counsel had good reason not to do so.
2 Petitioner's deposition had been taken in that same lawsuit.
3 Petitioner had also lied under oath. More importantly,
4 Petitioner had coached Karny as to what he should say during his
5 deposition. In other words, Petitioner suborned Karny's perjury.

6 Additionally, Petitioner's directions to Karny evidenced the
7 control that Petitioner exercised over others in the BBC. It
8 showed the desperation that the BBC found itself in at the time
9 and it showed Petitioner himself to be a liar. Counsel's choice
10 in this regard was not unreasonable, especially in light of the
11 other impeachment evidence of Karny at trial. The fact that
12 other negative evidence concerning Petitioner came in at trial
13 does not change the evaluation and this Court should not second-
14 guess trial counsel. Bonin v. Calderon, supra, 59 F.3d at 833.

15 2. Testimony of Neil Adelman Regarding Purchase of Cyclotron
16 Attrition Mills.

17 The Court of Appeal in its OSC asked this Court to determine
18 if the failure to call Neil Adelman, an attorney working for
19 Petitioner, constituted ineffective assistance of counsel. Such
20 evidence, it has been argued by Petitioner, would refute the
21 prosecution's evidence at trial that Petitioner and the BBC were
22 financially desperate and therefore had a motive to kill Levin
23 and obtain his money. According to Petitioner substantial income
24 from this deal was just around the corner.

25 Adelman was alleged to be the key to negotiations between
26 Petitioner and a man by the name of William Kilpatrick over the
27 sale to Kilpatrick of \$200 million of cyclotron attrition mill
28

1 technology. When operated, these mills would reduce a whole
2 variety of materials placed in them to such a small dimension
3 that it could be efficiently used for fuel or other commercial
4 purposes. Kilpatrick was supposedly obligated to pay Petitioner
5 \$200 million for the technology that Petitioner's owned and
6 developed.¹⁵

7 The evidence at the evidentiary hearing went well beyond
8 Adelman's testimony. It extended for days into evidence of the
9 purchase of the technology from Gene Browning, its inventor; the
10 development of alleged prototypes; the negotiations between
11 Petitioner's representatives and Kilpatrick's representatives and
12 the entire financial structure of the numerous companies and
13 entities involved in this supposed deal.

14 The evidence developed in the hearing was much more than
15 that which trial counsel was aware of at the time. Petitioner
16 told counsel of this project, but counsel did not conduct a
17 thorough investigation of Petitioner's theory.¹⁶

18 Trial counsel at the hearing stated that he was aware of the
19 general nature of Petitioner's cyclotron evidence but had done
20 little follow-up. Trial counsel stated that from what he had
21 been told about Petitioner's evidence, it was "snake oil" and he
22 would not use it. Having now been fully exposed to Petitioner's
23

24 ¹⁵Actually the contract was to be made with Microgenesis, a company established by Petitioner apart from
25 the BBC. Petitioner at the hearing testified that Microgenesis was a "straight" business concern while the
26 BBC on the other hand, was all tied up in fraud.

27 ¹⁶During the trial, Petitioner told his counsel a great deal. He literally bombarded him with facts, theories,
28 potential witnesses and speculation. This comprised what Petitioner described as over two thousand pages
of "to do" lists. Petitioner made it more difficult, not less, for trial counsel to separate the wheat from the
chaff. The Court notes that Petitioner did much the same to his current attorneys during the instant hearings.

1 theory during this hearing, it is clear that trial counsel's
2 description of the evidence as "snake oil" was not far off. The
3 court believes that the entire Hunt/Kilpatrick endeavor was a
4 scam. It reeks of fraud.

5 A great deal of time could be spent describing Petitioner's
6 evidence and how trial counsel's choice was a valid one.
7 However, a few highlights would be sufficient.

8 Kilpatrick testified in this hearing. He was in federal
9 custody for fraud at the time of his testimony. During the 1983-
10 1984 period he was attempting to emerge from bankruptcy and was
11 facing federal fraud charges in Colorado. He developed a plan to
12 take his company out of bankruptcy by entering into a stock swap
13 with a Canadian company.

14 In order for that transaction to take place, Kilpatrick's
15 balance sheet needed to have some value beyond his relatively
16 meager holdings.¹⁷ Enter Petitioner and his supposed rights to
17 the cyclotron attrition mills technology.¹⁸

18 Numerous draft agreements were prepared between Petitioner
19 and Kilpatrick. Most of these agreements called for Kilpatrick
20 to pay Petitioner \$333,333.00 per month for 18 months. However,
21 Kilpatrick had virtually no money, was in bankruptcy, had
22 substantial legal problems, and needed the approval of Canadian
23 and U.S. authorities before he could enter any enforceable
24

25 ¹⁷A review of the documents submitted indicates that Kilpatrick had little cash and certainly nothing to support
26 a \$200 million payment to Petitioner. Despite testimony from Kilpatrick's attorney that Kilpatrick was a man
27 of means, the facts do not bear out that contention and any resources he has appear to come from dubious
28 sources. This same attorney had also been indicted with Kilpatrick by the federal grand jury in Colorado.

¹⁸The evidence showed that several others -- including Kilpatrick himself -- also claimed rights to the same
technology. Browning had evidently sold the rights to the machines to others as well.

1 agreement. Despite Petitioner's supposed good faith belief in
2 the viability of this deal, the facts belie it. There was no
3 enforceable contract; there was no exchange of money; there was
4 no production of any of these "wonder" mills. In other words,
5 this venture sounds much like the other fraudulent activities of
6 the BBC and Petitioner in the early 1980's. Trial counsel was
7 wise to steer clear of it.¹⁹

8 3. The FBI Investigation of Progressive Savings and Loan.

9 Petitioner argues that trial counsel should have developed
10 evidence that Levin was the subject of a FBI investigation
11 concerning defrauding Progressive Savings and Loan. As such he
12 had a motive to flee.

13 Petitioner's claim fails for two reasons. First, trial
14 counsel was legitimately concerned that Petitioner might be
15 vulnerable on the same issue, i.e., involvement with the
16 Progressive Savings and Loan fraud. Petitioner's name had come
17 up in the Progressive Savings investigation because he and Tom
18 May had provided two checks for \$100,000 each to Levin which
19 Levin deposited at Progressive Savings in a check kiting scheme.
20 As Petitioner testified at the hearing, the BBC did not have the
21 money to cover these checks. They were worthless. The money was
22 supposed to be used to purchase an interest in an option for
23 Levin's duplex in Beverly Hills along with Len Marmor. That
24

25 ¹⁹Even if one were to concede that there was some merit to Petitioner's belief in this project (something this
26 Court would not do), trial counsel's decision not to pursue this avenue was reasonable under the
27 circumstances. Were Adelman to testify that he worked for the BBC and Petitioner from approximately June -
28 September 1984 as an attorney, all he could say is that he had negotiated with Kilpatrick on the attrition mills
technology sale and he had told Petitioner about it. The deal with Kilpatrick was never consummated.
Absolutely no money changed hands. Adelman left the BBC in 1984 because he had not been paid by
Petitioner.

option was also the subject of some questionable legality. In other words, Petitioner himself was involved in the fraud which he sought to assail Levin for.

Second, Levin's lack of honesty and integrity was adequately laid out in the trial. It was known that he was already facing state criminal charges; he was out on bond; there were pending civil matters; he had substantial debts and little, if any, legitimate income; he had adopted a number of work identities depending on his audience and many people were looking for him. All of this was brought out at trial. Since the evidentiary hearing established that there was not a great chance that Levin would be charged in the Progressive Savings matter, that evidence added little to what the jury already knew about Levin. It would have been cumulative and may have endangered Petitioner further.

There was no error in trial counsel's decision on this issue. Even if there were, there was no prejudice.

4. Testimony of Oliver Wendell Holmes.

Petitioner argues that he told trial counsel about a former attorney by the name of Oliver Wendell Holmes who knew Levin and might have helpful information on him. Trial counsel indicates that he may have heard the name from Petitioner but did no follow-up on Holmes as a witness.

Holmes testified at the hearing that he had been a friend of Levin's and had acted as his attorney in a civil matter. Holmes said that in early 1984 Levin had told Holmes that he was working on a story about a bank robbery in Las Vegas where the robbers had gone to Brazil. Levin wanted to know if Brazil had an

extradition treaty with the United States and what the chances were of these individuals being extradited. Holmes truly believed this to be a journalistic interest. Levin indicated, he was working on a story with a collaborator. He never indicated that he was going to flee the jurisdiction but gave every indication of wanting to fight the state criminal theft charges pending against him.

Trial counsel indicated that had he known about this information at the time, he would have utilized it. Petitioner argues that trial counsel should have known about it because he gave counsel Holmes' name.

This evidence if known to trial counsel would have been helpful. Perhaps trial counsel should have investigated Holmes as a potential witness.²⁰ However, "a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Strickland v. Washington, *supra*, 466 U.S. at 691; Bonin v. Calderon, *supra*, 59 F.3d at 833. Given the little information made known to counsel, failure to investigate was not unreasonable.

In any case, Petitioner fails to show necessary prejudice. Singularly or collectively, this factor does not cause the Court to believe that the result would be different.

5. Testimony of Karen Sue Marmor.

Petitioner alleges that trial counsel was deficient for not investigating and calling Karen Sue Marmor to testify concerning

²⁰However, see: footnote 16, *supra*.

1 the matters discussed in Part III B and C of this Opinion.

2 Petitioner's argument fails for two reasons. First, while
3 Marmor existed (she was, after all, at home while her husband
4 testified at Petitioner's trial), the facts that she now alleges
5 as true did not come to mind until years after Petitioner's Santa
6 Monica trial. Trial counsel cannot be expected to hypothesize
7 what facts a witness might remember years after the fact as a
8 result of her "flashbacks."

9 Second, for the reasons stated in Part III, this witness has
10 no credibility at all. Trial counsel will not be faulted for
11 failing to call a witness at trial who lacks all credibility.

12 D. REMAINING INEFFECTIVE ASSISTANCE OF COUNSEL ISSUES

13 Several other ineffective assistance of counsel issues were
14 set forth in the OSC, but additional evidence on them was not
15 received in the hearing. While the Court has considered each
16 issue separately and collectively, they do not rise to the level
17 sufficient to undermine this Court's faith in the results of this
18 trial.

19 1. Terms of Tom May's Movie Contract.

20 Petitioner alleges that at trial, trial counsel should have
21 impeached Tom May's testimony with his movie contract which
22 Petitioner contends required May to falsely portray his
23 involvement (OSC Issue 2(b)). Trial counsel tried unsuccessfully
24 to interview May prior to trial. May would not talk to him.
25 Trial counsel tried unsuccessfully to question May at trial about
26 the movie deal. The Court sustained the prosecution's objection.
27 The jury was however, aware that there was some type of May movie
28

1 deal.

2 Petitioner's view that the contract called upon May to be
3 untruthful at trial is speculative at best. In any case, the
4 testimony given at trial was consistent with statements earlier
5 given to the police prior to the contract being entered into by
6 May. May's testimony would therefore be reinforced with a prior
7 consistent statement. There was no prejudice.

8 2. Laboratory Tests Indicating The Lack Of Blood In The BMW.

9 Petitioner alleges that trial counsel should have introduced
10 evidence that no blood was found in the trunk of the BMW that was
11 used to transport Levin's body (OSC Issue 2(d)). Petitioner
12 believes that this was especially important evidence given the
13 evidence from the BMW that the trunk had been dented when
14 Petitioner and Pittman attempted to close it on Levin's body.

15 However, the evidence at trial was that Petitioner and
16 Pittman had wrapped Levin's body in a bedspread before taking it
17 to the car and that there was no evidence that the blood would
18 have seeped out into the trunk. There was no evidence of any
19 blood anywhere in the apartment or anywhere else in the case.
20 Furthermore, trial counsel did not believe that the prosecution
21 had proven that the BMW had been utilized in the murder.

22 Trial counsel's decision was not unreasonable. The fact
23 that negative evidence was not utilized is insufficient for the
24 purpose of proving necessary prejudice.

25 3. Evidence That Levin Discussed Dying His Hair With The
26 Barber.

27 Petitioner alleges that trial counsel should have introduced
28

1 evidence that Levin had at some time discussed dying his hair
2 with his barber (OSC Issue 2(g)). However, the barber did not
3 come forward with the information until years later. Trial
4 counsel was not under any obligation to track down Levin's barber
5 on the chance that Levin might have discussed changing his
6 hairstyle at some point prior to June 1984. As the evidence at
7 trial revealed, Levin never did dye his hair and speculation over
8 unknown stains in Levin's bathroom were not sufficient to place
9 counsel on notice. Furthermore, introduction of evidence that
10 Levin dyed his hair would have undercut all of the defense
11 sighting witnesses at trial. They testified as to seeing Levin
12 with his gray hair and beard. So did all of the sighting
13 witnesses in the current evidentiary hearing. This claim is
14 immaterial.

15 4. Documents In Possession Of Levin's Conservator Indicating
16 A Larger Sum Of Money To Finance A Disappearance.

17 Petitioner contends that documents in Levin's conservator's
18 possession showed that "Levin could easily have socked away a
19 nest egg to finance his flight" (OSC Issue 2(i)). Trial counsel
20 indicated that he was not aware of this alleged money.

21 A review of the pleadings filed in this matter as well as
22 the testimony from the San Mateo and Santa Monica trials indicate
23 that Levin was involved in many fraudulent activities. While
24 there is a certain amount of money unaccounted for from Levin's
25 activity, there is no indication that Levin squirreled any "nest
26 egg" away to finance his supposed flight. This evidence is
27 highly speculative at best.
28

1 In any case, even if such evidence had been presented in the
2 Santa Monica trial, this Court cannot reasonably say that the
3 result would have been different.

4 5. Levin's Lack Of Familial Ties And Abuse Of His Dog.

5 Petitioner contends that trial counsel should have
6 introduced evidence that Levin's relationship with his mother and
7 step-father were not as good as the family testified to at trial;
8 and further, that he abused his dog when the dog urinated in his
9 home (OSC Issue 2(j)).

10 Trial counsel says that he was not aware of such evidence
11 but would not have used it had he been aware. This issue is
12 meritless. Clearly, even if the evidence were known, trial
13 counsel can choose not to attack a murder victim's family at
14 trial by disparaging their deceased son. Such a tactic is
15 potentially suicidal before a jury, especially one which might be
16 asked to later determine if the defendant should live or die.
17 Furthermore, evidence from Levin's neighbors, including Marmor,
18 that Levin abused his dog is frivolous.

19 6. Evidence That Levin And Pittman Had Prior Contacts.

20 Petitioner alleges that Levin and Pittman knew each other
21 and that this would impeach Karny's testimony (OSC Issue 2(k)).
22 However, Karny testified as to what Petitioner told him, i.e.,
23 that Levin did not know Pittman and that Pittman would be taken
24 along to Levin's the night of the crime. The fact that one or
25 perhaps two witnesses believe that they had seen Levin before
26 with Pittman does not impeach Karny's testimony. He was only
27 reporting that which Petitioner had told him. It does not affect
28

1 his credibility.

2 7. Testimony That Levin's Neighbor Heard Nothing Unusual On
3 Night Of The Crime And Saw Levin's Missing Comforter In The
4 Trash.

5 Petitioner argues that the testimony of another of Levin's
6 neighbor that she heard no struggle on June 6, 1984, and that she
7 saw his bedspread in the trash was evidence that his trial
8 counsel should have sought out and utilized (OSC Issue 2(1)).
9 Petitioner's witnesses, however, have recanted their testimony or
10 were impeached. Petitioner has submitted this point in his final
11 brief and does not argue it. There is no merit to the issue.

12 E. CONCLUSION

13 In light of the facts presented to this Court in the
14 pleadings and at hearing, the Court cannot say that Petitioner's
15 trial counsel's representation so undermined the trial that it
16 cannot be relied on as having produced a just result. Was
17 counsel's representation flawless? No, far from it. Were there
18 errors and misjudgments? Yes. Would the results have been
19 different but for these errors? Absolutely not. While counsel
20 had a number of strategic failings, it is also important to note
21 that he had to contend with a strong prosecution case, a
22 difficult client,²¹ and a difficult bench officer. Under the

23
24 ²¹During the hearing, trial counsel testified that one of the factors he considered in making defense decisions
25 was a confession which Petitioner had made to him at an early point in his representation. Petitioner told him
26 that he and Pittman had, in fact, murdered Levin. Later, after coaching from counsel, Petitioner changed his
27 story, denied involvement and related at least two other explanations for the evidence against him. Petitioner
28 denies this confession ever took place and at the hearing launched into a series of personal attacks on trial
counsel's integrity. Regardless of the truth of the attacks on trial counsel's personal and professional habits,
the Court believes that Petitioner did confess to his attorney and admit his involvement in the murder.
However, the confession does not directly effect any of the issues needing to be resolved here. The Court has,
however, taken it into consideration in judging Petitioner's credibility during his testimony at the hearing.

1 circumstances of this case, his representation was legally
2 sufficient and the Petitioner's claim to the contrary is without
3 merit.

4 V.

5 TRIAL COUNSEL'S ACTUAL CONFLICT OF INTEREST

6 Petitioner alleges that trial counsel had an actual conflict
7 of interest and that the conflict adversely affected his
8 performance (OSC Issue 3). No additional evidence was taken on
9 this claim. The conflict alleged is that trial counsel was
10 seeking admission to the Hillcrest County Club and that the trial
11 judge had the power to "blackball" his admission. According to
12 Petitioner, trial counsel therefore "pulled his punches" and did
13 not aggressively defend his client at trial.

14 Two points need to be made. First, there is no evidence
15 that trial counsel had applied for membership before, during or
16 after the Santa Monica trial. The evidence from the pleadings is
17 clearly to the contrary. Additionally, the trial judge was not
18 on any membership review committees, although he was an active
19 member.

20 Second, a review of the trial transcripts does not
21 demonstrate a trial counsel who was attempting to curry favor
22 with the bench officer. It does illustrate a bench officer who
23 at times was difficult to deal with in the courtroom. The trial
24 court was often caustic, overly involved in questioning
25 witnesses, and at times extremely hostile to trial counsel's co-
26 counsel.²² In the face of such a trial judge, competent counsel

27
28 ²²At one time instructing the bailiff to physically remove co-counsel from the courtroom.

1 is wise to avoid the type of "in your face" tactics that
2 petitioner would now argue was necessary. Trial counsel was
3 courteous but firm with the trial judge. He did not roll over
4 and play dead as Petitioner would argue. In other words, he did
5 not stop advocating on his client's behalf.

6 Trial counsel made suitable objections, forcefully argued
7 his points and, at times, received the wrath of the trial judge.
8 This record does not demonstrate a trial counsel who pandered to
9 the trial judge to gain personal favor.

10 VI.

11 FAILURE OF THE PROSECUTION TO
12 DISCLOSE MATERIAL INFORMATION BEARING ON
13 THE CREDIBILITY OF PROSECUTION WITNESS

14 A. INTERCESSION WITH COMMODITY FUTURES TRADING
15 COMMISSION (CFTC) ON BEHALF OF KARNY

16 Petitioner argues that the defense was not advised that the
17 FBI would make Karny's cooperation known to the CFTC and that FBI
18 notes indicate that Karny would not testify without immunity (OSC
19 Issue 4(a)). Even if this material was not made known to the
20 defense at the time of trial,²³ it was not substantial material
21 evidence and Petitioner suffered no prejudice.

22 At the time Karny testified, the jury was told that he had
23 immunity for two murders, immunity for another assault to commit
24 murder and that the prosecution would intercede on his behalf
25 with the Securities and Exchange Commission (SEC) with reference
26 to an investigation of the BBC should it become necessary. The
27

28 ²³It may have been but a determination of that fact is not important here.

1 fact that the prosecution also agreed to make Karny's cooperation
2 known to the SEC's sister agency, the CFTC, about the same
3 investigation arising from the same securities transactions is
4 minor and not material given the other impeachment evidence
5 against Karny. The FBI notes simply restate the obvious: Karny
6 wanted immunity before testifying. He got immunity, the jury
7 knew of the immunity and there is no error.

8 B. KARNY'S INVOLVEMENT IN THE MAYER MURDER

9 Petitioner argues that the defense was not told of Karny's
10 involvement in the Mayer murder, that Karny was given immunity
11 for the murder, that Karny lied when he said he did not know
12 Mayer, that he confessed to Mayer that he perjured himself and
13 that law enforcement suppressed evidence of Karny's involvement
14 in the murder (OSC Issues 4(b)-4(f)). In pursuit of this claim,
15 this Court ordered the release to Petitioner of the Mayer "Murder
16 Book" containing all the investigative files on the Mayer murder.
17 The Court reviewed all of the documentation submitted regarding
18 what has come to be known as the "Hollywood Homicide." In the end
19 one thing is clear: there is simply no credible, reliable
20 evidence to connect Karny to this murder.

21 The Los Angeles Police Department investigated Karny and
22 cleared him. There is not any substantial evidence to even
23 connect Karny to Mayer. The evidence proffered by Petitioner to
24 tie Karny to this case is flimsy and artificial. A suspicious
25 but reasonable mind could easily conclude that Petitioner has
26 more to do with this murder than Karny. However, for our
27 purposes, it need only be noted that Petitioner claims in this
28

1 area are meritless. There is no error.

2 C. CONCLUSION

3 Suppression by the prosecution of substantial material
4 evidence bearing on the credibility of prosecution witnesses is a
5 denial of due process. People v. Morris, 46 Cal.3d 1, 29-30
6 (1988). That simply did not happen here.

7 VI.

8 FAILURE OF PROSECUTION TO DISCLOSE

9 TO PETITIONER THAT LEVIN WAS

10 UNDER INVESTIGATION BY THE FBI

11 Petitioner initially argued in his Petition for Writ of
12 Habeas Corpus that the defense at time of trial was not advised
13 that Levin himself was under investigation by the FBI for the
14 Progressive Savings and Loan matter. Subsequent facts have
15 caused Petitioner to rethink that position. At the hearing in
16 this matter Petitioner and counsel conceded that the defense was
17 made aware of the FBI investigation.²⁴

18 In light of that concession and the failure to establish any
19 prejudice, the issue is without merit.

20 VII

21 CONCLUSION

22 This has been a long and, at times, convoluted case.
23 Counsel for Petitioner has argued that the case is unique with
24 many peculiar aspects. In some ways counsel is correct. But in
25 the last analysis, the issue is simple: did Petitioner murder Ron
26 Levin and thereafter receive a fair trial for that crime?


27
28 ²⁴See discussion in Part IV C 3 of this Opinion regarding the facts of that investigation.

1 After any trial many facts come to light. Subsequent review
2 of trial participants' actions will often disclose much that some
3 might find deficient. Later analysis is always cleaner than
4 concurrent evaluation. But a trial cannot by its very nature be
5 perfect. It is a human endeavor in which all involved hope ends
6 in a just result. Here the trial was not perfect, but it was
7 just.

8 This Court has now looked at that trial evidence, the new
9 evidence, the new assignments of error, and the arguments of
10 counsel and reaches the conclusion that Petitioner received a
11 fair trial. He is not entitled to a new one. Further, this
12 Court concludes that Ronald Levin is dead and that Petitioner and
13 Pittman killed him. Petitioner is justly convicted of that
14 crime.

15 The Petition for a writ of habeas corpus is denied.

16
17
18
19 DATED: 12/30/12


J. STEPHEN CZULEGER
Judge of the Superior Court

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 05 2018

Sherri R. Carter, Executive Officer/Clerk
By Kathleen Neal Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

PEOPLE OF THE STATE OF CALIFORNIA)	Case No. A090435
)	
Plaintiff and Respondent,)	ORDER SUMMARILY DENYING
)	HABEAS CORPUS PETITION
v.)	
)	
JOSEPH HUNT,)	(Cal. Rules of Court 4.551(g))
Defendant and Petitioner,)	
)	

IN CHAMBERS

Petition for Writ of Habeas Corpus by JOSEPH HUNT, *pro se* ("Petitioner"). No appearance by a Respondent. DENIED.

The Court has read and considered the Petition for Writ of Habeas Corpus filed by Petitioner on January 30, 2017, the Respondent's informal response filed August 10, 2018, and Petitioner's reply filed September 17, 2018. Petitioner asserts two grounds. First, Petitioner asserts that because the amendment to Penal Code 1473(b) changed the standard by which the court evaluates new evidence submitted in a post judgment petition for habeas corpus he is now entitled to a new hearing on the same evidence submitted with his prior petition which was denied on July 12, 1996. In addition, Petitioner asserts that false evidence was used at his trial.

The Petition is summarily denied for the following reasons:

1 Assuming the facts alleged in the petition are true, Petitioner fails to allege facts
2 establishing a *prima facie* case for habeas relief. (*In re Figueroa* (2018) 4 Cal.5th 576, 587
3 citing *People v. Duvall* (1995) 9 Cal.4th 464, 474-475.) ("Because a petition for a writ of habeas
4 corpus seeks to collaterally attack a presumptively final criminal judgment, the petitioner bears a
5 heavy burden initially to plead sufficient grounds for relief, and then later to prove them."
6 [Citations.] To reach this conclusion, the court has independently considered the factual
7 allegations of the petition and, assuming those allegations are true, concludes that the petitioner
8 has failed to present a *prima facie* case for relief in any respect.
9

10 Preliminarily, to the extent Petitioner's claim is based on "new evidence" under Penal
11 Code 1473(b)(3)(A), Petitioner has failed to show this evidence is "new." New evidence is
12 defined as "evidence that has been *discovered after trial* that could not have been discovered
13 before trial by exercise of due diligence..." Penal Code §14739(b)(3)(B) (Emphasis added).
14 For the reasons noted by the People in their informal response, the petition is summarily denied
15 on this procedural ground.
16

17 Regardless, the court has considered the proffered allegations and evidence contained in
18 the petition and finds that the allegations of new evidence, even if true, are *not* of such decisive
19 force and value that it would have more likely than not changed the outcome of the trial. In this
20 regard the court has considered the entire record in this case including the testimony of the so
21 called "sighting witnesses" submitted as exhibits to the Petition together with the lengthy
22 summary of facts recited in the Court of Appeal's opinion filed on November 3, 1993 (B029402;
23 copy attached as Ex 1 to Peoples informal response), and the factual findings made by the trial
24 court in its Order Denying Writ of Habeas Corpus filed July 12, 1996. (copy attached as ex. A to
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26

1 the petition.) As acknowledged by Petitioner, he is essentially seeking a rehearing of his petition
2 that was denied in 1996 based on the legislature's adoption of a new standard for reviewing
3 petitions claiming discovery of new evidence. The court notes the extensive evidence of the
4 Petitioner's guilt in the record. The court further notes the extensive factual findings previously
5 made by the court regarding the credibility, and lack thereof, of most of the Petitioner's new
6 evidence. What is important for Petitioner to appreciate is that in summarily denying his
7 petition, this court is accepting as true the factual allegations of his petition, namely that certain
8 witnesses would testify that they believed they saw Ron Levin after he was murdered. But when
9 the court makes a preliminary assessment of whether Petitioner has stated a prima facie claim,
10 this court is entitled to consider the entire record in this case, including the evidence and factual
11 findings previously made by the court in its prior order denying the petition.
12

13 The mere fact that the legal standard for reviewing a portion of Petitioner's petition for
14 habeas corpus has changed does not mandate the issuance of a new order to show cause in this
15 case. In this regard, Petitioner's reliance on *Rodgers v. Richmond* (1961) 365 U.S. 534 is
16 misplaced. The focus in *Rodgers* was the Federal court's role in reviewing the state court's
17 admission of a confession at trial where the state court applied the incorrect standard to the
18 admissibility of that confession. More to the point here, the *Rodgers*' court noted that its opinion
19 does not address "[A] situation in which the record - taking all of the petitioner's evidence, and
20 the inferences reasonably to be drawn from it, in the light most favorable to him, nevertheless fails
21 to make out a claim of coercion" (*id.* 365 U.S. at n.5, emphasis added.) When the Court of
22 Appeal issued an order to show cause on the petitioner's first petition it did not have the benefit
23 of the record made after an evidentiary hearing regarding the sufficiency of the Petitioner's "new
24 evidence." This court now has such a record and can conduct its own independent review of the
25

1 petition based, in part, on that record. The California Supreme Court has endorsed such reliance
2 on the prior record when considering renewed petitions for habeas corpus where the second
3 petition was based on the same facts as a prior petition and the court has already conducted an
4 evidentiary hearing of those facts, assessed the credibility of witnesses, and made factual
5 findings. See e.g. *In re Hardy* (2007) 41 Cal.4th 977, 991. Here, given the unique procedural
6 history and record of this case, and this court's independent review of the new petition, the court
7 finds that the present petition fails to allege a prima facie claim. Indeed, like the court in *Hardy*,
8 the court finds issuing an Order to Show Cause and holding another evidentiary hearing would
9 be futile, notwithstanding the change in the legal standard by which the sufficiency of the
10 petition is measured.
11

12 Regarding Petitioner's claim of false evidence used at trial, the court finds the Petition is
13 untimely, and Petitioner fails to explain and justify the significant delay in seeking habeas corpus
14 relief. (*In re Bordan* (2008) 169 Cal.App.4th 18, 30-31; *In re Clark* (1993) 5 Cal.4th 750, 765;
15 *In re Swan* (1949) 34 Cal.2d 300, 302.) "Substantial delay is measured from the time the
16 petitioner or his or her counsel knew, or reasonably should have known, of the information
17 offered in support of the claim and the legal basis for the claim." (*In re Robbins* (1998) 18
18 Cal.4th 770, 780.) Further, the petition appears to raise issues which were raised and rejected on
19 appeal and Petitioner has failed to allege facts establishing an exception to the rule barring
20 habeas consideration of claims that were or could have been been raised on appeal. (*In re Harris*
21 (1993) 5 Cal.4th 813, 825; *In re Waltreus* (1965) 62 Cal.2d 218, 225.)
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23 For all of the foregoing reasons, the Petition for Writ of Habeas Corpus is DENIED.
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25 The Clerk is ordered to serve a copy of this memorandum upon Petitioner, and upon the
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District Attorney's Habeas Corpus Litigation Team, 320 West Temple Street, Room 540, Los Angeles, California 90012.

Dated: 10-5-18



H. Jay Ford III
Judge of the Superior Court

1 DECLARATION OF JOSEPH CARSANARO

2
3 I, JOSEPH CARSANARO, declare as follows:

4 1. I served as a juror on the case, People v. Hunt, C15761, for nearly
5 eight months. I served from April 13, 1992, which was the day of opening
6 statements, until a jury deadlock was announced and hence a mistrial was
7 declared on December 9, 1992.
8

9
10 2. I listened to over 50 witnesses give testimony concerning the disap-
11 pearance (and subsequent sightings) of Ron Levin. I took notes of their
12 testimony throughout the 7 month trial. These are my thoughts and opin-
13 ions concerning what I heard.
14

15 3. Dean Karny. Mr. Karny testified that in 1984 he would lie to further
16 his own goals. During Mr. Hunt's cross-examination, Mr. Karny was forced
17 to admit that he perjured himself on his State Bar application to cover up
18 the parts of his past that may have prevented him from becoming a lawye
19 I felt that if Mr. Karny lied on this application, even after receiving immu
20 nity, he was very capable of lying and/or perjuring himself on the witnes
21 stand.
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25 Mr. Karny's testimony suggested that Mr. Hunt was a brilliant and calcu
26 lating thinker, but his explanation of the "7 page to do" list did not fit
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1 this characterization. For example, Mr. Karny testified that Mr. Hunt paid
2 such great attention to detail that one item listed within the "7 pages"
3 was to "take punched holes", to make it appear that certain documents
4 were prepared elsewhere. His and other testimony suggested that these
5 "7 pages" were left scattered on Ron Levin's floor. This inconsistent be-
6 havior does not make sense and calls Mr. Karny's credibility into question.

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8
9
10 4. Tom May. Mr. May's credibility was shredded during Mr. Hunt's cross-
11 examination. Mr. Hunt uncovered the fact that Mr. May lied regarding his
12 bankruptcy filing and in fact had a one half million dollar trust fund when
13 he declared bankruptcy. Mr. May testified that he had not received his in-
14 vestment back from Mr. Hunt, although bank checks with his endorsement
15 suggested otherwise. Mr. May testified that his investment money was
16 spent by Mr. Hunt on lavish furnishings and a gold "BBC" sign. Documents
17 introduced as evidence and further cross-examination revealed the con-
18 trary. For example, Mr. May confirmed that BBC members assembled their
19 own furniture and that Mr. May himself had purchased the gold "BBC" sign
20 for only a few hundred dollars.

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24
25 5. Jerry Eisenberg. I found former BBC member Jerry Eisenberg's testi-
26 mony to lack any appreciable credibility. I totally discounted all of his
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28

1 testimony. An example of his bad faith while testifying is where he de-
2 nied that he was a party to a conversation that was tape recorded and in-
3 troduced into evidence. This evidence showed he was part of a conversa-
4 tion concerning a stolen car operation. Mr. Eisenberg's credibility was
5 seriously damaged.
6

7
8 6. Karen Marmor. Ms. Marmor testified that she believed she saw the "7
9 page to do" list on Ron Levin's desk before his disappearance. This testi-
10 mony contradicts Mr. Karny's testimony which indicated that the list was
11 shown to Levin the night of his alleged murder, that is, June 6, 1984. Ms.
12 Marmor lived next door to Levin and her husband was one of Levin's closes
13 friends. Ms. Marmor was a very credible witness.
14

15
16 7. Len Marmor. Mr. Marmor's testimony illustrated the superficial rela-
17 tionship that Ron Levin had with his mother. Mr. Marmor knew Levin for
18 years and his characterization of Levin and his relationship with his
19 mother was more credible than the people's witnesses, Dean Factor and
20 Michael Broder.
21

22
23 8. Justine Jagoda. Ms. Jagoda lived in the apartment directly above Le-
24 vin's and consistently heard him ranting and raving, slamming doors, and
25 hitting his small dog. Ms. Jagoda testified that on the night of June 6,
26
27

1 1984, she was home alone and in bed reading with the windows open and
2
3 no other noises around her. Ms. Jagoda testified that she heard no gunshot,
4 no trunk slamming, or any other sounds of scuffling coming from Levin's
5 apartment. This testimony is in conflict with Mr. Karny's and tends to
6 corroborate the defense's version of what happened at Ron Levin's on June
7
8 6, 1984.
9

10 9. Erin A'Hearn. Ms. A'Hearn conducted tests on the BMW trunk that Mr.
11 Hunt and Mr. Pittman allegedly put Levin's bleeding body in. Her tests re-
12 sults indicated that there was no evidence of blood in the trunk. Mr. Karny
13 indicated that the body was placed into the BMW trunk causing a dent. The
14 absence of blood and other bodily fluids or tissues would circumstantially
15 suggest that no such crime occurred.
16
17

18 10. John Duron. Mr. Duron was a very important witness. He was Levin's
19 hairdresser for years. Mr. Duron testified that he and Mr. Levin discussed
20 the procedure for dyeing one's hair brown just before Mr. Levin's disap-
21 pearance. Mr. Duron indicated that this was very strange because Mr. Levin
22 was very proud of his silver hair. The police found a brown stain in Mr.
23 Levin's bathtub. This stain was tested for and found not to be blood.
24
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26 Based on Mr. Duron's testimony and Detective Zoeller's testimony about
27
28

1 the stain in the bathtub, there is good reason to believe that the stain was
2 hair dye used by Levin to conceal his silver hair.

3
4 11. Scott Furstman and Oliver Wendell Holmes. Through these key wit-
5 nesses we can see that Levin had a motive to leave the Los Angeles area.
6 Mr. Furstman indicated that Levin released his father's house from his bai
7 bond collateral just before his disappearance. Mr. Holmes testified that
8 Levin asked him questions about the United States' extradition treaty with
9 Brazil. This testimony supports the defense's claim that Levin was plan-
10 ning to leave the country.

11
12 14 12. Connie and Jerry Gerrard. Mrs. Gerrard testified that she saw Levin
13 on the Greek island of Mykanos on Christmas day in 1987. Mrs. Gerrard
14 knew Mr. Levin and testified that she was certain she saw Mr. Levin in a
15 restaurant on that island. Mr. Gerrard testified that his wife communicat
16 ed to him in Greek at the time she saw Mr. Levin in the Mykanos restaurant
17 Mr. Gerrard's testimony supported and enhanced his wife's testimony.

18
19 23 13. Carmen Canchola. Ms. Canchola testified that she saw Levin at a ga
20 station in Arizona in 1986. Ms. Canchola testified that she picked Levin
21 out of a photo lineup. Ms. Canchola was a very credible witness.

22
23 24 14. Jesus Lopez. Mr. Lopez was Ms. Canchola's boyfriend at the time she
25

1 saw Levin at the Arizona gas station in 1987. Mr. Lopez also identified
2 Levin from a photo lineup.
3

4 15. Nadia Ghaleb. Ms. Ghaleb was a hostess at Mr. Chou's, a Los Angeles
5 restaurant, in the early 1980's. Ms. Ghaleb testified that she frequently
6 saw Levin have lunch or dinner at Mr. Chou's and was familiar with his
7 look and character. Ms. Ghaleb testified that she saw Levin getting into a
8 Mercedes from her car while she was driving to work in early 1987. I be-
9 lieve that it is very possible to identify someone that you know in the
10 matter of seconds as Ms. Ghaleb indicated.
11

12 16. Robert Robinson. Mr. Robertson testified that he was a former new
13 reporter and lost his job as a result of coming forward with his Westwoo
14 sighting of Levin after June 6, 1984. Mr. Robinson indicated that Levin
15 came to him and engaged him in conversation. Mr. Robinson was a critica
16 defense witness because he was very credible. I believe that Mr. Robinso
17 believes he saw and talked with Levin after the date Mr. Hunt supposedly
18 killed him. I had no reasonable basis to discount Mr. Robinson's testimony.
19

20 17. Lynne Roberts. Ms. Roberts was a credible and honest witness. She
21 testified about a telephone call that she received from her daughter,
22 Brooke, and Mr. Hunt on the evening of June 6, 1984. This is in conflict
23

1 with Mr. Karny's allegations regarding Mr. Hunt's actions on that evening.

2
3 18. Carol Levin. Mrs. Levin is out of touch with reality relative to her
4 relationship with her son, Ron Levin. The two postcards from Ron that she
5 brought into court did not support a strong relationship between them.
6 Hospital documents and psychiatric reports that were brought out by Mr.
7 Hunt during cross-examination better illustrated their true relationship.
8
9 One hospital report indicated that Mrs. Levin had not talked to her son at
10 all during his 4 month stay at a hospital in Washington state. Court testi-
11 mony tends to suggest Mrs. Levin and her son had a superficial relation-
12 ship.
13
14

15 19. Defense Witnesses Regarding Mr. Ron Levin. Taken as a whole, de-
16 fense witness testimony in People v. Hunt, C15761, raised more than a
17 reasonable doubt as to the people's assertion that Mr. Hunt killed Ron Le-
18 vin. The evidence regarding Mr. Levin in People v. Hunt, C15761, suggests
19 that Mr. Levin had compelling motives to leave the Los Angeles area, had
20 no meaningful ties to the community, and took steps to prepare for his de-
21 parture. Furthermore, several credible witnesses, that were addressed
22 above, testified that they saw Levin after June 6, 1984.
23
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27 I declare under penalty of perjury under the laws of the State of Cali-
28

1 fornia that the foregoing is true and correct of my own personal knowl-
2
3 edge, and that as to those matters stated upon information and belief, I
4 believe them to be true.

5 Executed at Mano Park, California, on January 26, 1993.
6
7

8 Joseph Carsanaro
9 JOSEPH CARSANARO
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1 examination. Tom May's poor character was made clear by the cross-
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3 examination of him on financial matters. Jerry Eisenberg, pathetically,
4 refused to acknowledge his involvement in a conversation which the de-
5
6 fense had on tape. Evan Dicker could only recall a few things he or any of
7 the other BBCers said or did but, was amazingly lucid about Hunt's actions
8 and statements.
9

10 Tom May was cross-examined about some lists Mr. Hunt had discovered
11 in the Gardena warehouse trash can that described a plot to steal the Mi-
12
13 crogenesis attrition mills. This lent support to the defense contention
14 that there were factions in the BBC. Tom May said the plan found in the
15 trash was a joke. I thought it was interesting that the prosecution
16
17 seemed comfortable with their witnesses' explanation of a list describing
18 a theft-related plot as "a joke", but would not credit at all Mr. Hunt's ex-
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20 planation of the "to do" list as being something other than what it ap-
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22 peared to be on first reading. The testimony about the May/Gardena ware-
23
24 house theft lists, revealed the double-standard the prosecution was using
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26 to evaluate testimony. I felt that this testimony helped to show the rea-
27
28 sonableness of Mr. Hunt's explanation of the seven pages.

5. Carol Levin. I found Mrs. Levin to be very self-centered. She will al-

1 ways believe the portrait she had painted of her son, Ron Levin, and their
2 relationship. I felt the trial opened a lot of old wounds, or it should have
3 if she wasn't in self-denial. In today's world, she would have been
4 charged with child abuse. In a way I think Ron despised Carol. It was
5 proven that Ron had gone off before without her knowing it (e.g. in 1979
6 when he went to prison for mail fraud). I think that he wouldn't contact
7 her after fleeing to avoid further prosecution so as to make good his es-
8 cape. To him, I feel, being free of her was chucking off a big burden. The
9 Camarillo/boarding school cross-examination and evidence was very im-
10 portant. It gave another side to the "poor distraught mom" that the prose-
11 cution tried to portray. Carol came off as a very deluded person.

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17 6. Dean Karny. The state's star witness got total immunity and had to
18 come up with a story. A story that was so full of lies and scenario's that
19 it just did not make sense. For instance Mr. Karny contended that:

20
21 A. "Levin's body was taken to Soledad Canyon in a BMW";

22 Fact: No evidence was found in the BMW by forensic

23 experts. Sheriff's criminalist Erin A'Hearn said that

24 no blood stains were found on the trunk carpet of the BMW;

25
26
27 B. "Jim Pittman was sent to New York to masquerade as Levin";

1 Fact: Mr. Pittman, a burly black man, did not keep a low
2
3 profile, that is, he rented limousines to visit friends and
4 relatives and made himself rather well known at the hotel;

5
6 C. "He had nothing to do with the "to do" list";

7 Fact: Mr. Karny and other members of the BBC contributed
8 in making the "to do" list. The list was seen by Karen
9 Marmor the day before Levin disappeared at Levin's, and
10 when she asked him about it, Levin said it was a movie
11 script. I believe this gave him the idea to place the blame
12 of his planned disappearance on Mr. Hunt by making it
13 look like a murder;

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17 D. "Levin had never met Jim Pittman, which allowed Mr.
18 Pittman to pose as a Chicago mobster";

19
20 Fact: Mr. Pittman was seen at and around Levin's
21 apartment before Levin disappeared. He was seen with
22 Levin outside the apartment by John Riley and inside the
23 apartment by Len Marmor; and

24
25 E. Fact: Ron Levin was preparing to flee.

26
27 1) Karen Marmor testified that Levin purchased clothes
28

1 prior to his disappearance that were not his usual style;
2
3 2) Levin had purchased traveler's checks, approximately
4 two inches worth, according to Len Marmor, the day
5 before his disappearance;
6
7 3) Levin requested the return of the extra apartment key
8 he had given out six months before to Oliver Wendell
9 Holmes. The key had been given to Holmes by Levin so that
10 Holmes could work on Levin's pending criminal case. The
11 criminal case was not over and Holmes hadn't finished
12 his work. So I asked myself why would Levin want the
13 key back on that of all days. Apparently something was
14 about to take place and I believe that was that Ron Levin
15 was planning to "take a hike", as the expression goes.
16
17 Mr. Holmes also testified that Ron Levin was asking
18 about extradition treaties. I had to ask myself again, "Why?"
19
20 Levin was born and raised in the U.S. What reason could
21 he have to investigate the Brazilian extradition treaty
22 other than that he was planning to leave. Holmes was a
23 pretty reputable witness;
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1 4) John Rollingson of Panasonic, John Reeves of American
2 Express, Brent Kley of Merrill Lynch, Jerry Verplancke of
3 Progressive, Dan Wilson of Fidelity, Jon Martin, an insurance
4 investigator, and other witnesses showed me that Levin had
5 piled up huge debts and had a variety of reasons to flee.
6

7 Jon Martin was another witness that showed Levin's
8 personality and the scams he was involved in. There were
9 so many problems Ron would have had to face in Los Angeles
10 if he didn't flee;
11

12 5) Dr. Avery testified that Levin was raped in jail. This
13 showed just how concerned Ron was about going back;
14

15 6) The money Levin left behind, about \$20,000.00, was not
16 substantial to him. Criminals sometimes think differently
17 about money than people who work for it do. Some think
18 nothing of being broke. Ron Levin took in close to one
19 million dollars in the 18 months before he fled. This
20 sort of money was not so much as to be material to him,
21 in my view;
22

23 7) I believe that the "to do" list was Levin's big
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1 opportunity to flee. It gave him a tool to throw the
2 police off his trail. I think he made his decision to
3 actually go ahead and take off, as opposed to just thinking
4 and investigating flight as a possible solution to his
5 problems, only after he got the list from Mr. Hunt. Levin
6 told Karen Marmor that someone had just threatened him,
7 that would have had to have been Mr. Hunt;
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11 8) Levin was facing up to 8 years in jail for fraud and
12 grand theft. Levin told Karen Marmor on the day before
13 he vanished that, "He would never go back to jail, that
14 maybe he would not come back from New York the
15 authorities would have no reason to come after him"; and
16

17
18 9) His hair dresser, John Duron, testified that Levin
19 wanted information on how to dye his hair right before
20 he disappeared. Detective Zoeller testified that there
21 was a stain on the bathtub. It all fit.
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23

24 7. John Duron. Mr. Duron really swayed me. He was a very believable
25 witness and very informative. He described how vain Levin was about his
26 hair. Ron even brought up shaving off his beard. All of that was very sus-
27

1 picious. He was a very important witness. I believe Mr. Duron's testimony
2 gave the defense a believable explanation for the missing comforter. Le-
3 vin was fastidious. Once stained he would never let the comforter remain
4 in the house.
5

6
7 8. I believe that Ron Levin is still alive, owing to the above and the tes-
8 timony of the credible witnesses below:
9

10 Nadia Ghaleb. She knew Levin with and without a beard over a 10 year
11 period in a professional status and recognized him when she saw him mo-
12 mentarily, while stalled in traffic in 1987.
13

14 Robert Robinson. Levin walked up to him and talked to him while wait-
15 ing in line at a theater in October of 1986. Mr. Robinson did not go to the
16 police at first, because he believed that the witnesses, whom he later
17 read about, would come forward and the case would be dismissed. Mr.
18 Robinson did not want to "be part of the story." When he did finally go to
19 the police in the spring of 1987, it cost him his job. Neither the police,
20 the prosecution, nor the defense pursued this witness during the first
21 trial, I believe. I felt Ron Levin was outrageous and brazen enough to ap-
22 proach Mr. Robinson as Mr. Robinson so described.
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27 It was very helpful to the defense that there were five sightings wit-
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1 nesses. The testimony of Carmen Canchola and Jesus Lopez was torn down
2 a little on small details related to the scene at the gas station by the
3 prosecutor, and also they had no pre-existing acquaintance with Levin.
4 The other three sightings witnesses were not impeached in the same way
5 at all. There were a lot of positive aspects to Ms. Canchola and Mr. Lopez's
6 identification, so I accepted it. However, the other three sightings wit-
7 nesses strengthened the legitimacy of their sighting in a sense. It is dif-
8 ficult to say how I would have felt if they were the sole sighting witness-
9 es.

14 Justine Jagoda. Although she lived above Ron Levin and heard him yell-
15 ing and abusing his dog many times, she did not hear a thing on the night
16 Levin was supposedly fighting for his life, being shot, and being carried
17 out of his apartment. Dean Karny said that even the allegedly silenced
18 weapon sounded like a loud clap when used. When Mr. Hunt demonstrated
19 such a clap, Ms. Jagoda said she would have heard such a loud noise up-
20 stairs. She didn't hear any ruckus and she didn't hear the trunk being
21 slammed either. Karny said the BMW trunk had been bent that night. Her
22 testimony was inconsistent with the prosecution's case.

27 Lynne Roberts. She spoke with Mr. Hunt and her daughter, Brooke, at
28

1 10:30 PM on June 6, 1984. The time was confirmed as she was watching
2
3 the news at the time and it was about half over, it being an hour news
4 broadcast beginning at 10:00 PM. She at first thought that Mr. Hunt was
5 guilty because the police had arrested him. Later she then remembered
6 the phone call from Brooke and Mr. Hunt, and decided that Mr. Hunt couldn't
7 have done it and came forward. I found her testimony to be truthful, she
8
9 had no reason to lie, and only reversed her opinion after remembering the
10 chain of events concerning that fateful evening. Her testimony was cor-
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12 roborated in an important respect by the defense exhibit made from her
13 jury duty summons postcard. This corroborated her reason for coming
14 back from her Alaskan trip before June 6, 1984.
15
16

17 The testimony of the manager of the La Scala Boutique corroborated Mr.
18 Hunt's and Lynne Roberts' testimony in an important way. The La Scala
19 Boutique closed at 8:30 PM. Levin had both made and received calls after
20 9:00 PM on June 6, 1984 (Dean Factor and Michael Broder). There were
21 food tins from the La Scala at Levin's home on the morning of June 7th.
22
23 Both Mr. Hunt and Mr. Karny said Mr. Hunt had shared take-out food from
24 the La Scala with Levin that night of June 6th. In order for Levin to be
25 free to make those calls and for there to be the La Scala cartons at his
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1 house, Mr. Hunt would have had to have come and left before 9:00 PM. This
2
3 is exactly what he said he did, but in contradiction to Karny's version.

4 Carmen Canchola and Jesus Lopez. They testified to seeing Levin at a
5
6 gas station in Arizona sometime in September of 1986 at about 9:15 PM.
7 Ms. Canchola did not know whom she had seen until she saw a picture of
8
9 Levin in an article in Esquire magazine concerning Mr. Hunt's first trial in
10 Los Angeles. Mr. Lopez did not want to get involved, but complied at Ms.
11 Canchola's urging. The police questioned them for 10 hours, but they stuck
12
13 to their story. I believe that they saw Ron Levin.

14 Connie and Jerry Gerrard. I found their testimony very believable. Mrs.
15
16 Gerrard's description of Ron Levin and his subsequent actions upon being
17 recognized in the restaurant on the Greek island of Mykanos, was beyond
18 reproach.

19
20 The most important Levin case-related witnesses were Karen Marmor,
21 John Duron, Connie Gerrard, Nadia Ghaleb, Robert Robinson, Oliver Wendel
22
23 Holmes, Justine Jagoda, and Jack Friedman, in my opinion. If I was asked
24 to rank the sightings witnesses in order of importance I would do as fol-
25
26 lows: Robert Robinson, Connie Gerrard, Nadia Ghaleb, Carmen Canchola, and
27 Jesus Lopez.

1 9. Besides the danger of Ron Levin going to jail on the grand theft
2 charges, there were also all the companies, American Express for one,
3 that were lining up to prosecute, and also the many individuals who were
4 defrauded by Levin. I truly believe Levin had very good reasons and the
5 cunning to carry out his deliverance from all of his problems through
6 flight to avoid prosecution.
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10 10. Joe Hunt's testimony seemed factual. I felt Mr. Hunt was just re-
11 lating occurrences, not making up a story as Karny did. The chronology of
12 events was very clear in Hunt's testimony about Levin. The structure of
13 the "to do" list was consistent with Hunt's explanation of it being notes
14 taken at a group meeting where others were giving him input. The nota-
15 tion on one of the lists, "Jeff list", showed that BBC member Jeff Ray-
16 mond was involved with the lists. I felt Mr. Hunt was a person telling the
17 truth. Karny constantly said, "I don't know" and "I don't remember". I do
18 not recall Mr. Hunt using those type of statements except very infrequent-
19 ly. I believe that Mr. Hunt didn't hold back even on points that were very
20 embarrassing to him, that is, the investors.
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25 11. Karny's testimony about attempting to provide Hunt an alibi on June
26 6, 1984 did not ring true. None of the people who went to the movie were
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1 in on the supposed plan to provide an alibi for Hunt, and none of them
2
3 needed an alibi themselves. After the movie Karny claimed to have gone
4 back to their apartment and went to sleep without waiting up for Mr. Hunt,
5
6 or even making an attempt to check to see if he was back at that time. I
7 felt this testimony was quite improbable.

8
9 12. Mr. Hunt was never impeached with any hard evidence. He offered a
10 more plausible alternative explanation for each of the prosecution's con-
11 tentions. As for the "to do" list, I kept thinking of Karen Marmor's testi-
12 mony where Levin told her, "The authorities won't have any reason to
13 come looking for me", or words to that effect.

14
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16 13. Karny got tripped up on cross-examination about the so-called "park
17 bench" conversation in June of 1984. In one transcript he said Jim Pitt-
18 man did not realize until that time that he, Karny, was in on the Levin
19 plan. In another version he testified to the opposite.

20
21 14. Mr. Hunt's testimony about the reasons for the June 24th meeting
22 made sense. I believe he was trying to hold the group together, and to
23 squelch the factions that had developed through an intimidating boast un-
24 til he could get one of the Microgenesis deals to close.

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27 I declare under penalty of perjury under the laws of the State of Cali-
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fornia that the foregoing is true and correct of my own personal knowl-
edge, and that as to those matters stated upon information and belief, I
believe them to be true.

Executed at South San Francisco, California, on January 13, 1993.

Ardath Helen SoRelle
ARDATH HELEN SORELLE

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1 could find no compelling reason to be sure that they did not. I am left not
2 knowing whether Ron Levin is alive or dead. I found reasons in their testi-
3 mony (and in the evidence in general) to be left in a condition of uncer-
4 tainty, or substantial doubt, as to what happened to Ron Levin.
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6
7 6. I was not comfortable with a lot of the BBC witnesses. (Tom May,
8 Jerry Eisenberg, Jeff Raymond, and Evan Dicker.) I felt that, generally,
9 they were involved in many more things that went on than they would ad-
10 mit to. This hurt their credibility. I felt more comfortable, to some ex-
11 tent, with the Levin-sightings witnesses and Karen Marmor, because none
12 of them were in the BBC, they were outsiders.
13

14
15 7. I recall that it was shown that Dean Karny lied on his State Bar ap-
16 plication after he had gotten immunity for his testimony. This was some-
17 thing that was discussed in deliberations, and we all agreed it worked
18 against Karny's credibility that he would willfully perjure himself after
19 he had left the BBC and made his deal.
20

21
22 8. To me Connie Gerrard was the most believable sighting witness. It
23 was unfortunate that she did not speak to Levin but I understand her to
24 have been irritated with Levin at that time regarding his dealing with her
25 daughter. I am not 100% sure she saw Ron Levin, as opposed to seeing
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1 someone who looked very much like him. I was somewhat troubled by the
2 fact that she didn't come forward right away, but she sounded so convinc-
3 ing. Mrs. Gerrard did have a reason to know Levin through her dealings
4 with her daughter. Jerry Gerrard corroborated his wife's description of
5 the scene but was not a crucial factor because of his limited prior contact
6 with Ron Levin.
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10 9. Probably the most important factor related to the sightings witness-
11 es was the fact that there were 5 of them. It would have been easier to
12 write off such evidence as resulting from mistaken identity if there was
13 only one sighting. For example, Robbie Robinson claimed to have seen and
14 spoken to Ron Levin in October of 1986 in Westwood. Some of my fellow
15 juror's felt that Ron Levin was bizarre enough to do something so brazen.
16 I had a little trouble with that however. Yet, I did believe Robinson's ex-
17 planation for why he did not come forward immediately, namely that jour-
18 nalistic ethics made him concerned about getting involved in a news story.
19 Mr. Robinson, if he would have been the sole sighting witness, would have
20 had less impact. In the end, I felt he added to the reasonable doubt that I
21 had.
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27 10. My jury talked a lot about Karen Marmor. I felt she was a very cred-
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1 ible witness on the stand. During deliberations we discussed how she ap-
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3 peared to be exactly the sort of person who would be sufficiently nose-
4
5 y to be looking at papers on Ron Levin's desk. This made her more credible.
6 Karen Marmor was a big factor in the deliberations and in my thinking.

7 11. Some jurors pointed out that Mr. Hunt was already a convicted killer
8
9 due to the Levin situation. If the jury had been judging Joseph Hunt with-
10 out the Levin situation it would have been less difficult for us to have
11 reached a unanimous verdict of acquittal.

12
13 12. In so far as Mr. Hunt's testimony regarding the Levin case was con-
14 cerned, the prosecution never really shook that testimony. We ended up
15 discussing the other Levin related witnesses (like Karen Marmor and the
16 sightings witnesses) in an attempt to figure out what actually happened.
17 Joe Hunt's explanation of the 7 pages, although not overly compelling, was
18
19 within reason and was corroborated in an important way by the testimony
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21 of Karen Marmor.

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23 I declare under penalty of perjury under the laws of the State of Cali-
24 fornia that the foregoing is true and correct of my own personal knowl-
25 edge, and that as to those matters stated upon information and belief, I
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1 believe them to be true.

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3 Executed at PACIFICA, California, on December 30, 1992.

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7 HARRY JOSEPH MORROW
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1 some doubt about her testimony because of that. I understood that her
2 testimony was somewhat inconsistent with the people's theory and spe-
3 cifically inconsistent with the details of Dean Karny's testimony. If one
4 simplified that theory and Karny's testimony, one could still see the "to
5 do" list as a step leading up to a homicide. However, the overall affect of
6 Ms. Marmor's testimony on me was to reduce the impact of the people's
7 case. Her testimony added to the reasonable doubt that I came to believe.
8 Standing alone, her testimony would not have been enough to raise a rea-
9 sonable doubt about the truth of the people's allegation that Mr. Hunt
10 killed and robbed Ron Levin but, seen in conjunction with the 5 sightings
11 witnesses (Connie Gerrard, Robert Robinson, Nadia Ghaleb, Carmen Cancho-
12 la, and Jesus Lopez), her testimony had the affect of deepening my belief
13 that the people had not met their burden of proof on the Levin allegations.

14 5. Sightings Witnesses. The five people that testified to having seen
15 Levin made the largest impact on me of any of the Levin allegations relat-
16 ed witnesses. Of these witnesses, Connie Gerrard was the most impor-
17 tant, followed by Robert Robinson, Nadia Ghaleb, Carmen Canchola, and Je-
18 sus Lopez.

19 Carmen Canchola and Jesus Lopez were the least persuasive of these

1 witnesses because they were not acquainted with Ron Levin before the in-
2 cident at the gas station.

3
4 The fact that Robert Robinson both saw and spoke to Ron Levin in-
5 creased the value of his sighting in my mind. The fact that he had this
6 "voice print" as well as visual recognition to go with it, increased my
7 confidence in the accuracy of his identification.
8
9

10 Nadia Ghaleb claimed to have seen Ron Levin only briefly, for just a sec-
11 ond or two. I figure in her line of business she has had to learn to recog-
12 nize people quickly. People have differing capacities to do this. We dis-
13 cussed this during deliberations. When I drive I have nearly tunnel vision,
14 I see only what is on the road directly before me. My wife, on the other
15 hand, has excellent peripheral vision. She will notice things on the side of
16 the road (e.g. a deer grazing on a hill). Some people can pick-up on periph-
17 eral things and be right on. Others can not. I truly believe that. For Nadia
18 Ghaleb I was convinced that she could see and recognize Ron Levin under
19 the conditions she described. I found Ms. Ghaleb to be credible and I took
20 her sighting seriously.
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25 Robert Robinson was not as high on my persuasiveness rating list of the
26 sightings witnesses as he could have been. I had a lingering uneasiness
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1 that he may have been courting publicity or that he could have incorrectly,
2
3 and inadvertently, merged place and time. However, of all the witnesses
4 only he had a "voice print" of Levin to go with the visual identification, as
5
6 a result of actually speaking to Ron Levin. This was a very positive thing
7 for the defense. One of the jurors made a point during deliberations over
8
9 and over again. He said: "It only takes one sighting witness to raise a rea-
10 sonable doubt." I thought this was very astute. We spent a fair amount of
11
12 time on the sightings witnesses. In the final analysis their testimony
13 carried a lot of weight in my mind.

14 Connie and George Gerrard. I believed them. There is a small amount of
15
16 hesitation in my mind about whether they actually saw what they felt
17 they saw, that is, Ron Levin, since they didn't speak to him. It is possible
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19 that the person they observed in the restaurant in Greece was not Ron Le-
20 vin but merely someone who became worried for some reason and so left
21 the restaurant suddenly. I think the unanswered question about the Ger-
22
23 rard's was not their sincerity but why they didn't come forward immedi-
24 ately. However, that concern was not so strong as to justify discounting
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26 their testimony. These two witnesses had a big impact on me.

27 I think that it is not too surprising that there have been no recent sight-
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1 ings of Levin. I gathered he was gay, he could have died of AIDS, and of
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3 course, there is always death due to natural causes. TV coverage is likely
4 to bring out bona fide sightings witnesses. One sees that sort of phenom-
5 ena occurring with certain crime-related TV shows where people come
6 forward to reveal the location of suspects who have evaded the law for as
7 long as 10 to 20 years. Therefore it did not surprise me that most of the
8 sightings were during a period of intense media coverage.
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11 6. Dean Karny. During direct examination, Dean Karny told a very horri-
12 fying story which indicted Mr. Hunt. However the cross-examination of Mr.
13 Karny began to nullify this indictment in my mind. In particular, that Mr.
14 Karny lied under oath in his application to the State Bar_x was a point that
15
16 really hit me during deliberations. We all discussed how this really hurt
17 his credibility with us. Here was the star prosecution witness within a
18 few months of his immunity deal, lying to the State Bar by leaving out his
19 involvement in two murder cases and the BBC. This became a very impor-
20 tant point in the jury room. Also significant, but somewhat less impor-
21 tant in its impeachment value, was that he had lied under oath during his
22 Cantor Fitzgerald deposition. We talked about that too and agreed it nega-
23 tively impacted his credibility. What really struck me and some of the
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1 other jurors about his testimony concerning the Cantor Fitzgerald deposi-
2 tion, was that it showed, along with other evidence, that he was part of
3 the financial misconduct at the BBC. The prosecution said he was com-
4 pletely out of this and that was Karny's testimony as well.
5

6
7 7. Tom May. When I think of Tom May, I first see him with his head hung
8 below the microphone during cross-examination on the witness stand. The
9 cross-examination of Mr. May was very effective. I felt Mr. May was tell-
10 ing the truth about some things like the June 24th meeting. The problem
11 becomes, if you lose confidence in the strength of a witness' commitment
12 to tell the truth then you have a hard time knowing what is true and what
13 is false in their testimony, and you begin to run the risk of sending an in-
14 nocent man to jail. If you do not know when they are telling the truth,
15 when they are exaggerating, and when they are lying out of spite or out of
16 self-protection, then it becomes risky to rely on anything that witness
17 says. There was so much in Tom May's testimony I felt was false that I
18 had trouble deciding what I could trust. I believed that his testimony con-
19 cerning his financial dealings (the bankruptcy declaration, his real estate
20 loan application, the ITC deal, the Cantor-Fitzgerald checks) to be false.
21 All of that was enough to show that he couldn't be trusted on financial
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1 matters. This had the effect of forcing me to look deeper into Mr. May's
2 possible motives for other statements that he made.

3
4 The testimony and evidence on the ITC movie deal caused me to reflect
5 that the publicity motive that the prosecution suggested might have been
6 present for certain sightings witnesses, could also be said to apply to
7 certain BBC witnesses.
8

9
10 8. Jerry Eisenberg. This was a witness who I felt was "willfully false".
11 The defense microcassette tape recording of Mr. Eisenberg and others dis-
12 cussing stolen automobiles was a very good piece of evidence. It was the
13 tape and Mr. Eisenberg's reaction to it that allowed us to throw out the
14 rest of his testimony using the "willfully false" jury instruction. Without
15 that tape it would have been just Mr. Hunt's word against Mr. Eisenberg's.
16 The tape supported Mr. Hunt's testimony and argument that there were
17 factions in the BBC. It helped explain why some BBC witnesses appeared
18 to be hostile to Mr. Hunt and some didn't. It gave us a feeling in the jury
19 room for how BBC members could be deceptive. I was also uneasy about
20 the fact that Eisenberg helped Gene Browning to set up a company while
21 the BBC was collapsing. It served to show that Mr. Eisenberg was sleazy.
22

23 9. Evan Dicker. I liked Mr. Dicker. During deliberations however, as we
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1 discussed him we reached a consensus that he had been less than candid
2 with us. Others recalled how he only recalled what Joe Hunt supposedly
3 said, never what he, or anyone else named as present, said. It was devel-
4 oped that he drank heavily during this period. When asked about whether
5 he brandished a gun at Tom and David May's, an incident described by two
6 other prosecution witnesses, he said he didn't recall doing so. This hurt
7 his credibility with me. Some jurors felt his testimony should be totally
8 disregarded. I was left not knowing what to do with his testimony, and as
9 a result what he had to say doesn't figure substantially, (except for reaf-
10 firmation of the June 24th admission by Mr. Hunt), in my thoughts on the
11 Levin allegations.
12

13 10. BBC Witnesses Overall. Mr. Hunt's cross-examination of these wit-
14 nesses was crucial. Without the cross-examination they would have ap-
15 peared to be victims of Joe Hunt. With the cross-examination, and with
16 the other points Mr. Hunt brought up, they came off as deeply involved and
17 people whose credibility was substantially called into question.
18

19 11. Justine Jagoda. I believed her. She was not making things up, in my
20 view. Nor do I feel that she was trying to get publicity. I felt perfectly
21 comfortable with her testimony. It was a factor which added to the doubt
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1 that I had about what happened to Levin. It provided support for the sight-
2 ings witnesses. She lived upstairs from Ron Levin and heard nothing on
3 the night of June 6, 1984. The testimony of the sheriff's criminalist that
4 there were no blood stains in the trunk, was important and helped to fur-
5 ther the impression that nothing violent happened on the night of June 6,
6 1984 at Ron Levin's.

10 12. John Duron. He was Ron Levin's hairdresser. His testimony was
11 very important. I believed him. I linked Detective Zoeller's testimony
12 about the brown stain in the bath tub with Mr. Duron's testimony about Le-
13 vin's sudden interest in dyeing his hair. I saw it as an explanation within
14 reason for the missing comforter. Hair dye is very messy. While people
15 are letting it set, it can leak down below the protective cap that is worn.
16 I have seen this kind of leakage on occasion when my wife has dyed her
17 hair. Given such leakage, if Ron Levin dyed his hair on June 6, 1984, the
18 dye could have gotten on the comforter. Obviously given Levin's fastidi-
19 ousness, he would not want to leave a stained comforter on the bed.

24 13. Lynne Roberts. I found Ms. Roberts to be credible and a good wit-
25 ness. It was not totally clear to me that she exonerated Mr. Hunt. Never-
26 theless, her recall of June 6, 1984 is important. I believe, given the dis-
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1 tance, times, and the testimony about no blood stains in the BMW trunk,
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3 that it is not obvious how Mr. Hunt could have driven to Soledad Canyon and
4 back and still talk to her at 10:30 PM.

5
6 14. Detective King. He may be a good police officer but he made a very
7 shabby witness for the prosecution. He kind of blew it. I found it unbe-
8 lievable that he never took notes on his meeting with Mr. Hunt, then his
9 chief suspect. Based on his demeanor and his testimony, Detective King
10 was pretty much discredited.
11
12

13 15. Ted Woods. He was Mr. Hunt's high school debate coach. He was a
14 rebuttal witness for the people. Overall, his testimony had the impact of
15 supporting Mr. Hunt. Initially, I believed Mr. Woods when he said that Mr.
16 Hunt had a serious personality flaw even in high school, but Robert Mack-
17 ey, the defense witness who testified after him, nullified this testimony
18 by confirming what Mr. Hunt had testified to earlier.
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21 16. Carol Levin. I don't believe that she knew her son. I base this feel-
22 ing on her cross-examination. While she testified on direct that Ron loved
23 her, I did not believe it after listening to her cross-examination. Ron Le-
24 vin didn't reciprocate her visits or phone calls often. Given the history of
25 their early relationship (Camarillo State Hospital, the boarding schools,
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28

1 etc.), it isn't hard to believe that when and if the time came to flee, Ron
2 Levin could totally break off the relationship. Based on what I heard, I
3 could and did, discount her testimony that Ron Levin must be dead because
4 he hadn't written in 8 years. Without the defense evidence about Camarillo
5 and the boarding schools, Carol could say, "He loved me and of course he
6 would contact me if he was alive", and make it stick.
7

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10 In light of the cross-examination, thinking about those postcards that
11 Carol Levin got saying "Love Ronnie" just made me want to squirm. Carol
12 Levin sold her son out when she sent him to live in boarding schools, etc.
13 Whatever he did in the relationship later, like the postcards, I felt was
14 calculated and not as a result of some deep affection for his mother.
15
16

17 17. The Option on 144 S. Peck. Martin Levin testified that Ron Levin
18 gave him this option on the duplex Ron lived in as a partial payment on the
19 sums Ron had borrowed from Martin and Carol Levin. Other evidence
20 showed that Ron Levin had later sold the same option to three other people.
21 This evidence, taken as a whole, was part of my understanding that
22 Ron would take advantage of anybody and everybody. Later when Len Marmor
23 testified that he was Ron's closest friend and that Ron would never
24 "screw him", I thought "Oh yes he would!"
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1 18. Joe Hunt's Testimony. Mr. Hunt's explanations of most of the events
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3 were within reason and his testimony was quite lucid and detailed. His
4 testimony provided a backdrop that allowed me to appreciate the signifi-
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6 cance of other defense witnesses. However, his testimony by itself would
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8 not have been enough to raise a reasonable doubt about the Levin allega-
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10 tions in my mind. The sightings witnesses were the key witnesses in that
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12 regard. His explanation of Jim Pittman's trip to New York provided a
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14 framework in which to see the possible innocent intention of the trip. In
15
16 retrospect it did not seem reasonable that Mr. Hunt would send Mr. Pitt-
17
18 man, a burly black man, to impersonate Levin. Also, the BBC members did
19
20 use each others credit cards.

21 It was important that Mr. Hunt testified. The "to do" list needed an ex-
22
23 planation. While his explanation had its weaknesses, they were not ^{necessarily damning} ~~fatal~~
24
25 and Karen Marmor gave his version a big boost.

26 19. The most important witnesses on the Levin allegations were Connie
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28 Gerrard, Nadia Ghaleb, Robert Robinson, John Duron, Karen Marmor, Lynne
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30 Roberts, and Oliver Wendell Holmes. These were the witnesses that
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32 helped change my mind. As I stated in jury selection, I had seen the NBC
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34 miniseries and believed that Mr. Hunt was guilty. Despite this statement I

1 was not excused from service. I started with a strong disposition to be-
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3 lieve the prosecution witnesses. I developed a more objective viewpoint
4 as I heard more of the defense case. I was left not knowing what happened
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6 to Ron Levin for sure. I was not totally comfortable believing either the
7
8 defense or the prosecution's version. We spent over two weeks in deliber-
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10 ations discussing the BBC and Levin-related witnesses. In my view the
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12 prosecution definitely did not prove beyond a reasonable doubt that Mr.
13
14 Hunt killed Ron Levin.

15 I declare that the foregoing is true and correct of my own personal
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17 knowledge, and that as to those matters stated upon information and be-
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19 lief, I believe them to be true.

20 Executed at Portola Valley, California, on January 22, 1993.

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DAVID SAPERSTEIN

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1 I did not believe that Karny had no knowledge or involvement in defraud-
2 ing investors either. It seemed to me everyone in the BBC was involved.
3 When he denied that knowledge or involvement, it was an outright lie.
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6 5. Evan Dicker. I thought Mr. Dicker was a snake. The way he held him-
7 self during cross-examination suggested to me that he was lying. I
8 thought his failures of recollection were a ploy. Especially in the sense
9 that he had perfect recall of everything Mr. Hunt supposedly did and said,
10 but couldn't recall a thing about what he and Karny did and said. I wrote
11 him off.
12

13
14 6. Tom May. He seemed eccentric. His eyes were very shifty. He was
15 always looking at Mr. Vance and Mr. Piccinotti for help when Mr. Hunt was
16 pressuring him in cross-examination. I viewed his testimony with a lot of
17 suspicion since he lied to the government in his bankruptcy petition, and
18 lied a lot in relation to his other financial affairs. I felt that in light of
19 this he would readily lie about Mr. Hunt's actions.
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21

22
23 7. Jerry Eisenberg. Mr. Eisenberg testified that he redrafted and revised
24 the Microgenesis option agreement found at Ron Levin's apartment. How-
25 ever, Lore Leis, Mr. Hunt's secretary, contradicted him. She said that she
26 prepared the final agreement from a draft that was entirely in Mr. Hunt's
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1 handwriting. Mr. Eisenberg hedged all of his answers. You could see the
2
3 gears turning every time Mr. Hunt asked a question. I decided he was cal-
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5 culating his every statement and that he was not willing to give us his un-
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7 filtered recollection. Mr. Eisenberg gave totally unbelievable responses to
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9 Mr. Hunt's questions about the tape where he, Steve Taglianetti, and Jim
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11 Pittman talked about stealing cars. Mr. Eisenberg denied that the tape was
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13 of a conversation that he participated in. I didn't believe him.

11 8. Carol Levin. I felt Ron Levin's relationship with his parents was a
12
13 facade. He was using them. He was getting money from them while living
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15 the high-life in Beverly Hills. He drove a Rolls Royce at the same time he
16
17 told them he couldn't pay his rent. He used them.

17 He probably regretted leaving them behind, but I believe Carol Levin
18
19 doesn't understand how he really felt ^{BC} The little gifts and two-line post
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21 cards she brought didn't show a strong bond. I believe that Ron Levin held
22
23 a psychological grudge towards his mom. She had left him repeatedly. I
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25 don't think he felt that she would really miss him. What goes around
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27 comes around. It is no surprise to me that he treated her in the end, the
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29 same way that she treated him.

27 Carol claimed to have such a good relationship with her son, yet she had
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1 no idea he was convicted of mail-fraud until Ron was already in jail. She
2 didn't even attend his preliminary hearing in Beverly Hills on the 12 grand
3 theft charges! She didn't seem to know her son at all.
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5
6 9. Martin Levin. I felt that it was extremely odd that Martin and Carol
7 waited so long to report Ron's disappearance. It made me uncomfortable
8 about his testimony. I also found the long period between Martin's discov-
9 ery of the 7 pages in late June, and the point that he gave them to the po-
10 lice in mid-August, to be very suspicious. He may have been helping Ron
11 make good his escape, but of course he may not have been. However, Mar-
12 tin's testimony undermined my confidence in the value of the 7 pages and
13 the described circumstances in the house.
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17 Mr. Hunt made a good point about the fact that Martin's testimony to the
18 effect that he found the 7 pages strewn all over the floor in the little of-
19 fice didn't make sense within the Prosecution's story-line. If Mr. Hunt
20 left them, he would have heard them fall. It seemed staged, almost as if
21 Ron threw them on the floor to call attention to them, IF THEY WERE ⁵¹
22 ON THE FLOOR AT ALL. (BC)
23

24 The fact that Ron's fingerprints were found on the Microgenesis file
25 proved that he had put that file together -- not Mr. Hunt. I believed he
26 kept the file so that he could have leverage on Mr. Hunt, Microgenesis, and
27
28

1 the BBC.

2
3 10. Justine Jagoda. Ms. Jagoda was pretty eccentric but I found her to
4 be believable. No one would put on an act like that! She proved that Ron
5 Levin consistently abused his dog. Also, her testimony made me feel that
6 it was far less likely that anything criminal happened at Ron Levin's that
7 night. She heard nothing that night, neither shots nor slamming trunks. I
8 think she would have heard something if there was something to hear, be-
9 cause she was in bed reading, *ACCORDING TO HER TESTIMONY.*^{BC}
10

11
12
13 11. Karen Marmor. I found Ms. Marmor's testimony that she saw the "to
14 do" list on Ron Levin's desk to be very important. I accepted her testimo-
15 ny. She knew Ron Levin and was his neighbor. She turned Ron Levin down
16 when she first met him. (Levin wanted to open some new accounts at the
17 bank she worked at.) I thought that showed good judgment.
18

19
20 She was very cooperative with both Mr. Hunt and Mr. Vance. I saw her as
21 being fair and neutral. I felt that she just testified to the facts without
22 bias. She also said that Levin beat his dog and that the dog went to the
23 bathroom on the carpet.
24

25
26 Dean Karny told us a story where the 7 pages could only have been left a
27 Ron Levin's the night of June 6, 1984 or the morning of June 7, 1984. Kar-
28

1 en Marmor saw the 7 pages during broad day light in Levin's presence.

2
3 They both couldn't have been telling the truth. I believed Karen Marmor. It
4 was an easy choice: a former officer at a bank vs. an immunized and self-
5 admitted perjurer (e.g. the State Bar application).
6

7 12. Dr. Herbert Avery. Dr. Avery gave us important information too. He
8 told us that Ron Levin had been forced to have sex in jail. Also, that Ron
9 Levin feared going back to jail, which was corroborated by other witness-
10 es (Karen Marmor and Oliver Wendell Holmes)
11

12 13. Jeffrey Melczer and Jerry Verplancke. Mr. Melczer was Ron Levin's
13 civil attorney. Mr. Verplancke was from the Progressive Savings and Loan
14 offices. Both said that Ron Levin knew that the FBI was investigating him
15
16 This was a key point. Even more reason why Levin would flee. However, I
17 add to this that Levin rescheduled his bail on June 5, 1984, making con-
18
19 cessions to get this accomplished. To me all of these things are a major
20

21 red flag that says: "I fled. I am alive and I got away with it." THEN AGAIN
22 I COULD BE WRONG, BUT IT MADE ME WONDER. (BC)

23 14. John Duron. Mr. Duron knew about Ron Levin wanting to dye his hair.

24 Levin came to his shop twice a month for years. Mr. Duron knew how vain
25 Levin was about his looks. Levin always made sure his hair was perfect.
26

27 Mr. Duron was surprised, and so was I, that Levin would want to dye his
28

1 hair. I couldn't understand why Levin would want to do it at home, it just
2 wasn't his style. It made me think: "What is this guy planning?"

3
4 I felt that the hair-dye testimony better explained why the comforter
5 and remote control were missing than the People's theory. Detective
6 Zoeller had seen a brown stain in the bathtub. This should have been test-
7 ed more thoroughly. Given that Levin called Mr. Duron right before he dis-
8 appeared it stands to reason that this was hair dye. Len Marmor said Ron
9 Levin's place was spotless. The evidence supported that the stain was
10 fresh. I felt Levin got the hair dye, which Mr. Duron said took 45 minutes
11 to set and was very messy, on his bedspread and then threw it out.

12
13 It made no sense that Mr. Hunt or Jim Pittman would shoot Ron Levin on
14 his bed and gamble that Levin's blood wouldn't soak through the bed or
15 that the bullet wouldn't go into the mattress. On top of this the Sheriff's
16 criminalist, Ms. A'Heren, analyzed the trunk carpet and found no blood.
17 This helped tip the balance even farther to the defense. Sure Mr. Hunt
18 could have had plastic in the trunk but why would Mr. Hunt think to put
19 plastic in the trunk but not under Levin before shooting him on the bed.
20 The main point is, there was no blood anywhere. Ms. A'Hearn was an im-
21 portant witness.
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1 15. Nadia Ghaleb. Ms. Ghaleb spotted Ron Levin on the street while driv-
2 ing slowly down the street. I have recognized people in similar circum-
3 stances. I am not 100% sure that she saw Ron Levin. However, she was
4 sincere. On balance she helped the Defense.
5

6
7 16. Robbie Robinson. Mr. Robinson was also credible. He knew that if he
8 came forward he would lose his job but he came forward anyway. I be-
9 lieve he actually saw Levin because he spoke to him. This was the most
10 believable of the sightings witnesses to me.
11

12
13 17. Carmen Canchola and Jesus Lopez. I felt Ms. Canchola and Mr. Lopez
14 were very believable. Mr. Lopez didn't want to come forward. Ms. Cancho-
15 la knew a lot of facts that were not in the Esquire article (e.g., the hair,
16 the scar, etc.). The scar was a very important and telling aspect of the
17 identification.
18

19
20 18. Connie and Jerry Gerrard. I thought the Gerrards were a little flaky.
21 However, I thought that she believed she saw Ron Levin. What took away a
22 little from her credibility was her description of the restaurant. It dif-
23 fered a bit from her husband's.
24

25 Over all I felt the sightings witnesses were a very powerful set of wit-
26 nesses for the Defense. The fact that there were several of them made me
27

1 take them seriously.
2

3 19. Oliver Wendell Holmes. Mr. Holmes was a key witness. Ron Levin
4 had researched the legal risks of becoming a fugitive. This is glaring evi-
5 dence of Levin's intentions.
6

7 20. All the evidence that was brought out points to Ron Levin being
8 alive. There certainly was reasonable doubt. I would even go a step fur-
9 ther. I do not even believe the Prosecution proved their case on Levin by a
10 preponderance of the evidence.
11

12 21. If I had to pick the 6 most important witnesses that support this, I
13 would pick: Oliver Wendell Holmes, Karen Marmor, Nadia Ghaleb, Scott
14 Furstman, Robbie Robinson, and John Duron. The thorough impeachment of
15 all the BBC witnesses, including Dean Karny, cleared the way for me to be
16 persuaded by the Defense witnesses. Levin said he never wanted to go to
17 prison.
18

19 22. Overall, I felt that Ron Levin had been preparing to flee for a long
20 time. I thought that he consciously manipulated Mr. Hunt and the BBCers
21 to make money. Later, Mr. Hunt had him under a lot of pressure to sign a
22 check. This angered Levin. I believe in this context, he saw the "to do"
23 list that Mr. Hunt tried to intimidate him with as both an opportunity to
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1 misdirect the authorities, and a way to get back at Mr. Hunt for threaten-
2 ing him. After Mr. Hunt left it at Levin's, I believe Levin decided to use
3 the "to do" list for these two purposes.
4

5 Ron Levin used a lot of people who never even realized they were being
6 used. He was involved in all different types of frauds. His use of the "to
7 do" list was just more manipulation.
8

9 What I liked about the Defense case most was that it was made up of all
10 independent witnesses. The Prosecution relied heavily on the BBC wit-
11 nesses. They were highly biased. They came off as the "liar's club", just
12 as Mr. Hunt said.
13

14 I declare under penalty of perjury under the laws of the State of Cali-
15 fornia that the foregoing is true and correct of my own personal knowl-
16 edge, and that as to those matters stated upon information and belief, I
17 believe them to be true.
18
19
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21 Executed at San Bruno, California on January 29 1993.
22

23 
24 BARRY DEAN CREEKMORE
25
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1 DECLARATION OF SANDRA MARIA ACHIRO

2
3 I, SANDRA MARIA ACHIRO, declare as follows:

4 1. I was born on May 7, 1965. I work as a dental assistant.

5
6 2. I served as a juror on the case, People v. Hunt, C15761, for nearly
7 eight months. I served from April 13, 1992, which was the day of opening
8 statements, until a jury deadlock was announced and hence a mistrial was
9 declared on December 9, 1992.
10

11 3. I listened to over 50 witnesses give testimony concerning the disap-
12 pearance (and subsequent sightings) of Ron Levin. I took notes of their
13 testimony throughout the 7 month trial. These are my thoughts and opin-
14 ions concerning what I heard.
15

16
17 4. A total of 8 of the 12 jurors ended our 26 day deliberation period
18 making clear that they felt that the prosecution had not proved beyond a
19 reasonable doubt that Joe Hunt had killed and robbed Ron Levin, or that he
20 had committed the charged crimes against Hedayat Eslaminia. Beverly
21 Paustenbach, Diane Farrar, and Barry Creekmore were vocal about believ-
22 ing that Ron Levin had fled to avoid prosecution. They also indicated by
23 vote that they felt that the prosecution had not met its burden of proof on
24 the Levin evidence under the jury instructions. (SA)
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1
2 5. Early in the deliberations, we reviewed the testimony of all the pros-
3 ecution BBC witnesses, (Dean Karny, Tom May, Evan Dicker, Jerry Eisen-
4 berg, and Jeff Raymond). The testimony of each in turn was set aside by a
5 unanimous vote at that time as being unreliable. We spent hours discuss-
6 ing each of these witnesses' testimony during deliberations. Despite con-
7 ccurring in this vote, 3 jurors, (Harriet Kumetat, Curtis Hackworth, and
8 Trilby Collins), later indicated that they felt that certain things these
9 witnesses said were true and that they were no longer prepared to disre-
10 gard their testimony completely. All the way to the end of the trial, we
11 all agreed that the prosecution's BBC witnesses had each lied during parts
12 of their testimony.

13
14 6. A point that there was a near unanimous agreement on was that Carol
15 Levin's belief that Ron wouldn't leave her without further contact was
16 wholly unfounded. We discussed how we were ^hocked by the revelations
17 during cross-examination of how, despite her earlier claim to a perfect
18 relationship with her son, she had institutionalized Ron at an early age
19 and how he had lived most of the rest of his childhood and adolescence at
20 boarding schools. The cross-examination on these points and on many oth-
21 ers, (e.g. how Ron took advantage of his parents financially and only super-
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1 ficially reciprocated his mother's interest in him), was very effective.

2
3 7. I recall Diane Farrar, who works at the NASA Ames Research Center
4 as a public information specialist, saying at one point in the deliberations:

5
6 "If there is one thing I am sure of, it is that Ron Levin is alive."

7 I declare under penalty of perjury under the laws of the State of Cali-
8 fornia that the foregoing is true and correct of my own personal knowl-
9 edge, and that as to those matters stated upon information and belief, I
10 believe them to be true.
11

12 Executed at Milbrae, California, on January 15, 1993.
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16 SANDRA MARIA ACHIRO
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DECLARATION OF SANDRA MARIA ACHIRO

I, SANDRA MARIA ACHIRO, declare as follows:

1. I was born on May 7, 1965. I work as a dental assistant.

2. I served as a juror on the case, People v. Hunt. C15761, for nearly eight months. I served from April 13, 1992, which was the day of opening statements, until a jury deadlock was announced and hence a mistrial was declared on December 9, 1992.

3. I listened to over 50 witnesses give testimony concerning the disappearance (and subsequent sightings) of Ron Levin. I took notes of their testimony throughout the 7 month trial. These are my thoughts and opinions concerning what I heard.

4. I thought that prosecution witnesses Tom May, Evan Dicker, Jeff Raymond, Jerry Eisenberg, and Dean Karny were lying throughout their testimony. In each case their credibility suffered, particularly during cross-examination.

5. Dean Karny. The proof that Karny had lied on his State Bar applications, both before and after he did his immunity deal, seriously damaged his credibility in my eyes. It showed that he was willing to down play his involvement in the BBC if he felt it was in his interest to do so. I thought

1 it extremely telling that he lied on his application even though the Cali-
2 fornia Department of Justice was involved in assisting him to become a
3 licensed attorney.
4

5
6 In cross-examination of Karny, Mr. Hunt asked him about a conversation
7 on a park bench that allegedly took place after Mr. Hunt returned from New
8 York in June of 1984. I did not believe that this conversation took place a
9
10 all due to an obvious contradiction that Mr. Hunt revealed by his question-
11 ing of Mr. Karny. At one point I recall Mr. Karny's testimony as being that
12 Jim Pittman had told him, prior to Mr. Hunt's return from London, all about
13 the events in New York. Mr. Karny said that Pittman described how he had
14 tried to impersonate Ron Levin. The problem with this testimony was that
15
16 Mr. Karny had testified at some other trial, that Jim Pittman did not real-
17 ize that Dean Karny knew about the alleged Levin murder plan until this
18 meeting on the park bench after Mr. Hunt had returned from London. This
19 was after the point that Karny had said that Pittman had supposedly told
20 him everything. This contradiction as it played out on the stand was rath-
21 er glaring. I decided that Karny had made up the entire "park bench" epi-
22 sode. It effected how I viewed Mr. Karny's credibility as a whole.
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27 6. Tom May. I did not find Mr. May to be credible. One point that sub-
28

1 stantially affected my view of him was the deal he made with ITC Produc-
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3 tions concerning the BBC miniseries and his testimony about that deal. Mr.
4 May made a fool of himself on the stand on this topic. On cross-
5
6 examination I learned that the deal he and his brother made with this pro-
7
8 duction company guaranteed them that they would be portrayed as "he-
9
10 roes" and "innocent victims of Joe Hunt", as long as "facts to the contrary
11
12 did not come out at trial". Of course, we learned that Jeff Raymond and
13 Evan Dicker did deals with ITC Productions also. It became clear, and Mr.
14 Hunt later argued this in his summation, that if all these guys stuck to-
15 gether and corroborated with each other, they could really appear as he-
16 roes. But if they said anything embarrassing about themselves or each
17 other, they would be embarrassed on nationwide television. I felt this
18 gave them a powerful incentive to testify in such a way about each other
19 to make themselves appear in the best light.

21 7. The Levin Sighting Witnesses. I did not find the testimony of Carmen
22 Canchola and Jesus Lopez to be very persuasive by itself. However, con-
23 sidered along with the testimony of Mr. Oliver Holmes and Len Marmor that
24 Ron Levin had a faint scar on his forehead, I began to believe that they ac-
25 tually had seen Ron Levin. While the person Ms. Canchola described
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1 matched Levin to a "T", she had never personally met Ron Levin before.
2
3 This weighed against her testimony. It was the addition of this one fact,
4 that Levin had a scar on his forehead which, against his normally fair
5 complexion, was almost invisible, that gave her identification the power
6 in my mind to raise a reasonable doubt. In the harsh September Arizona
7 sun, Levin's skin, except for the scar, would tan, thus making the scar
8 more visible. Nothing about a scar was mentioned in the Esquire magazine
9 article. At that point her testimony could no longer be dismissed as a
10 mis-identification.
11

12
13
14 However, the testimony of Connie and Jerry Gerrard just about bowled
15 me over. They seemed to be very sensible and decent people. Ms. Gerrard
16 had been in Ron Levin's company on a number of occasions and she posi-
17 tively identified him. Particularly persuasive to me was her description
18 of how Mr. Ron Levin inexplicably and suddenly pulled up stakes and left
19 the cafe after he made eye contact with her, especially since she reported
20 over hearing Levin and his friend, only moments before, discussing their
21 good fortune in finding a restaurant open on Christmas day. She was not
22 impeached in my view at all. She was much more credible than any BBC
23 witness, and unlike that crowd, she had no reason to lie.
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1 Mr. Hunt also called Robert Robinson and Nadia Ghaleb. They had also
2
3 seen Ron Levin in the 1986 to 1987 time frame. Though credible witness-
4 es they were, the 'clincher' witnesses about Ron Levin being alive were
5
6 Connie and Jerry Gerrard.

7 8. Levin To Flee. I have no doubt in my mind that Ron Levin fled to avoid
8
9 prosecution for his many criminal acts. Not only did we learn of his insu-
10 rance frauds, the 12 grand theft charges, and his check frauds in the de-
11 fense case, but he also owed over one million dollars when he skipped
12
13 town. Mr. Jon F. Martin, an insurance investigator, had threatened Ron Le-
14 vin with jail for insurance fraud. We learned through Jeffrey Melczer, Le-
15 vin's civil attorney, and Jerry Verplancke, who worked at Progressive
16
17 Savings and Loan, that Levin was aware that the FBI was investigating the
18
19 Progressive check scam case that netted Levin \$150,000.00 in late 1983.
20
21 This was just six months before Levin fled. We also learned from Daniel
22
23 Wilson, an investigator who worked for Fidelity, I believe, that Fidelity
24
25 was seeking to prosecute Levin for the \$75,000.00 he had scammed from
26
27 them in May or June of 1984.

28 I believe that Levin was terrified about going back to jail. Dr. Avery
told us that Levin described being raped in jail back in 1979 on, when he

1 was doing time on the mail fraud case. When Carol Levin was on the wit-
2 ness stand, Mr. Hunt showed her a letter in her handwriting that said Ron
3 Levin had a terrible fear of being locked up dating back from when she had
4 committed him to the Camarillo State Mental Hospital. Mr. Oliver Holmes
5 testified that Levin had described to him how he had been researching the
6 extradition treaty between Brazil and the United States. This had a big
7 impact on me. Mr. Holmes even said that Levin had called the State De-
8 partment to find out when the treaty went into effect, apparently being
9 told that it did not do so for about one year. This was proof to me that Mr.
10 Levin had been considering fleeing for sometime. I believe that he ulti-
11 mately did so.
12

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17 9. The Seven Pages.

18 Possibly the most important witness on the issue of what happened to
19 Ron Levin was Karen Sue Marmor. She was great! First of all, I trusted
20 her. She used to be an officer at a bank, she was married to a former
21 prosecution witness, she did not know Mr. Hunt at all, and she was very
22 straight forward. When she said that she saw the "to do" list on Levin's
23 desk, I was stunned. It all started to make sense to me. I believe Levin,
24 after he got a hold of the "to do" list, decided to use it as cover to make
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1 good his escape. He seemed to be thinking out-loud in Ms. Marmor's pres-
2
3 ence about doing just that. She testified that he said he was never going
4 to go back to jail and that he might leave for New York and not come back.
5 He also told Ms. Marmor that he had just been threatened . This corrobo-
6 rated Mr. Hunt's defense in several crucial ways. As Mr. Hunt often said,
7 the lists were only used as "props in a plan to intimidate Ron Levin". The
8
9 biggest point about Ms. Marmor's testimony to me is that her testimony
10 and the prosecution's theory were totally at odds. Either you believed one
11 or the other. Since Mr. Karny was the only witness that testified about
12 the origin of the seven pages and how it was to be used and/or was used,
13 it really came down to a question of whom did I believe, Karen Marmor or
14 Dean Karny. On this level, there really was no contest. Mr. Karny had a lot
15 of reasons to lie and, I felt, had in fact lied to us about a lot of things. Ms.
16 Marmor did not have an immunity deal and was never impeached. Once I
17 decided I believed Ms. Marmor, I knew Joe Hunt was innocent. Since Ron
18 Levin had the "to do" list in his control and possession during broad day
19 light and at a time when Joe Hunt was nowhere in sight, there was no way
20 that this list could be the 'recipe for murder' that Karny claimed it was.
21
22 In my mind, Ms. Marmor was a one person justification for an acquittal,
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1 though I admit that many other witnesses supported her testimony by
2
3 pointing to flight to avoid prosecution as an explanation for Mr. Levin's
4 disappearance.

5
6 10. John Riley. One of the more dramatic impeachments of Mr. Karny's
7 story of what allegedly happened on June 6, 1984, came about through the
8 testimony of Mr. John Riley. Mr. Riley was a former newspaper reporter
9 and magazine correspondent, he presently is a freelance writer. He was
10 very well-spoken. He testified that he had seen Ron Levin and Jim Pittman
11 talking at some length in front of Levin's house in 1984. He accurately
12 described Mr. Pittman's build, height, and weight. He also picked Pittman
13 out of a photo line-up. There was really no question in my mind that he
14 saw Jim Pittman with Ron Levin. However, according to Karny, Pittman
15 and Levin never met before June 6, 1984. Karny had this whole story about
16 what happened between Levin, Pittman, and Mr. Hunt on the night of June 6,
17 1984, built around the fact that Levin supposedly didn't even know Pitt-
18 man. Karny said that Mr. Hunt confirmed this to him during the "walk
19 around the neighborhood" conversation that Karny said took place after Mr.
20 Hunt allegedly killed Levin. Karny described how on this occasion Mr. Hunt
21 had supposedly described a "scenario" that he used to attempt to convince
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1 Levin to hand over his money under duress, but still leave Levin a basis to
2 hope that he would survive the night if he cooperated. Pittman was sup-
3 posed to have been introduced as a paid enforcer for the Chicago mob to
4 whom Mr. Hunt was to have said he was deeply indebted. Karny testified
5 that the idea was that Levin had never seen Pittman before and would not
6 realize that Pittman was a BBC member. (Mr. Len Marmor also had seen
7 Pittman at Levin's house in 1984.) As a result, Karny explained, the plan
8 was to hoodwink Levin into believing that both he and Mr. Hunt were being
9 pressured by this group whose representative was the physically imposing
10 Pittman. Of course the lie to this was all proven by the evidence that Le-
11 vin knew Pittman. How else could he have met Levin except through Mr.
12 Hunt? I felt Mr. Hunt's argument was persuasive that Karny, unaware of
13 their acquaintance with each other, had mistakenly woven into his scenar-
14 io for that night this highly revealing flaw. Karny's whole plot for that
15 night didn't make any sense with this in mind. Karny said that the "Chica-
16 go enforcer scenario" was what was meant "Explain situation" on the "to
17 do" list. In light of all of this, I didn't think so at all.

25 11. John Duron.

26 Mr. Hunt presented powerful evidence in support of his case through the
27
28

1 testimony of John Duron. Mr. Duron was Levin's barber for years. Levin
2 visited him every 2 weeks through out their business relationship. Mr. Du-
3 ron was startled when, on the occasion of Levin's last visit to his hair sa-
4 lon, Levin inquired about dyeing his hair and beard brown. Mr. Duron stated
5 that this was surprising because the rather vain Levin and he had long
6 agreed that Levin's gray hair was his most striking feature. Mr. Duron
7 testified that he tried to talk Levin out of it. When Levin insisted, Mr. Du-
8 ron offered to do it for him. Levin refused the offer but called back a
9 week or or a week and a half later. Duron tried to talk him out of it again
10 but Levin would not be put off. Mr. Duron gave Levin instructions. Since
11 this was a week and a half after Levin's last visit and since Levin sched-
12 uled visits regularly every 2 weeks for years, this had to have occurred
13 right before Levin's flight. Detective Zoeller testified that he found an
14 unexplained brown stain in Levin's bathtub which he had tested to deter-
15 mine if it was blood, with negative results. Mr. Duron told us that hair dye
16 can stain porcelain. As a result of all of this, I became convinced that Le-
17 vin had altered his appearance to make good his escape. Obviously, he let
18 it grow out later, probably as he became more secure over the years.

19 It also provided me with a reasonable explanation for the missing com-

1 forter. Mr. Duron told us about how these dyes must be left in one's hair
2
3 for at least 45 minutes "to set". During that time one is free to get out of
4 the shower, walk around, and relax. He described how many hair-color
5 novices ruin their clothes and get it all over everything because of how
6 difficult it is to handle during this period. Of course I knew that already.
7
8 It was easy to see how, lying down to watch television on his bed, Levin,
9
10 even if he thought he was being careful, could have stained his bedding.
11
12 Naturally he couldn't leave that tell-tale clue behind. Given all the other
13 evidence, Detective Zoeller's discovery of the stain, and Mr. Duron's testi-
14 mony, I believe that is what happened. Levin got the hair dye on his com-
15 forter and hastily scooped it up, along with the television remote control
16 device, and threw them out. Corroborating this was Blanche Sturkey, Le-
17 vin's maid, who testified that only Levin and she knew where the spare
18 comforter was.
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21 12. Justine Jagoda. Ms. Jagoda was very firm about her recollections of
22 the night of June 6, 1984. She had heard nothing that night. She testified
23 that on other occasions she had heard Levin beat his dog, a slap followed
24 by a yelp. Apparently, her bedroom was right over Levin's old bedroom.
25
26 She recalled the night because she was questioned by someone the next
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1 day as to whether she heard anything unusual. She testified that she was
2 up late reading a book. The television set was not on and the windows
3 were open. Karny had said that he had heard the silenced gun shot and that
4 it was very loud, as loud as a very loud clap of the hand. Ms. Jagoda felt
5 that she would have heard that easily. She said she heard nothing unusual
6 at all, not even a trunk being slammed or the dog yelping. This was more
7 evidence which was inconsistent with the People's theory. I thought her
8 testimony was important because it was ear-witness evidence, not hear-
9 say from biased witnesses.

10 13. I am aware that the Prosecution witnesses testified that Ron Levin
11 left some money behind, but it was a small amount in relation to the near-
12 ly one million dollars in illicit income he apparently had during his last 18
13 months or so in Beverly Hills. (\$150,000.00 from Progressive; \$50,000.00
14 from American Express; \$75,000.00 from Fidelity USA; \$250,000.00 worth
15 of camera equipment never returned; \$500,000.00 worth of insurance
16 fraud per Jon Martin; \$15,000.00 from Len Marmor; \$30,000.00 from Joe
17 Hunt and the BBC; \$100,000.00 from Merrill Lynch; \$20,000.00 to
18 \$30,000.00 from Levin's parents; \$20,000.00 from his maid; etc.; etc.)

19 14. Also, Ron Levin did do some things inconsistent with a fixed-

1 advance-planned-flight-to-avoid-prosecution scheme. His plans to fly to
2 New York, the address labels Martin Levin spoke of, and paying for his in-
3 surance in advance (I think) as well. However, the evidence reflected that
4 Levin ultimately decided to flee, not that he knew all along that he was
5 going to do so. Karen Marmor described Levin saying: "I'm not going to
6 jail", and "Maybe I won't come back from New York", during her very last
7 conversation with Levin. Oliver Wendell Holmes was summoned by Levin
8 on June 6, 1984 to return a key Levin had given him to Levin's house. That
9 key, Mr. Holmes said, provided him access to Levin's home so that he could
10 work in preparation for Levin's eventual trial on the 12 grand theft charg-
11 es. Why did Levin decide on June 6, 1984 that it was no longer necessary
12 to do that work? Scott Furstman said Levin did a surprising about-face on
13 his criminal case, agreeing to return property to the victims in exchange
14 for bail concessions on June 5, 1984. Why? So that his dad wouldn't be
15 left holding the bag, I thought. There was no other explanation. Ron Levin
16 had a year of premium left on his bail bond at that point! The list goes on
17 and on

15. In the end I felt that the set of circumstances that put the "to do"
list in Levin's hands, and the likelihood of more criminal charges on top of

1 the 12 felony counts he already faced, brought Levin to the decision to
2
3 flee. Of course, 5 people have seen him since then, so the fact that he did
4
5 flee is not really open to debate any longer.

6 16. I believe an innocent man is behind bars. In my own heart and based
7
8 on the proof that I have heard and seen, I believe that Ron Levin was alive
9
10 at least until Christmas of 1987, when he was seen by Connie and Jerry
11
12 Gerrard on the island of Mykanos in the Mediterranean. Setting aside Mr.
13
14 Hunt's notorious reputation, all the testimony coming from neutral and
15
16 non-partisan witnesses (those with no personal stake in the case), points
17
18 with one accord to the fact that Ron Levin fled prosecution for a variety
19
20 of crimes that he had committed. The BBC witnesses were a thoroughly
21
22 disreputable and unreliable lot. Their statements were in conflict with
23
24 an impressive number of facts attested to by more reliable witnesses.
25
26 Carol and Martin Levin are only guessing. Basically, they believe what
27
28 they need to believe. There is not a shred of physical evidence to prove
29
30 violence occurred at Ron Levin's home other than the implications of a
31
32 missing comforter and remote control.

33 However, Karyn got the Beverly Hills Police reports about the circum-
34
35 stances at Levin's home before he made the statement. I also found more
36
37

1 believable, given Karny's general dishonesty, the hair dye scenario.
2

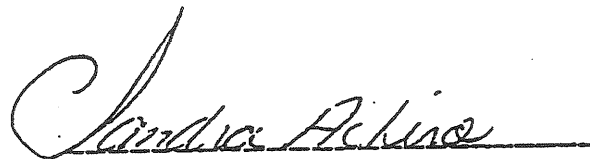
3 17. In the end I felt that the June 24, 1984 "confession", attributed to
4 Mr. Hunt, had to be interpreted in light of the fact that: (1) Levin was
5 planning to flee; (2) Karen Marmor saw the 7 pages at Levin's home before
6 the night of June 6, 1984; and (3) People have seen Ron Levin alive since
7 June 6, 1984.
8
9

10 In my view, it is silly, given all the evidence, to say I'm not going to be-
11 lieve Karen Marmor and 5 sightings witnesses because Mr. Hunt said he
12 killed Ron Levin. All those guys, and Levin too, pulled a lot of hoaxes, they
13 said a lot more than they meant rather frequently. There is the old saying:
14 "Just saying it doesn't make it so." I looked at the BBC and saw believa-
15 ble motives for Mr. Hunt to make that statement, given the white collar
16 crime and car stealing atmosphere of the BBC. However, the key point is
17 that the un-biased witnesses and the eye-witnesses are a much more di-
18 rect route to the truth than a "hearsay" case. One can spin theories about
19 what people like Levin and the BBC members knew versus what they said
20 endlessly. One can argue the whys and wherefores either way. In the end
21 the overall trend of the evidence coming from untainted sources was all in
22 one direction: towards Mr. Hunt's innocence. I believe Mr. Hunt is innocent
23
24
25
26
27
28

1 and that Ron Levin was alive through, at least, late 1987.
2

3 I declare under penalty of perjury under the laws of the State of Cali-
4 fornia that the foregoing is true and correct of my own personal knowl-
5 edge, and that as to those matters stated upon information and belief, I
6 believe them to be true.
7

8 Executed at Millbrae, California, on December 23, 1992.
9

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12 SANDRA MARIA ACHIRO
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,)
)
 VS.) NO. C-15761-01
)
 JOSEPH HUNT,)
)
 DEFENDANT.)
 _____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE: HON. DALE A. HAHN, JUDGE
DEPARTMENT 11
SEPTEMBER 29, 1992
PAGE 630 THROUGH 727
VOLUME 90

A P P E A R A N C E S:

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REPORTED BY: MELY YOUNG, CSR #6800

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P R O C E E D I N G S

REDWOOD CITY, CALIFORNIA

SEPTEMBER 29, 1992

1:30 P.M.

THE COURT: GOOD AFTERNOON.

THE RECORD WILL SHOW THAT THE DEFENDANT AND ALL
COUNSEL AND MEMBERS OF THE JURY ARE PRESENT.

MR. HUNT, YOU CAN CALL YOUR NEXT WITNESS.

MR. HUNT: THE DEFENSE CALLS MR. JERRY GERRARD.

JERRY GERRARD

CALLED AS A WITNESS ON BEHALF OF THE DEFENSE, HAVING BEEN
DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: WOULD YOU STATE YOUR NAME AND SPELL
YOUR FIRST AND LAST NAMES.

THE WITNESS: JERRY GERRARD. G-E-R-R-A-R-D.

THE CLERK: THANK YOU, HAVE A SEAT PLEASE.

DIRECT EXAMINATION

BY MR. HUNT: Q GOOD AFTERNOON MR. GERRARD.

A GOOD AFTERNOON.

Q SIR, WHAT'S YOUR PROFESSION?

A I AM A SWIMMING POOL CONTRACTOR.

Q PERHAPS, IF YOU WILL PULL THAT MICROPHONE DOWN. I
THINK IT'S --

1 WHERE IS IT THAT YOU BUILD POOLS?

2 A IN THE LOS ANGELES AREA.

3 Q HOW MANY OF THEM HAVE YOU BUILT OVER THE YEARS?

4 A ABOUT 2,500.

5 Q WE ARE JUST WORKING WITH THE MICROPHONE, SIR.

6 A ABOUT 2,500.

7 Q WHEN DID YOU START BUILDING POOLS IN THE LOS

8 ANGELES AREA?

9 A 1958.

10 THE COURT: APPARENTLY, THE P.A. SYSTEM ISN'T
11 WORKING, PLEASE KEEP YOUR VOICE UP.

12 THE WITNESS: IN 1958.

13 MR. HUNT: Q SIR, DO YOU FREQUENTLY TRAVEL TO
14 GREECE?

15 A YES, WE DO.

16 Q WHEN YOU SAY "WE", WHO DO YOU MEAN?

17 A MY WIFE AND I.

18 Q WHAT'S YOUR WIFE'S NAME, SIR?

19 A CORNELIA OR CONNIE GERRARD.

20 Q HOW MANY TIMES HAVE YOU AND YOUR WIFE GONE TO
21 GREECE OVER THE YEARS?

22 A PROBABLY 17 TIMES.

23 MR. HUNT: YOUR HONOR, I GUESS SOME OF THE JURORS
24 ARE NOT PRESENTLY ABLE TO HEAR THE WITNESS.

25 THE COURT: MR. GERRARD, EXCUSE ME. LET'S PUSH
26 THE MIKE OUT OF THE WAY, AND SEE IF WE'LL DO BETTER WITHOUT

1 IT.

2 THE WITNESS: I HAVE BEEN TO GREECE 15 TO 17
3 TIMES.

4 THE COURT: EVERYBODY IS NODDING.

5 MR. HUNT: Q AND ON THOSE OCCASIONS WHEN YOU WENT
6 TO GREECE, YOU WENT WITH YOUR WIFE?

7 A YES.

8 Q NOW DID YOU TAKE A TRIP TO GREECE AT SOME TIME IN
9 1987?

10 A YES, WE DID.

11 Q WHERE DID YOU GO ON THAT TRIP, SIR?

12 A WE WENT TO ATHENS, AND WE TOOK A SIDE TRIP TO THE
13 ISLAND OF MYKONOS.

14 Q THAT'S M-Y-K-O-N-O-S?

15 A YES, IT IS.

16 Q IS THAT PART OF ANY PARTICULAR GROUP OF ISLANDS?

17 A IT'S THE CYCLADES ISLAND.

18 Q HAVE YOU EVER GONE TO EVERY ISLAND IN THE CYCLADES
19 BEFORE, SIR?

20 A NO, WE HADN'T.

21 Q WAS THERE ANY PARTICULAR REASONS THAT YOU WENT TO
22 GREECE ON THIS OCCASION?

23 A WE JUST VISITED GREECE. WE HAVE RELATIVES THERE,
24 AND WE GO PURELY FOR PLEASURE.

25 Q JUST LOVE IT SO MUCH.

26 CAN YOU SPEAK THE LANGUAGE, SIR?

1 A YES, I CAN.

2 Q AND YOUR WIFE?

3 A SHE CAN TOO.

4 Q WHEN DID YOU START GOING TO GREECE?

5 A ABOUT 1960, I WOULD SAY.

6 MR. HUNT: YOUR HONOR, WE HAVE MARKED AS DEFENSE
7 1506, A MAP OF GREECE AND THE AEGEAN.

8 (DEFENSE EXHIBIT 1506, A MAP OF
9 GREECE AND THE AEGEAN, WAS
10 MARKED FOR IDENTIFICATION)

11 MR. HUNT: JUST GIVE IT TO THE WITNESS.

12 Q MR. GERRARD, DID YOU GET AN OPPORTUNITY TO LOOK AT
13 THAT MAP EARLIER TODAY?

14 A YES, I DID.

15 Q AND UNDER WHAT CIRCUMSTANCES WAS THAT?

16 A YOU SHOWED THE MAP TO ME.

17 Q WAS THIS THE FIRST TIME WE HAD EVER MET?

18 A YES, IT WAS.

19 Q DO YOU SEE ON THAT MAP THE ISLAND OF MYKONOS?

20 A YES, I SEE IT.

21 Q IS THAT INDICATED?

22 A THERE IS A DARK BLUE -- BLUE ARROW POINTING IT
23 OUT.

24 Q WAS THAT THE ISLAND THAT YOU AND YOUR WIFE VISITED
25 IN 1987?

26 A YES, IT IS.

1 Q WHAT TIME OF THE YEAR WERE YOU ON THAT GREEK
2 ISLAND?

3 A IT WAS CHRISTMAS DAY, 1987.

4 Q WAS THERE ANY REASON WHY YOU PICKED MYKONOS AS A
5 DESTINATION ON THAT PARTICULAR DAY?

6 A THE ONLY REASON WAS THAT WE HAD NOT EVER BEEN TO
7 MYKONOS. WE HEARD SO MUCH ABOUT IT. WE DIDN'T HAVE ANYTHING
8 TO DO ON THAT DAY, ON CHRISTMAS DAY IN SPITE OF THE FACT WE
9 HAVE RELATIVES THERE. THEY CHOSE NOT TO INVITE US TO THEIR
10 HOME THERE THAT DAY FOR WHATEVER REASON. SO WE DECIDED TO GO
11 THERE.

12 Q HOW DID YOU GET TO MYKONOS FROM THE MAIN LAND?

13 A BY PLANE.

14 Q DID YOU TAKE A PLANE THAT DAY, SIR?

15 A YES, WE DID.

16 Q DO YOU REMEMBER THE AIRLINE?

17 A OLYMPIC AIRLINES.

18 Q AND DOES THAT AIRLINE LAND DIRECTLY ON THE ISLAND
19 OF MYKONOS?

20 A YES, IT DID.

21 Q DO YOU RECALL WHEN YOU ARRIVED?

22 A AROUND NOON, I WOULD SAY, OR ELEVEN O'CLOCK.
23 SOMEWHERE IN THAT AREA. IT WAS IN THE MORNING.

24 Q TO YOUR KNOWLEDGE, SIR, YOU HAVE INDICATED YOU
25 HAVE TRAVELED IN THE AREA EXTENSIVELY OR FREQUENTLY OVER THE
26 YEARS, IS THERE ANY OTHER WAY OF COMING TO THE ISLAND OF

1 MYKONOS?

2 A I SUPPOSE THERE IS BY BOAT, BUT AT THAT TIME OF
3 YEAR IT'S NOT VERY CONDUCIVE TO TRAVEL BY BOAT.

4 Q CHRISTMAS IS THE OTHER SEASON FOR THAT AREA OF THE
5 WORLD?

6 A YES, IT IS.

7 Q WHAT WOULD BE THE TOURIST SEASON?

8 A THE TOURIST SEASON IS FROM APRIL THROUGH
9 SEPTEMBER.

10 Q WHAT WAS THE WEATHER LIKE ON THIS DAY?

11 A COLD AND BLUSTERY, DRIZZLING AND MISERABLE.

12 Q WHAT DID YOUR WIFE AND YOU DO AFTER YOU GOT OFF
13 THE OLYMPIC AIRLINE'S PLANE?

14 A WE WALKED TOWARDS THE TOWN, TOWARDS THE TAVENAS
15 WHICH WE HEARD A LOT ABOUT. TAVERNAS.

16 Q WHAT DOES THAT WORD MEAN, SIR?

17 A IT'S A GREEK WORD FOR CAFE.

18 MR. HUNT: YOUR HONOR, COULD WE HAVE MARKED AS
19 DEFENSE NEXT IN ORDER A SMALL MAP OF THE ISLAND OF MYKONOS?

20 THE CLERK: DEFENDANT'S 1507.

21 (DEFENDANT'S NUMBER 1507, A
22 SMALL MAP OF THE ISLAND OF
23 MYKONOS, WAS MARKED FOR
24 IDENTIFICATION)

25 MR. HUNT: AND AS DEFENSE 1508 THEN, A LARGE MAP
26 OF THE SECTION OF THE ISLAND OF MYKONOS.

1 (DEFENDANT'S NUMBER 1508, A
2 LARGE MAP OF THE SECTION OF THE
3 ISLAND OF MYKONOS, WAS MARKED
4 FOR IDENTIFICATION)

5 Q MR. GERRARD, DO YOU RECOGNIZE THE AREA SHOWN IN
6 THE SMALL MAP WHICH IS NOW IN YOUR HANDS?

7 A YES.

8 Q AND IS THAT, SIR, THE ISLAND OF MYKONOS?

9 A IT APPEARS TO BE, YES.

10 MR. HUNT: THAT'S DEFENSE 1507 FOR THE RECORD,
11 YOUR HONOR.

12 WITH THE COURT'S PERMISSION, WE'D ASK TO SHOW THAT
13 ON THE OVERHEAD.

14 THE COURT: ALL RIGHT.

15 MR. HUNT: Q MR. GERRARD, IF YOU WISH TO, PLEASE,
16 USING THE OVERHEAD, CAN YOU SHOW THE JURY WHERE ON THE LARGE
17 MAP OF THE ISLAND OF MYKONOS YOU AND YOUR WIFE LANDED?

18 A I DON'T REALLY KNOW WHERE WE LANDED. IT MUST HAVE
19 BEEN OVER HERE SOMEWHERE BECAUSE WE WALKED THIS WAY TO GET TO
20 THIS AREA. REMEMBER COMING FROM THIS AREA HERE WALKING
21 AROUND INTO THIS AREA. WE THOUGHT WE WOULD FIND SOME
22 BUSINESSES OPEN.

23 Q AND THAT AREA THAT YOU INDICATED, WHAT'S THAT
24 NAME? THERE IS A WORD?

25 A IT SAYS PANORIMAS, PANORAMIC.

26 Q SIR, IF YOU WOULD SPELL THAT PLEASE.

1 A P-A-N-O-R-I-M-A-S.

2 Q DO YOU SEE THAT AREA WHICH WE CALL THE PANORAMA
3 AREA SHOWN IN THE POSTER THAT'S DEFENSE 1508?

4 A THIS IS IT.

5 Q DO YOU SEE WHAT'S INDICATED THEN ON 1508 OF WHAT'S
6 FOR OLYMPIC AIRLINES?

7 A HERE IT IS. YOU HAVE TO EXCUSE ME. I HAVE
8 GLAUCOMA. I CAN'T SEE TOO WELL.

9 Q THANK YOU. IF YOU WILL TAKE YOUR SEAT AGAIN.
10 AFTER YOU WALKED INTO THIS AREA THAT DAY, IT'S
11 CALLED IN GREEK SOMETHING TO THE EFFECT OF PANORAMA, WHAT DID
12 YOU AND YOUR WIFE DO, SIR?

13 A WE JUST WALKED MISERABLY TRYING TO FIND A PLACE
14 OPEN, SO THAT WE COULD HOLD UP, SO TO SPEAK, AND GET OUT OF
15 THE BAD WEATHER.

16 Q WAS IT ACTUALLY RAINING THERE?

17 A IT WAS DRIZZLING, BUT IT WAS MOSTLY WINDY AND VERY
18 COLD.

19 Q WAS THERE ANY DIFFICULTY IN FINDING A PLACE OPEN?

20 A VERY MUCH SO. WE DIDN'T FIND ANYTHING OPEN.

21 Q HOW DID YOU ATTEMPT TO LOOK FOR A PLACE?

22 A WELL, WE JUST WALKED UP INTO THE BACK OF THE BAY.
23 WE SAW THIS OLD GENTLEMAN WALKING ON ONE OF THE STREETS, AND
24 I STOPPED HIM AND ASKED HIM IN GREEK, OF COURSE, IF YOU KNEW
25 OF A PLACE THAT MIGHT BE OPEN? HE SAID, WELL, I THINK I DO,
26 BUT I WANT TO SHOW YOU SOMETHING FIRST.

1 AND HE TOOK US IN THE SHOP, OPENED THE DOOR AND WE
2 BOUGHT A T-SHIRT FROM HIM, AND THEN HE PROCEEDED TO TELL US
3 THAT THIS LITTLE PLACE OWNED BY 2 PEOPLE FROM ATHENS WOULD --
4 MAY -- THEY MAY BE OPENED. AND HE POINTED IT OUT TO US, AND
5 WE WALKED TO THE PLACE. AND SURE ENOUGH, WE OPENED THE DOOR,
6 AND IT WAS OPENED.

7 Q WERE THEY OPENED FOR SERVING FOOD?

8 A YES, THEY WERE.

9 Q DID YOU AND YOUR WIFE TAKE A SEAT THERE?

10 A I AM SORRY?

11 Q EXCUSE ME. DID YOU AND YOUR WIFE TAKE A TABLE IN
12 THAT RESTAURANT?

13 A YES, WE DID.

14 Q WHAT TYPE OF A PLACE WAS IT?

15 A IT WAS A VERY SMALL PLACE WITH VERY FEW TABLES.
16 IT WAS IN A LITTLE HOUSE.

17 Q WAS ANYONE ELSE INSIDE?

18 A NO ONE ELSE. WE WERE THE ONLY ONES IN THE PLACE
19 BESIDES THE OWNER'S WIFE. I THINK HER DAUGHTER WAS THERE
20 TOO.

21 Q HOW MANY TABLES DID THIS SMALL RESTAURANT HAVE?

22 A GEE, I WOULD SAY 4 OR 5.

23 MR. HUNT: YOUR HONOR, PREVIOUSLY MARKED AS
24 DEFENSE 1505 IS A PHOTOGRAPH OF A SMALL RESTAURANT.

25 Q MR. GERRARD, LOOKING AT DEFENSE 1505, DID YOU
26 RECOGNIZE THAT?

1 A YES.

2 Q IS THIS THE PLACE YOU AND YOUR WIFE WANDERED INTO
3 ON THAT STORMY DAY?

4 A YES, IT IS.

5 Q WHERE WERE THE TABLES IN RELATIONSHIP TO THE BAR
6 THAT'S SHOWN IN THE PHOTOGRAPH OF DEFENSE 1505?

7 A THE BAR IS ON THE LEFT, AND THE DOOR IS HERE. THE
8 TABLES WERE ON THE RIGHT.

9 Q WHICH TABLE DID YOU AND YOUR WIFE TAKE?

10 A THE VERY LAST ONE ON THE RIGHT SIDE, NEAR THE
11 RESTROOM.

12 Q SO WE CAN GET A CLEAR POINT OF VIEW ON THE WAY THE
13 TABLES ARE ARRANGED AS MUCH AS I DON'T HAVE A PICTURE.

14 MR. GERRARD, I AM GOING TO ASK YOU TO TURN OVER TO
15 THE EASEL. WOULD YOU HELP SO HE HAS SOME PAPER. COULD WE
16 HAVE AN EXHIBIT TAG? IT WAS FOR THIS CHART.

17 THE COURT: YES.

18 THE CLERK: DEFENSE 1509.

19 (DEFENDANT'S EXHIBIT 1509, A CHART
20 OF THE RESTAURANT, WAS MARKED
21 FOR IDENTIFICATION.)

22 MR. HUNT: Q HAVING PROBABLY SKETCHED MANY POOLS,
23 I AM GOING TO ASK YOU TO DO A LAYOUT OF THIS RESTAURANT.

24 A I BUILT IT MAINLY, BUT I'D SAY THE DOORWAY WAS
25 ABOUT HERE. THE BAR HERE. AND THE TABLES HERE. AND THE
26 RESTROOM WAS DOWN HERE. WE SAT AT THIS TABLE HERE. THERE

425

1 WERE PROBABLY A FEW TABLES IN A ROW BECAUSE I REMEMBER.

2 Q OKAY. FIRST OF ALL, YOU HAVE 6 OF THOSE SQUARES?

3 A THIS IS THE DOOR. THIS IS THE DOOR.

4 Q AND COULD YOU PUT A DOOR NEXT TO THE ARROW, OR ON
5 TOP OF IT, SIR?

6 AND THAT SQUARE WITH THE 6 CIRCLES ON IT, WHAT IS
7 THAT DIRECTLY?

8 A NO, SIR, NO SQUARES, JUST THE TABLES. JUST THE
9 TABLES. WE WERE IN THIS AREA.

10 Q OKAY, I SEE. SO EACH OF THOSE SMALL CIRCLES IS A
11 TABLE?

12 A YES.

13 Q ALL RIGHT. AND THE CIRCLE AT THE BOTTOM OF THE
14 CHART?

15 A THIS IS WHERE WE SAT.

16 Q WHAT IS THE CIRCLE THAT'S REPRESENTED AT THE
17 BOTTOM OF THE CHART, SIR?

18 A THESE ARE THE RESTROOMS.

19 Q NOW COULD YOU PUT AN INDICATION NEXT TO THE
20 CIRCLES TO INDICATE THAT THEY ARE TABLES?

21 AND COULD YOU PUT A STAR OVER THE TABLE WHERE YOU
22 AND YOUR WIFE SAT PLEASE?

23 NOW OPPOSITE THOSE TABLES YOU INDICATED WAS A BAR,
24 COULD YOU INDICATE WHERE THE BAR IS THAT APPEARS?

25 A UP IN THIS AREA. I GOT A LITTLE BIT TOO HIGH. I
26 AM ROUGHLY AROUND HERE.

1 Q COULD YOU WRITE ON THAT, BAR. ALL RIGHT, THANK
2 YOU.

3 YOU CAN TAKE YOUR SEAT, AGAIN, MR. GERRARD.

4 THIS WAS A FAIRLY NARROW PLACE?

5 A YES, VERY SMALL.

6 Q DID YOU AND YOUR WIFE ORDER DINNER?

7 A YES, WE DID.

8 Q HOW LONG DID YOU STAY AT THIS RESTAURANT IN TOTAL,
9 MR. GERRARD?

10 A I'D SAY ABOUT AN HOUR.

11 Q DID ANYTHING UNUSUAL HAPPEN DURING THE FIRST 10 OR
12 15 MINUTES THAT YOU WERE THERE?

13 A YES.

14 Q AND WHAT WAS THAT, SIR?

15 A WHEN THE DOOR OPENED, THE WIND CAME IN AND 2
16 GENTLEMEN WALKED IN.

17 Q DID YOU TURN AROUND TO TAKE A LOOK AT THEM?

18 A COULDN'T HELP BUT LOOK UP BECAUSE OF THE WAY THE
19 WIND WAS COMING IN. WE DID. WE LOOKED UP AND SAW THE 2
20 GENTLEMEN ENTER THE RESTAURANT.

21 Q HOW DO YOU REMEMBER THAT THEY LOOKED?

22 A I REMEMBER THAT BOTH WERE FAIRLY TALL. ONE WAS
23 TALLER THAN THE OTHER.

24 Q HOW OLD WERE THESE GENTLEMEN?

25 A FORTY-FIVE, 50. SOMEWHERE IN THERE.

26 Q WAS THE TALLER OF THE 2 GENTLEMEN, DID HE LOOK AT

1 ALL FAMILIAR TO YOU?

2 A NOT TO ME INITIALLY, NO.

3 Q AND THE SHORTER OF THE 2 GENTLEMEN, DID HE LOOK

4 FAMILIAR?

5 A NOT AT ALL.

6 Q SIR, HAD YOU EVER MET RON LEVIN?

7 A BRIEFLY, ONCE, YES.

8 Q UNDER WHAT CIRCUMSTANCES WAS IT, MR. GERRARD, THAT

9 YOU MADE MR. LEVIN'S ACQUAINTANCE?

10 A HE HAD COME TO MY HOME IN MARINA DEL REY.

11 Q WHO HAD HE COME TO THE HOUSE WITH?

12 A WITH MY DAUGHTER AND SON-IN-LAW.

13 Q WAS YOUR WIFE THERE ON THAT OCCASION?

14 A YES, SHE WAS.

15 Q WERE YOU INTRODUCED TO MR. LEVIN ON THAT OCCASION?

16 A YES, I WAS.

17 Q DID YOU SPEAK TO HIM AT ANY LENGTH?

18 A NO, I JUST SAID HI BECAUSE I WAS ON THE TELEPHONE

19 CONDUCTING BUSINESS, AND I DIDN'T TALK TO HIM TOO MUCH.

20 Q WHAT SORT OF OPPORTUNITY DID YOU HAVE TO LOOK AT

21 MR. LEVIN ON THIS OCCASION WHEN YOU WERE INTRODUCED TO HIM?

22 A JUST TO LOOK UP ONCE AT HIM AND SAY HELLO. AND

23 THAT'S ALL.

24 Q DID YOU RECOGNIZE THE TALLER OF THE 2 MEN THAT

25 CAME INTO THAT DOOR AS BEING RON LEVIN?

26 A NO, I DIDN'T.

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1 Q WHAT DID THESE 2 GENTLEMEN DO AFTER THEY CAME INTO
2 THE RESTAURANT?

3 A THE LADY OF THE HOUSE SHOWED THEM TO A TABLE
4 DIRECTLY ABOVE OURS.

5 Q YOU PUT A STAR AT DEFENSE 1509 WHERE YOU WERE
6 SITTING, COULD YOU PUT A LARGE X OVER THE TABLE WHICH THEY
7 TOOK?

8 A IT WAS CLOSER. THEY WERE CLOSE TOGETHER. THESE
9 THINGS.

10 Q IT IS A VERY NARROW RESTAURANT, CORRECT, SIR?

11 A YES. THE CHAIRS WERE BACK TO BACK TOUCHING EACH
12 OTHER. THESE 2 CHAIRS.

13 Q ONLY THE TABLE THAT YOU HAVE INDICATED WITH A STAR
14 WHERE YOU AND YOUR WIFE WAS SITTING?

15 A YES.

16 Q WHO WAS SITTING CLOSEST TO THE TABLE THAT THESE 2
17 GENTLEMEN OCCUPIED?

18 A MY WIFE WAS. SHE WAS SITTING RIGHT HERE.

19 Q COULD YOU DRAW A LINE THROUGH THAT LITTLE CIRCLE
20 AND PUT CONNIE GERRARD? AND COULD YOU BY A SIMILAR NOTATION
21 INDICATE WHERE YOU WERE SITTING, SIR? WHAT CHAIR DID THE
22 TALLER OF THE 2 GENTLEMEN TAKE?

23 A THIS ONE RIGHT HERE.

24 Q DO YOU REMEMBER HOW THIS MAN WAS DRESSED, SIR?

25 A YES. THEY WERE DRESSED IN TURTLE NECKS, JACKETS
26 AND BLUE JEANS.

1 Q CAN YOU CONNECT THAT CIRCLE THAT YOU HAVE USED TO
2 INDICATE THE LOCATION OF THE TALL GENTLEMAN WITH THE WORDS
3 THE TALLER OF THE 2.

4 AFTER THESE GENTLEMEN WALKED IN -- IF YOU WOULD
5 TAKE YOUR CHAIR PLEASE, SIR, THANK YOU.

6 AFTER THESE 2 GENTLEMEN WALKED IN, DID YOU HAVE
7 ANY DISCUSSION WITH YOUR WIFE?

8 A YES. SHE IMMEDIATELY LOOKED OVER TO ME AND TOLD
9 ME IN GREEK. JERRY, YOU ARE NOT GOING TO BELIEVE WHO HAS
10 JUST SAT DOWN BEHIND ME? AND SHE WHISPERED THE NAME RON
11 LEVIN.

12 Q WHAT WAS YOUR REACTION TO THAT?

13 A I WAS ASTOUNDED. I SAID, ARE YOU SURE?

14 A SHE SAID POSITIVE.

15 Q THIS IS CHRISTMAS IN 1987. WERE YOU AWARE AT ALL
16 THAT I HAVE BEEN CONVICTED FOR AN ALLEGED MURDER OF RON
17 LEVIN?

18 A YES, YES, I WAS.

19 Q YOUR REACTION THEN WAS ASTONISHMENT?

20 A YES, I WAS.

21 Q DID YOU MAKE ANY FURTHER REMARKS TO YOUR WIFE
22 ABOUT THE CIRCUMSTANCE?

23 A NO, I DIDN'T.

24 Q DID YOU HEAR ANYTHING ABOUT -- WERE THESE
25 GENTLEMEN TALKING?

26 A YES, THEY WERE.

1 Q DID YOU HEAR ANYTHING OF THEIR CONVERSATION?

2 A I DIDN'T.

3 Q DID YOU NOTICE ANYTHING BESIDES THEIR CLOTHING?

4 A NO. JUST THAT THEY WERE VERY WELL DRESSED AND
5 VERY GENTLEMANLY.

6 Q THE TALLER OF THE 2 GENTLEMEN, DID HE APPEAR TO
7 YOU TO BE VERY WELL DRESSED?

8 A YES.

9 Q DID HE APPEAR TO YOU TO TAKE ANY SPECIAL CARE AS
10 FAR AS HIS GROOMING WENT?

11 A VERY WELL GROOMED.

12 Q DO YOU REMEMBER THE COLOR OF HIS HAIR?

13 A IT WAS SORT OF GREY, AND HIS BEARD WAS THE SAME.

14 Q WAS THIS BEARD OR THIS HAIR NEATLY GROOMED, SIR?

15 A YES.

16 Q DO YOU REMEMBER ANYTHING ELSE ABOUT HIS
17 APPEARANCE?

18 A NO.

19 Q DID THEY BRING ANYTHING INTO THE RESTAURANT WITH
20 THEM?

21 A NOT THAT I KNOW.

22 Q AFTER YOUR WIFE TOLD YOU WHO SHE THOUGHT THE
23 TALLER OF THE 2 GENTLEMEN WAS, DID ANYTHING ELSE HAPPEN WITH
24 RESPECT TO THESE 2 INDIVIDUALS?

25 A WE WERE SERVED OUR MEAL, AND THE TALLER OF THE 2
26 MEN GOT UP TO GO TO THE RESTROOM.

1 Q DID HE HAVE TO PASS YOUR TABLE TO DO SO?

2 A YES, HE DID. DIRECTLY BESIDE US.

3 Q JUST AS ONE COULD CONCLUDE, DEFENSE 1509 THEN, MR.
4 GERRARD, TO LEAVE THAT SECOND TABLE, ONE WOULD HAVE TO PASS
5 DIRECTLY BY YOURS?

6 A YES, THEY HAVE TO COME -- WE WERE SITTING HERE.
7 HE WALKED RIGHT PASS US TO GET INTO THE RESTROOM.

8 Q COULD YOU MARK ON A LARGE CIRCLE BATHROOM AT THE
9 BOTTOM.

10 DID YOU HAVE ANY EYE CONTACT WITH THE MAN AS HE
11 WALKED BY THE TABLE?

12 A I LOOKED UP AT HIM, BUT I DON'T REMEMBER ANY EYE
13 CONTACT.

14 Q HOW ABOUT ON THE WAY BACK?

15 A ON THE WAY BACK, YES.

16 Q WHAT HAPPENED ON THE WAY BACK?

17 A HE CAME OUT OF THE RESTROOM, LOOKED DOWN AT THE
18 TABLE, SAW MY WIFE, AND I SAW -- I SAW HIM PALE. AND I
19 LOOKED UP AT HIM. HE LOOKED AT ME, AND HE IMMEDIATELY SAT
20 DOWN, WHISPERED TO HIS FRIEND. THEY CALLED THE LADY OVER,
21 GOT THEIR CHECK, TOOK THEIR 3 QUARTER FULL BOTTLE OF WINE AND
22 STORMED OUT OF THE RESTAURANT.

23 Q YOU USED THE WORD STORMED OUT THE RESTAURANT.

24 A THEY WENT VERY QUICKLY.

25 Q LET'S GO THROUGH THAT SEQUENCE A LITTLE BIT MORE
26 SLOWLY, MR. GERRARD. THIS MAN IS RETURNING FROM THE

1 BATHROOM. AT WHAT POINT DID YOU MAKE CONTACT WITH HIM?

2 A WHEN HE LOOKED DOWN AND LOOKED AT MY WIFE, JUST
3 HAPPENED TO GLANCE AT HIM.

4 WHEN HE CAME OUT OF THE RESTROOM, HE APPROACHED
5 OUR TABLE, HE LOOKED DOWN AND SAW MY WIFE. MY WIFE LOOKED UP
6 AT HIM, I LOOKED AT HER. I SAW THE LOOK ON HER FACE, AND I
7 LOOKED UP. AND THAT WAS THE FIRST TIME I MADE EYE CONTACT
8 WITH HIM.

9 Q DID YOU RECOGNIZE HIM AT THAT POINT?

10 A NO, I DIDN'T.

11 Q YOU TALKED ABOUT HOW THE WEATHER WAS BAD, THAT IT
12 WAS DRIZZLING, RAINING OUTSIDE, WAS IT ALSO COLD?

13 A VERY COLD.

14 Q ACTUALLY WEATHER THAT BRINGS COLOR TO YOUR CHEEKS?

15 A YES.

16 Q WHEN YOU SAID THAT HE VISIBLY PALED, TO WHAT
17 EXTENT DO YOU MEAN THAT, SIR?

18 A JUST THAT HIS FACE CHANGED COLOR. YOU COULD SEE
19 THAT HE WAS VERY ASTONISHED AS TO WHAT HE HAD SEEN.

20 MR. VANCE: OBJECTION, CALLS FOR SPECULATION AS
21 FAR AS VERY ASTONISHED.

22 THE COURT: SUSTAINED.

23 THAT PORTION OF THE ANSWER IS STRICKEN. THE JURY
24 IS ADMONISHED TO DISREGARD IT.

25 MR. HUNT: Q IN ANY EVENT, SIR, YOU OBSERVED THE
26 COLOR DRAINED FROM THE MAN'S FACE?

1 A YES, I DID.

2 Q WERE YOU WATCHING HIM WITH SOME ATTENTION AFTER
3 THAT MOMENT OF EYE CONTACT BETWEEN THE 2 OF YOU?

4 A YES.

5 Q AND WHAT DID HE DO NEXT?

6 A HE SAT DOWN.

7 Q AND AFTER THAT, SIR?

8 A LEANED OVER, WHISPERED TO HIS COMPANION, CALLED
9 THE LADY OVER, ASKED FOR THE CHECK. AND AS I SAID, PICKED UP
10 THEIR 3 QUARTER FULL BOTTLE OF WINE AND LEFT THE RESTAURANT.

11 Q DID YOU AND YOUR WIFE HAVE ANY CONVERSATION ABOUT
12 THEIR BEHAVIOR?

13 A YES, WE DID.

14 Q AND WHAT DID YOU SAY?

15 MR. VANCE: OBJECTION, CALLS FOR HEARSAY.

16 MR. HUNT: OFFER TO JUST -- ON HIS STATE OF MIND.

17 MR. VANCE: OBJECTION. HIS STATE OF MIND IS
18 IRRELEVANT.

19 THE COURT: SUSTAINED.

20 MR. HUNT: Q DID YOU AND YOUR WIFE DISCUSS WHAT
21 HAD JUST HAPPENED, SIR?

22 A YES, WE DID.

23 Q DID YOU HAVE ANY DISCUSSION WITH ANYONE ELSE ABOUT
24 WHAT HAD TRANSPIRED IN THAT RESTAURANT WITH RESPECT TO THE
25 TALLER OF THE 2 MEN?

26 A YES, WE DID.

1 Q AND WHO DID YOU SPEAK TO?

2 A THE LADY OF THE HOUSE.

3 Q HOW LONG AFTER THIS TALLER GENTLEMAN WALKED BY
4 YOUR TABLE DID YOU REMAIN AT THIS RESTAURANT?

5 A WE FINISHED OUR MEAL ANOTHER 15, 20 MINUTES, HALF
6 AN HOUR.

7 Q AND AFTER THAT, HOW LONG DID YOU STAY ON THE
8 ISLAND, SIR?

9 A UNTIL THE PLANE LEFT THAT EVENING.

10 Q DID YOU SEE THESE 2 GENTLEMEN ON THE PLANE THAT
11 NIGHT?

12 A NO.

13 Q DID YOU EVER SEE EITHER OF THOSE 2 GENTLEMEN
14 AGAIN?

15 A NEVER.

16 Q HOW RAPIDLY WAS THE MAN MOVING AFTER HE LOOKED AT
17 YOU AND YOUR WIFE AS HE WALKED BACK FROM THE RESTROOM?

18 A HE WAS MOVING. I FELT HE HAD A TENDENCY TO MOVE
19 RATHER QUICKLY. HE WAS SORT OF A WIRY INDIVIDUAL. AND HE
20 DID HESITATE BRIEFLY, INSTANTANEOUSLY, AS HE PASSED OUR TABLE
21 AND LOOKED DOWN AT MY WIFE.

22 Q DID YOU WATCH HIM AS HE WAS WHISPERING TO HIS
23 COMPANION AFTER YOU HAD EYE CONTACT WITH HIM?

24 A HIS BACK WAS TO ME. I SAW HIM LEAN OVER TO HIS
25 COMPANION. I COULDN'T SEE HIM. HIS BACK WAS TO ME.

26 Q SIR, WHEN WAS THE FIRST TIME YOU EVER MET ME?

1 A THIS MORNING.

2 Q ARE YOU AWARE THAT WE HAVE ANY MUTUAL
3 ACQUAINTANCES, SIR?

4 A YES.

5 Q AND WHO WOULD THAT BE?

6 A BOBBY (PHONETIC) ROBERTS (PHONETIC).

7 Q WHAT CONNECTION, SIR, DO YOU HAVE TO BOBBY
8 (PHONETIC) ROBERTS (PHONETIC)?

9 A I BUILT HIS SWIMMING POOL.

10 Q WHEN DID YOU DO THAT?

11 A 1973.

12 Q SO THIS WAS ONE OF THE 2,500 POOLS THAT YOU
13 INDICATED YOU HAD BUILT?

14 A YES, IT IS.

15 Q WHAT SORT OF RELATIONSHIP DID YOU HAVE WITH MR.
16 ROBERTS (PHONETIC)?

17 A WELL, AS I SAID, IT WAS A BUSY RELATIONSHIP FIRST,
18 AND THEN A VERY FRIENDLY ONE.

19 Q WHEN WAS THE LAST TIME YOU SAW MR. ROBERTS
20 (PHONETIC), SIR?

21 A IT WAS AT HIS BANKRUPTCY HEARING. HE HAD OWED ME
22 SOME MONEY. HE INDICATED TO THE BANKRUPTCY COURT I WAS ONE
23 OF HIS CREDITORS, AND IT WAS THEN THAT I LAST SAW HIM.

24 Q DID HE SUBSEQUENTLY PAY YOU, SIR?

25 A YES, WELL, I DID GET A SETTLEMENT FROM THE
26 BANKRUPTCY COURT.

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1 Q DO YOU RECALL WHAT YEAR THAT WAS IN, SIR?

2 A IN THE EARLY 80'S.

3 Q HAVE YOU SEEN MR. ROBERTS (PHONETIC) SINCE THAT
4 TIME?

5 A NO, NOT AT ALL.

6 Q HAVE YOU SPOKEN TO MR. ROBERTS (PHONETIC) AT ALL
7 ABOUT THIS IDENTIFICATION?

8 A NO.

9 Q SIR , IS THERE ANYONE ELSE THAT YOU KNOW WHO YOU
10 ARE AWARE ALSO KNOWS ME?

11 A NO.

12 Q DO YOU RECALL TALKING THIS MORNING ABOUT HARVARD
13 HIGH SCHOOL?

14 A YES.

15 Q AND IN THAT CONNECTION, SIR, DO YOU KNOW ANYONE
16 THAT WAS IN MY CLASS?

17 A YES, GEORGIE PAPPAS (PHONETIC).

18 Q WERE YOU AWARE THAT I WAS IN HIS CLASS BEFORE THIS
19 POINT?

20 A NO, I WAS NOT.

21 Q SIR, IS THERE ANYTHING THAT MAKES THIS INCIDENT IN
22 CHRISTMAS OF 1987 CONCERNING THESE 2 MEN MEMORABLE TO YOU?

23 A THE FACT THAT MY WIFE RECOGNIZED THE GENTLEMAN,
24 THE TALLER OF THE 2 AS BEING RON LEVIN. THAT WAS VERY
25 ASTONISHING TO ME.

26 MR. HUNT: I HAVE NO FURTHER QUESTIONS OF THE

1 WITNESS.

2 THANK YOU, MR. GERRARD.

3 THE COURT: ALL RIGHT, MR. VANCE, YOU MAY
4 CROSS-EXAMINE.

5 CROSS-EXAMINATION

6 BY MR. VANCE: Q MR. GERRARD, AFTER RETURNING
7 FROM GREECE IN DECEMBER OF 1987, WHEN WAS THE FIRST TIME THAT
8 YOU YOURSELF TALKED TO ANYBODY ABOUT WHAT YOU OBSERVED AT THE
9 CAFE ON CHRISTMAS DAY?

10 A THE DAY I GOT HOME, I TALKED TO MY CHILDREN ABOUT
11 IT.

12 Q AND WHO WOULD THAT BE?

13 A PETER, MARICA (PHONETIC) AND NICOLE GERRARD.

14 Q MARICA (PHONETIC), IS SHE MARRIED TO BOB TUR,
15 T-U-R?

16 A T-U-R.

17 Q AND MR. TUR IS INVOLVED IN TELEVISION IS THAT
18 CORRECT?

19 A YES, HE IS A NEWS REPORTER.

20 Q HE IS A NEWS REPORTER?

21 A HE OWNS HIS OWN TELEVISION NEWS SERVICE.

22 Q AND TO YOUR KNOWLEDGE HE WAS A FRIEND OF RON
23 LEVIN?

24 A YES.

25 Q WHEN YOU SAY ON YOUR RETURN YOU EXPLAINED WHAT YOU
26 HAD SEEN TO YOUR DAUGHTERS, YOUR FAMILY, MARICA (PHONETIC)

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1 WAS ONE OF THEM, WAS SHE AT THAT TIME MARRIED TO BOB TUR?

2 A YES.

3 Q WAS BOB --

4 A THEY WERE GOING TOGETHER. SHE MAY NOT HAVE BEEN
5 MARRIED TO HIM. THEY WERE GOING TOGETHER.

6 Q WAS BOB TUR PRESENT WHEN YOU HAD THAT DISCUSSION?

7 A YES.

8 Q SIR, YOU INDICATED THAT YOU HAD PUT IN THE POOL
9 FOR BOBBY (PHONETIC) ROBERTS (PHONETIC) IN 1973; IS THAT
10 CORRECT?

11 A YES.

12 Q AND THEN THE BUSINESS RELATIONSHIP HAD DEVELOPED
13 INTO A FRIENDSHIP?

14 A DURING THE COURSE OF THE CONSTRUCTION OF THE POOL,
15 WE BECAME VERY FRIENDLY. I SPENT QUITE A BIT OF TIME AT HIS
16 HOUSE. INASMUCH AS HE OWES ME MONEY, I WAS IN CONTACT WITH
17 HIM FOR THAT REASON.

18 Q IN RELATIONSHIP TO LET SAY THE YEARS, 1984, 1985,
19 1986, 1987, HAD YOU EVER SEEN MR. ROBERTS (PHONETIC)?

20 A NO.

21 Q OR HIS WIFE?

22 A NO.

23 Q INSOFAR AS MEETING MR. HUNT, DO YOU RECALL A
24 SITUATION OF RUNNING INTO MR. HUNT OR BEING IN A RESTAURANT
25 WITH YOUR WIFE AND RUNNING INTO MR. HUNT?

26 A WHO IS MR. HUNT?

1 Q THE DEFENDANT IN THIS CASE?

2 A OH, I AM SORRY. I AM SORRY. NO, I DON'T REMEMBER
3 THAT.

4 Q DO YOU KNOW THE DEFENDANT IN THIS CASE BY A
5 DIFFERENT NAME, SIR?

6 A NO, I DON'T. I WENT BLANK THERE FOR A SECOND.

7 Q WHEN YOU WERE IN GREECE AT THIS RESTAURANT, WHAT
8 HAS BEEN SKETCHED OUT AS 1509, YOU HAVE DESCRIBED IT AS A
9 VERY SMALL RESTAURANT, CAN YOU GIVE US AN ESTIMATE FROM THE
10 FRONT DOOR TO, LET SAY, WHERE THE BATHROOM AREA IS HOW MUCH
11 DISTANCE THERE MIGHT BE?

12 A TWENTY-FIVE FEET.

13 Q YOU ALSO SAID IT WAS NARROW?

14 A YES.

15 Q HOW NARROWER IS NARROW?

16 A TWELVE, 15 FEET.

17 Q IN DESCRIBING THE TABLES IN THIS DIAGRAM 1509, YOU
18 HAVE INDICATED THAT YOU ARE AT THE TABLE THAT HAS THE STAR?

19 A YES.

20 Q YOU WERE SITTING FACING THE DOORS; IS THAT
21 CORRECT?

22 A YES.

23 Q THE FRONT DOORS.

24 YOUR WIFE WAS SITTING IN A POSITION SHE HAD HER
25 BACK TO THE FRONT DOOR. HER SIDE WAS TO THE BACK OF THE
26 DOOR. HER BACK WAS THIS WAY. THE DOOR WAS UP HERE.

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1 Q OKAY. THEN WHERE WAS ON 1509 -- COULD YOU POINT,
2 AGAIN, SIR, TO WHERE THEY -- WHERE YOUR WIFE WAS SITTING?

3 A SITTING RIGHT THERE.

4 Q BUT IN A WAY, AND PERHAPS I AM CONFUSED BECAUSE OF
5 THE DIAGRAM.

6 A IT'S NOT A VERY ACCURATE DIAGRAM.

7 Q YOU ARE FACING THE DOOR, IS SHE FACING YOU?

8 A YES.

9 Q AND NOW LET ME EXPLAIN MY CONFUSION. IF THAT'S
10 THE CASE THEN, HER BACK IS TO THE DOOR, TO THE SIDE OF THE
11 DOOR OR?

12 A I -- HER BACK IS THIS WAY. THE DOOR IS A LITTLE
13 BIT TO HER LEFT.

14 Q OKAY. AND THEN AT SOME POINT, 10 OR 15 MINUTES
15 INTO IT, 2 PEOPLE COME IN?

16 A (WITNESS NODS HIS HEAD) YES.

17 Q FROM WHERE YOU ARE SITTING, YOU HAVE NO TROUBLE
18 LOOKING ACROSS?

19 A NO.

20 Q FROM WHERE YOUR WIFE IS SITTING, DOES SHE HAVE TO
21 TURN HER HEAD AT ALL?

22 A YES, YES.

23 THE COURT: EXCUSE ME, MR. GERRARD, YOU HAVE TO
24 WAIT UNTIL THE QUESTION IS COMPLETELY OVER BEFORE YOU START
25 TO ANSWER. SOMETIMES YOU CAN TELL WHERE HE IS HEADED, AND
26 YOU WANT TO ANTICIPATE HIM, BUT THE REPORTER CAN'T GET IT

1 DOWN. SO --

2 THE WITNESS: I UNDERSTAND.

3 THE COURT: YOU ARE SURE THE QUESTION IS
4 COMPLETELY OVER, THEN ANSWER IT.

5 GO AHEAD.

6 MR. VANCE: Q IN THE DIAGRAM -- WELL, LET ME ASK
7 YOU TO LOOK AT 1505, THE PICTURE BEHIND YOU. THERE APPEARS
8 TO BE SOME DOORS, OR THERE APPEARS TO BE A WINDOW IN THE DOOR
9 AND A WINDOW BEHIND THE BAR?

10 A YES.

11 Q ARE THERE OTHER WINDOWS IN THE RESTAURANT?

12 A I DON'T REMEMBER.

13 Q HOW WAS THE RESTAURANT LIT?

14 A IT WAS LIT NORMALLY. I REALLY DON'T REMEMBER
15 THAT. IT WASN'T DARK, AND IT WASN'T BRIGHT.

16 Q WHEN THE 2 GENTLEMEN CAME IN, WAS THERE ANYTHING
17 UNUSUAL ABOUT THE WAY THEY CAME IN? I MEAN WHAT DID THEY DO
18 UPON COMING IN?

19 A WELL, THE ONLY THING UNUSUAL WAS THAT THE DOOR
20 OPENED AND THE WIND CAME IN, AND WE JUST HAD TO LOOK UP TO
21 SEE WHAT WAS HAPPENING. THAT WAS THE ONLY THING UNUSUAL
22 ABOUT IT. AND THE FACT THAT WE KNEW THAT THERE WEREN'T ANY
23 OTHER PEOPLE ON THAT ISLAND OR TOURISTS BUT US.

24 Q YOU HADN'T SEEN ANYBODY OUT IN THE --

25 A JUST THE OLD GENTLEMAN.

26 Q WHEN THEY CAME IN, DID THEY SPEAK TO THE LADY WHO

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1 RAN THE RESTAURANT?

2 A YES, SHE SAT THEM AT THEIR TABLE.

3 Q COULD YOU TELL WHAT LANGUAGE THEY SPOKE?

4 A ENGLISH.

5 Q DID THE LADY WHO RAN OR RUN THE -- RAN THE

6 RESTAURANT, DID SHE SPEAK ENGLISH?

7 A A LITTLE BIT.

8 Q DID YOU NOTICE ANYTHING DISTINCTIVE ABOUT THE

9 ENGLISH THAT EITHER OF THE GENTLEMAN SPOKE?

10 A NO, I DIDN'T NOTICE ANYTHING DISTINCTIVE.

11 Q FROM TRAVELING TO GREECE -- YOU CAN RESUME YOUR

12 SEAT.

13 HAVE YOU EVER RUN INTO TOURISTS FROM ENGLAND?

14 A YES.

15 Q HAD YOU EVER PICKED UP A DISTINCTIVE ENGLISH

16 ACCENT?

17 A YES.

18 Q DID YOU HEAR ENOUGH OF THESE 2 PEOPLE TO TELL

19 WHETHER OR NOT THEY PERHAPS HAD AN ENGLISH ACCENT OR COULDN'T

20 YOU TELL?

21 A NO, I COULDN'T TELL. I DIDN'T HEAR THEM TALKING.

22 Q NOW --

23 A WHEN THEY SAT DOWN, I DIDN'T HEAR THEM TALKING.

24 Q YOU HAVE INDICATED, SIR, IN AN ANSWER TO A

25 QUESTION MR. HUNT ASKED YOU THAT, WHERE YOU INDICATED YOU

26 HAVE GLAUCOMA; IS THAT CORRECT?

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1 A YES, I DO.

2 Q DID YOU HAVE GLAUCOMA IN DECEMBER OF 1987?

3 A YES, I DID.

4 Q DOES THAT AFFECT YOUR ABILITY TO SEE FACES, OR HOW
5 DOES THAT AFFECT YOU, SIR?

6 A I STILL HAVE MY DRIVER'S LICENSE. I AM ABLE TO
7 DRIVE. MY VISION IS AFFECTED AT NIGHT PRIMARILY.

8 Q IT'S PRIMARILY AT NIGHT?

9 A YES.

10 Q AND THE RESTRICTION ON YOUR -- ARE YOU RESTRICTED
11 TO DRIVING A CAR AT NIGHT?

12 A NO, I AM NOT. I JUST CHOSE NOT TO.

13 Q BUT AS FAR AS IN THE RESTAURANT, DID YOU HAVE ANY
14 TROUBLE, YOU KNOW, SEEING THINGS?

15 A NO, I DIDN'T.

16 Q NOW WHEN THEY SAT DOWN, YOU HAVE INDICATED THAT
17 THE TALLER PERSON SAT WITH HIS BACK TOWARDS YOUR WIFE; IS
18 THAT CORRECT?

19 A YES, IT IS.

20 Q AND HIS COMPANION SAT THEN ACROSS FROM HIM?

21 A YES.

22 Q WHEN YOU SAY THAT YOU DON'T RECALL THEM OR HEARING
23 THEM TALK; IS THAT YOU DON'T RECALL WHAT THEY WERE SAYING OR
24 THEY JUST DIDN'T TALK AT ALL?

25 A I JUST DON'T REMEMBER THEM TALKING. I JUST DON'T
26 REMEMBER THEM TALKING.

1 Q YOUR WIFE THOUGH AT THE POINT WHEN THEY CAME IN
2 WHISPERED SOMETHING TO YOU?

3 A YES, SHE DID.

4 Q THAT SHE THOUGHT THAT SHE HAD SEEN, OR ONE OF THEM
5 WAS RON LEVIN?

6 A YES.

7 Q WHEN THEY WALKED IN, WAS THERE ANY LENGTH OF TIME
8 BEFORE THEY WERE SEATED? DID THEY HAVE TO WAIT FOR THE LADY
9 OF THE RESTAURANT TO SEAT THEM?

10 A SHE MET THEM AT THE DOOR AND SEATED THEM
11 IMMEDIATELY.

12 Q WHEN YOU SAY SEATED THEM IMMEDIATELY, I MEAN
13 SOMETIMES IN RESTAURANTS THAT CAN BE MINUTES AND SOME CAN BE
14 HOURS. IF WE CONSIDERED THAT TO BE SEATED IMMEDIATELY, ARE
15 WE TALKING -- THEY WALKED IN AND SAT DOWN?

16 A SHE SAT THEM DOWN IMMEDIATELY.

17 Q AFTER SPEAKING TO YOUR FAMILY UPON YOUR RETURN IN
18 CHRISTMAS OF 1987 ABOUT WHAT YOU HAD SEEN AT THIS RESTAURANT,
19 WHEN WAS THE NEXT TIME THAT YOU SPOKE TO ANYBODY ABOUT WHAT
20 YOU HAD SEEN?

21 A I SPOKE TO MY BANKER IN BEVERLY HILLS.

22 Q AND DID YOU EVER SPEAK TO A OR MAKE ANY CONTACT
23 WITH A DEFENSE INVESTIGATOR?

24 A NOT AT THAT TIME.

25 Q WHEN WAS THE FIRST TIME YOU MADE CONTACT WITH AN
26 INVESTIGATOR?

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1 A JUST RECENTLY WHEN THIS TRIAL WAS TAKING PLACE.

2 Q YOU MEAN THIS TRIAL IN SAN MATEO COUNTY?

3 A THIS, YES.

4 Q AT THE POINT WHEN YOU WERE IN MYKONOS ON
5 CHRISTMAS, WERE YOU, I TAKE IT FROM ONE OF YOUR ANSWERS YOU
6 WERE AWARE THAT RON LEVIN OR MR. HUNT WAS STANDING TRIAL FOR
7 THE MURDER OF RON LEVIN; IS THAT CORRECT?

8 A YES.

9 Q OR HAD BEEN CONVICTED AT THAT POINT?

10 A YES.

11 Q HAD YOU FOLLOWED THAT TRIAL AT ALL?

12 A NOT INTENTIONALLY, NO.

13 Q YOU SAY NOT INTENTIONALLY?

14 A WELL, I DON'T WATCH TELEVISION, AND I HAVE
15 DIFFICULTY READING, SO IT'S JUST WHAT I HEAR ON THE RADIO, ON
16 THE NEWS REPORTS.

17 Q HAD YOU EVER SPOKEN TO BOB TUR ABOUT RON LEVIN
18 DURING THE TIME MR. HUNT WAS STANDING TRIAL IN LOS ANGELES?

19 A PROBABLY I DID, YES.

20 Q ABOUT RON LEVIN OR?

21 A YES.

22 Q TO YOUR UNDERSTANDING BOB TUR HAD BEEN IN BUSINESS
23 WITH RON LEVIN AT SOME POINT?

24 A HE HAD SOME CONTACT WITH RON, BUT HE WAS NEVER IN
25 BUSINESS WITH HIM AS FAR AS I UNDERSTAND.

26 Q WHEN YOU FLEW OVER THAT MORNING FROM, I GUESS,

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1 ATHENS --

2 A YES.

3 Q -- HOW MANY PEOPLE WERE ON THE PLANE?

4 A IT WAS A VERY SMALL PLANE. ONE AISLE. SEATINGS
5 ON BOTH SIDES AND ONE AISLE DOWN THE MIDDLE. MAYBE 20
6 PEOPLE.

7 Q WERE THERE ANY OTHER TOURISTS OR PEOPLE WHO LOOKED
8 -- YOU WOULD HAVE IDENTIFIED AS TOURISTS ON THAT PLANE?

9 A NO, THERE WEREN'T.

10 Q AT THE POINT THEN THAT YOU ARE WANDERING THROUGH
11 THE STORM LOOKING FOR A PLACE TO EAT, HAD IT BEEN YOUR
12 INTENTION TO SPEND THE NIGHT ON THE ISLAND?

13 A NO.

14 Q THERE ARE HOTELS?

15 A YES, THERE ARE.

16 Q ON THE OCCASION WHEN YOU WERE INTRODUCED TO RON
17 LEVIN AT YOUR HOUSE IN MARINA DEL REY, WHAT YEAR TO THE BEST
18 OF YOUR RECOLLECTION WAS THIS, SIR?

19 A PROBABLY 1982, 3, SOMEWHERE IN THERE.

20 Q AND YOU WERE ON THE PHONE; IS THAT CORRECT?

21 A YES, I WAS.

22 Q AND HOW DID IT COME TO PASS MR. LEVIN WAS AT YOUR
23 HOUSE?

24 A MY DAUGHTER, NICOLE, HAD BEEN PLAYING A BIT PART
25 IN A PRODUCTION, AND SHE FELL THROUGH THE FLOOR OF THE STAGE
26 AND HURT HER BACK. AND RON LEVIN WHO PASSED HIMSELF OFF AS

1 AN ATTORNEY WAS TO ADVISE HER AS TO WHAT TO DO.

2 Q AND WHEN YOU SAY YOU ARE ON THE PHONE AND SOMEBODY
3 INTRODUCED YOU TO HIM, WHO WAS IT THAT ACTUALLY SAID, HI,
4 THIS IS RON LEVIN?

5 A MY WIFE INTRODUCED ME.

6 THE COURT: MR. VANCE, LET ME INTERRUPT YOU AND
7 TAKE THE FIRST RECESS. WE WILL TAKE 15 MINUTES AND RESUME AT
8 2:35. AND REMEMBER THE ADMONITION.

9 (RECESS)

10 (BACK ON THE RECORD)

11 THE COURT: THE RECORD WILL SHOW THAT ALL THE SAME
12 PEOPLE ARE PRESENT.

13 GO AHEAD, MR. VANCE.

14 CROSS-EXAMINATION (RESUMED)

15 BY MR. VANCE: Q SIR, YOU WERE INTRODUCED IN 1982
16 TO SOMEBODY WHO WAS SAID TO BE RON LEVIN WHILE YOU WERE ON
17 THE TELEPHONE. DID YOU GLANCE AT HIM? HOW WOULD YOU
18 DESCRIBE THE LOOK THAT YOU GOT OF HIM AT THAT TIME?

19 A I REALLY DIDN'T PAY ANY ATTENTION TO HIM. HE WAS
20 JUST ACKNOWLEDGED. SAID, HELLO, AND I SAID HI. AND THAT WAS
21 ALL.

22 Q DO YOU KNOW IF THE PERSON WHO WAS IDENTIFIED TO
23 YOU AS RON LEVIN THEN STAYED FOR A WHILE AT YOUR HOUSE?

24 A HE STAYED FOR A LITTLE BIT, YES.

25 Q AND YOU WERE OTHERWISE OCCUPIED; IS THAT CORRECT?

26 A YES, I WAS.

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1 Q YOU DIDN'T SEE HIM AGAIN?

2 A NO.

3 Q BETWEEN 1982 AND UNTIL 1987, YOU HAD NEVER SEEN
4 RON LEVIN AGAIN?

5 A NO.

6 Q WHEN YOU SAW OR THE PERSON WHO WAS IDENTIFIED TO
7 YOU AS RON LEVIN WHILE YOU WERE ON THE PHONE, HOW LONG DID
8 YOU LOOK AT HIM? CAN YOU GIVE US A TIME ESTIMATE?

9 A JUST A FEW SECONDS.

10 Q AND WHAT, IF ANYTHING, DO YOU RECALL ABOUT THE
11 PERSON THAT YOU SAW IN 1982?

12 A I DON'T -- I REMEMBER HE WAS GRIZZLING, GRAY HAIR
13 WITH A BEARD. AND VERY NICE LOOKING.

14 Q SIMILAR TO THE GENTLEMAN THAT YOU SAW IN MYKONOS?

15 A YES.

16 Q BUT YOU ARE SAYING IT'S NOT THE SAME PERSON?

17 A I AM SORRY?

18 Q BUT ACCORDING TO THE SAME PERSON?

19 A I AM NOT SAYING HE WASN'T THE SAME PERSON. I
20 DIDN'T KNOW HIM OR REMEMBER HIM TO BE ABLE TO MAKE THAT
21 STATEMENT.

22 Q AT THE POINT THAT YOU BECAME SOCIAL FRIENDS WITH
23 BOBBY ROBERTS, DID YOU ALSO BECOME FRIENDS THEN, I TAKE IT,
24 WITH HIS WIFE LYNN ROBERTS (PHONETIC)?

25 A JUST THE BUSINESS RELATIONSHIP, AND I DID ENTER
26 THEIR HOME ON OCCASION. AND I DRANK COFFEE WITH HER IN THAT

1 REGARD, YES.

2 Q WHEN WAS THE LAST TIME BEFORE 1987 THAT YOU DID
3 THAT? HAVE A CUP OF COFFEE?

4 A DURING THE YEAR 1973 WHEN I WAS BUILDING THEIR
5 POOL.

6 Q HAD YOU EVER MET ANY OF THE ROBERTS' (PHONETIC)
7 CHILDREN?

8 A YES, I DID.

9 Q BROOKE ROBERTS (PHONETIC)?

10 A YES.

11 Q WAS BROOKE ROBERTS (PHONETIC) A FRIEND OF YOUR
12 CHILDREN'S?

13 A NO.

14 Q B-R-O-O-K-E.

15 NOW, SIR, BACK ON MYKONOS AT THE POINT AFTER YOUR
16 WIFE SAYS THAT SHE THOUGHT SHE HAD SEEN RON LEVIN, DID YOU
17 TALK TO HER ABOUT THAT AT THE RESTAURANT?

18 A WE DISCUSSED IT AFTER THE GENTLEMEN LEFT, YES.

19 Q BUT BEFORE THE GENTLEMEN LEFT WHILE THE GENTLEMEN
20 WERE STILL SEATED THERE?

21 A NO, WE DIDN'T DISCUSS IT AT THAT TIME.

22 Q DO YOU RECALL WHAT YOU DID DISCUSS?

23 A NO, I DIDN'T.

24 Q DID YOU MAKE ANY EFFORTS TO SPEAK TO THE
25 GENTLEMAN, THE TALLER GENTLEMAN AT THE RESTAURANT?

26 A NOT AT ALL.

1 Q DID YOUR WIFE?

2 A NOT AT ALL.

3 Q AFTER RETURNING FROM MYKONOS, YOU SAID YOU
4 DISCUSSED WHAT YOU AND YOUR WIFE HAD SEEN WITH BOB TUR, AND
5 THEN, AGAIN, WITH YOUR BANKER. DID YOU MAKE ANY EFFORT
6 YOURSELF, SIR, TO CONTACT THE BEVERLY HILLS POLICE
7 DEPARTMENT?

8 A NO, I DID NOT.

9 Q OR THE LOS ANGELES DISTRICT ATTORNEY'S OFFICE?

10 A NO, I DID NOT.

11 Q AFTER THE 2 GENTLEMEN CAME INTO THE RESTAURANT,
12 HOW LONG WAS IT BEFORE THE TALLER MAN GOT UP TO AND PASSED --
13 AND WENT BY YOUR TABLE, PASSED BY YOU ON THE WAY TO THE
14 BATHROOM?

15 A I'D SAY ABOUT 10 MINUTES.

16 Q CAN YOU GIVE US AN ESTIMATE OF HOW LONG HE MAY
17 HAVE STAYED IN THE BATHROOM?

18 A I DON'T REMEMBER.

19 Q AND THEN ON HIS RETURN IS WHEN YOU FINALLY MADE
20 EYE CONTACT WITH HIM?

21 A YES.

22 Q AND AFTER DOING THAT, HE SITS DOWN AND WHISPERED A
23 CONVERSATION WITH HIS COMPANION?

24 A YES.

25 Q WHERE WAS YOUR WIFE DURING THAT PERIOD OF TIME
26 WHILE THEY WERE -- WHILE THE TALLER GENTLEMAN WAS HAVING THE

1 WHISPERED CONVERSATION WITH HIS COMPANION?

2 A SITTING AT THE TABLE OPPOSITE ME.

3 Q AND THEN AT THIS POINT AFTER THE WHISPERED
4 CONVERSATION, DID THE 2 GENTLEMEN LEAVE?

5 A YES.

6 Q TAKING A BOTTLE OF WINE WITH THEM?

7 A YES.

8 Q HAD THEY BROUGHT THAT BOTTLE OF WINE?

9 A I DON'T REMEMBER. I BELIEVE THEY BROUGHT IT
10 THERE, BUT I AM NOT SURE.

11 Q AND WHERE WAS YOUR WIFE AT THE POINT WHEN THEY
12 LEFT THE RESTAURANT?

13 A STILL SITTING AT THE TABLE.

14 Q SHE LEFT THE TABLE?

15 A NO.

16 Q MR. GERRARD --

17 A SHE MAY HAVE GONE TO THE BATHROOM. I DON'T
18 REMEMBER THAT.

19 Q EXCUSE ME?

20 A SHE MAY HAVE GONE TO THE BATHROOM DURING THE TIME
21 I WAS THERE. I DIDN'T -- SHE MAY HAVE. I AM NOT SURE.

22 Q IT WOULD BE YOUR RECOLLECTION AT THIS POINT WHEN
23 THEY LEFT, SHE WAS STILL AT THE TABLE WITH YOU?

24 A YES, OH, YES.

25 Q DID SHE MAKE ANY COMMENT TO YOU AS THEY LEFT?

26 A I DON'T RECALL. JUST PROBABLY THAT SHE WAS JUST

1 ASTOUNDED AT THAT LEVIN WAS STILL ALIVE.

2 Q AT THE POINT WHEN YOU ARE IN THIS RESTAURANT AT
3 MYKONOS IN CHRISTMAS OF '87, YOU WERE AWARE THAT -- YOU
4 TESTIFIED THAT THIS DEFENDANT HAD ALREADY BEEN CONVICTED BY A
5 JURY OF THAT OFFENSE; IS THAT CORRECT?

6 A I BELIEVE SO, YES. I BELIEVE HE WAS CONVICTED.

7 Q DID YOU KNOW WHETHER OR NOT MR. HUNT HAD ANY
8 CONNECTION AT THAT POINT IN TIME WITH BOBBY AND LYNN ROBERTS
9 (PHONETIC)?

10 A I DON'T KNOW.

11 Q SIR, WHAT YOU ARE SAYING AT THAT POINT YOU DID NOT
12 HAVE ANY PARTICULAR KNOWLEDGE THAT THE DEFENDANT JOSEPH HUNT
13 WAS A FRIEND OF BROOKE ROBERTS (PHONETIC); IS THAT CORRECT?

14 A YES.

15 Q CAN YOU ESTIMATE HOW MUCH TIME YOU HAD ON THIS
16 OCCASION IN DECEMBER OF 1987 TO OBSERVE THE PERSON THAT YOU
17 DESCRIBED AS THE TALLER PERSON?

18 A IN MINUTES?

19 Q YES.

20 A DURING THE TIME THEY WERE IN THE RESTAURANT,
21 PROBABLY ABOUT 15, 20 MINUTES.

22 Q THAT WAS -- WELL, HOW LONG WERE THEY IN THE
23 RESTAURANT?

24 A I WOULD SAY 15 TO 20 MINUTES.

25 Q NOW DURING THAT TIME, I MEAN ARE YOU SAYING YOU
26 HAD THE TALLER GENTLEMAN ALWAYS IN YOUR VIEW?

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1 A JUST HIS BACK.

2 Q HOW MUCH TIME DO YOU RECALL, IF YOU CAN MAKE AN
3 ESTIMATE THAT YOU MIGHT HAVE SEEN HIS FACE?

4 A I SAW HIS FACE. I GLANCED UP AT HIS FACE WHEN HE
5 ENTERED THE RESTAURANT AND WHEN HE PASSED MY -- AFTER HE LEFT
6 THE BATHROOM. ONLY THOSE 2 TIMES.

7 Q THE TIME WHEN HE PASSED YOU COMING BACK FROM THE
8 BATHROOM, CAN YOU GIVE US ANY ESTIMATE OF HOW LONG YOU LOOKED
9 UP AND OBSERVED HIM?

10 A TWO OR 3 SECONDS.

11 Q DID YOU SEE HIM GOING TO THE BATHROOM?

12 A YES.

13 Q WHEN HE WENT PASS YOU TO THE BATHROOM, I TAKE IT
14 THEN WHAT -- DID YOU HAVE AN OCCASION TO SEE HIS FACE?

15 A I DIDN'T LOOK UP AT HIM AT THAT TIME.

16 Q WHEN OR DURING THE TIME THAT YOU SAW THE TALLER
17 GENTLEMAN, YOU HAVE INDICATED THAT HE WAS WEARING, WHAT, A
18 TURTLE NECK AND JEANS; IS THAT CORRECT?

19 A AND AS I RECALL, YES.

20 Q ANYTHING TO KEEP OUT THE -- LIKE A RAIN COAT?

21 A I DON'T REMEMBER.

22 Q OR DO YOU RECALL AN UMBRELLA?

23 A NO.

24 Q AS FAR AS THE OTHER GENTLEMAN WAS CONCERNED, HE
25 TOO WAS SIMILARLY CLOTHED?

26 A I BELIEVE SO.

1 Q TURTLE NECK AND JEANS?

2 A I BELIEVE SO. I REALLY DON'T REMEMBER THAT
3 VIVIDLY.

4 Q DID YOU HAVE AN OCCASION TO MAKE ANY NOTES ON
5 DECEMBER 25TH OF THE OBSERVATIONS THAT YOU MADE?

6 A NO.

7 Q DO YOU KNOW IF YOUR WIFE DID?

8 A I DON'T BELIEVE SHE DID.

9 Q WHEN YOU SAY ONE WAS TALLER THAN THE OTHER, WHAT
10 WAS THE DIFFERENCE IN HEIGHT?

11 A SIX INCHES TO 8 INCHES, 10 INCHES. SOMEWHERE IN
12 THERE. A FOOT.

13 Q WAS THERE ANY DIFFERENCE IN AGE?

14 A I CAN'T RECALL. I BELIEVE THE SHORTER GENTLEMAN
15 WAS YOUNGER.

16 Q CAN YOU GIVE US AN ESTIMATE OF WHAT YOU MEANT BY
17 YOUNGER?

18 A I REALLY CAN'T SAY.

19 Q AS FAR AS THE TALLER GENTLEMAN WAS CONCERNED, WHAT
20 AGE WOULD YOU PLACE HIM?

21 A 45, 7.

22 Q WHEN YOU SAY THAT THE SHORTER PERSON WAS SOME 6 TO
23 8 TO A FOOT SHORTER THAN THE TALLER PERSON, IS THERE ANY WAY
24 THAT YOU CAN GIVE US AN ESTIMATE OF HOW TALL THEN OF THAT
25 TALLER PERSON?

26 A I'D SAY HE WAS ABOUT 5' 10". I MEAN THE SHORTER

455

1 ONE.

2 Q THE SHORTER PERSON WAS 5' 10"?

3 A YES.

4 Q AND THEN THE TALLER PERSON WAS SOME 6 TO 8 INCHES
5 OR A FOOT TALLER?

6 A YES.

7 Q DID THE TALLER PERSON HAVE ANY TROUBLE CLEARING
8 THE DOORWAY COMING INTO THE RESTAURANT?

9 A I SEEM TO REMEMBER HE STOOPED OVER.

10 Q YOU HAVE INDICATED THE TALLER PERSON HAD GRAYING
11 HAIR; IS THAT --

12 A IT WAS SALT AND PEPPER GRAY.

13 Q DID THE TALLER PERSON HAVE ANY FACIAL FEATURES,
14 FACIAL HAIR?

15 A A BEARD, SAME COLOR.

16 Q AND AS FAR AS THE SHORTER PERSON, WHAT COLOR HAIR
17 DID HE HAVE?

18 A I DON'T REMEMBER.

19 Q DID HE HAVE ANY FACIAL HAIR?

20 A I DON'T REMEMBER.

21 Q DO YOU RECALL ANYTHING ABOUT THE COMPLEXION OF THE
22 SHORTER PERSON?

23 A NO, I DON'T.

24 Q DO YOU RECALL THE COLOR OF THEIR CLOTHES?

25 A NOT REALLY. JUST THE BLUE JEANS.

26 Q AND WHEN YOU SAY THAT THE TALLER PERSON'S FACE

1 PALED AT A CERTAIN POINT, ARE YOU LITERALLY DESCRIBING THAT
2 YOU OBSERVED A CHANGE IN COLOR?

3 A YES.

4 Q AND WOULD YOU DESCRIBE THAT COLOR CHANGE?

5 A IT WENT FROM WHATEVER HIS COMPLEXION WAS TO A
6 LITTLE BIT LIGHTER. I JUST NOTICED THAT HE PALED.

7 Q IS THAT SOMETHING THAT YOU REMEMBERED AT THAT
8 TIME?

9 A YES.

10 Q PRIOR TO TESTIFYING TODAY, HAVE YOU HAD AN
11 OCCASION TO READ ANY REPORTS OF ANY STATEMENTS THAT YOU MAY
12 HAVE GIVEN?

13 A YES.

14 Q WHAT DID YOU READ?

15 A I AM SORRY?

16 Q WHAT HAVE YOU IN THAT REGARD, WHAT HAVE YOU READ?

17 A JUST THE STATEMENT THAT I GAVE TO THE
18 INVESTIGATORS.

19 Q DO YOU RECALL TALKING TO DETECTIVE ZOELLER?

20 A YES.

21 Q WAS THAT THE ONE YOU ARE REFERRING TO?

22 A YES.

23 Q OTHER THAN SPEAKING TO DETECTIVE ZOELLER, HAVE YOU
24 SPOKEN TO ANYBODY ELSE?

25 A I DON'T THINK SO. NOT SURE.

26 Q AND YOU SPOKE TO DETECTIVE ZOELLER ON APRIL 27TH,

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1 1992, DOES THAT SOUND ABOUT RIGHT?

2 A SOUNDS ABOUT RIGHT.

3 Q DO YOU RECALL IN 1980 BEING AT ANY FUNCTION WITH
4 YOUR DAUGHTER MARICA (PHONETIC) TUR AND YOUR SON-IN-LAW
5 ROBERT TUR WHERE RON LEVIN MIGHT HAVE ALSO BEEN THERE?

6 A NO.

7 Q SIR, I AM GOING TO ASK YOU TO TAKE A LOOK AT A
8 DOCUMENT AND ASK YOU IF THAT APPEARS TO BE THE STATEMENTS
9 THAT YOU ARE REFERRING TO THAT YOU REVIEWED PRIOR TO
10 TESTIFYING THAT ORIGINATED WITH DETECTIVE ZOELLER IN APRIL OF
11 1992?

12 A NO, I NEVER RECALL MAKING THAT STATEMENT.

13 Q BUT DO YOU RECALL SEEING THIS STATEMENT?

14 A YES, I RECALL SEEING IT.

15 Q AND THIS IS THE ONLY DOCUMENT THAT YOU HAVE SEEN
16 PRIOR TO TESTIFYING?

17 A THERE WAS ANOTHER ONE. IT WAS ON ONE SHEET OF
18 PAPER.

19 Q AND THAT WAS SUPPOSEDLY OF YOUR STATEMENT?

20 A YES.

21 Q OF SOMETHING YOU SAID?

22 A YES.

23 Q AND WHEN WERE YOU SHOWN THAT, SIR?

24 A THIS MORNING.

25 MR. VANCE: JUST A MOMENT.

26 AT THIS TIME POINT, WE HAVE NO FURTHER QUESTIONS

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1 BUT WOULD ASK THIS WITNESS NOT BE EXCUSED.

2 THE COURT: REDIRECT.

3 REDIRECT EXAMINATION

4 BY MR. HUNT: Q MR. GERRARD, DURING THE PERIOD
5 THAT THE 2 GENTLEMEN WERE IN THIS RESTAURANT WITH YOU, WERE
6 YOU SITTING THE ENTIRE TIME?

7 A YES.

8 Q SO IT'S FROM A SITTING VANTAGE POINT THAT YOU WERE
9 ABLE TO JUDGE THEIR HEIGHT?

10 A YES.

11 Q HOW CLEAR ARE YOU ABOUT THE HEIGHT OF EITHER
12 GENTLEMEN?

13 A WELL, THEY BOTH APPEARED TO BE FAIRLY TALL TO ME.

14 Q SIR, I AM 6 FEET 4 INCHES TALL, WAS THE TALLER OF
15 THE 2 GENTLEMAN TALLER OR SHORTER THAN I?

16 A HE WAS SHORTER THAN YOU.

17 Q AS FAR AS YOUR ESTIMATE THAT THE SHORTER OF THE 2
18 GENTLEMEN WAS 5' 10"; IS THAT JUST BASICALLY AN ESTIMATE OFF
19 THE TOP OF YOUR HEAD?

20 A YES, IT IS.

21 Q BEFORE YOU SPOKE TO DETECTIVE ZOELLER, HAD YOU
22 ALREADY MADE A STATEMENT TO A DEFENSE INVESTIGATOR?

23 A I DON'T REMEMBER.

24 Q HAVE YOU EVER TESTIFIED AS TO ANY OF THIS BEFORE?

25 A NO.

26 Q YOU HAVE USED THE WORD GRIZZLY IN DESCRIBING THE

1 HAIR OF THE TALLER GENTLEMEN AND OF RON LEVIN, WHAT DO YOU
2 MEAN BY THAT WORD?

3 A I MEANT IT WAS SALT AND PEPPER.

4 Q IN THE CASE OF RON LEVIN, DO YOU REMEMBER HIS SALT
5 AND PEPPER BEARD AND HAIR BEING WELL GROOMED?

6 A YES.

7 Q WOULD THAT ALSO BE TRUE OF THE GENTLEMAN THAT YOU
8 SAW AT THIS RESTAURANT?

9 A I DIDN'T PAY ANY ATTENTION TO THE OTHER GENTLEMAN.

10 Q ON DEFENSE 1509 -- OR EXCUSE ME, 1508, THAT POSTER
11 THAT'S NOW IN THE BACK, CAN YOU PICK OUT THE NAME OF THE
12 STREET THAT THIS RESTAURANT WAS ON?

13 A I REALLY CAN'T.

14 Q OKAY. DID YOU EVER SOCIALIZE WITH MR. OR MRS.
15 ROBERTS (PHONETIC) AT ANY TIME SINCE 1973?

16 A NO.

17 Q ALL OF YOUR CONTACT WITH THEM OTHER THAN THAT
18 CONTACT IN EARLY 1981 WAS AT THEIR HOME, SIR?

19 A ALWAYS AT THEIR HOME.

20 Q WAS THE GENTLEMAN WEARING -- THE TALLER GENTLEMAN
21 THAT WAS WEARING A TURTLE NECK, WAS HE ALSO WEARING ANYTHING
22 ELSE OVER THE TURTLE NECK?

23 A A JACKET, I BELIEVE.

24 Q DO YOU RECALL THE COLOR?

25 A NO, I DON'T.

26 MR. HUNT: THANK YOU VERY MUCH, MR. GERRARD.

460

1 THE COURT: ANY RECROSS?

2 MR. VANCE: YES.

3 RECROSS-EXAMINATION

4 BY MR. VANCE: Q REFERRING TO 1505, THE LARGE
5 CORNER PHOTOGRAPH, HOW POSITIVE ARE YOU THAT THAT IS INDEED
6 THE RESTAURANT THAT YOU HAD LUNCH IN ON DECEMBER 25TH, 1987?

7 A I AM VERY POSITIVE.

8 Q IS THERE ANYTHING IN PARTICULAR, SIR, THAT YOU
9 RELYING UPON IN 1505 TO MAKE THAT IDENTIFICATION AS BEING THE
10 SAME RESTAURANT?

11 A JUST THE QUAINTESS OF THE AREA THAT THE
12 RESTAURANT WAS IN. AND THE BAR ON THE LEFT. IT WAS A VERY
13 QUAINTESS AND UNIQUE PLACE.

14 Q EXCUSE ME FOR INTERRUPTING.

15 WHAT YOU WERE REFERRING TO A MOMENT AGO IN YOUR
16 TESTIMONY AS BEING A STATEMENT THAT YOU HAD REVIEWED PRIOR TO
17 TAKING THE STAND?

18 A YES.

19 Q SIR, JUST 2 THINGS.

20 IT APPEARS, DO YOU RECALL, BEING INTERVIEWED ON OR
21 ABOUT OCTOBER 23RD, 1990?

22 A WELL, IT SAYS HERE I WAS INTERVIEWED TECHNICALLY,
23 YES.

24 Q DO YOU RECALL BEING INTERVIEWED OVER THE TELEPHONE
25 ROUND ABOUT THAT DATE?

26 A YES, I DO.

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1 Q IN THAT REPORT, HAVE YOU HAD A CHANCE TO REVIEW IT
2 BEFORE YOU TOOK THE STAND; IS THAT CORRECT?

3 A HERE THIS MORNING TO GLANCE AT IT, YES.

4 Q DID YOU TELL THE PERSON WHO MADE THAT REPORT THAT
5 THE PERSON THAT YOU SAW VISIBLY CHANGED COLOR OR PALED IN THE
6 WAY THAT YOU HAVE JUST DESCRIBED TO THE JURY?

7 A NO, I DID NOT.

8 Q YOU DIDN'T TELL THAT TO THE INVESTIGATOR?

9 A NO.

10 THE COURT: YOU HAVE TO WAIT UNTIL THE QUESTION IS
11 OVER BEFORE YOU START TO ANSWER.

12 MR. VANCE: Q IN 1509 WHEN YOU TALKED TO THE
13 PERSON OVER THE TELEPHONE, YOU DIDN'T TELL HIM ABOUT SEEING
14 THE TALLER PERSON PALED; IS THAT CORRECT?

15 A I DON'T RECALL TELLING HIM THAT.

16 Q AT THE POINT WHEN THE PERSON THE 2 PEOPLE ENTERED
17 THE RESTAURANT, DID YOU HAVE ANY OCCASION TO NOTICE THEM AT
18 THAT POINT?

19 A WHEN THEY ENTERED THE RESTAURANT?

20 Q YES.

21 A I GLANCED UP AT THEM.

22 Q DID YOU TELL THE INVESTIGATOR OVER THE PHONE THAT
23 PRIOR TO THE POINT WHEN YOUR WIFE WHISPERED TO YOU THAT YOU
24 HAD NOT REALLY NOTICED THE MAN?

25 A I DON'T RECALL.

26 MR. VANCE: AT THIS POINT, WE HAVE NO FURTHER

1 QUESTIONS.

2 THE COURT: ANY REDIRECT?

3 FURTHER REDIRECT EXAMINATION

4 BY MR. HUNT: Q MR. GERRARD, AS FAR AS THAT
5 INTERVIEW WITH THE DEFENSE INVESTIGATOR, WAS HE ASKING YOU
6 QUESTIONS, SIR?

7 A YES.

8 Q DO YOU RECALL SPECIFICALLY WHAT QUESTIONS HE ASKED
9 YOU?

10 A JUST WHAT THE COUNSELOR HAS ASKED ME. HOW TO
11 DESCRIBE THE INCIDENT THAT OCCURRED IN THE RESTAURANT THAT
12 MORNING ON CHRISTMAS DAY.

13 Q YOU SUPPLIED A DESCRIPTION TO THE BEST OF YOUR
14 ABILITY AT THE TIME, SIR?

15 A YES.

16 Q WOULD IT BE TRUE, SIR, THAT YOU DON'T RECALL
17 WHETHER HE DID OR DID NOT ASK YOU SPECIFIC QUESTIONS ABOUT
18 THE WAY THE MAN'S DEMEANOR, OR FACE CHANGE IN REACTION TO
19 THAT EXCHANGE AS HE WAS RETURNING FROM THE BATHROOM OR NOT?

20 A HE DIDN'T ASK ME, AND I DON'T BELIEVE I TOLD HIM.

21 MR. HUNT: THANK YOU, NOTHING FURTHER.

22 MR. VANCE: JUST ONE ADDITIONAL, SIR.

23 FURTHER RECROSS-EXAMINATION

24 BY MR. VANCE: Q IN PARTICULAR DIRECTING YOUR
25 ATTENTION TO THE NEXT, TO THE LAST PARAGRAPH, DO YOU RECALL
26 WHETHER YOU ALSO TOLD THE INVESTIGATOR TELEPHONICALLY THAT

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1 THE TALLER GENTLEMAN WHISPERED TO HIS COMPANION BEFORE THEY
2 LEFT THE RESTAURANT?

3 A I DON'T REMEMBER TELLING HIM THAT, NO.

4 Q AND INDEED SUCH IS NOT INDICATED IN THE REPORT?

5 A NO.

6 MR. VANCE: AT THIS POINT, NO FURTHER QUESTIONS.

7 THE COURT: ANYTHING FURTHER?

8 MR. HUNT: NOTHING FURTHER, YOUR HONOR.

9 MR. VANCE: WE'D STILL ASK THIS WITNESS BE SUBJECT
10 TO RECALL.

11 THE COURT: MR. GERRARD, YOU CAN STEP DOWN. YOU
12 ARE FREE TO LEAVE; HOWEVER, YOU ARE SUBJECT TO BEING RECALLED
13 LATER IN THE TRIAL IF NECESSARY.

14 THE WITNESS: THANK YOU.

15 THE COURT: CALL YOUR NEXT WITNESS.

16 MR. HUNT: DEFENSE CALLS MRS. CONNIE GERRARD.

17 CONNIE GERRARD

18 CALLED AS A WITNESS ON BEHALF OF THE DEFENSE, HAVING BEEN
19 DULY SWORN, TESTIFIED AS FOLLOWS:

20 THE CLERK: WOULD YOU STATE YOUR NAME AND SPELL
21 YOUR FIRST AND LAST NAMES.

22 THE WITNESS: CONNIE GERRARD. C-O-N-N-I-E,
23 G-E-R-R-A-R-D.

24 THE CLERK: THANK YOU, HAVE A SEAT PLEASE.

25 DIRECT EXAMINATION

26 BY MR. HUNT: Q MRS. GERRARD, HOW LONG HAVE YOU

464

1 BEEN MARRIED TO MR. GERRARD?

2 A FORTY-ONE YEARS.

3 Q SO THAT WOULD MEAN YOU GOT MARRIED IN 1951?

4 A YES.

5 Q HOW MANY CHILDREN DO YOU HAVE?

6 A THREE.

7 Q WHAT ARE THEIR NAMES?

8 A PETER, MARICA (PHONETIC) AND NICOLE.

9 Q NOW WHICH OF THOSE 3 CHILDREN IS MARRIED TO BOB

10 TUR?

11 A MARICA (PHONETIC).

12 Q HOW LONG HAVE THEY BEEN MARRIED?

13 A AT LEAST 10 YEARS.

14 Q IS THERE ANY PARTICULAR REASON WHY YOU AND YOUR

15 HUSBAND HAVE SPENT SO MANY VACATION TIMES IN GREECE?

16 A YES. WE LIKE GREECE, AND WE ARE OF GREEK DESCENT.

17 AND WE ALSO HAVE BUSINESS -- MY HUSBAND'S MOTHER HAS PROPERTY

18 IN GREECE.

19 Q HOW WAS IT THAT YOU CAME TO LEARN HOW TO SPEAK

20 GREEK?

21 A MY MOTHER AND FATHER WERE FROM GREECE, AND WE

22 ALWAYS SPOKE GREEK IN THE HOME.

23 Q DID YOU GROW UP IN GREECE?

24 A NO.

25 Q YOU WERE EDUCATED IN AMERICA?

26 A YES.

1 Q MRS. GERRARD, DO YOU KNOW PERSONALLY A MAN NAMED
2 RON LEVIN?

3 A YES.

4 Q HOW WAS IT THAT YOU MET MR. LEVIN?

5 A I MET HIM THROUGH MY SON-IN-LAW AND DAUGHTER. I
6 USED TO WORK WITH THEM. GO OUT WITH THEM WHEN THEY WOULD GO
7 OUT TO DIFFERENT PLACES WHERE THEY WERE GATHERING THE NEWS.
8 AND --

9 Q YOU ARE SPEAKING ABOUT MARICA (PHONETIC) AND BOB
10 TUR?

11 A YES.

12 Q AND HOW WAS IT THAT YOU WERE ON THESE OUTINGS WITH
13 ROBERT AND MARICA (PHONETIC)?

14 A BECAUSE I WAS INTERESTED IN THE NEWS BUSINESS, AND
15 I LIKE TO GO TO DIFFERENT PLACES. AND I WASN'T WORKING.
16 THERE WAS NOBODY TO -- I DIDN'T HAVE TO TAKE CARE OF THE
17 HOUSE, SO I WOULD GO WITH THEM.

18 Q WHAT TYPE OF EXCURSIONS WERE THERE?

19 A THEY WOULD GO TO DIFFERENT HOTELS WHEN THERE WOULD
20 BE POLITICAL SPEECHES. I HAPPENED TO BE WITH THEM IN THE
21 CAR, AND WE WOULD JUST TAKE OFF AND GO.

22 Q WHAT WOULD MR. TUR DO AT THESE POLITICAL RALLIES?

23 A HE WOULD BE EITHER ON ASSIGNMENT, OR HE WOULD
24 FREELANCE AND TAKE PICTURES. MARICA (PHONETIC) USUALLY HOLDS
25 THE SOUND EQUIPMENT, AND HE WOULD TAKE THE PICTURES, OR I
26 WOULD HOLD THE SOUND EQUIPMENT.

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1 Q OTHER THAN HOLDING THE SOUND EQUIPMENT, DID YOU DO
2 ANYTHING ELSE TO ASSIST MARICA (PHONETIC)?

3 A NO, THEY WOULD ASK ME TO BRING SOMETHING OVER OR
4 MAKE A PHONE CALL. I WOULD DO THAT.

5 Q WOULD YOU FREQUENTLY GO OUT WITH YOUR SON-IN-LAW
6 AND HIS WIFE?

7 A YES, MANY TIMES.

8 Q HOW FREQUENTLY WERE YOU IN THE COMPANY OF RON
9 LEVIN?

10 A I THINK ABOUT 10 TIMES.

11 Q WHAT PERIOD OF TIME WOULD THIS HAVE BEEN?

12 A I --

13 Q BY YEAR?

14 A I REALLY DON'T KNOW.

15 Q DO YOU HAVE A FEELING FOR WHEN THE LAST TIME YOU
16 SAW RON LEVIN IN THE UNITED STATES WAS?

17 A I SAW HIM AT HIS HOME ON PECK DRIVE. P-E-C-K,
18 BEVERLY HILLS.

19 MR. HUNT: PREVIOUSLY MARKED AS DEFENSE 1288, YOUR
20 HONOR. MS. GANDOLFO IS NOW GOING TO PUT IT ON THE EASEL.

21 Q DO YOU REMEMBER ANY PROMINENT LANDMARK, BUSINESS
22 OR OTHER TYPE OF LANDMARK THAT WAS NEAR RON LEVIN'S HOME?

23 A I REMEMBER BECAUSE IT WAS NEAR SAKS 5TH AVENUE.
24 IT WAS SOUTH. A LITTLE BIT SOUTH OF SAKS.

25 Q WHAT STREET WAS SAKS 5TH AVENUE ON?

26 A PECK, PECK DRIVE AND WILSHIRE.

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1 Q AND WILSHIRE.

2 MRS. GERRARD, IF YOU WOULD, PLEASE, APPROACH THE
3 EASEL AND LOOK AND TELL ME USING DEFENSE 1288 WHERE IT IS
4 ROUGHLY THAT YOU RECALL MR. LEVIN'S HOME BEING ON WILSHIRE
5 BOULEVARD? ORIENTATION IS ABOUT THE MIDDLE OF THE POSTER?

6 A THIS IS PECK DRIVE RIGHT THERE.

7 MR. HUNT: OKAY. SO THE RECORD REFLECTS SHE HAS
8 IDENTIFIED THE INTERSECTION WHICH THE SMALL RED SQUARE
9 APPEARS. OF PECK AND WILSHIRE BOULEVARD.

10 Q THANK YOU. IF YOU WILL RESUME THE CHAIR.

11 HOW MUCH TIME WERE YOU OVER AT MR. LEVIN'S HOME?

12 A ONCE WE DELIVERED SOMETHING TO HIS HOME. SOME --
13 WE PICKED UP SOMETHING AND DELIVERED SOMETHING. AND ONE TIME
14 I WENT INTO HIS HOME, AND HE WAS SHOWING ME WHAT HE HAD DONE
15 WITH THE APARTMENT. IT WAS A DOWNSTAIRS APARTMENT THAT HE
16 HAD MADE INTO AN OFFICE. AND HE HAD A LOT OF CAMERA
17 EQUIPMENT.

18 Q WHAT TYPE OF PLACE WAS THIS HOME WHERE RON LEVIN
19 LIVED?

20 A IT'S A -- I THINK IT'S A 2 STORY APARTMENT. ONE
21 OF THE OLDER APARTMENTS IN BEVERLY HILLS. HE HAD THE WHOLE
22 DOWNSTAIRS AS FAR AS I REMEMBER.

23 Q WAS IT JUST ON THESE 2 OCCASIONS THAT YOU WERE
24 EVER OVER AT RON LEVIN'S HOME?

25 A I WOULD SAY, YES. COULD HAVE BEEN 3, BUT 2 I
26 REMEMBER.

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1 Q WAS THERE ANY PART OF HIS HOME THAT YOU SPENT TIME
2 IN THAT YOU RECALL AT THIS TIME?

3 A HE SHOWED ME ALL THE CAMERA EQUIPMENT, AND ALSO
4 THE OFFICE THAT HE HAD IN THERE.

5 MR. HUNT: MS. GANDOLFO IS APPROACHING WITH
6 DEFENSE 1064.

7 Q MRS. GERRARD, DO YOU RECOGNIZE THE SCENE DEPICTED
8 AT DEFENSE 1064?

9 A THIS WOULD BE THE OFFICE.

10 Q DID YOU GO INTO THE OFFICE AT RON LEVIN'S HOME ON
11 BOTH OCCASIONS THAT YOU WERE THERE?

12 A NO. ONE OCCASION I WOULD -- I WAS JUST IN THE
13 CAR.

14 Q HOW WOULD YOU DESCRIBE RON LEVIN, MRS. GERRARD?

15 A SLIM, TALL, DISTINGUISHED LOOKING, BEARD, VERY
16 ELEGANTLY DRESSED.

17 Q WHAT COLOR WAS HIS HAIR WHEN YOU LAST SAW HIM IN
18 THE UNITED STATES?

19 A GRAY, GREYISH. GRAY BEARD.

20 Q I AM GOING TO SHOW YOU DEFENSE 1047 AND TELL ME IF
21 THIS IS TOO FAR AWAY, DO YOU RECOGNIZE IT?

22 A IT'S A LITTLE BIT FAR.

23 Q MS. GANDOLFO APPEARING WITH DEFENSE 1047, 1048 AND
24 1049. CAN YOU TELL THE JURY WHETHER YOU KNOW THE MAN SHOWN
25 IN THOSE PHOTOGRAPHS?

26 A YES.

469

1 Q IS THERE ANY HESITATION IN YOUR MIND ABOUT THAT?

2 A NO. I AM SURE THAT'S HE.

3 Q DID HE EVER COME OVER TO YOUR HOUSE?

4 A YES.

5 Q WHEN IN RELATIONSHIP DO YOU RECALL THE YEAR THAT
6 WOULD HAVE BEEN?

7 A NO, I REALLY DON'T.

8 Q WHAT WAS HIS BUSINESS AT YOUR HOUSE, MRS. GERRARD?

9 A HE SAID THAT HE WAS A, LAWYER AND HE DID A LOT OF
10 CASES, MEDICAL CASES. AND MY DAUGHTER NICOLE WAS DOING SOME
11 MOVIE WORK. SHE FELL ON THE SET AND HURT HER BACK. AND HE
12 WANTED TO COME OVER AND LOOK AT HER AND SEE WHAT KIND OF A
13 CASE HE HAD.

14 Q WHAT DID YOU THINK OF THAT, MRS. GERRARD?

15 A WELL, HE CAME OVER.

16 MR. VANCE: OBJECTION, RELEVANCE.

17 THE COURT: SUSTAINED.

18 MR. HUNT: Q HAD MR. LEVIN TOLD YOU ABOUT THE
19 FACT THAT HE WAS AN ATTORNEY BEFORE THAT TIME?

20 A YES, HE TOLD ME HE WAS AN ATTORNEY. AND HE DID A
21 LOT OF MEDICAL CASES. AND --

22 Q WAS THERE ANY DOUBT IN YOUR MIND AT THE POINT HE
23 WAS LOOKING AT NICOLE'S BACK THAT HE WAS AN ATTORNEY?

24 MR. VANCE: OBJECTION, RELEVANCY.

25 THE COURT: OVERRULED.

26 THE WITNESS: NO.

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1 MR. HUNT: Q HAD YOU DISCUSSED ANYTHING ELSE
2 ABOUT RON LEVIN'S PERSONAL BACKGROUND BEFORE THIS OCCASION
3 WITH HIM?

4 A HE TALKED ABOUT HIS WEALTHY FAMILY, AND THAT HE
5 WAS A LAWYER, AND THAT HE HAD A SON. AND THAT -- JUST ALL
6 DIFFERENT THINGS.

7 Q DID HE TALK ABOUT HIS MARITAL STATUS WITH YOU?

8 A YES.

9 Q WHAT DID HE SAY ABOUT THAT?

10 MR. VANCE: OBJECTION, RELEVANCE.

11 THE COURT: SUSTAINED.

12 MR. HUNT: Q WHILE YOU WERE AT MR. LEVIN'S HOME,
13 DID YOU OBSERVE ANYTHING ABOUT HIS EATING HABITS?

14 A NO.

15 MR. VANCE: OBJECTION, CALLS FOR SPECULATION AND
16 LACK OF FOUNDATION THAT SHE WOULD HAVE GAINED SUFFICIENT
17 KNOWLEDGE TO BE ABLE TO TESTIFY AS TO WHAT HIS EATING HABITS
18 WERE.

19 THE COURT: I GUESS WE CAN GO EITHER WAY ON THIS
20 HAVING HEARD ALREADY THE ANSWER, THE QUESTION NO. SUSTAIN
21 THE OBJECTION BUT LACK FOUNDATION.

22 MR. HUNT: Q DO YOU RECALL RON LEVIN USING LA
23 STALLA RESTAURANT?

24 A HE WOULD ORDER FOOD BECAUSE MY DAUGHTER AND
25 SON-IN-LAW WOULD BE OUT WITH HIM, AND HE WOULD ORDER FOOD FOR
26 THEM. BUT THEY DIDN'T GO TO THE RESTAURANT. HE WOULD ORDER

1 FOOD, AND THEY WOULD EAT IT WHEREVER THEY WERE.

2 MR. VANCE: I AM GOING TO OBJECT AND ASK THE
3 ANSWER BE STRICKEN FOR LACK OF PERSONAL KNOWLEDGE AND
4 RELEVANCE.

5 THE COURT: SUSTAINED. LACK OF FOUNDATION.

6 MR. HUNT: Q MRS. GERRARD, DID YOU OBSERVE MR.
7 LEVIN EVER TO CALL LA STALLA BOUTIQUE TO MAKE ARRANGEMENTS
8 FOR FOOD?

9 A YES.

10 Q AND DID HE EVER SUBSEQUENTLY AFTER PLACING THAT
11 CALL, WAS SOME FOOD FROM LA STALLA BOUTIQUE BROUGHT TO THE
12 HOME?

13 MR. VANCE: OBJECTION, RELEVANCE.

14 THE COURT: OVERRULED.

15 YOU CAN ANSWER THE QUESTION.

16 THE WITNESS: YES.

17 MR. HUNT: Q THIS WAS A TAKE OUT OR?

18 A ALWAYS A TAKE OUT.

19 Q DID YOU MENTION THAT CIRCUMSTANCE TO ME THIS
20 MORNING, MRS. GERRARD, ABOUT LA STALLA BOUTIQUE?

21 MR. VANCE: OBJECTION, RELEVANCE.

22 THE COURT: SUSTAINED.

23 MR. HUNT: Q DID MR. LEVIN TELL YOU ANYTHING ELSE
24 ABOUT HIS BUSINESS ACTIVITIES?

25 MR. VANCE: OBJECTION, RELEVANCE.

26 THE COURT: SUSTAINED.

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1 MR. HUNT: Q IS THERE ANYTHING THAT CAUSED YOU TO
2 STOP FREQUENTING RON LEVIN'S COMPANY WHILE HE WAS STILL IN
3 THE UNITED STATES?

4 MR. VANCE: AGAIN, OBJECTION. RELEVANCE.

5 THE COURT: YOU WANT TO MAKE AN OFFER OF PROOF?

6 MR. HUNT: I WOULD LIKE TO AT THIS POINT, YOUR
7 HONOR.

8 THE COURT: ALL RIGHT. LET SEE, LET'S GO AHEAD
9 AND LET THE JURY TAKE THE NEXT RECESS, AND WE WILL DISCUSS
10 THIS OUT OF THE PRESENCE OF THE JURY.

11 LET ME ASK THE JURY TO BE READY TO GO AT 20
12 MINUTES BEFORE. REMEMBER THE ADMONITION.

13 THE COURT: MR. VANCE, DO YOU WANT THE WITNESS
14 EXCLUDED DURING THIS DISCUSSION OR --

15 MR. VANCE: I DON'T SEE ANY NEED TO.

16 THE COURT: LET THE RECORD SHOW ALL THE MEMBERS OF
17 THE JURY HAVE LEFT THE COURTROOM.

18 MR. HUNT: YOUR HONOR, I AM TRYING TO ESTABLISH
19 FOUNDATIONALLY THAT MRS. GERRARD HAS AN EXCELLENT MEMORY.
20 HER KNOWLEDGE OF CERTAIN INCIDENTALS ABOUT RON LEVIN'S LIFE
21 DISPLACE NOT ONLY THE FACT THAT SHE DID KNOW HIM AND HAD
22 SUFFICIENT CONTACT TO FIRMLY HAVE THIS CHARACTERISTIC IN
23 MIND. PHYSICALLY. BUT ALSO THIS GOES TO ESTABLISH HER
24 MEMORY AS BEING RELIABLE.

25 THE JURY WILL BY THE DEFENSE AT LEAST BE ASKED TO
26 RELY UPON THAT MEMORY, AND THE PROSECUTION WILL HAVE TO TRY

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1 TO UNDERMIND THE JURY'S IMPRESSION OF THE QUALITY OF HER
2 MEMORY.

3 MR. VANCE: CAN I -- I THINK PERHAPS IT WOULD BE
4 BEST IF THE WITNESS WERE EXCLUDED. I THOUGHT WE WOULD GET
5 INTO A FACTUAL MATTER REGARDING WHAT THE CONTENT OF THIS WAS
6 RATHER THAN A DISCUSSION SUCH AS THIS.

7 THE COURT: MRS. GERRARD, LET ME ASK YOU TO WAIT
8 OUTSIDE THE COURTROOM, AND WE WILL BE BACK TO YOU AT 20
9 MINUTES TO 4.

10 THE COURT: THE QUESTION CURRENTLY BEING OBJECTED
11 TO IS SOMETHING ABOUT WHY SHE STOPPED SEEING HIM.

12 MR. HUNT: SHE STOPPED SEEING HIM BECAUSE SHE
13 BECAME AWARE THAT HE WAS CHARGED BY THE POLICE DEPARTMENT IN
14 BEVERLY HILLS WITH SOME CRIMES. BUT UNDERSTAND THIS, YOUR
15 HONOR, I AM NOT TRYING TO PROVE THAT THROUGH HER. IN FACT,
16 NONE OF THE QUESTIONS THAT WERE OBJECTED TO WERE TO TRY TO
17 ELICIT FACTS THAT IN THEMSELVES HAS SOME PARTICULAR
18 RELEVANCE.

19 ALL I WAS TRYING TO SHOW WAS THIS LADY DID REALLY
20 KNOW RON LEVIN. SHE HAS AN EXCELLENT CAPACITY TO RECOLLECT
21 EVEN 10 OR 12 YEARS LATER. FACETS OF HER LIFE.

22 THERE IS A WITNESS -- THE WHOLE ISSUE -- I
23 PERCEIVE IT AS BEING THE QUALITY OF HER ABILITY TO PERCEIVE,
24 AND THE QUALITY OF HER MEMORY.

25 THE FACT THAT SHE WAS AWARE THAT HE WAS ARRESTED,
26 THE FACT THAT SHE WAS AWARE THAT HE USED LA STALLA BOUTIQUE,

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1 AWARE FROM STATEMENTS THAT I MADE THAT HE HAD OBTAINED HIS
2 PLACE THERE AS A RESULT OF DEFRAUDING LILLIAN WARNER
3 (PHONETIC).

4 THE FACT SHE WAS AWARE OF EACH OF THESE THINGS
5 TENDS TO BE A MILESTONE. IN DEMONSTRATES INTIMATE CONNECTION
6 THAT IN CONTACT SHE HAD OVER A PERIOD OF TIME. AND I THINK
7 IT IS PROBATIVE FOR THE JURY TO DECIDE AND TO ANALYZE WHAT
8 WEIGHT THEY ARE GOING TO GIVE TO HER RECOGNITION.

9 SO MUCH OF THE PROSECUTION'S CASE WILL RELY UPON
10 THE FACT THAT PEOPLE MAKE MISTAKES ABOUT WHO THEY SEE. BUT
11 WE ALL KNOW THEY MAKE FEWER MISTAKES THE CLOSER THE
12 RELATIONSHIP. AND THAT'S WHY I AM GETTING AFTER THESE
13 THINGS.

14 THE COURT: TO THE EXTENT THAT YOU MIGHT ESTABLISH
15 THINGS, THE AMOUNT OF TIME SHE SPENT WITH RON LEVIN, THE
16 RELATIONSHIP SHE HAD WITH HIM TEND TO AGREE WITH YOU.
17 WHETHER SHE KNEW OR HEARD THINGS ABOUT HIM DOES NOT HAVE ANY
18 TENDENCY TO PROVE ANYTHING ABOUT HER ABILITY TO RECOGNIZE
19 YEARS LATER. BUT CERTAINLY, I WILL ALLOW SOME EXPANSION OF
20 HER CONTACT WITH HIM. WE ARE TALKING ABOUT HER -- A VISUAL
21 MEMORY, AND WHY SHE STOPPED SEEING HIM.

22 FOR EXAMPLE, I HAVE A HARD TIME UNDERSTANDING HOW
23 THAT TESTS ANYTHING ABOUT HER ABILITY TO IDENTIFY HIM LATER.

24 MR. HUNT: I WOULD ALSO OFFER IN TERMS OF
25 CHARACTER, THAT DEFENSE IS TO PLACE THIS WITNESS' CHARACTER
26 IN AT ISSUE. AND THE FACT THAT RON LEVIN HAS SUCH A LOW

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1 REPUTE OTHERWISE REFLECT ON THIS WOMAN -- EXCEPT FOR THE JURY
2 BE TOLD WHEN SHE LEARNED THAT HE WAS A CRIMINAL, SHE CEASED
3 TO HAVE ANY CONTACT WITH HIM.

4 THE COURT: MR. VANCE, ANY COMMENTS IN THAT
5 REGARD?

6 MR. VANCE: THE ONLY THING THAT WOULD BE RELEVANT
7 IS THE NUMBER OF CONTACTS, THE LENGTH OF CONTACT. WHAT THEY
8 DID TO ESTABLISH THAT OVER A PERIOD OF YEARS. THEY HAD AN X
9 NUMBER OF CONTACTS. AND DURING THAT PERIOD OF TIME, SHE SAW
10 HIM. SHE DIDN'T HAVE ANY VISUAL PROBLEMS. THE DETAILS THAT
11 MR. HUNT IS TRYING TO ELICIT TO ILLUSTRATE THAT -- THE MAN
12 SURE HAS NOTHING TO DO WITH THE ABILITY THAT SHE HAS TO
13 RECALL WHETHER OR NOT THE PERSON SHE SAW ON DECEMBER 25TH,
14 1987 IS RON LEVIN.

15 THE IMPORTANT THING IS DURING THE PERIOD OF
16 CONTACTS THAT SHE HAD WITH RON LEVIN, WHATEVER THEY WERE THEY
17 WERE OF THE TYPE OF CONTACT THAT SHE WOULD HAVE BEEN ABLE TO
18 SEE HIM FREELY. YOU KNOW, DID HE WEAR A BAG OVER HIS HEAD?
19 AND I DON'T MEAN TO BE LUDICROUS, BUT I AM TRYING TO
20 EMPHASIZE THE FACT THAT THE DETAILS OF THE CONTACT ARE NOT
21 WHAT IS IMPORTANT. IT'S THE CONTACT ITSELF.

22 THE COURT: WELL, I WOULDN'T GO THAT FAR.
23 CLEARLY, I THINK THAT ARGUMENT FLIES IN THE FACE OF A HUMAN
24 EXPERIENCE.

25 ONE CAN, IF ONE ONLY EXPLORES TIME AND DISTANCE
26 AND LIGHTING, THERE IS A WHOLE DIMENSION OF THE RELATIONSHIP

1 THAT IS IMPORTANT AND IS NOT BEING MENTIONED; WHICH IS DOES
2 THIS PERSON MATTER TO THE WITNESS? YOU MIGHT SPEND 15
3 MINUTES SITTING ACROSS FROM SOMEBODY IN A TRAIN STATION AND
4 NOT TAKE ANY PARTICULAR NOTE OF. YOU MIGHT SPEND 15 MINUTES
5 ACROSS THE DESK FROM SOMEONE WHO HOLDS YOUR JOB FUTURE IN HIS
6 OR HER HAND, AND HE MIGHT WELL REMEMBER THAT PERSON'S FACE.

7 SO I THINK SOMETHING ABOUT THE NATURE OF THE
8 RELATIONSHIP ADDS A DIMENSION TO HER ABILITY TO RECALL.
9 THAT'S PERMISSIBLE. THAT DOESN'T MEAN, I THINK, EVERY
10 ANECDOTE SHE MIGHT SPEND ABOUT HIM THEREFORE BECOMES
11 ADMISSIBLE.

12 SO THE PRECEDING QUESTION AND ANSWER AS TO THE
13 NOTION THAT SHE QUIT SEEING HIM SPECIFICALLY BECAUSE OF WHAT
14 SHE KNEW ABOUT OR WHAT SHE HEARD ABOUT HIS PENDING CHARGES,
15 IF THAT, IN FACT WOULD BE HER TESTIMONY, I THINK THAT'S
16 PROBABLY PERMISSIBLE.

17 MR. HUNT: THANK YOU.

18 THE COURT: I WOULD ALLOW THAT.

19 MR. VANCE: WELL, YOUR HONOR, CAN I JUST BE HEARD
20 ON THAT POINT?

21 THE COURT: AND THE SECOND MATTER, I HAVE A HARD
22 TIME SPENDING THIS MUCH TIME WITH REALLY ANY OF THESE ISSUES.
23 IT SEEMS LIKE A GUY -- AND WHO CARES ON ONE LEVEL, AND I
24 HAVEN'T HEARD ANYTHING, A SUGGESTION THAT SHE IS GOING TO SAY
25 ANYTHING ABOUT RON LEVIN THAT HASN'T BEEN TESTIFIED TO FOR
26 HOURS AND HOURS BY OTHER WITNESSES.

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1 MR. VANCE: I. --

2 THE COURT: IF THERE IS SOME EXPLOSIVE PREJUDICIAL
3 --

4 MR. HUNT: THERE ISN'T A THING THAT'S GOING TO
5 COME OUT HERE. I WOULD BE A LOT MORE CONCERNED. THERE
6 ISN'T. THIS PART OF THE EXAMINATION WAS ONLY OCCUPYING ABOUT
7 A MINUTE OR SOMETHING LIKE THAT. IT WAS JUST SO THEY WILL
8 GET A FLAVOR. FOR THE FACT THAT EVEN THOUGH SHE IS ELDERLY,
9 SHE HAS EXCELLENT RECALL. AND THAT THE TYPE OF THING THAT I
10 HAVE DESCRIBED EARLIER, I WILL GO THROUGH IT.

11 MR. VANCE: THE PROBLEM WITH THIS AND THE REASON I
12 AM TAKING THE COURT'S TIME, AND ULTIMATELY THE COURT MAY WELL
13 BE RIGHT, THE PROBLEM IS EITHER THE INTERVIEW THAT WAS
14 CONDUCTED BY OR THE -- I DON'T EVEN KNOW SHE WAS INTERVIEWED.
15 WE HAD A DECLARATION OF MRS. GERRARD WHERE SHE DOESN'T GO
16 INTO THIS AT ALL.

17 I HAVE NO IDEA WHAT MRS. GERRARD IS GOING TO SAY
18 BECAUSE SHE HAS NEVER SAID IT IN ANY FORM THAT I HAVE. SO I
19 HAVE NO IDEA WHAT SHE IS GOING TO SAY.

20 THE COURT: WE WILL PROCEED QUESTION BY QUESTION.

21 MR. HUNT: THERE ARE NOT ANY BOMB SHELLS OUT
22 THERE. I WAS GOING TO TOUCH ON SOME POINTS THAT HAVE BEEN
23 MADE ABOUT THE WITNESSES TO SHOW THAT SHE IS ALERT AND AWARE
24 AND QUITE CAPABLE OF RECALLING THINGS.

25 THE COURT: ALL RIGHT. WE WILL RULE ON THE
26 QUESTION AS THEY ARE ASKED.

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1 MR. VANCE: THANK YOU.

2 THE COURT: WE WILL BE IN RECESS.

3 (RECESS)

4 (BACK ON THE RECORD)

5 THE COURT: ALL RIGHT, THE RECORD WILL SHOW THAT
6 ALL THE SAME PEOPLE ARE PRESENT.

7 GO AHEAD, MR. HUNT.

8 DIRECT EXAMINATION (RESUMED)

9 BY MR. HUNT: Q MR. LEVIN MADE A BIG IMPRESSION
10 ON YOU, MRS. GERRARD?

11 A YES.

12 Q AND WHY WAS THAT?

13 A I REALLY THOUGHT HE WAS SOMETHING SPECIAL.

14 Q AND IN A WAY?

15 A IN THAT HE WAS WELL EDUCATED. HE WAS DOING
16 INTERESTING THINGS, WANTED TO DO MORE INTERESTING THINGS.

17 Q DID HE TALK ABOUT ANY PARTICULAR TYPES OF PROJECTS
18 WITH YOU THAT HE WANTED TO INVOLVE YOUR SON-IN-LAW AND YOUR
19 DAUGHTER IN?

20 A WELL, I WAS THERE WHEN HE WAS TALKING ABOUT IT.
21 HE DIDN'T TALK TO ME IN PARTICULAR, BUT HE WAS ALWAYS TALKING
22 ABOUT MAKING A MOVIE. GOING -- MAKING ONE IN LAS VEGAS.
23 GOING TO NEW YORK. MAKING A MOVIE. MAKING DOCUMENTARIES.
24 HE WANTED TO GET INTO BIG THINGS. HE -- SHALL I CONTINUE?

25 Q AS LONG AS YOU WISH TO COMPLETE THE ANSWER.

26 A HE SAID THAT HE HAD THE INS WITH MOVIE MAKERS, AND

1 HE REALLY WAS GOING TO MAKE A LOT OF MONEY. AND HE HAD ALL
2 KINDS OF BIG PLANS FOR ALL OF US.

3 Q DID ANY OF THOSE PLANS COME INTO BEING?

4 MR. VANCE: OBJECTION, RELEVANCY.

5 THE COURT: OVERRULED.

6 MR. HUNT: Q DID YOU END UP DOING ANYTHING WITH
7 HIM?

8 A NO. JUST A FEW -- HE WAS AT A FEW PLACES WHERE WE
9 WERE.

10 Q DID THERE COME A TIME IN 19 -- IN 1983 OR EARLY IN
11 THE EARLY 1990'S WHEN YOU STOPPED SEEING RON LEVIN?

12 A MY SON-IN-LAW AND MY DAUGHTER BECAME DISENCHANTED.

13 Q AND AS A RESULT OF THAT DISENCHANTMENT WITH RON
14 LEVIN, DID YOU STOP SEEING HIM AS WELL?

15 A YES, BECAUSE I ONLY SAW HIM THROUGH THEM.

16 Q YOU INDICATED THAT YOU HAD SEEN RON LEVIN AT LEAST
17 ON TEN OCCASIONS IN PERSON. DID YOU ALSO HAVE ANY OTHER TYPE
18 OF CONTACT WITH HIM?

19 A ON THE PHONE. I USED TO BABYSIT OR BE AT MY
20 DAUGHTER'S HOME, AND HE CALLED MANY TIMES.

21 Q MRS. GERRARD, DO YOU RECALL GOING TO GREECE IN
22 1987 WITH YOUR HUSBAND?

23 A YES.

24 Q WHAT WAS YOUR ORIGINAL DESTINATION IN GREECE?

25 A ATHENS.

26 Q WHAT THINGS DID YOU AND YOUR HUSBAND TYPICALLY DO

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1 WHEN YOU WENT TO GREECE?

2 A WELL, OF COURSE WE DO THE USUAL. WE ALWAYS GO UP
3 TO THE PARTHENON. WE ALWAYS GO TO SUINON (PHONETIC), AND WE
4 TAKE SIDE TRIPS. WE GO TO SPADA (PHONETIC). WE GO TO
5 VARIOUS PLACES, AND WE GO TO THE NIGHT CLUBS. AND WE WALK A
6 LOT. THERE ARE JUST LOTS TO DO.

7 Q DID YOU HAVE ANY PARTICULAR REASON WHY YOU WENT TO
8 THE ISLAND OF MYKONOS ON THIS OCCASION?

9 A YES, BECAUSE WE USUALLY TRY TO TAKE ATHENS AND ONE
10 OTHER SPOT. WE WOULD GO TO DIFFERENT ISLANDS. AND WE ALWAYS
11 WANT TO GO TO MYKONOS BECAUSE WE HAD HEARD SO MUCH ABOUT IT.
12 SO IT WAS CHRISTMAS DAY, AND WE HAD NOWHERE TO GO. SO WE
13 DECIDED, WELL, WE WILL SPEND THE DAY IN MYKONOS.

14 Q HOW DID YOU GET TO THE ISLAND OF MYKONOS?

15 A WE FLEW OLYMPIC AIRWAYS EARLY IN THE MORNING.
16 THEY HAD ONE FLIGHT.

17 Q DID YOU SEE ANYBODY THAT YOU RECOGNIZED ON THE
18 PLANE GOING OVER?

19 A NO. JUST LOCALS GOING HOME.

20 Q WHEN YOU REACHED THE ISLAND OF MYKONOS, WHAT DID
21 YOU DO NEXT?

22 A WELL, WE LANDED AT THE AIRPORT, AND THEN WE WENT
23 INTO THE CITY ON A BUS THAT TOOK YOU INTO THE CITY WHICH IT'S
24 VERY SMALL. AND WE WANDERED AROUND. AND WE -- I HAD A COLD.
25 IT WAS DRIZZLING. AND WE COULDN'T FIND ANY PLACE OPEN. IT'S
26 COLD.

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1 Q WERE YOU SPECIFICALLY TRYING TO FIND A PLACE TO
2 STOP AT?

3 A YES, WE WANTED TO GET SOMETHING TO EAT.

4 Q ABOUT WHAT TIME OF DAY WAS THIS, IF YOU RECALL?

5 A IT WAS -- I REALLY DON'T RECALL. I KNOW WE LEFT
6 EARLY. I THINK IT WAS -- I AM NOT SURE.

7 Q SO YOU WERE WANDERING AROUND LOOKING FOR A PLACE
8 TO GO, HOW DID YOU END UP FINDING OUT ABOUT THE PARTICULAR
9 RESTAURANT YOUR HUSBAND EARLIER DESCRIBED?

10 A WELL, WE WOULD ASK. WE SPEAK GREEK, SO WE ASKED
11 DIFFERENT PEOPLE. AND EVERYTHING LOOKED LIKE IT WAS CLOSED.
12 AND WE WALKED UP DIFFERENT STREETS, AND THEN WE SAW THIS MAN.
13 HE SAYS, I WILL SHOW YOU A PLACE, BUT COME TO MY SHOP.

14 Q DID YOU GO WITH HIM TO A SHOP?

15 A YES. AND HE SAID, I WILL OPEN IT FOR YOU. I
16 BOUGHT A SHIRT THAT SAID MYKONOS ON IT. AND THEN HE WALKED
17 US PART WAY AND POINTED TO THIS -- IN THERE THAT WOULD BE
18 OPEN.

19 Q LOOKING BEHIND YOU, MRS. GERRARD, AT DEFENSE 1505,
20 DID YOU RECOGNIZE THE SCENE DEPICTED IN THAT PHOTOGRAPH?

21 A YES. IT LOOKS VERY MUCH LIKE THE --

22 Q LIKE WHAT?

23 A LIKE THE LITTLE RESTAURANT. IT HAD A BAR THERE
24 AND ABOUT 3 OR 4 TABLES THERE, IN HERE.

25 Q SO ACROSS FROM THAT BAR, THERE WOULD BE A SERIES
26 OF TABLES?

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1 A YEAH. ABOUT 3 OR 4, LONG AND NARROW.

2 Q WAS THERE ANYTHING IN PARTICULAR AT THE END OF
3 THIS ROW OF TABLES?

4 A JUST LIKE THE RESTROOM. AND THE DOOR HERE, AND
5 THE DOOR HERE. AND THE RESTROOM WOULD BE THERE.

6 Q SO THERE WAS A DOOR IN THE FRONT OF THE
7 RESTAURANT, AND THE RESTROOM IN THE BACK?

8 A LONG AND NARROW.

9 Q AND IT WAS A LONG AND NARROW RESTAURANT?

10 A YES. IT WAS LONG AND NARROW. VERY SMALL.

11 Q WERE YOU GIVEN A TABLE IN THE RESTAURANT BY THE
12 WAITRESS?

13 A YES, THE OWNER WAS THE WAITRESS.

14 Q WHICH TABLE WAS THAT YOU WERE GIVEN?

15 A IT WAS NEAR THE END. NOT THE END BUT NEAR THE END
16 OF THE RESTAURANT IN HERE, INSIDE, BECAUSE EVERY TIME THE
17 DOOR WOULD OPEN, IT WOULD BE COLD. SO FOR 3 TABLES, IT'S THE
18 THIRD ONE FROM THE DOOR, I WOULD SAY. I AM NOT SURE.

19 Q TO YOUR RECOLLECTION THAT YOU SAT AT THIS THIRD
20 TABLE FROM THE DOOR?

21 A YES.

22 Q AND THAT WOULD BE THE LAST TABLE IN THE SERIES?

23 A NO, I THINK THERE WERE 4. AND I COULD HAVE BEEN 3
24 OR 4.

25 Q DID SOMETHING UNUSUAL HAPPEN AFTER YOU WERE SEATED
26 AT THIS RESTAURANT?

1 A YES. AFTER WE TALKED TO THE LADY ABOUT CHRISTMAS
2 AND WHY NOBODY WAS THERE, AND THEN WE WERE SITTING THERE, AND
3 THE DOOR OPENED. WE GOT A DRAFT. AND 2 PEOPLE WALKED IN.
4 ONE TALL, QUITE TALL AND THE OTHER ONE SHORTER. BOTH WELL
5 DRESSED.

6 Q HOW WERE THEY DRESSED?

7 A THEY WERE DRESSED IN BROWN JACKETS. THE CLOTHES
8 LOOKED LIKE THEY CAME OUT OF THE -- A SPORTS STORE. LIKE
9 BANANA REPUBLIC OR ANY OF THE STORES LIKE THAT. THEY WERE
10 IMMACULATELY DRESSED. AND THEY -- THE TALLER ONE HAD A
11 BOTTLE OF WINE IN HIS HAND. AND THEY TALKED TO THE -- THE
12 MEN, I SAW THEM. ONE MAN HAD A BEARD. THE OTHER MAN WAS
13 YOUNGER.

14 Q DID YOU RECOGNIZE EITHER OF THEM?

15 A I KNEW THIS WAS RON LEVIN. I TURNED AND SAID TO
16 MY HUSBAND. THEY DIDN'T SEE ME THEN. IT JUST HIT ME THAT'S
17 WHO IT WAS.

18 Q HOW WERE YOU SITTING? WERE YOU FACING THE DOOR
19 WHEN THEY CAME?

20 A I WAS FACING THE DOOR.

21 Q NOW --

22 A OH, NO. I WAS FACING THIS WAY, AND I WAS TURNED
23 AROUND. CURIOUS, THE DOOR OPENS. I TURNED AROUND AND
24 LOOKED. I WAS FACING THIS WAY.

25 Q IF YOU WERE SITTING PROPERLY IN YOUR CHAIR AND
26 FACING YOUR HUSBAND, WHEREVER HE WAS AT THE TABLE, WOULD YOUR

1 BACK HAVE BEEN TO THE DOOR OR?

2 A MY BACK WAS TO THE TABLE.

3 Q LET'S DO SOMETHING THAT MIGHT HELP US. WE HAVE
4 SOME PAPER. I'D LIKE YOU TO MAKE A LITTLE CHART THAT WILL
5 HELP US UNDERSTAND THE RELATIVE POSITIONS OF SOME THINGS YOU
6 HAVE DESCRIBED.

7 MR. HUNT: IF WE CAN HAVE AN EXHIBIT TAG, YOUR
8 HONOR.

9 THE CLERK: DEFENSE 1510.

10 (DEFENSE EXHIBIT 1510, A CHART,
11 WAS MARKED FOR IDENTIFICATION)

12 MR. HUNT: Q MRS. GERRARD, I BELIEVE THERE ARE
13 SOME MARKERS ON THE TABLE THERE.

14 A AND YOU WANT ME TO --

15 Q LET'S JUST START WITH A PIECE AT A TIME. PLEASE
16 SOME SORT OF INDICATION OF WHERE THE DOOR IS FIRST. YOU CAN
17 PUT THE DOOR UP THERE FIRST.

18 A ALL RIGHT, LET'S PUT THE DOOR HERE.

19 Q AND THEN IF YOU COULD ADD AN INDICATION FOR THE
20 BAR AREA. ALL RIGHT, NOW IF YOU COULD INDICATE WHERE THE 3
21 OR 4 TABLES ARE?

22 A THAT'S A CHAIR, CHAIRS. I WAS SITTING HERE.

23 Q AND NOW INDICATE?

24 A THAT'S ME THERE.

25 Q ALL RIGHT.

26 A AND MY HUSBAND THERE.

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1 Q SO IF YOU WERE SITTING AND FACING YOUR HUSBAND,
2 YOUR BACK WOULD HAVE BEEN TO THE DOOR?

3 A YES, I TURNED AROUND.

4 Q AT THE MOMENT THEY ENTERED, MRS. GERRARD -- WHEN
5 WE TALK OVER EACH OTHER, THE COURT REPORTER CAN'T GET IT, SO
6 LET A SMALL PAUSE OCCUR AT THE END OF THE QUESTION AND --

7 SO AT THE POINT THAT YOU SAW THESE GENTLEMEN COME
8 IN TO THE RESTAURANT, YOU HAD TURNED IN YOUR CHAIR AND WERE
9 FACING THEM AT THAT POINT?

10 A YES.

11 Q DID YOU SEE ANYTHING IN THE WAY THE MAN ACTED OR
12 BY WATCHING WHERE HIS -- WHERE HE DIRECTED HIS EYES THAT
13 INDICATED THAT HE SAW YOU AT THAT POINT?

14 A HE WOULDN'T HAVE SEEN ME BECAUSE IT WAS DARK
15 INSIDE. AND HE IS COMING IN, AND HE WASN'T LOOKING.

16 Q YOU DON'T RECALL MAKING EYE CONTACT WITH HIM?

17 A NOT AT ALL.

18 Q WHERE WAS THE BATHROOM IN THIS RESTAURANT? COULD
19 YOU MARK THAT OR LABEL IT IN SOME WAY? AND PUT A LITTLE MR.
20 FOR WHERE YOU HUSBAND WAS SITTING PLEASE?

21 WHERE DID THESE 2 GENTLEMEN GO AFTER THEY ENTERED
22 THE RESTAURANT?

23 A THEY SAT DOWN. THIS IS ME. ONE SAT HERE AND ONE
24 SAT THERE. THEY HAD A BOTTLE OF -- WALKED IN WITH A BOTTLE
25 OF WINE. AND THEY SAT DOWN. AND THEY WERE TALKING. AND I
26 AM LISTENING.

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1 Q NOW WE WILL GET BACK TO THAT.

2 NOW WE WILL WORK ON THESE POSITIONS.

3 MRS. GERRARD, YOU RECOGNIZED ONE AS RON LEVIN.

4 WHERE DID HE, RON LEVIN SIT?

5 A HIS BACK WAS TO ME.

6 Q COULD YOU MAKE A CIRCLE WHERE HE SAT?

7 A RIGHT HERE. RON.

8 Q SO THE CIRCLE IS ACTUALLY NEXT TO THE PLACE WHERE
9 HE SAT?

10 A YEAH. AND I AM RIGHT HERE. I HAVE WRITTEN THE
11 NAME RON. AND I WILL PUT C. BACK TO BACK.

12 Q YOU HAVE INDICATED THAT BOTH YOU AND RON WERE BACK
13 TO BACK?

14 A VERY CLOSELY. I HEARD ALL THE CONVERSATION.

15 Q THANK YOU. NOW IF YOU WOULD TAKE THE CHAIR FOR
16 JUST A MOMENT. THANK YOU, MRS. GERRARD.

17 MRS. GERRARD, WHEN HE CAME THROUGH THE DOOR, HOW
18 LONG DID IT TAKE YOU TO REALIZE THAT THAT WAS RON LEVIN?

19 A I REALLY CAN'T TELL YOU, BUT ALMOST RIGHT AWAY.

20 Q WE ARE TALKING ABOUT THE SAME PERSON AS SHOWN IN
21 THOSE 3 PHOTOGRAPHS?

22 A YES.

23 Q IS THERE ANY DOUBT IN YOUR MIND ABOUT THAT?

24 A NONE AT ALL.

25 Q YOU INDICATED YOU WERE ABLE TO HEAR SOMETHING OF
26 THEIR CONVERSATION AS THEY WERE SITTING BEHIND YOU?

1 A THAT'S WHEN THEY SAT DOWN. WE ARE BACK TO BACK,
2 VERY CLOSE. AND I HEARD THE CONVERSATION.

3 Q WERE YOU MAKING A SPECIAL EFFORT TO DO SO?

4 A YES.

5 Q AT THE POINT THAT THEY WALKED IN, WHAT DID YOU SAY
6 TO YOUR HUSBAND, IF ANYTHING, ABOUT THEM?

7 A I SAID TO HIM IN GREEK, DO YOU KNOW WHO THAT IS?
8 I SAID I JUST SAW RON LEVIN.

9 Q DID YOU SAY ANYTHING ELSE TO YOUR HUSBAND ABOUT
10 THEM AFTER THAT, OR WERE YOU TRYING TO LISTEN TO THEIR
11 CONVERSATION?

12 A WHEN THEY SAT DOWN, I WAS LISTENING TO THE
13 CONVERSATION.

14 Q WHAT WERE THEY TALKING ABOUT?

15 A THEY WERE TALKING ABOUT HOW HAPPY THEY WERE TO GET
16 --

17 MR. VANCE: OBJECTION, HEARSAY.

18 THE COURT: OFFER FOR WHAT PURPOSE?

19 MR. HUNT: THIS IS OFFERED -- THIS IS ONE OF THOSE
20 TIMES I'D LIKE TO SEE DOUG.

21 YOUR HONOR, I THINK WE WILL HAVE TO COME BACK TO
22 THAT. I WOULD MAKE AN OFFER OF PROOF, BUT I THINK YOU
23 PROBABLY WOULD WANT TO HEAR IT OUT OF THE PRESENCE OF THE
24 JURY BECAUSE I WOULD HAVE TO RELY ON WHAT WAS SAID.

25 THE COURT: LET ME HAVE THE MEMBES OF THE JURY TO
26 STEP OUTSIDE FOR JUST A MOMENT AND REMEMBER THE ADMONITION.

1 THE WITNESS: YOUR HONOR, MAY I GET A DRINK OF
2 WATER?

3 THE COURT: SURE.

4 THE RECORD WILL SHOW ALL THE MEMBERS OF THE JURY
5 HAVE LEFT THE COURTROOM.

6 YOU MADE REFERENCE TO CONSULTING MR. GRAY WHO I
7 NOTICE IS NOT IN THE COURTROOM RIGHT AT THIS MOMENT. IF YOU,
8 AFTER WE HAVE THIS DISCUSSION, IF YOU FEEL THAT YOU NEED TO,
9 WE WILL GIVE YOU THE OPPORTUNITY TO TALK TO HIM.

10 MR. HUNT: I THINK I HAVE IT, YOUR HONOR. IT'S
11 SECTION 1250. IT WOULD BE OFFERED AS THE EXCEPTION TO THE
12 HEARSAY RULE AS THE STATEMENT OF THE DECLARANT THEN EXISTING
13 STATE OF MIND SPECIFICALLY INTENT, PLAN.

14 WHAT SHE HEARD THEM SAYING WAS THAT THEY WERE
15 DELIGHTED IN FINDING THE RESTAURANT. THAT THEY PLANNED ON
16 SPENDING THE WHOLE DAY DRINKING THIS BOTTLE OF WINE. THEY
17 COMMEND THEIR GOOD FORTUNE TO HAVE FOUND A RESTAURANT OPEN.

18 THE SIGNIFICANCE OF IT IS THAT IN CONTRAST, WELL,
19 IT CAN BE DISTINGUISHED AND CONTRASTED AGAINST THEIR BEHAVIOR
20 LATER ON WHERE AFTER PASSING BY THE TABLE AND SEEING MRS.
21 GERRARD, THEY IMMEDIATELY LEAVE. SO I WOULD OFFER IT UNDER
22 SECTION 1250 OF THE EVIDENCE CODE.

23 THE COURT: MR. VANCE.

24 MR. VANCE: YES. IT DOESN'T FIT 1250 FOR 2
25 REASONS. I HAVE TO LOOK AT THE ACTUAL READING. IF NEED BE,
26 1252 IS ABOUT CIRCUMSTANCES OF THE RELIABILITY. IMMEDIATELY

1 COMES TO MIND 1250 TALKS ABOUT A STATEMENT OF PRESENT
2 INTENTION, AND I FORGET THE WAY IT'S WORDED.

3 THE PROBLEM BECOMES NOT SO MUCH THAT THIS
4 STATEMENT, BUT IT'S THE CONTRAST STATEMENT THAT MR. HUNT HERE
5 WANTS TO USE WITH --

6 THE COURT: WHAT CONTRAST STATEMENT?

7 MR. VANCE: THEIR DEPARTURE. MR. HUNT MAKES AN
8 ARGUMENT BASED UPON THAT HE IS GOING TO LINK THIS STATEMENT
9 TO THEIR DEPARTURE.

10 THE COURT: I DON'T KNOW THE PROBLEM IN THAT IT IS
11 NOT SOMETHING THAT YOU WOULD PROBABLY BRING OUT IN YOUR CASE
12 IN CHIEF. BUT IT'S SMACK DOWN IN THE MIDDLE OF 1250. IT'S A
13 STATEMENT OF A PLAN WHEN OFFERED TO PROVE THE DECLARANT'S
14 STATE OF MIND AT THAT TIME. AND OFFER TO -- OR OFFER TO
15 EXPLAIN THE ACTS OR CONDUCT.

16 YEAH, I HADN'T -- SHE STARTED TO ANSWER THE
17 QUESTION IN FRONT OF THE JURY, AND I HADN'T HEARD WHAT -- I
18 DIDN'T HEAR WHAT SHE SAID, BUT ASSUMING THAT THAT IS GOING TO
19 BE HER TESTIMONY. IT SEEMS TO BE CLEARLY THE PLAN RELEVANT
20 FOR THE OFFER, FOR THE REASONS STATED BY MR. HUNT.

21 IN THIS CASE THE FACT THAT THE PLAN IS ARGUABLY
22 RELEVANT BECAUSE OF THE DEPARTURE.

23 ALL RIGHT, BRING IN THE JURY PLEASE.

24 THE COURT: THE RECORD WILL SHOW ALL MEMBERS OF
25 THE JURY ARE PRESENT IN THE JURY BOX.

26 GO AHEAD, MR. HUNT.

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1 DIRECT EXAMINATION (RESUMED)

2 BY MR. HUNT: Q YOU WERE JUST ABOUT TO TELL US
3 WHAT YOU OVERHEARD IN THIS CONVERSATION?

4 A WELL, THIS PERSON THAT WAS BACK -- WE WERE BACK TO
5 BACK -- WERE TALKING ABOUT HOW HAPPY THEY WERE THAT THEY HAVE
6 FOUND A LITTLE KAIKAKI. IT'S A GREEK WORD MEANS BOAT THAT
7 HAVE BROUGHT THEM TO THE ISLAND. THERE WAS NO TOURIST
8 SEASON. THEY WERE NOT REGULAR BOATS, AND THEY HAD THIS ONE
9 BOTTLE OF WINE. AND THEY WERE GOING TO SPEND THE DAY
10 DRINKING THE WINE. THEY FOUND A NICE PLACE TO SIT, AND THEY
11 WERE SO HAPPY.

12 Q THEY WERE GOING ON ABOUT THAT AT SOME LENGTH?

13 A THEY WERE TALKING ABOUT HOW HAPPY THEY WERE TO
14 FIND THIS -- THIS PLACE.

15 Q YOU HAD SEEN THEM COME IN WITH A BOTTLE OF WINE?

16 A YES, THEY HAD A BOTTLE IN THEIR HANDS.

17 Q HOW LONG DID THEY SAY THEY PLANNED TO SPEND IN
18 THIS RESTAURANT?

19 A THEY PLANNED TO SPEND THE DAY DRINKING THE WINE.
20 THEY WERE GOING TO DRINK THE WHOLE BOTTLE OF WINE.

21 Q AND YOU SPECIFICALLY HAD HEARD THEM SAY THEY HAD
22 COME OVER ON THAT KAIKAKI?

23 A A LITTLE GREEK WORD, BOAT.

24 Q HOW WOULD THAT BE SPELLED?

25 A I DON'T KNOW HOW TO SPELL IT IN GREEK. KAIKAKI IN
26 GREEK.

1 Q AFTER THIS CONVERSATION, DID RON LEVIN DO
2 ANYTHING?

3 A HE WENT TO THE RESTROOM. AND THE RESTROOM -- HE
4 PASSED MY BACK, WENT TO THE RESTROOM. AND COMING BACK, HE
5 GLANCED AT ME.

6 Q WHAT HAPPENED AT THAT POINT?

7 A AT THAT POINT, HE WENT TO THE TABLE. GOT THE
8 BOTTLE, WENT TO THE COUNTER FOR THE BAR. CHECKED OUT.

9 Q DID HE SEEM TO BE ACTING WITH ANY HASTE AT THAT
10 POINT?

11 A ABSOLUTELY.

12 MR. VANCE: OBJECTION, SPECULATION.

13 THE COURT: OVERRULED.

14 BUT MS. GERRARD, LET ME ASK YOU TO RESTRICT YOUR
15 ANSWER TO WHAT YOU OBSERVED AND NOT SPECULATE ABOUT WHAT WAS
16 GOING ON IN SOMEONE ELSE'S HEAD.

17 MR. HUNT: Q JUST AS FAR AS THE NORMAL PACE AT
18 WHICH PEOPLE MOVE, WAS HE MOVING MORE RAPIDLY? WAS HE MOVING
19 WITH ANY HASTE?

20 A HE WAS GETTING OUT OF THERE.

21 Q DID YOU OBSERVE HIM TO OR HEAR HIM TALK AT ALL TO
22 THE FELLOW THAT HE WAS WITH AFTER HE PASSED YOUR TABLE, AND
23 YOU LOOKED AT EACH OTHER?

24 A NO, HE JUST -- JUST PAID THE BILL AND LEFT.

25 Q MRS. GERRARD, AS HE IS WALKING BACK FROM THE
26 RESTAURANT, DO I UNDERSTAND YOU CORRECTLY TO SAY THAT WAS A

1 MOMENT THAT THE 2 OF YOU LOOKED AT EACH OTHER?

2 A YES.

3 Q DID YOU NOTICE ANY REACTION ON RON LEVIN'S FACE?

4 A YES.

5 Q WHAT WAS THE REACTION?

6 A JUST DISBELIEF.

7 MR. VANCE: OBJECTION. CALLS FOR SPECULATION.

8 ASK THAT THE ANSWER BE STRICKEN. IT CALLS FOR AN OPINION AND

9 ASK THE ANSWER BE STRICKEN.

10 THE COURT: THE QUESTION CALLED FOR IT, BUT THAT'S

11 CERTAINLY WHAT WE GOT. THE ANSWER IS STRICKEN. THE JURY IS

12 ADMONISHED TO DISREGARD IT.

13 MR. HUNT: Q WHAT I'D LIKE YOU TO DO AND THIS IS

14 WITHOUT -- THIS IS DIFFICULT WITHOUT CHARACTERIZING WHAT YOU

15 SAW IS CAN YOU IN ANY WAY DESCRIBE HOW HIS FACE CHANGED AT

16 THE SIGHT OF YOU?

17 A FROM EXPRESSION, I WOULD SAY DISBELIEF.

18 MR. VANCE: I WOULD ASK THE ANSWER BE STRICKEN.

19 THE COURT: GRANTED.

20 THE WITNESS: SHOCKED.

21 MR. HUNT: Q I USUALLY ASSOCIATE THAT WITH A

22 WIDENING OF THE EYES, MAYBE A DRAWING UP OF THE EYEBROWS.

23 DID YOU SEE ANY OF THAT?

24 A I JUST SAW LIKE -- I JUST -- I CAN'T DESCRIBE IT.

25 JUST KIND OF SHAKING HIS HEAD A LITTLE. AND MAYBE TURNING A

26 LITTLE WHITE.

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1 Q DID YOU SAY ANYTHING TO HIM AT THAT POINT?

2 A NO. I DID NOT SPEAK TO HIM.

3 Q WHY NOT?

4 A BECAUSE I KNEW THE WHOLE STORY. REALLY DID NOT
5 WANT TO GET INVOLVED.

6 Q WHAT STORY ARE YOU REFERRING TO?

7 A THE WHOLE STORY WHICH I WENT AND TOLD THE LADY AT
8 THE BAR. THE WHOLE STORY. OF COURSE EVERYBODY IN LOS
9 ANGELES KNEW THE STORY. AND I ESPECIALLY WAS INTERESTED IN
10 IT.

11 Q WERE YOU AWARE THAT I HAD BEEN CONVICTED FOR THE
12 ALLEGED MURDER OF THIS MAN THAT YOU WERE SEEING IN THE
13 RESTAURANT?

14 A I HAD READ THE PAPERS, AND I HAD TOLD THE LADY
15 THAT I CUT OUT SOME OF THE STORIES ABOUT IT. AND SHE GAVE ME
16 HER ADDRESS AND ASKED ME TO SEND --

17 THE COURT: MA'AM, JUST WAIT FOR A QUESTION.

18 MR. VANCE: THAT'S A NARRATIVE.

19 THE COURT: SUSTAINED.

20 MR. HUNT: Q THIS IS CHRISTMAS OF 1987. WERE YOU
21 AWARE AT THAT POINT THAT I HAD BEEN CONVICTED OF ALLEGEDLY
22 KILLING THIS MAN THAT YOU SAW IN APRIL OF 1987? EARLIER THAT
23 YEAR?

24 A I KNEW THAT HE WAS MISSING. I DON'T REMEMBER IF I
25 KNEW THAT HE WAS SUPPOSED TO HAVE BEEN MURDERED.

26 Q WHEN THIS MAN LEFT, YOU SPOKE TO THE WOMAN THAT

1 WAS RUNNING THE PLACE?

2 A YES.

3 Q AND YOU TALKED TO HER ABOUT THIS?

4 A YES.

5 Q WHAT DID YOU DISCUSS WITH HER?

6 MR. VANCE: OBJECTION.

7 THE WITNESS: I ASKED HER.

8 THE COURT: MA'AM, ANY TIME THERE IS AN OBJECTION,
9 YOU HAVE TO STOP YOUR ANSWER, SO THAT I CAN --

10 THE WITNESS: HE SAID OBJECTION BEFORE I CAN --
11 EXCUSE ME.

12 THE COURT: ANY TIME THERE IS AN OBJECTION, YOU
13 HAVE TO STOP YOUR ANSWER, SO THAT I CAN HEAR WHAT THE
14 OBJECTION IS AND RULE ON IT.

15 MR. VANCE.

16 MR. VANCE: CALLS FOR HEARSAY.

17 THE COURT: SUSTAINED.

18 MR. HUNT: Q IN ANY EVENT, YOU DID SPEAK TO THE
19 WOMAN THAT RAN THE PLACE ABOUT THIS?

20 A YES.

21 Q HOW TALL WAS, DO YOU RECALL, RON LEVIN BEING AT
22 THE POINT THAT YOU SAW HIM IN THE RESTAURANT?

23 A I WOULD SAY OVER 6 FOOT.

24 Q DO YOU HAVE ANY SENSE OF HOW MUCH OVER -- HE WOULD
25 HAVE BEEN SHORTER OR TALLER THAN I?

26 A SHORTER.

1 Q WOULD YOU HAVE ANY IDEA HOW MUCH SHORTER?

2 A NO.

3 Q HOW TALL IS THE GENTLEMAN THAT HE WAS WITH?

4 A I'D SAY 4 TO 5 INCHES SHORTER.

5 Q DID YOU NOTICE ANYTHING ABOUT THIS GENTLEMAN THAT
6 MAKES HIM STICK OUT IN YOUR MIND?

7 A HE HAD AN ENGLISH ACCENT.

8 Q AT WHAT POINT DID YOU HEAR HIM SPEAK?

9 A THEY WERE TALKING BACK AND FORTH.

10 Q DO YOU RECALL, MRS. GERRARD, BEING SHOWN BY ME
11 EARLIER TODAY THE WRITTEN REPORT OF A MAN NAMED DETECTIVE
12 ZOELLER?

13 A I AM SORRY. I DIDN'T HEAR THE QUESTION.

14 Q DO YOU RECALL BEING SHOWN BY ME EARLIER TODAY THE
15 REPORT OF DETECTIVE ZOELLER FROM HIS INTERVIEW OF YOU?

16 A YES.

17 Q DO YOU RECALL BEING CONTACTED BY MR. ZOELLER
18 BEFORE THAT INTERVIEW?

19 A I THINK IT WAS HE THAT HAD TALKED TO ME.

20 Q WHERE DID THE INTERVIEW TAKE PLACE?

21 A AT THE RECEPTION ROOM IN MY APARTMENT DOWNSTAIRS.

22 Q DO YOU RECALL TALKING TO MR. ZOELLER -- LET ME ASK
23 YOU THIS.

24 WHEN YOU REVIEWED THAT REPORT, OF HIS INTERVIEW
25 WITH YOU, WHAT WAS YOUR -- DO YOU RECALL THE CONVERSATION
26 BETWEEN THE 2 OF YOU BEING AS HE DESCRIBED IT IN HIS REPORT?

1 A I JUST REMEMBER THAT I ALMOST WALKED AWAY BECAUSE
2 HE KEPT PUTTING WORDS IN MY MOUTH.

3 Q WAS THERE ANYTHING IN PARTICULAR THAT HE WAS
4 ASKING YOU ABOUT REPEATEDLY?

5 A IF I WERE SURE THAT IT WAS RON LEVIN.

6 Q HOW MANY TIMES DID YOU TELL HIM THAT YOU WERE
7 SURE?

8 A AS MANY TIMES AS HE ASKED UNTIL THE LAST TIME WHEN
9 I JUST TOLD HIM, OKAY, I DIDN'T SEE HIM.

10 Q WHY WOULD YOU SAY THAT?

11 A BECAUSE I WAS ANGRY. I WAS -- I JUST DIDN'T LIKE
12 HIS ATTITUDE AT ALL.

13 Q BEFORE YOU SPOKE OUT OF ANGER AS A RESULT OF
14 DETECTIVE ZOELLER'S ATTITUDE, HOW MANY TIMES DID HE ASK YOU
15 THIS REQUEST ABOUT WHETHER YOU WERE SURE THAT THAT WAS RON
16 LEVIN?

17 A I DON'T REMEMBER, BUT SEVERAL TIMES.

18 Q DID IT GET TO THE POINT WHERE YOU FELT HE WAS
19 QUESTIONING YOUR INTEGRITY?

20 A ABSOLUTELY.

21 Q DID THAT HAVE ANYTHING TO DO WITH WHY YOU
22 RESPONDED IN SOME HEAT?

23 A YES.

24 Q HOW DID THE INTERVIEW WITH DETECTIVE ZOELLER END?

25 A HE SAID, I AM NOT PUTTING WORDS IN YOUR MOUTH SO
26 HE SOFTENED UP, AND THEN WE FINISHED.

1 Q DID DETECTIVE ZOELLER TALK TO YOU ABOUT HOW
2 FREQUENTLY PEOPLE CAN BE MISTAKEN?

3 A YES, HE DID.

4 Q AS FAR AS EYEWITNESS IDENTIFICATION?

5 A YES, AND I KNOW THAT.

6 Q DID HE ASK YOU WHETHER YOU HAD EVER AN EXPERIENCE
7 WHERE YOU HAD SEEN SOMEBODY, THOUGHT YOU RECOGNIZED THEM, IN
8 FACT, THEY WERE NOT THE PERSON YOU BELIEVED THEM TO BE?

9 A YES.

10 Q HOW DID YOU RESPOND TO THOSE QUESTIONS?

11 A WELL, I SEE PEOPLE IN THE BACK, AND THEY TURN
12 AROUND AND IT'S -- IT'S VERY NORMAL.

13 Q DO YOU THINK IT'S POSSIBLE THAT THIS WAS ONE OF
14 THOSE OCCURRENCES?

15 A NO, THIS I KNOW WHAT I SAW.

16 Q AND YOU TOLD DETECTIVE ZOELLER?

17 A ABSOLUTELY.

18 Q WHY ARE YOU SO SURE, MRS. GERRARD?

19 A BECAUSE IT'S THE TRUTH, AND I AM JUST SURE THAT I
20 AM SURE.

21 Q DID YOU WANT TO BE A WITNESS OR INVOLVED IN THIS?

22 A NO, I DIDN'T WANT TO BE INVOLVED.

23 Q AND WHY NOT?

24 A BECAUSE I DIDN'T WANT TO GO THROUGH THIS. I DON'T
25 LIKE TO GO THROUGH THIS.

26 Q WHEN YOU CAME BACK FROM GREECE, AFTER THAT TRIP,

1 DID YOU MAKE ANY EFFORT TO LET IT BE KNOWN PUBLICLY THAT YOU
2 HAD SEEN RON LEVIN?

3 A YES. I CALLED SOMEONE I KNEW AT ONE OF THE T.V.
4 STATIONS. IT WAS ONE OF MY DAUGHTER'S FRIENDS. AND HE
5 ADVISED ME -- I TOLD HIM THE STORY, HE SAID DON'T --

6 MR. VANCE: OBJECTION, CALLS FOR HEARSAY.

7 THE COURT: SUSTAINED.

8 MR. HUNT: JUST OFFERED FOR HER STATE OF MIND AS
9 TO HER SUBSEQUENT CONDUCT AFTER SEEING RON LEVIN. KNOWING
10 AFTER HE WAS MISSING AND ALLEGEDLY MURDERED.

11 THE COURT: YOUR OFFER OF PROOF IS THAT THIS
12 RESPONSE FROM THIS PERSON SOMEHOW EXPLAINS THAT.

13 ALL RIGHT, GO AHEAD.

14 THE JURY WILL AFTER HAVING HEARD THAT EXCHANGE
15 UNDERSTANDS THAT LIMITED PURPOSE OF THIS IS COMING IN FOR.

16 GO AHEAD, MRS. GERRARD.

17 MR. HUNT: Q WHAT DID THIS GENTLEMAN TELL YOU
18 WHEN YOU --

19 NOW FIRST LET'S BACK UP A MOMENT.

20 WHO WAS THIS THAT YOU WERE CONTACTING?

21 A IT WAS A FRIEND OF MY DAUGHTER'S. SOMEONE THAT I
22 KNEW IN THE NEWS IN ONE OF THE TELEVISION STATIONS. AND HE
23 TOLD -- HE ADVISED ME, DON'T GET INVOLVED.

24 Q DID HE SAY WHY YOU SHOULDN'T?

25 A HE SAID YOU ARE GOING TO BE SORRY. YOU ARE GOING
26 TO HAVE ALL THESE PEOPLE TALKING TO YOU. HE SAID, DON'T GET

1 INVOLVED.

2 Q MRS. GERRARD, HOW WAS IT, IF YOU KNOW, THAT WORD
3 OF THE FACT THAT YOU HAD SEEN RON LEVIN IN GREECE -- IN
4 MYKONOS CAME TO THE DEFENSE?

5 A IT'S GOING TO BE HEARSAY. I TOLD --

6 MR. VANCE: THEN --

7 THE WITNESS: I KNOW.

8 MR. VANCE: I CAN'T PASS IT. I WILL OBJECT.

9 THANK YOU.

10 THE COURT: FEEL BETTER NOW, MR. VANCE?

11 MR. HUNT: FROM MY OWN WITNESS, YOUR HONOR.

12 THE COURT: WELL, I AM GOING TO OVERRULE BOTH OF
13 THE OBJECTIONS.

14 MR. HUNT: Q MAYBE YOU CAN ANSWER THE QUESTION?

15 A I ANSWERED IT.

16 Q YES.

17 A MY -- I TOLD MY SON AND MY DAUGHTER-IN-LAW THE
18 STORY. AND SHE WAS AT A PARTY, AND SHE WAS TALKING ABOUT OUR
19 TRIP OF WHAT HAPPENED. AND SHE SPOKE TO SOMEONE WHO WAS
20 RELATED TO, I THINK, THE DEFENSE. AND MY DAUGHTER-IN-LAW
21 SAID, I DID A TERRIBLE THING. ARE YOU MAD AT ME? AND I
22 SAID, NO. LISTEN, I GOT TO DO WHAT'S RIGHT. HAVE THEM CALL
23 ME. IT'S ALL RIGHT.

24 Q SO IT'S SOMETHING THAT YOUR DAUGHTER-IN-LAW SAID
25 THAT LEAKED THE INFORMATION?

26 A YES, SHE DID.

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1 Q ABOUT HOW LONG AFTER YOUR PHONE CALL TO THE FELLOW
2 AT THE NEWS COMPANY WAS THAT?

3 A I DON'T REMEMBER. BUT IT WASN'T TOO LONG
4 AFTERWARDS.

5 Q HAVE YOU EVER BEEN -- DO YOU STILL HAVE THAT
6 T-SHIRT YOU BOUGHT AT THAT SHOP?

7 A YES.

8 Q ARE YOU EVER GOING TO GO BACK TO MYKONOS?

9 A NO, NEVER.

10 MR. HUNT: ALL RIGHT, THANK YOU, MRS. GERRARD. NO
11 FURTHER QUESTIONS. .

12 THE COURT: MR. VANCE, YOU MAY INQUIRE.

13 CROSS-EXAMINATION

14 BY MR. VANCE: Q MRS. GERRARD, WHO WAS IT YOU
15 TALKED TO WHO HAD GIVEN YOU THIS ADVICE ABOUT NOT TO GET
16 INVOLVED?

17 A IT WAS A FRIEND OF MY DAUGHTER'S.

18 Q WHAT'S THAT PERSON'S NAME?

19 A I AM SORRY?

20 Q WHAT'S THAT PERSON'S NAME?

21 A I AM NOT GOING TO TELL YOU.

22 THE COURT: WELL, I THINK WE NEED TO HAVE A LITTLE
23 TALK OUT OF THE PRESENCE OF THE JURY. I AM GOING TO ASK YOU
24 TO STEP OUTSIDE. REMEMBER THE ADMONITION PLEASE.

25 THE RECORD WILL SHOW ALL MEMBERS OF THE JURY HAVE
26 LEFT THE COURTROOM.

1 WHILE IT IS TRUE THAT PERHAPS IN SOME SENSE WE
2 CAN'T MAKE YOU ANSWER ANY QUESTION, I CAN TELL YOU THAT IF
3 YOU DON'T, THERE IS A SUBSTANTIAL LIKELIHOOD THAT YOU WILL BE
4 FOUND IN CONTEMPT AND BE PUT IN JAIL. YOU WILL ALSO HAVE
5 YOUR TESTIMONY STRICKEN.

6 SO YOU MIGHT CONSIDER THAT BEFORE YOU SAY THAT YOU
7 ARE NOT GOING TO ANSWER THE QUESTION.

8 MR. HUNT: YOUR HONOR, MIGHT I HAVE A WORD WITH
9 THE WITNESS AS WELL?

10 THE COURT: YES.

11 THE WITNESS: I THINK IT'S IRRELEVANT.

12 THE COURT: YOU DON'T GET TO DECIDE THAT. IF
13 YOU'D LIKE TO TALK TO MR. HUNT FOR A MOMENT.

14 MR. HUNT: COULD WE TALK FOR A MOMENT?

15 THE WITNESS: YES.

16 MR. VANCE: AT THIS POINT I AM CONFUSED AS TO WHAT
17 -- MR. HUNT IS NOT AN ATTORNEY. AND HOW COULD HE BE ADVISING
18 HER AS TO WHAT SHE SHOULD BE DOING AT THIS POINT AS FAR AS
19 ANSWERING A QUESTION? I WOULD OBJECT TO ANY DISCUSSIONS
20 BETWEEN THE TWO AT THIS POINT.

21 THE COURT: I DON'T THINK YOU HAVE ANY STANDING TO
22 OBJECT.

23 MR. HUNT: SHE IS PREPARED TO ANSWER.

24 THE COURT: BRING THE JURY IN PLEASE.

25 THE WITNESS: YOUR HONOR, COULD I TALK TO MR. HUNT
26 FOR A MOMENT?

1 THE COURT: YES.

2 MR. HUNT: THANK YOU, YOUR HONOR.

3 THE COURT: THE RECORD WILL SHOW THAT ALL MEMBERS
4 OF THE JURY HAVE REJOINED US IN THE COURTROOM AND ARE SEATED
5 IN THE JURY BOX.

6 GO AHEAD, MR. VANCE.

7 CROSS-EXAMINATION (RESUMED)

8 BY MR. VANCE: Q WHO WAS IT THAT YOU SPOKE TO?

9 A HIS NAME WAS MICHAEL RAY, AND HE WORKS FOR ABC.

10 Q MICHAEL RAY?

11 A R-A-Y.

12 Q WHAT DOES HE DO FOR ABC?

13 A HE WORKS IN THE NEWS DEPARTMENT.

14 Q IS THAT THE LOCAL AFFILIATE IN THE L.A. KABC?

15 A YES.

16 Q NOW THAT WOULD BE THE T.V. CHANNEL NOT THE RADIO?

17 A T.V.

18 Q IS HE A REPORTER?

19 A HE IS ONE OF THE OR WAS ONE OF THE NEWS -- NIGHT
20 NEWS DIRECTORS.

21 Q WHEN WAS IT THAT YOU SPOKE WITH HIM?

22 A SOME TIME AFTER I GOT BACK. NOT TOO LONG.

23 Q HOW MUCH -- WELL, LET'S BACK UP A MINUTE.

24 YOU HAVE TESTIFIED THAT YOU WERE ON THE ISLAND OF
25 MYKONOS FOR CHRISTMAS OF 19 -- OF WHAT YEAR?

26 A 1987.

1 Q I TAKE IT YOU HAVE BEEN TO GREECE ON MORE THAN ONE
2 OCCASION?

3 A MANY TIMES.

4 Q WHEN WAS THE TRIP PREVIOUS?

5 A I DON'T KNOW IF IT WAS THE YEAR BEFORE. WE GO
6 SOMEWHERE EVERY YEAR. USUALLY GREECE.

7 Q BUT BEFORE THIS TIME AT CHRISTMAS, WHEN WAS THE
8 LAST TIME YOU HAD BEEN TO GREECE?

9 A I DON'T KNOW. I HAVE TO LOOK ON MY PASSPORT AND
10 SEE WHEN IT WAS. IT WAS PROBABLY THE YEAR BEFORE.

11 Q AND WHAT TIME?

12 A WE ALMOST ALWAYS GO IN CHRISTMAS. ONCE WE WENT IN
13 OCTOBER.

14 Q AND ON THIS OCCASION, WHEN YOU WENT TO MYKONOS,
15 WHEN DID YOU RETURN TO LOS ANGELES?

16 A I DON'T KNOW. WE PROBABLY WENT FOR 10 DAYS, 2
17 WEEKS. SO I DON'T KNOW THE DATES.

18 Q AT THE POINT WHEN YOU RETURNED -- WELL, YOU RECALL
19 IF YOU RETURNED AFTER THE 1ST OF THE YEAR?

20 A EITHER JUST BEFORE OR JUST AFTER THE 1ST OF THE
21 YEAR.

22 Q AND HOW LONG AFTER YOU RETURNED, YOU KNOW, IF YOU
23 CAN ESTIMATE IN TIME WAS THAT YOU CONTACTED MR. RAY?

24 A JUST MAYBE A FEW DAYS.

25 Q PRIOR TO CONTACTING MR. RAY, HAD YOU ATTEMPTED TO
26 CONTACT THE BEVERLY HILLS POLICE DEPARTMENT?

1 A NO.

2 Q OR THE LOS ANGELES COUNTY DISTRICT ATTORNEY'S
3 OFFICE?

4 A NO ONE.

5 Q OR ANYBODY IN LAW ENFORCEMENT?

6 A NO.

7 Q HAD YOU ATTEMPTED TO CONTACT ANYBODY WHO MIGHT
8 HAVE BEEN REPRESENTING MR. HUNT?

9 A NO.

10 Q BEFORE CONTACTING MR. RAY?

11 A NO.

12 Q PRIOR TO SPEAKING TO MR. RAY, HAD YOU TOLD ANYBODY
13 ABOUT WHAT IT IS THAT YOU SAY YOU SAW ON MYKONOS?

14 A I MAY HAVE TOLD MY DAUGHTER, OR I MAY HAVE TOLD --
15 BUT DURING THIS TIME, YOU KNOW, I TOLD MY DAUGHTER-IN-LAW. I
16 TOLD MY SON.

17 Q WHEN YOU SAY DAUGHTER-IN-LAW, YOU HAD A COUPLE IN
18 PARTICULAR, WHO WAS IT?

19 A KIMBERLY GERRARD, MY DAUGHTER-IN-LAW.

20 Q DID YOU EVER TELL IT TO MARICA (PHONETIC)?

21 A YES, I AM SURE I DID.

22 Q DID YOU EVER SPEAK ABOUT IT WITH BOB TUR?

23 A I AM SURE I DID.

24 Q AND AT THE POINT WHEN YOU SAY YOU SAW THIS PERSON
25 WHO YOU THOUGHT WAS RON LEVIN IN THE RESTAURANT IN MYKONOS,
26 DID YOU KNOW THAT A PERSON WAS STANDING TRIAL FOR RON LEVIN'S

1 MURDER?

2 A I HAD READ THE PAPERS.

3 Q AND YOU HAVE INDICATED YOU HAVE ACTUALLY MADE
4 CLIPPINGS FROM THE PAPER?

5 A AND I HAD THOUGHT OR I WOULD GO BACK -- WHEN I WAS
6 TALKING TO THE PROPRIETOR IN MYKONOS, I HAD TOLD HER THE
7 STORY. AND I SAID, I WILL SEND YOU SOME CLIPPINGS OF IT. I
8 WILL GO GET THEM COPIED.

9 Q HAVE YOU AT THAT POINT BEEN KEEPING CLIPPINGS?

10 A I DON'T KNOW. I JUST WAS INTERESTED IN THE STORY
11 BECAUSE I KNEW RON LEVIN. AND IT WAS A BIG STORY. I DON'T
12 KNOW WHETHER I TOLD HER I WAS GOING TO GO TO THE LIBRARY AND
13 GET COPIES, OR I WOULD SEND HER SOMETHING FROM THE NEWSPAPER.

14 Q DID YOU YOURSELF AT THAT POINT IN TIME HAVE ANY
15 CLIPPINGS THAT YOU HAD TAKEN FROM THE NEWSPAPER?

16 A I DON'T THINK SO.

17 Q OR ANY MAGAZINE ARTICLES?

18 A NO.

19 Q HAD YOU BEEN KEEPING A FILE ON THE RON LEVIN'S
20 CASE IN ANY WAY?

21 A NO, JUST READING THE NEWSPAPER.

22 Q AND YOU WERE FOLLOWING THAT RON LEVIN'S CASE
23 BECAUSE YOU KNEW RON LEVIN?

24 A YES, AND AN INTERESTING CASE.

25 Q DO YOU FOLLOW OTHER MURDER CASES HERE IN THE
26 NEWSPAPER?

1 A WELL, I DID THE RODNEY KING CASE WHICH WASN'T A
2 MURDER CASE, BUT THOSE KINDS OF CASES. AND THE PENTAGON
3 PAPERS -- TRIAL I WENT TO, BUT WHICH WASN'T A MURDER.

4 Q WHEN --

5 A BUT MURDER AS SUCH OR READING MYSTERIES, I DON'T.

6 Q BUT NOW DID YOU INDEED SEND TO THE PROPRIETOR OF
7 THE RESTAURANT ANY NEWS ARTICLES?

8 A NO, BECAUSE I LOST HER ADDRESS. AND THEN I JUST
9 FORGOT ABOUT IT.

10 Q WHEN YOU SPOKE TO OR IS THERE A PARTICULAR REASON
11 THAT YOU ASKED MR. RAY'S ADVICE AS TO WHAT YOU SHOULD DO?

12 A WELL, HE WAS IN THE NEWS BUSINESS, AND I THOUGHT
13 IT MIGHT MAKE A GOOD STORY.

14 Q IN WHAT WAY DID YOU THINK THIS MIGHT MAKE A GOOD
15 STORY?

16 A WELL, THE NEWS IS ALWAYS LOOKING FOR A GOOD STORY.
17 SOMEBODY SIGHTS SOMEBODY.

18 THE COURT: MR. VANCE, LET ME STOP YOU THERE AND
19 ADJOURN FOR THE DAY. WE WILL RESUME TOMORROW AT NINE O'CLOCK
20 IN THE MORNING. MEMBERS OF THE JURY, REMEMBER THE ADMONITION
21 THAT YOU HAVE HEARD SO OFTEN.

22 DON'T DISCUSS THE CASE AMONGST YOURSELVES OR WITH
23 ANYONE ELSE OR ALLOW ANYONE TO DISCUSS THE CASE IN YOUR
24 PRESENCE. OR FORM OR EXPRESS ANY OPINION IN THE CASE UNTIL
25 IT'S SUBMITTED TO YOU, UNTIL THE END OF THE TRIAL.

26 WE WILL PROCEED IN THE MORNING.

1 ALL RIGHT, THE RECORD WILL SHOW THAT ALL MEMBERS
2 OF THE JURY HAVE LEFT THE COURTROOM.

3 MRS. GERRARD, REMAIN JUST A MOMENT.

4 WE NEED TO DISCUSS THE OSC HEARING THAT DID NOT
5 OCCUR THIS MORNING, BRIEFLY.

6 AND MRS. GERRARD, I ORDER THAT YOU RETURN TOMORROW
7 MORNING AT NINE O'CLOCK, AND WE WILL COMPLETE YOUR TESTIMONY
8 AT THAT TIME.

9 MR. HUNT.

10 MR. HUNT: I WAS JUST ASKING HER TO WAIT A MINUTE
11 BECAUSE I WANT HER TO --

12 THE COURT: YOU DON'T HAVE TO LEAVE NOW BUT YOU
13 CAN. WE WILL NEED YOU BACK TOMORROW MORNING AT 9.

14 WE HAD THE COURTROOM OPEN THIS MORNING AT NINE
15 O'CLOCK, AND THERE WAS NO APPEARANCE BY THE WITNESS.

16 DO YOU KNOW WHETHER THE PERSON WAS SERVED?

17 MR. HUNT: LET ME LOOK. I DON'T BELIEVE THE ORDER
18 TO SHOW CAUSE HAS BEEN SERVED ON THE WITNESS. WAIT JUST A
19 SECOND.

20 THE COURT: I WANTED TO BEFORE WE ALL FORGOT, MAKE
21 A RECORD OF THE FACT THAT THE POTENTIAL CONTEMPT ORDER DID
22 NOT APPEAR THIS MORNING. AND BOTH THE CLERK AND THE BAILIFF
23 CHECKED SEVERAL TIMES IN THE HALL. THERE WAS NO APPEARANCE
24 IN COURT. SO HAVING PINNED THAT DOWN, WE CAN DISCUSS AT SOME
25 LATER TIME WHETHER OR NOT THERE WAS SERVICE.

26 MR. HUNT: YES. APPARENTLY, HE WAS SERVED. WE

1 WERE WAITING FOR THE PROOF TO ARRIVE. HE DID GET THE ORDER
2 TO SHOW CAUSE. SHANE (PHONETIC) --

3 MR. VANCE: THE CONTEMPT ORDER THAT THE COURT
4 REFERRED TO, MR. HUNT HAS JUST SAID SHANE (PHONETIC) HOLIDAY
5 (PHONETIC).

6 THE COURT: CORRECT. WE WILL AWAIT THAT PROOF OF
7 SERVICE, AND WE WILL TAKE FURTHER ACTION AT THAT POINT.

8 MR. HUNT: THANK YOU.

9 THE COURT: WE WILL BE IN RECESS THEN UNTIL NINE
10 O'CLOCK.

11 (END OF PROCEEDINGS)

12 ---OOO---

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509

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF SAN MATEO

3 DEPARTMENT NO. 11

HON. DALE A. HAHN, JUDGE

5 THE PEOPLE OF THE STATE)
6 OF CALIFORNIA,)

7 PLAINTIFF)

8 VS.)

NO. C-15761-01

9 JOSEPH HUNT,)

10 DEFENDANT)

REPORTER'S CERTIFICATE

11 STATE OF CALIFORNIA)

12) SS

13 COUNTY OF SAN MATEO)

14 I, MELY YOUNG, OFFICIAL REPORTER OF THE SUPERIOR COURT
15 OF THE STATE OF CALIFORNIA, COUNTY OF SAN MATEO, DO HEREBY
16 CERTIFY THAT THE FOREGOING PAGES 630 THROUGH 727, INCLUSIVE,
17 COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE
18 PROCEEDINGS TAKEN IN THE MATTER OF THE ABOVE-ENTITLED CAUSE.
19

20 DATED: NOVEMBER 15, 1992

23 MELY YOUNG, CSR #6800

24 OFFICIAL REPORTER, SUPERIOR COURT

6-25-92 RWC CSR w/ Robbie Robinson file
Face Page w/ Edholm file

1 Would you state your name and spell it,
2 please?

3 THE WITNESS: Nadia. N-a-d-i-a. G-h-a-l-e-b.

4 THE CLERK: Thank you.

5 THE COURT: Would you spell your last name?

6 THE WITNESS: G-h-a-l-e-b. As in boy.

7 THE COURT: Thank you. That's what I missed.

8

9 DIRECT EXAMINATION OF NADIA GHALEB

10 BY MR. HUNT:

11 Q. Good morning, Miss Ghaleb.

12 Could you tell the jury where you were working
13 in the late 70's and the early 80's?

14 A. Mr. Chou's Restaurant, Beverly Hills.

15 Q. What type of an establishment is Mr. Chou's?

16 A. Chinese restaurant.

17 Q. Is it sort of an upscale one, or is it the
18 sort of thing --

19 A. It was considered one of the two or three
20 kind of hippest restaurants in Los Angeles. I guess
21 what you call -- where, mainly it was a pretty well
22 heeled and starstudded clientele I guess is how, kind of
23 like the equivalent almost of what Spagos is today,
24 except it's, you know, it was in another era of
25 restaurants in Los Angeles. It was kind of before they

1 became very popular.

2 Q. What position did you have at Mr. Chou's?

3 A. I ran the front desk, and I was one of the
4 managers.

5 Q. What were your duties running the front desk?

6 A. Greeting people, taking reservations, making
7 sure that the restaurant was seated properly, making
8 sure that, you know, food came out of the kitchen
9 properly, basically overlooking the restaurant during
10 business hours.

11 Q. If somebody had a problem about the food or
12 the service, would they go to you?

13 A. Yes.

14 Q. And if someone wanted a special reservation
15 or a special table, would they go to you?

16 A. Yes.

17 Q. Did the man over you depicted in the
18 photographs over your left shoulder ever come to you
19 with any problems about food or appointments?

20 A. Um, he certainly came in a lot. I don't
21 recall problems, but he came in.

22 Q. Was he a frequent customer at Mr. Chou's?

23 A. Pretty frequent. Pretty frequent customer.

24 THE COURT: And Mr. Hunt, for the record you
25 want to pick one of those photographs and identify it

1 for the record?

2 MR. HUNT: Okay.

3 THE COURT: Unless the People are prepared to
4 stipulate that the identification of the photographs
5 that he just referred to --

6 MR. VANCE: I'm sorry. Agent Piccinotti was
7 speaking to me. What was the -- What photograph did she
8 pick?

9 MR. HUNT: I'll take care of it.

10 Q. (BY MR. HUNT) Miss Ghaleb, does the man --
11 do you recognize the man shown in all four photographs
12 to your left?

13 A. Yes.

14 MR. HUNT: Your Honor, those are Defense 1047,
15 as far as the two booking photos at the bottom.

16 THE COURT: That's probably sufficient for the
17 record.

18 MR. HUNT: Okay.

19 MR. VANCE: And that's been previously
20 identified as Ron Levin?

21 MR. HUNT: Yes.

22 Q. (BY MR. HUNT) You said that you saw him
23 fairly frequently. How many times or what sort of
24 frequency did Ron Levin have in visiting Mr. Chou's?

25 A. I was at the front at Mr. Chou's for about

1 four years.

2 Q. Okay.

3 A. I don't know. He would come in, you know, in
4 waves. Sometimes he would be around; at times he
5 wouldn't. Sometimes he would come two or three or four
6 times a week which was very common for clients of the
7 restaurant. Sometimes he wouldn't come in. Maybe he
8 would be gone for two months. He was just -- he was
9 kind of a continual character that would be around,
10 usually without reservations.

11 I can't remember him ever booking a
12 reservation. He used to just kind of always walk in and
13 expect to be taken care of.

14 Q. Is there anything else memorable about
15 Mr. Levin?

16 A. Well, memorable? I worked in Beverly Hills
17 for about 10 years, from the early 70's until the early
18 80's, and over the course of the 10 years, there were
19 quite a few Beverly Hills, what I would call -- you kind
20 of refer to as characters. I don't know what else you
21 would call them.

22 They were the people that would just hang out
23 a lot. He was probably the most memorable of a sort,
24 because he was a little bit, ah, he wasn't exactly
25 trustworthy. I mean he was -- Most clients and the

1 people that I knew in Beverly Hills were either in the
2 entertainment business, or they had a definite
3 credibility factor. They were people that you would,
4 people aspire to know and like to be around.

5 Ron Levin was always a little bit suspicious.
6 I mean he didn't, he didn't fit in exactly. I mean, he
7 did, but he didn't. He was always a little bit, you
8 know, he had that more druggy, or that other kind of an
9 element about him. He wasn't like the cleanest of the
10 Beverly Hills characters I had ever known, so for that,
11 he was kind of distinct.

12 Q. Thank you, Miss Ghaleb. The court reporter
13 probably will have a hard time keeping up with you.
14 Slow it down just a little bit.

15 A. Sorry. Okay.

16 Q. Was there anything distinctive about his
17 looks, in your own mind?

18 A. Definitely. I mean, for me he was definitely
19 distinctive looking. I thought he was. I think most
20 people do. I mean --

21 THE COURT: All right. Ask your next
22 question.

23 Q. (BY MR. HUNT) What was striking about him in
24 your mind? If there was any physical features of his
25 that you recall, as -- I mean the way he dressed, his

1 coloring, anything?

2 A. Mainly his coloring.

3 Q. And what about his coloring?

4 A. Well, he was prematurely gray, which is
5 always something that strikes you. I mean, I always
6 knew him as quite white. His whole, he just had a kind
7 of a certain pale grayness to his whole appearance that
8 was kind of, you know, distinct.

9 Q. Thank you, Miss Ghaleb.

10 Did you ever meet me, at any point, during
11 your time in Beverly Hills?

12 A. I don't recall.

13 Q. When was the first time you met me?

14 A. Today.

15 Q. Now. And where were we speaking?

16 A. When I was seated here.

17 Q. When you were over here, did I ask you
18 whether you recalled how tall or how tall you thought
19 Ron Levin was?

20 A. Yes. And I said, 6'1", 6'2".

21 Q. Did I also ask you what you recalled his eye
22 color to be?

23 A. Yes. And I said I thought for a few minutes,
24 and thought kind of a pale blue gray. Green gray,
25 somewhere in that area.

1 Q. How was Ron Levin built, to the best of your
2 recollection, as far as body type, body size?

3 A. Well, he was kind of imposing. Tall, but he
4 wasn't heavy by any means.

5 Q. Okay.

6 You say you worked at Beverly Hills over a
7 period of about 10 years. Only four of which was
8 running the front desk at Mr. Chou's.

9 Did you work at any other establishment where
10 Ron Levin frequented?

11 A. I worked in two different boutiques. One,
12 Theodore's Boutique on Rodeo Drive, and the other was
13 called Valerie Sabia, which doesn't exist any more.

14 Q. Did Ron Levin come around either or both
15 boutiques?

16 A. Yes.

17 Q. Which one?

18 A. Theodore's for sure.

19 Q. What was that boutique about? What type of
20 merchandise did they have?

21 A. It was based on the little stalls in San
22 Tropez, in France, where they, and the clothing was
23 rather casual. It was the very early days of tie dyed
24 clothing, and then cotton pants and T-shirts, the store
25 was all white. It was like the predecessor for the new

1 minimal environments that kind of came after.

2 Q. Did you ever see Ron Levin walking on the
3 street in Beverly Hills, other than at a time when you
4 were working at, you know, working inside the boutique
5 or Mr. Chou's?

6 A. I'm sure I did.

7 Q. When was the last time that you saw Ron
8 Levin, Miss Ghaleb, if you can put a date to it?

9 A. Other than the end of probably somewhere in
10 '82, which was when I left Mr. Chou's, it was somewhere
11 in '86 or '87. I think it was '87.

12 Q. Is there an event that happened about the
13 time that you saw Ron Levin that we could use to help
14 date it, date this sighting?

15 A. Well, this is -- I never did the research to
16 find out.

17 It was -- must have been an early semester
18 break or kind of a holiday week for the Brentwood School
19 on Sunset near Barrington. I presume they have -- they
20 had a February break or something, because it's -- I had
21 a friend whose daughter went to the school.

22 Q. Would this have been February or so of 1987?

23 A. Yes.

24 Q. Did you know that Ron Levin had been reported
25 as missing and possibly was considered by some people to

1 be dead in February of 1987?

2 A. No. I did not.

3 Q. So tell the jury where you were when you saw
4 Ron Levin.

5 A. Um, I had a job. Should I tell just
6 background on what happened?

7 MR. VANCE: I am going to object. Apparently
8 it calls for a narrative.

9 THE COURT: Sustained.

10 Q. (BY MR. HUNT) We will take it a piece at a
11 time.

12 A. Okay.

13 Q. Do you recall just where you were at the
14 point that you saw Ron Levin?

15 A. Yes. On San Vicente Boulevard in Los
16 Angeles, travelling east.

17 MR. HUNT: Your Honor, giving the prosecutors
18 an opportunity to look at this map --

19 MR. GORDNIER: It appears to be a map.

20 THE COURT: Is the street name she just
21 mentioned on that map?

22 MR. GORDNIER: It is, Your Honor.

23 MR. HUNT: Yes.

24 (Whereupon Defense Exhibit 1277,
25 a map of the Los Angeles area,

1 was marked for identification.)

2 MR. HUNT: This would be a map showing some of
3 the Los Angeles Beverly Hills area.

4 Q. (BY MR. HUNT) Miss Ghaleb --

5 MR. HUNT: Your Honor, with your permission,
6 may Miss Ghaleb approach the map?

7 THE COURT: Certainly.

8 Q. (BY MR. HUNT) There's a pointer on the chalk
9 ledge right behind you.

10 A. Huh?

11 Q. Could you take that pointer, stand up, and
12 try to indicate the general area, if it's depicted on
13 that map, where you would have seen Ron Levin?

14 MR. HUNT: Your Honor, may the record reflect
15 that Miss Ghaleb is pointing to a red highlighted
16 section of San Vicente Boulevard before it makes a bend
17 and intersects Wilshire Boulevard?

18 THE COURT: Yes.

19 MR. VANCE: And actually the way -- I don't
20 know, what, if it's meant that way. The pointer where
21 she was indicating was right, just to the right of San
22 Vicente.

23 THE WITNESS:

24 A. Yes, somewhere, right.

25 MR. HUNT: She's at the C right now in San

1 Vicente.

2 Q. (BY MR. HUNT) Could you point out where
3 Mr. Chou's would have been, if you know, if that area is
4 covered by the map?

5 A. It's on Camden in Beverly Hills, which is a
6 street, I don't know if it's on here.

7 Q. I know Camden. The street itself isn't
8 listed. Are there some streets around Camden that would
9 --

10 A. It was right off Wilshire. It was right
11 here. And it was before that Beverly Drive, that
12 intersection. Like it goes the same way as Canyon.
13 That is the Beverly Drive, the other Beverly Drive.

14 Q. This is Beverly Glen?

15 A. No. This one here.

16 Q. Yes. That's Beverly Drive?

17 A. Well, it was just one street, two streets
18 west of Beverly Drive.

19 Q. Okay. It would have been right in there?

20 A. No.

21 Q. This way?

22 A. This way. I don't know. Somewhere around
23 there.

24 Q. Right around here?

25 A. Somewhere around there, yes.

1 MR. HUNT: She's indicating an area where it
2 says --

3 THE WITNESS: Actually, I'll show you. It's
4 right here (Indicating.)

5 Q. (BY MR. HUNT) Beneath the word Boulevard,
6 relating to the word Wilshire, the far right-hand side
7 of Defense 1277.

8 A. I think, I'm not sure if Peck comes before or
9 after. I think it's -- I think about right here.

10 Q. We just needed a rough area, thank you.

11 Now Miss Ghaleb, was there a particular reason
12 why you were on the road at this time when you saw Ron
13 Levin?

14 A. I was on my way to work. It was not my usual
15 route, but because of the construction --

16 MR. GORDNIER: I am going to object to the
17 narrative, Your Honor.

18 THE COURT: Overruled.

19 THE WITNESS:

20 A. Because of the construction on Sunset
21 Boulevard at the Brentwood School, after two days of
22 getting stuck in traffic, I decided to take the San
23 Vicente to Wilshire Route. So it was about the only
24 time in four years that I took that route, of working
25 for, at that job.

1 Q. At the time that you saw Ron Levin, where
2 were you, yourself?

3 A. In my car.

4 Q. And that would have been on San Vicente
5 Boulevard?

6 A. Uh-huh, yes.

7 Q. And it's about the C of San Vicente, you are
8 saying, a rough --

9 A. Yes, there's a shopping mall.

10 Q. How far away from Ron Levin were you when you
11 saw him?

12 A. Well, I think I was in the right lane, and he
13 was getting into a car that was parked in the first, you
14 know. There would be a sidewalk, and then the parking
15 lot, and the car was parked facing San Vicente.

16 Q. Was there anything obstructing your view of
17 him?

18 A. No.

19 Q. You were sitting in your car, correct?

20 A. Right. I was driving.

21 Q. What type of automobile did you have then?

22 A. BMW 320 I.

23 Q. So you were looking through the -- Were you
24 looking through the front window of the BMW?

25 A. Yeah. I was kind of eking by there and I

1 glanced over and noticed Ron Levin getting in a car.

2 MR. HUNT: May the record reflect that she was
3 looking in the direction of her right shoulder when
4 she is recollecting that?

5 THE COURT: Yes.

6 Q. (BY MR. HUNT) And Ron Levin indeed was to
7 your right, as you were driving?

8 A. Right. Right in, you know, maybe straight
9 ahead, like, you know, when you kind of going over like
10 that, and you just look to your right. I mean --

11 Q. Did you have any thoughts when you saw Ron
12 Levin?

13 A. I did. I thought to myself, "That's funny, I
14 haven't seen him for a long time."

15 Q. Was there any doubt in your mind?

16 A. And it triggered off the -- It kind of stuck
17 with me, because it was a long drive to work, and it
18 kind of triggered off that period that I had worked in
19 Beverly Hills. It kind of reminded me of those 10
20 years. Just, you know. And I thought, "I haven't seen
21 him for a very long time. I wonder what that funny guy
22 is doing."

23 Q. Did you drive and wave at him, or honk your
24 horn, or anything?

25 A. Absolutely not.

1 Q. Was there a reason for that?

2 A. He -- That I didn't? I was on my way to
3 work, and he wasn't a close personal friend, or somebody
4 that I would go out of my way to see. So I just -- He
5 just evoked a period that's -- Really, all I can say of
6 that sighting of him, it was just, he evoked a period.

7 You see somebody you haven't seen for a few
8 years or three or four years, and they remind you of
9 something. He reminded me of an era.

10 Q. How long did you have your eyes on him?

11 A. I don't know.

12 Q. Did you -- How fast was your car moving
13 forward at the time about?

14 A. Not very fast. It was rush hour traffic
15 about 8:00, 8:30, and there are a lot of lights, so you
16 don't get a chance to go very fast.

17 Q. The normal speed on that road would -- if
18 there was no traffic -- would have been the posted speed
19 limit; if you know?

20 A. Right. Whatever that is, unless I was
21 speeding.

22 Q. Okay.

23 I'll just drop that question.

24 You weren't speeding that morning; were you?

25 A. No. No.

1 Q. You were going an exceptionally slow speed?

2 A. Yes. I'm sure it was somewhere around 20, 25
3 miles an hour. I don't think you can go faster.

4 Q. After you saw him, would it be fair to say
5 you had sort of a shock of recognition?

6 A. I wasn't shocked.

7 MR. GORDON: Object to the characterization of
8 Mr. Hunt and ask it be stricken as leading.

9 THE COURT: Overruled.

10 MR. GORDON: Thank you.

11 THE COURT: Go ahead and answer the question.

12 THE WITNESS:

13 A. I -- As I said, he evoked a period for me. I
14 had definite recognition. It was not unusual for me,
15 since I had been in public business for so long to see
16 people coming in and out of L.A., or in and out of my
17 life. I mean, I knew and have known and still know an
18 inordinate amount of people by most people's framework
19 of friendships, you know.

20 Q. Do you know any people that look like Ron
21 Levin?

22 A. No. Only Ron Levin.

23 Q. Did you keep your eyes focused on him while
24 you were driving, causing you to have to rotate your
25 head, or was there just a point stopping, if you recall?

1 A. I don't think -- I don't think I did much
2 more than would be a natural glancing in a direction
3 noticing somebody, registering and looking back and just
4 moving on.

5 Q. Okay.

6 What was the next time after this incident you
7 saw Ron Levin off of San Vicente Boulevard?

8 A. I saw him -- I saw a photograph of him on the
9 news in, I think, March of that year, which did shock
10 me. Then that shocked me.

11 Q. Tell me about why that shocked you?

12 A. Because I just had seen him. And I was not
13 aware that Ron Levin was supposedly murdered, and that
14 he had any affiliation with the Billionaire Boy's Club
15 that I had heard vaguely about, but never paid any
16 attention to.

17 Q. What was your reaction when you heard from
18 the T.V. that he was supposedly murdered?

19 A. Well, I was in a shock. Looked at my
20 assistant. I was -- And said, "that's impossible. I
21 just saw this man." But I was also --

22 MR. GORDON: I am going to object to the
23 narrative.

24 A. -- preoccup --

25 THE COURT: Sustained. Just answer the

1 question you are being asked. Then he will move on to
2 another question.

3 THE WITNESS:

4 A. Okay. Sure.

5 Q. (BY MR. HUNT) Miss Ghaleb, was there
6 anything that happened in your own life that caused you
7 to put this on the back burner, so to speak, push it
8 back in your mind, immediately after you saw this news
9 event or within a short period of time thereof?

10 A. Yes. I was watching the news that day
11 because a friend of mine had been missing in an airplane
12 crash and they were covering it on the news, and I was
13 waiting to find out if they had found the body or the
14 man.

15 Q. Who was that friend?

16 A. His name was Dean Paul Martin.

17 Q. Do you recall in terms of weekdays, what day
18 of the week it was that Mr. Martin -- I apologize for
19 having to bring this up, but that his body was
20 recovered?

21 A. It was probably either Tuesday or a
22 Wednesday. By the time we -- He had been missing for a
23 few days before he was finally pronounced, you know,
24 that they found the remains of the plane which he was
25 in.

1 MR. HUNT: Excuse me, Your Honor. With the
2 Court's permission, may I have a word with Mr. Vance?

3 THE COURT: Yes.

4 (Whereupon there was a discussion off the
5 record between Mr. Hunt and Mr. Gordnier.)

6 THE COURT: So I'll let you discuss this at
7 the recess we are about to take.

8 We will take 15 minutes. Remember the
9 admonition, and we will resume promptly, 11:10.

10 (Whereupon a recess was taken.)

11 THE COURT: The record will show all the same
12 people are present. Go ahead, Mr. Hunt.

13 MR. HUNT: Thank you, Your Honor.

14 Q. (BY MR. HUNT) Before the break, we were
15 talking about the timing of the incident with Mr. Dean
16 Paul Martin.

17 Your Honor, now I am going to have it marked
18 for identification in a moment, but I have shown it to
19 Mr. Gordnier.

20 And Miss Gandolfo, could you please approach
21 Miss Ghaleb with that?

22 (Whereupon the document was
23 handed to the witness.)

24 Q. (BY MR. HUNT) Could you look at the first
25 paragraph there and tell me if it refreshes your

1 recollection at all, as to the month and day and year at
2 which Mr. Dean Paul Martin had his unfortunate accident?

3 A. Well, this says it was early Saturday
4 afternoon, March 21 is when he took off in the plane.
5 So it must have been probably Tuesday, by the time I saw
6 the photograph on television, or Tuesday or Wednesday of
7 the following week. Like I said, it took a few days to
8 find the body.

9 MR. GORDNIER: And I will stipulate that that
10 was in 1987, Your Honor.

11 MR. HUNT: March 21st of 1987, that he took
12 off?

13 MR. GORDNIER: That's what the article says.
14 Yes, that's what it says.

15 THE COURT: All right.

16 MR. HUNT: Stipulation accepted.

17 Your Honor, I would ask to have marked for
18 identification a document that says on the outside of
19 it, The Executive. It appears to be a copy of a first
20 page of a check register.

21 And it has R. G. Levin on the face of it.

22 THE CLERK: Defendant's 1278.

23 (Whereupon Defense Exhibit 1278,
24 first page of a check register,
25 was marked for identification.)

1 (Whereupon the document
2 was shown to Mr. Gordnier.)

3 (Whereupon the document
4 was handed to the witness.)

5 Q. (BY MR. HUNT) Miss Ghaleb, did Mr. Chou's
6 have a practice of accepting checks while you worked
7 there?

8 A. Yes.

9 Q. Look through that, what appears to be a check
10 register, and see if you spot the name of the restaurant
11 that you worked for at any place?

12 A. Yes.

13 Q. How many places do you see it?

14 A. Three.

15 Q. And those three places are highlighted in
16 yellow?

17 A. Yes.

18 MR. HUNT: Your Honor, the defense would ask
19 that the document be received into evidence.

20 MR. GORDNIER: Without further foundation I
21 would object, Your Honor.

22 THE COURT: Sustained.

23 MR. HUNT: Your Honor, we have in evidence an
24 example of Mr. Levin's handwriting, and I know the
25 authentication could be done by the jury, by comparison.

1 THE COURT: The objection is sustained.

2 Q. (BY MR. HUNT) Let's return to this incident.
3 You are watching T.V. and at this time you are looking
4 for information about, on what subject?

5 A. About Dean Paul Martin being missing.

6 Q. And what else did you see on that day while
7 you were watching T.V.?

8 A. It was a 4:00 o'clock news break, and there
9 was an update on Billionaire Boy's Club, and they showed
10 a picture of Ron Levin.

11 Q. And once again, tell the jury what went
12 through your mind when you saw that picture?

13 A. It's impossible. I just saw him, and I was
14 very surprised to know --

15 MR. GORDNIER: I am going to object. Further
16 narrative.

17 Q. (BY MR. HUNT) Did you have any other
18 thoughts at that time?

19 A. Well, I was concerned about my friend
20 missing, you know, so I was more concerned about that.
21 I was just very surprised. I talked it over with my
22 assistant.

23 MR GORDNIER: Again, Your Honor, we are into a
24 narrative.

25 THE COURT: Try to just answer the question

1 you are being asked, and then they will, I'm sure, ask
2 follow-up questions.

3 THE WITNESS: Okay.

4 THE COURT: Go ahead, Mr. Hunt.

5 Q. (BY MR. HUNT) Did you have a conversation,
6 at this time, about what you saw on T.V.?

7 A. As far as Ron Levin's photograph, yes, with
8 my assistant I did.

9 Q. What did you talk about with her?

10 MR. GORDNIER: I am going object on relevance
11 grounds, Your Honor.

12 THE COURT: All right. Sustained.

13 MR. HUNT:

14 Q. You were sufficiently surprised to mention to
15 to somebody that you were in the company of at the time?

16 A. Yes.

17 Q. Did you express to her that you had seen Ron
18 Levin recently?

19 A. Yes.

20 Q. Okay. Was it your habit to watch the news,
21 Miss Ghaleb?

22 A. No.

23 Q. Why is that?

24 A. I just hated television. I mean, I never
25 watch T.V.

1 Would you state your name and spell it,
2 please?

3 THE WITNESS: Nadia. N-a-d-i-a. G-h-a-l-e-b.

4 THE CLERK: Thank you.

5 THE COURT: Would you spell your last name?

6 THE WITNESS: G-h-a-l-e-b. As in boy.

7 THE COURT: Thank you. That's what I missed.

8

9 DIRECT EXAMINATION OF NADIA GHALEB

10 BY MR. HUNT:

11 Q. Good morning, Miss Ghaleb.

12 Could you tell the jury where you were working
13 in the late 70's and the early 80's?

14 A. Mr. Chou's Restaurant, Beverly Hills.

15 Q. What type of an establishment is Mr. Chou's?

16 A. Chinese restaurant.

17 Q. Is it sort of an upscale one, or is it the
18 sort of thing --

19 A. It was considered one of the two or three
20 kind of hippest restaurants in Los Angeles. I guess
21 what you call -- where, mainly it was a pretty well
22 heeled and starstudded clientele I guess is how, kind of
23 like the equivalent almost of what Spagos is today,
24 except it's, you know, it was in another era of
25 restaurants in Los Angeles. It was kind of before they

1 became very popular.

2 Q. What position did you have at Mr. Chou's?

3 A. I ran the front desk, and I was one of the
4 managers.

5 Q. What were your duties running the front desk?

6 A. Greeting people, taking reservations, making
7 sure that the restaurant was seated properly, making
8 sure that, you know, food came out of the kitchen
9 properly, basically overlooking the restaurant during
10 business hours.

11 Q. If somebody had a problem about the food or
12 the service, would they go to you?

13 A. Yes.

14 Q. And if someone wanted a special reservation
15 or a special table, would they go to you?

16 A. Yes.

17 Q. Did the man over you depicted in the
18 photographs over your left shoulder ever come to you
19 with any problems about food or appointments?

20 A. Um, he certainly came in a lot. I don't
21 recall problems, but he came in.

22 Q. Was he a frequent customer at Mr. Chou's?

23 A. Pretty frequent. Pretty frequent customer.

24 THE COURT: And Mr. Hunt, for the record you
25 want to pick one of those photographs and identify it

1 for the record?

2 MR. HUNT: Okay.

3 THE COURT: Unless the People are prepared to
4 stipulate that the identification of the photographs
5 that he just referred to --

6 MR. VANCE: I'm sorry. Agent Piccinotti was
7 speaking to me. What was the -- What photograph did she
8 pick?

9 MR. HUNT: I'll take care of it.

10 Q. (BY MR. HUNT) Miss Ghaleb, does the man --
11 do you recognize the man shown in all four photographs
12 to your left?

13 A. Yes.

14 MR. HUNT: Your Honor, those are Defense 1047,
15 as far as the two booking photos at the bottom.

16 THE COURT: That's probably sufficient for the
17 record.

18 MR. HUNT: Okay.

19 MR. VANCE: And that's been previously
20 identified as Ron Levin?

21 MR. HUNT: Yes.

22 Q. (BY MR. HUNT) You said that you saw him
23 fairly frequently. How many times or what sort of
24 frequency did Ron Levin have in visiting Mr. Chou's?

25 A. I was at the front at Mr. Chou's for about

1 four years.

2 Q. Okay.

3 A. I don't know. He would come in, you know, in
4 waves. Sometimes he would be around; at times he
5 wouldn't. Sometimes he would come two or three or four
6 times a week which was very common for clients of the
7 restaurant. Sometimes he wouldn't come in. Maybe he
8 would be gone for two months. He was just -- he was
9 kind of a continual character that would be around,
10 usually without reservations.

11 I can't remember him ever booking a
12 reservation. He used to just kind of always walk in and
13 expect to be taken care of.

14 Q. Is there anything else memorable about
15 Mr. Levin?

16 A. Well, memorable? I worked in Beverly Hills
17 for about 10 years, from the early 70's until the early
18 80's, and over the course of the 10 years, there were
19 quite a few Beverly Hills, what I would call -- you kind
20 of refer to as characters. I don't know what else you
21 would call them.

22 They were the people that would just hang out
23 a lot. He was probably the most memorable of a sort,
24 because he was a little bit, ah, he wasn't exactly
25 trustworthy. I mean he was -- Most clients and the

1 people that I knew in Beverly Hills were either in the
2 entertainment business, or they had a definite
3 credibility factor. They were people that you would,
4 people aspire to know and like to be around.

5 Ron Levin was always a little bit suspicious.
6 I mean he didn't, he didn't fit in exactly. I mean, he
7 did, but he didn't. He was always a little bit, you
8 know, he had that more druggy, or that other kind of an
9 element about him. He wasn't like the cleanest of the
10 Beverly Hills characters I had ever known, so for that,
11 he was kind of distinct.

12 Q. Thank you, Miss Ghaleb. The court reporter
13 probably will have a hard time keeping up with you.
14 Slow it down just a little bit.

15 A. Sorry. Okay.

16 Q. Was there anything distinctive about his
17 looks, in your own mind?

18 A. Definitely. I mean, for me he was definitely
19 distinctive looking. I thought he was. I think most
20 people do. I mean --

21 THE COURT: All right. Ask your next
22 question.

23 Q. (BY MR. HUNT) What was striking about him in
24 your mind? If there was any physical features of his
25 that you recall, as -- I mean the way he dressed, his

1 coloring, anything?

2 A. Mainly his coloring.

3 Q. And what about his coloring?

4 A. Well, he was prematurely gray, which is
5 always something that strikes you. I mean, I always
6 knew him as quite white. His whole, he just had a kind
7 of a certain pale grayness to his whole appearance that
8 was kind of, you know, distinct.

9 Q. Thank you, Miss Ghaleb.

10 Did you ever meet me, at any point, during
11 your time in Beverly Hills?

12 A. I don't recall.

13 Q. When was the first time you met me?

14 A. Today.

15 Q. Now. And where were we speaking?

16 A. When I was seated here.

17 Q. When you were over here, did I ask you
18 whether you recalled how tall or how tall you thought
19 Ron Levin was?

20 A. Yes. And I said, 6'1", 6'2".

21 Q. Did I also ask you what you recalled his eye
22 color to be?

23 A. Yes. And I said I thought for a few minutes,
24 and thought kind of a pale blue gray. Green gray,
25 somewhere in that area.

1 Q. How was Ron Levin built, to the best of your
2 recollection, as far as body type, body size?

3 A. Well, he was kind of imposing. Tall, but he
4 wasn't heavy by any means.

5 Q. Okay.

6 You say you worked at Beverly Hills over a
7 period of about 10 years. Only four of which was
8 running the front desk at Mr. Chou's.

9 Did you work at any other establishment where
10 Ron Levin frequented?

11 A. I worked in two different boutiques. One,
12 Theodore's Boutique on Rodeo Drive, and the other was
13 called Valerie Sabia, which doesn't exist any more.

14 Q. Did Ron Levin come around either or both
15 boutiques?

16 A. Yes.

17 Q. Which one?

18 A. Theodore's for sure.

19 Q. What was that boutique about? What type of
20 merchandise did they have?

21 A. It was based on the little stalls in San
22 Tropez, in France, where they, and the clothing was
23 rather casual. It was the very early days of tie dyed
24 clothing, and then cotton pants and T-shirts, the store
25 was all white. It was like the predecessor for the new

1 minimal environments that kind of came after.

2 Q. Did you ever see Ron Levin walking on the
3 street in Beverly Hills, other than at a time when you
4 were working at, you know, working inside the boutique
5 or Mr. Chou's?

6 A. I'm sure I did.

7 Q. When was the last time that you saw Ron
8 Levin, Miss Ghaleb, if you can put a date to it?

9 A. Other than the end of probably somewhere in
10 '82, which was when I left Mr. Chou's, it was somewhere
11 in '86 or '87. I think it was '87.

12 Q. Is there an event that happened about the
13 time that you saw Ron Levin that we could use to help
14 date it, date this sighting?

15 A. Well, this is -- I never did the research to
16 find out.

17 It was -- must have been an early semester
18 break or kind of a holiday week for the Brentwood School
19 on Sunset near Barrington. I presume they have -- they
20 had a February break or something, because it's -- I had
21 a friend whose daughter went to the school.

22 Q. Would this have been February or so of 1987?

23 A. Yes.

24 Q. Did you know that Ron Levin had been reported
25 as missing and possibly was considered by some people to

1 be dead in February of 1987?

2 A. No. I did not.

3 Q. So tell the jury where you were when you saw
4 Ron Levin.

5 A. Um, I had a job. Should I tell just
6 background on what happened?

7 MR. VANCE: I am going to object. Apparently
8 it calls for a narrative.

9 THE COURT: Sustained.

10 Q. (BY MR. HUNT) We will take it a piece at a
11 time.

12 A. Okay.

13 Q. Do you recall just where you were at the
14 point that you saw Ron Levin?

15 A. Yes. On San Vicente Boulevard in Los
16 Angeles, travelling east.

17 MR. HUNT: Your Honor, giving the prosecutors
18 an opportunity to look at this map --

19 MR. GORDNIER: It appears to be a map.

20 THE COURT: Is the street name she just
21 mentioned on that map?

22 MR. GORDNIER: It is, Your Honor.

23 MR. HUNT: Yes.

24 (Whereupon Defense Exhibit 1277,
25 a map of the Los Angeles area,

1 was marked for identification.)

2 MR. HUNT: This would be a map showing some of
3 the Los Angeles Beverly Hills area.

4 Q. (BY MR. HUNT) Miss Ghaleb --

5 MR. HUNT: Your Honor, with your permission,
6 may Miss Ghaleb approach the map?

7 THE COURT: Certainly.

8 Q. (BY MR. HUNT) There's a pointer on the chalk
9 ledge right behind you.

10 A. Huh?

11 Q. Could you take that pointer, stand up, and
12 try to indicate the general area, if it's depicted on
13 that map, where you would have seen Ron Levin?

14 MR. HUNT: Your Honor, may the record reflect
15 that Miss Ghaleb is pointing to a red highlighted
16 section of San Vicente Boulevard before it makes a bend
17 and intersects Wilshire Boulevard?

18 THE COURT: Yes.

19 MR. VANCE: And actually the way -- I don't
20 know, what, if it's meant that way. The pointer where
21 she was indicating was right, just to the right of San
22 Vicente.

23 THE WITNESS:

24 A. Yes, somewhere, right.

25 MR. HUNT: She's at the C right now in San

1 Vicente.

2 Q. (BY MR. HUNT) Could you point out where
3 Mr. Chou's would have been, if you know, if that area is
4 covered by the map?

5 A. It's on Camden in Beverly Hills, which is a
6 street, I don't know if it's on here.

7 Q. I know Camden. The street itself isn't
8 listed. Are there some streets around Camden that would
9 --

10 A. It was right off Wilshire. It was right
11 here. And it was before that Beverly Drive, that
12 intersection. Like it goes the same way as Canyon.
13 That is the Beverly Drive, the other Beverly Drive.

14 Q. This is Beverly Glen?

15 A. No. This one here.

16 Q. Yes. That's Beverly Drive?

17 A. Well, it was just one street, two streets
18 west of Beverly Drive.

19 Q. Okay. It would have been right in there?

20 A. No.

21 Q. This way?

22 A. This way. I don't know. Somewhere around
23 there.

24 Q. Right around here?

25 A. Somewhere around there, yes.

1 MR. HUNT: She's indicating an area where it
2 says --

3 THE WITNESS: Actually, I'll show you. It's
4 right here (Indicating.)

5 Q. (BY MR. HUNT) Beneath the word Boulevard,
6 relating to the word Wilshire, the far right-hand side
7 of Defense 1277.

8 A. I think, I'm not sure if Peck comes before or
9 after. I think it's -- I think about right here.

10 Q. We just needed a rough area, thank you.

11 Now Miss Ghaleb, was there a particular reason
12 why you were on the road at this time when you saw Ron
13 Levin?

14 A. I was on my way to work. It was not my usual
15 route, but because of the construction --

16 MR. GORDNIER: I am going to object to the
17 narrative, Your Honor.

18 THE COURT: Overruled.

19 THE WITNESS:

20 A. Because of the construction on Sunset
21 Boulevard at the Brentwood School, after two days of
22 getting stuck in traffic, I decided to take the San
23 Vicente to Wilshire Route. So it was about the only
24 time in four years that I took that route, of working
25 for, at that job.

1 Q. At the time that you saw Ron Levin, where
2 were you, yourself?

3 A. In my car.

4 Q. And that would have been on San Vicente
5 Boulevard?

6 A. Uh-huh, yes.

7 Q. And it's about the C of San Vicente, you are
8 saying, a rough --

9 A. Yes, there's a shopping mall.

10 Q. How far away from Ron Levin were you when you
11 saw him?

12 A. Well, I think I was in the right lane, and he
13 was getting into a car that was parked in the first, you
14 know. There would be a sidewalk, and then the parking
15 lot, and the car was parked facing San Vicente.

16 Q. Was there anything obstructing your view of
17 him?

18 A. No.

19 Q. You were sitting in your car, correct?

20 A. Right. I was driving.

21 Q. What type of automobile did you have then?

22 A. BMW 320 I.

23 Q. So you were looking through the -- Were you
24 looking through the front window of the BMW?

25 A. Yeah. I was kind of eking by there and I

1 glanced over and noticed Ron Levin getting in a car.

2 MR. HUNT: May the record reflect that she was
3 looking in the direction of her right shoulder when
4 she is recollecting that?

5 THE COURT: Yes.

6 Q. (BY MR. HUNT) And Ron Levin indeed was to
7 your right, as you were driving?

8 A. Right. Right in, you know, maybe straight
9 ahead, like, you know, when you kind of going over like
10 that, and you just look to your right. I mean --

11 Q. Did you have any thoughts when you saw Ron
12 Levin?

13 A. I did. I thought to myself, "That's funny, I
14 haven't seen him for a long time."

15 Q. Was there any doubt in your mind?

16 A. And it triggered off the -- It kind of stuck
17 with me, because it was a long drive to work, and it
18 kind of triggered off that period that I had worked in
19 Beverly Hills. It kind of reminded me of those 10
20 years. Just, you know. And I thought, "I haven't seen
21 him for a very long time. I wonder what that funny guy
22 is doing."

23 Q. Did you drive and wave at him, or honk your
24 horn, or anything?

25 A. Absolutely not.

1 Q. Was there a reason for that?

2 A. He -- That I didn't? I was on my way to
3 work, and he wasn't a close personal friend, or somebody
4 that I would go out of my way to see. So I just -- He
5 just evoked a period that's -- Really, all I can say of
6 that sighting of him, it was just, he evoked a period.

7 You see somebody you haven't seen for a few
8 years or three or four years, and they remind you of
9 something. He reminded me of an era.

10 Q. How long did you have your eyes on him?

11 A. I don't know.

12 Q. Did you -- How fast was your car moving
13 forward at the time about?

14 A. Not very fast. It was rush hour traffic
15 about 8:00, 8:30, and there are a lot of lights, so you
16 don't get a chance to go very fast.

17 Q. The normal speed on that road would -- if
18 there was no traffic -- would have been the posted speed
19 limit; if you know?

20 A. Right. Whatever that is, unless I was
21 speeding.

22 Q. Okay.

23 I'll just drop that question.

24 You weren't speeding that morning; were you?

25 A. No. No.

1 Q. You were going an exceptionally slow speed?

2 A. Yes. I'm sure it was somewhere around 20, 25
3 miles an hour. I don't think you can go faster.

4 Q. After you saw him, would it be fair to say
5 you had sort of a shock of recognition?

6 A. I wasn't shocked.

7 MR. GORDON: Object to the characterization of
8 Mr. Hunt and ask it be stricken as leading.

9 THE COURT: Overruled.

10 MR. GORDON: Thank you.

11 THE COURT: Go ahead and answer the question.

12 THE WITNESS:

13 A. I -- As I said, he evoked a period for me. I
14 had definite recognition. It was not unusual for me,
15 since I had been in public business for so long to see
16 people coming in and out of L.A., or in and out of my
17 life. I mean, I knew and have known and still know an
18 inordinate amount of people by most people's framework
19 of friendships, you know.

20 Q. Do you know any people that look like Ron
21 Levin?

22 A. No. Only Ron Levin.

23 Q. Did you keep your eyes focused on him while
24 you were driving, causing you to have to rotate your
25 head, or was there just a point stopping, if you recall?

1 A. I don't think -- I don't think I did much
2 more than would be a natural glancing in a direction
3 noticing somebody, registering and looking back and just
4 moving on.

5 Q. Okay.

6 What was the next time after this incident you
7 saw Ron Levin off of San Vicente Boulevard?

8 A. I saw him -- I saw a photograph of him on the
9 news in, I think, March of that year, which did shock
10 me. Then that shocked me.

11 Q. Tell me about why that shocked you?

12 A. Because I just had seen him. And I was not
13 aware that Ron Levin was supposedly murdered, and that
14 he had any affiliation with the Billionaire Boy's Club
15 that I had heard vaguely about, but never paid any
16 attention to.

17 Q. What was your reaction when you heard from
18 the T.V. that he was supposedly murdered?

19 A. Well, I was in a shock. Looked at my
20 assistant. I was -- And said, "that's impossible. I
21 just saw this man." But I was also --

22 MR. GORDON: I am going to object to the
23 narrative.

24 A. -- preoccup --

25 THE COURT: Sustained. Just answer the

1 question you are being asked. Then he will move on to
2 another question.

3 THE WITNESS:

4 A. Okay. Sure.

5 Q. (BY MR. HUNT) Miss Ghaleb, was there
6 anything that happened in your own life that caused you
7 to put this on the back burner, so to speak, push it
8 back in your mind, immediately after you saw this news
9 event or within a short period of time thereof?

10 A. Yes. I was watching the news that day
11 because a friend of mine had been missing in an airplane
12 crash and they were covering it on the news, and I was
13 waiting to find out if they had found the body or the
14 man.

15 Q. Who was that friend?

16 A. His name was Dean Paul Martin.

17 Q. Do you recall in terms of weekdays, what day
18 of the week it was that Mr. Martin -- I apologize for
19 having to bring this up, but that his body was
20 recovered?

21 A. It was probably either Tuesday or a
22 Wednesday. By the time we -- He had been missing for a
23 few days before he was finally pronounced, you know,
24 that they found the remains of the plane which he was
25 in.

1 MR. HUNT: Excuse me, Your Honor. With the
2 Court's permission, may I have a word with Mr. Vance?

3 THE COURT: Yes.

4 (Whereupon there was a discussion off the
5 record between Mr. Hunt and Mr. Gordnier.)

6 THE COURT: So I'll let you discuss this at
7 the recess we are about to take.

8 We will take 15 minutes. Remember the
9 admonition, and we will resume promptly, 11:10.

10 (Whereupon a recess was taken.)

11 THE COURT: The record will show all the same
12 people are present. Go ahead, Mr. Hunt.

13 MR. HUNT: Thank you, Your Honor.

14 Q. (BY MR. HUNT) Before the break, we were
15 talking about the timing of the incident with Mr. Dean
16 Paul Martin.

17 Your Honor, now I am going to have it marked
18 for identification in a moment, but I have shown it to
19 Mr. Gordnier.

20 And Miss Gandolfo, could you please approach
21 Miss Ghaleb with that?

22 (Whereupon the document was
23 handed to the witness.)

24 Q. (BY MR. HUNT) Could you look at the first
25 paragraph there and tell me if it refreshes your

1 recollection at all, as to the month and day and year at
2 which Mr. Dean Paul Martin had his unfortunate accident?

3 A. Well, this says it was early Saturday
4 afternoon, March 21 is when he took off in the plane.
5 So it must have been probably Tuesday, by the time I saw
6 the photograph on television, or Tuesday or Wednesday of
7 the following week. Like I said, it took a few days to
8 find the body.

9 MR. GORDNIER: And I will stipulate that that
10 was in 1987, Your Honor.

11 MR. HUNT: March 21st of 1987, that he took
12 off?

13 MR. GORDNIER: That's what the article says.
14 Yes, that's what it says.

15 THE COURT: All right.

16 MR. HUNT: Stipulation accepted.

17 Your Honor, I would ask to have marked for
18 identification a document that says on the outside of
19 it, The Executive. It appears to be a copy of a first
20 page of a check register.

21 And it has R. G. Levin on the face of it.

22 THE CLERK: Defendant's 1278.

23 (Whereupon Defense Exhibit 1278,
24 first page of a check register,
25 was marked for identification.)

1 (Whereupon the document
2 was shown to Mr. Gordnier.)

3 (Whereupon the document
4 was handed to the witness.)

5 Q. (BY MR. HUNT) Miss Ghaleb, did Mr. Chou's
6 have a practice of accepting checks while you worked
7 there?

8 A. Yes.

9 Q. Look through that, what appears to be a check
10 register, and see if you spot the name of the restaurant
11 that you worked for at any place?

12 A. Yes.

13 Q. How many places do you see it?

14 A. Three.

15 Q. And those three places are highlighted in
16 yellow?

17 A. Yes.

18 MR. HUNT: Your Honor, the defense would ask
19 that the document be received into evidence.

20 MR. GORDNIER: Without further foundation I
21 would object, Your Honor.

22 THE COURT: Sustained.

23 MR. HUNT: Your Honor, we have in evidence an
24 example of Mr. Levin's handwriting, and I know the
25 authentication could be done by the jury, by comparison.

1 THE COURT: The objection is sustained.

2 Q. (BY MR. HUNT) Let's return to this incident.
3 You are watching T.V. and at this time you are looking
4 for information about, on what subject?

5 A. About Dean Paul Martin being missing.

6 Q. And what else did you see on that day while
7 you were watching T.V.?

8 A. It was a 4:00 o'clock news break, and there
9 was an update on Billionaire Boy's Club, and they showed
10 a picture of Ron Levin.

11 Q. And once again, tell the jury what went
12 through your mind when you saw that picture?

13 A. It's impossible. I just saw him, and I was
14 very surprised to know --

15 MR. GORDNIER: I am going to object. Further
16 narrative.

17 Q. (BY MR. HUNT) Did you have any other
18 thoughts at that time?

19 A. Well, I was concerned about my friend
20 missing, you know, so I was more concerned about that.
21 I was just very surprised. I talked it over with my
22 assistant.

23 MR GORDNIER: Again, Your Honor, we are into a
24 narrative.

25 THE COURT: Try to just answer the question

1 you are being asked, and then they will, I'm sure, ask
2 follow-up questions.

3 THE WITNESS: Okay.

4 THE COURT: Go ahead, Mr. Hunt.

5 Q. (BY MR. HUNT) Did you have a conversation,
6 at this time, about what you saw on T.V.?

7 A. As far as Ron Levin's photograph, yes, with
8 my assistant I did.

9 Q. What did you talk about with her?

10 MR. GORDNIER: I am going object on relevance
11 grounds, Your Honor.

12 THE COURT: All right. Sustained.

13 MR. HUNT:

14 Q. You were sufficiently surprised to mention to
15 to somebody that you were in the company of at the time?

16 A. Yes.

17 Q. Did you express to her that you had seen Ron
18 Levin recently?

19 A. Yes.

20 Q. Okay. Was it your habit to watch the news,
21 Miss Ghaleb?

22 A. No.

23 Q. Why is that?

24 A. I just hated television. I mean, I never
25 watch T.V.

1 Q. Would you have been watching television if it
2 wasn't for the fact that you were looking for news about
3 your friend?

4 A. No.

5 Q. Do you follow -- Did you subscribe to the Los
6 Angeles Times?

7 A. No.

8 Q. Did you keep up on local, that is Los Angeles
9 news events, through any media source?

10 A. Well, it's funny. Yes and no. I did not
11 read the paper on a regular basis at all. But I was a
12 director of public relations for a hotel. And in terms
13 of the press aspects, my assistant basically handled
14 that.

15 She would keep me posted on what was, you
16 know, and we had a clipping service, so I got a lot of
17 press information through my information, but I didn't
18 specifically read, it wasn't necessarily local L.A.
19 Times newspaper or television.

20 Q. Did the clipping service present you with
21 descriptions that were relevant to the management of the
22 hotel?

23 A. Yes. And to publicity that the hotel was
24 getting.

25 Q. So it wouldn't necessarily have clipped for

1 you something about the Billionaire Boys Club trial?

2 A. Absolutely not. That's correct.

3 Q. After seeing Ron Levin on Sunset and having a
4 brief conversation with your assistant as you were
5 watching the television set, when was the next time that
6 you recall discussing this sighting?

7 A. A few -- probably -- it was probably a few
8 months later at -- at a baby shower in Encino.

9 Q. Why did it come up then?

10 MR. GORDON: If she knows, Your Honor.

11 THE WITNESS: I was speaking to a girl named
12 Jewel Bishop, who was a good friend of my sister's, and
13 we were talking about our -- what we did for a living.
14 And she told me that she worked for an attorney.

15 Q. Did she mention that man's name?

16 A. Not at the time. Not in that part of the
17 conversation. But --

18 MR. GORDON: Again, Your Honor, narrative.

19 THE COURT: Sustained. Ask your next
20 question.

21 Q. (BY MR. HUNT) She mentioned she worked for
22 an attorney?

23 A. Right.

24 Q. Did she say anything about what this attorney
25 was doing at the time?

1 A. Yes. She said that her, the attorney she was
2 working for was representing one of the Billionaire Boys
3 Club.

4 Q. Did that trigger anything in your mind?

5 A. Yes. I said, "Boy, I have a strange story to
6 tell you then."

7 Q. Did you tell her the story of your sighting?

8 A. Yes.

9 Q. And in much the same fashion as you told the
10 jury today?

11 A. I'm sure in a more narrative fashion.

12 MR. GORDON: I'd stipulate to that.

13 Q. (BY MR. HUNT) Did anything happen in
14 relationship to this sighting and the information you
15 provided? Her name was Jewel?

16 A. Uh-huh.

17 Q. --after you had talked to her at the baby
18 shower that day?

19 A. Yes. She was quite surprised with the
20 information and asked if I minded if she told the
21 attorney she worked for. And -- and I said "no." So
22 the next day, or week -- Here we go.

23 MR. GORDON: Yep, we are.

24 THE COURT: Ask your next question.

25 MR. HUNT: I will.

1 Q. (BY MR. HUNT) Did you at some point get
2 contacted by the office of Jeff Brodey?

3 A. Yes.

4 Q. Did you speak to Mr. Brodey?

5 A. Yes.

6 Q. Did he indicate he was representing Jim
7 Pittman?

8 A. Yes.

9 Q. To your knowledge, was this at a time that I
10 was already tried and convicted?

11 A. I didn't know who you were.

12 Q. Okay. You didn't know whether Mr. Brodey
13 represented me or Mr. Pittman or both of us?

14 A. No. Correct.

15 Q. Was there a time that you heard that someone
16 had been sentenced for the murder of Ron Levin?

17 A. On the radio some months after I had been --
18 maybe it could have been up to six months or eight
19 months after. I don't remember. I mean it was a period
20 of time --

21 Q. What sort of reaction did you have to the
22 fact that someone had been convicted of murdering a man
23 you saw on the street sometime after he was widely
24 believed to have died?

25 MR. GORDON: I am going to object to the form

1 of the question. Assuming facts not in evidence on the
2 ultimate question before the jury, and if need be, I
3 would be happy to be heard out of the presence.

4 THE COURT: You are going to have to be heard
5 a little louder.

6 MR. GORDNIER: It assumes facts not in
7 evidence. I'm sorry.

8 THE COURT: Read back the question.

9 (Whereupon the pending question was read back.)

10 THE COURT: Sustain a relevance objection.

11 MR. GORDNIER: Thank you, Your Honor.

12 Q. (BY MR. HUNT) Why didn't you come forward or
13 take some sort of action at that time, Miss Ghaleb?

14 A. I -- I had given my statements to an attorney
15 and to a private investigator, and felt that if they
16 felt it was relevant they would have called me.

17 I was quite confused about it in a way. In a
18 way I was -- I was confused about it, but I felt like I
19 had done -- I had come forward. If it was relevant they
20 would call, I guess.

21 Q. So, would it be fair to say, at this point,
22 you saw -- You felt that a decision had been made not to
23 use you by the people that were representing the man
24 that was sentenced?

25 MR. GORDON: Calls for speculation, Your

1 Honor. Object to the form of the question.

2 MR. HUNT: State of mind.

3 THE COURT: Overruled. Go ahead.

4 THE WITNESS:

5 A. Yes. It was also -- now that I'm remembering
6 -- close to the end of the trial conceivably, and they
7 had thought that maybe it was going to be a retrial and
8 they will subpoena me then. It was -- there was an
9 ambivalence about it.

10 Q. (BY MR. HUNT) Did you have any idea that
11 Jeff Brodey did not represent the man that was being
12 sentenced at that time, or had been sentenced?

13 A. I don't recall.

14 Q. Was there any other thought in your mind, or
15 -- actually, let me strike that.

16 At the point that you had first seen Ron
17 Levin, it was shortly thereafter that Dean Paul Martin
18 had his accident; is that correct?

19 A. It was within a couple months. It was, you
20 know, a few years ago.

21 I think I saw Ron Levin somewhere in February
22 around then. Could have been late January. Could have
23 been whatever, between January and February.

24 And as we know from documents that Dean's, I
25 saw that towards the end of March, the photograph, so it

1 could have been, you know, the outside was two months,
2 two and a half months.

3 Q. How hard hit were you by the incident or the
4 accident of Mr. Martin?

5 MR. GORDON: Irrelevant, Your Honor.

6 THE COURT: Overruled.

7 MR. GORDNIER: Thank you.

8 THE WITNESS:

9 A. He was a very close friend, so I was very
10 sad.

11 MR. HUNT: All right. Thank you, Miss Ghaleb.

12 MR. GORDNIER: May I, Your Honor?

13 THE COURT: Yes.

14 CROSS-EXAMINATION OF NADIA GHALEB

15 BY MR. GORDNIER:

16 Q. I am going to begin by asking if you can do
17 me a kindness now during the course of
18 cross-examination. You will find I talk slow, and if
19 you can match my speed, it will work out great.

20 A. Okay.

21 Q. You demonstrated for the jury how you were
22 driving along and you turned to your right and then you
23 sort of turned back; do you recall that?

24 A. Uh-huh.

25 Q. Okay.

1 I have a watch with a second hand, ma'am, and
2 when I ask you to begin, I would appreciate it if you
3 would glance over as you recall that you did, and then,
4 go through the action. And when your head comes back
5 towards me I am going to assume that you are finished;
6 is that fair?

7 A. Yes.

8 Q. All right.

9 Q. Would you please begin, ma'am?

10 A. (Witness complies with request.)

11 MR. GORDNIER: Your Honor, I timed that at
12 about five seconds or thereabouts. Between four and
13 five seconds.

14 MR. HUNT: That's acceptable to the Defense.

15 Q. (BY MR. GORDNIER) Thank you, Miss Ghaleb.

16 Would you describe the traffic conditions on
17 the morning that you saw a person whom you believed to
18 be Mr. Levin?

19 A. It was typical rush hour traffic in Los
20 Angeles on San Vicente, which is tight.

21 Q. Okay. You were moving -- if I recall your
22 testimony on direct, by your recollection, an estimate
23 of between 20 and 25 miles per hour.

24 A. I'm sure something like that.

25 Q. Were you approaching an intersection, ma'am?

1 A. No.

2 Q. So this was a situation where there were no
3 stop lights that you were anticipating or anything of
4 that nature?

5 A. There was a stop light at Bundy.

6 Q. I'm sorry, ma'am?

7 A. There was a stop light at Bundy before where
8 I saw him. And there's a stop light at Wilshire where
9 it makes the curve, so between the two red lines there
10 are stop lines.

11 Q. How much distance, if you can estimate for
12 us, would there be between those two red lights?

13 A. Maybe a mile.

14 Q. Okay.

15 A. Mile and a half.

16 Q. Now when you say it was it typical traffic,
17 was it start/stop traffic?

18 A. Yes, because it backs up. Turning on to
19 Wilshire it gets a little bit tight.

20 Q. So you have to be concerned, do you not,
21 ma'am, about the fact that people might be stopping in
22 front of you?

23 A. Sure.

24 Q. Okay. And, so, any attention taken away from
25 driving is something that you would do carefully, I take

1 it?

2 A. Yes. Yes.

3 Q. Did you have the radio on that morning,
4 ma'am?

5 A. Most of the time when I'm in the car I have
6 the radio on. But I don't recall.

7 Q. Okay.

8 And, where -- ma'am, when you looked to your
9 right, were you seeing this vehicle? Was it parked at
10 the curb?

11 A. There's like I said a sidewalk. I think
12 there's a sidewalk, and it's a shopping center that goes
13 like that. (Indicating.)

14 MR. GORDNIER: The record should indicate that
15 the witness is indicating what I would call a
16 semicircle.

17 THE COURT: Very well.

18 THE WITNESS:

19 A. Kind of a semicircle, and there are just
20 parking places facing the street this way [indicating].
21 So it's a sidewalk, and maybe a low hedge, and then the
22 cars. I don't know if there was a low hedge or not. I
23 can't quite remember. Something new. It's kind of
24 standard looking.

25 Q. Okay.

1 What stores were in the shopping center,
2 ma'am; if you know?

3 A. Well, there's one coffee shop that people eat
4 at where I used to eat at a lot. There's an Italian --
5 a little Italian restaurant over on one side. There's
6 another little New York deli or something at one end.

7 In terms of stores, I'm not quite. There's
8 one kind of gifts, plates and things like that store, in
9 another location. This was kind of in front of the
10 coffee shop.

11 Q. Okay. Have you passed this place numerous
12 times?

13 A. Numerous.

14 Q. So you are familiar with --

15 A. Very familiar with.

16 Q. Now perhaps I misunderstand your testimony
17 this morning, ma'am, but you said that was sort of an
18 unusual route for you to take? Did I misunderstand?

19 A. No, that was correct. It was. During that
20 period of time, that was a very unusual route for me to
21 take.

22 Q. Okay. Now during that period of time, ma'am,
23 which would be early 1987, let's say first quarter --

24 A. Uh-huh.

25 Q. -- where were you employed?

1 A. At the Hollywood Roosevelt Hotel on Hollywood
2 Boulevard.

3 Q. Okay. And that's, basically, for lack of a
4 better term, sort of over there, ma'am?

5 A. Yes, it is. It's way east.

6 Q. Way east?

7 A. And north.

8 Q. Normally you would get there by something
9 like the Santa Monica freeway?

10 A. No, I did not.

11 Q. Like most Los Angelinos, you take surface
12 streets?

13 A. Exactly.

14 Q. I thought so. So this was a very unusual
15 route for you, but you had become, I take it, in the
16 years that you lived in Beverly Hills, familiar with
17 this shopping center in the San Vicente area; is that
18 correct?

19 A. Yes. San Vicente was a street I traveled on
20 often. I just happened, on my way to work, I turned off
21 on the left to Bundy, and I went down Sunset and I
22 always took Sunset, so that was just different.

23 Q. It was just a little jog difference, so to
24 speak?

25 A. Yes.

1 Q. Okay. Now, ma'am, could you describe for me
2 the dress of this person that you believed to be
3 Mr. Levin, on the occasion?

4 A. I don't recall.

5 Q. Well, was he dressed in a suit or sport's
6 clothes?

7 A. Well, sport's clothes.

8 Q. Shirt, slacks?

9 A. Yeah.

10 Q. Okay. You have no recollection of color?

11 A. I --

12 Q. Without guessing, ma'am.

13 A. No. I kind of sensed that it was a white or
14 a light colored shirt of some sort, but like a T-shirt
15 probably or something, but I can't say for sure, so --

16 Q. Could it have been a muscle T-shirt?

17 A. I doubt it. What's a muscle T-shirt?

18 Q. At that time, one of those things that kind
19 of has a couple of straps, and sort of has a big opening
20 and hairy arms and stuff like that?

21 A. No, it wasn't.

22 Q. Wasn't one of those?

23 A. No. I don't recall seeing arms sticking out
24 either.

25 Q. So you don't really, in fairness, recall how

1 the gentleman was dressed?

2 A. I would say that's fair that I don't recall.

3 Q. He would have had on a coat and tie?

4 A. That I don't think.

5 Q. You don't think. Okay. And can you tell me,
6 ma'am, when you first saw this person whether he was
7 walking or standing?

8 A. He was getting into a car.

9 Q. Now, when you say getting into a car, do you
10 have a recollection of the car door being open, ma'am?

11 A. Yes. Yes.

12 Q. And when you say getting into a car was he
13 standing there with the car door opened and sort of the
14 handle to the door in his hands, or was he doing
15 something else; if you recall, ma'am?

16 A. He probably opened the door, and like
17 standing, and like going to get into the car, and I just
18 glanced over there and noticed him.

19 Q. Now you were travelling along in --

20 MR. GORDNIER: Let's see, I'm wondering if we
21 could take a piece of paper, Miss Gandolfo. I am going
22 to describe your drive. I promise to put one up at
23 later time.

24 MISS GANDOLFO: We had the pad.

25 MR. VANCE: There's the pad.

1 MR. GORDNIER: Oh, okay. I have been looking
2 for an excuse to try that for some time.

3 Q. (BY MR. GORDNIER) I am going to ask you,
4 ma'am, if you could step over to this piece of paper for
5 me, here, and --

6 A. I can't draw.

7 Q. And with this pen --

8 A. No, I can't.

9 Q. Well, I'm sure we will get through this.
10 Take it slow.

11 A. What am I doing?

12 Q. I would like to have you, ma'am, just draw a
13 line across the top there that we will use to represent
14 San Vicente, the street.

15 A. Okay. Here.

16 Q. Nicely done.

17 A. Thank you.

18 Q. And then, ma'am, if you would draw a similar
19 circle here.

20 A. All right.

21 Q. And then just sort of some lines.

22 A. Parking spaces.

23 Q. Lines that would indicate parking spaces. I
24 told you this would be easy.

25 A. Looks like a watermelon. Okay.

1 Q. Ma'am, can you tell me if you would -- excuse
2 me.

3 The coffee shop that you have described would
4 be?

5 A. Kind of in the middle of this little center.
6 The Italian restaurant is down here.

7 THE COURT: Miss Ghaleb, we still need to be
8 able to hear what you are saying. Just don't start
9 talking to Mr. Gordnier. Keep your voice up.

10 Q. (BY MR. GORDNIER) Now, Miss Ghaleb, we have
11 indicated a square where the coffee shop that you have
12 described would be approximately located; is that
13 accurate?

14 A. Uh-huh.

15 Q. Now I believe you said, ma'am, or -- strike.
16 Can you show the Ladies and Gentlemen of the
17 jury, just by putting a rectangle in where you believe
18 you saw the car there?

19 A. (Witness indicates.)

20 Q. Okay. And can you also, by putting together
21 a rectangle, ma'am, show in relationship to the car that
22 you have located here, where your automobile was?

23 A. (Witness indicates.)

24 Q. Give us a full rectangle there, ma'am, so we
25 will have that.

1 A. (Witness complies.)

2 Q. Very well. Thank you Miss Ghaleb. Just have
3 a seat.

4 So as I understand it, ma'am, you are to the
5 west on San Vincente of the vehicle that you believe the
6 individual is getting into; is that right?

7 A. Yes, correct.

8 Q. The car door is open and the individual is
9 about to get into it; is that correct, ma'am?

10 A. Yes.

11 Q. Now, at any time, ma'am, does your car get
12 parallel with the vehicle?

13 A. Oh, sure. And then I pass it.

14 Q. And then you pass it. When you pass it,
15 where is the man?

16 A. Probably already in his car.

17 Q. Probably already in his car?

18 Well, ma'am, when you first see him, is his
19 back turned to you a little bit?

20 A. No. I think I see his -- the profile.

21 Q. You see his profile?

22 Q. So it's -- So he's sort of turned sideways to
23 you?

24 A. Uh-huh.

25 Q. Is he leaned over, ma'am, sort of like

1 getting --

2 A. Probably a little bit leaned over.

3 Q. A little bit leaned over, kind of getting
4 into the car.

5 Is his face down below the windshield of the
6 car?

7 A. He's not inside the car yet.

8 Q. Well, that wasn't my question yet.

9 The door is open, there's a windshield on this
10 car. Is his face and head down below the level of the
11 windshield?

12 A. I don't recall.

13 Q. What's your best -- You don't have a
14 recollection?

15 A. I just recall seeing him getting into a car.

16 Q. What you actually, isn't it true, ma'am, that
17 what you actually recall is seeing a gray-haired man
18 that you thought was about the same height and physical
19 description as Mr. Levin?

20 A. I saw Ron Levin, because I didn't have any
21 reason not to see Ron Levin from my point of view at
22 that time. My instinct was I saw Ron Levin.

23 MR. HUNT: Argumentative. Objection.

24 THE COURT: Overruled.

25 Q. (BY MR. GORDNIER) Your instinct was -- Now,

1 ma'am, when you first see that person, you see a
2 profile; am I correct?

3 A. Uh-huh.

4 Q. You are travelling at 25 miles an hour.
5 What's the first thing that strikes you, that says that
6 maybe this is Ron Levin in your mind?

7 A. The first thing that struck me was I saw a
8 guy that was very familiar to me and said, this is Ron
9 Levin. It all happened at once.

10 Q. When you first see this person, so that I
11 clearly understand it --

12 MR. GORDNIER: Harriet, may I have one of your
13 slips there so we can mark this?

14 THE CLERK: People's 155.

15 MR. GORDNIER: Thank you.

16 (Whereupon People's Exhibit 155,
17 the Ghaleb diagram,
18 was marked for identification.)

19 Q. (BY MR. GORDNIER) Ma'am, I am going to go up
20 to People's 155, for identification, and put the Number
21 1 in the rectangle that represents the vehicle this
22 person was getting into.

23 A. Okay.

24 Q. And I am going to put the Number 2 on the
25 rectangle that represents your vehicle.

1 When you first saw this person, ma'am, were
2 Vehicles 1 and 2 at the relative location that's
3 depicted on the diagram, People's 155. "Yes" or "no"?

4 A. To the best of my recollection, yes.

5 Q. All right. So, at that point in time, ma'am,
6 you could not see the gentleman's face; could you?

7 A. I saw his face.

8 Q. Ma'am, I want to talk about this point in
9 time. At that point in time, did you see the face or a
10 profile; which is it?

11 A. Well, I thought a profile is on a face.

12 I saw, you know, it -- I would -- I don't know
13 how to answer it. I don't know how to answer it in the
14 way I just did.

15 Q. You saw a profile?

16 A. It's -- it's -- I saw a profile. I saw his
17 full face. I mean it's kind of like -- if I look --

18 Q. When did you see your see his face?

19 A. I saw Ron, I mean, he was there.

20 Q. Ma'am?

21 A. Excuse me.

22 Q. When did you see his face?

23 A. That, sir, was over five years ago, and it
24 was just a casual glance. I can't give you any more
25 information than I am giving about that.

1 Q. Well, ma'am, let's try.

2 A. I'm --

3 Q. When did you see a full face on view of this
4 person, ma'am, if you did.

5 A. I don't know how to answer that question.

6 Q. Very well.

7 Let's try another question, ma'am.

8 When your car got parallel with Vehicle Number
9 1, was the individual already in Vehicle Number 1?

10 A. I -- I -- that's speculation. I don't recall
11 that he -- I don't recall ever seeing him submerged in
12 the car. I only recall him getting into the car. I
13 mean, I don't know that he didn't look at me, that's
14 where I saw his full face.

15 Q. In the five seconds, four and a half seconds
16 that you have described in the little demonstration we
17 did, did it begin when your car is at the location shown
18 with Vehicle 2.

19 A. I drew it. It was -- He was in front of me
20 and over to the side, like Harriet or --

21 Q. What was the distance, ma'am, between Vehicle
22 1 and Vehicle 2, when they were at the point when you
23 first saw this man?

24 A. Well, I'll tell you the distance.

25 Q. What was the distance, ma'am?

1 A. In terms, in relation to this room?

2 Q. That would be helpful.

3 A. He was -- It was about no further than the
4 gentleman in the first row with the glasses on, who I
5 can see very clearly.

6 Q. The gentleman here in the green sweater?

7 A. I think it was at a slightly different range,
8 but it wasn't that far. I mean, I was on the --

9 THE COURT: By previous measurement that's a
10 distance of about 31 feet from the witness stand.

11 MR. GORDNIER: Thank you. I appreciate that.

12 THE WITNESS: I would say that's about right.

13 Q. (BY MR. GORDNIER) Thank you.

14 If you can tell me, ma'am, with respect to
15 that distance, the individual's car was parked at a 90
16 degree angle as shown on 155?

17 A. Uh-huh.

18 Q. Okay. And you're coming along perpendicular
19 to his vehicle; is that right?

20 A. Yes.

21 Q. And he's getting into the driver's side of
22 his vehicle?

23 A. Yes.

24 Q. You are 31 feet away from him, and you glance
25 over to roughly four and half to five seconds; is that

1 accurate?

2 A. (Witness nods head.)

3 Q. Okay. What color was that man's hair? Was
4 it dark brown or gray?

5 A. Gray.

6 Q. Did he have a beard or not have a beard?

7 A. My recollection is he had a beard though I
8 knew him without a beard as well.

9 Q. When did you know him without a beard?

10 A. Well, during the course of the 10 years that
11 I knew Ron Levin, I knew him to have a beard and not
12 have a beard.

13 Q. With respect to the man that you saw on this
14 day, ma'am, did he had a beard or not have a beard?

15 A. He had a beard that day.

16 Q. As best you recall?

17 A. As best I recall, right.

18 Q. Now, ma'am, what was the car?

19 A. My recollection was it was a brown Mercedes,
20 a chocolate brown Mercedes sedan.

21 Q. Four doors?

22 A. No. Two doors, I think. That was that two
23 door model, but a big one, not the little sports car
24 model.

25 Q. Okay. And, ma'am, the height of the

1 gentleman you give is between 6'1" and 6'2".

2 A. (Witness nods head.)

3 Q. How tall am I?

4 A. Probably about the same height, maybe.

5 Q. About 6'1" or 6'2" you say?

6 A. Yeah, probably.

7 Q. Okay.

8 And, can you tell me, ma'am, if you would, the
9 sunlight conditions that day, were you wearing dark
10 glasses?

11 A. Well, southern California is very sunny. It
12 was in the morning and I always -- and I was driving
13 into the sun. I mean it rises in the east, so -- and I
14 was heading east, so, yes, I'm sure I was wearing
15 sunglasses.

16 A. Do you wear prescriptions?

17 A. No.

18 Q. Do you wear contacts?

19 A. No.

20 Q. So you had on your dark glasses. You were
21 looking into the sun.

22 Now, also, ma'am, I wonder if you could tell
23 me, do you know a person named Bobby Roberts?

24 A. I don't know. It's -- it doesn't ring a
25 bell.

1 Q. Do you know a person named Brooke Roberts?

2 A. Not that I know of.

3 Q. Okay.

4 Have you talked with any investigators other
5 than Mr. Brodey's investigator and Mr. Brodey?

6 A. I spoke with two investigators, one shortly
7 after I met with Mr. Brodey and one a few years later.
8 I don't recall either one of their names.

9 Q. And on either of those occasions, did those
10 people take notes, ma'am?

11 A. Yes. They both took notes.

12 Q. Have you prior to testifying here today,
13 ma'am, read any reports that purported to be prepared by
14 Mr. Brodey's investigator or some other investigator?

15 A. I was sent early on my testimony to sign that
16 from the original investigation.

17 Q. When you say "testimony," ma'am --

18 A. Well, my statements whatever my statement was
19 to --

20 Q. Who sent you that?

21 A. Was taken at the Hollywood Roosevelt and it
22 was -- Who sent me this recently?

23 Q. Yes, ma'am.

24 A. Um, Joe Hunt.

25 Q. And do you have that with you, today, ma'am?

1 A. Not in the courtroom.

2 Q. Did you look at it last night?

3 A. No, not last night.

4 Q. When did you last look at it?

5 A. Um, I think I glanced at it on Monday.

6 Q. And, you did that for purposes of refreshing
7 your recollection?

8 A. Yes.

9 Q. Okay. How many pages is that report, ma'am?

10 A. Well, there are two different interviews.

11 Q. So there were two different reports?

12 A. Two different reports, right. there are a
13 couple pages, each one of them.

14 Q. Excuse me, ma'am. That's fine.

15 What were you going to say?

16 A. Well, I was just going to say that I had gone
17 with a private detective to this location, and the
18 second one that met with me had it mapped out. We
19 walked it through.

20 Q. When was that?

21 A. Because this was not included in what I
22 received.

23 Q. When was that that you did that?

24 A. That was a few years after. It wasn't the
25 freshest you know.

1 Q. Okay.

2 Now, ma'am, when you were seeing this
3 television program and waiting for the report about
4 Mr. Martin, and you observed this photograph of Ron
5 Levin shown on the television, that was a news program,
6 correct?

7 A. Yes.

8 Q. Did that news program clearly indicate to you
9 that Mr. Levin's picture was being shown in connection
10 with a murder prosecution that was then going on in Los
11 Angeles?

12 A. Yes. I think it was an update on the
13 progress of that trial.

14 Q. And, understanding, ma'am, that you were
15 deeply affected by Mr. Martin's disappearance and
16 subsequent death, as I understand your testimony on
17 direct, you were also deeply affected by the fact that
18 here was a person who was supposed to have been the
19 victim of a murder and you were a witness to the fact
20 that that person wasn't dead, correct?

21 A. Yes.

22 Q. And, this is in 1987.

23 Did you think, ma'am, that it was important,
24 perhaps, that you call that to the attention of the
25 authorities? And by authorities, ma'am, I mean, police

1 or prosecutors.

2 A. I only recall being very surprised, thinking
3 it was impossible. And being a little bit confused.
4 But -- but literally on the heels of that, they found
5 Dean, and I was so involved with all of my friends being
6 so upset, and his family and the subsequent funeral,
7 that the other thing just slipped out of my mind, never
8 to be re -- I never thought of -- about it again until I
9 bumped into Jewel.

10 Q. So, you would -- Would it be fair to say,
11 ma'am, that you didn't become involved because you were
12 preoccupied with these other things?

13 A. 75 percent preoccupied, yes. You know, I
14 have often thought back on what -- why didn't I. But,
15 it just wasn't -- I was really busy. I had a very
16 demanding job. I worked 18 hours a day.

17 Q. What was your job at that time, ma'am?

18 A. I was director of public relations for this
19 hotel, but it had just been reopened. It had a lot to
20 do with the Hollywood, cleaning up Hollywood, and I --

21 Q. That's the hotel right across from Grauman's
22 Chinese; isn't it?

23 A. Yes. I booked the talent for the cinegrill,
24 and I was up late because I had to open acts in there,
25 so I was very, very busy.

1 Q. Too busy and occupied to see the authorities?

2 A. Yes, really.

3 Q. Okay, ma'am. Now what's your current job,
4 just out of curiosity?

5 A. Well, I'm currently a mother, and I have
6 started a small film production company.

7 Q. Okay. And, how long have you been in that
8 business, ma'am?

9 A. Well, the company that I'm associated with I
10 worked for right after I left Mr. Chou in '82, for about
11 a year.

12 Q. I wonder if you could tell me, ma'am --

13 A. Then --

14 Q. I'm sorry?

15 A. Sorry. Well, when I went back to work for
16 them, and I was employed with them for about three
17 years, building their offices.

18 Q. Can you tell me how many jobs you have had,
19 ma'am, since about 1982, in the last 10 years?

20 A. I had the job with Hemdale (phonetic). And I
21 went to New York and opened a restaurant there, and I
22 came back, and I was operating as a restaurant
23 consultant in that period, so it was common for me to
24 open start-up businesses and go do another one. And I
25 came back to Santa Monica and I did another one there.

1 I spent about nine months in Paris. I worked
2 at 20th Century Fox on one movie.

3 I opened a restaurant right, literally, before
4 you get to Wilshire, so in that location, that no longer
5 exists. What else have I done?

6 Then I built this building and started working
7 -- Most of the time I was self-employed, however, I mean
8 I was, operated as a consultant, so I was often
9 self-employed.

10 Q. Okay. Now, ma'am, with respect to the
11 sentencing circumstances that Mr. Hunt's talked with you
12 about, you said that part of the reason you didn't go
13 forward to the authorities at that time is that, again,
14 and I believe it's your phrase, you were quite confused;
15 is that right?

16 A. Yes.

17 Q. Okay.

18 Now, ma'am, and I want to be clear on this.

19 You had talked with Mr. Brodey by that time?
20 You talked with the defense investigator by that time?

21 A. By that time I wasn't confused.

22 A. I'm sorry, you weren't confused any more?

23 A. Well, no. Once I had already spoken to
24 somebody it was kind of -- Oh, the time I said I was
25 confused is when I heard it on the radio. I'm sorry.

1 Q. Yes, ma'am, that was my recollection, too.

2 A. Okay. Sorry.

3 Q. Now we are talking about that second time
4 when you were again confused about what to do. Did you
5 call Mr. Brodey or the investigator and say, "I'm
6 confused; what should I do?"

7 A. I think I had a conversation with him and he
8 had said -- I had had a few conversations with
9 Mr. Brodey, and he had decided --

10 Q. Ma'am, and I'm sorry for interrupting you.

11 A. Yes.

12 Q. I want to focus on the time after the radio
13 program when you were quite confused. And my question
14 to you was, at that time, not before, did you talk to
15 Mr. Brodey or his investigators?

16 A. I think, I -- I think I spoke to someone
17 because they said there was going to be most probably a
18 retrial and they would probably use me as a witness in
19 the retrial.

20 Q. Now --

21 A. So I let it go.

22 Q. Well, my question to you, ma'am, is this:
23 Were you confused about whether you ought to go to the
24 authorities, or were you confused about whether you were
25 going to be a witness?

1 A. I was confused morally about what one does in
2 a situation like that.

3 Q. You were confused morally about whether one
4 should perhaps --

5 A. Be -- Be aggressive, right.

6 Q. And the decision you made was not to be
7 aggressive?

8 A. That's right.

9 Q. Now, ma'am, you have never been a witness in
10 any proceeding; have you, ma'am?

11 A. No.

12 Q. Until here?

13 A. Yes, that's correct.

14 Q. So Mr. Brodey didn't, in fact, use you as a
15 witness at any time in any initial trial or in any
16 retrial; did he?

17 A. No, he did not.

18 Q. Now, ma'am, when you -- How long a period of
19 time would you say were you confused about this, after
20 you heard the radio broadcast?

21 A. I have been on and off confused. It's an
22 unusual situation to have happen to you.

23 Q. How did you get in touch with Mr. Hunt?

24 A. I didn't get in touch with Mr. Hunt.

25 Q. Who got in touch?

1 A. I was subpoenaed by Mr. Hunt.

2 Q. Well, did somebody hand you the subpoena?
3 Did he send it to you in the mail?

4 A. They handed me the subpoena at my door.

5 Q. Who was the person that handed you the
6 subpoena?

7 A. I think her name is Cindy. Cindy something.
8 She was blonde and she came to my door.

9 Q. Was that a surprise that she came to your
10 door with a subpoena, or had you had some contact with
11 someone who told you to expect one?

12 A. She had come to my house and my housekeeper
13 was very surprised when she came because she didn't know
14 who she was and she kind of frightened her and she left
15 a -- she left her name.

16 Q. And what did you do?

17 A. And a phone number. I called her because I
18 didn't know who she was.

19 Q. Thank you, ma'am. You called her?

20 A. Yes.

21 Q. And at the time you called her, did she
22 explain to you that you were then being subpoenaed as a
23 witness in connection with this matter?

24 A. She -- yes, in connection with this matter.
25 But not -- I was unclear about who the person was or any

1 of the ramifications. I just figured finally there was
2 a retrial.

3 Q. I see.

4 Now, ma'am, what you are saying, then, is that
5 you thought this was the retrial that back in 1987 you
6 had heard about?

7 A. Yes.

8 Q. I see.

9 Tell me, how many times since you heard that
10 on the radio in 1987 did you contact Mr. Brodey's office
11 attempting to find out when this retrial or whatever was
12 going to occur?

13 A. Never.

14 MR. GORDNIER: Just a moment, if I may, Your
15 Honor.

16 Q. (BY MR. GORDNIER) Ma'am, a couple of other
17 questions, if I may.

18 The last time you saw Mr. Levin, at this
19 Mr. Chou's Restaurant was some tie before you left in
20 1982, as I understand your testimony; is that correct?

21 A. Yes. Somewhere. It would be like that.

22 Q. And the next time you saw a person that you
23 thought was Mr. Levin was in -- five years later; is
24 that right?

25 A. To the best of my recollection, yes.

1 Q. And that had something to do with the
2 Brentwood School, as I understand your testimony this
3 morning?

4 A. Well, the Brentwood.

5 Q. What was that?

6 A. The Brentwood School was the only way I had
7 of placing it in time. There was road construction, and
8 something was going on at the Brentwood School, and it
9 involved the roads. It was this plumbing or something
10 so my route on Sunset --

11 Q. It changed?

12 A. It was just too dense with traffic, so that's
13 why I changed my route.

14 Q. Okay. Now, ma'am, with respect to the
15 Mr. Levin that you saw at Chou's in 1982, was the
16 appearance of that person substantially similar to the
17 appearance of the person that you believed to have been
18 Mr. Levin in 1987?

19 A. Yes.

20 Q. Okay.

21 Tell me, ma'am, you said on direct that you
22 know lots of people and are acquainted with lots of
23 people. Have you had the experience of seeing someone
24 that you thought you knew and discovering that you were
25 mistaken about that?

1 A. I'm sure that's a common human thing,
2 occurrence, but --

3 Q. My question was, have you ever had that
4 experience?

5 A. I'm sure I have to be able to say yes. But,
6 you know, I don't recall one right this second. But it
7 sounds like it's a pretty -- though not all people are
8 very distinctive looking. For me there's a separation.

9 Q. Well, ma'am, I appreciate that.

10 Now, one other thing, while I think about it.

11 The time frame and the shopping center that
12 you are talking about, how long a period of time, ma'am,
13 in distance, if you can tell me, is it from this
14 shopping center to going around the curb there on San
15 Vincente?

16 A. It's kind of the next thing that happens at
17 the end of the driveway. Then there's another little
18 restaurant where it makes the curve.

19 Q. So if I understand then correctly, if we were
20 to relate People's Exhibit 155, to Exhibit 1277, the
21 shopping center would be at what location? Can you show
22 me, please?

23 A. It would be right here. (Indicating.)

24 Q. Right in here?

25 I wonder if you would take the pen and just

1 make a mark, please, on 1277.

2 A. The purple pen?

3 Q. That sounds just fine. Just a little square
4 there that kind of illustrates the shopping center, if
5 you would.

6 A. Back in here.

7 Q. Where it would appear to be appropriate to
8 you.

9 And how far is that from the curb?

10 A. By the time you finished it probably left
11 like right here. [Indicating.]

12 Q. Can you give me an estimate in feet of how
13 far it would be from the curve?

14 A. How much the shopping center is from the
15 curb?

16 Q. The curve?

17 A. Oh, the curve?

18 Q. Uh-huh.

19 A. Boy, it's, you know, probably the distance of
20 the room.

21 MR. GORDNIER: And do we have an estimate on
22 that, Your Honor?

23 THE COURT: Yes. Are you -- I would like to
24 clarify: Are you referring to the distance from the
25 front wall to the back wall?

1 THE WITNESS: Right. Yes. Something like
2 that.

3 THE COURT: It's about 45 feet.

4 Q. (BY MR. GORDNIER) Okay. And that would be
5 about the distance from the edge of the driveway?

6 A. Yeah.

7 Q. And if I may, ma'am, the easternmost edges of
8 the driveway of the shopping center, to the curve, that
9 seems approximate and appropriate?

10 A. Yeah. I could say that could be feasible.

11 Q. And if I recall your testimony, you said that
12 the traffic would often back around that corner and
13 people would be stopping for the Wilshire lights?

14 A. Yeah.

15 Q. Were you cautious in looking for stop lights
16 at that particular point in time?

17 A. I was not stopping for lights, just following
18 the flow of traffic, but it was probably slow. I mean,
19 it was slow enough that you could kind of look around.

20 Q. And the assistant whom you mentioned, ma'am,
21 what's her name?

22 A. Jan Walner.

23 Q. Could you spell that for me, please?

24 A. W-a-l-n-e-r.

25 Q. And with respect, ma'am, to the reports that

1 you received, you say you do have them here with you in
2 Redwood City?

3 A. They are in the car.

4 Q. And your car is in the parking lot?

5 A. No, it's not. But it's around the block.

6 THE COURT: We are going to have to recess for
7 lunch now, Mr. Gordnier.

8 MR. GORDNIER: I have no further questions at
9 this time however, If it is possible for her to
10 retrieve those reports over the noon hour, I would like
11 to take a look at them.

12 THE COURT: Can you do that, ma'am?

13 THE WITNESS: Yes. I can bring them in. Do I
14 have to stay? I would like to --

15 MR. GORDNIER: She is welcome to go, if she
16 could have someone --

17 THE COURT: Are you going to have any
18 redirect?

19 MR. HUNT: No. I'm not going to have any
20 redirect. She can go back to Los Angeles.

21 If you can give them to Miss Gandolfo.

22 THE COURT: All right. And although it was
23 only five seconds ago, I forget if you said you wanted
24 her subject to recall or not.

25 MR. GORDNIER: Oh, no, Your Honor.

1 Okay. We will make her subject to recall.
2 She's free to go.

3 MR. VANCE: She can go back to L.A. today.

4 THE COURT: You can step down. You are free
5 to leave for today. If you would provide those reports,
6 and if we need to have you testify later in the trial,
7 the parties will be in touch. Thank you, ma'am.

8 Remember the admonition that you have heard so
9 often. We will resume at 1:30.

10 MR. VANCE: Can we stay about three seconds?

11 (Whereupon the jury left the courtroom.)

12 THE COURT: The record will show all members
13 of the jury have left the courtroom.

14 MR. VANCE: I wondered if we had an update on
15 whether we were going to be in session on July 1st. It
16 continues to appear that we will not be in session on
17 the first, and I'll keep you posted.

18 MR. GORDNIER: For purposes of next week's
19 scheduling, Your Honor, I might indicate, it's my
20 understanding that there is a witness that Mr. Hunt and
21 Mr. Vance agreed would be taken out of order, and that
22 would be the first witness on Monday, and then I would
23 anticipate that we would see the return of Mr. Liston.

24 I do have a motion apropos of the experts, and
25 that would take about half an hour. And I would provide

1 this for the Court's benefit.

2 THE COURT: Okay. Thank you.

3 (WHEREUPON A LUNCH RECESS WAS TAKEN.)

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1 JUNE 24, 1992

REDWOOD CITY, CALIFORNIA

2 PROCEEDINGS

3 THE COURT: Good morning. The record will
4 show the defendant, all Counsel and all members of the
5 jury are present.

6 Miss Marmor, you can take the stand again,
7 please.

8 (Whereupon the witness took the stand.)

9 You can go ahead and be seated. You are still
10 under oath.

11 DIRECT EXAMINATION OF MRS. MARMOR [CONTINUED]

12 BY MR. HUNT:

13 Q. Good morning, Mrs. Marmor.

14 A. Good morning.

15 Q. You didn't expect to be with us for a couple
16 of days; did you?

17 A. No.

18 Q. So you didn't pack accordingly?

19 A. Right.

20 Q. Did you get some sleep last night?

21 A. Yes.

22 Q. Okay. Good.

23 We're going to try and pick things up where we
24 had left off yesterday.

25 And I think the last thing we were talking

1 about was the scene in Ron Levin's home on the day that
2 you saw this to do list. And the script on the desk?

3 A. Yes.

4 Q. That's what, generally, we are going to start
5 with this morning, but first, to the best of your
6 recollection, when did Ron Levin disappear, in months
7 and days or years?

8 A. I want to think it was in June.

9 Q. Would it have been 1984, is that --

10 A. Yes, because my son was born in '73, and I
11 think it was a year after that.

12 Q. How much later was it that you heard that
13 someone was going to trial because the police thought
14 that he was responsible for killing Ron Levin?

15 A. I didn't really follow the trial or any of
16 that.

17 I think my -- my husband told me that he felt
18 that Ronny was dead, because if Ronny wasn't dead, Ronny
19 would have called my husband.

20 Q. Did that make an impression on you, your
21 husband's statement about that?

22 A. Yes.

23 Q. And why did it impress you?

24 A. Because my husband was friends with Ron, and
25 he knew Ron very well, so I --

1 Q. Go ahead.

2 A. So I just automatically dismissed any
3 thoughts I had of my own.

4 Q. Did you feel that you were a close friend of
5 Ron Levin's?

6 A. No.

7 Q. What was the character of your feelings
8 towards Ron Levin?

9 A. I didn't like him. I didn't trust him from
10 my first experience with him at the bank where I worked.

11 Q. What was that; what was it about that
12 experience that founded a distrust for you in Ron Levin?

13 A. He came to the bank to open up four corporate
14 accounts without I.D.

15 Q. What did you tell him?

16 A. I told him I couldn't do that.

17 Q. How did he react?

18 A. He got very angry and started screaming and
19 became abusive and told me he was going to get me fired.

20 Q. Right on the floor of the bank?

21 A. Uh-huh, yes.

22 Q. Did he succeed in opening accounts that day?

23 A. Yes, he did.

24 Q. How did he manage that?

25 A. He wanted to speak to a manager, and I went

1 over and spoke with, I think at that time it was
2 Mr. Ballard and explained to him what he was trying to
3 do. And Mr. Ballard overruled me, opened the account,
4 and some time later he took advantage of the bank and
5 the V.P. was fired.

6 Q. Mrs. Marmor, did that experience with Ron
7 Levin color from then on your feelings or the way you
8 looked at Ron?

9 A. Yes.

10 Q. Did you ever get to a point where you trusted
11 Ron Levin?

12 A. No.

13 Q. Why have anything to do with him at all then?

14 A. Because he owed my husband money.

15 Q. You were aware that your husband had a
16 business relationship with him?

17 A. Yes.

18 Q. And that your husband seemed to enjoy Ron's
19 company?

20 A. Yes.

21 Q. Did you know that -- When did you first meet
22 me, Mrs. Marmor?

23 A. I have never met you.

24 Q. So the first time you saw me would have been
25 on what day, in person?

1 A. It was yesterday in court.

2 Q. Did you know anything about the evidence that
3 was being brought by the prosecution or the police
4 against those accused of having killed Ron Levin?

5 A. No.

6 Q. Did you know that the principal physical
7 evidence against me, when I was being tried in Los
8 Angeles -- Or did you even know it was Joe Hunt, or who
9 Joe Hunt was on trial?

10 A. No, I did not.

11 Q. Did you know that the principal physical
12 evidence being used by the prosecution in the trial
13 against who they were accusing of killing Ron Levin was
14 a to do list?

15 MR. VANCE: Objection, calls for mis -- the
16 mischaracterization or characterization of it as the
17 principal evidence. It's not a fact in evidence before
18 this jury.

19 THE COURT: Sustained. Just to the format of
20 the question.

21 MR. HUNT:

22 Q. Taking that word out, did you know that the
23 People or the prosecution in the trial against the
24 person, other people that they were accusing of having
25 killed Ron Levin, they were relying on one piece of

1 physical evidence which was a to do list?

2 A. No.

3 Q. How closely did you follow the media coverage
4 of my trial?

5 A. I didn't.

6 Q. Did you watch the mini series?

7 A. No.

8 Q. Any particular reason why you didn't follow?

9 A. I don't watch T.V.

10 Q. Was there any particular reason why you
11 weren't interested in the printed media coverage of it,
12 like newspaper accounts?

13 A. I didn't care for Ronny, and I didn't know
14 you, so there was no reason.

15 Q. Was the to do list that you saw on Ron
16 Levin's desk handwritten?

17 A. Yes.

18 Q. Now if you recall, was it printed or in
19 cursive script like in handwriting? Were all the
20 letters connected or were the letters separate?

21 A. I thought it was printing.

22 Q. Do you remember what color of paper it was
23 on?

24 A. Yellow.

25 Q. Was it a particular type or style of paper?

1 A. It looked like the paper you use on a legal
2 pad.

3 Q. Do you know how large the paper was?

4 A. I thought it was the large one, but I'm not
5 sure.

6 Q. Okay. Was this lined paper then?

7 A. Yes.

8 Q. Whose printing did you think was on that
9 paper when you saw it?

10 A. Ron's.

11 Q. It was on his desk after all, right?

12 A. Yes.

13 Q. Did you have any way in the world of knowing
14 what my printing looked like?

15 A. No.

16 Q. Did you ever touch that list?

17 A. No. I didn't have a chance.

18 Q. Why was that?

19 A. Because when he first entered the room the
20 phone rang. He answered the phone. I was glancing
21 around. I happened to glance down, and as I'm looking
22 at different things around the room, I finally come to
23 the yellow pad, and I glanced -- He had just got off the
24 phone. He yanked it away from under --

25 Q. You are calling it a yellow pad. Did the

1 list that you see, the piece of paper that this list was
2 to, was it still attached to a pad of paper; if you
3 recall?

4 A. I can't be sure.

5 Q. At any time during the 1980s, did you have in
6 basis in your own mind, based on things you knew, to
7 connect that to do list with the person or people that
8 the police were accusing of killing Ron Levin?

9 A. No.

10 Q. Have you ever testified in any trial in
11 relationship to the Billionaire Boys Club or me before?

12 A. No.

13 Q. Were you aware that when Ron left in June of
14 1984, as you were saying earlier, you recalled the date
15 being that he left behind his dog --

16 A. No.

17 Q. -- Kosher. Did you ever hear anything that
18 would tell that you Kosher was still alive?

19 A. No.

20 Q. Once again, what do you recall of the
21 contents of that to do list other than something about
22 killing a dog?

23 A. I liked the dog, so that's the first thing I
24 noticed was killing the dog. And he was mean to the
25 dog. Kill the dog was the first thing that stood out.

1 And something about hands or cuff, or something to do
2 with hand and cuffed or something.

3 Q. Did you learn at any time during the 1980s,
4 from the media or any other source, that the police
5 believed Ron Levin had been handcuffed before they
6 allege he was killed?

7 A. No.

8 Q. Did you have any reason to believe that this
9 list that you thought was in Ron Levin's writing had
10 anything to do with the People's case against me or any
11 other person?

12 A. No.

13 Q. And you mentioned this morning again, as you
14 did yesterday, that when you saw the to do list, you
15 also saw a script?

16 A. Yes.

17 Q. How seriously did you take this to do list
18 that you were seeing on the same desk that you were
19 seeing a movie script?

20 A. I asked him, what is this? He said he was
21 working on a movie.

22 I went around the table -- it's a glass table
23 -- and sat down. And on the other side was a script. I
24 picked it up; started glancing at it.

25 I said, this is also a movie script.

1 He said, yes.

2 I said, why do I get the feeling that these
3 things pertain to you.

4 Q. Was there something about the movie script
5 that seemed to connect to Ron's own life?

6 A. Yes. Names and places.

7 Q. And specifically what name?

8 A. Edward.

9 Q. Why does that connect around Levin's life?

10 A. It's my husband's middle name.

11 And as far as the place goes, New York, he was
12 going. And some --

13 Q. Go ahead.

14 A. Something to do with video equipment, I
15 think.

16 Q. To your knowledge or your understanding at
17 the time, was Ron Levin a big time movie producer?

18 A. No.

19 Q. Had you ever seen him with movie scripts
20 before?

21 A. No.

22 Q. What was your experience with Ron Levin in
23 the sense that, was he a person that you could read
24 easily?

25 A. He could fool most people.

1 Q. What sort of relationship did you have with
2 him on that basis? Did you guys have an understanding
3 about whether the same sorts of games could be played
4 with you?

5 A. Well, when he looked at me and I looked at
6 him, and I was in shock when my husband said he wanted
7 me to meet someone.

8 He knew he couldn't con me, so we wound up
9 bantering back and forth. He was always trying to
10 control me through intimidation, like names, which he
11 was very abusive. He called people stupid and idiot or
12 imbicile, and he really got rank if you disagreed with
13 him.

14 Q. And would he call you these names sometimes?

15 A. Yes.

16 Q. How would you respond?

17 A. Laugh.

18 Q. And you mentioned there was basically one
19 reason why you put up with Ron Levin. What was that
20 again?

21 A. He owed my husband money.

22 Q. So you found this man to be pretty
23 exasperating?

24 A. Yes.

25 Q. You said he was excited on the day that he

1 called you in, the day that you saw the to do list. Did
2 Ron Levin tell you what he was excited about?

3 A. That day he was very, very upset. He was
4 rambling on about a lot of things, and he was talking in
5 bit and pieces with his conversation. Someone had
6 threatened him. Something to do with the fact that
7 there was a big case against him. He's not going back
8 to jail.

9 That's when he told me, you have no idea what
10 kind of things they do to you in there. It's the one
11 time he didn't try to be sarcastic, flippant, or take it
12 back, which is normally what he has done in the past.
13 So you really didn't know what he thought.

14 Q. Take it back? In what sense?

15 A. In other words, if he would tell me
16 something, and if he thought I could use that against
17 him, he would say, "I was just kidding. I didn't mean
18 that". Or, "I made that up."

19 Q. Would that be like the time that he mentioned
20 that he had made money in a stock deal, you talked about
21 that yesterday?

22 A. Yes. He said that after I heard the
23 conversation between him and the broker.

24 Q. This was on another occasion?

25 A. Yes. There was another occasion. I said to

1 him, good, you could pay my husband back the money you
2 owe him.

3 And he laughed and says: You are never going
4 to see that. And then he -- Well, of course, he knew I
5 would pass that on to my husband. He said, "I was just
6 joking".

7 Q. So he took it back?

8 A. Yes, he took it back.

9 Q. And that's an example of what you mean?

10 A. Yes. That's the example. So I went a step
11 further and I said, "Well, where's the money"?

12 And then he retorted back: "You don't think I
13 would have it in this country, do you?"

14 Q. You mentioned just a moment ago that on this
15 day that you saw the to do list Ron Levin said something
16 about being threatened.

17 Did he say who by?

18 A. No.

19 Q. Had you ever seen Ron Levin threatened
20 before?

21 A. Yes.

22 Q. And this was in person?

23 A. No. This was another incident where I was
24 sitting in the office, and a phone call came in.

25 Q. And Ron was reacting to a threat that he said

1 came over the phone?

2 A. Yes.

3 Q. Did he tell you about -- What did he say
4 about that?

5 MR. VANCE: Objection. Hearsay.

6 THE COURT: Sustained.

7 MR. HUNT:

8 Q. Other than -- Please don't repeat anything
9 that he might have said about who threatened him or what
10 the threat was about.

11 Did he make it clear that he was being
12 threatened then?

13 A. Yes.

14 Q. So I take it then there's just lots of drama
15 at Ron Levin's home?

16 MR. VANCE: Objection. Calls for a
17 conclusion.

18 THE COURT: Sustained.

19 MR. HUNT:

20 Q. Did you often find Ron in a very excited
21 state?

22 A. Ron was very dramatic.

23 Q. What did you make of his mood swings? Did
24 you take him seriously?

25 MR. VANCE: Objection. Relevancy.

1 THE COURT: Sustained.

2 MR. HUNT:

3 Q. What effect did the frequent histrionics and
4 excited states that you saw Ron Levin project have on
5 how seriously you took things he said or did?

6 MR. VANCE: Objection. Relevancy.

7 THE COURT: Overruled.

8 THE WITNESS:

9 A. Most generally I ignored what Ronny had to
10 say because you didn't know from one moment to the next
11 which was BS, and which was real.

12 Q. Did you make your own to do list,
13 Mrs. Marmor?

14 A. Yes, I do.

15 Q. Do you do that frequently?

16 A. Every day.

17 Q. You said the other day when you saw this to
18 do list you had a thought about that to do list. What
19 was that?

20 A. What caught me was, I thought only women did
21 that.

22 Q. Because you so frequently do it yourself?

23 A. Yes.

24 Q. Over the years that you knew Ron Levin,
25 principally as someone that lived next door to him, as

1 Mr. Marmor's wife, did you become aware of Ron Levin's
2 reputation in the community as a businessman, his style
3 of doing business?

4 A. Yes.

5 MR. VANCE: Objection. Relevancy.

6 THE COURT: She's answered the question.

7 MR. HUNT:

8 Q. And what was that reputation?

9 MR. VANCE: Objection. Relevancy.

10 THE COURT: Sustained.

11 MR. HUNT:

12 Q. Did you ever see Ron Levin pretend to be
13 someone else on the phone in order to trick someone?

14 MR. VANCE: Objection. Calls for her
15 speculation as to what Ron Levin's purpose was.

16 THE COURT: Sustained as to the form of the
17 question.

18 MR. HUNT:

19 Q. Did you ever see Ron Levin pretend to be
20 someone else?

21 A. Yes.

22 Q. And do you know what names he used?

23 A. Many. But I remember one in particular.

24 Q. Which was?

25 A. Rothschild.

1 Q. Did you ever hear him use the name R.
2 Michael Weatherby?

3 A. Yes.

4 Q. Did you try and pin him down as to what he
5 meant by that phrase "kill dog" on the day that you saw
6 the to do list?

7 A. Yes. I asked him, Why kill the dog?

8 Q. And did he give you a straightforward answer
9 to the question, did you feel?

10 A. Yes, he did. He said the dog was neurotic.

11 Q. Did it appear to you that Kosher was
12 neurotic?

13 MR. VANCE: Objection. Calls for speculation.

14 THE COURT: Sustained.

15 MR. HUNT:

16 Q. You are not an animal psychologist, I take
17 it?

18 A. I love animals. I had 26 cats.

19 Q. Did Kosher seem skittish?

20 A. Yes, very much.

21 Q. On how many occasions, if you can estimate,
22 did you see Ron Levin abuse his dog?

23 A. About four or five.

24 Q. The whole scene that day when you saw Ron
25 with the list, the way he was acting, what he had to

1 say, it seems to be fairly peculiar, but based on your
2 own experience --

3 MR. VANCE: Objection.

4 MR. HUNT: -- with Ron --

5 THE COURT: Mr. Vance?

6 MR. VANCE: The last characterization by
7 Mr. Hunt should be stricken.

8 THE COURT: Sustained.

9 MR. HUNT:

10 Q. Based on your own experience with Ron Levin,
11 how unusual was his behavior, his manner of expression
12 that day when you saw the to do list?

13 A. Very different.

14 Q. Was this part of that attitude shift that you
15 talked about yesterday?

16 A. Yes.

17 Q. Did he seem serious?

18 A. Yes. He seemed frightened. Very frightened.

19 Q. You said he was rambling. Can you describe
20 -- were the words just tumbling out?

21 A. Yes.

22 Q. It didn't seem like he was -- did it seem
23 like he was focused and in control of his speech
24 patterns and what he was talking about at the time, or
25 was he just really emotional?

1 A. Very emotional sentences, not complete.

2 Q. Do you recall where you were going when he
3 pulled you into the house that day?

4 A. Yes.

5 Q. Where were you headed?

6 A. Shopping.

7 Q. Did you want to be there in the first place
8 with Ron Levin?

9 A. No.

10 Q. Has a police officer, Mrs. Marmor, ever asked
11 to interview about these matters?

12 A. No.

13 Q. Specifically like Detective Zoeller? Do you
14 recall meeting somebody from the Beverly Hills Police
15 Department?

16 A. You mean recently, or --

17 Q. Yeah. Perhaps I didn't make it clear.

18 Lately, in the last year or so, has anybody
19 ever asked to interview you? Not before my trial, but
20 recently.

21 A. Yes.

22 Q. Okay. And who was that person?

23 A. Detective Zoeller.

24 Q. What police station did you understand him to
25 be working out of?

1 A. Beverly Hills.

2 Q. Was this the first time you were asked by a
3 police officer to allow an interview on this topic?

4 A. Yes.

5 Q. Were you receptive to being interviewed?

6 A. (No response.)

7 Q. Did you give him an interview?

8 A. Yes, I did.

9 Q. And where did that interview take place?

10 A. At the apartment. 148 South Peck.

11 Q. Okay.

12 About how long ago was that?

13 A. I'd say maybe two months ago.

14 Q. Did you answer all of Detective Zoeller's
15 questions?

16 A. He didn't ask me very many questions.

17 Q. How long did he spend with you?

18 A. I think he was there may be 20 minutes.

19 Maybe a half hour.

20 Q. Did he say why he wanted to interview you?

21 MR. VANCE: Objection. Calls for -- Let me
22 withdraw my objection at this point.

23 MR. HUNT:

24 Q. Did he say why he wanted to interview you?

25 A. Yes.

1 Q. What prompted his interview?

2 A. No.

3 Q. Did he interview your husband that day if you
4 know?

5 A. Yes.

6 Q. Have you gotten to see a copy of Detective
7 Zoeller's report of his interview with you since then?

8 A. Yes.

9 Q. And when you reviewed that report, did you
10 find the report to be entirely accurate in all respects?

11 A. No.

12 Q. Do you recall offhand what discrepancy you
13 noted in Detective Zoeller's interview?

14 A. Yes.

15 Q. And what was that?

16 A. The beating incident.

17 Q. Okay. Now, first, let the jury know what
18 this incident is that you are referring to?

19 A. Okay. The incident I'm referring to, about
20 six to eight months prior to Ron's disappearance he was
21 very upset, and he called me in, and he told me -- he
22 said he wanted to tell me something, and he was being
23 very graphic. His face was all swollen on one side.
24 His eye looked like it was blue and black. His lip was
25 cut, and his back, he said his back was hurting.

1 He said that a black man had come to the door,
2 rang the doorbell. He went to answer it, which Ron has
3 a dead bolt on it like a metal door. And the black man
4 said he had something for him to sign. When Ronny went
5 to open the door, the man pushed his way through and
6 started beating on him.

7 Q. Did Ron Levin tell you on that occasion
8 whether he had been robbed as well?

9 A. I had asked him. No, he didn't. I had asked
10 him, what did he want?

11 And he said he didn't know.

12 Q. Were you aware that Ron Levin had been robbed
13 on some occasions?

14 A. No.

15 Q. And Ron Levin specifically did not say that
16 he was robbed on that occasion?

17 A. He said the man didn't take anything.

18 Q. Okay.

19 Now when you were reading this interview
20 report that Detective Zoeller wrote up and you noted a
21 discrepancy, was it in relationship to something
22 involved in this beating incident?

23 A. I'm sorry?

24 Q. When you were reading Detective Zoeller's
25 interview report, and you noted that there was a mistake

1 in the report, was it in relationship to something
2 dealing with this beating incident where Ron Levin got
3 beaten up?

4 A. Yes.

5 Q. And what was the discrepancy or the mistake
6 Detective Zoeller made in his report?

7 A. Detective Zoeller said that it was around the
8 time of a robbery, and I tried to tell Detective Zoeller
9 there wasn't any robbery.

10 Q. Detective Zoeller was saying what was around
11 the time of this robbery?

12 A. The beating.

13 Q. Okay. And you tried to tell Detective
14 Zoeller that the beating occurred at a separate time
15 from the robbery?

16 A. Yes.

17 Q. It wasn't the same time as the robbery
18 occurred?

19 A. Yes.

20 Q. And as far as you could tell, that
21 distinction that you made was not clearly reflected in
22 Detective Zoeller's report?

23 A. I told him I couldn't give him an accurate
24 date, but I knew that there was no robbery.

25 Q. Did Detective Zoeller seem to be interested

1 in getting a specific date from you as to when you saw
2 the to do list?

3 A. Yes.

4 Q. Were you able to give him an exact date?

5 A. No.

6 Q. Did you try to recall one?

7 A. Yes.

8 Q. How clear can you be, or how specific can you
9 be about when you saw the to do list in relationship to
10 when Ron disappeared?

11 A. In correlation with the different incidents
12 that happened, what sticks out in my mind, the most is
13 the script, and the to do list was the last thing I
14 remember.

15 Q. The last recollection you have of being with
16 Ron Levin?

17 A. The last incident, yes.

18 Q. All right.

19 Now we talked about a few incidents, and I
20 want to make sure that they are properly described.

21 Was the entry or the incident with the
22 clothing, the change of the clothing styles, was that
23 separate from all other incidents occurring on a
24 separate day?

25 A. Yes.

1 Q. And was the incident involving the stock scam
2 also a separate incident that occurred apart from the
3 other ones?

4 A. Yes.

5 Q. And the to do list, script incident, that was
6 separate as well?

7 A. Yes.

8 Q. And the beating incident, was that also on a
9 separate day or occasion?

10 A. Yes.

11 Q. When was it that you were first interviewed
12 -- I'm not -- and I'm asking roughly not for exact dates
13 like six months ago or a year ago. A rough number.
14 When was it that you were first interviewed by somebody
15 that was working for me on People vs. Hunt?

16 A. I think it was December of '91.

17 Q. Okay.

18 So about seven or eight months ago, something
19 like that?

20 A. (Witness nods head.)

21 Q. How did that interview come about; do you
22 know why you were being interviewed at that time?

23 A. Yes. My husband had made a visit --

24 MR. VANCE: Objection. Calls for hearsay,
25 unless this witness has some sort of personal knowledge.

1 THE COURT: The question asks, how did the
2 interview come about.

3 You can tell us how you became aware of it,
4 but just don't tell us what somebody else said that was
5 going on behind the scenes.

6 THE WITNESS: Okay.

7 A. I started having flashbacks and started
8 dreaming, started remembering things.

9 MR. HUNT:

10 Q. Now how was it that these associations began
11 to come back? Your mind was triggered by these
12 associations to Ron Levin?

13 A. Yes.

14 Q. Was there something that triggered you again
15 to think about things that had happened in your presence
16 involving Ron Levin?

17 A. Yes.

18 Q. And what was that?

19 A. Well, originally, my husband thought he was
20 dead. When he came back from visiting you, he told me
21 he might have made a --

22 MR. VANCE: Objection. Calls for hearsay.

23 THE COURT: Offered for?

24 MR. HUNT: Just her state of mind, your
25 Honor.

1 THE COURT: I'll allow the answer for the
2 limited purpose of explaining to the jury what it was
3 that caused her to start thinking about this, and not
4 for the truth of what anyone told her.

5 Go ahead.

6 THE WITNESS:

7 A. He said he might have made a mistake. That
8 Ronny, there was a possibility maybe Ronny isn't dead,
9 which I thought in the beginning he wasn't. So that
10 triggered me into going back to my original, you know,
11 thinking about him disappearing and him building a scam
12 to disappear.

13 MR. HUNT:

14 Q. Had you thought about this list, or had you
15 had any reason to think about this list you had seen on
16 Ron Levin's desk in the years since his disappearance,
17 but before your husband came back from that trip when
18 you saw him there?

19 Let me say it a little bit louder.

20 Had you any reason to think or any occasion on
21 which you thought about that to do list you saw on Ron
22 Levin's desk in the years following Ron's disappearance,
23 up to the time when your husband came back from that
24 trip?

25 A. No.

1 Q. Were you surprised about the, well, the
2 change in your husband's attitude towards the likelihood
3 of Ron Levin being dead, as opposed to perhaps still
4 being alive?

5 MR. VANCE: Objection. Irrelevant as to her
6 response.

7 THE COURT: Sustained.

8 MR. HUNT:

9 Q. Did what your husband say have an substantial
10 impact on you?

11 A. Yes.

12 MR. VANCE: Same objection.

13 THE COURT: Overruled.

14 MR. HUNT:

15 Q. And what was the nature of that impact?

16 A. I was quite surprised that he, that he
17 changed his mind.

18 MR. GORDNIER: Your Honor, I'm having trouble
19 hearing the witness' response.

20 THE COURT: Let's fiddle with the microphone a
21 little bit.

22 MR. HUNT:

23 Q. Now when I think of the term "flashback," I
24 always think of something like a Vietnam type flashback.
25 When you are using the word "flashback" what do you mean

1 by that?

2 A. It's something, I don't control it, like it
3 comes on at very strange things, like I could be taking
4 a shower, driving the car and the script or actual
5 scenes would flash in my mind.

6 Q. So you have the sort of memory that on
7 occasion will pull back something fairly vividly,
8 something that occurred in your past?

9 MR. VANCE: Leading question. Objection.

10 THE COURT: Overruled.

11 THE WITNESS:

12 A. Yes.

13 MR. HUNT:

14 Q. How seriously did you take it when your
15 husband did this about face or this partial change in
16 his feelings about the case?

17 A. Very serious.

18 Q. And did you have any feelings about the fact
19 that someone could be wrongfully imprisoned behind this?

20 A. Yes, I did. It bothered me.

21 Q. And when you said you also had dreams; in
22 what sense? Was that something like you would wake up
23 in the middle of night and have some thoughts in your
24 mind about Ron Levin or about the circumstances or what?

25 A. When I was a little child, I would have bad

1 dreams. I would wake up from them. And Ronny, to me,
2 was a bad dream.

3 Q. Okay.

4 Now after you began to have these -- well, you
5 began to think again about Ron Levin, and 1984 and 1983,
6 what was the result of that that brought an investigator
7 into your life? How did that work?

8 A. Could you repeat that?

9 Q. How -- What happened between, just recalling
10 things about Ron Levin in 1983 and 1984, experiences
11 with him, how did that lead to an investigator from --
12 who was working on my behalf coming to see you?

13 A. My husband called him.

14 Q. So you related some of your recollections?

15 A. To my husband. I asked him if he remembered
16 things, and I --

17 Q. So you brought up some of these incidences
18 with your husband?

19 A. Yes.

20 Q. And you didn't call my investigator yourself?

21 A. No.

22 Q. Who did?

23 A. My husband.

24 Q. How long after that did an investigator come
25 to meet you?

1 A. Right away. Maybe within the week. Maybe
2 ten days.

3 Q. And who was that?

4 A. Mr. Woolsey.

5 MR. HUNT: Your Honor, I have a transparency,
6 the first page of People's 17, with your permission.

7 (Whereupon a transparency is shown.)

8 MR. HUNT:

9 Q. Mrs. Marmor, in the 1980s, first of all, had
10 your husband expressed a firm -- this firm opinion that
11 Ron Levin was dead to you?

12 A. Yes.

13 Q. And you mentioned just a moment ago that you
14 felt he knew Ron Levin a lot better. Did you take very
15 seriously his feelings about Ron Levin's situation?

16 A. Yes. Because he told me that Ronny couldn't
17 live without calling him every day, and Ronny did call
18 him every day.

19 Q. And you didn't know anything else about the
20 case?

21 A. No.

22 Q. I would like you to look at this list on the
23 -- that's being projected behind you on the overhead.

24 Is there anything familiar to you about this
25 page?

1 A. Yes.

2 Q. And what is familiar to you?

3 A. "Kill dog."

4 Q. Where do you see that?

5 A. (Indicates).

6 Q. And pointing to where it says "kill dog," is
7 there anything else on the list?

8 A. "Handcuff."

9 Q. And the way this list is headed, does this
10 also remind you of something?

11 A. To do, to do list.

12 Q. And now does this -- whose handwriting does
13 this appear to be to you?

14 A. Ron's.

15 Q. Do you feel you have seen this list before?

16 A. Yes. It looks familiar to me.

17 Q. Those three aspects of the contents you have
18 a clear recollection of?

19 A. Yes.

20 MR. HUNT: Thank you very much, Mrs. Marmor.

21 THE COURT: Mr. Vance, you may inquire.

22 CROSS-EXAMINATION OF MRS. MARMOR

23 BY MR. VANCE:

24 Q. Mrs. Marmor, when you told -- mentioned that
25 Ron Levin on one occasion came in or called you in to

1 show a change in wardrobe, could you describe what you
2 saw?

3 A. He took me back to his bedroom. He had all
4 the clothes out of his closet laying on the bed, on the
5 floor, shoes stacked up very neatly, you know, laid out.
6 And then he took me into the closet and showed me the
7 other clothes --

8 Q. Now, first of all, what were the clothes that
9 were laid out?

10 A. The clothes. The old clothes.

11 Q. The old clothes?

12 A. (Witness nods head.)

13 Q. And when we talk about the old clothes, can
14 you be more descriptive?

15 A. Old clothes means the clothes that up to this
16 point he had been wearing.

17 Q. Were they indeed old in the sense of being
18 tattered?

19 A. No. No.

20 Q. Did he tell you what he was going to do with
21 the old clothes?

22 A. Yes. He said he was going to give them away.

23 Q. Did he say to whom?

24 A. No.

25 Q. Did he say why?

1 A. Did he say why?

2 Q. Yes?

3 A. Yes.

4 Q. What was that?

5 A. He was changing his style.

6 Q. Now when you say the old clothes were out,
7 can you give us an approximation of -- Let's start with
8 the shoes. I mean how many pairs of shoes were there?

9 A. He had a lot of clothes. The shoes, boxes
10 were stacked.

11 Q. The shoe boxes were stacked?

12 A. Yes. He kept them, some of them in, like
13 those boxes where you can see through.

14 Q. Okay.

15 A. And some of them were not in boxes. And some
16 of them were in the original, I guess, the box he bought
17 them in.

18 Q. What type of shoes were they if you know?

19 A. His, basically, very traditional. Like he
20 wore the loafers. He liked those. Traditional dress
21 shoes with, like, the perforated -- it's, ah, I don't
22 know how you would explain it. The notice was more in
23 the other clothes.

24 Q. Well, as far as the shoes, I mean, I take it,
25 were they all one color, or were they more than one

1 color?

2 A. No. Sometimes he had the same shoe in
3 different colors.

4 Q. Now the old clothes that were out that --
5 where were they? On his bed?

6 A. Some were on the bed; some were on the floor.

7 Q. Would you describe those clothes, ma'am?

8 A. Like a sports jacket.

9 Q. Did he have more than one sports jacket?

10 A. Yes.

11 Q. Can you give us an approximation of how many
12 of those old sports jackets he had?

13 A. I don't want to try. I would be guessing. I
14 just know when we went in the room there was a lot of
15 clothes.

16 MR. VANCE: Let me put Defendant's Exhibit
17 1063 up.

18 Q. And from where you are seated, can you see
19 that?

20 A. If you turn it a little bit, it will be
21 better.

22 Q. Sure.

23 A. Okay.

24 Q. Okay.

25 I believe you were shown this diagram

1 yesterday, were you?

2 A. Yes.

3 Q. Do you recall seeing it yesterday, and you
4 recognize it?

5 A. Yes.

6 Q. Where would the bedroom be that you saw all
7 these clothes?

8 A. Back by the blue sticker, back there where it
9 says master --

10 Q. Where the says "master bedroom"?

11 A. Yes.

12 Q. Now the clothes. There appears to be two
13 pictures behind you, Defendant's Exhibit 1053 being the
14 top picture, and Defendant's Exhibit 1052 being the
15 bottom picture.

16 Do you recognize the clothes in those
17 pictures?

18 A. They look like some of his clothes.

19 Q. When you say they look like some of his
20 clothes, would these be the new clothes or the old
21 clothes?

22 A. Some of them look like the new clothes; some
23 of them look like the old clothes.

24 Q. Are there any particular ones that you can
25 point out as being the old clothes?

1 A. Things like the check or the -- I don't know
2 what you call them. Like a houndstooth-type. The
3 traditional jacket, like a dress jacket.

4 Q. And you made an indication on Defendant's
5 Exhibit -- the bottom picture, which I believe is 1052,
6 is that correct, where you saw the old clothes?

7 A. Yes, things like that.

8 Q. Where would you say the new clothes were in
9 the closet?

10 A. Okay.

11 Q. Now on those pictures, do the new clothes
12 appear any place?

13 A. It's really hard to see.

14 Q. Okay. By that, I take it you can't really
15 tell?

16 A. It's hard to tell.

17 Q. Now as far as the old clothes were concerned,
18 you said there was -- I believe you gave -- you answered
19 it that there was a lot of old clothes; is that right?

20 A. Yes, the room was --

21 Q. Did they appear to you to be expensive
22 clothes?

23 A. Yes.

24 Q. Indeed, did you know where they had been
25 purchased?

1 A. No.

2 Q. Had you have been with Mr. Levin when he had
3 purchased clothes?

4 A. No.

5 Q. As far as the old clothes that you saw on
6 that occasion, those were already in the closet; is that
7 correct?

8 A. I'm sorry, what?

9 Q. When you saw -- Excuse me.
10 When you saw the new clothes, they were in the
11 closet?

12 A. Yes.

13 Q. And how many new clothes were there?

14 A. Not as many as what was originally in there
15 because he said he was still shopping. He asked me what
16 I thought of the new clothes.

17 Q. What did you say?

18 A. I said it was quite different because I was
19 used to seeing him in your traditional suits or
20 sportsjacket, night pants, and these clothes were
21 completely different.

22 Q. Did they appear to you to be expensive
23 clothes?

24 A. Yes.

25 Q. Did he say where he was shopping for them?

1 A. No.

2 Q. Now, ma'am, as far as the old clothes were
3 concerned, did they appear to be bundled in any way or
4 did you see a Goodwill bag or something around?

5 A. No, I didn't, and they were laid out nice and
6 neat.

7 Q. And when was this that you saw the old
8 clothes out in the room as you described, and the new
9 clothes in the closet?

10 A. As far as trying to give you a date, I
11 couldn't give you an actual date. Was probably closer
12 to one of the first incidents that I was talking about.

13 Q. And when you say one of the first incidents
14 that you were talking about, what would that be?

15 A. Well, the last incident was the script and
16 the to do list.

17 Q. Okay.

18 A. Clothing would be one of the first ones. Out
19 of the four times or five times we had conversations or
20 contacts.

21 Q. Well, the first time you told us about was
22 opening an account for Ron Levin in 19 -- mid '70s?

23 A. Yes.

24 Q. So this would be closer to then?

25 A. No.

1 Q. It would be closer to when?

2 A. Before his disappearance.

3 Q. But what incident in particular? You said
4 there was about four incidents.

5 A. There's a video incident. There's the script
6 incident. There's the stock incident. There is the
7 clothing incident and hair color incident and the
8 beating incident.

9 Q. And which would this be closer to?

10 A. It would be one -- It would be further away
11 from the disappearance.

12 Q. Further away from the disappearance?

13 A. In other words, it could be six months, and
14 I'm guessing. It could be six months. It could have
15 been seven months. It could have been four months prior
16 to his disappearance.

17 Q. Is this clothing incident one of the
18 incidents that you have had flashbacks about?

19 A. I don't know about flashbacks. It's
20 something I recall.

21 Q. But you told Mr. Hunt though that you had
22 certain flashbacks about things that you recall.

23 A. Yes. That's usually his screaming, ranting
24 and raving.

25 Q. The flashbacks were just?

1 A. The flashbacks usually deal around like when
2 he was upset, very upset when someone beat him. That
3 flashed by my mind, him in the office, ranting and
4 raving and screaming. And the script incident, that
5 flashed into my mind. Just something I recall.

6 Q. Did you have a dream about this incident?

7 A. I don't know what you are --

8 Q. I believe you indicated that you did have
9 some dreams about certain parts of this, bad dreams.

10 A. Yes. No. This wasn't a bad dream. This was
11 the only time he wasn't ranting and raving.

12 Q. Do you recall whether there was anybody else
13 present when he showed you these clothes?

14 A. I'm not sure whether Blanche was working that
15 day or not. She might have been.

16 Q. When you describe the new clothes as being a
17 more wrinkled look, is that what you are talking about?

18 A. The baggy, linen wrinkled look. It was a fad
19 that came out I think then. Really big, loose fitting
20 clothes. Looks like you needed to press your clothes,
21 that kind of stuff. Looked unkept (sic).

22 THE COURT: Mr. Vance, let me interrupt you
23 here.

24 We will take the first recess, 15 minutes.

25 Remember the admonition, and we will resume at

1 that time, five after 10:00.

2 (RECESS TAKEN.)

3 THE COURT: The record will show all the same
4 people are present.

5 Go ahead, Mr. Vance.

6 MR. VANCE:

7 Q. Did you ever see, Mrs. Marmor, Ron Levin wear
8 any of this new wardrobe?

9 A. No.

10 Q. Ma'am, you have indicated that you were aware
11 of an incident where you observed Ron Levin to have been
12 beaten up; is that correct?

13 A. Yes.

14 Q. To the best of your recollection, when did
15 that occur?

16 A. I think six to nine months before his
17 disappearance.

18 Q. And when you observed -- Or, tell us what you
19 observed about Mr. Levin on that occasion.

20 A. That he was frightened, very frightened is
21 what stands out most in my mind.

22 Q. How did you become aware that he had been
23 beaten up?

24 A. Visually. You could see it.

25 Q. It was pretty noticeable?

1 A. Yes.

2 Q. And what do you remember about what you saw?

3 A. I remember one side of his face being swollen
4 around the eye area. I remember the lip being cut. I
5 remember him complaining about him hitting him in the
6 back, or falling against the closet door as you enter
7 the front entrance.

8 Q. On the Defendant's Exhibit 1063, could you
9 point out where that closet door would be?

10 A. Well, he's done some remodeling, so I don't
11 know if the closet door would still be there, but as you
12 enter the foyer, where it says "closet," the area that
13 used to be a door right there.

14 Q. Can you come over here and point out -- maybe
15 this will help, or --

16 A. There used to be a door right here.

17 Q. And what you are indicating then is on 1063,
18 the closet area apparently is a verticle rectangle, and
19 you are saying that is the closet door that you just
20 indicated would be on the bottom of that rectangle; is
21 that correct?

22 A. Yes. Right there (indicating).

23 Q. Where at this point there is not particularly
24 a closet door indicated?

25 A. Yes.

1 Q. Thank you.

2 Did you observe whether or not there were any
3 -- Mr. Levin's clothes were torn in any way?

4 A. No. If I recall correctly, I think this was
5 the day after.

6 Q. He was complaining of pain in his back; is
7 that correct?

8 A. Yes.

9 Q. What other complaints did he have?

10 A. He was just rambling on about the black man
11 beating on him.

12 Q. Did he say what the black man used?

13 A. No, he didn't.

14 Q. And he indicated to you that he had no idea
15 of what provoked this?

16 A. I asked him.

17 Q. What did he say?

18 A. He said he didn't say anything.

19 I said, did he take anything?

20 He said, no.

21 Then I told him it didn't make sense.

22 And then he started screaming: I don't know.
23 Stop asking me all these questions.

24 Q. Did Mr. Levin -- did you observe on Mr. Levin
25 any particular -- you said his -- one side of his face

1 was swollen?

2 A. Yes.

3 Q. Did you observe any particular cuts?

4 A. I think there was a cut on his lip.

5 Q. A big cut or a little cut?

6 A. I don't know. It was swollen.

7 Q. Did the side of his face -- did his eye
8 appear to be black or any indication like that?

9 A. Yes.

10 Q. What did you observe?

11 A. Are you wanting me to compare to how bad it
12 was?

13 Q. Yeah.

14 A. I don't understand.

15 Q. Did you see any -- did he appear to have a
16 black eye?

17 A. Yes.

18 Q. Was it one black eye, or were both eyes
19 bruised?

20 A. Just one.

21 Q. And besides you have indicated he complained
22 of pain in his back?

23 A. Yes.

24 Q. Any other part of his body did he complain of
25 pain?

1 A. (Witness shakes head negatively.)

2 Q. Arms, hands, legs?

3 A. No. I just remember the back.

4 Q. Is this something -- this particular
5 incident, is this something that you had a flashback
6 about that you --

7 A. Let me explain "flashback". Maybe I used the
8 wrong word.

9 "Flashback" is bits and pieces of things that
10 I remember. It's not the whole picture.

11 Q. On the break, did you talk to anybody about
12 the use of the word flashback?

13 A. No.

14 Q. When you say bits and pieces, this is one of
15 the bits and pieces that you had a flashback about?

16 A. No.

17 Q. Ma'am, as far as this incident with Mr. Levin
18 being beaten, you believe that you were told about it
19 the next day?

20 A. Yes.

21 Q. And you have indicated that you believe that
22 was about six to nine months before he disappeared?

23 A. Yes.

24 Q. Had you ever seen Mr. Levin beaten on any
25 other occasions?

1 A. No.

2 Q. And to the best of your knowledge, did Mr.
3 Levin -- Or, best of your memory, did Mr. Levin ever
4 complain to you of being beaten by a black man on any
5 other occasion?

6 A. No.

7 Q. And you said Mr. Levin said that this person
8 knocked on his door, and he let him in or opened the
9 door?

10 A. He said, there's a well-dressed black man,
11 and he had something for him to sign, and he let him in.
12 I found it unusual because Ronny doesn't let anyone in.

13 Q. You found it unusual that he would let this
14 particular person in?

15 A. Anybody. He usually doesn't open his door.

16 Q. What would he do, to your knowledge, if
17 somebody came to the door?

18 A. If he didn't know them and they weren't
19 invited, he would send them away.

20 Q. You have indicated that you talked to
21 Detective Zoeller; is that correct?

22 A. Yes.

23 Q. And you have had a chance to review his
24 report?

25 A. Yes.

1 Q. You also talked to a defense investigator you
2 told us, a Mr. Woolsey?

3 A. Yes.

4 Q. And indeed you had a chance to review his
5 report; is that correct?

6 A. Yes.

7 Q. Prior to testifying, have you reviewed any
8 other documents?

9 A. No.

10 Q. Have you heard any tape recordings?

11 A. No.

12 Q. Have you talked to anybody about what you
13 remembered or what you remember about Ron Levin?

14 A. Only my husband asking him if he remembered.

15 Q. As far as then the incident with the black
16 man beating on Mr. Levin, is there any way that you can
17 relate that to the clothes incident? Did it happen
18 before or after?

19 A. I think before. I'm not sure.

20 Q. Regarding Mr. Levin's injuries that you
21 observed, did you notice anything on his face or on his
22 body that would indicate he had received medical
23 attention for them?

24 A. He said he didn't go to the doctor.

25 Q. So you did not observe anything that looked

1 like he did?

2 A. Correct.

3 Q. You told us that you first met Ron Levin at
4 the, what, United California Bank where you were
5 working?

6 A. Yes.

7 Q. What was your job there?

8 A. Operations officer.

9 Q. And that position would entail that you would
10 have responsibility for approving opening of accounts;
11 is that correct?

12 A. Yes.

13 Q. And the occasion that you have told us about,
14 it was your decision, or the occasion that you told us
15 about regarding Ron Levin, it was your decision not to
16 open the account; is that correct?

17 A. Correct.

18 Q. And that was based upon the fact that he
19 didn't have --

20 A. Identification.

21 Q. But you were overruled by your branch
22 manager?

23 A. Correct.

24 Q. And Ron Levin on that occasion had caused
25 quite a scene?

1 A. Yes.

2 Q. On that occasion, did he tell you his name?

3 A. Yes.

4 Q. As Ron Levin?

5 A. Correct.

6 Q. When you say "quite a scene," he started, you
7 say, was very upset and started screaming?

8 A. (Witness nods head.)

9 Q. Is there a way you can describe that? Was it
10 loud screaming? Could it be heard throughout the bank?

11 A. Well, it was heard. The people behind me and
12 the lady sitting next to me could hear it.

13 Q. Did it cause anybody to go over to him to try
14 and calm him down?

15 A. No. I tried to calm him down.

16 Q. How long did this screaming incident take
17 place?

18 A. I -- I couldn't say. I couldn't say. Just
19 that the conversation was:

20 You people are idiots. You don't know what
21 you are doing. It doesn't require that.

22 And I tried to calm him down by saying, I just
23 follow the rules. I'm sorry. If that will make you
24 feel better.

25 Q. How loud a voice was he speaking?

1 A. Real loud.

2 Q. How did the branch manager get involved?

3 A. I went to get him.

4 Q. And where was Ron Levin then at that point?

5 A. Sitting at the new accounts area.

6 Q. Is this a unique occurrence that a customer
7 would become this particularly noisy and start screaming
8 in the manner that Ron Levin did?

9 A. I had never had it happen before.

10 Q. So it was a pretty unique event?

11 A. Yes.

12 Q. Now after the branch manager talked with
13 Mr. Levin, did the branch manager open the account to
14 your knowledge or did you?

15 A. I opened the account, and he initialled it.

16 Q. But you did it on the orders of the branch
17 manager?

18 A. Yes.

19 Q. So up to that point you have never, with the
20 -- as an operations officer, you had never encountered
21 such behavior; is that correct, as Ron Levin's?

22 A. Yes.

23 Q. Have you ever since then as -- Well, I mean,
24 are you still working with the bank?

25 A. No.

1 Q. After that, did you ever encounter such
2 behavior?

3 A. No.

4 Q. How long did you continue working with this
5 bank?

6 A. I think maybe a year, year and a half.

7 Q. Now, ma'am, you have indicated that Mr. Levin
8 -- or that at the period of time -- or at the time that
9 this incident at the bank happened, you knew Len Marmor;
10 is that correct?

11 A. No. I knew Ron before I knew -- I knew Mr.
12 Levin before he knew my husband. I met my husband after
13 the incident.

14 Q. As far as then, as your knowledge, you
15 indicated though that at some point in 1984 that you
16 became aware that Ron Levin was missing; is that
17 correct?

18 A. I think it was '84.

19 Q. How did you become aware of that?

20 A. My husband told me.

21 Q. What did he say?

22 A. I think he got a phone call. Just said that
23 Ronny was missing. I didn't find that hard to believe.

24 Q. You didn't find that hard to believe?

25 A. No.

1 Q. Did you become aware then at some point that
2 there was a trial involving the people for, what the
3 authorities were saying, the murder of Ron Levin?

4 A. Yes.

5 Q. And prior to the trial, did you have any
6 knowledge that your husband had been interviewed by the
7 Beverly Hills Police Department?

8 A. Yes.

9 Q. Did you have any knowledge that the person
10 that your husband had been interviewed by was Detective
11 Les Zoeller?

12 A. No.

13 Q. But you did know that he had been interviewed
14 about something regarding Ron Levin?

15 A. Yes.

16 Q. Did you talk to your husband about what he
17 had talked to the Beverly Hills Police Department about?

18 A. No.

19 Q. And you have indicated that you were not
20 interviewed yourself until quite recently by the Beverly
21 Hills Police Department?

22 A. Yes.

23 Q. And that you yourself were not called as a
24 witness until this particular trial in Redwood City; is
25 that correct?

1 A. Yes.

2 Q. Indeed, had you -- did you have any
3 understanding as to whether or not your husband was
4 called as a witness in any of the trials that took place
5 in Santa Monica?

6 A. Yes.

7 Q. You were aware that he did testify?

8 A. Yes.

9 Q. Did he talk to you at all about the trial?

10 A. No.

11 Q. Did you ask him anything about the trial?

12 A. No.

13 Q. Did you attend the trial with him?

14 A. No.

15 Q. The first time that you say you talked to a
16 defense investigator was in some time recently; is that
17 correct, when this Mr. Woolsey came?

18 A. It was in '91.

19 Q. Had you ever talked to a defense investigator
20 before?

21 A. No.

22 Q. Or any -- Had you talked to anybody about
23 what you knew before?

24 A. No.

25 Q. Did you wear glasses, ma'am, or contacts?

1 A. No, contacts.

2 Q. Did you have to wear glasses for reading?

3 A. Now sometimes I have to use glasses for
4 reading.

5 Q. Back in 1984?

6 A. No.

7 Q. And regarding the incident with the black
8 man, how did Mr. Levin, I mean, come to, if you know,
9 tell you about that; how did you happen to see him?

10 A. I was coming out of the apartment.

11 Q. And what did you see?

12 A. He screamed for me to come in.

13 Q. And then he told you about being assaulted by
14 the black man?

15 A. He told me and he showed me. He was very
16 graphic. He was very upset. I felt that there was
17 pieces missing from what he was telling me. By the
18 amount of emotion that he was displaying, he was very
19 very distraught, very upset. He seemed very frightened.

20 Q. With the description -- you use the term he
21 seemed to be quite upset, but yet you think he was
22 holding something back?

23 A. Yes.

24 Q. And this was a fairly -- were you surprised
25 by what you saw?

1 A. I don't understand.

2 Q. Were you shocked by what you saw, concerned?

3 A. Are we talking about what he looked like
4 physically?

5 Q. Yes. Yes.

6 A. Not so much shocked. I felt bad for him.

7 Q. Did you talk to your husband about what you
8 had observed?

9 A. I think he did.

10 Q. You think who did?

11 A. Ron did.

12 Q. You didn't?

13 A. No.

14 Q. Do you recall any conversations though with
15 your husband about what, then, about this incident at
16 all?

17 A. I don't recall.

18 Q. At the time that this incident happened, Ron
19 Levin was living at 144 South Peck, and you were living
20 in what -- where?

21 A. We had a home above the mall.

22 Q. How far away from 144 South Peck was that?

23 A. Not bad a distance. Mulholland. I guess
24 maybe 12 miles.

25 Q. You were living up on Mulholland at the time

1 this incident happened?

2 A. Yes.

3 Q. Now, ma'am, you have indicated that you
4 didn't particularly like Ron Levin; is that correct?

5 A. I didn't like the things he did.

6 Q. And you tried to limit the contact that you
7 had with him?

8 A. Yes. I stayed emotionally detached because I
9 saw that he was a very abusive person.

10 Q. Abusive?

11 A. Yes, very abusive.

12 Q. In what way?

13 A. Mentally. Very abusive. Degrading. He
14 loved to intimidate. He was very spiteful. Very
15 hurtful.

16 Q. Indeed, you observed him even to abuse his
17 dog?

18 A. Yes.

19 Q. On four or five occasions?

20 A. It could have been more; could have been
21 less.

22 Q. What did you observe on the occasions that
23 you do remember?

24 A. Excuse me?

25 Q. On the occasions that you do remember him

1 abusing the dog, what would he do?

2 A. He would kick it. Let's say, the dog got
3 nervous, or something would happen, or Ronny would jump
4 up and the dog ran underneath him, he would kick the
5 dog. If the dog had an accident, he would kick the dog
6 and call the dog stupid. All kinds of things.

7 Q. Could you describe what force he kicked the
8 dog with?

9 A. The dog yelped.

10 Q. And this would be the dog, a Sheltie?

11 A. Looks like a Lassie, a baby Lassie.

12 Q. There's a picture behind you, ma'am, with --
13 of Ron Levin with the dog. Does that show you the dog?

14 A. Yes.

15 Q. How many times -- You indicated that you
16 observed at least one occasion when the dog had an
17 accident. Was there more than one occasion?

18 A. I believe so.

19 Q. How many?

20 A. Two that I can remember offhand.

21 Q. And what would be -- And was Mr. Levin's
22 reaction the same on each occasion?

23 A. Yes.

24 Q. Who would then clean it up?

25 A. Either he would. Or if Blanche was there,

1 Blanche would.

2 Q. But it would be cleaned up, what,
3 immediately?

4 A. Yes.

5 Q. Did you observe Ron Levin to have cleaned it
6 up on at least one of those occasions?

7 A. I'd say once. And I might have cleaned it up
8 once.

9 Q. So then you have indicated Ron Levin might
10 have once. Blanche might have once. You might have
11 once. That might have been, what, three times?

12 A. Yes.

13 Q. You also said, insofar as your particular
14 relationship with Ron Levin that you really -- I think
15 one of the phrases you used yesterday was that things he
16 said would go in one ear and out the other?

17 A. Yes.

18 Q. Meaning that you did not pay -- give much
19 credit to what he said to you?

20 A. No, just, you couldn't tell when he was
21 telling the truth and when he wasn't because he would
22 tell it, then he would take it back.

23 Q. You have indicated that he did, most of the
24 time, you couldn't tell whether -- you, yourself,
25 couldn't tell whether he was telling the truth?

1 A. I, basically -- he wouldn't -- you -- it --
2 it's hard to explain.

3 First off, he never got things to where you
4 could fully understand it. You always got bits and
5 pieces of things a lot of times. And then when you
6 could understand it, he would say he was just kidding.

7 I didn't want to take the time to try and
8 figure out when he was and when he wasn't kidding. So
9 basically I just hid it, so that's when I say I just let
10 it go in one ear; out the other. I didn't want to take
11 the time to think about when he was kidding or was he
12 not kidding.

13 Q. And you have indicated that basically the
14 reason you kept up a semblance of friendship with Ron
15 Levin was because of your husband?

16 A. Yes.

17 Q. And of your husband because he had -- Ron
18 Levin owed him money?

19 A. Correct. I also believe that if my husband's
20 personality wasn't so strong, he wouldn't have paid my
21 husband back any money either.

22 Q. And that your husband liked the mental
23 gymnastics of playing with or talking with Ron Levin?

24 A. Yes.

25 Q. Which they did quite often in your presence?

1 A. Yes.

2 Q. I take it you might tune that out?

3 A. Yes. Or leave.

4 Q. Or leave?

5 A. Or leave.

6 Q. So I mean, your husband would have, what,
7 fairly frequent contacts with Ron Levin; is that
8 correct?

9 A. Yes.

10 Q. Were you, how much contacts would you have,
11 when you were there and then might leave because you
12 were just tuning everything out?

13 A. I might go over for breakfast. I didn't owe
14 as much as he did. I might go for breakfast, and when
15 he started that stuff, I would like --

16 Q. This is when you were living on Mulholland?

17 A. Or Peck.

18 Q. When were you living on Peck?

19 A. We still have the apartment. We lived there
20 I think until '83, '82 or '83. '83, moved up to
21 Mulholland, because that's when the second child was
22 born.

23 Q. Now I take it then that as far as tuning out
24 is concerned, would you just basically, when he started
25 talking, just tune out what was going on, or just even

1 get up and leave?

2 A. I, basically, when it came to situations like
3 that, got up and left. I didn't care to hear it.

4 Q. How often would Ron Levin, you know, try and
5 talk to you individually or particularly, particularly
6 to you?

7 A. A lot of those times he was looking for my
8 husband. That's how it got started. He would call me
9 in and say, "Where is your husband"?

10 Q. How would he get ahold of you?

11 A. I would be coming out of the apartment.

12 Q. So this would be before you moved up to
13 Mulholland?

14 A. And after.

15 Q. Once you moved to Mulholland, what
16 relationship did you have to the apartment?

17 A. My oldest son went to Beverly Hills
18 Preschool, so I had to come down the hill five days a
19 week. So if I had any shopping or anything to do, I
20 would do that, and I used the apartment as my base.

21 Q. And Ron would see you coming and call to you?

22 A. Yes.

23 Q. How often would he sit down and try and talk
24 to you about things in general?

25 A. Oh, what do you mean?

1 Q. Well, you know, have conversations with you
2 about things that were going on in his life?

3 A. He didn't have those kind of conversations.

4 Q. With you?

5 A. With anyone that I know of. Maybe my
6 husband.

7 Q. But particularly, he didn't have them with
8 you?

9 A. Correct.

10 Q. What sorts of conversations would he have
11 with you?

12 A. Basically, when he was upset, something was
13 bothering him, he was ranting and raving. Somebody just
14 to watch him, I guess, express himself.

15 Q. Excuse me?

16 A. I guess he needed someone to watch him
17 express himself.

18 Q. Would you tune him out on those occasions
19 when he would be ranting and raving?

20 A. No.

21 Q. Why is that?

22 A. Why that is?

23 Q. Yes.

24 A. Because these occasions, or when he usually
25 sometimes didn't take it back I knew he was being

1 serious.

2 Q. In the incident regarding then the black man
3 who beat him, did you take him seriously on that
4 occasion?

5 A. Yes.

6 Q. Did he say anything indicating that it was
7 all a joke, or taking it back?

8 A. No, he didn't indicate.

9 Q. When you heard about, you know, this incident
10 with the black man, were you concerned about the fact
11 that you would be, sometimes you would be next door to
12 Ron Levin, and you were concerned about yourself being
13 perhaps assaulted by this black male?

14 A. Yes. I asked him if he called the police.

15 Q. What did Ron say?

16 A. No.

17 Q. Did you try to encourage him to do that?

18 A. Yes.

19 Q. Did you report it?

20 A. No.

21 Q. And you had no conversation about it with
22 your husband?

23 A. No.

24 Q. Was this incident, the beating of Ron Levin,
25 did that, is that one of the things that you had a dream

1 about?

2 A. No.

3 Q. How many times, to the best of your
4 recollection, did Ron Levin talk to you in an upset,
5 serious state, where he appeared to be concerned?

6 A. Could you repeat that, please?

7 Q. Oh, sure.

8 Let me go back and try and find --

9 You have indicated that sometimes Ron Levin
10 would talk to you, or when he had been apparently
11 frightened or ranting and quite upset. Do you recall
12 testifying to that effect?

13 A. Yes.

14 Q. How many times did that occur?

15 MR. HUNT: Could we have a period of time,
16 your Honor, over which Mr. Vance's asking her?

17 MR. VANCE: In her experience with Ron Levin?

18 THE WITNESS:

19 A. I recall -- what I do recall of that? What
20 you are trying to say is when? Closer to his
21 disappearance I noticed quite a lot of that.

22 MR. VANCE:

23 Q. When you say "quite a lot," what do you mean?

24 A. It means every day he was upset about
25 something.

1 Q. And every day he would talk to you about what
2 that was?

3 A. No.

4 Q. And this you observed to be a change in his
5 behavior?

6 A. Yes.

7 Q. And regarding being upset about something,
8 would you tune this out?

9 A. If he called me in to his place and was
10 upset, no, I usually didn't tune it out. I listened.
11 Because when he was upset a few of those times, he did
12 not retract. He did not say he was joking. There was
13 nothing joking about what he was saying or how he was
14 acting. He was very emotional, very frightened.

15 Q. How many times was that?

16 A. I can't say for sure. There's two that stick
17 out in my mind.

18 Q. And those incidents are?

19 A. The I'm-not-going-back-to-jail incident, and
20 the beating.

21 Q. The beating.

22 Now as far as the going-back-to-jail incident,
23 you, I believe, have indicated that you were aware that
24 Ron Levin in December of 198- -- or excuse me, had been
25 in jail back in 1979?

1 A. Yes.

2 Q. Did he talk to you after he got out of jail
3 about that experience?

4 A. No. He did with my husband.

5 Q. Did you ever visit him while he was in jail?

6 A. No.

7 Q. And I believe you have indicated that it was
8 your understanding that he had some problems with the
9 Beverly Hills Police Department, and he had been
10 arrested by them, what, in 1983, around December, is
11 that generally your recollection, your understanding?

12 A. Yes.

13 Q. Did he ever talk to you about that case --

14 A. No.

15 Q. -- or what it involved?

16 A. No.

17 Q. Did you have any idea of what it involved?

18 A. No.

19 Q. And the incident when he did talk to you
20 about not wanting to go back to jail, you have indicated
21 that he called you in?

22 A. Yes.

23 Q. Where were you?

24 A. Walking out of the apartment.

25 Q. And can you give us any idea, if you recall,

1 the time of day that it was?

2 A. I don't recall.

3 Q. Do you have any particular idea of, any
4 particular recollection of why you happened to have been
5 at the apartment that day?

6 A. It's one the five days that I took my son to
7 preschool, and I always go to the apartment.

8 Q. So you take your son to preschool. And
9 instead of going back up to your house on Mulholland --

10 A. Exactly.

11 Q. What then -- when Ron Levin called you, he
12 brought you into his office; is that right?

13 A. Yes.

14 Q. He called, what, from the window or from the
15 door?

16 A. Sometimes he would call from the window.
17 Sometimes he would call from the door that faces the
18 sidewalk, and sometimes he would come around the front
19 door and come out.

20 Q. On this occasion, which did he do?

21 A. He come out (sic).

22 Q. And your apartment on South Peck was in
23 relationship to Ron Levin's, where?

24 A. Where his office is, that side of the
25 building, our front, our front living room windows face

1 his office windows, our bedroom windows are facing his
2 bedroom windows.

3 Q. And he called you, and you went over?

4 A. Yes.

5 Q. Now you have indicated that would be your
6 house or the apartment on South Peck when your son --

7 A. I dropped my son off at preschool. So that
8 would be Monday through Friday. Yes.

9 Q. Is there any way that we can tie it down any
10 closer than it was some time Monday through Friday?

11 A. I picked my son up from preschool around
12 2:30, a quarter to 3:00. Then I go back up the hill.

13 Q. And what time did you drop your son off?

14 A. Between 9:30 and 10:00.

15 Q. So then this would had to have been sometime
16 between 9:30 and 10:00, and 2:30 and a quarter of 3:00?

17 A. Yes.

18 Q. How far is the preschool from the house on
19 South Peck, or the apartment on South Peck?

20 A. It's on -- I don't know how far it is. It's
21 on Beverly Drive, Coldwater Canyon, where the fire
22 station is.

23 Q. How long would it take you to get from the
24 preschool to the house on South Peck?

25 A. I'd say -- I'm not good at this. I'm

1 guessing. I'd say maybe eight minutes, nine minutes,
2 ten minutes. Maybe five minutes. I don't know. I know
3 it's not that far.

4 Q. Because the area that you have described
5 where his preschool is and your house, both are in the
6 city limits of Beverly Hills, yes?

7 A. At least I think so, yes.

8 Q. It's not like you have to drive across Los
9 Angeles or cross a freeway, or get out on a freeway to
10 get to it?

11 A. Right. Right. It's in the area.

12 Q. Now you have indicated that he was -- he, Ron
13 Levin, was what you had described as very, very upset on
14 this occasion where he talked to you about the fear of
15 going back to jail?

16 A. Yes.

17 Q. And that he was rambling, rambling?

18 A. Yes.

19 Well, he -- his personality when he got
20 excited was, he talked real fast. And if he got really
21 upset, it got faster.

22 Q. And by the speed of his language was he, I
23 take it then, what was he, really upset?

24 A. Really upset.

25 Q. And you say he was, what, when you use the

1 term "rambling," what do you mean by that?

2 A. Not completing sentences.

3 Q. And what do you recall him saying?

4 A. "I don't understand what they have, but they
5 must have something".

6 That's how he would talk.

7 "They must have something. They must have
8 something."

9 That's how he would talk, but loud and
10 excited.

11 "I'm not going back. I'm not going back. You
12 don't understand."

13 That's how he'd talk. Real fast.

14 Q. When you say he said, "they must have
15 something", did you ask Ron Levin what he was talking
16 about?

17 A. Yes. He said, the Beverly Hills police.

18 Q. And did you ask him what do they have?

19 A. I said: What could they have?

20 He says, "I don't know".

21 Q. Did he say how he learned it?

22 A. No, he didn't.

23 Q. Did he give any indication of what he meant
24 by "not going back"?

25 A. I asked him what he meant. He said, "to

1 jail."

2 Q. Did he indicate that it was imminent that he
3 was going to go back to jail?

4 A. Yes. He felt that he was going.

5 Q. He felt that he was going in the near future?

6 A. In the near future.

7 Q. Near future?

8 A. Yes.

9 Q. Now in point of time, you have indicated that
10 he called to you from, what, his front door as you are
11 outside of your apartment?

12 A. Yes. I was outside, coming around the
13 sidewalk.

14 Q. Now if indeed it had been in the afternoon
15 when you were leaving your apartment to go pick up your
16 son, would you have gone into his apartment?

17 MR. HUNT: Objection. Calls for speculation.

18 THE COURT: Sustained.

19 MR. VANCE:

20 Q. How long did you stay with Ron Levin on this
21 occasion?

22 A. I don't know what you call short or long. To
23 me something might be short. And to someone else it
24 might be a long amount of time.

25 Q. Can you give us an estimate of the minutes?

1 A. I'd say maybe 20 minutes. And that's a
2 guess. It was never hours.

3 Q. But on the particular occasion when you
4 talked about not wanting to go back to jail, would that
5 be about 20 minutes?

6 A. It could have been a half hour.

7 THE COURT: Mr. Vance, let me interrupt you
8 there. And we will take our second recess.

9 Remember the admonition. We will take 15
10 minutes, and resume at ten after 11:00.

11 (RECESS TAKEN.)

12 THE COURT: The record will show all the time
13 people are present.

14 Go ahead, Mr. Vance.

15 MR. VANCE:

16 Q. Ma'am, we left the --

17 A. I'm having a hard time hearing you. I'm
18 sorry.

19 Q. Starting with the incident or keeping with
20 that incident where you were called in, and Ron Levin
21 said something about going back to jail, as you sit
22 there, how many times did you have such a conversation
23 where Ron Levin expressed a fear of going back to jail?

24 A. More than once.

25 Q. More than once?

1 A. Yes.

2 Q. When was the first time?

3 A. I was about to say the first time it was --
4 it wasn't the impact. It wasn't as emotional. It was,
5 I'm just not going back to jail. Only one time, where
6 there was that emotion behind it, and he was very upset.

7 Q. When was the first time?

8 A. Could have been a week, two weeks, three
9 weeks prior. I don't recall.

10 It was like said in passing.

11 Q. Did you take him seriously at that time?

12 A. No.

13 Q. When he said it to you though on the second
14 occasion, did you take him seriously?

15 A. Yes.

16 Q. Can you relate the first time when he said it
17 just in passing to any particular event?

18 A. No.

19 Q. Do you have any particular recollection of
20 how that topic even came up the first time?

21 A. I'm sure that had something to do with the
22 Beverly Hills police.

23 Q. When you say you are sure of that, is that
24 because of something Ron Levin said?

25 A. Yes.

1 Q. And as you sit here today, do you recall what
2 that was?

3 A. No, because periodically, throughout that
4 year before his disappearance, whatever the Beverly
5 Hills police were working on or doing, he was following.

6 Q. But as far as the first time you heard this,
7 can you recall the context of the conversation, or what
8 precipitated this particular comment?

9 A. I think it was a phone call.

10 Q. Can you recall anything about that phone
11 call?

12 A. Just something to the effect, he doesn't
13 understand what they would have on him or what they
14 have.

15 Q. And that would be the first time or the
16 second time?

17 A. That would be the first time.

18 Q. And the first time though when you said this,
19 I take it, were you present when the phone call came in?

20 A. No. I think he mentioned something about
21 getting a call.

22 Q. And that would be within a couple of weeks of
23 the second occasion?

24 A. It could be. I'm, I'm -- I don't know.

25 It could be four weeks; it could be six weeks.

1 I don't have a time reference. Or I know it was before
2 the big emotional one that I referred to.

3 Q. Now the one with the big emotional one -- or
4 hold it. Before we start to go on, let me ask another
5 question before we get particularly right back to that.

6 Regarding picking up or taking your son to the
7 preschool, would you normally try and be there at the
8 time school was out --

9 A. Yes.

10 Q. -- to pick him up?

11 A. Yes.

12 Q. Can you recall any particular -- ever being
13 late to pick him up?

14 A. There have been occasions where I have had
15 other people pick him up.

16 Q. But those would be occasions that you knew
17 about in advance?

18 A. Not necessarily. I mean, things come up in
19 life, and you can't make it, so I would call somebody
20 and have them go pick him up.

21 Q. On the particular occasion which you
22 described as the big emotional episode with Ron Levin,
23 do you recall whether you had to have somebody pick up
24 your son that day or whether you were able to pick up
25 your son that day?

1 A. I don't recall.

2 Q. And regarding that, you know, the big
3 emotional incident, when Ron Levin called you in, you
4 say you went into his office, is that correct?

5 A. Yes.

6 Q. And the phone rang?

7 A. Yes.

8 Q. And then what happened?

9 A. As he was talking on the phone, I was like
10 walking around the room, you know, looking at things.

11 Q. Could you tell us who he was talking to?

12 A. It had something to do with stocks and money.

13 Q. Do you recall hearing him mention any names
14 during the course of the telephone call?

15 A. No.

16 Q. How long did that telephone call last?

17 A. It was short. Maybe five minutes.

18 Q. And during that time, you are doing, what?

19 A. Just looking around.

20 Q. And what then was the -- when you say looking
21 around, did you sit down, or did you wander around the
22 room?

23 A. Wander around the room.

24 Q. And it's then as you are wandering around the
25 room that something strikes you?

1 A. I was glancing at it, down at his desk.

2 Q. And that would be the desk depicted -- or
3 would that be the desk that's depicted in the two
4 pictures behind you?

5 A. Yes.

6 Q. And those pictures are 1064 and 1050?

7 A. Yes.

8 Q. Now at the point when the phone call
9 occurred, and Ron Levin -- Had Ron Levin told you why he
10 wanted to talk with you?

11 A. Not at that point.

12 Q. When the phone call is over, what's the next
13 thing that happens?

14 A. Well, he was on the phone; I glanced and saw
15 the pad or the paper. I saw it just before he hung the
16 phone up. He pulled it out from under from my eyes
17 where I couldn't see it.

18 Q. He pulled it?

19 A. Yanked it.

20 Q. And was there more than one piece of paper?

21 A. I didn't pay any attention.

22 Q. Was it on a pad?

23 A. I don't know. I just remember it being a
24 yellow piece of paper. It looked like it belonged on a
25 legal pad.

1 Q. He yanked it?

2 A. Yes, pulled it away from my eyesight where I
3 was looking. I was looking down; it was on the table.

4 Q. And what did he say?

5 A. Don't be so nosy.

6 Q. And then what happened?

7 A. Then I come back around the table, sit down
8 on the chair. And on the other side was a script which
9 I picked up and started reading.

10 Q. Can you, by referring to either picture back
11 there, indicate where the piece of paper was on the
12 desk?

13 A. Okay. This is the door where you enter.
14 From that hallway, here, to there, the piece of paper
15 was right there on that side of the desk.

16 Q. Okay. We are referring to Defendant's
17 Exhibit 1050. Let me put it up here a little higher.

18 And perhaps, if you could, ma'am, explaining
19 -- you have made an indication on the photograph, can
20 you explain in words where that area is that you were
21 indicating?

22 A. If Ronny would be sitting at his desk, it
23 could be to the left, the far end left -- Excuse me, I'm
24 sorry. The right. To Ronny's right (indicating).

25 Q. And was it by itself or with other papers?

1 A. I think there was other papers underneath it.
2 His desk was always cluttered or stacked, I should say,
3 with paperwork.

4 Q. How long did you have to look at that piece
5 of paper?

6 A. Not very long.

7 Q. Can you give us an estimate?

8 A. Not really.

9 Just enough to glance at it.

10 Q. Between, would it be seconds or minutes?

11 A. It would be closer to seconds than minutes.

12 Q. And he said, don't be nosy?

13 A. Something to the effect, don't be nosy, or,
14 you are always nosy.

15 Q. What did you say or what happens then?

16 A. I just laughed, came back around and sat
17 down.

18 Q. Now when you saw this, were you -- where were
19 you in relationship to the paper?

20 A. I had walked into the room, and I was
21 standing above it.

22 Q. Can -- Is there some way that you could,
23 showing you, or, with People's Exhibit 17, is there some
24 way that you can demonstrate -- Let's use Defendant's
25 Exhibit 1020, the trunk, that's here.

1 Is there some way that you can place the piece
2 of paper to show the relationship between the paper,
3 where Ron Levin was and where you were? And actually --

4 MR. HUNT: Your Honor, I see some difficulty
5 in this demonstration because we don't have a
6 representation of where Ron would be. We don't have
7 something the size of Ron's desk. We don't have a
8 chair. It's pretty difficult.

9 THE COURT: If that's an objection, it's
10 overruled.

11 MR. HUNT: Okay.

12 THE COURT: If you can -- If you can somehow
13 illustrate with the props here in the courtroom, do so.
14 And if you can't, you can't.

15 MR. VANCE:

16 Q. Do you think you would be able to?

17 Assuming, and I'm not, you know, on this
18 trunk, People's 1020, assuming that the face or the side
19 of the trunk, the long side that's facing out to the
20 courtroom would be where Ron Levin's chair was and where
21 Ron Levin was sitting, can you then place the piece of
22 paper in some relationship to that part of the trunk or
23 that part of the desk. And again, I'm not -- if you
24 can't, that's fine.

25 MR. HUNT: Perhaps it would be easier if we

1 use an actual desk. Would it be?

2 MR. VANCE: Sure.

3 MR. GORDNIER: I'll even be Mr. Levin.

4 MR. VANCE: Assuming Mr. Gordnier is seated as
5 being where Ron Levin was.

6 MR. HUNT: So stipulated.

7 THE WITNESS: Except he has to go more
8 centered.

9 MR. VANCE: Okay. Be more centered here.

10 Q. Could -- Do we have other clutter on the
11 desk?

12 A. It looks like clutter, but he was basically
13 neat. He had a pile -- I don't know if it was folders or
14 what. It was --

15 MR. GRAY: I think some of the jurors are
16 having difficulty hearing the witness.

17 THE COURT: Mr. Vance and Mrs. Marmor, let me
18 ask you to minimize the testimony while she's here. You
19 can with a minimal amount of testimony establish where
20 things were, and then let's get her back.

21 MR. VANCE: Yes. And I will also stand over
22 here, so if there's any question, and she tends to talk
23 to me, maybe the whole jury can hear.

24 THE WITNESS: Okay. If there was a stack of
25 something underneath, it could have been manila folders.

1 It was something, paperwork. This was like on top.

2 MR. VANCE:

3 Q. And then in relationship to that, where were
4 you?

5 A. This was his desk. The door was here. I was
6 coming this way.

7 Q. So were you able -- Was the printing or the
8 writing that you observed on it facing you, or did you
9 have to look at this upside down?

10 A. I didn't look at it upside down. When I
11 walked in the door, I walked in this way.

12 Q. So would you perhaps indicate where you were
13 when you took the glance?

14 A. About right here.

15 Q. And then you continued. Then at the point
16 you took the glance, is that when Ron Levin grabbed it?

17 A. Just, by the time he finished the phone call
18 and he pulled it away like this.

19 Q. So as you are looking at it, is that the
20 point where he grabs it away?

21 A. Yes.

22 Q. You can resume your seat.

23 MR. HUNT: Can the record reflect Mrs. Marmor
24 took a position directly in front of where she showed
25 the paper to be on the desk as the vantage point she had

1 when he was looking at the paper and reading it?

2 THE COURT: Yes.

3 MR. VANCE: Yes.

4 Q. And the height of the table in the courtroom,
5 is that approximately the height of Ron Levin's desk?

6 A. That's not your typical desk, so I couldn't
7 say. That was a dining room table.

8 Q. Ron Levin's desk was actually a dining room
9 table?

10 A. Yes.

11 Q. Did it -- Did his desk then appear to you to
12 be higher than a -- Or, his dining room table that he
13 was using as a desk, did that appear to you then to be a
14 little bit higher or lower than a regular desk?

15 A. I never thought about it.

16 Q. Okay. Then, at that point is when, returning
17 just a minute, he says something to the effect, don't be
18 nosy?

19 A. "Why are you so nosy. You are nosy". I
20 mean, something sarcastic, flippant, which is, I said,
21 the kind of relationship we had.

22 Q. And then what happens?

23 A. I just laughed at him, come around the table,
24 sit in the chair opposite of him and picked up
25 something.

1 Q. And waht was that?

2 A. A script.

3 Q. When you say you picked up the script, how
4 many pieces of paper was it?

5 A. It looked like it was about 10 to 12 pieces
6 of paper.

7 Q. Can you describe what those pieces of paper
8 were or looked like?

9 A. It was typewritten, and it looked like a
10 rough draft.

11 Q. And what happened when you picked up those 10
12 to 12 pieces of paper that were typewritten?

13 A. I started reading it.

14 Q. And what do you recall seeing?

15 A. He -- When he picked it up, he said it was a
16 movie script that he was working on. And what I recall
17 is that names and places were familiar to what was
18 happening at that time.

19 Q. The name Edward had some meaning to you?

20 A. Yes.

21 Q. Because it your husband's middle name?

22 A. Yes.

23 Q. Was the name Edward -- Was there any other,
24 anything else that related to your husband other than
25 the name?

1 A. I think he used my husband's ex-wife's name.

2 Q. What's that?

3 A. I'm not sure if it was Cheri.

4 Q. And how did he, how was that name used,
5 Cheri?

6 A. In conjunction to the story.

7 Q. Did you just see the name, or did you
8 actually read some words about what that person was
9 doing?

10 A. I was basically just glancing through it real
11 fast.

12 Q. Anything else that you thought related to
13 your husband?

14 A. No. Related to Ron, New York.

15 Q. And what about New York?

16 A. Going to New York. Travelling to New York.

17 Q. On the going to New York, what about going to
18 New York caused you to relate that to Ron Levin?

19 A. Because Ronny was getting ready to go to New
20 York.

21 Q. And how did you know that?

22 A. He told me.

23 Q. Did you know who he was going with --

24 A. No.

25 Q. -- if anybody?

1 A. No.

2 Q. Did you know when he was going to go on that
3 trip?

4 A. Yes.

5 Q. When was that?

6 A. I think June the 4th, somewhere around that
7 time. I'm not sure.

8 Q. For what purpose, to your knowledge, was he
9 going to take that trip?

10 A. Shopping, vacation.

11 Q. Ron Levin liked to shop a lot?

12 A. Yes.

13 Q. Now you have indicated also that you -- or
14 what else do you recall from the document that we are
15 calling the script?

16 A. I can't recall everything. I know I had a
17 feeling that it pertained to him, and it pertains to
18 something to do with the to do list.

19 Q. As you sit here today, can you explain what
20 it was that caused you to have that feeling?

21 A. Because he -- The conversation before he was
22 not going back to jail. The script deal, around a story
23 of somebody disappearing or not coming back, going away.

24 Q. At what point in this meeting, this contact
25 that you had with him on this day, did the discussion

1 regarding not going back to jail come up?

2 A. I said to him: "Why do I get the feeling
3 that this pertains to you"?

4 And he said, he says: "You are crazy. It
5 doesn't."

6 And then he flipped over and says: "And I'm
7 not going back to jail. You have no idea what they do
8 to you in there."

9 And then he started rambling, and how I
10 shouldn't be so nosy.

11 Q. You say he flipped over?

12 A. (Witness nods head.)

13 Q. From what, statements you are crazy?

14 A. "You're crazy". If I would disagree with him
15 or if anyone would disagree with him, he would go from
16 being, you know, semi -- I guess -- I don't know.

17 I wouldn't call it calm, but into a ranting
18 and raving act.

19 I guess he did it to intimidate you or to get
20 you to get -- if maybe he felt I was getting close to
21 the truth, I don't know. He would just go into that
22 act. Start screaming and hollering, "You are crazy.
23 No, sir".

24 Q. So on this occasion, he started going into
25 that act?

1 A. And stopped.

2 Q. And stopped?

3 A. And then he got serious and said: "You have
4 no idea, Karen, what they do to you in there".

5 Q. He said "in there"?

6 A. Yes.

7 Q. Did you ask him what he meant?

8 A. Yes.

9 Q. What did he say.

10 A. He said: "Jail. I'm not going back to jail.
11 I can't", he said.

12 Q. Did you ask him how the script related to not
13 going back to jail?

14 A. He said it was just a script.

15 Q. Did he say it was just a script for what?

16 A. For a movie.

17 Q. Did he say what he was going to do with that
18 script?

19 A. Produce it.

20 Q. Now in this discussion then when you said,
21 well, I think it relates to you, or you say --

22 A. I said, "why do I get the feeling this
23 relates to you"?

24 Q. And then he said?

25 A. It doesn't; it's just a script.

1 Q. Then he flips over and says, I'm not going
2 back to jail?

3 A. Right.

4 Q. Then there's some conversation that you have
5 with him regarding things that you saw on the to do
6 list; is that correct?

7 A. That's when I -- yes. I said to him, do
8 those two things pertain to you?

9 I said, does this also pertain to you. I had
10 a feeling they both were tied in somehow from reading
11 the script.

12 Q. How much of the script were you able to read?

13 A. I glanced through the ten pages of it. I
14 didn't get to read it fully, but I glanced through, and
15 in spots that caught my eye, I read.

16 Q. What was it on the to do list that you
17 thought related to the script?

18 A. I felt the script dealt around a plot of
19 disappearing, and that maybe it had something to do with
20 that plot.

21 Q. Was there any mention in the script of
22 killing the dog?

23 A. No.

24 Q. Was there any mention in the script of hands
25 or handcuffing?

1 A. I'm not sure. I think he told me also that
2 both things were connected to a movie. I don't know if
3 it was the same movie. When he pulled it away from me,
4 he said, don't be so nosy.

5 I think he might have mentioned too, in there,
6 that it had something to do with what he was working on,
7 a movie, working on something.

8 Q. When he pulls the to do list from you now you
9 think he might have said something that that related to?

10 A. Somehow he said something that led me to
11 believe that it was all, that they were together, that
12 they were tied in together.

13 Q. At the point when he pulled the to do list
14 from you?

15 A. Yes.

16 Q. That was -- And the point he pulled the to do
17 list from you was before you had seen the script?

18 A. I think I asked him why kill the dog; what
19 does that mean.

20 Q. At what point did you recall asking him?

21 A. I think right after he yanked it away from
22 me.

23 Q. What did he say?

24 A. The dog's neurotic.

25 Q. Well, I mean, when you said

1 Q. Was the first thing you asked him about the
2 to do list is, why kill the dog?

3 A. Yes.

4 Q. Did you have any idea what that list was?

5 A. No.

6 Q. He said the dog was neurotic?

7 A. Yes.

8 Q. What did you think, what dog is he referring
9 to?

10 A. He would not say what dog he was referring
11 to, but I understood from previous conversation and what
12 I observed with his dog what he was talking about,
13 because that's what he always said about his dog.

14 Q. He said his dog was neurotic?

15 A. Yes.

16 Q. So you thought he was talking about killing
17 his dog?

18 A. Yes.

19 Q. Did you ask him why he was talking about
20 killing his dog?

21 A. No. Because he would say that that's just
22 the script. See, I knew what he was really talking
23 about, because we would have conversations before about
24 him, the dog being neurotic, and he can't leave it with
25 anybody.

1 I offered to take the dog when he was going on
2 this trip. He said: No, the dog is neurotic; he
3 wouldn't be with anyone else.

4 Q. So on occasions previous to this when Ron
5 Levin to your knowledge took trips, you had offered to
6 take his dog?

7 A. Yes.

8 Q. And he had said, no, you can't do that
9 because the dog is --

10 A. Neurotic.

11 Q. -- neurotic.

12 Do you know what had happened to the dog on
13 those occasions?

14 A. No.

15 Q. Had he not gone on the trip?

16 A. I assumed that Blanche watched him or
17 somebody watched him. I don't know.

18 Q. You don't know?

19 A. No.

20 Q. But to your knowledge, he did take trips?

21 A. Yes.

22 Q. Do you have any reason to believe he took the
23 dog with him on those trips?

24 A. No.

25 Q. When you asked him why kill the dog, and he

1 said because it's neurotic; you are telling us that you
2 believed he was referring to killing his own dog?

3 A. Yes.

4 Q. And getting back on it then, why -- Or did
5 you ask him why he wanted to kill his own dog?

6 A. Because he -- I didn't ask him that question
7 because he was talking in script form, that that applied
8 to the movie.

9 Q. So that it would be a dog in a movie that
10 gets killed rather than his own dog?

11 A. Yes. That's how he often kept you confused.
12 He would refer to it: "I'm talking about the movie".

13 Q. So he would often -- he often talked about
14 movies?

15 A. That's his method of keeping you confused so
16 you wouldn't know what he was talking about, but in this
17 case, he was saying, he was talking about doing a movie
18 and that would tie into the movie.

19 But by the words he used and the conversations
20 that we had had in the past about the dog, I had the
21 feeling that it pertained to his dog.

22 Q. So even though he told you it involved a
23 script, you really thought he was talking about killing
24 his own dog?

25 A. Yes.

1 Q. Did you talk with him about the handcuffs?

2 A. No.

3 Q. Did you talk with him about anything else
4 that you saw on the to do list?

5 A. No, because that's when he got upset and went
6 into, I'm not going back to jail. That's when he
7 flipped and went into that, and we spent that time on
8 that before I left.

9 Q. At what point, you say he grabbed the list
10 back and started talking about, I'm not going back to
11 jail?

12 A. We had the conversation. I asked him the
13 question, and he took the list away from me.

14 He answered that I looked at the script, and
15 he said it was a movie script.

16 And then I said, why do I get the feeling
17 these things pertain to you.

18 And he said, oh, you are crazy. And then he
19 said: You are nuts. It's a movie. It's a movie.

20 Then he flipped into, I'm not going back to
21 jail. And I knew at that point because he didn't take
22 it back, he was serious. I said, what makes you think
23 you are going to jail?

24 Q. And he said what?

25 A. I just know it. I just know I am.

1 Q. Now after the point when he didn't take it
2 back and you became, then it was at that point that you
3 became convinced that he was serious?

4 A. Yes.

5 Q. On other occasions, you have said that you
6 thought that most of what he had said, and I think the
7 term you used was maybe like B.S.?

8 A. Yes.

9 Q. You didn't think it this time?

10 A. No.

11 Q. Because of his attitude?

12 A. Yes.

13 Q. Now you have indicated then -- or what
14 happened after he --

15 A. Let me state. I knew his attitude about not
16 going back to jail was serious. The rest of it up to
17 that point, he -- he -- he wouldn't -- you couldn't pin
18 him down, but his attitude about not going back to jail
19 was serious. He didn't retract it, and he was serious
20 when he said it.

21 Q. Did he also at that time talk to you about
22 planning his own disappearance?

23 A. I think there was something in the script
24 that I was looking at that implied that, and that's when
25 I told him these things pertained to him.

1 He might have made some comments. I said, oh,
2 something to the effect, are you coming back from your
3 trip? And he looked at me and said maybe; maybe not.

4 Q. And the trip you were referring to was the
5 New York trip?

6 A. Yes.

7 Q. Did he ever state to you that he was planning
8 his own disappearance?

9 A. [Pause] I think it was to do with that day
10 and that stuff that was going on that led me to believe
11 that he might be doing something like that.

12 Q. Did he ever use those words?

13 A. No. I'm not sure. I remember the "maybe;
14 maybe not".

15 Q. Did he ever say that he was planning his own
16 disappearance, or I am planning my own disappearance or
17 my own murder?

18 A. There's something from -- I can't recall
19 right now, but there's something very familiar with
20 that.

21 Q. What is it that sounds familiar?

22 A. Something to the disappearance.

23 Q. And what's that?

24 A. I think when he said he wasn't going back to
25 jail, I assumed that he was leaving and not coming back.

1 I might have said something to the effect, they will
2 just come after you, or something like that. What good
3 is that.

4 I seem to remember something to that effect.
5 And I remember him saying something to the effect that,
6 I can't recall, something to the effect that they
7 wouldn't have a need to look for him or something like
8 that.

9 And that part he took back.

10 Q. Excuse me?

11 A. And that part he took back.

12 Q. He did?

13 Q. In other words, he says: It's just the
14 movie. Just thoughts I have. A plot.

15 Q. Now so you don't think he was serious about
16 that part of the conversation?

17 A. I think he was.

18 Q. You think he was?

19 A. (Witness nods head.)

20 He has a way of, if he's serious he will tell
21 you, and and he would watch your reaction. Then he
22 doesn't want you to leave there knowing anything, so he
23 would say "I was kidding". It leaves you, most people,
24 unbalanced.

25 Q. But at that point you believed him?

1 A. Yes.

2 Q. That he was serious?

3 A. Because of the way he said I'm not going back
4 to jail.

5 Q. Because of the way it was linked to that
6 statement?

7 A. Yes.

8 Q. Ma'am, then, you have indicated that this
9 entire contact with Ron Levin probably took about 20
10 minutes; half hour?

11 A. The last incident we were talking about?

12 Q. The incident where you saw the list and this
13 script and --

14 A. There was a longer incident that was longer.

15 Q. How long?

16 A. Once again, it seemed like a real long time
17 to me. I can't say for sure.

18 Q. But definitely?

19 A. It was longer than a half hour.

20 Q. And do you recall anything else he said
21 during this period of time other than what you have
22 related?

23 A. Something to the effect of everything coming
24 down at once.

25 Q. Did he specify what that -- the "everything"

1 that was coming down?

2 A. No.

3 Q. And how did it come to pass that you leave,
4 did he -- Did you just get up and leave; how did it end?

5 A. Well, when he, I tried to calm him down and
6 told him maybe he was being irrational and maybe he was
7 jumping the gun and overreacting.

8 Q. Did you succeed in calming him down?

9 A. Yes.

10 Q. Had you have been able to calm him down on
11 other occasions?

12 A. I never tried.

13 Q. So this incident was pretty, was different
14 from other times that you had seen him upset?

15 A. Yes.

16 Q. So that on this time you tried to calm him
17 down?

18 A. Yes.

19 Q. Now at the point when you finished and left
20 Ron Levin's, did you have occasion to talk about this
21 incident with your husband?

22 A. I might have mentioned it to him.

23 I don't recall. Or I might have told him to
24 call Ron.

25 Q. Excuse me?

1 A. I might of told my husband to call Ron.

2 Q. For what reason?

3 A. That he was upset.

4 Q. Do you recall if you might have, if you
5 indicated why Ron Levin was upset to your husband?

6 A. No. I don't recall.

7 Q. Do you recall much of anything about movie
8 scripts or disappearing?

9 A. My husband and I had a conversation -- not at
10 that time -- when my husband came home and told me he
11 believed him to be dead, and I told him I believed him
12 not to be. Then I think I might have discussed my
13 reasons for thinking that.

14 Q. Which were?

15 A. Were the movie script, and I had, not in
16 great detail, just that I had a gut feeling that he's
17 not dead, that he just disappeared.

18 Q. And you told the husband about the movie
19 script at that time and the disappearance?

20 A. No. I might have told him due to our
21 conversation, I might have told my husband due my and
22 Ronny's conversation that day, I felt that he's not
23 dead.

24 Q. Did you think you might have told your
25 husband that Ron might have planned his disappearance?

1 A. I'm sorry?

2 Q. Did you tell your husband when your husband
3 came home and said he thought he was dead and you said
4 you didn't, that you thought that Ron Levin might have
5 planned his disappearance?

6 A. Yes.

7 Q. At the point when you had this conversation
8 with your husband, did you know whether or not Ron
9 Levin's body had ever been found?

10 A. No.

11 Q. You didn't know one way or the other?

12 A. No.

13 Q. Or did you know that it had not been found?

14 A. I didn't hear one way or the other.

15 Q. Was this conversation with your husband -- Or
16 when was this conversation with your husband?

17 A. It might have been during the trial time.

18 Q. The trial in Santa Monica?

19 A. I think so. I don't know if he went to any
20 other trial. I don't know.

21 I know that when he came home one day he said
22 he thought Ron was dead. It could have been after the
23 police called him. I don't know the time elements
24 there.

25 I just know once he strongly felt that Ronny

1 was dead, I just dismissed any feelings I had or
2 thought.

3 Q. You didn't think it was significant what you
4 knew then?

5 A. No.

6 Q. Did it ever cross your mind to contact --
7 Well, you knew -- Or by the time of this conversation
8 with your husband, did you know that your husband had
9 spoken with the Beverly Hills Police Department?

10 A. I don't know if it was around the same time.
11 I know he did speak to the Beverly Hills Police
12 Department. What he spoke about, I don't know.

13 Q. He didn't tell you?

14 A. No. I didn't ask.

15 Q. But you did know he did at some point speak
16 to the Beverly Hills Police Department?

17 A. Yes, because he would have to take a drive.

18 Q. Excuse me?

19 A. I think at that time we were in the process
20 -- I'm not sure. I think at the time we were in the
21 process of getting ready to move or had already moved.

22 Q. To where?

23 A. To the San Diego area.

24 Q. And how does that relate to his speaking to
25 the Beverly Hills Police Department?

1 A. No. It relates to me knowing whether he did,
2 because he would have to -- He would have to say, I'm
3 going somewhere, or I'm leaving because we still have
4 the apartment there. That's where he would stay.

5 Q. And you never asked him what he talked to the
6 Beverly Hills Police Department about?

7 A. No.

8 Q. And did it cross your mind to tell the
9 Beverly Hills Police Department or for you, yourself, to
10 contact the Beverly Hills Police Department to tell them
11 what you thought?

12 A. No.

13 Q. At the point when you knew your husband had
14 contacted the Beverly Hills Police Department, were you
15 aware that that involved Ron Levin?

16 A. I'm sorry, could you repeat that?

17 Q. Oh, sure.

18 At the point when you knew your husband had
19 contacted Beverly Hills Police Department?

20 A. I don't know whether my husband contacted
21 them or they contacted him.

22 Q. But at the time of that contact, did you know
23 that it was about Ron Levin?

24 A. Yes. I think he might have mentioned that.

25 Q. And did you know at that point that Ron Levin

1 was missing?

2 A. No.

3 Q. You didn't?

4 A. He was supposed to go on a vacation. And
5 then I think it was -- I don't know how long after that
6 came a phone call.

7 Q. From whom?

8 A. From the police department.

9 Q. To whom?

10 A. To my husband, stating that they believed
11 Ronny to be dead.

12 Q. And was that still at the period of time when
13 you thought Ron Levin was on vacation?

14 A. Yes.

15 Q. So did you say anything to anybody about
16 that?

17 A. No.

18 Q. Did that -- did the Beverly Hills Police
19 Department talk to you or to your husband on that
20 occasion when that call came in?

21 A. To my husband.

22 Q. And so they said that they thought Ron Levin
23 was dead, and you still thought he was on vacation; is
24 that correct?

25 A. Yes.

1 Q. Did you tell your husband, hey, you know, he
2 was on vacation?

3 A. Well, he was supposed to go to New York on
4 vacation.

5 Q. Uh-Huh.

6 A. Uh-huh. So that's what my husband thought
7 until he got the phone call, and then he didn't know
8 where he was at, or what was happening.

9 Q. Did you at the time, tell your husband then
10 at that point what you knew about the conversation that
11 you had had with Ron Levin about disappearing?

12 A. No.

13 THE COURT: Mr. Vance, let me interrupt you
14 there. We will take the lunch recess.

15 Remember the admonition. Don't talk about the
16 case among yourselves or with anyone else. Don't let
17 anyone talk about the case in your presence, and don't
18 form or express any opinion in the case until it's
19 submitted to you.

20 We will resume at 1:30.

21 MR. HUNT: Your Honor, just one question. If
22 Mr. Vance only has a few minutes, would it be possible
23 to finish it up with Mrs. Marmor? She has a son to put
24 on a plane and another son -- I don't know what his time
25 is.

1 THE COURT: Just a minute.

2 MR. VANCE: I probably got 15 or 20 minutes.

3 It's just not one or two questions.

4 MR. HUNT: I have no redirect.

5 THE COURT: Do you have any sense of how sure
6 you are about that, Mr. Vance?

7 MR. VANCE: I can't say. If we want to run
8 into the noon hour; that's fine. It might be as short
9 as ten minutes, but I can't say that it might not go 20
10 minutes.

11 So if we want to run into the noon hour,
12 that's fine. I'm not willing to go 'till I run out of
13 questions or the Court runs out of patience and people
14 start throwing bricks and bats at me.

15 THE COURT: Let me ask the jury to step out
16 for just a moment and talk to you.

17 (Whereupon the jury leaves the courtroom.)

18 THE COURT: The record will show the jury is
19 leaving the courtroom.

20 What is your schedule?

21 THE WITNESS: I have a son that's sick, that
22 has a 3:00 o'clock doctor's appointment. I have another
23 son that I have to put on a plane by 5:00 o'clock. I
24 have to fly to San Diego.

25 THE COURT: A 3:00 o'clock doctor's

1 appointments where?

2 THE WITNESS: In San Diego.

3 THE COURT: Where is your son now, with you?

4 THE WITNESS: No. He's with the Nanny, who
5 doesn't drive.

6 If -- What time do we come back from lunch?

7 THE COURT: 1:30.

8 THE WITNESS: If I was out of here no later
9 than, the flight was no later than 2:30, I should be
10 able to make it.

11 MR. VANCE: Is there any way that her husband
12 --

13 THE COURT: She has said, if she gets out of
14 here by 2:30, it will somehow work.

15 I thought you had to be in San Diego by 3:00
16 o'clock.

17 THE WITNESS: Well, I do, but I can call the
18 doctor and tell them I will be running late, because
19 they're always running late.

20 THE COURT: You will not be cross-examined on
21 that. Everybody will accept that.

22 MR. VANCE: There's certain certitudes in
23 life, and that's one of them.

24 THE COURT: And if your 15 or 20 minutes is
25 going to stretch beyond an hour, I wouldn't think --

1 MR. HUNT: Think about something else over
2 lunch.

3 MR. VANCE: Well, I'm -- I really, in the
4 future, if we have these discussions, I prefer that they
5 start out of the presence of the jury so that --

6 THE COURT: I would prefer that if we are
7 going to go to lunch, we go do that, so do you still
8 think it's about 15 or 20 minutes?

9 MR. VANCE: That's my best estimate.

10 THE COURT: Let the jury know that we will
11 stick with plan A and resume at 1:30.

12 [LUNCH RECESS TAKEN]

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1 JUNE 24, 1992

REDWOOD CITY, CALIFORNIA

2 AFTERNOON PROCEEDINGS

3 THE COURT: The record will show that the
4 defendant and all counsel; all members of the jury are
5 present.

6 Go ahead, Mr. Vance.

7 CROSS EXAMINATION OF MRS. MARMOR [Continued]

8 MR. VANCE:

9 Q. You told us about a telephone call that your
10 husband received from the Beverly Hills Police
11 Department, where it was your understanding they told
12 your husband that Ron Levin was dead. Do you recall
13 that testimony?

14 A. I don't know if they said dead or missing.

15 Q. Do you recall though when that telephone call
16 came?

17 A. No.

18 Q. In relationship to the event where you saw
19 the to do list, is there any way that you can relate it
20 to that event?

21 A. It was before.

22 Q. Before you saw the to do list?

23 A. No. I saw the to do list before.

24 Q. And can you give us any indication of how
25 long from that point that your husband received this

1 telephone call?

2 A. Excuse me. Could you repeat that?

3 Q. From the point when you saw the to do list to
4 the point where you received this telephone call, can
5 you give us an estimate of how long that was?

6 A. I don't know. I saw the to do list with Ron
7 in his office. Ron went on vacation. And then followed
8 some, I don't know how much time after the phone call.

9 Q. But it was while you thought Ron was still on
10 vacation?

11 A. Yes, of course. Excuse me, I didn't know how
12 long he was gone for.

13 Q. Is now, as far as when you heard that
14 information, you know, the Beverly Hills Police
15 Department sent to your husband that Ron Levin was
16 either dead or missing, did you at the point when you
17 heard that, did you say to your husband: Well, hey, no,
18 I had a conversation with Ron where he talked about
19 disappearing?

20 A. No. I just said my husband told me what they
21 had said.

22 And I said: No, I don't think so.

23 And he said, why's that?

24 And I said something to the effect that he
25 just, he disappeared, if anything. And my husband says,

1 well, I don't know about that. That's about all the
2 conversation we had at that point.

3 Q. You didn't explain to your husband about the
4 scripts at that point?

5 A. No.

6 Q. Or the to do list?

7 A. I didn't think it was important. I thought
8 he was on vacation.

9 Q. So even though the Beverly Hills Police
10 Department thought he was dead or missing, you still
11 thought he was on vacation?

12 A. Maybe I'm using the wrong words. I didn't
13 think he was dead.

14 Q. Did you think he had staged his own
15 disappearance at the time of the call from the Beverly
16 Hills Police Department?

17 A. Yes. Probably so.

18 Q. Did you tell your husband that?

19 A. I might have. I'm not sure. We had a very,
20 it was a very brief conversation when he told me that he
21 had to be missing or he had to be dead because he
22 couldn't go without calling him every day, and there
23 wasn't any phone calls coming in. I just totally
24 dismissed it. I didn't think any more about it.

25 Q. Indeed, when you had a discussion with Ron

1 Levin about -- Well, let me back up a minute.

2 You were aware that your husband did talk
3 frequently to Ron Levin; is that correct?

4 A. Yes.

5 Q. And that Ron Levin also talked to, frequently
6 with his mother?

7 A. Yes. They --

8 Q. Yes?

9 A. Daily.

10 Q. Daily. And they would seem to visit quite
11 often?

12 A. Yes.

13 Q. And at some point when you were, or at some
14 point did you have a conversation with Ron Levin about
15 his ability to disappear and not be in contact with his
16 mom?

17 A. Yes.

18 Q. When was that?

19 A. The incident where he was upset at the house.

20 Q. Over the list?

21 A. Yes. I -- I said to him, you know, you
22 couldn't.

23 He said something about: Maybe he will come
24 back; maybe he won't. Or maybe he will disappear.

25 I told him he couldn't live without living in

1 Beverly Hills. He couldn't live without calling him
2 every day, and he couldn't live without talking to his
3 mother every day.

4 Because at this point, I thought he was not
5 being serious. I didn't take it serious.

6 Q. You didn't take what serious?

7 A. At this point, I wasn't taking it serious.
8 Because he would banter back: Maybe; maybe not.

9 Q. But this was the same conversation, was it
10 not, where you said, where he said that he couldn't go
11 back to jail?

12 A. This is the same conversation before he
13 flipped, the conversation that I'm talking about. I
14 told you earlier that he started out one way, and he
15 flipped on me. And I knew that when he flipped, he
16 didn't take it back, that he was being serious, the part
17 where he wasn't going back to jail.

18 Q. Uh-huh?

19 A. And he was so adamant and emotional about it,
20 and he was serious.

21 Q. And so, in that part of the conversation it
22 was that you became convinced that everything he said
23 was serious?

24 A. No. I knew he wasn't going back to jail was
25 serious.

1 Q. And that he would be staging his own -- or he
2 was planning his own disappearance or murder?

3 A. Excuse me?

4 Q. And that he was planning his own
5 disappearance or murder?

6 A. From the impression I got from what I read,
7 it appeared that way.

8 Q. Mrs. Marmor, you have had a chance to read
9 the interview that you gave to the Investigator,
10 Woolsey; is that correct?

11 A. Yes.

12 Q. And indeed, you have indicated in another
13 document that you found everything to be true and
14 accurate concerning your recollections described in it.
15 Do you recall that?

16 A. Yes.

17 MR. VANCE: I would like to have the following
18 exhibits marked.

19 MR. HUNT: I have seen it.

20 THE CLERK: People's 153.

21 [People's 153 was marked for identification, a
22 report from investigator of Len Marmor.]

23 MR. VANCE:

24 Q. Ma'am, showing you what we have marked now as
25 Exhibit 153, I would like you to take a moment and look

1 at that and see if that is the first of all the
2 documents that we have in general been talking about
3 just a moment ago?

4 A. Yes. But might I say, I also told
5 Mr. Woolsey when I did this interview, which I don't see
6 anywhere on here, that the times or the sequences might
7 not be in the exact order.

8 Q. You told that to Mr. Woolsey?

9 A. Yes, I did.

10 Q. And he did not put that in his report?

11 A. I don't see it in the report.

12 Q. And you have had a chance to review it?

13 A. Yes.

14 Q. What sequences did you tell him about, that
15 are out of order, please?

16 A. Well --

17 MR. HUNT: Object. Misstates the witness's
18 testimony. She didn't say that there were things out of
19 order. She said there were things that might be out of
20 order in that document.

21 THE COURT: Overruled.

22 Go ahead.

23 And Miss Marmor, maybe push the microphone
24 away just a couple of inches.

25 THE WITNESS: Okay.

1 By order, I mean like the going back to jail.

2 MR. VANCE:

3 Q. Uh-huh.

4 A. That incident was in with the incident of
5 when I saw the paper and that's what I mean by order.
6 If, in fact, he has these in any kind of order.

7 Q. Okay.

8 A. That comment was made the day he was rambling
9 on, the last time I saw him.

10 Q. And that was -- are you saying that that was
11 the only time you made that comment -- he made that
12 comment about going back to jail?

13 A. That emotional to where I believed it.
14 Whatever he was following with the Beverly Hills Police,
15 whatever was happening. Then if I happened to be there
16 if a call came in, and he would say, "I'm not going back
17 to jail", but he didn't say it like he said it that day.
18 He was very upset.

19 Q. The report indicates you told the
20 investigator that he would talk about not going back to
21 jail often, is that correct, that that's what the report
22 indicates?

23 A. I think I already -- it's about two or three
24 times, but once again what is often for you and what is
25 often for me -- anything is way too often for me

1 considering I didn't want to be around him to begin
2 with.

3 Q. As far as what is in the report that the
4 investigator wrote down, the investigator wrote down
5 that you said, he, Ron Levin, would talk about it often.
6 Are you saying that you didn't mean often or --

7 A. Often meaning, maybe if we had a
8 conversation. I mean -- You mean, like every time I saw
9 him?

10 Q. Well --

11 A. Is that what you mean by often?

12 Q. What did you tell the investigator?

13 A. To me, if I heard it more than once, it's
14 often.

15 Q. So did you use the term "often" with the
16 Investigator Woolsey?

17 A. I think so. I could have.

18 Q. So the investigator when he wrote that down
19 got that correct and accurate?

20 A. Yes.

21 Q. And indeed you did have a chance to review
22 it. And if you would look at the first page it says
23 that: I read the attached report of Mr. Woolsey, and
24 find it to be a true and accurate report concerning my
25 recollections of those things described in it.

1 A. Yes.

2 Q. And indeed you did get a chance to read it?

3 A. Yes.

4 Q. And you did sign the page that contains that
5 statement on January 22nd, 1992?

6 A. Yes, and I believe we had to do a correction
7 after that.

8 Q. Would that correction be the correction on
9 page 2 of the report?

10 A. Yes. That was part of it.

11 Q. And that correction relates to how long that
12 you, that you had to look at the to do list; is that
13 right?

14 A. I'm sorry. I'm looking at page 1.

15 Q. I'm sorry. Where it says page 2 of the
16 report. It says up at the top left, page 2.

17 A. Yes.

18 Q. And you corrected -- You found a mistake in
19 the report and corrected it; is that correct?

20 A. Yes.

21 Q. And that mistake was that the report read
22 Karen Sue said she remembers looking at the list for
23 only a few minutes. And then you have corrected it and
24 put in the word "seconds"; is that correct?

25 A. I said seconds the first time.

1 Q. Okay.

2 And you caught that mistake?

3 A. Yes.

4 Q. And initialed it in the report?

5 A. Yes.

6 Q. Now as far as the discussion in the report
7 indicates, you asked Ron Levin: Why do I think this,
8 the list pertains to you.

9 And the report indicates you said that Levin
10 responded with, "I can't go back to jail"; is that what
11 the report indicates?

12 A. What page are you on?

13 Q. Page 2, the middle, sort of the middle
14 paragraph.

15 A. This is the sequence I'm talk about. I don't
16 know if that's when he said that. That was said, but
17 the sequence I'm not sure of. "Maybe I will; maybe I
18 won't". He said something like that. No, that's the
19 movie scripts we are talking about. The exact sequence
20 of how he said these things might not be in the right
21 sequence.

22 Q. Let's then go through them and see where, and
23 see what we have. The report says: Karen Sue asked
24 Levin, quotes, "Why do I think the list pertains to
25 you," end of quotes.

1 And then the report indicates: She said Levin
2 responded with quotes, "I can't go back to jail"
3 unquote.

4 Do you see that?

5 A. Yes.

6 Q. And you are saying that sequence might not be
7 accurate?

8 A. He was rambling and talking really fast.

9 Q. Who?

10 A. Ronny was.

11 Q. The report indicates she said Levin responded
12 with, I can't go back to jail. You are saying that that
13 is not necessarily what you told the investigator?

14 A. That could have come behind when I said, why
15 does this pertain to you, maybe I will; maybe I won't.

16 Q. But did you tell this to the investigator
17 that that's how he responded?

18 A. Yes.

19 Q. And now you are saying that's not the way he
20 responded to the question that you asked him: Why do I
21 think this list pertains to you?

22 A. What I said was he possibly put before this,
23 because he was rambling so fast: "Maybe I will; maybe I
24 won't". Talking about: "Why do I feel this pertains to
25 you".

1 "Maybe it do; maybe it don't". He would say a
2 "yes." Then he would say a "no."

3 "Maybe it will; maybe it won't." "Maybe it;
4 does; maybe it doesn't".

5 Q. Do you see in the report any place that you
6 told the investigator that that's what Ron Levin said?

7 A. Did I see what, "maybe I will; maybe I
8 won't"?

9 Q. Uh-huh.

10 A. No.

11 Q. And indeed, did the investigator record that,
12 where it says Karen Sue asked Levin: "Why do I think
13 this list pertains to you", that the investigator says
14 that you, Karen Sue Marmor said: Levin responded with:
15 "I can't go back to jail"; is that what's in the report?

16 A. Maybe this will help.

17 Q. Ma'am, is that what's in the report?

18 A. No.

19 Q. It's not in the report?

20 A. I am going to plan something, I'm planning my
21 own disappearance.

22 MR. HUNT: Your Honor, defense objects to what
23 is in the report, per se, unless it's being asked in a
24 question of, did you tell the investigator this.

25 If we need to have what's written in the

1 report, the appropriate witness is Mr. Woolsey.

2 MR. VANCE: I think it's appropriate
3 cross-examination.

4 THE COURT: The objection is overruled.
5 Go ahead.

6 MR. VANCE: Let me repeat the question so it's
7 clear.

8 Q. Would you look at the middle of the page 2,
9 and do you see the paragraph that says, Karen Sue asked
10 Levin, quotes, "Why do I think this (the list) pertains
11 to you," end of quotes.

12 Do you see that?

13 A. Yes, I do.

14 Q. Do you recall telling the investigator that
15 you asked Levin that question?

16 A. Yes.

17 Q. And then is not the next thing in the report
18 the following: "She said Levin responded with quotes,
19 "I can't go back to jail," unquote."

20 Is that what's in the report?

21 A. Yes. I had a script in my hands at that time
22 also.

23 Q. You had what?

24 A. The script in my hand at that time also.

25 Q. At what time?

1 A. At that time we're talking about the to do
2 list, it was also the time that I saw the script. So I
3 was talking.

4 Q. Okay. You had the script in your hands at
5 the time?

6 A. I was sitting in the chair, looking at the
7 script when I stated to him: Why do I get the feeling
8 this pertains to you. This is, this whole time of
9 sequence that I said, first off -- This is getting
10 confusing.

11 First off, when I started remembering these
12 things I had told Mr. Woolsey, that I was starting to
13 remember them -- I had dismissed them. It's been years.
14 They are starting to come back.

15 When this -- When I talked to him in '91,
16 there are more things that I remembered since then.

17 Q. Well, we might get into those in a minute,
18 but let's talk about what you remembered at the time
19 with Mr. Woolsey.

20 Is not the next line on the report that he
21 then said: I am planning my own disappearance or my
22 murder, and I am going to plan something so they will
23 never find me; is that what's next written down?

24 A. Yes.

25 Q. And indeed is that the next thing that Ron

1 Levin said to you?

2 A. Yes. And I think there was something in the
3 middle of that. Something about, the disappearance? I
4 think he used something like, going away, not coming
5 back.

6 And I said to him, how are you going to do
7 that? They will just follow you. They will find you.

8 And that's when he replied: Maybe they won't
9 have a need to look for me, something similar to that.

10 Q. Now you have indicated that you had back in
11 1984 sort of dismissed what you had seen, or this
12 incident; is that correct?

13 A. Yes.

14 Q. And that somehow you started remembering this
15 incident, somewhere around December of 1992; is that
16 right, or 1991?

17 A. What do you mean by scurtive [sic]?

18 You used the word scurtive?

19 Q. No. Began to report. Started to remember.
20 You said part of it came in a dream and flashbacks?

21 A. Pieces.

22 Q. Pieces?

23 A. Yes.

24 In the beginning, when I started remembering
25 -- it's been a long time. How many years has it been?

1 I totally dismissed it when my husband believed him to
2 be dead. There was nothing. I didn't think about it
3 anymore.

4 Q. And what pieces have you remembered since
5 talking to the Investigator Woolsey?

6 A. The conversation that we had in this
7 courtroom for the past two days.

8 Q. And can you pinpoint in time, you know, how
9 those things came back? You used the term in your
10 direct examination of what, dreams and flashbacks. How
11 is this coming back to you?

12 A. I thought I corrected the flashback. They
13 are --

14 Q. And when you talk about it now, how did you
15 mean the term "flashbacks"?

16 A. Bit and pieces.

17 Things were coming into my mind in bits and
18 pieces.

19 Q. Now at the time that you have told this jury
20 that you believed that Ron Levin was serious about not
21 wanting to go back to jail and wanting to disappear and
22 planning his own disappearance --

23 A. I'm sorry, could you repeat that?

24 Q. You have told this jury that Ron Levin was --
25 you believed Ron Levin, he was serious this day.

1 As you sit here now thinking back to this
2 event in 1984, you believed Ron Levin was serious?

3 A. In the whole conversation that we had, I said
4 the part that he didn't retract was the part about, I'm
5 not going back to jail, and the emotion that he had
6 behind it led me to believe he was being serious.

7 Q. That, you linked that also to the
8 disappearance. And you said that, and planning his own
9 disappearance and his own murder?

10 A. His disappearance and the conversation we had
11 about that he would take back by saying he was talking
12 about the movie script. That that was the plot in the
13 script.

14 Q. But you believed him, actually, that he was
15 planning his own disappearance?

16 A. I thought it was funny. I -- I -- I just
17 thought it was too ins -- You know, I thought it was
18 strange.

19 Q. Did you believe him or not believe him?

20 A. I believe the part when he said he was not
21 going back to jail. The part about the movie script, I
22 didn't -- I didn't sit there and belabor whether he was
23 telling the truth or not.

24 Q. Did you tell Investigator Woolsey that you
25 believed him when he said that he wasn't going back to

1 jail?

2 A. Yes.

3 Q. In Investigators Woolsey's report in that
4 same paragraph, the same paragraph that begins: Karen
5 Sue asked Levin, why did I think this list pertains to
6 you.

7 Then says: She said Levin was talking, I
8 can't go back to jail. Then there's the part about
9 planning his own disappearance.

10 Then the next thing that Investigator Woolsey
11 wrote down: That Karen Sue said she just passed off
12 Levin's comments as quote unquote "B.S."

13 Is that what the report indicates?

14 A. Yes.

15 MR. HUNT: Objection. Misleading. The whole
16 paragraph should be read. He's truncated it, so that --

17 THE COURT: Mr. Vance, before I overrule the
18 objection, because you were asking her, following up
19 with what she told the investigator, which I think is an
20 appropriate inquiry, asking her what the report says is
21 improper questioning at this point.

22 MR. VANCE:

23 Q. Did you indeed tell the investigator that you
24 passed off Levin's comments as B.S.?

25 A. I believe so.

1 Q. And did you also tell the investigator that
2 you believed Levin was always talking about some type of
3 schemes?

4 A. I'm sorry, could you repeat that?

5 Q. Did you also tell the investigator that Levin
6 was always talking about some type of scheme?

7 A. Yes.

8 Q. And did you also tell the investigator that
9 you thought he was blowing off steam like he did so
10 often?

11 A. Yes.

12 Q. And that was in the context of both going, of
13 his comments to you about going back to jail, and in the
14 context of his planning his own disappearance?

15 A. No.

16 Q. Did you make that clear to the Investigator
17 Woolsey?

18 A. Yes.

19 Q. And then looking at that paragraph, does the
20 report then indicate -- and I'll start at the beginning
21 of the paragraph: Karen Sue asked Levin, quotes --

22 MR. HUNT: Objection to what the report
23 indicates.

24 THE COURT: Sustained.

25 MR. VANCE:

1 Q. Ma'am, could you look at the paragraph that
2 begins Karen Sue asked Levin, and read that paragraph to
3 yourself?

4 Have you had a chance to read it?

5 A. Yes.

6 Q. Betting back to the first place where it
7 says: Declaration of Karen Sue Marmor, could you look
8 at the third paragraph of that again, please?

9 A. Yes.

10 Q. Okay. The paragraph 3 of the declaration of
11 Karen Sue Marmor indicates that you found the report to
12 be accurate; is that correct?

13 A. Under the conditions of what I told
14 Mr. Woolsey, yes.

15 Q. And you have had an opportunity to make
16 changes?

17 A. Supposedly he made changes.

18 Q. And one was indeed made?

19 A. I think after I gave my interview.

20 Q. But those are, the one change is from minutes
21 to seconds; and is that your handwriting?

22 A. Yes, it is. But what I don't see written in
23 here is what I told you earlier about telling
24 Mr. Woolsey that I couldn't be accurate in where the
25 sequence was on the conversation we had.

1 Q. Did you ask for -- Did you have a chance to
2 correct the sequence with Mr. Woolsey?

3 A. No.

4 Q. You told him about it?

5 A. What was there to tell him. I told him up
6 front that I wasn't sure in what sequence it went, in
7 how the conversation followed, but this was the gist of
8 it.

9 Q. Now as far as the -- let me back up a moment.
10 You have indicated that you also did speak
11 with Detective Zoeller; is that correct?

12 A. Yes.

13 Q. And you have had a chance to review his
14 report, is that correct?

15 A. Briefly, yes.

16 Q. When was that?

17 A. I think two days prior to coming up here.

18 Q. And who -- under what circumstances did you
19 have a chance to look at it?

20 A. I don't understand.

21 Q. Who brought it by; how did you happen to look
22 at it?

23 A. It came in the mail.

24 Q. From whom, if you know?

25 A. I don't know.

1 MR. VANCE: I am going to have the following
2 exhibit marked.

3 THE CLERK: People's 154.

4 (Whereupon, an exhibit was marked for
5 identification as People's
6 Exhibit No. 154.)

7 MR. VANCE:

8 Q. Ma'am, you have indicated on direct
9 examination that you had some -- in essence, some -- an
10 issue with Detective Zoeller's report; is that correct?

11 A. Yes.

12 Q. And that was over what?

13 A. The discrepancy of his dates and time
14 concerning a robbery and the incident I was talking
15 about.

16 Q. And what was the nature then of that dispute,
17 or what is your recollection of what happened?

18 A. I told him of the incident that I remember,
19 and he wanted to pinpoint it to the robbery, and I tried
20 to tell him that there was no robbery involved, no
21 report made.

22 Q. And you told him that it had happened about
23 one month prior to Ron Levin's disappearance, the
24 incident that you were talking about with the black man;
25 is that correct?

1 A. Once again, I told him as for dates I wasn't
2 sure. He wanted to pinpoint me on a date. I took a
3 guess, and I told him that I would only be guessing.

4 Q. Okay.

5 He wanted to pinpoint a date?

6 A. He wanted me to try to come up with a date.
7 I told Detective Zoeller I would only be guessing, and
8 that's what I did.

9 Q. So when you guessed one month --

10 A. Yes.

11 Q. In your testimony here, you have said six to
12 eight months; is that correct?

13 A. It could have been. It could be less. I'm
14 not sure.

15 Q. When you were -- When you told this jury that
16 it could have been six to eight months, was that also a
17 guess?

18 A. Excuse me. Could you repeat that?

19 Q. When you told this jury that the incident
20 with the black male happened six to eight months ago or
21 before Ron Levin's disappearance, was that also a guess?

22 A. I told you I couldn't give any dates. I
23 remember it to be one of the first incidents out of the
24 incident I have been talking about.

25 Q. Okay.

1 A. It wasn't the last incident because I know
2 what the last incident was about. So it had to be
3 before that. Where in the incidents that I had a chance
4 to see him, like the wardrobe incident, the color of his
5 hair change incident, where it fits in that sequence,
6 I'm not sure of.

7 Q. But did you not tell this jury that there was
8 six to nine months that the incident with the black male
9 happened?

10 A. Yes.

11 Q. Did you also not, or talk to Detective
12 Zoeller about when it was that you saw the to do list in
13 relationship to Ron Levin's disappearance?

14 A. First off, Detective Zoeller hardly spoke to
15 me. He spoke to my husband.

16 Q. But when he spoke to you, did Detective
17 Zoeller talk to you about when you say you saw the to do
18 list under the circumstances that you have described at
19 Ron Levin's?

20 A. I don't recall.

21 Q. You don't recall that Detective Zoeller
22 talked to you about that time frame?

23 A. I don't recall.

24 Q. I would like to show you the document
25 People's Exhibit for identification 154. Directing your

1 attention to the third page and ask you to look at the
2 bottom of that page, the paragraph beginning at the
3 bottom.

4 Just read it to yourself.

5 A. (Witness complies with request.)

6 Just the last paragraph?

7 Q. Uh-huh. And you can go over to the next page
8 if that would help. You can continue on.

9 A. I don't --

10 Q. Have you had a chance to read that?

11 A. Yes.

12 Q. And after reading that, does that refresh
13 your memory as to whether or not you told Detective
14 Zoeller when you thought you might have seen the to do
15 list?

16 A. What I find not written in here, which I also
17 have found in Ted Woolsey's report is, I told Detective
18 Zoeller, like I told Mr. Woolsey, I could not give
19 dates. I would only be guessing if I did.

20 Q. But the question was, there is a date given
21 in the report that --

22 A. Yes.

23 Q. That now that you have read, does it?

24 A. Yes. He has me guessing six to eight weeks.

25 Q. Well, actually, doesn't he have you saying

1 approximately three to six weeks; maybe even up to eight
2 weeks?

3 A. Correct.

4 Q. And you are indicating that what it does not
5 say is that this was just a guess?

6 A. Exactly. That I couldn't give exact dates.

7 Q. So to the best of your recollection, after
8 seeing the to do list and having the discussion where
9 Ron Levin was really upset, you were able to calm him
10 down, that at that point you didn't tell your husband
11 about it; is that correct?

12 A. I might have told him to call Ron. I don't
13 recall.

14 Q. And then?

15 A. Or Ron might have told me to have him call.

16 Q. Is that possible that he did?

17 A. Possible.

18 Q. Did you then -- let me back up a minute.

19 Do you recall a person by the name of Dean
20 Factor?

21 A. Very -- I think I have met him once or twice,
22 very brief.

23 Q. Do you recall around this period of time of
24 Ron Levin's disappearance that your husband received a
25 phone call from, or talking to Dean Factor on the

1 telephone?

2 A. No.

3 Q. After the incident of the to do list, were
4 you ever back in or did you go back into Ron Levin's
5 apartment?

6 A. No.

7 MR. VANCE: Realizing that the witness has a
8 -- We have no further questions at this point.

9 We would ask the witness not be excused,
10 subject to further recall.

11 THE COURT: Any redirect?

12 MR. HUNT: Yes, your Honor. Couple questions.

13 REDIRECT EXAMINATION OF MRS. MARMOR

14 BY MR. HUNT:

15 Q. Since the time that Mr. Woolsey interviewed
16 you, have you taken time to concentrate and see if you
17 could recall more details and aspects of those incidents
18 that everybody seems to be interested in?

19 A. I have tried, Mr. Hunt, but I fell and broke
20 my arm, and I'm still recovering from pneumonia.

21 Q. This has been a difficult time for you to
22 appear and testify?

23 A. Yes.

24 Q. And you are still under a doctor's care with
25 pneumonia?

1 A. Yes.

2 Q. Have you tried in the last few days to pull
3 up as many details as you could?

4 A. Yes, I have.

5 Q. Is it difficult to put these couple hundred
6 little bits and pieces of conversation in the right
7 order as to each incident?

8 A. Yes, it is.

9 Q. Would you have preferred, Mrs. Marmor, not to
10 have anything to do with this case?

11 A. Yes, I would have.

12 Q. Did you want to come up here and testify?

13 A. No, I did not.

14 Q. And why is it that you came forward?

15 A. After my husband came back from seeing you,
16 he said he had some feelings that maybe Ron wasn't dead.

17 I started having these thoughts about, you
18 know, oh, what if somebody is in jail and they don't
19 belong in there. And I started having problems not
20 sleeping.

21 And maybe it's a problem with my upbringing.
22 My father always told me what you did today, you slept
23 with tonight. And so it was kind of like a no-choice
24 thing for me.

25 THE COURT: Thank you, Mrs. Marmor.

1 Any recross?

2 MR. VANCE: Not at this point. We would ask
3 still for the subject to be recalled.

4 THE COURT: Thank you, ma'am. You are free to
5 leave. You -- We may need to have you testify later in
6 the trial. If so, the parties will be in touch. Thank
7 you.

8 THE WITNESS: Okay. Thank you.

9 THE COURT: And let's -- Do you have another
10 witness?

11 MR. HUNT: Yes, several.

12 THE COURT: We will -- Rather than go a couple
13 of minutes with one, we will take our recess now.

14 15 minutes. Resume at 2:30. Remember the
15 admonition.

16 [RECESS TAKEN.]

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

DEPARTMENT NO. 11

HON. DALE A. HAHN, JUDGE

PEOPLE OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

CASE NO. C-15761-01

JOSEPH HUNT,

Defendant.

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA

SS.

COUNTY OF SAN MATEO

I, DONNA HEUMAN, CERTIFIED SHORTHAND REPORTER AND OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN MATEO, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT OF PROCEEDINGS, PARTIAL TRIAL VOLUME 38, PAGES 1 THROUGH 139, COMPRISES A TRUE AND CORRECT COMPUTER-AIDED TRANSCRIPTION OF THE KAREN SUE MARMOR TESTIMONY I REPORTED IN DEPARTMENT 11, ON JUNE 24TH, 1992, IN THE MATTER OF THE ABOVE-ENTITLED CAUSE.

DATED THIS 13TH DAY OF JULY, 1992.

DONNA HEUMAN, CSR 4321
OFFICIAL REPORTER, SUPERIOR COURT

EXCERPT F

TRANSCRIPT OF JERRY VERPLANCKE'S
TESTIMONY IN SAN MATEO COUNTY IN 1992

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

THE PEOPLE OF THE
STATE OF CALIFORNIA,

Plaintiff,

VS.

JOSEPH HUNT,

Defendant.

CASE NO. C 15761-01

EXAMINATION OF
JERRY VERPLANCKE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE: HONORABLE DALE A. HAHN, JUDGE

DEPARTMENT 11

JULY 2, 1992

APPEARANCES:

FOR THE PEOPLE:

DANIEL LUNGREN, ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA
BY: JOHN VANCE, DEPUTY A.G.; AND
JOHN GORDNIER, ASSIST. SR. A.G.
455 GOLDEN GATE AVE., SUITE 6000
SAN FRANCISCO, CA 94102-3600

FOR THE DEFENDANT: JOSEPH HUNT, IN PRO PER

ADVISORY COUNSEL: DOUGLAS GRAY, ATTORNEY

TRIAL VOLUME 42: PAGES 81 THROUGH 93

REPORTED BY: DONNA HEUMAN, CSR 4321

1 THE COURT: The record will show the
2 defendant, all counsel are present. No members of the
3 jury are present.

4 MR. VANCE: Oh, your Honor, I'm sorry, I tried
5 to get -- The witness that I have a question about is
6 Dr. Krause, who is not going to be the next witness.

7 THE COURT: Bring in the jury please.

8 MR. VANCE: I apologize.

9 (Whereupon the jury enters the courtroom.)

10 THE COURT: The record will show the jury is
11 seated in the jury box.

12 Call your next witness.

13 MR. HUNT: The defense calls Mr. Jerry
14 Verplancke.

15 JERRY VERPLANCKE,

16 [Called as a witness by the defense, was sworn and
17 testified as follows]:

18 THE WITNESS: I do.

19 THE CLERK: Be seated, please.

20 Would you state your name and spell it,
21 please.

22 THE WITNESS: Jerry Verplancke, J-e-r-r-y
23 V-e-r-p-l-a-n-c-k-e.

24 THE CLERK: Thank you.

25 DIRECT EXAMINATION OF JERRY VERPLANCKE

1 BY MR. HUNT:

2 Q. Mr. Verplancke, can you let the jury know
3 where you were working in 1983?

4 A. Progressive Savings and Loan, Alhambra,
5 California.

6 Q. In the course of your duties for Progressive
7 Savings and Loan, did you have an encounter with Ron
8 Levin?

9 A. Yes, I did.

10 Q. And how was that that Mr. Levin's name came
11 to your attention, sir?

12 A. There were some problems with clearing some
13 checks in which the institution sustained a loss in the
14 area of about \$154,000. And these checks were deposited
15 in accounts of which Ron Levin was the primary account
16 holder.

17 MR. HUNT: Your Honor, the defense has had
18 marked a two-page document that carries a date of
19 October 10th, 1983, indicating the account was closed on
20 that date.

21 The first account card is for General
22 Information Corporation.

23 I see, I should start from the top.

24 This is 1305, Your Honor.

25 (Whereupon bank signature cards were

1 marked for identification as
2 Defendant's Exhibit No. 1305.)

3 MR. HUNT: They are bank account signature
4 cards, one account being General Information
5 Corporation, and the other one being May Brothers' Land
6 Corporation.

7 They carry a closure date of October 10th,
8 1983.

9 And let's have reported Defense 1306 as well.
10 (Whereupon, Defendant's Exhibit 1306 was
11 marked off the record.)

12 MR. HUNT: 1306 is a check and four related
13 service debits memorandums drawn on Progressive, on
14 October 3rd, 1983, for \$31,925 to BDF Travel.

15 THE COURT: 1306?

16 MR. HUNT: Yes, your Honor.

17 Q. Mr. Verplancke, in relationship to the
18 accounts that Progressive Savings and Loan had
19 difficulty with, were all your dealings with Mr. Ron
20 Levin?

21 A. Yes, they were.

22 Q. Did you ever meet a man named R. Michael
23 Weatherby?

24 A. I never met an R. Michael Weatherby, although
25 the name comes up as a reference.

1 Q. And how did Mr. R. Michael Weatherby's name
2 come up in relationship to these transactions?

3 A. I don't recall specifically. It's been some
4 time ago.

5 MR. HUNT: Mr. Vance, are you through with
6 those?

7 MR. VANCE: Yes. I just marked on them.

8 MR. HUNT: It's all right.

9 (Whereupon documents were handed to the
10 witness.)

11 MR. HUNT:

12 Q. Mr. Verplancke, I would ask you to take a
13 look at Defense 1305, and we have the exhibit numbers on
14 the back as you note.

15 Do those appear to you, sir, to be account
16 cards from Progressive Savings and Loan?

17 A. Yes, they do.

18 Q. And are you familiar with how those are
19 prepared?

20 A. I have a general knowledge of that, yes.

21 Q. Who do any -- For the first one, the first
22 page of Defense 1305, what account is that for, sir?

23 A. That's General Information Corporation.

24 Q. And who are the authorized signers on that
25 account?

1 A. Well, it appears from what I have a
2 recollection of, that that is the signature of Ron
3 Levin, as best as I can recall.

4 Q. It shows some sort of squiggle R?

5 A. Squiggle R.

6 Q. And the next page, sir, is that also an
7 account information card?

8 A. Yes, it is.

9 Q. And what account is that for?

10 A. That's May Brothers' Land Corporation.

11 Q. Does it bear a similar signature?

12 A. Yes, it does.

13 MR. HUNT: Your Honor, the defense would ask
14 that those two, that record, Defense 1305 be received in
15 evidence.

16 THE COURT: Any objection?

17 MR. VANCE: None on the grounds of
18 authentication. We do have an objection on the grounds
19 of relevancy.

20 THE COURT: Overruled. It's in evidence.

21 (Whereupon, Defendant's Exhibit No.
22 1305 was admitted into evidence.)

23 MR. HUNT: Thank you, your Honor.

24 Q. As to Defense 1306, do you have a
25 recollection, sir, of there being a problem in

1 relationship to a bounced check on one of Mr. Levin's
2 accounts relating to a travel agent?

3 A. There were a number of items that came back.
4 Some of which the institution did pay. Some of them
5 they did not. Once they realized that the funds that
6 had been deposited into these accounts were not in fact
7 good funds, they terminated payout.

8 Q. Do you recognize that check as being one
9 relating to Progressive Savings and Loan?

10 MR. GORDNIER: Just for the record, your
11 Honor, I wonder if we could have more specificity as to
12 quotes, "that check," unquote.

13 MR. HUNT: Defense 1306.

14 MR. VANCE: I --

15 MR. GORDNIER: I'm sorry.

16 THE WITNESS:

17 A. Well, the check appears to have been
18 generated off of a computer. It's not a typical check
19 that was issued by the institution. Their policy was
20 that this particular item is paid to BPF Travel, and
21 it's supposedly drawn against Network News, Inc. of
22 which I have no idea who Network News, Inc. is.

23 Q. As to that particular check, do you recognize
24 the documents attached to Defense 1306 beneath the
25 check?

1 A. Yes. Those are all standard debit
2 memorandums (sic).

3 Q. For Progressive Savings and Loan?

4 A. Yes, they are so identified as such.

5 Q. What is the amount of the transaction that
6 the debit memorandums all relate to?

7 A. Well, on each of them, this is the amount,
8 the same amount as the check.

9 Q. And what was that amount, sir?

10 A. \$31,925.

11 Q. Mr. Verplancke, did you ever have a
12 conversation with Ron Levin about the possibility of
13 criminal action being taken as a result of the loss to
14 Progressive of \$154,000?

15 A. Yes, I did.

16 Q. What was said to him in that regard?

17 MR. VANCE: Objection. Vague as to time.

18 THE COURT: Sustained.

19 MR. HUNT:

20 Q. Sir, when would that conversation have taken
21 place in relationship to the loss of the \$154,000?

22 A. On or about the first part of October 1983.

23 Q. Okay.

24 Now at that point, what do you recall having
25 said, or the discussion having been with Mr. Levin?

1 MR. VANCE: Objection. Hearsay.

2 THE COURT: Overruled.

3 MR. HUNT: You may answer.

4 THE WITNESS:

5 A. The discussion was based on the fact that the
6 checks had been deposited and had not cleared, and I had
7 reason to believe that he had foreknowledge that these
8 checks were in fact no good. I questioned him with
9 regard to that, which he implicitly [sic] denied.

10 It's been time. Trying to recall exact, it's
11 going to be a little vague.

12 I indicated to him in that conversation that
13 with the general flow of the information back and forth
14 between the two of us, that I would be contacting both
15 the Beverly Hills Police Department and the Federal
16 Bureau of Investigation to have them pursue an
17 investigation with him.

18 Q. A criminal investigation?

19 A. Yes.

20 Q. Did you actually contact these parties at a
21 later time, the Beverly Hills Police Department and the
22 F.B.I.?

23 A. I did.

24 Q. Did you make him aware of that fact?

25 A. He was fully aware of it.

1 MR. VANCE: I am going to object to the answer
2 as nonresponsive and ask it be stricken.

3 THE COURT: Granted. The jury is admonished
4 to disregard that answer.

5 And perhaps you can establish personal
6 knowledge.

7 MR. HUNT:

8 Q. In Mr. Levin's presence, did you tell him
9 that you were about to call the Beverly Hills Police
10 Department?

11 A. Yes, I did.

12 Q. Did you then reach for the phone?

13 A. No. I was instructing an assistant manager
14 of the branch to do such.

15 Q. So describe that scene for us. You are at
16 the branch?

17 A. Yes, we were at the Beverly Hills location.
18 Beverly Hills location was not at that time the main
19 office of Progressive Savings and Loan. Where I was
20 headquartered was the main office in Alhambra, so I had
21 to actually travel out to the branch to do the interview
22 with Mr. Levin.

23 It was probably irrelevant, but our meeting
24 was quite by accident. I did not specifically set out
25 to see him. He just happened to come in at the time.

1 I instructed the assistant branch manager part
2 way through the conversation to contact the Beverly
3 Hills Police Department and ask them to send an
4 investigative officer over.

5 Q. You gave that instruction to your assistant
6 -- or to that assistant branch manager?

7 A. Right.

8 Q. In Mr. Levin's presence?

9 A. No, not in his presence.

10 Q. Did you indicate to him that you had given an
11 instruction of that nature?

12 A. Yes, I did. I told him I had.

13 Q. Did -- To your recollection now, do you
14 recall any explanation -- Strike that.

15 Do you recall Mr. Levin talking to you about
16 the involvement of the Federal Bureau of Investigation,
17 or yourself mentioning it to him?

18 A. I believe that I made him aware that they
19 would be notified, because the institution is a
20 federally insured institution, and they do investigate
21 any crimes against them.

22 Q. Do you recall any representation that Mr.
23 Levin made in connection with a company called
24 Cyclotronics?

25 A. There was something with regards to that,

1 that supposedly they were venture capitalists, and that
2 the reason that his checks were not honored was because
3 they did not honor their check.

4 Q. Did he tell you that he was working to secure
5 a loan on behalf -- that his firm and that he, himself,
6 was working to secure funds or venture capital for
7 Cyclotronics?

8 A. I believe that's correct.

9 MR. HUNT: Thank you very much,
10 Mr. Verplancke.

11 CROSS-EXAMINATION OF JERRY VERPLANCKE

12 BY MR. VANCE: What conversation was that,
13 sir, that he talked about venture capital and
14 Cyclotronics?

15 A. That was in our original conversation.

16 Q. Do you have any notes of that conversation?

17 A. Just what is in Mr. Hunt's possession.

18 Q. And what is that?

19 A. I'm sorry?

20 Q. And what is in Mr. Hunt's possession?

21 A. Copies of my internal memorandums when I was
22 security officer.

23 MR. HUNT: Your Honor, may the record reflect
24 that I am going to supply this memorandum to Mr. Vance.

25 THE COURT: All right.

1 Mr. Vance, I'll give you a chance to look at
2 that over the lunch hour.

3 MR. VANCE: Thank you.

4 THE COURT: We will take the noon recess now.
5 Remember the admonition. We will resume at 1:30.

6 [LUNCH RECESS WAS TAKEN.]

7 *****

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AFTERNOON PROCEEDINGS

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THE COURT: The record will show the defendant and all counsel are present. All members of the jury are present. And, Mr. Verplancke, would you take the stand again please.

MR. VANCE: We would have no further questions.

THE COURT: Okay.

THE COURT: I forget if there were any at all. Any redirect?

MR. HUNT: No.

THE COURT: May he be excused?

MR. VANCE: Yes.

THE COURT: Thank you, sir. You are free to leave.

THE WITNESS: Thank you.

THE COURT: Call your next witness.

MR. HUNT: The defense calls -- Let me.

Defense calls Mr. Dan Wilson.

DANIEL WILSON,

[Called as a witness by the defense, was sworn and testified as follows]:

THE WITNESS: I do.

THE CLERK: Be seated, please.

Would you state your name and spell it,

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

DEPARTMENT NO. 11

HON. DALE A. HAHN, JUDGE

PEOPLE OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

JOSEPH HUNT,

Defendant.

CASE NO. C-15761-01

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA

SS.

COUNTY OF SAN MATEO

I, DONNA HEUMAN, CERTIFIED SHORTHAND REPORTER AND

OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF

CALIFORNIA, COUNTY OF SAN MATEO, DO HEREBY CERTIFY THAT

FOREGOING TRANSCRIPT OF PROCEEDINGS, TRIAL VOLUME 42,

PAGES 81 THROUGH 93, COMPRISES A TRUE AND CORRECT

PARTIAL COMPUTER-AIDED TRANSCRIPTION OF THE PROCEEDINGS

I REPORTED IN DEPARTMENT 11, ON JULY 2, 1992, IN THE

MATTER OF THE ABOVE-ENTITLED CAUSE.

DATED THIS 11TH DAY OF AUGUST, 1992.

DONNA HEUMAN, CSR 4321

OFFICIAL REPORTER, SUPERIOR COURT

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT NO. 101 HON. J. STEPHEN CZULEGER, JUDGE
4
5 IN RE)
6 JOSEPH HUNT)
7) NO. A 090435
8 ON HABEAS CORPUS.)
9

10 REPORTERS' DAILY TRANSCRIPT

11 VOLUME 4

12 MONDAY, APRIL 29, 1996

13 PAGE 439 THROUGH 664, INCL.

14 APPEARANCES:

15 FOR THE PETITIONER
16 JOSEPH HUNT:

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18 AND

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21 FOR THE RESPONDENT
22 THE PEOPLE OF THE
23 STATE OF CALIFORNIA:

GIL GARCETTI
DISTRICT ATTORNEY
BY: ANDREW MC MULLEN, DEPUTY
24 AND
IMOGENE KATAYANA, DEPUTY
25 18000 CRIMINAL COURTS BUILDING
26 210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

27 **COPY**

28 M. HELEN THEISS, CSR, #2264
OFFICIAL COURT REPORTER

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M A S T E R I N D E X

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<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE</u>	<u>VOL</u>
GHALEB, NADIA						
(OUT OF ORDER)	442					4
(CONTINUED)	471	472	513	517		4
ROBINSON, ROBERT A.						
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(RESUMED)		542				4
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(FURTHER)				595		
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<u>RESPONDENT'S</u>						<u>VOIR</u>
<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE</u>	<u>VOL</u>

(NONE)

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ALPHABETICAL INDEX OF WITNESSES

<u>PETITIONER'S</u>					<u>VOIR</u>
<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE VOL</u>
GHALEB, NADIA					
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<u>RESPONDENT'S</u>					<u>VOIR</u>
<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE VOL</u>
(NONE)					

MASTER INDEX

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2 - DOCUMENT	4	457		
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3 - DOCUMENT	4	457		
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RESPONDENT'S EXHIBITS	FOR IDENTIFICATION VOL.	PG.	IN EVIDENCE VOL. PG.	WITHDRAWN OR REJECTED VOL. PG.
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MM - PHOTOGRAPH	4	484		
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H - DOCUMENT	4	509		
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10

1 RIGHT THERE, PLEASE.

2 PLEASE RAISE YOUR RIGHT HAND.

3 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
4 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
5 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
6 SO HELP YOU GOD?

7 THE WITNESS: YES.

8 THE CLERK: PLEASE BE SEATED.

9 STATE YOUR NAME FOR THE RECORD AND SPELL YOUR
10 FIRST AND LAST NAME, PLEASE.

11

12

13 IVAN WERNER, +

14 CALLED AS A WITNESS BY THE PETITIONER, WAS SWORN AND
15 TESTIFIED AS FOLLOWS:

16

17 THE WITNESS: IVAN, I-V-A-N, WERNER, W-E-R-N-E-R.

18 THE COURT: WHY DON'T YOU PULL THAT MICROPHONE
19 RIGHT UP UNDERNEATH YOUR CHIN, IF YOU WOULD, SIR.

20 YOU MAY INQUIRE, MR. CRAIN.

21 MR. CRAIN: THANK YOU, YOUR HONOR.

22

23 DIRECT EXAMINATION +

24

25 BY MR. CRAIN:

26 Q MR. WERNER, WHAT IS YOUR OCCUPATION, SIR?

27 A I'M A FUNERAL DIRECTOR LICENSED TO PRACTICE
28 IN THE STATE OF CALIFORNIA.

10 1 Q APPROXIMATELY HOW LONG HAVE YOU BEEN IN THAT
2 BUSINESS?

3 A 31 YEARS.

4 Q AND ARE YOU EMPLOYED BY ANYONE NOW, OR DO YOU
5 FREELANCE, OR WHAT DO YOU DO?

6 A I'M AN INDEPENDENT CONTRACTOR.

7 Q AND IN THE PAST HAVE YOU WORKED FOR
8 FUNERAL -- I AM NOT GOOD ON THE LINGO, FUNERAL HOMES? IS
9 THAT THE CORRECT WAY TO SAY IT?

10 A THAT'S CORRECT, SIR.

11 Q FUNERAL DIRECTORS?

12 A NO, INDIVIDUAL MORTUARIES.

13 Q MORTUARIES, ALL RIGHT.

14 I'M TRYING TO AVOID THOSE KIND OF PLACES FOR
15 A WHILE.

16 THE COURT: HOPEFULLY FOR A LONG WHILE.

17 MR. CRAIN: THIS CASE MAY PUT ME THERE SOONER.

11 18 THE WITNESS: YOUR HONOR, I HAVE A HEARING
19 IMPAIRMENT IN MY LEFT EAR.

20 THE COURT: PULL THAT MICROPHONE UP.

21 BY MR. CRAIN:

22 Q HEAR ME BETTER NOW?

23 A YES.

24 Q NOW, WERE YOU ABLE TO HEAR ALL THE QUESTIONS
25 I JUST ASKED YOU OVER THE LAST COUPLE OF MINUTES?

26 A YES.

27 Q OKAY.

28 NOW, IN THE PAST DID YOU WORK FOR ANY

11

1 MORTUARIES?

2 A YES.

3 Q AND DID YOU WORK FOR PIERCE BROTHERS?

4 A YES, I DID.

5 Q DID YOU WORK FOR ANOTHER MORTUARY CALLED
6 GUERRA AND GUTIERREZ?

7 A YES. YES, I DID.

8 Q DO YOU -- NOW, ARE YOU PERSONALLY ACQUAINTED
9 WITH MR. HUNT OVER HERE, THE GENTLEMAN AT THE END OF THE
10 TABLE WEARING THE BLUE JUMP SUIT?

11 A NO, SIR, I'M NOT.

12 Q NOW, DURING THE YEAR 1985 DID YOU TAKE ANY
13 TRIPS OUT OF THE COUNTRY?

14 A YES, I DID.

15 Q AND WHERE DID YOU GO?

16 A TO SOUTH AMERICAN, SPECIFICALLY BRAZIL.

17 Q AND DID YOU BRING A PASSPORT TO COURT TODAY
18 THAT REFLECTS THAT TRIP TO BRAZIL?

19 A YES, I DID.

20 MR. CRAIN: YOUR HONOR, IT'S AVAILABLE.
21 UNFORTUNATELY, THE COURT MAY NOT BE TOO SURPRISED TO
22 LEARN, IT'S NOT BEEN IDENTIFIED AS AN EXHIBIT BECAUSE I
23 DIDN'T KNOW ABOUT IT. HOWEVER, I DO KNOW ABOUT IT NOW.
24 IF THERE'S ANY ISSUE ABOUT THIS PARTICULAR POINT, I'LL BE
25 HAPPY TO --

26 THE COURT: MY SUGGESTION -- I ASSUME MR. WERNER IS
27 NOT GOING TO WANT TO GIVE UP THE PASSPORT.

28 MR. CRAIN: NOT THE ORIGINAL.

11 1 THE COURT: AT THE BREAK WE HAVE A XEROX MACHINE
2 AVAILABLE IN THE LAW CLERK'S OFFICE. MY SUGGESTION WOULD
3 BE THAT YOU MAKE A COPY AND MARK IT AS AN EXHIBIT. I
4 ASSUME MR. MC MULLEN WOULD HAVE NO OBJECTION TO A COPY
5 BEING PREPARED.

6 MR. MC MULLEN: I DON'T THINK WE WOULD, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MR. CRAIN: THANK YOU.

9 BY MR. CRAIN:

10 Q NOW, MR. WERNER, YOU WENT TO BRAZIL AND DID
11 YOU GO THERE WITH ANYONE?

12 A YES, MY WIFE, IRENE.

13 Q AND DO YOU REMEMBER AT THIS POINT WITHOUT
14 LOOKING AT YOUR PASSPORT APPROXIMATELY WHEN YOU WERE IN
15 BRAZIL?

16 A MARCH, 1985.

17 Q AND FOR ABOUT HOW LONG WERE YOU VISITING
18 THERE?

19 A WE WERE THERE ABOUT -- A LITTLE BETTER THAN
20 TWO WEEKS.

21 Q IS THIS A VACATION -- WERE YOU THERE AS A
22 TOURIST?

23 A VACATION.

24 Q AND THEN DID YOU RETURN TO LOS ANGELES?

25 A THE LATER PART OF MARCH, EARLY APRIL OF THE
26 SAME YEAR, 1985.

27 Q AND LOS ANGELES WAS YOUR HOME THEN?

28 A YES, SIR.

11

1 Q AND IT IS NOW?

2 A YES, SIR.

3 Q AND AFTER YOU RETURNED TO LOS ANGELES FROM
4 YOUR VACATION IN BRAZIL AT SOME POINT AFTER THAT, THAT
5 SPRING, DID YOU WORK AT ANY FUNERALS WHERE YOU SAW -- I
6 DON'T KNOW HOW TO ASK THIS WITHOUT APPEARING TO BE -- LET
7 ME SHOW YOU A PHOTOGRAPH AND ASK YOU IF YOU EVER SEEN THIS
8 PERSON BEFORE.

9

10 (PAUSE.)

11

12 MR. CRAIN: APPROACH THE WITNESS, YOUR HONOR?

13 THE COURT: YES.

14 BY MR. CRAIN:

15 Q MR. WERNER, SHOWING YOU WHAT'S BEEN MARKED AS
16 PETITIONER'S EXHIBIT 1. DO YOU SEE THE MAN IN THAT
17 PHOTOGRAPH?

18 A YES, I DID.

19 Q HAVE YOU EVER SEEN THAT MAN BEFORE?

20 A NO, SIR, I HAVE NOT.

21 Q PARDON ME?

22 A I SAW HIM ONCE.

23 THE COURT: I THINK HE HAS MISUNDERSTOOD YOUR
24 QUESTION.

25 MR. CRAIN: COULD PERHAPS THE RECORD REFLECT THAT I
26 WAS WALKING AWAY FROM THE WITNESS.

27 THE COURT: YEAH.

28

11

1 BY MR. CRAIN:

2 Q ALL RIGHT.

3 HAVE YOU SEEN THAT MAN BEFORE, ONCE OR AT ANY
4 OTHER TIME?

5 A I SAW HIM ONE TIME, SIR.

6 Q AND WHERE WAS THAT?

7 A IT WAS AT A FUNERAL SERVICE AT SOME TIME IN
8 1985 AFTER WE RETURNED FROM BRAZIL.

9 Q OKAY.

10 NOW, DO YOU REMEMBER THE NAME OF THE PERSON
11 FOR WHOM THE SERVICE WAS BEING HELD? DO YOU REMEMBER THAT
12 AT THIS TIME?

13 A NO, SIR, I DO NOT.

14 Q AND DO YOU RECALL WHERE THE SERVICE WAS?

15 A YES, SIR, I DO.

16 Q WHERE WAS THAT, MR. WERNER?

17 A WESTWOOD VILLAGE MORTUARY AND MEMORIAL PARK
18 IN LOS ANGELES.

19 Q AND AT THAT TIME FOR WHOM WERE YOU EMPLOYED,
20 BY WHOM WERE YOU EMPLOYED?

21 A WESTWOOD VILLAGE MORTUARY AND MEMORIAL PARK.

22 Q NOW, DID THE PIERCE MORTUARY HAVE ANYTHING TO
23 DO WITH WESTWOOD MORTUARY AT THAT TIME?

24 A NOT AT THAT TIME, NO.

25 Q SO YOU HAVE -- OKAY.

26 YOU ARE -- YOU WERE THERE AT THIS FUNERAL IN
27 WHAT CAPACITY?

28 A I WAS THERE AS THE FULL-SERVICE, LICENSED

11 1 EMBALMER/FUNERAL DIRECTOR.

2 Q IN A FEW WORDS WHAT WOULD YOU BE CALLED UPON
3 TO DO AT A SERVICE SUCH AS THAT? WHAT WOULD YOUR ROLE BE?

4 A IN THE 15 YEARS THAT I WAS THERE I MADE
5 FUNERAL ARRANGEMENTS, I PREPARED DEAD HUMAN REMAINS FOR
6 BURIAL, SHIPMENT ALL OVER THE UNITED STATES, THROUGHOUT
7 THE WORLD, WORKED FUNERALS, DIRECTED FUNERALS, MADE
8 REMOVALS OF DECEASED PEOPLE, FILED DEATH CERTIFICATES,
9 WORKED AS A HEALTH PARTICIPANT IN THE HEALTH DEPARTMENT,
10 LIAISON BETWEEN THE LOS ANGELES COUNTY CORONER AND THE
11 MORTUARY. IT WAS MORE THAN ONE FIRM THAT WE HAVE.

12 Q NOW, ON THIS PARTICULAR OCCASION WAS THIS IN
13 THE MORNING OR THE AFTERNOON OR IN THE EVENING?

14 A IT WAS IN THE EARLY AFTERNOON.

15 Q AND ABOUT HOW MANY PEOPLE WOULD YOU SAY
16 ATTENDED THAT PARTICULAR --

17 A NO LESS THAN 50.

18 Q AND DURING THE COURSE OF THE TIME THAT YOU
19 WERE THERE, WHICH WOULD HAVE BEEN OVER WHAT PERIOD OF
20 TIME, WOULD YOU SAY, THAT YOU WERE ACTUALLY AT THE
21 MORTUARY -- CAN YOU HEAR ME OKAY?

22 A REPEAT THE QUESTION AGAIN.

23 Q OKAY.

24 HOW LONG WERE YOU THERE AT THE MORTUARY THAT
25 AFTERNOON? I MEAN, AT THE PLACE WHERE THE SERVICE WAS.

26 A OTHER THAN THINGS THAT I HAD TO DO WITH OTHER
27 FUNERALS I WAS THERE PROBABLY 95 PERCENT OF THE DAY.

28 Q OKAY.

12 1 NOW, SOMETIME, WAS IT DURING THE SERVICE THAT
2 YOU SAW THE MAN WHO IS SHOWN IN THAT PICTURE UP THERE?

3 A IT WAS PRIOR TO THE SERVICE, SIR.

4 Q OKAY.

5 COULD YOU TELL THE COURT WHAT YOU SAW?

6 A WE HAD A STANDING RULE THAT IF YOU ARE GOING
7 TO WORK A FUNERAL SERVICE OR YOU WERE THE DIRECTOR,
8 ARRANGER ON THAT SERVICE YOU HAD TO BE OUTSIDE AT THE
9 CHAPEL AT LEAST 30 MINUTES PRIOR TO THE SERVICE TIME, AND
10 MY JOB SPECIFICALLY THAT AFTERNOON WAS TO PARK VEHICLES
11 AND TO ASSIST THE DIRECTOR THAT MADE THE FUNERAL
12 ARRANGEMENTS AND TO USHER IN ANY PEOPLE THAT CAME IN
13 THROUGH THE FRONT DOOR. THERE IS ONLY ONE ENTRANCE TO THE
14 CHAPEL. AND HAVE THEM SIGN THE REGISTER BOOK.

15 Q NOW, THIS MAN THAT IS SHOWN IN THE PHOTOGRAPH
16 THERE, DID HE SIGN THE REGISTER BOOK?

17 A I BELIEVE HE DID, SIR. HE WAS ONE OF THE
18 FIRST PEOPLE THERE.

19 Q DID YOU SEE THE NAME THAT HE SIGNED OR NOT?

20 A NO, SIR, I DID NOT.

21 Q WHEN YOU SAY HE SIGNED IT, WHAT DID HE APPEAR
22 TO BE DOING THAT LEL YOU TO BELIEVE THAT HE WAS SIGNING
23 IT?

24 A BECAUSE I WAS STANDING RIGHT THERE BEHIND
25 THE -- THE PODIUM. IT'S JUST A LECTERN AND THE BOOK WAS
26 FACING HIM, AND I WAS FACING HIM AS HE SIGNED.

27 Q WHAT DID THIS PERSON LOOK LIKE THAT YOU SAW,
28 THE MAN SHOWN IN THAT PHOTO RIGHT THERE? JUST DESCRIBE

12 1 HIM, HIS BUILD, HIS HEIGHT, ANYTHING ELSE YOU NOTICED
2 ABOUT HIM.

3 A ALMOST IDENTICAL TO THIS PHOTOGRAPH. ALMOST
4 IDENTICAL. HE WAS -- HE WAS MORE THAN DISTINGUISHED
5 LOOKING. HE WAS IMPECCABLY DRESSED. I TALKED TO HIM TWO
6 OR THREE DIFFERENT TIMES BECAUSE THERE WERE ONLY MYSELF,
7 ANOTHER PERSON FROM THE MORTUARY AND TWO OR THREE OTHERS
8 THAT HAD ARRIVED EARLIER BECAUSE I WAS OUTSIDE FROM
9 ABOUT -- 20 MINUTES ALL THE WAY UP TO SERVICE TIME TILL I
10 CLOSED THE DOOR.

11 Q SO HE WAS ONE OF THE EARLY ARRIVALS; IS THAT
12 RIGHT?

13 A YES, HE WAS.

14 Q CAN YOU TELL US WHETHER OR NOT HE STAYED
15 THROUGH THE SERVICE OR NOT? DO YOU KNOW? DO YOU
16 REMEMBER?

17 A I BELIEVE HE DID, BUT I COULD BE MISTAKEN.

18 Q ALL RIGHT.

19 SO YOU TALKED TO HIM TWO OR THREE TIMES; IS
20 THAT RIGHT?

21 A YEAH, JUST GENERAL CONVERSATION ABOUT THE
22 WEATHER OR WHATEVER I COULD REMEMBER, BUT -- THERE WERE
23 THINGS ABOUT THIS MAN THAT -- HE LOOKED LIKE A CORPORATE
24 OFFICER. I MEAN, HE WAS JUST IMMACULATELY, IMPECCABLY
25 DRESSED. I'M A BARBER, HAIRDRESSER BY PROFESSION. HIS
26 BEARD WAS IMMACULATE. HIS HAIR JUST -- JUST THE WAY HIS
27 DEMEANOR WAS.

28 Q AND WHAT DID HIS PHYSIQUE LOOK LIKE, HIS

12 1 HEIGHT, HIS BUILD? COULD YOU TELL US THAT?

2 A ABOUT MEDIUM BUILD. TALLER THAN I WAS.

3 Q HOW TALL ARE YOU?

4 A SIX FOOT.

5 Q SO HE WAS TALLER THAN YOU WERE; RIGHT?

6 A I BELIEVE HE WAS.

7 Q OKAY.

8 AND WAS THERE ANYTHING ELSE ABOUT THE PERSON
9 THAT STOOD OUT IN YOUR MIND?

10 A THE THING THAT I REMEMBER IS JUST A LOT OF
11 GOLD JEWELRY.

12 Q DID YOU NOTICE ANYTHING ABOUT HIS TEETH AT
13 ALL OR NOT?

14 A NO, SIR, I DID NOT.

15 Q NOW, AT SOME POINT -- DO YOU REMEMBER
16 ANYTHING ELSE ABOUT THE PERSON WHOSE FUNERAL IT WAS?

17 A I -- I COULD ELABORATE A LITTLE BIT ON THAT
18 BECAUSE ONE OF THE DIRECTORS CAME OUT WHILE THE SERVICE
19 WAS IN PROGRESS, OUR MORTUARY MANAGER, AND ASKED ME
20 SOMETHING PERTAINING TO ANOTHER DEATH, BUT WHAT I HEARD IN
21 THE OFFICE WAS THAT THE GENTLEMAN -- THE MEMORIAL SERVICE,
22 THERE WAS NO BODY PRESENT, BUT I BELIEVE HIS BODY WAS IN A
23 REFRIGERATOR UNIT IN THE PARK AT THAT TIME.

24 IN OTHER WORDS, THE BODY HADN'T BEEN CREMATED
25 YET. THAT THIS PERSON SUPPOSEDLY HAD BILKED A LOT OF
26 PEOPLE IN SOME TYPE OF A SCHEME INVOLVING GOLD COINS OR
27 SOMETHING OR GOLD BULLION OR SOMETHING, AND HE COMMITTED
28 SUICIDE, BUT HE COMMITTED SUICIDE IN SUCH A WAY THAT IT

13 1 WAS A VERY UNUSUAL DEATH IN THAT HE HOOKED HIS CAR EXHAUST
2 UP IN TO SOME KIND OF SAUNA AND ASPHYXIATED HIMSELF. THAT
3 I DO REMEMBER.

4 I DO REMEMBER THAT HE WAS OF THE JEWISH FAITH
5 AND HE'S INTERRED IN THAT PARK, WESTWOOD MEMORIAL PARK,
6 AND RELATIVELY HE WAS A FAIRLY YOUNG MAN. IN HIS LATE
7 40'S OR EARLY 50'S.

8 Q THIS IS INFORMATION YOU GATHERED ABOUT THE
9 DECEASED WHOSE SERVICE IT WAS THAT --

10 A THIS IS WHAT I KNEW ABOUT THE DECEASED MAN
11 BECAUSE THEY WERE TALKING IN THE OFFICE A DAY OR SO
12 BEFORE.

13 Q OKAY.

14 GOING BACK TO THE MAN WHOSE PICTURE YOU SEE
15 UP THERE, DID HE WEAR JEWELRY THAT YOU NOTICED?

16 A YES, SIR.

17 Q WHAT DID YOU NOTICE ABOUT THAT, MR. WERNER?

18 A IT'S A FETISH OF MINE, WITH JEWELRY. I HAVE
19 DONE A LOT OF INVESTING IN GOLD JEWELRY AND SUCH OVER THE
20 YEARS, AND IT -- IN FACT, I COMMENTED ABOUT A RING THAT HE
21 WAS WEARING.

22 THE COURT: I'M SORRY?

23 THE WITNESS: HE HAD AN I.D. BRACELET.

24 THE COURT: YOU ARE TALKING ABOUT THE GENTLEMAN IN
25 EXHIBIT 1?

26 THE WITNESS: YES, SIR. YES, SIR.

27 THE COURT: ALL RIGHT.

28 THE WITNESS: IT JUST -- THINGS THAT I -- THINGS

13 1 THAT I JUST RECALL.

2 BY MR. CRAIN:

3 Q NOW, YOU ARE WEARING GLASSES TODAY?

4 A YES.

5 Q AND BACK IN 1986 DID YOU WEAR GLASSES ALSO?

6 A YES, SIR, I HAVE WORN GLASSES SINCE I WAS
7 FIVE YEARS OLD.

8 Q AND WITH YOUR GLASSES DO YOU HAVE TROUBLE
9 SEEING PEOPLE FROM -- AT ANY DISTANCE?

10 A BY FARSIGHTED -- I'M FAR-SIGHTED, BUT THIS
11 MAN WAS SO CLOSE TO ME. HE COULDN'T -- HE COULDN'T HAVE
12 BEEN MORE THAN AT ANY GIVEN TIME, NO MORE THAN SIX FEET
13 AWAY FROM ME.

14 Q SO DURING THE TWO OR THREE TIMES THAT YOU HAD
15 CONVERSATIONS WITH HIM IS WHAT YOU ARE SAYING IS THAT HE
16 WAS ABOUT SIX FEET AWAY?

17 A THE FIRST TIME I MET HIM HE WAS NO MORE THAN
18 A FOOT AWAY FROM ME. HE WAS BETWEEN ME AND A LECTERN.

19 Q THAT AFTERNOON DURING ALL OF THIS TIME WERE
20 YOU WEARING YOUR GLASSES?

21 A YES, SIR.

22 Q YOU WERE WEARING THEM WHILE YOU WERE SEEING
23 THE MAN WHOSE PICTURE IS UP THERE, BUT YOU --

24 A YES, SIR.

25 Q DID YOU HAVE ANY TROUBLE SEEING HIM OR MAKING
26 OUT WHAT HE LOOKED LIKE?

27 A NO, SIR.

28 Q AND AT SOME POINT AFTER THAT DID YOU SEE

1 ANYTHING ABOUT THIS MAN IN THE NEWSPAPER?

2 A YES, I DID.

3 Q DO YOU KNOW WHEN THAT WAS, APPROXIMATELY? I
4 KNOW IT'S BEEN SOME TIME NOW.

5 A 1987, PROBABLY EARLY '88.

6 Q AND JUST IN GENERAL WHAT DID YOU SEE IN THE
7 NEWSPAPER?

8 A I SAW A PICTURE THAT WAS ALMOST IDENTICAL TO
9 THIS ONE.

10 Q YOU ARE HOLDING UP --

11 MR. CRAIN: FOR THE RECORD, YOUR HONOR,
12 PETITIONER'S 1.

13 THE COURT: EXHIBIT 1.

14 THE WITNESS: IT DIDN'T LOOK ANY DIFFERENT IN THE
15 NEWSPAPER THAN IT DID HERE. IT WAS THE SAME.

16 BY MR. CRAIN:

17 Q AND WAS THERE -- WAS THERE SOME NEWS STORY
18 THAT WENT ALONG WITH THAT PICTURE OF THAT MAN?

19 A I BELIEVE THERE WAS.

20 Q AND WHAT WAS IT ABOUT, AS BEST YOU RECALL AT
21 THIS TIME, YEARS LATER?

22 A SOMETHING ABOUT A MAN HAD BEEN MURDERED AND,
23 SUPPOSEDLY THE GENTLEMAN THAT WAS IN THIS PICTURE, AND
24 THAT SOMEBODY EITHER WAS ON TRIAL OR HAD BEEN CONVICTED OF
25 IT. AND I REMEMBER IT WAS DURING A QUIET PERIOD AT THE
26 MORTUARY BECAUSE I REALLY DIDN'T HAVE TIME TO READ A
27 NEWSPAPER. AND I WENT BACK TO IT AND I LOOKED AT IT, AND
28 I LOOKED AT THE PICTURE TWO OR THREE DIFFERENT TIMES, AND

1 I SAID, "I HAVE SEEN THAT PERSON," AND THEN I REMEMBERED
2 WHERE I HAD SEEN HIM.

3 Q WERE YOU SURE IN YOUR OWN MIND THAT THIS WAS
4 THE SAME MAN?

5 A POSITIVE, POSITIVE.

6 Q YOU FEEL THAT WAY TODAY?

7 A EITHER THE MAN I SAW WAS THERE IN PERSON OR
8 HIS TWIN BROTHER. THAT'S ALL I CAN TELL YOU. IT WAS --
9 150 PERCENT.

10 Q OKAY.

11 NOW, AFTER YOU SAW THIS ARTICLE IN THE
12 NEWSPAPER DID YOU DO ANYTHING ABOUT IT?

13 A I CALLED THE BEVERLY HILLS POLICE DEPARTMENT.

14 Q AND WAS THAT RIGHT AWAY OR LATER OR WHAT?

15 A PROBABLY -- I WOULD SAY IT WAS A VERY SHORT
16 TIME THEREAFTER.

17 Q AND DO YOU RECALL -- I AM SORRY, I DIDN'T --

18 MR. CRAIN: COULD I HAVE THE LAST ANSWER AGAIN?

19 THE COURT: EITHER THAT DAY OR SHORTLY THEREAFTER.

20 MR. CRAIN: THANK YOU.

21 BY MR. CRAIN:

22 Q NOW, IT WAS -- IF IT WAS NOT THAT DAY OR
23 SHORTLY THEREAFTER, WHAT WOULD BE THE HOUR TIME LIMIT THAT
24 YOU WOULD SAY IT WAS BETWEEN THE TIME YOU SAW THE ARTICLE
25 AND THE TIME YOU CALLED THE BEVERLY HILLS POLICE?

26 A I BELIEVE IT WAS THE SAME DAY I SAW THE
27 PHOTOGRAPH, SIR.

28 Q OKAY.

13 1 YOU TALKED TO SOMEONE THERE, DID YOU, AT THE
2 POLICE STATION, POLICE DEPARTMENT?

3 A I LEFT A MESSAGE, AND THEY CALLED ME BACK A
4 WEEK, TEN DAYS LATER.

5 Q DO YOU KNOW THE NAME OF THE PERSON THAT YOU
6 SPOKE WITH --

7 A NO, SIR, I DON'T.

8 Q -- ON THE FIRST CALL?

9 A NO, SIR, I DON'T.

10 Q OKAY.

11 BUT AT ANY EVENT, SOMEBODY CALLED YOU BACK,
12 AND DID THAT PERSON IDENTIFY HIMSELF OR HERSELF AS A
13 POLICE OFFICER WITH THE BEVERLY HILLS --

14 A I BELIEVE THEY DID.

15 THE COURT: HOLD ON. WAIT UNTIL HE FINISHES HIS
16 QUESTION SO WE CAN GET THE QUESTION AND ANSWER.

17 GO.

18 MR. CRAIN: THANK YOU.

19 BY MR. CRAIN:

20 Q DID YOU TALK TO SOMEBODY THAT YOU THOUGHT WAS
21 A POLICE OFFICER AND TOLD HIM THAT YOU HAD SEEN THIS MAN A
22 COUPLE OF YEARS AGO?

23 A I DID.

24 Q WHERE WERE YOU WHEN YOU HAD THIS CONVERSATION
25 AFTER THEY CALLED YOU BACK? WERE YOU AT WORK?

26 A YES, SIR, I WAS.

27 Q WHERE WERE YOU WORKING AT THAT TIME?

28 A GUERRA AND GUTIERREZ MORTUARY IN MONTEBELLO.

14 1 Q DID YOU TELL THEM ABOUT THE FUNERAL AND --
2 WHERE YOU HAD SEEN THE MAN?

3 A YES, SIR, I DID.

4 Q DO YOU REMEMBER HOW LONG THIS CONVERSATION
5 LASTED?

6 A COUPLE OF MINUTES.

7 Q OKAY.

8 AND HOW WAS IT LEFT? WERE YOU TOLD TO
9 STANDBY, OR DID SOMEBODY CONTACT YOU AGAIN, OR HOW WAS IT
10 LEFT?

11 A NO. THE POLICE OFFICER TOLD ME, HE SAID THAT
12 THEY FELT THEY HAD THE RIGHT PERSON, BUT THEY'D LOOK INTO
13 IT, AND THAT WAS THE LAST I'D HEARD.

14 Q NOW, IN 1994 DID YOU CONTACT ANYONE ELSE
15 CONNECTED WITH THIS CASE THAT YOU READ ABOUT?

16 THE COURT: I'M SORRY, WHAT YEAR?

17

18 (PAUSE.)

19

20 BY MR. CRAIN:

21 Q IN 1994 DID YOU CALL MY OFFICE, DO YOU
22 RECALL?

23 A YES, SIR, I DID.

24 Q AND WHAT LED YOU TO DO THAT?

25 A I SAW SOMETHING IN THE PAPER, AND I HAD
26 CALLED YOUR OFFICE TO LET YOU KNOW THAT I HAD CALLED THE
27 BEVERLY HILLS POLICE DEPARTMENT SOME YEARS BEFORE.

28 Q AND DID YOU PROVIDE THE INFORMATION AT THAT

14 1 TIME TO SOMEONE IN MY OFFICE THAT YOU HAD SEEN THE PERSON
2 SHOWN IN THE PHOTOGRAPH?

3 A YES, I DID.

4 Q AND THAT YOU HAD CALLED THE POLICE?

5 A YES, I DID.

6 Q OKAY.

7 DO YOU REMEMBER APPROXIMATELY WHEN YOU
8 STARTED WORK AT THE GUERRA AND GUTIERREZ MORTUARY?

9 A YEAH. FEBRUARY -- THE FIRST WEEK OF
10 FEBRUARY, 1987.

11 Q AND ABOUT HOW LONG AFTER YOU BEGAN WORKING AT
12 THAT MORTUARY WAS IT THAT YOU FIRST CONTACTED THE BEVERLY
13 HILLS POLICE ABOUT HAVING SEEN THE MAN AT THE EARLIER
14 FUNERAL?

15 A I CAN'T RECALL THAT, SIR.

16 Q WAS IT WITHIN A COUPLE OF MONTHS, OR DO YOU
17 HAVE ANY RECOLLECTION AT ALL?

18 A IT'S POSSIBLE. IT COULD HAVE EVEN BEEN
19 LONGER.

20 MR. CRAIN: OKAY.

21 I DON'T HAVE ANY OTHER QUESTIONS.

22 THANK YOU.

23 THE COURT: LET'S TAKE OUR AFTERNOON RECESS NOW AND
24 GIVE THE REPORTER A BREAK. SEE EVERYONE BACK IN A FEW
25 MINUTES.

26
27 (RECESS.)
28

2 1 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
2 2 RECORD WILL REFLECT ALL COUNSEL AND PETITIONER ARE
3 3 PRESENT. THE WITNESS IS ON THE STAND.

4 4 MR. CRAIN: MAY I REOPEN FOR JUST A SECOND?

5 5 THE COURT: GO AHEAD.

6 6 MR. CRAIN: THANK YOU.

7
8 IVAN WERNER, +
9 9 CALLED AS A WITNESS BY THE PETITIONER, HAVING BEEN
10 10 PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER
11 11 AS FOLLOWS:

12
13 DIRECT EXAMINATION REOPENED +

14
15 15 BY MR. CRAIN:

16 Q MR. WERNER, I BELIEVE YOU TOLD US YOU ARE
17 17 SOMEWHAT HARD OF HEARING; IS THAT CORRECT?

18 A YES, SIR.

19 Q WHEN YOU WERE ON THE STAND WHERE YOU ARE NOW
20 20 BEFORE THE BREAK DID YOU HEAR ME ASK YOU A QUESTION ABOUT
21 21 TEETH OR NOT?

22 A I THOUGHT IT WAS PERTAINING TO JEWELRY, SIR.

23 Q ALL RIGHT.

24 NOW, LET ME ASK YOU THIS AGAIN.

25 THE MAN THAT YOU SAW AT THE FUNERAL SERVICE
26 26 IN 1985, DID YOU NOTICE ANYTHING UNUSUAL ABOUT HIS MOUTH
27 27 OR HIS TEETH OR ANYTHING INSIDE HIS MOUTH AS YOU TALKED TO
28 28 HIM?

2 1 A YEAH, I THOUGHT I NOTICED THAT HE HAD GOLD --
2 YELLOW METAL IN THE LOWER PART OF HIS -- IT WOULD BE THE
3 LEFT JAW (INDICATING).

4 THE COURT: POINTING TO THE LEFT JAW AREA.
5 BY MR. CRAIN:

6 Q IN OTHER WORDS, LIKE GOLD, GOLD FILLINGS?

7 A I BELIEVE THEY WERE, SIR.

8 MR. CRAIN: THANK YOU.

9 NOTHING FURTHER.

10 THE COURT: CROSS EXAMINATION?

11 MR. MC MULLEN: MAY I PROCEED, YOUR HONOR?

12 THE COURT: YES.

13
14 CROSS-EXAMINATION @

15
16 BY MR. MC MULLEN:

17 Q SIR, HOW LONG DID YOU WORK AT THAT PARTICULAR
18 MORTUARY WHERE YOU -- REGARDING THIS INCIDENT YOU
19 DESCRIBED WHERE YOU IDENTIFIED A MAN?

20 A 15 YEARS PLUS, SIR.

21 THE COURT: HOLD ON.

22 YOU ARE TALKING ABOUT THE WESTWOOD MORTUARY?

23 MR. MC MULLEN: YEAH, WESTWOOD MORTUARY.

24 THE WITNESS: 15 YEARS PLUS.

25 BY MR. MC MULLEN:

26 Q IT WAS ALWAYS THE WESTWOOD MORTUARY OR WAS
27 THE OWNERSHIP INVOLVED WITH SOMEONE ELSE?

28 A THE OWNERSHIP CHANGE DIDN'T TAKE PLACE UNTIL

2 1 JULY 16TH, 1986.

2 Q AND THERE WAS A CHANGE IN OWNERSHIP AT THAT
3 TIME?

4 A YES. IT WENT TO A MAJOR CORPORATION.

5 Q WHO OWNED THE MORTUARY BEFORE THAT TIME?

6 A JIM AND CLARANCE PIERCE MORTUARIES.

7 Q DO YOU REMEMBER A MAN BY THE NAME OF BILL
8 PIERCE?

9 A YES.

10 Q WHO WAS THAT?

11 A THAT WAS JIM PIERCE'S SON.

12 Q WAS HE ASSOCIATED WITH THIS WESTWOOD
13 MORTUARY?

14 A YES, SIR, HE WAS.

15 Q AND IN WHAT CAPACITY WAS HE ASSOCIATED THERE?

16 A GENERAL MANAGER.

17 Q WAS HE GENERAL MANAGER THE WHOLE TIME YOU
18 WORKED THERE, THE 15 YEARS YOU WERE THERE?

19 A OFF AND ON, YES, SIR.

20 Q SO EVEN WHEN THE OWNERSHIP CHANGED HE
21 CONTINUED TO BE GENERAL MANAGER?

22 A NO, SIR. HE WAS -- HE STAYED ON A SHORT
23 WHILE AND THEN THEY SENT HIM SOMEPLACE ELSE. WITHIN THE
24 SAME COMPANY BUT A DIFFERENT LOCATION.

25 Q ALL RIGHT.

26 ARE YOU -- WELL, LET ME BACK THAT UP A LITTLE
27 BIT.

28 ARE RECORDS KEPT WITH REGARD TO FUNERAL

2 1 SERVICES THAT OCCURRED AT THAT MORTUARY WHERE YOU WORKED?

2 A IMPECCABLE RECORDS, SIR.

3 Q SO EACH -- EACH PERSON THAT WOULD -- FOR
4 WHICH THERE WOULD BE A SERVICE AT THAT WESTWOOD MORTUARY
5 THERE WOULD BE SOME SORT OF FILE OR RECORD KEPT OF THAT?

6 A YES, SIR, THERE WOULD BE.

7 Q WOULD THEY DESCRIBE THINGS SUCH AS CAUSE OF
8 DEATH OR IF THERE WERE A CORONER'S INQUIRY INTO THE CAUSE
9 OF DEATH?

10 A IF IT WERE A CORONER'S CASE, YES, SIR, IT
11 WOULD BE.

12 MR. KLEIN: EXCUSE ME, YOUR HONOR. COULD I MAKE A
13 PHONE CALL WHILE THIS IS GOING ON? IT WILL BE VERY QUIET.

14 MR. CRAIN: IT HAS TO DO WITH A PARTICULAR WITNESS.

15 THE COURT: ALL RIGHT.

16 MR. KLEIN: THANK YOU.

17 BY MR. MC MULLEN:

18 Q IN YOUR EXPERIENCE IN THIS FIELD WOULD A
19 SUICIDE BE SOMETHING THAT THE CORONER WOULD TYPICALLY
20 BECOME INVOLVED IN?

21 A ABSOLUTELY.

22 Q ARE YOU ABSOLUTELY CERTAIN AS YOU SIT HERE
23 TODAY THAT YOU OBSERVED THIS MAN AFTER YOU CAME BACK FROM
24 BRAZIL IN 1985?

25 A YES, SIR.

26 Q IS IT POSSIBLE YOU COULD BE MISTAKEN AND THAT
27 THAT EVENT OCCURRED PRIOR TO 1985?

28 A I COULD HAVE BEEN MISTAKEN, BUT IN THIS

2 1 PERSPECTIVE: IT WAS -- IT COULD HAVE BEEN AFTER 1985.
3 2 COULD HAVE BEEN AFTER THE TIME WE CAME BACK. IT COULD
4 3 HAVE BEEN 1986, BUT IT DEFINITELY WAS NOT PRIOR TO 1985.

5 4 Q BUT YOUR BEST RECOLLECTION IS THAT THE
6 5 FUNERAL THAT YOU ARE TALKING ABOUT OCCURRED RIGHT AFTER
7 6 YOU GOT BACK FROM -- OR SOMETIME AFTER -- SHORTLY
8 7 THEREAFTER?

9 8 A COULD HAVE BEEN WITHIN THREE OR FOUR MONTHS
10 9 AFTER.

11 10 Q AND WHEN DID YOU GET BACK?

12 11 A WE -- THE END OF MARCH, EARLY APRIL, '85.

13 12 MR. CRAIN: I NEGLECTED TO GET THE PASSPORT COPIED
14 13 DURING THE RECESS. COULD I JUST GET IT FROM THE WITNESS
15 14 AND MAYBE -- WHILE HE IS QUESTIONING HIM?

16 15 THE COURT: IF YOU WANT, I'LL HAVE THE LAW CLERK
17 16 RUN IT OFF FOR YOU.

18 17 MR. CRAIN: APPRECIATE IT.

19 18 DO YOU HAVE THE PASSPORT?

20 19 THE WITNESS: YES, I DO.

21 20 MR. CRAIN: OKAY.

22 21 THANK YOU.

23 22 BY MR. MC MULLEN:

24 23 Q DURING 1985 HOW MANY FUNERAL SERVICES DID YOU
25 24 PARTICIPATE IN, APPROXIMATELY?

26 25 A I PARTICIPATED PROBABLY IN 85 PERCENT OF ALL
27 26 THE FUNERALS IN THAT MORTUARY. I WAS KEY STAFF.

28 27 THE COURT: MR. CRAIN, LET'S GO AHEAD AND HAVE HIM
29 28 MAKE COPIES OF THE ENTIRE PASSPORT IN CASE SOME ISSUE

3 1 ARISES. EVERY PAGE OF THE PASSPORT.

2 MR. CRAIN: ALL RIGHT.

3 BY MR. MC MULLEN:

4 Q YOU PARTICIPATED IN 85 PERCENT OF THE FUNERAL
5 SERVICES THAT OCCURRED IN 1985 AT THAT MORTUARY. DO YOU
6 HAVE ANY IDEA IN TERMS OF NUMBERS HOW MANY THAT MIGHT BE?

7 A WE DID AT THAT TIME APPROXIMATELY 1,000
8 FUNERALS A YEAR.

9 Q SO APPROXIMATELY 850 FUNERALS YOU
10 PARTICIPATED IN IN 1985?

11 A LET ME PUT IT TO YOU IN ANOTHER WAY. I
12 PARTICIPATED PROBABLY NOT BEING ACTIVE AT EVERY SERVICE,
13 BUT AS FAR AS PREPARATION OF THE DECEASED AND MAKING THE
14 REMOVAL I WAS IT. BILL PIERCE WAS THE OTHER ONE. THERE
15 WERE ONLY TWO OF US. WE WERE WAY BELOW STAFF.

16 Q WHAT I AM INTERESTED IN IS HOW MANY ACTUAL
17 SERVICES WHERE YOU HAVE PEOPLE COMING AND ATTENDING AND
18 YOU ARE DOING THE THINGS LIKE YOU DID AT THIS PARTICULAR
19 FUNERAL THAT YOU HAVE TESTIFIED TO. HOW MANY OF THOSE?

20 A SOMETIMES TWO OR THREE A DAY.

21 Q AND YOU SAID -- YOU TESTIFIED THAT IN THIS
22 PARTICULAR FUNERAL YOU WERE TALKING ABOUT THERE WERE NO
23 LESS THAN 50 PEOPLE THERE?

24 A 45 TO 50 PEOPLE, SIR.

25 Q AND IF YOU CAN GIVE US AN AVERAGE, AND I CAN
26 UNDERSTAND HOW IT MIGHT BE DIFFICULT, BUT HOW MANY PEOPLE
27 TYPICALLY WOULD ATTEND THESE SERVICES? AND I'M REFERRING
28 TO 1985 IN PARTICULAR WITH -- YOU KNOW, WHAT IS THE

3 1 SMALLEST NUMBER OF PEOPLE YOU'D SEE AT THESE SERVICES, AND
2 WHAT IS THE LARGEST NUMBER YOU'D SEE AT THESE SERVICES?

3 A WE HAVE HAD AS LITTLE AS PROBABLY 10 TO 20 AT
4 A FUNERAL AND WE HAVE HAD AS MANY AS 5- TO 600.

5 Q NOW, BETWEEN 1985, THE TIME OF THIS
6 PARTICULAR FUNERAL YOU HAVE TESTIFIED ABOUT, AND THEN IN
7 1988 WHEN YOU SAY YOU SAW THIS NEWSPAPER ARTICLE WITH THE
8 PHOTOGRAPH OF THE MAN YOU CLAIMED TO HAVE SEEN AT THE
9 FUNERAL, HOW MANY FUNERALS -- SERVICES CAN YOU TELL US
10 THAT YOU PARTICIPATED IN BETWEEN THOSE TWO PERIODS OF
11 TIME? IT IS APPROXIMATELY A THREE-YEAR PERIOD OF TIME.

12 A A THREE-YEAR PERIOD OF TIME? PROBABLY IN
13 EXCESS OF 300 TO 400 SERVICES.

14 Q IS THERE SOME REASON WHY IT DROPPED OFF SO
15 MUCH? YOU SAID IN 1985 YOU MIGHT --

16 A BECAUSE I WENT TO A DIFFERENT MORTUARY THAT
17 DID A LESSER VOLUME.

18 Q AND WHEN DID YOU LEAVE THIS PARTICULAR
19 WESTWOOD MORTUARY?

20 A FEBRUARY THE 5TH -- LET'S SEE, JANUARY THE
21 15TH, 1987.

22 Q SO UP UNTIL JANUARY 15TH, 1987, DID YOU
23 CONTINUE TO HAVE THE SAME VOLUME OF FUNERAL SERVICES,
24 APPROXIMATELY 1,000 A YEAR, AS YOU DID IN 1985?

25 A WELL, I THINK AFTER THE MAJOR CORPORATION
26 TOOK OVER THEY DROPPED OFF CONSIDERABLY.

27 Q YOU HAVE LOOKED AT PETITIONER'S EXHIBIT 1,
28 WHICH IS RIGHT THERE IN FRONT OF YOU.

3 1 A YES, SIR.

2 Q YOU SAY THAT WAS THE EXACT PHOTOGRAPH THAT
3 YOU SAW IN THE NEWSPAPER IN 1988?

4 A VERY SIMILAR, SIR.

5 Q THAT PARTICULAR PHOTOGRAPH HAS A UNIQUE
6 QUALITY TO IT IN THE WAY THAT THE MAN IS DEPICTED IN THE
7 PHOTOGRAPH. IT'S AT A TILT. WAS THAT THE WAY IT WAS
8 DEPICTED IN THE NEWSPAPER?

9 A IT LOOKED -- THE ONE FROM THE NEWSPAPER I
10 THINK WAS STRAIGHT UP AND DOWN. HE WASN'T -- IT WASN'T A
11 POSED PICTURE AS THIS ONE IS.

12 Q NOW, IN 1988 YOU HAVE TESTIFIED THAT YOU SAW
13 HIS PICTURE IN A NEWSPAPER --

14 MR. KLEIN: EXCUSE ME, YOUR HONOR. OBJECT. THAT
15 MISSTATES THE EVIDENCE. HE SAID '87 OR '88.

16 THE COURT: REPHRASE IT.
17 BY MR. MC MULLEN:

18 Q IN 1987 OR 1988 YOU TESTIFIED THAT YOU SAW A
19 PHOTOGRAPH OF THAT MAN THAT IS DEPICTED IN PETITIONER'S
20 EXHIBIT 1.

21 A YES, I DID.

22 Q WHAT NEWSPAPER WAS THAT?

23 A IT COULD HAVE BEEN ANY ONE THAT WAS IN THE
24 OFFICE AT THE TIME. I THOUGHT IT MIGHT HAVE BEEN THE
25 "TIMES." IT COULD HAVE BEEN -- IT COULD HAVE BEEN ANY
26 PAPER.

27 Q HOW WOULD NEWSPAPERS COME TO BE THERE AT THE
28 OFFICE AT THAT PARTICULAR TIME? I'M TALKING ABOUT 1987,

1 1988. WOULD THE COMPANY SUBSCRIBE TO THE NEWSPAPERS?

2 A YES, SIR. YES, SIR.

3 Q AND DO YOU HAVE A RECOLLECTION NOW WHICH
4 NEWSPAPERS THEY SUBSCRIBED TO AT THAT PARTICULAR TIME?

5 A THE "TIMES," THE "LA OPINION," THE SPANISH
6 PAPER. THERE WERE SOME PEOPLE WORKING THERE THAT CAME IN
7 FROM THE VALLEY. THEY MAY HAVE BROUGHT PAPERS IN. BUT
8 THERE WAS ALWAYS TWO OR THREE NEWSPAPERS AROUND.

9 Q THE PHOTOGRAPH THAT YOU SAW IN THE NEWSPAPER,
10 WHAT PARTS OF THE BODY OF THE MAN DID IT SHOW IN THE
11 PHOTOGRAPH?

12 A THE UPPER PART, SIR (INDICATING).

13 MR. MC MULLEN: HE WAS POINTING TO MID CHEST.

14 THE COURT: SHOW ME.

15 THE WITNESS: FROM ABOUT MID CHEST (INDICATING).

16 THE COURT: ALL RIGHT.

17 BY MR. MC MULLEN:

18 Q YOU SAID THAT YOU RETURNED FROM BRAZIL IN
19 LATE MARCH OF 1985; IS THAT CORRECT?

20 A LATE MARCH OR EARLY APRIL, SIR.

21 Q AND THEN HOW MUCH TIME AFTER THAT POINT IN
22 TIME WHEN YOU GOT BACK FROM BRAZIL DID THIS FUNERAL YOU
23 HAVE TESTIFIED ABOUT OCCUR?

24 A IT COULD HAVE BEEN SOMETIME THE LATE SUMMER,
25 EARLY FALL.

26 Q DID YOU MAKE THE ARRANGEMENTS FOR THIS
27 PARTICULAR FUNERAL?

28 A NO, SIR, I DID NOT. I WAS JUST ASSIGNED TO

4 1 WORK THAT SERVICE, THAT'S ALL.

2 Q WHO WOULD HAVE MADE THE ARRANGEMENTS?

3 A IT COULD BE BILL PIERCE. IT COULD HAVE BEEN
4 EDMUND CHALLINOR, OUR MORTUARY MANAGER, OR IT COULD HAVE
5 BEEN MYSELF. I REMEMBER I DIDN'T MAKE THE ARRANGEMENTS.

6 Q NOW, YOU -- HOW DID IT COME TO BE THAT YOU,
7 FROM WHAT I UNDERSTAND FROM YOUR DESCRIPTION, REALLY RAN
8 THE FUNERAL SERVICE THAT DAY?

9 A I DIDN'T RUN THE FUNERAL SERVICE, SIR. I DID
10 ACCORDINGLY WHAT I DO AT EVERY SERVICE. WHATEVER THEY
11 ASSIGNED ME. AT THAT TIME I WAS ASSIGNED FOR THE DOORS
12 AND PARKING.

13 Q WAS THERE ANYBODY ELSE HELPING YOU ON THAT
14 DAY?

15 A THERE WAS ANOTHER DIRECTOR ON THE SERVICE,
16 BUT I CAN'T RECALL WHO IT WAS. BUT I DO REMEMBER THE
17 MORTUARY MANAGER WHILE THE SERVICE WAS IN PROGRESS CAME
18 OUT ONCE OR TWICE TO ASK ME ABOUT SOMETHING ELSE
19 PERTAINING TO ANOTHER DEATH. I ALSO REMEMBER A FLORIST
20 COMING IN AND ASKING ME WHERE TO PUT THE FLOWERS FOR
21 ANOTHER SERVICE. BUT WE HAD MORE THAN ONE SERVICE THAT
22 DAY.

23 Q AT THAT PARTICULAR TIME OF THIS FUNERAL WAS
24 THERE ANY OTHER -- WERE THERE ANY OTHER SERVICES?

25 A NO. WE WORKED THEM TWO, TWO AND A HALF,
26 THREE HOURS APART.

27 Q IN THIS PARTICULAR FUNERAL SERVICE THAT YOU
28 TESTIFIED ABOUT WHAT WAS THE FIRST THING THAT YOU DID WITH

4 1 RESPECT TO MAKING PREPARATIONS FOR THE PEOPLE TO ATTEND OR
2 2 ARRIVE AT THE SCENE?

3 A I OPENED THE DOORS FIFTEEN MINUTES BEFORE
4 4 SERVICE TIME. I PLAYED MUSIC. I HAD THE REGISTER BOOK
5 5 OUT ON THE LECTERN, AND I WAS STANDING OUT IN FRONT OF THE
6 6 CHAPEL WAITING FOR CARS TO CAME IN AND PARK AND GREET
7 7 PEOPLE.

8 Q DID YOU DIRECT PEOPLE WHERE THEY MIGHT PARK?

9 A YES, SIR.

10 Q AND YOU ARE SAYING THIS MAN YOU HAVE
11 11 IDENTIFIED AS THE PERSON DEPICTED IN PETITIONER'S 1, THAT
12 12 PHOTOGRAPH IN FRONT OF YOU --

13 A YES, SIR.

14 Q -- YOU SAID HE WAS ONE OF THE FIRST PEOPLE TO
15 15 ARRIVE?

16 A HE WAS, YES.

17 Q DID YOU SEE HIM DRIVE UP?

18 A I PROBABLY DID.

19 Q DO YOU RECALL WHAT KIND OF AUTOMOBILE HE WAS
20 20 DRIVING?

21 A NO, SIR, I DON'T.

22 Q WHAT DO YOU REMEMBER ABOUT THE FIRST THING --
23 23 LET ME WITHDRAW THAT.

24 WHEN WAS -- DESCRIBE THE FIRST TIME THAT YOU
25 25 SAW THIS MAN?

26 A HE CAME -- HE CAME INTO THE PARK, AND IT'S A
27 27 LONG DRIVE IN. IT'S 3-, 400 FEET FROM THE -- FROM THE
28 28 GATES TO THE MAIN CHAPEL, MAYBE EVEN A LITTLE BIT MORE.

4 1 PARKED THE VEHICLE AND CAME WALKING TOWARD THE CHAPEL, AND
2 I BELIEVE HE ASKED ME IF THIS IS FOR THE SERVICE FOR SUCH
3 AND SUCH A PERSON, AND I SAID, "YES, SIR."

4 Q WAS HE WITH ANYBODY?

5 A NO, SIR, HE WAS NOT.

6 Q WHEN HE ASKED YOU THESE QUESTIONS WHERE WERE
7 YOU?

8 A DIRECTLY IN -- I WAS ON THE PATIO AREA IN
9 FRONT OF THE CHAPEL DOORS.

10 Q AND WHEN HE ASKED YOU THAT QUESTION, HOW FAR
11 AWAY WAS HE FROM YOU, TO THE EXTENT YOU CAN REMEMBER?

12 A A VERY SHORT DISTANCE, SIR, LESS THAN 10
13 FEET.

14 Q AT THAT PARTICULAR POINT IN TIME WERE THERE
15 OTHER PEOPLE PULLING IN FOR THE SERVICE, IF YOU REMEMBER?

16 A A FEW MINUTES AFTER, YES.

17 Q BUT AT THE TIME YOU FIRST MADE CONTACT WITH
18 HIM THERE WAS NO ONE ELSE PULLING IN?

19 A NO, SIR, JUST THE GARDENER OUT THERE
20 ATTENDING TO THE ROSE GARDEN.

21 Q WAS HE THE FIRST ONE TO ARRIVE, OR WERE THERE
22 OTHER PEOPLE BEFORE HIM?

23 A THERE MAY HAVE BEEN ONE OR TWO OTHERS, BUT
24 THE PATIO WAS WIDE OPEN.

25 Q AND AFTER YOU -- INFORMED HIM OF WHAT THE --
26 OF WHO THE SERVICE WAS FOR, WHAT HAPPENED AFTER THAT?
27 WHERE DID THE MAN GO?

28 A I ASKED HIM IF HE WOULD SIGN THE REGISTER

4 1 BOOK JUST LIKE I ASKED EVERYBODY ELSE.

2 Q SO DID YOU WALK -- WHERE IS THE REGISTER BOOK
3 LOCATED?

4 A REGISTER BOOK IS TO -- WOULD HAVE BEEN TO THE
5 LEFT OF THE FRONT ENTRANCE JUST A FEW FEET OUTSIDE OF THE
6 FRONT ENTRANCE.

7 THE COURT: AS YOU ARE FACING THE FRONT ENTRANCE OR
8 LOOKING OUT OF THE FRONT ENTRANCE?

9 THE WITNESS: LOOKING OUT. IT WAS OUTSIDE ON THE
10 PATIO ITSELF, SIR.

11 THE COURT: SO IF YOU WERE LOOKING OUT OF THE FRONT
12 ENTRANCE IT WOULD BE ON YOUR LEFT?

13 THE WITNESS: YES, SIR.

14 BY MR. MC MULLEN:

15 Q SO HE WALKS OVER AND HE SIGNS INTO THE BOOK?

16 A YES, HE DID.

17 Q WHERE DID HE GO AFTER THAT?

18 A HE JUST STAYED RIGHT THERE. JUST WALKED
19 AROUND. HE DIDN'T DO ANYTHING UNUSUAL.

20 Q HE DIDN'T GO --

21 A THAT I CAN RECALL.

22 Q HE DIDN'T GO INTO THE CHAPEL?

23 A NO, SIR.

24 Q DID YOU HAVE ANY OTHER CONVERSATION WITH HIM
25 OTHER THAN THAT WITH RESPECT TO HIM SIGNING THE GUEST
26 BOOK?

27 A IF IT WAS, IT WAS SMALL CONVERSATION, SIR.

28 Q YOU -- YOU HAVE DESCRIBED HIM AS BEING TALLER

5 1 THAN YOU AND YOU ARE SIX FEET TALL?

2 A PRETTY CLOSE TO IT, SIR.

3 Q HOW MUCH TALLER WAS HE THAN YOU?

4 A MAYBE AN INCH OR TWO.

5 Q AND HOW DID YOU DESCRIBE HIS BUILT? HOW
6 WOULD YOU DESCRIBE HIS BUILD?

7 A 175, 180 POUNDS.

8 Q AND HIS -- HIS HAIR COLORING, DESCRIBE THE
9 COLOR OF HIS HAIR?

10 A SILVER GRAY.

11 Q AND HOW DID HE -- WHAT WAS THE STYLE OF HIS
12 HAIR, LIKE IN TERMS OF HOW HE COMBED IT?

13 A ALMOST IDENTICAL TO THIS PICTURE, SIR.

14 THE COURT: INDICATING EXHIBIT 1.

15 BY MR. MC MULLEN:

16 Q AND YOU SAY THAT --

17 A ALMOST IDENTICAL.

18 Q AND HOW ABOUT THE COLORING AS IT'S DEPICTED
19 IN PETITIONER'S 1. WAS IT THE SAME COLORING OR DIFFERENT?

20 A SILVER WHITE.

21 Q BUT HOW DOES IT COMPARE WITH WHAT'S SHOWN IN
22 PETITIONER'S 1, THAT PHOTOGRAPH?

23 A HERE IT'S SALT AND PEPPER.

24 Q WHEN YOU SAW IT IT WAS PURE WHITE?

25 A ALMOST, SIR. ALMOST.

26 Q SO IT WAS LIGHTER IN COLOR THAN WHAT IS SHOWN
27 THERE IN THAT PHOTOGRAPH?

28 A LET'S JUST SAY IT WAS GRAY, SILVER, WITH NO

5 1 YELLOW IN IT BECAUSE HE HAD NO YELLOW IN THAT HAIR.

2 Q NOW, THE BEARD -- YOU DESCRIBED HE HAD A
3 BEARD WHEN YOU SAW THIS PERSON?

4 A YES, SIR, HE DID.

5 Q AND WHAT WAS THE STYLE -- WHAT WAS THE STYLE
6 OF HIS BEARD?

7 A BEARD WAS CLOSE-CROPPED, SHORT, VERY SIMILAR
8 TO THIS.

9 Q AND WERE THERE -- WERE THERE ANY NOTICEABLE
10 DIFFERENCES BETWEEN THE STYLE THAT IS SHOWN IN
11 PETITIONER'S 1 AND WHAT YOU OBSERVED OF THIS PERSON?

12 A BEARD MIGHT HAVE BEEN A LITTLE BIT FULLER IN
13 THE CHECK AREA.

14 MR. KLEIN: CAN THE RECORD REFLECT THAT HE'S
15 LOOKING AND STUDYING EXHIBIT 1, YOUR HONOR?

16 THE COURT: YES.

17 BY MR. MC MULLEN:

18 Q ANYTHING ELSE?

19 A NO, HE JUST -- IMPECCABLY, WELL-GARMENTED
20 PERSON.

21 Q AND THE COLOR OF HIS BEARD? WAS IT ANY
22 DIFFERENT THAN WHAT IS SHOWN IN PETITIONER'S 1 THERE?

23 A SILVER GRAY. IT MIGHT HAVE HAD SOME FLECKS
24 OF SALT AND PEPPER. THIS IS SALT AND PEPPER.

25 THE COURT: REFERRING TO EXHIBIT 1.

26 BY MR. MC MULLEN:

27 Q SO IT LOOKED PRETTY MUCH THE SAME AS WHAT IS
28 SHOWN IN PETITIONER'S 1 IN TERMS OF COLOR?

5

1 A CAN'T RECALL, SIR.

2 Q WHEN YOU SAY HE WAS DISTINGUISHED LOOKING,
3 DESCRIBE WHAT YOU MEAN BY THAT?

4 A HE LOOKED LIKE A DIPLOMAT.

5 Q WHAT MADE YOU THINK THAT HE LOOKED LIKE A
6 DIPLOMAT?

7 A WESTWOOD VILLAGE MORTUARY, WE DEALT WITH
8 PROBABLY THE ELITE OF THE CITY OF BEVERLY HILLS, LOS
9 ANGELES. WE DID ALL OF THE T.V. PEOPLE, MOTION PICTURE
10 INDUSTRY, PRODUCERS, PERFORMERS. IT WAS AN EVERYDAY,
11 COMMON OCCURRENCE TO HAVE THIS TYPE OF PERSON THERE.

12 Q SO A DISTINGUISHED LOOKING PERSON, AND IN
13 PARTICULAR A DISTINGUISHED LOOKING MAN, WAS NOT AN UNUSUAL
14 THING FOR YOU TO OBSERVE DURING A FUNERAL SERVICE AT THAT
15 WESTWOOD MORTUARY?

16 A NOT REALLY. THERE WERE JUST THINGS ABOUT
17 HIM. JUST THINGS -- THE MAN LOOKED LIKE HE -- HE LOOKED
18 MONEY. HE LOOKED LIKE WEALTH. HIS FINGER NAILS, THEY
19 WERE WELL MANICURED. I LOOKED AT HIS HANDS. I SAW HIS
20 HANDS.

21 Q WHEN DID YOU SEE HIS HANDS?

22 A WHEN HE WAS SIGNING THE REGISTER. I WAS
23 RIGHT BEHIND -- RIGHT IN FRONT OF HIM. HE WAS FACING ME.
24 I HANDED HIM THE PEN. THAT WAS OUR PROCEDURE OUT THERE.

25 Q WAS IT UNUSUAL FOR YOU TO SEE A MAN WITH
26 MANICURED HANDS AT --

27 A NOT UNUSUAL, NO.

28 THE COURT: WAIT UNTIL HE FINISHES THE QUESTION.

5 1 THE WITNESS: WHAT, SIR?

2 THE COURT: COULD YOU WAIT UNTIL HE FINISHES HIS
3 QUESTION BEFORE YOU BEGIN ANSWERING?

4 THE WITNESS: YES.

5 BY MR. MC MULLEN:

6 Q SO IT WAS NOT UNUSUAL FOR YOU TO SEE A MAN
7 WITH A MANICURE AT A FUNERAL SERVICE AT WESTWOOD MORTUARY?

8 A NOT UNUSUAL, NO.

9 Q DID HIS CLOTHES ADD TO THAT DISTINGUISHED
10 LOOK?

11 A YES.

12 Q DESCRIBE HIS CLOTHING, PLEASE.

13 A HE HAD ON A GRAY SUIT, A GRAY SILK TIE, GRAY
14 POCKET HANDKERCHIEF, GRAY SHOES, GRAY SOCKS. I THINK HE
15 WORE SUSPENDERS.

16 Q WHAT COLOR WERE THE SUSPENDERS?

17 A I'M SURE I SAW -- I WEAR SUSPENDERS, AND I
18 THINK HIS COAT WAS OPEN. I CAN'T TELL YOU THE COLOR OF
19 THE SUSPENDERS.

20 Q COULD YOU TELL WHAT -- I MEAN, THE QUALITY OF
21 THE SUIT, WAS IT SOMETHING UNUSUAL?

22 A YEAH.

23 Q YOU DESCRIBED THE COLOR. WHAT WAS THE
24 QUALITY OF THE SUIT?

25 A THE QUALITY -- THE QUALITY AS IN 750, 800
26 BUCKS FOR THE SUIT.

27 Q YOU --

28 A A VERY EXPENSIVE SUIT.

6 1 Q YOU SAID HE LOOKED LIKE A CORPORATE OFFICER.
2 WHAT DID YOU MEAN BY THAT?

3 A I HAVE MET NUMEROUS CORPORATE OFFICERS THAT
4 WERE JUST AS IMPECCABLE, BUT THIS MAN -- HE GENERATED
5 SOMEBODY IMPORTANT.

6 Q DID YOU NOTICE HIS SHOES?

7 A YES, THEY WERE GREAT.

8 Q WHAT WERE THEY --

9 A LACE.

10 Q YOU SAY YOU TALKED TO HIM TWO OR THREE TIMES.

11 A YES, SIR, I DID.

12 Q YOU HAVE TESTIFIED ABOUT -- I THINK ONE TIME
13 YOU HAVE TALKED TO HIM, MAYBE TWO. WHAT WAS THE NEXT
14 TIME -- WHEN WAS THE NEXT TIME YOU TALKED TO HIM AFTER
15 THE -- HE SIGNED IN THE REGISTER?

16 A WITHIN A MINUTE OR TWO.

17 Q AND WHERE DID THAT CONVERSATION OCCUR?

18 A ALMOST NEAR THE FRONT DOOR OF THE CHAPEL.

19 Q WAS THERE -- WERE THERE ANY OTHER OF THE
20 OTHER GUESTS THERE AT THAT TIME?

21 A THERE WERE A FEW.

22 Q AND WHAT WAS SAID DURING THAT CONVERSATION
23 WITH HIM?

24 A I COMMENTED ON -- ON A LINK BRACELET, AN
25 IDENTIFICATION BRACELET THAT HE HAD BECAUSE I HAD ONE
26 VERY, VERY SIMILAR IN DESIGN, AND I SAID, "IT'S -- IT IS A
27 BEAUTIFUL BRACELET," AND I THINK THAT'S WHAT THE
28 CONVERSATION WAS ABOUT, THE JEWELRY. AND THEN THEY

6 1 STARTED COMING AND IN AND IT WAS GETTING BUSY AND I WAS
2 RUNNING BACK AND FORTH PARKING CARS.

3 Q HOW WOULD YOU DESCRIBE HIS VOICE, HIS MANNER
4 OF SPEECH?

5 A EFFEMINATE.

6 Q AND HOW -- HOW WAS IT EFFEMINATE?
7 DESCRIBE -- WHAT LEAD YOU TO BELIEVE IT WAS EFFEMINATE?

8 A JUST -- JUST THE WAY THAT HE -- I JUST FELT
9 IT WAS EFFEMINATE.

10 Q DID HE TALK SLOWLY, OR DID HE SPEAK RAPIDLY?

11 A SLOWLY, SLOWLY.

12 Q SLOW --

13 A SLOWLY.

14 Q WHEN YOU TALKED TO HIM DID HE SEEM TO BE
15 CONSERVATIVE WITH THE AMOUNT OF WORDS HE WOULD USE OR WAS
16 HE VERY EXPRESSIVE AND TRIED TO CONVEY A LOT OF
17 INFORMATION?

18 A JUST VERY RELAXED. JUST A RELAXED DEMEANOR.

19 THE COURT: MR. KLEIN, COULD WE DO THAT LATER?

20 MR. KLEIN: YES, YOUR HONOR. SORRY.

21 BY MR. MC MULLEN:

22 Q DID YOU TALK TO HIM AGAIN AFTER THAT
23 PARTICULAR TIME WHEN YOU NOTICED HIS IDENTIFICATION
24 BRACELET?

25 A NO, SIR. I DON'T BELIEVE I DID.

26 Q HOW LONG DID THE CONVERSATION LAST WHEN YOU
27 WERE TALKING ABOUT THE IDENTIFICATION BRACELET AND HIS
28 JEWELRY?

6

1 A VERY SHORT.

2 Q ABOUT HOW FAR AWAY WERE YOU FROM HIM WHEN
3 THAT CONVERSATION OCCURRED?

4 A ONE OR TWO FEET.

5 Q WHAT OTHER ITEMS OF JEWELRY DID YOU NOTICE
6 THAT HE WAS WEARING?

7 A I SAW A COIN RING, A GOLD WATCH AND AN I.D.
8 BRACELET.

9 Q WHERE -- WHAT HAND DID YOU SEE THE COIN RING
10 ON?

11 A RIGHT HAND.

12 Q AND WHAT FINGER, DO YOU REMEMBER?

13 A YEAH, NEXT TO THE PINKIE FINGER.

14 THE COURT: INDICATING THE RING FINGER OF THE RIGHT
15 HAND.

16 BY MR. MC MULLEN:

17 Q AND WHAT -- WHAT WAS IT ABOUT THE COIN
18 RING -- WHAT KIND OF COIN WAS IT? DO YOU REMEMBER?

19 A IT WAS IN EXCESS OF 18 CARAT GOLD.

20 THE COURT: YOU SAID IT WAS IN EXCESS OF 18 CARAT
21 GOLD. WHAT DO YOU MEAN?

22 THE WITNESS: GOLD JEWELRY COMES IN DIFFERENT
23 CLASSIFICATIONS, YOUR HONOR.

24 THE COURT: RIGHT.

25 THE WITNESS: 10 CARET, 14 CARAT.

26 THE COURT: I UNDERSTAND THAT.

27 WHAT DO YOU MEAN BY IN EXCESS OF 18 CARAT?

28 THE WITNESS: IT HAD A GLITTER AND A HIGH YELLOW

6 1 FINISH. THAT IS THE DIFFERENCE, OKAY.

2 22 CARET GOLD IS ALMOST PURE GOLD, AS 24
3 CARAT GOLD AT TROY OUNCE. I BELIEVE IT WAS IN EXCESS OF
4 18 CARAT GOLD BECAUSE OF THE COLOR.

5 BY MR. MC MULLEN:

6 Q YOU SAID IT WAS A COIN RING. WAS THERE A
7 COIN IN THE RING?

8 A YES, SIR.

9 Q DO YOU REMEMBER WHAT KIND OF COIN IT WAS?

10 A NO, SIR.

11 Q YOU DESCRIBED -- YOU DESCRIBE A WATCH HE WAS
12 WEARING AS A GOLD WATCH. WHERE WAS HE WEARING HIS GOLD
13 WATCH?

14 A THERE. LEFT WRIST (INDICATING).

15 THE COURT: I AM SORRY. I DIDN'T SEE YOU. SHOW ME
16 AGAIN. I DIDN'T SEE WHAT YOU DID WITH YOUR ARM.

17 THE WITNESS: LEFT WRIST (INDICATING).

18 THE COURT: OKAY.

19 BY MR. MC MULLEN:

20 Q DO YOU REMEMBER WHAT KIND OF WATCH IT WAS?

21 A IT LOOKED LIKE A ROLEX, SIR.

22 Q A GOLD ROLEX?

23 A YES, SIR.

24 Q WAS THE BAND GOLD AS WELL?

25 A NO. THERE WAS -- DOWN THE CENTER WAS LIKE A
26 WHITE GOLD. DOWN THE CENTER.

27 Q AFTER YOU HAD THAT CONVERSATION ABOUT HIS
28 JEWELRY, WHAT HAPPENED THEN WITH RESPECT TO THIS MAN?

7 1 A PEOPLE STARTED COMING AND I STARTED GETTING
2 2 BUSIER AND I NOTICED HE WAS TALKING WITH SOME OTHER
3 3 PEOPLE.

4 4 Q AND DID YOU OVERHEAR ANY CONVERSATION?

5 5 A NO, SIR. NOT THAT I RECALL.

6 6 Q WERE THERE ANY OTHER DISTINGUISHED LOOKING
7 7 PEOPLE AT THAT FUNERAL?

8 8 A YES, THERE WAS.

9 9 Q CAN YOU DESCRIBE ANY OF THEM?

10 10 A NOBODY THAT -- COULD COMPARE WITH THIS
11 11 FELLOW. WE HAD ONE FELLOW THERE I CAN REMEMBER AT THAT
12 12 FUNERAL SERVICE THAT HAD ON A SUIT AND SHOES WITH NO
13 13 SOCKS.

14 14 Q YOU SAID AT ONE POINT IN TIME THAT ONE OF THE
15 15 OTHER DIRECTORS CAME OUT AND ASKED YOU A QUESTION?

16 16 A YES.

17 17 Q WHEN DID THAT HAPPEN AND -- IN SPAN OF TIME
18 18 THAT YOU HAVE DESCRIBED RIGHT NOW?

19 19 A SERVICE WAS ALREADY IN PROGRESS.

20 20 Q WERE YOU INSIDE THE CHAPEL WHEN THIS
21 21 HAPPENED?

22 22 A OUTSIDE.

23 23 Q SO EVERYBODY THAT WAS ATTENDING THE SERVICE
24 24 WAS INSIDE AT THAT TIME?

25 25 A YES, SIR.

26 26 Q OKAY.

27 27 Q WHO WAS THAT DIRECTOR?

28 28 A THE DIRECTOR THAT CAME FROM THE OFFICE AND

7
1 TALKED TO ME?

2 Q YES, YES.

3 A EDMUND CHALLINOR.

4 THE COURT: I DIDN'T HEAR THE NAME.

5 THE WITNESS: EDMUND CHALLINOR, C-H-A-L-L-I-N-O-R.

6 BY MR. MC MULLEN:

7 Q YOU SAID THAT YOU HAD SOME INFORMATION ABOUT
8 THE DECEDENT IN THIS PARTICULAR FUNERAL. WHERE DID YOU
9 GET THIS INFORMATION?

10 A IT WAS IN THE OFFICE.

11 Q HOW DID YOU OBTAIN THIS INFORMATION IN THE
12 OFFICE?

13 A I JUST OVER HEARD IT. I COULD LOOK AT ANY
14 FILE I WANTED TO. I DON'T REMEMBER LOOKING AT THE FILE,
15 THOUGH. I JUST HEARD IT IN THE OFFICE, JUST GENERAL
16 CONVERSATION.

17 Q WHO -- DID YOU HEAR IT FROM?

18 A IT COULD HAVE BEEN A NUMBER OF PEOPLE.

19 Q WHO WERE THE POSSIBILITIES?

20 A SECRETARY.

21 Q WHO IS THAT? WHO WAS THAT?

22 A AT THAT TIME I THINK IT WAS CLARE MC CARTHY.

23 Q I'M SORRY?

24 A CLARE MC CARTHY. I THINK SHE WAS OUR
25 SECRETARY AT THAT TIME.

26 Q AND WHO ELSE MIGHT HAVE YOU HEARD THIS FROM?

27 A COULD HAVE BEEN THE PERSON THAT BROUGHT IN
28 THE REMAINS FROM THE CORONER'S OFFICE.

Q AN EMPLOYEE OF THE CORONER'S OFFICE?

A OH, NO, NO. IT COULD HAVE BEEN SOMEBODY -- IT MIGHT HAVE BEEN THE REMOVAL SERVICE, A MORTUARY ACCOMMODATION SERVICE. OR IT MIGHT HAVE BEEN ONE OF OUR OWN PEOPLE. I DIDN'T MAKE THE REMOVAL.

Q WHEN DID THIS CONVERSATION OCCUR IN RELATIONSHIP TO WHEN THE FUNERAL OCCURRED?

A MAYBE A DAY OR SO BEFORE.

Q AND WHO ELSE MIGHT YOU HAVE HEARD THIS INFORMATION FROM?

A I CAN'T RECALL, SIR.

Q DO YOU KNOW WHO ARRANGED THE FUNERAL?

A IF I KNEW THAT, SIR, WE'D HAVE THE KEY TO THIS WHOLE THING. I DON'T KNOW. I DON'T REMEMBER.

Q WHAT WAS THE INFORMATION YOU HEARD WITH RESPECT TO THE DECEDENT IN THIS PARTICULAR FUNERAL?

A THE WAY HE DIED.

Q AND THE FACT THAT HE WAS JEWISH?

A SOMEBODY HAD MENTIONED SOMETHING THAT HE WAS INVOLVED IN SOME TYPE OF A FRAUD, AND THAT'S WHY HE KILLED HIMSELF. THAT'S ALL I CAN REMEMBER.

Q BUT DIDN'T YOU TESTIFY THAT THE MAN WAS JEWISH, THAT YOU HAD HEARD --

A HAD A JEWISH SOUNDING NAME.

Q DID YOU FIND IT UNUSUAL THAT A JEWISH PERSON WOULD BE CREMATED?

A HAPPENS ALL THE TIME. IT DID AT WESTWOOD. 75 PERCENT OF OUR BUSINESS WAS CREMATION.

7 1 Q IN ONE OF YOUR INTERVIEWS WITH THE
2 INVESTIGATOR YOU MENTIONED THAT THE ASHES WERE INTERNED IN
3 THE NEW AREA OF THE CEMETERY. DO YOU RECALL?

4 A IT'S IN ONE OF TWO AREAS, SIR, THAT THEY
5 OPENED UP IN 1984 OR EARLY 1985.

6 Q IS THERE SOME OTHER WAY YOU DESCRIBE THAT NEW
7 AREA, BY LOCATION OR NAME?

8 A THE PARK IS VERY, VERY SMALL. THEY HAVE TWO
9 SECTIONS, A AND B. THE MAIN SECTION IS SECTION A. THE
10 PARK IS, I BELIEVE, NO MORE THAN TWO AND A HALF ACRES.
11 BECAUSE THEY WERE RUNNING OUT OF SPACE THEY WERE BURYING
12 ALONG SIDE BETWEEN THE GRATES. ONE AREA FILLED UP, AND
13 THEY WERE GOING TO TWO AREAS. IT BRINGS INTO MIND TWO
14 AREAS.

15 I WAS OUT THERE, OUT THERE YESTERDAY LOOKING
16 FOR THIS PARTICULAR GRAVE. I DIDN'T HAVE ENOUGH TIME. I
17 THINK IF I WALKED IT LONG ENOUGH I THINK I COULD HAVE
18 SPOTTED IT.

19 Q SO YOU ARE SAYING THAT THE ASHES WERE
20 ACTUALLY BURIED AS OPPOSED TO BEING PUT IN ONE OF THOSE --

21 A NOT IN A NICHE, IT'S IN THE GROUND.

22 Q HOW DID YOU COME TO FIND OUT THAT THE ASHES
23 WERE BURIED IN THE GROUND?

24 A I KNOW IT IS A GROUND BURIAL, SIR. I KNOW IT
25 IS. I CAN'T TELL YOU HOW. I KNOW IT'S A GROUND BURIAL.

26 Q YOU TESTIFIED THAT AT THE TIME OF THE FUNERAL
27 SERVICE THAT THE CREMATION HAD NOT YET OCCURRED.

28 A IT HAD NOT OCCURRED. THE BODY WAS STILL IN

8 1 OUR REFRIGERATED UNIT.

2 Q THAT WOULD BE KEPT SOME WHERE ON THE PREMISES
3 THERE?

4 A YEAH.

5 Q WHEN DID THE CREMATION OCCUR AFTER THE
6 FUNERAL?

7 A MAY HAVE BEEN TWO OR THREE DAYS AFTER THE
8 SERVICE, SIR.

9 Q WAS THERE ANY KIND OF A GRAVE-SIDE SERVICE
10 WHEN THE ASHES WERE ACTUALLY BURIED?

11 A THERE COULD HAVE BEEN. THERE COULD HAVE BEEN
12 A COMMITTAL SERVICE. THAT I'M NOT AWARE OF.

13 Q BUT YOU DON'T REMEMBER ATTENDING THAT OR
14 ANYTHING?

15 A NO, NO. BUT LET ME SPECIFY ONE THING. ONCE
16 A PERSON IS CREMATED AND THE CREMATE OR REMAINS ARE PICKED
17 UP BY THE MORTUARY THEY'RE PLACED IN STORAGE UNTIL A
18 BURIAL MARKER HAS BEEN ORDERED. SOMETIMES IT WOULD TAKE
19 ANYWHERE FROM THREE TO MAYBE FOUR OR FIVE WEEKS BEFORE THE
20 MARKER CAME IN.

21 MR. MC MULLEN: IF I MIGHT JUST HAVE A MOMENT, YOUR
22 HONOR.

23

24 (PAUSE.)

25

26 BY MR. MC MULLEN:

27 Q SO YOU HEARD PRIOR TO THE FUNERAL, A DAY OR
28 TWO THAT THE DECEDENT WAS A MAN WHO COMMITTED SUICIDE BY

8 1 HOOKING THE TAIL PIPE OF HIS CAR TO A SAUNA?

2 A YES, SIR.

3 Q ANYTHING ELSE ABOUT THAT MAN OR THE WAY HE
4 DIED OR ANYTHING ABOUT HIM?

5 A ONLY THAT HE HAD BEEN INVOLVED IN SOME TYPE
6 OF A FRAUD.

7 Q DO YOU REMEMBER SOMEBODY TELLING YOU THAT THE
8 PERSON, THE DECEDENT WORKED AT THE SUPERIOR STAMP AND COIN
9 ON OLYMPIC IN LOS ANGELES?

10 A NO.

11 Q DO YOU REMEMBER BEING INTERVIEWED BY AN
12 INVESTIGATOR IN THIS CASE, FRANK MACKIE?

13 A YES.

14 Q YOU DON'T REMEMBER TELLING HIM THAT?

15 A I SAID IT WAS A POSSIBILITY THAT HE WAS IN
16 THAT TYPE OF A BUSINESS, AND I SAID HE MAY HAVE WORKED
17 THERE OR HE MAY HAVE BEEN AFFILIATED WITH ANY OTHER PLACE.

18 Q WHY DID THAT PARTICULAR BUSINESS COME TO YOUR
19 MIND?

20 A WHY? BECAUSE THAT IS THE TYPE OF BUSINESS
21 THAT I UNDERSTOOD THAT THIS MAN WAS IN.

22 Q AND WHAT BUSINESS HAD YOU HEARD HE WAS IN?

23 A SOMETHING TO DO WITH GOLD STOCKS OR GOLD
24 BULLION OR GOLD COINS.

25 MR. MC MULLEN: IF I MIGHT JUST HAVE A MOMENT, YOUR
26 HONOR.

27 THE COURT: YES.

28

8

1 (PAUSE.)

2

3 BY MR. MC MULLEN:

4 Q DO YOU REMEMBER TELLING MR. MACKIE THAT YOU
5 OVERHEARD PEOPLE AT THE FUNERAL TALKING AND THAT'S WHERE
6 YOU LEARNED THAT THE DECEDENT HAD COMMITTED SUICIDE BY
7 ASPHYXIATING HIMSELF?

8 A I DON'T REMEMBER TELLING HIM THAT, BUT I CAN
9 TELL YOU THAT I DID HEAR IT IN OUR OFFICE.

10 Q BUT YOU ARE SAYING THAT YOU DIDN'T OVERHEAR
11 ANY KIND OF CONVERSATIONS DURING THE FUNERAL --

12 A NOT THAT I RECALL.

13 Q -- PRIOR TO THE FUNERAL SERVICE OR DURING IT?
14 PLEASE LET ME FINISH THE QUESTION. IT'S
15 IMPORTANT.

16 YOU DON'T REMEMBER OVERHEARING ANY
17 CONVERSATIONS PRIOR TO OR DURING THE FUNERAL SERVICE?

18 A NO, SIR, I DO NOT.

19 Q YOU HAVE TESTIFIED TODAY THAT YOU HAVE SOME
20 KIND OF A HEARING PROBLEM IN ONE OF YOUR EARS --

21 A THE LEFT EAR IS GONE.

22 Q DID YOU HAVE A HEARING PROBLEM BACK THEN WHEN
23 YOU WERE AT THE FUNERAL?

24 A THAT'S WHEN IT STARTED.

25 Q THIS PASSPORT YOU HAVE BROUGHT TO COURT
26 TODAY --

27 THE COURT: I DON'T THINK WE HAVE ACTUALLY MARKED
28 IT YET AS AN EXHIBIT.

8 1 MR. CRAIN: YOUR HONOR, I THINK -- I DON'T MEAN TO
2 INTERRUPT. I THINK HE GAVE ME HIS WIFE'S PASSPORT, AND
3 THAT'S WHAT WAS COPIED.

4 MR. MC MULLEN: IF HE DIDN'T, SOMETHING IS --

5 MR. CRAIN: HAVING MET HIS WIFE THAT'S WHO I
6 BELIEVE THIS PICTURE IS OF.

7 THE COURT: DOESN'T LOOK LIKE HIM.

8 MR. CRAIN: I DISCOVERED THAT IN THE MIDDLE OF THE
9 CROSS EXAMINATION. SO CAN I JUST -- DOES THE COURT WANT
10 TO SEE THE ORIGINAL?

11 THE COURT: YOU GUYS CAN WORK IT OUT.

12 MR. MC MULLEN: IF I CAN -- MAY I APPROACH THE
13 WITNESS WITH THIS PASSPORT?

14 THE COURT: YES.

15 MR. CRAIN: I BELIEVE HE TESTIFIED HE TRAVELLED
16 WITH HIS WIFE ON THAT TRIP.
17 BY MR. MC MULLEN:

18 Q COULD YOU LOOK AT THAT PASSPORT, SIR. IS
19 THAT YOUR WIFE'S PASSPORT?

20
21 (WITNESS COMPLIES.)

22
23 A IT IS.

24 Q SIR, WHO IS IRWIN WERNER, I-R-W-I-N?

25 A THAT'S MYSELF.

26 Q OKAY.

27 IS THAT AN IDENTITY YOU USED AS OPPOSED TO
28 IVAN WERNER?

8

1 A USE BOTH.

2 Q SO AT TWO DIFFERENT TIMES YOU APPLIED FOR A
3 CALIFORNIA DRIVER'S LICENSE WITH TWO DIFFERENT NAMES?

4 A YES, SIR.

5 Q TWO DIFFERENT DATES OF BIRTH?

6 A YES, SIR.

7 Q WHY DID YOU DO THAT?

8 A UP UNTIL 1977 MY LICENSE WAS UNDER MY OWN
9 NAME. IN 1977 I HAD AN ACCIDENT WHERE I MADE A RIGHT TURN
10 IN TO ONCOMING TRAFFIC AND I DID NOT SEE A VEHICLE COMING
11 AT A HIGH RATE OF SPEED AND I HAD A COLLISION AND IT WAS A
12 YOUNG GIRL, AND HER FATHER WAS AN ATTORNEY.

13 THE FIRST THING HE DID WAS WHEN HE GOT ON THE
14 SCENE IS HE IDENTIFIED HIMSELF AS SUCH. HE WAS VERY
15 ABRUPT IN HIS MANNER.

16 BUT ANYWAY, THEY HAVE A LAW ON THE BOOKS THAT
17 IF YOU HAVE AN ACCIDENT OVER A SET AMOUNT OF MONEY YOU
18 HAVE TO REPORT TO DMV, THAT'S TO INSURANCE. I DID NOT. I
19 DON'T KNOW WHY I DIDN'T, BUT I DIDN'T, AND THEY SENT A
20 NOTICE OF SUSPENSION. I PANICKED. I WENT DOWN AND I GOT
21 ANOTHER LICENSE UNDER IRWIN WERNER, AND I HAVE KEPT THAT
22 LICENSE ALL THE WAY UP UNTIL NOW.

23 Q WERE TWO PEOPLE KILLED IN THAT AUTOMOBILE
24 ACCIDENT?

25 A NO.

26 Q WAS ANYBODY HURT IN THE AUTOMOBILE ACCIDENT?

27 A NO.

28 Q SO YOU MISREPRESENTED YOUR IDENTITY TO THE

9 1 DEPARTMENT OF MOTOR VEHICLES TO AVOID THE SUSPENSION UNDER
2 YOUR TRUE NAME?

3 A I BELIEVE THEY DID SUSPEND. I WAS INSURED AT
4 THE TIME. I JUST DID NOT FOR SOME REASON SEND IN A FORM
5 TO D.M.V..

6 Q I UNDERSTAND. SO TO CIRCUMVENT THAT
7 SUSPENSION YOU MISREPRESENTED YOUR IDENTITY TO THE
8 DEPARTMENT OF MOTOR VEHICLES?

9 A I BELIEVE THE SUSPENSION WENT INTO EFFECT,
10 AND I BELIEVE AFTER THE SUSPENSION I GOT THE LICENSE UNDER
11 A DIFFERENT NAME.

12 MR. MC MULLEN: MAY I JUST HAVE A MOMENT?

13 THE COURT: YES.

14
15 (PAUSE.)

16
17 BY MR. MC MULLEN:

18 Q JUST SO I'M CLEAR. YOU GOT THE SECOND
19 LICENSE BECAUSE YOUR FIRST LICENSE HAD BEEN SUSPENDED; IS
20 THAT CORRECT?

21 A I BELIEVE IT WAS.

22 Q SO THAT'S WHY YOU GOT THE SECOND LICENSE?

23 A YEAH.

24 MR. MC MULLEN: NOTHING FURTHER.

25 THE COURT: YOU SAID YOU SAW THIS MAN ARRIVE PRIOR
26 TO THE SERVICE BEGINNING?

27 THE WITNESS: WHAT WAS THAT, SIR?

28 THE COURT: DID YOU SAY YOU SAW THIS MAN ARRIVE

9 1 PRIOR TO THE SERVICE ACTUALLY BEGINNING?

2 THE WITNESS: YES, SIR. YES, SIR.

3 THE COURT: YOU SAW HIM DRIVE UP AND PARK HIS CAR?

4 THE WITNESS: I BELIEVE I DID.

5 THE COURT: WHAT KIND OF CAR WAS HE DRIVING?

6 THE WITNESS: I COULDN'T TELL YOU, SIR.

7 THE COURT: BIG, SMALL, ANY IDEA? YOU GAVE SUCH
8 GREAT DETAIL ABOUT WHAT HE WAS DRESSED IN AND HOW HE WAS
9 HE DRESSED. DO YOU HAVE ANY RECOLLECTION OF WHAT HE WAS
10 DRIVING?

11 THE WITNESS: I HAVE THOUGHT ABOUT IT. I CAN'T
12 RECALL. I CAN TELL YOU IT WAS AN EXPENSIVE CAR TO DRIVE.

13 THE COURT: YEAH. DO YOU SAY THAT -- WHY DO YOU
14 HAVE THAT IMPRESSION.

15 THE WITNESS: IT -- IT JUST WAS. I DIDN'T SEE
16 ANYTHING AT THAT SERVICE THAT WASN'T. SOME TYPE OF A
17 FOREIGN MAKE -- THEY WERE JUST -- THEY WERE VERY EXPENSIVE
18 AUTOMOBILES AT THAT SERVICE.

19 THE COURT: ANY RECOLLECTION AS TO COLOR OF THE
20 CAR?

21 THE WITNESS: NO, SIR. COULD HAVE BEEN A DARK
22 COLOR. I MAY BE MISTAKEN.

23 THE COURT: DID YOU SEE HIM ARRIVE WITH ANYONE?

24 THE WITNESS: NO, SIR.

25 THE COURT: DID YOU SEE HIM TALK TO ANY OF THE
26 OTHER GUESTS?

27 THE WITNESS: YES, SIR, I DID.

28 THE COURT: WHO DID YOU SEE HIM TALK TO?

9 1 THE WITNESS: DIFFERENT PEOPLE. THEY WERE WALKING
2 2 AROUND. AFTER THE SERVICE THEY ALL HUNG AROUND FOR 15 OR
3 3 20 MINUTES. SOME OF THEM STAYED LONGER.

4 4 THE COURT: I ASSUME SOME OF THESE PEOPLE AT THE
5 5 SERVICE WERE RELATIVES OF THE DECEDENT OR WORKED WITH THE
6 6 DECEDENT. I ASSUME THAT WAS PART OF YOUR RESPONSIBILITY
7 7 TO IDENTIFY PEOPLE?

8 8 THE WITNESS: I WOULD THINK SO.

9 9 THE COURT: DID YOU SEE WHAT CLASS OF GUESTS THIS
10 10 FELLOW HAD CONTACT WITH, THE FAMILY VERSUS FRIENDS --

11 11 THE WITNESS: I DIDN'T PAY ANY ATTENTION TO IT,
12 12 SIR. THE ONLY REASON I CAME IN CONTACT WITH HIM IN THE
13 13 FIRST PLACE IS THAT HE WAS ONE OF THE FIRST PEOPLE THERE.
14 14 I JUST MADE SMALL CONVERSATION WITH HIM.

15 15 THE COURT: DID YOU SEE HIM LEAVE?

16 16 THE WITNESS: NO.

17 17 THE COURT: YOU SAID THERE WAS A PARTICULAR
18 18 BRACELET THAT HE HAD AND THAT YOU MADE COMMENTS ABOUT
19 19 BECAUSE YOU HAD ONE VERY SIMILAR TO IT.

20 20 THE WITNESS: VERY SIMILAR, SIR.

21 21 THE COURT: DESCRIBE IT, PLEASE.

22 22 THE WITNESS: HEAVY GOLD LINKS, A CENTER GOLD BAR,
23 23 MAYBE AN INCH AND A HALF TO TWO INCHES WITH SOME WRITING
24 24 ON IT.

25 25 THE COURT: WORN WHERE?

26 26 THE WITNESS: WORN ON THIS WRIST (INDICATING).

27 27 THE COURT: INDICATING THE RIGHT WRIST.

28 YOU SAID YOU WERE OUT LOOKING FOR THE GRAVE

9 1 YESTERDAY?

2 THE WITNESS: YES, SIR.

3 THE COURT: WHY?

4 THE WITNESS: BECAUSE THE ATTORNEYS FOR MR. HUNT
5 HAD ASKED ME TO DO SO, AND THEY FELT IT WAS THE RIGHT
6 THING TO DO. I -- I DID IT BECAUSE -- I WANTED TO DO IT A
10 7 LONG TIME AGO. I JUST DON'T HAVE THE TIME, YOUR HONOR.

8 THE COURT: HAVE YOU SPOKEN PERSONALLY TO MR. HUNT?

9 THE WITNESS: NEVER.

10 THE COURT: EVER SPOKEN TO MR. HUNT'S WIFE?

11 THE WITNESS: I WASN'T EVEN AWARE THAT HE WAS
12 MARRIED, SIR.

13 THE COURT: ALL RIGHT.

14 ANY REDIRECT?

15
16 REDIRECT EXAMINATION +

17
18 BY MR. CRAIN:

19 Q DID YOU SEE ANY BROWN MERCEDES CONVERTIBLE IN
20 THE AREA OF THIS FUNERAL SERVICE?

21 A I COULD HAVE, BUT I CAN'T RECALL.

22 Q ARE YOU ABLE TO TELL US WHETHER OR NOT THE
23 MAN THAT WAS SHOWN IN THE PHOTOGRAPH THAT'S STILL UP
24 THERE --

25 A IT IS.

26 Q -- GOT OUT OF A BROWN MERCEDES CONVERTIBLE?
27 CAN YOU TELL US THAT?

28 A I COULDN'T TELL YOU THAT.

10 1 Q COULDN'T TELL ONE WAY OR THE OTHER; IS THAT
2 RIGHT?

3 A NO, MR. CRAIN, I CAN'T.

4 MR. CRAIN: THANK YOU, SIR.

5 NOTHING FURTHER.

6 THE COURT: ANYTHING FURTHER?

7 MR. MC MULLEN: IF I COULD JUST HAVE A MOMENT.

8
9 (PAUSE.)

10
11 MR. MC MULLEN: NOTHING FURTHER.

12 THE COURT: MAY THE WITNESS BE EXCUSED?

13 MR. CRAIN: YES -- I'M SORRY, YOUR HONOR, COULD WE
14 HAVE JUST A MOMENT?

15
16 (A CONFERENCE WAS HELD BETWEEN COUNSEL
17 AND THE DEFENDANT, NOT REPORTED.)

18
19 MR. CRAIN: JUST ANOTHER QUESTION OR TWO.
20 BY MR. CRAIN:

21 Q MR. WERNER, YOU WERE TELLING THE JUDGE ABOUT
22 THE DIFFERENT TYPES OF GOLD, THE DIFFERENT CARATS AND YOUR
23 FAMILIARITY WITH THAT. JUST IN A FEW WORDS, DO YOU HAVE A
24 PARTICULAR INTEREST IN JEWELRY?

25 A MYSELF?

26 Q YES.

27 A OH, YEAH, SURE.

28 Q WHAT IS THAT? JUST IN SUMMARY FORM. IN A

10 1 NUTSHELL, IN OTHER WORDS.

2 A I'M AN INVESTOR.

3 Q HOW DOES THAT RELATE TO JEWELRY AND
4 RECOGNITION OF JEWELRY?

5 A IT MEANS SIMPLY I'M VERY, VERY OBSERVANT WHEN
6 I SEE SOMETHING. IF -- I'M JUST VERY GOOD AT ESTIMATING A
7 VALUE OF SOMETHING.

8 Q WHEN YOU SAY "SOMETHING," DO YOU MEAN JEWELRY
9 OR OTHER THINGS?

10 A JEWELRY, CLOTHING, THINGS SIMILAR TO THAT.

11 Q HOW OLD ARE YOU NOW?

12 A WHAT WAS THAT?

13 Q WHAT IS YOUR AGE AT THE PRESENT TIME?

14 A AT THAT TIME?

15 Q NO. NOW.

16 A 60.

17 MR. CRAIN: THANK YOU.

18 NOTHING FURTHER.

19 THE COURT: ANYTHING FURTHER, MR. MC MULLEN.

20 MR. MC MULLEN: YES, BRIEFLY, YOUR HONOR.

21

22 RECROSS-EXAMINATION @

23

24 BY MR. MC MULLEN:

25 Q YOU SAID YOU WERE AN INVESTOR. WHAT KIND OF
26 THINGS DO YOU INVEST IN?

27 A I INVEST IN GOLD, GOLD COINS, GOLD JEWELRY,
28 PRECIOUS STONES.

10 1 Q WHEN YOU SAY "GOLD JEWELRY," DO YOU INVEST IN
2 MEN'S GOLD JEWELRY?

3 A MOSTLY.

4 Q WHAT KIND OF GOLD JEWELRY, MEN'S GOLD JEWELRY
5 DO YOU INVEST IN?

6 A RINGS, WATCHES, BRACELETS, ANYTHING THAT I
7 FEEL THAT WILL HOLD A VALUE, AND I CAN BUY IT BELOW COST.

8 MR. MC MULLEN: COULD I JUST HAVE A MOMENT?

9
10 (PAUSE.)

11
12 MR. MC MULLEN: THANK YOU.

13 NOTHING FURTHER.

14 MR. CRAIN: NOTHING FURTHER.

15 THE COURT: MAY THE WITNESS BE EXCUSED?

16 MR. CRAIN: YES.

17 MR. MC MULLEN: SUBJECT TO IMPEACHMENT.

18 THE COURT: SUBJECT TO SOME SHOWING.

19 THANK YOU, SIR. YOU MAY STEP DOWN.

20 WHO IS YOUR NEXT WITNESS?

21 MR. CRAIN: WELL, THERE ISN'T ONE AT THIS MOMENT.

22 THE COURT: WHAT DO WE HAVE ON FOR TOMORROW, THEN.

23 MR. KLEIN: WE SHOULD HAVE WITNESSES TO TAKE UP THE
24 DAY. I JUST DON'T KNOW THE ORDER YET.

25 MR. CRAIN: I KNOW MR. ADELMAN HAS STATED HE'LL BE
26 HERE AT 10:00. THAT WAS THE BEST HE COULD DO. I HAD
27 ASKED HIM TO GET HERE AT 8:30. HE SAID HE HAS FAMILY
28 OBLIGATIONS, THOSE PRECLUDED HIS ARRIVAL BEFORE 10:00.

6-25-92 See Paul Edholm for Facing Page.
S. Mateo Chy Sup Ct.

1 THE COURT: The record will show all members
2 of the jury are seated in the jury box.

3 Mr. Hunt, you can call your next witness.

4 MR. HUNT: Your Honor, the defense calls
5 Robbie Robinson.

6 ROBERT ROBINSON,
7 [called as a witness on behalf of the defendant, was
8 sworn and examined and testified as follows]:

9 THE WITNESS: I do.

10 THE CLERK: Be seated, please.

11 Would you state your name and spell it,
12 please?

13 THE WITNESS: My name is Robert Robinson.
14 R-o-b-i-n-s-o-n.

15 THE CLERK: Thank you.

16 MR. HUNT: Your Honor, before we begin
17 Mr. Robinson's testimony, Mr. Gordnier wanted to do
18 something with People's 155.

19 MR. GORDNIER: Yes, your Honor. At the
20 interim I put the words "Ghaleb diagram" at the top.
21 Mr. Hunt and I had spoken at the break about labeling
22 the chart in some fashion that, that seemed appropriate,
23 and I will now move 155 with that description into
24 evidence.

25 THE COURT: Any objections?

1 MR. HUNT: None.

2 THE COURT: It's in evidence.

3

4 (Whereupon People's Exhibit 155
5 previously marked for identification
6 was admitted into evidence.)

7 DIRECT EXAMINATION OF ROBERT ROBINSON

8 BY MR. HUNT:

9 Q. Good afternoon, Mr. Robinson.

10 A. Good afternoon.

11 Q. Where did you come up from in order to be
12 here today and testify?

13 A. Los Angeles.

14 Q. How long have you lived in Los Angeles?

15 A. Since 1967.

16 Q. During the 70's and early 80's, what was your
17 profession, sir?

18 A. I was a reporter first for the Herald
19 Examiner Newspaper. Then for the Los Angeles City News
20 Service, which was a wire service.

21 Q. Mr. Robinson, I wonder if you would scoot
22 over to your right so that the microphone is more
23 directly in front of your mouth.

24 A. How's that?

25 Q. Without turning away from the jury, there we

1 go.

2 You were working for the City News Service;
3 you say?

4 A. Yes. First I worked for nine years, I worked
5 for the Herald Examiner. Then for nine years I worked
6 for Los Angeles City News Service. It's a service
7 similar to A.P. and U.P.I., except it just covers Los
8 Angeles and Orange County.

9 Q. A.P. and U.P.I. being both the major wire
10 services?

11 A. Yes. Associated Press and United Press
12 International.

13 Q. What was your role at City News Service?

14 A. I was a reporter most of the time.

15 Q. What did you cover for them?

16 A. Mostly the police beat.

17 Q. When you say "police beat," would that also
18 cover ongoing trials and courtroom activities?

19 A. No. No. No. That was the court beat. I
20 would cover such things as crimes that occurred very
21 recently, like that night, of the fires, rescues, things
22 of that sort. Trials were covered by the court beat.

23 Q. Did they work in the same room that you did?

24 A. No. Not even the same building.

25 Q. What building did you work out of in 1984?

1 A. Parker Center. That was and still is the
2 police headquarters of the Los Angeles Police
3 Department.

4 Q. How long had you been working out of that
5 building, sir, in 1984?

6 A. By that time, 12 years. Since 1972.

7 Q. What sort of hours did you work?

8 A. Well, by the 80's, when I was working for the
9 City News Service, I worked from 10:00 o'clock until
10 6:30 in the morning. 10:00 o'clock P.M. till 6:30 A.M.

11 Q. While you were working in that role for City
12 News Service, did you ever meet a man named Ron Levin?

13 A. Several times. Not a lot of times, but
14 probably about a half dozen times or so.

15 Q. Can you describe Ron Levin to the jury,
16 please?

17 A. Levin was about -- I think he was probably
18 about 40 or so at the time, and about 6 feet, slender,
19 maybe 155, 160 pounds. He had iron gray hair, sort of
20 like a beard, little beard. Generally kind of tan.

21 Q. What color were his eyes?

22 THE COURT: Excuse me, Mr. Robinson, can you
23 try and keep your voice up a little bit?

24 THE WITNESS: Yes, sir. I really can't
25 remember the color of his eyes. They were a grayish

1 blue. I'm not, not certain.

2 Q. Do you remember this man?

3 A. Yes. That was Levin. That's a picture of
4 him.

5 MR. HUNT: Your Honor, I am showing Defense
6 1048 to Mr. Robinson.

7 Q. (BY MR. HUNT) How was it that you and Ron
8 Levin became acquainted?

9 A. He presented himself as the head of a news
10 service. I don't recall the exact name that he gave it.
11 When I first encountered him he and another
12 man -- let's see, what was his name -- Bob Tur were
13 partners in a news service, but he had split. They had
14 a falling out. Tur, as far as I know continued -- in
15 fact, I did know, continued the head of the news
16 service.

17 Q. Focusing on Mr. Levin for a moment, you said
18 it was in -- He was in the role of head of a news
19 service?

20 A. Well, they were -- as far as I could tell --
21 they were supposedly partners.

22 Q. Okay. What type of news business did
23 Mr. Levin say this was; if he did say?

24 A. Like free lance camera. That is, they would
25 go out. I don't think they had video tapes in those

1 days, but they did go out, and, say, there was an
2 accident or a fire or a homicide, and they would take
3 film of it and then they would go around to the various
4 T.V. stations. There are several there in the Los
5 Angeles area, and offered the film clips for sale, which
6 could be used with any story that might come over the
7 wires.

8 Q. Do you recall if Mr. Levin's business was
9 called Network News?

10 A. I couldn't swear to a name.

11 Q. How -- I mean, I understand that you are
12 working on the police beat for City News Service and Ron
13 Levin is doing Network News, but could you describe a
14 little more completely how it was that you two came into
15 association?

16 A. Okay. The first time, you know, he came into
17 the room, and I am not sure, but I think I might have
18 been the only reporter working in the room at the
19 moment.

20 Q. Was this at the Parker Center?

21 A. Right.

22 Q. Then what happened?

23 A. He explained his thing concerning the video
24 cameras. And what he needed was information, that is,
25 like factual information to go with it, with any video

1 tapes that he had. Also tips.

2 What he wanted was tips on stories because he
3 saw that we had scanners, police scanners. I don't know
4 exactly how to describe -- they pick up -- they are sort
5 of like radio receivers of sorts, but they pick up only
6 specialized frequency.

7 For example, a police department, sheriff's
8 department, fire department, which have to be programmed
9 into them in the first place, which, in fact, I had
10 programmed into them, and what he needed to know is if,
11 like, I heard something come over the scanner that was a
12 possible good -- visually good story, auto wreck, house
13 fire, something of that sort, as opposed to say a lost
14 hiker up in the hills where it would be almost
15 impossible to get good video, if it was something that
16 he could get good video on quickly, he wanted me to tip
17 him.

18 Q. Mr. Robinson, let me stop you there. Excuse
19 me.

20 You say that Ron Levin wanted you to tip him.
21 Was there a business arrangement he was
22 proposing?

23 A. Yes. Right. Of course. I told him --

24 THE COURT: Mr. Robinson. If you can just
25 slow down a little bit and wait until you are sure the

1 question is over before you start to answer.

2 A. Yes, sir.

3 Q. After he had proposed his business
4 arrangement where you would tip him based on the
5 information coming across your desk at the Parker
6 Center, what -- How did you respond to that request on
7 his part?

8 A. First I told him that any information I gave
9 him I could only give him after I had sent information
10 to my own employer, because we had clients and I could
11 not, you know, go around my employer or undermine any of
12 our clients. I had to send out any tipped information
13 or advisories to our clients first.

14 After I did that, it would be different. I
15 could tell him.

16 Q. Okay.

17 Did you ever have -- Did it ever come up that
18 you turned a story over to Mr. Levin?

19 A. I gave him tips on stories once I had sent
20 out advisories to our office.

21 Q. Okay. Did you ever talk to Mr. Levin over
22 the telephone?

23 A. Perhaps two times, maybe three. I'm not
24 sure. He would -- Basically, either he or somebody
25 would call, and it just wasn't very satisfactory.

1 Q. So in total then, you met Mr. Levin
2 face-to-face about a half dozen occasions?

3 A. I would say so.

4 Q. As far as your seeing him in the role of
5 being a police beat reporter for the City News Service,
6 when was the last time in that setting that you came
7 into contact with Mr. Levin?

8 MR. VANCE: Objection. Misstates the
9 evidence.

10 THE COURT: Overruled. You can answer the
11 question.

12 THE WITNESS: The last time I saw him while I
13 was at Parker Center was in the spring of 1964, because
14 he asked for --

15 Q. (BY MR. HUNT) Was that '64 or?

16 A. Excuse me. Not '64. '84. I misspoke.

17 Q. All right.

18 A. He came in to ask for a press pass because he
19 wanted to cover the Olympics that were coming up later
20 on that year.

21 Q. Okay.

22 When was the next time after that occasion in
23 the spring of 1984 that you saw Ron Levin?

24 A. In 1986, in Westwood. That's 1986 in
25 Westwood.

1 Q. Okay. There's a poster to your left, sir.
2 It's Defense 1277, for the record.

3 MR. HUNT: Your Honor, with your permission,
4 may the witness approach the poster?

5 THE COURT: Yes.

6 Q. (BY MR. HUNT) Mr. Robinson, there's a
7 pointer on the chalk ledge to your left. Using that
8 pointer, and after you are getting your bearings with
9 the map there, I would like to find out if you could
10 point out where on that plan in Westwood, approximately,
11 sir, where it is that you saw Mr. Levin?

12 A. Okay. I was standing outside of the National
13 Theater. I don't know if it was called Mann National.
14 I think it was just National. And I was standing on
15 this side of it on Gayley. Yes, I was standing on that
16 side, waiting to get a ticket to see a film.

17 MR. HUNT: Your Honor, may the record reflect
18 Mr. Robinson, using the pointer, directed the jury's
19 attention to an area near a square and the legend, a red
20 square, and the legend Mann National Theater on the map?

21 THE COURT: Yes.

22 MR. HUNT: Thank you, Mr. Robinson. You may
23 resume your seat.

24 Your Honor, I have two half-sized posters,
25 first of which shows a large brown building with the

1 legend Mann new Westwood Theater on the side.

2 And the other one shows the box office of the
3 same theater, clearly visible in the latter photograph,
4 with the Gayley. May the first photograph showing the
5 sides of the brown building be 1279?

6 THE COURT: Yes.

7 MR. HUNT: And the next one showing the box
8 office, 1280?

9 (Whereupon Defense Exhibit 1279,
10 photo, a large brown building,
11 and Defense Exhibit 1280,
12 photo, theatre box office,
13 were marked for identification.)

14 Q. (BY MR. HUNT) Mr. Robinson, what was it that
15 brought you into Westwood in 1986 and to this theater?

16 A. Well, it was a -- it was either pay day or
17 the day after pay day, and I wanted to see a film. It
18 was called "Crocodile Dundee." It had been advertised
19 and reviewed in the L.A. Times. It had a favorable
20 review, and I was interested in seeing it.

21 Q. Do you know, approximately, what time of the
22 year in 1986 this would have been?

23 A. Now I do. At the time I talked to the
24 police, I mistakenly thought it was about, you know,
25 because of the weather. But I later discovered that it

1 was actually about the first week of October.

2 Q. Okay. In any event when you first gave a
3 statement about this, Mr. Robinson, you told the people
4 you were talking to that this sighting of Ron Levin
5 occurred at about the time that Crocodile Dundee opened?

6 A. Right. About a week after, yeah.

7 Q. Okay.

8 Mr. Robinson, Miss Gandolfo has a couple of
9 posters I would like you to examine.

10 In the first one closest to you, do you see in
11 that photograph a street sign?

12 A. Yeah. Gayley.

13 Q. And that is what that street sign says?

14 A. That says Gayley.

15 Was that the same street that you directed the
16 jury's attention to on the poster, Defense 1277?

17 A. Yes.

18 MR. HUNT: May the record reflect he's been
19 using Defense 1280 as a reference point on the street
20 sign?

21 THE COURT: Yes.

22 MR. HUNT: Thank you.

23 Q. (BY MR. HUNT) Using Defense 1280 and 1279,
24 and if you want to, that pointer, if you can get ahold
25 of it without knocking the posters off of there.

1 Using that pointer, either from your chair or
2 standing, whichever you prefer, can you show the jury
3 the spot at which you recall being right before you saw
4 Ron Levin?

5 A. Well, I was on this side of the theater.
6 Actually could not see the box office. I was over here.
7 I wouldn't know exactly. It was over on this side
8 because the line came around the corner.

9 MR. HUNT: Your Honor, the witness has been
10 directing everyone's attention to Defense 1279, and the
11 part of that which is right next to the large brown
12 building.

13 Q. (BY MR. HUNT) Is there a sidewalk between
14 the cars that are shown there and the building?

15 A. Yes.

16 Q. Were you standing on the sidewalk?

17 A. Oh, yeah. Sure.

18 Q. And there was a large line you said?

19 A. There was a line. I don't know how large it
20 was because it, apparently, went from right before the
21 theater around the corner.

22 Q. What type of day was this, sir?

23 A. Pleasant. It was fair weather, you know. It
24 wasn't hot. It was in the 70's, I would guess, and like
25 a little bit cloudy, partially cloudy. It wasn't hot,

1 that's why I thought it was actually in June.

2 Q. Okay.

3 Were you doing anything in the line other than
4 just waiting for the movie?

5 A. Yeah, I was reading a book.

6 Q. Do you recall the name of that book?

7 A. Point of fact, yes, because I still have it
8 in my book table. It's the Columbia Desk Reference
9 Library, the Paperback Library Encyclopedia. It has a
10 lot of short articles in it. It's very convenient. I
11 would stand in the line, read a few articles. If I had
12 to interrupt, no problem. I could just mark it.

13 Q. Was that something you had a professional
14 interest in, sir, due to the nature of working a -- a --

15 A. Oh, no. No, no.

16 Q. So you are reading the book. You are waiting
17 for Crocodile Dundee, the theater to open?

18 A. Right.

19 Q. Had you already purchased your tickets?

20 A. No.

21 Q. Tell us about that. You are waiting. Did
22 you think that was the ticket line?

23 A. Yeah. Yes. I thought it was the ticket
24 line.

25 Q. Did you later find out that it wasn't the

1 ticket line?

2 A. Right.

3 Q. How did that come about?

4 A. Well, when the line moved up, and I got
5 towards the front of the theater I saw there was a
6 second line, and I discovered at that time, that I had
7 been in the wrong line, which is why I remember the
8 incident so well. I got --

9 Q. Okay. Let's take a piece at a time.

10 A. Right.

11 Q. Let's back up.

12 Did something happen before you found out that
13 you were in the wrong line? Please resume your seat.

14 You are standing in the line. You are perhaps
15 -- and you are waiting for this movie.

16 Does something happen which is memorable to
17 you?

18 A. Well, as I said. I was reading the book and
19 a person called out my name: "Robbie," which I'm
20 normally called. And I looked up, and it was Levin.

21 I was really surprised. I did not know that
22 he was supposed to be dead or anything.

23 Q. Let's just stay with the day.

24 A. Right.

25 Q. We are on this warm 70 degree day, partly

1 cloudy or something like that. You are waiting to see
2 "Crocodile Dundee." Somebody calls your name, "Robbie."

3 A. Right.

4 Q. Who do you see?

5 A. Levin. Ron Levin.

6 Q. The same person that's depicted in the
7 photograph?

8 A. Oh, yeah.

9 Q. Off your right shoulder?

10 A. Right.

11 Q. Well, what did you say?

12 A. I said "hi." We weren't friends. We were
13 merely associates.

14 Q. Did you have a conversation with Mr. Levin on
15 that day?

16 A. Very brief. I said "hi." Basically said,
17 "how are you?" Very little. I don't know all the exact
18 words because it was very little anyway. I wasn't
19 really interested in carrying on much conversation with
20 him.

21 Q. Okay.

22 But other than not recalling exactly what was
23 said, are you clear in your own mind that some light,
24 casual comments were made on both sides after the
25 greetings?

1 A. Yes.

2 Q. About how long did the conversation last, in
3 total?

4 A. Certainly less than a minute.

5 Q. Did you find anything odd about the voice of
6 the man that you were speaking to?

7 A. No.

8 Q. Did it seem to be the voice that you matched
9 with the person, Ron Levin?

10 A. Yeah, well. I mean, obviously I thought
11 that. And he called me. I didn't call him.

12 Q. All right.

13 Did you find it exceptional to be running into
14 Ron Levin in Westwood some time in 1986?

15 A. I was surprised. I hadn't seen him in a
16 couple of years. And, of course, I had never seen him
17 away from Parker Center.

18 Q. Did you have any other basis to be surprised,
19 other than the fact that you hadn't seen him in a couple
20 or few years?

21 A. Actually, no. I thought that, I knew there
22 was supposed to be some guy missing, but I hadn't
23 carried on -- hadn't covered this other case [sic].

24 Q. All right.

25 At what point did you realize that the meeting

1 that you had with Ron Levin near the National Theater in
2 Westwood was a little bit unusual than just the chance
3 meeting of two people that hadn't seen each other for a
4 couple of years?

5 A. Either that night or the next night when I
6 mentioned it to another reporter who informed me Levin
7 was the man who had supposedly been murdered a couple of
8 years earlier.

9 Q. Did you know anything about -- You mentioned
10 that even at the time that you ran into Ron Levin in
11 Westwood, you were aware that there was some case
12 involving a missing person?

13 A. Right.

14 Q. Did you have any understanding at that time
15 that Ron Levin was the alleged missing person or the
16 alleged --

17 A. Not until -- I said not until the next day,
18 not until I spoke to another reporter who told me that.

19 Q. When the reporter connected these two things
20 to you, in your mind; what did you do, sir?

21 A. Nothing. I'm sure there was probably
22 conversation, but I mean I didn't do anything like go to
23 authorities and say, "Oh, I saw Ron Levin."

24 Q. Did there come a time when you decided it was
25 appropriate for you to go to the authorities?

1 A. Yes.

2 Q. Let me ask you about that.

3 When did that occur and under what
4 circumstances?

5 A. Okay. The following April, there was a story
6 that appeared in the Los Angeles Times front page saying
7 that your trial in Los Angeles was going to jury, and I
8 read the story more. Read the whole thing. And it
9 mentioned that several people in the story had said that
10 several people had reported seeing Levin since 1984.

11 And that made me realize my sighting was of
12 significance.

13 Q. Mr. Robinson, do you recall whether that
14 article was referring to a sighting that occurred in
15 Arizona?

16 A. There was one mentioned of that. A few
17 paragraphs.

18 Q. Was there anything about the gravity of the
19 situation that struck you as you were reading this
20 newspaper article?

21 A. I don't understand.

22 Q. Did -- Was there some mention of the
23 seriousness of the potential sentence?

24 A. Oh, yeah, sure.

25 Q. What did it say about that; if you recall?

1 A. Well, I mean it was clearly a murder case, so
2 it could have been a life, or death sentence. I don't
3 recall what it said specifically.

4 Q. Would you say -- Did that have, that, reading
5 that article, have an effect on your conscience, sir?

6 A. It moved me enough that I decided to go to
7 the D.A.'s office that day after I got off of work.

8 Q. Did you do that, sir?

9 A. Yes.

10 Q. Do you recall who you saw?

11 A. The attorney, Wapner. I forget what his
12 first name was.

13 Q. Would it have been Fred -- Fred Wapner?

14 A. Probably.

15 MR. HUNT: If I might have a moment, Your
16 Honor.

17 Your Honor, I would like to have marked a
18 clipping of an advertisement for "Crocodile Dundee."

19 THE CLERK: 1281.

20 (Whereupon Defense Exhibit 1281,
21 an advertisement clipping for "Crocodile Dundee,"
22 was marked for identification.)

23 Q. (BY MR. HUNT) Mr. Robinson, does this
24 advertising refer to the movie that you were on your way
25 to see?

1 A. Yes.

2 MR. VANCE: We would stipulate that "Crocodile
3 Dundee" was released so the first day, as this
4 indicates, was September 26th, 1986.

5 THE COURT: September what?

6 MR. VANCE: September 26, 1986.

7 MR. HUNT: Your Honor, that would be a Friday.

8 MR. VANCE: It looks like a Friday.

9 THE COURT: All right. You accept that
10 stipulation?

11 MR. VANCE: Yes. That is Friday, September
12 the 26th. Friday, September 26th, 1986.

13 MR. HUNT: Mr. Gray informed me that I look
14 like I had been hesitant to accept the stipulation. I
15 meant to.

16 THE COURT. Hesitant, or you meant to?

17 MR. HUNT: Yeah.

18 THE COURT: You do accept the stipulation?

19 MR. HUNT: Yes.

20 Q. (BY MR. HUNT) Sir, do you recall when
21 roughly you get paid in the week, when you are working
22 at the Parker Center?

23 A. I believe it was on Fridays, every week.

24 Q. Did you ever get to see this movie,
25 "Crocodile Dundee," that day?

1 A. No. I saw it the next day.

2 Q. And where did you go to see it then?

3 A. At Mann's Chinese Theater in Hollywood.

4 Q. That's another theater entirely?

5 A. Oh, yes.

6 THE COURT: Mr. Robinson, let me ask you to
7 scoot a little closer to that mike, please.

8 THE WITNESS: Yes, sir.

9 THE COURT: There you go.

10 Q. (BY MR. HUNT) Do you see on Defense 1282 --
11 1281, excuse me, the name of the theater in Westwood
12 that you saw it at? I mean that it would be in the box?

13 A. Yeah. It says Hollywood Mann Chinese.

14 Q. Okay. And the theater that you attempted at
15 on the day you saw Ron Levin?

16 A. Westwood Mann National.

17 Q. Okay.

18 Thank you.

19 On a scale of one to ten, how could you
20 express yourself to the jury about how sure you are in
21 your own heart about whether you saw Ron Levin on that
22 day, the actual Ron Levin that you met at the Parker
23 Center?

24 A. A 10. I was standing there minding my own
25 business and the guy comes up to me. Calls me by my

1 name. I look up and saw him. He was like two, three
2 feet away.

3 Q. You are in the news business, Mr. Robinson.

4 Did you ever try and did you gain any
5 financial advantage or ever write a story about the fact
6 that you saw Mr. Levin that day?

7 A. I never gained any financial advantage. I
8 was going to write a story concerning it the next year.
9 Not at that time.

10 When, after I had gone to the D.A., I was
11 going to write a story concerning that. And the story
12 was broken behind my back ahead of time.

13 Q. Okay. Did you ever write a story, sir?

14 A. No.

15 Q. Have you ever had the experience,
16 Mr. Robinson, of believing that you recognize somebody
17 and it turns out not to be them?

18 A. If I saw somebody passing me on the street,
19 that's possible.

20 Q. Why do you feel this is different in your
21 mind?

22 A. Because this person came up to me and called
23 me by my name. And I can't imagine a stranger doing
24 that.

25 Q. And you also talked to this person?

1 A. That's right, briefly.

2 MR. HUNT: Thank you very much, Mr. Robinson.

3 MR. GORDNIER: If we may have just a moment?

4 THE COURT: Mr. Vance, you may inquire.

5 MR. VANCE: Thank you. I'm sorry for the
6 interruption.

7 CROSS-EXAMINATION OF ROBERT ROBINSON

8 BY MR. VANCE:

9 Q. You -- as of 1984, you had been a
10 newspaper reporter in some form for how long?

11 A. I had been a reporter, first, as a newspaper
12 reporter, then as a wire service reporter for 12 years.
13 Since 1972.

14 Q. How are you currently employed now, sir?

15 A. I'm working as a security officer at Olive
16 View Medical Center in Sylmar, a small town just north
17 of Los Angeles, immediately touching it.

18 Q. So when was the last time you had any job
19 related to the news business?

20 A. In -- by September of 1987.

21 Q. Let me back up a minute. You first met Ron
22 Levin down in Parker Center; is that correct, sir?

23 A. Yes, sir.

24 Q. And what year was that?

25 A. I'm not certain. It would be before 1984.

1 Probably about 1980. But I couldn't swear that it was
2 1980.

3 Q. When did you start working at Parker Center?

4 A. 1972.

5 Q. And when you say that you work at Parker
6 Center, does that mean you actually have a desk in a
7 certain location?

8 A. In Parker Center, the police headquarters,
9 the police have set aside a room, a little smaller than
10 this room, probably about two-thirds the size, that's
11 designated the press room.

12 It was more members of the press. Not just
13 one newspaper, but the Los Angeles Times in one part of
14 the room, the Herald Examiner, and City News Service.

15 Later after the Herald Examiner moved out,
16 United Press International took over this desk.

17 Q. But be that as it may, did you have a desk
18 there?

19 A. It wasn't a personal desk, it was the desk of
20 the City News Service.

21 Q. And, in that situation would you share that
22 desk with anybody else?

23 A. Sure.

24 Q. That would be other reporters from City News
25 Service?

1 A. Yes.

2 Q. Now when, to enter that room, would one have
3 to have press credentials of some sort, or could anybody
4 just enter it?

5 A. Technically, you had to have a press pass to
6 walk that far into the police building. In point of
7 fact, several persons came in through the back door,
8 even though they weren't supposed to. Back door of the
9 police building, which opened on to a parking lot.

10 Q. What floor of the police building was Parker
11 Center?

12 Q. Pardon me?

13 Q. What floor of that building was the press
14 room?

15 A. Ground floor.

16 Q. Now, when you first met Mr. Levin, perhaps as
17 early as 1980, what is the first thing that you recall
18 about him?

19 A. He and two -- I think probably two other guys
20 walked into the room one morning or late one night, and
21 just asked about, you know -- Basically, first he asked
22 about the operation, you know, what we were doing. And
23 then he claimed that he was running a -- what do you
24 call it -- a video camera, free lance video camera
25 business.

1 Q. This would be on the first time that you met
2 him?

3 A. As far as I recall, yes.

4 Q. And at that point, did he solicit -- was that
5 when he solicited you to become involved in providing
6 him with information?

7 A. He asked me if I would provide him
8 information or tips on stories, yes.

9 Q. And did you agree to do that?

10 A. I told him my condition that I would have to
11 pass information on to my employer first. Then, if --
12 once we got the story out so I didn't undermine any of
13 our clients, then I would tip him. I don't do it
14 otherwise.

15 Q. And did you work out a financial arrangement
16 with Mr. Levin to do that?

17 A. He paid me on, you know, for the stories I
18 sent him. He did pay me for stories I tipped him on.

19 Q. And you indicated that you had about half a
20 dozen contacts with Mr. Levin?

21 A. In person, right.

22 Q. Now your hours at the Parker Center were
23 what, 10:00 --

24 A. From 10:00 P.M. until 6:30 A.M..

25 Q. And those hours stayed constant from 1980 to

1 1984?

2 A. Yes, and beyond.

3 Q. And beyond, to what?

4 A. 1986.

5 Q. Actually, probably through September of 1987?

6 A. Well, actually through April of '87, in
7 September of '87, I -- From July to September '87, I
8 worked also for -- what is it called, for the Daily
9 Variety, which is an entertainment interest business
10 newspaper. It's not like a fan newspaper.

11 Q. When did your hours at Parker Center change?

12 A. Well, all the time I worked for City News
13 Service they were the same hours.

14 Q. When did you stop working for City News
15 Service is I guess the question I need to ask?

16 A. In April of 1987.

17 Q. Was that before or after the encounter that
18 you have described while you were standing in line at
19 the movie?

20 A. After.

21 Q. And what days of the week did you work?

22 A. Oh, boy. I am not entirely certain.

23 I think that, Fridays and Saturday off. By
24 that time, I didn't want both Saturday and Sundays off.
25 I know that.

1 Q. Now as far as going to the movie -- Well,
2 Crocodile Dundee, you went to the National Theater to
3 see that; is that correct?

4 A. Yes, sir.

5 Q. And you were standing in line for it?

6 A. Right.

7 Q. And you, a voice calls out to you and says
8 "Robbie"?

9 A. Yeah. Yes, sir.

10 Q. And, you do what?

11 A. I looked up. And --

12 Q. Which direction was this person coming from?

13 A. Let's see. From the south.

14 Q. Could that be in front of you or behind you,
15 or to your side?

16 A. He was approaching me.

17 Q. Was he with anybody?

18 A. No.

19 Q. How far away from you was he?

20 A. When he stopped, you know, we were only about
21 a normal talking distance, about say, three feet.

22 Q. Could you tell where he was coming from?

23 A. No. Because until he called my name I looked
24 up, I didn't know where he had been.

25 Q. You had not seen him?

1 A. I didn't see him from a distance.

2 Q. Now you have that conversation?

3 A. Brief.

4 Q. And do you see where he goes?

5 A. Well, when the line started moving, he walked
6 past me, so I have to assume he was walking north.

7 Q. Did he say --

8 A. He didn't say where he was going, sir.

9 Q. What do you recall him saying?

10 A. Nothing in particular, other than just
11 ordinary greetings. I wasn't interested in carrying on
12 much of a conversation with him.

13 Q. So, you would say that the encounter lasted
14 how long?

15 A. Less than a minute.

16 Q. Did this person seem, gee, surprised to see
17 you?

18 A. He didn't act surprised. He, you know, he
19 spoke to me first, so he didn't show any surprise on his
20 face.

21 Q. Did he seem to be embarrassed that he had run
22 into you?

23 A. I -- I don't -- I doubt that very much since
24 he spoke to me. He couldn't have -- He wouldn't have
25 embarrassed himself, I don't think.

1 Q. And he didn't try and hide his face in any
2 way?

3 A. No.

4 Q. He -- Did he have sunglasses on?

5 A. I really don't recall if he had or not. I'm
6 not certain.

7 Q. Did this person have a beard?

8 A. Yes.

9 Q. Did the beard -- when you knew Ron Levin at
10 Parker Center -- did the Ron Levin you knew have a
11 beard?

12 A. Yeah. It went like very light along here and
13 then heavier around the chin.

14 Q. When you say heavier, you are referring to a
15 little thicker?

16 A. Yes, sir, around the chin.

17 Q. And that was the person you knew at Parker
18 Center that you knew as Ron Levin?

19 A. Yes.

20 Q. The person that you saw approached you at the
21 Mann's Theater also had similar hair; is that correct?

22 A. Yes, sir.

23 Q. Was it a similar color?

24 A. Grayish, yeah.

25 Q. The person that you knew back at Parker

1 Center, what color hair did he have?

2 A. I'd call it like an iron gray; a little
3 lighter than mine.

4 Q. Was there any difference in his hair when you
5 saw him at the National Theater?

6 A. Probably a little grayer.

7 Q. Referring to probably just the passage of
8 time?

9 A. I would assume so, yes, sir.

10 Q. Is -- Now, at that point in time, or now you
11 don't distinctly recall what you might have talked
12 about; is that correct?

13 A. That's correct.

14 Q. Did you say anything about "how are things,
15 downtown at the Parker Center," or "I haven't seen you
16 there in a while?"

17 A. I really don't know. That doesn't jog. He
18 might have said something like that, but I don't recall
19 the specifics of the conversation.

20 Q. When had been the last time that you had seen
21 this person that you say you saw at the theater prior to
22 seeing him at the theater?

23 A. The last time I remember seeing him was in
24 the spring of 1984, because he had asked for a press
25 pass to see the -- so he could cover the Olympics. I

1 couldn't provide him with any press pass, of course.

2 Q. Are you sure that was the spring of 1984?

3 A. I'm reasonably certain, yes.

4 Q. Could it have been the spring of 1985?

5 A. No, of course not.

6 Q. Why "of course not?"

7 A. The Olympics were in 1984.

8 Q. Is there any particular reason that you might
9 not have seen him in that process room in the spring of
10 1985?

11 A. I don't recall. It's possible I could have
12 seen him. I don't recall that. I know the '84
13 sighting.

14 Q. Prior to testifying today, have you had
15 occasion to review any documents?

16 A. I reviewed testimony that I had given to the
17 police, but that was probably two months ago.

18 Q. You say "testimony." Was that actually --

19 A. Well, questions and answers. They asked me
20 questions. I gave them answers. And I got a typed
21 manuscript of that question/answer session.

22 Q. How many pages?

23 A. I don't know. I haven't counted it. Let's
24 say 15, 20. I don't know.

25 Q. Do you have that with you?

1 A. No, sir.

2 Q. Where is it?

3 A. On my coffee table.

4 Q. Now --

5 THE COURT: Mr. Vance, before you move on, let
6 me stop you there.

7 We will take our first recess 15 minutes and
8 we will resume at 2:35.

9 Remember the admonition.

10 (Whereupon a recess was taken.)

11 THE COURT: The record will show all the same
12 people are present. Go ahead, Mr. Vance.

13 MR. VANCE: Thank you.

14 Q. (BY MR. VANCE) Mr. Roberts -- Robinson.
15 Sorry.

16 A. Yes.

17 Q. Besides reviewing the transcripts of an
18 interview, have you reviewed any other documents?

19 A. I have seen these -- I have seen photos of
20 these posters before.

21 Q. Have you seen any short two or three page
22 police reports?

23 A. Not that I recall.

24 Q. You have indicated that at some point in
25 1987, that you went to speak to Fred Wapner; is that

1 correct?

2 A. Yes, sir.

3 Q. And you also spoke then to some police
4 officers?

5 A. On the following day.

6 Q. Would one of those be Detective Les Zoeller?

7 A. Yeah, the name rings a bell. Yes, as --

8 Q. What?

9 A. I spoke to him other times as a reporter, so
10 I'm trying to remember if I spoke to him on that
11 particular day in person. I think so.

12 Q. But you do know a Detective Zoeller?

13 A. Oh, yeah.

14 Q. You had known him from the police?

15 A. Over the telephone, yes. I had never met him
16 personally before that day, but I had spoken to him on
17 the telephone before.

18 Q. Besides some police officers, did you ever
19 talk to any private investigators?

20 A. You mean since then or what?

21 Q. Yes, since talking to Fred Wapner and the
22 Beverly Hills Police Department.

23 A. Well, I have spoken to some people who said
24 that they were private investigators when they were sent
25 to me by Mr. Hunt.

1 Q. When the -- or how does that, this police,
2 or, you know, the crime beat work? You said there's a
3 scanner.

4 A. Yes. We had -- You know what a scanner is?

5 Q. Why don't you explain to the Ladies and
6 Gentlemen of the jury.

7 A. A scanner is a form of radio receiver which
8 does not transmit, itself. It merely will receive those
9 radio frequencies which have been programmed into it.
10 And since I knew how to program the police beat scanner
11 that we had -- In fact, we had two.

12 I programmed in specific frequencies which had
13 been given to me by the police, or which is actually on
14 a list of frequencies of the Los Angeles Police
15 Department, the Los Angeles County Sheriff's Department,
16 the highway patrol, county fire department, and the city
17 fire department, plus a few others. And, oh, I don't
18 know. I guess there was about 20 channels per scanner.

19 And basically they would -- You would just get
20 snatches of conversation until something was broadcast
21 for longer than maybe two seconds, at which time the
22 scanner would stop, and you would get some conversation
23 from one end, that is from the police end from the
24 field.

25 That is how you would find out if something

1 Q. When was that?

2 A. I guess it was last year or the year before,
3 something like that. I basically told them the same
4 thing as I told the police.

5 Q. Have you seen any copies of that, of anything
6 they might have written about what you told them?

7 A. Not that I recall. I may have. There may
8 have been something included with the transcripts that
9 was sent to me, you know, the whole package of
10 information.

11 Some of that might have included references to
12 what, to our conversation, but I don't think there was a
13 specific manuscript, you know, a verbatim or anything
14 like that.

15 Q. That would be part of the package that's at
16 home?

17 A. Yes.

18 Q. Now, you have indicated that your job in 1984
19 on the police beat, was to respond to things that
20 happened basically during your shift; is that correct?

21 A. Mostly, yes, or to follow-up stories that
22 occurred on the previous shift, yes.

23 Q. And do you recall ever doing any work on a
24 story regarding Ron Levin?

25 A. No.

1 was going on somewhere. For example, a fire or a
2 traffic accident or report of a homicide or something of
3 that sort. Then I would call the appropriate agency to
4 try and get more information.

5 Q. Okay.

6 So basically, when you would hear something on
7 the scanner -- Also the scanner has a way, I guess at
8 the point when you hear something you want to listen to,
9 you can push a button and freeze it on that frequency;
10 isn't that correct?

11 A. Yes, sir.

12 Q. So then you would pick up a phone, phone
13 whatever agency is involved, and, basically, you worked
14 from your desk; is that right?

15 A. Yes, sir. Very rarely did I get sent out in
16 the field. Sometimes I did, but mostly I worked behind
17 a desk.

18 Q. How many people worked this police beat with
19 you at night on your shift?

20 A. You mean with City News Service?

21 Q. Yeah. No, in the Parker Center. Besides
22 yourself, how many?

23 A. Okay. Usually no more than two other
24 reporters were in the room. Usually the United Press
25 International reporter, and the Los Angeles Times

1 reporter. Not all of the time.

2 Q. Did you know them?

3 A. Oh, yes.

4 Q. And who was the L.A. Times reporter at the
5 time?

6 A. H-i-m-m-e-l, I think, Nisson.

7 Q. He was the L.A. Times police beat reporter in
8 1984-1985?

9 A. Reasonably sure. He was a longtime reporter.
10 He had been a reporter for -- he was a longtime
11 reporter.

12 Q. What was his -- what was his first name?

13 A. Nisson. N-i-s-s-o-n, I think. It's very
14 similar to that.

15 Q. Who was the U.P.I. reporter?

16 A. They had several. I'm trying to think.

17 I'm trying to remember who the reporters were
18 who were on at that time.

19 One, a Michael Collins, and another was a lady
20 named Wilde. I forget what her first name was.

21 Q. Last name was what?

22 A. Wilde. W-i-l-d-e. Like the writer.

23 Q. Would there be during this period of time of
24 your shift, would you have occasion to talk to the other
25 reporters?

1 A. Sure.

2 Q. Would you talk about various stories that are
3 going on, things that are happening?

4 A. Usually after we had already individually
5 gotten enough information sent to our respective
6 companies, yes.

7 Q. Would that be so that nobody could scoop the
8 other?

9 A. Yeah.

10 A. We would try to get scoops, but then we would
11 talk about stuff later, basically doing one upmanship.

12 Q. And during that period of time, 1984 to 1986,
13 had you heard of the BBC, or the Billionaire Boys Club,
14 or the Bombay Bicycle Club?

15 A. I had heard of it, yeah.

16 Q. What had you heard?

17 A. Well, basically, that there was these -- this
18 group of wealthy young men who were engaged in some
19 financial dealings that were described by the police as
20 being shady. I didn't know any of the participants, and
21 didn't really follow it that much.

22 Q. At the point when you heard this, did you
23 know that any of the dealings that you have said,
24 "shady," did you know that any of that might have been
25 murder?

1 A. No.

2 Q. Now, in the press room, Parker Center, would
3 there be newspapers?

4 A. Oh, of course. Yes. Yes, sir.

5 Q. It's a press room.

6 The L.A. times would be there; is that
7 correct?

8 A. Yes.

9 Q. Did they have more than one edition?

10 A. Several.

11 Q. Would there generally be -- the various
12 editions would be there?

13 A. Any editions that were there were, basically,
14 bought by the reporters. Except for the first edition
15 of the day, which was always delivered to the Times
16 desk.

17 Q. The first edition would be delivered to the
18 Times desk in the press room?

19 A. Right.

20 Q. The other ones?

21 A. Any others that the reporter on duty wanted,
22 he would go out to the -- Well, he would actually,
23 basically, he'd go over to the Times building and pick
24 one up.

25 THE COURT: Mr. Robinson, maybe move that

1 microphone away. Now we are getting too much.

2 THE WITNESS: Okay. Sorry.

3 A. He had been, Nisson, since he had been a
4 longtime reporter, all he had to do was put in a call to
5 the Times and they would send one of their copy people
6 over with a paper. If they for some reason couldn't, he
7 would simply go out and get it.

8 Q. Would there be other newspapers there in the
9 press room?

10 A. Well, when the Herald Examiner was still
11 around they would get -- before U.P.I.. came into the
12 press room, the Herald Examiner was there in the same
13 part of the room. And I worked for them for nine years.

14 Q. Herald Examiner?

15 A. Correct.

16 Q. Now the Herald Examiner was a newspaper that
17 served -- was it a daily, a weekly? What can you tell
18 us about it?

19 A. It was an evening newspaper, and it was in
20 direct competition with the Times.

21 Q. And because you -- You are using the past
22 tense?

23 A. It no longer exists.

24 Q. In 1984, 1985, 1986, it was still, though, in
25 existence?

1 A. Still in existence, yes.

2 Q. Are there a lot of any -- for that matter,
3 for want of a better term -- small regional newspapers,
4 do you know?

5 A. There are scores of them.

6 Q. Would those --

7 A. Many papers, but they didn't generally come
8 into the newsroom.

9 Q. You wouldn't -- Those papers wouldn't
10 physically make it into the press room necessarily?

11 A. Not on a regular basis. I mean, if somebody
12 felt like bringing a paper in, it could get in, but we
13 did not subscribe to the various community newspapers,
14 if that's what you mean.

15 Q. Did the press room actually have a
16 subscription to any newspapers?

17 A. No.

18 Q. Did the Los Angeles -- You worked in 1984
19 through '86 for the Los Angeles News Service?

20 A. Los Angeles City News Service. From 1979 --
21 excuse me, 1978 to 1987.

22 Q. Did the Los Angeles City News Service
23 subscribe to any newspapers?

24 A. If they did at the office, I don't know,
25 because the office was at a different location.

1 Q. But as far as --

2 A. Not at the press room.

3 Q. Wouldn't you folks bring any --

4 A. No, any papers --

5 THE COURT: You can't both talk at once. Wait
6 until the question is completely over and then answer
7 it.

8 THE WITNESS: Yes, sir.

9 A. Any papers I would get on my desk I bought.

10 Q. (BY MR. VANCE) Were you in the habit of
11 buying any papers?

12 A. Not every day.

13 Q. When you would buy papers, what papers would
14 you buy?

15 A. More often the Times than the Herald
16 Examiner.

17 Q. How often would you read the L.A. Times?

18 A. Several times a week.

19 Q. Is there one day in the week -- When you say
20 several times a week, are there particular days that you
21 would try to?

22 A. No, sir, just at random. I didn't read
23 everything, you know. It wasn't a cover to cover thing
24 by any means.

25 Q. Let's say the Sunday Times. Would you read

1 the Sunday Times?

2 A. Once in a while. It was so big. It took too
3 long.

4 Q. In this press room at the Parker Center, were
5 there T.V.'s?

6 A. Yes.

7 Q. And would those --

8 A. Singular.

9 Q. A T.V.?

10 A. (Witness nods head.)

11 Q. Would that T.V. have the capability of
12 picking up commercial networks?

13 A. Oh, yes.

14 Q. Would it be on?

15 A. Sometimes.

16 Q. Were there radios in the Parker Center in the
17 press room?

18 A. Yes.

19 Q. Other than the scanners?

20 A. Yes. Both the United Press reporter and
21 myself always had a radio, our own personal radio on the
22 desk. I was usually tuned into KFWB.

23 Q. What's KFWB?

24 A. That's an all news, all-the-time station, the
25 only one in Los Angeles that doesn't have other

1 programs.

2 Q. When you say all news?

3 A. News, weather and sports, 24 hours a day.

4 Q. And that's the only one of those channels
5 like that in Los Angeles?

6 A. It's the only one that has all news all the
7 time.

8 KNXS calls themselves all news, but they also
9 occasionally carry non-news program, like a cooking show
10 or old-time drama, and an occasional sports event.

11 Q. This didn't? KFWB didn't?

12 A. Did not.

13 Q. Would that be also a station that you would
14 listen to in other places other than at the press room?

15 A. If I was driving. If I wasn't listening to
16 music.

17 Q. Would you listen to it at home?

18 A. Mostly at home. I would be playing my music.

19 Q. But if you were to listen to a radio station
20 at home, would that be the station you would listen to?

21 A. Most of the time.

22 Q. Do you have a T.V. at home?

23 A. Yes, sir.

24 Q. Have you ever in the period '84 through '86,
25 did you watch T.V.?

1 A. I -- Yeah. Yeah, of course.

2 Q. You subscribe, or did you subscribe then --

3 Did you subscribe to any magazines?

4 A. Several.

5 Q. And what were those, sir?

6 A. Newsweek. Sports Illustrated, Natural
7 History, Archaeology. Can't think of any others at that
8 time.

9 Q. Esquire?

10 A. No.

11 Q. People?

12 A. No.

13 Q. Now you have indicated that you had a vague
14 awareness that there was the BBC, and that it was a
15 group of wealthy men that were involved in shady
16 dealings.

17 A. That was -- that's what the police said, yes.
18 That -- I mean, I knew there was a trial that occurred
19 also, or that was going on, starting in -- probably in
20 fall of '86. I'm not sure. I think it was then.

21 Q. And how did you get that information,?

22 A. It was on the television.

23 Q. Do you have any particular recollection of
24 what particular news show it might have been that you
25 heard that on?

1 A. Most of the time I would watch Channel 4,
2 which in L.A. is NBC.

3 Q. Now, when you say you thought there was a
4 trial going on in the fall of 1986 --

5 A. Yes.

6 Q. -- did you have any idea who was on trial?

7 A. Well, I knew about Joe Hunt being on trial,
8 and after I had seen Levin, I also saw that he was
9 supposed -- I realized that he was to be on trial for
10 having killed Levin.

11 Q. Now, let's break this down for a minute, sir.

12 At what point -- Okay. You say that in the
13 fall of 1986, you knew there was a trial going on; is
14 that correct?

15 A. Right.

16 Q. At the point when you first heard about the
17 trial going on, did you know, at that point, who was on
18 trial?

19 A. You mean -- Well, when it was on the news I
20 knew who was on trial.

21 Q. You knew it was Mr. Hunt?

22 A. Right.

23 Q. And you knew that at that point, and this was
24 -- would be in the fall of 1986?

25 A. October.

1 Q. October of 1986?

2 A. That fall.

3 Q. That this was Mr. Hunt on trial for --

4 A. I believe they were talking about -- they
5 might well have been talking about pretrial motions,
6 because I know that nothing had gone to a jury at that
7 time.

8 Q. This would be the fall of 1986?

9 A. Yes, sir.

10 Q. Something involving a trial with Mr. Hunt?

11 A. Right.

12 Q. And did you have any idea what the charges
13 were in the fall of 1986?

14 A. Yes.

15 Q. Murder?

16 A. Murder, yes.

17 Q. And did you have any idea of who the victim
18 was alleged to be?

19 A. When I saw it on television, yes. It was,
20 supposedly Levin. I had also been told by another
21 reporter earlier than that, on the day after I had seen
22 Levin, that he supposedly had been murdered in 1984.

23 Q. Let me break this down.

24 A. Yes, sir.

25 Q. In the fall of 1986, you become aware that

1 Mr. Hunt is standing trial?

2 A. Yes.

3 Q. When you say in the fall of 1986, can you
4 give us a particular date or time other than just fall
5 of '86?

6 A. October.

7 Q. October of '86.

8 And you think there was some pretrial motions
9 going on at that time?

10 A. I believe there was pretrial motions at that
11 time, yes, because there were not lengthy stories on the
12 evening news about -- It was, you know, your typical
13 half a minute type of thing.

14 Q. Now -- And at that point you learned from the
15 news it was Mr. Levin who was supposedly murdered?

16 A. Well, I already had been told that by another
17 reporter, but the story did confirm that he was the
18 alleged victim.

19 Q. Now, Mr. Robinson, you have indicated that
20 this was not a story that you would have covered; is
21 that correct?

22 A. Correct, because it was a court story.

23 Q. It was a court story?

24 A. Right.

25 Q. The court detail for the Los Angeles City

1 News Service is where?

2 A. At the Criminal Court Building.

3 Q. And did you know who the reporter was that
4 the Los Angeles News Service -- that your news service
5 employed on the court detail?

6 A. I don't recall now. I'm certain I did know
7 the person at the time. I don't recall any more who it
8 was.

9 Q. Would there have been on any occasion any
10 particular interaction that you would have from your
11 desk at the police beat with the court reporter?

12 A. No. Because the court reporters covered the
13 court cases which always occurred during the daytime or,
14 at the most, early evening. I didn't get on until 10:00
15 o'clock at night. When I was on, of course, there were
16 no courts in session, so I would have had no way of
17 contacting them at night.

18 Q. Did your news service maintain any files
19 regarding particular cases or crimes that they were
20 following?

21 A. They would -- we would keep the crime files
22 at the police building. And, the court cases would be
23 kept at the court, you know, by the court reporter.

24 Q. So there would be a crime file that you would
25 be maintaining at Parker Center?

1 A. Crime stories, yes.

2 Q. Crime stories.

3 Now, you have indicated that at the point in
4 time when you are standing in the line for the theater,
5 this man calls you Robbie; is that correct?

6 A. Right.

7 Q. Is that what Ron Levin used to call you at
8 the --

9 A. Everybody called me Robbie, so, yes.

10 Q. Okay.

11 And you indicated that this was a long line,
12 and then you found out somehow that this was actually
13 not only a long line but the wrong one.

14 A. It was the wrong one once it moved up and I
15 could see the box office and realized the line I was in
16 wasn't going to the box office, but was, in fact, going
17 into the theater.

18 Q. Was Crocodile Dundee, though, playing at that
19 theater?

20 A. Oh, yeah. Yes, sir.

21 Q. And it was your recollection about a week
22 after it opened?

23 A. Yeah. Because I waited until -- first I
24 wanted to see the reviews in the Times, and see how how
25 it was reviewed there. I also looked at the review in

1 the Herald Examiner and saw a couple on T.V.

2 And when I was satisfied that -- about the
3 reviews, then I decided "okay, I guess it's good enough
4 to bother to see."

5 And my -- the next pay day which would have
6 been the following Friday, is when I went to Westwood.

7 Q. Do you go to movies frequently? Did you
8 then?

9 A. About once or twice a week, yeah.

10 Q. And it was your recollection then that you
11 went to see Crocodile Dundee about a week after it
12 opened?

13 A. Yeah.

14 Q. Now the first time when you went to try to
15 see it it was at the National Theater?

16 A. Yes, sir.

17 Q. When you went back you went back to another
18 theater; is that correct?

19 A. Yes. The next day I decided I didn't want to
20 drive all the way back out to Westwood. I knew that the
21 theater -- that the movie was also at Mann's Chinese,
22 and since that was closer, I decided "okay, I'll just go
23 over there" and I did.

24 Q. Why did you go to -- though I take it when
25 you say close, you are referring to it closer to

1 your home?

2 A. Closer to where I live, yes.

3 Q. Is there any reason you went to a movie
4 theater farther away from your home on Friday?

5 A. Yes. I enjoyed going out to Westwood because
6 there was an Italian restaurant out there, Mario's, that
7 I liked to eat at every once in a while, and just sort
8 of like a little treat.

9 Q. Had you gone to Mario's that evening?

10 A. Well, when I was standing in the line, it was
11 in the afternoon.

12 Q. It was in the afternoon.

13 A. So I don't remember if I had gone to Mario's
14 that afternoon or not. I -- generally, if I went, I
15 would generally go a little later.

16 Q. You would, generally, go to Mario's a little
17 later?

18 A. Yeah.

19 Q. So when you went out to Westwood, was there a
20 particular reason you went to the Westwood Theater
21 rather than the one closer to your home?

22 A. There were several theaters I wanted to see
23 what was out there. I knew Crocodile Dundee was out
24 there. I was thinking about going to Mario's, and I may
25 have eaten there or I may not have. See, I don't recall

1 if I did.

2 Q. So there were several potential movies that
3 you were going to go to?

4 A. There were several I wanted to check out.
5 But the one, I, you know, to see what times they were
6 running, what was the time, the starting time. And when
7 I determined that the Crocodile Dundee was playing at a
8 time that was compatible with seeing it, getting out,
9 and being able to get back before it was too late at
10 night, that's the one I decided to see.

11 Q. And to your recollection, what time was that
12 that you tried to get in to see it at the National
13 Theater?

14 A. In the afternoon. Oh, I'm not sure exactly.
15 Probably around 4:30, 4:00, something like that. I may
16 be off a little bit by the time.

17 Q. Now, that -- the National Theater you
18 indicated, though, only shows one movie, correct?

19 A. No, no. It's shown one at a time. Sorry, it
20 shows it in series. Yes, it shows it several times.

21 Q. What is the other theater that are nearby
22 that would have more movies?

23 A. Right down the block immediately to the north
24 on the same block there is -- I don't know the name of
25 it, but there's another theater that usually shows three

1 movies. There's a lot of theaters in Westwood. It's a
2 very popular place for people to go. There's, oh,
3 probably a dozen places a person can go, or close to it,
4 maybe eight or nine, that people can go to to see films.

5 They are all within easy walking distance of
6 each other.

7 Q. Now, after you have this person who you say
8 is Ron Levin, come up to you, you didn't find anything
9 particularly unique or strange about that circumstance;
10 is that correct?

11 A. I was surprised only in that I hadn't seen
12 him in over two years, but it didn't occur to me, at
13 that time, that he was the guy that supposedly had been
14 murdered.

15 Q. You say over two years. How sure are you
16 that it was two years, over two years that you had last
17 seen him?

18 A. I'm assuming that the last time -- that the
19 previous time I had seen him was in the spring of 1984.
20 It's possible I saw him in '85, as I mentioned to the
21 police, but I can't be sure of that.

22 Q. You mentioned --

23 A. I mentioned to the police, the Beverly Hills
24 Police that I may have seen him in 1985. But I told
25 them also that I couldn't be sure of that. But I was

1 certain about the spring of 1984.

2 Q. Indeed, didn't you tell the Beverly Hills
3 Police, that you thought you saw Ron Levin in the press
4 room in the spring of 1985?

5 A. I said that I thought I could have, but I
6 wasn't sure.

7 Q. Isn't it also true that you told the Beverly
8 Hills Police that you might have seen him -- you may
9 have seen him a couple of times in the press room in
10 1985?

11 A. No.

12 Q. You didn't say it was a couple of times?

13 A. Not in 1985. I saw him before then. In '84
14 and several times before then.

15 Q. But you never told the Beverly Hills Police
16 that it might have been a couple of times in '85?

17 A. No.

18 Q. Mr. Robinson, you have indicated that at the
19 time that you say you saw Ron Levin by the National
20 Theater, the next night or the next day or at some point
21 you told another reporter?

22 A. Right. The very next time I went to work
23 which would have been not the same night but the night
24 after I -- which would have been a Saturday night when I
25 was the next time I was on duty, and, that, you know,

1 probably in the early Sunday morning is when I mentioned
2 it to another reporter, to a guy named Gary Arnot.

3 Q. Gary.

4 A. Arnot. It's spelled A-r-n-o-t. He is not
5 actually a reporter. He's a video camera man.

6 Q. For whom?

7 A. He owns his own company.

8 Q. You told Mr. Arnot that you had seen Ron
9 Levin?

10 A. Right.

11 Q. How did that conversation come up?

12 A. Just shooting the breeze. And, I don't
13 recall exactly, other than that I mentioned it to him,
14 and he then told me that Levin, you know, was supposed
15 to have been missing, supposedly been dead. I was
16 surprised, obviously, by his statements because I had
17 just seen him.

18 Q. So at that point, are you indicating that
19 when Mr. Arnot told you this, that you were convinced
20 yourself that you had seen Ron Levin?

21 A. Oh, yes.

22 Q. And that at that point when Mr. Arnot tells
23 you that, what do you do?

24 A. Other than be surprised by it, I mean, I
25 didn't do anything, like going to authorities, if that's

1 what you mean.

2 Q. No. What did you do?

3 A. Just talked about it. I didn't write any
4 story about it and I didn't tell the police. I didn't
5 want to get all involved in this.

6 Q. At that point, you had been a police beat
7 reporter for how long, sir?

8 A. Since 1972. This was 1986.

9 Q. And during that period of time, had you
10 covered a lot of stories?

11 A. Thousands.

12 Q. Excuse me?

13 A. Thousands.

14 Q. And were you pretty proud of the work that
15 you did?

16 A. Well, I was complimented on it many times, so
17 yes.

18 Q. And to be complimented on it you have to do a
19 pretty good job?

20 A. Yes, sir.

21 Q. And during that period of time, you have
22 indicated that earlier, you know, as you are listening
23 to the scanner -- Well, with Ron Levin, that Ron Levin
24 wanted you to tip him about stuff?

25 A. Yes.

1 Q. And you explained how, you know, Ron Levin
2 wanted to be tipped about, well, photogenic things; is
3 that correct?

4 A. Basically yes. News stories which would have
5 a good photo angle like a house fire, or say, a car
6 wrecking manager, that they could go right out to it get
7 film and then sell it to one of the T.V. stations. It
8 wouldn't do them any good to take their camera out to a
9 crime scene where all they could get pictures of was the
10 yellow tape.

11 Q. So you had to be able to know, differentiate,
12 if you will, between what would be -- would have really
13 good visual impact and what wasn't; is that correct?

14 A. Oh, sure.

15 Q. And from being a news reporter since 1972,
16 you had been able to develop that and be able to tell
17 that a story about a missing hiker up in the Los Angeles
18 National Forest, as tragic as that might be to the hiker
19 involved, and the family just didn't have much visual
20 impact; is that correct?

21 A. That's correct. Not unless he actually found
22 the guy. And then they could get pictures of him being
23 rescued, but other than that, no.

24 Q. And you would, as you are listening to the
25 radio and the scanner, every time you heard something on

1 the scanner, I mean, you wouldn't immediately phone up
2 that department and say "what's going on?"

3 A. I would have to hear something that was of
4 sufficient interest that I knew that there was an actual
5 story, if I knew that there was a fatal traffic
6 accident, homicide, a fire. Fires are really easy to
7 check out.

8 And, it doesn't usually take very long to make
9 a couple of calls to find out if there's anything to
10 what you have heard on the scanner, if it's worth
11 following or not most of the time.

12 Q. Because on the scanner -- Or, let me ask if
13 this is indeed the case. This scanner picks up -- if
14 you are on, let's say the LAPD frequency, would it pick
15 up all the traffic that's going on?

16 A. Well --

17 MR. HUNT: Objection. Relevance.

18 THE COURT: Overruled. You can answer the
19 question.

20 THE WITNESS:

21 A. There are 18 Los Angeles Police divisions.
22 And so there is a lot of cross traffic. Only if the
23 police officer in the field is talking to his station
24 long enough so that the scanner will actually stop on
25 his conversation will I pick up enough to realize what

1 it is.

2 Q. (BY MR. VANCE) I mean, all the talk, or all
3 the stuff that you hear on the scanner. I mean, it
4 isn't all exciting things like fires and --

5 A. No, sir.

6 Q. -- and murders and robberies and a--

7 A. No. Most of it wasn't.

8 Q. -- and buildings burning down.

9 A. No, sir. There is a lot of very small
10 things. Mattress fires, traffic stops, store robberies,
11 that were over before the police got there.

12 Q. So like in a store robbery, that would be
13 over before the police got there. You knew enough that
14 it wasn't worthwhile to even phone up about.

15 A. Unless there was a report of a shooting, then
16 we wouldn't bother.

17 Q. Unless somebody got hurt?

18 A. Yeah.

19 Q. So you, as you are sitting there, you have to
20 -- in essence, you had picked up over the years an
21 ability to tell what was newsworthy from the
22 unnewsworthy?

23 A. Yes, sir. Any decent reporter can do that.

24 Q. And as you have indicated, you have been
25 complimented on your abilities as a reporter.

1 A. I think I have -- I was a good reporter, yes.

2 Q. So you have now indicated that on one day
3 after work you go to a movie; you see Ron Levin?

4 A. Right.

5 Q. A couple of days later in talking to Gary
6 Arnot, he tells you that Ron Levin is missing.

7 A. He told me that he was supposed to have been
8 murdered. I knew that he hadn't been seen around in a
9 while. I hadn't seem him for a while, so I didn't know
10 he was the guy who was murdered.

11 Q. Did you consider it newsworthy that you had
12 seen a dead man?

13 A. Well, since I knew he wasn't dead, no.

14 Q. You --

15 A. I mean, I concluded that obviously somebody
16 else was -- that they were clearly mistaken. That they
17 were thinking of somebody else.

18 Q. Did Mr. Arnot tell you that there was
19 somebody standing trial for this murder of a dead man?

20 A. Well, the trial hadn't begun yet. There were
21 the preliminaries, which appeared on the T.V. within a
22 couple of days thereof. But he tried to emphasize that
23 it was possibly a story, and I tried to emphasize, you
24 know, that it wasn't, because clearly they must be
25 talking about somebody else. I was mistaken, but that's

1 what I was reasoning.

2 Q. But at the point in time when Mr. Arnot tells
3 you this, is there any doubt that Mr. Arnot believed
4 that Ron Levin had been murdered? He says Ron Levin's
5 been murdered?

6 A. He said that that's what the police told him.

7 Q. And you say "no, I just saw Ron Levin a
8 couple of days ago down at Crocodile Dundee?"

9 A. I saw him. I had just seen him in Westwood.

10 Q. Did you tell him that you had been at
11 Crocodile Dundee?

12 A. I told him where I was standing and all of
13 that, that I was waiting to see the movie.

14 Q. Now in your job on the police desk, have you
15 become aware of the fact that police have a, or, there's
16 people called witnesses to crimes, or witnesses in
17 general?

18 A. Of course.

19 Q. People who see things?

20 A. Right.

21 Q. And that when a police or when a news
22 reporter would go out to a scene, a newsworthy scene of
23 something that had happened, wouldn't that newspaper
24 reporter, like, ask people what happened?

25 A. Of course.

1 Q. Try and find witnesses to what happened?

2 A. Yes. Sure.

3 Q. So if it was a robbery where somebody got
4 shot, a news reporter could go out and say, geez, did
5 you see who did look around and see if there's anybody
6 who looks like they might have seen who did it?

7 A. Yes, of course, they would do that.

8 Q. And then file a story based upon what the
9 news reporter has learned out at the scene?

10 A. Yeah. Yes, sir. Could easily be a lot more
11 than that, but yes.

12 Q. Mr. Robinson, before going to the police, or
13 the D.A.'s office, isn't it true that you gave a
14 statement regarding what you saw that was videotaped?

15 A. Well, let's put it --

16 Q. Did such an event happen, that a video tape
17 --

18 A. I was videotaped while I was talking to Gary
19 Arnot, but I didn't know I was videotaped at the time,
20 not until later.

21 He lied to me because I asked him if the guy
22 who was working with him was videotaping us. I didn't
23 see any red light on the videotape or the camera.

24 I don't know if it was a videotape camera and
25 since I didn't see any lights on it, I assumed

1 incorrectly that the camera was not on.

2 Q. Prior to going to the D.A.'s office and
3 talking to Mr. Wapner, had you had a chance to see that
4 videotape?

5 A. No. In fact I have never seen it.

6 Q. Did you ever hear part of the audio?

7 A. I -- Well, I never saw it and I never heard.
8 I was told that the audio was inaudible.

9 Q. You were told that?

10 A. Audio part was inaudible because the guy who
11 was taking the tape was standing much further away. He
12 was standing probably as far away as you are, and so the
13 pickup, you know, the mike on the camera didn't pick up
14 the conversation between Arnot and myself, which was
15 just casual conversation.

16 Q. Did you hear, or ever have that audiotape or
17 the audio portion played back for you?

18 A. No. I didn't know that that was on, so I
19 didn't ask anything to be played back to me.

20 Q. Did you ever discuss with Mr. Arnot, in
21 general terms, financial compensation for you if the
22 story should be used?

23 A. You mean if he was to pay me if the story
24 would come out?

25 Q. Yes.

1 A. I don't recall if he told me that, because I
2 told him I wasn't interested in, you know, even getting
3 any tape until after our story went out then.

4 Q. What was your story? What was going to go
5 out?

6 A. I was going to write a story -- which I never
7 got around to because circumstances intervened, that the
8 next day on a Saturday, I believe it was, after I had
9 talked to the police -- I was going to write a story for
10 our wire service. After that, I would have talked to
11 Arnot, let him tape me, and he could have paid me then,
12 and I told him that.

13 Q. You told him that he could pay you after?

14 A. After; but not before. There was no -- there
15 was no incentive by him for me to go to the D.A.'s
16 office.

17 Q. How did you happen to particularly go to the
18 D.A.'s office?

19 A. After I got off of work that morning?

20 Q. Which morning?

21 A. I believe it was April 17th. I'm not
22 absolutely certain, but I think it was April 17th, 1987.

23 After I got off of duty that morning, I got a
24 copy of the Times, or there was a copy of the Times in
25 the room. I'm not sure if somebody bought it or

1 somebody had brought it, and I read the story on the
2 Billionaire Boy's Club and saw that it was going to jury
3 that day or that weekend. I'm not sure if it was that
4 day, that weekend, and that is what prompted me to go to
5 Wapner.

6 Q. Did the story mention the name of Wapner as
7 being the Deputy District Attorney trying the case?

8 A. I'm not certain. It told me where the case
9 was being, you know, what District Attorney's Office,
10 where it was.

11 And, point of fact, when I went out to the --
12 I guess it was the courthouse or the whatever it was
13 there in Santa Monica, I asked to see the judge, and I
14 was directed to Wapner's office by a person, I assume a
15 secretary or somebody like that. I don't believe I knew
16 that Wapner was the person at the time. I'm not certain
17 of it.

18 Q. You spoke to Mr. Wapner?

19 A. Yes.

20 THE COURT: Mr. Vance, let me stop you there.

21 We will take our final recess. 15 minutes.

22 Remember the admonition and we will resume at
23 20 minutes to 4:00.

24 (Whereupon a recess was taken.)

25 THE COURT: The record will show all the same

1 people are present.

2 Go ahead, Mr. Vance.

3 Q. (BY MR. VANCE) Mr. Robinson.

4 A. Yes, sir.

5 Q. At the time when you saw Ron Levin in
6 Westwood at the theater, you then -- the next time you
7 were back at work, you tell Mr. Arnot that you saw Ron
8 Levin?

9 A. Right.

10 Q. He says that Ron Levin has been murdered?

11 A. What he said was that he had been told by the
12 police it was their opinion that he had been murdered.
13 Nobody had ever been found.

14 Q. So you knew that no body had been found?

15 A. That's what he said.

16 Q. And you believed him?

17 A. Why not.

18 Q. Because you had seen the body on the street.

19 A. No. I don't know a live body. I mean, a
20 dead body. No corpse had ever been found. The police
21 were surmising that Levin had been murdered. They knew
22 he was missing. They surmised that he had been
23 murdered.

24 Q. And Mr. Arnot told you that no body had been
25 found?

1 A. Right. And I told him, "well, it couldn't
2 have been Levin. That was the guy."

3 We had talked about a con plan. We all
4 regarded Levin -- by this time -- all regarded Levin as
5 somewhat of a con man, who was -- who had dealings with
6 several people who had disappeared.

7 Okay. That's one person. It was -- then a
8 story about a guy who had supposedly been, you know, a
9 person who I didn't know about, but it was -- turned out
10 the police were talking about the same person. They
11 were talking about Levin.

12 They said that he was not only missing but
13 that he was dead. In the press room we only thought
14 that he had been missing because he wanted to be
15 missing.

16 Q. You thought that?

17 A. Yeah.

18 A. I thought that he was just trying to play --
19 that he had left town because he owed people money, and
20 because he had cheated people out of payments on these
21 cameras, video cameras.

22 Q. You thought that at the time you had this
23 conversation with Mr. Arnot?

24 A. Yeah.

25 Q. So you knew that he was missing at that time

1 already?

2 A. Oh, yeah. I knew he was missing. I didn't
3 think he was dead. That's why I wasn't surprised when I
4 saw Levin, the previous, you know, on, out in Westwood.

5 Q. When --

6 MR. HUNT: Excuse me. Could you move back
7 about four or five --

8 THE WITNESS: Sorry about that.

9 Q. (BY MR. VANCE) Mr. Arnot had told you, had
10 he not, that the police thought that Ron Levin had been
11 murdered?

12 A. That's after I told him I had seen Levin.

13 Q. Right.

14 A. Not prior to that time.

15 Q. Right. But prior to that time, you knew Ron
16 Levin was missing?

17 A. Right. I knew that he hadn't been seen
18 around the press room. People talked about him being
19 missing, but that's as far as the conversation went.

20 Q. Who do you recall having those conversations
21 with, sir?

22 A. Gary Arnot and other reporters. It was just,
23 you know, it was common scuttlebutt, if you want to use
24 the -- it was common rumor around the press room that
25 Levin, apparently a con man, that he had disappeared.

1 Q. How long had that scuttlebutt been common
2 knowledge around the press room?

3 A. I don't -- Certainly for more than a year
4 before I saw it. But I don't know how long before that.
5 I don't recall any date this type of rumor began.

6 Q. And the rumor around the -- and the
7 scuttlebutt around the press room was that Ron Levin was
8 missing; is that correct? Not that he had been
9 murdered?

10 A. Right.

11 Q. The first time you had heard that was from
12 Arnot; is that right?

13 A. That's when I told him I had seen Levin.

14 Q. And that was several days after you saw
15 Levin?

16 A. Let's say two days. Because I saw him on a
17 Friday and I wouldn't have seen Arnot normally until
18 early morning hours, which is between -- he usually
19 could come in, and that would have been in the early
20 morning hours after I got back to work, and so that
21 probably would have been on Sunday.

22 Q. And you are absolutely positive of the fact
23 that it was the next time that you saw Mr. Arnot that
24 you told him about seeing Ron Levin?

25 A. Yeah.

1 Q. Just as you are positive that you saw Ron
2 Levin at the National Theater; is that correct?

3 A. Yes, sir.

4 Q. Now when Mr. Arnot told you that Ron Levin --
5 the press thought Ron Levin had been murdered, did you,
6 at all, consider going to the police and telling them
7 that Ron Levin had not been murdered?

8 A. No. I didn't want -- I didn't -- I didn't
9 believe -- I think --

10 THE COURT: Wait for the next question.

11 THE WITNESS: Yes, sir.

12 Q. (BY MR. VANCE) You did not go to the police
13 and tell them that you thought, "hey, Ron Levin is
14 alive"; is that correct?

15 A. Right.

16 Q. You previously told us that you know that the
17 police department works with witnesses who know about
18 crimes; is that correct?

19 A. Witnesses to crimes, yes.

20 Q. And that the job of the police department is
21 to ascertain the facts regarding a crime; is that
22 correct?

23 A. Right.

24 Q. And not investigate a murder case of somebody
25 who is not murdered; is that correct?

1 A. Right.

2 Q. And you chose not to tell the police in
3 September of 1986, that --

4 A. October.

5 Q. October of 1986, that you had seen Ron Levin,
6 and so there was no murder case for them to investigate;
7 is that correct?

8 A. I was under -- that's correct. I was under
9 the impression that Gary was wrong.

10 Q. You just assumed that Gary was wrong?

11 A. Right. He had been wrong other times, so I
12 assumed he was wrong on this. He got the wrong
13 information.

14 Q. And at that time, sir, you then dismissed it
15 from your mind, the sighting; is that correct?

16 A. I thought he was wrong, and I didn't want to
17 get involved with such a case. Obviously, I wasn't
18 interested in getting involved in it.

19 Q. Excuse me?

20 A. I said I didn't want to get involved with
21 such a case.

22 A. Didn't want to get involved?

23 A. Right.

24 Q. You didn't want to get involved with the
25 police by going down and telling them what you saw?

1 A. Right.

2 Q. From your work on the police beat, do you
3 have any idea of how many citizens do go down and tell
4 the police what they saw?

5 A. No.

6 Q. And what they know?

7 A. No, not really.

8 Q. Would you imagine that it's quite a few?

9 A. I'm sure a lot of people go to the police,
10 and tell them various things.

11 Q. And you chose not to?

12 A. Right. As a reporter I didn't want to
13 project myself into the story.

14 Q. Is there something about the journalist
15 ethics that would prevent you --

16 A. It felt so.

17 Q. -- that would prevent you from telling them
18 about something that you had seen percipient. As a
19 human, you were --

20 A. Right.

21 Q. -- at the theater as a citizen, right?

22 A. Right.

23 Q. Were you at the theater as a journalist?

24 A. If I had seen a crime committed I would have
25 reported it. I didn't see a crime committed. I saw a

1 person who supposedly was missing. And then who I later
2 was told was supposedly murdered.

3 Q. But you indicated you did not want to get
4 involved and tell them that they were investigating
5 somebody who really was alive because you were
6 constrained by your view of journalistic ethics; is that
7 correct?

8 A. Partly that. Partly. I just didn't want to
9 get into this because I figured they would discover that
10 themselves. I thought it was perfectly obvious that --
11 that he wasn't dead. If I knew it other people had to
12 know it. It turns out I was wrong about that because
13 they kept --

14 Q. At the time Mr. Arnot -- When you talked to
15 Mr. Arnot, did Mr. Arnot say, "geez, oh, yeah, well,
16 he's been seen all over town," you know? You didn't see
17 anything important?

18 A. No. But he also didn't emphasize that Levin
19 was supposedly dead. He said the police say that he's
20 dead.

21 Q. Did anybody around the press room at the time
22 you say you talked to Mr. Arnot, you know, that is a
23 couple of days after seeing Ron Levin say, "oh, Ron, we
24 saw him, too. This is no big deal?"

25 A. No.

1 Q. Nobody else said that?

2 A. I don't know if anybody else overheard our
3 conversation, but no, nobody said that.

4 Q. Now Mr. Robinson, did you keep, yourself, any
5 particular notes of the sighting of Ron Levin, make any
6 notations, "saw Ron Levin," anything like that?

7 A. No.

8 Q. Or of the conversation that you had several
9 days afterwards with Mr. Arnot?

10 A. No.

11 Q. You have also told us that in the fall of
12 1986, you were aware of pretrial proceedings regarding
13 Mr. Hunt?

14 A. Right.

15 Q. Out where -- out in Santa Monica where he was
16 charged with murder; is that correct?

17 A. I caught shorts, you know, like snatches of
18 news stories on the T.V. One of my habits is that I
19 tend to read while I am watching the news, so I would
20 only, you know, catch part of this.

21 I knew there was supposed to be a trial going
22 on. I would watch it a little while and --

23 Q. Where Mr. Hunt was charged with murder of Ron
24 Levin?

25 A. Right.

1 Q. And this is in the fall of 1986?

2 A. Right. Though there was no trial yet, as far
3 as I knew, until later. Until '87.

4 Q. Now in the fall of 1986, when you heard about
5 Mr. Hunt standing trial, the pretrial proceedings --

6 A. Right.

7 Q. -- was that before or after you had seen Ron
8 Levin?

9 A. After.

10 Q. Would that be -- Would you have heard about
11 that let's say, geez, before -- Well, I don't know.
12 Around Halloween? Is there a --

13 A. I don't know the real date. I mean, as far
14 as I remember, it was within a couple of weeks, but I
15 don't know when exactly. I'm reasonably certain it was
16 in October that there was -- there's so many stories,
17 you know, news stories all the time that come on T.V.. I
18 don't keep a log of them.

19 Q. So you think it was around October of 1986?

20 A. Right. I think so. That there was the first
21 mention on the news that there was going to be a trial.
22 I don't recall if there was anything about the trial
23 happening yet, but it was still --

24 Q. Now that at that point in time, you had -- by
25 that point in time -- you had seen Ron Levin; is that

1 correct?

2 A. Right.

3 Q. And you had been told by Mr. Arnot that Ron
4 Levin was believed by the police to be dead; is that
5 correct?

6 A. Right.

7 Q. And now you hear on T.V., that a man is
8 standing trial.

9 A. Trial?

10 Q. Charged with Ron Levin's murder.

11 A. Right.

12 Q. Is that correct?

13 A. Right.

14 Q. This is in October of 1986?

15 A. To the best of my recollection, yes.

16 Q. At the point when you saw this story in
17 October of 1986 or heard about it on the news --

18 A. Yes. Yeah.

19 Q. -- did you think that the police still
20 believed Ron Levin was dead?

21 A. Well -- well, they clearly did.

22 Q. Why do you say that?

23 A. They had the trial. They were talking about
24 the trial, I mean, so clearly they believed he was dead.

25 Q. Did you believe that your journalist ethics

1 would prevent you then at that point from telling the
2 police or going down to the police and telling them that
3 you had, indeed, seen Ron Levin, the person they
4 believed to be dead?

5 A. I thought that they would discover it on
6 their own, so I didn't want to divulge information I
7 thought would violate, you know, my own understanding of
8 journalism. It would be injecting me into a story which
9 I didn't -- I had been told repeatedly you don't get
10 yourself into a story, you just follow the story.

11 Q. Was there a story that you had ever written
12 anything about --

13 A. No.

14 Q. -- other journalists had --

15 A. I'm sure that --

16 Q. Because you heard about it on the media?

17 A. Right.

18 Q. And sir, you believed the journalistic ethics
19 from -- would prevent you from having injected you in
20 another reporter's story?

21 A. If I -- Well, I think that it would have
22 because it would have been making me part of the story
23 instead of simply passing information on. And if I had
24 seen the crime, say a robbery on the street, then I
25 would have reported it. But this was -- this was an

1 entirely different matter.

2 Q. When you were at the theater and you saw Ron
3 Levin, you were not working at that point in time, you
4 were off duty; is that correct?

5 A. Yes, sir.

6 Q. You were?

7 A. I was a reporter 24 hours a day, but I was on
8 duty at the time.

9 Q. You were a reporter 24 hours a day; is that
10 correct?

11 A. Yeah.

12 Q. Did you file anything at that point regarding
13 this story of Ron Levin?

14 A. No.

15 Q. Now you're down at the theater in Westwood,
16 not within your regular working hours; is that correct?

17 A. Right.

18 Q. You are there in your capacity as a
19 journalist. Were you going to review Crocodile Dundee
20 for the --

21 A. No. No.

22 Q. Did you go down there to do a restaurant
23 review of Mario's Restaurant?

24 A. No.

25 Q. Were you down there to do a story about the

1 colorful scene of Westwood?

2 A. No.

3 Q. In essence you were down there as a private
4 citizen?

5 A. Right.

6 Q. But as a private citizen you are telling us
7 if you had seen a robbery, that would not have violated
8 journalism ethics to tell somebody that you had seen
9 that?

10 A. Right. If I had seen a crime, I would have
11 reported it. I did not see a crime.

12 Q. You saw a human being.

13 A. Right.

14 Q. Who the police thought was dead.

15 A. Right.

16 Q. And that's a distinction?

17 A. I concluded that they were simply wrong.

18 They would discover it on their own.

19 Q. They would discover you on their own?

20 A. No. No. That they would discover this fact
21 on their own. Obviously, I was wrong, but that's what I
22 thought.

23 Q. So, by -- you know -- so, by October, when
24 you hear about this story that Mr. Hunt is standing
25 trial in Santa Monica, you have told us that you have

1 concluded that the police still believed that Ron Levin
2 was dead; is that correct?

3 A. Yeah.

4 Q. So by that point in time, the police had not,
5 as you assumed, discovered what you knew, that Ron Levin
6 was alive; is that correct?

7 A. This -- I believe these were preliminary
8 hearings. The trial I don't think began until the
9 spring of 1987.

10 Q. Forget for the moment --

11 A. But, you know, in other words, several months
12 later I assumed wrongly that by the time the actual
13 physical trial began, they would have discovered this
14 mistake.

15 Q. They had not discovered their mistake and
16 this man was standing preliminary proceedings in the
17 fall of 1986?

18 A. Right.

19 Q. And that did not cause you to want to go to
20 the police and say, "hey, you better look at this again
21 because I saw Ron Levin"; is that correct?

22 A. Maybe as a good citizen I should have. I
23 didn't, okay?

24 Q. As far as journalistic ethics, did that
25 prevent you from going in the fall of 1986 after you

1 learned that Mr. Hunt was standing trial in Los Angeles?

2 MR. HUNT: Objection. Asked and answered.

3 THE COURT: Overruled.

4 You can answer the question.

5 You have to answer out loud, sir.

6 THE WITNESS: Oh, I thought you said that --

7 THE COURT: No. You can answer the question.

8 THE WITNESS: Okay.

9 A. I thought it would be against journalistic
10 ethics to interject myself into a story because my
11 coming forward to the police, which eventually I did do,
12 anyway, but that's -- I thought that would have been --
13 would have made me the focus of a story and not the
14 information. And I didn't want to have that happen.

15 Q. Now did you differentiate making yourself the
16 focus of the story versus the information, sir?

17 A. There is quite a lot of difference. If the
18 police got the information from another source, that
19 would have been just information.

20 I mean, the facts are that once I did come
21 forth in April of '87, it wasn't the fact of Levin being
22 missing that became the big story. It was that a
23 reporter had seen him. And that was the very thing I
24 tried to avoid.

25 Q. You would think that the significant part of

1 the story would be that a reporter saw --

2 A. That's what in fact became the story for like
3 two days running in Los Angeles.

4 Q. And, you thought that would be the wrong
5 thing, that would violate your journalistic ethics?

6 A. I thought so. It would have compromised me
7 as a journalist, and all of a sudden, I would have been
8 the center of the story instead of simply reporting.

9 Q. Have you ever heard of reporters ever
10 reporting, telling the police what they saw, as a
11 private citizen?

12 A. I'm sure that some do. Very seldom do
13 reporters reveal their sources. If they do, they cease
14 to being valuable as reporters.

15 Q. Do you think that this would have compromised
16 your ability to be a reporter if you had reported to the
17 Beverly Hills Police Department in October of 1986 what
18 you saw?

19 A. Well, since it did in 1987, I have to
20 conclude it would have in 1986.

21 A. It basically ruined my career.

22 Q. Reporting to the police?

23 A. That's -- my -- when I reported to the
24 police, and first to the D.A.'s office, then the police,
25 reporters, other reporters who were there called my

1 managing editor who I, you know, who then jumped the
2 gun, and put out a story with incorrect information.
3 Then he calls me at home.

4 Q. Your managing editor?

5 A. That's right.

6 MR. VANCE: Well, Your Honor, at this point, I
7 believe we are into a narrative and I am going to now --
8 I am going to interrupt the witness, but I believe we
9 are in a narrative.

10 THE COURT: Ask your next question.

11 Q. (BY MR. VANCE) Sir, in this time you have
12 been referring to these things called "journalistic
13 ethics," are they written down any place?

14 A. I don't know. I suppose they probably are.
15 I was just told about them verbally.

16 Q. Do you belong to any journalistic -- or in
17 1984 did you belong -- in 1986-1987, did you belong to
18 any particular journalistic society?

19 A. No.

20 Q. Or newspaper society?

21 A. No. You mean like a fraternity? No, I chose
22 not to.

23 Q. Well, are there --

24 A. There are.

25 Q. -- groups of journalists?

1 A. Yes. I was a member press club. But, that's
2 not a journalism society, per se.

3 Q. It's a club that has clublike facilities?

4 A. Right.

5 Q. Restaurants, things like that?

6 A. Right. Eating area.

7 Q. Now, are there journalistic societies of
8 professional journalists; to your knowledge?

9 A. Yes, of course.

10 Q. Do you know if any of those organizations
11 publish ethical standards for journalists?

12 A. If they do, I haven't read them.

13 Q. And never in your career from 1972 through
14 1987, did you belong to any such society?

15 A. Right.

16 Q. Now, after -- In October of 1986, finding out
17 that there's some preliminary proceedings involving
18 Mr. Hunt charged with the murder of a man that you saw
19 alive, and you decided not to go to the police with your
20 information, were you interested in how Mr. Hunt was
21 doing in court?

22 A. Not especially.

23 Q. Were you interested in how the police were
24 doing in finding out what you knew, that Ron Levin was
25 alive?

1 A. I assumed they would find the facts, that I
2 wasn't getting into the story. I didn't have that much
3 interest in the story.

4 Q. Well, you assumed that the police would do
5 this, you told us several times.

6 A. Right. I was wrong, but that's what I
7 assumed.

8 Q. Now did you now, because in October of 1986
9 you knew that a man was charged with Ron Levin's death,
10 a man that you saw alive, did you follow the progress of
11 the police investigations, in any way, to make sure that
12 they found out what you knew?

13 A. No.

14 Q. Or to see if they ever found out what you
15 knew?

16 A. I paid, you know, casual attention to the
17 story, but not more than that.

18 Q. Did you see?

19 A. I didn't make, you know, a crusade of trying
20 to find out what -- what the police knew and what they
21 didn't know.

22 Q. Would you consider it a crusade to find out
23 what the police knew and didn't know if you were to read
24 the L.A. Times to see what was being reported in the
25 L.A. Times?

1 A. I didn't follow the story that closely,
2 really.

3 Q. But would you consider -- you just said you
4 didn't make a crusade.

5 A. Right. I would read, occasionally, stories
6 about the case in the Times. And that's all.

7 Q. So did you make any or would you consider it
8 to be a crusade to have listened to the radio and try
9 and find out what was going on?

10 A. I heard occasional stories on the radio.
11 There weren't national stories. This was not a major
12 news story. It was one of many stories that occurred.
13 It wasn't, you know, a giant headline story that was on
14 the air all the time.

15 Q. So the month of October goes by and you don't
16 tell the police; is that correct?

17 A. Right.

18 Q. The month of November goes by -- do you
19 recall, you know, between let's say Halloween and
20 Thanksgiving November 1986 -- do you recall reading
21 anything about the case or the progress?

22 A. I don't recall. If there was something I may
23 have read it or not, because it wasn't a major story as
24 far as my own interests went.

25 Q. And you only followed major stories that were

1 of interest to you?

2 A. I follow stories that happen to be of
3 interest to me, whether they are major or not. I didn't
4 feel a big connection with the story despite the fact of
5 having seen Levin.

6 Q. When you found a big connection with the
7 story, did you feel any sort of connection for Mr. Hunt
8 who might be standing or being involved in proceedings
9 being charged with murder of somebody you knew was
10 alive?

11 A. No. Because I had heard once again that
12 Mr. Hunt and the other members of the Billionaires Boy's
13 Club were engaged in what you could call shady dealings.
14 I didn't know anything really about it, but I didn't
15 feel like stepping in there.

16 Q. So you didn't feel like stepping in there
17 because --

18 A. I had a negative opinion that I had formed,
19 you might say a prejudged opinion, but I had a negative
20 opinion based on what I had read.

21 Q. Did you have that negative opinion when you
22 talked to, had your first conversation with Mr. Arnot?

23 A. I hadn't even -- I didn't know anything about
24 Mr. Hunt at the time.

25 Q. You didn't know anything about the BBC; at

1 that time?

2 A. Until -- I didn't know anything about him.

3 Q. Who is him?

4 A. About Mr. Hunt (sic). I had heard about the
5 Billionaire Boy's Club. I didn't know who the members
6 were.

7 Q. Did these negative feelings, based upon your
8 understanding of the BBC's shady dealings, have any
9 effect on your decision when you spoke with Mr. Arnot
10 not to go to the police?

11 A. I think it probably did, but the major reason
12 I didn't go to the police is my fear that what was
13 going, you know, what would happen is, in fact, did
14 happen, that it would be ruinous to my career if I did
15 this. And it is precisely what happened.

16 Q. In your view?

17 A. Yes.

18 Q. Now, so you don't go to the police in
19 December of 1986; is that correct?

20 A. Right.

21 Q. You don't go January of 1987; is that
22 correct?

23 A. Right.

24 Q. You don't go in February of 1987.

25 A. Right.

1 Q. You don't go in March of 1987?

2 A. Right.

3 Q. You go on April 17th, 1987; is that correct?

4 A. I go after I read the story and came to the
5 conclusion after I read the story in the Times that
6 clearly, despite everything that had happened, and there
7 was details in the story --

8 Q. Mr. -- I believe -- Let me ask another
9 question, sir.

10 A. Yes, sir.

11 Q. You go in April of 1987, immediately after
12 reading the story in the L.A. Times?

13 A. On the same morning.

14 Q. On the same morning that you read the story
15 in the Times, and you go to the police.

16 A. Right.

17 Q. Or actually you don't go to the police, you
18 actually go to the courthouse?

19 A. I went to the D.A.'s Office, right.

20 THE COURT: Gentlemen, you can't both talk at
21 once.

22 Wait until his answer is over before you try
23 to ask the question.

24 MR. VANCE: I apologize to the witness and the
25 court reporter who has to try and contend with all of

1 this.

2 Q. (BY MR. VANCE) The same morning, you go down
3 and you find Mr. Wapner?

4 A. Right.

5 Q. And it was a story that you read in the L.A.
6 Times?

7 A. Right.

8 Q. When you read the article in the newspaper in
9 April of 1987, I take it this would be what, the paper
10 of the 17th, or of the 16th?

11 A. Probably. I don't know which of the two days
12 it was.

13 Q. Okay.

14 A. It was a new paper.

15 Q. And it was then, obviously because you found
16 somebody in the courthouse, it had to be then a Monday
17 through a Friday; is that correct?

18 A. Right.

19 Q. So you had worked the night before; is that
20 correct?

21 A. Yeah, sure.

22 Q. Do you recall whether you had read that
23 newspaper while at work?

24 A. I read it while I was physically at work,
25 that is at Parker Center, but after I had gotten off of

1 duty. I get off duty at 6:30, while I was just lounging
2 around the press room, which I did on many occasions.

3 Q. And after you read that story before you went
4 over to the -- and ended up finding Mr. Wapner on the
5 same day?

6 A. Right.

7 Q. Did you talk to anybody about your decision
8 to go talk to Mr. Wapner?

9 A. Not that I recall.

10 Q. Because of the concerns you had about
11 journalistic ethics?

12 A. And my job.

13 Q. Okay.

14 A. And my career.

15 THE COURT: Wait until there's a question
16 asked before you start to try to answer.

17 THE WITNESS: Okay. Yes, sir.

18 Q. (BY MR. VANCE) You decided that morning
19 then, on your own, to put aside your concerns about
20 journalistic ethics and go down and tell somebody what
21 you knew.

22 A. I decided that because I read the story.

23 Q. Did you decide that?

24 A. Yes.

25 Q. And you had previously told us that you had

1 not really been too concerned about Mr. Hunt or the BBC
2 because of negative impressions that you had had?

3 A. Right.

4 Q. And those didn't prevent you now, on this
5 date of April 17th, 1987, from going back or going to
6 the -- and telling them?

7 A. Right. If I -- I felt that clearly the
8 police hadn't found the fact that Levin was still alive.
9 And the story showed me that other people reportedly had
10 seen Levin also, and the police continued to ignore
11 their statements.

12 And so I decided, well, maybe because I had
13 seen him and was a reporter, that despite the fact that
14 I didn't want to get involved, I didn't want to
15 jeopardize my career, and I didn't like the idea of
16 interjecting myself into a story. I would do it anyway,
17 and I didn't like the idea, but I did it.

18 Q. So you thought your credibility as a reporter
19 would carry the day?

20 A. I hoped that it would have some effect. It
21 didn't.

22 Q. So you went down and spoke to Mr. Wapner; is
23 that correct?

24 A. Yes.

25 Q. So you get off work about what, 6:30?

1 A. Right.

2 Q. And you say you talked to nobody before you
3 go down to find -- and ended up talking to Mr. Wapner;
4 is that correct?

5 A. I don't believe I told anybody what I was
6 going to do.

7 Q. Sir, it's your recollection here today that
8 it's the same day that you read the story --

9 A. Right.

10 Q. -- about other people sighting Ron Levin, and
11 you go down and tell the D.A.'s Office?

12 A. Right.

13 Q. Mr. Robinson, how many times did you talk to
14 the police?

15 A. What do you mean?

16 Q. Regarding what you saw.

17 A. I talked to them on the following day.

18 Q. The following day or the same day?

19 A. I talked to Wapner on that day. And then he
20 made an appointment for me to see the Beverly Hills
21 Police the following day. And so I talked to them on
22 the following day.

23 Q. And do you, literally, mean the following
24 day?

25 A. Yes. It was a Saturday that they had me come

1 down there and talk to them. They had a couple of guys
2 in the room with a tape recorder.

3 Q. Now the story that precipitated you coming
4 down to the police that you read and precipitated you
5 going to the courthouse ending up with Mr. Wapner, was a
6 story about a couple who had said that they had seen Ron
7 Levin; is that correct?

8 A. That was part of the story, yes. That was --
9 there were a few paragraphs in the overall story
10 concerning the Hunt trial that mentioned the couple that
11 saw, that reported seeing Levin in Arizona.

12 Q. At what, a desert filling station?

13 A. That's what the Times story said, yeah.

14 Q. And that was the article that precipitated
15 you going to --

16 A. Right.

17 Q. -- the Beverly Hills Police Department?

18 A. No, to Wapner.

19 Q. To Wapner, and then that's what you told the
20 Beverly Hills Police Department?

21 A. Right.

22 Q. You have indicated that prior to testifying
23 today, you have been shown a transcript of a statement
24 you made; is that correct?

25 A. Yes, sir.

1 Q. And there might have been other police
2 reports of statements that you made?

3 A. I think there might have been some
4 summations.

5 Q. Some summations?

6 A. But I don't think there was any actual police
7 reports.

8 Q. And those are at your home down in Los
9 Angeles; is that correct?

10 A. Yes, sir. If you want me to bring them, I
11 can.

12 Q. Perhaps we can make arrangements after Court
13 today.

14 When you talked to Mr. Wapner, did you try and
15 be as accurate as you could with Mr. Wapner in
16 recounting what you saw?

17 A. Yes, with one unfortunate exception. I
18 falsely --

19 Q. Just a minute, did you try and be accurate,
20 but for one unfortunate exception?

21 A. Yes.

22 Q. So you are going down to Mr. Wapner to tell
23 him what you know.

24 A. Right.

25 Q. And now you are indicating that there was

1 something, there was an unfortunate exception to what
2 you told him?

3 A. Right. I told him --

4 Q. Well?

5 A. Okay.

6 Q. When you spoke with Mr. Wapner, are you
7 telling us that you consciously withheld something from
8 him?

9 A. When I talked to Mr. Wapner I told him
10 everything I knew about Ron Levin. But, I told him that
11 I had just had found out about the information. Not
12 that I had known it for several months.

13 Q. You did make a conscious decision not to tell
14 Mr. Wapner that you had known about it for several
15 months?

16 A. Yes. See, I was afraid that --

17 Q. The question calls for yes or no.

18 A. Yes. Yes.

19 Q. You made a conscious decision to lie to
20 Mr. Wapner?

21 A. About the time I knew about Levin; not that I
22 knew.

23 Q. Now, is the deception of Mr. Wapner involved
24 as you are telling us about reading a story in the
25 newspaper?

1 A. I had read the story. The deception came
2 only as far as claiming I didn't know about the murder
3 trial until I read the story, when, in fact, I had known
4 about it, as I said, from that fall, from the previous
5 fall.

6 Q. From the previous fall?

7 You lied to Mr. Wapner about that?

8 A. On that because I was afraid of telling him I
9 knew about it several months previously, would have
10 gotten me into trouble when I was talking to the police.
11 I admitted this, and he simply accepted it.

12 Q. Let's talk about what, first of all, what you
13 told Mr. Wapner.

14 A. Right.

15 Q. You are telling us that you failed to tell
16 Mr. Wapner that you had known about the murder trial
17 before that day when you spoke with Mr. Wapner; is that
18 correct?

19 A. I'm not sure.

20 Q. Let me try the question again, sir.

21 A. All right.

22 Q. You -- Well, let's ask the question this way:
23 What was it that you, indeed, told Mr. Wapner
24 about the -- about when you first learned that Mr. Hunt
25 was standing trial for murder?

1 A. Okay. I told him that I was unaware of
2 Mr. Hunt standing trial until I had read the story that
3 morning.

4 Q. You told Mr. Wapner that?

5 A. Right even though -- I mean, obviously, I did
6 know for several months before then that --

7 Q. Because as you have told this jury, you knew
8 basically within two or three days.

9 A. Right. Right.

10 Q. Of seeing Mr. -- who you claim to be
11 Mr. Levin in Westwood, in October of 1986.

12 A. Right. But then --

13 Q. Is that correct?

14 A. Yeah.

15 Q. Now, is -- You believed that it would be in
16 your benefit to not tell Mr. Wapner about this
17 conversation, or this knowledge that you have had since
18 October of 1986?

19 A. I thought that had I told him that I knew
20 about the information since '86, I may have had a
21 problem.

22 Q. Problem?

23 A. A legal problem.

24 A. What type of legal problem?

25 A. Withholding the information. I didn't know

1 that that wasn't the problem. I discovered the next day
2 when I talked to the police.

3 Q. But at the time when you went down to
4 Mr. Wapner when you are sitting -- Let's go back to the
5 press room. You read the L.A. Times article?

6 A. Right.

7 Q. Did you go, Hey, I think I better get down
8 there because maybe my credibility -- Did it cross your
9 mind at that point that you were going to have to lie to
10 Mr. Wapner about one particular fact because you felt
11 that you might have some legal liability?

12 A. You mean when I left the press room, did I
13 think that?

14 Q. Yes?

15 A. No. I considered that after I got there, or
16 at least certainly while I was driving. I don't know
17 when I decided to tell him, you know, that one fact that
18 -- or the misstatement of facts, that I had only learned
19 about the trial then, as opposed to knowing about it a
20 few months earlier. Several months earlier.

21 Q. Have you ever had -- have you ever gone to
22 law school?

23 A. No.

24 Q. Have been a paralegal?

25 A. No.

1 Q. Have been a police officer?

2 A. No.

3 Q. Ever worked in a courthouse?

4 A. No.

5 Q. So then you told the next day to the Beverly
6 Hills Police Department that, indeed, you had lied to
7 Mr. Wapner?

8 A. Well, yeah.

9 Q. Is that correct?

10 A. I told them that I, in fact, had known about
11 the preliminary hearings as of the previous year, and
12 so, yes, I had told them that I had not told Mr. Wapner
13 the truth, as far as when I first learned about the
14 case.

15 Q. So you told them that you had actually
16 learned about it in October of 1986?

17 A. Right.

18 Q. From?

19 A. From the news account.

20 Q. From Mr. Arnot?

21 A. No. No. The trial stuff I learned from the
22 news account. The fact that -- that Mr. Levin was
23 supposedly murdered, I learned from Mr. Arnot.

24 Q. But the news account that you told the police
25 about was in October of 1986?

1 A. Right.

2 Q. Is that correct?

3 A. Yeah.

4 Q. Now, when -- between the time -- or when was
5 it that you spoke to Mr. Arnot, and Mr. Arnot,
6 unbeknownst to you, you say, made a videotape of you in
7 relationship to speaking with Mr. Wapner; when did that
8 occur?

9 A. On the morning before, on the -- several
10 hours before. It was like, on the same, you know, on
11 the shift that I was on. See, on, like I say that 10:00
12 o'clock to 6:00 A.M., 6:30 A.M. Excuse me. During that
13 period of that night.

14 Q. "That night" being which night?

15 A. The night prior to talking to --

16 Q. Fred Wapner.

17 A. Fred Wapner. I talked to Gary Arnot.

18 Q. And he makes this videotape?

19 A. Which I didn't know about at the time, right.

20 Q. And the audiotape that you didn't know about?

21 A. Well, the audiotape I had been told never
22 actually was made. I mean, there was just a muddled
23 tape, there was no --

24 Q. No audiotape was made for you?

25 A. Right.

1 Q. And that was before you went to see
2 Mr. Wapner?

3 A. Right.

4 Q. While you were on -- while you were working?

5 A. Right.

6 Q. And was that the time that money was
7 discussed with Mr. Arnot? At the time of that?

8 A. This -- The discussion about money was that
9 there would be no money exchanged, or I would get paid
10 nothing unless I gave him a taped interview after I had
11 gone to the authorities. I didn't know, in fact, that
12 he was taping me as I was telling him this.

13 Q. But that conversation that you say you didn't
14 know was being taped --

15 A. Right.

16 Q. -- was, indeed, before you went to see
17 Mr. Wapner?

18 A. Right.

19 Q. Did you tell Mr. Wapner about this
20 arrangement you had with Mr. Arnot?

21 A. I don't think so. See, because I said that
22 it's --

23 Q. I think the question calls for a "yes" or
24 "no".

25 A. Yes, sir.

1 Q. I'm not trying to -- And you did not disclose
2 to Mr. Wapner the fact that you had talked to Mr. Arnot
3 already, and you had this arrangement that you have just
4 described to this jury?

5 A. I don't recall telling Attorney Wapner that,
6 no, because I was very adamant with Gary Arnot that I
7 wouldn't give him a taped story until after I had told
8 the police and the authorities, because I didn't want to
9 prejudice the case.

10 Q. Would it violate journalistic ethics to take
11 money for a story?

12 A. No, of course not.

13 Q. Were you being paid by this arrangement with
14 Mr. Arnot, was that, were you being paid as a journalist
15 by Mr. Arnot?

16 A. If I had done a story, I would have been paid
17 for helping him with a story.

18 A. As a journalist or as a source?

19 A. Yes.

20 Well, you would have to ask him that I would
21 regard it as journalist.

22 Q. So that you would receive some sort of, what,
23 byline?

24 A. I doubt that. Because the T.V. station is
25 used bylines from their own reporters.

1 MR. VANCE: Your Honor, we are going to have
2 to discuss several matters out of the presence of the
3 jury.

4 THE COURT: All right.

5 Let me ask the members of the jury to step
6 outside for a couple of moments, and remember the
7 admonition.

8 (Whereupon the jury left the courtroom.)

9 MR. VANCE: Can we have Mr. Robinson step out
10 in the hallway, too, please?

11 THE COURT: Yes.

12 (Whereupon the witness left the courtroom.)

13 THE COURT: The record will show the jury and
14 the witness have left the courtroom.

15 How much longer do you have -- do you suppose
16 you have with this witness?

17 MR. VANCE: Part of it is truly going to
18 depend on the Court's ruling, and we are at the point
19 where I was afraid that we were going to get with this
20 witness, the polygraph.

21 Mr. Robinson did -- does indeed -- did indeed
22 not tell Fred Wapner about the deal he had with
23 Mr. Arnot, and only discloses the deal that he had with
24 Mr. Arnot after being confronted by the polygraph
25 examiner that he was being deceptive in his answers.

1 THE COURT: As opposed to just walking in and
2 telling the police as he implied in his testimony?

3 MR. VANCE: That is correct. That was a
4 pre-test interview, as are done in all situations such
5 as this, and in the pre-test interview, this did not
6 come out.

7 This came out only when he was confronted, as
8 I have said.

9 And I don't know, I think this clearly --
10 without having a chance to research what has happened
11 under 303.1 or whatever, 353.1, whatever the section is
12 although the witness was pretty emphatic that it could
13 be used to prevent a situation such as this particular
14 factual situation. I would like a chance to look at it.

15 THE COURT: Well, I agree that I think the
16 section means what it says. It certainly does mean that
17 a witness can't be asked questions to the effect of,
18 isn't it a fact that the first time you mentioned this
19 to the police is after you had been confronted by them
20 with their belief or their statements to you, that he
21 believed you were lying about this.

22 The chronology and the gist of it, and the
23 fact that it didn't just come out in his first
24 statements to them, as perhaps he has implied on the
25 stand, can certainly be addressed without reference to

1 polygraph.

2 I can't imagine that the situation here and
3 the decisive, legitimate cross-examination in this area
4 necessitates setting aside the prohibition against
5 mentioning the polygraph.

6 MR. VANCE: Sure.

7 THE COURT: But at 20 minutes to 5:00, it
8 maybe doesn't matter today.

9 Had you -- At this point, are you planning any
10 redirect, Mr. Hunt?

11 MR. HUNT: Yes.

12 THE COURT: Okay.

13 THE COURT: Did you -- You have other matters
14 to cover other than this one we are just discussing?

15 MR. VANCE: It is possible. I have a couple
16 of areas in my notes that I would need to sit down and
17 take a look at the other points, though that is -- I
18 would ask though that we not prolong it today. It is 20
19 of 5:00. Because I would like to have Mr. Robinson
20 bring back with him the materials that he was sent and
21 review them prior to his testimony.

22 THE COURT: Did you want to -- do you want --
23 do you want him to broach this one area today before we
24 break? I'll --

25 MR. VANCE: No. I would prefer then to defer

1 if he's going to come back.

2 MR. HUNT: Your Honor, as far as the materials
3 that he's reviewed, they are in possession of the
4 prosecution. They have been identified, and I can also
5 provide a copy to Mr. Vance.

6 It doesn't seem sensible to use Mr. Robinson
7 as courier service for copies of police report
8 interviews which they themselves possess. My redirect
9 is not going to be long. Whatever the Court wants to
10 do, of course.

11 THE COURT: All right.

12 MR. VANCE: Your Honor, I am concerned and
13 there's been another area that I have been delicately
14 trying to avoid. And, one of the reasons is that I
15 would like to see what Mr. Robinson was sent, and
16 reviewed.

17 THE COURT: I am satisfied that we are not
18 going to finish with this witness by 5:00, or close to
19 it.

20 So I will excuse the jury and we will resume
21 with him on Monday.

22 MR. VANCE: Before we do that with the jury,
23 we need to now talk about scheduling, because we now
24 have some real problems on Monday because Mr. Liston is
25 coming. There's the motion Mr. Gordnier wanted to make

1 to the Court before Mr. Liston and Dr. Berry testify.

2 MR. GORDNIER: Why don't we --

3 THE COURT: I don't see that as a quote "real
4 problem."

5 MR. VANCE: I just want to -- okay.

6 THE COURT: All right. Bring in the jury,
7 please.

8 MR. GRAY: Your Honor, may Mr. Vance and I
9 approach the bench?

10 THE COURT: Yes.

11 (Whereupon there was a discussion,
12 off the record, at the bench,
13 between the Court and Counsel.)

14 (Whereupon the jury returned to the courtroom.)

15 THE COURT: All right. The record will show
16 that the jury has come back into the courtroom.

17 We are going to adjourn for the day, and for
18 the weekend, as far as you are concerned.

19 We will resume on Monday morning.

20 In the meantime, remember the admonition.

21 Try to put the case out of your mind.

22 Don't discuss anything connected with the case
23 either among yourselves or with anyone else.

24 Don't allow anyone to talk about any subject
25 that is in any way related to the case in your presence,

1 and don't begin to decide the case in your own mind.

2 Don't form or express any opinion on the case
3 until it's submitted to you at the end of the trial.

4 We will resume with you at 9:00 o'clock Monday
5 morning.

6 THE COURT: And you are excused until then
7 also.

8 THE WITNESS: Am I -- I going to be called
9 back here or what?

10 THE COURT: Yes.

11 THE WITNESS: Do you know when?

12 THE COURT: Talk to the parties. I think they
13 also probably need you Monday morning.

14 (WHEREUPON THE DAY'S PROCEEDINGS ENDED.)

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

DEPARTMENT NO. 11

HON. DALE A. HAHN, JUDGE

PEOPLE OF THE STATE
OF CALIFORNIA,

Plaintiff,

VS.

JOSEPH HUNT,

Defendant.

STATE OF CALIFORNIA

SS.

COUNTY OF SAN MATEO

I, DONNA HEUMAN, CERTIFIED SHORTHAND REPORTER AND OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN MATEO, DO HEREBY CERTIFY THAT FOREGOING TRANSCRIPT OF PROCEEDINGS, TRIAL VOLUME 39, PAGES 6,870 THROUGH 7,094, COMPRISES A TRUE AND CORRECT COMPUTER-AIDED TRANSCRIPTION OF THE PROCEEDINGS I REPORTED IN DEPARTMENT 11, ON JUNE 25, 1992, IN THE MATTER OF THE ABOVE-ENTITLED CAUSE.

DATED THIS 31ST DAY OF JULY, 1992.

DONNA HEUMAN, CSR 4321

OFFICIAL REPORTER, SUPERIOR COURT

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN MATEO

3 THE PEOPLE OF THE)
4 STATE OF CALIFORNIA,)

5 vs. Plaintiff,)

6 JOSEPH HUNT,) CASE NO. C 15761-01

7) TESTIMONY OF ROBERT ✓
8) ROBINSON; JUSTINE JAGODA;
9) AND SANDRA KAMMENIR ✓

10 Defendant.)
11 -----)

12 REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS

13 BEFORE: HONORABLE DALE A. HAHN, JUDGE

14 DEPARTMENT 11

15 JUNE 29, 1992

16 APPEARANCES:

17 FOR THE PEOPLE: DANIEL LUNGREN, ATTORNEY GENERAL
18 OF THE STATE OF CALIFORNIA

19 BY: JOHN VANCE, DEPUTY A.G.; AND
20 JOHN GORDNIER, ASSIST. SR. A.G.
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23 FOR THE DEFENDANT: JOSEPH HUNT, IN PRO PER

24 ADVISORY COUNSEL: DOUGLAS GRAY, ATTORNEY

25 PARTIAL TRIAL VOLUME 40: PAGES 7,095 THROUGH 7,155.

REPORTED BY: DONNA HEUMAN, CSR 4321

1 MONDAY, JUNE 29, 1992

REDWOOD CITY, CALIFORNIA

2 PROCEEDINGS

3 THE COURT: Good morning. The record will
4 show the defendant and counsel all members of the jury
5 are present.

6 Mr. Gordnier is not present.

7 MR. VANCE: He will be here shortly.

8 THE COURT: And, let's see, Mr. Robinson, if
9 you can take the stand again, please? We will resume
10 cross-examination.

11 CROSS-EXAMINATION OF ROBERT ROBINSON (Continued)

12 BY MR. VANCE:

13 Q. Mr. Robinson, when you saw the person who you
14 believed to be Ron Levin call out to you, Rob, or Robbie
15 -- called out to you "Robbie," can you describe what
16 that person looked like?

17 A. You mean how he was dressed or what?

18 Q. Well, physical features.

19 A. Okay. He stands, the person who talked to me
20 stands about 6 feet tall. He's a lean -- I would say
21 probably about 160; maybe less. I would judge probably
22 a little less than that.

23 He had graying hair, sort of like iron gray
24 hair. He had -- I'm trying to think. Somewhat like one
25 of the jurors, as far as color goes. And he had a

1 beard. It was sort of thinning on the sides and heavier
2 at the bottom around the chin.

3 Q. And what was the eye color of the person you
4 saw?

5 A. That I can't recall. It was light, like sort
6 of a grayish as best I can remember it. I don't recall
7 that exactly. He's a pretty forceful personality.

8 Q. Mr. Robinson, I would like to show you a
9 document and have you read a paragraph to yourself.

10 Directing your attention to that particular
11 paragraph, if you need to read.

12 MR. HUNT: Mr. Vance, could you let me see
13 what it is you are showing the witness?

14 MR. VANCE: Yes, just -- Please, just a
15 moment. Let me show it to Mr. Hunt.

16 (Whereupon, the document was handed to Mr. Hunt.)

17 MR. HUNT: Okay.

18 Q. (BY MR. VANCE) Okay. As far as the eye
19 color, have you had a chance to read that, sir?

20 A. Well, here it's -- it was written that I
21 said, dark blue or brown, but I, in fact, said I didn't
22 know, I wasn't sure what I told the police.

23 Q. So, in that regard this record would be
24 inaccurate. It should say you did not know.

25 A. I told the police in the first place I wasn't

1 sure of his eye color.

2 Q. Mr. Robinson, You indicated last Thursday
3 that you first spoke with Fred Wapner down at the
4 courthouse?

5 A. Right.

6 Q. And then gave a longer statement to the
7 Beverly Hills Police Department.

8 A. Right, at his request.

9 Q. And, that in the longer statement, you first
10 told them, the Beverly Hills Police Department, that you
11 had been untruthful with Mr. Wapner; is that correct?

12 A. Right. Only on the one point of when I first
13 knew about Levin as the alleged victim.

14 Q. And then, at a later point in that interview,
15 did the Beverly Hills Police Department confront you
16 with their belief that you were not being truthful with
17 them?

18 A. Well, no. I had talked -- I had told them
19 up-front about that, because before the interview I
20 talked to a police sergeant. I'm not sure who it was.
21 And I asked him, specifically, if I would have a problem
22 with the fact that I hadn't come forward with the
23 information I had as soon as I had it, as opposed to
24 then, and he told me then --

25 Q. At a later point in that interview. Okay.

1 At the beginning of that interview with the
2 Beverly Hills Police Department, you told them about a
3 conversation you had had with Gary Arnot; is that
4 correct?

5 A. Right.

6 Q. But it wasn't until the end of that
7 conversation with the Beverly Hills Police Department,
8 when they confronted you with their belief that you were
9 not being truthful with them, that you told them that
10 you had given actually a videotaped statement to Gary
11 Arnot; is that correct?

12 A. I had learned about that, but I didn't know
13 that he had taped it, at the time it happened. I
14 learned about it before I talked to them.

15 Q. But you didn't tell them about it until the
16 end of the interview. They were asking the questions
17 when they confronted you with their belief that you were
18 not being truthful.

19 A. But I was being truthful. They hadn't asked
20 me that question up until a point.

21 Q. On direct examination, sir, you indicated
22 that you initially believed that you had seen Ron Levin
23 at the movies in June of 1986; do you recall that?

24 A. Yeah. I thought so, because of the weather.

25 Q. That was the -- The question called for a

1 "yes" or "no."

2 A. Yes.

3 Q. You based that conclusion initially upon
4 what?

5 A. On the weather.

6 Q. And what was the significance about the
7 weather?

8 A. Well, the weather was a little unusual for
9 Los Angeles in October, in that it was mild. It was in
10 the 70's; partly cloudy.

11 If you live in Los Angeles, you know that
12 normally it's warmer than that, usually well up in the
13 80's, usually pretty clear.

14 Q. So you thought, based upon the weather, that
15 you had actually seen Mr. Levin or the person you
16 thought was Mr. Levin in June of 1986?

17 A. Correct.

18 Q. Now you have indicated that it was among
19 other things, journalistic ethics, that kept you from
20 going to the police initially when you first saw Ron
21 Levin at the theater back in October of '86; is that
22 correct?

23 A. Journalistic ethics, and the fact I did not
24 want to jeopardize my career. I had been a reporter for
25 15 years.

1 Q. And you felt that to have told the police
2 what you knew while you were at a movie would have
3 jeopardized your career and compromised journalistic
4 ethics?

5 A. Well, it turned out it did do exactly what I
6 feared. It jeopardized my career. As far as the
7 journalistic ethics goes, a reporter does not want to
8 interject himself into a story if he can help it, unless
9 it's a first person story, whatever he did, like Charles
10 Osgood does when he goes around the country, because a
11 reporter tries to keep himself out of a story, if at all
12 possible, not to become the story.

13 Q. So you are telling us because you went to the
14 police and told them what you knew, while you were down
15 watching a movie in October of 1986, that you lost your
16 job; is that correct?

17 A. Well, that was the end. That was the upshot
18 of it, yes.

19 MR. VANCE: At this point, we would have no
20 further questions.

21 THE COURT: Any redirect?

22 MR. HUNT: Yes, Your Honor.

23 REDIRECT EXAMINATION OF ROBERT ROBINSON

24 BY MR. HUNT:

25 Q. Mr. Robinson, in 15 years as a reporter, did

1 you ever write a story about a personal experience for
2 the City News Service?

3 A. Not as a reporter, no.

4 Q. How many of those 15 years were spent with
5 the City News Service?

6 A. The last nine.

7 Q. How many police or crime stories, if you
8 could estimate it for the jury, did you write about
9 during that nine years?

10 A. The best way I could estimate is that on any
11 given night -- I worked five nights a week -- on any
12 given night, I would write about eight to ten stories.
13 Five nights a week. 52 weeks a year for 15 years. I
14 don't know how many that comes to, but it's a lot.

15 Q. As far as any of these thousands and
16 thousands of stories, did you ever become involved in
17 any other trial relating to those police stories or any
18 other investigation of the case in your career?

19 A. No.

20 Q. Did you know me at all in 1987?

21 A. No.

22 Q. Are you aware that we have any mutual
23 friends, sir?

24 A. Not that I know of.

25 Q. Did you have any reason other than having

1 seen Ron Levin on October 1986, to become involved in
2 this case as a witness?

3 MR. VANCE: Leading question.

4 THE COURT: The objection is what?

5 MR. VANCE: It's both a leading question and
6 it assumes facts not in evidence.

7 THE COURT: Overruled.

8 THE WITNESS:

9 A. Well, I didn't come forward right away. That
10 has been brought out. I finally came forward in April
11 of 1987, when no one else had been made -- Well, other
12 people had come forward, but it's -- nobody had been
13 brought forth as a witness in the trial, and it seemed
14 that something was going wrong there.

15 The case was going to go to jury, this is
16 according to the Times story, and, also, according to
17 the Times story, several people had made their
18 statements to authorities that they had seen Levin since
19 1984 when he disappeared, and none of them were being
20 used as witnesses. So I said, "Okay. I'm a reporter.
21 I have a good reputation. Maybe this will matter".

22 It didn't. I wasn't called.

23 Q. So at that point, it was a matter of
24 conscience, Mr. Robinson?

25 A. I think so. I was feeling that, I got to do

1 it. I knew that I was endangering my career even as I
2 was driving to the courthouse. And, I was just hoping
3 that everything would work out.

4 Q. How many people -- Let's speak about your
5 career for a moment -- How many people, if you know,
6 were above you in the chain of command at City News
7 Service?

8 A. Well, I was just a regular reporter. I was
9 just one of the staff reporters, so the managing editor
10 would be above me, of course, and so would the owner and
11 his assistant who actually ran things. The office
12 manager.

13 Q. Did you have any assistants, sir?

14 A. No.

15 Q. Did you have a secretary?

16 A. No.

17 Q. Did you supervise anybody?

18 A. Only when a new reporter would first come on.
19 I showed a few reporters, new reporters, how to follow
20 City News' style, which was actually the same as
21 Associated Press style. We use the same style book.
22 And I showed a couple of people how to use the word
23 processor. But that's all.

24 Q. Before you went forward and spoke to the
25 police, did you feel there was anything that made your

1 continued stay at City News as an employee of theirs
2 uncertain?

3 Pardon me. There any cloud hanging over your
4 job?

5 A. No.

6 Q. Did you enjoy being a journalist, sir?

7 A. Very much.

8 Q. What do you do now?

9 A. I work as a security officer at Olive View
10 Medical Service in Sylmar, that's a town just on the
11 north border of Los Angeles.

12 Q. How long after you came forward did you lose
13 your job at City News Service?

14 A. Ten days. About.

15 Q. Did anything else happen in that ten days
16 other than the fact that you came forward as a witness?

17 A. Well, there was interviews at work concerning
18 this. There was the allegation, which was proven false,
19 the allegation that I had given story followings to
20 somebody who was not a client of City News Service.

21 Q. What was that in relationship to?

22 A. That was namely to Gary Arnot who wasn't a
23 client. But the information I had talked to him about
24 was not new information. It was not story information.
25 And, the only other person I talked to was a reporter

1 for Associated Press, and we -- they were a client.

2 They were -- in fact, we and they were partners.

3 Q. So Mr. Robinson, the issues of who you had
4 spoken to, it's all related to this story of having seen
5 Ron Levin, correct? There was no other subject matter
6 involved?

7 A. None that was ever raised at the interviews.

8 Q. And it was just 10 days after you had gone to
9 the judge?

10 A. At most yes, sir. Because I got a letter
11 from them, a letter of termination.

12 Q. Okay. Remember, Mr. Robinson, to wait until
13 the question is completed.

14 A. Yes, sir.

15 Q. While you were driving to see the judge in
16 Santa Monica, you had in your mind as one of your
17 concerns the fact that your job would be placed in
18 jeopardy; is that correct?

19 A. Yes.

20 Q. Are you in any way bitter towards me or the
21 prosecution in light of having lost your job in coming
22 forward?

23 A. Well, neither you nor the prosecution has
24 anything to do with it. No, of course I'm not bitter.

25 Q. Do you prefer your present work to

1 journalism, sir?

2 A. No.

3 Q. Was there -- Is journalism a field where you
4 have to, basically, come up through the ranks, you know,
5 start as a copy boy or something like that, and then
6 work your way up?

7 A. Well, that's what I did. But, I mean you
8 have to go to school. I -- I went to journalism
9 college, got an Associate of Art degree in journalism,
10 had the highest grade point average in the graduating
11 class and started out. While I was doing that, I worked
12 as a copy boy at the Herald Examiner, and then I was
13 made a reporter.

14 Q. Were you aware -- Would it be true, sir, that
15 everybody getting out of journalism school would be
16 looking to get a job sort of like the one you had at
17 City News Service, as a starting point?

18 A. Not necessarily. There's plenty of people
19 who go from journalism school into public relations into
20 advertising.

21 Q. But if they wanted to make news reportage
22 their field?

23 A. Then they had to go into the printing medium
24 unless they got further training, for example, as a
25 broadcaster, like in radio or television. That's a

1 different field. It takes different training.

2 Q. Okay.

3 How did you expect the police and the
4 authorities to react to your statements about having
5 seen Ron Levin. Did you have an expectation?

6 A. I thought --

7 MR. VANCE: Objection. Relevancy.

8 THE COURT: Sustained.

9 Q. (BY MR. HUNT) Did you expect, sir, to get
10 the third degree by the police?

11 MR. VANCE: Objection. Assumes a fact not in
12 evidence. Mischaracterization of being a third degree
13 --

14 THE COURT: Sustained.

15 Q. (BY MR. HUNT) Mr. Robinson, did you look
16 forward to -- let me start again. Did you have sort of
17 an idea of what, as an individual, you might have to go
18 through in having made a statement to the police or to
19 the authorities about an important, publicly covered
20 trial?

21 MR. VANCE: Objection. Irrelevant.

22 THE COURT: Sustained.

23 Q. (BY MR. HUNT) Did you look forward to the
24 courtroom setting and the police interviews that had
25 been attendant to coming forward?

1 MR. VANCE: Same objection.

2 THE COURT: Overruled.

3 THE WITNESS:

4 A. Did I look forward to it? As a reporter, I
5 had usually been used to asking the questions, not being
6 on the other end. But, I thought, by coming forward,
7 that I was going to be called as a witness in the trial.
8 And I wasn't.

9 Q. (BY MR. HUNT) Did you expect, too, that your
10 motives would be questioned in coming forward, sir?

11 MR. VANCE: Objection. Calls for speculation.

12 THE COURT: Overruled on that ground.

13 THE WITNESS:

14 A. I actually didn't know.

15 Q. (BY MR. HUNT) Did you expect the -- Did you
16 have any expectation as to whether the police or the
17 authorities would go around to your place at work and
18 begin to question fellow employees and other people in
19 the management?

20 MR. VANCE: Objection. Calls for speculation
21 and relevancy.

22 THE COURT: The question was, did he expect
23 that?

24 MR. VANCE: Uh-huh

25 MR. HUNT: Uh-huh.

1 THE COURT: Overruled. Go ahead.

2 THE WITNESS:

3 A. Actually, I don't know if they did.

4 THE COURT: The question was, did you expect
5 it?

6 THE WITNESS: Well, I didn't expect it.

7 Q. (BY MR. HUNT) All right.

8 You said that you had run into Detective
9 Zoeller of the Beverly Hills Police Department during
10 your career?

11 A. I had talked to him. I had never physically
12 met him.

13 Q. Was it part of your work to talk to police
14 officers on the phone about stories that were breaking?

15 A. Every night.

16 Q. Were you concerned, sir, that coming forward
17 might affect your relationship with these police
18 officers and agencies?

19 A. I didn't think it would.

20 Q. As far as your job, does your employer
21 require you to stay on good terms with the police?

22 A. A police reporter is supposed to be
23 objective. He's not supposed to be, you know, pals with
24 the police, or in an adversarial position. He's
25 supposed to simply follow leads in stories, neither more

1 nor less.

2 MR. HUNT: Okay. Thank you very much,
3 Mr. Robinson.

4 THE COURT: Any recross?

5 RECROSS-EXAMINATION OF ROBERT ROBINSON

6 MR. VANCE:

7 Q. Sir, you have indicated that, regarding your
8 termination with the Los Angeles City News Service, was
9 an allegation that you had sold the story to Gary Arnot
10 who was not a client; is that correct? Is that the
11 allegation that was made?

12 A. Very close to that. It was -- Well, actually
13 it was that I had passed on a new story to him because
14 he was not a client.

15 Q. That's the allegation?

16 A. That was the assertion, basically, yes.

17 MR. VANCE: Thank you. We have no further
18 questions at this time.

19 MR. HUNT: I think I do have one.

20 REDIRECT EXAMINATION OF ROBERT ROBINSON

21 BY MR. HUNT:

22 Q. Mr. Robinson, as far as the dates of
23 occasions in which you met or ran into Ron Levin, you
24 gave us time markers for two of those occasions.

25 One of them being that you were going to see

1 Crocodile Dundee near the opening of that movie, and the
2 other one was that you were pretty sure you saw Ron
3 Levin in the spring of 1984, because that had to do with
4 his interests in the Olympics or covering the Olympics
5 or something.

6 A. Correct.

7 Q. As to any of the other occasions when you saw
8 Ron Levin, do you have any recollection of a
9 contemporaneous incident that could be used to date
10 them?

11 A. No.

12 A. When the police asked you whether it was
13 possible that you saw Ron Levin in 1985, did your answer
14 to that question have to do with the fact that you
15 didn't have any other time markers to date the other
16 occurrences?

17 A. Well, I told them that I thought possibly I
18 saw him in '85, but I wasn't sure, and I told them
19 up-front I wasn't sure about that, any sightings in '85.

20 Q. And did that have anything to do with the
21 fact that as to the other occasions when you had run
22 into Ron Levin in the course of your work, that you
23 don't recall any specific incident that would allow you
24 to give a date?

25 A. Right.

1 Q. There was some talk on cross-examination
2 about the fact that this individual, Gary Arnot, and
3 you, talked about money in relationship to a story that
4 he might write based on what he had heard from you.

5 Was that an offer made by Mr. Arnot to you?

6 A. Okay.

7 Q. Or did you bring it up?

8 A. No. Gary brought it up. He wanted to do a
9 taped -- He didn't write. He wanted to do a taped
10 interview with me concerning what I was going to come to
11 Attorney Wapner about, and I told him, "No, I will talk
12 to you afterwards," because I didn't want to jeopardize
13 the trial that was going on.

14 Afterwards, I would be perfectly happy to talk
15 to them, and if he wanted to pay me for that, for that
16 interview afterwards, that's fine with me.

17 But --

18 Q. How much money was he talking about,
19 Mr. Robinson?

20 A. \$75. I -- I was not about to jeopardize a
21 trial for that.

22 Q. Let me ask you a question.

23 How important was \$75 to you at the time?

24 A. Oh, not especially.

25 MR. HUNT: Thank you, Mr. Robinson.

1 THE COURT: Any recross?

2 MR. VANCE: At this point we would have no
3 recross. We would ask Mr. Robinson be subject to
4 recall.

5 THE COURT: All right. You may step down.
6 You are free to leave. However, we may need to have you
7 testify later in the trial, and if so, the parties will
8 be in touch. Thank you, sir.

9 THE WITNESS: Yes, sir.

10 MR. VANCE: I would like to speak to Mr. Hunt.

11 (Whereupon there was a discussion

12 between Mr. Vance and Mr. Hunt,

13 off the record.)

14 MR. HUNT: If I could have a moment, Your
15 Honor.

16 Your Honor, by a previous agreement with
17 Mr. Vance, Defendant's next in order will be received
18 through stipulation. It is some medical records of Ron
19 Levin. Dr. Maxwell, being his doctor at the time, is
20 disabled and cannot make the trip.

21 These are dated September 27th, 1983, and,
22 they show a few facts that Mr. Vance has agreed to allow
23 me to read from them: The date of birth of February
24 16th, 1942. A height of 6' 1 1/2" --

25 THE COURT: I'm sorry could give me --

1 MR. HUNT: Date of birth is February 16th,
2 1942.

3 THE COURT: Thank you.

4 MR. HUNT: 6' 1 1/2." Weight of 159 and a
5 half pounds. Those measurements being taken on
6 September 27, 1983.

7 MR. VANCE: September or December?

8 MR. HUNT: September 27th, 1983.

9 MR. VANCE: That is correct.

10 MR. HUNT: That would be Defense 1282.

11 THE CLERK: 1282.

12 THE COURT: And that's in evidence by
13 stipulation?

14 MR. VANCE: That is correct.

15 THE COURT: All right.

16 (Whereupon Defense Exhibit 1282,

17 Ron Levin's medical records,
18 was marked for identification.)

19 (Whereupon Exhibit 1282,
20 previously marked for identification
21 was admitted into evidence.)

22 MR. HUNT: Your Honor, I would like to request
23 a ten-minute intermission so that I could get acquainted
24 with a couple of the witnesses that would be next. I
25 haven't had an opportunity to do so.

1 THE COURT: All right. We will take, for
2 round figures, about 12 minutes. We will resume at a
3 quarter to 10:00, and remember the admonition.

4 MR. VANCE: After the jury goes out, can we
5 use about one minute of that.

6 (Whereupon the jury left the courtroom.)

7 THE COURT: All right. The record will show
8 all members of the jury have left the courtroom.

9 MR. VANCE; Your Honor, two things.

10 First of all we have a witness that by
11 previous arrangement with Mr. Hunt, that we were going
12 to be able to call, hopefully, this morning, a David
13 Haghani from Toronto, Canada. And I just wanted to
14 alert the Court to that.

15 Mr. Hunt has a couple what he says are short
16 witnesses. We just need to get Mr. Haghani on sometime
17 this morning.

18 Second thing is, that -- Let's just leave that
19 and let Mr. Hunt talk to his witnesses, and I'll take
20 care of the second thing later on.

21 THE COURT: All right.

22 [A RECESS WAS TAKEN.]

23 MR. HUNT: There is one in limine with respect
24 to Mr. Haghani, whenever the Court wants to hear it.

25 THE COURT: I'll hear it right before we put

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN MATEO

3 DEPARTMENT NO. 11 HON. DALE A. HAHN, JUDGE

4 PEOPLE OF THE STATE)
5 OF CALIFORNIA,)
6 Plaintiff,)
7 vs.)
8 JOSEPH HUNT,)
9 Defendant.)
10)
11 STATE OF CALIFORNIA)
12) SS.
13 COUNTY OF SAN MATEO)
14

11 I, DONNA HEUMAN, CERTIFIED SHORTHAND REPORTER AND
12 OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF
13 CALIFORNIA, COUNTY OF SAN MATEO, DO HEREBY CERTIFY THAT
14 FOREGOING PARTIAL TRANSCRIPT OF PROCEEDINGS, PARTIAL
15 TRIAL VOLUME 40, PAGES 7,095 THROUGH 7,155, COMPRISES A
16 TRUE AND CORRECT COMPUTER-AIDED PARTIAL TRANSCRIPTION OF
17 THE PROCEEDINGS I REPORTED IN DEPARTMENT 11, ON JUNE 29,
18 1992, IN THE MATTER OF THE ABOVE-ENTITLED CAUSE.

19 DATED THIS 7TH DAY OF AUGUST, 1992.

20
21 

22 DONNA HEUMAN, CSR 4321
23 OFFICIAL REPORTER, SUPERIOR COURT
24
25



CITY OF BEVERLY HILLS

INTEROFFICE COMMUNICATION

March 26, 1993

TO: SERGEANT TOM EDMONDS

FROM: DETECTIVE LES ZOELLER

SUBJECT: MURDER INFORMATION BY SUSPECT IN VIRGINIA

In the course of investigating the disappearance of Ronald G. Levin (case #8405436), it was learned that he was the victim of murder committed by Joseph Hunt and James Pittman (Billionaire Boys Club). Witnesses stated that his body was buried in the mountains above Soledad Canyon. His body was never found. From the beginning of the court proceedings, the two defendant's cases have been severed. After numerous delays, in 1985, James Pittman was brought to trial first. The jury came back hung, 11-1 for guilty. In 1987, Joseph Hunt was brought to trial and convicted. After a penalty phase, the jury gave him life without the possibility of parole. James Pittman was again tried and again the jury hung, this time 10-2 for acquittal. James Pittman subsequently pled guilty to accessory to murder after the fact. He was sentenced to three years (time served) and was transferred to Northern California to await trial for the murder of Hedayat Eslaminia.

In 1992, Joseph Hunt was tried in Northern California for the murder of Hedayat Eslaminia. The jury hung 8-4 for acquittal. The prosecution, the State Attorney General's Office, thereafter dismissed the case against Joseph Hunt and James Pittman. Although the prosecution said they would re-file the case, probably this summer, a retrial may be too cost prohibitive.

In the Northern California trial, Joseph Hunt defended himself. The prosecution was allowed to bring in the Levin conviction to support their case. Joseph Hunt, in turn, brought in five witnesses that claimed to have seen Ronald G. Levin after his disappearance; death. Jurors in that trial said that they believed Joseph Hunt, and would assist in obtaining a new trial for him. His appeal is currently being heard.

An article was written, published in the Los Angeles Magazine, describing the Northern California trial which included the Levin murder case. The article has interviews of some of the jurors plus statements by Joseph Hunt. Attached is a copy of the article with highlighted excerpts referring to the Levin case and

-1-
Exh. 209
2 En - 509

March 26, 1993

Levin on camera and arrange for him to travel to California after his release to show me where the remains of Ronald G. Levin are.

The conviction of Joseph Hunt is currently in the appeals court. The grounds for his appeal are judicial error, inadequacy of counsel and new evidence which is where he would introduce the five new witnesses who state that they have seen Ronald G. Levin after his reported disappearance; death. If his appeal is obtained, Joseph Hunt may very well be back in court in 1994. A new trial, ten years after the crime, would be hard to win without additional evidence of our own. James Pittman can supply that additional information.

March 28, 1993 3:19 PM (.DOC)

Exh. 209

3

2er-510

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4
5 IN RE:

6 JOSEPH HUNT,

7 PETITIONER.

NO. A090435

8 ON HABEAS CORPUS
910
11 REPORTER'S TRANSCRIPT OF PROCEEDINGS12 FRIDAY, JULY 7, 1995
13
14

15 APPEARANCES:

16 FOR THE PLAINTIFF:

GIL GARCETTI
DISTRICT ATTORNEY
BY: ANDREW J. MC MULLEN, DEPUTY
IMOGENE M. N. KATAYAMA, DEPUTY
18000 CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

20 FOR THE PETITIONER:

KLEIN & CRAIN
A LAW CORPORATION
ROWAN K. KLEIN, ESQ.
MICHAEL M. CRAIN, ESQ.
3201 WILSHIRE BLVD., SUITE 312
SANTA MONICA, CALIFORNIA 9050325 M. HELEN THEISS, CSR, #2264
26 OFFICIAL COURT REPORTER
27
28**COPY**

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<u>DEFENDANT'S</u> <u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR</u> <u>DIRE</u>	<u>VOL</u>
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<u>DEFENDANT'S</u> <u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR</u> <u>DIRE</u>	<u>VOL</u>
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1 LOS ANGELES, CALIFORNIA; MONDAY, APRIL 22, 1996

2 9:10 A. M.

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4
5 APPEARANCES:

6 THE PETITIONER, JOSEPH HUNT, WITH HIS COUNSEL,
7 ROWAN KLEIN, BAR PANEL APPOINTMENT; AND MICHAEL
8 CRAIN, BAR PANEL APPOINTMENT; ANDREW MC MULLEN,
9 DEPUTY DISTRICT ATTORNEY OF LOS ANGELES COUNTY;
10 AND IMOGENE KATAYAMA, DEPUTY DISTRICT ATTORNEY OF
11 LOS ANGELES COUNTY, REPRESENTING THE PEOPLE OF THE
12 STATE OF CALIFORNIA.

13
14 (M. HELEN THEISS, CSR #2264, OFFICIAL REPORTER.)

15
16 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
17 DEPARTMENT 101 IS NOW IN SESSION.

18 THE COURT: IN THE CASE OF IN RE JOSEPH HUNT ON
19 HABEAS CORPUS.

20 COUNSEL, PLEASE MAKE YOUR APPEARANCES FOR THE
21 RECORD.

22 MR. CRAIN: MICHAEL CRAIN, C-R-A-I-N, HERE FOR
23 MR. HUNT.

24 MR. KLEIN: ROWAN KLEIN FOR MR. HUNT.

25 MR. MC MULLEN: ANDREW MC MULLEN FOR THE PEOPLE.

26 MS. KATAYAMA: IMOGENE KATAYAMA FOR THE PEOPLE.

27 THE COURT: THIS MATTER IS ON FOR A CONTINUATION OF
28 A HABEAS CORPUS HEARING WHICH HAS ALREADY BEGUN. THERE

1 QUARTER TO 11:00.

2

3 (RECESS.)

4

5 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
6 DEPARTMENT 101 IS AGAIN IN SESSION.

7 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
8 RECORD WILL REFLECT ALL COUNSEL ARE PRESENT, PETITIONER IS
9 PRESENT.

10 YOUR WITNESS HAS ARRIVED, I UNDERSTAND,
11 MR. KLEIN?

12 MR. KLEIN: YES, YOUR HONOR.

13 MR. CRAIN: YES, YOUR HONOR.

14 THE COURT: YOU MAY CALL YOUR FIRST WITNESS.

15 LET ME ASK YOU, AS YOU CALL EACH WITNESS, TO
16 IDENTIFY FOR THE RECORD WHICH OF THE PARAGRAPHS FROM THE
17 O.S.C. THE WITNESS'S TESTIMONY RELATES TO.

18 MR. CRAIN: THIS WILL BE 1-A, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 MR. CRAIN: THE WITNESS IS CONNIE GERRARD, WHO IS
21 PRESENT.

22 WILL YOU COME UP TO THE WITNESS STAND,
23 PLEASE?

24

25 CONNIE GERRARD, +
26 CALLED AS A WITNESS BY THE PETITIONER, WAS SWORN AND
27 TESTIFIED AS FOLLOWS:

28

1 THE CLERK: WOULD YOU STEP BEHIND THE COURT
2 REPORTER, PLEASE.

3 STAND RIGHT THERE PLEASE. FACE ME AND RAISE
4 YOUR RIGHT HAND.

5 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
6 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
7 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
8 SO HELP YOU GOD?

9 THE WITNESS: I DO.

10 THE CLERK: PLEASE TAKE THE WITNESS STAND.

11 WOULD YOU PULL THE MICROPHONE TOWARDS YOU.

12 STATE AND SPELL YOUR NAME.

13 THE WITNESS: CONNIE GERRARD, C-O-N-N-I-E.

14 MR. CRAIN: COULD I APPROACH THE WITNESS JUST TO
15 HELP HER WITH THE MICROPHONE?

16 THE COURT: YES.

17 THE WITNESS: CONNIE, C-O-N-N-I-E. GERRARD,
18 G-E-R-R-A-R-D.

19 THE COURT: YOU ARE TAKING THIS WITNESS, MR. CRAIN?

20
21 MR. CRAIN: YES, YOUR HONOR.

22 THE COURT: GOOD.

23 YOU MAY CONTINUE.

24
25 DIRECT EXAMINATION +

26
27 BY MR. CRAIN:

28 Q GOOD MORNING, MRS. GERRARD.

1 A GOOD MORNING.

2 Q I WOULD LIKE TO ASK YOU ABOUT A PERSON BY THE
3 NAME OF RON LEVIN. DID YOU KNOW SUCH A PERSON AT ONE
4 TIME?

5 A YES, I DID.

6 Q HAD YOU MET HIM PERSONALLY?

7 A YES.

8 Q AND BEFORE WE GET BACK TO MR. LEVIN, WERE YOU
9 CALLED AS A WITNESS IN MR. HUNT'S TRIAL IN SAN MATEO IN
10 1992?

11 A YES.

12 Q DID YOU GIVE TESTIMONY ABOUT YOUR KNOWLEDGE
13 OF MR. LEVIN AT THAT TIME?

14 A YES.

15 Q AND THE PERSON NAMED RON LEVIN APPROXIMATELY
16 WHAT TIME PERIOD WAS IT WHEN YOU FIRST MET HIM?

17 A I MET HIM DURING THE ELECTIONS IN, I AM NOT
18 SURE WHAT YEAR IT WAS, BUT IT WAS IN THE 80'S.

19 Q IN THE 1980'S?

20 A YES.

21 Q OKAY.

22 AND APPROXIMATELY HOW MANY TIMES DID YOU
23 ENCOUNTER MR. LEVIN PERSONALLY?

24 A ALMOST TEN TIMES. I WOULD SAY ABOUT TEN
25 TIMES.

26 Q AND JUST GENERALLY SPEAKING IN WHAT
27 CONNECTION DID YOU HAVE MEETINGS OR ENCOUNTERS WITH HIM?

28 A I WAS HELPING OUT MY DAUGHTER AND SON-IN-LAW

1 IN THE NEWS BUSINESS, AND I WOULD OFTEN GO WITH THEM AND
2 THE DIFFERENT NEWS -- WHENEVER THERE WAS NEWS ESPECIALLY
3 ON THE ELECTION THAT YEAR, AND ALSO I DELIVERED TAPES FOR
4 THEM AND VARIOUS THINGS.

5 THE COURT: DELIVERED TAPES TO WHOM -- FOR WHOM, I
6 MEAN?

7 THE WITNESS: FOR L.A. NEWS SERVICE.

8 BY MR. CRAIN:

9 Q WAS THAT -- DID YOUR SON-IN-LAW HAVE SOME
10 CONNECTION WITH THAT SERVICE?

11 A YES. THEY OWNED L.A. NEWS SERVICE, MY
12 SON-IN-LAW AND MY DAUGHTER.

13 Q AT SOME POINT YOU WERE INTRODUCED TO RON
14 LEVIN BY SOMEONE?

15 A YES. I MET HIM, I BELIEVE IT WAS THE BEVERLY
16 HILTON HOTEL AT ONE OF THE PRE-CONVENTIONS OR CONVENTION
17 THINGS WHERE ALL THE NEWS MEDIA WAS THERE.

18 Q AND OF THE TIMES THAT YOU MET MR. LEVIN IN
19 THE '80'S WHAT WOULD YOU SAY THE LONGEST PERIOD OF TIME
20 WAS THAT MR. LEVIN WAS IN YOUR COMPANY OR IN YOUR PRESENCE
21 WHERE YOU ACTUALLY COULD SEE HIM, SEE WHAT HE LOOKS LIKE?

22 A HE WAS IN MY HOME FOR ABOUT AN HOUR, AND THEN
23 ALSO I MET HIM AT HIS APARTMENT FOR ABOUT 45 MINUTES TO AN
24 HOUR.

25 Q NOW, DID MR. LEVIN EVER IDENTIFY HIMSELF AS
26 AN ATTORNEY?

27 A YES.

28 Q AND WAS THAT IN CONNECTION WITH ANYTHING IN

1 PARTICULAR THAT INVOLVED YOU OR A MEMBER OF YOUR FAMILY?

2 A MY YOUNGER DAUGHTER HAD BEEN HURT ON A MOVIE
3 SET, AND I WAS TALKING TO HIM IN PASSING ONE TIME ABOUT
4 IT, AND HE TOLD ME HE WAS A LAWYER AND HE WOULD COME AND
5 LOOK AT HER INJURY.

6 Q AND WHEN YOU SAY HE TOLD YOU HE WAS A
7 LAWYER --

8 A HE TOLD ME HE WAS A LAWYER.

9 Q -- YOU ARE REFERRING TO --

10 A I AM SORRY. TO MR. LEVIN, RON LEVIN.

11 AND HE SAID HE WOULD COME OVER AND TAKE A
12 LOOK AT MY DAUGHTER'S INJURY.

13 Q DID HE DO SO?

14 A YES, HE DID.

15 Q AND WOULD YOU BE ABLE TO RECOGNIZE A
16 PHOTOGRAPH OF MR. LEVIN, IF YOU SAW ONE?

17 A YES. YES.

18 MR. CRAIN: MAY WE MARK THIS AS PETITIONER'S A?
19 BY MR. CRAIN:

20 Q BY THE WAY, WHAT DID MR. LEVIN LOOK LIKE?

21 THE COURT: DO WE HAVE AN EXHIBIT LIST PREPARED? I
22 THINK WE PREPARED A FORM THAT WAS SENT OUT TO BOTH SIDES.

23 MR. KLEIN: WE DON'T HAVE IT WITH US, YOUR HONOR.
24 WE HAVE ANOTHER ONE, AND I WILL WRITE IT ON THERE.

25 THE COURT: WE PREPARED THAT EXHIBIT LIST FOR THIS
26 CASE.

27 MR. CRAIN: I KNOW. THIS MAY BE ACTUALLY OUTSIDE
28 THE EXHIBIT LIST, BUT IT IS PROBABLY SOMETHING THAT BOTH

1 OF -- IT IS SO BASIC WE SHOULD HAVE PUT IT ON THE LIST. I
2 AM NOT SURE THAT IT IS THERE. IT MAY BE ON ONE OF THE
3 LISTS.

4 THE COURT: SO YOU HAVEN'T PREPARED YOUR LIST YET?

5 MR. KLEIN: NO.

6 THE COURT: IT WILL BE MARKED AS PETITIONER'S 1.
7 YOU ARE THE PLAINTIFF IN THIS CASE.

8 MR. CRAIN: OKAY.

9

10 {MARKED FOR ID = PETITIONER 1, PHOTOGRAPH.}

11

12 MR. CRAIN: LET ME ASK A FEW MORE PRELIMINARY
13 QUESTIONS.

14 THANK YOU

15 MR. CRAIN:

16 Q MRS. GERRARD, COULD YOU DESCRIBE WHAT
17 MR. LEVIN LOOKED LIKE DURING THOSE YEARS BACK IN THE
18 1980'S?

19 A HE WAS TALL, SLIM, DISTINGUISHED LOOKING. HE
20 HAD A BEARD, GRAY BEARD, WELL TRIMMED, GRAY HAIR, NOT
21 SHORT, NOT LONG BUT FULL. AND HE WAS JUST, I THOUGHT, A
22 GOOD LOOKING, DISTINGUISHED GENTLEMEN.

23 Q AND HOW DID HE DRESS?

24 A HE DRESSED IMMACULATELY ALWAYS. WELL
25 TAILORED, BEST CLOTHES.

26 Q AND DID HE ALSO APPEAR TO BE IMMACULATE IN
27 THE WAY HE TOOK CARE OF HIMSELF?

28 A COMPLETELY. HE WAS ALWAYS SPOTLESS.

1 Q DID HE ALSO TELL YOU OTHER THINGS ABOUT HIS
2 BACKGROUND, SUCH AS HIS PARENTAGE, WHETHER OR NOT HE CAME
3 FROM A WEALTHY FAMILY, ANYTHING LIKE THAT?

4 A YES. HE TOLD ME HE WAS FROM A VERY WEALTHY
5 FAMILY. RON LEVIN SAID HE WAS A LAWYER AND HE HAD ONE
6 SON, AND JUST -- HE SAID HIS FAMILY WAS VERY WEALTHY. HE
7 CAME FROM NEW YORK.

8 Q DID HE ALSO GIVE ANY INDICATION TO YOU THAT
9 LED YOU TO BELIEVE THAT HE MIGHT BE GAY OR HOMOSEXUAL?

10 MR. MC MULLEN: OBJECTION. IRRELEVANT.

11 THE COURT: LAY A FOUNDATION.

12 MR. CRAIN: IT HAS TO DO WITH THE WITNESS'S
13 ABILITY --

14 THE COURT: I KNOW. BUT LAY A FOUNDATION. WAS
15 THERE ANY REASON TO BELIEVE THAT HE WAS HOMOSEXUAL?

16 MR. CRAIN: I THOUGHT THAT'S WHAT I DID.

17 MR. MC MULLEN: CALLS FOR SPECULATION AS WELL.

18 MR. CRAIN: I WILL WITHDRAW AT THIS POINT.

19 BY MR. CRAIN:

20 Q LET ME SHOW YOU THIS PHOTOGRAPH. DO YOU
21 RECOGNIZED PETITIONER'S 1, I THINK WE AGREED ON --

22 THE COURT: YES.

23 BY MR. CRAIN:

24 Q DO YOU RECOGNIZE THE PERSON IN THIS
25 PHOTOGRAPH?

26 A YES.

27 Q WHO IS THAT?

28 A THAT'S RON LEVIN.

1 Q IS THERE ANY QUESTION IN YOUR MIND ABOUT
2 THAT?

3 A NO. NONE AT ALL.

4 Q YOUR SON-IN-LAW -- EXCUSE ME.

5 MR. CRAIN: MAY I HAVE JUST A MINUTE.

6 THE COURT: YES.

7
8 (PAUSE.)

9
10 BY MR. CRAIN:

11 Q AND YOUR SON-IN-LAW, WHAT'S HIS NAME, THE ONE
12 THAT YOU IDENTIFIED AS BEING IN THE NEWS BUSINESS WHEN YOU
13 HAD MET MR. LEVIN?

14 A BOB TUR.

15 Q AND SO JUST TO ELABORATE JUST A BIT, WHAT
16 EXACTLY WAS MR. LEVIN'S CONNECTION ON THESE OCCASIONS WHEN
17 YOU MET HIM? WHAT WAS HIS CONNECTION WITH THE NEWS
18 BUSINESS, AS FAR AS YOU ARE ABLE TO TELL?

19 A HE WANTED TO GET INTO THE NEWS BUSINESS, AND
20 FROM THAT HE WANTED TO GET INTO THE MOVIES OR PRODUCING
21 PICTURES, AND HE FELT THAT THIS WOULD BE A GOOD ENTRE INTO
22 THAT.

23 Q THESE WERE THINGS THAT HE PERSONALLY TOLD YOU
24 OR TOLD SOMEBODY WHILE YOU WERE THERE?

25 MR. MC MULLEN: OBJECTION. IRRELEVANT. HEARSAY.

26 THE COURT: I WILL ALLOW SOME LATITUDE GOING TO THE
27 ABILITY OF THE WITNESS TO HAVE PERSONAL CONTACTS AND THE
28 NATURE OF THAT CONTACT WITH THE VICTIM, MR. LEVIN.

1 MR. CRAIN: THANK YOU

2 BY MR. CRAIN:

3 Q DID YOU GET THE QUESTION?

4 A YES. I KNEW THAT HE WAS INTERESTED IN THE
5 NEWS BECAUSE I TALKED TO HIM MANY TIMES ON THE PHONE ABOUT
6 IT. HE WANTED TO PICK UP DIFFERENT NEWS TAPES, AND ALSO
7 HE HAD TAPES THAT HE HAD TAKEN AT DIFFERENT NEWS EVENTS.
8 SO I TALKED TO HIM IN PASSING.

9 Q WHAT ABOUT THE NEWS. DID HE PERSONALLY TELL
10 YOU OR SOMEBODY IN YOUR PRESENCE ABOUT HIS INTERESTS IN
11 THE MOVIES?

12 A YES.

13 Q NOW, DID YOU EVER VISIT AT MR. LEVIN'S
14 RESIDENCE?

15 A YES.

16 Q WHAT CITY WAS THAT IN?

17 A BEVERLY HILLS.

18 Q CAN YOU TELL US WHAT STREET IT WAS ON OR
19 WHERE IT WAS NEAR?

20 A IT WAS NEAR SAKS. I THINK IT WAS PECK DRIVE.

21 Q THAT'S SAKS, IS THAT THE DEPARTMENT STORE?

22 A SAKS 5TH AVENUE.

23 Q THAT'S WILSHIRE BOULEVARD?

24 A THAT'S WILSHIRE.

25 Q HOW MANY TIMES DID YOU VISIT AT MR. LEVIN'S
26 RESIDENCE WHERE YOU ACTUALLY WENT INSIDE?

27 A TWO TO THREE TIMES.

28 Q WAS HE PRESENT DURING THOSE TIMES?

1 A YES. MAYBE ONCE I STAYED IN THE CAR, BUT
2 TWICE I WENT IN FOR QUITE A LONG TIME.

3 Q AND HE WAS PRESENT, WAS HE, DURING THOSE
4 TIMES?

5 A YES.

6 Q NOW, WAS MR. LEVIN, IN YOUR MIND WAS HE IN
7 ANY WAY A MEMORABLE PERSON AS FAR AS YOU WERE CONCERNED OR
8 NOT?

9 A YES. I WAS QUITE IMPRESSED BY HIM.

10 Q WHY WAS THAT?

11 A WELL, HE CAME OFF -- I MEAN HE WAS
12 BELIEVABLE, AND I AM A SKEPTIC. I FRANKLY DON'T BELIEVE
13 ANYTHING, BUT WHATEVER HE PASSED FOR I BELIEVED HIM.

14 Q SO WHEN HE TOLD YOU HE WAS AN ATTORNEY YOU
15 BELIEVED THAT?

16 A ABSOLUTELY.

17 Q WHEN HE TOLD YOU HE WAS INTERESTED IN THE
18 NEWS BUSINESS YOU BELIEVED THAT?

19 A YES, THAT I KNEW.

20 Q AND WHAT ABOUT ANYTHING ELSE ABOUT HIM, HIS
21 BACKGROUND, HIS FAMILY, HAVING A SON, DID YOU BELIEVE
22 THOSE THINGS?

23 A WELL, HE HAD A ROLLS ROYCE. IF HE ASKED YOU
24 FOR DINNER, HE WOULD HAVE THE FOOD DELIVERED TO HIS HOME.
25 HE PARTICULARLY LIKED LA SCALA. HE GAVE MY DAUGHTER -- MY
26 DAUGHTER JUST HAD A BABY, HE GAVE HER ELABORATE GIFTS,
27 WHICH I RECEIVED IN THE HOME. THEY WERE SENT SPECIAL
28 DELIVERY. SO I REALLY BELIEVED HE WAS VERY WEALTHY, THAT

1 HE WANTED TO GET INTO THE MOVIE BUSINESS, HE WANTED TO
2 PRODUCE PICTURES AND HE FIGURED HE WOULD GET IN THIS WAY.

3 Q WHEN YOU SAY YOU ARE A SKEPTIC, WHAT DO YOU
4 MEAN BY THAT?

5 A I DON'T BELIEVE MOST PEOPLE ON --

6 MR. MC MULLEN: OBJECTION. IRRELEVANT.

7 THE COURT: HOLD ON.

8 SUSTAINED.

9 MR. CRAIN: MAY I BE HEARD ON THAT BRIEFLY, YOUR
10 HONOR?

11 THE COURT: NO. IT IS NOT RELEVANT.

12 BY MR. CRAIN:

13 Q NOW, AT SOME POINT DID YOU LEARN THAT
14 MR. LEVIN HAD DISAPPEARED?

15 A OH, YES, FROM THE NEWSPAPER.

16 Q DID YOU FOLLOW ACCOUNTS OF MR. LEVIN'S
17 DISAPPEARANCE FROM TIME TO TIME IN THE MEDIA, IN THE
18 NEWSPAPER, THE OTHER FORMS OF MEDIA?

19 A I REMEMBER FIRST SEEING IT ON T.V. THE
20 BEVERLY HILLS POLICE WERE SHOWING HIS YARD AND SPEAKING
21 ABOUT IT, ABOUT MR. LEVIN HAVING DISAPPEARED.

22 Q ALL RIGHT.

23 A AND I READ IT IN THE NEWSPAPER MANY TIMES.

24 Q DID YOU LEARN LATER THAT SOMEONE HAD BEEN PUT
25 ON TRIAL FOR ALLEGEDLY MURDERING MR. LEVIN?

26 A YES. I READ -- I READ THE NEWSPAPER EVERY
27 DAY.

28 Q COULD YOU SPEAK UP JUST A LITTLE MORE IN THE

1 MICROPHONE? I WANT TO MAKE SURE THAT WE GET EVERYTHING
2 THAT YOU SAY.

3 A I READ IT IN THE NEWSPAPER. I READ THE
4 NEWSPAPER THOROUGHLY EVERY DAY.

5 Q OKAY.

6 NOW, YOU TRAVELED TO GREECE IN THE PAST?

7 A YES.

8 Q AND YOU HAVE BEEN THERE MORE THAN ONCE?

9 A YES. ABOUT 20 TIMES.

10 Q ARE YOU AND YOUR HUSBAND OF GREEK DESCENT?

11 A YES.

12 Q DO YOU SPEAK GREEK?

13 A YES.

14 Q DOES YOUR HUSBAND SPEAK GREEK?

15 A YES.

16 Q WERE YOU RAISED SPEAKING GREEK IN THE HOME?

17 A YES.

18 Q AND HE WAS ALSO; IS THAT RIGHT?

19 A YES.

20 Q AND IN THE LATE 1987 DID YOU GO TO GREECE?

21 A YES.

22 Q AND DID YOU GO THERE FROM CALIFORNIA?

23 A YES.

24 Q AND DID YOU FLY INTO SOME PLACE IN GREECE
25 FIRST?

26 A YEAH. THE AIRPORT, ATHENS.

27 Q THAT'S THE AIRPORT OF ATHENS?

28 A YES.

1 Q AND AT SOME POINT DID YOU GO TO THE ISLANDS
2 OF MYKONOS?

3 A YES.

4 Q NOW, IS MYKONOS A GREEK ISLAND THAT'S PART OF
5 THE COUNTRY OF GREECE?

6 A YES.

7 Q AND ITS OFF THE COAST OF THE AEGEAN SEA;
8 RIGHT?

9 A YES.

10 THE COURT: WHEN DID YOU SAY THIS FLIGHT WAS AGAIN?

11 THE WITNESS: IT WAS AROUND CHRISTMAS.

12 THE COURT: WHAT YEAR?

13 THE WITNESS: '87.

14 THE COURT: '87?

15 THE PETITIONER: I BELIEVE 1987.

16 THE COURT: ALL RIGHT.

17 BY MR. CRAIN:

18 Q AND YOU PREVIOUSLY TESTIFIED IN SAN MATEO
19 THIS WAS CHRISTMAS OF 1987; IS THAT RIGHT?

20 A YES.

21 Q AND TO GO BACK TO CHRISTMAS DAY, DID YOU GO
22 TO MYKONOS?

23 A YES.

24 Q AND WHAT WAS YOUR PURPOSE IN GOING TO
25 MYKONOS?

26 A EVERY YEAR WHEN WE GO TO GREECE WE ALWAYS GO
27 TO GREECE AND ANOTHER ISLAND OR UP TO SALONIKA OR A SIDE
28 TRIP, WE GO DOWN TO -- WE GO TO KARFU OR RHODES AS PART OF

1 OUR TRIP.

2 Q SALONIKA IS IN THE NORTH OF GREECE?

3 A YES.

4 Q AND HAD YOU BEEN TO MYKONOS BEFORE 1987?

5 A NEVER.

6 Q AND WAS THERE ANYTHING IN PARTICULAR OTHER
7 THAN BEING A TOURIST THAT LED YOU TO MYKONOS?

8 A I JUST HEARD SO MUCH WHAT A BEAUTIFUL ISLAND
9 IT WAS.

10 Q SO WHEN YOU WENT THERE DID YOU FLY OR TAKE A
11 BOAT, OR HOW DID YOU GET THERE?

12 A WE FLEW.

13 Q WAS THAT FROM ATHENS?

14 A WE FLEW FROM ATHENS, YES.

15 Q DIRECTLY TO MYKONOS?

16 A YES.

17 Q AND YOU LANDED AT THE AIRPORT; RIGHT?

18 A YES.

19 Q WHAT WAS THE WEATHER LIKE, WHEN YOU ARRIVED?

20 A IT WAS OVERCAST, RAINY.

21 Q ALL RIGHT.

22 A COLD.

23 Q I TAKE IT THAT WASN'T THE WEATHER YOU WERE
24 HOPING TO SEE ON MYKONOS?

25 A NO, IT WAS VERY WINDY, VERY COLD, AND I HAD A
26 COLD.

27 Q NOW, IS THERE A TOWN ON MYKONOS?

28 A MYKONOS IS JUST, THE ISLAND IS THE TOWN.

1 Q IT IS A SMALL ISLAND?

2 A SMALL ISLAND, SMALL TOWN.

3 Q AND DID YOU -- WERE YOU IN THE TOWN WHILE YOU
4 WERE THERE?

5 A YEAH. I WAS RIGHT IN THE CENTER OF TOWN.
6 THE AIRPORT OFFICE.

7 Q TELL THE COURT WHAT HAPPENED, WHEN YOU
8 ARRIVED IN THE CENTER OF TOWN.

9 A WELL --

10 MR. MC MULLEN: CALLS FOR A NARRATIVE, YOUR HONOR.
11 OBJECTION ON THAT GROUND.

12 THE COURT: I WILL ALLOW IT.

13 GO AHEAD.

14 THE WITNESS: WELL, WHEN WE ARRIVED WE WANTED TO
15 GET BREAKFAST BECAUSE WE HAD GONE WITHOUT BREAKFAST. WE
16 DIDN'T REALIZE THAT CHRISTMAS DAY EVERYTHING WAS CLOSED.
17 EVERYTHING. SO WE KIND OF WALKED AROUND AND LOOKED
18 AROUND, LOOKED FOR A PLACE. FINALLY WE SAW A MAN WALKING
19 STRAIGHT. WE SAID, "IS THERE ANY RESTAURANTS OPEN."
20 BY MR. CRAIN:

21 Q LET ME INTERRUPT FOR ONE SECOND.

22 THIS WAS YOU AND YOUR HUSBAND?

23 A MY HUSBAND AND I, YES.

24 Q OKAY.

25 A AND HE SAID, "YES, THERE IS ONE. IF YOU COME
26 TO MY SHOP AND BUY SOMETHING I WILL TELL YOU WHERE IT IS."
27 SO WE WENT INTO THE SHOP AND BOUGHT A MYKONOS T-SHIRT.
28 AND HE TOLD US, DIRECTED US RIGHT TO WHERE THIS LITTLE --

1 IT WAS JUST A HOLE-IN-THE-WALL, TINY RESTAURANT. THERE
2 WAS A LADY IN THERE, AND WE SPOKE TO HER IN GREEK, AND SHE
3 EXPLAINED THAT EVERYTHING WAS CLOSED ON THE ISLAND BECAUSE
4 EVERYBODY STAYS HOME ON THE HOLIDAYS IN MYKONOS.

5 Q WHAT DID YOU BUY IN THIS MAN'S SHOP?

6 A I BOUGHT A T-SHIRT THAT SAID MYKONOS ON IT.

7 Q AFTER YOU BOUGHT THE T-SHIRT, HE TOLD YOU
8 ABOUT THE RESTAURANT?

9 A YES. HE LED US THERE. IT WAS UP THE STREET.
10 YOU WENT UP A LITTLE TINY CROOKED STREET.

11 AND SO THE LADY SAID -- WELL, SHE HAD SOME
12 FOOD THAT SHE HAD COOKED FOR HER FAMILY, AND SHE WOULD
13 GIVE US SOME. BY THEN WE WERE VERY HUNGRY. WE ORDERED
14 THE FOOD AND WE SAT THERE.

15 Q LET ME ASK YOU -- I AM OCCASIONALLY GOING TO
16 ASK TO INTERRUPT SOMETHING HERE.

17 I WOULD LIKE YOU TO DESCRIBE THE SIZE OF THE
18 RESTAURANT APPROXIMATELY. WAS IT LARGE? SMALL? WHAT
19 DID --

20 A VERY SMALL. STORE FRONT. VERY NARROW. IT
21 HAD ON ONE SIDE WAS LIKE A BAR WHERE SHE HAD SERVED THE
22 BEER, AND THEN YOU JUST WENT UP AND ORDERED THERE AND THEN
23 THEY BROUGHT IT TO YOUR TABLE. IT WAS THIS ONE LADY. WE
24 WERE SPEAKING TO HER IN GREEK ABOUT ALL THESE THINGS, AND
25 WE SAID, "WE DON'T KNOW WHAT TO DO UNTIL THE PLANE
26 LEAVES," I THINK ABOUT 7 OR 8 O'CLOCK IN THE EVENING. AND
27 WE WERE JUST TALKING, AND MY HUSBAND AND I WERE SITTING
28 THERE WAITING FOR OUR FOOD TO COME.

1 DO YOU WANT ME TO GO ON?

2 Q AND THEN WHAT HAPPENED?

3 A AND THE DOOR OPENED AND THERE WAS MORE LIGHT
4 OUTSIDE THAN IT WAS INSIDE. IT WASN'T A WELL-LIT PLACE.
5 SO I LOOKED AND I SEE TWO PEOPLE STANDING IN THE DOORWAY
6 AND I LOOKED --

7 MR. MC MULLEN: YOUR HONOR, AT THIS POINT I AM
8 GOING TO OBJECT AS NONRESPONSIVE. I BELIEVE SHE WAS ASKED
9 TO DESCRIBE THE RESTAURANT.

10 THE COURT: HOLD ON.

11 PUT A QUESTION.

12 MR. CRAIN: SURE.

13 BY MR. CRAIN:

14 Q ALL RIGHT.

15 SO YOU ARE IN THIS SMALL RESTAURANT, IT WAS
16 STILL RAINING OUTSIDE?

17 A IT IS RAINING. THERE IS ONE DOOR TO THE
18 RESTAURANT, IT IS VERY NARROW, IT IS NARROW LIKE THAT, AND
19 THE BAR IS THERE (INDICATING).

20 THE COURT: SHOW ME.

21 THE WITNESS: IT IS VERY NARROW, LIKE THIS DOOR
22 HERE AND A BAR HERE WHERE THE LADY WAS STANDING.

23 MR. CRAIN: INDICATING, YOUR HONOR, A DOOR TO THE
24 WITNESS'S RIGHT AS SHE IS DEMONSTRATING WITH A BAR TO HER
25 LEFT.

26 THE COURT: YES.

27 MR. MC MULLEN: VERY SMALL RESTAURANT.

28 THE WITNESS: VERY SMALL. ABOUT FOUR SMALL TABLES

1 RIGHT HERE, VERY SMALL, SAY ABOUT THAT SIZE (INDICATING).

2 THE COURT: I TAKE IT SHE IS DEMONSTRATING THE
3 RELATIVE DISTANCE AS OPPOSED TO THE FACT THAT THE
4 RESTAURANT WAS THREE FEET WIDE.

5 MR. MC MULLEN: THANK YOU, YOUR HONOR.

6 THE WITNESS: EXCUSE ME.

7 I DIDN'T SAY THREE FEET.

8 THE COURT: THAT'S RIGHT.

9 MR. CRAIN: UP TO THAT POINT I WAS CERTAIN.

10 ALL RIGHT.

11 BY MR. CRAIN:

12 Q SO ABOUT HOW MANY TABLES DID THIS LITTLE
13 RESTAURANT HAVE?

14 A ABOUT FOUR.

15 Q ALL RIGHT.

16 SO YOU AND YOUR HUSBAND WERE ALREADY SEATED
17 AT ONE TABLE; IS THAT RIGHT?

18 A YES.

19 Q AND YOU WERE EATING LUNCH OR GETTING READY TO
20 HAVE LUNCH?

21 A YES.

22 Q AND WAS THERE A -- FROM THE DOOR WHAT TABLE
23 WOULD YOU HAVE BEEN IN, OR WAS THERE ANOTHER TABLE BETWEEN
24 YOU AND THE DOOR?

25 A THERE WAS ANOTHER BETWEEN ME AND THE DOOR.
26 THERE MAY HAVE BEEN TWO, BUT I WAS SITTING THERE AND THEN
27 THE TABLE AND THE DOOR.

28 Q SO YOU WERE TELLING US BEFORE THE

1 INTERRUPTION THAT THE DOOR OPENED; IS THAT RIGHT?

2 A YES.

3 Q AND WHAT HAPPENED THEN?

4 A WELL, I TURNED AROUND BECAUSE THE WIND CAME
5 IN AND I SAW TWO SILHOUETTES, ONE TALL AND ONE SHORTER.
6 AND AS I LOOKED, THE LIGHT WAS ON THEM. I COULD SEE, AND
7 I THOUGHT TO MYSELF, "MY GOD, I KNOW THIS PERSON."

8 Q WHO DID YOU THINK -- WHO DID YOU SEE?

9 A I KNOW THAT I SAW RON LEVIN.

10 Q IS THERE ANY DOUBT IN YOUR MIND ABOUT THAT?

11 A NO DOUBT AT ALL. AS HE WALKED IN AND I
12 WHISPERED THIS TO MY HUSBAND IN GREEK. I TURNED AROUND,
13 WHEN THE DOOR WAS OPEN AND MY BACK WAS TO THEM.

14 Q YOUR BACK WAS TO THE DOOR?

15 A I TURNED AROUND AND SAID, "THAT'S RON LEVIN."

16 Q WAS THE REASON YOU TURNED AROUND BECAUSE OF
17 THE DOOR OPENING -- LET ME FINISH SO THE REPORTER --
18 BECAUSE OF THE GUST OF WINDS AND SO FORTH?

19 A YEAH.

20 Q OKAY.

21 SO YOU SAID THIS TO YOUR HUSBAND, AND WHAT
22 HAPPENED THEN?

23 A THEN THEY SAT DOWN, AND I SAID TO HIM IN
24 GREEK, AND THEY SAT DOWN AT THE BACK, BACK TO BACK, AND I
25 AM LISTENING TO THE CONVERSATION.

26 THE COURT: WAS HE WITH ANOTHER MAN?

27 THE WITNESS: YES.

28

1 BY MR. CRAIN:

2 Q ALL RIGHT.

3 FIRST OF ALL, WHAT DID RON LEVIN LOOK LIKE?

4 A HE LOOKED TALL, SLIM, THE SAME IMMACULATELY
5 DRESSED. NO HAT. JUST THE JACKET AND CHINOS
6 WELL-PRESSED.

7 Q AND THIS PERSON THAT HE WAS WITH COULD YOU
8 DESCRIBE HIM?

9 A HE WAS SMALLER, KIND OF EFFEMINATE, AND HE
10 WAS NOT -- HE WAS WELL-DRESSED, BUT NOTHING LIKE RON,
11 MR. LEVIN.

12 Q THEY WERE SEATED AT A TABLE BEHIND YOU; IS
13 THAT RIGHT?

14 A YES. RON LEVIN'S BACK WAS TO ME. THE OTHER
15 MAN WAS FACING MY BACK, BUT RON LEVIN, WE WERE BACK TO
16 BACK.

17 Q SO YOU AND LEVIN WERE BACK TO BACK?

18 A YES.

19 Q AND YOUR HUSBAND WAS FACING YOU; IS THAT
20 RIGHT?

21 A YES.

22 Q AND THEN YOU MADE THE COMMENT TO YOUR HUSBAND
23 IN GREEK; RIGHT?

24 A YES.

25 Q AND DID YOU CONTINUE TO SIT THERE AT YOUR
26 TABLE DURING THIS TIME?

27 A YES. I WAS LISTENING TO THE CONVERSATION
28 THAT THEY WERE HAVING.

1 Q THE CONVERSATION THAT RON LEVIN AND THE OTHER
2 MAN WAS HAVING?

3 A RON LEVIN AND WHOEVER HE WAS WITH WAS HAVING.

4 Q WERE THEY SPEAKING IN ENGLISH?

5 A YES.

6 Q WHAT WERE THEY SAYING?

7 A THEY WERE TALKING ABOUT HOW LUCKY THEY WERE
8 TO GET A CAIKUE. THEY GOT THIS LITTLE GREEK WORKING BOAT.

9 Q OKAY.

10 CAIKUE IS --

11 THE COURT: DO YOU KNOW HOW TO SPELL THAT FOR THE
12 REPORTER IN ENGLISH?

13 THE WITNESS: C-A-I-K-U-E. BUT I ONLY KNOW IT IN
14 GREEK. BUT IT IS LIKE A SMALL WORKING FISHING BOAT.

15 BY MR. CRAIN:

16 Q SO LEVIN AND THIS MAN WERE TALKING ABOUT A
17 BOAT THEY WERE LUCKY TO GET ONE BECAUSE OF WHAT?

18 A THE WEATHER WAS SO BAD THAT THERE WERE NO
19 BOATS GOING OVER THERE. THEY WERE LUCKY THEY GOT THIS ONE
20 BOAT AND THIS BOTTLE OF WINE. AND THEY WERE SO HAPPY TO
21 BE THERE. THEY WERE GOING TO SPEND THE WHOLE DAY AND
22 DRINK THIS WINE, THIS WONDERFUL WINE THAT THEY HAD.

23 Q AND DID SOMETHING HAPPEN AFTER THAT?

24 A YES. AND THEN MR. LEVIN GOT UP TO GO TO THE
25 RESTROOM, PAST, YOU KNOW, BEHIND THE TABLE OVER TO THE
26 RESTROOM (INDICATING).

27 MR. KLEIN: SHE WAS MAKING A MOTION WITH HER HANDS
28 WALKING BY HER.

1 THE COURT: I AM SORRY.

2 THE WITNESS: HE JUST WALKED BEHIND.

3 THE COURT: ALL RIGHT.

4 MR. CRAIN: MOTION GOING FORWARDS AS IF SOMEONE WAS
5 PROCEEDING TOWARDS SOME --

6 THE WITNESS: HE HAD TO PASS MY TABLE TO GO TO THE
7 RESTROOM.

8 THE COURT: SO HE WALKED PAST YOUR TABLE.

9 THE WITNESS: YES.

10 BY MR. CRAIN:

11 Q OKAY.

12 DID YOU SPEAK TO, OR DID YOU SPEAK TO HIM TO
13 WALK PAST THE TABLE?

14 A IN THE FIRST PLACE, HE DIDN'T SEE ME.

15 Q HE WHAT?

16 A HE DIDN'T SEE ME. BECAUSE OF MY BACK HE
17 DIDN'T SEE MY FACE.

18 Q WHERE DID HE APPEAR TO BE GOING?

19 A TO THE RESTROOM.

20 Q WAS HE GONE TO THE RESTROOM FOR SOME PERIOD
21 OF TIME?

22 A I HAVE NO IDEA. I DIDN'T LOOK AT THE TIME IT
23 WENT, WENT TO THE RESTROOM.

24 Q DID HE GO OUT OFF YOUR SIGHT?

25 A I THINK HE WENT OUT OF MY SIGHT.

26 Q DID HE COME BACK INTO YOUR SIGHT AT SOME
27 POINT?

28 A YES. AND THEN MY HUSBAND HAD TURNED AROUND.

1 HE WAS -- WE WERE SITTING THERE AND I WAS THERE
2 (INDICATING), AND HE TURNED AROUND AND HE SAW HIM. AND
3 THEN, OF COURSE, WHEN MR. LEVIN SAW ME HIS FACE APPEARANCE
4 CHANGED.

5 Q LET ME JUST STOP YOU RIGHT THERE.

6 MR. LEVIN WENT PAST YOUR TABLE OUT OF YOUR
7 SIGHT AND THEN CAME BACK?

8 A CAME BACK AND HE --

9 Q DID HE APPEAR TO BE WALKING BACK TO HIS
10 TABLE?

11 A YES.

12 Q ALL RIGHT.

13 AND IN SOME WAY DID HE -- WHAT HAPPENED AS HE
14 WAS WALKING BACK TO HIS TABLE? WHY DON'T YOU TELL US.

15 A HE GLANCED UP AND HE SAW ME.

16 Q HOW DO YOU KNOW THAT?

17 A BECAUSE I SAW HOW HIS FACE CHANGED. MY
18 HUSBAND SAW HOW HIS FACE CHANGED.

19 Q JUST TELL US WHAT YOU SAW.

20 A HIS FACE GOT KIND OF WHITISH LOOKING.

21 MR. KLEIN: HER HANDS ARE UP ON THE SIDE OF HER
22 FACE, YOUR HONOR.

23 THE COURT: I THINK THAT'S JUST THE WAY YOU ARE
24 TALKING.

25 BY MR. CRAIN:

26 Q GO AHEAD AND DEMONSTRATE ANYWAY YOU WANT.

27 A I FELT HE LOOKED AT ME AND KIND OF STOPPED,
28 AND I SAW THE RECOGNITION ON HIS FACE, AND JUST KIND OF

1 PALE, AND THEN SHOULD I GO ON? RIGHT TO THE TABLE.

2 Q HIS TABLE?

3 A HIS TABLE. AND HE SAID, "WE ARE LEAVING," TO
4 HIS FRIEND. AND HE PAID THE BILL, WENT UP AND PAID THE
5 BILL AND GOT OUT.

6 Q DID YOU SEE HIM AGAIN AFTER THAT?

7 A NEVER.

8 Q ARE YOU ABSOLUTELY CERTAIN THAT THIS MAN WAS
9 RON LEVIN?

10 A I AM SURE AS I AM SURE I AM SITTING HERE. I
11 KNOW THAT'S RON LEVIN. I KNOW HIM VERY WELL.

12 MR. CRAIN: MR. KLEIN HAS WHISPERED SOMETHING I
13 COULDN'T HEAR WHAT HE WAS SAYING?

14

15 (PAUSE.)

16

17 BY MR. CRAIN:

18 Q YOU TOLD US THIS WAS CHRISTMAS OF 1987.

19 A YES.

20 Q NOW -- AND YOU TOLD US YOU HAD FOLLOWED THE
21 TRIAL; CORRECT?

22 A YES.

23 Q NOW, DID YOU SPEAK TO MR. LEVIN THERE IN THE
24 RESTAURANT OR ATTEMPT TO SPEAK TO HIM?

25 A NO.

26 Q WAS THERE ANY REASON FOR THAT?

27 A WELL, I AM ON THIS ISLAND -- THANK YOU --
28 NOBODY KNEW WE WERE THERE. I DIDN'T KNOW WHAT COULD

1 HAPPEN, YOU KNOW, IF MR. LEVIN WAS ON -- SAY, ON THE LAMB
2 I FIGURED HE WOULDN'T WANT ANYBODY TO KNOW WHO HE WAS OR
3 WHERE HE WAS. I DIDN'T THINK. I WOULD NOT HAVE SPOKEN TO
4 HIM.

5 Q AT SOME POINT DID YOU LEAVE MYKONOS AND GO
6 BACK TO THE MAIN LAND?

7 A YES. THE PLANE, I THINK, LEFT ABOUT 7:00 OR
8 8:00 AT NIGHT. WE HAD TO WAIT AROUND.

9 Q DID YOU RETURN TO ATHENS?

10 A YES.

11 Q AND AT SOME POINT AFTERWARDS DID YOU RETURN
12 TO YOUR HOME IN CALIFORNIA?

13 A AFTER NEW YEAR'S.

14 Q AND WHEN YOU RETURNED, DID YOU DISCUSS WITH
15 ANYONE THAT YOU HAD SEEN RON LEVIN IN MYKONOS IN THAT
16 RESTAURANT?

17 A WELL, WHEN YOU RETURN FROM TRIPS YOU USUALLY
18 TELL YOUR HIGHLIGHTS, THAT TO ME WAS, YOU KNOW, SOMETHING,
19 A HIGHLIGHT, AND I TOLD MY DAUGHTER AND MY OTHER DAUGHTER.
20 MY YOUNGER DAUGHTER WAS ENGAGED TO SOMEONE FROM ABC. AND
21 SO BOB, I THINK, SUGGESTED, "WHY DON'T YOU CALL HIM AND
22 TELL HIM. HE IS WORKING IN NEWS, AND TELL HIM WHAT YOU
23 SAW AND GO FROM THERE."

24 Q WHAT WAS THAT PERSON'S NAME WHO WAS ENGAGED
25 TO YOUR OTHER DAUGHTER?

26 A MICHAEL RAY.

27 Q HE WAS WITH "ABC NEWS"?

28 A YES.

1 Q LET ME JUST BACK UP A MINUTE.

2 YOU SAID A MINUTE AGO THAT YOU DIDN'T SPEAK
3 TO LEVIN. YOU THOUGHT HE MIGHT BE ON THE LAMB. WHAT DID
4 YOU MEAN BY THAT?

5 A WELL, I KNEW THAT THE BEVERLY HILLS POLICE --
6 WERE GOING INTO DIFFERENT NEWS PLACES. THEY WERE ALWAYS
7 SAYING THAT THE BEVERLY HILLS POLICE WANTED HIM TO BE DEAD
8 BECAUSE THEY WANTED TO CLOSE THE CASE. AND I JUST KNEW
9 THAT SOMEBODY LIKE RON LEVIN WAS AN ULTIMATE CON MAN.
10 NOBODY FOUND THE BODY. I KNEW THAT HE WOULD BE THE TYPE
11 OF PERSON THAT WOULD HAVE A GOOD CHANCE TO GET AWAY.

12 Q HAD YOU READ NEWS ACCOUNT WHERE LEVIN WAS
13 COMMONLY DEPICTED AS A CON MAN WHEN YOU WERE READING ABOUT
14 THE TRIAL?

15 A I THINK I JUST KNEW IT. WE WERE ALL TAKING,
16 EVERYBODY IN THE NEWS BUSINESS BY THEN KNEW THAT HE WAS,
17 TOLD A LOT OF LIES, AND THAT HE WAS INVOLVED IN DIFFERENT
18 THINGS.

19 Q DO YOU KNOW MR. HUNT PERSONALLY? DID YOU
20 EVER MEET HIM BEFORE YOU TESTIFIED AS A WITNESS IN SAN
21 MATEO?

22 A NO. I SEEN HIS PICTURES IN THE PAPER, AND I
23 MET HIM IN SAN MATEO BEFORE THE TRIAL.

24 Q GOING BACK TO YOUR BEING TOLD TO GET THE
25 ADVICE OF MR. RAY, YOUR OTHER DAUGHTER'S FIANCE, DID YOU
26 TALK TO MR. RAY, MICHAEL RAY, ABOUT WHAT YOU HAD SEEN IN
27 MYKONOS?

28 A NO. I NEVER SPOKE TO HIM ABOUT THAT. BY THE

1 WAY, THEY BROKE UP AFTERWARDS, A COUPLE OF MONTHS
2 AFTERWARDS.

3 Q DID YOU EVER ASK HIM WHETHER OR NOT YOU
4 SHOULD GO TO THE POLICE OR ANYBODY WITH THAT INFORMATION?

5 A WHEN I FIRST CALLED, THE ONE TIME I CALLED
6 HIM I TOLD HIM THE STORY. HE SAID, "IF I WERE YOU, FORGET
7 ABOUT IT. YOU DON'T WANT TO GET INVOLVED." AND THAT
8 ENDED IT WITH HIM. I NEVER SAID ANYTHING MORE TO HIM.

9 Q WHAT EXACTLY DID YOU TELL HIM?

10 A I JUST TOLD HIM THE SAME STORY, YOU KNOW,
11 THAT I SAW THIS MAN, I KNOW IT WAS RON LEVIN, AND I THINK
12 MAYBE SOMEBODY WOULD GO FURTHER AND INVESTIGATE IT.

13 Q AND HE TOLD YOU WHAT?

14 A HE SAID, "DON'T GET INVOLVED."

15 Q AND --

16 A HE WAS RIGHT.

17 Q UP UNTIL THE TIME THAT YOU WERE SUMMONED TO
18 BE A WITNESS IN SAN MATEO DID YOU DO ANYTHING FURTHER
19 ABOUT YOUR OBSERVATION OF MR. LEVIN IN THIS RESTAURANT IN
20 GREECE?

21 A I ONLY TOLD MY DAUGHTER-IN-LAW -- I TOLD HER
22 AND I TOLD DIFFERENT PEOPLE, "HEY," YOU KNOW, IT IS A
23 HIGHLIGHT OF THE TRIP, "I SAW RON LEVIN," JUST IN PASSING.

24 Q IS THERE SOME REASON YOU DIDN'T WANT TO GET
25 INVOLVED?

26 A YES. NOW THAT I THINK ABOUT IT.

27 Q WHAT'S THAT?

28 A I AM SORRY I GOT INVOLVED.

1 Q DO YOU ENJOY COMING TO DIFFERENT COURTHOUSES
2 TO TESTIFY ABOUT HAVING SEEN MR. LEVIN?

3 MR. MC MULLEN: OBJECTION. IRRELEVANT.

4 THE COURT: OVERRULED.

5 I AM SORRY. I COULDN'T HEAR YOUR ANSWER.

6 THE WITNESS: NO. NO WAY. I DON'T MIND WATCHING
7 IT ON T.V., BUT I DON'T WANT TO BE ANY PART OF IT.

8 MR. CRAIN: I DON'T BELIEVE I HAVE ANY FURTHER
9 QUESTIONS, YOUR HONOR.

10 THE COURT: ANY CROSS-EXAMINATION?

11 MR. MC MULLEN: THANK YOU

12

13 CROSS-EXAMINATION @

14

15 BY MR. MC MULLEN:

16 Q GOOD MORNING, MA'AM.

17 PRIOR TO TODAY, PRIOR TO TODAY WE HAVE NOT
18 MET; IS THAT CORRECT?

19 A NO. I DON'T EVEN KNOW YOUR NAME.

20 Q I DIDN'T INTRODUCE MYSELF BEFORE YOU TOOK THE
21 WITNESS STAND. MY NAME IS ANDREW MC MULLEN.

22 THIS EVENT THAT OCCURRED IN GREECE OCCURRED
23 IN DECEMBER OF 1987; IS THAT CORRECT?

24 A I KNOW IT WAS CHRISTMAS DAY, YOU KNOW.

25 Q AND THAT WAS A LONG TIME AGO, WASN'T IT?

26 A YES.

27 Q AND WOULD YOU SAY THAT YOUR MEMORY IS BETTER
28 TODAY ABOUT WHAT HAPPENED ON CHRISTMAS DAY OF 1987 OR WAS

1 IT BETTER SIX, SEVEN YEARS AGO?

2 A IT WAS SUCH AN EVENT, AND I THINK THAT I
3 REMEMBER IT VERY WELL, THEN AND NOW. MAYBE A FEW LITTLE
4 ODDS AND ENDS I DON'T REMEMBER EXACTLY, BUT THE MAIN PART
5 I REMEMBER.

6 Q NOW, YOU TESTIFIED THAT YOU LEARNED ABOUT
7 LEVIN'S DISAPPEARANCE BY THE NEWSPAPER, AND YOU MENTIONED
8 SOMETHING ABOUT TELEVISION NEWS COVERAGE?

9 A I THINK THE TELEVISION WAS -- I SAW IT ON THE
10 NEWS, AND I SAW IT IN -- THE BEVERLY HILLS COPS WERE
11 OUTSIDE HIS HOME, AND I DON'T KNOW, THEY HAD DIFFERENT
12 EQUIPMENT, AND THEY WERE TALKING ABOUT HIS DISAPPEARANCE.

13 Q WHEN WAS THAT THAT YOU LEARNED ABOUT THAT?

14 A YOU KNOW, I AM NOT GOOD ON DATES. IT WAS
15 AFTER THE JOE HUNT, YOU KNOW, AFTER --

16 Q AFTER THE TRIAL?

17 A OH, NO. NO. AFTER THEY WERE TALKING ABOUT
18 JOE HUNT. BECAUSE I READ ABOUT THEM A LOT. THEY HAD ALL
19 KINDS OF ARTICLES IN DIFFERENT NEWSPAPER AND MAGAZINES
20 ABOUT THE BILLIONAIRE BOYS CLUB.

21 Q SO YOU WERE AWARE OF THE BILLIONAIRE BOYS
22 CLUB TRIAL, THE MURDER TRIAL?

23 A NO. I WAS AWARE OF THE BILLIONAIRE BOYS
24 CLUB. I DON'T KNOW. I FOLLOWED THE TRIAL, BUT I CANNOT
25 TELL YOU THE EXACT DATES.

26 Q WAS IT -- IT WAS PRIOR TO YOUR TRIP TO GREECE
27 IN CHRISTMAS OF 1987 THAT YOU WERE AWARE OF IT, WERE YOU
28 NOT?

1 A YES. YES.

2 Q YOU WERE AWARE THAT RON LEVIN WAS PART OF THE
3 BILLIONAIRE BOYS' CLUB CASE PRIOR TO YOUR TRIP?

4 A YES.

5 Q AND FOLLOWING THE NEWS COVERAGE YOU WERE
6 AWARE THAT RON LEVIN WAS A MURDER VICTIM WITH RESPECT TO
7 THAT BILLIONAIRE BOYS' CLUB CASE?

8 A YES. AND I KNEW THEY HADN'T FOUND HIS BODY.

9 Q YOUR INTEREST IS UNDERSTANDABLE BECAUSE YOU
10 HAD MET RON LEVIN A NUMBER OF TIMES?

11 A YES.

12 Q WHEN YOU SAY YOUR SON-IN-LAW IS THAT BOB TUR,
13 T-U-R?

14 A T-U-R, YES.

15 Q AND MR. TUR AND YOUR DAUGHTER WERE INVOLVED
16 IN SOME BUSINESS RELATIONS WITH MR. LEVIN; IS THAT
17 CORRECT?

18 A NO. THEY WERE JUST IN PASSING. HE WANTED TO
19 LATCH ONTO SOMEBODY IN THE NEWS SERVICE.

20 Q WHEN YOU SAY "HE," ARE YOU REFERRING TO --

21 A TO MR. LEVIN, WANTED TO GET INVOLVED WITH THE
22 NEWS SERVICE. HE WAS LATCHING ONTO ANYBODY HE COULD.

23 Q AND SO HE -- IF I UNDERSTAND YOU CORRECTLY,
24 THEN HE LATCHED ONTO YOUR SON-IN-LAW, MR. TUR?

25 A YES. YES.

26 Q AND YOU SAY YOU WENT OVER TO RON LEVIN'S
27 HOUSE TWICE?

28 A YES.

1 Q FOR WHAT PURPOSE?

2 A WE WERE DELIVERING, HE WANTED TO LOOK AT SOME
3 TAPES BECAUSE HE SAID HE WAS GETTING A MOVIE TOGETHER, AND
4 HE WANTED TO GO TO LAS VEGAS AND SHOW IT TO INVESTORS.

5 Q WHEN YOU SAY "WE" WHO DID YOU --

6 A MY DAUGHTER, MAKITA TUR.

7 Q AND THAT'S BOB TUR'S WIFE?

8 A YES. THAT'S MY OLDER DAUGHTER.

9 Q NOW, YOU FLEW INTO AN AIRPORT IN MYKONOS, AND
10 YOU HAVE DESCRIBED THE WEATHER AS BEING RAINY AND COLD?

11 A YES.

12 Q WAS IT A STEADY KIND OF RAIN? OR IF YOU
13 COULD DESCRIBE A LITTLE BIT MORE IN DETAIL WHAT THE
14 WEATHER WAS LIKE.

15 A IT WAS MORE OF A TYPICAL NEW YORK DAY WHERE
16 YOU GET RAIN ALL DAY, NOT HARD BUT STEADY AND GRAY SKIES
17 AND WIND, AND MAYBE YOU GET A LITTLE SHOWER, BUT MOSTLY IT
18 WAS JUST A STEADY RAIN.

19 Q DID YOU IN YOUR SEARCH FOR A RESTAURANT ON
20 THAT DAY DID YOU GET WET? DID YOU HAVE UMBRELLA? OR WHAT
21 DID YOU DO TO PROTECT YOURSELF?

22 A I HAD A LEATHER COAT AND I HAD A HAT ON, AND
23 I THINK MY HUSBAND HAD AN UMBRELLA. HE ALWAYS CARRIES
24 ONE.

25 Q DID YOU GET WET DURING YOUR SEARCH FOR A
26 RESTAURANT?

27 A MY COAT WAS LIKE A RAIN COAT, SO WE GOT WET.
28 THAT'S WHY WE WANTED TO GET UNDER COVER.

1 Q SO ABOUT WHAT TIME OF DAY WAS IT THAT YOU
2 ARRIVED THERE IN THE AIRPORT IN MYKONOS?

3 A IT WAS -- WE TOOK A DAY TRIP, SO I THINK I
4 WOULD SAY AROUND 10:00 OR 11:00.

5 Q AND YOU WERE LOOKING FOR A PLACE TO EAT
6 BREAKFAST?

7 A YES.

8 Q AND YOU HAVE TESTIFIED THAT YOU CAME ACROSS A
9 MAN WHO WOULD TELL YOU WHERE A RESTAURANT WAS IF YOU
10 BOUGHT SOMETHING FROM HIS SHOP?

11 A THAT'S WHAT HE SAID. WE ASKED HIM WHERE A
12 RESTAURANT WAS.

13 Q HE --

14 A HE TOLD ME IF I BOUGHT SOMETHING FROM HIS
15 STORE HE WOULD TELL US.

16 Q SO YOU BOUGHT A T-SHIRT?

17 A YES.

18 Q AND HE DIRECTED YOU TO A RESTAURANT?

19 A HE WALKED UP THE STREET. HE SAID THAT IT WAS
20 THE ONLY ONE THAT WAS OPEN ON THAT DAY.

21 Q IF YOU RECALL, WHAT WAS THE NAME OF THE
22 RESTAURANT?

23 A I HAVE NO IDEA.

24 Q SO YOUR HUSBAND AND YOURSELF WALKED INTO THIS
25 RESTAURANT?

26 A YES.

27 Q YOU DESCRIBED IT AS SMALL. I KNOW YOU HAVE
28 TRIED TO APPROXIMATE WHAT THE SIZE OF IT WAS. BUT CAN YOU

1 GIVE US AN ESTIMATE AS TO THE DIMENSIONS, PHYSICAL
2 DIMENSIONS OF THE RESTAURANT, 20 FEET BY 10; OR WHATEVER
3 IT WAS?

4 A LET'S SEE. I WOULD SAY IT WAS ABOUT --
5 THE COURT: MAYBE YOU CAN USE THE COURTROOM. COULD
6 YOU LOOK SOMEWHERE IN THE COURTROOM AND DESCRIBE THE
7 LENGTH OF THE RESTAURANT FROM THE FRONT DOOR TO THE BACK?

8 THE WITNESS: MAYBE IT WAS FROM THAT DOOR
9 (INDICATING) --

10 THE COURT: FROM YOUR SEAT RIGHT NOW GIVE ME AN
11 ESTIMATE. ASSUME YOU ARE STANDING AT THE FRONT DOOR POINT
12 TO SOMETHING IN THE COURTROOM THAT WOULD SHOW HOW LONG THE
13 RESTAURANT WAS.

14 MR. MC MULLEN: THANK YOU

15 THE WITNESS: FROM WHERE I AM TO THE END.

16 THE COURT: THE BACK WALL.

17 THE WITNESS: I WOULD SAY THE BACK WALL.

18 THE COURT: INDICATING APPROXIMATELY 36 FEET.

19 BY MR. MC MULLEN:

20 Q THE WIDTH IS THAT WALL, THE FAR WALL. FROM
21 WHERE THE JURY BOX HOW WIDE WOULD THE JURY BOX BE?

22 A MAYBE 20 FEET. IT WAS NARROWER. IT WAS
23 VERY, VERY SMALL. IT WAS LIKE A HOLE-IN-THE-WALL.

24 Q NOW, SO THE FRONT PART WAS ABOUT 20 FEET
25 WIDE, AND THERE IS A DOOR THERE.

26 ARE THERE ANY WINDOWS IN THE FRONT WHERE THE
27 DOOR IS?

28 A NO.

1 Q AND WHEN YOU WALK IN, YOU SAID ON ONE SIDE
2 THERE WAS A BAR.

3 WAS THE BAR -- WHEN YOU WERE WALKING IN WOULD
4 THE BAR BE ON YOUR LEFT OR YOUR RIGHT?

5 A IN THE BACK.

6 Q IN THE BACK OF THE RESTAURANT?

7 A YES.

8 Q WERE THERE ANY WINDOWS IN THE RESTAURANT?

9 A NO.

10 Q WHAT WAS THE LIGHTING LIKE IN THE RESTAURANT?
11 WAS IT A BRIGHT RESTAURANT? DARK?

12 A IT WAS -- IT WAS NOT AS LIGHT AS THIS BUT --
13 IT WAS LIGHT ENOUGH YOU COULD SEE THE FOOD. YOU COULD SEE
14 THE PEOPLE. IT WASN'T DAYLIGHT BRIGHT.

15 Q DO YOU RECALL WHAT THE INSIDE OF THE
16 RESTAURANT, WHAT COLOR THE WALLS WERE? WERE THEY DARK?

17 A I THINK THEY WHITEWASH EVERYTHING ON THE
18 ISLAND.

19 Q I JUST WANT YOUR RECOLLECTION AS TO WHAT
20 THIS, THE INSIDE OF THIS RESTAURANT LOOKED LIKE, NOT IF
21 EVERYBODY DID THIS. IF YOU DON'T REMEMBER, THAT'S FINE.

22 A I JUST HAD A TERRIBLE COLD. I WAS MISERABLE,
23 AND I WAS JUST THERE HUNGRY.

24 Q YOU MENTIONED THAT YOU HAD A COLD. WERE YOU
25 TAKING ANY KIND OF MEDICATION OR ANYTHING?

26 A NO.

27 Q WHAT WERE THE SYMPTOMS OF YOUR COLD?

28 A MY NOSE WAS RUNNING, AND JUST MISERABLE.

1 Q WERE YOU FEVERISH AT ALL?

2 A NO.

3 Q AT THE TIME DID YOU WEAR ANY KIND OF
4 CORRECTIVE GLASSES FOR YOUR VISION, ANYTHING LIKE THAT?

5 A I JUST HAVE READING GLASSES THAT I GET FROM
6 THE DRUGSTORE.

7 Q WHAT KIND OF -- YOU SAY THERE WERE NO WINDOWS
8 IN THE RESTAURANT. WHAT KIND OF LIGHTING DID THEY HAVE,
9 IF YOU REMEMBER? DID IT HAVE NEON LIGHTS?

10 A FROM THE CEILING. THEY HAD NO LIGHTS ON THE
11 TABLE. THEY JUST HAD FROM THE CEILING. KIND OF PRIMITIVE
12 LIGHTS. IT WAS JUST LIKE A STOREFRONT.

13 Q AS I RECOLLECT YOUR DIRECT TESTIMONY, YOU
14 SAID THAT, CORRECT ME IF I AM WRONG, THAT THE INTERIOR OF
15 THE RESTAURANT WAS QUITE A BIT DARKER THAN THE OUTSIDE?

16 A YES.

17 Q SO WAS IT ONE OF THESE RESTAURANTS WHERE YOU
18 WALK IN AND YOU HAVE TROUBLE SEEING AT FIRST BECAUSE IT IS
19 SO DARK --

20 A YES.

21 Q -- AND THEN YOUR EYES ADJUST?

22 A BECAUSE YOU HAVE TO ADJUST.

23 Q SO YOUR --

24 MR. MC MULLEN: EXCUSE ME. CAN I HAVE A MOMENT?

25 THE COURT: YES.

26

27 (PAUSE.)

28

1 BY MR. MC MULLEN:

2 Q BY ANY CHANCE, IF YOU CAN REMEMBER, WAS THE
3 RESTAURANT ACTUALLY SOMEBODY'S HOME THAT HAD BEEN
4 CONVERTED?

5 A NO.

6 MR. CRAIN: YOUR HONOR, NOT TO NITPICK. I THINK I
7 AM GOING TO MOVE TO STRIKE THAT. IN FACT, IT DOES CALL
8 FOR A CONCLUSION.

9 THE COURT: OVERRULED. IT IS DESCRIPTIVE DATA.

10 MR. CRAIN: ALL RIGHT.

11 THE WITNESS: IF -- YOU WANTED TO KNOW WHAT IT LOOK
12 LIKE?

13 BY MR. MC MULLEN:

14 Q SURE. TELL ME WHAT IT LOOKED LIKE.

15 A IT LOOKED LIKE A MAKESHIFT KIND OF A PLACE
16 THAT, YOU KNOW, WASN'T ONE OF THESE FANCY THINGS THAT YOU
17 SEE HERE IN LOS ANGELES. IT WAS JUST A VERY SMALL PLACE
18 THAT SOMEBODY HAD MADE INTO A SMALL RESTAURANT WITH THE
19 BAR ON ONE SIDE. I SUPPOSE MOSTLY IT WAS TO HAVE BEER AND
20 WINE.

21 Q SO YOUR HUSBAND AND YOURSELF WALKED INTO THE
22 RESTAURANT. DID YOU GO FIRST OR DID YOUR HUSBAND, DO YOU
23 REMEMBER?

24 A NO, I DON'T REMEMBER. USUALLY HE LETS ME GO
25 FIRST. I DON'T REMEMBER. IT WAS A WIDE DOOR. I REALLY
26 DON'T REMEMBER.

27 Q AND YOU SAT -- I CAN'T REMEMBER FROM -- YOU
28 SAID THERE WERE FOUR TABLES OR SO INSIDE OF THE

1 RESTAURANT?

2 A YES.

3 Q AND THEY WENT, I TAKE IT, FROM THE FRONT OF
4 THE RESTAURANT TOWARDS THE BACK OF THE RESTAURANT?

5 A YES. WE WALKED TO THE LADY TO ASK HER IF SHE
6 HAD THE FOOD, SO WE WALKED TO THE BAR WHEN WE CAME IN
7 TALKED TO HER, AND THEN WE SAT DOWN.

8 Q OKAY.

9 AND YOU SAT DOWN. WHAT TABLE IN RELATIONSHIP
10 TO THE DOOR, ASSUMING THERE IS FOUR TABLES FROM FRONT TO
11 BACK?

12 A I SAT AT THE FIRST ONE, THE NEAREST TO THE
13 BAR WHERE SHE WAS STANDING.

14 Q AND YOU SAT WITH YOUR BACK TO THE FRONT DOOR
15 OF THE RESTAURANT; IS THAT CORRECT?

16 A YES.

17 Q NOW, PRIOR TO SITTING DOWN, THOUGH, YOU WENT
18 AND HAD A CONVERSATION WITH THE WOMAN WHO WAS RUNNING THE
19 RESTAURANT; CORRECT?

20 A YES. CORRECT.

21 WE WERE JUST ASKING HER WHY THERE WAS NOBODY
22 AROUND AND WHY, YOU KNOW, SHE WAS GOING TO GIVE US SOME OF
23 THE FOOD THAT SHE PREPARED. AND HER DAUGHTER WAS GOING TO
24 COME FROM ATHENS OR HAD COME FROM ATHENS OR SOMEBODY. I
25 KNOW SHE HAD PREPARED FOOD. SHE SAID WE COULDN'T GET ANY
26 FOOD ANYWHERE ELSE ON THE ISLAND.

27 Q AND SO YOU MENTIONED ON YOUR DIRECT
28 EXAMINATION THAT IT WAS THE TYPE OF RESTAURANT WHERE YOU

1 PLACE THE ORDER WITH A WOMAN AT THE BAR, AND YOU WOULD
2 BRING WHATEVER YOU WOULD ORDER TO THE TABLE?

3 A YES.

4 Q NOW, THIS HAS BEEN A BURNING QUESTION FOR ME
5 FOR SOME TIME. I HAVE READ A LOT, ALL YOUR TESTIMONY IN
6 PRIOR DECLARATIONS. WHAT, IF ANYTHING, DID YOU ORDER AT
7 THE RESTAURANT?

8 A WHATEVER SHE HAD. AND TO TELL YOU THE TRUTH
9 I DON'T REMEMBER WHAT IT WAS, BUT SOME LAMB DISH. AND I
10 DON'T LIKE LAMB. I REMEMBER IT WAS SOME LAMB DISH. IT
11 WASN'T GOURMET COOKING, IT WAS JUST WHAT SHE HAD FOR HER
12 OWN FAMILY. THEY CAME TO THE RESTAURANT OR WHERE THEY
13 LIVED UPSTAIRS, I DON'T KNOW, BUT THEY DIDN'T COME WHEN I
14 WAS THERE.

15 Q SHE --

16 A SHE SAID FAMILY FOOD, AND THAT'S ALL SHE HAD.

17 Q SO THERE WASN'T A GREAT SELECTION, I TAKE IT?

18 A NO. JUST WHATEVER SHE HAD, SOME LAMB DISH
19 AND SOME BREAD. THE BREAD I LIKED, BREAD AND CHEESE.

20 Q AND SO WHEN YOU FIRST WENT AND TALKED TO HER
21 IS THAT WHEN YOU PLACED, YOU AND YOUR HUSBAND PLACED AN
22 ORDER?

23 A YES.

24 Q DID YOU ORDER SOMETHING TO DRINK?

25 A I THINK I JUST HAD WATER OR PROBABLY A BOTTLE
26 OF WATER. I ALWAYS DRINK A BOTTLE OF WATER.

27 Q SO THEN, YOUR HUSBAND AND YOU SAT DOWN AND
28 DID THE FOOD COME?

1 A THE FOOD CAME LATER. I CAN'T REMEMBER
2 EXACTLY WHEN THE FOOD CAME. I THINK THE FOOD CAME
3 ABOUT -- IT DIDN'T COME RIGHT AWAY. SHE HAD TO WARM IT
4 UP.

5 Q PREPARE IT OR WHATEVER SHE NEEDED TO DO?

6 A YEAH.

7 Q DID THE FOOD COME BEFORE OR AFTER THE TWO MEN
8 ENTERED INTO THE RESTAURANT?

9 A I REALLY DON'T REMEMBER.

10 Q WHEN YOU WALKED INTO THE RESTAURANT OTHER
11 THAN THE WOMAN THAT WAS RUNNING THE RESTAURANT WAS THERE
12 ANYBODY ELSE THERE THAT YOU COULD SEE?

13 A NO.

14 Q SOMETHING DREW YOUR ATTENTION TO THE FRONT
15 DOOR AT SOME POINT IN TIME, I UNDERSTAND?

16 A YES. BECAUSE WHEN THE DOOR OPENED LIGHT CAME
17 AND THEN THE WINDS BLEW. YOU COULD HEAR THE DOOR, THE
18 WIND BLOW.

19 Q ALL RIGHT.

20 AND I AM NOT SURE IF I REMEMBER YOU
21 TESTIFYING TO THIS, BUT YOUR BACK WAS TO THE DOOR AND SO
22 YOU TURNED TO LOOK?

23 A YES.

24 Q HOW LONG HAD YOU BEEN SITTING THERE IN THE
25 RESTAURANT BEFORE YOUR ATTENTION WAS DRAWN TO THE FRONT
26 DOOR BEHIND YOU?

27 A I CAN'T SAY FOR SURE, BUT IT WAS 10, 15
28 MINUTES. I REALLY DON'T KNOW. WE WERE JUST WAITING FOR

1 THE FOOD, EATING BREAD, WAITING FOR HER TO HEAT IT UP. I
2 DON'T KNOW. I AM JUST BEYOND --

3 Q SO AS I UNDERSTAND, YOUR ATTENTION WAS DRAWN
4 TO THE FRONT DOOR, YOU TURNED AROUND TO SEE WHAT THE --
5 WHAT IT WAS THAT WAS DRAWING YOUR ATTENTION, AND YOU SAW
6 TWO PEOPLE COME IN?

7 A YES.

8 Q AND THEY, AS THE TWO PEOPLE CAME IN, THE
9 LIGHT WAS BEHIND THEM; IS THAT CORRECT?

10 A YES.

11 Q HOW LONG DID YOU LOOK BACK TOWARDS THEM?

12 A I DON'T KNOW, BUT I KNEW THEY WEREN'T NATIVES
13 BECAUSE THEY WERE DRESSED -- THAT'S WHAT I SAW FIRST, THE
14 WAY THEY WERE DRESSED, AND THEN I REALIZED THAT I COULD
15 SEE WHO THEY WERE.

16 Q IF YOU REMEMBER, IF YOU LOOKED OVER YOUR LEFT
17 OR YOUR RIGHT SHOULDER?

18 A I DON'T REMEMBER RIGHT NOW. I WAS SITTING
19 WHERE IT WAS MORE CONVENIENT.

20 Q WHEN YOU FIRST LOOKED AROUND BEHIND YOU, DID
21 THE LIGHT FROM THE DOOR CAUSE YOU SOME DIFFICULTY IN
22 SEEING THE DIFFERENCE BETWEEN THE DARKNESS OF THE ROOM AND
23 THAT LIGHT OUTSIDE WHEN THE DOOR WAS OPEN?

24 A NO. I COULD SEE THEM. I COULD SEE. I KNEW
25 RIGHT AWAY. I SAW THAT THEY WEREN'T NATIVE PEOPLE.

26 Q AND THEN AS YOU SIT HERE AND TESTIFY TODAY
27 YOU ARE UNCERTAIN HOW LONG YOU LOOKED BACK; IS THAT A
28 CORRECT STATEMENT?

1 A I HAVE NO IDEA HOW LONG WHETHER IT WAS TWO
2 SECONDS, TWO MINUTES. I HAVE NO IDEA.

3 Q WHAT DID THESE TWO PEOPLE DO WHEN THEY WALKED
4 INTO THE RESTAURANT?

5 A THEY SAT DOWN, AND THEY REALIZED THEY HAD TO
6 GO TO THE BAR TO ORDER. THEY NEEDED A SETUP BECAUSE THEY
7 HAD THEIR OWN BOTTLE OF WINE.

8 THE COURT: HOLD ON.

9 ONE SECOND, MR. MC MULLEN.

10 LET'S ALLOW THE STUDENTS TO GET OUT.

11 MR. MC MULLEN: THANK YOU.

12

13 (PAUSE.)

14

15 THE COURT: ALL RIGHT.

16 HOW MUCH DO YOU HAVE ON CROSS?

17 MR. MC MULLEN: I DON'T KNOW. A FAIR AMOUNT. I
18 CAN'T --

19 THE COURT: DEFINE "FAIR AMOUNT."

20 MR. MC MULLEN: 30, 40 MINUTES.

21 THE COURT: 30, 40 MINUTES.

22 MR. MC MULLEN: I AM TRYING TO --

23 THE COURT: TELL YOU WHAT, THIS IS
24 CROSS-EXAMINATION YOU ARE NOT TAKING A DEPOSITION. LET'S
25 TAKE OUR NOONTIME RECESS AT THIS TIME. STREAMLINE IT.
26 AND LET'S GET TO THE CHASE SCENE.

27 MR. MC MULLEN: YES, YOUR HONOR.

28 THE COURT: ALL RIGHT.

1 COUNSEL AND PETITIONER AND WITNESS ARE
2 ORDERED TO RETURN AT 1:30.

3 MR. MC MULLEN: THANK YOU.
4
5

6 (AT 12:00 P.M. A RECESS WAS TAKEN
7 UNTIL 1:30 P.M. OF THE SAME DAY.)
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1 LOS ANGELES, CALIFORNIA; MONDAY, APRIL 22, 1996

2 1:30 P.M.

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4
5 (APPEARANCES AS HERETOFORE NOTED.)

6
7 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
8 DEPARTMENT 101 IS AGAIN IN SESSION.

9 THE COURT: MRS. GERRARD, WHY DON'T YOU GO AHEAD
10 AND GET BACK ON THE STAND.

11
12 (PAUSE.)

13
14 THE COURT: ALL RIGHT.

15 IN THE CASE OF IN RE JOSEPH HUNT, THE RECORD
16 WILL REFLECT ALL COUNSEL AND PETITIONER ARE PRESENT.

17 MR. CRAIN: BEFORE WE CONTINUE I JUST WANTED TO
18 INFORM THE COURT THAT MR. HOLMES IS HERE. HE IS IN THE
19 HALLWAY. I WAS JUST TELLING HIM HE SHOULD WAIT OUTSIDE,
20 SO WE WILL BE READY TO PROCEED WITH ANOTHER WITNESS.

21 THE COURT: GREAT.

22 THERE HAS BEEN A REQUEST FROM ONE OF THE T.V.
23 STATIONS FOR FILMING. IT IS MY POLICY TO INQUIRE OF THE
24 PARTIES IN ANY LITIGATION THEIR POSITION ON FILM COVERAGE.

25 MR. KLEIN: OUR POSITION IS IT IS UP TO YOU.

26 THE WITNESS: CAN I OPPOSE?

27 MR. MC MULLEN: THAT RAISES A VERY INTERESTING
28 POINT.

1 WE DO OPPOSE.

2 MR. KLEIN: IF SHE DOESN'T WANT IT --

3 THE COURT: IT SOUNDS LIKE BOTH SIDES ARE OPPOSING.

4 MR. MC MULLEN: WE ARE OPPOSING FOR THOSE KINDS OF
5 WITNESSES. I THINK THERE ARE A LOT OF WITNESSES BASED ON
6 SOME COVERAGE THAT HAS OCCURRED OVER THIS COURTHOUSE FOR
7 AN EXTENDED PERIOD OF TIME, IT HAS A CHILLING AFFECT.

8 YOU MIGHT REMEMBER THERE WERE SOME --

9 THE COURT: THERE WERE SOME OTHER CASES.

10 MR. MC MULLEN: ANYWAY, A LOT OF THE WITNESSES, I
11 THINK, IT MIGHT HAVE A CHILLING AFFECT ON THEIR TESTIMONY.

12 THE COURT: MY POSITION IS WHEN BOTH SIDES OPPOSE
13 AND THERE IS NO STRONG COMPELLING ARGUMENT TO THE CONTRARY
14 IS TO FORECLOSE THE FILM COVERAGE.

15 I WILL NOT --

16 MR. CRAIN: I WILL ONLY SAY THIS: OUR POSITION IS
17 WITH REGARD TO THIS WITNESS WE OPPOSE. IN REGARDS TO
18 OTHER WITNESSES WHO DON'T CARE, I HAVE NO OPPOSITION.

19 THE COURT: IF THE MEDIA COMES BACK I WILL HAVE
20 THEM, COUNSEL FOR BOTH SIDES, AND YOU GUYS CAN TALK.

21 THE RECORD WILL REFLECT MRS. GERRARD IS BACK
22 ON THE STAND.

23 MR. MC MULLEN, YOU MAY FINISH YOUR CROSS
24 EXAMINATION.

25 MR. MC MULLEN: THANK YOU.

26 AND I WILL TRY TO STREAMLINE IT, YOUR HONOR.

27 THE COURT: GOOD.

28 I AM NOT SURE STREAMLINE IS A WORD THAT CAN

1 BE USED IN THIS CASE BUT --

2 MR. MC MULLEN: WE HAVE BEEN TRYING.

3

4 CONNIE GERRARD, +

5 CALLED AS A WITNESS BY THE PETITIONER, HAVING BEEN
6 PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER
7 AS FOLLOWS:

8

9 CROSS-EXAMINATION RESUMED @

10

11 BY MR. MC MULLEN:

12 Q DO YOU REMEMBER, MA'AM, PRIOR TO YOUR TRIP TO
13 GREECE ON THAT CHRISTMAS DAY IN PARTICULAR WHEN WAS THE
14 LAST TIME PRIOR TO THAT THAT YOU HAD SEEN MR. LEVIN?

15 A I DON'T KNOW ANY DATES, BUT I CAN TELL YOU
16 THE OCCASION.

17 Q DO YOU HAVE ANY TIME, AND I MIGHT BE
18 INTERESTED IN THAT, DO YOU HAVE ANY IDEA ON THIS OCCASION
19 THAT YOU ARE REFERRING TO HOW MUCH TIME BEFORE THIS TRIP
20 YOU MIGHT HAVE SEEN HIM IN TERMS OF WEEKS, MONTHS?

21 A MONTHS. IT COULD HAVE BEEN YEARS.

22 Q AND WHAT WAS THE OCCASION?

23 A I WENT TO HIS HOME WITH MY DAUGHTER. SHE
24 WANTED TO DELIVER SOME TAPES THAT HE WANTED, AND SHE
25 WANTED TO SHOW ME HOW HE HAS REDONE HIS APARTMENT. AND I
26 WENT IN AND HE SHOWED ME AROUND.

27 Q MA'AM, YOU MENTIONED ON DIRECT EXAMINATION
28 THAT LEVIN LOOKED THE SAME TO YOU. COULD YOU TELL US

1 PRIOR TO YOUR TRIP TO GREECE WHAT -- GIVE US A DESCRIPTION
2 OF MR. LEVIN?

3 A HE WAS TALL AND SLIM, IMMACULATELY DRESSED.
4 HAD A BEARD, HAD SOME GRAY AND HIS HAIR WAS NEAT. HE
5 SEEMED TO HAVE A FULL HEAD OF HAIR.

6 THE COURT: LET ME STOP YOU.

7 YOUR QUESTION WAS WHEN SHE SAW HIM IN
8 MYKONOS.

9 MR. MC MULLEN: NO.

10 BY MR. MC MULLEN:

11 Q PRIOR TO THAT TIME, PRIOR TO THE TIME IN
12 GREECE, IN CASE I AM UNCLEAR, DO YOU UNDERSTAND IT THAT
13 WAY, MA'AM?

14 A YES. THAT'S THE WAY HE LOOKED.

15 Q THE TIME PERIOD WOULD BE PRIOR TO THE TIME
16 THAT YOU WERE IN GREECE?

17 A YES. I UNDERSTOOD THAT.

18 Q NOW, HIS HAIR COLORING HOW WOULD YOU DESCRIBE
19 HIS HAIR COLORING PRIOR TO THE TIME IN GREECE?

20 A I WOULD SAY IT WAS GRAY, HAD SOME DARK, BUT
21 GRAY.

22 Q AND WAS HIS BEARD OF A SIMILAR COLOR?

23 A YES. IT HAD GRAY IN IT.

24 Q I THINK STILL BEFORE YOU THERE IS
25 PETITIONER'S EXHIBIT 1 FOR IDENTIFICATION, WHICH YOU HAVE
26 IDENTIFIED AS A PHOTOGRAPH OF RON LEVIN?

27 A YES.

28 Q WITH RESPECT TO HIS HAIR COLORING, HIS HAIR

1 NOW IS THAT THE WAY YOU REMEMBER IT PRIOR TO GOING TO
2 GREECE?

3 A YES.

4 Q HOW ABOUT THE STYLE OF THE WAY HIS HAIR IS
5 COMBED THERE AND KEPT?

6 A WELL, IN GREECE IT SEEMED TO BE A LITTLE
7 HEAVIER, BUT THIS IS WHAT HE LOOKED LIKE. THIS IS
8 BEFORE -- THIS IS WHAT HE LOOKED LIKE TO ME.

9 Q WITH RESPECT TO HIS HAIR COLOR AND HIS
10 HAIRSTYLE?

11 A THIS IS A POSED PICTURE ON --

12 MR. MC MULLEN: YOUR HONOR --

13 THE COURT: INDICATING EXHIBIT 1.

14 MR. MC MULLEN: THANK YOU.

15 BY MR. MC MULLEN:

16 Q NOW, WITH RESPECT TO HIS BEARD IS THAT THE
17 WAY YOU REMEMBER IT PRIOR TO GOING TO GREECE IN TERMS OF
18 THE STYLE, OF THE WAY HE WORE HIS BEARD?

19 A YEAH. HE HAD A BEARD.

20 Q AND HOW ABOUT THE COLORING OF THE BEARD PRIOR
21 TO WHEN YOU WENT TO GREECE?

22 A IT HAD GRAY, WHITE, AND IT HAD SOME DARK IN
23 IT.

24 Q SO WOULD YOU SAY --

25 A KIND OF GRIZZLY COLOR.

26 Q PARDON?

27 A GRIZZLY COLOR IS THE WAY I WOULD DESCRIBE IT.

28 Q IS THAT PHOTOGRAPH AS YOU REMEMBER THE WAY HE

1 LOOKED PRIOR TO YOU GOING TO GREECE?

2 A EXCEPT HE NEVER HAD SUCH A SWEET LOOK ON HIS
3 FACE, WHEN I KNEW HIM.

4 Q OKAY.

5 MA'AM, THE MAN YOU SAW IN GREECE, DID THE
6 STYLE OF HIS HAIR WAS IT DIFFERENT THAN WHAT YOU SEE IN
7 PETITIONER'S 1 THERE?

8 A MAY HAVE BEEN JUST A TAD LONGER, BUT
9 EVERYTHING ELSE WAS THE SAME.

10 Q WAS IT COMBED THE SAME WAY?

11 A YES.

12 Q AND HOW ABOUT THE COLORATION OF THE HAIR OF
13 THE MAN YOU SAW IN GREECE, WHOM YOU CLAIM IS RON LEVIN?

14 A IT WAS EXACTLY LIKE THIS. NO DIFFERENT, NO
15 MORE, NO LESS.

16 THE COURT: YOU SAY EXACTLY LIKE THIS --

17 THE WITNESS: THIS PICTURE.

18 THE COURT: WHEN YOU SAW HIM IN GREECE HE LOOKED
19 LIKE EXHIBIT 1 THERE?

20 THE WITNESS: YES. EXCEPT THE --

21 BY MR. MC MULLEN:

22 Q SO HIS HAIR, BEARD AND COLOR AND STYLE LOOKED
23 THE SAME?

24 A YES. HIS HAIR WAS A LITTLE BIT LONGER.

25 Q ALL RIGHT.

26 NOW, LET'S GO BACK TO PRIOR TO THE TIME YOU
27 WENT TO GREECE, HIS MANNER OF DRESS, HIS STYLE OF DRESS
28 HOW WOULD YOU DESCRIBE THAT?

1 A HE ALWAYS DRESSED SPORTY, IMMACULATE. WHEN I
2 SAW HIM HE ALWAYS HAD SILK SHIRTS, HE WAS PRESSED, HE WAS
3 BAND BOX LOOKING, ALWAYS NEAT, CLEAN SHAVED. EVERYTHING
4 WAS -- I MEAN YOU WOULD NOTICE THAT ABOUT HIM.

5 Q NOW, THE MAN YOU SAW IN GREECE HOW WOULD YOU
6 DESCRIBE HIS MANNER OF DRESS?

7 A HE WAS DRESSED THE SAME WAY, IMMACULATEDLY.

8 Q WAS THERE ANY DIFFERENCE IN THE STYLE OF
9 DRESS BETWEEN THE MAN YOU SAW IN GREECE AND THE MAN YOU
10 KNOW AS RON LEVIN BEFORE YOU WENT TO GREECE?

11 A I WOULD SAY IN GREECE IT WAS MORE OF A SAFARI
12 STYLE THAT HE WAS WEARING, BUT THEN HE DID WEAR THAT TYPE
13 OF CLOTHES.

14 Q WHEN YOU SAY HE DID WEAR THAT TYPE OF
15 CLOTHING --

16 A IN OTHER WORDS, SPORTY BUT EXPENSIVE SPORTY
17 CLOTHES.

18 Q ON DIRECT EXAMINATION YOU TALKED ABOUT HOW
19 YOU DIDN'T SAY ANYTHING TO RON LEVIN, THIS MAN YOU HAVE
20 IDENTIFIED OR CLAIM TO BE RON LEVIN IN THE RESTAURANT IN
21 MYKONOS. WHY IS THAT?

22 A I DIDN'T BECAUSE KNOWING THAT HE WAS WANTED
23 HE WOULDN'T WANT ANYBODY TO KNOW THAT IT WAS HE THAT WAS
24 ON THIS ISLAND. NOBODY ELSE IS THERE, NO ONE IS AWARE
25 EXCEPT THOSE TWO. NOBODY KNEW WE WERE THERE. I JUST
26 DIDN'T WANT TO DO IT. I WAS AFRAID TO DO IT.

27 Q YOU KNEW AT THAT POINT IN TIME THAT HE WAS
28 THE MURDER VICTIM; IS THAT CORRECT?

1 A SUPPOSEDLY, YES.

2 Q AND YOU SAY YOU WERE AFRAID OF HIM AT THAT
3 TIME?

4 A YES. THE SITUATION WAS SUCH THAT I WAS
5 AFRAID TO SAY ANYTHING.

6 Q PRIOR TO THE TIME OF GOING TO GREECE HAD HE
7 EVER DONE ANYTHING OR SAID ANYTHING TO LEAD YOU TO BELIEVE
8 THAT HE WAS VIOLENT OR SOMEBODY TO BE AFRAID OF?

9 A NO. NO, NOTHING.

10 Q SO WHEN YOU CAME BACK TO THE UNITED STATES
11 AFTER YOUR TRIP TO GREECE YOU THEN TELL A NUMBER OF
12 DIFFERENT PEOPLE ABOUT WHAT YOU HAD SEEN; IS THAT CORRECT?

13 A THAT'S RIGHT.

14 Q AND SO YOU HAD NO MORE FEAR OF HIM AT THAT
15 POINT IN TIME?

16 A NO. HE WASN'T WHERE I WAS. I HAD NO FEAR
17 WHEN I CAME BACK TO THE UNITED STATES.

18 Q AFTER YOU WENT -- AFTER THE TWO MEN LEFT THE
19 RESTAURANT, DID YOU GO AND TALK TO THE WOMAN AT THE
20 RESTAURANT?

21 A YES, I DID.

22 Q DID YOU TELL HER THAT YOU JUST SAW RON LEVIN,
23 A MAN WHO HAD BEEN MURDERED?

24 A I TOLD HER THE WHOLE STORY, AS MUCH AS I KNEW
25 AND WHAT I READ IN THE PAPER ABOUT WHAT HAD HAPPENED WITH
26 THE JOE HUNT CASE. AND I TOLD HER THAT I HAD PICTURES, I
27 WOULD SENT THE NEWSPAPER PICTURES OR I WOULD FIND THEM AND
28 SEND THEM TO HER.

1 Q ALL RIGHT

2 A I GOT HER ADDRESS.

3 MR. MC MULLEN: YOUR HONOR, WE HAVE IN OUR EXHIBIT
4 LIST EXHIBIT J, A COPY OF WHICH WE HAD PREVIOUSLY GIVEN TO
5 COUNSEL, BUT WHICH I JUST HANDED TO HIM AN ADDITIONAL
6 COPY. IT IS A DECLARATION OF CONNIE GERRARD, WE ARE IN
7 THE PROCESS OF PROVIDING THE COURT WITH THE OFFICIAL
8 WITNESS LIST. THERE MIGHT BE A FEW TYPOS AND
9 ADDITIONAL --

10 THE COURT: YOU MEAN EXHIBIT LIST. YOU SAID
11 WITNESS LIST.

12 MR. MC MULLEN: I AM SORRY. EXHIBIT LIST. I
13 MISSPOKE.

14 THE COURT: LET'S GET THAT IN RIGHT AWAY.

15 MR. MC MULLEN: IT IS IN THE PROCESS.

16 THE COURT: IF YOU WANT THAT MARKED AS J IT WILL BE
17 MARKED AS J AT THIS TIME.

18 MR. MC MULLEN: THANK YOU, YOUR HONOR.

19 MAY I APPROACH THE WITNESS?

20

21 (MARKED FOR ID = RESPONDENT'S J, DOCUMENT.)

22

23 THE COURT: YES.

24 BY MR. MC MULLEN:

25 Q MA'AM, I AM SHOWING YOU WHAT HAS BEEN MARKED
26 AS RESPONDENT'S EXHIBIT J. DO YOU RECOGNIZE THIS
27 DOCUMENT? YOU MIGHT FLIP THIS. THIS IS A THREE-PAGE
28 DOCUMENT. ON THE BACK OF THE DOCUMENT IS THIS YOUR

1 SIGNATURE?

2 A (NO AUDIBLE RESPONSE.)

3 Q IS THAT YOUR SIGNATURE?

4 A YES.

5 Q MA'AM, DIRECTING YOUR ATTENTION TO PAGE TWO
6 OF THAT EXHIBIT AND THE MIDWAY AROUND, MIDWAY AROUND THAT
7 PAGE, THE PARAGRAPH THAT STARTS OFF WITH "AROUND TEN
8 MINUTES." COULD YOU READ THAT PLEASE?

9 A TO MYSELF OR OUT LOUD?

10 Q TO YOURSELF.

11 A OKAY.

12 THE COURT: DO YOU HAVE A COPY FOR THE COURT?
13 LET ME ASK YOU TO ALWAYS HAVE A WORKING COPY FOR THE
14 COURT.

15 I UNDERSTAND SOME OF THESE ARE WITHIN THE
16 ORIGINAL PETITION BUT THAT'S UNWIELDING.

17 MR. MC MULLEN: THAT'S WHAT WE ARE TRYING TO DO.

18 THE WITNESS: YEAH.

19 BY MR. MC MULLEN:

20 Q HAVE YOU READ THAT, MA'AM?

21 A YES.

22 Q NOW, PRIOR TO SIGNING THIS DECLARATION, IF
23 YOU WILL TURN BACK TO PAGE THREE, THAT'S DATED JUNE 8,
24 1990; IS THAT CORRECT?

25 A YES.

26 Q WHEN YOU SIGNED THIS DECLARATION WAS THIS,
27 WHAT'S NOTED IN THIS DECLARATION, WAS THAT YOUR BEST
28 RECOLLECTION OF WHAT HAD HAPPENED?

1 A YES.

2 Q OKAY.

3 NOW, WITH RESPECT TO THE PARAGRAPH ON PAGE
4 TWO THAT I HAVE POINTED OUT, THAT'S A LITTLE DIFFERENT
5 THAN WHAT YOU HAVE TESTIFIED TODAY; IS IT NOT?

6 A WELL, YES AND NO. BECAUSE I TOLD THE BEST OF
7 MY ABILITY THAT I COULD REMEMBER THEN, AND I REMEMBERED
8 THE SIGHTING OF HIM AND WHETHER I WAS SITTING OR STANDING
9 I REALLY DON'T KNOW, BUT I KNOW THAT I SAW HIM, BUT THAT'S
10 ALL. THIS SAYS THAT I WAS WALKING TOWARDS THE RESTROOM.

11 Q AND THEN YOU HAVE TESTIFIED RATHER THAN --
12 MR. CRAIN: I DON'T THINK --

13 THE WITNESS: I WAS EITHER WALKING TOWARDS THE
14 RESTROOM AND SITTING DOWN, BUT HE WAS GOING TO THE
15 RESTROOM AND COMING BACK. HE RECOGNIZED ME, BUT I SAW
16 HIM. I KNEW WHO HE WAS, BUT THEN I KNEW THAT HE KNEW WHO
17 I WAS WHEN HE WAS COMING BACK, AND THAT'S AS MUCH AS I
18 KNOW. I DON'T KNOW MINUTE TO MINUTE.

19 THE COURT: DID HE LOOK AT YOU WHILE HE WAS ON THE
20 WAY TO THE RESTROOM, OR DID HE LOOK AT YOU ON THE WAY
21 BACK?

22 THE WITNESS: ON THE WAY BACK.

23 BY MR. MC MULLEN:

24 Q BUT YOU ARE NOT SURE NOW TODAY AS YOU TESTIFY
25 WHETHER OR NOT YOU WERE SITTING AT THE TIME --

26 A WHEN I FIRST SAW HIM I WAS SITTING IN MY
27 CHAIR. HE USED THE RESTROOM I DON'T KNOW EXACTLY WHAT
28 TIME, BUT HE WAS COMING BACK WHEN MY HUSBAND SAW HIM, AND

1 THEN I SAW HIM TOO AND WE COLLABORATED.

2 Q MA'AM, IF YOU COULD JUST LOOK OVER THIS
3 EXHIBIT J THAT YOU HAVE BEFORE YOU. IF YOU COULD JUST
4 LOOK THROUGH IT FOR YOURSELF AND SEE IF YOU CAN POINT OUT
5 ANYTHING ON THE DECLARATION THAT INDICATES THAT YOU
6 NOTICED THE MAN YOU HAVE IDENTIFIED AS RON LEVIN COMING
7 INTO THE RESTAURANT WHEN THEY FIRST CAME IN?

8 A WHERE IS THAT?

9 Q JUST READ THE WHOLE DECLARATION TO YOURSELF
10 PLEASE.

11 A YES.

12

13 (PAUSE.)

14

15 A WELL, THAT'S WHAT I TOLD THEM.

16 Q YOU DIDN'T NOTICE ANYTHING?

17 A I CAN'T SEE THAT THERE IS MUCH OF ANYTHING
18 DIFFERENT, MAYBE A LITTLE BIT IN THE TIMING, BUT --

19 Q THANKS.

20 MA'AM, YOUR HUSBAND IS IN THE BUSINESS OF OR
21 WAS IN THE BUSINESS OF CONSTRUCTING POOLS?

22 A HE IS. HE STILL IS.

23 Q AND HE CONSTRUCTED A POOL FOR BOBBY ROBERTS;
24 IS THAT CORRECT?

25 MR. KLEIN: OBJECTION. CALLS FOR HEARSAY.

26 THE COURT: LET'S SEE WHERE IT IS GOING.

27 THE WITNESS: HE DID.

28 THE COURT: I WILL ALLOW IT.

1 MR. KLEIN: SHE IS NOT THE ONE THAT DID THE
2 BUSINESS. THE HUSBAND SHOULD BE CALLED IN.

3 THE COURT: LET ME SEE WHERE IT IS GOING.
4 BY MR. MC MULLEN:

5 Q DO YOU KNOW IF YOUR HUSBAND CONSTRUCTED A
6 POOL ONCE UPON A TIME FOR MR. BOBBY ROBERTS?

7 A YES.

8 Q WERE YOU AWARE THAT MR. ROBERTS PROVIDED BAIL
9 FOR MR. HUNT DURING THE TRIAL?

10 A I KNEW THAT HE WAS CONNECTED WITH IT, BUT I
11 DIDN'T KNOW ABOUT THE BAIL. I KNEW THAT, READING IN THE
12 PAPER I KNEW THAT HIS DAUGHTER WAS CONNECTED WITH JOE.
13 THAT WAS FROM THE PAPER.

14 MR. MC MULLEN: MAY I JUST HAVE A MOMENT?

15 THE COURT: I WILL OVERRULE THE OBJECTION. IT GOES
16 TO POSSIBLE BIAS.

17 MR. MC MULLEN: THANK YOU, YOUR HONOR.

18

19 (PAUSE.)

20

21 MR. MC MULLEN: NOTHING FURTHER, YOUR HONOR.

22 THE COURT: ALL RIGHT.

23 ANY REDIRECT, MR. CRAIN?

24 MR. CRAIN: YES.

25 THE COURT: JUST GIVE ME ONE SECOND.

26 MR. CRAIN: SURE.

27 THE COURT: THE SET OF EXHIBITS THAT WE GOT FROM
28 PETITIONER ARE THESE THE OFFICIAL EXHIBITS FOR THE CLERK

1 OR FOR THE COURT?

2 MR. MC MULLEN: WELL, I AM JUST LEARNING NOW YOU
3 WOULD LIKE A SEPARATE COPY FOR YOURSELF AND AN ORIGINAL
4 FOR THE COURT.

5 THE COURT: WHAT I DO IS I MAKE NOTES ON EXHIBITS.

6 MR. MC MULLEN: WHATEVER IS MOST CONVENIENT FOR
7 YOUR HONOR. WE HAVE NOT DONE THAT, BUT WE WILL MAKE AN
8 ADDITIONAL COPY.

9 THE COURT: I WILL RETURN THESE, OR I WILL MAKE
10 SURE THAT THE CLERK KEEPS THEM. I AM NOT MARKING ON ANY
11 OF THESE, BUT I DO NEED A WORKING COPY.

12 MR. MC MULLEN: WE WILL PROVIDE THAT FOR YOU
13 TOMORROW.

14 THE COURT: ALL RIGHT.

15 MR. MC MULLEN: I DON'T KNOW IF WE CAN GET IT TO
16 YOU TODAY.

17 THE COURT: I WON'T MAKE ANY NOTES TODAY, BUT I
18 WILL LOOK AT THE EXHIBITS.

19 ALL RIGHT.

20 MR. CRAIN?

21 MR. CRAIN: THANK YOU.

22

23 REDIRECT EXAMINATION +

24

25 BY MR. CRAIN:

26 Q MRS. GERRARD, WHAT YEAR WERE YOU BORN? SORRY
27 FOR BRINGING IT UP, BUT --

28 MR. MC MULLEN: OBJECTION. RELEVANCY.

1 THE COURT: OVERRULED.

2 MR. MC MULLEN: THANK YOU.

3 THE WITNESS: 1932.

4 BY MR. CRAIN:

5 Q 1932?

6 A YES.

7 Q OKAY.

8 WHAT IS YOUR EDUCATIONAL BACKGROUND?

9 A I WENT TO THE UNIVERSITY OF MIAMI, AND I HAD
10 SOME COURSES AT COLUMBIA, AND I TRAINED AT -- I TOOK
11 GRADUATE WORK AT THE UNIVERSITY OF MIAMI, MEDICAL
12 TECHNICIAN.

13 Q COULD YOU PULL THE MICROPHONE UP THAT WAY.
14 YOU CAN SIT BACK AND RELAX.

15 A A MEDICAL TECHNICIAN. I DID MY SPECIALITY IN
16 BLOOD BANK WORK.

17 Q OKAY.

18 THIS MAN IN HERE ASKED YOU A FEW QUESTIONS
19 ABOUT BOBBY ROBERTS. DO YOU KNOW BOBBY ROBERTS
20 PERSONALLY?

21 A NO. I KNOW MY HUSBAND BUILT HIS POOL BECAUSE
22 I WORK WITH MY HUSBAND SOMETIMES. I DO SOME OF THE BOOK
23 WORK.

24 Q DID THAT TAKE PLACE IN THE EARLY 1970'S WHEN
25 THIS POOL WAS BUILT, DO YOU KNOW?

26 A I DON'T KNOW THE EXACT DATE.

27 Q DO YOU HAVE ANY PERSONAL FRIENDSHIP OR
28 ACQUAINTANCE WITH EITHER BOBBY ROBERTS OR ANY MEMBER OF

1 HIS FAMILY?

2 A I ONLY TALKED TO HIM ON THE PHONE WHEN HE
3 WOULD HAVE SOME QUESTIONS ABOUT THE POOL OR WHEN HE WAS
4 TRYING TO REACH JERRY, MY HUSBAND.

5 Q ALL RIGHT.

6 NOW, IN MYKONOS IN THIS SMALL RESTAURANT WHEN
7 YOU WERE THERE DINING WERE YOU DRINKING ANY ALCOHOL?

8 A NO. I DON'T DRINK AT ALL.

9 THE COURT: "NO, I DON'T DRINK"?

10 THE WITNESS: I DON'T DRINK AT ALL.

11 BY MR. CRAIN:

12 Q HOW ABOUT 1987 AT CHRISTMAS?

13 A I DON'T DRINK AT ALL.

14 Q THAT MEANS YOU DON'T --

15 A EVER.

16 Q OKAY.

17 AND YOU SAID YOUR EYES WERE SUCH THAT YOU HAD
18 A PAIR OF DIME STORE GLASSES THAT YOU USE?

19 A THEY ARE JUST FOR READING. AS YOU SEE, I
20 COULD READ THIS, SO SOMETIMES WITH A SMALL PRINT I USE
21 READING GLASSES.

22 Q SO YOU WERE ABLE TO READ THE DOCUMENT THAT
23 THE PROSECUTOR SHOWED TO YOU?

24 A YES.

25 Q WITHOUT ANY GLASSES?

26 A SURE.

27 Q OKAY.

28 SO DO YOU HAVE ANY DIFFICULTY SEEING WHAT YOU

1 WERE DESCRIBING IN THE RESTAURANT?

2 A NO. I HAD NO TROUBLE.

3 Q ALL RIGHT.

4 NOW, JUST TO GO BACK OVER A COUPLE OF THINGS
5 HERE. YOU HAVE TOLD US THAT YOU KNEW RON LEVIN; RIGHT?

6 A YES.

7 Q AND AT SOME POINT YOU HEARD THROUGH THE NEWS
8 THAT RON LEVIN WAS REPORTED AS HAVING DISAPPEARED; RIGHT?

9 A YES.

10 Q AND THEN TO JUMP AHEAD, AT SOME POINT IN 1987
11 YOU SAW RON LEVIN IN MYKONOS; RIGHT?

12 A THAT'S RIGHT.

13 Q NOW, AFTER -- WAS THAT THE FIRST TIME THAT
14 YOU SAW RON LEVIN AFTER HE WAS REPORTED AS HAVING
15 DISAPPEARED?

16 A YES.

17 MR. CRAIN: PERHAPS COUNSEL WILL STIPULATE THAT THE
18 DATE OF HIS ALLEGED, THE ALLEGED CRIME IN THIS MATTER AND
19 DISAPPEARANCE OF MR. LEVIN IN FACT IS JUNE 6, 1984.

20 MR. MC MULLEN: WELL, YOUR HONOR, I AM NOT -- WE
21 ARE NOT WILLING TO STIPULATE TO THAT. I THINK WHAT'S
22 IMPORTANT IS WHAT -- WHEN THIS WITNESS BECAME AWARE OF THE
23 DISAPPEARANCE. I THINK THAT'S WHAT'S IMPORTANT WITH
24 RESPECT TO THIS WITNESS.

25 THE COURT: THERE IS AN 188-PAGE OPINION --

26 MR. MC MULLEN: I THINK THAT --

27 THE COURT: -- THAT CONFIRMED THE CONVICTION FOR A
28 CRIME OCCURRING ON OR ABOUT JUNE 6, 1984.

1 MR. CRAIN: YES, YOUR HONOR.

2 THE COURT: SO IS THAT REALLY AN AREA OF CONCERN?

3 MR. MC MULLEN: NO, IT IS NOT OF CONCERN.

4 THE COURT: SO YOU ARE WILLING TO STIPULATE TO THAT
5 FACT?

6 MR. MC MULLEN: SURE.

7 THE COURT: THANK YOU.

8 BY MR. CRAIN:

9 Q IS IT CORRECT THAT WHAT YOU ARE TELLING THE
10 COURT IS THAT YOU LEARNED OF THE DISAPPEARANCE OF RON
11 LEVIN THROUGH THE NEWSPAPER AND -- LET ME ASK YOU THIS:
12 WERE THE REPORTS MAKING IT SOUND LIKE THIS WAS SOMETHING
13 THAT HAD JUST HAPPENED, WHEN YOU STARTED READING THEM? DO
14 YOU UNDERSTAND MY QUESTION?

15 A THE FIRST TIME I SAW IT WAS ON TELEVISION
16 WHEN THE POLICE WERE SHOWING STUFF THAT THEY GOT OUT OF
17 HIS HOUSE WHEN HE WAS MISSING. THEY HAD IT ON THE LAWN
18 AND THEY WERE SHOWING IT. IT WAS ON T.V., PROBABLY
19 CHANNEL 2 OR 4.

20 Q SO THAT WAS WHAT APPEARED TO BE AN
21 INVESTIGATION BY THE POLICE INTO LEVIN'S DISAPPEARANCE; IS
22 THAT RIGHT?

23 A YES.

24 Q AND BEFORE THAT DATE, AS YOU TOLD US, YOU HAD
25 SEEN AND MET WITH MR. LEVIN ON A NUMBER OF OCCASIONS;
26 RIGHT?

27 A MANY TIMES. AT LEAST TEN TIMES.

28 Q THE NEXT TIME THEN THAT YOU SAW MR. LEVIN WAS

1 IN MYKONOS IN 1987; IS THAT RIGHT?

2 A THAT'S RIGHT.

3 MR. CRAIN: MAY I HAVE JUST A MOMENT? I MIGHT NEED
4 TO ASK ONE MORE QUESTION.

5 THE COURT: SURE.

6

7 (A CONFERENCE WAS HELD BETWEEN COUNSEL
8 AND THE PETITIONER, NOT REPORTED.)

9

10 BY MR. CRAIN:

11 Q YOU WERE INTERVIEWED BACK IN -- LET ME JUST
12 ASK YOU A COUPLE OF OTHER THINGS.

13 WHEN YOU WERE IN THE RESTAURANT YOU HAVE TOLD
14 US THAT THE MAN YOU SAW WAS RON LEVIN; CORRECT?

15 A YES.

16 Q AND YOU TOLD US THAT AT SOME POINT HE PASSED
17 BY YOU; IS THAT RIGHT?

18 A THAT'S RIGHT.

19 Q AND DO YOU HAVE ANY DOUBT ABOUT THAT
20 WHATSOEVER?

21 A ABSOLUTELY NOT.

22 Q NOW, WERE YOU INTERVIEWED IN 1992 BY A
23 DETECTIVE FROM THE BEVERLY HILLS POLICE DEPARTMENT IN
24 WHICH HE ASKED YOU ABOUT CERTAIN DATES. DO YOU REMEMBER?

25 A YES.

26 Q ALL RIGHT.

27 A I REMEMBER BEING -- I DON'T REMEMBER WHAT
28 EXACTLY WHAT HE ASKED ME, BUT I REMEMBER BEING

1 INTERVIEWED.

2 MR. MC MULLEN: AT THIS POINT I WOULD OBJECT AS
3 BEING BEYOND THE SCOPE OF CROSS.

4 THE COURT: IT IS. I WILL ALLOW SOME LATITUDE.

5 MR. MC MULLEN: THANK YOU.

6 MR. CRAIN: LET ME KNOW IF YOU NEED TO SEE A
7 REPORT.

8 BY MR. CRAIN:

9 Q DID YOU MAKE A STATEMENT TO DETECTIVE ZOELLER
10 THAT THE LAST TIME THAT YOU HAD SEEN RON LEVIN WAS THE
11 LATTER PORTION OF 1983, OR DO YOU NEED TO SEE HIS REPORT?

12 A I DON'T REMEMBER TELLING HIM ABOUT THE LAST
13 TIME I HAD SEEN HIM.

14 Q YOU GAVE AN HONEST STATEMENT TO THE BEST OF
15 YOUR RECOLLECTION WHEN YOU WERE INTERVIEWED BY THE POLICE;
16 IS THAT RIGHT?

17 A YES.

18 Q AND DID YOU TELL DETECTIVE ZOELLER ALSO IN
19 THAT INTERVIEW 4-27-1992 THAT THE DATE WHEN YOU SAW RON
20 LEVIN IN MYKONOS WAS CHRISTMAS 1987?

21 MR. MC MULLEN: AT THIS POINT I AM GOING TO ASK --
22 IT IS LEADING AND CALLING FOR HEARSAY.

23 THE COURT: ARE YOU OFFERING A PRIOR CONSISTENT
24 STATEMENT?

25 MR. CRAIN: YES. PRIOR CONSISTENT STATEMENT.

26 THE COURT: OVERRULED.

27 MR. MC MULLEN: THANK YOU.

28

1 BY MR. CRAIN:

2 Q DO YOU REMEMBER TELLING HIM --

3 A YOU WANT TO KNOW WHAT DATE DID I TELL HIM
4 THIS.

5 Q I AM LOOKING AT A REPORT DATED APRIL 27,
6 1992, BY DETECTIVE ZOELLER.

7 A ALL RIGHT.

8 WHAT ARE YOU SAYING NEXT?

9 Q YOU TOLD US HERE IT WAS CHRISTMAS 1987 WHEN
10 YOU SAW LEVIN?

11 A NO. I KNOW IT WAS CHRISTMAS. I LOOKED AT
12 THE REPORT AND IT SAID '87.

13 Q ALL RIGHT.

14 SO DID YOU TELL DETECTIVE ZOELLER IT WAS 1987
15 WHEN YOU WERE INTERVIEWED -- IN

16 A I MUST HAVE. IT MUST HAVE BEEN.

17 Q -- 1992?

18 DO YOU NEED TO LOOK AT HIS REPORT TO REFRESH
19 YOUR MEMORY?

20 A NO. I THINK I SAW HIM EARLIER THAN '92.

21 Q OKAY.

22 A BECAUSE I WAS LIVING IN THE OTHER PART OF THE
23 MARINA THEN.

24 Q WHEN YOU TALKED TO DETECTIVE ZOELLER, DID YOU
25 TELL HIM ANYTHING DIFFERENT ABOUT THE DATE THAT YOU SAW
26 MR. LEVIN, OR DID YOU TELL HIM THE SAME THING THAT YOU
27 HAVE TOLD THE JUDGE HERE, THAT IT WAS CHRISTMAS 1987?

28 A AS FAR AS I KNOW, I TOLD HIM EXACTLY WHAT I

1 TOLD THEM HERE ABOUT THE DATE. I KNOW IT WAS CHRISTMAS,
2 BUT AS FAR AS THE YEAR I READ IN THERE IT SAID '87, SO I
3 MUST HAVE TOLD HIM '87.

4 Q SO IS IT YOUR TESTIMONY THAT WHEN YOU SAW
5 MR. LEVIN ON MYKONOS YOU HAD ALREADY READ IN THE PAPER
6 THAT MR. HUNT'S TRIAL HAD BEEN ENDED?

7 A YES.

8 MR. CRAIN: THANK YOU.

9 NOTHING FURTHER.

10 THE COURT: MS. GERRARD, DID YOU LIKE RON LEVIN?

11 THE WITNESS: AT FIRST.

12 THE COURT: WHAT CHANGED YOUR IMPRESSION?

13 THE WITNESS: WELL, I BELIEVED THAT HE WAS A
14 LAWYER. I BELIEVED THE STORIES THAT HE WAS TELLING. I
15 BELIEVED THAT HE WANTED TO GET A T.V. PROGRAM TOGETHER,
16 AND HE WAS SO GENEROUS.

17 THE COURT: WHEN DID YOU LEARN THESE THINGS WERE
18 NOT TRUE?

19 THE WITNESS: AS WE WENT WORKING TOGETHER MY
20 SON-IN-LAW WOULD TELL ME, YOU KNOW, "I AM FINDING OUT THAT
21 THIS MAN IS A PHONY," AND I REALIZED THAT.

22 THE COURT: WAS THIS BEFORE OR AFTER MR. LEVIN'S
23 DISAPPEARANCE IN JUNE OF '84?

24 THE WITNESS: IT WAS JUST BEFORE ALL OF THESE
25 THINGS WERE HAPPENING. BEFORE THE DISAPPEARANCE.

26 THE COURT: YOU SAID IN YOUR TESTIMONY THAT YOU
27 THOUGHT MR. LEVIN WAS WANTED WHEN YOU SAW HIM IN MYKONOS.
28 WHY DID YOU SAY THAT?

1 THE WITNESS: WELL, OF COURSE, THEY WOULD LIKE TO
2 HAVE FOUND HIM IF HE WERE ALIVE. I FELT LIKE THE BEVERLY
3 HILLS POLICE WANTED HIM TO BE DEAD.

4 THE COURT: WHY DO YOU SAY THAT?

5 THE WITNESS: BECAUSE MY SON-IN-LAW AND DAUGHTER
6 AND I, WE WERE ALWAYS SAYING RON IS THE ULTIMATE CON
7 ARTIST, HE DISAPPEARED. IT WAS SOMETHING ABOUT THE MONEY
8 THAT HE HAD, AND THEY SAID HE HAD MONEY.

9 THE COURT: WHERE DID YOU LEARN THAT INFORMATION?

10 THE WITNESS: I GUESS READING THE PAPER THAT HE WAS
11 INVOLVED WITH A BANK, SOMETHING ABOUT THE MONEY IN
12 SWITZERLAND. ALL THERE --

13 THE COURT: THE NEWSPAPER?

14 THE WITNESS: THE NEWSPAPER HAD EVERYTHING THAT
15 EVER HAPPENED IN THIS JOE HUNT CASE.

16 THE COURT: YOU FOLLOWED THAT PRETTY CLOSELY?

17 THE WITNESS: YES.

18 THE COURT: WHY DID YOU FOLLOW IT SO CLOSELY?

19 THE WITNESS: BECAUSE I ALWAYS READ THE NEWSPAPER.

20 THE COURT: DID YOU FOLLOW THIS MORE CLOSELY THAN
21 OTHER CASES?

22 THE WITNESS: I FOLLOWED EVERY BIT OF THE O.J.
23 CASE, AND I FOLLOWED THE MENDENEZ CASE, AND I THINK
24 EVERYBODY FOLLOWED THOSE.

25 THE COURT: DID YOU -- YOU SAID THAT YOU CUT OUT
26 CLIPPINGS AND SENT THEM TO OTHER PEOPLE.

27 THE WITNESS: NO. I HAD CUT OUT A COUPLE -- I WAS
28 GOING TO SEND THIS LADY -- I THOUGHT I HAD SOME AT HOME.

1 I THOUGHT I COULD GET THEM, CALL THE NEWSPAPER AND GET
2 THEM. I WAS GOING TO SEND THEM, BUT AFTER I WAS TOLD, YOU
3 KNOW, TO KIND OF BUTT OUT, I JUST DIDN'T DO ANYTHING ABOUT
4 IT. I NEVER WROTE TO HER.

5 THE COURT: ALL RIGHT.

6 MR. MC MULLEN, ANYTHING FURTHER?

7 MR. MC MULLEN: NOTHING FURTHER.

8 THE COURT: MR. CRAIN, DO YOU HAVE ANYTHING
9 FURTHER?

10 MR. CRAIN: I DON'T THINK WE HAVE ANY FURTHER
11 QUESTIONS OF THE WITNESS.

12 THE COURT: MAY THE WITNESS BE EXCUSED?

13 MR. CRAIN: YES.

14 THE COURT: ANY OBJECTION?

15 MR. MC MULLEN: YES. I THINK SHE SHOULD BE ON
16 CALL.

17 THE COURT: SUBJECT TO SUFFICIENT SHOWING.

18 MR. MC MULLEN: YES.

19 THE COURT: THIS SHOULD BE YOUR ONE AND ONLY SHOT,
20 UNLESS YOU HAVE GOT SUBSTANTIAL SHOWING WHY THE WITNESS
21 SHOULD COME BACK.

22 MR. MC MULLEN: I THINK THERE IS PROVISIONS IN THE
23 EVIDENCE CODE, IF WE PRESENT SOME IMPEACHING EVIDENCE,
24 THAT'S WHY I ASKED THAT.

25 THE COURT: MR. KLEIN, DON'T COME AND GO. THE
26 RECORD REFLECTS ALL COUNSEL ARE HERE. I NEED TO HAVE A
27 RECORD THAT REFLECTS YOU ARE HERE.

28 MR. KLEIN: I APOLOGIZE, YOUR HONOR.

1 THE COURT: IF YOU NEED TO LEAVE THAT'S FINE, BUT
2 LET ME KNOW.

3 YOU CAN STEP DOWN AT THIS TIME.

4 DO WE HAVE THE ABILITY TO REACH
5 MS. GERRARD?

6 MR. KLEIN: YES.

7 THE COURT: ALL RIGHT.

8 CALL YOUR NEXT WITNESS.

9 MR. CRAIN: MAY I GO IN THE HALLWAY, YOUR HONOR,
10 AND GET THE NEXT WITNESS?

11 THE COURT: YES.

12
13 (PAUSE.)

14
15 THE COURT: LET ME ASK COUNSEL IF YOU WOULD
16 RETRIEVE ANY EXHIBITS THAT ARE UP ON THE WITNESS STAND
17 AFTER EACH WITNESS FINISHES. I DON'T WANT TO LOSE
18 ANYTHING.

19 MR. KLEIN: HAS THE DECLARATION BEEN MARKED AS AN
20 EXHIBIT?

21 THE COURT: I BELIEVE MR. CRAIN MARKED IT AS J.

22 THE PETITIONER: CORRECT.

23 THE COURT: I AM SORRY.

24 MR. MC MULLEN, MARKED IT AS J.

25 MR. MC MULLEN: YES.

26 THE COURT: MR. CRAIN MARKED AN EXHIBIT 1.

27 MR. MC MULLEN: JUST FOR FUTURE REFERENCE, YOUR
28 HONOR, WE WILL PROVIDE ADDITIONAL COPIES OF THE EXHIBIT TO

1 THE CLERK. WHEN YOU HAVE ONE AND THE CLERK HAS ONE, WHEN
2 WE GO TO MARK EXHIBITS, THEN CAN WE JUST PULL OURS OUT
3 OF --

4 THE COURT: WHY DON'T YOU USE THE ORIGINAL --

5 MR. MC MULLEN: USE THE CLERK'S EXHIBIT --

6 THE COURT: -- TO PUT BEFORE THE WITNESS UNLESS --

7 MR. CRAIN: SORRY, YOUR HONOR.

8 WE ARE NOW READY --

9 THE COURT: OKAY.

10 MR. CRAIN: -- TO PROCEED.

11 THE COURT: ALL RIGHT.

12 MR. CRAIN: AND WE CALL MR. HOLMES, WHO IS PRESENT.

13
14 OLIVER HOLMES, +

15 CALLED AS A WITNESS BY THE PETITIONER, WAS SWORN AND
16 TESTIFIED AS FOLLOWS:

17
18 THE CLERK: WOULD YOU STEP BEHIND THE COURT
19 REPORTER, PLEASE.

20 STAND RIGHT THERE, PLEASE. FACE ME AND RAISE
21 YOUR RIGHT HAND.

22 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
23 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
24 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
25 SO HELP YOU GOD?

26 THE WITNESS: I DO.

27 THE CLERK: PLEASE TAKE THE WITNESS STAND.

28 WOULD YOU STATE AND SPELL YOUR NAME PLEASE.

1 THE WITNESS: OLIVER HOLMES, H-O-L-M-E-S.

2 THE COURT: YOU MAY INQUIRE.

3 MR. CRAIN: THANK YOU, YOUR HONOR.

4

5 DIRECT EXAMINATION +

6

7 BY MR. CRAIN:

8 Q MR. HOLMES, WHAT IS YOUR OCCUPATION, SIR?

9 A I HAVE A LITIGATION SUPPORT SERVICE.

10 Q AND IS THAT HERE IN LOS ANGELES?

11 A THAT'S IN LOS ANGELES.

12 Q CAN YOU PULL THE MICROPHONE UP CLOSER TO YOU,
13 THEN I THINK WE CAN HEAR YOU BETTER OUT HERE.

14 A YES.

15 Q THANK YOU.

16 IN 1984 WHAT WAS YOUR OCCUPATION?

17 A I HAD THE SAME OCCUPATION IN 1984.

18 Q OKAY.

19 AND HAVE YOU BEEN AN ATTORNEY?

20 A I WAS AN ATTORNEY UNTIL 1983.

21 Q OKAY.

22 AND YOU WERE A PRACTICING ATTORNEY HERE IN
23 THE LOS ANGELES AREA UNTIL THAT YEAR?

24 A YES.

25 Q AND NOW YOU HAVE EMBARKED ON THIS OTHER
26 SOMEWHAT RELATED FIELD THAT YOU ARE IN NOW?

27 A THAT'S RIGHT.

28 Q NOW, GOING BACK TO 1984 DID YOU KNOW A PERSON

1 BY THE NAME OF RON LEVIN?

2 A YES.

3 Q AND DID YOU KNOW HIM VERY WELL?

4 A FAIRLY WELL.

5 Q AND DO YOU REMEMBER APPROXIMATELY WHEN YOU
6 FIRST MET MR. LEVIN, WHAT YEAR OR TIME PERIOD?

7 A I BELIEVE IT WAS AROUND 1978.

8 Q AND WAS YOUR RELATIONSHIP WITH MR. LEVIN,
9 FIRST, ONE OF FRIENDSHIP OR ACQUAINTANCE OR PROFESSIONAL,
10 OR HOW WOULD YOU DESCRIBE IT?

11 A INITIALLY I REPRESENTED HIM AS A CLIENT IN
12 1978, AND AFTER THAT WE STAYED IN TOUCH WITH EACH OTHER.

13 Q WAS THAT IN CONNECTION WITH A CIVIL OR
14 CRIMINAL MATTER?

15 A THAT WAS A CIVIL MATTER.

16 Q WAS HE THE DEFENDANT IN THAT MATTER?

17 A HE WAS THE PLAINTIFF.

18 Q AND SO YOU BECOME WHAT, ACQUAINTANCES OR
19 FRIENDS AFTER THAT?

20 A I WOULD CHARACTERIZE IT AS ACQUAINTANCES.
21 MAYBE I AM BEING A LITTLE TOO NARROW. FRIENDS. FRIENDS
22 IS FINE.

23 Q WHAT DID RON LEVIN LOOK LIKE?

24 THE COURT: AT WHAT POINT ARE YOU ASKING?

25 MR. CRAIN: IN 1984.

26 THE WITNESS: MY LAST RECOLLECTION OF HIM IS THAT
27 HE WAS PERHAPS AN INCH OR SO LESS THAN SIX FEET TALL.
28 WELL, LET ME SAY THAT HE WAS WITHIN AN INCH OR SO OF SIX

1 FEET TALL. AVERAGE PHYSIQUE, NEITHER PARTICULARLY STOCKY
2 NOR PARTICULARLY THIN. HE HAD GRAY HAIR AND FROM TIME TO
3 TIME A GRAY BEARD.

4 BY MR. CRAIN:

5 Q WAS HE A PRETTY GOOD DRESSER?

6 A HE WAS -- YEAH. NATTY DRESSER, YEAH.

7 Q AND SHOWING YOU PLAINTIFF'S, PETITIONER'S --
8 EXCUSE ME -- EXHIBIT 1. DO YOU RECOGNIZE THE MAN IN THAT
9 PICTURE?

10 A I BELIEVE THAT'S RON LEVIN.

11 Q DO YOU HAVE ANY DOUBT ABOUT IT?

12 A NO. NO. I HAVE NO DOUBT ABOUT IT.

13 Q DURING YOUR ACQUAINTANCE WITH RON LEVIN OVER
14 THE PERIOD OF 1978 TO 1984 COULD YOU TELL THE COURT
15 APPROXIMATELY HOW OFTEN WOULD YOU COME IN CONTACT WITH
16 MR. LEVIN?

17 A FROM 1978 TO 1984? IN 1978 I WOULD COME IN
18 CONTACT WITH HIM PERHAPS THREE TO FOUR TIMES PER WEEK FOR
19 AN HOUR OR SO EACH TIME, THAT'S UNTIL THE CIVIL CASE CAME
20 TO TRIAL AND WAS OVER, WHICH WOULD HAVE BEEN IN EARLY
21 1979, I BELIEVE.

22 AFTER THAT I SAW HIM ON THE AVERAGE OF THREE
23 TIMES A MONTH, YOU MIGHT SAY, ROUGHLY UNTIL 1983. THE
24 LATTER PART OF 1983 HE CONTACTED ME AND SAID THAT HE HAD
25 SOME DIFFICULTIES WITH THE LAW, AND COULD I PERHAPS COME
26 OVER AND TALK TO HIM ABOUT IT.

27 AFTER THAT I SAW HIM AGAIN AROUND THREE TIMES
28 PER WEEK UNTIL THE LAST TIME I SAW HIM IN JUNE OF 1984.

1 Q WHAT CITY DID MR. LEVIN LIVE IN?

2 A BEVERLY HILLS.

3 Q AND DID HE LIVE ON A STREET CALLED PECK?

4 A PECK ROAD, YES.

5 Q IS THAT NEAR WILSHIRE BOULEVARD?

6 A YES.

7 Q IS IT ANYWHERE NEAR SAKS 5TH AVENUE?

8 A YES.

9 Q IS IT MORE OR LESS AROUND THE CORNER OF SAKS
10 5TH AVENUE?

11 A YES. YOU COULD SEE SAKS 5TH AVENUE FROM HIS
12 HOUSE.

13 Q AND APPROXIMATELY HOW MANY TIMES HAVE YOU
14 VISITED INSIDE MR. LEVIN'S APARTMENT ON PECK?

15 A 50 OR MORE TIMES.

16 Q NOW, DURING YOUR ACQUAINTANCE WITH MR. LEVIN,
17 DID HE EVER PASS HIMSELF OFF AS A LAWYER?

18 A YES.

19 Q TO OTHER PEOPLE?

20 A NO. TO ME. I DON'T RECALL HIM PASSING
21 HIMSELF OFF AS A LAWYER TO OTHER PEOPLE, ALTHOUGH HE MAY
22 HAVE.

23 Q AND TO YOUR KNOWLEDGE, DID HE REPRESENT THAT
24 HE WAS ALSO A PHYSICIAN OR MEDICAL DOCTOR AT SOME POINT?

25 MR. MC MULLEN: AT THIS POINT I AM GOING TO OBJECT
26 AS IRRELEVANT, YOUR HONOR.

27 MR. CRAIN: NOT VERY FAR. I WOULD JUST LIKE THE
28 WITNESS TO ANSWER THIS QUESTION. I THINK THE COURT IS

1 ENTITLED TO KNOW FROM THE PERSON WHO KNEW THE WITNESS VERY
2 WELL, SOMETHING ABOUT THE VICTIM, MR. LEVIN. THE COURT
3 SHOULD KNOW SOMETHING ABOUT MR. LEVIN.

4 THE COURT: I WILL SUSTAIN THE OBJECTION. I READ
5 THE TRANSCRIPT, I KNOW AN AWFUL LOT ABOUT THIN.

6 MR. CRAIN: YOU KNOW -- YOU DO NOW KNOW FROM
7 READING IN THE TRANSCRIPTS HE IS AN EXTREME CON MAN, A MAN
8 OF MANY FACES AND SO FORTH, BUT WE ARE REQUIRED HERE TO
9 PUT IT ON BY EVIDENCE. HERE IS SOMEONE THAT KNOWS HIM
10 VERY WELL.

11 THE COURT: I WILL SUSTAIN THE OBJECTION.
12 BY MR. CRAIN:

13 Q IN ANY EVENT, HE REPRESENTED HIMSELF TO YOU
14 TO BE AN ATTORNEY?

15 A YES.

16 Q DID HE ALSO HAVE LAW BOOKS, A LAW LIBRARY?

17 A YES. AT HIS HOME.

18 Q AND WHEN YOU WOULD VISIT HIM THERE, WAS THAT
19 IN PART TO DO ANY LEGAL RESEARCH AT HIS RESIDENCE?

20 A WELL, NO. HE HAD A VOLUMINOUS FILE RELATING
21 TO THE DIFFICULTIES THAT HE WAS IN AT THAT TIME, AND WHAT
22 I DID PRIMARILY WAS TO GO THROUGH THAT FILE.

23 Q NOW, THIS WAS -- EXCUSE ME.

24 THIS WAS A CRIMINAL CASE THAT WAS PENDING
25 AGAINST HIM?

26 A THAT'S RIGHT.

27 Q AND WAS THERE A CRIMINAL CASE THAT INVOLVED
28 HIM BEING ACCUSED OF FRAUD IN OBTAINING SOME CAMERAS AND

1 OTHER EQUIPMENT ILLEGALLY?

2 A AND OTHER EQUIPMENT, YES. VARIOUS KINDS OF
3 EQUIPMENT.

4 Q AND HE SOUGHT OUT YOUR LEGAL OPINIONS WITH
5 REGARD TO THE MERITS OF THAT CASE; IS THAT RIGHT?

6 A WELL, HE ASKED ME TO LOOK AT THOSE PAPERS AND
7 TO LET HIM KNOW WHETHER I THOUGHT HE WAS IN SERIOUS
8 TROUBLE.

9 Q AS A MATTER OF FACT, YOU TOLD HIM THAT HE
10 WAS; DIDN'T YOU?

11 A YES.

12 Q AND BY SERIOUS TROUBLE YOU MEANT
13 INCARCERATION IN SOME SORT OF PRISON OR OTHER JAIL TYPE
14 FACILITY; IS THAT RIGHT?

15 A WELL, I AM NOT SURE THAT I MENTIONED ANYTHING
16 TO HIM ABOUT WHAT HIS POSSIBLE SENTENCE MIGHT BE, BUT I
17 FELT THAT HE WAS IN DANGER, SERIOUS DANGER OF BEING
18 CONVICTED OF THESE CHARGES. AND AS I RECALL, THERE WERE
19 MULTIPLE COUNTS AND HE ALSO HAD PRIOR CONVICTIONS.

20 Q IN YOUR EXPERIENCE AS AN ATTORNEY UP TO SOME
21 POINT IN 1983 HAD YOU HAD EXPERIENCE PRACTICING CRIMINAL
22 LAW?

23 A YES.

24 Q AND WHAT PART OF YOUR PRACTICE OVER THE YEARS
25 THAT YOU WERE A PRACTICING ATTORNEY WOULD YOU SAY WAS
26 DEVOTED TO CRIMINAL MATTERS?

27 MR. MC MULLEN: AT THIS POINT I WOULD OBJECT AS
28 IRRELEVANT.

1 THE COURT: I WILL ALLOW THAT QUESTION.

2 MR. CRAIN: THANK YOU.

3 THE COURT: DID YOU TELL HIM THAT?

4 THE WITNESS: DID I -- I TOLD HIM THAT NOTHING --
5 WELL, NOTHING THAT HE SHOWED ME AFTER JANUARY OF 1994
6 CHANGED MY ORIGINAL OPINION.

7 BY MR. CRAIN:

8 Q AND YOU TOLD HIM THAT, YES?

9 A AND I TOLD HIM THAT, YES.

10 Q DID YOU HAVE A KEY TO HIS RESIDENCE AT ANY
11 TIME?

12 A YES.

13 Q WAS THERE SOME PURPOSE OF YOU HAVING A KEY TO
14 MR. LEVIN'S RESIDENCE ON PECK?

15 A YES. IN ORDER FOR ME TO GO THROUGH THE
16 PAPERWORK.

17 MR. MC MULLEN: EXCUSE ME.

18 I WOULD OBJECT AS IRRELEVANT, WHETHER HE HAD
19 A KEY OR NOT.

20 THE COURT: OVERRULED. IT GOES TO HIS KNOWLEDGE
21 AND FAMILIARITY WITH MR. LEVIN.

22 MR. MC MULLEN: THANK YOU.

23 THE COURT: YOU MAY ANSWER.

24 THE WITNESS: BEFORE I HAD A KEY TO HIS RESIDENCE I
25 WOULD HAVE TO ARRANGE TIMES TO GO THROUGH THE PAPERS THAT
26 HE HAD PERTAINING TO THESE CHARGES. AT TIMES WHEN HE WAS
27 AT HOME, WHICH DIDN'T ALWAYS COINCIDE WITH THE TIMES WHEN
28 I HAD TIME TO DO THAT. HE PROPOSED A SOLUTION TO THAT BY

1 GIVING ME A KEY AND TELLING ME HIS SECURITY CODE NUMBER,
2 SO THAT I COULD ENTER HIS APARTMENT ANYTIME THAT I HAD
3 TIME TO LOOK AT THE STUFF.

4 BY MR. CRAIN:

5 Q JUST TO JUMP OFF THE TRACK MOMENTARY.

6 IN 1984, '85, '86 AND '87 WERE YOU IN LOS
7 ANGELES?

8 A YES.

9 Q AND WERE YOU LIVING AT THE SAME RESIDENCE YOU
10 HAD LIVED IT AT FOR SOME PERIOD OF TIME?

11 A YES.

12 Q HOW LONG HAD YOU LIVED AT THAT RESIDENCE?

13 A I MOVED TO THAT RESIDENCE, I BELIEVE, IN
14 1981.

15 Q AND HOLDING YOURSELF OUT UNDER YOUR TRUE NAME
16 AS OLIVER WENDELL HOLMES?

17 A YES. I WAS AT THAT ADDRESS. MY DRIVER'S
18 LICENSE AND ANY OTHER PUBLIC RECORDS RELATING TO ME SHOWED
19 THAT AS MY ADDRESS, YES.

20 Q YOU PAID UTILITY BILLS UNDER THAT NAME?

21 A PAID UTILITY BILLS, TELEPHONE BILLS.

22 Q OKAY.

23 NOW, DESCRIBE MR. LEVIN, IS THERE ANYTHING
24 ELSE ABOUT MR. LEVIN'S PHYSICAL APPEARANCE OR PERSONALITY
25 OR ANYTHING THAT WAS PARTICULARLY OUTSTANDING?

26 MR. MC MULLEN: OBJECTION. IRRELEVANT.

27 THE COURT: CALLS FOR SPECULATION. I AM NOT SURE
28 WHAT YOU MEAN BY THAT.

1 BY MR. CRAIN:

2 Q IS HE A MEMORABLE PERSON AS FAR AS YOU WERE
3 CONCERNED?

4 A I THINK HE WAS EASILY RECOGNIZABLE, YES.

5 Q AND AT SOME POINT DID MR. LEVIN CONSULT WITH
6 YOU ON ANOTHER LEGAL TOPIC INVOLVING EXTRADITION?

7 A WE HAD A CONVERSATION ABOUT EXTRADITION.

8 Q HOW DID THAT COME ABOUT, MR. HOLMES?

9 A I BELIEVE -- MY RECOLLECTION NOW IS THAT HE
10 HAD READ OR HEARD OF A SPECTACULAR BANK THEFT IN LAS
11 VEGAS, WHICH HAD SOME, HE THOUGHT, JOURNALISTIC
12 POSSIBILITIES. AT THAT TIME HE HAD SOME SORT OF NEWS
13 SERVICE AND HE WAS INTERESTED IN PRODUCING FEATURE
14 ARTICLES FOR MAGAZINES AND THE LIKE. THIS INCIDENT IN
15 LAS VEGAS HE THOUGHT HAD SOME JOURNALISTIC POSSIBILITIES
16 AND HE SORT OF FOLLOWED THE STORY.

17 AND AT SOME POINT I BELIEVE THE NEWS REPORTS
18 WERE THAT IT WAS BELIEVED THAT THE PEOPLE WHO HAD DONE
19 THIS CRIME HAD GONE TO BRAZIL, HAD LEFT THE UNITED STATES
20 AND THEY WERE BEING LOOKED FOR IN BRAZIL. I THINK THAT'S
21 THE WAY IT HAPPENED. AND HE SPECULATED ABOUT THE PROSPECT
22 FOR THEIR BEING EXTRADITED FROM BRAZIL WHETHER OR NOT
23 THERE WAS, INDEED, AN EXTRADITION TREATY WITH BRAZIL.

24 Q HE ASKED YOU IF THERE WAS AN EXTRADITION
25 TREATY WITH BRAZIL?

26 A I BELIEVE IT WAS MORE ALONG THE LINES, "I
27 WONDER IF THERE IS AN EXTRADITION TREATY WITH BRAZIL?"

28 Q WERE YOU --

1 A I DIDN'T KNOW WHETHER THERE WAS OR NOT. I
2 BELIEVE I TOLD HIM I THOUGHT THERE WAS.

3 Q SO YOU GAVE HIM AN OPINION AS BEST YOU COULD
4 BASED ON YOUR VIEW AS AN ATTORNEY OR FORMER ATTORNEY THAT
5 YOU THOUGHT --

6 A NOT REALLY. MY VIEW OF WHETHER OR NOT THERE
7 WAS AN EXTRADITION TREATY WITH BRAZIL WAS BASED MORE ON
8 WHAT I THOUGHT I RECALL HAVING READ IN THE NEWSPAPER AT
9 ONE POINT.

10 Q SO YOU TOLD LEVIN YOU THOUGHT THERE WAS SUCH
11 AN EXTRADITION TREATY; IS THAT RIGHT?

12 A YES, I TOLD HIM THAT.

13 Q AND DID HE TELL YOU THAT HE HAD BEEN DOING
14 SOME RESEARCH INTO THE SUBJECT OF EXTRADITION?

15 A THE FIRST CONVERSATION HE TOLD ME THAT I
16 BELIEVE, AS I RECALL, HE TOLD ME THAT HE WAS GOING TO DO
17 FURTHER RESEARCH INTO THAT SUBJECT, AND LATER HE TOLD ME
18 THAT HE HAD DONE SO.

19 Q AND THE SUBJECT BEING WHETHER OR NOT A U.S.
20 CITIZEN COULD BE EXTRADITED FROM A FOREIGN COUNTRY?

21 A FROM BRAZIL PARTICULARLY.

22 Q FROM BRAZIL?

23 A YES.

24 Q AND HE THEN TOLD YOU ABOUT THIS CASE THAT HE
25 HAD READ WHERE SOME PEOPLE HAD STOLEN A LOT OF MONEY; IS
26 THAT RIGHT?

27 A I AM NOT SURE WHAT THE RELEVANCE, WHAT THE
28 SEQUENCE WAS, BUT THE ACTUAL SEQUENCE WAS FIRST HE TOLD ME

1 ABOUT THE STORY THAT HE HAD HEARD ABOUT WHERE THESE PEOPLE
2 HAD GONE TO BRAZIL AFTER COMMITTING A CRIME IN NEVADA.
3 THEN WE HAD A DISCUSSION ABOUT WHETHER OR NOT THERE WAS A
4 EXTRADITION TREATY WITH BRAZIL.

5 THEN HE DID SOME RESEARCH ON WHETHER OR NOT
6 THERE WAS IN FACT AN EXTRADITION TREATY WITH BRAZIL. AND
7 AFTER THAT HE HAD SOME FURTHER INFORMATION IN WHICH HE
8 INFORMED ME THAT HE FOUND OUT THAT THERE WAS, INDEED, AN
9 EXTRADITION TREATY WITH THE UNITED STATES AND BRAZIL.

10 Q IN YOUR DISCUSSIONS WITH MR. LEVIN ABOUT
11 EXTRADITION DID HE DISCUSS THE SUBJECT OF MONEY AND WHAT
12 SOMEONE GOING TO A FOREIGN COUNTRY COULD DO TO AVOID BEING
13 EXTRADITED IF THEY HAD MONEY?

14 A HE -- PART OF OUR CONVERSATION WAS HIS
15 SPECULATION AS TO WHETHER OR NOT AN AMERICAN WITH A LOT OF
16 CASH COULD AVOID EXTRADITION FROM BRAZIL EVEN IF THERE
17 WERE A TREATY OF EXTRADITION BETWEEN THE UNITED STATES AND
18 BRAZIL.

19 Q SO HE DISCUSSED WITH YOU WHETHER OR NOT
20 SOMEBODY WHO WENT TO BRAZIL WAS BEING SOUGHT BY THE LAW
21 BUT YOU HAD A LOT OF MONEY MIGHT BE ABLE TO AVOID BEING
22 BROUGHT BACK TO THIS COUNTRY; RIGHT?

23 A THAT'S RIGHT.

24 Q AND DID HE SUGGEST TO YOU IN SOME WAY THAT
25 ONE OF THE THINGS SOMEONE WITH A LOT OF MONEY COULD DO
26 WOULD BE TO PAYOFF THE LOCAL AUTHORITIES? DID THAT COME
27 UP DURING YOUR CONVERSATION?

28 A I DON'T RECALL THAT SPECIFICALLY BEING SAID,

1 BUT MY IMPRESSION OF THE CONVERSATION WAS THAT THAT WAS
2 WHAT WAS IMPLIED.

3 Q NOW, GOING BACK TO THE SUBJECT OF THE KEY.
4 YOU SAID YOU HAD A KEY FOR A PERIOD OF TIME TO --

5 A THAT'S CORRECT.

6 Q -- TO HIS RESIDENCE; RIGHT?

7 A YES.

8 Q WAS THERE A TIME WHEN YOU RETURNED THE KEY TO
9 MR. LEVIN?

10 A YES.

11 Q WHEN DID YOU RETURN THE KEY TO MR. LEVIN?

12 A I DON'T RECALL THE DATE, BUT I BELIEVE IT WAS
13 THE LAST DATE THAT HE WAS SEEN IN BEVERLY HILLS. HE
14 CALLED ME, LEFT MESSAGES FOR ME AT MY OFFICE TO PLEASE
15 CONTACT HIM ABOUT AN URGENT MATTER. AND I AGREED TO MEET
16 HIM AT HIS HOME. WHEN I DID SO, WHEN I APPEARED THERE, HE
17 ASKED IF HE COULD HAVE HIS KEY BACK, AND I CERTAINLY
18 COMPLIED.

19 Q AND DID HE SEEM RATHER INSISTENT ABOUT THAT
20 SUBJECT, SIR?

21 A WELL, HE DIDN'T HAVE TO PRESS IT. HE SAID HE
22 NEEDED HIS KEY BACK, AND I SAID, "HERE IT IS."

23 Q HOW LONG HAD YOU HAD THE KEY AT THIS POINT?

24 A I WOULD SAY TWO MONTHS.

25 Q THE WHOLE TIME, YOU HAD IT THE WHOLE TIME?

26 A I HAD IT FOR THE ENTIRE PERIOD OF TWO MONTHS
27 AT LEAST.

28 Q DID HE TELL YOU HE WAS GOING SOMEWHERE?

1 A HE TOLD ME HE WAS GOING TO NEW YORK THE NEXT
2 MORNING. HIS PLAN WAS TO GO TO NEW YORK THE NEXT MORNING,
3 BUT THAT PLAN MIGHT CHANGE AND HE MIGHT LEAVE THAT
4 EVENING.

5 Q TO GO TO NEW YORK?

6 A TO GO TO NEW YORK.

7 Q HOW LONG WERE YOU IN HIS PRESENCE AT THAT
8 TIME?

9 A 45 MINUTES.

10 Q AND DURING THAT VISIT -- STRIKE THAT.

11 DID YOU AT SOME POINT LEARN THAT MR. LEVIN
12 HAD DISAPPEARED?

13 A YES.

14 Q AND WAS THAT SHORTLY AFTER THE DATE OF HIS
15 DISAPPEARANCE AS IT WAS ALLEGED TO YOU THAT IT HAPPENED ON
16 A CERTAIN DAY? THAT'S PROBABLY AN AWKWARD QUESTION.

17 A IT WAS THE NEXT MORNING AFTER I SAW HIM AND
18 RETURNED HIS KEY TO HIM.

19 Q SOMEBODY REPORTED TO YOU THAT LEVIN HAS
20 DISAPPEARED?

21 A WELL, YEAH, THAT HE WASN'T WHERE HE WAS
22 EXPECTED TO BE AND THERE WAS NO CLEAR EXPLANATION AS TO
23 WHY HE WASN'T THERE.

24 Q SO IN ORDER FOR YOU TO TELL US ABOUT THE DATE
25 THAT YOU GOT THE KEY BACK IS IT, DO YOU KEEP IN MIND -- DO
26 YOU RELATE IT TO GETTING THIS INFORMATION ABOUT HIS
27 DISAPPEARANCE?

28 A YES. I GOT THE INFORMATION ABOUT HIS

1 DISAPPEARANCE THE NEXT DAY.

2 Q OKAY.

3 NOW, DURING THAT DISCUSSION WITH YOU ON THAT
4 DATE, THE DATE THAT HE ASKED YOU TO GIVE THE KEY BACK TO
5 HIM TO HIS RESIDENCE, DID THE SUBJECT OF A MR. ANTON COME
6 UP?

7 A YES.

8 Q WAS THAT SOMEBODY WHOSE NAME YOU KNEW?

9 A YES.

10 Q AND IS THAT SOMEBODY WHO YOU BELIEVE KNEW
11 MR. LEVIN.

12 A YES.

13 Q AND DID HE REPORT TO YOU WITH SOME DISGUST
14 THAT MR. ANTON HAD GIVEN SOME INCRIMINATING INFORMATION
15 AGAINST MR. LEVIN TO THE AUTHORITIES?

16 A YES.

17 Q THAT WAS SAID THE VERY TIME THAT HE ASKED FOR
18 THE KEY; RIGHT?

19 A YES.

20 Q AND HE SAID THAT HE HAD JUST LEARNED IT THAT
21 DAY; IS THAT RIGHT?

22 A THAT'S WHAT HE SAID, YES.

23 Q AND HE SEEMED TO BE DISPLEASED WITH THAT, DID
24 HE?

25 A YES.

26 MR. CRAIN: YOUR HONOR, MAY I HAVE JUST A MOMENT
27 HERE?

28 THE COURT: YES.

1 (PAUSE.)

2

3 BY MR. CRAIN:

4 Q DID LEVIN HAVE A SCAR ON HIS FOREHEAD?

5 A YES.

6 Q YOU SAY THAT FROM HAVING VIEWED IT WITH YOUR
7 OWN EYES?

8 A I HAD SEEN THE SCAR, AND I HAD THE SCAR
9 POINTED OUT TO ME BY -- I DON'T REMEMBER WHETHER IT WAS
10 THE PROSECUTION OR DEFENSE COUNSEL, BUT I HAVE BEEN SHOWN
11 PICTURES AND ASKED TO POINT TO APPROXIMATELY WHERE THE
12 SCAR WAS.

13 Q IN 1984 THROUGH 1987 WERE YOU ABLE TO BE
14 LOCATED AT THE LAW FIRM OF TOLBERT AND WOODEN IN LOS
15 ANGELES?

16 A 1984 AND 1987?

17 Q NO. 1984, -'85, '86, AND '87?

18 A PROBABLY I COULD HAVE BEEN LOCATED THERE,
19 YES, ALTHOUGH THAT WAS NOT AN ADDRESS OF MINE.

20 Q AS FAR AS YOU KNEW, THEY KNEW WHERE YOU WERE?

21 A YES. AND I OFTEN GOT MESSAGES. AND I WAS IN
22 TOUCH WITH BOTH MR. TOLBERT AND MR. WOODEN FREQUENTLY
23 DURING THAT TIME.

24 Q AND THEY ARE CRIMINAL DEFENSE ATTORNEYS OR
25 PROMINENT --

26 A WELL, ONE OF THE PARTNERS WAS A CRIMINAL
27 DEFENSE ATTORNEY, AND THE OTHER PARTNER WAS PRIMARILY
28 ENGAGED IN THE ENTERTAINMENT FIELD.

1 MR. CRAIN: I DON'T HAVE, I THINK, ANY FURTHER
2 QUESTIONS.

3 THANK YOU

4 THE COURT: CROSS-EXAMINATION?

5 MR. MC MULLEN: THANK YOU.

6
7 CROSS-EXAMINATION @

8
9 BY MR. MC MULLEN:

10 Q GOOD AFTERNOON, SIR.

11 A GOOD AFTERNOON.

12 Q WOULD YOU CONSIDER MR. LEVIN TO HAVE BEEN A
13 CLOSE PERSONAL FRIEND?

14 A WELL, NO, I WOULDN'T CONSIDER HIM TO BE A
15 CLOSE PERSONAL FRIEND, BUT HE WAS A FRIEND. HE WAS MORE
16 THAN A MERE BUSINESS ACQUAINTANCE BECAUSE I DID FROM TIME
17 TO TIME SPEAK TO HIM ABOUT MATTERS THAT DIDN'T HAVE
18 ANYTHING TO DO WITH EITHER HIS OR MY BUSINESS.

19 Q DID YOU KNOW MR. LEVIN WHEN HE SPENT SOMETIME
20 IN CUSTODY REGARDING SOME FEDERAL PROSECUTION?

21 A NO. I DIDN'T KNOW HIM AT THAT TIME.

22 Q DID MR. LEVIN EVER EXPRESS TO YOU HIS FEAR OR
23 CONCERNS ABOUT BEING INCARCERATED OR GOING TO JAIL?

24 MR. CRAIN: I THINK THAT WOULD CALL FOR HEARSAY, SO
25 I WOULD HAVE TO OBJECT.

26 THE COURT: OVERRULED. IT IS IN RELATION TO SOME
27 OF THE QUESTIONS ASKED ON DIRECT. WE WILL ASK -- HAVE THE
28 QUESTION?

1 THE WITNESS: HE NEVER TOLD ME HE WAS AFRAID OF
2 GOING TO JAIL, NO.

3 BY MR. MC MULLEN:

4 Q DID HE EVER TALK ABOUT ANY EXPERIENCES HE HAD
5 IN JAIL?

6 A HE HAD TALKED FROM TIME TO TIME ABOUT HAVING
7 BEEN IN JAIL, YES.

8 Q DO YOU HAVE AN OPINION AS TO WHETHER OR NOT
9 HE WAS AFRAID OF GOING BACK TO JAIL?

10 MR. CRAIN: I THINK THAT'S SPECULATION.

11 THE COURT: SUSTAINED.

12 BY MR. MC MULLEN:

13 Q YOU TALK ABOUT THE CONVERSATION --
14 CONVERSATIONS, I SHOULD SAY, YOU HAD WITH MR. LEVIN WITH
15 RESPECT TO THIS CRIME THAT OCCURRED IN LAS VEGAS AND THE
16 DISCUSSIONS ABOUT BRAZIL AND EXTRADITION?

17 A YES.

18 Q AND THE WAY I UNDERSTAND IT YOU BREAK IT DOWN
19 INTO ALMOST THREE SEPARATE CONVERSATIONS.

20 A I AM NOT SURE IT WAS, SURE IT WAS THREE
21 SEPARATE CONVERSATIONS, BUT THAT WAS THE SEQUENCE OF THE
22 SUBJECT MATTER THAT MIGHT HAVE BEEN OVER TWO
23 CONVERSATIONS. IT WAS MORE THAN ONE. BUT IT MAY HAVE
24 EVEN BEEN MORE THAN THREE. BUT THE SEQUENCE WAS AS I
25 DESCRIBED IT EARLIER.

26 Q IN YOUR MIND DID THEY ALL RELATE BACK TO THAT
27 LAS VEGAS INCIDENT THAT HE HAD DESCRIBED?

28 A YES. THEY ALL WERE TIED TO THAT.

1 Q DO YOU KNOW WHAT PERIOD OF TIME THOSE
2 CONVERSATIONS OCCURRED APPROXIMATELY?

3 A I WOULD SAY THE FIRST ONE WAS PROBABLY IN
4 LATE FEBRUARY OR EARLY MARCH.

5 MR. KLEIN: CAN WE HAVE A YEAR, YOUR HONOR?

6 THE WITNESS: 1984.

7 BY MR. MC MULLEN:

8 Q DID HE EVER SAY THAT WITH RESPECT TO THE
9 LAS VEGAS STORY OR THE JOURNALISTIC INTEREST THAT HE HAD
10 IN THE LAS VEGAS STORY THAT HE WAS WORKING WITH ANYBODY ON
11 SOME KIND OF WRITTEN STORY ABOUT THAT?

12 A YES. HE HAD A COLLABORATOR THAT HE HAD
13 WORKED WITH ON OTHER JOURNALISTIC ENTERPRISES THAT HE WAS
14 INVOLVED IN, AND I DON'T REMEMBER THIS PERSON'S NAME. I
15 REMEMBER THAT HE WAS CONNECTED WITH THE SCHOOL OF
16 JOURNALISM AT U.S.C..

17 Q AND DID HE EVER SAY TO YOU OR SUGGEST TO YOU
18 THAT HE WAS INTERESTED IN FLEEING THE JURISDICTION TO GO
19 TO BRAZIL HIMSELF PERSONALLY?

20 A NO.

21 Q DID -- YOU TALKED ABOUT -- APPARENTLY YOU
22 WENT OVER HIS FILE WITH RESPECT TO THE CRIME THAT HE WAS
23 CHARGED WITH THAT EMANATED FROM THE BEVERLY HILLS POLICE
24 DEPARTMENT; IS THAT CORRECT?

25 A YES. CRIMES.

26 Q CRIMES?

27 A PLURAL.

28 Q CRIMES.

1 DURING DISCUSSIONS WITH RESPECT TO THOSE
2 FILES THAT YOU LOOKED OVER WITH MR. LEVIN, DID HE EVER
3 EXPRESS A FEAR OF GOING TO JAIL WITH RESPECT TO THAT
4 PARTICULAR CASE?

5 A NOT FEAR, NO. HE EXPRESSED TO ME A DESIRE TO
6 AVOID JAIL, AND HE WAS INTERESTED IN CONSIDERING WAYS OF
7 AVOIDING GOING TO JAIL. IN OTHER WORDS, TO AVOID
8 CONVICTION OF THOSE CHARGES.

9 Q IN OTHER WORDS, DEFENDING HIMSELF?

10 A YES.

11 Q IN A COURT OF LAW?

12 A YES.

13 Q AND IF I CAN REFRESH YOUR RECOLLECTION, THE
14 LAST TIME THAT YOU TALKED TO MR. LEVIN DOES THE DATE JUNE
15 6, 1984 --

16 A THAT SOUNDS ABOUT RIGHT.

17 Q -- SOUNDS ABOUT RIGHT?

18 A IF I HAD TO GUESS, I WOULD SAY IT WAS JUNE
19 4TH, BUT IT WAS EARLY JUNE.

20 Q YOU SAID THAT HE WAS GOING TO NEW YORK THE
21 NEXT DAY?

22 A THAT'S RIGHT.

23 Q DID HE SAY HE WAS GOING TO NEW YORK TO FLEE
24 THE JURISDICTION THE NEXT DAY?

25 A NO, IT WAS -- HE CHARACTERIZED IT TO ME AS
26 STRICTLY A PLEASURE TRIP.

27 Q DID HE MENTION IF HE WAS GOING BY HIMSELF OR
28 WITH SOMEBODY ELSE?

1 A NO. HE SAID THAT HE WAS GOING WITH A
2 COMPANION.

3 Q WITH RESPECT TO HIS MENTIONING THAT HE MIGHT
4 LEAVE EARLY, WAS THAT SORT OF, "BY THE WAY, I MIGHT BE
5 LEAVING A LITTLE EARLY"? WHAT WAS THE CONTEXT OF HIM
6 SAYING THAT?

7 A HE SAID, "I AM GOING TO NEW YORK TOMORROW,
8 BUT I MIGHT LEAVE AS EARLY AS TONIGHT."

9 Q YOU SAID THAT THE FOLLOWING DAY AFTER YOUR
10 CONVERSATION SOMEONE ADVISED YOU THAT THERE WAS SOMETHING
11 UNUSUAL WITH RESPECT TO MR. LEVIN'S WHEREABOUTS?

12 A YES.

13 Q WHO WAS IT THAT CONTACTED YOU?

14 A THAT WAS HIS MAID, A BLANCHE -- I FORGOTTEN
15 HER LAST NAME.

16 Q DOES STURKEY REFRESH YOUR RECOLLECTION?

17 A YES. YES, THAT'S HER. THAT'S HER NAME.

18 Q DID SHE WANT SOME INFORMATION FROM YOU, OR
19 WHY DID SHE CALL?

20 A SHE CALLED AND ASKED IF I HAD HEARD FROM
21 LEVIN. I THINK SHE MIGHT HAVE BEEN PRESENT THE EVENING
22 BEFORE WHEN I HAD TALKED TO HIM. AND I SAID, "NO."

23 AND SHE SAID, "WELL, THERE IS SOMETHING VERY
24 WRONG BECAUSE THE PERSONS WITH WHOM HE WAS GOING TO NEW
25 YORK ARE HERE AND HAVE BEEN HERE SINCE EARLY THIS MORNING
26 WAITING FOR HIM, AND HE IS NOT HERE."

27 MR. KLEIN: OBJECTION AS TO WHAT SHE SAID AS TO THE
28 TRUTH AS HEARSAY.

1 THE COURT: SUSTAINED. THE LAST PORTION AS TO
2 OTHER PERSONS, WHAT OTHER THINGS THAT HE WAS TOLD BY THE
3 MAID AS TO WHO WOULD HAVE BEEN PRESENT WOULD GO OUT.

4 MR. MC MULLEN: THANK YOU.

5 MAY I HAVE A MOMENT, YOUR HONOR?

6 THE COURT: YES.

7
8 (PAUSE.)
9

10 BY MR. MC MULLEN:

11 Q YOU WERE ASKED ON DIRECT ABOUT A SCAR ON
12 LEVIN'S FACE. COULD YOU DESCRIBE THE SCAR, THE PLACEMENT
13 OF IT AND THE SIZE OF IT?

14 A I CAN'T REALLY VISUALIZE IT ANYMORE. BUT MY
15 BEST RECOLLECTION IS THAT IT WAS A TRIANGULAR SCAR RIGHT
16 IN THE CENTER OF HIS FOREHEAD. IT WAS MAYBE AN INCH TO AN
17 INCH AND A QUARTER AT ITS WIDEST ASPECT AND MAYBE HALF AN
18 INCH IN THE OTHER DIMENSION.

19 Q IN LOOKING AT MR. LEVIN, WAS THAT SOMETHING
20 THAT WAS VERY PROMINENT, OR WAS IT --

21 A NO, IT WAS SOMETHING THAT HAD, I HAD NOTICED
22 ONLY VERY GRADUALLY AFTER KNOWING HIM FOR SOME TIME. THE
23 SCAR WAS NOT PROMINENT AT ALL. IT WAS NOT DISCOLORED, AND
24 IT DIDN'T REALLY LOOK LIKE SCAR TISSUE, AS I RECALL. IT
25 WAS NOT SOMETHING THAT WAS REALLY AWARE.

26 Q WITH RESPECT TO YOUR DISCUSSION WITH
27 MR. LEVIN REGARDING THE EXTRADITION TREATIES OR LAWS
28 PERTAINING TO BRAZIL, WAS THAT STRICTLY IN THE CONTEXT OF

1 RESEARCH, HIS RESEARCH REGARDING THE LAWS IN THAT AREA?

2 MR. KLEIN: OBJECTION. CALLS FOR SPECULATION.

3 THE COURT: SUSTAINED.

4 REFRAME THE QUESTION.

5 BY MR. MC MULLEN:

6 Q WHAT WAS THE CONTEXT OF YOUR CONVERSATION
7 WITH MR. LEVIN WITH RESPECT TO THE EXTRADITION TREATIES
8 OR LAWS THAT THE UNITED STATES HAD WITH BRAZIL?

9 A WELL, MY RECOLLECTION IS THAT THE FIRST
10 CONCERN WAS WHETHER OR NOT THESE PEOPLE WHO HAD COMMITTED
11 THIS CRIME IN NEVADA WERE GOING TO BE EXTRADITED. ONCE IT
12 CAME OUT THAT THEY WERE BELIEVED TO BE IN BRAZIL WERE THEY
13 GOING TO BE BROUGHT BACK FROM BRAZIL AND HOW LIKELY WAS
14 THAT. AND THEY APPARENTLY HAD GOTTEN AWAY WITH A LOT OF
15 CASH, SO WHAT ROLE WOULD THAT PLAY IN HOW LONG THEY WOULD
16 BE ABLE TO REMAIN AT LARGE AND WHETHER THEY WOULD BE
17 EXTRADITED. IT WAS IN THAT CONTEXT.

18 Q NOW, THE LAST DAY THAT YOU SAW MR. LEVIN YOU
19 WENT OVER TO HIS APARTMENT AND YOU GAVE HIM BACK YOUR KEY
20 TO HIS APARTMENT?

21 A YES.

22 Q AND HE SEEMED TO MENTION SOMETHING ABOUT
23 MR. NEIL ANTON; IS THAT CORRECT?

24 A YES.

25 Q DESCRIBE HIS STATE OF MIND, MR. LEVIN'S THAT
26 IS. WAS HE CALM OR -- WHEN HE TALKED ABOUT NEIL ANTON WAS
27 HE UPSET, OR WHAT WAS HIS DEMEANOR?

28 A HE WAS AGITATED. HE BELIEVED THAT HIS

1 PROSPECT -- AS A MATTER OF FACT HIS PENDING CRIMINAL
2 CHARGES WERE CONCERNED, HAD BEEN HARMED BY ANTON'S
3 STATEMENT TO THE BEVERLY HILLS POLICE DEPARTMENT.

4 Q DID MR. LEVIN -- DID IT SEEM TO YOU THAT HE
5 HAD A SENSE OF BETRAYAL WITH RESPECT TO WHAT MR. ANTON HAD
6 DONE?

7 A YES. YES, HE DID.

8 Q AND WHAT POINT IN YOUR CONVERSATION WITH
9 MR. LEVIN -- WITH RESPECT TO NEIL ANTON, AT WHAT POINT IN
10 TIME DID HE ASK FOR HIS KEY?

11 A THE FIRST THING HE DID WHEN I ARRIVED WAS TO
12 ASK FOR HIS KEY, SO THAT WAS THE FIRST ORDER OF BUSINESS.
13 AFTER I GAVE HIM HIS KEY, HE SHOWED ME AN, I GUESS, AN
14 INCIDENT REPORT FROM THE BEVERLY HILLS DEPARTMENT OR A
15 CONTINUATION SHEET FROM THE POLICE REPORT, WHICH CONTAINED
16 A REPORT OF A STATEMENT MADE BY NEIL ANTON.

17 Q THAT WAS RIGHT AFTER HE ASKED FOR THE KEY?

18 A RIGHT.

19 MR. MC MULLEN: MAY I HAVE A MOMENT, YOUR HONOR?

20 THE COURT: YES.

21

22 (PAUSE.)

23

24 MR. MC MULLEN: NO FURTHER QUESTIONS, YOUR HONOR.

25 THE COURT: JUST ONE SECOND, MR. CRAIN.

26 WHY WERE YOU DOING THIS WORK FOR MR. LEVIN,
27 COMING OVER TO THE HOUSE ALL THE TIME GOING THROUGH THE
28 PAPERWORK?

1 MR. KLEIN: CAN WE HAVE THE YEAR?

2 THE COURT: DURING THIS ENTIRE PERIOD.

3 MR. KLEIN: PART OF THE TIME HE WAS A LAWYER, PART
4 OF THE TIME HE WASN'T.

5 THE WITNESS: IN 1984?

6 THE COURT: YES.

7 THE WITNESS: YES. WELL, HE ASKED ME TO, AND I
8 OBLIGED.

9 THE COURT: WHY?

10 THE WITNESS: I HAD NO REASON NOT TO.

11 THE COURT: I AM TRYING TO FIGURE OUT WAS THERE A
12 CLOSE FRIEND? WAS HE SENDING YOU BUSINESS? WAS HE PAYING
13 YOU SOMETHING?

14 THE WITNESS: NO. I HADN'T SEEN HIM IN SOME TIME.
15 HE SAID, "WOULD YOU COME AND LOOK AT THESE."

16 AND I SAID, "YES."

17 THE COURT: AND HOW OFTEN WOULD YOU SAY YOU WENT
18 OVER AFTER HE GAVE YOU THE KEY?

19 THE WITNESS: TWICE, MAYBE THREE TIMES A WEEK.

20 THE COURT: WHO TOLD YOU -- STRIKE THAT.

21 IT WAS THE MAID, MRS. STURKEY..

22 MR. CRAIN: STURKEY?

23 THE WITNESS: STURKEY, YES.

24 THE COURT: DID SHE CALL YOU ON THE PHONE? DID SHE
25 COME OVER AND SEE YOU? HOW DID YOU FIND OUT?

26 THE WITNESS: SHE CALLED ME ON THE PHONE.

27 THE COURT: YOU SAY SHE MAY HAVE BEEN PRESENT WHEN
28 YOU RETURNED THE KEY TO MR. LEVIN THE NIGHT BEFORE?

1 THE WITNESS: YES, SHE MAY HAVE BEEN. I DON'T
2 RECALL, BUT SHE MAY HAVE BEEN. IT WOULD HAVE BEEN, AS I
3 RECALL, IT WOULD HAVE BEEN DURING THE HOURS THAT SHE WOULD
4 HAVE BEEN THERE.

5 THE COURT: WAS SHE EVER PRESENT WHEN YOU HAD THESE
6 CONVERSATIONS WITH MR. LEVIN ABOUT THIS LAS VEGAS CASE?

7 THE WITNESS: SHE MAY HAVE BEEN PRESENT IN THE
8 HOUSE. BUT I DON'T RECALL HER EVER BEING PRESENT AS PART
9 OF THE CONVERSATION OR IN A PLACE WHERE SHE COULD HAVE
10 HEARD THE CONVERSATIONS.

11 THE COURT: WAS SHE EVER PRESENT WHEN THERE WAS ANY
12 DISCUSSION ABOUT AN EXTRADITION HEARING?

13 THE WITNESS: NOT THAT I RECALL, NO.

14 THE COURT: ALL RIGHT.

15 MR. CRAIN?

16 THE COURT: MR. KLEIN, YOU ARE WANDERING ALL OVER
17 THE COURTROOM. WHAT'S THE PROBLEM?

18 MR. KLEIN: I JUST NEED TO RELAX, YOUR HONOR.

19 THE COURT: IT IS KIND OF DISTRACTING. I THINK IT
20 IS RUDE TO OPPOSING COUNSEL TO HAVE ONE OF THE LAWYERS
21 WALK AROUND THE COURTROOM. I WILL ASK YOU TO SIT IN YOUR
22 CHAIR THERE.

23

24 REDIRECT EXAMINATION +

25

26 BY MR. CRAIN:

27 Q I HAVE A FEW QUESTIONS IN A FEW DIFFERENT
28 AREAS.

1 MR. HOLMES, YOU TOLD US ABOUT NEIL ANTON.
2 WAS HE A GOOD PERSONAL FRIEND OF MR. LEVIN'S, TO YOUR
3 KNOWLEDGE?

4 A AS FAR AS I COULD DETERMINE, YES. HE WAS A
5 CLOSE PERSONAL FRIEND OF MR. LEVIN'S.

6 Q WERE THEY LOVERS, DO YOU KNOW?

7 MR. MC MULLEN: OBJECTION. IRRELEVANT.

8 THE COURT: SUSTAINED.

9 MR. CRAIN: MAY I BE HEARD ON THAT?

10 THE COURT: ALL RIGHT.

11 MR. CRAIN: I THINK IT GOES TO THE KNOWLEDGE OF
12 ANTON. THE SIGNIFICANCE OF THE FACT THAT MR. ANTON
13 BETRAYED HIM AND WENT TO THE POLICE WITH INCRIMINATING
14 INFORMATION, ETC., FACT FOR THE COURT TO CONSIDER IN TERMS
15 OF WHAT AFFECT THAT WOULD HAVE ON MR. LEVIN WANTING TO
16 LEAVE TOWN AT THE SAME TIME HE MAY HAVE BETRAYED HIM TO
17 THE POLICE, MAY BE OF SOME POSSIBLE RELEVANCE. WHETHER
18 THEY WERE LOVERS OR NOT IS IRRELEVANT.

19 I WILL SUSTAIN THE OBJECTION.

20 BY MR. CRAIN:

21 Q YOU SAID HE WAS VERY AGITATED, THE FACT THAT
22 ANTON'S INFORMATION MADE THE CRIMINAL CASE PENDING AGAINST
23 LEVIN WORSE; RIGHT?

24 A YES.

25 MR. KLEIN: CAN I JUST HAVE A MINUTE WITH HIM?

26 THE COURT: YES.

27

28 (PAUSE.)

1 BY MR. CRAIN:

2 Q TO YOUR KNOWLEDGE WAS LEVIN INVOLVED IN AN
3 OPERATION THAT MR. LEVIN HAD CALLED "NETWORK NEWS," SOME
4 SORT OF BUSINESS PARTNERS?

5 A YES. HE HAD A BUSINESS CALLED "NETWORK
6 NEWS," YES.

7 THE COURT: I AM SORRY. "HE," YOU MEAN MR. LEVIN?

8 THE WITNESS: MR. LEVIN HAD A BUSINESS CALLED
9 "NETWORK NEWS."

10 BY MR. CRAIN:

11 Q AND ANTON WAS AN ASSOCIATE?

12 A HE WAS.

13 Q BUT IN TRUTH THAT WAS SOME SORT OF FRAUDULENT
14 OR SCAM OPERATION THAT LEVIN WAS RUNNING?

15 A NO.

16 MR. MC MULLEN: OBJECTION. IRRELEVANT.

17 THE COURT: LAY A FOUNDATION.

18 BY MR. CRAIN:

19 Q DID YOU HAVE CONVERSATION WITH LEVIN ABOUT
20 THE NATURE OF THIS BUSINESS?

21 A YES.

22 Q AND DID HE CONFESS TO YOU THAT IT WAS
23 BASICALLY FRAUDULENT OR A SEMI-FRAUDULENT OPERATION?

24 MR. MC MULLEN: AGAIN, YOUR HONOR --

25 THE WITNESS: NO.

26 MR. MC MULLEN: AGAIN, YOUR HONOR, IT SEEMS --

27 THE WITNESS: NO.

28 MR. MC MULLEN: I WILL WITHDRAW THE QUESTION -- I

1 WILL WITHDRAW THE OBJECTION.

2 THE COURT: SUSTAINED.

3 BY MR. CRAIN:

4 Q AND IN READING ALL THESE REPORTS THAT YOU
5 REVIEWED ABOUT THE PENDING CASE AGAINST MR. LEVIN WAS
6 "NETWORK NEWS" IMPLICATED IN SOME WAY? OR ANOTHER WAY TO
7 PUT IT, DID IT APPEAR THAT MR. LEVIN WAS USING "NETWORK
8 NEWS" IN SOME WAY IN ORDER TO COMMIT THE CRIME THAT WAS
9 ALLEGED AGAINST HIM?

10 MR. MC MULLEN: AGAIN, YOUR HONOR, I OBJECT AS
11 IRRELEVANT.

12 THE COURT: I WANT TO SEE WHERE IT IS GOING TO GO.
13 I WILL ALLOW LIMITED INQUIRY.

14 MR. CRAIN: THANK YOU.

15 THE WITNESS: THAT QUESTION REFRESHES MY
16 RECOLLECTION TO SOME EXTENT. AND I BELIEVE THAT THE ITEMS
17 THAT WERE SUPPOSED TO HAVE BEEN STOLEN THAT LED TO THE
18 THEN PENDING CHARGES WERE ITEMS THAT WERE USED IN THE
19 OPERATION OF "NETWORK NEWS." AND POSSIBLY THEY MAY HAVE
20 EVEN BEEN PURCHASED ON THE CREDIT OF "NETWORK NEWS," AND
21 THEN DEFAULTED ON THEM. I DON'T RECALL THAT.

22 THE COURT: WERE THESE LIGHTS OR CAMERAS THAT
23 WEREN'T RETURNED?

24 THE WITNESS: LIGHTS, CAMERAS, COMPUTERS, THINGS
25 THAT WOULD HAVE BEEN USEFUL IN A TELEVISION NEWS
26 OPERATION.

27 BY MR. CRAIN:

28 Q THINGS WORTH A SUBSTANTIAL AMOUNT OF MONEY;

1 RIGHT?

2 A OVER \$100,000, I BELIEVE.

3 Q THAT MR. LEVIN HAD STOLEN OR WAS NOW ACCUSED
4 OF HAVING STOLEN OR RIPPED OFF --

5 A HE WAS ACCUSED OF HAVING OBTAINED THESE.

6 Q MR. LEVIN IN THE TIME THAT YOU KNEW HIM DID
7 HE STRIKE YOU AS AN INTELLIGENT PERSON?

8 A VERY MUCH SO.

9 Q DID HE STRIKE YOU AS A SOPHISTICATED PERSON?

10 A YES.

11 Q AT SOME POINT DID YOU LEARN THAT HE WASN'T
12 REALLY A LAWYER AND NEVER HAD BEEN?

13 A YES.

14 MR. MC MULLEN: OBJECTION. IRRELEVANT.

15 THE COURT: OVERRULED.

16 BY MR. CRAIN:

17 Q AND NOW -- AND THE ADVICE THAT YOU WOULD GIVE
18 TO MR. LEVIN ABOUT LEGAL MATTERS INCLUDING EXTRADITION IS
19 IT FAIR TO SAY THAT YOU WOULD NOT HAVE ADVISED HIM TO
20 VIOLATE THE LAW?

21 A YES. THAT'S FAIR TO STATE, YES.

22 Q DID YOU BELIEVE THAT YOUR RELATIONSHIP WAS
23 SUCH WITH MR. LEVIN THAT HE COULD NOT COUNT ON YOU AS
24 SOMEONE TO GIVE ADVICE AS TO -- DIRECT ADVICE TO BREAK THE
25 LAW?

26 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

27 THE COURT: SUSTAINED.

28

1 BY MR. CRAIN:

2 Q IN OTHER WORDS, YOU WOULDN'T HAVE TOLD
3 MR. LEVIN, "WELL, HERE IS A WAY YOU CAN COMMIT A CRIME,
4 FLEE TO A FOREIGN COUNTRY AND BE EXTRADITED"?

5 A NO.

6 Q YOU WOULDN'T DO THAT; RIGHT?

7 A NO.

8 Q AND IN YOUR RELATIONSHIP AND FRIENDSHIP WITH
9 HIM HE WOULD NOT EXPECT YOU TO GIVE THAT ADVICE; RIGHT?

10 MR. MC MULLEN: OBJECTION. CALLS FOR SPECULATION.

11 THE COURT: SUSTAINED.

12 MR. CRAIN: YOUR HONOR, WHAT I AM TRYING TO GET --

13 THE COURT: I UNDERSTAND WHERE YOU ARE GOING, BUT
14 IT IS STILL SPECULATION. YOU ARE ASKING TO WHAT MR. LEVIN
15 WOULD ASSUME ABOUT THE ADVICE THAT HE WOULD HAVE GIVEN TO
16 MR. LEVIN.

17 MR. CRAIN: AS LONG AS THE COURT HAS THE DIRECTION
18 HERE.

19 THE COURT: I DO.

20 MR. CRAIN: ALL RIGHT.

21 BY MR. CRAIN:

22 Q NOW, WHEN YOU RETURNED THE KEY TO MR. LEVIN,
23 DID HE TELL YOU WHY HE WANTED IT BACK?

24 A YES.

25 Q WAS THAT IN CONNECTION WITH THE FACT THAT HE
26 SAID HE WAS GOING OUT OF TOWN?

27 A NO. HE SAID THAT HE NEEDED THE KEY BACK
28 BECAUSE HIS MAID HAD RETURNED A CAR THAT HE HAD BEEN

1 RENTING, AND WHEN SHE DID SO, SHE HAD LEFT HIS KEYS,
2 INCLUDING HIS HOUSE KEYS, IN THE CAR AT THE RENTAL AGENCY,
3 AND THAT HE, THEREFORE, DIDN'T HAVE A KEY TO GET IN AND
4 OUT OF THE HOUSE. I HAD ONE, AND HE NEEDED THE ONE THAT I
5 HAD.

6 Q DID YOU LATER DETERMINE THAT WAS FALSE?

7 A YES. WELL, THE TRUTH OF IT IT WAS CALLED TO
8 MY ATTENTION LATER, AND I HAVE NO REASON TO DOUBT THE
9 VERSION THAT WAS GIVEN TO ME LATER.

10 Q AND YOU WOULD AGREE WITH THOSE WHO SAY
11 MR. LEVIN WAS A SOPHISTICATED CON MAN, WOULDN'T YOU?

12 MR. MC MULLEN: OBJECTION. IRRELEVANT.

13 THE COURT: I THINK YOU ALREADY GOT IT IN ONCE.
14 BY MR. CRAIN:

15 Q NOW, GOING BACK TO THE SCAR THAT
16 MR. MC MULLEN ASKED YOU ABOUT. HOW DID IT COMPARE TO THE
17 SURROUNDING PIGMENTATION OF THE SKIN ON HIS FOREHEAD?

18 A IT WAS INDISTINGUISHABLE FROM THE SURROUNDING
19 SKIN ON HIS FOREHEAD.

20 Q IS THAT STATEMENT TRUE WHETHER OR NOT
21 MR. LEVIN'S SKIN WAS SUN TANNED?

22 A I DON'T RECALL.

23 Q YOU CAN'T RECALL THAT; IS THAT RIGHT?

24 A NO. I CAN'T ANSWER THAT.

25 Q BUT YOU WERE AWARE OF THE SCAR HAVING SEEN IT
26 WITH YOUR OWN EYES?

27 A YES.

28 Q AND HAD HEARD PEOPLE TALK ABOUT IT?

1 A I NEVER HEARD ANYBODY TALK ABOUT IT.
2 SOMETHING THAT YOU ARE SITTING ON THE OTHER SIDE OF THE
3 DESK FROM SOMEONE AFTER A FEW MEETINGS YOU BEGIN TO NOTICE
4 PECULIARITIES AND INDIVIDUAL CHARACTERISTICS ABOUT THEIR
5 APPEARANCE. THERE WAS ONE OF THEM IN HIS CASE.

6 Q THAT HE HAD A DISTINCTIVE SCAR ON HIS
7 FOREHEAD?

8 A HE HAD A SCAR ON HIS FOREHEAD THAT WAS
9 DISTINCTIVE ONLY BECAUSE IT WAS SO UNOBSVIOUS ON A FIRST
10 MEETING. THAT WAS THE DISTINCTIVE THING ABOUT IT. IT WAS
11 AN ORDINARY LOOKING SCAR EXCEPT FOR THE FACT THAT YOU ONLY
12 REALIZED THAT IT WAS THERE AFTER HAVING BEEN IN
13 MR. LEVIN'S PRESENCE FOR A FEW TIMES.

14 Q I AM GOING TO ASK YOU SOMETHING BRIEFLY HERE
15 ON THE SUBJECT OF DISCUSSIONS YOU HAD WITH MR. LEVIN
16 CONCERNING EXTRADITION.

17 DID MR. LEVIN TELL YOU THAT IN THE RESEARCH
18 THAT HE DID CONCERNING EXTRADITION THAT AT THE PRESENT
19 TIME THE LAW, EXTRADITION LAW DID NOT REQUIRE THE
20 EXTRADITION OF PERSONS FROM BRAZIL BACK TO THE UNITED
21 STATES, AND THAT SUCH RETURN OR OBLIGATION TO RETURN
22 FLEEING CRIMINALS WOULD TAKE PLACE IN THE FUTURE? DID HE
23 TELL YOU THAT?

24 A YEAH. YOU HAVE REFRESHED MY RECOLLECTION,
25 AND I RECALL THAT WHAT HE TOLD ME WAS THAT THE STATE OF
26 THE LAW WAS THAT THERE WAS AT THAT TIME A TREATY BETWEEN
27 THE UNITED STATES AND BRAZIL WITH RESPECT TO EXTRADITION
28 BUT THERE WAS A MORATORIUM WITH RESPECT TO THE

1 IMPLEMENTATION OF THE TREATY AND THAT IT WOULD BE
2 IMPLEMENTED IN BOTH COUNTRIES ONLY AT SOME TIME IN THE
3 FUTURE.

4 Q DID HE TELL YOU THAT IT COULD HAVE BEEN IN
5 THE DISTANT FUTURE?

6 A THAT I DON'T RECALL.

7 Q BUT IN ANY EVENT, BUT THAT WAS NOT THEN IN
8 OPERATION?

9 A THAT'S RIGHT.

10 Q SOMEBODY WHO COMMITTED A CRIME COULD FLEE TO
11 BRAZIL AND NOT BE BROUGHT BACK TO THE UNITED STATES UNDER
12 AN EXTRADITION TREATY?

13 A THAT WAS MY UNDERSTANDING OF THE
14 RELATIONSHIPS BETWEEN THE UNITED STATES AND BRAZIL AT THAT
15 TIME.

16 Q BASED ON WHAT MR. LEVIN TOLD YOU THAT HIS
17 RESEARCH WAS INTO THE MATTER?

18 A THAT'S CORRECT.

19 Q AND YOU TOLD US HE TOLD YOU HE HAD STUDIED
20 ABOUT PEOPLE WHO HAD SUCCESSFULLY GONE TO BRAZIL AFTER
21 STEALING A LOT OF MONEY AND NOT BEING EXTRADITED; RIGHT?

22 A I BELIEVE THERE WAS ONE INSTANCE THAT HE
23 MENTIONED TO ME THAT HAD TO DO WITH A HIGH PROFILE
24 FUGITIVE FROM THE UNITED STATES WHO HAD GONE TO BRAZIL AND
25 LIVED QUITE OPENLY WITHOUT BEING EXTRADITED, BUT THAT HAD
26 BEEN, I BELIEVE, SOME YEARS BEFORE.

27 Q JUST A COUPLE OF OTHER QUICK MATTERS HERE.
28 THE CASE THAT YOU HAD GIVEN HIM LEGAL ADVICE ABOUT WHEN --

1 WHERE YOU TOLD HIM HE WAS IN TROUBLE, YOUR UNDERSTANDING
2 IS THAT CASE WAS STILL PENDING AGAINST MR. LEVIN ON THE
3 DATE THAT HE DISAPPEARED; RIGHT?

4 A YES, I BELIEVE SO.

5 Q OKAY.

6 AND DID YOU ALWAYS BELIEVE EVERYTHING THAT
7 MR. LEVIN TOLD YOU?

8 A NO.

9 Q WHY IS THAT?

10 A WELL, MR. LEVIN OFTEN SAID THINGS TO ME AND
11 IN MY PRESENCE THAT I KNEW TO BE UNTRUE.

12 Q YOU KNEW FROM YOUR OWN PERSONAL KNOWLEDGE
13 WERE UNTRUE?

14 A YES.

15 Q AND HE TOLD THAT YOU THE NEWS STORY HE WAS
16 INVESTIGATING HAD TO DO WITH A THEFT OF MILLION OF DOLLARS
17 IN LAS VEGAS; RIGHT?

18 A YES.

19 Q DID YOU EVER CHECK THAT OUT TO SEE WHETHER
20 THAT WAS TRUE?

21 A I DID SEE A NEWSPAPER ARTICLE TO THAT EFFECT.

22 Q DID YOU EVER -- WHEN MR. LEVIN WOULD SAY SUCH
23 THINGS AS HE WAS WORKING ON A NEW STORY HE WAS IN AN
24 ATTORNEY OR THINGS OF THAT NATURE, THESE THINGS THAT BASED
25 ON YOUR KNOWLEDGE OF HIM YOU WOULD NOT ACCEPT WITHOUT SOME
26 FURTHER CORROBORATION BASED ON HIS GIVING YOU FALSE
27 STORIES IN THE PAST --

28 MR. MC MULLEN: AT THIS POINT YOUR HONOR, I WOULD

1 OBJECT AS VAGUE.

2 THE COURT: SUSTAINED.

3 MR. CRAIN: LET ME TRY TO CONCLUDE THIS IN A
4 DIFFERENT WAY.

5 THE COURT: GO AHEAD.

6 BY MR. CRAIN:

7 Q LET ME TRY TO CONCLUDE THIS IN A DIFFERENT
8 WAY.

9 IS IT YOUR TESTIMONY THAT RON LEVIN WOULD
10 TELL YOU SOMETHING, YOU WOULD TAKE IT AS FACE VALUE BASED
11 ON YOUR EXPERIENCE WITH THE MAN; RIGHT?

12 A THAT'S CORRECT.

13 Q SO IF HE TOLD YOU THAT HE WAS WORKING ON A
14 NEWS STORY OF SOME KIND, THAT'S THE SORT OF THING YOU
15 WOULDN'T TAKE AS BEING TRUE JUST BECAUSE RON LEVIN TOLD
16 YOU THAT; RIGHT?

17 A THAT'S CORRECT.

18 Q KNOWING RON LEVIN FOR ALL YOU COULD FIGURE
19 OUT THAT WAS JUST ANOTHER ONE OF RON LEVIN'S PHONY
20 STORIES, JUST LIKE HIS BEING A LAWYER; RIGHT?

21 A WELL, YEAH. MY EXPERIENCE WITH HIM WAS SUCH
22 THAT I WOULD HAVE NEEDED CORROBORATION OF ANYTHING HE SAID
23 THAT WAS THE TRUTH OR FALSITY OF WHICH WAS IMPORTANT TO
24 ME.

25 MR. CRAIN: NOTHING FURTHER.

26 THE COURT: ANYTHING FURTHER, MR. MC MULLEN?

27 MR. MC MULLEN: JUST A FEW THINGS, YOUR HONOR.

28 THE COURT: GO AHEAD.

RECROSS-EXAMINATION @

BY MR. MC MULLEN:

Q DID YOU DISBELIEVE EVERYTHING THAT RON LEVIN SAID?

A NO.

Q YOU SAID THAT THERE WAS CERTAIN THINGS THAT HE WOULD TELL YOU THAT YOU KNEW THROUGH PERSONAL KNOWLEDGE WERE UNTRUE. DO YOU HAVE SOME EXAMPLES?

A WELL, ONE EXAMPLE WOULD BE HIS CLAIM TO BE A GRADUATE FROM HARVARD LAW SCHOOL. I LEARNED THAT THAT WAS UNTRUE. I HEARD PEOPLE ADDRESS HIM IN MY PRESENCE AS DR. LEVIN. AND TO TALK TO HIM AS IF THEY BELIEVED HIM TO BE A DOCTOR, MEDICAL DOCTOR. AND ON AT LEAST ONE OCCASION THAT HE REPLIED IN A WAY TO ENCOURAGE THAT BELIEF. THOSE ARE TWO EXAMPLES. THERE ARE MANY.

Q I UNDERSTAND.

WITH RESPECT TO THE KEY, AND THAT HE GAVE YOU SOME KIND OF EXPLANATION WHY HE WANTED THE KEY BACK, THAT BLANCHE STURKEY RETURNED A CAR THAT HE HAD BEEN RENTING AND DID NOT GET THE KEYS BACK. I UNDERSTAND THAT YOU GOT -- MY UNDERSTANDING FROM YOUR TESTIMONY IS THAT YOU GOT AN INCONSISTENT STORY FROM BLANCHE STURKEY WITH RESPECT TO THAT.

DID YOU EVER CONFRONT LEVIN WITH THAT INFORMATION?

A NO. I BELIEVE BY THE TIME I FOUND THAT OUT MR. LEVIN HAD DISAPPEARED.

1 Q SO YOU DON'T KNOW IF BLANCHE STURKEY, IF THEY
2 COMMUNICATED WITH RESPECT TO THE KEY?

3 A AS BETWEEN THE TWO OF THEM, I BELIEVED
4 BLANCHE STURKEY.

5 Q BUT YOU DON'T KNOW IF BLANCHE AND RON LEVIN
6 HAD A CONVERSATION WITH RESPECT TO THE KEY OR THE MISSING
7 KEY?

8 A NO, I DON'T.

9 Q JUST ONE ADDITIONAL INQUIRY.

10 WHAT THINGS DID RON LEVIN TELL YOU THAT YOU
11 DID BELIEVE? DO YOU HAVE ANY EXAMPLES OF THOSE THINGS?

12 MR. CRAIN: WELL, THAT'S KIND OF A BROAD QUESTION,
13 YOUR HONOR.

14 THE COURT: I AGREE.

15 MR. CRAIN: I AM SURE WHAT THE PROPER --

16 THE COURT: LET ME TELL YOU ON THIS RON LEVIN
17 THING, AGAIN I READ THE TRANSCRIPT. ANYONE THAT READS THE
18 TRANSCRIPT WILL REALIZE RON LEVIN WAS A SLICK PERSON, THAT
19 PEOPLE THAT HAD CONTACT WITH HIM --

20 MR. CRAIN: TO SAY THE LEAST.

21 THE COURT: I AM BEING AS DIPLOMATIC AS I CAN.

22 ANYTHING FURTHER, MR. CRAIN?

23 MR. CRAIN: ONLY THAT THE WITNESS IN RESPONSE TO
24 MR. MC MULLEN'S QUESTIONS SAID THAT HE HAD MANY OTHER
25 EXAMPLES OF TYPES OF FABRICATIONS AND FALSEHOODS. I
26 SUPPOSE I WOULD LEAVE THIS UP TO THE COURT AS TO WHETHER
27 THE COURT WOULD LIKE ME TO PROCEED WITH THOSE WITH THE
28 WITNESS.

1 THE COURT: NO.

2 MR. CRAIN: WHETHER THE COURT HAS A PICTURE --

3 THE COURT: ANYONE READING THE TRANSCRIPT OF THE
4 SANTA MONICA TRIAL WOULD HAVE A GOOD INDICATION OR THERE
5 IS SOME ADDITIONAL STUFF IN THE PETITION AS WELL.

6 MR. CRAIN: I WON'T ASK THOSE QUESTIONS.

7 THE COURT: MAY THE WITNESS BE EXCUSED?

8 MR. CRAIN: YES.

9 THE COURT: ANY OBJECTION?

10 MR. MC MULLEN: NO.

11 THE COURT: ALL RIGHT.

12 THANK YOU, SIR. YOU ARE EXCUSED.

13 WHO IS YOUR NEXT WITNESS.

14 MR. CRAIN: IT IS KAREN MARMOR. I NEED A FEW
15 MINUTES TO TALK TO HER.

16 THE COURT: LET'S TALK OUR AFTERNOON RECESS. I
17 WILL SEE YOU ALL BACK IN 15 MINUTES:

18 OH, ANOTHER POINT, MR. KLEIN. WHAT IS YOUR
19 SITUATION VIS-A-VIS JUDGE HORAN TOMORROW?

20 MR. KLEIN: I AM SUPPOSED TO BE THERE IN THE
21 MORNING.

22 THE COURT: WHAT TIME?

23 MR. KLEIN: I GUESS EITHER 8:30 OR 9:00.

24 THE COURT: HOW LONG IS IT SUPPOSED TO GO?

25 MR. KLEIN: I DON'T KNOW. IT COULD GO AT LEAST ALL
26 MORNING. IT JUST DEPENDS. HE EXPECTS TO SENTENCE. I AM
27 GOING TO OBJECT.

28 THE COURT: IS THERE GOING TO BE WITNESSES?

1 MR. KLEIN: HE HAS GOT A HEARING SCHEDULE ON
2 WIRETAPPING CONVERSATIONS OF THE DEFENSE.

3 MR. CRAIN: I HAD TENTATIVELY SCHEDULED A WITNESS
4 WHO WAS UNABLE TO BE HERE IN THE MORNING TO BE HERE AT
5 1:30, AND I REALLY HADN'T ANTICIPATED ON WHAT I HEARD IN
6 THE MATTER IN JUDGE HORAN'S COURT THAT WE WOULD BE ABLE TO
7 HEAR ANY TESTIMONY IN THE COURT.

8 THE COURT: LET ME CALL JUDGE HORAN. I NEED TO
9 WORK OUT THE REST OF THIS WEEK.

10 MR. MC MULLEN: YOU HAD MENTIONED IN A PRIOR ORDER
11 THAT YOU MIGHT BE SHORTENING THE COURT DAY. I AM JUST
12 CURIOUS.

13 THE COURT: WE WILL GO THROUGH THE END OF THE DAY.
14 THAT'S WHAT I AM TRYING TO FIGURE OUT NOW.

15 MR. KLEIN: I NEED SOME TIME SO I CAN GET TODAY FOR
16 TOMORROW.

17 THE COURT: I NEED TO TALK TO JUDGE HORAN TO FIGURE
18 OUT WHAT HE HAS IN MIND.

19
20 (RECESS.)
21

22 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
23 DEPARTMENT 101 IS AGAIN IN SESSION.

24 THE COURT: IN THE MATTER OF IN RE JOSEPH HUNT, THE
25 RECORD WILL REFLECT ALL COUNSEL AND PETITIONER ARE
26 PRESENT.

27 CALL YOUR NEXT WITNESS.

28 MR. KLEIN: MAY WE TALK ABOUT SCHEDULING FIRST?

1 THE COURT: SURE.

2 MR. KLEIN: WHAT DOES THE COURT HAVE IN MIND?

3 THE COURT: I JUST TALKED TO JUDGE HORAN. HE IS OF
4 THE MIND THAT YOUR HEARING MAY GO INTO THE AFTERNOON
5 TOMORROW.

6 DO YOU THINK THAT'S THE CASE?

7 MR. KLEIN: NO.

8 THE COURT: YOU THINK YOU ARE GOING TO BE DONE BY
9 NOON?

10 MR. KLEIN: I DO.

11 THE COURT: ALL RIGHT.

12 BECAUSE SHE THOUGHT IT WOULD BE POSSIBLE THAT
13 YOU WOULD BE DOING SOME KIND OF MOTION ABOUT SOME WIRETAPS
14 MOST OF THE MORNING AND THE SENTENCING WOULD BE INTO THE
15 AFTERNOON. BUT YOU THINK IT WILL BE DONE BY NOON?

16 MR. KLEIN: YES.

17 THE COURT: THEN 1:30 WE WILL BE PICKING UP AGAIN.

18 MR. KLEIN: WHAT'S THE SCHEDULE ABOUT WEDNESDAY?

19 THE COURT: I AM DEBATING OF NOT GOING TO THIS
20 MEETING ON WEDNESDAY, BUT I DON'T THINK I AM GETTING OUT
21 OF IT. I AM WAITING FOR A FAX TO COME IN.

22 MR. KLEIN: TRUTHFULLY I THINK WE CAN PUT ON --
23 MS. MARMOR IS HERE. WE HAVE MR. ROBINSON FOR TOMORROW
24 AFTERNOON. MR. WERNER IS -- HE HAS GIVEN US A HARD TIME.
25 WE CAN GET HIM TOGETHER, BUT HE IS BEING VERY DIFFICULT.
26 AND THEN AFTER THAT WOULD BE -- NEXT WEEK WOULD BE MR.
27 BARENS.

28 THE COURT: SO YOU COULD USE THE TIME WEDNESDAY,

1 THURSDAY, FRIDAY?

2 MR. KLEIN: YES.

3 THE COURT: ALL RIGHT.

4 LET'S START UP AGAIN AT 1:30 TOMORROW THEN,
5 AND I WILL GIVE YOU WEDNESDAY, THURSDAY AND FRIDAY OFF, SO
6 THAT YOU CAN DEAL WITH THESE OTHER ISSUES.

7 MR. KLEIN: NEXT WEEK YOU HAD ALREADY TOLD US NO
8 THURSDAY AND FRIDAY. THAT WHAT IT WAS?

9 THE COURT: NO.

10 MR. MC MULLEN: I THINK.

11 THE COURT: NO, NO. FRIDAY, THE 3RD. I HAVE TO BE
12 IN ORANGE COUNTY ON THE 3RD.

13 LET ME SEE WHAT ELSE I HAVE GOT.

14

15 (PAUSE.)

16

17 THE COURT: THERE MAY BE A COUPLE OF DAYS WE MAY
18 NOT START RIGHT AT 9:00. WE MAY BE LITTLE BIT LATER. I
19 HAVE A COUPLE OF THINGS COMING IN.

20 MR. KLEIN: THAT IS WHAT YOU TOLD US. IT WAS JUST
21 NOT FRIDAY?

22 THE COURT: YEAH.

23 MR. KLEIN: YES.

24 THE COURT: I AM WAITING FOR SOMETHING TO BE FILED
25 REGARDING THAT FRIDAY RIGHT NOW.

26 MR. KLEIN: I DO WANT TO TELL THE COURT THAT I DO
27 HAVE TWO HEARINGS SCHEDULED ON WEDNESDAY THAT ARE OUT OF
28 TOWN THAT I HAD SCHEDULED.

1 THE COURT: THIS COMING WEDNESDAY?

2 MR. KLEIN: NEXT WEDNESDAY.

3 THAT I HAD SCHEDULED DURING THE ALEXANDER
4 TRIAL. THEY GOT POSTPONED, AND THEY ARE SCHEDULED AGAIN.
5 AND THEY ARE PAROLE HEARINGS, PEOPLE WOULD GO CRAZY, BUT
6 IT IS UP TO THE COURT.

7 THE COURT: LET ME TAKE A LOOK AT WHAT I HAVE ON
8 WEDNESDAY. I HAVE A SIX DEFENDANT DEATH PENALTY ON THAT
9 DAY. YOURS ARE IN THE AFTERNOON ON WEDNESDAY, MAY 1ST.

10 MR. KLEIN: I HAVE TWO HEARINGS UP AT SOLEDAD. WE
11 CAN TAKE THAT UP NEXT WEEK.

12 THE COURT: LET ME SEE WHAT IT LOOKS LIKE.

13 MR. MC MULLEN: YOUR HONOR, AS LONG AS WE ARE
14 TALKING ABOUT SCHEDULING AND WITNESS SCHEDULING, TO
15 REVISIT WHAT I ASKED YOU THIS MORNING WE HAVE ASKED FOR
16 THE COURT TO TAKE JUDICIAL NOTICE WITH RESPECT TO SOME
17 MATTERS RELATING TO DEAN KARNY.

18 MR. KLEIN: CAN WE HAVE A CHANCE TO TALK? YOU
19 ASKED US TO TALK ABOUT IT. WE HAVEN'T HAD A CHANCE TO
20 TALK.

21 MR. MC MULLEN: THEY TOLD ME THEY WOULDN'T
22 STIPULATE.

23 THE COURT: TALK. TALK.

24 MR. KLEIN: WE WILL TALK. MR. CRAIN AND I HAVEN'T
25 EVEN HAD A CHANCE TO --

26 THE COURT: ONE OF THE REASONS I AM THINKING ABOUT
27 GOING TO THAT MEETING ON WEDNESDAY IS TO GIVE YOU INITIAL
28 TIME.

1 THE PETITIONER: HERE. HERE.

2 THE COURT: WHAT I WAS PLANNING, MR. HUNT CONVINCED
3 ME. WHAT I WAS PLANNING ON DOING ON THURSDAY WAS GOING
4 FROM 8:30 TO 1 O'CLOCK. BUT IF YOU GUYS CAN USE THE TIME,
5 I WOULD RATHER YOU USE THE TIME.

6 MR. KLEIN: WE CAN USE THE TIME, AS YOU CAN SEE.

7 THE COURT: ALL RIGHT.

8 CALL YOUR NEXT WITNESS.

9 MR. KLEIN: WHILE HE CALLS THE WITNESS, CAN I MAKE
10 A PHONE CALL? I WILL BE LISTENING.

11 THE COURT: YES.

12 MR. CRAIN: THIS YOUR EXHIBIT LIST?

13 MS. KATAYAMA: YES, EXHIBIT LIST.

14 MR. CRAIN: CAN I LOOK AT IT, PLEASE?

15 MS. KATAYAMA: YES.

16 MR. CRAIN: IT IS M.

17 THE CLERK: YOU WANT ME TO TAKE IT FROM THE COURT
18 COPY?

19 THE COURT: ARE YOU TALKING ABOUT KAREN SUE MARMOR?

20 MR. CRAIN: I AM CALLING HER NEXT.

21 THE COURT: PERHAPS SHE CAN STEP FORWARD, AND WE
22 WILL SWEAR HER IN.

23 IT IS THE PEOPLE'S M, WHICH WAS PEOPLE'S
24 EXHIBIT 55?

25 MR. MC MULLEN: HERE IS YOUR COPY OF M, YOUR HONOR.

26 THE COURT: STAND RIGHT THERE AND RAISE YOUR RIGHT
27 HAND.

28

1 KAREN SUE MARMOR, +
2 CALLED AS A WITNESS BY THE PETITIONER, WAS SWORN AND
3 TESTIFIED AS FOLLOWS:
4

5 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE
6 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
7 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
8 NOTHING BUT THE TRUTH, SO HELP YOU GOD?

9 THE WITNESS: I DO.

10 THE CLERK: PLEASE HAVE A SEAT.

11 WOULD YOU STATE AND SPELL YOUR NAME FOR THE
12 RECORD.

13 THE WITNESS: KAREN SUE MARMOR. YOU WANT ME TO
14 SPELL THE FIRST NAME?

15 THE COURT: PLEASE.

16 THE WITNESS: K-A-R-E-N, S-U-E, M-A-R-M-O-R.

17 THE COURT: YOU MAY INQUIRE.

18 MR. CRAIN: THANK YOU
19

20 DIRECT EXAMINATION +
21

22 BY MR. CRAIN:

23 Q MS. MARMOR, ARE YOU MARRIED?

24 A YES, I AM.

25 Q AND COULD YOU PULL THE MICROPHONE UP AND
26 JUST -- THAT WAY YOU CAN SIT BACK IF YOU WANT TO AND IT IS
27 PROBABLY MORE COMFORTABLE.

28 WHAT'S YOUR HUSBAND'S NAME?

1 A LEN MARMOR.

2 Q TO YOUR KNOWLEDGE WAS HE A PROSECUTION
3 WITNESS IN THE LOS ANGELES TRIAL OF MR. HUNT HERE?

4 A YES.

5 Q AND DID YOU KNOW A GENTLEMAN BY THE NAME
6 OF -- I USE THE TERM LOOSELY -- RON LEVIN?

7 A YES.

8 Q AND APPROXIMATELY WHEN DID YOU MEET RON
9 LEVIN?

10 A WHEN I WORKED FOR UNITED CALIFORNIA BANK.

11 Q WHAT WAS YOUR JOB THERE AT UNITED CALIFORNIA
12 BANK?

13 A I WAS OPERATIONS OFFICER FILLING IN IN NEW
14 ACCOUNTS.

15 Q AND WERE YOU IN THE BANKING BUSINESS FOR SOME
16 PERIOD OF TIME?

17 A YES.

18 Q WAS THIS BEFORE YOU MARRIED MR. MARMOR?

19 A YES.

20 Q AND IN WHAT GENERAL AREA OF THE CITY WAS THIS
21 PARTICULAR BANK BRANCH LOCATED?

22 A BEVERLY HILLS.

23 Q AND YOU TELL US HOW IT WAS THAT YOU CAME TO
24 MEET MR. LEVIN IN THE BANKING BUSINESS?

25 A HE CAME IN TO OPEN UP FOUR CORPORATE ACCOUNTS
26 WITHOUT ANY I.D..

27 Q WHAT HAPPENED THEN?

28 A WHEN I REFUSED TO OPEN THE ACCOUNTS, HE THREW

1 A HUGE FIT SCREAMING, CALLING ME NAMES, SAID HE WAS GOING
2 TO GET ME FIRED.

3 Q INCIDENTALLY, DO YOU BEAR ANY GRUDGE OR ILL
4 WILL THAT'S -- BECAUSE YOU HAD TO COME IN HERE AND GIVE
5 ANY PARTICULAR TESTIMONY?

6 A NO.

7 Q WERE YOU CALLED AS A WITNESS AT MR. HUNT'S
8 1992 TRIAL IN SAN MATEO?

9 A YES.

10 Q DID YOU GIVE TESTIMONY THERE?

11 A YES.

12 Q AND AFTER MR. LEVIN HAD THIS, DISPLAYED THIS
13 UNCOUTH BEHAVIOR WHAT HAPPENED?

14 A I REFERRED IT TO THE MANAGER OF THE BRANCH AT
15 THAT TIME.

16 Q AND DID YOU THEREAFTER MEET MR. LEVIN AGAIN?

17 A YES.

18 Q IN THE MEANTIME HAD YOU AND MR. MARMOR
19 MARRIED?

20 A I HAD JUST MET MR. MARMOR SHORTLY AFTER I HAD
21 THAT INCIDENT WITH MR. LEVIN.

22 Q OKAY.

23 SO WHEN DID YOU NEXT SEE MR. LEVIN -- STRIKE
24 THAT.

25 WHEN DID YOU GET MARRIED TO MR. MARMOR?

26 A I MARRIED MR. MARMOR IN '78. DECEMBER THE
27 8TH, 1978.

28 Q AND WAS THE NEXT TIME YOU SAW LEVIN AFTER YOU

1 WERE MARRIED OR BEFORE YOUR MARRIAGE? DO YOU RECALL AT
2 THIS TIME AFTER ALL THESE YEARS?

3 A I MET MR. MARMOR IN JUNE OF '76. WE WERE
4 MARRIED IN '78. I MET MR. LEVIN JUST RIGHT BEFORE I MET
5 MR. MARMOR.

6 Q OKAY.

7 A THEN AFTER --

8 Q GO AHEAD.

9 A THEN AFTER I MET MY HUSBAND, MY HUSBAND NOW,
10 MY HUSBAND SAID HE HAD SOMEBODY HE WANTED ME TO MEET. IT
11 WAS A FRIEND OF HIS. SO HE TOOK ME OVER TO THE PLACE THAT
12 MR. LEVIN LIVED ACROSS FROM US AND INTRODUCED ME TO THIS
13 GUY, MR. LEVIN, AND I WAS IN SHOCK BECAUSE I COULDN'T
14 BELIEVE THAT MY HUSBAND KNEW THIS GUY BECAUSE I KNEW THAT
15 THIS GUY WASN'T ANY GOOD.

16 THE COURT: THAT WAS BASED ON YOUR EXPERIENCE WITH
17 THE MAN AT THE BANK?

18 THE WITNESS: YES. WHEN WANTING TO OPEN UP
19 ACCOUNTS.

20 BY MR. CRAIN:

21 Q WHERE WERE YOU LIVING WHEN YOU MET MR. LEVIN
22 THE SECOND TIME?

23 A 148 SOUTH PECK.

24 Q WAS THAT IN THE CITY OF BEVERLY HILLS?

25 A YES.

26 Q IT WAS RIGHT AROUND THE CORNER FROM SAKS 5TH
27 AVENUE?

28 A YES, IT IS.

1 Q AND HOW LONG DID YOU LIVE AT THAT LOCATION ON
2 PECK IN BEVERLY HILLS?

3 A WE STILL HAVE THAT LOCATION. WE STILL HAVE
4 THAT PLACE.

5 Q IS THIS A RENTAL PROPERTY THAT YOU RENT FROM
6 SOMEBODY ELSE?

7 A YES, IT IS.

8 Q AND SO YOU STILL HAVE IT AS A TENANT, BUT IS
9 IT CORRECT TO STATE IT IS NOT YOUR PRIMARY RESIDENCE
10 ANYMORE?

11 A NO, IT IS NOT.

12 Q HOW LONG DID YOU LIVE THERE WHERE IT WAS YOUR
13 MAIN RESIDENCE?

14 A TILL 1983.

15 Q AND DID YOU --

16 THE COURT: WHAT YEAR WERE YOU ACTUALLY RESIDING AT
17 THAT PECK STREET ADDRESS?

18 THE WITNESS: UP TO ABOUT '88.

19 THE COURT: BEGINNING WHAT DATE, THOUGH.

20 THE WITNESS: WELL, I STILL USE THE PLACE LIKE WHEN
21 I GO SHOPPING. NO MATTER WHERE WE LIVE I COME, YOU KNOW,
22 TO GO SHOPPING. I WOULD USE THE APARTMENT TO GO IN AND
23 OUT OF TO CHANGE CLOTHES, MAKE CALLS, MAYBE FRIENDS VISIT,
24 BEFORE I GO TO LUNCH, THINGS LIKE THAT.

25 THE COURT: WHAT YEARS WERE YOU ACTUALLY LIVING
26 THERE. YOU SAID YOU LEFT IN '83. WHEN DID YOU ACTUALLY
27 MOVE IN?

28 THE WITNESS: MOVE INTO --

1 THE COURT: PECK DRIVE.

2 THE WITNESS: -- PECK DRIVE?

3 THE COURT: YES.

4 THE WITNESS: 1976.

5 THE COURT: ALL RIGHT.

6 BY MR. CRAIN:

7 Q AND SO IN '83 YOU MOVED SOMEWHERE ELSE;

8 RIGHT?

9 A (NO AUDIBLE RESPONSE.)

10 Q YOU HAVE TO ANSWER OUT LOUD.

11 A I AM SORRY.

12 Q SO THE REPORTER CAN GET IT ALL DOWN.

13 A I AM SORRY. I AM A LITTLE NERVOUS.

14 IN 1983 I WAS PREGNANT FOR THE SECOND TIME,
15 SO WE HAD TO GET A BIGGER PLACE.

16 Q SO YOU MOVED TO A HOUSE SOMEWHERE?

17 A YES.

18 Q OKAY.

19 BUT YOU CONTINUED TO MAINTAIN THE PECK STREET
20 LOCATION AS A PLACE YOU WERE RENTING; RIGHT?

21 A YES.

22 Q AND HAVE CONTINUED TO DO SO SINCE 1983; IS
23 THAT RIGHT?

24 A SINCE 1976.

25 Q BUT AFTER YOU MOVED OUT IN '83 YOU CONTINUED
26 TO MAINTAIN IT?

27 A YES.

28 Q AND YOU USE IT FROM TIME TO TIME?

1 A YES. IF FAMILY COMES THEY STAY THERE. WE
2 USE IT, FRIENDS USE IT.

3 Q OKAY.

4 SO IN 1984 WERE YOU GOING BACK TO THE PECK
5 STREET ADDRESS AND STAYING THERE FROM TIME TO TIME?

6 A YES.

7 Q OKAY.

8 NOW, DID YOU EVER DURING THE TIME THAT YOU --

9 A CAN I INTERJECT SOMETHING, PLEASE?

10 Q IF YOU LIKE, PLEASE.

11 A WE GOT A HOME UP ON MULHOLLAND. OUR OLDEST
12 SON WENT TO A SCHOOL ON COLDWATER, WHICH IS DOWN AT THE
13 BOTTOM OF THE HILL. I DIDN'T LIKE TO MAKE THAT TREK UP
14 AND DOWN THE HILL. WHAT I WOULD DO IS DROP OUR OLDEST SON
15 OFF AT PRESCHOOL, I WOULD GO ON OVER TO THE APARTMENT
16 UNTIL 1:30 WHEN THE SCHOOL WAS FINISHED.

17 Q AND GO PICK UP YOUR SON?

18 A PICK UP MY SON UP AND GO BACK UP THE HILL.

19 Q AND DURING THE TIME THAT BOTH -- THAT YOU
20 WERE LIVING ON PECK STREET AND AFTER YOU MOVED OUT, DURING
21 THE FIRST PART OF 1984, DID YOU GET TO KNOW RON LEVIN?

22 A YES.

23 Q AND DID HE EVER COME OVER TO YOUR RESIDENCE?

24 A ALL THE TIME.

25 Q AND DID YOU EVER VISIT HIS RESIDENCE?

26 A YES.

27 Q WAS HE LIKE A NEXT DOOR NEIGHBOR KIND OF?

28 A YES.

1 Q AND WOULD YOU BE ABLE TO IDENTIFY RON LEVIN
2 IF YOU SAW A PICTURE OF HIM OR NOT?

3 A YES.

4 Q WHAT DID HE LOOK LIKE? CAN YOU DESCRIBE HIM?

5 THE COURT: EXHIBIT 1 IS UP BEFORE THE WITNESS.

6 BY MR. CRAIN:

7 Q WELL, IF THE WITNESS IS NOW LOOKING AT -- DO
8 YOU RECOGNIZE THE MAN IN PHOTOGRAPH?

9 A YES.

10 Q WHO IS THAT?

11 A THAT'S RON LEVIN.

12 Q IS THAT THE RON LEVIN YOU KNEW IN BEVERLY
13 HILLS?

14 A YES, IT IS.

15 Q WHAT DID THIS MAN LOOK LIKE JUST IN TERMS OF
16 PHYSICAL APPEARANCE?

17 A TALL, LEAN, WILLOW LIKE. THE WAY HE WALKED,
18 ALWAYS CLEAN, METICULOUS IN THE WAY HE LOOKED AND DRESSED.
19 HAD -- HE HAD BEAUTIFUL SILVER HAIR, BEARD.

20 Q DID HE WEAR EXPENSIVE CLOTHES?

21 A VERY. VERY.

22 Q DID HE --

23 A HE WOULD ONLY HAVE THE BEST. AND HE WOULD
24 TELL YOU ONLY THE BEST. IF IT WASN'T THE BEST, IT WASN'T
25 FOR HIM.

26 Q DID HE SEEM LIKE AN INTELLIGENT PERSON?

27 A VERY.

28 Q SOPHISTICATED?

1 A VERY.

2 MR. KLEIN: PERHAPS THE COURT ISN'T INTERESTED IN
3 HEARING MORE IN THIS AREA BUT --

4 THE COURT: I HAVE A FAIR IDEA.

5 BY MR. CRAIN:

6 Q WAS HE GENERALLY AN HONEST PERSON OR NOT?

7 MR. MC MULLEN: OBJECTION. IRRELEVANT.

8 THE COURT: SUSTAINED.

9 MR. CRAIN: ALL RIGHT.

10 I THINK THE COURT HAS A GOOD FRAME.

11 BY MR. CRAIN:

12 Q NOW, DID HE HAVE A DOG?

13 A YES, HE DID.

14 Q AND DID YOU EVER SEE HIM MISTREAT THE DOG?

15 MR. MC MULLEN: OBJECTION. IRRELEVANT.

16 THE COURT: WHAT'S THE RELEVANCE?

17 MR. CRAIN: I AM DRAWING A MENTAL BLANK. I HAVE --

18 PARDON ME ONE MINUTE.

19 MR. KLEIN: THIS WOULD BE ONE EXAMPLE, YOUR HONOR,
20 OF OTHER IMPEACHMENT EVIDENCE UNDER 1-A OF THE O.S.C.

21 MR. CRAIN: NO. IT IS FOUNDATIONAL, YOUR HONOR. I
22 AM SORRY. IT RELATES TO THE TO-DO, THE SEVEN-PAGE LIST,
23 THE SIGNIFICANCE OF THE SEVEN-PAGE LIST. THE QUESTIONS
24 THAT WERE ASKED ABOUT THE SEVEN-PAGE LIST.

25 I GUESS MOST OF ALL OF US SUFFER FROM THIS
26 FROM TIME TO TIME.

27 THE COURT: YOU ARE TALKING ABOUT THE REFERENCE ON
28 THE SEVEN-PAGE LIST ABOUT "KILL THE DOG"?

1 MR. CRAIN: YES, YOUR HONOR. THERE WILL BE SOME
2 FURTHER QUESTIONING ABOUT LEVIN'S COMMENTS TO HER ABOUT
3 THE LIST AND DOG SO. I WILL TIE IT ALTOGETHER. I THINK
4 THE COURT WILL SEE.

5 MR. MC MULLEN: THE ONLY POINT I WOULD LIKE TO MAKE
6 IS THAT YOUR HONOR EXCLUDED THAT PARTICULAR ISSUE ON THE
7 MARCH 29TH HEARING.

8 MR. CRAIN: DOESN'T GO TO THAT ISSUE SPECIFICALLY.

9 THE COURT: HOLD ON. HOLD ON. LET HIM FINISH.

10 MR. CRAIN: I AM SORRY.

11 MR. MC MULLEN: THAT'S ALL RIGHT, MR. CRAIN.

12 THAT'S ABOUT AS FAR AS I WAS GOING TO SAY.
13 YOUR HONOR SAID THAT YOU DIDN'T WANT TO TALK ANY EVIDENCE
14 WITH RESPECT TO KICKING THE DOG AND --

15 THE COURT: YES. IF IT GOES TO THAT ISSUE, I AM
16 NOT GOING TO ALLOW IT. I WILL ALLOW SOME LIMITED INQUIRY
17 SUBJECT TO A MOTION TO STRIKE.

18 MR. CRAIN: THANK YOU.

19 THE COURT: IF IT GOES TO SOMETHING ABOUT HER
20 KNOWLEDGE CONCERNING THE LIST.

21 MR. CRAIN: OKAY.

22 I THINK WE WILL TIE IT UP SHORTLY.

23 BY MR. CRAIN:

24 Q SO YOU SAY HE HAD A DOG; RIGHT?

25 A YES.

26 Q DID YOU EVER SEE HIM MISTREAT THE DOG?

27 A YES, I HAVE.

28 Q IN WHAT WAY?

1 A HE WOULD KICK IT. SCREAM AT IT. SMACK IT.
2 ALL BECAUSE OF THE DOG URINATED ON THE FLOOR. THE DOG WAS
3 VERY SKITTISH.

4 Q HOW OFTEN WOULD YOU SAY DURING THE PERIOD OF
5 TIME THAT YOU LIVED THERE ON PECK -- STRIKE THAT.

6 DID MR. LEVIN LIVE THERE THE WHOLE PERIOD OF
7 TIME?

8 A YES.

9 Q SO HE WAS ALREADY THERE WHEN YOU MOVED IN?

10 A YES.

11 Q HOW OFTEN WOULD YOU COME IN CONTACT WITH HIM
12 DURING THAT PERIOD OF TIME, JUST GENERALLY SPEAKING?

13 A ANYWHERE FROM -- TO TWO TO THREE TIMES A
14 WEEK. MAYBE MORE ON SOME WEEKS.

15 Q OKAY.

16 A HE WOULD COME OVER THERE.

17 Q OKAY.

18 NOW, WERE YOU PERSONALLY ACQUAINTED WITH
19 MR. HUNT HERE APART FROM HAVING APPEARED AS A WITNESS IN
20 HIS 1992 TRIAL?

21 A BEFORE THE TRIAL I NEVER KNEW THIS MAN.

22 Q SO DID YOU MEET HIM UP THERE AT THE
23 COURTHOUSE SHORTLY BEFORE YOU TESTIFIED UP THERE?

24 A FIRST TIME I EVER MET HIM WAS WHEN I WAS
25 COMING UP TO TESTIFY.

26 THE COURT: "COMING UP TO TESTIFY," YOU MEAN TO SAN
27 MATEO?

28 THE WITNESS: I WAS SITTING IN THE COURTROOM,

1 THAT'S FIRST TIME I EVER MET HIM.

2 THE COURT: OKAY.

3 THE WITNESS: WHEN I WAS COMING UP ON THE STAND AND
4 TAKING --

5 THE COURT: ARE YOU TALKING ABOUT THE SAN MATEO
6 HEARING?

7 THE WITNESS: YES.

8 BY MR. CRAIN:

9 Q YOU DON'T HAVE ANY CONNECTION TO MR. HUNT
10 HERE AT ALL?

11 A NO.

12 Q OKAY.

13 GOING BACK TO YOUR CONVERSATION, WAS
14 MR. LEVIN -- DID MR. LEVIN EVER DISCUSS -- YOU SAID HE HAD
15 A BEARD; RIGHT?

16 A UH-HUH. YES.

17 THE COURT: IS THAT "YES"?

18 THE WITNESS: YES.

19 BY MR. CRAIN:

20 Q DID HE EVER DISCUSS WITH YOU DOING ANYTHING
21 WITH THAT BEARD?

22 A YES.

23 Q WHAT WAS THAT?

24 MR. MC MULLEN: OBJECTION. IRRELEVANT.

25 THE COURT: WHAT'S THE RELEVANCE?

26 MR. CRAIN: FOUNDATIONAL TO HER KNOWLEDGE ABOUT THE
27 DISCUSSION, ABOUT THE SEVEN-PAGE LIST IN CONTEXT.

28 THE COURT: I DON'T SEE --

1 MR. CRAIN: I KNOW THE PEOPLE DON'T WANT THIS COURT
2 TO HEAR THIS.

3 THE COURT: IT IS NOT REALLY RELEVANT TO ANY ISSUE.

4 MR. CRAIN: IT GOES TO THE ISSUE IN 1-A AS TO
5 WHETHER THE MAN IS ALIVE OR NOT.

6 MR. KLEIN: YOUR HONOR, ALSO, AS I SAID BEFORE,
7 UNDER 1-A IT SAYS "AND OTHER IMPEACHMENT EVIDENCE," AND I
8 ALSO ARGUED IN OUR BRIEF THAT WE ARE ENTITLED TO PUT ON
9 OTHER EVIDENCE ONCE WE MAKE A PRELIMINARY HEARING SHOWING
10 UNDER IN RE HALL TO ATTACK OTHER ASPECTS OF THE
11 PROSECUTION'S CASE. THIS WOULD ALSO BE RELEVANT
12 UNDERSTAND THAT THEORY.

13 THE COURT: I UNDERSTAND.

14 I WILL SUSTAIN THE OBJECTION.

15 MR. MC MULLEN: THANK YOU

16 BY MR. CRAIN:

17 Q NOW, YOU SAID HE HAD EXPENSIVE APPEARING
18 CLOTHES; IS THAT RIGHT?

19 A YES.

20 Q WAS THERE EVER A TIME WHEN HE --

21 MR. CRAIN: BY THE WAY, I KNOW THE COURT IS ALSO
22 INTERESTED IN EXPEDITING MATTERS. I WILL TELL THE COURT
23 THERE AREN'T LOADS OF QUESTIONS ON THESE AREAS. THERE IS
24 JUST A COUPLE OF EACH ONE. SO WE ARE NOT --

25 THE COURT: WHEN YOU SLOW --

26 MR. CRAIN: THE COURT DOESN'T HAVE TO FEAR BEING
27 HERE ON MARGINAL AREAS, WHICH I DON'T THINK THEY ARE.

28 THE COURT: WHEN YOU SLOW DOWN I WILL LET, YOU

1 KNOW.

2 MR. CRAIN: OKAY.

3 BY MR. CRAIN:

4 Q WAS THERE EVER A TIME WHEN THERE WAS SOME
5 DISCUSSION WITH MR. LEVIN REGARDING A CHANGE OF CLOTHING?

6 A YES. ONE DAY I WAS GOING SHOPPING. HE CAME
7 OUT AND OFFERED ME TO COME INTO THE APARTMENT. HE WANTED
8 TO SHOW ME SOMETHING. WHEN I CAME IN, HE ASKED ME TO
9 FOLLOW HIM BACK TO THE BEDROOM. AND BACK IN BEDROOM HE
10 HAD ALL THESE CLOTHES LAYING OUT ON THE BED, A BOX OF
11 SHOES, STACKS ALL ALONG ONE SIDE OF THE WALL. AND HE
12 ASKED ME WHAT -- THEN HE TOOK ME TO THE CLOSET, SHOWED ME
13 WHAT WAS HANGING ON THE RACK. HE ASKED ME WHAT I THOUGHT.

14 AND I SAID, "WELL, I DON'T UNDERSTAND BECAUSE
15 THE CLOTHES THAT WERE ON THE BED AND THE CLOTHES THAT WERE
16 IN THE CLOSETS WERE COMPLETELY DIFFERENT THAN THE RON
17 LEVIN, HOW HE DRESSED AND WHAT HE WORE.

18 WHILE HE WAS SHOWING ME THE CLOTHES IN THE
19 CLOSET, HE ASKED ME ABOUT WHAT I THOUGHT ABOUT HIM CUTTING
20 HIS BEARD AND OF DYING HIS HAIR.

21 MR. MC MULLEN: I WOULD OBJECT AGAIN. THIS WHOLE
22 ANSWER IS IRRELEVANT. I MOVE TO STRIKE IT.

23 THE COURT: I WILL SEE WHERE IT IS GOING. I ASSUME
24 THIS IS GOING TO THE ISSUE OF POTENTIAL PLANS MR. LEVIN
25 HAD TO FLEE.

26 MR. CRAIN: YES, YOUR HONOR.

27 MR. MC MULLEN: I WOULD ALSO OBJECT. VAGUE AS TO
28 TIME.

1 THE COURT: LAY A FOUNDATION.

2 YOU MAY PROCEED.

3 BY MR. CRAIN:

4 Q DID YOU AT SOME POINT HEAR THAT MR. LEVIN HAD
5 DISAPPEARED?

6 MR. MC MULLEN: OBJECTION. VAGUE AS TO TIME.

7 MR. CRAIN: I WILL -- I AM TRYING TO LAY A
8 FOUNDATION IF COUNSEL WOULD JUST --

9 THE COURT: SUSTAINED.

10 WHAT I WANT YOU TO DO IS GO BACK A LITTLE
11 BIT. YOU INTRODUCED A COMMENT ABOUT SEEING SOME CLOTHING
12 IN A BEDROOM.

13 MR. CRAIN: RIGHT.

14 THE COURT: IF YOU GO BACK TO THAT, LAY A
15 FOUNDATION FOR THAT.

16 MR. CRAIN: OKAY.

17 BY MR. CRAIN:

18 Q CAN YOU TELL US WHEN THAT WAS?

19 A IT WAS RIGHT AROUND THE TIME HE WAS PLANNING
20 HIS TRIP FOR NEW YORK.

21 Q YOU SAY HE WAS PLANNING A TRIP TO NEW YORK.
22 DID HE EVER TELL YOU HE WAS GOING TO NEW YORK, PLANNING A
23 TRIP TO NEW YORK?

24 A YES, HE DID.

25 Q AND WHERE DID THAT CONVERSATION TAKE PLACE?

26 A IN HIS APARTMENT.

27 Q AND WHAT TIME OF DAY WAS THAT, IF YOU CAN
28 RECALL AFTER ALL THIS TIME?

1 A EARLY AFTERNOON.

2 Q IN THE EARLY AFTERNOON IN HIS APARTMENT;
3 RIGHT?

4 A YES.

5 Q WAS THERE ANYTHING ELSE?

6 A IT WAS -- IT WAS A MATTER OF THE CLOTHES, A
7 COUPLE OF WEEKS BEFORE HIS DISAPPEARANCE. HIS
8 SUPPOSEDLY --

9 THE COURT: SPRING OR EARLY SUMMER 1984?

10 THE WITNESS: YES.

11 THE COURT: THAT'S WHAT I NEED TO KNOW.

12 GOOD.

13 BY MR. CRAIN:

14 Q DO YOU HAVE A CHILD THAT WAS BORN IN 1983?

15 A YES, I DID.

16 Q AND THE CHILD THEN, I GATHER, TURNED ONE YEAR
17 OLD IN 1984?

18 A YES.

19 Q WHAT WAS THE BIRTHDAY OF YOUR CHILD, FIRST
20 BIRTHDAY, 1984?

21 A MARCH THE 31ST.

22 Q DOES THE BIRTHDAY OF YOUR CHILD IN ANY WAY
23 HELP YOU TO PUT THESE EVENTS IN SOME SORT OF CONTEXT WITH
24 REGARD TO WHEN THEY OCCURRED?

25 A YES.

26 Q AND DID YOU HEAR FROM ANYONE THAT LEVIN HAD
27 DISAPPEARED? CAN YOU TELL US WHEN EXACTLY YOU HEARD THAT?

28 A I THINK IT WAS JUNE, FIRST PART OF JUNE. I

1 THINK THE POLICE OR SOMEBODY CALLED MY HUSBAND, SOMETHING
2 ABOUT RON DISAPPEARING. IN MY MIND I NEVER SEE RON BEING
3 DEAD.

4 Q JUST A MINUTE. LET ME JUST ASK YOU THE
5 QUESTIONS; OKAY?

6 I DIDN'T MEAN TO CUT YOU OFF. WERE YOU
7 ANSWERING MY QUESTION OR -- WELL, LET ME GO.

8 THE COURT: LET ME CUT -- YOU SAID FIRST PART OF
9 JUNE, 1984?

10 THE WITNESS: YES.

11 THE COURT: OKAY.

12 BY MR. CRAIN:

13 Q OKAY.

14 SO WERE YOU PRESENT WHEN THE POLICE NOTIFIED
15 YOUR HUSBAND ABOUT THE DISAPPEARANCE?

16 A NO.

17 Q DID YOUR HUSBAND TELL YOU THAT LEVIN HAD
18 DISAPPEARED?

19 A YES.

20 Q AND SO IT WAS WHEN THAT IT WAS -- STRIKE
21 THAT.

22 WHEN WAS IT RELATIVE TO THAT TIME PERIOD THAT
23 YOU HAD THIS DISCUSSION WITH LEVIN ABOUT THE CLOTHES AND
24 THE HAIR DYE AND SO FORTH?

25 A MAY.

26 Q SOMETIME IN MAY YOU WOULD SAY?

27 A UH-HUH. I WOULD SAY ANYWHERE FROM TWO TO
28 THREE DAYS PRIOR TO WHENEVER THE POLICE HAD CALLED MY

1 HUSBAND.

2 Q NOW, AFTER THAT DID YOU GO OVER TO LEVIN'S
3 HOUSE AT SOME TIME AGAIN AND HAVE ANY FURTHER DISCUSSIONS
4 WITH HIM ABOUT ANY PLANS THAT HE HAD?

5 A ONE DAY HE CALLED ME OVER. HE WAS REAL
6 AGITATED, TENSE, SEEMED TO BE UPSET ABOUT SOMETHING. TOLD
7 ME THAT HE WASN'T GOING BACK TO JAIL, AND HE WAS VERY
8 ADAMANT ABOUT IT. HE TOLD ME, "YOU HAVE NO IDEA WHAT THEY
9 DO TO YOU IN THERE."

10 Q HE CALLED YOU OVER IN WHAT WAY, ON THE PHONE
11 OR DID HE SIGNAL TO YOU?

12 A HIS OFFICE AND HIS BEDROOM FACES OUR LIVING
13 ROOM AND OUR BEDROOM. AND IT IS JUST -- YOU COULD HEAR
14 HIM SCREAM, AND HE SAW ME COME OUT THE DOOR. I WAS GOING
15 TO HAVE LUNCH WITH SOMEONE, HE SAW ME COME OUT THE DOOR,
16 AND HE SCREAMED "KAREN, COME OVER HERE. COME HERE."

17 Q FROM HIS WINDOW OR HIS DOOR?

18 A FROM HIS DOOR.

19 Q DID YOU GO OVER?

20 A YES.

21 Q AND DID YOU GO INSIDE?

22 A YES.

23 Q AND --

24 THE COURT: CAN WE GET A TIME.

25 MR. CRAIN: OF DAY?

26 THE COURT: DATE. AND ROUGHLY WHEN WAS THIS.

27 BY MR. CRAIN:

28 Q WHEN WAS THIS?

1 A TOWARDS THE END OF MAY.

2 Q OF '84?

3 A OF '84.

4 Q AND WHAT DID HE TELL YOU AT THAT TIME?

5 A WELL, HE WAS VERY UPSET. HE WAS SCREAMING
6 AND SAYING, "I AM NOT GOING BACK TO JAIL. I AM NOT GOING
7 BACK TO JAIL. YOU DON'T KNOW WHAT THEY DID."

8 WHEN HE GETS UPSETS HE TALKS REAL FAST. HE
9 IS LIKE WALKING WITH HIS BACK TO YOU, HIS HANDS ARE
10 MOVING, AND HE SAID FOR ME TO FOLLOW HIM. SO I FOLLOWED
11 HIM. WELL, THE PHONE RANG AS HE WAS SAYING ALL THESE
12 THINGS.

13 Q JUST A MINUTE.

14 SO HE APPEARED TO BE AGITATED?

15 A VERY AGITATED. VERY UPSET.

16 Q HE SAID, "YOU HAVE NO IDEA THE THINGS THEY DO
17 IN JAIL." DID HE TELL YOU ABOUT ANYTHING OF THOSE THINGS?

18 A NO. HE JUST SAID IT IS HORRIBLE.

19 Q SO YOU FOLLOWED HIM IN; IS THAT RIGHT?

20 A UH-HUH.

21 THE COURT: IS THAT "YES"?

22 THE WITNESS: YES. I AM SORRY.

23 BY MR. CRAIN:

24 Q OVER THESE YEARS HAD YOU HAD CONVERSATIONS
25 WITH HIM ON A VARIETY OF SUBJECTS WHERE HE WOULD TELL YOU
26 ABOUT DIFFERENT THINGS IN HIS LIFE?

27 A NOT REALLY. NOT REALLY. HE IS NOT REALLY --
28 HE DID WITH MY HUSBAND, BUT BASICALLY I JUST PUSHED THOSE

1 THINGS IN ONE EAR AND OUT THE OTHER WITH RON. BUT THAT
2 TIME HE WAS REALLY -- NORMALLY RON MAKES LIGHT OF WHAT HE
3 SAID. HE WILL SAY SOMETHING, AND HE WILL TAKE IT BACK.
4 HE LIKES YOU WONDERING WHICH IS IT. BUT THIS TIME HE
5 WASN'T DOING THAT. THAT'S WHY I KNEW THAT HE WAS SERIOUS
6 BECAUSE HE WAS REALLY, REALLY UPSET, AND HE WASN'T TRYING
7 TO HIDE IT OR COULDN'T HIDE IT.

8 Q WHY DID YOU GO IN AND LISTEN TO WHAT HE HAD
9 TO SAY?

10 A WELL, BECAUSE IT SHOCKED ME BECAUSE IT IS A
11 SIDE OF HIM I HAD NEVER SEEN BEFORE. HE WAS QUITE UPSET.
12 AND WHY DID I GO IN? I DON'T KNOW. I WOULD HAVE TO THINK
13 ABOUT THAT.

14 Q IN ANY EVENT, YOU DID AND THE PHONE RANG;
15 RIGHT?

16 A YES.

17 Q THE PHONE RANG.

18 WHO ANSWERED THE PHONE?

19 A HE DID.

20 Q AND WHERE WAS THE PHONE LOCATED?

21 A LIKE IF HIS DESK WAS HERE AND I WAS HERE,
22 THERE WAS A LONG TABLE RIGHT BEHIND THE CAR THAT HAD
23 MACHINES ON IT AND THE PHONE.

24 Q AND WAS HE SEATED AT HIS DESK WHILE HE IS
25 TALKING ON THE PHONE?

26 A PICKED UP THE PHONE, SAT DOWN IN A SWIVEL
27 CHAIR, AND -- YES, HE WAS SEATED IN HIS CHAIR.

28 Q AND DID HE -- DID YOU OVERHEAR ANYTHING THAT

1 WAS BEING SAID ON THE PHONE?

2 A YES. HE WAS TALKING TO SOMEBODY ABOUT
3 TRANSFERRING MONEY. AND IT WASN'T -- I THINK IT WAS AN
4 OVERSEAS CALL, OUT OF THE COUNTRY CALL, BECAUSE HE WAS
5 TALKING ABOUT, I DON'T KNOW, STOCKS, MONEY, BANK ACCOUNTS.
6 HE WAS TALKING ABOUT ALL THAT, TRANSFERRING MONEY, FUNDS.

7 Q WHAT WERE YOU DOING WHILE HE WAS TALKING ON
8 THE PHONE?

9 A LOOKING AROUND THE ROOM AND THEN LOOKING ON
10 HIS DESK.

11 Q AND WAS THERE ANYTHING ON HIS DESK?

12 A YES.

13 Q AND WHAT DID HE HAVE ON HIS DESK?

14 A WELL, HE HAD -- ON ONE SIDE OF HIS DESK HE
15 HAD WHAT LOOKED LIKE SOME KIND OF LEGAL PAD, A YELLOW PAD,
16 AND THEN ON THE OTHER SIDE OF THE DESK TO MY RIGHT WAS
17 WHAT LOOKED LIKE A MOVIE SCRIPT.

18 Q AND CAN -- DID YOU LOOK AT ANY OF THESE ITEMS
19 ON THE TWO SIDES OF THE DESK OR EITHER OF THEM?

20 A YES. FIRST I PICKED UP THE YELLOW THING ON
21 THIS SIDE BECAUSE AT THE TOP OF IT IT HAD "TO-DO" ON IT.
22 AND I FOUND IT INTERESTING BECAUSE I THOUGHT ONLY WOMAN
23 DID TO-DO LISTS. SO I PICKED IT UP.

24 Q DID YOU HAVE A CHANCE TO LOOK AT ANYTHING OF
25 IT?

26 A NOT FOR VERY LONG. WHEN HE ROLLED AROUND, HE
27 YANKED IT OUT OF MY HANDS.

28 Q DID HE SAY ANYTHING WHEN HE DID THAT?

1 A YES. HE PROBABLY SAID SOMETHING LIKE, "DON'T
2 BE SO NOSY.

3 THE COURT: NOT WHAT HE PROBABLY SAID, WHAT DID HE
4 SAY?

5 THE WITNESS: SOMETHING, I THINK ABOUT BEING NOSY.
6 BY MR. CRAIN:

7 Q YOU CAN'T TELL US THE EXACT WORDS, BUT IT HAD
8 TO DO WITH THAT SUBJECT?

9 A IT IS SO LONG AGO.

10 Q I KNOW.

11 BUT IS IT CORRECT YOU DON'T REMEMBER THE
12 EXACT WORDS, BUT HE PULLED IT AWAY FROM YOU?

13 A I DON'T KNOW THE EXACT WORDS, BUT HE PULLED
14 IT WAY FROM ME.

15 Q DID YOU GET THE FEELING IT WAS SOMETHING HE
16 DIDN'T WANT YOU TO SEE?

17 A CORRECT.

18 Q DID YOU SEE ANYTHING ON IT OTHER THAN IT SAID
19 "TO-DO"?

20 A I SAW SOMETHING ON IT "KILL DOG" OR "KILL THE
21 DOG," SOMETHING LIKE THAT, AND SOMETHING TO DO WITH HANDS
22 OR HANDCUFFS.

23 Q OKAY.

24 DID YOU SEE ANYTHING ELSE THAT YOU REMEMBER
25 OR NOT?

26 A THAT I CAN REMEMBER AT THIS TIME?

27 Q DID YOU DISCUSS THE WORDS "KILL DOG" WITH
28 LEVIN, ASK HIM WHAT THAT MEANT AT ANY TIME DURING THIS

1 INCIDENT?

2 A WELL, HE WAS STILL ON THE PHONE WHEN HE
3 YANKED IT OUT OF MY HANDS, SO I JUST WENT OVER HERE ON THE
4 OTHER SIDE, PICKED UP WHAT WAS LAYING ON THIS SIDE AND
5 STARTED --

6 Q WHAT WAS THAT?

7 A THE MOVIE SCRIPT.

8 Q WHY DO YOU SAY IT WAS A MOVIE SCRIPT?

9 A BECAUSE IT WAS WRITTEN LIKE ONE, TYPEWRITTEN.

10 Q IT WAS TYPEWRITTEN?

11 A YES.

12 Q DID YOU GET A CHANCE TO SEE ANY OF THE
13 CONTENTS OF THAT?

14 A YES, I DID.

15 Q WHAT DID IT SAY OR SHOW?

16 A IT CONTAINED A STORY ABOUT SOMEBODY GOING TO
17 NEW YORK, DISAPPEARING, VIDEO STOLEN, VIDEO EQUIPMENT AND
18 SOMETHING TO DO WITH A MAN NAMED EDWARD. AND SOMETHING TO
19 DO WITH A FEMALE NAMED SHERRY. AND THE REASON IT STOOD
20 OUT IN MY MIND IS MY HUSBAND'S MIDDLE NAME IS EDWARD, HIS
21 FIRST WIFE WAS SHERRY, AND RON WAS GOING TO NEW YORK ON A
22 TRIP.

23 Q DID YOU READ THIS THING WORD FOR WORD OR JUST
24 KIND OF AT A GLANCE?

25 A NO. I WAS GLANCING THROUGH IT BECAUSE AT
26 THAT TIME THAT I WAS GLANCING AT IT HE GOT OFF THE PHONE
27 AND HE PULLED THAT OUT OF MY HAND.

28 Q DID HE HAVE ANY FURTHER DISCUSSION WITH YOU

1 ABOUT WHAT THIS "KILL DOG" MEANT OR ANY OF THESE OTHER
2 THINGS? DID YOU ASK HIM, "WHAT DOES THIS MEAN RON, 'KILL
3 DOG' "?

4 A I ASKED HIM -- FIRST, THIS WAS OVER HERE, THE
5 YELLOW PAPER WITH THAT ON THERE, AND HE SAID IT PERTAINS
6 TO THE MOVIE SCRIPT HE WAS WORKING ON.

7 AND I SAID, "WELL, WHY KILL THE DOG?"

8 AND HE SAID, "BECAUSE THE DOG IS NEUROTIC."

9 AND I ASKED HIM --

10 Q DID YOU KNOW WHETHER HE WAS TALKING ABOUT HIS
11 DOG OR DOG IN THE MOVIE? DID HE EVER MAKE THAT CLEAR, OR
12 WHAT?

13 A HE DIDN'T MAKE IT CLEAR. THE ONLY THING HE
14 SAID TO ME, SOMETIME IN THE CONVERSATION DOWN THE ROAD I
15 SAID, "WHY DO I FEEL THAT MOVIE SCRIPT PERTAINS TO YOU AND
16 NOT JUST A MOVIE SCRIPT YOU ARE WRITING?"

17 AND HE SAID, "MAYBE I JUST WON'T COME BACK."

18 I SAID, "WHAT?"

19 HE SAID, "MAYBE I JUST WON'T COME BACK."

20 Q DID HE SEEM AS AGITATED DURING THIS WHOLE
21 EPISODE AS HE DID AT THE BEGINNING WHEN HE ASKED YOU TO
22 COME IN?

23 A HE WAS A LITTLE BIT CALMER, BUT THERE WAS
24 SOMETHING BOTHERING HIM. HE SAID, "YOU HAVE NO IDEA. I
25 AM NOT GOING BACK TO JAIL, KAREN. I AM NOT GOING BACK."
26 HE WAS ADAMANT.

27 Q AND DID YOU THEN GO ON ABOUT YOUR BUSINESS,
28 OR DID YOU STAY THERE LONGER, OR DID ANYTHING ELSE HAPPEN?

1 A WE MIGHT HAVE HAD A LITTLE BIT MORE
2 CONVERSATION, THEN I LEFT.

3 Q DID YOU EVER SEE LEVIN AGAIN AFTER THAT?

4 A NO.

5 THE COURT: I AM SORRY. I DIDN'T HEAR YOU.

6 THE WITNESS: NO.

7 BY MR. CRAIN:

8 Q AFTER THAT YOU LEARNED FROM YOUR HUSBAND THAT
9 THE POLICE WERE INVESTIGATING HIS DISAPPEARANCE?

10 A YES.

11 Q AND THE POLICE HAD BEEN OVER THERE LOOKING
12 AROUND HIS PLACE?

13 A I DON'T KNOW IF MY HUSBAND TOLD ME THAT, THAT
14 THE POLICE SAID HE DISAPPEARED.

15 Q NOW, LET ME --

16 MR. CRAIN: YOUR HONOR, I HAVE HERE WHAT I THINK
17 HAS BEEN MARKED PEOPLE'S EXHIBIT LIST FOR THIS PROCEEDING
18 AS M. AND IT IS A SERIES OF PAGES.

19 THE COURT: WE HAVEN'T MARKED ANYTHING ON THE
20 RECORD BECAUSE WE DON'T HAVE THEIR EXHIBIT LIST. SO WOULD
21 YOU LIKE --

22 MR. CRAIN: I WOULD LIKE IT MARKED IN SOME MANNER.
23 THIS MAY BE SOMETHING THAT YOU ARE GOING TO BE USING.

24 THE COURT: YES. WHY DON'T WE MARK IT AS M.

25

26 (MARKED FOR ID = RESPONDENT'S M-1, THROUGH
27 M-9, DOCUMENTS.)

28

1 MR. MC MULLEN: JUST FOR YOUR HONOR'S INFORMATION,
2 WE HAVE ASKED THE CLERK TO BRING UP SOME EXHIBITS FROM THE
3 TRIAL AND THE ORIGINAL LIST IS AMONG THOSE THAT WE HAVE
4 REQUESTED TO COME UP THAT WAS USED DURING THE TRIAL. JUST
5 FOR YOUR INFORMATION IT MIGHT --

6 THE COURT: WE HAVE SOME EXHIBITS UP. BUT IF WE
7 HAVE GOT A COPY READY TO GO, AND BOTH SIDES HAVE NO
8 OBJECTION, WE WILL GO AHEAD AND MARK THAT AS EXHIBIT M.

9 MR. KLEIN: MAY WE HAVE A STIPULATION THAT THE
10 ORIGINAL OF THIS EXHIBIT IS ON YELLOW PAPER?

11 MR. MC MULLEN: YES. I BELIEVE THAT'S CORRECT. IT
12 WAS EXHIBIT 55 IN THE TRIAL.

13 THE COURT: ALL RIGHT.

14 MR. KLEIN: SO STIPULATED.

15 MR. CRAIN: THAT IS THE STIPULATION, THE ORIGINAL
16 WAS ON YELLOW LINED PAPER.

17 MR. KLEIN: AND IT WAS EXHIBIT 55 FOR THE TRIAL.

18 THE COURT: ALL RIGHT.

19 MR. CRAIN: MAY I APPROACH THE WITNESS?

20 THE COURT: YES.

21 BY MR. CRAIN:

22 Q LET ME SHOW YOU A PAGE HERE THAT SAYS "AT
23 LEVIN'S TO-DO." DOES THAT RESEMBLE --

24 A MAY I GET MY GLASSES?

25 THE COURT: SURE.

26

27 (PAUSE.)

28

1 THE WITNESS: YES. THAT LOOKS EXACTLY LIKE THE ONE
2 I SAW EXCEPT IT WAS YELLOW.

3 MR. MC MULLEN: JUST SO I AM CLEAR --

4 MR. CRAIN: FOR THE RECORD, THE WITNESS HAS LOOKED
5 AT, YOUR HONOR, PEOPLE'S -- OR WHATEVER THEY ARE CALLED
6 HERE, RESPONDENT'S EXHIBIT M, AND IT IS THE SECOND PAGE,
7 THE FIRST PAGE SHOWS THE CLERK'S EXHIBIT STICKERS FROM
8 1985. THE PITTMAN TRIAL.

9 AND THEN THE WITNESS HAS JUST LOOKED AT THE
10 SECOND PAGE THAT SAYS AT "LEVIN'S TO-DO" AND LISTS A
11 NUMBER OF THINGS INCLUDING "KILL DOG" AND "HANDCUFF."

12 THE COURT: ALL RIGHT.

13 BY MR. CRAIN:

14 Q IS THAT WHAT YOU ARE LOOKING, WHAT I AM NOW
15 HOLDING UP AND JUST ASKED --

16 A YES.

17 THE COURT: JUST FOR THE RECORD ON RESPONDENT'S M,
18 I HAVE NUMBERED M PAGES 1 THROUGH 9, AND YOU ARE REFERRING
19 TO WHAT HAS BEEN IDENTIFIED AS PAGE TWO OF EXHIBIT M.

20 THE WITNESS: THE ONE I SAW WAS YELLOW.

21 BY MR. CRAIN:

22 Q RIGHT. THAT'S A COPY.

23 OTHER THAN THAT IT APPEARS TO BE THE SAME?

24 A YES.

25 Q OKAY.

26 NOW, ARE YOU A REGULAR TELEVISION WATCHER?

27 A NO. I DO NOT WATCH T.V. I WAS -- I COME
28 FROM A FARM. I WAS RAISED IF YOU GOT CAUGHT WATCHING T.V.

1 YOU WEREN'T WORKING, YOU GOT A SPANKING AND THAT STILL
2 STICKS WITH ME TODAY.

3 Q PROBABLY MORE PEOPLE SHOULD GROW UP ON FARMS.
4 THAT'S AN EDITORIAL COMMENT.

5 HOW ABOUT EVENTS IN THE NEWS CONCERNING LEGAL
6 MATTERS AND CRIMINAL CASES AND STUFF LIKE THAT. ARE YOU
7 SOMEONE WHO GENERALLY FOLLOWS THOSE THINGS IN THE
8 NEWSPAPER?

9 A NO, I DON'T.

10 MR. MC MULLEN: I WOULD OBJECT AS VAGUE AS TO TIME.

11 THE COURT: I WILL ALLOW IT AS A GENERAL CHARACTER.

12 THE WITNESS: I DON'T WATCH T.V.. I DON'T READ
13 NEWSPAPERS.

14 BY MR. CRAIN:

15 Q HOW ABOUT BACK IN THE 1980'S, ANY DIFFERENCE
16 IN THOSE REGARDS THEN?

17 A NO.

18 Q DID YOU AT SOME POINT LEARN THAT SOMEONE HAD
19 BEEN PUT ON TRIAL FOR THE ALLEGED MURDER OF MR. LEVIN?

20 A I NEVER KNEW ANYTHING ABOUT ANY OF THAT UNTIL
21 MY HUSBAND CAME HOME AND THE TRIAL WAS OVER, AND HE TOLD
22 ME THAT SOMEBODY WAS FOUND GUILTY. AND MY HUSBAND AND I
23 HAD A VERY BRIEF CONVERSATION ABOUT IT.

24 HE FELT AT THAT TIME RON LEVIN WAS DEAD. I
25 FELT THAT HE WASN'T, THAT IN MY MIND FROM EVERYTHING THAT
26 I SAW AND HEARD RON SAY PRIOR TO THE DISAPPEARANCE THAT
27 RON JUST LEFT. HE JUST PULLED ANOTHER ONE AND LEFT.

28 SO WHEN MY HUSBAND, WHO IS VERY OPINIONATED,

1 VERY STRONG-MINDED, TOLD ME, "NO, HE WOULDN'T LEAVE
2 WITHOUT CALLING ME, HE COULDN'T DO THAT," I DISMISSED IT
3 FROM MY MIND.

4 Q YOU HAVE BEEN MARRIED FOR ALMOST 20 YEARS TO
5 MR. MARMOR?

6 A YES.

7 Q YOU KNOW HIM PRETTY WELL; RIGHT?

8 A YES.

9 Q WOULD YOU SAY HE IS A MORE STRONG-WILLED
10 PERSON THAN YOU ARE?

11 A OH, YES.

12 Q AND DID YOU LEARN ANYTHING DURING THIS TIME
13 PERIOD ABOUT THE -- BACK IN THE 80'S OR AT ANY OTHER --
14 LET ME JUMP AHEAD.

15 AT SOME POINT WERE YOU CONTACTED BY AN
16 INVESTIGATOR FOR MR. HUNT CONCERNING INFORMATION WHICH LED
17 TO YOUR GOING TO SAN MATEO TO GIVE TESTIMONY?

18 A WHAT HAPPENED WAS --

19 Q I AM JUST TRYING TO GET SOME TIME PARAMETERS
20 HERE TO DO IT.

21 A OKAY.

22 Q BEAR WITH ME.

23 AT SOME POINT DID AN INVESTIGATOR CONTACT
24 YOU?

25 A YES.

26 Q DID HE INTERVIEW YOU?

27 A YES.

28 Q AND LATER ON YOU BECAME A WITNESS AT THE

1 TRIAL IN SAN MATEO; RIGHT?

2 A YES. YES.

3 Q OKAY.

4 AND THAT WAS IN 1992; RIGHT?

5 A CORRECT.

6 Q OKAY.

7 DO YOU KNOW WHEN THE INVESTIGATOR TALKED TO

8 YOU WAS IT '92, '91, '90, SOMEWHERE IN THERE?

9 A I THINK IT IS '91, SOMEWHERE IN THAT TIME
10 FRAME.

11 Q OKAY.

12 LET'S PUT IT BETWEEN THE TIME THAT YOU HEARD

13 FROM YOUR HUSBAND THAT LEVIN HAD DISAPPEARED, THE TIME

14 THAT YOU TALKED WITH THIS INVESTIGATOR AROUND '91 OR SO?

15 A UH-HUH. YES.

16 Q WERE YOU AWARE OF THE EVIDENCE THAT WAS

17 PRESENTED AT MR. HUNT'S TRIAL IN LOS ANGELES?

18 A NO.

19 Q DID YOU KNOW ANYTHING ABOUT A LIST HAVING

20 BEEN OFFERED IN EVIDENCE AT THAT CASE?

21 A NO.

22 Q DID YOU KNOW ABOUT ANYTHING OF THE OTHER

23 EVIDENCE THAT WAS PRESENTED BY THE PROSECUTION AGAINST HIM

24 OR BY HIM ON HIS BEHAVE?

25 A NO.

26 Q DO YOU HAVE ANY INTEREST IN THAT TRIAL?

27 A NO.

28 Q AND CAN YOU TELL US WHY YOU DIDN'T HAVE ANY

1 INTEREST IN THAT TRIAL?

2 A OR ANY OTHERS. MY INTEREST -- I HAVE MUCH
3 MORE -- I HAVE OTHER INTERESTS THAT I AM INTERESTED, MY
4 HOME, MY FAMILY, MY HUSBAND. IT IS NOT THESE TYPE OF
5 THINGS. I DIDN'T CARE. I DON'T KNOW. I JUST WASN'T
6 INTERESTED.

7 Q DID YOU LEARN FROM THE INVESTIGATOR OR FROM
8 SOMEONE ELSE THAT THE INVESTIGATOR WANTED TO QUESTION YOU
9 ABOUT MR. LEVIN?

10 A I AM SORRY. COULD YOU REPEAT THAT?

11 Q YOU SAID AROUND '91 AN INVESTIGATOR CONTACTED
12 YOU AND DID AN INTERVIEW. DID THAT COME ABOUT BECAUSE THE
13 INVESTIGATOR CONTACTED YOU OR SOMEBODY ELSE TOLD YOU ABOUT
14 IT, IF YOU REMEMBER?

15 A I DON'T KNOW HOW -- YOU KNOW WHAT I THINK, I
16 AM NOT QUITE SURE, THAT THE INVESTIGATOR CONTACTED MY
17 HUSBAND, SOMETHING ABOUT NEW EVIDENCE AND THINGS LIKE
18 THAT, THAT'S WHEN THE DISCUSSION CAME UP. MY HUSBAND
19 SAID, "NOW, THEY DON'T KNOW IF HE IS DEAD OR NOT." THAT
20 STARTED ME TO THINKING THAT MAYBE ALL THOSE THINGS THAT I
21 FELT AND SAW AND THOUGHT WERE TRUE. BECAUSE I HAD
22 DISMISSED IT AFTER MY HUSBAND CAME BACK FROM THE -- WHEN
23 THE TRIAL WAS OVER, SO WHEN HE SAID THAT RON LEVIN IS DEAD
24 I JUST DISMISSED ANYTHING THAT I HAD THOUGHT. I JUST
25 THREW IT OUT OF MY MIND.

26 Q AND THEN YEARS LATER THE INVESTIGATOR ASKED
27 YOU QUESTIONS ABOUT LEVIN?

28 A YES. THEN THE INVESTIGATOR WANTED TO TALK TO

1 ME. BECAUSE I SAID TO MY HUSBAND, "WELL, YOU KNOW, HOW
2 ABOUT I HEARD THIS AND I SAW THAT."

3 AND MY HUSBAND SAID, "MAYBE YOU HAD BETTER
4 TALK TO THE INVESTIGATOR."

5 Q AND AS A RESULT OF THAT, YOU WERE CALLED AS A
6 WITNESS AND TESTIFIED IN FRONT OF THE JURY IN SAN MATEO?

7 A YES. CORRECT.

8 Q BASICALLY YOU ARE ASKED THE SAME KIND OF
9 QUESTIONS YOU HAVE BEEN ASKED TODAY AND GAVE THE SAME
10 TESTIMONY?

11 A YES.

12 MR. CRAIN: NOTHING FURTHER.

13 THANK YOU, YOUR HONOR.

14 THE COURT: CROSS-EXAMINATION?

15 MR. MC MULLEN: YES, YOUR HONOR.

16
17 CROSS-EXAMINATION @

18
19 BY MR. MC MULLEN:

20 Q MA'AM, I GET THE IMPRESSION THAT YOU DID NOT
21 LIKE RON LEVIN?

22 A IT IS NOT A MATTER OF NOT LIKING. YOU KNOW,
23 IN LIFE PEOPLE SAY THEY HAVE A LOT OF FRIENDS. WELL, I
24 DON'T HAVE A LOT OF FRIENDS. I MEAN I TAKE VERY STRONG
25 VIEWS IN WHAT I LIKE OR DON'T LIKE. I COULD CARE LESS ONE
26 WAY OR THE OTHER ABOUT RON LEVIN.

27 Q BUT FROM THE -- YOUR VERY FIRST CONTACT WITH
28 HIM WHEN YOU WERE AT UNITED CALIFORNIA BANK THAT WASN'T, I

1 TAKE IT FROM YOUR TESTIMONY, THAT WAS NOT A PLEASANT
2 EXPERIENCE FROM YOUR POINT OF VIEW?

3 A WELL, IT WOULDN'T BE PLEASANT FOR ANYONE, BUT
4 I DON'T TAKE IT PERSONAL.

5 Q YOU SAID THEN LATER AFTER YOU MET YOUR
6 HUSBAND AT SOME POINT IN TIME YOU LEARNED THAT LEVIN WAS
7 VERY CLOSE FRIENDS OF HIS, AND YOU TESTIFIED ON DIRECT
8 THAT YOU WERE SURPRISED OR SHOCKED TO HEAR THAT. AND WHY
9 IS THAT?

10 A BECAUSE THE TYPE OF PERSON MY HUSBAND IS
11 VERSUS THE TYPE OF PERSON MR. LEVIN IS.

12 Q WERE YOU DISPLEASED THAT YOUR HUSBAND WAS A
13 VERY CLOSE FRIEND OF RON LEVIN WHEN YOU FIRST LEARNED OF
14 IT?

15 A MY HUSBAND IS A BIG BOY. HE CAN TAKE CARE OF
16 HIMSELF.

17 Q AFTER -- WHEN WAS IT THAT YOU FIRST MET RON
18 LEVIN AFTER YOUR EXPERIENCE WITH HIM AT THE UNITED
19 CALIFORNIA BANK? DO YOU REMEMBER THE TIME FRAME ON THAT?

20 A OKAY. IT WAS PRIOR TO MEETING MY HUSBAND. I
21 MET MY HUSBAND, I THINK, IN JUNE OF '76, SO I MET
22 MR. LEVIN RIGHT BEFORE THAT. YOU WANT THE NEXT TIME AFTER
23 THAT I MET MR. LEVIN, IS THAT WHAT YOU ARE ASKING ME?

24 Q YES. AFTER. I AM SORRY, MAYBE I MISHEARD
25 YOU.

26 AFTER THE UNITED CALIFORNIA BANK EXPERIENCE,
27 WHEN WAS THE FIRST TIME THAT YOU MET HIM?

28 A RIGHT AFTER I MET MY HUSBAND.

1 Q DO YOU KNOW WHEN THAT WAS APPROXIMATELY?

2 A BETWEEN JUNE AND DECEMBER OF '76. MAYBE
3 EARLY '77, RIGHT IN THAT TIME FRAME.

4 Q NOW, MA'AM, YOU TESTIFIED EARLIER THAT YOU
5 TESTIFIED IN THE SAN MATEO TRIAL OF MR. HUNT'S; IS THAT
6 CORRECT?

7 A CORRECT.

8 Q AND YOU REMEMBER TESTIFYING ON JUNE 24, 1992?

9 A YES.

10 MR. MC MULLEN: MAY I JUST HAVE A MOMENT, YOUR
11 HONOR?

12 THE COURT: YES.

13

14 (PAUSE.)

15

16 MR. MC MULLEN: DRAWING THE COURT'S AND COUNSEL'S
17 ATTENTION TO THE REPORTERS TRANSCRIPT OF THE PROCEEDINGS
18 IN SAN MATEO ON JUNE 24, 1992, PAGE 57, LINES 3 THROUGH 9.
19 BY MR. MC MULLEN:

20 Q DO YOU REMEMBER TESTIFYING IN SAN MATEO WHEN
21 ASKED ABOUT RON LEVIN, AND THE QUESTION IS (READING):

22 "Q NOW, MA'AM, YOU HAD INDICATED
23 THAT YOU DIDN'T PARTICULARLY LIKE
24 RON LEVIN; IS THAT CORRECT?

25 A I DON'T LIKE THE THINGS HE
26 DID.

27 Q AND YOU TRIED TO LIMIT THE
28 CONTACT THAT YOU HAD WITH HIM?

1 A YES, I STAYED EMOTIONALLY
2 DETACHED BECAUSE I SAW THAT HE WAS A
3 VERY ABUSIVE PERSON."

4 DO YOU REMEMBER TESTIFYING TO THAT?

5 A CORRECT, YES.

6 Q SO YOU DIDN'T LIKE RON LEVIN; IS THAT
7 CORRECT?

8 A I DIDN'T DISLIKE HIM EITHER. IN OTHER WORDS,
9 I DIDN'T HATE HIM. I JUST UNDERSTOOD WHAT RON LEVIN WAS
10 THAT BELONGED ON HIM, AND I DIDN'T LET IT ENTER ME. I
11 KNOW WHAT TYPE OF PERSON I AM. I KNOW WHAT TYPE OF PERSON
12 HE IS. SO, THEREFORE, THERE IS NO DEEP RELATIONSHIP GOING
13 ON BETWEEN PEOPLE IF THEY UNDERSTAND THAT IN LIFE.

14 Q AND AFTER YOU MET RON LEVIN INSOFAR AS HE WAS
15 ASSOCIATED WITH YOUR HUSBAND, YOU TESTIFIED ON DIRECT THAT
16 FROM TIME TO TIME YOU WOULD GO OVER TO HIS APARTMENT?

17 A YES.

18 Q WOULD YOU GO WITH YOUR HUSBAND OR --

19 A LOTS OF TIME WITH MY HUSBAND, YES.

20 Q WAS IT ALWAYS WITH YOUR HUSBAND, OR WOULD
21 THERE BE TIMES WHEN YOU WOULD GO OVER BY YOURSELF?

22 A THERE WERE TIMES WHEN MY HUSBAND WASN'T
23 AROUND, AND HE WOULD CALL ME TO COME OVER.

24 Q AND THERE WERE TIMES WHEN MR. LEVIN WOULD
25 COME OVER TO YOUR PLACE ON PECK DRIVE?

26 A YES.

27 Q YOU INDICATED AT ONE POINT IN TIME YOU WENT
28 OVER TO RON LEVIN'S APARTMENT AND YOU SAW A CHANGE OF

1 CLOTHES OR SOMETHING. WHEN DID THAT HAPPEN?

2 A ANYWHERE FROM -- IT WAS IN THE TIME FRAME
3 AFTER -- I REMEMBER MY YOUNGEST SON'S BIRTHDAY. IT WAS
4 THE TIME FRAME -- AS A MATTER OF FACT, HE WAS DISCUSSING
5 THE TRIP TO NEW YORK. IT WAS RIGHT AROUND THAT TIME.

6 Q RIGHT AROUND WHAT TIME?

7 A MAYBE THREE WEEKS PRIOR TO HIS TRIP. HE WAS
8 PLANNING HIS TRIP.

9 Q HAD YOU EVER KNOWN RON LEVIN TO GO TO NEW
10 YORK MORE THAN ONE TIME OR --

11 MR. KLEIN: AMBIGUOUS.

12 THE COURT: OVERRULED.

13 BY MR. MC MULLEN:

14 Q -- OVER THE TIME THAT YOU KNEW HIM?

15 A YES.

16 Q SO HE WENT SEVERAL TIMES TO NEW YORK DURING
17 THE TIME THAT YOU KNEW HIM?

18 A YOU ARE ASKING ME HAS HE BEEN TO NEW YORK
19 BEFORE?

20 Q YES.

21 A THIS WASN'T HIS FIRST TRIP TO NEW YORK.

22 Q ALL RIGHT.

23 SO WHEN YOU SAY IT WAS PRIOR TO SOMETIME
24 AFTER YOUR SON'S FIRST BIRTHDAY THAT THIS SITUATION
25 OCCURRED WHERE YOU WENT OVER TO HIS HOUSE AND SAW A CHANGE
26 IN CLOTHES OR SOMETHING --

27 A THERE IS MORE THAN ONE INSTANCE THAT I WAS
28 OVER TO RON LEVIN'S, AND THESE INCIDENTS ARE IN THE TIME

1 FRAME OF AFTER MY SON'S FIRST BIRTHDAY.

2 Q THE ONE I AM ASKING YOU ABOUT IS WHEN YOU SAW
3 SOME CLOTHES ALL OVER HIS BED AND SEEMED TO BE TALKING
4 ABOUT A CHANGE OF CLOTHES. WHEN DID THAT OCCUR?

5 A RIGHT BEFORE THE INCIDENT OF WHEN I WAS THERE
6 AND SAW THE PAPER ON HIS DESK.

7 Q OKAY.

8 CAN YOU RELATE IT TO WHEN YOUR SON'S FIRST
9 BIRTHDAY WAS?

10 A MY SON'S FIRST BIRTHDAY WAS MARCH THE 31ST,
11 1984.

12 Q CORRECT.

13 SO IT WAS SOMETIME AFTER THAT BUT PRIOR TO
14 JUNE 6TH THAT YOU WENT OVER THERE AND SAW THIS CLOTHING
15 CHANGE?

16 A THERE WAS THREE OR FOUR INCIDENTS THAT I WAS
17 AT HIS PLACE. AND THE THREE OR FOUR INCIDENTS ARE FROM MY
18 SON'S BIRTHDAY UP TO WHEN HE SUPPOSEDLY DISAPPEARED.

19 Q LET'S START WITH THE FIRST INCIDENT AFTER
20 YOUR SON'S FIRST BIRTHDAY ON MARCH 31, 1984. WHAT WAS THE
21 FIRST INCIDENT THAT YOU REMEMBER ABOUT WITH RESPECT TO RON
22 LEVIN?

23 A WHERE HE WAS BEATEN.

24 Q AND DO YOU KNOW WHEN IN TIME WITH RELATION TO
25 YOUR SON'S FIRST BIRTHDAY THAT THAT OCCURRED?

26 A SEE THAT'S WHY THEY WANTED ME TO PIN -- I
27 WOULD ONLY BE GUESSING. I KNOW THESE INCIDENTS WERE AFTER
28 MY SON'S BIRTHDAY BEFORE HIS DISAPPEARANCE. THE PAPERWORK

1 THAT I SAW WAS RIGHT PRIOR, ANYWHERE FROM TWO DAYS, MAYBE
2 A WEEK BEFORE HIS DISAPPEARANCE. BEFORE THAT THE PAPER I
3 SAW ON HIS DESK WAS THE CLOTHING INCIDENT.

4 Q LET'S START WITH THE BEATING INCIDENT. WHAT
5 HAPPENED? YOU SAID THAT HE WAS BEATEN OR SOMETHING?

6 A HE WAS BEATEN.

7 Q DESCRIBE HOW IS IT THAT YOU CAME TO BE IN RON
8 LEVIN'S HOUSE AT THAT PARTICULAR POINT IN TIME?

9 A BECAUSE I WAS LEAVING THE APARTMENT TO GO
10 SHOPPING. HE CAME OUT, HIS FACE WAS ALL SWOLLEN AND
11 BLOODY. HIS BACK HAD A GASH OR SOMETHING ON IT.

12 Q AND WHAT HAPPENED AFTER YOU SAW MR. LEVIN
13 WITH HIS FACE THE WAY YOU HAVE JUST DESCRIBED IT?

14 A WHAT HAPPENED?

15 Q YES.

16 WHAT HAPPENED AFTER YOU SAW HIS FACE AS YOU
17 JUST DESCRIBED IT?

18 A I LISTENED TO HIM TALK ABOUT IT, AND THEN
19 TOLD HIM HE OUGHT TO SEE A DOCTOR, AND I LEFT.

20 Q YOU DIDN'T GO INTO THE APARTMENT AT THAT
21 PARTICULAR TIME?

22 A I STOOD BY THE DOOR.

23 Q BY HIS DOOR?

24 A BY HIS FRONT DOOR.

25 Q WAS -- YOU SAY THERE WAS ANOTHER INCIDENT
26 AFTER THAT POINT IN TIME.

27 WHAT WAS THE SECOND INCIDENT AFTER THE --
28 WHAT YOU DESCRIBED AS HIS FACE BEING BEATEN UP?

1 A I DON'T RECALL AT THIS TIME. THEN THERE WAS
2 THE CLOTHING INCIDENT, THEN THERE WAS THE PAPERS.

3 Q OKAY.

4 THE CLOTHING INCIDENT WAS AFTER THE BEATING
5 INCIDENT. HOW MUCH TIME ELAPSED FROM THE BEATING, WHAT
6 YOU DESCRIBED AS HIS FACE BEING BEATEN UP, TO WHERE YOU
7 SAW THE CLOTHING APPROXIMATELY?

8 A I JUST REMEMBER THE CLOTHING INCIDENT WAS
9 RIGHT BEFORE I SAW ALL THIS STUFF ON HIS DESK.

10 Q BUT YOU DON'T KNOW HOW THAT RELATES TO THE
11 BEATING INCIDENT IN POINT IN TIME? HOW MUCH TIME?

12 A I THINK AFTER THE BEATING INCIDENT WAS AN
13 INCIDENT OF THE DOG WHERE I HEARD THE DOG YELLING. HE WAS
14 KICKING THE DOG.

15 Q AND WHERE DID YOU SEE HIM KICKING THE DOG?

16 A I HEARD THE DOG YELLING. I HEARD HIM
17 SCREAMING. I WAS LEAVING THE APARTMENT BECAUSE YOU COULD
18 HEAR EVERYTHING. I KNOCKED ON THE DOOR. HE OPENED THE
19 DOOR, AND I ASKED HIM WHY THE DOG WAS YELLING. HE SAID
20 BECAUSE THE DOG URINATED ALL OVER THE FLOOR. I ASKED HIM,
21 "PLEASE, DO NOT DO THAT TO THE DOG." THAT I WILL GLADLY
22 CLEAN IT UP.

23 Q YOU ACTUALLY HAD GONE AND KNOCKED ON THE DOOR
24 AT THAT POINT?

25 A RANG THE DOORBELL.

26 Q BECAUSE YOU HEARD THE DOG MAKING NOISE?

27 A YES. YELLING, YES.

28 Q AND THEN YOU NOTICED THAT HIS FACE WAS BEATEN

1 UP?

2 A NO. THE DOG INCIDENT WAS RIGHT AFTER THE
3 BEATING INCIDENT.

4 Q HOW MUCH TIME BETWEEN THE BEATING INCIDENT
5 TRANSPIRED, ELAPSED BEFORE THE DOG INCIDENT, DO YOU
6 REMEMBER?

7 A JUST WITHIN THAT -- IT ALL HAPPENED ALL
8 WITHIN THAT TIME FRAME.

9 Q THE SECOND TIME WHERE YOU KNOCKED ON THE DOOR
10 WITH RESPECT TO THE DOG, THE BEATING, DID YOU KNOW
11 ANYTHING ABOUT HIS FACE AT THAT PARTICULAR TIME, WITH
12 RESPECT TO THE INJURIES THAT YOU HAVE DESCRIBED?

13 A IT WAS BASICALLY ALL HEALED.

14 Q IT WAS ALL HEALED?

15 A YES.

16 THE COURT: IS THAT "YES"?

17 THE WITNESS: YES. BASICALLY, YES.

18 BY MR. MC MULLEN:

19 Q AND THEN YOU ARE UNSURE OF THE TIME THAT
20 ELAPSED BETWEEN WHAT YOU HAVE DESCRIBED AS THE DOG BEATING
21 INCIDENT TO WHEN YOU WENT AND SAW THESE CLOTHES?

22 A IT COULD BE TWO DAYS, IT COULD BE A WEEK. IT
23 IS ALL WITHIN THAT TIME FRAME.

24 Q WHAT HAPPENS WHEN YOU WENT OVER THERE WITH
25 RESPECT TO THE CLOTHES. HOW DID THAT COME ABOUT?

26 A HE WAS ALL EXCITED. AND HE CALLED TO ME. HE
27 SAID HE WAS -- HE HAD TO SHOW ME WHAT HE BOUGHT, ASKED ME
28 WHAT I THOUGHT ABOUT IT. THAT'S WHAT HE ASKED ME, HOW I

1 FELT ABOUT HIS CUTTING HIS BEARD OFF AND DYING HIS HAIR
2 DARK, AND WHAT I THOUGHT ABOUT THESE DIFFERENT TYPES OF
3 CLOTHES AND --

4 Q HOW IS IT THAT YOU ARE GOING TO HIS APARTMENT
5 AT THAT PARTICULAR TIME? DID YOU GO TO THE DOOR. DID HE
6 INVITE YOU OVER? HOW DID THAT HAPPEN?

7 A USUALLY WHAT HE DOES, HE SEES ME LEAVING, HE
8 SEES EVERYTHING THAT GOES ON AROUND THERE. HE YELLS,
9 "COME ON IN."

10 Q ON THAT PARTICULAR INCIDENT WHAT DID HE DO?
11 IS THAT WHAT HE DID, OR DID HE DO SOMETHING ELSE?

12 A HE YELLED, "KAREN, COME ON UP. I WANT TO
13 SHOW YOU SOMETHING."

14 Q SO HE SAID, "COME ON IN. I WANT TO SHOW YOU
15 SOMETHING"? THAT'S WHAT HE DID.

16 A YES.

17 Q WHAT DID YOU DO AFTER HE SAID THAT?

18 EXCUSE ME, LET ME WITHDRAW THAT.

19 WHEN HE SAID THAT TO YOU, "KAREN, I WANT YOU
20 TO COME ON IN, I WANT TO SHOW YOU SOMETHING," WHERE WERE
21 YOU AT THAT PARTICULAR TIME WHEN HE SAID THAT?

22 A LEAVING THE APARTMENT ON, YOU KNOW, ON THE
23 SIDEWALK, BECAUSE WHEN HIS DOOR IS OPEN TO THE OFFICE THE
24 SIDEWALK -- YOU CAN SEE EVERYBODY THAT WALKS BY.

25 Q AND SO THEN BASED UPON HIS REQUEST YOU WENT
26 INTO HIS APARTMENT?

27 A UH-HUH. YES.

28 Q WHAT HAPPENED AFTER YOU GOT INTO HIS

1 APARTMENT?

2 A WELL, HE TOLD ME TO FOLLOW HIM BACK TO THE
3 BEDROOM. THAT'S WHEN HE SHOWED ME ALL THE THINGS THAT HE
4 BOUGHT AND ASKED ME WHAT I FELT ABOUT HIM CUTTING OFF HIS
5 BEARD AND DYING HIS HAIR.

6 Q WHERE WERE THESE CLOTHES THAT YOU DESCRIBED
7 THAT HE WAS SHOWING YOU?

8 A HE TOOK THE OLD ONE OUT OF HIS CLOSET, SAID
9 HE WAS GOING TO GIVE THEM AWAY AND NEW ONES WERE HANGING
10 IN THE CLOSET.

11 Q WHAT WERE THE -- WOULD YOU PLEASE, IF YOU CAN
12 DESCRIBE WHAT THE OLD CLOTHES WERE THAT WERE ON HIS BED?

13 A I WILL GIVE YOU AN EXAMPLE. LIKE HE DRESSED
14 VERY TRADITIONAL, LIKE BROOKS BROTHERS, AND THESE CLOTHES
15 THAT WERE IN THE CLOSET WERE LIKE THESE BIG BAGGIE, I
16 GUESS, THEY DON'T LOOK SO BAD TODAY COMPARED -- BUT JUST
17 SOMETHING THAT IT WAS UNKEPT. IT LOOKED LIKE YOU NEEDED
18 TO IRON YOUR CLOTHES. IT WAS COMPLETELY DIFFERENT THAN
19 THE WAY HE DRESSED.

20 Q ALL OF THOSE CLOTHES WERE IN HIS CLOSET AND
21 THE CONSERVATIVE, TRADITIONAL CLOTHES WERE ON HIS BED?

22 A YES.

23 Q AND HE SAID HE WAS GOING TO GET RID OF THOSE
24 CLOTHES?

25 A YES.

26 Q WITH RESPECT TO THE CHANGE OF CLOTHES
27 INCIDENT, WHEN DO YOU THINK THAT HAPPENED IN TERMS OF TIME
28 OF DAY?

1 A YOU MEAN WHAT TIME OF DAY DID HE SHOW THOSE
2 TO ME?

3 Q YES.

4 A IT WOULD BE EARLY AFTERNOON. NO ONE SAW ME
5 BEFORE NOON. SO ANYTIME HE HAD TO SEE ME IT WOULD BE
6 EARLY AFTERNOON.

7 Q OKAY.

8 AND THEN DID YOU KNOW -- THE NEXT INCIDENT I
9 UNDERSTAND IS THEN THIS THING WHERE YOU SEE THIS MOVIE
10 SCRIPT AND THE LIST. DO YOU KNOW HOW MUCH TIME ELAPSED
11 BETWEEN THE CLOTHING INCIDENT AND THIS LAST INCIDENT?

12 A NOT REALLY TO ME THEY ALL RAN TOGETHER.

13 Q SO I UNDERSTAND YOUR TESTIMONY WITH RESPECT
14 TO THE LAST BUT -- WELL, I WILL WITHDRAW THAT QUESTION.

15 YOU SAID THEY ALL RAN TOGETHER. ARE YOU
16 CONFUSED AS TO SEQUENCE OF THEM. WHEN I SAY THAT, I MEAN
17 DO YOU HAVE A FIRM MEMORY OR RECOLLECTION OF THE ORDER IN
18 WHICH THESE EVENTS OCCURRED, OR ARE THEY RUNNING TOGETHER
19 IN YOUR MIND AS YOU TESTIFIED TODAY?

20 A NO. TIME WISE NOT ANY ORDER FORM, BUT TIME
21 WISE LIKE ONE DAY COULD BE TWO DAYS. IT WAS -- ALL I KNOW
22 IT WAS IN THAT FRAME OF TIME.

23 Q YOU FEEL CONFIDENT IN THE SEQUENCE OF EVENTS
24 AS TO ONE PARTICULAR INCIDENT HAPPENED FIRST AND NEXT
25 INCIDENT SO ON AND SO FORTH AS TO THE ORDER IN WHICH THEY
26 OCCURRED? DO YOU FEEL CONFIDENT?

27 A WELL, I THINK SO. I MEAN --

28 Q IN OTHER WORDS, THE DOG BEATING INCIDENT

1 PRECEDED THE CLOTHING INCIDENT?

2 A HE BEAT THE DOG ON MORE THAN ONE OCCASION.

3 Q WELL, THEN -- BUT THEN THE CLOTHING INCIDENT
4 YOU FEEL CONVINCED THAT IT PRECEDED THE INCIDENT WHERE YOU
5 WENT IN AND SAW THESE?

6 A I REMEMBER THE CLOTHING INCIDENT BEING RIGHT
7 BEFORE THE LIST WHEN HE WAS REALLY IRRITATED, AGITATED AND
8 UPSET.

9 Q WITH RESPECT TO THAT PARTICULAR POINT IN
10 TIME, WHERE HE WAS VERY AGITATED AND HE WAS UPSET, DO YOU
11 KNOW HOW SOON, HOW CLOSE IN TIME THAT WAS TO WHEN HE --
12 YOU LEARNED OF HIS DISAPPEARANCE?

13 A COULD YOU REPEAT THAT, PLEASE?

14 Q WELL, LET ME PUT IT THIS WAY. DO YOU
15 REMEMBER WHEN YOU WERE FIRST INTERVIEWED ABOUT THIS BY A
16 DEFENSE INVESTIGATOR? DO YOU HAVE A RECOLLECTION OF THAT?

17 A THAT WAS LONG AGO.

18 Q DO YOU REMEMBER, DOES THE NAME THEODORE
19 WOOLSEY OR INVESTIGATOR WOOLSEY RING A BELL AS THE
20 INVESTIGATOR WHO TALKED TO YOU? DOES THAT NAME SOUND
21 FAMILIAR?

22 A YES, IT DOES.

23 Q DO YOU REMEMBER TELLING THEODORE WOOLSEY WITH
24 RESPECT TO THE TIME THAT YOU SAW THIS LIST THAT YOU
25 TESTIFIED TODAY THAT MANY --

26 MR. MC MULLEN: CAN I JUST HAVE A MOMENT, YOUR
27 HONOR?

28 THE COURT: YES.

1 (PAUSE.)

2

3 BY MR. MC MULLEN:

4 Q THAT EVENT OCCURRED IN YOUR MIND --

5 MR. MC MULLEN: I AM SORRY, YOUR HONOR. I AM
6 HAVING TROUBLE FINDING THIS.

7 BY MR. MC MULLEN:

8 Q DO YOU REMEMBER TELLING HIM THAT IT HAPPENED
9 BETWEEN THREE AND SIX WEEKS BEFORE THE -- WHEN YOU BECAME
10 INFORMED THAT HE HAD DISAPPEARED?

11 MR. CRAIN: I DON'T KNOW WHAT REPORT HE IS LOOKING
12 AT. HE HASN'T IDENTIFIED IT FOR THE RECORD. AND THE
13 REPORT I AM LOOKING AT WHEN MR. WOOLSEY SAID SHE TOLD HIM
14 IT WAS JUST ONE DAY OR JUST ONE DAY JUST BEFORE HE
15 DISAPPEARED SO --

16 THE COURT: YOU CAN BRING IT BACK UP ON REDIRECT.
17 I WILL ALLOW HIM TO CROSS-EXAMINE.

18 MR. CRAIN: MAYBE HE COULD SHOW ME WHAT HE IS
19 LOOKING AT.

20 THE COURT: IDENTIFY THE DOCUMENT THAT YOU ARE
21 REFERRING TO, MR. MC MULLEN.

22 MR. MC MULLEN: THE DOCUMENT IS AN INTERVIEW DATED
23 DECEMBER 19, 1991.

24 MR. CRAIN: CAN YOU TELL ME WHERE PLEASE, SO I
25 CAN --

26 MR. MC MULLEN: I WILL WITHDRAW THE QUESTION.

27 MR. CRAIN: IF THERE WAS AN ANSWER, COULD IT BE
28 STRICKEN?

1 MR. KLEIN: I DON'T THINK THERE WAS AN ANSWER.

2 THE COURT: THERE WASN'T.

3 BY MR. MC MULLEN:

4 Q DO YOU REMEMBER WHAT YOU TOLD MR. WOOLSEY IN
5 TERMS OF THE TIME THAT YOU SAW THESE LISTS, THE TIME THAT
6 YOU SAW THAT WITH REFERENCE TO WHEN YOU LATER LEARNED
7 ABOUT HIS DISAPPEARANCE?

8 A I TOLD MR. WOOLSEY DURING THE INTERVIEW AND
9 BEFORE THE INTERVIEW THAT I COULDN'T BE EXACT, IF THEY
10 WANTED EXACT DATES, BECAUSE SOME TIME HAD PAST.

11 Q DO YOU REMEMBER TESTIFYING IN SAN MATEO WHEN
12 ASKED ABOUT THIS PARTICULAR TIMING WITH RESPECT TO WHEN IT
13 IS THAT YOU SAW THE LIST? DO YOU REMEMBER YOUR TESTIMONY
14 IN THAT RESPECT, WITH REGARD TO THAT?

15 A YES.

16 Q WHAT IS YOUR RECOLLECTION WHAT YOU TESTIFIED
17 TO --

18 A I REMEMBER THEM KEEPING ME, ASKING THE SAME
19 QUESTION EIGHT DIFFERENT WAYS TO PINPOINT. I KEPT TELLING
20 THEM I WOULD ONLY BE GUESSING. THEY WANTED ME TO GIVE AN
21 EXACT DATE, AN EXACT TIME. I TOLD THEM I WOULD BE
22 GUESSING. THEY DIDN'T WANT ME TO DO THAT, DID THEY?

23 Q YOU DIDN'T KNOW WHETHER IT WAS A COUPLE OF
24 DAYS OR COUPLE OF WEEKS OR EVEN A COUPLE OF MONTHS?

25 A I KNEW IT WAS RIGHT BEFORE.

26 Q BUT YOU DON'T KNOW EXACTLY WHAT RIGHT BEFORE
27 IS; RIGHT?

28 MR. CRAIN: THAT'S AN UNINTELLIGIBLE QUESTION.

1 AMBIGUOUS.

2 THE COURT: REFRAME THE QUESTION.

3 BY MR. MC MULLEN:

4 Q CAN YOU DEFINE "RIGHT BEFORE"? WAS THAT A
5 COUPLE OF DAYS, COUPLE OF WEEKS, A COUPLE OF MONTHS?

6 A IT WAS NOT A COUPLE OF MONTHS. TO ME RIGHT
7 BEFORE IS ANYWHERE FROM TWO DAYS TO A WEEK.

8 Q I REMEMBER YOU TESTIFYING, AND IT WAS GOING
9 RATHER QUICKLY ON DIRECT, THAT ON THAT PARTICULAR DAY WHEN
10 RON LEVIN WAS VERY UPSET YOU WERE COMING OUT OF YOUR
11 APARTMENT, YOU WERE GOING TO LUNCH, YOU WERE WITH
12 SOMEBODY. WERE YOU WITH SOMEBODY ON THAT DAY?

13 MR. CRAIN: I DON'T THINK THAT WAS --

14 MR. MC MULLEN: THAT CHARACTERIZES HER TESTIMONY.
15 I THINK SHE WAS GOING TO MEET SOMEONE FOR LUNCH.

16 BY MR. MC MULLEN:

17 Q YOU WERE GOING TO MEET SOMEONE?

18 A YES.

19 Q I MISHEARD IT THEN.

20 AND DID HE TELL YOU WHEN YOU CAME OUT, "I
21 WANT TO SHOW YOU SOMETHING," ON THAT DAY WITH RESPECT TO
22 THE LIST THAT YOU TESTIFIED ABOUT.

23 MR. KLEIN: OBJECTION. THAT'S AMBIGUOUS.

24 THE COURT: OVERRULED.

25 DO YOU UNDERSTAND THE QUESTION?

26 THE WITNESS: COULD YOU REPHRASE IT OR --

27 BY MR. MC MULLEN:

28 Q THAT PARTICULAR DAY WHEN YOU CAME IN AND YOU

1 SAW THESE LISTS AND THIS MOVIE SCRIPT, YOU SAY YOU WERE ON
2 THE WAY TO MEET SOMEONE FOR LUNCH?

3 A UH-HUH.

4 Q WHEN YOU CAME OUT OF YOUR APARTMENT, DID RON
5 LEVIN SAY TO YOU, "COME HERE, KAREN, I WANT" -- SOMETHING
6 TO THE EFFECT, "COME HERE, KAREN, I WANT TO SHOW YOU
7 SOMETHING"?

8 A HE WAS UPSET ABOUT SOMETHING. HE JUST SAID,
9 "KAREN, COME HERE, PLEASE." HE WAS VERY AGITATED, UPSET.
10 WHEN HE GETS UPSET HE RAMBLES. AND AT THAT TIME HE WAS
11 RAMBLING ABOUT SOMETHING, I THINK, ABOUT SOMEBODY
12 THREATENING HIM. I AM NOT QUITE SURE BECAUSE I COULDN'T
13 QUITE -- HE IS WALKING WITH HIS BACK TO YOU AND HIS HANDS
14 ARE MOVING, AND HE IS TALKING FAST.

15 Q DID HE SAY ANYTHING AT THAT PARTICULAR -- I
16 TAKE IT WHEN YOU ARE TALKING ABOUT WHAT YOU JUST SAID NOW
17 THAT HAPPENED OUTSIDE OF HIS APARTMENT OR YOUR APARTMENT,
18 THAT WAS A CONVERSATION THAT OCCURRED OUTSIDE?

19 A IN HIS ENTRYWAY AS WE ENTER, WERE ENTERING,
20 AS I WAS ENTERING, FOLLOWING HIM.

21 Q DID HE SAY HE WANTED TO SHOW YOU ANYTHING AT
22 THAT PARTICULAR TIME?

23 A NO. HE JUST TOLD ME TO FOLLOW HIM. HE
24 WANTED TO TALK TO ME.

25 Q AND WHERE DID YOU GO AT THAT POINT IN TIME?

26 A INTO HIS OFFICE.

27 MR. MC MULLEN: YOUR HONOR, I KNOW WE HAVE ASKED
28 FOR SOME EXHIBITS. AND I HAVE A PHOTOGRAPH HERE THAT'S

1 NOT ON OUR EXHIBIT LIST BECAUSE I WAS ANTICIPATING USING
2 SOME OF THE COURT'S EXHIBITS. BUT WITH THE COURT'S
3 PERMISSION, I WOULD LIKE TO GO AHEAD AND MARK THIS
4 PHOTOGRAPH AS RESPONDENT'S NEXT IN ORDER, WHICH WOULD BE.

5 THE COURT: QQ.

6 MR. MC MULLEN: QQ. 8-BY-10 COLOR PHOTOGRAPH.

7

8 (MARKED FOR ID = RESPONDENT'S QQ,
9 PHOTOGRAPH.)

10

11 MR. MC MULLEN: I WILL PUT QQ ON THE BACK, WITH THE
12 COURT'S PERMISSION.

13 MAY I APPROACH THE WITNESS?

14 THE COURT: YES.

15 BY MR. MC MULLEN:

16 Q SHOWING YOU WHAT'S BEEN MARKED AS
17 RESPONDENT'S QQ FOR IDENTIFICATION. WOULD YOU LOOK AT
18 THAT PHOTOGRAPH? DOES THAT LOOK FAMILIAR TO YOU?

19 A YES.

20 Q IS THAT THE OFFICE WHERE MR. LEVIN, WHERE YOU
21 WENT INTO WITH MR. LEVIN ON THE DAY WE ARE TALKING ABOUT
22 THAT YOU SAW THESE LISTS?

23 A WELL, IT WAS IN BETTER SHAPE THAN THIS BUT,
24 YES, THIS LOOKS LIKE HIS OFFICE.

25 Q WHEN YOU SAY IT IS, YOU ARE SAYING THAT THE
26 PHOTOGRAPH DEPICTS HIS OFFICE AS BEING IN BETTER SHAPE
27 THAN THE DAY THAT YOU WERE THERE?

28 A HIS OFFICE IS KEPT IN BETTER SHAPE THAN THIS

1 PHOTOGRAPH.

2 Q OKAY.

3 AND AS TO THE DAY THAT YOU WERE THERE, HOW
4 DOES HIS OFFICE APPEAR DIFFERENT, IF YOU CAN DESCRIBE?

5 A HE HAD A PICTURE HANGING HERE (INDICATING).

6 MR. KLEIN: EXCUSE ME. THE RECORD IS CLEAR, THE
7 DAY THAT SHE SAW THE LIST?

8 THE COURT: THAT'S HOW I UNDERSTOOD THE QUESTION.

9 BY MR. MC MULLEN:

10 Q IS THE DAY THAT YOU SAW THE LIST HOW DOES THE
11 OFFICE LOOK DIFFERENT THAN WHAT IT DOES IN THE PICTURE?

12 A THERE WASN'T ALL THIS OVER HERE (INDICATING).

13 Q YOU ARE POINTING TO THESE BOOKS RIGHTS HERE,
14 IS THAT WHAT YOU ARE POINTING AT?

15 A UH-HUH.

16 THE COURT: INDICATING THE CENTER OF THE
17 PHOTOGRAPH.

18 BY MR. MC MULLEN:

19 Q ANY OTHER DIFFERENCES?

20 A RON WAS VERY ORGANIZED AND VERY NEAT, AND
21 THAT'S NOT VERY ORGANIZED AND NEAT.

22 Q OKAY.

23 HOW ABOUT WITH RESPECT TO --

24 MR. CRAIN: IT IS ALL RIGHT IF I STAND HERE?

25 THE COURT: YES.

26 BY MR. MC MULLEN:

27 Q HOW ABOUT WITH RESPECT TO HIS DESK. HOW DOES
28 THAT COMPARE TO WHAT IT LOOKED LIKE ON AT THAT PARTICULAR

1 DAY THAT YOU SAW THE LIST AND MOVIE SCRIPT?

2 A WHEN I SAW IT IT DIDN'T HAVE THIS STUFF HERE
3 (INDICATING).

4 MR. MC MULLEN: BOOKS ON THE LEFT-HAND SIDE OF THE
5 DESK, YOUR HONOR.

6 THE COURT: YES.

7 THE WITNESS: HE HAD STUFF HERE, AND HE HAD STUFF
8 OVER HERE (INDICATING).

9 THE COURT: INDICATING THE FAR LEFT, THE FAR RIGHT.
10 BY MR. MC MULLEN:

11 Q WHEN YOU SAY STUFF ON THE FAR LEFT, WHAT KIND
12 OF STUFF?

13 A LIKE THESE TYPE OF FOLDERS WHERE HE IS DOING
14 SOME TYPE OF BUSINESS, SOME KIND OF WORK WHO MIGHT HAVE
15 BOOKS STACKED HERE, TWO TO THREE BOOKS, LAW BOOKS, AND HE
16 HAD THE FOLDERS HERE. THIS WAS BASICALLY IN THE CENTER.
17 WHERE THIS CHAIR SITS WAS BASICALLY OPEN TO WHERE YOU
18 COULD SEE HIM (INDICATING).

19 THE COURT: INDICATING THE CENTER OF THE DESK.
20 BY MR. MC MULLEN:

21 Q OKAY.

22 SO NOW YOU WALKED INTO THE OFFICE. DID YOU
23 FOLLOW MR. LEVIN INTO THE OFFICE ON THAT PARTICULAR DAY?

24 A YES.

25 Q I AM TALKING ABOUT THE DAY YOU SAW THE LIST.

26 A YES.

27 Q WHERE DID MR. LEVIN GO WHEN HE WENT INTO THE
28 ON HIS --

1 A THE PHONE WAS RINGING. HE WENT TO HIS CHAIR,
2 SAT ON HIS DESK.

3 Q I REMEMBER YOUR TESTIMONY. HE ANSWERED THE
4 PHONE, AND HE SAT IN THAT CHAIR; IS THAT CORRECT?

5 A YES.

6 Q WHERE DID YOU GO, IF YOU COULD IDENTIFY IN
7 THAT PHOTOGRAPH, PLEASE?

8 A AT THAT PARTICULAR POINT THE TIME I WALKED
9 THROUGH HERE, THROUGH THIS CHAIR, STANDING.

10 Q SO YOU ARE STANDING?

11 WHEN YOU SAY YOU WALKED THROUGH HERE --

12 A THERE IS A WAY TO WALK BEHIND THIS CHAIR.
13 YOU COME THROUGH HERE.

14 MR. MC MULLEN: INDICATING THE DOOR AND WALKING TO
15 THE SMALLER LIGHT, LIKE A SMALLER CHAIR IN FRONT OF THE
16 DESK.

17 BY MR. MC MULLEN:

18 Q SO YOU STOOD WHERE THAT CHAIR IS. IS THAT
19 WHAT YOUR TESTIMONY IS?

20 A UH-HUH?

21 THE COURT: HOLD ON. WAS THAT "YES"?

22 THE WITNESS: YES.

23 MR. MC MULLEN: I AM SORRY.

24 BY MR. MC MULLEN:

25 Q OKAY.

26 AND SO HE IS ON THE TELEPHONE AND YOU STARTED
27 LOOKING AROUND. WHAT IS IT THAT CAUGHT YOUR EYE?

28 A FIRST, I LOOKED AROUND THE ROOM, THEN I

1 STARTED LOOKING AT HIS DESK. I SAW A YELLOW, BECAUSE IT
2 IS EASY TO SEE IT, SOME KIND YELLOW PAPER OR YELLOW PAD,
3 BUT IT WAS YELLOW, ON THIS SIDE HERE (INDICATING).

4 THE COURT: INDICATING THE LEFT SIDE OF THE DESK.

5 THE WITNESS: YES. MY LEFT SIDE.

6 THE COURT: HOLD ON.

7 POINTING TO THAT DESK, WHICH SIDE WAS IT ON?

8 THE WITNESS: RON'S RIGHT.

9 THE COURT: POINT TO THE DESK AND SHOW ME WHICH
10 SIDE.

11
12 (WITNESS COMPLIES.)

13
14 THE COURT: INDICATING THE RIGHT SIDE OF THE DESK.
15 BY MR. MC MULLEN:

16 Q SO YOU SAW IT OVER HERE, WHICH WOULD HAVE
17 BEEN LEVIN'S RIGHT, YOUR LEFT, AND WAS IT TOWARDS HIS SIDE
18 OF THE DESK OR TOWARDS YOURS?

19 A IT WAS LIKE IN THE CENTER.

20 Q WAS IT TO THE EXTENT THAT YOU ARE NOT ABLE TO
21 SEE IT? WHEN YOU FIRST SAW IT WAS UPSIDE DOWN OR RIGHT
22 SIDE UP TO YOUR VIEW?

23 A IT WAS TURNED FACING WHERE HE COULD READ IT.

24 Q SO IT WAS RIGHT SIDE UP FOR LEVIN'S VIEW, BUT
25 UPSIDE DOWN FOR YOU?

26 A UH-HUH.

27 THE COURT: IS THAT "YES"?

28 THE WITNESS: YES. SORRY.

1 BY MR. MC MULLEN:

2 Q AND MY RECOLLECTION, CORRECT ME IF I AM
3 WRONG, BUT ON DIRECT EXAMINATION YOU SAID YOU SAW A LEGAL
4 TABLET?

5 A I AM NOT SURE IF IT WAS A LEGAL TABLET OR
6 JUST A YELLOW PIECE OF PAPER THAT LOOKED LIKE IT BELONGS
7 ON A LEGAL TABLET.

8 Q YOU ARE UNSURE NOW WHETHER IT WAS A LEGAL
9 TABLET OR SINGLE SHEET OF PAPER?

10 A I THOUGHT IT WAS A SINGLE SHEET OF PAPER.
11 BUT I AM NOT SURE.

12 Q SO WHAT --

13 MR. MC MULLEN: I AM SORRY.

14 THE COURT: HOLD ON JUST A MOMENT.

15 MR. MC MULLEN: YES, YOUR HONOR.

16

17 (PAUSE.)

18

19 THE COURT: I AM SORRY. GO AHEAD.

20 BY MR. MC MULLEN:

21 Q SO MR. LEVIN IS ON THE PHONE, YOU ARE IN
22 FRONT OF THE DESK, AND WHAT HAPPENED, SOMETHING CATCHES
23 YOUR EYE?

24 A YES. I SEE YELLOW, THE COLOR YELLOW, AND I
25 SEE "TO-DO."

26 Q AND THEN YOU PICKED UP THAT LIST; IS THAT
27 CORRECT?

28 A I START, YES.

1 Q IS THAT SOMETHING THAT YOU WOULD DO IN RON
2 LEVIN'S OFFICE, PICK UP SOMETHING OFF HIS DESK?

3 A YES.

4 Q IS THAT SOMETHING YOU DO IN PEOPLE'S OFFICE
5 IN GENERAL, YOU JUST PICK UP THINGS THAT YOU SEE THAT SEEM
6 INTERESTING?

7 A NO.

8 Q AND MR. LEVIN WAS ON THE TELEPHONE AT THAT
9 TIME. WHAT HAPPENED AFTER YOU PICKED UP THE LIST?

10 A I BARELY HAD CHANCE TO GLANCE AT IT WHEN HE
11 ROLLED AROUND IN HIS CHAIR AND YANKED IT AWAY FROM ME.

12 Q WAS THERE ANYTHING UNDER THE LIST WHEN YOU
13 PICKED IT UP?

14 A I AM SORRY. WHAT DID YOU SAY?

15 Q DO YOU REMEMBER IF THERE WAS ANYTHING UNDER
16 THE LIST WHEN YOU PICKED IT UP?

17 MR. KLEIN: DOES THAT MEAN UNDER THE PIECE OF
18 PAPER, THE PIECE OF PAPER?

19 THE COURT: YOU MEAN ON THE DESK?

20 MR. MC MULLEN: YES, ON THE DESK.

21 BY MR. MC MULLEN:

22 Q YOU PICKED UP, MY UNDERSTANDING IS, NOW YOU
23 ARE SAYING YOU PICKED UP A SINGLE SHEET OF PAPER OFF THE
24 DESK. WAS THERE ANYTHING --

25 MR. KLEIN: I THINK THAT MISSTATES THE TESTIMONY.
26 SHE SAID SHE WASN'T SURE.

27 THE COURT: OVERRULED.

28 SHE THOUGHT IT WAS A PIECE OF PAPER.

1 BY MR. MC MULLEN:

2 Q YOUR BEST RECOLLECTION IS A SINGLE PIECE OF
3 PAPER. YOU ARE NOT SURE, IT COULD BE A TABLET?

4 A I AM NOT SURE IT WAS ATTACHED TO THE TABLET
5 OR NOT. I THINK IT WAS A SINGLE PIECE OF PAPER.

6 Q WHATEVER IT IS YOU PICKED UP, WHETHER A
7 TABLET OR SINGLE SHEET OF PAPER, WAS THERE ANYTHING ON THE
8 DESK THAT WAS UNDER THAT, THIS THING THAT YOU PICKED UP?

9 A YOU ARE ASKING ME WAS IT LAYING ON TOP OF
10 THINGS?

11 Q YES.

12 DO YOU REMEMBER WHAT IT WAS LAYING ON TOP OF?

13 A NO.

14 Q SO YOU BARELY HAD TIME TO LOOK AT THE LIST
15 AND RON LEVIN PULLED IT AWAY?

16 A YES.

17 Q WHAT DID HE SAY, IF ANYTHING?

18 A IF ANYTHING, I THINK HE SAID, "DON'T BE
19 NOSY," BUT HE WAS STILL ON THE PHONE.

20 Q HE WAS GOING TO ASK YOU, HE WAS STILL ON THE
21 PHONE. DID HE BREAK HIS CONVERSATION TO GRAB THIS AWAY
22 FROM YOU AND SAY SOME WORDS?

23 A HE FINISHED TALKING, AND I GUESS THE OTHER
24 PERSON WAS TALKING WHEN HE SAID, "DON'T BE SO NOSY."

25 Q SO HE TOOK THE LIST AWAY FROM YOU. WHAT DID
26 HE DO WITH IT?

27 A LAID IT, I THOUGHT HE LAID IT BEHIND HIM, BUT
28 I AM NOT SURE.

1 Q PERHAPS OUT OF YOUR REACH?

2 A DEFINITELY.

3 Q AND THEN WHAT DID YOU DO AFTER THAT?

4 A I WENT TO THE ANOTHER SIDE OF THE DESK.

5 Q WHY DID YOU DO THAT?

6 A JUST OUT OF BOREDOM, MAYBE JUST LOOKING AT
7 THINGS WHILE WE WAS BUSY TALKING ON THE PHONE.

8 Q HOW LONG DID THIS TELEPHONE CONVERSATION SEEM
9 TO LAST WITH MR. LEVIN?

10 A I COULD ONLY SPECULATE.

11 THE COURT: DON'T SPECULATE. GIVE US YOUR BEST
12 RECOLLECTION.

13 THE WITNESS: ENOUGH TIME FOR HIM TO TALK STOCKS,
14 TRANSFERRING MONEY AND THAT. I DON'T KNOW WHAT THAT WOULD
15 TAKE.

16 THE COURT: WHAT'S YOUR BEST RECOLLECTION.

17 THE WITNESS: I WOULDN'T -- I WOULD ONLY BE
18 GUESSING. FIVE MINUTES. I DON'T WANT TO GUESS.
19 BY MR. MC MULLEN:

20 Q ON THE DAY THAT THIS HAPPENED WHERE YOU SAW
21 THE LIST -- LET'S GO BACK TO WHERE YOU PICK UP THE LIST.
22 WERE YOU WEARING YOUR GLASSES AT THAT PARTICULAR TIME?

23 A I DIDN'T HAVE TO WEAR GLASSES THEN.

24 Q WHEN DID YOU START WEARING GLASSES?

25 A ABOUT A YEAR AGO.

26 Q ARE THOSE READING GLASSES?

27 A UH-HUH, YES.

28 Q AND YOU ARE GETTING USED TO QUESTIONS.

1 OKAY.

2 SO HE IS ON -- WELL, I TAKE IT HE WAS ON THE
3 PHONE. WAS HE ON THE PHONE LONG ENOUGH WHERE YOU WERE
4 GETTING BOARD WITH WAITING THERE TO TALK TO HIM, AND
5 THAT'S WHY YOU WERE LOOKING ON THE DESK FOR HIM?

6 A ANYTHING OVER TWO SECONDS I GET BORED.

7 Q SO YOU NOTICE SOMETHING ON THE OTHER SIDE OF
8 THE DESK. WHAT IS IT THAT YOU NOTICED? DESCRIBE WHAT IT
9 IS YOU NOTICED?

10 A IT IS LIKE A TYPEWRITTEN MOVIE SCRIPT. IT
11 HAS A TITLE, SO I JUST PICKED IT UP.

12 Q ARE YOU FAMILIAR WITH MOVIE SCRIPTS, HAVE YOU
13 EVER LOOKED AT THEM BEFORE?

14 A YES.

15 Q WAS THERE A SCRIPT? IN OTHER WORDS, THAT
16 WOULD HAVE DIALOGUE OF PEOPLE, IT WOULD HAVE YOUR VARIOUS
17 CHARACTERS SPEAKING DIALOGUE?

18 A YES.

19 Q HOW THICK WAS THE SCRIPT? HOW MANY PAGES, TO
20 THE BEST YOU CAN ESTIMATE?

21 A I COULDN'T. BUT LOOKING AT IT IT IS ABOUT
22 THAT THICK WHATEVER THAT WOULD BE (INDICATING).

23 THE COURT: SHOW ME.

24 MR. CRAIN: INDICATING ABOUT AN INCH AND A HALF.

25 THE COURT: INDICATING ABOUT AN INCH.

26 BY MR. MC MULLEN:

27 Q HOW MUCH OF THE SCRIPT DID YOU LOOK AT?

28 A NOT MUCH. I JUST LIKE LEAFED THROUGH IT.

1 Q AND HOW LONG WERE YOU ABLE TO LEAF THROUGH IT
2 IN TERMS OF TIME?

3 A JUST ENOUGH TO SEE STOLEN VIDEO EQUIPMENT,
4 THE NAME EDWARD, THE NAME SHERRY. I COULDN'T READ THE
5 DIALOGUE. JUST ENOUGH TO SEE THE NAME NEW YORK, A TRIP TO
6 NEW YORK. JUST BRIEFLY.

7 Q WERE YOU ABLE TO -- THOSE ITEMS THAT YOU HAVE
8 JUST MENTIONED, WERE THEY IN REFERENCE TO A PARTICULAR
9 PEOPLE'S DIALOGUE, OR COULD YOU TELL WHAT THOSE WORDS WERE
10 THAT -- WHERE THEY WERE COMING FROM OTHER THAN THE MAIN
11 BODY OF THIS THING?

12 A JUST LIKE EDWARD, WHATEVER EDWARD WOULD SAY.
13 SHERRY, WHATEVER SHERRY WOULD SAY. ALL I PICKED UP WAS
14 THE NAME, THE NAMES.

15 Q AND HOW LONG WERE YOU ABLE TO LOOK AT THAT
16 SCRIPT?

17 A VERY BRIEF.

18 Q AND WHY BRIEF? WHAT HAPPENED? DID SOMETHING
19 HAPPEN?

20 A BECAUSE HE ROLLED BACK AROUND THE CHAIR AND
21 HE SAW ME LOOKING AT THAT, AND HE PULLED THAT AWAY FROM
22 ME.

23 Q WAS HE STILL ON THE PHONE AT THAT POINT IN
24 TIME?

25 A YES.

26 Q AND WHAT HAPPENED AFTER HE TOOK THIS SCRIPT
27 AWAY FROM YOU?

28 A HE JUST LAID BACK DOWN ON THE DESK. HE

1 FINISHED HIS CONVERSATION ON THE -- HUNG THE PHONE UP, AND
2 THEN TURNED BACK AROUND, AND I STARTED ASKING HIM
3 QUESTIONS.

4 Q WHAT DID YOU ASK HIM?

5 A ABOUT THE LIST, WHY KILL THE DOG. I ASKED
6 HIM WHAT THAT WAS ABOUT.

7 Q AT THAT POINT IN TIME WHEN HE GOT OFF THE
8 PHONE WAS HE AGITATED? YOU DESCRIBED HIM AS BEING VERY
9 AGITATED, UPSET. DID HE SEEM TO BE THAT WAY AT THAT POINT
10 IN TIME?

11 A HE HAD CALMED DOWN SOME.

12 Q SO HE DIDN'T -- I GET THE IMPRESSION FROM RON
13 LEVIN IF HE WAS VERY UPSET AND AGITATED HE WOULD
14 MONOPOLIZE THE CONVERSATION, HE WOULD TELL YOU WHAT WAS ON
15 HIS MIND. IS THAT CONSISTENT WITH RON LEVIN?

16 A THAT'S THE WAY HE IS.

17 Q BUT AT THAT POINT IN TIME HE HAD CALMED DOWN
18 ENOUGH TO KNOW WHERE YOU COULD TAKE OVER THE CONVERSATION
19 AND ASK HIM QUESTIONS ABOUT WHAT YOU HAD LOOKED AT?

20 A YES. IF HE ALLOWS, IF HE SO ELECTS TO ALLOW
21 YOU TO.

22 Q DID YOU ASK HIM WHY HE WAS SO AGITATED OR
23 UPSET?

24 A YES.

25 Q WHEN DID YOU ASK HIM THAT?

26 A WHEN WE WERE WALKING INTO THE APARTMENT. I
27 ASKED HIM WHAT THE PROBLEM WAS, WHY HE WAS NERVOUS, WHY HE
28 WAS IRRITATED, WHY HE WAS UPSET.

1 Q WHAT DID HE SAY?

2 A SOME PHONE CALL ABOUT SOMEBODY THREATENING
3 HIM.

4 Q DID HE SAY WHAT THE NATURE OF THE THREAT WAS?

5 A NO.

6 Q WHO THE PHONE CALL WAS FROM?

7 A NO.

8 Q DID YOU KNOW THAT RON LEVIN -- YOU KNEW RON
9 LEVIN OVER A PERIOD OF TIME. HAD YOU EVER KNOWN PEOPLE TO
10 BE UPSET WITH HIM OR THREATEN HIM?

11 A YES.

12 Q SO IT DIDN'T STRIKE YOU?

13 A I DON'T KNOW THE THREATENING PART. I HAVE
14 KNOWN PEOPLE TO BE UPSET WITH HIM.

15 Q I TAKE IT IT WOULD COME AS NO SURPRISE THAT
16 HE WAS UPSET THAT SOMEONE MIGHT HAVE THREATENED HIM?

17 A I DON'T KNOW IF HE HAD EVER BEEN THREATENED
18 BEFORE.

19 Q YOU TESTIFIED THAT PRIOR TO THIS PARTICULAR
20 OCCASION HE WENT OVER THERE ONCE AND HIS FACE WAS ALL BEAT
21 UP LIKE HE HAD BEEN BEATEN UP.

22 MR. CRAIN: OBJECTION. THAT'S SPECULATION.

23 THE COURT: SUSTAINED.

24 BY MR. MC MULLEN:

25 Q WHEN YOU WENT OVER THERE AND HE TALKED, HIS
26 FACE WAS ALL BEAT UP, DID HE SAY ANYTHING ABOUT HIS FACE
27 HOW THAT HAD HAPPENED?

28 A EXCUSE ME. HE JUST SAID SOMEBODY RANG THE

1 DOORBELL, HE WENT TO ANSWER THE DOORBELL, IT WAS A BLACK
2 GUY, A COURIER TO DROP SOMETHING OFF. I TAKE IT HE OPENED
3 THE DOORS AND THE GUY CAME IN AND BEAT HIM. HE SAID HE
4 DIDN'T KNOW WHO THE GUY WAS. RIGHT AFTER THAT HE PUT IN
5 SOME KIND OF, I THINK, ALARM.

6 MR. CRAIN: REALLY THAT OUGHT TO BE STRICKEN. IT
7 IS HEARSAY.

8 THE COURT: THE LAST -- WELL, THE LAST PORTION I
9 THINK, "SOMETIME AFTER THAT HE PUT THE ALARM SYSTEM," THAT
10 WILL GO OUT, THE REST OF IT WILL STAY IN.

11 MR. MC MULLEN: THANK YOU, YOUR HONOR.

12 BY MR. MC MULLEN:

13 Q SO IT CAME AS NO SURPRISE TO YOU, OR DID IT
14 SURPRISE YOU THAT SOMEONE WOULD BE THREATENING HIM EVEN
15 THOUGH YOU HAD SEEN HIS FACE ALL BEAT UP?

16 A I WAS QUITE SHOCKED TO SEE HIS FACE BEAT UP
17 BECAUSE I NEVER SEEN THAT BEFORE.

18 Q SO WERE YOU ALSO SHOCKED WHEN HE WAS UPSET
19 THAT SOMEONE WAS THREATENING HIM?

20 A RON IS ALWAYS UPSET.

21 Q SO HIM BEING UPSET IS NOT UNUSUAL?

22 A NO.

23 Q AT THE SAME TOKEN, THOUGH --

24 A HE WAS A VERY HIGH-STRUNG PERSON.

25 Q AS FAR AS IF HE BECOMES UPSET QUICKLY AS
26 QUICKLY DOES HE CALM DOWN?

27 A NOT LIKE YOU AND I. HE STAYS HIGH STRUNG.
28 HE STAYS LIKE THAT.

1 Q BUT THEN AFTER HE GOT OFF THE PHONE CALL HE
2 SEEMED CALM ENOUGH?

3 A BECAUSE HE WAS DISCUSSING MONEY.

4 Q SO THAT YOU THEN COULD ASK HIM QUESTIONS AND
5 HE WOULD ANSWER THEM.

6 AND WHAT DID YOU ASK HIM -- EXCUSE ME -- I
7 DIDN'T GET AN ANSWER TO THAT QUESTION. I THINK THAT WAS A
8 STATEMENT.

9 THE COURT: IT WAS.

10 MR. MC MULLEN: I AM SORRY, YOUR HONOR.

11 THE COURT: LET'S MOVE ON. HOW MUCH MORE DO YOU
12 HAVE ON CROSS?

13 MR. MC MULLEN: IT IS HARD FOR ME TO TELL.

14 THE COURT: TELL ME, GIVE ME YOUR ESTIMATE.

15 MR. MC MULLEN: 15 MINUTES. 20 MINUTES. 15
16 MINUTES, HALF HOUR.

17 THE COURT: WELL, DOING 15 MINUTES OR A HALF AN
18 HOUR -- WHY DON'T WE TAKE OUR EVENING RECESS AT THIS TIME.

19 MR. CRAIN: WOULD THERE BE ANYWAY TO FOCUS AS WE GO
20 ALONG. I DON'T, AT THIS POINT, HAVE ANY REDIRECT, AND THE
21 WITNESS LIVES SEVERAL HOURS OUT OF TOWN. SO I KNOW THE
22 COURT'S STAFF AND EVERYBODY WOULD LIKE TO END IT, BUT
23 PERHAPS MR. MC MULLEN CAN FOCUS HERE.

24 THE COURT: WHY DON'T YOU THINK MR. MC MULLEN WHAT
25 HAVE YOU GOT?

26 MR. MC MULLEN: MY PREFERENCE WOULD BE TO COME BACK
27 TOMORROW, AND I COULD PROBABLY BE MORE FOCUSED.

28 THE COURT: LET'S GO ON.

1 THE CLERK'S HUSBAND HAS MADE ARRANGEMENTS TO
2 PICK HER UP IN THE NEXT TEN MINUTES. SO SHE IS GOING TO
3 TRY TO REACH HIM ON THE CAR PHONE. WE WILL SEE.

4 LET'S GET DONE WHAT WE CAN.

5 MR. MC MULLEN: OKAY.

6 BY MR. MC MULLEN:

7 Q I AM -- OR I -- WE WERE AT THE DESK, HE WAS
8 ON THE TELEPHONE, HE HAD TAKEN THE SCRIPT FROM YOU. AND
9 WHAT HAPPENED AFTER HE TOOK THE SCRIPT FROM YOU?

10 A HE FINISHED UP HIS CONVERSATION ON THE
11 TELEPHONE.

12 Q RIGHT.

13 AND DID YOU -- WHAT HAPPENED AFTER HE
14 FINISHED UP THE CONVERSATION ON THE TELEPHONE?

15 A THEN HE IMMEDIATELY -- I ASKED, "WHY KILL THE
16 DOG, RONNIE," AND I ASKED HIM WHAT THAT IS ALL ABOUT.

17 HE SAID, "IT PERTAINS TO THE SCRIPT.

18 Q NOW, WHEN YOU ASKED HIM THAT, "WHY KILL THE
19 DOG," DID YOU MAKE REFERENCE TO WHAT IT IS, TO THE LIST
20 THAT YOU HAD SEEN?

21 A I AM SORRY, WHAT?

22 Q IN OTHER WORDS, DID YOU JUST MAKE A BLANKET
23 STATEMENT, "WHY KILL THE DOG," OR DID YOU INDICATE TO RON
24 LEVIN WHAT IT IS YOU WERE TALKING ABOUT?

25 A I THINK I POINTED IN THE DIRECTION OF WHERE
26 THE LIST WAS. "WHY KILL THE DOG?" HE KNEW WHAT I MEANT.

27 Q AND THEN WHAT LED YOU TO BELIEVE THAT HE KNEW
28 WHAT YOU WERE --

1 A BECAUSE HE PULLED IT OUT OF MY HANDS.

2 Q WELL, HE SAID -- WHAT WAS HIS RESPONSE WHEN
3 YOU SAID, "WHY KILL THE DOG"?

4 A "THE DOG IS NEUROTIC."

5 I SAID, "WHAT DOES THAT HAVE TO DO WITH IT?"
6 I TRIED TO UNDERSTAND WHAT THAT LIST HAD TO DO WITH
7 ANYTHING.

8 HE SAID IT HAD DO WITH A MOVIE SCRIPT HE WAS
9 WORKING ON.

10 Q DID HE EXPLAIN HOW THAT WAS -- SO HOW IT CAME
11 TO BE THAT IT WAS RELATED TO A MOVIE SCRIPT?

12 A I ASKED HIM WHAT THAT LIST PERTAINED TO, WHAT
13 IT HAD TO DO WITH. HE SAID IT HAD TO DO SOMETHING WITH A
14 MOVIE SCRIPT, WHICH HE ALSO PULLED OUT OF MY HANDS.

15 Q WHAT HAPPENED AFTER THAT?

16 A WHAT DO YOU MEAN?

17 Q I MEAN, HE EXPLAINS TO YOU WHY KILL THE DOG
18 BECAUSE THE DOG IS NEUROTIC. IT IS ASSOCIATED WITH A
19 MOVIE SCRIPT. THEN WHAT HAPPENED IN THE OFFICE THERE?

20 A WE HAD BRIEF, SOME MORE CONVERSATION.

21 Q WHAT DID YOU TALK ABOUT?

22 A TALKED ABOUT HIS TRIP, GOING AWAY. HE MADE A
23 COMMENT ABOUT MAYBE HE COULDN'T COME BACK.

24 Q OKAY.

25 WHERE -- WHEN HE SAID TALKING ABOUT HIS TRIP,
26 WHAT DID HE SAY? DID HE SAY WHERE HE WAS GOING?

27 A NEW YORK.

28 Q AND YOU SUGGESTED, I AM SORRY, HE SAID HE

1 MIGHT NOT COME BACK?

2 A YES.

3 Q WAS WHAT YOUR RESPONSE TO THAT?

4 A I LAUGHED, SAID A COMMENT LIKE, "SURE, YOU
5 CAN'T LIVE WITHOUT TALKING TO MY HUSBAND EVERY DAY OR
6 SEEING YOUR MOM."

7 Q HE AGREED WITH THAT, DIDN'T HE?

8 A HE SAID, "MAYBE."

9 Q AND THEN WHAT HAPPENED AFTER THAT?

10 A MAYBE WE HAD A LITTLE MORE CONVERSATION, AND
11 I LEFT.

12 Q DID HE EVER, WITH THE EXCEPTION OF WHEN YOU
13 WALKED INTO HIS PLACE AND IN TOWARDS HIS OFFICE, DID HE
14 EVER TELL YOU ANYMORE ABOUT WHY HE WAS SO UPSET AND WHY HE
15 WAS THREATENED? DID HE EVER GO OVER THAT WITH YOU ANY
16 MORE THAN WHAT HE SAID GOING IN?

17 A I DON'T RECALL AT THIS TIME WHETHER HE KNEW
18 THE PERSON THAT WAS THREATENING HIM. I THINK IT WAS OVER
19 THE PHONE. SOMEBODY THREATENING HIM OVER THE PHONE CALL.

20 Q DID HE SAY THAT?

21 A I DON'T REMEMBER AT THIS TIME, TO BE HONEST.
22 IT WASN'T A FACE-TO-FACE THREAT. I THINK -- I BELIEVE IT
23 WAS OVER THE PHONE THAT SOMEBODY THREATENED HIM.

24 Q WELL, IT SEEMED THAT HE ASKED YOU TO COME
25 INTO HIS APARTMENT FOR A VERY URGENT AND SPECIFIC REASON;
26 IS THAT A FAIR STATEMENT?

27 A YES.

28 Q AND DID YOU FEEL SATISFIED THAT FOR WHATEVER

1 PURPOSE HE CALLED YOU IN THERE THAT THAT HAD BEEN, THAT
2 YOU HAD GONE OVER THAT WITH HIM? DID YOU FEEL SATISFIED
3 THAT WHATEVER IT IS YOU HAD TO GO IN THERE FOR HAD BEEN
4 RESOLVED?

5 A WHAT DO YOU MEAN?

6 Q I MEAN, THAT HE TOLD YOU OR WHATEVER IT WAS
7 HE WANTED TO TELL YOU?

8 MR. KLEIN: OBJECTION AS TO WHAT, WHETHER SHE IS
9 SATISFIED OR NOT. THAT'S IRRELEVANT.

10 THE COURT: SUSTAINED.

11 MR. MC MULLEN: THANK YOU.

12 BY MR. MC MULLEN:

13 Q AT SOME POINT THEN AFTER THAT POINT IN TIME
14 YOU LEFT, YOU LEFT HIS APARTMENT?

15 A YES.

16 Q NOW, OVER A LONG PERIOD OF -- LATER ON THEN
17 YOU LEARNED THAT MR. LEVIN DISAPPEARED?

18 A YES.

19 Q AND WHO DID YOU LEARN THAT FROM?

20 A FROM MY HUSBAND.

21 Q AND HE WAS SO INFORMED BY THE BEVERLY HILLS
22 POLICE DEPARTMENT; IS THAT CORRECT?

23 A YES, I BELIEVE SO.

24 Q NOW, YOU UNDERSTAND THAT -- YOU ARE AWARE
25 THAT YOUR HUSBAND TESTIFIED IN A MURDER TRIAL IN LOS
26 ANGELES WITH RESPECT TO MR. LEVIN'S DEMISE. DID YOU KNOW
27 THAT?

28 A YES.

1 Q DID YOU REALIZE HE WENT TO SANTA MONICA
2 COURTHOUSE AND TESTIFIED OVER A PERIOD OF TIME?

3 A YES.

4 Q DID YOU EVER TALK TO HIM ABOUT HIS TESTIMONY?

5 A NO.

6 Q BUT YOU WERE AWARE THAT THERE WAS A MURDER
7 TRIAL.

8 THE COURT: I MISSED THE LAST QUESTION AND ANSWER.
9 WOULD YOU READ IT BACK.

10

11 (THE RECORD WAS READ.)

12

13 BY MR. MC MULLEN:

14 Q BUT YOU WERE AWARE THAT HE TESTIFIED IN A
15 TRIAL WHERE IT WAS -- THE ALLEGATION WAS RON LEVIN WAS THE
16 MURDER VICTIM?

17 MR. KLEIN: ASKED AND ANSWERED.

18 THE COURT: I WILL ALLOW IT.

19 YOU MAY ANSWER.

20 THE WITNESS: REPEAT THAT, PLEASE.

21 BY MR. MC MULLEN:

22 Q YOU WERE AWARE THAT RON LEVIN WAS ALLEGED TO
23 HAVE BEEN A MURDER VICTIM IN THAT MURDER CASE THAT YOUR
24 HUSBAND WAS TESTIFYING IN?

25 A I NEVER THOUGHT RON LEVIN WAS MURDERED.

26 Q I UNDERSTAND THAT.

27 THAT LEADS ME TO THE NEXT QUESTION. YOU
28 NEVER KNEW OR IN YOUR OWN MIND WHAT YOU TESTIFIED HERE

1 TODAY YOU -- IT WAS YOUR OPINION THAT RON LEVIN WASN'T
2 MURDERED?

3 A YES.

4 Q AND DID YOU EVER THINK OF GOING FORWARD TO
5 THE POLICE AND TELL THEM ABOUT WHAT YOU KNEW?

6 A I DIDN'T KNOW I KNEW ANYTHING.

7 THE COURT: ALL RIGHT.

8 TELL YOU WHAT, WE NEED TO TAKE OUR AFTERNOON
9 RECESS AT THIS TIME, AND WE WILL HAVE TO HAVE THE WITNESS
10 COME BACK. LET'S PICK UP AGAIN TOMORROW.

11 YOU THINK YOU ARE GOING TO BE DONE BY NOON
12 THEN, MR. KLEIN?

13 MR. KLEIN: I DO.

14 THE COURT: 1:30. COUNSEL, PETITIONER AND WITNESS
15 ARE ORDERED BACK AT 1:30 TOMORROW.

16 AT THE END OF EACH DAY MAKE SURE WE HAVE ALL
17 OF THE EXHIBITS AND THEY ARE CHECKED BACK IN WITH THE
18 CLERK BEFORE COUNSEL LEAVES THE COURTROOM.

19 MR. CRAIN: I MAY HAVE MISSED SOMETHING ABOUT
20 WEDNESDAY'S SCHEDULING. HAVE YOU DECIDED THAT WE ARE OFF
21 WEDNESDAY?

22 THE COURT: YEAH.

23 DID A FAX COME IN, HELEN?

24 LET ME JUST CHECK. I AM WAITING FOR
25 SOMETHING ELSE.

26

27 (PAUSE.)

28

1 THE COURT: ALL RIGHT.

2 YEAH. I WILL GIVE YOU WEDNESDAY OFF THEN.

3 MR. CRAIN: THURSDAY AND FRIDAY?

4 THE COURT: I WILL GIVE YOU WEDNESDAY, THURSDAY AND
5 FRIDAY SO YOU GUYS --

6 MR. CRAIN: WHAT ABOUT MONDAY, WHAT TIME SHOULD WE
7 HAVE THE WITNESS IN, 9 O'CLOCK?

8 THE COURT: I HAVEN'T LOOKED AT MONDAY'S CALENDAR
9 YET.

10 WHAT'S ON MONDAY, MONDAY THE 29TH?

11

12 (PAUSE.)

13

14 THE COURT: WE ARE CLEAR. 9 O'CLOCK.

15 MR. MC MULLEN: JUST FOR YOUR INFORMATION, YOUR
16 HONOR, THIS -- AND I SUBMITTED TO YET A SECOND AMENDED
17 REQUEST FOR AN ORDER TO BRING OUT MR. KILPATRICK FROM THE
18 PENITENTIARY. I HAVE HAD SOME COMMUNICATION PROBLEMS WITH
19 THE SHERIFF. I HAVE HAD TO ALTER THE ORDERS. SO I AM
20 RESUBMITTING YOU ANOTHER ONE.

21 THE COURT: JUST TO COMPLY WITH THE SHERIFF'S
22 REQUIREMENT I WILL SIGN IT.

23 MR. MC MULLEN: THANK YOU.

24 THE COURT: SEE YOU GUYS BACK 1:30 TOMORROW.

25 MR. KLEIN: YOUR HONOR, CAN MR. HUNT HAVE
26 PERMISSION TO GET THAT BOOK AT THE JAIL?

27 THE COURT: I AM TOLD HE SHOULD BE ABLE TO GO
28 THROUGH THE JAIL PROCEDURES. THE PROBLEMS ARE THERE HAS

1 BEEN A TREMENDOUS SMUGGLING PROBLEM, AND I DO NOT OVERSEE
2 THE SHERIFF'S IN TERMS OF WHAT THEIR CONCERNS ARE.

3 MR. KLEIN: CAN WE HAVE AN ORDER THAT HE BE ALLOWED
4 TO BE GIVEN IT SUBJECT TO IT BEING SEARCHED BY THE JAIL
5 PERSONNEL?

6 THE COURT: IF IT MEETS THE SHERIFF'S REQUIREMENTS,
7 HE SHOULD HAVE NO PROBLEM.

8 MR. KLEIN: SOMETIMES BOOKS HAVE TO COME FROM THE
9 PUBLISHER. THAT'S THE REQUIREMENT. THIS IS A HARD BOUND
10 BOOK. SO IT WOULD NEVER GET IN. SO THE HARD BOUND PART
11 HAS BEEN TAKEN OFF.

12 THE COURT: TRY TO WORK IT OUT WITH THE SHERIFF'S
13 DEPARTMENT.

14 MR. CRAIN: YOUR HONOR, I AM SORRY, REGARDING THE
15 WITNESS' SCHEDULE FOR TOMORROW. I DIDN'T REALIZE THIS.
16 SHE SAID FOR THE LAST SEVERAL MONTHS SHE HAD A LONG
17 STANDING DENTAL APPOINTMENT. IT IS HERE IN LOS ANGELES.
18 IT IS IN HOLLYWOOD. HOWEVER, SHE EXPECTS IT IS GOING TO
19 TAKE FROM 11:30 TO 1:30, NOT JUST A TEETH CLEANING. I
20 DIDN'T GET INTO THE DETAILS OF IT. I THOUGHT THAT WAS
21 PERSONAL. I WONDER --

22 MR. KLEIN: COULD WE START WITH MR. ROBINSON AND
23 THEN PUT HER ON AT SOME POINT AFTER THAT?

24 THE COURT: I HAVE NO PROBLEM WITH THAT.

25 MR. MC MULLEN: SO MR. ROBINSON IS YOUR NEXT
26 INTENDED WITNESS?

27 MR. KLEIN: YES.

28 THE COURT: MAKE SURE YOU GUYS TALK AT THE END OF

1 DAY.

2 MR. CRAIN: SHE CAN BE HERE AT 2:30.

3 THE COURT: IF SHE CAN GET HERE BY 1:30 FINE, IF
4 SHE GETS DONE, THE DENTIST LEAVES EARLY, WHATEVER. I
5 PREFER TO HAVE HER HERE AT 1:30, BUT IF NOT 2:30 IS FINE.

6
7 (AT 4:40 P.M. AN ADJOURNMENT WAS
8 TAKEN UNTIL TUESDAY,
9 APRIL 23, 1996 AT 1:30 P.M.)
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1	<u>INDEX FOR VOLUME 3</u>		<u>PAGE 337 - 438, INCL.</u>	
2	<u>DAY</u>	<u>DATE</u>	<u>SESSION</u>	<u>PAGE</u>
3	TUESDAY	APRIL 23, 1996	A.M.	(NONE)
4	TUESDAY	APRIL 23, 1996	P.M.	337
5	<u>PROCEEDINGS</u>			<u>PAGE</u>
6	HABEAS CORPUS HEARING			337
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M A S T E R I N D E X

CHRONOLOGICAL INDEX OF WITNESSES

HEARING:

<u>PETITIONER'S</u>					<u>VOIR</u>
<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE VOL</u>

MARMOR, KAREN SUE					
(RESUME)	342				3
		389		396	3
(FURTHER)		400			3

ROBINSON,					
ROBERT A.	402	425			3

<u>RESPONDENT'S</u>					<u>VOIR</u>
<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>DIRE VOL</u>

(NONE)

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ALPHABETICAL INDEX OF WITNESSES

<u>PETITIONER'S</u> <u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR</u> <u>DIRE</u>	<u>VOL</u>
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MARMOR, KAREN SUE (RESUME)		342				3
			389	396		3
(FURTHER)			400			3
ROBINSON, ROBERT A.	402	425				3

<u>RESPONDENT'S</u> <u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR</u> <u>DIRE</u>	<u>VOL</u>
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(NONE)

M A S T E R I N D E X

EXHIBITS

PETITIONER'S EXHIBITS	FOR IDENTIFICATION VOL.	PG.	IN EVIDENCE VOL.	PG.	WITHDRAWN OR REJECTED VOL.	PG.
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(NONE)

RESPONDENT'S EXHIBITS	FOR IDENTIFICATION VOL.	PG.	IN EVIDENCE VOL.	PG.	WITHDRAWN OR REJECTED VOL.	PG.
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1 LOS ANGELES, CALIFORNIA; TUESDAY, APRIL 23, 1996

2 1:30 P. M.

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4
5 APPEARANCES:

6 THE DEFENDANT, JOSEPH HUNT, WITH HIS COUNSEL,
7 ROWAN KLEIN, BAR PANEL APPOINTMENT; AND MICHAEL
8 CRAIN, BAR PANEL APPOINTMENT; ANDREW MC MULLEN,
9 DEPUTY DISTRICT ATTORNEY OF LOS ANGELES COUNTY;
10 AND IMOGENE KATAYAMA, DEPUTY DISTRICT ATTORNEY OF
11 LOS ANGELES COUNTY, REPRESENTING THE PEOPLE OF THE
12 STATE OF CALIFORNIA.

13
14 (M. HELEN THEISS, CSR #2264, OFFICIAL REPORTER.)
15

16 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
17 DEPARTMENT 101 IS AGAIN IN SESSION.

18 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
19 RECORD WILL REFLECT ALL COUNSEL ARE PRESENT, PETITIONER IS
20 PRESENT.

21 WHAT'S HAPPENING?

22 MR. KLEIN: YOUR HONOR, WE INTENDED TO HAVE ROBBIE
23 ROBINSON HERE AT 1:30. WE HAD MET WITH HIM, INSTRUCTED
24 HIM THAT WE WOULD HAVE OUR INVESTIGATOR CONTACT HIM THIS
25 MORNING AND PICK HIM UP SO HE COULD BE HERE AT 1:30.

26 I JUST SPOKE TO MY INVESTIGATOR'S OFFICE, I
27 HAVE NOT TALKED DIRECTLY TO THE INVESTIGATOR, I HAVE ASKED
28 THAT HE CALL ME DIRECTLY HERE. ACCORDING TO HIS OFFICE,

1 MR. ROBINSON IS IN HIS COMPANY. THEY ARE ON THEIR WAY AND
2 EXPECT TO BE HERE AT 2:10.

3 MR. CRAIN: HE DOESN'T HAVE A CAR, THAT'S WHY WE
4 NEEDED HIM TO BE TRANSPORTED.

5 MRS. MARMOR CALLED MY OFFICE, ACCORDING TO MY
6 SECRETARY, AND EXPECTS TO BE HERE AT AROUND TWO O'CLOCK.

7 THE COURT: WHY 2:10 FOR ROBINSON?

8 MR. KLEIN: AS I SAID, YOUR HONOR, OUR INSTRUCTIONS
9 WERE HE SAID HE GETS OFF WORK AROUND 9 O'CLOCK IN THE
10 MORNING TODAY. WE TOLD OUR INVESTIGATOR TO CONTACT HIM
11 SHORTLY AFTER 9:00. WE TOLD MR. ROBINSON THAT OUR
12 INVESTIGATOR WOULD CONTACT HIM SHORTLY AFTER 9:00, AND
13 THAT HE WOULD ARRANGE TO PICK HIM UP BECAUSE HE DOESN'T
14 HAVE A CAR.

15 I JUST TALKED TO HIS OFFICE. I HAVE NOT
16 TALKED TO HIM DIRECTLY. I CAN'T EXPLAIN IT BECAUSE I
17 DON'T KNOW WHAT HAPPENED UNTIL I TALK TO THE INVESTIGATOR.
18 I HAVE ASKED HIM TO CALL HERE DIRECTLY. BUT THEY ARE
19 SUPPOSEDLY TOGETHER, ACCORDING TO THE CONVERSATION I HAD
20 WITH THE SECRETARY, AND THEY WILL BE HERE AT 2:10. HE
21 LIVES AROUND HIGHLAND AND MELROSE, MR. ROBINSON, AND THAT
22 WAS WHERE THE INVESTIGATOR WAS GOING TO PICK HIM UP
23 BECAUSE HE DOESN'T HAVE A CAR.

24 MR. CRAIN: THEY WILL BE HERE AT 2:10. THE
25 INVESTIGATOR KNOWS THAT THIS COURT WANTS TO RUN ON AN
26 EFFICIENT SCHEDULE, PROBABLY LIKE TRAIN TIME OR SOMETHING.

27 THE COURT: ANY OTHER WITNESSES THAT YOU HAVE GOT
28 OUT IN THE HALL THAT WE CAN PUT ON?

1 MR. CRAIN: I AM REALLY SORRY. IF MRS. MARMOR
2 COULD BE HERE --

3 THE COURT: WHAT'S THE LATEST E.T.A. ON HER?

4 MR. CRAIN: SHE CALLED THE OFFICE AND SAID
5 2 O'CLOCK. SHE APPARENTLY LEFT THE DENTIST. I DON'T KNOW
6 ANYTHING MORE THAN THAT. I DIDN'T TALK TO HER DIRECTLY.

7 THE COURT: WHERE IS SHE STAYING, WHILE SHE IS
8 HERE?

9 MR. CRAIN: I DON'T KNOW.

10 MR. KLEIN: SHE SAYS SHE HAS THE APARTMENT AT PECK,
11 BUT SHE WAS AT THE DENTIST THIS MORNING. I APOLOGIZE
12 THAT'S --

13 THE COURT: IF THERE IS ANY ADDITIONAL INFORMATION
14 LET ME KNOW. LET'S HAVE SOME WITNESSES LINED UP.

15 MR. KLEIN: WE UNDERSTAND THE COURT'S POSITION.

16 MR. CRAIN: COULD I ASK A QUESTION WHILE WE ARE
17 HERE? WE ARE OFF ON MAY 3RD? I NEEDED TO VERIFY THAT.

18 THE COURT: YES. MAY 3RD IS THE FRIDAY I AM IN
19 ORANGE COUNTY THE ENTIRE DAY.

20 MR. CRAIN: SO ARE WE.

21 THE COURT: SAME COURTHOUSE?

22 MR. CRAIN: WE ARE GOING TO BE IN DEPARTMENT 44.

23 THE COURT: YOU DON'T HAVE ANY OF THE ORANGE COUNTY
24 BANKRUPTCY CASES?

25 MR. CRAIN: I DON'T HANDLE WELL-HEALED CLIENTS.

26 THE COURT: WHILE YOU ARE TALKING SCHEDULING,
27 MR. KLEIN, I WAS LOOKING AT MY COMING SCHEDULING. WHAT
28 WAS YOUR NEED NEXT WEEK?

1 MR. KLEIN: I THINK IT WAS WEDNESDAY, YOUR HONOR.
2 IT IS WEDNESDAY.

3 THE COURT: WHAT IS IT THAT YOU NEED TO DO?

4 MR. KLEIN: AS THE COURT IS AWARE, PART OF MY
5 PRACTICE IS DOING POST CONVICTION MATTERS, WHICH INCLUDES
6 REPRESENTING PEOPLE AT PAROLE BOARD HEARINGS, LIVE
7 PRISONER. I HAD TWO HEARINGS SCHEDULE DURING THE
8 ALEXANDER HEARING WHICH WERE POSTPONED, AND THEY HAVE BEEN
9 RESCHEDULED BY THE BOARD OF PRISONS FOR MAY 1ST.

10 THE ONLY WAY I COULD DO -- I WOULD HAVE TO
11 LEAVE IN THE MORNING BECAUSE THE HEARINGS ARE AT SOLEDAD,
12 WHICH IS ABOUT 40 MILES SOUTH OF THE AIRPORT IN MONTEREY.
13 SO I WOULD HAVE TO FLY INTO MONTEREY AND DRIVE FROM THE
14 AIRPORT. I THINK THOSE ARE THE ONLY -- THAT'S THE ONLY --

15 THE COURT: HOW MUCH LEAD TIME WOULD YOU NEED TO
16 CONTINUE IT, IF YOU HAD TO?

17 MR. KLEIN: I CAN -- IF YOU CAN TELL ME I HAVE TO
18 BE HERE, THEY ARE GOING TO CONTINUE IT, BUT THESE HEARINGS
19 ARE SCHEDULED LIKE TWO TO THREE MONTHS IN ADVANCE.

20 THE COURT: WHAT I AM TRYING TO DO IS WORK IN
21 SOMETHING ELSE. I KNEW WE WERE NOT GOING TO BE IN SESSION
22 THIS MORNING. I MOVED A SENTENCING INTO THIS MORNING. I
23 AM LOOKING AHEAD TO WHAT I CAN MOVE IN THAT WOULD SAVE US
24 TIME DOWN THE ROAD BY --

25 MR. KLEIN: I DON'T HAVE ANYTHING ELSE. AND I
26 THINK MR. GRAIN'S CALENDAR IS CLEAR OTHER THAN THAT
27 PARTICULAR DAY.

28 THE COURT: ALL RIGHT.

1 LET ME CONTINUE TO LOOK AT THE THINGS AND SEE
2 IF THERE IS SOMETHING I CAN MOVE IN AND FILL IN THE 1ST.

3 LET ME KNOW WHEN YOU HEAR SOMETHING.

4 PEOPLE HAVE ANYTHING?

5 MR. MC MULLEN: NO. NOTHING FOR YOU, YOUR HONOR.

6

7 (RECESS.)

8

9 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
10 DEPARTMENT 101 IS AGAIN IN SESSION.

11 THE COURT: IN THE MATTER OF IN RE JOSEPH HUNT, THE
12 RECORD WILL REFLECT ALL COUNSEL AND PETITIONER ARE
13 PRESENT. MS. MARMOR, THE WITNESS, IS ON THE STAND.

14 YOU ARE REMINDED THAT YOU ARE STILL UNDER
15 OATH.

16 YOU MAY FINISH YOUR CROSS-EXAMINATION.

17 MR. MC MULLEN: THANK YOU

18 BEFORE I BEGIN WITH REGARD TO THIS WITNESS,
19 YESTERDAY YOUR HONOR ALLOWED SOME EVIDENCE TO COME IN WITH
20 RESPECT TO MR. LEVIN'S BEATING HIS DOG AND YOU ACCEPTED IT
21 SUBJECT TO A MOTION TO STRIKE, AND WE WOULD HEREBY RIGHT
22 NOW MOVE TO STRIKE THAT TESTIMONY.

23 THE COURT: I WILL ALLOW THE EVIDENCE TO STAND.

24 MR. MC MULLEN: THANK YOU

25 THE COURT: IT GOES TO EXPLAIN SOME OF THE
26 CONVERSATIONS CONCERNING THE LIST AND THE SCRIPT WHICH THE
27 WITNESS DID TESTIFY ABOUT.

28 MR. MC MULLEN: I JUST HAVE A FEW FOLLOW-UP

1 QUESTIONS WITH RESPECT TO THAT.

2 MR. KLEIN: MAY I BE EXCUSED FOR JUST A MINUTE
3 BECAUSE THE OTHER WITNESS ARRIVED, AND I WILL BE BACK?

4 THE COURT: MR. CRAIN AND MR. HUNT HAVE NO
5 OBJECTION, AND HEARING NONE, YES.

6
7 (MR. KLEIN EXITS THE COURTROOM.)
8

9 MR. CRAIN: I WOULD TELL THE COURT, I HESITATE TO
10 ASK IN VIEW OF THE DELAY, I WOULD APPRECIATE IT IF I COULD
11 HAVE ABOUT THREE MINUTES TO CONFER WITH THE NEXT WITNESS
12 AFTER MRS. MARMOR CONCLUDES HER EXAMINE. I DON'T NEED ANY
13 MORE THAN THAT.

14 THE COURT: LET'S SEE WHERE WE ARE AT.

15 MR. CRAIN: OKAY.

16 MR. MC MULLEN: MAY I PROCEED?

17 THE COURT: YES.
18

19 KAREN SUE MARMOR, +
20 CALLED AS A WITNESS BY THE PETITIONER, HAVING BEEN
21 PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER
22 AS FOLLOWS:
23

24 CROSS-EXAMINATION @
25

26 BY MR. MC MULLEN:

27 Q MA'AM, YOU TESTIFIED ABOUT, YESTERDAY ABOUT
28 SOME BEHAVIOR THAT MR. LEVIN ENGAGED IN WITH RESPECT TO

1 HIS DOG. DO YOU HAVE PETS?

2 A I HAVE HAD 26 CATS AND FOUR DOGS.

3 Q SO YOU DO HAVE PETS?

4 A NOT NOW BUT --

5 Q YOU DID?

6 A AS I WAS GROWING UP, YES.

7 Q ALL AT ONCE?

8 A YES. I LIVED ON A FARM.

9 Q ARE YOU AN ANIMAL RIGHT'S ADVOCATE?

10 A I LOVE ANIMALS.

11 Q YESTERDAY YOU TESTIFIED ABOUT PICKING SOME
12 THINGS UP OFF LEVIN'S DESK, IN PARTICULAR THE TO-DO LIST
13 AND THE SCRIPT. DO YOU USUALLY PICK UP THINGS OFF OF
14 PEOPLE'S DESK?

15 MR. CRAIN: HE EXPLORED THAT AREA YESTERDAY.

16 THE COURT: I WILL ALLOW HIM TO WARM UP AGAIN.

17 THE WITNESS: I ANSWERED THAT YESTERDAY. I BELIEVE
18 I SAID NO.

19 BY MR. MC MULLEN:

20 Q AND WHY DID YOU PICK UP THE LIST, THE TO-DO
21 LIST AND THE SCRIPT OFF OF LEVIN'S DESK?

22 A THEY WERE THE TWO THINGS THAT STOOD OUT.

23 Q WITH RESPECT TO MR. LEVIN, HAD YOU EVER
24 PICKED UP STUFF OFF HIS DESK BEFORE IN HIS PRESENCE THERE?

25 A YES.

26 Q YESTERDAY YOU TESTIFIED THAT THE SCRIPT WAS
27 WHAT, ABOUT -- YOU INDICATED ABOUT AN INCH THICK?

28 A YES.

1 MR. MC MULLEN: I WOULD DIRECT COUNSEL TO VOLUME 38
2 OF THE TRANSCRIPT, TRANSCRIPT OF THE PROCEEDING IN THE SAN
3 MATEO TRIAL JUNE 24, 1992, VOLUME 38.

4 MR. CRAIN: JUNE 24TH?

5 MR. MC MULLEN: JUNE 24TH.

6 MR. CRAIN: WHAT PAGE?

7 MR. MC MULLEN: PAGE 25, LINES -- EXCUSE ME. I
8 TAKE THAT BACK. I WILL COME BACK TO THAT.

9 I WILL WITHDRAW THE QUESTION. I AM SORRY.
10 THE COURT: ALL RIGHT.

11
12 (PAUSE.)

13
14 BY MR. MC MULLEN:

15 Q WHEN WERE YOU NOTIFIED APPROXIMATELY OF
16 LEVIN'S DISAPPEARANCE?

17 A I WASN'T NOTIFIED.

18 Q DIDN'T YOU TESTIFY YESTERDAY THAT AT SOME
19 POINT IN TIME YOU BECAME AWARE OF HIS DISAPPEARANCE?

20 A MY HUSBAND WAS NOTIFIED.

21 Q DID HE TELL YOU ABOUT IT?

22 A I THINK SO, YES.

23 Q DO YOU KNOW WHEN, APPROXIMATELY WHEN THAT
24 WAS?

25 A I THINK IT WAS AFTER -- I THINK IT WAS
26 SOMETIME AROUND JUNE -- I THINK IT WAS THE FIRST WEEK IN
27 JUNE, THAT'S WHAT I REMEMBER.

28 Q AND DO YOU KNOW WHO HE WAS NOTIFIED BY?

1 A I THINK, I AM NOT SURE, THE BEVERLY HILLS
2 POLICE DEPARTMENT.

3 Q WHEN YOU HEARD THAT HE WAS NOTIFIED ABOUT THE
4 DISAPPEARANCE, DID YOU TELL HIM ABOUT YOUR OBSERVATIONS
5 WITH RESPECT TO MR. LEVIN AND IN PARTICULAR THE TO-DO LIST
6 AND THE SCRIPT?

7 A NO.

8 Q WHY DIDN'T YOU?

9 A BECAUSE I DIDN'T THINK IT HAD ANYTHING TO DO
10 WITH -- BECAUSE I KNEW NOTHING ABOUT THE CASE, AND I
11 DIDN'T THINK IT HAD ANYTHING TO DO WITH ANYTHING THAT --
12 BECAUSE ALL HE SAID WAS HE FELT THAT MAYBE HE HAD BEEN
13 MURDERED AND NOT DISAPPEARED, THAT'S WHAT THE POLICE
14 THOUGHT, THAT'S ALL HE TOLD ME.

15 MR. MC MULLEN: MAY I JUST HAVE ONE MOMENT?

16 THE COURT: YES.

17

18 (PAUSE.)

19

20 THE COURT: THE RECORD WILL REFLECT MR. KLEIN IS
21 BACK IN THE COURTROOM.

22

23 (MR. KLEIN ENTERS THE COURTROOM.)

24

25 MR. KLEIN: THANK YOU

26 BY MR. MC MULLEN:

27 Q YOU TESTIFIED YESTERDAY THAT YOU WERE AWARE
28 THAT YOUR HUSBAND HAD TESTIFIED IN THE MURDER TRIAL HERE

1 IN LOS ANGELES; IS THAT CORRECT?

2 A WHAT DO YOU MEAN?

3 Q WELL, YOU TESTIFIED IN A MURDER TRIAL WHERE
4 JOE HUNT WAS CHARGED WITH THE MURDER OF RON LEVIN. YOU
5 WERE AWARE OF THAT; IS THAT CORRECT?

6 A I WAS AWARE THAT HE WAS GOING DOWN TO TESTIFY
7 IN A TRIAL CONCERNING RON LEVIN.

8 Q AND, IN FACT, YOU KNOW THAT YOUR HUSBAND
9 TESTIFIED IN THREE DIFFERENT MURDER TRIALS WITH RESPECT TO
10 THE MURDER OF RON LEVIN; IS THAT CORRECT?

11 A NO, I DON'T KNOW ANY OF THAT.

12 Q BUT YOU DID KNOW THAT HE TESTIFIED?

13 A YES. I KNOW IT ALL HAD SOMETHING TO DO WITH
14 RON LEVIN. WHAT -- HE DIDN'T DISCUSS THAT WITH ME.

15 Q AT THAT POINT DURING THE COURSE OF TIME THAT
16 HE TESTIFIED, DID YOU EXPLAIN TO YOUR HUSBAND OR -- WHAT
17 YOU HAD OBSERVED AT RON LEVIN'S?

18 A NO.

19 Q AND WHY NOT?

20 A BECAUSE I DIDN'T KNOW THAT IT PERTAINED TO,
21 ANYTHING TO DO WITH THE CASE.

22 Q IN FACT, YOU DIDN'T THINK IT WAS IMPORTANT,
23 DID YOU?

24 A NO. I DIDN'T KNOW ANYTHING ABOUT THE CASE.

25 Q DIDN'T YOU THINK THAT RON LEVIN WAS ON
26 VACATION AND THAT'S WHY YOU DIDN'T TELL YOUR HUSBAND AT
27 THAT TIME?

28 A EITHER THAT OR RON LEVIN DISAPPEARED BECAUSE

1 HE SAID THOSE THINGS PERTAINED TO A SCRIPT THAT HE WAS
2 WORKING ON, BUT YET HIS ACTIONS AND HOW HE WAS REACTING
3 AND NOT GOING BACK TO JAIL CAUSED SOME DOUBTS.

4 Q THANK YOU.

5 A I THOUGHT IT WAS A PERMANENT VACATION.

6 THE COURT: WHAT DO YOU MEAN BY THAT?

7 THE WITNESS: I MEAN, IN OTHER WORDS, HE PLANNED TO
8 NOT COME BACK LIKE HE SAID, "MAYBE, I WON'T COME BACK."

9 BY MR. MC MULLEN:

10 Q WHICH LEADS ME TO THE NEXT QUESTION. YOU
11 WERE INTERVIEWED BY A MAN WHOSE NAME IS THEODORE WOOLSEY
12 ON DECEMBER 17, 1991. DO YOU REMEMBER BEING INTERVIEWED
13 BY HIM?

14 A BRIEFLY, YES.

15 Q AND DID YOU SAY TO MR. WOOLSEY WITH RESPECT
16 TO THE TIME THAT YOU WERE IN LEVIN'S OFFICE AND YOU
17 NOTICED THE TO-DO LIST AND THE SCRIPT THAT LEVIN HAD TOLD
18 YOU, IN QUOTES, "I CAN'T GO BACK TO JAIL. I AM PLANNING
19 MY OWN DISAPPEARANCE OR MY MURDER. I AM GOING TO PLAN
20 SOMETHING SO THEY WILL NEVER FIND ME"? DO YOU REMEMBER
21 SAYING THAT?

22 MR. CRAIN: IS COUNSEL REFERRING TO A DOCUMENT? IF
23 HE IS, I WOULD ASK THAT HE IDENTIFY THE PLACE THAT HE IS
24 LOOKING AT BEFORE HE INQUIRES OF A WITNESS.

25 THE COURT: HAVE YOU GOT A PARTICULAR DOCUMENT IN
26 MIND?

27 MR. MC MULLEN: YES, YOUR HONOR. IT IS A REPORT OF
28 AN INTERVIEW OF KAREN SUE MARMOR. IT IS DATED DECEMBER

1 19, 1991, AND IT IS ON THE SECOND PAGE AT THE THIRD, AT
2 THE FOURTH -- THE TOP OF THE PAGE THE THIRD FULL
3 PARAGRAPH. THAT'S WHAT I WAS READING FROM.

4 MR. CRAIN: CAN WE HAVE THE QUESTION AGAIN, YOUR
5 HONOR?

6 THE COURT: YOU WANT TO TRY AGAIN?

7 MR. MC MULLEN: SURE.

8 BY MR. MC MULLEN:

9 Q DO YOU REMEMBER TELLING MR. WOOLSEY WHEN YOU
10 WERE -- WITH RESPECT TO WHEN YOU WERE IN RON LEVIN'S
11 OFFICE AND TALKING -- WHEN YOU WERE THERE AND YOU NOTICED
12 THE TO-DO LIST AND THE SCRIPT, THAT RON LEVIN SAID TO YOU,
13 "I CAN'T GO BACK TO JAIL. I AM PLANNING MY OWN
14 DISAPPEARANCE OR MY MURDER. I AM GOING TO PLAN SOMETHING
15 SO THEY WILL NEVER FIND ME"? DO YOU REMEMBER SAYING THAT
16 TO THEODORE WOOLSEY?

17 A I DON'T BELIEVE SAYING IT IN THAT CONTEXT.
18 WE DISCUSSED ABOUT HIM SAYING MAYBE HE WOULDN'T COME BACK.
19 WE -- I TALKED ABOUT -- WE TALKED ABOUT THE SCRIPT AND THE
20 LIST HAVING TO DO WITH A MOVIE. AND I ASKED HIM, "WHY DID
21 I FEEL LIKE THAT WAS NOT A MOVIE, BUT REALLY SOMETHING
22 THAT YOU WERE PLANNING ON DOING," THAT WAS THE GIST OF OUR
23 CONVERSATION WITH MR. WOOLSEY.

24 Q DO YOU REMEMBER SIGNING A DECLARATION DATED
25 JANUARY 22, 1992?

26 A NO. BUT --

27 MR. MC MULLEN: YOUR HONOR, THIS IS AN EXHIBIT THAT
28 WE DON'T HAVE ON OUR LIST. I WOULD LIKE TO HAVE IT MARKED

1 AS NEXT IN ORDER, PEOPLE'S RR.

2 THE COURT: DO WE HAVE YOUR EXHIBIT LIST?

3 MR. MC MULLEN: WAIT A SECOND.

4 I TAKE THAT BACK. I AM SORRY. WE DO HAVE IT ON OUR LIST.
5 IT IS EXHIBIT N.

6 THE COURT: N?

7 MR. MC MULLEN: N.

8 THE COURT: ALL RIGHT.

9 I SEE IT. IT WILL BE SO MARKED.

10

11 (MARKED FOR ID ^ DEF. N, DOCUMENT.)

12

13 MR. MC MULLEN: MAY I APPROACH THE WITNESS WITH
14 EXHIBIT N?

15 ACTUALLY, IT IS A COPY OF EXHIBIT N. I WILL
16 REPLACE IT WHEN THE CLERK RETRIEVES THE OFFICIAL COPY.
17 BY MR. MC MULLEN:

18 Q WOULD YOU TAKE A LOOK AT THAT, MA'AM.

19 A YES. I REMEMBER, THOUGH, BEFORE I SIGNED IT
20 TELLING MR. WOOLSEY THERE WAS SOME INCORRECT THINGS IN THE
21 REPORT.

22 Q WHEN DID YOU TELL MR. WOOLSEY THAT?

23 A OVER THE TELEPHONE BEFORE I SIGNED IT.

24 Q BUT DIRECTING YOUR ATTENTION TO PARAGRAPH 3,
25 YOU SAID YOU READ THE ATTACHED REPORT AND FOUND IT TO BE
26 TRUE AND ACCURATE?

27 A YES. BUT I TOLD HIM OVER THE PHONE THERE
28 WERE SOME THINGS IN HERE THAT WERE INCORRECT. SOME OF

1 THEM I MARKED THROUGH.

2 THE COURT: ARE THOSE THE DATES THAT ARE VISIBLE ON
3 THAT EXHIBIT, PAGE TWO OF THAT EXHIBIT?

4 MR. MC MULLEN: THANK YOU, YOUR HONOR.

5 THE WITNESS: YES.

6 I ALSO EXPLAINED TO THEM AS PART OF THE
7 CONVERSATION HOW HE HAD DONE IT AND HOW I HAD SAID IT.

8 BY MR. MC MULLEN:

9 Q OKAY.

10 BUT DIRECTING YOUR ATTENTION TO THE THIRD
11 FULL PARAGRAPH WHERE IT STARTS OUT SAYING, "KAREN SUE
12 ASKED LEVIN," DO YOU HAVE THAT PARAGRAPH? "WHY DO I THINK
13 THIS," IN PARENS, "(THE LIST) PERTAINS TO YOU THERE?"

14 A WHAT PAGE ARE YOU ON?

15 Q PAGE TWO OF THE REPORT.

16 A THIRD PARAGRAPH?

17 Q THE THIRD FULL PARAGRAPH MIGHT APPEAR THAT IT
18 IS FOUR DOWN, BUT IT IS THE THIRD FULL PARAGRAPH.

19 THE COURT: WHAT WORDS DOES IT BEGIN WITH?

20 MR. MC MULLEN: "KAREN SUE ASKED LEVIN, "WHY DO I
21 THINK THIS," IN PARENTHESIS, "(THE LIST)" --

22 THE COURT: I THINK IT IS ON PAGE THREE.

23 MR. MC MULLEN: IS THAT PAGE THREE?

24 THE COURT: YES.

25 THE WITNESS: THANK YOU.

26 THE COURT: IT DEPENDS ON WHICH NUMBER YOU LOOK AT.
27 THERE ARE TWO DIFFERENT NUMBERS. THE EXHIBIT I HAVE ON
28 THE TOP RIGHT CORNER HAS 3. IN THE TEXT IT SAYS PAGE TWO.

1 MR. MC MULLEN: OKAY. THANK YOU. IT IS A LITTLE
2 CONFUSING THERE.

3 BY MR. MC MULLEN:

4 Q DO YOU HAVE THAT?

5 A YES.

6 Q RIGHT ABOVE THAT PARAGRAPH I SEE THERE IS A
7 STRIKE OF THE WORD "MINUTES" AND THEN SOMETHING IS WRITTEN
8 IN. ARE THOSE YOUR --

9 A YES. SECONDS.

10 Q BUT THERE IS NO MARKINGS ON THAT PARAGRAPH I
11 HAVE REFERRED YOU TO; IS THAT CORRECT?

12 A NOT THAT I CAN SEE.

13 Q BUT YOU ARE CLAIMING TODAY THAT YOU TOLD
14 MR. WOOLSEY SOMETHING ABOUT THAT PARAGRAPH?

15 A WELL --

16 MR. KLEIN: THAT'S ARGUMENTATIVE "CLAIMING."

17 THE COURT: OVERRULED.

18 YOU MAY ANSWER.

19 THE WITNESS: I EXPLAINED TO HIM THAT THEY WEREN'T
20 EXACTLY IN MY WORDS OR EXACTLY IN THE CONTEXT OF HOW I
21 SAID IT. I EXPLAINED ALL THAT TO HIM BEFORE THE INTERVIEW
22 ALSO.

23 BY MR. MC MULLEN:

24 Q WHAT ARE YOU SAYING NOW THAT YOU TOLD
25 MR. WOOLSEY WITH RESPECT TO THE SUBJECT OF THAT PARAGRAPH?

26 A I AM NOT SAYING IT IS PARTICULARLY THAT
27 PARAGRAPH. I AM SAYING THE WHOLE INTERVIEW I WAS
28 CORRECTING IT.

1 Q I UNDERSTAND. BUT THAT PARTICULAR PARAGRAPH
2 I AM ZONING IN ON, WHAT IS DIFFERENT THAT OCCURRED?

3 A I MIGHT HAVE ASKED HIM. INSTEAD OF HIM
4 SAYING, "I AM PLANNING MY OWN DISAPPEARANCE," I MIGHT HAVE
5 ASKED, "ARE YOU PLANNING ON NOT COMING BACK?"

6 HE MIGHT HAVE SAID RIGHT BEFORE THAT, "I AM
7 NOT COMING BACK."

8 THE COURT: WHY WOULD YOU ASK HIM IF HE WAS
9 PLANNING ON NOT COMING BACK?

10 THE WITNESS: BECAUSE OF THE MOVIE SCRIPT AND HIS
11 BEING NERVOUS AND STATING THAT HE WAS THREATENED AND
12 STATING THAT HE WAS ADAMANT ABOUT NOT GOING TO JAIL.

13 THE COURT: WHAT ABOUT THE MOVIE SCRIPT CAUSED YOU
14 TO BELIEVE THAT HE WOULD NOT COME BACK?

15 THE WITNESS: THE MOVIE SCRIPT, SOMETHING IN THE
16 MOVIE SCRIPT ABOUT SOMEBODY DISAPPEARING AND NOT COMING
17 BACK. AND SOME OF THE PEOPLE WHO IN THE SCRIPT PERTAINED
18 TO THE PEOPLE THAT, LIKE I WOULD RECOGNIZE, LIKE MY
19 HUSBAND'S MIDDLE NAME, EDWARD. AT THAT TIME I THINK HE
20 HAD SOMETHING TO DO WITH VIDEO EQUIPMENT, AT THAT TIME I
21 THINK IT WAS STOLEN AND SOMEHOW IN HIS POSSESSION.

22 THE COURT: SO FROM THAT YOU THOUGHT HE WASN'T
23 GOING TO COME BACK?

24 THE WITNESS: BECAUSE THE SCRIPT STATED THAT THE
25 PERSON WAS NOT COMING BACK. THE SCRIPT STATED -- SOMEHOW
26 THE SCRIPT WAS ABOUT SOMEBODY DISAPPEARING, PLANNING THEIR
27 OWN MURDER.

28 MR. MC MULLEN: THANK YOU.

1 BY MR. MC MULLEN:

2 Q MA'AM, IF YOU WILL TURN TO THE LAST PAGE, IT
3 IS EITHER PAGE FOUR OR PAGE FIVE. IS THAT YOUR SIGNATURE?

4 A YES.

5 Q SO BY YOUR SIGNATURE READING THE SENTENCE
6 ABOVE IT YOU ARE DECLARING THAT THE PROCEEDING PAGES ARE
7 TRUE AND CORRECT; IS THAT A FAIR STATEMENT?

8 A TRUE.

9 Q WHY DID YOU BOTH SIGN THE DECLARATION ON THE
10 FIRST PART OF THIS EXHIBIT N AND THE -- YOUR SIGNATURE?
11 WHY DID YOU SIGN THE END OF THE REPORT, IF THERE WERE
12 INACCURACIES?

13 A BECAUSE I WAS TOLD IT WAS OKAY TO.

14 Q I AM SORRY?

15 A I WAS TOLD IT WAS OKAY TO.

16 Q WHO TOLD YOU THAT?

17 A MR. WOOLSEY.

18 Q HE SAID IT WAS OKAY TO SIGN THE DECLARATION?

19 A UH-HUH.

20 Q EVEN THOUGH THERE WERE MISREPRESENTATIONS
21 CONTAINED IN THE DECLARATION?

22 A EXCUSE ME. I DON'T KNOW -- HE JUST SAID I
23 COULD SIGN IT.

24 MR. CRAIN: I AM OBJECTING TO THE TERM
25 MISREPRESENTATIONS. THAT'S A LOADED WORD THAT HAS MANY
26 CONNOTATIONS. I THINK IT MISREPRESENTS THE TESTIMONY OF
27 THE WITNESS.

28 THE COURT: OVERRULED.

1 BY MR. MC MULLEN:

2 Q THAT'S WHAT HE TOLD YOU IN ESSENCE?

3 A HE TOLD ME I COULD SIGN IT. I TOLD HIM THAT
4 THERE ARE THINGS IN HERE THAT I FOUND TO BE INCORRECT
5 AND --

6 Q NOW, IN LOOKING OVER THE REST OF THE EXHIBIT,
7 FOR EXAMPLE, PAGE TWO, WHICH IS THE FIRST PAGE AFTER YOUR
8 DECLARATION, YOU MADE SOME CORRECTIONS THERE, MADE SOME
9 CHANGES?

10 A UH-HUH.

11 Q AND THEN ON PAGE THREE YOU MADE SOME CHANGES
12 OR ONE CHANGE, BUT YOU MADE NO OTHER CHANGES?

13 A I JUST WENT OVER IT, YOU KNOW, AS GOOD AS I
14 COULD AS BRIEFLY AND DID IT BRIEFLY AND MARKED OUT WHAT I
15 THOUGHT THAT I SAW THAT STUCK OUT AND TALKED TO HIM ABOUT
16 THE CONVERSATION PART OF IT, AND THAT WAS IT. IF I HAD
17 KNOWN I WAS SUPPOSED TO SCRUTINIZE I WOULD HAVE DONE A
18 BETTER JOB.

19 Q SO JUST SO I UNDERSTAND WHAT YOU ARE SAYING
20 TODAY, IT IS YOUR IMPRESSION OR YOU ASKED LEVIN, "ARE YOU
21 PLANNING TO LEAVE FOREVER?" I AM SORRY. I DON'T MEAN TO
22 MIS- --

23 A EXCUSE ME. YOU DON'T MEAN --

24 Q I DON'T MEAN TO MISSTATE WHAT YOU JUST
25 TESTIFIED TO, BUT ARE YOU SAYING THAT YOU ASKED RON LEVIN,
26 "ARE YOU PLANNING TO LEAVE FOREVER?"

27 A I ASKED HIM, "WHY DO I GET THE FEELING YOU
28 ARE NOT COMING BACK," SOMETHING LIKE THAT.

1 Q WHAT DID HE SAY?

2 A HE JUST LAUGHED SAID, "MAYBE I WON'T."

3 Q AND YET YOU KNEW YOUR HUSBAND WAS TESTIFYING
4 AT ONE POINT IN A TRIAL IN LOS ANGELES WHERE IT WAS
5 ALLEGED THAT RON LEVIN WAS MURDERED, AND YOU DIDN'T THINK
6 THAT WAS IMPORTANT INFORMATION TO CONVEY TO SOMEBODY?

7 A MY HUSBAND IS A VERY STRONG AND OPINIONATED
8 PERSON. WHEN HE FELT THAT RON LEVIN WAS MURDERED, ANY
9 FEELINGS OR THOUGHTS I HAD I JUST DISMISSED.

10 Q WERE YOU AWARE THAT AT SOME POINT PRIOR TO
11 THE TRIAL YOUR HUSBAND WAS INTERVIEWED BY THE POLICE,
12 BEVERLY HILLS POLICE DEPARTMENT IN PARTICULAR?

13 A YES.

14 Q AND YOU DIDN'T MENTION THESE OBSERVATIONS,
15 YOU ARE TESTIFYING TO, TO EITHER HIM OR THE POLICE AT THAT
16 TIME?

17 A I DON'T BELIEVE I WAS WITH MY HUSBAND THE
18 FIRST TIME HE WAS INTERVIEWED.

19 Q DID IT EVER EVEN CROSS YOUR MIND TO SAY ANY
20 OF THESE THINGS TO THE POLICE OR YOUR HUSBAND?

21 A NO. BECAUSE I FIGURED THE PROSECUTION HAD
22 REASONS AND FACTS THAT I DIDN'T EVEN BOTHER TO THINK THAT
23 ANYTHING I HAD OR SAW HAD ANYTHING THAT WOULD BE IMPORTANT
24 TO THE CASE.

25 Q YOU DIDN'T THINK THAT WAS IMPORTANT THAT HE
26 SAID HE MIGHT BE LEAVING FOR IN -- BASICALLY THE ESSENCE
27 OF THE CONVERSATION WAS THAT HE MIGHT NOT COME BACK?

28 A NO. MY HUSBAND WAS ADAMANT ABOUT THE FACT

1 THAT HE WAS MURDERED OR THE POLICE WERE ADAMANT, WHICH
2 CAUSED MY HUSBAND TO BELIEVE.

3 Q IT IS MY UNDERSTANDING THAT AFTER YOUR
4 HUSBAND CAME BACK FROM SAN MATEO FROM TESTIFYING UP THERE
5 WITH RESPECT TO MR. HUNT'S TRIAL THAT YOU STARTED HAVING
6 SOME KIND OF FLASHBACKS AND YOU STARTED DREAMING OR
7 REMEMBERING SOME OF THESE THINGS?

8 MR. CRAIN: MR. MC MULLEN IS NOT A WITNESS HERE FOR
9 HIM TO MAKE THAT STATEMENT.

10 THE COURT: STATE THE GROUNDS FOR THE OBJECTION.

11 MR. CRAIN: OBJECTION. ASSUMES FACTS NOT IN
12 EVIDENCE.

13 THE COURT: REFRAME THE QUESTION.

14 BY MR. MC MULLEN:

15 Q AT SOME POINT IN TIME DID -- -- EXCUSE ME.

16 AFTER YOUR HUSBAND CAME BACK FROM SAN MATEO
17 DID THE THINGS THAT YOU HAD OBSERVED IN RON LEVIN'S OFFICE
18 WITH RESPECT TO THE TO-DO LIST AND THE SCRIPT, DID THAT
19 COME TO YOUR MIND, OR DID YOU SAY SOMETHING TO YOUR
20 HUSBAND?

21 A WHEN IT CAME TO MY MIND IS AFTER I THINK
22 MR. WOOLSEY OR SOMEBODY INFORMED MY HUSBAND THAT THERE WAS
23 NEW EVIDENCE, THAT'S WHEN THEN MY HUSBAND STARTED HAVING
24 SOME DOUBT THAT MAYBE HE WASN'T MURDERED. THAT'S WHEN IT
25 STARTED BRINGING BACK THOUGHTS IN MY MIND ABOUT SOME OF
26 THE THINGS THAT I HAD HEARD AND SEEN AT MR. LEVIN'S'
27 OFFICE.

28 Q WHAT INFORMATION WERE YOU AWARE OF THAT --

1 WHAT WAS THE INFORMATION THAT YOU WERE AWARE OF THAT WAS
2 RELATED TO YOUR HUSBAND?

3 MR. CRAIN: ASSUMES FACTS NOT IN EVIDENCE.

4 THE COURT: OVERRULED.

5 THE WITNESS: EXCUSE ME. I DON'T UNDERSTAND.

6 BY MR. MC MULLEN:

7 Q YOU HAVE TESTIFIED THAT YOUR HUSBAND OBTAINED
8 SOME KIND OF INFORMATION FROM WOOLSEY OR SOMEBODY FROM THE
9 HUNT DEFENSE TEAM AND -- WHICH CAUSED YOU TO THEN START
10 THINKING OF THESE THINGS THAT YOU HAD OBSERVED. I AM JUST
11 TRYING TO GAIN AN UNDERSTANDING OF WHAT INFORMATION THAT
12 YOU HAD.

13 A YOU MEAN WHAT DID MY HUSBAND TELL ME?

14 Q YES.

15 A I THINK HE TOLD ME SOMETHING TO THE AFFECT
16 THAT THERE WAS SOME SIGHTINGS, THAT PEOPLE HAD SEEN RON
17 LEVIN.

18 Q AND WHAT HAPPENED AFTER THAT? WHAT WENT
19 THROUGH YOUR MIND?

20 A THEN I STARTED THINKING THAT MAYBE I WAS
21 RIGHT ALL ALONG IN MY FEELINGS, THAT HE WASN'T DEAD AND
22 THAT HE WAS ALIVE.

23 Q HOW DID THESE THOUGHTS COME TO YOU?

24 A HOW DO THEY COME TO ME?

25 Q YES.

26 A I DON'T KNOW. HOW DO THOUGHTS COME TO
27 ANYONE? YOU JUST ALL OF A SUDDEN START, YOU MIGHT BE
28 DOING SOMETHING AND YOU REMEMBER A CERTAIN SITUATION.

1 Q DO YOU REMEMBER TESTIFYING IN SAN MATEO THAT
2 YOU HAD FLASHBACKS REGARDING THIS INCIDENT?

3 A FLASHBACKS WAS A POOR WORD TO USE. THAT'S
4 JUST THE WORD I USED TO TRY TO DESCRIBE MEMORY RECALL OR,
5 YOU KNOW.

6 Q DO YOU REMEMBER TESTIFYING THAT YOU BEGAN
7 DREAMING AND REMEMBERING THINGS ABOUT RON LEVIN WITH
8 RESPECT TO THIS PARTICULAR ISSUE, THE TO-DO LIST AND THE
9 SCRIPT?

10 A EXCUSE ME. COULD YOU GIVE ME THE QUESTION
11 AGAIN?

12 MR. CRAIN: IS COUNSEL REFERRING TO A PAGE, BECAUSE
13 IF HE IS I WOULD LIKE THE COURTESY OF HAVING IT CALLED TO
14 MY ATTENTION, YOUR HONOR.

15 THE COURT: RIGHT NOW IT JUST SOUNDS LIKE A
16 QUESTION.

17 MR. MC MULLEN: I AM NOT IMPEACHING HER YET. I AM
18 ASKING HER.

19 THE COURT: GO AHEAD. PUT A QUESTION.

20 MR. MC MULLEN: THANK YOU.

21 BY MR. MC MULLEN:

22 Q DO YOU REMEMBER TESTIFYING IN SAN MATEO THAT
23 YOU HAD DREAMS, YOU DREAMED ABOUT THESE THINGS THAT
24 HAPPENED WITH RESPECT TO RON LEVIN?

25 A YES. BUT I HAVE VERY VIVID DREAMS.

26 Q AND WHAT -- JUST GOING BACK, WHAT TRIGGERED
27 THESE DREAMS OR FLASHBACKS OR RECURRENCES OF MEMORY?

28 A WHEN MY HUSBAND MADE THE STATEMENT, I

1 BELIEVE, THAT WHEN WOOLSEY CALLED HIM THERE WERE SOME NEW
2 SIGHTINGS THAT RON LEVIN -- CONCERNING RON LEVIN.

3 Q I KNOW YOU USED THE TERM "FLASHBACK" EVEN
4 THOUGH YOU ARE SAYING IT IS A POOR CHOICE OF WORDS. HAD
5 YOU EVER HAD SUCH A RECOLLECTION BEFORE, A FLASH OF MEMORY
6 COMING BACK SUCH AS HAPPENED IN THIS PARTICULAR CASE AT
7 THIS PARTICULAR TIME?

8 A I DON'T UNDERSTAND WHAT YOU ARE ASKING ME.

9 Q YOU SAID THAT YOUR HUSBAND'S STATEMENTS TO
10 YOU ABOUT INFORMATION THAT HE HAD GAINED FROM THE HUNT
11 DEFENSE TEAM TRIGGERED SOMETHING IN YOUR MIND, A MEMORY TO
12 COME BACK TO YOU; IS THAT CORRECT?

13 A YES.

14 Q HAS THERE EVER BEEN OCCASION -- HAS THERE
15 EVER BEEN TIMES WITH OTHER SITUATIONS WHERE YOUR MEMORY
16 WAS TRIGGERED LIKE THAT?

17 A THERE IS A LOT OF THINGS THAT HAPPEN IN YOUR
18 LIFE YOU FORGET ABOUT IT OR YOU FLUSH IT OR WHATEVER TERM
19 YOU WANT TO USE, AND THEN YOUR RECALL. MY HUSBAND MIGHT
20 SAY, "DO YOU REMEMBER WHEN WE DID THIS, DO YOU REMEMBER
21 WHEN WE DID THAT." YOU HAVE TO THINK ABOUT IT AND TRY TO
22 RECALL AND PULL IT BACK.

23 Q HOW LONG DID YOU GO THROUGH THIS PROCESS OF
24 THINKING ABOUT THE INCIDENT WITH RON LEVIN IN HIS OFFICE?
25 HOW MUCH TIME WENT BY BEFORE YOU MADE THE DECISION TO DO
26 SOMETHING?

27 MR. KLEIN: ARE WE TALKING ABOUT THE TO-DO LIST?

28 MR. MC MULLEN: YES. THE TO-DO LIST AND THE

1 SCRIPT. I AM FOCUSING ON THAT.

2 THE WITNESS: HOW LONG DID IT TAKE ME?

3 BY MR. MC MULLEN:

4 Q YES.

5 YOUR HUSBAND GIVES YOU THE INFORMATION AND
6 THEN YOU BEGIN TO HAVE THESE MEMORY RECURRENCES?

7 A I DON'T KNOW. I WOULD THINK IT IS AROUND THE
8 SAME TIME.

9 Q SO IF I UNDERSTAND YOU CORRECTLY, THEN, PRIOR
10 TO THAT POINT IN TIME WHEN YOUR HUSBAND RELAYED THIS
11 INFORMATION ALL OF THESE OBSERVATIONS YOU MADE WITH
12 RESPECT TO LEVIN AND THE TO-DO LIST AND THE SCRIPT WEREN'T
13 EVEN IN YOUR MIND?

14 A NO. I DISMISSED IT FOR VARIOUS REASONS.
15 NUMBER ONE, LIKE I TOLD YOU, MY HUSBAND IS VERY STRONG AND
16 OPINIONATED, HE FELT HE WAS MURDERED.

17 AND, NUMBER TWO, RON ALWAYS WHEN HE MADE A
18 STATEMENT ALWAYS TOOK IT BACK. SO I NEVER KNEW HALF THE
19 TIME WHEN RON IS SERIOUS OR NONSERIOUS.

20 Q JUST GOING BACK TO THE MOVIE SCRIPT.

21 MR. MC MULLEN: YOUR HONOR, REFERRING TO VOLUME 38
22 PAGE 322 OF THE TRANSCRIPT OF THE SAN MATEO PROCEEDINGS
23 JUNE 24, 1992, STARTING AT LINES --

24 MR. CRAIN: WHAT PAGE?

25 MR. MC MULLEN: 322. I AM SORRY.

26 MR. CRAIN: I THINK IT ONLY -- IT ONLY GOES 319.

27 MR. MC MULLEN: I AM SORRY. I WILL WITHDRAW THAT.

28

1 BY MR. MC MULLEN:

2 Q YESTERDAY YOU TESTIFIED THAT YOU HAD JUST
3 GLANCED AT THIS MOVIE SCRIPT; IS THAT CORRECT --

4 A YES.

5 Q -- WHEN YOU WERE IN LEVIN'S OFFICE?

6 A UH-HUH.

7 THE COURT: IS THAT "YES"?

8 THE WITNESS: YES: SORRY.

9 BY MR. MC MULLEN:

10 Q OKAY.

11 WHAT IS IT THAT CAUSED YOU TO DETERMINE THAT
12 HE WAS PLANNING TO DISAPPEAR BASED UPON YOUR GLANCING AT
13 THAT SCRIPT?

14 A BECAUSE -- EXCUSE ME.

15 WHAT ARE YOU ASKING ME? WHAT --

16 Q YOU SAID YOU JUST GLANCED AT THE SCRIPT YOU
17 SAW ON HIS DESK.

18 A I LEAFED THROUGH IT, IS WHAT I SAID, DIDN'T
19 I?

20 Q YES. YOU LEAFED THROUGH IT.

21 WHAT DID YOU SEE WHEN YOU LEAFED THROUGH IT,
22 I MEAN, THAT LED YOU TO BELIEVE THAT HE WAS PLANNING TO
23 DISAPPEAR?

24 A THERE WAS -- BECAUSE SOME OF THINGS THAT
25 STUCK OUT THERE WERE THINGS THAT PERTAINED TO WHAT WAS
26 GOING ON IN HIS LIFE AT THAT TIME.

27 Q LIKE WHAT, FOR INSTANCE?

28 A LIKE VIDEO EQUIPMENT WHICH AT THAT TIME THERE

1 WAS STOLEN VIDEO EQUIPMENT INVOLVED, THE NAME EDWARD, THE
2 NAME SHERRY, GOING ON A TRIP TO NEW YORK, AND I BELIEVE
3 NOT COMING BACK. IT HAD SOMETHING TO DO WITH WHAT WAS
4 HAPPENING IN HIS LIFE AT THAT TIME.

5 Q LET'S TAKE THEM ONE A TIME.

6 WHAT WAS IT ABOUT THE VIDEO EQUIPMENT THAT
7 LED YOU TO BELIEVE THAT HE WAS GOING TO DISAPPEAR?

8 A BECAUSE THERE WAS SOMETHING GOING ON IN HIS
9 LIFE AT THAT TIME THAT HAD SOMETHING TO DO WITH VIDEO
10 EQUIPMENT. I THINK IT HAD BEEN STOLEN. ALL THE FACTS I
11 DON'T KNOW ABOUT IT.

12 Q RIGHT. WAS WHAT THE NEXT THING? THE NAME
13 EDWARD WAS MENTIONED. WHAT WAS IT ABOUT THE NAME EDWARD
14 THAT LED YOU TO BELIEVE THAT YOU THOUGHT HE WAS GOING TO
15 DISAPPEAR?

16 A EDWARD IS MY HUSBAND'S MIDDLE NAME.

17 Q AND WHY WOULD THAT LEAD YOU TO BELIEVE --

18 A I AM NOT STATING THAT THE NAME EDWARD WAS
19 RIGHT NEXT TO THE WORD DISAPPEARANCE. I AM STATING I JUST
20 LEAFED THROUGH IT, SO THERE ARE SECTIONS THAT I PICKED
21 OUT. I PULLED OUT THINGS. LIKE THE NAME EDWARD I PULLED
22 OUT. I DON'T KNOW WHAT WAS WRITTEN ABOUT EDWARD OR WHAT
23 WAS WRITTEN ABOUT SHERRY, WHICH IS MY HUSBAND'S EX-WIFE'S
24 NAME. I JUST PULLED OUT THOSE TWO NAMES WHEN I WAS
25 LEAFING THROUGH, AND I READ A SENTENCE SOMEWHERE WHEN I
26 WAS LEAFING THROUGH THAT HAD TO DO WITH VIDEO EQUIPMENT.

27 Q YOU ALSO READ SOMETHING ABOUT A TRIP TO NEW
28 YORK?

1 A YES.

2 Q AND FOR SOME REASON YOU THOUGHT THAT
3 MENTIONING OF A TRIP TO NEW YORK IN A MOVIE SCRIPT MEANT
4 THAT HE WAS GOING TO DISAPPEAR IN YOUR MIND?

5 A YES. THAT'S IF, OF COURSE, THAT WAS A MOVIE
6 SCRIPT THAT I WAS LOOKING AT. IT LOOKS LIKE TO ME IT WAS
7 TYPEWRITTEN LIKE IT WAS BUT --

8 Q YOU DESCRIBED AT ONE POINT IN TIME YOU WENT
9 INTO MR. LEVIN'S APARTMENT AND HE SHOWED YOU ALL KINDS OF
10 NEW STYLE CLOTHING THAT HE HAD PURCHASED?

11 A YES.

12 Q AND IF I REMEMBER CORRECTLY, CORRECT ME IF I
13 AM WRONG, THE NEW STYLE TYPE CLOTHING HE HAD WAS IN HIS
14 CLOSET; IS THAT CORRECT?

15 A ALONG WITH HIS SUITCASE THAT IS -- HE WAS
16 GETTING READY TO PACK.

17 THE COURT: HOLD ON.

18 HOW DID YOU KNOW HE WAS GETTING READY TO PACK
19 A SUITCASE THAT WAS IN THE CLOSET?

20 THE WITNESS: BECAUSE HE TOLD ME HE WAS GETTING
21 READY TO PACK, THAT HE WAS GOING ON A TRIP. BECAUSE I
22 INVITED HIM TO A DINNER ENGAGEMENT.

23 THE COURT: HOW DO YOU KNOW HE HAD SUITCASES?

24 THE WITNESS: THEY WERE RIGHT ON THE FLOOR NEXT TO
25 HIS CLOTHES THAT HUNG UP ABOVE IT.

26 THE COURT: HE POINTED OUT TO YOU THE SUITCASES?

27 THE WITNESS: NO. WHEN I WAS LOOKING AT HIS
28 CLOTHES I SAW THE LUGGAGE.

1 THE COURT: HOW DO YOU KNOW HE WAS USING THAT TO
2 PACK?

3 THE WITNESS: IT WAS BRAND-NEW LUGGAGE HE HAD JUST
4 GOTTEN? HE TOLD ME HE BOUGHT IT TO GO ON THIS TRIP.

5 BY MR. MC MULLEN:

6 Q WHAT TRIP WAS THAT?

7 A I ASSUME IT IS THE TRIP TO NEW YORK.

8 Q WITH RESPECT TO HIS NEW CLOTHES THAT WERE IN
9 HIS CLOSET, HOW FULL WAS THAT CLOSET WITH THE NEW CLOTHES?
10 WAS IT PACKED OR WERE THERE JUST A FEW THINGS IN THERE?

11 A IT WASN'T PACKED. NO, IT WAS.

12 Q FULL? HALF FULL?

13 A HE JUST -- I DON'T KNOW. I COULDN'T ANSWER
14 THAT BECAUSE I WOULD ONLY BE GUESSING. I KNOW IT WASN'T
15 AS FULL AS WHEN HIS OTHER CLOTHES WAS IN THE CLOSET, BUT
16 HE WAS JUST IN THE PROCESS OF BUYING ALL THIS NEW CLOTHES.

17 Q SO ALL HIS OLDER STYLE, MORE-TAILORED CLOTHES
18 WERE ON HIS BED, I THINK?

19 A THEY WERE ALL LAID OUT NEAT IN THE ROOM,
20 BOXES STACKED UP, SHOES, HIS SUITS WERE LAID OUT NEATLY ON
21 THE BED.

22 Q WERE -- WITH RESPECT TO THE SUITS OR GARMENTS
23 THAT WERE ON THE BED, WAS THERE A LOT OF CLOTHES ON THE
24 BED?

25 A THERE WAS A LOT OF CLOTHES IN THE ROOM, YES.
26 ON THE FLOOR, ON THE CHAIR, SOME BOXES STACKED ON TOP OF
27 THE T.V., THE BED WAS FULL.

28 Q SO HE HAD AN OLDER TYPE OF STYLE OF SHOE THAT

1 HE WAS GOING TO GET RID OF?

2 A I WOULDN'T CALL IT OLDER TYPE.

3 Q DIFFERENT -- I AM SORRY. DIFFERENT TYPE
4 STYLE OF SHOE THAT HE WAS GETTING RID OF?

5 A YES.

6 Q AND WERE THERE LOTS OF PAIRS OF THOSE SHOES
7 THAT HE WAS GETTING RID OF?

8 A YES.

9 Q AND WHERE WERE THEY LOCATED, THE ONES HE WAS
10 GETTING RID OF?

11 A THEY WERE STACKED UP NICE AND NEAT ON THE
12 FLOOR.

13 Q WHAT WOULD YOU DESCRIBE THE STYLE OF THOSE
14 SHOES TO BE?

15 A GEES, MY HUSBAND IS THE FASHION EXPERT. I
16 THINK, I BELIEVE I SAID YESTERDAY BROOKS BROTHERS, YOU
17 KNOW, THE TRADITIONAL WING TIPS, OR THE ONES -- THE SHOES
18 WITH THE PERFORATED HOLES. THEY LOOKED VERY BUSINESS
19 LIKE. I THINK THEY LOOKED LIKE --

20 Q AND THE NEW TYPE OF SHOES THAT HE HAD THEY
21 WERE IT IN THE CLOSET?

22 A YES.

23 Q AND HOW WOULD YOU DESCRIBE THE STYLE OF SHOES
24 THAT HE HAD IN THE CLOSET?

25 A LIKE COLHANE LOAFERS. JUST VERY CASUAL, THEY
26 LOOKED LIKE.

27 MR. MC MULLEN: I JUST HAVE THREE PHOTOGRAPHS I
28 WOULD LIKE TO HAVE MARKED, YOUR HONOR.

1 THE COURT: ARE THEY ON YOUR EXHIBIT LIST?

2 MR. MC MULLEN: NO, THEY ARE -- WE HAD ANTICIPATED
3 THEY WOULD BE COMING UP WITH THE TRIAL EXHIBITS, AND I
4 JUST HAVE THEM HERE.

5 THE COURT: THEY STILL SHOULD BE ON YOUR EXHIBIT
6 LIST IF YOU PLAN ON MARKING THEM. WE HAVE GOT TO SOLVE
7 THIS PROBLEM. I WANT EVERYTHING ON THE EXHIBIT LIST. WE
8 ARE GOING TO HAVE A GOOD RECORD, COUNSEL.

9 MR. MC MULLEN: IT WOULD BE EXHIBIT R, ACTUALLY.

10 MR. KLEIN: WE OBJECT. THAT'S IN VIOLATION OF THE
11 COURT'S ORDER, AND WE HAVE HAD NO OPPORTUNITY TO PREPARE
12 WITH RESPECT TO THESE PHOTOGRAPHS.

13 THE COURT: THIS IS -- I AM GIVEN TO BELIEVE THIS
14 IS ON THE EXHIBIT LIST.

15 MR. MC MULLEN: IT IS DESCRIBED ON THE EXHIBIT LIST
16 AS EXHIBIT R, A PHOTOGRAPH OF LEVIN'S CLOSET. THERE ARE
17 THREE PHOTOGRAPHS ACTUALLY. IT IS IN THE EVIDENTIARY
18 HEARING MEMO REFERRED TO AS WELL.

19 THE COURT: ALL RIGHT.

20 MR. CRAIN: I HAVE SEEN THEM.

21 MR. KLEIN: OKAY.

22 THE COURT: OKAY.

23 MR. MC MULLEN: MAYBE --

24 THE COURT: YOU GUYS ARE GOING TO IN THE NEXT
25 COUPLE OF DAYS GET TOGETHER ON THE EXHIBIT LIST, GO
26 THROUGH IT, LOOK AT EVERY EXHIBIT. I WANT EVERYONE TO
27 KNOW EXACTLY WHAT IS EACH EXHIBIT NO. THAT IS MARKED. NO
28 SURPRISES. EVERYTHING IS ON THE EXHIBIT LIST.

1 NOW, YOU HAVE THREE THERE?

2 MR. MC MULLEN: YES.

3 THE COURT: SO THAT'S GOING TO HAVE TO BE EXHIBIT
4 R-1, -2 AND -3.

5 MR. MC MULLEN: YES.

6

7 (MARKED FOR ID ^ DEF. R-1 THROUGH R-3,
8 PHOTOGRAPHS.)

9

10 MR. MC MULLEN: R-1 FOR THE RECORD IS A PHOTOGRAPH
11 OF A CLOSET WITH TOWELS ON THE LEFT-HAND SIDE OF THE
12 PHOTOGRAPH.

13 THE COURT: IF YOU HAVE GOT ONE R-1, -2 AND -3 OF
14 THEM, THAT'S ALL WE NEED. THEY SPEAK FOR THEMSELVES.

15 MR. MC MULLEN: ALL RIGHT.

16 MAY I APPROACH THE WITNESS?

17 THE COURT: YES.

18 BY MR. MC MULLEN:

19 Q I AM SHOWING YOU WHAT'S BEEN MARKED AS R-1
20 RIGHT IN FRONT OF YOU, MA'AM. DO YOU RECOGNIZE THE
21 PICTURE OF THAT CLOSET? DO YOU RECOGNIZE THAT CLOSET?

22 A IT IS BEEN SO LONG. IT LOOKS LIKE IT.

23 Q LOOKS LIKE WHAT?

24 A SEE, I REMEMBER ENTERING THE CLOSET FROM THE
25 BEDROOM.

26 Q LET ME SHOW YOU R-3. DOES THIS LOOK FAMILIAR
27 TO YOU, THAT PHOTOGRAPH?

28 A SEE, IT IS HARD FOR ME TO TELL BECAUSE WHEN I

1 ENTERED THE BEDROOM I ENTERED THE CLOSET THAT WAS -- AS
2 YOU ENTER THE BEDROOM THAT WAS ON THE RIGHT.

3 Q SHOWING YOU WHAT'S BEEN MARKED AS R-2, DO YOU
4 RECOGNIZE WHAT'S SHOWN IN THAT PHOTOGRAPH?

5 A THAT LOOKS LIKE A CLOSET.

6 Q DOES IT LOOK LIKE A CLOSET THAT YOU
7 RECOGNIZE?

8 A THIS ONE, NO. THIS ONE (INDICATING) --
9 MR. MC MULLEN: REFERRING TO R-2, FOR THE RECORD.

10 THE COURT: R-2 YOU DON'T RECOGNIZE, R-3 YOU DO?

11 THE WITNESS: THIS LOOKS MORE FAMILIAR TO WHAT --

12 THE COURT: INDICATING R-3.

13 BY MR. MC MULLEN:

14 Q LOOKS FAMILIAR AS BEING RON LEVIN'S CLOSET?

15 A YES.

16 Q ARE THERE ANY --

17 A BUT IT IS NOT A VERY GOOD PICTURE.

18 PERSONALLY.

19 Q OKAY.

20 THE COURT: WELL, IT IS WHAT IT IS.

21 PUT A QUESTION.

22 MR. MC MULLEN: YES.

23 BY MR. MC MULLEN:

24 Q ARE THERE ANY CLOTHES IN HERE THAT YOU
25 RECOGNIZE AS BEING THE NEW STYLE OF CLOTHES THAT YOU
26 REMEMBER RON LEVIN SHOWING YOU AT THAT TIME?

27 A NO.

28 MR. CRAIN: THIS IS IRRELEVANT, YOUR HONOR. THE

1 PICTURES.

2 THE COURT: OVERRULED.

3 MR. CRAIN: WELL, IS THERE A FOUNDATION FOR WHEN
4 THIS PICTURE WAS TAKEN?

5 THE COURT: I ASSUME IT WILL BE TIED UP AT SOME
6 POINT.

7 MR. CRAIN: I DOUBT THAT.

8 MR. MC MULLEN: YES, YOUR HONOR.

9 THE COURT: COUNSEL, JUST STATE THE GROUNDS FOR THE
10 OBJECTION. IF I NEED ANY HELP, I WILL LET YOU KNOW.

11 GO.

12 BY MR. MC MULLEN:

13 Q DO YOU RECOGNIZE ANY OF THE CLOTHES AS BEING
14 THE NEW STYLE OF CLOTHING THAT RON LEVIN SHOWED YOU?

15 A NOT THAT I CAN SEE IN THIS PICTURE.

16 Q WHICH ONE ARE YOU REFERRING TO?

17 THAT WOULD BE R-3. HOW ABOUT --

18 A BUT YOU CAN'T SEE THEM VERY WELL EITHER.

19 Q I UNDERSTAND.

20 R-1 -- ARE ANY OF THE CLOTHES IN THERE OR DO
21 THEY LOOK LIKE THE NEW STYLE OF CLOTHING THAT RON LEVIN
22 SHOWED YOU?

23 A IT DOESN'T -- I AM NOT SURE, BUT IT DOESN'T
24 APPEAR IN THIS ONE EITHER.

25 Q HOW ABOUT HIS OLDER STYLE OF DRESS. DO ANY
26 OF THE CLOTHES IN EITHER -- WELL, LET'S START WITH R-3.
27 DO ANY OF CLOTHES IN R-3 LOOK LIKE THE OLDER STYLE
28 CLOTHING THAT HE HAD LAID OUT IN HIS BED AND OTHER AREAS

1 OF HIS ROOM?

2 A YES.

3 Q WHICH ONE IN PARTICULAR OR ONES, IF YOU COULD
4 POINT THEM OUT?

5 A THE DARK BLUE SUITS, THE GRAY. HE LOVED
6 GRAY. THE TRADITIONAL --

7 THE COURT: IS THAT R-1?

8 MR. MC MULLEN: R-3.

9 THE WITNESS: AND THIS RIGHT HERE LOOKS FAMILIAR
10 (INDICATING).

11 THE COURT: INDICATING EITHER -- THEY APPEAR TO BE
12 EITHER SUITS OR JACKETS ON THE BOTTOM ROW OF --

13 THE WITNESS: IT LOOKS LIKE A HOUNDSTOOTH. IT
14 LOOKS LIKE.

15 BY MR. MC MULLEN:

16 Q HOW ABOUT IN R-1, WHICH IS THE ONE RIGHT
17 THERE?

18 A THESE LOOK LIKE SOME OF THE CASUAL PLAY
19 CLOTHES THAT HE WORE.

20 THE COURT: INDICATING ON THE BOTTOM RACK.

21 BY MR. MC MULLEN:

22 Q WOULD THAT BE THE OLDER STYLE OR THE NEWER
23 STYLE?

24 A THE OLDER STYLE.

25 Q SHOWING R-2. DO ANY OF THOSE SHOES LOOK LIKE
26 THE KIND OF SHOES THAT RON LEVIN SHOWED YOU ON THAT DAY
27 WITH RESPECT TO THE NEWER STYLE CLOTHING THAT HE WORE,
28 NEWER STYLE SHOES?

1 A NO.

2 Q DO ANY OF THEM APPEAR TO BE THE OLDER STYLE
3 THAT HE HAD LAYING AROUND HIS ROOM OR STACKED UP IN BOXES?

4 A YES.

5 Q WHICH ONES?

6 A MANY. THE TENNIS SHOES HE WORE A LOT OF. I
7 CAN'T SEE -- OVER HERE IS A BUNCH OF SHOES YOU CAN'T EVEN
8 SEE. IN FACT, SOME OF THESE LOOK LIKE DRESS SHOES, BUT I
9 CAN'T SEE THEM.

10 Q THANK YOU.

11 MA'AM, DID YOU EVER SEE RON LEVIN DRESS IN
12 ANY OF THE NEW STYLE CLOTHING THAT HE SHOWED ON YOU THAT
13 DAY?

14 A NO.

15 Q DO YOU REMEMBER BEING --

16 MR. MC MULLEN: AND I AM GOING TO REFER NOW FOR
17 COUNSEL'S REFERENCE TO A REPORT OF AN INTERVIEW BY
18 DETECTIVE LES ZOELLER DATED APRIL 20TH, 1992.
19 BY MR. MC MULLEN:

20 Q MA'AM, DO YOU REMEMBER BEING INTERVIEWED BY
21 LES ZOELLER ON APRIL 20TH, 1992?

22 A I THINK HE BASICALLY INTERVIEWED MY HUSBAND.

23 Q DO YOU REMEMBER TALKING TO HIM AT THAT TIME
24 AT ALL?

25 A IF I DID, IT WAS BRIEF.

26 Q DO YOU REMEMBER TELLING HIM WITH RESPECT TO
27 YOUR OBSERVATIONS OF THE TO-DO LIST THAT RON LEVIN'S
28 HOUSE, THAT IT WAS APPROXIMATELY THREE TO SIX OR MAYBE

1 EVEN UP TO EIGHT WEEKS BEFORE LEVIN'S DISAPPEARANCE THAT
2 YOU SAW THAT LIST IN HIS OFFICE?

3 A I REMEMBER TELLING HIM I WASN'T SURE.

4 Q DO YOU REMEMBER TELLING HIM THOSE WORDS THAT
5 I HAVE JUST SAID TO YOU?

6 A I REMEMBER HIM TRYING TO PINPOINT ME FOR A
7 TIME, AND I REMEMBER TELLING HIM I WASN'T SURE. WHAT
8 STICKS OUT IN MY MIND ABOUT THAT INTERVIEW WAS THE FACT
9 THAT HE WANTED TO TIE A ROBBERY IN WITH THE INCIDENT THAT
10 I WAS TRYING TO EXPLAIN TO HIM ABOUT THE BEATING THAT RON
11 HAD TAKEN.

12 MR. MC MULLEN: I WOULD MOVE TO STRIKE THAT LAST
13 PART AS BEING NONRESPONSIVE.

14 MR. CRAIN: I THINK IT IS PART OF HER ANSWER.

15 THE COURT: IT WILL GO OUT. IT WAS NONRESPONSIVE.

16 BY MR. MC MULLEN:

17 Q YOU ARE --

18 THE COURT: THE LAST PART ABOUT "WHAT I THOUGHT HE
19 WAS TRYING TO INVESTIGATE WITH THE ROBBERY."

20 MR. MC MULLEN: THANK YOU

21 BY MR. MC MULLEN:

22 Q YOU ARE ACTUALLY UNCERTAIN ABOUT WHEN YOU SAW
23 THE TO-DO LIST AT LEVIN'S, ARE YOU NOT?

24 A I AM SORRY.

25 WHAT ARE YOU ASKING ME?

26 Q YOU ARE ACTUALLY UNCERTAIN AS TO WHEN IT IS
27 THAT YOU CLAIM TO HAVE SEEN THE TO-DO LIST AT RON LEVIN'S?

28 A YOU MEAN AS TO DATE?

1 Q WHEN -- AS TO WHEN IT HAPPENED WITH REFERENCE
2 TO HIS DISAPPEARANCE.

3 A NO, I AM NOT NOW.

4 Q WHAT IS YOUR RECOLLECTION NOW?

5 A I BELIEVE, I SAID STATED YESTERDAY, THAT MY
6 CHILD'S BIRTHDAY, HE WAS BORN IN 1983, THAT HE TURNED ONE
7 YEAR OLD ON MARCH 31ST OF '84, AND IT WAS AFTER THAT TIME
8 THAT THESE INCIDENTS TOOK PLACE.

9 Q RIGHT.

10 BUT INCLUDING THE TO-DO LIST AND THE BRUISED
11 FACE OF LEVIN; CORRECT?

12 A YES. THERE WAS LIKE FOUR INCIDENTS.

13 Q DO YOU REMEMBER TESTIFYING IN SAN MATEO THAT
14 THAT IT MIGHT HAVE BEEN A COUPLE OF DAYS, A COUPLE OF
15 WEEKS OR A COUPLE OF MONTHS BEFORE HIS DISAPPEARANCE?

16 MR. KLEIN: CAN WE HAVE A PAGE.

17 THE COURT: DO YOU HAVE A CITATION?

18 MR. MC MULLEN: YES.

19 VOLUME 37 TRANSCRIPT OF SAN MATEO PROCEEDINGS
20 THAT OCCURRED ON JUNE 23, 1992, PAGE 88, LINES 19 THROUGH
21 25.

22 BY MR. MC MULLEN:

23 Q DO YOU REMEMBER TESTIFYING TO THAT?

24 A I VIVIDLY RECALL --

25 MR. MC MULLEN: THE 23TH.

26 DO YOU HAVE THE 23TH?

27 I AM SORRY. IT SHOULD BE VOLUME 37. IS THAT
28 VOLUME 37? THAT'S WHAT MINE SHOWS.

1 MR. CRAIN: WELL --

2 BY MR. MC MULLEN:

3 Q I AM SORRY.

4 DO YOU REMEMBER TESTIFYING TO THAT?

5 A I REMEMBER TRYING TO EXPLAIN TO THEM THAT I
6 COULDN'T GIVE THEM AN ACCURATE DATE, AND THEY KEPT TRYING
7 TO WANT ME TO ESTIMATE. THAT'S WHAT I REMEMBER ABOUT THE
8 TRIAL. THAT IS WHAT STICKS OUT IN MY MIND, THAT HE KEPT
9 TRYING TO GET ME, TO PINPOINT ME TO AN EXACT TIME AND
10 DATE.

11 Q AND YOU COULDN'T REMEMBER EXACTLY?

12 A NO. AND I BELIEVE I SAID THAT, DIDN'T I?

13 Q AGAIN, YOU JUST STATED THAT BETWEEN THE TIME
14 OF YOUR SON'S BIRTHDAY ON MARCH 13, 1985, ABOUT THE TIME
15 THAT YOU BECAME KNOWN, BECAME AWARE OF LEVIN'S
16 DISAPPEARANCE, YOU CLAIM THAT YOU SAW RON LEVIN AT HIS
17 APARTMENT, HIS FACE HAD BEEN BRUISED AND HE HAD BEEN BEAT
18 UP AND HE RELATED THAT TO YOU; IS THAT CORRECT?

19 A HE SHOWED ME.

20 MR. MC MULLEN: MAY I REFER COUNSEL TO VOLUME 38
21 PROCEEDINGS IN SAN MATEO JUNE 24TH, AT PAGE 12, LINES 19
22 THROUGH -- STARTING AT LINE 19. ACTUALLY, STARTING AT
23 LINE 17.

24 BY MR. MC MULLEN:

25 Q QUESTION (READING):

26 "Q NOW, FIRST LET THE JURY KNOW
27 WHAT THIS INCIDENT IS THAT YOU ARE
28 REFERRING TO.

1 A OKAY. THE INCIDENT I AM
2 REFERRING TO IS ABOUT SIX TO EIGHT
3 MONTHS PRIOR TO RON'S DISAPPEARANCE.
4 HE WAS VERY UPSET, AND HE CALLED ME
5 IN AND HE TOLD ME -- HE SAID HE
6 WANTED TO TELL ME SOMETHING AND HE
7 WAS BEING VERY GRAPHIC. HIS FACE
8 WAS ALL SWOLLEN ON ONE SIDE, HIS
9 LOOK -- LOOKS LIKE IT WAS BLACK AND
10 BLUE" -- EXCUSE ME -- "BLUE AND
11 BLACK. HIS LIP WAS CUT AND HIS
12 BACK -- HE SAID HIS BACK WAS
13 HURTING."

14 CONTINUING ON PAGE 22. (READING):

15 "HE SAID THAT A BLACK MAN HAD
16 COME TO THE DOOR, RANG THE DOORBELL,
17 HE WENT TO ANSWER IT, WHICH RON HAS
18 A DEADBOLT ON IT LIKE A METAL DOOR,
19 AND THE BLACK MAN SAID HE HAD
20 SOMETHING FOR HIM TO SIGN. WHEN
21 RONNIE WENT TO OPEN THE DOOR, THE
22 MAN PUSHED HIS WAY THROUGH AND
23 STARTED BEATING ON HIM."

24 DO YOU REMEMBER TESTIFYING TO THAT, MA'AM?

25 A NOT REALLY BUT, YES.

26 THE COURT: WELL, DO YOU OR NOT?

27 THE WITNESS: I DON'T REMEMBER VIVIDLY LIKE THE WAY
28 HE READ IT, BUT I REMEMBER STATING SOMETHING ABOUT THE

1 BEATING, YES.

2 BY MR. MC MULLEN:

3 Q WITH RESPECT TO THE TO-DO LIST THAT YOU SAW
4 IN RON LEVIN'S OFFICE, YOU ASKED -- I REMEMBER YOU
5 TESTIFYING YESTERDAY THAT YOU ASKED ABOUT KILLING THE DOG.
6 DID YOU ASK HIM ABOUT ANYTHING ELSE THAT YOU OBSERVED ON
7 THE TO-DO LIST LIKE -- YOU MENTIONED SOMETHING ABOUT HANDS
8 OR CUFFS OR HANDCUFFS? DID YOU ASK HIM ABOUT THAT?

9 A NO.

10 Q WHY NOT?

11 A BECAUSE WHETHER HE IS DOING A MOVIE, WHETHER
12 IT WAS REAL OR NOT MY CONCERN WAS WHY IN ANY WAY WOULD HE
13 HAVE TO KILL A DOG.

14 Q YOU ALSO TESTIFIED YESTERDAY THAT AT THAT
15 POINT IN TIME IN YOUR CONVERSATION HE HAD GOTTEN OFF THE
16 TELEPHONE AND HE HAD CALMED DOWN A LITTLE BIT; IS THAT
17 CORRECT?

18 A YES.

19 MR. MC MULLEN: REFERRING COUNSEL TO VOLUME 38
20 TRANSCRIPT OF THE SAN MATEO PROCEEDINGS THAT OCCURRED ON
21 THE 24TH OF JUNE, 1992, PAGE 95, LINES 1 THROUGH 8
22 STARTING AT LINE 1.

23 BY MR. MC MULLEN:

24 Q (READING):

25 "Q DID YOU TALK WITH HIM ABOUT
26 THE HANDCUFFS?

27 A NO."

28 Q DID YOU TALK WITH HIM ABOUT

1 ANYTHING ELSE THAT YOU SAW ON THE
2 TO-DO LIST?

3 A NO. BECAUSE THAT'S WHEN HE
4 GOT UPSET AND WENT INTO, "I AM NOT
5 GOING BACK TO JAIL." THAT'S WHEN HE
6 FLIPPED OUT AND WENT INTO THAT, AND
7 WE SPENT THAT TIME ON THAT BEFORE I
8 LEFT."

9 DO YOU REMEMBER TESTIFYING TO THAT IN
10 SAN MATEO?

11 A NO. BUT I DID.

12 Q SO HE DID GET UPSET?

13 A IT HAS BEEN A LONG TIME SINCE THAT TRIAL, AND
14 I HAVE HAD OTHER THINGS ON MY MIND TO DEAL WITH OTHER THAN
15 THINKING ABOUT THAT. SO YOU WILL HAVE TO EXCUSE ME. I AM
16 SURE I SAID IT. DO I REMEMBER IT?

17 Q SO HE WAS --

18 THE COURT: WHAT'S THE ANSWER. DO YOU REMEMBER IT
19 OR DON'T YOU REMEMBER IT?

20 THE WITNESS: YES.

21 BY MR. MC MULLEN:

22 Q SO HE WAS UPSET AFTER HE GOT OFF THE
23 TELEPHONE, WHEN YOU MENTIONED THAT TO HIM ABOUT WHAT YOU
24 SAW ON THE TO-DO LIST?

25 A HE WAS UPSET ENOUGH TO YANK IT AWAY FROM ME.

26 Q BUT WHEN YOU TALKED WITH HIM LATER, BECAUSE
27 HE WAS STILL ON THE PHONE WHEN HE YANKED IT AWAY FROM YOU;
28 IS THAT CORRECT?

1 A YES. THAT'S WHEN I PICKED UP THE SCRIPT, I
2 BELIEVE, OR WHAT LOOKED TO BE A SCRIPT.

3 MR. MC MULLEN: REFERRING COUNSEL TO -- AND THIS
4 HAS TO DO WITH THE SIZE OF THE SCRIPT THAT MS. MARMOR
5 OBSERVED.

6 REFERRING YOU TO TRANSCRIPT OF THE
7 PROCEEDINGS JUNE 24, 1992, WHICH WOULD BE VOLUME 38, PAGE
8 85, STARTING AT LINE 3.

9 BY MR. MC MULLEN:

10 Q (READING):

11 "Q WHEN YOU SAY YOU PICKED UP
12 THE SCRIPT, HOW MANY PIECES OF PAPER
13 WAS IT?

14 A IT LOOKED LIKE IT WAS ABOUT
15 10 TO 12 PIECES OF PAPER."

16 MA'AM, DO YOU REMEMBER TESTIFYING TO THAT?

17 MR. KLEIN: I AM GOING TO OBJECT. THIS IS IMPROPER
18 IMPEACHMENT. THERE HAS NOT BEEN AN INCONSISTENT STATEMENT
19 OR CONSISTENT STATEMENT.

20 THE COURT: OVERRULED.

21 THE WITNESS: AT THAT TIME IN THE TRIAL --

22 THE COURT: I THINK THE QUESTION IS: DO YOU
23 REMEMBER SAYING THAT?

24 THE WITNESS: NO. BUT --

25 THE COURT: PUT A QUESTION.

26 BY MR. MC MULLEN:

27 Q MA'AM, BEFORE YOU CAME INTO COURT AND
28 TESTIFIED YESTERDAY DID YOU REVIEW ANY MATERIALS?

1 A NO.

2 Q NOTHING WAS PROVIDED TO YOU TO REVIEW, YOUR
3 TRANSCRIPT OR REPORTS OR ANYTHING?

4 A I WAS PROVIDED WITH IT. I DIDN'T HAVE TIME.

5 Q WHAT WAS PROVIDED TO YOU, IF YOU KNOW?

6 A I GUESS MY TRANSCRIPT FROM THE OTHER TRIAL.

7 Q WHO PROVIDED THOSE TO YOU?

8 A THE ATTORNEY.

9 Q HOW LONG AGO WAS THAT PROVIDED TO YOU?

10 A IT WAS LATE FRIDAY, I THINK.

11 Q HAVE YOU TALKED TO ANYBODY PRIOR TO
12 TESTIFYING?

13 A NO.

14 Q YOU HAVE NOT TALKED --

15 MR. CRAIN: OBJECTION. THAT'S AN INCOMPREHENSIVE
16 QUESTION. SHE TALKED ABOUT WHAT OR WHEN.

17 THE COURT: REFRAME THE QUESTION.

18 BY MR. MC MULLEN:

19 Q HAVE YOU TALKED TO ANYBODY FROM THE HUNT
20 TEAM, SO TO SPEAK, ABOUT YOUR TESTIMONY BEFORE YOU CAME IN
21 TODAY?

22 MR. CRAIN: THE HUNT TEAM?

23 THE COURT: SUSTAINED.

24 MR. CRAIN: THANK YOU

25 BY MR. MC MULLEN:

26 Q HAVE YOU TALKED TO ANY OF THE HUNT
27 INVESTIGATORS, PRIVATE INVESTIGATORS THAT ARE WORKING FOR
28 MR. HUNT?

1 MR. CRAIN: AT WHAT POINT IN TIME, YOUR HONOR? THE
2 CASE GOES BACK TO THE WITNESSES'S OBSERVATIONS --

3 THE COURT: I THINK --

4 MR. CRAIN: -- 12 YEARS AGO.

5 THE COURT: I THINK THREE QUESTIONS EARLIER HE GOT
6 THAT PART IN, MESSED UP THE BACK END. I THINK HE IS
7 TALKING SINCE FRIDAY.

8 BY MR. MC MULLEN:

9 Q I AM JUST TRYING TO -- YOU COMING IN TO
10 TESTIFY YESTERDAY, WITHIN THE LAST FEW WEEKS OR A COUPLE
11 OF MONTHS, HAVE YOU TALKED TO ANY DEFENSE PRIVATE
12 INVESTIGATORS EMPLOYED BY MR. HUNT ABOUT YOUR TESTIMONY?

13 A PRIVATE INVESTIGATOR?

14 Q YES.

15 A NO.

16 Q HAVE YOU TALKED TO ANY OF THE HUNT LAWYERS
17 WITHIN THE LAST COUPLE OF WEEKS, COUPLE OF MONTHS ABOUT
18 YOUR TESTIMONY YESTERDAY AND TODAY?

19 A I TALKED TO SOMEONE FRIDAY.

20 Q DO YOU REMEMBER WHO THAT WAS?

21 A YES.

22 Q WHO WAS THAT?

23 A MR. CRAIN.

24 Q YOU TALKED ABOUT YOUR TESTIMONY?

25 A BRIEFLY.

26 Q YOU ARE SYMPATHETIC TO MR. HUNT, ARE YOU NOT?

27 A I DON'T KNOW MR. HUNT.

28 Q BUT ARE YOU SYMPATHETIC TO HIM?

1 A NO.

2 Q YOU REFUSED TO TALK TO THE PEOPLE'S
3 INVESTIGATORS, DIDN'T YOU?

4 A YES.

5 Q WHY IS THAT?

6 A BECAUSE THE WAY THEY TREATED ME AT THE TRIAL.

7 Q WHICH TRIAL WAS THAT?

8 A IN REDWOOD CITY.

9 Q DO YOU REMEMBER THE NAMES OF THOSE
10 INVESTIGATORS?

11 A NO.

12 Q BUT YOU REFUSED TO TALK TO THE INVESTIGATORS
13 FROM THE OFFICE OF THE DISTRICT ATTORNEY'S IN LOS ANGELES
14 COUNTY ABOUT YOUR TESTIMONY?

15 A I WAS SICK AND THEY WEREN'T VERY NICE.

16 Q BASICALLY THEN, YOU HAVE BEEN COOPERATIVE
17 WITH MR. HUNT AND HIS LAWYERS, BUT YOU HAVE NOT BEEN
18 COOPERATIVE --

19 A I HAVEN'T BEEN COOPERATIVE WITH MR. HUNT. I
20 PREFER NOT TO BE HERE, PERIOD.

21 MR. MC MULLEN: MAY I HAVE JUST ONE MOMENT, YOUR
22 HONOR?

23 THE COURT: YES.

24

25 (PAUSE)

26

27 BY MR. MC MULLEN:

28 Q DID YOU TALK TO TAMMY GONGOLFO PRIOR TO

1 TESTIFYING WITHIN THE LAST COUPLE OF WEEKS, LAST COUPLE OF
2 MONTHS BEFORE TESTIFYING?

3 A NO.

4 Q DO YOU REMEMBER TAMMY GONGOLFO?

5 A I BELIEVE SHE WAS THE ATTORNEY IN REDWOOD
6 CITY. I AM NOT SURE.

7 Q HAVE YOU TALKED TO HER -- DID YOU TALK TO HER
8 PRIOR TO TESTIFYING IN REDWOOD CITY?

9 A NO.

10 Q HOW DID YOU COME TO KNOW TAMMY GONGOLFO?

11 A IN REDWOOD CITY.

12 Q WHAT WERE THE CIRCUMSTANCES AROUND YOU
13 MEETING HER?

14 A I JUST MET HER BRIEFLY. I DON'T KNOW WHO SHE
15 IS.

16 THE COURT: DO YOU SEE HER IN THE COURTROOM?

17 THE WITNESS: YES.

18 THE COURT: DO YOU KNOW THAT SHE IS MARRIED TO
19 MR. HUNT?

20 THE WITNESS: NO, I DIDN'T.

21 THE COURT: HAVE YOU TALKED TO HER ABOUT THIS CASE
22 IN THE LAST WEEK?

23 THE WITNESS: NO, I HAVEN'T.

24 MR. CRAIN: ALSO, I WOULD BE WILLING TO STIPULATE
25 THAT IN MR. HUNT'S TRIAL IN SAN MATEO SHE WAS APPOINTED BY
26 THE COURT AS A PARALEGAL FOR THE DEFENSE.

27 THE COURT: I THINK YOU GET STIPULATIONS FROM
28 COUNSEL NOT FROM THE COURT.

1 MR. CRAIN: YES, YOUR HONOR.

2 THE COURT: DON'T OFFER -- ASK TO SPEAK TO OPPOSING
3 COUNSEL BEFORE YOU STIPULATE.

4 MR. MC MULLEN: I WAS DISTRACTED.

5 THE COURT: YOU GUYS CAN TALK ABOUT IT ELSEWHERE.
6 WORK OUT STIPULATIONS OUTSIDE THE COURT.

7 MR. MC MULLEN: THANK YOU.

8 YOUR HONOR, WE HAVE NO FURTHER QUESTIONS.

9 THE COURT: I HAVE A COUPLE OF QUESTIONS.

10 YOUR FIRST CONTACT WITH MR. LEVIN WAS PRETTY
11 UNPLEASANT FROM WHAT YOU DESCRIBED?

12 THE WITNESS: YES.

13 THE COURT: HE CAME IN THE BANK. HE WAS PRETTY
14 RUDE, PRETTY OBNOXIOUS?

15 THE WITNESS: YES.

16 THE COURT: YOU DIDN'T LIKE HIM?

17 THE WITNESS: I JUST SAW WHAT TYPE OF PERSON HE
18 WAS. THAT STUFF DOESN'T BOTHER ME, DOESN'T COME INTO ME,
19 THAT'S WHAT HE IS, DOESN'T MAKE ME. I DON'T TAKE IT
20 PERSONALLY. I JUST WOULDN'T OPEN THE ACCOUNTS. I STAYED
21 WITHIN WHAT I WAS SUPPOSED TO DO, MY LEGAL RIGHTS, NOT TO
22 OPEN THE ACCOUNTS. I REFERRED HIM TO THE BRANCH MANAGER,
23 LET THE BRANCH MANAGER TAKE OVER.

24 THE COURT: DID HE COMPLAIN TO THE BRANCH MANAGER
25 ABOUT YOU?

26 THE WITNESS: YES, HE DID.

27 THE COURT: DID THAT CAUSE YOU ANY PROBLEMS?

28 THE WITNESS: NOT AT ALL.

1 THE COURT: DID THIS CAUSE YOU TO MAKE SOME KIND OF
2 JUDGMENT ABOUT MR. LEVIN?

3 THE WITNESS: WELL, WE ALL -- WHEN WE SEE PEOPLE
4 LIKE THAT, YOU KNOW, WE KNOW THAT'S NOT A NICE PERSON, NOT
5 SUCH A NICE PERSON. WE KIND OF KEEP -- I WOULDN'T WANT TO
6 BE IN BUSINESS WITH HIM.

7 THE COURT: THAT'S WHAT I AM ASKING. YOU MADE A
8 COUPLE OF REFERENCES DURING YOUR TESTIMONY, "HE IS THAT
9 KIND OF A PERSON." WHAT KIND OF A PERSON?

10 THE WITNESS: NOT AN HONEST PERSON. HE TAKES
11 ADVANTAGE OF PEOPLE.

12 THE COURT: SO YOU DIDN'T LIKE HIM.

13 THE WITNESS: I DIDN'T LIKE HIM OR DISLIKE HIM. I
14 JUST WOULDN'T GO INTO BUSINESS WITH HIM.

15 THE COURT: THAT'S WHAT I AM TRYING TO UNDERSTAND.
16 YOU HAD THIS VERY NEGATIVE CONTACT WITH HIM AT THE
17 BEGINNING, YET YOU WERE NEIGHBORS WITH HIM?

18 THE WITNESS: YES.

19 THE COURT: YOU SAW HIM ON A REGULAR BASIS?

20 THE WITNESS: YES.

21 THE COURT: HE CALLED YOU INTO HIS APARTMENT AND
22 EXPRESSED SOME THOUGHTS TO YOU OF A PERSONAL NATURE?

23 THE WITNESS: YES.

24 THE COURT: YOU DIDN'T THINK THAT WAS UNUSUAL?

25 THE WITNESS: NO. BECAUSE HE WAS VERY FRIENDLY
26 WITH MY HUSBAND. HE DIDN'T DO TO ME WHAT HE DID TO OTHER
27 PEOPLE BECAUSE OF THE FACT WHO I WAS MARRIED TO, SO I
28 DIDN'T GET THE BRUNT OR THE EXTENT FROM THAT POINT AFTER

1 MY HUSBAND INTRODUCED ME TO HIM LIKE WHAT I SAW AT THE
2 BANK.

3 THE COURT: BUT YOU ARE WILLING TO STILL SOCIALIZE
4 WITH HIM?

5 THE WITNESS: I WOULDN'T CALL IT SOCIALIZING.

6 THE COURT: YOU WERE IN HIS APARTMENT HOW MANY
7 TIMES?

8 THE WITNESS: I DON'T KNOW. WHENEVER MY HUSBAND
9 WOULD GO OVER I WOULD GO OVER WITH HIM, AND SOMETIMES IF I
10 WAS GOING SHOPPING OR GOING OUT AND HE CALLED ME IN, I
11 WOULD GO IN AND LISTEN. I WASN'T IN THERE FOR LONG, LONG
12 PERIODS OF TIME BUT --

13 THE COURT: HOW MANY TIMES WOULD YOU SAY THAT YOU
14 WERE IN MR. LEVIN'S APARTMENT?

15 THE WITNESS: IN THE TIME THAT I KNEW HIM?

16 THE COURT: YES.

17 THE WITNESS: 10 MAYBE 20 TIMES. I COULDN'T EVEN
18 BEGIN TO COUNT OR TELL YOU. WE MIGHT GO OVER AND HAVE
19 DINNER. I MEAN, HE MIGHT STOP OVER AND TELL MY HUSBAND
20 SOMETHING, WHAT'S HAPPENING WITH HIM DURING THE DAY.

21 THE COURT: I DIDN'T UNDERSTAND THIS, YOU SAID YOU
22 KNEW YOUR HUSBAND WAS GOING TO TESTIFY BUT YOU DIDN'T KNOW
23 ABOUT WHAT.

24 THE WITNESS: I KNEW IT WAS CONCERNING RON LEVIN.
25 THE PARTICULARS OF MY HUSBAND AND I -- HE NEVER DISCUSSED
26 IT WITH ME. I NEVER ASKED. HE NEVER DISCUSSED IT WITH
27 ME.

28 THE COURT: BUT YOU KNEW IT WAS A MURDER CASE,

1 WASN'T IT?

2 THE WITNESS: I KNEW IT WAS RON LEVIN.

3 THE COURT: YOU DIDN'T KNOW IT WAS ABOUT A MURDER
4 CASE?

5 THE WITNESS: DOWN THE ROAD I SUPPOSE MY HUSBAND
6 SAID HE WAS MURDERED BECAUSE ONCE MY HUSBAND BELIEVED THAT
7 I HAD NO REASON TO THINK THAT ANYTHING -- I DIDN'T KNOW
8 THAT ANYTHING I KNEW WAS RELEVANT TO THE CASE.

9 THE COURT: WHY DO YOU SAY THAT? YOU SAY THAT YOU
10 THOUGHT HE HAD FLED, WAS GONE?

11 THE WITNESS: WELL, BUT MY HUSBAND WAS VERY STRONG.
12 HE WAS ADAMANT ABOUT THE FACT THAT HE WAS MURDERED.

13 THE COURT: SO THAT LEAD YOU TO BELIEVE THAT
14 MR. LEVIN HAD BEEN MURDERED?

15 THE WITNESS: I FIGURED THAT IF THEY GOT SOMEBODY
16 IN JAIL AND THE MAN HAS BEEN MURDERED THEY HAVE GOT GOOD
17 CAUSE AND GOOD REASON TO BELIEVE, SO ANYTHING I THOUGHT
18 AND FELT I JUST DISMISSED.

19 THE COURT: BUT YOU HAD MENTIONED DURING YOUR
20 TESTIMONY THAT YOU THOUGHT MR. LEVIN HAD GONE ON PERMANENT
21 VACATION?

22 THE WITNESS: IN THE BACK OF MY MIND I ALWAYS FELT
23 THAT. EVEN THOUGH I DISMISSED THE STRONG URGES OR
24 FEELINGS ABOUT HIM, IN THE BACK OF MY MIND MAYBE HE IS
25 MISSING. MY HUSBAND SAID, "NO. HE WAS MURDERED." SO I
26 JUST DISMISSED THE STUFF IN MY MIND UNTIL THE INVESTIGATOR
27 SAID THERE WAS SIGHTINGS, THAT CAUSED ME TO REALLY START
28 THINKING ABOUT MAYBE I WAS RIGHT, MAYBE HE IS MISSING.

1 THE COURT: YOU HAD DREAMS ABOUT THIS?

2 THE WITNESS: THAT'S WHEN I STARTED TALKING TO MY
3 HUSBAND ABOUT MY DREAMS. I MAY GO TO SLEEP AND THEN START
4 THINKING ABOUT OR IN MY DREAMS ABOUT SOME OF THE
5 SITUATIONS AND HOW RONNIE WAS ACTING, ALL THOSE THINGS,
6 AND THEY WEREN'T JUST DREAMS. I MEAN, I COULD BE IN THE
7 KITCHEN DOING SOMETHING AND SOME OF THESE THINGS WOULD
8 COME BACK. I WOULD START THINKING ABOUT IT.

9 THE COURT: WHY?

10 THE WITNESS: BECAUSE WHEN THEY SAW SIGHTINGS OF
11 RON LEVIN IT BOTHERS ME BECAUSE MY HUSBAND WAS ADAMANT
12 ABOUT HIM BEING MURDERED. AND THEN I STARTED THINKING
13 MAYBE HE REALLY ISN'T, MAYBE THEN WHAT I DID SEE AND HEARD
14 WAS MAYBE FOR REAL AND MAYBE I SHOULD HAVE SAID SOMETHING.
15 THAT'S WHAT STARTED IT ALL, THAT'S WHEN I STARTED THINKING
16 AFTER -- THAT IS WHEN I STARTED DISCUSSING IT WITH MY
17 HUSBAND.

18 THE COURT: YOU KNEW YOUR HUSBAND WAS GOING TO BE
19 TESTIFYING ABOUT LEVIN. YOU NEVER MENTIONED IT TO HIM
20 THAT YOU THOUGHT HE WAS STILL ALIVE?

21 THE WITNESS: I AM MIGHT HAVE MENTIONED IT ONCE OR
22 TWICE. I THINK THAT HE JUST TOOK -- MY HUSBAND SAID, "NO,
23 HE WOULDN'T DO THAT. HE WOULDN'T DO THAT WITHOUT TELLING
24 ME."

25 THE COURT: WERE YOU EVER PRESENT WHEN YOUR HUSBAND
26 WAS INTERVIEWED BY THE POLICE?

27 THE WITNESS: NO. THE FIRST TIME I DON'T KNOW
28 WHERE THAT WAS. I THINK MY HUSBAND WENT DOWN THERE. I AM

1 NOT SURE. AND THE SECOND TIME THAT, I THINK THE POLICE
2 CAME, I THINK IT WAS AT THE APARTMENT. AND LIKE I TOLD
3 YOU, HE INTERVIEWED MY HUSBAND MORE THAN HE DID ME. I
4 JUST REMEMBER STATING SOMETHING ABOUT A BEATING, BUT HE
5 DIDN'T ASK ME. HE WAS ASKING MY HUSBAND QUESTIONS.

6 THE COURT: SO THE POLICE DID NOT TALK TO YOU?

7 THE WITNESS: EVEN THOUGH I WAS THERE I DON'T FEEL
8 THAT HE WAS TALKING TO ME. HE WAS TALKING TO MY HUSBAND.
9 I BELIEVE I LEFT, TOO, BEFORE IT WAS OVER WITH.

10 THE COURT: HOW ABOUT EARLIER WHEN YOUR HUSBAND WAS
11 TESTIFYING IN THE TRIAL AS -- PRIOR TO HIS TESTIMONY WERE
12 YOU EVER PRESENT WHEN THE POLICE TALKED TO YOUR HUSBAND?

13 THE WITNESS: NO.

14 THE COURT: WERE YOU EVER PRESENT WHEN ANYBODY
15 TALKED TO YOUR HUSBAND ABOUT THE CASE?

16 THE WITNESS: NO.

17 THE COURT: YOU HAVE REFERRED TO RON OR RONNIE IN
18 THE PRESENT TERM, PRESENT TENSE, I SHOULD SAY. WHY IS
19 THAT?

20 THE WITNESS: WHY DO I REFER --

21 THE COURT: IN THE PRESENCE TENSE.

22 THE WITNESS: I DON'T KNOW.

23 THE COURT: MR. CRAIN?

24 MR. CRAIN: CAN I HAVE JUST A MOMENT?

25 THE COURT: YES.

26

27 (PAUSE.)

28

REDIRECT EXAMINATION +

BY MR. CRAIN:

Q MS. MARMOR, I HATE TO GET INTO YOUR PERSONAL AFFAIRS TOO MUCH, BUT LET ME ASK YOU JUST A COUPLE OF THINGS ABOUT THE RELATIONSHIP YOU HAVE WITH YOUR HUSBAND.

YOU HAVE TOLD US HE IS A STRONG-WILLED INDIVIDUAL; IS THAT RIGHT?

A YES.

Q AND ON A SCALE OF ONE TO TEN, TEN BEING THE MOST STRONG-WILLED, WHERE WOULD YOU PLACE MR. MARMOR?

A A 20.

Q AND IS HE THE TYPE OF PERSON THAT SHARES ALL OF HIS BUSINESS WITH YOU?

A NONE.

Q AND IS HE THE TYPE OF PERSON THAT TAKES ORDERS FROM YOU?

A NO, HE DOES NOT.

Q IS IT SUCH THAT --

A HE GIVES ORDERS; HE DOESN'T TAKE THEM.

Q IS IT SUCH THAT IF HE WERE INVOLVED AS A WITNESS THAT HE WOULD BE -- IS IT HIS NATURE TO EXPLAIN TO YOU IN ANY KIND OF DETAIL WHAT IT WAS HE WAS BEING CALLED AS A WITNESS TO TESTIFY ABOUT OR NOT?

A MY HUSBAND'S NATURE IS NOT TO EXPLAIN ANYTHING TO ME IN DETAIL.

Q AND HAS IT ALWAYS BEEN THAT WAY THROUGH YOUR MARRIAGE?

1 A YES, IT HAS.

2 Q NOW, YOU TOLD US THAT WHILE THE CASE WAS
3 GOING ON, AT LEAST DURING THAT PERIOD OF TIME THAT YOU
4 KNEW THAT YOUR HUSBAND WAS BEING CALLED TO TESTIFY AS A
5 WITNESS, YOU NEVER KNEW WHAT THE EVIDENCE WAS IN THE CASE
6 THAT WAS BEING PRESENTED AT THE COURTHOUSE; IS THAT RIGHT?

7 A THAT'S CORRECT.

8 Q AND DO YOU HAVE ANY INTEREST IN THE OUTCOME
9 OF THE PROCEEDINGS IN THIS COURTROOM OR MR. HUNT'S LEGAL
10 FUTURE? DO YOU HAVE ANY INTEREST IN THAT ONE WAY OR THE
11 OTHER?

12 A NO, I DON'T.

13 Q DO YOU HAVE ANY INTEREST IN GETTING PUBLICITY
14 FOR YOURSELF BY BEING A WITNESS IN THIS CASE?

15 A NO, I DON'T. I DIDN'T WISH TO BE HERE.

16 Q WOULD YOU RATHER YOU NOT BE TESTIFYING AND
17 NOT GET ANY PUBLICITY?

18 A CORRECT.

19 Q NOW, YOU SAID THAT MANY, MANY YEARS AGO, OVER
20 20 YOU -- APPROXIMATELY 20 YEARS AGO YOU MET MR. LEVIN AT
21 THE BANK, AND HE WAS OBNOXIOUS; RIGHT?

22 A CORRECT.

23 Q AND THEREAFTER BY COINCIDENCE YOU MET HIM AND
24 BECOME MORE ACQUAINTED WITH HIM BECAUSE OF YOUR HUSBAND;
25 RIGHT?

26 A CORRECT.

27 Q AND DO YOU HAVE ANY -- BECAUSE OF ANY
28 FEELINGS THAT YOU HAVE ABOUT MR. LEVIN DO YOU HAVE ANY

1 INTEREST IN OR IS YOUR TESTIMONY EFFECTED IN ANY WAY BY
2 ANY VIEWS YOU MIGHT HAVE ABOUT MR. LEVIN, EITHER FAVORABLE
3 OR UNFAVORABLE?

4 A I HAVE NONE. LIKE I SAID, ONCE MY HUSBAND
5 INTRODUCED ME TO MR. LEVIN, I DIDN'T -- I DIDN'T CATCH THE
6 UGLY SIDE OF RON LEVIN. HE WAS RESPECTFUL.

7 Q YOU KNEW OF HIS REPUTATION AS A CON MAN; IS
8 THAT RIGHT OR NOT?

9 A NOT REALLY. THAT WASN'T DISCUSSED WITH ME
10 EITHER, BUT I COULD TELL. I MEAN, FROM THE BANK SOMEBODY
11 THAT IS COMING UP TO OPEN UP FOUR CORPORATE ACCOUNTS
12 WITHOUT ANY IDENTIFICATION IS NOT A VERY HONEST PERSON.

13 Q YOU ALSO TOLD US TODAY THAT HALF THE TIME YOU
14 NEVER KNEW IF HE WAS SERIOUS, REFERRING TO MR. LEVIN, YOU
15 NEVER KNEW HALF THE TIME IF HE WAS SERIOUS OR NOT SERIOUS.
16 WHAT DO YOU MEAN BY THAT?

17 A HE WOULD MAKE STATEMENTS AND THEN HE WOULD
18 TAKE IT BACK. SO YOU COULDN'T TELL WHETHER THE STATEMENT
19 HE MADE WAS ACTUALLY FACT OR WHETHER HE WAS JUST -- HE'LL
20 SAY, "I AM KIDDING," OR, "I AM JOKING." HE WOULD NEVER
21 LET YOU KNOW WHERE HE STOOD.

22 Q WAS HE SOMEONE WHO TRIED TO, AT LEAST IN YOUR
23 EXPERIENCE, KEEP THE OTHER PERSON OFF GUARD AS TO --

24 A OFF BALANCE.

25 Q -- OFF BALANCE, I SHOULD SAY, AS TO -- THAT'S
26 PROBABLY A BETTER WAY TO DESCRIBE IT -- AS TO WHAT HE WAS
27 THINKING OR WHAT HIS TRUE PLANS OR INTENTIONS REALLY WERE?

28 A CORRECT.

1 Q WAS HE ALWAYS THAT WAY DURING THE TIME THAT
2 YOU KNEW HIM AFTER YOU MOVED INTO THE RESIDENCE ON PECK?

3 A YES.

4 Q NOW, YOU SAID THAT MR. WOOLSEY -- DURING 1991
5 YOU LEARNED FROM YOUR HUSBAND ABOUT SOME NEW EVIDENCE IN
6 THE CASE THAT THERE HAD BEEN SOME PEOPLE THAT HAD SEEN
7 MR. LEVIN; IS THAT RIGHT?

8 A CORRECT.

9 Q YOU GAVE AN INTERVIEW TO MR. WOOLSEY; IS THAT
10 RIGHT?

11 A CORRECT.

12 Q NOW, THE OTHER DAY -- I INTERVIEWED YOU
13 FRIDAY EVENING?

14 A YES.

15 Q AND I OFFERED YOU TO TAKE THE TRANSCRIPTS OF
16 YOUR TESTIMONY IN SAN MATEO AND TO READ THEM, IF YOU
17 WANTED TO READ THEM, OR NOT READ THEM, IF YOU DIDN'T THINK
18 IT WAS NECESSARY; IS THAT RIGHT?

19 A CORRECT.

20 Q AND YOUR TESTIMONY HERE IS THAT YOU TOOK
21 THEM, BUT YOU DIDN'T READ THEM; RIGHT?

22 A CORRECT.

23 Q YOU HAVEN'T READ ANY REPORTS OR ANYTHING OF
24 YOUR TESTIMONY IN 1992; IS THAT CORRECT?

25 A THAT'S CORRECT.

26 Q AND YOU GAVE THE SAME -- WITHOUT GETTING INTO
27 QUESTION BY QUESTION -- THINGS YOU TESTIFIED ABOUT HERE
28 TODAY AND YESTERDAY WERE THE SAME THINGS THAT YOU

1 TESTIFIED ABOUT BEFORE THE JURY IN SAN MATEO; IS THAT
2 RIGHT?

3 A I THINK SO, YES.

4 Q AND IN YOUR TALKING TO MR. WOOLSEY YOU TOLD
5 HIM ABOUT, IF YOU RECALL -- IF YOU NEED TO LOOK AT HIS
6 REPORT, THAT'S FINE. IF YOU REMEMBER IT, DID YOU TELL HIM
7 ABOUT LEVIN SAYING HE WAS CONCERNED ABOUT GOING BACK TO
8 JAIL, THAT HE HAD BEEN BEATEN UP, VIDEO EQUIPMENT,
9 WARDROBE CHANGE, SEEING THE TO-DO LIST AND ALL OF THAT?

10 A YES.

11 Q NOW, WAS IT ABOUT -- WASN'T IT SOMETHING LIKE
12 AUGUST OF 1984 WHEN THE POLICE, TO YOUR KNOWLEDGE, FIRST
13 INTERVIEWED YOUR HUSBAND? DOES THAT SOUND ABOUT RIGHT, OR
14 DO YOU KNOW?

15 A I CAN'T SAY FOR SURE. I KNOW IT WAS
16 SOMEWHERE AROUND THAT TIME.

17 Q SO IT WAS SOME SIX OR EIGHT WEEKS AFTER
18 LEVIN'S DISAPPEARANCE; IS THAT RIGHT?

19 A YES.

20 Q NOW, YOU STARTED TO SAY SOMETHING TO
21 MR. MC MULLEN, HE DIDN'T LIKE YOUR ANSWER SO HE HAD IT
22 STRICKEN --

23 THE COURT: PLEASE DON'T EDITORIALIZE.

24 MR. MC MULLEN: THANK YOU, YOUR HONOR.

25 BY MR. CRAIN:

26 Q -- ABOUT YOU HAD A CONVERSATION WITH
27 DETECTIVE ZOELLER ABOUT THE LIST; IS THAT RIGHT?

28 A YES.

1 Q WHAT WAS THAT ALL -- WHAT WERE YOU TRYING TO
2 TELL US ABOUT THAT?

3 A HE WAS TRYING TO GET ME TO EXACTLY PINPOINT
4 OR DATE, AND I TRIED TO EXPLAIN TO HIM THAT I COULDN'T DO
5 THAT. AND ONE OF THE THINGS THAT HE WANTED TO PUT
6 TOGETHER WAS A ROBBERY CONNECTED TO THE SAME TIME THAT
7 THERE WAS THAT BEATING I WAS TALKING ABOUT, AND I TRIED TO
8 EXPLAIN TO HIM THERE WASN'T A ROBBERY. THAT I DIDN'T KNOW
9 ANYTHING ABOUT A ROBBERY.

10 Q SO WHEN HE WAS TALKING ABOUT WHEN THINGS
11 HAPPENED WERE YOU PUTTING IT IN RELATION TO SOME ROBBERY,
12 OR JUST WHAT -- OR IF YOU RECALL AFTER ALL THIS TIME?

13 A IT'S BEEN A LONG TIME, AND I CAN'T RECALL. I
14 JUST RECALL THAT THERE WAS SOMETHING THAT HE WAS PUTTING
15 IN WITH IT THAT WASN'T WHAT I WAS SAYING, AND I DIDN'T
16 KNOW ANYTHING ABOUT. AND I TRIED TO EXPLAIN TO HIM THAT I
17 DON'T KNOW. IT IS A LONG TIME. IT IS HARD FOR ME TO
18 REMEMBER.

19 Q NOW, THE DAY THAT YOU SAW THE TO-DO LIST IS
20 THIS THE LAST TIME THAT YOU SAW LEVIN?

21 A YES, IT IS.

22 Q ARE YOU CERTAIN OF THAT?

23 A YES.

24 Q HAVE YOU ALWAYS BEEN CERTAIN OF THAT IN THE
25 TESTIMONY THAT YOU HAVE GIVEN BOTH HERE AND IN SAN MATEO?

26 A YES.

27 Q AND IS IT YOUR TESTIMONY STILL THAT ON THE
28 DATE THAT YOU SAW THE TO-DO LIST LEVIN WAS TALKING ABOUT

1 LEAVING FOR NEW YORK?

2 A YES.

3 Q AND YOU ARE CERTAIN OF THAT; IS THAT RIGHT?

4 A HE TALKED ABOUT IT MORE THAN ONE TIME.

5 Q BUT ON THAT DAY?

6 A BUT ON THAT DAY, YES.

7 Q AND IT WAS AFTER THAT THAT YOU SAW THE TO-DO
8 LIST THAT YOU LEARNED THAT LEVIN HAD DISAPPEARED AND WAS
9 NOT SEEN AGAIN; IS THAT RIGHT?

10 A YES.

11 Q NOW, WHEN YOU SAW THIS SCRIPT AND IT REFERRED
12 TO SHERRY AND EDWARD YOU SAID SHERRY WAS AN EX-WIFE, WAS
13 YOUR HUSBAND'S EX-WIFE, I SHOULD SAY?

14 A YES.

15 Q EDWARD IS HIS MIDDLE NAME?

16 A YES.

17 Q WHAT DID THAT HAVE TO DO WITH YOUR THINKING
18 THAT THIS MIGHT BE SOMETHING RELATED TO REAL LIFE AND
19 LEVIN ACTUALLY DISAPPEARING AS OPPOSED TO SOME MOVIE
20 CHARACTER, IF THAT'S WHAT I UNDERSTAND YOUR TESTIMONY TO
21 HAVE BEEN?

22 A YES. BECAUSE THE PEOPLE AND PLACES WERE
23 REAL, AND THEY WERE THINGS THAT WERE HAPPENING, SO IT MADE
24 ME WONDER, YOU KNOW, "IS IT REALLY A MOVIE SCRIPT, OR IS
25 IT REALLY SOMETHING ELSE?"

26 Q AND DID YOU EVER GET A STRAIGHT ANSWER FROM
27 LEVIN THAT DAY, THE LAST DAY THAT YOU SAW HIM?

28 A NO.

1 MR. CRAIN: IF I MAY HAVE A MOMENT, I WOULD LIKE TO
2 LOOK AT MY NOTES, HERE.

3
4 (PAUSE.)

5
6 MR. CRAIN: MAY I HAVE JUST A MOMENT OR TWO TO SEE
7 IF I HAVE ANY MORE QUESTIONS?

8 THE COURT: YES.

9
10 {A CONFERENCE WAS HELD BETWEEN COUNSEL
11 AND THE RESPONDENT, NOT REPORTED.)

12
13 MR. CRAIN: AT THIS TIME WE DON'T HAVE ANY FURTHER
14 QUESTIONS.

15 THE COURT: ANYTHING FURTHER, MR. MC MULLEN?

16 MR. MC MULLEN: YES, YOUR HONOR, JUST A FEW
17 QUESTIONS.

18
19 RECROSS-EXAMINATION @

20
21 BY MR. MC MULLEN:

22 Q HAVE YOU EVER EXPRESSED AN OPINION TO YOUR
23 HUSBAND?

24 A WHAT DO YOU MEAN?

25 Q AN OPINION THAT YOU HAVE, THAT YOU HAVE --
26 HAVE YOU EVER EXPRESSED AN OPINION TO YOUR HUSBAND?

27 A IN THE BEGINNING WHEN --

28 MR. CRAIN: YOU MEAN ABOUT THE CASE OR IN GENERAL?

1 THAT'S SO BROAD IT IS IRRELEVANT.

2 BY MR. MC MULLEN:

3 Q JUST IN GENERAL, AN OPINION YOU MIGHT HAVE,
4 SOMETHING YOU FEEL STRONGLY ABOUT?

5 A IN LIFE IN GENERAL?

6 Q YES.

7 A YES.

8 Q HAVE YOU EVER EXPRESSED AN OPINION TO YOUR
9 HUSBAND THAT HE HAS NOT AGREED WITH?

10 A YES.

11 Q AND WHAT TYPICALLY IS HIS REACTION TO AN
12 OPINION THAT YOU EXPRESSED TO HIM?

13 A HIS OPINION WOULD ALWAYS BEEN STRONGER THAN
14 MINE. HE WOULD OVERRIDE WHAT I HAD TO SAY AND TELL ME WHY
15 I WAS WRONG.

16 Q ARE YOU SYMPATHETIC TO MR. HUNT'S CAUSE?

17 A NO.

18 Q ARE YOU SYMPATHETIC TO MR. HUNT'S CAUSE
19 INSOFAR AS IT RELATES TO THE CIRCUMSTANCES SURROUNDING HIM
20 AND MR. LEVIN, THE PREDICAMENT HE IS IN NOW?

21 MR. CRAIN: THAT'S AMBIGUOUS.

22 THE COURT: I AM NOT SURE WHAT IT MEANS EITHER.

23 BY MR. MC MULLEN:

24 Q WELL, YOU HAVE HAD A NUMBER OF EXPERIENCES
25 WITH RON LEVIN THAT ARE NEGATIVE; IS THAT CORRECT, THAT'S
26 WHAT YOU HAVE TESTIFIED TO?

27 A I HAD ONE NEGATIVE EXPERIENCE WITH RON LEVIN.
28 I TOLD YOU AFTER I WAS INTRODUCED BY MY HUSBAND, HE WAS

1 WHAT -- BECAUSE OF MY HUSBAND'S VERY STRONG NATURE I NEVER
2 HAD ANY PROBLEMS WITH RON LEVIN FROM THEN ON. HE WAS
3 ALWAYS VERY RESPECTFUL TO ME.

4 Q I GET THE IMPRESSION THROUGHOUT YOUR
5 TESTIMONY THAT YOU THINK MR. LEVIN DISAPPEARED, LEFT FOR A
6 PERMANENT VACATION. IS THAT WHAT YOU ARE BASICALLY SAYING
7 TO US BASED ON WHAT YOU OBSERVED THE LAST TIME YOU SAW
8 HIM?

9 A WHEN I -- THE LAST TIME I TALKED TO HIM IN
10 HIS OFFICE I FIRST THOUGHT THAT HE HAD DISAPPEARED. WHEN
11 MY HUSBAND ADAMANTLY TOLD ME, "NO, HE WAS MURDER," THEN I
12 JUST DISMISSED ANY FEELINGS WHATSOEVER ABOUT RON LEVIN.

13 Q BUT YOU CAME BACK TO YOUR FIRST OPINION?

14 A EXACTLY.

15 Q BASED UPON THAT ARE YOU SYMPATHETIC TO
16 MR. HUNT BECAUSE HE WAS CONVICTED OF THE MURDER OF RON
17 LEVIN?

18 A I DON'T -- HOPE THIS DOESN'T SOUND CRUEL,
19 BUT, NO. I HAVE OTHER THINGS IN MY LIFE THAT I AM
20 CONCERNED ABOUT THAT I HAVE TO THINK ABOUT.

21 Q YOU TESTIFIED THAT YOU JUST GLANCED OR LEAFED
22 THROUGH THIS SCRIPT, BUT YOU WERE ABLE TO GAIN INFORMATION
23 ABOUT THINGS THAT WERE GOING ON TO VARIOUS PEOPLE AND RON
24 LEVIN, RELATING TO RON LEVIN'S LIFE; IS THAT CORRECT?

25 A I DON'T UNDERSTAND.

26 Q YOU JUST HAD A VERY BRIEF PERIOD OF TIME,
27 SECONDS MAYBE TO LOOK AT THIS SCRIPT THAT YOU HAVE
28 TESTIFIED TO, YET YOU WERE ABLE TO GAIN --

1 A I HAD A LITTLE BIT MORE TIME TO LOOK AT THE
2 SCRIPT THAN I DID AT THE PIECE OF PAPER.

3 Q BUT HE PULLED IT OUT OF YOUR HANDS FAIRLY
4 QUICKLY?

5 A THE YELLOW PIECE OF PAPER?

6 Q NO, THE SCRIPT.

7 A THE SCRIPT I WAS LOOKING AT WHILE HIS BACK
8 WAS TO ME. HE WAS ON THE PHONE. WHEN HE TURNED AROUND,
9 WHEN HE WAS OFF THE PHONE, THAT'S WHEN HE TOOK THE SCRIPT
10 AWAY FROM ME.

11 Q BUT THE BRIEF TIME THAT YOU LOOKED AT IT YOU
12 WERE ABLE TO GAIN INFORMATION ABOUT A LOT OF THINGS?

13 A NOT A LOT, WHOLE LOT OF INFORMATION. LIKE I
14 SAID, I PICKED UP TWO NAMES THAT STUCK OUT IN MY MIND
15 BECAUSE OF THE FACT OF WHO THEY WERE. IN MY MIND WHO THEY
16 WERE, EDWARD WOULD BE MY HUSBAND'S MIDDLE NAME, AND SHERRY
17 WOULD BE MY HUSBAND'S EX-WIFE.

18 VIDEO EQUIPMENT STUCK OUT WHEN I SAW THAT, SO
19 I READ A LITTLE BIT FURTHER AND SOMETHING IN THERE SAID
20 STOLEN. I COULDN'T GIVE YOU THE CONTEXT OF WHAT THE
21 SCRIPT WAS WRITTEN ABOUT.

22 IT IS JUST THAT NEW YORK, I SAW SOMETHING ON
23 ONE PAGE ABOUT NEW YORK, LEAVING FOR NEW YORK, YOU KNOW,
24 THINGS LIKE THAT THAT I PULLED OUT OF WHAT WAS
25 TYPEWRITTEN.

26 Q WERE YOU EVER IN AN OFFICE IN ANY OF RON
27 LEVIN'S CORPORATIONS?

28 A NO.

1 THE COURT: ANYTHING ELSE?

2 MR. MC MULLEN: NOTHING FURTHER.

3 THE COURT: ANYTHING FURTHER, MR. CRAIN?

4 MR. CRAIN: JUST BRIEFLY. IF I FORGOT SOMETHING --
5 IT IS ACTUALLY IN RESPONSE TO HIS LAST SERIES OF
6 QUESTIONS.

7

8 FURTHER REDIRECT EXAMINATION +

9

10 BY MR. CRAIN:

11 Q DID YOU DREAM ALL THIS UP, SOME DREAM, OR IS
12 THIS SOME LSD FLASHBACK, TO USE MR. MC MULLEN'S TERMS?

13 THE COURT: THAT'S COMPOUND AND --

14 MR. CRAIN: THAT WAS THE INSINUATION, YOUR HONOR,
15 AND --

16 THE COURT: JUST PUT A QUESTION.

17 MR. CRAIN: WELL, IT IS REALLY UNFAIR TO THE
18 QUESTION --

19 THE COURT: HOLD ON. SAVE IT FOR THE ARGUMENT.

20 PUT A QUESTION.

21 THE WITNESS: I WOULD LIKE TO THINK --

22 THE COURT: PUT A QUESTION.

23 BY MR. CRAIN:

24 Q YOUR TESTIMONY IS THAT BASED ON YOUR
25 RECOLLECTION OF THE EVENTS THAT HAPPENED IN 1984?

26 A MY TESTIMONY IS BASED ON WHAT I SAW AND WHAT
27 I HEARD. AND AS FOR MY MIND, IT IS SOUND. I WOULD BE
28 WILLING TO TAKE A PSYCHOLOGICAL TEST.

1 MR. CRAIN: I DON'T HAVE ANY FURTHER QUESTIONS.

2 THE COURT: ANYTHING FURTHER, MR. MC MULLEN?

3 MR. MC MULLEN: NO, YOUR HONOR.

4 THE COURT: MAY THE WITNESS BE EXCUSED?

5 THE WITNESS: THANK YOU, YOUR HONOR.

6 MR. KLEIN: SUBJECT TO BEING RECALLED.

7 THE COURT: SUBJECT TO SUFFICIENT SHOWING BY EITHER
8 SIDE SHE MAY BE RECALLED.

9 YOU MAY STEP DOWN.

10 DO YOU HAVE THE ABILITY TO REACH THE WITNESS?

11 MR. CRAIN: YES.

12 THE COURT: ALL RIGHT.

13 LET'S TAKE OUR AFTERNOON RECESS. I WILL GIVE
14 YOU 15 MINUTES, MR. CRAIN.

15 MR. CRAIN: HOW LONG?

16 THE COURT: 15 MINUTES SO YOU CAN TALK TO YOUR
17 WITNESS.

18 THE NEXT WITNESS IS MR. ROBINSON?

19 MR. KLEIN: ROBBIE ROBINSON.

20 MR. CRAIN: ROBERT ROBINSON.

21 THE COURT: OKAY.

22

23 (RECESS.)

24

25 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
26 DEPARTMENT NO. 101 IS AGAIN IN SESSION.

27 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
28 RECORD WILL REFLECT ALL COUNSEL AND PETITIONER ARE

1 PRESENT.

2 YOU MAY CALL YOUR NEXT WITNESS.

3 MR. CRAIN: YES, YOUR HONOR.

4 MR. ROBINSON. ROBERT ROBINSON

5
6 ROBERT A. ROBINSON, +

7 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
8 AS FOLLOWS:

9
10 THE CLERK: STAND RIGHT THERE, SIR, FACE ME AND
11 RAISE YOUR RIGHT HAND.

12 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
13 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
14 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
15 SO HELP YOU GOD?

16 THE WITNESS: YES.

17 THE CLERK: PLEASE TAKE THE WITNESS STAND.

18 WOULD YOU STATE AND SPELL YOUR NAME, PLEASE.

19 THE WITNESS: MY NAME IS ROBERT A. ROBINSON,
20 R-O-B-I-N-S-O-N.

21 THE COURT: YOU MAY INQUIRE.

22 MR. CRAIN: THANK YOU

23
24 DIRECT EXAMINATION +

25
26 BY MR. CRAIN:

27 Q MR. ROBINSON, WHAT DO YOU DO FOR A LIVING AT
28 THE PRESENT TIME, SIR?

1 Q AND DURING WHAT YEARS DID YOU WORK FOR THAT
2 BUSINESS, THE CITY NEWS?

3 A FROM 1978 TO 1987.

4 Q NOW, WHAT WAS YOUR ROLE THERE? WHAT KIND OF
5 WORK DID YOU DO?

6 A WELL, MOST OF THE TIME I WAS A REPORTER,
7 MOSTLY THE POLICE SPECIAL REPORTER. FOR A COUPLE OF YEARS
8 I WAS ALSO AN EDITOR, NIGHT SIDE EDITOR.

9 Q AFTER ALL THESE YEARS, DO YOU REMEMBER WHAT
10 YEARS YOU WERE NIGHT SIDE EDITOR?

11 A THE FIRST TWO YEARS. I ASKED TO GO BACK OVER
12 AT THE POLICE BEAT BECAUSE IT WAS MORE EXCITING.

13 Q AND WHERE DID YOU WORK? WAS IT AT ONE
14 LOCATION OR AROUND THE CITY, DIFFERENT PLACES, OR WHAT?

15 A THAT'S MORE -- THE MAJORITY OF THE TIME I WAS
16 WORKING OUT OF THE PRESS ROOM AT PARKER CENTER.

17 Q PARKER CENTER LOCATED A SHORT DISTANCE FROM
18 THIS COURTHOUSE?

19 A I BELIEVE IT IS 150 NORTH LOS ANGELES STREET.

20 Q SO THEY HAVE A PRESS ROOM, THAT'S WHERE YOU
21 WORKED; RIGHT?

22 A THAT'S CORRECT.

23 Q NOW, BACK AT SOME POINT YEARS AGO DID YOU
24 EVER MEET A PERSON BY THE NAME OF RON LEVIN?

25 A YES.

26 Q AND WHERE IS EXHIBIT 1?

27 WHAT DID MR. LEVIN LOOK LIKE GENERALLY
28 SPEAKING, HIS PHYSICAL DESCRIPTION?

1 A OKAY. HE WAS A BIT TALLER THAN AVERAGE. I
2 WOULD SAY ABOUT SIX FOOT OR SO. HE WAS SLENDER. KIND OF
3 ELEGANT, YOU KNOW, HANDSOME, YOU KNOW. HE HAD SILVERY
4 HAIR, SLIGHT BEARD, AND THEN SORT OF A GOATEE. GOOD
5 DRESSER. HE HAD PALE EYES.

6 Q SHOWING YOU EXHIBIT NO. 1, PETITIONER'S 1 --
7 MR. CRAIN: YOUR HONOR, FOR THE RECORD IT'S NOW
8 BEEN PLACED BEFORE THE WITNESS.

9 BY MR. CRAIN:

10 Q DO YOU RECOGNIZE THAT INDIVIDUAL?

11 A OH, YEAH, THAT WAS LEVIN.

12 Q THAT'S RON LEVIN, THE PERSON THAT YOU HAVE
13 BEEN TALKING ABOUT?

14 A CORRECT.

15 Q ABOUT HOW MANY TIMES WOULD YOU SAY THAT YOU
16 CAME IN CONTACT OR HAD SOME CONTACT WITH RON LEVIN?

17 A OKAY. IN THE PRESS ROOM ABOUT HALF A DOZEN
18 TIMES OR SO.

19 Q LET ME JUST STOP YOU RIGHT THERE.

20 WAS THE FIRST TIME THAT YOU MET RON LEVIN IN
21 THE PRESS ROOM AT PARKER CENTER?

22 A CORRECT.

23 Q JUST IN GENERAL, WHAT DID THAT HAVE TO DO
24 WITH?

25 A WELL, HE CAME IN ONE NIGHT, INTRODUCED
26 HIMSELF TO ME. FIRST OFF HE SAID HE WAS TRAINED AS A
27 LAWYER BUT WAS WORKING, DOING, HAD CREATED A VIDEO CAMERA
28 BUSINESS THAT HE AND HIS PARTNER WOULD GO OUT AND GET

1 VIDEOTAPES OF CERTAIN NEWS SCENES LIKE A FIRE, A TRAFFIC
2 ACCIDENT, AND THAT THEY WOULD SELL THIS TO THE TELEVISION
3 STATIONS.

4 Q WHAT DID HE SAY -- WHAT DID HE SAY ABOUT
5 BEING A LAWYER, HAVING TRAINING AS A LAWYER?

6 A HE SAID HE WAS A LAWYER. I MEAN, HE SAID HE
7 HAD A LAW DEGREE. I NEVER HAD ANY REASON TO DISPUTE IT.
8 IT DIDN'T MATTER.

9 Q SO HE EXPRESSED TO YOU THAT HE HAD AN
10 INTEREST IN PART OF THE NEWS GATHERING BUSINESS?

11 A THAT'S RIGHT.

12 Q AND WHAT WAS YOUR INVOLVEMENT IN THIS
13 SUPPOSED TO BE, OR WHAT DID IT BECOME?

14 A OKAY. BACK AT THAT TIME LEVIN AND HIS
15 SHORT-TIME PARTNER WERE IN COMPETITION WITH ANOTHER
16 COMPANY THAT ALSO WENT OUT AS FREELANCE VIDEOTAPE PEOPLE
17 GETTING PICTURES OF ACTION, FIRES, ETC., AND SO WHAT EACH
18 OF THEM WANTED WAS TIPS ON INCIDENTS THAT WOULD MAKE GOOD
19 VIDEO.

20 Q LET ME ASK YOU RIGHT NOW WHAT WAS THE NAME OF
21 THE PARTNER OF MR. LEVIN AT THAT TIME?

22 A THAT WAS BOB TUR.

23 Q IS BOB TUR THE PERSON WHO IS A LOCAL NEWS
24 REPORTER FOR KNX RADIO?

25 A ACTUALLY, HE IS A PILOT, HELICOPTER PILOT.
26 HE DOES LIKE CAMERA WORK. I DON'T THINK HE DOES REPORTING
27 PER SE.

28 Q AND HE FLIES THE KNX CHOPPER AS IT IS KNOWN

1 ON THE RADIO, DO YOU KNOW?

2 A YEAH, I KNOW HE HAS. I DON'T KNOW IF HE
3 STILL IS DOING THAT.

4 Q BUT THAT'S THE SAME PERSON WE ARE TALKING
5 ABOUT?

6 A RIGHT.

7 Q THAT WAS THE BOB TUR BACK THEN?

8 A YES.

9 Q THAT WAS WITH LEVIN; RIGHT?

10 A CORRECT.

11 Q BY THE WAY, DO YOU KNOW MR. HUNT HERE ON A
12 PERSONAL BASIS?

13 A I ONLY MET HIM WHEN HE WAS ON TRIAL UP IN
14 NORTHERN CALIFORNIA.

15 Q DID YOU TESTIFY AS A WITNESS BEFORE THE JURY
16 IN THAT CASE?

17 A YES.

18 Q AND THAT'S THE FIRST TIME THAT YOU MET HIM
19 JUST BEFORE YOU TESTIFIED?

20 A THAT'S THE FIRST TIME I EVER MET HIM. I
21 OBVIOUSLY SAW HIM WHEN HE WAS ON NEWS TAPE ON TELEVISION
22 WHEN HE WAS ARRESTED.

23 Q NOW THEN, CAN YOU TELL US ABOUT WHAT YEAR IT
24 WAS THAT YOU FIRST MET LEVIN WHEN HE CAME TO THE PRESS
25 ROOM AT PARKER CENTER AND INQUIRED ABOUT THE NEWS BUSINESS
26 AND -- AS YOU TOLD US?

27 A OKAY. I THINK IT WAS 1983, IT COULD HAVE
28 BEEN EARLIER, BUT 1983 COMES TO MIND, AND THESE VARIOUS

1 TIMES HE CAME IN WAS '83 AND '84.

2 Q ABOUT HOW MANY TIMES WAS IT THAT YOU MET HIM
3 THERE?

4 A ABOUT A HALF DOZEN TIMES. IT COULD HAVE BEEN
5 MORE.

6 Q WHAT DID YOU SAY -- I AM SORRY. DID I CUT
7 YOU OFF?

8 A THAT'S OKAY.

9 Q WHAT WAS THE LONGEST THAT HE WAS IN YOUR
10 PRESENCE DURING ANY OF THESE VISITS AT THE PRESS ROOM?

11 A OH, HOUR OR SO.

12 Q NOW, DO YOU HAVE ANY MEMORY AT THIS TIME AS
13 TO WHEN THE LAST TIME YOU SAW HIM AT THE PRESS ROOM WAS?

14 A SPRING OF '84.

15 Q HOW DO YOU RECALL THAT?

16 A WELL, HE HAD HAD, I DON'T KNOW WHY IT
17 HAPPENED, BUT HIS PRESS CREDENTIALS LIFTED, AND HE CAME TO
18 ME, ASKED IF I COULD GET HIS PRESS CREDENTIALS REINSTATED.
19 I TOLD HIM, NO, I COULDN'T, WHICH WAS TRUE, I COULDN'T.

20 Q DID HE EXPRESS SOME REASON TO YOU WHY HE
21 WANTED HIS PRESS CREDENTIALS RESTORED?

22 A OF COURSE, HE WANTED TO COVER THE OLYMPICS
23 SINCE THAT WAS THE MAJOR VISUAL STORY THAT WOULD BE IN
24 L.A. THAT YEAR.

25 Q SO THAT WOULD HAVE BEEN IN THE SUMMER
26 OLYMPICS IN LOS ANGELES?

27 A YES. YES, OF COURSE.

28 Q AND IT WAS THAT SPRING, THEN?

1 A RIGHT.

2 Q AND AFTER THAT TIME DID YOU EVER SEE
3 MR. LEVIN AGAIN?

4 A WELL, MUCH TO MY SURPRISE, YES, 1986.

5 Q WHEN WAS THAT? WHEN IN 1986?

6 A FALL. EVEN THOUGH I DIDN'T RECALL
7 IMMEDIATELY I LATER REALIZED IT WAS IN OCTOBER.

8 Q ALL RIGHT.

9 A I THOUGHT IT WAS EARLIER THEN THAT WHEN I
10 FIRST CAME TO THE AUTHORITIES ABOUT IT.

11 Q EARLIER IN WHAT YEAR?

12 A EARLIER IN 1986.

13 Q ALL RIGHT.

14 LET ME, FIRST OF ALL, ASK YOU ABOUT WESTWOOD.
15 WHAT TIME OF DAY APPROXIMATELY WAS IT WHEN THIS INCIDENT
16 TOOK PLACE?

17 A OKAY. IT WAS IN THE AFTERNOON. IT WOULD
18 HAVE BEEN EITHER A FRIDAY AFTERNOON OR A SATURDAY, I AM
19 NOT SURE. IT WAS MY HABIT TO GO TO WESTWOOD AFTER I
20 PICKED UP MY CHECK.

21 Q AND WHAT WERE YOU DOING IN WESTWOOD?

22 A I WAS WAITING IN LINE TO SEE A MOTION
23 PICTURE.

24 Q WHAT WAS THAT MOTION PICTURE?

25 A THAT WAS CROCODILE DUNDEE.

26 Q AND?

27 A IT HAD JUST COME OUT ABOUT A WEEK OR SO
28 EARLIER.

1 MR. CRAIN: COULD I INQUIRY WITH MR. MC MULLEN
2 ABOUT A STIPULATION?

3 THE COURT: SURE.

4 MR. MC MULLEN: YOU WANT US TO DO THAT OUT OF
5 COURT? I THOUGHT IT MIGHT SAVE TIME.

6 THE COURT: IF YOU THINK YOU MIGHT AGREE TO IT, DO
7 IT.

8

9 (PAUSE.)

10

11 MR. CRAIN: YOUR HONOR, THEY ARE JUST ABOUT TO SAY
12 "YES" OR "NO".

13 THE COURT: I WILL ENCOURAGE THEM TO REACH
14 REASONABLE STIPULATIONS.

15 MR. MC MULLEN: I DON'T HAVE PERSONAL KNOWLEDGE OF
16 THE STIPULATION.

17 MR. CRAIN: HOLD IT FOR ANOTHER TIME, JUST HAS TO
18 DO WITH WHEN THE MOVIE OPENED. THERE WAS A STIPULATION AT
19 THE SAN MATEO TRIAL.

20 THE COURT: AS LONG AS IT IS NOT A STIPULATION THAT
21 I HAVE TO WATCH THE MOVIE.

22 GO AHEAD.

23 MR. CRAIN: ALL RIGHT.

24 BY MR. CRAIN:

25 Q WHERE WERE YOU IN WESTWOOD? WHERE WAS THE
26 MOVIE, I SHOULD SAY?

27 A THERE IS A THEATER, I THINK IT IS CALLED THE
28 NATIONAL. IT WAS AT DAILY, AND I DON'T KNOW WHAT THE

1 OTHER STREET IS, ABOUT A BLOCK NORTH OF WILSHIRE.

2 Q RIGHT THERE IN WESTWOOD VILLAGE, IS IT?

3 A YES. AT THAT TIME IT WAS A LARGE BROWN
4 STRUCTURE.

5 Q AND YOU WERE DOING WHAT?

6 A WELL, I WAS IN LINE, WHAT I THOUGHT WAS THE
7 LINE TO BUY A TICKET TO THE MOVIE.

8 Q DID SOMETHING, AS THE PROSECUTION ALWAYS
9 ASKS, DID SOMETHING UNUSUAL HAPPEN?

10 A WELL, I WAS THERE MINDING MY OWN BUSINESS
11 WHEN A PERSON WALKS UP AND SAYS, "HI, ROBBIE." AND I
12 TURNED AND LOOKED AND HERE IS LEVIN. THAT WAS SURPRISING,
13 OF COURSE, SINCE I HADN'T SEEN HIM FOR TWO AND A HALF
14 YEARS, MORE OR LESS AND HAD HEARD THAT HE WAS MISSING.

15 Q HE CAME UP TO YOU AND SAID, "HI, ROBBIE"?

16 A YES.

17 Q YOUR HIS NAME IS ROBERT ROBINSON?

18 A YES.

19 Q WHAT NAME DO PEOPLE CALL YOU BY, FRIENDS AND
20 ACQUAINTANCES?

21 A FRIENDS AND ACQUAINTANCES ALWAYS CALLED ME
22 ROBBIE.

23 Q OKAY.

24 IS THIS THE SAME RON LEVIN THAT YOU HAVE BEEN
25 TELLING US ABOUT AND YOU IDENTIFIED?

26 A LOOKED EXACTLY LIKE HIM TOO. I HAVE TO
27 ASSUME IT WAS. THE SAME MANNERISMS, AND HE KNEW ME. I
28 DIDN'T COME UP TO HIM. I COULDN'T IMAGINE A STRANGER

1 DOING THAT.

2 Q DID HE LOOK ANY DIFFERENT IN ANY WAY OR SOUND
3 ANY DIFFERENT THAN THE LEVIN THAT YOU KNEW?

4 A ESSENTIALLY THE SAME. I MEAN, TWO YEARS
5 OLDER, BUT THAT'S NOT MUCH.

6 Q SO IS IT YOUR TESTIMONY THAT OTHER THAN
7 APPEARING TWO YEARS OLDER THAN THE LAST TIME THAT YOU HAD
8 SEEN HIM THERE WERE NO OTHER DIFFERENCES IN THE PERSON
9 THAT YOU HAD LAST SEEN IN 1984 IN THE SPRING?

10 A I HAVE EVERY REASON TO BELIEVE IT WAS THE
11 SAME PERSON. 100 PERCENT.

12 Q AND HE CALLED YOU BY THE NAME YOU GO BY?

13 A RIGHT.

14 Q THEN WHAT HAPPENED?

15 A WELL, WE HAD NEVER BEEN FRIENDS. WE HAD SOME
16 BUSINESS DEALINGS, BUT -- AND I DIDN'T REALLY TRUST HIM.
17 I JUST WANTED TO BRUSH HIM OFF AND --

18 Q WHY DIDN'T YOU TRUST HIM?

19 A WELL, I MEAN, I HAD HEARD AFTER I FIRST MET
20 HIM THAT HE WAS A CON MAN AND THAT HE HAD BASICALLY
21 SWINDLED SOME PEOPLE OUT OF MONEY, SO I DIDN'T --

22 Q HAD HE EVER SWINDLED YOU?

23 A NO.

24 Q DID YOU EVER --

25 A I DIDN'T HAVE ANYTHING TO SWINDLE.

26 Q SO DID HE EVER TAKE ANYTHING FROM YOU THAT
27 CAUSED YOU TO HOLD SOME ILL WILL TOWARDS HIM?

28 A NO. NO. I JUST DIDN'T WANT TO HAVE A SOCIAL

1 RELATIONSHIP.

2 Q SO WHAT HAPPENED THEN?

3 A WELL, AS IT TURNED OUT THE LINE STARTED
4 MOVING, SO I JUST WAVED HIM OFF, AND HE WENT ON HIS WAY.
5 AND WE WERE ONLY TALKING LESS THAN A MINUTE.

6 Q WHEN YOU SAY HE WENT ON HIS WAY, WHERE DID HE
7 GO? DID HE GO OUT OF YOUR SIGHT.

8 A I WAS BASICALLY FACING IN A SOUTHERLY
9 DIRECTION AT THE CORNER THERE, AND I WOULD HAVE TO ASSUME
10 HE WENT NORTH, HE WENT PASSED ME. I DIDN'T -- I KNOW I
11 DIDN'T TURN AROUND TO WATCH HIM GOING DOWN THE STREET, SO
12 I DON'T KNOW WHAT HE DID AFTER THAT.

13 Q OKAY.

14 AND HAVE YOU SEEN HIM SINCE THAT TIME?

15 A NO.

16 Q NOW --

17 THE COURT: I AM SORRY. I DIDN'T HEAR THE ANSWER.

18 THE WITNESS: I SAID, NO, SIR.

19 BY MR. CRAIN:

20 Q NOW, YOU TOLD US THAT YOUR WORK FOR CITY NEWS
21 HAD TO DO WITH THE POLICE BEAT?

22 A THAT'S CORRECT.

23 Q AND JUST IN A NUTSHELL OR CAPSULE FORM WHAT
24 DOES THAT INVOLVE?

25 A WELL, AS I SAID, I WORKED OUT OF THE POLICE
26 HEADQUARTERS DOWNTOWN, AND WE COVERED THE SAME TYPE OF
27 STORIES YOU MIGHT SEE IN THE MORNING NEWS OR EVENING NEWS,
28 CRIMES, FIRES, ACCIDENTS, FLOODS. GENERAL RUN OF THINGS.

1 WE CALL THE POLICE, CALL THE SHERIFFS, FIRE DEPARTMENTS,
2 THINGS OF THAT SORT. IT WASN'T POLITICAL.

3 Q DOES YOUR WORK AS A POLICE BEAT REPORTER HAVE
4 ANYTHING TO DO WITH THE COURT SYSTEM?

5 A ONLY AFTER THEY PASSED THROUGH THERE. I
6 DIDN'T FOLLOW THE COURT BEAT.

7 Q SO WAS THE COURT BEAT SOMETHING THAT OTHER
8 REPORTERS FOLLOWED?

9 A WELL, I AM SURE SOME DO. I MEAN, THEY HAVE
10 REPORTERS WHO ARE COURT REPORTERS WHO FOLLOW THE TRIALS.
11 I DIDN'T DO THAT. I COULD HAVE CHOSEN TO DO THAT, AND I
12 SAID, NO, I WOULD RATHER GET THE STORIES WHEN THEY ARE
13 HOT.

14 Q THAT WAS SOMEBODY ELSE'S BAILIWICK, SO TO
15 SPEAK?

16 A THAT'S CORRECT.

17 Q OKAY.

18 NOW, BETWEEN THE TIME THAT YOU LAST SAW LEVIN
19 WHEN HE CAME IN TO TRY TO GET YOUR ASSISTANCE IN REGAINING
20 HIS PRESS PASS AND THE INTERESTS OF THE OLYMPICS AND THE
21 TIME YOU SAW HIM IN WESTWOOD IN 1986, HAD YOU HEARD
22 ANYTHING ABOUT WHETHER OR NOT LEVIN WAS AROUND TOWN OR
23 ANYTHING ABOUT LEVIN?

24 A WELL, AS I SAID, I HEARD HE WAS MISSING
25 WHEN -- I DIDN'T REALIZED THAT HE WAS ALSO SUPPOSEDLY
26 DEAD. I FOUND THAT OUT THE SAME, YOU KNOW, A COUPLE OF
27 DAYS LATER WHEN I TALKED TO A FRIEND OF MINE, AND HE TOLD
28 ME THAT, "DON'T YOU KNOW HE IS THE GUY WHO IS SUPPOSED TO

1 BE DEAD."

2 Q A FEW DAYS LATER YOU TALKED TO THIS FRIEND, A
3 FEW DAYS LATER FROM WHAT EVENT?

4 A OKAY. AFTER I HAD SEEN LEVIN IN WESTWOOD AND
5 THE NEXT TIME THAT I CAME BACK TO WORK, WHICH WAS ON
6 SUNDAY, THAT I ENCOUNTERED GARY ARNOT, WHO WAS THE OWNER
7 OF THE RIVAL VIDEO NEWS COMPANY. THAT'S, A-R-N-O-T, FOR
8 THE REPORTER.

9 THE COURT: ALL RIGHT.

10 BY MR. CRAIN:

11 Q AND HOW LONG HAD YOU KNOWN MR. ARNOT?

12 A I AM TRYING TO THINK. PROBABLY ABOUT SINCE
13 '79 OR '80, FOR SURE 1980.

14 Q DID YOU SEE, TELL MR. ARNOT ABOUT SEEING
15 MR. LEVIN ON THE STREETS OF WESTWOOD OUTSIDE THE MOVIE
16 THEATER?

17 A CORRECT.

18 Q AND DID MR. ARNOT SAY ANYTHING BACK TO YOU?

19 A THAT'S WHEN HE SAID, "DIDN'T I KNOW THAT
20 LEVIN WAS SUPPOSED TO BE DEAD."

21 AND I SAID, "NO, I DIDN'T KNOW THAT. I KNEW
22 HE WAS MISSING. I HADN'T REALIZED HE WAS SUPPOSED TO BE
23 DEAD."

24 Q AND DID THE CONVERSATION GO BEYOND THAT
25 POINT, TO THE BEST OF YOUR RECOLLECTION?

26 A I MEAN, WE TALKED MORE ABOUT LEVIN. WE
27 TALKED BACK AND FORTH ABOUT HIM, BUT I DIDN'T KNOW THAT
28 MUCH MORE THAN I JUST DISCLOSED.

1 Q SO WAS THAT BASICALLY --

2 A HE TOLD ME MORE ABOUT HIM THAN I KNEW
3 PERSONALLY.

4 Q WAS HE TELLING YOU THINGS ABOUT LEVIN'S
5 BACKGROUND OR RIPPING PEOPLE OFF OR THINGS OF THAT NATURE,
6 OR WHAT?

7 A HE GOT INTO THAT MORE. HE TOLD ME THAT LEVIN
8 HAD -- I DON'T KNOW HOW YOU SAY IT, CHEATED OR HE SWINDLED
9 SOME VIDEO COMPANY PEOPLE OUT OF SEVERAL THOUSAND DOLLARS
10 WORTH OF EQUIPMENT.

11 Q ARNOT WAS TELLING YOU THAT DURING THIS
12 CONVERSATION?

13 A RIGHT.

14 Q OKAY.

15 NOW, DURING THE FALL OF THAT YEAR, 1986, DID
16 YOU LEARN ANYTHING ABOUT WHETHER OR NOT THERE WAS SOME
17 CRIMINAL CASE GOING ON INVOLVING LEVIN?

✓ 18 A RIGHT. THAT BROKE INTO THE NEWS, IN THE
19 EVENING NEWS WHEN IT WAS ON -- IT WAS, YOU KNOW, A MATTER
20 OF WHAT, A MINUTE, MINUTE OR SO MENTION. I HAD AND STILL
21 HAVE A HABIT OF READING WHILE THE NEWS IS ON, SO I ONLY
22 CATCH BITS AND PIECES OF IT.

23 Q AND DID YOU LEARN THAT A TRIAL WAS GOING TO
24 GET STARTED AT SOME POINT?

25 A YES. ONCE AGAIN, I DIDN'T FOLLOW IT. IT WAS
26 ONLY A PASSING INTEREST.

27 Q AT SOME POINT DID YOU GO TO THE AUTHORITIES
28 AND GIVE THEM THE INFORMATION THAT YOU HAD ABOUT SEEING

1 MR. LEVIN IN WESTWOOD?

2 A YES. THAT WAS IN APRIL OF 1987.

3 Q WHAT CAUSED YOU TO DO THAT?

4 A OKAY. A COUPLE OF THINGS. ONE IS THAT
5 ARNOT, WHO HAD BEEN VERY EAGER TO GET A STORY ON THIS,
6 KEPT TELLING ME, "YOU GOT TO GO TO THE AUTHORITIES ABOUT
7 THIS." AND ALSO ON THAT PARTICULAR MORNING, IT WAS A
8 FRIDAY MORNING, I READ A STORY ABOUT THE TRIAL IN THE
9 "L.A. TIMES" AND THAT STORY SAID THAT THE TRIAL WAS GOING
10 TO THE JURY THAT WEEKEND. AND THAT STORY ALSO RELATED
11 THAT OTHER PEOPLE HAD SEEN THE MAN THAT LOOKED LIKE LEVIN,
12 DESCRIBED THE PERSON, AND SO I THOUGHT, "OKAY, I SHOULD
13 COME FORTH TOO."

14 Q WHY DIDN'T YOU GO DOWN ANY SOONER AND TELL
15 THE AUTHORITIES THAT YOU HAD SEEN LEVIN?

16 A ONE THING I DIDN'T LIKE TO GET INVOLVED IN
17 IT.

18 Q WHY?

19 A JUST PERSON DON'T LIKE TO GET INVOLVED IN
20 SOMETHING LIKE THAT. AND ALSO AS A REPORTER I DIDN'T WANT
21 TO INTERJECT MYSELF INTO A STORY. I WAS TOLD WHEN I WAS
22 GOING TO LOS ANGELES COMMUNITY COLLEGE REPORTERS REPORT,
23 THEY DON'T BECOME PART OF THE STORY. I TRIED TO FOLLOW
24 THAT ALL THE TIME I WAS A REPORTER.

25 Q LET ME BACK UP THERE.

26 YOU STUDIED JOURNALISM AT LOS ANGELES CITY
27 COLLEGE?

28 A THAT'S CORRECT.

1 Q AS PART OF YOUR COURSE IN JOURNALISM THEY
2 TEACH YOU HOW TO GET A STORY, HOW TO INTERVIEW PEOPLE,
3 THINGS LIKE THAT?

4 A YES.

5 Q AND THEY ALSO TEACH YOU ABOUT JOURNALISTIC
6 ETHICS?

7 A I DON'T KNOW IF THERE IS ANY SPECIFIC BOOKS,
8 BUT GENERAL ETHICS IS THAT YOU DON'T BECOME PART OF THE
9 STORY, THAT YOU TRY NOT TO, ANYWAY.

10 Q DOES THAT HAVE ANYTHING TO DO WITH A
11 REPORTER'S SUPPOSED OBJECTIVITY, OR WHAT?

12 A YOU ARE SUPPOSED TO MAINTAIN AS MUCH
13 OBJECTIVITY AS HUMANLY POSSIBLE, WHICH YOU CAN'T DO IF YOU
14 BECOME PART OF STORY.

15 Q DOES THAT MEAN -- CORRECT ME IF I AM WRONG,
16 DOES THAT MEAN THAT A REPORTER, ONE WHO OBSERVES AND
17 REPORTS EVENTS BUT DOESN'T BECOME A PARTICIPANT IN THE
18 EVENTS ITSELF?

19 A IF YOU CAN AT ALL AVOID IT. YOU SHOULD NOT
20 GET INVOLVED IN THE ACTIONS. YOU ARE SUPPOSED TO SEE AND
21 REPORT.

22 Q ALL RIGHT.

23 MR. CRAIN: WAS YOUR HONOR ABLE TO HEAR? I DIDN'T
24 WANT TO KEEP GOING THROUGH THIS, BUT I NOTICED YOU HAD
25 SOME -- YOU WERE LOOKING AT SOME DOCUMENT.

26 THE COURT: I AM ALWAYS LISTENING.

27 MR. CRAIN: YOU APPEARED -- I WANT TO MAKE SURE
28 THAT THE COURT HEARD THE WITNESS' TESTIMONY ABOUT WHY HE

1 DIDN'T GO SOONER BECAUSE IT --

2 THE COURT: I DID.

3 MR. CRAIN: OKAY.

4 THE COURT: I CHECK DATES.

5 MR. CRAIN: THANK YOU.

6 BY MR. CRAIN:

7 Q SO YOU SAID YOU DIDN'T WANT TO GET INVOLVED?

8 A CORRECT.

9 Q AND IN YOUR VIEW REPORTERS SHOULDN'T GET
10 INVOLVED IN A STORY. IN ANY EVENT, THOSE FACTORS WERE
11 THERE.

12 ANY OTHER FACTORS THAT CAUSED YOU NOT TO
13 REPORT TO THE POLICE, THE DISTRICT ATTORNEY PRIOR TO APRIL
14 OF 1987 THAT YOU HAD SEEN MR. LEVIN IN WESTWOOD?

15 A WELL, BEFORE THEN, AS I SAID, I DIDN'T WANT
16 TO GET INVOLVED WITH IT, BUT I ALSO KNEW THAT IF I GOT
17 INVOLVED, YOU KNOW, I WOULD HAVE TO BE WITHHOLDING
18 INFORMATION FROM MY OWN EDITOR UNTIL I GOT A STORY
19 ACTUALLY PUT TOGETHER, AND AS I FEARED THIS THING ENDED UP
20 COSTING MY JOB BECAUSE THE MANAGING EDITOR HAD A BAD HABIT
21 OF LETTING STORIES OUT BEFORE THEY WERE COMPLETELY PUT
22 TOGETHER, WHICH IS EXACTLY WHAT HAPPENED ON THIS CASE.

23 Q BEFORE YOU -- WELL, WHERE DID YOU GO TO
24 REPORT YOUR SEEING MR. LEVIN IN WESTWOOD?

25 A OH, THE COURTHOUSE IN SANTA MONICA.

26 Q SO YOU READ AN ARTICLE IN THE PAPER THAT DAY?

27 A RIGHT.

28 Q WHAT WAS THE ESSENCE OF THAT ARTICLE?

1 A WELL, THE TRIAL WAS GOING TO JURY THAT
2 WEEKEND, AND IN THE STORY IT DIDN'T SAY WHERE, SAID
3 SOMETHING ABOUT SANTA MONICA COURTHOUSE, THAT'S WHERE THE
4 PROSECUTING ATTORNEY WAS, WORKED OUT OF.

5 Q WHY DID YOU CHANGE YOUR APPROACH TO THE CASE
6 AND TELL US THAT YOU DID COME FORWARD, YOU DID -- WENT TO
7 THE COURTHOUSE; IS THAT RIGHT?

8 A RIGHT.

9 Q LET ME -- JUST BEFORE YOU -- ASK YOU WHY AND
10 WHAT DID YOU DO WHEN YOU GOT THERE?

11 A WELL, I ASKED WHERE THE OFFICE OF THE
12 ATTORNEY WAPNER WAS. I FORGET HIS FIRST NAME.

13 Q HAD HIS NAME BEEN REPORTED IN THE PAPER?

14 A OF COURSE. IT WAS PART OF THE STORY.

15 Q YOU WENT TO THE COURT FIRST?

16 A I WENT TO THAT COURTHOUSE, SIR, IN SANTA
17 MONICA.

18 Q OKAY.

19 A AND I ENCOUNTERED A GUARD THERE AND ASKED HIM
20 WHERE HIS OFFICE WAS. AND HE POINTED IT OUT, WENT OVER
21 THERE, THERE WAS A RECEPTIONIST OR SECRETARY OR SOMETHING,
22 AND SHE LET ME INTO HIS OFFICE.

23 Q AND DID YOU TELL MR. WAPNER -- YOUR
24 IMPRESSION WAS THAT -- WHO WAS HE IN CONNECTION WITH THE
25 CASE?

26 A AS FAR AS I KNEW THAT HE WAS LIKE THE
27 PROSECUTING ATTORNEY OR SOMETHING OF THAT SORT.

28 Q DID MR. WAPNER TAKE YOU INTO HIS OFFICE?

1 A HE LET ME IN, YES.

2 Q AND DID THE TWO OF YOU SIT THERE AND TALK?

3 A THAT'S CORRECT.

4 Q DID YOU TELL MR. WAPNER WHO YOU WERE?

5 A YES.

6 Q DID YOU TELL HIM WHAT YOU TOLD US ABOUT
7 SEEING MR. LEVIN IN WESTWOOD?

8 A RIGHT.

9 Q NOW, WHAT WAS IT THAT CAUSED YOU AT THIS TIME
10 TO GO TO SANTA MONICA AND GIVE THIS INFORMATION TO THE
11 AUTHORITIES WHEN YOU HADN'T DURING THE PREVIOUS PERIOD OF
12 TIME? WHAT CHANGED YOU IN THIS REGARD?

13 A OKAY. A COUPLE OF THINGS. ONE IS THAT
14 MR. ARNOT SAID THAT IF I DIDN'T LET THE AUTHORITIES KNOW
15 HE WAS GOING TO TELL THE POLICE PRESS RELATIONS WHAT I HAD
16 TOLD HIM. AND ALSO, MORE IMPORTANT, AS FAR AS I WAS
17 CONCERNED, BECAUSE I DIDN'T THINK THAT WOULD REALLY HAVE
18 MUCH AFFECT, I SEE THIS GUY GOING TO TRIAL, GOING TO THE
19 JURY AND PEOPLE HAVE ALREADY COME FORWARD SAYING THAT THEY
20 HAD SEEN LEVIN AFTER THE TIME OF THE ALLEGED MURDER AND
21 DIDN'T SEEM TO HAVE ANY IMPRESSION ON THE AUTHORITIES. SO
22 I SAID, "WELL, THIS ISN'T RIGHT," YOU KNOW, "A GUY HERE
23 THAT IS GOING TO TRIAL AND THEY DON'T SEEM TO HAVE A GOOD
24 CASE BUT THEY ARE STILL DOING IT." SO I WANTED TO SEE IF
25 I COULD DO ANYTHING TO HELP.

26 Q WERE YOU CONCERNED BEFORE YOU GAVE THIS
27 INFORMATION TO MR. WAPNER THAT IT MIGHT HAVE SOME AFFECT
28 ON YOUR JOB?

1 A OH, YES.

2 Q WHAT WAS THAT, MR. ROBINSON?

3 A WELL, I WAS AFRAID THAT IT WOULD COME BACK AT
4 ME AND COULD, YOU KNOW, COST ME MY JOB IF I TOLD THE
5 AUTHORITIES ABOUT THIS WITHOUT HAVING TOLD MY EDITORS
6 ABOUT IT. THEY WANT -- THEIR POINT OF VIEW WAS TO GET THE
7 STORY OUT. AND I KNEW THAT THE MANAGING EDITOR OF CITY
8 NEWS AT THAT TIME JUST DIDN'T HOLD THE STORY UNTIL IT WAS
9 READY TO BE RELEASED. AS SOON AS HE GOT IT OUT IT WENT,
10 EVEN IF IT WASN'T READY.

11 Q SO YOU THOUGHT, CORRECT ME IF I AM WRONG,
12 THAT YOU MAY WELL BE JEOPARDIZING YOUR JOB BY GIVING THIS
13 INFORMATION TO THE DISTRICT ATTORNEY'S OFFICE?

14 A WITHOUT FIRST ALREADY TELLING MY EDITOR, YES.

15 Q BUT YOU DID SO ANYWAY?

16 A I DID SO ANYWAY. I DIDN'T FEEL REAL HAPPY
17 ABOUT IT, BUT I DID IT.

18 Q DID YOU LOSE YOUR JOB?

19 A WELL, YEAH, THAT WAS, YOU KNOW, A COUPLE OF
20 WEEKS LATER, YES. MY -- THE EDITOR ALLEGED THAT I HAD
21 GIVEN THE STORY TO THEIR COMPETITORS, WHICH SIMPLY WASN'T
22 THE CASE.

23 Q SINCE THAT TIME HAVE YOU BEEN BLACKBALLED IN
24 THE NEWS BUSINESS AND UNABLE TO GET A JOB IN THE NEWS
25 BUSINESS?

26 A I WOULD SAY THAT. I DID GET A JOB FOR A
27 WHILE AT THE "DAILY VARIETY," BUT THEY HAVE NO CONNECTION
28 WITH CITY NEWS SERVICE.

1 Q NOW, YOU WORK AS A SECURITY GUARD?

2 A CORRECT.

3 Q YOU HAVE NO CONNECTION WITH THE NEWS
4 BUSINESS; IS THAT RIGHT?

5 A UNFORTUNATELY, NO.

6 Q AND DURING THE YEARS THAT YOU WORKED AS A
7 REPORTER, JUST TO GO BACK INTO THIS FOR JUST A MOMENT, YOU
8 WOULD GATHER INFORMATION; IS THAT RIGHT?

9 A THAT'S RIGHT.

10 Q FROM DIFFERENT SOURCES?

11 A MOSTLY BY TELEPHONE.

12 Q DID YOU ATTEMPT TO BE FACTUAL IN YOUR FACT
13 GATHERING?

14 A OF COURSE.

15 Q AND THEN WOULD YOU WRITE UP A STORY FOR THE
16 NEWS SERVICE?

17 A YES.

18 Q AND WOULD YOU ATTEMPT TO BE COMPLETELY
19 FACTUAL AND OBJECTIVE IN YOUR PREPARATION OF THE NEWS
20 STORY?

21 A YES. ANY REPORTER WORTH HIS SALT WILL TRY TO
22 FIND AS MANY WAYS OF VERIFYING THE STORY BEFORE HE
23 ACTUALLY SENDS IT OUT. HE WANTS THE FACTS TO TELL THE
24 STORY, NOT TO INVENT ANYTHING.

25 Q THEN WOULD YOU SUBMIT THE STORY TO AN EDITOR
26 WHO WOULD --

27 A OH, YES, EVERY REPORTER DOES THAT.

28 Q THE EDITOR CHECKS IT OUT FOR ACCURACY?

1 A I HOPE SO.

2 Q THAT'S HIS JOB?

3 A HE IS SUPPOSED TO.

4 Q THAT'S HIS JOB; RIGHT? OR PART OF HIS JOB?

5 A YES.

6 Q AND THEN OVER THE YEARS YOU HAD MANY STORIES
7 THAT WERE REPORTED IN THE NEWS MEDIA?

8 A THOUSANDS.

9 Q BASED ON INFORMATION THAT YOU HAD GATHERED;
10 IS THAT RIGHT?

11 A THAT'S CORRECT.

12 Q DID YOU EVER, AFTER YOU WERE INTERVIEWED BY
13 MR. WAPNER -- WERE YOU EVER INTERVIEWED BY ANY OF
14 MR. HUNT'S ATTORNEYS BACK IN 1987 OR NOT?

15 A NO, I DON'T THINK SO, NOT -- I WASN'T
16 INTERVIEWED UNTIL MUCH -- UNTIL LATER. I CAN'T REMEMBER
17 THE FIRST TIME THE PERSON REPRESENTING HIM, THAT WAS
18 ASSOCIATED WITH MR. HUNT INTERVIEWED ME.

19 Q WAS IT A NUMBER OF YEARS LATER?

20 A AS FAR AS I KNOW. I CAN'T RECALL IF IT WAS
21 ONE IN '87 OR NOT. THERE WAS ONE BEFORE '92, BUT I DON'T
22 REMEMBER THE ACTUAL YEAR.

23 Q DOES IT SEEM LIKE IT WAS CLOSE TO '92 THAT
24 YOU FIRST WERE INTERVIEWED BY ANYBODY CONNECTED WITH
25 MR. HUNT?

26 A COULD HAVE BEEN EARLIER THEN THAT. I DON'T
27 RECALL THE ACTUAL YEAR.

28 MR. CRAIN: I DON'T THINK I HAVE ANY FURTHER

1 QUESTIONS.

2 THE COURT: CROSS EXAMINATION.

3 MR. MC MULLEN: THANK YOU

5 CROSS-EXAMINATION @

7 BY MR. MC MULLEN:

8 Q GOOD AFTERNOON, MR. ARNOT -- EXCUSE ME --
9 MR. ROBINSON?

10 A I DON'T --

11 THE COURT: THAT WAS A TRICK QUESTION TO SEE IF YOU
12 WERE LISTENING.

13 THE WITNESS: I AM SURE. MR. ARNOT AND I DO NOT
14 LOOK ALIKE.

15 BY MR. MC MULLEN:

16 Q WHEN DID YOU FIRST START WORKING IN THE
17 JOURNALISM BUSINESS?

18 A FIRST AS COPY BOY IN 1969 AND A REPORTER --
19 IN 1969 AND A REPORTER IN 1972.

20 Q AND WHERE DID YOU WORK AT THAT TIME?

21 THE COURT: AT WHAT TIME?

22 BY MR. MC MULLEN:

23 Q AT THE BEGINNING OF YOUR CAREER?

24 A "LOS ANGELES HAROLD EXAMINER."

25 Q HOW LONG WERE YOU WERE AT THE "HAROLD
26 EXAMINER"?

27 A NINE YEARS.

28 Q AND -- I AM SORRY -- YOU WERE A COPY BOY TO

1 START OFF?

2 A FIRST THREE YEARS I WAS A COPY BOY, THEN THEY
3 HAD AN OPENING AND I BECAME A REPORTER. I ALREADY HAD THE
4 DEGREE SO --

5 Q SO THE NEXT SIX YEARS YOU WERE A REPORTER FOR
6 THE HAROLD?

7 A CORRECT. THEN THE NEXT NINE YEARS AFTER THAT
8 WITH THE LOS ANGELES CITY NEWS SERVICE.

9 Q NOW, THE CITY NEWS SERVICE THERE WAS A PERIOD
10 OF TIME WHERE YOU WORKED AT THE PARKER CENTER; IS THAT
11 CORRECT?

12 A MOST OF IT.

13 Q MOST OF THE TIME?

14 A YES.

15 Q WHAT KIND OF -- HOW WOULD YOU GET THE
16 INFORMATION AT THE PARKER CENTER TO PROVIDE THE BASIS FOR
17 YOUR STORIES THAT WOULD GO TO CITY NEWS SERVICE?

18 A ANY OF THE POLICE BEAT REPORTERS WOULD HAVE
19 THE SAME BASIC FORMAT AS THEY HAD WHAT IS CALLED A BEAT
20 THAT THEY CALL ALL OF THE LOS ANGELES POLICE STATIONS
21 TALKING TO WATCH SERGEANTS ON DUTY RIGHT AT THE TIME.
22 THEY WOULD TALK TO THE LOS ANGELES FIRE DEPARTMENT, THE
23 COUNTY FIRE DEPARTMENT, THE SHERIFF'S DEPARTMENT, MANY
24 DIFFERENT SOURCES OF INFORMATION THAT WERE AUTHORITATIVE.

25 Q AND DO YOU HAVE LIKE RADIOS WHERE INFORMATION
26 WOULD COME IN THERE AT PARKER CENTER?

27 A WE HAD DEVICES CALLED BEARCAT SCANNERS.
28 THESE WOULD HAVE 40 CHANNELS EACH, AND -- AT LEAST FOR

1 CITY NEWS SERVICE. I WAS THE ONE WHO PROGRAMMED THE TWO
2 SCANNERS THAT WE HAD.

3 Q YOU WOULD LISTEN TO RADIO CALLS COMING IN
4 FROM THE POLICE OR FIRE DEPARTMENT?

5 A YES, THAT'S CORRECT.

6 Q DETERMINE WHETHER IT WAS NEWSWORTHY AND
7 FOLLOW-UP AND REPORT THAT THROUGH THE WIRE SERVICE YOU
8 WORKED FOR?

9 A YES. IN ADDITION TO THE REGULAR FORMAL
10 CALLING AROUND, YES. IF I WOULD HEAR ANYTHING THAT
11 SOUNDED INTERESTING, I WOULD FOLLOW IT UP.

12 Q AND I UNDERSTAND YOU WORKED LIKE IN A PRESS
13 ROOM AT PARKER CENTER?

14 A THAT'S CORRECT.

15 Q SO THERE WERE OTHER MEMBERS OF THE PRESS WHO
16 OCCUPIED THAT ROOM ALONG WITH YOU?

17 A YES. DIAGONALLY ACROSS THE ROOM FROM ME WAS
18 THE "LOS ANGELES TIMES" DESK AND STRAIGHT ACROSS FROM ME
19 WAS THE UNITED PRESS.

20 Q AND I TAKE IT BECAUSE YOU WORKED THERE FOR SO
21 LONG YOU BECOME FRIENDS WITH SOME OF THE PEOPLE THAT
22 WORKED THERE?

23 A WE WERE FRIENDS AND RIVALS.

24 Q RIGHT.

25 COMPETITIVE RELATIONSHIP?

26 A RIGHT.

27 Q DID YOU TALK ABOUT DIFFERENT THINGS THAT WERE
28 HAPPENING, NEWS EVENTS THAT HAPPENED, COME THROUGH THE

1 PRESS ROOM?

2 A WE DID. WE TALKED ABOUT THE STORIES THAT
3 WERE BEING REPORTED. WE ALWAYS TRY TO BE THE FIRST TO GET
4 THE STORY OUT.

5 Q IN THE PRESS ROOM WOULD THERE BE NEWSPAPERS
6 THERE IN THE PRESS ROOM AVAILABLE TO LOOK AT FROM THE
7 VARIOUS NEWSPAPERS AND --

8 A MOSTLY THE "TIMES" AND THE "HAROLD," OF
9 COURSE.

10 Q AND I TAKE IT YOU WOULD KEEP UP ON NEWS
11 EVENTS WHILE YOU WORKED THERE?

12 A TO SOME EXTENT, YES. THERE IS ONLY SO MUCH
13 YOU CAN FOLLOW.

14 Q WOULD YOU FOLLOW STORIES THAT YOU WOULD PUT
15 OUT ON THE WIRE IF THEY TURNED INTO STORIES THAT WOULD GO
16 OUT AND BE PUBLISHED? WOULD YOU FOLLOW THOSE?

17 A YES. AND I WANTED TO FIND OUT IF THEY
18 CARRIED THE STORY ACCURATELY. OR HOW MUCH THEY CHANGED,
19 IF THEY DID.

20 Q YOU HAVE SAID THAT THE LAST TIME YOU SAW RON
21 LEVIN PRIOR TO WHAT YOU HAVE DESCRIBED AS OCCURRING IN
22 WESTWOOD WAS IN SPRING OF '74. *typo - see next page*

23 A THAT'S CORRECT.

24 Q DID YOU EVER THINK THAT YOU MIGHT HAVE SEEN
25 HIM IN THE SPRING OF '85?

26 MR. CRAIN: COULD I HAVE LAST QUESTION REREAD? I
27 AM NOT SURE I HEARD IT CORRECTLY.

28

1 (THE RECORD WAS READ.)

2

3 THE COURT: THE LAST TIME WAS SPRING OF 1984 WAS
4 THE QUESTION. AND THE NEXT QUESTION WAS: "DO YOU THINK
5 YOU COULD HAVE SEEN HIM IN THE SPRING OF 1985?"

6 MR. CRAIN: I AM SORRY. I STILL DIDN'T HEAR WHAT
7 THE COURT SAID. TELL YOU WHAT. THE QUESTION WAS --

8 THE COURT: YOU SAID YOU SAW HIM IN THE SPRING OF
9 1984. COULD IT HAVE SEEN HIM IN THE SPRING OF 1985?

10 MR. CRAIN: OKAY. IF THAT WAS THE EXTENT OF THE
11 QUESTION, FINE. I THOUGHT I READ SOMETHING MORE INTO IT.
12 I APOLOGIZE.

13 THE WITNESS: THE BEVERLY HILLS POLICE ASKED ME
14 THAT AT THE TIME. I WASN'T SURE IF I HAD OR HAD NOT, AND
15 I TOLD HIM THAT I COULD HAVE, BUT I WASN'T SURE ABOUT IT.
16 BY MR. MC MULLEN:

17 Q IN FACT, YOU TESTIFIED TO THAT MORE OR LESS
18 WHAT YOU JUST SAID IN SAN MATEO; IS THAT CORRECT?

19 A CORRECT.

20 Q YOU HAVE SAID NOW THAT YOU HAVE SEEN RON
21 LEVIN AND CLAIMED TO HAVE SEEN RON LEVIN IN WESTWOOD IN
22 NOW WHAT YOU HAVE DETERMINED TO BE SOMETIME IN OCTOBER
23 1986?

24 A '86.

25 Q AGAIN, WHERE WERE YOU RIGHT BEFORE HE CALLED
26 TO YOU?

27 A I WAS STANDING IN A LINE, WHICH AT THE TIME I
28 THOUGHT WAS TO BUY TICKETS FOR THE MOVIE. I WAS WRONG.

1 IT WAS A LINE THAT PEOPLE ALREADY HAD TICKETS.

2 Q AND DID THE VOICE -- FROM WHAT DIRECTION DID
3 THE VOICE COME THAT CALLED YOUR NAME?

4 A WHEN HE CALLED, I LOOKED UP. SINCE I WAS
5 FACING SOUTH, HE WAS COMING NORTHERLY FROM A SOUTH
6 DIRECTION. I DON'T KNOW IF HE CAME AROUND THE CORNER OR
7 CAME ACROSS THE STREET SINCE --

8 THE COURT: HE WAS COMING FROM THE DIRECTION OF
9 WILSHIRE BOULEVARD?

10 THE WITNESS: WELL, I SAW HIM, YOU KNOW, DIRECTLY
11 IN FRONT OF ME, SO IT WOULD HAVE BEEN SOUTH OF ME, YES,
12 BUT I DON'T KNOW IF HE HAD JUST CROSSED THE STREET OR COME
13 UP THE BLOCK.

14 BY MR. MC MULLEN:

15 Q WHEN YOU LOOKED UP ABOUT HOW FAR AWAY WAS HE
16 FROM YOU WHEN YOU FIRST SAW HIM?

17 A OH, A FEW STRIDES. I WOULD SAY EIGHT FEET.
18 AND THEN HE CALLED ME BY NAME, SO I KNEW HE KNEW ME.

19 Q SO THEN YOU RECOGNIZED HIM?

20 A YES.

21 Q WHAT WAS HE WEARING? DO YOU REMEMBER WHAT HE
22 WAS WEARING?

23 A THAT'S 10 YEARS AGO. I MEAN, HE WAS ALWAYS A
24 GOOD DRESSER. HE WASN'T -- DIDN'T DRESS LIKE SOME KIND OF
25 SLOB. BUT I DON'T KNOW. HE WASN'T FLASHY. IT WAS LIKE
26 GOOD TASTE, LIKE BLUE, LIGHTWEIGHT CLOTHING.

27 Q WAS IT --

28 A PROBABLY A COAT, LIKE A BLAZER OR JACKET.

1 Q WAS THE STYLE, THE MANNER OR STYLE OF HIS
2 CLOTHING CONSISTENT WITH WHAT YOU HAD SEEN WHEN YOU HAD
3 SEEN LEVIN PRIOR TO THAT TIME?

4 A YES.

5 Q AND HIS HAIRSTYLE WAS IT LIKE WHAT YOU HAVE
6 RIGHT THERE IN FRONT OF YOU --

7 A VERY MUCH LIKE THIS.

8 Q THAT'S PETITIONER'S EXHIBIT 1 THAT YOU
9 POINTED OUT JUST NOW.

10 THE HAIRSTYLE THAT RON LEVIN HAS IN THAT
11 PICTURE IS THAT CONSISTENT WITH THE WAY HIS HAIRSTYLE WAS
12 PRIOR TO THE WESTWOOD INCIDENT?

13 A I AM SORRY. I JUST LOST YOUR QUESTION.

14 MR. MC MULLEN: I AM SORRY. I WILL REPHRASE.

15 THE COURT: MY FAULT.

16 BY MR. MC MULLEN:

17 Q LOOKING AT PETITIONER'S EXHIBIT 1, THE STYLE
18 OF HAIR THAT YOU SEE RON LEVIN SPORTING IN THAT
19 PHOTOGRAPH --

20 A RIGHT.

21 Q -- IS THAT THE SAME KIND OF STYLE OF HAIR
22 THAT YOU REMEMBER HIM HAVING IN YOUR CONTACTS WITH HIM IN
23 THE NEWS ROOM AT PARKER CENTER?

24 A I BELIEVE IT WAS VERY MUCH LIKE THAT. HE
25 BRUSHED HIS HAIR BACK. I DON'T RECALL HIM HAVING A PART,
26 AND HE ALWAYS WORE, YOU KNOW, A SLIGHT, YOU KNOW, FACE
27 BEARD, NOT A HEAVY BEARD LIKE ON THE SIDES AND ON THE --
28 GOATEE TYPE BEARD.

1 Q TRIMMED, WELL TRIMMED BEARD?

2 A SURE.

3 Q AND IN THE WESTWOOD INCIDENT, THE MAN THAT
4 YOU SAW, DID HE HAVE CONSISTENT HAIRSTYLE WITH WHAT'S
5 DEPICTED IN PETITIONER'S EXHIBIT 1?

6 A I WOULD SAY, YES.

7 Q AND HOW ABOUT IN THE -- SAME WITH THE BEARD,
8 FACIAL HAIR?

9 A VERY MUCH LIKE THAT.

10 Q SO AGAIN, WHAT DID HE SAY TO YOU THAT DREW
11 YOUR ATTENTION TO HIM?

12 A THE FIRST THING HE SAID WAS, "HI, ROBBIE,"
13 AND I LOOKED UP AND, OF COURSE, AS SOON AS I LOOKED UP I
14 SAW HIM.

15 Q DID YOU SHAKE HANDS WITH HIM?

16 A NO.

17 Q DID HE HAVE A SURPRISED LOOK ON HIS FACE?

18 A DID HE HAVE A SURPRISED -- LIKE WHY WOULD HE
19 BE SURPRISED?

20 NO.

21 Q WERE YOU SURPRISED WHEN YOU SAW HIM?

22 A I ASSUMED I MUST HAVE LOOKED SURPRISE. I WAS
23 SURPRISED. I WASN'T SHOCKED. I HEARD HE HAD BEEN MISSING
24 SO -- AND I HADN'T SEEN HIM FOR TWO AND A HALF YEARS SO,
25 YES, I WAS SURPRISED.

26 Q WHERE DID YOU HEAR THAT HE WAS MISSING?

27 A IN THE PRESS ROOM, YOU KNOW, STUFF BANTERING
28 ABOUT, BUT I DON'T RECALL HAVING HEARD ANYBODY SAYING HE

1 WAS DEAD. AND I KNEW HE WAS MISSING. WHEN I SAW HIM I
2 SAID, "OKAY, THERE HE IS."

3 Q AND DO YOU RECALL IN TERMS OF THE INFORMATION
4 THAT YOU HAD GOTTEN FROM THE PRESS ROOM, WORD AROUND THE
5 PRESS ROOM THAT HE BEEN MISSING, WHAT DO YOU REMEMBER
6 ABOUT WHAT YOU WERE TOLD ABOUT HIS DISAPPEARANCE?

7 A THAT HE HAD HAD SOME, FOR WANT OF A BETTER
8 TERM, SHADY DEALINGS WITH SOME PEOPLE, AND THAT HE MIGHT
9 HAVE FLED THE AREA TO AVOID KEEPING, YOU KNOW, STAYING
10 HEALTHY.

11 Q YOU SAID THAT LEVIN DIDN'T ACT SURPRISED AT
12 ALL. DID HE SEEM --

13 A WHY HE WOULD BE SURPRISED? I WASN'T MISSING.

14 Q WAS HE EMBARRASSED AT ALL?

15 A HE DIDN'T ACT IT.

16 Q WHAT HAPPENED AFTER HE CAME TO YOU AND SAID
17 THOSE WORDS AND APPROACHED YOU?

18 A WELL, HE ASKED BASICALLY HOW I WAS, AND I
19 SAID, "FINE." I DIDN'T REALLY WANT TO HAVE A SOCIAL
20 RELATIONSHIP WITH HIM, SO I KEPT MY ANSWERS SHORT AND
21 ESSENTIALLY BRUSHED HIM OFF.

22 Q NOW, YOU HAD ACTUALLY HAD SOME BUSINESS
23 DEALINGS WITH MR. LEVIN?

24 A RIGHT.

25 Q AND WHEN DID THAT OCCUR?

26 A THAT WAS BACK IN '83 AND EARLY '84.

27 Q AND YOU SUPPLIED ACTUALLY SOME KIND OF NEWS
28 TIPS TO HIM?

1 A LIKE A TIP SERVICE, RIGHT.

2 Q WHAT WAS THE ARRANGEMENT THAT YOU HAD WITH
3 MR. LEVIN RESPECTING THAT?

4 A OKAY. HE ASKED, HE OFFERED TO PAY ME IF I
5 WOULD GIVE HIM TIPS ON STORIES THAT WOULD BE GOOD
6 VISUALLY, FOR EXAMPLE, A HOUSE FIRE OR CAR WRECK. AND SO
7 I SAID, "OKAY, I WILL DO THIS, BUT ONLY AFTER I HAVE
8 NOTIFIED, YOU KNOW, I HAVE ALREADY SENT AN ADVISORY AND
9 BEGINNING STORY TO MY OWN EMPLOYER."

10 THE COURT: HOLD ON ONE SECOND, MR. MC MULLEN.

11 MR. MC MULLEN: YES, YOUR HONOR.

12

13 (PAUSE.)

14

15 THE COURT: HOW MUCH DO YOU HAVE, MR. MC MULLEN?

16 MR. MC MULLEN: 20, 30 MINUTES IS MY BEST GUESS.

17 THE COURT: ALL RIGHT.

18 I WAS HOPING TO FINISH THIS WITNESS. WE NEED
19 TO BREAK. THE STAFF, I DON'T KNOW WHAT THEY WANT TO DO,
20 BUT THERE IS SOMETHING GOING ON.

21 MR. KLEIN: JUST ONE MATTER THAT IS UNRELATED TO
22 THE WITNESS.

23 THE COURT: YEAH. WE WILL TAKE THAT UP.

24 MR. KLEIN: OKAY.

25 THE COURT: SO WE WILL PICK UP AGAIN THEN WITH THIS
26 WITNESS ON MONDAY, MONDAY AT 9 O'CLOCK.

27 ALL RIGHT.

28 MR. --

1 THE WITNESS: SIR --

2 THE COURT: YES, SIR.

3 THE WITNESS: I DON'T HAVE A CAR, SEE, AND I GET
4 OFF WORK AT 6:30 IN THE MORNING, AND WE GOT ME BY 9
5 O'CLOCK --

6 MR. KLEIN: COULD I MENTION SOMETHING? THAT IS
7 WHAT I WAS GOING TO TALK ABOUT. NADIA GHALEB, I SPOKE
8 WITH HER ON THE TELEPHONE YESTERDAY, SHE HAS MADE
9 ARRANGEMENTS TO GET A \$300 TICKET FROM NEW YORK TO HERE,
10 WHICH WOULD ALLOW HER TO TESTIFY FIRST THING IN THE
11 MORNING MONDAY. SO THAT HOPEFULLY SHE COULD --

12 THE COURT: PERSONALLY I LIKE SAVING MONEY --

13 MR. KLEIN: I KNEW YOU WOULD. AND THEN WE COULD
14 HAVE HIM AFTER SHE TESTIFIES AND THAT --

15 THE COURT: HOW LONG IS SHE GOING TO BE?

16 MR. KLEIN: SHE IS LIKE MR. ROBINSON, SO I AM
17 PRETTY SURE WE CAN FINISH HER HALF DAY AT THE MAXIMUM.

18 THE COURT: SHOULD BE LESS THAN THAT.

19 COULD WE HAVE ANOTHER WITNESS STANDING BY FOR
20 LATE MONDAY MORNING?

21 MR. KLEIN: WE SHOULD BE ABLE TO ARRANGE THAT.

22 THE COURT: OKAY.

23 WHY DON'T WE DO THAT.

24 HOW ABOUT 1:30, MR. ROBINSON?

25 THE WITNESS: OBVIOUSLY YOU RUN THE COURT. I WAS
26 HOPING TO GET HERE ON A TUESDAY BECAUSE I STILL HAVE TO GO
27 TO WORK MONDAY NIGHT, WHICH MEANS I HAVE TO GET SOME REST
28 SOMETIME.

1 THE COURT: YOU ARE NOT GETTING ENOUGH REST IN
2 HERE?

3 THE WITNESS: I HOPE NOT.

4 THE COURT: I AM OPEN TO SUGGESTIONS. I HAVE NO
5 PROBLEM TO GOING TO TUESDAY, BUT I DON'T WANT TO INTERFERE
6 WITH MR. MC MULLEN'S CROSS, AND I DON'T WANT TO INTERFERE
7 WITH YOUR ABILITY TO LINE UP SOME PEOPLE. YOU KNOW WHAT,
8 I CAN GIVE YOU -- I CAN PROBABLY GIVE YOU WEDNESDAY OFF.

9 MR. KLEIN: THE ORDER THAT WE WERE PLANNING WAS
10 GHALEB, WERNER AND ROBINSON, AND THEN IF WE HAVE TO START
11 ANOTHER WITNESS WE WOULD START WITH MR. BARENS.

12 THE COURT: WHY DON'T WE DO THIS: YOU COME IN,
13 THERE IS NOT -- IT IS GOING TO PROBABLY BE ABOUT ANOTHER
14 HOUR AT THE MOST ON MONDAY.

15 THE WITNESS: MAY IT BE AS EARLY AS 11:00?

16 THE COURT: CAN YOU GET HERE THAT EARLY?

17 THE WITNESS: OH, YEAH.

18 MR. KLEIN: THAT WOULD PROBABLY WORK OUT THAT WE
19 WOULD HAVE MR. WERNER IN THE AFTERNOON WHILE --

20 THE WITNESS: AND ESPECIALLY LIKE THIS TIME
21 SOMEBODY ACTUALLY PICKED ME UP. BECAUSE I AM SURE YOU
22 KNOW THE BUSES AREN'T THE MOST RELIABLE.

23 MR. KLEIN: OUR INVESTIGATOR CAN PICK HIM UP. LET
24 ME CHECK.

25 THE PETITIONER'S INVESTIGATOR: FINE.

26 MR. KLEIN: HE'LL PICK HIM UP.

27 THE COURT: WHY DON'T YOU TAKE SOME TIME TO TALK TO
28 MR. KLEIN AND MR. CRAIN BEFORE YOU LEAVE. WORK THAT OUT.

1 I WILL ORDER YOU TO RETURN 11 O'CLOCK ON NEXT
2 MONDAY, WHICH IS THE 29TH; ALL RIGHT?

3 NEXT MONDAY THE 29TH AT 11:0 A.M.

4 THE WITNESS: YES, SIR.

5 THE COURT: IF -- YOU WILL HAVE NADIA GHALEB MONDAY
6 THE 29TH AT 9 O'CLOCK?

7 MR. KLEIN: WE'LL BE ABLE TO REIMBURSE HER FOR THE
8 \$300.

9 THE COURT: I LIKE \$300. THAT'S GOOD. THAT'S GOOD
10 WORK. YOU GET CREDIT FOR THAT.

11 ALL RIGHT.

12 ANYTHING ELSE WE NEED TO TAKE CARE OF AT THIS
13 TIME?

14 HEARING NONE, EVERYONE HAVE A GOOD WEEKEND.
15 AND WE WILL SEE YOU ALL AT MONDAY AT 9 O'CLOCK UNLESS THE
16 COURT OF APPEALS SPEAKS OTHERWISE.

17 MR. MC MULLEN: FOR WITNESS SCHEDULING PURPOSES, SO
18 WEDNESDAY YOU WILL BE DARK. I AM JUST -- IF YOU CAN TELL
19 US.

20 THE COURT: I CAN GIVE MR. KLEIN THAT TIME BECAUSE
21 I CAN MOVE SOMETHING ELSE IN ON THAT SLOT.

22 MR. KLEIN: THE WITNESS AFTER THIS WITNESS IS,
23 PROBABLY WILL BE MR. BARENS, ALTHOUGH THERE IS A
24 POSSIBILITY OF IT BEING MR. MELTZER, AND THEN MR. BARENS.

25 THE PETITIONER: MELZER -- EXCUSE ME.

26 HE IS AN ATTORNEY THAT USED TO REPRESENT RON
27 LEVIN IN A CIVIL ACTION, AND HE ALSO REPRESENTED ME IN
28 SOME ACTION.

1 MR. CRAIN: HE WILL HAVE SOME RELEVANT AND
2 ADMISSIBLE TESTIMONY.

3 THE COURT: RELEVANT AND ADMISSIBLE IS IMPORTANT.

4 MR. KLEIN: WHICH HAS ALREADY BEEN TESTIFIED TO,
5 AND ADDITIONAL EVIDENCE.

6 THE COURT: ALL RIGHT.

7 MONDAY AT 9:00 A.M., EVERYONE IS ORDERED
8 BACK.

9 MR. MC MULLEN: THANK YOU.

10
11 (AT 4:35 P.M. AN ADJOURNMENT WAS
12 TAKEN UNTIL MONDAY,
13 APRIL 29, 1996 AT 9:00 A.M.)
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT NO. 101 HON. J. STEPHEN CZULEGER, JUDGE
4
5 IN RE)
6 JOSEPH HUNT)
7 ON HABEAS CORPUS.) NO. A 090435
8

9
10 REPORTERS' DAILY TRANSCRIPT
11 VOLUME 4
12 MONDAY, APRIL 29, 1996
13 PAGE 439 THROUGH 664, INCL.

14 APPEARANCES:

15 FOR THE PETITIONER
16 JOSEPH HUNT:

ROWAN KLEIN
ATTORNEY AT LAW
3201 WILSHIRE BOULEVARD
SUITE 312
SANTA MONICA, CALIFORNIA 90403
AND
MICHAEL CRAIN
ATTORNEY AT LAW
3201 WILSHIRE BOULEVARD
SUITE 312
SANTA MONICA, CALIFORNIA 90403

21 FOR THE RESPONDENT
22 THE PEOPLE OF THE
23 STATE OF CALIFORNIA:

GIL GARCETTI
DISTRICT ATTORNEY
BY: ANDREW MC MULLEN, DEPUTY
AND
IMOGENE KATAYANA, DEPUTY
18000 CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

26 **COPY**

27 M. HELEN THEISS, CSR, #2264
28 OFFICIAL COURT REPORTER

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M A S T E R I N D E X

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(NONE)

ALPHABETICAL INDEX OF WITNESSES

<u>PETITIONER'S</u> <u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR</u> <u>DIRE</u>	<u>VOL</u>
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(NONE)

M A S T E R I N D E X

EXHIBITS

PETITIONER'S EXHIBITS	FOR IDENTIFICATION VOL.	PG.	IN EVIDENCE VOL. PG.	WITHDRAWN OR REJECTED VOL. PG.
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2 - DOCUMENT	4	457		
3 - DOCUMENT	4	457		

RESPONDENT'S EXHIBITS	FOR IDENTIFICATION VOL.	PG.	IN EVIDENCE VOL. PG.	WITHDRAWN OR REJECTED VOL. PG.
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1 LOS ANGELES, CALIFORNIA; MONDAY, APRIL 29, 1996

2 9:15 A. M.

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4
5 APPEARANCES:

6 THE PETITIONER, JOSEPH HUNT, WITH HIS COUNSEL,
7 ROWAN KLEIN, BAR PANEL APPOINTMENT, AND MICHAEL
8 CRAIN, BAR PANEL APPOINTMENT; ANDREW MC MULLEN,
9 DEPUTY DISTRICT ATTORNEY OF LOS ANGELES COUNTY, AND
10 IMOGENE KATAYAMA, DEPUTY DISTRICT ATTORNEY OF LOS
11 ANGELES COUNTY, REPRESENTING THE PEOPLE OF THE
12 STATE OF CALIFORNIA.

13
14 (M. HELEN THEISS, CSR #2264, OFFICIAL REPORTER.)

15
16 THE BAILIFF: REMAIN SEATED, COME TO ORDER,
17 DEPARTMENT 101 IS NOW IN SESSION.

18 THE COURT: WHERE IS MR. KLEIN?

19 MR. KLEIN: RIGHT HERE, YOUR HONOR.

20 THE COURT: SORRY. I DIDN'T HEAR YOU BACK THERE.

21 IN THE CASE OF IN RE JOSEPH HUNT, THE RECORD
22 WILL REFLECT ALL COUNSEL AND PETITIONER ARE PRESENT.

23 MR. CRAIN, I ASSUME YOU WERE STUCK IN TRAFFIC
24 SOMEWHERE?

25 MR. CRAIN: YES, YOUR HONOR, I APOLOGIZE. IT WAS
26 UNREAL.

27 THE COURT: I BELIEVE WE ARE GOING TO CALL A
28 WITNESS OUT OF ORDER.

1 MR. CRAIN: I CALL NADIA GHALEB AT THIS TIME.

2 MR. MC MULLEN: I HAVE ONE MATTER I WOULD LIKE TO
3 ADDRESS THE COURT ON, IF I MAY, AT THIS TIME.

4 THE PEOPLE WOULD MOVE TO ADD A POTENTIAL
5 WITNESS TO OUR WITNESS LIST. THE WITNESS'S NAME IS GLENN,
6 G-L-E-N-N, ONISHI, O-N-I-S-H-I.

7 MR. ONISHI WOULD BE TESTIFYING WITH RESPECT
8 TO MR. WERNER'S -- OR HAS THE POTENTIAL OF TESTIFYING WITH
9 RESPECT TO MR. WERNER'S ANTICIPATED TESTIMONY. THE REASON
10 WE HAD NOT INCLUDED HIS NAME PREVIOUS TO THIS POINT IN
11 TIME IS HIS PRESENCE AS A POTENTIAL WITNESS JUST CAME TO
12 OUR ATTENTION LAST WEEK. MR. ONISHI WAS INTERVIEWED BY
13 OUR INVESTIGATOR.

14 THE COURT: LET ME GET TO THE CHASE SCENE REAL
15 QUICK.

16 MR. KLEIN: FIRST OF ALL, IT RELATES TO IVAN
17 WERNER, I THINK IT IS GOING TO BE IRRELEVANT.

18 THE COURT: IT IS GOING TO BE IRRELEVANT OR
19 RELEVANT?

20 MR. KLEIN: IRRELEVANT.

21 MR. CRAIN: I DON'T CARE IF WE ADD IT TO THE
22 WITNESS LIST, THEN WE CAN TAKE UP WHETHER HIS TESTIMONY IS
23 ADMISSIBLE.

24 MR. MC MULLEN: IF IT IS IRRELEVANT WE PROBABLY
25 WON'T EVEN CALL HIM.

26 MR. KLEIN: AS LONG AS WE GET THE SAME COURTESY.

27 THE COURT: I WAS GOING TO TELL THEM, IF YOU GUYS
28 OBJECTED, IF YOU WANTED TO SEE THEIR APPLICATION IN

1 WRITING, THAT'S WHY I WAS ASKING. SO IF YOU GUYS WORK
2 THINGS OUT ALL THE BETTER.

3 ALL RIGHT.

4 BRING YOUR WITNESS IN.

5 MR. CRAIN: SHE IS RIGHT HERE.

6 COME FORWARD, PLEASE.

7
8 NADIA GHALEB, +
9 CALLED OUT OF ORDER AS A WITNESS BY THE PETITIONER, WAS
10 SWORN AND TESTIFIED AS FOLLOWS:

11
12 THE CLERK: STEP BEHIND THE COURT REPORTER, PLEASE.
13 STAND RIGHT THERE, PLEASE, FACE ME AND RAISE
14 YOUR RIGHT HAND.

15 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
16 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
17 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
18 SO HELP YOU GOD?

19 THE WITNESS: I DO.

20 THE CLERK: PLEASE TAKE THE WITNESS STAND.

21 WOULD YOU PULL DOWN THE MICROPHONE?

22 THE WITNESS: PULL IT TOWARDS ME.

23 THE COURT: PULL IT RIGHT UNDERNEATH THE CHIN, IF
24 YOU WOULD.

25 ALL RIGHT.

26 STATE AND SPELL YOUR NAME.

27 THE WITNESS: NADIA GHALEB. N-A-D-I-A,
28 G-H-A-L-E-B.

1 THE COURT: YOU MAY INQUIRE, MR. CRAIN.

2

3 DIRECT EXAMINATION +

4

5 BY MR. CRAIN:

6 Q MS. GHALEB, ARE YOU CURRENTLY A RESIDENT OF
7 ANOTHER STATE?

8 A I AM.

9 Q WHAT STATE IS THAT?

10 A NEW YORK.

11 Q CAN YOU PULL THE MICROPHONE RIGHT UP, AND
12 THEN YOU CAN SIT BACK IN YOUR CHAIR. IT IS PROBABLY MORE
13 COMFORTABLE. PUT IT JUST RIGHT BEING IT TOWARDS YOU.
14 THERE YOU GO.

15 THANK YOU.

16 DID YOU PREVIOUSLY LIVE IN LOS ANGELES?

17 A YES.

18 Q OKAY.

19 DID YOU EVER MEET A MAN BY THE NAME OF RON
20 LEVIN?

21 A YES.

22 Q AND CAN YOU TELL US APPROXIMATELY WHEN YOU
23 MET RON LEVIN AND WHERE IT WAS?

24 A IT WAS IN THEODORE'S BOUTIQUE ON RODEO DRIVE
25 SOMEWHERE IN THE EARLY 70'S. I WAS A SALESGIRL IN '70,
26 '71, SOMETHING LIKE THAT.

27 MR. CRAIN: MAY I APPROACH THE WITNESS, YOUR HONOR?

28 THE COURT: YES.

1 BY MR. CRAIN:

2 Q SHOWING YOU WHAT'S BEEN MARKED PETITIONER'S
3 1. DO YOU RECOGNIZE THE PERSON IN THAT PHOTOGRAPH?

4 A YES.

5 Q WHO IS THAT?

6 A RON LEVIN.

7 Q IS THAT RON LEVIN YOU FIRST MET IN THE EARLY
8 70'S?

9 A YES.

10 Q AND YOU WERE WORKING AT THIS BOUTIQUE,
11 THEODORE'S BOUTIQUE?

12 A YES.

13 Q AND IN WHAT CONNECTION DID YOU FIRST
14 ENCOUNTER HIM THERE?

15 A THEODORE'S BOUTIQUE WAS THE FIRST KIND OF
16 FRENCH FASHION STORE OF ITS KIND THAT OPENED IN BEVERLY
17 HILLS, AND IT WAS A HANG OUT FOR, YOU KNOW, MOVIE
18 PRODUCERS, ALL THE MOVIE STARS, EVERYONE AROUND TOWN, ALL
19 THE FASHION PEOPLE, AND HE WAS JUST SOMEBODY THAT WAS
20 THERE. HE WAS ONE OF THE PEOPLE THAT WOULD JUST COME IN
21 ON SATURDAYS OR, YOU KNOW, POP IN TO CHECK OUT THE JEWELRY
22 OR THE CLOTHES OR, YOU KNOW. IT WAS A HANG OUT THAT
23 ALMOST EVERYBODY IN THE CITY WENT TO REGULARLY SO --

24 Q AND WOULD YOU SPEAK WITH HIM WHEN HE WOULD
25 COME INTO THE BOUTIQUE?

26 A YEAH, SOMETIMES. PROBABLY IF I WAS BUSY WITH
27 A CUSTOMER I WOULDN'T. IF HE WALKED UP I WOULD SAY, "HI,
28 RON." IT WAS PRETTY INFORMAL.

1 Q WHEN YOU SAY, "HI, RON," DID, YOU KNOW, HIM
2 BY NAME?

3 A YES.

4 Q AND --

5 A BUT KIND OF LIKE I KNEW ALL MY CUSTOMERS BY
6 NAME, ALL THE PEOPLE. YOU KNOW, AFTER A LITTLE WHILE YOU
7 KIND OF WOULD. THAT WAS MY JOB TO LOOK AFTER PEOPLE.

8 Q THIS WAS A JOB WHAT, SHORTLY AFTER HIGH
9 SCHOOL?

10 A UH-HUH.

11 Q OR WHILE YOU WERE IN HIGH SCHOOL?

12 A JUST AFTER HIGH SCHOOL.

13 Q WHAT -- JUST GENERALLY SPEAKING, SO THE COURT
14 HAS SOME BACKGROUND HERE, CAN YOU TELL US WHAT SORT OF
15 WORK YOU HAVE DONE SINCE THAT TIME BEFORE WE PROCEED BACK
16 TO MR. LEVIN?

17 A THAT WAS MY FIRST JOB WORKING WITH THE PUBLIC
18 IN LOS ANGELES AND I CONTINUED TO DO THAT UNTIL I STOPPED
19 WORKING IN 19- -- WELL, IN THE PUBLIC I STOPPED WORKING IN
20 1988, IN SEPTEMBER.

21 THEN I WENT INTO A DIFFERENT BUSINESS, SO IT
22 WAS FROM, YOU KNOW, 1971 OR '72 TILL '78 AND -- I MEAN
23 UNTIL '88. I WAS -- I RAN RESTAURANTS. I WAS A
24 RESTAURANT CONSULTANT. I WAS IN PUBLIC RELATIONS. I WAS
25 A PUBLIC RELATIONS MANAGER AT, DIRECTOR AT A HOTEL.

26 Q WHAT HOTEL WAS THAT?

27 A HOLLYWOOD ROOSEVELT.

28 Q HERE IN LOS ANGELES?

1 A YES.

2 Q ON HOLLYWOOD BOULEVARD?

3 A UH-HUH.

4 THE COURT: IS THAT "YES"?

5 THE WITNESS: YES.

6 BY MR. CRAIN:

7 Q YOU HAVE TO SAY "YES" OR "NO" SO THE COURT
8 REPORTER CAN TAKE DOWN THE WORDS?

9 A SORRY.

10 Q SO THEN YOUR WORK WAS ESSENTIALLY IN THE
11 RESTAURANT AND HOTEL BUSINESS; IS THAT RIGHT?

12 A YES.

13 Q AND DID YOUR WORK BASICALLY INVOLVE SITTING
14 IN A BACK ROOM SOMEWHERE BY YOURSELF, OR DID IT HAVE TO DO
15 WITH MEETING PEOPLE AND DEALING WITH PEOPLE?

16 A I WAS ALWAYS THE FRONT.

17 Q WHAT DOES THAT MEAN?

18 A IN THE RESTAURANT I WAS THE ONE THAT BOOKED
19 THE RESERVATIONS AND SAT PEOPLE AND THEY NEEDED TO COME TO
20 ME FOR A TABLE. I WAS, YOU KNOW, I SUPERVISED THE DINING
21 ROOM. IN PUBLIC RELATIONS -- I HAVE ALWAYS BEEN DEALING
22 WITH THE PUBLIC. LET'S SAY THAT I AM THE LIAISON THAT
23 LINKS WITH THE PUBLIC.

24 Q DID YOU EVER WORK AT A RESTAURANT CALLED
25 MR. CHOW'S?

26 A YES. THAT WAS THE FIRST RESTAURANT THAT I
27 WORKED IN.

28 Q WHERE WAS MR. CHOW'S LOCATED? WHAT PART OF

1 TOWN?

2 A CAMDEN DRIVE IN BEVERLY HILLS.

3 Q WHAT DID YOU DO THERE?

4 A I WAS THE FAMILY REPRESENTATIVE. THE OWNERS
5 LIVED IN LONDON AND NEW YORK. I RAN THE FRONT. I WAS THE
6 MAITRE D'. I OVERSAW THE MANAGER, TECHNICAL MANAGER IN
7 HIS POSITION. MAINLY THE BULK OF THE BUSINESS HOURS
8 THROUGH LUNCH AND DINNER EVERY DAY I WAS ON THE FLOOR. I
9 THINK I HAD LIKE FIVE SPLIT SHIFTS A WEEK OR SOMETHING
10 SO --

11 Q AND DURING THE TIME THAT YOU WORKED THERE --
12 LET ME ASK YOU THIS: WHAT APPROXIMATE TIME PERIOD DID YOU
13 HAVE THIS POSITION AT MR. CHOW'S?

14 A I THINK IT WAS '78 TO '82.

15 Q AND DURING THAT PERIOD OF TIME DID YOU
16 ENCOUNTER RON LEVIN?

17 A I DID.

18 Q AND COULD YOU TELL THE COURT HOW YOU WOULD DO
19 THAT?

20 A WELL, IN THOSE DAYS MR. CHOW'S WAS KIND OF
21 LIKE THEODORE'S BOUTIQUE, IT WAS A VERY HOT RESTAURANT IN
22 LOS ANGELES AND HAD, I WOULD SAY, THE FASHIONABLE PEOPLE
23 OF THE CITY. THEY WERE EITHER IN THE FILM BUSINESS, THE
24 MUSIC BUSINESS, THEY CAME FROM EUROPE, THEY WERE IN THE
25 FILM BUSINESS OR FASHION PEOPLE OF LOS ANGELES.

26 Q THIS IS MR. CHOW'S?

27 A YEAH.

28 Q OKAY.

1 A SO IT WAS ALWAYS KIND OF LIKE A PARTY EVERY
2 NIGHT. THERE WERE RESERVATIONS, THERE WAS A GROUP OF
3 PEOPLE THAT WOULD JUST KIND OF FALL IN WHENEVER THEY FELT
4 LIKE, IT WAS KIND OF REGULAR SO YOU LOOKED AFTER THEM.
5 RON LEVIN WAS KIND OF ONE OF THOSE PERIPHERY REGULARS, HE
6 WOULD NEVER BOOK RESERVATIONS, HE WOULD JUST COME INTO THE
7 RESTAURANT, YOU KNOW, AND ALL OF A SUDDEN I TURNED AROUND
8 AND THERE WOULD BE TEN PEOPLE AT THE BAR OR SOMETHING
9 BACKED UP WAITING FOR TABLES AND HE WOULD KIND OF SLINK IN
10 AND GIVE YOU A LOOK THAT YOU KNEW HE WAS THERE AND, YOU
11 KNOW, FIT HIM IN AS YOU COULD. HE WAS USUALLY THAT WAY.
12 I DON'T RECALL HIM BEING CONCERNED ABOUT WHICH TABLE HE
13 SAT AT OR, YOU KNOW, HE WAS COMFORTABLE BEING IN THE BAR
14 BOOTHS. HE JUST -- HE ALWAYS KIND OF SLIDE IN.

15 Q DID YOU HAVE ANY CONVERSATIONS WITH RON LEVIN
16 DURING THIS PERIOD OF TIME?

17 A YEAH. THE SAME KIND THAT I HAD WITH
18 EVERYONE. YOU KNOW, I MADE SMALL TALK WITH PEOPLE. I
19 WOULD SAY HELLO. I WOULD GREET THEM. MOST PEOPLE I
20 DIDN'T KNOW IN DEPTH OR I DIDN'T KNOW A TREMENDOUS AMOUNT
21 ABOUT WHERE THEY CAME FROM. YOU JUST KIND OF
22 INSTINCTIVELY -- YOU KNOW, I HAD SOME PRETTY SUPERFICIAL
23 CONVERSATIONS, WHATEVER THEY WERE, I GUESS, IS WHAT I AM
24 SAYING.

25 Q COULD YOU DESCRIBE RON LEVIN? HOW DID HE
26 APPEAR PHYSICALLY, I MEAN?

27 A HE WAS -- WHEN I FIRST MET HIM I WAS LIKE 17
28 YEARS OLD, I DON'T RECALL HOW OLD HE WAS, BUT HE WAS

1 PREMATURELY GRAY. SO THAT WAS, YOU KNOW, A STRIKING
2 FEATURE. HE WAS ALWAYS VERY WELL DRESSED, WHICH LED ME TO
3 THINK HE WAS IN THE FASHION BUSINESS BECAUSE A LOT OF
4 PEOPLE THAT HUNG OUT IN THEODORE'S -- IN THOSE DAYS IT WAS
5 HERBERT WHO OWNED IT OR WAS THE ONLY REAL FASHION ICON IN
6 L.A. IN THOSE YEARS. SO HE WAS QUITE WELL DRESSED. HE
7 WAS TRENDY, WELL DRESSED, HE WASN'T CONSERVATIVE. HE
8 WASN'T LIKE, YOU KNOW, IVY LEAGUE OR PREPPIE. HE WAS ON
9 THE TALL SIDE, ON THE THIN, YOU KNOW, TO JUST -- HE
10 CERTAINLY WASN'T HEAVY BY ANY STRETCH. I WOULD SAY, IF
11 ANYTHING, HE WOULD LEAN TOWARDS THE, YOU KNOW, THINNER TO
12 MEDIUM TO THIN SIDE. YOU KNOW, HE HAD THAT VERY DISTINCT
13 FACE, WHICH --

14 Q OKAY.

15 NOW, DID YOU TESTIFY AT MR. -- THIS IS
16 MR. HUNT OVER HERE. DID YOU TESTIFY AT HIS TRIAL IN SAN
17 MATEO ABOUT FOUR YEARS AGO?

18 A I DID.

19 Q AND PRIOR TO THAT TIME HAD YOU EVER MET
20 MR. HUNT?

21 A NO.

22 Q DO YOU HAVE ANY PERSONAL CONNECTION WITH
23 MR. HUNT?

24 A NONE.

25 Q WAS THE ONLY INVOLVEMENT THAT YOU HAVE EVER
26 HAD WITH MR. HUNT AS A WITNESS BOTH IN '92 IN SAN MATEO
27 AND THEN AGAIN HERE TODAY?

28 A YES.

1 Q AND IN SAN MATEO WERE YOU BASICALLY ASKED
2 ABOUT YOUR KNOWLEDGE OF MR. LEVIN AND LATER SEEING
3 MR. LEVIN?

4 A YES. I THINK SO.

5 Q NOW, DO YOU HAVE ANY ILL WILL TOWARDS
6 MR. LEVIN?

7 A NO.

8 Q DID MR. LEVIN EVER DO ANYTHING TO YOU THAT
9 CAUSED YOU TO FEEL THAT YOU HAD BEEN TAKEN ADVANTAGE OF IN
10 SOME MANNER OR DISRESPECTED BY HIM OR ANYTHING LIKE THAT?

11 A NO.

12 Q OKAY.

13 NOW, OTHER THAN WHAT YOU HAVE TOLD US ABOUT
14 MR. LEVIN IS THERE ANYTHING ELSE ABOUT HIM THAT YOU RECALL
15 IN TERMS OF HIM OR HIS PERSONALITY?

16 A JUST WHAT I HAVE SAID KIND OF, YOU KNOW,
17 ALWAYS FROM THE START. HE WAS A VERY -- HE WAS AN
18 ODDBALL. I MEAN HE STUCK OUT, YOU KNOW, BUT HE STUCK OUT
19 IN NOT -- HE HAD A VERY DISTINCT PERSONALITY AND SENSE OF
20 PRESENCE WHEN HE WAS AROUND, AND HE WAS, I WOULD SAY, KIND
21 OF -- HE WAS KIND OF A SLIPPERY GUY. I MEAN, HE ALWAYS
22 HAD THAT.

23 MR. CRAIN: EXCUSE US, YOUR HONOR.

24
25 (A CONFERENCE WAS HELD BETWEEN COUNSEL
26 AND THE PETITIONER, NOT REPORTED.)
27

28 MR. CRAIN: ALL RIGHT.

1 I HAVE ANOTHER DOCUMENT, YOUR HONOR. IT IS
2 THREE PAGES. PERHAPS IT CAN BE MARKED AS PETITIONER'S
3 NEXT IN ORDER.

4 I WOULD LIKE TO APPROACH THE WITNESS.

5 EXCUSE ME.

6 COULD I JUST TALK TO COUNSEL?

7 THE COURT: YES.

8
9 (PAUSE.)

10
11 MR. CRAIN: I THINK I MAY BE IN VIOLATION OF THE
12 COURT'S RULE. I HAVE SHOWN TO IT MR. MC MULLEN. IT MIGHT
13 BE THAT WE DON'T HAVE A COPY FOR THE COURT AT THIS TIME.
14 IT IS VERY BRIEF.

15 THE COURT: WHERE IS YOUR EXHIBIT LIST?

16 PETITIONER HUNT: YOUR HONOR, I RECEIVED AN
17 EXHIBIT, THAT'S PART OF THE MATERIALS PROVIDED.

18 THE COURT: THAT'S MY QUESTION. WHERE IS YOUR
19 EXHIBIT LIST?

20 MR. KLEIN: IT IS NOT TOGETHER YET.

21 THE COURT: WHY NOT?

22 MR. KLEIN: WE HAVEN'T BEEN ABLE TO GET IT TOGETHER
23 YET.

24 THE COURT: HOW LONG HAS IT BEEN NOW SINCE I HAVE
25 BEEN ASKING? I HAVE BEEN REALLY NICE ABOUT THIS, GETTING
26 THE EXHIBIT LIST FOR BOTH SIDES. WE SPENT TIME -- I DID
27 IT FOR A PARTICULAR REASON. I DO THESE THINGS FOR A
28 PARTICULAR REASON. WE HAVE A LOT OF EXHIBITS. WE NEED TO

1 RUN THEM DOWN. IF YOU GUYS CHOSE TO DO WHAT YOU WANT TO
2 DO, IT IS NOT GOING TO BE PRODUCTIVE.

3 MR. CRAIN: I HAVE WORKED ABOUT THE LAST 20 DAYS IN
4 A ROW WITHOUT A DAY OFF. I DON'T HAVE A LAW CLERK. THE
5 COURT WOULDN'T -- I AM DOING THE BEST I CAN.

6 THE COURT: LET ME MAKE IT REAL CLEAR. THOSE ARE
7 YOUR PROBLEMS. DON'T MAKE YOUR PROBLEMS MY PROBLEMS. I
8 GAVE YOU AN ORDER. I WANT AN EXHIBIT LIST. IN FACT, I
9 ALSO TOLD YOU FOLKS TO LOOK AT THE EXHIBIT LIST ON EACH
10 OTHER'S, GO OVER EACH EXHIBIT, MAKE SURE WE HAVE THE
11 EXHIBITS, MAKE SURE THAT THERE WEREN'T GOING TO BE ANY
12 SURPRISES.

13 NOW, WHAT IS IT GOING TO TAKE TO GET THE
14 EXHIBIT LIST, WHICH I ORDERED A COUPLE OF WEEKS AGO?

15 MR. CRAIN: WITH ALL DUE RESPECT TO THE COURT, I
16 THINK THIS IS REALLY A -- I DON'T THINK ANYONE HERE SHOULD
17 MAKE A MOUNTAIN OUT OF A MOLEHILL.

18 WHAT IT IS -- IF I CAN JUST TELL THE COURT,
19 MERRILL LYNCH --

20 THE COURT: I AM NOT WORRIED ABOUT THE EXHIBIT, I
21 CAN DEAL WITH AN EXHIBIT. I AM CONCERNED ABOUT THE
22 EXHIBIT LIST. I AM CONCERNED ABOUT THE REFERENCE.

23 MR. CRAIN: I THINK IT IS ON THE LIST. MY
24 UNDERSTANDING IS WE DIDN'T HAVE A COPY FOR THE COURT.

25 MR. KLEIN: WHAT WE HAVE NOT BEEN ABLE TO -- WE
26 HAVE SUBMITTED TO THE COURT A LIST OF THE EXHIBITS THAT WE
27 INTEND TO PRESENT. WHAT I GATHER FROM WHAT HAPPENED LAST
28 WEEK THAT THE COURT WANTS US TO ACTUALLY THEN TAKE THAT

1 AND LIST THE EXHIBITS 1 THROUGH WHATEVER IN ORDER AND HAVE
2 A COPY FOR THE COURT.

3 THE COURT: IT IS CALLED AN EXHIBIT LIST.

4 MR. CRAIN: I THINK WE HAVE A LIST.

5 MR. KLEIN: NO. SEE, IT IS A QUESTION OF
6 DEFINITION.

7 THE COURT: WE HAVE PREPARED SOMETHING. CORRECT ME
8 IF I AM WRONG, MY CLERK SENT SOMETHING WEEKS, IF NOT
9 MONTHS AGO, TO BOTH SIDES.

10 MR. KLEIN: SHE TOLD ME SHE WANTS US TO LIST THEM,
11 AND YOU TOLD US LAST WEEK TO LIST THEM IN CHRONOLOGICAL
12 ORDER. I MEAN, WE HAVE GIVEN THE COURT AN EXHIBIT LIST OF
13 THE EXHIBITS THAT WE INTEND TO OFFER. I NOW DO BELIEVE I
14 UNDERSTAND WHAT THE COURT WANTS. MR. CRAIN AND I JUST
15 HAVEN'T HAD TIME TO TALK OR PUT IT TOGETHER.

16 I DIDN'T THINK HE NEEDED TO USE ANY EXHIBITS
17 WITH THE WITNESSES THAT WERE GOING TO BE CALLED TODAY. I
18 DO BELIEVE WE ARE GOING TO NEED SOME EXHIBITS WITH THE
19 WITNESS TOMORROW, AND I DID INTEND TO HAVE IT IN THE
20 FORMAT THAT THE COURT WANTED TOMORROW FOR THOSE WITNESSES,
21 AND I APOLOGIZE.

22 MR. CRAIN: IT IS ON THE WITNESS LIST WE SUBMITTED.

23 THE COURT: WHAT NUMBER IS IT?

24 MR. CRAIN: ON THE EXHIBIT LIST IS PART OF 111, I
25 BELIEVE, WHICH INCLUDES THE MASTER EXHIBIT LIST, WHICH WAS
26 THAT COMPUTER-GENERATED DOCUMENT.

27 MR. KLEIN: WHAT PAGE?

28 MR. CRAIN: IT IS 07051 --

1 MR. KLEIN: ITS PAGE 77 THE TOP?

2 THE COURT: OKAY.

3 MR. KLEIN: THE EXHIBIT ON PAGE 77 OF OUR EXHIBIT
4 NO. 111.

5 MR. CRAIN: I THINK WHAT YOU ARE --

6 MR. KLEIN: IS A DESCRIPTION OF IT.

7 THE COURT: ALL RIGHT.

8 IT IS NOT HELPFUL. WE ARE GOING TO REFER TO
9 SOMETHING IN HERE IN COURT. I WANT TO MAKE SURE THAT
10 WHATEVER WE USE IS ON THE EXHIBIT LIST, LIKE THE PEOPLE IN
11 THEIR UNTIMELY ALSO GOT TO ME --

12 MR. KLEIN: WE HAVE NEVER SEEN WHAT THE PEOPLE GOT
13 TO YOU.

14 MR. CRAIN: WHAT THE COURT IS SAYING --

15 THE COURT: CORRECT ME IF I AM WRONG, MAYBE I AM
16 WRONG. LAST TUESDAY I THOUGHT I SAID BOTH SIDES GET THE
17 EXHIBIT LIST, BOTH SIDES LOOK AT THE EXHIBIT LIST, BOTH
18 SIDES LOOK AT EACH OTHER'S EXHIBITS AND MAKE SURE YOU HAVE
19 SEEN YOUR EXHIBIT LIST AND YOUR EXHIBITS.

20 MR. CRAIN: I THOUGHT WE HAD BECAUSE BOTH SIDES
21 HAVE SUBMITTED AN EXHIBIT LIST. IF WHAT THE COURT IS
22 TALKING ABOUT -- MAYBE I AM NOT UNDERSTANDING WHAT THE
23 COURT IS SAYING.

24 MR. KLEIN: LET ME --

25 MR CRAIN: PLEASE WILL YOU --

26 THE COURT: IF --

27 MR. CRAIN: IF WHAT THE COURT IS SAYING IS THAT I
28 SHOULD PUT IN SOME SORT OF NUMERICAL ORDER THE EXHIBITS

1 AND MANNER IN WHICH I INTEND TO USE THEM.

2 THE COURT: I AM NOT SO CONCERNED --

3 MR. CRAIN: BECAUSE I DON'T KNOW WHICH WITNESS
4 IS --

5 THE COURT: I AM NOT SO CONCERNED ABOUT THAT AS I
6 AM WITH A LIST THAT WE NOW HAVE FROM THE RESPONDENT. SO
7 WHEN YOU SAY, "WE HAVE EXHIBIT K," OR, "WE HAVE EXHIBIT
8 23," EVERYONE KNOWS WHAT 23 IS. THE CLERK HAS A RECORD,
9 THE CLERK CAN KEEP TRACK OF IT ON THE SAME FORMAT THAT
10 EVERYBODY ELSE HAS, AND SO WE DON'T HAVE A PROBLEM.

11 MR. CRAIN: WE HAVEN'T DONE THAT.

12 THE COURT: I AM VERY RECORD CONSCIOUS.

13 MR. CRAIN: I APPRECIATE THAT. IT JUST SEEMS TO ME
14 IS THERE ANY OTHER LEGAL PROCEEDING WHEREIN -- THIS
15 WEEKEND I DECIDED I WANTED TO ASK THE WITNESS ONE OR TWO
16 QUESTIONS, JUST HAVE HER IDENTIFY A DOCUMENT AND ASK HER
17 IF THAT APPEARS TO BE THE NAME OF THE RESTAURANT SHE
18 WORKED AT THAT IS ON ONE OF HER -- RON LEVIN'S MONTHLY
19 CASH MANAGEMENT ACCOUNTS, THAT'S ALL AND, YOU KNOW, THEN
20 TO HAVE IT MARKED FOR IDENTIFICATION AND AT THE CONCLUSION
21 OF THE PROCEEDING WE WOULD TAKE UP WHETHER OR NOT THE
22 OTHER SIDE HAS AN OBJECTION TO IT.

23 THE COURT: WE ARE NOT IN DISAGREEMENT ON THAT.
24 WHAT I AM SAYING I NEED IS AN EXHIBIT LIST SO WHEN YOU
25 SAY, "THIS IS PETITIONER'S EXHIBIT 37," EVERYONE KNOWS
26 WHAT IT IS, AND THE CLERK CAN KEEP TRACK OF THEM. BOTTOM
27 LINE IS THERE IS NO WAY FOR THE CLERK TO KEEP TRACK OF ALL
28 THIS, THE COURT REPORTER TO KEEP TRACK OF ALL THIS STUFF

1 UNLESS WE ARE ALL WORKING FROM THE SAME SHEET, WHICH IS AN
2 EXHIBIT LIST. THAT'S WHY IN AS NICE A WAY AS I CAN -- I
3 AM NOT VERY NICE ALL THE TIME, I UNDERSTAND, I AM TRYING
4 TO HELP YOU FOLKS OUT BY PREPARING A FORMAT SO THAT YOU
5 GUYS CAN JUST GO IN AND FILL IT IN.

6 MR. CRAIN: I KNOW. I DON'T WANT TO BELABOR THIS
7 ON THE COURT'S TIME. THE PROBLEM IS THIS WEEKEND AFTER WE
8 WERE LAST IN COURT, LAST WEDNESDAY, I DECIDED, I CHOOSE TO
9 ASK THIS WITNESS, IF THE COURT WOULD PERMIT, A COUPLE OF
10 QUESTIONS ABOUT THIS PARTICULAR DOCUMENT.

11 THE COURT: FINE. WHAT EXHIBIT IS THIS? WHAT
12 EXHIBIT NO. ON YOUR EXHIBIT LIST WILL IT BE?

13 MR. KLEIN: IT WILL BE NO. 2 NOW OR NO. 3. WE
14 MARKED ONE EARLIER, SO IT WILL BE NO. 3.

15 MR. CRAIN: I BELIEVE WE MARKED MR. LEVIN'S
16 PHOTOGRAPH, WHICH IS BEFORE THE PHOTOGRAPH.

17 THE COURT: WHAT WAS 2?

18 MR. KLEIN: NO. 2 WAS THE CROCODILE DUNDEE AD.

19 THE WITNESS: THIS IS NO. 1.

20 THE COURT: THE ONLY THING YOU HAVE MARKED SO FAR
21 IS --

22 MR. CRAIN: WE HAVEN'T GOT INTO CROCODILE DUNDEE.
23 WE WEREN'T ABLE TO WORK OUT A STIPULATION.

24 MR. KLEIN: WE CAN STILL SHOW IT.

25 THE COURT: YOU WANT TO MARK THIS AS 2?

26 MR. CRAIN: DID WE MARK THE CROCODILE DUNDEE MOVIE
27 SHOWING WHEN IT WAS RELEASED OR WHEN IT WAS PLAYING IN
28 LOS ANGELES?

1 THE COURT: IT WILL BE MARKED AS 2. AND THEN THE
2 LATEST THING WILL BE MARKED AS 3. AND PLEASE, AGAIN, GIVE
3 ME AN EXHIBIT LIST.

4 MR. CRAIN: OKAY.

5 THE COURT: USING THIS FORMAT.

6 MR. CRAIN: CAN WE ANTICIPATE RECEIVING THE
7 PEOPLE'S EXHIBIT LIST THAT WE HAD --

8 MR. MC MULLEN: WE SUPPLIED THEM -- THAT TO THEM AS
9 SOON AS WE SUPPLIED IT TO YOUR HONOR. AND WITH RESPECT TO
10 THE TIMELINESS OF THIS, WE STROVE TO GET THIS DONE AS
11 QUICKLY AS WE COULD WHEN WE GOT THE FORM.

12 IN THE SPIRIT OF YOUR ORDER LAST WEEK IN
13 GOING OVER THE EXHIBITS I LOOKED AT EVERY ONE OF MY
14 EXHIBITS, MADE SURE I WAS ON TRACK. I LOOKED FOR THEIR
15 EXHIBIT LIST. THEY HAVE PROVIDED ME WITH AN EXHIBIT LIST
16 THAT THEY FILED WITH THE COURT. THERE ARE APPROXIMATELY
17 650 EXHIBITS THAT TOTAL SOMEWHERE IN BETWEEN 12 AND 15,000
18 PAGES. I HAVE GONE THROUGH ABOUT HALF OF THOSE. BUT I
19 HAVEN'T BEEN ABLE TO GET THROUGH ALL OF THEM.

20 THE COURT: GET ME AN EXHIBIT LIST.

21 MR. MC MULLEN: WE ARE ALSO MISSING A LOT OF THOSE
22 WHICH WE HAVE BEEN COMMUNICATING WITH COUNSEL ABOUT FOR
23 SEVERAL WEEKS NOW.

24 THE COURT: YOU GUYS ARE GOING TO BE SPENDING OUT
25 OF COURT TIME RESOLVING THIS THING. GIVE ME AN EXHIBIT
26 LIST BY TOMORROW.

27 IT WILL BE MARKED AS 3.
28

1 (MARKED FOR ID = PETITIONER 2, DOCUMENT.)

2

3 (MARKED FOR ID = PETITIONER 3, DOCUMENT.)

4

5 MR. CRAIN: MAY I APPROACH THE WITNESS?

6 THE COURT: YES.

7 BY MR. CRAIN:

8 Q LET ME SHOW YOU --

9 MR. CRAIN: DO YOU WANT TO SEE THIS ALSO?

10 BY MR. CRAIN:

11 Q I WOULD LIKE TO SHOW YOU A DOCUMENT HERE
12 WHICH I HAVE SHOWN TO MR. MC MULLEN AND NOW BOTH COUNSEL
13 HAVE SEEN IT FOR THE PEOPLE.

14 DIRECTING YOUR ATTENTION -- WELL, FOR THE
15 RECORD IS SAYS (READING): "PEARCE, FENNER AND SMITH,
16 INC., MONTHLY STATEMENT CASH MANAGEMENT ACCOUNT." IT HAS
17 THE NAME "R. LEVIN" ON IT. DO YOU SEE THAT?

18 A YES.

19 Q AND --

20 MR. MC MULLEN: I WOULD OBJECT AS TO THIS LINE OF
21 QUESTIONING AS BEING IRRELEVANT AND NO REAL FOUNDATION.

22 THE COURT: LET ME SEE WHERE IT IS GOING.

23 MR. MC MULLEN: THANK YOU.

24 BY MR. CRAIN:

25 Q ON HERE DO YOU SEE THE NAME "M. CHOW"?

26 A YES.

27 Q DOES THAT APPEAR TO BE A REFERENCE TO THE
28 RESTAURANT YOU WORKED AT?

1 A YES.

2 Q NOW, TURNING OUR ATTENTION TO OTHER MATTERS,
3 WHEN WAS THE LAST TIME AT MR. CHOW'S, APPROXIMATELY, THAT
4 YOU SAW MR. LEVIN IN THERE?

5 A WELL, THE LAST TIME I WORKED THERE WAS '82,
6 SO IT WAS DURING '82.

7 Q AND DID YOU EVER SEE MR. LEVIN AGAIN AFTER
8 THAT?

9 A YES.

10 Q WHERE WAS THAT?

11 A ON SAN VICENTE IN BRENTWOOD.

12 Q WHAT WERE YOU DOING ON SAN VICENTE? WALKING?
13 DRIVING? STANDING STILL?

14 A I WAS DRIVING TO WORK.

15 Q WHERE WERE YOU WORKING AT THAT TIME?

16 A I WAS WORKING AT THE HOLLYWOOD ROOSEVELT
17 HOTEL IN HOLLYWOOD BOULEVARD.

18 Q CAN YOU PULL THAT UP OR SPEAK UP A LITTLE
19 MORE.

20 WERE YOU WORKING THERE IN THE SAME CAPACITY
21 THAT YOU DESCRIBED A FEW MOMENTS AGO?

22 A MORE OR LESS. THIS WAS MORE INVOLVED WITH
23 THE PRESS, AND IT WAS MORE INVOLVED WITH -- BUT I WAS
24 DIRECTOR OF PUBLIC RELATIONS, SO IT WAS -- I INTERFACED
25 WITH THE PUBLIC ALL THE TIME.

26 Q WHERE WERE YOU COMING FROM OR WHERE WERE YOU
27 ON YOUR WAY TO?

28 A I LIVED IN SANTA MONICA. SO I WAS GOING FROM

1 SANTA MONICA TO THE HOLLYWOOD ROOSEVELT.

2 Q WAS THAT YOUR CUSTOMARY ROUTE TO GO TO
3 SAN VICENTE?

4 A MY ROUTE WAS ALWAYS TO TAKE SAN VICENTE TO
5 BUNDY, TURN LEFT TO GO UP TO SUNSET, TAKE SUNSET ACROSS TO
6 HOLLYWOOD BOULEVARD, AND I WOULD BE AT THE HOTEL. THAT
7 WAS NOT MY NORMAL ROUTE. THIS WAS JUST PAST BUNDY ON
8 SAN VICENTE ON THE WAY TO WILSHIRE.

9 Q WHY DID YOU TAKE AN ABNORMAL WAY TO WORK?

10 A BECAUSE THERE WAS ROAD CONSTRUCTION FOR DAYS
11 AT THE BRENTWOOD SCHOOL AT SUNSET RIGHT NEAR BARRINGTON,
12 AND IT WAS JUST, YOU KNOW, CREATING TRAFFIC PROBLEMS.

13 Q OKAY.

14 NOW, YOU WERE DRIVING ALONE IN YOUR CAR; IS
15 THAT RIGHT?

16 A YES.

17 Q ABOUT WHAT TIME OF DAY WAS IT?

18 A I AM SURE IT WAS SOMETIME AFTER 8:00 IN THE
19 MORNING BECAUSE THAT WAS -- I GOT TO WORK BY 9:00. SO
20 PROBABLY 8:30.

21 Q AND IN WHAT DIRECTION WERE YOU GOING ON
22 SAN VICENTE?

23 A I WAS HEADING EAST.

24 Q WAS ANYONE IN THE CAR WITH YOU?

25 A NO.

26 Q AND WHAT YEAR WAS THIS?

27 A I GUESS 1987.

28 Q OKAY.

1 NOW, DO YOU REMEMBER WHAT MONTH IT WAS OR
2 WHAT PART OF THE YEAR?

3 A WELL, I THINK IT WAS IN THE BEGINNING OF THE
4 YEAR OR SOMEWHERE AROUND THE BEGINNING OF THE YEAR.

5 Q DID SOME PARTICULAR EVENT HAPPEN IN 1987 SOME
6 THING THAT AFFECTED YOU?

7 A YES. I HAD A CLOSE FRIEND WHO WAS IN THE AIR
8 FORCE AND TOOK OFF FOR A ROUTINE FLIGHT AND CRASHED INTO
9 THE, I GUESS IT WAS THE SAN BERNARDINO MOUNTAINS.

10 Q WHO WAS THAT CLOSE FRIEND?

11 A HIS NAME WAS DEAN PAUL MARTIN.

12 Q IS THAT THE DEAN PAUL MARTIN WHO WAS THE SON
13 OF THE ENTERTAINER DEAN MARTIN, WHO JUST DIED EARLIER THIS
14 YEAR?

15 A YES.

16 Q AND WAS HE A GOOD FRIEND OF YOURS?

17 A YES, HE WAS.

18 Q GOING BACK TO YOUR DRIVE TO WORK ON SAN
19 VICENTE, WHAT HAPPENED? JUST TELL US WHAT YOU SAW.

20 A I JUST, I LOOKED OVER. I WAS KIND OF
21 TRAVELING IN STOP AND START TRAFFIC, AND I LOOKED OVER AND
22 I SAW RON LEVIN GETTING INTO A CAR AND REMARKED TO MYSELF
23 THAT, "THERE IS RON LEVIN. I HAVEN'T SEEN HIM FOR A
24 WHILE." AND IT WAS ONE OF THOSE MOMENTS THAT EVOKED AN
25 ERA IN MY LIFE. I JUST KIND OF THOUGHT ABOUT HIM IN THAT
26 PERIOD THROUGHOUT THE REST OF MY DRIVE TO WORK.

27 Q NOW, AT THIS TIME HAD YOU HEARD ANY REPORTS
28 THAT RON LEVIN WAS MISSING, OR DID SOME PEOPLE CONSIDER

1 THAT HE WAS DEAD OR ANYTHING LIKE THAT?

2 A NO.

3 Q WERE YOU SOMEONE WHO DURING THIS PERIOD OF
4 YOUR LIFE WAS INTERESTED IN THE NEWS AND SO FORTH?

5 A NOT REALLY.

6 Q ACCOUNTS OF NEWS STORIES?

7 A NO. I AM NOT A VERY MEDIA-ORIENTED PERSON,
8 WHICH WAS KIND OF AN INCONGRUOUS ASPECT OF THE JOB I HAD,
9 BUT I DIDN'T HAVE A TELEVISION. I STOPPED WATCHING T.V.
10 WHEN I WAS ABOUT 17, AND I DIDN'T HAVE -- I OWN ONE NOW,
11 BUT NOT UNTIL SOMEONE GAVE IT TO ME WHEN I WAS ABOUT 35.
12 I LIKED THE "NEW YORK TIMES." I DIDN'T PAY MUCH ATTENTION
13 TO ANYTHING LOCAL NEWS, AND I NEVER WAS VERY INTERESTED IN
14 KIND OF SENSATIONALISM, SO IT WASN'T REALLY PART OF -- NO,
15 I DIDN'T PAY ATTENTION. I PAID ATTENTION TO THE NEWS
16 CLIPPINGS FROM THE HOLLYWOOD ROOSEVELT, AND I READ
17 "VARIETY" AND THE "HOLLYWOOD REPORTER" BECAUSE I NEEDED TO
18 FOR MY JOB.

19 Q SAY NEWS CLIPPING WAS THE SOURCE OF THOSE --

20 A WELL, IN MY JOB THERE WAS A ROOM CALLED THE
21 CENTER GRILL AT THE HOLLYWOOD ROOSEVELT. I WAS
22 RESPONSIBLE FOR CREATING ITS ENTERTAINMENT AND BOOKING AND
23 LAUNCHING IT AND OPENING NIGHTS AND THINGS LIKE THAT. SO
24 I GET REVIEWS.

25 AND ALSO MY JOB WAS ABOUT DOING THINGS LIKE I
26 HAD DAVE HOCKNEY PAINT THE SWIMMING POOL. IT WAS IN "TIME
27 MAGAZINE." AND I HAD, YOU KNOW, I WAS ALWAYS DOING THINGS
28 TO ATTRACT PRESS.

1 SO MY JOB WAS REALLY TO GET PRESS FOR THE
2 HOTEL, PART OF IT. SO I HAD TO BE -- I HAD TO BE INFORMED
3 OF WHAT, WHAT THE FRUITS OF MY LABOR WERE, SO TO SPEAK.
4 SO MY ASSISTANT AND THE CLIPPING SERVICE KEPT US INFORMED
5 ON THAT LEVEL. BUT I PERSONALLY WASN'T THE ONE THAT DID
6 THE PURSUING OF THE INFORMATION.

7 Q SO IS IT FAIR TO SAY THAT THE CLIPPINGS THAT
8 YOU WOULD GET WERE BASICALLY RELATED TO THE ENTERTAINMENT
9 WORLD?

10 A YES.

11 Q AS OPPOSED TO OTHER TYPES OF NEWS?

12 A THAT'S ALL IT WAS.

13 Q OKAY.

14 WHAT WAS MR. LEVIN DOING, WHEN YOU SAW HIM ON
15 SAN VICENTE?

16 A HE WAS OPENING A CAR DOOR AND GETTING INTO A
17 CAR.

18 Q AND YOU SAID IT WAS LIKE STOP AND START
19 TRAFFIC MORNING?

20 A YEAH, WELL, IT IS THE HOUR. IT WAS STOP AND
21 START TRAFFIC.

22 THE COURT: WHAT TIME OF DAY WAS THIS?

23 THE WITNESS: I WOULD SAY 8:30 IN THE MORNING. I
24 USUALLY LEFT THE HOUSE ABOUT 8:00, 8:10. I WAS AT WORK AT
25 9:00.

26 BY MR. CRAIN:

27 Q AND YOU TOLD US THAT YOU HADN'T SEEN HIM FOR
28 SEVERAL YEARS AND YOU THOUGHT BACK TO THIS EARLIER TIME IN

1 YOUR LIFE?

2 A YEAH, BECAUSE RIGHT AFTER I LEFT MR. CHOW'S I
3 DID A FEW RESTAURANT CONSULTING JOBS IN LOS ANGELES, BUT
4 THEN I MOVED TO NEW YORK. THEN I WORKED FOR A FILM
5 COMPANY FOR ABOUT A YEAR, AND I WORKED -- I MOVED TO NEW
6 YORK FOR ANOTHER LIKE TWO-MONTH PERIOD OR SOMETHING, SO I
7 WAS KIND OF, YOU KNOW, OUT OF CIRCULATION IN THE USUAL
8 PLACES THAT I WOULD HAVE BEEN FROM THE TIME, YOU KNOW, UP
9 TO THE MR. CHOW PERIOD. SOME OF THE OTHER JOBS I DID WERE
10 SETTING UP RESTAURANTS, BUT, YOU KNOW, ONE WAS A PRIVATE
11 CLUB, AND IT WAS JUST A LITTLE BIT DIFFERENT. I DIDN'T
12 HAVE THE SAME -- I WASN'T ACCESSIBLE IN THE SAME WAY.

13 Q NOW, ABOUT -- WAS IT AFTER THIS THAT YOUR
14 FRIEND, DEAN PAUL MARTIN, SUFFERED HIS FATAL AIRPLANE
15 CRASH?

16 A YES.

17 Q CAN YOU TELL US HOW LONG OR APPROXIMATELY HOW
18 LONG, AS BEST YOU CAN RECALL?

19 A MY SENSE WAS THAT IT WAS A FEW -- WITHIN A
20 WEEK OR TWO WEEKS BECAUSE IT WAS WHEN I TURNED ON THE
21 TELEVISION AT 4 O'CLOCK TO SEE THE NEWS ABOUT DEAN AND
22 THEY FLASHED THIS PICTURE OF RON LEVIN. I WAS SO
23 SURPRISED AND FELT LIKE IT HAD BEEN QUITE FRESH. I LOOKED
24 AT MY ASSISTANT, I SAID, "I CAN'T BELIEVE THIS. THIS GUY
25 IS NOT DEAD. I JUST SAW HIM." IT WAS AN IMMEDIATE
26 INSTINCT THAT -- AND THEN I LISTENED AND FOUND OUT THAT IT
27 WAS THE BILLIONAIRE BOYS CLUB. I WAS JUST SURPRISED AT
28 THE WHOLE THING.

1 Q LET ME STOP YOU THERE.

2 A IT WAS A BIG SURPRISE.

3 Q YOU TURNED ON A TELEVISION. WHERE WERE YOU
4 WHEN THIS HAPPENED?

5 A IN MY OFFICE.

6 Q YOU TOLD US YOU WEREN'T A T.V. WATCHER. WHY
7 DID YOU TURN ON THE TELEVISION?

8 A BECAUSE MY OFFICE WAS A HOTEL ROOM, AND IT
9 HAD A T.V. IN IT JUST NATURALLY.

10 Q DID IT HAVE ANYTHING TO DO WITH MR. MARTIN?

11 A THAT'S WHY I TURNED IT ON. I TURNED ON THE 4
12 O'CLOCK NEWS TO SEE IF THEY FOUND DEAN'S BODY.

13 Q HAD YOU ALREADY HEARD THAT HE WAS REPORTED
14 MISSING?

15 A OH, YEAH. HE HAD BEEN MISSING FOR AT LEAST A
16 DAY OR TWO.

17 Q HE HAD TAKEN OFF IN A PLANE?

18 A I THINK HE WAS MISSING FROM SATURDAY AND
19 ON -- IT WAS A WORKDAY, SO IT WOULD BE MONDAY OR TUESDAY.

20 Q SO YOU WERE TRYING TO FIND OUT IF THEY HAD
21 FOUND THE BODY; IS THAT RIGHT?

22 A YES.

23 Q IT WAS DURING THIS BROADCAST THAT YOU HEARD
24 SOMETHING ABOUT MR. LEVIN?

25 A THEY PUT A PICTURE ON THE T.V. AND SAID, YOU
26 KNOW, IDENTIFIED HIM AS MURDER VICTIM. I WAS JUST
27 SHOCKED.

28 Q AND WHAT HAPPENED?

1 A WELL, NOTHING. I JUST I LOOKED AT JAN, AND I
2 SAID, "I DON'T BELIEVE THIS. I JUST SAW HIM AT -- IT
3 CAN'T BE RON LEVIN." AND WITHIN EITHER THAT EVENING OR
4 THE NEXT DAY THEY, YOU KNOW, IT WAS DISCOVERED THAT DEAN
5 WAS -- THEY DIDN'T FIND ANY REMAINS OR WHATEVER THEY FOUND
6 WAS, YOU KNOW, AND SO IT WAS -- I WAS JUST PRETTY
7 PREOCCUPIED WITH WORK AND DEAN'S DEATH. YOU KNOW, WE WERE
8 PART OF A CROWD OF PEOPLE AND IT WAS A PRETTY SAD TRAGEDY
9 FOR ALL OF US.

10 Q WHAT'S YOUR ASSISTANT'S FULL NAME?

11 A JANICE WALNER. I DON'T REMEMBER HER MIDDLE
12 NAME.

13 Q AND SHE WAS THERE WITH YOU WHEN THE T.V.
14 BROADCAST CAME ON?

15 A IT WAS MY RECOLLECTION THAT SHE WAS. I
16 TURNED TO HER AND SAID THAT. I HAVE ALWAYS FELT STRONGLY
17 THAT THAT'S WHAT HAPPENED SO --

18 Q NOW, AFTER THIS YOU SAID THAT HIS BODY WAS
19 FOUND, REFERRING TO MR. MARTIN'S?

20 A RIGHT.

21 Q AND WHAT?

22 A OR NONBODY.

23 Q WELL, WHATEVER, THE REMAINS?

24 A WHATEVER.

25 Q THE REMAINS OF THE AIRPLANE CRASH; RIGHT?

26 A RIGHT.

27 Q AND WHAT OVER ALL AFFECT DID HIS DEATH,
28 MR. MARTIN'S DEATH HAVE ON YOU?

1 A LIKE I JUST SAID, WE WERE VERY -- THIS GROUP
2 OF FRIENDS THAT I HAD WE WERE ALL VERY UPSET, SO IN THAT
3 KIND OF SHOCK MOURNING MOMENT OF GETTING ORGANIZED TO GO
4 TO A FUNERAL AND DEALING, SUPPORTING EACH OTHER BECAUSE WE
5 WERE ALL CLOSE AND VERY SAD.

6 Q AT SOME POINT AFTER THAT DID YOU DESCRIBE OR
7 RELATE TO ANYONE THAT YOU HAD SEEN RON LEVIN ON
8 SAN VICENTE THAT MORNING?

9 A YES. A FEW -- I COMPLETELY FORGOT ABOUT THE
10 RON LEVIN STORY, AND I WENT TO A BABY SHOWER FOR A FRIEND
11 SOMEWHERE WITHIN A FEW WEEKS, THREE WEEKS, SOMETHING, I
12 DON'T KNOW. I DON'T RECALL THAT TIME FRAME ANYMORE. AND
13 I WAS SPEAKING TO ONE OF MY SISTER'S FRIENDS, A GIRL NAMED
14 JEWEL, AND SHE ASKED ME WHAT I DID, AND I TOLD HER.

15 I ASKED WHAT SHE DID. SHE SAID SHE WAS
16 WORKING ON -- SHE WAS A LEGAL ASSISTANT OR SOMETHING. SHE
17 WAS WORKING ON A KIND OF FAMOUS CASE.

18 AND I SAID, "YEAH, WHICH ONE?"

19 SHE SAID, "IT IS CALLED THE BILLIONAIRES BOYS
20 CLUB."

21 I SAID -- "MY GOD, I HAVE VERY STRANGE STORY
22 TO TELL YOU." SO I TOLD HER THE STORY THAT I WAS DRIVING
23 DOWN THE STREET AND I SAW HIM. I TURNED ON THE T.V. AND
24 THEN I JUST SAID, "I AM POSITIVE HE IS NOT DEAD."

25 SO SHE KIND OF GOT A LITTLE, YOU KNOW,
26 UNSETTLED AND SAID, "DO YOU MIND IF I TELL THE ATTORNEY I
27 AM WORKING FOR AND" --

28 Q DID SHE TELL WHO THE ATTORNEY WAS SHE WAS

1 WORKING FOR?

2 A OF COURSE, I AM SURE SHE DID. I MEAN BUT --

3 Q IF I WERE TO TELL YOU A NAME WOULD THAT
4 REFRESH YOUR RECOLLECTION?

5 A WELL, NOW I KNOW THE NAME, BUT AT THAT TIME I
6 WOULDN'T HAVE KNOWN HIM FROM THE MAN IN THE MOON.

7 Q WELL, WHAT NAME?

8 A I THINK IT WAS MR. BRODEY.

9 Q JEFFREY BRODEY?

10 A YEAH.

11 Q SO JEWEL, HER NAME WAS JEWEL; IS THAT RIGHT?

12 A YEAH, JEWEL.

13 Q SHE SAID SHE WAS WORKING FOR MR. BRODEY, THE
14 ATTORNEY?

15 A RIGHT.

16 Q THAT HE WAS CONNECTED WITH THIS CASE?

17 A WITH THIS CASE, YES. SHE -- I DON'T EVEN --
18 I DIDN'T EVEN KNOW A NAME FROM THE CASE.

19 BUT ANYWAY SHE SAID, "DO YOU -- DO YOU MIND
20 IF I TELL HIM?"

21 I SAID, "I GUESS NOT. OKAY."

22 SO SHE DID. AND HE CONTACTED ME, AND I WENT
23 IN AND SAW HIM, AND I PROBABLY SPOKE WITH HIM FOR AN HOUR,
24 AT LEAST AN HOUR, HOUR AND HALF OR SOMETHING. THEN WITHIN
25 THE NEXT WEEK A PRIVATE DETECTIVE CAME OUT.

26 MR. MC MULLEN: AT THIS POINT I AM GOING TO OBJECT
27 AS A NARRATIVE RESPONSE. IT SEEMS TO BE GOING --

28 THE COURT: PUT A QUESTION.

1 MR. CRAIN: THANK YOU

2 BY MR. CRAIN:

3 Q AFTER THAT DID YOU TALK TO ANYONE ELSE ABOUT
4 SEEING MR. LEVIN ON SAN VICENTE?

5 A YES. I TALKED TO THIS DETECTIVE THAT CAME
6 OUT, AND WE WENT TO THE SITE AND WE MAPPED IT OUT, OR WE
7 LOOKED AT IT OR, YOU KNOW, I DON'T KNOW IF I HAD ONE OR
8 TWO INTERVIEWS WITH THAT DETECTIVE OR WHOEVER THAT PERSON
9 WAS. I ACTUALLY -- I DON'T REMEMBER WHO THAT PERSON WAS.

10 Q DO YOU KNOW IF IT WAS SOMEONE WORKING FOR
11 MR. BRODEY OR NOT?

12 A I AM SORRY, I DON'T REMEMBER.

13 Q DO YOU KNOW IF HIS NAME WAS MR. ROHMAN? DOES
14 THAT RING A BELL.

15 MR. KLEIN: R-O-H-M-A-N, FOR THE REPORTER.

16 THE WITNESS: I DON'T REMEMBER ANYMORE. I COULDN'T
17 SAY TRUTHFULLY THAT WAS THE NAME. BUT I AM SURE IT IS IN
18 THE RECORD SOMEWHERE --

19 BY MR. CRAIN:

20 Q FIRST, YOU HAD A CONVERSATION WITH MR.
21 BRODEY, YOU TOLD HIM ABOUT SEEING MR. LEVIN; IS THAT
22 RIGHT?

23 A YES.

24 Q THEN THEREAFTER SOME INVESTIGATOR OR
25 DETECTIVE, AS YOU PUT IT, INTERVIEWED YOU AND EVEN WENT TO
26 THE LOCATION ON SAN VICENTE; IS THAT RIGHT?

27 A YES.

28 Q AND PRIOR TO BEING SUMMONED AS A WITNESS IN

1 1992 IN SAN MATEO WERE YOU CALLED IN FURTHER TO GIVE AN
2 ACCOUNT OF THIS BY ANYONE CONNECTED WITH THIS CASE, OR DID
3 YOU TESTIFY, EITHER ONE?

4 A NOT TO MY RECOLLECTION.

5 Q ALL RIGHT.

6 ONE LAST THING HERE. WHEN YOU WERE WORKING
7 AT THE HOLLYWOOD ROOSEVELT THERE IN THE FIRST PART OF 1987
8 WHAT SORT OF HOURS OR HOW HARD WERE YOU WORKING?

9 A WELL, I GOT TO WORK AT 9:00 AND DEPENDING
10 ON -- I WAS KIND OF RESPONSIBLE FOR OVERSEEING THE DINING
11 ROOM TOO, AND I HAD TO OPEN THESE ACTS AT NIGHT, SO MY JOB
12 WOULD GO ANYWHERE FROM 9:00 IN THE MORNING TO 9:00 AT
13 NIGHT OR SOMETIMES 2:00 TO 3:00 IN THE MORNING. IT WOULD
14 DEPEND ON IF WE WERE OPENING AN ACT, IF I HAD TO BE THERE
15 FOR THE OPENING NIGHT, IF I HAD TO WATCH THE SHOW EVERY
16 NIGHT OR BE THERE FOR THE PERFORMER, WHATEVER IT WAS.
17 MOST PEOPLE THAT I BROUGHT IN WERE FROM NEW YORK. THEY
18 WERE CABARET PERFORMERS.

19 Q WOULD YOU SAY YOU WERE WORKING PRETTY HARD?

20 A I WAS WORKING VERY HARD. I DIDN'T HAVE MUCH
21 TIME TO DO ANYTHING ELSE BUT WORK.

22 Q DO YOU HAVE ANYTHING WRONG WITH YOUR VISION
23 IN 1987?

24 A NO. I HAVE ALWAYS HAD 20/20 VISION. I DON'T
25 KNOW, MAYBE NOW IT IS NOT BUT --

26 Q BUT IN 1987?

27 A YEAH, IT WAS.

28 Q OKAY.

1 MR. CRAIN: COULD I HAVE JUST A MOMENT, YOUR HONOR?

2 THE COURT: YES.

3

4 (PAUSE.)

5

6 MR. CRAIN: THANK YOU, YOUR HONOR.

7 I HAVE NO FURTHER QUESTIONS.

8 THE COURT: I WANT TO CLARIFY ONE THING. WHEN WAS

9 IT THAT YOU ACTUALLY HAD THIS CONVERSATION WITH JEWEL?

10 THE WITNESS: IT WAS A FEW WEEKS, PROBABLY A FEW
11 WEEKS AFTER DEAN HAD DIED, SOMETIME -- IT WAS IN, MAY HAVE
12 BEEN IN THE SPRING. IT WAS ALL IN THAT PERIOD FROM LIKE
13 THE BEGINNING OF THE YEAR UNTIL -- I THINK I LEFT THE
14 HOLLYWOOD ROOSEVELT IN JUNE OF THAT YEAR.

15 THE COURT: YOU ARE TALKING '87?

16 THE WITNESS: YES. IT WAS ALL IN THAT TIME FRAME.

17 THE COURT: HOW LONG BETWEEN SPEAKING TO JEWEL AND
18 SPEAKING TO MR. BRODEY?

19 THE WITNESS: PROBABLY THAT WAS ON A SATURDAY THAT
20 I WENT TO THE BABY SHOWER. I PROBABLY SPOKE TO HIM ON
21 MONDAY OR TUESDAY OR SOMETHING. IT WAS SHORT. I GUESS HE
22 WAS IN THE MIDDLE OF PREPARING FOR TRIAL, OR HE WAS IN
23 TRIAL OR SOMETHING.

24 THE COURT: HOW LONG BETWEEN SPEAKING TO MR. BRODEY
25 AND SPEAKING TO THE PRIVATE INVESTIGATOR?

26 THE WITNESS: IT WAS ALL QUITE QUICKLY. I MEAN,
27 AFTER THE TIME THAT IT CAME TO MR. BRODEY'S ATTENTION,
28 THEY SAW ME, YOU KNOW, THEY TOOK ALL THAT STUFF WITHIN,

1 YOU KNOW, I WOULD SAY WITHIN A WEEK OR TEN DAYS,
2 SOMETHING, IT WAS ALL -- IT HAPPENED SIMULTANEOUSLY.

3 THE COURT: CROSS EXAMINATION?

4 MR. CRAIN: CAN I ASK ONE FURTHER QUESTION?

5 THE COURT: GO AHEAD.

6

7 DIRECT EXAMINATION CONTINUED +

8

9 BY MR. CRAIN:

10 Q TODAY DID YOU LOOK AT ANY COPIES OF ANY
11 ARTICLES THAT REFRESH YOUR RECOLLECTION IN ANY WAY ABOUT
12 WHEN MR. MARTIN DIED IN 1987?

13 A JUST THAT ONE THAT YOU SHOWED ME THAT WAS,
14 YOU KNOW, OF DEAN, AND I JUST KIND OF LOOKED AT THE
15 PICTURE.

16 Q DID THAT IN ANY WAY -- DO YOU KNOW WHAT DAY
17 HE DIED?

18 A I THINK THAT SAID MARCH 21ST.

19 Q 1987?

20 A YES.

21 Q DID THAT SEEM TO FIT YOUR RECOLLECTION OF THE
22 TIME FRAME?

23 A YES. THAT WOULD FIT PERFECTLY.

24 MR. CRAIN: OKAY.

25 NOTHING FURTHER.

26 THE COURT: MR. MC MULLEN?

27 MR. MC MULLEN: THANK YOU

28

CROSS-EXAMINATION @

BY MR. MC MULLEN:

Q MA'AM, DURING YOUR TESTIMONY YOU MENTIONED THE BILLIONAIRES BOYS CLUB CASE. WHEN DID YOU FIRST BECOME AWARE OF THAT CASE?

A I DON'T KNOW.

Q HAD YOU EVER HEARD OF -- WELL, PRIOR TO THE SIGHTING YOU TESTIFIED TO DID YOU HAVE ANY KNOWLEDGE OF THE B.B.C. OR BILLIONAIRE BOYS CLUB, EVER HEARD ANYTHING ABOUT IT?

A I AM SURE I HEARD OF THE BILLIONAIRES BOYS CLUB. IT WASN'T A TOTALLY UNFAMILIAR NAME. WHEN IT CAME ON THE SCREEN IT WAS RON LEVIN THAT WAS IDENTIFIED. I WAS JUST SURPRISED THAT HE WAS IDENTIFIED IN RELATION TO THEM.

Q WHERE HAD YOU RECEIVED INFORMATION ABOUT THE B.B.C. OR BILLIONAIRE BOYS CLUB PRIOR TO THE TIME OF THAT, THE SIGHTING THAT YOU HAVE TESTIFIED TO?

A THAT WOULD JUST BE THROUGH GENERAL INFORMATION BEING TALKED ABOUT AT DINNER TABLES OR JUST GENERAL INFORMATION ABOUT A PERIOD OF TIME LIKE A LOT OF NEWS WHEN YOU ARE IN PUBLIC BUSINESS YOU OFTEN GET A LOT OF INFORMATION JUST, YOU KNOW, YOU JUST TALK TO PEOPLE ALL DAY. THEY SAY, "DID YOU SEE THAT MOVIE? DID YOU HEAR WHAT HAPPENED TO SO AND SO? CAN YOU BELIEVE WHAT THEY JUST DID? DID YOU BELIEVE THAT ABOUT JACKIE O?" YOU DIDN'T HAVE TO READ ABOUT JACKIE O TO KNOW THAT. YOU GET IN A CAB AND THE CAB DRIVER ASKED YOU IN NEW YORK. IT IS

1 JUST COMMON KNOWLEDGE.

2 Q THE BILLIONAIRES BOYS CLUB CASE WAS A REAL
3 BIG CASE BACK AT THE TIME OF YOUR SIGHTINGS?

4 A I AM SURE IT WAS. SO I AM SURE THAT'S WHERE
5 I GOT THE INFORMATION FROM. IT WASN'T BECAUSE I WAS
6 READING OR WATCHING IT ON THE NEWS.

7 Q IT IS POSSIBLE YOU COULD HAVE SEEN IT ON THE
8 NEWS, YOU REALLY DON'T KNOW?

9 A I DIDN'T WATCH THE NEWS. THE ONLY TIME I
10 EVER WATCHED THE NEWS IN THAT WHOLE PERIOD WAS JUST TO SEE
11 ABOUT DEAN, OTHERWISE I NEVER GOT NEAR A T.V..

12 Q WHAT WAS THE DAY OF THE WEEK THAT THE
13 SIGHTING OCCURRED?

14 A LIKE I SAID, IT WAS EITHER ON MONDAY OR A
15 TUESDAY BECAUSE DEAN WAS MISSING ON A SATURDAY, AND IT WAS
16 A WORKDAY BECAUSE I WAS -- THE SIGHTING? THE SIGHTING?

17 Q YES.

18 A I DON'T KNOW. IT WAS MONDAY THROUGH FRIDAY.
19 IT WAS DURING RUSH-HOUR TRAFFIC. THAT I DON'T REMEMBER.

20 Q AND YOU TESTIFIED, I THINK, 1970, '71 YOU
21 CAME IN CONTACT WITH MR. RON LEVIN AT THIS BOUTIQUE?

22 A RIGHT.

23 Q ABOUT HOW MANY TIMES DID YOU SEE HIM AT THAT
24 BOUTIQUE?

25 A YOU SEE, THAT'S WHAT I WAS TRYING TO EXPLAIN
26 ABOUT. WHEN A PLACE IS A HANG OUT AND PEOPLE JUST,
27 CLIQUES OF PEOPLE GO THERE AND THEY TOUCH BASE. SATURDAY
28 AFTERNOONS WAS A BIG TIME, EVERYBODY IN BEVERLY HILLS USED

1 TO COME TO THEODORE'S ON SATURDAY. I DON'T KNOW. YOU
2 KNOW, HE WAS JUST AROUND. IT WAS LIKE MAYBE YOU WOULD SEE
3 HIM ONCE A WEEK, MAYBE YOU WOULD SEE HIM THREE TIMES IN A
4 DAY, MAYBE ONCE, NOT SEE HIM FOR A MONTH. I MEAN, HE WAS
5 JUST KIND OF A CHARACTER AROUND IN YOUR ENVIRONMENT, YOU
6 KNOW.

7 IT WAS A STREET ENVIRONMENT. NEXT DOOR THERE
8 WAS VIDAL SASSOON'S SALON, JEAN KACHO WAS THE HAIRDRESSER
9 UPSTAIRS AND THE CANDY STORE WAS A HOT LITTLE CLUB. IT
10 WAS ALL THIS LITTLE -- IT WAS JUST A LITTLE AREA OF STREET
11 LIFE IN L.A., WHICH WAS KIND OF DIFFICULT TO SAY THAT IT
12 WAS STREET LIFE, BUT IT WAS.

13 Q DID YOU EVER SEE HIM EARLY IN THE MORNING IN
14 THE BOUTIQUE?

15 A WELL, THE BOUTIQUE PROBABLY DIDN'T OPEN UNTIL
16 10:00, I DON'T THINK. SO EARLY IN THE MORNING, NO, I
17 DON'T FEEL LIKE HE WOULD -- I DON'T KNOW. I MEAN, THE
18 BOUTIQUE DIDN'T USUALLY GET BUSY WITH MEN UNLESS IT WAS ON
19 THE WEEKEND OR IN THE AFTERNOONS, AND IF THEY WERE MEN IN
20 THE FASHION INDUSTRY THEY WOULD START TO COME MAYBE AROUND
21 IN THE AFTERNOON.

22 USUALLY IN BOUTIQUES WOMEN COME IN THE
23 MORNING TO TRY ON CLOTHES, THEY PUT THEIR KIDS TO SCHOOL
24 AND THEY COME IN. IT IS USUALLY WOMAN IN THE MORNING. I
25 WOULDN'T SAY THAT I SAW THAT MANY MEN AROUND IN THE
26 MORNING, BUT THAT'S JUST --

27 Q I TAKE IT WHEN HE WOULD COME INTO THE
28 BOUTIQUE HE WOULD HAVE SOME CASUAL CONVERSATION WITH YOU?

1 A WHOEVER WAS AROUND. HE MIGHT TALK TO
2 HERBERT. I DON'T KNOW. HE MIGHT HAVE TALKED TO, YOU
3 KNOW, THE MANAGER OF THE STORE, ONE OF THE THREE OR FOUR
4 SALES GIRLS, THE JEWELRY CONCESSION.

5 Q ON A CERTAIN LEVEL YOU GOT TO KNOW HIM A
6 LITTLE BIT IN TERMS OF THE CONTACT THAT YOU HAD WITH HIM
7 AT THE BOUTIQUE.

8 A JUST BY INSTINCT AND OBSERVATION OTHER THAN
9 THE MOST SUPERFICIAL CONVERSATION, NOT THROUGH, YOU KNOW,
10 NOTHING ABOUT HIS FAMILY OR WHERE HE LIVED OR WHAT HE DID
11 FOR THE A LIVING, OR WE DIDN'T REALLY, NOT TO MY
12 RECOLLECTION, HAVE ANY IN-DEPTH KIND OF CONVERSATION.

13 THE COURT: HOLD ON ONE SECOND, MR. MC MULLEN.

14 MR. MC MULLEN: YES.

15

16 (PAUSE.)

17

18 THE COURT: MR. CRAIN, YOUR SECRETARY CALLED.
19 DIVISION 60 THAT HAS BEEN CALLING. THEY NEED YOU OR
20 SOMEONE FROM YOUR OFFICE.

21 MR. CRAIN: I LEFT HER A NOTE. DO I NEED TO GET ON
22 THE PHONE?

23 THE COURT: NO. NO. THEY SAID THAT THEY WANT A
24 LIVE HUMAN BEING TO SHOW UP IN DIVISION 60.

25 YOU WANT TO KICK MR. KLEIN FREE TO GO DOWN
26 AND SEE IF HE CAN GET YOU OUT OF TROUBLE?

27 MR. CRAIN: COULD I HAVE A MOMENT WITH MR. KLEIN?

28 THE COURT: SURE.

1 (PAUSE.)

2

3 MR. KLEIN: CAN I MAKE A QUICK PHONE CALL, YOUR
4 HONOR?

5 THE COURT: SURE.

6 GO AHEAD, MR. MC MULLEN.

7 MR. CRAIN: THANK YOU

8 BY MR. MC MULLEN:

9 Q LET ME BACK UP. YOU DIDN'T REMEMBER THE DATE
10 OF THE SIGHTING, THE ACTUAL DAY WAS A WEEKEND OR WEEKDAY?

11 A IT WAS DEFINITELY A WEEK DAY. I WAS ON MY
12 WAY TO WORK.

13 Q WITH RESPECT TO YOUR KNOWLEDGE ABOUT THE
14 B.B.C. OR BILLIONAIRE BOYS CLUB CASE, DID YOU EVER LISTEN
15 TO NEWS OR RADIO NEWS AT THAT TIME?

16 A I LISTENED TO --

17 MR. CRAIN: AT WHAT TIME? OBJECTION -- EXCUSE ME.

18 THE WITNESS: I LISTEN TO RADIO.

19 THE COURT: FOCUS AS TO WHAT TIME THAT TIME IS.

20 BY MR. MC MULLEN:

21 Q AROUND THE TIME OF THE SIGHTING OR PRIOR TO
22 THE SIGHTING ESPECIALLY.

23 A IT WOULD BE FAIR TO SAY THAT I LISTENED TO
24 THE RADIO OR TO MUSIC IN MY CAR EVERY DAY.

25 Q SO IS IT POSSIBLE YOU COULD HAVE HEARD SOME
26 NEWS OVER THE RADIO?

27 A I PROBABLY LISTENED TO AN OLDIES STATION OR
28 CLASSICAL MUSIC STATION. AND I WOULD LISTEN TO TAPES

1 BECAUSE I HAD TO LISTEN TO TAPES FOR PEOPLE SO THAT THOSE
2 WOULD HAVE BEEN MY INFORMATION SOURCES. THEY WOULD
3 HAVE -- I DON'T BELIEVE -- IT WOULDN'T BE LIKE K.C.R.W.
4 THAT'S A LOT OF NEWS THAT I DO LISTEN TO TODAY.

5 Q WHAT ABOUT MAGAZINES, NEWSPAPERS, NEWS
6 MAGAZINES, "NEWS WEEK"?

7 A THE THING WAS -- WELL, I READ THE "NEW YORK
8 TIMES," I THINK. IT IS HARD TO REMEMBER EXACTLY. I
9 DIDN'T HAVE A LOT OF TIME TO DO ANYTHING EXCEPT WORK AND
10 READING WAS, LIKE I SAID, THE INFORMATION THAT I GOT WAS
11 THROUGH NEWS CLIPPINGS OR -- IT WAS JUST A REALLY BUSY
12 PERIOD. I DIDN'T HAVE A LOT OF TIME TO READ.

13 MR. MC MULLEN: EXCUSE ME, YOUR HONOR.

14 THE WITNESS: I DON'T KNOW IF I SUBSCRIBED TO
15 MAGAZINES THEN OR NOT. I DON'T REMEMBER.

16 BY MR. MC MULLEN:

17 Q GETTING BACK TO WHERE WE LEFT OFF BEFORE WE
18 WERE INTERRUPTED. YOU GOT TO KNOW RON ON A CERTAIN LEVEL
19 FROM YOUR CASUAL CONTACT WITH HIM AT THE BOUTIQUE?

20 A YES.

21 Q YOU SAID SOMETHING, SOMETHING ABOUT DISTINCT
22 AND YOUR OBSERVATIONS OF HIM; IS THAT CORRECT?

23 A YES.

24 Q DID RON LEVIN STRIKE YOU AS A REAL EARLY
25 MORNING KIND OF PEOPLE?

26 MR. CRAIN: OBJECTION. I DON'T KNOW WHAT THAT
27 MEANS.

28 THE COURT: SUSTAINED.

1 ME NEITHER.

2 BY MR. MC MULLEN:

3 Q HOW DID HE DRESS BACK THEN AT THE BOUTIQUE
4 WHEN YOU SAW HIM THEN?

5 A WELL, HE WAS VERY WELL DRESSED, ON THE TRENDY
6 SIDE. HE WAS NOT A CONSERVATIVE. LIKE I SAID BEFORE, HE
7 WAS NOT -- IF IT WERE TODAY HE WOULD HAVE PROBABLY BEEN
8 WEARING ARMAMI, VERROCCHIO -- MAYBE EVEN A LITTLE
9 VERROCCHIO. HE WAS KIND OF HIP, NOT PREPPIE OR
10 CONSERVATIVE, LET'S SAY THAT. HE COULD BE IN CASUAL
11 CLOTHES, BUT HE WOULD BE VERY WELL DRESSED.

12 Q YOU TESTIFIED ON DIRECT THAT YOU THOUGHT THAT
13 RON LEVIN WAS AN ODDBALL. WHAT DO YOU MEAN BY THAT? WHY
14 DID YOU THINK HE WAS AN ODDBALL?

15 A HE WAS. HE SLINKED AROUND, HE ALWAYS KIND OF
16 A LITTLE BIT -- HE ALWAYS HAD A SLIGHTLY SUSPICIOUS AURA
17 ABOUT HIM. HE WASN'T SOMEBODY THAT YOU WOULD EMBRACE AND
18 TRUST AND GIVE LIKE -- HE JUST WASN'T A REAL TRUSTWORTHY
19 LOOKING CHARACTER IN LIFE. HE ALWAYS HAD THAT BIT OF A
20 WILD CARD ABOUT HIM. YOU WOULD EXPECT THE GUY COULD DO
21 ALMOST ANYTHING.

22 Q YOU WERE SUSPICIOUS OF HIM?

23 A WELL, YEAH. SUSPICIOUS? I DIDN'T HAVE ANY
24 REASON TO BE SUSPICIOUS OF HIM. I WASN'T CULTIVATING HIM
25 AS A FRIEND THAT I WOULD HAVE FELT SAFE AND PROTECTED
26 WITH IN LIFE. I MEAN, HE JUST WASN'T DEAN PAUL. HE
27 WASN'T ONE OF MY FRIENDS. HE WAS A PERSON THAT I KNEW
28 JUST THROUGH HAPPENSTANCE.

1 Q YOU ALSO TESTIFIED THAT HE WAS A DISTINCTIVE
2 PERSON. I THINK THOSE ARE THE WORDS YOU USED. I AM NOT
3 SURE. HOW WAS IT THAT HE WAS DISTINGUISHED OR
4 DISTINCTIVE?

5 A IT WAS IN HIS BEARING, IT WAS IN HIS LOOK, IT
6 WAS IN HIS ATTITUDE. HE JUST HAD A CERTAIN KIND OF -- YOU
7 KNOW, PEOPLE EXUDE DIFFERENT KINDS OF -- WE ALL HAVE
8 DIFFERENT KINDS OF PRESENCE. HIS PARTICULAR PRESENCE WAS
9 A LITTLE BIT OFF. HE WAS A LONER. HE WAS IN HIS OWN --
10 HE WAS APART FROM THE CROWD. HE WASN'T PART OF ANY
11 PARTICULAR CLIQUE. HE WOULD SOMETIMES BE WITH ONE OR TWO
12 PEOPLE, BUT HE WOULD OFTEN BE ALONE. HE WAS JUST NOT --
13 HE WASN'T LIKE THAT SOCIALIZED. HE WAS KIND OF A LITTLE,
14 I DON'T KNOW HOW TO SAY IT -- HE WAS AN ODDBALL.

15 Q YOU ALSO TESTIFIED THAT HE WAS A SLIPPERY
16 GUY. WHY DO YOU SAY HE AS A SLIPPERY GUY?

17 A BECAUSE EVERY TIME YOU THINK OF RON LEVIN
18 WALK INTO A ROOM OR COMING INTO THE RESTAURANT OR
19 SOMETHING HE IS ALWAYS KIND OF LIKE THIS MOTION
20 (INDICATING). IT IS KIND OF LIKE A SNAKE THING. HE WOULD
21 JUST SLINK IN. HE WAS ALWAYS JUST LIKE A SLIPPERY KIND OF
22 GUY. I DON'T KNOW. HE HAD SOMETHING A LITTLE BIT, YOU
23 KNOW, LIKE THAT ABOUT HIM, LIKE A CON MAN. SOMETHING
24 JUST --

25 Q WAS THERE SOMETHING HE SAID TO YOU THAT LED
26 YOU TO BELIEVE THIS?

27 A NO. JUST THE WAY HE LOOKED AND HE BEHAVED.
28 HE JUST HAD THAT VIBE. I DON'T KNOW HOW ELSE TO EXPLAIN.

1 I HATE TO SAY VIBE. HIS PRESENCE KIND OF JUST EXUDED IT.

2 Q ON THE DAY YOU WERE DRIVING TO WORK AND ABOUT
3 WHICH YOU HAVE TESTIFIED, THE SIGHTING YOU HAD, WHAT WAS
4 THE WEATHER LIKE?

5 A I RECALL IT BEING A SUNNY DAY, BUT, YOU KNOW,
6 THAT'S KIND OF A JOKE IN LOS ANGELES SO --

7 Q WERE YOU WEARING DARK GLASSES?

8 A CHANCES ARE I WAS. I USUALLY ALWAYS WEAR
9 SUNGLASSES.

10 Q IN FACT, YOU WERE DRIVING INTO THE SUN, WERE
11 YOU NOT?

12 A DEPENDS ON WHERE THE SUN WAS. I DON'T
13 REMEMBER THE SUN LIKE BEING GLARING IN MY EYE. I WAS
14 DRIVING, YOU KNOW, AT ONE POINT ON SAN VICENTE. I DON'T
15 KNOW EXACTLY WHERE THE SUN WAS. I KNOW I LOOKED OVER AND
16 I CLEARLY SAW RON LEVIN, AND I LOOKED BACK AND I KEPT
17 DRIVING. I DON'T REMEMBER A GLARE GOING LIKE SEEING
18 SOMEBODY THROUGH A HAZE OR CLEAR.

19 THE COURT: THE RECORD WILL REFLECT SHE LOOKED
20 OVER, SHE LOOKED OVER TOWARDS HER RIGHT.

21 THE WITNESS: THANK YOU.

22 I DID OVER TO MY RIGHT.

23 BY MR. MC MULLEN:

24 Q YOU WERE DRIVING TOWARDS THE EAST; RIGHT?

25 A I WAS HEADING IN THAT DIRECTION.

26 Q IT WAS ABOUT 8:30 IN THE MORNING?

27 A RIGHT.

28 Q YOU SAY -- DID YOU ACTUALLY LOOK OVER TO YOUR

1 RIGHT WHEN YOU SAW THIS MAN?

2 A YEAH, BECAUSE I AM SURE I WAS LIKE DRIVING
3 AND I WAS PROBABLY SLOWED DOWN, AND I JUST LOOKED OVER
4 LIKE I AM LOOKING AT THE JUDGE AND I JUST GLANCED OVER
5 AND, YOU KNOW, HOW YOU KIND OF TURN YOUR HEAD AND YOU LOOK
6 OUT THE WINDOW AND THERE HE WAS. SO I SAID, "OH, MY GOD,
7 THERE'S RON LEVIN. I HAVEN'T SEEN THAT GUY FOR A LONG
8 TIME." I TURNED ROUND AND BACK, AND I KEPT DRIVING. IT
9 WAS A PRETTY SIMPLE. THAT'S ALL I DID.

10 Q SO DID YOU HONK YOUR HORN RIGHT THEN?

11 A NO.

12 Q WHAT WAS THIS MAN WEARING?

13 A I DON'T REMEMBER ANYMORE.

14 Q DID HE SEEM TO HAVE A SUIT ON OR --

15 A I DON'T THINK SO, NOT A SUIT. I REMEMBER
16 HIM -- MY SENSE IT WAS THAT IT WAS A CASUAL SOMETHING,
17 BUT, YOU KNOW, MAYBE EVEN A LITTLE CASUAL SHIRT, BUT I
18 CAN'T SAY THAT I KNOW THAT. FIRST OF ALL, HE WAS WALKING
19 TOWARDS THE CAR AND LIKE OPENING THE CAR DOOR. I
20 BASICALLY SAW HIM FROM HERE UP LIKE HIS HEAD (INDICATING).

21 THE COURT: INDICATING SHOULDERS UP.

22 THE WITNESS: THAT'S ALL THAT I SAW, SO I DIDN'T
23 REALLY --.

24 MR. CRAIN: COULD SHE INDICATE AGAIN? WITHOUT
25 WANTING TO NITPICK WITH THE COURT I THINK IT WAS SOMEWHAT
26 BELOW THE SHOULDERS.

27 THE WITNESS: WHATEVER. BUT MY RECOLLECTION --

28 THE COURT: HOLD ON.

1 MR. CRAIN: DID -- COULD SHE INDICATE AGAIN?

2 THE COURT: SHOW ME THE AREA OF HIS BODY THAT YOU
3 SAW.

4
5 (WITNESS COMPLIES.)

6
7 THE WITNESS: WELL, YOU KNOW, LIKE I AM THINKING IT
8 IS -- I HAVE HERE -- IT IS LIKE HERE (INDICATING).
9 SHOULDERS, HEAD (INDICATING).

10 THE COURT: OKAY.

11 SHOULDERS, HEAD UP.

12 THE WITNESS: OKAY. YOU KNOW --

13 MR. MC MULLEN: THANK YOU.

14 BY MR. MC MULLEN:

15 Q SO HE WAS GETTING INTO HIS CAR, WHEN YOU SAW
16 HIM?

17 A YES. A CAR. I WOULDN'T KNOW IF IT WAS HIS.

18 Q GETTING INTO A CAR.

19 WHAT KIND OF CAR WAS IT?

20 A MY RECOLLECTION WAS IT WAS ONE OF THOSE
21 CLASSIC BROWN MERCEDES CONVERTIBLES --

22 Q WAS THE TOP --

23 A -- OR SOMETHING, BUT THE BIG SEDAN ONE.
24 THE TOP WAS UP.

25 Q I AM SURE THE REPORTER WOULD REALLY
26 APPRECIATE IT IF YOU WOULD WAIT FOR ME TO FINISH MY
27 QUESTION.

28 A SORRY.

1 Q THANK YOU.

2 SO YOU WERE ACTUALLY LOOKING AT HIM FROM THE
3 SIDE, WEREN'T YOU? AS HE WAS GETTING INTO HIS CAR YOU SAW
4 HIS PROFILE?

5 A YEAH. I AM SURE I SAW HIS PROFILE, BUT I AM
6 MOVING TOO, YOU KNOW, THE CAR IS MOVING. I THINK I SAW
7 ALL OF HIM, HIS FACE MIGHT HAVE STARTED AT THE PROFILE,
8 BUT I JUST REMEMBER SEEING HIS FACE. IF I WAS LOOKING AT
9 THE JUDGE RIGHT NOW, YOU KNOW, MAYBE I WOULD COME IN
10 SEEING THE SIDE OF HIS FACE, BUT I SAW HIS FACE.

11 Q SO YOU ARE MOVING --

12 MR. CRAIN: I DIDN'T GET ALL OF THE ANSWER. COULD
13 WE HAVE --

14 THE COURT: I THINK SHE DROPPED OFF.

15 THE WITNESS: WELL, I AM JUST IN TRYING TO
16 ASCERTAIN WHETHER IT IS A PROFILE OR THREE-QUARTERS OR
17 FRONT FACE MY SENSE WAS THAT I REALLY SAW HIS FACE, SO I
18 DON'T -- IT WAS ALSO A LONG TIME AGO, SO TODAY TO SIT HERE
19 AND TELL YOU THAT IT WAS PROFILE WOULD BE KIND OF
20 DISHONEST. I DON'T -- I -- JUST MY RECOLLECTION IS THAT I
21 SAW RON LEVIN VERY CLEARLY, AND I JUST DROVE ON.

22 BY MR. MC MULLEN:

23 Q WAS THE CAR DOOR OPEN?

24 A YEAH. YES, IT WAS, LIKE HE JUST LIKE OPENED
25 THE DOOR AND WAS GETTING IN. IT WAS THAT MOMENT WHEN YOU
26 PULL OPEN YOUR DOOR AND YOU GO TO GET IN (INDICATING).

27 Q SO YOU WERE MOVING, YOU ARE DRIVING AND HE
28 WAS MOVING GETTING INTO THE CAR; CORRECT?

1 A YEAH. YOU UNLOCK THE DOOR, YOU OPEN THE DOOR
2 AND THEN YOU GET IN. YEAH. I MEAN, HE COULD HAVE BEEN IN
3 SOME FORM OF MOTION. I WOULD PRESUME HE IS, SINCE WHEN
4 YOU ARE GETTING INTO A CAR YOU ARE USUALLY DOING ONE STEP
5 AFTER THE OTHER.

6 Q THE CAR DOOR THAT WAS, THAT WAS OPENING THAT
7 HE WAS GETTING INTO, WAS THAT WINDOW OPENED OR CLOSED?

8 A I DON'T REMEMBER.

9 Q WHERE WAS THE CAR PARKED IN RELATION TO YOUR
10 VEHICLE?

11 A IT WAS FACING THE STREET. IT WAS PARKED IN A
12 PARKING SLOT. THERE WAS LIKE A LITTLE LOW HEDGE, I THINK
13 A LITTLE LOW HEDGE, MAYBE A LITTLE GRASS ON THE SIDEWALK
14 OR SOMETHING. IT WAS THAT CAR THAT FACES THE STREET WHEN
15 YOU PARK.

16 MR. MC MULLEN: AND, YOUR HONOR, MAY I APPROACH THE
17 WITNESS?

18 THE COURT: YES.

19 MR. MC MULLEN: I HAVE HERE EXHIBIT MM, WHICH IS A
20 PHOTOGRAPH.

21 THE COURT: DOUBLE M YOU SAID?

22 MR. MC MULLEN: YES, DOUBLE M. I HAVE SHOWN IT TO
23 COUNSEL.

24
25 (MARKED FOR ID = RESPONDENT'S MM,
26 PHOTOGRAPH.)

27
28 MR. CRAIN: YOUR HONOR, COULD WE HAVE SOMETHING FOR

1 THE RECORD ABOUT WHEN THIS PHOTOGRAPH WAS TAKEN? I
2 BELIEVE IT WAS TAKEN ONLY RECENTLY, SO I AM NOT REALLY
3 SURE IT HAS ANY --

4 THE COURT: LET ME HEAR THE QUESTION.

5 MR. CRAIN: I DON'T THINK IT REALLY CAN BE USED IN
6 QUESTIONING A WITNESS ABOUT AN EVENT THAT HAPPENED NINE
7 YEARS AGO.

8 THE COURT: LET ME HEAR THE QUESTION. IF ITS GOING
9 TO SHOW WHERE SAN -- WE KNOW SAN VICENTE EXISTS.
10 BY MR. MC MULLEN:

11 Q DO YOU RECOGNIZE WHAT'S DEPICTED IN DOUBLE M,
12 RESPONDENT'S DOUBLE M?

13 THE COURT: I TAKE IT I DO NOT HAVE A COPY OF MM?

14 MR. MC MULLEN: NOT AN EXACT COPY, YOUR HONOR. I
15 DO HAVE ONE THAT IS VERY CLOSE.

16 THE COURT: WELL, I AM THE TRIER OF FACT. IT MIGHT
17 BE HELPFUL IF YOU FOLKS GAVE ME EXHIBITS. I DO NOT WANT
18 TO SEE ANYTHING DIFFERENT THAN, OTHER THAN WHAT THE
19 WITNESS IS SEEING.

20 THE WITNESS: YOU WANT TO SEE --

21 THE COURT: YES. LET ME SEE WHAT YOU HAVE.

22 THE WITNESS: PLEASE.

23 YOU TELL ME. EVERYTHING ON IT LOOKS FAMILIAR
24 BUT --

25 THE COURT: IT IS AN AERIAL VIEW OF A STREET.

26 THE WITNESS: YEAH. BUT I GUESS I AM NOT USED TO
27 LOOKING AT IT FROM THIS POINT OF VIEW. SO I AM NOT QUITE
28 SURE.

1 BY MR. MC MULLEN:

2 Q OKAY.

3 DO YOU SEE SORT OF --

4 A THIS IS SAN VICENTE. I AM PRESUMING THIS IS
5 SAN VICENTE.

6 Q DOES THAT APPEAR TO BE SAN VICENTE TO YOU?

7 A WELL, THIS IS HOW SAN VICENTE IS USUALLY
8 PLANTED WITH THESE TREES IN THE MIDDLE.

9 Q OKAY.

10 A BUT I AM JUST TRYING TO FIGURE OUT --

11 MR. CRAIN: MAY I APPROACH THE WITNESS WHILE SHE IS
12 IDENTIFYING THE PHOTO?

13 THE COURT: YES.

14 BY MR. MC MULLEN:

15 Q DIRECTING YOUR ATTENTION TO SORT OF THE
16 MIDDLE LEFT OF THE PHOTOGRAPH. DO YOU SEE WHAT APPEARS TO
17 BE A PARKING LOT THERE?

18 A OH, THIS IS THE PARKING LOT WHERE I SAW RON.
19 MAYBE THIS IS WHERE YOU MAKE THAT TURN. ALL RIGHT. SO AM
20 I LOOKING AT THIS -- TUSCANO'S IS NOW THERE, THAT SHOPPING
21 CENTER IS HERE NOW (INDICATING).

22 THE COURT: YOU ARE THE WITNESS. YOU NEED TO TELL
23 US. IF YOU DON'T HAVE ANY RECOLLECTION --

24 THE WITNESS: I MEAN, IF I AM COMING UP SAN VICENTE
25 THIS IS -- IF THIS IS SAN VICENTE I AM COMING UP THIS WAY
26 (INDICATING).

27 THE COURT: INDICATING FROM THE TOP TOWARDS THE
28 MIDDLE OF EXHIBIT MM.

1 THE WITNESS: AND THIS IS THE SHOPPING CENTER
2 (INDICATING).

3 MR. CRAIN: INDICATING THE BUILDING. YOU ARE
4 POINTING TO THAT SORT OF A REDDISH ROOF TO THE LEFT OF --

5 THE WITNESS: OKAY. I GUESS.

6 THE COURT: -- LEFT CENTER.

7 YES.

8 MR. CRAIN: THANK YOU.

9 THE WITNESS: OKAY. SO THAT -- ALL RIGHT. I CAN
10 LOOK AT THAT FROM THAT POINT OF VIEW. I WAS LOOKING --
11 THIS IS WHAT WAS THROWING ME OFF. I AM USED TO LOOKING AT
12 SAN VICENTE. I WAS COMING THIS WAY, RIGHT THIS WAY I WAS
13 GOING, AND I SAW HIM HERE SOMEWHERE (INDICATING).

14 MR. MC MULLEN: SHE IS TAKING HER FINGER --

15 MR. CRAIN: CAN WE HAVE SOMETHING FOR THE RECORD?

16 THE COURT: YES.

17 WHY DON'T YOU PUT A "L" WHERE YOU SAY YOU SAW
18 MR. LEVIN.

19
20 (WITNESS COMPLIES.)

21
22 THE WITNESS: OKAY. I GUESS IT WAS SOMEWHERE
23 AROUND HERE WHERE THAT WHITE THING IS, SOMEWHERE IN HERE,
24 ANYWHERE ALONG THIS, ANYWHERE ALONG HERE (INDICATING).

25 THE COURT: WHY DON'T YOU DRAW AN "L" AND PUT A
26 CIRCLE AROUND IT SO IT STANDS OUT.

27 THE WITNESS: SEEMS TO ME --

28 MR. CRAIN: IS THAT GOING TO REMAIN ON THE PHOTO,

1 IS THAT ONE OF THOSE POINTS?

2 THE COURT: IT IS A BALLPOINT, IT SHOULD DIG IN.

3 MR. CRAIN: OKAY.

4 THE WITNESS: OKAY. SO I WOULD SAY IT WAS ON THIS
5 SIDE (INDICATING).

6 THE COURT: LET ME MAKE SURE WE GOT A MARK.

7 THE WITNESS: DOES THAT LOOK --

8 THE COURT: THERE IS A MARK ON THAT WITH A "L" IN A
9 CIRCLE.

10 MR. MC MULLEN: MAY I JUST HAVE A MOMENT, YOUR
11 HONOR?

12

13 (PAUSE.)

14

15 BY MR. MC MULLEN:

16 Q SO YOU HAVE INDICATED BY PLACING A CIRCLE
17 AROUND THE "L" THAT'S WHERE THE CAR IS WHERE YOU SAW THIS
18 MAN?

19 A SOMEWHERE, YEAH, SOMEWHERE. IF THIS IS THAT
20 SHOPPING CENTER WHERE -- ACROSS FROM TUSCANO'S NOW, THIS
21 THE CURB THAT TAKES YOU AROUND AND GETS ON WILSHIRE, IF
22 THAT'S WHERE THAT IS, THEN THAT'S THE SHOPPING CENTER.

23 MR. CRAIN: THE WITNESS IS POINTING TO THE LEFT AS
24 SHE SAID TOWARDS WILSHIRE, YOUR HONOR, FOR THE RECORD.

25 THE COURT: YES.

26 THE WITNESS: I WAS IN THE RIGHT LANE. I LOOKED
27 OVER ACROSS THIS SIDEWALK IN THAT PARKING LOT THEN. THE
28 SLOTS ARE FACING THE STREET, SO HE WAS IN ONE OF THOSE

1 SLOTS FACING THE STREET.

2 MR. CRAIN: SHE SAID "THAT PARK." I BELIEVE SHE IS
3 INDICATING THE PARKING LOT WHERE SHE DREW THE "L".

4 THE COURT: YES.

5 BY MR. MC MULLEN:

6 Q WHEN YOU SAW THE MAN WHAT WAS HIS HAIR LIKE?
7 WHAT WAS THE STYLE OF HIS HAIR?

8 A YOU KNOW, HE HAD PREMATURE GRAY HAIR, ALWAYS
9 KIND OF LIKE THIS.

10 THE COURT: INDICATING EXHIBIT 1.

11 BY MR. MC MULLEN:

12 Q THE WAY HIS HAIR --

13 A IT WAS, YOU KNOW, HE SLICKED BACK HIS HAIR A
14 BIT. HE DIDN'T HAVE BANGS OR WHATEVER, (INDICATING),
15 THINGS LIKE THAT. IT WAS OFF HIS FACE.

16 Q AND THE COLOR WAS -- WHAT COLOR WAS THE HAIR?

17 A HE WAS PREMATURELY GRAY. IT WAS MAINLY, YOU
18 KNOW, WITH SOME DARK SPOTS IN IT AT SOME POINTS, BUT IT
19 WAS BASICALLY THIS WHITE GRAY HAIR.

20 Q HOW ABOUT FACIAL HAIR. DID YOU NOTICE ANY
21 FACIAL HAIR?

22 A YOU KNOW, I KNEW RON LEVIN WITH A BEARD AND
23 WITHOUT A BEARD, AND I DON'T -- I THINK MY SENSE IS THAT
24 IT WAS A, WITH A BEARD, BUT SINCE I KNEW HIM BOTH WAYS I
25 WOULD NOT BE ABLE TO SAY WITHOUT A SHADOW OF A DOUBT THAT
26 HE HAD A BEARD THAT DAY OR NOT.

27 Q SO YOU ARE SAYING YOU ARE JUST NOT SURE
28 WHETHER HE HAD A BEARD OR NOT?

1 A RIGHT. MY SENSE IS THAT HE DID, BUT IT WOULD
2 HAVE BEEN POSSIBLE --

3 Q IN TERMS OF YOUR MEMORY OF RON LEVIN FROM
4 YOUR PAST EXPERIENCE WITH HIM IN THE BOUTIQUE AND THE
5 RESTAURANT WHEN YOU SAW HIM IN THAT PARKING LOT, DID HE
6 LOOK BASICALLY LIKE THE SAME OLD RON IN TERMS OF HIS STYLE
7 AND HIS APPEARANCE, STYLE OF DRESS AND APPEARANCE?

8 A THE SAME OLD RON. HE LOOKED LIKE RON.

9 Q DID HE APPEAR ANY DIFFERENT IN TERMS OF HIS
10 HAIRSTYLE?

11 A NO. HE LOOKED LIKE RON. HE DIDN'T LOOK
12 LIKE -- HE DID HAVE AN ORANGE WIG OR ALTER HIMSELF. HE
13 JUST LOOKED LIKE RON LEVIN TO ME WHEN I LOOKED OVER.

14 Q HOW WAS TRAFFIC ON THAT MORNING THAT YOU WERE
15 DRIVING TO WORK?

16 A HIDEOUS BECAUSE SUNSET WAS UNDER CONSTRUCTION
17 AND SO -- WHICH WAS BUMPER TO BUMPER, SO THE ONLY WAY TO
18 FOR PEOPLE TO USE SAN VICENTE WAS SUNSET OR SANTA MONICA
19 FREEWAY OR ALL THE STREETS, ALL THE MAIN ARTERIES GOING
20 EAST, OLYMPIC, THEY ARE ALL JAMMED AT THAT HOUR. SO IT IS
21 STOP AND GO, BUMPER-TO-BUMPER KIND OF TRAFFIC.

22 Q HOW FAST WERE YOU DRIVING?

23 A I COULD HAVE BEEN DRIVING 15 MILES AN HOUR.
24 I COULD HAVE BEEN DRIVING 20 MILES AN HOUR. I DOUBT I WAS
25 DRIVING 30 MILES AN HOUR. I DON'T THINK THAT'S POSSIBLE.
26 I MEAN, I JUST DID IT THIS MORNING. IT WAS LIKE YOU CAN'T
27 GO VERY FAST.

28 Q HOW LONG DID YOU ACTUALLY SEE THE MAN IN THE

1 PARKING LOT?

2 A I WOULD SAY IT WAS, YOU KNOW, THREE SECONDS.
3 I DON'T KNOW. YOU LOOK OVER YOUR -- JUST LOOKING THERE IS
4 NO -- I HAD NO -- THERE WAS NOTHING I WAS DOING EXCEPT
5 DRIVING TO WORK AND LOOKING OVER AND THEN LOOKING BACK.
6 IT WASN'T A MIND BOGGLING EXPERIENCE. SO I DON'T -- HOW
7 LONG DOES IT TAKE TO JUST DRIVE AND YOU JUST GLANCE THIS
8 WAY AND YOU SEE SOMETHING AND THEN YOU TURN AROUND AND GO
9 BACK, TWO MAYBE THREE SECONDS. IT COULD BE FOUR SECONDS.
10 IT COULD BE TWO.

11 Q DID YOU ACTUALLY SEE HIM GET IN THE CAR?

12 A YES. I SAW HIM FROM THE STANDING POSITION TO
13 GETTING INTO THE CAR. I THINK, YEAH.

14 Q WHAT WAS THE DISTANCE BETWEEN YOU AND THE CAR
15 AND THE MAN WHEN YOU FIRST SAW THEM?

16 A WELL --

17 Q YOU CAN POINT TO SOMEWHERE IN THE COURTROOM,
18 IF THAT'S HELPFUL?

19 A YOU KNOW, IT WAS PROBABLY LIKE FROM WHERE I
20 AM HERE, I DON'T THINK HE COULD HAVE BEEN FURTHER THAN THE
21 BACK OF THE ROOM. OR I MEAN, I WAS IN THE RIGHT LANE AND
22 THERE IS A CURB AND THERE IS A SIDEWALK, AND THEN THERE IS
23 THAT LITTLE HEDGE AND THERE IS THAT THING, SO HOW MANY
24 FEET WAS IT FROM THIS WALL TO THAT WALL?

25 THE COURT: 38 FEET?

26 THE WITNESS: 38 FEET.

27 SO I WOULD SAY IT WAS IN THE PROXIMITY OF 38
28 TO 40 FEET TOPS. HOW MUCH MORE COULD IT HAVE BEEN, TWO

1 FEET LONGER THAN THIS ROOM? COULD IT? I MEAN, WE COULD
2 MEASURE IT. I DON'T KNOW. BUT THERE ISN'T THAT MANY
3 THINGS BETWEEN A CURB AND A SIDEWALK AND A PARKING LOT.
4 BY MR. MC MULLEN:

5 Q NOW, YOU WERE TALKING -- YOU TESTIFIED THAT
6 YOU WERE WATCHING A TELEVISION NEWS SHOW AND YOU
7 LEARNED -- DURING WHICH TIME YOU LEARNED THAT RON LEVIN
8 WAS THE MURDER VICTIM IN THE BILLIONAIRE BOYS CLUB CASE?

9 A YES.

10 Q YOU TESTIFIED THAT YOUR PRIMARY CONCERN ABOUT
11 WATCHING THE NEWS AT THAT TIME WAS WITH RESPECT TO YOUR
12 FRIEND DEAN PAUL MARTIN?

13 A YES.

14 Q HOW SOON AFTER THE SIGHTING DID YOU ACTUALLY
15 TUNE TO THIS TELEVISION NEWS SHOW?

16 A I WOULD SAY WITHIN A COUPLE OF WEEKS. IT WAS
17 FRESH, BUT I COULDN'T -- I WOULD NEVER BE ABLE TO TELL YOU
18 IF IT WAS A MONTH OR THREE WEEKS OR THREE DAYS AT THIS
19 MOMENT. BUT IT WAS WITHIN A CERTAIN TIME FRAME. IT WAS
20 ALL SOMEWHERE AROUND FEBRUARY, MARCH, APRIL THAT ALL OF
21 THESE THINGS TOOK PLACE. SO I WOULD CALL THAT WHAT,
22 THAT'S THE BEGINNING OF THE YEAR INTO THE SPRING. IT WAS
23 LIKE, YOU KNOW --

24 Q AND AGAIN, WITH RELATIONSHIP TO THE ACTUAL
25 SIGHTING, WHEN DID THIS CIRCUMSTANCE HAPPEN WITH YOUR
26 FRIEND DEAN PAUL MARTIN?

27 A WELL, AS THE ARTICLE SAID IT WAS MARCH 21ST.
28 SO IF I SAW RON LEVIN TWO WEEKS BEFORE THAT, I SAW HIM IN

1 THE FIRST WEEK OF MARCH OR THE LAST WEEK OF FEBRUARY, YOU
2 KNOW, IT COULD BE HAVE ANYWHERE. THAT'S WHAT I AM SAYING.
3 THE SPAN. I MIGHT HAVE SEEN JEWEL IN -- I PROBABLY SAW
4 JEWEL IN APRIL BECAUSE IT SEEMS LIKE THERE WAS A LOT GOING
5 ON AROUND DEAN FOR A FEW WEEKS AFTER THE FUNERAL. SO IT
6 WOULD HAVE PROBABLY GOTTEN US INTO EARLY APRIL. I DON'T
7 KNOW EXACTLY WHEN THAT BABY SHOWER WAS, THOUGH. I COULD
8 FIND OUT. I MEAN THAT'S NOT SOMETHING THAT IS HARD TO
9 FIND OUT.

10 Q THERE WAS A SPAN OF TIME WHERE DEAN PAUL
11 MARTIN WAS REALLY MISSING; IS THAT RIGHT?

12 A RIGHT.

13 Q SO I TAKE IT THAT YOU WERE WATCHING THE NEWS
14 KEEPING UP WITH THE LATEST DEVELOPMENTS?

15 A ONLY THAT ONE TIME OR, YOU KNOW, WITHIN THAT
16 ONE DAY BECAUSE IT WAS, HE WAS FOUND TO BE DEAD, YOU KNOW,
17 SHORTLY THEREAFTER. I MEAN, THE PLANE CRASH HAPPENED ON A
18 SATURDAY, SO MY WATCHING THE NEWS WAS ON A MONDAY OR A
19 TUESDAY. SO IT WASN'T, YOU KNOW, IT KIND OF IT JUST
20 HAPPENED, AND THEN IT WAS OVER. IT WASN'T LIKE I KEPT
21 WATCHING THE NEWS AFTER WE FOUND OUT HE WAS DEAD.

22 Q WHEN YOU LEARNED THAT ON THE NEWS SHOW ABOUT
23 RON LEVIN BEING DEAD DID YOU -- WHY DIDN'T YOU GO TO THE
24 AUTHORITIES, THE POLICE OR DISTRICT ATTORNEY?

25 A FIRST OF ALL, I WAS JUST -- I WAS JUST SO
26 SHOCKED, BUT THEN I WAS EVEN MORE UPSET ABOUT DEAN. AND
27 QUITE FRANKLY, I NEVER THOUGHT ABOUT IT AGAIN. IT WASN'T
28 UNTIL JEWEL MENTIONED THE BILLIONAIRE BOYS CLUB AND I MADE

1 A CONNECTION.

2 NEITHER THE BILLIONAIRE BOYS CLUB NOR RON
3 LEVIN MEANT ANYTHING TO ME EMOTIONAL ON ANY LEVEL. I WAS
4 REALLY BUSY. SO BETWEEN MY JOB AND MY BUSINESS AND BEING
5 REALLY SAD ABOUT MY REAL CLOSE FRIEND IT JUST WASN'T A
6 PRIORITY. AND I REALLY WASN'T -- I WAS LIVING IN ANOTHER
7 ZONE. I MEAN, THESE -- PROBABLY AS A GOOD CITIZEN I
8 SHOULD HAVE GONE TO THE POLICE, BUT I DIDN'T DO THAT. I
9 HAD A FRIEND THAT WAS REAL UPSET WITH ME BECAUSE I DIDN'T.
10 RIGHT. SO I KNOW THAT THAT'S SOMETHING THAT --

11 THE COURT: THAT YOU DIDN'T WANT?

12 THE WITNESS: WELL, THAT I DIDN'T CONTACT ANYBODY
13 ABOUT IT, THAT I JUST LET IT GO. BUT LIKE I SAID, I JUST,
14 IT WASN'T A PRIORITY SO IT JUST WASN'T -- I DIDN'T, AND I
15 FORGOT.

16 MR. MC MULLEN: DRAWING COUNSEL'S ATTENTION TO --
17 WELL, LET ME ASK A QUESTION.

18 BY MR. MC MULLEN:

19 Q YOU TESTIFIED IN SAN MATEO REGARDING THIS
20 SIGHTING, DID YOU NOT?

21 A YES, I DID.

22 MR. MC MULLEN: DRAWING COUNSEL'S ATTENTION TO THE
23 TRANSCRIPT OF THE PROCEEDINGS OF THE SAN MATEO TRIAL DATED
24 JUNE 25, 1992, AT PAGE 6969, LINES 10 THROUGH 16.

25 BY MR. MC MULLEN:

26 Q (READING):

27 "Q OKAY. NOW, MA'AM WITH
28 RESPECT TO THE SENTENCING

1 CIRCUMSTANCES THAT MR. HUNT TALKED
2 WITH YOU ABOUT, YOU SAID THAT PART
3 OF THE REASON YOU DIDN'T GO FORWARD
4 WITH THE AUTHORITIES AT THAT TIME,
5 AGAIN, AND I BELIEVE YOUR OWN
6 PHRASE, YOU WERE QUITE CONFUSED; IS
7 THAT RIGHT?

8 A YES."

9 MR. CRAIN: WELL --

10 THE WITNESS: I DON'T RECALL.

11 MR. CRAIN: I THINK THAT'S KIND OF TAKING SOMETHING
12 OUT OF CONTEXT.

13 THE COURT: YOU CAN REVISIT IT ON DIRECT.

14 REDIRECT.

15 BY MR. MC MULLEN:

16 Q EXCUSE ME. I GAVE YOU THE WRONG PAGE. IT IS
17 6969, LINE 22, STARTING AT LINE 22. AND THIS STARTS WITH
18 AN ANSWER. (READING):

19 "A I AM SORRY. YOU WEREN'T
20 CONFUSED ANYMORE?"

21 I THINK THAT'S A QUESTION, ACTUALLY.
22 LINE 23 (READING):

23 "A WELL, NO. ONCE I HAD ALREADY
24 SPOKEN TO SOMEBODY IT WAS KIND OF --
25 OH, THE TIME I SAID I WAS CONFUSED
26 IS WHEN I HEARD IT ON THE RADIO. I
27 AM SORRY."

28 MR. KLEIN: EXCUSE ME, YOUR HONOR.

1 THERE IS NO WAY TO HAVE, HAVE ANY CONTEXT
2 UNLESS YOU READ THE PREVIOUS QUESTION, WHICH IS AT LINE --
3 THE COURT: YOU CAN REVISIT IT ON REDIRECT.

4 MR. MC MULLEN: I AM SORRY.

5 MR. KLEIN: IT IS NOT IN --

6 MR. MC MULLEN: I WILL START AT LINE 22.

7 THE COURT: I WANT TO HEAR A QUESTION.

8 MR. MC MULLEN: I AM SORRY.

9 BY MR. MC MULLEN:

10 Q (READING):

11 "Q OKAY. NOW, IMAGINE, I WANT
12 TO BE CLEAR ON THIS. YOU HAD TALKED
13 WITH BRODEY BY THAT TIME, YOU TALKED
14 WITH A DEFENSE INVESTIGATOR BY THAT
15 TIME.

16 A AND BY THAT TIME I WASN'T
17 CONFUSED."

18 NEXT LINE:

19 "Q I AM SORRY. YOU WEREN'T
20 CONFUSED ANYMORE?

21 A WELL, NO. ONCE I HAD ALREADY
22 SPOKEN TO SOMEBODY IT WAS KIND OF --
23 OH, THE TIME I SAID I WAS CONFUSED
24 IS WHEN I HEARD IT ON THE RADIO. I
25 AM SORRY.

26 TURNING OVER TO 6970. (READING):

27 "Q YES, MA'AM, THAT WAS MY
28 RECOLLECTION TOO."

1 OKAY. DRAWING YOUR ATTENTION TO THAT PAGE
2 6970, LINE 22 (READING):

3 "Q WELL, MY QUESTION TO YOU,
4 MA'AM, IS THIS: WERE YOU CONFUSED
5 ABOUT YOU WHETHER OUGHT TO GO TO THE
6 AUTHORITIES OR WERE YOU CONFUSED BY
7 WHETHER YOU WERE GOING TO BE A
8 WITNESS?"

9 GOING TO PAGE 6971 LINE 1 (READING):

10 "I WAS CONFUSED MORALLY ABOUT
11 WHAT ONE DOES IN A SITUATION LIKE
12 THIS.

13 Q YOU WERE CONFUSED MORALLY
14 ABOUT ONE SHOULD PERHAPS --

15 A BE AGGRESSIVE, RIGHT.

16 Q AND THE DECISION MADE WAS NOT
17 TO BE AGGRESSIVE?

18 A THAT'S RIGHT."

19 DO YOU REMEMBER TESTIFYING TO THAT IN SAN
20 MATEO?

21 A YOU KNOW WHAT, I DON'T. BUT IN SAN MATEO --

22 Q YES.

23 A IT MAKES MORE SENSE IN THAT CONTEXT. IT DOES
24 NOT MAKE SENSE IN THE VERY BEGINNING. BUT IN THAT CONTEXT
25 AFTER I HAD, AFTER I HAD GONE THROUGH THE PROCESS IT DID
26 BECOME A MORE MORAL ISSUE FOR ME. I DID THINK ABOUT IT ON
27 A PHILOSOPHICAL LEVEL A LOT, BECAUSE -- BUT I HAD ALREADY
28 HAD SOME TIME TO DO SO FROM SAN MATEO TO THE TIME THAT I

1 SAW RON LEVIN AND THE WHOLE -- I BECAME INVOLVED IN THE
2 SITUATION.

3 WHAT I AM TRYING TO SAY IS THAT MY FIRST --
4 WE WERE TALKING ABOUT ORIGINALLY MY FIRST INSTINCT ON WHY
5 I DID NOT COME FORWARD, AND WHY I DID NOT COME FORWARD WAS
6 BECAUSE IT WAS A STRANGE TIME FOR ME. THAT WAS THE FIRST
7 OPPORTUNITY THAT LENT ITSELF. OBVIOUSLY I DID COME
8 FORWARD IN SOME WAY BECAUSE I TOLD SOMEBODY THAT IT
9 DIRECTLY AFFECTED ABOUT IT.

10 HOWEVER, AFTER THAT I HAD A FRIEND THAT HAD
11 SAID TO ME, "WHY DIDN'T YOU GO TO THE POLICE WHEN YOU
12 FIRST THOUGHT YOU SAW SOMEBODY?" AND I AM JUST SAYING
13 THAT MY -- IT WASN'T A PRIORITY AT THAT TIME. BY THE TIME
14 I GOT TO SAN MATEO MANY YEARS LATER IS IT FOUR YEARS I HAD
15 THE TIME TO THINK ABOUT THINGS ON ANOTHER LEVEL ALREADY,
16 IT BECAME A DIFFERENT PROCESS.

17 Q SO YOU HAD A CONVERSATION WITH A FRIEND AND
18 THEY ASKED YOU WHY YOU DIDN'T GO TO THE AUTHORITIES?

19 A YEAH. I TOLD THE STORY TO A FRIEND OF MINE
20 SHELDON POLLACK --

21 Q WHEN DID THAT CONVERSATION --

22 A I DON'T KNOW, SOMETIME DURING --

23 Q WAS IT BEFORE YOU TALKED TO JEWEL BISHOP?

24 A NO, IT WAS AFTER I TALKED TO JEWEL BISHOP.
25 THE STORY DIDN'T COME TOGETHER UNTIL AFTER JEWEL BISHOP --
26 I BECAME INVOLVED IN SOME WAY, BUT THAT WAS A NON STORY
27 FOR ME.

28 Q SO WHEN YOU HEARD ABOUT RON LEVIN'S SITUATION

1 ON THE NEWS ABOUT BEING A MURDER VICTIM AND THE
2 BILLIONAIRES BOYS CLUB CASE YOU HAD THAT INFORMATION IN
3 MIND WHEN YOU THEN SAW JEWEL BISHOP AT THIS SOCIAL?

4 A YES. THAT'S EXACTLY WHAT I SAID. "OH, I
5 HAVE A STRANGE STORY FOR YOU. I DON'T BELIEVE THAT GUY IS
6 DEAD. I JUST SAW HIM." THAT WAS BASICALLY THE STRANGE
7 STORY.

8 Q OKAY.

9 WHEN DID THAT SOCIAL FUNCTION HAPPEN, A
10 SHOWER I BELIEVE YOU TESTIFIED TO?

11 A WE JUST WENT OVER THAT. I THINK IT WAS IN
12 APRIL OR IT WAS IN MARCH THE -- IF THIS -- IF I DISCOVERED
13 THAT RON LEVIN WAS A MURDER VICTIM SOMEWHERE AROUND
14 MARCH 22ND OR MARCH 23RD IT WAS WITHIN WEEKS AFTER THAT,
15 YOU KNOW, I WOULD SAY TWO WEEKS TO A MONTH AFTER THAT,
16 THAT I WOULD HAVE SEEN JEWEL. IT WAS STILL FRESH ENOUGH,
17 IT WASN'T LIKE IMMEDIATELY THE NEXT DAY. I WOULDN'T HAVE
18 BEEN GOING ANYWHERE, I WAS KIND OF IN MOURNING. I WAS
19 VERY UPSET.

20 Q DID YOU KNOW JEWEL? OBVIOUSLY YOU DID.

21 A NO, I DIDN'T. MY SISTER DID. I WAS AT A
22 BABY SHOWER FOR MY SISTER'S BEST FRIEND'S SISTER.
23 SOMEBODY THAT WE GREW UP WITH. AND --

24 Q HOW DID YOU MEET JEWEL THERE?

25 A SHE WAS JUST AT THE PARTY, AND WE WERE
26 TALKING, YOU KNOW. SHE SAT DOWN NEXT TO ME, SHE ASKED ME
27 MY NAME. SHE KNEW MY SISTER, SHE KNEW MY BROTHER, AND SO
28 WE STARTED CHATTING.

1 Q HOW DID THE CONVERSATION FIND ITSELF ABOUT
2 YOU TALKING ABOUT --

3 A SHE ASKED ME WHAT I DID FOR A LIVING, AND I
4 TOLD HER AND WE TALKED. AND I SAID, "WHAT DO YOU FOR A
5 LIVING?" AND SHE SAID SHE WORKED FOR AN ATTORNEY, SHE IS
6 WORKING ON THE BILLIONAIRES BOYS CLUB CASE.

7 AND I SAID, "OH, MY GOSH, I HAVE A STRANGE
8 STORY TO TELL YOU." AND THAT'S WHEN I TOLD HER THE STORY.

9 Q DID SHE SAY --

10 A SHE WAS SHOCKED TOO. WE WERE BOTH SHOCKED.
11 IT WAS KIND OF LIKE WOW.

12 Q WAS THIS FIRST TIME THAT YOU SHOCKED -- I
13 MEAN YOU TELLING HER?

14 A I WAS SHOCKED I SAW HIM ON T.V., BUT LIKE I
15 SAID, I FOUND OUT DEAN WAS DEAD RELATIVELY SHORTLY
16 THEREAFTER. I NEVER THOUGHT ABOUT RON LEVIN AGAIN. I WAS
17 IN SHOCK -- I WAS IN A PUBLIC BUSINESS, I WAS USED TO
18 GETTING ALL SORTS OF WEIRD INFORMATION ABOUT PEOPLE. IT
19 WASN'T A PRIORITY FOR ME. RON LEVIN DEAD OR ALIVE
20 DIDN'T -- I MEAN, I DON'T KNOW HOW TO SAY THIS IN A KIND
21 WAY, BUT HE -- I DIDN'T KNOW ANY BILLIONAIRE BOYS CLUB
22 MEMBERS, I DIDN'T KNOW WHAT THEY WERE ABOUT TOO MUCH,
23 ANYTHING, ANY KIND OF LITTLE THING THAT I HAD HEARD I HAD
24 NO EMOTIONAL CONNECTION TO THEM. I HAD NO VESTED INTEREST
25 IN RON LEVIN. HE JUST WASN'T MY PRIORITY. THERE WERE
26 TONS OF THINGS I WAS WORKING ON.

27 Q SHORTLY AFTER YOU HAD THIS CONVERSATION WITH
28 JEWEL BISHOP YOU WERE INTERVIEWED BY MR. BRODEY?

1 A YES. THEN SHE SAID, "DO YOU MIND IF I TELL
2 THE ATTORNEY I AM WORKING WITH ABOUT THIS?"

3 AND I SAID, "NO."

4 SO SHE SET UP A MEETING VERY SHORTLY
5 THEREAFTER WITH THE ATTORNEY. MIGHT HAVE EVEN BEEN ON A
6 SATURDAY OR SUNDAY. I REMEMBER GOING TO AN OFFICE. IT
7 WAS SHORTLY THEREAFTER.

8 Q AND VERY SHORTLY AFTER THAT YOU WERE
9 INTERVIEWED BY ONE OF HIS INVESTIGATORS?

10 A NOW THAT IS SOMETHING THAT I DON'T -- I WAS
11 INTERVIEWED BY AN INVESTIGATOR. I REALLY DON'T KNOW WHOSE
12 SIDE THE INVESTIGATOR CAME FROM.

13 Q WHEN YOU WERE INTERVIEWED BY THE INVESTIGATOR
14 DO YOU REMEMBER TELLING THE INVESTIGATOR THAT YOU THOUGHT
15 IT WAS POSSIBLE THAT YOU WERE MISTAKEN IN YOUR
16 IDENTIFICATION OF THE MAN?

17 A I THINK THAT, YOU KNOW, IT IS THE SAME THING.
18 I THINK I HAVE ALWAYS THOUGHT WHEN I LOOKED OVER AND SAW
19 RON LEVIN HE WAS ALIVE TO ME, SO I SAW RON LEVIN. THAT'S
20 ALL I CAN GO BY. IS THERE A POSSIBILITY? OF COURSE,
21 THERE IS A POSSIBILITY. I MEAN, I DON'T KNOW WHO --

22 THE COURT: POSSIBILITY OF WHAT?

23 THE WITNESS: WELL, THE QUESTION IS WHEN I
24 LOOKED -- MY TESTIMONY.

25 THE COURT: FIRST, EXPLAIN. YOU USED THE TERM
26 POSSIBILITY. WHAT POSSIBILITY?

27 THE WITNESS: POSSIBILITY. THERE IS SOME
28 POSSIBILITY OF EVERY KIND OF THING. ALL I KNOW FROM MY --

1 WHAT HAPPENED TO ME WAS THAT I LOOKED OVER AND I SAW
2 SOMEBODY THAT I ASSUMED WAS ALIVE, AND I SAW HIM TO BE
3 ALIVE. SO TO ME THAT'S WHO I SAW.

4 THE COURT: ANSWER MY QUESTION, THOUGH. YOU USED
5 THE TERM "THERE IS A POSSIBILITY." I DON'T UNDERSTAND
6 WHAT YOU MEAN BY POSSIBILITY?

7 THE WITNESS: WHAT WAS YOUR QUESTION TO ME?

8 THE COURT: WELL, FIRST ANSWER MY QUESTION.

9 THE WITNESS: NOW I AM TRYING TO REMEMBER WHAT
10 EXACTLY HIS QUESTION WAS TO ME.

11 THE COURT: WELL, MY QUESTION TO YOU -- EXCUSE ME.

12 MY QUESTION TO YOU IS: YOU USED THE TERM "IS
13 THERE A POSSIBILITY," AND YOU DIDN'T FINISH. I AM TRYING
14 TO FIND OUT WHAT YOU MEANT BY "THERE IS A POSSIBILITY."

15 THE WITNESS: I MEANT THERE IS A POSSIBILITY THAT
16 THIS WASN'T RON LEVIN. THAT'S ALWAYS THE QUESTION ISN'T
17 IT? WAS IT RON LEVIN OR WASN'T IT. ALL I CAN GO BY, WHEN
18 I SAW HIM, I ASSUMED HE WAS STILL ALIVE. I HAD NO REASON
19 TO THINK HE WASN'T ALIVE. SO TO ME I SAW HIM. THAT'S
20 WHAT I MEAN THERE IS A POSSIBILITY.

21 I MEAN, IS THERE A POSSIBILITY FOR, IF I WANT
22 TO BE SO, SO, SO, SO, SO, SO TRUTHFUL MY TRUTH IS ONLY MY
23 TRUTH, THEN OUTSIDE OF MY TRUTH THERE IS REALM OF
24 POSSIBILITY. BUT -- AND AFTER THE WHOLE THING, OF COURSE,
25 IT OPENS UP ANOTHER AREA OF POSSIBILITY. BUT I CAN ONLY
26 GO BY WHAT HAPPENED TO ME AT THAT MOMENT. THAT'S ALL I AM
27 TRYING TO SAY. MINE WAS JUST BASED ON MY EXPERIENCE.

28 MR. MC MULLEN: THANK YOU

1 BY MR. MC MULLEN:

2 Q HAVE YOU EVER HAD THE PHENOMENA OCCUR TO YOU
3 WHERE YOU THOUGHT YOU SAW SOMEBODY YOU RECOGNIZED AND THEN
4 ON CLOSER INSPECTION YOU REALIZED THAT IT ISN'T WHO YOU
5 THOUGHT IT WAS?

6 A I HAVE DEFINITELY SEEN PEOPLE THAT LOOK
7 SIMILAR TO OTHER PEOPLE IN MY LIFE. I HAVE. AND I HAVE
8 ALSO LOOKED VERY CAREFULLY SINCE THIS RON LEVIN STORY AT
9 THE WORLD THAT WAY. BECAUSE I HAVE ALWAYS BEEN
10 FASCINATED. NOW I HAVE BECOME FASCINATED, BUT TO ME RON
11 LEVIN STILL IS A VERY DISTINCTIVE LOOKING PERSON, AND I
12 HAVEN'T SEEN ANYTHING ELSE TO ME THAT LOOKS LIKE RON LEVIN
13 SINCE RON LEVIN.

14 Q I TAKE IT YOU HAVE CERTAIN EXPERIENCES HAPPEN
15 WHERE YOU HAVE SEEN SOMEONE, LET'S SAY, WALKING DOWN THE
16 STREET OR SOMEWHERE IN THE PUBLIC YOU THINK, "THAT LOOKS
17 LIKE SOMEBODY I KNOW," AND THEN YOU APPROACH THEM AND YOU
18 REALIZE IT IS NOT THEM?

19 A SURE, WITHIN A NORMAL REALM. THERE ARE
20 PEOPLE THAT RESEMBLE EACH OTHER THROUGH LIFE, OF COURSE.
21 I AM SURE I HAVE EXPERIENCED SEEING SOMEBODY THAT LOOKS
22 LIKE SOMEBODY ELSE OR REMINDS ME OF SOMEBODY ELSE, BUT
23 THAT DOESN'T MEAN THAT I AM GOING TO WALK UP TO THEM AND
24 SAY, "HI, SO AND SO."

25 Q YOU NEVER TESTIFIED FOR MR. BRODEY, DID YOU?

26 A NO, I DID NOT.

27 MR. MC MULLEN: MAY I APPROACH THE WITNESS?

28 THE COURT: YES.

1 BY MR. MC MULLEN:

2 Q LOOKING AT DOUBLE M, RESPONDENT'S DOUBLE M,
3 COULD YOU MARK WITH A PEN, USE MY BALLPOINT PEN, WITH AN
4 "X" WHERE YOUR CAR WAS WHEN YOU FIRST SAW THE PERSON YOU
5 HAVE DESCRIBED HERE?

6 A YOU KNOW, I THINK THERE IS A DIAGRAM THAT THE
7 INVESTIGATOR DID WITH ME ON ALL THIS AT THE TIME, WHICH
8 WOULD BE MUCH MORE FRESH, BECAUSE WHEN THIS HAPPENED WE
9 WENT OUT TO THE SCENE AND WE MARKED IT OFF. WE PARKED A
10 CAR. I DROVE HERE. WE WENT THROUGH THE WHOLE PROCESS.
11 AND I CAN'T IMAGINE THAT IT IS NOT ON THE RECORD
12 SOMEWHERE.

13 THE COURT: LOOK IT, THIS IS THE EXHIBIT NOW.
14 PLEASE FOLLOW HIS DIRECTIONS.

15 MR. KLEIN: IF SHE CAN DO IT.

16 THE WITNESS: THAT'S WHAT I AM TRYING TO SAY. IF
17 THE HONESTY OF --

18 THE COURT: IF YOU CAN'T DO IT, YOU CAN'T DO IT.
19 NOW, IF YOU CAN DO IT, PLEASE DO IT.

20 THE WITNESS: I MEAN, IT IS GOING TO BE CLOSE. IT
21 IS GOING TO BE, YOU KNOW -- LOOK. AS HONESTLY AS I CAN DO
22 IT IT IS GOING TO BE ACROSS FROM THE "L".

23 MR. CRAIN: SHE PUT AN "X" ON THE PHOTOGRAPH.

24 THE COURT: IS IT VISIBLE? I CAN'T SEE IT.

25 MR. CRAIN: I CAN'T SEE.

26 THE COURT: DRAW A CIRCLE AROUND THAT "X", PLEASE.

27

28 (WITNESS COMPLIES.)

1 THE COURT: ALL RIGHT.

2 SHE HAS PLACED A BLUE "X" ON EXHIBIT MM.

3 LET'S MOVE ON.

4 BY MR. MC MULLEN:

5 Q MA'AM, AT SOME POINT DO YOU REMEMBER HEARING
6 A RADIO BROADCAST WITH RESPECT TO THE SENTENCING OF
7 MR. HUNT IN THE MURDER CASE?

8 A I DO.

9 Q AND --

10 A I REMEMBER HEARING THAT IT WAS --

11 THE COURT: HOLD ON. HOLD ON. WAIT FOR THE NEXT
12 QUESTION.

13 THE WITNESS: OKAY.

14 BY MR. MC MULLEN:

15 Q WHEN DID YOU HEAR THAT RADIO BROADCAST?

16 A I DON'T KNOW. BUT I DO REMEMBER DRIVING TO
17 WORK AGAIN AND HEARING THAT IT WAS IN TRIAL OR SOMEBODY
18 HAD BEEN SENTENCED. I DON'T KNOW IF I KNEW THAT IT WAS
19 JOE HUNT, THOUGH, BY THE WAY, BUT I DO REMEMBER IT.

20 Q BUT SOMEONE WAS BEING SENTENCED?

21 A SOMEBODY IS SENTENCED.

22 Q FOR THE MURDER OF RON LEVIN?

23 A I DON'T EVEN KNOW IF I -- IF IT WAS FOR THE
24 MURDER OF RON LEVIN. I JUST REMEMBER THAT I WAS AWARE IT
25 HAD GONE TO TRIAL, SOMEBODY HAS BEEN SENTENCED. THAT'S
26 THE WAY I REMEMBER IT THEN. THEN I WAS PROBABLY MORE
27 SPECIFICALLY TUNED INTO IT THAN I AM NOW.

28 MR. MC MULLEN: REFERRING COUNSEL TO THE TRANSCRIPT

1 OF THE PROCEEDING IN SAN MATEO, WHICH WOULD BE ON JUNE 25,
2 1992, PAGE 6943 STARTING AT LINE 15.

3 BY MR. MC MULLEN:

4 Q (READING):

5 "Q WAS THERE A TIME THAT YOU
6 HEARD THAT SOMEONE HAD BEEN
7 SENTENCED FOR THE MURDER OF RON
8 LEVIN?

9 A ON THE RADIO SOME MONTHS
10 AFTER I HAD BEEN, MAYBE IT COULD
11 HAVE BEEN UP TO SIX MONTHS OR EIGHT
12 MONTHS AFTER. I DON'T REMEMBER. I
13 MEAN, IT WAS A PERIOD OF TIME" --
14 THEN IT TRAILS OFF.
15 AT THAT POINT IN TIME DO YOU REMEMBER
16 TESTIFYING TO THAT?

17 A IN SAN MATEO?

18 Q YES.

19 A WHATEVER -- I DON'T REMEMBER -- WHEN I LEAVE
20 THIS ROOM TODAY I AM NOT GOING TO REMEMBER EVERY QUESTION
21 YOU ASKED ME. I REMEMBER THE TONE TO A DEGREE OF WHAT
22 HAPPENED IN SAN MATEO. IF I SAID IT AND THE COURT
23 REPORTER WROTE IT THEN IT WAS WHAT WAS SAID.

24 Q WHEN YOU HEARD THAT RADIO BROADCAST YOU
25 DIDN'T GO TO THE AUTHORITIES AT THAT TIME?

26 A I HAD ALREADY GONE TO THE --

27 THE COURT: YOU HAVE TO WAIT UNTIL HE FINISHES THE
28 QUESTION. OKAY?

1 FINISH THE QUESTION.

2 BY MR. MC MULLEN:

3 Q YOU DIDN'T GO TO THE AUTHORITIES WITH THE
4 INFORMATION THAT YOU HAD?

5 A RIGHT. NO, I DIDN'T.

6 Q WHY?

7 A I HAD ALREADY SPOKEN TO BRODEY. THEY
8 OBVIOUSLY DIDN'T THINK THAT THEY WANTED -- FOR WHATEVER
9 REASON THEY DIDN'T USE ME IN THE TRIAL AND I --

10 MR. KLEIN: OBJECT TO WHAT SHE THINKS.

11 THE WITNESS: I DON'T KNOW.

12 MR. KLEIN: ABOUT THE PART ABOUT BOTH SPEAKING TO
13 BRODEY. I THINK IS ALL THAT IS.

14 THE COURT: OVERRULED. THE REASON SHE DIDN'T GO TO
15 THE POLICE.

16 YOU CAN FINISH YOUR ANSWER.

17 THE WITNESS: IT WASN'T IN MY FRAMEWORK TO THINK
18 THAT MUCH ABOUT IT ANYWAY. I DIDN'T THINK ABOUT GOING TO
19 THE POLICE. I DON'T KNOW. I MEAN, TODAY I MIGHT BE
20 DIFFERENT, BUT -- I THINK PROBABLY WOULD BE DIFFERENT
21 TODAY.

22 BY MR. MC MULLEN:

23 Q WHEN YOU TALKED TO JEWEL BISHOP WHAT WAS
24 JEWEL BISHOP'S REACTION WHEN YOU TOLD HER WHAT YOU HAD
25 SEEN?

26 A SURPRISE. AND SHE TOOK IT SERIOUSLY.

27 MR. MC MULLEN: MAY I JUST HAVE A MOMENT, YOUR
28 HONOR?

1 THE COURT: YES.

2 BY MR. MC MULLEN:

3 Q YOU TESTIFIED A LITTLE BIT AGO THAT WHEN YOU
4 DROVE BY YOU NOTICED HIM, YOU DIDN'T HONK YOUR HORN AT
5 ALL.

6 A (NO AUDIBLE RESPONSE.)

7 Q YOU HAVE TO ANSWER ALOUD.

8 A (NO AUDIBLE RESPONSE.)

9 MR. CRAIN: SHE IS SHAKING HER HEAD, YOUR HONOR.

10 THE WITNESS: NO. I DID NOT HONK MY HORN.

11 BY MR. MC MULLEN:

12 Q DID YOU YELL OR MAKE ANY KIND OF GESTURE
13 TOWARDS HIM?

14 A NO.

15 Q WHY NOT?

16 A I HAD NO DESIRE TO. AND I WAS ON MY WAY TO
17 WORK THERE WOULDN'T BE ANY REASON TO HAVE. I WOULDN'T
18 HAVE DONE IT UNLESS IT WAS A REALLY CLOSE FRIEND, AND I
19 HAD TIME TO LIKE -- I JUST -- IT WAS JUST LOOKING OVER AND
20 NOTICING SOMEONE. IT COULD HAVE -- LIKE IF YOU WOULD LOOK
21 OVER AND SEE A MOVIE STAR DRIVING DOWN THE STREET. IF
22 JACK NICHOLSON WAS GETTING INTO A CAR, FOR INSTANCE, AND
23 LOOKED OVER, YOU GO, "THERE IS JACK NICHOLSON," AND YOU
24 KEEP GOING. I MEAN, MAYBE YOU DIDN'T KNOW HIM SO IT IS A
25 LITTLE DIFFERENT, BUT IT WASN'T MORE THAN JUST AN
26 ACKNOWLEDGEMENT OF A PERSON THAT THERE IS A FAMILIAR FACE
27 THAT YOU KNEW. THAT WAS ALL IT WAS. I DIDN'T HAVE ANY
28 INTEREST IN TALKING TO HIM.

1 Q DID YOU REVIEW ANY MATERIALS BEFORE YOU
2 TESTIFIED TODAY? OTHER THAN THE ARTICLE THAT COUNSEL
3 REFERRED TO.

4 A I GLANCED AT MY ORIGINAL STATEMENT FROM, I
5 THINK IT WAS FEBRUARY 25TH, SOMETHING, I DON'T EVEN
6 REMEMBER WHAT YEAR, IN MR. CRAIN'S OFFICE ON SATURDAY.
7 AND I READ IT KIND OF -- I SCANNED IT.

8 MR. MC MULLEN: YOUR HONOR, THE RESPONDENT WOULD
9 LIKE TO HAVE MARKED FOR IDENTIFICATION H, WHICH WAS ON THE
10 EXHIBIT LIST.

11 THE COURT: H.

12 MR. MC MULLEN: YES. H.

13
14 (MARKED FOR ID = RESPONDENT'S H, DOCUMENT.)
15

16 MR. MC MULLEN: MAY I APPROACH THE WITNESS?

17 THE COURT: YES.

18 BY MR. MC MULLEN:

19 Q PLEASE LOOK AT H.

20 MR. CRAIN: CAN I INQUIRY AS TO WHEN WE ARE GOING
21 TO GET A COPY OF THIS EXHIBIT LIST. I DON'T HAVE IT.
22 MR. KLEIN SAYS HE DOESN'T HAVE IT.

23 THE WITNESS: THIS IS WHAT I SAW.

24 MR. MC MULLEN: I WILL GIVE THEM AN ADDITIONAL COPY
25 RIGHT NOW.

26 MR. CRAIN: I DON'T KNOW WHAT "ADDITIONAL" MEANS
27 SINCE WE NEVER GOT ONE, BUT THANK YOU.

28 THE COURT: HOW MUCH MORE DO YOU HAVE ON CROSS?

1 MR. MC MULLEN: I AM JUST ABOUT DONE.

2 THE COURT: GO AHEAD.

3 BY MR. MC MULLEN:

4 Q DOES THAT DOCUMENT LOOK FAMILIAR?

5 A YES. THIS IS WHAT I LOOKED AT. THIS IS WHAT
6 I REMEMBER SIGNING YEARS AGO.

7 Q DID YOU LOOK AT ANY OTHER MATERIALS PRIOR TO
8 THAT?

9 A NO, I DIDN'T. JUST THAT ARTICLE ON DEAN.

10 MR. MC MULLEN: MAY I JUST HAVE ONE MOMENT?

11 THE COURT: YES.

12

13 (PAUSE.)

14

15 MR. MC MULLEN: NOTHING FURTHER.

16 THE COURT: BETWEEN 1982 WHEN YOU LEFT WORK AT
17 MR. CHOW'S AND 1987 WHEN YOU SAW MR. LEVIN HAD YOU EVER
18 SEEN MR. LEVIN DURING THAT PERIOD?

19 THE WITNESS: FROM '82 TO '87?

20 THE COURT: YES.

21 THE WITNESS: I DON'T REMEMBER SEEING HIM, BUT LIKE
22 I SAID, I CHANGED, I KIND OF SLIGHTLY SWITCHED AROUND
23 THINGS. I WENT TO WORK IN AN OFFICE INSTEAD OF OUT IN THE
24 PUBLIC, AND THEN I WENT TO NEW YORK. SO THERE WAS, YOU
25 KNOW, I WOULD SAY THERE WAS A FAIR AMOUNT OF THAT TIME
26 THAT I WAS NOT IN THE PUBLIC THE SAME WAY.

27 THE COURT: WERE YOU FREQUENTING THE BEVERLY HILLS
28 AREA AT ALL DURING THAT PERIOD '82 TO '87?

1 A I WAS PROBABLY IN AND OUT OF RESTAURANTS. I
2 WAS IN AND OUT OF RESTAURANTS SOMETIMES. IT DEPENDS
3 BECAUSE I WAS ALSO IN SANTA MONICA, LIVING IN SANTA
4 MONICA. I WAS NOT ENJOYING BEING IN MY LOCAL ENVIRONMENT
5 WHEN I WAS -- I WAS KIND OF TIRED OF BEVERLY HILLS AND
6 BEVERLY HILLS RESTAURANTS, THAT SORT OF GROUP OF FOLKS, AT
7 THEODORE'S AND MR. CHOW'S, ETC.,

8 THE COURT: DID YOU EVER SEE ANY OF THESE OTHER
9 ASSOCIATES, PEOPLE THAT YOU SAW WITH MR. LEVIN?

10 THE WITNESS: ON AND OFF THROUGHOUT THE YEARS, BUT
11 YOU KNOW, IT IS KIND OF CURIOUS THE WAY CROWDS CHANGE ON
12 YOU. PEOPLE'S AVAILABILITY LASTS A CERTAIN AMOUNT OF THE
13 TIME, THEY TEND TO DISPERSE AND THEY REGROUP SOMETIMES.
14 SO IT IS NOT UNUSUAL TO SEE GROUPS OF PEOPLE THAT ARE
15 REALLY CLOSE FOR A THREE- OR FOUR-YEAR PERIOD AND THEN ONE
16 GETS A JOB HERE, ONE GETS BUSY, THEY GET MARRIED, THINGS.
17 WE WERE ALL KIND OF YOUNG, SO PEOPLE STARTED CHANGING.
18 SO, YES, AND, NO BUT SOMETIMES. I DON'T SEE SOMEONE FOR
19 FIVE YEARS I COULD STILL WALK DOWN ANY STREET AND BUMP
20 INTO SOMEBODY THAT I HAVEN'T SEEN FOR FIVE OR SIX YEARS,
21 AND THEY HAVE BEEN HERE, AND I HAVE BEEN THERE, YOU KNOW.

22 THE COURT: YOU USED THE TERM TO DESCRIBE MR. LEVIN
23 AS A "CON MAN." WHY DID YOU USE THAT TERM?

24 THE WITNESS: BECAUSE HE ALWAYS HAD THAT KIND OF
25 SENSE OF A CON ABOUT HIM. HE DIDN'T -- YOU NEVER FELT
26 THAT HE WAS A REAL STRAIGHT SHOOTER.

27 THE COURT: HAVE YOU EVER USED THAT TERM BEFORE TO
28 THIS TRIAL?

1 THE WITNESS: I AM SURE I HAVE, YES, BECAUSE I
2 THINK HE WAS KIND OF A CON MAN.

3 THE COURT: UNDER WHAT CIRCUMSTANCES WOULD YOU HAVE
4 USED THAT TERM?

5 THE WITNESS: I PROBABLY WOULD HAVE USED IT
6 DESCRIBING HIM. SINCE THIS PROCESS, I DON'T THINK --

7 THE COURT: TO WHOM?

8 THE WITNESS: TO PROBABLY WHOEVER I TALKED TO.
9 LIKE I AM NOW, LIKE TO THE ATTORNEYS, TO JEFF BRODEY OR TO
10 THE DETECTIVE, IF A DETECTIVE, YOU KNOW -- IT IS POSSIBLE
11 THAT I USED CON OR, YOU KNOW, I ALWAYS SAW HIM AS KIND
12 OF -- HE JUST HAD THAT KIND OF BACK STREET KIND OF FEELING
13 ABOUT HIM (INDICATING). HE WASN'T --

14 MR. KLEIN: SHE IS MAKING MOTIONS LIKE A SNAKE.

15 THE COURT: THE WITNESS IS MOVING HER HANDS.

16 LET ME ASK: YOU SAID YOU WEREN'T REGULARLY
17 WATCHING OR YOU WEREN'T WATCHING AT ALL, THE T.V. NEWS
18 DURING THIS PERIOD?

19 A NO.

20 Q WHY DID YOU KNOW THE NEWS WOULD BE ON AT 4
21 O'CLOCK?

22 A I MEAN, OF COURSE, I GREW UP AT -- AND I GREW
23 UP IN A T.V. WORLD, BUT I JUST CHOSE NOT TO WATCH T.V. FOR
24 MANY YEARS.

25 THE COURT: HOW DID YOU KNOW THERE WOULD BE NEWS ON
26 4 O'CLOCK?

27 THE WITNESS: WELL, I MEAN --

28 THE COURT: IF YOU HADN'T WATCHED THE NEWS IN MANY

1 YEARS; RIGHT?

2 THE WITNESS: I THINK PEOPLE KNOW THAT THERE IS A 6
3 O'CLOCK NEWS OR A 4 O'CLOCK NEWS, MAYBE EVEN JAN TOLD ME,
4 YOU KNOW. WE MIGHT HAVE JUST TURNED IT ON. SHE WAS VERY
5 PLUGGED INTO TELEVISION. SHE WOULD WATCH IT EVERY NIGHT.
6 MOST PEOPLE DID. I JUST DIDN'T PARTICULARLY CARE FOR
7 T.V..

8 THE COURT: MR. CRAIN?

9

10 REDIRECT EXAMINATION +

11

12 BY MR. CRAIN:

13 Q YOUR PURPOSE IN WATCHING T.V. YOU KNEW THAT A
14 GOOD FRIEND, MR. MARTIN'S PLANE HAS CRASHED AND NOT FOUND;
15 IS THAT RIGHT?

16 A THAT'S IT.

17 Q CRASHED ON A SATURDAY?

18 A YES.

19 Q OR LAST BEEN HEARD FROM A SATURDAY?

20 A YES.

21 Q AND IN YOUR OWN WORDS, WHAT WAS YOUR -- HOW
22 DO YOU FEEL ABOUT MR. MARTIN?

23 A I WAS VERY CLOSE TO HIM. HIS LITTLE BROTHER
24 RICKY WAS A VERY CLOSE FRIEND, YOU KNOW. THERE WERE
25 OTHERS JIMMY WOODS, JOHN BURNHAM, THAT WERE MY FRIENDS,
26 GUY WEBSTER, THEY WERE REALLY CLOSE FRIENDS OF DEAN'S AND
27 MINE. WE WERE ALL GRIEF STRICKEN. HE WAS ONE OF OUR --
28 IT WAS LIKE LOSING -- AT ANYTIME WHEN YOU LOSE SOMEONE,

1 ESPECIALLY WHEN YOU ARE YOUNGER THE LESS PEOPLE YOU HAVE
2 LOST SO FAR, SO IT IS A REAL SHOCK. HE WAS LIKE IN HIS
3 PRIME, HE WAS A HANDSOME YOUNG MAN --

4 Q ABOUT HOW OLD WAS HE AT THAT TIME?

5 THE COURT: WHAT'S THE RELEVANCE?

6 THE WITNESS: HE IS MY AGE. I AM 44.

7 THE COURT: HOLD ON. HOLD ON.

8 MR. CRAIN: TO FOLLOW-UP TO THE COURT'S INQUIRY
9 ABOUT WHY SHE WOULD BE TRYING TO FIND OUT ABOUT THE DEATH
10 OF A YOUNG MAN WHO WENT DOWN.

11 THE COURT: I WILL SUSTAIN MY OBJECTION. THE
12 OBJECTION IS THAT IT IS IRRELEVANT.

13 LET'S MOVE ON.

14 BY MR. CRAIN:

15 Q SO WHAT YOU HAVE STATED, THEN, THAT YOUR
16 PURPOSE IN ATTEMPTING TO GET NEWS ABOUT DEAN PAUL MARTIN
17 WAS TO FIND OUT JUST WHAT HAD HAPPENED TO HIM, AND IF THAT
18 HAD BEEN DETERMINED YET?

19 A EXACTLY. THAT'S IT.

20 Q WAS THERE ANY OTHER REASON WHY YOU WERE
21 WATCHING TELEVISION THAT DAY?

22 A NO. ABSOLUTELY NOT. AND I AM SURE IT WENT
23 OFF RIGHT AFTER THAT.

24 Q NOW, IN THE WORK THAT YOU DID OVER THESE
25 YEARS IN THE RESTAURANT BUSINESS, THE HOTEL BUSINESS WAS
26 IT -- I THINK YOU TOLD US THIS EARLIER -- WAS IT PART OF
27 YOUR JOB TO GET ACQUAINTED WITH A LOT OF PEOPLE IN THE
28 COURSE OF YOUR WORK?

1 A YEAH. A LOT.

2 Q AND WAS IT PART OF EITHER YOUR WORK OR JUST
3 THE WAY YOU ARE AS YOUR UNIQUE SELF TO SIZE UP PEOPLE AND
4 FORM OPINIONS ABOUT THEM?

5 A WELL, WHEN YOU RUN THE FRONT -- WHEN -- IN
6 THE RESTAURANT BUSINESS WHEN YOU RUN THE FRONT OF A VERY
7 HOT HOLLYWOOD OR STAR-STUDED KIND OF A RESTAURANT LIKE
8 THE EQUIVALENT OF WHAT SPAGO'S WAS A FEW YEARS AGO IN
9 LOS ANGELES AND STUFF, YOU DEVELOP A REAL INSTINCT FOR
10 KNOWING WHOSE GLOBALLY HAPPENING AS YOUR CLIENTELE.

11 I MEAN, IT IS REAL -- IT IS WHAT IT IS. SO
12 YOU GET USED TO LOOKING AT PEOPLE AND SEEING THROUGH THE
13 KIND OF CLOTHES THEY WEAR, WHAT THEY DO. LIKE SOMETIMES
14 BILLIONAIRES WILL WALK IN LOOKING LIKE BUMS AND YOU KNOW
15 THEY JUST GOT IN OFF OF THE PLANE FROM LONDON AND THEY
16 NEED TO BE LOOKED AFTER.

17 MR. CHOW'S, BECAUSE IT WAS LONDON BASED AND IT
18 WAS IMPORTANT TO MR. CHOW HIMSELF THAT I BE VERY GOOD AT
19 READING PEOPLE AND I HAPPENED TO HAVE NATURALLY BEEN VERY
20 GOOD AT DOING THAT, SO THAT WAS ONE OF REASONS I WAS A
21 VERY SOUGHT AFTER PERSON IN THE RESTAURANT BUSINESS FOR
22 THOSE YEARS. AND AFTER MR. CHOW'S, BECAUSE I HAD AN
23 INSTINCT FOR KNOWING HOW TO TAKE CARE OF CLIENTELE WHO
24 THEY WERE AND SIZING THEM UP. SO --

25 Q IF A CUSTOMER GAVE VIBES, AS YOU SAY, OF
26 BEING A POSSIBLY DISHONEST PERSON, WOULD THAT BE SOMETHING
27 THAT YOU WOULD WANT TO HAVE SOME IMPRESSION ABOUT THEM
28 RELATIVE TO YOUR WORK IN THE RESTAURANT BUSINESS? WOULD

1 THAT BE SOMETHING OF IMPORTANCE TO THE RESTAURANT
2 BUSINESS?

3 THE COURT: WHAT'S THE RELEVANCE OF THIS?

4 MR. CRAIN: WELL, I THOUGHT THE COURT WAS
5 INTERESTED IN WHY SHE FORMED THE CONCLUSION THAT MR. LEVIN
6 GAVE OFF THE IMPRESSIONS IN SOME WAY OF BEING A CON MAN?

7 THE COURT: SHE GAVE HER ANSWER. I INQUIRED WHY
8 DID SHE USE THE TERM, AND SHE GAVE HER ANSWER AND --

9 MR. CRAIN: I AM ATTEMPTING TO FOLLOW-UP ON THAT.

10 THE COURT: LET'S MOVE ON.

11 MR. CRAIN: NOW, I WOULD JUST LIKE TO SAY IN
12 RESPONSE TO THAT, I DON'T WANT THE COURT PUTTING SOME --
13 AS AN OFFER OF PROOF, IF CAN, I CAN MAKE --

14 THE COURT: SHE USED A TERM. I SIMPLY WANTED TO
15 KNOW WHY SHE USED THAT TERM. SHE GAVE ME HER ANSWER.
16 WHETHER OR NOT SHE IS A WONDERFUL JUDGE OF CHARACTER BASED
17 ON HER EXPERIENCES OVER THE YEARS IS REALLY IRRELEVANT. I
18 AM SIMPLY ASKING HER TO EXPLAIN THE TERM SHE USED. THAT'S
19 ALL.

20 MR. CRAIN: I AM NOT USING THIS TO ATTEMPT TO PROVE
21 THAT MR. LEVIN IS A CON MAN. I THINK THAT'S ALREADY BEEN
22 ESTABLISHED THROUGH OTHER MEANS. BUT WHAT I AM ATTEMPTING
23 TO DO IS TO SHOW WHY HER IMPRESSIONS OF MR. LEVIN, BOTH
24 HIS APPEARANCE AND HIS DEMEANOR AND OVERALL AURA THAT HE
25 PROJECTED WERE OF SIGNIFICANCE TO HER, BECAUSE IT IS PART
26 OF THE UNDERLYING FOUNDATION AS TO HOW WELL SHE IN FACT
27 KNOWS MR. LEVIN.

28 THE COURT: LET'S MOVE ON. YOU HAVE COVERED THAT.

1 MR. CRAIN: I DON'T HAVE ANYTHING FURTHER.

2 THE COURT: ANYTHING FURTHER?

3 MR. MC MULLEN: JUST A COUPLE OF FOLLOW-UPS.

4 THE COURT: REAL BRIEFLY.

5

6 RECROSS-EXAMINATION @

7

8 BY MR. MC MULLEN:

9 Q SO THE REASON YOU WERE FOLLOWING THE NEWS
10 WHEN YOU SAW THAT TELEVISION NEWS PROGRAM WAS BECAUSE A
11 FRIEND OF YOURS WAS BELIEVED TO BE KILLED?

12 A YES.

13 Q AND PRIOR TO THE TIME THAT YOU WITNESSED THIS
14 SIGHTING THAT YOU HAVE TESTIFIED TO YOU WERE FAMILIAR WITH
15 THE BILLIONAIRE BOYS CLUB CASE, WERE YOU NOT?

16 A I HAD HEARD OF IT, FAMILIAR I WOULDN'T SAY.
17 I MEAN, I DON'T KNOW WHAT "FAMILIAR" MEANS IN THAT
18 CONTEXT.

19 Q YOU HAD HEARD OF IT?

20 A I HAD HEARD OF IT.

21 Q DID YOU EVER REFUSE SERVICE TO MR. LEVIN AT
22 THE RESTAURANTS?

23 A NO, NEVER.

24 MR. MC MULLEN: NOTHING FURTHER.

25 THE COURT: ANYTHING FURTHER?

26 MR. CRAIN: NOTHING.

27 THE COURT: MAY THE WITNESS BE EXCUSED?

28 MR. CRAIN: YES.

1 THE COURT: ANY OBJECTION?

2 MR. MC MULLEN: JUST IF SHE COULD REMAIN ON CALL
3 FOR IMPEACHMENT PURPOSES.

4 THE COURT: SUBJECT TO A SHOWING.

5 YOU MAY STEP DOWN AT THIS POINT. THANK YOU

6 THE WITNESS: CAN I ASK A QUESTION?

7 THE COURT: NO. YOU MAY SPEAK TO THE ATTORNEYS AS
8 YOU LEAVE. WE ARE GOING TO TAKE OUR RECESS AT THIS TIME.

9 DO WE HAVE THAT WITNESS COMING IN AT 11:00?

10 MR. KLEIN: HE IS SUPPOSED TO HERE.

11 THE COURT: I WILL TAKE A RECESS FOR 15 MINUTES.

12

13 (RECESS.)

14

15 THE BAILIFF: REMAIN SEATED, COME TO ORDER, THIS
16 COURT IS AGAIN IN SESSION.

17 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
18 RECORD WILL REFLECT ALL COUNSEL WITH THE EXCEPTION OF
19 MR. KLEIN ARE PRESENT, PETITIONER IS PRESENT, MR. ROBINSON
20 HAS ARRIVED.

21 YOU ARE LATE, MR. ROBINSON.

22 THE WITNESS: YES, SIR. I HAD OVERTIME.

23 THE COURT: SIR, YOU WERE ORDERED TO BE HERE IN
24 COURT AT A REGULAR TIME. YOU MAY WANT TO THINK ABOUT
25 THAT. THAT OVERTIME COULD GO AWAY IN THE SANCTIONS
26 HEARING.

27 MR. KLEIN IS NOT HERE?

28 MR. CRAIN: YOUR HONOR --

1 THE COURT: IS HE STILL DOWN IN DIVISION 60?

2 MR. CRAIN: HE LEFT TO GO THERE. HE WILL BE BACK
3 AT 1:30, IF IT IS ALL RIGHT WITH THE COURT.

4 THE COURT: YEAH. HE HAD ASKED -- I ASKED HIM TO
5 BE BACK BY 11:30.

6 BUT YOU HAVE NO PROBLEM PROCEEDING IN HIS
7 ABSENCE?

8 MR. CRAIN: NO, YOUR HONOR. BECAUSE BASICALLY
9 MR. ROBINSON IS MY RESPONSIBILITY AT THIS POINT.

10
11 ROBERT A. ROBINSON, +
12 RECALLED AS A WITNESS BY THE PETITIONER, HAVING BEEN
13 PREVIOUSLY DULY SWORN WAS EXAMINED AND TESTIFIED AS
14 FOLLOWS:

15
16 THE COURT: ALL RIGHT.

17 MR. ROBINSON, YOU ARE REMINDED THAT YOU ARE
18 STILL UNDER OATH.

19 THE WITNESS: YES, SIR.

20 THE COURT: YOU MAY CONCLUDE YOUR CROSS
21 EXAMINATION, MR. MC MULLEN.

22 MR. MC MULLEN: THANK YOU, YOUR HONOR.

23
24 CROSS-EXAMINATION RESUMED @

25
26 BY MR. MC MULLEN:

27 Q SO, MR. ROBINSON, I KNOW LAST TIME YOU WERE
28 HERE YOU TESTIFIED ABOUT THE WAY THE MAN YOU SAW IN

1 WESTWOOD THE STYLE OF HIS HAIR WAS --

2 A YES.

3 Q AND HOW ABOUT THE COLOR OF HIS HAIR?

4 A IT WAS LIGHT IRON GRAY, MAYBE EVEN LIGHTER.

5 Q AND --

6 A LIGHTER THAN MINE IS RIGHT NOW.

7 Q WAS IT CONSISTENT -- DO YOU REMEMBER SEEING

8 THE PHOTOGRAPH OF RON LEVIN THAT YOU IDENTIFIED?

9 A THAT WAS VERY MUCH, VERY MUCH THE SAME COLOR
10 THROUGHOUT.

11 Q SO THE HAIR WAS THE SAME COLOR IN THE
12 PHOTOGRAPH, PETITIONER'S EXHIBIT 1, AS WHAT YOU REMEMBER?

13 A OF THE SAME CONSISTENCY. I THINK IT WAS
14 PROBABLY A LITTLE LIGHTER THAN THAT.

15 Q HOW ABOUT THE MAN'S BEARD THAT YOU SAW IN
16 WESTWOOD?

17 A THEY LOOKED VERY MUCH ALIKE. MAY HAVE BEEN
18 DIFFERENT BY A LITTLE BIT, BUT ESSENTIALLY SLENDER CHEEKS,
19 HAIR AND THEN A LITTLE GOATEE MUSTACHE.

20 Q BASICALLY THE SAME COLOR?

21 A I WOULD SAY SO. PRETTY MUCH SO.

22 Q THE LAST TIME YOU TESTIFIED WE FINISHED UP
23 WITH A QUESTION WITH RESPECT TO YOU PROVIDING RON LEVIN
24 WITH SOME TIPS OF NEWSWORTHY EVENTS; IS THAT CORRECT?

25 A THAT'S CORRECT.

26 Q ALL RIGHT.

27 A WELL, I HAD DONE THAT IN 1983 AND 1984.

28 Q HOW WOULD THAT WORK? HE WOULD PAY YOU FOR

1 THOSE?

2 A YES.

3 Q HOW MUCH DID HE PAY YOU FOR THOSE TIPS?

4 A \$30.

5 Q DID -- WAS YOUR EMPLOYER AWARE OF THAT?

6 MR. CRAIN: THAT CALLS FOR CONCLUSION AND IS
7 IRRELEVANT.

8 THE WITNESS: ACTUALLY, I DOUBT IT.

9 MR. CRAIN: JUST A MINUTE.

10 THE COURT: HOLD ON.

11 I WILL SUSTAIN THE OBJECTION.

12 YOU CAN REFRAME IT.

13 MR. MC MULLEN: THANK YOU.

14 BY MR. MC MULLEN:

15 Q DID YOU TELL YOUR EMPLOYER ABOUT THIS
16 ARRANGEMENT YOU HAD WITH MR. LEVIN?

17 MR. CRAIN: THAT'S TOTALLY IRRELEVANT.

18 THE COURT: OVERRULED.

19 BY THE WITNESS: NO.

20 MR. MC MULLEN:

21 Q DO YOU THINK THERE WAS ANY KIND OF AN ETHICAL
22 PROBLEM WITH MAKING MONEY, SO TO SPEAK, ON THE SIDE VERSUS
23 THE FACT THAT YOU WERE EMPLOYED BY THE CITY NEWS SERVICE.

24 MR. CRAIN: OBJECTION. IRRELEVANT. IT IS SOME
25 SORT OF, YOU KNOW, CHARACTER ASSASSINATION. IT HAS
26 NOTHING TO DO WITH THE PROCEEDINGS HERE.

27 THE COURT: OVERRULED. YOU BROUGHT IT UP ON DIRECT
28 EXAMINATION.

1 THE WITNESS: NO. THERE WAS NO CONFLICT BECAUSE I
2 ALWAYS MADE SURE THAT I TOLD MY EMPLOYER THE STORIES
3 BEFORE I EVER GAVE THEM A TIP. IT WOULD NEVER HAVE
4 CONFLICTED WITH ONE OF OUR STORIES.

5 BY MR. MC MULLEN:

6 Q YOU TESTIFIED LAST TIME YOU WERE HERE THAT
7 GARY ARNOT TOLD YOU THAT HE WAS GOING TO GO TO THE
8 **POLICE RELATIONS?

9 A YES. RIGHT.

10 Q AND WHEN DID HE SAY HE WAS GOING TO DO THAT?

11 A WELL, ON THE DAY THAT I WENT DOWN TO --
12 EARLIER IN THE MORNING OF THE SAME DAY THAT I WENT DOWN
13 AND TALKED TO THE ATTORNEY, WAPNER.

14 Q HAD YOU EVER BEEN TO THE NATIONAL THEATER
15 BEFORE THE DATE THAT YOU --

16 A CERTAINLY.

17 Q -- THAT YOU CLAIM TO HAVE SEEN LEVIN?

18 A YES, I HAVE.

19 Q HOW MANY TIMES?

20 A THAT I DON'T KNOW. I HAVE GONE TO MOST OF
21 THE THEATERS IN WESTWOOD AT ONE TIME OR ANOTHER. I
22 COULDN'T GIVE YOU AN EXACT NUMBER.

23 Q BUT DESPITE THE FACT THAT YOU HAD BEEN THERE
24 BEFORE YOU MANAGED TO FIND YOURSELF IN THE WRONG LINE?

25 A YES. IT WAS BEFORE -- I HAD NEVER HAD TO BE
26 IN LINE BEFORE. I JUST WALKED UP TO THE BOX OFFICE AND
27 BOUGHT A TICKET.

28 Q HAD YOU HEARD ABOUT THE B.B.C. OR THE BOMBAY

1 BICYCLE CLUB OR BILLIONAIRE BOYS CLUB BETWEEN THE DATES OF
2 1984 AN 1986?

3 A YES.

4 Q IN WHAT CONTEXT HAD YOU HEARD ABOUT THAT?

5 A IT HAD BEEN ON THE NEWS. THE NAME HAD BEEN
6 IN THE NEWS AND ALSO BEEN IN THE NEWSPAPER.

7 Q THE FIRST THING YOU SAID IN THE NEWS, WHAT
8 WERE YOU REFERRING TO?

9 A LIKE ON TELEVISION NEWS.

10 Q AND ALSO IN THE NEWSPAPER?

11 A CORRECT.

12 Q AND THAT'S HOW YOU HAD READ ABOUT THE
13 ORGANIZATION?

14 A THAT'S HOW I KNEW ABOUT IT, YES.

15 Q OR HEARD ABOUT IT?

16 A YES.

17 Q AND, OF COURSE, DURING THAT TIME BETWEEN 1984
18 AN 1986 YOU READ NEWSPAPERS?

19 A OF COURSE.

20 Q WHAT KIND OF NEWSPAPER DID YOU READ?

21 A I TYPICALLY READ THE LOS ANGELES TIMES.

22 Q HOW OFTEN?

23 A I DON'T READ COVER TO COVER, BUT I WILL READ
24 STORIES IN THE LOS ANGELES TIMES.

25 Q DURING THAT TIME DID YOU SUBSCRIBE TO ANY
26 MAGAZINES?

27 A SOME SCIENTIFIC MAGAZINES AS WELL AS SPORTS
28 ILLUSTRATED AND NEWSWEEK.

1 Q DID YOU HAVE A RADIO AT WORK?

2 A WE HAVE SCANNERS. WE DIDN'T LISTEN TO THE
3 RADIO, NOT A COMMERCIAL RADIO.

4 Q YOU NEVER LISTENED TO LIKE NEWS RADIO
5 STATIONS?

6 A AT HOME. I DON'T KNOW IF WE HAD A STATION --
7 ANY KIND OF RADIO THAT WAS AT WORK.

8 MR. MC MULLEN: I WOULD REFER COUNSEL TO THE
9 TRANSCRIPT OF THE PROCEEDINGS IN SAN MATEO JUNE 25, 1992,
10 PAGE 7027 STARTING AT LINE 20, ACTUALLY STARTING AT LINE
11 16.

12 BY MR. MC MULLEN:

13 Q (READING):

14 "Q WERE THERE RADIOS IN THE
15 PARKER CENTER IN THE PRESS ROOM?

16 A YES.

17 Q OTHER THAN THE SCANNERS?

18 A YES. BOTH THE UNITED PRESS
19 REPORTER AND MYSELF ALWAYS HAD A
20 RADIO, OUR OWN PERSONAL RADIO ON THE
21 DESK. I USUALLY -- "

22 A YES. THAT'S --

23 THE COURT: HOLD ON.

24 THE WITNESS: YES.

25 THE COURT: WAIT.

26 BY MR. MULLEN:

27 (READING):

28 "A I USUALLY TUNE IT TO

1 K.F.W.B..

2 Q WHAT'S K.F.W.B.?

3 A THAT IS ALL NEWS ALL THE TIME
4 STATION. THE ONLY ONE IN LOS
5 ANGELES THAT DOESN'T HAVE OTHER
6 PROGRAMS.

7 Q WHEN YOU SAY ALL NEWS --

8 A NEWS, WEATHER, ART, SPORTS,
9 24 HOURS, 24 HOURS A DAY."

10 Q DO YOU REMEMBER TESTIFYING TO THAT?

11 A THAT HAD SLIPPED MY MIND. I AM SORRY. YES,
12 WE DID HAVE THAT.

13 THE COURT: WAIT UNTIL THE QUESTION IS ALL THE WAY
14 OUT BEFORE YOU BEGIN YOUR ANSWER.

15 THE WITNESS: YES, SIR.

16 THE COURT: OKAY.

17 THE WITNESS: THANK YOU.

18 BY MR. MC MULLEN:

19 Q YOU DID LISTEN TO K.F.W.B.?

20 A YES, SIR.

21 Q WHILE YOU WERE AT WORK?

22 A YES, SIR.

23 Q DID YOU ALSO TUNE TO THAT STATION, WHEN YOU
24 WERE AT HOME?

25 A THAT'S THE ONE I TURNED TO WHEN I WANTED
26 NEWS, YES.

27 Q HOW DID YOU LEARN ABOUT THE TRIAL THAT
28 INVOLVED THE B.B.C, THE BILLIONAIRE BOYS CLUB?

1 A THAT HAD BEEN ON THE NEWS, BUT I ONLY
2 FOLLOWED IT SPORADICALLY.

3 Q WHEN DID YOU FIRST HEAR ABOUT IT?

4 A PROBABLY LATE 1986.

5 MR. MC MULLEN: REFERRING COUNSEL TO THE TRANSCRIPT
6 OF THE PROCEEDINGS JUNE 25, 1992, FROM THE SAN MATEO TRIAL
7 PAGE 6969 STARTING AT LINE 13.

8 BY MR. MC MULLEN:

9 (READING):

10 Q NOW, YOU HAVE INDICATED THAT
11 YOU HAD A VAGUE AWARENESS THAT THERE
12 WAS A B.B.C. AND THAT IT WAS A GROUP
13 OF WEALTHY MEN THAT WERE INVOLVED IN
14 SHADING DEALINGS.

15 A THAT WAS -- THAT'S WHAT THE
16 POLICE SAID, YES. THAT -- I MEAN, I
17 KNEW THERE WAS A TRIAL THAT OCCURRED
18 ALSO OR THAT WAS GOING ON, STARTING
19 IN PROBABLY FALL OF '86, I AM NOT
20 SURE, I THINK IT WAS THEN.
21 DO YOU REMEMBER TESTIFYING TO THAT IN

22 SAN MATEO?

23 A THAT JUST CONFIRMED WHAT I HAVE JUST SAID.

24 Q SO YOU LEARNED ABOUT THE TRIAL IN THE FALL OF
25 '86.

26 A YES, ITS FALL.

27 Q WHEN YOU LEARNED ABOUT THE TRIAL DID YOU KNOW
28 THAT JOE HUNT WAS THE ACCUSED?

1 A THE NEWS STORY SAID HE WAS ONE OF THE PERSONS
2 WHO WAS ACCUSED IN THIS.

3 Q AND DID YOU ALSO LEARN THAT THE CHARGES WERE
4 MURDER AND THAT THE VICTIM WAS RON LEVIN.

5 MR. CRAIN: AT WHICH POINT? OBJECTION. VAGUE.

6 THE COURT: ARE YOU TALKING FALL OF '86?

7 MR. MC MULLEN: YES.

8 THE WITNESS: I HEARD ABOUT THAT IN THE FALL OF
9 '86.

10 BY MR. MC MULLEN:

11 Q DID SOMEONE FROM THE CITY NEWS SERVICE COVER
12 THE HUNT TRIAL BACK IN 1986?

13 MR. CRAIN: I THINK THAT WOULD CALL FOR A
14 CONCLUSION.

15 MR. MC MULLEN: IF YOU KNOW.

16 THE COURT: HOLD ON.

17 IF HE KNEW. SHE SAID HE HAD WORKED THE CRIME
18 DESK DOWN AT PARKER CENTER.

19 YOU MAY ANSWER.

20 THE WITNESS: I AM SURE WE HAD SOMEBODY FROM OUR
21 COURT BEAT COVERING IT.

22 BY MR. MC MULLEN:

23 Q DID CITY NEWS SERVICE MAINTAIN CRIME FILES?

24 A I DON'T KNOW WHAT THEY WOULD DO. IN THE
25 OFFICE THEY MAINTAINED STORY FILES, SO I AM SURE THEY DID
26 DIVIDE THEM INTO DIFFERENT CATEGORIES.

27 Q GOING BACK TO WESTWOOD WHEN YOU WERE WAITING
28 IN LINE FOR THE MOVIE.

1 A RIGHT.

2 Q AFTER THE PERSON WHO YOU CLAIM IS RON LEVIN
3 APPROACHED YOU DID THAT -- DID YOU FIND THAT, ANYTHING
4 STRANGE ABOUT THAT CIRCUMSTANCE?

5 A IT WAS UNUSUAL IN THAT I HADN'T SEEN HIM AND
6 THAT I KNEW HE WAS SUPPOSED TO BE MISSING. I DIDN'T KNOW
7 THAT HE WAS SUPPOSED TO BE DEAD AT THE TIME.

8 Q SO YOU IN YOUR MIND YOU KNEW THAT HE WAS
9 MISSING OR DISAPPEARED?

10 A I KNEW THAT HE HADN'T BEEN SEEN SINCE EARLIER
11 IN TIME. IN FACT, UNTIL I TALKED TO GARY ARNOT THE NEXT
12 DAY I DIDN'T REMEMBER THAT IT HAD BEEN SINCE 1984. I KNEW
13 THAT HE HADN'T BEEN AROUND FOR A WHILE.

14 Q DID YOU ASK HIM ANYTHING ABOUT THAT, THAT IS
15 RON LEVIN, THE PERSON YOU CLAIM IS RON LEVIN?

16 A NO.

17 Q WHY NOT?

18 A I DIDN'T WANT TO CARRY ON A LONG CONVERSATION
19 WITH HIM. WE WEREN'T FRIENDS. WE HAD DONE SOME BUSINESS
20 TOGETHER AND HE DISAPPEARED. I WASN'T TRYING TO, YOU
21 KNOW, STRIKE UP AN ASSOCIATION, RELATIONSHIP.

22 Q FOCUSING ON THE TIME THAT PARTICULAR DAY IN
23 WESTWOOD HOW SURE ARE YOU THAT IT WAS TWO YEARS SINCE YOU
24 HAD SEEN RON LEVIN AT THAT PARTICULAR TIME?

25 A AT THAT TIME I DIDN'T. IT WAS AFTER I TALKED
26 TO ARNOT, IT WAS LATER BECAUSE I PERSONALLY HADN'T SEEN
27 HIM SINCE EARLY 1984 BUT I DIDN'T KNOW WHEN HE HAD BEEN
28 MISSING.

1 Q YOU TESTIFIED THAT A DAY OR TWO AFTER YOUR
2 EXPERIENCE IN WESTWOOD YOU TOLD ANOTHER REPORTER ABOUT
3 WHAT YOU HAD SEEN; IS THAT CORRECT?

4 A I TOLD MR. ARNOT, GARY ARNOT.

5 Q HOW DID THAT SUBJECT COME UP IN CONVERSATION?

6 A I SIMPLY SAID, "GUESS WHO I SAW THIS
7 WEEKEND?" AND I TOLD HIM AND HE WAS SURPRISED.

8 Q WHY DID YOU SAY THAT TO HIM?

9 A WE ALWAYS JUST, YOU KNOW, JUST CONVERSATION.
10 I MEAN, I KNEW THAT HE WAS SUPPOSED TO BE MISSING, AND
11 ONCE AGAIN I DIDN'T KNOW HE WAS SUPPOSED TO BE DEAD. I
12 BROKE THIS NEWS THAT I HAD SEEN HIM TO HIM JUST IN
13 CONVERSATION.

14 Q WHAT DID GARY ARNOT SAY?

15 A WELL, NOT EXACT WORDS BUT IN AFFECT HE SAID,
16 "DIDN'T YOU KNOW THAT HE WAS SUPPOSED TO BE DEAD?"

17 Q ALL RIGHT.

18 A AND I DIDN'T.

19 Q AND THEN WHAT WAS SAID AFTER THAT?

20 A WELL, I MEAN HE DID TELL ME THAT, YOU KNOW,
21 HE WAS SUPPOSED TO BE DEAD AND I DIDN'T -- I HADN'T
22 REALIZED THAT AT THE TIME. THAT WAS NEWS TO ME. I KNEW
23 HE WAS MISSING AND HE JUST GOT INTO MORE DETAIL ABOUT THE
24 CASE.

25 Q WHAT DID YOU DO, AFTER GARY ARNOT TOLD YOU
26 THIS, THAT LEVIN WAS DEAD?

27 A NOTHING.

28 Q WHY?

1 A I DIDN'T WANT TO GET INVOLVED.

2 Q AT THAT POINT IN TIME, THAT IS WHEN YOU
3 TALKED TO GARY ARNOT, HOW LONG HAD YOU BEEN A POLICE BEAT
4 REPORTER?

5 A 1972.

6 Q AND DURING THAT PARTICULAR TIME WHEN YOU
7 TALKED TO GARY ARNOT HAD YOU COVERED A LOT OF CRIME
8 STORIES?

9 A PLENTY. I DON'T KNOW HOW MUCH, BUT A LOT.

10 Q CAN YOU GIVE AN APPROXIMATION?

11 A WE HAD MANY DIFFERENT TYPES OF STORIES, IT
12 WOULD HAVE BEEN LITERALLY IN THE THOUSANDS.

13 Q DURING THE TIME -- DURING THE PERIOD OF TIME
14 THAT YOU HAD CONTACT WITH LEVIN WHEN YOU WORKED AT PARKER
15 CENTER AND YOU WERE PROVIDING HIM WITH TIPS OF NEWSWORTHY
16 EVENTS DID YOU HAVE TO MAKE A DETERMINATION, FIRST OF ALL,
17 OF WHAT EVENTS MIGHT BE NEWSWORTHY THAT HE WOULD BE
18 INTERESTED IN? DID YOU HAVE TO DO THAT?

19 A THAT WOULD HAVE BEEN HARD. HE TOLD ME THAT
20 HE WANTED STORIES JUST LIKE ARNOT ALSO TOLD ME HE WANTED
21 STORIES THAT WERE VERY VISUAL.

22 Q AND SO YOU WOULD HAVE TO MAKE SOME SORT OF A
23 DETERMINATION WHEN YOU LEARNED ABOUT A STORY WHETHER IT
24 WAS OF VISUAL IMPACT; IS THAT CORRECT?

25 A ONCE I GOT THE STORY AND WROTE THE STORY I
26 WOULD KNOW IF IT HAD VISUAL IMPACT. I ALWAYS SENT IT TO
27 THE OFFICE FIRST.

28 Q WOULD YOU LEARN ABOUT THESE STORIES FROM THE

1 POLICE RADIO SCANNERS THAT YOU TESTIFIED TO EARLIER?

2 A SOMETIMES.

3 Q AND WHAT OTHER SOURCES?

4 A WELL, MOSTLY THROUGH -- SOMETIMES THROUGH
5 SCANNERS AND SOMETIMES JUST THROUGH MY REGULAR BEAT, WHICH
6 WOULD BE TO CALL THE POLICE STATIONS EVERY NIGHT JUST TO
7 FIND OUT WHAT WAS GOING ON.

8 Q DID YOU WRITE A STORY ON EVERYTHING THAT YOU
9 HEARD OVER THE POLICE SCANNER?

10 A THAT WOULD BE IMPOSSIBLE.

11 Q SO OVER THE YEARS OF WORKING THE POLICE BEAT
12 WOULD YOU DEVELOP SOME KIND OF ABILITY THAT WOULD ALLOW
13 YOU TO DISTINGUISH BETWEEN WHAT WAS A NEWSWORTHY STORY AND
14 WHAT WAS NOT NEWSWORTHY?

15 A CERTAINLY. ANY REPORTER KNOWS THAT.

16 Q SO YOU HAVE TESTIFIED THAT ONE DAY AFTER WORK
17 YOU GO TO THE MOVIES AND YOU SEE RON LEVIN; IS THAT
18 CORRECT?

19 A CORRECT.

20 Q THEN A COUPLE OF DAYS LATER YOU TALKED TO
21 GARY ARNOT AND HE TELLS YOU BASICALLY THAT THE GUY THAT
22 YOU SAW A DAY OR TWO BEFORE WAS SUPPOSED TO BE MURDERED;
23 RIGHT?

24 A RIGHT.

25 Q DID YOU CONSIDER THAT TO BE NEWSWORTHY THAT
26 YOU HAD SEEN A DEAD MAN?

27 A WELL, OBVIOUSLY HE WASN'T DEAD, SO I
28 DIDN'T -- FIRST OF ALL I DIDN'T WANT TO GET INTO A CASE

1 WHICH AT THAT TIME HE TOLD ME WHAT THIS WAS ABOUT I DIDN'T
2 WANT TO INJECT MYSELF INTO A CASE, AS I HAVE TOLD THE
3 POLICE AND AS I HAVE TOLD ATTORNEYS.

4 Q OKAY.

5 LISTEN CLOSELY TO MY QUESTION.

6 DID YOU THINK IT WAS NEWSWORTHY THAT YOU HAD
7 SEEN WHAT GARY ARNOT TOLD YOU WAS A MURDERED MAN?

8 A IT WAS -- OBVIOUSLY, IT COULD BE REGARDED AS
9 NEWSWORTHY, BUT I COULDN'T HAVE FOLLOWED IT UP.

10 Q I WOULD DIRECT COUNSEL TO THE TRANSCRIPT OF
11 THE SAN MATEO PROCEEDINGS ON JUNE 25, 1992, PAGE 7045
12 STARTING AT LINE.

13 BY MR. MC MULLEN:

14 Q (READING):

15 "Q DID YOU CONSIDER IT
16 NEWSWORTHY THAT YOU HAD SEEN A DEAD
17 MAN?

18 A WELL, SINCE I KNEW HE WASN'T
19 DEAD, NO."

20 DO YOU REMEMBER TESTIFYING TO THAT?

21 A I RECALL THE EXACT TESTIMONY, BUT WHAT --

22 MR. CRAIN: COULD THE BALANCE OF TESTIMONY BE READ?

23 THE COURT: YOU CAN DO IT ON REDIRECT.

24 MR. CRAIN: ALL RIGHT.

25 YOU CAN PUT IT IN CONTEXT THEN.

26 MR. CRAIN: ALL RIGHT.

27 BY MR. MC MULLEN:

28 Q DO YOU REMEMBER TESTIFYING TO THAT?

1 A I AM SURE I MUST HAVE SAID SOMETHING ON THAT
2 ORDER, BUT I AM SAYING IN THE CONTEXT OF KNOWING HE WASN'T
3 DEAD RATHER THAN JUST BEING MISSING I KNEW THAT I COULDN'T
4 HAVE VERY WELL VERIFIED THAT HE -- I COULDN'T HAVE MADE A
5 STORY OUT OF IT IT EVEN THOUGH IT WOULD BE A STORY IF I
6 COULD HAVE PROVED IT.

7 Q DID ARNOT SAY -- EXCUSE ME.

8 LET ME WITHDRAW THAT AND START OVER AGAIN.

9 ARNOT TOLD YOU AT THAT TIME WHEN YOU HAD THIS
10 CONVERSATION ABOUT WHAT YOU HAD SEEN THAT IT WAS
11 NEWSWORTHY THAT YOU HAD SEEN IT; WASN'T THAT HIS OPINION?

12 A IT WAS HIS OPINION THAT IF I COULD PROFIT IT
13 WOULD DEFINITELY BE NEWSWORTHY.

14 Q WAS THERE ANY DOUBT IN YOUR MIND AT THE TIME
15 THAT YOU HAD THIS CONVERSATION WITH GARY ARNOT THAT HE
16 BELIEVED THAT LEVIN HAD BEEN MURDERED?

17 A I AM SURE HE DID BELIEVE IT.

18 Q NOW, YOU HAVE HAD A LOT OF EXPERIENCE ON THE
19 CRIME BEAT THERE AT PARKER CENTER; IS THAT CORRECT?

20 A YES.

21 Q AND DURING THAT PERIOD OF TIME THAT YOU
22 WORKED THERE DID YOU BECOME FAMILIAR WITH PEOPLE WHO ARE
23 IDENTIFIED BY POLICE THAT YOU REFERRED TO AS WITNESSES?

24 A OF COURSE.

25 Q AND THESE ARE PEOPLE THAT SEE THINGS?

26 A YEAH.

27 Q AND THEN THE POLICE INTERVIEW THESE PEOPLE
28 AND TRY TO DETERMINE WHAT HAPPENED IN A GIVEN SITUATION;

1 IS THAT A FAIR STATEMENT?

2 A TRUE.

3 Q IN FACT NEWS REPORTER DO THE SAME THING; IS
4 THAT RIGHT?

5 A THAT WE INTERVIEW PEOPLE, YES, OF COURSE.

6 Q AND THEN BASED UPON THE INFORMATION THAT THE
7 REPORTER GETS FROM WITNESSES THEY WRITE A STORY ON WHAT
8 THEY HAVE LEARNED FROM TALKING TO THE WITNESSES; IS THAT
9 CORRECT?

10 A CORRECT.

11 Q PRIOR TO GOING TO THE D.A.'S OFFICE WAS THERE
12 A VIDEOTAPE MADE OF A STATEMENT THAT YOU MADE?

13 A THERE WAS A VIDEOTAPE MADE OF ME, BUT I DON'T
14 KNOW WHAT WAS RECORDED. I KEPT TELLING ARNOT THAT I
15 COULDN'T TELL HIM ANYTHING ABOUT WHAT I HAD ALREADY SEEN
16 OTHER THAN WHAT HE ALREADY KNEW IN THE FIRST PLACE.

17 Q WHEN WAS THE VIDEOTAPE MADE?

18 A THAT WAS HAZY. IT IS EITHER ON THE DAY THAT
19 I DETERMINED TO GO TO THE ATTORNEY OR THE FOLLOWING DAY,
20 AND I FRANKLY DON'T RECALL WHETHER IT WAS THAT FRIDAY OR
21 THE FOLLOWING DAY, WHICH WAS A SATURDAY.

22 Q DID YOU EVER DISCUSS WITH GARY ARNOT HOW YOU
23 WOULD BE FINANCIALLY COMPENSATED, IF YOUR STORY WAS USED?

24 A HE SAID HE WOULD PAY ME FOR IT. I KNEW THAT
25 HE GOT MONEY FOR HIS TAPES, BUT I SAID, "I WON'T GIVE YOU
26 A STORY UNTIL AFTER THE TRIAL." I DIDN'T WANT TO
27 PREJUDICE THE TRIAL.

28 THE COURT: THE RECORD WILL REFLECT MR. KLEIN HAS

1 RETURNED TO THE COURTROOM.

2 BY MR. MC MULLEN:

3 Q DID YOU TELL FRED WAPNER ABOUT YOUR
4 ARRANGEMENT, THIS FINANCIAL ARRANGEMENT YOU HAD WITH GARY
5 ARNOT WHEN YOU TALKED TO FRED?

6 MR. CRAIN: I THINK THAT ASSUMES FACTS NOT IN
7 EVIDENCE. I THINK HE REALLY SAID THERE WAS NO FINANCIAL
8 ARRANGEMENT.

9 THE COURT: OVERRULED.

10 YOU MAY ANSWER.

11 THE WITNESS: I BELIEVE THAT GARY TALKED TO ME
12 ABOUT ANY FINANCIAL ARRANGEMENT AFTER I TALKED WITH
13 ATTORNEY WAPNER.

14 BY MR. MC MULLEN:

15 Q WHAT WAS THE STORY YOU INTENDED TO RELEASE
16 WITH RESPECT TO YOUR EXPERIENCE IN WESTWOOD?

17 A I WANTED TO MAKE SURE THAT EVERYTHING WAS
18 VERIFIED, OF COURSE, BUT AFTER THE TRIAL. I COULD NOT
19 TALK, GIVE A STORY, MAKE THE STORY BEFORE THE TRIAL AND IN
20 FACT THERE WAS A HEARING OF SOME SORT, I CAN'T REMEMBER IF
21 IT WAS IN A JUDGE'S CHAMBER OR LIKE IN A COURTROOM LIKE
22 THIS WITH A JUDGE HIMSELF TALKING TO EVERYBODY IN THE
23 COURTROOM SAID, "DO NOT BE TALKING ABOUT THE STORY, NOT
24 MAKING THE STORY, NOT RELEASING IT TO THE PUBLIC BEFORE
25 THE CASE WAS OVER." THAT'S BEFORE THE JURY CAME BACK WITH
26 THEIR DECISION, SO I FELT AS THOUGH I HAD TO, YOU KNOW,
27 JUST HOLD OUT ON THAT.

28 Q SO THEN AFTER YOUR -- I AM TRYING TO GAIN AN

1 UNDERSTANDING OF WHAT WAS GOING THROUGH YOUR MIND AFTER
2 YOU WERE GOING TO TESTIFY OR PARTICIPATE IN THE TRIAL
3 SOMEHOW, THEN YOU ARE GOING TO WATCH A STORY?

4 A THEN I COULD HAVE WRITTEN A STORY, BUT THEY
5 DIDN'T CALL ME.

6 Q WHAT WERE THE CIRCUMSTANCES THAT LED YOU TO
7 GO TO THE D.A.'S OFFICE ON APRIL 17, 1987?

8 A OKAY. I GOT TWO THINGS. ONE, WAS ARNOT'S
9 SAYING THAT HE WOULD TALK TO THE PRESS RELATIONS OFFICER.
10 I DON'T THINK THAT WOULD HAVE MADE THAT MUCH OF AN
11 IMPRESSION. AND, SECOND, IS THE FACT THAT I READ IN THE
12 TIMES THAT THE CASE WAS GOING TO TRIAL THAT DAY AND THERE
13 HAD BEEN PEOPLE WHO HAD TESTIFIED THAT THEY HAD SEEN
14 MR. LEVIN, AND I FELT MAYBE I SHOULD COME FORWARD, I AM
15 NOT THE ONLY ONE, THERE IS A BETTER CHANCE THAT IT WILL
16 ACTUALLY HAVE AN IMPACT. IF THEY SAID IT IS ONLY ONE
17 PERSON WHO SAW HIM THEY COULD JUST BRUSH IT ASIDE AS
18 IMAGINING OR SOMETHING.

19 Q DID YOU -- PRIOR TO GOING TO TALK TO THE
20 DISTRICT ATTORNEY YOU MENTIONED THAT YOU READ AN ARTICLE
21 IN THE L.A. TIMES?

22 A YES. ON THE MORNING OF APRIL 17TH.

23 Q WHEN WAS YOUR CONVERSATIONS WITH GARY ARNOT
24 WITH RESPECT TO HIM GOING TO THE PRESS RELATIONS PEOPLE?

25 A HE HAD SAID THAT ALSO THAT MORNING.

26 Q WAS IT BEFORE OR AFTER YOU READ THE NEWSPAPER
27 ARTICLE?

28 A BEFORE.

1 Q HOW DID THIS SUBJECT COME UP WITH GARY ARNOT
2 ABOUT HIM GOING TO THE PRESS RELATIONS PEOPLE?

3 A HE KNEW THAT THE CASE -- ACTUALLY, HE HAD
4 KEPT UP WITH THE CASE MORE THAN I DID, SO HE KNEW WHAT WAS
5 GOING TO THE JURY. HE SAID, YOU KNOW, "IF YOU TELL ME
6 ABOUT THE THING NOW, YOU KNOW, BEFORE I GO TO, YOU KNOW,
7 BEFORE I GO TO ANYBODY HE WANTED AN EXCLUSIVE STORY, I
8 TOLD HIM I COULDN'T DO THAT.

9 Q BETWEEN THE TIME OF THE SIGHTING --

10 A THAT WAS MONTHS.

11 Q -- WHICH WAS SEVERAL MONTHS HAD PASSED BEFORE
12 THIS CONVERSATION WITH GARY ARNOT; ISN'T THAT CORRECT?

13 A CORRECT.

14 Q ALMOST SIX MONTHS OR APPROXIMATELY SIX
15 MONTHS.

16 A PROBABLY SOMETHING LIKE THAT, YES.

17 Q YOU SAID GARY ARNOT WAS KEEPING UP WITH THE
18 TRIAL IN TERMS OF NEWS?

19 A I AM MAKING THAT INFERENCE JUST BECAUSE HE
20 WAS FAR MORE INTERESTED IN IT THEN I WAS.

21 Q PRIOR TO APRIL 17TH DID YOU HAVE ANY
22 CONVERSATIONS WITH GARY ARNOT ABOUT WHAT YOU HAD SEEN IN
23 WESTWOOD?

24 A YES. I SAID THAT. I SAID IT ON THE DAY
25 AFTER I HAD ACTUALLY SEEN LEVIN THAT I ACTUALLY TOLD HIM
26 THAT.

27 Q AFTER THAT POINT IN TIME BETWEEN THE FIRST
28 CONVERSATION YOU HAD WITH HIM AFTER YOU WERE IN WESTWOOD

1 TO APRIL 17TH, DID YOU TALK ABOUT YOUR SIGHTING AT ALL?

2 A HE WOULD BRING IT UP OCCASIONALLY, RARELY BUT
3 HE DID BRING IT UP A FEW TIMES, AND I TOLD HIM THE SAME
4 THING I TOLD HIM THE FIRST TIME, I DIDN'T HAVE ANY NEW
5 INFORMATION.

6 Q WELL, THE FIRST TIME YOU BROUGHT IT UP AFTER
7 THE WESTWOOD INCIDENT?

8 A RIGHT.

9 Q WHEN APPROXIMATELY DID THAT OCCUR?

10 A WHAT DO YOU MEAN? I SAID THE NEXT DAY THAT I
11 WAS ON DUTY. IT WOULD HAVE BEEN EITHER THE VERY FOLLOWING
12 DAY OR THE DAY AFTER.

13 Q AFTER THAT INITIAL CONVERSATION WHAT WAS THE
14 NEXT TIME?

15 A THAT I DON'T RECALL. IT HAPPENED A FEW TIMES
16 BETWEEN THAT FIRST TIME AND APRIL 17TH.

17 Q WOULD MR. ARNOT TELL YOU ABOUT THE TRIAL, THE
18 PROGRESS OF THE TRIAL IN THOSE CONVERSATIONS YOU HAD WITH
19 HIM?

20 A NO. NOT REALLY. HE JUST ASKED IF I SEEN --
21 IF I HAD SEEN LEVIN AGAIN OR IF I HAD GOTTEN ANY NEW
22 INFORMATION, AND I TOLD HIM NO.

23 Q ALL RIGHT.

24 A I DON'T RECALL IF HE GAVE ANY DETAILS. HE
25 WAS TRYING TO GET A STORY OUT OF ME.

26 Q SO AFTER YOU TALKED TO GARY ARNOT ON THE 17TH
27 OF APRIL 1987 YOU READ AN ARTICLE IN THE LOS ANGELES TIMES
28 ABOUT THE TRIAL; CORRECT?

1 A CORRECT. THAT MORNING.

2 Q AND IT MENTIONS IN THE ARTICLE THAT THE CASE
3 IS GOING TO THE JURY AND THAT DURING THE COURSE OF THE
4 TRIAL SOME PEOPLE CAME FORWARD AND TESTIFIED THAT THEY HAD
5 SEEN RON LEVIN?

6 A CORRECT.

7 Q AND AT THAT POINT IN TIME YOU MAKE THE
8 DECISION -- YOU MADE THE DECISION TO GO AND TALK TO THE
9 DISTRICT ATTORNEY; IS THAT CORRECT?

10 A I DECIDED, YOU KNOW, ABOUT THAT TIME -- ABOUT
11 THE TIME I STARTED GOING TO WORK I WAS GOING HOME AND I
12 DIDN'T -- I WASN'T REAL HAPPY ABOUT THE DECISION EVEN
13 THEN, BUT I DECIDED TO DO IT.

14 THE COURT: WHY WEREN'T YOU HAPPY ABOUT THE
15 DECISION THEN?

16 THE WITNESS: BECAUSE I KNEW IT WAS GOING TO CAUSE
17 ME LOTS OF PROBLEMS AT WORK, RATHER WITH MY EMPLOYER, AND
18 I KNEW THAT IF I WAS CALLED AS A WITNESS THAT WOULD TAKE A
19 LOT OF TIME OUT AND --

20 THE COURT: WHY DID YOU THINK IT WAS GOING TO CAUSE
21 A BIG PROBLEM WITH YOUR EMPLOYER.

22 THE WITNESS: THEY WERE VERY ANXIOUS TO GET A
23 STORY, ANY KIND OF STORY AS FAST AS I COULD, AND I DIDN'T
24 THINK I COULD DO THAT.

25 THE COURT: WHY DIDN'T YOU THINK THAT?

26 THE WITNESS: BECAUSE I THOUGHT IT WOULD PREJUDICE
27 THE TRIAL.

28 THE COURT: I THOUGHT THE CASE HAD JUST GONE OUT TO

1 THE JURY?

2 THE WITNESS: THAT WAS THAT DAY THAT I FOUND IT
3 WENT TO THE JURY. ANY TIME BEFORE THEN THE TRIAL WAS
4 GOING ON IT HADN'T GOTTEN TO THE JURY.

5 THE COURT: WHY DID YOU THINK IT WAS GOING TO
6 PREJUDICE THE TRIAL?

7 THE WITNESS: JUST TELLING WHAT I SAW I THOUGHT
8 THAT IT WOULD BE. I MAY HAVE BEEN WRONG, BUT I THOUGHT IT
9 WOULD. I DIDN'T WANT TO GET INTO IT, AND I JUST SAID, "I
10 DON'T WANT TO, YOU KNOW, GIVE YOU TESTIMONY ON SOMETHING
11 LIKE THIS WHERE UP UNTIL THE 17TH I DIDN'T KNOW THAT OTHER
12 PEOPLE HAD ALSO SEEN HIM, SO I THOUGHT WHO IS GOING TO PAY
13 ANY ATTENTION TO THIS, BUT IF THEY DO IT MIGHT PREJUDICE
14 THE TRIAL BY DOING IT. I DIDN'T KNOW HOW ACCURATE THEY
15 WOULD THINK I WOULD BE.

16 THE COURT: DID YOU THINK AN INNOCENT MAN MIGHT BE
17 CONVICTED BECAUSE YOU DIDN'T COME FORWARD?

18 THE WITNESS: IT HAD OCCURRED TO ME, BUT I WAS
19 HOPING THAT THE POLICE WOULD FIND OUT THE FACTS. I MEAN I
20 HAD SEEN THE GUY AND I THOUGHT, "WELL, CERTAINLY OTHER
21 PEOPLE HAVE SEEN HIM." AS IT TURNED OUT THEY DID AND IT
22 STILL DIDN'T MAKE ANY DIFFERENCE.

23 THE COURT: LET'S TAKE OUR NOONTIME RECESS.

24 SEE EVERYONE BACK AT 1:30.

25 THE WITNESS IS ORDERED TO RETURN AT 1:30 AS
26 WELL.

27 (AT 12:00 P.M. A RECESS WAS TAKEN
28 UNTIL 1:30 P.M. OF THE SAME DAY.)

1 LOS ANGELES, CALIFORNIA, MONDAY, APRIL 22, 1996

2 1:30 P. M.

3 DEPARTMENT NO. 101

HON. J. STEPHEN CZULEGER, JUDGE

4
5 APPEARANCES:

6 THE DEFENDANT, JOSEPH HUNT, WITH HIS COUNSEL,
7 MICHAEL CRAIN, BAR PANEL APPOINTMENT; AND ROWAN
8 KLEIN, BAR PANEL APPOINTMENT; ANDREW MC MULLEN,
9 DEPUTY DISTRICT ATTORNEY OF LOS ANGELES COUNTY;
10 IMOGENE KATAYAMA, DEPUTY DISTRICT ATTORNEY OF LOS
11 ANGELES COUNTY, REPRESENTING THE PEOPLE OF THE
12 STATE OF CALIFORNIA.

13
14 (PAUL RUNYON, OFFICIAL REPORTER, CSR #8797.)

15
16 THE COURT: IN THE CASE OF IN RE JOSEPH HUNT, THE
17 RECORD WILL REFLECT THAT ALL COUNSEL AND PETITIONER ARE
18 PRESENT, THE WITNESS IS ON THE STAND.

19 YOU MAY CONCLUDE YOUR CROSS EXAMINATION.

20
21 ROBERT A. ROBINSON, +
22 CALLED AS A WITNESS BY THE PETITIONER, HAVING BEEN
23 PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER
24 AS FOLLOWS:

CROSS-EXAMINATION RESUMED @

BY MR. MC MULLEN:

Q WHEN WAS THE FIRST TIME THAT YOU HEARD ABOUT MR. HUNT BEING ASSOCIATED WITH A CRIMINAL CASE INVOLVING MURDER?

A COULD YOU REPEAT THAT?

Q WHEN WAS THE FIRST TIME THAT YOU HEARD ABOUT MR. HUNT BEING ASSOCIATED -- BEING A DEFENDANT IN A CRIMINAL CASE INVOLVING MURDER?

A I'M PRETTY SURE IT WAS FALL OF 1986.

THE COURT: WHY DON'T YOU TURN THAT MICROPHONE AROUND SO IT FACES YOU A LITTLE BETTER.

IS IT ON?

MR. MC MULLEN: CAN YOU HEAR?

IS THAT BETTER?

THE COURT: THAT'S BETTER.

MR. MC MULLEN: NOW, REFERRING COURT AND COUNSEL TO THE REPORTER'S DAILY TRANSCRIPT OF THESE PROCEEDINGS, VOLUME 3, TUESDAY, APRIL 23RD, 1996, PAGE 407, LINES 11 THROUGH 22.

BY MR. MC MULLEN:

Q (READING.)

"BY THE WAY" --

MR. CRAIN: IF I COULD JUST HAVE ONE MOMENT.

THE COURT: YEAH.

MR. CRAIN: WHAT PAGE?

MR. MC MULLEN: 407.

2 1 MR. CRAIN: LINE?

2 MR. MC MULLEN: 407, 11 TO 22.

3 MR. CRAIN: OKAY.

4 BY MR. MC MULLEN:

5 Q (READING).

6
7 "Q BY THE WAY, DO YOU KNOW

8 MR. HUNT HERE ON A PERSONAL BASIS?

9 A I ONLY MET HIM WHEN HE WAS ON
10 TRIAL UP IN NORTHERN CALIFORNIA.

11 Q DID YOU TESTIFY AS A WITNESS
12 BEFORE THE JURY IN THAT CASE?

13 A YES.

14 Q AND THAT IS THE FIRST TIME
15 THAT YOU MET HIM BEFORE YOU
16 TESTIFIED?

17 A THAT IS THE FIRST TIME I EVER
18 MET HIM. I OBVIOUSLY SAW HIM WHEN
19 HE WAS ON NEWS TAPE ON TELEVISION
20 WHEN HE WAS ARRESTED."

21
22 DO YOU REMEMBER TESTIFYING TO THAT?

23 A YES. I'M SAYING -- IT MAY HAVE WELL BEEN
24 AFTER ARREST. I SAW HIM ON NEWS PROGRAMS IN 1986, IN THE
25 FALL OF 1986.

26 Q RIGHT BEFORE WE TOOK A RECESS YOU TALKED --
27 YOU TESTIFIED ABOUT BEING CONCERNED ABOUT PREJUDICING THE
28 CASE AND THAT PREVENTED YOU OR HAD SOME INFLUENCE ON YOU

2 1 NOT COMING FORWARD.

2 WHO WERE YOU CONCERNED ABOUT BEING
3 PREJUDICED?

4 A I WOULDN'T KNOW ABOUT ANYBODY IN PARTICULAR.
5 THE CASE ITSELF.

6 Q DID YOU THINK YOU'D BE PREJUDICING THE
7 PEOPLE'S CASE OR MR. HUNT'S SIDE OF THE CASE?

8 A I HADN'T THOUGHT ABOUT IT THAT DEEPLY. I
9 JUST THOUGHT IT WOULD PREJUDICE THE CASE TO SUDDENLY
10 INTERJECT MYSELF INTO IT BECAUSE I COULDN'T PROVE WHAT I
11 SAID. I STILL CAN'T LITERALLY PROVE WHAT I HAVE SAID.

12 Q BUT YOU WERE AWARE THAT A MAN WAS ON TRIAL
13 FOR MURDER OF A MAN WHO YOU CLAIMED TO HAVE SEEN; IS THAT
14 CORRECT?

15 A RIGHT. ONCE AGAIN, IN THE FALL, YES. NOT
16 BEFORE THAT -- NOT BEFORE THE FALL OF '86.

17 Q WHY DIDN'T YOU GO FORWARD AND TELL THE
18 AUTHORITIES?

19 A I KEEP REPEATING MYSELF. I DIDN'T WANT TO
20 GET INVOLVED WITH THIS.

21 Q WHY DIDN'T YOU WANT TO GET INVOLVED?

22 A IT'S A MAJOR HASSLE. I MEAN, YOU COULD
23 PREJUDICE THE CASE, BUT IT'S ALSO A MAJOR HASSLE HAVING TO
24 TAKE TIME OFF FROM WORK, GO DOWN TO THE COURT, GO TO TRIAL
25 IF YOU ARE WITNESS. IF YOU ARE A WITNESS IT'S PROBABLY
26 GOING TO BE SEVERAL TIMES, AS IT TURNED OUT IT WAS.

27 Q BUT YOU DID --

28 A I FINALLY DID.

2

1 Q YOU DID COME FORWARD?

2 A FINALLY, YES.

3 Q PRIOR TO -- PRIOR TO THE TIME OF THE WESTWOOD
4 INCIDENT, YOU WERE AWARE THAT RON LEVIN WAS MISSING OR HAD
5 DISAPPEARED?

6 A I KNEW HE WAS MISSING.

7 Q WHERE DID YOU -- WHEN DID YOU FIRST HEAR THAT
8 INFORMATION?

9 MR. CRAIN: YOUR HONOR, I KNOW IT'S CROSS
10 EXAMINATION. HOWEVER, I DO BELIEVE MR. MC MULLEN HAS GONE
11 OVER THIS AREA ABOUT AT LEAST FOUR TIMES. SO --

12 THE COURT: I'LL ALLOW IT.

13 GO AHEAD.

14 THE WITNESS: I WOULDN'T -- I DON'T ACTUALLY
15 REMEMBER THE FIRST TIME I HEARD IT. I MEAN, I HEARD IT.
16 IT WAS JUST LIKE NOT -- WITH -- WITH SO MANY NAMES. JUST
17 THE WAY REPORTERS TALK TO EACH OTHER IN THE PRESS ROOM,
18 AND, YOU KNOW, "SO AND SO IS MISSING. HAVE YOU SEEN HIM?
19 I HAVEN'T SEEN HIM." THINGS LIKE THAT. I PERSONALLY
20 HADN'T SEEN HIM SINCE THE SPRING OF '84. SO, I MEAN, I
21 KNEW -- I KNEW THAT I HADN'T SEEN HIM.

22 BY MR. MC MULLEN:

23 Q YOU PREVIOUSLY TESTIFIED THAT THAT -- THAT
24 TALKING AROUND THE PRESS ROOM WAS GOING ON MORE THAN A
25 YEAR BEFORE THE WESTWOOD INCIDENT?

26 A RIGHT. BUT I DIDN'T -- I WASN'T GETTING INTO
27 IT SAYING -- "IS THIS GUY DEAD?" I HEAR HE IS MISSING."
28 OKAY. HE IS MISSING, SO WHAT?

2 1 Q HOW MANY TIMES OVER THE COURSE OF THAT YEAR
3 2 DID THE SUBJECT COME UP IN THE PRESS ROOM? WAS IT MORE
4 3 THAN ONCE?

5 4 A PROBABLY, BUT I DON'T RECALL. I DIDN'T TAKE
6 5 NOTES OR ANYTHING LIKE THAT, SO I DON'T HOW MANY TIMES.
7 6 I'M SURE IT HAPPENED EVERY ONCE IN A WHILE.

8 7 Q WHO WAS TALKING ABOUT IT?

9 8 A ALL THE REPORTERS SINCE IT WAS ONE OF THEM
10 9 THAT BROUGHT IT UP.

11 10 Q A DAY OR TWO AFTER THE WESTWOOD INCIDENT WHEN
12 11 YOU TALKED TO GARY ARNOT DID YOU CONSIDER GOING TO THE
13 12 POLICE AT THAT PARTICULAR POINT IN TIME AFTER HE TOLD YOU
14 13 ABOUT THE MURDER?

15 14 A NO, ACTUALLY I DIDN'T. I DIDN'T WANT TO GET
16 15 INVOLVED IN IT.

17 16 Q YOU UNDERSTAND WITH YOUR EXPERIENCE ON THE --
18 17 ON THE CRIME BEAT THAT POLICE DEPARTMENTS, ONE OF THEIR
19 18 BIG FUNCTIONS IS TO WORK WITH WITNESSES WHO KNOW ABOUT
20 19 CRIMES THAT OCCUR; IS THAT CORRECT?

21 20 A OF COURSE.

22 21 Q AND ONE OF THE JOBS OF THE POLICE DEPARTMENT
23 22 OR POLICE DEPARTMENTS IN GENERAL IS TO ASCERTAIN THE FACTS
24 23 THAT SURROUND A CRIME THAT'S OCCURRED; ISN'T THAT CORRECT?

25 24 A CERTAINLY.

26 25 Q AND YOU MUST KNOW ALSO FROM YOUR EXPERIENCE
27 26 WORKING ON THE CRIME BEAT FOR YEARS THAT THE POLICE WOULD
28 27 NOT BE INTERESTED IN PURSUING A MURDER INVESTIGATION OF
29 28 SOMEONE WHO IS NOT DEAD; IS THAT CORRECT?

3 1 A OBVIOUSLY NOT. BUT THEY DIDN'T NECESSARILY
2 BELIEVE EVERYBODY THAT TELLS THEM THAT SO AND SO IS NOT
3 DEAD. THEY DIDN'T BELIEVE IT.

4 Q BUT RIGHT AFTER GARY ARNOT TOLD YOU ABOUT THE
5 MURDER, WITH THAT IN MIND, WHAT YOU HAVE JUST SAID, YOU
6 DIDN'T GO TO THE POLICE; IS THAT CORRECT?

7 A NO.

8 Q DID YOU THINK THAT -- DID YOU DISAGREE WITH
9 GARY ARNOT WHEN HE TOLD YOU THAT RON LEVIN WAS SUPPOSED TO
10 HAVE BEEN MURDERED?

11 A WELL, I TOLD HIM I SAW HIM, SO IT WAS
12 SELF-EVIDENT THAT HE HADN'T BEEN MURDERED.

13 Q YOU HAVE TESTIFIED ON DIRECT THAT YOU
14 DIDN'T -- ONE OF THE REASONS YOU DIDN'T GO TO THE POLICE
15 IS YOU FELT THERE WAS SOME KIND OF A JOURNALISTIC ETHIC
16 THAT PREVENTED YOU FROM INJECTING YOURSELF IN THE STORY?

17 A YES, I HAVE STATED THIS ON MORE THAN ONE
18 OCCASION.

19 Q WHAT IS THAT? WHAT IS THE ETHIC THAT YOU ARE
20 TALKING ABOUT?

21 A I DON'T KNOW IF IT'S IN A BOOK SOMEWHERE, BUT
22 WHEN I WAS TAUGHT JOURNALISM AT LOS ANGELES CITY COLLEGE
23 ONE OF THE THINGS THE INSTRUCTOR EMPHASIZED WAS THAT A
24 REPORTER REPORTS THE STORY, THE REPORTER DOESN'T BECOME
25 THE STORY.

26 Q HOW ARE YOU INJECTING YOURSELF IN A STORY IF
27 YOU REPORT THAT YOU HAVE SEEN RON LEVIN?

28 A BY THAT FACT, THAT I SAW HIM OR SAID I SAW

3 1 HIM, THEN I SUDDENLY BECOME THE FOCUS OF THE ATTENTION AND
2 AUTOMATICALLY BECOME PART OF THE STORY. IN FACT, THAT IS
3 EXACTLY WHAT HAS HAPPENED.

4 Q NOW, REPORTERS WITNESS ALL KINDS OF
5 NEWSWORTHY EVENTS AND REPORT ABOUT THEM, DON'T THEY?

6 A WHEN THEY -- WHEN THEY'RE REPORTING
7 INDIRECTLY. OKAY.

8 THEY SAY THERE WAS A FIRE HERE, TRAFFIC
9 ACCIDENT, WHATEVER, LIKE THAT.

10 Q AND IT'S NOT UNUSUAL BY COINCIDENCE THAT
11 THEY'RE COVERING SOMETHING AND MAYBE A CRIME HAPPENS AND
12 THEY'RE ACTUALLY WITNESSING IT AND DESCRIBING IT AS IT'S
13 UNFOLDING?

14 A THEY MAY WELL DO THAT. IF IT'S IN THE MIDST
15 OF ACTION, YOU KNOW, IT'S ALREADY BEING TAPED AND
16 EVERYTHING. THAT IS NOT THE SAME THING AS COMING FORTH
17 AND SAYING, "I SAW SOMEBODY WHO WAS A CRIME VICTIM OR
18 SUPPOSEDLY A CRIME VICTIM."

19 Q DURING THE COURSE OF THIS HEARING THERE HAVE
20 BEEN REPORTERS THAT HAVE BEEN COVERING THIS HEARING?

21 A I EXPECT SO.

22 Q THEY ARE LISTENING TO THE WITNESSES SUCH AS
23 YOURSELF AND REPORTING ABOUT THAT IN STORIES THAT ARE
24 PUBLISHED IN NEWSPAPERS. IF ONE OF THOSE --
25 HYPOTHETICALLY SPEAKING, TAKE THIS HYPOTHETICAL, IF A
26 REPORTER IS COVERING THIS STORY AND, LET'S SAY, LISTENING
27 TO WHAT YOU ARE SAYING AND REPORTING ON THAT AND DURING A
28 RECESS GOES OUT INTO THE HALLWAY AND LO AND BEHOLD SEES

3 1 RON LEVIN, IS THERE SOME ETHICAL PROBLEM WITH THEM
2 REPORTING THAT AS PART OF THE STORY THAT THEY'RE WRITING?

3 A IF THEY WANT TO DO IT. I MEAN, I THINK
4 THAT -- THAT THEY HAVE SUDDENLY BECOME PART OF THE STORY.
5 THEN THEY HAVE GOT TO KEEP THAT IN MIND.

6 Q LET ME GIVE YOU ANOTHER HYPOTHETICAL. LET'S
7 SAY A REPORTER AFTER -- DURING ONE OF THE RECESSES COMES
8 UP TO ME, WHO'S BEEN LISTENING TO YOUR TESTIMONY, FOR
9 EXAMPLE, AND SAYS TO ME, "I KNOW ROBBIE ROBINSON AND I
10 HAVE SOME INFORMATION ABOUT HIS CHARACTER." WOULD YOU SAY
11 THAT THAT BECOMES AN ETHICAL VIOLATION AT THAT POINT IN
12 TIME BECAUSE THEY ARE INJECTING THEMSELVES IN THE STORY.
13 THEY COULD BE A WITNESS BECAUSE THEY'RE COMMENTING TO ME
14 ABOUT SOMEONE WHO IS ON THE WITNESS STAND?

15 A ACTUALLY, IT WOULD BE HEARSAY, BUT -- I WOULD
16 THINK THAT THEY WERE -- THEY WERE VERY QUESTIONABLE ABOUT
17 THEIR ETHICS WHEN THEY INJECT THEMSELVES INTO A STORY LIKE
18 THAT.

4 19 Q WHAT IS THE DIFFERENCE BETWEEN SOMEONE -- A
20 REPORTER WHO IS COVERING A STORY AND HAPPENS TO SEE RON
21 LEVIN IN THE HALLWAY HERE AND MAYBE WITNESSING IN THE
22 HALLWAY SOME KIND OF A CRIME, A PURSE SNATCH, FOR EXAMPLE?
23 IS THERE SOMETHING PREVENTING THEM FROM REPORTING ABOUT
24 THE CRIME THEY SAW IN THE HALLWAY FROM AN ETHICAL
25 STANDPOINT IN YOUR MIND?

26 A THEY COULD REPORT IT. THEY SHOULD NOT BECOME
27 LIKE A CENTRAL FOCUS OF IT, WHICH IS EXACTLY WHAT WOULD
28 HAPPEN IF A PERSON BECOMES A WITNESS TO SOMETHING THAT

4 1 SUPPOSEDLY HAPPENED YEARS BEFORE, AND THEY SAID, "I HAVE
2 SEEN SOMEBODY OR SOMEBODY CAME UP TO ME AND SAID SUCH AND
3 SUCH." THEN THEY ARE INJECTING THINGS. IF THEY'RE SIMPLY
4 REPORTING WHAT THEY HAVE JUST THEMSELVES SEEN, THAT IS
5 DIFFERENT.

6 Q YOU HAVE TESTIFIED THAT IN THE FALL OF '86
7 YOU BECAME AWARE OF PRETRIAL PROCEEDINGS WITH RESPECT TO
8 MR. HUNT AND THAT HE WAS CHARGED WITH THE MURDER OF RON
9 LEVIN; IS THAT CORRECT?

10 A I KNEW THERE WAS PROCEEDINGS. I DIDN'T
11 REALLY FOLLOW IT VERY CAREFUL. SINCE, OF COURSE, FROM THE
12 DAY AFTER I HAD SEEN HIM IN WESTWOOD AND TALKED TO ARNOT I
13 KNEW FROM ARNOT'S STATEMENTS THAT LEVIN WAS SUPPOSED TO BE
14 DEAD.

15 Q AT THAT POINT IN TIME WHEN YOU LEARNED ABOUT
16 THESE PRETRIAL PROCEEDINGS DID YOU THINK THAT THE POLICE
17 STILL BELIEVED THAT RON LEVIN WAS DEAD?

18 A OF COURSE THEY BELIEVED IT.

19 Q AND SO WHY DIDN'T YOU STEP FORWARD AT THAT
20 POINT IN TIME?

21 A I DIDN'T WANT TO GET INVOLVED. I HAVE
22 REPEATEDLY SAID I DIDN'T WANT TO GET INVOLVED IN IT, AND I
23 DIDN'T. ALL THE PEOPLE WHO DID GET INVOLVED, THEY WERE
24 PAINTED AS -- PORTRAYED AS PEOPLE WHO DIDN'T KNOW WHAT
25 THEY WERE TALKING ABOUT. PORTRAYED AS PEOPLE WHO WERE
26 LYING.

27 Q SINCE YOU SAW RON LEVIN WAS ALIVE IN WESTWOOD
28 IN OCTOBER OF '86 AND THEN SHORTLY THEREAFTER YOU KNEW

4 1 THAT SOMEONE WAS CHARGED WITH HIS MURDER AND THAT THE CASE
2 WAS PROCEEDING ALONG, DID YOU FOLLOW THE CASE TO SEE IF
3 THE POLICE WOULD DISCOVER THAT RON LEVIN WAS ALIVE?

4 A ACTUALLY, I DIDN'T FOLLOW IT VERY MUCH.

5 Q WHY NOT?

6 A I JUST DIDN'T. THERE WAS LOTS OF STORIES I
7 DIDN'T FOLLOW VERY CAREFULLY OTHER THAN WHAT I DID MYSELF.

8 Q WITH RESPECT TO THE JOURNALISTIC ETHICS, WHAT
9 SHOULD A REPORTER DO WHO BECOMES APART OF A STORY, IN YOUR
10 MIND?

11 A I REALLY DON'T -- I HAVEN'T THOUGHT OF
12 EXACTLY WHAT HE SHOULD DO. WHAT HE SHOULDN'T DO IS BECOME
13 PART OF THE STORY IN THE FIRST PLACE. HE HAS TO AVOID IT
14 IF AT ALL POSSIBLE. IF HE BECOMES PART, THEN HE IS PART
15 OF IT AND OTHER REPORTERS ARE REPORTING ON HIM.

16 Q I'M ASKING YOU NOW WHAT SHOULD THAT REPORTER
17 DO, DO YOU THINK? MAYBE THEY SHOULD GO -- REPORT IT TO
18 THEIR SUPERVISOR?

19 A THAT WOULD DEPEND IF THEY TRUSTED THEIR
20 SUPERVISOR IN BEING SUFFICIENTLY DISCRETE TO HOLD THE
21 STORY IF IT WASN'T COMPLETE. I MEAN, IF THE STORY IS
22 RELEASED PREMATURELY IT CAN BE FALSE, IT CAN BE
23 MISLEADING, WHICH IS EXACTLY WHAT HAPPENED WHEN THE
24 MANAGING NEWS EDITOR AND THE NEWS SERVICE RELEASED THE
25 STORY REGARDING MY SIGHTING LEVIN.

26 Q DID YOU GO TO YOUR SUPERVISOR AFTER THIS
27 HAPPENED?

28 A NO, I DIDN'T.

4 1 Q WHO WAS YOUR SUPERVISOR? WAS IT ROBERT
2 LAUFFER?

3 A I DON'T KNOW IF HE WAS THERE IN OCTOBER OF
4 '86 OR NOT. HE MIGHT HAVE BEEN. I KNOW HE WAS EVENTUALLY
5 THE MANAGING EDITOR FOR SOMETIME.

6 Q DID YOU DISTRUST ROBERT LAUFFER?

7 A YEAH.

8 Q WHY IS THAT?

9 A BECAUSE HE HAD RELEASED OTHER STORIES
10 PREMATURELY BEFORE ALL THE FACTS WERE TOGETHER, AND IT
11 JUST DID NOT MAKE THE REPORTER LOOK -- MADE A REPORTER
12 LOOK FOOLISH WHEN A STORY WOULD COME OUT THAT WAS NOT
13 ACCURATE.

14 Q SO BETWEEN OCTOBER OF '86 AND APRIL 17TH OF
15 '87, APPROXIMATELY SIX MONTHS, YOU WERE WORKING ON TRYING
16 TO DEVELOP THE STORY?

17 A NO, I -- I WAS NOT TRYING TO DEVELOP IT. I
18 WAS TRYING TO AVOID IT. TRYING TO KEEP OUT OF IT, AND IT
19 WAS -- IT JUST PRESSED ITSELF ON ME.

20 Q BUT YET YOU HAD CONVERSATIONS WITH GARY ARNOT
21 ABOUT PUTTING TOGETHER A STORY; IS THAT CORRECT?

22 A NO, NO, WE JUST TALKED ABOUT IT. CASUAL
23 CONVERSATION. HE, I'M SURE, DID WANT TO PUT TOGETHER A
24 STORY. I DIDN'T.

25 Q WELL, WERE YOU WAITING FOR THE STORY TO
26 DEVELOP BEFORE YOU WERE GOING TO TELL MR. LAUFFER ABOUT
27 IT?

28 A I WAS TRYING TO AVOID MAKING A STORY OUT OF

4 1 IT. I DIDN'T WANT TO GET IN TO IT. ONCE IT DEVELOPED
5 2 THAT I'D GONE TO THE PROSECUTING ATTORNEY; THEN OBVIOUSLY
3 I HAD TO TELL HIM, BUT I COULDN'T DO IT RIGHT THEN, NOT
4 UNTIL AFTER -- YOU KNOW, BECAUSE THE JUDGE HAD SAID,
5 "DON'T -- DON'T WRITE A STORY ON IT AT THIS TIME."

6 Q YOUR REASON FOR NOT GOING TO MR. LAUFFER
7 WAS --

8 A NOT BECAUSE HE WAS GOING TO RELEASE THE STORY
9 PREMATURELY, BUT THAT HE WAS GOING TO RELEASE IT AT ALL.

10 Q YOU WANTED TO KEEP IT UNDERCOVER; IS THAT
11 CORRECT?

12 A I DIDN'T THINK THAT I SHOULD HAVE A STORY
13 BECAUSE THAT WOULD HAVE INVOLVED ME INTO THE STORY AT THAT
14 TIME. I WAS TRYING TO AVOID IT ALL TOGETHER. I ALSO KNEW
15 THAT HE WOULD RELEASE THE STORY PREMATURELY. HE HAD DONE
16 IT BEFORE.

17 Q IS IT JUST BECAUSE OF THE NEWS STORY AND YOUR
18 CONVERSATION WITH GARY ARNOT THAT YOU WENT TO THE D.A.
19 APPROXIMATELY SIX MONTHS AFTER YOU HAD THE WESTWOOD
20 EXPERIENCE? ARE THOSE THE TWO REASONS?

21 A THOSE ARE THE REASONS THAT FINALLY COMPELLED
22 ME TO DO IT, YEAH. I BASICALLY ARGUED WITH MYSELF ALL
23 THAT MORNING ABOUT WHETHER TO DO IT OR NOT EVEN WHILE I
24 WAS DRIVING OUT TO SANTA MONICA.

25 Q YOU SAY THAT MR. LAUFFER GOT YOUR STORY
26 WRONG; IS THAT CORRECT?

27 A HE DIDN'T GET IT RIGHT.

28 Q HOW DID HE GET IT WRONG?

5 1 A OKAY.

2 I DON'T KNOW THE DETAILS. IN FACT, I DIDN'T
3 SEE IT, BUT I HAD HEARD ABOUT IT AND -- I MEAN, I DIDN'T
4 SEE IT UNTIL LATER, AND WHAT HAPPENED IS THAT WHEN I WAS
5 OUT AT THE -- IN SANTA MONICA APPARENTLY A REPORTER FROM
6 THE "SANTA MONICA EVENING OUTLOOK" SAW ME THERE AND THEY
7 MUST HAVE QUESTIONED EITHER THE SECRETARY OF -- OF WAPNER
8 OR HIMSELF AND THEN CALLED IN A STORY TO LALLER.

9 Q LAUFFER YOU MEAN?

10 A LAUFFER.

11 MR. MC MULLEN: L-A-U-F-F-E-R, FOR THE RECORD.

12 THE WITNESS: HE USED TO BE HER -- IT WAS THE OTHER
13 REPORTER'S MANAGING EDITOR, I THINK. HE WAS A BOSS OF
14 HERS OF SOME SORT. SHE CALLED UP AFTER I HAD BEEN AT THE
15 SANTA MONICA COURTHOUSE OR COURT BUILDING, WHATEVER IT'S
16 CALLED.

17 BY MR. MC MULLEN:

18 Q THAT WAS THE DAY YOU TALKED TO FRED WAPNER?

19 A RIGHT. ON THAT FRIDAY.

20 Q WHAT WAS THE NAME OF THE REPORTER FROM THE
21 "SANTA MONICA OUTLOOK"?

22 A I DON'T KNOW. I HEARD IT WAS A REPORTER. I
23 HEARD IT WAS A WOMAN, BUT I DIDN'T ASK WHO IT WAS.

24 Q YOU HAD HEARD THAT THIS REPORTER HAD GONE TO
25 ROBERT LAUFFER AND TOLD --

26 A TELEPHONED HIM.

27 Q WHERE DID YOU HEAR THAT FROM?

28 A ANOTHER REPORTER. I DON'T REALLY RECALL --

5 1 FROM WHOM I HEARD IT, BUT I DID HEAR IT. AND WHEN I SAW
2 THE STORY LATER, IT WAS NOT ACCURATE. IT WAS
3 SEMIACCURATE.

4 Q WHERE DID YOU SEE THE STORY LATER?

5 A WHEN IT HAD -- WHEN IT WAS PRINTED OUT, YOU
6 KNOW -- THE CITY NEWS SERVICE HAD TELETYPES WHERE COPY
7 WOULD PRINT HERE AS WELL AS SENDING IT OUT TO OTHER -- YOU
8 KNOW, TO OUR CLIENTS. SO I SAW THE STORY LATER ON THE
9 NEXT DAY WHEN I CAME IN HERE.

10 Q YOU SAW THE ACTUAL NEWS STORY THAT WENT OUT
11 ON THE CITY NEWS SERVICE WIRE?

12 A YEAH, BECAUSE I WENT OVER TO THE OFFICE.

13 Q WHAT WAS WRONG WITH IT? WHAT WAS INACCURATE?

14 A AFTER ALL THIS TIME I CAN'T RECALL HOW IT WAS
15 INACCURATE, BUT I SAW IT AND SAID, "THAT IS NOT ACCURATE."
16 THERE WERE FACTUAL ERRORS IN THE STORY, WHICH I HAD
17 REMARKED TO THE DESK EDITOR WHO WAS THERE AT THE TIME.

18 Q HOW MUCH TIME ELAPSED FROM THE TIME THAT YOU
19 WENT TO TALK TO MR. WAPNER THAT THIS STORY WAS PUT OUT ON
20 THE CITY NEWS SERVICE WIRE?

21 A I WOULDN'T KNOW EXACT TIME. I TALKED TO
22 WAPNER ON FRIDAY. I CAME INTO THE OFFICE ON SATURDAY AND
23 SAW THE STORY ON THE WIRE THERE. AND I'M SURE IT MUST
24 HAVE BEEN LIKE A REPEAT BECAUSE THEY DO REPEATS ON
25 STORIES.

26 Q AND THIS WAS A STORY THAT WAS PUT ON THE WIRE
27 BY MR. LAUFFER?

28 A WELL, UNDER HIS DIRECTION. I'M SURE HE

5 1 DIDN'T PERSONALLY PUT IT OUT THERE.

2 Q PRIOR TO GOING TO MR. WAPNER DID YOU TALK TO
3 ANYBODY ABOUT DOING THAT?

4 A NOT THAT I RECALL. I MIGHT HAVE DISCUSSED IT
5 WITH ARNOT, BUT I DIDN'T SAY DEFINITELY I'M GOING TO DO
6 IT.

7 Q WHEN YOU TALKED TO MR. WAPNER, DID YOU TRY TO
8 BE AS ACCURATE AS YOU COULD RECOUNTING WHAT YOU HAD SEEN?

9 A AS FAR AS SEEING LEVIN, EXCEPT I -- I TOLD
10 HIM THAT, I ADMITTED TO HIM LATER WHICH WAS A LIE, THAT I
11 HAD JUST LEARNED IT, THAT I WAS CONCERNED THAT AS A
12 WITNESS -- I SHOULD HAVE COME FORWARD IMMEDIATELY, AND
13 THEN I SAID, "NO, YOU KNOW, I ACTUALLY DID SEE IT EARLIER.
14 I HADN'T JUST COVERED IT THAT MORNING."

15 Q SO YOU WERE UNTRUTHFUL TO MR. WAPNER?

16 A JUST AS FAR AS THE DETAILS, WHICH I THEN
17 ADMITTED TO HIM.

18 Q LATER; RIGHT?

19 A RIGHT.

20 Q AFTER YOU TALKED TO HIM?

21 A LATER IN THE SAME CONVERSATION.

22 Q OKAY.

23 LET ME -- SO I'M CLEAR ON WHAT YOU ARE
24 TESTIFYING TO, YOU ARE CLAIMING THAT YOU WERE UNTRUTHFUL
25 TO MR. WAPNER --

26 A IN THE --

27 THE COURT: WAIT TILL HE FINISHES THE QUESTION.

28 THE WITNESS: YES, SIR.

6 1 BY MR. MC MULLEN:

2 Q YOU WERE UNTRUTHFUL TO MR. WAPNER IN THAT YOU
3 TOLD HIM THAT YOU HAD JUST LEARNED ABOUT THE BILLIONAIRES
4 BOYS CLUB TRIAL THAT MORNING?

5 A RIGHT.

6 Q WHEN IN FACT YOU HAD LEARNED ABOUT IT AT
7 LEAST SIX MONTHS BEFORE?

8 A RIGHT.

9 Q AND YOU ARE TELLING US RIGHT HERE NOW TODAY
10 THAT LATER ON IN THAT CONVERSATION WITH MR. WAPNER YOU
11 ADMITTED TO HIM --

12 A THAT I -- YOU KNOW, BECAUSE IN OUR
13 CONVERSATIONS I ASKED HIM, "WELL, IF A PERSON -- HAD, YOU
14 KNOW, A -- HAD BEEN A WITNESS TO SOMETHING AND DIDN'T COME
15 FORWARD AND TELL THE POLICE ABOUT IT, WAS THAT SOME KIND
16 OF A CRIME?" AND HE TOLD ME IT WASN'T.

17 AT WHICH TIME THEN -- I -- AND I TOLD HIM
18 ACTUALLY I HAD SEEN LEVIN SEVERAL MONTHS PREVIOUS. AND,
19 OF COURSE, HAD SEEN BITS AND PIECES OF NEWS STORIES
20 CONCERNING THE -- YOU KNOW, THE KILLING OR THE ALLEGED
21 KILLING AND THE ARREST OF HUNT AND THE TRIAL.

22 Q WHY WERE YOU UNTRUTHFUL WITH MR. WAPNER?

23 A THE FIRST TIME? WHEN I THOUGHT THAT I WOULD
24 GET IN TROUBLE BECAUSE I HAD NOT COME FORTH IMMEDIATELY
25 WITH THE INFORMATION, THAT I HAD HELD OUT ON THAT
26 INFORMATION FOR SEVERAL MONTHS.

27 Q YOU WERE PLANNING TO COME OUT WITH A STORY
28 EVENTUALLY ANYWAY, WEREN'T YOU?

6 1 A NO, I WASN'T PLANING TO COME OUT WITH A
2 STORY. I WAS TRYING TO -- TO AVOID COMING OUT WITH A
3 STORY. I HAVE STATED THIS TO YOU REPEATEDLY.

4 Q RIGHT BEFORE LUNCH YOU TESTIFIED THAT YOU
5 WERE WAITING TILL AFTER THE TRIAL --

6 A AND --

7 Q LET ME FINISH, PLEASE.

8 -- AND THEN YOU WERE GOING TO WORK ON SOME
9 KIND OF STORY WITH GARY ARNOT?

10 A THIS WAS AFTER I HAD GONE TO WAPNER. HAD I
11 NEVER GONE TO WAPNER IN THE FIRST PLACE I WOULDN'T HAVE
12 DONE A STORY.

13 Q DID YOU END UP DOING A STORY WITH MR. ARNOT?

14 A NO.

15 Q YOU ALSO WERE UNTRUTHFUL TO MR. WAPNER IN
16 THAT YOU DIDN'T TELL HIM THAT YOU KNEW LEVIN HAD BEEN
17 MISSING, AND YOU KNEW THAT OVER A YEAR BEFORE YOU CLAIMED
18 TO HAVE SEEN HIM IN OCTOBER OF '86; IS THAT CORRECT?

19 A TRUTHFULLY I DON'T KNOW IF I EVER SAID THAT
20 OR NOT.

21 Q WHY -- WHY DO YOU THINK THE DELAY IN GOING TO
22 MR. WAPNER, WHY DO YOU THINK THAT WOULD CAUSE YOU SOME
23 KIND OF A LEGAL PROBLEM?

24 A I THOUGHT IT WOULD. I THOUGHT IF A PERSON
25 SAW SOMETHING THAT RELATED TO A CRIME OR TO A TRIAL THAT
26 THEY WERE SUPPOSED TO COME FORWARD RIGHT AWAY. I WAS
27 MISTAKEN ABOUT THAT.

28 Q WHAT MADE YOU THINK THAT THEY WOULD GET IN

6 1 TROUBLE?

2 A I JUST THOUGHT THAT THAT WAS SOMETHING A
3 PERSON HAD TO DO OR LEGALLY WAS SUPPOSED TO DO. YOU KNOW,
4 I MISUNDERSTOOD IT. I THOUGHT THAT THAT WAS THE CASE.

5 Q WAS THERE BASE -- YOUR THOUGHT, WAS THIS
6 BASED ON SOMETHING THAT SOMEONE HAD TOLD YOU?

7 A I GUESS JUST INFERENTIAL. I OBVIOUSLY
8 MISUNDERSTOOD THE WAY THE LAW WAS.

9 Q HOW MUCH OF A DELAY DO YOU THINK WOULD --
10 WOULD IT TAKE BEFORE YOU WOULD GET IN TROUBLE?

11 A THAT I WOULDN'T KNOW. I WOULD THINK THAT
12 CERTAINLY MONTHS WOULD HAVE ACCOUNTED FOR A DELAY, NOT A
13 DAY.

14 Q DID YOU KNOW THAT YOUR INFORMATION WITH
15 RESPECT TO WHAT YOU HAD SEEN IN WESTWOOD WAS IMPORTANT?

16 A WELL, I CAME TO THE -- I CAME TO THE ATTORNEY
17 WITH THE INFORMATION, SO I CLEARLY REALIZED -- OKAY.

18 I DIDN'T WANT TO DO IT, BUT I HAD TO -- I
19 FELT THIS IS GOING TO BE IMPORTANT IN THIS TRIAL. I
20 BETTER COME FORTH WITH IT, BUT I DIDN'T WANT TO DO IT.

21 Q WHEN DID YOU DETERMINE THAT IT WAS IMPORTANT
22 FOR YOU TO COME FORWARD?

23 A I KEPT GETTING, YOU KNOW, TOLD, "YOU
24 SHOULD" -- BY ARNOT FOR ONE THING, "YOU SHOULD BE TELLING
25 THE POLICE ABOUT THIS. TELL THE AUTHORITIES ABOUT IT." I
26 DIDN'T WANT TO DO IT.

27 I READ THE STORY, FINALLY DECIDED THAT THIS
28 CASE WAS GOING IN SUCH A WAY THAT IT LOOKED LIKE THE GUY

6 1 WHO WAS BEING -- I WON'T SAY CONVICTED, BUT THE GUY WHO
7 2 WAS BEING TRIED FOR THE CRIME, WHICH IN MY MIND HE
3 COULDN'T HAVE COMMITTED, SO I FINALLY DECIDED, "OKAY, THE
4 POLICE CLEARLY DIDN'T REALIZE THIS. THEY HADN'T SOLVED
5 IT. THEY WERE GOING ON THE SAME ASSUMPTIONS THAT THEY HAD
6 FOR I DON'T KNOW HOW LONG, AND SO I BETTER COME OUT."

7 Q SO OVER THE COURSE OF THIS SIX-MONTH PERIOD
8 OF TIME BETWEEN OCTOBER OF '86 AND APRIL 17TH OF '87 GARY
9 ARNOT TRIED TO PERSUADE YOU TO GO FORWARD TO THE
10 AUTHORITIES?

11 A ON MORE THAN ONE OCCASION.

12 Q IS -- WHAT WAS GARY ARNOT'S FUNCTION THERE IN
13 THE PRESS ROOM IN PARKER CENTER?

14 A HE WAS THE OWNER OF A VIDEOTAPE -- YOU KNOW,
15 A FREE LANCE VIDEOTAPE COMPANY. NETWORK NEWS SERVICE OR
16 SOMETHING LIKE THAT. NETWORK VIDEO, VIDEO SERVICE, I
17 THINK IT WAS.

18 Q SO HE WAS INVOLVED IN THE NEWS GATHERING
19 BUSINESS?

20 A CORRECT.

21 Q AND YOU TOLD HIM ABOUT WHAT YOU HAD SEEN?

22 A RIGHT. TELLING HIM COULD NOT MAKE A VISUAL
23 STORY. HE WANTED A VISUAL STORY.

24 Q DID YOU THINK THAT BEING A NEWS-GATHERING
25 PERSON HE WOULDN'T COME FORWARD WITH YOUR STORY, SO TO
26 SPEAK?

27 A HE COULDN'T. HE DIDN'T HAVE EVIDENCE. HE
28 MERELY HAD WHAT I HAVE SAID.

7 1 Q YOU TESTIFIED THAT A REPORTER WILL GO OUT AND
2 TALK TO WITNESSES AND WRITE A STORY BASED UPON WHAT THEY
3 ARE TOLD; ISN'T THAT CORRECT?

4 A VERIFYING IT, THOUGH. CHECKING AND CROSS
5 CHECKING. NOT JUST ONE PERSON.

6 Q YOU MEAN EVERY NEWSPAPER ARTICLE THAT IS EVER
7 WRITTEN HAS GOT SOME SORT OF CORROBORATION ABOUT WHAT A
8 WITNESS CLAIMS TO HAVE HAPPENED?

9 MR. KLEIN: OBJECTION, THE QUESTION IS WAY TOO
10 BROAD.

11 THE COURT: SUSTAINED.

12 THE WITNESS: IT SHOULD.

13 THE COURT: HOW MUCH MORE DO YOU HAVE ON CROSS?

14 MR. MC MULLEN: NOT VERY MUCH. I'M GETTING CLOSE.

15 THE COURT: I HAVE -- AS SOON AS YOU ARE DONE I
16 HAVE TO TAKE A BREAK DOWN THE HALL.

17 MR. MC MULLEN: THANK YOU.

18

19 (PAUSE.)

20

21 BY MR. MC MULLEN:

22 Q THE DAY AFTER YOU WENT TO TALK TO MR. WAPNER
23 YOU WENT TO THE BEVERLY HILLS POLICE DEPARTMENT; IS THAT
24 CORRECT?

25 A YEAH, I WAS TOLD TO DO THAT.

26 Q AND THERE YOU -- YOU BASICALLY TOLD THE
27 INTERVIEWING OFFICER THAT YOU HAD LIED TO MR. WAPNER; IS
28 THAT CORRECT?

7 1 A I ANSWERED THAT RIGHT AWAY, EXPLAINED ALSO
2 WHY AND HE LIKEWISE SAID, "NO, THAT WAS NO CRIME." THAT
3 WAS THE SAME THING THAT WAPNER HAD TOLD ME.

4 Q WHY DID YOU FEEL IT NECESSARY TO TELL THE
5 OFFICER THAT --

6 THE COURT: MR. KLEIN, I DON'T ALLOW DRINKS IN MY
7 COURTROOM.

8 BY MR. MC MULLEN:

9 Q AFTER YOU -- LET ME START OVER AGAIN.
10 WHY IS IT THAT YOU WENT TO -- LET ME WITHDRAW
11 THAT AGAIN.

12 WHY DID YOU FEEL COMPELLED TO TELL THE
13 INTERVIEWING OFFICER THAT YOU HAD LIED TO WAPNER WHEN YOU
14 TESTIFIED THAT YOU ADMITTED TO WAPNER THE DAY BEFORE THAT
15 YOU HAD LIED TO HIM?

16 A I MEAN, I THOUGHT IT WAS PRETTY OBVIOUS. I
17 HAD WANTED TO LET THEM KNOW, "YES, I HAD DONE THIS. I
18 SHOULDN'T HAVE DONE IT." I WANTED TO BE PERFECTLY UP
19 FRONT AND CANDID WITH THEM.

20 Q YOU WERE TERMINATED FROM CITY NEWS SERVICE
21 SHORTLY AFTER YOU CAME FORWARD AND TALKED TO MR. WAPNER;
22 ISN'T THAT CORRECT?

23 A CORRECT.

24 Q AND YOU WERE TERMINATED FROM CITY NEWS
25 SERVICE BECAUSE YOU GAVE THE STORY OF YOUR EXPERIENCE IN
26 WESTWOOD TO A COMPETITOR; IS THAT CORRECT?

27 A WELL, ACTUALLY IT'S NOT CORRECT. THAT'S WHAT
28 THEY ALLEGED. THAT WAS NOT THE CASE.

7 1 Q WHO WAS IT YOU GAVE THE STORY TO?

2 A I TALKED TO A REPORTER FROM ASSOCIATED PRESS
3 ON THAT -- ON THE SATURDAY AFTER I HAD TALKED TO WAPNER.
4 I WAS HALF ASLEEP WHEN THE REPORTER CALLED ME UP, AND I
5 WAS TALKING TO HER. SHE USED TO WORK FOR CITY NEWS
6 SERVICE AND I DON'T REMEMBER HER NAME ANYMORE, BUT IN ANY
7 CASE, ASSOCIATED PRESS WAS NOT A COMPETITOR OF CITY NEWS
8 SERVICE.

9 Q SO I UNDERSTAND THIS CORRECTLY, ON THE
10 SATURDAY AFTER YOU TALKED TO MR. WAPNER YOU GOT A
11 TELEPHONE CALL AT HOME FROM AN ASSOCIATED PRESS REPORTER?

12 A REPORTER.

13 Q AND YOU RELAYED TO THAT REPORTER WHAT YOUR
14 EXPERIENCE WAS IN WESTWOOD IN OCTOBER OF '86, AND THAT
15 STORY IN TURN GOT PUT OUT ON THE WIRE FROM ASSOCIATED
16 PRESS; IS THAT CORRECT?

17 A THE INFORMATION I GAVE WAS PUT OUT IN THE
18 STORY, BUT IN POINT OF FACT IT DIDN'T GO OUT UNTIL AFTER
19 THE CITY NEWS SERVICE WIRE SERVICE STORY WENT OUT.

20 Q CITY NEWS SERVICE IS A WIRE SERVICE; CORRECT?

21 A CORRECT.

22 Q ASSOCIATED PRESS IS A WIRE SERVICE; CORRECT?

23 A CORRECT, BUT THEY HAVE A BARTER AGREEMENT --

24 MR. CRAIN: LET HIM FINISH HIS ANSWER.

25 BY MR. MC MULLEN:

26 Q I'M SORRY.

27 A THEY HAVE A BARTER AGREEMENT. THEY ARE NOT
28 COMPETITORS. ASSOCIATED PRESS WOULD AUTOMATICALLY GET FOR

8 1 FREE ALL OF THE LOCAL STORIES, L.A. AND ORANGE COUNTY THAT
2 CITY NEWS SERVICE MAKES IN TURN FOR THE USE OF ASSOCIATED
3 PRESSES MAIN FRAME COMPUTER.

4 MR. KLEIN: EXCUSE ME, YOUR HONOR. I ASSUME WE ARE
5 TALKING ABOUT HIS KNOWLEDGE IN APRIL OF 1987.

6 THE COURT: I WOULD ASSUME SO.

7 MR. MC MULLEN: YES.

8 BY MR. MC MULLEN:

9 Q BACK AT THAT TIME IN APRIL OF '87 ASSOCIATED
10 PRESS WAS A SUBSCRIBER OF CITY NEWS SERVICE, WERE THEY
11 NOT?

12 A THEY WERE A SUBSCRIBER, BUT IT WAS A BARTER
13 AGREEMENT. THEY WEREN'T COMPETITORS.

14 Q WHEN REPORTERS FROM ASSOCIATED PRESS AND
15 REPORTERS FROM THE CITY NEWS SERVICE GOT OUT TO -- AND
16 FIND A STORY, YOU SAY THERE IS NO COMPETITION BETWEEN THE
17 TWO OF THEM AS TO WHO GETS THE STORY FIRST AND WHO PUTS IT
18 ON THEIR WIRE FIRST?

19 A ASSOCIATED PRESS COVERED POLITICAL STORIES
20 MOSTLY. THEY GOT THE VAST MAJORITY OF THEIR LOCAL CRIME
21 BEAT STORIES OR POLICE BEAT STORIES IS WHAT IT ACTUALLY IS
22 OR COURT STORIES FROM CITY NEWS SERVICE. THEY REALLY
23 DIDN'T HAVE A LOT OF -- OF REPORTERS COVERING OTHER
24 STORIES BECAUSE OF THE BARTER AGREEMENT.

25 Q BUT THEY DID PUT YOUR STORY OUT TO THEIR
26 PRESS, THAT IS ASSOCIATED PRESS DID?

27 A RIGHT AFTER IT APPEARED ON CITY NEWS SERVICE
28 WIRE.

8 1 Q YOU ARE NO LONGER IN THE JOURNALISM BUSINESS,
2 ARE YOU?

3 A UNFORTUNATELY, NO.

4 Q WHY IS THAT?

5 A MY OWN OPINION?

6 Q YES.

7 A MY OWN OPINION IS THAT CITY NEWS SERVICE
8 BLACKBALLED ME BECAUSE I SENT OUT RESUMES UP AND DOWN THE
9 STATE AS FAR AS WASHINGTON STATE. OF THE FOUR LOCAL
10 RESPONSES THREE OF THEM TOLD ME TO MY FACE THAT ONCE THEY
11 DISCOVERED -- YOU KNOW, HOW I HAD LEFT CITY NEWS SERVICE
12 THEY COULDN'T HIRE ME. THEY WERE AFRAID THAT CITY NEWS
13 WOULD CUT THEM OFF.

14 MR. MC MULLEN: MAY I JUST HAVE A MOMENT?

15 THE COURT: LET'S TAKE THE AFTERNOON RECESS.

16 I APOLOGIZE TO COUNSEL. I HAVE TO TAKE A
17 VERDICT DOWN THE HALL. THE LAWYERS ARE ALL GATHERED AND
18 ARE SITTING THERE. PROBABLY BEEN ABOUT 10 MINUTES.

19

20 (RECESS.)

21

22

23

24

25

26

27

28

2 1 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
2 2 RECORD WILL REFLECT ALL COUNSEL AND PETITIONER ARE
3 3 PRESENT, WITH A WITNESS ON THE STAND.

4 4 APOLOGIZE FOR THE DELAY, COUNSEL.

5 5 GO AHEAD.

6 6 MR. MC MULLEN: JUST A COUPLE OF ADDITIONAL
7 7 QUESTIONS.

8
9 9 ROBERT A. ROBINSON, +
10 10 CALLED AS A WITNESS BY THE PETITIONER, HAVING BEEN
11 11 PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER
12 12 AS FOLLOWS:

13
14 14 CROSS-EXAMINATION RESUMED @

15
16 16 BY MR. MC MULLEN:

17 17 Q SIR, AFTER YOU TALKED TO MR. WAPNER, THE
18 18 FOLLOWING DAY YOU WENT TO THE BEVERLY HILLS POLICE
19 19 DEPARTMENT AND YOU WERE INTERVIEWED?

20 20 A HE TOLD ME THAT'S WHAT I HAD TO DO, AND I
21 21 DID.

22 22 Q YOUR TESTIMONY IS, RIGHT AT THE VERY
23 23 BEGINNING OF THE INTERVIEW YOU TOLD THE INTERVIEWING
24 24 OFFICER THAT YOU WERE NOT ALTOGETHER HONEST WITH
25 25 MR. WAPNER THE DAY BEFORE; IS THAT CORRECT?

26 26 A RIGHT. I WANTED TO SET THAT RIGHT OUT FRONT.

27 27 Q AND YOU KNEW WHEN YOU WENT THERE THAT YOU
28 28 WOULD BE TAKING A LIE DETECTOR TEST?

2 1 MR. CRAIN: EXCUSE ME, YOUR HONOR, OBJECTION. I
2 THINK THAT'S MISCONDUCT. HE SHOULD KNOW BETTER THAN THAT.
3 UNDER 351.1 ANYTHING ABOUT LIE DETECTOR --

4 THE COURT: THE QUESTION WAS WHETHER HE KNEW IT.

5 MR. CRAIN: IT'S AN ATTEMPT TO BACKDOOR, TO
6 PREJUDICE THE TRIER OF FACT.

7 THE COURT: OVERRULED.

8 IT'S NOT GOING TO PREJUDICE ME UNLESS IT'S
9 RELEVANT AND ADMISSIBLE.

10 BY MR. MC MULLEN:

11 Q WERE YOU AWARE THAT YOU WERE GOING TO BE
12 TAKING A LIE DETECTOR TEST IN FRONT OF THIS OFFICER?

13 A I BELIEVE I WAS.

14 Q JUST ONE MOMENT.

15
16 (PAUSE.)

17
18 MR. MC MULLEN: NOTHING FURTHER.

19 THE COURT: DID YOU EVER DURING YOUR WORK AS A
20 REPORTER COVER THE HUNT CASE?

21 THE WITNESS: NO.

22 THE COURT: DID YOU EVER FILE ANY REPORTS
23 CONCERNING THE HUNT CASE?

24 THE WITNESS: NO, I DIDN'T.

25 THE COURT: DID YOU EVER READ ANY REPORTS WHILE
26 WORKING ON THE POLICE BEAT, POLICE BEAT ABOUT HUNT?

27 THE WITNESS: SOME VERY LITTLE PIECES OF STORIES IN
28 THE "TIMES." I MEAN, I REALLY DIDN'T FOLLOW IT. THE HUNT

2 1 CASE WAS LARGELY A -- A COURT BEAT STORY BY THE TIME I
2 BECAME AWARE OF IT.

3 THE COURT: THERE WERE QUITE A FEW PIECES ON IT,
4 THOUGH, RUNNING; RIGHT? LOTS OF COVERAGE?

5 THE WITNESS: I'M SURE THERE WERE. I REALLY DIDN'T
6 FOLLOW IT THAT MUCH.

7 THE COURT: BUT YOU KNEW IT WAS A CASE BEING
8 COVERED PRETTY HEAVILY BY THE MEDIA?

9 THE WITNESS: I KNEW IT WAS ON T.V. OCCASIONALLY.
10 SO CLEARLY THE MEDIA WAS COVERING IT.

11 THE COURT: IF YOU KNEW IT WAS ON T.V., YOU KNEW
12 THAT THE PRINT MEDIA WOULD COVER IT AS WELL?

13 THE WITNESS: CERTAINLY.

14 THE COURT: YOU KNEW THAT CITY NEWS SERVICE WOULD
15 BE COVERING IT?

16 THE WITNESS: OUR COURT BEAT WOULD HAVE, YES.

17 THE COURT: DO YOU KNOW WHO THE PERSON WAS FROM
18 CITY NEWS SERVICE WHO WAS COVERING IT?

19 THE WITNESS: NO, I DON'T RECALL WHO THE COURT
20 REPORTER WAS FOR THEM THAT --

21 THE COURT: HOW LONG HAD YOU BEEN A JOURNALIST AT
22 THAT POINT?

23 THE WITNESS: I HAD BEEN A REPORTER SINCE 1972.

24 THE COURT: YOU KNEW THE PROSECUTION IN THAT CASE
25 WAS SEEKING THE DEATH PENALTY, DIDN'T YOU?

26 THE WITNESS: AFTER I READ THE STORY IN THE "TIMES"
27 RIGHT BEFORE THE CASE I KNEW FOR SURE. I MEAN, I WASN'T
28 CERTAIN UNTIL THEN.

2 1 THE COURT: YOU KNEW IT WAS A MURDER CASE?

2 THE WITNESS: I KNEW IT WAS A MURDER CASE.

3 THE COURT: AND YOU KNEW THAT THE DEATH PENALTY WAS
4 POSSIBLE IN THE CASE?

5 THE WITNESS: CLEARLY IT WAS POSSIBLE, BUT I MEAN
6 I -- I'M REPEATING. I REALLY DIDN'T FOLLOW THE CASE AND
7 ONLY OCCASIONALLY WOULD I READ ANYTHING OF IT. ON THE DAY
8 THAT I WENT TO JUDGE WAPNER I READ AN ENTIRE STORY THAT
9 WAS IN THE "TIMES" SO -- THAT BROUGHT ME PROBABLY UP TO
10 DATE ON IT.

11 THE COURT: WITHOUT KNOWING THE DETAILS, YOU KNEW
12 IT WAS A MURDER CASE; RIGHT?

13 THE WITNESS: I KNEW IT WAS A MURDER CASE.

14 THE COURT: YOU KNEW THAT MR. LEVIN WAS SUPPOSEDLY
15 THE VICTIM?

16 THE WITNESS: BY OCTOBER OF '86, YES.

17 THE COURT: AND YOU KNEW THERE WAS A POSSIBILITY OF
18 THE DEATH PENALTY?

19 THE WITNESS: OBVIOUSLY I KNEW THAT IN A MURDER
20 CASE THERE IS A POSSIBILITY OF THE DEATH PENALTY.

21 THE COURT: AND YOU DID NOT THINK IT INCUMBENT UPON
22 YOU TO TELL SOMEONE THAT THE VICTIM WAS ALIVE AND THEY
23 SHOULDN'T KILL MR. HUNT?

24 THE WITNESS: I'M NOT PERFECT. I PROBABLY SHOULD
25 HAVE. I DIDN'T WANT TO GET INVOLVED. THAT IS THE SIMPLE
26 FACT.

27 THE COURT: I DON'T UNDERSTAND, AGAIN, WHY IT IS
28 THAT YOU SAID YOU GOT FIRED. YOU MENTIONED ON LAST

2 1 TUESDAY AFTERNOON THAT -- YOU GOT FIRED OVER THIS WHOLE
2 INCIDENT.

3 THE WITNESS: INDIRECTLY, YES --

4 THE COURT: TELL ME.

5 THE WITNESS: OKAY.

6 WHAT -- THE MANAGEMENT OF CITY NEWS ALLEGED
7 WAS I HAD TOLD A STORY TO COMPETITORS BEFORE I HAD TOLD --
8 YOU KNOW, BROUGHT THE STORY OUT WITH CITY NEWS SERVICE,
9 AND THAT SIMPLY WASN'T THE CASE.

10 THE COURT: WHO DID YOU TELL IT TO?

11 THE WITNESS: I TOLD THE INFORMATION WHICH WAS IN
12 THE STORY TO THE REPORTER WHO WAS FROM ASSOCIATED PRESS.

13 THE COURT: WHO?

14 THE WITNESS: WHO -- SHE CALLED ME UP. I REALLY
15 DON'T REMEMBER HER NAME. SIMPLY DON'T REMEMBER HER NAME.

16 THE COURT: DID YOU KNOW HER PREVIOUSLY?

17 THE WITNESS: YEAH. SHE USED TO WORK FOR CITY NEWS
18 SERVICE.

19 THE COURT: WHY DID YOU CONTACT HER?

20 THE WITNESS: SHE CALLED ME. I WAS ASLEEP. SHE
21 WOKE ME UP. I WAS HALF ASLEEP WHEN I WAS TALKING TO HER,
22 SO I'M SURE I TOLD HER MORE THAN IF I HAD BEEN COMPLETELY
23 AWAKE AND TALKING TO HER REGULARLY.

24 THE COURT: WHAT DID YOU TELL HER?

25 THE WITNESS: BASICALLY WHAT I'D TOLD JUDGE --
26 ATTORNEY WAPNER, THAT I HAD GONE OUT, SAW HIM, TALKED TO
27 HIM. TOLD HIM THAT I HAD SEEN LEVIN THE PREVIOUS FALL.

28 THE COURT: YOU MENTIONED EARLIER TODAY THAT YOU

3 1 WERE VIDEOTAPED BY SOMEONE.

2 THE WITNESS: WITHOUT MY CONSENT.

3 THE COURT: WHO VIDEOTAPED YOU?

4 THE WITNESS: GARY ARNOT. HE DIDN'T PERSONALLY,
5 BUT HE HAD AN ASSOCIATE, AN EMPLOYEE OF HIS WHO TAPED IT.
6 THE GUY TURNED OUT THE RED LIGHT ON THE VIDEO CAMERA. I
7 DIDN'T EVEN REALIZE IT WAS RUNNING.

8 THE COURT: WHERE WAS THIS?

9 THE WITNESS: IN THE PRESS ROOM AT PARKER CENTER.

10 THE COURT: WHAT WAS TAPED?

11 THE WITNESS: BASICALLY -- I MEAN, I DON'T KNOW
12 EXACTLY BECAUSE I NEVER SAW IT. I MEAN, I DID NOT SEE THE
13 WHOLE TAPE. HE PROVED TO ME THAT HE HAD IN FACT TAPED IT,
14 SO I SAW A LITTLE BIT OF IT. BASICALLY HE, REFERRING TO
15 GARY ARNOT, CONTINUING TO ASK ME TO GIVE DETAILS ON THE
16 STORY, AND MY CONTINUING TO SAY, "NO, I WOULDN'T DO IT."

17 THE COURT: WHY DID YOU SEE THAT VIDEOTAPE?

18 THE WITNESS: WELL, HE SHOWED IT TO ME BECAUSE HE
19 WANTED TO PROVE TO ME THAT HE HAD IN FACT VIDEOTAPED ME
20 BECAUSE I VOICED MY DOUBT THAT HE HAD. I SAID, "I NEVER
21 SAW THE LIGHT ON." I ALWAYS HAD THOUGHT -- I WAS
22 MISTAKEN --

23 THE COURT: WHY DID HE ATTEMPT TO PROVE IT TO YOU?

24 THE WITNESS: BECAUSE HE WANTED A WHOLE STORY AND
25 ALL HE HAD WAS MY CONTINUED REFUSAL TO GIVE HIM THE STORY.

26 THE COURT: WELL, YOU HAD TOLD HIM THAT YOU'D SEEN
27 LEVIN IN WESTWOOD.

28 THE WITNESS: THAT WAS NOT ON TAPE.

3 1 THE COURT: WHAT MORE WAS THERE TO THE STORY THAN
2 2 THAT?

3 3 THE WITNESS: BY THAT TIME I HAD SEEN THE ATTORNEY
4 4 WAPNER, AND THE FACT IS HE WANTED IT ON TAPE. HE HAD NOT
5 5 HAD IT ON TAPE.

6 6 THE COURT: WHAT WAS THE ARRANGEMENT THAT YOU HAD
7 7 WITH ARNOT?

8 8 THE WITNESS: UP UNTIL THEN I HAD NO ARRANGEMENT.
9 9 I GOT EXASPERATED WITH HIM AND SAID -- "OKAY. AFTER THE
10 10 TRIAL I'LL GIVE YOU A STORY. YOU ARE GOING TO HAVE TO PAY
11 11 ME FOR IT."

12 HE SAID SOMETHING TO THE EFFECT, "WELL, WOULD
13 13 \$75 DO?"

14 AND I SAID, "SURE. FINE."

15 15 THE COURT: DID YOU SELL HIM THE STORY FOR \$75?

16 16 THE WITNESS: IT NEVER CAME TO IT.

17 17 THE COURT: WHY?

18 18 THE WITNESS: I WAS NEVER CALLED AS A WITNESS IN
19 19 THE TRIAL AND --

20 20 THE COURT: IT WAS ONLY GOING TO BE IF YOU
21 21 TESTIFIED IN THE TRIAL THAT YOU WOULD BE ABLE TO SELL YOUR
22 22 STORY?

23 23 THE WITNESS: RIGHT. THEN IT WOULD BE A STORY. I
24 24 DIDN'T WANT TO DO ANYTHING BEFORE THEN. I DIDN'T WANT TO
25 25 HAVE A STORY IN THE FIRST PLACE. HE KEPT GOING AT ME FOR
26 26 QUITE A WHILE THAT NIGHT, AND I GOT JUST FED UP WITH IT.
27 27 YOU KNOW, KEPT SAYING NO. I SAID, "OKAY, IF YOU WANT IT
28 28 YOU CAN HAVE IT AFTER THE TRIAL. YOU GOT TO PAY FOR IT."

3 1 THE COURT: YOU SAID YOU GOT MAD BECAUSE THE STORY
2 2 RAN BEFORE IT WAS PREPARED OR COMPLETE.

3 3 THE WITNESS: BEFORE -- I HAD -- I WAS
4 4 KNOWLEDGEABLE THAT THE MANAGING EDITOR HAD RELEASED OTHER
5 5 STORIES PREMATURELY BEFORE THEY WERE COMPLETELY DEVELOPED,
6 6 AND I DIDN'T WANT TO DO IT WITH MINE ONCE I DECIDED I HAD
7 7 TO HAVE A STORY AFTER I TALKED TO WAPNER. I WAS NOT
8 8 OTHERWISE GOING TO DO A STORY, AND THE REPORTER FROM THE
9 9 "EVENING OUTLOOK" CALLED HIM. HE PUT A STORY TOGETHER OR
10 10 HAD SOMEBODY PUT A STORY TOGETHER AND IT WENT OUT. IT WAS
11 11 PARTLY CORRECT AND PARTLY INCORRECT.

12 12 THE COURT: WHAT PART WAS INCORRECT?

13 13 THE WITNESS: I DON'T RECALL ANYMORE AFTER ALL THIS
14 14 TIME. IT WAS TEN YEARS AGO. WHEN I SAW IT -- WHEN I CAME
15 15 IN THE NEXT DAY ON SATURDAY I SAW THAT -- I READ THE STORY
16 16 THAT HAD GONE OVER THE WIRE, AND I TOLD THE DESK EDITOR
17 17 THERE AT THE TIME, "THIS IS WRONG, THERE IS" --

18 18 THE COURT: DID IT HAVE IN THE FACT THAT YOU HAD
19 19 SEEN MR. LEVIN ALIVE?

20 20 THE WITNESS: I DON'T KNOW IF -- MUST HAVE HAD
21 21 SOMETHING TO THAT EFFECT. I DON'T RECALL THE SPECIFIC
22 22 DETAILS. THERE WERE FACTUAL DETAILS THAT WEREN'T CORRECT.

23 23 THE COURT: THE ONLY STORY WAS THAT MR. LEVIN WAS
24 24 ALIVE; RIGHT?

25 25 THE WITNESS: THERE WAS MORE TO THE STORY.

26 26 THE COURT: WHAT WAS -- WHAT MORE TO THE STORY WAS
27 27 THERE?

28 28 THE WITNESS: THERE WAS MORE TO THE STORY WHICH I

4 1 DIDN'T RECALL IN DETAIL. THE DETAILS IN MY GOING TO THE
2 ATTORNEYS, MY HAVING TALKED TO THE POLICE. THAT WAS ALL
3 PART OF THE STORY, AND THEY HAD PART OF IT RIGHT AND PART
4 OF IT NOT RIGHT.

5 THE COURT: HAD YOU EVER SOLD A STORY TO ANYONE
6 ELSE?

7 THE WITNESS: AS I STATED TO THE ATTORNEY THERE,
8 THAT I SOLD NEWS TIPS, NOT STORIES, TO -- ACTUALLY BOTH TO
9 ARNOT AND TO LEVIN IN '83 AND '84.

10 THE COURT: HOW MANY TIMES TO MR. ARNOT?

11 THE WITNESS: I REALLY DON'T RECALL. IT WAS
12 SEVERAL. BOTH OF THEM -- HIM MORE BECAUSE I KNEW HIM
13 LONGER, AND --

14 THE COURT: HOW MANY APPROXIMATELY? MORE THAN 10
15 TIMES?

16 THE WITNESS: PROBABLY MORE THAN THAT, YEAH.

17 THE COURT: MORE THAN 20 TIMES?

18 THE WITNESS: I DON'T KNOW IF IT WAS MORE THAN
19 THAT. YOU CAN SIMPLY SAY BETWEEN 10 AND 20 TIMES. THEY
20 WEREN'T STORIES.

21 THE COURT: HOW MANY TIMES TO MR. LEVIN?

22 THE WITNESS: ACTUALLY VERY FEW BECAUSE HE STOPPED
23 CONTACTING ME AFTER A LITTLE WHILE BECAUSE HE AND HIS
24 PARTNER BROKE UP, AND I REALLY DIDN'T -- DIDN'T MAKE --

25 THE COURT: MORE OR LESS THAN 10 TIMES?

26 THE WITNESS: DEFINITELY LESS.

27 THE COURT: HOW MUCH DID MR. LEVIN PAY YOU FOR
28 TIPS?

4 1 THE WITNESS: \$30.00. I AGREED TO THE SAME AMOUNT
2 2 FOR ARNOT. I DID NOT -- DIDN'T ALWAYS GET THAT BECAUSE
3 3 THEY'D SAY, "OH, WELL WE'RE SHORT."

4 4 THE COURT: ARE THESE TIPS ON STORIES THAT YOU WERE
5 5 ALSO WORKING ON?

6 6 THE WITNESS: I WOULD GIVE A TIP ON WHAT WOULD BE A
7 7 VISUAL STORY. FOR EXAMPLE, A TRAFFIC ACCIDENT, AFTER I
8 8 HAD SENT A STORY INTO THE OFFICE FROM THE POLICE BEAT, NOT
9 9 BEFORE.

10 10 THE COURT: YOU MENTIONED AT ONE POINT IN YOUR
11 11 TESTIMONY TODAY THAT YOU WERE CONCERNED BECAUSE OTHER
12 12 PEOPLE THAT HAD COME FORWARD WERE PAINTED AS LYING OR NOT
13 13 KNOWING WHAT THEY'RE TALKING ABOUT. WHAT DID YOU MEAN BY
14 14 THAT?

15 15 THE WITNESS: I'M TALKING ABOUT THE STORY THAT
16 16 APPEARED IN THE PAPER, PEOPLE HAD COME FORWARD, A WOMAN
17 17 WHO WORKED IN A BUILDING THAT LEVIN HAD AN OFFICE IN. SHE
18 18 HAD MADE A STATEMENT TO THE POLICE, AND WHAT I HAD HEARD
19 19 IS THAT THEY TRIED TO DISPARAGE THE STORY.

20 20 THE COURT: WHO?

21 21 THE WITNESS: WHO? BEVERLY HILLS POLICE. AND I
22 22 HAD HEARD, ONCE AGAIN I DIDN'T HAVE ABSOLUTE PROOF, BUT I
23 23 HAD HEARD THE SAME THING HAD HAPPENED LATER ON WHEN A
24 24 COUPLE WHO DIDN'T KNOW LEVIN BUT HAD SEEN A MAN WHO THEY
25 25 DESCRIBED PERFECTLY, YOU KNOW, PHYSICALLY MATCHING LEVIN
26 26 FROM AN ENCOUNTER THAT THEY HAD WITH HIM AT A GAS STATION
27 27 IN ARIZONA. THAT WAS BASICALLY JUST BRUSHED ASIDE AS --
28 28 "OH, THEY WERE JUST WRONG, MISTAKEN IDENTITY."

4 1 THE COURT: THIS IS BY THE POLICE; RIGHT?

2 THE WITNESS: POLICE DISREGARDED IT.

3 THE COURT: I THOUGHT YOU READ THIS IN A STORY --

4 THE WITNESS: I HAD HEARD --

5 THE COURT: HOLD ON.

6 -- THAT YOU HAD READ THIS IN A STORY, READ --

7 THE WITNESS: I READ IT IN THE "TIMES," BUT I ALSO
8 HEARD FROM ALL THE REPORTERS THAT THE POLICE HAD
9 DISREGARDED THESE STATEMENTS.

10 THE COURT: SO YOU HAD TALKED TO OTHER REPORTERS
11 ABOUT OTHER SIGHTINGS?

12 THE WITNESS: ON THAT DAY. I TALKED TO LEVIN --
13 EXCUSE ME, I TALKED TO ARNOT AND HE SAID THE SAME THING,
14 THAT THE POLICE HAD BRUSHED ASIDE THESE OTHER STATEMENTS,
15 THAT I SHOULD COME FORWARD. I WAS RELUCTANT TO DO IT.

16 THE COURT: WHY WERE YOU CONCERNED THAT OTHERS HAD
17 BEEN PAINTED AS LIARS OR DIDN'T KNOW WHAT THEY WERE
18 TALKING ABOUT?

19 THE WITNESS: CLEARLY, I DIDN'T WANT TO HAVE THE
20 SAME THING HAPPEN, AND THAT'S EXACTLY WHAT DID HAPPEN.

21 THE COURT: WHY WERE YOU CONCERNED ABOUT THAT? IF
22 YOU SAID YOU SAW MR. LEVIN, WHY WERE YOU CONCERNED ABOUT
23 THAT.

24 THE WITNESS: WHY WOULD ANYBODY BE CONCERNED ABOUT
25 HAVING THEIR CHARACTER BLEMISHED, ANYBODY? AS A REPORTER
26 MY COIN AND TRADE WAS MY TRUTHFULNESS.

27 THE COURT: BUT YOU KNEW MR. HUNT WAS ON TRIAL FOR
28 HIS LIFE?

4 1 THE WITNESS: I ALSO KNEW THAT I COULD BECOME A
2 VICTIM OF A SMEAR CAMPAIGN --

3 THE COURT: SO YOU WERE CONCERNED ABOUT YOUR
4 CHARACTER?

5 THE WITNESS: I WAS CONCERNED ABOUT THAT, TOO. I
6 HAD TO BE.

7 THE COURT: YOU WEREN'T CONCERNED ABOUT MR. HUNT'S
8 LIFE?

9 THE WITNESS: I WAS CONCERNED ABOUT IT, BUT UNTIL I
10 WENT FORWARD I KEPT HOPING THAT THE POLICE WOULD FIND
11 EXONERATING EVIDENCE. CLEARLY WHEN IT WENT TO TRIAL OR
12 WENT TO THE JURY THEY HADN'T OR CERTAINLY THEY HADN'T
13 ANSWERED IT.

14 THE COURT: MR. CRAIN?

15 MR. CRAIN: THANK YOU.

16

17 REDIRECT EXAMINATION +

18

19 BY MR. CRAIN:

20 Q MR. ROBINSON, EARLIER WHEN HE WAS QUESTIONING
21 YOU THE PROSECUTOR KEPT USING THE WORD "CRIME BEAT." I
22 BELIEVE YOU TOLD US ORIGINALLY THAT THERE WAS A POLICE
23 BEAT AND A COURT BEAT --

24 A CORRECT.

25 Q -- AT CITY NEWS.

26 WAS THERE SOMETHING ACTUALLY CALLED A CRIME
27 BEAT?

28 A NO, BUT A LOT OF PEOPLE REFER TO THE POLICE

5 1 BEAT AS THE CRIME BEAT. MOST OF THE STORIES THAT COME OUT
2 OF IT ARE IN FACT CRIME STORIES.

3 Q I THINK YOU TOLD US THE OTHER DAY WHEN YOU
4 FIRST BEGAN YOUR TESTIMONY IN HERE, LAST WEEK ACTUALLY,
5 THAT THE POLICE BEAT AND THE COURT BEAT WERE TWO SEPARATE
6 PARTS OF CITY NEWS SERVICE; IS THAT RIGHT?

7 A YES.

8 Q AND SO THE POLICE BEAT AND YOUR JOB IN
9 PARTICULAR WAS TO FOLLOW POLICE ACTIVITIES, ARRESTS, OTHER
10 THINGS THAT THE POLICE DO; RIGHT?

11 A IT WAS TO FOLLOW THE STORIES THAT CAME TO MY
12 NOTICE CERTAINLY OR ANY REPORTER WOULD FOLLOW THE STORIES
13 THAT CAME TO THEIR NOTICE, WHETHER THEY WERE CRIMES OR
14 OTHER INCIDENTS. FOR EXAMPLE, FIRES, ACCIDENTS, FLOODS,
15 WHATEVER.

16 Q OKAY.

17 AND THEN IF A CASE WOUND UP GOING THROUGH THE
18 COURT SYSTEM THAT WAS NOT PART OF YOUR BAILIWICK, THAT WAS
19 SOMEONE ELSE'S WORK; CORRECT? CONNECTED WITH THE COURT
20 BEAT PART OF CITY NEWS; IS THAT RIGHT?

21 A RIGHT.

22 Q AND DURING THIS PERIOD OF TIME IN 1986 AND
23 1987 YOU WERE WORKING MORE OR LESS THE GRAVEYARD SHIFT; IS
24 THAT RIGHT?

25 A I HAD ALWAYS DONE THAT AT CITY NEWS.

26 Q SO DURING THE TIME AT CITY NEWS YOUR HOURS
27 WERE WHAT?

28 A MY SHIFT WOULD START AT 10:00 P.M. AND GET

5 1 OFF AT 6:30 A.M..

2 Q AND SO THE BULK OF YOUR TIME WOULD BE
3 SPENDING THE NIGHTTIME HOURS LISTENING TO THE POLICE
4 SCANNER; IS THAT RIGHT?

5 A AMONG OTHER THINGS. ACTUALLY, I WOULD BE
6 DOING A LOT OF CALLS. EASILY OVER 100 CALLS ANY GIVEN
7 NIGHT.

8 Q TO POLICE DEPARTMENTS, FIRE DEPARTMENTS,
9 THINGS LIKE THAT?

10 A CORRECT.

11 Q TRYING TO GET INFORMATION ABOUT POLICE WORK
12 AND FIRES AND SO FORTH?

13 A WHATEVER WAS HAPPENING IN THE AREA, IN THE
14 COUNTY.

15 Q AND DURING THE DAY YOU'D GET YOUR SLEEP; IS
16 THAT RIGHT?

17 A EVENTUALLY, YES.

18 Q OKAY.

19 NOW, YOU HAD KNOWN MR. ARNOT FOR SOME PERIOD
20 OF TIME; RIGHT?

21 A YEAH, I MET GARY EITHER IN -- I THINK IT WAS
22 '79, MAYBE '80.

23 Q AND --

24 A NOT EARLIER.

25 Q YOU SAID -- YOU SAID ARNOT WAS NOT AN
26 EMPLOYEE OF CITY NEWS; RIGHT?

27 A NO.

28 Q HOW FREQUENTLY WOULD HE BE AROUND THE POLICE

5 1 DESK OR THE POLICE AREA THERE WHERE YOU WORKED?

2 A THE PRESS ROOM?

3 Q THE PRESS ROOM AT PARKER CENTER.

4 A AS FAR AS I KNEW, EVERY NIGHT. I MEAN, I
5 DON'T KNOW -- EVERY NIGHT I WAS THERE HE WOULD DROP BY.
6 SOMETIMES FOR A LITTLE WHILE. SOMETIMES FOR LONGER
7 PERIODS.

8 Q AND HE WAS ONE WHO WAS SEEKING TO GET --
9 WELL, FROM TIME TO TIME, TIPS ABOUT NEWS EVENTS SO THAT HE
10 COULD GO OUT TAKE PICTURES OF IT. IS THAT BASICALLY IT?

11 A RIGHT. THIS WAS MAINLY IN THE FIRST FEW
12 YEARS BECAUSE EVENTUALLY HE BOUGHT ENOUGH SCANNING
13 EQUIPMENT, SCANNERS, THAT HE COULD FOLLOW THE SAME
14 INFORMATION THAT I DID.

15 Q OKAY.

16 NOW, YOU SAID THIS MORNING TO MR. MC MULLEN,
17 THE GENTLEMAN OVER HERE WITH THE GRAY SUIT, HE ASKED YOU A
18 QUESTION OR TWO ABOUT THIS, AND I BELIEVE YOUR TESTIMONY
19 WAS THAT BEFORE YOU'D SELL ONE OF THESE TIPS TO MR. ARNOT
20 FOR \$30.00 OR ANYBODY ELSE YOU'D FIRST GIVE THE STORY TO
21 YOUR EMPLOYER; IS THAT RIGHT?

22 A OF COURSE.

23 Q WHY WAS THAT?

24 A WELL, I MEAN, IT JUST MADE SENSE. I WORKED
25 FOR CITY NEWS SERVICE. THEY HAD A RIGHT TO THE STORIES.
26 ANY STORY THAT ARNOT DEVELOPED WAS BASED SIMPLY ON A TIP
27 AND NOTHING MORE. I DIDN'T GIVE HIM DETAILS AS FAR AS,
28 YOU KNOW, THE SPECIFICS OF A STORY OTHER THAN MAYBE --

5 1 MAYBE THERE WAS A TRAFFIC ACCIDENT AT SUCH AND SUCH A
2 LOCATION.

3 Q SO --

4 A HE'D GO OUT ON IT. IF A STORY DEVELOPED IT
5 WAS BECAUSE OF WORK HE DID.

6 Q OKAY.

7 WAS IT OKAY, SO AS FAR AS YOU WERE CONCERNED,
8 AS FAR AS JOURNALISTIC ETHICS WENT, THAT ONCE YOU'D GIVEN
9 THE STORY TO YOUR EMPLOYER TO GIVE INFORMATION TO SOMEONE
10 LIKE ARNOT BECAUSE THE STORY HAD ALREADY BEEN GIVEN OUT?

11 A RIGHT. CITY NEWS SERVICE DIDN'T HAVE A
12 PICTURE SERVICE AS PART OF THEIR SERVICE. IT WAS NOT PART
13 OF THEIR SERVICE TO GIVE PICTURES. WE DIDN'T COME INTO
14 DIRECT COMPETITION. GARY ARNOT DID VIDEO TAPE, WHICH, OF
15 COURSE, HE SOLD TO TELEVISION STATIONS. CITY NEWS SERVICE
16 WAS A WIRE SERVICE. WE SOLD TO RADIO STATIONS, T.V.
17 STATIONS, OTHER PRINT MEDIA.

6 18 Q I THINK YOU HAVE TOLD OVER THE COURSE OF YOUR
19 TESTIMONY TODAY AND LAST WEEK -- WELL, FIRST OF ALL,
20 THAT -- CORRECT ME IF I'M WRONG, THAT WHEN YOU SAW LEVIN
21 IT WAS SHORTLY AFTER CROCODILE DUNDEE HAD OPENED IN
22 WESTWOOD; CORRECT?

23 A THAT'S THE REASON I WENT OUT THERE. I THINK
24 CROCODILE DUNDEE HAD OPENED ABOUT A WEEK OR SO BECAUSE I'D
25 SEEN THE REVIEW IN THE PAPER, IN THE "TIMES," AND IT -- I
26 WAS REASONABLY INTRIGUED ENOUGH THAT I WENT OUT TO SEE IT.

27 Q OKAY.

28 IT WAS THAT SAME FALL, I THINK YOU TOLD US,

6 1 THAT YOU STARTED BECOMING AWARE THAT THERE WAS SOME
2 PRETRIAL MATTERS TAKING PLACE IN CONNECTION WITH A CASE --

3 A THERE WAS STORIES THAT HAD APPEARED EVERY
4 ONCE IN A WHILE ON T.V.. I DIDN'T FOLLOW THEM VERY
5 CLOSELY.

6 Q IT WAS THAT SAME GENERAL TIME PERIOD, FALL OF
7 '86?

8 A RIGHT.

9 Q YOU TOLD US THAT RIGHT AFTER OR THE NEXT DAY
10 AFTER YOU SAW LEVIN YOU REPORTED IT TO ARNOT; RIGHT?

11 A I PASSED THE INFORMATION ON. I DIDN'T --
12 UNTIL HE TOLD ME IN RESPONSE TO MY STATEMENT THAT LEVIN
13 WAS SUPPOSED TO BE DEAD, I ACTUALLY HADN'T BEEN AWARE OF
14 THAT. I MEAN -- ENDLESSLY NOW, IT SEEMS I HAVE TOLD THE
15 POLICE THE VERY SAME THING.

16 Q NOW, IT IS YOUR UNDERSTANDING, OR WHAT YOU
17 ARE TELLING US IS THAT DURING THE COURSE OF THE NEXT
18 NUMBER OF MONTHS ARNOT FROM TIME TO TIME WOULD TELL YOU,
19 "YOU SHOULD GO TELL SOMEBODY ABOUT THIS"?

20 A YES. BASICALLY BECAUSE HE WANTED A VISUAL
21 STORY. IT DID HIM NO GOOD JUST TO HAVE STATEMENTS -- YOU
22 KNOW, OFF THE CUFF.

23 Q AND SO IT WAS YOUR IMPRESSION THAT ARNOT
24 WANTED TO GET A STORY OUT OF YOUR HAVING SEEN LEVIN; IS
25 THAT RIGHT?

26 A RIGHT, OF COURSE.

27 Q WHAT WAS YOUR REACTION TO THESE EFFORTS ON
28 HIS PART?

6

1 A KEPT BRUSHING HIM OFF.

2 Q AND WHEN THE VIDEO TAPING OR THE ABORTED
3 VIDEO TAPE WAS DONE THAT WAS AFTER YOU WENT TO SEE
4 MR. WAPNER; IS THAT RIGHT?

5 A YEAH, YES.

6 Q WHAT WAS HAPPENING, JUST JUMPING AHEAD HERE
7 FOR A MINUTE, WHAT WAS HAPPENING WAS YOU WERE TALKING TO
8 MR. ARNOT AT THE PRESS ROOM; IS THAT WHERE IT WAS?

9 A HE CAME TO THE PRESS ROOM AS HE DID MANY,
10 MANY TIMES BEFORE, HUNDREDS AND HUNDREDS.

11 Q AND YOU WERE DISCUSSING WITH HIM ABOUT WHAT
12 HAD HAPPENED ABOUT WHAT YOU HAD DONE WITH MR. WAPNER, THAT
13 YOU HAD WENT --

14 A I KEPT ANY DISCUSSION AS LIMITED AS POSSIBLE.
15 JUST SAYING -- PRACTICALLY NO MORE THAN WHAT I'D ALREADY
16 TOLD GARY ON OTHER OCCASIONS. I DIDN'T WANT TO GO INTO
17 DETAILS. I KEPT TELLING HIM THAT.

18 Q DID YOU DETERMINE AT SOME POINT DURING THIS
19 CONVERSATION THAT HE WAS VIDEO TAPING THE CONVERSATION?

20 A I SAW HIS ASSOCIATE HOLDING THE VIDEO CAMERA,
21 BUT I DIDN'T SEE A RED LIGHT ON IT, SO I DIDN'T KNOW IT
22 WAS RUNNING. I ASKED HIM ABOUT IT, AND HE SAID HE'S JUST
23 FOCUSING OR SIGHTING OR WHATEVER. HE GAVE ME AN EXCUSE.

24 Q AND WHAT -- WHAT WAS YOUR UNDERSTANDING AFTER
25 THIS AS TO WHAT ARNOT WAS ATTEMPTING TO ACCOMPLISH OR WHAT
26 DID YOU BELIEVE WAS GOING ON?

27 A OKAY.

28 HE EVENTUALLY SAID THAT, YES, HE HAD IN FACT

6 1 TAPED ME. I DISPUTED -- I MEAN, I VOICED MY DOUBT THAT HE
2 HAD -- AND HE PROVED IT BY SHOWING ME IN FACT THAT HE HAD
3 TAPED IT, BUT THERE WAS NO SOUND ON IT.

4 Q WHAT ELSE DID YOU SAY AT THE TIME?

5 A HE WANTED A STORY. OBVIOUSLY HE WOULD MAKE
6 MONEY SELLING A VIDEOTAPE STORY.

7 Q DID YOU GO TO WAPNER BECAUSE YOU WERE TRYING
8 TO SELL IT OR MAKE SOME MONEY ON IT?

9 A NO --

10 Q IF YOU DON'T MIND, LET ME FINISH MY QUESTION
11 AND THEN GET YOUR ANSWER.

12 THE GENTLEMAN OVER HERE, THE COURT REPORTER,
13 HAS TO TAKE IT DOWN. IF WE'RE OVERLAPPING HE CAN'T DO IT.

14 A OKAY.

15 Q WERE YOU TRYING TO MAKE ANY MONEY OFF THIS BY
16 GOING DOWN AND SEEING THE DISTRICT ATTORNEY, WHO WAS
17 PROSECUTING MR. HUNT?

18 A NO.

19 Q YOU SAID SOMETHING ABOUT ARNOT AND \$75. TELL
20 US WHAT THAT WAS?

21 A HE KEPT ON BADGERING ME ABOUT DOING A STORY
22 AND I SAID FINALLY -- I FINALLY GOT FED UP AND SAID,
23 "OKAY, AFTER THE TRIAL I'LL GIVE YOU THE STORY." I DIDN'T
24 ASK FOR THE \$75 IN THE FIRST PLACE. I ASKED HIM, "WHAT
25 WOULD YOU BE WILLING TO PAY FOR IT?" HE SAID THE \$75
26 WHICH IS WHAT HE WOULD GET FOR ONE TAPE.

27 Q DID YOU REALLY HAVE ANY INTEREST IN GETTING
28 THE MAGNIFICENT SUM OF \$75 FROM MR. ARNOT?

7 1 A NO, NOT REALLY. JUST A -- TO TAKE CARE OF A
2 2 LITTLE OF THE ANNOYANCE OF KEEPING BEING ASKED ALL THE
3 3 TIME.

4 4 Q NOW, WAS IT YOUR BELIEF THAT AFTER YOU HAD IN
5 5 FACT TESTIFIED, HAD YOU TESTIFIED -- STRIKE THAT.

6 YOU DIDN'T TESTIFY; IS THAT RIGHT?

7 7 A I WAS NEVER CALLED.

8 8 Q YOU TESTIFIED IN 1992 BEFORE THE JURY IN SAN
9 9 MATEO; RIGHT?

10 10 A CORRECT.

11 11 Q NOW, WAS IT YOUR UNDERSTANDING THAT ONCE YOU
12 12 HAD TESTIFIED IT WOULD HAVE BEEN ALL RIGHT TO HAVE TAKEN
13 13 THE \$75 FROM MR. ARNOT HAD YOU CHOSEN TO DO SO ONCE YOU
14 14 HAD GIVEN YOUR TESTIMONY AND THE CASE WAS OVER?

15 15 A IT WAS PUBLIC INFORMATION.

16 16 Q SO IT WOULD HAVE BEEN ALL RIGHT?

17 17 A SURE.

18 18 Q NOW, YOU TOLD THE COURT THAT YOU WERE
19 19 CONCERNED ON THE DAY THAT YOU DID DECIDE ON GOING TO THE
20 20 DISTRICT ATTORNEY IN SANTA MONICA TO TELL HIM ABOUT HAVING
21 21 SEEN MR. LEVIN IN WESTWOOD, THAT YOU WERE CONCERNED ABOUT
22 22 SEVERAL THINGS.

23 NOW, HAD YOU EVER HEARD OF THE CRIME OF
24 24 OBSTRUCTION OF JUSTICE?

25 25 A YES.

26 26 Q DID YOU THINK, IN ANY WAY THINK THAT YOU
27 27 MIGHT BE ACCUSED OF THAT IF YOU TOLD MR. WAPNER THAT YOU
28 28 HAD BEEN HOLDING THIS INFORMATION FOR SEVERAL MONTHS?

7
1 A HONESTLY I DID NOT KNOW IF THAT WOULD
2 TECHNICALLY HAVE FALLEN UNDER THAT STATUTE. I MEAN,
3 OBVIOUSLY IT COULD HAVE ENTERED MY MIND THAT IT COULD
4 HAVE, BUT I MEAN, I REALLY DIDN'T KNOW.

5 Q WELL, I THINK EARLIER, THOUGH, YOU TOLD US
6 THAT --

7 A IT COULD HAVE.

8 Q IN RESPONSE TO MR. MC MULLEN'S QUESTIONS YOU
9 SAID THAT, FIRST OF ALL, YOU DIDN'T -- FIRST OF ALL, LET
10 ME BACK UP.

11 YOU HAD THIS CONVERSATION WITH MR. WAPNER,
12 THE PROSECUTOR; RIGHT?

13 A CORRECT.

14 Q AND YOU TOLD HIM THAT YOU HAD SEEN RON LEVIN
15 IN WESTWOOD; CORRECT?

16 A YES.

17 Q AND YOU --

18 A EVENTUALLY I TOLD HIM THAT, YES.

19 Q AFTER YOU MET HIM AND INITIAL PLEASANTRIES HE
20 ASKED YOU WHY YOU WERE THERE, AND YOU TOLD HIM ABOUT
21 SEEING LEVIN, RIGHT?

22 A RIGHT.

23 Q INITIALLY, THOUGH, YOU DIDN'T GIVE HIM AN
24 ACCURATE ACCOUNT OF HOW LONG YOU HAD HAD CERTAIN
25 INFORMATION; IS THAT RIGHT?

26 A CORRECT.

27 Q AND IS IT YOUR TESTIMONY THAT YOU WERE
28 CONCERNED THAT IN SOME WAY NOT HAVING COME FORWARD

7 1 IMMEDIATELY MIGHT CAUSE YOU SOME LEGAL PROBLEM, WHETHER IT
2 WAS OBSTRUCTION OF JUSTICE OR SOMETHING ELSE?

3 A RIGHT. I DIDN'T KNOW WHAT IT WOULD BE
4 CALLED. I FELT THAT IT WAS SOME KIND OF -- YOU KNOW, IT
5 WOULD HAVE BEEN SOME KIND OF LEGAL PROBLEM.

6 Q RIGHT. SO IN YOUR MIND WHEN YOU CAME FORWARD
7 AND YOU WENT TO SEE MR. WAPNER AND TOLD HIM THAT YOU HAD
8 SEEN MR. LEVIN ON A STREET IN WESTWOOD, YOU HAD THIS
9 CONCERN THAT YOU MIGHT BE PUTTING YOURSELF IN SOME SORT OF
10 LEGAL DIFFICULTY; CORRECT?

11 A YES.

12 Q AND YOU ALSO TOLD US THAT YOU WERE AFRAID OF
13 LOSING YOUR JOB; RIGHT?

14 A I DIDN'T SAY THAT -- AS FAR AS I KNOW I
15 DIDN'T SAY THAT TO -- TO ATTORNEY WAPNER, BUT IT CERTAINLY
16 HAD ENTERED MY MIND.

17 Q RIGHT. YOU TOLD US THAT YOU HAD CERTAIN
18 CONCERNS ABOUT YOUR FUTURE IN THE BUSINESS?

19 A RIGHT.

20 Q BY GOING AHEAD AND TALKING TO THE DISTRICT
21 ATTORNEY WITHOUT -- AT THE VERY LEAST THE APPROVAL OF YOUR
22 EDITOR; IS THAT RIGHT?

23 A WITHOUT HAVING TOLD HER.

24 Q AND YOU HADN'T TOLD HER?

25 A I HADN'T TOLD HER, NO.

26 Q DID YOU TELL US THAT ONE OF THE REASONS WAS
27 THAT YOU DIDN'T FIND YOUR EDITOR TO BE SOMEONE WHO WAS
28 TRUSTWORTHY WITH CERTAIN STORIES?

7 1 A IN MY EXPERIENCE.

2 Q DESPITE THESE TWO CONCERNS, THAT YOU MIGHT
3 HAVE LEGAL DIFFICULTIES AND THE CONCERN THAT YOUR JOB
4 MIGHT BE IN JEOPARDY, YOU NEVERTHELESS WENT TO SEE
5 MR. WAPNER AND TOLD HIM THAT YOU HAD SEEN MR. LEVIN;
6 RIGHT?

7 A YES.

8 Q DID YOU EVER TRY TO SELL YOUR ACCOUNT TO
9 ANYBODY FOR MONEY?

10 A NO.

11 Q DID YOU EVER GET ANY MONEY FOR HAVING COME
12 FORWARD?

13 A NO.

14 Q YOU DID GET, THOUGH, A TERMINATION NOTICE
15 FROM CITY NEWS; RIGHT?

16 A YEAH, ABOUT TWO WEEKS LATER.

17 Q AND YOU DID GET -- AS YOU PUT IT, THE
18 CONCLUSION OF BEING BLACKBALLED IN THE NEWS BUSINESS;
19 RIGHT?

20 A THAT WAS THE CONCLUSION I DREW, YES.

21 Q SO THAT -- OTHER THAN A VERY SHORT PERIOD OF
22 TIME WITH, I BELIEVE, IT WAS "DAILY VARIETY; IS THAT
23 RIGHT?

24 A YES.

25 Q -- YOU HAVE NOT BEEN ABLE DO GET A JOB IN
26 YOUR CHOSEN FIELD OF THE NEWS BUSINESS; IS THAT RIGHT?

27 A YES.

28 Q AND NOW YOU WORK AS A SECURITY GUARD AT

7 1 COUNTY HOSPITAL?

2 A SECURITY OFFICER, RIGHT.

3 Q SECURITY OFFICER AT COUNTY HOSPITAL; IS THAT
4 RIGHT?

5 A YES.

6 Q NOW, IN YOUR WORK AS A REPORTER IN THE PAST
7 DID YOU EVER HAVE THE OCCASION TO COME IN CONTACT WITH
8 WITNESSES WHO WERE RELUCTANT TO GET INVOLVED FOR ONE
9 REASON OR ANOTHER?

10 A I'M TRYING TO THINK.

11 Q IN YOUR OWN EXPERIENCE?

12 A MOST OF THE PEOPLE I TALKED TO CONCERNING
13 CRIMES WERE ACTUALLY THE POLICE OR SHERIFF'S. BASICALLY
14 OFFICIAL PEOPLE. ONLY OCCASIONALLY DID I TALK TO PEOPLE
15 WHO WERE -- YOU MIGHT SAY, WITNESSES OR -- THAT WAS VERY
16 RARE.

17 Q MOST OF YOUR CONTACTS WERE WITH ACTUAL POLICE
18 AND FIRE OFFICERS, SHERIFF'S?

19 A THAT'S CORRECT.

20 Q THINGS LIKE THAT?

21 A THAT'S CORRECT.

22 Q DID YOU EVER HEAR OF THE INFAMOUS KITTY
23 GENOVESE CASE IN NEW YORK WHERE 30 OR SO WITNESSES SAW A
24 MURDER AND NONE OF THEM REPORTED IT TO THE POLICE? DID
25 YOU EVER HEAR ABOUT THAT CASE?

26 MR. MC MULLEN: OBJECTION. IRRELEVANT.

27 MR. CRAIN: IT MAY GO TO HIS STATE OF MIND.

28 THE COURT: OVERRULED.

8

1 YOU MAY ANSWER.

2 MR. CRAIN: THANK YOU.

3 THE WITNESS: YES, I HAD HEARD OF IT.

4 MR. CRAIN: PARDON ME JUST A MINUTE, YOUR HONOR, IF
5 YOU WOULD.

6 THE COURT: YES.

7

8 (PAUSE.)

9

10 BY MR. CRAIN:

11 Q NOW, YOU USED A TERM THAT -- PERHAPS WE HAVE
12 COVERED THIS AD NAUSEAM, BUT YOU USED THE TERM THAT,
13 ARNOT, YOU THOUGHT, "WAS TRYING TO GET A STORY OUT OF ME."
14 WHAT DID YOU MEAN BY THAT?

15 A THAT HE WANTED A STORY BASED ON WHAT I'D TOLD
16 HIM. HE NEEDED -- REMEMBER I SAID THAT HE HAD A -- A
17 VIDEOTAPE BUSINESS. HE HAD TO HAVE A STORY WHICH WAS
18 VISUAL AND THE ONLY TYPE OF VISUAL STORY HE WOULD HAVE
19 FROM ME IS FROM ME TALKING TO HIM WITH HIM STANDING NEXT
20 TO THE VIDEO CAMERA. IN OTHER WORDS, HE AND I IN AN ON
21 TAPE INTERVIEW, WHICH I WAS RELUCTANT TO GIVE.

22 Q SO BASICALLY HE KEPT AFTER YOU, BUT HE
23 WOULDN'T HAVE ANY KIND OF A STORY UNLESS HE COULD GET SOME
24 CORROBORATING EVIDENCE LIKE ON A VIDEOTAPE; RIGHT?

25 A HE'D CERTAINLY HAVE TO HAVE A VISUAL BECAUSE
26 THAT'S WHAT HE SOLD.

27 Q AND YOUR POSITION WAS ALWAYS, "I'M NOT
28 GIVING -- I'M NOT SELLING THE STORY HERE"?

8 1 A I FINALLY GAVE INTO HIM ON THAT POINT, BUT I
2 SAID ONLY AFTER I WAS A WITNESS IN A TRIAL. UP TO THEN I
3 KEPT SAYING, "NO, I'M NOT GOING TO GIVE YOU A STORY."

4 Q AFTER YOU TOLD HIM THAT AFTER THE TRIAL, JUST
5 TO BRUSH HIM OFF, YOU'D CONSIDER TAKING \$75 BECAUSE AT
6 THAT MOMENT YOUR HAVING SEEN LEVIN WOULD HAVE BEEN A
7 MATTER OF PUBLIC RECORD ANYWAY BECAUSE YOU WOULD HAVE
8 ALREADY TESTIFIED AS A WITNESS?

9 A YES, OF COURSE IT WOULD HAVE BEEN A PUBLIC
10 RECORD.

11 MR. CRAIN: I HAVE NOTHING FURTHER.

12 THE COURT: HAVE YOU EVER TALKED TO MR. HUNT
13 OUTSIDE OF COURT?

14 THE WITNESS: NOT BEFORE I MET HIM. HERE I HAVE
15 NODDED. WE HAVEN'T DISCUSSED ANYTHING OUTSIDE OF WHEN I
16 MET HIM UP AT THAT JAIL UP THERE.

17 THE COURT: YOU WENT AND SAW HIM AT JAIL?

18 THE WITNESS: WELL, I ENCOUNTERED HIM THERE. I SAW
19 HIM THERE, YES.

20 THE COURT: HOW DID YOU SEE HIM IN JAIL?

21 THE WITNESS: I WAS TOLD FIRST OFF -- I BELIEVE IT
22 WAS BY AN ATTORNEY OR SOMEBODY OF HIS TO COME UP THERE,
23 AND HE SAID, "OKAY, YOU ARE GOING TO BE TALKING TO JOE
24 HUNT. AND WE ARE GOING OVER TO THAT -- TO THAT JAIL," AND
25 THERE WAS A ROOM AND I WAS THERE AND HUNT WAS THERE AND
26 THE ATTORNEY WAS THERE, YOU KNOW. THAT'S HOW. I MEAN, I
27 DIDN'T -- "CAN I SEE JOE HUNT?"

28 THE COURT: HAVE YOU EVER TALKED TO HIM OUTSIDE OF

8 1 COURT IN ANY OTHER SITUATION?

2 THE WITNESS: NO.

3 THE COURT: EVER TALKED TO HIM ON THE PHONE?

4 THE WITNESS: NO, NOT AS FAR AS I KNOW. HE'S NEVER
5 CALLED ME AND I NEVER CALLED HIM.

6 THE COURT: HAVE YOU EVER SPOKEN TO HIS WIFE?

7 THE WITNESS: I DIDN'T EVEN KNOW HE HAD A WIFE.

8 THE COURT: OKAY.

9 MR. MC MULLEN: COUPLE OF QUESTIONS, YOUR HONOR.

10
11 RECROSS-EXAMINATION @

12
13 BY MR. MC MULLEN:

14 Q DOES THE NAME JUDY FARAH, F-A-R-A-H, IS THAT
15 THE NAME --

16 A YES, THAT IS THE REPORTER FOR THE ASSOCIATED
17 PRESS.

18 Q THAT IS THE ONE YOU TOLD --

19 A YEAH, THE ONE WHO I COULDN'T REMEMBER HER
20 NAME. SHE HAD A DIFFERENT NAME BEFORE THAT, BEFORE SHE
21 GOT MARRIED; SPLAGOL.

22 Q CAN YOU SPELL THAT FOR THE REPORTER, PLEASE?

23 A NO.

24 Q YEAH. DID YOU TELL THE ASSOCIATED PRESS
25 REPORTER ABOUT YOUR -- THE WESTWOOD INCIDENT BEFORE
26 TELLING CITY NEWS SERVICE?

27 A SHE CAUGHT ME OFF GUARD. SHE WOKE ME UP.

28 Q DO YOU REMEMBER TALKING TO OUR INVESTIGATOR

8 1 TOM SIMPSON IN THIS CASE?

2 A I'LL HAVE TO TAKE YOUR WORD FOR IT THAT WAS
3 THE NAME. YOU MEAN THE GENTLEMEN BACK THERE IN THE BLUE
4 SUIT?

5 Q THERE WAS ANOTHER GENTLEMEN -- THAT IS
6 ANOTHER INVESTIGATOR?

7 A OKAY.

8 WELL, YOU SAY I TALKED TO HIM. OKAY.

9 Q DO YOU REMEMBER TELLING THE INVESTIGATOR, OUR
10 INVESTIGATOR IN THIS CASE, THAT WHEN YOU TALKED TO JUDY
11 FARAH YOU PROBABLY TOLD HER MORE THAN YOU SHOULD HAVE?

12 A YES, BECAUSE, LIKE I SAID, SHE WOKE ME UP.
13 SHE CAUGHT ME OFF GUARD, AND -- I HAVE NO DOUBT THAT I
14 TOLD HER MORE THAN I REALLY WOULD HAVE HAD I BEEN FULLY
15 AWAKE.

16 Q THERE HAVE BEEN A LOT OF REFERENCES FROM THE
17 COURT'S QUESTIONING AND FROM COUNSEL'S QUESTIONING MOST
18 RECENTLY TO YOUR MANAGING EDITOR. IS THE PERSON YOUR
19 REFERRING TO AS YOUR MANAGING EDITOR AT THAT PARTICULAR
20 TIME THAT WE ARE FOCUSING ON, AROUND APRIL OF '86, ROBERT
21 LAUFFER?

22 A YOU MEAN '87?

23 Q '87, I'M SORRY.

24 A YES.

25 Q SO YOUR JOB -- YOUR JOB WASN'T TO PROVIDE
26 TIPS TO CITY NEWS SERVICE, WAS IT, WHEN YOU WERE ON THIS
27 POLICE BEAT?

28 A NO. I PROVIDED WHOLE STORIES. I WROTE

9 1 STORIES THAT WENT OUT. SOMETIMES SEVERAL HUNDRED WORDS.

2 Q SO THESE TIPS YOU WERE PROVIDING TO GARY
3 ARNOT AND RON LEVIN WERE JUST ON THE SIDE, A LITTLE EXTRA
4 MONEY ON THE SIDE?

5 A RIGHT.

6 Q YOU SAY THAT YOU HAVE TESTIFIED -- YOU HAVE
7 TESTIFIED THAT YOU FELT -- YOU WERE CONCERNED THAT THERE
8 MIGHT BE SOME LEGAL DIFFICULTY IN COMING FORWARD IN APRIL
9 OF '87 AND TELLING THE AUTHORITIES THAT YOU HAD KNOWN
10 ABOUT THIS CASE FOR SEVERAL MONTHS; IS THAT CORRECT?

11 A RIGHT.

12 Q THEN WHY DIDN'T YOU JUST COME FORWARD IN
13 OCTOBER OF '86 AFTER THE INCIDENT OCCURRED IF YOU HAD THAT
14 CONCERN?

15 A I DIDN'T WANT TO GET INVOLVED IN IT. I HAVE
16 REPEATEDLY ANSWERED THE SAME QUESTION NOW, THAT I DIDN'T
17 WANT TO GET INVOLVED IN IT. I WAS FINALLY PRESSURED TO
18 GET INVOLVED IN TO IT, SO I DID.

19 Q BUT IN NOT -- IN THE -- THE THOUGHT PROCESS
20 YOU WENT THROUGH IN NOT WANTING TO GET INVOLVED, WEREN'T
21 YOU CONCERNED THAT YOU MIGHT HAVE SOME LEGAL DIFFICULTY BY
22 NOT GOING FORWARD?

23 A THE FIRST PART, I MEAN I SIMPLY DIDN'T WANT
24 TO GET INVOLVED. WHEN I FINALLY CAME FORWARD, I DID HAVE
25 A CONCERN THAT I MIGHT HAVE LEGAL DIFFICULTY. I
26 THOUGHT -- HADN'T REALLY THOUGHT OF IT THAT MUCH. I
27 HADN'T THOUGHT OF IT AT ALL BACK IN OCTOBER. I SIMPLY
28 DIDN'T WANT TO GET INVOLVED IN IT.

MR. MC MULLEN: MAY I JUST HAVE A MOMENT?

THE COURT: YES.

(PAUSE.)

MR. MC MULLEN: NOTHING ELSE.

THE COURT: ANYTHING FURTHER, MR. CRAIN?

MR. CRAIN: JUST ON THIS THING THAT MR. MC MULLEN
WAS INTERESTED IN. I GUESS IT REALLY DOESN'T HAVE
ANYTHING TO DO WITH THE CASE.

FURTHER REDIRECT EXAMINATION +

BY MR. CRAIN:

Q HE ASKED YOU ABOUT THE CONVERSATION THAT YOU
HAD WITH THE LADY NAMED JUDY FARAH A MOMENT AGO?

A YES, RIGHT.

Q DID YOU TELL THE D.A. INVESTIGATOR THAT YOU
THOUGHT SHE HAD ALREADY READ THE CITY NEWS REPORT AND SHE
SAID SHE'D HOLD THE NEWS STORY UNTIL THE CITY NEWS STORY
CAME OUT?

A EXCUSE ME?

Q DID YOU TELL THE D.A. INVESTIGATOR --

A NO. HOW COULD I. SHE CALLED ME ON SATURDAY.
I TALKED TO THE D.A. ON FRIDAY.

Q NO, NO, NO. WHEN --

A I MEAN, LATER ON.

Q LATER ON WHEN YOU TALKED TO MR. SIMPSON OR

9 1 THE -- HE IS BACK IN THE COURTROOM.

2 DO YOU SEE THE GENTLEMAN SEATED HERE, THE
3 OTHER GENTLEMAN IN THE GRAY SUIT?

4 A OKAY.

5 Q DID YOU TELL HIM WHEN YOU WERE ASKED ABOUT
6 JUDY FARAH THAT SHE SAID SHE'D HOLD THE STORY UNTIL THE
7 CITY NEWS SERVICE CAME OUT, AND THAT SHE DID SO?

8 A YES.

9 MR. CRAIN: I DON'T HAVE ANYTHING FURTHER.

10 THE COURT: MAY THE WITNESS BE EXCUSED?

11 MR. CRAIN: NO OBJECTION.

12 THE COURT: ANY OBJECTION?

13 MR. MC MULLEN: JUST TO REMAIN ON CALL FOR
14 IMPEACHMENT PURPOSES.

15 THE COURT: SUBJECT TO SUFFICIENT SHOWING.

16 YOU MAY STEP DOWN.

17 CALL YOUR NEXT WITNESS.

18 MR. CRAIN: I HAVE TO GO OUT IN THE HALLWAY.

19 MR. KLEIN: WE HAVE A MATTER WE'D LIKE TO APPROACH
20 ON BEFORE THE WITNESS COMES IN.

21 THE COURT: DO YOU NEED TO APPROACH? THERE IS
22 NOBODY ELSE IN THE COURTROOM.

23 MR. KLEIN: JUST FOR THE SAKE --

24 THE COURT: COME TO SIDE BAR WITH REPORTER.

25
26 (THE FOLLOWING PROCEEDINGS WERE HELD
27 AT THE BENCH:)
28

9 1 MR. KLEIN: THE NEXT WITNESS IS IVAN WERNER. HE'S
2 NEVER TESTIFIED BEFORE ON THIS CASE. HE IS ABOUT 60 YEARS
3 OLD. HE'S BEEN INTERVIEWED BY THE DISTRICT ATTORNEY. HE
4 TOLD THE DISTRICT ATTORNEY'S INVESTIGATOR THAT IN 1952,
5 SOME 44 YEARS AGO, THAT HE WAS CONVICTED OF A FELONY OF
6 ROBBERY, AND THEY DON'T HAVE ANY DOCUMENTATION TO PROVE
7 IT, BUT APPARENTLY MR. WERNER ADMITTED IT.

8 MR. WERNER DOES NOT WANT THIS TO BECOME
9 PUBLIC INFORMATION BECAUSE IT WILL RUIN HIS CAREER AS AN
10 *EMBALMER. HE HAS A REPUTATION IN THE COMMUNITY.

11 THE COURT: AS AN EMBALMER?

12 MR. KLEIN: YES, YOUR HONOR. THAT HE'S DEVELOPED
13 OVER MANY YEARS.

14 THE COURT: SOUNDS LIKE HE'S GOT A STRIKE NOW.

15 MR. KLEIN: I UNDERSTAND.

16 WHAT I AM ASKING THE COURT TO DO, SINCE THEY
17 DON'T HAVE ANY PROOF OF IT, THAT THE COURT EXCLUDE IT.

18 IN THE ALTERNATIVE, UNDER 352 I ASK THE COURT
19 TO EXERCISE IT'S DISCRETION AND EXCLUDE IT. WE ARE
20 TALKING ABOUT SOMETHING THAT HAPPENED 44 YEARS AGO.

21 THE COURT: HAVE YOU ASKED HIM IF THEY'RE GOING TO
22 ATTEMPT TO IMPEACH HIM WITH IT?

23 MR. KLEIN: YES, YOUR HONOR.

24 THE COURT: WHAT DID THEY SAY?

25 MR. KLEIN: THEY WANT TO BRING IT OUT.

26 THE COURT: WHY?

27 MR. MC MULLEN: DO I WANT TO BRING IT --

28 THE COURT: IT IS RATHER OLD, 44 YEARS.

10 1 MR. MC MULLEN: HE ALSO TOLD THE INVESTIGATOR THAT
2 HE CHANGED A LOT. BUT FAIRLY RECENTLY HE GOT IN A TRAFFIC
3 ACCIDENT. IT DIDN'T GET REPORTED TO THE DMV, AND HE GOT
4 HIS DRIVER'S LICENSE SUSPENDED AND THEN WENT INTO THE
5 DEPARTMENT OF MOTOR VEHICLES AND BASICALLY LIED ON AN
6 APPLICATION AND GOT ANOTHER DRIVER'S LICENSE IN A NAME
7 SIMILAR TO HIS, DIFFERENT FIRST NAME, AND SO IT JUST SEEMS
8 TO ME IT GOES TOWARDS HIS CREDIBILITY, THE TWO EVENTS.

9 THE COURT: 40 YEARS APART?

10 MR. KLEIN: THE EVENTS ARE 35 YEARS APART.

11 WE ARE NOT OBJECTING TO THE COURT -- I MEAN
12 TO THE DISTRICT ATTORNEY IMPEACHING HIM WITH THE EVENT
13 THAT HAPPENED IN 1987. THEY DO HAVE SOME PROOF ON IT.
14 BUT THE 1952 --

15 THE COURT: I DON'T THINK THERE'S ANY RELEVANCE TO
16 THE '52.

17 MR. KLEIN: THANK YOU.

18 MR. CRAIN: ONE FURTHER THING ON THIS PARTICULAR
19 SUBJECT. I WONDER IF THE COURT WOULD SEAL THE -- THE
20 PAGES OF THE REPORTER'S TRANSCRIPT OF THIS DISCUSSION
21 BECAUSE HE'S CONCERNED THAT IT IS NEVERTHELESS GOING TO
22 WORK IT'S WAY INTO THE NEWS MEDIA. AND THAT WILL BE THE
23 END OF HIS CAREER THAT HE'S WORKED SO --

24 THE COURT: I CAN'T. THERE IS NO GOOD CAUSE. WE
25 ARE AT SIDE BAR. I HAVE SERIOUS DOUBTS IF THE PRESS IS
26 GOING TO GET A COPY OF THIS AND READ THESE THREE OR FOUR
27 PAGES AND TRY TO DIG IT OUT.

28 I'LL NOTE FOR THE RECORD, I'LL MAKE DECISION

10 1 ON HOW THIS MAN APPEARS IN COURT AND THE NATURE OF HIS
2 TESTIMONY, AND THE FACT HE THAT HE HAS A CONVICTION 40
3 YEARS AGO IS OF NO CONSEQUENCE WHATSOEVER.

4
5 (THE FOLLOWING PROCEEDINGS WERE
6 HELD IN OPEN COURT:)

7
8 THE COURT: LET'S BRING THE WITNESS IN.

9 MR. CRAIN: COULD WE APPROACH THE BENCH JUST
10 BRIEFLY?

11 THE COURT: ON THE RECORD?

12 MR. CRAIN: YES.

13 THE COURT: COME TO SIDE BAR.

14
15 (THE FOLLOWING PROCEEDINGS WERE HELD
16 AT THE BENCH:)

17
18 MR. CRAIN: VERY BRIEFLY, YOUR HONOR.

19 I WAS REFLECTING ON MR. KLEIN'S STATEMENT A
20 MOMENT AGO. IT SOUNDS TO ME THAT THIS 1987 EPISODE
21 INVOLVING THE DMV, IT WAS NOT PROSECUTED; IS THAT CORRECT,
22 MR. MC MULLEN?

23 MR. MC MULLEN: YES.

24 THE COURT: LET ME TELL YOU, I MEAN THERE'S NO
25 JURY. LET ME HEAR IT, AND SUBJECT TO A MOTION TO STRIKE.

26 MR. CRAIN: WELL, I WAS JUST GOING TO SAY THAT
27 SINCE MR. MC MULLEN FROM TIME TO TIME CLAIMS THAT THIS IS
28 A CIVIL PROCEEDING, IT WOULD SEEM TO ME THAT IT'S

10 1 INADMISSIBLE. I MEAN, WHEELER AND HARRIS AND THOSE CASES
2 THAT TRASH THE EVIDENCE CODE AND SUBJECT TO 352 LET IN ALL
3 SORTS OF MISDEEDS THAT WEREN'T EVEN CONVICTIONS DOES NOT
4 APPLY IF THIS IS A CIVIL CASE. THE COURT, I THINK, HAS
5 EVEN OCCASIONALLY REFERRED TO IT AS THAT.

6 SO I WOULD OBJECT TO ANY MENTION OF IT, AND I
7 WOULD ALSO ASK THAT IT BE EXCLUDED UNDER 352. IT'S 1101
8 AND 352 ARE THE OBJECTIONS.

9 MR. MC\MULLEN: WE NEVER CLAIMED THIS WAS A CIVIL
10 PROCEEDING, YOUR HONOR.

11 MR. CRAIN: OKAY.

12 MAYBE THE COURT HAS. I MAY BE CONFUSING THE
13 TWO OF YOU.

14 THE COURT: IT'S QUASI CRIMINAL, QUASI CIVIL,
15 SOMEWHERE IN BETWEEN. I'LL ALLOW IT SUBJECT TO MOTION TO
16 STRIKE.

17 MR. KLEIN: I WITHDRAW -- THE LACK OF MY OBJECTION
18 SINCE MR. CRAIN IS NOW MAKING THE OBJECTION FOR THE
19 RECORD.

20 MR. CRAIN: IT ISN'T A COUP HERE, YOUR HONOR.

21 THE COURT: THE RECORD STATES WHAT IT STATES.

22 BRING THE WITNESS IN.

23
24 (THE FOLLOWING PROCEEDINGS WERE
25 HELD IN OPEN COURT:)

26
27 THE CLERK: WOULD YOU STEP BEHIND THE COURT
28 REPORTER, PLEASE.

10

1 RIGHT THERE, PLEASE.

2 PLEASE RAISE YOUR RIGHT HAND.

3 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
4 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
5 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
6 SO HELP YOU GOD?

7 THE WITNESS: YES.

8 THE CLERK: PLEASE BE SEATED.

9 STATE YOUR NAME FOR THE RECORD AND SPELL YOUR
10 FIRST AND LAST NAME, PLEASE.

11

12

13 IVAN WERNER, +

14 CALLED AS A WITNESS BY THE PETITIONER, WAS SWORN AND
15 TESTIFIED AS FOLLOWS:

16

17 THE WITNESS: IVAN, I-V-A-N, WERNER, W-E-R-N-E-R.

18 THE COURT: WHY DON'T YOU PULL THAT MICROPHONE
19 RIGHT UP UNDERNEATH YOUR CHIN, IF YOU WOULD, SIR.

20 YOU MAY INQUIRE, MR. CRAIN.

21 MR. CRAIN: THANK YOU, YOUR HONOR.

22

23 DIRECT EXAMINATION +

24

25 BY MR. CRAIN:

26 Q MR. WERNER, WHAT IS YOUR OCCUPATION, SIR?

27 A I'M A FUNERAL DIRECTOR LICENSED TO PRACTICE
28 IN THE STATE OF CALIFORNIA.

10 1 Q APPROXIMATELY HOW LONG HAVE YOU BEEN IN THAT
2 BUSINESS?

3 A 31 YEARS.

4 Q AND ARE YOU EMPLOYED BY ANYONE NOW, OR DO YOU
5 FREELANCE, OR WHAT DO YOU DO?

6 A I'M AN INDEPENDENT CONTRACTOR.

7 Q AND IN THE PAST HAVE YOU WORKED FOR
8 FUNERAL -- I AM NOT GOOD ON THE LINGO, FUNERAL HOMES? IS
9 THAT THE CORRECT WAY TO SAY IT?

10 A THAT'S CORRECT, SIR.

11 Q FUNERAL DIRECTORS?

12 A NO, INDIVIDUAL MORTUARIES.

13 Q MORTUARIES, ALL RIGHT.

14 I'M TRYING TO AVOID THOSE KIND OF PLACES FOR
15 A WHILE.

16 THE COURT: HOPEFULLY FOR A LONG WHILE.

17 MR. CRAIN: THIS CASE MAY PUT ME THERE SOONER.

18 THE WITNESS: YOUR HONOR, I HAVE A HEARING
19 IMPAIRMENT IN MY LEFT EAR.

20 THE COURT: PULL THAT MICROPHONE UP.

21 BY MR. CRAIN:

22 Q HEAR ME BETTER NOW?

23 A YES.

24 Q NOW, WERE YOU ABLE TO HEAR ALL THE QUESTIONS
25 I JUST ASKED YOU OVER THE LAST COUPLE OF MINUTES?

26 A YES.

27 Q OKAY.

28 NOW, IN THE PAST DID YOU WORK FOR ANY

11

1 MORTUARIES?

2 A YES.

3 Q AND DID YOU WORK FOR PIERCE BROTHERS?

4 A YES, I DID.

5 Q DID YOU WORK FOR ANOTHER MORTUARY CALLED
6 GUERRA AND GUTIERREZ?

7 A YES. YES, I DID.

8 Q DO YOU -- NOW, ARE YOU PERSONALLY ACQUAINTED
9 WITH MR. HUNT, OVER HERE, THE GENTLEMAN AT THE END OF THE
10 TABLE WEARING THE BLUE JUMP SUIT?

11 A NO, SIR, I'M NOT.

12 Q NOW, DURING THE YEAR 1985 DID YOU TAKE ANY
13 TRIPS OUT OF THE COUNTRY?

14 A YES, I DID.

15 Q AND WHERE DID YOU GO?

16 A TO SOUTH AMERICAN, SPECIFICALLY BRAZIL.

17 Q AND DID YOU BRING A PASSPORT TO COURT TODAY
18 THAT REFLECTS THAT TRIP TO BRAZIL?

19 A YES, I DID.

20 MR. CRAIN: YOUR HONOR, IT'S AVAILABLE.

21 UNFORTUNATELY, THE COURT MAY NOT BE TOO SURPRISED TO
22 LEARN, IT'S NOT BEEN IDENTIFIED AS AN EXHIBIT BECAUSE I
23 DIDN'T KNOW ABOUT IT. HOWEVER, I DO KNOW ABOUT IT NOW.
24 IF THERE'S ANY ISSUE ABOUT THIS PARTICULAR POINT, I'LL BE
25 HAPPY TO --

26 THE COURT: MY SUGGESTION -- I ASSUME MR. WERNER IS
27 NOT GOING TO WANT TO GIVE UP THE PASSPORT.

28 MR. CRAIN: NOT THE ORIGINAL.

11 1 THE COURT: AT THE BREAK WE HAVE A XEROX MACHINE
2 AVAILABLE IN THE LAW CLERK'S OFFICE. MY SUGGESTION WOULD
3 BE THAT YOU MAKE A COPY AND MARK IT AS AN EXHIBIT. I
4 ASSUME MR. MC MULLEN WOULD HAVE NO OBJECTION TO A COPY
5 BEING PREPARED.

6 MR. MC MULLEN: I DON'T THINK WE WOULD, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MR. CRAIN: THANK YOU.

9 BY MR. CRAIN:

10 Q NOW, MR. WERNER, YOU WENT TO BRAZIL AND DID
11 YOU GO THERE WITH ANYONE?

12 A YES, MY WIFE, IRENE.

13 Q AND DO YOU REMEMBER AT THIS POINT WITHOUT
14 LOOKING AT YOUR PASSPORT APPROXIMATELY WHEN YOU WERE IN
15 BRAZIL?

16 A MARCH, 1985.

17 Q AND FOR ABOUT HOW LONG WERE YOU VISITING
18 THERE?

19 A WE WERE THERE ABOUT -- A LITTLE BETTER THAN
20 TWO WEEKS.

21 Q IS THIS A VACATION -- WERE YOU THERE AS A
22 TOURIST?

23 A VACATION.

24 Q AND THEN DID YOU RETURN TO LOS ANGELES?

25 A THE LATER PART OF MARCH, EARLY APRIL OF THE
26 SAME YEAR, 1985.

27 Q AND LOS ANGELES WAS YOUR HOME THEN?

28 A YES, SIR.

11 1 Q AND IT IS NOW?

2 A YES, SIR.

3 Q AND AFTER YOU RETURNED TO LOS ANGELES FROM
4 YOUR VACATION IN BRAZIL AT SOME POINT AFTER THAT, THAT
5 SPRING, DID YOU WORK AT ANY FUNERALS WHERE YOU SAW -- I
6 DON'T KNOW HOW TO ASK THIS WITHOUT APPEARING TO BE -- LET
7 ME SHOW YOU A PHOTOGRAPH AND ASK YOU IF YOU EVER SEEN THIS
8 PERSON BEFORE.

9
10 (PAUSE.)

11
12 MR. CRAIN: APPROACH THE WITNESS, YOUR HONOR?

13 THE COURT: YES.

14 BY MR. CRAIN:

15 Q MR. WERNER, SHOWING YOU WHAT'S BEEN MARKED AS
16 PETITIONER'S EXHIBIT 1. DO YOU SEE THE MAN IN THAT
17 PHOTOGRAPH?

18 A YES, I DID.

19 Q HAVE YOU EVER SEEN THAT MAN BEFORE?

20 A NO, SIR, I HAVE NOT.

21 Q PARDON ME?

22 A I SAW HIM ONCE.

23 THE COURT: I THINK HE HAS MISUNDERSTOOD YOUR
24 QUESTION.

25 MR. CRAIN: COULD PERHAPS THE RECORD REFLECT THAT I
26 WAS WALKING AWAY FROM THE WITNESS.

27 THE COURT: YEAH.
28

11 1 BY MR. CRAIN:

2 Q ALL RIGHT.

3 HAVE YOU SEEN THAT MAN BEFORE, ONCE OR AT ANY
4 OTHER TIME?

5 A I SAW HIM ONE TIME, SIR.

6 Q AND WHERE WAS THAT?

7 A IT WAS AT A FUNERAL SERVICE AT SOME TIME IN
8 1985 AFTER WE RETURNED FROM BRAZIL.

9 Q OKAY.

10 NOW, DO YOU REMEMBER THE NAME OF THE PERSON
11 FOR WHOM THE SERVICE WAS BEING HELD? DO YOU REMEMBER THAT
12 AT THIS TIME?

13 A NO, SIR, I DO NOT.

14 Q AND DO YOU RECALL WHERE THE SERVICE WAS?

15 A YES, SIR, I DO.

16 Q WHERE WAS THAT, MR. WERNER?

17 A WESTWOOD VILLAGE MORTUARY AND MEMORIAL PARK
18 IN LOS ANGELES.

19 Q AND AT THAT TIME FOR WHOM WERE YOU EMPLOYED,
20 BY WHOM WERE YOU EMPLOYED?

21 A WESTWOOD VILLAGE MORTUARY AND MEMORIAL PARK.

22 Q NOW, DID THE PIERCE MORTUARY HAVE ANYTHING TO
23 DO WITH WESTWOOD MORTUARY AT THAT TIME?

24 A NOT AT THAT TIME, NO.

25 Q SO YOU HAVE -- OKAY.

26 YOU ARE -- YOU WERE THERE AT THIS FUNERAL IN
27 WHAT CAPACITY?

28 A I WAS THERE AS THE FULL-SERVICE, LICENSED

11 1 EMBALMER/FUNERAL DIRECTOR.

2 Q IN A FEW WORDS WHAT WOULD YOU BE CALLED UPON
3 TO DO AT A SERVICE SUCH AS THAT? WHAT WOULD YOUR ROLE BE?

4 A IN THE 15 YEARS THAT I WAS THERE I MADE
5 FUNERAL ARRANGEMENTS, I PREPARED DEAD HUMAN REMAINS FOR
6 BURIAL, SHIPMENT ALL OVER THE UNITED STATES, THROUGHOUT
7 THE WORLD, WORKED FUNERALS, DIRECTED FUNERALS, MADE
8 REMOVALS OF DECEASED PEOPLE, FILED DEATH CERTIFICATES,
9 WORKED AS A HEALTH PARTICIPANT IN THE HEALTH DEPARTMENT,
10 LIAISON BETWEEN THE LOS ANGELES COUNTY CORONER AND THE
11 MORTUARY. IT WAS MORE THAN ONE FIRM THAT WE HAVE.

12 Q NOW, ON THIS PARTICULAR OCCASION WAS THIS IN
13 THE MORNING OR THE AFTERNOON OR IN THE EVENING?

14 A IT WAS IN THE EARLY AFTERNOON.

15 Q AND ABOUT HOW MANY PEOPLE WOULD YOU SAY
16 ATTENDED THAT PARTICULAR --

17 A NO LESS THAN 50.

18 Q AND DURING THE COURSE OF THE TIME THAT YOU
19 WERE THERE, WHICH WOULD HAVE BEEN OVER WHAT PERIOD OF
20 TIME, WOULD YOU SAY, THAT YOU WERE ACTUALLY AT THE
21 MORTUARY -- CAN YOU HEAR ME OKAY?

22 A REPEAT THE QUESTION AGAIN.

23 Q OKAY.

24 HOW LONG WERE YOU THERE AT THE MORTUARY THAT
25 AFTERNOON? I MEAN, AT THE PLACE WHERE THE SERVICE WAS.

26 A OTHER THAN THINGS THAT I HAD TO DO WITH OTHER
27 FUNERALS I WAS THERE PROBABLY 95 PERCENT OF THE DAY.

28 Q OKAY.

12 1 NOW, SOMETIME, WAS IT DURING THE SERVICE THAT
2 YOU SAW THE MAN WHO IS SHOWN IN THAT PICTURE UP THERE?

3 A IT WAS PRIOR TO THE SERVICE, SIR.

4 Q OKAY.

5 COULD YOU TELL THE COURT WHAT YOU SAW?

6 A WE HAD A STANDING RULE THAT IF YOU ARE GOING
7 TO WORK A FUNERAL SERVICE OR YOU WERE THE DIRECTOR,
8 ARRANGER ON THAT SERVICE YOU HAD TO BE OUTSIDE AT THE
9 CHAPEL AT LEAST 30 MINUTES PRIOR TO THE SERVICE TIME, AND
10 MY JOB SPECIFICALLY THAT AFTERNOON WAS TO PARK VEHICLES
11 AND TO ASSIST THE DIRECTOR THAT MADE THE FUNERAL
12 ARRANGEMENTS AND TO USHER IN ANY PEOPLE THAT CAME IN
13 THROUGH THE FRONT DOOR. THERE IS ONLY ONE ENTRANCE TO THE
14 CHAPEL. AND HAVE THEM SIGN THE REGISTER BOOK.

15 Q NOW, THIS MAN THAT IS SHOWN IN THE PHOTOGRAPH
16 THERE, DID HE SIGN THE REGISTER BOOK?

17 A I BELIEVE HE DID, SIR. HE WAS ONE OF THE
18 FIRST PEOPLE THERE.

19 Q DID YOU SEE THE NAME THAT HE SIGNED OR NOT?

20 A NO, SIR, I DID NOT.

21 Q WHEN YOU SAY HE SIGNED IT, WHAT DID HE APPEAR
22 TO BE DOING THAT LET YOU TO BELIEVE THAT HE WAS SIGNING
23 IT?

24 A BECAUSE I WAS STANDING RIGHT THERE BEHIND
25 THE -- THE PODIUM. IT'S JUST A LECTERN AND THE BOOK WAS
26 FACING HIM, AND I WAS FACING HIM AS HE SIGNED.

27 Q WHAT DID THIS PERSON LOOK LIKE THAT YOU SAW,
28 THE MAN SHOWN IN THAT PHOTO RIGHT THERE? JUST DESCRIBE

12 1 HIM, HIS BUILD, HIS HEIGHT, ANYTHING ELSE YOU NOTICED
2 ABOUT HIM.

3 A ALMOST IDENTICAL TO THIS PHOTOGRAPH. ALMOST
4 IDENTICAL. HE WAS -- HE WAS MORE THAN DISTINGUISHED
5 LOOKING. HE WAS IMPECCABLY DRESSED. I TALKED TO HIM TWO
6 OR THREE DIFFERENT TIMES BECAUSE THERE WERE ONLY MYSELF,
7 ANOTHER PERSON FROM THE MORTUARY AND TWO OR THREE OTHERS
8 THAT HAD ARRIVED EARLIER BECAUSE I WAS OUTSIDE FROM
9 ABOUT -- 20 MINUTES ALL THE WAY UP TO SERVICE TIME TILL I
10 CLOSED THE DOOR.

11 Q SO HE WAS ONE OF THE EARLY ARRIVALS; IS THAT
12 RIGHT?

13 A YES, HE WAS.

14 Q CAN YOU TELL US WHETHER OR NOT HE STAYED
15 THROUGH THE SERVICE OR NOT? DO YOU KNOW? DO YOU
16 REMEMBER?

17 A I BELIEVE HE DID, BUT I COULD BE MISTAKEN.

18 Q ALL RIGHT.

19 SO YOU TALKED TO HIM TWO OR THREE TIMES; IS
20 THAT RIGHT?

21 A YEAH, JUST GENERAL CONVERSATION ABOUT THE
22 WEATHER OR WHATEVER I COULD REMEMBER, BUT -- THERE WERE
23 THINGS ABOUT THIS MAN THAT -- HE LOOKED LIKE A CORPORATE
24 OFFICER. I MEAN, HE WAS JUST IMMACULATELY, IMPECCABLY
25 DRESSED. I'M A BARBER, HAIRDRESSER BY PROFESSION. HIS
26 BEARD WAS IMMACULATE. HIS HAIR JUST -- JUST THE WAY HIS
27 DEMEANOR WAS.

28 Q AND WHAT DID HIS PHYSIQUE LOOK LIKE, HIS

12 1 HEIGHT, HIS BUILD? COULD YOU TELL US THAT?

2 A ABOUT MEDIUM BUILD. TALLER THAN I WAS.

3 Q HOW TALL ARE YOU?

4 A SIX FOOT.

5 Q SO HE WAS TALLER THAN YOU WERE; RIGHT?

6 A I BELIEVE HE WAS.

7 Q OKAY.

8 AND WAS THERE ANYTHING ELSE ABOUT THE PERSON
9 THAT STOOD OUT IN YOUR MIND?

10 A THE THING THAT I REMEMBER IS JUST A LOT OF
11 GOLD JEWELRY.

12 Q DID YOU NOTICE ANYTHING ABOUT HIS TEETH AT
13 ALL OR NOT?

14 A NO, SIR, I DID NOT.

15 Q NOW, AT SOME POINT -- DO YOU REMEMBER
16 ANYTHING ELSE ABOUT THE PERSON WHOSE FUNERAL IT WAS?

17 A I -- I COULD ELABORATE A LITTLE BIT ON THAT
18 BECAUSE ONE OF THE DIRECTORS CAME OUT WHILE THE SERVICE
19 WAS IN PROGRESS, OUR MORTUARY MANAGER, AND ASKED ME
20 SOMETHING PERTAINING TO ANOTHER DEATH, BUT WHAT I HEARD IN
21 THE OFFICE WAS THAT THE GENTLEMAN -- THE MEMORIAL SERVICE,
22 THERE WAS NO BODY PRESENT, BUT I BELIEVE HIS BODY WAS IN A
23 REFRIGERATOR UNIT IN THE PARK AT THAT TIME.

24 IN OTHER WORDS, THE BODY HADN'T BEEN CREMATED
25 YET. THAT THIS PERSON SUPPOSEDLY HAD BILKED A LOT OF
26 PEOPLE IN SOME TYPE OF A SCHEME INVOLVING GOLD COINS OR
27 SOMETHING OR GOLD BULLION OR SOMETHING, AND HE COMMITTED
28 SUICIDE, BUT HE COMMITTED SUICIDE IN SUCH A WAY THAT IT

13 1 WAS A VERY UNUSUAL DEATH IN THAT HE HOOKED HIS CAR EXHAUST
2 UP IN TO SOME KIND OF SAUNA AND ASPHYXIATED HIMSELF. THAT
3 I DO REMEMBER.

4 I DO REMEMBER THAT HE WAS OF THE JEWISH FAITH
5 AND HE'S INTERRED IN THAT PARK, WESTWOOD MEMORIAL PARK,
6 AND RELATIVELY HE WAS A FAIRLY YOUNG MAN. IN HIS LATE
7 40'S OR EARLY 50'S.

8 Q THIS IS INFORMATION YOU GATHERED ABOUT THE
9 DECEASED WHOSE SERVICE IT WAS THAT --

10 A THIS IS WHAT I KNEW ABOUT THE DECEASED MAN
11 BECAUSE THEY WERE TALKING IN THE OFFICE A DAY OR SO
12 BEFORE.

13 Q OKAY.

14 GOING BACK TO THE MAN WHOSE PICTURE YOU SEE
15 UP THERE, DID HE WEAR JEWELRY THAT YOU NOTICED?

16 A YES, SIR.

17 Q WHAT DID YOU NOTICE ABOUT THAT, MR. WERNER?

18 A IT'S A FETISH OF MINE, WITH JEWELRY. I HAVE
19 DONE A LOT OF INVESTING IN GOLD JEWELRY AND SUCH OVER THE
20 YEARS, AND IT -- IN FACT, I COMMENTED ABOUT A RING THAT HE
21 WAS WEARING.

22 THE COURT: I'M SORRY?

23 THE WITNESS: HE HAD AN I.D. BRACELET.

24 THE COURT: YOU ARE TALKING ABOUT THE GENTLEMAN IN
25 EXHIBIT 1?

26 THE WITNESS: YES, SIR. YES, SIR.

27 THE COURT: ALL RIGHT.

28 THE WITNESS: IT JUST -- THINGS THAT I -- THINGS

13 1 THAT I JUST RECALL.

2 BY MR. CRAIN:

3 Q NOW, YOU ARE WEARING GLASSES TODAY?

4 A YES.

5 Q AND BACK IN 1986 DID YOU WEAR GLASSES ALSO?

6 A YES, SIR, I HAVE WORN GLASSES SINCE I WAS
7 FIVE YEARS OLD.

8 Q AND WITH YOUR GLASSES DO YOU HAVE TROUBLE
9 SEEING PEOPLE FROM -- AT ANY DISTANCE?

10 A BY FARSIGHTED -- I'M FAR-SIGHTED, BUT THIS
11 MAN WAS SO CLOSE TO ME. HE COULDN'T -- HE COULDN'T HAVE
12 BEEN MORE THAN AT ANY GIVEN TIME, NO MORE THAN SIX FEET
13 AWAY FROM ME.

14 Q SO DURING THE TWO OR THREE TIMES THAT YOU HAD
15 CONVERSATIONS WITH HIM IS WHAT YOU ARE SAYING IS THAT HE
16 WAS ABOUT SIX FEET AWAY?

17 A THE FIRST TIME I MET HIM HE WAS NO MORE THAN
18 A FOOT AWAY FROM ME. HE WAS BETWEEN ME AND A LECTERN.

19 Q THAT AFTERNOON DURING ALL OF THIS TIME WERE
20 YOU WEARING YOUR GLASSES?

21 A YES, SIR.

22 Q YOU WERE WEARING THEM WHILE YOU WERE SEEING
23 THE MAN WHOSE PICTURE IS UP THERE, BUT YOU --

24 A YES, SIR.

25 Q DID YOU HAVE ANY TROUBLE SEEING HIM OR MAKING
26 OUT WHAT HE LOOKED LIKE?

27 A NO, SIR.

28 Q AND AT SOME POINT AFTER THAT DID YOU SEE

1 ANYTHING ABOUT THIS MAN IN THE NEWSPAPER?

2 A YES, I DID.

3 Q DO YOU KNOW WHEN THAT WAS, APPROXIMATELY? I
4 KNOW IT'S BEEN SOME TIME NOW.

5 A 1987, PROBABLY EARLY '88.

6 Q AND JUST IN GENERAL WHAT DID YOU SEE IN THE
7 NEWSPAPER?

8 A I SAW A PICTURE THAT WAS ALMOST IDENTICAL TO
9 THIS ONE.

10 Q YOU ARE HOLDING UP --

11 MR. CRAIN: FOR THE RECORD, YOUR HONOR,
12 PETITIONER'S 1.

13 THE COURT: EXHIBIT 1.

14 THE WITNESS: IT DIDN'T LOOK ANY DIFFERENT IN THE
15 NEWSPAPER THAN IT DID HERE. IT WAS THE SAME.

16 BY MR. CRAIN:

17 Q AND WAS THERE -- WAS THERE SOME NEWS STORY
18 THAT WENT ALONG WITH THAT PICTURE OF THAT MAN?

19 A I BELIEVE THERE WAS.

20 Q AND WHAT WAS IT ABOUT, AS BEST YOU RECALL AT
21 THIS TIME, YEARS LATER?

22 A SOMETHING ABOUT A MAN HAD BEEN MURDERED AND,
23 SUPPOSEDLY THE GENTLEMAN THAT WAS IN THIS PICTURE, AND
24 THAT SOMEBODY EITHER WAS ON TRIAL OR HAD BEEN CONVICTED OF
25 IT. AND I REMEMBER IT WAS DURING A QUIET PERIOD AT THE
26 MORTUARY BECAUSE I REALLY DIDN'T HAVE TIME TO READ A
27 NEWSPAPER. AND I WENT BACK TO IT AND I LOOKED AT IT, AND
28 I LOOKED AT THE PICTURE TWO OR THREE DIFFERENT TIMES, AND

1 I SAID, "I HAVE SEEN THAT PERSON," AND THEN I REMEMBERED
2 WHERE I HAD SEEN HIM.

3 Q WERE YOU SURE IN YOUR OWN MIND THAT THIS WAS
4 THE SAME MAN?

5 A POSITIVE, POSITIVE.

6 Q YOU FEEL THAT WAY TODAY?

7 A EITHER THE MAN I SAW WAS THERE IN PERSON OR
8 HIS TWIN BROTHER. THAT'S ALL I CAN TELL YOU. IT WAS --
9 150 PERCENT. ,

10 Q OKAY.

11 NOW, AFTER YOU SAW THIS ARTICLE IN THE
12 NEWSPAPER DID YOU DO ANYTHING ABOUT IT?

13 A I CALLED THE BEVERLY HILLS POLICE DEPARTMENT.

14 Q AND WAS THAT RIGHT AWAY OR LATER OR WHAT?

15 A PROBABLY -- I WOULD SAY IT WAS A VERY SHORT
16 TIME THEREAFTER.

17 Q AND DO YOU RECALL -- I AM SORRY, I DIDN'T --

18 MR. CRAIN: COULD I HAVE THE LAST ANSWER AGAIN?

19 THE COURT: EITHER THAT DAY OR SHORTLY THEREAFTER.

20 MR. CRAIN: THANK YOU.

21 BY MR. CRAIN:

22 Q NOW, IT WAS -- IF IT WAS NOT THAT DAY OR
23 SHORTLY THEREAFTER, WHAT WOULD BE THE HOUR TIME LIMIT THAT
24 YOU WOULD SAY IT WAS BETWEEN THE TIME YOU SAW THE ARTICLE
25 AND THE TIME YOU CALLED THE BEVERLY HILLS POLICE?

26 A I BELIEVE IT WAS THE SAME DAY I SAW THE
27 PHOTOGRAPH, SIR.

28 Q OKAY.

13 1 YOU TALKED TO SOMEONE THERE, DID YOU, AT THE
2 POLICE STATION, POLICE DEPARTMENT?

3 A I LEFT A MESSAGE, AND THEY CALLED ME BACK A
4 WEEK, TEN DAYS LATER.

5 Q DO YOU KNOW THE NAME OF THE PERSON THAT YOU
6 SPOKE WITH --

7 A NO, SIR, I DON'T.

14 8 Q -- ON THE FIRST CALL?

9 A NO, SIR, I DON'T.

10 Q OKAY.

11 BUT AT ANY EVENT, SOMEBODY CALLED YOU BACK,
12 AND DID THAT PERSON IDENTIFY HIMSELF OR HERSELF AS A
13 POLICE OFFICER WITH THE BEVERLY HILLS --

14 A I BELIEVE THEY DID.

15 THE COURT: HOLD ON. WAIT UNTIL HE FINISHES HIS
16 QUESTION SO WE CAN GET THE QUESTION AND ANSWER.

17 GO.

18 MR. CRAIN: THANK YOU.

19 BY MR. CRAIN:

20 Q DID YOU TALK TO SOMEBODY THAT YOU THOUGHT WAS
21 A POLICE OFFICER AND TOLD HIM THAT YOU HAD SEEN THIS MAN A
22 COUPLE OF YEARS AGO?

23 A I DID.

24 Q WHERE WERE YOU WHEN YOU HAD THIS CONVERSATION
25 AFTER THEY CALLED YOU BACK? WERE YOU AT WORK?

26 A YES, SIR, I WAS.

27 Q WHERE WERE YOU WORKING AT THAT TIME?

28 A GUERRA AND GUTIERREZ MORTUARY IN MONTEBELLO.

DID YOU TELL THEM ABOUT THE FUNERAL AND --
D SEEN THE MAN?

YES, SIR, I DID.

DO YOU REMEMBER HOW LONG THIS CONVERSATION

COUPLE OF MINUTES.

OKAY.

AND HOW WAS IT LEFT? WERE YOU TOLD TO
DID SOMEBODY CONTACT YOU AGAIN, OR HOW WAS IT

NO. THE POLICE OFFICER TOLD ME, HE SAID THAT
THEY HAD THE RIGHT PERSON, BUT THEY'D LOOK INTO
HAT WAS THE LAST I'D HEARD.

NOW, IN 1994 DID YOU CONTACT ANYONE ELSE
WITH THIS CASE THAT YOU READ ABOUT?
E COURT: I'M SORRY, WHAT YEAR?

(PAUSE.)

RAIN:

2 IN 1994 DID YOU CALL MY OFFICE, DO YOU

A YES, SIR, I DID.

Q AND WHAT LED YOU TO DO THAT?

A I SAW SOMETHING IN THE PAPER, AND I HAD
YOUR OFFICE TO LET YOU KNOW THAT I HAD CALLED THE
Y HILLS POLICE DEPARTMENT SOME YEARS BEFORE.

Q AND DID YOU PROVIDE THE INFORMATION AT THAT

14

1 Q DID YOU TELL THEM ABOUT THE FUNERAL AND --
2 WHERE YOU HAD SEEN THE MAN?

3 A YES, SIR, I DID.

4 Q DO YOU REMEMBER HOW LONG THIS CONVERSATION
5 LASTED?

6 A COUPLE OF MINUTES.

7 Q OKAY.

8 AND HOW WAS IT LEFT? WERE YOU TOLD TO
9 STANDBY, OR DID SOMEBODY CONTACT YOU AGAIN, OR HOW WAS IT
10 LEFT?

11 A NO. THE POLICE OFFICER TOLD ME, HE SAID THAT
12 THEY FELT THEY HAD THE RIGHT PERSON, BUT THEY'D LOOK INTO
13 IT, AND THAT WAS THE LAST I'D HEARD.

14 Q NOW, IN 1994 DID YOU CONTACT ANYONE ELSE
15 CONNECTED WITH THIS CASE THAT YOU READ ABOUT?

16 THE COURT: I'M SORRY, WHAT YEAR?

17

18 (PAUSE.)

19

20 BY MR. CRAIN:

21 Q IN 1994 DID YOU CALL MY OFFICE, DO YOU
22 RECALL?

23 A YES, SIR, I DID.

24 Q AND WHAT LED YOU TO DO THAT?

25 A I SAW SOMETHING IN THE PAPER, AND I HAD
26 CALLED YOUR OFFICE TO LET YOU KNOW THAT I HAD CALLED THE
27 BEVERLY HILLS POLICE DEPARTMENT SOME YEARS BEFORE.

28 Q AND DID YOU PROVIDE THE INFORMATION AT THAT

717

14

1 TIME TO SOMEONE IN MY OFFICE THAT YOU HAD SEEN THE PERSON
2 SHOWN IN THE PHOTOGRAPH?

3 A YES, I DID.

4 Q AND THAT YOU HAD CALLED THE POLICE?

5 A YES, I DID.

6 Q OKAY.

7 DO YOU REMEMBER APPROXIMATELY WHEN YOU
8 STARTED WORK AT THE GUERRA AND GUTIERREZ MORTUARY?

9 A YEAH. FEBRUARY -- THE FIRST WEEK OF
10 FEBRUARY, 1987.

11 Q AND ABOUT HOW LONG AFTER YOU BEGAN WORKING AT
12 THAT MORTUARY WAS IT THAT YOU FIRST CONTACTED THE BEVERLY
13 HILLS POLICE ABOUT HAVING SEEN THE MAN AT THE EARLIER
14 FUNERAL?

15 A I CAN'T RECALL THAT, SIR.

16 Q WAS IT WITHIN A COUPLE OF MONTHS, OR DO YOU
17 HAVE ANY RECOLLECTION AT ALL?

18 A IT'S POSSIBLE. IT COULD HAVE EVEN BEEN
19 LONGER.

20 MR. CRAIN: OKAY.

21 I DON'T HAVE ANY OTHER QUESTIONS.

22 THANK YOU.

23 THE COURT: LET'S TAKE OUR AFTERNOON RECESS NOW AND
24 GIVE THE REPORTER A BREAK. SEE EVERYONE BACK IN A FEW
25 MINUTES.

26

27 (RECESS.)

28

2 1 THE COURT: IN THE MATTER OF JOSEPH HUNT, THE
2 2 RECORD WILL REFLECT ALL COUNSEL AND PETITIONER ARE
3 3 PRESENT. THE WITNESS IS ON THE STAND.

4 4 MR. CRAIN: MAY I REOPEN FOR JUST A SECOND?

5 5 THE COURT: GO AHEAD.

6 6 MR. CRAIN: THANK YOU.

7
8 IVAN WERNER, +
9 9 CALLED AS A WITNESS BY THE PETITIONER, HAVING BEEN
10 10 PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED FURTHER
11 11 AS FOLLOWS:

12
13 DIRECT EXAMINATION REOPENED +
14
15 15 BY MR. CRAIN:

16 Q MR. WERNER, I BELIEVE YOU TOLD US YOU ARE
17 17 SOMEWHAT HARD OF HEARING; IS THAT CORRECT?

18 A YES, SIR.

19 Q WHEN YOU WERE ON THE STAND WHERE YOU ARE NOW
20 20 BEFORE THE BREAK DID YOU HEAR ME ASK YOU A QUESTION ABOUT
21 21 TEETH OR NOT?

22 A I THOUGHT IT WAS PERTAINING TO JEWELRY, SIR.

23 Q ALL RIGHT.

24 NOW, LET ME ASK YOU THIS AGAIN.

25 THE MAN THAT YOU SAW AT THE FUNERAL SERVICE
26 26 IN 1985, DID YOU NOTICE ANYTHING UNUSUAL ABOUT HIS MOUTH
27 27 OR HIS TEETH OR ANYTHING INSIDE HIS MOUTH AS YOU TALKED TO
28 28 HIM?

2 1 A YEAH, I THOUGHT I NOTICED THAT HE HAD GOLD --
2 YELLOW METAL IN THE LOWER PART OF HIS -- IT WOULD BE THE
3 LEFT JAW (INDICATING).

4 THE COURT: POINTING TO THE LEFT JAW AREA.
5 BY MR. CRAIN:

6 Q IN OTHER WORDS, LIKE GOLD, GOLD FILLINGS?

7 A I BELIEVE THEY WERE, SIR.

8 MR. CRAIN: THANK YOU.

9 NOTHING FURTHER.

10 THE COURT: CROSS EXAMINATION?

11 MR. MC MULLEN: MAY I PROCEED, YOUR HONOR?

12 THE COURT: YES.

13
14 CROSS-EXAMINATION @
15

16 BY MR. MC MULLEN:

17 Q SIR, HOW LONG DID YOU WORK AT THAT PARTICULAR
18 MORTUARY WHERE YOU -- REGARDING THIS INCIDENT YOU
19 DESCRIBED WHERE YOU IDENTIFIED A MAN?

20 A 15 YEARS PLUS, SIR.

21 THE COURT: HOLD ON.

22 YOU ARE TALKING ABOUT THE WESTWOOD MORTUARY?

23 MR. MC MULLEN: YEAH, WESTWOOD MORTUARY.

24 THE WITNESS: 15 YEARS PLUS.

25 BY MR. MC MULLEN:

26 Q IT WAS ALWAYS THE WESTWOOD MORTUARY OR WAS
27 THE OWNERSHIP INVOLVED WITH SOMEONE ELSE?

28 A THE OWNERSHIP CHANGE DIDN'T TAKE PLACE UNTIL

2 1 JULY 16TH, 1986.

2 Q AND THERE WAS A CHANGE IN OWNERSHIP AT THAT
3 TIME?

4 A YES. IT WENT TO A MAJOR CORPORATION.

5 Q WHO OWNED THE MORTUARY BEFORE THAT TIME?

6 A JIM AND CLARANCE PIERCE MORTUARIES.

7 Q DO YOU REMEMBER A MAN BY THE NAME OF BILL
8 PIERCE?

9 A YES.

10 Q WHO WAS THAT?

11 A THAT WAS JIM PIERCE'S SON.

12 Q WAS HE ASSOCIATED WITH THIS WESTWOOD
13 MORTUARY?

14 A YES, SIR, HE WAS.

15 Q AND IN WHAT CAPACITY WAS HE ASSOCIATED THERE?

16 A GENERAL MANAGER.

17 Q WAS HE GENERAL MANAGER THE WHOLE TIME YOU
18 WORKED THERE, THE 15 YEARS YOU WERE THERE?

19 A OFF AND ON, YES, SIR.

20 Q SO EVEN WHEN THE OWNERSHIP CHANGED HE
21 CONTINUED TO BE GENERAL MANAGER?

22 A NO, SIR. HE WAS -- HE STAYED ON A SHORT
23 WHILE AND THEN THEY SENT HIM SOMEPLACE ELSE. WITHIN THE
24 SAME COMPANY BUT A DIFFERENT LOCATION.

25 Q ALL RIGHT.

26 ARE YOU -- WELL, LET ME BACK THAT UP A LITTLE
27 BIT.

28 ARE RECORDS KEPT WITH REGARD TO FUNERAL

2 1 SERVICES THAT OCCURRED AT THAT MORTUARY WHERE YOU WORKED?

2 A IMPECCABLE RECORDS, SIR.

3 Q SO EACH -- EACH PERSON THAT WOULD -- FOR
4 WHICH THERE WOULD BE A SERVICE AT THAT WESTWOOD MORTUARY
5 THERE WOULD BE SOME SORT OF FILE OR RECORD KEPT OF THAT?

6 A YES, SIR, THERE WOULD BE.

7 Q WOULD THEY DESCRIBE THINGS SUCH AS CAUSE OF
8 DEATH OR IF THERE WERE A CORONER'S INQUIRY INTO THE CAUSE
9 OF DEATH?

10 A IF IT WERE A CORONER'S CASE, YES, SIR, IT
11 WOULD BE.

12 MR. KLEIN: EXCUSE ME, YOUR HONOR. COULD I MAKE A
13 PHONE CALL WHILE THIS IS GOING ON? IT WILL BE VERY QUIET.

14 MR. CRAIN: IT HAS TO DO WITH A PARTICULAR WITNESS.

15 THE COURT: ALL RIGHT.

16 MR. KLEIN: THANK YOU.

17 BY MR. MC MULLEN:

18 Q IN YOUR EXPERIENCE IN THIS FIELD WOULD A
19 SUICIDE BE SOMETHING THAT THE CORONER WOULD TYPICALLY
20 BECOME INVOLVED IN?

21 A ABSOLUTELY.

22 Q ARE YOU ABSOLUTELY CERTAIN AS YOU SIT HERE
23 TODAY THAT YOU OBSERVED THIS MAN AFTER YOU CAME BACK FROM
24 BRAZIL IN 1985?

25 A YES, SIR.

26 Q IS IT POSSIBLE YOU COULD BE MISTAKEN AND THAT
27 THAT EVENT OCCURRED PRIOR TO 1985?

28 A I COULD HAVE BEEN MISTAKEN, BUT IN THIS

2
1 PERSPECTIVE: IT WAS -- IT COULD HAVE BEEN AFTER 1985.
2 COULD HAVE BEEN AFTER THE TIME WE CAME BACK. IT COULD
3 HAVE BEEN 1986, BUT IT DEFINITELY WAS NOT PRIOR TO 1985.

4 Q BUT YOUR BEST RECOLLECTION IS THAT THE
5 FUNERAL THAT YOU ARE TALKING ABOUT OCCURRED RIGHT AFTER
6 YOU GOT BACK FROM -- OR SOMETIME AFTER -- SHORTLY
7 THEREAFTER?

8 A COULD HAVE BEEN WITHIN THREE OR FOUR MONTHS
9 AFTER.

10 Q AND WHEN DID YOU GET BACK?

11 A WE -- THE END OF MARCH, EARLY APRIL, '85.

12 MR. CRAIN: I NEGLECTED TO GET THE PASSPORT COPIED
13 DURING THE RECESS. COULD I JUST GET IT FROM THE WITNESS
14 AND MAYBE -- WHILE HE IS QUESTIONING HIM?

15 THE COURT: IF YOU WANT, I'LL HAVE THE LAW CLERK
16 RUN IT OFF FOR YOU.

17 MR. CRAIN: APPRECIATE IT.

18 DO YOU HAVE THE PASSPORT?

19 THE WITNESS: YES, I DO.

20 MR. CRAIN: OKAY.

21 THANK YOU.

22 BY MR. MC MULLEN:

23 Q DURING 1985 HOW MANY FUNERAL SERVICES DID YOU
24 PARTICIPATE IN, APPROXIMATELY?

25 A I PARTICIPATED PROBABLY IN 85 PERCENT OF ALL
26 THE FUNERALS IN THAT MORTUARY. I WAS KEY STAFF.

27 THE COURT: MR. CRAIN, LET'S GO AHEAD AND HAVE HIM
28 MAKE COPIES OF THE ENTIRE PASSPORT IN CASE SOME ISSUE

3 1 ARISES. EVERY PAGE OF THE PASSPORT.

2 MR. CRAIN: ALL RIGHT.

3 BY MR. MC MULLEN:

4 Q YOU PARTICIPATED IN 85 PERCENT OF THE FUNERAL
5 SERVICES THAT OCCURRED IN 1985 AT THAT MORTUARY. DO YOU
6 HAVE ANY IDEA IN TERMS OF NUMBERS HOW MANY THAT MIGHT BE?

7 A WE DID AT THAT TIME APPROXIMATELY 1,000
8 FUNERALS A YEAR.

9 Q SO APPROXIMATELY 850 FUNERALS YOU
10 PARTICIPATED IN IN 1985?

11 A LET ME PUT IT TO YOU IN ANOTHER WAY. I
12 PARTICIPATED PROBABLY NOT BEING ACTIVE AT EVERY SERVICE,
13 BUT AS FAR AS PREPARATION OF THE DECEASED AND MAKING THE
14 REMOVAL I WAS IT. BILL PIERCE WAS THE OTHER ONE. THERE
15 WERE ONLY TWO OF US. WE WERE WAY BELOW STAFF.

16 Q WHAT I AM INTERESTED IN IS HOW MANY ACTUAL
17 SERVICES WHERE YOU HAVE PEOPLE COMING AND ATTENDING AND
18 YOU ARE DOING THE THINGS LIKE YOU DID AT THIS PARTICULAR
19 FUNERAL THAT YOU HAVE TESTIFIED TO. HOW MANY OF THOSE?

20 A SOMETIMES TWO OR THREE A DAY.

21 Q AND YOU SAID -- YOU TESTIFIED THAT IN THIS
22 PARTICULAR FUNERAL YOU WERE TALKING ABOUT THERE WERE NO
23 LESS THAN 50 PEOPLE THERE?

24 A 45 TO 50 PEOPLE, SIR.

25 Q AND IF YOU CAN GIVE US AN AVERAGE, AND I CAN
26 UNDERSTAND HOW IT MIGHT BE DIFFICULT, BUT HOW MANY PEOPLE
27 TYPICALLY WOULD ATTEND THESE SERVICES? AND I'M REFERRING
28 TO 1985 IN PARTICULAR WITH -- YOU KNOW, WHAT IS THE

3
1 SMALLEST NUMBER OF PEOPLE YOU'D SEE AT THESE SERVICES, AND
2 WHAT IS THE LARGEST NUMBER YOU'D SEE AT THESE SERVICES?

3 A WE HAVE HAD AS LITTLE AS PROBABLY 10 TO 20 AT
4 A FUNERAL AND WE HAVE HAD AS MANY AS 5- TO 600.

5 Q NOW, BETWEEN 1985, THE TIME OF THIS
6 PARTICULAR FUNERAL YOU HAVE TESTIFIED ABOUT, AND THEN IN
7 1988 WHEN YOU SAY YOU SAW THIS NEWSPAPER ARTICLE WITH THE
8 PHOTOGRAPH OF THE MAN YOU CLAIMED TO HAVE SEEN AT THE
9 FUNERAL, HOW MANY FUNERALS -- SERVICES CAN YOU TELL US
10 THAT YOU PARTICIPATED IN BETWEEN THOSE TWO PERIODS OF
11 TIME? IT IS APPROXIMATELY A THREE-YEAR PERIOD OF TIME.

12 A A THREE-YEAR PERIOD OF TIME? PROBABLY IN
13 EXCESS OF 300 TO 400 SERVICES.

14 Q IS THERE SOME REASON WHY IT DROPPED OFF SO
15 MUCH? YOU SAID IN 1985 YOU MIGHT --

16 A BECAUSE I WENT TO A DIFFERENT MORTUARY THAT
17 DID A LESSER VOLUME.

18 Q AND WHEN DID YOU LEAVE THIS PARTICULAR
19 WESTWOOD MORTUARY?

20 A FEBRUARY THE 5TH -- LET'S SEE, JANUARY THE
21 15TH, 1987.

22 Q SO UP UNTIL JANUARY 15TH, 1987, DID YOU
23 CONTINUE TO HAVE THE SAME VOLUME OF FUNERAL SERVICES,
24 APPROXIMATELY 1,000 A YEAR, AS YOU DID IN 1985?

25 A WELL, I THINK AFTER THE MAJOR CORPORATION
26 TOOK OVER THEY DROPPED OFF CONSIDERABLY.

27 Q YOU HAVE LOOKED AT PETITIONER'S EXHIBIT 1,
28 WHICH IS RIGHT THERE IN FRONT OF YOU.

3

1 A YES, SIR.

2 Q YOU SAY THAT WAS THE EXACT PHOTOGRAPH THAT
3 YOU SAW IN THE NEWSPAPER IN 1988?

4 A VERY SIMILAR, SIR.

5 Q THAT PARTICULAR PHOTOGRAPH HAS A UNIQUE
6 QUALITY TO IT IN THE WAY THAT THE MAN IS DEPICTED IN THE
7 PHOTOGRAPH. IT'S AT A TILT. WAS THAT THE WAY IT WAS
8 DEPICTED IN THE NEWSPAPER?

9 A IT LOOKED -- THE ONE FROM THE NEWSPAPER I
10 THINK WAS STRAIGHT UP AND DOWN. HE WASN'T -- IT WASN'T A
11 POSED PICTURE AS THIS ONE IS.

12 Q NOW, IN 1988 YOU HAVE TESTIFIED THAT YOU SAW
13 HIS PICTURE IN A NEWSPAPER --

14 MR. KLEIN: EXCUSE ME, YOUR HONOR. OBJECT. THAT
15 MISSTATES THE EVIDENCE. HE SAID '87 OR '88.

16 THE COURT: REPHRASE IT.

17 BY MR. MC MULLEN:

18 Q IN 1987 OR 1988 YOU TESTIFIED THAT YOU SAW A
19 PHOTOGRAPH OF THAT MAN THAT IS DEPICTED IN PETITIONER'S
20 EXHIBIT 1.

21 A YES, I DID.

22 Q WHAT NEWSPAPER WAS THAT?

23 A IT COULD HAVE BEEN ANY ONE THAT WAS IN THE
24 OFFICE AT THE TIME. I THOUGHT IT MIGHT HAVE BEEN THE
25 "TIMES." IT COULD HAVE BEEN -- IT COULD HAVE BEEN ANY
26 PAPER.

27 Q HOW WOULD NEWSPAPERS COME TO BE THERE AT THE
28 OFFICE AT THAT PARTICULAR TIME? I'M TALKING ABOUT 1987,

1 1988. WOULD THE COMPANY SUBSCRIBE TO THE NEWSPAPERS?

2 A YES, SIR. YES, SIR.

3 Q AND DO YOU HAVE A RECOLLECTION NOW WHICH
4 NEWSPAPERS THEY SUBSCRIBED TO AT THAT PARTICULAR TIME?

5 A THE "TIMES," THE "LA OPINION," THE SPANISH
6 PAPER. THERE WERE SOME PEOPLE WORKING THERE THAT CAME IN
7 FROM THE VALLEY. THEY MAY HAVE BROUGHT PAPERS IN. BUT
8 THERE WAS ALWAYS TWO OR THREE NEWSPAPERS AROUND.

9 Q THE PHOTOGRAPH THAT YOU SAW IN THE NEWSPAPER,
10 WHAT PARTS OF THE BODY OF THE MAN DID IT SHOW IN THE
11 PHOTOGRAPH?

12 A THE UPPER PART, SIR (INDICATING).

13 MR. MC MULLEN: HE WAS POINTING TO MID CHEST.

14 THE COURT: SHOW ME.

15 THE WITNESS: FROM ABOUT MID CHEST (INDICATING).

16 THE COURT: ALL RIGHT.

17 BY MR. MC MULLEN:

18 Q YOU SAID THAT YOU RETURNED FROM BRAZIL IN
19 LATE MARCH OF 1985; IS THAT CORRECT?

20 A LATE MARCH OR EARLY APRIL, SIR.

21 Q AND THEN HOW MUCH TIME AFTER THAT POINT IN
22 TIME WHEN YOU GOT BACK FROM BRAZIL DID THIS FUNERAL YOU
23 HAVE TESTIFIED ABOUT OCCUR?

24 A IT COULD HAVE BEEN SOMETIME THE LATE SUMMER,
25 EARLY FALL.

26 Q DID YOU MAKE THE ARRANGEMENTS FOR THIS
27 PARTICULAR FUNERAL?

28 A NO, SIR, I DID NOT. I WAS JUST ASSIGNED TO

4 1 WORK THAT SERVICE, THAT'S ALL.

2 Q WHO WOULD HAVE MADE THE ARRANGEMENTS?

3 A IT COULD BE BILL PIERCE. IT COULD HAVE BEEN
4 EDMUND CHALLINOR, OUR MORTUARY MANAGER, OR IT COULD HAVE
5 BEEN MYSELF. I REMEMBER I DIDN'T MAKE THE ARRANGEMENTS.

6 Q NOW, YOU -- HOW DID IT COME TO BE THAT YOU,
7 FROM WHAT I UNDERSTAND FROM YOUR DESCRIPTION, REALLY RAN
8 THE FUNERAL SERVICE THAT DAY?

9 A I DIDN'T RUN THE FUNERAL SERVICE, SIR. I DID
10 ACCORDINGLY WHAT I DO AT EVERY SERVICE. WHATEVER THEY
11 ASSIGNED ME. AT THAT TIME I WAS ASSIGNED FOR THE DOORS
12 AND PARKING.

13 Q WAS THERE ANYBODY ELSE HELPING YOU ON THAT
14 DAY?

15 A THERE WAS ANOTHER DIRECTOR ON THE SERVICE,
16 BUT I CAN'T HE RECALL WHO IT WAS. BUT I DO REMEMBER THE
17 MORTUARY MANAGER WHILE THE SERVICE WAS IN PROGRESS CAME
18 OUT ONCE OR TWICE TO ASK ME ABOUT SOMETHING ELSE
19 PERTAINING TO ANOTHER DEATH. I ALSO REMEMBER A FLORIST
20 COMING IN AND ASKING ME WHERE TO PUT THE FLOWERS FOR
21 ANOTHER SERVICE. BUT WE HAD MORE THAN ONE SERVICE THAT
22 DAY.

23 Q AT THAT PARTICULAR TIME OF THIS FUNERAL WAS
24 THERE ANY OTHER -- WERE THERE ANY OTHER SERVICES?

25 A NO. WE WORKED THEM TWO, TWO AND A HALF,
26 THREE HOURS APART.

27 Q IN THIS PARTICULAR FUNERAL SERVICE THAT YOU
28 TESTIFIED ABOUT WHAT WAS THE FIRST THING THAT YOU DID WITH

4 1 RESPECT TO MAKING PREPARATIONS FOR THE PEOPLE TO ATTEND OR
2 ARRIVE AT THE SCENE?

3 A I OPENED THE DOORS FIFTEEN MINUTES BEFORE
4 SERVICE TIME. I PLAYED MUSIC. I HAD THE REGISTER BOOK
5 OUT ON THE LECTERN, AND I WAS STANDING OUT IN FRONT OF THE
6 CHAPEL WAITING FOR CARS TO CAME IN AND PARK AND GREET
7 PEOPLE.

8 Q DID YOU DIRECT PEOPLE WHERE THEY MIGHT PARK?

9 A YES, SIR.

10 Q AND YOU ARE SAYING THIS MAN YOU HAVE
11 IDENTIFIED AS THE PERSON DEPICTED IN PETITIONER'S 1, THAT
12 PHOTOGRAPH IN FRONT OF YOU --

13 A YES, SIR.

14 Q -- YOU SAID HE WAS ONE OF THE FIRST PEOPLE TO
15 ARRIVE?

16 A HE WAS, YES.

17 Q DID YOU SEE HIM DRIVE UP?

18 A I PROBABLY DID.

19 Q DO YOU RECALL WHAT KIND OF AUTOMOBILE HE WAS
20 DRIVING?

21 A NO, SIR, I DON'T.

22 Q WHAT DO YOU REMEMBER ABOUT THE FIRST THING --
23 LET ME WITHDRAW THAT.

24 WHEN WAS -- DESCRIBE THE FIRST TIME THAT YOU
25 SAW THIS MAN?

26 A HE CAME -- HE CAME INTO THE PARK, AND IT'S A
27 LONG DRIVE IN. IT'S 3-, 400 FEET FROM THE -- FROM THE
28 GATES TO THE MAIN CHAPEL, MAYBE EVEN A LITTLE BIT MORE.

4 1 PARKED THE VEHICLE AND CAME WALKING TOWARD THE CHAPEL, AND
2 I BELIEVE HE ASKED ME IF THIS IS FOR THE SERVICE FOR SUCH
3 AND SUCH A PERSON, AND I SAID, "YES, SIR."

4 Q WAS HE WITH ANYBODY?

5 A NO, SIR, HE WAS NOT.

6 Q WHEN HE ASKED YOU THESE QUESTIONS WHERE WERE
7 YOU?

8 A DIRECTLY IN -- I WAS ON THE PATIO AREA IN
9 FRONT OF THE CHAPEL DOORS.

10 Q AND WHEN HE ASKED YOU THAT QUESTION, HOW FAR
11 AWAY WAS HE FROM YOU, TO THE EXTENT YOU CAN REMEMBER?

12 A A VERY SHORT DISTANCE, SIR, LESS THAN 10
13 FEET.

14 Q AT THAT PARTICULAR POINT IN TIME WERE THERE
15 OTHER PEOPLE PULLING IN FOR THE SERVICE, IF YOU REMEMBER?

16 A A FEW MINUTES AFTER, YES.

17 Q BUT AT THE TIME YOU FIRST MADE CONTACT WITH
18 HIM THERE WAS NO ONE ELSE PULLING IN?

19 A NO, SIR, JUST THE GARDENER OUT THERE
20 ATTENDING TO THE ROSE GARDEN.

21 Q WAS HE THE FIRST ONE TO ARRIVE, OR WERE THERE
22 OTHER PEOPLE BEFORE HIM?

23 A THERE MAY HAVE BEEN ONE OR TWO OTHERS, BUT
24 THE PATIO WAS WIDE OPEN.

25 Q AND AFTER YOU -- INFORMED HIM OF WHAT THE --
26 OF WHO THE SERVICE WAS FOR, WHAT HAPPENED AFTER THAT?
27 WHERE DID THE MAN GO?

28 A I ASKED HIM IF HE WOULD SIGN THE REGISTER

4 1 BOOK JUST LIKE I ASKED EVERYBODY ELSE.

2 Q SO DID YOU WALK -- WHERE IS THE REGISTER BOOK
3 LOCATED?

4 A REGISTER BOOK IS TO -- WOULD HAVE BEEN TO THE
5 LEFT OF THE FRONT ENTRANCE JUST A FEW FEET OUTSIDE OF THE
6 FRONT ENTRANCE.

7 THE COURT: AS YOU ARE FACING THE FRONT ENTRANCE OR
8 LOOKING OUT OF THE FRONT ENTRANCE?

9 THE WITNESS: LOOKING OUT. IT WAS OUTSIDE ON THE
10 PATIO ITSELF, SIR.

11 THE COURT: SO IF YOU WERE LOOKING OUT OF THE FRONT
12 ENTRANCE IT WOULD BE ON YOUR LEFT?

13 THE WITNESS: YES, SIR.

14 BY MR. MC MULLEN:

15 Q SO HE WALKS OVER AND HE SIGNS INTO THE BOOK?

16 A YES, HE DID.

17 Q WHERE DID HE GO AFTER THAT?

18 A HE JUST STAYED RIGHT THERE. JUST WALKED
19 AROUND. HE DIDN'T DO ANYTHING UNUSUAL.

20 Q HE DIDN'T GO --

21 A THAT I CAN RECALL.

22 Q HE DIDN'T GO INTO THE CHAPEL?

23 A NO, SIR.

24 Q DID YOU HAVE ANY OTHER CONVERSATION WITH HIM
25 OTHER THAN THAT WITH RESPECT TO HIM SIGNING THE GUEST
26 BOOK?

27 A IF IT WAS, IT WAS SMALL CONVERSATION, SIR.

28 Q YOU -- YOU HAVE DESCRIBED HIM AS BEING TALLER

5 1 THAN YOU AND YOU ARE SIX FEET TALL?

2 A PRETTY CLOSE TO IT, SIR.

3 Q HOW MUCH TALLER WAS HE THAN YOU?

4 A MAYBE AN INCH OR TWO.

5 Q AND HOW DID YOU DESCRIBE HIS BUILT? HOW
6 WOULD YOU DESCRIBE HIS BUILD?

7 A 175, 180 POUNDS.

8 Q AND HIS -- HIS HAIR COLORING, DESCRIBE THE
9 COLOR OF HIS HAIR?

10 A SILVER GRAY.

11 Q AND HOW DID HE -- WHAT WAS THE STYLE OF HIS
12 HAIR, LIKE IN TERMS OF HOW HE COMBED IT?

13 A ALMOST IDENTICAL TO THIS PICTURE, SIR.

14 THE COURT: INDICATING EXHIBIT 1.

15 BY MR. MC MULLEN:

16 Q AND YOU SAY THAT --

17 A ALMOST IDENTICAL.

18 Q AND HOW ABOUT THE COLORING AS IT'S DEPICTED
19 IN PETITIONER'S 1. WAS IT THE SAME COLORING OR DIFFERENT?

20 A SILVER WHITE.

21 Q BUT HOW DOES IT COMPARE WITH WHAT'S SHOWN IN
22 PETITIONER'S 1, THAT PHOTOGRAPH?

23 A HERE IT'S SALT AND PEPPER.

24 Q WHEN YOU SAW IT IT WAS PURE WHITE?

25 A ALMOST, SIR. ALMOST.

26 Q SO IT WAS LIGHTER IN COLOR THAN WHAT IS SHOWN
27 THERE IN THAT PHOTOGRAPH?

28 A LET'S JUST SAY IT WAS GRAY, SILVER, WITH NO

5 1 YELLOW IN IT BECAUSE HE HAD NO YELLOW IN THAT HAIR.

2 Q NOW, THE BEARD -- YOU DESCRIBED HE HAD A
3 BEARD WHEN YOU SAW THIS PERSON?

4 A YES, SIR, HE DID.

5 Q AND WHAT WAS THE STYLE -- WHAT WAS THE STYLE
6 OF HIS BEARD?

7 A BEARD WAS CLOSE-CROPPED, SHORT, VERY SIMILAR
8 TO THIS.

9 Q AND WERE THERE -- WERE THERE ANY NOTICEABLE
10 DIFFERENCES BETWEEN THE STYLE THAT IS SHOWN IN
11 PETITIONER'S 1 AND WHAT YOU OBSERVED OF THIS PERSON?

12 A BEARD MIGHT HAVE BEEN A LITTLE BIT FULLER IN
13 THE CHECK AREA.

14 MR. KLEIN: CAN THE RECORD REFLECT THAT HE'S
15 LOOKING AND STUDYING EXHIBIT 1, YOUR HONOR?

16 THE COURT: YES.

17 BY MR. MC MULLEN:

18 Q ANYTHING ELSE?

19 A NO, HE JUST -- IMPECCABLY, WELL-GARMENTED
20 PERSON.

21 Q AND THE COLOR OF HIS BEARD? WAS IT ANY
22 DIFFERENT THAN WHAT IS SHOWN IN PETITIONER'S 1 THERE?

23 A SILVER GRAY. IT MIGHT HAVE HAD SOME FLECKS
24 OF SALT AND PEPPER. THIS IS SALT AND PEPPER.

25 THE COURT: REFERRING TO EXHIBIT 1.

26 BY MR. MC MULLEN:

27 Q SO IT LOOKED PRETTY MUCH THE SAME AS WHAT IS
28 SHOWN IN PETITIONER'S 1 IN TERMS OF COLOR?

5

1 A CAN'T RECALL, SIR.

2 Q WHEN YOU SAY HE WAS DISTINGUISHED LOOKING,
3 DESCRIBE WHAT YOU MEAN BY THAT?

4 A HE LOOKED LIKE A DIPLOMAT.

5 Q WHAT MADE YOU THINK THAT HE LOOKED LIKE A
6 DIPLOMAT?

7 A WESTWOOD VILLAGE MORTUARY, WE DEALT WITH
8 PROBABLY THE ELITE OF THE CITY OF BEVERLY HILLS, LOS
9 ANGELES. WE DID ALL OF THE T.V. PEOPLE, MOTION PICTURE
10 INDUSTRY, PRODUCERS, PERFORMERS. IT WAS AN EVERYDAY,
11 COMMON OCCURRENCE TO HAVE THIS TYPE OF PERSON THERE.

12 Q SO A DISTINGUISHED LOOKING PERSON, AND IN
13 PARTICULAR A DISTINGUISHED LOOKING MAN, WAS NOT AN UNUSUAL
14 THING FOR YOU TO OBSERVE DURING A FUNERAL SERVICE AT THAT
15 WESTWOOD MORTUARY?

16 A NOT REALLY. THERE WERE JUST THINGS ABOUT
17 HIM. JUST THINGS -- THE MAN LOOKED LIKE HE -- HE LOOKED
18 MONEY. HE LOOKED LIKE WEALTH. HIS FINGER NAILS, THEY
19 WERE WELL MANICURED. I LOOKED AT HIS HANDS. I SAW HIS
20 HANDS.

21 Q WHEN DID YOU SEE HIS HANDS?

22 A WHEN HE WAS SIGNING THE REGISTER. I WAS
23 RIGHT BEHIND -- RIGHT IN FRONT OF HIM. HE WAS FACING ME.
24 I HANDED HIM THE PEN. THAT WAS OUR PROCEDURE OUT THERE.

25 Q WAS IT UNUSUAL FOR YOU TO SEE A MAN WITH
26 MANICURED HANDS AT --

27 A NOT UNUSUAL, NO.

28 THE COURT: WAIT UNTIL HE FINISHES THE QUESTION.

5 1 THE WITNESS: WHAT, SIR?

2 THE COURT: COULD YOU WAIT UNTIL HE FINISHES HIS
3 QUESTION BEFORE YOU BEGIN ANSWERING?

4 THE WITNESS: YES.

5 BY MR. MC MULLEN:

6 Q SO IT WAS NOT UNUSUAL FOR YOU TO SEE A MAN
7 WITH A MANICURE AT A FUNERAL SERVICE AT WESTWOOD MORTUARY?

8 A NOT UNUSUAL, NO.

9 Q DID HIS CLOTHES ADD TO THAT DISTINGUISHED
10 LOOK?

11 A YES.

12 Q DESCRIBE HIS CLOTHING, PLEASE.

13 A HE HAD ON A GRAY SUIT, A GRAY SILK TIE, GRAY
14 POCKET HANDKERCHIEF, GRAY SHOES, GRAY SOCKS. I THINK HE
15 WORE SUSPENDERS.

16 Q WHAT COLOR WERE THE SUSPENDERS?

17 A I'M SURE I SAW -- I WEAR SUSPENDERS, AND I
18 THINK HIS COAT WAS OPEN. I CAN'T TELL YOU THE COLOR OF
19 THE SUSPENDERS.

20 Q COULD YOU TELL WHAT -- I MEAN, THE QUALITY OF
21 THE SUIT, WAS IT SOMETHING UNUSUAL?

22 A YEAH.

23 Q YOU DESCRIBED THE COLOR. WHAT WAS THE
24 QUALITY OF THE SUIT?

25 A THE QUALITY -- THE QUALITY AS IN 750, 800
26 BUCKS FOR THE SUIT.

27 Q YOU --

28 A A VERY EXPENSIVE SUIT.

6

1 Q YOU SAID HE LOOKED LIKE A CORPORATE OFFICER.
2 WHAT DID YOU MEAN BY THAT?

3 A I HAVE MET NUMEROUS CORPORATE OFFICERS THAT
4 WERE JUST AS IMPECCABLE, BUT THIS MAN -- HE GENERATED
5 SOMEBODY IMPORTANT.

6 Q DID YOU NOTICE HIS SHOES?

7 A YES, THEY WERE GREAT.

8 Q WHAT WERE THEY --

9 A LACE.

10 Q YOU SAY YOU TALKED TO HIM TWO OR THREE TIMES.

11 A YES, SIR, I DID.

12 Q YOU HAVE TESTIFIED ABOUT -- I THINK ONE TIME
13 YOU HAVE TALKED TO HIM, MAYBE TWO. WHAT WAS THE NEXT
14 TIME -- WHEN WAS THE NEXT TIME YOU TALKED TO HIM AFTER
15 THE -- HE SIGNED IN THE REGISTER?

16 A WITHIN A MINUTE OR TWO.

17 Q AND WHERE DID THAT CONVERSATION OCCUR?

18 A ALMOST NEAR THE FRONT DOOR OF THE CHAPEL.

19 Q WAS THERE -- WERE THERE ANY OTHER OF THE
20 OTHER GUESTS THERE AT THAT TIME?

21 A THERE WERE A FEW.

22 Q AND WHAT WAS SAID DURING THAT CONVERSATION
23 WITH HIM?

24 A I COMMENTED ON -- ON A LINK BRACELET, AN
25 IDENTIFICATION BRACELET THAT HE HAD BECAUSE I HAD ONE
26 VERY, VERY SIMILAR IN DESIGN, AND I SAID, "IT'S -- IT IS A
27 BEAUTIFUL BRACELET," AND I THINK THAT'S WHAT THE
28 CONVERSATION WAS ABOUT, THE JEWELRY. AND THEN THEY

6 1 STARTED COMING AND IN AND IT WAS GETTING BUSY AND I WAS
2 RUNNING BACK AND FORTH PARKING CARS.

3 Q HOW WOULD YOU DESCRIBE HIS VOICE, HIS MANNER
4 OF SPEECH?

5 A EFFEMINATE.

6 Q AND HOW -- HOW WAS IT EFFEMINATE?
7 DESCRIBE -- WHAT LEAD YOU TO BELIEVE IT WAS EFFEMINATE?

8 A JUST -- JUST THE WAY THAT HE -- I JUST FELT
9 IT WAS EFFEMINATE.

10 Q DID HE TALK SLOWLY, OR DID HE SPEAK RAPIDLY?

11 A SLOWLY, SLOWLY.

12 Q SLOW --

13 A SLOWLY.

14 Q WHEN YOU TALKED TO HIM DID HE SEEM TO BE
15 CONSERVATIVE WITH THE AMOUNT OF WORDS HE WOULD USE OR WAS
16 HE VERY EXPRESSIVE AND TRIED TO CONVEY A LOT OF
17 INFORMATION?

18 A JUST VERY RELAXED. JUST A RELAXED DEMEANOR.

19 THE COURT: MR. KLEIN, COULD WE DO THAT LATER?

20 MR. KLEIN: YES, YOUR HONOR. SORRY.

21 BY MR. MC MULLEN:

22 Q DID YOU TALK TO HIM AGAIN AFTER THAT
23 PARTICULAR TIME WHEN YOU NOTICED HIS IDENTIFICATION
24 BRACELET?

25 A NO, SIR. I DON'T BELIEVE I DID.

26 Q HOW LONG DID THE CONVERSATION LAST WHEN YOU
27 WERE TALKING ABOUT THE IDENTIFICATION BRACELET AND HIS
28 JEWELRY?

6

1 A VERY SHORT.

2 Q ABOUT HOW FAR AWAY WERE YOU FROM HIM WHEN
3 THAT CONVERSATION OCCURRED?

4 A ONE OR TWO FEET.

5 Q WHAT OTHER ITEMS OF JEWELRY DID YOU NOTICE
6 THAT HE WAS WEARING?

7 A I SAW A COIN RING, A GOLD WATCH AND AN I.D.
8 BRACELET.

9 Q WHERE -- WHAT HAND DID YOU SEE THE COIN RING
10 ON?

11 A RIGHT HAND.

12 Q AND WHAT FINGER, DO YOU REMEMBER?

13 A YEAH, NEXT TO THE PINKIE FINGER.

14 THE COURT: INDICATING THE RING FINGER OF THE RIGHT
15 HAND.

16 BY MR. MC MULLEN:

17 Q AND WHAT -- WHAT WAS IT ABOUT THE COIN
18 RING -- WHAT KIND OF COIN WAS IT? DO YOU REMEMBER?

19 A IT WAS IN EXCESS OF 18 CARAT GOLD.

20 THE COURT: YOU SAID IT WAS IN EXCESS OF 18 CARAT
21 GOLD. WHAT DO YOU MEAN?

22 THE WITNESS: GOLD JEWELRY COMES IN DIFFERENT
23 CLASSIFICATIONS, YOUR HONOR.

24 THE COURT: RIGHT.

25 THE WITNESS: 10 CARET, 14 CARAT.

26 THE COURT: I UNDERSTAND THAT.

27 WHAT DO YOU MEAN BY IN EXCESS OF 18 CARAT?

28 THE WITNESS: IT HAD A GLITTER AND A HIGH YELLOW

6 1 FINISH. THAT IS THE DIFFERENCE, OKAY.

2 22 CARET GOLD IS ALMOST PURE GOLD, AS 24
3 CARAT GOLD AT TROY OUNCE. I BELIEVE IT WAS IN EXCESS OF
4 18 CARAT GOLD BECAUSE OF THE COLOR.

5 BY MR. MC MULLEN:

6 Q YOU SAID IT WAS A COIN RING. WAS THERE A
7 COIN IN THE RING?

8 A YES, SIR.

9 Q DO YOU REMEMBER WHAT KIND OF COIN IT WAS?

10 A NO, SIR.

11 Q YOU DESCRIBED -- YOU DESCRIBE A WATCH HE WAS
12 WEARING AS A GOLD WATCH. WHERE WAS HE WEARING HIS GOLD
13 WATCH?

14 A THERE. LEFT WRIST (INDICATING).

15 THE COURT: I AM SORRY. I DIDN'T SEE YOU. SHOW ME
16 AGAIN. I DIDN'T SEE WHAT YOU DID WITH YOUR ARM.

17 THE WITNESS: LEFT WRIST (INDICATING).

18 THE COURT: OKAY.

19 BY MR. MC MULLEN:

20 Q DO YOU REMEMBER WHAT KIND OF WATCH IT WAS?

21 A IT LOOKED LIKE A ROLEX, SIR.

22 Q A GOLD ROLEX?

23 A YES, SIR.

24 Q WAS THE BAND GOLD AS WELL?

25 A NO. THERE WAS -- DOWN THE CENTER WAS LIKE A
26 WHITE GOLD. DOWN THE CENTER.

27 Q AFTER YOU HAD THAT CONVERSATION ABOUT HIS
28 JEWELRY, WHAT HAPPENED THEN WITH RESPECT TO THIS MAN?

7 1 A PEOPLE STARTED COMING AND I STARTED GETTING
2 2 BUSIER AND I NOTICED HE WAS TALKING WITH SOME OTHER
3 3 PEOPLE.

4 4 Q AND DID YOU OVERHEAR ANY CONVERSATION?

5 5 A NO, SIR. NOT THAT I RECALL.

6 6 Q WERE THERE ANY OTHER DISTINGUISHED LOOKING
7 7 PEOPLE AT THAT FUNERAL?

8 8 A YES, THERE WAS.

9 9 Q CAN YOU DESCRIBE ANY OF THEM?

10 10 A NOBODY THAT -- COULD COMPARE WITH THIS
11 11 FELLOW. WE HAD ONE FELLOW THERE I CAN REMEMBER AT THAT
12 12 FUNERAL SERVICE THAT HAD ON A SUIT AND SHOES WITH NO
13 13 SOCKS.

14 14 Q YOU SAID AT ONE POINT IN TIME THAT ONE OF THE
15 15 OTHER DIRECTORS CAME OUT AND ASKED YOU A QUESTION?

16 16 A YES.

17 17 Q WHEN DID THAT HAPPEN AND -- IN SPAN OF TIME
18 18 THAT YOU HAVE DESCRIBED RIGHT NOW?

19 19 A SERVICE WAS ALREADY IN PROGRESS.

20 20 Q WERE YOU INSIDE THE CHAPEL WHEN THIS
21 21 HAPPENED?

22 22 A OUTSIDE.

23 23 Q SO EVERYBODY THAT WAS ATTENDING THE SERVICE
24 24 WAS INSIDE AT THAT TIME?

25 25 A YES, SIR.

26 26 Q OKAY.

27 WHO WAS THAT DIRECTOR?

28 28 A THE DIRECTOR THAT CAME FROM THE OFFICE AND

7
1 TALKED TO ME?

2 Q YES, YES.

3 A EDMUND CHALLINOR.

4 THE COURT: I DIDN'T HEAR THE NAME.

5 THE WITNESS: EDMUND CHALLINOR, C-H-A-L-L-I-N-O-R.

6 BY MR. MC MULLEN:

7 Q YOU SAID THAT YOU HAD SOME INFORMATION ABOUT
8 THE DECEDENT IN THIS PARTICULAR FUNERAL. WHERE DID YOU
9 GET THIS INFORMATION?

10 A IT WAS IN THE OFFICE.

11 Q HOW DID YOU OBTAIN THIS INFORMATION IN THE
12 OFFICE?

13 A I JUST OVER HEARD IT. I COULD LOOK AT ANY
14 FILE I WANTED TO. I DON'T REMEMBER LOOKING AT THE FILE,
15 THOUGH. I JUST HEARD IT IN THE OFFICE, JUST GENERAL
16 CONVERSATION.

17 Q WHO -- DID YOU HEAR IT FROM?

18 A IT COULD HAVE BEEN A NUMBER OF PEOPLE.

19 Q WHO WERE THE POSSIBILITIES?

20 A SECRETARY.

21 Q WHO IS THAT? WHO WAS THAT?

22 A AT THAT TIME I THINK IT WAS CLARE MC CARTHY.

23 Q I'M SORRY?

24 A CLARE MC CARTHY. I THINK SHE WAS OUR
25 SECRETARY AT THAT TIME.

26 Q AND WHO ELSE MIGHT HAVE YOU HEARD THIS FROM?

27 A COULD HAVE BEEN THE PERSON THAT BROUGHT IN
28 THE REMAINS FROM THE CORONER'S OFFICE.

7

1 Q AN EMPLOYEE OF THE CORONER'S OFFICE?

2 A OH, NO, NO. COULD HAVE BEEN SOMEBODY -- IT
3 MIGHT HAVE BEEN THE REMOVAL SERVICE, A MORTUARY
4 ACCOMMODATION SERVICE. OR IT MIGHT HAVE BEEN ONE OF OUR
5 OWN PEOPLE. I DIDN'T MAKE THE REMOVAL.

6 Q WHEN DID THIS CONVERSATION OCCUR IN
7 RELATIONSHIP TO WHEN THE FUNERAL OCCURRED?

8 A MAYBE A DAY OR SO BEFORE.

9 Q AND WHO ELSE MIGHT YOU HAVE HEARD THIS
10 INFORMATION FROM?

11 A I CAN'T RECALL, SIR.

12 Q DO YOU KNOW WHO ARRANGED THE FUNERAL?

13 A IF I KNEW THAT, SIR, WE'D HAVE THE KEY TO
14 THIS WHOLE THING. I DON'T KNOW. I DON'T REMEMBER.

15 Q WHAT WAS THE INFORMATION YOU HEARD WITH
16 RESPECT TO THE DECEDENT IN THIS PARTICULAR FUNERAL?

17 A THE WAY HE DIED.

18 Q AND THE FACT THAT HE WAS JEWISH?

19 A SOMEBODY HAD MENTIONED SOMETHING THAT HE WAS
20 INVOLVED IN SOME TYPE OF A FRAUD, AND THAT'S WHY HE KILLED
21 HIMSELF. THAT'S ALL I CAN REMEMBER.

22 Q BUT DIDN'T YOU TESTIFY THAT THE MAN WAS
23 JEWISH, THAT YOU HAD HEARD --

24 A HAD A JEWISH SOUNDING NAME.

25 Q DID YOU FIND IT UNUSUAL THAT A JEWISH PERSON
26 WOULD BE CREMATED?

27 A HAPPENS ALL THE TIME. IT DID AT WESTWOOD.
28 75 PERCENT OF OUR BUSINESS WAS CREMATION.

7 1 Q IN ONE OF YOUR INTERVIEWS WITH THE
2 2 INVESTIGATOR YOU MENTIONED THAT THE ASHES WERE INTERNED IN
3 3 THE NEW AREA OF THE CEMETERY. DO YOU RECALL?

4 4 A IT'S IN ONE OF TWO AREAS, SIR, THAT THEY
5 5 OPENED UP IN 1984 OR EARLY 1985.

6 6 Q IS THERE SOME OTHER WAY YOU DESCRIBE THAT NEW
7 7 AREA, BY LOCATION OR NAME?

8 8 A THE PARK IS VERY, VERY SMALL. THEY HAVE TWO
9 9 SECTIONS, A AND B. THE MAIN SECTION IS SECTION A. THE
10 10 PARK IS, I BELIEVE, NO MORE THAN TWO AND A HALF ACRES.
11 11 BECAUSE THEY WERE RUNNING OUT OF SPACE THEY WERE BURYING
12 12 ALONG SIDE BETWEEN THE GRATES. ONE AREA FILLED UP, AND
13 13 THEY WERE GOING TO TWO AREAS. IT BRINGS INTO MIND TWO
14 14 AREAS.

15 I WAS OUT THERE, OUT THERE YESTERDAY LOOKING
16 16 FOR THIS PARTICULAR GRAVE. I DIDN'T HAVE ENOUGH TIME. I
17 17 THINK IF I WALKED IT LONG ENOUGH I THINK I COULD HAVE
18 18 SPOTTED IT.

19 19 Q SO YOU ARE SAYING THAT THE ASHES WERE
20 20 ACTUALLY BURIED AS OPPOSED TO BEING PUT IN ONE OF THOSE --

21 21 A NOT IN A NICHE, IT'S IN THE GROUND.

22 22 Q HOW DID YOU COME TO FIND OUT THAT THE ASHES
23 23 WERE BURIED IN THE GROUND?

24 24 A I KNOW IT IS A GROUND BURIAL, SIR. I KNOW IT
25 25 IS. I CAN'T TELL YOU HOW. I KNOW IT'S A GROUND BURIAL.

26 26 Q YOU TESTIFIED THAT AT THE TIME OF THE FUNERAL
27 27 SERVICE THAT THE CREMATION HAD NOT YET OCCURRED.

28 28 A IT HAD NOT OCCURRED. THE BODY WAS STILL IN

8 1 OUR REFRIGERATED UNIT.

2 Q THAT WOULD BE KEPT SOME WHERE ON THE PREMISES
3 THERE?

4 A YEAH.

5 Q WHEN DID THE CREMATION OCCUR AFTER THE
6 FUNERAL?

7 A MAY HAVE BEEN TWO OR THREE DAYS AFTER THE
8 SERVICE, SIR.

9 Q WAS THERE ANY KIND OF A GRAVE-SIDE SERVICE
10 WHEN THE ASHES WERE ACTUALLY BURIED?

11 A THERE COULD HAVE BEEN. THERE COULD HAVE BEEN
12 A COMMITTAL SERVICE. THAT I'M NOT AWARE OF.

13 Q BUT YOU DON'T REMEMBER ATTENDING THAT OR
14 ANYTHING?

15 A NO, NO. BUT LET ME SPECIFY ONE THING. ONCE
16 A PERSON IS CREMATED AND THE CREMATE OR REMAINS ARE PICKED
17 UP BY THE MORTUARY THEY'RE PLACED IN STORAGE UNTIL A
18 BURIAL MARKER HAS BEEN ORDERED. SOMETIMES IT WOULD TAKE
19 ANYWHERE FROM THREE TO MAYBE FOUR OR FIVE WEEKS BEFORE THE
20 MARKER CAME IN.

21 MR. MC MULLEN: IF I MIGHT JUST HAVE A MOMENT, YOUR
22 HONOR.

23

24 (PAUSE.)

25

26 BY MR. MC MULLEN:

27 Q SO YOU HEARD PRIOR TO THE FUNERAL, A DAY OR
28 TWO THAT THE DECEDENT WAS A MAN WHO COMMITTED SUICIDE BY

8 1 HOOKING THE TAIL PIPE OF HIS CAR TO A SAUNA?

2 A YES, SIR.

3 Q ANYTHING ELSE ABOUT THAT MAN OR THE WAY HE
4 DIED OR ANYTHING ABOUT HIM?

5 A ONLY THAT HE HAD BEEN INVOLVED IN SOME TYPE
6 OF A FRAUD.

7 Q DO YOU REMEMBER SOMEBODY TELLING YOU THAT THE
8 PERSON, THE DECEDENT WORKED AT THE SUPERIOR STAMP AND COIN
9 ON OLYMPIC IN LOS ANGELES?

10 A NO.

11 Q DO YOU REMEMBER BEING INTERVIEWED BY AN
12 INVESTIGATOR IN THIS CASE, FRANK MACKIE?

13 A YES.

14 Q YOU DON'T REMEMBER TELLING HIM THAT?

15 A I SAID IT WAS A POSSIBILITY THAT HE WAS IN
16 THAT TYPE OF A BUSINESS, AND I SAID HE MAY HAVE WORKED
17 THERE OR HE MAY HAVE BEEN AFFILIATED WITH ANY OTHER PLACE.

18 Q WHY DID THAT PARTICULAR BUSINESS COME TO YOUR
19 MIND?

20 A WHY? BECAUSE THAT IS THE TYPE OF BUSINESS
21 THAT I UNDERSTOOD THAT THIS MAN WAS IN.

22 Q AND WHAT BUSINESS HAD YOU HEARD HE WAS IN?

23 A SOMETHING TO DO WITH GOLD STOCKS OR GOLD
24 BULLION OR GOLD COINS.

25 MR. MC MULLEN: IF I MIGHT JUST HAVE A MOMENT, YOUR
26 HONOR.

27 THE COURT: YES.

28

8 1 (PAUSE.)

2

3 BY MR. MC MULLEN:

4 Q DO YOU REMEMBER TELLING MR. MACKIE THAT YOU
5 OVERHEARD PEOPLE AT THE FUNERAL TALKING AND THAT'S WHERE
6 YOU LEARNED THAT THE DECEDENT HAD COMMITTED SUICIDE BY
7 ASPHYXIATING HIMSELF?

8 A I DON'T REMEMBER TELLING HIM THAT, BUT I CAN
9 TELL YOU THAT I DID HEAR IT IN OUR OFFICE.

10 Q BUT YOU ARE SAYING THAT YOU DIDN'T OVERHEAR
11 ANY KIND OF CONVERSATIONS DURING THE FUNERAL --

12 A NOT THAT I RECALL.

13 Q -- PRIOR TO THE FUNERAL SERVICE OR DURING IT?
14 PLEASE LET ME FINISH THE QUESTION. IT'S
15 IMPORTANT.

16 YOU DON'T REMEMBER OVERHEARING ANY
17 CONVERSATIONS PRIOR TO OR DURING THE FUNERAL SERVICE?

18 A NO, SIR, I DO NOT.

19 Q YOU HAVE TESTIFIED TODAY THAT YOU HAVE SOME
20 KIND OF A HEARING PROBLEM IN ONE OF YOUR EARS --

21 A THE LEFT EAR IS GONE.

22 Q DID YOU HAVE A HEARING PROBLEM BACK THEN WHEN
23 YOU WERE AT THE FUNERAL?

24 A THAT'S WHEN IT STARTED.

25 Q THIS PASSPORT YOU HAVE BROUGHT TO COURT
26 TODAY --

27 THE COURT: I DON'T THINK WE HAVE ACTUALLY MARKED
28 IT YET AS AN EXHIBIT.

8 1 MR. CRAIN: YOUR HONOR, I THINK -- I DON'T MEAN TO
2 INTERRUPT. I THINK HE GAVE ME HIS WIFE'S PASSPORT, AND
3 THAT'S WHAT WAS COPIED.

4 MR. MC MULLEN: IF HE DIDN'T, SOMETHING IS --

5 MR. CRAIN: HAVING MET HIS WIFE THAT'S WHO I
6 BELIEVE THIS PICTURE IS OF.

7 THE COURT: DOESN'T LOOK LIKE HIM.

8 MR. CRAIN: I DISCOVERED THAT IN THE MIDDLE OF THE
9 CROSS EXAMINATION. SO CAN I JUST -- DOES THE COURT WANT
10 TO SEE THE ORIGINAL?

11 THE COURT: YOU GUYS CAN WORK IT OUT.

12 MR. MC MULLEN: IF I CAN -- MAY I APPROACH THE
13 WITNESS WITH THIS PASSPORT?

14 THE COURT: YES.

15 MR. CRAIN: I BELIEVE HE TESTIFIED HE TRAVELLED
16 WITH HIS WIFE ON THAT TRIP.

17 BY MR. MC MULLEN:

18 Q COULD YOU LOOK AT THAT PASSPORT, SIR. IS
19 THAT YOUR WIFE'S PASSPORT?

20

21 (WITNESS COMPLIES.)

22

23 A IT IS.

24 Q SIR, WHO IS IRWIN WERNER, I-R-W-I-N?

25 A THAT'S MYSELF.

26 Q OKAY.

27 IS THAT AN IDENTITY YOU USED AS OPPOSED TO
28 IVAN WERNER?

8

1 A USE BOTH.

2 Q SO AT TWO DIFFERENT TIMES YOU APPLIED FOR A
3 CALIFORNIA DRIVER'S LICENSE WITH TWO DIFFERENT NAMES?

4 A YES, SIR.

5 Q TWO DIFFERENT DATES OF BIRTH?

6 A YES, SIR.

7 Q WHY DID YOU DO THAT?

8 A UP UNTIL 1977 MY LICENSE WAS UNDER MY OWN
9 NAME. IN 1977 I HAD AN ACCIDENT WHERE I MADE A RIGHT TURN
10 IN TO ONCOMING TRAFFIC AND I DID NOT SEE A VEHICLE COMING
11 AT A HIGH RATE OF SPEED AND I HAD A COLLISION AND IT WAS A
12 YOUNG GIRL, AND HER FATHER WAS AN ATTORNEY.

13 THE FIRST THING HE DID WAS WHEN HE GOT ON THE
14 SCENE IS HE IDENTIFIED HIMSELF AS SUCH. HE WAS VERY
15 ABRUPT IN HIS MANNER.

16 BUT ANYWAY, THEY HAVE A LAW ON THE BOOKS THAT
17 IF YOU HAVE AN ACCIDENT OVER A SET AMOUNT OF MONEY YOU
18 HAVE TO REPORT TO DMV, THAT'S TO INSURANCE. I DID NOT. I
19 DON'T KNOW WHY I DIDN'T, BUT I DIDN'T, AND THEY SENT A
20 NOTICE OF SUSPENSION. I PANICKED. I WENT DOWN AND I GOT
21 ANOTHER LICENSE UNDER IRWIN WERNER, AND I HAVE KEPT THAT
22 LICENSE ALL THE WAY UP UNTIL NOW.

23 Q WERE TWO PEOPLE KILLED IN THAT AUTOMOBILE
24 ACCIDENT?

25 A NO.

26 Q WAS ANYBODY HURT IN THE AUTOMOBILE ACCIDENT?

27 A NO.

28 Q SO YOU MISREPRESENTED YOUR IDENTITY TO THE

9 1 DEPARTMENT OF MOTOR VEHICLES TO AVOID THE SUSPENSION UNDER
2 YOUR TRUE NAME?

3 A I BELIEVE THEY DID SUSPEND. I WAS INSURED AT
4 THE TIME. I JUST DID NOT FOR SOME REASON SEND IN A FORM
5 TO D.M.V..

6 Q I UNDERSTAND. SO TO CIRCUMVENT THAT
7 SUSPENSION YOU MISREPRESENTED YOUR IDENTITY TO THE
8 DEPARTMENT OF MOTOR VEHICLES?

9 A I BELIEVE THE SUSPENSION WENT INTO EFFECT,
10 AND I BELIEVE AFTER THE SUSPENSION I GOT THE LICENSE UNDER
11 A DIFFERENT NAME.

12 MR. MC MULLEN: MAY I JUST HAVE A MOMENT?

13 THE COURT: YES.

14
15 (PAUSE.)

16
17 BY MR. MC MULLEN:

18 Q JUST SO I'M CLEAR. YOU GOT THE SECOND
19 LICENSE BECAUSE YOUR FIRST LICENSE HAD BEEN SUSPENDED; IS
20 THAT CORRECT?

21 A I BELIEVE IT WAS.

22 Q SO THAT'S WHY YOU GOT THE SECOND LICENSE?

23 A YEAH.

24 MR. MC MULLEN: NOTHING FURTHER.

25 THE COURT: YOU SAID YOU SAW THIS MAN ARRIVE PRIOR
26 TO THE SERVICE BEGINNING?

27 THE WITNESS: WHAT WAS THAT, SIR?

28 THE COURT: DID YOU SAY YOU SAW THIS MAN ARRIVE

9 1 PRIOR TO THE SERVICE ACTUALLY BEGINNING?

2 THE WITNESS: YES, SIR. YES, SIR.

3 THE COURT: YOU SAW HIM DRIVE UP AND PARK HIS CAR?

4 THE WITNESS: I BELIEVE I DID.

5 THE COURT: WHAT KIND OF CAR WAS HE DRIVING?

6 THE WITNESS: I COULDN'T TELL YOU, SIR.

7 THE COURT: BIG, SMALL, ANY IDEA? YOU GAVE SUCH
8 GREAT DETAIL ABOUT WHAT HE WAS DRESSED IN AND HOW HE WAS
9 HE DRESSED. DO YOU HAVE ANY RECOLLECTION OF WHAT HE WAS
10 DRIVING?

11 THE WITNESS: I HAVE THOUGHT ABOUT IT. I CAN'T
12 RECALL. I CAN TELL YOU IT WAS AN EXPENSIVE CAR TO DRIVE.

13 THE COURT: YEAH. DO YOU SAY THAT -- WHY DO YOU
14 HAVE THAT IMPRESSION.

15 THE WITNESS: IT -- IT JUST WAS. I DIDN'T SEE
16 ANYTHING AT THAT SERVICE THAT WASN'T. SOME TYPE OF A
17 FOREIGN MAKE -- THEY WERE JUST -- THEY WERE VERY EXPENSIVE
18 AUTOMOBILES AT THAT SERVICE.

19 THE COURT: ANY RECOLLECTION AS TO COLOR OF THE
20 CAR?

21 THE WITNESS: NO, SIR. COULD HAVE BEEN A DARK
22 COLOR. I MAY BE MISTAKEN.

23 THE COURT: DID YOU SEE HIM ARRIVE WITH ANYONE?

24 THE WITNESS: NO, SIR.

25 THE COURT: DID YOU SEE HIM TALK TO ANY OF THE
26 OTHER GUESTS?

27 THE WITNESS: YES, SIR, I DID.

28 THE COURT: WHO DID YOU SEE HIM TALK TO?

9 1 THE WITNESS: DIFFERENT PEOPLE. THEY WERE WALKING
2 2 AROUND. AFTER THE SERVICE THEY ALL HUNG AROUND FOR 15 OR
3 3 20 MINUTES. SOME OF THEM STAYED LONGER.

4 4 THE COURT: I ASSUME SOME OF THESE PEOPLE AT THE
5 5 SERVICE WERE RELATIVES OF THE DECEDENT OR WORKED WITH THE
6 6 DECEDENT. I ASSUME THAT WAS PART OF YOUR RESPONSIBILITY
7 7 TO IDENTIFY PEOPLE?

8 8 THE WITNESS: I WOULD THINK SO.

9 9 THE COURT: DID YOU SEE WHAT CLASS OF GUESTS THIS
10 10 FELLOW HAD CONTACT WITH, THE FAMILY VERSUS FRIENDS --

11 11 THE WITNESS: I DIDN'T PAY ANY ATTENTION TO IT,
12 12 SIR. THE ONLY REASON I CAME IN CONTACT WITH HIM IN THE
13 13 FIRST PLACE IS THAT HE WAS ONE OF THE FIRST PEOPLE THERE.
14 14 I JUST MADE SMALL CONVERSATION WITH HIM.

15 15 THE COURT: DID YOU SEE HIM LEAVE?

16 16 THE WITNESS: NO.

17 17 THE COURT: YOU SAID THERE WAS A PARTICULAR
18 18 BRACELET THAT HE HAD AND THAT YOU MADE COMMENTS ABOUT
19 19 BECAUSE YOU HAD ONE VERY SIMILAR TO IT.

20 20 THE WITNESS: VERY SIMILAR, SIR.

21 21 THE COURT: DESCRIBE IT, PLEASE.

22 22 THE WITNESS: HEAVY GOLD LINKS, A CENTER GOLD BAR,
23 23 MAYBE AN INCH AND A HALF TO TWO INCHES WITH SOME WRITING
24 24 ON IT.

25 25 THE COURT: WORN WHERE?

26 26 THE WITNESS: WORN ON THIS WRIST (INDICATING).

27 27 THE COURT: INDICATING THE RIGHT WRIST.

28 YOU SAID YOU WERE OUT LOOKING FOR THE GRAVE

9 1 YESTERDAY?

2 THE WITNESS: YES, SIR.

3 THE COURT: WHY?

4 THE WITNESS: BECAUSE THE ATTORNEYS FOR MR. HUNT
5 HAD ASKED ME TO DO SO, AND THEY FELT IT WAS THE RIGHT
6 THING TO DO. I -- I DID IT BECAUSE -- I WANTED TO DO IT A
10 7 LONG TIME AGO. I JUST DON'T HAVE THE TIME, YOUR HONOR.

8 THE COURT: HAVE YOU SPOKEN PERSONALLY TO MR. HUNT?

9 THE WITNESS: NEVER.

10 THE COURT: EVER SPOKEN TO MR. HUNT'S WIFE?

11 THE WITNESS: I WASN'T EVEN AWARE THAT HE WAS
12 MARRIED, SIR.

13 THE COURT: ALL RIGHT.

14 ANY REDIRECT?

15

16 REDIRECT EXAMINATION +

17

18 BY MR. CRAIN:

19 Q DID YOU SEE ANY BROWN MERCEDES CONVERTIBLE IN
20 THE AREA OF THIS FUNERAL SERVICE?

21 A I COULD HAVE, BUT I CAN'T RECALL.

22 Q ARE YOU ABLE TO TELL US WHETHER OR NOT THE
23 MAN THAT WAS SHOWN IN THE PHOTOGRAPH THAT'S STILL UP
24 THERE --

25 A IT IS.

26 Q -- GOT OUT OF A BROWN MERCEDES CONVERTIBLE?
27 CAN YOU TELL US THAT?

28 A I COULDN'T TELL YOU THAT.

10 1 Q COULDN'T TELL ONE WAY OR THE OTHER; IS THAT
2 RIGHT?

3 A NO, MR. CRAIN, I CAN'T.

4 MR. CRAIN: THANK YOU, SIR.

5 NOTHING FURTHER.

6 THE COURT: ANYTHING FURTHER?

7 MR. MC MULLEN: IF I COULD JUST HAVE A MOMENT.

8
9 (PAUSE.)

10
11 MR. MC MULLEN: NOTHING FURTHER.

12 THE COURT: MAY THE WITNESS BE EXCUSED?

13 MR. CRAIN: YES -- I'M SORRY, YOUR HONOR, COULD WE
14 HAVE JUST A MOMENT?

15
16 (A CONFERENCE WAS HELD BETWEEN COUNSEL
17 AND THE DEFENDANT, NOT REPORTED.)

18
19 MR. CRAIN: JUST ANOTHER QUESTION OR TWO.

20 BY MR. CRAIN:

21 Q MR. WERNER, YOU WERE TELLING THE JUDGE ABOUT
22 THE DIFFERENT TYPES OF GOLD, THE DIFFERENT CARATS AND YOUR
23 FAMILIARITY WITH THAT. JUST IN A FEW WORDS, DO YOU HAVE A
24 PARTICULAR INTEREST IN JEWELRY?

25 A MYSELF?

26 Q YES.

27 A OH, YEAH, SURE.

28 Q WHAT IS THAT? JUST IN SUMMARY FORM. IN A

1 NUTSHELL, IN OTHER WORDS.

2 A I'M AN INVESTOR.

3 Q HOW DOES THAT RELATE TO JEWELRY AND
4 RECOGNITION OF JEWELRY?

5 A IT MEANS SIMPLY I'M VERY, VERY OBSERVANT WHEN
6 I SEE SOMETHING. IF -- I'M JUST VERY GOOD AT ESTIMATING A
7 VALUE OF SOMETHING.

8 Q WHEN YOU SAY "SOMETHING," DO YOU MEAN JEWELRY
9 OR OTHER THINGS?

10 A JEWELRY, CLOTHING, THINGS SIMILAR TO THAT.

11 Q HOW OLD ARE YOU NOW?

12 A WHAT WAS THAT?

13 Q WHAT IS YOUR AGE AT THE PRESENT TIME?

14 A AT THAT TIME?

15 Q NO. NOW.

16 A 60.

17 MR. CRAIN: THANK YOU.

18 NOTHING FURTHER.

19 THE COURT: ANYTHING FURTHER, MR. MC MULLEN.

20 MR. MC MULLEN: YES, BRIEFLY, YOUR HONOR.

21
22 RECROSS-EXAMINATION @
23

24 BY MR. MC MULLEN:

25 Q YOU SAID YOU WERE AN INVESTOR. WHAT KIND OF
26 THINGS DO YOU INVEST IN?

27 A I INVEST IN GOLD, GOLD COINS, GOLD JEWELRY,
28 PRECIOUS STONES.

10 1 Q WHEN YOU SAY "GOLD JEWELRY," DO YOU INVEST IN
2 MEN'S GOLD JEWELRY?

3 A MOSTLY.

4 Q WHAT KIND OF GOLD JEWELRY, MEN'S GOLD JEWELRY
5 DO YOU INVEST IN?

6 A RINGS, WATCHES, BRACELETS, ANYTHING THAT I
7 FEEL THAT WILL HOLD A VALUE, AND I CAN BUY IT BELOW COST.

8 MR. MC MULLEN: COULD I JUST HAVE A MOMENT?

9
10 (PAUSE.)

11
12 MR. MC MULLEN: THANK YOU.

13 NOTHING FURTHER.

14 MR. CRAIN: NOTHING FURTHER.

15 THE COURT: MAY THE WITNESS BE EXCUSED?

16 MR. CRAIN: YES.

17 MR. MC MULLEN: SUBJECT TO IMPEACHMENT.

18 THE COURT: SUBJECT TO SOME SHOWING.

19 THANK YOU, SIR. YOU MAY STEP DOWN.

20 WHO IS YOUR NEXT WITNESS?

21 MR. CRAIN: WELL, THERE ISN'T ONE AT THIS MOMENT.

22 THE COURT: WHAT DO WE HAVE ON FOR TOMORROW, THEN.

23 MR. KLEIN: WE SHOULD HAVE WITNESSES TO TAKE UP THE
24 DAY. I JUST DON'T KNOW THE ORDER YET.

25 MR. CRAIN: I KNOW MR. ADELMAN HAS STATED HE'LL BE
26 HERE AT 10:00. THAT WAS THE BEST HE COULD DO. I HAD
27 ASKED HIM TO GET HERE AT 8:30. HE SAID HE HAS FAMILY
28 OBLIGATIONS, THOSE PRECLUDED HIS ARRIVAL BEFORE 10:00.

10 1 MR. KLEIN: WE'RE STILL WORKING ON WITNESSES TO
2 HAVE TO SOMEBODY HERE AT 9 O'CLOCK.

3 THE COURT: LET OPPOSING COUNSEL KNOW, AND HAVE
4 SOMETHING HERE AT 9:00.

5 MR. KLEIN: I GAVE HIM A LIST OF POTENTIAL
6 WITNESSES.

7 THE COURT: PETITIONER AND COUNSEL ARE ORDERED TO
8 APPEAR HERE AT 9 O'CLOCK.

9 MR. MC MULLEN: ONE HOUSEKEEPING MATTER THAT I'D
10 LIKE TO TAKE UP WITH THE COURT, AND WE HAVE ADVISED
11 COUNSEL. WE HAVE MADE ARRANGEMENTS, AND WE INTEND TO CALL
12 AS A WITNESS NEXT WEEK A MAN BY THE NAME OF DEAN KARNY.

13 I'M NOTIFYING COUNSEL OF THAT NOW, SO THEY
14 CAN BE PREPARED. BECAUSE OF HIS SENSITIVE SECURITY
15 CIRCUMSTANCES I DO NOT WANT TO REVEAL EXACTLY WHEN HE WILL
16 BE HERE.

17 AND WE ALSO HAVE AN ADDITIONAL CONCERN, AND
18 WOULD REQUEST THAT THE ORDER -- THAT THE COURT ORDER AND
19 MAKE SURE THAT WHEN HE TESTIFIES THAT THERE ARE NO CAMERAS
20 OR SKETCH ARTISTS IN THE COURT ROOM WHEN HE TESTIFIES.

21 THE COURT: MAKING THAT REQUEST PROBABLY GUARANTEES
22 THAT THEY WILL WANT TO BE HERE. WE'LL CROSS THAT BRIDGE
23 WHEN WE GET TO IT.

24 MR. CRAIN: PERHAPS THE PEOPLE WOULD WANT TO CHANGE
25 THEIR MINDS ON IT. I HAD THOUGHT BASED ON A PREVIOUS
26 CONVERSATION WITH MR. MC MULLEN THAT HE WOULD BE WILLING
27 TO HAVE THE COURT TAKE JUDICIAL NOTICE OF HIS TESTIMONY.
28 PERHAPS I MISUNDERSTOOD.

1 HAVE THEY CHANGED THEIR GAME PLAN HERE?

2 THE COURT: WHY DON'T YOU GUYS TALK OFF THE RECORD.
3 AND IF YOU NEED TO BRING IT TO MY ATTENTION, YOU CAN BRING
4 IT TO MY ATTENTION.

5 MR. MC MULLEN: TWO OTHER ON ADDITIONAL THINGS WITH
6 RESPECT TO MR. KARNY. WE WOULD BE REQUESTING THE COURT TO
7 TAKE MR. KARNY OUT OF ORDER BECAUSE OF THE DIFFICULTIES IN
8 AND THE PEOPLE THAT ARE REQUIRED TO MOVE HIM AROUND.

9 THE COURT: WHAT IS HE GOING TO TESTIFY?

10 MR. MC MULLEN: IT IS IN THE HEARING BRIEF.

11 THE COURT: I KNOW THAT --

12 MR. MC MULLEN: IT HAS TO DO WITH THE SEVEN-PAGE
13 LIST, THE FACT THAT HE SAW PETITIONER WORKING ON THE
14 SEVEN-PAGE TO-DO LIST IN THE EVENING HOURS, EARLY EVENING
15 HOURS OF JUNE 6TH, AND ALSO THAT THAT LIST, THE INTENTION
16 BEHIND THAT LIST WAS THAT IT WAS FOR PLANNING A MURDER.

17 SECONDLY, HE HAS SOME BEARING ON THE SECOND
18 ISSUE REGARDING THE CANTOR-FITZGERALD DEPOSITION WHERE HE
19 WILL TESTIFY THAT PETITIONER COUCHED HIM TO LIE DURING
20 THAT DEPOSITION.

21 MR. CRAIN: YOUR HONOR, I DON'T THINK UNDER THE
22 GUIDELINES THAT THIS COURT SET FORTH IN ITS RULING ON
23 MARCH 29TH THAT MR. KARNY'S TESTIMONY IS ADMISSIBLE.
24 BASICALLY IF MR. KARNY IS TESTIFYING, I THINK THE
25 PETITIONER HAS A RIGHT TO UNDERMINE MR. KARNY'S
26 CREDIBILITY. I USE THAT TERM VERY LOOSELY IN ANY WAY,
27 SHAPE OR FORM.

28 THE EXAMINATION OF MR. KARNY WOULD BE ON A

11 1 WIDE-RANGING FIELD OF SUBJECTS. I DON'T THINK THAT HIS --
2 HIS PREVIOUS TESTIMONY ON THESE AREAS THAT THE PEOPLE HAVE
3 ALREADY TALKED ABOUT, I DON'T THINK IS IN ISSUE. I THINK
4 HE WOULD REGURGITATE THAT TESTIMONY. I DON'T THINK HIS
5 TESTIMONY IS ADMISSIBLE UNDER THE COURT GUIDELINES AND THE
6 PARAMETERS YOU SET ON MARCH 29TH.

7 THE COURT: I HAVE NO RECOLLECTION OF TESTIMONY
8 THUS FAR THAT I HAVE READ, AND MAYBE I HAVE FORGOTTEN, OF
9 TESTIMONY CONCERNING KARNY WATCHING HUNT PREPARE THE LIST.
10 AM I WRONG? IS IT SOMEWHERE IN THE --

11 MR. MC MULLEN: IT WOULD BE FROM SAN MATEO. THAT'S
12 WHY WE ASKED YOU TO TAKE JUDICIAL NOTICE OF THE
13 PROCEEDINGS IN SAN MATEO THAT RELATE TO THIS ISSUE.

14 HE TESTIFIED ON SOME LEVEL THERE.

15 MR. KLEIN: IF THEY'RE ASKING -- IF IT'S ADMISSIBLE
16 ON THESE LIMITED AREAS, I WOULD CONSIDER -- IF THE COURT
17 WERE TO RULE IT'S ADMISSIBLE IN VIEW OF IT'S RULING ON
18 MARCH 29TH, I WOULD THINK IT COULD BE HANDLED BY SOME SORT
19 OF CONDITIONAL NOTICE OR SIMPLY A STIPULATION AS TO WHAT
20 HIS TESTIMONY WAS.

21 THE COURT: I CAN'T FORCE A STIPULATION, BUT I AM
22 CONCERNED THAT WE'RE EXPANDING THIS MORE THAN WHAT I HAD
23 ENVISIONED. I'M ALLOWING THE HEARING ON THE
24 CANTOR-FITZGERALD MATERIAL, AND I WOULD ALLOW THE
25 TESTIMONY FROM MR. KARNY ON THAT.

26 AND -- I DON'T HAVE A RECOLLECTION, AND
27 OBVIOUSLY I'M INCORRECT THAT IT'S NOT BEEN REFERRED TO BUT
28 I WOULD PREFER TO -- IF IT IS PUT IN ISSUE, IF MR. HUNT --

11 1 BY MR. HUNT OR SOMEBODY ELSE, I WOULD PREFER TO DO THAT BY
2 DIRECT TESTIMONY.

3 MR. CRAIN: MR. KARNY'S TESTIMONY WITH REGARD TO
4 CANTOR-FITZGERALD, HIS CREDITABILITY I DON'T THINK CAN BE
5 LIMITED SOME HOW TO THE VERY NARROW KIND OF AREA AS THE
6 CANTOR-FITZGERALD THING.

7 IF THE PEOPLE DO CALL HIM, I THINK IT WOULD
8 BE BEYOND THE COURT'S RULING ON MARCH 29TH. IT WOULD TEND
9 TO OPEN UP VERY MANY SUBJECTS THAT I AM NOT SURE THAT THE
10 COURT HAD HE INTENDED TO GO IN TO.

11 THE COURT: I DON'T RE- --

12 MR. CRAIN: THE CANTOR-FITZGERALD THING GOES TO, TO
13 MR. BARENS' INCOMPETENCE AS TO --

14 MR. KLEIN: IF KARNY TESTIFIES ABOUT THE TO-DO
15 LIST, IT OPENS UP HIS CREDIBILITY ON ALL ISSUES, AND IT
16 WOULD EXPAND THE SCOPE OF THIS HEARING.

17 THE COURT: MAYBE, MAY BE NOT. DEPENDS ON THE
18 NATURE OF IT.

19 WHAT IS MR. HUNT GOING TO SAY ON THIS?

20 MR. KLEIN: WE DO NOT INTEND TO CALL MR. HUNT.

21 THE COURT: IN THIS HEARING?

22 MR. KLEIN: NO. CONCERNING ANYTHING THAT
23 TRANSPIRED.

24 THE COURT: THEN THE ANSWER TO MY QUESTION IS
25 NOTHING. HE IS NOT GOING TO SAY ANYTHING ABOUT IT
26 NECESSARILY.

27 MR. KLEIN: HE IS GOING TO TESTIFY RELATIVE TO
28 MR. BARENS INCOMPETENCE, ABOUT INFORMATION THAT WAS

11 1 PROVIDED TO MR. BARENS. BUT AT THIS TIME, PRESENT TIME
2 HE -- WE DID NOT INTEND TO CALL MR. HUNT ABOUT ANY OF THE
3 EVENTS RELATING TO WHAT TRANSPIRED. IF MR. KARNY
4 TESTIFIES THEN IT'S OUR POSITION THAT, YOU KNOW, THIS
5 OPENS UP ANY EVIDENCE THAT WE CAN SHOW THAT MR. HUNT IS
6 INNOCENT OF THIS CRIME.

7 THE COURT: NO, I DISAGREE WITH THAT.

8 MR. MC MULLEN: YOUR HONOR, OUR PURPOSE FOR CALLING
9 MR. KARNY IS TO IMPEACH WITNESSES THAT THEY HAVE CALLED TO
10 TESTIFY WITH RESPECT TO ISSUE 1B. IN PARTICULAR KAREN SUE
11 MARMA. THAT IS THE REASON.

12 THE COURT: I'M LOOKING FOR IT RIGHT NOW.

13 MR. KLEIN: THAT'S --

14 MR. CRAIN: YOU CAN BET THAT MR. KARNY --

15 MR. KLEIN: THAT IS THE PREPARATION.

16 THE COURT: THAT IS THE TO-DO LIST. BUT I'M
17 LOOKING FOR -- FOR MY NOTES ON THAT.

18 MR. CRAIN: YOU CAN BET THAT MR. KARNY ON DIRECT
19 EXAMINATION WOULD REGURGITATE HIS PRIOR TESTIMONY ABOUT
20 WHEN HE CLAIMS HE SAW MR. HUNT DO WITH THE SO-CALLED TO-DO
21 LIST.

22 HOWEVER, MR. KARNY'S CREDIBILITY WAS NEVER
23 ADEQUATELY ATTACKED BY MR. BARENS. IN FACT, THE WORD
24 "ATTACK" DOES NOT EVEN COME TO MIND WHEN DESCRIBING
25 MR. BARENS' APPROACH TO MR. KARNY.

26 IN ORDER FOR THE -- IF THE PEOPLE WANT TO
27 INTRODUCE MR. KARNY AND ATTEMPT TO VOUCH FOR HIS
28 CREDIBILITY AS TO HIS ACCOUNT OF THE SEVEN-PAGE LIST AND

12 1 MR. HUNT, THEN IT SEEMS TO ME THAT MR. KARNY OUGHT TO BE,
2 OUT OF FAIRNESS TO THE PETITIONER, MR. HUNT, FAIR GAME ALL
3 THE WAY THROUGH HIS CREDIBILITY.

4 THE COURT KNOWS FROM THE O.S.C.. THIS IS A
5 GUY WHO WAS GIVEN DEALS, WHO OTHER THINGS --

6 THE COURT: I UNDERSTAND.

7 MR. CRAIN: -- OTHER THINGS WERE WAITING IN THE
8 WINGS FOR HIM. A MURDER WAS -- A MURDER WHICH HE WAS A
9 LOGICAL SUSPECT IN WAS CONCEALED --

10 THE COURT: THOSE THINGS I'M ALL AWARE OF.

11 LOOKING AT IT, I WILL YOU ALLOW TO CALL THE
12 WITNESS OUT OF ORDER WITH PLENTY OF NOTICE TO OPPOSING
13 COUNSEL SO IT DOESN'T INTERRUPT THEIR PROCEEDINGS. AND I
14 WILL RULE ON A QUESTION BY QUESTION BASIS AS TO HOW MUCH I
15 AM GOING TO ALLOW HERE.

16 I DO HAVE A QUESTION AS TO HOW MUCH I'M GOING
17 TO LET YOU PUT ON ABOUT KARNY'S POSITIONS ON THIS BECAUSE,
18 AS I SAID BEFORE, I KNOW -- I HAVE READ KARNY'S TESTIMONY.
19 I HAVE READ THE EXHIBITS THAT YOU HAVE GOT. I HAVE NOT
20 READ THE SAN MATEO TRIAL. I'LL ALLOW YOU TO PUT ON SOME
21 LIMITED TESTIMONY, BUT I'M NOT GOING TO ALLOW YOU TO RETRY
22 THE WHOLE MATTER.

23 MR. CRAIN: ONE OTHER THING ABOUT SCHEDULING.

24 THE COURT: DO YOU STILL WANT WEDNESDAY OFF,
25 MR. KLEIN?

26 MR. KLEIN: I WAS PLANNING ON THESE -- DOING THESE
27 HEARINGS UP --

28 THE COURT: FINE. I'LL GIVE YOU WEDNESDAY OFF.

12 1 MR. KLEIN: ALL RIGHT.

2 MR. CRAIN: ON THURSDAY -- DOES THE COURT HAVE
3 OTHER BUSINESS BESIDES THIS CASE?

4 THE COURT: NO, THAT IS THE -- I HAVE SOMEBODY
5 SHORT IN THE MORNING. I COULD START YOU LATE, SAY 9:30.

6 MR. CRAIN: COULD WE START A LITTLE LATER? I HAVE
7 AN ARRAIGNMENT IN THE MASTER CALENDAR IN A MALIBU MATTER.
8 IT'S KIND OF A NOTORIOUS CASE. JUDGE ALBRACHT LOWERED THE
9 BAIL AFTER HEARING THE PEOPLE'S EVIDENCE FROM 900,000
10 APPROXIMATELY TO A HUNDRED THOUSAND. THE DEFENDANT BAILED
11 OUT.

12 THE COURT MADE A SERIES OF COMMENTS ABOUT THE
13 DEFICIENCIES IN THE PEOPLE'S CASE AND LACK OF CREDIBILITY
14 OF SOME OF THE WITNESSES. I'M JUST CONCERNED ABOUT
15 SENDING SOMEBODY ELSE IN THERE AND HAVING SOME AMBUSH LAID
16 ON THE CLIENT.

17 THE COURT: SOUNDS LIKE YOU HAVE ALREADY GOT THE
18 GROUNDWORK LAID TO SEND SOMEBODY IN THERE.

19 MR. CRAIN: I CAN READ THEIR MIND.

20 THE COURT: WHAT TIME IS IT FOR?

21 MR. CRAIN: 9:30.

22 THE COURT: I CAN TELL YOU 9:30, AND WE CAN SLIDE
23 TILL A BIT LATER. WE CAN CALL JUDGE ALBRACHT AND GIVE YOU
24 TIME TO --

25 MR. CRAIN: NOT JUDGE ALBRACHT, JUDGE KAMINS.
26 MEYER DISQUALIFIED HIMSELF BECAUSE HE KNEW ALL THE
27 PARTIES. IT WENT TO ALBRACHT. IT'S A UNIFIED COURT. HE
28 SAT AS THE MAGISTRATE IN MALIBU. HE THREW OUT SOME

12 1 CHARGES, HELD HIM TO ANSWER ON SOME, LOWERED THE BAIL AND
2 SENT IT TO SANTA MONICA. JUDGE KAMINS IS SITTING IN SANTA
3 MONICA.

4 THE COURT: JUDGE KAMINS MAY START AT 8 O'CLOCK.

5 MR. CRAIN: HE MAY. HE DID WHEN HE WAS DOWN HERE.
6 WHEN HE WAS IN THE PUBLIC DEFENDER'S OFFICE HE NEVER
7 ARRIVED BEFORE 11:00.

8 THE COURT: WE'LL CALL JUDGE KAMINS AND ASK HE MAKE
9 SURE YOU ARE TAKEN CARE OF.

10 MR. MC MULLEN: FOR A NUMBER OF WITNESSES THAT THEY
11 HAVE IDENTIFIED FOR TOMORROW, I WANTED TO NOTIFY YOU, WE
12 WOULD BE OBJECTING TO THEIR TESTIMONY.

13 THE COURT: WHAT ARE THE OBJECTIONS? I NEED TO
14 KNOW IF YOU ARE GOING TO SUCCESSFULLY OBJECT TO ALL THEIR
15 WITNESSES. I WANT TO MAKE SURE THAT THEY HAVE SOMEBODY IN
16 THEIR PLACE.

17 MR. MC MULLEN: IT WAS NOT ALL OF THEIR WITNESSES.
18 THEY'VE IDENTIFIED MR. ADELMAN, MR. TUR, MR. GERRARD'S
19 DAUGHTER AND JEFF BRODEY. WE WILL HAVE OBJECTIONS
20 PRIMARILY BEING THAT THEY ARE NOT RELEVANT WITNESSES TO
21 THE PARAMETERS THAT THE COURT HAS PUT ON THIS HEARING
22 BASED UPON THE RULING ON THE 29TH OF MARCH.

23 THE COURT: ALL RIGHT.

24 WHAT IS MR. GERRARD'S DAUGHTER GOING TO
25 TESTIFY TO?

26 MR. CRAIN: THESE WITNESSES --

27 MR. KLEIN: CORROBORATE --

28 MR. CRAIN: THEY'RE GOING TO CORROBORATE CONNIE

12
1 GERRARD. MR. GERRARD IS GOING TO CORROBORATE HER
2 TESTIMONY, THAT SHE SAW MR. LEVIN ON THE ISLAND OF
3 MYKONOS --

4 THE COURT: HE WILL RELATE THAT THE CONVERSATION --

5 MR. KLEIN: YES.

6 MR. CRAIN: THE HUSBAND WAS SITTING THERE AT THE
7 TABLE WHEN MR. LEVIN WALKED IN.

8 THE DAUGHTER, SHE -- SHE TALKED TO HER
9 DAUGHTER ABOUT WHAT SHE SHOULD DO.

10 THE COURT: PRIOR CONSISTENT STATEMENTS?

11 MR. KLEIN: YES, BECAUSE --

12 MR. CRAIN: YEAH.

13 MR. KLEIN: IN THIS CASE THEY INTEND TO CALL PEOPLE
14 TO SAY THAT --

15 THE COURT: I'M GOING TO ALLOW IT. I JUST WANTED
16 TO SEE WHAT THE THEORY WAS.

17 WHAT WAS THE THIRD WITNESS WAS?

18 MR. KLEIN: TUR IS GOING TO SAY THAT LEVIN AND TUR
19 HAD CONTACT WITH ROBBIE ROBINSON AT CITY NEWS SERVICE.

20 THE COURT: I'LL ALLOW IT.

21 WHAT ABOUT BRODEY?

22 MR. KLEIN: BRODEY IS GOING TO CORROBORATE GHALEB
23 ABOUT HER TESTIMONY THAT SHE CONTACTED HIS LAW CLERK, THAT
24 BRODEY INTERVIEWED HER, THAT BRODEY'S INVESTIGATOR
25 INTERVIEWED HER AND THAT THEY GAVE THE INFORMATION TO --

26 THE COURT: WHAT IS YOUR OBJECTION TO THAT,
27 MR. MC MULLEN? MR. BRODEY'S NAME DID COME UP IN TESTIMONY
28 TODAY.

13 1 MR. MC MULLEN: COULD I HAVE A MOMENT?

2
3 (PAUSE.)

4
5 MR. MC MULLEN: SAME OBJECTION.

6 THE COURT: I'LL ALLOW IT.

7 ALL RIGHT.

8 9 O'CLOCK TOMORROW MORNING.

9
10 (AT 4:50 P.M. AN ADJOURNMENT WAS

11 TAKEN UNTIL TUESDAY,

12 APRIL 30, 1996 AT 9:00 A.M.)

UNFINISHED BUSINESS

Bill No: SB 1134
Author: Leno (D) and Anderson (R), et al.
Amended: 8/1/16
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 7-0, 4/5/16
AYES: Hancock, Anderson, Glazer, Leno, Liu, Monning, Stone

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/27/16
AYES: Lara, Bates, Beall, Hill, McGuire, Mendoza
NOES: Nielsen

SENATE FLOOR: 39-0, 6/1/16
AYES: Allen, Anderson, Bates, Beall, Berryhill, Block, Cannella, De León,
Fuller, Gaines, Galgiani, Glazer, Hall, Hancock, Hernandez, Hertzberg, Hill,
Hueso, Huff, Jackson, Lara, Leno, Leyva, Liu, McGuire, Mendoza, Mitchell,
Monning, Moorlach, Morrell, Nguyen, Nielsen, Pan, Pavley, Roth, Stone,
Vidak, Wieckowski, Wolk
NO VOTE RECORDED: Runner

ASSEMBLY FLOOR: 78-0, 8/18/16 - See last page for vote

SUBJECT: Habeas corpus: new evidence: motion to vacate judgment:
indemnity

SOURCE: California Innocence Project
Northern California Innocence Project
Loyola Project for the Innocent
American Civil Liberties Union

DIGEST: This bill codifies a standard for habeas corpus petitions filed on the basis of new evidence

Assembly Amendments were technical amendments to address changes in the underlying statute that were made in the budget.

ANALYSIS:

Existing law:

- 1) Provides that every person unlawfully imprisoned or restrained of his or her liberty, under any pretense, may prosecute a writ of habeas corpus to inquire into the cause of such imprisonment or restraint. (Penal Code § 1473(a).)
- 2) States that a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:
 - a) False evidence that is substantially material or probative on the issue of guilt, or punishment was introduced against a person at any hearing or trial relating to his incarceration; or
 - b) False physical evidence believed by a person to be factual, material or probative on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person. (Penal Code § 1473 (b))
- 3) Provides that any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus. (Penal Code § 1473(c).)
- 4) States that nothing in this section shall be construed as limiting the grounds for which a writ of habeas corpus may be prosecuted or as precluding the use of any other remedies. (Penal Code § 1473(d).)
- 5) Provides that if the district attorney or Attorney General stipulates to or does not contest the factual allegations underlying one or more of the grounds for granting a writ of habeas corpus or a motion to vacate a judgment, the facts underlying the bases for the court's ruling or order shall be binding on the attorney General, the factfinder and the California Victim Compensation and Government Claims Board (VCB). (Penal Code § 1485.5 (a))
- 6) Provides that the express factual findings made by the court, including credibility determinations, in considering a petition for a habeas corpus, a motion to vacate or an application for a certificate of factual innocence shall be

binding on the Attorney General, the factfinder, and the VCB. (Penal Code § 1485.5 (c))

- 7) Provides that in a contested proceeding, if a court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained, the court vacates a judgment on the basis of new evidence concerning a person who is no longer unlawfully imprisoned or restrained and if the court finds that the new evidence on the petition points unerringly to innocence, that finding shall be binding on the VCB for acclaim presented to the board, and upon application by the person, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and a claim paid. (Penal Code § 148.55(a))
- 8) States that if the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained on any ground other than new evidence that points unerringly to innocence or actual innocence, the petitioner may move for a finding of innocence by a preponderance of evidence that the crime with which he or she was charged was either not committed at all, or if committed, was not by him or her. (Penal Code § 148.55(b))
- 9) Provides that for the purposes of this section, “new evidence” means evidence that is not available or known at the time of trial that completely undermines the prosecution case and points unerringly to innocence. (Penal Code § 148.55(g))

This bill:

- 1) Permits a writ of habeas corpus to be prosecuted on the basis of new evidence, which would have more likely than not changed the outcome of the trial. However, this new evidence must be evidence that has been discovered after the trial and could not have been discovered prior to trial.
- 2) Requires the VCB to recommend payment for incarceration of a person if the court finds that the person is factually innocent.

Background

Habeas Corpus

Habeas corpus, also known as “the Great Writ”, is a process guaranteed by both the federal and state Constitutions to obtain prompt judicial relief from illegal restraint. The functions of the writ is set forth in Penal Code section 1473(a):

“Every person unlawfully imprisoned or restrained of his or her liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint.” A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

- False evidence that is substantially material or probative on the issue of guilt, or punishment was introduced against a person at any hearing or trial relating to his incarceration;
- False physical evidence believed by a person to be factual, material or probative on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person; and,
- Any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus.

Standard

In California, there is no codified standard of proof for a writ of habeas corpus brought on the basis of new evidence. The current standard is based on case law. *In re Lawley* (2008) 42 Cal. 4th 1231, 1239 found that newly discovered evidence “must undermine the entire prosecution case and point unerringly to innocence or reduced culpability;” and “if ‘a reasonable jury could have rejected the evidence presented, a petition has not satisfied his burden.” This bill instead sets the standard for the granting of a writ of habeas corpus as “new evidence exists that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial.” As noted in the author’s statement, this standard will make California’s postconviction standard consistent with 43 other states.

According to the February 3, 2016 report of National Registry of Exonerations at the University of Michigan Law School there were 149 exonerations nationwide in 2015, five of which were in California. That was five exonerations under a standard that is higher than the standard in most other states, it is unclear how many others were denied a hearing because they did not meet the standard who would be eligible under this standard to have their habeas corpus petition heard.

Victims Compensation Board

This bill also makes conforming changes, making it clear if there is a finding of factual innocence by a court then the VCB shall make a recommendation for an appropriation to the Legislature.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee analysis:

- 1) Potential significant costs in the millions (GF and Trial Court Trust Fund) to Supreme Court, Court of Appeals, and Trial Courts during the first two or three years. Although this bill specifies the "new evidence" must be evidence that was not available at the time of the trial, staff of the various courts will have to review the record and make that determination. Writs may be submitted to all three courts; and the higher the court, the higher the level of review. Denial by a lower court is subject to either appeal, or to the filing of an original petition at the next higher court, (or both). The Judicial Council estimates a large volume of new writs during the first two or three years after enactment, but a leveling off thereafter.
- 2) Potential future increase in General Fund appropriations to VCB for payment of approved claims for compensation potentially in the hundreds of thousands to low millions of dollars in any one year. Annual costs would vary based on the number of claims filed and the duration of unlawful imprisonment specific to each individual. Since 2002, 17 claims have been paid totaling \$8.1 million, ranging in amount from \$17,000 to \$757,000. Five approved claims totaling about \$1.2 million are pending Legislative approval. The average compensation amount for the 22 claims is \$420,000. Administration cost to VCB would be minor.
- 3) Potentially significant annual cost (GF) to the Department of Justice due to increases in workload to the extent a greater number of persons are allowed to prosecute writs of habeas corpus under the existence of new evidence, as redefined. Resources could potentially be required for post-verdict investigations, to litigate retrials, appeals, and collateral challenges.
- 4) Potential future annual cost savings (General Fund) to the California Department of Corrections and Rehabilitation due to averted incarceration

of innocent persons to the extent future writs of habeas corpus are granted that otherwise would not have been eligible to be filed and innocence is established.

SUPPORT: (Verified 8/17/16)

California Innocence Project (co-source)
 Northern California Innocence Project (co-source)
 Loyola Project for the Innocent (co-source)
 American Civil Liberties Union (co-source)
 A New Path
 A New Way of Life Re-Entry Project
 California Attorneys for Criminal Justice
 California Catholic Conference
 California Civil Liberties Advocacy
 Friends Committee on Legislation of California
 John Van de Kamp, former California Attorney General
 Judge Ladoris H. Cordell (Ret.)
 Lawyers' Committee for Civil Rights of the San Francisco Bay Area
 Ella Baker Center for Human Rights
 Legal Services for Prisoners with Children

OPPOSITION: (Verified 8/17/16)

None received

ARGUMENTS IN SUPPORT:

In support, former Attorney General John Van de Kamp states:

To win a claim of factual innocence under current California case law, an individual must “undermine the entire prosecution case and point unerringly to innocence” with evidence that no “reasonable jury would reject.” This standard is the most difficult in the country and is so impossibly high that it functions as a barrier to wrongfully convicted individuals seeking justice in our criminal justice system. SB 1334 amends California Penal Code to incorporate a standard of proof in line with the standards in 43 other states.

SB 1134 will allow courts to grant relief to innocent people who have new evidence that is so strong that it “would likely than not changed

the outcome at trial.” The “more likely than not” standard proposed by the bill is clear and is a standard familiar to the courts. It is still a very high standard, but a fair one. To prevail with a claim of factual innocence under the bill, an individual must still have new evidence that “is credible, material, presented without substantial delay,” and “admissible” and that “could not have been discovered prior to the trial by the exercise of due diligence.”

The bill provides a vital claim to innocent individuals who do not have another recourse under other habeas claims such as false testimony, *Brady* violations or ineffective assistance of counsel. Under the current standard, those innocent individuals have little chance of proving their innocence, so remain wrongfully imprisoned. SB 1134 gives these individuals a fair chance to prove their innocence and the criminal justice system a chance to rectify the wrongful imprisonment of innocent individuals.

ASSEMBLY FLOOR: 78-0, 8/18/16

AYES: Achadjian, Alejo, Travis Allen, Arambula, Atkins, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Holden, Irwin, Jones, Jones-Sawyer, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Quirk, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Rendon

NO VOTE RECORDED: Roger Hernández, Kim

Prepared by: Mary Kennedy / PUB. S. /
8/19/16 19:21:49

**** END ****

40

DECLARATION OF STEPHEN PLAFKER

1. I am employed as a deputy district attorney for the County of Los Angeles and assigned to work on *In re Joe Hunt on Habeas Corpus*, case no. A090435.

2. I have been a deputy district attorney for about 16 years. For 4 years, I was assigned to the major fraud unit where I assisted in the investigation of, and prosecuted, a large number of cases in which most of the evidence consisted of financial records including checks and statements of banks and brokerage houses. I was required to examine and understand these documents. From the time I left the major fraud division until early March of this year, I had general assignments in branch offices. I spent a large amount of this time, prosecuting and assisting police officers and other deputy district attorneys in investigating and prosecuting these kind of cases.

3. I have examined the contents of three boxes which comprised the entire file of David Ostrove, Conservator of the Estate of Ronald George Levin, A Missing Person, for Case No. P 693 751 in the Superior Court of the State of California for the County of Los Angeles. These boxes had been delivered from the Court to the Office of the District Attorney pursuant to a subpoena duces tecum served on the offices of David Ostrove. I also examined the Superior Court file for this case.

4. My purpose was to determine whether there were any documents in the file supporting the allegation that Ronald George Levin had amassed \$1.2 million to finance his disappearance. I found no evidence for this allegation. I found only some documents from which one might speculate that he had put some money away. The source of this speculation is summarized in paragraphs 5 through 9 below.

5. Two checks drawn on account number 58-05998-1 at Progressive Savings and Loan Association:

<u>Check Number</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
1002	8/15/83	ROANLD [sic] GEORGE LEVIN	30,000.00
1103	9/21/83	LEHMAN BROTHERS KUHN LOEB	25,319.78
Total			<u>55,319.78</u>

6. Unexplained transfers of money from account number 58-05998-1 at Progressive Savings and Loan Association as reflected in bank records

covering the period from August 25, 1983 through October 12, 1983:

<u>Description</u>	<u>Amount</u>
Entries labelled "NOW"	152,577.37
Entries labelled "Withdrawals"	115,977.48
Entries with unknown bank codes	27,700.79
Unlabeled transfers	25,300.00
Total	<u>321,555.64</u>

7. Three unexplained checks drawn on two accounts at Olympic National Bank in the names of GENERAL NEWS CORPORATION and GENERAL PRODUCERS CORPORATION respectively:

<u>Date</u>	<u>Number</u>	<u>Account number</u>	<u>Amount</u>
5/18/84	10012	198 001-007270	25,000.00
5/31/84	10021	198 001-008501	25,000.00
6/6/84	10028	198 001-008501	14,000.00
Total			<u>64,000.00</u>

8. A withdrawal dated 10-06-83 from account number 86576 in the name of MAY BROTHERS LAND CORP at Clayton Brokerage Co. in the amount of \$59,498.50.

9. An entry showing \$75,000 as "OTHER DISBURSEMENTS" (sometime during the year 1975) that was noted on the annual summary contained within the December 31, 1984 monthly statement for account number X14-081086 at Fidelity USA in the name of GENERAL PRODUCERS CORPORATION.

10. The following is a summary of all the unexplained transfers I was able to find in the files from the Office of David Ostrove:

<u>Item</u>	<u>Amount</u>
Checks from Progressive account number 58-05998-1	55,319.78
Transfers from Progressive account number 58-05998-1	321,555.64
Checks from Olympic National Bank	64,000.00
Withdrawal from Clayton Brokerage account number 86576	59,498.50
"OTHER DISBURSEMENTS" from Fidelity USA	<u>75,000.00</u>
Total	<u>500,373.92</u>

11. There are a number of Creditor's Claims and Requests for Special Notice in the court file for the Estate of Ronald George Levin. None is in the name of Joe Hunt or the Billionaire Boys Club.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 27, 1995 at Los Angeles, California.


STEPHEN PLAFKER

1 YOU ARE THE EXCLUSIVE JUDGES AS TO
2 WHETHER THE DEFENDANT MADE A CONFESSION OR AN
3 ADMISSION AND IF SO, WHETHER SUCH STATEMENT IS TRUE
4 IN WHOLE OR IN PART. IF YOU SHOULD FIND THAT THE
5 DEFENDANT DID NOT MAKE THE STATEMENT, YOU MUST
6 REJECT IT. IF YOU SHOULD FIND THAT IT IS UNTRUE IN
7 WHOLE OR IN PART, YOU MAY CONSIDER THAT PART WHICH
8 YOU FIND TO BE TRUE.

9 EVIDENCE OF AN ORAL CONFESSION OR ORAL
10 ADMISSION OF THE DEFENDANT SHOULD BE VIEWED WITH
11 CAUTION.

12 AN ADMISSION IS A STATEMENT, ORAL OR
13 WRITTEN, MADE BY THE DEFENDANT OTHER THAN AT HIS
14 TRIAL, WHICH DOES NOT BY ITSELF ACKNOWLEDGE HIS
15 GUILT OF THE CRIMES FOR WHICH HE IS ON TRIAL, BUT
16 WHICH STATEMENT TENDS TO PROVE HIS GUILT WHEN
17 CONSIDERED WITH THE REST OF THE EVIDENCE.

18 YOU ARE THE EXCLUSIVE JUDGES AS TO
19 WHETHER THE DEFENDANT MADE AN ADMISSION, AND IF SO,
20 WHETHER SUCH STATEMENT IS TRUE IN WHOLE OR IN PART.

21 IF YOU SHOULD FIND THE DEFENDANT DID
22 NOT MAKE THE STATEMENT, YOU MUST REJECT IT. IF
23 YOU SHOULD FIND THAT IT IS TRUE IN WHOLE OR IN PART,
24 YOU MAY CONSIDER THAT PART WHICH YOU FIND TO BE
25 TRUE.

26 EVIDENCE OF AN ORAL ADMISSION OF THE
27 DEFENDANT SHOULD BE VIEWED WITH CAUTION.

28 NO PERSON MAY BE CONVICTED OF A CRIMINAL
1416

1 OFFENSE UNLESS THERE IS SOME PROOF OF EACH ELEMENT OF
2 THE CRIME INDEPENDENT OF ANY CONFESSION OR
3 ADMISSION MADE BY HIM OUTSIDE OF THE TRIAL. THE
4 IDENTITY OF THE PERSON WHO IS ALLEGED TO HAVE
5 COMMITTED A CRIME IS NOT AN ELEMENT OF THE CRIME
6 NOR IS THE DEGREE OF THE CRIME.

7 SUCH IDENTITY MAY BE ESTABLISHED BY AN
8 ADMISSION OR CONFESSION.

9 THE TESTIMONY OF DEAN KARNY, WHO HAS
10 BEEN IMMUNIZED FROM PROSECUTION IN THIS CASE, SHOULD
11 BE VIEWED WITH GREATER CARE THAN THE TESTIMONY OF
12 OTHER WITNESSES.

13 EVIDENCE HAS BEEN INTRODUCED IN THIS
14 TRIAL SHOWING THE DEFENDANT AND THREE OTHER PEOPLE
15 ARE CHARGED WITH MURDER IN SAN MATEO COUNTY. THIS
16 EVIDENCE WAS RECEIVED FOR THE LIMITED PURPOSE OF
17 PROVIDING A COMPLETE RECORD OF THE IMMUNITY AGREEMENT
18 BETWEEN DEAN KARNY AND THE STATE OF CALIFORNIA.

19 YOU SHOULD CONSIDER THIS EVIDENCE ONLY
20 FOR THIS LIMITED PURPOSE AND FOR NO OTHER PURPOSE.

21 A PERSON IS QUALIFIED TO TESTIFY AS AN
22 EXPERT IF HE HAS SPECIAL KNOWLEDGE, SKILL, EXPERIENCE,
23 TRAINING OR EDUCATION SUFFICIENT TO QUALIFY HIM AS
24 AN EXPERT ON THE SUBJECT TO WHICH HIS TESTIMONY
25 RELATES.

26 DULY QUALIFIED EXPERTS MAY GIVE THEIR
27 OPINIONS ON QUESTIONS IN CONTROVERSY AT A TRIAL.
28 TO ASSIST YOU IN DECIDING SUCH QUESTIONS, YOU

1 THE MIND OF THE PERPETRATOR AND UNLESS SUCH SPECIFIC
2 INTENT EXISTS, THE CRIME TO WHICH IT RELATES IS
3 NOT COMMITTED.

4 THE SPECIFIC INTENT REQUIRED IS INCLUDED
5 IN THE DEFINITIONS OF THE CRIMES WHICH I WILL GIVE
6 YOU.

7 THE DEFENDANT IN THIS CASE, HAS
8 INTRODUCED EVIDENCE FOR THE PURPOSE OF SHOWING THAT
9 HE WAS NOT PRESENT AT THE TIME AND PLACE OF THE
10 COMMISSION OF THE ALLEGED OFFENSES FOR WHICH HE IS
11 ON TRIAL. IF AFTER A CONSIDERATION OF ALL OF THE
12 EVIDENCE, YOU HAVE A REASONABLE DOUBT THAT THE
13 DEFENDANT WAS PRESENT AT THE TIME THE CRIME WAS
14 COMMITTED OR THE CRIMES WERE COMMITTED, HE IS ENTITLED
15 TO AN ACQUITTAL.

16 THE DEFENDANT IS CHARGED IN COUNT 1 OF
17 THE INFORMATION WITH THE COMMISSION OF THE CRIME OF
18 MURDER IN VIOLATION OF SECTION 187 OF THE PENAL CODE.
19 THE CRIME OF MURDER IS THE UNLAWFUL KILLING OF A
20 HUMAN BEING WITH MALICE AFORETHOUGHT OR THE UNLAWFUL
21 KILLING OF A HUMAN BEING WHICH OCCURS DURING THE
22 COMMISSION OR ATTEMPTED -- THE ATTEMPT TO COMMIT
23 A FELONY INHERENTLY DANGEROUS TO HUMAN LIFE.

24 IN ORDER TO PROVE THE COMMISSION OF
25 THE CRIME OF MURDER, EACH OF THE FOLLOWING ELEMENTS
26 MUST BE PROVED: ONE, THAT A HUMAN BEING WAS KILLED;
27 TWO, THAT THE KILLING WAS UNLAWFUL; THREE, THAT THE
28 KILLING WAS DONE WITH MALICE AFORETHOUGHT.

1 Q OKAY. HOW LONG WERE YOU THERE ON THE 6TH?

2 A I GOT THERE AT 9:30 AND I LEFT AROUND 12:15 AFTER
3 THE MAN PICKED UP THE CAR.

4 Q DID MR. LEVIN HAVE ANY COSMETICS OR MAKEUP?

5 A LIKE WHAT KIND OF MAKEUP?

6 THE COURT: LIPSTICK.

7 THE WITNESS: LIPSTICK?

8 THE COURT: DID YOU EVER SEE HIM USE LIPSTICK?

9 THE WITNESS: NO, I DID NOT.

10 Q BY MR. BARENS: DID YOU EVER SEE ANY FACE CREAM?

11 A YES, HE HAD FACE CREAM.

12 Q DID HE HAVE ANY POWDERS?

13 MR. WAPNER: OBJECTION. VAGUE. WHAT KIND OF POWDERS

14 ARE WE TALKING ABOUT?

15 MR. BARENS: POWDERS LIKE FACE POWDER, I MIGHT IMAGINE.

16 THE WITNESS: YES, WELL, YES, HE HAD FACE POWDER.

17 Q BY MR. BARENS: HE HAD FACE POWDER AND FACIAL
18 CREAMS, DIDN'T HE?

19 A YES.

20 Q DID YOU EVER SEE ANY HAIR DYE?

21 A NO, I DID NOT.

22 HE HAD GRAY, SILVERY GRAY HAIR.

23 Q I KNOW.

24 DID YOU EVER SEE ANY HAIR DYE?

25 A NO, I DID NOT SEE ANY HAIR DYE.

26 Q NOW, WHOM DO YOU KNOW THAT HAD KEYS TO HIS HOUSE,
27 DO YOU KNOW OF ANYONE THAT HAD KEYS?

28 A I HAD A KEY. MY HUSBAND HAD A KEY. ANTIN HAD

1 Q DO YOU KNOW WHEN THE TICKETS, THE AIRLINE TICKETS
2 WERE OBTAINED?

3 A NO, NOT SPECIFICALLY.
4 AFTER JUNE 1ST.

5 Q DID YOU SEE THEM AT ANY TIME BEFORE THE MORNING
6 OF JUNE 7?

7 A I DON'T THINK SO.

8 Q WHAT WAS YOUR PLAN TO -- AS FAR AS WHEN YOU WERE
9 GOING TO LEAVE AND HOW THAT WAS GOING TO HAPPEN?

10 A OH, I WAS SUPPOSED TO MEET RONNIE AT HIS HOUSE
11 AT AROUND AT 7:30 -- AT 7 O'CLOCK, WITH MY FRIEND, MICHAEL
12 BRODER, AND WE WERE TO LEAVE HIS APARTMENT AT 7:30 FOR THE
13 AIRPORT.

14 Q AND DID YOU KNOW AT THAT TIME HOW YOU WERE PLANNING
15 TO GET TO THE AIRPORT?

16 A YES. BLANCHE STURKEY, HIS MAID, AND HER HUSBAND
17 WERE GOING TO DRIVE US.

18 Q THE NIGHT BEFORE, DID YOU TALK TO MR. LEVIN?

19 A YES.

20 Q IN PERSON OR ON THE TELEPHONE?

21 A ON THE TELEPHONE.

22 Q WHAT TIME?

23 A 9 O'CLOCK.

24 Q WHO MADE THE TELEPHONE CALL?

25 A I CALLED HIM FROM A RESTAURANT.

26 Q WHY DID YOU CALL HIM?

27 A TO MAKE SURE EVERYTHING WAS SET FOR GOING TO
28 NEW YORK.

1 IT WAS EASIER TO GET A DEGREE OR SOMETHING LIKE --

2 THE COURT: EASIER TO WHAT?

3 THE WITNESS: GET A MEDICAL DEGREE. IT TOOK LESS TIME.

4 Q BY MR. BARENS: AND DID HE MENTION THIS DESIRE
5 OF HIS TO GO TO SOUTH AMERICA TO MEDICAL SCHOOL MORE THAN
6 ONCE?

7 A I THINK SO, YEAH.

8 Q DID HE EVER MASQUERADE AS A DOCTOR?

9 A YES.

10 Q ON HOW MANY OCCASIONS DID HE MASQUERADE AS A
11 DOCTOR THAT YOU WERE AWARE OF?

12 A IT WAS ONE TIME I REMEMBER PARTICULARLY.

13 Q AND WHY DON'T YOU TELL ME ABOUT THAT?

14 A OKAY. WELL, WE WERE GOING TO UCLA MEDICAL CENTER --

15 Q YEAH?

16 A AND RONNIE SOMEHOW TALKED HIS WAY INTO GETTING
17 INTO THE CADAVER ROOM. THEN HE DISSECTED A BODY.

18 Q RON DISSECTED A BODY?

19 A YES. I DIDN'T REALLY WATCH.

20 Q HANDS ON, DIDN'T HE?

21 A YEAH. THERE WERE NO OTHER DOCTORS AROUND.

22 Q NOW, HE WAS DR. LEVIN ON THAT OCCASION?

23 A RIGHT.

24 Q NOW, DID HE EVER MASQUERADE AS ANYTHING ELSE?

25 A A LAWYER.

26 Q AS A LAWYER? ON HOW MANY OCCASIONS WAS HE A
27 LAWYER?

28 A MOST OF THE TIME, HE WAS A LAWYER.

1 Q MOST OF THE TIME?
2 MOST OFTEN A LAWYER RATHER THAN A DOCTOR?

3 A YES.

4 Q ALL RIGHT. MOST OF THE TIME.

5 DO YOU MEAN THAT IN A LITERAL SENSE, MOST OF
6 THE TIME HE WAS A LAWYER?

7 A HE SAID HE WAS A LAWYER.

8 HE HAD HIS YOU KNOW, LIKE A BEEPER ON HIS SIDE
9 FOR MEDICAL OR LAW PRACTICES.

10 Q ONE BEEPER FOR BOTH PRACTICES?

11 A NO, JUST ONE BEEPER.

12 HE WOULD CALL HIMSELF DR. LEVIN ON OCCASION OR
13 "I AM A LAWYER."

14 I THINK HE HAD CARDS THAT SAID HE WAS A LAWYER.

15 Q HE HAD CARDS THAT SAID HE WAS A LAWYER?

16 A I THINK.

17 Q DID HE HAVE ANY EQUIPMENT OR TRAPPINGS THAT WOULD
18 MAKE HIM LOOK LIKE A DOCTOR?

19 A YEAH. HE HAD A SKELETON IN HIS ROOM. THEN HE
20 HAD A STETHOSCOPE AROUND HIS NECK.

21 HE HAD A LIBRARY IN HIS OFFICE. AND IN THE OTHER
22 ROOM WHICH IS OFF THE BACK PORCH, IT WAS MOSTLY MEDICAL BOOKS.

23 Q HE HAD HIS LAW LIBRARY IN ONE PLACE AND HIS MEDICAL
24 LIBRARY IN ANOTHER PLACE?

25 A YEAH.

26 Q HE HAD PROPS FOR EACH, DIDN'T HE?

27 MR. WAPNER: OBJECTION, CALLING FOR A CONCLUSION.

28 THE COURT: HOW LONG MUST WE GO ON WITH THIS, NOW?

4-4
2
1 I THOUGHT WE EXHAUSTED EVERY FACET OF THIS.

MR. BARENS: WELL, WE DIDN'T KNOW ABOUT THIS, DID WE?

THE COURT: NO.

MR. BARENS: WELL, WE HAVE TO --

THE COURT: BUT WE ARE NOT TRYING HIM, ARE WE?

MR. BARENS: WELL, LET'S SEE WHAT THE EVIDENCE SHOWS.

THE COURT: LET'S GO AHEAD. I AM GIVING YOU --

1 MR. WAPNER: YOUR HONOR, THE OBJECTION IS THAT THE
2 WORD "PROPS" IS A CONCLUSION.

3 YOU CAN ASK HIM WHAT WAS THERE. BUT, "PROPS"
4 OR NOT IS A CONCLUSION.

5 MR. BARENS: I AM TRYING TO SAVE TIME.

6 THE COURT: WHY DON'T YOU ASK HIM --

7 Q BY MR. BARENS: DID YOU SEE THINGS THAT MADE
8 IT LOOK LIKE HE WAS A DOCTOR?

9 A YES.

10 Q ALL RIGHT. DEFINITE THINGS THAT YOU WOULD
11 TYPICALLY ASSOCIATE WITH THINGS THAT DOCTORS WOULD HAVE?

12 A WELL, I WAS THINKING THAT THE SKELETON WAS KIND
13 OF A FUNNY THING. HE HAD A CIGAR IN HIS MOUTH AND A HAT
14 ON HIS HEAD. IT WAS A JOKE, BASICALLY.

15 Q DID HE HAVE A STETHOSCOPE?

16 A YES. IT WAS AROUND THE NECK OF THE SKELETON.

17 Q DID HE HAVE A BLACK BAG?

18 A I DON'T REMEMBER IF HE HAD A BLACK DOCTOR BAG.
19 I DON'T REMEMBER.

20 Q YOU DON'T REMEMBER?

21 A NO.

22 Q ALL RIGHT. AND HE HAD A HOUSE FULL OF LAW BOOKS.
23 DID HE HAVE A BLACK DOCTOR BAG? HE HAD A REGULAR DOCTOR BAG?

24 A YES. IT WAS NEXT TO THE SKELETON AND THE BOOK-
25 SHELF IN THE LAW LIBRARY.

26 Q OKAY. NOW, HE HAD SOME OF HIS DOCTOR'S STUFF
27 IN THE LAW PLACE?

28 A RIGHT.

1 Q OKAY. HE HAD A FULL LAW LIBRARY, DIDN'T HE?

2 A WELL, I AM NOT SURE WHAT THE BOOKS WERE. BUT
3 I ASSUMED THAT THAT IS WHAT THEY WERE.

4 Q WELL, DID YOU SEE BOOKS THAT YOU --

5 A I MEAN, LIKE LAW BOOKS.

6 Q LAW BOOKS?

7 A YEAH.

8 Q OKAY. AND WOULD HE WALK AROUND WITH A LEGAL
9 PAD? DO YOU KNOW WHAT A LEGAL PAD LOOKS LIKE, DON'T YOU?

10 A YEAH.

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1 Q DID HE HAVE A LOT OF THOSE LEGAL PADS?

2 A YES.

3 Q AND DID YOU ACTUALLY SEE CARDS THAT SAID, YOU
4 KNOW, "RON LEVIN," OR WHATEVER IT SAID, ATTORNEY AT LAW OR
5 LAWYER?

6 MR. WAPNER: OBJECTION. CALLS FOR HEARSAY, YOUR HONOR.

7 THE COURT: OVERRULED.

8 IF HE SAW IT, HE MAY ANSWER.

9 THE WITNESS: I DON'T REMEMBER. I THOUGHT THAT --
10 IF HE USED HIS NAME WHEN HE WAS A LAWYER, I THINK HE USED
11 SOMEONE ELSE'S NAME.

12 Q BY MR. BARENS: HE USED A PSEUDONYM WHEN HE SAID
13 HE WAS A LAWYER?

14 A YES --

15 WHAT DO YOU MEAN A PSEUDONYM?

16 Q HE USED A FALSE NAME?

17 A YES, RIGHT.

18 Q WHEN HE WAS A LAWYER, HE WAS SOMEBODY ELSE
19 ALTOGETHER?

20 A RIGHT.

21 Q WHO WAS HE?

22 A THAT R. MICHAEL WETHERBEE.

23 Q YOU KNEW RON LEVIN AS R. MICHAEL WETHERBEE?

24 A NO, I DIDN'T KNOW HIM AS THAT.

25 Q YOU KNEW HIM AS RON LEVIN?

26 A YES.

27 Q PEOPLE THAT WOULD MEET HIM, SAW HIM AS A LAWYER,
28 WOULD MEET HIM AS THIS OTHER PERSON, R. MICHAEL WETHERBEE?

1 A I DON'T KNOW WHEN H E WOULD MEET WITH OTHER
2 PEOPLE HOW THEY WOULD ADDRESS HIM BECAUSE I WASN'T THERE.

3 Q OKAY. BUT YOU DID SEE THAT IN ASSOCIATION WITH
4 HIS MASQUERADE AS A LAWYER, HE HAD THIS OTHER NAME?

5 A RIGHT.

6 Q DID HE HAVE ANY IDENTIFICATION IN THIS OTHER
7 NAME?

8 A HE HAD A STAMP NAME SO HE COULD SIGN IT WITH
9 A STAMP "R. MICHAEL WETHERBEE."

10 Q DID HE HAVE A SIGNATURE STAMP IN THIS OTHER NAME?

11 A YES, THAT IS WHAT IT WAS.

12 Q DID YOU EVER SEE HIM PRODUCE DOCUMENTS AS LAWYER
13 WETHERBEE AND HE WOULD STAMP THAT NAME ON THERE?

14 A I DON'T KNOW IF I EVER SAW HIM DO IT, BUT I KNOW
15 THAT IS WHAT IT WAS USED FOR.

16 Q DID HE EVER DISCUSS THAT WITH YOU?

17 A YES -- WELL, I THINK I WAS THERE WHEN HE GOT
18 THE STAMP PAD. HE WAS HAVING MICHAEL SIGN SOMETHING SO HE
19 COULD BRING IT TO HAVE IT MADE.

20 Q I AM SORRY. I DIDN'T QUITE HEAR THAT.

21 A I WAS THERE WHEN HE ASKED MICHAEL WETHERBEE
22 TO SIGN A PAPER HE COULD USE TO MAKE THE SIGNATURES FOR THE
23 DOCUMENTS, SIGNED DOCUMENTS.

24 Q ACTUALLY, THERE REALLY WAS A WETHERBEE, THAT
25 WAS A FRIEND OF LEVIN'S?

26 A RIGHT. THAT IS WHERE HE GOT THE SIGNATURE FROM.

27 Q AND THEN HE THEN BORROWED THIS FELLOW'S NAME
28 AND IDENTIFICATION?

1 A YES.

2 I THINK HE PAID HIM FOR IT.

3 Q SO HE COULD BE THIS OTHER GUY?

4 A RIGHT.

5 Q AND WERE YOU PRESENT WHEN HE DISCUSSED THAT?

6 A I WAS PRESENT -- I REMEMBER HAVING GETTING THE

7 SIGNATURE STAMP.

8 Q NOW, YOU SAY THAT HE PAID HIM FOR THE USE OF

9 THE SIGNATURE?

10 A I THINK HE DID, I ASSUME.

11 Q WHAT MAKES YOU SAY THAT?

12 A NOTHING.

13 BUT I JUST THINK HE DID.

14 I THINK THE GUY WETHERBEE WAS SORT OF INDIGENT

15 AND A BAD LAWYER AND THE WAY HE COULD MAKE MONEY WAS SELLING

16 HIS NAME TO RONNIE, I THINK.

17 Q DID RONNIE DISCUSS THAT ARRANGEMENT WITH YOU?

18 A NO.

19 I THINK MICHAEL BRODER DISCUSSED IT WITH HIM

20 AND MICHAEL TOLD ME.

21 Q DID YOU KNOW WHETHER OR NOT THE REAL WETHERBEE

22 WAS AN ALCOHOLIC?

23 A YEAH, I KNEW HE WAS AN ALCOHOLIC.

24 Q HE WAS IN PRETTY BAD SHAPE, WASN'T HE?

25 A WELL, I THINK WHEN I FIRST MET HIM HE WASN'T

26 IN REAL BAD SHAPE. THEN HE GOT WORSE.

27 Q HE APPEARED TO BE DETERIORATED?

28 A YES.

1 Q AND THEN IT ENDED UP WITH MR. LEVIN NOW USING
2 HIS IDENTIFICATION?

3 A RIGHT.

4 Q AND WHAT ADDRESS DID LEVIN UTILIZE FOR THE
5 WETHERBEE OFFICE?

6 A IT WAS SOMETHING LIKE 9700 WILSHIRE OR -- I DON'T
7 REMEMBER THE ADDRESS BUT IT WAS AT THE FIRST INTERSTATE BANK
8 ACROSS THE STREET.

9 Q WERE YOU EVER WITH LEVIN WHEN HE WOULD INTRODUCE
10 HIMSELF TO PEOPLE AS A LAWYER?

11 A YES.

12 Q HE DID THAT A LOT?

13 A YES.

14 Q DID HE EVER MASQUERADE AS A MEMBER OF THE
15 ROTHSCHILD FAMILY?

16 A YES.

17 Q AND HOW MANY OCCASIONS WOULD HE DO THAT?

18 A WELL, I WOULD SAY FOR MAYBE A FEW YEARS STRAIGHT,
19 HE WAS RONNIE ROTHSCHILD.

20 Q THAT WAS ANOTHER PERSON HE WAS, TOO, WASN'T IT?

21 A RIGHT.

22 Q WHEN HE WOULD MEET PEOPLE, THAT IS HOW HE WOULD
23 INTRODUCE HIMSELF "I AM RON ROTHSCHILD"?

24 A RIGHT.

25 Q AND WERE YOU FAMILIAR, AT LEAST IN A GENERAL
26 SENSE, AS TO WHO THE ROTHSCHILD FAMILY IS?

27 A AT THAT TIME, NO. I JUST -- I THINK THEY WERE
28 A WEALTHY FAMILY FROM FRANCE OR SOMETHING. THAT WAS WHAT

1 I THOUGHT.

2 Q AND DID HE EVER TELL YOU WHO THE ROTHSCHILDS
3 WERE?

4 A NO.

5 Q WELL, YOU KNEW HE WASN'T REALLY RONNIE ROTHSCHILD?

6 A ACTUALLY, I WASN'T SURE.

7 Q YOU WERE FOOLED, TOO, IN THE BEGINNING, WEREN'T
8 YOU?

9 A WELL, I WAS -- I WAS VERY YOUNG AND WHEN SOMEONE
10 ELSE TELLS ME SOMETHING, I BELIEVE IT.

11 THE COURT: I THINK WE WILL TAKE THE RECESS AT THIS
12 TIME.

13 MR. BARENS: THANK YOU, YOUR HONOR.

14 THE COURT: LADIES AND GENTLEMEN, WE WILL TAKE THE
15 RECESS NOW UNTIL 1:30 THIS AFTERNOON. 1:30 THIS AFTERNOON.

16 THE SAME ADMONITION I GAVE YOU ABOUT TALKING
17 AMONG YOURSELVES OR THIRD PARTIES WILL STILL APPLY.

18 (AT 12:00 NOON A RECESS WAS TAKEN UNTIL
19 1:30 P.M. OF THE SAME DAY.)
20
21
22
23
24
25
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27
28

1 Q I AM TALKING ABOUT --

2 A I KNOW THE PICTURE IN THE PICTURE.

3 Q I AM NOT TALKING ABOUT THE PICTURE WITHIN THE
4 PICTURE.

5 I AM TALKING ABOUT ACTUALLY WHAT YOU HAVE IN YOUR
6 HAND.

7 A OH, OKAY, RIGHT.

8 Q THE PICTURE IN PEOPLE'S 120 IS BIGGER IN
9 SIZE THAN 119, RIGHT?

10 A RIGHT.

11 Q IS IT EASIER FOR YOU TO SEE IN PEOPLE'S 120 THAT
12 THE PHOTOGRAPH OF MOHAMMED ALI IS IN FACT AUTOGRAPHED OR
13 INSCRIBED IN SOME WAY?

14 A YES.

15 MR. WAPNER: MAY I WALK THAT IN FRONT OF THE JURY
16 BRIEFLY?

17 THE COURT: YES.

18 (MR. WAPNER SHOWS EXHIBIT TO JURY.)

19 MR. WAPNER: I HAVE NOTHING FURTHER.

20 MR. BARENS: IF I MIGHT, YOUR HONOR..

21 THE COURT: GO AHEAD.

22 MR. BARENS: THANK YOU, YOUR HONOR.

23

24 FURTHER RECROSS-EXAMINATION

25 BY MR. BARENS:

26 Q WHEN YOU WENT TO UCLA WITH MR. LEVIN, DID PEOPLE
27 SEEM TO BELIEVE HE WAS A DOCTOR?

28 A YES.

1 Q WHEN HE WOULD ACT TO BE A LAWYER, DID PEOPLE
2 SEEM TO BELIEVE HE WAS A LAWYER?

3 A YES.

4 MR. BARENS: NOTHING FURTHER.

5 THE COURT: ALL RIGHT, THANK YOU.

6 MAY THIS WITNESS BE AT LONG LAST EXCUSED?

7 MR. WAPNER: I HAVE NO OBJECTION.

8 THE COURT: ALL RIGHT, THANK YOU VERY MUCH. YOU WILL
9 BE EXCUSED.

10 CALL YOUR NEXT WITNESS.

11 MR. WAPNER: JAMES O'SULLIVAN.

12
13 JAMES O'SULLIVAN,

14 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
15 AS FOLLOWS:

16 THE CLERK: IF YOU WOULD RAISE YOUR HAND TO BE SWORN.

17 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
18 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
19 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP
20 YOU GOD.

21 THE WITNESS: I DO.

22 THE CLERK: PLEASE BE SEATED UP THERE AT THE WITNESS
23 STAND.

24 WOULD YOU STATE AND SPELL YOUR NAME FOR THE RECORD.

25 THE WITNESS: JAMES O'SULLIVAN, J-A-M-E-S
26 O-APOSTROPHE-S-U-L-L-I-V-A-N.

7-1 - 1 Q AND ON THE LIST THAT YOU HAVE THAT SAYS THE PEOPLE
2 WHO WERE THERE AT 10:30 IN THE EVENING, IS THAT IN ORDER BY
3 ROOM NUMBER?

4 A BY ROOM NUMBER.

5 Q WAS THERE ANYONE IN 1417?

6 A NO.

7 Q HAVE YOU PERSONALLY REVIEWED THAT LIST TO DETERMINE
8 IF MR. LEVIN'S NAME IS ON IT?

9 A YES, I HAVE.

10 Q IS IT ON THAT LIST?

11 A NO.

12 Q BASED ON THAT, WAS HE IN THE HOTEL THAT NIGHT?

13 A NO.

14 Q DO YOU REMEMBER BEING AT THE MAYFAIR REGENT HOTEL
15 AND SPEAKING WITH SOME DETECTIVES FROM THE BEVERLY HILLS
16 POLICE DEPARTMENT?

17 A YES, I DO.

18 Q AND WERE THEY INQUIRING ABOUT WHETHER OR NOT
19 MR. LEVIN HAD BEEN THERE?

20 A YES.

21 Q AT THAT TIME, DID YOU LOCATE THE ACTUAL RESERVATION
22 CARD?

23 A YES, I DID.

24 Q AND WHAT IS YOUR RECOLLECTION --

25 DID YOU LOOK AT THE CARD AT THAT TIME?

26 A YES, I DID.

27 Q AND WAS THERE NOTATION ON THERE AS TO WHETHER
28 MR. LEVIN ARRIVED?

29 A YES.

Q WHAT WAS THAT NOTATION?

MR. BARENS: OBJECTION. BEST EVIDENCE RULE. THE BEST EVIDENCE IS THE CARD ITSELF, YOUR HONOR.

THE COURT: OVERRULED.

MR. BARENS: THANK YOU, YOUR HONOR.

Q BY MR. WAPNER: WHAT DID IT SAY ON THE CARD?

A DNA.

Q WHAT DOES THAT MEAN?

A DID NOT ARRIVE.

THE COURT: PARDON ME. DO YOU KNOW WHERE THAT CARD IS NOW?

MR. WAPNER: THANK YOU, YOUR HONOR. I WAS JUST GETTING TO THAT.

THE COURT: GO AHEAD.

Q BY MR. WAPNER: DO YOU KNOW WHAT HAPPENED TO THAT CARD?

A TO THE BEST OF MY KNOWLEDGE, THE BEVERLY HILLS DETECTIVES REMOVED IT.

Q DO YOU RECALL LEAVING IT FOR THEM?

A YES.

Q IF IT TURNS OUT THEY DON'T HAVE IT, DO YOU KNOW WHERE IT IS NOW?

A NO.

THE COURT: BUT YOU DEFINITELY DO RECALL THAT THAT DAY HE DID NOT ARRIVE, IS THAT IT?

THE WITNESS: ABSOLUTELY.

MR. BARENS: I WILL, FOR THE RECORD, MAKE A HEARSAY ?
OBJECTION TO THAT, YOUR HONOR.

1 THE COURT: OVERRULED.

2 MR. BARENS: THANK YOU, YOUR HONOR.

3 Q BY MR. WAPNER: YOU HAD NEVER PERSONALLY MET
4 MR. LEVIN, HAD YOU?

5 A NO.

6 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

7 THE COURT: ANY QUESTIONS?

8
9 CROSS-EXAMINATION

10 BY MR. BARENS:

11 Q MR. O'SULLIVAN, HAD MR. LEVIN STAYED AT YOUR HOTEL
12 BEFORE?

13 A NO.

14 Q NEVER TO YOUR KNOWLEDGE?

15 A NOT TO MY KNOWLEDGE.

16 Q DID YOU EVER CHECK THE RECORDS ON THAT?

17 A YES.

18 Q AND WHY DID YOU CHECK THE RECORDS ON THAT?

19 A FOR MY OWN CURIOSITY.

20 Q AND YOU LOOKED BACK?

21 AND DO YOU RETAIN YOUR RECORDS FOR A COUPLE OF
22 YEARS OR SOMETHING?

23 A IN THE COMPUTER.

24 Q AND YOU FOUND NOTHING ON THAT?

25 A NOTHING.

26 Q AND WHEN YOU MAKE A RESERVATION AT YOUR HOTEL,
27 IS IT TYPICALLY THAT YOU REQUIRE A DEPOSIT?

28 A NO.

1 A I WAS MODELING. I AM ALSO AN ACTOR.

2 Q AND WHAT SORT OF MODELING WERE YOU DOING?

3 A WELL, WHAT DO YOU MEAN, WHAT SORT OF MODELING
4 WAS I DOING?

5 Q WERE YOU A FASHION MODEL, LIKE A CLOTHES MODEL?

6 A FASHION, CATALOGS, STUFF LIKE THAT.

7 Q DID YOU TELL THAT TO MR. LEVIN?

8 A YES. HE KNEW I DID THAT.

9 Q DID YOU TELL MR. LEVIN YOU WERE ALSO AN ACTOR?

10 A SURE.

11 Q AND DID HE EVER ASK YOU IF YOU WANTED TO BE IN
12 MOVIES?

13 A NO.

14 Q HE JUST TALKED TO YOU ABOUT HIM BECOMING A PRODUCER,
15 WAS IT?

16 A WELL, THE WAY I HAD IT, YES.

17 Q DID YOU THINK HE WAS IN ANY OTHER BUSINESS BESIDES
18 THIS NETWORK NEWS BUSINESS?

19 A I WAS -- SEEMED TO BELIEVE THAT HE HAD A BUNCH
20 OF DIFFERENT BUSINESSES GOING. THAT WAS THE WAY HE MADE IT
21 SOUND TO ME.

22 Q WHAT DID HE TELL YOU ABOUT THAT?

23 A NOTHING SPECIFIC REALLY.

24 Q DID HE EVER TELL YOU HE WAS A LAWYER?

25 A YES.

26 Q WHAT DID HE TELL YOU ABOUT BEING A LAWYER, SIR?

27 A JUST WHAT YOU SAID, HE TOLD ME HE WAS A LAWYER.

28 Q DID YOU EVER SEE HIS LAWYER'S BUSINESS CARD?

1 A NO, I DID NOT.

2 Q DID HE EVER TELL YOU HE WAS A DOCTOR?

3 A YES.

4 Q AND WHAT SORT OF A DOCTOR DID HE TELL YOU HE
5 WAS?

6 A HE DIDN'T SAY.

7 Q AND DID YOU EVER SEE ANYTHING THAT MADE YOU BELIEVE
8 HE WAS A DOCTOR?

9 A YES.

10 Q WHAT DID YOU SEE THAT MADE YOU BELIEVE HE WAS
11 A DOCTOR?

12 A I WOULD SAY THAT THE SKELETON HE HAD HANGING
13 THERE IN HIS OFFICE.

14 Q IT LOOKED LIKE TO YOU SOMETHING A DOCTOR WOULD
15 HAVE?

16 A SURE.

17 Q DID HE HAVE ANYTHING ELSE THAT LOOKED LIKE TO
18 YOU HE MIGHT HAVE BEEN A DOCTOR?

19 A HE -- I WOULD SAY THERE WASN'T A BUNCH OF THINGS
20 THAT MADE ME THINK, FROM LOOKING AT THEM, IT WOULD MAKE ME
21 THINK HE WAS A DOCTOR.

22 JUST BY SOME OF THE THINGS HE SAID.

23 Q LIKE WHAT WOULD HE SAY?

24 A HE TALKED ABOUT -- HE SAID HOW HE WAS A DOCTOR
25 AND HE GOT THROUGH SCHOOL THAT WAY AND THAT HIS MOTHER ALWAYS
26 WANTED TO SUPPORT DOCTORS, IF I KNEW ANYBODY THAT WAS A STUDENT
27 WANTING TO BE, YOU KNOW, LIKE IN MEDICAL SCHOOL, THAT SHE
28 WOULD HELP SUPPORT THEM.

3-4

1 Q PAY FOR THEM TO GO TO MEDICAL SCHOOL?

2 A YES.

3 Q DID HE TELL YOU HIS MOTHER HAD PUT HIM THROUGH
4 MEDICAL SCHOOL?

5 A NO, HE DID NOT.

6 Q WHERE DID HE TELL YOU HE WENT TO MEDICAL SCHOOL?

7 A I WANT TO SAY UCLA.

8 Q UCLA MEDICAL SCHOOL?

9 DID HE SAY WHAT SORT OF MEDICAL SPECIALTY HE
10 PRACTICED?

11 MR. WAPNER: OBJECTION. RELEVANCE.

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1 THE COURT: SUSTAINED.

2 Q BY MR. BARENS: DID HE EVER TELL YOU HE WAS A
3 SPECIALIST?

4 MR. WAPNER: SAME OBJECTION.

5 THE COURT: SUSTAINED.

6 Q BY MR. BARENS: DID HE EVER TELL YOU HE WAS A
7 PSYCHIATRIST?

8 MR. WAPNER: SAME OBJECTION.

9 THE COURT: I AM GOING TO SUSTAIN ANY QUESTION ALONG
10 THOSE LINES.

11 I AM DIRECTING YOU NOT TO ASK ANY MORE. WE HAVE
12 GONE THROUGH ALL OF THAT. WE KNOW HE REPRESENTED HIMSELF
13 AS BEING A DOCTOR AND A LAWYER. WE DON'T HAVE TO GO OVER
14 IT TIME AND TIME AGAIN.

15 MR. BARENS: I BELIEVE, YOUR HONOR, WE MAY COME TO
16 SOME VARIATION ON THIS.

17 THE COURT: WHETHER THERE ARE VARIATIONS OR NOT, IT
18 IS NOT IMPORTANT.

19 I SUSTAINED THE OBJECTION. LET'S GET ON TO SOME-
20 THING ELSE, IF YOU WILL, PLEASE.

21 Q BY MR. BARENS: WHAT ELSE DID HE TELL YOU ABOUT
22 HIS MOTHER, BESIDES SHE WOULD PUT SOMEONE THROUGH MEDICAL
23 SCHOOL IF THEY WERE INTERESTED?

24 A HE JUST -- HE WOULD TALK ABOUT, YOU KNOW, HOW
25 MUCH HE LOVED HIS MOM, HOW MUCH HIS MOM MEANT TO HIM.

26 Q DID HE TELL YOU HE HAD A WEALTHY FAMILY?

27 A EXCUSE ME?

28 Q DID HE TELL YOU HE HAD A WEALTHY FAMILY?

1 A YES.

2 Q AND DID HE TELL YOU WHERE ALL OF THE MONEY CAME
3 FROM?

4 A WELL, NOT SPECIFICALLY, NO.

5 Q DID HE TELL YOU WHAT SORT OF BUSINESS HIS FAMILY
6 WAS IN?

7 A NO.

8 Q DID HE TELL YOU WHERE THEY LIVED?

9 A NOT SPECIFICALLY.

10 Q DID HE TELL YOU THEY LIVED IN BEVERLY HILLS?

11 A YES.

12 Q AND DID HE TELL YOU THEY LIVED IN A BIG HOUSE?

13 A HE DIDN'T MENTION THE HOUSE.

14 Q DID HE TELL YOU THAT HIS PARENTS HELPED HIM
15 FINANCIALLY?

16 A EXCUSE ME? I DIDN'T HEAR THE QUESTION.

17 Q DID HE TELL YOU HIS PARENTS HELPED HIM
18 FINANCIALLY?

19 A NO.

20 Q DID HE EVER MENTION HIS FATHER TO YOU?

21 A I THINK HE TOLD ME HE HAD A STEPFATHER, IF I
22 AM NOT MISTAKEN.

23 Q HOW DID HE FEEL ABOUT HIS STEPFATHER?

24 A HE DIDN'T TALK MUCH ABOUT HIS STEPFATHER.

25

26

27

28

1 Q ONE WAY OR ANOTHER?

2 A HE DIDN'T TALK MUCH ABOUT HIS STEPFATHER.

3 Q WHEN HE DID, WHAT DID HE SAY?

4 A EXCUSE ME?

5 Q WHAT DID HE TALK ABOUT HIS STEPFATHER? WHAT DID
6 HE SAY?

7 A I CAN'T RECALL ANYTHING.

8 Q DID YOU EVER HEAR LEVIN USE ANY NAME OTHER THAN
9 LEVIN IN IDENTIFYING HIMSELF?

10 A YES.

11 Q AND WHAT WAS THE OTHER NAME?

12 A ROTHSCHILD.

13 Q AND THIS WAS DURING 1984, HE WAS STILL USING THE
14 NAME ROTHSCHILD, WAS HE?

15 A HE WASN'T USING THE NAME. HE JUST TOLD ME THAT
16 HE WAS A ROTHSCHILD. BUT HE GOES BY THE LEVIN.

17 Q IN OTHER WORDS, HE TOLD YOU THAT LEVIN WAS A PHONY
18 NAME, THAT HIS REAL NAME WAS ROTHSCHILD?

19 A NO. HE SAID -- THE WAY I UNDERSTOOD IT WAS THAT
20 HE WAS A ROTHSCHILD AND HIS STEPFATHER WAS LEVIN. AND HE
21 WENT BY HIS STEPFATHER'S NAME.

22 Q STEPFATHER'S NAME?

23 A YES.

24 Q AND THUSLY, HE TOLD YOU HIS MOTHER WAS A
25 ROTHSCHILD?

26 A I COULDN'T SAY THAT HE SAID THAT SPECIFICALLY.

27 Q WHAT WAS THE SENSE YOU HAD FROM WHAT HE TOLD YOU?

28 A THINKING ABOUT IT NOW, I WOULD SAY YES. I NEVER

4-2 - 1 GAVE IT MUCH THOUGHT.

2 Q WELL, AS YOU THINK ABOUT IT, IF HE WAS USING HIS
3 STEPFATHER'S NAME --

4 MR. WAPNER: OBJECTION, ARGUMENTATIVE.

5 THE COURT: SUSTAINED. LET'S GET ON TO SOMETHING ELSE,
6 IF YOU WILL, PLEASE.

7 WE HAVE GONE THROUGH THIS ROTHSCHILD THING QUITE
8 EXTENSIVELY.

9 MR. BARENS: I DON'T THINK THAT I --

10 THE COURT: IT IS JUST REPETITIOUS.

11 MR. BARENS: I DON'T THINK THAT I --

12 THE COURT: I DON'T CARE WHAT IT IS. STOP IT, NOW.
13 LET'S GET ON TO SOMETHING IMPORTANT.

14 MR. BARENS: WHAT I AM SEEKING TO ESTABLISH, IS --

15 MR. WAPNER: CAN WE NOT HAVE A SPEAKING --

16 THE COURT: WILL YOU PLEASE GET ON TO SOMETHING ELSE?

17 MR. BARENS: THE TRUTH ABOUT HIS MOTHER IS --

18 THE COURT: THE TRUTH ABOUT HIS MOTHER IS THAT HE DIDN'T
19 LOVE HER? IS THAT WHAT YOU ARE TRYING TO ESTABLISH?

20 MR. BARENS: I DON'T KNOW IF HE EVER TOLD THE TRUTH
21 TO --

22 THE COURT: YOU HAVE ESTABLISHED A LOT OF THINGS SO
23 FAR. BUT I DON'T THINK THEY HAVE VERY MUCH BEARING ON THE
24 MURDER. LET'S GO ON.

25 MR. BARENS: ALL RIGHT, YOUR HONOR.

26 Q SIR, DID YOU EVER MEET HIS MOTHER?

27 A NO.

28 Q ALL OF THE TIME YOU ARE AT LEVIN'S HOUSE, YOU NEVER

1 SANTA MONICA, CALIFORNIA; WEDNESDAY, FEBRUARY 4, 1987; 10:45 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS NOTED ON TITLE PAGE.)
4

5 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

6 CALL YOUR NEXT WITNESS, PLEASE.

7 MR. WAPNER: LEN MARMOR.

8 GO RIGHT UP THERE AND RAISE YOUR RIGHT HAND.
9

10 LEN MARMOR,
11 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
12 AS FOLLOWS:

13 THE CLERK: IF YOU WOULD RAISE YOUR RIGHT HAND TO BE
14 SWORN, PLEASE.

15 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
16 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
17 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
18 SO HELP YOU GOD.

19 THE WITNESS: YES.

20 THE CLERK: IF YOU WOULD BE SEATED THERE AT THE WITNESS
21 STAND.

22 IF YOU WOULD STATE AND SPELL YOUR NAME FOR THE
23 RECORD, PLEASE?

24 THE WITNESS: LEN MARMOR, M-A-R-M-O-R.

25 THE COURT REPORTER: THE FIRST NAME?

26 THE WITNESS: L-E-N.
27
28

DIRECT EXAMINATION

BY MR. WAPNER:

Q MR. MARMOR, DO YOU KNOW THE PERSON DEPICTED IN
PEOPLE'S 6 FOR IDENTIFICATION?

A YES.

Q WHO IS THAT?

A RONNIE LEVIN.

Q WHEN DID YOU FIRST MEET MR. LEVIN?

A IN THE EARLY '70'S.

Q WHERE DID YOU MEET HIM?

A IN BEVERLY HILLS.

1 Q WERE YOU LIVING IN BEVERLY HILLS AT THAT TIME?

2 A YES.

3 Q DID YOU DEVELOP A FRIENDSHIP WITH MR. LEVIN?

4 A YES.

5 Q AND DID THAT FRIENDSHIP CONTINUE THROUGH 1984?

6 A YES.

7 Q FROM THE TIME THAT YOU FIRST MET HIM UNTIL 1984,

8 HOW OFTEN WOULD YOU SAY THAT YOU TALKED TO HIM?

9 A FOUR OR FIVE TIMES A WEEK.

10 Q WOULD YOU CONSIDER YOURSELF A CLOSE FRIEND OF

11 HIS?

12 A YES.

13 Q IN THE EARLY '70'S WHEN YOU FIRST MET HIM, WHERE

14 WERE YOU LIVING?

15 A I WAS LIVING IN BEVERLY HILLS.

16 Q HOW FAR AWAY FROM WHERE MR. LEVIN WAS?

17 A WHEN I FIRST MET HIM, I WAS PROBABLY A COUPLE

18 OF MILES AWAY.

19 Q AND AT SOME POINT, DID YOU MOVE NEXT DOOR TO

20 WHERE HE LIVED OR IN THE SAME BUILDING?

21 A YES.

22 Q WHERE WAS THAT?

23 A 148 SOUTH PECK.

24 Q IS THAT AN APARTMENT BUILDING?

25 A YES.

26 Q AND WHERE WAS MR. LEVIN LIVING AT THAT TIME?

27 A IN THAT BUILDING.

28 Q THAT IS IN THE 148 SOUTH PECK BUILDING?

1 A YES.

2 Q AND WHAT PERIOD OF TIME WAS THAT?

3 A ABOUT 1975, I BELIEVE, END OF 1975.

4 Q HOW LONG DID THE TWO OF YOU REMAIN IN THAT SAME
5 BUILDING?

6 A NOT VERY LONG. HE MOVED NEXT DOOR.

7 Q THAT WAS TO 144 SOUTH PECK?

8 A RIGHT.

9 Q THAT'S WHERE HE WAS LIVING UNTIL JUNE 6, 1984?

10 A YES.

11 Q DURING THE TIME YOU WERE LIVING IN THE SAME
12 BUILDING, HOW OFTEN WOULD YOU SEE OR TALK TO HIM?

13 A WHEN WE WERE LIVING IN THE SAME BUILDING, WELL,
14 IT WAS PRETTY MUCH THE SAME. AS LONG AS WE WERE ON THAT SAME
15 STREET, WE SAW EACH OTHER THREE OR FOUR OR FIVE TIMES A WEEK.

16 Q AND WOULD YOU TALK ON THE PHONE WHEN YOU DIDN'T
17 SEE HIM?

18 A YES.

19 Q HOW CLOSE WOULD YOU SAY YOU WERE TO HIM IN TERMS
20 OF PERSONAL RELATIONSHIPS?

21 A EXTREMELY CLOSE.

22 Q DID YOU CONSIDER YOURSELF HIS CLOSEST FRIEND?

23 A THAT IS WHAT HE TOLD ME.

24 Q DID HE TELL YOU THAT ON ONE OCCASION OR MORE
25 THAN ONE OCCASION?

26 A HE WOULD REINFORCE THIS ALL OF THE TIME.

27

28

1 Q WHAT KIND OF THINGS WOULD HE SAY?

2 A "YOU ARE THE ONLY ONE THAT REALLY KNOWS -- REALLY
3 KNOWS ME. YOU ARE THE ONLY ONE THAT I CAN BE TRUTHFUL WITH."
4 THAT TYPE OF THING.

5 Q AND DID YOU EVER -- DID YOU SEE MR. LEVIN IN JUNE
6 OF 1984?

7 A YES.

8 Q DID YOU SEE HIM ON JUNE THE 6TH?

9 A I BELIEVE THAT WAS THE DAY, THE LAST DAY THAT
10 I SAW HIM.

11 Q AND HE WAS LIVING AT 144 SOUTH PECK AT THAT TIME?

12 A YES.

13 Q DID HE GIVE YOU SOME MONEY AT THAT TIME?

14 A HE PAID ME \$2,000 TOWARD A DEBT THAT HE OWED ME.

15 Q IN WHAT FORM DID HE PAY YOU THIS MONEY?

16 A TRAVELER'S CHECKS.

17 Q WHAT DID YOU DO WITH THAT \$2,000 IN TRAVELER'S
18 CHECKS?

19 A CASHED THEM.

20 Q HOW DID YOU CASH THEM?

21 A I GAVE THEM TO A FRIEND OF MINE.

22 Q WHAT IS THE FRIEND'S NAME?

23 A WILLIAM MORRIS.

24 Q DID YOU SIGN --

25 YOU JUST GAVE THE TRAVELER'S CHECKS TO HIM?

26 A YES.

27 I THINK I OWED HIM SOMETHING AND I PAID HIM WITH
28 THAT AND HE GAVE ME THE BALANCE IN CASH.

1 WAS THAT UNUSUAL?

2 A THAT HE HAS NOT SPOKE (SIC) TO ME?

3 Q YES.

4 A YES. IT WOULD BE. IT IS VERY UNUSUAL. YES,
5 UNUSUAL SHOULD HE BE ALIVE.

6 Q IF HE WERE ALIVE ANYWHERE IN THE WORLD, DO YOU
7 THINK THAT --

8 MR. BARENS: OBJECTION.

9 Q BY MR. WAPNER: WOULD YOU EXPECT TO HEAR FROM
10 HIM?

11 ★ MR. BARENS: WE OBJECT. IT IS GOING TO THE ULTIMATE
12 ISSUE, YOUR HONOR.

13 MR. WAPNER: WELL, THAT IS NOT A VALID LEGAL OBJECTION,
14 WHETHER IT GOES TO THE ULTIMATE ISSUE.

15 THE COURT: I WILL SUSTAIN THE OBJECTION. WOULD YOU
16 EXPECT TO HEAR FROM HIM IF HE WERE ALIVE BECAUSE OF YOUR
17 FRIENDSHIP?

18 THE WITNESS: YES.

19 MR. BARENS: MOTION TO STRIKE THE WORDS "IF HE WERE
20 ALIVE" AND INSTRUCT THE JURY TO DISREGARD THOSE WORDS. IT
21 GOES TO THE ULTIMATE FACT.

22 THE COURT: OVERRULED.

23 ★ MR. BARENS: I PRESUME THE DEFENDANT WILL BE ABLE TO
24 PUT ON EVIDENCE TO THE CONTRARY?

25 THE COURT: WOULD YOU STOP ARGUING TO THE JURY? IF
26 YOU HAVE ANYTHING TO SAY, SAY IT OUTSIDE OF THE PRESENCE OF
27 THE JURY.

28 MR. BARENS: MAY WE APPROACH?

1 Q HE WOULDN'T TALK LIKE THAT?

2 A NO -- HE MIGHT TALK LIKE THAT BUT HE DIDN'T --
3 IT WAS RARE IF HE DID.

4 Q OKAY. WHEN YOU GOT THERE, ISN'T IT A FACT THAT
5 THE SUBJECT OF REPAYMENT OF MONEY CAME UP BECAUSE, BY CHANCE,
6 YOU SAW THE TRAVELER'S CHECKS THERE?

7 A THAT IS ABSOLUTELY WHY.

8 Q RIGHT?

9 A I DIDN'T SEE THEM.
10 HE SHOWED THEM TO ME.

11 Q OKAY.

12 A HE WAS BRAGGING ON THE FACT THAT HE HAD THIS STACK
13 OF MONEY.

14 Q AND ALL OF A SUDDEN, YOU SAID TO HIM, "WELL, IF
15 YOU HAVE GOT ALL OF THAT MONEY, HOW ABOUT ME?"

16 A YEAH, IT LOOKED LIKE A GOOD TIME TO COLLECT SOME
17 MONEY.

18 Q QUITE SO.

19 WHEN HE WAS BRAGGING ABOUT "I'VE GOT A LOT OF
20 TRAVELER'S CHECK MONEY HERE," DID HE SEEM TO HAVE OVERLOOKED
21 THE FACT THAT YOU MIGHT ASK HIM FOR SOME OF THEM?

22 A I GUESS THAT IS WHAT IT WAS.

23 Q RIGHT.

24 HE WOULDN'T WANT YOU TO THINK HE HAD A LOT OF
25 MONEY, WOULD HE, BECAUSE YOU WOULD START ASKING HIM FOR THE
26 MONEY HE OWED YOU?

27 MR. WAPNER: OBJECTION. CALLS FOR A CONCLUSION.

28 THE WITNESS: WELL --

1 MR. BARENS: WELL, WE CALLED FOR ALL KINDS OF CONCLUSIONS.

2 THE COURT: IS THAT A QUESTION?

3 MR. BARENS: WE CALLED FOR ALL KINDS OF CONCLUSIONS.

4 THE COURT: IS THAT A QUESTION?

5 MR. BARENS: YES, IT IS, YOUR HONOR.

6 THE COURT: RAISE YOUR VOICE AT THE END, WILL YOU?

7 MR. BARENS: THAT WAS THE QUESTION, ACTUALLY.

8 MR. WAPNER: THIS IS AN OBJECTION THAT IT CALLS FOR
9 A CONCLUSION ON THE PART OF THE WITNESS BECAUSE HE IS ASKING
10 THE WITNESS A, B, C, D --

11 THE COURT: REPHRASE YOUR QUESTION.

12 MR. BARENS: IT CALLS FOR HIS OPINION.

13 THE COURT: REPHRASE YOUR QUESTION.

14 Q BY MR. BARENS: IN YOUR OPINION, SIR, IF YOU
15 THOUGHT MR. LEVIN HAD A LOT OF MONEY AND HE WAS AWARE OF THAT,
16 ISN'T IT YOUR OPINION HE WOULDN'T WANT YOU TO THINK HE HAD
17 A LOT OF MONEY?

18 MR. WAPNER: OBJECTION. IT IS ARGUMENTATIVE.

19 MR. BARENS: WAIT A MINUTE. I HAVEN'T EVEN FINISHED
20 WITH THE QUESTION YET.

21 THE COURT: FINISH IT, WILL YOU, PLEASE?

22 Q BY MR. BARENS: ALL RIGHT, ISN'T IT YOUR OPINION
23 THAT IF HE THOUGHT YOU KNEW HE HAD A LOT OF MONEY HE WOULD
24 BE CONCERNED THAT YOU WOULD ASK HIM FOR THAT MONEY THAT HE
25 OWED TO YOU?

26 MR. WAPNER: YOUR HONOR, SAME OBJECTION AS ARGUMENTATIVE.
27 HE IS TAKING THE FACTS, MAKING AN ARGUMENT AND THEN ASKING
28 THE WITNESS TO AGREE WITH IT. THE JURORS ARE THE ONES THAT

Van Marmore ex
Basil Marmore

1 THE COURT: I WANT AN OFFER OF PROOF FROM YOU AS TO
2 WHAT YOU EXPECT THIS WITNESS TO TESTIFY TO.

3 MR. BARENS: THE OFFER OF PROOF WILL BE THAT MR. HUNT
4 TOLD HIM HE WAS GOING TO SUE THE CITY OF BEVERLY HILLS BECAUSE
5 HIS FRIENDS WERE BEING CONTACTED, TOLD THAT HE WAS BEING --
6 THAT HE WAS GUILTY OF HAVING MURDERED SOMEONE, AND THAT HE
7 KNEW THAT MR. -- THAT MR. MARMOR KNEW THAT WASN'T TRUE AND
8 HE ASKED HIM IF HE WOULD DISCUSS WITH THE POLICE HIS VIEWS
9 ON WHETHER OR NOT HUNT WAS GUILTY OF THAT MURDER.

10 MR. WAPNER: THAT IS TANTAMOUNT TO A STATEMENT BY THE
11 DEFENDANT THAT "I DIDN'T DO IT." AND IT IS A HEARSAY STATEMENT.

12 THE COURT: I WILL SUSTAIN THE OBJECTION.

13 MR. BARENS: YOUR HONOR, IT GOES TO THE DEFENDANT'S
14 STATE OF MIND.

15 THE COURT: YOU WANT AN OPINION FROM HIM, FROM HUNT
16 THAT HE ISN'T GUILTY OF THIS MURDER?

17 MR. BARENS: NOT AT ALL.

18 I JUST WANT TO ASK WHAT WORDS WERE SAID TO HIM.

19 THE COURT: I WILL SUSTAIN THE OBJECTION.

20 MR. BARENS: YOUR HONOR, IF I MIGHT, FOR A POINT OF
21 CLARIFICATION PROSPECTIVELY NOW, I WOULD UNDERSTAND THEN IF
22 A WITNESS IS GOING TO TALK ABOUT WHAT SOMEBODY TOLD HIM, BEING
23 THE DEFENDANT OR LEVIN, WE ARE NOT GOING TO PERMIT THAT?

24 THE COURT: I AM NOT GOING TO MAKE A BLANKET RULING.
25 I WILL RULE ON EVERY QUESTION AS IT COMES.

26 MR. BARENS: MAY I HAVE A BETTER UNDERSTANDING OF WHY,
27 YOUR REASONS?

28 THE COURT: NO. I AM GIVING YOU MY RULING. I DON'T

-1 - 1 Q WHAT IS YOUR EXPERIENCE IN MATTERS OF THIS
2 COMPLEXITY INVOLVING TEN COUNTS OF GRAND THEFT AND A COUNT
3 OF RECEIVING STOLEN PROPERTY? WELL, MAYBE I AM GETTING AHEAD
4 OF MYSELF.

5 WHAT WAS HE CHARGED WITH? CAN YOU TELL US WHAT
6 HE WAS CHARGED WITH IN THE COMPLAINT?

7 A MY RECOLLECTION IS THAT HE WAS CHARGED WITH --
8 THERE WAS ONE COUNT STARTING FROM THE BACK -- THERE WAS ONE
9 COUNT OF I BELIEVE, A VIOLATION OF PENAL CODE SECTION 476,
10 WHICH IS N.S.F. CHECKS, NONSUFFICIENT FUNDS. I BELIEVE THE
11 REMAINING COUNTS WERE GRAND THEFT COUNTS AND THERE WERE I
12 BELIEVE, FOUR ENHANCEMENTS.

13 MR. WAPNER: MAY I HAVE A MOMENT?

14 THE COURT: YES.

15 (PAUSE.)

16 Q BY MR. WAPNER: NOW, LET'S JUST ASSUME FOR THE
17 SAKE OF THIS DISCUSSION, THAT ALL OF THOSE CHARGES SURVIVED
18 THE MUNICIPAL COURT. THAT IS, THAT MR. LEVIN WAS BOUND OVER
19 TO THE SUPERIOR COURT ON ALL OF THOSE CHARGES AND THEREFORE,
20 HE WOULD BE FACING TRIAL ON 11 COUNTS OF GRAND THEFT, ONE
21 COUNT OF ISSUING A NONSUFFICIENT FUNDS CHECK AND ATTACHED
22 TO FOUR OF THOSE COUNTS WERE ENHANCEMENTS OF THEFT OVER SO
23 MUCH MONEY.

24 WHAT IS YOUR EXPERIENCE AS TO WHETHER THOSE TYPES
25 OF CASES GENERALLY GO TO TRIAL WITHIN THE 60 DAYS?

26 A AGAIN, IT ALL DEPENDS. ONE OF THE THINGS THAT
27 IS GOING TO BE DETERMINATIVE TO A CERTAIN DEGREE, IS WHETHER
28 OR NOT THE PERSON IS OUT OF CUSTODY OR AT LIBERTY.

1 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

2
3 CROSS-EXAMINATION

4 BY MR. BARENS:

5 Q GOOD AFTERNOON, MR. FURSTMAN.

6 A GOOD AFTERNOON.

7 Q MR. FURSTMAN, WHAT WAS THE NATURE OF THE BAIL
8 THAT WAS REPRESENTING \$75,000 MR. LEVIN WAS RELEASED ON?

9 A IT WAS CORPORATE SURETY AND APPARENTLY, AGAIN
10 REFERRING TO THE DOCKET SHEET, WHERE IT SAYS "NALT," I WOULD
11 ASSUME IT IS PROBABLY NATIONAL SURETY OR NATIONAL GENERAL
12 SURETY WAS THE CORPORATE SURETY BOND.

13 Q AND A CORPORATE SURETY BOND, COULD YOU EXPLAIN
14 TO THE JURY, IF YOU WOULD, WHAT A CORPORATE SURETY BOND MEANS?

15 A WHAT IT MEANS IS WHEN THE BAIL IS SET -- IN THIS
16 CASE, THE BAIL WAS SET AT \$75,000. THERE ARE DIFFERENT WAYS
17 OF POSTING THAT BAIL: PROPERTY, CASH DEPOSIT OR CORPORATE
18 SURETY, AS WAS USED IN THIS INSTANCE.

19 WHAT THAT MEANS IS THAT THE INDIVIDUAL OR MR.
20 LEVIN'S APPEARANCE WAS GUARANTEED BASICALLY BY THIS BOND,
21 WHICH IS LIKE AN INSURANCE POLICY AND IN THE EVENT HE FAILED
22 TO APPEAR, THE CORPORATE SURETY WITHIN 180 DAYS, IF THE
23 FORFEITURE ISN'T SET ASIDE, COULD EXECUTE ON WHATEVER THEY
24 WERE HOLDING AS COLLATERAL. GENERALLY, IT IS A DEED TO
25 PROPERTY.

26 THE MECHANICS ARE AN INDIVIDUAL CONTACTS A
27 BONDSMAN, WHO IS LIKE AN UNDERWRITER FOR A BONDING COMPANY
28 LIKE NATIONAL GENERAL. THEY CONTACT THE BAIL BONDSMAN. ON

1 A \$75,000 BOND, THE PERSON POSTING THE BOND WOULD DEPOSIT
2 WITH THE BAIL BONDSMAN \$7500 AS A PREMIUM, 10 PERCENT IS THE
3 STANDARD. THAT NEVER COMES BACK WHETHER THE BOND IS
4 EXONERATED THE NEXT DAY OR A YEAR.

5 THEY ARE GENERALLY RENEWABLE EVERY YEAR ON AN
6 ANNUAL BASIS.

7 SO IT WOULD REQUIRE A DEPOSIT, USUALLY A CASH
8 DEPOSIT OR CASHIER'S CHECK OR CASH, \$7500.

9 AND THEN THE BONDING COMPANY WOULD REQUIRE THAT
10 THE \$75,000 BOND BE SECURED. GENERALLY SPEAKING, THEY LOOK
11 TO REAL PROPERTY AND EQUITY IN REAL PROPERTY IN EXCESS OF
12 \$75,000, WELL IN EXCESS OF \$75,000.

13 Q NOW, MR. FURSTMAN, WERE YOU AWARE THAT LEVIN'S
14 PARENTS' PROPERTY REPRESENTED COLLATERAL FOR THE BOND?

15 A THAT IS WHAT I -- THAT IS WHAT I UNDERSTOOD,
16 YES.

17 Q DID YOU UNDERSTAND THAT IT WAS THEIR FAMILY
18 RESIDENCE THAT BACKED THE BOND?

19 A YES.

20 Q AND IT WAS THE UNDERSTANDING THEN THAT IF MR.
21 LEVIN DIDN'T APPEAR THAT THEY WOULD LOSE THE PROPERTY?

22 A YES.

23 Q ALL RIGHT. NOW WHEN WE GET TO ANOTHER FORM OF
24 BOND -- LATER ON, THERE WAS ANOTHER FORM OF BOND, YOU SAY?

25 A YES.

26 Q ALL RIGHT, SO THAT WE CAN UNDERSTAND THROUGH
27 MY QUESTIONING OF YOU WHAT IT IS. COULD YOU EXPLAIN TO ME
28 WHAT THE OTHER TYPE OF BAIL IS? IN OTHER WORDS, EVENTUALLY

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1 \$10,000 WAS PUT UP IN BOND MONEY INSTEAD OF THE CORPORATE
2 SURETY.

3 A THAT'S CORRECT.

4 Q COULD YOU EXPLAIN TO THE JURY WHAT THE \$10,000
5 TYPE OF BAIL IS?

6 A IT WAS -- IT WAS A CASH BAIL DEPOSIT.

7 BY CASH BAIL, THAT DOESN'T NECESSARILY MEAN THAT
8 YOU ARE PUTTING DOWN \$10,000 IN CASH. IT CAN BE A CASHIER'S
9 CHECK, DEPOSIT WITH THE COURT. SOMETIMES IT EVEN HAS BEEN
10 ARRANGED WHERE A CD OR PASSBOOK IN THE NAME OF THE COUNTY
11 CLERK OR THE LOCAL COURT IS EVEN DEPOSITED AND HELD.

12 IT WAS MY UNDERSTANDING IN THIS CASE THAT --
13 I BELIEVE IT WAS -- I WAS LED TO BELIEVE A CASHIER'S CHECK
14 OR A CHECK IN THE AMOUNT OF \$10,000 REPRESENTING THE CASH
15 BAIL WAS DEPOSITED DIRECTLY WITH THE COURT.

16 IN OTHER WORDS, NO BONDSMAN WAS INVOLVED. MEANING
17 THAT THERE WAS NO TEN PERCENT SURCHARGE. ALSO MEANING AT
18 THE CONCLUSION OF THE PROCEEDINGS WHEN THE BAIL IS EXONERATED,
19 THE \$10,000, WHATEVER AMOUNT THAT IS DEPOSITED IN CASH, COMES
20 BACK IN ITS ENTIRETY TO THE DEPOSITOR.

21 Q BY THE WAY, DO YOU KNOW THE NAME THAT THE \$10,000
22 WAS POSTED IN IN THIS INSTANCE?

23 A REFERRING TO THE DOCKET, THE DOCKET -- I DON'T
24 HAVE IT --

25 MY RECOLLECTION WAS THAT IT WAS POSTED BY --
26 I BELIEVE IT WAS IN MARTIN LEVIN'S NAME, BECAUSE I KNOW WE
27 WERE -- THERE WAS A CONCERN ABOUT NOT FORFEITING THAT AND
28 MAKING SURE THAT IT WENT BACK TO MR. LEVIN.

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THE COURT: HIS STEPFATHER?

THE WITNESS: YES, YES.

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5 1 THE COURT: SUSTAINED.

2 Q BY MR. BARENS: DID HE EVER GIVE YOU A REASON
3 FOR THIS ONSET OF DISCUSSION ABOUT BAIL REDUCTION?

4 A NOT THAT I CAN RECALL, NO.

5 Q NOW, WHEN YOU WENT INTO COURT FOR THE BAIL
6 REDUCTION, THAT WAS WITHIN A COUPLE OF WEEKS OF HIM INITIALLY
7 STARTING THIS REQUEST WITH YOU?

8 A IT WOULD HAVE BEEN -- IF IT WAS EVEN TWO WEEKS,
9 IT WAS FAIRLY --

10 Q LESS THAN TWO WEEKS?

11 A FAIRLY. I WOULD SAY SO. ALTERNATIVELY, I AM
12 SURE IF IT WAS FAR OFF BETWEEN APPEARANCES, I WOULD HAVE BEEN
13 REQUESTED TO ADVANCE THE MATTER OR MAKE A BAIL MOTION AT THAT
14 TIME.

15 SO IT WAS AGAIN, MY RECOLLECTION THAT IT WAS
16 SHORTLY BEFORE THE MAY 29 APPEARANCE.

17 Q RIGHT. NOW, WHEN YOU WENT INTO COURT -- STRIKE
18 THAT.

19 WHEN THE MATTER OF THE BAIL REDUCTION CAME UP
20 WITH LEVIN AND CONSIDERING HIS ATTITUDE OR DEMEANOR ABOUT
21 THE BAIL REDUCTION, DID YOU THINK IT WAS PECULIAR?

22 A WELL, I DIDN'T SEE ANY LEGAL BASIS FOR THE BAIL
23 REDUCTION AT THAT PARTICULAR POINT IN TIME, ONCE THE SURETY
24 BOND WAS UP.

25 THEY HAD PREVIOUSLY -- BY "THEY" THE PROSECUTION
26 I THINK HAD INITIALLY RECOMMENDED A BAIL THAT WAS, YOU KNOW,
27 SUBSTANTIALLY HIGHER.

28 Q WAS THERE ANYTHING TO BE OBTAINED FROM IT, FROM

3-1
1 THE BAIL REDUCTION?

2 A GAINED BY RON LEVIN?

3 Q GAINED BY ANYONE? WHAT COULD BE GAINED BY THIS
4 BAIL REDUCTION MOTION?

5 A WELL, BASED UPON THE NEGOTIATIONS AND THE GIVE
6 AND TAKE, BOB GARDEN AGAIN -- STRIKE THAT.

7 BOB GARDEN STOOD TO GAIN A SUBSTANTIAL AMOUNT
8 OF PROPERTY BACK.

9 Q HOW ABOUT THE LEVINS WHO HAD POSTED THE COLLATERAL?

10 A OTHER THAN GETTING THE PROPERTY CONVEYED BACK
11 TO THEM OR THAT LIEN RECONVEYED BACK TO THEM, THAT WOULD BE
12 IT.

13 Q ALL RIGHT. THEY COULD GET THE TITLE TO THIS
14 PROPERTY CLEARED. WAS THAT THE UNDERSTANDING?

15 A YES.

16 Q AND THE ENCUMBRANCE WOULD BE REMOVED FROM THE
17 PROPERTY?

18 A YES.

19 Q AND THEREFORE, IF MR. LEVIN WERE NOT TO SHOW UP
20 FOR HIS TRIAL IN THIS MATTER, THEY WOULDN'T LOSE THE
21 PROPERTY IF THE LIEN WAS REMOVED FROM THE BAIL COMPANY? IS
22 THAT TRUE?

23 A THAT'S CORRECT.

24 Q ALL RIGHT. NOW, YOU SUCCEEDED IN DOING THAT,
25 DID YOU NOT, SIR?

26 A IN THE BAIL REDUCTION?

27 Q YES.

28 A YES.

1 REDUCTION WHERE IT WAS UNOPPOSED. THE AMOUNT WAS AGREED UPON.

2 THAT IS NOT TO SAY THAT IF THE PROPERTY HAD NOT
3 BEEN RELEASED OR HE WOULDN'T AGREE, THAT THE BAIL MOTION COULD
4 STILL NOT HAVE BEEN MADE. BUT IT WOULD HAVE BEEN MADE AT
5 THAT TIME OVER OPPOSITION.

6 Q ALL RIGHT. NOW, YOU HAVE HANDLED OTHER THEFT
7 OF PROPERTY CASES IN BEVERLY HILLS, HAVE YOU NOT?

8 A YES.

9 Q WHAT WE MIGHT GENERALLY REFER TO AS WHITE COLLAR
10 TYPE CRIMES?

11 A YES.

12 Q NOW, BASED ON YOUR EXPERIENCE, HAVE YOU EVER HAD
13 A CASE INVOLVING THIS MUCH PROPERTY TAKEN THAT THE D.A.'S
14 OFFICE WOULD CONSENT TO BEING MADE A MISDEMEANOR?

15 A NOT WITH THIS MONETARY LOSS, ALLEGED MONETARY
16 LOSS.

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1 Q IN FACT, WITH ALLEGED MONETARY LOSSES SUBSTANTIALLY
2 LESS THAN THE AMOUNT INVOLVED IN THIS CASE, THEY DON'T MAKE
3 IT A MISDEMEANOR, DO THEY?

4 MR. WAPNER: OBJECTION. IT CALLS FOR A CONCLUSION.

5 MR. BARENS: I AM ASKING HIS OPINION AS A PRACTICING
6 LAWYER IN THAT COURT, YOUR HONOR.

7 THE COURT: HAS IT EVER HAPPENED WHEN THERE HAS BEEN
8 THAT LARGE OF A LOSS THAT ULTIMATELY A CASE HAS BEEN REDUCED
9 TO A MISDEMEANOR?

10 THE WITNESS: CASES THAT I HAVE HANDLED?

11 THE COURT: THAT YOU KNOW ABOUT.

12 THE WITNESS: AGAIN, WITH A LARGE LOSS, AND IN THIS
13 CASE IT WAS, I THINK APPROXIMATELY \$325,000, I AM NOT AWARE
14 OF ANYTHING WITH THAT TYPE OF MONETARY LOSS WHERE THERE HAS
15 BEEN A MISDEMEANOR REDUCTION.

16 THE COURT: THE REASON HE ASKED YOU THAT IS BECAUSE
17 YOU MENTIONED SOMETHING ABOUT GETTING IT REDUCED TO A
18 MISDEMEANOR.

19 THE WITNESS: AS FAR AS THE ULTIMATE SENTENCING RANGE
20 AND WHAT WAS AVAILABLE FROM THE ABSOLUTE LOW END TO THE
21 ABSOLUTE MAXIMUM.

22 THE COURT: ALL RIGHT. NOT THAT IT WAS LIKELY THAT
23 IT WOULD BE REDUCED TO A MISDEMEANOR IN THIS CASE IF HE WAS
24 CONVICTED; IS THAT IT?

25 THE WITNESS: THAT'S CORRECT.

26 AND THERE ARE EVEN CERTAIN RESTRICTIONS ON THE
27 COURT'S ABILITY, I BELIEVE, TO REDUCE THE SENTENCE IN THIS
28 CASE WHERE THERE ARE ENHANCEMENTS IN THIS TYPE OF A CASE.

-2

1 MR. BARENS: AS A MATTER OF FACT, MR. FURSTMAN, HAD
2 MR. LEVIN BEEN CONVICTED ON THESE CHARGES, ISN'T THAT
3 SECTION 1203.045 THAT REQUIRES THAT HE NOT GET PROBATION BUT
4 ACTUALLY SERVE THE TIME IN CUSTODY?

5 A THAT PROVISION WOULD -- IS A PROHIBITION AGAINST
6 THE COURT IMPOSING PROBATION IN THAT TYPE OF A CASE.

7 AGAIN, THERE IS CERTAIN CIRCUMSTANCES UNDER WHICH
8 A COURT COULD STRIKE THOSE ALLEGATIONS.

9 BUT ASSUMING THOSE ALLEGATIONS WERE NOT STRICKEN
10 AND WERE FOUND TO BE TRUE, IT WOULD BE A PROHIBITION ON A
11 GRANT OF PROBATION BY THE COURT.

12 Q PROBATION NOT BEING AVAILABLE, EXCEPT IN VERY
13 UNUSUAL CIRCUMSTANCES; ISN'T THAT WHAT THE CODE SECTION I
14 JUST REFERENCED, USES THE WORD "UNUSUAL"?

15 A UNUSUAL OR IN THE INTERESTS OF JUSTICE OR WHERE
16 THE INTERESTS OF JUSTICE ARE SERVED, I THINK. YOU KNOW --

17 Q OTHERWISE, IF LEVIN IS CONVICTED, WE ARE NOT
18 EVEN GOING TO TALK ABOUT PROBATION, THE JUDGE IS PROHIBITED
19 FROM GIVING HIM PROBATION?

20 A WELL, I AM SURE, GIVEN VIGOROUS REPRESENTATION,
21 IT WOULD CERTAINLY BE DISCUSSED BUT THERE WOULD BE -- AGAIN,
22 THERE WOULD BE THE PROHIBITION, ASSUMING THAT IT WAS PROVED
23 AND FOUND TO BE TRUE.

24 Q ALL RIGHT. NOW WE HAD BEFORE THE RECESS DISCUSSED
25 THE MATTER OF COST FOR THE PRELIMINARY HEARING AND COST FOR
26 THE TRIAL AND PREPARATION FOR TRIAL.

27 HAD ANYONE IN YOUR OFFICE EVER TOLD YOU THAT
28 MR. LEVIN HAD PAID THE FEES AND COSTS ANTICIPATED FOR HIS

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D
1 THE COURT: SHE HASN'T TESTIFIED TO ANYTHING YET.
2 LET'S WAIT.

3 MR. BARENS: BY THE TIME I ASK FOR VOIR DIRE AGAIN,
4 SHE WILL HAVE TESTIFIED ACTUALLY.

5 THE COURT: ARE THESE CARDS KEPT IN THE ORDINARY COURSE
6 OF BUSINESS AT THE BANK?

7 THE WITNESS: YES, THEY ARE.

8 THE COURT: AND THAT IS WHERE YOU GOT THEM FROM?

9 THE WITNESS: YES, IT IS.

10 THE COURT: THAT IS SUFFICIENT. GO AHEAD.

* 11 MR. BARENS: JUST FOR THE RECORD'S SAKE, YOUR HONOR,
12 WE WOULD OBJECT BECAUSE THE WITNESS PATENTLY HAS NO PERSONAL
redundant 13 KNOWLEDGE CONCERNING THE PREPARATION, MAINTENANCE, DISTRIBUTION
14 OF ANY OF THE DOCUMENTS SHE WILL BE TESTIFYING ABOUT, WHICH
15 WE BELIEVE IS REQUIRED BY LAW.

16 THE COURT: BY LAW, SOMEBODY CAN TESTIFY IF THEY HAVE
17 POSSESSION OF DOCUMENTS, THAT THEY ARE KEPT IN THE ORDINARY
18 COURSE OF BUSINESS. YOU DON'T HAVE TO HAVE THE PERSON WHO
19 ACTUALLY MADE THE ENTRIES TESTIFY TO IT. IF THEY ARE KEPT
20 IN THE ORDINARY COURSE OF BUSINESS, ANYBODY WHO IS FAMILIAR
21 WITH THE RECORDS CAN TESTIFY TO IT. THAT IS MY RULING.

22 LET'S NOT SAY ANYTHING FURTHER ABOUT IT.

23 MR. BARENS: THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT, YOU HAVE GOT YOUR OBJECTION.

25 MR. BARENS: THANK YOU, YOUR HONOR.

26 THE COURT: GO AHEAD.

27 Q BY MR. WAPNER: SHOWING YOU THESE THREE CARDS,
28 WHAT ARE THEY? AND THAT IS PEOPLE'S 41, 42 AND 43.

1 A YES.

2 MR. WAPNER: (READING)

3 "Q YOU EARLIER MENTIONED A FIGURE,
4 25,000. WHERE DID YOU GET THAT FROM?

5 "A I RECALL EITHER THAT THAT'S WHAT
6 HE TOLD ME OR COUNTING THEM AND I RECALL 10,000 --
7 \$25,000 IS AN ENORMOUS AMOUNT OF MONEY. I JUST
8 REMEMBER LOOKING AT THIS BIG STACK OF TRAVELER'S
9 CHECKS AND IT SEEMED LIKE THAT'S WHAT IT WOULD BE."

10 Q DO YOU REMEMBER SAYING THAT?

11 A YES.

12 Q AND THAT TESTIMONY WAS GIVEN IN MAY OF 1985?

13 A YES.

14 Q AND THAT DEPOSIT THAT YOU MADE OF THE \$10,000,
15 WAS WHAT DAY?

16 A THE 5TH OF JUNE, 1984.

17 Q HAD YOU MADE SOME PLANS WITH MR. LEVIN TO GO
18 SOMEPLACE?

19 A YES. DEAN FACTOR AND RON LEVIN AND I WERE GOING
20 TO GO TO NEW YORK ON JUNE THE 7TH.

21 Q WHEN WERE THE PLANS MADE?

22 A THE END OF MAY, I WOULD SAY ABOUT A WEEK PRIOR
23 TO WHEN WE WERE GOING TO LEAVE.

24 Q WHAT DID MR. LEVIN TELL YOU ABOUT THE TRIP TO
25 NEW YORK?

26 A NOT MUCH, JUST THAT HE WAS GOING TO GO TO NEW
27 YORK AND HE ASKED ME IF I WANTED TO GO.

28 Q WHAT DID YOU SAY?

1 A I COULDN'T SAY EXACTLY THE LONGEST PERIOD OF
2 TIME BUT IT SEEMED TO ME THAT WHEN WE CAME BACK, HE WOULD
3 NORMALLY CALL IN IN 10 OR 15 MINUTES FOR THE MESSAGES, NO
4 LONGER THAN THAT.

5 Q IF HE HAD BEEN OUT, FOR EXAMPLE, ON THE NIGHT OF
6 JUNE THE 6TH AND GOT A MESSAGE AND SOMEONE CALLED HIM BETWEEN
7 9:00 AND 9:10 IN THE EVENING AND HE HAD RETURNED SOME TIME
8 AFTER THAT, YOU WOULD EXPECT THAT WITHIN 10 TO 15 MINUTES
9 OF HIS RETURN, HE WOULD HAVE CALLED? .

10 A YES.

11 Q AND GOTTEN THE MESSAGE?

12 A CERTAINLY.

13 MR. WAPNER: MAY I HAVE JUST A MOMENT, PLEASE, YOUR HONOR?

14 THE COURT: UH-HUH, YES.

15 Q BY MR. WAPNER: WERE YOU AWARE OF THE FACT THAT
16 MR. LEVIN HAD A PENDING CRIMINAL CASE?

17 A YES, I WAS.

18 Q DID HE EVER TALK TO YOU ABOUT IT?

19 A OCCASIONALLY.

20 Q AND WHEN HE TALKED TO YOU ABOUT IT, WHAT WOULD HE
21 SAY?

22 A HE -- I REMEMBER A NUMBER OF TIMES, HE TALKED ABOUT
23 THE PERSON WHO HE THOUGHT WAS RESPONSIBLE FOR THE FACT THAT
24 HE WAS -- HIS CASE WASN'T GOING TO GO VERY WELL.

25 Q WHO WAS THAT PERSON?

26 A NEIL ANTIN.

27 Q WHAT WAS THE EXPRESSION THAT HE USED WHEN HE
28 TALKED ABOUT THAT?

1 A HE SAID "NEIL DIMED ON ME."

2 Q DIMED ON ME?

3 A HE TOLD THE POLICE SOMETHING HE DIDN'T HAVE TO
4 TELL THEM, THAT ALL IT DID WAS GET RON IN TROUBLE.

5 Q DIMED, MEANING TO DROP A DIME --

6 A TO DROP A DIME, MADE A PHONE CALL.

7 Q WHAT ELSE DID HE SAY ABOUT THE CASE BESIDES THE
8 FACT THAT MR. ANTIN HAD DIMED ON HIM?

9 A HE SAID HE DIDN'T THINK IT WAS GOING TO GO VERY
10 WELL.

11 Q WHEN HE SAID THAT, CAN YOU DESCRIBE THE TONE THAT
12 HE USED WHEN HE SAID THAT?

13 A HE SAID IT IN A VERY OFFHAND MANNER. HE SAID,
14 I MEAN ALMOST LAUGHING, "IT DOESN'T LOOK VERY GOOD."

15 WHAT HE SAID WAS, "I DON'T THINK IT IS GOING TO
16 GO VERY WELL."

17 Q FROM THE WAY THAT HE SAID THAT TO YOU, DID IT
18 APPEAR THAT HE WAS CONCERNED ABOUT THE CASE?

19 A NOT REALLY. I MEAN -- I WAS WITH HIM FOR ALMOST
20 EVERY DAY FOR A NUMBER OF WEEKS WHILE I WAS WORKING FOR HIM
21 AND HE ONLY MENTIONED IT A FEW TIMES SO HE DIDN'T SEEM OVERLY
22 CONCERNED WITH IT.

23 Q WHEN HE CALLED AT 9:00 -- WHEN HE TALKED TO YOU
24 THAT EVENING SOMETIME BETWEEN 9:00 AND 9:30 TO ASK YOU TO GO
25 TO DINNER, DID THAT SEEM UNUSUAL?

26 A NO.

27 Q IN YOUR EXPERIENCE WITH HIM, DID HE USUALLY COME
28 IN EARLY, COME IN LATE OR SOMEWHERE IN BETWEEN?

*Peer lawyers Poor representation
True attitude of Court towards Sales*

(THE FOLLOWING PROCEEDINGS WERE
HELD IN OPEN COURT OUTSIDE THE
PRESENCE OF THE JURY:)

THE COURT: ALL RIGHT.

MR. BARENS: WELL YOUR HONOR, AS IT TURNS OUT,
MR. WAPNER HAD ON THE COUNSEL TABLE, THE AMERICAN EXPRESS
STUFF WHILE I WAS FLAILING AWAY.

I WANT TO CONSERVE THE COURT'S TIME. I WANT
TO DO THAT AND I NEED TO DO AN ANALYSIS OF THIS MATERIAL,
COUPLED WITH AN ANALYSIS OF A MULTITUDE OF OTHER SUPPORTIVE
DOCUMENTS THAT WERE IN THE PITTMAN THING THAT I NOW ASSOCIATE
TOGETHER WITH THIS. ALL RIGHT?

I AM ASKING YOUR HONOR THEREFORE, THAT I WILL
PROCEED -- HOW THIS CAME TO MY ATTENTION, I WENT UP TO
MR. OSTROVE AT THE END OF THE BREAK AND ASKED WHY DON'T
WE MEET TOMORROW MORNING EARLY AND GO OVER ALL THIS STUFF.
HE THEN ADVISED ME THAT THE PEOPLE HAD THE STUFF.

SO NOW, I AM ASKING THE COURT, I NEED TO SPEND
ROUGHLY 45 MINUTES TO AN HOUR, TO DO WHAT I FEEL INCUMBENT
FOR ME TO DO IN PREPARATION OF QUESTIONING. I NEED TO DO
IT.

SO I WOULD LIKE TO PROCEED WITH THIS WITNESS AT
10:30 TOMORROW AND LET MR. WAPNER PUT HIS NEXT WITNESS ON
NOW.

THE COURT: I DON'T UNDERSTAND. YOU SEEM TO BE ACTING
AS THE ATTORNEY FOR THE CREDITORS. I DON'T UNDERSTAND THE
PURPOSE OF ALL OF THAT.

MR. BARENS: YOUR HONOR, I --

3-5
1 THE COURT: I DON'T UNDERSTAND WHY YOU HAVE TO GO INTO ALL
2 OF THIS DETAIL WITH RESPECT TO WHAT HE WAS OWING.

3 MR. BARENS: YOUR HONOR, THAT IS A PART OF MY DEFENSE,
4 SIR.


5 THE COURT: THAT HE OWED A LOT OF MONEY?

6 MR. BARENS: NO, SIR.

7 THE COURT: I DON'T WANT TO KNOW WHAT THE DEFENSE IS.
8 JUST KEEP IT TO YOURSELF.

9 MR. BARENS: I CAN'T TELL YOU --

10 THE COURT: BUT APPARENTLY, APPARENTLY I AM ONLY
11 GOING BY APPEARANCES AND I DON'T KNOW WHAT YOUR DEFENSE IS.
12 BUT, IT WOULD APPEAR THAT ALL YOU ARE DOING IS ASKING HIM
13 ABOUT THINGS WHICH RELATE TO THE CREDIT OF THE DECEDENT --
14 NOT THE DECEDENT, I AM TERRIBLY SORRY. I MEAN, THE MISSING
15 PERSON AND I DON'T KNOW WHAT POINT YOU ARE TRYING TO ACCOMPLISH.

9.  1 MR. BARENS: SIR, I CAN ONLY ASSURE YOU IN GOOD FAITH
2 THAT I AM GOING TO ACCOMPLISH SOMETHING IMPORTANT WITH THIS
3 SEARCH FOR THE DEFENSE. I WON'T TAKE UP THE TIME UNNECESSARILY.
4 I AM NOT HERE JUST TO TAKE UP THE TIME UNNECESSARILY.

5 THE COURT: DO YOU WANT TO MAKE AN OFFER ON THE RECORD,
6 STATEMENT WITHOUT THE DISTRICT ATTORNEY PRESENT?

7  MR. BARENS: I CAN'T REALLY DO THAT WITHOUT DIVULGING
8 MY DEFENSE.

9 THE COURT: I AM NOT THE PROSECUTOR. I AM JUST THE
10 JUDGE WHO IS ON THE CASE.

11 MR. BARENS: I CAN ONLY SUBMIT AS AN OFFICER OF THIS
12 COURT --

13 THE COURT: DO YOU WANT TO MAKE AN OFFER OF PROOF THEN?

14 MR. BARENS: NO, SIR. I JUST WANT TO PUT ON MY
15 DEFENSE.

16 THE COURT: WELL, PUT ON YOUR DEFENSE WHEN THE TIME
17 COMES. IN THE MEANTIME, ALL YOU ARE TRYING TO ESTABLISH
18 IS THAT HE OWES A LOT OF MONEY TO PEOPLE.

19 MR. BARENS: NO, SIR, I RESPECTFULLY SUBMIT I WILL
20 ACCOMPLISH MORE THAN THAT.

21 I AM SURE YOUR HONOR WILL BE SATISFIED IF I AM
22 PERMITTED TO PROCEED AND TO PREPARE PROPERLY.

23 THE COURT: I DON'T WANT TO STAND IN THE WAY OF YOUR
24 PREPARING PROPERLY BUT THE WAY IT SEEMS TO ME, ALL YOU ARE
25 TRYING TO ESTABLISH IS THAT HE OWED A LOT OF MONEY TO A LOT
26 OF PEOPLE.

27 MR. BARENS: I AM SURE, YOUR HONOR, THAT ONCE YOUR HONOR
28 SEES WHAT I ESTABLISH, WHAT I SEEK TO DO, THAT YOU WOULD SEE I

1 DID NOT WASTE YOUR HONOR'S TIME.

2 MR. WAPNER: TWO THINGS. FIRST OF ALL, WHAT COUNSEL
3 WANTS TO DO IS TO GO OVER TWO EXHIBITS THAT HE HAS NOW
4 DISCOVERED FOR THE FIRST TIME WERE INTRODUCED IN THE PITTMAN
5 TRIAL OVER A YEAR AND A HALF AGO AND THESE EXHIBITS ARE THE
6 AMERICAN EXPRESS BILLS, STATEMENTS THAT WERE SENT EVERY MONTH
7 TO MR. LEVIN'S HOUSE AND COLLECTED FROM THE HOUSE BY
8 MR. LEVIN AND I BELIEVE GIVEN TO THE POLICE OR GIVEN TO
9 MR. OSTROVE AND THEN TAKEN BACK AND GIVEN TO THE POLICE. AND
10 THEN THERE ARE SOME DOCUMENTS THAT CONSIST OF MICROFILM COPIES
11 OF THE CREDIT CARD SLIPS THAT SHOW WHAT IT WAS THAT WAS
12 ACTUALLY PURCHASED THAT BUILT UP THE BALANCE TO THE POINT
13 WHERE IT WAS, TO THE POINT THAT MR. LEVIN DISAPPEARED.

14 THEN I ASSUME HE THEN WANTS TO QUESTION THIS
15 WITNESS ABOUT WHAT WERE THE CHARGES ON THAT ACCOUNT THAT
16 LED UP TO THIS BALANCE AND THIS WITNESS IS INCOMPETENT TO
17 TESTIFY ABOUT THAT. THOSE AREN'T HIS RECORDS.

18 THE RECORDS OF THE CHARGES THAT WERE MADE ON
19 THE ACCOUNT ARE KEPT BY THE AMERICAN EXPRESS COMPANY. THE
20 RECORDS OF THE CHARGES WERE PRODUCED AT THE PITTMAN TRIAL
21 BY A MR. JOHN REEVES, WHO IS A REPRESENTATIVE OF AMERICAN
22 EXPRESS COMPANY AND IS COMPETENT TO LAY THE FOUNDATION FOR
23 THOSE RECORDS AS BUSINESS RECORDS AND HE CAN TELL HOW THEY
24 ARE PREPARED.

25 THIS WITNESS, MR. OSTROVE, DIDN'T WITNESS THE
26 PURCHASE OF ANY OF THESE ITEMS. HE DOESN'T KNOW HOW THOSE
27 ARE PREPARED AND AS FAR AS HE IS CONCERNED, THEY ARE HEARSAY
28 BECAUSE EITHER HE CAN'T LAY A FOUNDATION FOR BUSINESS RECORDS

1 SO IT IS NOT --

2 THE COURT: YOU MEAN -- IS THE AMERICAN EXPRESS
3 REPRESENTATIVE AVAILABLE?

4 MR. WAPNER: YES.

5 HE WAS ON THE WITNESS LIST THAT WAS PROVIDED TO
6 COUNSEL AT THE BEGINNING OF THIS CASE.

7 HE TESTIFIED IN THE PITTMAN CASE AND LAID OUT
8 THE FOUNDATION FOR THOSE MATERIALS AND BECAUSE HE WAS ON THE
9 WITNESS LIST, OBVIOUSLY, I ANTICIPATE CALLING HIM AND I
10 ASSUME COUNSEL ANTICIPATED THAT HE WOULD BE HERE.

11 THE COURT: WELL, YOU ARE GOING TO CALL HIM, ARE YOU?

12 MR. WAPNER: YES.

13 THE COURT: THAT WILL TAKE CARE OF THAT, WON'T IT?
14 YOU KNOW ALL ABOUT IT.

15 MR. BARENS: I AM NOT SATISFIED.

16 THE COURT: WELL, I AM SATISFIED. I WILL SUSTAIN
17 THE OBJECTION BY THE DISTRICT ATTORNEY.

18 MR. BARENS: WHAT IS THE OBJECTION --

19 THE COURT: ON THE AMERICAN EXPRESS MATTER, YOU WILL
20 HAVE A WITNESS WHO CAN TESTIFY FULLY WITH RESPECT TO THAT.

21 WHAT IS THE OTHER MATTER?

22 MR. WAPNER: I AM NOT OBJECTING TO THE FACT THEY CAN
23 USE THE STATEMENTS FROM THE AMERICAN EXPRESS CARD BECAUSE
24 THOSE, I BELIEVE, MR. OSTROVE HAS SEEN OR THEY ARE SIMILAR
25 TO WHAT HE SAW AND HE HAS PROBABLY SOME STATEMENTS IN HIS
26 FILE AFTER THE DATE OF THE STATEMENTS THAT WE HAVE.

27 WHAT I AM SAYING IS I DON'T THINK IT IS PROPER
28 FOR THIS WITNESS TO BE QUESTIONED ABOUT WHAT PARTICULAR CHARGES

1 WERE MADE ON THAT AMERICAN EXPRESS ACCOUNT BECAUSE HE IS
2 NOT COMPETENT TO TESTIFY ABOUT THAT.

3 THE COURT: I WILL SUSTAIN THE OBJECTION.
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1 THE COURT: ALL RIGHT. NOW IN WHOSE NAME WAS THAT
2 ACCOUNT?

3 THE WITNESS: THAT WAS THE ACCOUNT THAT WE HAVE BEEN
4 REFERRING TO, IT WAS IN THE NAME OF RONALD GEORGE LEVIN.

5 THE COURT: RONALD GEORGE LEVIN; IS THAT CORRECT?

6 THE WITNESS: YES, YOUR HONOR.

7 THE COURT: NOW THE CHECK WHICH IS MADE PAYABLE, IS
8 PAYABLE TO WHOM?

9 THE WITNESS: TORONALD GEORGE LEVIN.

10 THE COURT: NOW HE MADE OUT THIS CHECK HIMSELF, DID
11 HE NOT, APPARENTLY?

12 THE WITNESS: APPARENTLY, YES.

13 THE COURT: SO HE MADE OUT A CHECK IN THE SUM OF
14 \$500,000 ON HIS OWN BANK ACCOUNT MADE PAYABLE TO HIMSELF;
15 IS THAT CORRECT?

16 THE WITNESS: THAT'S CORRECT.

17 THE COURT: AND THAT, YOU FOUND IN THE DRAWER THAT
18 WAS NEVER CASHED, WAS IT?

19 THE WITNESS: THAT'S CORRECT.

20 THE COURT: ALL RIGHT. AND IT WASN'T UNTIL YOU WENT
21 IN THE DRAWER AND YOU FOUND THAT PARTICULAR CHECK AND YOU
22 THOUGHT, "OH, WELL, HERE THERE IS A LOT OF MONEY I WILL
23 DEPOSIT;" ISN'T THAT RIGHT?

24 THE WITNESS: WE THOUGHT THAT WAS A POSSIBILITY,
25 RIGHT.

26 THE COURT: THEN YOU DEPOSITED IT?

27 THE WITNESS: YES, I TOOK IT --

28 THE COURT: WHAT HAPPENED TO IT?

1 THE WITNESS: THEY WERE RETURNED FROM THE SWISS BANK
2 MARKED "N.S.F."

3 THE COURT: THAT MEANT THAT HE DIDN'T, RONALD GEORGE LEVIN
4 DID NOT HAVE MORE THAN \$3.50 IN THAT ACCOUNT AT THAT TIME;
5 IS THAT RIGHT?

6 THE WITNESS: ACCORDING TO THE STATEMENT OF THE BANK,
7 THAT IS CORRECT.

8 THE COURT: AND THE SECOND CHECK SIMILARLY --

9 INCIDENTALLY, IS THERE ANY DATE ON WHICH THAT
10 CHECK WAS DRAWN, THE DATE THAT IT WAS DRAWN?

11 THE WITNESS: THE CHECKS WERE UNDATED, YOUR HONOR.

12 THE COURT: UNDATED?

13 THE WITNESS: YES, SIR.

14 THE COURT: IS THAT RIGHT?

15 NOW, THE SECOND CHECK IS IN THE SUM OF \$980,877,
16 UNDATED, DRAWN ON THE SAME ACCOUNT, PAYABLE TO
17 RONALD GEORGE LEVIN, SIGNED BY RONALD GEORGE LEVIN; IS THAT
18 CORRECT?

19 THE WITNESS: I DON'T KNOW WHO SIGNED IT.

20 THE COURT: YOU DON'T KNOW WHO SIGNED IT?

21 THE WITNESS: THERE WAS A SIGNATURE ON IT AND WHEN
22 THE BANK RETURNED IT, ONE OF THE THINGS THEY SAID WAS
23 "N.S.F. AND IRREGULAR SIGNATURE."

24 THE COURT: AND THOSE TWO CHECKS ARE ON THAT ONE
25 BANK ACCOUNT WHERE YOU TOLD US THERE WAS A BALANCE FIRST
26 OF \$3 AND THEN LATER THERE WERE CHARGES AGAINST IT WHERE HE
27 OWED \$38; IS THAT RIGHT?

28 THE WITNESS: YES, SIR.

1 Q AND DID YOU DO THAT IN THIS CASE?

2 A YES. THEY WERE SUBMITTED TO US.

3 Q FROM WHOM?

4 A FROM THE BEVERLY HILLS POLICE DEPARTMENT,
5 OFFICER KING.

6 Q AND THE AREA OF COMPARISON OF DENTAL RECORDS
7 IS PART OF YOUR SPECIALTY?

8 A YES.

9 Q HOW LONG HAVE YOU BEEN WORKING IN THAT SECTION?

10 A SINCE 1979.

11 Q WHEN YOU GOT THE DENTAL RECORDS IN THIS CASE,
12 DID YOU NOTICE ANYTHING PECULIAR ABOUT THAT?

13 A THE FIRST THING I DID NOTICE WAS THAT MR. LEVIN
14 HAD QUITE A BIT OF DENTAL WORK, VERY UNIQUE DENTAL WORK.

15 IN FACT, HE HAD A MULTITUDE OF GOLD FILLINGS.
16 THEY WERE GOLD FILLINGS AND EXPENSIVE WORK, VERY, VERY
17 UNIQUE.

18 I COULD LOOK IN MY RECORDS BUT TO THE BEST OF
19 MY KNOWLEDGE, WITHOUT LOOKING AT MY RECORDS, I THINK THAT
20 HE HAD PROBABLY OUT OF 32 TEETH THAT ARE NORMALLY IN AN
21 INDIVIDUAL'S MOUTH, PROBABLY 20 OF THEM HAD RESTORATIONS,
22 GOLD FILLINGS. THAT IS VERY, VERY UNIQUE.

23 Q AND WHAT WAS THE SIGNIFICANCE OF THAT TO YOU?

24 A THAT SIGNIFICANCE TO ME WAS THAT IF WE HAD AN
25 UNIDENTIFIED DECEASED INDIVIDUAL IN OUR FILES, THERE WOULD
26 NEVER BE A DOUBT IN MY MIND THAT I COULD NOT MATCH THEM UP.

27

28

② Joe Lampert

VSD

1 ANY PROBLEMS THAT WERE GOING ON IN THE HOTEL?

2 A YES, SHE DID.

3 Q INCLUDED IN THAT, DID SHE TELL YOU SOMETHING ABOUT
4 WHAT WAS GOING ON IN ROOM 1071?

5 A YES, SHE DID.

6 Q WHAT WAS THAT?

7 MR. BARENS: WE WOULD OBJECT AS OBVIOUSLY HEARSAY,
8 YOUR HONOR.

9 THE COURT: OVERRULED.

10 MR. BARENS: THANK YOU.

11 MR. WAPNER: YOUR HONOR, IT IS NOT BEING OFFERED FOR
12 THE TRUTH OF THE MATTER BUT TO EXPLAIN THE SUBSEQUENT
13 CONDUCT OF THIS WITNESS.

14 THE COURT: THAT IS RIGHT.

15 Q BY MR. WAPNER: WHAT DID SHE TELL YOU?

16 A SHE SAID WE HAD A GUEST IN ROOM 1071 WHO WAS
17 A WALK-IN ON THE 7TH, WHO HAD INCURRED APPROXIMATELY \$1,300
18 IN CHARGES AT THE TIME, WHO THE HOTEL WAS UNABLE TO GET
19 THE SUFFICIENT CREDIT APPROVAL FROM THE CREDIT CARD COMPANY.
20 THAT WE HAD LEFT MESSAGES FOR THE GUEST TO CALL US CONCERNING
21 THIS MATTER. THAT THE GUEST HAD NOT RESPONDED TO HER
22 MESSAGES AND THAT SHE AND THE SECURITY SUPERVISOR EARLIER
23 IN THE DAY HAD PLACED A DOUBLE LOCK ON ROOM 1071.

24 THE COURT: WHAT DOES A DOUBLE LOCK MEAN, SHUT THEM
25 OUT OF THE ROOM, IS THAT IT?

26 THE WITNESS: IT IS A SECOND LOCK, YOUR HONOR, WHICH
27 PROHIBITS ANYONE EXCEPT THE SECURITY SUPERVISOR FROM
28 ENTERING THE ROOM.

TO EARLIER, FIND OUT WHY THERE WAS A PICKUP ON THE CARD?

A NO, I DID NOT.

Q YOU DIDN'T ASK THAT KIND OF A QUESTION?

A NO, SIR. WE ARE TALKING ABOUT TALKING TO A MACHINE, SO TO SPEAK. WE JUST PUT IN THE NUMBERS AND IT GIVES US A CODE OR A DECLINE OR A PICKUP.

Q ALL RIGHT. DO YOU, BASED ON YOUR FAMILIARITY OF THESE MATTERS, HAVE AN IMPRESSION AS TO WHY CARDS ARE PICKED UP, BASED ON YOUR EXPERIENCE?

MR. WAPNER: HAVE AN IMPRESSION? THAT CALLS FOR SPECULATION ON THE PART OF THE WITNESS.

MR. BARENS: WELL, WE HAVE HAD ALL SORTS OF SPECULATION FROM THIS WITNESS.

THE COURT: IS THAT AN ARGUMENT? THEN, SINCE WE HAVE MADE MISTAKES BEFORE, YOU DON'T WANT ME TO MAKE ANOTHER ONE? IS THAT IT?

MR. BARENS: IF WE ALLOWED SPECULATION FOR THE PROSECUTION, WE SHOULD ALLOW IT FOR THE DEFENSE.

THE COURT: OBJECTION SUSTAINED. REPHRASE YOUR QUESTION.

MR. BARENS: JUST A MOMENT, YOUR HONOR.

(PAUSE.)

Q BY MR. BARENS: SIR, HAVE YOU EVER MADE INQUIRY IN THE PAST OR DO YOU HAVE SPECIFIC KNOWLEDGE FROM YOUR PAST DEALINGS AS TO WHY CARDS ARE GIVEN A PICKUP NOTIFICATION?

A COULD YOU REPHRASE YOUR QUESTION, PLEASE?

THE COURT: IN YOUR EXPERIENCE, DO YOU KNOW WHY CARDS ARE ASKED TO BE PICKED UP?

Log on to the 82 87
Gen. Wapner

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38-2

1 A CORRECT.

2 Q YOU DIDN'T LIVE IN LOS ANGELES THEN AND YOU
3 DON'T LIVE THERE NOW, DO YOU?

4 A THAT'S CORRECT.

5 Q YOU DON'T KNOW IF THERE IS A PECK DRIVE IN
6 90048, DO YOU?

7 A NO. I DON'T KNOW.

8 Q ALL RIGHT. AND THERE IS A LINE THERE FOR
9 SIGNATURE?

10 A YES, THERE IS.

11 Q AND WHEN IS THAT SIGNED BY THE GUEST IN RELATION
12 TO WHEN HE CHECKS IN?

13 A IT SHOULD BE AT THE SAME TIME.

14 MR. WAPNER: YOUR HONOR, MAY 68 BE RECEIVED INTO
15 EVIDENCE?

16 THE COURT: YES.

17 MR. WAPNER: MAY I WALK IT IN FRONT OF THE JURY?

18 THE COURT: YES.

19 (PAUSE.)

20 Q BY MR. WAPNER: IS THE SIGNATURE ON 68-A,
21 ON THE LINE WHERE IT SAYS --

22 MR. BARENS: EXCUSE ME. FOR THE RECORD, IT IS INCUMBENT
23 ON ME AND I WANT TO MAKE AN OBJECTION TO THE ADMISSION
24 OF THAT EVIDENCE AS BEING HEARSAY.

25 THE COURT: VERY GOOD. YOU HAVE MADE THE OBJECTION,
26 DIDN'T YOU?

27 MR. BARENS: I DIDN'T KNOW IF I MADE IT TIMELY AT
28 THIS TIME.

THE COURT: IT IS TIMELY. AND I AM GOING TO OVERRULE

104
"Incumbent
to make" (X)
Stupid
objection that
will be
overruled.

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VSI

1 Q BY MR. WAPNER: MR. VEGA, DO YOU RECOGNIZE
2 PEOPLE'S 72 FOR IDENTIFICATION?

3 A YES, SIR.

4 Q WHAT IS THAT PICTURE?

5 A IT IS MR. JAMES PITTMAN.

6 Q AND IS THAT THE PERSON THAT YOU WERE --
7 WHEN WAS THAT PICTURE TAKEN?

8 A JUST AFTER WE HAD TAKEN HIM IN BY FORCE.

9 Q DID YOU FIND OUT AT ANY TIME THAT DAY THAT HIS
10 NAME WAS ACTUALLY PITTMAN?

11 A NO, I DID NOT, NO.

12 Q DID HE EVER GIVE YOU ANY NAME OTHER THAN LEVIN?

13 A NO, NO OTHER NAME THAN LEVIN.

14 HE HAD IDENTIFICATION SHOWING HIM TO BE RON LEVIN.

15 Q WHAT IDENTIFICATION DID YOU SEE?

16 A HE HAD A WALLET.

17 THE COURT: HE HAD A WHAT?

18 THE WITNESS: HE HAD A WALLET.

19 Q BY MR. WAPNER: WHAT WAS IN THE WALLET?

20 A THERE WERE SEVERAL CARDS STATING HIS NAME AS
21 BEING RON LEVIN.

22 Q DO YOU REMEMBER WHAT KIND OF CARDS THEY WERE?

23 A SOME WERE BUSINESS CARDS. I CAN'T REMEMBER OF
24 ANY CREDIT CARDS. I DON'T REMEMBER ANY CREDIT CARDS, BUT
25 HE DID SHOW SOME CARDS WITH THE NAME RON LEVIN ON IT.

26 MR. BARENS: YOUR HONOR, WE HAVE AN OBJECTION ON THE
27 BEST EVIDENCE RULE AND MOVE TO STRIKE THAT, YOUR HONOR.

28 THE COURT: OVERRULED.

30 D
1 THEN ALL OF THE CHARGES THAT THAT COMPANY PRODUCED
2 DURING A CERTAIN CYCLE WOULD BE BILLED AT THE SAME TIME. IT
3 COULD AFFECT VARIOUS CARDS. AND THAT WOULD COME OUT AND BE
4 CONTRIBUTED TO INDIVIDUAL ACCOUNTS BY THEN.

5 Q OKAY.

6 A I AM NOT SURE I UNDERSTAND THAT, MYSELF.

7 Q OKAY. FIRST, THE FIRST PART IS SIMPLER, RIGHT?
8 IF YOU GO TO A STORE AND THEY TAKE YOUR CARD AND RUN IT THROUGH
9 THE MACHINE, THEY THEN SEND ONE OF THOSE TISSUE OR HARD COPIES
10 THAT IS GENERATED TO AMERICAN EXPRESS, CORRECT?

11 A YES.

12 Q ALL RIGHT. AND THEN AMERICAN EXPRESS MAKES A
13 MICROFILM OF THAT AND INCLUDES IT IN THE RECORDS FOR THAT
14 GIVEN CARD, CORRECT?

15 A YES, SIR.

16 Q BUT IF THE COMPANY DECIDES NOT TO SEND IN THE
17 ACTUAL COPY OF THE INVOICE, HOW ELSE DO THEY SEND YOU A RECORD
18 OF THE PURCHASES THAT HAVE BEEN MADE BY THAT PARTICULAR CARD?

19 A BY COMPILING ALL OF THE CHARGES DURING A CERTAIN
20 PERIOD OF TIME AT THAT MERCHANT LOCATION OR VARIOUS MERCHANT
21 LOCATIONS BELONGING TO THE SAME COMPANY.

22 THEN THEY TYPE IT INTO A MICRO ENCODING STRIP,
23 ALL OF THOSE CHARGES. NOW, THAT STRIP WILL IDENTIFY THE CARD
24 NUMBER, THE DATE, THE LOCATION, A REFERENCE NUMBER SO THEY
25 CAN PULL OUT THE ACTUAL INVOICE THAT WAS IMPRINTED AND THE
26 AMOUNT OF THE CHARGE. AND IN GENERAL CASES, THE SPECIFIC
27 ITEMS PURCHASED BY THAT CARD.

28 Q OKAY. SO, THERE IS KIND OF AN INTERMEDIATE STEP.

30
1 THE PERSON WHO MAKES THE PURCHASE GENERATES A CERTAIN RECORD.
2 THAT RECORD IS SENT TO SOMEBODY WHO THEN SENDS IT TO AMERICAN
3 EXPRESS?

4 A THAT'S CORRECT.

5 Q AND THE RECORD THAT YOU HAVE IN FRONT OF YOU,
6 PEOPLE'S 77, IS THAT CONTAINING BOTH TYPES OF RECORDS?

7 A YES IT DOES.

8 Q AND ARE THERE ANY CHARGES THERE THAT ARE MADE
9 AFTER JUNE THE 6TH?

10 A THERE IS A CHARGE THAT IS DATED JUNE 7.

11 Q WHERE WAS THAT MADE?

12 A AT BROOKS BROTHERS, LOS ANGELES.

13 Q IS THAT ONE OF THE ONES THAT ACTUALLY IS A SLIP
14 MADE AT BROOKS BROTHERS AND SENT IN OR IS THIS ONE OF THOSE
15 MAGNETIC ENCODED THINGS YOU ARE TALKING ABOUT?

16 A THIS IS AN ENCODED MAGNETIC STRIP THAT GENERATED
17 THIS DOCUMENT.

18 Q WHAT WAS IT THAT WAS PURCHASED AT BROOKS BROTHERS
19 ON JUNE 7, ACCORDING TO THAT?

20 A IT IS UNDERWEAR FOR A TOTAL OF \$83.07.

21 Q AND ARE THERE SOME OTHER CHARGES FROM BROOKS
22 BROTHERS?

23 A YES.

24 Q AND WHAT ARE THE DATES ON THOSE?

25 A ON MAY THE 7TH, I OBSERVED SOME OF THOSE CHARGES
26 WERE DATED MAY THE 7TH.

27 Q AND THE ONES THAT WERE MADE ON MAY THE 7TH, ARE
28 THOSE AGAIN MAGNETICALLY ENCODED OR ARE THOSE ACTUAL CARDS?

3751
1 Q OKAY. AND THERE WAS ONE FOR DR. REED, CORRECT?

2 A MR. PRESLEY REED.

3 Q WERE THOSE ALL ISSUED UNDER ONE ACCOUNT?

4 A ONE UMBRELLA ACCOUNT, YES, SIR.

5 Q AND IF MR. LEVIN WANTED DUPLICATE CARDS, LET'S
6 SAY, FOR SOMEONE ELSE IN HIS FAMILY SO THEY COULD USE THEM,
7 WOULD THEY BE ISSUED UNDER -- WOULD THEY BE GIVEN THE SAME
8 NUMBER?

9 A NO.

10 AMERICAN EXPRESS ISSUES CARDS TO INDIVIDUALS AND
11 EACH INDIVIDUAL WOULD CARRY A DIFFERENT NUMBER TO IDENTIFY
12 THAT INDIVIDUAL.

13 Q WELL, THE CARD THAT WAS ISSUED ON MAY THE 4TH,
14 WHICH WAS 37135120018208, HOW MANY OF THOSE CARDS, PHYSICAL
15 CARDS, WERE THERE FLOATING AROUND WITH THAT PARTICULAR NUMBER
16 ON THEM?

17 A ONE.

18 Q ONLY ONE?

19 A YES, SIR.

20 Q AND THAT IS THE POLICY OF AMERICAN EXPRESS, THAT
21 FOR ANY GIVEN NUMBER THERE IS ONLY ONE PHYSICAL CARD, CORRECT?

22 A THAT IS CORRECT.

23 Q AND ARE THE CHARGES THAT CAME UP WITH BROOKS
24 BROTHERS ON JUNE THE 7TH, THAT WAS UNDER --

25 A YES.

26 Q -- THAT 8208 NUMBER, I BELIEVE?

27 A YES, IT WAS.

28 Q AND IF THAT CREDIT CARD THAT BORE THE NUMBER

1 371351200182028 WAS FOUND IN MR. LEVIN'S APARTMENT AT SOME
2 POINT AFTER JUNE THE 7TH AND HAD BEEN THERE EVER SINCE THE
3 MORNING OF JUNE 7 AND HAD NOT LEFT THE APARTMENT, WOULD YOU
4 HAVE AN OPINION AS TO WHETHER THAT MAGNETICALLY GENERATED
5 STATEMENT THAT SAYS JUNE 7 WAS IN ERROR?

6 MR. BARENS: YOUR HONOR, FOR THE RECORD, WE WOULD LIKE
7 TO OBJECT TO THE HYPOTHETICAL AS ASSUMING FACTS NOT IN
8 EVIDENCE OR EITHER JUST UNKNOWN.

9 THE COURT: OVERRULED.

10 MR. WAPNER: SUBJECT TO BEING CONNECTED UP AT SOME LATER
11 POINT, YOUR HONOR.

12 THE COURT: YES.

13 THE WITNESS: MY OPINION IS THAT THE CARD WOULD NOT
14 HAVE BEEN PRESENTED FOR THIS CHARGE.

15 Q BY MR. WAPNER: AND IT IS MORE LIKELY THAT IT
16 WAS THAT THE 6-7 SOMEHOW IN THE MAGNETIC ENCODING PROCEDURE
17 WAS ACTUALLY 5-7, WHEN THE OTHER TWO CHARGES AT BROOKS
18 BROTHERS WERE MADE?

19 A YES.

20 IN ORDER TO PRODUCE THIS DATE ON THIS DOCUMENT,
21 IT HAS TO GO THROUGH A MINIMUM OF TWO HANDS IN ORDER TO GET
22 TO OUR BILLING CYCLE, OUR BILLING CENTER, SO THE MISTAKE COULD
23 VERY EASILY HAVE BEEN MADE.

24 Q AND THE MAGNETIC ENCODING PROCESS, DOES THAT
25 REQUIRE SOMEONE ACTUALLY READING ONE DOCUMENT AND THEN PUNCHING
26 IN OR PUTTING IN NUMBERS ONTO ANOTHER ONE?

27 A YES.

28 Q SO THAT IF SOMEONE WAS TYPING IT IN AND THEY HIT

1 THE 6 INSTEAD OF THE 5, IT COULD ACCOUNT FOR THAT?

2 A YES, IT COULD.

3 Q AND IS THERE ANY WAY NOW THAT WE ARE IN 1987 TO
4 BACKTRACK TO BROOKS BROTHERS AND SEE IF THAT ORIGINAL, THE
5 ORIGINAL INVOICE THAT WAS MADE ON THAT CHARGE STILL EXISTS?

6 A IT IS POSSIBLE. I COULD CERTAINLY MAKE INQUIRIES
7 TO THAT EFFECT.

8 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

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1 Q AND ARE YOU THE INVESTIGATING OFFICER IN THIS
2 CASE?

3 A I AM.

4 Q WHEN DID YOU FIRST BECOME ONE OF THE INVESTIGATING
5 OFFICERS IN THIS CASE?

6 A WHEN THE REPORT CAME IN, PROBABLY THE DAY AFTER
7 THE 21ST OF JUNE OF 1984, IT CAME TO MY PARTNER AND MY TABLE,
8 THE MISSING PERSONS TABLE.

9 Q AND WHO WAS YOUR PARTNER AT THAT TIME?

10 A DETECTIVE KING.

11 Q AND WHEN YOU SAY THE REPORT CAME IN, YOU ARE
12 REFERRING TO THE MISSING PERSONS REPORT THAT WAS MADE BY
13 MARTIN LEVIN AND SCOTT FURSTMAN ON JUNE 21ST OF 1984?

14 A THAT'S CORRECT.

15 Q WHAT DO YOU MEAN WHEN YOU SAY "CAME TO YOUR TABLE"?

16 A IT IS ASSIGNED TO A TABLE OF DETECTIVES AND IN
17 THAT CASE, IT WAS MY TABLE AND DETECTIVE KING'S TABLE.

18 Q AND DID YOU DO ANYTHING WITH RESPECT TO THE MISSING
19 PERSONS REPORT?

20 A I DID NOT, NO.

21 Q DID DETECTIVE KING?

22 A YES.

23 Q WHAT DID HE DO, IF YOU KNOW?

24 A THE ONLY THING THAT I KNOW THAT HE DID WAS WITHIN
25 THE 30 DAYS, HE OBTAINED THE DENTAL CHARTS OF THE VICTIM AND
26 SENT THEM TO THE DEPARTMENT OF JUSTICE. OTHER THAN THAT,
27 I DON'T KNOW OF ANYTHING ELSE HE DID.

28 Q AND WHAT WAS THE NEXT THING YOU HAD TO DO IN THE
1203

2
1 PARTICIPATION OF THIS CASE?

2 A THE NEXT ACTIVITY I HAD IN REFERENCE TO THE MISSING
3 OF RON LEVIN WAS ON THE 6TH OF JULY OF 1984, DETECTIVE EDHOLM
4 GAVE ME A SLIP OF PAPER WITH NANCY UNDERWOOD'S NAME, WHO WAS
5 AN FBI AGENT, THAT STATED THAT SHE HAD INFORMATION IN
6 REFERENCE TO RONALD LEVIN.

7 Q DID YOU CALL AND TALK TO NANCY UNDERWOOD?

8 A I DID.

9 Q AND THAT WAS IN REFERENCE TO AN INVESTIGATION
10 THAT SHE WAS DOING?

11 A THAT'S CORRECT.

12 Q AND AFTER THAT, DID YOU TALK TO -- DID YOU HAVE
13 SOME CONTACT WITH SOMEONE REGARDING THIS CASE AROUND THE
14 BEGINNING OF AUGUST OF 1984?

15 A YES.

16 Q WHO WAS THAT?

17 A THAT WAS A PAUL TOBIN, WHO WAS THE ATTORNEY FOR
18 DAVE AND TOM MAY.

19 Q DID YOU CALL MR. TOBIN OR DID HE CALL YOU?

20 A NO.

21 ON THE 8TH OF AUGUST OF 1984, HE CALLED OUR OFFICE.

22 Q AND WHEN HE CALLED YOUR OFFICE, DID YOU TALK TO
23 HIM ABOUT MEETING WITH HIS CLIENTS?

24 A YES.

25 Q DID YOU MEET WITH THEM?

26 A YES, THE FOLLOWING DAY.

27 Q AUGUST 9TH OF 1984?

28 A THAT'S CORRECT.

1 Q WHOM DID YOU MEET WITH?

2 A DETECTIVE KING AND I WENT TO THAT OFFICE, WE MET
3 WITH TOM AND DAVE MAY, JEFF RAYMOND, GENE BROWNING AND THE
4 ATTORNEY WAS THERE.

5 Q DID THE MAYS AND MR. RAYMOND AND MR. BROWNING
6 TELL YOU IN SUBSTANCE WHAT THEY HAVE RELATED HERE IN COURT?

7 A YES.

8 Q AND DID THEY PROVIDE YOU WITH CERTAIN DOCUMENTS
9 AT THAT TIME?

10 A YES, THEY DID.

11 Q WHAT DID THEY GIVE YOU?

12 A THEY GAVE ME A COPY OF THE \$1.5 MILLION CHECK,
13 A COPY OF THE OPTION AGREEMENT WHEREUNDER THE SIGNATURE OF
14 RONALD LEVIN WAS DATED 6-5-84 AND A COPY OF A LETTER TO, I
15 BELIEVE IT WAS THE SWISS BANK IN SWITZERLAND, AUTHORIZING
16 BEN DOSTI TO DEAL WITH THE CHECK.

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1 Q AND WHAT DID YOU DO WITH THOSE DOCUMENTS THAT
2 THEY GAVE YOU?

3 A I TOOK THE DOCUMENTS AND I MADE A REPORT OF THEM,
4 LISTING THOSE AS PAGES WITHIN THE REPORT.

5 Q SHOWING YOU DOCUMENTS THAT ARE MARKED PEOPLE'S 80,
6 81 AND 82, DO YOU RECOGNIZE THOSE?

7 A YES.

8 PEOPLE'S 80 IS THE COPY OF THE OPTION AGREEMENT.

9 PEOPLE'S 81 IS THE COPY OF THE \$1.5 MILLION CHECK.

10 PEOPLE'S 82 IS THE LETTER TO THE SWISS BANK.

11 Q ARE THOSE THE DOCUMENTS THAT THEY GAVE YOU?

12 A YES.

13 Q AND AFTER TAKING THEM TO THE POLICE STATION AND
14 MAKING YOUR REPORT, DID YOU ASSIGN CERTAIN NUMBERS TO THESE
15 DOCUMENTS?

16 A YES, I DID.

17 Q AND WHAT WERE THOSE?

18 A I PUT ON THOSE DOCUMENTS OUR CASE NUMBER WHICH
19 IS 84-05436, WHICH IS UP ON THE TOP RIGHT-HAND CORNER ON EACH
20 DOCUMENT AND THEN THE PAGE NUMBERS ON THE BOTTOM, PAGE 9 OF
21 13 ON PEOPLE'S 82; PAGE 12 OF 13 ON PEOPLE'S 81 AND PAGES
22 7 OF 13 ON THE FIRST PAGE OF PEOPLE'S 80 AND 8 OF 13 ON THE
23 SECOND PAGE OF PEOPLE'S 80.

24 Q DID YOU AT SOME POINT BRING THOSE DOCUMENTS TO
25 COURT WITH YOU?

26 A YES.

27 Q WHEN WAS THAT?

28 A AT THE --

1 Q WAS THAT AT ONE OF THE PRELIMINARY HEARINGS?

2 A ONE OF THEM, THAT'S CORRECT.

3 Q WAS THAT TO THE BEVERLY HILLS MUNICIPAL COURT?

4 A THAT'S CORRECT.

5 Q TO YOUR KNOWLEDGE, THAT WAS THEN TRANSPORTED --
6 STRIKE THAT --

7 WERE THEY LEFT IN THE CUSTODY OF THE CLERK OF
8 THE BEVERLY HILLS MUNICIPAL COURT?

9 A YES.

10 Q AND THEN TO YOUR KNOWLEDGE, THEY ARE TRANSPORTED
11 BY THE CLERK'S OFFICE TO THE CLERK OF THE SUPERIOR COURT IF
12 AND WHEN THE CASE GOES TO SUPERIOR COURT?

13 A YES.

14 Q AND AFTER LEAVING THOSE DOCUMENTS IN COURT, THE
15 NEXT TIME THAT YOU SAW THOSE PARTICULAR COPIES OF THE DOCUMENTS
16 WAS AT VARIOUS TIMES WHERE YOU WERE IN COURT ON THIS CASE?

17 A THAT'S CORRECT.

18 Q AND AFTER TALKING TO TOM AND DAVE MAY, WHAT DID
19 YOU DO--AND TO GENE BROWNING AND JEFF RAYMOND, WHAT DID YOU
20 DO?

21 A FROM THAT TIME, I DON'T BELIEVE THAT I PERSONALLY
22 DID ANYTHING ON THE CASE UNTIL APPROXIMATELY THE 14TH OR 15TH
23 OF AUGUST, AT WHICH TIME I CONTACTED MARTIN LEVIN, EXPRESSING
24 A DESIRE TO GO INSIDE OF RONALD'S APARTMENT.

25 Q THAT IS RONALD LEVIN'S APARTMENT?

26 A THAT'S CORRECT.

27 Q WHEN YOU TALKED TO MR. MARTIN LEVIN, DID HE TELL
28 YOU THAT HE WOULD ALLOW YOU TO GO INTO THE APARTMENT?

1 A INITIALLY, THERE WAS CONCERN BECAUSE RONALD LEVIN
2 HAD A CRIMINAL CASE PENDING. THERE WAS CONCERN ABOUT THE
3 POLICE DEPARTMENT GOING IN AND JUST SEARCHING THE APARTMENT
4 CARTE BLANCHE.

5 AND HE, I ASSUME SPOKE WITH MR. FURSTMAN AND IT
6 WAS GRANTED FOR US TO GO INSIDE THE APARTMENT.

7 Q AND DID YOU IN FACT GO TO THE APARTMENT ON
8 AUGUST THE 16TH OF 1984?

9 A THAT'S CORRECT.

)-1

1 Q WHEN YOU WENT TO MR. LEVIN'S APARTMENT, DID YOU
2 TAKE A PHOTOGRAPHER WITH YOU?

3 A YES.

4 Q DID HE TAKE SOME PICTURES WHILE YOU WERE THERE?

5 A YES.

6 Q DID YOU ALSO REMOVE SOME ITEMS FROM THE APARTMENT
7 THAT YOU BELIEVED HAD CERTAIN EVIDENTIARY VALUE?

8 A YES, I DID.

9 Q WHEN YOU WENT INTO THE APARTMENT, WHAT IS THE
10 FIRST THING THAT YOU DID?

11 A I MET RONALD LEVIN'S FATHER, MARTIN LEVIN. AND
12 THE FIRST THING THAT WE DID, WE GO INTO THE LARGE OFFICE
13 AREA.

14 I WAS STANDING THERE TALKING TO HIM AND HE STATED
15 THAT HE SAW SOME PAPERS INSIDE THE APARTMENT, WHICH HE
16 DIDN'T UNDERSTAND.

17 AND AT THAT PARTICULAR TIME, HE RETRIEVED THEM
18 FROM A SMALL CLOSET IN THAT OFFICE THAT WAS CONVERTED INTO
19 A LITTLE FILE ROOM.

20 Q WHEN YOU FIRST TALKED TO MR. LEVIN AND HE
21 MENTIONED THIS TO YOU, WERE YOU IN THIS AREA THAT IS
22 DESIGNATED AS OFFICE?

23 A THAT'S CORRECT.

24 Q AND THE AREA THAT HE POINTED OUT TO YOU WHERE
25 THESE ITEMS WERE, WHERE WAS THAT?

26 A HE ACTUALLY WENT IN THE SMALL OFFICE AND
27 RETRIEVED THE PAPERS. THE SMALL OFFICE IS INDICATED "SMALL
28 OFFICE" THERE.

J-2

1 Q AND WHEN YOU WENT IN AND RETRIEVED THE PAPERS,
2 WHAT DID YOU DO?

3 A I REMAINED AT THE DESK.

4 Q AND WHEN HE GOT THE PAPERS, DOES HE COME BACK
5 TO WHERE YOU WERE?

6 A YES.

7 Q WHAT HAPPENED?

8 A HE HANDED ME THE STACK OF PAPERS. THEY WERE
9 FOLDED IN HALF WITH ANY WRITINGS ON THE INSIDE.
10 SO I TOOK THE PAPERS, OPENED THEM AND OBSERVED
11 THE FIRST PAGE, WHICH WAS ENTITLED AT THE TOP "AT LEVIN'S
12 TO DO."

13 Q SHOWING YOU DOCUMENTS THAT WE HAVE MARKED AS
14 PEOPLE'S 55 FOR IDENTIFICATION, DO YOU RECOGNIZE THOSE?

15 A YES.

16 Q AND WHAT ARE THEY?

17 A THESE ARE THE PAPERS THAT MARTIN LEVIN HANDED
18 TO ME.

19 THE COURT: THEY WEREN'T IN THOSE --

20 THE WITNESS: NO. THEY WEREN'T. THEY WERE JUST THE
21 PAPERS THEMSELVES IN A FOLDED CONDITION.

22 THE COURT: ALL RIGHT.

23 Q BY MR. WAPNER: AND WHEN HE GAVE THE PAPERS TO
24 YOU, WHAT DID HE DO OR SAY?

25 A HE STATED THAT HE DIDN'T UNDERSTAND THESE.

26 Q WHEN HE GAVE THEM TO YOU, WHAT DID YOU DO?

27 A WELL, I STARTED READING THE FIRST PAGE OF THEM,
28 "AT LEVIN'S TO DO," AND I IMMEDIATELY NOTICED THAT THE ITEMS
1210

J-3

1 HAD SOME EVIDENTIARY VALUE TO THEM.

2 THEN I PUT THEM IN A FOLDER TO PRESERVE THEM
3 FOR ANY FINGERPRINTS.

4 Q WHEN YOU FIRST WERE GIVEN THESE PAPERS BY MR.
5 LEVIN AND BEFORE YOU HAD A CHANCE TO READ THEM, DID YOU KNOW
6 WHETHER THEY HAD ANY EVIDENTIARY VALUE?

7 A NOT AT ALL.

8 Q ALL RIGHT. SO, YOU TOUCHED THEM WITH YOUR HANDS
9 WITHOUT BEING PROTECTED AT THAT PARTICULAR TIME?

10 A THAT'S CORRECT.

11 Q AND I GUESS WE KNOW BY NOW, THAT ONE OF YOUR
12 FINGERPRINTS ENDED UP ON THAT LIST. I ASSUME THAT IT WAS
13 APPROXIMATELY AT THAT TIME?

14 A THAT IS THE ONLY TIME THAT I RECALL TOUCHING
15 THEM. SO THAT IS PROBABLY THE TIME THAT I LEFT THE FINGER-
16 PRINTS.

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1 Q DID YOU LOOK THROUGHOUT THE APARTMENT TO TRY AND
2 FIND THE DRIVER'S LICENSE OF RON LEVIN?

3 A YES.

4 Q DID YOU FIND IT?

5 A NO.

6 Q AND AFTER YOU LEFT THE APARTMENT ON THAT DAY AND
7 TOOK THE ITEMS WITH YOU AND BOOKED THEM INTO EVIDENCE, DID
8 YOU ALSO HAVE OCCASION TO RECEIVE CERTAIN ITEMS FROM MR. MARTIN
9 LEVIN WHEN YOU WERE AT THE POLICE STATION?

10 A YES.

11 Q FIRST OF ALL, CAN YOU RESEAL 100 AND THE OTHER
12 ITEMS SO WE CAN GET THOSE OUT OF THE WAY?

13 A (WITNESS COMPLIES.)

14 Q BEFORE WE GET INTO RECEIVING THINGS FROM MR. MARTIN
15 LEVIN, DID YOU LOOK AROUND THE APARTMENT ON AUGUST THE 16TH
16 TO TRY AND FIND ANY EVIDENCE, ANY PHYSICAL EVIDENCE IN TERMS
17 OF BULLETS OR BLOOD OR THINGS LIKE THAT?

18 A I DID A CURSORY SEARCH OF THE APARTMENT AT THAT
19 TIME, LOOKING FOR WHAT, I DIDN'T KNOW, BUT YES.

4-1 1 Q AND DID YOU SEE ANY BULLET HOLES AT THAT TIME?

2 A NO.

3 Q DID YOU SEE ANY BLOOD AT THAT TIME?

4 A NO.

5 Q DID YOU GO BACK AT SOME POINT AFTER THAT, TO DO
6 ANY MORE THOROUGH SEARCH FOR THAT?

7 A YES.

8 Q WHEN WAS THAT?

9 A IT WAS ON THE 27TH OF NOVEMBER, 1984.

10 Q DID YOU FIND ANY BULLET HOLES OR ANYTHING OF THAT
11 SORT OF AT THAT TIME?

12 A NO.

13 Q DID YOU FIND ANY BLOOD AT THAT TIME?

14 A NO.

15 Q WHEN YOU WENT BACK ON THE 27TH OF NOVEMBER, WHAT
16 KIND OF A SEARCH DID YOU DO FOR THE PRESENCE OF BLOOD?

17 A BASICALLY, JUST VISUAL SEARCH. AT ONE TIME, THERE
18 WAS SOMETHING IN THE BATHTUB IN THE MASTER BEDROOM OR OFF
19 OF THE MASTER BEDROOM. THERE WAS A STAIN THAT I WAS NOT SURE
20 WHAT IT WAS THAT COULD HAVE BEEN BLOOD.

21 AND I HAD IDENTIFICATION PEOPLE AT THAT TIME,
22 CHECK IT FOR BLOOD, WHICH THEY SAID IT WAS NOT. IT WAS MOST
23 LIKELY, JUST A RUST STAIN.

24 Q AND AT SOME POINT LATER, DID MARTIN LEVIN BRING
25 TO YOU CERTAIN ITEMS THAT HE HAD TAKEN FROM THE RESIDENCE?

26 A YES.

27 MR. BARENS: OBJECTION, HEARSAY, AS TO WHERE THEY CAME
28 FROM, YOUR HONOR.

1 IT SAYS ON THERE.

2 MR. BARENS: YOUR HONOR --

3 THE COURT: THE PURPORTED DECEASED.

4 MR. BARENS: ALLEGED, YOUR HONOR.

5 THE COURT: YES, PURPORTED IS THE SAME THING.

6 MR. WAPNER: WELL, FOR THE RECORD, SO THAT THE ITEM
7 CAN BE IDENTIFIED, THE TAG ON THE FRONT SAYS "IN THE VICTIM'S
8 NAME" AND THAT IS ALL I WAS TRYING TO DO, WAS IDENTIFY THE
9 ITEM FOR THE RECORD.

10 THE COURT: ALL RIGHT.

11 Q BY MR. WAPNER: DETECTIVE ZOELLER, WHAT ARE THE
12 ITEMS THAT ARE INSIDE OF 106 FOR IDENTIFICATION?

13 A 12 CREDIT CARDS.

14 Q ALL RIGHT. AND WHERE DID YOU GET THOSE FROM?

15 A FROM MR. LEVIN, MARTIN LEVIN.

16 Q ON WHAT DATE?

17 A ON THE 12TH OF NOVEMBER, 1984.

18 Q AND DID YOU KEEP THOSE IN THE ENVELOPE UNTIL YOU
19 BROUGHT THEM TO COURT AT ANOTHER PROCEEDINGS IN THE SUPERIOR
20 COURT IN THIS CASE?

21 A YES.

22 Q AND INCLUDED IN THAT ARE THREE AMERICAN EXPRESS
23 GOLD CARDS?

24 A YES.

25 MR. BARENS: EXCUSE ME. I WOULD LIKE TO APPROACH, YOUR
26 HONOR.

27 THE COURT: WELL, LET'S FINISH UP. GO AHEAD.

28 MR. BARENS: I THINK I AM REQUIRED TO DO SO WHEN I HAVE
1214

1 NOTICE, YOUR HONOR.

2 THE COURT: GO AHEAD.

3 Q BY MR. WAPNER: WHAT ARE THE NAMES OR NUMBERS
4 ON THE CARDS?

5 A THE NAMES ON THE THREE AMERICAN EXPRESS CARDS --
6 ONE IS PRESLEY REED, GENERAL PRODUCERS. R. LEVIN, SHEARSON.
7 R. LEVIN, GENERAL PRODUCERS.

8 THE NUMBERS ON R. LEVIN, GENERAL PRODUCERS IS
9 271351200181020.

1 Q HOLD ON, I CAN'T EVEN WRITE THAT FAST.

2 ALL RIGHT, THAT IS ON THE RON LEVIN GENERAL
3 PRODUCERS CARD?

4 A THAT'S CORRECT.

5 Q DO YOU WANT TO READ THAT NUMBER AGAIN A LITTLE
6 MORE SLOWLY?

7 A 371351200181020.

8 Q AND ON THE PRESLEY REED, GENERAL PRODUCERS?

9 A 371351200181012.

10 Q AND THERE IS ONE OTHER?

11 A R. LEVIN, AND THAT NUMBER IS 371351200182028.

12 Q AFTER MR. LEVIN GAVE YOU THOSE CARDS, THEY WERE
13 KEPT IN EVIDENCE AND THEN BROUGHT TO COURT?

14 A THAT'S CORRECT.

15 Q AND DID MR. LEVIN AT SOME POINT BRING YOU A
16 LETTER THAT HAD BEEN -- THAT WAS ADDRESSED TO RONALD LEVIN?

17 A YES.

18 Q ALSO ON NOVEMBER 12 OF 1984?

19 A YES.

20 MR. WAPNER: I HAVE HERE AN ENVELOPE, YOUR HONOR, THAT
21 HAS BEEN MARKED PEOPLE'S 103, I WOULD LIKE TO REMOVE FROM
22 THE ENVELOPE A LETTER FROM SECURITY BANK DATED JUNE THE 5TH;
23 MAY THAT BE MARKED AS PEOPLE'S -- IT HAS PREVIOUSLY BEEN
24 MARKED AS 103-B; MAY IT REMAIN MARKED AS 103-B FOR
25 IDENTIFICATION?

26 THE COURT: YES.

27 Q BY MR. WAPNER: DETECTIVE ZOELLER, WHAT IS THAT
28 LETTER?

1 ESSENCE" IN THE STATEMENT. IF I DIDN'T, I WILL.

2 MR. BARENS: BUT, EVEN IF HE SAYS "IN ESSENCE," AND --

3 THE COURT: YOU MAY PROCEED.

4 MR. BARENS: IT IS MISLEADING, JUDGE.

5 THE COURT: OBJECTION OVERRULED.

6 MR. BARENS: THANK YOU.

7 MR. WAPNER: HAD THAT LAST QUESTION AND ANSWER -- WAS
8 IT ANSWERED? I DON'T REMEMBER, JUDGE.

9 THE COURT: WILL YOU ANSWER THE QUESTION?

10 THE WITNESS: YES.

11 THE COURT: THE SHAKING OF YOUR HEAD IS NOT ON THE RECORD.
12 DO YOU WANT TO HAVE THE RECORD SHOW THAT YOU HAVE BEEN SHAKING
13 YOUR HEAD AS A RESULT OF MY RULINGS? WELL, DON'T SHAKE YOUR
14 HEAD. DO ME A FAVOR, WILL YOU?

15 MR. BARENS: WELL, SOMETIMES I CAN'T AVOID IT.

16 THE COURT: YES YOU CAN. YOU PUT ON A LITTLE ACT FOR
17 ME AND THE JURY AND EVERYBODY ELSE. NOW, YOU STOP IT.

18 MR. BARENS: YOUR HONOR, I TAKE EXCEPTION TO THAT TYPE
19 OF COMMENTARY.

20 THE COURT: GO AHEAD.

21 Q BY MR. WAPNER: HAD YOU ALSO BY THE TIME YOU MADE
22 A DECISION TO ARREST MR. HUNT, COLLECTED EVIDENCE THAT YOU
23 JUST RELATED TO US, THAT YOU GOT ON AUGUST 16 AT RON LEVIN'S
24 APARTMENT?

25 A YES.

1 FROM MR. LEVIN'S HOUSE ON HIS DESK.

2 Q AND THAT WAS ON AUGUST 16?

3 A THAT'S CORRECT.

4 Q AND THAT IS A RECORD OF PHONE CALLS APPARENTLY
5 KEPT BY RONALD LEVIN?

6 A YES.

7 Q WHAT IS THE BEGINNING DATE OF THOSE PHONE CALLS?

8 A 7-13-82.

9 Q AND WHAT IS THE LAST DATE THAT HE RECORDED
10 ANY PHONE CALLS?

11 A JUNE 6, 1984.

12 Q NO CALLS AFTER THAT AT ALL RECORDED IN THAT
13 BOOK?

14 A NONE.

15 Q DID YOU ALSO TAKE -- YOU TOLD US YESTERDAY THAT
16 YOU TOOK SEVERAL ITEMS FROM A FILE AT MR. LEVIN'S HOUSE
17 ENTITLED "MAY BROTHERS LAND CORPORATION."

18 DID YOU ALSO TAKE THE MAY BROTHERS LAND
19 CORPORATION FILE FOLDER?

20 A YES.

21 MR. WAPNER: I HAVE HERE AN EXHIBIT I WOULD LIKE
22 TO HAVE MARKED AS 101 FOR IDENTIFICATION. IT APPEARS TO
23 BE AN EMPTY FILE FOLDER WITH THE LABEL ON THE BOTTOM
24 "MAY BROTHERS LAND CORPORATION."

25 MAY THAT BE 101?

26 THE COURT: YES.

27 Q BY MR. WAPNER: SHOWING YOU 101 FOR IDENTIFICATION,
28 DO YOU RECOGNIZE THAT?

Exhibit 3

Per Lawyer's

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1 A I DO.

2 Q WHAT IS IT?

3 A THIS IS THE FOLDER WHICH HAD THE MAY BROTHERS
4 LAND CORPORATION PAPER WORK IN IT.

5 Q THAT ALSO HAD THE STATEMENTS FROM THE CLAYTON
6 BROKERAGE COMPANY?

7 A YES.

8 Q AND THERE IS A LABEL ON IT THAT SAYS "MAY
9 BROTHERS LAND CORPORATION," IS THAT RIGHT?

10 A THAT'S CORRECT.

11 Q WOULD YOU HOLD IT UP JUST SO THE JURY CAN SEE
12 IT?

13 (THE WITNESS COMPLIES.)

14 Q BY MR. WAPNER: THAT APPEARS TO BE SOME TYPE
15 OF A GUMMED LABEL THAT HAS THE WORDS "MAY BROTHERS LAND
16 CORPORATION" TYPED ON IT?

17 A THAT'S CORRECT.

18 Q DID YOU SEE A LOT OF OTHER FILES IN RON LEVIN'S
19 APARTMENT?

20 A YES.

21 Q AND WITH RESPECT TO THE MANNER IN WHICH THE
22 FILES WERE LABELED, WHAT DID YOU NOTICE ABOUT THEM?

* 23 MR. BARENS: OBJECTION, BEST EVIDENCE.

24 MR. WAPNER: IT IS NOT OFFERED TO PROVE THE CONTENT
25 OF THE WRITING. THAT IS WHAT THEY SAID, BUT ONLY THE
26 MANNER IN WHICH HE WENT ABOUT LABELING IT.

27 MR. BARENS: THAT IS WHAT MY OBJECTION GOES TO.

28 THE COURT: IT WILL BE LIMITED TO THAT. OVERRULED?

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1 THE COURT: YOU DON'T HAVE TO HAVE HIM TELL YOU THAT
2 HE BELIEVES THAT HE KILLED HIM. YOU BELIEVE HE KILLED HIM,
3 TOO.

4 MR. WAPNER: IT IS NOT HIS CURRENT BELIEF THAT IS
5 IMPORTANT. I AM NOT ASKING FOR ANY OF THAT. IT'S IF HIS
6 THEORY WAS THAT HE WAS TOLD THIS BY THE MAYS.

7 THE COURT: LET'S BE SURE THAT YOU DON'T ASK HIM WHETHER
8 OR NOT HE KILLED HIM, THAT IS ALL.

9 MR. WAPNER: YES.

10 (THE FOLLOWING PROCEEDINGS WERE HELD
11 IN OPEN COURT IN THE PRESENCE OF THE
12 JURY:)

(
13 Q BY MR. WAPNER: DETECTIVE ZOELLER, UP UNTIL
14 AUGUST THE 9TH WHEN YOU TALKED TO TOM MAY, DAVE MAY, GENE
15 BROWNING AND JEFF RAYMOND, DID YOU HAVE ANY THEORY ABOUT WHY
16 IT WAS THAT RON LEVIN WAS MISSING OR WHAT HAD HAPPENED TO
17 HIM?

18 A NO.

19 Q AND YOU TALKED TO THEM ON AUGUST THE 9TH, RIGHT?

20 A THAT'S CORRECT.

21 Q AND AFTER TALKING TO THEM, IT WAS A WEEK LATER
22 THAT YOU WENT TO RON LEVIN'S APARTMENT?

23 A YES.

24 Q DID YOU GO THERE ARMED WITH THE INFORMATION THAT
25 THOSE PEOPLE HAD GIVEN YOU ON AUGUST THE 9TH?

26 A YES.

(
27 Q AND HOW LONG AFTER YOU GOT THERE WAS IT THAT YOU
28 FOUND OR WERE SHOWN THE SEVEN PIECES OF YELLOW PAPER THAT

1 ARE PEOPLE'S 55 FOR IDENTIFICATION?

2 A ALMOST IMMEDIATELY.

3 Q DID YOU READ PEOPLE'S 55 FOR IDENTIFICATION?

4 A PRETTY MUCH SO, YES.

5 Q PRETTY MUCH SO?

6 A YES.

7 Q HAD YOU BEEN TOLD ANYTHING UP TO THAT POINT ABOUT
8 JOE HUNT'S RELATIONSHIP WITH RON LEVIN?

9 A YES.

10 Q WHAT INFORMATION DID YOU HAVE AT THAT TIME REGARDING
11 HOW OFTEN MR. HUNT HAD BEEN AT MR. LEVIN'S HOUSE?

12 MR. BARENS: HEARSAY, YOUR HONOR.

13 THE COURT: OVERRULED.

14 MR. BARENS: COULD WE GET AT LEAST AN IDENTITY AS TO
15 WHO TOLD HIM?

16 THE COURT: YES.

17 HOW OFTEN, AND THEN TELL US WHO TOLD YOU.
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1 THE WITNESS: NOT AS FAR AS -- I DON'T KNOW AS FAR AS
2 HOW MANY TIMES, BUT OFTEN HE WAS WITH LEVIN AND OVER AT HIS
3 HOUSE AND I WAS TOLD BY THE MAY BROTHERS AND JEFF RAYMOND.

4 Q BY MR. WAPNER: AND WHEN YOU FOUND THE LIST THAT
5 IS PEOPLE'S 55, ON THE FIRST PAGE THAT YOU LOOKED AT, IT SAID
6 "AT LEVIN'S TO DO," RIGHT?

7 A THAT'S CORRECT.

8 Q AND WHEN YOU LOOKED AT THIS LIST AND THE OTHER
9 SIX PAGES, DID THEY APPEAR TO YOU TO BE CONSISTENT OR
10 INCONSISTENT WITH THE INFORMATION THAT YOU HAD RECEIVED A
11 WEEK BEFORE?

12 A APPEARED TO BE VERY CONSISTENT.

13 Q DID YOU NOTICE ON THAT LIST --

14 MR. BARENS: OBJECTION. THAT IS AN OPINION WHICH GOES
15 TO THE ULTIMATE FACT AND TAKES EVERYTHING AWAY FROM THE JURY
16 AND THAT IS IMPERMISSIBLE AND I MOVE TO STRIKE.

17 THE COURT: I WILL LET IT STAND. THE JURY CAN EVALUATE
18 IT IN THEIR OWN WAY.

19 Q BY MR. WAPNER: IN TERMS OF WHEN YOU LOOKED AT
20 THE LIST, DID YOU NOTICE ON THERE AN ITEM THAT HAS THE NUMBER
21 3 WITH THE CIRCLE AROUND IT?

22 A YES.

23 Q AND WHAT DOES IT SAY THERE?

24 A "PUT GLOVES ON."

25 Q AND WITH RESPECT TO EXAMINING MR. LEVIN'S APARTMENT
26 FOR FINGERPRINTS AND SPECIFIC ITEMS IN THE APARTMENT, WHY
27 DIDN'T YOU DO MORE EXAMINATION FOR FINGERPRINTS IN THE
28 APARTMENT?

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Now 6:00:00 is of course

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1 Q NOW, THE LIST MAKES REFERENCE TO A LOT OF SPECIFIC
2 THINGS, I SUPPOSE, THAT WERE LOCATED IN MR. LEVIN'S APARTMENT?

3 A CORRECT.

4 Q AND YOU DIDN'T ATTEMPT TO TAKE PRINTS OFF OF ANY
5 OF THOSE SPECIFIC THINGS LISTED ON THAT LIST BECAUSE YOU
6 FIGURED HUNT HAD GLOVES ON?

7 A IN PART. AS I EXPLAINED, I KNEW THAT JOE HUNT
8 HAD ACCESS TO THE APARTMENT AND THAT HIS PRINTS WOULD MOST
9 LIKELY BE INSIDE THE APARTMENT.

10 Q BUT BECAUSE HE HAD ACCESS TO THE APARTMENT, WOULD
11 YOU THINK HIS FINGERPRINTS WOULD BE ON THE DATE STAMP AND
12 ON THE CORPORATE SEAL AND THE XEROX MACHINE AND THE TYPEWRITER
13 KEYS AND THE TYPEWRITER RIBBON AND THE TYPEWRITER BALL AND
14 ALL OF THAT, YOU THOUGHT THAT BECAUSE HE HAD ACCESS TO THAT,
15 YOU COULD FIND IT ON ALL OF THAT STUFF ANYHOW, SO WHY LOOK
16 NOW?

17 A I DIDN'T KNOW WHETHER HE HAD ACCESS TO IT OR NOT.

18 Q JUST SOMETHING YOU HAD BEEN TOLD.

19 WELL, HOW WOULD YOU KNOW IF IT WAS TRUE OR NOT
20 IF YOU DIDN'T DUST FOR PRINTS, HOW DO WE EVER KNOW?

21 HOW DO WE KNOW IT, EXCEPT FROM SOMETHING THAT
22 HAS BEEN TOLD TO YOU, HOW DO WE DO ANY KIND OF PROVING CASES?

23 MR. WAPNER: OBJECTION AS ARGUMENTATIVE.

24 THE COURT: SUSTAINED. SAVE THAT FOR THE JURY, IF YOU
25 WILL.

26 Q BY MR. BARENS: WELL, IT ENABLES US WITH WHAT
27 WE DO, OF COURSE.

28 WHAT YOU DID, AS IT TURNS OUT, MADE SURE YOU DIDN'T

1 FIND ANYTHING INCONSISTENT WITH YOUR THEORY, RIGHT?

2 A I CERTAINLY WASN'T GOING TO DISMISS ANYTHING THAT
3 WAS CONTRARY TO MY THEORY.

4 Q OKAY. WELL, YOU KNEW LEVIN WAS A CON MAN, DIDN'T
5 YOU?

6 A YES.

7 Q YOU KNEW HE WAS FACING A LOT OF CRIMINAL CHARGES,
8 DIDN'T YOU?

9 MR. WAPNER: OBJECTION. RELEVANCE.

10 THE COURT: YOU ARE GOING OVER THINGS WE HAVE ALREADY
11 HEARD FOR FOUR OR FIVE TIMES.

12 GO ON TO SOMETHING ELSE, WILL YOU PLEASE?
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