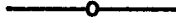


ATTORNEY GENERAL

88DA0269
2/25/88

COURT OF APPEAL
SECOND APPELLATE DISTRICT
STATE OF CALIFORNIA



THE PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff
and Respondent/~~XXXXXXXX~~

VS

T/N JOE HUNT
AKA: JOSEPH HENRY GAMSKY
Defendant
and Appellant/~~XXXXXXXX~~

B029402

No. A090435

DIV. FIVE



CLERK'S TRANSCRIPT
VOLUME I

Appearances:

Counsel for Plaintiff and Respondent:
THE ATTORNEY GENERAL

Counsel for Defendant and Appellant:

IN PROPRIA PERSONA

Appeal from the Superior Court,
County of Los Angeles

Honorable L.J. RITTENBAND Judge

(enw.)
6CA-1728
101 RA-15,416

Date Mailed to:

Defendant (in pro per) _____

Defendant's Trial Attorney _____

Defendant's Appellate Attorney _____

District Attorney _____

Attorney General _____

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NOTICE TO APPELLANT:

In the event that a request for corrections is filed, counsel should deliver his copy of the transcripts to the court clerk at the time of the hearing so that it may be conformed.

CLERK'S TRANSCRIPT

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IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT

COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

HONORABLE CHARLES D. BOAGS, JUDGE

DIVISION NO. 6

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

JOSEPH HUNT,

Defendant.

No. SW 909

REPORTER'S TRANSCRIPT
OF PROCEEDINGS HAD ON
MONDAY, OCTOBER 22, 1984

APPEARANCES:

FOR THE PEOPLE: RON A. SMALSTIG,
Deputy District Attorney

FOR THE DEFENDANT: JOSEPH HUNT
In Pro Per

REPORTED BY: VICTORIA JENSEN, CSR #6393
Official Reporter

SCRIBE REPORTING SERVICE

CERTIFIED SHORTHAND REPORTERS
5900 SEPULVEDA BOULEVARD
SUITE 250

VAN NUYS, CALIFORNIA 91411
Telephone (213) 997-7599
(213) 873-7599

1 BEVERLY HILLS, CALIFORNIA; MONDAY, OCTOBER 22, 1984

2 A.M. SESSION

3 - - -

4
5 THE COURT: Okay. This is a motion for
6 return of property?

7 MR. HUNT: Right.

8 THE COURT: On a search warrant that I issued;
9 right?

10 MR. HUNT: Uh-huh.

11 THE COURT: Okay. We just called it, Ron.

12 MR. SMALSTIG: Thank you, your Honor. There
13 will be a People's motion to continue this. The attorneys
14 who were going to do this, Ms. Beckstrand and Ms. Lopez,
15 were under the impression it would be on Friday. There
16 have been some calendaring problems. It was originally set
17 in Division 2 and then when it was realized that it was
18 your search warrant, it was brought down here and Ms. Lopez
19 was supposed to trail with it. She is still upstairs in
20 trial.

21 THE COURT: Okay. What is your name, sir?

22 MR. HUNT: Joseph Hunt.

23 THE COURT: Your client is present?

24 MR. HUNT: I am appearing in pro per.

25 THE COURT: Okay.

26 Even though you are an attorney, sir --

27 MR. HUNT: I am not an attorney.

28 THE COURT: You are not an attorney?

1 MR. HUNT: No. It was my items that were
2 seized predominantly, so I am appearing on my own behalf.
3 So I have prepared --

4 THE COURT: Sir, I would -- I know this is a
5 motion for return of property. Do you still understand
6 that you have constitutional rights to an attorney?

7 MR. HUNT: Yes, I do. My attorney was drawn
8 away on business. However, I do not wish to see the matter
9 continued.

10 THE COURT: Do you want to have an attorney
11 present?

12 MR. HUNT: No. It is quite all right.

13 THE COURT: Do you want to give up your right
14 to have an attorney present?

15 MR. HUNT: Yes, I do.

16 THE COURT: Will the People be ready to go on
17 Friday?

18 MR. SMALSTIG: Yes, your Honor.

19 MR. HUNT: Your Honor --

20 THE COURT: Yes?

21 MR. HUNT: I think as you indicated there are
22 some rather important rights of mine in question as in
23 privacy and property and the Fourth Amendment, and as much
24 as we have waited the allowed period of 10 days, I feel it
25 should be heard now. There has been adequate time and
26 there has been adequate notice.

27 THE COURT: No, there was a problem. I do
28 know about one problem; to wit, this matter was set for

1 some reason in Division 2 and that's why the D.A. upstairs
2 had it. It was in the Clerk's Office after setting it in
3 Division 2 and then they sent it down to me because it was
4 my search warrant.

5 MR. HUNT: Yes.

6 THE COURT: And so there was a little problem
7 technically. I was surprised that this D.A. here,
8 Mr. Smalstig, didn't have it since he is the D.A. in charge
9 of this court.

10 MR. HUNT: I believe it is under Aguillar
11 versus Texas in '64 it said that the evidence under
12 Aguillar versus Texas --

13 THE COURT: You were right the first time.

14 MR. HUNT: Aguillar -- it must be sufficient
15 to enable the magistrate to make his own independent
16 evaluation as to whether probable cause exists. And
17 inasmuch as you are present and you issued the search
18 warrant, I feel upon that basis we have the necessary
19 materials to discuss the issue, and I would have the -- I
20 would have your Honor remember how significant the
21 alienation of property can be that it has been 10 days.

22 THE COURT: I know. I know. There are other
23 cases to Aguillar -- the law on Aguillar may have been
24 changed slightly.

25 MR. HUNT: I'm sure that I didn't jeopardize
26 the thing properly.

27 THE COURT: There is a brand-new one that
28 came out that I disagree with that basically says the bad

1 search warrant, once the judge signs it becomes a good
2 search warrant for the benefit of the police.

3 MR. SMALSTIG: Rightfully so. I just thought
4 I'd throw that in so you would remember I'm still here.

5 THE COURT: But that new case has basically,
6 they are saying you can't -- since the judge is supposed
7 to know the law, that the police officer shouldn't be
8 penalized on the fact that the judge may be insufficient in
9 issuing a search warrant. I don't think I am insufficient.

10 MR. HUNT: If it may please the Court, and I
11 am interested in returning the property --

12 THE COURT: I realize what you are interested
13 in.

14 MR. HUNT: Yes, sir.

15 THE COURT: But just like you are entitled to
16 counsel at all stages, which I gather you want to waive at
17 this stage feeling that you have sufficient knowledge to
18 handle that; is that correct?

19 MR. HUNT: Yes, I do.

20 THE COURT: Okay. Well the People are also
21 entitled to competent counsel on their behalf, and I am
22 not saying that Mr. Smalstig is not competent.

23 MR. SMALSTIG: Thanks for that vote of
24 confidence, your Honor.

25 THE COURT: It is a backhanded one.

26 What he is telling me is that the, the deputy
27 is telling me that another deputy is going to handle the
28 case and through some mixup they thought it was set for

1 Friday and she is tied up in another court.

2 MR. SMALSTIG: If I might add one of the
3 reasons is some of the property may be able to be returned
4 without arguing over each bit and piece. That the deputy
5 hasn't even reviewed the property with the officer involved
6 to find out why we want it. That is one of the reasons for
7 the continuance. So in effect, to speed up the motion, we
8 don't have to argue over each piece of paper, some might
9 just be given back and some might still be retained.
10 That's one of the reasons we need the continuance.

11 MR. HUNT: I think Mr. Smalstig's statement
12 weakens his case substantially for a continuance because
13 this indicates that the D.A.'s Office and the State is not
14 prepared to suggest that this evidence is necessary, or a
15 lot of it is not even necessary to establish points necessary
16 to continue the investigation for proof or guilt of a crime.

17 THE COURT: That's what we are saying.
18 99 percent there is no argument about.

19 MR. HUNT: I think that even without the
20 People that have been prepared on the issue present, we can
21 stipulate that there were grave problems with the search
22 warrant. I know that you are indicating some case law that
23 indicates even a bad search warrant becomes good when it
24 is issued, but I think that is contrary to the majority
25 policy in a sense --

26 THE COURT: That is the U.S. Supreme Court,
27 sir.

28 MR. HUNT: It is if the search warrant is bad

1 and it is issued by the judge and in a situation where the
2 D.A. has rejected the case, is that a law if there are a
3 lot of other aspects which creates an issue unbalanced --

4 THE COURT: There are two different
5 definitions that you are talking about.

6 MR. HUNT: That's true.

7 THE COURT: One is a search warrant and a
8 right to property and subsequently if there is sufficient
9 ground for the issuance of a complaint whether or not it
10 is a violation of the Penal Code. So the entire thing is
11 two different things. It is not --

12 MR. HUNT: Could I suggest a compromise, if
13 your Honor would allow me to speak for about five minutes
14 on why I think the property should be returned? If you
15 feel that what I say could be compromised by what the D.A.s
16 or those people are prepared in that office might have to
17 rebutt, then you can continue it --

18 THE COURT: Well, no. Wait a minute. Wait a
19 minute. You have a couple of things; you have a right to
20 an attorney. You also have a right under the Fifth
21 Amendment, which I didn't know that you were a defendant in
22 the case, and your rights under the Fifth Amendment, I
23 think, are really more important than your right to an
24 attorney.

25 MR. HUNT: Yes.

26 THE COURT: Because whatever you say in this
27 courtroom will be taken down by the court reporter. This
28 is not a charge of a minor crime. It is a charge involving

1 the major, one of the most serious ones in the Penal Code.

2 MR. SMALSTIG: Your Honor, might I interrupt
3 for just a second?

4 THE COURT: I don't want you to say anything
5 that can be used against you because of the factors known
6 to this Court and not known by you.

7 MR. SMALSTIG: That's what I was going to say.
8 There is a case filed, and for the record it is A090435.
9 And again the Court is correct in pointing out that
10 Mr. Hunt is a defendant in that case.

11 MR. HUNT: What case is that?

12 MR. SMALSTIG: You'll get a copy of it. You
13 are going to find out in a second.

14 MR. HUNT: Oh.

15 THE COURT: So the People's motion to
16 continue to Friday is granted, which will be the 26th.
17 10/26. But I think under the facts known to this Court,
18 it is the best thing that you get an attorney.

19 The reason I am saying --

20 MR. HUNT: May I make one other statement,
21 your Honor?

22 THE COURT: Yes.

23 MR. HUNT: As much as I did come on my own and
24 Deputy Zoeller said that he planned to rearrest me on
25 these charges, I came on my own, and if that ever does
26 occur, I would like the Court to know the facts. I am not
27 avoiding the police custody, but circumstances under which
28 I took custody were rather violent and overdone.

1 THE COURT: The thing that I know, that you
2 will know in two seconds, is that a warrant was just issued
3 by this Court for your arrest and Detective Zoeller is
4 sitting behind you because as soon as you are finished in
5 this court you will be arrested.

6 MR. HUNT: All right. I would just note that
7 I was aware of the possibility and still came to court,
8 if it bears on the bail.

9 THE COURT: Unfortunately the charges that
10 you are being arrested on, the Court can set no bail.

11 MR. HUNT: Okay. All right. I would like
12 to leave these in the custody of the Court so that my
13 attorney can get them.

14 THE COURT: I think that would be -- can you
15 give it to the clerk?

16 MR. HUNT: There is a manila folder there.

17 THE COURT: Wait a minute. Wait a minute.
18 Wait a minute. I want him to put it in an envelope. I
19 want him to seal it. I want him to seal it so that there's
20 no way that anything can be taken out. Put some scotch
21 tape on it.

22 (Proceedings concluded.)

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C E R T I F I C A T E

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, VICTORIA JENSEN, an Official Reporter of the Municipal Court, Beverly Hills Judicial District, County of Los Angeles, State of California, do hereby certify that the foregoing pages, 1 to 9, inclusive, comprise a full, true and correct transcript of the testimony given and proceedings had in the foregoing matter held on Monday, October 22, 1984, and that said transcript contains all of the evidence, all of the objections of counsel and rulings of the Court, and all matters to which the same relate.

Dated this 16th day of November, 1984.



Official Reporter

IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

HON. DAVID A. KIDNEY, JUDGE PRO TEM

DIVISION I

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

JOE HUNT
aka: JOSEPH HENRY GAMSKY
and
JAMES PITTMAN
aka: JAMES GRAHAM,

Defendants.

No. A 090435

VOLUME II

Violation Section:

Ct. I - 187 PC

Ct. II - 211 PC

REPORTER'S TRANSCRIPT

PRELIMINARY HEARING

WEDNESDAY, DECEMBER 12, 1984
AND
THURSDAY, DECEMBER 13, 1984

FILED

FEB 28 1985

FRANK S. ZORN, County Clerk

Rita Tucker
BY RITA TUCKER, DEPUTY

+ 3
2-5-85

APPEARANCES:

FOR THE PEOPLE: ANA LOPEZ
DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT PITTMAN: DOUGLAS L. YOUNG
8570 HOLLOWAY DRIVE
LOS ANGELES, CALIFORNIA 90069

LEE ZORNE
987.2

ALSO PRESENT: LEWIS R. TITUS, JR.
1419 SO. MARGUERITA AVENUE, UNIT F
ALHAMBRA, CALIFORNIA 91803

Ann Clark

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I N D E X

<u>PEOPLE'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
CAROL LEVIN	4	--	27,28	--
BY MR. YOUNG:	--	13	--	28
MARTIN LEVIN	30,48	--	68,72	--
BY MR. YOUNG:	--	60	--	69
MR. ZORNE:	--	63	--	--
GERALD IRA STONE	74	--	86	--
BY MR. YOUNG:	--	81	--	--
BY MR. ZORNE:	--	82	--	--
BLANCHE STURKEY	90	--	--	--
CHRISTOPHER DWIGHT WASSON	91	--	--	--
SCOTT S. FURSTMAN	103	--	--	--
BY MR. YOUNG:	--	105	--	--
BY MR. ZORNE:	--	113	--	--
LESLIE H. ZOELLER	119	--	--	--

E X H I B I T S

<u>PEOPLE'S EXHIBITS</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
1 - PHOTOGRAPH OF RON LEVIN'S BEDROOM.	28	80 (VOL.III)
2 - COPIES OF SEVEN YELLOW SHEETS OF LEGAL SIZE PAPER WITH WRITING.	39	80 (VOL.III)
3 - ORIGINAL SEVEN YELLOW LEGAL SIZE SHEETS OF PAPER WITH WRITING.	42	80 (VOL.III)
4 - MICROGENESIS OF NORTH AMERICA, INC. DOCUMENT, ORIGINAL.	59	82 (VOL. III) BY REFERENCE
5 - MICROGENESIS OF NORTH AMERICA, INC. DOCUMENT, COPY.	59	82 (VOL.III)
6 - PHOTOGRAPH OF OFFICE.	72	82 (VOL.III)

ONI

	<u>PEOPLE'S EXHIBITS (CONT'D)</u>		
1			
2			
3	7 - 3 X 5 BLUE INDEX CARD.	77	82 (VOL.III)
4	8 - TWO PHOTOGRAPHS OF JOE HUNT, SIDE AND FRONT VIEW.	89	83 (VOL.III)
5			
6	9 - BANK ACCOUNT STATUS, ACCT. # 001-008064.	92	83 (VOL.III)
7	10 - ACCOUNT AUTHORIZATION CARD, ACCT. # 001-008-064.	92	83 (VOL.III)
8			
9	11 - COPIES OF BANK STATEMENTS, ACCT. # 001-008-064.	92	83 (VOL.III)
10	12 - BANK ACCOUNT STATUS, ACCT. # 001-008-501	92	83 (VOL.III)
11			
12	13 - COPY OF ACCOUNT AUTHORIZATION, ACCT. # 001-008-501.	93	83 (VOL.III)
13	14 - BANK STATEMENTS, ACCT. # 001-008501.	93	83 (VOL.III)
14			
15	15 - BANK ACCOUNT STATUS, ACCT. # 001-007270.	93	83 (VOL.III)
16	16 - BANK AUTHORIZATION CARD, ACCT. # 001-007-270.	93	83 (VOL.III)
17			
18	17 - BANK STATEMENTS, ACCT. # 001-007-270.	93	83 (VOL.III)
19	18 - MICROGENESIS OF NORTH AMERICA, INC. OPTION AGREEMENT.	128	84 (VOL.III)
20			
21	19 - 3 PG. DOCUMENT, BBC PHONEBOOK.	131	84 (VOL.III)
22	20 - 2PG. DOCUMENT, MICROGENESIS OF NORTH AMERICA, INC., OPTION AGREEMENT SIGNED BY JOSEPH HUNT, DATED 6-6-84.	134	84 (VOL.III)
23			
24	21 - 5 PG. BEVERLY HILLS P.D. HANDWRITING EXEMPLAR.	135	84 (VOL.III)
25			
26	22 - CERTIFIED COPY OF BOOKING PHOTO OF JOSEPH GAMSKY, 9-28-84.	136	84 (VOL.III)
27			
28	23 - FINGERPRINT EXEMPLAR CARD OF JOSEPH HUNT.	136	85 (VOL.III)

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PEOPLE'S EXHIBITS (CONT'D)

- 24 - XEROX COPIES OF FOUR PHOTOGRAPHS:
TWO SHOWING A JEEP IN A MOUNTAIN AREA:
ONE SHOWING A TRUCK, A PHOTOGRAPH
AND JOE HUNT, AND ONE SHOWING
THE SAME TRUCK. 138 (SEE VOL.III)
- 25 - CONFIRMATION LETTER, LEADING
HOTELS OF THE WORLD, MAYFAIR
REGENT HOTEL, ADDRESSED TO
MR. RONALD LEVIN. 139 85 (VOL.III)
- 26 - XEROX COPY OF A MAP. 139 85 (VOL.III)

1 BEVERLY HILLS, CALIFORNIA, WEDNESDAY, DECEMBER 12, 1984

2 11:00 A.M.

3 --000--

4
5 THE COURT: IN THE MATTER OF PEOPLE VERSUS JAMES
6 PITTMAN, DEFENSE READY?

7 MR. YOUNG: YES.

8 THE COURT: PEOPLE READY?

9 MS. LOPEZ: YES, YOUR HONOR. BUT PRIOR TO PROCEEDING
10 I'D LIKE TO INQUIRE OF MR. PITTMAN AND THE ATTORNEY WHETHER
11 OR NOT MRS. PITTMAN IS INTENDED TO BE CALLED EITHER AT THE
12 PRELIMINARY HEARING OR AT TRIAL.

13 MR. YOUNG: I HAVEN'T DECIDED YET.

14 MS. LOPEZ: IN THAT CASE I'D ASK THAT MRS. PITTMAN BE
15 EXCLUDED FROM THE COURTROOM DURING THE PRESENT TESTIMONY.
16 SHE'S A POTENTIAL WITNESS IN THE CASE.

17 THE COURT: ALL RIGHT. IF MRS. PITTMAN IS IN THE
18 COURTROOM AS A POTENTIAL WITNESS, AT THE REQUEST OF THE
19 DISTRICT ATTORNEY, YOU'RE ASKED TO STEP OUTSIDE UNTIL SUCH
20 TIME AS WE DETERMINE WHETHER OR NOT YOU'RE GOING TO BE A
21 WITNESS IN THIS CASE.

22 ARE YOU READY TO PROCEED NOW?

23 MS. LOPEZ: YES. PEOPLE CALL CAROL LEVIN.

24 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
25 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
26 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
27 TRUTH, SO HELP YOU GOD?

28 THE WITNESS: I DO.

1 CAROL LEVIN,
2 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
3 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

4 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
5 SPELL YOUR LAST NAME.

6 THE WITNESS: CAROL MARJORIE LEVIN, L-E-V-I-N.

7 THE CLERK: THANK YOU.
8

9 DIRECT EXAMINATION

10 BY MS. LOPEZ:

11 Q MRS. LEVIN, YOU CAN PULL THE MIKE UP TO YOU IF
12 THAT'S MORE COMFORTABLE. I BELIEVE YOU CAN.

13 ALL RIGHT. ARE YOU RON LEVIN'S MOTHER?

14 A YES, I AM.

15 Q IS -- DO YOU HAVE OTHER SONS --

16 A YES, I DO. I HAVE TWO.

17 Q I'M SORRY. LET ME FINISH THE QUESTION BEFORE
18 YOU ANSWER.

19 A ALL RIGHT. OKAY.

20 Q HOW MANY OTHER SONS DO YOU HAVE?

21 A TWO.

22 Q OTHER THAN RON LEVIN?

23 A YES.

24 Q AND IS RON THE OLDEST SON?

25 A YES, HE IS.

26 Q WILL YOU DESCRIBE YOUR RELATIONSHIP WITH RON.

27 A IT WAS A VERY CLOSE AND LOVING RELATIONSHIP.

28 Q HOW OFTEN DID RON CALL YOU IN A WEEK?

1 A WELL, I USUALLY CALL HIM TWO OR THREE OR FOUR
2 TIMES. AT LEAST THREE TIMES.

3 Q SO YOU SPOKE TO RON AT LEAST THREE TIMES A
4 WEEK?

5 A YES, I DID.

6 Q HOW LONG HAS RON GONE WITHOUT -- HOW MANY DAYS
7 WITHOUT SPEAKING TO YOU OR ATTEMPTING TO CONTACT YOU IN SOME
8 WAY?

9 A FOUR DAYS.

10 Q AND THAT IS THE LONGEST PERIOD OF TIME?

11 A YES.

12 Q AND OVER WHAT PERIOD OF TIME ARE YOU SPEAKING
13 OF SINCE --

14 A FOR YEARS.

15 Q ON JUNE 6TH, 1984, DID YOU GO TO RON'S
16 APARTMENT?

17 A YES, I WAS DRIVING DOWN PECK DRIVE. YES.

18 Q AND WHERE WAS RON'S APARTMENT LOCATED AT THAT
19 TIME?

20 A AT 144 SOUTH PECK.

21 Q AND DID YOU SEE RON?

22 A YES.

23 Q AND WHERE WAS RON WHEN YOU SAW HIM?

24 A HE WAS ON PECK AND CHARLEVILLE WITH HIS DOG.

25 Q AND DO YOU KNOW APPROXIMATELY WHAT TIME OF DAY
26 THAT WAS?

27 A IT WAS ABOUT 4:00 O'CLOCK IN THE AFTERNOON.

28 Q AND WHAT WAS YOUR REASON FOR GOING THERE?

1 A I WAS GOING NOT TO RONNIE'S APARTMENT THAT DAY.
2 I WAS GOING TO DELIVER SOMETHING AND I JUST WENT DOWN PECK
3 DRIVE.

4 Q AND DID YOU STOP AND SPEAK TO RON?

5 A YES, I DID.

6 Q WAS THERE ANYTHING UNUSUAL OR ABNORMAL ABOUT
7 HIS APPEARANCE?

8 A NO.

9 Q DID HE APPEAR TO BE EMOTIONALLY UPSET IN ANY
10 WAY?

11 A WELL, HE WASN'T -- HE WASN'T PERFECTLY CALM,
12 BUT I JUST SPOKE TO HIM FOR A MOMENT.

13 Q OKAY. WHEN YOU SAY HE WASN'T PERFECTLY CALM,
14 WHAT DO YOU MEAN?

15 A SOMETIMES HE WILL -- WE'LL JOKE WITH EACH
16 OTHER, BUT HE DID NOT DO THAT ON THIS DAY.

17 Q OKAY. AND THAT WAS THE ONLY THING UNUSUAL
18 ABOUT YOUR MEETING HIM ON THAT DAY?

19 A YES.

20 Q ABOUT HOW LONG DID YOU SEE HIM AT THAT TIME?

21 A HOW LONG WHAT?

22 Q HOW LONG OF A PERIOD OF TIME DID YOU SPEND WITH
23 HIM?

24 A AT THAT TIME?

25 Q YES.

26 A JUST A MOMENT.

27 Q PRIOR TO JUNE 6TH, DID RON TELL YOU THAT HE WAS
28 GOING ON A TRIP?

1 A YES.

2 Q AND WILL YOU SUMMARIZE OR TELL US WHAT THE
3 CONVERSATION WAS BETWEEN YOU AND RON REGARDING THE TRIP?

4 A HE JUST TOLD ME HE WAS GOING TO NEW YORK AND IF
5 I WOULD TAKE CARE OF THE DOG, AND I SAID YES.

6 Q DID HE TELL YOU WHEN HE WAS GOING TO NEW YORK?

7 A YES. HE WAS GOING, I BELIEVE, ON JUNE THE 7TH.

8 Q DID HE TELL YOU HOW LONG HE WAS GOING TO STAY
9 IN NEW YORK?

10 A HE WOULD BE BACK TUESDAY.

11 Q AND THAT WAS HOW MANY DAYS?

12 A LET'S SEE. THURSDAY, FRIDAY, SATURDAY, SUNDAY,
13 MONDAY, TUESDAY. FIVE DAYS.

14 Q ON JUNE 6TH AFTER HAVING PASSED BY HIS
15 APARTMENT AND SEEING HIM, DID YOU LATER SPEAK TO HIM?

16 A YES, I DID.

17 Q AT APPROXIMATELY WHAT TIME WAS THAT?

18 A BETWEEN 7:00 AND 8:00 O'CLOCK IN THE EVENING.

19 Q AND WAS THAT BY TELEPHONE OR IN PERSON?

20 A BY TELEPHONE.

21 Q DID YOU CALL RON OR DID RON CALL YOU?

22 A I CALLED RON.

23 Q AND WHAT WAS YOUR PURPOSE FOR CALLING HIM?

24 A YOU KNOW, I CAN'T REMEMBER AT THIS TIME.

25 PROBABLY TO TELL HIM SOME -- SOMETHING NOT TOO IMPORTANT.

26 Q OKAY. AT THAT TIME DID YOU HAVE A CONVERSATION
27 WITH RON?

28 A YES. I CALLED, BUT HE SAID HE WAS ON THE OTHER

1 PHONE AND HE'D HAVE TO CALL ME BACK.

2 Q AND WHAT TYPE OF TELEPHONE DID RON HAVE? WAS
3 IT A TYPE OF PHONE THAT COULD HAVE MORE THAN ONE PERSON ON
4 THE LINE AT ONCE OR SEVERAL LINES?

5 A YES. HE HAD A HOLD BUTTON.

6 Q AND AT THAT TIME HE TOLD YOU THAT HE HAD
7 SOMEBODY ELSE ON THE TELEPHONE?

8 A HE WAS TALKING TO SOMEBODY; HE WOULD CALL ME
9 BACK.

10 Q AND DID HE EVER CALL YOU BACK?

11 A YES, HE DID.

12 Q AND APPROXIMATELY HOW MUCH LATER DID HE CALL
13 YOU BACK?

14 A ABOUT 10 OR 15 MINUTES LATER.

15 Q AND DO YOU RECALL WHAT THE CONVERSATION BETWEEN
16 YOU AND RON WAS AT THAT TIME?

17 A HE JUST WANTED TO KNOW WHAT I WANTED AT THE
18 TIME. I PROBABLY WANTED TO TELL HIM TO TAKE A SWEATER OR
19 SOMETHING LIKE THAT.

20 Q OKAY. DID ANYTHING APPEAR ABNORMAL ABOUT HIS
21 VOICE OR HIS MANNER AT THAT TIME?

22 A HE WAS A LITTLE -- HE SOUNDED A LITTLE
23 APPREHENSIVE.

24 Q WHEN YOU SAY A LITTLE APPREHENSIVE, WHAT DO YOU
25 MEAN?

26 A LIKE HE WAS -- HE WASN'T -- HE WASN'T HIS CALM
27 SELF WHEN HE TALKED TO ME. I CAN'T -- I DON'T KNOW HOW TO
28 EXPLAIN IT. HE WAS.....

1 Q DID HE APPEAR NERVOUS OR HURRIED?

2 A JUST A LITTLE APPREHENSIVE. I THINK. NOW, I
3 COULD BE -- I DON'T KNOW HOW ELSE TO EXPLAIN IT TO YOU.

4 Q OKAY. DID HE EVER MENTION THAT SOMETHING WAS
5 BOTHERING HIM AT THAT TIME?

6 A NO.

7 Q ON JUNE 7, 1984 DID YOU GO TO RON'S APARTMENT?

8 A YES, I DID.

9 Q AND WHY DID YOU GO TO RON'S APARTMENT?

10 A BLANCHE CALLED ME.

11 Q AND WHO IS BLANCHE?

12 A BLANCHE IS HIS MAID.

13 Q AND APPROXIMATELY WHAT TIME DID SHE CALL YOU?

14 A ABOUT 8:30 IN THE MORNING.

15 Q AND DID SHE TELL YOU SOMETHING WHEN SHE CALLED
16 YOU?

17 A YES.

18 Q WHAT DID SHE SAY?

19 A SHE SAID, "MRS. LEVIN, I HATE TO TELL YOU THIS,
20 BUT I CAME IN THIS MORNING AND RONNIE IS GONE.

21 Q AND AT THAT TIME DID SHE ASK YOU TO GO OVER TO
22 RON'S APARTMENT?

23 A I SAID I WOULD COME RIGHT OVER.

24 Q AND DID YOU THEN GO OVER?

25 A YES, IMMEDIATELY.

26 Q DID YOU GO BY YOURSELF OR WERE YOU --

27 A YES, I DID.

28 Q WHEN YOU ARRIVED AT RON'S APARTMENT, WHO WAS

1 THERE?

2 A BLANCHE WAS THERE, AND TWO YOUNG MEN, DEAN
3 FACTOR AND MIKE BRODER WERE STANDING OUT IN FRONT OF THE
4 APARTMENT.

5 Q AND DID YOU ENTER THE APARTMENT?

6 A YES, I DID.

7 Q AND DID YOU LOOK INTO THE KITCHEN?

8 A YES.

9 Q AND DID YOU NOTICE ANY FOOD IN THE KITCHEN?

10 A YES.

11 Q AND WHERE WAS THAT FOOD?

12 A IT WAS ON THE BUTCHER BLOCK TABLE IN THE MIDDLE
13 OF THE KITCHEN.

14 Q AND CAN YOU DESCRIBE WHAT THE FOOD WAS?

15 A IT WAS A PAPER BOX, AND I -- I'M NOT QUITE
16 SURE. I DON'T EVEN REMEMBER WHAT WAS IN THERE. I WAS SO
17 UPSET AT THE TIME.

18 Q DID YOU HAVE A KEY TO ENTER RON'S APARTMENT?

19 A YES, I DID.

20 Q DID YOU EVER USE THAT KEY TO ENTER IT?

21 A I HAVE NOT SINCE HE PUT THE ALARM SYSTEM IN. I
22 WAS ALWAYS AFRAID OF SETTING OFF THE ALARM.

23 Q AND DO YOU RECALL HOW LONG BEFORE JUNE 7, 1984
24 THAT HE INSTALLED THE ALARM SYSTEM?

25 A I REALLY DON'T REMEMBER. IT MUST -- I REALLY
26 DON'T REMEMBER.

27 Q DID YOU EVER HAVE ANY CONVERSATIONS WITH RON
28 REGARDING THE CASE HE HAD PENDING IN BEVERLY HILLS?

1 A NO. RONNIE NEVER DISCUSSED HIS BUSINESS WITH
2 ME.

3 Q OKAY. WERE YOU AWARE OF THE FACT THAT HE HAD A
4 CASE PENDING IN BEVERLY HILLS?

5 A YES, I WAS.

6 Q CAN YOU DESCRIBE HIS ATTITUDE TOWARDS THE CASE?

7 A HE TOLD ME EVERYTHING WAS GOING FINE.

8 Q AND WHEN WAS THE THE LAST TIME BEFORE JUNE 7TH
9 THAT YOU SPOKE WITH HIM REGARDING THE CASE?

10 A POSSIBLY THAT WEEK OR THE WEEK BEFORE.

11 Q DID HE EVER GIVE ANY INDICATION TO YOU THAT HE
12 INTENDED TO FLEE THE PROSECUTION OF THAT CASE?

13 A NEVER.

14 Q DID HE EVER --

15 A HIS --

16 Q CONTINUE. I'M SORRY.

17 A HIS ATTORNEY EVEN SAID THINGS WERE GOING WELL.

18 Q AND DID HE EVER GIVE ANY INDICATION TO YOU THAT
19 HE WAS GOING TO A PLACE OTHER THAN NEW YORK CITY?

20 A NO.

21 Q WAS IT UNCHARACTERISTIC OF RON TO LEAVE WITHOUT
22 TELLING YOU?

23 A ABSOLUTELY.

24 Q WILL YOU DESCRIBE WHAT HE WOULD DO WHEN HE LEFT
25 ON A TRIP?

26 A HE ALWAYS CALLED ME BEFORE HE LEFT AND HE
27 CALLED ME WHEN HE GOT THERE AND THEN HE CALLED ME WHEN HE
28 GOT HOME.

1 Q AND THIS WAS EVERY TIME HE TOOK A TRIP?

2 A EVERY TIME.

3 Q AND IN THIS CASE HE DID TELL YOU THAT HE WAS
4 GOING TO NEW YORK CITY?

5 A YES.

6 Q OTHER THAN NEW YORK CITY DID HE TELL YOU HE WAS
7 GOING ANYPLACE ELSE?

8 A NO.

9 Q SINCE JUNE 7, 1984, HAVE YOU HEARD FROM RON
10 EITHER DIRECTLY OR INDIRECTLY?

11 A NO, I HAVEN'T.

12 Q NOW, ON JUNE 7, 1984, BLANCHE POINTED OUT SOME
13 VALUABLES TO YOU; IS THAT CORRECT?

14 A YES.

15 Q AND WHERE WERE THESE VALUABLES LEFT?

16 A IN A LITTLE CUBBYHOLE NEAR HIS CLOSET.

17 Q AND DID YOU LATER TAKE THOSE VALUABLES WITH
18 YOU?

19 A YES, I DID.

20 Q AND WAS THAT FOR SAFEKEEPING?

21 A YES.

22 Q AND WILL YOU TELL US WHAT WAS IN THE CUBBYHOLE?

23 A YES. THERE WERE FOUR WATCHES, A RING, A PAIR
24 OF CUFFLINKS AND A MONEY CLIP.

25 Q WAS THERE ANY MONEY IN THE MONEY CLIP?

26 A NO.

27 Q HAVE YOU BEEN TO THE APARTMENT SINCE JUNE 7,
28 1984?

1 A YES, I HAVE.

2 Q AND DID YOU DISTURB ANYTHING?

3 A YES, I DID.

4 Q AND WHAT WAS THAT?

5 A WELL, THERE WERE SOME CRYSTAL THINGS THAT I PUT
6 AWAY AND LITTLE THINGS THAT -- SEE, WE DIDN'T KNOW HOW LONG
7 THE ALARM WAS GOING TO BE ON AND WE WERE AFRAID THAT MAYBE
8 SOMEONE WOULD COME IN AND TAKE SOME OF THESE THINGS, SO WE
9 HAVE EVERYTHING IN ONE SPOT.

10 Q WERE THESE ITEMS THAT YOU CONSIDERED TO BE
11 VALUABLE?

12 A YES.

13 Q ARE THESE ARTIFACT TYPE ITEMS?

14 A YES.

15 Q AND YOU HAVE REMOVED THEM FROM RON LEVIN'S
16 HOME?

17 A YES. SOME OF THEM. NOT ALL OF THEM.

18 Q OKAY, AND THESE ARE NOW BEING STORED BY YOU?

19 A RIGHT.

20 MS. LOPEZ: I HAVE NOTHING FURTHER.

21 THE COURT: MR. YOUNG?

22

23 CROSS-EXAMINATION

24 BY MR. YOUNG:

25 Q WHEN YOU WENT TO THE APARTMENT ON JUNE 7TH AT
26 APPROXIMATELY 8:30 AFTER BLANCHE HAD CALLED YOU, DID YOU
27 NOTICE ANY UNUSUAL DISRUPTION OF THE APARTMENT?

28 A WELL, JUST THAT HIS BED WAS PULLED APART,

1 AND.....

2 Q OKAY. DID BLANCHE INDICATE TO YOU THAT SHE HAD
3 PULLED THE BED APART?

4 A NO. SHE SAID TO ME THAT CHRIS SAID -- OR SHE
5 SAID, RATHER, AT THIS TIME THAT THERE WAS A PILLOW MISSING,
6 A SHEET, THE REMOTE CONTROL BOX FROM HIS TELEVISION AND I
7 THINK A BEDSPREAD.

8 Q OKAY. WHEN YOU SAY THAT THE BED WAS PULLED
9 APART, WHAT DO YOU MEAN BY THAT?

10 A THAT HIS -- THE PILLOWS WERE NOT STRAIGHT
11 AGAINST THE BED. THEY WERE KIND OF PULLED ASIDE. IT JUST
12 LOOKS LIKE THE BED WAS -- I DON'T QUITE KNOW HOW TO EXPLAIN
13 IT TO YOU. INSTEAD OF THE PILLOWS BEING AGAINST THE BACK OF
14 THE BED, THERE WERE THREE PILLOWS THAT WERE KIND OF THIS WAY
15 (INDICATING), YOU KNOW, LYING AT AN ANGLE.

16 Q OKAY. SO IT WASN'T MADE -- MADE UP IN THE WAY
17 THAT IT IS NORMALLY MADE UP; IS THAT WHAT YOU'RE SAYING?

18 A RIGHT.

19 Q NORMALLY DID BLANCHE MAKE THE BED, TO YOUR
20 KNOWLEDGE?

21 A WELL, I WON'T -- I WOULD -- YES, I WOULD ASSUME
22 SO.

23 Q OKAY. DID YOU SEE ANY INDICATIONS OF ANY BLOOD
24 OR ANYTHING LIKE THAT?

25 A NO.

26 Q ON THE BED. DID YOU REMOVE ANY OF THE BEDDING
27 OR DID ANYONE ELSE REMOVE ANY OF THE BEDDING WHILE YOU WERE
28 THERE?

1 A NO.

2 Q OKAY. YOU INDICATED THAT THERE WERE THREE
3 WATCHES THERE; IS THAT CORRECT?

4 A UM-HMM. THREE OF THEM. THREE IN ONE PLACE AND
5 ONE SOMEPLACE ELSE.

6 Q OKAY. DO YOU KNOW IF RON HAD ANY OTHER
7 WATCHES?

8 A NO, NOT THAT I KNOW OF.

9 Q OKAY, BUT HE HAD FOUR WATCHES AND THAT WAS THE
10 FOUR THAT YOU KNEW OF.

11 A RIGHT.

12 Q AND THEY WERE ALL THERE?

13 A YES.

14 Q WHEN HE WOULD GO SOMEWHERE, WOULD HE NORMALLY
15 TAKE ONE OF HIS WATCHES?

16 A I WOULD ASSUME SO.

17 Q YOU INDICATED THAT THERE WAS ONE RING THERE?

18 A EXCUSE ME?

19 Q YOU INDICATED THAT THERE WAS ONE RING?

20 A YES.

21 Q DO YOU KNOW IF HE OWNED OTHER RINGS?

22 A I DON'T KNOW.

23 Q DID YOU VISIT YOUR SON'S APARTMENT VERY OFTEN?

24 A WELL, SOMETIMES ONCE A WEEK, SOMETIMES ONCE IN
25 TWO WEEKS. IT DEPENDS, BUT AS LONG AS I SPOKE TO HIM ON THE
26 TELEPHONE, THAT WAS ENOUGH FOR ME.

27 Q OKAY. WHEN YOU WOULD VISIT HIM AT HIS
28 APARTMENT, WOULD HE GENERALLY BE ON THE TELEPHONE?

1 A FREQUENTLY.

2 Q HE CONDUCTED A LOT OF BUSINESS ON THE TELEPHONE
3 THEN; IS THAT CORRECT?

4 A YES, UM-HMM.

5 Q OKAY. YOU INDICATED THAT HE CALLED YOU BACK ON
6 THE NIGHT OF JUNE 6TH; IS THAT CORRECT?

7 A RIGHT.

8 Q DO YOU KNOW IF THAT TELEPHONE CALL WOULD HAVE
9 SHOWN UP ON HIS TELEPHONE BILL?

10 MS. LOPEZ: I'M GOING TO OBJECT --

11 THE WITNESS: I WOULD IMAGINE IT WOULD.

12 MS. LOPEZ: -- CALLING FOR SPECULATION.

13 THE COURT: WELL SHE'S SPECULATED. IF SHE HAS ANY
14 KNOWLEDGE.

15 WOULD YOU KNOW PERSONALLY WHETHER IT WAS ON HIS
16 TELEPHONE BILL?

17 THE WITNESS: I REALLY DON'T KNOW.

18 Q BY MR. YOUNG: IS THAT A -- HOW FAR DO YOU
19 LIVE FROM RON?

20 A ABOUT 10 OR 15 MINUTES AWAY.

21 Q WOULD YOU BE IN THE SAME PHONE --

22 A WE LIVE IN CHEVIOT HILLS, AND RONNIE LIVES IN
23 BEVERLY HILLS.

24 Q OKAY. DO YOU KNOW IF WHEN YOU MAKE A CALL TO
25 RON ON YOUR CALL --

26 A YES.

27 Q -- I MEAN ON YOUR PHONE --

28 A YES.

1 Q -- DOES THAT SHOW UP ON YOUR PHONE BILL?

2 A I DON'T KNOW. DO THEY MONITOR EVERY CALL THAT
3 YOU MAKE? IT'S NOT A TOLL CALL, SO I DON'T KNOW.

4 Q SOME LOCAL CALLS WILL SHOW UP AND OTHERS DON'T.
5 YOU KNOW, WHEN THEY KEEP TRACK OF EACH CALL --

6 A I DON'T KNOW.

7 Q YOU DON'T HAVE ANY SPECIFIC RECOLLECTION OF
8 THAT?

9 A NO. BUT MAYBE WE COULD FIND OUT.

10 Q OKAY. DID RON EVER INDICATE TO YOU THAT HE MAY
11 BE FACING A LENGTHY PRISON TERM FOR THE CHARGES THAT HE HAD
12 IN BEVERLY HILLS?

13 A NO.

14 Q OKAY. YOU INDICATED EARLIER THAT HE NEVER
15 DISCUSSED HIS BUSINESS WITH YOU?

16 A RIGHT.

17 Q IS THAT CORRECT?

18 A RIGHT.

19 Q SO YOU BASICALLY HAD NO DISCUSSIONS WITH HIM
20 ABOUT THIS CASE OTHER THAN THE FACT THAT HE TOLD YOU IT WAS
21 GOING GOOD?

22 A RIGHT.

23 Q AND HOW MANY TIMES DID YOU HAVE DISCUSSIONS
24 REGARDING THE CASE?

25 A ABOUT WHAT?

26 Q HOW MANY TIMES DID YOU HAVE DISCUSSIONS WITH
27 RON REGARDING THE CASE IN BEVERLY HILLS?

28 A WELL, SINCE I WASN'T WORRIED ABOUT IT, MAYBE

1 ONCE OR TWICE.

2 Q OKAY. YOU'RE AWARE THAT HE WAS IN JAIL FOR
3 SOME PERIOD OF TIME --

4 A YES.

5 Q I THINK 90 DAYS?

6 A YES.

7 Q DO YOU KNOW WHAT THAT WAS FOR?

8 A I CAN'T REALLY REMEMBER. TO BE PERFECTLY
9 HONEST, I CAN'T REMEMBER.

10 Q OKAY. DID YOU EVER HAVE ANY DISCUSSIONS WITH
11 HIM REGARDING HIS BEING IN JAIL AFTER HE GOT OUT OF JAIL?

12 A NO, BUT I WENT TO SEE HIM EVERY DAY.

13 Q OKAY. WHEN YOU WENT TO SEE HIM EVERY DAY, DID
14 HE INDICATE DISSATISFACTION WITH HAVING TO BE IN JAIL?

15 A NO.

16 Q OKAY. THEN DID HE EVER INDICATE TO YOU THAT HE
17 WOULD LIKE TO GET OUT OF JAIL?

18 A THAT WHAT?

19 Q THAT HE WOULD LIKE TO GET OUT OF JAIL?

20 A NO. WE ALL ASSUMED HE WOULD, BUT HE NEVER SAID
21 ANYTHING TO ME ABOUT IT.

22 Q OKAY. ARE YOU AWARE OF AN INCIDENT BETWEEN SIX
23 MONTHS AND A YEAR BEFORE RON'S DISAPPEARANCE WHERE HE WAS
24 ROBBED AND BEATEN UP?

25 A I FOUND OUT ABOUT IT MANY, MANY MONTHS LATER
26 BECAUSE HE TOLD HIS BROTHER, AND HIS BROTHER DIDN'T WANT HIM
27 TO TELL ME BECAUSE I'M A TYPICAL NERVOUS MOTHER AND HE
28 DIDN'T WANT ME TO KNOW ABOUT THAT.

1 Q OKAY. WHAT DID THEY TELL YOU ABOUT THAT?

2 A THAT RONNIE WAS ROBBED. THEY CAME INTO THE
3 HOUSE AND THEY ROBBED HIM AND THAT WAS IT.

4 Q DID THEY TELL YOU THAT HE WAS KNIFED OR STABBED
5 OR ANYTHING?

6 A YES.

7 Q DID THEY TELL YOU THAT THESE PEOPLE WERE
8 ATTEMPTING TO KILL HIM OR JUST INJURE HIM OR.....

9 A NO. THEY JUST WANTED TO ROB HIM.

10 Q DO YOU KNOW IF HE KNEW THE PEOPLE WHO TRIED TO
11 ROB HIM?

12 A NO.

13 Q OKAY. DO YOU KNOW WHAT THE PURPOSE OF THE
14 ROBBERY WAS?

15 MS. LOPEZ: I'M GOING TO OBJECT.

16 THE WITNESS: NO. I WOULD ASSUME A ROBBERY WAS TO
17 TAKE VALUABLES. MONEY OR WHATEVER.

18 Q BY MR. YOUNG: DO YOU HAVE ANY KNOWLEDGE THAT
19 THE PURPOSE OF THE ROBBERY WAS TO TAKE COMPUTER EQUIPMENT
20 THAT WAS AT HIS APARTMENT?

21 MS. LOPEZ: I'M GOING TO OBJECT --

22 THE WITNESS: NO.

23 MS. LOPEZ: -- AS ASSUMING FACTS NOT INTO EVIDENCE.

24 MR. YOUNG: I'M ASKING HER --

25 THE WITNESS: NO.

26 THE COURT: THE OBJECTION WILL BE OVERRULED. SHE'S
27 ANSWERED THE QUESTION.

28 Q BY MR. YOUNG: WHO IS TO YOUR KNOWLEDGE DEAN

1 FACTOR?

2 A HE'S A FAMILY FRIEND, RONNIE'S FAMILY FRIEND
3 THAT HE'S KNOWN FOR MANY YEARS.

4 Q AND WHAT ABOUT MIKE -- DID YOU SAY IT WAS
5 BRODER?

6 A YES. I JUST MET HIM. HE WAS ALSO JUST A
7 FRIEND.

8 Q OKAY. DID RON EVER TAKE ANY TRIPS WITH THESE
9 PEOPLE BEFORE THAT YOU KNOW OF?

10 A NOT THAT I KNOW OF.

11 Q OKAY. DID RON NORMALLY TAKE PERSONS WITH HIM
12 WHEN HE TOOK A TRIP?

13 A I DON'T KNOW.

14 Q OKAY.

15 Q DO YOU HAVE ANY KNOWLEDGE OTHER THAN THIS TRIP
16 OF HIM TAKING OTHER PEOPLE WITH HIM?

17 A NO.

18 Q SO TO YOUR KNOWLEDGE, WAS IT UNUSUAL FOR HIM TO
19 TAKE PEOPLE WITH HIM ON A TRIP?

20 A WAS IT WHAT?

21 Q TO YOUR KNOWLEDGE, WAS IT UNUSUAL FOR HIM TO
22 TAKE OTHER PERSONS WITH HIM WHEN HE WENT ON ONE OF THESE --

23 A NO, IT WASN'T UNUSUAL. I JUST DIDN'T ASK HIM
24 THOSE THINGS AND I DON'T IMAGINE IT WAS UNUSUAL, THOUGH.
25 FRIENDS SOMETIMES DO GO TOGETHER.

26 Q OKAY. DO YOU REMEMBER BEFORE THE NEW YORK TRIP
27 IF HE TOOK ANY OTHER TRIPS?

28 A YES --

1 Q DID HE TAKE A TRIP TO AUSTRALIA?

2 A YES, HE DID.

3 Q DO YOU REMEMBER APPROXIMATELY WHEN THAT WAS?

4 A I THINK IT WAS IN JANUARY, I THINK.

5 Q AND DO YOU KNOW IF HE TOOK ANYONE WITH HIM ON
6 THAT TRIP?

7 A YES, HE DID ON THAT TRIP. YES.

8 Q DO YOU KNOW WHO THAT WAS?

9 A YES. THAT WAS NEIL ANTON.

10 Q AND IS THAT THE ONLY PERSON HE TOOK?

11 A I THINK SO. I DON'T KNOW.

12 Q DID HE HAVE ANY OTHER TRIPS THAT YOU'RE AWARE
13 OF WITHIN SIX MONTHS OF HIS DISAPPEARANCE?

14 A I KNOW HE WENT TO NEW YORK.

15 Q DO YOU KNOW IF HE TOOK ANYONE WITH HIM WHEN HE
16 WENT TO NEW YORK?

17 A I REALLY DON'T. HE WOULD JUST CALL ME AND SAY
18 MOTHER I'M GOING THUS AND SO AND HE'D CALLED ME WHEN HE GOT
19 THERE AND HE CALLED ME WHEN HE GOT HOME, AND THAT WAS AS FAR
20 AS IT WENT.

21 Q YOU INDICATED EARLIER THAT WHEN YOU MET HIM OUT
22 ON THE, I GUESS IT WAS THE STREET NEAR HIS HOUSE WHEN HE WAS
23 WALKING HIS DOG --

24 A RIGHT.

25 Q -- THAT HE WASN'T PERFECTLY CALM. UMM --

26 A LET ME JUST REPHRASE THAT. IT WASN'T THAT HE
27 WAS NERVOUS OR ANYTHING. HE JUST DIDN'T JOKE AROUND WITH
28 ME. THAT WAS ALL.

1 Q AND HE NORMALLY JOKED AROUND WITH YOU?

2 A YEAH. HE JUST ASKED ME WHERE I WAS GOING, AND
3 I TOLD HIM WHERE I WAS GOING, ALTHOUGH AT THE MOMENT I CAN'T
4 THINK OF WHERE I WAS GOING, BUT NONETHELESS -- AND THAT'S --
5 WE HAD A VERY SHORT CONVERSATION.

6 Q OKAY. SO IN RETROSPECT, WOULD -- LOOKING AT IT
7 NOW IN LIGHT OF HIS DISAPPEARANCE, WOULD THAT LEAD YOU TO
8 BELIEVE THAT MAYBE RON LEVIN THOUGHT SOMETHING WAS WRONG OR
9 GETTING READY TO GO WRONG?

10 A NO. I DIDN'T HAVE ANY INDICATION OF THAT,
11 CERTAINLY.

12 Q BUT HE NORMALLY JOKED WITH YOU, AND DURING
13 THIS --

14 A I WOULD SAY THAT HE WOULD NOT JOKE WITH ME SO
15 MUCH AS "WHERE ARE YOU GOING, MOTHER" AND "WHAT ARE YOU
16 DOING" AND THINGS LIKE THAT, WHICH IS NOT WHAT HE DID AT
17 THAT TIME. HE JUST SAID TO ME "WHERE ARE YOU GOING," AND I
18 TOLD HIM WHERE I WAS GOING AND THAT WAS IT. THAT WAS THE
19 LENGTH OF THE CONVERSATION.

20 Q OKAY. LATER ON YOU SPOKE WITH HIM ON THE
21 PHONE?

22 A UM-HMM.

23 Q AND YOU SAID THAT HE SOUNDED A LITTLE
24 APPREHENSIVE?

25 A WELL, YES. HE WAS A LITTLE -- A LITTLE -- I
26 WOULD SAY HE WAS A LITTLE UPTIGHT. THAT'S MY ASSUMPTION.

27 Q YEAH. BUT HE DIDN'T INDICATE TO YOU WHAT THE
28 REASON MAY BE?

1 A NO, HUH-HUH.

2 Q WHEN YOU WERE AT HIS HOUSE ON THE DAY OF THE
3 7TH, DID DEAN FACTOR INDICATE TO YOU THAT HE HAD CALLED RON
4 THE NIGHT BEFORE?

5 A YES, THAT HE SPOKE WITH HIM ABOUT 9:00 O'CLOCK
6 THE PREVIOUS NIGHT.

7 Q DID HE INDICATE TO YOU WHAT THE NATURE OF THAT
8 CONVERSATION WAS?

9 A NO.

10 Q DID HE MENTION ANYTHING ABOUT THAT HE ASKED RON
11 IF HE WAS HUNGRY, IF HE WANTED HIM TO BRING HIM ANY FOOD?

12 A NO. HE DIDN'T SAY ANYTHING LIKE THAT TO ME.

13 Q OKAY. DID MIKE BRODER INDICATE THAT HE BEEN IN
14 CONTACT WITH RON?

15 A YES.

16 Q AND WHEN DID HE SAY HE CONTACTED HIM?

17 A THAT WHAT?

18 Q WHEN DID HE SAY HE CONTACTED RON THE LAST TIME?

19 A THE DAY BEFORE, I THINK.

20 Q DID HE INDICATE THE TIME?

21 A NO.

22 Q DO YOU HAVE ANY KNOWLEDGE THAT ANYONE HAD
23 DINNER WITH RON THE NIGHT BEFORE THAT?

24 A NO.

25 Q WHICH WOULD HAVE BEEN THE 6TH?

26 A HUM-HUM.

27 Q DID DEAN FACTOR OR MIKE BRODER INDICATE THAT
28 RON HAD HAD DINNER WITH ANYONE THE NIGHT BEFORE?

1 A NO.

2 Q OKAY. YOU INDICATED THAT THERE WAS FOOD THERE
3 ON THE TABLE IN BOXES.

4 A YES.

5 Q DID THAT FOOD -- DID IT LOOK LIKE IT WAS FOR
6 ONE PERSON, TWO PERSONS --

7 A YES.

8 Q -- OR THREE?

9 A ONE PERSON.

10 Q ONE PERSON. OKAY.

11 A UM-HMM.

12 Q AND HOW DID YOU DETERMINE THAT?

13 A IT WAS JUST ONE BOX.

14 Q ONE BOX?

15 A YEAH.

16 Q DID YOU TELL BY THE BOX WHERE THAT CAME FROM?

17 A NO. I LOOKED, BUT I COULDN'T TELL. THERE WAS
18 NO NAME ON THERE.

19 Q HAVE YOU EVER ORDERED FOOD FROM LA SCALA?

20 A HAVE I? NO.

21 Q OKAY. DID RON EVER, TO YOUR KNOWLEDGE?

22 A I DON'T KNOW.

23 Q OKAY. DID YOU NOTICE WHAT KIND OF FOOD IT WAS
24 IN THIS BOX?

25 A I DON'T REMEMBER, NO. I WAS SO UPSET AT THE
26 TIME THAT ALL I SAW WAS THE BOX. I DON'T EVEN REMEMBER WHAT
27 WAS INSIDE. I'M SURE I LIFTED UP THE LID, BUT I DON'T
28 REMEMBER WHAT WAS INSIDE.

37

1 Q COULD YOU REMEMBER IF ANY DISHES WERE IN THE
2 SINK?

3 A I DON'T REMEMBER.

4 Q DO YOU REMEMBER IF THERE WERE ANY GLASSES OR
5 ANYTHING OUT ON THE TABLE WITH THE BOX OF FOOD?

6 A I DON'T REMEMBER.

7 Q YOU INDICATED EARLIER THAT ONLY ONCE HAD RON
8 GONE OFF AND NOT TOLD YOU WHERE HE WAS GOING --

9 A HE NEVER WENT ANYPLACE WITHOUT TELLING ME,
10 EVER.

11 Q OKAY. WASN'T THERE A PERIOD THAT YOU SAID
12 EARLIER THAT HE WAS MISSING FOR FOUR DAYS?

13 A NO. I NEVER SAID THAT. I SAID THAT WOULD BE
14 THE LONGEST --

15 Q DID YOU SAY FOUR DAYS -- LET ME REPHRASE IT.
16 DID YOU SAY FOUR DAYS WAS THE LONGEST YOU HAD GONE WITHOUT
17 HEARING FROM HIM?

18 A YES.

19 Q AND WHEN DID THAT OCCUR?

20 A OH, I CAN'T REMEMBER. THAT WAS SO
21 INFREQUENTLY. MAYBE -- I DON'T EVEN REMEMBER.

22 Q HAVE YOU EVER SEEN MY CLIENT?

23 A NO I HAVE NOT.

24 Q HAVE YOU EVER HEARD THE NAME JAMES PITTMAN
25 OTHER THAN SINCE THIS CASE --

26 A NO, I HAVE NOT.

27 Q HAS THERE BEEN A PROBATE STARTED ON RON'S
28 ESTATE?

1 A WE HAVE A CONSERVATOR, IF THAT'S THE SAME
2 THING.

3 Q DO YOU HAVE ANY IDEA WHAT THE VALUE OF HIS
4 ESTATE IS?

5 A NO, I DON'T.

6 Q WOULD IT BE OVER A MILLION DOLLARS?

7 A OH, NO.

8 Q ARE YOU AWARE THAT THERE WAS A 1.5 MILLION
9 DOLLAR CHECK THAT WAS APPARENTLY ENDORSED BY RON BEFORE HIS
10 DISAPPEARANCE?

11 A I READ ABOUT IT.

12 Q TO YOUR KNOWLEDGE DID HE HAVE ANY BANK ACCOUNTS
13 IN SWITZERLAND?

14 A I DON'T KNOW. I WAS VERY CLOSE WITH MY SON,
15 BUT HE NEVER DISCUSSED HIS BUSINESS WITH ME, EVER. AND I
16 KNOW THAT HE WOULD NEVER GO AWAY WITHOUT CONTACTING ME. I
17 JUST KNOW THAT.

18 Q OKAY. DO YOU KNOW IF SOMETIME SHORTLY BEFORE
19 HIS DISAPPEARANCE THAT HE WENT TO SAN FRANCISCO?

20 A PROBABLY. IF HE DID GO, HE PROBABLY CALLED ME.
21 SURE.

22 Q DO YOU KNOW WHO HE WENT TO SAN FRANCISCO WITH?

23 A NO.

24 Q WHEN YOU CAME TO THE APARTMENT AND BLANCHE WAS
25 THERE, DID SHE INDICATE TO YOU ALL THE DIFFERENT ITEMS THAT
26 APPEARED TO BE MISSING?

27 A SHE JUST TOLD ME WHAT WAS MISSING FROM THE BED.
28 THAT WAS IT. AND HIS ROBE AND HIS JOGGING SUIT.

1 Q OKAY. WHAT DID SHE SAY WAS MISSING FROM THE
2 BED?

3 A A PILLOW WAS GONE, TWO TOWELS, A BEDSPREAD AND
4 THE REMOTE CONTROL BOX.

5 Q WAS THE DOG AT THE APARTMENT AT THAT TIME?

6 A YES.

7 MR. YOUNG: NO FURTHER QUESTIONS.

8 THE COURT: MS. LOPEZ?

9

10 REDIRECT EXAMINATION

11 BY MS. LOPEZ:

12 Q PRIOR TO YOUR GOING INTO THE LITTLE CUBBYHOLE
13 TO REMOVE RON'S VALUABLES, DID YOU KNOW HOW MANY WATCHES HE
14 OWNED?

15 A NO.

16 Q THAT WAS THE FIRST TIME YOU WERE AWARE OF THE
17 FACT THAT HE OWNED FOUR DIFFERENT WATCHES?

18 A WELL, I KNEW HE LIKED WATCHES, BUT THAT WAS THE
19 FIRST TIME I EVER HAD ANY REASON TO GO AND GET THEM.

20 Q OKAY. SO PRIOR TO THAT TIME YOU DIDN'T HAVE
21 ANY KNOWLEDGE AS TO HOW MANY WATCHES HE ACTUALLY OWNED?

22 A NO.

23 Q AND IF HE HAPPENED TO OWN MORE THAN THE FOUR
24 WATCHES, YOU WOULDN'T KNOW ABOUT IT, WOULD YOU?

25 A NO. HUM-HUM.

26 MS. LOPEZ: YOUR HONOR, I HAVE A PHOTOGRAPH. I'D
27 LIKE THAT PHOTOGRAPH TO BE MARKED AS PEOPLE'S EXHIBIT 1.
28 I'M SHOWING IT TO MR. YOUNG.

1 MAY I APPROACH THE WITNESS?

2 THE COURT: YES. YOU MAY APPROACH. IT WILL BE
3 DESIGNATED AS PEOPLE'S 1 FOR IDENTIFICATION.

4 MS. LOPEZ: I'M HANDING THE WITNESS THE PHOTOGRAPH
5 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 1.

6 Q DO YOU RECOGNIZE WHAT'S SHOWN IN THAT
7 PHOTOGRAPH?

8 A WELL, THERE ARE FOUR PILLOWS HERE, I THINK.
9 ARE THERE NOT, OR --

10 Q WHOSE ROOM IS THAT?

11 A THAT'S RONNIE'S ROOM.

12 Q AND IS THAT THE BEDROOM?

13 A YES.

14 Q AND I'D LIKE TO DIRECT YOUR ATTENTION TO THE
15 BED. DOES THAT PHOTOGRAPH ACCURATELY SHOW THE BED AS IT
16 APPEARED ON THE MORNING OF JUNE 7TH WHEN YOU ENTERED THAT
17 APARTMENT?

18 A I THINK SO.

19 MS. LOPEZ: I HAVE NOTHING FURTHER.

20

21

RECROSS-EXAMINATION

22 BY MR. YOUNG:

23 Q SO WHEN YOU ENTERED THE APARTMENT AT THE TIME
24 YOU GOT THERE, THE BEDSPREAD WAS PARTIALLY OFF THE BED LIKE
25 THIS?

26 A YES.

27 Q DOES THAT LOOK --

28 A YES. THAT LOOKS ABOUT LIKE IT IT WAS

1 Q SO WHEN YOU SAY THE PILLOWS WERE DISRUPTED, IS
2 THAT WHAT YOU WERE TRYING TO TALK ABOUT.....

3 A RIGHT.

4 Q THE WAY THEY LOOK IN THAT PICTURE?

5 A RIGHT.

6 Q DID HE DO A LOT OF READING?

7 A YES, AN AWFUL LOT OF READING. SOMETIMES WHEN
8 I'D COME OVER TO THE APARTMENT, HE MIGHT BE IN BED AND I'D
9 JUST GO OVER AND GIVE HIM A KISS AND LEAVE. I MEAN HE WAS
10 CONSTANTLY READING. HE READ IN BED A LOT.

11 MR. YOUNG: THANK YOU. NO FURTHER QUESTIONS.

12 THE COURT: ANYTHING FURTHER?

13
14 FURTHER REDIRECT EXAMINATION

15 BY MS. LOPEZ:

16 Q AFTER ENTERING THAT APARTMENT DID YOU EVER
17 TOUCH OR IN ANY WAY DISTURB THE BED?

18 A NO.

19 MS. LOPEZ: NOTHING FURTHER.

20 THE COURT: ANYTHING ELSE?

21 MR. YOUNG: NO.

22 THE COURT: ALL RIGHT. MAY MRS. LEVIN BE EXCUSED
23 NOW?

24 MS. LOPEZ: YES.

25 THE COURT: THANK YOU VERY MUCH, MRS. LEVIN.

26 MS. LOPEZ: PEOPLE CALL MARTIN LEVIN.

27 /////

28 /////

1 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE
2 TESTIMONY YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE
3 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING
4 BUT THE TRUTH, SO HELP YOU GOD?

5 THE WITNESS: I DO.

6
7 MARTIN LEVIN,
8 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
9 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

10 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
11 SPELL YOUR LAST NAME.

12 THE WITNESS: MARTIN LEVIN, L-E-V-I-N.

13 THE CLERK: THANK YOU.

14
15 DIRECT EXAMINATION

16 BY MS. LOPEZ:

17 Q MR. LEVIN, WHAT WAS YOUR RELATIONSHIP TO RON
18 LEVIN?

19 A I WAS HIS FATHER, STEPFATHER.

20 Q AND HOW WOULD YOU CHARACTERIZE YOUR
21 RELATIONSHIP WITH RON LEVIN?

22 A WELL, WE HAD A LOVING RELATIONSHIP OF FATHER
23 AND SON.

24 Q OKAY. DID YOU SPEAK TO HIM OFTEN?

25 A NOT THAT OFTEN.

26 Q YOU'RE STILL MARRIED TO CAROL LEVIN; IS THAT
27 CORRECT?

28 A YES.

1 Q HOW WOULD YOU CHARACTERIZE OR DESCRIBE RON'S
2 RELATIONSHIP WITH HIS MOTHER, CAROL?

3 A IT WAS TERRIFIC. THEY HAD A VERY LOVING
4 RELATIONSHIP.

5 Q DID THEY SPEAK OFTEN?

6 A THEY SPOKE OFTEN.

7 Q IS THAT BY TELEPHONE AND IN PERSON?

8 A MOSTLY BY TELEPHONE. THEY WOULD VISIT TOGETHER
9 PROBABLY TWICE A WEEK.

10 Q DID YOU EVER KNOW RON LEVIN TO LEAVE FOR AN
11 EXTENDED PERIOD OF TIME WITHOUT NOTIFYING HIS MOTHER?

12 A NEVER.

13 Q DID YOU EVER KNOW HIM TO LEAVE FOR AN EXTENDED
14 PERIOD OF TIME WITHOUT TELLING HIS MOTHER WHERE HE WAS
15 GOING?

16 A NEVER.

17 Q DID YOU EVER KNOW HIM TO LEAVE FOR AN EXTENDED
18 PERIOD OF TIME WITHOUT CONTACTING HIS MOTHER FROM THE PLACE
19 WHERE HE HAD GONE TO?

20 A NEVER.

21 Q ON JUNE 7, 1984, DID YOU GO TO RON'S APARTMENT
22 AT 144 SOUTH PECK DRIVE?

23 A YES, I DID.

24 Q AND APPROXIMATELY WHAT TIME WAS THAT?

25 A APPROXIMATELY 9:00 O'CLOCK.

26 Q WHAT WAS YOUR REASON FOR GOING THERE?

27 A MY WIFE CALLED ME AT HOME. I HAD BEEN AWAY IN
28 THE MORNING WHEN BLANCHE CALLED MY WIFE AND TOLD HER THAT

1 RONNIE WAS NOT THERE. SHE WENT OVER TO HIS APARTMENT AND
2 SHE CALLED ME WHEN I HAD GOT HOME FROM WHERE I WAS GOING.

3 Q AND DID YOU SUBSEQUENTLY GO TO RON'S APARTMENT?

4 A I LEFT IMMEDIATELY.

5 Q AND WHEN YOU ARRIVED AT RON'S APARTMENT, WHO
6 WAS THERE?

7 A MY WIFE WAS THERE AND BLANCHE WAS THERE.

8 Q WAS ANYBODY ELSE THERE AT THAT TIME?

9 A NO.

10 Q AT THAT TIME DID YOU LOOK AT THE BED?

11 A YES.

12 Q DID YOU EVER TOUCH THE BED AFTER ENTERING THAT
13 APARTMENT?

14 A NO.

15 MS. LOPEZ: MAY I APPROACH?

16 THE COURT: YES.

17 MS. LOPEZ: I'M HANDING THE WITNESS THE PHOTOGRAPH
18 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 1.

19 Q MR. LEVIN, DOES THAT PHOTOGRAPH ACCURATELY SHOW
20 THE WAY THAT RON'S BEDROOM APPEARED ON THE MORNING OF JUNE
21 7TH WHEN YOU ENTERED?

22 A YES, IT DOES.

23 Q IS THAT -- DOES THAT PHOTOGRAPH ACCUARELY SHOW
24 THE MANNER IN WHICH THE BED APPEARED ON THE MORNING OF JUNE
25 7TH?

26 A YES.

27 Q AFTER ENTERING THAT LOCATION ON JUNE 7TH, DID
28 YOU EVER TOUCH OR DISTURB THE BED IN ANY WAY?

1 A NO, I DID NOT.

2 Q AFTER ARRIVING ON JUNE 7TH, YOU SPOKE TO
3 BLANCHE; IS THAT CORRECT?

4 A YES.

5 Q DID YOU LATER OBTAIN A COMBINATION TO THE ALARM
6 FROM BLANCHE?

7 A YES.

8 Q AND DID YOU SUBSEQUENT -- APPROXIMATELY WHAT
9 TIME DID YOU LEAVE THE APARTMENT ON THAT DATE? IF YOU CAN
10 RECALL.

11 A I DON'T REALLY REMEMBER.

12 Q DO YOU KNOW APPROXIMATELY HOW LONG YOU STAYED
13 AT THE APARTMENT?

14 A PROBABLY A COUPLE HOURS.

15 Q AND WHAT DID YOU DO DURING THOSE COUPLE OF
16 HOURS?

17 A JUST LOOKED AROUND. JUST REALLY NOTHING OTHER
18 THAN LOOK AROUND.

19 Q AFTER THAT DATE, DID YOU EVER CHANGE THE LOCKS
20 TO THE APARTMENT?

21 A YES, DID.

22 Q DO YOU KNOW WHEN YOU CHANGED THE LOCKS TO THE
23 APARTMENT?

24 A I THINK ABOUT TWO WEEKS LATER.

25 Q WHAT WAS YOUR REASON FOR CHANGING THE LOCKS TO
26 THE APARTMENT?

27 A BLANCHE THOUGHT THERE -- THAT SOMEONE ELSE
28 MIGHT HAVE HAD A KEY OR THERE MIGHT BE SOME KEYS AROUND OR

1 THAT SOMEBODY MIGHT HAVE TAKEN THE KEY, AND I THOUGHT IT
2 WOULD BE BEST IF I CHANGED THE LOCKS.

3 Q OKAY. ON THAT DAY, JUNE 7TH, WHEN YOU LEFT,
4 DID YOU SET THE ALARM WHEN YOU LEFT? IF YOU CAN RECALL.

5 A I'M NOT SURE I DID.

6 Q DO YOU KNOW WHETHER OR NOT -- WHO WAS WITH YOU
7 WHEN YOU LEFT? WAS YOUR WIFE STILL WITH YOU?

8 A YES.

9 Q OKAY. DO YOU KNOW WHETHER OR NOT YOUR WIFE SET
10 THE ALARM?

11 A MY WIFE WOULDN'T. MAYBE BLANCHE DID. I'M NOT
12 SURE.

13 Q OKAY. DID YOU, BLANCHE AND YOUR WIFE LEAVE
14 TOGETHER ON THAT DATE?

15 A I DON'T REMEMBER.

16 Q OKAY. AFTER THAT DATE DID YOU GO TO RON'S
17 APARTMENT AGAIN?

18 A YES.

19 Q AND --

20 A MANY TIMES.

21 Q HOW OFTEN DID YOU GO TO HIS APARTMENT?

22 A MANY TIMES.

23 Q AND WOULD THAT BE EVERY DAY OR EVER OTHER DAY?

24 A I'D SAY ALMOST EVERY DAY.

25 Q DID YOU OBTAIN A KEY FROM BLANCHE TO GET INTO
26 RON'S MAILBOX?

27 A YES, I DID.

28 Q AND DID RON -- OR DID BLANCHE TELL YOU WHERE

1 RON RECEIVED MAIL OTHER THAN AT THE MAILBOX?

2 A YES, SHE DID.

3 Q AFTER THAT DATE, DID YOU THEN PICK UP RON'S
4 MAIL?

5 A YES. I PICKED UP RON'S MAIL.

6 Q AND HOW OFTEN DID YOU GO TO PICK UP RON'S MAIL?

7 A OH, ABOUT TWICE A WEEK.

8 Q OTHER THAN YOURSELF, WHO HAD A KEY TO HIS
9 MAILBOX THAT YOU ARE AWARE OF?

10 A ONLY I DID. CHRIS, BLANCHE'S HUSBAND, GAVE ME
11 THE KEY. THERE WAS ONLY ONE KEY THAT I KNOW OF.

12 Q AND AFTER THAT DATE YOU WENT TWICE A WEEK,
13 APPROXIMATELY?

14 A APPROXIMATELY. SOMETIMES THREE TIMES A WEEK.

15 Q DID YOU -- LET ME WITHDRAW THAT. DID RON HAVE
16 VALUABLE ARTIFACTS IN HIS HOME?

17 A YES.

18 Q AND DID YOU SUBSEQUENTLY REMOVE THEM FROM HIS
19 HOME?

20 A SOME OF THEM I DID.

21 Q OKAY. WHAT WAS YOUR REASON FOR REMOVING THEM?

22 A I WASN'T SURE HOW LONG THE BURGLARY ALARM WOULD
23 BE IN EFFECT. I DIDN'T KNOW WHETHER THEY'D BE -- BECAUSE I
24 HADN'T BEEN PAYING ANY OF THOSE BILLS AND I DIDN'T WANT TO
25 TAKE A CHANCE OF SOMEONE EITHER KNOWING WHAT THE ALARM WAS
26 OR ELSE IT NOT WORKING, SO I THOUGHT SOME OF THE THINGS WE
27 HAD REMOVE.

28 Q OTHER THAN YOURSELF, WHO ELSE HAD A KEY TO

1 RON'S APARTMENT AFTER A YOU CHANGED THE LOCKS?

2 A JUST MY WIFE AND MYSELF.

3 Q AND IN GOING TO -- INTO HIS APARTMENT, DID YOU
4 CHECK THE -- HIS FILE ROOM OR HIS STUDY ROOM?

5 A ALL THE TIME.

6 Q AND DID YOU GO THROUGH THE BOOKS AND THINGS
7 THAT HE HAD THERE?

8 A YES, I DID.

9 Q AND DID ANY PAPERS COME TO YOUR ATTENTION THAT
10 WERE ON YELLOW PIECES OF PAPER?

11 A YES.

12 Q AND WILL YOU DESCRIBE THOSE PAPERS?

13 A I FOUND A YELLOW PIECE OF PAPER ON THE FLOOR IN
14 HIS OFFICE, SMALL OFFICE, AND I PICKED IT UP AND NOTICED
15 WHAT IT SAID ON THERE. AS I LOOKED..... IT JUST SEEMED
16 FAR-FETCHED TO ME. I COULDN'T DRAW ANY CONNECTION TO IT. I
17 COULDN'T IMAGINE ANYBODY WRITING THOSE KINDS OF THINGS DOWN
18 AND I JUST PUT IT ASIDE AND DIDN'T LET IT BOTHER ME.

19 Q HOW MANY PAGES WERE THERE?

20 A ONE PAGE.

21 Q AND WILL YOU DESCRIBE THE MANNER IN WHICH THE
22 PAGE WAS THERE? WAS IT FOLDED? WAS IT JUST LAYING FLAT?

23 A IT WAS A FLAT PAGE, BUT IT WAS ON THE FLOOR ON
24 THE SIDE MIXED IN WITH OTHER PAGES.

25 Q OKAY. WHEN YOU SAY MIXED IN WITH OTHER PAGES,
26 WHAT ARE YOU REFERRING TO? OTHER SIMILAR TYPE PAGES?

27 A THERE WERE -- NO. THERE WERE OTHER WHITE PAGES
28 ON THE FLOOR, BUT THIS ONE WAS LAYING -- IT WAS STANDING

8

1 OUT. IT SORT OF STOOD OUT.

2 Q AND WHAT MADE THIS PAGE APPEAR UNUSUAL TO YOU?
3 BE SPECIFIC ABOUT THE CONTENTS OF THE PAGE.

4 A WELL, IT WAS JUST -- IT WAS JUST FAR-FETCHED.
5 I COULDN'T IMAGINE ANYBODY WRITING THE THINGS DOWN THAT THEY
6 WERE GOING TO DO TO RONNIE.

7 MR. YOUNG: YOUR HONOR, I OBJECT TO ANY STATEMENTS AS
8 TO THE CONTENTS OF WHAT'S ON THIS PIECE OF PAPER THAT HE
9 HAS. IT WOULD BE HEARSAY.

10 THE COURT: WELL, ALL RIGHT. HE HASN'T SAID ANYTHING
11 ABOUT THE CONTENTS. HIS REACTION TO IT MAY STAY IN AS A
12 REACTION. THE OBJECTION WILL BE OVERRULED.

13 Q BY MS. LOPEZ: WHAT DID YOU DO WITH THIS PAGE
14 THAT YOU FOUND?

15 A I JUST LAID IT TO THE SIDE ON RONNIE'S DESK
16 WITH NUMEROUS OTHER PAPERS THAT I HAD BEEN GOING THROUGH,
17 ALL THE TIME TRYING TO SEE WHAT I COULD UNCOVER, SEE IF I
18 COULD FIND SOME CONNECTION SOMEWHERE WITH RONNIE -- WHAT
19 MIGHT HAVE HAPPENED OR WHERE HE COULD BE OR ANYTHING.

20 Q OKAY. DID YOU LATER GIVE THIS SHEET OF PAPER
21 TO SOMEBODY?

22 A YES. I GAVE IT TO DETECTIVE ZOELLER.

23 Q AND DID YOU GIVE IT TO DETECTIVE ZOELLER ON
24 AUGUST 16, 1984?

25 A YES.

26 Q WAS DETECTIVE ZOELLER AT YOUR APARTMENT AT THE
27 TIME THAT YOU GAVE THAT PAPER TO HIM?

28 A YES. I THINK SO.

1 Q OTHER THAN DETECTIVE ZOELLER, DID YOU GIVE THAT
2 SHEET OF PAPER TO ANYBODY ELSE?

3 A NO, NO.

4 Q DO YOU KNOW A PERSON BY THE NAME OF JOE HUNT?

5 A NO.

6 Q DID YOU EVER HAND THIS SHEET OF PAPER TO
7 SOMEBODY NAMED JOE HUNT?

8 A NO.

9 MS. LOPEZ: MAY I HAVE A MOMENT, YOUR HONOR?

10 THE COURT: YES.

11 MS. LOPEZ: YOUR HONOR, I HAVE SEVEN PAGES. THEY ARE
12 COPIES OF SEVEN YELLOW SHEETS OF LEGAL SIZE PAPER. MAY THE
13 COPIES BE MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 1 -- I'M
14 MEAN PEOPLE'S EXHIBIT 2. THE ORIGINALS ARE IN COURT AND ARE
15 AVAILABLE IF MR. YOUNG WOULD LIKE TO EXAMINE THEM. WE WOULD
16 NOT LIKE TO ADMIT THE ORIGINALS OR MARK THE ORIGINALS INTO
17 EVIDENCE AT THIS TIME. MAY THE COPIES BE MARKED AS PEOPLE'S
18 EXHIBIT 2?

19 THE COURT: ALL RIGHT. HAVE YOU SEEN THESE, MR.
20 YOUNG?

21 MR. YOUNG: HOW MANY COPIES ARE IN THERE? LET ME SEE
22 THEM. I WON'T TOUCH THEM.

23 HAS THERE BEEN ANY FOUNDATION ESTABLISHED AS TO THESE
24 PAPERS? I THINK HE ONLY MADE REFERENCE TO ONE PIECE OF
25 PAPER.

26 MS. LOPEZ: I'LL ASK HIM WHETHER OR NOT HE RECOGNIZES
27 THE OTHER ONE.

28 MAY I APPROACH THE WITNESS, YOUR HONOR?

1 THE COURT: YES. DO YOU WANT THESE COPIES DESIGNATED
2 AS PEOPLE'S 2 FOR IDENTIFICATION COLLECTIVELY?

3 MS. LOPEZ: YES. YES, YOUR HONOR.

4 THE COURT: SEVEN PAGES, DID YOU SAY?

5 MS. LOPEZ: YES. THESE ARE COPIES OF THE SEVEN
6 YELLOW PAGES OF LEGAL SIZE PAPER THAT ARE ENCLOSED IN
7 PLASTIC COVERING THAT ARE PRESENT IN THE COURTROOM, AND MR.
8 YOUNG HAS EXAMINED THE ORIGINALS.

9 THE COURT: ALL RIGHT.

10 Q BY MS. LOPEZ: MR. LEVIN, I'D LIKE YOU TO LOOK
11 AT PAGE ONE OF THE DOCUMENT OR THE COPY THAT HAS BEEN MARKED
12 AS PEOPLE'S EXHIBIT 1. DO YOU RECOGNIZE THAT COPY?

13 A YES, I DO.

14 Q AND HOW DO YOU RECOGNIZE IT?

15 A BY THE -- WHAT'S ON THE COPY.

16 Q WHERE DID YOU -- DID YOU SEE THE ORIGINAL?

17 A THE OTHER ONE WAS YELLOW. THE OTHER ONE WAS
18 YELLOW. YELLOW PAPER. OTHER THAN THAT, EVERYTHING LOOKS
19 THE SAME.

20 Q AND WHERE DID YOU FIRST SEE THAT PAGE?

21 A IN HIS OFFICE.

22 Q AND CAN YOU TELL US SPECIFICALLY WHERE YOU
23 FOUND THAT SHEET OF PAPER?

24 A IT'S -- HE HAS A SMALL LITTLE -- A SMALL
25 OFFICE, AND IT WAS ON THE LEFT UP AGAINST THE WALL ON THE
26 FLOOR.

27 Q OKAY. I'D LIKE TO DIRECT YOUR ATTENTION TO
28 PAGE TWO OF THE COPIES THAT HAVE BEEN MARKED COLLECTIVELY AS

1 PART OF PEOPLE'S EXHIBIT 2. DO YOU RECOGNIZE THAT?

2 A NO, I DON'T.

3 Q OTHER THAN THE ONE SHEET OF PAPER, DID YOU GIVE
4 ANY OTHER PAPERS TO DETECTIVE ZOELLER?

5 A YES. I GAVE HIM A -- SOME SORT OF A CONTRACT
6 OF SOME KIND.

7 Q OKAY. DID YOU GIVE HIM ANY OTHER YELLOW SHEETS
8 OF PAPER OTHER THAN THE ONE PAGE?

9 A I DON'T THINK SO.

10 Q YOU DON'T RECALL?

11 A I DON'T RECALL.

12 MS. LOPEZ: MAY I HAVE A MOMENT?

13 THE COURT: YES.

14 MS. LOPEZ: MAY I APPROACH THE WITNESS?

15 THE COURT: YES.

16 Q BY MS. LOPEZ: NOW, MR. LEVIN, YOU DON'T RECALL
17 WHETHER OR NOT YOU GAVE DETECTIVE ZOELLER OTHER SHEETS OF
18 PAPER AT THE TIME THAT YOU GAVE HIM THAT ONE SHEET?

19 A I KNOW I GAVE HIM THAT LARGE FOLDER WITH A
20 BUNCH OF PAPERS IN IT.

21 Q OKAY. SPECIFICALLY DIRECTING YOUR ATTENTION TO
22 THE YELLOW SHEETS OF PAPER THAT YOU FOUND ON THE FLOOR --

23 A UM-HMM.

24 Q NOW, YOU RECALL GIVING DETECTIVE ZOELLER ONE
25 SHEET THAT YOU'VE IDENTIFIED A COPY OF; IS THAT CORRECT?

26 A YES.

27 Q DO YOU RECALL WHETHER OR NOT YOU GAVE HIM OTHER
28 SHEETS OF PAPER THAT WERE ON SIMILAR TYPE OF PAPER? IS IT

1 THAT YOU DON'T --

2 A I DON'T RECALL. I'VE GIVEN MR. ZOELLER THINGS
3 FROM TIME TO TIME THAT I'VE FOUND AT THE APARTMENT.

4 MS. LOPEZ: I'M HANDING THE WITNESS THE COPY OF THE
5 BEVERLY HILLS POLICE DEPARTMENT SUPPLEMENTAL REPORT DATED
6 8-16-84, 0900 ***HOURS. WILL YOU LOOK AT THIS AND READ
7 THIS TO YOURSELF.

8 YOUR HONOR, TO REFRESH HIS RECOLLECTION.

9 MR. YOUNG: I OBJECT. IS THIS TO REFRESH HIS
10 RECOLLECTION OR WHAT?

11 MS. LOPEZ: YES.

12 MR. YOUNG: IS THIS A STATEMENT THAT MR. ZOELLER
13 MADE?

14 MS. LOPEZ: YOUR HONOR, I ASKED HIM TO READ IT TO
15 HIMSELF. MR. YOUNG IS BEING A LITTLE BIT PREMATURE.

16 THE COURT: IT'S FOR THE THE PURPOSES OF REFRESHING
17 HIS RECOLLECTION. HE MAY READ IT.

18 MR. YOUNG: ISN'T THIS A STATEMENT OF MR. ZOELLER?

19 MS. LOPEZ: MY UNDERSTANDING IS UNDER THE EVIDENCE
20 CODE ANYTHING CAN BE USED TO REFRESH AN INDIVIDUAL'S
21 RECOLLECTION.

22 MR. YOUNG: WELL, I OBJECT.

23 THE COURT: THE OBJECTION WILL BE OVERRULED.

24 Q BY MS. LOPEZ: HAVE YOU READ THAT TO YOURSELF?

25 A YOU WANT ME TO READ JUST RED MARK?

26 Q NO. I'M SORRY. READ THIS PARAGRAPH BEGINNING
27 WITH "I.O.".

28 A ALL RIGHT.

9

1 THE COURT: JUST READ IT TO YOURSELF AND THEN SAY
2 YOU'VE READ IT, AND THEN SHE CAN ASK YOU QUESTIONS.

3 THE WITNESS: ALL RIGHT.

4 THE COURT: DON'T READ FROM THE REPORT, THOUGH.
5 HAVE YOU READ IT NOW?

6 THE WITNESS: YES.

7 THE COURT: ALL RIGHT. DO YOU WANT TO TAKE IT BACK?

8 Q BY MS. LOPEZ: AFTER HAVING READ THIS DOCUMENT
9 THAT I'VE HANDED TO YOU, IS YOUR RECOLLECTION NOW REFRESHED
10 AS TO WHETHER OR NOT YOU HANDED DETECTIVE ZOELLER MORE THAN
11 ONE PIECE OF YELLOW LEGAL SIZE PAPER?

12 A I HANDED HIM MORE THAN ONE PIECE OF PAPER. I
13 JUST DON'T RECALL WHAT THEY SAID.

14 Q OKAY. DID YOU EXAMINE THE OTHER SHEETS OF
15 PAPER OR DID YOU ONLY EXAMINE THE TOP SHEET?

16 A I JUST REALLY EXAMINED THE TOP SHEET.

17 MS. LOPEZ: YOUR HONOR, MAY THE YELLOW SHEETS OF
18 PAPER THAT HAVE BEEN MARKED AS PART OF PEOPLE'S EXHIBIT --
19 I'M SORRY. MAY THE YELLOW SHEETS OF PAPER THAT WE HAVE IN
20 THE COURTROOM, THE ORIGINALS, AND THE COPIES HAVE BEEN
21 MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 2, MAY THESE BE
22 MARKED BY REFERENCE ONLY AS PEOPLE'S EXHIBIT 3?

23 THE COURT: VERY WELL. ARE THESE -- THESE ARE THE
24 ORIGINALS, AND PEOPLE'S 2 ARE DUPLICATE COPIES OF THESE
25 ITEMS THAT YOU HAVE HERE; IS THAT CORRECT?

26 MS. LOPEZ: THAT'S CORRECT.

27 THE COURT: ALL RIGHT. PEOPLE'S 3 BY REFERENCE ONLY.

28 MS. LOPEZ: I'M HANDING THE WITNESS THE SEVEN YELLOW

1 SHEETS OF PAPER THAT HAVE BEEN MARKED PEOPLE'S 3 BY
2 REFERENCE ONLY.

3 Q WILL YOU LOOK AT THOSE AND TELL ME WHETHER OR
4 NOT YOU RECALL HANDING THESE ITEMS TO DETECTIVE ZOELLER ON
5 AUGUST 16, 1984?

6 A OKAY. I REMEMBER THESE OVER HERE (INDICATING),
7 BUT I DO NOT REMEMBER THESE OVER HERE (INDICATING). I DON'T
8 RECALL THESE (INDICATING).

9 Q AND DO YOU REMEMBER THESE FOUR PAGES THAT
10 YOU'VE POINTED OUT BECAUSE OF THE SUBSTANCE --

11 A BECAUSE OF THE SUBSTANCE, THAT'S CORRECT.

12 Q NOW, I'D LIKE FOR YOU TO TAKE THE COPY THAT HAS
13 BEEN MARKED AS PEOPLE'S EXHIBIT 2 AND INITIAL THOSE PAGES
14 THAT ARE IDENTICAL TO THE ONES THAT YOU HAVE SET APART THAT
15 YOU HAVE A SPECIFIC RECOLLECTION OF SEEING AND HANDING TO
16 DETECTIVE ZOELLER.

17 A (INDICATING).*** I'M NOT SURE ABOUT THIS ONE
18 (INDICATING).

19 Q ALL RIGHT. YOU'VE INDICATED THAT THERE'S ONE
20 PAGE THAT YOU'RE NOT SURE.

21 A I'M JUST NOT SURE ABOUT THAT ONE.

22 Q THAT'S THE PAGE THAT'S ATTACHED AS THE SEVENTH
23 PAGE --

24 A YES.

25 Q -- THAT'S BEEN MARKED AS PART OF EXHIBIT 2. IS
26 IT THAT YOU RECOGNIZE THAT THIS APPEARS TO BE FAMILIAR IN
27 SOME WAY?

28 A YES, BUT I DON'T REMEMBER EVERYTHING ON THERE.

1 Q OKAY. YOU DON'T RECALL EVERYTHING, BUT THERE'S
2 SOMETHING THAT YOU RECALL ABOUT THIS PAGE?

3 A THAT'S CORRECT.

4 Q WHAT IS IT THAT YOU RECALL ON THIS PAGE?

5 MR. YOUNG: YOUR HONOR, I'D OBJECT THAT HE STATE ANY
6 OF THE CONTENTS OF THE PAGE. SHE'S ASKING HIM FOR WHAT HE
7 RECALLS ABOUT IT. THAT WOULD BE HEARSAY. THESE ARE -- HE
8 WOULD BE BASICALLY READING FROM THE PAPER.

9 MS. LOPEZ: YOUR HONOR, THIS IS ONLY GOING TOWARDS
10 IDENTIFICATION.

11 MR. YOUNG: WELL, AS LONG AS YOU DON'T STATE THE
12 CONTENTS.

13 MS. LOPEZ: IT'S KIND OF HARD NOT TO SPECIFY WHY HE
14 REMEMBERS IT WITHOUT REFERRING TO SOMETHING IN PARTICULAR
15 THAT STRUCK HIS -- OR CAUGHT HIS ATTENTION, AND IT'S NOT
16 BEING OFFERED FOR THE TRUTH OF THE MATTER.

17 THE COURT: IF HE CAN DESIGNATE IT ON -- WHERE IT IS
18 ON THE PAGE WITHOUT GOING THROUGH ALL THE CONTENTS THAT HE
19 RECOGNIZES, GIVE THE REASON FOR REMEMBERING SOMETHING ON THE
20 PAGE.

21 Q BY MS. LOPEZ: WOULD YOU POINT TO WHATEVER IT
22 IS ON THIS PAGE THAT MAKES YOU RECALL IT.

23 A THE EXECUTION OF THE AGREEMENT OVER HERE
24 (INDICATING).

25 Q AND THAT IS WHAT'S MARKED AS ITEM NUMBER SEVEN?

26 A RIGHT.

27 Q ON THE PAGE?

28 A UM-HMM.

1 Q THANK YOU. NOW, THESE OTHER PAGES --

2 MR. YOUNG: I'LL OBJECT TO THAT, YOUR HONOR. I THINK
3 IT WAS A STATEMENT TO PART OF THE CONTENTS.

4 MS. LOPEZ: YOUR HONOR, IT'S NOT BEING OFFERED FOR
5 THE TRUTH OF THE MATTER, ONLY TOWARDS IDENTIFICATION.

6 THE COURT: WELL, IT'S A DESIGNATION OF WHAT HE
7 REMEMBERS ON IT. AS THE DISTRICT ATTORNEY SAID, IT WOULDN'T
8 BE OFFERED FOR THE TRUTH. IT'S JUST THAT HE SAYS, HE KNOWS
9 IT AS AN EXECUTION OF AN AGREEMENT. THE OBJECTION WILL BE
10 OVERRULED.

11 Q BY MS. LOPEZ: NOW, REFERRING TO THE OTHER
12 THREE PAGES, THE OTHER THREE YELLOW PAGES, IS IT THAT YOU
13 DON'T RECALL THE SPECIFIC CONTENTS OF THESE PAGES?

14 A IT'S JUST HARD FOR ME TO REMEMBER. I JUST
15 DON'T REMEMBER THE SPECIFIC -- ALL OF IT. I DON'T REMEMBER
16 EVERYTHING ON THERE.

17 Q OKAY, BUT YOU DO RECALL GIVING SEVERAL PAGES OF
18 YELLOW LEGAL SIZE PAPER TO DETECTIVE ZOELLER?

19 A SEVERAL PAGES, YES.

20 Q THANK YOU.

21 MS. LOPEZ: YOUR HONOR, ITS NOW THE NOON HOUR. WOULD
22 THIS BE AN APPROPRIATE TIME TO BREAK?

23 THE COURT: ALL RIGHT. ARE YOU FINISHED WITH YOUR
24 DIRECT?

25 MS. LOPEZ: NOT YET.

26 THE COURT: ALL RIGHT. IS THAT -- ALL RIGHT. DO YOU
27 HAVE ANY OTHER APPEARANCES TODAY, MR. YOUNG?

28 MR. YOUNG: NO, I DON'T.

1 THE COURT: WE'LL SET THIS AT 2:00 O'CLOCK, THEN.
2 WE'LL TAKE OUR NOON RECESS AT THIS TIME AND WE'LL RESUME AT
3 2:00 O'CLOCK.

4 THANK YOU VERY MUCH.

5 THE WITNESS: THANK YOU, SIR.

6 (WHEREUPON, THE NOON RECESS WAS TAKEN AND PROCEEDINGS
7 RESUMED AT 2:15 P.M.)

8 THE COURT: ALL RIGHT. IN THE MATTER OF PEOPLE
9 VERSUS JAMES PITTMAN, DEFENSE READY?

10 MR. YOUNG: YES. DOUGLAS YOUNG -- YEAH, I AM. I
11 HAVE ONE BRIEF REQUEST. IT'S MY UNDERSTANDING THAT PURSUANT
12 TO 987 POINT SOMETHING THAT WE ARE ENTITLED TO -- A
13 DEFENDANT IN A CAPITAL CASE IS ENTITLED TO HAVE TWO COUNSEL
14 APPOINTED BY THE COURT. I'D LIKE TO REQUEST THAT LEE ZORNE
15 BE APPOINTED AS A CO-COUNSEL IN THIS CASE.

16 THE COURT: VERY WELL.

17 MR. ZORNE: YOUR HONOR.

18 THE COURT: MR. ZORNE, DO YOU ACCEPT THE APPOINTMENT?

19 MR. ZORNE: YES, YOUR HONOR.

20 MS. LOPEZ: YOUR HONOR, MAY I BE HEARD BRIEFLY FOR
21 THE RECORD?

22 THE COURT: YES.

23 MS. LOPEZ: INITIALLY WHEN THIS CASE BEGAN THERE WAS
24 SOME DISCUSSION AS TO WHETHER OR NOT MR. PITTMAN WAS
25 ENTITLED TO HAVE THE SERVICES OF AN INVESTIGATOR PAID FOR,
26 NOTWITHSTANDING THE FACT THAT HE HAD RETAINED PRIVATE
27 COUNSEL. AT THAT TIME, MR. PITTMAN WAS ADVISED THAT IF HE
28 WAS INDEED INDIGENT THAT HE SHOULD MAKE AN APPLICATION

1 THROUGH THE PUBLIC DEFENDERS OFFICE. THE PUBLIC DEFENDERS
2 OFFICE WOULD REVIEW THIS CASE TO SEE WHETHER OR NOT HE --
3 ONE, WHETHER OR NOT HE WAS ELIGIBLE AND TWO, WHETHER OR NOT
4 THEY WERE ABLE TO TAKE THE CASE. IF THE PUBLIC DEFENDERS
5 OFFICE WAS NOT ABLE TO TAKE THE CASE, THEN THE COURT WOULD
6 APPOINT COUNSEL.

7 WHAT, IN EFFECT, WE HAVE HERE IS A DEFENDANT WHO HAS
8 GONE OUT, CHOSEN HIS ATTORNEY AND THEN HAD THE ATTORNEY
9 APPOINTED BY THE COURT. I DON'T THINK THAT 987 PROVIDES FOR
10 THIS FOR A DEFENDANT TO GO OUT AND CHOOSE HIS ATTORNEY AND
11 THEN COME IN TO THE COUNTY AND SAY "PLEASE PAY FOR MY
12 ATTORNEY." MR. PITTMAN IS ENTITLED TO A PUBLIC DEFENDER.
13 HE WOULD HAVE BEEN WELL REPRESENTED BY A VERY EXPERIENCED
14 PUBLIC DEFENDER. IN THE EVENT THAT THE PUBLIC DEFENDERS
15 OFFICE WAS NOT ABLE TO REPRESENT HIM, THEN THE COURT WOULD
16 HAVE APPOINTED HIM AN ATTORNEY. WHAT WE HAVE, IN ESSENCE,
17 HERE IS THE COUNTY PICKING UP THE BILL FOR A RETAINED
18 ATTORNEY. I THINK THAT IT IS HIGHLY INAPPROPRIATE.

19 THE COURT: I DON'T THINK THAT'S QUITE THE SITUATION.
20 FIRST OF ALL, THE ATTORNEY OF RECORD IN THIS CASE IS MR.
21 YOUNG. MR. YOUNG IS NOT A COURT-APPOINTED ATTORNEY. I
22 DON'T KNOW WHAT HIS ARRANGEMENT IS WITH MR. PITTMAN, BUT AT
23 ANY RATE HE'S NOT A COURT-APPOINTED ATTORNEY. A COURT -- IN
24 A CAPITAL CASE A PARTY IS ENTITLED TO A CO-COUNSEL IF IT'S
25 DEEMED APPROPRIATE OR NECESSARY WITHIN THE DISCRETION OF THE
26 COURT. THE -- IF MR. ZORNE IS APPOINTED, HE IS NOT
27 APPOINTED AS THE ATTORNEY OF RECORD. THE PRIMARY ATTORNEY
28 OF RECORD WOULD STILL BE MR. YOUNG. HE WOULD BE AN

1 ASSISTANT TO MR. YOUNG UNDER THE CIRCUMSTANCES.

2 MS. LOPEZ: WOULD THE COUNTY BE PICKING UP THE TAB
3 FOR MR. YOUNG'S SERVICES?

4 THE COURT: NO. NO.

5 MS. LOPEZ: THAT'S ALL I WANTED.

6 THE COURT: ALL RIGHT. THE COURT WILL APPOINT
7 MR. ZORNE, MR. LEE ZORNE, AS AN ASSISTANT COUNSEL PURSUANT
8 TO SECTION 987.2 OF THE PENAL CODE.

9 MR. ZORNE: THANK YOU, YOUR HONOR.

10 THE COURT: PEOPLE READY AT THIS TIME?

11 MS. LOPEZ: YES. I BELIEVE MR. LEVIN WAS STILL ON
12 THE STAND.

13 THE COURT: ALL RIGHT. YOU MAY CALL YOUR NEXT
14 WITNESS.

15 ALL RIGHT. WHEN WE TOOK OUR NOON RECESS, I BELIEVE
16 MR. LEVIN WAS STILL UNDER DIRECT EXAMINATION; IS THAT
17 CORRECT?

18 MS. LOPEZ: YES, THAT'S CORRECT.

19 THE COURT: ALL RIGHT. YOU MAY RESUME.

20

21 DIRECT EXAMINATION (RESUMED)

22 BY MS. LOPEZ:

23 Q NOW, MR. LEVIN, GETTING BACK TO THE DAY OF
24 AUGUST 16, 1984, AT THAT TIME SEVERAL POLICE OFFICIALS WENT
25 TO RON LEVIN'S HOME; IS THAT CORRECT?

26 A THAT'S CORRECT.

27 Q HAD THEY MADE PRIOR ARRANGEMENTS WITH YOU TO GO
28 INTO RON LEVIN'S HOME?

1 A YES.

2 Q AND DID YOU GIVE THEM PERMISSION TO GO IN AND
3 SEARCH THE RESIDENCE?

4 A YES, I DID.

5 Q AND WERE YOU THERE AT THE TIME THEY ARRIVED?

6 A YES, I WAS.

7 Q YOU LET THEM IN?

8 A YES.

9 Q NOW, WHILE THESE POLICE OFFICERS WERE THERE,
10 WAS LES ZOELLER ONE OF THE POLICE OFFICERS?

11 A YES.

12 Q NOW, WHILE HE WAS THERE YOU BROUGHT ONE OF THE
13 YELLOW SHEETS OF PAPER THAT'S BEEN MARKED AS PAGE ONE -- OR
14 A COPY OF THAT YELLOW PIECE OF PAPER HAS BEEN MARKED AS PAGE
15 ONE OF PEOPLE'S EXHIBIT 2; IS THAT CORRECT?

16 A THAT'S CORRECT.

17 Q AND UPON GIVING HIM THAT PAPER, DO YOU RECALL
18 WHAT YOU TOLD HIM?

19 A WHEN I GAVE HIM THAT PAPER, HE ASKED ME WHERE I
20 HAD FOUND IT.

21 Q OKAY.

22 A I PROCEEDED TO TELL HIM WHERE IN THE OFFICE I
23 HAD FOUND IT AMONG OTHER PAPERS THERE, AND THEN HE PROCEEDED
24 TO SEARCH THAT PARTICULAR AREA OVER THERE.

25 Q OKAY. NOW, WHEN YOU SAY "OVER THERE", ARE YOU
26 REFERRING TO A PARTICULAR ROOM IN RON'S RESIDENCE?

27 A YES.

28 Q AND WHAT ROOM WOULD THAT BE?

1 A IN THE SMALL OFFICE.

2 Q AND YOU TOOK -- YOU DIRECTED LES ZOELLER TO THE
3 SPOT WHERE YOU FOUND THAT FIRST PIECE OF PAPER THAT YOU
4 REGARDED AS HIGHLY --

5 A THAT'S CORRECT.

6 Q AND AT THAT TIME WHAT, IF ANYTHING, DID LES
7 ZOELLER DO?

8 A THEY PROCEEDED TO SEARCH THE PLACE THEN.

9 Q OKAY. WHEN YOU SAY THEY, WHO ARE YOU REFERRING
10 TO?

11 A THERE WERE FOUR OR SIX OFFICERS THERE AT THE
12 TIME.

13 Q AND WAS LES ONE OF THE PERSONS WHO PROCEEDED TO
14 SEARCH THE AREA WHERE YOU HAD DIRECTED HIM TO?

15 A YES.

16 Q NOW, REFERRING BACK TO THE DOCUMENTS THAT YOU
17 HAVE INITIALED THAT HAVE BEEN MARKED AS PART OF PEOPLE'S
18 EXHIBIT 2 -- AND I'LL HAND YOU BACK PEOPLE'S EXHIBIT 2 --
19 AND I BELIEVE YOU'VE MADE YOUR INITIALS, ALTHOUGH THE CLERK
20 HAS PUT A YELLOW STICKER OVER IT. LET ME GIVE YOU ANOTHER
21 PEN AND YOU CAN RE-INITIAL IT.

22 A (INDICATING).***

23 Q OKAY. AND YOU HAVE PUT YOUR INITIALS ON FOUR
24 OF THESE PAGES; IS THAT CORRECT?

25 A THAT'S THE ONE, YES.

26 Q AND THESE ARE PAGES THAT HAD COME TO YOUR
27 ATTENTION BEFORE LES ZOELLER HAD ARRIVED?

28 A THAT'S CORRECT.

1 Q AND HOW IS IT THAT THESE PAGES THAT YOU HAVE
2 INITIALED CAME TO YOUR ATTENTION?

3 A IT'S JUST THAT I -- I WAS LOOKING THROUGH
4 EVERYTHING THERE TRYING TO SEE WHAT I COULD FIND AND I COME
5 ACROSS THESE DIFFERENT PAGES AND THEY JUST -- THEY JUST RANG
6 A BELL WITH ME.

7 Q OKAY, AND THESE ARE PAGES THAT YOU RECOGNIZE
8 BECAUSE OF THEIR SUBSTANCE?

9 A THAT I'VE SEEN BEFORE.

10 Q OKAY, AND THESE ARE PAGES THAT YOU HAVE SEEN IN
11 THE SAME FILE ROOM AS THE PAGE -- I'M SORRY. LET ME
12 WITHDRAW THAT.

13 THESE ARE PAGES THAT YOU CAME ACROSS IN THE SAME FILE
14 ROOM WHERE YOU CAME ACROSS PAGE ONE OF PEOPLE'S EXHIBIT 2?

15 A YES, BUT THEY JUST DIDN'T MEAN ANYTHING TO ME
16 AT THAT TIME I FIRST SAW THEM. I HAD NO --

17 MR. YOUNG: YOUR HONOR, THERE'S NO QUESTION.

18 THE COURT: ALL RIGHT. YOU MAY PROCEED. WAS THERE
19 AN OBJECTION?

20 MR. YOUNG: NO QUESTION.

21 THE COURT: ALL RIGHT.

22 Q BY MS. LOPEZ: I'LL GIVE YOU A QUESTION, MR.
23 LEVIN. NOW, AFTER LES AND THE OTHER OFFICERS WENT INTO THE
24 FILE ROOM AND THEY SEARCHED THE AREA, WHAT, IF ANYTHING, DID
25 THEY DO? DID THEY CONTINUE LOOKING THROUGH THE OTHER
26 PORTIONS OF THE RESIDENCE?

27 A YES, THEY CONTINUED LOOKING THROUGH THE WHOLE
28 RESIDENCE.

1 Q AND AT THIS TIME DID YOU BRING CERTAIN ITEMS TO
2 THEIR ATTENTION?

3 A YES. MR. ZOELLER MENTIONED TO ME, ASKED ME IF
4 I HAD BEEN GOING THROUGH SOME OF THE THINGS THERE, AND I
5 SAID YES, I HAD, AND HE GAVE ME A LIST OF NAMES AND HE SAID,
6 "HAVE YOU COME ACROSS ANY OF THESE PARTICULAR NAMES."

7 Q AND DID ONE NAME COME TO YOUR ATTENTION?

8 MR. YOUNG: YOUR HONOR, I OBJECT. I THINK HE'S
9 TRYING TO RESTATE THE CONTENTS OF THESE DOCUMENTS.

10 MS. LOPEZ: YOUR HONOR, THAT'S INCORRECT.

11 MR. YOUNG: AT LEAST SHOW SOME FOUNDATION HERE. NO
12 REFERENCE TO THE DOCUMENTS.

13 MS. LOPEZ: YOUR HONOR, THIS HAS NOTHING TO DO WITH
14 THESE DOCUMENTS.

15 THE COURT: ALL RIGHT. ON THAT REPRESENTATION, WE'LL
16 LET YOU PROCEED.

17 Q BY MS. LOPEZ: DID A PARTICULAR NAME COME TO
18 YOUR ATTENTION?

19 A THE NAME JOE HUNT.

20 Q AND WHERE HAD YOU SEEN THAT NAME BEFORE?

21 A IN A FILE THAT I HAD FOUND ON THE DESK.

22 Q IS THAT ON TOP OF THE DESK?

23 A ON TOP OF THE DESK.

24 Q AND WHERE IS THAT DESK LOCATED?

25 A IN THE NEXT OFFICE.

26 Q IN -- IS THAT RON -- NOW, LET'S TALK ABOUT RON
27 LEVIN'S APARTMENT. HE HAS A FILE ROOM; IS THAT CORRECT?

28 A HE HAS A LARGE OFFICE AND IN THAT PARTICULAR

1 OFFICE THERE IS A SMALL FILE ROOM.

2 Q OKAY, AND THE FILE THAT YOU HAD COME ACROSS
3 WITH JOE HUNT'S NAME, IT WAS IN THE LARGE OFFICE ITSELF?

4 A IN THE LARGE OFFICE ITSELF.

5 Q AND IT WAS ON TOP OF THE DESK?

6 A THAT'S CORRECT.

7 Q AND DID YOU BRING THAT FILE TO MR. ZOELLER'S
8 ATTENTION?

9 A YES, I DID.

10 Q AND DID MR. ZOELLER LATER TAKE THAT FILE?

11 A YES, HE DID.

12 MR. YOUNG: YOUR HONOR, I'M TRYING TO FIGURE OUT WHAT
13 THE RELEVANCE OF ALL OF THIS IS AT THIS POINT.

14 MS. LOPEZ: YOUR HONOR, I THINK THAT -- PERSONALLY, I
15 THINK THE RELEVANCE IS OBVIOUS, BUT THE DOCUMENT WILL LATER
16 BE IDENTIFIED BY LES ZOELLER AS THE ITEMS THAT WERE HANDED
17 TO HIM BY MR. LEVIN AND THEY WILL BE MARKED AS EXHIBITS.

18 THE COURT: ALL RIGHT.

19 Q BY MS. LOPEZ: NOW, ARE YOU STILL MAINTAINING
20 THAT APARTMENT AT 144 PECK DRIVE FOR YOUR SON?

21 A YES.

22 Q AND DOES THAT MEAN THAT YOU'RE CONTINUING TO
23 PAY THE RENT?

24 A YES.

25 Q OTHER THAN YOURSELF AND YOUR WIFE AND THE
26 POLICE OFFICERS, WHO ELSE HAS BEEN ALLOWED TO ENTER THAT
27 RESIDENCE SINCE SINCE YOU CHANGED THE LOCKS?

28 A MY TWO SONS.

1 Q AND HAVE YOUR SONS TAKEN ANYTHING OUT OF THE
2 RESIDENCE THAT YOU HAVE NOT SEEN TO YOUR KNOWLEDGE? LET ME
3 WITHDRAW THAT.

4 HAVE YOU BEEN THERE PRESENT WHEN YOUR SONS HAVE
5 ENTERED THAT APARTMENT?

6 A YES.

7 Q AND HAVE YOU SEEN THE ITEMS THAT THEY HAVE
8 TAKEN OUT OF THE RESIDENCE?

9 A YES.

10 Q AND WILL YOU DESCRIBE THE ITEMS THAT THEY'VE
11 TAKEN OUT OF THE RESIDENCE?

12 A THERE ARE SOME -- A TYPEWRITER. THERE ARE SOME
13 CRYSTAL, THERE IS SOME CAMERAS, THERE ARE SOME PAINTINGS.

14 Q OKAY. NOW, THESE ITEMS, HAVE THEY BEEN TAKEN
15 OUT AND STORED IN SOME OTHER AREA?

16 A YES.

17 Q AND THESE WERE TAKEN OUT BY YOUR SONS AT YOUR
18 AND YOUR WIFE'S DIRECTION?

19 A YES.

20 Q NOW, SINCE JUNE 7TH, HAVE YOU HEARD FROM RON
21 EITHER DIRECTLY OR INDIRECTLY IN ANY WAY?

22 A NO.

23 Q HAS THE PHONE BEEN DISCONNECTED SINCE JUNE 7TH?

24 A YES.

25 Q AT WHOSE INSTRUCTION?

26 A BECAUSE OF NONPAYMENT OF THE BILL, THEY CUT THE
27 PHONE OFF.

28 Q DO YOU RECALL WHEN THAT OCCURRED OR AN

1 APPROXIMATE MONTH OR DATE?

2 A OH, I'D SAY ABOUT TWO MONTHS AGO, THREE MONTHS
3 AGO. I CAN'T REMEMBER EXACTLY.

4 Q WOULD THAT BE IN SEPTEMBER OR OCTOBER?

5 A I THINK SO. THERE WERE MORE THAN ONE LINE IN
6 THE HOME AND THEY WERE CUT OFF AT DIFFERENT TIMES.

7 Q THANK YOU.

8 MS. LOPEZ: ONE MOMENT, YOUR HONOR.

9 Q LET ME ASK YOU ONE THING. NOW, THE DOCUMENTS
10 THAT YOU RECALL GIVING TO LES ZOELLER WHICH HAD THE NAME JOE
11 HUNT, WAS THERE A BUSINESS NAME ON THESE?

12 A YES.

13 Q DO YOU RECALL WHAT THAT BUSINESS NAME WAS?

14 A IT MIGHT HAVE BEEN MICROANALYSIS,
15 MICROCANALYSIS.

16 Q WOULD MICROGENESIS SOUND FAMILIAR?

17 A I CAN TELL YOU AS I READ IT. IT WAS A ROCK
18 CRUSHING COMPANY OR A PATENT OF SOME SORT.

19 Q SO YOU DID ACTUALLY LOOK AT THE DOCUMENTS AND
20 READ SOME OF IT?

21 A I LOOKED AT IT, YES.

22 Q THANK YOU.

23 MR. YOUNG: YOUR HONOR, I DON'T UNDERSTAND THE
24 RELEVANCE OF THIS DOCUMENT THAT SHOWS SOME TYPE OF BUSINESS
25 BETWEEN JOE HUNT AND RON LEVIN. I DON'T THINK IT TENDS TO
26 MAKE MORE PROBABLE THAT MR. LEVIN WAS KILLED BY CRIMINAL
27 AGENCY OR THAT MY CLIENT PARTICIPATED IN IT.

28 MS. LOPEZ: YOUR HONOR, WE ARE ESTABLISHING ALL --

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1 THIS IS ALL PART OF WHAT THE PEOPLE BELIEVE IS A CONSPIRACY
2 INVOLVING JAMES PITTMAN.

3 MR. YOUNG: THEY CAN'T USE HEARSAY EVIDENCE TO SHOW
4 ANY INVOLVEMENT IN CONSPIRACY UNTIL AFTER THEY HAVE
5 ESTABLISHED A CONSPIRACY. THERE'S A NUMBER OF CASES ON
6 THAT. THERE'S BEEN NO CONSPIRACY ESTABLISHED, AND HERE YET
7 SHE'S ATTEMPTING TO USE REFERENCE TO HEARSAY DOCUMENTS TO
8 ESTABLISH A CONSPIRACY. THERE MUST BE INDEPENDENT EVIDENCE
9 OF THE CONSPIRACY BEFORE THEY CAN USE ANY HEARSAY. IF THE
10 COURT NEEDS CASES, I HAVE THEM.

11 MS. LOPEZ: FIRST OF ALL, THESE ARE NOT HEARSAY.
12 THEY ARE NOT BEING OFFERED FOR THE TRUTH OF THE MATTER
13 ASSERTED WITHIN THESE DOCUMENTS. THEY ARE PART OF THE RES
14 GESTAE. THEY ARE OFFERED TO SHOW THAT RON LEVIN SIGNED A
15 DOCUMENT. LATER IT'S THE PEOPLE'S INTENT TO SHOW THAT THE
16 DOCUMENT WAS ESSENTIALLY WORTHLESS. IT'S ALL PART OF THE
17 CONSPIRACY, AND UNDER EVIDENCE CODE SECTION 1223, THE COURT
18 MAY ADMIT THIS EVIDENCE CONDITIONALLY UPON FURTHER SHOWING
19 OF THE CONSPIRACY.

20 MR. YOUNG: WITH RESPECT TO 1223, 1223 DEALS WITH
21 ADMITTING STATEMENTS BY A CO-CONSPIRATOR, AND THERE ARE A
22 NUMBER OF THINGS THAT MUST BE ESTABLISHED PURSUANT TO THAT
23 SECTION BEFORE THESE THINGS CAN BE ADMITTED. THE COURT MUST
24 ESTABLISH THAT THESE STATEMENTS WERE MADE IN FURTHERANCE OF
25 THE CONSPIRACY AND THAT THEY WERE MADE DURING THE CONSPIRACY.

26 LET ME GET -- THERE'S A NUMBER OF OTHER ELEMENTS THAT
27 ARE REQUIRED. THEY HAVEN'T ESTABLISHED THIS. UNTIL THEY DO
28 THAT -- THE COURT DOES HAVE DISCRETION TO CONSIDER THESE

1 THINGS LATER, BUT I THINK THAT THEY MUST ESTABLISH THE
2 CONSPIRACY BEFORE THEY CAN START TRYING TO INTRODUCE HEARSAY
3 EVIDENCE TO SHOW PARTICIPATION BY ANYONE.

4 MS. LOPEZ: YOUR HONOR --

5 MR. YOUNG: SO FAR WE HAVE NO CONSPIRACY HERE. WE
6 HAVE NO SHOWING WHATSOEVER OF ANYONE DOING ANYTHING.

7 MS. LOPEZ: AGAIN, THESE ARE NOT HEARSAY. THEY'RE
8 NOT OFFERED FOR THE TRUTH OF THE MATTER ASSERTED WITHIN THE
9 CONTRACT. IN FACT, IT'S THE PEOPLE'S POSITION THAT ALL OF
10 THE MATTER ASSERTED IN THE CONTRACT IS ABSOLUTE NONSENSE.
11 IT'S OFFERED TO SHOW THE EXISTENCE OF A CONTRACT SIGNED BY
12 RON LEVIN AND JOSEPH HUNT. THAT IS NOT HEARSAY.

13 MR. YOUNG: YOUR HONOR, SHE HAS ADMITTED THAT SHE IS
14 ATTEMPTING TO USE THIS DOCUMENT TO ESTABLISH THE EXISTENCE
15 OF THE CONSPIRACY.

16 MS. LOPEZ: WHAT I HAVE SAID --

17 MR. YOUNG: SHE CANNOT USE HEARSAY TO ESTABLISH THE
18 CONSPIRACY. IT MUST BE DONE BY INDEPENDENT EVIDENCE.

19 MS. LOPEZ: WHAT I HAVE --

20 MR. YOUNG: IF SHE ESTABLISHES IT FIRST, THEN THIS
21 MAY COME IN.

22 MS. LOPEZ: WHAT I HAVE SAID IS THAT THIS IS PART OF
23 THE CONSPIRACY. I HAVE NOT SAID THAT IT IS A DECLARATION BY
24 A PARTY TO THE CONSPIRACY. IT IS A CONTRACT. WE'RE
25 OFFERING IT TO SHOW THE FACT, THE EXISTENCE, THE SIGNATURES
26 OF THE CONTRACT. IT IS NOT HEARSAY. IT IS NOT BEING
27 OFFERED FOR THE TRUTH OF THE MATTER ASSERTED. UNDER THE
28 EVIDENCE CODE HEARSAY IS ONLY AN OUT-OF-COURT STATEMENT

1 OFFERED FOR THE TRUTH OF THE MATTER ASSERTED WITHIN.

2 THE COURT: ALL RIGHT. IT WOULD APPEAR THAT THIS IS
3 NOT ACTUALLY HEARSAY. IF THE PURPOSES OF THE ADMISSION OF
4 THIS IS AS THE DISTRICT ATTORNEY CONTENDS, THEN IT WOULD NOT
5 BE HEARSAY. SECONDLY, IT WOULD WOULD APPEAR THAT IF, IN
6 FACT, THEY ARE GOING TO SHOW CONSPIRACY, EVERY ATTORNEY HAS
7 TO START WITH THE FIRST STEP. IF THEY ARE GOING TO TIE THIS
8 IN, THERE WOULD HAVE TO BE SOME KIND OF AN INTRODUCTORY
9 MANNER. I'LL ADMIT IT AT THIS TIME SUBJECT TO A MOTION TO
10 STRIKE IF IT'S NOT CONNECTED UP WITH SOMETHING SUBSEQUENTLY
11 THAT WOULD ACTUALLY SHOW --

12 MR. YOUNG: WELL, MY POINT IS THAT THEY CAN'T USE
13 HEARSAY TO ESTABLISH THE CONSPIRACY, AND THAT'S WHAT THEY'RE
14 ATTEMPTING TO DO. IF SHE HAS SOME OTHER EVIDENCE OF THE
15 CONSPIRACY, THEN THAT'S INDEPENDENT OF HEARSAY EVIDENCE.

16 THE COURT: AS IT'S POINTED OUT, HEARSAY IS THE
17 INTRODUCTION OF SOME EVIDENCE THAT IS UNAUTHENTICATED TO
18 PROVE THE TRUTH OF THE STATEMENTS THAT THE HEARSAY CONTAINS.
19 AS I BELIEVE WHAT YOU'RE SHOWING HERE IS THAT THERE'S SOME
20 KIND OF A CONTRACT WITH TWO NAMES ON IT; IS THAT WHAT YOU'RE
21 SAYING?

22 MS. LOPEZ: IT'S A CONTRACT WITH TWO NAMES. IN FACT,
23 THE PEOPLE INTEND TO SHOW THAT THERE IS NO TRUTH TO THIS
24 CONTRACT. IT IS NOT OFFERED FOR THE TRUTH OF THE MATTER
25 ASSERTED WITHIN IT. IT IS OFFERED TO SHOW THE EXISTENCE OF
26 A CONTRACT SIGNED BY RON LEVIN AND JOE HUNT ON JUNE 6, 1984,
27 AND IT'S BELIEVED THAT THIS CONTRACT WAS PREPARED, WAS
28 SIGNED IN FURTHERANCE OF THE CONSPIRACY TO ROB AND MURDER

1 RON LEVIN. IN THAT RESPECT IT IS RELEVANT.

2 THE COURT: ALL RIGHT.

3 MR. YOUNG: MY OBJECTION REMAINS THE SAME.

4 THE COURT: ALL RIGHT: THE OBJECTION WILL BE
5 OVERRULED.

6 MS. LOPEZ: ONE MOMENT, YOUR HONOR.

7 YOUR HONOR, I HAVE A DOCUMENT THAT APPEARS TO BE A
8 ORANGE DOCUMENT. ON THE FACE OF THE DOCUMENT IS
9 MICROGENESIS, M-I-C-R-O-G-E-N-E-S-I-S, OF NORTH AMERICA,
10 INC. --

11 MR. YOUNG: YOUR HONOR, IS SHE ATTEMPTING TO TESTIFY
12 AS TO THE CONTENTS OF THE DOCUMENT?

13 MS. LOPEZ: I'M ATTEMPTING TO IDENTIFY IT.

14 THE COURT: SHE'S IDENTIFYING THE DOCUMENTS FOR
15 PURPOSES OF IDENTIFICATION, I TAKE IT.

16 IS THAT CORRECT?

17 MS. LOPEZ: THAT'S CORRECT, YOUR HONOR.

18 THE COURT: ALL RIGHT.

19 MS. LOPEZ: IT'S A TWO PAGE DOCUMENT. IT APPEARS TO
20 BE AN ORIGINAL DOCUMENT. MAY THIS DOCUMENT BE MARKED BY
21 REFERENCE AS PEOPLE'S EXHIBIT 4 AND MAY A COPY OF THIS
22 DOCUMENTS BE MARKED AS PEOPLE'S EXHIBIT 5.

23 THE COURT: ALL RIGHT. THE ORIGINAL DOCUMENT WILL BE
24 PEOPLE'S 4 BY REFERENCE. YOU HAVE A COPY OF IT THAT YOU'RE
25 INTRODUCING AS PEOPLE'S 5; IS THAT CORRECT?

26 MS. LOPEZ: YES. WE'LL MAKE A COPY OF IT. WE DO NOT
27 HAVE A COPY PRESENTLY.

28 THE COURT: HAS MR. YOUNG SEEN THIS DOCUMENT?

1 MS. LOPEZ: YES. HE HAS BEEN GIVEN A COPY DURING --
2 AS PART OF THE INITIAL POLICE REPORT.

3 MS. LOPEZ: MAY I APPROACH?

4 THE COURT: YES.

5 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
6 THAT'S BEEN MARKED BY REFERENCE AS PEOPLE'S EXHIBIT 4.

7 Q NOW, MR. LEVIN, DO YOU RECOGNIZE THAT DOCUMENT?

8 A YES, I DO.

9 Q WHERE HAVE YOU SEEN THAT DOCUMENT BEFORE?

10 A ON THE DESK IN RONNIE'S OFFICE.

11 Q WAS THIS DOCUMENT PART OF THE FILE THAT YOU'VE
12 REFERRED TO IN YOUR TESTIMONY?

13 A YES.

14 Q AND THE FILE THAT CONTAINED THIS DOCUMENT, IS
15 THAT THE FILE THAT YOU GAVE TO LES ZOELLER WHILE HE WAS AT
16 YOUR APARTMENT?

17 A YES.

18 Q THANK YOU.

19 MS. LOPEZ: I HAVE NOTHING FURTHER.

20
21 CROSS-EXAMINATION

22 BY MR. YOUNG:

23 Q WHEN YOU CAME TO THE APARTMENT OF RON LEVIN ON
24 JUNE 7TH, DID YOU NOTICE ANY FOOD ON THE TABLE IN A BOX OF
25 SOME SORT?

26 A I NOTICED AN EMPTY PLATE, YES.

27 Q ONE EMPTY PLATE?

28 A YES.

1 Q OKAY. DID YOU NOTICE ANY OTHER FOOD AROUND?

2 A AROUND WHERE?

3 Q AROUND THE TABLE OR THE KITCHEN?

4 A NO, I DID NOT.

5 Q WHEN WAS THE LAST TIME YOU SPOKE TO RON LEVIN?

6 A I DON'T RECALL. IT MIGHT HAVE BEEN A WEEK, TWO
7 WEEKS.

8 Q WERE YOU AWARE THAT HE HAD CRIMINAL CHARGES
9 PENDING IN BEVERLY HILLS COURT?

10 A YES, I DID.

11 Q OKAY. DO YOU HAVE ANY KNOWLEDGE AS TO THE
12 AMOUNT OF BAIL THAT HE HAD POSTED?

13 A YES.

14 Q HOW MUCH WAS THAT?

15 A \$10,000.

16 Q DID HE EVER EXPRESS ANY CONCERN TO YOU ABOUT
17 SPENDING A LONG TIME IN JAIL AS A RESULT OF THAT CASE?

18 A NO, HE DID NOT.

19 Q DID HE DISCUSS HIS PRIVATE AFFAIRS WITH YOU?

20 A NO, HE DID NOT.

21 Q DID HE KEEP HIS BUSINESS PRETTY MUCH TO
22 HIMSELF, THEN?

23 A YES, HE DID, AS FAR AS I KNOW.

24 Q OKAY. IF HE HAD PROBLEMS, WOULD HE HAVE TOLD
25 YOU ABOUT THOSE PROBLEMS?

26 A NO, UNLESS HE NEEDED SOME MONEY FOR SOMETHING.

27 Q HAD HE ASKED YOU FOR ANY MONEY BEFORE HIS
28 DISAPPEARANCE?

1 A I PUT UP THE BAIL.

2 Q OKAY. AFTER THAT, DID YOU LOAN HIM ANY MONEY?

3 A NO.

4 Q ARE YOU AWARE OF AN INCIDENT SOMETIME SIX
5 MONTHS TO A YEAR BEFORE RON DISAPPEARED WHERE HE WAS ROBBED
6 AND STABBED WITH A KNIFE?

7 A YES.

8 Q OKAY. WHAT DO YOU KNOW ABOUT THAT?

9 A ONLY THAT SOMEONE TRIED TO ROB HIM AND ASSAULT
10 HIM.

11 Q OKAY. DO YOU HAVE ANY KNOWLEDGE AS TO WHAT
12 THEY WERE ATTEMPTING TO TAKE FROM HIM AT THAT TIME?

13 A NO, I DO NOT.

14 Q OKAY. HAVE YOU EVER HEARD THAT IT WOULD HAVE
15 BEEN COMPUTER EQUIPMENT?

16 A I DO NOT.

17 Q DID YOU VISIT MR. LEVIN'S APARTMENT VERY OFTEN?

18 A NOT TOO OFTEN.

19 Q WHEN YOU DID, DID HE SEEM TO BE USING THE
20 PHONES QUITE A BIT?

21 A YES.

22 Q TO YOUR KNOWLEDGE, HE CONDUCTED MOST OF HIS
23 BUSINESS BY PHONE?

24 A I REALLY CAN'T SAY. I REALLY DON'T KNOW.

25 Q DID YOU SPEAK WITH HIM ABOUT 2:30 ON THE 6TH?

26 A WOULD YOU REPEAT THAT, PLEASE.

27 Q DID YOU SPEAK WITH HIM ON JUNE 6TH, WHICH IS
28 THE DAY BEFORE HIS DISAPPEARANCE WAS DISCOVERED?

1 A NO, I DID NOT.

2 Q OKAY. DID YOU EVER TELL DETECTIVE ZOELLER THAT
3 YOU SPOKE WITH HIM ABOUT 2:30 THE DAY BEFORE?

4 A I'M SORRY?

5 Q DID YOU EVER TELL DETECTIVE ZOELLER THAT YOU
6 HAD SPOKEN WITH HIM ABOUT 2:30 ON THE 6TH?

7 A I DON'T THINK SO.

8 Q OKAY.

9 A I THINK MY WIFE SPOKE TO HIM, BUT I DON'T THINK
10 I DID.

11 Q OKAY. WOULD -- IF RON WERE GOING OUT OF TOWN,
12 WOULD HE TELL YOU?

13 A NOT PARTICULARLY, NO.

14 Q WOULD HE GENERALLY CALL YOU FROM WHEREVER HE
15 WENT?

16 A NOT ME. HE WOULD CALL HIS MOTHER, THOUGH.

17 MR. ZORNE: CAN I ASK HIM A FEW QUESTIONS, YOUR
18 HONOR?

19 THE COURT: YES, SURELY.

20

21

CROSS-EXAMINATION

22 BY MR. ZORNE:

23 Q I'LL STAND OVER HERE, SIR, SO YOU CAN SEE ME.
24 WHEN WAS THE LAST TIME YOU ACTUALLY TALKED TO RON?

25 A I REALLY DON'T RECALL. IT MIGHT HAVE BEEN A
26 COUPLE WEEKS, TWO WEEKS, MAYBE ONE WEEK, MAYBE TWO WEEKS. I
27 JUST DON'T REMEMBER, SIR.

28 Q I SEE. BUT OF YOUR OWN KNOWLEDGE, YOU KNOW ON

1 AUGUST THE 6TH YOUR WIFE SPOKE TO RON?

2 A YES, SIR.

3 MS. LOPEZ: I'M GOING TO OBJECT ASSUMING FACTS NOT
4 EVIDENCE. THERE'S NO EVIDENCE THAT AUGUST 6TH HIS WIFE
5 SPOKE TO RON.

6 THE WITNESS: DID YOU SAY AUGUST 6TH? I THOUGHT YOU
7 WERE SAYING JUNE 6TH. I'M SORRY.

8 MR. ZORNE: JUST A SLIP OF THE MOUTH. I'M SORRY.

9 THE COURT: I THINK WE ALL THOUGHT IT WAS JUNE 6TH.

10 BY MR. ZORNE: A SLIP OF THE MONTH.

11 Q JUNE 6TH?

12 A JUNE 6TH.

13 Q OF YOUR OWN PERSONAL KNOWLEDGE, DO YOU KNOW
14 WHETHER YOUR WIFE TALKED TO RON AFTER JUNE THE 6TH?

15 A NO, SHE HAS NOT.

16 Q YOU KNOW FOR CERTAIN?

17 A YES.

18 Q IF SHE HAD, SHE WOULD TELL YOU?

19 A SHE SURE WOULD.

20 Q ON AUGUST THE 16TH YOU WENT TO RON'S APARTMENT;
21 IS THAT CORRECT?

22 A I DON'T REMEMBER THE DATES. I WAS THERE ALL
23 THE TIME.

24 Q BUT THAT WAS THE DATE WHEN THE OFFICERS CAME
25 INTO THE APARTMENT?

26 A OH, THAT PARTICULAR DAY, YES.

27 Q NOW, WHEN YOU SAY YOU WERE THERE ALL THE TIME,
28 WOULD YOU CLARIFY WHAT YOU'RE SAYING, SIR.

1 A WELL, I MEANT I WOULD VISIT THE APARTMENT TO
2 PICK UP THE MAIL SO THAT IT WOULDN'T APPEAR LIKE NO ONE WAS
3 LIVING THERE. THE MAIL WOULD ACCUMULATE, THE MAGAZINES, THE
4 PAPERS, AND I WOULD BE GOING THERE TO PICK EVERYTHING UP AND
5 PUT IT INTO THE HOUSE. I WOULDN'T STAY THERE TOO LONG, BUT
6 I WOULD GO THERE.

7 Q OKAY. AFTER JUNE THE 6TH OF 1984, WHEN WAS THE
8 NEXT TIME YOU WENT TO THE APARTMENT, IF YOU CAN RECALL?

9 A I PROBABLY -- I DON'T RECALL, BUT I MIGHT HAVE
10 GONE THE NEXT DAY.

11 Q WELL, OF THE TIMES YOU CAN RECALL THAT YOU WENT
12 TO RON'S APARTMENT, DID YOU LOOK AROUND HIS APARTMENT?

13 A YES, I DID.

14 Q DID YOU LOOK IN THE KITCHEN?

15 A I LOOKED ALL OVER.

16 Q LET'S TAKE A LOOK AT THE REFRIGERATOR?

17 A UM-HMM.

18 Q DID YOU LOOK AT THE REFRIGERATOR?

19 A YES, I DID.

20 Q WAS THERE FOOD IN THE REFRIGERATOR?

21 A YES, THERE WAS.

22 Q AND HOW ABOUT THE REST OF THE APARTMENT, DID IT
23 LOOK LIKE IT WAS LIVED IN?

24 A YES, SIR.

25 Q DID IT LOOK LIKE ANY CLOTHES HAD BEEN TAKEN?

26 A NO, SIR.

27 Q BUT RON HAD A LOT OF CLOTHES, DID HE NOT?

28 A AS FAR AS I KNOW, YES.

1 Q ALL RIGHT, NOW, ON AUGUST THE 16TH WHEN THE
2 OFFICERS CAME TO THE APARTMENT, YOU SAID THAT YOU FOUND SOME
3 PAPERS, WHICH THE DISTRICT ATTORNEY CHARACTERIZED AS
4 PEOPLE'S 2, AND FOUND THEM IN THE SMALL OFFICE; IS THAT
5 CORRECT?

6 A THAT'S CORRECT.

7 Q ALL RIGHT. NOW, WERE THESE PAPERS OUT IN OPEN
8 VIEW OR WERE THEY CONCEALED?

9 A THEY WERE IN OPEN VIEW.

10 Q OPEN VIEW. NOW, YOU'VE INDICATED ON DIRECT
11 QUESTIONING THAT IT RANG A BELL WITH ME. THOSE WERE YOUR
12 WORDS. NOW, WOULD YOU TELL ME WHAT IT MEANT "RANG A BELL
13 WITH ME".

14 A I MADE A POINT OF GOING THROUGH ALMOST
15 EVERYTHING IN THAT APARTMENT, JUST LOOKING AND LOOKING AND
16 LOOKING, AND I HAD BEEN GOING THROUGH THESE DIFFERENT PAPERS
17 WHEN I FOUND THE YELLOW PAPER WITH THE 10 OR 11 THINGS ON
18 THERE, THE "THINGS TO DO", THE HEADING OF "THINGS TO DO",
19 AND.....

20 Q GO AHEAD, SIR.

21 A AND I LOOKED AT IT, AND IT JUST SEEMED SO WEIRD
22 THAT I COULDN'T IMAGINE PEOPLE DOING SOMETHING LIKE THAT, SO
23 I JUST DIDN'T THINK ANYTHING OF IT AT THE TIME AND I DIDN'T
24 DO ANYTHING MORE ABOUT IT UNTIL THE POLICE CAME OVER ON THE
25 15TH. I HAD SEEN THAT PAPER PREVIOUS TO THE 15TH AND THEN
26 THE -- WHEN THE POLICE CAME, AS AN AFTERTHOUGHT I SAID TO
27 THEM, I SAYS YOU KNOW, I FOUND A PIECE OF YELLOW PAPER HERE
28 AND IT'S JUST SO WEIRD THAT I WANT TO SHOW IT TO YOU AND

1 THAT'S WHEN I SHOWED IT TO THEM.

2 Q I SEE. NOW, BEFORE JUNE THE 6TH, 1984, SAY IN
3 THE PAST 10 YEARS,

4 A UM-HMM.

5 Q JUNE 6TH TO SAY OH, JUNE OF 1974, ISN'T IT TRUE
6 THAT RON WAS ABSENT, FROM YOUR KNOWLEDGE, MANY TIMES?
7 WOULDN'T HE TAKE OFF AND GO OFF SOMEPLACE AND NOT LET YOU
8 KNOW WHERE HE WAS?

9 A NO, SIR. ME, PERSONALLY, YOU MEAN?

10 Q WELL, YOU OR YOUR WIFE.

11 A NO, SIR. NEVER.

12 Q WELL, DIDN'T HE GO OFF FOR VACATIONS?

13 A BUT WE KNEW IT.

14 Q YOU KNEW IT?

15 A SURE. ONE OF THE REASONS WAS ALSO WHENEVER HE
16 WOULD GO AWAY, HE'D BRING THE DOG OVER TO OUR HOUSE.

17 Q I SEE.

18 A AND WE WOULD HAVE THE DOG. OTHERWISE, THERE
19 WOULD BE NO ONE TO KEEP THE DOG.

20 Q I SEE. WHERE'S THE DOG NOW?

21 A I HAVE THE DOG.

22 Q I SEE. WELL, HOW DID YOU GET THE DOG?

23 A THE HOUSEKEEPER BROUGHT IT OVER TO MY HOUSE ON
24 THE 7TH.

25 Q DID THE HOUSEKEEPER EVER BRING THE DOG OVER TO
26 YOU AT ANY TIME IN THE PAST?

27 A WHEN RONNIE WOULD GO AWAY, SHE WOULD BRING THE
28 DOG OVER TO ME, YES.

1 Q ALL RIGHT. SO THIS IS NOT AN UNUSUAL
2 SITUATION.

3 MS. LOPEZ: OBJECTION. VAGUE AS TO WHAT'S NOT
4 UNUSUAL.

5 Q BY MR. ZORNE: THAT THE HOUSEKEEPER WOULD BRING
6 THE DOG OVER TO YOU.

7 A NOTHING UNUSUAL ABOUT IT. I DON'T KNOW WHAT'S
8 UNUSUAL.

9 Q I MEAN, SHE HAD BROUGHT THE DOG OVER BEFORE.

10 A YEAH.

11 MR. ZORNE: NO FURTHER QUESTIONS.

12 THE COURT: ANY REDIRECT?

13 MS. LOPEZ: JUST A COUPLE OF QUESTIONS.

14
15 REDIRECT EXAMINATION

16 BY MS. LOPEZ:

17 Q WHEN YOU SAY YOU LAST SPOKE TO RON ONE OR TWO
18 WEEKS, DO YOU MEAN ONE OR TWO WEEKS BEFORE JUNE 7, 1984?

19 A YES, MA'AM.

20 Q NOW, THE DATE THAT YOU ALLOWED DETECTIVE
21 ZOELLER AND THE OTHER OFFICERS TO GO INTO RON'S APARTMENT,
22 WAS THAT AUGUST 16TH INSTEAD OF 15TH?

23 A I CAN'T RECALL WHAT THE DATE WAS.

24 Q BUT IT WAS AROUND THAT GENERAL AREA?

25 A YES. I CAN'T RECALL.

26 Q NOW, WHEN BLANCHE TOOK THE DOG TO YOUR HOUSE ON
27 JUNE 7TH, WAS THAT AFTER YOU WERE CALLED TO GO TO RON'S
28 HOUSE?

1 A YES.

2 Q AND SO BLANCHE HAD CALLED YOU -- HAD CALLED
3 YOUR WIFE AND ASKED YOU TO COME OVER TO THE HOUSE BECAUSE
4 RON WAS MISSING?

5 A YES.

6 Q AND THEN YOUR WIFE IN TURN CALLED YOU TO GO TO
7 THE HOUSE BECAUSE RON WAS MISSING?

8 A YES.

9 Q AND IT WAS AFTER THAT, AFTER YOU'D ALL BEEN AT
10 THE HOUSE DISCUSSING RON -- THE FACT THAT RON WAS MISSING
11 THAT BLANCHE TOOK THE DOG TO YOUR HOUSE; IS THAT CORRECT?

12 A YES.

13 MS. LOPEZ: I HAVE NOTHING FURTHER.

14 MR. YOUNG: JUST A COUPLE MORE QUESTIONS.

15 THE COURT: ALL RIGHT.

16

17

RECROSS-EXAMINATION

18 BY MR. YOUNG:

19 Q YOU SAID, I GUESS, SUBSEQUENT TO THE TIME THAT
20 RON DISAPPEARED, JUNE 7TH ON, THAT YOU'D BEEN SEARCHING THE
21 LEVIN APARTMENT FOR A GOOD DEAL OF TIME LOOKING FOR CERTAIN
22 THINGS; IS THAT CORRECT?

23 A YES, SIR.

24 Q AND YOU ALSO INDICATED EARLIER THAT THESE
25 DOCUMENTS THAT YOU FOUND WERE PRETTY MUCH OUT IN THE OPEN;
26 IS THAT CORRECT?

27 A ON THE FLOOR IN THE OFFICE. THEY WEREN'T ON
28 THE DESK. THEY WERE ON THE FLOOR. THOSE PARTICULAR

1 DOCUMENTS.

2 Q OKAY. THEY WERE IN THE FLOOR IN THE SMALL
3 OFFICE OFF OF THE BIG OFFICE?

4 A THAT'S CORRECT.

5 Q OKAY. IN THAT SIX WEEK PERIOD OR SO SINCE YOUR
6 SON'S DISAPPEARANCE, YOU HADN'T BEEN IN THAT SMALL OFFICE?

7 A YES.

8 Q BUT YOU'D NEVER NOTICED THESE PAPERS BEFORE?

9 A YES, I HAD SEEN THAT ONE PAPER BEFORE. I HAD
10 BEEN GOING THROUGH -- THAT ONE PAPER, YES. I HAD SEEN IT
11 LAYING THERE BEFORE.

12 Q DO YOU RECALL THE FIRST TIME YOU SAW THAT
13 LAYING THERE?

14 A MAYBE A COUPLE WEEKS AFTER HE DISAPPEARED.

15 Q OKAY. DID YOU GO IN THAT ROOM WITHIN A DAY OR
16 SO AFTER HIS DISAPPEARANCE?

17 A YES.

18 Q AND DID YOU NOTICE THEM THERE THEN?

19 A IF YOU WOULD SEE THAT ROOM OR THAT OFFICE YOU
20 WOULD SEE THAT IT'S VERY CLUTTERED, AND IT TOOK ME TIME TO
21 GO THROUGH EVERYTHING IN THESE DIFFERENT PLACES.

22 Q OKAY. WERE THEY WITHIN A STACK OF OTHER
23 DOCUMENTS OR PAPERS, OR WERE THEY JUST ALL ALONE BY
24 THEMSELVES, OR HOW WERE THEY?

25 A NO, I DID NOT GIVE THE PAPERS, ALL THOSE PAPERS
26 TO DETECTIVE ZOELLER. I HAD FOUND THAT ONE PAPER AND
27 TOLD -- ALTHOUGH I HAD SEEN THE OTHERS, I HAD FOUND THE ONE
28 PAPER AND TOLD DETECTIVE ZOELLER WHERE I HAD FOUND IT, AND

1 THEN HE WENT INTO THE OFFICE OVER THERE AND THAT'S WHERE HE
2 FOUND THE REST OF THE PAPERS.

3 Q OH, I SEE. SO YOU DIDN'T GIVE HIM, THEN, FOUR
4 OR FIVE OR SIX PIECES OF PAPER --

5 A I CAN'T REMEMBER DOING THAT, NO.

6 Q OKAY. YOU INITIALLY RECALL JUST GIVING HIM THE
7 ONE PAPER?

8 A I DIDN'T QUITE RECALL HOW I HAD SEEN IT OR
9 WHAT, BUT I THINK I RECALL NOW THAT I HAD GIVEN HIM
10 SPECIFICALLY TWO THINGS. THE MICROANALYSIS FILE AND THAT
11 ONE, BUT TOLD HIM WHERE I HAD FOUND IT AND I THINK HE WAS IN
12 THAT AREA THERE AND HE FOUND THOSE PAPERS. THAT'S WHERE I
13 MUST HAVE FOUND THE REST OF THEM.

14 MR. YOUNG: CAN I SEE THAT EXHIBIT THAT YOU HAVE, THE
15 PAPERS?

16 Q WAS THIS THE ONE PIECE THAT YOU FOUND, THIS
17 FRONT SHEET HERE --

18 A THAT'S CORRECT.

19 Q OKAY. NOW, THAT ONE PIECE OF PAPER, COULD YOU
20 JUST TELL ME AGAIN WHERE THAT WAS THAT YOU FOUND IT?

21 A ON THE -- IN THE LITTLE ROOM OFF THE OFFICE AT
22 THE SIDE OF THE DESK ON THE FLOOR AMONG SOME OTHER PAPERS.

23 Q AMONG SOME OTHER PAPERS. OKAY. WERE THESE
24 OTHER PAPERS THAT YOU FOUND AMONG THOSE PAPERS?

25 A YES, SIR.

26 Q WERE THERE OTHER PAPERS THAT WERE THERE OTHER
27 THAN YELLOW SHEETS OF PAPER IN THIS GROUP OF PAPERS?

28 A YES, SIR.

1 Q OKAY. WERE THEY INTERMIXED OR WERE THESE JUST
2 AT THE TOP OF IT?

3 A I CAN'T REMEMBER.

4 Q OKAY. DID IT LOOK LIKE THEY HAD BEEN PLACED
5 THERE IN A STACK BECAUSE THEY WERE --

6 A I CAN'T REMEMBER. I DON'T KNOW.

7 Q DO YOU HAVE ANY KNOWLEDGE THAT ANYONE PLACED
8 THOSE PAPERS THERE?

9 A NO, SIR.

10 MR. YOUNG: I HAVE NO FURTHER QUESTIONS.

11 THE COURT: ANYTHING FURTHER?

12 MS. LOPEZ: JUST ONE THING FURTHER. YOUR HONOR, I
13 HAVE A PHOTOGRAPH. MAY THIS PHOTOGRAPH BE MARKED AS
14 PEOPLE'S EXHIBIT 6?

15 I'M SHOWING IT TO MR. YOUNG AND TO MR. ZORNE.

16 THE COURT: ALL RIGHT. IT WILL BE PEOPLE'S 6 FOR
17 IDENTIFICATION.

18 MR. ZORNE: THANK YOU.

19 MS. LOPEZ: MAY I APPROACH THE WITNESS?

20 THE COURT: YES.

21 MS. LOPEZ: I'M HANDING THE WITNESS THE PHOTOGRAPH
22 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 6.

23

24

FURTHER REDIRECT EXAMINATION

25 BY MS. LOPEZ:

26 Q NOW, MR. LEVIN, IS THAT THE ROOM WHERE YOU
27 FOUND THE FIRST YELLOW SHEETS OF PAPER?

28 A YES, MA'AM.

1 Q AND DIRECTING YOUR ATTENTION TO THE PHOTOGRAPH
2 ITSELF, WILL YOU POINT SPECIFICALLY TO THE SPOT WHERE YOU
3 FOUND THAT FIRST YELLOW SHEET OF PAPER AND WHERE YOU
4 DIRECTED MR. ZOELLER TO GO LOOK?

5 A YES. I FOUND IT BETWEEN THE WASTEPAPER BASKET
6 AND THE DRAWERS. IT WAS BETWEEN THE TWO THERE, IN THERE
7 (INDICATING).

8 THE COURT: DO YOU WANT TO PUT A MARK ON THERE FOR
9 THAT PURPOSE?

10 MS. LOPEZ: YES.

11 Q WILL YOU CIRCLE THE AREA ON THE PHOTOGRAPH
12 USING THIS BLUE FELT MARKER WHERE YOU FOUND THAT FIRST
13 SHEETS OF PAPER.

14 A (INDICATING).

15 Q AND IT WAS BETWEEN THE BLACK WASTE BASKET AND
16 THE DRAWERS?

17 A I WOULD SAY THEIRS ABOUT SEVEN OR EIGHT INCHES
18 BETWEEN THE WASTEPAPER BASKET AND THE DRAWER. IN FACT,
19 THERE WAS ENOUGH TO BE ABLE TO PULL THE DRAWER OUT, SO MAYBE
20 THERE WOULD EVEN BE ABOUT NINE INCHES OR SO WHERE YOU WERE
21 ABLE TO PULL THE DRAWER OUT.

22 Q IS THAT THE AREA WHERE YOU DIRECTED LES ZOELLER
23 TO LOOK?

24 A THAT'S RIGHT. HE ASKED ME WHERE I'D FOUND IT
25 AND I TOLD HIM WHERE I'D FOUND IT.

26 MS. LOPEZ: THANK YOU. I HAVE NOTHING FURTHER.

27 MR. YOUNG: NO FURTHER QUESTIONS.

28 THE COURT: MAY MR. LEVIN BE EXCUSED NOW?

1 MS. LOPEZ: YES.

2 THE COURT: THANK YOU VERY MUCH.

3 MS. LOPEZ: THE PEOPLE CALL JERRY STONE.

4 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
5 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
6 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
7 TRUTH, SO HELP YOU GOD?

8 THE WITNESS: I DO.

9

10

GERALD IRA STONE,

11

CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
12 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

13

14

THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
15 SPELL YOUR LAST NAME.

16

THE WITNESS: GERALD IRA STONE, S-T-O-N-E.

17

THE CLERK: THANK YOU.

18

DIRECT EXAMINATION

19

BY MS. LOPEZ:

20

Q MR. STONE, DO YOU OWN AND OPERATE ANSWER-RITE

21

ANSWERING SERVICE LOCATED AT 9300 WILSHIRE BOULEVARD IN

22

BEVERLY HILLS IN THE COUNTY OF LOS ANGELES?

23

A YES, I DO.

24

Q AND DID YOU OWN AND OPERATE THAT ANSWERING

25

SERVICE DURING THE MONTHS OF MAY THROUGH THE PRESENT MONTH

26

OF 1984?

27

A YES. I WAS THE ONLY OWNER OF THE SERVICE.

28

Q WILL YOU TELL US HOW THE PHONE SERVICE WORKS?

1 A OKAY. THERE ARE SEVERAL DIFFERENT WAYS. THE
2 TYPE OF SERVICE THAT MR. LEVIN HAD WAS WE IN A SENSE HAD A
3 EXTENSION OF HIS TELEPHONE ON OUR SWITCHBOARD, AND WHEN THE
4 PHONE RINGS IN HIS OFFICE, IT ALSO RINGS ON THE BOARD, AND
5 OUR INSTRUCTIONS WERE IF HE DIDN'T PICK IT UP THAT WE WOULD
6 ANSWER IT AND TAKE MESSAGES FOR HIM. AND MOST OF THE
7 CLIENTS JUST CALLED IN FOR THEIR MESSAGES AT THE END OF THE
8 DAY OR WHENEVER IT'S CONVENIENT FOR THEM.

9 Q NOW, DIRECTING -- GETTING BACK TO THE WAY THAT
10 THE PHONE SERVICE WORKS, DOES MR. LEVIN HAVE TO DIAL ANY
11 NUMBERS IN ORDER FOR YOU TO START PICKING UP CALLS OR DOES
12 IT AUTOMATICALLY RING --

13 A THE SERVICE THAT HE HAD AUTOMATICALLY RANG. IT
14 WAS CALLED A SECRETARIAL LINE, AND IT RANG SIMULTANEOUSLY ON
15 THE SWITCHBOARD AS IT RINGS IN HIS OFFICE.

16 Q NOW, WHEN A MESSAGE COMES IN, ARE YOU OR YOUR
17 EMPLOYEES REQUIRED TO TAKE DOWN THE MESSAGE ON A PARTICULAR
18 FORM?

19 A YEAH. THEY USE A THREE BY FIVE WHITE PAPER AND
20 THEY TAKE THE -- THE ACCOUNT NAME IS ON TOP, WHO THE MESSAGE
21 IS FOR, WHO THE MESSAGE IS FROM, THE TELEPHONE NUMBER, IF
22 ANY, AND A MESSAGE, IF ANY, AND THEY TIME STAMP IT.

23 Q AND THEY TIME STAMP IT USING WHAT?

24 A A LITTLE TIME CLOCK, A RAPIDTIME TIME CLOCK.

25 Q NOW, WHEN AN INDIVIDUAL COMES -- LET ME
26 WITHDRAW THAT.

27 CAN AN INDIVIDUAL RECEIVE HIS MESSAGES BY CALLING THE
28 SERVICE OR BY PICKING THEM UP OR BOTH?

1 A THEY CAN PICK IT UP BOTH WAYS. WE VERY RARELY
2 HAVE ANYBODY COME UP FOR THEIR MESSAGES. I THINK PRESENTLY
3 THE ONLY ONE WHO EVER PICKS UP HIS MESSAGES NOW IS RIGHT
4 ACROSS THE HALL FROM US. HE JUST COMES IN AND GETS HIS
5 MESSAGES. JUST ABOUT EVERYBODY ELSE CALLS IN FOR THEM.

6 Q NOW, WHEN AN INDIVIDUAL PICKS UP THE MESSAGE,
7 IS THERE SOMETHING THAT YOUR EMPLOYEES DO ON THE THREE BY
8 FIVE CARD THAT THEY PREPARE?

9 A RIGHT. IT'S A PIECE OF PAPER. THEY PUT A LINE
10 THROUGH IT ON THE FRONT AND THEY STAMP IT OUT IN THE BACK
11 THAT IT WAS PICKED UP.

12 MS. LOPEZ: OKAY. YOUR HONOR, I HAVE A THREE BY FIVE
13 BLUE INDEX CARD. ON THE FACE OF THE INDEX CARD ON THE UPPER
14 LEFT HAND CORNER IS "CODE:668: NETWORK NEWS BUSINESS COLLECT
15 CALLS". MAY THIS BE MARKED AS PEOPLE'S EXHIBIT 6?

16 THE COURT: PEOPLE'S 6 WAS THE PHOTOGRAPH OF THE
17 STUDY.

18 MS. LOPEZ: ALL RIGHT. 7.

19 THE COURT: IT WILL BE MARKED --

20 MR. YOUNG: YOUR HONOR, IF THEY WISH A STIPULATION
21 THAT HE WAS NOT CHECKED IN FOR HIS MESSAGES SINCE THE 7TH, I
22 WOULD STIPULATE TO THAT.

23 MS. LOPEZ: HAVE YOU SEEN THIS, MR. ZORNE?

24 MR. ZORNE: NO, I HAVE NOT. THANK YOU.

25 THE COURT: ALL RIGHT. DO YOU WANT THAT AS PEOPLE'S
26 7 OR DO YOU WANT A STIPULATION?

27 MS. LOPEZ: YOUR HONOR, I WOULD STILL LIKE IT IN AS
28 PEOPLE'S 7.

1 THE COURT: ALL RIGHT. PEOPLE'S 7 FOR
2 IDENTIFICATION.

3 Q BY MS. LOPEZ: ARE THERE OTHER CIRCUMSTANCES
4 UNDER WHICH THE -- YOUR EMPLOYEES WILL DATE STAMP THE BACK
5 OF THE THREE BY FIVE PIECE OF PAPER THAT THEY PREPARE WITH A
6 MESSAGE WHEN -- EVEN THOUGH THE INDIVIDUAL HAS NOT CALLED TO
7 RECEIVE THE MESSAGE?

8 A ON OCCASION -- SOME OPERATORS DO IT AND SOME
9 OPERATORS DON'T. IF WE WOULD GET A MESSAGE IF SOMEBODY HUNG
10 UP OR IF A MAN CALLED AND SAID "I'LL CALL BACK". IF IT
11 WASN'T REALLY A VALID MESSAGE TO A CUSTOMER. SOME OF THE
12 OPERATORS WILL JUST TAKE IT AND PUT IT IN THE FILE BOX, AND
13 IT'S VERY EASY TO IDENTIFY THAT BECAUSE THE TIME THAT IT WAS
14 STAMPED OUT WOULD BE ALMOST IDENTICAL TO THE TIME THAT IT
15 CAME IN.

16 Q SO WHAT YOU'RE SAYING IS THAT WHEN SOMEBODY
17 CALLS AND DOESN'T WANT TO LEAVE A NAME OR NUMBER AND SAYS
18 I'LL CALL BACK, THE PERSON WRITES IT DOWN, STAMPS IT ON THE
19 FRONT AND THEN SIMULTANEOUSLY STAMPS IT ON THE BACK?

20 A SOME DO. DO YOU WANT TO KNOW WHY WE DO THAT?

21 Q YES.

22 A SOMETIMES SOMEBODY MIGHT BE IN THEIR OFFICE AND
23 THEY HEAR THEIR PHONE RING, AND EVEN THOUGH WE DON'T HAVE A
24 MESSAGE, WE JUST KEEP A RECORD OF IT SO WE CAN LOOK IT UP
25 AND SAY "WELL, 2:00 O'CLOCK SOMEBODY DID CALL YOU, BUT THERE
26 WAS NO MESSAGE." SOME OF THE OPERATORS KEEP IT UP IN THE
27 FILE, SOME OF THE OPERATORS BY HABIT JUST FILE IT AWAY.

28 MS. LOPEZ: MAY I APPROACH THE WITNESS?

1 THE COURT: YOU MAY APPROACH.

2 MS. LOPEZ: I'M HANDING THE WITNESS THE THREE BY FIVE
3 BLUE CARD THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 7.

4 Q DO YOU RECOGNIZE THAT?

5 A YES. THAT'S AN INFORMATION CARD THAT WE USE
6 FOR OUR CLIENTS.

7 Q AND WHERE DID YOU GET THAT?

8 A WELL, I GOT THE INFORMATION FROM MR. LEVIN.

9 Q OKAY. WHERE DID YOU GET THE CARD?

10 A THE CARD, I RUN IT UP ON MY COMPUTER.

11 Q IS A CARD REQUIRED TO BE FILLED OUT FOR EVERY
12 SINGLE CUSTOMER THAT YOU HAVE?

13 A RIGHT.

14 Q AND WHERE DO YOU GET THE INFORMATION THAT'S
15 PLACED ON THE CARD?

16 A FROM THE CLIENT.

17 Q AND IS THIS THE INFORMATIONAL CARD THAT
18 CORRESPONDS TO RON LEVIN?

19 A RIGHT. YES, IT IS. THAT WAS HIS CODE, 668.

20 Q IN ADDITION TO HIS NAME, WHAT IS THE OTHER
21 INFORMATION THAT'S PROVIDED ON THIS CARD?

22 A OKAY. OTHER PEOPLE THAT WE COULD TAKE MESSAGES
23 FOR, AND THOSE ARE NAMES GIVEN TO ME BY MR. LEVIN.

24 Q OKAY, AND DIRECTING YOUR ATTENTION TO THE
25 BOTTOM OF THE CARD, "OTHER INFORMATION: ALSO KNOWN AS
26 GENERAL PRODUCERS", WHAT DOES THAT INFORMATION PERTAIN TO?

27 A OKAY. HE GAVE ME -- I THINK IT'S THREE
28 COMPANY -- WE HAVE THREE COMPANY NAMES THAT HE ALSO GOES

1 UNDER TO TAKE MESSAGES FOR THOSE. SO EVEN THOUGH IT WAS
2 NETWORK NEWS, AND SOMEBODY CALLED AND SAID "IS THIS GENERAL
3 PRODUCERS", WE WOULD SAY "YES".

4 MR. YOUNG: YOUR HONOR, TO SAVE TIME I WOULD
5 STIPULATE THAT MR. LEVIN WAS A CUSTOMER --

6 MS. LOPEZ: YOUR HONOR, WE WOULD LIKE TO -- YOUR
7 HONOR, WE HAVE ALREADY ESTABLISHED THAT THROUGH THIS
8 TESTIMONY. MAY I CONTINUE?

9 THE COURT: YES, YOU MAY.

10 Q BY MS. LOPEZ: DID YOU HAVE AN OCCASION -- DID
11 YOU SPEAK TO A DETECTIVE BY THE NAME OF LES ZOELLER?

12 A YES, I BELIEVE SO.

13 Q AND DO YOU RECALL WHEN IT WAS THAT YOU SPOKE TO
14 HIM?

15 A NO, I DON'T.

16 Q WAS IT RECENTLY, IN THE LAST COUPLE OF MONTHS?

17 A IN THE LAST COUPLE OF MONTHS, BUT I DON'T
18 REMEMBER THE EXACT DATE.

19 Q AT THE TIME THAT YOU SPOKE TO LES ZOELLER, DID
20 YOU GIVE HIM SOMETHING?

21 A YES, I DID.

22 Q WHAT DID YOU GIVE HIM?

23 A I GAVE HIM MR. LEVIN'S MESSAGES.

24 Q AND WHERE DID YOU GET THOSE MESSAGES FROM?

25 A FROM OUR FILE BOX.

26 Q AND THOSE WERE MESSAGES THAT HAD BEEN
27 ACCUMULATED FOR RON LEVIN?

28 A RIGHT. APPARENTLY, AND FOR QUITE SOME TIME, HE

1 HADN'T PICKED UP MESSAGES. THEY WERE JUST ACCUMULATING AND
2 ACCUMULATING.

3 Q OKAY. THE MESSAGES THAT YOU GAVE TO LES
4 ZOELLER, DID YOU GIVE HIM ALL THE MESSAGES THAT WERE THERE
5 AT THE TIME THAT LES ZOELLER WENT TO SEE YOU?

6 A YES. I GAVE HIM EVERY MESSAGE THAT WE HAD.

7 MS. LOPEZ: MR. YOUNG, MAY IT BE STIPULATED THAT RON
8 LEVIN HAS NOT PICKED UP A MESSAGE FROM HIS ANSWERING SERVICE
9 SINCE JUNE 6TH, 1984?

10 MR. YOUNG: YES.

11 THE COURT: ALL RIGHT. THE STIPULATION WILL BE
12 RECEIVED FOR THE PURPOSES OF THE PRELIMINARY HEARING ONLY.

13 MR. YOUNG: YEAH.

14 Q BY MS. LOPEZ: HAVE THE TELEPHONE SERVICES THAT
15 YOU PROVIDED TO RON LEVIN BEEN TERMINATED?

16 A YES, THEY HAVE.

17 Q AND DO YOU KNOW THE DATE THAT THEY WERE
18 TERMINATED?

19 A NOT OFFHAND.

20 Q CAN YOU DESCRIBE -- WOULD LOOKING AT THE CARD
21 HELP YOU?

22 A NO. I DON'T THINK I WROTE THE TERMINATION DATE
23 ON THERE.

24 Q WOULD YOU DESCRIBE THE CIRCUMSTANCES UNDER
25 WHICH THE SERVICES FOR RON LEVIN WERE TERMINATED?

26 A OKAY. RON -- I DO WORK FOR SOME OTHER
27 ANSWERING SERVICE IN SOME OTHER OFFICE SERVICE COMPANIES,
28 AND HE WAS AN ACCOUNT THAT I GOT FROM THIS COMPANY CALLED

1 EXECUTIVE SUITE, AND THEY DON'T OFFER A 24-HOUR SERVICE AND
2 WE DO, AND THAT'S WHY THEY USE US.

3 AND THE MESSAGES WERE ACCUMULATING, AND MR. LEVIN
4 HADN'T CALLED UP AND IT WAS KIND OF UNUSUAL. AND I CALLED
5 THE YOUNG LADY AT EXECUTIVE, GAIL MINCE, AND I SAID "DO YOU
6 STILL WANT US TO SERVICE HIS LINE, MR. LEVIN'S LINE," AND
7 SHE SAID HE PAID FOR A FEW MONTHS AND JUST WHEN THE TIME
8 THAT HE PAID, I DON'T HEAR FROM HIM, JUST TERMINATE IT, AND
9 THE TIME HAD PASSED SO WE JUST TERMINATED THE LINE.

10 MS. LOPEZ: THANK YOU. I HAVE NOTHING FURTHER.

11 THE COURT: MR. YOUNG?

12
13 CROSS-EXAMINATION

14 BY MR. YOUNG:

15 Q DID YOU KNOW MR. LEVIN PERSONALLY?

16 A NO, I DIDN'T.

17 Q DID YOU EVER TAKE ANY OF HIS MESSAGES
18 PERSONALLY?

19 A IT'S QUITE POSSIBLE. NOT THAT I CAN RECALL,
20 THOUGH.

21 Q DID YOU EVER HAVE ANY MESSAGES THAT WERE -- LET
22 ME SEE HOW TO PHRASE THIS -- HOSTILE THAT YOU TOOK FROM
23 OTHER PEOPLE THAT MIGHT HAVE APPEARED TO HAVE BEEN HOSTILE
24 TO MR. LEVIN?

25 A NONE THAT I CAN RECALL, BUT IN -- IN ALL
26 FAIRNESS, I -- WE HAVE 550 ACCOUNTS AND AS A RULE I DON'T
27 WORK ON THE BOARD, SO.....

28 Q DID ANY OF YOUR OPERATORS EVER MAKE ANY

1 COMMENTS TO YOU ABOUT MESSAGES THAT THEY 'D GOTTEN FOR MR.
2 LEVIN?

3 A I HAD ONE OPERATOR WHO WORKED WITH HIM FROM A
4 PREVIOUS SERVICE AND THEY DIDN'T SEEM -- THEY DIDN'T SEEM TO
5 LIKE HIM WAS ABOUT THE ONLY COMMENTS THAT I GOT.

6 Q OKAY. DID THE PERSON THAT WORKED FOR YOU
7 DIDN'T LIKE HIM OR THE PERSON --

8 A NO. THE PERSON -- THAT WAS REALLY THE ONLY
9 COMMENTS, WAS THAT THEY DIDN'T CARE FOR HIM.

10 Q DO YOU HAVE ANY KNOWLEDGE OF ANY CALLS FROM
11 ANYONE TO HIM THAT MAY HAVE BEEN -- HAD MESSAGES THAT WERE
12 MAKING DEMANDS UPON HIM OR THREATS UPON HIM?

13 A NONE.

14 Q IF A THREAT CAME THROUGH ON A MESSAGE, DO YOU
15 THINK THAT YOUR OPERATORS WOULD POINT THAT OUT TO YOU?

16 A MOST LIKELY.

17 Q DO YOU HAVE ANY INSTRUCTIONS OR ANYTHING LIKE
18 THAT BUILT IN YOUR SYSTEM TO SAY IF THERE 'S THREATS TO
19 PEOPLE LET ME KNOW OR --

20 A I DON'T, BUT THE OPERATORS ALL KNOW THAT, AND
21 IF IT WAS SOMETHING THAT REALLY WOULD BE UNUSUAL THEY WOULD
22 TELL ME ABOUT IT.

23 MR. YOUNG: OKAY. NO FURTHER QUESTIONS.

24
25 CROSS-EXAMINATION

26 BY MR. ZORNE:

27 Q MR. STONE, CAN YOU RECALL OR DO YOU HAVE ANY
28 DOCUMENTATION AS TO THE LAST TIME MR. LEVIN PICKED UP HIS

1 MESSAGES EITHER IN PERSON OR BY PHONE?

2 A THE ONLY RECORDS THAT I WOULD HAVE WOULD BE ON
3 THE MESSAGES. AS I SAID BEFORE, WHEN SOMEBODY PICKS UP A
4 MESSAGE WE TIME STAMP IT OUT AT THE TIME THAT IT'S PICKED
5 UP, SO IT WOULD HAVE THE TIME THAT HE PICKED IT UP AND THE
6 DATES.

7 Q WELL, PEOPLE'S 7 FOR IDENTIFICATION, THAT THREE
8 BY FIVE CARD, IF I'M NOT MISTAKEN IN THE UPPER RIGHT HAND
9 CORNER IT SAYS MAY THE 22ND?

10 A THAT'S WHEN THE SERVICE WAS SUPPOSED TO START.

11 Q SUPPOSED TO START?

12 A AS FAR AS I KNOW, I HAVE. RIGHT. AS FAR AS I
13 KNOW, I HAVE NO REASON TO BELIEVE THAT IT DIDN'T.

14 Q AS FAR AS YOU KNOW BY LOOKING AT THAT CARD,
15 WHAT WAS THE LAST DATE STAMP ON --

16 A OKAY. THAT CARD IS THE INFORMATION CARD THAT
17 WE USE FOR THE CLIENT. THAT'S NOT THE MESSAGE CARD. THE
18 BLUE CARD -- AND MR. LEVIN DIDN'T REALLY HAVE A LOT OF
19 INFORMATION THERE, BUT THAT BLUE CARD IS THE ONE THAT THEY
20 WOULD LOOK TO SEE THE NAME OF THE COMPANY OR IF HE HAD A
21 HOME PHONE NUMBER, AND THE ACTUAL WHITE SLIPS WOULD BE THE
22 ONES THAT WE'D TAKE THE MESSAGES ON.

23 Q WELL, IF HE PICKED UP ANY MESSAGES AFTER JUNE
24 THE 6TH, 1982, WOULD YOU HAVE ANY DOCUMENTATION TO THAT
25 EFFECT?

26 A JUST THE MESSAGE.

27 Q TO YOUR KNOWLEDGE, DO YOU KNOW IF ANY MESSAGES
28 CAME IN THAT HE PICKED UP AFTER JUNE THE 6TH?

1 A I DON'T BELIEVE SO BECAUSE IT WAS JUST -- THE
2 OPERATORS WERE CONSTANTLY TELLING ME -- YOU KNOW, THERE'S A
3 LITTLE BOX THAT YOU HAVE TO SLIDE ALL THE MESSAGES IN AND
4 THE OPERATORS KEPT SAYING THERE'S NO ROOM FOR THEM. IF THEY
5 WEREN'T, THE MESSAGES WOULD HAVE BEEN IN THE BOX AND THEY
6 WOULD HAVE -- THEY WOULD HAVE BEEN -- EVEN IN THE RARE
7 INSTANCE THAT HE CAME UP AND GOT A MESSAGE, IF HE WOULD
8 HAVE -- SAY HE WOULD HAVE JUST COME UP AND PICKED UP ONE
9 MESSAGE AND NOTHING ELSE, SINCE WE CHARGE PEOPLE BY THE
10 AMOUNT OF MESSAGES, THE OPERATOR WOULD HAVE WRITTEN UP A
11 LITTLE CARD SAYING THAT THE MESSAGE WAS PICKED UP, AND WE
12 DIDN'T HAVE ANY SUCH CARDS.

13 Q WELL, FROM THE TIME, MAY THE 22ND, THAT THE
14 SERVICE STARTED UNTIL SAY ROUGHLY THE BEGINNING OF JUNE, WAS
15 THERE EVER AN INTERVAL OF TIME WHEN MR. LEVIN DID NOT PICK
16 UP ANY MESSAGES?

17 A I REALLY --

18 Q WHAT I'M SAYING --

19 A I REALLY WOULDN'T KNOW THAT, HONESTLY.

20 Q BUT IT'S POSSIBLE THAT THERE MAY HAVE BEEN AN
21 INCREMENT OF TIME, THREE DAYS OR A WEEK OR SOMETHING LIKE
22 THAT, WHERE MESSAGES CAME FOR HIM AND HE DID NOT PICK THEM
23 UP?

24 A IT'S CONCEIVABLE. I GUESS WE CAN CHECK THE
25 MESSAGES AND SEE THE DATES ON THE BACK.

26 Q NOW, YOU INDICATED THAT SOME SECRETARY SAID
27 THAT IF YOU DIDN'T HEAR FROM HIM WITHIN A CERTAIN PERIOD OF
28 TIME THAT YOU COULD TERMINATE THE SERVICE; IS THAT CORRECT?

1 A CORRECT.

2 Q WHAT WERE THE CIRCUMSTANCES ABOUT THAT?

3 A WELL, SEE I DIDN'T BILL MR. LEVIN DIRECT. I
4 BILLED THE OFFICE SERVICE COMPANY FOR THE SERVICE, AND THEY
5 PAY ME AND THEY IN TURN BILL MR. LEVIN. AND I WORK PRETTY
6 CLOSELY WITH THEM AND I DID NOT KNOW MR. LEVIN. I DIDN'T
7 WANT THEM TO GET STUCK WITH THE BILL, NUMBER ONE, AND YOU
8 KNOW, I WANTED TO GET PAID FOR MY SERVICE, SO THAT'S WHEN IT
9 APPEARED TO ME THAT THERE WERE SO MANY -- MAYBE A MONTH WENT
10 BY AND THERE WERE SO MANY MESSAGES, I CALLED HER UP AND I
11 ASKED HER "IS HE STILL A CUSTOMER? WHAT DO YOU WANT ME TO
12 DO," AND SHE SAID THAT "HE HAD GIVEN US A DEPOSIT AND PAID A
13 FEW MONTHS IN ADVANCE AND KEEP IT GOING AND I'LL LET YOU
14 KNOW WHEN TO TERMINATE IT."

15 Q SO WHEN THE MONEY RAN OUT, YOU JUST TERMINATED
16 THE SERVICE?

17 A RIGHT.

18 MR. ZORNE: THANK YOU SIR. NO FURTHER QUESTIONS.

19 THE COURT: ANYTHING FURTHER?

20 MS. LOPEZ: I JUST WANT TO CLARIFY ONE THING.

21

22

REDIRECT EXAMINATION

23 BY MS. LOPEZ:

24 Q NOW, YOUR COMPANY TAKES MESSAGES ON THREE BY
25 FIVE WHITE PIECES OF PAPER; IS THAT CORRECT?

26 A YES.

27 Q AND IF SOMEBODY RECEIVES A MESSAGE OVER THE
28 TELEPHONE, AN EMPLOYEE OF YOURS WILL DATE STAMP THE BACK OF

95

1 THE MESSAGE TO INDICATE THAT THE MESSAGE HAS BEEN RECEIVED;
2 IS THAT CORRECT?

3 A RIGHT. THEY PUT A MARK THROUGH THE FRONT TO
4 SHOW THAT IT'S CANCELED, AND THE TIME TO SHOW THE TIME, AND
5 THE DATE THAT IT WAS PICKED UP.

6 Q AND IF SOMEBODY CALLS AND SAYS, "WELL, FORGET
7 IT, I DON'T WANT TO LEAVE A MESSAGE, I'LL CALL LATER," THEN
8 A MESSAGE WILL BE TAKEN STATING "WILL CALL BACK, NO MESSAGE"
9 AND A DATE STAMP WILL OCCUR ON THE BACK, ALSO, IN THAT
10 INSTANCE EVEN THOUGH THAT HAS NOT BEEN RECEIVED?

11 A RIGHT. OCCASIONALLY SOME OF THE OPERATORS DO
12 THAT, AND AS I SAY, IT WOULD BE VERY EASY TO IDENTIFY THAT
13 PARTICULAR MESSAGE BECAUSE THE DATE AND TIME ON THE FRONT
14 WOULD BE WITHIN PROBABLY A MINUTE OF THE DATE -- OF THE DATE
15 AND TIME ON THE BACK.

16 Q OKAY. NOW, YOU ORDINARILY RETAIN ALL OF THESE
17 THREE BY FIVE PAPERS EVEN AFTER THE MESSAGE HAS BEEN
18 RECEIVED; IS THAT CORRECT?

19 A RIGHT.

20 Q AND WHAT IS YOUR REASON FOR RETAINING THEM?

21 A THERE ARE SEVERAL REASONS. FIRST OF ALL,
22 PEOPLE MAKE CALLS A DAY LATER, A WEEK LATER, A MONTH LATER,
23 "GEE, I LOST THE NUMBER, COULD YOU LOOK IT UP FOR ME, I
24 DON'T REMEMBER SOMEBODY'S NAME," OR "COULD YOU GO THROUGH MY
25 MESSAGES" AND ALSO WE CHARGE PEOPLE BY THE AMOUNT OF THE
26 MESSAGES, AND IF THEY HAVE OVER A CERTAIN AMOUNT, THEY DO
27 PAY AN ADDITIONAL CHARGE. SO WE SAY AT THE END OF THE MONTH
28 WE COUNT THEM UP AND WE SAVE THEM FOR THE FOLLOWING MONTH IN

1 CASE SOMEBODY QUESTIONS THEIR BILL SO WE HAVE SOME -- WE CAN⁹⁹
2 JUSTIFY OUR CHARGE.

3 Q IN THE EVENT THAT SOMEBODY CAME UP AND
4 PERSONALLY PICKED UP THE MESSAGE, WILL IT BE NOTED THAT THE
5 PERSON TOOK THE THREE BY FIVE PIECE OF PAPER?

6 A RIGHT. THERE'S A --

7 Q WHERE?

8 A THERE'S A SPECIAL TICKET THAT WE HAVE. IT'S A
9 PINK TICKET AND IT'S A CHARGE SLIP, SO WHEN WE CALCULATE THE
10 MESSAGE THERE -- IF SOMEBODY CAME UP AND TOOK 10 MESSAGES,
11 ON THIS SLIP IT WOULD SAY "10 MESSAGES TAKEN" AND THERE
12 WOULD BE THE TIME SO THIS WAY WE'D KNOW, NUMBER ONE, HOW TO
13 CHARGE THEM AND, NUMBER TWO, IF THERE WAS A QUESTION ABOUT
14 THE MESSAGES WE'D KNOW WHAT HAPPENED TO THEM.

15 Q THIS THREE BY FIVE BLUE CARD, YOU BROUGHT THAT
16 TO COURT WITH YOU TODAY?

17 A RIGHT.

18 Q AND WHERE DID YOU GET IT FROM?

19 A IT WAS STILL UP IN THE PLACE -- I HADN'T PUT
20 ANOTHER ACCOUNT ON 668 IN THE SAME PLACE WHERE MR. LEVIN
21 WAS, SO IT WAS STILL WITH THAT INFORMATION.

22 Q OKAY. SINCE THE DATE THAT YOU GAVE LES ZOELLER
23 THE MESSAGES, HAVE THERE BEEN ANY OTHER MESSAGES RECEIVED
24 FOR RON LEVIN?

25 A NO, AND I BELIEVE THAT WHEN HE WAS UP, THE
26 ACCOUNT WAS OFF ALREADY, SO.....

27 Q OKAY, AND AT THAT TIME YOU GAVE HIM ALL THE
28 MESSAGES THAT WERE THERE THAT HAD NOT BEEN PICKED UP OR --

1 LET ME WITHDRAW THAT.

2 AT THAT TIME YOU GAVE HIM ALL THE MESSAGES THAT HAD
3 BEEN RECEIVED BY YOUR COMPANY AND THAT WERE IN RON LEVIN'S
4 BOX; IS THAT CORRECT?

5 A RIGHT. I GAVE HIM EVERYTHING I HAD FOR
6 MR. LEVIN OR NETWORK NEWS. THAT'S HOW THE ACCOUNT WAS
7 CALLED.

8 MS. LOPEZ: THANK YOU. I HAVE NOTHING FURTHER.

9 THE COURT: ANYTHING FURTHER?

10 MR. YOUNG: NO.

11 THE COURT: MAY MR. STONE BE EXCUSED?

12 MS. LOPEZ: YES.

13 THE COURT: THANK YOU VERY MUCH.

14 THE WITNESS: THANK YOU.

15 MS. LOPEZ: MAY WE HAVE TWO MINUTES, YOUR HONOR? MAY
16 HAVE TWO MINUTES TO CHECK ON A WITNESS?

17 THE COURT: VERY WELL. DO YOU WANT TO TAKE A RECESS
18 AT THIS TIME?

19 MS. LOPEZ: YES.

20 THE COURT: WE'LL GIVE THE REPORTER A BREAK AT THIS
21 TIME.

22 (WHEREUPON, A RECESS WAS TAKEN)

23 THE COURT: ALL RIGHT. LET THE RECORD SHOW THAT THE
24 DEFENDANT PITTMAN IS PRESENT WITH HIS COUNSEL MR. YOUNG AND
25 MR. ZORNE. PEOPLE READY TO RESUME?

26 MS. LOPEZ: THE PEOPLE ARE READY.

27 THE COURT: ALL RIGHT. YOU MAY RESUME.

28 MS. LOPEZ: THE PEOPLE CALL BLANCHE STURKEY.

1 MR. YOUNG: IS THIS GOING TO BE NEW TESTIMONY, MIGHT
2 I ASK?

3 MS. LOPEZ: YES.

4 THE COURT: LET'S SWEAR HER IN AGAIN.

5 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
6 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
7 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
8 TRUTH, SO HELP YOU GOD?

9 THE WITNESS: I DO.

10

11

BLANCHE STURKEY,

12

CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
13 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

14

15

THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
SPELL YOUR LAST NAME.

16

17

THE WITNESS: BLANCHE STURKEY, S-T-U-R-K-E-Y.

18

19

THE CLERK: THANK YOU.

20

21

MS. LOPEZ: YOUR HONOR, I HAVE A PHOTOGRAPH. THE
PHOTOGRAPH IS -- CONTAINS TWO PHOTOS. ONE IS A SIDE SHOT
AND THE OTHER ONE IS A FRONT SHOT. ON THE SIDE SHOT PHOTO
IS A MALE WITH A CARD ON HIS CHEST. ON THE CARD IS WRITTEN
"HUNT, JOE." THE CARD ALSO HAS "BEVERLY HILLS PD, 10-22-84,
NUMBER 8409058. MAY THIS BE MARKED AS PEOPLE'S EXHIBIT 8?

22

23

THE COURT: ALL RIGHT. PEOPLE'S 8 FOR

24

25

IDENTIFICATION.

26

27

MR. YOUNG: IF IT WILL SAVE TIME, I'LL STIPULATE THAT

28

THAT IS JOE HUNT AND THAT IT WAS A PERSON THAT SHE SAW
APPARENTLY AT HIS APARTMENT A FEW WEEKS BEFORE THAT.

1 MS. LOPEZ: YOUR HONOR, I WOULD JUST RATHER ASK THE
2 QUESTION. IT WOULD TAKE LESS TIME.

3 THE COURT: ALL RIGHT.

4 MS. LOPEZ: I'M HANDING THE WITNESS THE PHOTOGRAPH
5 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 8.

6
7 DIRECT EXAMINATION

8 BY MS. LOPEZ:

9 Q DO YOU RECOGNIZE THE PERSON IN THAT PHOTOGRAPH?

10 A YES, I DO.

11 Q HAVE YOU SEEN THAT PERSON BEFORE?

12 A YES, I HAVE.

13 Q IS THAT THE PERSON KNOWN TO YOU AS JOE HUNT?

14 A YES.

15 Q AND IS THAT THE PERSON YOU REFERRED TO IN YOUR
16 TESTIMONY EARLIER?

17 A YES, IT IS.

18 MS. LOPEZ: THANK YOU. NO FURTHER QUESTIONS.

19 MR. YOUNG: NO QUESTIONS.

20 THE COURT: THANK YOU VERY MUCH. YOU MAY BE EXCUSED
21 AGAIN.

22 MS. LOPEZ: THE PEOPLE CALL CHRISTOPHER D. WASSON.

23 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
24 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
25 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
26 TRUTH, SO HELP YOU GOD?

27 THE WITNESS: I DO.

28 /////

1 CHRISTOPHER DWIGHT WASSON,
2 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
3 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

4 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
5 SPELL YOUR LAST NAME.

6 THE WITNESS: CHRISTOPHER DWIGHT WASSON, W-A-S-S-O-N.

7 THE CLERK: THANK YOU.

8

9

DIRECT EXAMINATION

10 BY MS. LOPEZ:

11 Q MR. WASSON, ARE YOU EMPLOYED AS A SENIOR
12 VICE-PRESIDENT, CHIEF ADMINISTRATIVE OFFICER, FOR THE
13 OLYMPIC NATIONAL BANK LOCATED AT 11355 WEST OLYMPIC
14 BOULEVARD IN THE COUNTY OF LOS ANGELES?

15 A YES, I AM.

16 Q AND HOW LONG HAVE YOU BEEN EMPLOYED IN THAT
17 CAPACITY?

18 A SINCE MAY OF THIS YEAR, 1984.

19 Q AND PRIOR TO THAT TIME WERE YOU EMPLOYED BY
20 OLYMPIC NATIONAL BANK?

21 A PRIOR TO MAY, NO, I WAS NOT.

22 Q WERE YOU EMPLOYED BY ANY OTHER BANK?

23 A YES, I WAS.

24 Q AND WHAT BANK WAS THAT?

25 A WILSHIRE STATE BANK.

26 Q AND FOR HOW LONG?

27 A APPROXIMATELY ONE AND ONE HALF YEARS.

28 Q IN YOUR CAPACITY AS A SENIOR VICE-PRESIDENT,

1 FACE OF THE DOCUMENT NEXT TO "ACCOUNT NUMBER" IS THE NUMBER
2 001-008064. MAY THIS BE MARKED AS PEOPLE'S EXHIBIT 8?

3 THE COURT: PEOPLE'S 8 FOR IDENTIFICATION.

4 MR. ZORNE: I THINK IT'S 9, YOUR HONOR.

5 THE COURT: I'M SORRY. IT IS. IT'S 9. 8 WAS THE
6 PHOTO OF HUNT.

7 MS. LOPEZ: I ALSO HAVE AN ACCOUNT AUTHORIZATION
8 CARD. ON THE FACE OF A -- A COPY OF AN ACCOUNT
9 AUTHORIZATION CARD. IT'S A TWO PAGE DOCUMENT. ON THE FACE
10 OF THE DOCUMENT ABOVE "ACCOUNT NUMBER" IS IMPRINTED
11 001-008-064. MAY THAT BE MARKED AS PEOPLE'S EXHIBIT 10?

12 THE COURT: PEOPLE'S 10 FOR IDENTIFICATION.

13 MS. LOPEZ: I ALSO HAVE COPIES OF WHAT APPEAR TO BE
14 BANK STATEMENTS FOR THE ACCOUNT OF 001-008064. MAY THIS BE
15 MARKED AS PEOPLE'S EXHIBIT 11?

16 THE COURT: 11 FOR IDENTIFICATION, SO MARKED.

17 MS. LOPEZ: I HAVE ANOTHER ONE PAGE DOCUMENT. ON THE
18 FACE OF THE THE DOCUMENT IT SAYS "BANK ACCOUNT STATUS". ON
19 THE BACK OF THE DOCUMENT IT SAYS "BEVERLY HILLS". NEXT TO
20 "ACCOUNT NUMBER" -- ON THE FACE OF THE DOCUMENT IT SAYS NEXT
21 TO "ACCOUNT NUMBER" IS 001-008501. MAY THIS BE MARKED AS
22 PEOPLE'S EXHIBIT 12?

23 THE COURT: PEOPLE'S 12. ARE ALL THESE ACCOUNTS FROM
24 THE SAME BANK?

25 MS. LOPEZ: YES. I HAVE A COPY OF AN ACCOUNT
26 AUTHORIZATION FORM FROM THE OLYMPIC NATIONAL BANK. IT'S A
27 TWO PAGE DOCUMENT. ON THE FACE OF PAGE ONE IS THE ACCOUNT
28 NUMBER 001-008-501. MAY THIS BE MARKED AS PEOPLE'S EXHIBIT

1 WAS THE PHOTO OF HUNT.

2 MS. LOPEZ: I ALSO HAVE AN ACCOUNT AUTHORIZATION
3 CARD. ON THE FACE OF A -- A COPY OF AN ACCOUNT
4 AUTHORIZATION CARD. IT'S A TWO PAGE DOCUMENT. ON THE FACE
5 OF THE DOCUMENT ABOVE "ACCOUNT NUMBER" IS IMPRINTED
6 001-008-064. MAY THAT BE MARKED AS PEOPLE'S EXHIBIT 10?

7 THE COURT: PEOPLE'S 10 FOR IDENTIFICATION.

8 MS. LOPEZ: I ALSO HAVE COPIES OF WHAT APPEAR TO BE
9 BANK STATEMENTS FOR THE ACCOUNT OF 001-008064. MAY THIS BE
10 MARKED AS PEOPLE'S EXHIBIT 11?

11 THE COURT: 11 FOR IDENTIFICATION, SO MARKED.

12 MS. LOPEZ: I HAVE ANOTHER ONE PAGE DOCUMENT. ON THE
13 FACE OF THE THE DOCUMENT IT SAYS "BANK ACCOUNT STATUS". ON
14 THE BACK OF THE DOCUMENT IT SAYS "BEVERLY HILLS". NEXT TO
15 "ACCOUNT NUMBER" -- ON THE FACE OF THE DOCUMENT IT SAYS NEXT
16 TO "ACCOUNT NUMBER" IS 001-008501. MAY THIS BE MARKED AS
17 PEOPLE'S EXHIBIT 12?

18 THE COURT: PEOPLE'S 12. ARE ALL THESE ACCOUNTS FROM
19 THE SAME BANK?

20 MS. LOPEZ: YES. I HAVE A COPY OF AN ACCOUNT
21 AUTHORIZATION FORM FROM THE OLYMPIC NATIONAL BANK. IT'S A
22 TWO PAGE DOCUMENT. ON THE FACE OF PAGE ONE IS THE ACCOUNT
23 NUMBER 001-008-501. MAY THIS BE MARKED AS PEOPLE'S EXHIBIT
24 13?

25 THE COURT: 13 FOR IDENTIFICATION.

26 MS. LOPEZ: I HAVE WHAT APPEAR TO BE BANK STATEMENTS
27 FOR ACCOUNT NUMBER 001-008501. THIS DOCUMENT IS NINE PAGES.
28 MAY THIS BE MARKED AS PEOPLE'S EXHIBIT 14?

1 THE COURT: PEOPLE'S 14, SO MARKED.

2 MS. LOPEZ: I HAVE ANOTHER DOCUMENT. ON THE FACE OF
3 THE DOCUMENT IT SAYS "BANK ACCOUNT STATUS". ON THE BACK OF
4 THE DOCUMENT IS IMPRINTED "CITY OF BEVERLY HILLS". NEXT TO
5 "ACCOUNT NUMBER" IS WRITTEN 001-007270. MAY THIS BE MARKED
6 AS PEOPLE'S EXHIBIT 15?

7 THE COURT: 15 FOR IDENTIFICATION.

8 MS. LOPEZ: I HAVE A BANK AUTHORIZATION CARD. ON THE
9 UPPER PORTION IS IMPRINTED OLYMPIC NATIONAL BANK. NEXT TO
10 "ACCOUNT NUMBER" IS 001-007-270. IT'S A TWO PAGE DOCUMENT.
11 MAY THIS BE MARKED AS PEOPLE'S EXHIBITS 16?

12 THE COURT: 16.

13 MS. LOPEZ: I HAVE WHAT APPEAR TO BE 11 PAGES OF BANK
14 STATEMENTS FOR ACCOUNT NUMBER 001-007-270. MAY THIS BE
15 MARKED AS PEOPLE'S EXHIBIT 17?

16 THE COURT: 17. SO MARKED.

17 MS. LOPEZ: MAY I APPROACH THE WITNESS?

18 THE COURT: YES.

19 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
20 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 9

21 Q WHAT IS THAT?

22 A THAT'S A REQUEST FOR VARIOUS INFORMATION FROM
23 THE BANK CONCERNING AN ACCOUNT.

24 MR. YOUNG: YOUR HONOR, I'D LIKE TO MAKE AN OBJECTION
25 HERE IF WE ARE GOING TO GO THROUGH EACH OF THESE DOCUMENTS.
26 WE HAVEN'T ESTABLISHED A FOUNDATION THAT THIS MAN WAS EITHER
27 THE CUSTODIAN OF THESE RECORDS OR THAT HE MAINTAINED THEM AT
28 THE BANK. NOW SHE'S JUST GIVING HIM THE DOCUMENTS AND

1 HAVING HIM READ AND IDENTIFY WHAT THEY ARE. I DON'T THINK¹⁰⁷
2 THERE'S BEEN A PROPER FOUNDATION LAID TO SHOW AN EXCEPTION
3 TO THE HEARSAY RULE.

4 MS. LOPEZ: YOUR HONOR, HE HAS ALREADY TESTIFIED THAT
5 HE IS THE VICE-PRESIDENT; HE IS FAMILIAR WITH ALL OF THE
6 RECORDS MAINTAINED BY THE BANK AND THAT HE'S FAMILIAR WITH
7 RESPONSES TO GOVERNMENT INFORMATION REQUESTS.

8 THE COURT: WELL, HE HASN'T SPECIFICALLY QUALIFIED
9 HERE. BEING VICE-PRESIDENT OF OLYMPIC BANK MIGHT BE ONE
10 THING. THERE ARE VICE-PRESIDENTS OF THE SECURITY PACIFIC
11 BANK ALL OVER THE CITY THAT --

12 MS. LOPEZ: I UNDERSTAND THAT, YOUR HONOR. UNDER THE
13 BUSINESS RECORDS EXCEPTION TO THE HEARSAY RULE IT REQUIRES A
14 CUSTODIAN OF BUSINESS RECORDS OR OTHER QUALIFIED PERSON THAT
15 CAN TESTIFY TO THE SUBSTANCE OF THE DOCUMENTS AND THE MANNER
16 IN WHICH THEY ARE PREPARED. I BELIEVE THIS WITNESS CAN. HE
17 HAS ALREADY STATED THAT HE'S FAMILIAR WITH THE DOCUMENTS
18 MAINTAINED.

19 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
20 OVERRULED. HE MAY ANSWER.

21 Q BY MS. LOPEZ: WHAT IS THAT DOCUMENT?

22 A IT'S A REQUEST FOR VARIOUS INFORMATION FROM --
23 ON A SPECIFIC ACCOUNT FROM OUR BANK, OLYMPIC NATIONAL BANK.

24 Q AND DOES YOUR BANK HAVE DISCRETION TO NOT
25 PROVIDE THE INFORMATION REQUESTED?

26 A NO. WE HAVE TO PROVIDE THE INFORMATION
27 REQUESTED.

28 Q AND IS THAT DURING THE NORMAL COURSE AND SCOPE

1 OF BUSINESS OF THE OLYMPIC NATIONAL BANK?

2 A YES, IT IS.

3 Q AND ARE YOU FAMILIAR WITH THE SOURCES OF THE
4 INFORMATION PROVIDED ON THIS DOCUMENT?

5 A YES, I AM.

6 Q AND WHERE DOES THE INFORMATION COME FROM?

7 A VARIOUS BANK RECORDS. VARIOUS BANK RECORDS
8 THAT WE MAINTAIN.

9 Q AND WHO IS RESPONSIBLE FOR PROVIDING THE
10 RESPONSE TO THE INFORMATION -- THE GOVERNMENT REQUEST FOR
11 INFORMATION?

12 A THE BANK OFFICER IS RESPONSIBLE FOR PROVIDING
13 THE INFORMATION TO THE COURTS, BUT IT IS GATHERED BY
14 DIFFERENT PEOPLE.

15 Q IN THIS CASE ARE YOU FAMILIAR WITH THIS
16 PARTICULAR REQUEST?

17 A YES, I AM. I RECEIVED IT AT THE OFFICE MYSELF.

18 Q AND DID YOU GATHER THE INFORMATION?

19 A NO, I DID NOT PERSONALLY GATHER THE
20 INFORMATION.

21 Q DID YOU ASSIGN THE TASK TO SOMEBODY?

22 A YES, I DID.

23 Q AND WHO IS THAT?

24 A JOYCE WEISS.

25 Q AND WHAT IS HER JOB TITLE?

26 A ASSISTANT VICE-PRESIDENT AND OPERATIONS MANAGER
27 OF THE BANK.

28 Q THANK YOU. DOES THIS FORM INDICATE THE DATE

1 THAT THE ACCOUNT WAS OPENED AND THE INITIAL DEPOSIT --

2 A YES.

3 Q -- AND THE AUTHORIZED SIGNATURE OF THE ACCOUNT?

4 A INITIAL DEPOSIT, DATE OF OPENING AND AUTHORIZED
5 SIGNATURE; YES, IT DOES.

6 Q THANK YOU.

7 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
8 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 10.

9 Q DO YOU RECOGNIZE THAT?

10 A YES, I DO.

11 Q WHAT IS IT?

12 A IT'S A COPY OF AN ACCOUNT AUTHORIZATION CARD.
13 IT'S USUALLY A ONE-PIECE CARD. IN THIS CASE IT'S A COPY OF
14 THE FRONT AND THE BACK.

15 Q DID YOU REVIEW THE ORIGINAL OF THIS BANK
16 AUTHORIZATION CARD?

17 A I PULLED THE AUTHORIZATION CARDS AND GAVE THEM
18 TO JOYCE WEISS.

19 Q IS THIS A TRUE AND CORRECT COPY OF THE
20 ORIGINAL?

21 A YES, IT IS.

22 Q AND DOES THE BANK MAINTAIN ONE OF THESE CARDS
23 FOR EVERY PERSON WHO HAS AN ACCOUNT WITH THAT BANK?

24 A EVERY PERSON OR EVERY CORPORATE ENTITY OR EVERY
25 BUSINESS, YES.

26 Q AND WHERE DOES THE INFORMATION IMPRINTED ON
27 THIS BANK AUTHORIZATION CARDS COME FROM?

28 A IT IS PROVIDED BY THE CUSTOMER.

1 Q OKAY, AND WHO IS RESPONSIBLE FOR GETTING THIS
2 INFORMATION FROM THE CUSTOMER AND PREPARING THAT DOCUMENT?

3 A OUR NEW ACCOUNTS DEPARTMENT.

4 Q THANK YOU.

5 MR. YOUNG: YOUR HONOR, THIS IS GETTING I THINK A
6 LITTLE TIME CONSUMING TO GO THROUGH EACH ONE OF THESE, AND
7 UNDERSTAND 352 AND IN VIEW OF MY OFFER TO STIPULATE THAT
8 THERE HAVE BEEN NO CHECKS WRITTEN BY MR. LEVIN SINCE HIS
9 DISAPPEARANCE, I CAN'T SEE ANY OTHER PURPOSE OF THIS
10 TESTIMONY. I THINK WE ARE WASTING A LOT OF TIME.

11 THE COURT: WHAT IS THE RELEVANCE HERE? I CAN SEE
12 THE RELEVANCE TO IT. CAN HE JUST GO THROUGH ALL OF THESE
13 AND SAY THAT THERE HAS BEEN NO ACTIVITY ON THESE ACCOUNTS,
14 OR ARE WE GOING TO GO THROUGH EACH ONE OF THESE SEPARATELY.

15 MS. LOPEZ: YOUR HONOR, THE DOCUMENTS WILL SPEAK FOR
16 THEMSELVES. I'M JUST QUALIFYING THEM UNDER THE BUSINESS
17 EXCEPTION TO THE HEARSAY RULE IN ORDER THAT THEY BE ADMITTED
18 INTO EVIDENCE.

19 THE COURT: ALL RIGHT. YOU MAY PROCEED.

20 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
21 THAT'S BEEN MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 11.
22 PEOPLE'S EXHIBIT 11 HAS 10 PAGES.

23 Q WHAT IS THAT?

24 A IT IS A PHOTOCOPY OF AN ACCOUNT STATEMENT.

25 Q AND DID YOU BRING THAT TO COURT WITH YOU TODAY?

26 A YES, I DID.

27 Q AND WHERE DID YOU INITIALLY GET THAT?

28 A PROVIDED IT CAME FROM OUR BANK RECORDS, IT'S A

111

1 A YES, THEY DO.

2 Q AND DOES THAT ALSO CONTAIN THE ENDING BALANCE?

3 A YES, THEY DO.

4 Q AND THAT IS THE BALANCE FOR THIS MONTH,
5 OCTOBER, 1984?

6 A THIS ONE RIGHT HERE WOULD BE THE CURRENT
7 STATEMENT BALANCE AS OF NOVEMBER THE 30TH, 1984 IN THAT
8 ACCOUNT.

9 Q THANK YOU.

10 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
11 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 12.

12 Q WHAT IS THAT?

13 A SAME AS THE PREVIOUS DOCUMENT. IT'S A REQUEST
14 FOR BANK INFORMATION.

15 Q AND DOES THE INFORMATION THAT'S PLACED ON THIS
16 DOCUMENT COME FROM THE SAME PLACE AS THE PREVIOUS DOCUMENT?

17 A YES, IT DOES.

18 Q AND ARE YOU FAMILIAR WITH THIS PARTICULAR
19 REQUEST?

20 A YES, I AM.

21 Q IS THIS A TRUE AND CORRECT COPY OF THE ORIGINAL
22 THAT WAS SENT TO THE BEVERLY HILLS POLICE DEPARTMENT IN
23 RESPONSE TO THEIR REQUEST FOR GOVERNMENT INFORMATION?

24 A YES.

25 Q AND DID YOU ASSIGN THIS TO JOYCE WEISS?

26 A UM-HMM. I SURE DID.

27 Q AND THIS IS FOR BANK ACCOUNT NUMBER 001-008501?

28 A 01, YES.

1 A THIS ONE RIGHT HERE WOULD BE THE CURRENT
2 STATEMENT BALANCE AS OF NOVEMBER THE 30TH, 1984 IN THAT
3 ACCOUNT.

4 Q THANK YOU.

5 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
6 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 12.

7 Q WHAT IS THAT?

8 A SAME AS THE PREVIOUS DOCUMENT. IT'S A REQUEST
9 FOR BANK INFORMATION.

10 Q AND DOES THE INFORMATION THAT'S PLACED ON THIS
11 DOCUMENT COME FROM THE SAME PLACE AS THE PREVIOUS DOCUMENT?

12 A YES, IT DOES.

13 Q AND ARE YOU FAMILIAR WITH THIS PARTICULAR
14 REQUEST?

15 A YES, I AM.

16 Q IS THIS A TRUE AND CORRECT COPY OF THE ORIGINAL
17 THAT WAS SENT TO THE BEVERLY HILLS POLICE DEPARTMENT IN
18 RESPONSE TO THEIR REQUEST FOR GOVERNMENT INFORMATION?

19 A YES.

20 Q AND DID YOU ASSIGN THIS TO JOYCE WEISS?

21 A UM-HMM. I SURE DID.

22 Q AND THIS IS FOR BANK ACCOUNT NUMBER 001-008501?

23 A 01, YES.

24 MS. LOPEZ: I'M HANDING THE WITNESS THE AUTHORIZATION
25 CARD THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 13 WITH THE
26 ACCOUNT NUMBER 001-008-501.

27 Q WHAT IS THAT?

28 A IT'S A PHOTOCOPY OF A SIGNATURE CARD. GENERAL

1 NEWS CORPORATION.

2 Q AND IS THAT A TRUE AND CORRECT COPY OF THE
3 ORIGINAL SIGNATURE CARD?

4 A YES, IT IS.

5 Q AND THESE SIGNATURE CARDS, INCIDENTALLY, ARE
6 THE ORIGINALS MAINTAINED AT YOUR BANK?

7 A YES, THEY ARE.

8 Q AND THE INFORMATION -- THIS CARD WAS PREPARED
9 IN THE SAME MANNER AS YOU'VE PREVIOUSLY DESCRIBED FOR
10 PEOPLE'S EXHIBIT 10?

11 A YES, IT WAS PREPARED EXACTLY AS THE OTHER ONE.

12 Q AND THE INFORMATION COMES FROM THE SAME PLACE
13 AND IT'S PREPARED IN THE SAME MANNER?

14 A YES, THEY ARE.

15 MS. LOPEZ: I'M HANDING THE WITNESS THE BANK
16 STATEMENTS THAT HAVE BEEN MARKED COLLECTIVELY AS PEOPLE'S
17 14.

18 Q WHAT ARE THOSE?

19 A COPIES OF BANK STATEMENTS OF THE GENERAL NEWS
20 CORPORATION.

21 Q WHAT ACCOUNT?

22 A 001-008-501.

23 Q AND FOR WHAT MONTHS?

24 A THEY APPEAR TO BE FOR MARCH 1984 TO NOVEMBER
25 1984.

26 Q AND ARE THESE RECORDS PREPARED AND MAINTAINED
27 IN THE SAME MANNER AND DOES THE INFORMATION COME FROM THE
28 SAME SOURCE AS YOU'VE PREVIOUSLY TESTIFIED TO IN REGARDS TO

1 THAT 'S MAINTAINED ON FILE WITH YOUR BANK?

2 A YES, IT IS.

3 Q AND IS THAT DOCUMENT PREPARED AND MAINTAINED IN
4 THE SAME MANNER AS YOU PREVIOUSLY TESTIFIED AS TO THE OTHER
5 SIGNATURE AUTHORIZATION CARDS THAT HAVE BEEN MARKED AS
6 PEOPLE 'S EXHIBIT 10 AND PEOPLE 'S EXHIBIT 13?

7 A YES, IT IS.

8 MS. LOPEZ: I 'M HANDING THE WITNESS THE BANK
9 STATEMENTS THAT HAVE BEEN MARKED COLLECTIVELY AS PART OF
10 PEOPLE 'S EXHIBIT 17.

11 Q WHAT IS THAT?

12 A COPIES -- COPY OF THE BANK STATEMENTS FOR
13 GENERAL PRODUCERS CORPORATION, ACCOUNT NUMBER 001-007-270.

14 Q AND WERE THOSE DOCUMENTS PREPARED IN, AND THE
15 SOURCES OF THE INFORMATION THE SAME AS YOU PREVIOUSLY
16 TESTIFIED FOR THE BANK STATEMENTS MARKED AS PEOPLE 'S
17 EXHIBITS 14 AND 11?

18 A YES, THEY ARE.

19 MS. LOPEZ: I HAVE NOTHING FURTHER.

20 THE COURT: MR. YOUNG? ANY CROSS-EXAMINATION?

21 MR. YOUNG: UM, I HAVE NO QUESTIONS.

22 THE COURT: MR. ZORNE?

23 MR. ZORNE: NO QUESTIONS, YOUR HONOR.

24 THE COURT: MAY THIS WITNESS BE EXCUSED?

25 MS. LOPEZ: YES.

26 THE COURT: THANK YOU VERY MUCH.

27 MS. LOPEZ: PEOPLE CALL SCOTT FURSTMAN.

28 /////

1 PEOPLE'S EXHIBIT 10 AND PEOPLE'S EXHIBIT 13?

2 A YES, IT IS.

3 MS. LOPEZ: I'M HANDING THE WITNESS THE BANK
4 STATEMENTS THAT HAVE BEEN MARKED COLLECTIVELY AS PART OF
5 PEOPLE'S EXHIBIT 17.

6 Q WHAT IS THAT?

7 A COPIES -- COPY OF THE BANK STATEMENTS FOR
8 GENERAL PRODUCERS CORPORATION, ACCOUNT NUMBER 001-007-270.

9 Q AND WERE THOSE DOCUMENTS PREPARED IN, AND THE
10 SOURCES OF THE INFORMATION THE SAME AS YOU PREVIOUSLY
11 TESTIFIED FOR THE BANK STATEMENTS MARKED AS PEOPLE'S
12 EXHIBITS 14 AND 11?

13 A YES, THEY ARE.

14 MS. LOPEZ: I HAVE NOTHING FURTHER.

15 THE COURT: MR. YOUNG? ANY CROSS-EXAMINATION?

16 MR. YOUNG: UM, I HAVE NO QUESTIONS.

17 THE COURT: MR. ZORNE?

18 MR. ZORNE: NO QUESTIONS, YOUR HONOR.

19 THE COURT: MAY THIS WITNESS BE EXCUSED?

20 MS. LOPEZ: YES.

21 THE COURT: THANK YOU VERY MUCH.

22 MS. LOPEZ: PEOPLE CALL SCOTT FURSTMAN.

23 /////

24 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
25 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
26 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
27 TRUTH, SO HELP YOU, GOD?

28 THE WITNESS: I DO.

1
2 SCOTT S. FURSTMAN,
3 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
4 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

5 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
6 SPELL YOUR LAST NAME.

7 THE WITNESS: SCOTT S. FURSTMAN, F-U-R-S-T-M-A-N.

8 THE CLERK: THANK YOU.
9

10 DIRECT EXAMINATION

11 BY MS. LOPEZ:

12 Q WHAT IS YOUR CURRENT OCCUPATION?

13 A I'M AN ATTORNEY.

14 Q AND DO YOU KNOW RON LEVIN?

15 A YES.

16 Q AND WERE YOU REPRESENTING RON LEVIN IN A CASE
17 PENDING IN BEVERLY HILLS?

18 A YES, I WAS.

19 Q WHAT WAS THE STATUS OF THAT CASE?

20 A AT WHAT POINT IN TIME? WHAT IS THE STATUS OF
21 THE CASE?

22 Q I'M SORRY. LET ME WITHDRAW THAT. ON JUNE 6,
23 1984, WHAT WAS THE STATUS OF THAT CASE?

24 A THE CASE WAS PENDING PRELIMINARY HEARING.

25 Q HAD THERE BEEN A PRELIMINARY HEARING SET IN THE
26 CASE?

27 A YES, THERE WAS.

28 Q AND DO YOU RECALL WHAT THE DATE SET FOR THE

1 Q AND WHERE DID HE SAY HE WAS GOING TO?

2 A NEW YORK.

3 Q DID HE TELL YOU WHEN HE WAS LEAVING TO NEW
4 YORK?

5 A YES, HE DID.

6 Q AND WHEN WAS THAT?

7 A HE INDICATED HE WAS LEAVING I BELIEVE IT WOULD
8 HAVE BEEN THURSDAY MORNING. I BELIEVE THE 6TH WAS A
9 WEDNESDAY, SO IT WOULD HAVE BEEN THE FOLLOWING MORNING. IT
10 WAS THURSDAY. WHATEVER THE THURSDAY IS FOLLOWING JUNE 6TH.

11 Q WHAT TYPE OF PERSON -- HOW WOULD YOU
12 CHARACTERIZE RON LEVIN IN TERMS OF HIS HABITS AND CUSTOMS?

13 A WELL, I WASN'T FAMILIAR WITH RON LEVIN'S HABITS
14 OR CUSTOMS. I ONLY DEALT WITH HIM ON MY CASE.

15 Q OKAY. DURING YOUR DEALINGS WITH HIM ON YOUR
16 CASE, DID HE APPEAR TO BE AN ORGANIZED AND METHODOICAL MAN?

17 A YES, HE DID.

18 Q DID HE APPEAR TO BE PANICKING OVER THE CASE?

19 A NO.

20 Q HAVE YOU HEARD FROM RON LEVIN SINCE JUNE 6,
21 1984 EITHER DIRECTLY OR INDIRECTLY?

22 A NO, I HAVEN'T.

23 MS. LOPEZ: I HAVE NOTHING FURTHER.

24

25

CROSS-EXAMINATION

26 BY MR. YOUNG:

27 Q WHAT WAS THE PURPOSE OF THE HEARING ON JUNE 5TH
28 IN COURT ON RON LEVIN'S CASE? WAS THAT AN ARRAIGNMENT?

1 Q AND WHEN WAS THAT?

2 A HE INDICATED HE WAS LEAVING I BELIEVE IT WOULD
3 HAVE BEEN THURSDAY MORNING. I BELIEVE THE 6TH WAS A
4 WEDNESDAY, SO IT WOULD HAVE BEEN THE FOLLOWING MORNING. IT
5 WAS THURSDAY. WHATEVER THE THURSDAY IS FOLLOWING JUNE 6TH.

6 Q WHAT TYPE OF PERSON -- HOW WOULD YOU
7 CHARACTERIZE RON LEVIN IN TERMS OF HIS HABITS AND CUSTOMS?

8 A WELL, I WASN'T FAMILIAR WITH RON LEVIN'S HABITS
9 OR CUSTOMS. I ONLY DEALT WITH HIM ON MY CASE.

10 Q OKAY. DURING YOUR DEALINGS WITH HIM ON YOUR
11 CASE, DID HE APPEAR TO BE AN ORGANIZED AND METHODICAL MAN?

12 A YES, HE DID.

13 Q DID HE APPEAR TO BE PANICKING OVER THE CASE?

14 A NO.

15 Q HAVE YOU HEARD FROM RON LEVIN SINCE JUNE 6,
16 1984 EITHER DIRECTLY OR INDIRECTLY?

17 A NO, I HAVEN'T.

18 MS. LOPEZ: I HAVE NOTHING FURTHER.

19

20

CROSS-EXAMINATION

21 BY MR. YOUNG:

22 Q WHAT WAS THE PURPOSE OF THE HEARING ON JUNE 5TH
23 IN COURT ON RON LEVIN'S CASE? WAS THAT AN ARRAIGNMENT?

24 A NO, IT WASN'T. IT WAS A -- THERE WERE TWO
25 ASPECTS OF THE JUNE 5TH PROCEEDING. ONE WAS WITH REGARD TO
26 THE RETURN OF CERTAIN PROPERTY THAT WAS SEIZED PURSUANT TO
27 WARRANT IN RON'S CASE. IT WAS TO RESOLVE THAT ISSUE. IT
28 ALSO WAS A -- THERE WAS A BAIL MOTION MADE AT THAT TIME, AS

1 WELL.

2 Q OKAY. WHAT WAS THAT BAIL MOTION? TO REDUCE
3 THE BAIL, I ASSUME?

4 A TO REDUCE THE BAIL, YES.

5 Q AND WAS IT GRANTED?

6 A YES, IT WAS.

7 Q AND WHAT WAS THE BAIL ORIGINALLY?

8 A PRIOR TO THE -- IMMEDIATELY PRIOR TO THE
9 REDUCTION?

10 Q YEAH.

11 A MY RECOLLECTION WAS \$75,000.

12 Q \$75,000?

13 A YES.

14 Q OKAY, AND WHAT DID YOU GET IT REDUCED TO?

15 A \$10,000.

16 Q WAS HE IN CUSTODY AT THAT TIME?

17 A NO, HE WAS NOT.

18 Q SO HE HAD POSTED A \$75,000 BAIL?

19 A THERE WAS \$75,000 BAIL POSTED ON HIS BEHALF,
20 YES.

21 Q OKAY. IN THAT CASE, HOW MANY COUNTS WAS HE
22 CHARGED WITH?

23 A I DON'T RECALL WITHOUT -- I HAVEN'T REVIEWED MY
24 FILE PRIOR TO TESTIFYING. I DON'T RECALL WITHOUT LOOKING AT
25 THE COMPLAINT OR LOOKING AT MY FILE, WHICH IS OUTSIDE. I
26 DON'T KNOW. IT WAS NUMEROUS COUNTS, MULTIPLE COUNTS.

27 Q OKAY, AND THESE WERE ALL FELONIES, THEN?

28 A I BELIEVE THERE WERE -- THERE MAY HAVE BEEN A

1 FEW MISDEMEANORS, BUT YES, THEY WERE PRIMARILY ALL FELONIES.

2 Q OKAY, AND WHAT WERE THESE CHARGES?

3 A PRIMARILY THEY WERE I BELIEVE 487, GRAND THEFT
4 CHARGES.

5 Q AND WERE THEY RECEIVING STOLEN PROPERTY
6 CHARGES?

7 A I DON'T BELIEVE THERE WERE ANY 496. I DON'T
8 BELIEVE THERE WERE ANY RECEIVING CHARGES, NO.

9 Q SO HE HAD ACTUAL THEFT CHARGES, THEN?

10 A THAT'S WHAT THE COMPLAINT CHARGED, THEFT,
11 487.1, I BELIEVE.

12 Q OKAY. DO YOU KNOW WHAT THE MAXIMUM TIME
13 PERMISSIBLE ON A 487 IS? 487 CHARGE? THEFT CHARGE? GRAND
14 THEFT?

15 A AS A MISDEMEANOR OR AS A FELONY?

16 Q AS A FELONY?

17 A AS A FELONY, I BELIEVE IT'S SIXTEEN, TWO OR
18 THREE, ASSUMING THERE'S NO ENHANCEMENT. ASSUMING THERE'S NO
19 ENHANCEMENT.

20 Q AND AS FAR AS THESE FELONIES, THERE WAS MORE
21 THAN FIVE, WEREN'T THERE?

22 A YES.

23 Q WAS IT MAYBE CLOSER TO NINE OR TEN?

24 A I BELIEVE IT MIGHT HAVE EVEN BEEN IN EXCESS OF
25 THAT.

26 Q COULD IT HAVE BEEN 15?

27 A IT COULD HAVE BEEN. I REALLY DON'T HAVE THE
28 RECOLLECTION. I COULD REFRESH MY RECOLLECTION. I DON'T

1 KNOW THE EXACT NUMBER OF COUNTS.

2 Q OKAY, BUT AT LEAST 10, IS THAT --

3 A MY RECOLLECTION WAS IT WAS AT LEAST 10 COUNTS,
4 YES.

5 Q OKAY. SO WITH 10 COUNTS WITH A MAXIMUM OF
6 THREE YEARS EACH WOULD HAVE BEEN 30 YEARS; IS THAT RIGHT?
7 APPROXIMATELY?

8 A NO, THAT'S NOT CORRECT.

9 Q OKAY. IF THE MAXIMUM WERE THREE YEARS ON EACH
10 OF THESE COUNTS AND THERE WERE 10 COUNTS APPROXIMATELY, THAT
11 WOULD BE 30 YEARS, WOULDN'T IT?

12 A NO, THAT WOULDN'T BE WHAT ANYBODY COULD
13 RECEIVE. IT WOULD BE -- ASSUMING SOMEBODY RECEIVED THE
14 HIGH-BASED TERM ON ONE COUNT, THAT WOULD BE THREE YEARS, AND
15 IT WOULD BE MY UNDERSTANDING THAT WITH THE ADDITIONAL
16 COUNTS, ALTHOUGH THEY COULD RUN CONSECUTIVE, THAT IT WOULD
17 BE A THIRD OF THE MIDDLE TERM WHICH WOULD BE A THIRD OF TWO
18 YEARS WHICH WOULD BE EIGHT MONTHS, WHICH WOULD BRING IT
19 THREE YEARS PLUS EIGHT, EIGHT, EIGHT, EIGHT, WHICH WOULD BE
20 WELL UNDER.

21 Q OKAY. SO WHAT WOULD THAT AMOUNT TO?

22 A I DON'T KNOW. I DON'T RECALL THE NUMBER OF
23 COUNTS. I DON'T REMEMBER. I'D HAVE TO LOOK AT THE
24 COMPLAINT.

25 Q WOULD IT BE OVER FIVE YEARS?

26 A OH, I'M SURE IT COULD BE OVER FIVE YEARS.
27 SURE.

28 Q OKAY. THIS EQUIPMENT THAT WAS ALLEGEDLY STOLEN

1 WAS FOUND IN MR. LEVIN'S APARTMENT; IS THAT CORRECT?

2 MS. LOPEZ: I'M GOING TO OBJECT AS NO PERSONAL
3 KNOWLEDGE ON THE PART OF THIS WITNESS --

4 MR. YOUNG: HE'S THE ATTORNEY. HE WOULD KNOW --

5 MS. LOPEZ: -- THAT WOULD INVADE ATTORNEY-CLIENT
6 PRIVILEGE. HE WAS NOT PRESENT AT THE TIME THAT THE
7 INFORMATION WAS FOUND -- OR THE ITEMS WERE FOUND --

8 MR. YOUNG: THEY --

9 MS. LOPEZ: -- HE HAS NO PERSONAL KNOWLEDGE.

10 THE COURT: WHAT WAS THE QUESTION AGAIN?

11 MR. YOUNG: THE QUESTION WAS TO HIS KNOWLEDGE WAS THE
12 EQUIPMENT FOR WHICH HE FACED CHARGES FOUND IN MR. LEVIN'S
13 APARTMENT.

14 MS. LOPEZ: AGAIN, THERE'S NO PERSONAL KNOWLEDGE ON
15 THE PART OF THIS WITNESS. EVERYTHING THAT HE RECEIVED
16 INFORMATION FROM WOULD BE FROM POLICE REPORTS, ET CETERA,
17 AND WOULD ALSO TEND TO INVADE ATTORNEY-CLIENT PRIVILEGE.
18 IT'S ALSO HIGHLY IRRELEVANT.

19 MR. YOUNG: WELL, AS FAR AS THE ATTORNEY-CLIENT
20 PRIVILEGE, IT WOULD -- THIS INFORMATION IS IN THE POLICE
21 REPORT. IT WOULDN'T BE A COMMUNICATION BETWEEN HIM AND HIS
22 CLIENT.

23 THE COURT: THAT'S TRUE. IT WOULDN'T BE
24 CONFIDENTIAL --

25 MS. LOPEZ: IN THAT CASE IT WOULD BE --

26 THE COURT: -- IF IT IS ALLEGED IN THE COMPLAINT WHAT
27 IT WAS.

28 MS. LOPEZ: IN THAT CASE IT WOULD BE HEARSAY.

1 THE COURT: THAT WOULD BE A MATTER OF RECORD. THE
2 OBJECTION WILL BE OVERRULED . HE MAY ANSWER, IF HE KNOWS.

3 DO YOU KNOW WHAT THE MATTERS WERE CONCERNING THE
4 GRAND THEFT CHARGES?

5 THE WITNESS: I --

6 THE COURT: WASN'T THAT YOUR QUESTION?

7 MR. YOUNG: YEAH. THE ITEMS -- I BELIEVE IT TO BE
8 COMPUTER EQUIPMENT -- WAS FOUND IN MR. LEVIN'S APARTMENT.

9 THE WITNESS: SOME OF THE PROPERTY GIVING RISE TO THE
10 CHARGES IN THE COMPLAINT WERE FOUND IN MR. LEVIN'S
11 APARTMENT, YES.

12 Q BY MR. YOUNG: OKAY, AND TO YOUR KNOWLEDGE DID
13 THE VALUE OF THIS COMPUTER EQUIPMENT APPROACH THE SUM OF ONE
14 MILLION DOLLARS?

15 MS. LOPEZ: AGAIN, LACK OF PERSONAL KNOWLEDGE. NO
16 FOUNDATION.

17 MR. YOUNG: I ASKED HIM TO HIS KNOWLEDGE.

18 MS. LOPEZ: HE HAS ESTABLISHED WHAT HIS KNOWLEDGE IS.
19 NO FOUNDATION.

20 THE COURT: THE OBJECTION WILL BE OVERRULED. IF HE
21 KNOWS, HE COULD ANSWER IT. IF HE DOESN'T KNOW WHAT THE
22 VALUE OF THE PROPERTY IS -- YOU'RE ASKING WHAT WAS IN THE
23 APARTMENT, ARE YOU NOT?

24 MR. YOUNG: RIGHT.

25 THE COURT: HE CAN ANSWER IT ONE WAY OR THE OTHER.

26 THE WITNESS: COULD YOU REPHRASE --

27 Q BY MR. YOUNG: YEAH. I'LL REPHRASE IT. COULD
28 YOU APPROXIMATE THE VALUE OF THE PROPERTY THAT WAS ALLEGED

1 TO HAVE BEEN STOLEN BY MR. LEVIN?

2 A FROM MY OWN PERSONAL KNOWLEDGE, NO. I HAVE NO
3 KNOWLEDGE OF -- REALLY, KNOWLEDGE OF COMPUTER PRICES. I
4 COULDN'T GIVE YOU A GOOD IDEA --

5 Q OKAY. WAS THERE AN ESTIMATE IN THE POLICE
6 REPORT?

7 A I BELIEVE THERE WAS.

8 Q AND DO YOU REMEMBER APPROXIMATELY WHAT THAT
9 ESTIMATE WAS?

10 MS. LOPEZ: OBJECTION. CALLS FOR HEARSAY.

11 THE COURT: WELL, THE OBJECTION WILL BE SUSTAINED.
12 WE ARE NOW TALKING ABOUT THE POLICE REPORT. HE'S ALREADY
13 SAID THAT HE DOESN'T KNOW WHAT THE VALUE WOULD BE. UNDER
14 THOSE CIRCUMSTANCES, I'M GOING TO -- THE OBJECTION WILL BE
15 SUSTAINED.

16 MR. YOUNG: OKAY.

17 THE COURT: HIS KNOWLEDGE OF THE POLICE REPORT WOULD
18 NOT BE MATERIAL EVIDENCE AT THIS PARTICULAR TIME.

19 Q BY MR. YOUNG: ON YOUR JUNE 5TH APPEARANCE IN
20 COURT WITH MR. LEVIN, DID YOU HAVE ANY DISCUSSIONS WITH HIM
21 CONCERNING THE MAXIMUM AND MINIMUM TIME IN JAIL THAT HE
22 COULD GET AS A RESULT OF THIS CASE?

23 A WELL, I -- I FEEL UNCOMFORTABLE IN ANSWERING
24 ANY QUESTION AS TO ANY DISCUSSIONS THAT I HAD WITH MR. LEVIN
25 BECAUSE I DO FEEL THAT AN ATTORNEY-CLIENT PRIVILEGE STILL
26 DOES APPLY, AND I WOULD FEEL -- I'M NOT IN A POSITION WHERE
27 I CAN RELATE.

28 Q I'M JUST CONCERNED ABOUT WHAT YOU TOLD HIM, YOU

6
1 KNOW, ABOUT THE AMOUNT OF TIME THAT YOU FELT HE MAY BE
2 FACING, NOT ANY COMMUNICATION FROM HIM TO YOU AND ANY
3 RESPONSES.

4 MS. LOPEZ: THAT WOULD STILL BE ATTORNEY-CLIENT
5 PRIVILEGE.

6 THE WITNESS: WHAT I COMMUNICATED TO HIM OR WHAT HE
7 COMMUNICATED TO ME, ANY DISCUSSIONS THAT WE HAD DURING THE
8 COURSE OF MY REPRESENTATION OF HIM, I'D HAVE TO SAY WOULD BE
9 PRIVILEGED. I WOULD ASSERT THE PRIVILEGE, AND IF THE
10 COURT.....

11 Q BY MR. YOUNG: DID YOU DISCUSS ALL THE
12 RAMIFICATIONS OF THIS CASE?

13 MS. LOPEZ: OBJECTION. AGAIN, SAME --

14 MR. YOUNG: ON THAT DAY. I'M NOT ASKING FOR ANY
15 SPECIFIC INFORMATION.

16 THE COURT: THE OBJECTION WILL BE OVERRULED. DID HE
17 DISCUSS THE CASE. HE CAN ANSWER THAT YES OR NO.

18 THE WITNESS: ALL THE RAMIFICATIONS OF THE CASE ON
19 JUNE 5TH?

20 Q BY MR. YOUNG: UM-HMM.

21 A NO, I DIDN'T.

22 Q DID YOU DISCUSS ANY SENTENCING RAMIFICATIONS?

23 A NO, NOT ON JUNE 5TH, WE DID NOT.

24 Q WHEN YOU STATED EARLIER THAT MR. LEVIN TOLD YOU
25 HE WAS GOING TO GO TO NEW YORK, DID HE TELL YOU HOW LONG HE
26 WAS GOING TO BE THERE?

27 A I BELIEVE -- MY RECOLLECTION IS THAT HE WAS TO
28 RETURN I THINK IT WAS ON THE FOLLOWING THURSDAY -- I'M

1 SORRY, THE FOLLOWING TUESDAY, SO IT WAS APPROXIMATELY FOUR
2 DAYS.

3 Q AND DID HE TELL YOU HE WAS TAKING OTHER PEOPLE
4 WITH HIM?

5 A NO, HE DID NOT.

6 MR. ZORNE: YOUR HONOR, WOULD YOU MIND MOVING YOUR
7 THERMOS? IT'S EASIER FOR YOU TO MOVE YOUR THERMOS THAN FOR
8 ME TO MOVE.

9 THE COURT: ALL RIGHT.

10 MR. ZORNE: THANK YOU.

11 Q BY MR. YOUNG: DO YOU HAVE ANY KNOWLEDGE THAT
12 RON LEVIN DID GO TO NEW YORK?

13 A I HAVE NO PERSONAL KNOWLEDGE, NO.

14 MR. YOUNG: I DON'T HAVE ANY MORE QUESTIONS.

15 THE COURT: MR. ZORNE?
16
17

CROSS-EXAMINATION

18 BY MR. ZORNE:

19 Q I JUST WANT TO ASK, WHAT WERE THE
20 CIRCUMSTANCES, MR. FURSTMAN, CONCERNING RON'S TELLING YOU
21 THAT HE WAS GOING TO NEW YORK? WAS HE AGITATED?

22 A NO.

23 Q WELL, IN YOUR PRESENCE WHEN YOU TOOK HIM TO
24 COURT ON THE 5TH, DID HE SEEM HIS USUAL SELF OR DID HE SEEM
25 APPREHENSIVE AND PERHAPS FRIGHTENED?

26 A HE SEEMED TO BE HIS USUAL SELF.

27 Q I SEE. RON WAS USUALLY A PRETTY HYPER PERSON,
28 WAS HE NOT?

1 A I WOULD -- I WOULD SAY YES, HE WAS HYPER,
2 MANIC.

3 Q HE WOULD TALK FAST AND MAKE VOLATILE GESTURES,
4 WOULD HE NOT?

5 A YES, HE WOULD.

6 Q WHEN YOU SAID THAT HE WAS GOING TO NEW YORK,
7 DID YOU BELIEVE THAT HE WAS?

8 A I HAD NO REASON TO DOUBT IT. I -- IT DIDN'T
9 BEAR IN ANY WAY UPON MY CASE OR MY REPRESENTATION OF HIM. I
10 REALLY DIDN'T THINK TWICE ABOUT IT.

11 Q WELL, YOU SAID THAT YOU THOUGHT HE WAS GOING TO
12 BE GONE FOR FOUR DAYS. DID HE SPECIFICALLY SAY "I'M GOING
13 TO BE GONE FOR FOUR DAYS," OR DID HE SAY "I WILL RETURN
14 WITHIN A REASONABLE TIME," OR WHATEVER?

15 A NO. I BELIEVE HE TOLD -- MY RECOLLECTION IS
16 THAT HE TOLD ME HE WAS LEAVING ON THE THURSDAY AFTER JUNE
17 5TH. I BELIEVE THAT'S IT. THE 7TH. I'M NOT SURE OF THE
18 EXACT DATE. AND IT WAS MY RECOLLECTION THAT RON INDICATED
19 THAT HE WOULD BE BACK I BELIEVE IT WAS THE FOLLOWING
20 TUESDAY, SO HE WOULD BE GONE FOUR OR FIVE DAYS.

21 Q DID HE TELL YOU WHY HE WAS GOING TO NEW YORK?

22 A NO, HE DIDN'T.

23 Q AND OF YOUR OWN PERSONAL KNOWLEDGE, YOU DO NOT
24 KNOW THAT HE DID OR DID NOT GO?

25 A NO, I HAVE NO PERSONAL KNOWLEDGE OF WHETHER HE
26 WENT OR DID NOT GO.

27 MR. ZORNE: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

28 THE COURT: ANY REDIRECT?

1 MS. LOPEZ: NOTHING.

2 THE COURT: MAY MR. FURSTMAN BE EXCUSED?

3 MS. LOPEZ: YES.

4 THE COURT: THANK YOU.

5 MS. LOPEZ: YOUR HONOR, IT'S NOW 10 MINUTES TO 5:00.
6 WOULD YOU LIKE US TO CALL ANOTHER WITNESS OR DO YOU WANT TO
7 BREAK AT THIS POINT?

8 THE COURT: HOW DO YOU FEEL ABOUT THAT?

9 MR. ZORNE: LET'S BREAK.

10 THE COURT: ALL RIGHT. LET'S TAKE OUR BREAK NOW,
11 THEN. WHAT TIME DO YOU WANT TO RESUME TOMORROW MORNING?

12 MR. YOUNG: LET ME LOOK AT MY CALENDAR. I NEED TO GO
13 TO COMPTON. COULD WE MAKE IT 10:30?

14 THE COURT: ALL RIGHT. IS THAT SATISFACTORY WITH THE
15 PEOPLE?

16 MS. LOPEZ: YES.

17 THE COURT: VERY WELL. ALL RIGHT. WE'LL TAKE OUR
18 DAILY RECESS AT THIS TIME. WE'LL RECONVENE AT 10:30
19 TOMORROW MORNING.

20 MR. YOUNG: MAY I ASK ONE QUESTION? MAY I KNOW WHAT
21 WITNESSES SHE'S GOING TO CALL TOMORROW SO I CAN ANTICIPATE
22 EVIDENTIARY ISSUES BECAUSE THERE'S DIFFERENT ISSUES WITH THE
23 DIFFERENT WITNESSES AND I'D LIKE TO KNOW -- GET AN IDEA OF
24 WHO SHE INTENDS TO CALL TOMORROW.

25 MS. LOPEZ: AT THIS JUNCTURE, I REALLY CAN'T
26 ANTICIPATE THAT. I ANTICIPATE THAT DETECTIVE ZOELLER,
27 DETECTIVE DE CUIR AND SEVERAL OF THE BEVERLY HILLS POLICE
28 DEPARTMENT EMPLOYEES WILL BE CALLED.

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THE COURT: ALL RIGHT.

(WHEREUPON, PROCEEDINGS ADJOURNED AT 4:50 P.M.)

--000--

1 BEVERLY HILLS, CALIFORNIA, THURSDAY, DECEMBER 13, 1984

2 10:40 A.M.

3 --000--

4
5 MR. YOUNG: YOUR HONOR, I'D LIKE TO APOLOGIZE FOR
6 BEING LATE. I GOT DOWN TO COMPTON, AND THEY APPARENTLY HAD
7 A FIGHT IN THE JAIL AND THEY COULDN'T BRING THE CUSTODIES
8 UP.

9 THE COURT: THEY HAD A FIGHT IN THE JAIL?

10 MR. YOUNG: I KNOW, THAT'S UNUSUAL.

11 THE COURT: ALL RIGHT. ARE WE READY NOW OR DO YOU
12 NEED MORE TIME?

13 MR. YOUNG: ALL RIGHT.

14 THE COURT: WE CAN GET SOME IN BEFORE THE NOON BREAK
15 IF WE CAN.

16 MR. YOUNG: APPARENTLY DETECTIVE ZOELLER HAS TO BE
17 SOMEWHERE AT 2:00 O'CLOCK. I'M WILLING TO GO A LITTLE BIT
18 LATER, IF YOU WANT.

19 THE COURT: WE'LL TRY TO GO THROUGH PART OF THE NOON
20 HOUR.

21 MS. LOPEZ: MAY WE CALL OUR NEXT WITNESS?

22 THE COURT: YES. IN THE MATTER OF JAMES PITTMAN,
23 DEFENSE READY AT THIS TIME?

24 MR. YOUNG: YES, YOUR HONOR.

25 THE COURT: PEOPLE READY?

26 MS. LOPEZ: PEOPLE ARE READY.

27 THE COURT: ALL RIGHT. YOU MAY CALL YOUR FIRST
28 WITNESS.

1 MS. LOPEZ: PEOPLE CALL LESLIE ZOELLER.

2 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
3 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
4 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
5 TRUTH, SO HELP YOU GOD?

6 THE WITNESS: I DO.

7
8 LESLIE H. ZOELLER,
9 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
10 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

11 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
12 SPELL YOUR LAST NAME.

13 THE WITNESS: LESLIE H. ZOELLER, Z-O-E-L-L-E-R.

14

15 DIRECT EXAMINATION

16 BY MS. LOPEZ:

17 Q WHAT'S YOUR CURRENT OCCUPATION AND ASSIGNMENT?

18 A POLICE OFFICER FOR THE CITY OF BEVERLY HILLS
19 ASSIGNED TO THE DETECTIVE DIVISION.

20 Q AND HOW LONG HAVE YOU BEEN EMPLOYED IN LAW
21 ENFORCEMENT?

22 A FOR APPROXIMATELY 11 AND THREE QUARTER YEARS.

23 Q HAVE YOU BEEN ASSIGNED TO THE INVESTIGATION OF
24 THE CASE ENTITLED PEOPLE VERSUS JOE HUNT AND JAMES PITTMAN,
25 CASE NO. A090435?

26 A YES, I AM.

27 Q ON AUGUST 19, 1984, WERE YOU ASSIGNED THAT
28 CASE?

1 A YES, I WAS.

2 Q ON THAT DATE DID YOU GO TO 144 SOUTH PECK DRIVE
3 IN THE COUNTY OF LOS ANGELES?

4 A YES, I DID.

5 Q AND WHOSE HOME IS THAT?

6 A THAT IS THE HOME OF RONALD LEVIN.

7 Q PRIOR TO GOING TO THAT LOCATION, DID YOU MAKE
8 ARRANGEMENTS WITH MARTIN LEVIN, RON LEVIN'S STEPFATHER, TO
9 GO TO THAT RESIDENCE?

10 A YES, I DID.

11 Q AT THAT TIME DID YOU REQUEST PERMISSION TO
12 ENTER THE RESIDENCE AND SEARCH THE RESIDENCE?

13 A YES, I DID.

14 Q AND WERE YOU GRANTED PERMISSION?

15 A YES, I WAS, AND HE MET ME THERE ON THE 19TH TO
16 ALLOW ACCESS TO THE RESIDENCE.

17 Q ON AUGUST 16, 1984, YOU DID MAKE CONTACT WITH
18 MARTIN LEVIN?

19 A YES.

20 Q HE WAS AT THE RESIDENCE ON THAT DAY?

21 A BY PRIOR ARRANGEMENT, YES.

22 Q AND DO YOU RECALL APPROXIMATELY WHAT TIME YOU
23 ARRIVED?

24 A I BELIEVE WE ARRIVED AT 9:00 IN THE MORNING.

25 Q WHILE YOU WERE AT THAT RESIDENCE, DID MR.
26 LEVIN, MR. MARTIN LEVIN, BRING CERTAIN ITEMS TO YOUR
27 ATTENTION?

28 A YES.

1 Q WILL YOU DESCRIBE WHAT HE BROUGHT TO YOUR
2 ATTENTION?

3 A AT THE TIME I WAS MAKING A SEARCH OF THE DESK
4 IN THE OFFICE OF THE VICTIM, RONALD LEVIN, AND THE FATHER,
5 MARTIN LEVIN, BROUGHT A GROUP OF LEGAL SIZED YELLOW PAPERS
6 TO ME -- AND THEY WERE FOLDED IN HALF -- HANDED THEM TO ME
7 AND SAID "I FOUND THESE IN" AND HE POINTED TO A FILE ROOM
8 -- OR IT'S ACTUALLY A CLOSET OF A BEDROOM WHICH IS NOW THE
9 OFFICE CONVERTED TO A FILE ROOM -- AND POINTED TO THERE AND
10 HE SAYS "I FOUND THESE ON THE FLOOR AND I JUST DON'T
11 UNDERSTAND THEM."

12 Q AFTER --

13 MR. YOUNG: YOUR HONOR, I WANT TO MAKE SURE THAT WE
14 DON'T GET INTO ANY OF THE CONTENTS OF THESE DOCUMENTS EITHER
15 IN THE STATEMENTS BY MARTIN LEVIN OR BY DETECTIVE ZOELLER.

16 MS. LOPEZ: YOUR HONOR, ANY CONTENTS THAT MR. ZOELLER
17 WILL TESTIFY TO WILL NOT BE OFFERED FOR THE TRUTH OF THE
18 MATTER, RATHER FOR IDENTIFICATION OF THE DOCUMENTS.

19 MR. YOUNG: AS LONG AS WE DON'T DEAL WITH WHAT IS
20 ACTUALLY THE CONTENTS OF THE DOCUMENTS, THE SAME AS YOU DID
21 YESTERDAY.

22 THE COURT: ALL RIGHT. YOU MAY PROCEED.

23 Q BY MS. LOPEZ: AT THE TIME THAT HE HANDED THEM
24 TO YOU, WERE THEY STILL IN A FOLDED MANNER?

25 A YES. THEY WERE FOLDED IN HALF WITH THE WRITING
26 ON THE INSIDE OF THE FOLD.

27 Q IMMEDIATELY AFTER HE HANDED THE DOCUMENTS TO
28 YOU, WHAT DID YOU DO?

1 A I OPENED THEM UP AND STARTED READING THE FIRST
2 PAGE.

3 Q AND WHAT DID IT APPEAR TO BE?

4 A IT APPEARED TO BE A LIST OF THINGS TO DO.

5 Q AND DID YOU EXAMINE THE OTHER PAGES?

6 A YES.

7 Q AND UPON EXAMINING THESE ITEMS, WHAT, IF
8 ANYTHING, DID YOU DO WITH THEM?

9 A WELL, I REALIZED IMMEDIATELY THAT THEY WERE
10 PROBABLY EVIDENCE OF THE MISSING OF RON LEVIN AND PRESERVED
11 THEM IMMEDIATELY AFTER AND THEN I LOOKED THROUGH THEM.

12 Q WHEN YOU SAY --

13 MR. YOUNG: YOUR HONOR, HE IS TO A CERTAIN EXTENT
14 TESTIFYING AS TO THE CONTENTS OF THESE DOCUMENTS. 'HE'S
15 SAYING IT'S EVIDENCE THAT RELATES TO THE MISSING OF RON
16 LEVIN. I'D PREFER NOT TO HAVE ANY STATEMENTS AS TO WHAT IS
17 IN THESE DOCUMENTS. I CAN APPRECIATE IDENTIFYING THEM, BUT
18 ANY STATEMENTS TO HIS OPINION OF WHAT THEY MEAN, I THINK
19 WOULD BE USING HEARSAY THROUGH MR. ZOELLER TO MAKE
20 STATEMENTS THAT WOULD OTHERWISE NOT BE PERMITTED.

21 MS. LOPEZ: YOUR HONOR, IT GOES TO HIS IMPRESSIONS
22 AND IT EXPLAINS HIS CONDUCT. WHAT WE ARE TRYING TO
23 ESTABLISH IS THAT HE DID PRESERVE THESE DOCUMENTS FOR LATER
24 FINGERPRINTING.

25 MR. YOUNG: I WOULD STIPULATE THAT THEY DID PRESERVE
26 THEM, AND I WOULD STIPULATE --

27 MS. LOPEZ: WE'LL NOT ACCEPT THE STIPULATION.

28 MR. YOUNG: -- THAT THEY WERE THE SAME DOCUMENTS THAT

1 WE WERE YESTERDAY DISCUSSING.

2 THE COURT: NO. AS LONG AS -- FIRST OF ALL, ONE,
3 IT'S NOT BEING OFFERED FOR THE TRUTH OF ANY CONTENTS THERE.
4 TWO, IF IT'S BEING OFFERED FOR IDENTIFICATION PURPOSES, YOU
5 CAN'T SO SAY "I'M INTRODUCING A YELLOW PIECE OF PAPER."
6 THERE HAS TO BE SOME DISTINGUISHING FEATURES AS TO WHAT THE
7 PAPER CONTENT IS. AS I SAID, FIRST OF ALL, IF IT'S NOT
8 BEING INTRODUCED FOR THE TRUTH OF THE STATEMENTS THEREIN, IT
9 WOULD BE -- IT WOULD NOT BE HEARSAY UNDER THOSE
10 CIRCUMSTANCES.

11 MR. YOUNG: WELL, HE INDICATED THAT IT WAS A LIST OF
12 THINGS TO DO.

13 MS. LOPEZ: THAT'S IDENTIFIABLE MARKINGS OR HOW THIS
14 OFFICER IDENTIFIES THE PARTICULAR PAPER THAT CAME TO HIS
15 ATTENTION.

16 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
17 OVERRULED. WITH THE UNDERSTANDING THAT THIS IS FOR
18 IDENTIFICATION ONLY, NOT FOR THE THRUTH OF ANY STATEMENTS
19 THAT MIGHT BE ON THE SHEET OF PAPER.

20 MS. LOPEZ: THANK YOU, YOUR HONOR.

21 Q NOW, WOULD YOU DESCRIBE THE MANNER IN WHICH YOU
22 PRESERVED THESE PAPERS?

23 A WELL, AT THE SCENE, BEING LIMITED WITH MY
24 SUPPLIES, I PUT THEM IN A FOLDER.

25 Q AND DID YOU GIVE THESE ITEMS TO ANYBODY ELSE TO
26 TOUCH WHILE YOU WERE AT THE SCENE?

27 A NO.

28 MS. LOPEZ: YOUR HONOR, MAY I APPROACH THE WITNESS?

1 THE COURT: YOU MAY APPROACH.

2 MS. LOPEZ: I'M HANDING THE WITNESS THE SEVEN PAGES,
3 THE SEVEN YELLOW PAGES THAT ARE ON LEGAL SIZE PAPER THAT
4 HAVE BEEN ENCASED IN PLASTIC WRAPPING THAT HAVE BEEN
5 PREVIOUSLY MARKED BY REFERENCE AS PEOPLE'S EXHIBIT 3.

6 Q DO YOU RECOGNIZE THESE ITEMS?

7 A YES, I DO.

8 Q AND HOW DO YOU RECOGNIZE THEM?

9 A JUST BY THE -- WHAT IS STATED ON THEM AND JUST
10 BY RECOGNIZING THEM.

11 Q WHERE DID YOU FIRST SEE THESE ITEMS?

12 A I FIRST SAW THEM IN THE VICTIM'S APARTMENT ON
13 THE MORNING OF THE 16TH.

14 Q ARE THESE THE ITEMS THAT WERE BROUGHT TO YOUR
15 ATTENTION BY MR. MARTIN LEVIN?

16 A THAT'S CORRECT.

17 Q DIRECTING YOUR ATTENTION TO THE FIRST PAGE "AT
18 LEVIN TO DO", WAS THIS THE FIRST PAGE --

19 A YES, IT WAS.

20 Q -- ONCE YOU OPENED THE SEVEN DOCUMENTS?

21 A IT WAS THE FIRST PAGE.

22 MR. YOUNG: YOUR HONOR, I'D LIKE TO REQUEST THAT THEY
23 STRIKE "AT LEVIN'S TO DO". SHE JUST STATED THE CONTENTS OF
24 THE DOCUMENTS. IF THEY'RE GOING TO IDENTIFY THEM, THEY'VE
25 GOT TO NUMBER THEM 1, 2 AND 3. SHE'S ATTEMPTING TO GET IN
26 THE CONTENTS.

27 MS. LOPEZ: YOUR HONOR, IT'S NOT OFFERED --

28 THE COURT: MOTION TO STRIKE WILL BE DENIED AT THIS

1 TIME.

2 Q BY MS. LOPEZ: IMMEDIATELY AFTER MR. MARTIN
3 LEVIN HANDED YOU THESE DOCUMENTS, DID HE TAKE YOU TO THE
4 PLACE WHERE HE HAD FOUND THOSE ITEMS?

5 A BY MY REQUEST, YES.

6 Q AND WILL YOU DESCRIBE THE ROOM THAT HE TOOK YOU
7 TO?

8 A AGAIN, WE ARE IN THIS OFFICE WHICH I PRESUME
9 WAS A BEDROOM CONVERTED INTO AN OFFICE AND THEN THE CLOSET
10 OF THIS OFFICE WAS CONVERTED INTO A SMALL FILE ROOM. AND HE
11 TOOK ME INTO THE FILE ROOM AND POINTED TO THE NORTHEAST
12 CORNER OF THAT ROOM ON THE FLOOR WHICH IS BY A TRASH CAN AND
13 A BUILT-IN DESK AND POINTED TO THAT AREA SAYING "THAT'S" --
14 STATING THAT'S WHERE HE RETRIEVED THEM FROM.

15 MS. LOPEZ: MAY I APPROACH THE WITNESS?

16 THE COURT: YES, YOU MAY.

17 MS. LOPEZ: I'M HANDING THE WITNESS THE PHOTOGRAPH
18 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 6.

19 Q WHAT'S SHOWN IN THAT PHOTOGRAPH?

20 A THIS IS DEPICTING THE SMALL FILE ROOM AND ALSO
21 DEPICTING THE NORTHEAST CORNER WHICH I'VE JUST EXPLAINED.

22 Q WILL YOU TELL US WHERE IN THE PHOTOGRAPH MARTIN
23 LEVIN POINTED TO?

24 A WHAT I DID IS I TOOK SOME LEGAL YELLOW PAPER
25 THAT I HAD IN MY POSSESSION WHEN I WENT TO THE HOUSE AND I
26 FOLDED IT IN HALF AND I HAD HIM SHOW ME WHERE IT WAS, AND I
27 PLACED THAT YELLOW PIECE OF PAPER WHERE HE INDICATED AND
28 THEN PHOTOGRAPHED THIS -- OR HAD THE PHOTOGRAPH TAKEN. SO

1 IT'S INDICATED BY THE YELLOW LEGAL PAPER HERE (INDICATING).

2 Q AND THAT'S THE LEGAL PAPER THAT'S ON THE FLOOR
3 NEXT TO THE BLACK TRASH CAN AND NEXT TO -- BETWEEN THE BLACK
4 TRASH CAN AND THE DRAWER?

5 A THAT'S CORRECT.

6 Q THANK YOU. WHILE YOU WERE AT RON LEVIN'S
7 RESIDENCE ON THE 16TH, DID MR. -- DID YOU GIVE MR. MARTIN
8 LEVIN A LIST OF NAMES?

9 A THAT'S CORRECT.

10 Q AND THAT WAS PRIOR TO YOUR ATTEMPTING TO LEAVE
11 THE RESIDENCE?

12 A THAT'S CORRECT.

13 Q AND AT THAT TIME DID YOU ASK HIM TO DO ANYTHING
14 IN PARTICULAR WITH THAT LIST?

15 A I ASKED HIM IF HE CAME ACROSS ANY OF THE NAMES
16 THAT I HAD INDICATED ON THE LIST TO NOTIFY ME.

17 Q AND AT THAT TIME DID HE APPEAR TO LOOK AT THE
18 LIST?

19 A HE LOOKED AT THE LIST AND IMMEDIATELY SAID THAT
20 HE SAW SOME OF THE ITEMS THAT WERE ON THE LIST.

21 Q OKAY. DID HE INDICATE A PARTICULAR NAME ON THE
22 LIST?

23 MR. YOUNG: YOUR HONOR, I OBJECT TO THAT. HE'S
24 GIVING STATEMENTS BY MR. LEVIN. THEY'RE OUT-OF-COURT
25 STATEMENTS.

26 MS. LOPEZ: YOUR HONOR, IT CALLS FOR A YES OR NO
27 ANSWER. I DIDN'T ASK HIM WHAT MR. LEVIN SAID.

28 THE COURT: ALL RIGHT. THE OBJECTION WILL BE

1 OVERRULED. SHE'S ASKING IF HE INDICATED CERTAIN NAMES ON
2 THAT LIST. THE OBJECTION WILL BE OVERRULED.

3 Q BY MS. LOPEZ: DID HE INDICATE A PARTICULAR
4 NAME ON THAT LIST?

5 A YES.

6 Q AND DID HE LATER PRESENT TO YOU DOCUMENTS OR
7 DIRECT YOU TO SOME DOCUMENTS THAT --

8 A YES.

9 Q -- INVOLVED THE PARTICULAR NAME ON THAT LIST?

10 A YES, HE DID.

11 Q AND WILL YOU DESCRIBE THE DOCUMENTS THAT HE
12 DIRECTED YOU TO?

13 A IT WAS A -- WHAT APPEARED TO BE A FILE, AND IT
14 WAS COVERED BY A GREEN FILE COVER AND WITHIN IT THE FIRST
15 PAGE STATED "MICROGENESIS OF NORTH AMERICA" AND IT WAS AN
16 OPTION AGREEMENT.

17 MR. YOUNG: YOUR HONOR, AGAIN, HE'S TESTIFYING AS TO
18 THE CONTENTS OF THESE DOCUMENTS, AND I THINK IT'S A LITTLE
19 BEYOND THE IDENTIFICATION. YESTERDAY THEY MENTIONED
20 MICROGENESIS. NOW THEY'RE DESCRIBING IT AS AN OPTION
21 AGREEMENT.

22 MS. LOPEZ: YOUR HONOR, IT'S CLEAR THAT WHAT
23 DETECTIVE ZOELLER IS DOING IS IDENTIFYING IT FOR THE RECORD.

24 THE COURT: ALL RIGHT. THE COURT HAS RULED ON THAT.
25 IF YOU WANT, THE RECORD MAY SHOW THAT YOU'RE HAVING A
26 CONTINUING OBJECTION TO THIS PART --

27 MR. YOUNG: YES.

28 THE COURT: -- RATHER THAN HAVING YOU OBJECT EVERY

1 TIME. THE COURT HAS RULED THAT THIS GOES TO IDENTIFICATION,
2 AND THEREFORE THE MOTION TO STRIKE AND THE -- IS DENIED AND
3 THE MOTION TO EXCLUDE -- OR RATHER THE OBJECTION WILL BE
4 DENIED. ALL RIGHT. YOU MAY PROCEED.

5 Q BY MS. LOPEZ: WERE THERE OTHER DOCUMENTS IN
6 THIS FOLDER OTHER THAN THE DOCUMENT THAT YOU DESCRIBED AS AN
7 OPTION AGREEMENT ON MICROGENESIS LETTERHEAD?

8 A YES, THERE WERE.

9 Q WERE THEY RELATED TO MICROGENESIS?

10 A THEY APPEARED TO BE, YES.

11 MS. LOPEZ: YOUR HONOR, I HAVE WHAT APPEARS TO BE A
12 COPY OF A DOCUMENT. AT THE TOP OF THE DOCUMENT IS TYPED
13 "MINUTES OF MEETING OF THE BOARD OF DIRECTORS, MICROGENESIS
14 OF NORTH AMERICA, INC.". IT'S DATE STAMPED "RECEIVED JUNE
15 6, 1984". WE HAVE THE ORIGINAL IN THE COURTROOM. IT'S A
16 TWO PAGE DOCUMENT. THE ORIGINAL -- ON THE SECOND PAGE, THE
17 ORIGINAL HAS A SEAL. THE SECOND PAGE IS SIGNED BY EVAN
18 DICKER. MAY THIS DOCUMENT BE MARKED COLLECTIVELY AS
19 PEOPLE'S EXHIBIT 18?

20 THE COURT: ALL RIGHT. IT WILL BE PEOPLE'S 18 FOR
21 IDENTIFICATION.

22 MS. LOPEZ: MAY I APPROACH THE WITNESS?

23 THE COURT: YES.

24 MS. LOPEZ: I'M HANDING THE WITNESS THE OPTION
25 AGREEMENT ON MICROGENESIS LETTERHEAD THAT'S BEEN PREVIOUSLY
26 MARKED AS PEOPLE'S EXHIBIT 5.

27 Q DO YOU RECOGNIZE THAT?

28 A YES, I DO.

1 Q WHAT IS THAT?

2 A THIS IS A COPY OF THE ORIGINAL THAT I WAS
3 DIRECTED TO IN THE VICTIM'S RESIDENCE.

4 MS. LOPEZ: I'M HANDING THE WITNESS THE "MINUTES OF
5 THE MEETING OF THE BOARD OF DIRECTORS" THAT HAS BEEN MARKED
6 AS PEOPLE'S 18.

7 Q DO YOU RECOGNIZE THAT?

8 A YES, I DO.

9 Q AND WHAT IS THAT?

10 A THIS WAS ALSO IN THE SAME FILE WHICH WAS I
11 BELIEVE DIRECTLY UNDERNEATH THE FIRST TWO PAGES OF THE
12 MICROGENESIS.

13 Q DID YOU TAKE THOSE ITEMS WITH YOU?

14 A YES, I DID.

15 Q AND WHAT DID YOU DO WITH THOSE ITEMS?

16 A BOOKED THEM INTO EVIDENCE.

17 Q WHILE YOU WERE AT RON LEVIN'S APARTMENT, DID
18 YOU MAKE A SEARCH OF THE RESIDENCE?

19 A YES, I DID.

20 Q DID YOU LOOK FOR A YELLOW LEGAL SIZE PAPER OR
21 YELLOW LEGAL SIZE PAD?

22 A YES, I DID.

23 Q AND WERE YOU ABLE TO FIND ANY OF THE SAME KIND
24 UPON WHICH -- LET ME WITHDRAW THAT.

25 WERE YOU ABLE TO FIND ANY YELLOW LEGAL PAD THAT IS
26 SIMILAR TO THE YELLOW LEGAL PAPER UPON WHICH THE -- I'M
27 SORRY -- SIMILAR TO THE YELLOW LEGAL SIZE PAPERS THAT HAVE
28 BEEN MARKED BY REFERENCE AS PEOPLE'S EXHIBIT 3?

1 A I WAS UNABLE TO FIND A LEGAL PAD.

2 Q ON OCTOBER 2, 1984, DID YOU GO TO
3 10660 WILSHIRE BOULEVARD IN THE COUNTY OF LOS ANGELES?

4 A YES, I DID.

5 Q WHAT WAS YOUR REASON FOR GOING TO THAT
6 LOCATION?

7 A PURSUANT TO A SEARCH WARRANT.

8 Q AND WHEN DID YOU OBTAIN THAT SEARCH WARRANT?

9 A ON THE 1ST OF OCTOBER.

10 Q AND WHO SIGNED THE SEARCH WARRANT?

11 A JUDGE CHARLES BOAGS.

12 Q UPON ARRIVING AT THAT LOCATION, DID YOU KNOCK
13 ON THE DOOR?

14 A YES, I DID.

15 Q DID YOU ANNOUNCE YOUR PRESENCE?

16 A YES.

17 Q WAS THE DOOR OPENED?

18 A THE DOOR WAS OPENED.

19 Q AND DID YOU GO INSIDE THE RESIDENCE?

20 A YES, I DID.

21 Q AT THAT TIME DID YOU ANNOUNCE THE PURPOSE FOR
22 YOUR VISIT?

23 A YES, I DID, AND SUPPLIED THE ORIGINAL SEARCH
24 WARRANT TO THE OCCUPANT AND THEN SEARCHED IT.

25 Q AND WHO WAS THERE AT THAT TIME?

26 A PRESENT WERE EVAN DICKER AND BROOKE ROBERTS.

27 Q AND THESE ARE NON-POLICE PERSONNEL; IS THAT
28 CORRECT?

1 A THOSE WERE THE PEOPLE PRESENT AT THE APARTMENT
2 BEFORE WE ENTERED.

3 Q AND PURSUANT TO THAT SEARCH WARRANT, DID YOU
4 MAKE A SEARCH OF THE RESIDENCE?

5 A YES.

6 MS. LOPEZ: YOUR HONOR, I HAVE A THREE PAGE DOCUMENT.
7 ON THE FIRST PAGE ON THE UPPER RIGHT HAND -- ON THE UPPER
8 MIDDLE PORTION IS WRITTEN IN "BBC PHONE BOOK" AND THERE'S A
9 LISTING OF NAMES AND PHONE NUMBERS. THE SECOND PAGE
10 CONTAINS A VARIETY OF MESSAGES. THE FIRST MESSAGE IS "JIM
11 IS" -- IT'S DIRECTED TO "J.H., MY FIRST FRIEND". THERE
12 APPEAR TO BE FOUR MESSAGES ON ONE SIDE, AND ON THE BACK SIDE
13 IS WHAT APPEARS TO BE THREE MESSAGES.

14 THE THIRD PAGE IS ALSO WHAT APPEARS TO BE A NOTE
15 SIGNED BY -- SIGNED BY "JOE". IT SAYS "LOVE, JOE" UNDER THE
16 FIRST MESSAGE. UNDER THAT IS WRITTEN "I LOVE JOE". THE
17 ORIGINALS OF THESE DOCUMENTS ARE IN THE COURTROOM FOR
18 INSPECTION. MAY THIS COPY BE MARKED COLLECTIVELY AS
19 PEOPLE'S EXHIBIT 19? ON THE BACK OF THE LAST PAGE IN GREEN
20 INK IS WRITTEN "COPIED 12-12-84" WITH THE INITIALS OF "RLC".

21 THE COURT: VERY WELL.

22 MS. LOPEZ: MAY MAY I APPROACH THE WITNESS?

23 THE COURT: YES.

24 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENTS
25 THAT HAVE BEEN MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 19.

26 Q DO YOU RECOGNIZE WHAT THOSE ARE?

27 A YES.

28 Q WHAT ARE THEY?

1 A THESE ARE COPIES OF PAPERS THAT WERE FOUND IN
2 10660 WILSHIRE BOULEVARD, AND THE 1505 ON -- PURSUANT TO THE
3 SEARCH WARRANT.

4 Q THANK YOU. ON SEPTEMBER 28, 1984, DID YOU
5 ARREST AN INDIVIDUAL BY THE NAME OF JOE HUNT?

6 A YES, I DID.

7 Q AND WHAT WAS YOUR REASON FOR ARRESTING THAT
8 INDIVIDUAL?

9 A WELL , THE INVESTIGATION OF THE MISSING OF
10 RONALD LEVIN, IT WAS DETERMINED BY THE INVESTIGATION THAT WE
11 BELIEVED HE HAD BEEN MURDERED AND EVIDENCE POINTED TO ONE OF
12 THE SUSPECTS AS BEING JOSEPH HUNT.

13 MR. YOUNG: YOUR HONOR, I THINK THERE'S A QUESTION
14 HERE OF THE EVIDENCE RATHER THAN AS TO THE DETECTIVE'S
15 OPINION FOR THIS MATTER.

16 THE COURT: WELL --

17 MS. LOPEZ: YOUR HONOR, THIS IS OFFERED FOR PROBABLE
18 CAUSE AS TO HIS ARREST.

19 THE COURT: THAT'S TRUE. THIS IS A STATEMENT AS TO
20 WHY THIS ARREST WAS MADE. IT GOES TO PROBABLE CAUSE. VERY
21 WELL.

22 Q BY MS. LOPEZ: AT THE TIME THAT YOU ARRESTED
23 MR. HUNT, WHERE WAS HE?

24 A HE WAS LEAVING HIS RESIDENCE AT 10660 WILSHIRE
25 BOULEVARD. AT THE TIME OF THE ARREST IT WAS JUST EAST OF
26 THAT LOCATION ON WILSHIRE BOULEVARD.

27 Q WAS HE TRAVELING IN A VEHICLE AT THE TIME?

28 A YES, HE WAS.

1 Q WILL YOU DESCRIBE THE VEHICLE?

2 A A BLACK CJ5 JEEP. I DON'T RECALL THE LICENSE
3 PLATE AT THE TIME.

4 Q AT THE TIME THAT YOU STOPPED MR. HUNT IN THE
5 VEHICLE, WAS HE ALONE?

6 A YES, HE WAS.

7 Q DID YOU LOOK INTO THE INTERIOR OF THE VEHICLE?

8 A YES.

9 Q AT THAT TIME DID YOU SEE A MAROON BRIEFCASE?

10 A I SAW IT, AND MR. HUNT REQUESTED THAT WE RETAIN
11 IT BECAUSE IT HAD VALUABLE INFORMATION INSIDE.

12 Q DID YOU THEN SEIZE THAT BRIEFCASE?

13 A WE SEIZED IT, YES.

14 Q WHAT WAS YOUR REASON FOR SEIZING THE BRIEFCASE?

15 A BECAUSE OF THE ONGOING INVESTIGATION OF THE
16 DISAPPEARANCE OF RONALD LEVIN, THE DOCUMENTS THAT WE FOUND
17 IN MR. LEVIN'S APARTMENT, WE SEIZED IT FOR ADDITIONAL
18 EVIDENCE TO BE SEIZED FOR THE OBTAINING OF A SEARCH WARRANT
19 FOR ADDITIONAL EVIDENCE.

20 Q NOW, THE SEARCH WARRANT THAT YOU'VE IDENTIFIED
21 THAT YOU OBTAINED ON OCTOBER -- WAS THAT OCTOBER 1ST OR
22 OCTOBER 2ND?

23 A OCTOBER 1ST.

24 Q DID THAT ALSO INCLUDE THE SEARCH OF THE MAROON
25 BRIEFCASE?

26 A IT DID.

27 Q DID YOU LATER OPEN THAT BRIEFCASE?

28 A YES.

1 Q WAS THAT ON OCTOBER 3, 1984?

2 A THAT'S CORRECT.

3 Q AND YOU LOOKED INSIDE?

4 A YES, I DID.

5 MS. LOPEZ: YOUR HONOR, I HAVE A TWO PAGE DOCUMENT.
6 ON THE FACE OF THE DOCUMENT IS IMPRINTED "MICROGENESIS OF
7 NORTH AMERICA, INC.", AND TYPED IN THE UPPER MIDDLE PORTION
8 IS "OPTION AGREEMENT". THE SECOND PAGE PURPORTS TO BE
9 SIGNED BY JOSEPH --

10 MR. YOUNG: YOUR HONOR, I DON'T THINK SHE NEEDS THE
11 SIGNATURE TO IDENTIFY IT.

12 MS. LOPEZ: I'M IDENTIFYING THE DOCUMENT, PAGE 1 AND
13 2.

14 THE COURT: ALL RIGHT. YOU MAY PROCEED.

15 MS. LOPEZ: THE SECOND PAGE PURPORTS TO BE SIGNED BY
16 JOSEPH HUNT, DATED 6-6-84. MAY THESE TWO PAGES BE MARKED
17 COLLECTIVELY AS PEOPLE'S EXHIBIT 20?

18 THE COURT: PEOPLE'S 20 FOR IDENTIFICATION.

19 MS. LOPEZ: MAY I APPROACH THE WITNESS?

20 THE COURT: YES.

21 MS. LOPEZ: AND INCIDENTALLY, THE ORIGINAL OF THIS
22 COPY IS IN COURT TODAY FOR INSPECTION BY DEFENSE COUNSEL IF
23 THEY WOULD LIKE TO INSPECT IT.

24 I'M HANDING THE COPY THAT'S BEEN MARKED AS PEOPLE'S
25 EXHIBIT 20 TO THE WITNESS.

26 Q DO YOU RECOGNIZE THAT?

27 A YES, I DO.

28 Q WHAT IS THAT AND HOW DO YOU RECOGNIZE IT?

1 A THIS IS A COPY OF THE ORIGINAL THAT WAS TAKEN
2 OUT OF THE BRIEFCASE ON THE 3RD OF OCTOBER, AND I RECOGNIZE
3 IT BY ITS MERE CONTENTS AND BY THE DATE ON THE BACK.

4 Q THANK YOU.

5 MS. LOPEZ: YOUR HONOR, I HAVE A FIVE PAGE DOCUMENT.
6 ON THE FIRST PAGE IS IMPRINTED ON THE UPPER MIDDLE PORTION
7 "BEVERLY HILLS POLICE DEPARTMENT HANDWRITING EXEMPLAR". AND
8 THIS IS IMPRINTED ON THE FIRST TWO PAGES. THE THIRD
9 THROUGH -- THREE TO FIVE PAGES CONTAIN WRITING. EACH PAGE
10 IS CERTIFIED AS A TRUE AND CORRECT COPIES OF THE ORIGINAL
11 RECORD ON FILE WITH THE -- IN THE IDENTIFICATION SECTION OF
12 THE BEVERLY HILLS POLICE DEPARTMENT. THE CERTIFICATION IS
13 DATED DECEMBER 12, 1984. MAY THIS FIVE PAGE DOCUMENT BE
14 MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 21?

15 THE COURT: PEOPLE'S 21, SO MARKED.

16 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
17 THAT'S BEEN MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 21.

18 Q DO YOU RECOGNIZE THAT?

19 A YES, I DO.

20 Q WHAT IS IT AND HOW DO YOU RECOGNIZE IT?

21 A THE FIRST TWO PAGES ARE TWO HANDWRITING
22 EXEMPLAR FORMS IDENTIFIED BY MY SIGNATURE ON IT AND MYSELF
23 BEING PRESENT WHILE IT WAS BEING COMPLETED. THE LAST THREE
24 PAGES ARE WRITING ON PAPER, WHICH I AGAIN AM LISTED ON HERE
25 AS A WITNESSES, WHICH JOE HUNT IS ALSO A SIGNATURE THAT IS
26 STATED ON SAME.

27 Q AND YOU WERE PRESENT WHEN THAT HANDWRITING
28 EXEMPLAR WAS SUBMITTED?

1 A YES, I WAS.

2 Q DO YOU KNOW THE DATE THAT THIS WAS SUBMITTED?

3 A I DON'T KNOW -- OH, I'M SORRY. IT'S DATED ON
4 THE FORM ITSELF AS 11-20-84. THAT WAS THE DATE THAT IT WAS
5 TAKEN.

6 Q AND THIS HANDWRITING EXEMPLAR WAS OBTAINED
7 PURSUANT TO A COURT ORDER?

8 A YES, IT WAS.

9 MS. LOPEZ: YOUR HONOR, I HAVE A CERTIFIED COPY OF A
10 BOOKING PHOTO. ON THE FACE OF THE PHOTO IS A SIDE AND FRONT
11 VIEW OF A MALE. ON THE FRONT VIEW IS A CARD WHICH HAS
12 "BEVERLY HILLS POLICE DEPARTMENT, JOSEPH GAMSKY, 8408395",
13 DATE "9-28-84". IT IS A CERTIFIED COPY. THE CERTIFICATION
14 IS DATED DECEMBER 13, 1984. MAY THIS BE MARKED AS PEOPLE'S
15 EXHIBIT 22?

16 THE COURT: PEOPLE'S 22.

17 MS. LOPEZ: I ALSO HAVE A CERTIFIED COPY OF WHAT
18 APPEARS TO BE THE FINGERPRINT CARD FOR A PERSON -- FOR THE
19 PERSON OF JOSEPH HUNT, CASE NO. 8408395. THE CERTIFICATION
20 IS DATED DECEMBER 13, 1984.

21 MAY I APPROACH THE WITNESS?

22 THE COURT: YES.

23 MS. LOPEZ: I'M HANDING THE WITNESS A COPY OF THE --
24 THE CERTIFIED COPY OF THE PHOTOGRAPH MARKED AS PEOPLE'S
25 EXHIBIT 22.

26 Q DETECTIVE ZOELLER, IS THAT JOSEPH HUNT, THE
27 INDIVIDUAL THAT YOU ARRESTED ON SEPTEMBER 28, 1984?

28 A YES, IT IS.

1 THE COURT: ARE YOU OFFERING THE PRINTS AS 23?

2 MS. LOPEZ: YES. IT IS A CERTIFIED COPY.

3 THE COURT: ALL RIGHT. PEOPLE'S 23 FOR
4 IDENTIFICATION.

5 MS. LOPEZ: YOUR HONOR, I HAVE WHAT APPEARS TO BE A
6 XEROX COPY OF FOUR PHOTOGRAPHS. ALL FOUR PHOTOGRAPHS ARE
7 XEROXED ON THE SAME PAGE. MAY THIS BE MARKED AS PEOPLE'S
8 24.

9 MR. YOUNG: YOUR HONOR, WITH RESPECT TO THOSE
10 PHOTOGRAPHS, I HAD NOT SEEN THEM BEFORE TODAY. UNLESS THEY
11 CAN REPRESENT THAT THEY WERE IN PRIOR EVIDENCE, I DON'T
12 RECALL.

13 MS. LOPEZ: YOUR HONOR, COUNSEL HAS BEEN PROVIDED
14 WITH A BOOKING LIST OF ALL THE ITEMS SEIZED FROM JAMES
15 PITTMAN'S HOME. COUNSEL HAS ALWAYS BEEN FREE TO GO TO THE
16 RESIDENCE -- I'M SORRY, TO THE BEVERLY HILLS POLICE
17 DEPARTMENT FOR INSPECTION OF ALL THE ITEMS SEIZED PURSUANT
18 TO THE SEARCH WARRANTS OF BOTH JOE HUNT AND JAMES PITTMAN'S
19 HOMES, AND COUNSEL HAS NOT AVAILED HIMSELF OF THAT
20 OPPORTUNITY TO DATE.

21 THE COURT: DO YOU WANT TO SHOW HIM THIS EXHIBIT?

22 MS. LOPEZ: HE HAS SEEN IT. I HAVE SHOWN HIM ALL THE
23 ITEMS THAT WE INTENDED TO MARK TODAY FOR IDENTIFICATION.

24 THE COURT: ALL RIGHT.

25 MS. LOPEZ: I ALSO HAVE WHAT APPEARS TO BE A
26 CONFIRMATION LETTER. ON THE FACE OF THE LETTER IS IMPRINTED
27 "THE LEADING HOTELS OF THE WORLD, 747 3RD AVENUE, NEW YORK,
28 NEW YORK". IT'S ADDRESSED TO MR. RONALD LEVIN FROM THE

1 MAYFAIR REGENT HOTEL, 610 PARK AVENUE. MAY THIS BE MARKED
2 AS PEOPLE'S EXHIBIT 25?

3 THE COURT: PEOPLE'S 24 WAS WHAT, THE THE PHOTOGRAPH
4 THAT YOU JUST --

5 MS. LOPEZ: THE XEROX COPY OF THE PHOTOGRAPHS.

6 THE COURT: ALL RIGHT. HOW ARE YOU DESCRIBING 24,
7 FIRST OF ALL.

8 MS. LOPEZ: 24 IS A XEROXED COPY OF FOUR PHOTOGRAPHS.
9 THE ORIGINAL PHOTOGRAPHS ARE IN COURT TODAY AND AVAILABLE
10 FOR INSPECTION BY THE DEFENSE ATTORNEY.

11 THE COURT: REPRESENTING WHAT?

12 MS. LOPEZ: THE PHOTOGRAPHS REPRESENT THE -- IN THE
13 TOP LEFT HAND CORNER IT REPRESENTS A JEEP IN WHAT APPEARS TO
14 BE A MOUNTAIN AREA. THE TOP RIGHT PHOTOGRAPH ALSO
15 REPRESENTS WHAT APPEARS TO BE A JEEP IN THE MOUNTAIN AREA.
16 THE BOTTOM LEFT HAND PHOTOGRAPH REPRESENTS WHAT APPEARS TO
17 BE A TRUCK AND WHAT APPEARS TO BE A PHOTOGRAPH AND IN THAT
18 SAME PHOTOGRAPH APPEARS TO BE JOE HUNT. THE BOTTOM RIGHT
19 PHOTOGRAPH ALSO IS A PHOTOGRAPH OF THE SAME TRUCK AS THE
20 BOTTOM LEFT PHOTOGRAPH AND IN THE PHOTOGRAPH --

21 THE COURT: ALL RIGHT. THAT'S SUFFICIENT. THAT'S
22 PEOPLE'S 24.

23 NOW, HOW ABOUT PEOPLE'S 25 FOR IDENTIFICATION.

24 MS. LOPEZ: PEOPLE'S 25 IS AN ONE PAGE DOCUMENT. ON
25 THE FACE OF THE DOCUMENT IN THE UPPER MIDDLE PORTION IS
26 IMPRINTED "THE LEADING HOTELS OF THE WORLD". IT'S ADDRESSED
27 TO MR. RONALD LEVIN FROM THE MAYFAIR REGENT HOTEL.

28 THE COURT: ALL RIGHT.

1 MS. LOPEZ: AND IT'S DATED 6-5-84 --

2 MR. YOUNG: YOUR HONOR --

3 MS. LOPEZ: -- AND I'D LIKE THIS MARKED AS PEOPLE'S
4 25.

5 THE COURT: ALL RIGHT. PEOPLE'S 25.

6 MS. LOPEZ: THE -- I ALSO HAVE --

7 MR. YOUNG: MAY I ASK ONE QUESTION BEFORE YOU DO
8 THAT? WERE THESE DOCUMENTS SUPPOSEDLY FOUND AT MY
9 DEFENDANT'S RESIDENCE?

10 MS. LOPEZ: NO.

11 MR. YOUNG: OKAY. HAS THERE BEEN ANY FOUNDATION FOR
12 THESE DOCUMENTS?

13 MS. LOPEZ: AS SOON AS I MARK THEM WE'LL LAY THE
14 FOUNDATION.

15 I ALSO HAVE A -- I ALSO HAVE WHAT APPEARS TO BE A
16 XEROX COPY OF A MAP. MAY THIS BE MARKED AS PEOPLE'S EXHIBIT
17 26?

18 THE COURT: PEOPLE'S 26, SO MARKED FOR
19 IDENTIFICATION.

20 Q BY MS. LOPEZ: DID YOU OBTAIN A SEARCH WARRANT
21 FOR THE RESIDENCE OF JAMES PITTMAN?

22 A YES, I DID.

23 Q AND DO YOU RECALL THE DATE THAT YOU OBTAINED
24 THAT SEARCH WARRANT?

25 A THE SEARCH WARRANT WAS SIGNED ON THE 11TH OF
26 OCTOBER.

27 Q AND DID YOU SUBSEQUENTLY GO TO THE HOME OF
28 JAMES PITTMAN?

1 A YES, I DID.

2 Q AND WHAT WAS THAT LOCATION?

3 A 1394 MIDVALE, APARTMENT 204, IN WEST LOS
4 ANGELES, WESTWOOD AREA.

5 Q UPON ARRIVING AT THAT LOCATION, DID YOU KNOCK
6 ON THE DOOR?

7 A YES.

8 Q DID YOU ANNOUNCE YOUR PRESENCE?

9 A YES.

10 Q AND DID AN INDIVIDUAL OPEN THE DOOR?

11 A YES, MR. PITTMAN DID.

12 Q AND DID YOU STATE TO MR. PITTMAN THE REASON FOR
13 YOUR VISIT?

14 A YES, I DID.

15 Q AND WHAT EXACTLY DID YOU TELL HIM?

16 A I STATED WE HAD A SEARCH WARRANT TO SEARCH THE
17 RESIDENCE. I THEN SUPPLIED MR. PITTMAN WITH THE ORIGINAL
18 SIGNED SEARCH WARRANT AND PROCEEDED TO SEARCH THE RESIDENCE.

19 MS. LOPEZ: MAY I APPROACH?

20 THE COURT: YOU MAY APPROACH.

21 MS. LOPEZ: I'M HANDING THE WITNESS A DOCUMENT THAT'S
22 BEEN MARKED AS PEOPLE'S EXHIBIT 4 WHICH IS THE XEROX COPY OF
23 FOUR PHOTOGRAPHS.

24 Q DO YOU RECOGNIZE THOSE -- WHAT'S SHOWN IN THAT
25 DOCUMENT?

26 A YES, I DO.

27 Q WHAT IS IT?

28 A THESE WERE FOUR PHOTOGRAPHS TOGETHER LOCATED ON

1 MR. PITTMAN'S -- IT WAS A SMALL TABLE BELOW A BAR THAT WAS
2 IN THE RESIDENCE ADJOINING THE KITCHEN TO THE LIVING ROOM.

3 Q AND YOU EVENTUALLY TOOK THOSE PHOTOGRAPHS?

4 A YES, BECAUSE OF CONNECTION WITH THE JEEP AND
5 THE PICTURES OF HUNT.

6 Q AND THAT WAS ON THE DAY THAT YOU SEARCHED MR.
7 PITTMAN'S RESIDENCE?

8 A THAT'S CORRECT.

9 MS. LOPEZ: I'M HANDING THE WITNESS THE ONE PAGE
10 DOCUMENT WITH "THE LEADING HOTELS OF THE WORLD" IMPRINTED ON
11 THE TOP THAT'S BEEN MARKED AS EXHIBIT 25.

12 Q DO YOU RECOGNIZE THAT?

13 A YES, I DO.

14 Q WHAT IS THAT?

15 A THIS IS A HOTEL CONFIRMATION FORM.

16 Q AND WHERE DID YOU GET THAT DOCUMENT?

17 A THIS DOCUMENT WAS SUPPLIED TO ME BY MR. MARTIN
18 LEVIN PER MY REQUEST.

19 Q AND DO YOU RECALL WHEN YOU WERE SUPPLIED THIS
20 DOCUMENT FROM MR. MARTIN LEVIN?

21 A THE EXACT DATE, I DON'T. IT WAS SOMETIME IN
22 NOVEMBER, I BELIEVE.

23 Q THANK YOU.

24 MS. LOPEZ: I'M HANDING THE WITNESS THE XEROX COPIES
25 OF THE SEVEN LEGAL SIZE YELLOW PIECES OF PAPER. THE XEROX
26 COPY HAS BEEN MARKED COLLECTIVELY AS PART -- I'M SORRY. THE
27 XEROX COPIES HAVE BEEN MARKED COLLECTIVELY AS PEOPLE'S
28 EXHIBIT 2. I'M DIRECTING THE WITNESS'S ATTENTION TO PAGE

1 THREE.

2 MR. YOUNG: YOUR HONOR, DOES -- JUST IN CASE HE
3 ATTEMPTS TO STATE WHAT THE CONTENTS ARE, I'M AGAIN
4 OBJECTING. THESE HAVE BEEN IDENTIFIED AT THIS POINT.

5 MS. LOPEZ: YOUR HONOR, THE CONTENTS IS A ROAD MAP.
6 THERE IS NO HEARSAY ON IT.

7 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
8 OVERRULED.

9 Q BY MS. LOPEZ: HAVE YOU EVER BEEN IN AN AREA
10 WHICH APPEARS TO BE SIMILAR TO THE ROAD MAP DEPICTED ON PAGE
11 THREE OF PEOPLE'S EXHIBIT 2?

12 A YES, I HAVE.

13 Q AND WHERE IS THAT AREA?

14 A THAT AREA IS IN THE ANGELES NATIONAL FOREST
15 JUST SOUTH OF SOLEDAD CANYON IN THE CANYON COUNTRY AREA.

16 Q AND WHEN WAS THE FIRST TIME YOU WENT TO THAT
17 LOCATION?

18 A THE EXACT DATE I DON'T RECALL. SUBSEQUENT TO
19 OBTAINING THE ITEMS LISTED IN PEOPLE'S 3.

20 Q SO IT WAS AFTER AUGUST 16, 1984?

21 A THAT'S CORRECT.

22 Q WAS IT BEFORE SEPTEMBER 28, 1984, THE DATE THAT
23 YOU ARRESTED JOE HUNT?

24 A YES, IT WAS.

25 Q AND WHO TOOK YOU TO TO THAT LOCATION?

26 A ONE OF THE MAY BROTHERS AND STEVE TAGLIANETTI.

27 Q I'M HANDING THE WITNESS THE PHOTOGRAPH -- OH,
28 I'M SORRY. THE XEROX COPY OF THE MAP THAT'S BEEN MARKED

7
1 PEOPLE'S 26.

2 Q IS THE AREA THAT YOU WERE TAKEN DEPICTED IN
3 THIS XEROX COPY OF A MAP?

4 A YES, IT IS.

5 Q AND INCIDENTALLY, WHAT IS THIS AREA DEPICTED IN
6 THE MAP SHOW?

7 A THIS IS A XEROX COPY OF THE MAP THAT WAS
8 OBTAINED THROUGH THE ANGELES NATIONAL FORESTRY SERVICE.

9 Q AND WHAT AREA PARTICULARLY IS DEPICTED IN THE
10 DOCUMENT THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 26?

11 A THIS IS THE AREA I PREVIOUSLY DESCRIBED AS
12 BEING IN THE CANYON COUNTRY AREA SOUTH OF SOLEDAD CANYON.

13 Q WILL YOU CIRCLE THE AREA USING A BLUE FELT PEN
14 THAT YOU WERE TAKEN TO BY THE MAY BROTHER?

15 A (INDICATING).

16 Q AND IN WHAT MANNER IS THIS AREA SIMILAR TO THE
17 MAP WHICH IS DEPICTED ON PAGE THREE OF PEOPLE'S EXHIBIT 2?

18 A WHEN WE WERE TAKEN THERE INITIALLY, WE NOTED
19 THAT WE WERE DIRECTED TO THE INDIAN CANYON AREA, WHICH IS A
20 DIRT ROAD OFF OF THE MAIN SOLEDAD CANYON ROAD, AND AS
21 DEPICTED ON THE MAP, THE XEROX COPY OF THE MAP, PEOPLE'S 26,
22 INITIALLY OFF THE ROAD IS VERY WINDY. THE SAME IS DEPICTED
23 ON THE HAND DRAWN MAP IN PEOPLE'S 3 (INDICATING).

24 Q AND THAT'S THE UPPER LEFT HAND CORNER OF THE
25 ROAD MAP IN PEOPLE'S 3?

26 A THAT'S CORRECT. SOLEDAD CANYON ROAD IS
27 DEPICTED AS "ROAD" ON THE HAND DRAWN MAP.

28 MR. YOUNG: THAT'S AN ASSUMPTION --

1 THE WITNESS: THAT'S CORRECT. AND AS THE ROAD
2 CONTINUES SOUTH ON BOTH THE HAND DRAWN MAP AND THE XEROX
3 COPY GOING UP THE MOUNTAINS, IT EVENTUALLY TURNS LEFT ON THE
4 MAP, THE HAND DRAWN MAP, OR EAST, AND IT IS SO INDICATED ON
5 THE XEROX COPY.

6 Q BY MS. LOPEZ: WHICH IS PEOPLE'S 26?

7 A THAT'S CORRECT. AND EAST IS TOWARDS A RANGER
8 STATION DEPICTED ON THE XEROX, PEOPLE'S 26, AND INDICATED ON
9 PEOPLE'S 3, "EAST", AND "RANGER STATION" (INDICATING).

10 Q OKAY. THAT'S ACTUALLY PAGE THREE OF PEOPLE'S
11 2; IS THAT CORRECT?

12 A THAT'S CORRECT. I'M SORRY.

13 Q WHEN WAS THE LAST TIME YOU WENT TO THAT
14 LOCATION?

15 A THE LAST TIME I WENT TO THAT LOCATION WAS
16 NOVEMBER 30TH.

17 Q AND WERE YOU DIRECTED TO THAT LOCATION BY
18 ANYBODY?

19 A YES, I WAS.

20 Q AND WHO DIRECTED YOU TO THAT LOCATION?

21 A DEAN KARNY.

22 Q AND DID HE POINT TO A PARTICULAR SPOT ON THAT
23 LOCATION?

24 A YES.

25 MR. YOUNG: YOUR HONOR, I'D LIKE TO OBJECT AT THIS
26 POINT. THEY'RE ATTEMPTING TO BRING IN EVIDENCE THAT IS
27 COMPLETELY IRRELEVANT TO THIS CASE. AS YOU'RE AWARE, THERE
28 HAVE BEEN TWO CHARGES, AND IT'S MY UNDERSTANDING THAT WHEN

1 MR. ZOELLER WENT THERE ON THE 30TH THAT IT WAS IN REGARDS TO
2 THE ESLAMINIA CASE AND IT WAS FOR PURPOSES OF VERIFYING OR
3 CORROBORATING DEAN KARNY'S STATEMENTS AS TO THE LOCATION OF
4 ESLAMINIA'S BODY. I DON'T THINK THAT RELATES AT THIS POINT
5 TO THIS CASE.

6 MS. LOPEZ: YOUR HONOR, THE PEOPLE DO INTEND TO TIE
7 IT UP AT A LATER TIME. COULD THIS TESTIMONY BE RECEIVED
8 CONDITIONALLY UPON A LATER MOTION TO STRIKE?

9 MR. YOUNG: WELL, YOUR HONOR, I OBJECT TO THE
10 TESTIMONY COMING IN. IF THEY'RE GOING TO TIE IT IN LATER,
11 THEN LET THEM TIE IT IN LATER. I DON'T THINK THAT THIS
12 COURT SHOULD BE --

13 MS. LOPEZ: YOUR HONOR, OBVIOUSLY WE CAN'T TIE IT IN
14 SIMULTANEOUSLY. IT COMES FROM WITNESS TO WITNESS TO
15 WITNESS.

16 THE COURT: WELL, IF IT'S BEING OFFERED -- WHAT IS
17 THE PURPOSE OF IT BEING OFFERED AT THIS TIME?

18 MS. LOPEZ: YOUR HONOR, IT'S GOING TO BE OFFERED TO
19 SHOW THE INTENT OF THE INDIVIDUAL WHO PREPARED THE ROAD MAP.
20 IT'S GOING TO BE OFFERED ALSO TOWARDS THE CORPUS IN TERMS OF
21 SHOWING THAT RON LEVIN WAS KILLED BY A CRIMINAL OR DEATH BY
22 A CRIMINAL AGENCY. IT IS VERY COMPLICATED TO DISCUSS IT AT
23 THIS POINT. WE SIMPLY REQUEST THAT THE COURT RECEIVE IT
24 CONDITIONALLY UPON A FURTHER SHOWING. THERE IS OTHER
25 RELEVANT TESTIMONY THAT WILL BE TAKEN LATER.

26 AT THIS POINT MR. ZOELLER HAS A 2:00 O'CLOCK
27 APPOINTMENT WHICH HE MUST GO TO, AND WE ARE GOING PAST THE
28 NOON HOUR TODAY BECAUSE MR. YOUNG DIDN'T ARRIVE UNTIL 11:30.

1 WE SIMPLY ASK THAT HIS TESTIMONY BE RECEIVED CONDITIONALLY
2 UPON FURTHER SHOWING OF RELEVANCE AND SUBJECT TO A MOTION TO
3 STRIKE.

4 THE COURT: ALL RIGHT. CERTAINLY, COUNSEL, IT WOULD
5 HAVE SOME RELEVANCE, ON THE REPRESENTATION --

6 DEFENDANT PITTMAN: CAN I SAY SOMETHING?

7 THE COURT: -- OF THE DISTRICT ATTORNEY. I HAVE TO
8 TAKE THE REPRESENTATION OF THE DISTRICT ATTORNEY --

9 MR. YOUNG: WELL --

10 THE COURT: IF IT GOES TO THE CORPUS OF AN OFFENSE OR
11 IF IT GOES TO A MO OR FOR ANY OTHER PURPOSES, IT WOULD BE
12 RELEVANT. WHETHER IT'S PROPERLY TIED IN AS FAR AS
13 WITNESSES' TESTIMONY IS CONCERNED WOULD BE A SECOND
14 QUESTION. I WILL ADMIT IT AT THIS TIME SUBJECT TO A MOTION
15 TO STRIKE AS SHE INDICATED.

16 MR. YOUNG: WELL --

17 THE COURT: THIS IS A PRELIMINARY HEARING. THIS IS
18 NOT A JURY. THERE WOULD BE NO PROBLEM TO ADMITT SOMETHING
19 IN UNDER THESE CIRCUMSTANCES WITH A MOTION TO STRIKE PENDING
20 ON IT. ALL RIGHT.

21 MR. YOUNG: WELL, SHE STATES THAT IT IS TO PROVE
22 INTENT. SHE'S A -- I DON'T UNDERSTAND HOW SHE'S USING THAT
23 TO STATE INTENT. THEY HAVE SOMETHING THAT LOOKS LIKE A MAP
24 OF AN AREA THAT HE WAS TAKEN TO FOR ANOTHER PURPOSE, AND
25 THIS MAP WAS FOUND APPARENTLY --

26 THE COURT: WELL, WHAT WOULD THE REASON BE TO EXCLUDE
27 IT, MR. YOUNG?

28 MR. YOUNG: WELL, I JUST DON'T WANT THIS COURT TO

1 HEAR A LOT OF EVIDENCE THAT HAS TO DO WITH ANOTHER CASE.
2 THERE'S ANOTHER CASE, AND THEY'RE GOING TO ATTEMPT TO USE
3 THAT CASE TO PROVE THIS CASE, AND I UNDERSTAND PLAN, SCHEME
4 AND DESIGN, BUT WHEN ANOTHER CASE IS PENDING I THINK WE
5 SHOULD BE HEARD ON THOSE CHARGES SEPARATELY. I FOUND NO
6 CASES WHERE YOU CAN USE INDEPENDENT ACTS WHERE THERE ARE --
7 WHERE THERE ARE CHARGES PENDING TO PROVE THAT THERE WAS AN
8 INTENT, MODUS OPERANDI OR ANYTHING LIKE THAT FROM MY REVIEW
9 OF THE DOCUMENTS THAT THEY'VE PROVIDED ME AND FROM MY
10 DISCUSSION WITH THE D.A.'S OFFICE THAT'S WHAT THEY'RE GOING
11 TO GOING TO ATTEMPT TO DO IN THIS CASE. SINCE I CAN SEE
12 THAT THAT'S WHAT THEY'RE GOING TO ATTEMPT TO DO, I WOULD
13 LIKE TO STOP IT IN THE BEGINNING.

14 MS. LOPEZ: YOUR HONOR, WE DO INTEND TO PRODUCE
15 EVIDENCE ON THE DEATH OF ESLAMINIA. WE DO INTEND TO SHOW
16 THAT THE PLAN, SCHEME AND DESIGN WAS SO IDENTICAL, SO
17 SIMILAR TO THE DISAPPEARANCE AND THE CIRCUMSTANTIAL EVIDENCE
18 WE HAVE OF THE DEATH OF RON LEVIN THAT IT DOES TEND TO SHOW
19 THAT NOT ONLY WAS HE KILLED, GOING TOWARDS THE CORPUS OF OUR
20 CRIME, BUT THAT HE WAS KILLED BY BOTH JOE HUNT AND JAMES
21 PITTMAN.

22 AGAIN, THE TESTIMONY THAT IS GOING TO BE PROVIDED BY
23 THIS OFFICER IS MINIMAL. IT'S EXACTLY APPROXIMATELY THREE
24 QUESTIONS, AND WE AGAIN ASK THAT THE COURT RECEIVE IT
25 CONDITIONALLY UPON A FURTHER SHOWING OF RELEVANCE.

26 THE COURT: ALL RIGHT. THE COURT WILL RECEIVE IT
27 UNDER THOSE CONDITIONS.

28 Q BY MS. LOPEZ: DETECTIVE ZOELLER, DID YOU LATER

1 INSPECT OR GO THROUGH THE AREA DESIGNATED BY DEAN KARNY?

2 A YES.

3 Q AND DID YOU FIND ANYTHING?

4 A YES, I DID.

5 Q WHAT DID YOU FIND?

6 A I FOUND REMAINS OF A HUMAN BEING, BEING
7 SKELETAL REMAINS.

8 Q UPON SEEING THESE REMAINS, DO YOU RECALL OVER
9 WHAT AREA THESE REMAINS WERE SCATTERED?

10 A THEY WERE IN AN AREA APPROXIMATELY 100 FEET
11 WIDE BY 25 FEET LONG.

12 Q UPON SEEING THESE REMAINS, DID YOU TOUCH THEM?

13 A TOUCH THEM, NO.

14 Q WHAT DID YOU DO?

15 A THE CORONER'S OFFICE WAS IMMEDIATELY CONTACTED
16 AND WE AWAITED THE ARRIVAL OF THE CORONER'S OFFICE.

17 Q AND DID YOU MARK OFF EACH PIECE OR SECTION OF
18 LAND SO THAT NO ONE WOULD ENTER IT?

19 A YES, WE DID, PLUS WE STOOD OVER IT SO NO ONE
20 WOULD ENTER IT.

21 Q AND DID A REPRESENTATIVE FROM THE CORONER'S
22 OFFICE LATER ARRIVE?

23 A YES.

24 Q AND PRIOR TO THAT TIME DID ANYONE TOUCH ANY OF
25 THE REMAINS THAT YOU FOUND?

26 A NO, THEY DID NOT.

27 MS. LOPEZ: I'M AGAIN HANDING THE WITNESS THE XEROX
28 COPIES OF THE PHOTOGRAPHS THAT HAVE BEEN MARKED AS PEOPLE'S

1 EXHIBIT 24.

2 Q DETECTIVE ZOELLER, DIRECTING YOUR ATTENTION TO
3 THE PHOTOGRAPH IN THE UPPER LEFT HAND CORNER, HAVE YOU EVER
4 BEEN TO THE AREA DEPICTED IN THAT PHOTOGRAPH?

5 A YES, I HAVE.

6 Q AND WHEN WAS THAT?

7 A THE EXACT DATE I AGAIN DON'T RECALL. IT WAS
8 SUBSEQUENT TO THE SEARCH WARRANT OF MR. PITTMAN'S HOUSE.

9 Q AND WERE YOU TAKEN TO THAT AREA BY ANYBODY?

10 A YES, I WAS. I WAS TAKEN TO THE AREA BY STEVE
11 LOPEZ.

12 Q AND WHAT IDENTIFIABLE MARKINGS IN THE
13 PHOTOGRAPH INDICATED TO YOU THAT IT WAS THE SAME AREA?

14 A THE MOST IDENTIFIABLE MARK IS THE MOUND OF DIRT
15 IN THE FOREGROUND OF THE PICTURE WITH A YUCCA TREE TO THE
16 LEFT OF THE MOUND OF DIRT, AND IT'S FURTHER IDENTIFIED BY
17 MOUNDING DOWN THIS -- -- BY MOUNDING DOWN THIS DIRT ROAD,
18 AND THEN BY JUST TERRAIN AND THE WAY THE ROAD WINDS TO THE
19 LEFT ON THE TOP OF THE PHOTO.

20 MS. LOPEZ: I'M HANDING THE WITNESS AGAIN THE XEROX
21 COPY OF A ROAD MAP THAT'S BEEN MARKED AS PEOPLE'S NO. 26.

22 Q THE AREA THAT YOU WERE TAKEN BY STEVE LOPEZ
23 THAT IS DEPICTED IN THE PHOTOGRAPH, THE XEROX COPY OF THE
24 PHOTOGRAPH MARKED AS PEOPLE'S 24, IS THAT IN THE SAME AREA
25 THAT YOU'VE CIRCLED IN BLUE IN PEOPLE'S NO. 26?

26 A YES, IT IS.

27 Q THANK YOU. IS THAT ALSO THE SAME AREA THAT IS
28 DEPICTED ON PAGE THREE OF PEOPLE'S EXHIBIT 2?

1 A IT IS.

2 MS. LOPEZ: MAY, I HAVE A MOMENT, YOUR HONOR?

3 THE COURT: YES.

4 MS. LOPEZ: I'M HANDING THE WITNESS AGAIN THE XEROX
5 COPY OF THE PHOTOGRAPH MARKED AS PEOPLE'S EXHIBIT 24.

6 Q DIRECTING YOUR ATTENTION TO THE JEEP THAT'S
7 DEPICTED IN THE UPPER -- IN THE PHOTOGRAPH IN THE UPPER LEFT
8 HAND CORNER, IS THAT THE SAME JEEP THAT YOU LATER STOPPED --
9 I'M SORRY. LET ME WITHDRAW THAT.

10 IS THAT THE SAME JEEP THAT JOE HUNT WAS DRIVING ON
11 SEPTEMBER 28, 1984 AT THE TIME THAT YOU ARRESTED HIM?

12 A IT APPEARS TO BE, YES.

13 MS. LOPEZ: I'M HANDING THE WITNESS THE CERTIFIED
14 COPY OF THE BOOKING PHOTO THAT'S BEEN MARKED AS PEOPLE'S
15 EXHIBIT 22.

16 Q DIRECTING YOUR ATTENTION TO THE NAME "JOE
17 GAMSKY", IS THAT AN AKA FOR JOE HUNT?

18 A IT IS.

19 Q THANK YOU.

20 MS. LOPEZ: I HAVE NOTHING FURTHER.

21 THE COURT: MR. YOUNG?

22

23

CROSS-EXAMINATION

24 BY MS. YOUNG:

25 Q WAS AUGUST 16, 1984 THE FIRST TIME YOU SEARCHED
26 LEVIN'S RESIDENCE?

27 A IT IS.

28 Q WHEN WAS THE FIRST TIME THAT YOU WERE AWARE

1 THAT HE HAD DISAPPEARED?

2 A THE 21ST OF JUNE.

3 Q AND HOW DID YOU BECOME AWARE OF THAT?

4 A BY A POLICE REPORT BEING MADE BY THE VICTIM'S
5 STEPFATHER.

6 Q WAS THAT A MISSING PERSONS'S REPORT?

7 A THAT'S CORRECT.

8 MR. YOUNG: YOUR HONOR, I'D LIKE TO RESERVE THE RIGHT
9 TO RECALL MR. ZOELLER AT SOME OTHER TIME DURING THESE
10 PROCEDURES RATHER THAN QUESTION HIM ANYMORE DURING THIS
11 POINT.

12 MS. LOPEZ: YOUR HONOR, AS THE COURT IS AWARE,
13 DETECTIVE ZOELLER WILL NOT BE AVAILABLE FOR THE REST OF THE
14 DAY. HIS WIFE DID HAVE A BABY AND SHE IS IN THE HOSPITAL.

15 THE COURT: ARE YOU REFERRING TO -- IT LOOKS LIKE WE
16 ARE GOING TO HAVE TO GO OVER TO MONDAY.

17 MR. YOUNG: THAT'S FINE.

18 THE COURT: IS THERE ANY OBJECTION TO
19 CROSS-EXAMINATION BEING PUT OVER?

20 MS. LOPEZ: NO.

21 THE COURT: IT WOULD BE BENEFICIAL TO BOTH MR.
22 ZOELLER AND THE DEFENSE, THEN.

23 MS. LOPEZ: THAT'S FINE.

24 THE COURT: ALL RIGHT. IF THAT'S THE CASE, SHOULD WE
25 TAKE OUR NOON RECESS AT THIS TIME?

26 MS. LOPEZ: YES, YOUR HONOR: THANK YOU.

27 THE COURT: ALL RIGHT. IT BEING 12:30, LET'S TAKE
28 OUR NOON RECESS. WE'LL RESUME AGAIN -- DO YOU NEED ANY TIME

1 TO CHECK INTO THIS INFORMATION THAT YOU RECEIVED? DO YOU
2 WANT ANY ADDITIONAL TIME TO -- START AT 2:00 O'CLOCK OR
3 2:30?

4 MR. YOUNG: 2:00 O'CLOCK, I THINK, WOULD BE FINE.

5 THE COURT: ALL RIGHT. WE'LL START AGAIN AT 2:00
6 O'CLOCK.

7 MR. ZORNE: YOUR HONOR, AS I AM SOMEWHAT UNFAMILIAR
8 OF THE CASE, I COULD USE THE EXTRA HALF HOUR TO FAMILIARIZE
9 MYSELF WITH IT.

10 MR. YOUNG: 2:30, THEN, WITH IT?

11 THE COURT: ALL RIGHT. WE'LL START AT 2:30, THEN.
12 WE ARE RECESSED AT THIS TIME UNTIL 2:30.

13 (WHEREUPON, THE NOON RECESS WAS TAKEN, AND
14 PROCEEDINGS RESUMED AT 2:40 P.M.)
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16
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28

1 BEVERLY HILLS, CALIFORNIA, THURSDAY, DECEMBER 13, 1984

2 2:40 P.M.

3 --000--

4
5 THE COURT: ALL RIGHT. BACK ON THE RECORD IN THE
6 MATTER OF PEOPLE VERSUS JAMES PITTMAN, LET THE RECORD SHOW
7 THAT MR. PITTMAN IS PRESENT WITH HIS COUNSEL MR. YOUNG AND
8 MR. ZORNE.

9 MR. YOUNG: YOUR HONOR, I HAVE A COUPLE OF
10 PRELIMINARY MATTERS BEFORE WE START BACK WITHIN THE
11 TESTIMONY. THE FIRST IS A GROWING CONCERN BY ME ON BEHALF
12 OF MY CLIENT AS TO THE TESTIMONY OF THIS DEAN KARNY, WHO
13 FROM MY REVIEW OF HIS TESTIMONY OR THE EVIDENCE I'VE SEEN,
14 IS PRIMARILY HEARSAY EVIDENCE, SOMETHING THAT SOMEONE ELSE
15 TOLD HIM.

16 BUT ANYWAY, THE PROSECUTION IS ATTEMPTING TO USE HIM
17 IN SOME WAY IN THIS CASE, AND AS I UNDERSTAND IT, PRIMARILY
18 TO SHOW SOME TYPE OF MODUS OPERANDI BY MY CLIENT OR JOE HUNT
19 AND -- AND ARE ATTEMPTIN TO USE THAT TO SHOW INTENT AND
20 OTHER THINGS IN THIS CASE. THERE -- IF THE COURT WILL
21 REMEMBER, A COUPLE OF WEEKS AGO, THE PROSECUTION SUBMITTED
22 SOME DECLARATIONS BY DETECTIVE -- OR AN OFFICER BRIELING,
23 WHO IS WITH THE ATTORNEY GENERAL'S OFFICE.

24 IN THOSE DECLARATIONS, THEY INDICATED THAT THEY HAD
25 AN INFORMER, WHICH WE LATER LEARN WAS DEAN KARNY, AND THAT
26 THAT INFORMER WOULD TESTIFY THAT IN THIS CASE HE HAD
27 PERSONAL KNOWLEDGE THAT THE HANDS AND FACE OF LEVIN WERE
28 BLOWN OFF IN ORDER TO PREVENT IDENTIFICATION. I'VE REVIEWED

1 ALL OF THE STATEMENTS BY DEAN KARNY -- AND IF I'M WRONG, I'D
2 LIKE TO HAVE IT POINTED OUT TO ME -- AND I FIND NOTHING TO
3 INDICATE THAT. THEY HAVE STATEMENTS THAT ARE DIFFERENT THAN
4 THAT.

5 THE CREDIBILITY OF DEAN KARNY IS EXTREMELY IMPORTANT
6 AND WE HAVE A RIGHT TO BE PREPARED WHEN I CROSS-EXAMINE HIM
7 AS TO HIS CREDIBILITY. THERE WERE APPARENTLY -- FROM THE
8 DOCUMENTS THAT I HAVE, THERE HAVE BEEN OTHER MEETINGS WITH
9 DEAN KARNY, AND IN ONE OF THESE MEETINGS HE MUST HAVE MADE
10 THIS STATEMENT THAT THEY BLEW THE HANDS AND FACE OFF. THAT
11 HAS CHANGED, AND I THINK THAT BEARS TREMENDOUSLY ON HIS
12 CREDIBILITY.

13 AGAIN, I ASK THAT THE PROSECUTION PRESENT US WITH
14 EVIDENCE TO IMPEACH THE STATEMENTS OF MR. KARNY AND THAT
15 THEY PROVIDE US WITH ANY NOTES, ANY STATEMENTS OR ANY OTHER
16 RECORDINGS THAT THEY HAVE NOT PROVIDED AS TO DATE THAT EXIST
17 EITHER WITHIN INTERVIEWS BY THE PROSECUTION HERE OR BY THE
18 DETECTIVE BRIELING OR ANY OF HIS AGENTS ELSEWHERE THAT WOULD
19 TEND TO SHOW THAT MR. KARNY'S STATEMENTS SEEM TO BE
20 CHANGING, OR AT LEAST THAT'S WHAT I INTEND TO SHOW WITH
21 THEM.

22 WE HAVE BEEN PROVIDED NOTHING. I KNOW THAT THERE'S
23 MORE. THEY SAY THAT I'M SPECULATING, BUT IN THE DOCUMENTS
24 THAT THEY PROVIDED THEY REFER TO OTHER MEETINGS. I THINK
25 THAT IF I'M GOING TO HAVE TO CONTEND WITH AN ATTEMPT BY
26 THEM -- WHICH I'LL GET INTO LATER -- TO ESTABLISH SOME TYPE
27 OF INTENT OR MODUS OPERANDI THAT THEIR PRIMARY SOURCE OF
28 THIS IS DEAN KARNY, I AM ENTITLED TO HAVE THIS INFORMATION.

1 THEY'RE NOT BRINGING IT BEFORE -- TO THIS COURT BEFORE NOW,
2 EVEN THOUGH I'VE REQUESTED, YOU KNOW, EVERYTHING.

3 I THINK IT'S PREJUDICIAL TO US HERE AT THE
4 PRELIMINARY AND WOULD BE PREJUDICIAL TO US LATER AT ANY
5 OTHER PROCEEDINGS. I REQUEST THAT THIS COURT ORDER THAT
6 THEY FIND OUT IF THERE ARE ANY SUCH STATEMENTS, ANY NOTES BY
7 ANYONE ELSE, AND THAT THEY BE PRESENTED TO US. AUTHORITY
8 FOR THAT, WE HAVE PEOPLE VERSUS RISER, HILL VERSUS SUPERIOR
9 COURT AND PITCHES VERSUS SUPERIOR COURT. ON THAT BASIS, I
10 THINK THAT WE SHOULD BE GIVEN THESE OTHER THINGS
11 IMMEDIATELY.

12 THE COURT: WHAT IS THE POSITION OF THE PEOPLE ON
13 THIS?

14 MS. LOPEZ: WE HAVE EXCHANGED ALL --

15 THE COURT: FIRST OF ALL, I'M NOT SURE THAT I KNOW --
16 THIS IS A WITNESS THAT PRESUMABLY HAS MORE KNOWLEDGE
17 CONCERNING ANOTHER TRANSACTION OTHER THAN THIS TRANSACTION;
18 IS THAT IT?

19 MS. LOPEZ: YES. FIRST OF ALL, I'D LIKE MR. YOUNG TO
20 POINT TO THE STATEMENT IN MR. BRIELING'S AFFIDAVIT WHEREBY
21 HE SAYS THAT DEAN KARNY INDICATED TO HIM THAT RON LEVIN'S
22 FACE AND HANDS WERE SHOT OFF. THERE IS NO STATEMENT BY MR.
23 BRIELING. I BELIEVE WHAT MR. YOUNG IS REFERRING TO IS A
24 DECLARATION ON MY PART THAT WAS FILED UPON INFORMATION AND
25 BELIEF. AT THAT TIME I HAD HAD NO PERSONAL CONVERSATIONS
26 WITH DEAN KARNY. /.

27 THE FACTS SURROUNDING THE DEATH OF RON LEVIN AND THE
28 SUBSEQUENT SHOOTING OF RON LEVIN'S BODY HAS BEEN DELINEATED

1 IN THE TRANSCRIPT OF THE CONVERSATION WITH DEAN KARNY THAT
2 WAS CONDUCTED BETWEEN ZOELLER AND MR. KARNY. THAT HAS BEEN
3 PROVIDED. ALSO WHAT HAS BEEN PROVIDED IS A TAPE RECORDING
4 OF THAT CONVERSATION.

5 WHAT MR. YOUNG IS DOING IS ENGAGING IN WILD
6 SPECULATION, AND I DON'T BELIEVE HE HAS ANY FOUNDATION OR
7 BASIS FOR ANY OF HIS ACCUSATIONS. WE HAVE ALSO EXCHANGED
8 TRANSCRIPTION WHICH WAS TAKEN BY A COURT REPORTER THAT WAS
9 PRESENT AT THE TIME THAT DEAN KARNY WAS INTERVIEWED BY THE
10 DEPARTMENT OF JUSTICE. THAT TRANSCRIPTION OR RECORDING HAS
11 BEEN EXCHANGED WITH BOTH DEFENSE ATTORNEYS, OR COUNSEL FOR
12 BOTH MR. HUNT AND MR. PITTMAN. WE HAVE NOTHING MORE TO GIVE
13 TO MR. YOUNG.

14 MR. YOUNG: MAY I COMMENT?

15 THE COURT: YES.

16 MR. YOUNG: I MAY BE INCORRECT AS TO WHO MADE THE
17 STATEMENT. SHE MAY HAVE MADE THE STATEMENT ABOUT BLOWING
18 OFF THE HANDS AND FACE. WHERE SHE GOT THAT, I DON'T KNOW.
19 SHE SAID THAT THAT WAS ON INFORMATION AND BELIEF THAT PROVED
20 NOT TO BE TRUE, BUT I AM POSITIVE THAT THERE WERE MEETINGS
21 WITH DEAN KARNY AND OTHER AGENCIES INCLUDING MR. BRIELING
22 BECAUSE THEY REFER TO THESE MEETINGS WHERE THEY HAD
23 DISCUSSIONS WITH HIM ABOUT THIS CASE.

24 THE DOCUMENTS THAT THEY'VE GIVEN US, THE
25 TRANSCRIPTIONS AND THE TAPES, DEAL WITH A MEETING ON 11 -- I
26 THINK IT'S THE 28TH AND 29TH OR THE 29TH AND 30TH. THERE
27 WERE MEETINGS BEFORE THAT. IF THIS MAN -- I DON'T KNOW WHAT
28 THEY SAID IN THESE MEETINGS, BUT I THINK IT'S IMPORTANT TO

1 SEE IF DEAN KARNY HAS CHANGED HIS STORY OR IF HE IS NOW
2 FINALLY CAME UP WITH THE FINAL VERSION THAT THIS -- THAT IS
3 SATISFACTORY TO THE PEOPLE. WE ARE ENTITLED TO ANY EVIDENCE
4 THAT DEALS WITH THE CREDIBILITY.

5 THEY STATE THAT THEY DON'T HAVE IT. I THINK THAT
6 THEY HAVE A DUTY TO GO OUT AND GET THAT EVIDENCE FOR US,
7 THAT THEY HAVE ACCESS TO IT. WE DON'T. THERE WERE CLEARLY
8 OTHER MEETINGS WITH THIS MAN, AND IT MAY BE SPECULATION, BUT
9 I'M DEALING WITH PRACTICALITIES HERE. I'M SURE THAT IF THEY
10 WERE DEALING WITH A MURDER CASE LIKE THIS THAT DETECTIVE
11 BRIELING, IF HE WAS THE ONLY ONE THAT INTERVIEWED HIM, HAD
12 TO HAVE TAKEN SOME NOTES OR DONE SOMETHING TO REMEMBER WHAT
13 WAS SAID, OR HE HAD TO HAVE, YOU KNOW, HAD A STATEMENT OR HE
14 HAD TO HAVE TAKEN -- DONE SOME TAPE RECORDING, SOMETHING.

15 ALL OF THAT BEARS ON THE CREDIBILITY OF THIS MAN.
16 IT'S NOT JUST WHAT THEY WISH TO GIVE US. IT'S ANYTHING THAT
17 BEARS ON HIS CREDIBILITY, AND I DON'T THINK THAT IT'S FAIR
18 IN TERMS OF THE 4TH AMENDMENT, THE 6TH AMENDMENT, AND
19 PROBABLY NUMEROUS OTHER AMENDMENTS TO JUST SAY THAT THIS IS
20 ALL THAT THEY HAVE. THEY DO HAVE MORE THAN THIS AND THEY
21 CAN GET MORE THAN THIS.

22 THE COURT: WELL -- ALL RIGHT. GO AHEAD.

23 MR. YOUNG: ONE EXAMPLE, THEY -- ON THE TRANSCRIPTION
24 OF THE TAPE OR THE -- OF THE STATEMENT OF DEAN KARNY WITH
25 BRIELING, THEY INDICATE THAT THERE WAS ALSO A TAPE RECORDING
26 THERE; THAT THEY TAPED IT AS WELL AS TRANSCRIBED IT. WE
27 HAVE NEVER BEEN PROVIDED WITH THAT TAPE RECORDING. THAT
28 BEARS SOME CREDIBILITY. I'D LIKE TO HEAR THE TONE OF THIS

1 MAN AND HIS ATTITUDE WHEN HE'S MAKING THESE STATEMENTS,
2 WHETHER HE'S FIDGETY, WHETHER HE'S NERVOUS, THAT TYPE OF
3 THING. IT ALL BEARS ON HIS CREDIBILITY.

4 THERE ARE OTHER THINGS. I DON'T THINK THAT THEY'RE
5 GIVING THEM TO ME. THEY'RE NOT ATTEMPTING TO DO ANYTHING TO
6 GIVE THEM TO US, AND I THINK THAT WE ARE RUNNING INTO REAL
7 PROBLEMS HERE, ESPECIALLY IN THAT THEY'RE NOW TRYING TO
8 BOOTSTRAP ONE CASE INTO THE OTHER TO USE THIS ONE TO PROVE
9 THAT ONE AND THAT ONE TO PROVE THIS ONE. THEY'RE EACH TWO
10 SEPARATE CASES, AND IF THEY'RE ATTEMPTING TO BRING THIS
11 PERSON IN TO TESTIFY AS TO ANOTHER CASE HERE TO SHOW INTENT
12 OR MODUS OPERANDI, I AM ENTITLED, I BELIEVE, TO GET ANYTHING
13 THAT MAN SAID ABOUT THE OTHER CASE OR ANY INFORMATION THAT
14 THIS OTHER AGENCY GOT THROUGH THAT PERSON IN ORDER TO
15 PROPERLY DEFEND MY CLIENT.

16 MS. LOPEZ: AS THE COURT IS WELL AWARE, THE DISTRICT
17 ATTORNEY'S OFFICE IS NOT IN CONTROL OF THE STATE ATTORNEY
18 GENERAL'S OFFICE NOR ANY OTHER LAY ENFORCEMENT AGENCY
19 OUTSIDE OF THE COUNTY OF LOS ANGELES. WE ARE NOT REQUIRED
20 TO GO DIGGING UP INFORMATION. THIS COURT HAS APPOINTED AN
21 INVESTIGATOR FOR MR. PITTMAN. I WONDER WHETHER OR NOT
22 MR. YOUNG HAS AVAILED HIMSELF OF THE SERVICES OF HIS OWN
23 INVESTIGATOR.

24 AGAIN, MR. YOUNG IS ENGAGING IN WILD SPECULATIONS AS
25 TO THESE PHANTOM MEETINGS THAT TOOK PLACE WITH MR. KARNY AND
26 STATE OFFICIALS. AS THIS COURT IS WELL AWARE, MANY
27 WITNESSES INITIALLY MAKE CONTACT THROUGH THERE ATTORNEY.
28 ANY DISCUSSION BETWEEN THEIR ATTORNEY AND THEMSELF IS

1 CONFIDENTIAL, PROTECTED BY ATTORNEY-CLIENT PRIVILEGE. AND
2 IN THAT REGARD MR. YOUNG IS INCORRECT THAT THERE HAVE BEEN
3 SEVERAL MEETINGS WITH MR. KARNY, WHERE THERE HAVE NOT BEEN
4 SEVERAL MEETINGS.

5 HE IS ENGAGING IN WILD SPECULATION. HE'S TAKING UP A
6 LOT OF THE COURT'S TIME AND IS ATTEMPTING TO CONDUCT
7 DISCOVERY IN THE MIDDLE OF A PRELIMINARY HEARING WHICH MR.
8 YOUNG ANNOUNCED READY FOR. HE INDICATED THAT HE WAS READY
9 TO PROCEED.

10 MR. YOUNG: AND I AM READY, BUT FOR THE FACT THAT
11 THEY -- I HAVEN'T INDICATED I WASN'T READY OR WASN'T GOING
12 TO PROCEED. I'M ONLY MAKING A RECORD THAT I BELIEVE THAT
13 THERE IS MORE HERE, AND I'D LIKE THEM TO STATE THAT THERE IS
14 NO MORE IF THERE'S NO MORE.

15 THE COURT: WELL --

16 MR. YOUNG: I DON'T THINK THAT I HAVE A DUTY TO GET
17 MY INVESTIGATOR, WHICH THEY OPPOSED FROM THE BEGINNING, TO
18 TRY TO GO OUT AND GET THIS INFORMATION FROM SOMEONE IN
19 NORTHERN CALIFORNIA WHICH THEY'RE IN CONTACT WITH,
20 ESPECIALLY IN VIEW OF THE FACT --

21 THE COURT: ALL RIGHT. LET'S LOOK AT THIS
22 REALISTICALLY NOW. YOU'VE ASKED FOR DISCOVERY HERE, MR.
23 YOUNG, AND APPARENTLY THEY HAVE GIVEN YOU AS MUCH DISCOVERY
24 AS THEY CLAIM THAT THEY CAN POSSIBLY GIVE YOU. DISCOVERY,
25 GETTING DOWN TO THE BASIC, IS SOMETHING THAT YOUR ENTITLED
26 TO SO THAT YOU'RE NOT TAKEN BY SURPRISE --

27 MR. YOUNG: RIGHT.

28 THE COURT: -- SO THAT YOU CAN PROPERLY PREPARE YOUR

1 DEFENSE. NOW, THE NEXT QUESTION IS MUST THE DISTRICT
2 ATTORNEY GO OUT AND OBTAIN SOME OF THIS EVIDENCE WHICH YOU
3 CLAIM IS HERE, WHICH SHE SAYS IS SPECULATION. IT'S TRUE
4 WHEN A WITNESS IS CALLED BY EITHER SIDE THERE MAY BE
5 DISCREPANCIES. YOU MAY NOT BE SURE WHAT YOUR WITNESS IS
6 GOING TO TESTIFY TO, NOR MAY THE PEOPLE BE SURE WHEN A
7 WITNESS IS CALLED EXACTLY WHAT THAT WITNESS IS GOING TO SAY.

8 NOW, IF SHE DOES HAVE SOMETHING THAT SHOWS A CONDUCT
9 HERE THAT YOU WOULD BE ENTITLED TO, I BELIEVE IT SHOULD BE
10 GIVEN TO YOU. BUT FROM THE STATEMENTS THAT MS. LOPEZ HAS
11 MADE, SHE INDICATES -- AND I ASSUME THAT'S CORRECT -- THAT
12 WHAT YOU HAVE LEARNED FROM THIS WITNESS YOU HAVE TURNED ALL
13 OF THAT MATERIAL OVER TO MR. YOUNG.

14 MS. LOPEZ: THAT IS CORRECT. EVERYTHING THAT I HAVE
15 LEARNED, THAT WE HAVE LEARNED FROM MR. KARNY, EVERY REPORT
16 THAT I HAVE INDICATING THAT MR. KARNY WAS INTERVIEWED AND
17 MADE STATEMENTS WAS TURNED OVER TO BOTH THE ATTORNEY FOR MR.
18 PITTMAN AND THE ATTORNEY FOR MR. HUNT.

19 MR. YOUNG: OKAY. MAY I ASK THIS? CAN THE
20 PROSECUTION STATE THAT THE ONLY RECORDED STATEMENTS BY
21 MR. KARNY OCCURRED ON THE 29TH AND 30TH OR 28TH AND 29TH,
22 WHICHEVER THE DATES MAY BE?

23 MS. LOPEZ: AS I WAS NOT PRESENT, NO, I CANNOT STATE
24 THAT. I BELIEVE THAT MR. YOUNG SHOULD AVAIL HIMSELF OF THE
25 SUBPOENA PROCESSES AND GET WHATEVER INFORMATION IS AVAILABLE
26 THROUGH THE DEPARTMENT OF JUSTICE -- FROM THE DEPARTMENT OF
27 JUSTICE FOR THE STATE OF CALIFORNIA. THE DISTRICT
28 ATTORNEY'S OFFICE FOR THE COUNTY OF LOS ANGELES DOES NOT

1 HAVE CONTROL OR ACCESS TO ITEMS IN THEIR POSSESSION. MR.
2 YOUNG HAS BEEN ABLE TO AVAIL HIMSELF OF THE REGULAR SUBPOENA
3 PROCESSES.

4 I DO NOT HAVE WHATEVER ITEMS HE'S INDICATING. I DO
5 NOT HAVE ACCESS TO THE INVESTIGATIVE FILE FOR THE DEPARTMENT
6 OF JUSTICE IN THEIR CASE, AND IF MR. YOUNG BELIEVES THAT HE
7 NEEDS THOSE -- THOSE ITEMS ARE NECESSARY, I'M SURE THAT HE
8 CAN MAKE A REQUEST FOR INFORMATION UNDER THE FREEDOM OF
9 INFORMATION ACT AND OBTAIN THOSE ITEMS. HE CAN SIMPLY CALL
10 UP THE INVESTIGATIVE OFFICER IN THAT CASE, OBTAIN THE ITEMS
11 THROUGH REGULAR DISCOVERY SINCE A CASE HAS BEEN FILED ON MR.
12 PITTMAN.

13 IT APPEARS THAT MR. YOUNG HAS NOT ATTEMPTED TO DO ANY
14 OF THESE THINGS, BUT RATHER COMES INTO COURT AND SAYS MS.
15 LOPEZ FROM THE DISTRICT ATTORNEY'S OFFICE HAS TO ACT AS MY
16 RUNNER, MY INVESTIGATOR AND GO COMPILE EVERY SINGLE THING ON
17 THIS CASE THAT IS REASONABLY AVAILABLE THROUGHOUT THE STATE
18 OF CALIFORNIA, WHICH IS INCORRECT.

19 MR. YOUNG: YOUR HONOR, AGAIN, I REFER YOU TO THE
20 CASES THAT I CITED EARLIER. IT IS THE DUTY OF THE
21 PROSECUTOR TO SECURE THESE DOCUMENTS. THEY ARE PROSECUTING
22 US. THEY HAVE EASIER MEANS OF GETTING THEM THAN I DO. THEY
23 COULD PROBABLY MERELY REQUEST THEM AND --

24 THE COURT: WELL, IF IN FACT THE SITUATIONS THAT YOU
25 DESCRIBE DO EXIST --

26 MR. YOUNG: RIGHT.

27 THE COURT: -- BUT IF IN FACT THEY DO NOT EXIST
28 THAT --

1 MR. YOUNG: WELL, SHE CAN'T SAY THAT THEY DON'T EXIST
2 AND HASN'T INQUIRED.

3 THE COURT: SHE STATED THAT AS FAR AS THE DISTRICT
4 ATTORNEYS OFFICE IS CONCERNED THAT THIS IS THE ONLY
5 INFORMATION THAT SHE HAS.

6 IS THAT CORRECT?

7 MS. LOPEZ: THAT IS CORRECT, YOUR HONOR.

8 THE COURT: NOW, WHETHER THERE'S A SPECULATION AS TO
9 WHAT MAY HAVE HAPPENED ON THE CASE THAT INVOLVES THE
10 ATTORNEY GENERAL, AND IF SHE DOES NOT HAVE THAT INFORMATION,
11 THEN I DON'T BELIEVE THAT IT'S HER DUTY TO GO OUT AND
12 INQUIRE OF THE ATTORNEY GENERAL WHAT INFORMATION HE HAS
13 UNLESS IT'S SOMETHING THAT SHE IS PARTICULARLY GOING TO USE
14 IN THIS CASE.

15 MR. YOUNG: WELL, THEY ARE ATTEMPTING TO USE DEAN
16 KARNY.

17 MS. LOPEZ: AND, YOUR HONOR, I HAVE EXCHANGED THE
18 ONLY THING THAT I HAVE AVAILABLE REGARDING DEAN KARNY'S
19 TESTIMONY, AND THOSE ARE THE POLICE REPORTS PREPARED BY
20 DETECTIVE ZOELLER IN THIS CASE. THOSE ARE THE POLICE
21 REPORTS THAT WERE PREPARED IN BELMONT, WHICH HAS BEEN
22 EXCHANGED THROUGH THE INITIAL DISCOVERY. WHEN THE CASE WAS
23 INITIALLY FILED IT WAS PART OF THE DISCOVERY THAT WAS GIVEN
24 TO DEFENSE COUNSEL. I HAVE EXCHANGED THE TRANSCRIPTION OF
25 THE TESTIMONY OR THE STATEMENTS OBTAINED FROM HIM DURING AN
26 INTERVIEW ALONG WITH THE TAPE RECORDING, AND I HAVE
27 EXCHANGED THE TRANSCRIPT GIVEN TO ME BY THE STATE ATTORNEY
28 GENERAL'S OFFICE REGARDING ANY STATEMENT THEY HAVE TAKEN

1 FROM HIM. THAT IS EVERYTHING I HAVE IN MY POSSESSION
2 REGARDING DEAN KARNY.

3 THE COURT: ALL RIGHT. THE ONLY ALTERNATIVE
4 APPARENTLY THAT WE HAVE, IF YOU FEEL THAT YOU'RE NOT
5 PREPARED SUFFICIENTLY --

6 MR. YOUNG: I'M NOT SAYING THAT. I NEED WHAT I KNOW
7 I DON'T HAVE.

8 THE COURT: WE ARE IN THE MIDST OF A PRELIMINARY
9 HEARING. IF YOU DO FEEL THAT THERE IS SOMETHING AND YOU CAN
10 ACTUALLY SHOW ME FACTUALLY WHAT IT IS THAT THE DISTRICT
11 ATTORNEY HAS FAILED TO PRODUCE AND TURN OVER TO YOU, I CAN
12 CONTINUE THIS MATTER UNTIL SUCH MATTERS ARE GIVEN TO YOU.

13 THE OTHER ALTERNATIVE IS THAT WE CAN GO AHEAD AND
14 PROCEED IF THESE ARE MATTERS THAT LEGITIMATELY SHOULD HAVE
15 BEEN GIVEN TO YOU AND WERE NOT GIVEN TO YOU AND WERE WITHIN
16 THE KNOWLEDGE OF THE DISTRICT ATTORNEY. THEN A MOTION TO
17 STRIKE IT EITHER AT THE TIME THEY'RE INTRODUCED OR
18 SUBSEQUENT THERETO CAN BE ENTERTAINED BY THE COURT. WE CAN
19 DO IT EITHER WAY. IF YOU PREFER TO HAVE TIME --

20 BUT FROM WHAT I UNDERSTAND THAT THERE ISN'T ANYTHING
21 FURTHER THAT YOU AT THIS TIME CAN FURNISH HIM; IS THAT
22 CORRECT?

23 MS. LOPEZ: THAT'S CORRECT. NOTHING IN THE
24 POSSESSION OF THE DISTRICT ATTORNEY'S OFFICE OR THE BEVERLY
25 HILLS POLICE DEPARTMENT OR ANY OTHER LAW ENFORCEMENT AGENCY
26 IN THE COUNTY OF LOS ANGELES. WE HAVE NO CONTROL OVER ANY
27 OTHER COUNTY OR THE STATE ATTORNEY GENERAL'S OFFICE.

28 MR. YOUNG: YOUR HONOR, AGAIN, ONE THING THAT I DO

1 KNOW THAT THEY HAVE KNOWLEDGE OF BECAUSE THEY GAVE ME A COPY
2 OF THE TRANSCRIPT THAT REFERRED TO IT, AND THE DISTRICT
3 ATTORNEY REPRESENTED THAT SHE'D READ IT, IT STATES THAT
4 THERE WERE TAPE RECORDINGS MADE AT THE SAME TIME DETECTIVE
5 BRIELING INTERVIEWED DEAN KARNY. THOSE HAVE NOT BEEN
6 PROVIDED TO US. THEY MAY BEAR GREATLY ON HIS CREDIBILITY,
7 HIS TONE, HIS ATTITUDE, YOU KNOW, THE WEIGHT THAT HE STATES
8 THINGS. THEY BEAR ON HIS CREDIBILITY.

9 MS. LOPEZ: YOUR HONOR --

10 MR. YOUNG: I KNOW THAT I DON'T HAVE THAT AND I KNOW
11 THAT THEY DON'T HAVE IT.

12 MS. LOPEZ: YOUR HONOR, AGAIN --

13 MR. YOUNG: IT'S NOT SPECULATION.

14 MS. LOPEZ: EVERYTHING I HAVE IS IN THE TRANSCRIPT.
15 THE TRANSCRIPT INDICATES THAT AT THE TIME IT WAS TAPE
16 RECORDED. I HAVE NO POSSESSION OR CONTROL OF THOSE TAPES.
17 IF MR. YOUNG WANTS TO INQUIRE OF THE STATE ATTORNEY
18 GENERAL'S OFFICE TO PROVIDE HIM WITH THE TAPE, I'M SURE THEY
19 WOULD. THESE ITEMS ARE AVAILABLE THROUGH THE FREEDOM OF
20 INFORMATION ACT AND, IN ADDITION, THESE ITEMS ARE AVAILABLE
21 THROUGH THE STATE ATTORNEY GENERAL'S OFFICE ON THE CASE
22 THAT'S PENDING AGAINST MR. PITTMAN IN SAN MATEO COUNTY. THE
23 DISTRICT ATTORNEY'S OFFICE OF THE COUNTY OF LOS ANGELES HAS
24 NEITHER POSSESSION NOR CONTROL OVER THESE ITEMS, AND I HAVE
25 NOT SEEN THEM OR HEARD THEM.

26 THE COURT: ALL RIGHT.

27 MR. YOUNG: WELL. WELL --

28 THE COURT: DO YOU DESIRE TO HAVE -- DO YOU WANT TO

1 PROCEED AT THIS TIME UNDER THE CONDITIONS THAT I JUST
2 MENTIONED? YOU HEARD THE STATEMENTS OF THE DISTRICT
3 ATTORNEY --

4 MR. YOUNG: WELL, I WOULD LIKE TO HAVE THIS
5 INFORMATION. AGAIN, THEY PROVIDED ME WITH THE SECOND
6 STATEMENT OF DEAN KARNY ON I THINK IT WAS THE SECOND DAY OF
7 OUR PRELIMINARY OR THE FIRST DAY OF THE PRELIMINARY, SO I
8 HAD TO REVIEW IT THAT NIGHT.

9 MS. LOPEZ: YOUR HONOR, THE FACTS SURROUNDING THAT
10 HAVE ALREADY BEEN STATED TO THE COURT. AGAIN, FOR THE
11 RECORD, THAT WAS FIRST PROVIDED TO ME FRIDAY OF LAST WEEK.
12 I READ IT FOR THE FIRST TIME ON SUNDAY. I RESEARCHED THE
13 LEGAL ISSUES TO SEE WHETHER OR NOT IT HAD ANY RELEVANCE TO
14 THIS CASE. ON MONDAY I CAME TO THE CONCLUSION IT DID. AT
15 THAT TIME I GAVE A COPY TO MR. YOUNG. I GAVE A COPY TO MR.
16 BARENS.

17 THE COURT: A COPY OF WHAT?

18 MS. LOPEZ: THE TRANSCRIPT THAT WAS PROVIDED TO ME BY
19 THE STATE ATTORNEY GENERAL'S OFFICE. I INQUIRED OF THE
20 DEFENDANT IF HE WAS AWARE OF THE FACT THAT WE HAD JUST
21 RECENTLY EXCHANGED THIS. HE INDICATED YES. I ASKED HIM IF
22 IT WAS HIS DESIRE TO PROCEED NOTWITHSTANDING THE FACT; HE
23 SAID "YES". WHEN THE COURT ASKED MR. YOUNG WHETHER OR NOT
24 THE DEFENDANT WAS READY, HE ANNOUNCED READY.

25 MR. YOUNG: THAT'S TRUE.

26 THE COURT: ALL RIGHT.

27 MR. YOUNG: MAY WE HAVE ABOUT TWO MINUTES? LET ME
28 DISCUSS THIS WITH MR. ZORNE.

1 THE COURT: ALL RIGHT. I'LL CALL SOME OF THESE OTHER
2 MATTERS, THEN, AT THIS TIME.

3 /////
4

(OTHER COURT PROCEEDINGS

5 /////
6

7 THE COURT: ALL RIGHT. LET THE RECORD SHOW THAT WE
8 ARE BACK ON THE CASE OF PEOPLE VERSUS JAMES PITTMAN, THAT
9 MR. PITTMAN IS REPRESENTED BY BOTH OF HIS COUNSEL, MR. ZORNE
10 AND MR. YOUNG.

11 MR. ZORNE: THANK YOU, YOUR HONOR.

12 THE COURT: ALL RIGHT, AND THAT WE ARE ABOUT TO
13 PROCEED AGAIN. HAVE COUNSEL -- COUNSEL, HAVE YOU DECIDED ON
14 WHAT YOU DESIRE TO DO IN THIS MATTER?

15 MR. YOUNG: YEAH. WHAT WE WOULD LIKE TO DO, EVEN
16 THOUGH I DON'T FEEL THAT WE REALLY SHOULD HAVE TO DO THIS,
17 IS TO GET THIS INFORMATION FROM MR. BRIELING UP NORTH. SO I
18 WILL HAVE MY INVESTIGATOR GO UP AND SERVE A SUBPOENA ON THEM
19 TO HAVE IT DOWN TO HERE BY TUESDAY, AND I WOULD LIKE TO THEN
20 SET THIS PRELIMINARY AGAIN FOR TUESDAY AFTERNOON, IF YOU
21 COULD.

22 MS. LOPEZ: YOUR HONOR, IS THAT AN APPROPRIATE TIME
23 YOU FOR THE COURT?

24 THE COURT: WE ARE GOING TO RUN INTO THESE
25 DIFFICULTIES NO MATTER WHAT DAY WE GO TO FROM HERE ON OUT.
26 WE ARE TALKING ABOUT TUESDAY, DECEMBER 18TH?

27 MR. ZORNE: YES, YOUR HONOR.

28 MR. YOUNG: YEAH. TUESDAY, DECEMBER 18TH FOR
COMPLIANCE ON THIS SUBPOENA. I HAVE TO SUBPOENA IT DOWN TO

1 HERE. WEDNESDAY THE 18TH TO CONTINUE THE PRELIMINARY -- I
2 MEAN THE 19TH.

3 THE COURT: WEDNESDAY THE 19TH.

4 MS. LOPEZ: IS THERE A --

5 THE COURT: ARE YOU ACQUAINTED -- ON THE 18TH -- IT
6 SEEMS THAT THEY'RE ALL COMING THROUGH HERE RIGHT NOW. WE
7 HAVE A 187, THE CASE OF PEOPLE VERSUS JOHN MC GOWAN.

8 MS. LOPEZ: YES, I'M AWARE OF THAT CASE.

9 THE COURT: WHO IS TRYING THAT CASE?

10 MS. LOPEZ: I DON'T KNOW AT THIS POINT.

11 THE COURT: THERE'S A PUBLIC DEFENDER COMING FROM
12 SANTA MONICA TO DEFEND MC GOWAN.

13 MS. LOPEZ: YES, I UNDERSTAND THAT. IN WHICH CASE,
14 THAT WOULD NOT BE A GOOD DAY. THIS CASE MAY TAKE MORE THAN
15 ONE DAY.

16 MR. YOUNG: I'M JUST GOING TO HAVE COMPLIANCE FOR
17 THIS SUBPOENA FOR THE 18TH.

18 THE COURT: FOR THE 18TH?

19 MR. YOUNG: YEAH, AND THEN THE 19TH.

20 THE COURT: THE 19TH IS A FAIRLY LIGHT DAY.

21 MS. LOPEZ: WHAT DAY IS THAT, YOUR HONOR?

22 THE COURT: THAT'S WEDNESDAY.

23 MS. LOPEZ: IS THAT THE DAY AFTER THE MC GOWAN CASE?

24 THE COURT: YES.

25 MS. LOPEZ: WHAT IF -- I'M NOT CERTAIN WHAT MR. YOUNG
26 IS SAYING. IS HE SAYING THAT HE WOULD LIKE TO RESUME WITH
27 THE PRELIMINARY HEARING ON THE 19TH? IN WHICH CASE I DON'T
28 THINK IT WOULD BE A GOOD DAY JUST BECAUSE MC GOWAN MIGHT GO

1 OVER UNTIL THAT DAY.

2 THE COURT: OF COURSE, WE ARE ALWAYS FACED WITH THIS
3 ISSUE ON ALL OF THESE CASES. IT WILL BE THE FIRST TIME UP
4 ON MC GOWAN. WE DID THIS ON SEVERAL OTHER CASES WHERE WE
5 KEPT THE COURT CLEAR FOR A DAY OR TWO ON ONE OF THESE CASES
6 AND THERE WAS GOOD GROUNDS FOR A CONTINUANCE. DO YOU KNOW
7 WHERE BOTH PARTIES -- AT THIS TIME I DON'T SUPPOSE YOU DO.

8 MS. LOPEZ: I DON'T KNOW THAT, YOUR HONOR.

9 THE COURT: WHETHER BOTH PARTIES ARE GOING TO BE
10 READY ON MC GOWAN.

11 MS. LOPEZ: I BELIEVE THE PEOPLE ARE GOING TO BE
12 READY.

13 MR. YOUNG: ALL RIGHT, WELL, IF IT'S A MAJOR
14 PROBLEM -- I DON'T KNOW IF YOU'D WANT TO SET IT FOR THE
15 24TH. THAT'S THE DAY BEFORE CHRISTMAS.

16 THE COURT: IS THERE ANY OBJECTION TO THAT?

17 MS. LOPEZ: I HAVE NO OBJECTION TO THAT IF THE
18 COURT'S AMENABLE.

19 MR. YOUNG: I HAVE A CLEAR DAY. THE 25TH IS CLEAR ON
20 MINE, TOO.

21 THE COURT: YES. I'M SURE.

22 MS. LOPEZ: IS THAT A GOOD DAY FOR YOUR HONOR? IS
23 THAT A GOOD DAY FOR YOU?

24 THE COURT: DO WE HAVE ANYTHING SET FOR THE 24TH?

25 MR. YOUNG: THAT I COULD --

26 MS. LOPEZ: THAT MAY BE A BAD DAY FOR OUR WITNESSES,
27 HOWEVER, SO WE WOULD NOT AGREE TO THAT DATE.

28 THE COURT: WHAT ABOUT THE 26TH?

1 MR. YOUNG: WELL, I HAVE A -- LET'S SEE. I'VE GOT A
2 PRETRIAL IN TORRANCE. I COULD DO IT THEN.

3 THE COURT: WE ARE SET RATHER LIGHT DURING THAT
4 CHRISTMAS WEEK, BETWEEN CHRISTMAS AND NEW YEARS. WHAT DO
5 YOU ESTIMATE THIS WOULD BE, POSSIBLY ANOTHER FULL DAY?

6 MS. LOPEZ: YOUR HONOR, I EXPECT THAT THE LAW
7 ENFORCEMENT ARE -- OR WITNESSES THAT ARE EMPLOYED BY THE
8 BEVERLY HILLS POLICE DEPARTMENT WOULD PROBABLY TAKE A DAY.
9 WE HAVE THREE OTHER WITNESSES AFTER THAT. I ASSUME -- I
10 CAN'T ESTIMATE.

11 THE COURT: SO YOU'RE TALKING ABOUT A DAY AND A HALF?

12 MS. LOPEZ: A DAY AND A HALF TO TWO OR THREE DAYS.

13 THE COURT: ALL RIGHT. HOW ABOUT THE 26TH OF
14 DECEMBER? WOULD THAT --

15 MR. YOUNG: WHAT?

16 MS. LOPEZ: YOUR HONOR --

17 THE COURT: EVERYBODY SHOULD BE FEELING GOOD AFTER
18 THE HOLIDAY THEN.

19 MR. ZORNE: EITHER THAT OR THE OPPOSITE, YOUR HONOR.

20 THE COURT: IS THAT ALL RIGHT WITH YOUR WITNESSES,
21 THEN?

22 MS. LOPEZ: IS THAT OKAY?

23 MR. YOUNG: CAN WE TRY 10:30 AGAIN? I HAVE TO BE IN
24 TORRANCE.

25 MS. LOPEZ: YOUR HONOR, THIS IS A PRELIMINARY
26 HEARING. MR. YOUNG INDICATED --

27 THE COURT: I'M GETTING TO THAT, YES.

28 UNDER 861 OF THE PENAL CODE, WOULD YOU STIPULATE TO

1 THE CONTINUITY OF THIS PRELIMINARY HEARING? YOU HAVE A
2 RIGHT, AS YOU KNOW --

3 MR. YOUNG: I KNOW. I WAIVE IT.

4 THE COURT: FOR THE RECORD, DO BOTH OF YOU WAIVE?
5 BOTH COUNSEL?

6 MR. ZORNE: YES, YOUR HONOR.

7 MS. LOPEZ: COULD WE GET A WAIVER FROM MR. PITTMAN?

8 THE COURT: MR. PITTMAN, DO YOU UNDERSTAND WHAT YOUR
9 COUNSEL ARE ASKING IS THEY WANT TO MAKE FURTHER DISCOVERY IN
10 THIS CASE AND THEY'RE ASKING NOW TO GO OVER TO THE 26TH.
11 YOU HAVE A RIGHT ONCE WE START A PRELIMINARY -- BY LAW, YOU
12 HAVE A RIGHT TO HAVE IT CONTINUE IT ON WITHOUT THE COURT
13 TAKING ANY OTHER MATTERS IN BETWEEN. BOTH OF YOUR COUNSEL
14 HAVE SUGGESTED IT GO TO THE 26TH. DO YOU ALSO REQUEST THAT
15 IT GO TO THE 26TH AND WAIVE THE CONTINUITY OF THIS
16 PRELIMINARY? IS THAT ALL RIGHT WITH YOU?

17 DEFENDANT PITTMAN: I DON'T KNOW LAW, SO, YOU KNOW.
18 I GUESS.

19 THE COURT: WELL, MR. YOUNG AND MR. ZORNE WANT TO DO
20 THAT FOR YOUR BENEFIT, SO IT'S UP TO YOU. YOU CAN INSIST
21 THAT WE GO AGAIN THIS AFTERNOON OR TOMORROW, BUT IT WON'T
22 GIVE THEM -- THEY WANT THE ADDITIONAL TIME.

23 DEFENDANT PITTMAN: ALL RIGHT.

24 THE COURT: IS THAT ALL RIGHT?

25 DEFENDANT PITTMAN: ALL RIGHT.

26 THE COURT: ALL RIGHT. LET THE RECORD SHOW THAT BOTH
27 OF THE COUNSEL, MR. ZORNE AND MR. YOUNG, AS WELL AS THE
28 DEFENDANT PITTMAN HAVE UNDER 861 OF THE PENAL CODE

1 STIPULATED THAT THIS MAYBE DEEMED TO BE CONTINUED TO THE
2 26TH DAY OF DECEMBER.

3 DO YOU WANT THAT AT 11:00 OR 10:30 OR WHAT HOUR?

4 MR. YOUNG: YEAH, 11:00 WOULD BE FINE. I JUST DON'T
5 WANT TO RUN INTO A PROBLEM LIKE I DID THIS MORNING.

6 THE COURT: ALL RIGHT. DO YOU WANT ANY -- IS IT
7 NECESSARY TO RESUBPOENA ANY OF YOUR WITNESSES OR WILL YOU
8 NOTIFY THEM?

9 MS. LOPEZ: YOUR HONOR, WE'LL NOTIFY OUR WITNESSES.

10 THE COURT: ALL RIGHT. THIS MATTER WILL BE CONTINUED
11 THEN TO 11:00 A.M. ON THE 26TH DAY OF DECEMBER.

12 MS. LOPEZ: THANK YOU YOUR HONOR.

13 THE COURT: DO YOU WANT COMPLIANCE ON A CERTAIN DATE?

14 MS. LOPEZ: YOUR HONOR, HE'S GOING TO SUBPOENA THEM
15 FROM WHOEVER HAS THEM, FOR WHICH THE PEOPLE AREN'T
16 RESPONSIBLE.

17 THE COURT: DOES HE HAVE THE NECESSARY INFORMATION?

18 MS. LOPEZ: I BELIEVE HE SHOULD.

19 THE COURT: ALL RIGHT.

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1 IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT
 2 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

3 HON. DAVID A. KIDNEY, JUDGE PRO TEM DIVISION I
 4

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)
 6 Plaintiff,)
 7 vs.) No. A 090435
 8)
 9 JOE HUNT)
 aka: JOSEPH HENRY GAMSKY)
 and)
 10 JAMES PITTMAN)
 aka: JAMES GRAHAM, Defendants.)

11 I hereby certify that on the 12th & day of December, 1984,
 12 13th
 ANN CLARK, Official Reporter of the above entitled court, was
 13 assigned as shorthand reporter to report the testimony and
 14 proceedings contained herein; and did act as such reporter, and
 15 was by me directed to reduce the said shorthand notes to
 16 typewriting.

17 *David A. Kidney*

18 _____
 19 Judge of the Municipal Court of Beverly Hills
 Judicial District, County of Los Angeles,
 State of California, Division I.
 20

21 I hereby certify that I am an Official Shorthand Reporter
 22 of the above entitled court. Pursuant to the Judge's Certificate
 23 above, I was assigned to report and did so correctly report the
 24 testimony and proceedings contained herein; that the foregoing
 25 is a true and correct transcription of my said notes, and a full,
 26 true and correct statement of said testimony and proceedings.

27 *Ann Clark, OR # 5058*

28 _____
 Official Reporter

IN THE MUNICIPAL COURT OF BEVERLY HILLS JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

HON. DAVID A. KIDNEY, JUDGE PRO TEM

DIVISION I

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

JOE HUNT
aka: JOSEPH GAMSKY
and
JAMES PITTMAN
aka: JAMES GRAHAM,

Defendants.

No. A 090435

VOLUME III

Violation Section:

Ct. I - 187 PC

Ct. II - 211 PC

REPORTER'S TRANSCRIPT

PRELIMINARY HEARING

WEDNESDAY, DECEMBER 26, 1984
MONDAY, JANUARY 10, 1985
AND
THURSDAY, JANUARY 10, 1985

FILED

FEB 28 1985

FRANK S. ... County Clerk

Rita Tucker

BY RITA TUCKER, DEPUTY

+ 2
2-5-85

APPEARANCES:

FOR THE PEOPLE: ANA LOPEZ
DEPUTY DISTRICT ATTORNEY

FOR DEFENDANT PITTMAN: DOUGLAS L. YOUNG
8570 HOLLOWAY DRIVE
LOS ANGELES, CALIFORNIA 90069
(12-26 & 1-10)

LEE ZORNE
987.2

ALSO PRESENT:

LEWIS R. TITUS, JR.
1419 SO. MARGUERITA AVENUE
UNIT F
ALHAMBRA, CALIFORNIA 91803
(12-26)

Ann Clark

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I N D E X

<u>PEOPLE'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>	<u>VOIR DIRE</u>
DENNIS DE CUIR	29	--	40	--	--
BY MR. YOUNG:	--	38	--	--	--
CLARK W. FOGG	42	--	--	--	--
JAMES S. WAGENBRENNER	45	--	--	--	--
BY MR. YOUNG:	--	54	--	--	--
BY MR. ZORNE:	--	62	--	--	--
RICHARD L. CLASON	65	--	--	--	--
BY MR. YOUNG:	--	71	--	--	--
BY MR. ZORNE:	--	73	--	--	--
CLAUDIO A. MARINELLI	106	--	123,126	--	--
BY MR. YOUNG:	--	118	--	125	--
BY MR. ZORNE:	--	123	--	126	--
JEFFREY DAVID RAYMOND	127,137	--	169	--	--
BY MR. YOUNG:	--	139	--	--	--

E X H I B I T S

<u>PEOPLE'S EXHIBITS</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
24A - XEROX COPY OF FOUR POLAROID PHOTOGRAPHS.	18	85
24B - POLAROID PHOTOS OF ORIGINALS SHOWN IN 24A		
24C - " " " " " " "		
24D - " " " " " " "		
24E - " " " " " " "	18	85
27 - DOCUMENTS FROM PLAZA HOTEL.	27	27 & 28
28 - DOCUMENTS FROM WORLD TRADE BANK.	27	27 & 28
29 - CERTIFIED COPY OF HANDWRITING EXEMPLAR OF JAMES PITTMAN, DATED 12-6-84.	29	85
30 - CERTIFIED COPY OF BOOKING PHOTO OF JAMES PITTMAN, DATED 9-19-84.	29	86

PEOPLE'S EXHIBITS (CONT'D)

1			
2			
3			
4	31 - CERTIFIED COPY OF		
5	FINGERPRINT CARD OF		
	JAMES PITTMAN.	29	86
6	32 - COPY OF A POLAROID PHOTO OF		
7	JAMES PITTMAN WITH "M-A-N-H"		
	WRITTEN ON THE FACE OF THE PHOTO.	36	86
8	33 - 2 PG. DOCUMENT, COPY OF EXHIBIT 32		
9	AND COPY OF FINGERPRINT CARD		
	IN THE NAME OF RONALD LEVIN.	36	86
10	34 - PHOTO WITH "8405436, C.W. FOGG/803"		
11	and "RT HUNT, JOSEPH".	48	86
12	35 - PHOTO WITH # "8405436" AND		
	"RT HUNT, JOSEPH".	49	86
13	36 - SIGNATURE CARD, WORLD TRADE BANK,		
14	MICROGENESIS OF NORTH AMERICA, INC.,		
	ACCT. # 001-100742.	107	127
15	37 - SWISS CREDIT BANK CHECK NO.		
16	400358, 1.5 MILLION DOLLARS.	107	127
17	38 - 2 PG. DOCUMENT; WORLD TRADE		
	BANK, COLLOT 84-405 AND A LETTER.	108	127
18	39 - WORLD TRADE BANK, ACCOUNT DEBIT		
19	DATED JULY 11, 1984, ACCT. #		
	001-100742.	108	127
20	40 - TELETYPE TO WORLD TRADE BANK.	108	127
21	41 - CREDIT SUISSE DOCUMENTS.	109	127

DEFENDANT'S EXHIBITS

22			
23			
24	A - YELLOW LEGAL SHEET OF PAPER		
25	SHOWING PLACEMENT OF PEOPLE		
26	AT BBC MEETING AT WILSHIRE-		
	MANNING.	55	--
27			
28			

1 BEVERLY HILLS, CALIFORNIA, WEDNESDAY, DECEMBER 26, 1984

2 2:30 P.M.

3 --000--

4
5 THE COURT: GOOD AFTERNOON.

6 MR. ZORNE: GOOD AFTERNOON, YOUR HONOR.

7 MR. YOUNG: HOW ARE YOU?

8 THE COURT: OKAY. IN THE MATTER OF PEOPLE VERSUS JOE
9 HUNT AND JAMES PITTMAN, DEFENSE READY?

10 MR. YOUNG: DOUGLAS YOUNG APPEARING FOR THE
11 DEFENDANT.

12 MR. ZORNE: LEE ZORNE APPEARING FOR THE DEFENDANT.

13 THE COURT: PEOPLE READY?

14 MS. LOPEZ: PEOPLE ARE READY.

15 MR. YOUNG: I HAVE ONE PRELIMINARY ISSUE. I CAUSED
16 TO HAVE SERVED UPON THE CUSTODIAN OF RECORDS OF THE ATTORNEY
17 GENERAL'S OFFICE AND THE ATTORNEY GENERAL'S OFFICE
18 SUBPOENAS. DO YOU HAVE THOSE PRESENTED TO YOU? APPARENTLY
19 THEY CAME THIS MORNING.

20 THE COURT: I HAVEN'T LOOKED AT YOUR FILE THIS
21 MORNING BECAUSE WE HAD OTHER CASES THIS MORNING.

22 MR. YOUNG: BUT I DON'T HAVE THE OTHER INFORMATION
23 YET. AGAIN, AN IMPORTANT ISSUE IN THIS CASE SINCE THEY'RE
24 ATTEMPTING TO PROVE MODUS OPERANDI IS THE CREDIBILITY OF
25 DEAN KARNY WHO WILL BE A WITNESS IN THIS CASE AS WELL AS THE
26 OTHER CASE. I THINK IT'S ABSOLUTELY ESSENTIAL THAT WE HAVE
27 CERTAIN INFORMATION IN ORDER TO IMPEACH HIS CREDIBILITY.

28 THE INFORMATION I'VE REQUESTED IN THESE SUBPOENAS IS

1 RELEVANT AND IT'S NECESSARY, AND THERE HAS BEEN NO
2 COMPLIANCE WITH THOSE. I WOULD LIKE TO HAVE A WARRANT
3 ISSUED OR WHATEVER OTHER PROCEDURE THAT THE COURT CAN TAKE
4 TO SEE THAT THIS IS COMPLIED WITH.

5 MS. LOPEZ: YOUR HONOR, MAY I BE HEARD BRIEFLY ON THE
6 MATTER?

7 THE COURT: YES.

8 MS. LOPEZ: IT'S MY UNDERSTANDING THAT THE
9 INVESTIGATOR OR INVESTIGATIVE AGENT BRIELING IS -- IN SAN
10 FRANCISCO HAS ALWAYS BEEN LOCATED IN SAN FRANCISCO AND HE
11 HAS NOT BEEN PERSONALLY SERVED WITH THE SUBPOENA, THEREFORE
12 THE COURT --

13 MR. YOUNG: YOUR HONOR --

14 MS. LOPEZ: EXCUSE ME, MR. YOUNG. THEREFORE THE
15 COURT WOULD HAVE NO JURISDICTION OVER MR. BRIELING. THIS IS
16 IMPROPER SERVICE.

17 MR. YOUNG: WITH RESPECT TO THE IMPROPER SERVICE, THE
18 DISTRICT ATTORNEY'S OFFICE HAS NO STANDING WHATSOEVER TO
19 RAISE ANYTHING. MY UNDERSTANDING OF THE LAW PURSUANT TO
20 CIVIL CODE OF PROCEDURE SECTION -- PURSUANT TO 98.5 AND
21 OTHER SECTIONS IS IF THERE'S A MOTION TO QUASH, THE ATTORNEY
22 GENERAL'S OFFICE MUST MAKE THAT IN WRITING. IT HAS NOT BEEN
23 MADE. I THINK THIS COURT HAS TO ORDER A COMPLIANCE WITH
24 THAT SUBPOENA, AND THE D.A. CANNOT SAY ANYTHING. SHE'S NOT
25 EVEN PARTY TO THIS.

26 MS. LOPEZ: YOUR HONOR, THE DISTRICT ATTORNEY IS
27 SPEAKING AS A FRIEND OF THE COURT AND A PARTY TO THE
28 PROCEEDINGS.

190

1 THE COURT: MR. YOUNG, DID YOU FILE THIS ON SEPTEMBER
2 26TH?

3 MR. YOUNG: NO. IT WAS SERVED ON THEM ON THE 21ST.
4 SERVED ON THE CUSTODIAN OF RECORDS FOR THE ATTORNEY
5 GENERAL'S OFFICE DOWN HERE AND ON THE ATTORNEY GENERAL'S
6 OFFICE FOR BRIELING. AND AT A MINIMUM, THE SERVICE WOULD
7 HAVE TO BE EFFECTIVE ON THE CUSTODIAN OF RECORDS BECAUSE,
8 YOU KNOW, THAT COULD BE SERVED ANYWHERE. AND AGAIN, AS I
9 SAID, IF THERE'S GOING TO BE A CHALLENGE TO THE SUBPOENA, IT
10 MUST BE MADE BY THE ATTORNEY GENERAL'S OFFICE AND IT MUST BE
11 MADE IN WRITING. THAT HASN'T BEEN DONE. I UNDERSTAND THAT
12 THERE WAS A CALL EARLIER, BUT -- AND I ATTEMPTED TO CALL
13 DURING THE LUNCH HOUR TO SPEAK WITH THE PEOPLE TO FIND OUT
14 WHAT THE STATUS OF IT WAS. I COULD NOT GET THROUGH.

15 THE COURT: WELL WHAT ARE YOU ASKING NOW, MR. YOUNG?
16 YOU HAVE SERVED HERE A SUBPOENA ON THE ATTORNEY GENERAL'S
17 OFFICE; CORRECT?

18 MR. YOUNG: RIGHT.

19 THE COURT: AND YOU'RE ASKING FOR CERTAIN --

20 MR. YOUNG: DOCUMENTS --

21 THE COURT: -- DISCOVERY.

22 MR. YOUNG: NUMEROUS CONVERSATIONS WITH DEAN KARNY.
23 THEY'RE REFERRED TO IN THESE OTHER DOCUMENTS THAT THEY GAVE
24 US. I BELIEVE IT WILL BEAR GREATLY ON HIS CREDIBILITY. I
25 JUST BELIEVE, AGAIN, SPECULATION, THAT HIS STORY MAY HAVE
26 CHANGED A NUMBER OF TIMES BEFORE IT GOT TO THE POINT THAT IT
27 DID NOW.

28 THEY'RE AGAIN ATTEMPTING TO USE THIS OTHER CASE TO

1 SHOW MODUS OPERANDI OR INTENT, AND WITHOUT THESE DOCUMENTS
2 WE CAN NOT -- YOU KNOW, I CANNOT PROPERLY ARGUE MODUS
3 OPERANDI AND I CANNOT PROPERLY ATTACK THE CREDIBILITY OF
4 DEAN KARNY. HE'S THEIR STAR WITNESS AND THE ONLY ONE THAT
5 CAN SAY ANYTHING AGAINST MY CLIENT. EVERYTHING HE CAN SAY
6 BASICALLY IS HEARSAY, BUT I WOULD LIKE TO, YOU KNOW, HAVE
7 THE OPPORTUNITY TO ATTACK HIS CREDIBILITY. I WAS NOT AWARE
8 THAT THEY WERE GOING TO ATTEMPT TO INTRODUCE THIS OTHER CASE
9 UNTIL THE LAST TIME WE WERE IN COURT, AND IT'S MY BELIEF
10 THAT THEY CAN NOT INTRODUCE IT, BUT IN ORDER FOR ME TO ARGUE
11 THAT THEY CAN NOT INTRODUCE IT, I NEED THESE DOCUMENTS. I
12 THINK THAT THERE SHOULD BE SOME TYPE OF ORDER BY THIS COURT
13 FOR COMPLIANCE OF THESE SUBPOENAS AND THAT THERE SHOULD BE A
14 VERY BRIEF CONTINUANCE FOR THE PURPOSE OF COMPLYING. I'M
15 AWARE THAT IT WAS THE HOLIDAYS --

16 THE COURT: BUT YOU SEE WHAT YOU'VE DONE HERE -- THIS
17 WAS EXECUTED ON THE 21ST DAY OF DECEMBER. NOW, YOU'VE
18 HARDLY GIVEN ANYBODY ANY TIME TO GET ANYTHING DOWN HERE --

19 MR. YOUNG: I'M CONCERNED WITH --

20 THE COURT: -- BETWEEN THE WEEKEND AND WITH THE
21 HOLIDAY IN BETWEEN, AND MINE WAS ONLY FILED TODAY SO I HAVE
22 ONLY KNOWLEDGE FROM PICKING THE FILE UP RIGHT NOW WHAT
23 YOU'RE REQUESTING HERE.

24 WHAT'S THE PEOPLE'S POSITION?

25 MS. LOPEZ: THE PEOPLE'S POSITION IS THAT THE
26 SUBPOENA IS IMPROPERLY SERVED, THEREFORE THE COURT DOESN'T
27 HAVE ANY JURISDICTION TO ORDER ANYBODY TO COMPLY.

28 IN ADDITION, MR. KARNY IS NOT GOING TO BE CALLED AS A

1 WITNESS TODAY, AND WHEN MR. KARNY IS GOING TO BE CALLED AS A
2 WITNESS OR IS CALLED AS A WITNESS, MR. YOUNG IS GOING TO
3 HAVE ADEQUATE OPPORTUNITY TO CROSS-EXAMINE MR. KARNY, AND HE
4 HAS ALREADY BEEN PROVIDED WITH THE TRANSCRIPTS OF STATEMENTS
5 THAT MR. KARNY HAS GIVEN.

6 WHAT MR. YOUNG IS ATTEMPTING TO DO IS ENGAGE IN A
7 FISHING EXPEDITION AND ENGAGE IN DISCOVERY IN THE MIDDLE OF
8 PRELIMINARY HEARING WHICH HE HAS CONTINUALLY STATED THAT HE
9 IS PREPARED FOR.

10 MR. YOUNG: YOUR HONOR, AS YOU'RE AWARE, THEY HAVE
11 CONSTANTLY EVERY DAY GIVEN US NEW EVIDENCE. THERE'S BEEN
12 NEW DEVELOPMENTS IN THIS CASE. I HAVE NOT TRIED TO
13 FRUSTRATE; I HAVE NOT TRIED TO UNDULY DELAY THE CASE. I DO
14 BELIEVE WE HAVE A RIGHT TO CERTAIN THINGS, ESPECIALLY WHEN
15 THEY COME ABOUT IN THE MID THE OF THE PRELIMINARY, AND MANY
16 OF THESE THINGS THAT WE ARE ASKING FOR HAVE BEEN IN
17 EXISTENCE FOR SOME PERIOD OF TIME. THEY'VE KNOWN ABOUT
18 THEM.

19 AGAIN, I BELIEVE -- SHE SAYS THEY'VE NO DUTY TO GO
20 OUT AND GET THIS EVIDENCE. I ARGUED EARLIER THAT THEY DID.
21 NOW WE ARE ATTEMPTING TO GET IT ON OUR OWN, AND THEY'RE
22 OPPOSING THOSE EFFORTS. I UNDERSTAND THAT IT WAS OVER A
23 HOLIDAY WEEK, I UNDERSTAND, BUT ALL I'M REQUIRED TO DO IS
24 GIVE THEM THREE-DAY NOTICE. THAT'S THE REASON I WOULD JUST
25 LIKE A FEW DAYS JUST TO GET THIS -- THESE DOCUMENTS.

26 THE COURT: LET ME ASK YOU THIS: FIRST OF ALL, WHAT
27 WE HAVE HERE -- CERTAINLY YOU ARE ENTITLED TO SOME OF THIS
28 INFORMATION THAT YOU RELATED HERE TO PROPERLY CONDUCT YOUR

1 DEFENSE. ON THE OTHER HAND, WE ARE IN THE MIDST OF A
2 PRELIMINARY, AND -- CAN I ASK YOU THIS: IS THERE ANY REASON
3 WHY SOME OF THIS CAN'T PROCEED TODAY WITH WHAT YOU HAVE
4 TODAY?

5 MS. LOPEZ: THERE IS NO REASON WHATSOEVER.

6 THE COURT: THAT WOULD NOT INVOLVE THESE POINTS THAT
7 MR. YOUNG IS RAISING AND THEN HAVE IT CONTINUED OVER TO THAT
8 TIME --

9 MR. YOUNG: PROVIDED THERE IS NO ATTEMPT BY THE
10 PROSECUTION TO INTRODUCE ANY EVIDENCE AS THEY ATTEMPTED TO
11 DO THE OTHER DAY ON THIS OTHER CRIME THAT THEY'RE CHARGED
12 WITH. IF THEY'RE GOING TO ATTEMPT TO SHOW MODUS OPERANDI OR
13 INTENT AS A RESULT OF SOME OTHER ALLEGED ACTS, THEN I DON'T
14 THINK THAT I SHOULD HAVE TO CONTEND WITH THAT, UNLESS WE
15 COULD HAVE SOME RULING -- I BELIEVE THAT -- THAT IN THIS
16 CASE THEY'RE ATTEMPTING TO SHOW MODUS OPERANDI THROUGH FACTS
17 THAT'S IN ANOTHER PENDING CASE.

18 I'VE RESEARCHED THE LAW IN THIS AREA. ANY CASES THAT
19 DEAL WITH PERMITTING MODUS OPERANDI TO BE INTRODUCED OR
20 INTENT DEAL WITH EITHER OF TWO TYPES OF CASES. THEY'RE
21 EITHER UNCHARGED ACTS OR THEY'RE ACTS THAT -- FOR WHICH
22 THERE HAS BEEN A CONVICTION. THERE ARE NO CASES WHATSOEVER
23 THAT PERMIT THE PROSECUTION TO INTRODUCE EVIDENCE FROM A
24 PENDING CASE INTO ANOTHER CASE.

25 THAT'S WHAT THEY'RE ATTEMPTING TO DO HERE, AND I
26 THINK IF WE JUST CONSIDER IT FROM THE STANDPOINT OF DOUBLE
27 JEAPORDY, IT BECOMES CLEAR WHY YOU WOULDN'T HAVE IT
28 INTRODUCED IN A PENDING CASE. WHAT THEY'RE ATTEMPTING TO DO

1 HERE IS TO INTRODUCE THE CASE UP THERE TO PROVE THIS CASE
2 AND THEN USE THIS CASE TO PROVE THE OTHER CASE. IN BOTH
3 CASES I THINK WE HAVE REAL ISSUES AS TO WHETHER OR NOT
4 THERE'S GOING TO BE TWO TRIALS ON BASICALLY THE SAME
5 CHARGES. I DON'T THINK THEY SHOULD BE PERMITTED TO
6 INTRODUCE ANYTHING REGARDING A PENDING CASE THAT'S GOING.

7 IF THEY -- IF THEY WERE ENTITLED TO CONSOLIDATE THE
8 CASES, THEN THEY SHOULD CONSOLIDATE THEM. IF THEY'RE NOT,
9 THEN THEY SHOULD BE EACH TRIED SEPARATELY ON THEIR OWN
10 EFFORTS AND NOT TRY TO SMEAR US WITH ALLEGATIONS, YOU KNOW,
11 IN SOME OTHER -- ON SOME OTHER CHARGE. THAT'S WHAT THEY'RE
12 ATTEMPTING TO DO HERE.

13 I THINK THAT THEY REALIZE THAT THE CASE HERE IS WEAK
14 AND SO THEY'RE GOING TO ATTEMPT TO PREJUDICE THIS COURT AND
15 THE JURY AND WHOEVER ELSE THEY CAN BY BRINGING IN EVIDENCE
16 IN ANOTHER CASE. I DON'T THINK THEY SHOULD BE PERMITTED TO
17 DO THAT. IF THEY CAN SHOW -- I DON'T MIND HAVING SOME
18 WITNESSES AS LONG AS THERE'S NO ATTEMPTS BY THEM, YOU KNOW,
19 TO USE EVIDENCE FROM THIS OTHER CASE.

20 MS. LOPEZ: I --

21 MR. YOUNG: BECAUSE, OTHERWISE, I THINK I HAVE A
22 RIGHT -- THIS IS SOMETHING THAT DEVELOPED DURING THIS
23 PRELIMINARY. I DON'T BELIEVE THAT THEY'RE TRYING TO -- THAT
24 THAT'S WHAT THEY'RE ATTEMPTING TO DO. I THINK I SHOULD BE
25 ABLE TO FULLY ARGUE IT BY HAVING THIS INFORMATION REQUESTED
26 AND I SHOULD BE ABLE TO PREPARE IT. THIS IS SOMETHING --
27 THIS DEVELOPED AS WE STARTED INTO THIS HEARING.

28 THE COURT: WELL, IT'S NOT UNCOMMON THAT CERTAIN

1 THINGS WOULD DEVELOP DURING THE PROCEEDINGS, PARTICULARLY
2 ONE OF THIS NATURE, MR. YOUNG. BUT LET ME GET SOME OF THE
3 ISSUES HERE CLEAR FIRST. DO YOU INTEND TO PROCEED -- THE
4 QUESTION HE RAISED ABOUT SHOWING THE MO WITH DEAN KARNY; IS
5 THAT THE WITNESS YOU'RE REFERRING TO?

6 MS. LOPEZ: I BELIEVE THAT THAT'S THE --

7 THE COURT: ALL RIGHT. DO YOU INTEND TO SHOW THAT AT
8 THIS PARTICULAR DATE?

9 MS. LOPEZ: NO, YOUR HONOR.

10 THE COURT: CAN WE PROCEED --

11 MS. LOPEZ: NO, YOUR HONOR. WE CAN PROCEED
12 NOTWITHSTANDING MR. YOUNG'S ASSERTIONS, AND I'D LIKE TO
13 POINT OUT FOR THE RECORD THAT MR. YOUNG'S STATEMENT AS TO
14 THE LAW IS INCORRECT. IN ADDITION, MR. YOUNG -- THE PEOPLE
15 HAVE NEVER OPPOSED A CONTINUANCE. THIS PRELIMINARY HEARING
16 HAS GONE FORWARD ON MR. YOUNG AND MR. PITTMAN'S INSISTANCE
17 DESPITE THE FACT THAT INFORMATION WAS PROVIDED TO HIM THE
18 DAY BEFORE THE START OF THE PRELIMINARY HEARING.

19 WE ARE READY TO PROCEED TODAY. OUR WITNESSES ARE
20 READY. MR. KARNY IS NOT ONE OF THE WITNESSES TO BE CALLED,
21 AND THERE'S NO REASON THAT WE SHOULD NOT PROCEED TODAY AS TO
22 THOSE WITNESSES THAT ARE AVAILABLE TO TESTIFY.

23 MR. YOUNG: TWO THINGS. I WOULD LIKE AN ORDER FOR
24 COMPLIANCE ON THIS SUBPOENA, REGARDLESS, AND I'D LIKE A
25 RULING FROM THIS COURT --

26 THE COURT: FIRST OF ALL, DO YOU HAVE ANY INDICATION
27 THAT THEY'RE NOT COMPLYING WITH IT?

28 ONE, BEFORE -- WHEN AND IF SUCH AN ORDER WERE

1 FEASIBLE, I WOULD HAVE TO BE ASSURED THAT THERE WAS A
2 NONCOMPLIANCE ON THEIR PART. AND I FEEL THAT IT'S BY REASON
3 OF THE TIME ELEMENT HERE THAT IT WOULD BE PREMATURE FOR
4 ANYBODY TO INDICATE THAT THEY FELT THAT THEY WERE NOT
5 COMPLYING TO YOUR ORDER.

6 MR. YOUNG: WELL, IT WAS SET FOR 11:00 O'CLOCK.
7 APPARENTLY THEY CALLED, BUT THAT ISN'T SUFFICIENT
8 COMPLIANCE, I DON'T THINK.

9 THE CLERK: SOMEBODY CALLED EARLY THIS MORNING AT
10 9:00 O'CLOCK, A RON BASS CALLED.

11 THE COURT: DO YOU KNOW WHAT THE NATURE OF THE CALL
12 WAS?

13 MS. LOPEZ: YOUR HONOR, I SPOKE TO MR. BASS THIS
14 MORNING. IT WAS MR. BASS' IMPRESSION THAT THERE WAS
15 IMPROPER SERVICE. MR. BASS WAS CALLING FROM SAN FRANCISCO
16 WHERE MR. BRIELING WORKS AND IS LOCATED, AND HE WAS
17 TELEPHONED BY THE LOS ANGELES OFFICE, I BELIEVE, AND
18 INFORMED THAT THERE WAS THIS SUBPOENA THAT WAS DELIVERED
19 SOMEPLACE IN LOS ANGELES. IT WAS MR. BASS' FEELING THAT
20 IT'S IMPROPER SERVICE TO SERVE AN AGENT WHO IS LOCATED IN
21 SAN FRANCISCO BY SERVING A SUBPOENA ON A LOS ANGELES OFFICE.
22 I DON'T BELIEVE THAT MR. BASS HAS EVEN RECEIVED THE
23 SUBPOENA.

24 THE COURT: ALL RIGHT.

25 MR. YOUNG: AGAIN --

26 THE COURT: LET'S DO THIS, MR. YOUNG. WITH THEIR
27 ASSURANCE THAT THEY'RE NOT GOING TO BRING IN ANYTHING
28 CONCERNING THE MO TODAY --

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1 MR. YOUNG: AS LONG AS THERE'S NOTHING --

2 THE COURT: -- WE CAN DO THESE WITNESSES AND HAVE A
3 CONTINUANCE ON THIS -- FIRST OF ALL, ONE, LET'S SEE IF
4 THEY'RE GOING TO COMPLY WITH IT WITHIN A REASONABLE TIME,
5 AND TWO, IF THEY'RE NOT GOING TO COMPLY WITH IT AND IF
6 THERE'S BEEN SOME DEFECT IN THE SERVICE, THEN YOU'D HAVE TO
7 RESUBPOENA THE PROPER WAY IF, IN FACT, THAT'S WHAT THEY
8 CONTEND. THEN THE THIRD STEP WOULD BE IF AFTER THAT THEY
9 WERE NOT COMPLYING WITH YOUR REQUEST HERE, THEN THE COURT
10 CAN CONSIDER PUTTING SOME KIND OF AN ORDER THROUGH. IS THAT
11 ALL RIGHT?

12 MR. TITUS: YOUR HONOR, MIGHT I BE HEARD BRIEFLY?
13 LEWIS TITUS. I HAVE SOME EXPERIENCE IN THIS AREA, AND IF
14 THE COURT CONTINUES THE SUBPOENA, IT IS VOID. IT CAN'T
15 CONTINUE. EITHER THE COURT MUST ISSUE A BODY ATTACHMENT, AN
16 ATTACHMENT FOR DEFAULT OR --

17 THE COURT: YES, BUT WHAT I'M ASKING YOU IS THIS: I
18 REALIZE IF I CONTINUE A SUBPOENA, BUT IF IT'S DEFECTIVE ON
19 ITS FACE, THERE IS, IN FACT, NO SUBPOENA THEN. THAT'S THE
20 POINT THAT'S BEING RAISED HERE NOW.

21 FIRST OF ALL, THE CONTENTION WAS THAT -- IS THAT IT
22 WAS NOT PROPERLY SERVED; IS THAT CORRECT?

23 MS. LOPEZ: YES, THAT --

24 THE COURT: I REALIZE IF THERE WAS A SUBPOENA AND WE
25 JUST CONTINUED IT THEN THERE WOULD BE AN ISSUE, BUT FIRST WE
26 HAVE TO DETERMINE WHETHER THERE WAS, IN EFFECT, AN
27 IMPROPER --

28 MR. TITUS: I THINK 1987 AND 1989 CCP IS THAT THE

1 A.G. CHALLENGE IT IN WRITING WITH A MOTION TO QUASH, AND
2 THAT INCLUDES AN IMPROPER SERVICE. THE USUAL CHALLENGE ON A
3 SDT IS A DEFECTIVE DECLARATION.

4 THE COURT: WHAT IS YOUR SUGGESTION, COUNSEL?

5 MS. LOPEZ: YOUR HONOR, MAY I OBJECT PRELIMINARILY?
6 I BELIEVE MR. TITUS REPRESENTS MR. HUNT, AND WHAT WE HAVE
7 HERE AS POSSIBLE CONFLICT OF INTEREST. UNLESS MR. HUNT IS
8 GOING TO BE IN HERE TO WAIVE A CONFLICT OF INTEREST WHEN HIS
9 ATTORNEY IS STANDING UP AND ATTEMPTING TO ENFORCE A SUBPOENA
10 FOR MR. PITTMAN WHO IS A CO-DEFENDANT AND HAS A POSSIBLE
11 CONFLICT OF INTEREST IN THIS CASE, I BELIEVE THAT MR. TITUS
12 CANNOT SPEAK TO THE COURT.

13 MR. YOUNG: YOUR HONOR, OUR INTERESTS ARE AS CLOSELY
14 INCLINED. THEY'RE AS CURIOUS TO GET THESE DOCUMENTS AS I
15 AM.

16 THE COURT: MR. TITUS, I AGREE WITH YOUR PART ABOUT
17 CONTINUING THE SUBPOENA, BUT AS I MENTIONED, THE QUESTION
18 HAS BEEN RAISED HERE APPARENTLY WHETHER THIS WAS A PROPER
19 SERVICE AT ALL. IF IT WASN'T A PROPER SERVICE, THEN THERE'S
20 NEVER BEEN A CONTACT WITH THEM, AND THERE WOULD HAVE TO,
21 ONE, FIRST BE A PROPER SERVICE, THEN A NONCOMPLIANCE WITH IT
22 AND THEN THIRDLY AN ORDER FROM THE COURT IF THERE WAS, IN
23 FACT, A NONCOMPLIANCE. WOULD YOU AGREE WITH THAT?

24 MR. TITUS: YES. THERE IS A PENAL CODE SECTION
25 REGARDING POLICE OFFICERS. I FORGET WHICH ONE IT IS. IT
26 DEALS WITH SUBSTITUTE SERVICE --

27 MR. YOUNG: AGAIN --

28 MR. TITUS: MR. YOUNG. I HAD NOTHING TO DO WITH --

1 MR. YOUNG AND I DIDN'T CONFER OVER THE SERVICE. I WOULD
2 HAVE GONE FOR THE PERSONAL SERVICE ON MR. BRIELING IN SAN
3 FRANCISCO, BUT I THINK -- AS MY EXPERIENCE -- IN MY
4 EXPERIENCE, I RECALL THAT THE SERVICE ON AN AGENT, ON PEACE
5 OFFICERS ONLY, IT IS VALID, BUT THAT IS JUST SPEAKING AMICUS
6 CURIAE, YOUR HONOR. OTHER THAN THAT, THE DISTRICT ATTORNEY
7 IS CORRECT. I HAVE NO INTEREST IN THIS MATTER.

8 MR. YOUNG: AGAIN, THEY WOULD HAVE TO OPPOSE IT IN
9 WRITING EVEN IF IT WAS REFUSING IT TO BE A DEFECTIVE
10 SERVICE. IF WE LOOK AT JUST ANY NORMAL SUBPOENA TO BE
11 SERVED THROUGH THE SHERIFF'S DEPARTMENT OR ANYTHING HERE,
12 YOU DON'T SERVE IT PERSONALLY, YOU SEND IT TO THE --

13 MR. TITUS: WATCH COMMANDER.

14 MR. YOUNG: -- TO THE COORDINATOR. OBVIOUSLY THEY
15 GOT WIND OF THIS SUBPOENA. THEY HAD SOMEONE CALLING FROM
16 SAN FRANCISCO ON IT.

17 MS. LOPEZ: YOUR HONOR, WHAT'S QUITE CLEAR FROM
18 EVERYTHING THAT MR. YOUNG IS SAYING, HE'S WELL AWARE THAT
19 MR. BRIELING IS LOCATED IN SAN FRANCISCO, YET HE ATTEMPTS TO
20 SERVE A SUBPOENA ON MR. BRIELING IN LOS ANGELES. NOT ONLY
21 IS --

22 THE COURT: WELL, HE SAID HE'S DOING THAT AS AN AGENT
23 OF THE MAIN OFFICE. IF IT'S ATTORNEY GENERALS, THAT'S A
24 STATEWIDE OFFICE.

25 MS. LOPEZ: THAT'S LIKE SAYING THAT YOU CAN SERVE --

26 THE COURT: HE SERVED IT ON THE LOS ANGELES OFFICE.
27 YOU ARE, IN EFFECT, SERVING IT ON THE ATTORNEY GENERAL.

28 MS. LOPEZ: I DON'T BELIEVE THAT'S CORRECT. THAT'S

1 LIKE SAYING YOU CAN SERVE A FEDERAL GOVERNMENT AGENCY
2 ANYWHERE IN THE NATION DESPITE THE FACT THAT THE AGENT THAT
3 YOU'RE CONCERNED WITH AND WHO YOU WANT INTO COURT AND WHERE
4 YOU WANT THE DOCUMENTS IS LOCATED IN A DIFFERENT STATE.

5 MR. YOUNG: I DON'T THINK THAT'S QUITE THE SAME
6 THING.

7 THE COURT: I DON'T THINK THAT'S ANALOGOUS.

8 MR. TITUS: I THINK IT'S 1328.

9 THE COURT: CCP?

10 MR. TITUS: YES. I'M CHECKING IT RIGHT NOW, YOUR
11 HONOR.

12 YES. 1328.5. THESE ARE ALL SUBPOENAS ON PEACE
13 OFFICERS. THE LAST SECTION OF 1328(A) ABOUT "IMMEDIATE
14 SUPERIOR AGENT". THAT WAS THE SECTION I WAS REFERRING TO.

15 THE COURT: ALL RIGHT. WHAT IS YOUR REQUEST, THEN,
16 MS. LOPEZ, AS FAR AS THIS IS CONCERNED?

17 MS. LOPEZ: WELL, I'D JUST LIKE TO POINT OUT --

18 THE COURT: I THINK THAT MR. YOUNG SHOULD HAVE THE
19 RIGHT TO GET THESE RECORD.

20 MS. LOPEZ: I'D POINT OUT THAT THE SUBPOENA IS
21 DEFECTIVE ON ITS FACE. IT DOESN'T SAY TO THE CUSTODIAN OF
22 RECORDS. IT SAYS TO OSCAR BRIELING, WHO MR. YOUNG HAS
23 ALWAYS KNOWN IS LOCATED IN SAN FRANCISCO. "YOU ARE ORDERED
24 TO APPEAR." YOU CANNOT ORDER OSCAR BRIELING WHO'S LOCATED
25 IN SAN FRANCISCO TO COME I BELIEVE IT'S 150 MILES OUTSIDE OF
26 THE PLACE THAT HE'S LOCATED.

27 IN ADDITION, THERE'S NO PERSONAL SERVICE. IT IS NOT
28 DIRECTED TO THE CUSTODIAN OF RECORDS FOR THE STATE ATTORNEY

1 GENERALS OFFICE. IT IS DIRECTED TO OSCAR BRIELING. THERE
2 HAS BEEN NO PERSONAL SERVICE, AND THIS COURT DOES NOT HAVE
3 AUTHORITY TO ORDER OSCAR BRIELING FROM SAN FRANCISCO TO LOS
4 ANGELES.

5 MR. YOUNG: YOUR HONOR, I'D LIKE TO POINT OUT THAT I
6 SERVED TWO OF THEM, ONE OF THEM DIRECTED TO THE CUSTODIAN OF
7 RECORDS FOR THE ATTORNEY GENERAL'S OFFICE. THE OTHER IS
8 DIRECTED TO OSCAR BRIELING, AND I SERVED IT AT THE ATTORNEY
9 GENERAL'S OFFICE. THERE ARE TWO OF THEM.

10 THE COURT: WELL, WHAT IS YOUR POSITION, MS. LOPEZ?
11 ARE YOU SAYING THAT HE SHOULD NOT BE GRANTED A
12 CONTINUANCE --

13 MS. LOPEZ: NO, I'M NOT SAYING THAT. THAT'S NOT WHAT
14 I'M SAYING --

15 THE COURT: -- BECAUSE HE DIDN'T SERVE IT ON THE
16 RIGHT PARTY.

17 MS. LOPEZ: I'M SAYING BECAUSE THE COURT CANNOT MAKE
18 AN ORDER BASED ON THESE SUBPOENAS FOR DOCUMENTS. THE PEOPLE
19 HAVE NEVER OBJECTED TO MR. YOUNG HAVING A CONTINUANCE IN
20 ORDER TO PREPARE. IN FACT WE ENCOURAGED IT INITIALLY, BUT
21 IT WAS ON MR. YOUNG'S INSISTENCE THAT WE WENT FORWARD WITH
22 THIS PRELIMINARY HEARING, AND NOW IN THE MIDDLE OF THE
23 PRELIMINARY HEARING --

24 THE COURT: I THINK WE ARE ALL IN AGREEMENT THAT
25 UNTIL SUCH TIME AS -- WHETHER THERE'S A PROPER -- ONE,
26 EITHER THERE IS A PROPER SERVICE OR THERE IS NOT A PROPER
27 SERVICE HERE.

28 MS. LOPEZ: THAT'S CORRECT.

1 THE COURT: ALL RIGHT. IF THERE IS NOT A PROPER
2 SERVICE, HE STILL IS ABLE TO SERVE THEM AGAIN AND SERVE THEM
3 PROPERLY.

4 MS. LOPEZ: THAT 'S ABSOLUTELY CORRECT.

5 THE COURT: IF, IN FACT, THIS IS NOT PROPER. WE ARE
6 NOT SAYING THAT THIS IS NOT A PROPER SERVICE, AND SECONDLY,
7 BEFORE THE COURT CAN TAKE ANY ACTION THERE HAS TO BE SOME
8 INDICATION THAT THEY 'RE NOT GOING TO COMPLY. SO WE ARE
9 TALKING ACADEMICALLY NOW AND PREMATURELY --

10 MS. LOPEZ: THAT 'S CORRECT, YOUR HONOR.

11 THE COURT: -- BECAUSE IF IT'S SERVED UPON THEM
12 CORRECTLY, THEY MAY COMPLY WITH THE PROCEEDINGS HERE.

13 MS. LOPEZ: THAT 'S WHY THE PEOPLE WANT TO PROCEED
14 WITH THE WITNESSES THAT WE HAVE TODAY AT THE PRELIMINARY
15 HEARING.

16 THE COURT: THAT 'S WHAT WE HAVE AGREED UPON.

17 MR. YOUNG: AS LONG AS IT HAS NOTHING TO DO WITH THIS
18 OTHER CASE.

19 THE COURT: ALL RIGHT. HOW MUCH TIME -- SINCE WE DO
20 HAVE THE WITNESSES HERE AND WE CAN MAKE SOME PROGRESS ON
21 THIS TODAY, HOW MUCH TIME WOULD BE NECESSARY BEFORE --

22 MR. YOUNG: WELL, I HAVE TO SPEAK TO THEM.
23 APPARENTLY THEY CALLED DOWN HERE. SHE WOULD KNOW BETTER
24 THAN I. SHE HAS SPOKEN WITH HIM. I THINK THEY SHOULD BE
25 ABLE TO GET THESE DOWN HERE WITHIN A WEEK HOPEFULLY.

26 THE COURT: WELL, THEN AT THE CONCLUSION OF TODAY 'S
27 PROCEEDING WE CAN SET IT A WEEK OR 10 DAYS AWAY WITH THE
28 UNDERSTANDING THAT WE 'LL FIND OUT IF THERE HAS BEEN A

1 COMPLIANCE WITH THE DISCOVERY REQUEST.

2 MS. LOPEZ: YOUR HONOR, WE ALSO HAVE TWO OTHER
3 WITNESSES THAT WILL BE CALLED TOMORROW. THEY ARE -- DEAN
4 KARNY IS NOT ONE OF THEM. WE WOULD JUST LIKE TO PROCEED AND
5 GET THIS EVIDENCE OUT OF THE WAY WITH. WE DON'T FEEL THAT
6 THERE'S A NECESSITY --

7 THE COURT: IT DOES NOT GO INTO THE --

8 MS. LOPEZ: NO.

9 THE COURT: -- EVIDENCE CONCERNING MO; IS THAT
10 CORRECT?

11 MS. LOPEZ: THAT'S CORRECT, YOUR HONOR.

12 THE COURT: ALL RIGHT. BOTH SIDES HAVING ANNOUNCED
13 READY, LET'S PROCEED AT THIS TIME WITH THE FIRST WITNESS FOR
14 THE PROSECUTION.

15 MS. LOPEZ: I THINK THERE ARE SOME PRELIMINARY
16 MATTERS.

17 THE COURT: VERY WELL.

18 MS. LOPEZ: FIRST OF ALL, I HAVE FOUR POLAROID
19 PHOTOGRAPHS. THESE POLAROID PHOTOGRAPHS CORRESPOND TO THE
20 XEROX COPY PHOTOGRAPHS THAT HAVE BEEN MARKED AS PEOPLE'S
21 EXHIBIT 24. MAY PEOPLE'S EXHIBIT 24 BE MARKED AS PEOPLE'S
22 EXHIBIT 24 A AND THE CORRESPONDING POLAROID PHOTOGRAPHS BE
23 MARKED AS PEOPLE'S EXHIBITS 24B, C, D AND E?

24 THE COURT: LET ME GET THIS STRAIGHT NOW --

25 MS. LOPEZ: WHAT WAS ORIGINALLY MARKED AS 24 BE
26 MARKED AS 24A WHICH IS A XEROX COPY OF FOUR PHOTOGRAPHS, AND
27 I HAVE POLAROID PHOTOGRAPHS THAT CORRESPOND TO THE FOUR
28 PHOTOGRAPHS SHOWN IN PEOPLE'S 24. MAY THESE BE MARKED AS

1 PEOPLE'S 24 B, C, D AND E?

2 THE COURT: ALL RIGHT. HAS DEFENSE COUNSEL SEEN
3 THESE?

4 MS. LOPEZ: YES.

5 MR. YOUNG: YEAH.

6 MS. LOPEZ: AGAIN, THE ORIGINALS ARE AVAILABLE IN
7 COURT FOR INSPECTION IF DESIRED. I ALSO BEEN INFORMED BY
8 THE CLERK THAT SEVERAL -- OR AT LEAST TWO PACKAGES HAVE
9 ARRIVED TO THE COURT. I WOULD LIKE THOSE OPENED AT THIS
10 TIME.

11 THE COURT: THESE PACKAGES HERE?

12 MS. LOPEZ: YES. IN ORDER TO LIMIT THE TESTIMONY OF
13 THE NEXT WITNESS, WE NEED TO KNOW WHAT'S IN THE PACKAGE. I
14 BELIEVE THERE'S ALSO A PACKAGE FROM THE WORLD TRADE BANK
15 AND --

16 THE COURT: THERE WAS A PRIOR ONE THAT WAS RECEIVED
17 LAST WEEK.

18 MS. LOPEZ: YES, YES.

19 MR. YOUNG: WELL --

20 THE COURT: WHY DO YOU WANT THESE OPENED NOW? DO
21 THEY PERTAIN TO SOME PARTICULAR WITNESS?

22 MS. LOPEZ: YES, YOUR HONOR. THEY PERTAIN TO
23 DOCUMENTS THAT WE WISH TO INTRODUCE AS BUSINESS RECORDS. IF
24 THE AFFIDAVITS WERE APPROPRIATELY DRAWN, THEN WE CAN LIMIT
25 THE NEXT OFFICER'S TESTIMONY; OTHERWISE, HE WOULD HAVE TO
26 AUTHENTICATE THE RECORDS.

27 MR. YOUNG: YOUR HONOR, I DON'T BELIEVE THAT THEY CAN
28 DO THIS BY DOCUMENTS OR ATTEMPTING TO, YOU KNOW,

1 AUTHENTICATE RECORDS, AND THEY'RE GOING TO HAVE THE PERSON
2 TO -- I'M NOT GOING TO ACCEPT THE DECLARATION BY SOMEONE
3 THAT THESE ARE BUSINESS RECORDS.

4 MS. LOPEZ: I DON'T BELIEVE MR. YOUNG HAS A CHOICE
5 UNDER 1560 AND 1561 OF THE EVIDENCE CODE.

6 THE COURT: ARE THESE GOING TO BE INTRODUCED AS
7 RECORDS?

8 MS. LOPEZ: YES, YOUR HONOR. THOSE --

9 THE COURT: AS OFFICIAL RECORDS OF THE PLAZA HOTEL?

10 MS. LOPEZ: YES, YOUR HONOR, UNDER 1560 AND 1561 OF
11 THE EVIDENCE CODE.

12 MR. YOUNG: COULD WE BE PERMITTED TO REVIEW THOSE
13 BEFORE THE COURT DOES?

14 MS. LOPEZ: TO REVIEW WHAT, THE EVIDENCE CODE?

15 MR. YOUNG: THE DOCUMENTS.

16 MS. LOPEZ: YOUR HONOR, I BELIEVE THAT THE DOCUMENTS
17 MUST BE OPENED IN OPEN COURT.

18 MR. YOUNG: THAT DOESN'T PREVENT US FROM REVIEWING
19 THEM FIRST.

20 THE COURT: DO YOU KNOW -- HAVE THESE PERSONS BEEN
21 INSTRUCTED TO FOLLOW 1561?

22 MS. LOPEZ: YES.

23 THE COURT: THERE WOULD HAVE TO BE AN AFFIDAVIT OF
24 THE CUSTODIAN OR OTHER QUALIFIED PERSON.

25 MS. LOPEZ: YES. THEY'VE BEEN INSTRUCTED TO FOLLOW
26 1561. IN ADDITION TO THE TWO ITEMS DELIVERED BY MAIL,
27 THERE'S ALSO ANOTHER ITEM THAT WAS HAND DELIVERED TO THE
28 CLERK FROM THE WORLD TRADE BANK.

1 FROM MR. MARINELLI. THE WORLD TRADE BANK GAVE IT TO
2 YOU.

3 THE COURT: ALL RIGHT. LET THE RECORD SHOW THAT I'VE
4 OPENED UP A PACKAGE HERE ON "SHIPMENT NUMBER 15257",
5 PURPORTEDLY FROM ONE BILL REIS, R-E-I-S, CONTROLLER OF THE
6 PLAZA HOTEL, 768 5TH AVENUE, NEW YORK, NEW YORK, ADDRESSED
7 TO THIS COURT, THE BEVERLY HILLS MUNICIPAL COURT, ON THIS
8 DATE. THERE IS HERE A LETTER -- LET ME OPEN THE OTHER ONE,
9 ALSO.

10 I'M OPENING THE SECOND ONE, WHICH IS INDICATED AS
11 "SHIPMENT NUMBER 86091", WHICH IS A LETTER ADDRESSED TO THE
12 COURT, TO THE HONORABLE DAVID KIDNEY, BEVERLY HILLS
13 MUNICIPAL COURT, DIVISION I. THE LETTER -- THE CONTENTS OF
14 THE ENVELOPE ADDRESSED TO THIS COURT SAYS "TO WHOM IT MAY
15 CONCERN. ALL RECORDS REQUESTED IN THE SUBPOENA DATED
16 NOVEMBER 30, 1984 WITH REFERENCE TO CASE NO. A090435
17 REQUESTING ALL RECORDS MAINTAINED BY THE PLAZA HOTEL IN
18 REGARDS TO RON LEVIN BETWEEN JUNE 6TH AND JUNE 14, 1984 HAVE
19 BEEN SUBMITTED TO THE BEVERLY HILLS POLICE DEPARTMENT,
20 DETECTIVES D. DE CUIR, AND T. LINEHAN, ON TUESDAY, DECEMBER
21 4TH AT THE PLAZA HOTEL. COPIES SUBMITTED PER THE
22 AFOREMENTIONED SUBPOENA ARE TRUE AND EXACT COPIES OF THE
23 ORIGINAL DOCUMENTS PREPARED IN THE NORMAL COURSE OF BUSINESS
24 BY THE PLAZA HOTEL. NO RECORDS EXIST AT THE PLAZA HOTEL
25 WITH RESPECT TO A MR. JAMES PITTMAN OR A MR. JOE HUNT."

26 ARE YOU GOING TO USE THESE NOW? I THINK DEFENSE
27 COUNSEL SHOULD BE ENTITLED TO SEE THEM THEN UNDER THESE
28 CIRCUMSTANCES.

1 MS. LOPEZ: YES. I BELIEVE HE'S BEEN PROVIDED
2 ALREADY WITH COPIES.

3 THE COURT: AND THIS IS THE OTHER LETTER. LET THE
4 RECORD FURTHER SHOW THAT I'M NOW SHOWING THE CONTENTS OF
5 BOTH OF THE AFOREMENTIONED DELIVERIES TO THE DEFENSE
6 COUNSEL.

7 MR. YOUNG: COULD WE HAVE ABOUT TWO OR THREE MINUTES
8 TO LOOK AT THESE?

9 THE COURT: ALL RIGHT. SHALL WE TAKE A BRIEF RECESS,
10 THEN?

11 IS YOUR FIRST WITNESS GOING TO BE WITH REFERENCE TO
12 THESE ARTICLES?

13 MS. LOPEZ: HE WAS GOING TO BE, BUT NOW THERE'S NO
14 NEED. HE WAS GOING TO AUTHENTICATE THESE ITEMS.

15 MR. YOUNG, BEFORE YOU WALK OUT, THERE'S ALSO ANOTHER
16 PACKAGE FROM THE WORLD TRADE BANK, AND COULD THAT BE OPENED
17 IN ORDER THAT MR. YOUNG COULD ALSO EXAMINE THEM AT THE SAME
18 TIME, AND COULD MR. YOUNG BE ORDERED NOT TO DISPOSE OR
19 DESTROY ANYTHING?

20 MR. YOUNG: SURE.

21 MS. LOPEZ: YOUR HONOR, AND COULD MR. YOUNG BE
22 DIRECTED TO EXAMINE THE RECORDS IN COURT, NOT TO BE TAKEN
23 OUT OF COURT?

24 MR. YOUNG: WELL, I'D LIKE TO DO IT IN THE CONFERENCE
25 ROOM WHERE I CAN DISCUSS IT WITH COUNSEL.

26 MS. LOPEZ: YOUR HONOR, THEY CANNOT BE TAKEN OUTSIDE
27 OF THE COURTROOM.

28 MR. YOUNG: I'LL REPRESENT TO THE COURT THAT I'M NOT

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1 GOING TO DESTROY THESE. YOU CAN HAVE THE MARSHAL COME IN
2 THERE IF YOU WANT TO, BUT I'D LIKE TO BE ABLE TO DISCUSS IT
3 AND NOT DISCUSS IT IN OPEN COURT.

4 THE COURT: IF HE WANTS TO EXAMINE THEM OUTSIDE OF
5 THE PROSECUTION IS FINE. I THINK THE LIKELYHOOD THAT MR.
6 YOUNG IS GOING TO DESTROY THE DOCUMENTS OR ALTER THEM, I --
7 I DON'T THINK THAT IT'S NECESSARY THAT HE DO THEM IN FRONT
8 OF THE PROSECUTION.

9 MS. LOPEZ: I'LL LEAVE THE ROOM.

10 THE COURT: ALL RIGHT. I'VE OPENED NOW WHAT APPEARS
11 TO BE A PACKAGE. WAS THIS HAND DELIVERED?

12 THE CLERK: YES. ONE DAY LAST WEEK.

13 THE COURT: HAND DELIVERED ADDRESSED TO THE COURT
14 CLERK, MUNICIPAL COURT OF CALIFORNIA, COUNTY OF LOS ANGELES,
15 DIVISION I. THE INTERIOR OF THE ENVELOPE CONTAINS A COVER
16 LETTER ON THE STATIONERY OF THE WORLD TRADE BANK, NA, DATED
17 DECEMBER 19, 1984. "THIS AFFIDAVIT IS RELATIVE TO SUBPOENA
18 FOR DOCUMENTS OF MICROGENESIS OF NORTH AMERICA, INCORPORATED
19 IN PEOPLE VERSUS HUNT AND PITTMAN, CASE NO. A090435, DATED
20 DECEMBER 6, 1984, EXECUTED ON DECEMBER 7, 1984 IN BEVERLY
21 HILLS, CALIFORNIA BY ANA M. LOPEZ, DEPUTY DISTRICT
22 ATTORNEY."

23 "I, CLAUDIO A. MARINELLI," M-A-R-I-N-E-L-L-I,
24 "VICE-PRESIDENT OF WORLD TRADE BANK, STATE THAT AS SUCH I AM
25 DULY AUTHORIZED AND QUALIFIED BY THE WORLD TRADE BANK TO
26 FURNISH THE MATTER SET FORTH BELOW. THE FOLLOWING ITEMS
27 NUMBERED AND MARKED EXHIBIT ARE TRUE AND CORRECT PHOTOGRAPHS
28 DEVELOPED FROM THE MICROFILMS OF WORLD TRADE BANK

1 TRANSACTIONS. THESE MICROFILMS ARE STORED AT THE BANK'S ²⁰⁹
2 PREMISES AT 9935 SANTA MONICA BOULEVARD, BEVERLY HILLS,
3 CALIFORNIA."

4 IT CONTAINS EXHIBITS STARTING WITH EXHIBIT 1 AND
5 RUNNING THROUGH EXHIBIT NO. 27 -- CORRECTION, EXHIBIT NO. 27
6 THROUGH 34 IS THE LAST EXHIBIT LISTED HERE, SO IT WOULD BE
7 34.

8 MR. YOUNG: I MAY NEED FOUR MINUTES.

9 THE COURT: IT ALSO CONTAINS WHAT APPEAR TO BE TO THE
10 COURT PHOTOSTATIC COPIES OF A NUMBER OF CHECKS.

11 ARE YOU FAMILIAR WITH THESE, MS. LOPEZ?

12 MS. LOPEZ: YES, I AM, YOUR HONOR.

13 THE COURT: YOU REQUESTED THESE. ALL RIGHT. IS
14 THERE ANY REASON WHY THESE SHOULD NOT BE FULLY -- BEFORE YOU
15 ATTEMPT TO INTRODUCE THEM INTO EVIDENCE SHOULD BE EXAMINED
16 BY DEFENSE COUNSEL?

17 MS. LOPEZ: NO.

18 THE COURT: ALL RIGHT. LET'S TAKE A -- WILL 15
19 MINUTES BE SUFFICIENT?

20 MR. YOUNG: THAT'S GOOD.

21 THE COURT: WE'LL TAKE A 15 MINUTE RECESS AND AT
22 3:20, THEN.

23 (WHEREUPON, A RECESS WAS TAKEN)

24 THE COURT: ALL RIGHT. LET THE RECORD SHOW THAT
25 MR. PITTMAN IS PRESENT WITH BOTH OF HIS COUNSEL, THAT THE
26 DISTRICT ATTORNEY IS PRESENT. ARE WE READY TO PROCEED AT
27 THIS TIME?

28 MS. LOPEZ: READY, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2 MR. YOUNG: OKAY, YOUR HONOR. WE HAVE REVIEWED THESE
3 DOCUMENTS. I WOULD LIKE TO HAVE THEM IN MY HAND FOR A FEW
4 MINUTES WHILE I REFER TO THEM TO SHOW WHY THAT THEY CANNOT
5 BE INTRODUCED. I DON'T THINK YOU CAN EVEN ATTACH THEM AS
6 EXHIBITS. THE FIRST REASON AND THE MAIN REASON IS THAT
7 THESE ARE NOT DECLARATIONS UNDER PENALTY OF PERJURY. THEY
8 ARE NOT AFFIDAVITS.

9 ONE OF THEM, THE -- FROM THE PLAZA HOTEL IN NEW YORK
10 IS MERELY A LETTER THAT STATES THAT THESE ARE RECORDS FROM
11 THAT -- FROM THE HOTEL. THERE'S NO DECLARATION UNDER
12 PENALTY OF PERJURY. THERE'S NO STATEMENT IN HERE SUFFICIENT
13 TO PERMIT THAT. I THINK THAT'S SUFFICIENT GROUNDS RIGHT
14 THERE. THERE'S OTHER REASONS, BUT I THINK THAT YOU CAN RULE
15 ON JUST THAT.

16 WITH RESPECT TO THE WORLD TRADE BANK WHICH IS HERE IN
17 BEVERLY HILLS, IT STATES AT THE END OF THE DOCUMENTS "I
18 HEREBY AFFIRM THAT THE FOREGOING STATEMENTS ARE TRUE AND
19 CORRECT TO THE BEST OF MY KNOWLEDGE." THAT IS NOT A
20 DECLARATION UNDER PENALTY OF PERJURY, SO FOR THAT REASON
21 THAT WOULD BE INSUFFICIENT. I DON'T THINK THESE CAN BE
22 ADMITTED JUST ON THE -- THE AFFIDAVITS AREN'T SUFFICIENT.

23 IF THAT'S NOT GOOD ENOUGH, WE BELIEVE THAT --
24 THE COURT: DO YOU WANT TO BE HEARD?

25 MS. LOPEZ: I BELIEVE THAT THE AFFIDAVITS ARE
26 SUFFICIENT. IT DOESN'T NEED TO SAY THAT "UNDER PENALTY OF
27 PERJURY I CERTIFY THAT THE FOREGOING IS TRUE AND CORRECT."
28 IT'S CLEAR THAT WHEN THEY RESPOND TO A SUBPOENA FOR

1 DOCUMENTS THAT THAT IS IMPLICIT IN THEIR RESPONSE, AND THE
2 FACT THAT THEY DID ATTACH A DECLARATION STATING THAT THESE
3 WERE TRUE AND CORRECT COPIES AND THAT THEY WERE THE
4 QUALIFIED CUSTODIAN OF RECORDS AND THAT THEY WERE TRUE AND
5 CORRECT COPIES OF THE ORIGINALS THAT THEY MAINTAINED, THAT
6 IT'S SUFFICIENT FOR THE PURPOSES OF 1560 AND 1561.

7 MR. YOUNG: YOUR HONOR, THE AFFIDAVIT HAS A
8 DEFINITION IN ITSELF. IT STATES THAT IT HAS TO BE BY
9 PERSONAL KNOWLEDGE AND THAT IT MUST BE DECLARED UNDER
10 PENALTY OF PERJURY. THIS ONE DOESN'T MAKE ANY REFERENCE TO
11 IT AT ALL. THIS ONE HAS A VAGUE REFERENCE IN ATTEMPT TO
12 COMPLY WITH IT. BY THIS ONE, I MEAN THE WORLD BANK --

13 THE COURT: WELL, MR. YOUNG, THE RATIONAL BEHIND THIS
14 IS TO RATHER THAN HAVE SOMEBODY COME FROM NEW YORK, TO USE
15 THESE SECTIONS, 1560 AND 1561. WHAT WE HAVE HERE IS A PARTY
16 IN AUTHORITY THAT STATES THAT THESE ARE THE OFFICIAL RECORDS
17 THAT HE HAS, THAT HE HAS CHECKED THE RECORDS AND THAT THESE
18 ARE THE RECORDS AT GIVEN DATES -- I FORGOT WHAT THE DATES
19 WERE THERE -- OF THE PLAZA HOTEL.

20 NOW, UNDER 61, I BELIEVE IT'S 61, THAT PERTAINS TO
21 THE SECTION THAT STATES WHAT SHOULD BE CONTAINED IN THE
22 LETTER. THESE PARTIES ARE NOT LAWYERS, THEY'RE THE
23 CONTROLLER OF THE PLAZA HOTEL, I TAKE IT, IN READING THAT.

24 MR. YOUNG: RIGHT.

25 THE COURT: IN SUBSTANCE, THERE IS A COMPLIANCE HERE.
26 THE LIKELIHOOD OF ERROR BEING THERE UNDER THE CIRCUMSTANCES
27 WOULD BE VERY REMOTE DUE TO THE NATURE OF THE WAY THESE WERE
28 COMPOSED AND THE WAY THEY WERE PUT TOGETHER AND THE WAY THEY

1 WERE SENT HERE.

2 WHAT IS THE -- FIRST OF ALL, THEY HAVE NOT BEEN
3 INTRODUCED INTO EVIDENCE AS YET. YOU'RE MAKING THIS ADVANCE
4 MOTION -- IS THAT IT -- TO PRECLUDE THEM WHEN AND IF THEY
5 ARE INTRODUCED INTO EVIDENCE?

6 MR. YOUNG: WELL, I DON'T WANT THEM MARKED AS
7 EXHIBITS.

8 THE COURT: WELL, THEY CAN BE MARKED AS EXHIBITS FOR
9 IDENTIFICATION, CERTAINLY.

10 ISN'T THAT WHAT YOU INTEND TO DO --

11 MS. LOPEZ: YES, YOUR HONOR. MAY THE RECORDS FROM
12 THE PLAZA HOTEL BE MARKED AS PEOPLE'S EXHIBIT 27, AND THE
13 RECORDS FROM THE WORLD TRADE BANK BE MARKED AS PEOPLE'S
14 EXHIBITS 28 AND MAY THEY NOW BE RECEIVED INTO EVIDENCE?

15 MR. YOUNG: FOR THE RECORD, I WOULD LIKE TO MAKE A
16 COUPLE OTHER OBJECTIONS. THESE ARE COPIES BASED ON -- I'D
17 OBJECT BASED ON THE BEST EVIDENCE RULE WITH RESPECT TO BOTH
18 OF THESE DOCUMENTS.

19 MS. LOPEZ: AGAIN, UNDER 1560 AND 1561 I THINK
20 COMPLIANCE --

21 THE COURT: THAT'S THE VERY PURPOSE OF THAT EVIDENCE
22 CODE, MR. YOUNG, SO THAT THEY DON'T HAVE TO PULL THEIR
23 RECORDS OUT OF THE ORGANIZATION AND PRESENT THEM IN COURT AS
24 EVIDENCE. THAT'S WHY THEY'RE ATTESTED TO AS BEING TRUE
25 REPRESENTATIONS OF THE OFFICIAL RECORDS. THE OBJECTION TO
26 THAT WOULD BE OVERRULED.

27 MR. YOUNG: OKAY.

28 MS. LOPEZ: ARE THEY RECEIVED, YOUR HONOR?

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1 THE COURT: YES.

2 MR. YOUNG: IS THERE ANY OBJECTION TO ME GETTING
3 COPIES OF THESE BEFORE WE DO THAT, BECAUSE OTHERWISE --

4 MS. LOPEZ: THEY'VE ALREADY BEEN MARKED.

5 MR. YOUNG: WELL, HOW DO I GET COPIES OF THEM?

6 MS. LOPEZ: YOUR HONOR, I HAVE A COPY AND I WILL MAKE
7 COPIES OF THEM.

8 THE COURT: CAN YOU MAKE THEM AT A LATER TIME?

9 MS. LOPEZ: YES, I WILL.

10 THE COURT: THESE ARE NUMBERS 26 AND 27?

11 MS. LOPEZ: 27 AND 28. THE RECORDS FROM THE PLAZA
12 HOTEL AS PEOPLE'S 27 AND THE RECORDS FROM THE WORLD TRADE
13 BANK AS PEOPLE'S 28, AND MAY THEY AT THIS TIME BE RECEIVED?

14 THE COURT: YES. THEY MAY BE RECEIVED INTO EVIDENCE.

15 MS. LOPEZ: PEOPLE CALL DENNIS DE CUIR.

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

20 THE WITNESS: I DO.

21

22 DENNIS DE CUIR,
23 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
24 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

25 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
26 SPELL YOUR LAST NAME FOR THE RECORD.

27 THE WITNESS: DENNIS DE CUIR, D-E-C-U-I-R.

28 THE CLERK: THANK YOU.

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1 MS. LOPEZ: YOUR HONOR, I HAVE A CERTIFIED COPY --
2 IT'S ALSO A XEROX -- OF A HANDWRITING EXEMPLAR. ON THE FACE
3 OF THE HANDWRITING EXEMPLAR IS THE DATE 12-6-84 AND THE
4 SIGNATURE OF JAMES PITTMAN. MAY THIS BE MARKED AS PEOPLE'S
5 EXHIBIT 29?

6 THE COURT: PEOPLE'S 29, SO MARKED.

7 MS. LOPEZ: I ALSO HAVE A CERTIFIED COPY OF A BOOKING
8 PHOTO. ON THE FACE OF THE BOOKING PHOTO IS WRITTEN "BEVERLY
9 HILLS POLICE DEPARTMENT, 9-19-84, NO. 8408112, JAMES
10 PITTMAN". AND I HAVE A CERTIFIED COPY OF A FINGERPRINT
11 CARD. IT'S A TWO SIDED DOCUMENT. ON THE FACE OF THE
12 FINGERPRINT CARD IS THE NAME JAMES PITTMAN, THE NUMBER
13 8408112. MAY THIS BE MARKED AS PEOPLE'S EXHIBITS 30 AND 31?

14 THE COURT: 30 AND 31, SO MARKED.

15 MS. LOPEZ: MAY I APPROACH?

16 THE COURT: YES.

17 MS. LOPEZ: I'M HANDING THE WITNESS THE COPY OF THE
18 HANDWRITING EXEMPLAR THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT
19 29 -- I'M SORRY.

20
21 DIRECT EXAMINATION

22 BY MS. LOPEZ:

23 Q WHAT IS YOUR NAME?

24 A DENNIS DE CUIR.

25 Q AND WHAT IS YOUR PRESENT OCCUPATION AND
26 ASSIGNMENT?

27 A I'M A POLICE OFFICER FOR THE CITY OF BEVERLY
28 HILLS ASSIGNED TO THE DETECTIVE DIVISION AS A BURGLARY

1 INVESTIGATOR.

2 Q AND HAVE YOU ALSO BEEN ASSIGNED AS AN
3 INVESTIGATOR FOR THE CASE ENTITLED PEOPLE VERSUS HUNT AND
4 PITTMAN, CASE NO. A090435?

5 A YES.

6 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
7 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 29.

8 Q WHAT IS THAT?

9 A THIS IS A HANDWRITING EXEMPLAR, A COPY OF A
10 HANDWRITING EXEMPLAR WHICH WAS PREPARED BY THE DEFENDANT,
11 MR. PITTMAN, IN MY PRESENCE AT MY DIRECTION.

12 Q AND WHEN WAS THAT HANDWRITING EXEMPLAR
13 OBTAINED?

14 A ON DECEMBER THE 6TH, 1984.

15 MS. LOPEZ: I'D LIKE THE RECORD TO REFLECT THAT THE
16 HANDWRITING EXEMPLAR IS -- CONTAINS FOUR PAGES.

17 I'M HANDING THE WITNESS THE BOOKING PHOTO THAT'S BEEN
18 MARKED AS PEOPLE'S EXHIBIT 30 --

19 MR. YOUNG: YOUR HONOR, SHE SAYS THE BOOKING PHOTO.
20 I'D LIKE FOR THE CLARIFICATION A FOUNDATION TO THAT PHOTO.

21 MS. LOPEZ: I'M HANDING THE WITNESS THE PHOTOGRAPH
22 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 30.

23 THE COURT: ALL RIGHT.

24 Q BY MS. LOPEZ: WHAT IS THAT?

25 A THIS IS A BOOKING PHOTOGRAPH TAKEN AT THE TIME
26 OR NEAR THE TIME OF MR. PITTMAN'S ARREST AT THE BEVERLY
27 HILLS POLICE DEPARTMENT AS PART OF THE BOOKING PROCESS.

28 Q AND ARE THESE BOOKING PHOTOGRAPHS ALSO

1 MAINTAINED DURING THE NORMAL COURSE OF THE BEVERLY HILLS
2 POLICE DEPARTMENT'S BUSINESS?

3 A YES.

4 Q DIRECTING YOUR ATTENTION TO THE NUMBERS ON THE
5 FACE OF THE BOOKING PHOTO, WHAT IS THAT -- WHAT DOES THAT
6 NUMBER DESIGNATE?

7 A THAT NUMBER IS THE CASE NUMBER THAT WAS
8 ASSIGNED SPECIFICALLY TO THE ARREST OF JAMES PITTMAN.

9 Q AND WHO'S RESPONSIBLE FOR PLACING THAT NUMBER
10 ON THE CARD THAT'S ATTACHED TO MR. PITTMAN?

11 A THAT NUMBER WOULD HAVE BEEN PLACED ON THERE BY
12 THE JAILER AT THE TIME THE PHOTOGRAPH WAS TAKEN.

13 Q AND WHERE DOES THE NUMBER COME FROM --

14 MR. YOUNG: YOUR HONOR, I'D OBJECT TO THAT. HE
15 DOESN'T HAVE PERSONAL KNOWLEDGE OF THAT.

16 MS. LOPEZ: YOUR HONOR, ANY PERSON WHO IS FAMILIAR
17 WITH THE PROCEDURES MAY TESTIFY IN ORDER TO QUALIFY SOMEBODY
18 AS A BUSINESS RECORD. IT DOES NOT HAVE TO BE THE PREPARER.

19 THE COURT: THE OBJECTION WILL BE OVERRULED.

20 Q BY MS. LOPEZ: WHERE DOES THE NUMBER COME FROM?

21 A THE NUMBER IS ASSIGNED BY THE RECORDS SECTION
22 OF THE POLICE DEPARTMENT AT THE TIME THAT THE PERSON IS
23 BROUGHT UP TO BEGIN THE BOOKING PROCESS.

24 Q AND THEN IS THE PERSON RESPONSIBLE FOR TAKING
25 THE BOOKING PHOTO RESPONSIBLE FOR PLACING THE NUMBER ON THE
26 CARD?

27 A THAT'S CORRECT.

28 Q AND HE WOULD OBTAIN IT FROM THE RECORDS THAT

1 ARE SENT WITH THE PRISONER?

2 A THAT'S CORRECT.

3 MS. LOPEZ: I'M HANDING THE WITNESS THE CERTIFIED
4 COPY OF THE FINGERPRINT CARD THAT'S BEEN MARKED AS PEOPLE'S
5 EXHIBIT 31.

6 Q WHAT IS THAT?

7 MR. YOUNG: YOUR HONOR, I'D LIKE HIM TO ESTABLISH
8 THAT HE HAD SOME PREPARATION IN IT RATHER THAN JUST
9 IDENTIFYING IT. SHE'S JUST IDENTIFIED IT. I DON'T THINK HE
10 NEEDS TO IDENTIFY THE DOCUMENT. I THINK THEY NEED TO HAVE
11 SOME PERSONAL KNOWLEDGE ON HIS PART THAT HE HAS HAD
12 SOMETHING TO DO WITH THAT DOCUMENT.

13 MS. LOPEZ: YOUR HONOR, I DON'T BELIEVE THAT THAT'S
14 THE CORRECT STATEMENT OF THE LAW.

15 THE COURT: WELL, HE DOESN'T HAVE TO PERSONALLY BE
16 THE ONE THAT ROLLED THE FINGERPRINTS --

17 MR. YOUNG: WELL --

18 THE COURT: THERE IS USUALLY A PARTY THERE IN BOOKING
19 THAT DOES THAT. WHAT IS YOUR SPECIFIC OBJECTION?

20 MR. YOUNG: WELL, I OBJECT FOR LACK OF FOUNDATION.

21 MS. LOPEZ: YOUR HONOR, I'M IN THE PROCESS OF LAYING
22 FOUNDATION, IF MR. YOUNG WOULD JUST WAIT AWHILE.

23 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
24 OVERRULED PENDING LAYING OF A FOUNDATION.

25 Q BY MS. LOPEZ: WHAT IS THIS?

26 A THIS IS A XEROX COPY OF A BEVERLY HILLS POLICE
27 DEPARTMENT FINGERPRINT CARD.

28 Q AND ARE FINGERPRINTS CARDS PREPARED FOR EVERY

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1 PERSON THAT'S TAKEN INTO CUSTODY BY THE BEVERLY HILLS POLICE
2 DEPARTMENT?

3 A YES.

4 Q AND DIRECTING YOUR ATTENTION TO THE INFORMATION
5 THAT'S PLACED ON THE FINGERPRINT CARD, WHERE DOES THE
6 INFORMATION COME FROM?

7 A THE INFORMATION IS TAKEN FROM THE ARRESTEE OR
8 THE DOCUMENTS THAT ACCOMPANY THE ARRESTEE UP TO THE JAIL
9 FLOOR. AT THE TIME -- THE INFORMATION IS DERIVED INITIALLY
10 FROM THE ARRESTEE.

11 Q DIRECTING YOUR ATTENTION TO NUMBER 8408112,
12 WHERE DOES THAT NUMBER COME FROM?

13 A THAT NUMBER IS ASSIGNED, AGAIN, IN THE RECORDS
14 SECTION TO ACCOMPANY THIS ARREST CASE THROUGHOUT IT'S
15 HISTORY IN THE BEVERLY HILLS POLICE DEPARTMENT.

16 Q AND DOES THAT NUMBER COME FROM THE SAME
17 PLACE THAT THE NUMBER THAT'S SHOWN ON THE BOOKING
18 PHOTOGRAPH?

19 A YES. BOTH NUMBERS ARE ASSIGNED -- THAT NUMBER
20 IS ASSIGNED BY THE RECORDS SECTION.

21 Q OKAY, AND THE -- WHO IS RESPONSIBLE FOR
22 PREPARING THE FINGERPRINT CARD?

23 A THE JAILER, THE ON-DUTY JAILER.

24 Q AND WOULD HE ALSO BE THE PERSON RESPONSIBLE FOR
25 OBTAINING THE BOOKING PHOTO?

26 A YES.

27 Q AND THE INFORMATION AS TO THE NUMBER THAT'S
28 PLACED, NUMBER 8408112, WOULD BE THE SAME PLACE FOR EACH OR

1 THE SOURCE OF THE INFORMATION WOULD BE THE SAME?

2 A THAT'S CORRECT.

3 Q I'M REFERRING YOUR ATTENTION TO THE REST OF THE
4 INFORMATION. WHERE DOES THE REST OF THE INFORMATION THAT'S
5 ON THE FINGERPRINT CARD COME FROM?

6 A AGAIN, THE INFORMATION WHEN AVAILABLE IS
7 OBTAINED DIRECTLY FROM THE ARRESTEE. QUESTIONS ARE ASKED
8 AND RESPONSES RECEIVED FROM THE PERSON ARRESTED.

9 Q IS THAT INFORMATION OBTAINED AT THE TIME THAT
10 THE FINGERPRINTS ARE PLACED ON THE FINGERPRINT CARD OR PRIOR
11 TO?

12 A IT COULD BE PRIOR TOO. IT COULD BE AT THAT
13 TIME.

14 Q OKAY, BUT IT'S EITHER IMMEDIATELY BEFORE OR
15 AFTER OR DURING THE TIME THAT THE FINGERPRINTS ARE TAKEN?

16 A IT'S DURING THE BOOKING PROCESS.

17 MS. LOPEZ: I'M SHOWING THE WITNESS THE PHOTOGRAPH
18 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 22.

19 Q WHAT IS THAT?

20 A THAT'S A BEVERLY HILLS BOOKING PHOTOGRAPH OF
21 JOSEPH GAMSKY.

22 Q OKAY. DOES THE INFORMATION CONTAINED ON THE
23 BOOKING PHOTOGRAPH -- LET ME WITHDRAW THAT.

24 IS THE SOURCE OF THE INFORMATION CONTAINED ON THE
25 BOOKING PHOTOGRAPH THE SAME SOURCE AS YOU'VE PREVIOUSLY
26 DESCRIBED FOR THE BOOKING PHOTO OF JAMES PITTMAN?

27 A YES. THAT NUMBER IS ASSIGNED BY THE RECORDS
28 SECTION.

1 Q AND WHO IS RESPONSIBLE FOR TAKING THE
2 PHOTOGRAPH?

3 A THE JAILER.

4 MS. LOPEZ: I'M HANDING THE WITNESS THE FINGERPRINT
5 CARD THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 23.

6 Q WHAT IS THAT?

7 A IS THIS IS A XEROX COPY OF THE FINGERPRINT
8 CARD, A BEVERLY HILLS POLICE DEPARTMENT FINGERPRINT CARD
9 ASSIGNED TO CASE 8408395.

10 Q AND WHERE DOES THE NUMBER COME FROM?

11 A THE RECORDS SECTION.

12 Q AND IS THAT THE SOURCE OF THIS NUMBER, 8408395,
13 THE SAME SOURCE FOR THE NUMBER 8408395 ON THE BOOKING PHOTO?

14 A YES.

15 Q AND IS THAT NUMBER PLACED ON THIS FINGERPRINT
16 CARD SHORTLY BEFORE, DURING OR IMMEDIATELY AFTER THE
17 OBTAINING OF THE FINGERPRINTS?

18 A YES. MORE THAN LIKELY BEFORE, BUT SOMETIME
19 DURING THE BOOKING PROCESS.

20 Q AND THAT BOOKING NUMBER WOULD REFER TO THE
21 NUMBER ASSIGNED TO THE INDIVIDUALS WHOSE FINGERPRINTS ARE
22 CONTAINED ON THIS FINGERPRINT CARD?

23 A THAT'S CORRECT.

24 MS. LOPEZ: I HAVE NOTHING FURTHER -- I'M SORRY. I
25 HAVE ONE FURTHER QUESTION.

26 THE COURT: ALL RIGHT.

27 MS. LOPEZ: YOUR HONOR, I HAVE WHAT APPEARS TO BE A
28 POLAROID PHOTOGRAPH OF JAMES PITTMAN. ON THE FACE OF THE

1 PHOTOGRAPH IS WRITTEN "M-A-N-H". THE DATE IS 6-12-84. THE
2 NUMBER IS 5247138. MAY THIS BE MARKED AS PEOPLE'S EXHIBIT
3 32?

4 THE COURT: PEOPLE'S 32.

5 MR. YOUNG: LET ME SEE THE PICTURE.

6 MS. LOPEZ: THE ORIGINAL PHOTOGRAPH IS IN COURT FOR
7 EXAMINATION IF COUNSEL WOULD LIKE TO EXAMINE IT.

8 I ALSO HAVE WHAT APPEARS TO BE A TWO PAGE DOCUMENT.
9 THE FIRST PAGE IS A XEROX COPY OF THE PHOTOGRAPH THAT'S BEEN
10 MARKED AS PEOPLE'S EXHIBIT 32, AND THE SECOND PAGE IS WHAT
11 APPEARS TO BE A FINGERPRINT CARD. AT THE TOP OF THE
12 FINGERPRINT CARD IS THE NAME RONALD LEVIN --

13 MR. YOUNG: YOUR HONOR, I OBJECT TO HER TESTIFYING
14 FROM THE DOCUMENT. IF SHE WISHES TO MARK IT -- SHE
15 ATTEMPTS TO CONTINUOUSLY TRY TO READ THE DOCUMENTS WHEN
16 SHE'S MARKING THEM. YOU KNOW, THERE'S GOT TO BE ANOTHER WAY
17 TO IDENTIFY THEM RATHER THAN READING THEM.

18 THE COURT: IS THIS FOR PURPOSE OF IDENTIFICATION?

19 MS. LOPEZ: YES, YOUR HONOR.

20 THE COURT: THE OBJECTION WILL BE OVERRULED.

21 MS. LOPEZ: AT THE TOP OF THE DOCUMENT IS THE NUMBER
22 52471382. WE HAVE THE ORIGINAL DOCUMENT IN COURT WHICH HAS
23 A SEAL OF CERTIFICATION AND WHICH IS AVAILABLE FOR
24 INSPECTION IF MR. YOUNG WOULD DESIRE TO INSPECT IT. MAY
25 THESE TWO DOCUMENTS BE MARKED COLLECTIVELY AS PEOPLE'S 33?

26 THE COURT: PEOPLE'S 33, SO MARKED.

27 MS. LOPEZ: MAY I APPROACH THE WITNESS?

28 THE COURT: YES.

1 MS. LOPEZ: I'M HANDING THE WITNESS THE PHOTOGRAPH
2 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 32.

3 Q DO YOU RECOGNIZE THAT PHOTOGRAPH?

4 A YES, I DO.

5 Q AND HOW DO YOU RECOGNIZE IT?

6 A THIS IS A PHOTOGRAPH OF A PHOTOGRAPH THAT I
7 OBTAINED FROM THE NEW YORK CITY POLICE DEPARTMENT AT THEIR
8 MAIN BUILDING AT ONE POLICE PLAZA IN NEW YORK CITY.

9 Q OKAY, AND AT THE TIME THAT YOU OBTAINED THAT,
10 DID YOU MAKE A PARTICULAR REQUEST?

11 A YES.

12 Q AND WHAT WAS THE REQUEST?

13 A I REQUESTED A PHOTOGRAPH OF MR. PITTMAN BASED
14 UPON A NUMBER ASSIGNED TO HIS ARREST IN THE NEW YORK CITY
15 POLICE DEPARTMENT; ONE OF THESE TWO NUMBERS THAT APPEAR ON
16 THE PHOTOGRAPH, ALTHOUGH I DON'T RECALL AT THIS TIME WHICH
17 OF THE NUMBERS.

18 Q AND AT YOUR REQUEST THIS IS WHAT YOU WERE
19 PROVIDED?

20 A I WAS PROVIDED WITH THE ORIGINAL PHOTOGRAPH OF
21 WHICH THIS IS A COPY.

22 MS. LOPEZ: THANK YOU. I'M HANDING THE WITNESS THE
23 TWO PAGE DOCUMENT THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 33.

24 Q DIRECTING YOUR ATTENTION TO PAGE TWO OF THAT
25 DOCUMENT, DO YOU RECOGNIZE IT?

26 A YES, I DO.

27 Q AND HOW DO YOU RECOGNIZE IT?

28 A THIS IS A FINGERPRINT -- A COPY OF A

1 FINGERPRINT CARD WHICH WAS GIVEN TO ME, AGAIN, BY THE NEW
2 YORK CITY POLICE DEPARTMENT AT THEIR MAIN POLICE BUILDING AT
3 ONE POLICE PLAZA IN NEW YORK CITY.

4 Q AND FOR WHAT ARREST NUMBER DOES THIS
5 FINGERPRINT CARD CORRESPOND?

6 A THE NUMBER THAT APPEARS ON THE DOCUMENT IS
7 52471382.

8 Q AND WAS THIS THE NUMBER THAT YOU REQUESTED WHEN
9 YOU WENT TO ONE POLICE PLAZA TO REQUEST THE BOOKING PHOTO?

10 A I BELIEVE SO, YES.

11 Q AND THIS WAS THE PHOTOGRAPH THAT WAS GIVEN TO
12 YOU UPON YOUR REQUEST?

13 A THAT'S CORRECT.

14 Q AND THAT'S PEOPLE'S EXHIBIT 32; IS THAT
15 CORRECT?

16 A THAT'S CORRECT.

17 MS. LOPEZ: I HAVE NOTHING FURTHER.

18 THE COURT: MR. YOUNG?

19
20 CROSS-EXAMINATION

21 BY MR. YOUNG:

22 Q WITH RESPECT TO THE ARREST RECORDS AND
23 FINGERPRINTS AND PICTURES OF MR. PITTMAN AND MR. GAMSKY, DO
24 YOU KEEP THOSE RECORDS YOURSELF?

25 A NO, I DON'T.

26 Q MAINTAIN THEM? DID YOU HAVE ANYTHING TO DO
27 WITH THE PREPARATION OF THEM?

28 A NO, I DID NOT.

1 Q AND DO YOU HAVE ANY PERSONAL KNOWLEDGE ABOUT
2 THEIR PREPARATION?

3 A YES.

4 Q AND WHAT WAS THAT?

5 A I HAVE PERSONAL KNOWLEDGE THAT THEY WERE MADE,
6 THAT THE FINGERPRINT CARDS WERE ROLLED AND THAT THE
7 PHOTOGRAPH WAS TAKEN.

8 Q DID YOU SEE THE PHOTOGRAPHS BEING TAKEN?

9 A NO.

10 Q DID YOU SEE THE FINGERPRINT CARDS BEING MADE?

11 A NO.

12 Q AND YOU DON'T MAINTAIN -- YOU DON'T HAVE ANY
13 RESPONSIBILITY FOR BEING CUSTODIAN OF THOSE RECORDS?

14 A NO, I DON'T.

15 Q SO YOUR TESTIMONY AS TO THESE THINGS IS BASED
16 ON ASSUMPTION; IS THAT CORRECT?

17 A I'VE SEEN THE PHOTOGRAPH AND I'VE SEEN THE
18 FINGERPRINT CARD.

19 Q BUT YOUR TESTIMONY ABOUT WHERE THEY WERE
20 PREPARED AND WHO PREPARED THEM AND THAT TYPE OF THING IS NOT
21 BASED ON PERSONAL KNOWLEDGE, IS IT?

22 A I DID NOT SEE THEM PREPARED, IF THAT ANSWERS
23 YOUR QUESTION.

24 Q OKAY. WITH RESPECT TO THESE OTHER PICTURES
25 THAT YOU SAID YOU REQUESTED IN NEW YORK, DO YOU HAVE ANY
26 PERSONAL KNOWLEDGE ABOUT THEIR PREPARATION?

27 A NO, I DON'T.

28 Q OKAY. DO YOU -- AS PART OF YOUR NORMAL

1 BUSINESS AND ACTIVITY, DO YOU MAINTAIN THE CUSTODY OF THOSE
2 DOCUMENTS?

3 A WOULD YOU REPHRASE THAT QUESTION, PLEASE.

4 Q AS PART OF YOUR NORMAL BUSINESS ACTIVITIES, IS
5 ONE OF YOUR DUTIES TO MAINTAIN CUSTODY OF THOSE DOCUMENTS?

6 A NO.

7 MR. YOUNG: NO FURTHER QUESTIONS.

8 THE COURT: ANYTHING FURTHER?

9 MS. LOPEZ: YES, YOUR HONOR.

10

11

REDIRECT EXAMINATION

12

BY MS. LOPEZ:

13

14 Q DETECTIVE DE CUIR, IS THE TESTIMONY THAT YOU
15 PROVIDED AS TO THE BEVERLY HILLS POLICE DEPARTMENT BOOKING
16 PHOTOS AND FINGERPRINT CARDS BASED ON YOUR GENERAL KNOWLEDGE
17 OF THE WORKING PROCEDURES FOLLOWED BY THE BEVERLY HILLS
18 POLICE DEPARTMENT?

18

A MOST DEFINITELY, YES.

19

MS. LOPEZ: I HAVE NOTHING FURTHER --

20

21 Q AND HOW LONG HAVE YOU BEEN WITH THE BEVERLY
22 HILLS POLICE DEPARTMENT?

22

A 10 AND A HALF YEARS.

23

MS. LOPEZ: THANK YOU. NOTHING FURTHER --

24

25 Q LET ME JUST ASK YOU, HOW ARE YOU FAMILIAR WITH
26 THE BOOKING PROCEDURES FOLLOWED BY THE BEVERLY HILLS POLICE
27 DEPARTMENT?

27

28 A I'VE BEEN INVOLVED IN HUNDREDS OF ARRESTS AND
BOOKINGS IN THE PAST 10 AND A HALF YEARS.

1 Q HAVE YOU EVER BEEN PERSONALLY INVOLVED IN THE
2 TAKING OF A BOOKING PHOTOGRAPH AND THE ROLLING OF
3 FINGERPRINTS AT THE BEVERLY HILLS POLICE DEPARTMENT?

4 A YES.

5 Q AND IS THAT PART OF YOUR TRAINING TO BE AN
6 OFFICER FOR THE BEVERLY HILLS POLICE DEPARTMENT?

7 A YES.

8 MS. LOPEZ: I HAVE NOTHING FURTHER.

9 THE COURT: ANYTHING FURTHER?

10 MR. ZORNE: NO QUESTIONS, YOUR HONOR.

11 MR. YOUNG: NO.

12 THE COURT: ALL RIGHT. MAY OFFICER DE CUIR STEP
13 DOWN?

14 MS. LOPEZ: YES.

15 THE COURT: THANK YOU, SIR.

16 MS. LOPEZ: THE PEOPLE CALL CLARK FOGG.

17 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
18 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
19 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
20 TRUTH, SO HELP YOU GOD.

21 THE WITNESS: I DO.

22

23

CLARK W. FOGG,

24

CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
25 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

26

27

THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
27 SPELL YOUR LAST NAME FOR THE RECORD.

28

28

THE WITNESS: CLARK W. FOGG, F-O-G-G.

1 THE CLERK: THANK YOU.

2

3

DIRECT EXAMINATION

4 BY MS. LOPEZ:

5 Q WHAT IS YOUR CURRENT OCCUPATION AND ASSIGNMENT?

6 A I'M AN IDENTIFICATION TECHNICIAN WITH THE
7 BEVERLY HILLS POLICE DEPARTMENT.

8 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED BY THE
9 BEVERLY HILLS POLICE DEPARTMENT?

10 A FIVE MONTHS.

11 MS. LOPEZ: AND, MR. YOUNG, WILL YOU STIPULATE TO MR.
12 FOGG'S EXPERIENCE AND EXPERTISE IN THE DEVELOPMENT OF LATENT
13 FINGERPRINTS?

14 MR. YOUNG: NOT WITH A FIVE MONTH BACKGROUND, NO.

15 Q BY MS. LOPEZ: MR. FOGG, WILL YOU RELATE TO US
16 WHAT YOUR TRAINING AND EXPERIENCE IS WITH REGARDS TO THE
17 LIFTING OF LATENT FINGERPRINTS.

18 A WELL, I WAS A CADET FOR APPROXIMATELY TWO YEARS
19 AND I WAS A LAPD RESERVE OFFICER, AND I LIFTED NUMEROUS
20 PRINTS FROM CRIME SEASONS FOR APPROXIMATELY FOUR YEARS, AND
21 I CAME ONTO THE JOB FULL TIME FIVE MONTHS AGO WITH THIS
22 DEPARTMENT.

23 MS. LOPEZ: YOUR HONOR, MAY I APPROACH THE WITNESS?

24 THE COURT: YES.

25 MS. LOPEZ: I'M HANDING THE WITNESS THE SEVEN YELLOW
26 LEGAL PAPERS, SHEETS OF LEGAL SIZE PAPER, THAT HAVE BEEN
27 MARKED BY REFERENCE AS PEOPLE'S EXHIBIT 2 --

28 MR. YOUNG: YOUR HONOR, I OBJECT TO ANY TESTIMONY AS

1 TO THESE. THEY'VE ONLY BEEN MARKED. THEY'RE HEARSAY AND
2 NOW HE'S TEMPTING TO LOOK AT THESE DOCUMENTS AND TESTIFY TO
3 THEM. THEY'VE JUST BEEN NEWLY MARKED AS EXHIBITS.

4 MS. LOPEZ: YOUR HONOR, I BELIEVE WITNESSES CAN
5 TESTIFY AS TO EXHIBITS. THAT'S PART OF THE LAYING OF
6 FOUNDATION.

7 THE COURT: ALL RIGHT. IF IT'S PART OF THE LAYING OF
8 FOUNDATION, THE OBJECTION WILL BE OVERRULED.

9 Q BY MS. LOPEZ: DO YOU RECOGNIZE THESE?

10 A YES, I DO.

11 Q AND HOW DO YOU RECOGNIZE THEM?

12 A THEY WERE EVIDENCE PULLED OUT OF THE PROPERTY
13 ROOM, AND I PROCESSED THEM.

14 Q WHEN YOU SAY YOU PROCESSED THEM, WHAT DO YOU
15 MEAN?

16 A I PROCESSED THEM FOR LATENT PRINTS WITH A
17 CHEMICAL CALLED NINHYDRIN.

18 Q AND WILL YOU EXPLAIN THE PROCEDURE THAT YOU
19 FOLLOW?

20 A WELL, BASICALLY I PULLED THEM OUT OF EVIDENCE,
21 AND WE HAVE A CHEMICAL CALLED NINHYDRIN WHICH IS A CHEMICAL
22 THAT'S MIXED BY OUR SUPERVISOR. I Poured IT INTO A PAN,
23 DIPPED THE PAPER IN IT, WAITED 24 HOURS AND THE PRINTS
24 DEVELOPED.

25 Q AND WHEN YOU SAY THE PRINTS DEVELOPED, WHAT ARE
26 YOU REFERRING TO?

27 A I'M REFERRING TO ALL THE PURPLE MARKS THAT HAVE
28 CHARACTERISTICS THAT COULD BE COMPARED TO, SUCH AS -- SUCH

1 AS THESE RIGHT HERE (INDICATING).

2 MS. LOPEZ: OKAY. I'D LIKE TO RECORD TO REFLECT THAT
3 THE WITNESS IS POINTING TO THE PIECE OF PAPER, THE SHEET OF
4 PAPER THAT HAS FIVE --

5 MR. YOUNG: YOUR HONOR --

6 MS. LOPEZ: YOUR HONOR, COULD MR. YOUNG HAVE A
7 CONTINUING OBJECTION RATHER THAN INTERRUPTING US AT
8 EVERY --

9 MR. YOUNG: I'D LIKE TO HAVE A CONTINUOUS OBJECTION
10 AND ASK HER NOT TO READ FROM THE DOCUMENTS.

11 MS. LOPEZ: YOUR HONOR, IT'S IMPOSSIBLE --

12 MR. YOUNG: IF I DON'T OBJECT BEFORE SHE READS THEM,
13 THEN THERE'S ALREADY PREJUDICE.

14 THE COURT: THE RECORD WILL SHOW THAT THERE'S A
15 CONTINUING OBJECTION, AND IT WILL BE OVERRULED.

16 MS. LOPEZ: I'D LIKE THE RECORD TO REFLECT THAT THE
17 WITNESS POINTED TO THE PURPLE MARKINGS ON THE PIECE OF PAPER
18 THAT HAS THE ITEMS "AUTHORIZATION" AND THE LIST.

19 Q AND THE MARKINGS THAT YOU'RE REFERRING TO ARE
20 THE PURPLE OR REDDISH MARKINGS ON THESE PAPERS?

21 A YES, I AM.

22 MS. LOPEZ: I HAVE NOTHING FURTHER.

23 MR. YOUNG: I HAVE NO QUESTIONS.

24 THE COURT: ANYTHING FURTHER, MS. LOPEZ?

25 MS. LOPEZ: NO.

26 THE COURT: MAY THIS WITNESS BE EXCUSED?

27 MS. LOPEZ: YES.

28 THE COURT: THANK YOU.

1 MS. LOPEZ: PEOPLE CALL JAMES WAGENBRENNER.

2 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
3 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
4 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
5 TRUTH, SO HELP YOU GOD.

6 THE WITNESS: I DO.

7

8 JAMES S. WAGENBRENNER,
9 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
10 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

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

13 THE WITNESS: JAMES S WAGENBRENNER.

14 W-A-G-E-N-B-R-E-N-N-E-R.

15 THE CLERK: THANK YOU.

16

17 DIRECT EXAMINATION

18 BY MS. LOPEZ:

19 Q WHAT IS YOUR CURRENT OCCUPATION AND ASSIGNMENT?

20 A I'M EMPLOYED BY THE BEVERLY HILLS POLICE
21 DEPARTMENT. I'M ASSIGNED TO THE IDENTIFICATION SECTION AND
22 I'M AN IDENTIFICATION TECHNICIAN.

23 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

24 A SINCE MAY OF '82.

25 Q AND WILL YOU DESCRIBE YOUR TRAINING AND
26 EXPERIENCE AS IT RELATES TO THE COMPARISON OF FINGERPRINTS?

27 A YES. MY EXPERIENCE IN FINGERPRINTS GOES BACK
28 TO 1968 WHEN I FIRST COMPLETED MY FIRST COURSE IN

12

1 FINGERPRINT CLASSIFICATION. I WAS HIRED THAT YEAR BY THE
2 STATE OF CALIFORNIA WHERE I WORKED AS A FINGERPRINT
3 CLASSIFIER IN THE DEPARTMENT OF JUSTICE. I WENT IN THE
4 ARMY, CAME OUT, AND APPLIED IN 1970 AT THE LOS ANGELES
5 POLICE DEPARTMENT WHERE I WAS HIRED AS A FINGERPRINT
6 CLASSIFIER.

7 IN 1973 I TRANSFERRED TO THE LATENT FINGERPRINT
8 SECTION OF THE LOS ANGELES POLICE DEPARTMENT WHERE I WORKED
9 UNTIL 1980, THE LAST TWO YEARS I WAS A SUPERVISOR IN CHARGE
10 OF THE DAY WATCH. I WORKED AS A PRIVATE CONSULTANT FROM '80
11 TO '82 AND THEN WENT TO WORK BACK WITH BEVERLY HILLS.

12 I HAVE COMPLETED A NUMBER OF CLASSES RELATING TO
13 FINGERPRINT WORK. MY MAJOR IN COLLEGE WAS CRIMINAL JUSTICE,
14 INCLUDING A NUMBER OF CLASSES INVOLVED WITH FINGERPRINTS. I
15 HAVE COMPLETED THE FBI ADVANCED FINGERPRINTS COURSE WHICH IS
16 40 HOURS. I HAVE TESTIFIED AS BOTH A LIFTING EXPERT AND A
17 COMPARISON EXPERT IN MUNICIPAL, SUPERIOR AND FEDERAL COURT
18 APPROXIMATELY 300 TIMES.

19 MS. LOPEZ: THANK YOU.

20 MAY I APPROACH THE WITNESS?

21 THE COURT: YOU MAY APPROACH.

22 MS. LOPEZ: I'M HANDING THE WITNESS THE SEVEN SHEETS
23 OF YELLOW LEGAL SIZE PAPER THAT HAVE BEEN MARKED BY
24 REFERENCE AS PEOPLE'S EXHIBIT 2.

25 Q HAVE YOU EVER EXAMINED THESE ITEMS BEFORE?

26 A YES, I HAVE.

27 Q AND WHEN WAS THAT? WOULD THAT HAVE BEEN
28 SEPTEMBER 28, 1984?

1 A I DON'T REMEMBER THE DATE. I DO HAVE IT
2 WRITTEN DOWN HERE.

3 Q DO YOU HAVE ANYTHING THAT WOULD REFRESH YOUR
4 RECOLLECTION?

5 A YES. MAY I LOOK AT MY REPORT?

6 Q YES.

7 A YES. THAT'S CORRECT. SEPTEMBER 28, 1984.

8 Q AND SPECIFICALLY WHAT ABOUT THESE YELLOW SHEETS
9 OF PAPER DID YOU EXAMINE?

10 A I EXAMINED THE YELLOW PIECES OF PAPER FOR THE
11 LATENT PRINTS THAT WERE DEVELOPED ON THE SHEETS OF PAPER
12 WHICH APPEAR IN THE PURPLISH COLOR ON THE YELLOW PIECES OF
13 PAPER.

14 Q AND DID YOU EXAMINE ANYTHING ELSE IN CONNECTION
15 WITH THE FINGERPRINTS?

16 A THERE WAS A CARDBOARD, GREEN IN COLOR, LIKE A
17 FOLDER FOR PAPERS, SMALLER THAN THIS. A REGULAR 11 BY WHAT
18 IS THAT, 16? 8 1/2 BY 11?

19 Q YES.

20 A YES. THAT'S THE SIZE.

21 Q WERE YOU ABLE TO FIND ANY FINGERPRINTS ON ANY
22 OF THE SHEETS OF PAPER?

23 A YES.

24 Q AND WILL YOU SPECIFICALLY DESCRIBE WHERE --

25 MR. YOUNG: YOUR HONOR, AGAIN, THIS IS HEARSAY. THE
26 DOCUMENTS ARE HEARSAY. I OBJECT TO HIM TESTIFYING TO
27 ANYTHING FROM THOSE DOCUMENTS. THAT'S MORE THAN AN
28 IDENTIFICATION.

233

1 MS. LOPEZ: YOUR HONOR, IT'S OBVIOUS WE ARE SPEAKING
2 ABOUT FINGERPRINTS NOW. I WASN'T AWARE THAT FINGERPRINTS
3 WERE HEARSAY.

4 THE COURT: WELL, IF THE PURPOSE OF THIS IS TO SHOW
5 THAT THERE ARE FINGERPRINTS THAT ARE ALLEGEDLY RELEVANT TO
6 THIS CASE, THEN THE OBJECTION WOULD NOT STAND BECAUSE HE CAN
7 TESTIFY TO THAT. HE'S NOT TESTIFYING TO THE CONTENTS, I
8 TAKE IT.

9 MS. LOPEZ: NO, HE'S NOT.

10 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
11 OVERRULED.

12 Q BY MS. LOPEZ: WILL YOU TELL US SPECIFICALLY
13 WHAT IT WAS THAT YOU EXAMINED OR FOUND ON THESE PIECES OF
14 LEGAL SIZED PAPER THAT HAVE BEEN MARKED BY REFERENCE AS
15 PEOPLE'S EXHIBIT 2?

16 A YES. THERE ARE TWO FINGERPRINTS THAT APPEAR ON
17 THESE PIECES OF PAPER THAT ARE DEPICTED IN THESE
18 PHOTOGRAPHS.

19 MS. LOPEZ: YOUR HONOR, THE WITNESS HAS JUST HANDED
20 ME TWO PHOTOGRAPHS. ON THE FIRST PHOTOGRAPH ON THE FACE OF
21 IT IS WRITTEN IN THE NUMBER "8405436, C.W. FOGG /803". AND
22 ON THE BACK OF THE PHOTOGRAPH IS WRITTEN "RT HUNT, JOSEPH".
23 THE SECOND PHOTOGRAPH ALSO HAS THE SAME NUMBER, 8405436'.
24 AND ON THE BACK SAYS "RT HUNT, JOSEPH". MAY THE FIRST
25 PHOTOGRAPH BE MARKED AS PEOPLE'S EXHIBIT 34?

26 THE COURT: SO MARKED.

27 MS. LOPEZ: AND MAY THE SECOND PHOTOGRAPH BE MARKED
28 PEOPLE'S 35.

1 THE COURT: PEOPLE'S 34 AND PEOPLE'S 35,
2 RESPECTIVELY.

3 Q BY MS. LOPEZ: WILL YOU TELL US WHAT'S SHOWN IN
4 THESE PHOTOGRAPHS THAT HAVE BEEN MARKED AS PEOPLE'S 34 AND
5 35?

6 A YES. THIS PARTICULAR PIECE OF PAPER -- YOU MAY
7 WANT TO NUMBER IT FOR CONVENIENCE.

8 MS. LOPEZ: I'D LIKE THE RECORD TO REFLECT THAT THE
9 WITNESS IS REFERRING TO ONE OF THE SHEETS OF YELLOW PAPER
10 THAT HAS BEEN MARKED BY REFERENCE AS PEOPLE'S EXHIBIT 2, AND
11 SPECIFICALLY TO THE SHEET THAT HAS FOUR ITEMS LISTED, THE
12 FIRST ITEM BEING "RESERVATION" AND THE LAST ITEM BEING
13 "SCENARIO LIST".

14 MR. YOUNG: YOUR HONOR, IS THERE ANY WAY WE CAN
15 NUMBER THESE PIECES OF PAPER SO WE CAN AVOID THIS, YOU KNOW,
16 CONTINUALLY -- THERE'S ONLY FOUR ITEMS. SHE JUST TESTIFIED
17 TO TWO OF THEM.

18 THE COURT: HOW MANY SHEETS OF PAPER ARE THERE AGAIN?

19 MS. LOPEZ: THERE'S SEVEN OF THEM, YOUR HONOR. THE
20 PROBLEM IS IN ORDER TO NUMBER THEM WE MUST IDENTIFY THEM
21 WHICH WOULD BRING ONLY ANOTHER OBJECTION FROM MR. YOUNG --

22 MR. YOUNG: NO, WE CAN --

23 MS. LOPEZ: -- AND I THINK THAT AT THIS POINT
24 MR. YOUNG IS BEING SILLY.

25 THE COURT: FOR THE PURPOSES HERE, AT THIS POINT WE
26 CAN DESIGNATE PERHAPS AS THE ONE THAT WE ARE REFERRING TO
27 NOW AS TWO OR WITH A LETTER OR SOME OTHER WAY TO DISTINGUISH
28 IT FROM THE REMAINING SIX PIECES OF PAPER; OTHERWISE, WE

13 1 WOULDNT KNOW WHICH ONE OF THE SIX THERE IS. IT'S PEOPLE'S
2 2 COLLECTIVELY --

3 MR. YOUNG: IF WE JUST NUMBERED THEM 2-1, 2-3, -4,
4 -5, -6 WHEN SHE HAS TO REFER TO THEM IN THE FUTURE, WE WON'T
5 HAVE THIS CONTINUING PROBLEM.

6 MS. LOPEZ: YOUR HONOR, THE WITNESS HAS REFERRED TO
7 THE YELLOW SHEETS OF PAPER THAT CORRESPOND TO THE XEROX COPY
8 THAT IS PAGE TWO -- WHICH HAS BEEN MARKED COLLECTIVELY AS
9 PART OF PEOPLE'S EXHIBIT 3.

10 THE COURT: ALL RIGHT. SO NOW IT'S PAGE TWO.

11 MS. LOPEZ: OF PEOPLE'S EXHIBIT 3 OR THE
12 CORRESPONDING YELLOW SHEET OF PAPER.

13 Q CONTINUE.

14 A ON THE BACK OF PAGE TWO, THERE ARE A NUMBER OF
15 LATENT PRINTS THAT HAVE DEVELOPED THAT APPEAR IN THE PURPLE
16 COLOR. PHOTO NUMBER 34 --

17 Q YES.

18 A -- CORRESPONDS TO A PRINT WHICH IS -- THE PIECE
19 OF PAPER HAS BEEN FOLDED, AND THERE IS A PRINT THAT HAS
20 DEVELOPED. DO YOU HAVE SOMETHING WHERE I COULD MARK THE
21 PLASTIC AND GIVE YOU A BETTER IDEA? IN THIS AREA
22 (INDICATING).

23 MS. LOPEZ: I'D LIKE THE RECORD TO REFLECT THAT THE
24 WITNESS HAS JUST CIRCLED A PORTION OF THE BACK SIDE OF THE
25 PIECE OF YELLOW PAPER THAT'S BEEN MARKED BY REFERENCE AS
26 PEOPLE'S EXHIBIT 2 AND IT IS THE SHEET OF PAPER THAT HAS AS
27 THE FIRST ITEM "RESERVATION" AND AS THE FOURTH ITEM
28 "SCENARIO LIST".

1 Q BY MS. LOPEZ: REFERRING TO PEOPLE'S EXHIBIT
2 35, WHERE DID YOU OBTAIN THAT PHOTOGRAPH?

3 A THIS COMES FROM APPROXIMATELY THE SAME AREA,
4 BUT MORE SO IN THE MIDDLE OF THE PAPER.

5 Q WOULD YOU DESIGNATE THAT "B" ON THE --

6 A YES (INDICATING). AND "A" FOR THE FIRST ONE?

7 Q YES.

8 A (INDICATING).

9 MS. LOPEZ: AGAIN, THE WITNESS HAS CIRCLED AN AREA ON
10 THE BACK SIDE OF THE SAME PIECE OF PAPER AND HAS DESIGNATED
11 THE SECOND AREA AS B AND THE FIRST AREA AS A.

12 Q AND DID YOU COMPARE THE FINGERPRINTS THAT ARE
13 SHOWN IN PEOPLE'S 34 AND 35 WITH ANY OTHER FINGERPRINTS?

14 A YES. I COMPARED THEM TO A PRINT CARD THAT HAS
15 THE SIGNATURE OF JOSEPH HUNT ON IT.

16 MS. LOPEZ: I'M HANDING THE WITNESS THE XEROX --
17 CERTIFIED COPY OF THE FINGERPRINT CARD WITH JOSEPH HUNT'S
18 SIGNATURE ON IT THAT'S BEEN MARKED PEOPLE'S EXHIBIT 23
19 THREE.

20 Q IS THAT A TRUE AND CORRECT COPY OF THE ORIGINAL
21 FINGERPRINT CARD THAT YOU USED FOR COMPARISON?

22 A YES, IT IS.

23 Q AND AFTER COMPARING THE FINGERPRINTS THAT ARE
24 OBTAINED AND SHOWN ON PEOPLE'S EXHIBIT --

25 MR. YOUNG: YOUR HONOR, I OBJECT. THIS IS AN
26 EXHIBIT. SHE HASN'T INTRODUCED IT. HOW CAN HE TESTIFY FROM
27 AN EXHIBIT TO SAY THAT THESE ARE THE FINGERPRINTS?

28 THE COURT: ARE YOU ABOUT TO INTRODUCE IT?

1 MS. LOPEZ: I DON'T THINK IT'S NECESSARY TO INTRODUCE
2 THE EXHIBIT BEFORE I CAN GET A COMPARISON AS TO
3 FINGERPRINTS.

4 MR. YOUNG: WELL, SHE'S ATTEMPTING TO USE IT AS
5 EVIDENCE WHEN ITS AN EXHIBIT.

6 MS. LOPEZ: IT IS EVIDENCE. THAT'S THE PURPOSE OF
7 MARKING THEM AS EXHIBITS.

8 THE COURT: ALL RIGHT. THE OBJECTION WILL BE
9 OVERRULED.

10 Q BY MS. LOPEZ: AFTER COMPARING THE FINGERPRINTS
11 THAT ARE SHOWN ON PEOPLE'S EXHIBITS 34 AND 35 AND THE
12 FINGERPRINTS THAT ARE ON THE FINGERPRINT CARD, A XEROX COPY
13 WHICH HAS BEEN MARKED AS PEOPLE'S EXHIBIT 23, HAVE YOU
14 FORMED AN OPINION AS TO WHO MADE THE FINGERPRINTS SHOWN ON
15 34 AND 35?

16 A YES, I HAVE.

17 Q AND WHAT IS THAT OPINION?

18 A THE LATENT FINGERPRINT PRINT THAT APPEARS ON
19 PEOPLE'S -- THAT IS DEPICTED IN THE PHOTOGRAPH OF PEOPLE'S
20 34 AND THE RIGHT THUMB PRINT WHICH APPEARS ON PEOPLE'S 23
21 ARE THE SAME AND WERE MADE BY ONE AND THE SAME PERSON; AND
22 THE LATENT PRINT DEPICTED IN THE PHOTOGRAPH OF PEOPLE'S 35
23 AND THE RIGHT THUMB PRINT APPEARING ON PEOPLE'S 23 ARE THE
24 SAME AND WERE MADE BY ONE AND THE SAME PERSON.

25 Q THANK YOU.

26 MS. LOPEZ: I'M HANDING THE WITNESS THE CERTIFIED
27 COPY OF THE FINGERPRINT CARD THAT'S BEEN MARKED AS PEOPLE'S
28 EXHIBIT 31 AND THE COPY OF THE FINGERPRINT CARD THAT'S BEEN

1 MARKED AS PEOPLE'S EXHIBIT 33 THAT HAS THE NAME OF RONALD
2 LEVIN AT THE TOP.

3 Q HAVE YOU PREVIOUSLY EXAMINED THE ORIGINALS OF
4 THOSE TWO ITEMS?

5 MR. YOUNG: YOUR HONOR, AGAIN, I OBJECT. ON THIS
6 PARTICULAR DOCUMENT, THIS WAS A DOCUMENT THAT THEY GOT IN
7 NEW YORK FROM THE RECORDS. THE OFFICER TESTIFIED THAT HE
8 DIDN'T HAVE ANY PERSONAL KNOWLEDGE ABOUT THE DOCUMENT OR THE
9 PREPARATION. IT'S HEARSAY. NOW THEY'RE ATTEMPTING TO USE
10 THIS DOCUMENT. THERE MAY HAVE BEEN FOUNDATION ON THIS, BUT
11 I DON'T THINK THERE'S SUFFICIENT FOUNDATION TO COMPARE THESE
12 FINGERPRINTS.

13 MS. LOPEZ: YOUR HONOR, AT THE TIME THAT I IDENTIFIED
14 PEOPLE'S EXHIBIT 33 I INDICATED TO THE COURT THAT WE DID
15 HAVE A CERTIFIED COPY OF THE ORIGINAL FINGERPRINT CARD KEPT
16 ON FILE IN NEW YORK CITY. DETECTIVE DE CUIR HAS TESTIFIED
17 AS TO WHERE HE OBTAINED IT, WHICH IS NOT NECESSARY SINCE A
18 CERTIFIED COPY OF A RECORD KEPT BY A PUBLIC ENTITY WILL
19 SUFFICE AND IS ADMISSIBLE.

20 THE COURT: IS THIS THE FINGERPRINT CARD OF THE NEW
21 YORK CITY POLICE DEPARTMENT?

22 MS. LOPEZ: YES, AND WE HAVE A CERTIFIED COPY OF THAT
23 SAME FINGERPRINT CARD.

24 THE COURT: THE OBJECTION WILL BE OVERRULED.

25 Q BY MS. LOPEZ: DID YOU EXAMINE THE ORIGINALS OF
26 THOSE TWO ITEMS?

27 A I HAVE EXAMINED THE CERTIFIED COPY, A COPY OF
28 THE CERTIFIED COPY, THE ORIGINAL CARD WHATEVER NUMBER THIS

1 THIS IS.

2 Q OKAY. WHEN YOU SAY THE CERTIFIED COPY AND A
3 COPY OF THE CERTIFIED COPY, ARE YOU REFERRING TO PEOPLE'S
4 EXHIBIT 33 THAT HAS "RONALD LEVIN" PRINTED AT THE TOP?

5 A YES.

6 Q AND NOW GO ON TO WHAT ELSE YOU EXAMINED.

7 A I HAVE ALSO EXAMINED A -- THE ORIGINAL OF
8 WHATEVER NUMBER THIS IS.

9 Q YOU'RE REFERRING TO PEOPLE'S 31?

10 A THE ORIGINAL PEOPLE'S 31 AND THIS COPY OF
11 PEOPLE'S 31.

12 Q AND AFTER EXAMINING THESE TWO ITEMS HAVE YOU
13 FORMED ANY OPINION AS TO THE PERSONS WHOSE PRINTS ARE
14 CONTAINED IN THESE TWO ITEMS?

15 A YES.

16 Q AND WHAT IS THAT OPINION?

17 A THE FINGERPRINTS THAT APPEAR ON THESE DOCUMENTS
18 WERE MADE BY ONE AND THE SAME PERSON.

19 MS. LOPEZ: THANK YOU.

20 MR. YOUNG: YOU CAN LEAVE THIS ONE. I'M GOING TO ASK
21 HIM SOME QUESTIONS.

22

23

CROSS-EXAMINATION

24 BY MR. YOUNG:

25 Q COULD YOU GET OUT THE FINGERPRINTED CARD THAT
26 YOU HAD FOR JOE HUNT?

27 A YES. THE ORIGINAL?

28 Q YEAH,

1 MR. YOUNG: OKAY, AND COULD WE GET THE TWO PICTURES
2 THAT YOU 'VE TAKEN OF THESE, THESE BEING PAGE TWO OF EXHIBIT
3 THREE

4 MS. LOPEZ: I'D LIKE THE RECORD TO REFLECT THAT THE
5 WITNESS IS -- OR THE -- THAT MR. YOUNG IS NOT REFERRING TO
6 PAGE TWO OF EXHIBIT THREE, BUT RATHER A DOCUMENT THAT HAS
7 BEEN MARKED COLLECTIVELY AS PART OF PEOPLE'S EXHIBIT 2 WHICH
8 IS THE YELLOW SHEET OF PAPER WITH "RESERVATION" AS ITEM
9 NUMBER ONE ON THE PORTION THAT HAS WRITING, AND I AM NOW
10 HANDING THE WITNESS THE XEROX COPY OF THE FINGERPRINT CARD
11 WITH THE SIGNATURE JOSEPH HUNT THAT 'S BEEN MARKED AS
12 PEOPLE'S EXHIBIT 28.

13 MR. YOUNG: OKAY. THERE WERE TWO PICTURES THAT YOU
14 HAD OF THESE PRINTS -- THOSE. YEAH. OKAY.

15 Q WHEN YOU IDENTIFIED THESE FINGERPRINTS HERE,
16 DID THEY COME TO YOU AND GIVE YOU THE PRINTS OF JOE HUNT
17 BEFORE YOU IDENTIFIED THESE?

18 A I'M NOT SURE. IT'S POSSIBLE.

19 Q OKAY. LET ME PHRASE IT ANOTHER WAY. DID YOU
20 EVALUATE THESE PRINTS AND THEN DO SOME KIND OF A SEARCH OF
21 THE FINGERPRINTS AND THEN FIND THAT THEY WERE JOE HUNT'S?

22 A AS I RECALL, THIS EVIDENCE WAS PROCESSED AND
23 DEVELOPED PRIOR TO THE EXEMPLAR OF MR. HUNT BEING TAKEN. I
24 HAD MADE EXAMINATION OF THESE PRINTS VERSUS OTHER PEOPLE
25 PRIOR TO EXAMINING MR. HUNT'S PRINTS AGAINST THEM.

26 Q OKAY. IS THERE SOME TYPE OF PROCEDURE THAT YOU
27 COULD TAKE AND LOOK AT THESE PRINTS AND THROUGH THE FBI OR
28 ELSEWHERE LOCATE WHOSE PRINTS THOSE ARE?

1 A THEORETICALLY -- WELL, IN ACTUALITY THERE IS A
2 COMPUTER THAT YOU CAN ENTER -- THESE ARE REFERRED TO AS
3 LATENT FIGNERPRINTS, SIR, THAT YOU CAN ENTER LATENT
4 FINGERPRINTS INTO. THE COMPUTER WILL SEARCH ITS MEMORY
5 BANK, AND IF -- THEORETICALLY -- IF THE EXEMPLAR PRINT HAS
6 BEEN ENTERED INTO THE DATA BANK, IT WILL KICK THAT OUT AS
7 THE NUMBER ONE OR NUMBER TWO OR NUMBER THREE POSSIBILITY.

8 Q OKAY. WHAT DO YOU MEAN BY LATENT PRINTS?

9 A OKAY. LATENT PRINTS ARE PRINTS THAT -- WELL,
10 LATENT MEANS HIDDEN. GENERALLY SPEAKING, LATENT PRINTS ARE
11 PRINTS THAT YOU CAN'T SEE; THAT THEY MUST BE DEVELOPED IN
12 SOME WAY. WHAT THEY ARE IS WHEN YOU TOUCH SOMETHING WITH
13 YOUR FINGER OR ANY RIDGED PORTION OF THE ANATOMY, BEING THE
14 FINGERS, THE PALMS OF THE HANDS, THE SOLES OF THE FEET, THE
15 TOES, A RESIDUE IS DEPOSITED UPON THAT SURFACE.

16 THAT RESIDUE IS MADE UP PRIMARILY OF WATER. THERE
17 ARE ALSO CHEMICALS THAT ARE EXCRETED ALONG WITH THE WATER.
18 AND THOSE PRINTS CAN BE DEVELOPED BY A NUMBER OF METHODS.
19 THE MOST COMMON METHOD IS POWDERING, OR AS WE CALL IT IN THE
20 TRADE, DUSTING FOR PRINTS. ON PAPER AND OTHER SUCH POROUS
21 ITEMS, THERE ARE CHEMICALS AVAILABLE THAT WILL REACT TO THE
22 CHEMICALS THAT ARE EXCRETED WHEN THE PRINT IS DEPOSITED.

23 THE CHEMICAL THAT WAS USED IN THIS CASE IS CALLED
24 NINHYDRIN, AND IT REACTS WITH AMINO ACIDS THAT ARE EXCRETED
25 ALONG WITH THE WATER, AND A CHEMICAL REACTION OCCURS WHEN
26 THE TWO COME TOGETHER AND YOU GET THIS COLORATION MAKING THE
27 RIDGE STRUCTURE OF THE PRINTS IDENTIFIABLE SO THAT A
28 COMPARISON CAN BE MADE WITH INKED EXEMPLARS.

1 Q OKAY. IN THIS PARTICULAR CASE, DID YOU --
2 BEFORE THEY EVER PRESENTED YOU WITH JOE HUNT'S FINGERPRINTS,
3 DID YOU EVER RUN THESE THROUGH THE COMPUTER TO SEE IF YOU
4 HAD ANY MATCHUPS?

5 A NO. WE DON'T HAVE ACCESS TO THE COMPUTER. ALL
6 OF OUR COMPARISONS ARE DONE MANUALLY, AND AS I STATED
7 BEFORE, I DID CHECK THE PRINTS THAT HAD DEVELOPED VERSUS
8 OTHER PEOPLE PRIOR TO CHECKING THEM AGAINST MR. HUNT'S
9 PRINTS.

10 Q OKAY. WHEN YOU SAY OTHER PEOPLE, WHO WERE
11 THESE PEOPLE?

12 A AS I RECALL, THERE WERE MR. LEVIN AND ALSO SOME
13 OF THE POLICE OFFICERS THAT WERE AT THE SCENE THAT HAD
14 RECOVERED THIS, THESE PIECES OF PAPER.

15 Q OKAY. OKAY. SO YOU FIRST DETERMINED THAT IT
16 WAS NONE OF THE PEOPLE THAT WERE INVOLVED, LIKE MR. LEVIN OR
17 THE OFFICERS --

18 A CORRECT.

19 Q -- BEFORE YOU -- OKAY, AND THEN THEY PROVIDED
20 YOU WITH JOE HUNT'S FINGERPRINTS?

21 A THAT'S CORRECT.

22 Q AND THEN YOU COMPARED THEM TO SEE IF THESE WERE
23 HIS PRINTS?

24 A THAT'S CORRECT.

25 Q OKAY. IN IDENTIFYING FINGERPRINTS, ARE THERE
26 CERTAIN MARKINGS OR THINGS THAT YOU GO BY IN ORDER TO
27 DETERMINE IF IT'S ONE PERSONS'S PRINT OR ANOTHER?

28 A EACH FINGERPRINT IS MADE UP OF RIDGES. THE

1 RIDGES FORM CHARACTERISTICS WHICH ARE, TO NAME A COUPLE,
2 RIDGE ENDINGS, BIFURCATION WHICH IS WHERE ONE RIDGE WILL
3 SPLIT INTO TWO RIDGES, SMALL DOTS, LITTLE SHORT RIDGES. THE
4 CHARACTERISTICS ARE WHAT YOU MAKE YOUR IDENTIFICATIONS FROM.

5 Q OKAY. IN THIS PARTICULAR COMPARISON, CAN YOU
6 TELL WHAT FINGER SAY THIS PART HERE, B, IS MADE FROM ON
7 MR. HUNT? JUST BY LOOKING AT THAT?

8 A I COULDN'T TELL WHAT FINGER IT WAS MADE BY
9 WITHOUT HAVING A FINGERPRINT CARD TO COMPARE IT TO, NO. I
10 COULD MAKE A GUESS, BUT THAT'S ALL IT WOULD BE.

11 Q ALL RIGHT. IN ORDER TO DETERMINE THAT THESE
12 WERE JOE HUNT'S FINGERPRINTS, COULD YOU SPECIFY WHAT
13 IDENTIFYING CHARACTERISTICS YOU HAD BETWEEN THIS AND HIS
14 PRINTS?

15 A WELL, I EXAMINED ALL OF THE FINGERPRINTS THAT
16 ARE ON THE CARD WITH MR. HUNT'S NAME ON THEM, AND IN
17 EXAMINING THE CHARACTERISTICS THAT ARE IN THE LATENT PRINTS
18 VERSUS THE CHARACTERISTICS THAT ARE IN THE INKED PRINTS, I
19 DETERMINED THAT THE CHARACTERISTICS APPEARING IN THE RIGHT
20 THUMB PRINT OF MR. HUNT'S CARD ARE THE SAME CHARACTERISTICS
21 THAT APPEAR IN THE LATENT PRINTS BOTH A AND B.

22 Q OKAY. SO A AND B ARE BOTH THUMB PRINTS?

23 A THAT'S CORRECT.

24 Q OKAY. WHEN I LOOK AT THIS I SEE THAT THERE'S
25 ONLY -- IT LOOKS LIKE HALF OF THE THUMB PRINT, IF THAT'S A
26 THUMB PRINT ON EACH OF THESE. WOULD THAT BE AN ACCURATE
27 STATEMENT?

28 A OH, YES. WHEN YOU'RE DEALING WITH LATENT

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1 PRINTS, YOU ARE ALMOST ALL OF THE TIME DEALING WITH JUST
2 SMALL PORTIONS OF THE PRINT. ALSO, I WOULD ADD AT THIS TIME
3 THAT ONE OF THE CHARACTERISTICS OF NINHYDRIN IS THAT IT
4 FADES OVER A PERIOD OF TIME, WHICH IS THE REASON WHY THE
5 EVIDENCED IS PHOTOGRAPHED. SO IT IS EASIER TO LOOK AT THE
6 PHOTOGRAPHS OF THE PRINTS THAN IT IS TO LOOK AT THE
7 ORIGINALS.

8 Q OH, I SEE. OKAY. COULD YOU TELL ME -- LET'S
9 START WITH A. WHAT PARTS OR WHAT PORTIONS OF A ARE SIMILAR
10 TO THE THUMB PRINT YOU HAVE OF JOE HUNT?

11 A OKAY. ON THE -- LOOKING AT THE PHOTOGRAPH OF
12 A, BASICALLY WHAT WE HAVE, AS I FOLD THE CARD TO MAKE IT A
13 LITTLE BIT EASIER TO SEE, IS A LATENT PRINT THAT IS IN THIS
14 AREA THAT I'M CIRCLING RIGHT NOW (INDICATING). IT DEPICTS
15 APPROXIMATELY A HALF OR SOMEWHERE BETWEEN A HALF OR A THIRD
16 OF THE ROLLED IMPRESSION ON THE CARDS.

17 Q UM-HMM.

18 A THIS AREA WHICH IS ON THE LEFT SIDE OF THE
19 INKED IMPRESSION IS REFERRED TO AS THE DELTA, AND THE DELTA
20 APPEARS IN BOTH THE ROLLED PRINT AND THE LATENT PRINT, AND
21 THERE ARE A NUMBER OF CHARACTERISTICS THAT APPEAR BOTH IN
22 THE LATENT PRINT AND THE INKED PRINT.

23 Q OKAY. SO WE HAVE ONE PART HERE WHICH IS --
24 WHICH YOU CALL THE DELTA PORTION, AND IT'S SIMILAR TO THE
25 DELTA PORTION IN THIS PICTURE; IS THAT WHAT YOU'RE SAYING?

26 A THE CHARACTERISTICS IN THERE ARE IDENTICAL,
27 YES.

28 Q OH, THEY'RE IDENTICAL. OKAY. ARE THERE ANY

1 OTHER PORTIONS OF THAT PRINT THAT YOU CAN IDENTIFY AS BEING
2 JOE HUNT'S PRINT?

3 A THE REST OF THE -- THE REST OF THE ROLLED PRINT
4 IS NOT IN THE LATENT PRINT. IT DIDN'T DEVELOP. IT'S NOT
5 THERE.

6 Q OKAY. SO THE ONLY PORTION OF THE PRINT THAT
7 YOU CAN IDENTIFY AS BEING -- TO MAKE THIS JOE HUNT'S PRINT
8 IS THIS ONE PORTION YOU CALLED THE DELTA PORTION?

9 A THAT'S CORRECT. APPROXIMATELY 40 PERCENT OF
10 THE PRINT, OF THE ROLLED PRINT, IS DEPICTED IN THE LATENT
11 PRINT.

12 Q OKAY. ARE THERE OTHER PERSONS THAT WOULD HAVE
13 A SIMILAR DELTA PORTION TO THIS? AREN'T FINGERPRINTS
14 SIMILAR IN DIFFERENT PEOPLE?

15 A THERE ARE PEOPLE THAT WOULD HAVE SIMILAR TYPE
16 DELTA, BUT THERE ARE NO OTHER PEOPLE THAT WOULD HAVE THE
17 SAME INDIVIDUAL RIDGE CHARACTERISTICS.

18 Q OKAY. WERE THERE ANY OTHER PRINTS ON HERE THAT
19 YOU COULD IDENTIFY?

20 A THERE ARE OTHER LATENT PRINTS ON HERE. THERE
21 WERE SO MANY PIECES OF PAPER, IT'S HARD TO REMEMBER WHICH
22 WERE IDENTIFIABLE AND WHICH WEREN'T. AS IT APPEARS NOW, IT
23 APPEARS THAT THESE THREE PRINTS (INDICATING) -- OR THESE TWO
24 PRINTS (INDICATING) WHICH ARE IN THE TOP LEFT HAND CORNER AS
25 WE ARE LOOKING AT THIS SHEET OF PAPER ARE IDENTIFIABLE AND
26 THEY DO NOT BELONG TO MR. HUNT.

27 Q OKAY. WAS IT ANY OF THE OFFICERS OR OTHER
28 PEOPLE INVOLVED, DO YOU KNOW?

1 A THEY HAVE NOT BEEN IDENTIFIED TO ANYBODY. 216

2 Q DID YOU ATTEMPT TO IDENTIFY THESE?

3 A YES.

4 Q OKAY. WERE YOU ABLE TO IDENTIFY ANY PRINTS ON
5 ANY OF THESE -- I NOTICE THAT THERE'S PURPLE MARKINGS ON
6 THIS PIECE OF PAPER. WERE YOU ABLE TO IDENTIFY ANY PRINTS
7 ON ANY OF THE OTHER PIECES OF PAPER?

8 A NO. THE ONLY PRINTS THAT I WAS ABLE TO
9 IDENTIFY OF ALL OF THE PRINTS THAT DEVELOPED -- WELL, LET ME
10 SAY IT THIS WAY, OF ALL OF THE IDENTIFIABLE PRINTS THAT
11 DEVELOPED WERE THE TWO THAT WE HAVE BEEN DISCUSSING. ALL OF
12 THE OTHER PRINTS THAT ARE IDENTIFIABLE I HAVE NOT BEEN ABLE
13 TO IDENTIFY TO ANYBODY.

14 Q OKAY. DID YOU ATTEMPT A COMPARISON OF THE
15 PRINTS OF JAMES PITTMAN WITH ANY PRINTS ON HERE?

16 A YES.

17 Q DID YOU FIND ANYTHING THAT HAD JAMES PITTMAN'S
18 PRINTS?

19 A NO.

20 Q OKAY. SO EVEN THOUGH THESE YOU SAY ARE
21 IDENTIFIABLE, THESE PRINTS HERE ARE NOT JAMES PITTMAN'S?

22 A THAT'S CORRECT.

23 Q OKAY. HOW LONG DOES A PRINT LAST ON A PIECE OF
24 PAPER BEFORE IT --

25 A THAT DEPENDS. I HAVE READ A CASE -- IT WAS
26 INVOLVING A WILL AND ESTATE TYPE THING -- WHERE A PIECE OF
27 PAPER WAS PROCESSED WITH NINHYDRIN AND THEY HAD EVIDENCE
28 THAT DATED THAT PIECE OF PAPER AT AT LEAST 50 YEARS OLD, AND

1 THEY DEVELOPED LATENT PRINTS ON IT AND IDENTIFIED THEM. SO
2 UNDER NORMAL CIRCUMSTANCES A PRINT IS SUBJECT TO A NUMBER OF
3 VARIABLES, AND THEY WILL START DETERIORATING AS SOON AS
4 THEY'RE PLACED DOWN AND IT DEPENDS UPON A LARGE NUMBER OF
5 THINGS AS TO HOW LONG A PRINT WILL LAST.

6 Q OKAY. WOULD THE TYPE OF SURFACE THAT IT'S ON
7 MAKE A FACTOR?

8 A YES, A POROUS SURFACE LIKE THIS, THE PRINT WILL
9 LAST MUCH LONGER BECAUSE THE PRINT ITSELF IS ABSORBED INTO
10 THE SURFACE, THEREFORE IT'S PROTECTED BY THE SURFACE. ALSO,
11 IF IT'S INSIDE OF SOMETHING AND KEPT AWAY FROM THE ELEMENTS,
12 IT WILL BE PRESERVED LONGER.

13 MR. YOUNG: JUST ONE SECOND.

14 Q DID YOU EVER EXAMINE THE PRINTS OF DEAN KARNY?

15 A NO, I HAVEN'T.

16 MR. YOUNG: I HAVE NO FURTHER QUESTIONS.

17 THE COURT: ANY REDIRECT?

18 MS. LOPEZ: NOTHING FURTHER.

19 THE COURT: MAY THIS WITNESS BE EXCUSED?

20 MS. LOPEZ: YES.

21 MR. ZORNE: I'D JUST LIKE TO ASK A FEW QUESTIONS.

22 THE COURT: ALL RIGHT.

23
24
25 BY MR. ZORNE:

26 Q FROM THE TESTIMONY THAT YOU GAVE BOTH ON DIRECT
27 AND ON CROSS-EXAMINATION, THERE WERE MORE THAN TWO PRINTS ON
28 ALL OF THOSE PAPERS; IS THAT NOT CORRECT?

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1 A YES, SIR. THERE ARE --

2 Q ABOUT HOW MANY PRINTS WERE THERE ALL TOGETHER?

3 A I'M NOT SURE. I THINK THERE ARE SOMEWHERE IN
4 THE NEIGHBORHOOD OF 10 --

5 Q 10?

6 A -- IDENTIFIABLE PRINTS.

7 Q 10 IDENTIFIABLE. BUT YOU IN FACT ONLY
8 IDENTIFIED TWO PRINTS; IS THAT CORRECT?

9 A THAT'S CORRECT.

10 Q OKAY. CAN YOU TELL ME IF THERE'S ANY
11 PARTICULAR REASON WHY YOU DID NOT ATTEMPT TO IDENTIFY THE 10
12 OTHER IDENTIFIABLE PRINTS?

13 A I HAVE ONLY EXAMINED THE PRINTS VERSUS THE
14 NAMES OR PRINT CARDS THAT HAVE BEEN SUPPLIED TO ME TO CHECK
15 THEM AGAINST.

16 Q SO IF SOMEBODY SUPPLIED YOU WITH SAY 15 OR 20
17 OTHER PRINTS CARDS, THEN YOU WOULD ATTEMPT TO IDENTIFY IT
18 AGAINST THE EXAMPLES THAT YOU HAVE ON THOSE PIECES OF PAPER;
19 IS THAT CORRECT?

20 A YES, SIR.

21 Q OF YOUR OWN KNOWLEDGE, DO YOU KNOW WHY YOU WERE
22 NOT ASKED TO IDENTIFY ANY OTHER PERSONS'S PRINTS?

23 MS. LOPEZ: OBJECTION. CALLS FOR SPECULATION.

24 MR. ZORNE: I SAID "OF YOUR OWN KNOWLEDGE".

25 MS. LOPEZ: IT'S ALSO IRRELEVANT.

26 THE COURT: WELL, THIS IS CROSS-EXAMINATION OF AN
27 EXPERT. THE OBJECTION WILL BE OVERRULED. HE SAID OF HIS
28 OWN KNOWLEDGE. HE MAY ANSWER THAT, IF HE CAN.

1 THE WITNESS: THE QUESTION WAS --

2 Q BY MR. ZORNE: THE QUESTION WAS OF YOUR OWN
3 KNOWLEDGE, DO YOU KNOW WHY YOU WERE NOT OFFERED OTHER
4 EXAMPLES TO CHECK AGAINST THE PIECES OF PAPER THAT YOU
5 EXAMINED?

6 A NO.

7 MR. ZORNE: NO FURTHER QUESTIONS -- OH, ONE MORE
8 QUESTION.

9 Q HOW LONG HAVE YOU BEEN DOING THIS KIND OF WORK,
10 SIR?

11 A SINCE 1968.

12 Q THAT'S A CONSIDERABLE AMOUNT OF TIME. ABOUT 12
13 YEARS IS IT? 14 YEARS?

14 A WHAT YEAR IS IT, '84? --

15 Q I DON'T KNOW. FIGURE IT OUT. PLENTY OF TIME.
16 PLENTY OF TIME. OKAY. OF THE PERIOD OF TIME THAT YOU WERE
17 ENGAGED IN THIS WORK, YOU'VE NEVER MADE A MISTAKE?

18 A NOT WHEN IT COMES TO FINGERPRINTS. I'VE MADE A
19 LOT OF MISTAKES, BUT --

20 Q NO. I'M TALKING ABOUT SPECIFICALLY --

21 A NO. I'VE NEVER MISIDENTIFIED A FINGERPRINT;
22 NO, SIR.

23 MR. ZORNE: THANK YOU. NO FURTHER QUESTIONS.

24 THE COURT: MAY HE BE EXCUSED OR DO YOU HAVE ANYTHING
25 FURTHER?

26 MS. LOPEZ: I HAVE NOTHING FURTHER.

27 THE COURT: ALL RIGHT. THANK YOU. YOU MAY BE
28 EXCUSED.

1 MS. LOPEZ: THE PEOPLE CALL RICHARD CLASON.

2 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
3 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
4 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
5 TRUTH, SO HELP YOU GOD.

6 THE WITNESS: I DO.

7
8 RICHARD L. CLASON,
9 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN FIRST DULY
10 SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

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

13 THE WITNESS: RICHARD L CLASON, C-L-A-S-O-N.

14 THE CLERK: THANK YOU.

15
16 DIRECT EXAMINATION

17 BY MS. LOPEZ:

18 Q WHAT IS YOUR CURRENT OCCUPATION AND ASSIGNMENT?

19 A I'M HANDWRITING EXAMINER FOR THE BEVERLY HILLS
20 POLICE DEPARTMENT.

21 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

22 A SINCE 1965.

23 Q AND WILL YOU RELATE YOUR TRAINING AND
24 EXPERIENCE AS IT RELATES TO THE COMPARISON OF HANDWRITING?

25 A YES. IN 1965 I STARTED MY HANDWRITING CAREER
26 BY TAKING A COURSE IN QUESTIONED DOCUMENT TRAINING AT THE
27 LONG BEACH STATE COLLEGE, AND IN 1966 I TOOK A COURSE IN LAW
28 ENFORCEMENT TECHNIQUES THROUGH THE INSTITUTE OF APPLIED

1 SCIENCES IN CHICAGO, AND THIS COURSE DEVOTED SOME OF THE
2 LESSONS TO THE TECHNIQUES OF COMPARING HANDWRITING. AND IN
3 1970, I HAD 21 HOURS OF PERSONAL TRAINING GIVEN BY
4 MR. HAROLD ELY, E-L-Y, WHO WAS HANDWRITING EXAMINER AT THAT
5 TIME IN ORANGE COUNTY.

6 AND IN 1972, I TOOK ANOTHER FULL SEMESTER COURSE IN
7 QUESTIONED DOCUMENT TRAINING AT THE GOLDEN WEST COLLEGE IN
8 ORANGE COUNTY. IN 1977 AND '78 I TAUGHT A COURSE IN
9 HANDWRITING COMPARISON AT THE UNITED STATES SCHOOL OF LAW
10 ENFORCEMENT IN DOWNTOWN LOS ANGELES. IN 1979, THEY HAD
11 ANOTHER COURSE AT GOLDEN WEST COLLEGE WITH A DIFFERENT
12 INSTRUCTOR, SO I TOOK ANOTHER COURSE THERE IN QUESTIONED
13 DOCUMENTS. I'VE BEEN WORKING WITH HANDWRITING SINCE 1965.

14 Q THANK YOU.

15 MS. LOPEZ: MAY I APPROACH THE WITNESS?

16 THE COURT: YES.

17 MS. LOPEZ: ONE SECOND, YOUR HONOR.

18 I'M HANDING THE WITNESS THE XEROX COPIES OF THE
19 YELLOW LEGAL SIZE PIECES OF PAPER THAT HAVE BEEN MARKED BY
20 REFERENCE AS PEOPLE'S EXHIBIT 2 AND THE XEROX COPY HAS BEEN
21 MARKED AS PEOPLE'S EXHIBIT 3. I BELIEVE I'VE GOT THAT
22 BACKWARDS. YOUR HONOR, WHICH ONE WAS MARKED BY REFERENCE AS
23 3? WAS THE YELLOW SHEETS OF PAPER MARKED AS 3 OR 2?

24 I'M SORRY. THE ORIGINAL YELLOW SHEETS OF PAPER HAVE
25 BEEN MARKED BY REFERENCE AS 3, AND THE XEROX COPIES --

26 THE COURT: THE XEROX COPIES IS 2?

27 MS. LOPEZ: -- HAS BEEN MARKED AS PEOPLE'S EXHIBIT 2.

28 Q HAVE YOU PREVIOUSLY EXAMINED THAT?

1 A YES, MA'AM, I HAVE.

2 MS. LOPEZ: AND I'M ALSO HANDING THE WITNESS THE
3 DOCUMENTS THAT HAVE BEEN MARKED -- I'M SORRY, THIS DOCUMENT
4 HAS NOT BEEN MARKED.

5 MR. YOUNG: YOUR HONOR, MAY I REQUEST AGAIN THAT WE
6 NUMBER THESE PAGES? I MEAN, WE HAVE ONE NUMBERED AS NUMBER
7 TWO. NUMBER ONE, TWO, THREE, FOUR, FIVE AND SIX.

8 MS. LOPEZ: YOUR HONOR, THEY'VE BEEN STAPLED
9 TOGETHER, AND THE NUMBER IS --

10 THE COURT: THIS IS -- THESE CONTAIN SEVEN PAGES; IS
11 THAT CORRECT?

12 MS. LOPEZ: THEY CONTAIN SEVEN PAGES, AND THEY HAVE
13 BEEN STAPLED TOGETHER.

14 THE COURT: ALL RIGHT.

15 MS. LOPEZ: I'M ALSO HANDING THE WITNESS THE THREE
16 PAGE DOCUMENT THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 19.

17 Q HAVE YOU PREVIOUSLY SEEN THIS?

18 A YES, MA'AM, I HAVE.

19 Q AND HOW DO YOU RECOGNIZE PEOPLE'S 19?

20 A YES. THIS IS THE DOCUMENT THAT I COPIED ON
21 DECEMBER 12TH, 1984 ON THE COPY MACHINE AT BEVERLY HILLS
22 POLICE DEPARTMENT.

23 Q AND YOU -- THIS IS A TRUE AND CORRECT COPY OF
24 THE ORIGINAL?

25 A YES, IT IS.

26 Q AND AFTER EXAMINING THESE TWO ITEMS, HAVE YOU
27 FORMED ANY OPINION AS TO WHO IS THE MAKER OF THESE ITEMS?

28 A YES. THE HANDWRITING ON PEOPLE'S EXHIBIT NO.

1 2, MOST OF IT WAS WRITTEN BY THE SAME PERSON WHOSE
2 HANDWRITING APPEARS ON PEOPLE'S EXHIBIT 19.

3 Q AND COULD YOU BE SPECIFIC AS TO WHICH PORTIONS
4 OF PEOPLE'S 19 WERE MADE BY THE SAME PERSON WHOSE
5 HANDWRITING IS SHOWN IN PEOPLE'S EXHIBIT 2?

6 A WELL, ALL OF THE HANDWRITINGS ON PEOPLE'S 2
7 WITH THE EXCEPTION OF A NOTE ON THE LEFT BORDER OF PEOPLE'S
8 2, WHICH SAYS --

9 MR. YOUNG: WELL, I OBJECT TO HIM STATING WHAT IT
10 SAYS.

11 MS. LOPEZ: YOUR HONOR, THERE'S NO WAY TO IDENTIFY
12 WHICH NOTE HE'S REFERRING TO WITHOUT STATING WHAT IT SAYS.

13 MR. YOUNG: WELL, AGAIN, WE ARE, YOU KNOW, TESTIFYING
14 FROM THE DOCUMENT.

15 THE COURT: WELL, THIS IS A DOCUMENT EXPERT THAT'S
16 TESTIFYING, SO HE CAN --

17 MR. YOUNG: YEAH, BUT HE'S TAINING THE CONTENTS AND
18 HE'S NOT TESTIFYING AS TO WHETHER --

19 THE COURT: WELL, HE HAS TO USE WORDS TO IDENTIFY ONE
20 WORD TO ANOTHER WORD. THERE'S NO WAY OF COMPARISON --

21 MR. YOUNG: COULD I SEE WHAT PORTION IT IS?

22 THE COURT: -- NO COMPARISON OF AN ABSTRACTION.

23 MS. LOPEZ: YOUR HONOR, WE ARE NOT OFFERING IT FOR
24 THE TRUTH OF THE MATTER AT THIS POINT, AS WELL, AND I'M SURE
25 THAT THE COURT CAN DISTINGUISH.

26 MR. YOUNG: WHAT AREA ARE YOU REFERRING TO, THE
27 CIRCLED AREA? THIS (INDICATING)? OKAY.

28 Q BY MS. LOPEZ: WILL YOU TELL US WHAT PORTION.

1 A YES. IT'S THE LAST PAGE OF PEOPLE'S 2. IT'S
2 THE UPPER LEFT HAND MARGIN. WITHIN THAT UPPER LEFT HAND
3 MARGIN ARE THE WORDS "R. MICHAEL WEATHERBEE",
4 W-E-A-T-H-E-R-B-E-E, AND THE WORD "HOTEL", AND I'M JUST NOT
5 CERTAIN WHETHER OR NOT THAT IS THE SAME HANDWRITING AS
6 APPEARS ON PEOPLE'S 19.

7 LIKewise, THERE'S ONE ON THE NEXT TO THE LAST PAGE OF
8 PEOPLE'S 2 ON THE LAST NOTATION THERE WHICH IS NUMBERED "5",
9 AND IT SAYS "J-E-F-F" AND THE OTHER WORD IS "L-I-S-T". IT
10 LOOKS LIKE "JEFF LIST", AND I'M NOT SURE IF THAT'S THE SAME
11 HANDWRITING THAT APPEARS ON PEOPLE'S 18. OTHERWISE, THE
12 REST OF IT IS.

13 Q AND SPECIFICALLY WHAT PORTIONS OF PEOPLE'S 19
14 WERE MADE BY THE MAKER OF THE DOCUMENT THAT'S BEEN MARKED AS
15 PEOPLE'S EXHIBIT 2? IS IT THE WHOLE DOCUMENT?

16 A YES -- OH. OH, I'M SORRY. NO. ON PEOPLE'S
17 19, THERE IS A LETTER, SO TO SPEAK, THAT SAYS "HELLO, MY
18 DARLING JOSEPH". THAT LETTER IN HAND PRINTING IS BY SOMEONE
19 ELSE. THIS IS THE LETTER THAT IS SIGNED AT THE BOTTOM
20 "BROOKE", B-R-O-O-K-E. THAT IS BY SOMEONE OTHER THAN THE
21 PERSON WHOSE HANDWRITING APPEARS ON PEOPLE'S 2.

22 Q IS THE REST OF PEOPLE'S 19 MADE BY THE SAME
23 MAKER OF PEOPLE'S EXHIBIT 2?

24 A YES, IT IS.

25 MS. LOPEZ: I'M HANDING THE WITNESS THE HANDWRITING
26 EXEMPLAR THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 21 WHICH IS
27 SIGNED JOSEPH HUNT.

28 Q HAVE YOU PREVIOUSLY EXAMINED THAT?

1 A YES, I HAVE.

2 Q AND AFTER EXAMINING PEOPLE'S 21, DID YOU FORM
3 AN OPINION AS TO WHO -- I'M SORRY. LET ME WITHDRAW THAT.
4 DID YOU FORM ANY OPINIONS AS TO WHO THE MAKER OF PEOPLE'S
5 20 -- PEOPLE'S 19 AND 2 IS?

6 A YES.

7 Q AND WHAT IS THAT OPINION?

8 A PEOPLE'S 19 AND 2 WITH THE EXCEPTIONS NOTED
9 WERE WRITTEN BY THE SAME PERSON WHO SUBMITTED THE
10 HANDWRITING OR WHO WROTE THE HANDWRITING ONTO PEOPLE'S 21.

11 MS. LOPEZ: THANK YOU. I'M HANDING -- YOUR HONOR, I
12 HAVE A -- I'M HANDING THE WITNESS THE HANDWRITING EXEMPLAR
13 THAT'S PEOPLE'S 29 SIGNED BY JAMES PITTMAN, AND I'M ALSO
14 HANDING THE WITNESS THE ITEMS THAT HAVE BEEN MARKED AS
15 PEOPLE'S EXHIBIT 27.

16 THE COURT: IS THIS WITH REFERENCE TO THE PLAZA
17 HOTEL?

18 MS. LOPEZ: YES.

19 Q AND REFERRING YOUR ATTENTION SPECIFICALLY TO
20 PAGE FIVE OF PEOPLE'S 34, HAVE YOU HAD A PREVIOUS
21 OPPORTUNITY TO EXAMINE A COPY OF THIS DOCUMENT?

22 A YES, I HAVE.

23 Q AND DID YOU FORM ANY OPINIONS AS TO -- LET ME
24 WITHDRAW THAT.

25 SPECIFICALLY WHAT PORTIONS OF THIS DOCUMENT DID YOU
26 EXAMINE?

27 A THE HANDS PRINTING WHICH APPEARS IN THE LOWER
28 HALF OF THE DOCUMENT.

1 Q AND SPECIFICALLY WHAT IS THAT?

2 A IT STATES "R-O-N-L-A-D L-E-V-I-N".

3 Q AND DID YOU FORM ANY OPINION AS TO WHO THE
4 MAKER OF THAT WRITING IS?

5 A YES. THAT WRITING IS THE SAME -- IS WRITTEN BY
6 THE SAME PERSON AS THE WRITING THAT APPEARS ON PEOPLE'S 29.

7 Q DIRECTING YOUR ATTENTION TO PAGE SEVEN OF THIS
8 DOCUMENT WHERE IT SAYS "WESTERN HOTELS, THE PLAZA", DID YOU
9 HAVE A PREVIOUS OPPORTUNITY TO EXAMINE A COPY OF THAT
10 DOCUMENT?

11 A YES, I DID.

12 Q AND DID YOU FORM ANY OPINIONS AFTER EXAMINING
13 THAT DOCUMENT WHO WAS THE MAKER OF THE WRITING?

14 A YES. THE WORDS "RONALD LEVIN" AND "105 PECK
15 STREET, WESTWOOD, L.A., 90048 "AND THE NOTATION BELOW IT
16 WHICH SAYS "G" AND I PRESUME THAT'S "PROSSLER" OR SOMETHING
17 SIMILAR, BUT ALL OF THAT WRITING IS BY THE SAME PERSON WHOSE
18 WRITING APPEARS ON PEOPLE'S 29.

19 MS. LOPEZ: YOUR HONOR, I'M GOING TO MARK THIS PAGE
20 AS PAGE SEVEN AND I'M GOING TO MARK THE PAGE THAT MR. CLASON
21 PREVIOUSLY REFERRED TO WHICH HAS "THE PALM COURT" IMPRINTED
22 ON THE UPPER PORTION AS PAGE FIVE FOR FUTURE REFERENCE.

23 THE COURT: ALL RIGHT.

24 MS. LOPEZ: I HAVE NOTHING FURTHER.

25

26

CROSS-EXAMINATION

27 BY MR. YOUNG:

28 Q WITH RESPECT TO EXHIBIT 2 , DID YOU FIND ANY

1 WRITING ON HERE THAT YOU COULD IDENTIFY AS BEING JAMES
2 PITTMAN'S IN ANY OF THESE DOCUMENTS?

3 A NOT ON ANY OF THE DOCUMENTS THAT HAVE BEEN
4 IDENTIFIED AS PEOPLE'S 2; NO, SIR.

5 Q OKAY. ON THIS PAGE FIVE OF THIS EXHIBIT, WAS
6 THERE ANYTHING -- WAS -- IS -- IS ALL OF THE WRITING ON THIS
7 BY THE SAME PERSON?

8 A I CANNOT TELL ABOUT ANYTHING BELOW WHERE IT
9 SAYS "ADDRESS".

10 Q OKAY.

11 A THIS DOES NOT APPEAR TO BE THE SAME WRITING.
12 THE HANDWRITING THAT IS ON THERE DOES NOT APPEAR TO HAVE
13 BEEN MADE BY MR. PITTMAN. THE NAME "R-O-N-L-A-D LEVIN" AND
14 THE "105 PECK" WERE MADE BY MR. PITTMAN.

15 Q HOW DO YOU DETERMINE THAT THEY WERE MADE BY THE
16 SAME PERSON?

17 A BY COMPARING THE WAY THAT THE LETTERS ARE MADE.
18 ON THIS EXEMPLAR, WHICH IS PEOPLE'S 29, APPEAR THE SAME
19 WORDS WRITTEN ON THE LINES, AND BY -- OKAY, AND THEN WHEN
20 YOU COMPARE IT WITH PAGE SEVEN, YOU CAN SEE THAT BASICALLY
21 THE LETTERS ARE THE SAME, MADE IN THE SAME MANNER BY
22 COMPARING THE "R'S" AND THEN THE "O" IS QUITE A BIT SMALLER
23 THAN THE "R". THE "N" IS A TINY BIT BIGGER THAN THE "O",
24 AND THE "N" IS MADE EXACTLY THE SAME WAY ON EACH OF THE
25 DOCUMENTS, THE LITTLE PICK-UP STROKE, THE DOWN STROKE TO THE
26 BASE LINE AND THEN AN ARCH WHICH IS SHAPED ABOUT THE SAME,
27 AND THEN A SMALL "A" WHICH IS SMALLER THAN THE "N", AND THEN
28 THE LARGE UPPER CASE "L" FOLLOWED BY A LOWER CASE "D".

1 THESE ARE ALL EXACTLY THE SAME -- WELL, NOT EXACTLY THE
2 SAME, BUT I MEAN BASICALLY THEY'RE THE SAME. YOU HAVE YOUR
3 VARIANCES THAT YOU ALWAYS FIND IN PRINTING.

4 MR. YOUNG: I HAVE NO FURTHER QUESTIONS.

5 MR. ZORNE: I JUST HAVE ONE OR TWO.

6 THE COURT: SURELY, MR. ZORNE.

7

8

CROSS-EXAMINATION.

9

BY MR. ZORNE:

10 Q SO YOU'VE BEEN DOING THIS KIND OF HANDWRITING
11 ANALYSIS SINCE 1965? IS THAT TRUE?

12 A YES, SIR.

13 Q IN ALL THE TIME THAT YOU'VE BEEN ANALIZING
14 HANDWRITING AND COMPARING, HAVE YOU EVER MADE ANY MISTAKES
15 IN YOUR COMPARISON?

16 A IN COMPARISONS?

17 Q YES.

18 A I'VE NEVER HAD ANYONE POINT IT OUT TO ME WHERE
19 I DID -- WHERE I TESTIFIED TO A MISTAKE OR WHERE I MADE ONE;
20 NO, SIR.

21 Q SO YOU DON'T THINK IN ALL THIS TIME YOU'VE MADE
22 ANY MISTAKES IN IDENTIFYING?

23 A OH, I DON'T KNOW. I PROBABLY HAVE, BUT IT'S
24 NEVER BEEN POINTED OUT --

25 Q NOBODY POINTED IT OUT TO YOU AND SAID "YOU MADE
26 A MISTAKE"?

27 A NO.

28 Q ISN'T IT TRUE THAT OTHER HANDWRITING EXPERTS

1 THAT HAVE SIMILAR BACKGROUND AND EXPERIENCE MIGHT LOOK AT
2 THE SAME EVIDENCE OR EXHIBITS AND COME TO A DIFFERENT
3 CONCLUSION THAN YOU DID?

4 MS. LOPEZ: OBJECTION. CALLS FOR SPECULATION AND
5 IRRELEVANT.

6 MR. YOUNG: HE'S AN EXPERT IN THE AREA.

7 THE COURT: WELL, THIS IS CROSS-EXAMINATION, AGAIN,
8 OF AN EXPERT. HE'S -- WHAT HE'S ASKING IS WHETHER -- I
9 PRESUME IF SOME OTHER EXPERTS HAD LOOKED AT IT WOULD EVERY
10 OTHER EXPERT THAT THERE IS COME TO THE SAME CONCLUSION. IS
11 THAT WHAT YOU'RE ASKING?

12 MR. ZORNE: SOMEWHAT.

13 MS. LOPEZ: IN THAT CASE IT'S VAGUE AS TO THE QUALITY
14 OF AN EXPERT WE ARE SPEAKING OF. WERE YOU SPEAKING OF WITH
15 SOMEONE WITH THE SAME CREDENTIALS AS MR. CLASON?

16 MR. ZORNE: SOMEONE WITH THE SAME TRAINING,
17 BACKGROUND EXPERIENCE, THE SAME KNOWLEDGE, THAT MIGHT COME
18 TO THE SAME CONCLUSION.

19 THE COURT: THE OBJECTION WILL BE OVERRULED. HE CAN
20 ANSWER THAT IF HE CAN.

21 THE WITNESS: I CAN ANSWER THAT, YOUR HONOR.
22 HYPOTHETICALLY, IT COULD HAPPEN AND IT DOES HAPPEN FROM TIME
23 TO TIME. I DOUBT VERY MUCH IN THIS CASE IF ANY ETHICAL
24 HANDWRITING EXAMINER WOULD FIND A DIFFERENT OPINION.

25 Q BY MR. ZORNE: YOU MEAN THERE'S SOME
26 HANDWRITING EXPERTS THAT AREN'T ETHICAL?

27 A OH, NO, SIR. I DIDN'T MEAN THAT AT ALL.

28 Q I DIDN'T THINK YOU DID.

1 WELL, WHAT WERE THE CIRCUMSTANCES, MR. CLASON, AS TO
2 YOUR IDENTIFYING THE EXEMPLAR WITH THE EXHIBITS THAT YOU
3 CHARACTERIZE AS THOSE YELLOW SHEETS OF PAPER? DID SOMEBODY
4 GIVE THEM TO YOU AND SAID "I'D LIKE YOU TO COMPARE THESE"?
5 IS THAT WHAT HAPPENED? OR WERE YOU GIVEN A NUMBER OF
6 EXEMPLARS TO CHECK?

7 A I WAS GIVEN -- I WAS GIVEN THE -- RATHER, I WAS
8 REFERRED TO THE YELLOW SHEETS OF PAPER BY DETECTIVE ZOELLER;
9 HOWEVER, THEY WERE IN EVIDENCE. I CHECKED THEM OUT OF
10 EVIDENCE AND GOT THEM FROM MR. HENDERSON WHO WORKS IN
11 EVIDENCE.

12 Q I SEE. AND WHAT ACTUALLY PROMPTED YOU TO
13 EXAMINE THE EXEMPLAR THAT WAS OFFERED TO YOU WITH THE
14 EVIDENCE THAT YOU CHECKED OUT?

15 A OH, I HAD A REQUEST TO DO SO FROM THE DETECTIVE
16 DIVISION.

17 Q IF I UNDERSTAND WHAT YOU'RE SAYING, IF SOMEONE
18 GAVE YOU THE EXEMPLAR AND YOU HAD THESE CHECKED OUT OF THE
19 PROPERTY ROOM OR WHEREVER AND THEY SAID "CHECK THIS EXEMPLAR
20 AGAINST THE EXHIBITS"; IS THAT CORRECT?

21 A YES, SIR.

22 MR. ZORNE: THAT'S IT. I HAVE NO FURTHER QUESTIONS.
23 THANK YOU.

24 MS. LOPEZ: I HAVE NOTHING FURTHER.

25 THE COURT: ANYTHING FURTHER?

26 MS. LOPEZ: NO.

27 THE COURT: THANK YOU VERY MUCH.

28 MS. LOPEZ: WE HAVE NO FURTHER WITNESSES AT THIS

1 TIME. AT THIS TIME I'D ASK THAT PEOPLE'S 1 AND 2, 5 THROUGH
2 26, AND 29 THROUGH 35 BE RECEIVED.

3 MR. YOUNG: YOUR HONOR, I OBJECT TO -- I'M NOT SURE
4 WHAT ALL THESE ARE WITHOUT LOOKING AT THEM, BUT WITH RESPECT
5 TO 2, I OBJECT TO INTRODUCING THAT. THEY'RE ATTEMPTING --
6 THERE'S BEEN NO CONSPIRACY ESTABLISHED OR ANYTHING HERE. I
7 DON'T SEE HOW IT'S RELEVANT TO MY CLIENT.

8 APPARENTLY THEY'RE ATTEMPTING TO INTRODUCE THEM
9 BECAUSE THERE'S FINGERPRINTS ON THEM AND THEY'VE IDENTIFIED
10 THEM AS JOE HUNT'S AND THEY'VE GOT HANDWRITING THAT'S JOE
11 HUNT'S. I THINK THAT BY PERMITTING THAT, THEY'D BE
12 PERMITTING IN STATEMENTS ON THESE DOCUMENTS WHICH ARE NOT
13 ADMISSIBLE.

14 I DON'T OBJECT TO THEM INTRODUCING THE FACT THAT IT'S
15 JOE HUNT'S HANDWRITING OR THE FACT THAT THERE'S JOE HUNT'S
16 FINGERPRINTS ON THERE, BUT THE DOCUMENTS AND THE MATERIAL
17 CONTAINED IN THE DOCUMENTS, I THINK THEY'RE JUST TRYING TO
18 CIRCUMVENT THE HEARSAY RULE BY ASKING THAT THOSE DOCUMENTS
19 BE INTRODUCED. BEFORE I CAN OBJECT TO THE EVIDENCE, SHE
20 JUST, YOU KNOW, LISTED A NUMBER OF DOCUMENTS. I HAVEN'T HAD
21 A CHANCE TO EVEN REALLY --

22 MS. LOPEZ: WELL, I'D LIKE TO POINT OUT TO THE COURT
23 THAT MR. YOUNG HAS BEEN IN COURT EVERY TIME WE MARKED A
24 DOCUMENT. I CAN'T HELP IT IF HE DOESN'T TAKE NOTES OR
25 HASN'T NOTED EACH PARTICULAR DOCUMENT THAT'S BEEN MARKED AND
26 HASN'T ASKED TO INSPECT EACH DOCUMENT. THEY HAVE BEEN
27 AVAILABLE IN THE COURTROOM. WE HAVE ADVISED MR. YOUNG
28 THEY'RE AVAILABLE IN THE COURTROOM, AND TO SAY THAT HE

1 DOESN'T KNOW WHAT THESE DOCUMENTS ARE --

2 MR. YOUNG: WELL, I'D LIKE ONE MINUTE TO SEE WHAT
3 THEY ARE.

4 THE COURT: WELL, THERE'S NO QUESTION ABOUT PEOPLE'S
5 EXHIBIT 2 WHICH IS A -- LET'S SAY ONE OF THE PRIMARY
6 EXHIBITS HERE. YOU SAY THAT YOU -- YOU'RE NOT RAISING ANY
7 ISSUE AS TO MR. HUNT'S PRINT AND HANDWRITING ANALYSIS ON
8 THESE, BUT WHAT WAS YOUR FURTHER OBJECTION?

9 MR. YOUNG: I OBJECT TO INTRODUCING THE ENTIRE
10 DOCUMENTS AS FAR AS THE CONTENTS. THEY'RE GETTING IN THE
11 CONTENTS OF THE DOCUMENT. THAT'S CLEARLY HEARSAY. THEY'RE
12 ASKING TO PUT IN THE WHOLE DOCUMENT. THEY COULD PUT IN THE
13 REVERSE SIDES OF THAT ONE DOCUMENT WHERE YOU HAD HUNT'S
14 PRINTS AND -- BUT TO PUT IN ALL THE DOCUMENTS, YOU KNOW,
15 THAT'S HEARSAY AND IT'S --

16 THE COURT: WELL, THE DOCUMENT IS -- ACCORDING TO THE
17 WITNESSES' TESTIMONY IS IN THE HANDWRITING OF MR. HUNT; IS
18 THAT RIGHT?

19 MR. YOUNG: RIGHT.

20 THE COURT: ALL RIGHT. SO THAT WOULD -- YOU MAY BE
21 TALKING ABOUT YOUR CLIENT, BUT CERTAINLY IT ISN'T HEARSAY AS
22 TO MR. HUNT AT THIS POINT. IF IT'S BEEN WRITTEN BY
23 MR. HUNT. IS THAT THE PEOPLE'S -- WHAT IS THE PEOPLE'S
24 CONTENTION?

25 MS. LOPEZ: WE BELIEVE THAT THIS DOCUMENT IS
26 ADMISSIBLE ON SEVERAL GROUNDS AND FOR SEVERAL REASONS.
27 FIRST, AS THE COURT IS WELL AWARE, THAT DOCUMENT MAY HAVE
28 HEARSAY AS WELL AS NON-HEARSAY PURPOSES.

1 THE COURT: THAT'S TRUE.

2 MS. LOPEZ: A NON-HEARSAY PURPOSE WOULD BE TO
3 ESTABLISH THAT AN AGREEMENT EXISTED BETWEEN THIS DEFENDANT
4 AND JOE HUNT AND THE AGREEMENT WAS TO COMMIT A CRIMINAL ACT.
5 I THINK THAT CIRCUMSTANTIALLY BASED ON THE CONTENTS OF THIS
6 DOCUMENT SUCH AN AGREEMENT IS SHOWN. ON THE LAST PAGE OF
7 THE DOCUMENT IT SAYS "JIM DIGS PIT" --

8 MR. YOUNG: YOUR HONOR --

9 MS. LOPEZ: EXCUSE ME, MR. YOUNG, I'M NOT FINISHED.

10 THE COURT: LET HER --

11 MR. YOUNG: -- SHE'S ATTEMPTING TO READ FROM THE
12 DOCUMENT.

13 MS. LOPEZ: THE COURT CANNOT RULE AS TO WHETHER OR
14 NOT THIS CAN CIRCUMSTANTIALLY SHOW AN AGREEMENT WITHOUT
15 LOOKING AT THE DOCUMENT AND READING ITS CONTENTS.

16 THE COURT: THAT'S CORRECT.

17 MS. LOPEZ: AND TO SUGGEST THAT THE COURT CANNOT
18 DISTINGUISH BETWEEN HEARSAY AND NON-HEARSAY PURPOSES I THINK
19 IS INCORRECT.

20 THE COURT: ALL RIGHT. THE -- I TAKE IT, MS. LOPEZ,
21 WHAT YOU'RE DISCUSSING NOW IS AS FAR AS THE -- ALLEGEDLY
22 THERE IS NO -- OR LET'S SAY CIRCUMSTANTIALLY IN THE EVIDENCE
23 SO FAR THERE'S NOTHING TO INDICATE THAT MR. PITTMAN'S PRINTS
24 WERE ON HERE OR THAT HE WROTE THIS.

25 MS. LOPEZ: NO, YOUR HONOR; HOWEVER, THIS IS --

26 THE COURT: BUT IN THE FUTURE, DO YOU INTEND TO TIE
27 SOMETHING IN THAT WOULD MAKE THIS RELEVANT? IS THAT YOUR
28 CONTENTION?

1 MS. LOPEZ: YES, YES. BUT THE DOCUMENT ITSELF WOULD
2 STILL BE ADMISSIBLE --

3 THE COURT: YES.

4 MR. YOUNG: NO --

5 MS. LOPEZ: -- BECAUSE IT IS A LEGALLY ADMISSIBLE
6 DOCUMENT, AND TO ESTABLISH THAT A CRIMINAL ACT DID TAKE
7 PLACE.

8 AND UNDER SECTION 1.7 OF THE JEFFERSON'S BENCH BOOK
9 IT WOULD BE WHAT IS DESIGNATED OR IS KNOWN AS A LEGALLY
10 OPERATIVE FACT IN THAT IT GIVES RISE TO INFERENCES OR
11 CIRCUMSTANTIAL EVIDENCE WHICH WOULD LEAD TO A CONCLUSION
12 THAT IS AT ISSUE; IN THIS CASE, NAMELY THAT RON LEVIN IS NOT
13 MERELY A MISSING PERSON, BUT RATHER SOMEBODY WHO IS
14 MURDERED.

15 IN ADDITION UNDER EVIDENCE CODE 1250, IT WOULD BE
16 ADMISSIBLE TO SHOW PLAN AND MOTIVE BECAUSE IT WOULD CLEARLY
17 SHOW WHAT THE STATE OF MIND OR THE MOTIVE OF THE MAKER IS,
18 WHICH IS NAMELY TO KILL RON LEVIN.

19 AS TO THE NON-HEARSAY PURPOSES, IT -- WE BELIEVE THAT
20 IT IS CIRCUMSTANTIAL EVIDENCE THAT AN AGREEMENT DID EXIST.
21 ON THE LAST PAGE IT CLEARLY SAYS "JIM DIGS PIT". IT IS
22 CLEAR FROM THE SUBSTANCE OF THE DOCUMENTS THAT IT IS AN
23 AGREEMENT TO COMMIT A CRIMINAL ACT. I BELIEVE THIS IN
24 CONJUNCTION WITH THE OTHER EVIDENCE THAT WE HAVE ALREADY
25 OFFERED TO THE COURT AND WHICH HAS BEEN ADMITTED; NAMELY,
26 PEOPLE'S EXHIBIT 27 WHICH SHOWS JAMES PITTMAN IN NEW YORK
27 CITY REGISTERED AT THE PLAZA HOTEL UNDER RON LEVIN'S NAME,
28 THAT THERE IS SUFFICIENT EVIDENCE TO SHOW THAT THERE WAS A

1 CONSPIRACY WHICH WOULD ALSO ALLOW THIS COURT TO ADMIT IT FOR
2 THE TRUTH OF THE MATTER AS TO JAMES PITTMAN UNDER SECTION
3 1223 OF THE EVIDENCE CODE, A STATEMENT MADE BY A
4 CO-CONSPIRATOR DURING THE COURSE OF A CONSPIRACY, WHICH THIS
5 CLEARLY IS.

6 FOR ALL OF THOSE REASONS, WE BELIEVE THAT PEOPLE'S 2
7 AND 3 MAY BE ADMITTED. PEOPLE'S 2 MAY BE ADMITTED AND
8 PEOPLE'S 3 MAY BE ADMITTED BY REFERENCE.

9 THE COURT: ALL RIGHT. PEOPLE'S 2 AND PEOPLE'S 3
10 WILL BE ADMITTED. THEY CAN BE ADMITTED SUBJECT TO A MOTION
11 TO STRIKE AT A LATER TIME IF THERE'S NO TIE IN WITH MR.
12 PITTMAN, BUT CERTAINLY THEY ARE ADMISSIBLE INTO EVIDENCE AT
13 THIS TIME.

14 MR. YOUNG: I'VE STATED MY OBJECTION FOR THE RECORD,
15 THOUGH.

16 THE COURT: THE OBJECTION WILL BE RECORDED.

17 MS. LOPEZ: AS TO PEOPLE'S 5 THROUGH 26, ARE THERE
18 ANY OBJECTIONS?

19 MR. YOUNG: WELL --

20 THE COURT: DO YOU WANT TO ENUMERATE WHAT THOSE ARE?

21 MR. YOUNG: I DON'T HAVE THEM LISTED, NO. IF YOU'D
22 JUST ENUMERATE WHAT THEY ARE.

23 MS. LOPEZ: NO. 5 IS A TWO PAGE COPY OF AN AGREEMENT
24 FROM MICROGENESIS. THIS IS AN ITEM THAT WAS FOUND IN RON
25 LEVIN'S HOME. AGAIN, IT WOULD BE ADMISSIBLE UNDER THE
26 THEORY THAT IT IS A LEGALLY OPERATIVE FACT. IT IS NOT
27 OFFERED FOR THE TRUTH OF THE MATTER, BUT MERELY TO SHOW THAT
28 THERE IS SOME SORT OF CONTRACT IN EXISTENCE. IN ADDITION,

1 IT CORROBORATES THAT A MURDER DID TAKE PLACE IN THAT IT
2 CORRESPONDS TO ONE OF THE ITEMS OF LISTED THINGS TO DO AT
3 LEVIN'S HOUSE WHICH IS PART OF PEOPLE'S EXHIBIT 2.

4 MR. YOUNG: OKAY. LET'S GO ONE AT A TIME. THAT'S
5 NO. 5?

6 THE COURT: OKAY. I OBJECT TO NO. 5 ON THE BASIS
7 THAT THEY HAVEN'T ESTABLISHED A CONSPIRACY BY INDEPENDENT
8 EVIDENCE. UNTIL THEY ESTABLISH A CONSPIRACY BY INDEPENDENT
9 EVIDENCE, THEY CANNOT USE THIS DOCUMENT, WHICH IS HEARSAY,
10 TO PROVE THAT CONSPIRACY.

11 MS. LOPEZ: AGAIN, IT IS NOT --

12 MR. YOUNG: AND I'D LIKE TO CITE SOME CASES ON THAT.

13 MS. LOPEZ: AGAIN, IT IS NOT HEARSAY. IT IS A
14 LEGALLY OPERATIVE FACT. IT GIVES RISE TO CIRCUMSTANTIAL
15 EVIDENCE THAT RON LEVIN WAS IN FACT MURDERED RATHER THAN
16 SIMPLY A MISSING PERSON, AND FOR THAT REASON WOULD BE
17 ADMISSIBLE ON THAT GROUND ALONE. IT IS NOT OFFERED FOR THE
18 TRUTH OF THE MATTER ASSERTED THEREIN. IN FACT, IT'S THE
19 PEOPLE'S POSITION THAT THERE WAS NEVER SUCH A CONTRACT
20 BETWEEN RON LEVIN AND MR. HUNT.

21 THE COURT: ALL RIGHT. PEOPLE'S 5 WILL BE ADMITTED
22 INTO EVIDENCE AT THIS TIME.

23 MR. YOUNG: OBJECTION STILL FOR THE RECORD.

24 THE COURT: THE RECORD MAY SHOW THE OBJECTION.

25 MS. LOPEZ: PEOPLE'S 6 IS A PHOTOGRAPH OF THE WASTE
26 BASKET IN THE FILE ROOM.

27 THE COURT: THAT WAS PEOPLE'S PEOPLE'S 4 AND PEOPLE'S
28 5 THAT YOU WERE REFERRING TO. PEOPLE'S 4 WAS THE ONE THAT

1 THE COURT: ALL RIGHT. PEOPLE'S 4 IS ADMITTED ONLY
2 BY REFERENCE. PEOPLE'S 5 WILL BE ADMITTED. NOW YOU CAN GO
3 TO 6.

4 MS. LOPEZ: 6 IS A PHOTOGRAPH OF THE WASTE BASKET
5 WHICH SHOWS RON LEVIN'S FILE ROOM.

6 THE COURT: ALL RIGHT. THERE'S CERTAINLY NO
7 OBJECTION TO THAT.

8 MR. YOUNG: I DON'T HAVE NO OBJECTION TO THAT.

9 THE COURT: ALL RIGHT. PEOPLE'S 6 WILL BE ADMITTED
10 INTO EVIDENCE.

11 MS. LOPEZ: PEOPLE'S 7 IS A 3 BY 5 BLUE CARD THAT WAS
12 IDENTIFIED BY GERALD STONE AS A BUSINESS RECORD MAINTAINED
13 AND PREPARED DURING THE NORMAL COURSE OF THE ANSWERING
14 SERVICE'S BUSINESS.

15 THE COURT: ALL RIGHT. PEOPLE'S 7 WILL BE ADMITTED
16 INTO EVIDENCE.

17 MS. LOPEZ: AS TO PEOPLE'S 7, MAY WE MAKE A XEROX
18 COPY OF PEOPLE'S 7 AND SUBSTITUTE IT FOR THE ORIGINAL?

19 THE COURT: IS THERE ANY OBJECTION TO THAT?

20 MR. YOUNG: NO.

21 THE COURT: ALL RIGHT.

22 MS. LOPEZ: PEOPLE'S 8 IS A TWO SIDED PHOTOGRAPH OF
23 JOE HUNT. THIS WAS USED BY MRS. STURKEY TO IDENTIFY JOE
24 HUNT AS THE PERSON SHE KNEW TO BE JOE HUNT OR KNEW BY THE
25 NAME OF JOE HUNT.

26 MR. YOUNG: WELL, I OBJECT TO THE PICTURE. I THINK
27 THAT IF THEY WERE ABLE TO IDENTIFY THEM THEY SHOULD IDENTIFY
28 THEM IN PERSON. SO I WOULD OBJECT ON THE BASIS OF

1 RELEVANCY.

2 THE COURT: TO IDENTIFY MR. HUNT IN PERSON? YOU MEAN
3 BRING HIM IN THE COURTROOM HERE?

4 MR. YOUNG: WELL.

5 THE COURT: ALL RIGHT. THE OBJECTION ON PEOPLE'S 8
6 WILL BE OVERRULED. PEOPLE'S 8 WILL BE ADMITTED INTO
7 EVIDENCE. IF IT'S A TRUE REPRESENTATION OF MR. HUNT, WHICH
8 I PRESUME IT IS.

9 MS. LOPEZ: PEOPLE'S 9 IS A COPY OF BANK ACCOUNT
10 STATUS FROM CITY OF BEVERLY HILLS -- ONE MOMENT.

11 MR. YOUNG: THAT'S FOR RON LEVIN?

12 MS. LOPEZ: IT'S THE GOVERNMENT RESPONSE FROM THE
13 OLYMPIC NATIONAL BANK. THIS WAS IDENTIFIED -- WELL,
14 ACTUALLY, PEOPLE'S 9 THROUGH 17 WERE --

15 THE COURT: YES, ALL OF THOSE, 9 THROUGH 17 WERE ALL
16 THE BANK REFERENCE MATTERS.

17 MS. LOPEZ: MAY THEY BE ADMITTED?

18 THE COURT: ALL RIGHT. PEOPLE'S 9 THROUGH 17 WILL BE
19 ADMITTED AT THIS TIME.

20 MS. LOPEZ: PEOPLE'S 18 IS THE COPY OF A DOCUMENT
21 ENTITLED "MINUTES OF THE MEETING OF THE CHAIRMAN OF THE
22 BOARD OF DIRECTORS FOR MICROGENESIS".

23 THE COURT: MICROGENESIS COMPANY.

24 MS. LOPEZ: YES.

25 THE COURT: ALL RIGHT.

26 MR. YOUNG: AGAIN, I OBJECT ON THE FACT THAT
27 HEARSAY -- THEY'RE ATTEMPTING TO ESTABLISH A CONSPIRACY
28 WHICH THEY HAVEN'T ESTABLISHED INTO EVIDENCE.

1 ADMITTED AT THIS TIME.

2 MS. LOPEZ: PEOPLE'S 18 IS THE COPY OF A DOCUMENT
3 ENTITLED "MINUTES OF THE MEETING OF THE CHAIRMAN OF THE
4 BOARD OF DIRECTORS FOR MICROGENESIS".

5 THE COURT: MICROGENESIS COMPANY.

6 MS. LOPEZ: YES.

7 THE COURT: ALL RIGHT.

8 MR. YOUNG: AGAIN, I OBJECT ON THE FACT THAT
9 HEARSAY -- THEY'RE ATTEMPTING TO ESTABLISH A CONSPIRACY
10 WHICH THEY HAVEN'T ESTABLISHED INTO EVIDENCE.

11 MS. LOPEZ: AGAIN, IT'S A LEGALLY OPERATIVE FACT. IT
12 NOT ONLY GOES TO ESTABLISH THAT THERE WAS A CONSPIRACY, BUT
13 ALSO TO ESTABLISH THE FACT THAT THERE WAS A MURDER AND A
14 ROBBERY.

15 THE COURT: THE OBJECTION WILL BE OVERRULED.
16 PEOPLE'S 18 WILL BE ADMITTED INTO EVIDENCE AT THIS TIME.

17 MS. LOPEZ: PEOPLE'S 20 IS AN ENTITLED "OPTION
18 AGREEMENT, MICROGENESIS OF NORTH AMERICA" --

19 THE COURT: ARE YOU SKIPPING 19?

20 MS. LOPEZ: EXCUSE ME. 19 IS A DOCUMENT ENTITLED
21 "BBC PHONE BOOK". THIS WAS USED INITIALLY AS AN EXEMPLAR.

22 THE COURT: ALL RIGHT. PEOPLE'S 19 WILL BE ADMITTED
23 INTO EVIDENCE.

24 MS. LOPEZ: PEOPLE'S 20 IS A TWO PAGE DOCUMENT
25 ENTITLED "OPTION AGREEMENT, MICROGENESIS OF NORTH AMERICA".
26 THIS WAS IDENTIFIED BY DETECTIVE ZOELLER AS BEING A COPY OF
27 THE DOCUMENT THAT WAS FOUND IN MR. HUNT'S POSSESSION AT THE
28 TIME THAT HE WAS ARRESTED.

1 THE COURT: VERY WELL.

2 MS. LOPEZ: 21 IS A FIVE PAGE DOCUMENT --

3 THE COURT: 20 WILL BE ADMITTED INTO EVIDENCE. GO
4 AHEAD.

5 MS. LOPEZ: FIVE PAGE DOCUMENT, HANDWRITING EXEMPLAR
6 OF JOSEPH HUNT. 22 IS A --

7 THE COURT: 21 WILL BE ADMITTED INTO EVIDENCE.

8 MS. LOPEZ: 22 IS A CERTIFIED COPY OF A BOOKING PHOTO
9 FOR NUMBER 8408395 IN THE NAME OF --

10 THE COURT: JOSEPH GAMSKY.

11 MS. LOPEZ: -- JOE GAMSKY.

12 THE COURT: ALL RIGHT. IT WILL BE ADMITTED INTO
13 EVIDENCE.

14 MS. LOPEZ: 23 IS A CERTIFIED COPY OF A FINGERPRINT
15 CARD IN THE NAME OF JOSEPH HUNT, BEARING NUMBER 8408395.

16 THE COURT: IT WILL BE ADMITTED INTO EVIDENCE AT THIS
17 TIME.

18 MS. LOPEZ: 24 IS A XEROX COPY OF FOUR PHOTOGRAPHS,
19 TWO OF THEM SHOWING JOE HUNT AND TWO OF THEM SHOWING A JEEP
20 ON A HILLSIDE AND -- THAT'S 24A. 24B, C, D AND E ARE
21 POLAROID PHOTOS OF THE ORIGINAL WHICH ARE SHOWN IN THE XEROX
22 COPY.

23 THE COURT: ALL RIGHT. THE PHOTOS WILL BE ADMITTED.
24 PEOPLE'S 24 WILL BE ADMITTED EVIDENCE.

25 MS. LOPEZ: 25 IS A CONFIRMATION OF THE LETTER TO
26 RONALD LEVIN FROM THE LEADING HOTELS OF THE WORLD.

27 THE COURT: 25 WILL BE ADMITTED INTO EVIDENCE.

28 MS. LOPEZ: 26 IS A PHOTOCOPY OF A MAP.

1 THE COURT: IT WILL BE ADMITTED INTO EVIDENCE AT THIS
2 TIME.

3 MS. LOPEZ: 27 AND 28 HAVE ALREADY BEEN ADMITTED.

4 THE COURT: THAT'S THE PLAZA HOTEL AND THE --

5 MS. LOPEZ: 27 AND 28 ARE DOCUMENTS FROM THE WORLD
6 TRADE BANK.

7 THE COURT: ALL RIGHT. THEY'RE ADMITTED.

8 MS. LOPEZ: 29 IS THE HANDWRITING EXEMPLAR IN THE
9 NAME OF JAMES PITTMAN.

10 THE COURT: ADMITTED.

11 MS. LOPEZ: 30 IS THE BOOKING PHOTO FOR JAMES
12 PITTMAN.

13 THE COURT: IT WILL BE ADMITTED INTO EVIDENCE AT THIS
14 TIME.

15 MS. LOPEZ: 31 IS A FINGERPRINT CARD FOR JAMES
16 PITTMAN.

17 THE COURT: ADMITTED.

18 MS. LOPEZ: 32 IS A POLAROID PHOTOGRAPH OF AN
19 ORIGINAL PHOTO THAT WAS OBTAINED FROM NEW YORK CITY FOR
20 JAMES PITTMAN.

21 THE COURT: ADMITTED.

22 MS. LOPEZ: 33 IS A COPY OF THE CERTIFIED COPY OF A
23 FINGERPRINT CARD OF -- OR A FINGERPRINT CARD OF RONALD LEVIN
24 FROM NEW YORK.

25 THE COURT: IT WILL BE ADMITTED INTO EVIDENCE.

26 MS. LOPEZ: IT'S A FINGERPRINT CARD WITH THE NAME RON
27 LEVIN.

28 34 IS -- 34 AND 35 ARE PHOTOGRAPHS OF THE LATENT

1 PRINTS DEVELOPED ON THE YELLOW SHEETS OF PAPER.

2 THE COURT: VERY WELL. 34 AND 35 WILL BE ADMITTED
3 INTO EVIDENCE AT THIS TIME.

4 MS. LOPEZ: THANK YOU.

5 THE COURT: THAT'S IT, ISN'T IT?

6 MS. LOPEZ: YES.

7 THE COURT: ALL RIGHT. MR. YOUNG, HOW MUCH TIME DO
8 YOU FEEL YOU NEED FOR --

9 MR. YOUNG: THE SUBPOENA?

10 THE COURT: -- GETTING THE INFORMATION CONCERNING
11 DEAN KARNY.

12 MR. YOUNG: I WOULD LIKE TO CALL THEM AND SEE IF
13 THEY'RE GOING TO MAKE ANY OBJECTIONS TO THE SERVICE OF THE
14 SUBPOENA AND --

15 THE COURT: WELL, WHY DON'T YOU SET IT AT A
16 REASONABLE TIME, AND THEN AS TO -- SO THAT WE HAVE SOMETHING
17 THAT YOU KNOW WHEN YOU'RE BEING --

18 MR. YOUNG: COULD WE MAKE IT JANUARY --

19 THE COURT: -- NECESSARY TO ADVANCE IT OR CONTINUE
20 IT, WE CAN DO IT EITHER WAY.

21 MR. YOUNG: COULD WE MAKE IT JANUARY 4TH?

22 THE CLERK: THAT'S A FRIDAY.

23 THE COURT: HOW ABOUT SOMETIME THE FOLLOWING WEEK?

24 MR. YOUNG: OKAY. MONDAY, IF IT'S -- WHAT'S THAT,
25 JANUARY THE 7TH?

26 THE COURT: 7TH?

27 MR. YOUNG: THE 7TH IS OKAY WITH ME.

28 MR. ZORNE: THAT'S FINE.

1 THE COURT: DO WE HAVE A BETTER DATE?

2 THE CLERK: NO.

3 THE COURT: WE ARE GOING TO HAVE TO SEND THE OTHER
4 PRELIMINARIES OUT, THEN. ALL RIGHT. WE CAN CONTINUE THIS
5 TO JANUARY 7TH. MR. -- TWO THINGS I WANT TO BRING UP.

6 FIRST OF ALL, MR. PITTMAN, DO YOU CONSENT TO HAVE
7 THIS MATTER CONTINUED TO THE 7TH OF JANUARY?

8 DEFENDANT PITTMAN: YES, IT IS.

9 THE COURT: COUNSEL, DO BOTH OF YOU STIPULATE UNDER
10 861 THAT THIS MAY BE CONTINUED -- THAT THE PRELIMINARY MAY
11 BE CONTINUED FOR PURPOSES OF FURTHER INVESTIGATION --

12 MR. YOUNG: YES, YOUR HONOR.

13 MR. ZORNE: YES, YOUR HONOR. WHAT TIME ON THE 7TH,
14 YOUR HONOR?

15 THE COURT: DO YOU WANT THIS AT 9:00 A.M. FOR 2:00
16 P.M.?

17 MR. YOUNG: 9:00 O'CLOCK.

18 THE COURT: ALL RIGHT. LET'S START IT AT 9:00. IT
19 WILL BE SET FOR 9:00 O'CLOCK.

20 ALSO, I'D LIKE THE RECORD TO INDICATE SINCE THERE
21 HAVE BEEN CHANGES OF COUNSEL IN THIS MATTER, THAT MR.
22 PITTMAN HAS PERSONALLY AGAIN SIGNED A STIPULATION TO APPEAR
23 BEFORE MYSELF AS A JUDGE PRO TEM.

24 MR. YOUNG: OKAY. MAY I ASK ONE FURTHER QUESTION? I
25 STILL WOULD LIKE TO KEEP MY SUBPOENA IN EFFECT, AND I
26 BELIEVE JUST THE MERE FACT THAT THEY DIDN'T SHOW UP WITH
27 ANYTHING TODAY IS NONCOMPLIANCE IN VIEW OF THE FACT THAT
28 THEY DIDN'T, YOU KNOW, FILE ANY WRITTEN MOTION.

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1 THE COURT: WELL, I CAN DO THIS CONDITIONALLY. I CAN
2 MAKE AN ORDER AND HOLD IT UNTIL SUCH TIME --

3 MR. YOUNG: THAT'S FINE. OKAY. MAKE AN ORDER AND
4 THEN HOLD IT, AND IF WE DON'T GET IT.....

5 THE COURT: ALL RIGHT. SO THAT YOU DON'T LOSE YOUR
6 RECORD OF HAVING SUBPOENAED THEM.

7 MS. LOPEZ: YOUR HONOR, MAY WE GET A PERSONAL WAIVER
8 AS TO A CONTINUING HEARING FROM MR. PITTMAN.

9 MR. YOUNG: I THINK WE JUST DID THAT.

10 MS. LOPEZ: WAS IT FROM MR. PITTMAN AS WELL?

11 DEFENDANT PITTMAN: YEAH.

12 MS. LOPEZ: MR. PITTMAN, DO YOU WAIVE YOUR RIGHT IT A
13 CONTINUOUS HEARING?

14 DEFENDANT PITTMAN: YEAH.

15 THE COURT: ALL RIGHT. THE PRELIMINARY WILL BE
16 CONTINUED TO JANUARY 7TH, 9:00 A.M., HERE IN DIVISION I.

17 MR. YOUNG: SO WE DON'T COME BACK TOMORROW? SHE SAID
18 SHE HAD TWO WITNESSES.

19 MS. LOPEZ: IF YOU WANT TO CONTINUE IT TO THE 7TH, WE
20 CAN DO THAT. I TOLD THEM I WOULD CALL THEM PERSONALLY AND
21 ORDER THEM TO COME BECAUSE OF THE MANY CONTINUANCES AND
22 PROBLEMS WITH THE CASE.

23 THE COURT: WELL, I THINK IT WOULD BE BETTER ALL
24 AROUND, WOULD IT NOT, IF WE DO IT ON THE 7TH RATHER THAN TRY
25 TO PUT IN JUST TWO WITNESSES ON TOMORROW.

26 MS. LOPEZ: THAT'S FINE.

27 MR. YOUNG: THANK YOU, YOUR HONOR.

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1 MS. LOPEZ: IF YOU WANT TO CONTINUE IT TO THE 7TH, WE
2 CAN DO THAT. I TOLD THEM I WOULD CALL THEM PERSONALLY AND
3 ORDER THEM TO COME BECAUSE OF THE MANY CONTINUANCES AND
4 PROBLEMS WITH THE CASE.

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8 MS. LOPEZ: THAT'S FINE.

9 MR. YOUNG: THANK YOU YOUR HONOR.

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076

1 BEVERLY HILLS, CALIFORNIA, MONDAY, JANUARY 7, 1985, A.M.

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3
4 THE COURT: IN THE MATTER OF JAMES PITTMAN. MR.
5 ZORNE?

6 MR. ZORNE: I EXPLAINED TO MR. PITTMAN THAT MR. YOUNG
7 IS IN TRIAL AND WE ARE ASKING FOR A CONTINUANCE UNTIL THE
8 10TH, YOUR HONOR.

9 THE COURT: VERY WELL. MR. PITTMAN, MR. YOUNG CALLED
10 AND TALKED TO BOTH MR. ZORNE AND MYSELF. HE'S IN TRIAL
11 DOWNTOWN. HE WILL BE FINISHED PROBABLY BY WEDNESDAY, HE
12 SAID, SO WE'LL SET THIS MATTER FOR THURSDAY, THEN. SO WE'LL
13 TRAIL IT TO THURSDAY FOR A RESUMPTION OF THE PRELIMINARY
14 HEARING PREVIOUSLY STARTED. IS THAT ALL RIGHT WITH YOU?

15 DEFENDANT PITTMAN: YES.

16 THE COURT: ALL RIGHT. THE RECORD MAY SHOW THAT
17 MR. PITTMAN HAS ALSO CONSENTED TO A CONTINUANCE TO THURSDAY
18 OF THIS WEEK, THREE DAYS, AND WE'LL GET STARTED ON THURSDAY.

19 THE DEFENDANT: OKAY. THANK YOU. HAVE A NICE DAY.

20 MR. ZORNE: THANK YOU, YOUR HONOR.

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276-A

1 BEVERLY HILLS, CALIFORNIA, THURSDAY, JANUARY 10, 1985

2 2:55 P.M.

3 --000--

4
5 THE COURT: IN THE MATTER OF PEOPLE VERSUS JAMES
6 PITTMAN, LET THE RECORD SHOW THAT MR. PITTMAN IS PRESENT
7 WITH BOTH OF HIS COUNSEL, THAT THE DISTRICT ATTORNEY IS
8 PRESENT. ARE YOU READY TO RESUME AT THIS TIME?

9 MS. LOPEZ: YES.

10 THE COURT: DO YOU HAVE YOUR FIRST WITNESS?

11 MS. LOPEZ: YES.

12 MR. YOUNG: I HAVE A BRIEF MOTION.

13 THE COURT: VERY WELL.

14 MR. YOUNG: TODAY I RECEIVED -- WE HAD A -- THE
15 SUBPOENA ISSUED THAT WE WERE SUBPOENAING THE DOCUMENTS FROM
16 THE ATTORNEY GENERAL'S OFFICE ON THE OTHER CASE. AS I
17 UNDERSTAND, THEY ARE STILL ATTEMPTING TO SHOW MODUS
18 OPERANDI. I SPOKE WITH RON BASS AND I LEARNED EARLIER TODAY
19 THAT APPARENTLY ALL ALONG THE PROSECUTION IN THIS CASE HAS
20 HAD THE POLICE REPORTS AND OTHER EVIDENCE IN THE ESLAMINIA
21 CASE, AND I BELIEVE THAT THERE IS SOME SANCTION WARRANTED,
22 AND UNDER PEOPLE VERSUS HITCH, FOR THEIR FAILURE TO PROVIDE
23 THIS TO ME AT AN EARLIER DATE -- AND I THINK THE SANCTION
24 SHOULD BE THAT THEY SHOULD NOT BE PERMITTED TO USE PROOF OF
25 THIS OTHER CASE AS MODUS OPERANDI. APPARENTLY THIS HAS BEEN
26 IN THEIR FILES SINCE THE BEGINNING OF THIS CASE, AND I JUST
27 LEARNED IT TODAY AS I RECEIVED A COPY FROM THE DETECTIVES
28 HERE.

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1 MS. LOPEZ: YOUR HONOR, I BRIEFLY INFORMED MR. YOUNG
2 IN OPEN COURT THAT THESE ITEMS WERE IN THE COURT'S FILE. I
3 HAD ASSUMED THAT THEY HAD BEEN EARLIER EXCHANGED WITH
4 DEFENSE COUNSEL AS PART OF THE INITIAL DISCOVERY ONLY
5 BECAUSE THEY WERE PART OF OUR INITIAL FILE. IT IS OUR
6 CUSTOM TO EXCHANGE EVERYTHING IN THE FILE WITH DEFENSE
7 COUNSEL. I WAS NOT AWARE THAT THAT PARTICULAR ITEM WAS NOT
8 XEROXED AND ALSO EXCHANGED. IT WAS MY IMPRESSION THAT IT
9 WAS. MR. YOUNG WAS PRESENT WHEN I ASKED DETECTIVE ZOELLER
10 "WASN'T THIS PART OF THE INITIAL DISCOVERY," AND IT'S CLEAR
11 THAT THERE WAS NO BAD INTENT ON OUR PART.

12 IN ADDITION, I'VE REFERRED TO THOSE DOCUMENTS IN OPEN
13 COURT IN THE PRESENCE OF MR. YOUNG, AND HE'S MADE NO COMMENT
14 IN THAT REGARD OR INDICATED THAT NO, HE HAD NOT RECEIVED THE
15 DOCUMENTS THAT I REFERRED TO OR QUESTIONED AS TO WHAT
16 DOCUMENTS I WAS REFERRING TO.

17 MR. YOUNG: YOUR HONOR, I RECALL NO REFERENCE TO
18 THIS, BUT I DO RECALL MY VEHEMENT REQUEST FOR CERTAIN
19 DISCOVERY. THEY'RE AWARE THAT I -- WE HAD AN ISSUE
20 REGARDING THE SUBPOENA. I THINK THAT THAT WAS A QUITE
21 LENGTHY ISSUE, AND AT THAT TIME THEY TOLD ME TO GET IT FROM
22 THE PROSECUTION UP NORTH, WHICH I HAVE ATTEMPTED TO DO, AND
23 I DID NOT LEARN UNTIL TODAY THAT THEY EVEN HAD THESE
24 DOCUMENTS. THE D.A. HAS JUST ADMITTED THAT SHE THOUGHT THAT
25 SHE'D GIVEN IT TO US EARLIER. SHE DIDN'T.

26 THIS -- IF WE REVIEW THE CASES, HITCH, AND THE OTHER
27 CASES FOLLOWING HITCH, IT DOESN'T MATTER IF IT'S INTENTIONAL
28 OR A UNINTENTIONAL SUPPRESSION, IT DOESN'T MATTER ABOUT THE

1 GOOD FAITH OR THE BAD FAITH OF THE PROSECUTION AS FAR AS
2 PROVIDING THIS EVIDENCE. I THINK THAT IT'S, YOU KNOW,
3 HIGHLY IMPROPER THAT THEY HAVE ALL THESE DOCUMENTS AND NOT
4 PROVIDE IT TO ME AND THEN, YOU KNOW, FORCE ME TO GO THROUGH
5 SUBPOENAS TO GET IT. AND I DON'T -- I DON'T BELIEVE THAT
6 THAT -- THAT THAT ENTITLES THIS CASE TO BE DISMISSED, BUT I
7 DON'T THINK THAT THEY SHOULD -- THAT THE PEOPLE SHOULD --
8 THAT THERE SHOULD BE SOME SANCTION AGAINST THE PROSECUTION
9 FOR NOT PROVIDING THESE DOCUMENTS, AND I THINK THE SANCTION
10 SHOULD BE THAT THEY BE PREVENTED FROM INTRODUCING THIS
11 EVIDENCE IN ORDER TO SHOW MODUS OPERANDI.

12 MS. LOPEZ: YOUR HONOR, COUNSEL IS SPEAKING AS IF
13 THERE WAS SOME INTENTIONAL -- OR SOME INTENT ON THE
14 PROSECUTION'S PART NOT TO PROVIDE THESE ITEMS. AGAIN, I
15 HAVE REFERRED TO THESE ITEMS PREVIOUSLY IN OPEN COURT, I HAD
16 ADVISED THE COURT THAT THE RECORDS THAT THE D.A. HAD, THE
17 D.A.'S OFFICE HAD IN THEIR FILE HAD BEEN PREVIOUSLY
18 EXCHANGED DURING DISCOVERY. IT WAS MY BELIEF THAT IT HAD,
19 IN FACT, BEEN EXCHANGED IN DISCOVERY, AND IN ADDITION TO
20 THAT, THERE'S NO PREJUDICE IN THIS CASE. MR. --

21 MR. YOUNG: I THINK --

22 MS. LOPEZ: EXCUSE ME, MR. YOUNG. MR. YOUNG HAS HAD
23 AVAILABLE AN AFFIDAVIT THAT WAS PREPARED BY MR. BRIELING
24 WHICH SETS FORTH IN SUMMATION THE FACTS THAT ARE IN THE
25 ITEMS THAT WE JUST EXCHANGED THIS MORNING. IF MR. YOUNG
26 WOULD LIKE A FURTHER CONTINUANCE FOR THE TESTIMONY OF
27 MR. KARNY, HE'S CERTAINLY WELCOME --

28 MR. YOUNG: I'M NOT --

1 MS. LOPEZ: -- AND HE HASN'T BEEN SHY TO ASK FOR ONE
2 IN THE PAST.

3 THE COURT: IS MR. KARNY GOING TO TESTIFY TODAY?

4 MS. LOPEZ: GIVEN THE TIME WE ARE BEGINNING, I DON'T
5 THINK THERE WOULD BE TIME FOR MR. KARNY TO TESTIFY TODAY.

6 MR. YOUNG: YOUR HONOR --

7 THE COURT: YES.

8 MR. YOUNG: JUST BRIEFLY. THIS MAY BE AN ADDITIONAL
9 FACTOR ON THIS. AS I STATED EARLIER, I REVIEWED THE CASES
10 AND UNDER WHICH THEY'RE ATTEMPTING TO SHOW MODUS OPERANDI IN
11 THIS CASE. ALL THE CASES THAT I HAVE FOUND EITHER DEAL WITH
12 AN ACT WHERE THERE'S BEEN A PRIOR CONVICTION OR WHERE THERE
13 IS A UNCHARGED ACT. THERE ARE NO CASES WHATSOEVER THAT
14 PERMIT -- AND I CHALLENGE THE PROSECUTION TO COME UP WITH
15 ANY AUTHORITY TO THE EFFECT THAT WOULD PERMIT THE
16 PROSECUTION TO INTRODUCE EVIDENCE IN A PENDING CASE TO PROVE
17 ANOTHER PENDING CASE.

18 I THINK THAT THERE IS SOME ISSUE OF DOUBLE JEAPORDY
19 HERE TO -- YOU KNOW, TO USE ONE CASE TO PROVE THIS CASE AND
20 THEN USE THE OTHER CASE TO PROVE THE OTHER CASE. BASICALLY,
21 THEY'RE GOING TO BE USING THE SAME EVIDENCE IN BOTH CASES.
22 I UNDERSTAND THAT DOUBLE JEAPORDY DOESN'T ATTACH UNTIL YOU
23 HAVE A WITNESS AND, YOU KNOW, THERE ARE SOME DISTINCTIONS,
24 BUT THERE'S CERTAINLY COMPLICATIONS IN HERE. I DON'T KNOW
25 THAT THEY NEED THIS, FROM WHAT EVIDENCE I'VE SEEN, IN ORDER
26 TO PROVE THEIR CASE, AT LEAST AS FAR AS HOLDING IT OVER, AND
27 I THINK THAT THEY MAY BE INVITING ERROR HERE TO, YOU KNOW,
28 TO ATTEMPT TO DO IT.

1 I THINK THERE ARE GROUNDS TO PREVENT THE COURT -- I
2 MEAN TO PREVENT THEM FROM ATTEMPTING TO PROVE THIS MODUS
3 OPERANDI, AND UNDER HITCH -- FOR ONE REASON, SHE SAYS THAT
4 THEY DIDN'T DO IT DELIBERATELY, BUT GOOD FAITH, BAD FAITH
5 DOESN'T MATTER. IF THE COURT WISHES, I WILL CITE CASES ON
6 THAT. I HAVE THE CASES HERE TO BE CITED. WHETHER IT'S
7 INTENTIONAL OR UNINTENTIONAL. IT DOESN'T MATTER. IF THEY
8 SUPPRESS EVIDENCE, WHICH THEY DID -- SHE'S ADMITTED THAT THIS
9 WASN'T PROVIDED TO ME UNTIL TODAY AND THAT THEY HAVE HAD IT
10 ALL ALONG. WE MADE A BIG ISSUE OUT OF THIS ABOUT THE
11 SUBPOENA. SHE SAYS SHE'S REFERRED --

12 THE COURT: EXCUSE ME JUST A MINUTE.

13 ALL RIGHT. FIRST OF ALL, WE HAVE GOT TWO SEPARATE
14 ISSUES HERE, I THINK, MR. YOUNG.

15 MR. YOUNG: YES.

16 THE COURT: THE FIRST ONE IS YOU'RE ASKING THE COURT
17 TO IMPOSE SOME SANCTIONS CONCERNING THE LACK OF INFORMATION
18 GIVEN TO YOU WITH REGARD TO THE CASE OR CASES OUTSIDE OF
19 THIS JURISDICTION.

20 MR. YOUNG: RIGHT.

21 THE COURT: THE CASES SUCH AS HITCH, WHICH IS THE
22 AMPULE CASE, OF COURSE, DEPRIVED THE DEFENDANT OF A DEFENSE
23 INASMUCH AS THE BREATH TESTING HAD BEEN DESTROYED.

24 MR. YOUNG: RIGHT.

25 THE COURT: AND THE COURT DID SAY WHETHER IT WAS
26 INTENTIONAL OR UNINTENTIONAL WAS NOT OF ANY GREAT
27 IMPORTANCE. THE FACT IS THAT PREJUDICE IS SHOWN TO THE
28 DEFENDANT. I DON'T KNOW HOW YOU CAN SHOW PREJUDICE TO

1 MR. PITTMAN UNDER THE CIRCUMSTANCES HERE. THE WITNESS IS
2 NOT GOING TO TESTIFY TODAY, APPARENTLY; AND SECONDLY, THE
3 DISTRICT ATTORNEY HAS SAID THIS INFORMATION WAS AVAILABLE SO
4 THAT --

5 MR. YOUNG: BUT THEY DIDN'T LET ME KNOW THAT.

6 THE COURT: IS THAT RIGHT?

7 MS. LOPEZ: YOUR HONOR, WE LET HIM KNOW ON PREVIOUS
8 OCCASIONS. APPARENTLY MR. YOUNG DOES NOT LISTEN.

9 MR. YOUNG: THAT IS COMPLETELY UNTRUE.

10 THE COURT: WELL, AT ANY RATE, THE MOTION TO IMPOSE
11 SANCTIONS OR TO PREVENT THE DISTRICT ATTORNEY FROM USING
12 THAT WITNESS WOULD BE DENIED ON THE GROUNDS THAT THERE IS NO
13 ACTUAL SHOWING OF PREJUDICE HERE AS TO THE DEFENDANT. THERE
14 IS TIME AND TIME CAN BE GIVEN FOR YOU TO CERTAINLY GO
15 THROUGH ALL OF THOSE MATTERS.

16 MR. YOUNG: BRIEFLY, JUST FOR THE RECORD, I DON'T
17 THINK THAT IT IS NECESSARY TO SHOW PREJUDICE. I THINK THAT
18 THE REASON THAT THEY IMPOSE THESE TYPE OF SANCTIONS IS TO
19 MAKE SURE THAT THERE'S FAIR PLAY, AND UNDER THE 4TH
20 AMENDMENT, AND IT'S TO TEACH THE PROSECUTION THAT THEY
21 SHOULD DISCLOSE RELEVANT EVIDENCE ESPECIALLY WHEN IT'S
22 SOMETHING LIKE THIS THAT THEY'RE ATTEMPT TO GO PROVE MODUS
23 OPERANDI. AND I DON'T REALLY LEARN THAT UNTIL, YOUR HONOR,
24 WE ARE IN THE MIDDLE OF THIS PROCEEDING. I DON'T THINK THAT
25 IT'S NECESSARY TO SHOW PREJUDICE. THAT'S A REASON THAT --

26 THE COURT: WELL, IT IS NOT NECESSARY, BUT THE BASIS
27 OF IT IS THAT THE DEFENDANT IS DEPRIVED OF SOME RIGHT,
28 MAINLY SOMETHING THAT PERTAINS TO HIS DEFENSE, THAT HE

1 SHOULD HAVE OR COULD HAVE HAD TO USE IN BEHALF OF HIS
2 DEFENSE, AND THAT'S THE RATIONAL BEHIND THESE THAT THERE IS
3 A BURDEN UPON THE DISTRICT ATTORNEY TO PRODUCE AND GIVE OVER
4 AND NOT CONCEAL ANYTHING THAT MIGHT BE BENEFICIAL TO THE
5 DEFENDANT'S DEFENSE.

6 I -- THE COURT IS RULING HERE. I DON'T FEEL THAT
7 THERE IS ANYTHING AT THIS PARTICULAR POINT THAT HAS PUT
8 MR. PITTMAN IN ANY LESSER POSITION BY REASON -- CONCEDING
9 EVEN THE FACT THAT THE MATERIAL WAS NOT TURNED OVER, WHICH
10 THE DISTRICT ATTORNEY SAYS WAS AVAILABLE AND WAS -- COULD
11 HAVE BEEN OBTAINED BY YOU --

12 MR. YOUNG: BUT --

13 THE COURT: -- WOULD NOT -- THE OTHER POINT THAT
14 YOU'VE RAISED, MR. YOUNG, IF YOU HAVE THE CASES THAT YOU
15 HAVE TO SHOW ABOUT MODUS OPERANDI, I WOULD APPRECIATE YOU
16 GIVING THEM TO ME, BUT --

17 MR. YOUNG: OKAY, I WILL.

18 THE COURT: -- BUT THERE IS -- I THINK IT'S BASIC AND
19 I'M CITING HERE FROM CAL JUROR: "WHERE AN ACCUSED'S
20 CONNECTION WITH THE CRIME CHARGED, OR HIS WRONGFUL INTENT,
21 GUILTY KNOWLEDGE, MOTIVE, OR MALICE, IS IN ISSUE AND IS NOT
22 OBVIOUSLY AND CONCLUSIVELY INFERABLE FROM PROOF OF THE ACT
23 CHARGED, EVIDENCE OF THE COMMISSION OF OTHER SIMILAR ACTS
24 NOT TOO WIDELY SEPARATED IN TIME IS ADMISSIBLE TO SHOW THAT
25 THE ACT IN ISSUE WAS COMMITTED WITH UNLAWFUL INTENT, GUILTY
26 KNOWLEDGE, OR MOTIVE, OR THAT IT WAS PART OF A COMMON
27 SCHEME, PLAN OR DESIGN ATTRIBUTABLE TO THE ACCUSED. THIS IS
28 TRUE THOUGH THE OTHER OFFENSE IS COMMITTED AFTER THE OFFENSE

1 CHARGED. EVIDENCE OF A PRIOR CHARGE IS ADMISSIBLE EVEN
2 THOUGH THE DEFENDANT WAS ACQUITTED OF THAT CHARGE, OR THOUGH
3 THE CHARGE WAS DISMISSED."

4 MR. YOUNG: EXACTLY.

5 THE COURT: AND THERE'S CITED HERE A NUMBER OF CASES.
6 THE --

7 MR. YOUNG: I'M NOT DISAGREEING WITH THAT POINT.

8 THE COURT: ALSO, THE NEW CALJIC INSTRUCTION WHICH
9 WAS GIVEN -- WHICH WAS RECENTLY REVISED, CALJIC INSTRUCTION
10 NUMBER 2.50, WHICH WOULD BE GIVEN TO A JURY WERE THIS ISSUE
11 COMING UP CONCERNING EVIDENCE OF OTHER OFFENSES, ALSO STATES
12 THAT: "SUCH EVIDENCE WAS RECEIVED AND MAY BE CONSIDERED BY
13 YOU ONLY FOR THE LIMITED PURPOSE OF DETERMINING IF IT TENDS
14 TO SHOW: [A CHARACTERISTIC METHOD, PLAN OR SCHEME IN THE
15 COMMISSION OF CRIMINAL ACTS SIMILAR TO THE METHOD, PLAN OR
16 SCHEME USED IN THE COMMISSION OF THE OFFENSE IN THIS CASE
17 WHICH WOULD FURTHER TEND TO SHOW [THE EXISTENCE OF THE
18 INTENT WHICH IS A NECESSARY ELEMENT OF THE CRIME CHARGED]
19 [OR] [THE IDENTITY.....]" -- WHERE IDENTITY, OF COURSE,
20 WOULD NOT BE AT ISSUE HERE, BUT IT ALSO POINTS OUT, AND I
21 THINK THAT THIS IS THE ISSUE THAT WOULD BE HERE, THAT THESE
22 METHODS OF OPERATION ARE SHOWN, M.O.'S, NOT FOR THE PURPOSES
23 OF PROVING THAT THE PERSON "IS OF BAD CHARACTER OR THAT HE
24 HAS A DISPOSITION TO COMMIT CRIMES," BUT RATHER AS TO SHOW
25 SOME SPECIFIC INTENT. NOW, GETTING DOWN TO THIS PARTICULAR
26 CASE, -- CONCEDEDLY, I THINK THE SITUATION HERE IS TO PUT IT
27 MILDLY, UNIQUE.

28 MR. YOUNG: YES.

1 THE COURT: IF THERE WAS A M.O. HERE -- THOSE CASES
2 WHERE M.O.'S ARE NOT ALLOWED IN THE ORDINARY TYPE OF CASE
3 WHERE A ROBBERY TAKES PLACE AND THE MAN HOLDS THE GUN AND
4 THEY TRY TO SHOW THAT OTHER CASES A GUN WAS USED, WHICH
5 WOULD NOT SHOW ANY PARTICULAR M.O. THAT WOULD BE THE
6 ORDINARY COURSE OF A M.O., BUT IF YOU HAVE OTHER CASES THAT
7 SHOW OTHERWISE, I'D APPRECIATE YOU GIVING THEM TO ME.

8 MR. YOUNG: MY POINT IS -- MY POINT IS -- I AGREE
9 WITH WHAT YOU'RE SAYING HERE, BUT WE HAVE AN UNIQUE
10 SITUATION, AS YOU SAY. AGAIN, IN REFERENCE HERE, IT DEALS
11 WITH CONVICTIONS OR PRIOR UNCHARGED ACTS. THERE ARE NO
12 CASES WHATSOEVER -- AND I'VE RESEARCHED IT THOROUGHLY; I'VE
13 HAD OTHER PEOPLE RESEARCH IT -- WHERE YOU HAVE A PENDING
14 CASE. OKAY. WE HAVE TWO PENDING CASES.

15 NOW THEY'RE GOING TO USE THE CASE UP NORTH TO PROVE
16 THE CASE DOWN HERE AND THEY'RE GOING TO USE THE CASE DOWN
17 HERE TO PROVE THE CASE UP THERE. THERE IS NO AUTHORITY
18 WHATSOEVER TO -- THAT SAYS THAT YOU CAN INTRODUCE ANOTHER
19 PENDING CASE. I THINK THAT IF THE CASES WERE CAPABLE OF
20 BEING CONSOLIDATED, THEN THEY SHOULD BE CONSOLIDATED.

21 THE COURT: WELL, YOU HAVE A JURISDICTIONAL PROBLEM
22 ON THAT.

23 MR. YOUNG: THAT'S WHAT I'M SAYING. THEY CANNOT BE
24 CONSOLIDATED, SO THEY SHOULD EACH BE CONSIDERED SEPARATELY,
25 AND UNDER 352 WOULD BE ANOTHER GROUND. I THINK IT'S HIGHLY
26 PREJUDICIAL TO GO AND SHOW ONE SET OF CIRCUMSTANCES TO PROVE
27 ANOTHER SET OF CIRCUMSTANCES HERE, ESPECIALLY WHEN THIS CASE
28 SHOULD STAND ON ITS OWN MERITS. I DON'T -- I DON'T THINK

1 THAT -- THAT THEY SHOULD BE ENTITLED TO USE THE OTHER CASE
2 TO PROVE THIS ONE WHEN IT'S A PENDING CASE.

3 WHAT I'M SAYING IS THERE'S AN ABSENCE OF AUTHORITY
4 THAT DEALS WITH THE SITUATION THAT WE HAVE HERE, AND TO ME
5 THERE IS CERTAINLY SOME ISSUE WITH REGARD TO DOUBLE
6 JEOPARDY. THEY'RE GOING TO BE USING THE SAME EVIDENCE IN
7 BOTH CASES. OKAY? SO IF THEY DON'T GET US HERE, THEY'RE
8 GOING TO GET US THERE. WE HAVEN'T GONE TO TRIAL, WE HAVEN'T
9 INTRODUCED A WITNESS OR ANYTHING LIKE THAT, WHICH IS THE
10 NORMAL STANDARD FOR DOUBLE JEOPARDY FOR IT TO ATTACH, BUT
11 THEY'RE CERTAINLY GOING TO BE USING THE SAME EVIDENCE IN
12 BOTH CASES. IS THAT NOT TWO TRIALS ON THE SAME ISSUE,
13 BASICALLY?

14 MS. LOPEZ: YOUR HONOR, IT'S NOT TO TWO TRIALS ON THE
15 SAME ISSUE.

16 THE COURT: YES, RIGHT. GO AHEAD.

17 MS. LOPEZ: AND THE LACK OF A CASE WITH THE SPECIFIC
18 FACTS DOESN'T EXCLUDE THE POSSIBILITY. I THINK WHAT YOU DO
19 IS JUST MAKE LOGICAL INFERENCES FROM THE FACTS IN AND THE
20 CASES THAT HAVE ALREADY BEEN RULED ON, AND IT'S CLEAR THAT
21 THE PEOPLE CAN USE OTHER EVENTS AND CONDUCT ON THE PART OF
22 THIS DEFENDANT TO SHOW MODUS OPERANDI IN ORDER TO PROVE
23 INTENT AND THAT THE ACTS IN THIS CASE WERE, IN FACT,
24 COMMITTED NOTWITHSTANDING THE FACT THAT THE CASE IS PENDING
25 UP NORTH.

26 THE COURT: DO YOU HAVE ANY CASES THAT --

27 MR. YOUNG: THERE'S AN ABSENCE --

28 THE COURT: -- CITE THIS --

4

1 MR. YOUNG: DEALING WITH THIS PARTICULAR AREA, THERE
2 ARE NO CASE CITINGS WHERE YOU CAN INTRODUCE A PENDING CASE
3 TO PROVE ANOTHER PENDING CASE, AND JUST LOGIC OF THE
4 SITUATION AND THE FAIRNESS OF THE SITUATION.

5 MS. LOPEZ: I THINK THE LOGIC OF THE SITUATION IS
6 AGAINST MR. YOUNG.

7 THE COURT: WELL, THERE'S -- YOU'RE REFERRING TO
8 THE -- THE ONLY MATTER THAT WOULD CONTRADICT THIS WOULD
9 POSSIBLY BE 352, BUT 352 BASICALLY -- SECTION 352 BASICALLY
10 IS AN INSTRUCTION FOR TRIAL PURPOSES SO THAT A JURY CANNOT
11 INFER FROM ONE CASE TO ANOTHER THAT JUST BECAUSE THE PARTY
12 IS A QUOTE "BAD CHARACTER" OR HAS A PREDISPOSITION TO
13 CRIMINALITY THAT HE THEREFORE WOULD BE GUILTY OF THE CRIME
14 THAT'S CHARGED IN CHIEF.

15 BUT FOR THE PURPOSE OF A COMMITTING MAGISTRATE WITH
16 PROBABLE CAUSE AS THE ONLY ISSUE, I DON'T KNOW OF ANY CASES
17 THAT WOULD CAUSE 352 TO COME INTO OPERATION BECAUSE IT
18 CERTAINLY WOULD NOT BE PREJUDICIAL TO A MAGISTRATE WHO IS
19 SUPPOSED TO KNOW WHAT THE LAW IS ON THESE ISSUES AND NOT TO
20 BE SO INFLUENCED.

21 DO YOU HAVE ANYTHING IN ADDITION, MS. LOPEZ?

22 MS. LOPEZ: NO, YOUR HONOR.

23 MR. YOUNG: ONE MORE THING, NOT ON THIS ISSUE. I
24 UNDERSTAND YOU'VE RULED, AND I'VE MADE MY RECORD.

25 WITH RESPECT TO THE SUBPOENA, IT STILL HASN'T BEEN
26 COMPLIED WITH. THERE'S BEEN NO WRITTEN OBJECTIONS. I HAVE
27 HAD DISCUSSIONS WITH MR. BASS. I SENT A LETTER TO THE
28 COURT -- I DON'T KNOW IF IT'S BEEN RECEIVED YET -- AS WELL

1 AS A LETTER TO HIM. HE IS THE ONE THAT TOLD ME THAT THEY
2 HAD COPIES OF THE DOCUMENTS HERE EARLIER THIS MORNING.
3 THAT'S HOW I LEARNED IT. I DON'T KNOW WHAT OTHER
4 INFORMATION THEY DO HAVE. I STILL WANTED THAT SUBPOENA
5 COMPLIED WITH WITHIN REASON. THERE ARE CERTAIN THINGS I'VE
6 DISCUSSED WITH HIM THAT I, YOU KNOW, DID NOT WISH TO BURDEN
7 THEM WITH HAVING TO PROVIDE, BUT I DO THINK THAT AT THIS
8 POINT THERE HASN'T BEEN COMPLIANCE WITH THEIR SUBPOENA AND
9 THERE SHOULD BE SOME TYPE OF AN ORDER.

10 MS. LOPEZ: YOUR HONOR, IN THAT REGARD, I BELIEVE --
11 OR IT WAS MR. BASS' IMPRESSION THAT THE POLICE REPORTS THAT
12 HAVE BEEN PROVIDED ALREADY WERE WHAT MR. YOUNG WAS
13 REQUESTING. MR. YOUNG WAS SPECULATING THAT THERE WERE OTHER
14 MEETINGS WITH DEAN KARNY WHERE, IN FACT, THERE WERE NO OTHER
15 MEETINGS WITH DEAN KARNY. THE ONLY MEETING WAS TRANSCRIBED
16 AND A COPY OF THAT TRANSCRIPT WAS EXCHANGED AT LEAST A MONTH
17 AGO. IN SPEAKING WITH MR. BASS, HE ASSUMED THAT THE
18 EXCHANGE OF THE POLICE REPORTS THAT WAS MADE THIS MORNING
19 WAS ALL THAT MR. YOUNG WAS AFTER. I THINK FOR THIS COURT TO
20 THEN MAKE AN ORDER AFTER MR. YOUNG GIVES MR. BASS THE
21 IMPRESSION THAT THAT'S ALL HE'S AFTER IS HIGHLY
22 INAPPROPRIATE.

23 MR. YOUNG: WELL, AGAIN, I DON'T WANT TO LOSE THE
24 JURISDICTION OF THE SUBPOENA. WE'VE GOT THIS EARLIER.
25 MR. ZORNE HAS HAD A CHANCE TO REVIEW IT TO SOME EXTENT. I
26 HAVEN'T GOTTEN THE OPPORTUNITY TO REVIEW IT. THERE MAY BE
27 OTHER THINGS IN THERE THAT I MAY NEED. I TOLD HIM THAT THAT
28 MAY BE ALL THAT I NEED. I DON'T KNOW, BUT I DON'T WANT TO

1 JUST LET THIS SUBPOENA DROP WHEN THERE'S BEEN NO
2 OBJECTION --

3 THE COURT: WELL, I'M SURE THAT THE DISTRICT ATTORNEY
4 HAS NO OBJECTION TO TURNING OVER ANY LEGITIMATE DISCOVERY
5 MATTERS THAT ARE IN THEIR POSSESSION.

6 MS. LOPEZ: I HAVE NOTHING ELSE, YOUR HONOR.

7 THE COURT: IS THAT CORRECT? WELL, THAT WHICH SHE
8 DOES NOT HAVE, OF COURSE, SHE CANNOT TURN OVER TO YOU.

9 MR. YOUNG: WELL, THIS IS DEALING WITH THE ATTORNEY
10 GENERAL'S OFFICE, OF COURSE, AND THAT'S BEEN ONE OF OUR
11 PROBLEMS. THERE IS ONE OTHER ITEM THAT HAS CLEARLY NOT YET
12 BEEN TURNED OVER, AND THAT IS THE COPY OF THE TAPE RECORDING
13 THAT THEY MADE AT THE TIME THAT THEY MADE THE WRITTEN
14 TRANSCRIPT, AND WE DISCUSSED THAT EARLIER.

15 MS. LOPEZ: YOUR HONOR, I HAVE NO CONTROL OR
16 POSSESSION OVER ANY TAPE RECORDING THAT MIGHT HAVE BEEN MADE
17 AT THE TIME THAT THEY TRANSCRIBED THE STATEMENT FROM DEAN
18 KARNY. MR. YOUNG HAS A TRANSCRIPTION. THE STATEMENT WAS
19 TAKEN DOWN BY A COURT REPORTER, THE COURT REPORTER DID
20 PREPARE A TRANSCRIPT, THE TRANSCRIPT WAS EXCHANGED. AND IF
21 THERE'S ANYTHING IN THAT STATEMENT THAT WOULD BE NECESSARY
22 FOR THE PURPOSES OF CROSS-EXAMINATION, MR. YOUNG CLEARLY HAS
23 IT. IF HE'S GOING TO REFER TO THE TONE OF VOICE, CLEARLY
24 THAT'S NOT RELEVANT FOR THE PURPOSES OF THE PRELIMINARY
25 HEARING AND IT'S NOT NECESSARY FOR HIM TO LISTEN TO THE TONE
26 OF VOICE IN ORDER TO CROSS-EXAMINE THE WITNESS.

27 MR. YOUNG: THERE'S CERTAIN --

28 MS. LOPEZ: THAT MIGHT BE NECESSARY AS AN AFFIRMATIVE

1 DEFENSE AT TRIAL. PERHAPS THE JURY MIGHT BE INTERESTED IN
2 IT, BUT FOR THE PURPOSES OF THE PRELIMINARY HEARING, IT'S
3 SIMPLY NOT NECESSARY.

4 THE COURT: ALL RIGHT. LET ME SEE IF I UNDERSTAND
5 THIS CORRECTLY. I TAKE IT A TAPE RECORDING WAS MADE OF SOME
6 TESTIMONY OF A WITNESS KARNY; IS THAT CORRECT?

7 MR. YOUNG: YES.

8 THE COURT: AND THEN THERE'S --

9 MS. LOPEZ: YOUR HONOR, I ASSUME THAT THERE WAS A
10 TAPE RECORDING ON AT THE SAME TIME THAT THE COURT REPORTER
11 WAS TRANSCRIBING IT ONTO HER MACHINE.

12 MR. YOUNG: AND STATEMENTS IN THE --

13 THE COURT: AND A TRANSCRIPT WAS MADE FROM THE TAPE
14 RECORDING, IS THAT IT?

15 MS. LOPEZ: NO. NOT FROM THE TAPE RECORDING, BUT THE
16 COURT REPORTER TRANSCRIBED IT AT THE SAME TIME.

17 THE COURT: AT THE SAME TIME.

18 MS. LOPEZ: AT THE SAME TIME THE COURT REPORTER MADE
19 A TRANSCRIPT.

20 THE COURT: AND THAT WAS FURNISHED TO MR. YOUNG?

21 MS. LOPEZ: THAT WAS FURNISHED TO MR. YOUNG.

22 MR. YOUNG: AGAIN, I UNDERSTAND THAT THEY DON'T HAVE
23 THE TAPE RECORDING. I WANT COMPLIANCE WITH THE TAPE
24 RECORDING. I BELIEVE THAT MR. BASS WILL SEND IT TO ME, BUT
25 I DON'T WANT TO LOSE JURISDICTION OF THE SUBPOENA.

26 THE COURT: ALL RIGHT. WE'LL SEE THAT YOU DON'T LOSE
27 JURISDICTION OF THE SUBPOENA. IF MR. BASS DOES NOT SEND IT
28 TO YOU, YOU CAN BRING THAT UP TO THE COURT'S ATTENTION,

1 THEN, AT A LATER TIME. WE'LL CONSIDER THAT YOU STILL HAVE
2 JURISDICTION OVER THAT SUBPOENA. VERY WELL.

3 ALL RIGHT. YOU MAY PROCEED WITH YOUR FIRST WITNESS.

4 MS. LOPEZ: THE PEOPLE CALL MR. MARINELLI.

5 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
6 YOU SHALL GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
7 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
8 TRUTH, SO HELP YOU GOD.

9 THE WITNESS: I DO.

10 /////
11

11 /////
12

12 CLAUDIO A. MARINELLI,
13 CALLED AS A WITNESS BY THE PEOPLE, HAVING BEEN PREVIOUSLY
14 SWORN, WAS EXAMINED AND TESTIFIES AS FOLLOWS:

15 THE CLERK: WOULD YOU PLEASE STATE YOUR FULL NAME AND
16 SPELL YOUR LAST NAME FOR THE RECORD.

17 THE WITNESS: MY NAME IS CLAUDIO A. MARINELLI.
18 M-A-R-I-N-E-L-L-I.

19 THE CLERK: THANK YOU.
20

21 DIRECT EXAMINATION

22 BY MS. LOPEZ:

23 Q WHAT IS YOUR CURRENT OCCUPATION?

24 A I'M VICE-PRESIDENT OF THE WORLD TRADE BANK.

25 Q IS THAT LOCATED AT 9935 SANTA MONICA BOULEVARD
26 IN THE COUNTY OF LOS ANGELES?

27 A THAT'S CORRECT.

28 Q AND HOW LONG HAVE YOU BEEN SO EMPLOYED?

1 A SINCE AUGUST 13 OF '84.

2 Q AND IN YOUR CAPACITY AS A VICE-PRESIDENT FOR
3 THE WORLD TRADE BANK, ARE YOU FAMILIAR WITH THE PROCEDURES
4 FOLLOWED IN REGARDS TO THE CASHING OF CHECKS?

5 A YES.

6 Q ARE YOU ALSO FAMILIAR WITH THE TYPES OF
7 DOCUMENTS THAT ARE MAINTAINED AND PREPARED DURING THE
8 ORDINARY COURSE OF THE BANK'S BUSINESS WITH REGARDS TO THE
9 CASHING OF CHECKS?

10 A YES.

11 Q ARE YOU FAMILIAR WITH THE TYPES OF DOCUMENTS
12 THAT ARE MAINTAINED AND PREPARED BY THE BANK IN ITS ORDINARY
13 COURSE OF BUSINESS IN REGARDS TO CHECKING ACCOUNTS?

14 A YES.

15 Q DID YOU BRING ANY RECORDS WITH YOU TODAY?

16 A YES, THE ONE I WAS ASKED TO BRING. THE
17 SIGNATURE CARD, THE CHECK FOR A MILLION-FIVE, AND THE
18 DOCUMENTS PERTAINING TO THE COLLECTION OF THAT CHECK.

19 MS. LOPEZ: YOUR HONOR, I HAVE A YELLOW SIGNATURE
20 CARD. ON THE SIGNATURE CARD IS IMPRINTED "WORLD TRADE BANK,
21 NA". NEXT TO THE WORDS "OPENING DATE" OR ABOVE THE WORDS
22 "OPENING DATE" IS THE DATE 6-8-84, ACCOUNT NUMBER
23 001-100742, ACCOUNT NAME, MICROGENESIS OF NORTH AMERICA,
24 INC.. MAY THIS BE MARKED AS EXHIBIT 36?

25 THE COURT: PEOPLE'S 36 FOR IDENTIFICATION.

26 MS. LOPEZ: I HAVE WHAT APPEARS TO BE A CHECK. ON
27 THE FACE OF THE CHECK IS IMPRINTED "SWISS CREDIT BANK", MADE
28 PAYABLE TO MICROGENESIS OF NORTH AMERICA, IN THE SUM OF ONE

202

1 MILLION FIVE HUNDRED THOUSAND DOLLARS. THE CHECK NUMBER IS
2 400358. MAY THAT BE MARKED AS PEOPLE'S EXHIBIT 37?

3 THE COURT: PEOPLE'S 37 FOR IDENTIFICATION.

4 MS. LOPEZ: I ALSO HAVE TWO DOCUMENTS THAT I'M GOING
5 TO STAPLE TOGETHER. THE FIRST DOCUMENT IS ON GREEN PAPER
6 WITH THE WORDS "WORLD TRADE BANK" IMPRINTED ON THE UPPER
7 LEFT HAND CORNER, DATED JUNE 8, 1984, FILE UNDER "COLLECTION
8 NUMBER" IS COLLOT 84-405. THE SECOND PAGE IS A LETTER ON
9 WORLD TRADE BANK -- OR A XEROX COPY OF A LETTER WITH "WORLD
10 TRADE BANK, NA" IMPRINTED ON THE UPPER MIDDLE PORTION. THE
11 LETTER IS DATED JUNE 8TH, 1984. MAY THESE TWO PAGES BE
12 MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT 38?

13 THE COURT: PEOPLE'S 38 FOR IDENTIFICATION.

14 MS. LOPEZ: I HAVE A YELLOW SHEET OF PAPER. ON THE
15 UPPER LEFT HAND CORNER OF THE PAPER IS IMPRINTED "WORLD
16 TRADE BANK, NA, ACCOUNT DEBIT DATE JULY 11, 1984. MAY THIS
17 BE MARKED AS PEOPLE'S EXHIBIT 39?

18 THE COURT: 39.

19 MS. LOPEZ: AND IN THE BOTTOM PORTION OF THIS YELLOW
20 SHEET OF PAPER UNDER "ACCOUNT NUMBER" IS THE NUMBER
21 001-100742 IN THE NAME OF MICROGENESIS OF NORTH AMERICA,
22 INCORPORATED.

23 THE COURT: VERY WELL. THE PEOPLE'S 39 FOR
24 IDENTIFICATION.

25 MS. LOPEZ: I HAVE WHAT APPEARS TO BE A TELETYPE. AT
26 THE TOP OF THE TELETYPE IS IMPRINTED -- IS TYPED "DISK 2,
27 PAGE 23". IT'S DIRECTED TO THE WORLD TRADE BANK, NA,
28 9535 SANTA MONICA BOULEVARD. MAY THIS BE MARKED AS PEOPLE'S

1 EXHIBIT 40?

2 THE COURT: 40 FOR IDENTIFICATION.

3 MS. LOPEZ: I HAVE TWO PIECES OF PAPER WHICH I'M
4 GOING TO STAPLE TOGETHER. THE FIRST PIECE OF PAPER IS
5 APPROXIMATELY THREE BY SIX INCHES AND IT HAS PRINTED
6 SOMETHING IN GERMAN, BUT ON THE SECOND LINE IT SAYS "CREDIT
7 SUISSE", S-U-I-S-S-E, AND IT HAS RED HANDWRITING ON IT. THE
8 SECOND PAGE ALSO HAS SOMETHING IMPRINTED ON THE UPPER LEFT
9 HAND CORNER IN GERMAN. THE SECOND LINE SAYS "CREDIT
10 SUISSE", S-U-I-S-S-E, AND IT'S --

11 THE COURT: S-U-I-S-S-E?

12 MS. LOPEZ: YES. DIRECTED TO WORLD TRADE BANK, NA,
13 9535 SANTA MONICA BOULEVARD IN BEVERLY HILLS. MAY THESE TWO
14 DOCUMENTS BE MARKED COLLECTIVELY AS PEOPLE'S 41?

15 THE COURT: 41 FOR IDENTIFICATION, SO MARKED.

16 MS. LOPEZ: I'M HANDING THE WITNESS THE DOCUMENT
17 THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 36.

18 Q WHAT IS THAT?

19 A THAT'S THE DEPOSIT ACCOUNT SIGNATURE CARD --
20 DEPOSIT ACCOUNT AGREEMENT AND SIGNATURE CARD.

21 Q ARE THESE SIGNATURE CARDS PREPARED AND
22 MAINTAINED BY THE BANK FOR EVERY ACCOUNT THAT IS OPEN AT THE
23 BANK?

24 A THAT'S CORRECT. THIS IS FOR CORPORATIONS.

25 Q OKAY. DIRECTING YOUR ATTENTION TO THE PART OF
26 THE SIGNATURE CARD WITH "WORLD TRADE BANK, NA" IMPRINTED IN
27 THE MIDDLE PORTION, WHO'S RESPONSIBLE FOR FILLING OUT THE
28 INFORMATION CONTAINED ON THAT PART OF THE SIGNATURE CARD?

1 A WELL, THE NEW ACCOUNT CLERK, THE PERSON WHO
2 OPENS NEW ACCOUNTS.

3 Q OKAY, AND ARE THE PEOPLE AUTHORIZED TO -- AS
4 AUTHORIZED SIGNERS FOR THE ACCOUNT REQUIRED TO SIGN THEIR
5 NAMES ON THIS SIGNATURE CARD?

6 A THAT'S CORRECT.

7 Q DIRECTING YOUR ATTENTION TO THE BACK SIDE OF
8 THE CARD AND IN THE MIDDLE PORTION, IT HAS 8425 WEST 3RD
9 STREET, SUITE 301. WHO'S RESPONSIBLE FOR PREPARING THIS
10 PORTION OF THE CARD?

11 A THE SAME, THE NEW ACCOUNT PERSON, BUT ALWAYS
12 THIS INFORMATION IS PROVIDED BY THE PERSON OR COMPANY
13 OPENING THE ACCOUNT WHICH GIVES THE ADDRESS, ALL THE
14 INFORMATION PERTAINING TO THE CORPORATION, IN THIS CASE.

15 Q DIRECTING YOUR ATTENTION TO THE SEAL ON THE
16 TYPED PORTION OF THE CARD, AND IT'S THE UPPER PORTION OF THE
17 CARD, WHAT IS THAT SEAL AND WHAT DOES IT SIGNIFY?

18 A OKAY. BECAUSE THIS IS A CORPORATION, IN ORDER
19 TO OPEN AN ACCOUNT, THEY NEED A RESOLUTION AND THIS IS THE
20 RESOLUTION WHICH RESOLVES, AS IT SAYS THERE, "THE
21 CORPORATION MAY ESTABLISH IN ITS NAME AN ACCOUNT WITH THE
22 WORLD TRADE BANK", AND HERE IT GIVES THE NAME OF THE
23 CORPORATION AND THE DATE THE RESOLUTION WAS PASSED, THE 7TH
24 OF JUNE, AND IT'S SIGNED BY THE SECRETARY OF THE CORPORATION
25 WHO AFFIXES ALSO THE SEAL OF THE CORPORATION, AND HE MUST
26 GIVE THE BANK THE TEXT IDENTIFICATION OF IT WHICH IS UP HERE
27 (INDICATING).

28 Q OKAY, AND THAT WOULD BE 95-3102013?

1 A CORRECT.

2 Q THANK YOU.

3 MS. LOPEZ: I'M HANDING THE WITNESS THE CHECK THAT'S
4 BEEN MARKED AS PEOPLE'S EXHIBIT 37.

5 Q WHERE DID YOU OBTAIN THAT CHECK?

6 A WELL, I --

7 Q TODAY. WHERE DID YOU OBTAIN IT TODAY?

8 A OKAY. THIS WAS TAKEN FROM THE RECORDS OF THE
9 BANK, WORLD TRADE BANK.

10 Q FOR ANY PARTICULAR ACCOUNT?

11 A WELL, IN THE FILE OF MICROGENESIS OF NORTH
12 AMERICA. THIS ON A COLLECT FILE BECAUSE THIS ITEM WAS SENT
13 FOR COLLECTION.

14 Q ARE THERE ANY MARKINGS ON THIS CHECK THAT WERE
15 MADE BY THE WORLD TRADE BANK AT THE TIME THAT IT RECEIVED IT
16 OR SENT IT FOR COLLECTION?

17 A YES. ON THE FACE -- ON THE FRONT, ON THE FACE,
18 IT SAYS "WORLD TRADE BANK, NA" WHICH STANDS FOR "NATIONAL
19 ASSOCIATION", BEVERLY HILLS, CALIFORNIA, 90212, COLLECTION
20 NUMBER COLLOT 84-405, AND ON THE REVERSE, WHAT THE BANK --
21 WHAT THE BANK PUT ON, IT SAYS "FOR COLLECTION", PRINTED,
22 "PAY TO THE ORDER OF ANY BANK OR BANKER, ALL PRIOR
23 ENDORSEMENTS GUARANTEED, WORLD TRADE BANK NA", THEN IT GIVES
24 BEVERLY HILLS AND OUR ROUTING NUMBER.

25 Q OKAY --

26 A SO THAT'S THE GUARANTEE ENDORSEMENT.

27 Q OKAY. DO THOSE MARKS INDICATE TO YOU THAT THIS
28 BANK WAS NEGOTIATOR -- OR THAT THIS CHECK WAS PRESENTED TO

1 YOUR BANK FOR THE PURPOSES OF COLLECTION?

2 A THAT'S CORRECT.

3 MS. LOPEZ: I'M HANDING THE WITNESS THE TWO PAGE
4 DOCUMENT THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 38.

5 Q WHAT ARE THOSE TWO PAGES?

6 A OKAY. ONE -- THIS IS A --

7 Q DIRECTING YOUR ATTENTION TO PAGE ONE, FIRST OF
8 ALL.

9 A OKAY. PAGE ONE, THE GREEN SLIP WHICH SAYS
10 "FILE COPY". THIS IS THE FORM, THE PRINTED FORM, THAT THE
11 BANK USES FOR FOREIGN COLLECTIONS, AND THIS WAS SENT, THIS
12 FORM IS SENT WITH ALL THE INFORMATION, AND ATTACHED TO THE
13 FORM GOES THE ITEM THAT WE SEND FOR COLLECTION. NOW, DO YOU
14 WANT ME TO SAY WHAT IT SAYS ON THERE?

15 Q OKAY. WHEN YOU SAY YOU ATTACH THE ITEM, ARE
16 YOU REFERRING TO THE CHECK THAT'S BEING SENT TO --

17 A THAT'S CORRECT. IF YOU NOTICE HERE, IT DOES
18 GIVE THE INFORMATION. IT'S ADDRESSED TO THE CREDIT SUISSE
19 WHERE THE CHECK IS DRAWN ON, ZURICH, SWITZERLAND; IT GIVES
20 THE DATE IT WAS SENT OUT, JUNE 8, '84, THE NUMBER OF THE
21 COLLECTION AGAIN, COLLOT 84-405. IT SAYS THE DEPOSITOR IS
22 MICROGENESIS OF NORTH AMERICA, INC.. THE PAYEE IS RONALD
23 GEORGE LEVIN, AND HIS ACCOUNT NUMBER WITH THE SWISS BANK
24 APPEARS ON THE CHECK, KK 620.076-32-001, THEN "DOCUMENTS
25 ENCLOSED", AND THE COLLECTION SAYS "CHECK NO. 400358, THE
26 DATE OF THE CHECK, 6-6-84, DUE -- THAT MEANS WHEN IT'S
27 PAYABLE -- THAT'S "SIGHT", S-I-G-H-T. THAT'S U.S. DOLLARS,
28 THAT STANDS FOR U.S. DOLLARS, AND SPECIAL INSTRUCTIONS TO

1 THE BANK, THAT'S THE DRAWING BANK, "PLEASE CREDIT OUR
2 ACCOUNT WITH FEDERAL RESERVE BANK OF SAN FRANCISCO BY WIRE
3 THROUGH YOUR U.S. CORRESPONDENT BANK ON TELEX TO US."

4 Q WHO'S RESPONSIBLE FOR PREPARING THIS FIRST PAGE
5 THAT'S MARKED AS PEOPLE'S 38?

6 A THIS IS PREPARED BY THE COLLECTION DEPARTMENT,
7 THE COLLECTION CLERK, BUT IN THIS CASE, THE FELLOW THAT
8 APPEARS HERE TOOK THE PRACTICE -- HE HAS IT ON HIS
9 LETTERHEAD, NEIL ABIFADEL, WHO IS NOT WITH THE BANK ANYMORE,
10 VICE-PRESIDENT AND OPERATION MANAGER, ALSO ADDRESSED A
11 LETTER TO THE CREDIT SUISSE TO GO ALONG WITH THIS
12 COLLECTION.

13 Q AND IS THAT PAGE TWO OF WHAT'S BEEN MARKED AS
14 PEOPLE'S EXHIBIT 38?

15 A THAT'S RIGHT.

16 Q NOW, DIRECTING YOUR ATTENTION TO THE GREEN,
17 WHICH IS PAGE ONE OF EXHIBIT 38, AND THE CHECK THAT'S BEEN
18 MARKED AS PEOPLE'S 37, IS THERE ANYTHING ON 37 THAT WOULD
19 INDICATE THAT THIS IS THE CHECK THAT WAS ATTACHED TO THE
20 GREEN PAPER WHEN IT WAS PRESENTED -- OR SENT FOR COLLECTION?

21 A WELL, THE NUMBER ON THE FACE WOULD REFER TO THE
22 COLLECTION NUMBER.

23 Q OKAY, WHICH IS --

24 A AND ALSO THAT'S REPEATED HERE AND ON THE
25 LETTER.

26 Q OKAY, AND WHAT IS THAT NUMBER FOR THE RECORD?

27 A THE NUMBER IS COLLOT 84-405.

28 MS. LOPEZ: I'M HANDING THE WITNESS THE YELLOW SHEET

1 OF PAPER THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 39.

2 Q WHAT IS THAT?

3 A THIS IS A DEBIT ORIGINATED BY THE BANK, AND IT
4 DETAILS HERE. IT'S FOR THE CHARGES CONNECTED WITH THIS
5 COLLECTION, \$210, AND IT DETAILS \$80 WITH CORRESPONDENT BANK
6 CHARGE, HANDLING CHARGE, SPECIAL MESSENGER SERVICE, TELEX,
7 ET CETERA, AND IT WAS DEBITED TO THE ACCOUNT 001-100742 OF
8 MICROGENESIS OF NORTH AMERICA.

9 Q OKAY, AND THE ITEM REFERRED TO IS --

10 A IT'S -- "THIS IS DEBITING YOUR ACCOUNT AS
11 DETAILED BELOW FOR COLLECTION UNDER COLLOT 84-405."

12 Q AND THAT WOULD REFER TO THE COLLECTION OF THE
13 CHECK THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 37?

14 A THAT'S CORRECT.

15 MS. LOPEZ: I'M HANDING THE WITNESS THE ONE PAGE
16 DOCUMENT THAT'S BEEN MARKED AS PEOPLE'S EXHIBIT 40.

17 Q WHAT IS THAT?

18 A WELL, THIS IS A TELEX. THAT COVER LETTER THAT
19 WE SAID IN THE LAST PARAGRAPH IT STATES, "ALSO PLEASE ADVISE
20 US BY TELEX IN THREE DAYS IF CHECK IS DISHONORED AND THE
21 REASONS." SO THIS IS A TELEX FROM THE SWISS BANK TO US,
22 AND SINCE THEY ARE A CORRESPONDENT BANK WE HAVE ACCOMPANIED,
23 A TEST CODE WHICH IS HERE. SO THIS NUMBER -- WE CAN BREAK
24 THAT AND SEE THAT IT'S A GENUINE -- THAT THE TELEX IS REALLY
25 COMING FROM THE SWISS BANK AND NOT FROM SOMEBODY ELSE.

26 MS. LOPEZ: OKAY. FOR THE RECORD, THE WITNESS HAS
27 REFERRED TO THE "TEST", THE WORD "TEST" AND THEN ":416/1.

28 THE WITNESS: UM-HMM. SO THIS IS ADDRESSED TO US,

1 AND THEN IT REFERS TO -- THEY HAVE GIVEN THE NUMBER TO THEIR
2 COLLECTION, AND THAT'S NORMAL. WHEN BANKS RECEIVE THESE,
3 THEY GIVE THEIR OWN NUMBER AND THEY REFER TO THEIR NUMBER
4 AND THEY SAY "WE REFER TO YOUR CHECK COLLECTION D, CHECK
5 COLLECTION JUNE 8" -- THAT'S THE DATE -- "REFERENCE COLLOT
6 84-405, CHECK FOR U.S. DOLLARS, ONE MILLION FIVE HUNDRED
7 THOUSAND. WE ARE RETURNING UNPAID CHECK FOR THE FOLLOWING
8 REASONS: INSUFFICIENT FUNDS AND SIGNATURE MISSING."

9 THE COURT: OKAY.

10 Q BY MS. LOPEZ: OKAY, AND THIS DOCUMENT IS
11 MAINTAINED BY THE BANK AND DURING THE NORMAL COURSE OF ITS
12 BUSINESS --

13 A THAT'S RIGHT.

14 Q -- IN REGARDS TO THE COLLECTION OF MONIES FOR
15 CHECKS?

16 A THAT'S RIGHT. THIS IS KEPT.

17 MS. LOPEZ: I'M HANDING THE WITNESS THE TWO PAGE
18 DOCUMENT THAT'S BEEN MARKED COLLECTIVELY AS PEOPLE'S EXHIBIT
19 41.

20 Q WHAT ARE THOSE TWO PAGES?

21 A WELL, THIS IS THE DOCUMENT -- THEN THE SWISS
22 BANK FOLLOWS UP, HAS TO RETURN THE ITEM TO US.

23 Q OKAY.

24 A AND SO THEY -- THIS IS THE FORM, THEIR
25 COLLECTION FORM, ATTACHED TO IT.

26 Q OKAY.

27 A THE FIRST PAGE, THE ONE YOU SAID IN RED, ARE
28 THEIR CHARGES TO US FOR HANDLING THIS ITEM. THEY'RE

300

1 CHARGING US \$40 AND THEY HAVE A BREAKDOWN OF WHAT THEY ARE,
2 THE CHARGES.

3 Q AND REFERRING TO PAGE TWO OF THE ITEM --

4 A WELL, THAT'S COVER -- THAT'S A STANDARD FORM
5 THAT THEY'RE RETURNING THE ITEM TO US AND IT HAS THE DATE,
6 THE REFERENCE, AGAIN, THEY REFER TO THE CHECK OF ONE MILLION
7 FIVE, "YOUR REMITTANCE DATED 8-6-84", BECAUSE THEY -- YOU
8 KNOW, IN EUROPE THEY USE THE DATE FIRST AND THE MONTH IN THE
9 MIDDLE.

10 Q OKAY.

11 A SO THAT MEANS THE 8TH OF JUNE. "REFERENCE
12 COLLOT 84-405," AND THEY SAY "ENCLOSED WE RETURN CHECK FOR
13 U.S. DOLLARS, ONE AND A HALF MILLION, UNPAID, REASON,
14 INSUFFICIENT FUNDS AND SIGNATURE MISSING."

15 Q OKAY, AND PAGE TWO OF WHAT'S BEEN MARKED AS
16 PEOPLE'S EXHIBIT 41 ACCOMPANIED THE CHECK --

17 A THE CHECK.

18 Q -- THAT'S BEEN MARKED --

19 A YEAH, THESE THREE ITEMS COME TOGETHER.

20 Q AND ALL OF THESE ITEMS ARE MAINTAINED BY THE
21 BANK?

22 A WELL --

23 Q ONCE THEY ARE RECEIVED?

24 A ONCE THEY'RE RECEIVED, NO. NORMALLY, THE CHECK
25 IS RETURNED TO THE CUSTOMER SO THEY CAN PURSUE COLLECTION
26 FROM THE DRAWER. THE BANK KEEPS A PHOTO COPY, BUT IN THIS
27 CASE I DON'T KNOW WHY IT WASN'T RETURNED. MAYBE IT WASN'T
28 PICKED UP BY THE CORPORATION.

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