

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

88DA0 269

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
) PLAINTIFF-RESPONDENT,)
)
) VS.)
)
) JOE HUNT, AKA JOSEPH HUNT,)
) AKA JOSEPH HENRY GAMSKY,)
)
) DEFENDANT-APPELLANT.)
)

SUPERIOR COURT
NO. A-090435

OCT 09 1987

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE LAURENCE J. RITTENBAND, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

APPEARANCES:

FOR PLAINTIFF-RESPONDENT: JOHN K. VAN DE KAMP
STATE ATTORNEY GENERAL
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FOR DEFENDANT-APPELLANT: IN PROPRIA PERSONA

VOLUME 92 OF 101
(PAGES 13852 TO 14026, INCLUSIVE)

COPY

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WEST C

HON. LAURENCE J. RITTENBAND, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF,)
)
VS.)
)
JOSEPH HUNT,)
)
DEFENDANT.)

NO. A-090435

REPORTERS' DAILY TRANSCRIPT

THURSDAY, MAY 14, 1987

VOLUME 92

PAGES 13852 TO 14026, INCL.

APPEARANCES:

FOR THE PLAINTIFF: IRA REINER, DISTRICT ATTORNEY
BY: FREDERICK N. WAPNER, DEPUTY
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FOR THE DEFENDANT: ARTHUR H. BARENS, ESQ.
10209 SANTA MONICA BOULEVARD
LOS ANGELES, CALIFORNIA 90067

AND

RICHARD C. CHIER, ESQ.
10920 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90024

ROSEMARIE GOODBODY, CSR NO. 932
SALLY YERGER, CSR NO. 2008
OFFICIAL REPORTERS

2 A.M. 13852
3 P.M. 13903
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(FURTHER)
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1 SANTA MONICA, CALIFORNIA; THURSDAY, MAY 14, 1987; 10:45 A.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS HERETOFORE NOTED.)

4 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

5
6 OLGA IRIS VASQUEZ,
7 HAVING BEEN PREVIOUSLY SWORN, RESUMED THE STAND AND TESTIFIED
8 FURTHER AS FOLLOWS:

9
10 DIRECT EXAMINATION (RESUMED)

11 BY MR. WAPNER:

12 Q MRS. VASQUEZ, I THINK WE LEFT OFF WHERE YOU
13 WERE AT THE 7-ELEVEN AND MR. PITTMAN WAS OFFERING YOU
14 HIS ASSISTANCE; DO YOU REMEMBER THAT?

15 A YES.

16 Q AND AFTER THAT -- AND YOU DIDN'T ACCEPT HIS
17 OFFER OF HELP, DID YOU?

18 A NO.

19 Q OR OFFER TO GO OUT TO LUNCH OR WHATEVER IT
20 WAS?

21 A RIGHT.

22 Q AND AFTER THAT, DID YOU LEAVE AND GO BACK
23 TO THE APARTMENT ON DAVEY GLEN?

24 A YES.

25 Q DID THAT APARTMENT BUILDING HAVE A NAME, BY
26 THE WAY, THE WHOLE BUILDING?

27 A DAVEY GLEN CONDOMINIUMS, I GUESS.

28 Q YOU ARE NOT SURE?

1 A THE BELMONT, I THINK.

2 Q THE NAME OF IT WAS CALLED THE BELMONT?

3 A I THINK SO.

4 MR. WAPNER: YOUR HONOR, THERE IS ANOTHER DIAGRAM
5 THAT IS PRESENT ON THE BOARD THAT I WOULD LIKE TO HAVE
6 MARKED AS PEOPLE'S 14 FOR IDENTIFICATION.

7 DETECTIVE ZOELLER: 15.

8 THE COURT: IT WILL BE SO MARKED.

9 THE CLERK: I ALREADY HAVE A 14.

10 THE COURT: YOU HAVE A 14.

11 MR. WAPNER: OKAY, THANK YOU. 15.

12 THE COURT: ALL RIGHT.

13 Q BY MR. WAPNER: DO YOU RECOGNIZE WHAT IS ON
14 THE BOARD THAT WE HAVE MARKED AS PEOPLE'S 15 FOR IDENTIFICATION?

15 A YES.

16 Q AND WHAT IS IT?

17 A IT IS THE IMMEDIATE AREA WHERE WE LIVED.

18 Q AND WHERE IT SAYS "CONDO," WHAT DOES THAT
19 AREA REPRESENT?

20 A 400 DAVEY GLEN CONDO.

21 Q AND THIS IS THE GENERAL AREA WHERE THE CONDO
22 IS LOCATED; IS THAT RIGHT?

23 A EXACTLY.

24 Q THIS DIAGRAM DOESN'T TRY TO SHOW US EXACTLY
25 WHAT THE CONDOMINIUM COMPLEX LOOKED LIKE BUT JUST THE
26 LOCATION WHERE IT WAS, RIGHT?

27 A RIGHT.

28

1 Q AND DOES THIS ALSO SHOW WERE THE CONDOMINIUM
2 COMPLEX WAS IN RELATION TO EL CAMINO REAL?

3 A YES.

4 Q THE 7-ELEVEN THAT YOU WERE REFERRING TO YESTERDAY,
5 IS THAT LOCATED ON THIS DIAGRAM?

6 A YES.

7 Q WHERE IS THAT?

8 A RIGHT ON EL CAMINO AND DAVEY GLEN ROAD IN THE
9 CORNER. RIGHT THERE (INDICATING).

10 Q SURPRISINGLY ENOUGH, WHERE IT SAYS "7-ELEVEN"
11 ON THE DIAGRAM?

12 A YES.

13 Q AND YOU SAID THAT FROM THE CONDOMINIUMS TO THE
14 7-ELEVEN, WAS ABOUT ONE BLOCK?

15 A YES.

16 Q AND THEN, WHAT KIND OF STREET IS EL CAMINO REAL?
17 IS IT A MAIN THOROUGHFARE?

18 A YES.

19 Q AFTER YOU LEFT THE 7-ELEVEN AND WENT HOME, AT
20 SOME POINT DID YOU HAVE MORE CONTACT WITH REZA ESLAMINIA
21 AND THE OTHER PEOPLE WHO WERE ATTEMPTING TO GAIN THE
22 CONSERVATORSHIP?

23 A YES.

24 Q WHEN WAS THAT?

25 A (THERE WAS NO AFFIRMATIVE RESPONSE.)

26 Q LET ME ASK YOU ANOTHER QUESTION. DID YOU GO THE
27 NEXT DAY TO A DEPOSITION?

28 A YES.

1 Q THAT WAS THE ONE THAT YOU HAD BEEN SERVED WITH
2 A SUBPOENA FOR THE DAY BEFORE?

3 A YES.

4 Q WHAT WAS THAT DEPOSITION ALL ABOUT?

5 MR. CHIER: OBJECTION, IRRELEVANT, YOUR HONOR.

6 THE COURT: OVERRULED.

7 THE WITNESS: IT WAS TO FIND OUT WHERE HADAYET
8 ESLAMINIA'S ASSETS WERE.

9 Q BY MR. WAPNER: WERE YOU BEING QUESTIONED ABOUT
10 HIS ASSETS?

11 A YES.

12 Q BY WHOM WERE YOU BEING QUESTIONED?

13 A NEIL ADELMAN AND A FEW OTHER ATTORNEYS.

14 Q WERE THERE ANY FEMALE ATTORNEYS THERE, IF YOU
15 KNOW?

16 A YES.

17 Q DO YOU KNOW WHO THEY WERE?

18 A NOT THE NAMES, OFFHAND.

19 Q DOES THE NAME LAUREN RABB MEAN ANYTHING TO YOU?

20 A YES, LAUREN RABB.

21 Q WAS SHE THERE, ALSO?

22 A YES SHE WAS.

23 Q DID YOU HAVE A LAWYER REPRESENTING YOU AT THAT
24 TIME?

25 A YES.

26 Q WHO WAS THAT?

27 A MARLENE GETCHELL.

28 Q DO YOU KNOW HOW SHE SPELLS HER LAST NAME?

-3
1 A G-E-T-C-H-E-L-L.

2 Q HOW LONG WERE YOU QUESTIONED ABOUT HADAYET
3 ESLAMINIA'S ASSETS?

4 A I BELIEVE ABOUT THREE HOURS, APPROXIMATELY.

5 Q AFTER THAT DEPOSITION, WHEN WAS THE NEXT TIME
6 THAT YOU HAD ANY CONTACT WITH REZA, BEN DOSTI OR JOE HUNT
7 OR ANYBODY FROM THAT GROUP?

8 A DAYS AFTER, I CALLED NEIL ADELMAN AND I ASKED
9 HIM IF REZA COULD GIVE ME A CALL.

10 Q WHY DID YOU DO THAT?

11 A BECAUSE AT THAT PARTICULAR TIME, I WAS DESPERATE.
12 AND I WANTED -- I DIDN'T TELL HIM AT THAT TIME WHERE HIS
13 FATHER'S SAVINGS ACCOUNT WAS.

14 SO I DECIDED TO TELL HIM BECAUSE MY LAST RESORT
15 WAS OKAY, MAYBE HE CAN FIND HIS FATHER THROUGH WHERE HIS MONEY
16 IS BECAUSE THERE WAS REALLY NO HOPE. I MEAN, I WAS THINKING
17 THAT THERE WAS NO OTHER HOPE.

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1 Q AFTER YOU CALLED NEIL ADELMAN, DID YOU GET
2 A CALL BACK FROM REZA?

3 A YES.

4 Q WHEN WAS THAT?

5 A IT WAS EITHER THE SAME DAY OR THE FOLLOWING
6 DAY.

7 Q AFTER YOU GOT THE CALL BACK, WHAT HAPPENED?

8 A I ASKED TO SEE HIM AND I SAW HIM APPROXIMATELY
9 ONE OR TWO DAYS AFTER I --

10 HE ASKED ME TO MEET HIM AT THE AMFAC HOTEL.

11 Q WHERE WAS THE AMFAC HOTEL?

12 A IT WAS -- I THINK IT IS IN BURLINGAME, WHICH
13 IS RIGHT NEXT DOOR TO BELMONT.

14 Q IS IT NEAR THE SAN FRANCISCO INTERNATIONAL
15 AIRPORT?

16 A YES.

17 Q DID YOU IN FACT MEET WITH REZA AT THE AMFAC
18 HOTEL?

19 A YES.

20 Q DID YOU GO THERE BY YOURSELF?

21 A I DROVE THERE IN MY CAR.

22 Q WHERE IN THE HOTEL DID YOU MEET HIM?

23 A IN THE BAR AREA.

24 Q WAS HE WITH SOMEONE ELSE?

25 A MR. DOSTI.

26 Q DID YOU KNOW MR. DOSTI BY NAME AT THAT TIME?

27 A I DON'T REMEMBER.

28 Q WHEN YOU WERE IN THE BAR WITH REZA ESLAMINIA

1 AND BEN DOSTI, WHAT HAPPENED?

2 A WE FIRST -- FIRST, WE SAT AT THE BAR AND THEN
3 REZA SUGGESTED THAT WE SIT AT A TABLE AND WE PLACED OUR
4 ORDERS WITH THE WAITRESS, AND REZA WAS VERY NERVOUS AND
5 HE SPILLED OVER HIS BEER. AND WHEN THE --

6 DURING THAT TIME, DURING OUR CONVERSATION,
7 I TOLD HIM, I MEAN I JUST TOLD HIM WHERE HIS FATHER'S
8 SAVINGS WAS AND THAT TO PLEASE, YOU KNOW, DO THE BEST
9 HE CAN TO FIND HIM. AND HE WAS VERY PLEASED WITH THAT.

10 AND THEN THE WAITRESS CAME AND ASKED FOR THE
11 BILL AND MR. DOSTI SAID, "PUT IT UNDER DAVIS," BECAUSE
12 HE WAS STAYING AT THE HOTEL.

13 Q HE GAVE HIS NAME AS DAVIS?

14 A DAVIS.

15 Q AND AFTER YOU TALKED TO THEM, THE TWO OF THEM
16 AT THE AMFAC HOTEL, DID YOU HAVE ANY FURTHER CONTACT WITH
17 ANYBODY PERSONALLY?

18 A PERSONALLY?

19 Q WITH ANY OF THEM PERSONALLY.

20 Q I THINK THAT IS REALLY THE LAST TIME I SAW
21 THEM FOR A WHILE.

22 Q DID YOU HEAR THAT THEY HAD COME BACK UP TO
23 THE APARTMENT AT 400 DAVEY GLEN ROAD?

24 MR. CHIER: OBJECTION. HEARSAY.

25 THE COURT: OVERRULED.

26 Q BY MR. WAPNER: DID YOU TALK TO A GIRLFRIEND
27 OR SOMETHING AT THE APARTMENT?

28 A OH, YEAH.

1 MY GIRLFRIEND, VERONICA FONSECA WAS STAYING
2 WITH ME FOR THE LAST WEEKS THAT I STAYED AT THAT CONDO
3 AND I HAD MADE --

4 DURING THE AMFAC HOTEL MEETING WITH REZA ESLAMINIA
5 AND BEN DOSTI, HE ASKED IF HE COULD COME IN AND TAKE SOME
6 THINGS AND AT THAT TIME I SAID, "FINE, YOU KNOW, YES."

7 AND HE CAME AT THE TIME WHEN I WAS NOT HOME.
8 I WAS WORKING. I STARTED WORKING, I GUESS THAT WAS AT
9 LEAST THREE WEEKS AFTER HADAYET WAS MISSING.

10 AND MY GIRLFRIEND -- I WAS ON THE TELEPHONE
11 WITH MY GIRLFRIEND AND SHE WAS TELLING ME, "ARE YOU SURE
12 THIS IS OKAY?"

13 AND I SAID, "YEAH, IT IS FINE."

14 AND I ASKED HER WHAT THEY WERE REMOVING AND
15 SHE TOLD ME THEY WERE REMOVING CLOTHES.

16 Q DID YOU COME BACK TO THE APARTMENT THAT NIGHT?

17 A YES.

18 Q AND DID YOU NOTICE THAT THERE WERE SOME CLOTHES
19 MISSING?

20 A OH, YES.

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1 Q WHAT WAS MISSING?

2 A THEY TOOK ALL OF HIS CLOTHES.

3 Q ALL OF HADAYET'S CLOTHES?

4 A ALL OF HADAYET'S CLOTHES, HIS NEW SHIRTS, YOU
5 KNOW.

6 Q I WANT TO ASK YOU A LITTLE BIT ABOUT THE
7 APARTMENT -- OR EXCUSE ME, THE CONDOMINIUM COMPLEX ITSELF
8 AGAIN.

9 AS YOU COME INTO THE LOBBY LEVEL OF THAT APARTMENT
10 COMPLEX, WHEN YOU WALKED PAST THE MANAGER'S OFFICE AND MADE
11 THE RIGHT TURN TO GO DOWN TOWARD YOUR APARTMENT, YOU ARE IN
12 A HALLWAY, IS THAT RIGHT?

13 A RIGHT.

14 Q WHAT IS AT THE END OF THE HALLWAY?

15 A AN EXIT.

16 Q WHEN YOU GO OUT THAT EXIT, WHERE ARE YOU?

17 A AT THE BACK OF THE BUILDING ON THE SIDE, THOUGH.

18 Q ARE THERE SOME STAIRS THERE?

19 A THERE ARE SOME STAIRS IN THE BUILDING. BUT AS
20 YOU LEAVE THE GATE, THERE ARE NO MORE STAIRS.

21 Q WELL, I WILL PUT THIS UP HERE TODAY SO THAT DAVEY
22 GLEN ROAD IS AT THE BOTTOM. THIS IS WHERE THE LOBBY AND THE
23 ENTRANCE ARE, IS THAT RIGHT? NO -- WELL, I SHOULD NEVER HAVE
24 TURNED IT AROUND.

25 OKAY. THIS IS WHERE WE ARE TALKING ABOUT. WE
26 WERE TALKING ABOUT THIS YESTERDAY WHERE THE LOBBY AND ENTRANCE
27 TO THE BUILDING ARE.

28 A YES.

1 Q ALL RIGHT. THERE ARE TWO BUILDINGS, IS THAT RIGHT?

2 A YES.

3 Q AND AS YOU WALK PAST THE OFFICE, YOU TURN RIGHT

4 TO COME DOWN TO YOUR APARTMENT, IS THAT CORRECT?

5 A CORRECT.

6 Q AS YOU GET TO THE END OF THE HALLWAY, IS THERE

7 A DOOR AT THE VERY END OF THE HALLWAY?

8 A YES.

9 Q IS THAT WHERE MY FINGER IS NOW?

10 A IT LOOKS LIKE IT, YES.

11 Q AND WHEN YOU GO THROUGH THAT DOOR, WHAT IS IN

12 THIS AREA IMMEDIATELY DEPICTED BY THE TWO BLACK LINES THERE?

13 A CEMENT STAIRS.

14 Q AND DO YOU SEE WHAT APPEARS TO BE A SERIES OF

15 RECTANGLES THAT GO FROM THIS AREA WHERE YOU HAVE TOLD US THERE

16 ARE STAIRS OUT TOWARD THE STREET?

17 A RIGHT.

18 Q ALL RIGHT. WHAT IS THIS?

19 A BALCONIES.

20 Q BALCONIES OR A WALKWAY OF SOME SORT? ARE THESE

21 BALCONIES THAT GO UP TO THE BUILDINGS?

22 A BALCONIES FOR THE CONDOS. THAT IS WHAT IT LOOKS

23 LIKE TO ME.

24 Q HOW DO YOU GET AS YOU GO OUT OF THIS DOOR AT THE

25 END OF THE HALLWAY -- CAN YOU GET OUT TO DAVEY GLEN ROAD FROM

26 THERE?

27 A YEAH. THERE IS A DOOR. THEN THERE IS A LOCKED

28 GATE.

1 Q WHERE IS THE LOCKED GATE LOCATED?

2 A IT IS RIGHT EXACTLY WHEN YOU EXIT, RIGHT OUTSIDE.

3 Q CAN YOU SHOW US ON THE DIAGRAM WHERE THAT WOULD
4 BE?

5 A EITHER THAT IS AN AREA WHERE THE STAIRS ARE OR
6 THAT IS THE PATHWAY. I AM NOT SURE BECAUSE --

7 Q OKAY. IN ANY EVENT, CAN YOU --

8 A THOSE ARE NOT BALCONIES.

9 Q WHEN YOU WERE LIVING THERE, IF YOU WANTED TO GO
10 OUT TO DAVEY GLEN ROAD, COULD YOU DO IT BY WALKING TO THE
11 END OF THE HALLWAY, INSTEAD OF GOING BACK TO THE LOBBY?

12 A YES.

13 Q AND IF YOU WALKED OUT THAT DOOR AT THE END OF
14 YOUR HALLWAY, HOW WOULD YOU GET TO DAVEY GLEN ROAD?

15 A CAN YOU REPEAT THAT?

16 Q IF YOU WERE WALKING FROM THE APARTMENT OR
17 CONDOMINIUM THAT YOU LIVED IN, TO DAVEY GLEN ROAD -- THAT
18 IS, GOING BY WAY OF THE DOOR AT THE END OF THE HALLWAY, HOW
19 WOULD YOU GET OUT TO DAVEY GLEN ROAD? WHAT WOULD YOU DO?

20 A I WOULD MAKE A RIGHT.

21 Q FROM THE DOOR OF YOUR CONDOMINIUM?

22 A FROM THE DOOR OF THE CONDOMINIUM. AND THE DOOR
23 IS RIGHT THERE. THE EXIT DOOR SIGN IS RIGHT THERE.

24 AND THEN I GO THROUGH THAT DARK -- IT IS NOT OUTSIDE,
25 IT IS --

26 Q LIKE A CEMENT STAIRWAY?

27 A YES. THERE IS A CEMENT STAIRWAY AND ABOVE THE
28 STAIRS IS THE GATE TO ACTUALLY EXIT THE DOOR.

1 Q HOW MANY STAIRS DO YOU HAVE TO GO UP BEFORE YOU
2 GET TO THE GATE THAT LEADS YOU OUT TO DAVEY GLEN ROAD?

3 A I BELIEVE THERE ARE TWO SETS OF STAIRS.
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1 Q HOW MANY STEPS IN EACH SET, IF YOU KNOW?

2 A VERY LITTLE. THREE TO FOUR OR FIVE.

3 Q AND THEN YOU CAN WALK OUT FROM THERE TO A
4 GATE AND THEN FROM THAT GATE, OUT TO DAVEY GLEN ROAD?

5 A RIGHT.

6 Q I WANT TO TAKE YOU BACK TO A TIME IN APRIL
7 OF 1984, DID YOU GO ON A TRIP WITH HADAYET ESLAMINIA?

8 A YES.

9 Q WHERE DID YOU GO?

10 A WENT TO SAN DIEGO AND THEN TO MEXICO.

11 Q WHOM DID YOU GO WITH?

12 A I MEAN LOS ANGELES, SAN DIEGO, THEN MEXICO.
13 I LEFT SAN FRANCISCO -- I MEAN I LEFT HERE
14 WITH HADAYET AND MET HIS THREE SONS IN LOS ANGELES.

15 Q WHEN YOU SAY "LEFT HERE," DID YOU LEAVE FROM
16 BELMONT?

17 A FROM BELMONT.

18 Q AND WERE YOU DRIVING OR DID YOU FLY TO LOS
19 ANGELES?

20 A WE -- OH, I'M SORRY -- HADAYET LEFT IN HIS CAR
21 AND I FLEW.

22 Q DID YOU MEET HIM IN LOS ANGELES?

23 A I MET HIM IN THE LOS ANGELES AIRPORT.

24 Q DID YOU PICK UP SOME OF HIS CHILDREN?

25 A YES.

26 Q WHERE DID YOU GO?

27 A SOMEWHERE IN LOS ANGELES TO MINA, HIS FIRST --
28 EX-WIFE'S HOUSE.

1 Q AND YOU PICKED UP HIS CHILDREN AT HIS EX-WIFE'S
2 HOUSE?

3 A YES.

4 Q WHERE DID YOU GO FROM THERE?

5 A FROM THERE, WE DROVE TO SAN DIEGO.

6 Q AND DID YOU AT SOME POINT SPEND SOME TIME
7 IN MEXICO? DID YOU GO TO MEXICO FOR THE DAY?

8 A YES.

9 Q AND WAS THAT ON APRIL 16 OF 1984?

10 A YES.

11 Q DID YOU SPEND THE NIGHT IN MEXICO?

12 A YES.

13 Q SO DID YOU GO DOWN ON THE 15TH AND THEN RETURN,
14 CROSSING THE BORDER AGAIN ON THE 16TH?

15 A ON THE 16TH.

16 Q AND THEN WHAT TIME WAS IT ON THE 16TH THAT
17 YOU --

18 A ARRIVED BACK AT SAN DIEGO?

19 Q THAT YOU CROSSED THE BORDER.

20 A SOMETIME AROUND 5:00 OR 6:00.

21 Q WHAT DID YOU DO THAT EVENING?

22 A WE WENT BACK TO SAN DIEGO TO THE JAFF'S HOUSE.

23 Q IS THAT A FRIEND OF MR. ESLAMINIA'S?

24 A YES.

25 Q DID YOU SPEND THE NIGHT IN SAN DIEGO THAT
26 NIGHT?

27 A YES.

28 Q SO THE ENTIRE DAY OF THE 16TH OF APRIL OF

1 1984, YOU WERE WITH MR. ESLAMINIA?

2 A YES.

3 Q AND THAT DAY WAS SPENT BY HIM EITHER IN MEXICO
4 OR IN SAN DIEGO?

5 A YES.

6 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

7 THE COURT: ALL RIGHT.

8

9 CROSS-EXAMINATION

10 BY MR. CHIER:

11 Q GOOD MORNING, MISS VASQUEZ.

12 A GOOD MORNING.

13 Q YOU MET MR. ESLAMINIA ON THE 3RD OF AUGUST,
14 1983?

15 A APPROXIMATELY.

16 Q AND YOU MET HIM AS A RESULT OF BEING FIXED
17 UP WITH HIM ON A BLIND DATE?

18 A YES.

19 Q AND MR. ESLAMINIA HAD A VERY DIFFICULT TIME
20 WITH THE ENGLISH LANGUAGE, DID HE NOT?

21 A YEAH.

22 Q AND YOU DO NOT SPEAK FARSI?

23 A THAT'S CORRECT.

24 Q SO THAT IN THE BEGINNING AND EVEN AS OF THE
25 LAST TIME THAT YOU SAW MR. ESLAMINIA, COMMUNICATION WITH
26 HIM WAS NOT EASY, CORRECT?

27 A HE SPOKE BROKEN ENGLISH BUT THE PROBLEM WAS
28 I DIDN'T SPEAK FARSI, SO I WAS THE PERSON THAT HAD TO

1 TRY TO FIGURE THINGS OUT.

2 Q ALL RIGHT. AND THERE WAS ABOUT A 25-YEAR
3 AGE DIFFERENCE BETWEEN THE TWO OF YOU?

4 A YES.

5 Q AND THERE WAS A WIDE CULTURAL GAP BETWEEN
6 THE TWO OF YOU, CORRECT?

7 A NO.

8 MY PARENTS ARE FROM PUERTO RICO AND EVEN THOUGH
9 HE IS FROM IRAN, THERE ARE SOME THINGS, LIKE THE MUSIC
10 AND JUST THE CULTURAL ATMOSPHERE, IT IS DIFFERENT BUT
11 IT WASN'T A SHOCK TO ME.

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1 Q PUERTO RICAN MUSIC IS NOTHING LIKE MIDDLE EASTERN
2 MUSIC, IS IT? OR, IS IT?

3 A WELL, YOU KNOW, THE SPANISH MUSIC AND THE -- I
4 MEAN, THE ARABICS (SIC) INVADED SPAIN MANY, MANY YEARS AGO.
5 AND WE HAVE SOME MUSIC THAT IS KIND OF SIMILAR.

6 Q SO THERE WAS SOME SORT OF MOORISH INFLUENCE?

7 A MOORISH?

8 Q WELL -- ALL RIGHT. IN ANY EVENT, ONE OF THE
9 CULTURAL DISSIMILARITIES BETWEEN YOUR CULTURE AND HIS
10 CULTURE WAS THE USE OF OPIUM, ISN'T THAT CORRECT?

11 A MY CULTURE DOESN'T USE IT. I MEAN, I AM
12 AMERICAN. I WAS BORN HERE.

13 BUT IN PUERTO RICO, WHICH IS A COMMONWEALTH OF
14 THE UNITED STATES, NO. THEY DON'T GROW ANYTHING LIKE THAT.

15 Q MR. ESLAMINIA DID USE OPIUM, DIDN'T HE?

16 A WHEN HE WAS IN IRAN, HIS DOCTOR USED TO PRESCRIBE
17 IT TO HIM. AND WHEN HE CAME INTO THIS COUNTRY, HE DID
18 OCCASIONALLY SMOKE OPIUM.

19 Q HE SMOKED OPIUM FREQUENTLY WHEN HE GOT TOGETHER
20 WITH SOME OF HIS PERSIAN FRIENDS?

21 A HIS OLDER FRIENDS, WHICH WAS NOT FREQUENTLY. BUT
22 HE DID SMOKE IT YOU KNOW, OCCASIONALLY.

23 Q HE ALSO SMOKED IT IN THE HOME WHEN THERE WERE
24 NO PEOPLE AROUND? RIGHT?

25 A INCORRECT. NO.

26 Q HE NEVER SMOKED ALONE?

27 A HE NEVER SMOKED ALONE.

28 Q ALL RIGHT. NOW, IT WAS APPROXIMATELY DECEMBER

2
1 OF 1983 THAT THE TWO OF YOU BEGAN LIVING TOGETHER?

2 A APPROXIMATELY.

3 Q AND PRIOR TO LIVING TOGETHER, DID YOU TRAVEL WITH
4 MR. ESLAMINIA?

5 A YES.

6 Q AND DID YOU TRAVEL OUT OF THE COUNTRY WITH
7 MR. ESLAMINIA?

8 A YES, UH-HUH. YES.

9 Q DID YOU GO MORE THAN ONE TIME ON TRIPS WITH
10 MR. ESLAMINIA? I AM NOW SPEAKING OF THAT PERIOD OF TIME
11 BETWEEN THE TIME THAT YOU MET HIM AND THE TIME THAT YOU BEGAN
12 LIVING WITH HIM. ARE WE TALKING ABOUT THE SAME TIME PERIOD?

13 A YES. I WENT TO MEXICO AND I WENT TO EUROPE.

14 Q WHEN YOU WENT TO MEXICO, YOU MEAN THAT YOU WENT
15 TO LIKE, BAJA, CALIFORNIA?

16 A NO, JUST TIJUANA.

17 Q OKAY. AND DID YOU GO TO MEXICO ON THAT OCCASION?
18 DID YOU DRIVE TO MEXICO?

19 A YES.

20 Q DID YOU LEAVE FROM LOS ANGELES, FROM BELMONT,
21 TO GET THERE OR DID YOU GO SEPARATELY AS YOU DID IN 1984?

22 A WE DROVE TOGETHER.

23 Q YOU WERE TOGETHER THE ENTIRE TIME FROM THE TIME
24 YOU LEFT?

25 A RIGHT. EXACTLY.

26 Q AND WERE THERE TIMES WHEN YOU WENT TO MEXICO ON
27 THAT FIRST OCCASION, THAT MR. ESLAMINIA WAS NOT WITH YOU FOR
28 SEVERAL HOURS AT A TIME?

1 A NO. WE WERE TOGETHER.

2 Q THE ENTIRE TIME?

3 A THE ENTIRE TIME. THE ONLY THING THAT REALLY
4 HAPPENED ON THAT TRIP OUT OF ORDER, WAS THAT ALI DISAPPEARED
5 FOR A LITTLE WHILE. AND WE WERE WORRIED, FRANTIC ABOUT THAT.

6 Q THIS IS THE FIRST TRIP WHEN YOU WENT TO MEXICO?

7 A UH-HUH, IN APRIL.

8 Q AND ALI WAS ONE OF HIS SONS?

9 MR. WAPNER: YOUR HONOR, OBJECTION. I AM NOT SURE THE
10 RECORD IS CLEAR AS TO THE FIRST TRIP OR THE SECOND TRIP OR
11 WHETHER THERE WERE --

12 THE COURT: I DON'T KNOW THE MATERIALITY OF ALL OF THIS.
13 LET'S GET ON WITH THE SUBJECT, THE DISAPPEARANCE.

14 MR. WAPNER: THE OBJECTION I GUESS IS THAT THE QUESTION
15 IS VAGUE. BECAUSE HE IS PUTTING A TIME FRAME OF BETWEEN
16 CERTAIN DATES AND THEN SHE IS IN APRIL, WHICH IS AFTER THE
17 TIME HE IS REFERRING TO. I THINK THE RECORD IS NOT CLEAR
18 NOW.

19 THE COURT: ALL RIGHT. WOULD YOU CLEAR THAT UP, PLEASE?

20 MR. CHIER: YES.

21 Q MS. VASQUEZ, I AM SPEAKING ABOUT THE FIRST TRIP
22 THAT YOU WENT ON WITH MR. ESLAMINIA AFTER YOU MET HIM.

23 NOW, THAT WOULD HAVE BEEN BETWEEN AUGUST AND
24 DECEMBER OF 1983, RIGHT? ARE YOU WITH ME?

25 A I AM TRYING TO THINK.

26 Q ALL RIGHT.

27 A OKAY. THE TRIP -- I ONLY TOOK TWO TRIPS WITH
28 HADAYET OUT OF THIS COUNTRY, TIJUANA AND --

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1 Q THE ENTIRE TIME THAT YOU KNEW HIM?

2 A YES.

3 Q THE FIRST TRIP WOULD HAVE BEEN WHEN?

4 A I REMEMBER BEING IN EUROPE AROUND CHRISTMAS AND
5 I REMEMBER BEING IN MEXICO AROUND EASTER VACATION.

6 Q OKAY. LET'S -- SO YOU DIDN'T GO TO MEXICO
7 BETWEEN THE TIME YOU MET HIM AND DECEMBER, WHEN YOU STARTED
8 LIVING WITH HIM? YOU ONLY WENT ONE TIME?

9 A YES. MEXICO, ONLY ONE TIME.

10 Q ALL RIGHT. YOU WENT TO EUROPE AROUND CHRISTMASTIME,
11 RIGHT?

12 A RIGHT.

13 Q WERE YOU LIVING WITH MR. ESLAMINIA THEN?

14 A I THINK RIGHT -- I THINK SO.

15 Q HOW LONG DID YOU STAY IN EUROPE WITH HIM?

16 A TWO WEEKS.

17 Q DID MR. ESLAMINIA HAVE MEETINGS WITH PERSONS HE
18 DESCRIBED AS POLITICAL PEOPLE WHEN HE WENT TO EUROPE WITH
19 YOU?

20 A YES.

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1 Q MR. ESLAMINIA HAD BEEN, BEFORE THE FALL OF
2 THE SHAH'S EMPIRE, A PERSON SOMEWHAT CLOSE TO THE SHAH
3 AS FAR AS YOU KNEW, CORRECT?

4 A WELL, HE WAS A RELIGIOUS LEADER, THAT HE WAS
5 WELL-RESPECTED IN IRAN.

6 IRAN IS FULL OF RELIGION OR RELIGIOUS ORGANIZATIONS,
7 SO THERE HAD TO BE SOMEBODY BETWEEN THESE RELIGIOUS ORGANIZATIONS
8 AND THE SHAH, WHO WAS NOT.

9 Q WAS HE THEN KIND OF, AS FAR AS YOU KNEW, A
10 LIAISON BETWEEN THE SHAH AND HIS RELIGIOUS PERSUASION --
11 WAS IT A MUSLEM GROUP?

12 A YES.

13 Q YES.

14 NOW, WHEN THE SHAH LEFT IRAN, MR. ESLAMINIA
15 LEFT IRAN?

16 A WELL, EITHER THAT OR GET EXECUTED, YES.

17 Q ALL RIGHT. HE BECAME AN EXILE, SO TO SPEAK,
18 FROM IRAN?

19 A YES.

20 Q AND IN THIS COUNTRY, MR. ESLAMINIA WAS SOMEWHAT
21 ACTIVE IN GROUPS THAT WERE ATTEMPTING TO RESTORE THE SHAH
22 TO POWER, CORRECT?

23 A LET ME TRY TO ANSWER AS CAREFULLY AS POSSIBLE.

24 HE HAD MET WITH COLONELS, AND I DON'T KNOW
25 WHAT TYPE OF POSITIONS THEY WERE, OCCASIONALLY, YES.

26 Q AND THESE ARE PEOPLE, AS FAR AS YOU KNEW,
27 WHO WERE MILITARY TYPE OF PEOPLE UNDER THE SHAH?

28 A NOT ONLY MILITARY.

1 Q BUT POLITICAL LEADERS OF ONE KIND OR ANOTHER?

2 A YES.

3 Q AND MR. ESLAMINIA WAS, IF NOT OBSESSED BY,
4 WAS AT LEAST DEDICATED TO DOING AS MUCH AS HE COULD TO
5 RESTORE THE FORMER REGIME TO POLITICAL POWER IN IRAN.

6 MR. WAPNER: OBJECTION. VAGUE AND COMPOUND. "OBSESSED."

7 THE COURT: I DON'T SEE WHAT THE MATERIALITY OF
8 ALL OF THIS IS, IN THE FIRST PLACE.

9 MR. CHIER: CAN WE APPROACH THE BENCH, THEN, YOUR
10 HONOR?

11 THE COURT: YES, APPROACH THE BENCH.

12 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE
13 HELD AT THE BENCH:)

14 THE COURT: MAKE AN OFFER OF PROOF. WHAT IS THE
15 MATERIALITY OF THIS?

16 MR. CHIER: YES, THE MATERIALITY, IF YOUR HONOR
17 PLEASE, IS THAT THE EVIDENCE WILL SHOW THAT --

18 THE COURT: SHUSH.

19 MR. CHIER: -- THAT MR. ESLAMINIA BELIEVED IN, AND
20 THERE IS SOME EVIDENCE THAT HE MAY HAVE BEEN UNDER CONSTANT
21 SURVEILLANCE, THAT HE WAS FEARFUL OF POLITICAL RETALIATION
22 BY THE PEOPLE LOYAL TO THE AYATOLLAH.

23 MR. WAPNER: CAN YOU KEEP YOUR VOICE DOWN?

24 MR. CHIER: THAT MR. ESLAMINIA WAS ACTIVE IN PRO-SHAH
25 ACTIVITY.

26 THAT HE WROTE NEWSPAPERS OR INFLAMMATORY TRACTS
27 IN THE NEWSPAPER.

28 THE COURT: ALL OF THIS IS FOR THE PURPOSE OF CONVEYING

1 TO THE JURY THE IDEA THAT HE WASN'T ABDUCTED BUTSOMEBODY
2 KILLED HIM AS A POLITICAL ASSASSINATION; IS THAT WHAT
3 YOU ARE TRYING TO SHOW?

4 MR. CHIER: YES, YOUR HONOR.

5 MR. WAPNER: I HAVE NO OBJECTION TO ANY OF THIS,
6 EXCEPT FOR A FOUNDATIONAL OBJECTION, WHICH IS THAT THERE
7 HAS TO BE SOME BASIS FOR SHOWING THAT SHE KNEW THIS.

8 THE COURT: YES, EXACTLY. WHAT DOES SHE KNOW ABOUT
9 IT? ASK HER WHAT SHE KNEW ABOUT IT.

10 MR. CHIER: WELL, I DON'T HAVE TO ESTABLISH THE
11 WHOLE CASE FROM HER, YOUR HONOR.

12 THE COURT: WELL, YOU DON'T HAVE TO ASK HER THAT
13 BUT ASK HER WHAT SHE KNOWS ABOUT IT.

14 MR. WAPNER: WELL, IF SHE MET WITH PEOPLE, IF SHE
15 IS ASKED, DID HE MEET WITH GENERALS, SHE HAS TO KNOW IF
16 SHE KNOWS WHO THESE PEOPLE WERE OR IF SHE KNEW THE CONTENTS
17 OF THE CONVERSATION OR HOW SHE KNEW THIS STUFF..

18 BECAUSE MR. CHIER HAS ALREADY ESTABLISHED
19 THAT MR. ESLAMINIA SPOKE MOSTLY FARSI AND WE CAN, I THINK,
20 REASONABLY ASSUME THAT THE DISCUSSIONS BETWEEN MR. ESLAMINIA
21 AND HIS FORMER COMRADES FROM IRAN TOOK PLACE IN FARSI
22 SO THAT HE --

23 MR. BARENS: OR IN FRENCH, MR. WAPNER.

24 THE COURT: OR FRENCH?

25 MR. BARENS: ALL THOSE GUYS LEARN FRENCH.

26 THE COURT: SPANISH, YOU MEAN?

27 MR. BARENS: NO, NO. MOST OF THOSE IRANIAN FELLOWS
28 LEARN FRENCH.

1 MR. WAPNER: THERE HASN'T BEEN ANY TESTIMONY YET
2 FROM ANYBODY THAT ANYBODY SPOKE FRENCH.

3 MR. BARENS: I WAS JUST TEASING, MR. WAPNER.

4 THE COURT: WELL, ASK HER. ASK HER WHAT SHE KNOWS
5 ABOUT ANY OF THESE POLITICAL CONNECTIONS OF HIS, WHAT
6 HE WAS DOING.

7 MR. WAPNER: THERE HAS TO BE A FOUNDATION FOR HER
8 KNOWLEDGE, THAT IS ALL I AM SAYING.

9 THE COURT: YES. LET'S GET ON.

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1 (THE FOLLOWING PROCEEDINGS WERE HELD
2 IN OPEN COURT IN THE PRESENCE AND
3 HEARING OF THE JURY:)

4 Q BY MR. CHIER: DID MR. ESLAMINIA TALK TO YOU ABOUT
5 HIS ACTIVITIES, SOME OF HIS ACTIVITIES WITH RESPECT TO
6 ATTEMPTING TO RESTORE THE SHAH'S PEOPLE TO POWER IN IRAN?

7 A I NEED TO CORRECT SOMETHING I SAID. I SAID THAT
8 HE MET WITH POLITICAL PEOPLE. I DIDN'T KNOW EXACTLY IF THEY
9 HAD ANY POSITION IN THE SHAH'S ADMINISTRATION.

10 I HAVE TO SAY THAT HE HAD MET WITH PEOPLE THAT
11 HAD TO LEAVE IRAN, WELL-EDUCATED GENTLEMEN, PH.D.'S AND
12 SO FORTH THAT WERE ANTIGOVERNMENT.

13 Q WHEN YOU SPEAK OF ANTIGOVERNMENT --

14 A ANTIGOVERNMENT --

15 Q ANTI-AYATOLLAH?

16 A ANTI-AYATOLLAH.

17 Q MR. ESLAMINIA WAS VIGOROUSLY ANTI-AYATOLLAH?

18 A WELL, HIS HEART WAS IN HIS COUNTRY.

19 Q AND WERE YOU AWARE OF THE FACT THAT MR. ESLAMINIA
20 WAS WRITING POLITICAL ARTICLES FOR A NEWSPAPER THAT WAS
21 PUBLISHED IN SAN JOSE, A FARSI NEWSPAPER? YOU KNEW ABOUT
22 THAT, DID YOU?

23 A I BELIEVE IT WAS BEFORE I MET HIM. BUT I DON'T
24 KNOW EXACTLY.

25 Q DID HE EVER MENTION TO YOU THAT HE WAS WRITING
26 ARTICLES OF A POLITICAL, INFLAMMATORY NATURE?

27 A THE ONLY THING THAT HE MENTIONED WAS THAT WE HAD
28 MET WITH A GENTLEMAN -- I CANNOT REMEMBER HIS NAME -- IN

1 SAN JOSE, WHO OWNED A NEWSPAPER THAT HE WAS UPSET WITH HIM
2 BECAUSE HE HAD WRITTEN AN ARTICLE BEFORE I MET HIM BUT CHANGED
3 THE WORDING, A LITTLE BIT.

4 Q ALL RIGHT. AND WAS THERE SOME -- WAS
5 MR. ESLAMINIA SOMEWHAT PARANOID OR FEARFUL ABOUT BEING
6 FOLLOWED BY PERSONS LOYAL TO THE AYATOLLAH?

7 A I WOULDN'T SAY HE WAS FEARFUL AND PARANOID. WHAT
8 I WOULD SAY IS THAT HE KEPT A LOW PROFILE BECAUSE HE DIDN'T
9 WANT REZA TO KNOW WHERE HE LIVED OR ALI TO KNOW WHERE HE
10 LIVED.

11 HE WAS EXTREMELY -- HE WAS NOT EXTREMELY PARANOID
12 ABOUT BEING ASSASSINATED IN THIS COUNTRY.

13 Q ABOUT LOYALISTS TO THE AYATOLLA?

14 A THAT'S CORRECT. I MEAN, THEY KNEW WHERE HE LIVED
15 AND HE KNEW WHERE THEY LIVED.

16 Q NOW IN FACT, MR. ESLAMINIA RECEIVED A PACKAGE
17 ON ONE OCCASION WHICH HE THOUGHT WAS A BOMB, ISN'T THAT
18 CORRECT?

19 A HE DIDN'T WANT TO OPEN IT. AND HE DIDN'T WANT
20 ME TO OPEN IT BECAUSE HE THOUGHT THAT.

21 Q AND HE THOUGHT THAT THE PACKAGE HAD COME FROM
22 POLITICAL ENEMIES OF HIS IN THE GOVERNMENT THAT HE WORKED
23 WITH?

24 A HE DIDN'T SAY THAT. I JUST -- HE DIDN'T SAY THAT.

25 Q DID YOU ASSUME THAT?

26 A WELL HE SAID THAT IT MIGHT BE A BOMB. SO I ASSUMED
27 THAT. BUT I DON'T KNOW EXACTLY.

28 Q WERE YOU AWARE THAT MR. ESLAMINIA WAS HAVING

1 CONTACTS WITH AGENTS OF THE UNITED STATES GOVERNMENT, STATE
2 DEPARTMENT PEOPLE AND CIA TYPE PEOPLE?

3 A THEIR POSITIONS ARE STILL UNKNOWN TO ME.

4 Q ALL RIGHT. LET ME THEN REPHRASE THE QUESTION.
5 WERE YOU AWARE OF THE FACT THAT HE WAS HAVING
6 SOMEWHAT SECRETIVE MEETINGS WITH MEMBERS OR AGENTS OF THE
7 UNITED STATES GOVERNMENT, WHOSE EXACT TITLES OR OCCUPATIONS
8 WERE NOT CLEAR TO YOU?

9 MR. WAPNER: OBJECTION, VAGUE AS TO THE FORM OF
10 THE QUESTION. SECRETIVE?

11 I MEAN, IF IT IS SECRET, HOW IS SHE GOING TO KNOW
12 ABOUT IT? IF IT IS NOT SECRET, WHAT DOES IT MEAN?

13 THE COURT: I DON'T KNOW. GO AHEAD. YOU WANTED TO EXPLORE
14 THIS? GO AHEAD. EXPLORE IT.

15 Q BY MR. CHIER: ANSWER THE QUESTION.

16 A OKAY. I DON'T KNOW EXACTLY WHAT THEIR TITLES
17 WERE.

18 BUT HE DID MEET WITH AMERICAN MEN THAT CAME
19 FROM WASHINGTON, D.C. THAT SPOKE FARSI.

20 THE COURT: WHAT?

21 THE WITNESS: THAT SPOKE FARSI.

22 THE COURT: YES.

23 Q BY MR. CHIER: AND DID THEY GO OUT OF THE HOUSE
24 TO SPEAK OR DID THEY ACTUALLY HAVE THEIR MEETINGS IN THE HOUSE?

25 A I ONLY RECALL ONE TIME THAT THE GENTLEMAN THAT
26 CALLED HIMSELF MEL, I THINK -- HE CAME OVER TO OUR PLACE.
27 THEY SPOKE IN FARSI AND ENGLISH.

28 AND WE WENT TO A RESTAURANT AND THEY SPOKE AND

1 THEN THE GENTLEMAN TOLD ME THAT HIS INTEREST IN IRAN WAS THAT
2 HE COULD MAKE SOME BUSINESS THERE, SELL SOME GOODS BECAUSE
3 THEY WERE LOW IN SOME GOODS LIKE FOOD PRODUCTS, CHICKEN AND
4 CIGARETTES AND STUFF LIKE THAT.

5 Q NOW, MR. ESLAMINIA KEPT A DIARY OR A JOURNAL,
6 DIDN'T HE?

7 A HE WAS WRITING A BOOK.

8 Q AND AFTER HIS DISAPPEARANCE, THAT JOURNAL WAS
9 CONFISCATED BY THE FBI, WASN'T IT?

10 A I DON'T KNOW WHO TOOK IT FROM OUR PLACE.

11 BUT IT WAS STILL THERE WHEN HE WAS MISSING. AND
12 THE POLICE CAME AND I JUST HANDED IT OVER, JUST LIKE THE REST
13 OF THE OTHER THINGS.

14 Q TO THE POLICE?

15 A I AM NOT TOO SURE IF I HANDED IT OVER TO THE
16 POLICE OR NOT. I MEAN, I JUST GATHERED UP A LOT OF STUFF
17 SO THEY COULD TRY TO -- THEN, THERE WERE PEOPLE IN AND OUT
18 OF OUR PLACE. I CERTAINLY WELCOMED THEM TO FIND WHATEVER
19 THEY WANTED, FELT WAS NECESSARY.

20 Q ALL RIGHT. NOW, DO YOU KNOW WHEN YOU WOULD GO
21 TO WORK, DID YOU HAVE THE SAME JOB FROM THE TIME THAT YOU
22 MET MR. ESLAMINIA UNTIL THE TIME THAT YOU DIDN'T SEE HIM ANY
23 MORE?

24 A YES.

25

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1 Q AND DID HE WORK, TO YOUR KNOWLEDGE?

2 A NO.

3 Q HE DIDN'T HAVE ANY JOB THAT HE WENT TO, RIGHT?

4 A NO, HE DIDN'T HAVE A 9:00 TO 5:00 JOB.

5 Q HE IMPORTED INTO THE COUNTRY RUGS, DID HE
6 NOT?

7 A YEAH. HE WENT TO FRANK -- GERMANY, I DON'T
8 REMEMBER IF IT WAS FRANKFURT, AND HE WAS LOOKING FOR AN
9 INVESTMENT SO HE MET WITH THIS BUSINESSMAN IN GERMANY
10 AND PURCHASED ABOUT OVER A HUNDRED AFGHANISTAN CARPETS,
11 TO SELL OVER HERE.

12 Q AND THESE CARPETS, THESE AFGHAN CARPETS WERE
13 KEPT IN A CERTAIN ROOM OF THE CONDOMINIUM, RIGHT?

14 A RIGHT. IN OUR SECOND BEDROOM.

15 Q AND THEY WERE STACKED UP IN A CORNER?

16 A YEAH, I THINK AT THAT TIME, YES.

17 EVENTUALLY, WE TOOK THEM ALL OUT AND STACKED
18 THEM ON TOP OF EACH OTHER.

19 Q AND DO YOU REMEMBER EVER SEEING MR. ESLAMINIA
20 CUTTING IN TO SOME OF THESE CARPETS AFTER THEY CAME INTO
21 THE HOUSE?

22 A YES, HIM AND I WORKED ON IT, BOTH.

23 THE COURT: WORKED ON WHAT?

24 THE WITNESS: OPENING THE BAGS AND LAYING OUT THE
25 CARPETS.

26 Q BY MR. CHIER: DID YOU EVER SEE HIM OPEN ANY
27 OF THE CARPETS AND REMOVE THINGS THAT HAD BEEN HIDDEN
28 INSIDE THE CARPETS?

1 A NOT HIDDEN. JUST THOSE -- THOSE THINGS THAT
2 KILL ANIMALS, I MEAN LITTLE WORMS AND STUFF, THOSE MOTHBALLS,
3 BUT THEY ARE MUCH SMALLER. THEY ARE ABOUT A CENTIMETER
4 AROUND.

5 Q DID YOU EVER BECOME AWARE OF THE FACT THAT
6 HE TOOK OPIUM OUT OF THESE CARPETS?

7 A NO.

8 Q DID MR. ESLAMINIA, BETWEEN THE TIME YOU BEGAN
9 LIVING WITH HIM AND THE TIME ON JULY 30, 1984, DID HE
10 TALK ABOUT REZA TO YOU?

11 A FROM WHAT TIME UNTIL JULY 30TH?

12 Q WELL, LET'S JUST TAKE IT FROM THE TIME YOU
13 MET HIM UNTIL THE TIME YOU STARTED LIVING WITH HIM, THAT
14 WILL BE THE FIRST PERIOD, DID HE TALK ABOUT HIS CHILDREN?

15 A YES.

16 Q HE TOLD YOU HE HAD THREE SONS?

17 A FOUR.

18 Q FOUR SONS?

19 AND THAT HE GOT ALONG WITH THREE OF THEM AND
20 DID NOT GET ALONG WITH ONE OF THEM?

21 A HE ACCEPTED THE TWO YOUNGER CHILDREN AND THE
22 TWO OLDER WERE NOT ACCEPTED BY HIM.

23 THE COURT: WERE NOT ACCEPTED BY HIM?

24 THE WITNESS: NO, WERE NOT ACCEPTED BY HIM.

25 THE COURT: THE TWO OLDER ONES WERE REZA AND --

26 THE WITNESS: AND ALI.

27 Q BY MR. CHIER: DID HE HAVE PICTURES OF HIS
28 SONS?

1 A AS A MATTER OF FACT, HE DID, EXCEPT REZA.
2 HE HAD A PICTURE OF REZA IN A DRAWER BUT
3 HE HAD ALI AND MAHMOOD AND AMIR'S PICTURES IN THE LIVING
4 ROOM.

5 Q HOW OLD WAS REZA IN THE PICTURE WHICH MR.
6 ESLAMINIA KEPT IN A DRAWER?

7 A IT WAS PRETTY DARK. I WOULD THINK, AND THIS
8 IS JUST THINKING, HE WAS 16. BUT HE HAD HAIR THIS LONG,
9 WHICH I KNOW THAT THAT WAS THE STYLE AT THAT TIME.

10 Q SHOULDER LENGTH?

11 A AT THAT TIME.

12 Q AND YOU HAD SEEN THIS PICTURE PRIOR TO THE
13 TIME YOU SAW THE GOLD PORSCHE?

14 A I SAW IT AFTER THE FIRST TIME I SAW THE GOLD
15 PORSCHE.

16 Q SO AT THE TIME THAT YOU SAW THE GOLD PORSCHE,
17 YOU HAD NOT EVER SEEN A PICTURE OF REZA ESLAMINIA, RIGHT?

18 A NO, BECAUSE IT WAS THE FIRST -- THE SECOND
19 TIME I SAW HADAYET.

20 Q AND YOU HAD NOT EVER MET REZA ESLAMINIA?

21 A NO.

22 Q YOU DIDN'T KNOW WHAT HE LOOKED LIKE, REZA
23 ESLAMINIA LOOKED LIKE, DID YOU?

24 A AT THE TIME THAT -- THAT -- I DIDN'T SEE HIS
25 FACE WHEN HE DROVE UP AND DROPPED OFF HIS SON, ARE YOU
26 TALKING ABOUT THAT TIME?

27 Q WELL, I AM JUST TALKING ABOUT, AS I UNDERSTAND
28 IT, THE FIRST TIME YOU EVER SAW --

4
1 A THE GOLD PORSCHE?

2 Q -- REZA ESLAMINIA WAS WHEN YOU SAW THIS MAN
3 SITTING OR A YOUNG MAN SITTING IN A GOLD PORSCHE, WHOM
4 YOU ASSUMED TO BE REZA ESLAMINIA?

5 A OH, OKAY, YOU WANT ME TO TELL YOU ABOUT THAT
6 TIME?

7 Q IS THAT CORRECT, DID THAT HAPPEN?

8 A YES.

9 Q ALL RIGHT. PRIOR TO THE TIME THAT YOU SAW
10 THE YOUNG MAN IN THE GOLD PORSCHE, YOU DID NOT KNOW WHAT
11 REZA ESLAMINIA LOOKED LIKE, DID YOU?

12 A I HAD A PICTURE. I SAW A PICTURE OF HIM.

13 Q SO YOU HAD SEEN THE PICTURE BEFORE THAT --

14 A I HAD SEEN THE PICTURE, YES.

15 Q -- INCIDENT.

16 AND DID THE PERSON THAT YOU SAW SITTING IN
17 THE GOLD PORSCHE LOOK LIKE THE PERSON IN THE PICTURE?

18 A YES.

19 Q AND IT WAS ON THE BASIS OF THIS PICTURE THAT
20 YOU --

21 A APPROACHED THE CAR?

22 Q -- YOU APPROACHED THE CAR?

23 A WELL, I SAW THE CAR. NOT TOO MANY PEOPLE
24 DRIVE A GOLD METALLIC PORSCHE, SO I RECOGNIZED THE PORSCHE.
25 I HAD AT THAT TIME NOTHING -- I HAD NO PROBLEM WITH HIS
26 KIDS.

27 MY INSTINCT WAS THAT WAS HIS SON, SO I WALKED
28 UP TO THE CAR AND I SAW HIM, HE LOOKS LIKE HIS FATHER,
29 AND THAT IS WHY I ASKED HIM, "ARE YOU REZA?"

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Q OKAY. AND HAD YOU MET ALI PRIOR TO THAT TIME?

A YES, I MET ALI -- I MET ALI IN APRIL.

Q WAS THIS BEFORE OR AFTER YOU SAW THE YOUNG MAN IN THE PORSCHE FOR THE FIRST TIME?

A WELL, IF I SAW REZA IN THE PARKING LOT, IN FRONT OF THE CONDO APPROXIMATELY TWO MONTHS AND THEN I MET ALI IN APRIL, I GUESS I MET ALI BEFORE I APPROACHED REZA.

Q ALL RIGHT. SO DID ALI LOOK LIKE HIS FATHER ALSO?

(WHEREUPON, WITNESS SHAKES HER HEAD FROM SIDE TO SIDE.)

THE COURT REPORTER: WOULD YOU ANSWER OUT LOUD?

THE WITNESS: JUST THE EYES.

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1 Q ALL RIGHT. NOW, DID MR. ESLAMINIA TAKE
2 PRECAUTIONS TO PROTECT HIMSELF AGAINST PERSONS THAT HE
3 BELIEVED MAY HAVE WISHED TO DO HIM HARM FROM THE AYATOLLAH'S
4 GOVERNMENT? DID HE HAVE ROUTINES OR PRACTICES THAT HE DID,
5 SECURITY MEASURES OF ANY KIND, SUCH AS WINDOWS OR DOORS OR
6 ANYTHING LIKE THAT?

7 MR. WAPNER: OBJECTION.

8 THE COURT: WHAT DO YOU MEAN, "WINDOWS OR DOORS"?

9 MR. CHIER: HAVING PRACTICES WITH RESPECT TO THE LOCKING
10 OF WINDOWS OR DOORS OR HIS COMING AND GOING.

11 MR. WAPNER: OBJECTION, CALLING FOR A CONCLUSION ON
12 THE PART OF THE WITNESS AS TO IF HE HAD THOSE PRACTICES AND
13 WHAT THE BASIS WAS FOR IT, WHY HE DID IT.

14 THE COURT: DID HE HAVE ANY SECURITY DEVICES IN THE
15 HOME OF ANY KIND?

16 THE WITNESS: WELL, WE LIVED ON THE GROUND LEVEL AND --

17 THE COURT: OTHER THAN HAVING LOCKS ON THE DOORS?
18 ANYTHING UNUSUAL?

19 THE WITNESS: UNUSUAL? NO.

20 THE COURT: ALL RIGHT. LET'S GET ON, PLEASE.

21 Q BY MR. CHIER: NOW, DID HE TELL YOU WHY HE WANTED
22 TO CHANGE HIS RESIDENCE FROM HILLSBOROUGH TO THE CONDOMINIUM?

23 A WELL, HE WAS GOING THROUGH A DIVORCE WHEN I MET
24 HIM. AND HIS WIFE WAS SUING HIM FOR AN AMOUNT OF MONEY. AND
25 HE HAD TO SELL THE PROPERTY TO GET THE MONEY, I GUESS.

26 Q ALL RIGHT. DID YOU KNOW WHETHER OR NOT HE HAD
27 TO TURN OVER MOST OF THAT MONEY TO HIS EX-WIFE?

28 A I KNOW THAT HE TURNED OVER \$10,000.

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1 Q ALL RIGHT. DO YOU KNOW WHERE HE GOT HIS MONEY
2 FROM, DAY TO DAY AND MONTH TO MONTH DURING THE TIME THAT YOU
3 KNEW HIM?

4 A I KNOW THAT HE HAD A CHECKING ACCOUNT AT
5 BARCLAY'S BANK. I KNOW THAT WHEN HE WAS IN EUROPE AND I WAS
6 BY MYSELF -- NO. I KNOW THAT MR. SAFARIAN HAD DEPOSITED SOME
7 MONEY TO COVER THE MONTH'S RENT.

8 Q WERE THERE CERTAIN OF HIS PERSIAN FRIENDS WHO
9 USED TO GIVE HIM MONEY ON A REGULAR BASIS, THOUSANDS OF
10 DOLLARS AT A TIME?

11 A WELL, MR. SAFARIAN HAD MADE THAT DEPOSIT FOR RENT.
12 AND DR. OULAMI GAVE OUR ROOMMATE \$1,000 FOR RENT.

13 SO IT WAS ALL LIKE RENT-RELATED BECAUSE HE WAS
14 OUT OF THE COUNTRY AND HADAYET PAID DR. OULAMI BACK. AND
15 I DON'T KNOW TO MY KNOWLEDGE, IF HE PAID MR. SAFARIAN BACK.

16 Q ISN'T IT CORRECT MS. VASQUEZ, THAT THE VAST
17 MAJORITY OF MR. ESLAMINIA'S FINANCES WERE REALLY NOT KNOWN
18 TO YOU IN VERY GREAT DETAIL?

19 A NO. IF I ASKED HIM, HE WOULD HAVE TOLD ME. BUT
20 THAT IS NONE OF MY BUSINESS.

21 Q BUT ISN'T IT CORRECT THAT EVEN THOUGH HE DIDN'T
22 HAVE A JOB, HE ALWAYS SEEMED TO HAVE A LOT OF MONEY?

23 A HE DIDN'T HAVE A LOT OF MONEY. HE WAS WORRIED
24 ABOUT MAKING THE RENT EVERY MONTH, TRYING TO FIND AN
25 INVESTMENT SO HE COULD LIVE A LITTLE MORE COMFORTABLY.

26 HE HAD A SAVINGS ACCOUNT IN GENEVA AND HE THOUGHT
27 BY LIVING IN SPAIN, THAT MONEY COULD EXTEND A LITTLE BIT
28 FURTHER IN SPAIN THAN IT WOULD HERE.

1 Q WHEN YOU SAW THE GOLD PORSCHE AND APPROACHED THE
2 PERSON IN IT, YOU ASKED THE MAN IF HIS NAME WAS REZA
3 ESLAMINIA?

4 A YES.

5 Q HE TOLD YOU YES?

6 A NO, NOT RIGHT AWAY. HE WAS VERY NERVOUS. AND
7 HE SAID, "WHY?" OR, "WHO WANTS TO KNOW," OR SOMETHING LIKE
8 THAT.

9 Q COULD YOU TELL US WHERE THE GOLD PORSCHE WAS
10 PARKED ON THAT DIAGRAM WHEN YOU NOTICED IT, MS. VASQUEZ?

11 A IT WAS PARKED WHERE IT SAYS "PARKING" NEXT TO
12 C AND A, RIGHT THERE.

13 Q WHERE?

14 A OKAY. HERE (INDICATING). I LEFT THROUGH THE
15 SIDE, OUT HERE. I WALKED DOWN HERE, DOWN THE STREET. AND
16 THEN I SAW THE GOLD PORSCHE.

17 THE GOLD PORSCHE MUST HAVE BEEN PARKED. IT WAS
18 PARKED -- LEGALLY, YOU COULDN'T PARK LIKE THAT. YOU WEREN'T
19 PERMITTED TO.

20 Q WAS THE PORSCHE PARKED IN A PLACE WHERE THE PERSON
21 INSIDE HAD A VIEW OF YOUR CONDOMINIUM?

22 A NOT A VIEW OF THE CONDO, JUST A VIEW OF THE
23 ENTRANCE. IT WAS LIKE A VIEW OF THE FRONT AND A VIEW OF THE
24 BACK. IT WAS LIKE A VIEW HERE AND A VIEW HERE (INDICATING).

25 Q AND IS THERE AN AREA WHERE EITHER YOU OR
26 MR. ESLAMINIA CAME AND WENT THROUGH --

27 A YES, BOTH AREAS.

28 Q HOW LONG DID YOU TALK TO MR. ESLAMINIA WHEN YOU

)-4 1 SAW HIM THERE IN THE PORSCHE THE FIRST TIME?

2 A ABOUT FIVE MINUTES.

3 Q DID YOU INVITE HIM IN THE HOUSE?

4 A NO.

5 Q AND THE NEXT TIME YOU SAW HIM WAS WHEN?

6 A I SAW HIM WITH JOE HUNT FIVE DAYS AFTER HADAYET
7 WAS MISSING.

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1 Q WOULD YOU LIKE TO TAKE A BREAK?

2 THE COURT: GO AHEAD WITH YOUR QUESTIONS.

3 MR. CHIER: I DON'T WANT TO TAKE ADVANTAGE OF THE
4 WITNESS IF SHE IS UPSET, YOUR HONOR.

5 THE COURT: GO AHEAD.

6 Q BY MR. CHIER: YOU SAW REZA AND JOE FIVE DAYS
7 AFTER MR. ESLAMINIA WAS MISSING?

8 A THAT'S CORRECT.

9 Q AND THAT WAS IN THE CONDOMINIUM?

10 A I MET THEM AT THE 7-ELEVEN.

11 Q YES.

12 AND YOU WENT BACK TO THE CONDOMINIUM?

13 A YES, ~~THAT~~'S CORRECT.

14 Q WAS REZA DOING ALL OF THE TALKING?

15 A BECAUSE THAT IS THE WAY I WANTED IT.

16 Q ALL RIGHT. WELL, MR. HUNT WASN'T DOING ANY
17 OF THE TALKING, WAS HE?

18 A REZA DID NOT WANT TO SAY A WORD WITHOUT JOE
19 HUNT BEING PRESENT.

20 Q MY QUESTION IS: WAS REZA ESLAMINIA DOING
21 ALL OF THE TALKING?

22 A YEAH. JOE HUNT WAS NOT PERMITTED TO.

23 Q ALL RIGHT. SO IN ANY EVENT --

24 A IN ANY EVENT, THE ONLY WORDS HE SAID, JOE
25 HUNT, WAS: "IT LOOKS LIKE THE LADY IS UPSET. OKAY, I
26 WILL GO SIT DOWN IN THE LIVING ROOM."

27 Q OKAY.

28 A AND THEN THE NEXT WORDS HE SAID WAS, WHEN

1 I WANTED TO TAKE A PICTURE OF REZA, REZA GOT VERY UPSET,
2 TOOK THE CAMERA, BROKE MY CAMERA, TOOK THE FILM OUT AND
3 HE LOOKED LIKE HE WAS GOING TO HIT ME. AND THEN JOE HUNT
4 CALMLY GOT UP AND SAID, "WELL, IT LOOKS LIKE THE LADY
5 IS VERY UPSET, YOU KNOW. WHY DON'T WE JUST, YOU KNOW,
6 LEAVE? AND, YOU KNOW, JUST CALM DOWN, REZA."

7 A SMOOTH OPERATOR.

8 Q REZA ESLAMINIA'S REACTION TO YOUR ATTEMPT
9 TO TAKE HIS PICTURE WAS ON HIS OWN AND NOT ENCOURAGED
10 BY ANYTHING MR. HUNT DID, RIGHT?

11 MR. HUNT WAS IN ANOTHER ROOM WHEN THAT HAPPENED?

12 A REZA -- NO, WE WERE IN THE SAME ROOM.

13 REZA KEPT ON LOOKING AT JOE HUNT TO SEE IF
14 HE COULD DO IT OR NOT. HE WAS LIKE ON THE SIDE, LOOKING
15 AT HIM, AND JOE HUNT WAS LOOKING AT HIM, WELL, YOU KNOW,
16 JUST GIVING EACH OTHER SOME SIGNALS.

17 Q DID YOU SEE ANY SIGNALS?

18 A YES, I SAW SIGNALS.

19 Q AND IT WAS AFTER YOU SAW SIGNALS THAT THE
20 CAMERA WAS SNATCHED?

21 A I ASKED HIM IF I COULD TAKE HIS PICTURE. I
22 SAW REZA ASK JOE HUNT WITH HIS EYES.

23 Q HOW DID HE DO THAT?

24 A HE LOOKED AT HIM LIKE (WITNESS DEMONSTRATING).
25 HE LOOKED AT HIM AS IF I WOULD LOOK AT SOMEBODY ELSE AND
26 ASK THEM, "DO YOU THINK IT IS OKAY", WITHOUT SAYING IT.

27 Q DID YOU SEE MR. HUNT ANSWER WITH HIS EYES?

28 A I DIDN'T LOOK AT HIM, NO.

1 Q OKAY. NOW THE NEXT TIME -- DID YOU SEE MR.
2 HUNT AFTER THAT?

3 A I NEVER SAW HIM AGAIN.

4 Q YOU NEVER SAW HIM AGAIN?

5 DID YOU EVER TALK TO HIM AGAIN AFTER THAT?

6 A NO.

7 Q NOW, WHEN YOU WENT TO MEXICO, TO SAN DIEGO
8 AND TO MEXICO, THAT WAS IN APRIL OF 1984?

9 A YES.

10 Q AND YOU FLEW FROM SAN FRANCISCO, FROM THE
11 BAY AREA TO LOS ANGELES?

12 A YES.

13 Q AND MR. ESLAMINIA DROVE FROM THE BAY AREA
14 TO LOS ANGELES?

15 A YES.

16 Q DID HE EXPLAIN TO YOU WHY --
17 WERE YOU LIVING TOGETHER AT THAT TIME?

18 A YES.

19 Q AND WERE YOU HAVING ANY KIND OF TROUBLES AS
20 A COUPLE AT THAT TIME?

21 A NO.

22 Q DID MR. ESLAMINIA EXPLAIN TO YOU WHY THE PROCEDURE
23 WAS BEING USED WHY YOU WOULD GO TO LOS ANGELES BY DIFFERENT
24 MEANS OF TRANSPORTATION?

25 A I COULDN'T TAKE THE DAY OFF FROM WORK AND
26 HE WANTED TO TAKE HIS CAR BECAUSE HE DIDN'T WANT TO HAVE
27 TO RENT A CAR. HE HAS RELATIVES IN LOS ANGELES -- IN
28 SAN DIEGO AND HIS SONS WERE IN LOS ANGELES WHERE HE HAD

1 GONE TO PICK UP HIS SONS. HE BASICALLY NEEDED HIS CAR
2 AND I HAD TO WORK THAT DAY SO I COULDN'T DRIVE WITH HIM.

3 SO I TOOK THE PLANE THAT EVENING. BESIDES,
4 I PREFER TO FLY, RATHER THAN DRIVE EIGHT HOURS.

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1 Q AND DID YOU HAVE ARRANGEMENTS TO MEET HIM IN
2 LOS ANGELES?

3 A YEAH. HE PICKED ME UP FROM THE AIRPORT.

4 Q AND YOU WENT TO SAN DIEGO?

5 A YES.

6 WE WENT TO HUNTINGTON BEACH TO MEET WITH HIS
7 BROTHER-IN-LAW'S SISTER AND THEIR CHILDREN.

8 Q WHEN YOU WENT TO MEXICO AND RETURNED, DID YOU
9 RETURN ON FOOT OR IN THE CAR?

10 A NO. IN HADAYET'S CAR.

11 Q AND WERE YOU DETAINED AT THE BORDER FOR ANY
12 REASON?

13 A YES.

14 Q FOR JUST A BRIEF PERIOD OR FOR A RATHER EXTENDED
15 PERIOD?

16 A FOR I WOULD CALL IT EXTENDED, BECAUSE THEY STOPPED
17 US AND THEY MADE US -- THEY WERE -- THEY STOPPED US AT THE
18 BORDER BECAUSE, YOU KNOW, HADAYET DIDN'T HAVE A UNITED STATES
19 PASSPORT. HE HAD ONE OF THOSE GREEN CARDS AND HIS CHILDREN
20 ARE DARK, AND THEY COULD BE MEXICAN, THEY WERE SUSPICIOUS.

21 AND THEY WERE SUSPICIOUS ALSO WHEN THEY ASKED
22 US HOW MANY BOTTLES OF LIQUOR WE WERE CARRYING, BECAUSE IT
23 IS NOT AS IF WE COULD SAY --

24 MAYBE WE HAD A GUILTY LOOK ON OUR FACE, I DON'T
25 KNOW.

26 Q WHEN YOU CAME BACK FROM EUROPE WITH MR. ESLAMINIA
27 AND PASSED THROUGH CUSTOMS, WERE YOU DETAINED FOR AN
28 EXTENDED PERIOD OF TIME?

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1 A YES.

2 Q AND WERE THERE DRUGS CONFISCATED FROM
3 MR. ESLAMINIA ON THAT OCCASION?

4 MR. WAPNER: OBJECTION. RELEVANCE AND ALSO CALLS FOR
5 HEARSAY.

6 THE COURT: SHE MAY ANSWER.

7 Q BY MR. CHIER: WAS THERE OPIUM? DID HE HAVE
8 OPIUM IN HIS POSSESSION?

9 A NO, I DON'T THINK SO. I AM NOT TOO SURE WHAT
10 THEY WERE CONFISCATING US FOR. I DIDN'T QUITE -- I DON'T
11 REALLY QUITE REMEMBER WHY.

12 ALL I CAN REMEMBER IS THEY STOPPED US BECAUSE
13 WE HAD MORE BOTTLES OF ALCOHOL IN THE CAR.

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1 Q I AM SPEAKING OF EUROPE.

2 A WELL, WHEN WE CAME BACK FROM EUROPE OR WERE
3 YOU TALKING ABOUT CROSSING THE BORDER?

4 THE COURT: NO, CAME BACK FROM EUROPE. DO YOU REMEMBER?

5 THE WITNESS: I COMPLETELY -- I THOUGHT YOU WERE
6 TALKING ABOUT MEXICO.

7 THE COURT: NO. HE IS NOW TALKING ABOUT WHEN YOU
8 CAME BACK FROM EUROPE, CUSTOMS WHEN YOU ARRIVED BACK IN
9 THIS COUNTRY.

10 MR. WAPNER: CAN IT BE MADE CLEAR TO THE WITNESS
11 FROM THE PREVIOUS QUESTION? HE WAS TALKING ABOUT MEXICO.
12 IT HAS NOW CHANGED.

13 THE COURT: HE IS VERY AGILE ABOUT JUMPING BACK
14 AND FORTH.

15 THE WITNESS: WHEN WE WERE ARRIVING FROM EUROPE
16 IN LOS ANGELES, WE HAD TO CONNECT AND WE HAD TO GO THROUGH
17 CUSTOMS. AND THE IMMIGRATION -- NOT THE IMMIGRATION,
18 BUT THE --

19 THE COURT: CUSTOMS?

20 THE WITNESS: THE CUSTOMS OPENED UP OUR LUGGAGE.

21 AND IN A POCKET OF ONE OF HADAYET'S SUITS
22 WAS A LITTLE QUANTITY OF OPIUM.

23 Q BY MR. CHIER: AND IT TOOK YOU ABOUT THREE
24 HOURS TO CLEAR CUSTOMS ON THAT OCCASION?

25 A RIGHT.

26 Q AND DID MR. ESLAMINIA SAY ANYTHING TO YOU
27 ABOUT WHY IT WAS TAKING SO LONG TO CLEAR CUSTOMS?

28 A NO. HE DIDN'T KNOW WHY IT WAS TAKING SO LONG.

1 IT WAS KNOWN TO ME THAT THEY HAD FOUND SOME
2 OPIUM IN A POCKET, IN A SUIT, A VERY SMALL AMOUNT.

3 APPARENTLY, THEY LET US GO BECAUSE IT WAS
4 SUCH A SMALL AMOUNT AND HE HAD NO CRIMINAL RECORD AND
5 I HAD NO CRIMINAL RECORD. SO THEY LET US GO.

6 Q NOW, LET ME GO BACK FOR A MOMENT, IF I MAY,
7 TO THE PACKAGE THAT MR. ESLAMINIA RECEIVED AND THOUGHT
8 WAS A BOMB. DID HE EVER FIND OUT WHO THE PACKAGE WAS
9 FROM?

10 A IT WAS FROM ONE OF HIS FRIENDS IN GERMANY.

11 Q ALL RIGHT. HOW WAS IT EVENTUALLY OPENED?

12 A I OPENED IT.

13 Q WHERE WAS MR. ESLAMINIA WHEN YOU OPENED IT?

14 A IN FRONT OF ME.

15 THE COURT: NOTHING EXPLODED, DID IT?

16 THE WITNESS: NO. I LAUGHED.

17 Q BY MR. CHIER: YOU RECALL WHETHER MR. ESLAMINIA
18 WAS HAVING MEETINGS WITH THE MAYOR OF REDWOOD CITY PRIOR
19 TO HIS DISAPPEARANCE?

20 A I HAD NO KNOWLEDGE OF THAT.

21 Q DID YOU HAVE ANY KNOWLEDGE OF ANY MEETINGS?

22 A OF THE MAYOR? NO.

23 Q BETWEEN MR. ESLAMINIA AND THE MAYOR OF REDWOOD
24 CITY?

25 A NO.

26 Q DO YOU HAVE ANY KNOWLEDGE OF MEETINGS BETWEEN
27 MR. ESLAMINIA AND THE CITY COUNCIL OF REDWOOD CITY BEFORE
28 HIS DISAPPEARANCE?

1 A BEFORE HIS DISAPPEARANCE? NO.

2 Q WERE YOU AWARE THAT MR. ESLAMINIA HAD ASKED
3 BELMONT POLICE FOR SOME SORT OF SPECIAL PROTECTION?

4 MR. WAPNER: OBJECTION TO THE FORM OF THE QUESTION.
5 ASSUMES A FACT NOT IN EVIDENCE.

6 THE COURT: SUSTAINED.

7 Q BY MR. CHIER: DID YOU EVER HEAR MR. ESLAMINIA
8 CONTACT THE BELMONT POLICE AND ASK IF HE COULD SPEAK TO
9 SOMEBODY ABOUT ARRANGING SPECIAL PROTECTION FOR HIMSELF?

10 A HILLSBOROUGH.

11 Q HILLSBOROUGH? I BEG YOUR PARDON. DID YOU
12 HEAR HIM?

13 A YES. HIS HOUSE WAS ROBBED.

14 Q AND --

15 THE COURT: HIS HOUSE WAS BURGLARIZED OR ROBBED
16 AND THEN HE CALLED IN AND REPORTED IT? IS THAT IT?

17 THE WITNESS: YES. THAT IS WHEN HE ASKED FOR SOME
18 PROTECTION.

19 Q BY MR. CHIER: NOW, THE HOUSE IN HILLSBOROUGH
20 WAS BURGLARIZED?

21 A YES.

22 Q THINGS WERE TAKEN?

23 A YES.

24 Q WERE YOU LIVING AT THE HOUSE AT THAT TIME?

25 A NO.

26 Q DID HE EVER TELL YOU WHAT WAS TAKEN?

27 A WELL, WE WALKED IN AND APPARENTLY, THE ROBBERS
28 LEFT. I MEAN, WE WALKED IN AND THE PLACE WAS A MESS.

1 SO I SAW WHAT WAS TAKEN. HE WAS CRYING AND --

2 Q YOU SAW THINGS BEING TAKEN?

3 A NO.

4 Q WERE THERE RUGS TAKEN?

5 A NO.

6 Q IT WAS AFTER THAT THAT HE ASKED FOR SPECIAL
7 PROTECTION FOR HIMSELF?

8 A YEAH.

9 Q AND DID HE GET ANY?

10 THE COURT: WHAT DO YOU MEAN BY "SPECIAL PROTECTION
11 FOR HIMSELF"? HAVE THE POLICE SURVEILL THE PLACE, YOU
12 MEAN? IS THAT RIGHT?

13 THE WITNESS: BECAUSE HE LIVED IN A LARGE HOUSE.
14 AND IT WAS VERY OPEN. HE DIDN'T HAVE ANYBODY --

15 THE COURT: ALL RIGHT.

16 Q BY MR. CHIER: NOW, ON THE OCCASION WHEN YOU
17 SAW MR. HUNT THERE WITH MR. REZA ESLAMINIA, ISN'T IT TRUE
18 THAT HE HAD -- HE GAVE HIS IDENTITY TO THE SECURITY GUARD
19 AND THE POLICE OFFICER ON REQUEST?

20 A I DIDN'T SEE THAT NOR DO I REMEMBER THAT.

21 Q YOU DIDN'T SEE HIM DISPLAY HIS I.D. TO EITHER
22 OF THOSE PEOPLE?

23 A NOT THAT I REMEMBER.

24 Q WAS THERE A SPECIFIC REASON WHY YOU WISHED
25 TO TAKE A PICTURE OF REZA?

26 A YES. BECAUSE AFTER HE SAID HE KNEW HIS FATHER
27 LOVED ME AND USED THE PAST TENSE, ALL OF A SUDDEN, I WAS
28 SUSPICIOUS OF HIM.

1 AND I TOLD HIM I WOULD LIKE A PICTURE OF HIM
2 BECAUSE I DIDN'T HAVE A PICTURE OF HIM.

3 Q THERE WAS A PICTURE OF HIM IN THE DRAWER,
4 WASN'T THERE?

5 A BUT NOT A RECENT ONE. I NEEDED A PICTURE
6 BECAUSE I WANTED TO -- I MEAN, I WAS SUSPICIOUS OF HIM.

7 I WANTED TO ASK PEOPLE THAT LIVED AROUND,
8 MY NEIGHBORS, IF THEY SAW HIM THE DAY THAT HE WAS MISSING.

9 Q WHEN YOU MET WITH REZA AND BEN DOSTI AT THE
10 AMFAC HOTEL, WAS MR. HUNT THERE?

11 A NO. I DIDN'T SEE HIM.

12 MR. CHIER: MAY I HAVE A MOMENT?

13 THE COURT: YES.

14 (PAUSE.)

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1 Q BY MR. CHIER: DO YOU KNOW OR DID YOU KNOW WHEN
2 YOU WENT TO WORK, WHILE YOU WERE LIVING WITH MR. ESLAMINIA,
3 WHAT HE DID IN THE DAYTIME WHEN YOU WERE AT WORK?

4 A WELL, HE WOULD -- I WOULD TALK TO HIM ON A DAILY
5 BASIS. OCCASIONALLY, HE WOULD SAY HE HAD A DOCTOR'S
6 APPOINTMENT, A DENTIST APPOINTMENT, AN APPOINTMENT WITH HIS
7 SISTER.

8 Q HE HAD MEETINGS WITH A NUMBER OF PEOPLE THAT YOU
9 DID NOT KNOW AND DID NOT KNOW ABOUT; ISN'T THAT CORRECT?

10 MR. WAPNER: OBJECTION. VAGUE. HOW CAN SHE KNOW IF
11 HE HAD MEETINGS WITH PEOPLE IF SHE DIDN'T KNOW ABOUT THEM?

12 THE COURT: SUSTAINED.

13 Q BY MR. CHIER: DID HE HAVE MEETINGS WITH PEOPLE
14 THAT HE DIDN'T EXPLAIN TO YOU WHAT THEIR FUNCTION WAS?

15 A HE WAS PRETTY OPEN ABOUT -- HE JUST SAID THAT,
16 WITHOUT GOING INTO DETAIL, IF I WANTED TO KNOW, HE WOULD HAVE
17 EXPLAINED BUT HE JUST SAID "OH, THIS GUY IS A VERY INTELLIGENT
18 MAN AND HE IS VERY YOUNG AND HE HAS A PH.D. IN SO AND SO."
19 AND HE WAS TRYING TO TALK ME INTO MEETING WITH THE SHAH'S
20 SON, REZA.

21 Q MR. ESLAMINIA TRIED TO TALK YOU INTO --
22 THE COURT: SHE SAID THE OTHER FELLOW WAS DOING THAT.

23 Q BY MR. CHIER: THE OTHER FELLOW DID THAT?

24 (THE WITNESS NODDED HER HEAD UP AND DOWN.)

25 MR. WAPNER: IS THAT YES?

26 THE WITNESS: YES.

27 Q BY MR. CHIER: DID YOU HAVE MUCH KNOWLEDGE
28 CONCERNING THE NATURE AND EXTEND OF MR. ESLAMINIA'S ASSETS,

1 DID YOU KNOW ANYTHING ABOUT HIS ASSETS REALLY?

2 A I DID KNOW BECAUSE -- I KNEW BECAUSE I KNEW THAT
3 I HAD TO WRITE A LETTER TO THE BANK IN GENEVA STATING IT WAS
4 ENCLOSED, THERE WAS A CHECK FOR \$79,000, TO COMBINE IT WITH
5 THE REST OF THE SAVINGS THERE FOR, YOU KNOW, FOR A BETTER
6 FUTURE, OR SOMETHING LIKE THAT.

7 Q OTHER THAN THAT, DID YOU HAVE ANY SPECIFIC
8 INFORMATION ABOUT HIS ASSETS --

9 A YEAH -- NO, I GUESS I DIDN'T.

10 Q YOU INDICATED YESTERDAY ON DIRECT EXAMINATION
11 THAT YOU MADE ALL OF HIS TRAVEL ARRANGEMENTS FOR HIM THROUGH
12 A TRAVEL AGENCY?

13 A IF IT WASN'T ME, IT WAS ALI BANI.

14 THE COURT: THAT IS HIS FRIEND?

15 THE WITNESS: THAT IS HIS FRIEND, BUT --

16 Q BY MR. CHIER: WERE THERE TRIPS AND TRAVEL --
17 DID MR. ESLAMINIA TRAVEL BY HIMSELF WHEN YOU WEREN'T PRESENT?

18 A WELL, WE LIVED TOGETHER AND HE DIDN'T TRAVEL WITH
19 ANY OF OUR ROOMMATES OR HIS FRIENDS, SO HE TRAVELED BY HIMSELF.
20 HE LEFT BY HIMSELF.

21 Q HE DID TRAVEL BY HIMSELF?

22 A HE LEFT BY HIMSELF.

23 Q ON THOSE OCCASIONS, DID YOU KNOW WHERE HE WENT?

24 A I KNEW THE COUNTRIES THAT HE VISITED.

25 Q WHICH COUNTRIES DID HE VISIT?

26 A COUNTRIES LIKE GERMANY, FRANCE, YOU KNOW, PARTS
27 OF FRANCE.

28 Q HOW MANY TIMES DID HE TRAVEL ALONE BETWEEN THE

13-2

1 TIME YOU MET HIM AND THE LAST TIME YOU SAW HIM?

2 A ONCE.

3 Q DO YOU KNOW WHAT HE DID IN THOSE COUNTRIES?

4 I TAKE IT YOU WOULDN'T KNOW WHAT HE DID SINCE
5 YOU WEREN'T ALONG?

6 A THAT'S RIGHT.

7 MR. CHIER: I HAVE NOTHING FURTHER, YOUR HONOR.

8 THE COURT: I THINK WE WILL TAKE OUR RECESS AT THIS
9 TIME.

10 MR. WAPNER: PERHAPS WE SHOULD. I HAVE A FEW QUESTIONS
11 BUT I DON'T THINK I WILL FINISH BEFORE NOON.

12 THE COURT: ALL RIGHT, YOU COME BACK AT 1:30.

13 LADIES AND GENTLEMEN OF THE JURY, WE WILL TAKE
14 OUR CUSTOMARY RECESS AT THIS TIME UNTIL 1:30 THIS AFTERNOON.
15 THANK YOU.

16 (AT 12 NOON A RECESS WAS TAKEN UNTIL
17 1:30 P.M. OF THE SAME DAY.)

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1 SANTA MONICA, CALIFORNIA; THURSDAY, MAY 14, 1987; 1:38 P.M.
2 DEPARTMENT WEST C HON. LAURENCE J. RITTENBAND, JUDGE
3 (APPEARANCES AS HERETOFORE NOTED.)

4
5 (THE FOLLOWING PROCEEDINGS WERE HELD
6 IN CHAMBERS:)

7 MR. BARENS: THANK YOU FOR HAVING US IN CHAMBERS,
8 YOUR HONOR. YOUR HONOR, THE DEFENDANT WANTED TO COMMENT
9 TO THE COURT CONCERNING THE STATUS OF THE ESLAMINIA MATTER
10 IN NORTHERN CALIFORNIA AND HOW IT HAS IMPACTED OUR PREPARATION
11 AND CONVERSELY, THE LACK THEREOF IN LOS ANGELES, WHICH
12 IS VERY DETERMINATIVE IN TERMS OF THE TYPE OF DEFENSE
13 WE ARE ABLE TO COMPILE AND ALSO THE LACK OF DISCOVERY
14 WE HAVE BEEN PERMITTED IN THIS MATTER.

15 SPECIFICALLY -- AND I WANT TO STATE THERE ARE THREE
16 SEGMENTS TO THIS. ONE OF THEM MUST BE MADE OUTSIDE OF
17 THE PRESENCE OF MR. WAPNER WHICH YOUR HONOR WILL UNDERSTAND
18 WHEN IT TAKES PLACE.

19 THIS SHOULD BE VERY, VERY BRIEF, YOUR HONOR.
20 THERE IS AN ISSUE CONCERNING THE DIARY THAT WAS REFERENCED
21 IN THE TESTIMONY THIS MORNING THAT HAS BEEN TREATED IN
22 NORTHERN CALIFORNIA AND IS UNDER THE SUBMISSION OF THE
23 JUDGE RIGHT NOW. AS SUCCINCTLY AS I CAN PUT IT, IT IS
24 AS FOLLOWS, YOUR HONOR. THE EVIDENCE IN NORTHERN CALIFORNIA
25 IS TO THE EXTENT THAT HADAYET ESLAMINIA MAINTAINED A DETAILED
26 DAILY DIARY OF HIS ACTIVITIES THAT WAS DISCOVERED AFTER
27 HIS DISAPPEARANCE.

28 THIS DIARY WAS TAKEN INTO POSSESSION INITIALLY
29 BY OSCAR BREILING. THAT WAS WRITTEN IN FARSI, WE BELIEVE.

15-1
1 THE COURT: I UNDERSTAND SHE TESTIFIED IT WAS A BOOK
2 THAT HE WAS WRITING.

3 MR. BARENS: I BELIEVE THE EVIDENCE IN NORTHERN
4 CALIFORNIA WOULD STRONGLY SUGGEST, YOUR HONOR, THAT IT WAS
5 MORE PROPERLY ALLEGED AS A DIARY.

6 IN ANY EVENT, YOUR HONOR, THERE HAS BEEN
7 CONSIDERABLE LITIGATION CONCERNING THIS DIARY IN NORTHERN
8 CALIFORNIA. THE GOVERNMENT BEING THE UNITED STATES GOVERNMENT,
9 WHICH ULTIMATELY THROUGH A SERIES OF EVENTS ENDED UP WITH
10 THIS DOCUMENTATION, HAS REFUSED TO TURN IT OVER ON GROUNDS
11 ALLEGING, WHAT I WILL CALL GENERALLY, NATIONAL SECURITY
12 INTERESTS INVOLVING MR. ESLAMINIA'S ACTIVITIES.

13 THE COURT IN NORTHERN CALIFORNIA IS PRESENTLY
14 DECIDING A SANCTION FOR THE FAILURE OF THE GOVERNMENT TO
15 DIVULGE ON MOTION BY -- I AM NOT SURE HOW MANY OF THE COUNSEL
16 ARE JOINING IN THAT MOTION.

17 MR. CHIER: ALL COUNSEL.

18 MR. BARENS: ALL COUNSEL, WHICH WOULD BE AT LEAST FOUR
19 COUNSEL ARE IN THIS MOTION UP THERE, WHICH HAS BEEN LITIGATED,
20 AS I UNDERSTAND IT, ON TWO OR MORE OCCASIONS, WITH THE PEOPLE
21 DUCKING BEHIND THE NATIONAL SECURITY FENCE ON THIS.

22 AND DEFENSE COUNSEL, AS I GENERALLY UNDERSTAND
23 IT, ARE MAKING MOTIONS TO DISMISS THE INDICTMENT PER SE ON
24 THE BASIS OF THE FAILURE TO COMPLY WITH THE COURT'S ORDER
25 TO TURN OVER THE DOCUMENT.

26 NOW IT IS UNDER SUBMISSION FOR A RULING.

27 NOW WHAT WE LOOK FOR IS -- AND I HAVE TO LEAVE
28 THIS TO THE WISDOM OF THE COURT ON THIS -- I DON'T KNOW HOW

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1 THIS COURT COULD NOT CONSIDER THE SAME OR SIMILAR SANCTION
2 ENABLING THE DEFENSE EITHER TO ACCESS THE DOCUMENT OR A
3 SANCTION FOR THE LACK OF ACCESS TO THE DOCUMENT, BECAUSE
4 OBVIOUSLY, IF IT IS IMPORTANT ENOUGH THAT THE GOVERNMENT
5 DOESN'T WANT TO TURN IT OVER TO THE DEFENSE, IT IS OBVIOUSLY
6 A VERY IMPORTANT DOCUMENT TO THE DEFENSE CONCERNING WHAT
7 ESLAMINIA WAS INVOLVED IN.

8 ALL OF THIS, YOUR HONOR, AND I BEG YOUR HONOR'S
9 INDULGENCE FOR MY BEING SOMEWHAT SKETCHY ON THIS, ALL OF THIS
10 ISSUE TOOK PLACE AFTER I HAD TERMINATED WITH MR. CHIER ON
11 A REPRESENTATION IN NORTHERN CALIFORNIA AFTER THE PRELIMINARY
12 HEARING.

13 THE ISSUE OF THE DIARY AND ITS CONTENTS WAS A
14 MATTER THAT AROSE IN THE FIRST INSTANCE ONLY AS A REFERENCE
15 AT THE PRELIMINARY BUT LATER ON, BECAME THE SUBJECT OF
16 LITIGATION THAT I NEITHER ATTENDED NOR HAVE SEEN THE
17 TRANSCRIPTS.

18 IF YOU WOULD PERMIT ME, I WOULD LIKE TO ASK
19 MR. HUNT. DO YOU HAVE ANY, FROM YOUR KNOWLEDGE SOLELY OF
20 THE LEGAL STATUS OF THE MATTER, MR. HUNT, DO YOU HAVE ANYTHING
21 TO ADD THAT I HAVE NOT REFERENCED?

22 THE DEFENDANT: NO, I DON'T.

23 MR. BARENS: OKAY.

24 THE DEFENDANT: EXCEPT TO NOTE TO THE COURT, I DON'T
25 BELIEVE THE SUPERIOR COURT OR THE GOVERNMENT TURNED OVER THE
26 DOCUMENT.

27 MR. BARENS: I AM SORRY IF I MISSPOKE MYSELF. I AM
28 SORRY IF I DID.

1 THE DEFENDANT: WHICH IS AN IMPORTANT POINT.

2 THE JUDGE IS CONSIDERING SANCTIONS ON IT BUT NEVER
3 FILED --

4 MR. BARENS: WHAT JUDGE IS THAT IN FRONT OF,
5 JUDGE MILLER?

6 THE DEFENDANT: YES.

7 MR. CHIER: THAT IS JUDGE MILLER, WHO INDICATED, IF
8 I MIGHT SAY, THAT SANCTIONS WILL BE FORTHCOMING. HE HAS NOT
9 ANNOUNCED WHAT THE PARTICULAR NATURE OF THE SANCTIONS WILL
10 BE. THAT IS WHERE THE MATTER STANDS.

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1 THE DEFENDANT: HE IS CONTEMPLATING A JURY INSTRUCTION
2 OR SOMETHING LIKE THAT.

3 MR. WAPNER: I HAVE HEARD ABOUT THIS IN MORE OR
4 LESS CASUAL CONVERSATION WITH THE ATTORNEY GENERAL'S OFFICE.
5 I AM NOT ACQUAINTED WITH IT AS A SPECIFIC LEGAL ISSUE.

6 IT SEEMS TO ME THAT THE PRESENT POSTURE OF
7 THIS BEFORE THIS COURT IS NOT SUCH THAT THIS COURT CAN
8 DO ANYTHING.

9 ASKING YOU TO MAKE A SANCTION BASED ON SOMETHING
10 THAT THIS COURT KNOWS NOTHING ABOUT -- SO, I DON'T SEE
11 HOW WE CAN TALK ABOUT SANCTIONS --

12 THE COURT: WHO KNOWS WHAT THE CONTENTS OF THIS
13 PARTICULAR SO-CALLED DIARY IS?

14 MR. BARENS: THE U.S. GOVERNMENT.

15 MR. CHIER: OSCAR BREILING. MAY I INTERRUPT TO
16 TELL YOU WHAT THE HISTORY IS, YOUR HONOR? OSCAR BREILING
17 ORIGINALLY TOOK POSSESSION OF THIS DOCUMENT WHICH WAS
18 WRITTEN IN FARSI.

19 IT WAS A DETAILED JOURNAL. SINCE MR. BREILING
20 IS A TALENTED MAN BUT DOES NOT SPEAK FARSI --

21 THE COURT: WHY DO YOU CHARACTERIZE IT AS A JOURNAL
22 IF YOU DON'T KNOW WHAT IT IS ALL ABOUT?

23 MR. CHIER: THIS IS ALL HEARSAY. I HAVE NEVER SEEN
24 IT AND --

25 THE COURT: AT THE PRESENT STAGE WHAT WE KNOW IS
26 THAT IT WAS A BOOK HE WAS WRITING.

27 MR. WAPNER: CAN I CUT THIS SHORT? I DON'T THINK
28 ANY AMOUNT OF DESCRIBING THIS IN CHAMBERS IS GOING TO

1 HELP THE PROBLEM.

2 THE COURT: WE HAVE TO FIND OUT THE MATERIALITY
3 OF IT.

4 MR. WAPNER: RIGHT. BUT I THINK WE ARE GOING TO
5 HAVE TO HAVE A HEARING ON --

6 THE COURT: I CAN THEN ASCERTAIN WHAT --

7 MR. BARENS: I THINK THAT --

8 MR. WAPNER: I DON'T THINK YOU WILL EVER FIND OUT
9 ITS CONTENTS. BUT IT SEEMS THAT IT IS GOING TO REQUIRE
10 SOME KIND OF A HEARING.

11 MR. CHIER: HERE IS WHAT HAPPENED. WHEN MR. BREILING
12 TOOK POSSESSION OF IT, HE STARTED TO HAVE IT TRANSLATED
13 BY A FARSI TRANSLATOR.

14 THE FARSI TRANSLATOR VOLUNTEERED DURING THE
15 COURSE OF THE TRANSLATION THAT THE DOCUMENT WAS SUCH THAT
16 IN HIS OPINION, IT INVOLVED NATIONAL SECURITY AND THAT
17 THE FEDERAL GOVERNMENT OUGHT TO BE SUMMONED.

18 THE COURT: HOW WILL THAT BE MATERIAL IN THIS CASE?
19 WHAT IS THE MATERIALITY?

20 MR. BARENS: WE HAVE TO MAKE AN OFFER OF PROOF OUTSIDE
21 MR. WAPNER'S PRESENCE AS TO THE DEFENSE THEORY, YOUR HONOR.

22 THE COURT: IF YOU DON'T KNOW WHAT THE CONTENTS
23 OF IT IS, HOW ARE YOU GOING TO -- WHAT KIND OF OFFER OF
24 PROOF CAN YOU MAKE?

25 MR. BARENS: MR. HUNT CAN COMMENT.

26 THE DEFENDANT: IT IS NOT JUST A DIARY. IT WAS
27 DESCRIBED AS A DIARY BY SOME WITNESSES AT THE HEARING,
28 A PERSONAL DIARY WHERE HE MADE NOTATIONS OF WHAT HE WAS

1 DOING IN HIS LIFE, WHO HE WAS SEEING, WHAT HIS GOALS WERE
2 AND THINGS OF THAT NATURE AND --

3 THE COURT REPORTER: SLOW DOWN.

4 THE COURT: LIKE AN AUTOBIOGRAPHY?

5 THE DEFENDANT: LIKE A PERSONAL DIARY WITH
6 DAY-TO-DAY ENTRIES ABOUT WHAT HE WAS DOING AND WHAT HE
7 WAS THINKING.

8 IN ADDITION TO THE DIARY, THERE WAS WHAT WAS
9 DESCRIBED BY THE GOVERNMENT WITNESS MR. BREILING AS ABOUT
10 A THREE-FOOT STACK OF PAPERWORK OF HIS BUSINESS AFFAIRS
11 AND HIS DEALINGS.

12 THERE WAS IN THE -- IN OSCAR BREILING'S TESTIMONY,
13 HE INDICATED THAT THERE WERE TWO PIECES OF PAPER WHICH
14 IF HE HAD SEEN THEM -- THEY WERE APPARENTLY STUCK TO SOME
15 OTHER PIECES OF PAPER. IF HE HAD SEEN THOSE, HE WOULDN'T
16 HAVE TURNED THEM OVER TO THE DEFENDANT.

17 THESE PIECES OF PAPER WERE VERY IMPORTANT --
18 WERE CONSIDERED VERY IMPORTANT BY MY ATTORNEY AND THE
19 OTHER COUNSEL IN TERMS OF THE DEFENSE THEORY.

20 THE COURT: WHAT WERE THOSE PIECES OF PAPER?

21 THE DEFENDANT: THEY DESCRIBED SQUADS, PARAMILITARY
22 SQUADS GOING INTO IRAN AND THE FINANCING FOR THEM AND
23 THE ORGANIZATION OF THEM. I NEVER SAW THE PAPERS.

24 BUT THAT IS WHAT THEY WERE DESCRIBED ON THE
25 RECORD AS.

26 MR. CHIER: "A" TEAM AND "B" TEAM AND --

27 THE COURT: WHAT HAS THAT GOT TO DO WITH THE ISSUE
28 IN THIS CASE?

1 MR. BARENS: WE CAN MAKE AN OFFER.

2 THE COURT: ALL RIGHT. WOULD YOU STEP OUTSIDE A
3 MOMENT, PLEASE?

4 MR. WAPNER: OKAY. I WILL BE HAPPY TO DO THAT.
5 CAN I JUST HAVE AN UNDERSTANDING -- WELL, MY POSITION
6 IS THAT WE SHOULDN'T MAKE ANY RULINGS ON THIS ISSUE BY
7 TAKING STATEMENTS FROM THE DEFENDANT OR ANYTHING ELSE
8 ABOUT WHAT THE TESTIMONY WAS IN SOME OTHER HEARING IN
9 SOME OTHER COURT.

10 IF WE ARE GOING TO HAVE THE ISSUE PROPERLY
11 LITIGATED AND THIS IS RAISING THE SAME ISSUE, WE ARE GOING
12 TO HAVE TO GO THROUGH THIS BY HAVING A WITNESS ON THE STAND
13 AND HAVING THIS RELITIGATED AGAIN.

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1 MR. CHIER: YOUR HONOR, IF I MIGHT, THERE IS A PERSON
2 HERE WITH PERCIPIENT KNOWLEDGE OF THIS ENTIRE MATTER.

3 HE IS THE ATTORNEY FOR REZA ESLAMINIA. HE
4 IS ABLE TO TESTIFY AS TO -- WELL, HE IS AWARE OF PRIVILEGED
5 MATTERS. HE IS HERE AND PREPARED TO --

6 THE COURT: DOES HE KNOW ANY MORE THAN YOU DO ABOUT
7 IT?

8 MR. CHIER: BECAUSE HE IS THE ATTORNEY --

9 THE COURT: WHAT DIFFERENCE DOES THAT MAKE, WHO
10 HE REPRESENTS?

11 MR. CHIER: I HAVE NOT BEEN ACTIVE IN THIS CASE
12 SINCE JANUARY OF 1986.

13 MR. WAPNER: THAT STILL PRESENTS THE SAME PROBLEM.
14 THAT MEANS THAT SOME ATTORNEY WHO WAS AT A HEARING IS
15 NOW GOING TO GET UP AND SAY WHAT THE PERSON SAID AT THE
16 HEARING.

17 I AM NOT TALKING ABOUT THE CREDIBILITY OR
18 THE LACK THEREOF OF MR. HUNT'S REPRESENTATION. I AM TALKING
19 ABOUT THE WHOLE IDEA THAT WE ARE TAKING HEARSAY TESTIMONY,
20 STATEMENTS ABOUT TESTIMONY THAT WAS HAD IN SOME OTHER
21 COURT AS A SHORTHAND WAY OF SAYING, WELL, LET ME TELL
22 YOU WHAT HAPPENED IN THE COURT, AND THEREFORE, YOU CAN
23 MAKE A RULING.

24 IF WE ARE GOING TO DO THIS PROPERLY, LET'S
25 DO IT PROPERLY. LET'S GET THE WITNESS IN. LET'S HAVE
26 A HEARING. LET'S HAVE HIM EXAMINED.

27 MR. CHIER: THE WITNESS IS IMPORTANT TO GIVE THE
28 JUDGE SOME BACKGROUND INFORMATION SO HE CAN KNOW WHAT

1 KIND OF A HEARING TO HAVE.

2 THE COURT: LET ME HEAR WHAT IT IS IN AN IN CAMERA
3 HEARING.

4 (MR. WAPNER EXITS.)

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(PAGES 13913 THROUGH 13924 WERE ORDERED
SEALED BY THE COURT AND THEREFORE ARE
NOT INCLUDED IN THIS TRANSCRIPT.)

18C-1

1 (THE FOLLOWING PROCEEDINGS WERE HELD IN
2 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

3 MR. WAPNER: BEFORE THE JURY COMES IN, THERE HAS
4 BEEN A RULING ON WHAT WAS MENTIONED?

5 THE COURT: NO. THERE IS A POSSIBILITY THAT MR.
6 BREILING MIGHT BE CALLED AS A WITNESS BY THE DEFENSE.

7 (THE JURY ENTERS THE COURTROOM.)

8 THE COURT: IT SEEMS THAT ALL I DO IS APOLOGIZE
9 TO YOU FOR THE DELAYS. COUNSEL ASKED TO SEE THE COURT
10 IN CHAMBERS. THAT TOOK UP SOME TIME BETWEEN 1:30 AND
11 THE PRESENT MOMENT, GOING OVER SOME MATTERS OUTSIDE THE
12 PRESENCE OF THE JURY.

13 YOU MAY PROCEED WITH REDIRECT.

14

15 OLGA IRIS VASQUEZ,
16 THE WITNESS ON THE STAND AT THE TIME OF THE NOON RECESS,
17 RESUMED THE STAND AND TESTIFIED FURTHER AS FOLLOWS:

18

19 REDIRECT EXAMINATION

20 BY MR. WAPNER:

21 Q AS FAR AS YOU KNOW, DID REZA ESLAMINIA AT
22 LEAST LIVE PART OF HIS LIFE IN IRAN WITH HIS FATHER?

23 A YES.

24 Q THE APARTMENT OR CONDO AT THE BELMONT THAT
25 YOU SHARED WITH MR. ESLAMINIA, DID IT HAVE A SEPARATE
26 DINING ROOM AND A SEPARATE LIVING ROOM? IN OTHER WORDS,
27 SEPARATED BY A WALL OR WAS IT OPEN BETWEEN THE TWO?

28 A OPEN.

1 Q WHEN MR. HUNT AND REZA ESLAMINIA WERE IN YOUR
2 CONDO ON AUGUST THE 5TH AND YOU WERE TALKING TO REZA,
3 WHAT ROOM WERE THE TWO OF YOU IN?

4 A IN THE DINING ROOM.

5 Q WHERE WAS MR. HUNT?

6 A IN THE LIVING ROOM.

7 Q HOW FAR AWAY FROM YOU AND REZA WAS MR. HUNT?

8 A ABOUT SEVEN FEET.

9 Q AND WAS THERE A WALL SEPARATING WHERE YOU
10 WERE AND WHERE MR. ESLAMINIA WAS FROM WHERE MR. HUNT WAS?

11 A NO.

12 Q SO HE COULD SEE YOU AND YOU COULD SEE HIM
13 AT THAT TIME?

14 A YES.

15 Q AND AT LEAST AT YOUR REQUEST, HE WAS NOT BEING
16 INVOLVED IN THE INITIAL PART OF THE CONVERSATION?

17 A YES.

18 Q AT THE TIME THAT YOU CAME BACK FROM EUROPE
19 WITH HADAYET ESLAMINIA AND HE WAS STOPPED BY CUSTOMS,
20 WAS HE EVER ARRESTED FOR HAVING ANY NARCOTICS ON HIM?

21 A NO.

22 Q WAS HE ISSUED ANY KIND OF A CITATION THAT
23 YOU KNOW OF?

24 A NO.

25 Q WAS HE EVER PROSECUTED, TO YOUR KNOWLEDGE,
26 FOR ANYTHING HAVING TO DO WITH THAT?

27 A NO.

28 MR. WAPNER: THANK YOU. NOTHING FURTHER.

1 THE COURT: ANYTHING FURTHER?

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REXCROSS-EXAMINATION

4

BY MR. CHIER:

5

Q MISS VASQUEZ, WHILE MR. HUNT WAS IN THE LIVING

6

ROOM AND WHILE MR. ESLAMINIA AND YOU WERE IN THE DINING

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ROOM, ISN'T IT A FACT THAT MR. HUNT WAS ENGAGED IN CONVERSATION

8

WITH YOUR FRIEND, MISS FONSECA?

9

A NO.

10

Q WAS SHE THERE AT THAT TIME?

11

A NO.

12

Q DO YOU HAVE ANOTHER FRIEND WHOSE NAME --

13

A I HAD A LIVING ROOM FULL OF PEOPLE. THERE

14

WERE SEVERAL PEOPLE IN THE LIVING ROOM.

15

Q THERE WERE SEVERAL PEOPLE IN THE LIVING ROOM?

16

A YES.

17

Q DID YOU NOTICE WHETHER MR. HUNT WAS ENGAGED

18

IN CONVERSATION WITH THOSE PEOPLE?

19

A YES. I KNOW THAT BECAUSE MY GIRLFRIEND TOLD

20

ME THAT HE WAS TALKING TO HER.

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1 MR. CHIER: ALL RIGHT, I HAVE NOTHING FURTHER.

2 THE COURT: MISS VASQUEZ, DO YOU KNOW ANYTHING MORE
3 ABOUT THIS BOOK THAT MR. ESLAMINIA WAS WRITING IN FARSI,
4 DID HE EVER TELL YOU WHAT THAT WAS?

5 THE WITNESS: IT WAS EVENTS, MEETINGS THAT HE HAD
6 WITH PEOPLE THAT HE MET WITH, HE WOULD MAKE COPIES OF
7 THINGS AND INSERT IT IN THERE BUT IT WAS ALL WRITTEN IN
8 FARSI SO I DIDN'T KNOW.

9 THE COURT: ALL RIGHT. WAS IT A BOOK OF HIS EXPERIENCES
10 AND SOMETHING LIKE THAT?

11 THE WITNESS: YES.

12 THE COURT: THAT HE HOPED TO PUBLISH SOME DAY, IS
13 THAT IT?

14 THE WITNESS: YES, UH-HUH.

15 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

16 THE WITNESS: YOU ARE WELCOME.

17 THE COURT: YOU WILL BE EXCUSED.

18 MR. WAPNER: KENNETH HICKSON.

19 MR. CHIER: WELL, YOUR HONOR, I HAD A COUPLE OF
20 QUESTIONS APROPOS TO THIS.

21 THE COURT: HE WANTS TO ASK YOU SOME MORE QUESTIONS.

22 THE WITNESS: OH.

23

24 FURTHER RECROSS-EXAMINATION

25 BY MR. CHIER:

26 Q MISS VASQUEZ, WITH RESPECT TO THIS JOURNAL
27 OR BOOK MR. ESLAMINIA WAS KEEPING, DO YOU KNOW WHETHER
28 THERE WAS A SERIES OF WRITINGS THAT HE KEPT THAT WAS

19-2

1 SEPARATE FROM THIS INTENDED BOOK THAT WAS FOR A PERSONAL
2 OR PRIVATE TYPE OF THING?

3 A NO.

4 Q IS THE BOOK IN WHICH HE WROTE DOWN HIS EXPERIENCES
5 THE SAME ONE THAT YOU TURNED OVER, THAT WAS TURNED OVER
6 TO MR. BREILING ULTIMATELY?

7 A NO, I NEVER TURNED THAT BOOK OVER THAT MR.
8 BREILING HAD. THAT BOOK WAS MISSING BEFORE I -- I HAD
9 MOVED FROM THE CONDO AT THE END OF THE MONTH, AT THE END
10 OF AUGUST AND AT THAT TIME, THE BOOK WAS MISSING AND I
11 DIDN'T MEET WITH OSCAR BREILING UNTIL OCTOBER.

12 Q NOW WHICH IS THE THING THAT IS IN THE POSSESSION
13 OF THE F.B.I. AT THIS TIME?

14 A I DON'T KNOW WHAT THEY HAVE.

15 Q YOU ARE NOT AWARE THAT THEY HAVE POSSESSION
16 OF A JOURNAL TYPE DOCUMENT?

17 MR. WAPNER: OBJECTION. ASKED AND ANSWERED.

18 THE COURT: SUSTAINED.

19 Q BY MR. CHIER: IS THIS THING THAT MR. ESLAMINIA
20 WAS WRITING, DID IT ALSO CONTAIN HIS THOUGHTS ON VARIOUS
21 THINGS AND HIS FEELINGS?

22 A YES.

19A FO.

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1 Q AND HIS BELIEFS AND HIS FEARS?

2 THE COURT: DO YOU KNOW THAT?

3 YOU NEVER READ IT, DID YOU?

4 YOU DON'T READ FARSI, DO YOU?

5 THE WITNESS: NO, I DON'T READ FARSI.

6 THE COURT: YOU ONLY KNOW WHAT HE TOLD YOU?

7 THE WITNESS: I JUST HAD IT TRANSLATED WHEN HE WAS
8 MISSING THE FIRST DAY. THE FOLLOWING DAY, I HAD ONE OF HIS
9 FRIENDS TRANSLATE. ONE OF HIS FRIENDS WAS READING THE BOOK
10 AND HE STARTED CRYING AND HE TOLD ME THE CONTENTS OF IT --

11 (WITNESS CRYING.)

12 THE COURT: WHAT DID HE TELL YOU?

13 THE WITNESS: WELL, HE TOLD ME THAT FROM WHAT I REMEMBER,
14 HE TOLD ME THAT IT WAS ABOUT HIS LOVE FOR HIS COUNTRY AND
15 HOW HE FELT HAVING EVERYTHING TAKEN AWAY FROM HIM AND STUFF
16 LIKE THAT.

17 THE COURT: ALL RIGHT. ANYTHING FURTHER?

18 MR. CHIER: MAY I HAVE JUST A COUPLE OF MORE QUESTIONS,
19 YOUR HONOR?

20 THE COURT: YES.

21 Q BY MR. CHIER: WAS IT THE PERSON THAT YOU HAD
22 ASSIST YOU IN TRANSLATING THIS DOCUMENT, THE PERSON THAT SAID
23 IT MAY INVOLVE MATTERS OF NATIONAL SECURITY?

24 A NO.

25 Q AND HOW MUCH OF THIS DOCUMENT WAS READ TO YOU,
26 MRS. VASQUEZ?

27 A JUST APPROXIMATELY ONE PAGE.

28 Q ONE PAGE?

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(WITNESS NODS HER HEAD UP AND DOWN.)

MR. CHIER: I HAVE NOTHING FURTHER, YOUR HONOR.

THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

THE WITNESS: YOU ARE WELCOME.

THE COURT: YOU MAY STEP DOWN.

MR. WAPNER: YOUR HONOR, IF I MAY TRY AND CLARIFY THIS,
JUST NOT NECESSARILY FOR THE JURY BUT FOR ANY HEARINGS WE
HAVE LATER.

THE COURT: YES.

FURTHER REDIRECT EXAMINATION

BY MR. WAPNER:

Q YOU WERE ASKED EARLIER ABOUT SOME BOOK THAT WAS
TURNED OVER BY YOU TO THE BELMONT POLICE DEPARTMENT; YOU WERE
ASKED ABOUT THAT EARLIER TODAY, DO YOU REMEMBER THAT?

A NO.

Q ALL RIGHT. DID YOU TURN OVER ANY ITEMS TO THE
BELMONT POLICE DEPARTMENT OF MR. ESLAMINIA'S?

A YES.

Q DID ANY OF THOSE INCLUDE ANY BOOKS THAT HE MAY
HAVE WRITTEN OR JOURNALS OR ANYTHING OF THAT NATURE?

A I DIDN'T TAKE THE BLUE -- IT WAS A BLUE BOOK,
I DIDN'T TAKE THE BLUE BOOK AND HAND IT TO THEM, HAND IT OVER
TO THEM.

AT THAT TIME, I JUST SAID "I DON'T THINK THIS
IS IMPORTANT. I WILL JUST, YOU KNOW, KEEP IT MYSELF BECAUSE
ONE DAY, I WOULD LIKE TO HAVE IT TRANSLATED."

SO THEY SAID, "FINE, YOU KNOW, THAT IS OKAY."

1 AND THEN BY THE TIME I MOVED, THAT WAS ONE OF
2 THE ITEMS THAT I DIDN'T TAKE WITH ME, WAS MISSING AT THAT
3 TIME.

4 Q DID YOU EVER SEE IT AFTER THAT?

5 A NO.

6 MR. WAPNER: THANK YOU. I HAVE NOTHING FURTHER.

7 THE WITNESS: YOU ARE WELCOME.

8 THE COURT: ALL RIGHT, CALL YOUR NEXT WITNESS.

9 MR. WAPNER: CALL KENNETH HICKSON.

10

11 KENNETH FRANK HICKSON,
12 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
13 AS FOLLOWS:

14 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN, PLEASE.

15 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
16 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
17 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP
18 YOU GOD?

19 THE WITNESS: I DO.

20 THE CLERK: PLEASE TAKE THE STAND AND BE SEATED.

21 PLEASE STATE AND SPELL YOUR FULL NAME.

22 THE WITNESS: KENNETH FRANK HICKSON.

23 THE COURT REPORTER: SPELL YOUR LAST NAME?

24 THE WITNESS: H-I-C-K-S-O-N.

25

26 DIRECT EXAMINATION

27 BY MR. WAPNER:

28 Q MR. HICKSON, IN 1984, IN JULY, WERE YOU EMPLOYED?

29 A YES.

20. 1 Q WHERE WERE YOU EMPLOYED?

2 A FOR THE BELMONT HOMEOWNERS ASSOCIATION.

3 Q WHAT WAS THE BELMONT HOMEOWNERS ASSOCIATION?

4 A THEY OWNED THE CONDOMINIUM COMPLEX AT 400 DAVEY
5 GLEN ROAD, BELMONT.

6 Q WHAT WAS THE NAME OF THE CONDO COMPLEX?

7 A THE BELMONT.

8 Q HENCE THE NAME, BELMONT HOMEOWNERS ASSOCIATION?

9 A YES.

10 Q ALL RIGHT. WHAT DID YOU DO FOR THE BELMONT
11 HOMEOWNERS ASSOCIATION?

12 A GENERAL BUILDING MAINTENANCE.

13 Q WERE YOU WORKING AT THE BUILDING ON MONDAY,
14 JULY 30, 1984?

15 A YES I WAS.

16 Q WHAT WERE YOU DOING ON THAT DAY?

17 A PAINTING.

18 Q WHAT TIME DID YOU START TO WORK?

19 A I STARTED AT 8:00.

20 Q WHERE IN THE BUILDING WERE YOU PAINTING DURING
21 THE MORNING HOURS OF JULY 30?

22 A SECOND LEVEL ELEVATOR LOBBY OR LANDING.

23 Q WHAT WAS ON THE SECOND LEVEL?

24 A PARKING GARAGE.

25 Q WAS THAT AN UNDERGROUND PARKING GARAGE?

26 A IT AS UNDER THE BUILDING, YES.

27 Q DID IT HAVE A SECURITY GATE OF SOME SORT?

28 A YES.

2 2
1 Q COULD YOU OR WERE YOU SUPPOSED TO BE ABLE TO ENTER
2 THAT GARAGE IF YOU WERE NOT A TENANT OF THE BUILDING?

3 A YOU COULD IF SOMEBODY ARRIVED THERE AT THE SAME
4 TIME YOU DID AND WAS ENTERING THE BUILDING. YOU COULD PROBABLY
5 WALK IN.

6 Q WAS THE BELMONT CONDOMINIUM COMPLEX ON DAVEY GLEN
7 ROAD IN BELMONT BUILT ON A HILL?

8 A YES.

9 Q AS DAVEY GLEN ROAD COMES UP FROM EL CAMINO, IS
10 THAT UPHILL ALL OF THE WAY?

11 A YES.

12 Q IT CONTINUES UPHILL EVEN FARTHER PAST THE BELMONT
13 CONDO COMPLEX?

14 A YES.

15 Q AS YOU PASSED THE ENTRANCE -- WELL, DO YOU
16 RECOGNIZE THE DIAGRAM ON THE BOARD TO YOUR RIGHT?

17 A YES, UH-HUH.

18 Q WHAT IS THAT?

19 A THAT IS THE 300 BUILDING AND THE 400 BUILDING.

20 Q OF WHAT?

21 A DAVEY GLEN.

22 Q THAT IS THE LOCATION WHERE YOU WERE WORKING ON
23 JULY 30, 1984?

24 A YES.

25 Q DOES THIS DEPICT APPARENTLY THE OVERHEAD VIEW
26 OF THE BUILDING?

27 A YES.

28 MR. WAPNER: MAY I HAVE A MOMENT?

1 THE COURT: YES.

2 (PAUSE.)

3 Q BY MR. WAPNER: IN THE GARAGE AREA TO THE -- THAT
4 YOU WERE WORKING IN ON THAT DAY, COULD YOU TELL US WHERE
5 APPROXIMATELY, THAT WOULD BE ON THIS DIAGRAM?

6 A RIGHT IN HERE (INDICATING).

7 Q UNDERNEATH THE LOBBY AREA?

8 A YEAH.

9 Q ARE THERE ELEVATORS THERE WHERE YOU ARE POINTING
10 TO?

11 A YES.

12 Q THEY GO DOWN INTO THE GARAGE?

13 A YES.

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1 Q ALL RIGHT. CAN YOU -- YOU CAN RESUME YOUR SEAT
2 TEMPORARILY.

3 AS YOU WERE WORKING IN THE ELEVATOR AREA, DID
4 YOU SEE SOMEONE THAT MORNING?

5 A YES.

6 Q WHERE WAS THIS PERSON?

7 A HE WAS COMING INTO THE ELEVATOR LANDING AREA THROUGH
8 A DOORWAY.

9 Q COULD YOU DESCRIBE THE PERSON THAT YOU SAW?

10 A BLACK, A BLACK MAN ABOUT FIVE-FOOT-TEN AND 210
11 OR 220 POUNDS.

12 Q DID HE APPEAR TO YOU TO BE JUST HEAVY OR MUSCULAR
13 OR FLABBY?

14 A MUSCULAR.

15 Q WHEN YOU SAW THIS PERSON, WHAT HAPPENED?

16 A HE STARTED TALKING TO ME.

17 Q DID HE GIVE YOU HIS NAME?

18 A NOT RIGHT AWAY.

19 Q AT SOME POINT AFTER THAT, DID HE?

20 A YES.

21 Q WHAT DID HE TELL YOU HIS NAME WAS?

22 A JIM GRAHAM.

23 Q DO YOU RECOGNIZE THE PERSON DEPICTED IN THIS
24 PHOTOGRAPH, 175?

25 A YES.

26 Q WHO IS THAT PERSON?

27 A JIM GRAHAM.

28 Q IS THAT THE PERSON WHO IDENTIFIED HIMSELF TO YOU

1 AS JIM GRAHAM ON JULY 30?

2 A YES.

3 Q WHAT TIME OF THE DAY WAS IT APPROXIMATELY WHEN
4 YOU SAW HIM?

5 A 9 O'CLOCK IN THE MORNING.

6 Q AFTER HE STUCK HIS HEAD IN THE AREA -- STRIKE
7 THAT.

8 DID YOU SAY HE WAS COMING TO THE DOOR WHEN YOU
9 FIRST SAW HIM?

10 A YES. HE WAS POKING HIS HEAD THROUGH THE DOORWAY,
11 LIKE TO SEE IF IT WAS OKAY TO WALK IN THERE.

12 Q WHAT HAPPENED AFTER HE POKED HIS HEAD THORUGH
13 THE DOORWAY?

14 A HE STARTED TALKING TO ME.

15 Q WHAT DID HE SAY?

16 A HE SAID, "PAINTING THEM UP?" OR SOMETHING LIKE
17 THAT, "PAINTING THEM UP?"

18 Q WHAT DID YOU SAY?

19 A YES.

20 Q WHAT HAPPENED AFTER THAT?

21 A THEN HE NEEDED SOME HELP TO -- I GUESS YOU KNOW,
22 GAIN ACCESS INTO THE BUILDING AND GET OUT OF THE BUILDING,
23 LIKE.

24 Q DID HE SAY THAT TO YOU?

25 A YEAH.

26 Q WHAT DID YOU SAY?

27 A I OBLIGED HIM.

28 Q DID YOU KNOW WHETHER OR NOT HE LIVED THERE?

1 A NO.

2 Q HAD YOU EVER SEEN HIM BEFORE?

3 A NO.

4 Q WHY DID YOU OBLIGE HIM GETTING IN AND OUT?

5 A WELL, I DON'T KNOW. HE WAS ALREADY IN THE
6 BUILDING BY THE TIME I MET HIM. AND -- I DON'T KNOW.

7 Q DID YOU HAVE SOME OTHER CONVERSATION WITH HIM
8 BEFORE HE ASKED YOU IF HE COULD GET INTO THE BUILDING?

9 A NO.

10 Q WHAT KIND OF HELP DID HE ASK YOU FOR IN TERMS
11 OF GETTING INTO THE BUILDING?

12 A HE WANTED ME TO OPEN THE AUTOMATIC GATE.

13 Q WHICH AUTOMATIC GATE WAS THAT?

14 A THE ONE FACING DAVEY GLEN IN THE 400 BUILDING.

15 Q THAT WOULD BE THE GATE TO LET CARS IN?

16 A YES.

17 Q SO THAT WOULD BE THE GATE TO THE GARAGE WHERE
18 THE CARS WOULD COME IN?

19 A RIGHT HERE. THAT IS THE ENTRANCE (INDICATING).

20 Q WHAT IS IMMEDIATELY ABOVE ON -- ON THE NEXT FLOOR
21 ABOVE THAT GARAGE AREA?

22 A THE 300 LEVEL.

23 Q BASICALLY THE FIRST LEVEL OF THE APARTMENTS?

24 A YES.

25 Q THOSE APARTMENTS THAT ARE ON THAT LEVEL IN THE
26 BOTTOM PORTION OF THE BUILDING, DO THEY ACTUALLY -- ON THE
27 TOP SIDE OF THIS DIAGRAM, ARE THEY ACTUALLY ON THE GROUND
28 FLOOR? YOU COULD WALK OUT FROM THERE?

1 A THEY ARE ELEVATED OFF THE GROUND. IT WOULD
2 PROBABLY BE AT LEAST A SIX-FOOT JUMP OFF OF ONE OF THOSE
3 BALCONIES OR BETTER. THEY ARE A LITTLE YOU KNOW, ELEVATED
4 OFF THE GROUND A LITTLE BIT.

5 Q EVEN THE ONES ON THE FIRST FLOOR?

6 A YES.

7 Q THEN DID YOU IN FACT, OPEN THE GARAGE, OBLIGE
8 MR. GRAHAM AND OPEN THE GATE TO LET HIM IN?

9 A YES.

10 Q WHAT HAPPENED WHEN YOU OPENED THE GATE?

11 A THEN A BMW SEDAN PULLED IN.

12 Q CAN YOU DESCRIBE THE CAR?

13 A METALLIC, GUN METAL GREY. I THINK IT WAS A FOUR-
14 DOOR SEDAN.

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1 Q NEW OR OLD?

2 A BRAND NEW.

3 Q DID IT HAVE ANY LICENSE PLATES ON IT?

4 A NO.

5 Q HOW MANY PEOPLE WERE IN IT?

6 A THERE WERE TWO MEN IN THE FRONT SEAT.

7 Q CAN YOU DESCRIBE WHAT THEY LOOKED LIKE?

8 A MEDIUM HEIGHT AND BUILD AND COARSE BLACK HAIR,
9 LIGHT COMPLETED.

10 Q AND WHERE DID THE CAR GO ONCE IT CAME INTO
11 THE GARAGE?

12 A TO THE VERY END OF THE GARAGE.

13 Q I AM GOING TO SHOW YOU A PHOTOGRAPH THAT HAS
14 BEEN MARKED AS 204; DOES THIS CAR APPEAR TO YOU TO BE
15 SIMILAR TO THE CAR THAT YOU SAW?

16 A I THINK SO, YES, I THINK SO. I AM NOT REALLY
17 FAMILIAR WITH B.M.W.'S. THERE MIGHT BE A MODEL BIGGER
18 THAN THAT. I DON'T KNOW.

19 IT LOOKS LIKE THE SAME COLOR AND EVERYTHING.

20 THE COURT: YOU SAY IT LOOKED LIKE THE SAME COLOR?

21 THE WITNESS: COLOR, YES.

22 (MR. WAPNER SHOWING EXHIBIT TO JURY.)

23 Q BY MR. WAPNER: AFTER THE CAR CAME INTO THE
24 GARAGE, WHAT HAPPENED?

25 A THEY PARKED FOR PROBABLY TEN MINUTES, SOMETHING
26 LIKE THAT.

27 Q WHERE IN THE GARAGE DID THEY PARK?

28 A OKAY. WHEN YOU ARE DRIVING INTO THE GARAGE,

21-2

1 THERE IS A WING THAT GOES TO YOUR RIGHT AND ONE TO YOUR
2 LEFT AND THEN THERE IS A WING THAT GOES DIRECTLY STRAIGHT
3 AHEAD. THEY WENT DIRECTLY STRAIGHT AHEAD AT THE VERY
4 END OF THAT PORTION OF THE PARKING LOT.

5 Q WHERE WAS MR. GRAHAM AFTER THEY DROVE INTO
6 THE GARAGE AREA?

7 A HE WAS WITH -- HE WAS TALKING TO ME.

8 Q WERE YOU BACK IN THE ELEVATOR SHAFT OR THE
9 ELEVATOR AREA?

10 A I WAS JUST OUTSIDE OF THAT ELEVATOR LOBBY
11 OR ELEVATOR LANDING THERE.

12 Q DID THE PEOPLE IN THE B.M.W. STAY IN THE B.M.W.?

13 A YES.

14 Q HOW LONG DID YOU TALK TO MR. GRAHAM?

15 A NOT MORE THAN TEN MINUTES.

16 Q WHAT WERE YOU TALKING TO HIM ABOUT?

17 A OH, THE OLYMPICS.

18 Q WHAT ABOUT THE OLYMPICS?

19 A WELL, BEING THAT HE WAS RAZZING ME ABOUT PAINTING,
20 I WAS KIND OF, YOU KNOW, JOKING WITH HIM AND ASKING HIM
21 IF HE WAS IN THE OLYMPICS AND HE SAID YES.

22 Q WHAT MADE YOU THINK TO ASK HIM IF HE WAS IN
23 THE OLYMPICS?

24 A I DON'T KNOW. I GUESS JUST BECAUSE TO MAKE
25 CONVERSATION AND --

26 Q THE OLYMPICS WERE TAKING PLACE AT THAT TIME?

27 A YES.

21A FO.

28

21^ 1 1 Q WHAT DID HE SAY?

2 A HE LOOKED LIKE AN ATHLETE TO ME AND THAT IS WHY
3 I ASKED HIM.

4 AND HE TOLD ME HE WAS AND HE MADE IT SOUND LIKE
5 REAL CONVINCING.

6 THE COURT: HE SAID WHAT?

7 THE WITNESS: I ASKED HIM IF HE WAS IN THE OLYMPICS
8 AND HE SAID YES, HE WAS AND HE TOLD ME HE WAS A LIGHT
9 WELTERWEIGHT FIGHTER AND HE WENT UNDER THE NAME OF JIM GRAHAM.

10 AND HE WAS SUPPOSED TO GET ME TICKETS TO SEE HIM
11 AT STANFORD STADIUM.

12 AND THAT WAS BASICALLY ABOUT IT, JUST WE WERE
13 TALKING ABOUT THE OLYMPICS.

14 Q BY MR. WAPNER: HOW WAS HE DRESSED, INCIDENTALLY,
15 AT THE TIME?

16 A REAL NICE JOGGING OUTFIT AND TENNIS SHOES OR
17 JOGGING SHOES.

18 Q AFTER THE TEN MINUTES OF CONVERSATION, WHAT
19 HAPPENED?

20 A THEN THE TWO MEN IN THE SEDAN PULLED UP AND
21 STOPPED AND PICKED HIM UP AND THEY WENT -- THEY DROVE OUT
22 DAVEY GLEN ROAD AND THEN DOWN, MADE A LEFT DOWN TOWARDS
23 EL CAMINO AND I LOCKED THE GATE BACK UP.

24 Q WHEN WAS THE NEXT TIME THAT YOU SAW EITHER
25 MR. GRAHAM OR THE CAR OR THE PEOPLE WHO HAD BEEN IN THE CAR?

26 A I GUESS IT WAS THE NEXT AFTERNOON.

27 Q THE NEXT DAY OR THE SAME DAY?

28 A I GUESS -- YES, THE NEXT AFTERNOON, I SAW THEM

21 ^ 2
1 AT 4 O'CLOCK IN FRONT OF JERRY MILLER'S OFFICE, THE MANAGER'S
2 OFFICE.

3 Q WHO WAS JERRY MILLER?

4 A HE WAS THE BUILDING MANAGER.

5 Q DID HE LEAVE AT SOME TIME AROUND, SOME DATE AROUND
6 THIS APPROXIMATE TIME?

7 A THAT SAME DAY, AS A MATTER OF FACT, YEAH.

8 Q WHAT DAY?

9 A TUESDAY.

10 Q WHICH DATE?

11 A TUESDAY WAS HIS LAST DAY, THE 31ST.

12 Q AND WHERE DID YOU SEE MR. GRAHAM THE NEXT DAY?

13 A I JUST SAW HIM MONDAY MORNING AND THEN TUESDAY
14 AFTERNOON AND THAT WAS THE LAST TIME I SAW HIM.

15 Q WHERE WAS HE TUESDAY AFTERNOON?

16 A IN FRONT OF JERRY MILLER'S OFFICE.

17 Q WHAT WAS HE DOING AT THAT POINT?

18 A HE WAS COMING IN FROM THE MAIN DOORWAY TO THE
19 LOBBY IN FRONT OF THE BUILDING, AND I HAPPENED TO RUN INTO
20 HIM ON HIS WAY AND WE STOPPED -- HE STOPPED AND WE TALKED
21 SOME MORE.

22 AND THAT IS WHEN JERRY MET HIM AND THEN THAT IS
23 WHEN JERRY ASKED HIM IF HE WAS STAYING WITH, I THINK IT WAS,
24 MR. MARTIN, I AM NOT SURE, I CAN'T RECALL THE NAME. BUT
25 ANYWAY, MR. GRAHAM AGREED OR SAID YES, HE WAS STAYING THERE
26 WITH THAT CERTAIN PARTY.

27 AND HE TOLD JERRY, "I AM GOING TO BRING YOU SOME
28 TICKETS AND I WANT YOU TO GIVE SOME TO KEN" --

1 Q AND THESE WERE THE TICKETS FOR THE OLYMPICS?

2 A YES, UH-HUH.

3 Q WHAT DID HE DO AFTER THAT?

4 A IT WAS LIKE ABOUT A FIVE-MINUTE CONVERSATION AND
5 THEN HE LEFT OUT OF JERRY'S OFFICE AND WENT DOWN THE HALLWAY.
6 HE MADE A LEFT OUT OF JERRY'S OFFICE DOWN THE HALLWAY, DOWN
7 THE SOUTH END OF THE BUILDING AND THEN A RIGHT, WHICH WOULD
8 BE SOUTH, SOUTHEAST.

9 Q IS THE PLACE YOU HAVE INDICATED AS JERRY'S OFFICE,
10 THE PLACE THAT IS INDICATED BY "OFFICE" ON THIS DIAGRAM?

11 A YES, UH-HUH. HE WALKED DOWN THIS HALLWAY AND
12 TURNED AND WENT THIS DIRECTION (WITNESS INDICATING).

13 Q DID YOU SEE HIM AFTER THAT?

14 A NO.

15 Q WHAT TIME IN THE AFTERNOON WAS THAT?

16 A APPROXIMATELY 4 O'CLOCK, 4:00 -- IT MIGHT HAVE
17 BEEN 4:30.

18 Q AND YOU NEVER SAW HIM AGAIN AFTER THAT?

19 A NO.

20 Q DID YOU EVER GET ANY TICKETS TO THE OLYMPICS?

21 A NO.

22 Q IF YOU WALK ALL THE WAY TOT HE END OF THE HALLWAY
23 HE WAS WALKING DOWN, WHAT DO YOU COME TO?

24 A A STAIRWAY THAT EITHER GOES STRAIGHT UP TO THE
25 TOP OF THE BUILDING OR OUT TO THE STREET OR DOWN TO THE
26 PARKING SPACES BELOW.

27

28

22-1

1 Q TO GET OUT TO THE STREET FROM THAT STAIRWAY,
2 WHAT DID YOU DO?

3 A I THINK THERE ARE THREE STEPS UP AND THEN
4 OUT A LITTLE OUTSIDE CORRIDOR.

5 Q AND THEN THE SMALL RECTANGLES, IS THAT A WALKWAY?

6 A YES.

7 Q THAT GOES DIRECTLY OUT TO DAVEY GLEN ROAD?

8 A YES.

9 Q IS THIS ALL CURVED ALONG DAVEY GLEN ROAD WHERE
10 CARS ARE TO BE PARKED?

11 A EXCEPT FOR THERE IS A COUPLE OF RED SECTIONS
12 RIGHT IN HERE FOR FIRE TRUCKS, IN CASE THEY HAVE TO COME
13 IN FOR A FIRE.

14 THIS IS ALL OPEN, RIGHT HERE. BUT FURTHER
15 DOWN, ALL OF THE WAY AROUND, YOU CAN PARK.

16 Q IT IS RED JUST NEXT TO THE DRIVEWAY ON EITHER
17 SIDE?

18 A 20 FEET ON BOTH SIDES FOR FIRE ACCESS.

19 Q DID THE BELMONT HAVE A ROOM CALLED THE SKY
20 ROOM?

21 A YES.

22 Q WHAT WAS THAT?

23 A IT WAS FOR COMMITTEE MEETINGS, PRIVATE PARTIES
24 AND FOR THE PEOPLE THAT LIVED THERE. RESERVE IT FOR THEIR
25 OWN PERSONAL USE.

26 Q WHERE WAS IT LOCATED?

27 A THE VERY TOP OF THE 300 BUILDING, THE NINTH
28 FLOOR.

22-2

1 Q WHICH IS THE 300 BUILDING?

2 A THE ONE SHAPED LIKE AN L. IN FACT, IT WOULD
3 BE RIGHT ON THIS END (INDICATING). ITS BACK RIGHT IN
4 HERE. I TAKE THAT BACK. THIS IS ALL ROOF. THEN THIS
5 IS THE SKY ROOM.

6 Q INDICATING APPROXIMATELY THE MIDDLE SECTION?

7 A YEAH. IT IS ABOUT AS BIG AS THIS RIGHT HERE.
8 AND THIS IS THE REST OF IT. IT IS ALL ROOF WITH ROOF
9 VENTILATION FANS.

10 IT IS JUST A SUPERSTRUCTURE THAT TAKES UP --
11 ABOVE THE REST OF THE BUILDING.

12 Q AT SOME POINT BEFORE YOU FIRST SAW MR. GRAHAM,
13 DO YOU SEE SOMEONE WHO IS IN THE SKY ROOM WHO IS PRESENT
14 IN COURT RIGHT NOW?

15 A YES.

16 Q WHO IS THAT PERSON THAT YOU SAW?

17 A THAT MAN RIGHT HERE. THERE (INDICATING).

18 Q WHAT IS HE WEARING RIGHT NOW IN COURT?

19 A A BLUE SUIT, BLUE JUMPSUIT.

20 MR. WAPNER: INDICATING THE DEFENDANT FOR THE RECORD?

21 THE COURT: YES.

22 Q BY MR. WAPNER: HOW LONG BEFORE YOU SAW MR.
23 GRAHAM IN THE GARAGE AREA WAS IT THAT YOU SAW MR. HUNT
24 IN THE SKY ROOM?

25 A I AM NOT SURE. BUT I THINK IT WAS THE WEEKEND
26 BEFORE, BEFORE THAT MONDAY. BUT I CAN'T REALLY -- THAT
27 IS WHAT I THINK. BUT I AM NOT REALLY CERTAIN.

28 Q IN TERMS OF DAYS, WEEKS OR MONTHS BEFORE YOU

1 SAW MR. GRAHAM, CAN YOU GIVE US A BALLPARK --

2 A JUST A MATTER OF A COUPLE OF DAYS, TWO OR
3 THREE DAYS.

4 Q AND WHAT WAS MR. HUNT DOING IN THE SKY ROOM?

5 A WHEN I SAW HIM, HE WAS STANDING IN --

6 Q WAS THERE ANYONE ELSE THERE BESIDES HIM?

7 A NO.

8 Q WAS THERE ANY -- WAS HE STANDING NEXT TO OR
9 NEAR ANYTHING?

10 A I HAPPENED TO BE GOING IN THERE TO CHECK THE
11 SPACE OUT. AND IT LOOKED LIKE HE GOT UP AND WAS TRYING
12 TO MAKE AN EXIT OUT OF THERE.

13 Q GOT UP FROM WHERE?

14 A THERE WAS A LITTLE COFFEE TABLE IN THE SKY
15 ROOM WITH A COUCH AND LOVESEAT.

16 Q DID YOU SEE ANYTHING ON THE TABLE NEAR WHERE
17 HE WAS?

18 A PAPERWORK AND A BUNCH OF PAPERS AND A LITTLE
19 ALARM CLOCK.

20 Q DESCRIBE THE ALARM CLOCK THAT YOU SAW.

21 A I AM NOT SURE. I THINK IT WAS BLACK. I AM
22 NOT SURE. I REMEMBER A CLOCK, THOUGH.

23 Q WAS IT A TRAVEL TYPE ALARM CLOCK?

24 A YEAH. UH-HUH.

25 Q WHEN YOU SAY THAT MR. HUNT APPEARED TO GET
26 UP, DID HE TAKE THOSE THINGS WITH HIM OR DID HE APPEAR
27 TO LEAVE THEM THERE?

28 A HE LEFT THEM THERE.

1 Q WHERE DID HE GO?

2 A I DON'T KNOW. I DON'T THINK HE LEFT.

3 I THINK THAT I MUST HAVE INTERRUPTED WHAT
4 HE WAS DOING OR STARTLED HIM OR SOMETHING --

5 MR. CHIER: MOVE TO STRIKE THAT.

6 THE COURT: PARDON ME. WOULD YOU READ THE ANSWER
7 UP TO THAT POINT?

8 (THE ANSWER WAS READ BY THE REPORTER.)

9 THE COURT: I WILL LET IT STAND. GO AHEAD.

10 Q BY WAPNER: WHAT MADE YOU THINK THAT YOU HAD
11 INTERRUPTED WHAT HE WAS DOING OR STARTLED HIM?

12 A WELL, HE DIDN'T CONTINUE TO DO WHAT HE WAS
13 DOING. LIKE I INTERRUPTED WHATEVER HE WAS DOING.

14 AND AFTER I CHECKED THE SPACE OUT, I JUST
15 LEFT AND LEFT HIM THERE DOING WHATEVER HE WAS DOING. I
16 DON'T KNOW.

17 Q HOW LONG WERE YOU IN THERE HAVING A CHANCE
18 TO --

19 A FIVE MINUTES, MAYBE.

20 Q DID YOU TALK TO HIM AT ALL?

21 A NO, NO.

22 Q DID YOU EVER SEE HIM AGAIN AFTER THAT?

23 A I AM NOT CERTAIN, NO. I DON'T THINK SO. NO.

24 Q WHEN YOU SAY YOU ARE NOT CERTAIN, DOES THAT
25 MEAN THAT YOU THINK YOU MIGHT HAVE SEEN HIM AT SOME POINT,
26 SOME PLACE, OR DO YOU KNOW?

27 A I THINK, YEAH -- I THINK THAT IS THE ONLY
28 PLACE I SAW HIM. YEAH, I ONLY SAW HIM ONCE.

22-5

1 Q ARE THERE ANY RECORDS KEPT AT THE BELMONT
2 OF WHEN MR. -- WHAT WAS THE MANAGER'S NAME?

3 A JERRY MILLER.

4 Q WHEN HIS LAST DAY WAS?

5 A JULY 31ST.

6 Q DO THEY HAVE SOME RECORDS THERE OF THAT?

7 A I AM SURE THAT THEY DO, YEAH. YOU COULD ASK
8 MRS. VELMA BLAKE. SHE WAS IN CHARGE AT THE TIME OF HIS
9 DISMISSAL.

10 Q DO YOU RECOGNIZE MR. HUNT AS HAVING LIVED
11 THERE OR BEING ONE OF THE TENANTS?

12 A NO.

13 MR. WAPNER: MAY I HAVE A MOMENT, YOUR HONOR?

14 THE COURT: YES.

15 (PAUSE.)

16 Q BY MR. WAPNER: WAS THE SKY ROOM A PLACE THAT
17 WAS SUPPOSED TO BE ACCESSIBLE TO TENANTS OF THE BUILDING?

18 A YEAH. YOU HAD TO HAVE A SPECIAL KEY TO ENTER
19 INTO THAT ROOM.

20 Q DO YOU KNOW HOW MR. HUNT GOT IN THERE?

21 A NO. I DON'T.

22 MR. WAPNER: NOTHING FURTHER.

23 THE COURT: ALL RIGHT.

24 MR. BARENS: WE NEED TO APPROACH THE BENCH BEFORE
25 ANY CROSS-EXAMINATION, YOUR HONOR.

26 THE COURT: YES.

23 FO.27

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(THE FOLLOWING PROCEEDINGS WERE HELD
AT THE BENCH:)

MR. BARENS: YOUR HONOR, THE DEFENSE IS DISTRESSED
BY THE FACT THAT THE REPORT THAT WE GOT CONCERNING THIS
WITNESS HAS NEVER AT ANY TIME REFERENCED ANY IDENTIFICATION
MADE OF MR. HUNT.

THE DISCOVERY RECEIVED BY THE DEFENSE, WITHOUT
EXCEPTION, AS TO THIS WITNESS, ONLY REFERENCED THIS MOMENT
SPENT BY THIS WITNESS WITH MR. GRAHAM OR PITTMAN, WHERE
THEY KIND OF DISCUSSED THE OLYMPICS AND WHATNOT.

AND HERE WE HAVE AN IN-COURT IDENTIFICATION
OF THE DEFENDANT MADE BY THIS WITNESS ABOUT A SIGHTING --
I'M SORRY -- YES, ABOUT A SIGHTING OF THIS DEFENDANT
THAT IS TOTALLY NEWS TO ME AND I THINK IT WILL BE TO NORTHERN
CALIFORNIA COUNSEL AS WELL.

AND WE DON'T THINK THAT IS PERMISSIBLE CONDUCT
BY THE PROSECUTION.

COULD I JUST ASK ONE OTHER THING? I DON'T
KNOW WHETHER THIS I.D. COMES OUT OF A PHOTO LINEUP, YOU
KNOW, THAT HE MAKES ON HUNT PRIOR TO COMING TO COURT HERE,
WHICH WE HAVE NEVER BEEN SHOWN, OR A SINGLE PHOTOGRAPH
OR SOME OTHER DEPICTATION -- DEPICTION.

MR. WAPNER: YESTERDAY, I DISCUSSED WITH COUNSEL
WHAT DISCOVERY THEY DID AND DID NOT HAVE, BECAUSE THEY
TOLD ME THAT AFTER THE PRELIMINARY HEARING IN MR. HUNT'S
CASE IN SAN MATEO COUNTY, THEY HAD WITHDRAWN AS COUNSEL
AND THEY HAD NOT BEEN PROVIDED WITH ANY MORE DISCOVERY
AFTER THAT. SO I LOOKED AT THE PRELIMINARY HEARING TRANSCRIPT

23-1

1 AND THE DATE WAS IN JANUARY OF 1986, AND SO COUNSEL AND
2 I AGREED THAT THEY HAD BEEN PROVIDED WITH ALL OF THE DISCOVERY
3 BEFORE THAT DATE BUT DIDN'T HAVE ANY AFTER THAT.

23A FO.

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23A-1

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1 THE REPORT THAT THE INTERVIEW WAS DONE WITH
2 THIS WITNESS IS DATED, IT LOOKS LIKE JUNE 25TH OF 1985
3 AND IT REFERS TO THE INTERVIEW OF THIS WITNESS BY A MAN
4 NAMED C.M. BENNETT, B-E-N-N-E-T-T, OF THE ATTORNEY GENERAL'S
5 OFFICE WHERE HE TALKED TO THIS WITNESS. HE SHOWED THIS
6 WITNESS A PHOTO LINEUP AND THIS WITNESS IN FACT IDENTIFIED
7 THE PHOTOGRAPH OF MR. HUNT. SO THERE WAS NO REASON FOR
8 ME TO BELIEVE THAT THEY DID NOT HAVE THIS REPORT BACK
9 IN 1985 UP UNTIL 1986.

10 MR. BARENS: YOUR HONOR, COULD I JUST REPRESENT
11 TO THE COURT, AS AN OFFICER OF THE COURT, THAT NEITHER
12 MR. CHIER NOR MYSELF, BEFORE THIS VERY MOMENT STANDING
13 HERE AT THE BENCH, HAVE SEEN THIS REPORT EITHER IN LOS
14 ANGELES OR IN SAN MATEO.

15 THE COURT: DID HE TESTIFY AT THE PRELIMINARY HEARING,
16 DID THIS WITNESS TESTIFY AT THE PRELIMINARY HEARING?

17 MR. CHIER: NO.

18 MR. BARENS: NO.

19 MR. WAPNER: I DON'T KNOW.

20 MR. BARENS: NO, SIR.

21 MR. WAPNER: I DON'T THINK SO.

22 MR. CHIER: THIS IS A CRITICAL PIECE OF EVIDENCE.

23 MR. BARENS: IT IS AN IMPORTANT PIECE OF EVIDENCE.

24 I HAVE NEVER SEEN THIS GUY OR THE REPORT BEFORE.

25 THE COURT: THE DISTRICT ATTORNEY HAS SHOWN THAT
26 YOU GOT IT, BECAUSE YOU GOT EVERYTHING PRIOR TO JANUARY
27 OF 1986.

28 MR. CHIER: WE ASSUME WE DID HAVE, YOUR HONOR, BECAUSE

1 THAT IS WHAT WE --

2 MR. BARENS: WE HAD KNOWLEDGE THAT THIS WITNESS
3 WOULD TESTIFY AS TO -- WE HAD A REPORT ABOUT THIS WITNESS
4 SEEING MR. PITTMAN.

5 THE COURT: WHAT DO YOU WANT ME TO DO, STRIKE THE
6 TESTIMONY?

7 MR. BARENS: THAT WOULD BE THE ONLY REMEDY, IT IS
8 ONLY AS TO THE HUNT TESTIMONY.

9 THE GRAHAM TESTIMONY --

10 MR. WAPNER: WAIT A SECOND.

11 THE COURT: YOU MEAN AS TO HUNT'S IDENTIFICATION?

12 MR. BARENS: WE HAVE A REPORT ON THE SIGHTING OF
13 MR. PITTMAN. WE HAVE THAT FROM THIS WITNESS.

14 THE COURT: IS THERE ANYTHING TO INDICATE THAT EITHER
15 THE DEFENSE DOWN THERE OR THE DEFENSE UP THERE HAD THE
16 INFORMATION ABOUT THIS WITNESS AND HIS IDENTIFICATION
17 OF MR. HUNT?

18 MR. WAPNER: WELL, I DON'T KNOW IF THERE IS ANY
19 WRITTEN DISCOVERY.

20 MR. CHIER: MR. WAPNER NEVER PROVIDED IT AND THAT
21 IS WHAT COUNTS IN THIS CASE. MR. WAPNER NEVER PROVIDED
22 THIS. THAT IS ALL THAT COUNTS IN THIS CASE. HE CANNOT
23 RELY UPON OR COUNT UPON SOMEONE ELSE DOING HIS DISCOVERY
24 FOR HIM.

25 THE COURT: WAS THIS INFORMATION MADE AVAILABLE
26 TO COUNSEL UP THERE?

27 MR. WAPNER: MY UNDERSTANDING IS THAT ALL OF THIS
28 DISCOVERY WAS PROVIDED TO COUNSEL AND THEY HAD IT ALL

1 MUCH BEFORE THE PRELIMINARY HEARING IN THE CASE IN SAN
2 MATEO COUNTY, WHICH WAS IN JANUARY OF 1986.

3 AND I CAN FIND OUT BY GETTING SOMEONE DOWN
4 HERE TO TESTIFY AS TO WHAT WAS TURNED OVER TO THEM.

5 THEY ASSURED ME THAT THEY HAD ALL OF THIS
6 INFORMATION.

7 MR. BARENS: YOUR HONOR, MR. CHIER MAKES THE POINT
8 THAT THE DUTY IN THIS CASE IS FOR THE PROSECUTOR IN LOS
9 ANGELES TO PROVIDE DEFENSE COUNSEL WITH DISCOVERY.

10 THERE IS NO BOOTSTRAPPING HERE WHERE HE CAN
11 JUST WALK IN AND SAY, "WELL, LISTEN, JUDGE, THE DEFENSE
12 HAD THIS AT THE TIME THEY WERE COUNSEL AT THE PRELIMINARY
13 HEARING UP THERE A YEAR AND A HALF AGO, SO IT IS IMPUTED
14 THAT THEY HAVE BOTH KNOWLEDGE AND POSSESSION OF THIS DOCUMENT
15 A YEAR AND A HALF LATER."

16 IT IS OBVIOUS WE ARE NOT COUNSEL UP THERE
17 SINCE JANUARY, A YEAR AND A HALF AGO. WE DID NOT COPY
18 12,000 PAGES WORTH OF MATERIALS TO RETAIN FOR THESE PROCEEDINGS
19 HERE IN THIS COURT.

20 THIS PROSECUTOR HAS NOT PROVIDED THE DEFENSE
21 WITH ANY ESLAMINIA MATERIALS IN PREPARATION FOR THIS HEARING.
22 YOU CAN'T SIMPLY SAY THAT BECAUSE WE HAD THOSE A YEAR
23 AND A HALF AGO, WE HAVE SOME SORT OF A DUTY

24 IT IS THEIR DUTY TO PROVIDE THE MATERIALS,
25 NOT MY DUTY TO GO SEEKING THEM.

270 1
1 MR. WAPNER: IF I THOUGHT THEY DIDN'T HAVE IT, I WOULD
2 HAVE GIVEN IT TO THEM. THAT IS MY RESPONSE.

3 MR. BARENS: YOUR HONOR, I NEVER REPRESENTED WE HAD
4 THAT MATERIAL.

5 THE COURT: WELL, DO THE BEST YOU CAN.

6 MR. WAPNER: WELL, IF THEY WANT TIME TO GET THIS REPORT
7 READ, WE WILL SEND THIS WITNESS BACK --

8 THE COURT: GIVE IT TO THEM NOW. WE CAN HAVE HIM COME
9 BACK SOME OTHER TIME. YOU HAVE GOT DISCOVERY NOW. HE CAN
10 COME BACK SOME OTHER TIME.

11 MR. BARENS: LET ME ASK YOU THIS, JUDGE. I DON'T KNOW
12 RELATIVE -- FOR INSTANCE, I AM SURE MR. WAPNER HAS HAD
13 CONVERSATIONS WITH MR. KARNY IN PREPARATION FOR THIS PHASE
14 OF THE PROCEEDING. I DON'T HAVE ANY INTERVIEW NOTES ON THAT
15 AS FAR AS HIS INTERVIEWS WITH KARNY RELATIVE TO THIS PENALTY
16 PHASE. I DON'T HAVE ANY INTERVIEW NOTES ON ANY PENALTY PHASE
17 WITNESSES.

18 THE COURT: WELL, GO AHEAD AND DO WHAT YOU CAN. DO
19 THE BEST YOU CAN.

20 IF YOU WANT TO HAVE THIS WITNESS COME BACK AND
21 STUDY THIS PARTICULAR REPORT IN THE MEANTIME AND PREPARE
22 YOURSELF FOR IT, GO AHEAD.

23 YOU CAN TALK TO THE DEFENDANT AND ASK HIM WHETHER
24 HE WAS THERE AND ASK HIM IF HE SAW THIS MAN.

25 MR. BARENS: YOUR HONOR, THE DEFENDANT IS -- WELL, I
26 CAN'T SAY WHAT HE IS SAYING RIGHT NOW BUT, YOUR HONOR, WHAT
27 WE ARE UP HERE FOR IS A SANCTION, WHICH I DON'T THINK WE ARE
28 GOING TO GET.

270 2
1 THE COURT: I DON'T THINK THERE HAS BEEN ANY DELIBERATE
2 OMISSION BY THE DISTRICT ATTORNEY WITH ANY DISCOVERY.

3 MR. BARENS: WILL YOUR HONOR MAKE AN INSTRUCTION TO
4 MR. WAPNER AT THIS JUNCTURE THAT HE MAKE AVAILABLE TO US
5 EVERYTHING?

6 THE COURT: I KNOW MR. WAPNER ALL THROUGHOUT IN GOOD
7 FAITH HAS GIVEN YOU EVERYTHING HE HAS WHICH IS OF ANY MOMENT
8 IN THIS CASE AND I WILL NOW DIRECT HIM, IF THERE IS ANYTHING
9 ELSE THAT YOU HAVE AS TO ANY OTHER WITNESSES WHICH PARTAKES
10 OF THE NATURE OF DISCOVERY WHICH YOU OUGHT TO DISCLOSE TO
11 THE DEFENDANT, I WANT YOU TO DO IT.

12 MR. WAPNER: ALL RIGHT.

13 MR. BARENS: YOUR HONOR, I DO NOT MEAN TO IN ANY WAY
14 SUGGEST A LACK OF GOOD FAITH ON MR. WAPNER'S PART. ALL I
15 AM SAYING IS THAT I THINK WE HAVE A MISCOMMUNICATION HERE
16 WHERE MR. WAPNER ASSUMES THAT I HAVE GOT A BUNCH OF STUFF
17 THAT I DON'T HAVE.

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1 THE COURT: WELL, MR. WAPNER WILL GIVE YOU ANYTHING
2 FROM ANY OTHER WITNESS THAT HE HAS, IF HE HAS NOT ALREADY
3 GIVEN IT TO YOU.

4 MR. BARENS: WE WOULD LIKE ALL DISCOVERY KNOWN TO THE
5 PEOPLE NOW CONCERNING INTERVIEW NOTES, EXHIBITS, POLICE
6 REPORTS AND THE LIKE ON ALL THE REMAINING WITNESSES IN THE
7 PENALTY PHASE.

8 MR. WAPNER: WELL, WE MIGHT AS WELL STOP RIGHT NOW AND --
9 THE COURT: WHAT DO YOU MEAN?

10 MR. WAPNER: BECAUSE THAT IS WHAT THEY WANT AND I HAVE
11 TO CALL WITNESSES THIS AFTERNOON AND --

12 THE COURT: GO AHEAD THE WAY YOU HAVE BEEN DOING IT.

13 MR. BARENS: I AM NOT LOOKING FOR A RECESS. TO THE
14 EXTENT THAT HE HAS THINGS, I WOULD LIKE THEM AND --

15 MR. WAPNER: I HAVE BEEN GIVING IT TO THEM IN THE PAST
16 AND I INTEND TO --

17 MR. BARENS: I DON'T DISPUTE THAT.

18 (THE FOLLOWING PROCEEDINGS WERE HELD
19 IN OPEN COURT:)

20
21 CROSS-EXAMINATION

22 BY MR. BARENS:

23 Q GOOD AFTERNOON, MR. HICKSON.

24 MR. HICKSON, WHEN YOU ENCOUNTERED MR. PITTMAN
25 OR MR. GRAHAM, THAT WAS ON JUNE 30, 1984?

26 A YES.

27 Q AND HOW DO YOU KNOW THAT DAY, SIR?

28 A IT WAS A MONDAY. I KNOW THAT THE DAY BEFORE --

2 ^ 2

1 MR. WAPNER: EXCUSE ME. WAS THAT JUNE OR JULY?

2 MR. BARENS: HE SAID JUNE. WHICH IS IT?

3 THE WITNESS: JULY.

4 THE COURT: YOU MEANT JULY, DIDN'T YOU?

5 MR. BARENS: THERE WAS CONFUSION IN MY NOTES. I THOUGHT
6 HE SAID JUNE, TOO. IF WE ARE CORRECTING THAT, THAT IS WHAT
7 I WANT TO DO.

8 THE COURT: JULY 30?

9 THE WITNESS: YES.

10 Q BY MR. BARENS: HOW DO YOU KNOW IT WAS THAT DAY?

11 A BECAUSE JERRY'S LAST DAY ON THE JOB WAS THE 31ST
12 OF JULY.

13 Q WHO IS JERRY?

14 A JERRY MILLER, THE BUILDING MANAGER.

15 Q OKAY. SO THAT IS HOW YOU KNOW? HE STOPPED ON
16 A TUESDAY? YOU RECOLLECT THAT THE 30TH WAS A MONDAY?

17 A UH-HUH.

18 MR. WAPNER: IS THAT YES?

19 THE COURT: DO YOU MEAN YES WHEN YOU SAY UH-HUH?

20 THE WITNESS: SORRY, YES.

21 Q BY MR. BARENS: WAS IT THE DAY AFTER THE BICYCLE
22 RACES IN THE OLYMPICS?

23 A I DON'T KNOW.

24 MR. BARENS: A MAJOR EVENT THAT WE ALL HAVE A RECOLLECTION
25 OF? OKAY.

26 Q IN ANY EVENT, YOU SAW HIM AND YOU SAY HE WAS
27 ALREADY IN THE BUILDING?

28 A YEAH.

1 Q WAS HE IN -- WHAT PART OF THE BUILDING WAS HE
2 IN?

3 A THE 200 LEVEL OF THE PARKING GARAGE.

4 Q OKAY. TO ACCESS THE 200 LEVEL, WOULD I NEED A
5 KEY?

6 A NOT REALLY. YOU COULD IF SOMEBODY WAS DRIVING
7 THROUGH THE AUTOMATIC GATE, YOU COULD WALK THROUGH.

8 Q ALL RIGHT. SO IF A CAR HAD ACTIVATED THE GATE,
9 I COULD KIND OF WALK IN WITH THE CAR?

10 A YEAH.

11 Q OR I SUPPOSE IF I HAD A KEY THAT ACTIVATES THE
12 GATE, I COULD COME IN, AS WELL?

13 A YES.

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1 Q ALL RIGHT. DID YOU ASK MR. PITTMAN HOW HE WAS
2 ABLE TO GET IN?

3 A I THINK I DID. AND I THINK THAT HE SAID THAT
4 SOMEBODY LET HIM IN.

5 Q OKAY. AND THEN YOU ASKED HIM -- HE ASKED YOU
6 FOR ASSISTANCE TO ENTER THROUGH THE DOORS?

7 A YEAH.

8 Q DID HE SAY WHERE HE WAS GOING?

9 A NO.

10 Q DID YOU ASK HIM?

11 A NO.

12 Q WAS HE BY HIMSELF, SIR?

13 A NO.

14 Q WHO WAS WITH HIM?

15 A TWO OTHER MEN.

16 Q WHERE DID THEY COME FROM?

17 A THEY WERE IN THE SEDAN.

18 Q OKAY. DID THEY EVER GET OUT OF THE BMW?

19 A NO.

20 Q AND HOW WAS HE WITH THEM IF THEY WERE IN THE BMW?

21 A BECAUSE HE LEFT WITH THEM.

22 Q HE GOT IN THE CAR AND LEFT WITH THEM?

23 A YES.

24 Q WHEN YOU SAW HIM INITIALLY, HE WAS BY HIMSELF?

25 A YES.

26 Q GOING INTO THE BUILDING?

27 A YES.

28 Q THEN THE BMW COMES INTO THE BUILDING?

1 A I OPENED THE GATE FOR THEM TO LET THEM IN.

2 Q WHERE WAS PITTMAN WHEN YOU OPENED THE GATE?

3 A HE WAS WITH ME.

4 Q SO HE WAS THERE WITH YOU? YOU OPENED THE GATE
5 FOR THE BMW BEFORE PITTMAN GOES INTO THE BUILDING?

6 A YEAH.

7 Q HE GOES INTO THE BUILDING BY HIMSELF?

8 A YES.

9 Q AND COMES OUT BY HIMSELF?

10 A NO.

11 Q WHO COMES OUT WITH HIM?

12 A HE LEAVES IN THE SEDAN.

13 Q WHEN HE COMES OUT OF THE BUILDING, WAS HE -- DID
14 HE WALK BACK TO THE BACK OF THE GARAGE TO GET IN THE BMW?

15 A WELL, IT IS BASICALLY THE SAME AREA. IT IS JUST
16 YOU KNOW, AN ELEVATOR LANDING INSIDE THE GARAGE. THAT IS
17 BASICALLY WHAT IT IS. STILL --

18 Q AND DID --

19 THE COURT: WAIT UNTIL HE FINISHES HIS ANSWER.

20 MR. BARENS: PARDON ME.

21 THE COURT: YOU MAY FINISH.

22 THE WITNESS: WE WERE LIKE, OUTSIDE OF THE ELEVATOR
23 AREA IN THE MIDDLE OF THE DRIVEWAY. THEN THEY WANTED OUT,
24 SO I LET THEM OUT.

25 Q BY MR. BARENS: ALL RIGHT. AT A POINT IN TIME,
26 PITTMAN GOES INSIDE THE BUILDING THROUGH SOME DOORS THAT YOU
27 ACCESS FOR HIM, IS THAT CORRECT?

28 A HE LEFT AND CAME BACK ABOUT TEN MINUTES LATER.

1 Q OKAY. DID YOU OPEN A DOOR THAT HE STEPPED THROUGH?

2 A NO.

3 Q WHAT WERE YOU TALKING ABOUT EARLIER WHEN YOU SAID --

4 WHAT DID YOU LET HIM IN THROUGH, SIR?

5 A I REALLY DIDN'T LET HIM INTO ANYTHING. HE WAS

6 ALREADY IN THE BUILDING.

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24B1

1 Q HE ASKED YOUR ASSISTANCE TO --

2 A HE TALKED TO ME FOR A FEW MINUTES, THEN LEFT.

3 THEN HE CAME BACK TEN OR FIFTEEN MINUTES LATER. THEN

4 HE WANTED ME TO OPEN THE GATE TO LET THEM BACK OUT.

5 Q DID YOU TESTIFY EARLIER THAT WHEN HE FIRST

6 ENCOUNTERED YOU IN THE AREA, HE ASKED YOU TO OPEN SOME

7 SORT OF A DOOR FOR HIM?

8 A YEAH. HE WANTED ME TO OPEN IT FOR THE CAR,

9 YEAH.

10 THE COURT: YOU MEAN THE GATE?

11 THE WITNESS: OPEN THE GATE FOR THE CAR, YEAH.

12 Q BY MR. BARENS: YOU NEVER OPENED A DOOR FOR

13 HIM?

14 A NO.

15 Q DID HE EVER GO INTO THE BUILDING PER SE? IN

16 OTHER WORDS, DID HE STAY IN THE GARAGE AREA, THIS LANDING

17 AREA FOR CARS THE WHOLE TIME OR DID HE EVER ACCESS THE

18 AREA THAT WOULD PERMIT YOU TO GO INTO THE BUILDING STRUCTURE,

19 PER SE, WHERE THE CONDOMINIUMS WOULD BE?

20 A I AM NOT SURE. BUT I THINK HE WENT UP THE

21 ELEVATOR. I AM NOT SURE.

22 Q DID HE GO UP THE ELEVATOR BY HIMSELF?

23 A YES.

24 Q RETURN BY HIMSELF?

25 A YES.

26 Q WHERE WAS THE B.M.W.? WAS IT PRESENT IN THE

27 GARAGE AT THE TIME HE WENT UP THE ELEVATOR?

28 A IT WAS AT THE END OF THE PARKING LOT.

24B2

1 Q IT WAS DOWN THERE AND THE PEOPLE IN THE B.M.W.
2 WERE THERE?

3 A YES.

4 Q THEY NEVER LEFT AND WENT UP THE ELEVATOR,
5 DID THEY?

6 A I DIDN'T SEE THEM. AND --

7 Q OKAY --

8 A LEAVE THE CAR.

9 Q OKAY. SO THEN WHEN HE COMES BACK, HE IS ALL
10 BY HIMSELF?

11 A YES.

12 Q WAS HE CARRYING ANYTHING?

13 A NO.

14 Q OKAY. HE LOOKS PRETTY MUCH THE SAME WAY AS
15 HE DID WHEN HE LEFT AT THE BEGINNING?

16 A YES.

17 Q THEN THEY LEAVE?

18 A YES.

19 Q DID YOU HAVE TO -- HE IS WEARING THE SAME
20 CLOTHES AND EVERYTHING WHEN HE LEFT, WASN'T HE?

21 A YES.

22 Q IT WAS A JOGGING SUIT AND SHOES?

23 A YES.

24 Q WHEN HE LEFT IN THE B.M.W., YOU HAD TO LET
25 HE AND THE OTHER GENTLEMEN OUT?

26 A YES.

27 Q OKAY. DID YOU TALK TO OTHER PEOPLE IN THE
28 B.M.W.?

24B3

1 A NO, I DID NOT.

2 Q OKAY. HOW MUCH TIME ELAPSED BETWEEN THE TIME
3 YOU FIRST SEE PITTMAN AND LET THE B.M.W. IN AND HE GOES
4 UP THE ELEVATOR AND COMES BACK AND LEAVES IN THE B.M.W.?

5 A TEN OR FIFTEEN MINUTES.

6 Q TOTAL?

7 A YES.

8 Q THAT WAS AT WHAT TIME OF DAY?

9 A THAT IS PROBABLY 9:15 OR 9:30 BY NOW, YOU
10 KNOW.

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1 Q A.M.?

2 A A.M.

3 Q NOW, YOU NEVER SAW HIM AGAIN THAT DAY, SIR?

4 A NOT THAT DAY, NO.

5 Q AND YOU NEVER SAW THE B.M.W. AGAIN?

6 A NO.

7 Q OKAY. NOW THAT IS ON MONDAY?

8 A THAT IS ON MONDAY.

9 Q MORNING?

10 NOW THE NEXT DAY IS TUESDAY AND YOU SEE MR.

11 PITTMAN AGAIN?

12 A YES.

13 Q AND AT WHAT TIME?

14 A BETWEEN 4:00 AND 4:30.

15 Q IN THE AFTERNOON, SIR?

16 A YES, UH-HUH.

17 Q AND YOU ENCOUNTERED HIM WHERE, SIR?

18 A THE FRONT OF THE MANAGER'S OFFICE, JERRY MILLER.

19 Q NOW, THE MANAGER'S OFFICE IS LOCATED WHERE,

20 SIR?

21 A 300 LEVEL OF THE 400 BUILDING.

22 Q NOW, THAT IS AN AREA THAT WOULD SHARE A COMMON

23 FLOOR WITH ADMINISTRATIVE OFFICES AND THE CONDOMINIUM

24 AREA?

25 A YES.

26 Q THAT WOULD BE IN A SECURITY PROTECTED AREA

27 OF THE BUILDING?

28 A SUPPOSEDLY, YES.

25-2

1 Q WOULD I NEED A KEY OR SOME DEVICE TO ACCESS
2 THAT AREA?

3 A YES.

4 Q WHAT WAS HE WEARING THAT DAY?

5 A SAME THING.

6 Q EITHER THE SAME OR SIMILAR APPEARING JOGGING
7 SUIT?

8 A YES.

9 Q WAS HE BY HIMSELF?

10 A YES.

11 Q AND HE WAS HAVING CONVERSATION WITH MR. MILLER?

12 A I RAN INTO HIM FIRST AND THEN I, MORE OR LESS,
13 INTRODUCED HIM TO JERRY MILLER AND WE TALKED FOR FIVE
14 MINUTES AND THEN HE PROCEEDED ON HIS ROUTE.

15 Q WHY DID YOU INTRODUCE MR. MILLER?

16 A OH, HE HAD ME CONVINCED THAT HE WAS AN OLYMPICS
17 BOXER AND I THOUGHT HE WAS AFFILIATED WITH SOMEBODY IN
18 THE BUILDING AND JERRY, THE MANAGER, ASKED HIM IF HE WAS
19 AND HE SAID YES, AND THEN THAT WAS BASICALLY ABOUT IT.

20 AND THEN HE PROCEEDED DOWN THE CORRIDOR WHERE
21 HE WAS GOING AND THAT WAS THE LAST TIME I SAW HIM.

22 Q I JUST CAN'T RESIST ASKING IF YOU THINK HE
23 WAS THE BIGGEST WELTERWEIGHT YOU EVER SAW BUT I WILL LEAVE
24 THAT ALONE.

25 WHEN YOU INTRODUCED HIM TO MR. MILLER, DID
26 YOU INTRODUCE HIM AS JIM GRAHAM?

27 A I DON'T THINK I INTRODUCED HIM BY NAME.

28 I JUST HAPPENED TO SAY CASUALLY, "THIS IS

1 THE FELLOW I WAS TELLING YOU ABOUT," SOMETHING LIKE THAT.

2 Q DID MR. GRAHAM GIVE HIM HIS NAME?

3 A I DON'T THINK SO.

4 Q ALL RIGHT. HE HAD FREELY GIVEN YOU HIS NAME?

5 A YES.

6 Q OKAY. DID YOU LISTEN TO WHAT THEY DISCUSSED?

7 A THE ONLY THING THAT THEY DISCUSSED WAS THAT
8 HE WAS SUPPOSEDLY STAYING WITH SOMEBODY IN THE BUILDING,
9 WHICH JERRY KNEW BY NAME, AND THEN JIM GRAHAM SAID, "I
10 HAVE GOT SOME TICKETS I AM GOING TO LEAVE TO YOU AND I
11 WOULD APPRECIATE IT IF YOU PASSED THEM ON TO KEN."

12 AND THEN THAT WAS IT.

13 Q AT THE END OF THAT DIALOGUE WHO LEFT FIRST,
14 DID YOU LEAVE GRAHAM THERE WITH MILLER OR DID GRAHAM LEAVE
15 THE TWO OF YOU FELLOWS? HOW DID THE MEETING BREAK DOWN?

16 A GRAHAM LEFT FIRST, YES.

17 Q HE LEFT?

18 A YES.

19 Q DID YOU SEE HOW HE LEFT?

20 A HE WAS HEADING DOWN THE SOUTH CORRIDOR.

21 Q TOWARD THE ELEVATOR?

22 A NO.

23 Q TOWARDS THE STAIRS.

24 A TOWARD THE -- OUT THIS DIRECTION. (WITNESS
25 INDICATING ON DIAGRAM.)

26 Q I AM SORRY. I CAN'T SEE THAT, SIR.

27 A HERE IS THE OFFICE AND HE WAS GOING DOWN THIS
28 CORRIDOR AND MADE A RIGHT HERE AND WAS WALKING DOWN THIS

1 CORRIDOR THE LAST TIME I SAW HIM. (WITNESS INDICATING.)

2 Q IF I GET TO THE END OF THE CORRIDOR, DO I
3 ENCOUNTER SOME STAIRS, SIR?

4 A YES.

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1 Q AND THEY LEAD TO WHERE?

2 A EITHER OUT TO THE STREET, DOWN TO THE PARKING
3 LOTS BELOW OR UP THE STAIRWELL GOING UP TO THE REST OF
4 THE LEVELS.

5 Q DID YOU KNOW WHERE THE CONDOMINIUM UNIT WAS
6 OF THESE PEOPLE HE WAS SUPPOSEDLY STAYING WITH?

7 A NO.

8 Q ALL RIGHT. DO YOU RECALL WHAT WAS THE LAST
9 THING SAID LIKE, "I WILL SEE YOU LATER, OR NICE TALKING
10 TO YOU," OR ANY WORDS TO THAT EFFECT?

11 A I THINK IT WAS JUST BASICALLY, "I HAVE GOT
12 TO GO AND NICE MEETING YOU," WHATEVER, SOMETHING LIKE
13 THAT. I HAVE FORGOTTEN.

14 Q DID YOU EVER SEE HIM AGAIN AFTER THAT?

15 A NO.

16 Q DID HE GIVE ANYTHING TO MR. MILLER OR DID
17 MR. MILLER GIVE ANYTHING TO HIM?

18 A NO.

19 Q NOW, THAT IS 4:30 OR SO ON TUESDAY?

20 A YES.

21 Q NOW THE THIRD ENCOUNTER THAT I BELIEVE YOU
22 DESCRIBED IS ONE IN WHICH YOU SAW MR. HUNT?

23 (WITNESS NODS HEAD UP AND DOWN.)

24 Q WHEN DOES THAT OCCUR, SIR?

25 A I AM NOT REALLY CERTAIN. I COULDN'T SAY THE
26 DATE -- THE DATE OF THAT OCCURRENCE.

27 Q OKAY. WELL KNOWING, AT LEAST TO ME, THIS IS
28 REAL IMPORTANT, WHAT I WANT YOU TO DO IS TRY TO BE SURE

1 AS YOU CAN BE WHETHER THAT WAS BEFORE OR AFTER TUESDAY
2 WHEN YOU SEE HIM WITH MR. MILLER.

3 A I THINK IT WAS BEFORE.

4 Q HOW DO YOU KNOW THAT?

5 A I AM NOT SURE.

6 Q OKAY. IS THAT JUST SOME KIND OF A BEST GUESS
7 ON YOUR PART?

8 A I HAVE BEEN TRYING TO THINK OF EXACTLY WHEN
9 IT WAS AND I CAN'T, TO BE PERFECTLY HONEST, BUT I-- ALL
10 I CAN SAY IS I THINK IT WAS BEFORE, THAT IS THE BEST ANSWER
11 I CAN GIVE YOU.

12 IF YOU WANT A DATE, I CAN'T GIVE YOU A DATE
13 OR TIME.

14 Q COULD YOU HELP ME ON WHAT MAKES YOU THINK
15 IT WAS BEFORE THE INCIDENT YOU HAVE DESCRIBED?

16 A I DON'T KNOW. I DON'T KNOW.
17 THAT WAS THREE YEARS AGO.

18 Q OKAY.

19 A I DON'T KNOW.

20 Q COULD IT HAVE BEEN AFTER?

21 A YES, MIGHT HAVE BEEN. I DON'T KNOW.

22 Q YOU JUST DON'T KNOW?

23 A I DON'T KNOW.

24 THE COURT: YOUR BEST RECOLLECTION IS THAT IT WAS
25 BEFORE; IS THAT YOUR BEST RECOLLECTION?

26 THE WITNESS: WELL, I DIDN'T KNOW, I DIDN'T KNOW
27 WHO THE MAN WAS AND IT WAS REALLY, YOU KNOW, IRRELEVANT,
28 AT THE TIME, YOU KNOW. IT DIDN'T MAKE ANY --

1 YOU KNOW, YOU RUN INTO SOMEBODY AND IT DOESN'T
2 REGISTER IN YOUR MIND WHO THEY ARE OR WHAT THEY ARE DOING
3 OR, YOU KNOW, I DON'T KNOW.

4 THE COURT: YOU MIGHT NEED SOME MORE?

5 MR. BARENS: OH, YES, YOUR HONOR.

6 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN OF THE
7 JURY, WE WILL TAKE OUR CUSTOMARY 15-MINUTE RECESS AT THIS
8 TIME.

9 (RECESS.)

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1 THE COURT: YOU MAY PROCEED.

2 Q BY MR. BARENS: MR. HICKSON, WE WERE TALKING
3 BRIEFLY ABOUT YOUR BEST RECOLLECTION AS TO WHEN YOU SAW
4 MR. HUNT THERE IN THE SKYROOM. AND AS HIS HONOR PUT IT TO
5 YOU, IS IT YOUR BEST RECOLLECTION THAT THAT WAS PRIOR TO
6 JULY 30?

7 A YES.

8 Q OKAY. PERHAPS ONE WAY YOU MIGHT FIX THAT IN YOUR
9 MIND, DID YOU WATCH THE OPENING CEREMONIES FOR THE OLYMPICS?

10 A I THINK I DID, YES.

11 Q YEAH. THAT WAS ON SATURDAY, THE 28TH?

12 A UH-HUH.

13 Q KIND OF A MAJOR THING? I BET YOU REMEMBER THAT
14 FAIRLY WELL, HEY?

15 A YES.

16 Q DO YOU THINK YOU HAD SEEN MR. HUNT PRIOR TO THAT
17 IN THE SKYROOM?

18 A I THINK IT WAS. I AM NOT SURE. I THINK IT WAS.

19 Q OKAY. DO YOU REMEMBER THE TIME OF DAY THAT MIGHT
20 HAVE BEEN?

21 A I THINK IT WAS AFTER LUNCH, AROUND 1:00 IN THE
22 AFTERNOON.

23 Q AND YOU HAPPENED ENTER THIS -- HOW MANY SQUARE
24 FEET WOULD YOU SAY THE SKYROOM IS?

25 A PROBABLY 1,000.

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2: 1 Q AND IS IT SURROUNDED ON FOUR SIDES BY WINDOWS?

2 A THREE SIDES.

3 Q THREE SIDES BY WINDOWS?

4 WHICH SIDE WOULD BE OBSCURED BY SOMETHING OTHER
5 THAN WINDOWS, SIR?

6 A WELL, AS SOON AS YOU GET OFF THE ELEVATOR, THERE
7 IS A DOOR WITH A SPECIAL TYPE OF BLOCK.

8 Q ALL RIGHT. AND OTHER THAN THAT, I GUESS IT IS
9 CALLED THE SKYROOM, BECAUSE IT PROVIDES A FAIRLY NICE VIEW
10 OF THE SURROUNDING AREA?

11 A YES.

12 Q AND IT IS SOMEWHAT OF A PANORAMIC SETTING, ONE
13 CAN SEE ALL AROUND WHAT IS HAPPENING FROM THAT ROOM?

14 A WELL, IT HAS GOT CURTAINS, SO TO ACTUALLY GET
15 A REAL GOOD VIEW, YOU WOULD HAVE TO STEP OUT ON THE TERRACE
16 OR THE ROOF AREA TO REALLY SEE ANYTHING BECAUSE THE REST IS
17 ALL CLOSED WITH CURTAINS.

18 Q AND THE THREE SIDES ARE SURROUNDED BY THIS TERRACE,
19 SIR?

20 A ONE SIDE HAS THE TERRACE. THE OTHER TWO SIDES
21 IS THE ROOF AREA.

22 Q OKAY. WHEN YOU ENTERED THE ROOM, IS MR. HUNT
23 IN THE ROOM BY HIMSELF?

24 A YES.

25 Q AND HOW IS HE DRESSED?

26 A IN A SUIT.

27 Q AND TIE?

28 A YES.

1 Q AND HE NEVER SPEAKS TO YOU?

2 A I THINK HE MIGHT HAVE SAID HI OR SOMETHING. I
3 AM NOT SURE.

4 Q HE STOOD UP WHEN YOU CAME IN THE ROOM?

5 A YES.

6 Q BEFORE HE SPOKE TO YOU, SIR?

7 A PARDON ME?

8 Q BEFORE HE SPOKE TO YOU, HE STOOD UP?

9 A HE WAS LIKE -- I THINK HE WAS CURIOUS OF WHO WAS
10 WALKING INTO THE ROOM, SO HE LIKE MET ME ALMOST AT THE DOORWAY--

11 Q I SEE.

12 A -- WHEN I WAS WALKING IN.

13 Q AND THEN SAID HELLO TO YOU?

14 A YEAH.

15 Q AND YOU SAID?

16 A SAME BACK, I THINK.

17 Q DID YOU HAVE ANY FURTHER DISCUSSION?

18 A NO.

19 Q WERE YOU SURPRISED TO SEE HIM IN THAT ROOM?

20 A YES.

21 Q DID YOU SAY ANYTHING TO HIM ABOUT THAT?

22 A NO.

23 Q AND DID HE WALK BACK TO WHERE HE HAD EVIDENTLY
24 BEEN SEATED BEFORE YOU SAID HELLO TO HIM?

25 A HE WAS MORE OR LESS LIKE WALKING AND STRETCHING
26 OR STRETCHING HIS LEGS OR SOMETHING.

27 Q DID HE APPEAR TO BE WAITING FOR SOMEONE?

28 A YEAH, IT LOOKED LIKE IT TO ME, YEAH.

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Q AND THE FELLOW, THE HUNT GENTLEMAN YOU SAW, WAS
A TALL MAN?

A YES.

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28 1 Q PROBABLY TALLER THAN I?

2 A YES.

3 Q I SEE. IN ANY EVENT, AFTER YOU SAID HELLO, DID
4 HE GO BACK AND SIT DOWN?

5 A NO.

6 Q HE THEN WENT WHERE?

7 A HE WAS KIND OF STANDING AROUND, KIND OF NERVOUSLY
8 AND I THOUGHT I WAS INTERRUPTING HIM OR SOMETHING. SO I DIDN'T
9 STICK AROUND TOO LONG.

10 Q COULD YOU TELL US WHAT YOU WERE INTERRUPTING?

11 A NO.

12 Q JUST SOME KIND OF SENSE THAT YOU HAD THAT YOU
13 WERE INTERRUPTING SOMETHING?

14 A YES, HIS PRIVACY OR WHATEVER. I DON'T KNOW.

15 Q SOMETHING HUNT APPEARED TO BE DOING BY HIMSELF,
16 EVIDENTLY?

17 A YEAH.

18 Q AND DID HE LEAVE THE SKYROOM WHEN YOU WALKED IN?

19 A NO.

20 Q HE WENT BACK TO SIT DOWN OR --

21 A HE WENT BACK TO THE GENERAL AREA WHERE HE WAS
22 WORKING.

23 Q AND WAS KIND OF STANDING AROUND?

24 A YEAH.

25 Q DID HE HAVE ANYTHING IN HIS HANDS?

26 A I AM NOT SURE.

27 Q OKAY. YOU USED THE KEY TO GET INTO THIS ROOM,
28 SIR?

1 A YES.

2 Q I PRESUME MR. HUNT MUST HAVE USED SOME KEY OR
3 SOMETHING TO GET INTO THAT ROOM?

4 A YOU HAVE TO GET INTO THAT ROOM WITH A KEY, YES.

5 Q ALL RIGHT. SO IF I CAME UP -- EVEN IF I WAS
6 SOMEHOW IN THAT BUILDING, TO GET INTO THAT SPECIAL ROOM, I
7 WOULD HAVE TO HAVE ANOTHER KEY OR SOME KEY TO ACCESS THAT
8 ROOM, AS WELL?

9 A IT TAKES AN EXTRA KEY. ONLY THE MEMBERS ARE
10 ENTITLED TO THOSE KEYS.

11 Q OKAY. SO JUST BECAUSE I HAVE A KEY TO MY CONDO
12 UNIT, ASSUMING I LIVE AT THE BELMONT, DOESN'T NECESSARILY
13 MEAN THAT I HAVE A KEY TO THE SKYROOM?

14 A NOT NECESSARILY. YOU WOULD HAVE TO APPLY FOR
15 ONE YOU KNOW, MAKE A SPECIAL REQUEST FOR ONE.

16 Q IT WOULD CERTAINLY BE A DIFFERENT KEY THAN THE
17 KEY TO MY CONDO?

18 A YEAH.

19 Q DEFINITELY. NOW, AFTER HE IS STANDING AROUND
20 THE GENERAL AREA WHERE HE HAS BEEN SEATED, WHO LEFT THE ROOM
21 FIRST, SIR, YOU OR MR. HUNT?

22 A I DID. I WAS ONLY THERE FOR ABOUT A MINUTE.

23 Q OKAY. YOU SAY THAT HE HAD LEFT SOME PAPERS ON
24 THE TABLE?

25 A YEAH.

26 Q WHEN DID YOU DISCOVER THOSE PAPERS?

27 A WHEN I WAS CHECKING THAT ROOM. I WAS YOU KNOW,
28 CHECKING FOR ANY TYPE OF MESS THAT PEOPLE MIGHT HAVE LEFT

1 OR LIGHTS BURNED OUT OR ANYTHING, YOU KNOW, ANY NUMBER OF
2 THINGS.

3 Q HOW LONG WAS IT AFTER MR. HUNT HAD LEFT THE ROOM?

4 A PARDON ME?

5 Q WHERE WAS MR. HUNT WHEN YOU SAW THOSE PAPERS?

6 A STANDING AROUND BY THE COFFEE TABLE AND COUCH.

7 Q OKAY. AND THE PAPERS WERE ON THE COFFEE TABLE?

8 A YES.

9 Q AND WHEN YOU CAME INTO THE ROOM, HE DIDN'T PICK
10 THOSE PAPERS UP AND START TO PUT THEM AWAY OR ANYTHING LIKE
11 THAT, DID HE?

12 A NO.

13 Q WERE THE PAPERS TYPEWRITTEN OR HANDWRITTEN?

14 A I THINK THEY WERE TYPED. I AM NOT SURE.

15 Q DID YOU TAKE A LOOK AT WHAT THEY SAID?

16 A NO.

17 Q DID YOUR EYES HAPPEN TO FALL AND SEE ANY WORDS
18 AT ALL ON THOSE PAGES?

19 A NO.

20 Q HOW MANY PAGES COULD YOU OBSERVE?

21 A MAYBE SIX OR EIGHT, SOMETHING LIKE THAT.

22 Q SIX OR EIGHT PAGES?

23 A YES.

24 Q ASIDE FROM THAT, YOU SAW WHAT APPEARED TO BE A
25 TRAVELING ALARM CLOCK?

26 A YES.

27 Q WHAT COLOR WAS THAT?

28 A I THINK IT WAS BLACK. I AM NOT SURE.

1 Q AND THAT WAS PLACED NEAR THE PAPERS YOU HAVE
2 DESCRIBED?

3 A YES.

4 Q DID YOU SEE MR. HUNT PICK THAT UP WHEN HE WALKED
5 IN?

6 A NO.

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1 Q DID ANYTHING ELSE HAPPEN WHILE YOU WERE IN
2 THAT ROOM THAT YOU CAN REMEMBER?

3 A NO.

4 Q AND THEN AFTER DOING WHATEVER YOU WERE DOING
5 IN THAT ROOM, YOU JUST LEFT?

6 A YES.

7 Q WHEN YOU LEFT, DID THE DOOR AUTOMATICALLY
8 LOCK BEHIND YOU?

9 A YES.

10 Q ALTHOUGH YOU COULD EXIT THE ROOM WITHOUT USING
11 YOUR KEY AT ALL, I PRESUME?

12 A YES.

13 Q ON THAT FLOOR WHERE YOU ACCESS THE SKY ROOM,
14 AND LET'S MAKE SURE THAT I AM CORRECT IN WHAT WE ARE SAYING
15 HERE, SIR -- THE SKY ROOM IS LOCATED IN THIS BUILDING,
16 SIR?

17 A YES, UH-HUH.

18 Q WHAT WE CALL THE L-SHAPED BUILDING AND IT
19 IS ABOUT RIGHT HERE (COUNSEL INDICATING)?

20 A I THINK IT IS THIS WHOLE PORTION RIGHT HERE.

21 Q ALL RIGHT. THAT IS THE PORTION --

22 HAVE WE GOT SOUTH DOWN HERE?

23 MR. WAPNER: MAY I HAVE A MOMENT?

24 MR. BARENS: I JUST WANT TO SAY THIS FOR THE RECORD.

25 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

26 Q BY MR. WAPNER: MAYBE, MR. HICKSON, WOULD
27 YOU HAPPEN TO KNOW IF DOWN HERE IS SOUTH --

28 A YES.

29-2

1 Q WHERE IT SAYS "DAVEY GLEN ROAD"?

2 A AND SAN FRANCISCO IS UP HERE. REDWOOD CITY
3 IS OVER HERE AND THE OCEAN IS THAT DIRECTION AND THE BAY
4 IS THAT DIRECTION. (WITNESS INDICATING.)

5 MR. WAPNER: INDICATING THE OCEAN WOULD BE TO THE
6 LEFT OF THE DIAGRAM?

7 THE WITNESS: YES.

8 MR. WAPNER: AND SAN FRANCISCO BEING AT THE TOP --

9 THE WITNESS: YES.

10 MR. WAPNER: AND REDWOOD CITY BEING WHAT HE POINTED
11 ABOVE THE DIAGRAM AND THE BAY BEING WHAT HE POINTED TO
12 THE RIGHT OF THE DIAGRAM.

13 THE COURT: YES.

14 Q BY MR. BARENS: SO THE SKY ROOM, SIR, WOULD
15 BE IN AN AREA DIRECTLY SOUTH OF WHAT IS INDICATED ON THIS
16 DIAGRAM AS BEING THE LOBBY?

17 A YES.

18 MR. BARENS: THANK YOU, SIR. YOU MAY RESUME YOUR
19 SEAT.

20 (WITNESS COMPLIES.)

21 Q BY M. BARENS: AT ANY TIME BEFORE YOU LEFT
22 THE SKY ROOM, DID YOU SEE ANYBODY ELSE ENTER IT?

23 A NO.

24 Q DID YOU EVER SEE MR. HUNT AGAIN?

25 A NO.

26 Q AND YOUR RECOLLECTION AS TO TIME, SIR, ON
27 THE OCCASION THAT YOU SAW HIM THERE WAS ABOUT WHAT TIME
28 OF THE DAY OR NIGHT?

1 A I THINK IT WAS APPROXIMATELY 1:00.

2 Q IN THE --

3 A BUT I WOULDN'T REALLY SWEAR TO IT. IT WAS
4 EITHER BEFORE OR AFTER LUNCH. IT WAS MIDAFTERNOON.

5 Q DID YOU EVER MENTION THAT YOU HAD SEEN SOMEONE
6 IN THE SKY ROOM TO ANYONE?

7 A I FELT LIKE REPORTING IT BECAUSE IT IS REALLY
8 OFF LIMITS TO NONMEMBERS.

9 Q UNUSUAL?

10 A BUT I DIDN'T. I DIDN'T. I FIGURED HE WAS
11 SOMEBODY'S GUEST AND HE HAD PERMISSION SO I JUST -- I
12 DIDN'T REALLY REPORT IT BUT IT IS STRICTLY FOR MEMBERS
13 ONLY.

14 Q I SUPPOSE THAT WHEN YOU NEXT CAME TO THE SKY
15 ROOM, YOU NEVER AGAIN SAW THE PAPERS YOU HAVE MADE REFERENCE
16 TO OR THAT ALARM CLOCK?

17 A I AM SORRY. PARDON ME?

18 Q WHEN YOU NEXT WENT, WHENEVER IT WAS, RETURNED
19 TO THE SKY ROOM, YOU NEVER SAW THOSE PAPERS --

20 A NO.

21 Q -- AGAIN?

22 A NO.

23 Q OR THE ALARM CLOCK?

24 A NO, HUH-UH.

25 MR. BARENS: EXCUSE ME A MOMENT, YOUR HONOR.

26 (PAUSE IN PROCEEDINGS.)

27 MR. BARENS: THANK YOU, SIR.

28 THE COURT: ANY REDIRECT?

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MR. WAPNER: I JUST HAVE A FEW QUESTIONS, YOUR HONOR.

REDIRECT EXAMINATION

BY MR. WAPNER;

Q WHEN YOU REFERRED TO SEEING THE PERSON WHO IDENTIFIED HIMSELF AS GRAHAM IN THE BUILDING, ARE YOU INCLUDING IN YOUR DEFINITION OF THE BUILDING THE GARAGE AREA?

A OH, YES, YES.

Q SO WHEN YOU WERE IN THE ELEVATOR LOBBY THAT CONNECTS TO THE GARAGE AREA, THAT IS IN THE BUILDING BY YOUR DEFINITION?

A SURE, OH, YES. ANYTHING WHERE YOU HAVE TO HAVE A KEY TO GET INSIDE IS. I MEAN, THAT IS PART OF THE BUILDING AS FAR AS I AM CONCERNED.

Q I WANT TO ASK YOU A FEW MORE QUESTIONS ABOUT THE DOORS AT THE END OF THE HALLWAY ON THE FIRST FLOOR NEAR THIS UNIT THAT HAS A BLUE "X" IN IT.

IS THIS A DOORWAY AT THE EVERY END OF THE HALL?

A YES.

30 FO.

30-1

1 Q IS THERE A LOCK ON THAT DOOR?

2 A I AM NOT SURE BECAUSE THERE IS ONE ON THE VERY
3 END. YOU KNOW, THERE IS -- GOD, I THINK SO. YES. YES.

4 Q SO YOU NEED A KEY TO GET INTO THAT DOOR?

5 A YES.

6 Q SO IF SOMEONE IS CLIMBING -- YOU HAVE TO GO OUTSIDE
7 THAT DOOR TO GET TO THE STAIRWAY?

8 A YES.

9 Q SO IF YOU ARE GOING UP AND DOWN THE STAIRS, IF
10 YOU WANT TO GET INTO ANY PARTICULAR HALLWAY OF ANY PARTICULAR
11 FLOOR, YOU NEED A KEY?

12 A YES.

13 Q ALL RIGHT. AND IF YOU WALK OUT THIS DOOR AND
14 YOU WANT TO GO OUT TO DAVEY GLEN ROAD, IS THERE ANOTHER DOOR
15 THAT SEPARATES THE CONDO BUILDING FROM THE STREET?

16 A IT IS A WIRE MESH DOOR, HEAVY WIRE MESH.

17 Q A GATE?

18 A WROUGHT IRON.

19 Q AND DOES THAT DOOR HAVE A LOCK ON IT ALSO?

20 A YES.

21 Q THAT IS A LOCK JUST ON THE --

22 A OUTSIDE.

23 Q THOSE ARE LOCKS ON THE OUTSIDE?

24 A YEAH.

25 Q IF A PERSON HAS ACCESS TO THE BUILDING FROM THE
26 INSIDE, HE CAN OPEN THOSE DOORS WITHOUT A KEY?

27 A YEAH, YEAH.

28 Q THAT WOULD GO FOR THE DOOR --

30-2

1 A YOU COULD EXIT BUT YOU CAN'T ENTER. THAT IS THE
2 WAY ALL OF THE LOCKS ARE SET UP. YOU CAN EXIT BUT YOU CAN'T
3 ENTER.

4 Q WITHOUT A KEY?

5 A WITHOUT A KEY.

6 Q HOW FAR IS IT FROM THE DOOR AT THE END OF THE
7 HALLWAY TO THE WROUGHT IRON GATE?

8 A TWELVE FEET, APPROXIMATELY.

9 Q AND HOW FAR IS FROM THAT WROUGHT IRON GATE TO
10 THE STREET?

11 A OR 15 FEET. FROM THE WROUGHT IRON GATE TO THE
12 STREET IS ABOUT 30 PACES, 25 OR 30.

13 Q WHAT IS A PACE?

14 A WELL, LET'S SEE -- 40 FEET. 40 FEET.

15 Q IT IS 40 FEET FROM THE GATE TO THE STREET?

16 A YEAH.

17 Q IS THERE ANY WAY TO GET INTO THE SKYROOM LIKE
18 THROUGH A WINDOW OR SOMETHING WITHOUT A KEY?

19 A YEAH, IF YOU HAVE GOT A HELICOPTER.

20 Q SO ONCE YOU COME UP THE ELEVATOR AND GET OUT IN
21 THE HALLWAY, THE ONLY WAY TO GET ACCESS TO THE SKYROOM IS
22 THROUGH THE DOOR?

23 A WITH A KEY, YEAH.

24 MR. WAPNER: THANK YOU. NOTHING FURTHER.

25

26

RECROSS-EXAMINATION

27

BY MR. BARENS:

28

Q SIR, HOW DO YOU GET OUT ON THE TERRACE FROM THE

1 SKYROOM?

2 A THERE IS A SLIDING DOOR. THERE ARE TWO DOORS.
3 THERE IS A SLIDING GLASS DOOR AND THEN THERE IS ANOTHER LITTLE
4 EXIT DOOR.

5 Q ARE THOSE DOORS LOCKED?

6 A YEAH.

7 Q SO I WOULD NEED A KEY TO ACCESS THOSE DOORS, AS
8 WELL?

9 A FROM THE OUTSIDE.

10 Q HOW ABOUT FROM THE INSIDE?

11 A FROM THE INSIDE, YOU DON'T NEED A KEY.

12

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1 Q EVEN THOUGH THEY ARE LOCKED, YOU CAN JUST -- IT
2 IS AUTOMATIC ON THE INSIDE, GOING OUT?

3 A YES.

4 Q OKAY. IF I WERE INSIDE THE ROOM AND YOU WERE
5 COMING IN THE DOORS, AS YOU APPROACHED THE DOORS, COULD I
6 SEE YOU?

7 A YES. THERE IS A LITTLE WINDOW LIKE THOSE IN THAT
8 DOOR, RIGHT THERE.

9 Q OKAY. WOULD THEY BE ABOUT WINDOWS THAT SIZE?

10 A I THINK IT IS EXACTLY THAT SIZE.

11 MR. WAPNER: INDICATING THE DOOR AT THE BACK OF THE
12 COURTROOM?

13 THE WITNESS: PROBABLY ABOUT A FOOT AND A HALF BY FIVE
14 INCHES.

15 MR. BARENS: FIVE INCHES?

16 THE COURT: FIVE INCHES BY A FOOT AND A HALF.

17 MR. BARENS: ALL RIGHT. I WILL STIPULATE.

18 Q IN ANY EVENT, THERE IS ONE OF THOSE?

19 A YEAH.

20 Q AND YOU SAID THAT THERE WAS SOME KIND OF A
21 PECULIAR LOCK OR SOME KIND OF SOMETHING FLANKING THE DOORS
22 THAT YOU COULDN'T SEE THROUGH THERE?

23 A NO.

24 Q SO I WOULD HAVE TO LOOK THROUGH THAT WINDOW TO
25 SEE YOU COMING?

26 A YEAH.

27 Q OKAY. DOES IT TAKE TWO KEYS TO GET INTO THE
28 SKYROOM OR ONE KEY?

1 A ONE KEY.

2 Q A SINGLE KEY?

3 A YEAH.

4 Q OKAY. BY THE WAY, DID YOU SEE ANY KEYS ON THE
5 TABLE WHERE MR. HUNT HAD BEEN OR ANY KEYS AT ALL?

6 A NO.

7 Q THE ALARM CLOCK THAT YOU SAW THERE, YOU WERE
8 PRETTY SURE THAT MR. HUNT BROUGHT THAT WITH HIM, HEY?

9 A IT LOOKED LIKE IT WAS IN HIS POSSESSION WITH THE
10 PAPERWORK.

11 Q IT WOULDN'T BE SOMETHING THAT YOU WOULD FIND IN
12 THAT ROOM, OF COURSE?

13 A NO, HUH-UH.

14 Q FROM WHERE YOU ARE IN THAT SKYROOM AND THE
15 ADJACENT TERRACE, COULD YOU SEE THE 7-ELEVEN THAT IS LOCATED
16 NEAR THE BELMONT?

17 A IT IS A PRETTY WOODED AREA. AND I HAVE NEVER
18 REALLY SPENT ANY TIME OUT THERE TO BE ABLE TO EVALUATE THAT
19 OR ESTABLISH THAT. I DON'T KNOW.

20 I HAVE NEVER REALLY -- I AM SURE IF YOU WALKED
21 OUT ON THE ROOF, YOU COULD PROBABLY SEE IT. BUT I DON'T KNOW
22 IF YOU COULD SEE IT RIGHT FROM THE SKYROOM OR NOT. IT IS
23 REALLY A WOODED AREA.

24 Q YOU WOULD HAVE TO GO OUTSIDE AND WALK AROUND TO
25 DO THAT?

26 A I THINK SO. THERE IS A LOT OF TREES BLOCKING
27 THE VIEW.

28 MR. BARENS: THANK YOU.

31F

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THE COURT: THANK YOU VERY MUCH. THE WITNESS MAY BE
EXCUSED.

31-1

1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND TO BE SWORN.
2 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
3 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
4 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
5 SO HELP YOU GOD?

6 THE WITNESS: I DO.

7
8 ANDREW JOHANNES SWIERSTRA,
9 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
10 AS FOLLOWS:

11 THE CLERK: PLEASE TAKE THE STAND AND BE SEATED.

12 PLEASE STATE AND SPELL YOUR FULL NAME.

13 THE WITNESS: ANDREW JOHANNES SWIERSTRA.

14 THE COURT: HOW DO YOU SPELL THE LAST NAME?

15 THE WITNESS: S-W-I-E-R-S-T-R-A.

16 THE COURT REPORTER: AND YOUR MIDDLE NAME?

17 THE WITNESS: J-O-H-A-N-N-E-S.

18

19 DIRECT EXAMINATION

20 BY MR. WAPNER;

21 Q MR. SWIERSTRA, WHERE DO YOU WORK?

22 A I WORK AT THE VILLA MOTEL IN SAN MATEO.

23 Q IS THAT IN THE CITY OF SAN MATEO?

24 A YES, IT IS.

25 Q WHAT STREET IS IT LOCATED ON?

26 A IT IS ON EL CAMINO REAL.

27

28

31-2

1 Q AND WERE YOU WORKING THERE IN 1984?

2 A YES, I WAS.

3 Q WHERE IS THE CITY OF SAN MATEO LOCATED IN
4 RELATION TO THE CITY OF BELMONT?

5 A IT IS RIGHT NEXT DOOR. IT IS ADJACENT.

6 Q HOW FAR IS THE VILLA MOTEL FROM THE CITY LINE
7 SEPARATING BELMONT AND SAN MATEO, IF YOU KNOW?

8 A I WOULD SAY ABOUT HALF A MILE.

9 Q ARE YOU FAMILIAR WITH THE INTERSECTION OF
10 DAVEY GLEN ROAD AND EL CAMINO REAL?

11 A YES, I AM.

12 Q HOW FAR IS THAT FROM THE VILLA MOTEL?

13 A IT IS ABOUT THE SAME DISTANCE, IT IS ABOUT
14 HALF A MILE.

15 Q DO YOU SEE THE DIAGRAM THAT IS ON THE BOARD
16 THAT INDICATES DAVEY GLEN ROAD AND EL CAMINO REAL?

17 A UH-HUH.

18 Q IS THAT YES?

19 A UH-HUH, YES.

20 Q YOU HAVE TO SAY YES SO SHE CAN WRITE IT DOWN.

21 A YES.

22 Q AND DO YOU SEE WHERE THE 7-ELEVEN IS LOCATED?

23 A YES.

24 Q IF A CAR WAS DRIVING DOWN DAVEY GLEN ROAD,
25 DOWN THE HILL OF DAVEY GLEN ROAD AND GOT TO THE INTERSECTION
26 OF EL CAMINO REAL, WHICH DIRECTION WOULD IT TURN, IF THE
27 PERSON DRIVING THE CAR WANTED TO GET TO THE VILLA MOTEL?

28 A THEY WOULD TURN LEFT.

1 Q FROM THIS INTERSECTION TO THE LEFT, IT WOULD
2 BE ABOUT HALF A MILE TO THE VILLA MOTEL?

3 A YES.

4 Q WHAT IS YOUR CAPACITY AT THE VILLA MOTEL NOW?

5 A 286 ROOMS.

6 (LAUGHTER IN COURTROOM.)

7 Q THAT WAS JUST A PLAIN PERSON ANSWERING A QUESTION
8 THAT A LAWYER THOUGHT HE WAS GOING TO GET A DIFFERENT
9 ANSWER TO. THE JOKE IS NOT ON YOU. THE JOKE IS ON ME.

10 WHAT DO YOU DO AT THE VILLA MOTEL RIGHT NOW?

11 A I AM CURRENTLY THE FRONT OFFICE MANAGER.

12 MR. WAPNER: THE HELICOPTERS ARE PASSING OVER --
13 MAYBE WE SHOULD STOP NOW.

14 THE COURT: YOU WILL RECOVER FROM IT. GO AHEAD.

15 Q BY MR. WAPNER: THANK YOU.

16 IN JULY OF 1984, WHAT WAS YOUR JOB AT THE
17 VILLA MOTEL?

18 A I WAS A DESK CLERK-CASHIER.

19 Q AND WERE YOU WORKING THERE ON JULY THE 29TH
20 OF 1984?

21 A YES, I WAS.

22 Q AND IN YOUR CAPACITY AS A DESK CLERK, WERE
23 YOU FAMILIAR WITH HOW GUESTS WERE CHECKED IN AND CHECKED
24 OUT OF THE MOTEL?

25 A YES.

26 MR. WAPNER: YOUR HONOR, I HAVE TWO DOCUMENTS HERE.
27 ONE APPEARS TO BE AN ORIGINAL AND THE OTHER IS A XEROX.
28 I WOULD LIKE TO HAVE THE XEROX MARKED AS PEOPLE'S 16.

1 THE COURT: SO MARKED.

2 (UNREPORTED COLLOQUY BETWEEN COUNSEL.)

3 Q BY MR. WAPNER: DO YOU RECOGNIZE THE XEROX
4 AS WELL AS THE OTHER DOCUMENTS THAT ARE MARKED PEOPLE'S
5 16 FOR IDENTIFICATION?

6 A YES.

7 Q WHAT ARE THOSE?

8 A THIS IS A REGISTRATION CARD AND A FOLIO.

9 THE COURT: REGISTRATION CARD AND WHAT?

10 THE WITNESS: AND A FOLIO.

11 THE COURT: WHAT IS A FOLIO?

12 THE WITNESS: A FOLIO IS JUST BASICALLY A STATEMENT
13 OF ALL CHARGES THAT WERE INCURRED WHILE THE GUEST IS THERE.

14 THE COURT: ALL RIGHT.

15 Q BY MR. WAPNER: AND THE DOCUMENT THAT APPEARS
16 TO BE THE SAME DOCUMENT THAT IS IN THE PLASTIC SLEEVE,
17 APPEARS TO BE THE SAME AS PEOPLE'S 16, IS THAT THE SAME
18 THING AS WHAT YOU HAVE DESCRIBED --

19 A YES.

20 Q -- AS THE REGISTER CARD AND THE FOLIO?

21 A YES.

22 Q ARE THOSE TWO ACTUALLY SEPARATE PIECES OF
23 PAPER?

24 A YES, THEY ARE.

25 Q DO YOU KNOW HOW THEY CAME TO BE COPIED ON
26 TO ONE PIECE OF PAPER IN THE PLASTIC SLEEVE, WHICH IS
27 IDENTICAL TO THE DOCUMENTS WE HAVE MARKED AS 16?

28 A I'M SORRY. I DON'T UNDERSTAND THE QUESTION.

31-5

1 Q ALL RIGHT. THEN LET ME BACK UP A LITTLE.
2 WHEN A PERSON COMES TO REGISTER AT THE MOTEL
3 OR THE HOTEL, DO YOU FILL OUT A REGISTRATION CARD?

4 A YES.

5 Q IS THAT DONE IN THE ORDINARY COURSE OF BUSINESS?

6 A YES, IT IS.

7 Q AND IS IT THE RESPONSIBILITY OF THE DESK CLERK,
8 CHECKING THE PERSON IN, TO FILL OUT THAT REGISTRATION
9 CARD?

10 A YES, IT IS.

11 Q AS FAR AS THE COPY OF THE REGISTRATION CARD
12 THAT IS IN FRONT OF YOU, WHO FILLED THAT OUT?

13 A THE GUEST AND MYSELF.

14 Q ARE YOUR INITIALS ON THERE SOMEPLACE?

15 A YES, IT IS.

16 Q WHAT WAS THE NAME OF THE GUEST WHO FILLED
17 OUT THIS PARTICULAR REGISTRATION CARD?

18 A WELL, IT SAYS HERE BEN DAVIS, SO I ASSUME
19 BEN DAVIS.

20 THE COURT: BEN WHAT?

21 THE WITNESS: BEN DAVIS.

22 Q BY MR. WAPNER: HOW WAS PAYMENT TO BE MADE
23 FOR THIS ROOM?

24 A BY CASH, AS IT IS CLEARLY MARKED ON THERE.

25 Q SO WHEN THIS PERSON CAME IN AND INDICATED
26 THAT HE WANTED TO PAY CASH, IS THERE SOMETHING THAT YOU
27 DID TO INSURE, TO ATTEMPT TO INSURE THE PAYMENT?

28 A YES, WE GET A VALID CALIFORNIA DRIVER'S LICENSE
29 OR PASSPORT, ANY KIND OF I.D.

32^ 1
1 Q AND WHY IS THAT?

2 A TO PROTECT THE HOTEL FROM THE GUESTS. YOU KNOW,
3 THE ROOMS HAVE VALUABLES. THERE ARE A LOT OF THINGS IN THE
4 ROOM. SO WE MADE IT A HOTEL POLICY FOR THE CLERKS TO DO SO.

5 YOU KNOW, THERE ARE TV'S, BEDS AND YOU KNOW, ALL
6 KINDS OF STUFF IN THE ROOM THAT THEY CAN TAKE.

7 Q WHAT IS THE PURPOSE OF GETTING A CALIFORNIA
8 IDENTIFICATION CARD OR DRIVER'S LICENSE?

9 A IN CASE SOMETHING HAPPENS, WE CAN TRACK THAT PERSON
10 DOWN.

11 Q IN THIS CASE, DID MR. DAVIS PROVIDE YOU WITH SOME
12 IDENTIFICATION?

13 A NO HE DIDN'T.

14 Q DID SOMEONE?

15 A YES. IT IS RIGHT OVER HERE.

16 Q WHAT WAS THE IDENTIFICATION THAT YOU WERE PROVIDED
17 WITH?

18 A A CALIFORNIA DRIVER'S LICENSE.

19 MR. WAPNER: YOUR HONOR, I HAVE ALSO A BLOWUP OF THIS
20 PARTICULAR CARD. MAY THAT BE MARKED?

21 THE COURT: 16-B.

22 MR. WAPNER: PERHAPS 16-B? THANK YOU.

23 Q DO YOU RECOGNIZE THIS EXHIBIT WE HAVE MARKED AS
24 16-B?

25 A YES I DO.

26 Q AND DOES THIS APPEAR TO BE A COPY OF THE DOCUMENT
27 THAT YOU HAVE IN FRONT OF YOU?

28 A YES IT DOES.

3?^ ?
1 Q AND SOME OF THE WRITING THAT IS ON THE DOCUMENT
2 THAT YOU HAVE IN FRONT OF YOU, DIDN'T COME OUT IN THE PARTICULAR
3 COPY, IS THAT RIGHT? IS THAT CORRECT?

4 A CORRECT. CAN YOU SAY THAT AGAIN? SORRY.

5 Q THE COPY THAT YOU HAVE IN FRONT OF YOU?

6 A YES.

7 Q DOES IT HAVE SOMETHING WRITTEN IN WHERE IT SAYS
8 "LICENSE NUMBER" THAT YOU CAN SEE?

9 A YES. WHERE IT SAYS "CARD NUMBER."

10 Q AND WHAT IS WRITTEN IN THERE?

11 A A CALIFORNIA DRIVER'S LICENSE.

12 Q AND WHOSE CALIFORNIA DRIVER'S LICENSE WAS IT?

13 A BELONGING TO A PERSON BY THE NAME OF GAMSKY.

14 Q AND DID YOU WRITE DOWN THE CALIFORNIA DRIVER'S
15 LICENSE NUMBER?

16 A YES I DID.

17 Q WHAT WAS THE CALIFORNIA DRIVER'S LICENSE NUMBER
18 THAT YOU WROTE DOWN?

19 A N969502.

20 Q DID YOU LATER TYPE THIS ON THE FOLIO?

21 A YES I DID.

22 Q DOES THAT APPEAR IN THE TYPING AT THE TOP OF THE
23 FOLIO WHERE IT SAYS N969502?

24 A YES IT DOES.

25 Q OTHER THAN USING THOSE DOCUMENTS, DO YOU HAVE
26 ANY INDEPENDENT RECOLLECTION OF THIS PARTICULAR TRANSACTION?

27 A NO I DON'T.

28 Q DOES THE REGISTRATION CARD INDICATE HOW MANY

32A-3
1 GUESTS WERE TO BE STAYING IN THE HOTEL?

2 A FOUR.

3 Q HOW MANY ROOMS WERE TO BE RENTED?

4 A TWO.

5 Q WHAT ROOMS WERE THEY?

6 A 145 AND 148.

7 Q WHY WAS IT THAT -- WELL, DO YOU KNOW IF YOU GOT
8 THIS DRIVER'S LICENSE FROM MR. DAVIS?

9 A I WOULD BELIEVE THAT I WOULD GET IT FROM THE
10 GENTLEMAN NAMED GAMSKY.

11 Q WHY IS THAT?

12 A WELL, IF SOMEONE WALKED UP WITH A DRIVER'S LICENSE
13 YOU KNOW, AND WROTE DOWN ON THE CARD BEN DAVIS THEN GAVE ME
14 A LICENSE THAT SAID GAMSKY, I WOULD WONDER WHY IT SAYS TWO
15 DIFFERENT PEOPLE. IT JUST WOULDN'T SEEM LEGIT.

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1 Q THE PURPOSE OF TAKING THE LICENSE IN THE FIRST
2 PLACE, IS TO HAVE SOMETHING TO PROTECT YOURSELF, RIGHT?

3 A YES.

4 Q DO YOU NORMALLY REQUIRE SOME KIND OF IDENTIFICATION
5 SUCH AS A LICENSE OR A CALIFORNIA IDENTIFICATION CARD?

6 A SOME SORT OF IDENTIFICATION UPON YOU KNOW, CASH.

7 Q WAS THE PAYMENT FOR THE ROOM TO BE AT THE TIME
8 OF THE REGISTRATION OR AT THE TIME OF THE CHECKOUT?

9 A AT THE TIME OF THE REGISTRATION.

10 Q DO YOU KNOW WHETHER IT WAS ONE OF THE OTHER THREE
11 PEOPLE THAT PRESENTED YOU WITH THIS DRIVER'S LICENSE THAT
12 SAID GAMSKY?

13 A SORRY?

14 Q THE DRIVER'S LICENSE THAT YOU WERE PRESENTED THAT
15 HAD THE NAME GAMSKY ON IT HAD A DRIVER'S LICENSE NUMBER ON
16 IT. DO YOU KNOW WHETHER IT WAS PRESENTED TO YOU BY ONE OF
17 THE OTHER THREE PEOPLE STAYING IN THE TWO ROOMS?

18 A IT WAS PRESENTED TO ME. I DON'T KNOW WHICH PERSON.
19 I ASSUME MR. GAMSKY GAVE IT TO ME. EXACTLY WHO, I CANNOT --

20 THE COURT: DOES IT HAVE A FIRST NAME ON IT?

21 THE WITNESS: PARDON ME?

22 THE COURT: DOES IT HAVE A FIRST NAME? GAMSKY, DOES
23 JUST THAT ALONE APPEAR ON THE LICENSE?

24 THE WITNESS: I DON'T KNOW THAT FOR SURE. I JUST WROTE
25 GAMSKY. THAT IS ALL I HAD WRITTEN DOWN.

26 Q BY MR. WAPNER: AND HOW LONG WERE THESE GUESTS
27 TO BE STAYING AT THE HOTEL?

28 A SUPPOSED TO BE THERE FOR ONE NIGHT.

1 Q HOW LONG WERE ALL FOUR OF THEM THERE, ONE NIGHT
2 OR LONGER?

3 A WELL, THEY HAD TWO ROOMS FOR THE FIRST NIGHT AND
4 ONE ROOM FOR THE SECOND NIGHT. THE SECOND ROOM, THEY PAID
5 FOR AN ADDITIONAL NIGHT.

6 Q THE FIRST NIGHT WOULD BE THE NIGHT OF THE 29TH
7 OF JULY, 1984?

8 A YES.

9 Q AND WHAT WERE THE TWO ROOMS THAT WERE OCCUPIED
10 AT THAT TIME?

11 A 145 AND 148.

12 Q AND ON THE NIGHT OF JULY 30, HOW MANY ROOMS WERE
13 THERE OCCUPIED?

14 A ONE.

15 Q WHICH ROOM WAS THAT?

16 A 148.

17 Q THEN THE PARTY CHECKED OUT ON THE DAY OF JULY
18 THE 30TH -- OR EXCUSE ME, THE 31ST?

19 A YES. THEY DID CHECK OUT.

20 Q AND THE REGISTRATION CARD, WHO FILLS OUT THE
21 PORTION OF THE CARD WHERE IT SAYS "SIGNATURE, NAME, RESIDENCE"?

22 A THE GUEST.

23 Q AND IN THIS CASE, THAT WOULD BE MR. DAVIS?

24 A YES.

25 Q AND DID HE FILL IN THAT PORTION OF THE CARD THAT
26 SAYS "145 SOUTH SWALL DRIVE"?

27 A YES.

28

32B-1

1 Q WHO TYPED UP THE FOLIO IN THIS CASE?

2 A I DID.

3 Q AND WERE BOTH OF THESE REGISTRATION CARDS
4 FILLED OUT IN THE ORDINARY COURSE OF BUSINESS?

5 A YES, THEY ARE.

6 Q AND IT IS FILLED OUT AT OR NEAR THE TIME THE
7 PERSON ACTUALLY CHECKS INTO THE HOTEL?

8 A AT THE TIME THE PERSON CHECKS IN.

9 Q WHO FILLS OUT THE FOLIO -- SORRY. LET ME
10 ASK YOU A DIFFERENT QUESTION.

11 IS THE FOLIO FILLED OUT IN THE ORDINARY COURSE
12 OF BUSINESS?

13 A YES.

14 Q AND IS IT DONE AT OR NEAR THE TIME THE CHARGES
15 REFLECTED ON THERE ARE MADE OR IS IT FILLED OUT AT THE
16 TIME THE PERSON CHECKS IN?

17 A AFTER THE PERSON CHECKS IN, THE NEXT STEP
18 FOR THE DESK CLERK IS TO TYPE UP THE FOLIO WITH THE NAME
19 AND ROOM NUMBER ON THERE.

20 Q I DIDN'T HEAR THE LAST PART.

21 A THE DESK CLERK -- THE NEXT LINE OF BUSINESS
22 IS FOR THEM TO TYPE UP THE FOLIO WITH THE NAME AND ROOM
23 NUMBER AND THE REST OF THE INFORMATION ON THERE.

24 Q THE NAME AND THE ROOM NUMBER AT THE TOP, CORRECT?

25 A YES.

26 Q AND THEN THERE ARE CHARGES THAT ARE REFLECTED
27 ON THE RIGHT-HAND SIDE?

28 A YES.

32B-2

1 Q AND ARE THOSE PLACED ON THERE AS THEY ARE
2 INCURRED?

3 A YES.

4 Q AND ON THE COPY THAT IS IN THE PLASTIC SLIP,
5 DOES IT INDICATE -- ARE YOU ABLE TO SEE WHERE IT SAYS
6 NUMBER OF GUESTS?

7 A IT SAYS FOUR.

8 Q DOES THAT APPEAR -- ARE YOU ABLE TO SEE THAT
9 ON THE COPY THAT IS THE XEROX, PEOPLE'S 16?

10 A VAGUELY.

33 FO.

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33-1

1 MR. WAPNER: YOUR HONOR, MAY I PASS THIS, THE ORIGINAL
2 THAT IS, IN THE PLASTIC SLEEVE BY THE JURY?

3 THE COURT: GO AHEAD.

4 MR. WAPNER: PERHAPS I CAN JUST GIVE IT TO THEM
5 AND THEY CAN LOOK AT IT AND PASS IT AMONG THEMSELVES.

6 (PAUSE IN PROCEEDINGS WHILE JURY
7 LOOKED AT EXHIBIT.)

8 MR. WAPNER: WHILE THEY ARE DOING THAT -- I WILL
9 JUST WAIT UNTIL THEY ARE FINISHED.

10 THE COURT: ALL RIGHT.

11 Q BY MR. WAPNER: OF THESE TWO ROOMS THAT WERE
12 RENTED, EACH BASICALLY BEING ONE ROOM WITH AN ATTACHED
13 BATH, OR ARE THEY SUITES?

14 A NO, THESE ROOMS, 145 WOULD HAVE 146 AND 147
15 IN BETWEEN THEM.

16 Q BUT EACH INDIVIDUAL ROOM, IS IT JUST A SINGLE
17 ROOM AS OPPOSED TO LIKE A SUITE WITH A ROOM AND A LIVING
18 ROOM?

19 A THAT IS CORRECT, IT IS A SINGLE ROOM.

20 Q AND IT WOULD HAVE --

21 A IT HAS -- THESE PARTICULAR TWO ROOMS HAVE
22 TWO BEDS IN IT AND HAS A BATHROOM.

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

24 OH, YOUR HONOR, MAY 16 AND 16-A BE RECEIVED
25 SUBJECT TO CROSS-EXAMINATION?

26 THE COURT: YES.

27 ANY QUESTIONS?

28 MR. BARENS: YES.

1 I JUST WANT TO MAKE A STATEMENT IN PASSING
2 BEFORE I PROCEED, YOUR HONOR, WITHOUT HAVING TO APPROACH
3 THE SIDE BAR, THAT THE DEFENSE HAD NOT RECEIVED THIS DOCUMENT
4 OR INTERVIEW NOTES. FOR THE RECORD, I AM OBLIGED.

5 THE COURT: GO AHEAD.

6 MR. BARENS: THANK YOU.

7
8 CROSS-EXAMINATION

9 BY MR. BARENS:

10 Q MR. SWIERSTRA, WHAT WAS THE DATE OF ARRIVAL
11 AT THE VILLA MOTEL?

12 A JULY 29TH.

13 Q AND WHAT TIME WAS IT?

14 A THE TIME, I COULDN'T TELL YOU.

15 Q WHEN THE INDIVIDUALS FIRST ARRIVED, DID THEY
16 SEE YOU?

17 A YES.

18 Q AND DO YOU REMEMBER WHO THESE PEOPLE WERE?

19 A NO, I DON'T.

20 Q THERE WAS A MR. DAVIS, SIR?

21 A THAT IS WHAT IS WRITTEN DOWN ON THE PAPER.

22 Q AND A MR. GAMSKY?

23 A YES.

24 Q DO YOU REMEMBER MEETING MR. GAMSKY?

25 A I DON'T REMEMBER THE OCCASION, NO.

26 Q DID MR. GAMSKY GIVE YOU THE DRIVER'S LICENSE
27 THAT SAID "GAMSKY" ON IT?

28 A YES, I BELIEVE SO.

1 Q WAS HE A BIG, TALL GUY?

2 A THAT, I DON'T REMEMBER.

3 Q THE CHARACTERISTICS OF THE INDIVIDUAL DIDN'T
4 STAND OUT IN YOUR MIND AT ALL?

5 A NO.

6 Q NOW, WHEN THE GUESTS CHECKED IN, THERE WERE
7 JUST TWO PEOPLE OR FOUR PEOPLE?

8 A WELL, THEY TOLD ME THERE WOULD BE FOUR PEOPLE.

9 I DON'T KNOW IF THERE WERE TWO OR FOUR THERE.
10 THERE WAS AT LEAST TWO. OR THERE WERE AT LEAST THREE
11 OR FOUR, I AM NOT SURE.

12 Q YOUR INFORMATION WAS, AT LEAST, THERE WOULD
13 BE AT LEAST FOUR PEOPLE FOR TWO ROOMS?

14 A YES.

15 Q THEY WERE GOING TO STAY HOW LONG?

16 A ONE NIGHT.

17 Q AND THEY ENDED UP STAYING IN FACT HOW LONG?

18 A WELL, THEY KEPT ONE ROOM FOR A SECOND NIGHT.

19 Q SO THE ROOM IS OCCUPIED THE NIGHT OF JULY
20 29TH?

21 A YES.

22 Q AND THE NIGHT OF JULY 30TH?

23 A JULY 30TH, JUST ROOM 145.

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25
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27
28

34-1
1 Q AND SOME PEOPLE AMONG THE GUESTS OCCUPIED ONE
2 OF THE ROOMS FOR A PERIOD OF TIME ON JULY 31ST?

3 A YES, THAT MORNING.

4 Q ALL RIGHT. IT IS A PERIOD OF TIME, YOUR HONOR.
5 DO YOU KNOW AT WHAT TIME THE ROOM IS VACATED ON
6 JULY 31ST?

7 A NO. I CAN'T TELL YOU THAT.

8 Q WHAT TIME IS CHECKOUT TIME IN YOUR FACILITY, SIR?

9 A CHECKOUT TIME IS 1 O'CLOCK.

10 Q SO, IT IS YOUR PRESUMPTION, IS IT NOT, SIR, THAT
11 THESE GUESTS LEFT ON THE 31ST SOMETIME PRIOR TO 1 O'CLOCK?

12 A YES. IT WOULD BE.

13 Q ON THE NIGHT OF THE 30TH, ONE ROOM WAS OCCUPIED?

14 A YES.

15 Q PRESUMABLY IF YOU KNOW, BY TWO PEOPLE?

16 A THE NUMBER OF PEOPLE, I WOULDN'T KNOW.

17 Q OKAY. THESE ARE ROOMS THAT CAN ACCOMMODATE TWO
18 PEOPLE, IF THEY GET ALONG?

19 A YES.

20 Q OKAY. AND THE ROOMS WERE NOT ADJOINING, AS I
21 UNDERSTAND IT?

22 A NO THEY WEREN'T.

23 Q OKAY. WHEN YOU GOT THE DRIVER'S LICENSE YOU
24 REFERENCED, YOU DIDN'T MAKE A XEROX COPY OF IT OR AN
25 IMPRINT OF IT OF ANY KIND, SIR?

26 A NO, JUST WRITE DOWN THE NUMBER FROM IT.

27 Q JUST TAKE THE NUMBER OFF OF IT? ALL RIGHT.

28 NOW, ARE YOU ABLE SIR, TO READ -- THERE ARE A

34-2
1 SERIES OF CHARGES IN THE RIGHT-HAND COLUMN STARTING WITH A
2 LINE ENUMERATED 1 THROUGH LINE 21.

3 ARE YOU ABLE TO MAKE OUT THOSE CHARGES?

4 A UH-HUH.

5 Q ALL RIGHT. CAN YOU MAKE OUT THE DATES OF THOSE
6 CHARGES? THE DATES ON WHICH THE CHARGES ARE INCURRED?

7 A UH-HUH.

8 THE COURT: I WILL GIVE YOU A MAGNIFYING GLASS. HERE
9 YOU ARE.

10 MR. BARENS: I AM HAVING TROUBLE WITH THIS, YOUR HONOR.

11 THE COURT: IT DEPENDS UPON HOW YOU FOCUS IT.

12 MR. BARENS: I AM GETTING BETTER FOCUSED IN MY LIFE.
13 NOW I SEE HOW TO USE IT, ACTUALLY.

14 Q CAN YOU TELL ME WHAT CHARGES THERE MIGHT BE ON
15 THE 31ST, IF ANY?

16 A ON THE 31ST?

17 Q YES, SIR.

18 A OKAY. AT ONE POINT, THEY POSTED TWO LOCAL PHONE
19 CALLS AT 40 CENTS APIECE. AND THEY POSTED 80 CENTS. SO THAT
20 WAS TWO LOCAL PHONE CALLS.

21 Q THAT IS ON THE 31ST?

22 A 31ST.

23 Q WHAT ELSE DO YOU SEE ON THE 31ST?

24 A THERE IS ALSO A LONG DISTANCE PHONE CALL, \$5.98.

25 Q AND --

26 A THAT COULD BE ONE OR MORE PHONE CALLS. THERE
27 IS ALSO ONE MORE LOCAL CALL. IT IS ALSO ON THE 31ST. THEY
28 PAID CASH FOR THOSE PHONE CALLS. THOSE ARE THE CHARGES ON

1 THE 31ST THAT I CAN SEE.

2 Q THERE ARE PHONE CALLS PRIOR TO THE 31ST?

3 A NO.

4 Q JUST ON THE 31ST?

5 A NOT POSTED ON THIS, NO.

6 Q WHAT ARE THE -- OTHER THAN THE ROOM CHARGES PER
7 SE THAT ARE RELECTED ON THERE, ARE THERE ANY OTHER CHARGES
8 ON THE BILL? YOU KNOW, ROOM CHARGES AND TAX AND STUFF LIKE
9 THAT -- BUT OTHER THAN THAT?

10 A OTHER THAN THE ROOM AND THE TAX PLUS THE PAYMENT
11 IN CASH, THAT IS IT.

12 Q DO YOU KNOW WHO PAID THE MONEY PER SE FOR THE
13 ROOM AND THE ADDITIONAL CHARGES?

14 A THE EXACT PERSON I COULDN'T TELL YOU.

15 Q WAS IT PAID TO YOU?

16 A THE \$116.64 ORIGINALLY PAID ON THE 29TH WAS PAID
17 TO ME. THE ADDITIONAL \$58.32 THE NEXT DAY WAS POSTED TO THE
18 MORNING CLERK. I RECOGNIZE HIS HANDWRITING.

19 Q WHEN THE PEOPLE CHECKED IN, DID YOU SEE TWO PEOPLE?

20 A I ASSUME I SAW TWO PEOPLE, THE PERSON CHECKING
21 IN, BEN DAVIS AND MR. GAMSKY.

22

23

24

25

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28

3
1 Q YOU BELIEVE YOU SAW THEM?

2 A YES.

3 Q AND DID YOU EVER SEE THE OTHER TWO PEOPLE?

4 A I CAN'T RECOLLECT THAT. I DON'T REMEMBER.

5 Q DO YOU SEE MR. GAMSKY IN THE COURTROOM?

6 A IF I SAW MR. GAMSKY, I WOULDN'T RECOGNIZE HIM.

7 MR. BARENS: THANK YOU, SIR.

8 MR. WAPNER: I HAVE NOTHING FURTHER.

9 THE COURT: ALL RIGHT, THANK YOU VERY MUCH.

10 YOU WILL BE EXCUSED.

11 MR. WAPNER: MAY WE APPROACH THE BENCH?

12 (THE FOLLOWING PROCEEDINGS WERE HELD

13 AT THE BENCH:)

14 MR. WAPNER: YOUR HONOR, I HAVE SOME PHOTOGRAPHS. THE
15 NEXT WITNESS IS A MAN NAMED SCOTT CARRIER. HE WORKS FOR THE
16 CORONER'S OFFICE AS AN INVESTIGATOR AND HE WAS ONE OF THE
17 PEOPLE WHO WENT OUT TO SOLEDAD CANYON AND COLLECTED THE BONES
18 OF MR. ESLAMINIA. HE TOOK SEVERAL PHOTOGRAPHS OF THE RECOVERY
19 OF THE BONES, INCLUDING PHOTOGRAPHS OF THE SKULL OF
20 MR. ESLAMINIA, AND I AM ANTICIPATING AN OBJECTION UNDER 352
21 AND I WANTED TO GIVE COUNSEL AN OPPORTUNITY TO LOOK AT THESE
22 PHOTOGRAPHS AND THE COURT, BEFORE I SHOW ANY OF THEM TO THE
23 JURY.

24 MR. BARENS: I WOULD LIKE MR. CHIER TO LOOK AT THOSE,
25 INSTEAD OF MYSELF, YOUR HONOR.

26 THE COURT: DO YOU HAVE A DELICATE STOMACH?

27 MR. BARENS: I HAVE A BIT, YOUR HONOR, ACTUALLY.

28 THE COURT: HE HASN'T GOT ONE?

1 MR. BARENS: I WASN'T A DOCTOR, EITHER, MUCH TO THE
2 DISAPPOINTMENT OF MY FATHER.

3 THE COURT: HIS FATHER IS A DOCTOR AND HE IS USED TO
4 IT.

5 MR. BARENS: YES.

6 MR. WAPNER: LEST I FORGET, BEFORE WE CAME UP HERE,
7 I DID INTEND TO CALL DETECTIVE ZOELLER BRIEFLY TO PREFACE
8 THIS, SO MAYBE WHAT I CAN DO, I WAS GOING TO CALL DETECTIVE
9 ZOELLER JUST TO KIND OF SET THE SCENE AND SAY "DID YOU TALK
10 TO MR. KARNY."

11 THE COURT: DID YOU TALK TO WHO?

12 MR. WAPNER: TO MR. KARNY. "AND AFTER TALKING TO HIM,
13 DID HE DIRECT YOU TO A LOCATION IN SOLEDAD CANYON AND DID
14 YOU GO THERE?"

15 AND SO MAYBE WHILE I AM DOING THAT, MR. CHIER
16 CAN BE LOOKING AT THESE PICTURES, UNLESS HE HAS SEEN ENOUGH
17 ALREADY.

18 THE COURT: I DON'T THINK THEY ARE SO REVOLTING.

19 MR. BARENS: THEN I WILL LOOK AT THEM.

20 THE COURT: DO THEY LOOK REVOLTING? THEY DON'T LOOK
21 TOO BAD.

22 MR. BARENS: WELL, LET ME ASK YOU: DO YOU THINK WE
23 OUGHT TO MAKE A FOUNDATION AS TO WHO IT IS AND ALL OF THAT
24 STUFF BEFORE WE START SHOWING BONES?

25 MR. WAPNER: IT IS A CATCH 22, HOW CAN YOU IDENTIFY
26 IT UNTIL YOU FIND THE BONES AND SAY WHO THE HECK IT IS?

27 THE COURT: YOU ARE GOING TO HAVE A CORONER OR SOMEBODY --

28 MR. WAPNER: THAT IS THE NEXT WITNESS.

1 THE COURT: -- OR A DENTIST OR SOMEBODY LIKE THAT TESTIFY,
2 COMPARE THE X-RAYS.

3 MR. WAPNER: RIGHT.

4 THE COURT: AND THEN THEY WILL TESTIFY THAT DURING HIS
5 LIFETIME, THEY COMPARED THIS WITH WHAT HE SEES THERE, IS THAT
6 THE IDEA?

7 MR. WAPNER: RIGHT.

8 PART OF THE REASON FOR DOING THIS IS THAT GIVES
9 THE JURY AN IDEA WHAT IT IS THEY HAD IN THE WAY OF -- THAT
10 THEY COULD TAKE X-RAYS OF TO IDENTIFY HIM.

11 MR. CHIER: WE WOULD OBJECT UNDER 352, YOUR HONOR.

12 THE COURT: WHAT ARE YOU OBJECTING TO?

13 MR. CHIER: THESE ARE SOMEWHAT INFLAMMATORY. THERE
14 IS NOTHING THAT CANNOT --

15 THE COURT: NO, THERE IS NOTHING THAT IS.

16 WHAT IS IT THE CHINESE SAY, ONE PICTURE IS WORTH
17 10,000 WORDS?

18 I WILL PERMIT THEM IN. I DON'T THINK THEY ARE
19 THAT REVOLTING THAT THEY SHOULD BE LIMITED. I WILL RECEIVE
20 THEM IF AN APPROPRIATE BACKGROUND IS LAID. ALL RIGHT.

21 MR. WAPNER: THANK YOU.

22 (THE FOLLOWING PROCEEDINGS WERE HELD

23 IN OPEN COURT:)

24 MR. WAPNER: CALL SCOTT CARRIER.
25
26
27
28

1 SCOTT CARRIER,
2 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
3 AS FOLLOWS:

4 THE CLERK: WILL YOU RAISE YOUR RIGHT HAND TO BE SWORN?
5 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU MAY
6 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
7 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP
8 YOU GOD?

9 THE WITNESS: I DO.

10 THE CLERK: PLEASE TAKE THE STAND AND BE SEATED.

11 PLEASE STATE AND SPELL YOUR FULL NAME.

12 THE WITNESS: MY NAME IS SCOTT CARRIER, C-A-R-R-I-E-R.

13

14

DIRECT EXAMINATION

15

BY MR. WAPNER:

16

Q MR. CARRIER, BY WHOM ARE YOU EMPLOYED?

17

A I AM A DEPUTY CORONER'S INVESTIGATOR FOR THE
18 MEDICAL EXAMINER-CORONER'S OFFICE IN LOS ANGELES COUNTY.

19

Q HOW LONG HAVE YOU WORKED FOR THE CORONER'S OFFICE
20 IN LOS ANGELES COUNTY?

21

A SINCE MAY 12, 1969.

22

23

24

25

26

27

28

35A-1

1 Q WHAT DOES A DEPUTY CORONER'S INVESTIGATOR
2 DO?

3 A IT IS MY RESPONSIBILITY TO GO TO THE SCENES
4 OF A DEATH, GATHER INFORMATION AND PICK UP REMAINS, DOCUMENT
5 THE INFORMATION AND GATHER EVIDENCE AND BRING THE REMAINS
6 BACK TO THE OFFICE FOR EXAMINATION BY ONE OF OUR DOCTORS.

7 Q YOU HAVE BEEN DOING THAT, WORKING IN THAT
8 CAPACITY SINCE 1969?

9 A SINCE NOVEMBER OF 1970.

10 Q WHAT IS YOUR TRAINING TO SERVE WITH THE CORONER'S
11 OFFICE IN THAT CAPACITY?

12 A I WAS A LICENSED EMBALMER IN 1962 AND I WORKED
13 PREVIOUSLY FOR A FUNERAL HOME, UTTER-MC KINLEY MORTUARIES
14 IN LOS ANGELES PRIOR TO WORKING FOR THE CORONER'S OFFICE.

15 Q ON NOVEMBER THE 30TH OF 1984, DID YOU RECEIVE
16 A CALL OR SOMEONE AT THE CORONER'S OFFICE RECEIVE A CALL
17 FROM DETECTIVE ZOELLER OF THE BEVERLY HILLS POLICE DEPARTMENT?

18 A YES, SIR, THEY DID.

19 Q IN RESPONSE TO THAT CALL, DID YOU GO WITH
20 SOMEONE FROM THE CORONER'S OFFICE -- DID YOU GO WITH SOMEONE
21 ELSE FROM THE CORONER'S OFFICE TO AN AREA OF LOS ANGELES
22 COUNTY?

23 A YES, I DID.

24 Q WHOM DID YOU GO WITH?

25 A A CRIMINALIST, LYNN HEROLD, FROM OUR DEPARTMENT.

36 FO.

26

27

28

1 Q AND AT THE REQUEST OF DETECTIVE ZOELLER, WHERE
2 DID YOU GO?

3 A MAY I REFER TO MY NOTES?

4 Q SURE.

5 A WE RECEIVED THIS CALL AT 1104 HOURS. AND
6 I WOULD HAVE LEFT THE OFFICE JUST A LITTLE AFTER THAT.

7 WE WENT TO THE ANGELES NATIONAL FOREST TO
8 A MILEPOST MARKER 1576 IN SOLEDAD CANYON.

9 Q WHEN YOU GOT TO SOLEDAD CANYON, WAS DETECTIVE
10 ZOELLER THERE?

11 A YES, HE WAS.

12 Q WERE THERE OTHER MEMBERS OF THE BEVERLY HILLS
13 POLICE DEPARTMENT THERE ALSO?

14 A I BELIVE THERE WERE. I KNOW THERE WAS A PHOTOGRAPHER
15 THERE FROM THE DEPARTMENT.

16 MR. WAPNER: I HAVE A PHOTOGRAPH, YOUR HONOR, THAT
17 I WOULD LIKE TO MARK AS PEOPLE'S 17 FOR IDENTIFICATION
18 WHICH APPEARS TO DEPICT A CLOSER-UP VIEW OF A PORTION
19 OF SOLEDAD CANYON AND SOLEDAD CANYON ROAD DEPICTED IN
20 THE PHOTOGRAPH.

21 THE COURT: ALL RIGHT.

22 Q BY MR. WAPNER: SHOWING YOU PEOPLE'S 17 FOR
23 IDENTIFICATION, DO YOU RECOGNIZE THAT?

24 A YES.

25 Q LET ME JUST PUT THIS ON THE BOARD. DOES THAT
26 PHOTOGRAPH -- WHICH IS DEPICTED IN THAT PHOTOGRAPH?

27 A I THINK THIS IS THE AREA IN THAT CANYON WHERE
28 I WENT TO.

36-2

1 Q ALL RIGHT. DOES THIS DEPICT A PORTION OF
2 SOLEDAD CANYON?

3 A YES, IT DOES.

4 Q CAN YOU TAKE THIS POINTER AND JUST POINT
5 TO THE AREA THAT YOU WENT TO?

6 A I WENT TO SOLEDAD CANYON ROAD AND UP TO THIS
7 PARTICULAR AREA TO WHERE THERE IS A TURNOUT.

8 Q INDICATING A PORTION --

9 A COMING OFF OF THE HIGHWAY. IF THIS IS THE
10 ROAD GOING UP AND AROUND THIS AREA TO THIS FIRST TURNOUT --
11 IF I AM NOT MISTAKEN, IT WAS DOWN THIS CANYON, DOWN --

12 Q JUST BELOW THE TURNOUT?

13 A YES, SIR.

14 Q THANK YOU. WHEN YOU GOT TO THAT AREA, WHAT
15 DID YOU DO?

16 A WELL, I MET WITH DETECTIVE ZOELLER AND WE
17 DISCUSSED SOME INFORMATION. THEY THOUGHT THEY HAD LOCATED
18 SOME BONES IN THAT PARTICULAR CANYON.

19 AND SO, WE KIND OF DECIDED WHAT OUR PLAN OF
20 ATTACK WAS AND THAT WE WOULD GO DOWN THE CANYON. AND
21 HE TOOK US AND DIRECTED US TO WHERE HE THOUGHT THEY HAD
22 FOUND SOME BONES.

23 Q DID YOU START FROM THE TURNOUT THAT YOU HAVE
24 INDICATED ON THE PHOTOGRAPH?

25 A YES, SIR, THE TOP OF THE HILL.

26 Q AS YOU STARTED UP THERE AND BEGAN TO WALK
27 DOWN THE HILL, WHAT HAPPENED?

28 A WE OBSERVED SOME BONES LYING IN THAT CANYON.

36-3

1 Q WERE YOU WITH LYNN HEROLD AT THAT TIME?
2 A YES, I WAS.
3 Q AND WHAT DID YOU DO WHEN YOU SAW THE BONES
4 IN THE CANYON?
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36-4

1 A WELL, WE KIND OF WALKED AROUND THE AREA AND
2 DETECTIVE ZOELLER POINTED OUT WHERE THE DIFFERENT LOCATIONS
3 WERE, BECAUSE THEY WERE AT DIFFERENT SITES.

4 SO WE DECIDED THAT IT WOULD BE BEST TO DESIGNATE
5 A SITE 1, SITE 2, AND TAKE PHOTOGRAPHS OF EACH DIFFERENT
6 SITE.

7 Q AND DID YOU IN FACT DO THAT?

8 A YES, WE DID.

9 MR. WAPNER: YOUR HONOR, I HAVE ANOTHER DIAGRAM
10 THAT DEPICTS AN AREA IN SOLEDAD CANYON. IT HAS SEVERAL
11 NUMBERS ON IT, INCLUDING SITE NUMBERS.

12 MAY THAT BE PEOPLE'S 18 FOR IDENTIFICATION?

13 THE COURT: SO MARKED.

14 Q BY MR. WAPNER: MR. CARRIER, DO YOU RECOGNIZE
15 THE DIAGRAM THAT IS PEOPLE'S 18 FOR IDENTIFICATION?

16 A YES, SIR.

17 Q ALL RIGHT. WHAT IS IT?

18 A I GUESS THAT IT DEPICTS THE SITES OF THE LOCATIONS
19 OF WHERE WE LOCATED THE BONES.

20 Q AND WHEN YOU WENT TO THOSE PARTICULAR SITES,
21 WERE THE BONES THAT YOU LOCATED PHOTOGRAPHED BEFORE YOU
22 RECOVERED THEM?

23 A SORRY?

24 Q WERE PICTURES TAKEN OF THE BONES AS THEY APPEARED
25 ON THE HILLSIDE BEFORE YOU ACTUALLY COLLECTED THEM?

26 A THAT'S CORRECT. YES.

27 MR. WAPNER: YOUR HONOR, I HAVE NINE PHOTOGRAPHS
28 IN A GROUP. MAY THEY BE MARKED AS PEOPLE'S 19 FOR

36-5

1 IDENTIFICATION?

2 THE COURT: MARKED.

3 Q BY MR. WAPNER: AND AFTER THE BONES WERE PHOTOGRAPHED,
4 DID YOU COLLECT THEM?

5 A LYNN HEROLD COLLECTED THEM AND PLACED THEM
6 IN EACH INDIVIDUAL SACK AND WE PLACED A PIECE OF PAPER
7 INSIDE THE SACKS AS TO THEIR LOCATION AND WHERE THEY WERE
8 FOUND.

9 Q SHOWING YOU ONE OF THE PHOTOGRAPHS FROM PEOPLE'S
10 19 THAT I WILL MARK AS 19-A, IT APPEARS TO HAVE A NUMBER
11 4 ON IT. DO YOU KNOW WHAT THAT REPRESENTS?

12 A IT APPEARS TO BE A SCAPULA.

13 Q IS THAT A PHOTOGRAPH OF ONE OF THE SITES ON
14 THE MOUNTAINSIDE WHERE THE ITEMS WERE RECOVERED BY YOU?

15 A YES, SIR.

16 Q AND DOES THE 4 IN THAT PHOTOGRAPH CORRESPOND
17 TO THE NO. 4 SITE ON THE HILLSIDE?

18 A WELL, I CAN'T DEFINITELY SAY THAT. I DON'T
19 REMEMBER THAT. BUT --

20 Q AND ARE THERE SEVERAL DIFFERENT BONES DEPICTED
21 IN THAT PHOTOGRAPH?

22 A YES, THEY ARE.

23 Q AND DID YOU COLLECT ALL OF THE BONES IN THAT
24 PHOTOGRAPH?

25 A YES, WE DID.

26 Q DID YOU RETAIN ALL OF THE BONES IN THAT PHOTOGRAPH?

27 A YES, WE DID.

28 Q INCLUDING THE ONES ON THE BOTTOM LEFT-HAND

36-6
1 PORTION OF THE PHOTOGRAPH?

2 A THERE ARE SOME BONES IN THIS AREA HERE. THERE
3 ARE BONES THERE. THERE ARE SMALLER CURVED BONES IN THIS
4 PARTICULAR AREA HERE.

5 THERE IS AN AREA ON THE LEFT OF THE PHOTOGRAPH
6 WHERE THERE IS A LARGE WHITE BONE. BUT, IT IS NOT CONSISTENT
7 WITH THE REST OF THE BONES THAT ARE IN THE PICTURE.

8 Q LET ME JUST PUT THIS UP SO WE CAN SEE IT.
9 ARE YOU REFERRING TO THE BOTTOM LEFT-HAND CORNER?

10 A YES, SIR.

11 Q WHEN YOU SAY THAT IT IS NOT CONSISTENT WITH
12 THE OTHER BONES IN THE PHOTOGRAPH, IS THAT -- BASED ON
13 WHAT DO YOU MAKE THAT STATEMENT?

14 A WELL, THE COLOR. JUST THE COLOR ALONE, OF
15 COURSE, AND THE SIZE IS QUITE LARGE.

16 Q THE BONES THAT YOU COLLECTED, DID YOU AND
17 MISS HEROLD COLLECT THOSE ON THE SUPPOSITION THAT THEY
18 WERE, IN FACT, HUMAN BONES?

19 A YES, SIR.

37 FO.

20

21

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37
1 Q AND AS YOU WALKED DOWN THE HILLSIDE, DID YOU EVER
2 FIND ANYTHING THAT APPEARED TO YOU TO BE A SKULL?

3 A YES, WE DID.

4 Q WHERE WAS THAT LOCATED, IF YOU REMEMBER?

5 A I DON'T REMEMBER. I DON'T REMEMBER WHICH SITE
6 IT WOULD HAVE BEEN.

7 Q WAS THERE ANY CLOTHING THAT WAS LOCATED AT THE
8 LOCATION?

9 A AS I RECALL, THERE WAS SOME CLOTHING.

10 MR. WAPNER: YOUR HONOR, I HAVE HERE A PHOTOGRAPH THAT
11 APPEARS TO HAVE THE NUMBER 7; MAY THAT BE MARKED 19-B FOR
12 IDENTIFICATION?

13 THE COURT: YES.

14 MR. WAPNER: AND ALSO A PHOTOGRAPH THAT APPEARS TO
15 DEPICT A SKULL; MAY THAT BE 19-C FOR IDENTIFICATION?

16 THE COURT: YES.

17 Q BY MR. WAPNER: SHOWING YOU 19-B AND 19-C, DO
18 YOU RECOGNIZE THOSE?

19 A YES, SIR.

20 Q WHAT ARE THEY?

21 A IT IS A SKULL.

22 Q AND IS THAT THE SKULL THAT WAS RECOVERED BY YOU
23 AND MISS HEROLD FROM SOLEDAD CANYON ON NOVEMBER THE 30TH,
24 1984?

25 A YES, SIR.

26 MR. WAPNER: MAY I JUST PASS THOSE IN FRONT OF THE JURY,
27 YOUR HONOR, OR PUT THEM ON THE BOARD?

28 THE COURT: PUT THEM ON THE BOARD.

19BID

19C

37-2
1 Q BY MR. WAPNER: WOULD YOU TAKE A LOOK AT THESE
2 OTHER -- THESE TWO OTHER PHOTOGRAPHS THAT I WOULD LIKE TO
3 HAVE MARKED AS 19-D AND 19-E?

4 THEY APPEAR TO DEPICT, 19-D, SOME PANTS AND 19-E,
5 SOME UNDERWEAR. WOULD YOU LOOK AT THOSE AND TELL ME IF YOU
6 RECOGNIZE THOSE?

7 A YES, I DO.

19D&E
8 Q AND WHAT ARE THEY?

9 A PANTS IN 19-D.

10 AND IT APPEARS TO BE UNDERWEAR IN 19-E.

11 Q AND THOSE FOUR REMAINING PHOTOGRAPHS, WILL YOU
12 JUST LOOK AT THOSE AND TELL ME IF THEY DEPICT OR APPEAR TO
13 DEPICT OTHER ITEMS OR PORTIONS OF ITEMS THAT WERE RECOVERED
14 BY YOU AND MS. HEROLD FROM SOLEDAD CANYON ON NOVEMBER 30TH.

15 A YES, SIR, THIS ONE DEPICTS THE PICTURE OF THE
16 TEETH IN THE SKULL.

17 Q JUST HOLD THAT UP BRIEFLY SO THE JURY CAN SEE
18 IT.

19 (WITNESS COMPLIES.)

20 MR. WAPNER: MAY THAT BE MARKED 19-F FOR IDENTIFICATION,
21 YOUR HONOR?

22 THE COURT: YES.

23 THE WITNESS: THIS IS A PHOTOGRAPH DEPICTING THE LOWER
24 JAW OR MANDIBLE AT SITE 6.

25 MR. WAPNER: MAY THAT BE 19--

26 THE COURT: -G.

27 MR. WAPNER: 19-G.

28 THE WITNESS: THIS JUST SHOWS -- THIS IS A LONG BONE

19G

1 IN SITE NUMBER 5.

2 MR. WAPNER: 19-H FOR IDENTIFICATION, YOUR HONOR?

3 THE COURT: YES.

19H 4 THE WITNESS: THIS DEPICTS SOME -- AGAIN, SOME LONG
5 BONES AND WHAT I BELIEVE TO BE A PELVIS.

6 MR. WAPNER: 19-I FOR IDENTIFICATION?

19I 7 THE COURT: YES.

8 Q BY MR. WAPNER: AND AFTER THESE PHOTOGRAPHS WERE
9 TAKEN, DID YOU TAKE ALL OF THE ITEMS THAT YOU FOUND TO THE
10 CORONER'S OFFICE?

11 A I DID.

12 Q HOW WAS THAT DONE?

13 A TRANSPORTED BY A VEHICLE THAT I DROVE.

14 Q AND WHEN YOU GOT BACK TO THE CORONER'S OFFICE,
15 WHAT DID YOU DO WITH THE ITEMS THAT YOU RECOVERED?

16 A WE REMOVED THEM FROM THE BACK OF THE VAN AND THEY
17 WERE PLACED ON A TABLE AND THEN TAKEN INSIDE OUR FACILITY.

18 Q ONCE YOU DID THAT, WHAT DID YOU DO?

19 A WE CONTACTED AT A LATER TIME, OR SOMEONE CONTACTED
20 DR. JUDY SUCHEY, WHO IS OUR FORENSIC ANTHROPOLOGIST.

21 Q BEFORE CONTACTING DR. SUCHEY, WAS THERE A CORONER'S
22 CASE NUMBER ASSIGNED TO THIS?

23 A ORIGINALLY WHEN THE CALL WAS RECORDED, THERE WOULD
24 HAVE BEEN A CASE NUMBER ASSIGNED.

25 Q DID YOU USE THAT CASE NUMBER IN ALL OF THE
26 TRANSACTIONS RELATING TO THIS CASE?

27 A YES, SIR.

28 Q WHAT WAS THE CASE NUMBER THAT WAS ASSIGNED TO

1 THIS CASE?

2 A 84-15230.

3 BUT IN ADDITION TO THAT, WE ALSO OFFERED, AS NOT
4 KNOWING WHETHER IT WAS MALE OR FEMALE, WE ALSO -- OR I ALSO
5 PULLED OR DREW AN UNDETERMINED DOE NUMBER, WHICH WOULD HAVE
6 BEEN UNDETERMINED DOE NUMBER 17.

7 Q AND IT IS UNDETERMINED BECAUSE YOU DID NOT KNOW
8 THE SEX AT THAT TIME?

9 A THAT IS CORRECT.

10 MR. WAPNER: I HAVE NOTHING FURTHER.

11 THE COURT: ANY QUESTIONS?

12 MR. BARENS: I DO. I WOULD LIKE TO.

13 THE COURT: HOW LONG WILL YOU TAKE?

14 MR. BARENS: LET ME JUST JUMP ON IT RIGHT NOW, YOUR
15 HONOR.

16

17

CROSS-EXAMINATION

18 BY MR. BARENS:

19 Q MR. CARRIER, YOU INSPECTED THE BONES THAT YOU
20 FOUND?

21 A YES, SIR. YES, SIR.

22

23

24

25

26

27

28

38-1

1 Q DID YOU FIND ANY FRACTURES ON THE BONES?

2 A I AM NOT QUALIFIED TO --

3 Q I AM JUST ASKING WHAT YOU OBSERVED WITH YOUR
4 EYES, SIR?'

5 A NO, I DIDN'T.

6 Q DID YOU SEE ANY BULLET HOLES IN THE BONES?

7 A NO.

8 Q DID YOU SEE ANY EVIDENCE OF FOUL PLAY THAT
9 YOU OBSERVED IN YOUR CAPACITY AS A PERSON TO ANY OF THE
10 BONES?

11 A NOT THAT I RECALL.

12 Q DID YOU SEE ANY DAMAGE OF A GROSS NATURE TO
13 THE SKULL?

14 A NOT THAT I RECALL.

15 Q ALL RIGHT. COULD YOU TELL FROM LOOKING AT
16 THE BONES AS YOU OBSERVED THEM WHETHER THE DEATH WAS CAUSED
17 BY ANYTHING --

18 MR. WAPNER: OBJECTION. THIS WITNESS IS AN INVESTIGATOR
19 WITH THE CORONER'S OFFICE, NOT A DEPUTY CORONER.

20 THE COURT: SUSTAINED. THEY WILL HAVE COMPETENT
21 TESTIMONY ABOUT THAT. YOU CAN ASK THAT PERSON.

22 MR. BARENS: I THINK THAT THIS IS WHAT WE HAVE GOT,
23 JUDGE.

24 Q IN ANY EVENT, WHAT YOU ARE TELLING ME IS,
25 FROM YOUR EXAMINATION OF THE BONES, YOU FOUND IN WHOLE
26 OR IN PART -- YOU COULD FIND NOTHING THAT YOU OBSERVED
27 THAT SHOWED ANY DAMAGE, DISFIGURATION OR FRACTURING, BULLET
28 HOLES OR MUTILIATION OF BONES?.

38-2

1 MR. WAPNER: OBJECTION, FOUNDATION.

2 MR. BARENS: I AM JUST ASKING BASICALLY ON WHAT
3 HE LOOKED AT WITH HIS EYES OR HANDS.

4 THE COURT: YOU CAN TESTIFY IF YOU WANT TO. HE
5 IS NOT THE PERSON TO TESTIFY TO THAT.

6 MR. BARENS: I AM JUST ASKING WHAT HE OBSERVED,
7 JUDGE.

8 THE WITNESS: NO, SIR. I DIDN'T OBSERVE ANYTHING
9 LIKE THAT BUT I WAS NOT LOOKING FOR THAT. I WAS COLLECTING
10 THE BONES.

11 Q BY MR. BARENS: I AM JUST ASKING YOU WHAT
12 YOU OBSERVED.

13 A YES, SIR.

14 MR. BARENS: NOTHING FURTHER.

15 THE COURT: ANYTHING FURTHER?

16 MR. WAPNER: NO.

17 THE COURT: THANK YOU VERY MUCH, SIR.

18 LADIES AND GENTLEMEN OF THE JURY, WE'LL TAKE
19 OUR ADJOURNMENT AT THIS TIME UNTIL MONDAY MORNING AT 10:30.
20 THE SAME ADMONITION THAT I GAVE YOU STILL APPLIES. GOOD
21 NIGHT. HAVE A VERY PLEASANT WEEKEND.

22 (AT 4:33 P.M. PROCEEDINGS WERE ADJOURNED
23 UNTIL MONDAY, MAY 18, 1987 AT 10:30 A.M.)

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