

B197574

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

JUN 01 2007

SUPERIOR COURT
NO. GA052683

ORIGINAL

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE TERI SCHWARTZ, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL
REDACTED = PURSUANT TO 237(A) (2)
TITLE, INDICES AND CERTIFICATES

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

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FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 1 OF 24

LORI D. CASILLAS, CSR #9869
OFFICIAL REPORTERS

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NE "E"

HON. TERI SCHWARTZ, JUDGE

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5
6 THE PEOPLE OF THE STATE OF CALIFORNIA,)

7 PLAINTIFF,)

8 VS.)

NO. GA052683

9 01 - MICHAEL FRANK GOODWIN,)

10 DEFENDANT.)
11
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13 REPORTERS' TRANSCRIPT OF PROCEEDINGS

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15 DECEMBER 9, 2004, FEBRUARY 1, 24, MARCH 17, APRIL 27, MAY
16 16, JUNE 2, JULY 14, AUGUST 17, SEPTEMBER 20, NOVEMBER
17 16, DECEMBER 8, 2005, JANUARY 10, FEBRUARY 6, MARCH 6,
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22 JANUARY 2, 3, 4 AND MARCH 1, 2007
23
24

25 APPEARANCES:

26 FOR THE PLAINTIFF:

27 LOS ANGELES SUPERIOR COURT

28 JUN 01 2007

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9 ANDREA BILLUE, CSR #3678
KERRY RUIZ, CSR #6114
10 JEANETTE SOTO, CSR #8733
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6	100	DOCUMENT	6724	7529	18
	101	DOCUMENT	6724	7529	18
7	102	DOCUMENT	6764	W/D	18
	103	DOCUMENT	6764	W/D	18
8					
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11	DEFENSE'S	MARKED FOR	RECEIVED INTO		
	EXHIBITS:	IDENTIFICATION	EVIDENCE		VOL.
12	A	DOCUMENT	2815 w/D	8401	6
	B	DOCUMENT	3497 w/D		8
13	C	DOCUMENT	3500		8
	D	DOCUMENT	3501		8
14	E	DOCUMENT	3506		8
	F	DOCUMENT	3508 w/D		8
15	G	DOCUMENT	3509		8
	H	DOCUMENT	3510 w/D		8
16	I	DOCUMENT	3518 w/D		8
	J	DOCUMENT	3685 w/D		9
17	K	DOCUMENT	3698 w/D		9
	L	DOCUMENT	3699		9
18	M	DOCUMENT	3714 w/D		9
	N	DOCUMENT	3717		9
19	O	DOCUMENT	3723 w/D		9
	P	DOCUMENT	3961		10
20	Q	DOCUMENT	3964		10
	R	DOCUMENT	3965		10
21	S	DOCUMENT	3987 w/D		10
	T	DOCUMENT	4015		10
22	U	LETTER	4239 w/D		11
	V	DOCUMENT	4244 w/D		11
23	W	DOCUMENT	4248		11
	X	CD ROM	4303		11
24	Y	TRANSCRIPT	4303		11
	Z	CD ROM	4514		12
25	Z-1	TRANSCRIPT	4514		12
	AA	AUDIOTAPE	4516		12
26	BB	CD ROM	4524		12
	BB-1	TRANSCRIPT	4524 w/D		12
27	CC	DOCUMENT	4534		12
	DD	PHOTOS	4603		12
28	EE	MAP	4891		13

1	FF	DRAWING	5198	8401	14
	GG	PHOTO	5200		14
2	HH	PHOTO	5201		14
	II	PHOTO	5202		14
3	JJ	PHOTO	5204		14
	KK	PHOTO	5490		15
4	LL	PHOTO	5490		15
	MM	PHOTO	5494		15
5	NN	PHOTO	5508		15
	OO	DIAGRAM	5530		15
6	PP	PHOTO	5711		16
	QQ	PHOTO	5712		16
7	RR	PHOTO	5712		16
	SS	PHOTO	5713		16
8	TT	PHOTO	5713		16
	UU	PHOTO	5714		16
9	VV	PHOTO	5715		16
	WW	PHOTO	5717		16
10	XX	PHOTO	6016		16
	YY	DIAGRAM	6068		16
11	ZZ	DIAGRAM	6068		16
	AAA	PHOTO	6330		17
12	BBB	PHOTO	6339		17
	CCC	DOCUMENTS	6643		18
13	DDD	DOCUMENTS	6644		18
	EEE	DIAGRAM	6647		18
14	FFF	PHOTO	6647		18
	GGG	PHOTO	6648		18
15	HHH	DOCUMENTS	6931 w/d		19
	III	DOCUMENTS	6933 w/d		19
16	JJJ	DOCUMENTS	6935 w/d		19
	KKK	DOCUMENTS	6937		19
17	LLL	DOCUMENTS	6971 w/d		19
	MMM	PHOTO	7000		19
18	NNN	PHOTO	7536		20
	OOO	DOCUMENT	7544 w/d		20
19	PPP	DOCUMENT	7637 w/d		20
	QQQ	DOCUMENT	7638 w/d		20
20	RRR	DOCUMENT	7824 w/d		21
	SSS	DOCUMENT	7854		21
21	TTT	DIAGRAM	7857		21
	UUU	DOCUMENT	7863		21
22	VVV	PHOTO	7874		21
	WWW	PHOTO	7875		21
23	XXX	PHOTO	7875		21
	YYY	PHOTO	7876		21
24	ZZZ	PHOTO	7878		21
	4-A	PHOTO	7879		21
25	4-B	PHOTO	7881		21
	4-C	PHOTO	7881		21
26	4-D	PHOTO	7882		21
	4-E	CD	7883		21
27	4-F	PHOTO	7884		21
	4-G	DOCUMENTS	8115 w/d		22
28	4-H	PHOTO	8125		22

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 100

HON. DAVID S. WESLEY, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF-RESPONDENT,)

VS.)

NO. GA052683

MICHAEL FRANK GOODWIN,)

DEFENDANT-APPELLANT.)

STATE OF CALIFORNIA)

) SS

COUNTY OF LOS ANGELES)

I, SHERRY R. QUENGA, CSR NO. 6709, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES FOR THE DATE OF FEBRUARY 24, 2005,
COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS
HELD IN THE MATTER OF THE ABOVE-ENTITLED CAUSE.

DATED THIS 20TH DAY OF MARCH, 2007.



OFFICIAL REPORTER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NE E

HON. TERI SCHWARTZ, JUDGE

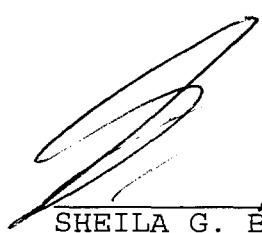
PEOPLE OF THE STATE OF CALIFORNIA,)
)
 PLAINTIFF,)
)
 VS.)
)
 MICHAEL GOODWIN,)
)
 DEFENDANT.)
 _____)

CASE NO. GA052683
REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

I, SHEILA G. BROCK, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF
LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, G-1
THROUGH G-54, AND T-1 THROUGH T-20, COMPRISE A FULL, TRUE,
AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE
MATTER OF THE ABOVE-ENTITLED CAUSE, TO THE BEST OF MY
ABILITY, ON JUNE 2, 2005, AND MAY 23, 2006.

DATED THIS 1ST DAY OF APRIL, 2007.


SHEILA G. BROCK, OFFICIAL REPORTER

CSR #10025

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NORTHEAST E HON. TERI SCHWARTZ, JUDGE

4 PEOPLE OF THE STATE OF CALIFORNIA,)

5 PLAINTIFF,)

NO. GA 052683

6 VS.)

REPORTER'S

7 MICHAEL FRANK GOODWIN,)

CERTIFICATE

8 DEFENDANT.)

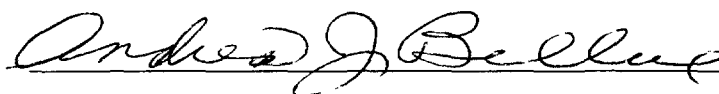
9
10 STATE OF CALIFORNIA)

11) SS

12 COUNTY OF LOS ANGELES.)

13 I, ANDREA J. BILLUE, OFFICIAL REPORTER OF THE
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
15 OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES
16 I-1 THROUGH I-7; AND I-8 THROUGH I-16, IN CAMERA
17 PROCEEDINGS; ACOMPRISE A COMPLETE, TRUE AND CORRECT
18 TRANSCRIPT OF THE ABOVE-ENTITLED MATTER HELD IN DEPARTMENT E
19 ON AUGUST 17, 2005.

20 DATED THIS 10TH DAY OF APRIL, 2007.

21
22
23 

CSR #3678

24 OFFICIAL REPORTER

25

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 PASADENA DEPARTMENT E

HON. TERI SCHWARTZ, JUDGE

4
5 THE PEOPLE OF THE STATE OF CALIFORNIA,)

6 PLAINTIFF,)

7 VS.

) NO. GA052683-01

8 MICHAEL FRANK GOODWIN,)

REPORTER'S

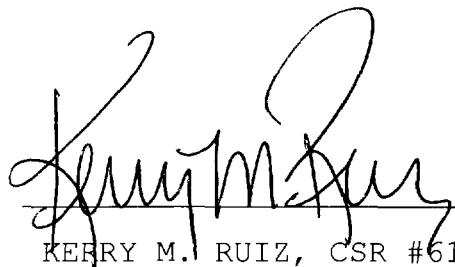
9 DEFENDANT.) CERTIFICATE

10 _____)

11
12 I, KERRY M. RUIZ, CSR #6114, OFFICIAL REPORTER OF
13 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
14 OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES,
15 O-1 - O-22, INCLUSIVE, COMPRISE A FULL, TRUE AND CORRECT
16 TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED
17 MATTER ON MARCH 6, 2006.

18 THIS TRANSCRIPT COMPLIES WITH 237(A)(2) OF THE CODE
19 OF CIVIL PROCEDURE.

20 DATED THIS 19TH DAY OF MARCH, 2007.

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22
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KERRY M. RUIZ, CSR #6114

28 OFFICIAL REPORTER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NE-E

HON. TERI SCHWARTZ, JUDGE

PEOPLE OF THE STATE OF)
CALIFORNIA,)
)
Plaintiff,)
)
vs.)
)
MICHAEL FRANK GOODWIN,)
)
Defendant.)

No. GA052683

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

I, JEANETTE G. SOTO, Official Reporter of the
Superior Court of the State of California, for the County
of Los Angeles, do hereby certify that the foregoing pages
301 and 302-600 comprise a full, true, and correct
transcript of the proceedings held in the above-entitled
matter on 10-17-06

Dated this 17th day of October, 2006.

Jeanette G. Soto CSR #8733
Official Reporter

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE

4 THE PEOPLE OF THE STATE OF CALIFORNIA,)

5 PLAINTIFF,)

NO. GA052683

6 VS.)

7 01 - MICHAEL FRANK GOODWIN,)

REPORTER'S
CERTIFICATE

8 DEFENDANT(S).)
9

10 I, LORI D. CASILLAS, OFFICIAL REPORTER OF THE
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
12 OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING
13 PROCEEDINGS, INCLUSIVE, COMPRISE A FULL, TRUE AND CORRECT
14 TRANSCRIPT OF THE PROCEEDINGS HELD IN DEPARTMENT NE "E" ON
15 DECEMBER 9, 2004, FEBRUARY 1, MARCH 17, APRIL 27, MAY 16,
16 JULY 14, SEPTEMBER 20, NOVEMBER 16, DECEMBER 8, 2005,
17 JANUARY 10, FEBRUARY 6, MARCH 20, APRIL 4, 10, 19, JUNE 7,
18 20, SEPTEMBER 15, 26, OCTOBER 6, 11, 16, 18, 19, 23, 26,
19 30, 31, NOVEMBER 1, 6, 7, 8, 13, 14, 15, 16, 27, 28, 29,
20 30, DECEMBER 4, 5, 6, 7, 8, 11, 12, 13, 14 18, 19 21,
21 2006, JANUARY 2, 3, 4 AND MARCH 1, 2007 IN THE MATTER OF
22 THE ABOVE-ENTITLED CAUSE.

23 THIS TRANSCRIPT WAS PREPARED IN COMPLIANCE
24 WITH 237(A)(2) OF THE CODE OF CIVIL PROCEDURE, AND ALL
25 JUROR IDENTIFYING INFORMATION, IF ANY, HAS BEEN REDACTED.

26 DATED THIS 31ST DAY OF MAY, 2007.

27 Lori D. Casillas
28 LORI D. CASILLAS, CSR #9869
OFFICIAL REPORTER

B197574

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL
JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

DECEMBER 9, 2004, FEBRUARY 1, 24, MARCH 17, APRIL 27
AND MAY 16, 2005

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN JR., ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 2 OF 24

PAGES A-1 THRU A-18
B-1 THRU B-3
C-1 THRU C-25
D-1 THRU D-44
E-1 THRU E-55
F-1 THRU F-50

SHERRY QUENGA, CSR #6709
LORI D. CASILLAS, CSR #9869
OFFICIAL REPORTERS

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 9, 2004
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 PATRICK DIXON AND ALAN JACKSON, DEPUTY DISTRICT
12 ATTORNEYS, REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.

14
15 THE COURT: ALL RIGHT. ON THE MICHAEL GOODWIN
16 MATTER, MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE
17 PEOPLE ARE REPRESENTED, MR. DIXON AND MR. JACKSON FOR THE
18 PEOPLE. MS. SARIS FOR THE DEFENSE. WE SET TODAY ZERO OF
19 60.

20 SO WHAT ARE WE GOING TO DO TODAY?

21 MS. SARIS: YOUR HONOR, I FILED SEVERAL MOTIONS
22 TODAY. THE MOST IMPORTANT OF WHICH I JUST WANT TO HAVE
23 FOR THE RECORD THAT IT HAS BEEN FILED TODAY IS THE 995
24 MOTION. I UNDERSTAND WE HAVE TO BE SENT OUT FOR IT TO BE
25 HEARD, BUT I WANT -- I JUST WANT IT FOR THE RECORD THAT
26 WE ARE WITHIN THE 60-DAY PERIOD FOR OUR APPELLATE RIGHTS.

27 AND I AM GOING TO GIVE THAT TO YOUR CLERK
28 WITH A BLANK LINE THAT SAYS, "IT WILL BE HEARD IN

1 DEPARTMENT BLANK" UNTIL WE KNOW WHERE WE ARE GOING. I
2 ALSO FILED AN ATTORNEY/CLIENT PRIVILEGE VIOLATION MOTION
3 TO DISMISS. AND I ASSUME THAT WILL WAIT UNTIL WE ARE
4 ASSIGNED TO A COURT FOR ALL PURPOSES.

5 MR. DIXON: WE DIDN'T DO THAT, THOUGH; RIGHT?

6 MS. SARIS: SO -- YES. THAT WOULD BE ORANGE
7 COUNTY'S SHERIFF'S OFFICE AND THE L.A. SHERIFF WHO HAD
8 VIOLATED MR. GOODWIN'S RIGHTS, NOT THE LOS ANGELES
9 DISTRICT ATTORNEY'S OFFICE.

10 MR. DIXON: ALLEGEDLY.

11 MS. SARIS: ALLEGEDLY.

12 MR. DIXON: THANK YOU.

13 MS. SARIS: I FILED A FORMAL DISCOVERY MOTION.
14 MR. DIXON AND MYSELF WILL BE ABLE TO RESOLVE MOST OF
15 THOSE THINGS. WE ARE GOING TO WORK ON IT. AND I'M GOING
16 TO TRY TO GET THEM VERY SPECIFIC REFERENCES OF WHERE I
17 BELIEVE THINGS ARE MISSING THAT THEY MIGHT HAVE IN THEIR
18 POSSESSION, SO THERE IS PROBABLY ONLY ONE OR TWO THINGS
19 THE COURT WILL NEED TO RULE ON.

20 MR. DIXON: DO YOU WANT TO TALK ABOUT THE ONE THAT
21 YOU DID TODAY?

22 MS. SARIS: IT'S UP TO YOU. I THOUGHT MAYBE YOU
23 NEEDED TO CALL THE ORANGE COUNTY DISTRICT ATTORNEY'S
24 OFFICE FIRST.

25 MR. DIXON: THERE WAS ONE ISSUE THAT I -- WE DID
26 MEET AND CONFER YESTERDAY. AND THERE WAS ONE REQUEST
27 THAT I JUST DON'T SEE UNDER ANY CIRCUMSTANCES THAT I
28 WOULD COMPLY WITH UNLESS OF COURSE ORDERED BY THE COURT.

1 AND MS. SARIS WANTED TO DISCUSS THAT TODAY. MAYBE THE
2 COURT COULD SEE WHERE I'M COMING FROM, BUT I'M HAPPY TO
3 WAIT UNTIL ANOTHER DAY.

4 MS. SARIS: IT'S UP TO THE COURT.

5 THE COURT: I'M HAPPY TO HEAR IT NOW.

6 MS. SARIS: I KNOW THAT THE DISTRICT ATTORNEY HAS
7 TO PHONE ORANGE COUNTY, SO MAYBE THIS WILL RESOLVE A
8 QUESTION IF THEY CAN BE REQUESTED TO ASK THEM. THERE WAS
9 A MURDER IN ORANGE COUNTY IN, I BELIEVE, 1989. THE
10 MURDER FOR WHICH MR. GOODWIN IS IN CUSTODY HAPPENED IN
11 MARCH OF '88. THE MURDER IN 1989 WAS OF A MAN BY THE
12 NAME OF JOSEPH MCKENNA WHO OWNED STRIP CLUBS.

13 IT BECAME A VERY FAMOUS CASE. IT WAS
14 REOPENED AGAIN. IT WAS A CASE THAT WAS NOT SOLVED FOR 12
15 YEARS. IN APPROXIMATELY 1991 OR 1992 THE ORANGE COUNTY
16 DISTRICT ATTORNEY'S OFFICE INVESTIGATORS -- WHO ACT, IN
17 MY UNDERSTANDING, APPARENTLY MUCH MORE PROACTIVE. THEY
18 ACT LIKE A COLD CASE UNIT. THEY INVESTIGATED THIS CASE
19 ON SEVERAL POLICE SHOWS; COURT TV EPISODES; AND AMERICA'S
20 MOST WANTED TYPE SHOWS.

21 THEY INDICATED A BELIEF THAT THEY FELT THE
22 MCKENNA MURDERS AND THE THOMPSON MURDERS WERE RELATED
23 SEEING AS BOTH WHO WERE EXECUTED IN COLD BLOOD. RICK
24 MORTON WAS THE LEAD ORANGE COUNTY INVESTIGATOR ON THAT
25 CASE FOR THE ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE.

26 I'M REQUESTING ANY FILES; INTERVIEWS THAT
27 THEY HAD THAT LED THEM TO THAT BELIEF; ANY INTERVIEWS
28 WITH INDIVIDUALS THAT MIGHT COME UP IN MR. THOMPSON'S

1 CASE. THE REASON I AM REQUESTING ALL THE FILES IS THAT I
2 THINK THAT WE WILL BE IN A POSITION TO KNOW WHETHER
3 SOMEONE IS RELATED TO THIS CASE IN A WAY THAT THE
4 DISTRICT ATTORNEY'S OFFICE IS NOT, SEEING HOW THEY ARE
5 SOLELY FOCUSED ON ONE SUSPECT.

6 AND I AM REQUESTING THAT THE DISTRICT
7 ATTORNEY'S OFFICE IN ORANGE COUNTY SHARE WITH US THEIR
8 NON-WORK PRODUCT INVESTIGATION OF THE MCKENNA MURDERS TO
9 THE EXTENT THAT THEY WERE BELIEVED TO BE RELATED TO THE
10 THOMPSONS' HOMICIDE.

11 MR. DIXON: AND, YOUR HONOR, FROM WHAT I HEARD
12 YESTERDAY AND TODAY, OTHER THAN SOME SPECULATION THAT THE
13 TWO ARE CONNECTED, THERE IS JUST NO CONNECTION WHATSOEVER
14 HERE. IF MS. SARIS WOULD LIKE TO FILE A SUPPLEMENTAL
15 MOTION WITH MORE SPECIFIC INFORMATION.

16 FOR EXAMPLE, SHE'S SAYING THAT THERE WERE
17 STATEMENTS BY AN INVESTIGATOR THAT THEY ARE CONNECTED.
18 WHEN YOU HEAR THE FACTS, AS I HEARD YESTERDAY, ABOUT
19 THESE TWO MURDERS, THEY AREN'T CONNECTED AT ALL EXCEPT
20 FOR THEY'RE OLD. THERE IS JUST NO CONNECTION WHATSOEVER.
21 I JUST THINK -- AND I HATE THIS TERM -- BUT I JUST THINK
22 THIS IS A FISHING EXPEDITION. THERE IS JUST NOTHING TO
23 CONNECT THESE THINGS FOR ME TO ASK THE ORANGE COUNTY
24 OFFICE TO PRODUCE ALL THEIR FILES ON THE MCKENNA CASE.

25 THE COURT: WELL, TELL ME WHAT YOU ARE DOING. YOU
26 MENTIONED A MOMENT AGO SOMETHING ABOUT A PHONE CALL TO
27 ORANGE COUNTY.

28 MS. SARIS: OH.

1 MR. DIXON: THAT WAS A DIFFERENT SUBJECT.

2 MS. SARIS: BECAUSE THE ORANGE COUNTY DISTRICT
3 ATTORNEY IS ALSO, I THINK WE AGREE, WOULD HAVE BEEN
4 INVOLVED AT LEAST TO SOME EXTENT OVER THE 16-YEAR PERIOD
5 IN THE THOMPSON INVESTIGATION SPECIFICALLY. AND THEY MAY
6 HAVE SOME STATEMENTS. SO IT'S MY UNDERSTANDING THAT MR.
7 DIXON DIDN'T HAVE A PROBLEM PHONING THE ORANGE COUNTY
8 DISTRICT ATTORNEY SAYING, DID YOU INTERVIEW ANY WITNESSES
9 ON THE THOMPSON MATTER? IN OTHER WORDS, THE 90 WITNESSES
10 THAT --

11 MR. DIXON: ABSOLUTELY. I THINK WE BOTH SAID
12 YESTERDAY -- WE SAT DOWN FOR ALMOST AN HOUR AND WENT
13 THROUGH THE WHOLE DISCOVERY MOTION. WE BASICALLY MET AND
14 CONFERRED AND DECIDED TO AGREE ON MANY THINGS. WE ASKED
15 MS. SARIS FOR MORE SPECIFIC REQUESTS AS TO A NUMBER OF
16 ITEMS. AND THIS IS ONE WHERE I HAD -- OF COURSE, WE WILL
17 CALL ORANGE COUNTY AND MAKE SURE THAT WE -- BECAUSE I
18 WANT TO KNOW EVERYTHING THAT THEY HAVE. I THINK I HAVE
19 EVERYTHING THEY HAVE. BUT WE WILL DOUBLE-CHECK. AND
20 WHEN WE GET WHAT THEY HAVE, WE WILL GIVE IT TO HER.

21 MS. SARIS: AND PERHAPS WHEN HE MAKES THAT PHONE
22 CALL, HE CAN ASK FOR MR. MORTON'S FILE. IF THE COURT
23 WANTS TO, YOU CAN LOOK AT THEM WITHOUT ME SEEING THEM TO
24 MAKE THE DETERMINATION WHETHER THEY HAVE ANY RELEVANCE.
25 AND I'M HAPPY TO GO EXPARTE AND SHOW THE CONNECTIONS THAT
26 WE'VE BEEN ABLE TO UNCOVER SO THAT THE RELEVANCE CAN BE
27 SHOWN TO THE COURT. AND THEN THE COURT CAN DECIDE
28 WHETHER OR NOT THERE IS ANY NEED TO DISCLOSE ANY OF THE

1 INTERVIEWS OR INVESTIGATION THAT WAS DONE IN ORANGE
2 COUNTY.

3 MR. DIXON: AND I GUESS I JUST DISAGREE, BUT FOR I
4 THINK THE COURT CAN ASK US TO GO GET FROM ANOTHER
5 COUNTY'S DISTRICT ATTORNEY'S OFFICE A 12-YEAR OLD
6 INVESTIGATION. I CAN JUST IMAGINE, I KNOW HOW MANY BOXES
7 OF STUFF THERE ARE IN THIS CASE. BUT IF WE GET A SIMILAR
8 AMOUNT OF BOXES IN ANOTHER 12-YEAR OLD CASE JUST BASED ON
9 THE SPECULATION THAT SOMEHOW THEY ARE CONNECTED, I MEAN
10 THEY COULD BE CONNECTED IN THAT THEY'RE BOTH OLD. I
11 DON'T KNOW. BUT I THINK THERE NEEDS TO BE MORE
12 SPECIFICITY.

13 THE COURT: WELL, MY CONCERN IS EVEN ASSUMING THAT
14 THERE IS GOING TO BE MORE SPECIFICITY IN THE REQUEST OR
15 EVEN A GREATER SHOWING, DOES THIS COURT HAVE ANY
16 JURISDICTION OVER THE ORANGE COUNTY D.A.'S OFFICE IN THIS
17 CASE?

18 MR. DIXON: WELL --

19 THE COURT: I CAN'T MAKE ANY ORDER.

20 MR. DIXON: I'M NOT SURE YOU DIRECTLY DO. BUT YOU
21 CERTAINLY DO OVER ME AND MR. JACKSON. AND AS FAR AS LAW
22 ENFORCEMENT, THEY'RE PART OF THE LAW ENFORCEMENT. THEY
23 ARE INVESTIGATING THIS CASE. I DON'T SEE THAT AS A
24 PROBLEM. I MEAN I CAN GO AND ASK THEM TO DO THINGS AND
25 I'M SURE THAT THEY WOULD COOPERATE. I JUST THINK THAT
26 THEY MIGHT -- AND CORRECTLY -- BALK AT THE IDEA THAT THEY
27 ARE GOING TO HAVE TO TURN OVER EVERY MURDER INVESTIGATION
28 THAT THEY HAVE DONE IN THE LAST 16 YEARS BASED ON SOME

1 SPECULATION THAT IT MIGHT BE INVOLVED WITH THIS. I THINK
2 THERE NEEDS TO BE MORE SPECIFICITY HERE BEFORE WE ASK
3 THEM TO DO THAT.

4 MS. SARIS: OBVIOUSLY, I'M NOT ASKING FOR EVERY
5 MURDER INVESTIGATION.

6 THE COURT: DO YOU HAVE MORE INFORMATION AS TO
7 THESE ALLEGED STATEMENTS THAT WERE MADE BY THE
8 INVESTIGATOR?

9 MS. SARIS: THE MOST RECENT DISCUSSION BY RICK
10 MORTON TO THE MEDIA WAS A COURT TV EPISODE THAT AIRED
11 THIS YEAR. WHILE THEY ARE DISCUSSING HIS INVESTIGATION
12 AND REOPENING THE MCKENNA CASE, THEY HAVE FOOTAGE OF THE
13 SHERIFFS AT THE THOMPSON CRIME SCENE AND HIS VOICE-OVER
14 SAYING THAT THERE WERE SEVERAL ORANGE COUNTY MURDERS OF
15 HIGH PROFILE BUSINESSMAN IN ORANGE COUNTY.

16 WE BELIEVE AT THIS TIME THEY WERE
17 CONNECTED. WE PURSUED THIS LEAD. AND THEN THEY WENT ON
18 WITH THE MCKENNA STORY THAT AIRED MOST RECENTLY. I THINK
19 THAT'S ONE OF MAYBE TWO OR THREE MEDIA RELEASES THAT HE'S
20 GIVEN. AND I'M HAPPY TO BRING THAT TAPE TO THE COURT.

21 THE COURT: TO THE EXTENT THAT MR. DIXON IS ABLE
22 TO SPEAK TO THIS INDIVIDUAL AND SEE IF THERE IS ANY MERIT
23 TO THIS CLAIM, I MEAN WHY DON'T WE START THERE. IT MAY
24 WELL BE SOMETHING THAT EITHER WAS SAID OR WASN'T SAID.
25 IF IT WASN'T SAID, THAT'S RATHER EASY TO DEAL WITH. IF
26 IT WAS SAID, THEN I MEAN I DON'T KNOW TO WHAT EXTENT THEY
27 ARE GOING TO EVEN DISCUSS IT. I JUST -- I AM KIND OF AT
28 A LOSS AS TO WHAT TO DO. IT SOUNDS LIKE MR. DIXON IS

1 GOING TO FOLLOW-UP INFORMALLY.

2 MR. DIXON: AND WE CAN DO THAT. I DON'T, AGAIN,
3 KNOW ANYTHING ABOUT THIS. THIS COULD BE AN ONGOING
4 INVESTIGATION OF THEIRS THAT HASN'T BEEN SOLVED THAT THEY
5 FEEL THAT THEY CAN'T --

6 MS. SARIS: THREE PEOPLE ARE IN PRISON FOR THE
7 MURDER. AS FAR AS ORANGE COUNTY IS CONCERNED, THE
8 MCKENNA MURDER IS SOLVED. THE PEOPLE HAVE BEEN PUNISHED.

9 THE COURT: SO THERE HAS ALREADY BEEN A
10 PROSECUTION IN THAT MATTER?

11 MS. SARIS: THAT'S CORRECT. IN FACT, ONE OF THE
12 CASES THAT HAS THE CASE OF MICHAEL WOODS WAS AN APPELLATE
13 DECISION THAT CAME DOWN RECENTLY.

14 THE COURT: WELL, THAT THEN WOULD BE PUBLIC
15 RECORD.

16 MS. SARIS: I HAVE THE PUBLIC RECORD PORTIONS.
17 WHAT I DON'T HAVE -- AND I WILL GIVE YOU -- THERE IS AN
18 INDIVIDUAL WHO OWNED SEVERAL CAR DEALERSHIPS THAT WAS
19 ORIGINALLY THOUGHT TO AT LEAST HAVE FIRST-HAND KNOWLEDGE
20 IF NOT SOME INVOLVEMENT IN THE THOMPSON MURDERS. I
21 BELIEVE BASED ON INTERVIEWS WITH THAT WITNESS THAT THAT
22 INDIVIDUAL WAS ALSO CONTACTED AND QUESTIONED IN THE
23 MCKENNA INVESTIGATION.

24 THAT IS A STATEMENT THAT I WOULD BE MOST
25 INTERESTED IN. EVEN IF HE WAS THEN DETERMINED NOT TO
26 HAVE ANYTHING TO DO WITH MCKENNA, IT CERTAINLY COULD SHED
27 RELEVANCE ON OUR THEORY OF GUILT IN THE THOMPSON MURDERS.

28 AND, AGAIN, I'M JUST ASKING FOR THE COURT

1 TO ASK MR. DIXON TO MAKE A PHONE CALL AND SEE WHO WAS
2 INTERVIEWED. AND IF THE COURT CAN GIVE THAT LIST -- I
3 CAN GIVE THE COURT A LIST OF THE PEOPLE THAT I'M MOST
4 INTERESTED IN. AND IF THEY HAVE ANY SIMILARITY, I'M
5 HAPPY TO GO EXPARTE AND HAVE THE COURT READ THE WITNESS
6 STATEMENTS AND SEE IF THERE IS ANY RELEVANCE.

7 MR. DIXON: I'M HAPPY TO DO WHATEVER THE COURT
8 ASKS. BUT WHAT WE ASKED FOR YESTERDAY AND I'M ASKING FOR
9 TODAY IS MORE SPECIFICITY IN THE REQUEST. I MEAN IF SHE
10 IS LOOKING FOR A SPECIFIC WITNESS THAT WAS INTERVIEWED.

11 THE COURT: THAT'S WHAT I'M HEARING THAT THAT'S
12 WHAT SHE'S ASKING FOR.

13 MS. SARIS: I CAN THINK OF ONE. BUT IT DOESN'T
14 MEAN THAT THEY MIGHT HAVE OTHER ONES THAT I KNOW
15 PERIPHERALLY THAT MAY BE IMPORTANT.

16 THE COURT: WHY DON'T WE START WITH THE ONE.

17 MS. SARIS: WILLIAM NIX, N-I-X.

18 THE COURT: SEE WHAT THEY HAVE AS TO THAT WITNESS
19 AND THEN YOU CAN TAKE IT FROM THERE. I WOULD IMAGINE
20 THAT YOU COULD COME UP WITH -- OR AT LEAST GIVE TO THE
21 PEOPLE SOME FURTHER INFORMATION.

22 MS. SARIS: MY PREFERENCE IS TO GIVE IT TO THE
23 COURT. OBVIOUSLY, THE PEOPLE HAVE MADE UP THEIR MIND
24 THAT MR. GOODWIN IS RESPONSIBLE FOR THIS MURDER. IT IS
25 OUR CONTENTION THAT THEY MADE UP THEIR MIND FAR TO
26 QUICKLY OF THAT BACK IN 1988 AND THINGS WERE LEFT
27 UNINVESTIGATED BECAUSE THEY DIDN'T ORIGINALLY POINT TO
28 MR. GOODWIN.

1 THE COURT: BUT WHAT THE PEOPLE HAVE INDICATED TO
2 ME IS THAT THEY ARE WILLING TO FOLLOW-UP INFORMALLY AS
3 LONG AS YOU GIVE THEM THE SPECIFICS. NOW YOU HAVE
4 ALREADY GIVEN THEM THE NAME OF ONE PERSON.

5 MS. SARIS: AND I AM RELUCTANT TO GIVE THEM MORE
6 SPECIFICS. I WOULD PREFER THEY GIVE TO THE COURT CASES
7 OF PEOPLE THAT HAVE BEEN INTERVIEWED. AND I WOULD
8 EXPLAIN TO THE COURT EXPARTE WHAT OUR THEORY IS SO THAT
9 THEY -- IN OTHER WORDS --

10 MR. DIXON: SO SHE WANTS US TO BRING THE 1200
11 BOXES IN HERE AND THEN --

12 MS. SARIS: I DON'T THINK --

13 MR. DIXON: -- AND LET THE COURT AND THE TWO OF
14 YOU GO THROUGH THE BOXES?

15 MS. SARIS: I DON'T THINK IT'S 1200 BOXES. I MEAN
16 THIS CASE -- MR. GOODWIN'S CASE IS 16 YEARS OLD. THERE
17 IS 300 BOXES. THEY NARROWED DOWN 90 NAMES. THAT'S ALL
18 I'M ASKING FOR. GIVE ME THE NAMES OF THE INDIVIDUALS
19 THAT YOU LOOKED AT; THAT YOU SPOKE TO. THIS IS THREE
20 PAGES THAT I'M ASKING THE DISTRICT ATTORNEY TO PROVIDE.
21 AND THEN THE COURT CAN EITHER SHARE THOSE WITH ME OR I
22 CAN SHARE A LIST WITH THE COURT AND THE COURT CAN FIND
23 SIMILARITY. I'M NOT ASKING FOR ALL OF THE FILES.

24 THE COURT: WHEN YOU SAY "THREE PAGES," WHAT ARE
25 YOU REFERRING TO?

26 MS. SARIS: THREE PAGES OF THE NAMES OF THE
27 WITNESSES THAT WERE TALKED TO SIMILAR TO THE THREE PAGES
28 OF WITNESSES MR. DIXON AND MR. JACKSON NARROWED THIS

1 300-BOX CASE DOWN TO JUST PRIOR TO PRELIMINARY HEARING.

2 THE COURT: IS THERE A MURDER BOOK ON THE CASE IN
3 ORANGE COUNTY THAT YOU HAVE ACCESS TO?

4 MS. SARIS: THERE IS NOT --

5 THE COURT: BUT THERE IS --

6 MS. SARIS: -- THAT I HAVE ACCESS TO.

7 THE COURT: THERE WAS A PROSECUTION, SO PRESUMABLY
8 THERE --

9 MS. SARIS: BUT I WOULD NOT HAVE --

10 THE COURT: -- IS A LOT OF MATERIALS THAT YOU HAVE
11 ACCESS TO ALREADY, INCLUDING THE TESTIMONY OF WITNESSES;
12 RIGHT?

13 MS. SARIS: I HAVE THE TESTIMONY OF WITNESSES THAT
14 WERE CALLED. I DON'T HAVE THE INTERVIEWS WITH WITNESSES.
15 MAYBE I'M WRONG, BUT I DIDN'T THINK A MURDER BOOK IS OPEN
16 TO THE PUBLIC.

17 THE COURT: NO, IT ISN'T. BUT I'M SAYING I DON'T
18 KNOW TO WHAT EXTENT YOU HAVE MATERIAL.

19 MS. SARIS: I SIMPLY HAVE WHAT IS AVAILABLE IN THE
20 COURT RECORD.

21 MR. DIXON: IS THAT IN COURT TV? I MEAN THAT'S
22 REALLY THE BASIS OF THIS, SOME OFFHAND COMMENT ON COURT
23 TV.

24 MS. SARIS: WELL, IT WASN'T AN OFFHAND COMMENT.
25 IT WAS BY THE INVESTIGATOR HIMSELF INDICATING THAT THERE
26 WAS A CONNECTION. THIS ISN'T A THIRD PARTY.

27 THE COURT: YOU HAVE THE NAME OF ONE WITNESS THAT
28 YOU HAVE PROVIDED. AND I THINK IT'S FAIR TO ASK THE

1 PEOPLE TO FOLLOW-UP AND SEE WHAT IS CONSISTENT WITH
2 RESPECT TO ANY INTERVIEW WITH THAT WITNESS.

3 MR. DIXON: ABSOLUTELY.

4 THE COURT: BUT I THINK TO THE EXTENT THAT YOU
5 WANT INFORMATION ABOUT OTHER WITNESSES, I WOULD ASK YOU,
6 MS. SARIS, TO PERHAPS PUT IN WRITING SOMETHING SPECIFIC
7 THAT MR. DIXON AND MR. JACKSON CAN TAKE TO THEIR
8 COUNTERPARTS.

9 MS. SARIS: AND I'M NOT WILLING TO SHARE THAT WITH
10 THE DISTRICT ATTORNEYS. THAT'S ONGOING INVESTIGATION
11 FROM A DEFENSE THIRD-PARTY CULPABILITY STANDPOINT. I
12 SHOULDN'T HAVE TO SHARE THAT WITH THEM WHILE I'M IN THE
13 INVESTIGATIVE STAGE. THIS IS A PROSECUTORIAL AGENCY.
14 THIS ISN'T A PRIVATE PARTY THAT I'M ATTEMPTING TO GET
15 THIS INFORMATION FROM.

16 THE COURT: RIGHT. BUT I DON'T KNOW HOW ELSE THE
17 COURT CAN MAKE THE DETERMINATION THAT IT'S RELEVANT.

18 MS. SARIS: I CAN MAKE AN EXPARTE SHOWING AND THE
19 ORDER CAN BE MADE.

20 THE COURT: THE ORDER CAN BE MADE WITHOUT THE
21 D.A.'S KNOWLEDGE, YOU MEAN?

22 MS. SARIS: NO. THE ORDER CAN BE MADE REGARDING
23 INTERVIEWS THAT DO EXIST. IN OTHER WORDS, IF I GIVE THEM
24 100 NAMES, THAT OBVIOUSLY TIPS THEM OFF TO AN
25 INVESTIGATION THAT I'M DOING. AND THEY MAY ONLY HAVE
26 THREE INTERVIEWS FOR ME. IF THEY TELL ME THE INTERVIEWS,
27 I CAN TELL THEM WHICH ONES I WANT.

28 MR. DIXON: THAT'S EXACTLY WHAT I'M SAYING. SHE

1 WANTS ORANGE COUNTY TO COME UP WITH ALL THESE BOXES AND
2 THE TWO OF YOU GO THROUGH IT --

3 MS. SARIS: I WANT A LIST OF WITNESSES.

4 MR. DIXON: IF I COULD FINISH, PLEASE.

5 WHAT SHE'S LOOKING FOR -- BECAUSE SHE'S
6 WORRIED THAT SHE IS GOING TO TIP US OFF? I DON'T THINK
7 THAT'S THE WAY THIS SHOULD WORK. IF SHE WANTS AN
8 INTERVIEW OF SPECIFIC WITNESSES, GIVE IT TO US. WE WILL
9 ASK AND GET EVERYTHING THAT WE CAN ON THAT WITNESS. IF
10 THE COURT DETERMINES IT'S RELEVANT TO DISCOVERY, WE'RE
11 HAPPY TO DO THAT.

12 THE COURT: THE AGENCY THAT INVESTIGATED THE CASE
13 IN ORANGE COUNTY IS ORANGE COUNTY SHERIFF?

14 MS. SARIS: ORANGE COUNTY DISTRICT ATTORNEY'S
15 OFFICE. THEY OPERATE DIFFERENT THAN L.A. COUNTY.

16 THE COURT: BUT THAT'S A CLOSED CASE NOW?

17 MS. SARIS: THAT'S CORRECT.

18 THE COURT: AND HAVE YOU CONTACTED ORANGE COUNTY
19 D.A.?

20 MS. SARIS: I HAVE NOT.

21 THE COURT: WHY DON'T YOU CONTACT ORANGE COUNTY
22 D.A. AND SEE IF THEY WILL MAKE THEIR FILES AVAILABLE FOR
23 INSPECTION.

24 MS. SARIS: OKAY.

25 THE COURT: SINCE IT IS A CLOSED CASE, I DON'T SEE
26 WHY THERE WOULD BE A PROBLEM.

27 MS. SARIS: I DON'T EITHER. THAT SOUNDS FAIR.

28 THE COURT: A MURDER BOOK IN THE FILE, WHY

1 WOULDN'T THEY GIVE YOU ACCESS TO VIEW IT? AND IF THERE
2 IS A PROBLEM --

3 MS. SARIS: THAT SOUNDS FAIR.

4 THE COURT: -- LET ME KNOW.

5 MR. DIXON: THANK YOU, YOUR HONOR.

6 THE COURT: ALL RIGHT. SO WHAT ELSE DO WE HAVE TO
7 DISCUSS?

8 MS. SARIS: MY UNDERSTANDING IS THE COMMITTEE IS
9 MEETING ON THE 5TH. WE HAVE TO DISCUSS THE NEXT COURT
10 DATE, WHICH WOULD BE SOMETIME AFTER THAT, BUT NOT TOO
11 FAR.

12 MR. DIXON: EXCUSE ME, THE 5TH --

13 MS. SARIS: OF JANUARY.

14 MR. DIXON: WELL, I'M ON THE COMMITTEE AND I
15 HAVEN'T --

16 MS. SARIS: THAT'S WHAT THE LETTER SAID TO ME.

17 MR. DIXON: I WOULD GIVE IT AT LEAST TWO OR THREE
18 WEEKS AFTER THAT TIME. THEY GET PUT OVER.

19 MS. SARIS: OKAY.

20 THE COURT: SO GIVE ME A DATE AND THEN I CAN --
21 WHAT I CAN DO IS I CAN FIND A COURT TO AT LEAST -- DO YOU
22 WANT TO SET YOUR 995?

23 MS. SARIS: ON THE DATE THAT WE COME BACK? THAT
24 WOULD BE PERFECT. I AM RIGHT NOW SCHEDULED TO START A
25 MURDER TRIAL ON JANUARY 4TH. THAT IS SCHEDULED TO LAST
26 THREE WEEKS. SO THE 27TH OF JANUARY WOULD WORK FOR ME,
27 THAT'S A THURSDAY.

28 MR. DIXON: FINE.

1 THE COURT: AND DO YOU WANT TO MAKE THAT A ZERO OF
2 60 DAY?

3 MS. SARIS: AGAIN. YES, PLEASE. IS IT OKAY WITH
4 YOU ALL IF WE HAVE THE 995 THEN?

5 THE COURT: I TELL YOU WHAT, LET ME DO THIS
6 BECAUSE IT'S GOING TO HAVE TO GO TO ANOTHER COURT, WHY
7 DON'T WE SET JANUARY 27 AS A ZERO OF 60. AND ON THAT
8 DATE, WHY DON'T WE SELECT THE ACTUAL HEARING DATE.

9 MR. DIXON: THAT'S FINE.

10 MS. SARIS: AND I SUPPOSE AT THAT POINT, WITH THE
11 HOLIDAY INTERVENING, THE PEOPLE WILL WANT A LITTLE MORE
12 TIME TO RESPOND TO THE MOTION TO DISMISS FOR THE
13 ATTORNEY/CLIENT PRIVILEGE VIOLATION.

14 MR. DIXON: WELL, THAT'S A 200-PAGE MOTION I'VE
15 HEARD. WELL, ABOUT THIS THICK (INDICATING), SO, YES, WE
16 WILL.

17 MS. SARIS: IT'S ABOUT 25 ACTUAL PAGES, THE REST
18 ARE EXHIBITS.

19 THE COURT: DO I HAVE THAT MOTION?

20 MS. SARIS: YOU DO.

21 THE COURT: ALL RIGHT. SO JANUARY 27TH ZERO OF
22 60, MR. GOODWIN, DO YOU WANT TO AGREE TO THAT DATE?

23 THE DEFENDANT: YES.

24 MS. SARIS: AND I JOIN. NOW AS TO THE MOTION THAT
25 WE FILED FOR THE ATTORNEY/CLIENT PRIVILEGE VIOLATION, WE
26 HAVEN'T INCLUDED EXHIBITS. I HAVE FILED THOSE UNDER
27 SEAL. I HAVE GIVEN THOSE, OBVIOUSLY, TO THE DISTRICT
28 ATTORNEYS BECAUSE THEY NEED TO RESPOND TO THOSE MOTIONS.

1 AND I HAVE EXPRESSED THAT IF THE DISTRICT
2 ATTORNEYS WANT TO SHOW THOSE TO ANYONE BUT EACH OTHER,
3 THAT THEY NOTIFY ME AND WE HAVE A FORMAL HEARING. IT IS
4 OUR POSITION THAT THE DOCUMENTS I'VE GIVEN THEM ARE
5 ATTORNEY/CLIENT PRIVILEGE. THEY HAPPEN TO APPEAR IN THE
6 MURDER BOOK, WHICH IS OUR CONTENTION OF IRREGULARITY AND
7 IMPROPRIETY. BUT TO FURTHER STAKE OUR CLAIM TO THEM AS
8 ATTORNEY/CLIENT PRIVILEGE, I AM ASKING FOR A FORMAL
9 HEARING IF THEY INTEND TO SHOW THOSE.

10 MR. DIXON: YES, WE DO. THIS IS IT. AND IT'S ALL
11 SEALED UP HERE. AND I'M JUST NOT SURE -- WE HAVEN'T
12 OPENED IT.

13 MR. JACKSON: WE OPENED IT YESTERDAY.

14 MR. DIXON: ALL RIGHT. WE HAVEN'T SHARED IT WITH
15 ANYBODY. BUT I'M NOT SURE THAT WE CAN LIVE WITH THESE
16 CONDITIONS. SHE GAVE IT TO US. AND YET THE MOTION, AS I
17 UNDERSTAND IT, DEALS WITH THE DETECTIVE'S ACTIVITIES
18 PRIOR TO THE TIME THAT THIS CASE CAME TO THE L.A. D.A.'S
19 OFFICE. SO TO RESPOND TO IT, WE OBVIOUSLY HAVE TO TALK
20 TO THOSE DETECTIVES. BUT WE CAN'T TALK TO THEM ABOUT THE
21 STUFF THAT'S IN THE ENVELOPE, THIS PUTS US BETWEEN A ROCK
22 AND A HARD PLACE.

23 MS. SARIS: THAT'S FINE. IF THE COURT WANTS TO
24 MAKE IT THAT THEY CAN SHARE IT WITH THE DETECTIVE. MY
25 CONCERN IS THAT THEY'RE NOT PUBLISHED TO THE MEDIA AND
26 NOT PUBLISHED TO THE PUBLIC AND THEY'RE NOT PUBLISHED TO
27 DETECTIVES THAT HAVE NO DIRECT INVOLVEMENT.

28 THE COURT: DO YOU WANT TO AGREE TO THAT?

1 MR. DIXON: WELL, I'M NOT SURE WHAT "NO DIRECT
2 INVOLVEMENT" MEANS. BUT WE CERTAINLY AREN'T GOING TO
3 WALK OUTSIDE AND GIVE THESE TO THE MEDIA. I THINK IT'S
4 UNDER SEAL. AND BEFORE THE COURT WOULD LIFT THE SEAL
5 WITH RESPECT TO THE MEDIA OR THE PUBLIC, THE COURT WOULD
6 HAVE TO MAKE THAT DETERMINATION AND HAVE A HEARING AND
7 MAKE A RULING. AND WE ARE FINE WITH THAT.

8 MS. SARIS: AND THAT THE DETECTIVES ARE BOUND BY
9 THAT AS WELL.

10 MR. DIXON: YES.

11 MS. SARIS: THAT'S FINE.

12 THE COURT: SO I THINK WE HAVE AN AGREEMENT THERE.
13 THE RECORD WILL REFLECT THE NATURE OF THE AGREEMENT. AND
14 ARE WE GOING TO HEAR THAT MOTION ON THE 27TH OR SELECT A
15 DATE ON THE 27TH TO HEAR THAT MOTION? I DON'T KNOW THAT
16 THAT MOTION NEEDS TO BE HEARD BY THE SAME COURT THAT'S
17 GOING TO HEAR THE 995.

18 MS. SARIS: I HAVE NO PROBLEM WITH THIS COURT
19 HEARING THAT MOTION.

20 THE COURT: THE ATTORNEY/CLIENT?

21 MS. SARIS: I WANT TO GIVE THEM MORE TIME.

22 THE COURT: DO YOU WANT MORE TIME? SO YOU WILL
23 TELL ME ON THE 27TH WHEN YOU WANT TO HEAR IT.

24 MR. DIXON: RIGHT.

25 THE COURT: SO THE 27TH WE WILL SET HEARING DATES
26 ON BOTH MOTIONS.

27 MR. DIXON: YES.

28 THE COURT: SOUNDS GOOD.

1 ANYTHING ELSE?

2 MS. SARIS: YES. I HAVE FILED --

3 MR. DIXON: NO.

4 MS. SARIS: -- A MOTION UNDER SEAL THAT I WOULD
5 ASK THE COURT TO RULE ON SPECIFIC ITEMS MY CLIENT IS
6 REQUESTING IN THE JAIL.

7 THE COURT: WE DID IT, YES.

8 MS. SARIS: WE ARE GOOD ON THOSE?

9 THE COURT: WELL, I SIGNED OFF ON IT. TO THE
10 EXTENT THAT THE SHERIFF'S DEPARTMENT --

11 MS. SARIS: EXCELLENT. AND I WILL BE GIVING THE
12 COURT TWO MEDICAL ORDERS TODAY AS WELL.

13 THE COURT: THANK YOU. WE WILL SEE EVERYBODY BACK
14 HERE ON THE 27TH FOR THE SETTING OF THE MOTIONS AND
15 FURTHER PROCEEDINGS.

16 MR. DIXON: DO WE NEED A TIME WAIVER?

17 THE COURT: I TOOK IT.

18 MR. DIXON: THANK YOU, YOUR HONOR.

19 MR. JACKSON: THANK YOU.

20

21 (THE MATTER WAS CONTINUED TO TUESDAY,
22 FEBRUARY 1, 2005 AT 8:30 A.M.)

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28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, FEBRUARY 1, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 PATRICK DIXON, DEPUTY DISTRICT ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD IN THE GOODWIN
16 MATTER, MR. GOODWIN IS HERE WITH COUNSEL. THE PEOPLE ARE
17 REPRESENTED. WE PREVIOUSLY ADVANCED AND VACATED THIS
18 MATTER FROM JANUARY 27TH TO TODAY'S DATE. WE ARE ZERO OF
19 60. IT WAS ON THE 27TH.

20 SO WHAT ARE WE GOING TO DO TODAY?

21 MR. DIXON: YOUR HONOR, WE'VE DISCUSSED THIS
22 MATTER. AND AT COUNSEL'S REQUEST WE'RE GOING TO PUT THIS
23 OVER JUST UNTIL MONDAY, FEBRUARY 14TH, APPARENTLY FOR A
24 BAIL MOTION. WE HAVEN'T SEEN THAT YET, BUT WE'VE
25 DISCUSSED IT. I HAVE A SENSE OF WHAT IS COMING. AND
26 BOTH SIDES WILL BE READY TO ARGUE THAT ON THAT DAY I
27 BELIEVE.

28 MS. SARIS: YOUR HONOR, I HAVE A MOTION I'LL BE

1 FILING BY THURSDAY OR FRIDAY ASKING FOR BAIL NOW THAT THE
2 DISTRICT ATTORNEY HAS DROPPED THE DEATH PENALTY ON THIS
3 CASE. I'VE ALSO SUBMITTED SOME OTHER MOTIONS THAT THE
4 COURT IS AWARE OF FOR DISMISSALS ON THE 995. AND I
5 BELIEVE THE PEOPLE WANT MORE TIME TO RESPOND TO THOSE.

6 AND ON THE 14TH I THINK WE MIGHT HAVE AN
7 UPDATE ON SOME OF THE DISCOVERY REQUESTS THAT I'VE
8 SUBMITTED AS WELL. SO WHAT WE WOULD LIKE TO DO IS MAKE
9 THE 14TH ZERO OF 60. AND THEN FROM THAT DATE PICK A DATE
10 FOR THE ACTUAL HEARING OF THE SUBSTANTIVE MOTIONS.

11 MR. DIXON: THAT'S FINE, YOUR HONOR.

12 THE COURT: MR. GOODWIN --

13 THE DEFENDANT: YES.

14 THE COURT: -- DO YOU WANT TO AGREE TO FEBRUARY
15 14TH AS DAY ZERO OF 60?

16 THE DEFENDANT: YES.

17 THE COURT: COUNSEL JOIN?

18 MS. SARIS: YES.

19 THE COURT: SO ON THAT DATE WE ARE ONLY GOING TO
20 HEAR A BAIL MOTION AND THEN WE WILL PICK DATES FOR THE
21 OTHER MOTIONS AT THAT TIME, IS THAT IT?

22 MR. DIXON: YES, YOUR HONOR.

23 MS. SARIS: THAT'S CORRECT. AND ALSO I IMAGINE AT
24 SOME POINT WE ARE GOING TO HAVE TO FIGURE OUT WHERE WE'RE
25 GOING TO GO FOR THE 995.

26 THE COURT: JUDGE CROFT, DEPARTMENT "H."

27 MS. SARIS: AND I ASSUME YOU WANT TO HEAR THE BAIL
28 MOTION AS YOU SAT THROUGH THE PRELIMINARY HEARING.

1 THE COURT: I CAN DO THE BAIL MOTION ON THE 14TH.

2 MS. SARIS: THAT'S FINE.

3 MR. DIXON: FINE, YOUR HONOR.

4 MS. SARIS: AND I'VE SUBMITTED SOME OTHER ORDERS
5 UNDER SEAL. AND I WOULD JUST STRESS TO THE COURT THAT --

6 THE COURT: I SIGNED THEM.

7 MS. SARIS: WELL, NOT ONLY -- I DON'T KNOW IF
8 THERE IS ANY WAY TO MAKE IT MORE EMPHASIS ESPECIALLY ON
9 THE ONE MOTION REGARDING WHERE HE'S PLACED WHEN HE
10 RETURNS, THAT HAS BEEN IGNORED.

11 THE COURT: I DON'T KNOW HOW TO GIVE IT MORE
12 EMPHASIS. WE CAN FAX COPIES, CAN'T WE?

13 THE CLERK: YES.

14 THE COURT: YES. WE WILL FAX COPIES DOWN THERE.
15 AND I GUESS LET US KNOW IF THE ORDERS ARE NOT COMPLIED
16 WITH AND THEN WE CAN FOLLOW-UP FROM THERE.

17 MS. SARIS: OKAY. AND ESPECIALLY THAT ONE
18 PARTICULAR ORDER REGARDING HIS STAY, I CAN MAYBE GET A
19 COPY THAT MR. GOODWIN CAN HAVE IN HIS POCKET AS WELL? I
20 SUBMITTED A COUPLE OF COPIES.

21 THE COURT: YES. YES.

22 MS. SARIS: GREAT. THANK YOU VERY MUCH.

23 MR. DIXON: THANK YOU, YOUR HONOR.

24

25 (THE MATTER WAS CONTINUED TO MONDAY,

26 FEBRUARY 14, 2005 AT 8:30 A.M.)

27 --OOO--

28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL F. GOODWIN
3 LOS ANGELES, CALIFORNIA THURSDAY, FEBRUARY 24, 2005*
4 DEPARTMENT NO. 100 HON. DAVID S. WESLEY, JUDGE
5 REPORTER: SHERRY R. QUENGA, CSR NO. 6709
6 TIME: 11:04 A.M.

7

8 APPEARANCES:

9 THE DEFENDANT NOT BEING PRESENT IN COURT BUT
10 REPRESENTED BY COUNSEL, ELENA SARIS, DEPUTY
11 PUBLIC DEFENDER OF LOS ANGELES COUNTY;
12 VICTOR L. WRIGHT, DEPUTY COUNTY COUNSEL
13 OF LOS ANGELES COUNTY, REPRESENTING THE
14 LOS ANGELES COUNTY SHERIFF'S DEPARTMENT.

15

16 THE COURT: ALL RIGHT. THIS IS THE MATTER OF
17 MICHAEL GOODWIN, GA052683. COUNSEL, STATE YOUR
18 APPEARANCE.

19 MS. SARIS: ELENA SARIS, S-A-R-I-S, DEPUTY PUBLIC
20 DEFENDER, ON BEHALF OF MR. GOODWIN WHO IS NOT PRESENT IN
21 COURT.

22 THE COURT: APPEARING FOR THE SHERIFF'S
23 DEPARTMENT?

24 MR. WRIGHT: VICTOR WRIGHT, DEPUTY COUNTY COUNSEL,
25 WRIGHT, W-R-I-G-H-T.

26 I JUST NOTE FOR THE RECORD, ALSO APPEARING
27 THIS MORNING, COMMANDER DENNIS CONTE, C-O-N-T-E.

28 THE CLERK: I'M SORRY, I DIDN'T HEAR. DENNIS?

1 MR. WRIGHT: DENNIS CONTE, C-O-N-T-E.

2 THE CLERK: THANK YOU.

3 MR. WRIGHT: CAPTAIN JOHN CLARK, C-L-A-R-K.

4 LIEUTENANT GONZO (PHONETIC) OGURI,
5 O-G-U-R-I.

6 SERGEANT MIKE WINTERS, W-I-N-T-E-R-S.

7 THE COURT: ALL RIGHT. ON AUGUST 10TH, 2004, I
8 ISSUED AN ORDER ALLOWING THE ATTORNEY AND CLIENT TO BE
9 PERMITTED TO SIT AT A TABLE TOGETHER WITH THE CLIENT FREE
10 OF HANDCUFFS, UNOBSTRUCTED BY BARRIERS, SO THEY CAN SEE
11 AND WORK ON A COMPUTER AND GO THROUGH DOCUMENTS TOGETHER
12 DURING THE PENDENCY OF THESE PROCEEDINGS. THE ORDER WAS
13 TO REMAIN IN EFFECT UNTIL FURTHER ORDER OF THIS COURT.

14 PRIOR TO ISSUING THIS ORDER, I CONTACTED THE
15 SHERIFF'S DEPARTMENT AND WORKED WITH COMMANDER BARRANTES,
16 FROM THE SHERIFF'S DEPARTMENT, TO DETERMINE IF AND HOW WE
17 COULD IMPLEMENT THIS ORDER. MY UNDERSTANDING IS THAT IT
18 WAS IMPLEMENTED. AND I HAVE NOW RECEIVED INFORMATION
19 FROM COUNSEL AND THE REASON THIS WAS PLACED ON
20 CALENDAR IS THAT THE SHERIFF'S DEPARTMENT UNILATERALLY
21 DECIDED NOT TO COMPLY WITH THIS ORDER WHICH IS NOT
22 ACCEPTABLE TO THIS COURT. AND THAT IS WHY I WANTED TO
23 HAVE A HEARING ON THIS.

24 NOW, I'D ASK MISS SARIS, IF YOU WOULD, TO
25 INDICATE TO THE COURT WHAT THE PROBLEM IS.

26 MS. SARIS: YOUR HONOR, I DON'T KNOW THE DATE. BUT
27 AFTER THE COURT DID SIGN THIS ORDER, I WENT AND I SPOKE
28 TO SERGEANT WINTERS AND SEVERAL OTHER INDIVIDUALS WHO

1 SEEMED TO BE IN CHARGE. THEY ADVISED ME THAT THERE WAS
2 NO ROOM IN WHICH TO HAVE A FACE-TO-FACE INTERVIEW THAT I
3 WAS GOING TO BE ALLOWED. I TOLD --

4 THE COURT: WHEN DID THIS OCCUR?

5 MS. SARIS: IT WOULD BE IN THE LAST WEEK OF AUGUST
6 AND THE FIRST WEEK OF SEPTEMBER.

7 THE COURT: OKAY.

8 MS. SARIS: I TOLD THEM THAT THE COURT ORDER
9 CALLED FOR A ROOM. THEY ADVISED ME THEY PHYSICALLY DID
10 NOT HAVE ONE AVAILABLE. THEY WERE INCREDIBLY POLITE AND
11 TRYING TO HELP THE SITUATION, BUT THEY WERE IN NO WAY
12 INTENDING ON COMPLYING WITH A PRIVATE ROOM. THEY DID COME
13 UP WITH A COMPROMISE AT THAT TIME WHICH WAS TO SET UP A
14 LONG TABLE AT THE END OF WHAT WE'VE ALWAYS REFERRED TO AS
15 THE K-10 ROW WHICH IS A ROW IN THE ATTORNEY-CLIENT VISIT
16 ROOM THAT HAS BOLTS IN THE DESK THAT A CLIENT MUST BE
17 SHACKLED TO DURING AN INTERVIEW.

18 THE FIRST TIME I WAS THERE, THEY CAME UP
19 WITH A SITUATION WHERE HE WAS SHACKLED AROUND HIS WAIST
20 AND ONE ARM -- AND THAT WAS ATTACHED TO A BOLT, BUT HE
21 WAS FREE TO TURN TOWARDS ME. WE HAD ALL OF I THINK FOUR
22 OR FIVE BOXES THAT I BROUGHT IN ON A DOLLY. THE SHERIFF
23 REVIEWED THOSE BOXES PRIOR TO ME ENTERING THE ROOM. WE
24 WERE ABLE TO FREELY GO THROUGH THOSE BOXES. I HAD A
25 COMPUTER. I WAS ABLE TO TURN THE COMPUTER SO THE MONITOR
26 FACED MY CLIENT.

27 WE WERE ABLE TO LOOK AT DOCUMENTS TOGETHER.
28 AT THE END OF OUR VISIT, WE HAD MADE PILES AND WE CALLED

1 THE SHERIFF OVER AND WE ADVISED THE SHERIFF THESE ARE THE
2 DOCUMENTS THAT I WOULD LIKE TO GIVE TO MR. GOODWIN FROM
3 THE BOXES THAT YOU CAN REVIEW MORE CLOSELY NOW THAT I'M
4 GIVING IT TO HIM TO HAVE IN YOUR FACILITY. THESE ARE THE
5 FILES OR PAPERS THAT MY CLIENT IS GIVING TO ME. AND THAT
6 WAS DONE IN AN ORDINARY MANNER THAT WOULD HAVE BEEN DONE
7 WITH ANY CLIENT. THAT HAPPENED TWO OR THREE TIMES WITHOUT
8 MUCH PROBLEM, ALTHOUGH OFTEN I WAS WAITING AN HOUR, HOUR
9 AND A HALF, TWO HOURS FOR MR. GOODWIN TO ARRIVE.

10 ON THE LAST VISIT AND AFTER MR. GOODWIN WAS
11 SHACKLED AROUND HIS WAIST WITH HIS ARM FREE AND WE WERE
12 IN ABOUT FIVE MINUTES INTO THE VISIT, TWO FEMALE DEPUTIES
13 ADVISED ME THAT THAT WAS NO LONGER -- THAT THAT WAS NOT
14 ACCEPTABLE. I TRIED TO EXPLAIN TO THEM THAT THAT WAS HOW
15 WE HAD BEEN DOING IT. THEY CALLED SERGEANT WINTERS DOWN.
16 I WAS ADVISED THAT THEY DIDN'T BELIEVE THAT IT OCCURRED,
17 THAT MY CLIENT WAS EVER IN A SITUATION WHERE HE WAS NOT
18 SHACKLED BY HIS ARM AND THAT IF IT DID OCCUR, THAT THAT
19 WAS A MISTAKE AND THAT IT WOULD NOT OCCUR IN THE FUTURE.
20 NOR WOULD HE BE ALLOWED TO SIT ACROSS FROM THE TABLE FROM
21 ME, HE WOULD HAVE TO SIT AT A REGULAR BOOTH. I CAN SIT AT
22 THE TABLE.

23 I WAS TOLD HE WAS NOT ALLOWED TO TYPE ON
24 THE COMPUTER. I WAS TOLD HE WAS NOT ALLOWED TO HAVE A
25 COMPUTER ON HIS SIDE OF THE TABLE. RATHER THAN THE BOXES
26 BEING REVIEWED IN ITS ENTIRETY, I WAS TOLD I HAD TO HAND
27 EACH AND EVERY DOCUMENT TO THE SHERIFF TO BE REVIEWED
28 PRIOR TO IT EVEN BEING SHOWN TO MR. GOODWIN. SO I WOULD

1 RAISE A DOCUMENT UP IN THE AIR, WAIT FOR THE SHERIFF TO
2 HAVE AN APPROPRIATE MOMENT TO COME BACK TO THE TABLE, AND
3 WE HAD TO SHOW HER EVERY SINGLE DOCUMENT BEFORE GIVING IT
4 TO MR. GOODWIN.

5 THE MURDER BOOK IN THIS CASE IS OVER 39,000
6 BATES PAGE NUMBERS STAMPED. I PERSONALLY HAVE IN FOUR
7 SEPARATE OFFICES OVER 300 BANKERS BOXES. IT WOULD BE
8 INCREDIBLY DIFFICULT, IF NOT IMPOSSIBLE, TO GO THROUGH
9 THOSE BOXES IF I HAVE TO SHOW EACH AND EVERY PAPER
10 INDIVIDUALLY TO THE SHERIFF BEFORE I SHOW IT TO
11 MR. GOODWIN. THE WAY THAT THEY DID IT INITIALLY WHERE
12 THEY LOOKED THROUGH THE BOXES TO MAKE SURE THERE WAS NO
13 CONTRABAND, AND THEN LOOKED THROUGH WITH A FINE TOOTH COMB
14 OVER THE DOCUMENTS I WAS ACTUALLY HANDING TO HIM, MAKES
15 PERFECT SENSE. AND I'M ABSOLUTELY UNDERSTANDING OF THAT
16 AND ACCEPTABLE WITH THAT.

17 AFTER THAT WAS NOT ALLOWED, I MADE A BAIL
18 MOTION IN DEPARTMENT E IN PASADENA. I MADE THE REGULAR
19 ARGUMENTS REGARDING THE BAIL AND THE NON-STATUTORY
20 ARGUMENT, I BROUGHT UP THE DUE PROCESS GROUNDS, THAT I'M
21 NOT BEING ABLE TO FREELY AND ADEQUATELY PREPARE HIS
22 DEFENSE BASED ON THE CONDITIONS IN WHICH HE'S BEING
23 KEPT. JUDGE SCHWARTZ AT THAT TIME ADVISED ME TO CHECK
24 WITH YOU AS TO WHETHER OR NOT YOU WANTED TO HAVE THIS
25 HEARING OR SHE SHOULD HAVE IT THERE, AND INDICATED THAT
26 IF THE SHERIFFS WERE UNWILLING TO COMPLY WITH THE ORDER,
27 SHE WOULD CONSIDER RESETTING BAIL IN THIS CASE.

28 I WILL NOTE, ALTHOUGH IT'S NOT IN THE COURT

1 ORDER, THAT ONE OF THE REASONS ,THAT THIS HAS BECOME SO
2 DIFFICULT IS THAT MR. GOODWIN IS ALLOWED ONLY TWO TIMES A
3 WEEK TO USE THE PHONE; ONE IS AT 5:30 IN THE MORNING ON
4 A MONDAY. I DON'T WORK AT 5:30 IN THE MORNING ON
5 MONDAY. I WORK LATE IN THE EVENING, BUT I'M RARELY THERE
6 AT 5:30. THE OTHER IS IN THE AFTERNOON ON A WEDNESDAY,
7 AND THAT'S WHEN WE GENERALLY ARE ABLE TO TALK WHICH IS
8 ONLY ONCE A WEEK. OUR LACK OF PHONE COMMUNICATION MAKES
9 MY VISITS TO HIM MORE NECESSARY THAN WOULD OTHERWISE BE,
10 ALTHOUGH THIS IS A FORMER CAPITAL CASE AND I OFTEN HAVE
11 TO VISIT HIM ANYWAY.

12 AND FINALLY... I LOST MY TRAIN OF THOUGHT.

13 MR. GOODWIN, AS THE COURT KNOWS -- I DON'T
14 KNOW IF THE COURT KNOWS THE BACKGROUND -- HAS BEEN A
15 SUSPECT IN THIS CASE FOR SOME 16 YEARS. HIS KNOWLEDGE OF
16 THIS CASE IS UNBELIEVABLE. HE CAN ACTUALLY CITE FOR ME,
17 IF I'M LOOKING FOR A DOCUMENT, OH, THAT WOULD BE ON PAGE
18 26,542. SO IT'S A SITUATION WHERE, IN FACT, MY CONSULTING
19 WITH HIM IS NECESSARY TO SAVE ME MONTHS AND MONTHS OF
20 TIME ON THIS CASE, GETTING IT READY FOR TRIAL.

21 I DID NOT COME TO THE COURT INITIALLY WHEN I
22 WAS NOT GIVEN A PRIVATE ROOM PARTLY BECAUSE I -- WE WERE
23 PREPARING FOR THE PRELIMINARY HEARING, AND I SIMPLY DID
24 NOT HAVE THE TIME. THERE WERE 100 WITNESSES NAMED ON THE
25 PRELIMINARY HEARING WITNESS LIST. THEY WOUND UP NOT
26 BEING CALLED, BUT IT TOOK AN INORDINATE AMOUNT OF
27 PREPARATION.

28 AND I WAS WILLING TO DEAL WITH SOME SORT OF

1 COMPROMISE UNTIL IT STARTED TO BECOME A SITUATION WHERE
2 EVERY TIME I WENT, THERE WERE NEW RULES IN PLACE. AND
3 NOW I KNOW -- AND I KNOW THAT MR. GOODWIN IS HIGH
4 MAINTENANCE, I'M NOT DENYING THAT. HE HAS SEVERAL
5 MEDICAL ISSUES AND SEVERAL THINGS THAT HE NEEDS ABOVE AND
6 BEYOND THE CALL OF A REGULAR PRISONER. BUT I DO BELIEVE
7 THAT WE ARE BEING FORCED TO WAIT AN INORDINATE AMOUNT OF
8 TIME FOR OUR INTERVIEW. THE SHORTEST INTERVIEW I'VE HAD
9 HAS TAKEN ME THREE HOURS BECAUSE I SIMPLY -- A MINIMUM --
10 A MINIMUM WAIT TIME IS ONE HOUR AND I'VE OFTEN WAITED
11 OVER TWO.

12 THE COURT: COUNTY COUNSEL.

13 MR. WRIGHT: YOUR HONOR, I THINK I'D JUST LIKE TO
14 ADDRESS A FEW ISSUES.

15 FIRST, IT'S NOT UNCOMMON -- I'M SURE THE
16 COURT KNOWS THIS -- IT'S NOT UNCOMMON THAT ORDERS MIGHT
17 BE ISSUED AND THE ORDERS ARE BROUGHT TO THE SHERIFF'S
18 DEPARTMENT. AT THE TIME THE ORDERS ARE ISSUED OR THE
19 ORDERS ARE MADE, THERE MAY OR MAY NOT BE REPRESENTATION
20 ON BEHALF OF THE SHERIFF'S DEPARTMENT AT THE HEARING, IF
21 THERE IS A HEARING IN FACT. AND THAT OFTEN IT'S THE CASE
22 THAT WHEN AN ORDER COMES TO THE SHERIFF'S DEPARTMENT, IN
23 AN EFFORT TO COMPROMISE, THEY WILL ATTEMPT TO ADHERE TO
24 THE SPIRIT OF THE ORDER AND MAKE MODIFICATIONS TO IT SO
25 THAT THE -- PARTICULARLY WITH AN ATTORNEY VISIT OR A
26 DOCTOR VISIT, THAT THE VISIT CAN TAKE PLACE AND THERE'S
27 NO FURTHER DELAY.

28 IN THIS CASE, THERE APPEARS TO HAVE BEEN

1 THAT TYPE OF COMPROMISE THAT WAS IN PLACE. THAT
2 COMPROMISE, FOR WHATEVER REASON OR NOT FOR WHATEVER
3 REASON, WORKED FOR A PERIOD OF TIME. AND NOW WE'VE
4 REACHED THIS POINT WHERE THERE ARE ISSUES THAT HAVE BEEN
5 BROUGHT TO ALL OF OUR ATTENTION AND THE REASONS WHY IT IS
6 NOT WORKING.

7 THE COURT: THIS THE FIRST TIME YOU'VE HEARD
8 ABOUT THIS, RIGHT?

9 MR. WRIGHT: YEAH, ABOUT A WEEK AGO WAS THE FIRST
10 TIME THAT I HEARD ABOUT IT, YES.

11 THE COURT: AND WHAT'S YOUR JOB? WHAT IS YOUR
12 JOB?

13 MR. WRIGHT: I AM THE LEGAL ADVISOR TO THE CUSTODY
14 DIVISION OF THE SHERIFF'S DEPARTMENT.

15 THE COURT: DID ANYBODY SEEK YOUR ADVICE PRIOR TO
16 A WEEK AGO ON WHETHER THEY SHOULD OBEY THIS ORDER?

17 MR. WRIGHT: NO, YOUR HONOR, BUT THERE WAS NO ONE
18 WHO SOUGHT MY ADVICE ABOUT THE ORDER -- THE INITIATION OF
19 THE ORDER IN THE FIRST PLACE.

20 THE COURT: THAT'S WHAT I MEAN. SO NOBODY HAS
21 EVER TALKED TO YOU ABOUT THIS ORDER. NOBODY SAID, GEE,
22 WE NEED A MODIFICATION OF THIS ORDER BECAUSE WE CAN'T DO
23 THIS. NOBODY CAME TO YOU SO THAT YOU COULD COME TO
24 THE COURT.

25 WE HAVE A PROCESS, RIGHT?

26 MR. WRIGHT: YES, YOUR HONOR.

27 THE COURT: AM I ACCESSIBLE TO YOU?

28 MR. WRIGHT: YES, YOU ARE.

1 THE COURT: AND HAVE WE WORKED OUT PROBLEMS WITH
2 THE SHERIFF'S DEPARTMENT IN THE PAST?

3 MR. WRIGHT: ON NUMEROUS OCCASIONS, YOUR HONOR.

4 THE COURT: ALL RIGHT. SO WITH RESPECT TO THIS
5 PARTICULAR CASE, AND I MIGHT SAY OTHERS THAT I'VE NOW
6 BECOME AWARE OF, NOBODY BOTHERED TO CONTACT YOU?

7 MR. WRIGHT: NOT UNTIL ABOUT A WEEK AGO.

8 THE COURT: NOT UNTIL THEY DECIDED TO DISOBEY IT.

9 MR. WRIGHT: WELL, YOUR HONOR, LIKE I SAID, I
10 DON'T THINK THERE WAS ANY BLATANT ATTEMPT TO DISOBEY
11 IT, BUT IN FACT THERE WAS AN ATTEMPT TO COMPROMISE.
12 WHATEVER REASON, THE COMPROMISE HAS GONE SOUR.

13 THE COURT: WAIT A MINUTE, WAIT A MINUTE. WHAT
14 KIND OF ATTEMPT TO COMPROMISE?

15 SERGEANT WINTERS TOLD HER NO, YOU'RE NOT
16 GOING TO BE ABLE TO DO THAT ANYMORE, AND YOU'RE GOING TO
17 HAVE TO SHOW ONE PAGE AT A TIME FOR 39,000 PAGES. IS THAT
18 A COMPROMISE?

19 MR. WRIGHT: I'M NOT SAYING THAT'S A COMPROMISE.
20 I'M SAYING AT THE BEGINNING WHEN THE ORDER WAS FIRST
21 ISSUED.

22 THE COURT: WELL, DID SERGEANT WINTERS GET YOUR
23 PERMISSION TO MAKE THAT ORDER?

24 MR. WRIGHT: NO, YOUR HONOR, HE DID NOT GET MY
25 PERMISSION. BUT I DON'T KNOW IF -- I CAN'T GRANT THAT
26 PERMISSION.

27 THE COURT: THAT'S WHY I WANT TO HAVE A HEARING.

28 SERGEANT WINTERS IS HERE, RIGHT?

1 MR. WRIGHT: YES.

2 THE COURT: SERGEANT WINTERS, TAKE THE WITNESS
3 STAND, PLEASE.

4 RAISE YOUR RIGHT HAND.

5 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
6 TESTIMONY YOU'RE ABOUT TO GIVE IN THE CAUSE NOW PENDING
7 BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH,
8 AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

9 THE WITNESS: I DO. I DO.

10 THE CLERK: THANK YOU. PLEASE BE SEATED.

11 PLEASE STATE YOUR NAME THEN SPELL YOUR FIRST
12 AND LAST NAME FOR THE RECORD.

13 THE WITNESS: MICHAEL WINTERS, M-I-C-H-A-E-L
14 W-I-N-T-E-R-S.

15

16 MICHAEL WINTERS, +
17 CALLED AS A WITNESS BY THE COURT, WAS SWORN AND TESTIFIED
18 AS FOLLOWS:

19

20 EXAMINATION +

21

22 THE COURT: ALL RIGHT. I'M GOING TO ASK A
23 QUESTION, SERGEANT WINTERS.

24 DID YOU HAVE THIS COURT ORDER BEFORE YOU?

25 THE WITNESS: YES, I DID.

26 THE COURT: AND DID YOU COMPLY WITH THIS COURT
27 ORDER?

28 THE WITNESS: NOT TO THE LETTER, SIR.

1 THE COURT: WELL, TELL ME HOW YOU COMPLIED WITH
2 IT.

3 IT SAYS: THE ATTORNEY AND CLIENT SHALL BE
4 PERMITTED TO SIT AT A TABLE TOGETHER WITH THE CLIENT FREE
5 OF HANDCUFFS.

6 DID YOU COMPLY WITH THAT?

7 THE WITNESS: NO, SIR.

8 THE COURT: UNOBSTRUCTED BY BARRIERS SO THEY CAN
9 SEE AND WORK ON A COMPUTER.

10 DID YOU ALLOW THEM TO WORK ON A COMPUTER?

11 THE WITNESS: YES.

12 THE COURT: HOW DID YOU ALLOW HIM TO WORK ON A
13 COMPUTER IF HE WAS HANDCUFFED?

14 THE WITNESS: I BROUGHT A TABLE UP TO THE ATTORNEY
15 ROOM, PUT IT AT THE END OF THE ROW AS MISS SARIS SAID,
16 AND WE ADJUSTED HIS HANDCUFFS SO THAT HE HAD ROOM TO
17 MANIPULATE THE KEYBOARD ON THE COMPUTER.

18 THE COURT: WHEN DID THIS CHANGE?

19 THE WITNESS: IT HASN'T CHANGED.

20 THE COURT: WELL, SHE SAYS IT HAS. IS SHE NOT
21 TELLING ME THE TRUTH?

22 THE WITNESS: SIR, TO MY KNOWLEDGE, IT'S NEVER
23 CHANGED.

24 THE COURT: THE TWO DEPUTIES THAT CAME UP TO HER
25 AND TOLD HER SHE COULDN'T DO THIS ANY LONGER, DID THEY
26 HAVE YOUR AUTHORITY?

27 THE WITNESS: SIR, THEY WORK IN THE ATTORNEY ROOM.

28 THE COURT: DID THEY HAVE YOUR AUTHORITY?

1 THE WITNESS: I'M NOT QUITE SURE WHAT YOU MEAN BY
2 THAT, SIR. THEY DON'T WORK FOR ME, NO.

3 THE COURT: DID YOU INDICATE TO MISS SARIS THAT
4 YOU WERE NOT GOING TO COMPLY WITH THIS ORDER ANY FURTHER?

5 THE WITNESS: NO, I DID NOT.

6 THE COURT: ARE YOU REQUIRING THAT SHE SHOW EACH
7 DOCUMENT OF THE 39,000 DOCUMENTS TO THE DEPUTY BEFORE
8 THAT DEFENDANT -- BEFORE SHE CAN PROCEED WITH EACH
9 DOCUMENT?

10 THE WITNESS: WHAT I ASKED HER WHEN SHE BROUGHT
11 THE -- WHEN THE FIRST ORDER CAME IN IN AUGUST AND SHE
12 AND I TALKED -- I HAVEN'T TALKED TO HER UNTIL I BELIEVE IT
13 WAS TWO WEEKS AGO WHEN SHE CAME IN THE LAST TIME. AND AT
14 THAT TIME, THERE WAS A DISPUTE ABOUT WHETHER HE WAS GOING
15 TO BE HANDCUFFED OR NOT. AND SHE HAD A BOX OF DISCOVERY.
16 AND I SAID, "THAT'S FINE, ALL I ASK YOU TO DO IS LET THE
17 DEPUTIES EXAMINE THE DOCUMENTS AND THEN YOU CAN GO ABOUT
18 YOUR BUSINESS." I DIDN'T ASK HER TO GIVE IT TO THEM ONE
19 PAGE AT A TIME. IN FACT, I SUGGESTED SHE LET THEM TAKE
20 THE BOX, EXAMINE IT, MAKE SURE EVERYTHING IS OKAY, AND GO
21 ABOUT HER BUSINESS. I DID NOT TELL HER SHE EVER HAD TO
22 DO IT ONE PAGE AT A TIME.

23 THE COURT: WELL, YOU JUST HEARD WHAT SHE SAID,
24 RIGHT?

25 THE WITNESS: YES, SIR, AND SHE'S MISSTATING WHAT
26 HAPPENED.

27 THE COURT: ALL RIGHT. I'LL LET YOU
28 CROSS-EXAMINE.

CROSS-EXAMINATION +

1
2 BY MS. SARIS:

3 Q AT SOME POINT AFTER YOU MADE THIS -- ARE YOU
4 INDICATING TO ME THAT YOU ACTUALLY SAID THAT YOU
5 SUGGESTED THE DEPUTIES LOOK THROUGH THE BOX IN ITS
6 ENTIRETY?

7 A YES.

8 Q DID THEY DO THAT IN YOUR PRESENCE?

9 A NO, I LEFT.

10 Q OKAY. AND SO WHEN YOU LEFT, YOU DON'T KNOW
11 WHAT OCCURRED BETWEEN ME AND THE FEMALE DEPUTIES?

12 A NO, SIR --- OR NO, MA'AM, I DO NOT.

13 Q REGARDING THE WORK ON THE COMPUTER, WERE YOU
14 NOT THERE WHEN I ASKED IF I COULD TAKE -- I HAD A PALM
15 PILOT DEVICE -- DO YOU RECALL THAT? -- WITH A TYPEWRITER?

16 A YES.

17 Q DO YOU RECALL ME ASKING IF I COULD PUT THAT
18 OVER THE BARRIER ON MR. GOODWIN'S SIDE AND BEING TOLD I
19 WAS NOT ALLOWED TO DO THAT?

20 A THERE WASN'T A BARRIER. HE WAS SITTING AT
21 THE TABLE, FACING THE TABLE.

22 Q THERE'S A SMALL --

23 A IT'S A METAL PIPE, BUT IT WAS BELOW THE
24 LEVEL OF THE TABLE.

25 Q AT THE K-10 BOOTH THAT THE PRISONERS
26 REGULARLY SIT ON, ISN'T THERE A WOODEN BARRIER BETWEEN
27 THE --

28 A YES, BUT I BELIEVE HE WAS FACING THE TABLE

1 NOT THE BARRIER.

2 Q YOU DID NOT ADVISE ME THAT UNDER NO
3 CIRCUMSTANCES COULD HE FACE THE TABLE BECAUSE HE WOULD
4 HAVE --

5 Q NO.

6 A -- HIS BACK TO THE CUSTODY OFFICER?

7 A NO.

8 Q YOU DON'T RECALL THAT?

9 A NO.

10 Q DO YOU RECALL THE FEMALE CUSTODY OFFICER
11 ADVISING ME THAT HE COULD NOT SIT FACING THE TABLE
12 BECAUSE THAT WOULD MEAN HIS BACK WAS TO HER AND SHE WOULD
13 NOT ALLOW THAT?

14 A I DON'T RECALL THAT. MY RECOLLECTION WAS HE
15 WAS FACING THE TABLE.

16 Q DO YOU RECALL RE-HANDCUFFING HIM SO THAT HE
17 HAD SIX INCHES APPROXIMATELY OF SLACK IN HIS HANDCUFFS
18 AND ONE ARM ATTACHED TO EACH BOLT ON THE DESK?

19 A NO, MA'AM. I BROUGHT AN EXTRA CHAIN IN SO
20 THAT WE COULD READJUST EVERYTHING. AND HE HAD MUCH MORE
21 THAN SIX INCHES BECAUSE MY RECOLLECTION IS HE ACTUALLY
22 HAD HIS ARMS ON THE TABLE.

23 Q OKAY. WHEN YOU SAY, "THE TABLE," ARE YOU
24 REFERRING TO THE TABLE THAT ALL K-10'S SIT AT OR A
25 SPECIAL TABLE THAT --

26 A THE TABLE WE BROUGHT UP FROM THE BASEMENT.

27 Q YOU'RE SAYING HE WAS HANDCUFFED TO THAT
28 TABLE?

1 A NO, MA'AM.

2 Q SO HE WAS SITTING WITH HIS HAND CUFFED AND
3 THE TABLE WAS TO HIS RIGHT?

4 A MA'AM, HE WAS FACING THE TABLE. HIS LEFT
5 HAND, TO MY RECOLLECTION, WAS CUFFED WITH THE EXTRA CHAIN
6 WHICH WAS SHORTENED TO THE POINT WHERE HE COULD REACH
7 THAT TABLE. THE CHAIN AROUND HIS WAIST WAS READJUSTED SO
8 HE HAD ENOUGH ROOM THAT HE COULD BRING THAT HAND UP ONTO
9 THE TABLE. AND HE IN FACT WAS -- HAD THE PALM PILOT
10 KEYBOARD IN FRONT OF HIM AT THAT TIME, AS I RECALL.

11 Q DO YOU RECALL THE FIRST TIME YOU WERE ASKED
12 TO MAKE A COMPROMISE IN THIS COURT ORDER?

13 A I TOLD YOU THAT WE COULDN'T COMPLY WITH IT
14 THE WAY IT WAS WRITTEN, AND I WOULD TRY AND MAKE AN
15 ACCOMMODATION TO MEET YOUR NEEDS.

16 Q DO YOU RECALL PUTTING ONLY A CHAIN --
17 WAIST CHAIN AROUND HIM AND HOOKING THAT TO THE BOLT?

18 A NO, MA'AM. MY RECOLLECTION IS HE HAD AT
19 LEAST ONE HAND CUFFED -- ONE HAND HANDCUFFED.

20 Q AND HE HAD ONE HAND FREE?

21 A HE MAY HAVE, YES.

22 MS. SARIS: I HAVE NOTHING FURTHER, YOUR HONOR.

23 THE COURT: ANYTHING, MR. WRIGHT?

24 MR. WRIGHT: NOTHING, YOUR HONOR.

25 THE COURT: OKAY. YOU MAY STEP DOWN, SERGEANT.

26 MS. SARIS: YOUR HONOR, I DID HAVE A LAW CLERK
27 BY THE NAME OF SAM WALD PRESENT WITH ME AT MY LAST
28 INTERVIEW, BUT HE IS NOT HERE TODAY. I DID NOT REALIZE

1 THAT MR. -- I'M SORRY -- SERGEANT WINTERS WOULD NOT
2 RECOLLECT --

3 THE COURT: ALL RIGHT. I'LL PUT YOU UNDER OATH.
4 RAISE YOUR RIGHT HAND.

5 YOU DO SOLEMNLY SWEAR THE TESTIMONY YOU'RE
6 ABOUT TO GIVE IN THE MATTER NOW PENDING BEFORE THIS COURT
7 WILL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
8 TRUTH, SO HELP YOU GOD?

9 MS. SARIS: I DO.

10 THE COURT: YOU MAY TESTIFY IN THE NARRATIVE.

11

12 **ELENA SARIS, +**

13 CALLED AS A WITNESS BY THE COURT, WAS SWORN AND TESTIFIED
14 AS FOLLOWS:

15

16 **EXAMINATION +**

17

18 MS. SARIS: YOUR HONOR, ON THE DATE THAT -- IN
19 QUESTION WHICH WAS APPROXIMATELY TWO WEEKS AGO, MY LAW
20 CLERK AND MYSELF BROUGHT ONE BOX OF DOCUMENTS INTO THE
21 ATTORNEY ROOM. HE HELPED ME SET UP -- "HE" BEING MY LAW
22 CLERK -- HELPED ME SET UP A TABLE.

23 THERE WAS ANOTHER INTERVIEW BEING CONDUCTED
24 AT THE FAR END OF THE TABLE. I ASKED THOSE INDIVIDUALS,
25 WHO WERE THERE ACTUALLY WAITING FOR THEIR CLIENT, TO MOVE.
26 I HAD THEM MOVE SO THAT I COULD HAVE THE MOST END UNIT OF
27 THE K-10 BOOTH. WE SET UP THE TABLE. TWO ESCORT DEPUTIES
28 CAME DOWN. I ASKED THEM, "DO YOU KNOW MR. GOODWIN? DO

1 YOU KNOW THE PROCEDURE?" THEY SAID, "YES," THEY
2 HANDCUFFED HIM AROUND HIS WAIST, PUT THE HANDCUFFS ONTO
3 THE BOLT AT THE K-10 TABLE. WE PROCEEDED WITH OUR
4 INTERVIEW.

5 A FEMALE DEPUTY CAME OVER TO ME AND SAID,
6 "WHAT ARE YOU DOING?" I SAID, "WE'RE HAVING AN
7 INTERVIEW." SHE SAID, "HE CAN'T HAVE HIS BACK TO ME. HE
8 NEEDS TO TURN AROUND." HIS BACK, AS WE WERE, WAS DIRECTLY
9 TO HER. SHE WOULD HAVE -- SHE WOULD HAVE BEEN IN A CORNER
10 UP ON A RAISED LEVEL AND HIS BACK WAS TO HER. I SAID,
11 "SERGEANT WINTERS WORKED OUT THIS COMPROMISE MONTHS AGO.
12 PERHAPS YOU SHOULD CALL HIM TO CLARIFY." I HONESTLY
13 BELIEVED THAT IF SERGEANT WINTERS CAME DOWN AND SAW THAT,
14 THAT WOULD BE THE END OF IT. AND SHE SAID, "WELL, YOU
15 CAN'T SHOW HIM ANYTHING IN THE BOX EITHER." I SAID,
16 "LET'S JUST WAIT FOR SERGEANT WINTERS."

17 SERGEANT WINTERS WAS CALLED, HE CAME DOWN.
18 HE ADVISED ME AT THAT TIME THAT UNDER NO CIRCUMSTANCES
19 COULD MR. GOODWIN BE UNHANDCUFFED WITH HIS HAND FREE. I
20 TOLD HIM HE NEEDED TO WORK ON THE COMPUTER. HE SAID HE
21 WOULD PUT -- OR THAT HE NEEDED TO WORK WITH DOCUMENTS. HE
22 SAID HE WOULD PUT SLACK IN HIS HANDCUFFS WHICH HE DID, HE
23 HAD ENOUGH SLACK TO REACH TO ME, TO REACH TO THE TABLE.

24 HIS BODY, HOWEVER, WAS PHYSICALLY FACING THE
25 K-10 BOOTH, BOTH OF HIS HANDS WERE SHACKLED TO THE BOLTS
26 ON THE K-10 BOOTH. THAT MEANS THAT IF I'M -- IF I'M HIM
27 SITTING AT THE K-10 BOOTH, I WOULD HAVE BEEN SITTING A
28 FULL 180 DEGREES TURN TO HIS RIGHT. I WOULD MOVE TOWARDS

1 HIM SO I WOULD SIT IN FRONT OF HIM AND TYPE ON MY PALM
2 PILOT. BUT I WAS NOT ABLE -- THE FEMALE DEPUTIES ADVISED
3 ME I WAS NOT ABLE TO PICK UP THE PALM PILOT, TURN IT TO
4 HIM, AND HAVE HIM TYPE ON IT.

5 I THEN ASKED THE FEMALE DEPUTY IF SHE WOULD
6 GO THROUGH THE BOX SO THAT WE COULD GO THROUGH DOCUMENTS.
7 SHE SAID, "TAKE IT OUT ONE AT A TIME AND SHOW ME WHAT
8 YOU WANT TO SHOW HIM." I CLARIFIED, I SAID, "I'M NOT
9 INTENDING TO GIVE HIM THESE THINGS. I'M INTENDING TO GO
10 THROUGH THESE THINGS. AND WHAT WE'VE ALWAYS DONE BEFORE
11 IS" -- I WAS CUT OFF AND TOLD, "I DON'T CARE WHAT YOU'VE
12 ALWAYS DONE BEFORE. THAT'S NOT OUR POLICY."

13 THE COURT: DO YOU WISH TO ASK HER ANY QUESTIONS?

14 MR. WRIGHT: I HAVE NO QUESTIONS, YOUR HONOR.

15 THE COURT: ALL RIGHT. YOU HAVE COMMANDER CONTE
16 HERE, YOU HAVE CAPTAIN CLARK HERE --

17 MR. WRIGHT: YES, YOUR HONOR.

18 THE COURT: -- AND LIEUTENANT OGURI HERE.

19 MR. WRIGHT: YES.

20 THE COURT: DO YOU WISH TO CALL ANY OF THEM TO THE
21 WITNESS STAND?

22 MR. WRIGHT: I DO NOT, YOUR HONOR.

23 THE COURT: OKAY. THEN I'M GOING TO TELL YOU WHAT
24 I'M GOING TO ORDER. I'M GOING TO ORDER THE SHERIFF'S
25 DEPARTMENT TO DO AN INVESTIGATION TO DETERMINE WHO GAVE
26 THE DEPUTIES IN THAT ATTORNEY ROOM AN ORDER THAT THEY
27 DISOBEY A COURT ORDER. IF IT WAS DONE ON THEIR OWN, THEN
28 I WANT THE SHERIFF'S DEPARTMENT TO SANCTION THEM,

1 OTHERWISE I'M GOING TO SANCTION THEM.

2 WITH RESPECT TO SERGEANT WINTERS, IF HE IS
3 IN CHARGE OF THAT ATTORNEY ROOM OR HE IS RESPONSIBLE FOR
4 IMPLEMENTING THIS ORDER, I WANT AN INVESTIGATION DONE.
5 IF THE SHERIFF'S DEPARTMENT DETERMINES THAT HE DID NOT
6 COMPLY WITH THIS ORDER, I WANT HIM SANCTIONED. IF THE
7 SHERIFF'S DEPARTMENT DOESN'T SANCTION HIM, I WILL
8 SANCTION HIM.

9 I'VE HAD IT WITH THE SHERIFF'S DEPARTMENT
10 DISOBEYING COURT ORDERS. THERE IS A PROCEDURE. IF THE
11 COURT ORDER IS NOT TO BE FOLLOWED, YOU CAN COME INTO THIS
12 COURT AND TELL ME WHAT THE PROBLEM IS. WE HAVE A COURT
13 SERVICES COMMITTEE THAT MEETS REGULARLY WITH THE
14 SHERIFFS. I MEET WITH THE CHIEFS AND THE COMMANDERS ON A
15 REGULAR BASIS. I'M ACCESSIBLE BY COUNTY COUNSEL. THERE
16 ARE PROCEDURES AVAILABLE TO MODIFY ORDERS IF THE
17 SHERIFF'S DEPARTMENT FEELS THEY CANNOT COMPLY. THIS IS
18 NOT AN INDIVIDUAL DECISION BY SERGEANT WINTERS OR BY ANY
19 DEPUTY IN THE SHERIFF'S DEPARTMENT.

20 IF A COURT ISSUES AN ORDER, IT IS TO BE
21 FOLLOWED. IF IT IS NOT FOLLOWED, I WILL SANCTION THE
22 DEPUTY OR I'LL ALLOW THE SHERIFF'S DEPARTMENT TO DO IT.
23 BUT THERE IS A CHAIN OF COMMAND IN THE SHERIFF'S
24 DEPARTMENT. I DON'T THINK THAT CAPTAIN CLARK WAS NOTIFIED
25 ON THIS. I'M ASSUMING HE WAS NOT. I'M ASSUMING THAT
26 COMMANDER CONTE WAS NOT NOTIFIED OR LIEUTENANT OGURI
27 NOTIFIED THAT THIS ORDER WAS NOT GOING TO BE COMPLIED
28 WITH, NOR DID ANY OF THEM SEEK ANY CONTACT WITH ME. AND

1 CAPTAIN CLARK AND I HAVE SPOKEN ON A NUMBER OF OCCASIONS.
2 NOBODY HAS BOTHERED TO TALK TO ME ABOUT THIS. SO I WANT
3 AN INVESTIGATION. I WANT A REPORT ON MY DESK IN 30 DAYS
4 AS TO WHAT HAPPENED HERE.

5 I WANT FULL COMPLIANCE WITH THIS ORDER. I
6 MEAN FULL COMPLIANCE AND NO COMPROMISE WITH THIS ORDER.
7 IF THE SHERIFF'S DEPARTMENT FEELS THEY CANNOT DO IT, THEN
8 SOMEBODY IS GOING TO FACE THE CONSEQUENCES. THIS CASE IS
9 GOING TO MOVE ALONG, IT IS NOT GOING TO BE DELAYED BY
10 SHERIFF'S DEPARTMENT POLICIES, ARBITRARY POLICIES.

11 I MEAN I CAN'T THINK OF A WAY TO
12 MAKE IT LESS POSSIBLE FOR ATTORNEYS TO GET THEIR CASES
13 READY THAN TO SET PHONE CALLS TO THEIR ATTORNEYS AT 5:30
14 IN THE MORNING, THAN TO REQUIRE 39,000 DOCUMENTS TO BE
15 SHOWN INDIVIDUALLY TO A PERSON BEFORE THEY CAN BE USED.
16 THIS IS NONSENSE. AND THIS IS ABOUT THE THIRD OR FOURTH
17 COMPLAINT THIS WEEK I'VE HAD FROM JUDGES SAYING THE
18 SHERIFF'S DEPARTMENT IS ARBITRARILY MAKING NEW POLICIES,
19 INTERFERING WITH THE ABILITY OF THEIR CASES TO MOVE
20 ALONG. I WILL NOT STAND FOR IT.

21 I MEAN WE HAVE THESE WORKING COMMITTEES. WE
22 ARE WORKING TOGETHER TO SOLVE PROBLEMS. I EXPECT TO BE
23 CONSULTED. I DON'T EXPECT COURT ORDERS TO BE IGNORED.
24 THIS HAS TO CEASE AND IT'S GOING TO CEASE NOW. THIS ORDER
25 IS TO BE FULLY COMPLIED WITH. AND I WARN YOU THAT I WILL
26 IMPOSE SEVERE CONSEQUENCES TO ANYBODY THAT DOESN'T COMPLY
27 WITH THIS ORDER.

28 SO I'M GOING TO SET A DATE IN 30 DAYS, IT

1 WILL BE MARCH 24TH. I EXPECT AN APPEARANCE ON MARCH 24TH
2 BY COUNTY COUNSEL. I WANT A REPORT FROM SOMEBODY IN THE
3 SHERIFF'S DEPARTMENT INDICATING THAT THEY HAVE LOOKED
4 INTO THIS AND HAVE DETERMINED WHO GAVE THE DEPUTIES IN
5 THE ATTORNEY ROOM THE PERMISSION TO IGNORE A COURT ORDER
6 AND WHETHER OR NOT SERGEANT WINTERS INTENTIONALLY IGNORED
7 A COURT ORDER. THAT IS MY ORDER.

8 MR. WRIGHT: YOUR HONOR, WE DO HAVE -- THE
9 DEPARTMENT INTENDS TO FULLY COMPLY WITH THE ORDER. WE DO
10 HAVE ONE ISSUE.

11 THE COURT: YES.

12 MR. WRIGHT: AND THAT IS THAT THERE IS A MEDICAL
13 PSYCHIATRIC ROOM THAT'S AVAILABLE TO COMPLY WITH THE
14 PRIVATE ROOM PORTION OF THE ORDER. HOWEVER, WE WANT TO
15 BRING IT TO THE COURT'S ATTENTION THAT RIGHT NOW THAT
16 ROOM IS USED ON A FIRST-COME-FIRST-SERVED BASIS. DOES
17 THE COURT WANT THE DEPARTMENT TO CONTINUE TO USE THE
18 ROOM IN THAT WAY SO, IN OTHER WORDS, THAT IF COUNSEL FOR
19 MR. GOODWIN IS THERE, IS SHE ALLOWED TO REMAIN THERE IF A
20 PSYCHIATRIST OR MEDICAL PERSONNEL ARRIVE FOR A VISIT OR
21 CONSULTATION OR --

22 MS. SARIS: PERHAPS YOU SHOULD CLARIFY THAT THAT'S
23 THE ONLY PRIVATE ROOM YOU'RE SAYING?

24 MR. WRIGHT: THAT'S THE ONLY PRIVATE ROOM THAT'S
25 AVAILABLE IN THAT HOUSING FACILITY.

26 THE COURT: WHERE IS HE CURRENTLY HOUSED?

27 MR. WRIGHT: MEN'S CENTRAL JAIL.

28 MS. SARIS: AND I WOULD JUST POINT OUT FOR THE

1 RECORD --

2 THE COURT: WELL, WAIT A MINUTE.

3 IN THE ATTORNEY INTERVIEW ROOM, THERE'S
4 THREE PRIVATE ROOMS. YOU MEAN THEY CAN'T BE USED?

5 MR. WRIGHT: THOSE ROOMS HAVE PARTITIONS BETWEEN
6 THE ATTORNEY AND THE INMATE SO YOU CAN'T --

7 THE COURT: OH, THEY'VE PUT NEW PARTITIONS?

8 MS. SARIS: THEY'RE TOO HIGH AND ONE OF THEM IS
9 FULLY PARTITIONED SO WE COULDN'T -- WE COULDN'T DO A
10 COMPUTER AT ALL WITHOUT ME SORT OF STEPPING OVER INTO THE
11 INMATE SIDE.

12 THE COURT: WHERE DO THEY PUT THIS TABLE THAT
13 YOU'RE USING NOW?

14 MS. SARIS: AT THE END OF THE ROWS, YOU KNOW WHERE
15 THE BOOTHS ARE?

16 THE COURT: YES.

17 MS. SARIS: AND THERE'S ANOTHER ROW, ANOTHER ROW,
18 AND THE FINAL THIRD ROW WHICH IS THE K-10 ROW WHICH HAS
19 THE BOLTS ON THE DESK.

20 THE COURT: SO THEY PUT A TABLE BACK IN THAT
21 CORNER?

22 MS. SARIS: THEY PUT IT IN THE CORNER, CORRECT. SO
23 HE STILL STAYS ON HIS SIDE, AND I STILL STAY ON MY SIDE.

24 AND I WOULD POINT OUT MR. GOODWIN IS A K-10
25 ONLY FOR MEDIA ATTENTION NOT FOR ANY DISCIPLINARY ISSUE
26 THAT HE'S CAUSED.

27 THE COURT: WELL, YOU KNOW, THE FACT THAT THE
28 SHERIFFS DECIDE TO CLASSIFY SOMEBODY AS A K-10, DOES NOT

1 MEAN THAT THEY'RE GOING TO BE ABLE TO INTERFERE WITH YOUR
2 ABILITY TO GET THESE CASES TO TRIAL.

3 MR. WRIGHT: I'M SORRY, YOUR HONOR?

4 THE COURT: THE FACT THAT THE SHERIFF'S DEPARTMENT
5 DECIDES TO CLASSIFY SOMEBODY AS K-10 IS THEIR DECISION,
6 BUT THEN THEY HAVE TO FIGURE OUT HOW TO ACCOMMODATE. THIS
7 IS THE SAME PROBLEM WE WERE HAVING WITH TRANSPORTATION OF
8 K-10'S. IF THE SHERIFF'S DEPARTMENT WANTS TO CLASSIFY
9 THEM AS K-10'S, THEY STILL HAVE TO GET THEM TO COURT.
10 IF THE SHERIFF'S DEPARTMENT WANTS TO CLASSIFY THEM AS
11 K-10'S, THEY STILL HAVE TO PROVIDE THEM WITH THE ABILITY
12 TO HAVE THEIR LAWYERS PREPARE THE CASES FOR TRIAL AND THEN
13 TAKE WHATEVER MEASURES ARE NECESSARY.

14 MR. WRIGHT: IT'S UNDERSTOOD, YOUR HONOR.

15 THE COURT: I WILL INDICATE TO YOU THAT NO, SHE
16 CAN'T BE PRESENT WHEN THE PSYCHIATRIST IS DOING AN
17 EVALUATION. IT'S ANOTHER CASE, IT'S NOT HER CASE, SHE
18 HAS NO RIGHT TO BE PRESENT.

19 MR. WRIGHT: OH, I MAY HAVE MISSPOKEN, YOUR HONOR,
20 NOT THAT SHE WOULD BE PRESENT WHEN THE PSYCHIATRIST IS
21 THERE. BUT THERE'S A SITUATION WHERE IF SHE'S THERE AND
22 A PSYCHIATRIST ARRIVES, IN THE PAST WE'VE WORKED OUT --
23 MADE THIS ROOM AVAILABLE SPECIFICALLY FOR PSYCHIATRISTS
24 SO THAT THEY DON'T HAVE TO WAIT EXTRA TIME IN ORDER TO DO
25 THEIR EVALUATIONS.

26 THE COURT: LET ME JUST INDICATE TO YOU --

27 MR. WRIGHT: OR SHALL WE TRY AND SEE HOW IT WORKS?

28 THE COURT: -- EVERYBODY THAT THE SHERIFFS KEEP

1 WAITING, THE COUNTY IS PAYING MONEY FOR IT. AT SOME
2 POINT IN TIME, THE COUNTY IS GOING TO SAY WHAT ARE YOU
3 DOING? EVERY TIME A DOCTOR IS OUT THERE WAITING, I'M
4 PAYING HIM. EVERY TIME A LAWYER IS THERE, WE'RE PAYING
5 HIM. SO THEY'VE GOT TO MAKE ACCOMMODATION, AND I KNOW
6 IT CAN BE DONE. THE SHERIFFS HAVE THE ABILITY TO MAKE
7 ACCOMMODATION AND GET THESE THINGS DONE. I WOULD THINK
8 THAT THEY WANT TO MOVE THESE CASES ALONG AS BADLY AS WE
9 DO.

10 MR. WRIGHT: YES, WE DO.

11 THE COURT: SO MY ORDER STANDS.

12 I DON'T EXPECT ANY DISCIPLINARY ACTION
13 AGAINST MR. GOODWIN BECAUSE I MADE AN ORDER THAT HE BE
14 INTERVIEWED. SO I DON'T EXPECT HIM TO BE PLACED IN A
15 HIGH-POWER CELL, UNAVAILABLE TO ANYBODY FOR THAT REASON.

16 MR. WRIGHT: THAT WON'T HAPPEN, YOUR HONOR.

17 THE COURT: SO MY ANSWER IS I WANT IT COMPLIED
18 WITH.

19 MR. WRIGHT: YES, YOUR HONOR, WE'LL TRY IT ON THIS
20 BASIS. AND IF THERE ARE OTHER ISSUES, WE'LL BRING THEM TO
21 THE ATTENTION OF THE COURT.

22 THE COURT: YOU CAN BRING THEM TO MY ATTENTION.
23 I'M ALWAYS AVAILABLE.

24 MR. WRIGHT: ABSOLUTELY.

25 THE COURT: ALL RIGHT. NOTIFICATION SHOULD BE
26 GIVEN TO MISS SARIS THOUGH IF YOU'RE GOING TO BRING
27 ANYTHING TO MY ATTENTION WITH RESPECT TO THIS PARTICULAR
28 CASE.

1 MR. WRIGHT: ABSOLUTELY.

2 THE COURT: THANK YOU.

3 MS. SARIS: THANK YOU.

4

5 (AT 11:31 A.M., AN ADJOURNMENT WAS TAKEN.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, MARCH 17, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 PATRICK DIXON AND ALAN JACKSON, DEPUTY DISTRICT
12 ATTORNEYS, REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD ON
16 THE GOODWIN MATTER, MR. GOODWIN IS PRESENT WITH HIS
17 COUNSEL. THE PEOPLE ARE REPRESENTED.

18 BEFORE WE START DISCUSSING THE MOTIONS, THERE
19 IS A MATTER THAT WE NEED TO THE PUT ON THE RECORD ABOUT A
20 REQUEST THAT COUNSEL HAVE TO HAVE SOME PHYSICAL EVIDENCE
21 EXAMINED.

22 AND WHAT IS THE PROBLEM?

23 MR. DIXON: WELL, YOUR HONOR, PERHAPS WE NEED SOME
24 GUIDANCE FROM THE COURT ON THIS, BUT I JUST DISCUSSED
25 THIS -- WE HAVE IN THE PAST, BUT WE DISCUSSED THE NEW
26 ORDER WITH DETECTIVE LILLIENFELD WHO KNOWING ABOUT THIS
27 HAS DISCUSSED IT WITH THE CRIME LAB. AND HE TALKED WITH
28 THE DIRECTOR OF THE CRIME LAB AND THEY DON'T NORMALLY

1 RELEASE PHYSICAL EVIDENCE.

2 NOW THERE ARE SOME EXCEPTIONS WITH NARCOTICS
3 OR SOMETHING LIKE THAT WHERE THEY CAN DO A SPLIT. THEY
4 OFTEN DO THAT WITH SOME BLOOD EVIDENCE. BUT THEY DON'T
5 NORMALLY RELEASE THIS. NOW I'M TOLD THAT THE DIRECTOR OF
6 THE CRIME LAB -- THE SHERIFF'S CRIME LAB -- KNOWS
7 MR. MOSES. AND THEY THINK HIGHLY OF HIM. AND HE IS
8 CERTAINLY WELCOME TO COME INTO THE CRIME LAB; LOOK AT THE
9 BIKE; USE ANY OF THEIR EQUIPMENT THEY HAVE AT THE CRIME
10 LAB TO CONDUCT WHATEVER TESTS THAT HE NEEDS TO DO AS LONG
11 AS HE NEEDS TO DO THEM.

12 BUT JUST TO RELEASE PHYSICAL EVIDENCE TO HIM,
13 THEY SAY THAT'S EXTRAORDINARY. I WON'T SAY IT'S UNHEARD
14 OF. I UNDERSTAND THAT THEY DO THAT WITH FIREARMS, BUT
15 THE RIFLING CHARACTERISTICS OF A FIREARM CAN'T BE
16 ALTERED. THAT'S WHAT I UNDERSTAND.

17 AND IF THE COURT IS COMFORTABLE WITH THIS,
18 THEN THE COURT CAN SIGN THE ORDER. BUT THE SHERIFF'S
19 DEPARTMENT ISN'T COMFORTABLE WITH IT. AND THE DIRECTOR
20 OF THE LAB ISN'T. AND THEY WILL MAKE WHATEVER MUTUALLY
21 CONVENIENT PLANS OR SITUATION AVAILABLE TO
22 MR. MOSES FOR AS LONG AS HE LIKES AT EVERYBODY'S
23 CONVENIENCE.

24 THE COURT: WELL, I WAS NEVER COMFORTABLE WITH IT,
25 WHICH IS WHY I ASKED FOR THE PEOPLE'S INPUT ON THE
26 EXPARTE REQUEST. BECAUSE I WAS AWARE OF THE FACT THAT
27 THAT WAS NOT SOMETHING THAT WAS NORMALLY DONE. AND I WAS
28 HOPING THAT THE TWO OF YOU, THAT IS THE DEFENSE AND

1 PROSECUTION, COULD AGREE TO SOME WORDING THAT WOULD BE
2 ACCEPTABLE TO EVERYBODY.

3 IF THE PEOPLE ARE NOT GOING TO AGREE TO
4 RELEASE THE EVIDENCE, THEN I NEED TO FIND OUT FROM THE
5 DEFENSE IF THERE IS AN ABSOLUTE NECESSITY FOR RELEASING
6 THE EVIDENCE OR IF THE EXPERT CAN PERFORM THE EXAMINATION
7 THAT NEEDS TO BE PERFORMED AT THE CRIME LAB.

8 MS. SARIS: YOUR HONOR, I HAVE TO TELL THE COURT
9 I'VE HAD THIS 10, 15 TIMES WITHOUT AN ISSUE. I'VE TAKEN
10 GUNS; I'VE TAKEN SKATEBOARDS; I'VE TAKEN PIPES. THINGS
11 THAT NEEDED TO BE FINGERPRINTED; THINGS THAT NEEDED TO BE
12 TESTED. I HAVE NEVER HAD A PROBLEM WITH IT. I'M AN
13 OFFICER OF THE COURT. I'VE HIRED A PERSON THAT IS A
14 RESPECTED INDIVIDUAL IN LAW ENFORCEMENT AGENCIES. HE'S
15 GOING TO HAVE THE EVIDENCE LESS THAN ONE NIGHT. THE
16 L.A.P.D. LAB, FOR INSTANCE, WILL NOT ALLOW MY EXPERTS TO
17 COME INTO THEIR LAB.

18 AND IF L.A.S.O. ALLOWS IT, IT SURPRISES ME.
19 BECAUSE THEIR NEW CREDENTIALS -- THE CREDENTIALING
20 LICENSING THAT THEY HAVE THAT THEY'RE TRYING TO HAVE
21 ACCREDITATION IN THE STATE AND NATIONAL LEVELS
22 SPECIFICALLY EXCLUDES OUTSIDE EXPERTS COMING INTO THEIR
23 LAB, WHICH IS WHY L.A.P.D. HAS ALWAYS REJECTED OUR
24 EXPERTS COMING IN.

25 THEY'VE HAD 17 YEARS TO TEST THIS EVIDENCE.
26 THE ONLY PROBLEM I'VE EVER RUN INTO IS WHEN I'M
27 REQUESTING TO TEST EVIDENCE THAT A PARTICULAR CRIME LAB
28 HAS NOT HAD AN OPPORTUNITY TO TEST. BUT AFTER 17 YEARS,

1 ANYTHING THEY WANTED TO HAVE DONE BY NOW COULD HAVE BEEN
2 DONE.

3 MR. MOSES HAS A FACILITY HERE. WE WILL TAKE
4 IT. WE WILL DO THE TESTING THAT WE NEED AND WE WILL
5 RETURN IT. I WILL BE WITH HIM. I CAN'T IMAGINE A
6 COMPROMISE THAT WOULD BE OKAY. IF THE COURT IS GOING TO
7 DENY ME THIS MOTION, THEN I SUPPOSE I CAN MAYBE TRY AND
8 GET MR. MOSES DOWN HERE. BUT IN ORDER FOR US -- FOR ME
9 TO BE SATISFIED WITH THE COMPROMISE, THE SHERIFFS WITH
10 LITERALLY NEED TO VACATE A LAB; LEAVE US ALONE. AND I
11 DOUBT VERY SERIOUSLY THAT'S GOING TO OCCUR.

12 THE COURT: SO YOUR POSITION IS, IN A NUTSHELL,
13 THAT THE TESTING THAT YOU WANT TO HAVE PERFORMED CANNOT
14 BE DONE AT THE SHERIFF'S CRIME LAB BECAUSE YOU WANT TO
15 CONDUCT THAT TESTING IN PRIVATE?

16 MS. SARIS: THAT'S CORRECT. AND I HAVE A LACK OF
17 FAITH THAT I'M GOING TO BE ABLE TO BE -- I'M NOT SAYING
18 THAT THE SHERIFFS DON'T HAVE THE RESOURCES. I DON'T WANT
19 TO BE ON RECORD SAYING THAT THEY DON'T HAVE THE CAPACITY.
20 I'M SURE THEY PROBABLY HAVE THE TECHNOLOGY THERE. I
21 DON'T THINK WE'RE GOING TO BE GIVEN ENOUGH ACCESS TO
22 THAT.

23 MR. DIXON: WELL, IT SEEMS TO ME THAT AT THE VERY
24 LEAST THAT A REPRESENTATIVE OF LAW ENFORCEMENT SHOULD BE
25 AVAILABLE OR SHOULD BE PRESENT DURING ANY TESTING JUST TO
26 MAINTAIN THE CHAIN OF CUSTODY AND THE INTEGRITY OF IT.
27 NOT TO BRING UP A SUBJECT THAT'S NOT REALLY NEAR MY HEART
28 RIGHT NOW, BUT IN THE BLAKE MATTER, WE SENT -- AT THE

1 COURT'S DIRECTION -- A NUMBER OF ITEMS TO A LAB IN
2 ALAMEDA FOR THE DEFENSE.

3 BUT THERE WAS A PROVISION, AS I RECALL -- I
4 HOPE I'M NOT WRONG, BUT I RECALL -- THERE WAS A PROVISION
5 FOR A PERSON REPRESENTING LAW ENFORCEMENT TO BE PRESENT
6 DURING THE TESTING. AND THAT'S ALL WE'RE ASKING. I
7 WOULD THINK THE EASIEST WAY TO DO IT WOULD BE TO IF THE
8 FACILITIES AT THE SHERIFF CRIME LAB MEET MR. MOSES'
9 REQUIREMENTS JUST TO DO IT THERE. I'M NOT SURE --

10 THE COURT: BUT WHAT ABOUT THE REQUEST THAT NO
11 MEMBER OF LAW ENFORCEMENT BE PRESENT DURING THE TESTING?

12 MR. DIXON: I DON'T REALLY UNDERSTAND OR SEE THAT.
13 I MEAN THAT'S ESSENTIALLY RELEASING THE EVIDENCE TO
14 DEFENSE WITHOUT ANYONE THERE TO SUPERVISE IT. I MEAN IT
15 SEEMS TO ME THAT RUNS -- IT RUNS COUNTER TO THE SENSE
16 THAT WE AREN'T GOING TO RELEASE PHYSICAL EVIDENCE TO THE
17 OTHER SIDE. I MEAN THAT'S WHAT YOU ARE DOING THERE.

18 THE COURT: WELL, I THINK IF THE DEFENSE OFFERS TO
19 STIPULATE TO CHAIN OF CUSTODY SO THAT THERE IS NO ISSUE
20 AS TO CHAIN OF CUSTODY, THEN IT SEEMS TO ME THAT THEY
21 SHOULD BE ENTITLED TO CONDUCT A TEST THAT IS NOT GOING TO
22 COMPROMISE THE INTEGRITY OF THE EVIDENCE IN PRIVATE. I
23 MEAN I THINK THAT'S THEIR RIGHT.

24 UNLESS AND UNTIL THEY DETERMINE THAT THEY
25 HAVE SOME DISCOVERY TO PROVIDE OR ARE GOING TO CALL THE
26 PERSON AS A WITNESS, I THINK THEY HAVE THAT RIGHT. SO I
27 KNOW MS. SARIS HAS OFFERED TO STIPULATE TO CHAIN OF
28 CUSTODY. AND IF THE CONCERN IS SOLELY ONE OF CHAIN OF

1 CUSTODY, PERHAPS WE CAN GET THAT STIPULATION. AND ASK
2 THE SHERIFF'S CRIME LAB TO MAKE ARRANGEMENTS FOR THE
3 EXPERT COME TO THEM AND TEST THE ITEM IN PRIVATE. CAN
4 THAT PERHAPS BE --

5 MR. DIXON: WE CERTAINLY CAN EXPLORE THAT.

6 MS. SARIS: I DON'T MIND MAKING THE PHONE CALL AND
7 ASKING. AND WHAT I WILL DO, BECAUSE MR. MOSES HAS SUCH A
8 RELATIONSHIP WITH THE SHERIFFS, IS I WILL CALL MR. MOSES
9 AND SAY TO HIM WILL YOU CONTACT WHATEVER REPRESENTATIVE
10 DETECTIVE LILLIENFELD AND MR. DIXON PROVIDE US A NAME.
11 AND IS THE COMPROMISE THAT THEY ARE OFFERING SATISFACTORY
12 TO THE INTEGRITY OF THE TESTING THAT YOU WANT TO DO? AND
13 IF MR. MOSES ASSURES ME THAT IT IS, THEN PERSONALLY I AM
14 NOT GOING TO OVERRULE MR. MOSES. I DON'T KNOW WHAT HE'S
15 GOING TO DO PHYSICALLY.

16 BUT I WILL NOTE THAT I THINK THE BLAKE CASE
17 IS DIFFERENT IN THAT IT WAS ALAMEDA. SO IT CERTAINLY WAS
18 SPENDING THE NIGHT, THIS EVIDENCE, AWAY. AND I DON'T
19 KNOW WHAT TYPE OF EVIDENCE IT WAS. BUT IN THE FIREARMS
20 AND THE EVIDENCE THAT I'VE PREVIOUSLY SAID I'VE TAKEN,
21 I'VE NEVER HAD A REPRESENTATIVE COME WITH. BUT I WILL
22 HAVE MR. MOSES DO THIS.

23 I WILL ASK THAT THE DISTRICT ATTORNEY AND THE
24 SHERIFFS PROVIDE ME A NAME AS SOON AS POSSIBLE.
25 MR. MOSES IS NEAR SAN FRANCISCO. HE FLIES DOWN FOR THIS
26 TEST. AND I WILL TRY AND HAVE HIM CALL EARLY NEXT WEEK.
27 AND PERHAPS WE CAN SET A COURT DATE OR WE CAN INFORM THE
28 COURT IF IT'S NOT ACCEPTABLE.

1 MR. DIXON: I'M CERTAINLY WILLING TO WORK WITH THAT
2 AND TRY TO MAKE THIS WORK.

3 THE COURT: AND THE REPRESENTATION IS THAT THE
4 DEFENSE WILL BE STIPULATING TO CHAIN OF CUSTODY WITH
5 RESPECT TO THIS ITEM SO THAT THERE ARE NO PROBLEMS LATER
6 ON DOWN THE ROAD; RIGHT?

7 MS. SARIS: CERTAINLY IF WE REMOVE IT FROM THE
8 CRIME LAB, ABSOLUTELY.

9 THE COURT: WHAT IF YOU --

10 MS. SARIS: MY ANTICIPATION, BASED ON WHAT
11 COMPROMISE YOU'RE SUGGESTING, IS THAT WE COME TO THEIR
12 CRIME LAB AND WE JUST GET LOCKED IN A ROOM BY OURSELVES.
13 CERTAINLY I'M NOT GOING TO WALK IN WITH A BICYCLE IN MY
14 POCKET AND SWITCH ITEMS OF EVIDENCE.

15 THE COURT: NO. BUT I THINK MR. DIXON'S CONCERN
16 ABOUT CHAIN OF CUSTODY IS VALID.

17 MS. SARIS: I AGREE, IF I WERE TO REMOVE THAT ITEM.

18 THE COURT: NO. IF YOU ARE NOT TO REMOVE IT, BUT
19 IF YOU ARE TO GO INTO A ROOM WITH IT, I HEARD AN
20 OBJECTION TO THAT.

21 MR. DIXON: YES.

22 THE COURT: BECAUSE HE LIKENED THAT TO -- WELL, IT
23 DOESN'T MATTER WHAT HE LIKENED IT TO. I MEAN IT DOES
24 BREAK THE CHAIN OF CUSTODY WITH RESPECT TO POSSESSION OF
25 THE ITEMS, EVEN THOUGH IT'S STILL IN THE CONSTRUCTIVE
26 POSSESSION OF --

27 MS. SARIS: OKAY. THAT'S FINE.

28 THE COURT: -- L.A.S.D. SO AS LONG AS WE HAVE AN

1 AGREEMENT THAT WE HAVE A STIPULATION AS TO CHAIN OF
2 CUSTODY, I WILL LEAVE IT TO COUNSEL TO WORK SOMETHING
3 OUT. AND JUST LET ME KNOW IF THERE IS A PROBLEM.

4 MR. DIXON: IF THERE IS A PROBLEM, WE WILL COME
5 BACK TO THE COURT. THANK YOU.

6 THE COURT: ALL RIGHT. SO THAT TAKES CARE OF THAT.
7 THEN THE COURT HAS BEFORE IT A MOTION BY THE DEFENSE TO
8 DISMISS THIS MATTER BASED UPON A VIOLATION OF THE
9 ATTORNEY/CLIENT PRIVILEGE. AND I HAVE REVIEWED THE
10 MOTION AS WELL AS THE EXHIBITS. I HAVE REVIEWED THE
11 OPPOSITION PAPERS AND THEN THE REPLY TO THE PEOPLE'S
12 OPPOSITION.

13 I DON'T KNOW HOW COUNSEL WANTS TO PROCEED ON
14 THIS MOTION BECAUSE THERE IS SOME FACTUAL ISSUES THAT ARE
15 OBVIOUSLY IN DISPUTE. AND TO THE EXTENT THAT THERE ARE,
16 I WOULD IMAGINE WE ARE GOING TO HAVE TO HAVE SOME SORT OF
17 TESTIMONY TAKEN.

18 IS THAT RIGHT?

19 MS. SARIS: THAT'S MY ANTICIPATION. IF I MAY
20 BRIEFLY BE HEARD, I THINK --

21 THE COURT: SURE.

22 MS. SARIS: I WROTE THE REPLY SPECIFICALLY TO BE
23 ABLE TO LIMIT THE ARGUMENT. I BELIEVE I HAVE MADE MY
24 POSITION CLEAR. I WOULD POINT OUT THAT THERE IS TWO
25 BASIS -- TWO PRONGS FOR THE MOTION TO DISMISS. ONE IS
26 THE VIOLATION OF THE ATTORNEY/CLIENT PRIVILEGED BASED ON
27 WHAT WAS SEIZED. AND THE OTHER IS THE INTERFERENCE WITH
28 THE RELATIONSHIP BASED ON MR. JONES.

1 I BELIEVE BASED ON THE LIMITED AMOUNT OF
2 DOCUMENTS THAT WE PRESENTED -- AND RECOGNIZING THAT THE
3 DEFENSE IS IN A VERY AWKWARD POSITION HERE. IN ORDER TO
4 PROVE THIS VIOLATION, WE HAVE TO BRING ATTENTION TO THE
5 DOCUMENTS THAT WE ARE SAYING SHOULD NOT HAVE BEEN SEIZED
6 IN THE FIRST PLACE. SO I DID PRODUCE A SAMPLING. I
7 DON'T KNOW IF THE DISTRICT ATTORNEYS MISUNDERSTOOD THAT
8 OR -- BUT IT IS MY POSITION THAT THESE ARE SIMPLY A
9 SAMPLE AND NOT EVERY EXAMPLE OF THE VIOLATION.

10 I DO BELIEVE AT SOME POINT THAT AT A POINT
11 WHERE WE MAKE A SHOWING BASED ON THE FACT THAT THESE
12 LETTERS BETWEEN MR. GOODWIN AND HIS COUNSEL WERE INCLUDED
13 IN THE DISCOVERY AND THE STATEMENTS THAT WE HAVE BEEN
14 PROVIDED FROM BUTCH JONES, WHICH WOULD LEAD ONE TO
15 BELIEVE THAT AT LEAST THERE WAS THE POTENTIAL FOR THE,
16 QUOTE, SPYING, ON THE ATTORNEY/CLIENT PRIVILEGE, THAT THE
17 BURDEN THEREFORE SHIFTS TO THE DISTRICT ATTORNEY TO PROVE
18 THE NON-ILLEGALITY OF THEIR CONDUCT.

19 MR. JONES WAS IN CONSTANT CONTACT WITH
20 DETECTIVE LILLIENFELD AT ONE POINT. AND I BASE THAT
21 STATEMENT ON DISCOVERY I'VE RECEIVED FROM DETECTIVE
22 LILLIENFELD'S STATEMENTS TO THE DISTRICT ATTORNEY. OUR
23 CONCERN IS THAT DETECTIVE LILLIENFELD WAS AWARE OF THE
24 CLAIMED PRIVILEGE AND SHOULD HAVE ALERTED THE MAGISTRATE
25 PRIOR TO OBTAINING A SEARCH WARRANT.

26 AND THAT ONCE THAT WAS NOT DONE, THERE WERE
27 FUTURE POINTS IN THE PROCEEDING WHERE THE VIOLATION COULD
28 HAVE BEEN MITIGATED. WHEN THE DISTRICT ATTORNEY IN

1 ORANGE COUNTY FIRST SAW THE DOCUMENTS --

2 THE COURT: ALL RIGHT. WELL, LET'S NOT GO THERE
3 YET. BECAUSE MY QUESTION WAS REALLY ONE OF PROCEDURE
4 MORE THAN SUBSTANCE.

5 MS. SARIS: NO, I UNDERSTAND. IF I MAY JUST FINISH
6 THE SENTENCE.

7 THE COURT: BECAUSE SOME OF THE FACTS ARE NOT IN
8 DISPUTE. THE FACTS THAT YOU ARE MENTIONING NOW ARE NOT
9 IN DISPUTE.

10 MS. SARIS: RIGHT. BUT MY QUESTION IS: I DON'T
11 KNOW IF WE NEED THE ORANGE COUNTY DISTRICT ATTORNEY.
12 THAT'S WHAT I'M SAYING. I KNOW THAT WE PROBABLY NEED
13 MR. JONES. WE PROBABLY NEED DETECTIVE LILLIENFELD.

14 THE COURT: YES.

15 MS. SARIS: AND I WOULD ALSO POINT OUT THAT IN THE
16 EVENT THAT THE COURT BELIEVES BASED ON THE MOVING PAPERS
17 THAT THE REQUEST OF THE DEFENSE TO DISMISS IS TOO HARSH A
18 PUNISHMENT FOR THIS VIOLATION AND EVEN THOUGH THE MOVING
19 PAPERS DID NOT SUGGEST IT, I WOULD POINT OUT TO THE COURT
20 THE COURT HAS ANOTHER ALTERNATIVE, WHICH IS TO RECUSE THE
21 DISTRICT ATTORNEY'S OFFICE.

22 THE COURT: I THINK THE COURT HAS A NUMBER OF
23 ALTERNATIVES IF THE COURT FINDS SUCH A VIOLATION. BUT
24 THE PROBLEM I HAVE IS, AGAIN, A PROCEDURAL QUESTION WITH
25 RESPECT TO YOUR ALLEGATION THAT THERE WAS INTERFERENCE,
26 DELIBERATE, INTENTIONAL INTERFERENCE WITH ATTORNEY/CLIENT
27 PRIVILEGE WITH REFERENCE TO MR. JONES. I BELIEVE THAT
28 SINCE THE PARTIES ARE NOT IN AGREEMENT, THEY ARE IN

1 DISAGREEMENT AS TO WHAT OCCURRED, I AM NOT GOING TO BE IN
2 A POSITION TO MAKE ANY DETERMINATION ABOUT THAT UNTIL I
3 HEAR SOME EVIDENCE ON THAT.

4 ON THE OTHER HAND, THE ITEMS THAT WERE THE
5 SUBJECT OF THE SEARCH WARRANT AND THE SAMPLES THAT YOU,
6 MS. SARIS, PROVIDED TO THE COURT, LEADS ME TO BELIEVE
7 THAT I CAN DRAW SOME CONCLUSIONS HERE BASED ON JUST WHAT
8 I'VE READ IN YOUR MOTION AND THE OPPOSITION. UNLESS
9 ANYBODY WANTS TO PRESENT ADDITIONAL TESTIMONY ON THOSE
10 ISSUES, I THINK I HAVE ENOUGH INFORMATION AS TO WHETHER
11 OR NOT ANY OF THE MATERIAL THAT YOU CLAIM IS
12 PRIVILEGED -- THE ATTORNEY/CLIENT PROTECTED MATERIAL --
13 WAS SEIZED, I THINK I'M IN A POSITION TO SAY IT WAS.

14 DOES ANYBODY DISPUTE THAT?

15 MR. JACKSON: NO, YOUR HONOR. FACTUALLY, NO. THE
16 ITEMS THAT MS. SARIS PRESENTED AND ATTACHED TO HER
17 ORIGINAL MOTION, I THINK THERE WERE 35 PAGES, SINGLE
18 SPACED, ET CETERA, SOME OF THOSE ITEMS -- ALL OF THOSE
19 ITEMS OSTENSIBLY WERE SEIZED. SOME OF THOSE ITEMS THERE
20 IS A FACTUAL DISPUTE AS TO WHETHER OR NOT THOSE ARE
21 PRIVILEGED OR NOT. AND I DON'T WANT TO REHASH EVERYTHING
22 I SAID IN MY MOTION. I WAS RELATIVELY DETAILED IN MY
23 MOTION -- OR MY OPPOSITION.

24 SOME OF THEM WERE -- ON THEIR FACE APPEARED
25 TO BE PRIVILEGED DOCUMENTS. SOME OF THEM ON THEIR FACE
26 ABSOLUTELY HAVE NOTHING TO DO WITH PRIVILEGE. SO THAT
27 HAVING BEEN SAID, THERE IS NO FACTUAL DISPUTE THAT ALL OF
28 THOSE ITEMS WERE SEIZED AT ONE POINT OR ANOTHER, IF

1 THAT'S THE COURT'S QUESTION.

2 THE COURT: THAT'S MY QUESTION. THAT THERE ARE
3 COMMUNICATIONS THAT AT LEAST ON THEIR FACE WOULD APPEAR
4 TO BE COMMUNICATIONS FROM A CLIENT TO AN ATTORNEY ABOUT
5 THE SUBJECT MATTER PENDING THE CASE.

6 MR. JACKSON: THAT'S ACCURATE.

7 THE COURT: AND ON ITS FACE WOULD APPEAR TO BE
8 SUBJECT TO A CLAIM OF PRIVILEGE. AND IF WE GET BEYOND
9 THAT FIRST STEP, MY NEXT STEP IN THE ANALYSIS IS TO
10 DETERMINE WHETHER OR NOT THE CLAIM OF PRIVILEGE WAS MADE
11 AND PRESERVED. WHETHER OR NOT THEN THE AUTHORITIES IN
12 ORANGE COUNTY SHOULD HAVE DONE SOMETHING AND DIDN'T OR
13 SHOULD NOT HAVE DONE SOMETHING, I MEAN THERE IS AN ISSUE
14 THERE. BUT DO I NEED TESTIMONY? I DON'T THINK SO.
15 BECAUSE I THINK THE LETTER THAT WAS SUBMITTED BY
16 MS. SARIS THAT WAS WRITTEN BY MR. GOODWIN'S ATTORNEY TO
17 THE D.A., I MEAN THAT'S EITHER AN ASSERTION OF A
18 PRIVILEGE OR NOT. CLEARLY THE SPECIAL MASTER PROVISION
19 WAS NOT REQUIRED. AND HOW THE ORANGE COUNTY DISTRICT
20 ATTORNEY DEALT WITH THAT LETTER IS PERHAPS SOMETHING THAT
21 WE NEED TO ADDRESS.

22 BUT I THINK I HAVE -- WHAT I'M SAYING IS I
23 THINK I HAVE ENOUGH INFORMATION HERE TO GO FORWARD WITH
24 THAT ASPECT OF THIS MOTION WITHOUT TAKING ANY ADDITIONAL
25 TESTIMONY. BUT WITH RESPECT TO THE OTHER ASPECT OF THE
26 MOTION, WHICH IS THE BUTCH JONES CONNECTION, THAT'S TO ME
27 AN OPEN QUESTION. I JUST DON'T HAVE ENOUGH INFORMATION
28 TO EVEN SUGGEST A WAY TO PROCEED ON THAT. I'M IN THE

1 DARK ON THAT.

2 MR. JACKSON: IF I MAY, YOUR HONOR. I AGREE WITH
3 THE COURT'S ASSESSMENT WITH REGARD TO BUTCH JONES AND
4 THAT'S HOW OUR OPPOSITION WAS KIND OF LAID OUT. THERE IS
5 JUST NO EVIDENCE PRESENTED. SO IF, IN FACT, THE CLAIM IS
6 SURROUNDING BUTCH JONES AND/OR PEOPLE SURROUNDING THAT
7 INCIDENT OR THOSE INCIDENTS, NEED TO EITHER -- PROBABLY
8 NEED TO COME INTO COURT AND BE SWORN. IF THERE IS
9 EVIDENCE OF IT, THERE IS EVIDENCE OF IT AND WE CAN ARGUE
10 ABOUT THAT. BUT AT THIS POINT I THINK IT'S PUTTING THE
11 LEGAL CART BEFORE THE HORSE.

12 WITH REGARD TO THE COURT'S OTHER CONCERNS, I
13 DO THINK THE COURT IS ARMED WITH THE TOOLS NECESSARY TO
14 MAKE A DETERMINATION, AT LEAST BASED ON THE ALLEGATIONS
15 SUBMITTED IN THE MOTION BY MS. SARIS AT THIS POINT.
16 THOSE 35 PAGES THAT ARE AT ISSUE, I THINK THE COURT IS IN
17 A POSITION TO RULE ON THOSE ISSUES BECAUSE THERE IS NO
18 REAL FACTUAL DISPUTE ABOUT THE DAVE BRENT LETTER AND THE
19 RESPONSE, ET CETERA. SO I AGREE.

20 MS. SARIS: AND I WOULD --

21 THE COURT: LET ME JUST CLARIFY ONE THING, WE ARE
22 NOT JUST TALKING ABOUT 35 PAGES. THE ALLEGATION IS THAT
23 THERE WERE SEVERAL BOXES OF MATERIALS THAT -- AND CORRECT
24 ME IF I'M WRONG HERE, SO DON'T HESITATE TO INTERRUPT --
25 BUT THERE WERE SEVERAL BOXES OF MATERIALS THAT WERE
26 ULTIMATELY RETURNED TO THE DEFENDANT, WHICH I MEAN WE
27 DON'T HAVE ALL OF THAT INFORMATION.

28 BUT MY SENSE IS THE ARGUMENT OF THE DEFENSE

1 IS THAT ALL OF THAT INFORMATION WAS SUBJECT TO THE CLAIM
2 OF PRIVILEGE, NOT JUST THE 35 PAGES THAT MS. SARIS
3 SUBMITTED A SAMPLING OF THE MATERIALS. BUT I THINK I CAN
4 ASSUME, UNLESS YOU TELL ME I CAN'T, I THINK I CAN ASSUME
5 THAT THERE WERE MATERIALS OBTAINED PURSUANT TO THE
6 EXECUTION OF THE SEARCH WARRANT THAT WERE SUBJECT TO THE
7 PRIVILEGE MORE THAN JUST THE 35 PAGES.

8 AND THE EXTENT TO WHICH THERE MIGHT HAVE BEEN
9 MATERIALS -- OTHER MATERIALS SUBJECT TO THE PRIVILEGE MAY
10 OR MAY NOT HAVE A WHOLE LOT OF RELEVANCE HERE. BUT I
11 THINK I CAN SAY THAT MATERIALS THAT WERE POTENTIALLY
12 PRIVILEGED WERE OBTAINED BY THE DETECTIVE IN EXECUTING
13 THE SEARCH WARRANT. AND I WOULD KIND OF LIKE TO GO FROM
14 THAT POINT FORWARD.

15 BUT I KNOW, MR. JACKSON, YOU DISPUTE SOME OF
16 THIS, SO WE WILL CLARIFY.

17 MS. SARIS: LET ME JUMP IN QUICKLY BECAUSE I MAY
18 SAVE MR. JACKSON SOME ARGUMENT. I GAVE 35 OF WHAT I
19 CONSIDERED SOME OF THE MOST EGREGIOUS VIOLATIONS BECAUSE
20 ON THE FACE YOU COULD TELL THEY WERE ATTORNEY/CLIENT
21 PRIVILEGE. IT IS OUR POSITION THAT SEVERAL OF THE BOXES
22 BEHIND THE DOOR WERE ATTORNEY/CLIENT PRIVILEGE. THERE IS
23 NO DISPUTE -- AND CORRECT ME IF I'M WRONG. I KNOW YOU
24 WILL -- THAT THERE WAS A SIGN ON THE DOOR THAT ADVISED
25 THE POTENTIAL SEARCHERS THAT THIS WAS A CLAIM TO BE MADE.

26 OBVIOUSLY, COUNSEL AND I ARE GOING TO
27 DISAGREE ON WHETHER EACH AND EVERY ONE OF THE DOCUMENTS I
28 SAY WAS ATTORNEY/CLIENT PRIVILEGE IS ATTORNEY/CLIENT

1 PRIVILEGE. I THINK THE COURT IS RIGHT, THESE ARE THE 35
2 ITEMS I CAME UP WITH. I COULD LIKELY COME UP WITH AT
3 LEAST ANOTHER 50 EXAMPLES ON THEIR FACE THAT NAME SOMEONE
4 WHO OUGHT TO HAVE BEEN KNOWN AS AN ATTORNEY, SUCH AS
5 STOCKY -- OR ARE ACTUALLY ON LETTERHEAD.

6 I COULD PROBABLY COME UP WITH TWO OR THREE
7 MORE BOXES THAT WE WOULD CLAIM WAS INFORMATION MADE --
8 LISTS MADE; WITNESSES LISTED; STORIES WRITTEN AT THE
9 BEHEST OF AN ATTORNEY. AND I CAN GET JEFF BENICE,
10 MR. GOODWIN'S FORMER LAWYER, TO GIVE TESTIMONY IF THAT
11 BECOMES RELEVANT.

12 I DON'T THINK WHETHER THERE IS ONE OR 20 OR
13 75 IS THE ISSUE. I WOULD AGREE WITH THE COURT'S
14 ASSESSMENT ABOUT THE AGREEMENT THAT THE COMMUNICATIONS
15 WERE SEIZED. THE ONLY THING I WOULD ASK THE COURT TO
16 KEEP IN MIND -- AND I DO BELIEVE THE COURT HAS ENOUGH
17 INFORMATION TO RULE ON THE FIRST PRONG -- IS THAT IT'S
18 OUR CONTENTION THAT NOT ONLY DID THE SHERIFF'S OFFICE
19 HAVE AN OBLIGATION AND THE ORANGE COUNTY OFFICE HAVE AN
20 OBLIGATION, BUT THE L.A. DISTRICT ATTORNEY HAD AN
21 OBLIGATION ONCE THE FACIALLY RECOGNIZABLE DOCUMENTS OF
22 ATTORNEY/CLIENT PRIVILEGE.

23 I DO NOT IMPUTE TO THE LOS ANGELES DISTRICT
24 ATTORNEY'S OFFICE WHAT OCCURRED IN A SEARCH WARRANT
25 SIGNED BY AN ORANGE COUNTY MAGISTRATE. HOWEVER, AS AN
26 OFFICER OF THE COURT IN ANY DISTRICT ATTORNEY'S OFFICE,
27 WHEN YOU COME UPON SOMETHING THAT'S OBVIOUSLY FACIALLY
28 FACTUALLY A COMMUNICATION BETWEEN COUNSEL, I THINK AT

1 THAT POINT YOU CLOSE THE BOOK; HAND IT TO A JUDGE AND SAY
2 "HELP ME OUT HERE. I THINK WE'VE STUMBLERD ON
3 ATTORNEY/CLIENT PRIVILEGE ACCIDENTALLY." THAT ASIDE, I
4 THINK THE COURT HAS ENOUGH TO MAKE THAT DETERMINATION.

5 AS TO BUTCH JONES, I BRING UP TWO POINTS; I
6 THINK WE NEED TO HEAR FROM BUTCH JONES. I'LL BE VERY
7 HONEST WITH THE COURT, I DON'T KNOW HOW TO REACH BUTCH
8 JONES. I'VE MADE EFFORTS TO REACH BUTCH JONES. IT'S OUR
9 POSITION THAT THEY ARE THE PEOPLE'S WITNESS. IT'S OUR
10 POSITION THAT WE HAVE MADE A PRIMA FACIA SHOWING. AND
11 IT'S THEIR BURDEN AT THIS POINT TO BRING HIM IN.

12 THE LAST INDIVIDUAL THAT I HAVE IN MY
13 DISCOVERY THAT HAD CONTACT WITH MR. JONES WAS DETECTIVE
14 MARK LILLIENFELD. THE LAST NUMBER I HAD FOR HIM WAS SOME
15 ADDRESS IN LONG BEACH. AND I'M UNABLE TO TRACK HIM AT
16 THIS POINT.

17 THE COURT: ALL RIGHT. WELL, I DON'T THINK THAT I
18 HAVE ENOUGH WITH RESPECT, AS I SAID A MOMENT AGO, WITH
19 RESPECT TO THE ARGUMENT ABOUT BUTCH JONES. I DON'T HAVE
20 ENOUGH TO SAY THAT THERE IS A PRIMA FACIA SHOWING AND THE
21 BURDEN SHIFTS TO THE PEOPLE. I MEAN AT THIS POINT I
22 THINK IT'S YOUR MOTION, MS. SARIS. YOU'VE MADE
23 ALLEGATIONS THAT THE PEOPLE DISPUTE.

24 AND I THINK IT'S INCUMBENT UPON THE DEFENSE
25 TO PRESENT SOME TESTIMONY IN SUPPORT OF ITS CLAIM THAT
26 MR. JONES WAS ACTING IN A CAPACITY AS CLAIMED. AND
27 THEREFORE THE CONTACT WITH THE DETECTIVE MIGHT HAVE BEEN
28 OR IS SUBJECT TO THE CLAIM THAT THERE WAS PRIVILEGED

1 COMMUNICATIONS DISCLOSED BY MR. JONES TO DETECTIVE
2 LILLIENFELD.

3 MS. SARIS: WOULD A STATEMENT FROM -- I WAS
4 PROVIDED FROM THE DETECTIVE INDICATING THAT HE WAS IN
5 TOUCH WITH MR. JONES ON A DAILY BASIS AND THAT MR. JONES
6 WAS REPORTING TO HIM ON MR. GOODWIN'S PROGRESS IN THE
7 CASE, WOULD THAT BE SUFFICIENT OR WOULD THE COURT LIKE ME
8 TO BRING IN JEFF BENICE?

9 THE COURT: WELL, THE PROBLEM IS IS THAT THE
10 ALLEGATIONS THAT PEOPLE ARE MAKING IN RESPONSE TO YOUR
11 ALLEGATION IS THAT THERE WAS NO ATTORNEY/CLIENT -- OR
12 STRIKE THAT -- THERE WAS NO RELATIONSHIP THAT EXISTED
13 BETWEEN MR. BENICE AND MR. JONES THAT WOULD --

14 MS. SARIS: AND THAT'S NOT OUR CONTENTION.

15 THE COURT: NO. THAT'S THE PEOPLE -- THE PEOPLE
16 ARE SAYING THAT THEY ARE DISPUTING THAT THERE WAS THIS
17 RELATIONSHIP --

18 MS. SARIS: WE'RE NOT CLAIMING A RELATIONSHIP. WE
19 ARE CLAIMING THAT MR. JONES, AS A PRIVATE CITIZEN, WAS
20 ASKED TO SPY ON THE ATTORNEY/CLIENT PRIVILEGE
21 RELATIONSHIP.

22 THE COURT: OKAY.

23 MS. SARIS: IN OTHER WORDS, HE WAS NOT PRIVY TO THE
24 ATTORNEY/CLIENT PRIVILEGE RELATIONSHIP NECESSARILY. AND
25 I DON'T KNOW. I KNOW THAT'S THEIR CONTENTION. WE'VE NOT
26 BEEN ABLE TO CONTACT MR. JONES. WHAT I DO KNOW IS THAT
27 BASED ON THE STATEMENT I WAS GIVEN FROM MR. JONES -- AND
28 I APOLOGIZE, I LEFT THAT FILE AT HOME -- MY READING OF

1 THAT STATEMENT WAS THAT DETECTIVE LILLIENFELD APPROACHED
2 HIM KNOWING HE WORKED AS AN OFFICE RUNNER FOR
3 MR. GOODWIN. AND SOUGHT TO HAVE HIM EXPLAIN TO HIM AND
4 TELL HIM WHAT WAS GOING ON IN THE ATTORNEY/CLIENT
5 RELATIONSHIP. THAT WOULD BE, IN ESSENCE, SORT OF SENDING
6 IN A SPY. THAT'S OUR CONTENTION.

7 THE COURT: AND, AGAIN, I THINK IT'S INCUMBENT UPON
8 THE DEFENSE AT THIS POINT TO SUBSTANTIATE THOSE
9 ALLEGATIONS BEFORE I LOOK TO THE PEOPLE TO RESPOND. AND
10 WE ARE NOT THERE YET. SO WE WILL HAVE TO RESERVE THAT, I
11 SUPPOSE, FOR ANOTHER TIME. WHETHER OR NOT IT WOULD BE
12 ENOUGH IF YOU GIVE ME A DECLARATION FROM MR. BENICE OR
13 THE TESTIMONY FROM MR. BENICE, I FRANKLY DON'T KNOW.

14 MS. SARIS: OKAY. WELL, THEN TO THE EXTENT THAT
15 MR. JONES IS LISTED AS A PEOPLE'S WITNESS, I WOULD ASK,
16 BASED ON 1054, TO BE GIVEN AN ADDRESS OR PHONE NUMBER IN
17 ORDER TO REACH HIM.

18 THE COURT: I WOULD ASK THE PEOPLE TO DO THAT IF
19 THEY HAVE THAT INFORMATION SO THAT YOU CAN SUBPOENA HIM
20 AND HAVE HIM COME.

21 MR. JACKSON: I DON'T KNOW IF WE HAVE ANY BETTER
22 INFORMATION, BUT CERTAINLY WE WILL LOOK. SURE. THAT'S
23 NOT A PROBLEM.

24 THE COURT: LET'S PUT ASIDE THAT ISSUE FOR NOW AND
25 LET'S TRY TO FOCUS ON THE EASIER ISSUES THAT I SEE HERE.
26 AND I THINK WE ARE IN AGREEMENT THAT WE ARE NOT LIMITING
27 THIS TO THE 35 PAGES; THAT THERE MAY POTENTIALLY BE MORE
28 MATERIAL SUBJECT TO THE PRIVILEGE. I GUESS THE ISSUE

1 THAT I SEE HERE IS WITH RESPECT TO THE LETTER TO ORANGE
2 COUNTY BY MR. BENICE. AND THEN WHAT RESPONSIBILITY DOES
3 THE D.A. HAVE IN ORANGE COUNTY TO NOTIFY THE COURT.

4 I SOMEWHAT AGREE WITH MS. SARIS THAT I THINK
5 MOST D.A.S PRESENTED WITH THE INFORMATION THAT WAS
6 RECOVERED AND THEN THE LETTER, PROBABLY IN AN ABUNDANCE
7 OF CAUTION WOULD HAVE NOTIFIED THE COURT IN THAT
8 SITUATION.

9 I MEAN THERE IS NO REQUIREMENT OF A SPECIAL
10 MASTER PROPERLY EXECUTING THE SEARCH WARRANT. BUT I
11 AGREE WITH THE CLAIM THAT PERHAPS THE D.A.'S OFFICE IN
12 ORANGE COUNTY SHOULD HAVE DONE SOMETHING TO AT LEAST
13 NOTIFY THE COURT THAT THERE WAS A CLAIM OF
14 ATTORNEY/CLIENT PRIVILEGE WITH RESPECT TO THE MATERIALS
15 THAT WERE SEIZED TO THEN GIVE THE COURT AN OPPORTUNITY TO
16 EITHER GO THROUGH THE INFORMATION OR APPOINT A SPECIAL
17 MASTER OR DO WHATEVER THE COURT FELT APPROPRIATE TO
18 PRESERVE THIS OBJECTION.

19 SO -- BUT I DON'T KNOW THAT THAT GETS US
20 ANYWHERE NECESSARILY. OR THAT THAT'S DISPOSITIVE TO THE
21 ISSUES THAT ARE BEFORE THIS COURT.

22 MR. JACKSON: MAY I HAVE JUST A SECOND?

23 THE COURT: SURE.

24 (DISCUSSION OFF THE RECORD.)

25 MR. DIXON: THANK YOU, YOUR HONOR.

26 MR. JACKSON: YOUR HONOR, I THINK THERE IS TWO
27 ISSUES HERE. ONE, AS THE COURT NOTED IS: WAS THERE SOME
28 OBLIGATION ON DAVE BRENT AND THE ORANGE COUNTY D.A.'S

1 OFFICE TO GO FURTHER THAN HE DID GO. AND SECOND,
2 ASSUMING THAT THERE WAS SOME SORT OF VIOLATION, IF WE
3 EVEN GET TO THAT POINT, WHAT IS THE APPROPRIATE REMEDY
4 AND WHAT DO WE DO ABOUT THAT?

5 THE COURT: EXACTLY.

6 MR. JACKSON: MY SECOND POINT -- AND I DON'T WANT
7 TO DO THIS IN REVERSE, BUT MY SECOND POINT -- I NEED TO
8 POINT THIS OUT BEFORE I FORGET QUITE FRANKLY. I DON'T
9 KNOW THAT WE CAN ASSUME WHOLESALE THAT THOSE EXTRA BOXES
10 THAT MS. SARIS REFERS TO AND THAT THE COURT ASSUMES
11 EXISTS ARE ANYTHING OTHER THAN THE SMATTERING AND THE
12 SAMPLING THAT WE HAVE BEFORE US.

13 THE REASON THAT I SAY THAT, JUDGE, IS I WENT
14 TO GREAT LENGTHS, REVIEWED THOUSANDS OF PAGES OF
15 DISCOVERY IN ORDER TO FIND THE DEFENDANT'S STATEMENTS.
16 BASICALLY SOME OF ITEMS THAT WERE RECOVERED THAT ARE
17 CLAIMED TO BE PRIVILEGED AND THAT APPEAR ON THEIR FACE TO
18 BE PRIVILEGED, SAY X, Y AND Z.

19 IT WAS INCUMBENT UPON ME TO ESTABLISH FOR THE
20 COURT -- BECAUSE THE COURT DOESN'T HAVE ACCESS TO THE 44
21 BANKER'S BOXES FULL OF STUFF -- THAT THE DEFENDANT HAS
22 BEEN SAYING X, Y AND Z. SPECIFICALLY, ALMOST VERBATIM TO
23 THE POINT THAT HE CUT AND PASTED SOME OF THE ITEMS.
24 LITERALLY SOME OF THE GRAMMATICAL ERRORS THAT OCCUR IN
25 THE ATTORNEY/CLIENT PRIVILEGED INFORMATION OCCUR IN
26 PUBLISHED BOOKS OR PUBLISHED DOCUMENTS LIKE "BURY HIM" OR
27 "I WANT YOU."

28 SO I WANT TO MAKE SURE THAT THE COURT KNOWS

1 THAT MY POSITION IS, OKAY, LET'S ASSUME THERE ARE 50 MORE
2 EXAMPLES. THEY ARE MORE SAMPLINGS OF THE SAME STUFF, OF
3 THE SAME TEN, 15, 20, 25 THINGS. ALL RIGHT.

4 THAT HAVING BEEN SAID, WITH REGARD TO THE
5 OBLIGATIONS OF THE DISTRICT ATTORNEY'S OFFICE, I LOOK AT
6 IT LIKE THIS, MR. BRENT WAS CONFRONTED BY THE DEFENSE
7 WITH CERTAIN ITEMS. LET'S CALL IT AN OBJECTION. JEFF
8 BENICE SENT HIM A LETTER AND SAID I THINK A SPECIAL
9 MASTER SHOULD BE SUBMITTED UNDER 1524 OF THE PENAL CODE.

10 WELL, THAT'S WRONG. IT'S JUST PATENTLY
11 WRONG. IT'S INCORRECT. THIS WAS NOT A SEARCH OF A
12 DOCTOR'S OFFICE; A LAWYER'S OFFICE; A CLERGYMAN'S OFFICE;
13 OR A PSYCHOTHERAPIST'S OFFICE --

14 THE COURT: WE AGREE. I THINK WE ARE ALL IN
15 AGREEMENT.

16 MR. JACKSON: SO THAT'S OUT THERE. SO NOW WE TURN
17 TO THE INHERIT AUTHORITY OF THE COURT. I LIKEN THIS,
18 JUDGE, TO A PROSECUTOR WHO ASKS A QUESTION. HE REALIZES
19 THAT THE ANSWER TO THE QUESTION MAY CALL FOR HEARSAY IN A
20 TRIAL. HE LISTENS TO THE QUESTION BEING ANSWERED. THE
21 JUDGE LISTENS TO THE QUESTION BEING ANSWERED. AND THE
22 DEFENSE ATTORNEY SITS AND DOES NOTHING AND DOESN'T MAKE
23 THE OBJECTION.

24 IT IS NOT INCUMBENT UPON THE PROSECUTOR,
25 ALTHOUGH WE KNOW THAT'S HEARSAY OR DOUBLE HEARSAY, TO
26 MAKE THE OBJECTION FOR THE DEFENSE. IT WAS INCUMBENT
27 UPON JEFF BENICE IF HE BELIEVED HIS CLIENT'S POSITIONS
28 WERE COMPROMISED BY ANY DOCUMENTS TAKEN IN THAT 60,000

1 PAGE SWEEP OF THE DEFENDANT'S HOUSE, IF THERE WERE
2 DOCUMENTS TAKEN THAT COMPROMISED HIS POSITION, JEFF
3 BENICE HAD THE AFFIRMATIVE OBLIGATION TO MAKE THAT KNOWN
4 TO THE COURT.

5 THERE IS SOMETHING THAT I GUESS I SHOULD KIND
6 OF SPELL OUT. IT DEALS WITH THE REPLY THAT I GOT FROM
7 MS. SARIS. SHE BRINGS UP THE NOTIONS OF SUBSTANTIAL
8 JUSTICE AND FAIR PLAY. IT SHOULD NOT BE LOST ON THIS
9 COURT THAT WITH THE EXCEPTION OF A COUPLE OF SENTENCES IN
10 A SINGLE LETTER TO THE WRONG PERSON, DAVE BRENT -- NOT TO
11 THE JUDGE, BUT TO DAVE BRENT -- JEFF BENICE AND THE
12 DEFENDANT DID NOTHING TO PRESERVE HIS RIGHTS IF, IN FACT,
13 HE BELIEVED THAT HIS RIGHTS WERE SOMEHOW BEING
14 COMPROMISED BY THE RECOVERY OF THESE DOCUMENTS.

15 THE SEARCH OCCURRED IN 2000 --

16 MS. SARIS: 2001.

17 MR. JACKSON: I'M SORRY. MY MISTAKE.

18 THE SEARCH OCCURRED IN 2001. THE PRELIMINARY
19 HEARING IN ORANGE COUNTY WENT FORWARD SUBSEQUENT TO THAT.
20 NO MENTION WAS MADE OF ATTORNEY/CLIENT PRIVILEGE IN
21 COURT. NO MENTION WAS MADE OF ATTORNEY/CLIENT PRIVILEGE
22 IN COURT AT THE PRELIM. NO MENTION WAS MADE BY JEFF
23 BENICE OR THE DEFENDANT OF ANY ATTORNEY/CLIENT PRIVILEGE
24 AT THE 995. NO MENTION WAS MADE OF ANY PRIVILEGE AT THE
25 SUBSEQUENT APPEAL OF THE 995.

26 WHEN THE APPELLATE COURT SUGGESTED IN ITS
27 HOLDING ORDER -- OR IN ITS RULING, I SHOULD SAY -- THAT
28 THE LOS ANGELES COUNTY D.A.'S OFFICE PROSECUTE THIS CASE

1 RATHER THAN ORANGE COUNTY, NO MENTION WAS MADE BY THE
2 DEFENDANT OR THE DEFENSE ATTORNEY OF ANY PRIVILEGE.

3 WHAT BETTER OPPORTUNITY TO BUILD THAT WALL IF
4 THE DEFENDANT BELIEVED THAT HIS POSITIONS WERE
5 COMPROMISED, SAY, HEY, WAIT A MINUTE. I WAS KIND OF
6 MESSED UP HERE IN ORANGE COUNTY, BUT NOW I GET A FRESH
7 PROSECUTOR. A FRESH SET OF EYES. SO LET ME MAKE SURE
8 THAT THEY KNOW NOT TO LOOK AT X, Y AND Z. NOTHING WAS
9 SAID.

10 WE WENT FORWARD WITH THE FILING IN JUNE.
11 NOTHING WAS SAID. THE PRELIMINARY HEARING WENT FORWARD.
12 NOTHING WAS SAID. FOUR YEARS AFTER THE SEARCH, NINE
13 MONTHS AFTER THE FILING OF THIS CASE IN LOS ANGELES
14 COUNTY AND SIX MONTHS AFTER THE PRELIMINARY HEARING,
15 TODAY MARKS THE FIRST TIME IN A COURT OF LAW THAT THE
16 DEFENDANT SAYS MY POSITION WAS COMPROMISED.

17 AND, JUDGE, IT SHOULDN'T BE LOST ON US THAT
18 HE IS ASKING FOR DISMISSAL WITH PREJUDICE. A CYNICAL
19 MIND MIGHT THINK THAT HE WAS WAITING AND WAITING AND
20 WAITING AND WAITING AND THEN SWINGING FOR THE FENCES.
21 DISMISSAL WITH PREJUDICE IS JEALOUSLY GUARDED AGAINST AND
22 RESERVED FOR THOSE CASES IN WHICH THERE IS EGREGIOUS,
23 OVERREACHING --

24 THE COURT: YOU DON'T NEED TO GO DOWN THAT ROAD
25 RIGHT NOW.

26 MR. JACKSON: BASED ON THAT, I WILL SUBMIT.

27 THE COURT: OKAY.

28 MS. SARIS: YOUR HONOR, I HAVE SOME --

1 THE COURT: THAT'S WHY I WANTED TO JUST KIND OF
2 TAKE IT STEP BY STEP. BECAUSE I THINK I HAVE TO START AT
3 THE BEGINNING --

4 MR. JACKSON: YES, YOUR HONOR.

5 THE COURT: -- AND THAT'S WHY I TRIED TO FRAME THE
6 ISSUES THE WAY I DID. BUT WHETHER IT'S 35 PAGES OR 35
7 BOXES, I DON'T THINK IT'S ALL THAT IMPORTANT FOR PURPOSES
8 OF OUR DISCUSSION. I THINK WE ALL AGREE, NO. 1, THERE
9 WAS MATERIAL THAT POTENTIALLY WAS PRIVILEGED MATERIAL
10 THAT WAS OBTAINED AS A RESULT OF THE EXECUTION OF THE
11 SEARCH WARRANT.

12 NO. 2, THERE WAS A LETTER WRITTEN BY THE
13 LAWYER TO THE DISTRICT ATTORNEY IN ORANGE COUNTY
14 OBJECTING TO THE EXECUTION OF THE WARRANT WITHOUT A
15 SPECIAL MASTER. AND I VIEW THAT LETTER AS A -- I GUESS
16 JUST AN ALERT LETTER, A HEADS-UP LETTER. HEY, THIS IS
17 THE MATERIAL THAT WE THINK YOU HAVE AND WE THINK YOU
18 SHOULD HAVE HAD A SPECIAL MASTER.

19 NOW CLEARLY THE STATEMENT IN THE LETTER AND
20 THE REQUEST IN THE LETTER IS NOT WARRANTED BY THE LAW.
21 AND THE RESPONSE BY MR. BRENT WAS ENTIRELY APPROPRIATE,
22 THAT THAT'S NOT THE LAW. PERIOD. I THINK HE WROTE. HE
23 WAS RIGHT, THAT'S NOT THE LAW.

24 BUT MY CONCERN IS I THINK AT THAT POINT
25 MR. BRENT WAS PUT ON NOTICE THAT THERE WAS AN OBJECTION
26 TO REVIEW OF SOME OF THIS MATERIAL BECAUSE OF THE
27 ATTORNEY/CLIENT PRIVILEGE CLAIM. AND THAT'S ALL I CAN
28 SAY. I MEAN I CAN'T SAY WHAT HE SHOULD HAVE; WHAT HE

1 COULD HAVE; WHAT HE DIDN'T DO; AND THEN IMPOSE A
2 SANCTION. THAT'S NOT FOR ME TO DECIDE TODAY.

3 I THINK MOST D.A.S WOULD HAVE TAKEN THAT
4 LETTER AND PERHAPS GOTTEN SOME GUIDANCE FROM THE COURT.
5 I THINK YOU WOULD HAVE, MR. JACKSON. I THINK MR. DIXON
6 WOULD HAVE. I THINK IN AN ABUNDANCE OF CAUTION WHY
7 WOULDN'T THE D.A. TAKE A LETTER FROM AN ATTORNEY
8 REPRESENTING THE DEFENDANT IN A DOUBLE MURDER CASE AND
9 SAY, HEY, JUDGE, YOU KNOW, THERE IS A POTENTIAL PROBLEM
10 HERE.

11 MS. SARIS: AND, YOUR HONOR --

12 THE COURT: SO I'M AT THAT POINT NOW WHERE I CAN
13 SAY THAT MR. BRENT SHOULD HAVE MAYBE GOTTEN GUIDANCE AND
14 DIDN'T. AND THAT'S KIND OF WHERE I WANT TO GO. I WANT
15 TO START FROM THAT POINT AND THEN TAKE IT TO WHETHER OR
16 NOT THERE IS A VIOLATION; WHETHER OR NOT THE VIOLATION
17 NEEDS A REMEDY.

18 AND I CUT YOU OFF ON DISMISSAL BECAUSE, IN
19 ALL HONESTY, THE CASES I REVIEWED WHERE DISMISSAL WAS
20 UPHELD ARE IN MY OPINION BASED ON THIS ISSUE. I'M NOT
21 TALKING ABOUT THE JEFF -- I MEAN THE BUTCH JONES ISSUE,
22 BUT BASED ON THIS ISSUE.

23 SHOULD THE ORANGE COUNTY D.A.'S OFFICE HAVE
24 DONE SOMETHING, GOTTEN SOME GUIDANCE FROM THE COURT?
25 THAT IN NO WAY RISES TO THE LEVEL OF AN EGREGIOUS,
26 INTENTIONAL VIOLATION OF THE ATTORNEY/CLIENT PRIVILEGE AS
27 DISCUSSED IN THE CASES BARBER AND THE OTHER CASES CITED
28 WHICH THEN WARRANTS A DISMISSAL.

1 SO I'M NOT LOOKING AT AT LEAST THIS ISSUE
2 RIGHT NOW AS EVEN A POSSIBLE REMEDY. BUT I AM TRYING TO
3 TAKE IT IN ORDER.

4 SO IF WE CAN, MS. SARIS, I KNOW YOU ARE
5 STANDING --

6 MS. SARIS: WELL, I HAVE TO CORRECT SOME FACTUAL
7 ERRORS. THIS IS BY NO MEANS THE FIRST TIME THAT
8 MR. GOODWIN BY AND THROUGH HIS LAWYERS HAVE COME TO
9 COURT. I DON'T KNOW IF COUNSEL -- ALL OF THE -- ALL OF
10 THE OBJECTIONS THAT MR. BENICE HAD HE PUT ON THE RECORD
11 AS PRESERVED AT THE 995. THE APPELLATE WENT UP PURELY ON
12 JURISDICTIONAL GROUNDS. I'M HOLDING A DOCUMENT THAT WAS
13 DATED JULY 22ND, PROOF OF SERVICE TO MR. BRENT, JULY
14 22ND, 2002, WHERE HE TRIED TO HAVE THIS CASE -- THIS
15 ACTUAL ISSUE LITIGATED.

16 SO IT DID NOT COME TO COURT, BUT MR. BRENT
17 HAD THIS. AND THIS IS A "MICHAEL GOODWIN'S NOTICE OF
18 MOTION AND MOTION TO RETURN AND/OR SUPPRESS
19 ATTORNEY/CLIENT PRIVILEGED DOCUMENTS ILLEGALLY SEIZED."
20 THIS WAS NOT RULED UPON BECAUSE THE JURISDICTIONAL --
21 EVERYTHING WAS ON HOLD UNTIL THE JURISDICTIONAL ISSUE.
22 WENT. BUT DAVE BRENT CERTAINLY HAS A COPY OF THIS.

23 THERE IS A PROOF OF SERVICE IN THIS DOCUMENT.
24 IF MR. BRENT FAILED TO GIVE THAT TO THE D.A.S, I DON'T
25 KNOW WHY HE WOULD HAVE DONE THAT. IF THE DISTRICT
26 ATTORNEYS IN L.A. HAVE NOT READ THE PLEADING PAPERS IN
27 ORANGE COUNTY, AT EVERY STAGE MR. BENICE PRESERVED
28 OBJECTIONS.

1 THE COURT: I AM SIDING WITH YOU ON THAT POINT. I
2 DON'T THINK IT'S RELEVANT THAT THERE WERE NO -- ASSUMING
3 THERE WERE NO FURTHER OBJECTIONS, TO ME THAT'S NOT REAL
4 CRITICAL HERE.

5 MS. SARIS: I JUST DON'T WANT THE --

6 THE COURT: IN MY OPINION THERE WAS AN OBJECTION
7 RAISED BY THE LETTER SENT FROM JEFF BENICE TO DAVE BRENT.

8 MS. SARIS: AND THAT WAS 13 DAYS AFTER THE CASE WAS
9 FILED.

10 THE COURT: YES. AND THAT'S SUFFICIENT IN MY MIND
11 TO AT LEAST SUGGEST THAT A D.A. RECEIVING THAT LETTER --
12 ALTHOUGH THE D.A.'S POSITION WAS WELL TAKEN IN STATING
13 EMPHATICALLY THAT THE SEARCH WARRANT WAS PROPERLY
14 EXECUTED -- THAT D.A. SHOULD HAVE PERHAPS GOTTEN SOME
15 GUIDANCE FROM THE COURT AND DIDN'T. SO I THINK WE ARE --

16 MS. SARIS: OKAY. AND NOW TO ADDRESS COUNSEL'S
17 OTHER POINT, AT SOME POINT I THINK HE SAID THAT WE SHOULD
18 HAVE COME FORWARD AT SOME POINT TO LOS ANGELES. AND I
19 WOULD POINT OUT THAT IT IS MY UNDERSTANDING THAT LOS
20 ANGELES REVIEWED THE -- OBVIOUSLY REVIEWED THE DOCUMENTS
21 BEFORE THEY CHOSE TO INDICT OR TO FILE CHARGES AGAINST
22 MR. GOODWIN.

23 SO THERE WOULD NOT BE A POSITION WHERE
24 SOMEONE COULD GO FORWARD TO MR. DIXON OR THE DISTRICT
25 ATTORNEY'S OFFICE AND SAY, BY THE WAY, GUYS, I KNOW THAT
26 ORANGE COUNTY SENT YOU A BUNCH OF BOXES; DON'T KNOW IF
27 YOU ARE CONSIDERING AN INDICTMENT, BUT BY THE WAY DON'T
28 READ THESE PARTICULAR BATES PAGES. I MEAN THAT'S

1 LUDICROUS.

2 WHEN WE GOT THE 40,000 PAGES, AS QUICKLY AS I
3 COULD, I WENT THROUGH THOSE 40,000 PAGES AND CAME UP WITH
4 THE BATES PAGE NUMBERS. AND I DO THINK THERE IS A BURDEN
5 NOT ONLY ON MR. BRENT -- MUCH MORE OF A BURDEN ON
6 MR. BRENT. THERE IS A MUCH MORE EGREGIOUS VIOLATION IN
7 ORANGE COUNTY.

8 BUT I DO THINK THAT THE LOS ANGELES COUNTY
9 DISTRICT ATTORNEY'S OFFICE DID HAVE AN OBLIGATION THE
10 FIRST TIME THEY WENT THROUGH THAT DISCOVERY AND SAW PLAIN
11 ON ITS FACE LETTERHEAD ADDRESSED FROM MR. BENICE TO
12 MR. GOODWIN AND VICE VERSA, THEY ALSO HAD AN OBLIGATION
13 AT THAT POINT TO SAY, OKAY, WAIT A MINUTE. LET'S SIT
14 DOWN AND GO OVER TO MR. BRENT. LET'S FIND OUT WHAT HE
15 DID.

16 THIS IS AN ONGOING VIOLATION, IN OTHER WORDS.
17 I THINK THE L.A. DISTRICT ATTORNEY'S OFFICE IS LESS
18 CULPABLE. BUT I THINK THEY ALSO HAD A DUTY WHEN THEY SAW
19 FACIALLY RECOGNIZABLE ATTORNEY/CLIENT PRIVILEGED
20 DOCUMENTS.

21 THE COURT: PERHAPS. I DON'T KNOW. I DON'T KNOW
22 THAT I CAN SAY THAT. I CAN CLEARLY SAY BASED ON WHAT YOU
23 HAVE PRESENTED THAT MR. BRENT SHOULD HAVE GOTTEN GUIDANCE
24 FROM THE COURT. AND I THINK MOST PROSECUTORS FACED WITH
25 THAT SITUATION PERHAPS WOULD HAVE. AND THAT'S ALL I CAN
26 SAY.

27 BUT TO GET US TO THE POINT OF A SANCTION OR A
28 REMEDY, I DON'T KNOW HOW FAR I CAN GO HERE. LET'S ASSUME

1 THEN THAT THE OBJECTION WAS MADE AND IT WASN'T RESPECTED,
2 SO TO SPEAK, BY ORANGE COUNTY. AND THEN THEY WENT
3 FORWARD WITH THEIR REVIEW OF THE MATERIALS THAT WERE
4 OBTAINED AND SEIZED. AND PART OF THAT BECAME THE
5 DISCOVERY IN THIS CASE, I'M ASSUMING. I DON'T KNOW. BUT
6 THAT'S YOUR ALLEGATION, MS. SARIS.

7 MS. SARIS: THAT'S CORRECT.

8 THE COURT: SO IS THERE A DISPUTE AS TO THAT? IT
9 APPEARS THAT SOME OF THAT POTENTIALLY PRIVILEGED
10 INFORMATION BECAME DISCOVERY IN THIS CASE.

11 IS THAT FAIR TO SAY?

12 MR. JACKSON: YES. EVERYTHING THAT MS. SARIS
13 HAS -- SO THE COURT KNOWS KIND OF PHYSICALLY HOW THIS
14 HAPPENED. LITERALLY THEY PULLED UP A VAN, A BIG PANEL
15 VAN AND UNLOADED 44 SOME-ODD BANKER'S BOXES FULL OF
16 STUFF. I CAN TELL THE COURT I HAVEN'T LOOKED AT EVERY
17 SINGLE PAGE OF THAT STUFF.

18 I HAD A TEAM OF FOLKS GOING THROUGH WITH ME
19 LOOKING FOR SPECIFIC ITEMS THAT BASICALLY YOU SAW AT
20 PRELIMINARY HEARING. NONE OF WHICH INCLUDED ANY OF THIS
21 CLIENT ATTORNEY/CLIENT PRIVILEGED STUFF. I COULDN'T
22 CARELESS ABOUT THIS STUFF, QUITE FRANKLY.

23 AND SOME OF THESE LETTERS -- MOST OF THESE
24 LETTERS THAT WERE SUBMITTED BY MS. SARIS AS AN ATTACHMENT
25 TO HER MOTION WAS THE FIRST TIME I HAD SEEN THOSE THINGS.

26 I MAY HAVE -- I CAN'T SAY THAT I DIDN'T FLIP
27 THROUGH AND MAY HAVE SEEN THE PHYSICAL DOCUMENT. BUT I
28 CAN TELL THE COURT THAT I DIDN'T READ AND ABSORB MOST OF

1 THAT STUFF BECAUSE QUITE FRANKLY THE DEFENDANT'S
2 STATEMENTS ABOUT HIS INNOCENCE, ET CETERA, ARE OF NO
3 LEGAL MOMENT TO ME. SO I DON'T CARE.

4 EVERYTHING SHE HAS, WE HAVE. AND WE KIND
5 OF -- AND MS. SARIS KNOWS THIS -- WE WERE COMMISERATING
6 ABOUT THE DIFFICULTY OF DOING THIS TOGETHER AT SOME
7 POINT. WE WERE GOING THROUGH THIS STUFF TOGETHER AT THE
8 SAME TIME. SO I DON'T WANT TO LEAVE THE COURT WITH THE
9 IMPRESSION -- AND I DON'T THINK MS. SARIS IS TRYING TO
10 LEAVE COURT WITH THE MISIMPRESSION THAT I WAS SITTING IN
11 SOME LABORATORY RINGING MY HANDS, LAUGHING TO MYSELF,
12 THINKING I'VE GOT THIS GOOD STUFF AND I'M NOT GOING TO
13 TELL ANYBODY ABOUT IT. THAT SIMPLY ISN'T THE CASE.

14 WE WERE ALL LOOKING FOR IT TOGETHER. IF I
15 GLANCED AT IT, I MAY HAVE FLIPPED BY IT AND NOT PAID MUCH
16 ATTENTION TO IT. BUT CERTAINLY WE HAVEN'T UTILIZED ANY
17 OF THIS AGAINST THE INTEREST OF MR. GOODWIN.

18 THE COURT: WELL, THAT'S WHERE I WOULD LIKE TO GO.

19 MS. SARIS: I CAN ADDRESS PART OF THAT. AS THE
20 COURT NOTICED MOST OF THE EXAMPLES THAT I GAVE THE COURT
21 ARE BATES PAGE STAMPED. SO IF MR. JACKSON DIDN'T READ
22 THEM, IT'S BECAUSE HE CHOSE NOT TO. THEY WERE THERE FOR
23 HIM TO READ. I DON'T KNOW IF HE SPENDS HIS FREE TIME
24 RINGING HIS HANDS LIKE A MAD SCIENTIST. THAT'S BETWEEN
25 HIM AND -- HOWEVER, MY POSITION IS THAT IT'S HARD TO KNOW
26 WHAT ONE READ IN 40,000 PAGES. IT'S HARD TO KNOW WHAT
27 ONE ABSORBED.

28 I DO KNOW THE CHARGES AGAINST MR. GOODWIN

1 CHANGED FROM WHEN HE WAS IN ORANGE COUNTY TO WHEN HE WAS
2 IN LOS ANGELES. IN ORANGE COUNTY HE WAS CHARGED WITH
3 CONSPIRACY. HE WAS CHARGED WITH MURDER FOR FINANCIAL
4 GAIN. A GOOD DEAL OF THE LETTERS BETWEEN MR. GOODWIN AND
5 HIS LAWYER EXPOSED A HUGE FALLACY IN THE PEOPLE'S NOTION
6 THAT HE STOOD TO GAIN FINANCIALLY FROM MICKEY THOMPSON'S
7 DEATH.

8 NOW THERE IS THE SCHOOL OF THOUGHT THAT SAYS
9 HAD THE PEOPLE PROCEEDED WITH THAT FALLACY, WE COULD HAVE
10 KNOCKED THAT DOWN QUITE EASILY IN COURT. AND THEREFORE
11 CAUSED THEIR ENTIRE CASE TO BE SUSPECT, IF THAT'S ONE OF
12 THE MAJOR PRONGS OF THEIR CASE. AND THAT WOULD HAVE
13 OCCURRED IN ORANGE COUNTY HAD THE JURISDICTIONAL ISSUE
14 NOT BEEN RESOLVED.

15 I CAN'T SAY WHETHER MR. DIXON AND MR. JACKSON
16 READ THESE DOCUMENTS AND THEREFORE CHANGED THEIR MIND. I
17 CAN'T SAY IF THEY JUST ARE A LITTLE BIT MORE ON THE BALL
18 THAN THE DISTRICT ATTORNEYS IN ORANGE COUNTY. I CAN SAY
19 THAT THE APPEARANCE OF IMPROPRIETY IS LARGE.

20 THAT THE ONLY WAY TO ENSURE THAT MR. GOODWIN,
21 IN A DOUBLE HOMICIDE FACING LIFE WITHOUT PAROLE, IS GOING
22 TO BE AFFORDED ANY CONSTITUTIONAL PROTECTION IS FOR THIS
23 COURT TO TAKE THE CASE OUT OF THE LOS ANGELES DISTRICT
24 ATTORNEY'S HANDS; TO GO THROUGH THE DOCUMENTS; TO REDACT
25 EVERY ATTORNEY/CLIENT PRIVILEGED DOCUMENT; AND TO GIVE IT
26 TO WHATEVER PROSECUTORIAL AGENCY THINKS THERE IS STILL A
27 CASE WITH WHAT IS REMAINING.

28 MR. DIXON: YOUR HONOR, COULD I JUST QUICKLY

1 ADDRESS THE COURT ON THAT LAST COMMENT?

2 THE COURT: YES.

3 MR. DIXON: I DIDN'T GET ALL 44 BANKER'S BOXES WHEN
4 I REVIEWED THE CASE AND I MADE THE DECISION -- OR THE
5 RECOMMENDATION TO OUR EXECUTIVE STAFF TO FILE THIS CASE.
6 I LOOKED AT A MUCH, MUCH SMALLER GROUP OF, I THOUGHT,
7 VERY RELEVANT DOCUMENTS IN MAKING THAT DECISION. AND THE
8 DECISION TO NOT FILE THE FINANCIAL GAIN SPECIAL
9 CIRCUMSTANCE HAD NOTHING TO DO WITH ANY DOCUMENT
10 MR. BENICE OR MR. GOODWIN GENERATED.

11 IT WAS BASICALLY -- AND THE COURT HEARD THE
12 PRELIMINARY HEARING -- HE OWED THE MICKEY THOMPSON ESTATE
13 THE JUDGMENT BEFORE AND AFTER THEIR DEATH. AND THAT IS
14 WHY. AND IT WAS MY SENSE -- AND IT'S ONLY MY SENSE --
15 THAT THE CONSPIRACY COUNT WAS FILED IN ORANGE COUNTY TO
16 TRY TO AUGMENT OR HELP THEIR CLAIM OF JURISDICTION IN
17 ORANGE COUNTY. AND THAT'S WHY --

18 THE COURT: THAT MAKES SENSE. ALL RIGHT. WELL,
19 WHAT I WOULD LIKE TO DO IS SAY THE FOLLOWING: THAT I
20 THINK IF I FIND THAT THERE WAS PRIVILEGED MATERIAL THAT
21 WAS REVIEWED BY THE DISTRICT ATTORNEY IN ORANGE COUNTY
22 AND OBTAINED AS A RESULT OF THE EXECUTION OF THE SEARCH
23 WARRANT, NO. 1, I THINK I CAN SAY WITH ABSOLUTE CERTAINTY
24 THAT THERE WAS NO VIOLATION OF THE SPECIAL MASTER
25 SECTION. THAT THE SEARCH WARRANT WAS PROPERLY EXECUTED.
26 THE ITEMS WERE RECOVERED AND REVIEWED.

27 AND I THINK I CAN ALSO SAY WITH SOME DEGREE
28 OF CERTAINTY THAT I BELIEVE THAT THE LETTER WRITTEN BY

1 MR. BENICE TO MR. BRENT WAS AN EFFORT TO RAISE AN
2 OBJECTION ON ATTORNEY/CLIENT PRIVILEGE GROUNDS. WHETHER
3 THAT WAS REPEATED BY COUNSEL AGAIN AND AGAIN IS OF NO
4 IMPORTANCE TO ME.

5 THE FACT OF THE MATTER REMAINS THERE WAS AN
6 ASSERTION OR AT LEAST A CLAIM OF PRIVILEGE. WHAT DO WE
7 DO ABOUT IT NOW? IN LOOKING AT THE DOCUMENTS THAT WERE
8 SUBMITTED, I CAN'T FIND ANY EVIDENCE -- IN OTHER WORDS, I
9 CAN'T FIND ANY EVIDENTIARY VALUE TO THOSE DOCUMENTS.

10 I HEARD THE PRELIMINARY HEARING. THERE WAS
11 NO EVIDENCE AT THE PRELIMINARY HEARING THAT WAS PRESENTED
12 WHICH CAME FROM WHAT I COULD TELL THE POTENTIALLY
13 PRIVILEGED DOCUMENTS. SO I GUESS THE QUESTION I HAVE IS:
14 IS THERE EVIDENCE THAT THE L.A. D.A. HAS THAT CAME FROM
15 POTENTIALLY PRIVILEGED INFORMATION?

16 AND MR. JACKSON'S POSITION IN HIS RESPONSE IS
17 HE HAS NO INFORMATION FROM PRIVILEGED DOCUMENTS THAT HE
18 IS USING IN THIS CASE; THAT ALL OF THE ITEMS WERE
19 RETURNED TO MR. GOODWIN; AND THAT THE EVIDENCE THAT HE IS
20 PRESENTING IN THE TRIAL COMES FROM AN INDEPENDENT SOURCE
21 OTHER THAN THE DEFENDANT'S ALLEGED PRIVILEGED
22 COMMUNICATIONS WITH HIS LAWYERS.

23 MS. SARIS: THEN, YOUR HONOR, I WOULD ASK TO BE
24 ABLE TO GIVE COURT HUNDREDS MORE DOCUMENTS THEN. IF YOU
25 WANT TO GO THROUGH ONE AT A TIME AND ADDRESS EACH
26 DOCUMENT, I'M HAPPY TO DO THAT.

27 THE COURT: LET ME DO THIS -- LET ME SAY THIS: LET
28 ME SAY THAT I THINK THE APPROPRIATE REMEDY HERE, NO. 1,

1 IS NOT TO AT THIS POINT RECUSE THE L.A. D.A. AND I THINK
2 IF YOU WANT TO FOLLOW UP IN THAT REGARD, YOU WILL NEED TO
3 PRESENT ME WITH MORE FACTS AND MORE AUTHORITY ON THAT.
4 BUT I DID NOT REVIEW THIS READY TO RULE ON THE RECUSAL
5 MOTION.

6 SECONDLY, I THINK I CAN SAY THAT IF THE
7 D.A.'S POSITION IS CORRECT, THAT THEY ARE NOT RELYING ON
8 ANY EVIDENCE THAT WAS SUBJECT TO A CLAIM OF PRIVILEGE,
9 THAT THE D.A. SHOULDN'T OBJECT TO THE COURT MAKING AN
10 ORDER THAT NO SUCH EVIDENCE BE PRESENTED AT THE TRIAL.

11 MR. JACKSON: AND WE WOULD HAVE NO SUCH OBJECTION.

12 MS. SARIS: WELL, YOUR HONOR, THE COURT MADE A
13 COMMENT THAT THE DOCUMENTS WERE RETURNED TO MR. GOODWIN.
14 THEY WERE XEROXED AND RETURNED. COUNSEL AS WE SIT HERE
15 NOW --

16 THE COURT: STILL HAS THEM?

17 MS. SARIS: OH, HUNDREDS AND HUNDREDS OF PAGES. I
18 WOULD ASK THEM TO RETURN THOSE TO THIS COURT. BUT I
19 WOULD ALSO ASK BEFORE THE COURT MAKES A FINAL RULING,
20 AGAIN, I PRESENTED TO THE COURT 35 ON-THEIR-FACE EXAMPLES
21 EVIDENCE THAT I DIDN'T THINK WAS GOING TO HURT
22 MR. GOODWIN IN PRESENTING TO THIS COURT.

23 THE COURT: I UNDERSTAND IT IS A LIMITED SAMPLE OF
24 MATERIAL.

25 MS. SARIS: AND IT'S NOT ONLY LIMITED IN NUMBER,
26 IT'S LIMITED IN WHAT THE EVIDENCE WAS. SO FOR COUNSEL TO
27 SAY THAT THOSE PARTICULAR ITEMS MAY HAVE BEEN ADDRESSED
28 ELSEWHERE, THAT'S ONE THING. I CAN PRESENT TO THE

1 COURT -- I'VE GOT A BOOK THAT HAS, BOY, SEVEN LAWYERS
2 THAT EACH HAD LETTERS TO AND FROM MR. GOODWIN THAT WERE
3 TAKEN IN THE COURSE OF THIS SEARCH WARRANT THAT -- THIS
4 ALONE, I JUST PUT TOGETHER ON THE FLY, IS OVER 200 PAGES.
5 SO I KNOW IN THE 40,000, THERE IS GOING TO BE MUCH MORE.

6 I WOULD ASK THAT I GIVE A LIST TO THIS COURT
7 OF THESE BATES PAGES SPECIFICALLY. AND THAT THEIR ONE
8 AND ONLY COPY IS RETURNED TO ME. BUT BEYOND THAT, I
9 WOULD ALSO ASK THE COURT FOR TIME TO SHOW THE COURT THAT
10 INDEED SOME OF THE INFORMATION AND SOME OF THE THEORY
11 BEHIND THIS CASE COULD HAVE BEEN GLEANED FROM THOSE
12 LETTERS.

13 OBVIOUSLY, I AM NOT ARGUING THAT MR. JACKSON
14 OR MR. DIXON ARE SAYING THAT THEY DID GLEAN AND THEY'RE
15 LYING TO THIS COURT ABOUT IT. IT'S HARD TO SAY WHAT ONE
16 USES TO FORMULATE A THEORY OF THE CASE.

17 THAT'S WHY OUR MOTION TO RECUSE THEM I THINK
18 IS BEFITTING BECAUSE YOU CAN'T REALLY PULL APART IN YOUR
19 HEAD WHY AM I SAYING THIS THEORY? BECAUSE I READ "X"
20 DOCUMENT AND NOT "Y." BUT IF THE COURT WILL GIVE ME
21 LEAVE, I WILL BE ABLE TO PRESENT MANY, MANY, MANY MORE
22 LETTERS AND DOCUMENTS THAT WERE MADE IN THE COURSE OF THE
23 ATTORNEY/CLIENT RELATIONSHIP.

24 THE COURT: WELL, I MEAN I AM CERTAINLY GOING TO
25 GIVE YOU AN OPPORTUNITY TO DO THAT IF THAT'S WHAT YOU
26 WANT TO DO. I MEAN MR. JACKSON'S POSITION IN HIS
27 RESPONSIVE PLEADING WAS ALSO THAT EVEN THOUGH I'M CALLING
28 THESE POTENTIALLY PRIVILEGED MATERIALS, HIS POSITION IS

1 IS THAT THIS WAS INFORMATION DISCLOSED BY MR. GOODWIN IN
2 OTHER VENUES, SO TO SPEAK, OTHER AREAS.

3 AND SO I'M NOT IN A POSITION AT THIS POINT TO
4 SAY THAT THE L.A. D.A.'S OFFICE HAS REVIEWED ANY
5 PRIVILEGED -- CLEARLY PRIVILEGED MATERIAL. AND I'M
6 CERTAINLY NOT IN A POSITION TO SAY THAT THE CHARGES ARE
7 BASED ON ANY OF THAT. I CAN ONLY SAY THAT I DIDN'T HEAR
8 ANY EVIDENCE ALONG THOSE LINES AT THE PRELIMINARY
9 HEARING.

10 AND IF MR. JACKSON AND MR. DIXON WANT TO
11 AGREE THAT THE ORDER CAN BE MADE THAT THE PEOPLE ARE
12 PRECLUDED FROM PRESENTING ANY EVIDENCE DERIVED FROM
13 POTENTIALLY PRIVILEGED COMMUNICATIONS, THEN THE MAJOR
14 OBSTACLE IS GOING TO BE ON THE COURT TO DETERMINE WHAT IS
15 PRIVILEGED AND WHETHER OR NOT ANY EVIDENCE IS DERIVED
16 FROM THOSE MATERIALS.

17 MS. SARIS: CAN I ASK THE COURT TO MAKE JUST ONE
18 CLEAR RULING IF I UNDERSTAND IT. IT IS THE BASIS OF OUR
19 MOTION UNDER BOTH THE FEDERAL AND STATE CONSTITUTION THAT
20 THE L.A. COUNTY DISTRICT ATTORNEY'S OFFICE HAD AN
21 OBLIGATION WHEN THEY SAW THE VERY FIRST LETTER THAT WAS
22 ON JEFF BENICE'S LETTERHEAD TO MR. GOODWIN TO CLOSE THE
23 BOOK AND TO GIVE IT TO THE COURT, ALL 40,000 PAGES.

24 AND OUR MOTION, AS I SIT HERE NOW, IS TO
25 RECUSE THEM SPECIFICALLY JUST ON THAT GROUND ALONE
26 REGARDLESS OF WHAT WAS GLEANED FROM THAT. THE FACT THAT
27 THEY DID NOT COME FORWARD AT THAT POINT AND ASK FOR A
28 SPECIAL MASTER TO BE APPOINTED, WE ARE ASKING BASED ON

1 THAT FACT ALONE THAT THEY BE RECUSED.

2 THE COURT: BASED ON THAT, I AM GOING TO DENY THAT
3 REQUEST. I CAN'T SAY GIVEN THE PERIOD OF TIME INVOLVED
4 IN THIS CASE, THAT IS THE TIME THAT ORANGE COUNTY WAS
5 HANDLING THE CASE AND PRESUMABLY THE INFORMATION WAS IN
6 THE POSSESSION OF THE ORANGE COUNTY D.A., I CAN'T SAY
7 THAT BY THE TIME THE L.A. D.A.'S OFFICE GOT THIS CASE
8 BACK FROM ORANGE COUNTY --

9 WHAT, IN 2004?

10 MR. JACKSON: 2004, JUNE.

11 THE COURT: -- THAT THE L.A. D.A.'S OFFICE SHOULD
12 HAVE DONE ANYTHING AT THAT POINT. I AM COMFORTABLE
13 SAYING THAT THE ORANGE COUNTY D.A.'S OFFICE PROBABLY
14 SHOULD HAVE AND THEY DIDN'T. BUT BY THE TIME A COUPLE OF
15 YEARS GO BY AND THE MATERIAL IS THERE -- AND I ACCEPT
16 MR. JACKSON'S REPRESENTATION THAT HE WASN'T MADE AWARE OF
17 THESE OBJECTIONS THAT YOU SAY OCCURRED IN ORANGE COUNTY,
18 NOR WOULD I EXPECT HIM TO HAVE BEEN AWARE OF THEM. I
19 ACCEPT THOSE STATEMENTS.

20 SO I CAN'T SAY THAT THE L.A. D.A. HAD ANY
21 OBLIGATION THREE OR FOUR YEARS AFTER THE FACT TO THEN
22 BRING TO THE COURT'S ATTENTION THE FACT THAT THERE MIGHT
23 BE SOME PRIVILEGED MATERIAL. I THINK L.A. D.A. CAN
24 PROBABLY SAFELY RELY ON THE FACT THAT ORANGE COUNTY D.A.
25 DID WHAT THEY WERE SUPPOSED TO DO. THE FACT IS THEY
26 PROBABLY DIDN'T AND THEY SHOULD HAVE.

27 BUT THAT'S BESIDE THE POINT BECAUSE AT THIS
28 STAGE, I THINK WITH THE AGREEMENT THAT THEY ARE NOT GOING

1 TO USE ANY INFORMATION DERIVED FROM THE POTENTIALLY
2 PRIVILEGED MATERIAL, THAT I HAVE A REMEDY HERE BASED ON
3 WHAT I HAVE HEARD THIS MORNING.

4 AGAIN, THIS IS NOT IN ANY WAY MEANT TO
5 FORECLOSE ANY OF THE ARGUMENT ON THE JEFF -- NOT JEFF
6 BENICE, BUT BUTCH JONES ISSUE. BUT THIS SEEMS PRETTY
7 EASY TO ME. THAT IF THERE IS PRIVILEGED MATERIAL THAT
8 YOU WANT SUBMITTED TO THE COURT, SUBMIT IT.

9 MS. SARIS: MY CONCERN, HOWEVER, IS IN LIGHT OF
10 ESPECIALLY MR. JACKSON'S COMMENTS, THAT IT APPEARS -- AND
11 I DON'T KNOW IF I'M PUTTING WORDS IN HIS MOUTH -- THAT HE
12 HAS NOT REVIEWED ALL 40,000 PAGES OF THE DISCOVERY A PAGE
13 AT A TIME. I'M AFRAID OF HIGHLIGHTING FOR HIM WHAT IS
14 POTENTIALLY EXPLOSIVE EVIDENCE IN ATTORNEY/CLIENT
15 PRIVILEGED DOCUMENTS.

16 THE COURT: YOU DON'T HAVE TO. I MEAN YOU CAN
17 GIVE -- PHOTOCOPY THE DISCOVERY AND PROVIDE IT TO THE
18 COURT UNDER SEAL. AT LEAST THE COURT WILL HAVE IT. AT
19 THAT POINT WHAT I DO WITH IT IS WHAT I THINK IS THE MOST
20 IMPORTANT THING TO DISCUSS. BECAUSE IF THE ORDER IS THAT
21 THE D.A.S CAN'T PRESENT ANY EVIDENCE BASED ON OR DERIVED
22 FROM THAT MATERIAL, I'M KIND OF STUCK BECAUSE I DON'T
23 KNOW HOW TO ENFORCE THAT ORDER.

24 BUT AT LEAST WE CAN START WITH HAVING THAT
25 MATERIAL PRESENTED TO THE COURT. AND I CAN CERTAINLY
26 CONSIDER MY OPTIONS AT THAT POINT. WHETHER I'M GOING TO
27 GO THROUGH IT OR A SPECIAL MASTER WILL BE APPOINTED BY
28 THE COURT TO GO THROUGH IT, I JUST DON'T KNOW AT THIS

1 POINT WHAT MY OPTIONS ARE BECAUSE I HAVEN'T THOUGHT THIS
2 OUT. BUT I THINK IT IS A GOOD START TO SUBMIT IT.

3 MS. SARIS: AND AS TO THE RETURN OF CERTAIN BATES
4 PAGE NUMBERED STAMPED, WOULD THE COURT LIKE TO REVIEW
5 THOSE FIRST? I GUESS AGAIN I'M CONCERNED THAT IF I LIST
6 THOSE PAGES, WHICH ARE GOING TO BE APPROXIMATELY 200 THAT
7 I KNOW OF AS I SIT HERE, THAT OBVIOUSLY COUNSEL WOULD
8 READ THOSE PAGES TO DETERMINE WHETHER THEY ARE
9 ATTORNEY/CLIENT PRIVILEGE. AND I'M STUCK IN THAT
10 HORRIBLE CATCH 22.

11 THE COURT: BUT THE THING IS, I HAVE TO ASSUME --
12 EVEN THOUGH MR. JACKSON SAYS HE DIDN'T GO THROUGH
13 EVERYTHING -- I HAVE TO ASSUME THAT IF THESE ITEMS ARE
14 PRIVILEGED, THAT THEY HAVE BEEN DISCLOSED. I MEAN I HAVE
15 TO. I CAN'T FOR SAKE OF ARGUMENT GO THROUGH IT PAGE BY
16 PAGE AND ASK MR. JACKSON WHAT HE READ AND WHAT HE DIDN'T
17 READ.

18 I CAN JUST SAY THAT BASED ON WHAT LITTLE YOU
19 PRESENTED, MS. SARIS, THE DOCUMENTS HAVE NO EVIDENTIARY
20 VALUE IN MY LIMITED ABILITY TO RENDER AN OPINION.

21 MS. SARIS: NO. AND I PURPOSELY CHOSE ONES THAT
22 DID NOT.

23 THE COURT: I UNDERSTAND. SO I HAVE TO ASSUME THE
24 D.A.S HAVE LOOKED AT THE MATERIAL OR AT LEAST LAW
25 ENFORCEMENT, DETECTIVE LILLIENFELD HAS LOOKED AT IT. I
26 MEAN THE ITEMS WERE SEIZED. SO THE ISSUE BECOMES WHETHER
27 OR NOT THE REMEDY I'M ORDERING TODAY WHETHER OR NOT I CAN
28 ENFORCE IT. THAT'S THE ISSUE THAT I HAVE TO DEAL WITH

1 RIGHT NOW. AND I'M LOOKING FOR SUGGESTIONS ON THAT. BUT
2 I THINK A START IS SUBMIT THE ITEMS UNDER SEAL.

3 MS. SARIS: OKAY.

4 THE COURT: I HAVE TO ASSUME MR. JACKSON IS AWARE
5 OF THIS INFORMATION. I MEAN IT'S BEEN IN THEIR
6 POSSESSION FOR A WHILE. PERHAPS --

7 MR. JACKSON: YOUR HONOR, I'M SORRY. I DIDN'T MEAN
8 TO INTERRUPT.

9 MS. SARIS: I WAS GOING TO PICK A NEW DATE.

10 MR. JACKSON: ONE POSSIBLE SUGGESTION IS -- AND I
11 KNOW THE COURT IS MULLING THIS OVER -- IF THE COURT
12 RECEIVES, LET'S PICK A NUMBER, 75 PAGES OF ADDITIONAL
13 STUFF IN ADDITION TO THE 35 PAGES THAT HAVE BEEN
14 SUBMITTED THUS FAR. AND MS. SARIS MAKES AN ARGUMENT
15 UNDER SEAL THESE APPEAR TO BE FACIALLY PRIVILEGED. THE
16 COURT CAN SIMPLY -- AND THEY'RE BATE STAMPED -- THE COURT
17 CAN APPOINT A SPECIAL MASTER AND COME INTO MY OFFICE AND
18 FIND THOSE BATE STAMPED PAGES AND TAKE THEM AWAY.

19 I COULDN'T CARE LESS. IF WHAT WAS ATTACHED
20 TO THE MOTION -- AND USING MS. SARIS'S WORDS, SHE
21 ACTUALLY SAID SHE CHOSE THE MOST EGREGIOUS VIOLATIONS.

22 MS. SARIS: NO, NO, THE LEAST EGREGIOUS. THE MOST
23 OBVIOUS ATTORNEY/CLIENT PRIVILEGE, BUT THE LEAST
24 EGREGIOUS IN TERMS OF CONTENT.

25 MR. JACKSON: OKAY. IF THAT'S A SMATTERING OR A
26 SAMPLING -- REPRESENTATIVE SAMPLING, WHATEVER. I MEAN WE
27 ARE NOT TRYING TO -- WE'RE NOT TRYING TO GET THROUGH THE
28 BACK DOOR WHAT WE COULDN'T GET THROUGH THE FRONT. WE

1 WANT EVERYTHING TO BE FAIR AND OPEN AND ON AN EVEN
2 PLAYING FIELD.

3 SO TAKE THE STUFF THAT'S SUPPOSEDLY
4 ATTORNEY/CLIENT PRIVILEGE. I DON'T CARE. IT'S NOT GOING
5 TO AFFECT OUR PROSECUTION. WE HAVEN'T PREDICATED OUR
6 PROSECUTION ON ANYTHING OF THAT TO BEGIN WITH. SO WE ARE
7 KIND OF OPEN BOOK.

8 THE COURT: THAT'S THE ISSUE. I'M MAKING AN ORDER
9 AND THE PEOPLE ARE AGREEING TO IT. AND THE QUESTION
10 BECOMES ONE OF HOW DO I ENFORCE THAT ORDER? HOW DO I
11 DETERMINE WHAT EVIDENCE THAT IS TO BE PRESENTED AT THE
12 TRIAL IS DERIVED FROM MATERIAL THAT IS POTENTIALLY
13 PRIVILEGED.

14 MS. SARIS: AND IT'S OUR POSITION THAT IT'S CLOSING
15 THE BARN DOOR AFTER THE HORSE HAS ESCAPED AND THERE IS NO
16 WAY FOR ME TO KNOW. AND THE ONLY WAY TO PROTECT
17 MR. GOODWIN IS TO RECUSE THE DISTRICT ATTORNEY'S OFFICE
18 BECAUSE THERE IS JUST NO WAY TO KNOW.

19 THE COURT: ALL RIGHT. WELL, I THINK I SAID ALL I
20 CAN SAY TODAY.

21 MS. SARIS: PERHAPS WE CAN SET ANOTHER DATE IN
22 APRIL AS A ZERO OF 30 AND GIVE ME APPROXIMATELY TWO TO
23 THREE WEEKS TO GATHER UP THE -- OR AT LEAST XEROX THE
24 INFORMATION THAT I HAVE.

25 IS THERE A DATE IN APRIL, COUNSEL, THAT'S --

26 MR. DIXON: IN APRIL?

27 MS. SARIS: PERHAPS THE 19TH OR 20TH?

28 THE COURT: I WILL TELL YOU WHAT I WOULD LIKE TO DO

1 ONCE YOU PRESENT THAT INFORMATION IS TO APPOINT
2 SOMEONE -- YOU CAN CALL IT A SPECIAL MASTER -- BUT
3 SOMEONE OFF THE APPROVED LIST TO GO THROUGH THE MATERIAL
4 AND TO LET ME KNOW WHAT IS IN THE MATERIAL. I GUESS IT'S
5 GOING TO BE REAL HARD TO DETERMINE WHETHER EVIDENCE WAS
6 INDEPENDENTLY OBTAINED OR NOT WITHOUT KNOWING WHAT THE
7 MATERIAL CONTAINS.

8 SO I THINK THAT'S THE FIRST STEP THAT I WOULD
9 LIKE TO AT LEAST EMBARK ON WHILE WE ARE WAITING AND THAT
10 IS TO GET A SPECIAL MASTER APPOINTED. AND I'M HAPPY TO
11 TAKE -- EITHER COUNSEL CAN STIPULATE TO SOMEBODY OFF THE
12 LIST OR I CAN JUST PICK SOMEBODY OFF THE LIST AND JUST
13 HAVE THAT PERSON CATALOG THE MATERIAL FOR ME AND
14 SUMMARIZE IT. AND THEN I WILL HAVE A BETTER IDEA OF WHAT
15 WE ARE TALKING ABOUT.

16 MR. JACKSON: YOUR HONOR, I THINK WE'RE ALL IN
17 AGREEMENT, THAT'S WHAT THE WHISPERING IS ABOUT HERE.
18 NONE OF US KNOW ANY SPECIAL MASTERS. WE DON'T CARE. IF
19 YOU WANT TO APPOINT SOMEONE OFF OF THE LIST --

20 THE COURT: I THINK THERE IS A LIST SOMEWHERE THAT
21 WE USE --

22 MS. SARIS: WELL, I CARE.

23 THE COURT: -- WHEN WE DO SEARCH WARRANTS. SO I
24 WILL GET AHOLD OF THAT LIST AND I WILL --

25 MS. SARIS: AND THAT'S FINE. WHOEVER THE COURT
26 WOULD APPOINT IS FINE WITH ME. I WILL DO THIS AS QUICKLY
27 AS POSSIBLE. I WOULD JUST LIKE TO PICK OUT A DATE. I
28 KNOW WE'RE THREE OF 60 TODAY. AND I KNOW THAT WE'RE

1 GOING TO NEED MORE TIME, OBVIOUSLY. SO I DON'T KNOW IF
2 WE WANT TO GO A MONTH AWAY AND --

3 THE COURT: WHATEVER YOU ALL WANT IS FINE.

4 MR. JACKSON: MAY I HAVE JUST A MOMENT?

5 (DISCUSSION OFF THE RECORD.)

6 MS. SARIS: WE CAN TRY TO GET MR. JONES IN ON THAT
7 DATE AS WELL.

8 THE COURT: SURE.

9 MS. SARIS: HOW ABOUT THE 27TH OF APRIL?

10 MR. JACKSON: APRIL 27.

11 THE COURT: 27TH, YOU WANT TO MAKE THAT WHAT?

12 MS. SARIS: ZERO OF 60, PLEASE.

13 THE COURT: ALL RIGHT. MR. GOODWIN, DO YOU WANT
14 AGREE THAT APRIL 27 CAN BE DAY ZERO OF 60 FOR YOUR TRIAL?

15 THE DEFENDANT: YES.

16 THE COURT: COUNSEL JOIN?

17 MS. SARIS: I JOIN. THANK YOU. I WILL GET THE
18 DOCUMENTS TO THIS COURT AS QUICKLY AS POSSIBLE.

19 THE COURT: OKAY. AND I WILL APPOINT A SPECIAL
20 MASTER AND DO WHAT I SAID I WOULD DO AND HAVE A SUMMARY
21 PREPARED AND A CATALOG PREPARED. AND I WILL KEEP THAT
22 SEALED. AND WE CAN TAKE THE NEXT STEP ON THE 27TH.

23 MS. SARIS: AND WE WILL CALL THE COURT EARLY NEXT
24 WEEK REGARDING THE BICYCLE ISSUE.

25 THE COURT: OKAY. VERY GOOD.

26 MR. JACKSON: THANK YOU, YOUR HONOR.

27

28 (THE MATTER WAS CONTINUED TO WEDNESDAY,

APRIL 27, 2005 AT 8:30 A.M.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, APRIL 27, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 PATRICK DIXON AND ALAN JACKSON, DEPUTY DISTRICT
12 ATTORNEYS, REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: ALL RIGHT. ON THE MICHAEL GOODWIN
16 MATTER, MR. GOODWIN IS HERE WITH COUNSEL. THE PEOPLE ARE
17 REPRESENTED. AND I JUST RECEIVED A MOTION TO PROHIBIT
18 SHACKLING. AND I'M NOT PREPARED TO RULE ON THIS TODAY.

19 SO CAN WE HOLD OFF ON THIS?

20 MS. SARIS: PERHAPS WE CAN HOLD OFF. THERE HAS GOT
21 TO BE SOME COMPROMISE. TODAY, HOWEVER, MR. GOODWIN DOES
22 NEED AT LEAST A HAND. BUT AS LONG AS THE COURT KNOWS
23 THIS IS OVER MY VEHEMENT OBJECTION.

24 THE COURT: I DIDN'T READ YOUR MOTION, BUT I ASSUME
25 IT'S ALL IN THERE.

26 MS. SARIS: IT IS.

27 THE COURT: AND LET ME ASK THE DEPUTY IF THERE
28 IS ANY WAY WE CAN FREE UP ONE HAND ON MR. GOODWIN?

1 THE BAILIFF: NO PROBLEM, MA'AM.

2 THE COURT: THANK YOU. SO WE WILL HAVE TO DEAL
3 WITH THE MOTION ABOUT SHACKLING AT ANOTHER TIME.

4 MR. JACKSON: YOUR HONOR, IS THE COURT IN RECEIPT
5 OF MY ADDENDUM THAT I FILED YESTERDAY?

6 THE COURT: YES. JUST THE POINTS AND AUTHORITIES
7 IN OPPOSITION TO THE MOTION ON THE ISSUE OF MR. JONES.

8 MR. JACKSON: YES, YOUR HONOR. SO THERE IS NOW
9 TWO -- BASICALLY TWO OPPOSITIONS. ONE IS -- ONE MORE
10 FULLY ADDRESSES THE BARBER CASE.

11 THE COURT: ALL RIGHT. LET ME JUST CLARIFY A
12 COUPLE OF THINGS BECAUSE I'M A LITTLE BIT -- WELL, I WAS
13 A LITTLE CONFUSED. THERE WERE A NUMBER OF MOTIONS THAT
14 MS. SARIS FILED AT THE TIME THAT THE PRIVILEGE --
15 POTENTIALLY PRIVILEGED MATERIAL WAS FILED WITH THE COURT
16 UNDER SEAL.

17 AND I THINK WE LEFT OFF LAST TIME DISCUSSING
18 THE FACT THAT THE COURT WAS GOING TO HAVE A SPECIAL
19 MASTER REVIEW THE MATERIAL FILED UNDER SEAL TO DETERMINE
20 WHETHER OR NOT THE PEOPLE WOULD BE COMPLYING WITH THE
21 COURT'S ORDER THAT THEY NOT PRESENT EVIDENCE BASED ON ANY
22 OF THE POTENTIALLY PRIVILEGED MATERIAL.

23 WHEN I RECEIVED THE MATERIAL, IT WASN'T AS
24 VOLUMINOUS AS I THOUGHT IT WOULD BE. AND I DID NOT
25 APPOINT A SPECIAL MASTER TO ASSIST ME IN GOING THROUGH
26 THAT MATERIAL AND CATALOGING IT, WHICH IS WHAT I WAS
27 GOING TO DO. AND WE CONTACTED BOTH COUNSEL ON BOTH
28 SIDES -- COUNSEL FOR BOTH SIDES. AND I WAS TOLD BY MY

1 CLERK THAT NO ONE HAD ANY OBJECTION TO THAT CHANGE IN
2 PLANS.

3 IS THAT CORRECT?

4 MS. SARIS: YES.

5 MR. JACKSON: YOUR HONOR, I CAN'T SPEAK TO THE --
6 WERE YOU CONTACTED?

7 MR. DIXON I DON'T REMEMBER THAT.

8 MR. JACKSON: I WASN'T CONTACTED.

9 THE COURT: YOU DON'T REMEMBER?

10 MR. DIXON: I DON'T REMEMBER BEING CONTACTED ON
11 THAT. I WAS CONTACTED ON -- A WHILE AGO ABOUT JUST A
12 CHANGE OF DATES.

13 MR. JACKSON: I DIDN'T RECEIVE ANY INFORMATION.

14 MR. DIXON: BUT I'M GETTING OLD, SO --

15 THE COURT: WELL, SO AM I.

16 MR. JACKSON: I DIDN'T GET ANY INFORMATION
17 SPECIFICALLY ABOUT A SPECIAL MASTER. I MEAN, IT DOESN'T
18 CHANGE ANYTHING.

19 THE COURT: MY CLERK ISN'T HERE, BUT I KNOW I ASKED
20 HER TO CONTACT BOTH SIDES TO MAKE SURE IT WAS OKAY.

21 IF I MISSPOKE, LET ME ASK IF THE PEOPLE HAVE
22 ANY OBJECTION?

23 MR. JACKSON: NO.

24 MS. DIXON: NO.

25 THE COURT: ALL RIGHT. SO THAT WAS COMMUNICATED TO
26 ME BY THE CLERK. THE SECOND ISSUE WAS THEN I SAW THE
27 MOTIONS THAT MS. SARIS FILED. AND THERE WAS A FORMAL
28 MOTION TO RECUSE, ALTHOUGH THAT WAS TOUCHED ON LAST TIME

1 WE WERE HERE. THERE WAS A --

2 MS. SARIS: I THINK I CAN BREAK IT DOWN.

3 THE COURT: OKAY. GO AHEAD.

4 MS. SARIS: BECAUSE THERE WAS THREE THINGS I'M
5 ASKING. ONE IS TO DISMISS FOR EGREGIOUS GOVERNMENTAL
6 MISCONDUCT. AND THAT'S TWO-PRONGED. FIRST, THEY TOOK
7 ATTORNEY/CLIENT PRIVILEGED DOCUMENTS THEY SHOULDN'T HAVE
8 TAKEN. I BELIEVE THE COURT HAS RULED ON THAT.

9 THE COURT: YES.

10 MS. SARIS: SECOND PRONG OF THAT IS THAT THEY USED
11 BUTCH JONES AS A SPY TO OBTAIN ATTORNEY/CLIENT PRIVILEGED
12 INFORMATION. I BELIEVE THE COURT SAID THAT WE NEEDED
13 TESTIMONY ON THAT; WE'RE PREPARED TO DO THAT TODAY.

14 SECOND IS THE MOTION FOR THE RETURN OF
15 PROPERTY, 1538.5; THEY EXCEEDED THE SCOPE OF THE WARRANT.

16 AND THE THIRD IS THAT EVEN IF THE COURT --
17 THE THIRD MOTION I HAVE IS TO RECUSE THE LOS ANGELES
18 DISTRICT ATTORNEY'S OFFICE. AND I WILL ADMIT HERE NOW
19 THAT I HAVE NOT BEEN ABLE TO FILE WITH THE ATTORNEY
20 GENERAL BECAUSE I FEEL LIKE I'M IN A CATCH-22 AND I'M
21 ASKING FOR THE COURT'S GUIDANCE.

22 IT IS OUR POSITION THAT EVEN IF THE COURT
23 FINDS THAT BUTCH JONES WAS NOT A SPY -- IN THAT TERM OF
24 ART -- EVEN IF THE COURT FINDS THAT THE ATTORNEY/CLIENT
25 PRIVILEGED DOCUMENTS SOMEHOW THE DISTRICT ATTORNEY CANNOT
26 LOOK AT THOSE, IT IS OUR POSITION THAT THE TAKING OF THE
27 BOXES OUT OF MR. GOODWIN'S HOME AND MAKING THEM A PART OF
28 THE MURDER BOOK HAS SO TAINTED HIS ABILITY TO GET A FAIR

1 TRIAL THAT WE CANNOT -- WHEN A MAN'S LIFE IS AT STAKE --
2 RELY ON THE DISTRICT ATTORNEY'S PROMISE THAT THEY NOT USE
3 THIS INFORMATION BECAUSE IT'S SO DETRIMENTAL TO HIS RIGHT
4 TO A FAIR TRIAL.

5 SO WE'RE ASKING THEIR OFFICE TO BE RECUSED.
6 THE REASON I HAVE NOT SERVED THE ATTORNEY GENERAL'S
7 OFFICE IS THAT IN THE FILING OF THE MOTION, I'M GIVING
8 THEM ALL OF THE INFORMATION AND AMMUNITION THAT I'M
9 ASKING THAT IS THE BASIS FOR THE RECUSAL.

10 SO I DON'T KNOW WHAT THE COURT CAN DO OTHER
11 THAN PERHAPS APPOINT A CLEAN TEAM OF ATTORNEY GENERALS
12 WHO ARE TOLD THAT THEY ARE ALLOWED TO READ THIS MOTION,
13 BUT THEN ARE NOT ALLOWED TO BE A PART OF ANY FUTURE
14 PROSECUTION. BUT I DO THINK THAT THIS IS WITHOUT A DOUBT
15 THE MOST EGREGIOUS VIOLATION OF THE ATTORNEY/CLIENT
16 PRIVILEGE AND OF A SEARCH WARRANT THAT I'VE SEEN.

17 AND WHILE I'M NOT IMPUNING THE CHARACTER OF
18 THE DISTRICT ATTORNEY'S OFFICE, EITHER IN ORANGE COUNTY
19 OR HERE, I THINK IT'S ABSOLUTELY IMPOSSIBLE TO SEPARATE
20 BASING A PROSECUTION ON READING X, Y AND Z AND NOT A, B
21 AND C. THEY SIMPLY CANNOT DO IT.

22 I'VE HAD COMMENTS TO ME IN THE HALLWAY ABOUT
23 MR. GOODWIN'S CHARACTER THAT HAVE CLEARLY COME FROM ITEMS
24 THAT THEY WEREN'T, IN OUR OPINION, ALLOWED TO HAVE. IN
25 THEIR WRITING TO THIS COURT IN OPPOSITION TO MY
26 ATTORNEY/CLIENT PRIVILEGE VIOLATION MOTION, THEY'VE CITED
27 DOCUMENTS THAT IN MY OPINION WERE DOCUMENTS THAT WERE
28 ILLEGALLY OBTAINED. SO CLEARLY THEY HAVE READ SOME OF

1 THEM.

2 AND IT'S OUR POSITION THAT THERE IS NO WAY
3 OTHER THAN FOR A BRAND NEW PROSECUTORIAL AGENCY TO COME
4 IN AFTER EITHER THIS JUDGE, YOU, YOURSELF, OR A SPECIAL
5 MASTER HAS COME IN AND REDACTED THIS INFORMATION, THERE
6 IS NO WAY THAT MR. GOODWIN CAN RECEIVE A FAIR TRIAL.
7 SPECIFICALLY UNDER THE FIFTH AND SIXTH AMENDMENTS OF BOTH
8 THE CALIFORNIA AND THE FEDERAL CONSTITUTION.

9 THE COURT: LET ME JUST INTERRUPT BECAUSE I HAVE
10 ANOTHER CUSTODY HERE REAL QUICK THAT I WANT TO HANDLE.

11 (WHEREUPON UNRELATED MATTERS WERE HEARD.)

12 THE COURT: ALL RIGHT. BACK ON THE GOODWIN MATTER.

13 WHAT I STARTED TO SAY EARLIER -- OR A FEW
14 MINUTES AGO -- WAS THAT I WAS CAUGHT A LITTLE BIT OFF
15 GUARD THIS MORNING. AFTER I RECEIVED ALL THE MOTIONS, I
16 ASKED MY CLERK -- WHO IS OUT ILL -- TO CONTACT COUNSEL TO
17 SEE IF WE WERE PROCEEDING WITH A 1538.5 TODAY, BECAUSE
18 THAT WAS ONE OF THE MOTIONS THAT I DON'T REMEMBER EVEN
19 DISCUSSING THE LAST TIME THAT YOU WERE HERE.

20 I KNOW WE LEFT OPEN THE ISSUE OF THE BUTCH
21 JONES CONNECTION. AND I WASN'T CERTAIN WE WERE GOING TO
22 HEAR THAT TODAY. BUT I DID ASK HER TO QUESTION THE
23 ATTORNEYS ABOUT THE 1538. AND I THOUGHT THE RESPONSE WAS
24 WE WERE GOING TO DO THE 1538. AND THEN WHEN I LOOKED AT
25 THE 1538, I TRULY DIDN'T THINK THAT WE WERE GOING TO BE
26 TAKING TESTIMONY ON THE 1538 BECAUSE IT WAS PRETTY
27 STRAIGHT-FORWARD BASED ON THE SEARCH WARRANT.

28 SO NOW THIS MORNING COUNSEL HAS COME IN --

1 AND I WANT TO APOLOGIZE, I HAVE A JURY COMING BACK IN A
2 LITTLE WHILE -- BECAUSE I REALLY DIDN'T REALIZE WE WERE
3 GOING TO BE THAT LONG THIS MORNING. BUT I AM PREPARED TO
4 GET STARTED. AND I'M TOLD WE HAVE ABOUT 30 MINUTES OR SO
5 OF TESTIMONY ON THE ISSUE OF THE SECOND PRONG OF THE
6 ATTORNEY/CLIENT PRIVILEGE MATTER THAT FORMS THE BASIS OF
7 THE MOTION TO DISMISS.

8 IS THAT RIGHT?

9 MS. SARIS: THAT'S CORRECT. I DON'T ANTICIPATE
10 TESTIMONY ON THE 1538.5. AND I APOLOGIZE, I THOUGHT SHE
11 MEANT AS WELL AS THE TESTIMONY ON BUTCH JONES.

12 THE COURT: I APOLOGIZE, TOO. OKAY. SO WE ARE
13 GOING TO PROCEED WITH THE DEFENSE PRESENTING SOME
14 EVIDENCE; RIGHT?

15 MS. SARIS: YES.

16 MR. JACKSON: CORRECT. THE ONLY THING BEFORE WE
17 START THAT, JUST TO MAKE SURE THAT WE'RE CLEAR, THE COURT
18 IS NOT ADDRESSING THE MOTION TO RECUSE. I KNOW MS. SARIS
19 WENT ON JUST A SECOND AGO ABOUT HER POSITION CONCERNING
20 THAT.

21 THE COURT: RIGHT.

22 MR. JACKSON: I THINK WE'RE ALL IN AGREEMENT THAT
23 HER MOTION AT THIS POINT IS NOT RIPE. IT IS PROCEDURALLY
24 DEFECTIVE AS THE ATTORNEY GENERAL HAS NOT BEEN GIVEN AN
25 OPPORTUNITY TO BE BROUGHT IN. I'VE GOT A MOTION TO THAT
26 EFFECT, BUT IT'S JUST GOING TO -- BASICALLY IT SAYS THE
27 SAME THING THAT I'M SAYING RIGHT NOW. SO UNLESS THE
28 COURT IS DYING TO READ SOMETHING ELSE THAT I'VE WRITTEN,

1 I'LL JUST STICK IT IN MY FILE IF WE CAN ALL AGREE THAT
2 WE'RE NOT HEARING THAT TODAY.

3 THE COURT: I THINK WE ARE.

4 MS. SARIS: WE ARE. MY ONLY CONCERN IS THAT IT'S
5 AN ALTERNATIVE. IN OTHER WORDS, I'M MAKING A MOTION FOR
6 EGREGIOUS GOVERNMENTAL MISCONDUCT TO DISMISS. IF THE
7 COURT FINDS IT DOESN'T RISE TO THE LEVEL OF DISMISSAL,
8 THE SECOND OPTION IS A RECUSAL. SO I SUPPOSE THE
9 ATTORNEY GENERAL CAN GO ON THE TRANSCRIPT.

10 THE COURT: OKAY. I THINK WE HAVE SOME MORE
11 LITIGATION TO CONDUCT BEFORE WE EVEN GET TO THE MOTION TO
12 RECUSE, EVEN ASSUMING IT'S GOING TO BE PROPERLY NOTICED.
13 I WILL BE HONEST WITH YOU. BECAUSE IF WE ARE DEALING
14 WITH A MOTION UNDER 1538.5 TO RETURN PROPERTY AND
15 SUPPRESS PROPERTY THAT WAS IMPROPERLY SEIZED, I THINK
16 THAT MAYBE SHOULD BE LITIGATED BEFORE WE ADDRESS THE
17 ISSUE OF A RECUSAL AS A POTENTIAL REMEDY FOR SOME OF THE
18 CONDUCT THAT COUNSEL IS CLAIMING IS MISCONDUCT.

19 SO LET'S AGREE, THEN, IF WE CAN PUT OFF THE
20 ISSUE OF THE RECUSAL MOTION FOR NOW. AND I THINK WE HAVE
21 SOME OTHER ISSUES WE ARE GOING TO HAVE TO ADDRESS BEFORE
22 WE EVEN CAN GET A RECORD UPON WHICH WE CAN THEN PROCEED
23 WITH THE RECUSAL.

24 MS. SARIS: AS LONG AS THE RECORD IS CLEAR WHY I AM
25 PROCEDURALLY DEFICIENT IS THAT I FEEL THAT OUR HANDS ARE
26 BOUND IN TERMS OF A CATCH-22.

27 THE COURT: AT THIS POINT YOU ARE. THAT'S KIND OF
28 WHY I WOULD LIKE TO DO THE 1538 BEFORE I DO ANY RECUSAL

1 MOTIONS SO WE CAN BE SPECIFIC AS TO WHAT, IF ANYTHING,
2 WAS IMPROPERLY SEIZED OR UNLAWFULLY SEIZED AND THEN WE
3 CAN TAKE IT FROM THERE.

4 ALL RIGHT. LET'S PROCEED WITH THE SECOND
5 PRONG OF THE MOTION TO DISMISS REGARDING THE ISSUE OF A
6 VIOLATION OF THE ATTORNEY/CLIENT PRIVILEGE WITH RESPECT
7 TO THE CONDUCT OF THE LAW ENFORCEMENT AGENCY AND THE
8 PERSON NAMED BUTCH JONES.

9 SO THE PEOPLE MAY -- STRIKE THAT. THE
10 DEFENSE MAY CALL THEIR FIRST WITNESS ON THAT.

11 MS. SARIS: THANK YOU, YOUR HONOR. DEFENSE CALLS
12 DETECTIVE MARK LILLIENFELD.

13
14 MARK LILLIENFELD,
15 CALLED BY THE DEFENSE AS A WITNESS, WAS
16 SWORN AND TESTIFIED AS FOLLOWS:

17
18 THE CLERK: RAISE YOUR RIGHT HAND.

19 YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU
20 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
21 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH
22 SO HELP YOU GOD.

23 THE WITNESS: YES.

24 THE CLERK: PLEASE BE SEATED IN THE WITNESS BOX.
25 STATE AND SPELL YOUR FIRST AND LAST NAME FOR THE RECORD.

26 THE WITNESS: MARK LILLIENFELD. M-A-R-K.
27 L-I-L-L-I-E-N-F-E-L-D.

28 THE CLERK: THANK YOU.

1 THE COURT: YOU MAY INQUIRE.

2 MS. SARIS: THANK YOU.

3
4 DIRECT EXAMINATION

5 BY MS. SARIS:

6 Q. DETECTIVE LILLIENFELD, ARE YOU EMPLOYED WITH
7 THE LOS ANGELES SHERIFF'S OFFICE?

8 A. YES, MA'AM.

9 Q. IN 2001 WERE YOU INVESTIGATING A MICHAEL
10 GOODWIN FOR THE MURDER OF MICKEY THOMPSON?

11 A. YES, MA'AM.

12 Q. DO YOU SEE MICHAEL GOODWIN IN COURT TODAY?

13 A. YES, MA'AM.

14 Q. AND CAN YOU POINT TO HIM AND SAY WHAT HE'S
15 WEARING, PLEASE?

16 A. SURE. HE IS SITTING RIGHT TO YOUR LEFT
17 WEARING AN ORANGE JAIL JUMPSUIT AND GLASSES.

18 THE COURT: IDENTIFYING MR. GOODWIN FOR THE RECORD.

19 Q BY MS. SARIS: IN 2001 WERE YOU ACQUAINTED
20 WITH HIM BY SIGHT AND BY NAME?

21 A. YES.

22 Q. DID YOU MEET AN INDIVIDUAL BY THE NAME OF
23 BUTCH JONES?

24 A. YES, MA'AM.

25 Q. DO YOU KNOW HIS REAL NAME?

26 A. YES, MA'AM.

27 Q. WHAT IS THAT?

28 A. MICHAEL JONES.

1 Q. AND HOW DID YOU COME TO MEET HIM ORIGINALLY?

2 A. AT THE TIME THAT I MET HIM I WAS OPERATING A
3 WIRE INTERCEPT THAT WAS COURT AUTHORIZED. AND MR. JONES
4 WAS THE RECIPIENT OF SOME PHONE CALLS BY MR. GOODWIN.
5 AND THAT'S HOW I IDENTIFIED AND MET HIM.

6 Q. AND SO DID YOU MAKE CONTACT WITH MR. JONES OR
7 DID HE MAKE CONTACT WITH YOU FIRST?

8 A. I MADE CONTACT WITH HIM FIRST.

9 Q. DID YOU RUN HIS RECORD OR RAP SHEET PRIOR TO
10 DOING THAT?

11 A. YES, MA'AM.

12 Q. DID YOU FIND OUT THAT HE OUGHT TO HAVE BEEN
13 REGISTERED AS A SEXUAL OFFENDER?

14 A. YES, MA'AM.

15 Q. AND WAS HE CURRENTLY AT THAT TIME REGISTERED
16 AS A SEX OFFENDER?

17 A. NO, MA'AM.

18 Q. IS THAT A VIOLATION OF LAW AS FAR AS YOU
19 KNOW?

20 A. YES.

21 Q. HOW DID YOU FIRST CONTACT HIM?

22 A. I WENT TO HIS APARTMENT.

23 Q. WERE YOU ANNOUNCED?

24 A. I'M NOT SURE WHAT YOU MEAN.

25 Q. IN OTHER WORDS, DID YOU MAKE AN APPOINTMENT
26 OR DID YOU JUST KNOCK?

27 A. I RANG THE BUZZER DOWNSTAIRS AND WAS ALLOWED
28 IN THROUGH THE SECURITY GATE.

1 Q. AND WHEN YOU MET HIM, DID YOU DETERMINE THAT
2 HE WAS ACQUAINTED WITH MR. GOODWIN?

3 A. YES.

4 Q. AND WHAT -- DID YOU ASK HIM TO BECOME
5 INVOLVED IN YOUR INVESTIGATION?

6 A. NO.

7 Q. HOW DID HE BECOME INVOLVED IN YOUR
8 INVESTIGATION?

9 A. AGAIN, AS I JUST TESTIFIED, HE WAS THE
10 RECIPIENT OF PHONE CALLS AND COMMUNICATIONS ON THE WIRE
11 INTERCEPT BETWEEN MR. GOODWIN AND HIMSELF.

12 Q. RIGHT. AND THEN YOU WENT TO HIS APARTMENT?

13 A. YES, MA'AM.

14 Q. AND WHAT DID YOU ASK HIM TO DO, IF ANYTHING?

15 A. TALK TO ME AND GIVE ME INFORMATION THAT HE
16 MAY HAVE PERTAINING TO MR. GOODWIN'S INVOLVEMENT IN THE
17 MURDERS OF THE THOMPSONS.

18 Q. AND WAS THAT SUPPOSED TO BE JUST A ONE-TIME
19 INTERVIEW? OR DID YOU ASK HIM TO CONTINUE TO CALL YOU ON
20 A DATE OR WEEKLY BASIS?

21 A. IT WAS SUPPOSED TO BE A ONE-TIME INTERVIEW AT
22 THAT TIME.

23 Q. AND WAS IT ONLY ONE TIME, THAT INTERVIEW?

24 A. NO.

25 Q. HOW OFTEN DID YOU TALK TO HIM AFTER THAT?

26 A. ON A DAILY BASIS FOR SEVERAL WEEKS OR NEAR A
27 DAILY BASIS FOR SEVERAL WEEKS.

28 Q. WERE YOU AWARE THAT HE WAS PRIVY TO

1 INFORMATION THAT MR. GOODWIN HAD DISCUSSED WITH HIS
2 ATTORNEY?

3 A. NO.

4 Q. HE DIDN'T TELL YOU ABOUT A PRESS CONFERENCE
5 THAT MR. GOODWIN'S ATTORNEY WAS TRYING TO SET UP?

6 A. AMONGST THE INFORMATION HE GAVE ME, YES,
7 THAT'S ONE OF THE FACTS THAT HE HAD DIVULGED TO ME.

8 Q. DID YOU ADVISE HIM THAT YOU KNEW OF HIS
9 STATUS AS A NON-REGISTERED SEX OFFENDER?

10 A. NO.

11 Q. DID YOU EVER DISCUSS HIS BACKGROUND AT ALL IN
12 THAT REGARD?

13 A. IN THAT REGARD? VERY LITTLE.

14 Q. DID YOU DISCUSS THE FACT THAT HE WAS AN
15 EX-FELON?

16 A. YES.

17 Q. DID YOU DO ANYTHING TO HELP HIM REGISTER AS A
18 SEX OFFENDER?

19 A. I DIRECTED HIM TO THE AGENCY THAT HAD
20 JURISDICTION OVER WHERE HIS RESIDENCE WAS AT THE TIME.
21 AND PROVIDED HIM WITH A PHONE NUMBER TO THE DETECTIVE
22 THAT WOULD HAVE HANDLED THAT MATTER.

23 Q. SO IT WAS CLEAR THAT YOU KNEW HE WAS NOT
24 CURRENTLY UP TO DATE IN HIS REGISTRATION?

25 MR. JACKSON: OBJECTION. VAGUE. CLEAR TO WHOM?

26 THE COURT: ALL RIGHT. SUSTAINED.

27 Q. BY MS. SARIS: WHEN DID YOU DO THAT, DIRECT
28 HIM TO THE AGENCY AND PROVIDE HIM WITH A PHONE NUMBER?

1 A. I DON'T RECALL. IN RELATION TO MY MEETING
2 WITH HIM, I DON'T RECALL.

3 Q. WELL, WOULD YOU HAVE DONE THAT WITH SOMEONE
4 WHO WAS UP TO DATE IN THEIR REGISTRATION?

5 MR. JACKSON: OBJECTION. SPECULATION.

6 THE COURT: SUSTAINED.

7 Q. BY MS. SARIS: DID YOU EVER ADVISE MR. JONES
8 THAT HE WAS SUBJECT TO STATE PRISON INCARCERATION IF HE
9 WAS NOT REGISTERED PROPERLY?

10 A. NO.

11 Q. DID YOU ENCOURAGE HIM TO REGISTER?

12 A. YES.

13 Q. WERE YOU EVER AWARE OF A MEETING -- OF ANY
14 MEETING THAT TOOK PLACE BETWEEN MR. GOODWIN AND
15 HIS ATTORNEY AT -- I'M SORRY. LET ME BACK UP.

16 DO YOU KNOW WHO MR. GOODWIN'S ATTORNEY WAS AT
17 THE TIME?

18 A. YES.

19 Q. WHO WAS THAT?

20 A. JEFFREY BENICE. B-E-N-I-C-E.

21 Q. WERE YOU EVER AWARE THAT THERE WAS A POINT
22 WHERE MR. JONES WAS PRESENT AT A MEETING BETWEEN
23 MR. GOODWIN AND MR. BENICE?

24 MR. JACKSON: OBJECTION. VAGUE.

25 THE COURT: ALL RIGHT. SEE IF YOU CAN NARROW THAT
26 DOWN AS TO --

27 Q. BY MS. SARIS: DID MR. JONES EVER TELL YOU
28 THAT HE HAD BEEN PRESENT AT A MEETING BETWEEN MR. GOODWIN

1 AND MR. BENICE?

2 A. AT SOME POINT IN TIME, YES.

3 Q. IS THIS A POINT IN TIME DURING WHICH YOU WERE
4 GETTING THESE REPORTS FROM HIM?

5 A. NO.

6 Q. WHEN WAS THIS?

7 A. AFTER YOU HAD FILED THIS MOTION.

8 Q. AFTER WE FILED THIS MOTION?

9 A. THAT'S CORRECT.

10 Q. DID YOU EVER INQUIRE OF HIM WHETHER OR NOT HE
11 WAS ATTENDING MEETINGS AT THE TIME OF YOUR DAILY
12 COMMUNICATIONS BETWEEN MR. GOODWIN AND HIS ATTORNEY?

13 MR. JACKSON: VAGUE AS TO TIME.

14 THE COURT: ALL RIGHT. SUSTAINED.

15 Q. BY MS. SARIS: AT THE TIME THAT YOU WERE
16 SPEAKING TO MR. JONES, DID YOU EVER INQUIRE OF HIM THEN
17 WHETHER OR NOT HE WAS ATTENDING MEETINGS BETWEEN
18 MR. GOODWIN AND MR. BENICE?

19 A. YES.

20 Q. AND WHAT DID HE TELL YOU?

21 A. NO.

22 Q. SO IS IT YOUR TESTIMONY TODAY THAT HE LIED TO
23 YOU AT THE TIME?

24 MR. JACKSON: OBJECTION. IT'S ARGUMENTATIVE.

25 THE COURT: SUSTAINED.

26 Q. BY MS. SARIS: IS IT YOUR TESTIMONY TODAY
27 THAT HIS STORY HAS SINCE CHANGED?

28 MR. JACKSON: OBJECTION. ASSUMES FACTS NOT IN

1 EVIDENCE.

2 THE COURT: SUSTAINED.

3 Q. BY MS. SARIS: DID HE TELL YOU SOMETHING
4 DIFFERENT IN 2001 THAN HE TOLD YOU IN 2005?

5 A. NOT SUBSTANTIALLY, NO.

6 Q. REGARDING HIS ATTENDANCE AT MEETINGS BETWEEN
7 MR. GOODWIN AND MR. BENICE, HAS WHAT HE TOLD YOU IN 2001
8 CHANGE FROM WHAT HE TOLD YOU IN 2005?

9 A. NOT SUBSTANTIALLY, NO.

10 Q. SO IN 2001 YOU WERE AWARE THAT HE WAS PRESENT
11 AT THESE MEETINGS?

12 MR. JACKSON: OBJECTION. ASSUMES FACTS NOT IN
13 EVIDENCE.

14 THE COURT: SUSTAINED.

15 Q. BY MS. SARIS: WHAT TYPES OF INFORMATION WAS
16 MR. JONES RELAYING TO YOU AT THIS TIME?

17 A. PRIMARILY MR. GOODWIN'S MOVEMENTS AND HIS
18 COMMUNICATIONS. AND BECAUSE WE WERE UP ON THE WIRE
19 INTERCEPT, I WOULD SOMETIMES ASK MR. JONES WHEN HE
20 ENGAGED MR. GOODWIN IN CONVERSATION TO SAY CERTAIN THINGS
21 OR TO REMARK TO HIM IN A CERTAIN MANNER IN ORDER TO
22 STIMULATE CONVERSATION ON THE WIRE INTERCEPT AS THAT'S
23 ONE OF THE THINGS THAT THE COURT AUTHORIZES WHEN THEY
24 SIGN A WIRE INTERCEPT.

25 Q. DID YOU EVER ASK MR. JONES IF HE WAS EMPLOYED
26 BY MR. BENICE IN 2001?

27 A. YES.

28 Q. AND WHAT DID HE SAY?

1 A. NO.

2 Q. DID YOU MAKE ANY EFFORT TO SUBSTANTIATE THAT
3 CLAIM ON YOUR OWN?

4 A. YES.

5 Q. HOW DID YOU DO THAT?

6 A. I OBTAINED COPIES OF CHECKS WRITTEN AND
7 SIGNED BY MR. GOODWIN MADE OUT TO MR. JONES FOR THE
8 SERVICES THAT MR. JONES RENDERED FOR MR. GOODWIN.

9 Q. AND WHEN WAS THIS?

10 A. IN 2001.

11 Q. DID YOU EVER MAKE ANY CONTACT WITH THE OFFICE
12 OF JEFF BENICE OR TRY TO OBTAIN ANY OF THEIR RECORDS?

13 A. FOR THAT PURPOSE?

14 Q. YES.

15 A. ABSOLUTELY NOT.

16 Q. DID YOU EVER ARREST MR. JONES FOR HIS FAILURE
17 TO REGISTER AS A SEX OFFENDER?

18 A. NO.

19 Q. IS THAT AN OFFENSE FOR WHICH YOU HAD THE
20 POWER TO ARREST?

21 A. I CAN'T ANSWER THAT WITH A SIMPLE YES OR NO.
22 THE LONG BEACH JUDICIAL DISTRICT -- THE LONG BEACH D.A.'S
23 OFFICE DOES NOT FILE ON THAT VIOLATION. SO IN THAT
24 RESPECT THE ANSWER IS NO.

25 Q. DID YOU EVER SUBMIT A REQUEST TO HAVE HIM
26 CHARGED WITH THAT VIOLATION?

27 A. NO.

28 Q. WHEN MR. JONES WOULD ADVISE YOU OF THE

1 MOVEMENTS AND COMMUNICATIONS OF MR. GOODWIN, DID THAT
2 INFORMATION EVER ENTAIL MEETINGS OR CONVERSATIONS THAT
3 MR. GOODWIN WAS HAVING WITH JEFFREY BENICE?

4 A. HE WOULD TELL ME AT TIMES THAT MR. GOODWIN
5 WAS MEETING WITH MR. BENICE. BUT IT WASN'T UNTIL LATER
6 DURING THAT PERIOD OF TIME THAT I WAS COMMUNICATING WITH
7 MR. JONES, IT WASN'T UNTIL LATER DURING THAT TIME PERIOD
8 THAT HE WOULD COMMUNICATE THAT, THAT MR. GOODWIN WAS
9 MEETING WITH MR. BENICE.

10 Q. DID MR. JONES TELL YOU THAT MR. BENICE AND
11 MR. GOODWIN WERE MEETING AND DISCUSSING A DEFENSE
12 STRATEGY THAT THEY WERE GOING TO PRESENT AS PART OF A
13 PRESS CONFERENCE?

14 MR. JACKSON: OBJECTION. ASSUMES FACTS NOT IN
15 EVIDENCE. IT'S ALSO COMPOUND.

16 THE COURT: WELL, IT IS COMPOUND. SUSTAINED.

17 Q. BY MS. SARIS: DID YOU LEARN ABOUT AN
18 UPCOMING PRESS CONFERENCE FROM MR. JONES?

19 MR. JACKSON: OBJECTION. ASKED AND ANSWERED.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER.

22 THE WITNESS: THE ANSWER IS YES.

23 Q. BY MS. SARIS: AND DID YOU LEARN AT THAT TIME
24 THAT AT THE PRESS CONFERENCE THEY WERE GOING TO ADDRESS
25 CERTAIN STRATEGIES IN THE DEFENSE?

26 A. NOT FROM MR. JONES. BUT, YES, I DID LEARN
27 THAT AT THAT TIME.

28 Q. PRIOR TO THE PRESS CONFERENCE?

1 A. THAT'S CORRECT.

2 Q. DID MR. JONES ADVISE YOU THAT MR. GOODWIN WAS
3 MEETING WITH HIS ATTORNEYS IN ORDER TO TRY AND FIGURE OUT
4 A DEFENSE STRATEGY IN CASE HE WAS ARRESTED FOR THIS
5 MURDER?

6 A. NO, NOT THAT I RECALL.

7 Q. DID YOU WRITE A WRITTEN STATEMENT ON A REPORT
8 REGARDING YOUR CONVERSATIONS WITH BUTCH JONES?

9 A. YES.

10 Q. HAVE YOU HAD AN OPPORTUNITY TO REVIEW THOSE?

11 A. I HAVE NOT.

12 MS. SARIS: YOUR HONOR, MAY I APPROACH?

13 THE COURT: YES.

14 Q. BY MS. SARIS: WOULD SHOWING YOU A PORTION OF
15 THAT STATEMENT REGARDING YOUR CONVERSATION WITH MR. JONES
16 REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT YOU WERE
17 ADVISED OF A MEETING BETWEEN MR. GOODWIN AND HIS
18 ATTORNEYS TO DISCUSS A DEFENSE STRATEGY?

19 A. YES, MA'AM.

20 Q. I'M SHOWING YOU WHAT HAS A PAGE 15 AT THE TOP
21 FROM AN APRIL 17, 2001 REPORT. DIRECTING YOUR ATTENTION
22 TO A PARAGRAPH THAT BEGINS "ON MARCH 27 OF 2001." IF YOU
23 WILL READ THAT PARAGRAPH AND LET US KNOW IF THAT
24 REFRESHES YOUR RECOLLECTION.

25 A. OKAY.

26 Q. NOW, DID MR. JONES EVER ADVISE YOU THAT HE --
27 THAT MR. GOODWIN AND HIS ATTORNEYS WERE MEETING TO TRY TO
28 FIGURE OUT A DEFENSE STRATEGY IN CASE HE WAS INDICTED OR

1 ARRESTED?

2 A. IT APPEARS SO, YES, FROM MY RECOLLECTION OF
3 THAT REPORT, YES.

4 Q. AND DID YOU ASK HIM WHAT THOSE WOULD BE?

5 A. NO.

6 Q. DID YOU LEARN ABOUT MR. GOODWIN'S BELIEF THAT
7 THIS WAS A POLITICAL CONSPIRACY AGAINST HIM STARTED FROM
8 BY COLLENE CAMPBELL?

9 A. I HAD LEARNED THAT FROM MANY OTHER SOURCES
10 LONG PRIOR TO MY BEING INTRODUCED TO MR. JONES.

11 Q. DID MR. JONES EVER TELL YOU ANYTHING LIKE
12 THAT, THOUGH?

13 A. YES.

14 Q. DID MR. JONES EVER ADVISE YOU THAT HE
15 BELIEVED THE MURDER INDICTMENT WOULD BE RETRIBUTION FOR
16 MR. GOODWIN'S WANTING TO REOPEN AN OLD BANKRUPTCY CASE?

17 A. I'M SORRY. COULD YOU EITHER REPEAT OR
18 REPHRASE.

19 Q. DID MR. JONES EVER ADVISE YOU THAT
20 MR. GOODWIN BELIEVED THAT THIS MURDER PROSECUTION WAS IN
21 RETALIATION FOR MR. GOODWIN OPENING UP AN OLD BANKRUPTCY
22 CASE?

23 A. BOTH MR. JONES AND A MULTITUDE OF OTHER
24 PEOPLE HAD ADVISED ME OF THAT DURING THE COURSE OF THE
25 INVESTIGATION, YES.

26 Q. SO IN 2001, WHEN YOU WERE SPEAKING TO
27 MR. JONES ON A DAILY BASIS, DID YOU EVER ASK HIM TO --
28 WERE YOU EVER AWARE OF A TIME WHERE HE TOLD YOU, WELL, I

1 WAS AT JEFF BENICE'S OFFICE WITH MICHAEL GOODWIN?

2 A. YES.

3 Q. DID YOU EVER ADMONISH MR. JONES OR ADVISE HIM
4 THAT TO BE CAREFUL ABOUT REPORTING TO YOU ANYTHING THAT
5 MR. GOODWIN AND MR. BENICE SAID TO ONE ANOTHER?

6 A. NO.

7 Q. DID YOU THREATEN MR. JONES THAT YOU WOULD
8 EITHER LITERALLY THREATEN OR MAKE AN IMPLIED THREAT THAT
9 IF HE DID NOT ASSIST YOU IN THIS INVESTIGATION, THAT YOU
10 WOULD SEE TO IT THAT HE WAS PROSECUTED FOR FAILING TO
11 REGISTER AS A SEX OFFENDER?

12 A. NO, MA'AM.

13 Q. AS FAR AS YOU KNOW, BASED ON YOUR
14 CONVERSATIONS WITH MR. JONES, HE DID THIS OUT OF THE
15 GOODNESS OF HIS HEART?

16 A. NO.

17 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE.

18 THE COURT: SUSTAINED.

19 Q. BY MS. SARIS: WELL, WHAT WAS MR. JONES'
20 MOTIVATION AS FAR AS YOUR STATE OF MIND?

21 MR. JACKSON: OBJECTION. IT CALLS FOR SPECULATION.

22 THE COURT: SUSTAINED.

23 Q. BY MS. SARIS: DID MR. JONES EVER EXPRESS TO
24 YOU WHY HE WAS DOING THIS?

25 A. NO.

26 Q. DID YOU EVER ASK?

27 A. NO.

28 Q. WERE YOU AFRAID THAT HE MIGHT THINK THAT IT

1 WAS NECESSARY FOR HIM TO DO IT IN ORDER NOT TO BE
2 PROSECUTED AS A SEX OFFENDER?

3 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.

4 THE COURT: OVERRULED.

5 YOU CAN ANSWER THAT.

6 THE WITNESS: THE ANSWER IS NO.

7 Q. BY MS. SARIS: DID YOU EVER TELL HIM THAT YOU
8 KNEW HE WAS AN EX-FELON?

9 A. AS I TESTIFIED EARLIER, YES.

10 Q. DID YOU EVER LEARN OF MR. JONES ANY
11 BACKGROUND HE MAY HAVE HAD IN LAW ENFORCEMENT?

12 A. YES.

13 Q. AND WHAT WAS THAT?

14 A. HE AT ONE POINT IN TIME WAS A POLICE OFFICER
15 FOR THE CITY OF WASHINGTON, D.C.

16 Q. IF YOU KNOW, DID MR. JONES EVER REGISTER AS A
17 SEX OFFENDER? WAS IT JUST THAT HIS REGISTRATION WAS OUT
18 OF DATE OR HAD HE NEVER REGISTERED WHEN YOU MET HIM?

19 A. I DO KNOW THE ANSWER.

20 Q. AND WHAT IS THAT?

21 A. HE HAD REGISTERED AND HIS REGISTRATION WAS
22 OUT OF DATE.

23 Q. DO YOU KNOW HOW LONG IT HAD BEEN?

24 A. I DO NOT.

25 Q. IS A PERSON'S REGISTRATION BEING OUT OF DATE
26 A CRIME FOR WHICH ONE CAN BE PROSECUTED IN THE COUNTY OF
27 LOS ANGELES?

28 A. OTHER THAN THE LONG BEACH JUDICIAL DISTRICT,

1 I BELIEVE IT IS, YES.

2 Q. DOES LONG BEACH HAVE DIFFERENT LAWS THAN THE
3 COUNTY OF LOS ANGELES?

4 A. THEY HAVE DIFFERENT FILING AND PROSECUTING
5 POLICIES THAN THE REST OF THE COUNTY, YES.

6 Q. BUT IN LOS ANGELES COUNTY, IS THAT A CRIME
7 FOR WHICH ONE CAN BE PROSECUTED?

8 A. ABSOLUTELY.

9 Q. DID YOU EVER TAKE THIS CASE TO LONG BEACH AND
10 HAVE THEM REFUSE TO PROSECUTE IT?

11 A. NO.

12 Q. IS IT YOUR TESTIMONY THAT LONG BEACH HAS
13 NEVER PROSECUTED AN INDIVIDUAL FOR FAILING TO REGISTER AS
14 A SEX OFFENDER?

15 A. THAT IS ABSOLUTELY NOT MY TESTIMONY.

16 MS. SARIS: I HAVE NOTHING FURTHER OF THIS WITNESS.

17 THE COURT: MR. JACKSON?

18 MR. JACKSON: THANK YOU.

19

20 CROSS-EXAMINATION

21 BY MR. JACKSON:

22 Q. DETECTIVE, YOU INDICATED THAT YOU MET
23 MR. JONES THROUGH A TELEPHONE CONVERSATION THAT WAS
24 PICKED UP VIA A WIRE INTERCEPT; CORRECT?

25 A. YES, SIR.

26 Q. THAT WIRE TAP WAS JUDICIALLY MANDATED OR
27 SANCTIONED; CORRECT?

28 A. YES, SIR.

1 Q. THAT WIRE TAP -- PART AND PARCEL OF THAT WIRE
2 TAP WAS ALLOWING YOU TO STIMULATE CONVERSATIONS THROUGH
3 DIFFERENT METHODOLOGY DEALING WITH MR. GOODWIN; CORRECT?

4 A. YES, SIR.

5 Q. AND THAT WAS IN FURTHERANCE OF THE
6 INVESTIGATION THAT'S NOW BEFORE THE BENCH; CORRECT?

7 A. YES, SIR.

8 Q. THE INVESTIGATION OF THE CASE THAT'S NOW
9 BEFORE THE BENCH; RIGHT?

10 A. THAT'S CORRECT.

11 Q. WHEN YOU MET MR. JONES, DID YOU ASK HIM -- OR
12 DID YOU TELL HIM THAT YOU WERE INTERESTED IN FINDING OUT
13 CERTAIN INFORMATION ABOUT MR. GOODWIN'S MOVEMENTS AND HIS
14 DAILY ACTIVITIES?

15 A. YES.

16 Q. DID MR. JONES APPEAR TO YOU TO BE VOLUNTARY
17 IN HIS ACCEPTANCE OF YOUR OFFER TO GIVE INFORMATION?

18 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.
19 ASSUMES FACTS NOT IN EVIDENCE.

20 THE COURT: SUSTAINED.

21 Q. BY MR. JACKSON: DID IT APPEAR TO YOU THAT
22 MR. JONES WAS ACTING UNDER DURESS OR DID IT APPEAR TO YOU
23 THAT HE WAS ACTING VOLUNTARILY?

24 MS. SARIS: OBJECTION. BEYOND THE SCOPE OF THIS
25 WITNESS'S KNOWLEDGE AND IRRELEVANT AS TO HIS BELIEF.

26 THE COURT: WELL, I THINK HIS BELIEF IS RELEVANT.
27 I'M NOT SURE THE QUESTION CAN BE ANSWERED WITHOUT CALLING
28 FOR SOME SPECULATION. BUT I THINK THE AREA IS RELEVANT.

1 MR. JACKSON: I'LL REPHRASE THE QUESTION.

2 Q. IN YOUR MIND -- I'M ASKING ABOUT YOUR STATE
3 OF MIND AND WHAT YOU PERCEIVED AT THE TIME. AND YOU HAVE
4 DEALT WITH WITNESSES IN THE PAST; CORRECT?

5 A. YES.

6 Q. IN THE YEAR 2001, YOU HAD BEEN A HOMICIDE
7 DETECTIVE FOR MANY YEARS; CORRECT?

8 A. YES.

9 Q. BASED ON ALL YOUR EXPERIENCE WITH WITNESSES,
10 WAS IT YOUR PERCEPTION THAT MR. JONES WAS ACTING
11 VOLUNTARILY WHEN YOU APPROACHED HIM WITH THE IDEA OF
12 GIVING INFORMATION ABOUT MR. GOODWIN OR WAS HE ACTING
13 UNDER A DURESS?

14 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.
15 IT'S MR. JONES' STATE OF MIND THAT MATTERS.

16 THE COURT: I THINK --

17 MR. JACKSON: YOUR HONOR, THAT'S ABSOLUTELY
18 INCORRECT. HALF OF MS. SARIS'S QUESTIONS GO TO DETECTIVE
19 LILLIENFELD'S STATE OF MIND.

20 MS. SARIS: WHICH WERE ALL OBJECTED TO AND
21 SUSTAINED.

22 MR. JACKSON: THAT'S ACTUALLY NOT TRUE.

23 THE COURT: WELL, HE CAN ANSWER AS TO HIS STATE OF
24 MIND. BUT I DON'T THINK HE CAN ANSWER AS TO WHETHER OR
25 NOT HE THOUGHT MR. JONES WAS ACTING UNDER DURESS.

26 MR. JACKSON: ALL RIGHT.

27 THE COURT: BUT I THINK YOU CAN GO ABOUT GETTING
28 THAT INFORMATION IN OTHER WAYS.

1 BUT WHY DON'T YOU GO AHEAD AND JUST ANSWER
2 THAT QUESTION. IN YOUR OPINION, BASED ON YOUR
3 OBSERVATIONS, DID IT APPEAR THAT MR. JONES WAS ACTING
4 VOLUNTARILY?

5 THE WITNESS: YES, YOUR HONOR.

6 Q. BY MR. JACKSON: FOLLOWING UP ON THAT,
7 DETECTIVE, DID YOU EVER THREATEN MR. JONES WITH
8 PROSECUTION?

9 A. NO.

10 Q. DID YOU THREATEN HIM WITH ANY KIND OF
11 RETRIBUTION WERE HE NOT TO COOPERATE WITH YOU?

12 A. NO.

13 Q. DID MR. JONES EVER INITIATE PHONE CALLS TO
14 YOU?

15 A. YES.

16 Q. ON MORE THAN ONE OCCASION?

17 A. YES.

18 Q. DID MR. JONES GIVE OVER INFORMATION THAT YOU
19 HADN'T SPECIFICALLY REQUESTED?

20 A. YES.

21 Q. AND THAT WAS FOLLOWING YOUR INITIAL MEETING;
22 CORRECT?

23 A. THAT'S CORRECT.

24 Q. AND YOU INDICATED IN YOUR DIRECT EXAMINATION
25 THAT THERE WAS A PERIOD OF SEVERAL WEEKS WHEN YOU TALKED
26 TO MR. JONES ALMOST DAILY; CORRECT?

27 A. THAT'S CORRECT.

28 Q. WERE YOU CALLING MR. JONES AND PROMPTING

1 INFORMATION FROM HIM OR WAS HE CALLING YOU MOST OF THE
2 TIME?

3 A. HE WAS CALLING ME.

4 Q. ALL RIGHT. YOU INDICATED THAT MR. JONES TOLD
5 YOU MORE THAN ONCE -- OR AT LEAST ON ONE OCCASION THAT HE
6 HAD -- THAT HE, MR. GOODWIN, HAD GONE OVER TO JEFF
7 BENICE'S OFFICE AND MET WITH JEFF BENICE; CORRECT?

8 A. YES.

9 Q. DID MR. JONES EVER INDICATE TO YOU THAT
10 MR. JONES SAT IN A MEETING WITH JEFF BENICE AND MIKE
11 GOODWIN WHEREIN THE THREE OF THEM DISCUSSED DEFENSE
12 STRATEGIES?

13 A. NO.

14 Q. DID MR. JONES EVER TELL YOU THAT JEFF BEN HAD
15 DISCUSSED DEFENSE STRATEGIES WITH MR. JONES?

16 A. NO.

17 Q. DID MR. JONES EVER TELL YOU THAT MIKE GOODWIN
18 HAD DISCUSSED DEFENSE STRATEGIES WITH MR. JONES?

19 A. YES.

20 Q. ALL RIGHT. WHEN YOU TESTIFIED EARLIER THAT
21 YOU GOT DETAILS ABOUT THE PRESS CONFERENCE, FOR INSTANCE,
22 THAT WAS SLATED TO HAPPEN WHENEVER IT WAS THAT IT
23 HAPPENED, DID MR. JONES TELL YOU WHERE HE GOT THAT
24 INFORMATION?

25 A. YES.

26 Q. WHERE DID HE SAY HE GOT IT?

27 A. FROM LINDA TERBUSH, MR. GOODWIN'S GIRLFRIEND
28 AND ASSOCIATE AS WELL AS FROM MR. GOODWIN.

1 Q. AND DID MR. JONES INDICATE WHETHER OR NOT
2 THIS CONVERSATION THAT HE HAD WITH MR. GOODWIN WAS A
3 CONVERSATION JUST BETWEEN THE TWO OF THEM? OR WAS IT A
4 CONVERSATION THAT TOOK PLACE WITHIN THE CONFINES OF THE
5 ATTORNEY'S OFFICE WITH MR. BENICE?

6 A. IT WAS A CONVERSATION BETWEEN THE TWO OF
7 THEM.

8 Q. ALL RIGHT. DID MR. JONES INDICATE WHAT HIS
9 JOB WAS GENERALLY SPEAKING?

10 A. YES.

11 Q. WHAT WAS IT?

12 A. HE WAS A RUNNER, A MESSENGER, AND A
13 RESEARCHER FOR MR. GOODWIN.

14 Q. DID HE INDICATE TO YOU WHERE HE CONDUCTED
15 MOST OF HIS BUSINESS?

16 A. YES.

17 Q. WHERE?

18 A. IN MR. GOODWIN'S HOME.

19 Q. DID HE INDICATE, MR. JONES, INDICATE WHERE
20 MOST OF HIS CONVERSATIONS WITH MR. GOODWIN TOOK PLACE?

21 A. YES.

22 Q. WHERE?

23 A. IN MR. GOODWIN'S HOME OR ON THE TELEPHONE.

24 Q. WAS IT YOUR BELIEF AT THAT TIME THAT
25 MR. JONES WAS GLEANING THE INFORMATION THAT HE WAS
26 SUPPLYING TO YOU FROM MR. GOODWIN?

27 A. YES.

28 Q. RATHER THAN MR. BENICE?

1 A. ABSOLUTELY.

2 Q. RATHER THAN FROM MR. BENICE?

3 A. ABSOLUTELY, YES.

4 Q. DID YOU HAVE ANY IMPRESSION AT THAT TIME BACK
5 IN 2001, DETECTIVE, THAT MR. JONES WAS PRIVY TO ANY
6 ATTORNEY/CLIENT PRIVILEGE COMMUNICATION BEHIND CLOSED
7 DOORS WITH JEFF BENICE AND MIKE GOODWIN?

8 A. NO.

9 Q. YOU INDICATED THAT ON AT LEAST ONE OCCASION
10 MR. JONES SAID MR. GOODWIN IS GOING TO MEET WITH JEFF
11 BENICE AND THEY'RE GOING TO TALK ABOUT DEFENSE
12 STRATEGIES; CORRECT?

13 A. YES, SIR.

14 Q. AND THAT HAS BEEN REFLECTED IN ONE OF YOUR
15 REPORTS; RIGHT?

16 A. YES, SIR.

17 Q. WAS THE CONTENTS OF THAT MEETING EVER
18 SUPPLIED TO YOU?

19 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER THAT.

22 THE WITNESS: NO.

23 Q. BY MR. JACKSON: DID YOU EVER HAVE REASON TO
24 BELIEVE THAT MR. JONES WAS, IN FACT, EMPLOYED BY
25 MR. BENICE?

26 A. NO.

27 Q. WAS THAT CONVERSATION OR WAS THAT SUBJECT
28 MATTER EVER BROACHED WITH MR. JONES TO YOU?

1 A. YES.

2 Q. WHAT DID MR. JONES SAY WITH THAT REGARD?

3 MS. SARIS: OBJECTION. CALLS FOR HEARSAY.

4 THE COURT: AREN'T WE TAKING THIS TESTIMONY FOR
5 NON-HEARSAY?

6 MR. JACKSON: I'M OFFERING IT --

7 THE COURT: STATE OF MIND?

8 MR. JACKSON: THERE YOU GO.

9 THE COURT: SO WITH THAT LIMITATION, OVERRULED.

10 Q BY MR. JACKSON: DO YOU HAVE THE QUESTION IN
11 MIND?

12 A. YES.

13 Q. GO AHEAD.

14 A. DURING THE TIME FRAME THAT I'M TESTIFYING
15 ABOUT -- DURING THE END OF THE TIME FRAME THAT I'M
16 TESTIFYING ABOUT, IT BECAME APPARENT FROM WHAT MR. JONES
17 TOLD ME THAT MR. GOODWIN WAS AFRAID THAT HIS UNITED
18 STATES PROBATION OFFICER WOULD FIND OUT THAT HE WAS
19 EMPLOYING AND ASSOCIATING WITH MR. JONES.

20 MR. JONES WAS A CONVICTED FELON. MR. GOODWIN
21 HAD DISCUSSED WITH MR. JONES THAT HE KNEW THAT AND THAT
22 IT WOULD BE A VIOLATION OF HIS FEDERAL PROBATION. HE HAD
23 ATTEMPTED TO MAKE ARRANGEMENTS WITH MR. JONES, NO. 1, TO
24 ALWAYS --

25 MS. SARIS: OBJECTION, YOUR HONOR. I'M SORRY. THE
26 QUESTION WAS WHAT DID MR. JONES TELL HIM. NOT WHAT
27 MR. GOODWIN DID OR DID NOT DO. AND I WOULD ASK THAT IT
28 BE LIMITED IN THAT ANSWER.

1 THE COURT: ALL RIGHT. THE QUESTION HAS BEEN
2 ANSWERED. ASK ANOTHER QUESTION.

3 Q. BY MR. JACKSON: DID MR. JONES EXPLAIN
4 FURTHER ANYTHING THAT MR. GOODWIN DID OR DIDN'T DO IN
5 ORDER TO DISTANCE HIMSELF -- DISTANCE MR. GOODWIN FROM
6 MR. JONES?

7 A. YES.

8 Q. WHAT DID MR. JONES TELL YOU THAT MR. GOODWIN
9 DID OR TOLD HIM?

10 A. HE MADE ARRANGEMENTS SO THAT MR. JONES WOULD
11 AT THAT POINT IN TIME BE PAID HENCEFORTH BY MR. BENICE.

12 Q. DID MR. JONES TELL YOU WHETHER OR NOT HE
13 ACTUALLY WORKED FOR MR. BENICE?

14 A. YES.

15 Q. WHAT WAS HIS ANSWER OR WHAT DID HE STATE IN
16 THAT REGARD?

17 A. NO, HE DID NOT.

18 Q. DID YOU EVER DETERMINE WHETHER OR NOT
19 MR. BENICE HAD EVER WRITTEN ANY CHECKS TO PAY MR. JONES
20 FOR SERVICES RENDERED?

21 A. I ATTEMPTED TO, YES.

22 Q. AND WHAT WAS THE RESULT OF THAT
23 INVESTIGATION?

24 A. MR. JONES NEVER ADVISED ME OR TURNED OVER TO
25 ME OR PHOTOCOPIED FOR ME ANY CHECKS THAT HAD BEEN WRITTEN
26 BY MR. BENICE FOR THE WORK MR. JONES HAD PERFORMED FOR
27 MR. GOODWIN.

28 Q. WAS IT YOUR UNDERSTANDING THAT MR. -- THAT

1 MIKE GOODWIN WAS ATTEMPTING TO PERPETRATE A SHAM, IF YOU
2 WILL, ABOUT THE EMPLOYMENT STATUS OF MR. JONES FOR HIS
3 UNITED STATES PROBATION OFFICER?

4 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.
5 BEYOND THE SCOPE OF THIS WITNESS'S KNOWLEDGE. AND
6 IRRELEVANT.

7 THE COURT: WELL, I'M GOING TO LIMIT IT JUST SOLELY
8 TO THIS WITNESS'S STATE OF MIND BECAUSE I AM UNDER THE
9 IMPRESSION THAT'S PRETTY CRITICAL TO THE INQUIRY HERE.

10 MS. SARIS: THE QUESTION OF WHETHER MR. GOODWIN WAS
11 PERPETRATING A SHAM? OR THE QUESTION OF WHETHER --

12 THE COURT: WHETHER OR NOT THIS WITNESS BELIEVED
13 THAT THIS ARRANGEMENT -- THIS EMPLOYEE/EMPLOYER
14 RELATIONSHIP WAS THE DOING ON THE PART OF MR. GOODWIN AS
15 PART OF A SHAM AS TO THIS WITNESS'S STATE OF MIND IS THE
16 ONLY RELEVANCE IT HAS. AND I THINK I NEED TO HEAR THAT.

17 MS. SARIS: WELL, I'M GOING TO OBJECT AS VAGUE AS
18 TO TIME AND ASK HIM TO SPECIFY THE TIME FRAME HE'S
19 SPEAKING OF.

20 THE COURT: I'LL SUSTAIN IT ON THAT. SPECIFY.

21 Q. BY MR. JACKSON: DURING THE TIME THAT WE'RE
22 DISCUSSING BACK IN 2001, DURING THAT TIME WHEN MR. JONES
23 WAS SUPPLYING INFORMATION TO YOU FOLLOWING THE WIRE TAP
24 WHILE YOU WERE STILL UP ON THE WIRE TAP. DO YOU HAVE THE
25 TIME FRAME IN MIND?

26 A. YES, SIR.

27 Q. DURING THAT TIME, WAS IT YOUR UNDERSTANDING
28 AND DID MR. JONES RELATE TO YOU THAT MR. GOODWIN HAD

1 PERPETRATED BASICALLY -- OR WAS ATTEMPTING TO PERPETRATE
2 A SHAM OF SORTS AS TO THE EMPLOYMENT STATUS OF MR. JONES
3 IN ORDER TO DEFRAUD, IF YOU WILL, THE UNITED STATES
4 PROBATION OFFICE?

5 A. YES.

6 MR. JACKSON: ALL RIGHT. THAT'S ALL I HAVE.

7 THE COURT: REDIRECT?

8 MS. SARIS: YES.

9
10 REDIRECT EXAMINATION

11 BY MS. SARIS:

12 Q. ON MARCH 30, 2001, MR. JONES TOLD YOU THAT HE
13 HAD A CHECK IN THE AMOUNT OF \$700 WRITTEN TO HIM AND
14 SIGNED BY JEFFERY BENICE; CORRECT?

15 A. I BELIEVE SO, YES.

16 Q. WOULD YOU LIKE TO SEE A COPY OF YOUR REPORT
17 TO HELP YOU REFRESH YOUR RECOLLECTION AS TO WHETHER OR
18 NOT THAT'S, IN FACT, ACCURATE?

19 MR. JACKSON: OBJECTION. THAT'S IMPROPER
20 IMPEACHMENT, IF YOU WILL. IMPROPER REFRESHING. HE SAID
21 HE THINKS IT'S ACCURATE.

22 MS. SARIS: I JUST WANTED TO BE SURE.

23 THE COURT: ARE YOU SURE?

24 THE WITNESS: NO, I'M NOT 100 PERCENT SURE, YOUR
25 HONOR.

26 THE COURT: WOULD IT REFRESH YOUR MEMORY TO LOOK AT
27 IT?

28 THE WITNESS: SURE.

1 (PAUSE IN PROCEEDINGS.)

2 THE WITNESS: I'M SURE NOW.

3 Q. BY MS. SARIS: OKAY. SO ON MARCH 30TH, 2001,
4 MR. JONES INDICATED TO YOU THAT HE RECEIVED A CHECK
5 SIGNED BY JEFFERY BENICE; IS THAT CORRECT?

6 A. YES.

7 Q. MADE OUT TO MR. JONES?

8 A. YES.

9 Q. SO WHEN YOU TOLD THE D.A. EARLIER YOU WERE
10 NEVER ADVISED OF A CHECK OR SHOWN A WRITTEN CHECK, YOU
11 ACTUALLY WERE ADVISED, YOU JUST WEREN'T SHOWN A WRITTEN
12 COPY; IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. WHEN YOU REALIZED THAT INFORMATION ON MARCH
15 30TH, DID YOU STOP -- WHEN YOU HEARD ABOUT THIS CHECK,
16 DID YOU STOP ALL CONTACT WITH MR. JONES?

17 A. NO.

18 Q. DID YOU GO TO A COURT AND ASK FOR
19 CLARIFICATION SUCH AS THE COURT THAT AUTHORIZED YOUR WIRE
20 TAP?

21 A. NO.

22 Q. DID YOU GO TO THE ORANGE COUNTY DISTRICT
23 ATTORNEY'S OFFICE AND ASK FOR SOME SORT OF GUIDANCE AS TO
24 WHETHER OR NOT YOU MIGHT BE BREACHING THE ATTORNEY/CLIENT
25 PRIVILEGE?

26 A. NO.

27 Q. ON ANY OCCASION WHERE -- I THINK WE'VE
28 ESTABLISHED THAT AT SOME POINT MR. JONES, AT LEAST IN

1 DESCRIBING MR. GOODWIN'S MOVEMENT, TOLD YOU THAT
2 MR. GOODWIN WAS MEETING WITH OR HAD MET WITH JEFF BENICE;
3 CORRECT?

4 A. I'M SORRY. IS THAT A QUESTION?

5 Q. YES. DID MR. JONES ADVISE YOU AT SOME POINT
6 THAT HE KNEW MR. GOODWIN AND MR. BENICE WERE ABOUT TO
7 MEET OR HAD JUST MET?

8 A. YES.

9 Q. AND DID YOU SPEAK TO MR. JONES AFTER THAT?

10 A. YES, I BELIEVE SO.

11 Q. DID YOU EVER ASK HIM: "WERE YOU PRESENT IN
12 THAT MEETING?"

13 A. NO.

14 Q. YOU NEVER EVEN ASKED?

15 A. NO.

16 Q. SO YOU DIDN'T TAKE ANY PRECAUTION EVEN TO
17 MAKE SURE YOU WEREN'T VIOLATING THE ATTORNEY/CLIENT
18 PRIVILEGE?

19 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE.

20 THE COURT: SUSTAINED.

21 Q. BY MS. SARIS: YOU KNEW MR. BENICE TO BE
22 MR. GOODWIN'S LAWYER?

23 MR. JACKSON: OBJECTION. ASKED AND ANSWERED.

24 THE COURT: SUSTAINED.

25 Q. BY MS. SARIS: DID YOU CONTINUE TO DISCUSS
26 THIS INVESTIGATION WITH MR. JONES AFTER YOU HAD BEEN
27 ADVISED THAT THERE WAS A CHECK WRITTEN TO HIM BY JEFFERY
28 BENICE?

1 A. YES.

2 MS. SARIS: MAY I HAVE JUST A MOMENT?

3 THE COURT: YES.

4 (PAUSE IN PROCEEDINGS.)

5 Q. BY MS. SARIS: DID YOU EVER CONTACT
6 MR. BENICE, AFTER HEARING OF THIS CHECK, TO DETERMINE
7 WHETHER OR NOT HE EMPLOYED AN INDIVIDUAL NAMED BUTCH
8 JONES OR MICHAEL JONES?

9 A. NO.

10 Q. DID YOU TRY AND FIND THAT OUT THROUGH OTHER
11 MEANS, SUCH AS A RECORDS SEARCH OR A W-2 FORM, SOMETHING
12 LIKE THAT FROM MR. BENICE'S OFFICE?

13 A. NO.

14 Q. AT WHAT POINT DID YOU STOP YOUR ASSOCIATION
15 WITH THIS DAILY CONTACT WITH MR. JONES?

16 A. THE DAILY CONTACT WITH MR. JONES I THINK
17 LASTED AROUND TWO TO THREE WEEKS. I COULDN'T TELL YOU
18 THE EXACT DATE.

19 Q. AND WAS THERE ANYTHING THAT MADE IT STOP?

20 A. SEVERAL THINGS, YES.

21 Q. WHAT WAS THE MAIN REASON THAT YOU STOPPED
22 USING MR. JONES AS A TRACKER OF INFORMATION FOR YOU?

23 A. AT THAT TIME, I WAS ON A -- I WAS DIRECTING A
24 MULTI-STATE WIRE INTERCEPT. AND I HAD ABOUT 110
25 DETECTIVES WORKING FOR ME IN TWO DIFFERENT STATES. AND
26 THERE WAS A LOT GOING ON THAT I WAS IN CHARGE OF AND WAS
27 DIRECTING.

28 SO I DIDN'T HAVE THE TIME NOR WAS IT PAYING

1 DIVIDENDS TO DEVOTE THAT TIME TO MR. JONES AS A RESOURCE
2 FOR INFORMATION. AND MY ATTENTIONS WERE DIVERTED TO
3 OTHER AVENUES OF THE INVESTIGATION THAT WERE MORE
4 LUCRATIVE.

5 Q. JUST FOR CLARIFICATION, THAT MULTI-STATE TASK
6 FORCE, WAS THAT ON THIS CASE?

7 A. I DIDN'T SAY "TASK FORCE," A MULTI-STATE WIRE
8 INTERCEPT.

9 Q. I'M SORRY. WAS THAT ON THIS CASE?

10 MR. JACKSON: OBJECTION. IRRELEVANT.

11 THE COURT: SUSTAINED.

12 Q. BY MS. SARIS: SO THE FACT THAT MR. JONES --
13 WELL, DO YOU KNOW WHETHER OR NOT HE EVER BECAME
14 REGISTERED?

15 A. I DON'T HAVE A CLUE.

16 MS. SARIS: I HAVE NOTHING FURTHER OF THIS WITNESS.

17 THE COURT: ANYTHING ELSE?

18 MR. JACKSON: NO, YOUR HONOR.

19 THE COURT: THANK YOU, SIR.

20 I HAVE A JURY IN THE HALLWAY, SO --

21 MS. SARIS: I HAVE JEFFREY BENICE AND I THINK HE'LL
22 BE SHORT. AND HE CAME FROM ORANGE COUNTY FROM A VERY
23 BUSY CIVIL PRACTICE AND I HAVE, LIKE, MAYBE SIX
24 QUESTIONS.

25 THE COURT: ALL RIGHT.

26 MS. SARIS: YOUR HONOR, DEFENSE CALLS ATTORNEY
27 JEFFREY BENICE, B-E-N-I-C-E.
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JEFFREY BENICE,

CALLED BY THE DEFENSE AS A WITNESS, WAS
SWORN AND TESTIFIED AS FOLLOWS:

THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU
MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH
SO HELP YOU GOD.

THE WITNESS: YES.

THE CLERK: PLEASE BE SEATED IN THE WITNESS BOX.
STATE AND SPELL YOUR FIRST AND LAST NAME FOR THE RECORD.

THE WITNESS: MY NAME IS JEFFREY, J-E-F-F-R-E-Y,
BENICE, B-E-N-I-C-E.

THE COURT: YOU MAY INQUIRE.

MS. SARIS: THANK YOU.

DIRECT EXAMINATION

BY MS. SARIS:

Q. MR. BENICE, ARE YOU AN ATTORNEY?

A. YES.

Q. AND ARE YOU ACQUAINTED WITH THE GENTLEMAN TO
MY LEFT IN THE ORANGE, MICHAEL GOODWIN?

A. YES, I AM.

Q. DO YOU STILL REPRESENT HIM TO THIS DAY IN ANY
CIVIL CAPACITY?

A. YES.

Q. AT SOME POINT IN 2001, DID YOU REPRESENT HIM

1 IN RELATION TO AN INVESTIGATION ON THE MURDER OF MICKEY
2 THOMPSON?

3 A. YES.

4 Q. AT THAT TIME DID YOU KNOW AN INDIVIDUAL BY
5 THE NAME OF BUTCH JONES?

6 A. YES.

7 Q. DID YOU SEE HIM IN THE HALLWAY THIS MORNING?

8 A. YES, I DID.

9 Q. WHAT WAS -- HOW DID YOU COME TO MEET
10 MR. JONES?

11 A. I WAS INTRODUCED TO HIM BY MR. GOODWIN.

12 Q. DID YOU EVER COME TO EMPLOY MR. JONES?

13 A. YES.

14 Q. AND WAS THAT IN EARLY 2001?

15 A. BASED ON SOME DOCUMENTS YOU SHOWED TO ME THIS
16 MORNING THAT REFRESHED MY MEMORY. MY MEMORY WAS IT WAS
17 SOMETIME IN 2001 CONCERNING THIS PARTICULAR LEGAL WORK
18 THAT WAS BEING CONDUCTED.

19 Q. AND DID YOU PERSONALLY -- I MEAN YOU AS AN
20 ATTORNEY IN YOUR LEGAL CAPACITY REPRESENTING MR. GOODWIN
21 EMPLOY BUTCH JONES?

22 A. YES.

23 Q. AND HOW DID THAT WORK? WHAT WAS HIS
24 ASSIGNMENT?

25 A. WELL, I SHOULD FIRST SPELL OUT HOW I CAME TO
26 USE HIM. WE WERE LOOKING FOR A -- I HAD DETERMINED THAT
27 I WANTED TO PULL A SERIES OF CASE FILES OUT OF VARIOUS
28 COURTS TO DETERMINE WHAT HAD OCCURRED IN LITIGATION

1 CONCERNING THE ESTATE OF MICKEY THOMPSON.

2 AND IT WAS SUGGESTED TO ME BY MR. GOODWIN
3 THAT BUTCH WOULD BE USEFUL IN DOING THAT BECAUSE AT SOME
4 TIME IN THE PAST FOR MR. GOODWIN HE HAD DONE THAT KIND OF
5 WORK FOR MR. GOODWIN. I HAD PARALEGALS AND ATTORNEY
6 SERVICES THAT DID THAT AS WELL.

7 HOWEVER, I WAS INTERESTED IN USING SOMEBODY
8 THAT HAD DONE THAT KIND OF WORK BEFORE BECAUSE I WAS
9 LOOKING FOR A PARTICULAR SET OF PLEADINGS AND
10 INFORMATION. SO IT WOULD BE MORE THAN JUST PULLING
11 DOCKETS AND FILES IN COURT HOUSES.

12 AND IN THAT REGARD, I RECALL AT LEAST TWO
13 MEETINGS WITH HIM AT MY OFFICE IN IRVINE, WITH
14 MR. GOODWIN IN ATTENDANCE, IN MY CONFERENCE ROOM IN WHICH
15 I WAS INTRODUCED TO HIM. I HADN'T MET HIM BEFORE.

16 MR. JACKSON: OBJECTION. THIS IS NARRATIVE AT THIS
17 POINT.

18 THE COURT: ALL RIGHT. SUSTAINED.

19 Q. BY MS. SARIS: SO AT SOME POINT IN YOUR LEGAL
20 OFFICE IN IRVINE, IS THIS A REGULAR, CLEARLY MARKED
21 ATTORNEY OFFICE?

22 A. IT'S MY OFFICE, YES. IT WAS MY OFFICE AT
23 THAT TIME.

24 Q. IT HAD YOUR NAME ON THE DOOR THAT SAYS YOU
25 ARE AN ATTORNEY?

26 A. CORRECT.

27 Q. AND MR. GOODWIN WAS YOUR CLIENT?

28 A. CORRECT.

1 Q. THERE WAS AN OCCASION ON AT LEAST ONCE,
2 PERHAPS MORE THAN THAT, THAT YOU AND MR. GOODWIN AND
3 MR. JONES HAD A MEETING IN YOUR CONFERENCE ROOM?

4 A. YES.

5 Q. AND DID YOU PERSONALLY ASK BUTCH JONES TO DO
6 SOMETHING?

7 A. YES.

8 Q. AND WAS THAT IN RELATION TO YOUR
9 REPRESENTATION OF MR. GOODWIN?

10 A. YES.

11 MR. JACKSON: OBJECTION. THIS IS ALL LEGAL --

12 THE COURT: SUSTAINED.

13 Q. BY MS. SARIS: DID YOU ASK HIM TO DO
14 SOMETHING FOR ANY OTHER CLIENT THAN MR. GOODWIN?

15 A. NO.

16 Q. AND DID YOU KNOW WHETHER OR NOT HE HAD BEEN
17 EMPLOYED BY MR. GOODWIN SEPARATELY AT ANOTHER TIME FRAME?

18 A. I DIDN'T KNOW OTHER THAN WHAT I HAD BEEN
19 ADVISED BY MR. GOODWIN IN TERMS OF MR. JONES' CAPABILITY
20 TO DO THIS PARTICULAR TYPE OF WORK.

21 Q. AND ARE WE TO ASSUME THAT THIS IS WORK THAT
22 YOU HAVE TO, LIKE, READ STUFF BEFORE YOU PULL IT AS
23 OPPOSED TO JUST PULLING SEVERAL FILES?

24 A. YES.

25 MR. JACKSON: OBJECTION. THIS IS LEADING.

26 THE COURT: SUSTAINED.

27 Q. BY MS. SARIS: WERE YOU AWARE THAT MR. JONES
28 WAS IN COMMUNICATION WITH DETECTIVE MARK LILLIENFELD

1 DURING THIS TIME?

2 A. NO.

3 Q. IF YOU HAD KNOWN THAT, WOULD YOU HAVE DONE
4 ANYTHING, DO YOU THINK, IN RELATION TO YOUR
5 COMMUNICATIONS WITH MR. JONES?

6 A. I WOULDN'T HAVE RETAINED HIM OR PAID HIM TO
7 DO THE WORK?

8 Q. DID YOU EVER PAY HIM TO DO THE WORK?

9 A. YES.

10 Q. AND DID YOU DO THAT BY WRITING HIS NAME ON A
11 CHECK AND SIGNING YOUR NAME?

12 A. YES, TO MY MEMORY. AND I WAS ADVISED
13 YESTERDAY OF THIS HEARING. I DID NOT HAVE AN OPPORTUNITY
14 TO GO BACK TO MY STORAGE TO PULL ALL MY OLD CHECKS. I DO
15 HAVE A MEMORY OF WRITING ONE, POSSIBLY TWO CHECKS TO HIM.
16 AND MY MEMORY WOULD BE THAT IT INCLUDED HIS SERVICE FEE,
17 WHATEVER IT WAS, FOR DOING THE WORK; PLUS REIMBURSING HIM
18 FOR I THINK THERE WERE COPYING COSTS FOR PULLING THE
19 FILES.

20 Q. WHAT WAS YOUR STATE OF MIND AT THE TIME AS TO
21 HOW MR. JONES FIT INTO THE ATTORNEY/CLIENT RELATIONSHIP
22 THAT YOU HAD ALREADY DEVELOPED WITH MR. GOODWIN?

23 A. HE WAS NO DIFFERENT THAN ANY OTHER PARALEGAL
24 I WOULD USE IN A CASE. HE IS SUBJECT TO THE
25 ATTORNEY/CLIENT PRIVILEGE.

26 Q. DID YOU EVER RECEIVE ANY CALL FROM ANY LAW
27 ENFORCEMENT --

28 MR. JACKSON: YOUR HONOR, I'M GOING TO OBJECT.

1 THAT CALLS FOR A LEGAL CONCLUSION, THE LAST STATEMENT
2 DOES. MOVE TO STRIKE.

3 THE COURT: IT DOES. I WILL LIMIT IT THAT THAT'S
4 WHAT HIS OPINION WAS.

5 Q. BY MS. SARIS: DID YOU EVER RECEIVE ANY CALL
6 FROM LAW ENFORCEMENT ASKING YOU IF MR. JONES WAS EMPLOYED
7 BY YOU?

8 A. NOT THAT I RECALL.

9 Q. DID YOU CONDUCT YOUR MEETINGS WITH
10 MR. GOODWIN AS IF MR. JONES WERE A THIRD PARTY OR AN
11 EMPLOYEE?

12 MR. JACKSON: OBJECTION. THIS IS LEADING.

13 THE COURT: ALL RIGHT. SUSTAINED. REPHRASE THE
14 QUESTION. WE HAVE ALREADY ESTABLISHED THAT IN HIS
15 OPINION HE FELT THAT MR. JONES WAS --

16 MS. SARIS: I'M ASKING ABOUT HIS CONDUCT. AND I
17 DON'T KNOW HOW IT'S LEADING IF I'VE GIVEN HIM TWO
18 OPTIONS.

19 Q. HOW DID YOU REACT -- HOW DID YOU CONDUCT
20 YOURSELF IN YOUR MEETINGS WITH MR. GOODWIN? DID YOU
21 CONDUCT YOURSELF AS IF YOU WERE IN AN ATTORNEY/CLIENT
22 PRIVILEGED MEETING?

23 A. ABSOLUTELY.

24 MS. SARIS: I HAVE NOTHING FURTHER.

25 THE COURT: ANYTHING, MR. JACKSON?

26
27 CROSS-EXAMINATION

28 BY MR. JACKSON:

1 Q. WHEN WERE YOU TOLD YOU MIGHT BE REQUESTED TO
2 JOIN US HERE TODAY?

3 MS. SARIS: OBJECTION. ALL RIGHT. I'M SORRY.
4 I'LL --

5 THE COURT: OKAY. NEVER MIND IS WHAT YOU ARE
6 SAYING?

7 MS. SARIS: THAT'S WHAT I'M TRYING TO SAY POLITELY.
8 I'M TRYING TO THINK OF A NICE WAY TO SAY THAT POLITELY.

9 THE WITNESS: YESTERDAY.

10 Q. BY MR. JACKSON: AND YOU WERE TOLD I'M
11 ASSUMING, MR. BENICE, THAT YOU WERE GOING TO BE ASKED TO
12 TESTIFY CONCERNING THE EMPLOYMENT STATUS OF ONE MICHAEL
13 BUTCH JONES, YES?

14 A. NO, NOT THAT PRECISELY. IT WAS ABOUT THIS
15 ISSUE OF THE USE OF MR. JONES AS A SPY, WHICH THAT'S BEEN
16 AN ISSUE FLOATING AROUND FOR SEVERAL YEARS SINCE WE FIRST
17 SAW DETECTIVE LILLIENFELD'S INTERVIEW NOTES CONCERNING
18 COMMENTS THAT MR. JONES MADE TO HIM. I DIDN'T KNOW ABOUT
19 THAT ISSUE UNTIL I REVIEWED THAT PART OF THE MURDER BOOK.

20 Q. THE LONG AND SHORT OF IT IS YOU WERE AWARE AS
21 OF YESTERDAY, APPARENTLY, THAT YOU WERE GOING TO BE ASKED
22 TO SPEAK TO THE ISSUE OF MR. JONES AND POSSIBLY HIS
23 CONNECTION TO YOU AND/OR MR. GOODWIN, YES?

24 A. YES.

25 Q. YOU DIDN'T THINK TO PULL ANY PAYROLL
26 DOCUMENTS THAT MIGHT SUPPORT YOUR TESTIMONY?

27 A. NO, I DID THINK TO DO THAT. I WAS BUSY
28 YESTERDAY. I'M PREPARING FOR A BIG CASE THAT STARTS IN

1 FEDERAL COURT ON MAY 23RD. AND I EXPLAINED TO COUNSEL
2 THAT I WOULD NOT BE ABLE PERSONALLY TO GO OVER TO THE
3 STORAGE FACILITY TO DO IT. AND THAT I WOULD ATTEMPT TO
4 HAVE MY OFFICE ADMINISTRATOR DO IT. AND HE WAS NOT ABLE
5 TO GET IT DONE.

6 Q. AND IT DID NOT GET DONE BEFORE THIS MORNING?

7 A. CORRECT.

8 Q. SO YOU HAVE NO DOCUMENTS? LET'S JUST CUT TO
9 THE CHASE. YOU HAVE NO DOCUMENTS; PAYROLL DOCUMENTS;
10 SOCIAL SECURITY DOCUMENTS; TAX FILINGS, ANYTHING LIKE
11 THAT TO SUBSTANTIATE THE EMPLOYMENT OF MR. JONES?

12 A. I DIDN'T SAY HE WAS EMPLOYED BY ME.

13 Q. YOU DIDN'T SAY HE WAS EMPLOYED BY YOU, SIR?

14 A. HE WAS RETAINED AS A PARALEGAL FOR ONE TYPE
15 OF JOB. THAT'S NOT AN EMPLOYEE. IF YOU'RE ASKING ME DO
16 I HAVE EMPLOYEES VERSUS OUTSIDE CONSULTANTS, YES, I DO.

17 Q. OKAY. SO LET'S STOP THERE. THAT'S KIND OF
18 WHERE THE RUBBER MEETS THE ROAD, MR. BENICE. HE WAS NOT
19 EMPLOYED BY YOU; CORRECT?

20 MS. SARIS: OBJECTION. VAGUE AS TO "EMPLOYMENT."

21 THE WITNESS: HE WAS NOT AN EMPLOYEE IN THE
22 CALIFORNIA LABOR CODE WHERE I WITHHELD FROM THE MONEY
23 THAT I PAID HIM HIS TAXES. HE WAS RETAINED JUST LIKE ANY
24 OTHER OUTSIDE INVESTIGATOR; COPY SERVICE; PARALEGAL
25 SERVICE THAT I USE IN MANY DIFFERENT CASES. AND THEN I
26 PAY ON AN INVOICE BASIS. AND AT THE END OF THE YEAR GIVE
27 A 1099, IF THE ACCOUNT SAYS I NEED TO DO THAT.

28 MR. JACKSON: YOUR HONOR, MAY I HAVE JUST A MOMENT?

1 THE COURT: YES. AND THE OBJECTION IS OVERRULED.
2 THE ANSWER CAN REMAIN.

3 Q. BY MR. JACKSON: ALL RIGHT. YOU INDICATED
4 THAT MR. JONES WAS RETAINED -- NOT EMPLOYED, BUT RETAINED
5 AND PAID FOR VERY SPECIFIC SERVICES; CORRECT?

6 A. CORRECT.

7 Q. THOSE SERVICES INCLUDED, IF I UNDERSTOOD YOUR
8 DIRECT TESTIMONY CORRECTLY, TO PULL SOME CASE FILES
9 DEALING WITH THE MIKE GOODWIN BANKRUPTCY?

10 A. NO.

11 Q. PULL SOME CASE FILES DEALING WITH WHAT?

12 A. I SAID THE ESTATE ISSUE CONCERNING THE ESTATE
13 OF MICKEY THOMPSON.

14 Q. OKAY. AND THOSE CASE FILES YOU NEEDED FOR
15 YOUR PURPOSES, WHATEVER THEY MIGHT BE; CORRECT?

16 A. CORRECT.

17 Q. SO MR. JONES WAS PAID BY YOU ON TWO SEPARATE
18 OCCASIONS OR JUST ONCE?

19 A. I DON'T HAVE A MEMORY OF WHETHER IT WAS ONCE
20 OR TWICE. I RECALL HIM COMING TO MY OFFICE ON ONE
21 OCCASION TO PICK UP A CHECK. I DON'T KNOW WHETHER WHEN I
22 FIRST RETAINED HIM, I ALSO GAVE HIM A CHECK.

23 Q. OKAY. AND YOU WERE AWARE ACCORDING TO YOUR
24 DIRECT TESTIMONY THAT HE HAD BEEN EMPLOYED BY MR. GOODWIN
25 TO DO SUBSTANTIALLY SOME OF THE SAME STUFF, PULL CASE
26 FILES, ET CETERA; CORRECT?

27 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

28 THE COURT: SUSTAINED.

1 THE WITNESS: WHEN YOU USE THE WORD "EMPLOYED" --

2 Q. BY MR. JACKSON: LET ME NARROW IT DOWN.

3 MR. BENICE, LET ME ASK THE QUESTIONS. I KNOW YOU'RE USED
4 TO IT. HANG ON A SECOND. ALL RIGHT.

5 DURING THE TIME THAT YOU WERE PREPARING TO
6 PULL THOSE CASE FILES DEALING WITH THE ESTATE, YOU
7 RETAINED MR. JONES; CORRECT?

8 A. CORRECT.

9 Q. AT MR. GOODWIN'S BEHEST; CORRECT?

10 A. AS PART OF MY WORK AS AN ATTORNEY FOR
11 MR. GOODWIN, YES.

12 Q. AND MR. GOODWIN SUGGESTED THAT YOU PAY
13 MR. JONES TO PULL THESE CASE FILES?

14 A. MR. GOODWIN SUGGESTED THAT I TALK TO
15 MR. JONES ABOUT DOING THAT WORK.

16 Q. AND YOU, IN FACT, DID TALK TO MR. JONES ABOUT
17 DOING THAT WORK?

18 A. CORRECT.

19 Q. AND YOU HAD HIM PULL THOSE CASE FILES;
20 CORRECT?

21 A. CORRECT.

22 Q. AND YOU PAID HIM AT LEAST ONCE, MAYBE TWO
23 TIMES?

24 A. THAT'S MY MEMORY.

25 Q. HE WAS NOT A FULL-TIME EMPLOYEE?

26 A. CORRECT.

27 Q. HE WAS NOT A CONSULTANT?

28 A. CORRECT.

1 Q. HE WAS NOT A DEFENSE STRATEGIST?

2 A. CORRECT.

3 Q. HE WAS A LEGAL RUNNER, SORT OF LIKE A COPY
4 SERVICE OR A MESSAGE SERVICE; CORRECT?

5 A. NO.

6 Q. IS THAT NOT ACCURATE?

7 A. THAT'S NOT ACCURATE.

8 Q. WHAT IS NOT ACCURATE ABOUT IT?

9 A. BECAUSE HE WAS SPECIFICALLY ADVISED TO
10 BASICALLY DO A SUBSTANTIVE REVIEW OF DOCUMENTS. WE WERE
11 LOOKING FOR A PARTICULAR SUBJECT AREA IN THE ESTATE
12 DOCUMENTS. AND THAT AREA HAD TO DO WITH WHETHER THE THEN
13 AND NOW ORANGE COUNTY DISTRICT ATTORNEY TONY RACKAUCKAS
14 HAD ANY INVOLVEMENT IN THAT ESTATE.

15 SO, FOR EXAMPLE, HE WAS TO DETERMINE WHETHER
16 HE FOUND THE NAME RACKAUCKAS FLOATING AROUND ANYWHERE.
17 AND THERE WERE SOME OTHER THINGS AS WELL. I DON'T
18 REMEMBER THEM ALL. THAT WAS THE PRIMARY ISSUE. AND THAT
19 WAS THE INFORMATION WE ULTIMATELY OBTAINED FROM THE
20 DOCUMENTS.

21 Q. ALL RIGHT. SO HE WASN'T HIRED AS A
22 PARALEGAL, PER SE, AM I CORRECT?

23 A. WELL, I DON'T KNOW WHAT -- LET ME PUT IT THIS
24 WAY, I HAVE PARALEGALS THAT WORK FOR ME. AND THAT IS THE
25 SAME TYPE OF TASK THAT I WOULD ASK ONE OF MY PARALEGALS
26 TO DO.

27 Q. WELL, YOU MIGHT ASK A PARALEGAL TO RESEARCH A
28 SUBSTANTIVE LEGAL ISSUE; CORRECT?

1 A. NO.

2 Q. YOU WOULDN'T ASK THE PARALEGAL TO -- I MEAN
3 THEY GO TO PARALEGAL SCHOOL. YOU DON'T ASK THEM TO
4 RESEARCH SUBSTANTIVE LEGAL ISSUES AND WRITE MOTIONS AND
5 WRITE OPINIONS PAPERS AND WHITE PAPERS?

6 A. NO, I'VE NEVER DONE THAT.

7 Q. SO YOUR PARALEGALS BASICALLY JUST PULLS
8 FILES?

9 A. NO. MY PARALEGALS DO A LOT OF WORK THAT YOU
10 ARE FAMILIAR WITH AS WELL IN TERMS OF LITIGATION;
11 ANALYZING; REVIEWING DEPOSITION TRANSCRIPTS; PUTTING
12 DOCUMENTS TOGETHER. BUT, NO, THEY DON'T DO LEGAL WORK
13 FOR ME. I DON'T HAVE PARALEGALS DO MY LEGAL RESEARCH;
14 THEY DON'T WRITE ME LEGAL MEMORANDUM.

15 Q. SO IT'S SAFE TO SAY MR. JONES, IN HIS
16 CAPACITY, CERTAINLY ONLY WORKING FOR YOU ONCE OR TWICE,
17 DID NOT DO ANY SUBSTANTIVE LEGAL WORK?

18 A. NO, THAT'S CORRECT.

19 Q. HE WAS NOT INVOLVED IN ANY SPECIFIC DEFENSE
20 STRATEGIES, FOR INSTANCE?

21 A. THAT'S CORRECT.

22 Q. HE WAS NOT INVOLVED -- YOU DIDN'T INVITE HIM
23 INTO STRATEGY MEETINGS; CORRECT?

24 A. CORRECT.

25 Q. YOU WOULD NOT HAVE INCLUDED HIM IN MEETINGS
26 WITH MR. GOODWIN, FOR INSTANCE, WHEREIN YOU AND
27 MR. GOODWIN WERE DISCUSSING TACTICS TO TAKE AND
28 STRATEGIES TO USE IN DEFENSE OF THE MICKEY THOMPSON

1 MURDERS; CORRECT?

2 A. I DIDN'T DO THAT WITH HIM.

3 Q. OKAY.

4 MAY I HAVE JUST A MOMENT, YOUR HONOR?

5 THE COURT: YES.

6 (PAUSE IN PROCEEDINGS.)

7 Q. BY MR. JACKSON: YOU SAID THAT HE WAS IN AT
8 LEAST TWO MEETINGS IN YOUR CONFERENCE ROOM, MR. JONES?

9 A. NO. I THINK I SAID I HAVE A CLEAR MEMORY OF
10 MY FIRST MEETING IN MY CONFERENCE ROOM WITH MR. JONES.
11 AND THERE MAY HAVE BEEN TWO. THAT IS THE FIRST MEETING
12 WOULD BE MY INTRODUCTION TO HIM DESCRIBING TO HIM WHAT HE
13 NEEDED TO DO. AND THE SECOND MEETING WOULD HAVE BEEN THE
14 DELIVER BY HIM OF DOCUMENTS. I HAVE SOME MEMORY OF THAT.

15 I DON'T KNOW WHETHER HE MIGHT HAVE GIVEN THEM
16 TO MR. GOODWIN WHO GAVE THEM BACK TO ME. I BELIEVE HE
17 BROUGHT THEM TO US AND WE MET WITH HIM AGAIN. AND THEN I
18 ALSO HAVE A MEMORY OF HIM COMING TO MY OFFICE TO PICK UP
19 A CHECK. AND I DON'T KNOW IF THOSE BLEND TOGETHER. I'M
20 JUST LETTING YOU KNOW THOSE ARE MEMORIES I HAVE.

21 Q. FAIR ENOUGH. AT THAT FIRST MEETING YOU SAID
22 THAT YOU WERE -- BASICALLY THAT WAS AN INSTRUCTIONAL
23 MEETING. MR. JONES, YOU ARE TO GO TO THIS PARTICULAR
24 LOCATION. YOU ARE TO PULL THESE FILES. YOU ARE TO LOOK
25 FOR THESE NAMES, BASICALLY THE NAME RACKAUCKAS; CORRECT?

26 A. IN SUMMARY, YES.

27 Q. AND THAT WAS THE SUM AND SUBSTANCE IN SUMMARY
28 OF THAT MEETING -- OF THAT SUBSTANTIVE MEETING?

1 A. WHEN YOU USE THE WORD "SUM AND SUBSTANCE," I
2 HAVE A MEMORY THE MEETING PROBABLY LASTED 20 TO 30
3 MINUTES.

4 Q. OKAY.

5 A. AND I DON'T HAVE A COMPLETE MEMORY OF
6 EVERYTHING THAT WAS DISCUSSED. I'M SURE THERE WAS A
7 DISCUSSION WITH HIM BY ME OF WHAT I WAS LOOKING FOR AND
8 WHAT THE IMPORTANCE WAS. THAT IS, I DID NOT WANT TO HAVE
9 500 PAGES OF A COURT FILE DELIVERED TO ME THAT I HAD PAID
10 FOR AND HE HAD SPENT TIME LOOKING FOR THAT WAS WORTHLESS.
11 SO I WAS TRYING TO NARROW HIS INVESTIGATION.

12 Q. AND THE REASON THAT YOU WANTED HIM TO NARROW
13 IT IS TO, IN YOUR WORDS, LOOK FOR THE NAME RACKAUCKAS;
14 CORRECT?

15 A. YES. AND DETERMINE WHAT, IF ANY, INVOLVEMENT
16 MR. RAKACUS HAD HAD IN THE ESTATE OF THOMPSON.

17 Q. AND THAT WAS SPECIFICALLY DESIGNED SO THAT
18 YOU COULD THEN DETERMINE IF YOU HAD A LEGAL FOUNDATION
19 FOR RECUSING MR. RACKAUCKAS AND HIS OFFICE GIVEN THE
20 POTENTIAL CONFLICT?

21 A. THAT WAS ONE OF THE ISSUES, YES.

22 MR. JACKSON: THAT'S ALL I HAVE.

23 MS. SARIS: BRIEFLY, YES. THANK YOU.

24

25 REDIRECT EXAMINATION

26 BY MS. SARIS:

27 Q. DID WHAT MR. JONES DO FOR YOU DIFFER FROM A
28 COPY SERVICE?

1 A. YES.

2 Q. AND WHEN YOU SAID YOU HAD TO TELL HIM WHY AND
3 THE IMPORTANCE, IN DOING SO DID YOU REVEAL TO HIM DEFENSE
4 STRATEGY?

5 MR. JACKSON: OBJECTION. THIS IS LEADING, YOUR
6 HONOR.

7 THE COURT: OVERRULED.

8 YOU CAN ANSWER.

9 THE WITNESS: I GUESS THAT DEPENDS ON HOW YOU
10 DEFINE "DEFENSE STRATEGY." I THINK I JUST MENTIONED IN
11 RESPONSE TO COUNSEL'S QUESTIONS I WOULD HAVE DISCUSSED
12 WITH HIM WHY WE WERE LOOKING FOR RACKAUCKAS'S NAME. I
13 UNDERSTOOD THAT HE WAS ABLE AND HE HAD DONE A SIMILAR
14 TYPE OF WORK FOR MR. GOODWIN I THINK IN MR. GOODWIN'S
15 PRIOR FELONY CONVICTION CASE OF PULLING FILES AND
16 REVIEWING PLEADINGS. AND BECAUSE I UNDERSTOOD THAT, I
17 HAVE A MEMORY OF BEING MORE EXPLANATORY ABOUT WHAT I
18 WANTED HIM TO LOOK FOR.

19 Q. BY MS. SARIS: WOULD YOU HAVE GONE INTO THAT
20 EXPLANATION IF YOU KNEW THAT HE WAS REPORTING ON A DAILY
21 BASIS TO DETECTIVE LILLIENFELD?

22 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
23 THAT'S IRRELEVANT.

24 THE COURT: ALL RIGHT. SUSTAINED. ANYTHING ELSE?

25 MS. SARIS: YES. I THINK THAT IS A RELEVANT
26 QUESTION. WE'RE TALKING ABOUT HIS STATE OF MIND. THIS
27 IS AN ATTORNEY WITH A GREAT DEAL OF EXPERIENCE. AND THIS
28 IS THE HEART OF THE ISSUE AS --

1 THE COURT: WHETHER OR NOT HE WOULD HAVE, COULD
2 HAVE, SHOULD HAVE IF HE HAD KNOWN?

3 MS. SARIS: WHETHER HE WOULD HAVE AS HE SITS HERE
4 NOW.

5 THE COURT: HE DIDN'T KNOW. OBVIOUSLY, HE WOULDN'T
6 HAVE IF HE HAD KNOWN. I MEAN WE HAVE THAT ALREADY IN THE
7 TESTIMONY, DON'T WE?

8 MS. SARIS: ABOUT THE SPECIFIC OF THE IMPORTANCE OF
9 THE DOCUMENTS BEING PULLED? NO. I THINK COUNSEL IS
10 TRYING TO PAINT MR. JONES AS A COPY BOY. AND WHAT I
11 WOULD LIKE TO DO IS MAKE SURE THAT MR. BENICE --

12 THE COURT: I DON'T THINK ANYBODY HAS PAINTED
13 MR. JONES AS A COPY BOY. SO IF YOU CAN ASK THE QUESTION
14 WITHOUT CALLING FOR SPECULATION, THAT'S FINE.

15 Q. BY MS. SARIS: WERE YOU AWARE WHEN YOU WERE
16 DISCUSSING THE IMPORTANCE OF THE NEED TO PULL THESE
17 DOCUMENTS WITH MR. JONES THAT HE WAS MEETING WITH
18 MR. LILLIENFELD ON A DAILY BASIS?

19 A. NO.

20 Q. THANK YOU. OTHER THAN THE RACKAUCKAS ISSUE,
21 WERE THERE OTHER ISSUES THAT YOU HAD HIM LOOKING FOR, OR
22 WAS THAT JUST ONE EXAMPLE?

23 A. I DON'T HAVE A MEMORY TODAY. BUT I KNOW THAT
24 THERE WERE A NUMBER OF ISSUES CONCERNING THE ESTATE IN
25 ADDITION TO MR. RACKAUCKAS.

26 MS. SARIS: THANK YOU. NOTHING FURTHER.

27 THE COURT: ANYTHING ELSE?

28 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

1 THE COURT: ALL RIGHT. THANK YOU, SIR.

2 WHEN CAN WE RESUME?

3 MS. SARIS: I'M SORRY?

4 THE COURT: WHEN CAN WE RESUME?

5 MS. SARIS: THE 16TH OF MAY OR THE 17TH OF MAY.

6 THE COURT: ALL RIGHT.

7 MS. SARIS: AND I WILL ADVISE THE COURT THAT I HAVE
8 DISCUSSED AN ISSUE WITH THIS COURT REGARDING POTENTIALLY
9 BEING OUT OF THE STATE FOR SOMETIME. AND THAT'S COMING
10 TO FRUITION. I WILL BE OUT OF TOWN UNTIL THE 14TH OF
11 MAY. SO IF WE COULD GET IN IN THE WEEK OF THE 16TH, THAT
12 WOULD BE GOOD. AND IF WE COULD RESOLVE IT THAT WEEK,
13 THAT WOULD BE EVEN BETTER. BECAUSE I DON'T ANTICIPATE
14 BEING IN TOWN FOR MUCH OF JUNE AT ALL.

15 THE COURT: IS THE 16TH A GOOD DATE FOR THE PEOPLE?

16 MR. DIXON: WE WILL JUST CHECK WITH OUR WITNESS.

17 MS. SARIS: THE 17TH IS ACTUALLY BETTER THAN THE
18 16TH.

19 THE COURT: I WOULD LIKE TO SCHEDULE IT FOR THE
20 16TH IF WE CAN AND DO WHATEVER WE CAN.

21 MS. SARIS: THAT'S FINE.

22 THE COURT: SINCE YOU WANT TO RESOLVE EVERYTHING IN
23 THAT WEEK, I CAN TRY TO SET ASIDE THAT TIME.

24 MR. DIXON: CAN WE HAVE A MOMENT, PLEASE.

25 (PAUSE IN PROCEEDINGS.)

26 THE COURT: ARE WE GOING TO MAKE THE NEXT DATE A
27 ZERO OF 60 DATE?

28 MS. SARIS: YES, WITH THE CAVEAT ABOUT JUNE. DOES

1 THE COURT RECALL --

2 THE COURT: YES. I'LL TELL YOU WHAT, WHY DON'T WE
3 TAKE A TIME WAIVER TO MAY 16TH, ZERO OF 60. IF COUNSEL
4 NEEDS TO READJUST OR CHANGE THE DATE, JUST LET US KNOW.

5 MR. DIXON: I'LL KNOW IN 30 SECONDS, YOUR HONOR.

6 THE COURT: 30 SECONDS? OKAY.

7 MR. DIXON: 15 SECONDS. IT'S FINE. THE 16TH IS
8 FINE.

9 THE COURT: VERY GOOD. OKAY. MR. GOODWIN, MAY
10 16TH AS ZERO OF 60, DO YOU WANT TO AGREE TO THAT, SIR?

11 THE DEFENDANT: YES, MA'AM.

12 MS. SARIS: I JOIN.

13 THE COURT: THANK YOU. SEE YOU THEN.

14 MR. DIXON: THANK YOU, YOUR HONOR.

15 MR. JACKSON: THANK YOU, YOUR HONOR.

16 MS. SARIS: YOUR HONOR, I SUBMITTED A MEDICAL ORDER
17 FOR MR. GOODWIN.

18 THE COURT: I SIGNED IT.

19
20 (THE MATTER WAS CONTINUED TO MONDAY,
21 MAY 16, 2005 AT 8:30 A.M.)

22 --000--
23
24
25
26
27
28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, MAY 16, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 PATRICK DIXON AND ALAN JACKSON, DEPUTY DISTRICT
12 ATTORNEYS, REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: ON THE GOODWIN MATTER, MR. GOODWIN IS
16 PRESENT WITH COUNSEL. THE PEOPLE ARE REPRESENTED. AND
17 WE LEFT OFF LAST TIME WITH TAKING TESTIMONY IN, I GUESS,
18 THE TWO-PRONGED MOTION TO DISMISS.

19 AND BOTH SIDES ARE READY TO PROCEED, THEN,
20 WITH ADDITIONAL TESTIMONY THIS MORNING?

21 MS. SARIS: YES.

22 MR. JACKSON: YES, YOUR HONOR.

23 THE COURT: AND THERE WAS A MOTION THAT WAS FILED
24 LAST TIME WE WERE HERE REGARDING SHACKLING. AND THAT IS
25 NOW A MOOT POINT; CORRECT?

26 MS. SARIS: YES. THANK YOU.

27 THE COURT: SO LET'S CONTINUE ON. MS. SARIS, YOU
28 MAY CALL YOUR NEXT WITNESS.

1 MS. SARIS: THANK YOU, YOUR HONOR. WE CALLED BUTCH
2 JONES TO THE STAND, PLEASE. I'M SORRY. MICHAEL JONES.

3 THE COURT: OKAY.

4

5 MICHAEL JONES,
6 CALLED BY THE DEFENSE AS A WITNESS, WAS
7 SWORN AND TESTIFIED AS FOLLOWS:

8

9 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

10 YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU
11 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
12 BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH
13 SO HELP YOU GOD.

14 THE WITNESS: I DO.

15 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
16 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
17 NAME FOR THE RECORD.

18 THE WITNESS: MICHAEL JONES. M-I-C-H-A-E-L.
19 J-O-N-E-S.

20 THE CLERK: THANK YOU.

21 THE COURT: YOU MAY INQUIRE.

22 MS. SARIS: THANK YOU.

23

24 DIRECT EXAMINATION

25 BY MS. SARIS:

26 Q. MR. JONES, DID YOU EVER GO BY THE NICKNAME OF
27 BUTCH?

28 A. YES.

1 Q. DOES THE NAME "THURSTON" APPEAR IN YOUR NAME
2 ANYWHERE?

3 A. YES.

4 Q. AND HOW IS THAT?

5 A. I DON'T UNDERSTAND. WHAT DO YOU MEAN?

6 Q. IS THAT A MIDDLE NAME OR AN ALIAS?

7 A. IT IS A FIRST NAME.

8 Q. OH, I SEE. LEGALLY IS YOUR NAME THURSTON
9 MICHAEL?

10 A. YES.

11 Q. DO YOU KNOW DETECTIVE MARK LILLIENFELD, WHO
12 IS SITTING IN THE JURY BOX?

13 A. YES, I DO.

14 Q. DO YOU REMEMBER WHEN YOU FIRST MET HIM?

15 A. YES.

16 Q. WHEN WAS THAT?

17 A. HE CAME TO MY APARTMENT WITH SOME L.A. --
18 WITH SOME LONG BEACH POLICE OFFICERS.

19 Q. WAS THAT IN 2001?

20 A. I BELIEVE SO.

21 Q. HAD YOU DONE ANYTHING TO CONTACT HIM OR DID
22 HE JUST ARRIVE AT YOUR DOOR UNANNOUNCED?

23 A. HE ARRIVED AT MY DOOR.

24 Q. IN 2001, BEFORE THIS MEETING TOOK PLACE, HAD
25 YOU PREVIOUSLY BEEN CONVICTED OF AN OFFENSE THAT REQUIRED
26 YOU TO REGISTER AS A SEX OFFENDER?

27 A. YES.

28 Q. WAS YOUR REGISTRATION AT THE TIME THAT YOU

1 MET DETECTIVE LILLIENFELD UP TO DATE?

2 A. NO.

3 Q. DID DETECTIVE LILLIENFELD INQUIRE ABOUT YOUR
4 STATUS AS A REGISTERED OFFENDER WHEN HE FIRST MET YOU?

5 A. YES.

6 Q. DID IT -- IF YOU KNOW, DID HE KNOW THAT YOU
7 WERE NOT REGISTERED OR DID HE JUST ASK YOU WHETHER OR NOT
8 YOU WERE REGISTERED?

9 A. I DON'T RECALL.

10 Q. WHAT WAS YOUR UNDERSTANDING OF WHAT COULD
11 HAVE HAPPENED TO YOU AT THAT TIME IF LAW ENFORCEMENT
12 LEARNED YOU WERE NOT REGISTERED PROPERLY?

13 A. I DIDN'T REALLY KNOW WHAT THE LAW WAS
14 REGARDING THAT.

15 Q. DID YOU KNOW YOU WERE IN VIOLATION OF THE
16 LAW?

17 A. I KNOW I HADN'T REGISTERED.

18 Q. YOU HAVE SOME LAW ENFORCEMENT BACKGROUND,
19 THOUGH, DON'T YOU?

20 A. YES, I DO.

21 Q. AND WHAT IS THAT?

22 A. A POLICE OFFICER.

23 Q. FOR WHAT JURISDICTION?

24 A. WASHINGTON, D.C., METROPOLITAN.

25 Q. AND EVEN WITH THAT BACKGROUND YOU'RE SAYING
26 YOU DID NOT KNOW WHAT COULD HAVE HAPPENED TO YOU FOR NOT
27 REGISTERING?

28 A. YES.

1 Q. DID YOU HAVE ANY IDEA? IN OTHER WORDS, DID
2 YOU THINK --

3 A. I KNOW IT WAS SOME FORM OF VIOLATION, BUT I
4 DIDN'T KNOW TO WHAT EXTENT, NO.

5 Q. DID YOU THINK THAT YOU COULD HAVE BEEN
6 INCARCERATED?

7 A. I DIDN'T KNOW. I REALLY DIDN'T.

8 Q. WHAT HAPPENED WHEN YOU FIRST MET DETECTIVE
9 LILLIENFELD?

10 A. HE TOLD ME THAT HE WAS INVESTIGATING A
11 MICHAEL GOODWIN. AND THAT WAS PRETTY MUCH IT.

12 Q. DID HE ASK YOU TO DO ANYTHING FOR HIM?

13 A. NO, HE DIDN'T.

14 Q. DID YOU OFFER?

15 A. NO, I DIDN'T.

16 Q. AT THAT TIME, DID YOU KNOW A MAN BY THE NAME
17 OF JEFF BENICE?

18 A. YES, I DID.

19 Q. AND HOW DID YOU KNOW HIM?

20 A. HE WAS MICHAEL GOODWIN'S ATTORNEY.

21 Q. DID YOU EVER WORK FOR MR. BENICE?

22 A. NO, I DIDN'T.

23 Q. DID YOU EVER GET PAID IN A CHECK BY
24 MR. BENICE FOR ANYTHING AT ALL?

25 A. YES.

26 Q. AND WHAT WAS THAT FOR?

27 A. I WAS WORKING FOR MICHAEL GOODWIN.

28 Q. BUT JEFF BENICE PAID YOU?

1 A. YES.

2 Q. WHAT WAS YOUR ASSIGNMENT?

3 A. I WAS A CLERK. I WOULD MAKE COPIES AND GO TO
4 DIFFERENT COURTS AND COPY DIFFERENT THINGS; RUN ERRANDS;
5 DELIVER DOCUMENTS.

6 Q. DELIVER DOCUMENTS TO WHOM?

7 A. TO DIFFERENT ATTORNEYS OR DIFFERENT PERSONS.

8 Q. DID JEFF BENICE EVER ASK YOU TO MAKE COPIES
9 OF ANY PARTICULAR DOCUMENTS?

10 A. NO.

11 Q. DID MICHAEL GOODWIN EVER ASK YOU TO MAKE
12 COPIES OF ANY PARTICULAR DOCUMENTS IN THE PRESENCE OF
13 JEFF BENICE?

14 A. YES, I THINK SO.

15 Q. DID THEY ASK YOU TO JUST COPY AN ENTIRE FILE?
16 OR DID YOU HAVE DISCUSSIONS WITH THEM ABOUT WHICH
17 PORTIONS OF A PARTICULAR FILE MIGHT BE RELEVANT?

18 A. I'M NOT QUITE SURE I UNDERSTAND.

19 Q. WHEN THEY GAVE YOU AN ASSIGNMENT, WAS IT JUST
20 SIMPLY GO AND GET US EVERY BOX ASSOCIATED WITH THIS CASE?
21 OR DID YOU HAVE DISCUSSIONS WITH THEM ABOUT WHICH
22 PARTICULAR DOCUMENTS INSIDE THE BOXES THAT THEY WANTED?

23 A. WELL, USUALLY -- WELL, WHEN MICHAEL GOODWIN
24 GAVE ME AN ASSIGNMENT, HE WOULD ALWAYS DETAIL WHAT HE
25 WANTED, YOU KNOW.

26 Q. DID YOU EVER GO TO THE OFFICES OF JEFF
27 BENICE?

28 A. YES. I HAD TO USE THE COPIER.

1 Q. AND WERE THEY IN ORANGE COUNTY?

2 A. YES.

3 Q. WHAT WAS YOUR UNDERSTANDING OF THE
4 RELATIONSHIP BETWEEN MICHAEL GOODWIN AND JEFF BENICE WHEN
5 YOU WENT TO JEFF BENICE'S OFFICE?

6 A. THAT JEFF BENICE WAS MICHAEL GOODWIN'S
7 ATTORNEY.

8 Q. OTHER THAN THE TIME THAT DETECTIVE
9 LILLIENFELD SHOWED UP AT YOUR APARTMENT WITH THE LONG
10 BEACH POLICE, DID YOU HAVE ANY CONTACT WITH HIM AFTER
11 THAT?

12 A. DETECTIVE LILLIENFELD?

13 Q. YES.

14 A. YES.

15 Q. IN WHAT CONTEXT?

16 A. HE WOULD ASK ME JUST DIFFERENT THINGS ABOUT
17 MICHAEL GOODWIN.

18 Q. WOULD HE PHONE YOU OR COME TO YOUR HOME?

19 A. TELEPHONE.

20 Q. DID YOU EVER PHONE HIM?

21 A. YES.

22 Q. BECAUSE HE ASKED YOU TO OR ON YOUR OWN?

23 A. ON MY OWN AND HE ASKED ME TO.

24 Q. WHAT WAS YOUR MOTIVATION FOR HAVING THESE
25 CONVERSATIONS WITH DETECTIVE LILLIENFELD?

26 A. I -- WE STRUCK UP A FRIENDSHIP. AND I HAD NO
27 PROBLEMS WITH THAT.

28 Q. DID YOU EVER INDICATE TO HIM ANY SORT OF

1 RELUCTANCE TO HELP HIM BECAUSE YOU WERE PRESENT WITH
2 MICHAEL AND HIS LAWYER? DID YOU EVER SAY ANYTHING TO
3 DETECTIVE LILLIENFELD ABOUT: IS THIS OKAY BECAUSE THERE
4 IS LAWYERS AROUND? ANYTHING LIKE THAT?

5 MR. JACKSON: OBJECTION. ASSUMES FACTS NOT IN
6 EVIDENCE.

7 THE COURT: SUSTAINED.

8 Q. BY MS. SARIS: DID YOU EVER ASK DETECTIVE
9 LILLIENFELD IF WHAT YOU WERE DOING WAS PROPER, IF IT WAS
10 LEGAL OR OKAY?

11 A. NO.

12 Q. DID DETECTIVE LILLIENFELD EVER GIVE YOU A
13 SPECIFIC ASSIGNMENT TO FIND OUT A PARTICULAR FACT?

14 A. NO.

15 Q. WHAT KIND OF CONVERSATIONS, THEN, DID YOU
16 HAVE?

17 A. DIFFERENT THINGS. WHAT I HAD -- THINGS THAT
18 I HAD GOTTEN COPIED.

19 Q. AND DID YOU TELL THE DETECTIVE SPECIFICS
20 ABOUT WHAT YOU COPIED?

21 A. YES. THINGS THAT MICHAEL GOODWIN HAD ASKED
22 ME TO DO.

23 Q. EVEN THE THINGS THAT MICHAEL GOODWIN HAD
24 ASKED YOU TO GET IN FRONT OF HIS LAWYER JEFFREY BENICE?

25 A. I DON'T BELIEVE THAT EVER HAPPENED.

26 Q. OH, I'M SORRY. I THOUGHT YOU TESTIFIED THAT
27 THERE WERE TIMES WHERE MR. BENICE WAS PRESENT WHEN
28 MR. GOODWIN WOULD DETAIL TO YOU WHAT HE WANTED.

1 A. MR. BENICE WOULD BE PRESENT. BUT ANY
2 INSTRUCTIONS I GOT FROM MICHAEL GOODWIN WERE NOT IN THE
3 PRESENCE OF JEFF BENICE.

4 Q. YET JEFF BENICE PAID YOU BY CHECK ON AT LEAST
5 ONE OCCASION?

6 A. ON AT LEAST ONE OCCASION.

7 Q. IS THAT A YES?

8 A. THAT'S A YES.

9 Q. DID YOU EVER INQUIRE WHY MR. BENICE WAS
10 PAYING IF YOU MR. GOODWIN WAS THE ONE GIVING YOU
11 INSTRUCTIONS?

12 A. WELL, IT WAS MY UNDERSTANDING FROM MICHAEL
13 GOODWIN THAT HE WANTED IT TO APPEAR THAT I WORKED FOR
14 JEFF BENICE.

15 Q. SO IT WAS YOUR UNDERSTANDING THAT MR. GOODWIN
16 WANTED YOU TO BE PART OF THE DEFENSE TEAM?

17 MR. JACKSON: OBJECTION.

18 THE WITNESS: NO, IT WASN'T.

19 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE.
20 STATES FACTS NOT IN EVIDENCE. MOVE TO STRIKE.

21 THE COURT: SUSTAINED. THAT WILL BE STRICKEN.

22 Q. BY MS. SARIS: DID MICHAEL GOODWIN EVER TALK
23 TO YOU ABOUT BEING PART OF THE DEFENSE TEAM?

24 A. NO, HE DIDN'T.

25 Q. DID YOU EVER RECEIVE ANY DIRECTION FROM
26 JEFFREY BENICE ABOUT WHAT TO XEROX?

27 A. NO.

28 Q. DID YOU EVER TELL DETECTIVE LILLIENFELD THAT

1 JEFFREY BENICE HAD PAID YOU BY CHECK?

2 A. YES.

3 Q. WHEN WAS THAT?

4 A. I DON'T KNOW WHAT DAY IT WAS.

5 Q. WAS THAT IN 2001, THOUGH? I MEAN DURING THE
6 SAME TIME PERIOD THAT WE'RE SPEAKING?

7 A. DURING THE SAME TIME PERIOD I WORKED FOR
8 MICHAEL GOODWIN.

9 Q. AND DID YOU TALK TO DETECTIVE LILLIENFELD
10 AFTER YOU RECEIVED THIS CHECK FROM JEFF BENICE?

11 A. YES.

12 Q. DID YOU TELL DETECTIVE LILLIENFELD
13 SPECIFICALLY ABOUT A PRESS CONFERENCE THAT WAS SCHEDULED
14 IN 2001?

15 A. YES.

16 Q. AND HOW HAD YOU LEARNED ABOUT THAT?

17 A. MICHAEL GOODWIN.

18 Q. AND IN WHAT -- CAN YOU BE MORE SPECIFIC?
19 WERE YOU AT SOMEONE'S OFFICE? AT SOMEONE'S HOME? ON THE
20 PHONE?

21 A. IT MAY HAVE BEEN ON THE TELEPHONE.

22 Q. WERE YOU EVER AT JEFF BENICE'S OFFICE IN A
23 MEETING WITH JEFF BENICE, MICHAEL GOODWIN AND YOURSELF?

24 A. I WAS IN A CONFERENCE ROOM ONCE GETTING SOME
25 INSTRUCTIONS FROM MICHAEL GOODWIN. AND THEN I LEFT AND
26 WAITED FOR MICHAEL GOODWIN WHILE THEY WERE HAVING A
27 MEETING.

28 Q. WHEN YOU GOT THE INSTRUCTIONS FROM MICHAEL

1 GOODWIN, WAS JEFF BENICE THERE IN THE CONFERENCE ROOM
2 WITH YOU?

3 A. YES.

4 Q. WERE CHARGES ARE EVER FILED AGAINST YOU IN
5 LONG BEACH FOR FAILING TO REGISTER AS A SEX OFFENDER?

6 A. NO.

7 Q. DID DETECTIVE LILLIENFELD DO ANYTHING TO
8 ASSIST YOU IN BECOMING REGISTERED?

9 A. YES.

10 Q. WHAT DID HE DO?

11 A. HE JUST ACCOMPANIED ME.

12 Q. TO THE POLICE STATION?

13 A. YES.

14 Q. AND AT THAT TIME, WAS ANYTHING SAID IN YOUR
15 PRESENCE ABOUT THE FACT THAT YOU HAD BEEN UNREGISTERED
16 FOR A PERIOD OF TIME PRIOR TO THAT DAY?

17 A. YES.

18 Q. AND WHAT WAS THE -- WAS THERE SOME DEAL
19 WORKED OUT? WHAT HAPPENED?

20 A. NO. THE LONG BEACH POLICE ADVISED ME THAT I
21 WASN'T REGISTERED.

22 Q. ADVISED YOU THAT YOU WERE NOT REGISTERED?

23 A. YES.

24 Q. BUT THEY DID NOT ARREST YOU AT THAT TIME?

25 A. NO.

26 Q. DID DETECTIVE LILLIENFELD DO OR SAY ANYTHING
27 TO THEM?

28 A. NO.

1 Q. HOW LONG HAD IT BEEN THAT YOU HAD NOT
2 FULFILLED THAT OBLIGATION?

3 A. I DON'T EVEN REMEMBER. MAYBE A YEAR.

4 Q. AND WAS IT A FELONY OR A MISDEMEANOR OFFENSE
5 THAT YOU WERE ORIGINALLY CONVICTED OF?

6 A. FELONY.

7 Q. AS YOU SIT HERE NOW DO YOU KNOW WHAT THE
8 PUNISHMENT WOULD HAVE BEEN?

9 MR. JACKSON: OBJECTION. RELEVANCE.

10 THE COURT: OVERRULED.

11 YOU CAN ANSWER THAT.

12 THE WITNESS: YOU SAID AS I SIT HERE NOW DO I KNOW
13 NOW?

14 Q. BY MS. SARIS: DO YOU KNOW NOW WHAT THE
15 PUNISHMENT FOR FAILING TO REGISTER FOR A FELONY SEX
16 OFFENSE IS?

17 A. YES.

18 Q. AND WHAT IS THAT?

19 A. I THINK IT'S JAIL.

20 Q. IT'S JAIL?

21 A. YES.

22 Q. ARE YOU CURRENTLY UP TO DATE ON YOUR
23 REGISTRATION?

24 A. YES.

25 Q. HAS DETECTIVE LILLIENFELD INTERVENED IN
26 ANY -- LET ME ASK YOU THIS WAY.

27 HAVE YOU HAD -- SINCE 2001, HAVE YOU HAD ANY
28 CONTACT WITH LAW ENFORCEMENT IN TERMS OF EITHER BEING A

1 ARRESTED, ACCUSED OR CHARGED WITH A CRIME?

2 A. YES.

3 Q. HAS DETECTIVE LILLIENFELD OFFERED YOU ANY
4 ASSISTANCE IN THAT REGARD?

5 A. NO.

6 Q. DID YOU CALL HIM AND ASK HIM FOR ASSISTANCE?

7 A. NO.

8 Q. DID YOU EVER CALL HIM IN THE INTERVENING --
9 SINCE 2001 TO ADVISE HIM OF EITHER THIS ARREST OR
10 ACCUSATION OR CHARGE?

11 A. NO.

12 Q. IS THAT A NO? I'M SORRY. I CAN'T HEAR YOU.

13 A. NO.

14 Q. WHAT -- IN RELATION TO THE DISCUSSIONS YOU
15 WERE HAVING WITH DETECTIVE LILLIENFELD REGARDING MICHAEL
16 GOODWIN IN 2001, DID THEY STOP AT SOME POINT IN THAT
17 YEAR, YOUR CONVERSATIONS WITH THE DETECTIVE?

18 A. YES.

19 Q. DO YOU KNOW WHAT PROMPTED YOU BOTH TO STOP
20 COMMUNICATING ABOUT MICHAEL GOODWIN?

21 A. I STOPPED WORKING FOR MICHAEL GOODWIN.

22 Q. AND WHEN WAS THAT?

23 A. I DON'T KNOW EXACTLY WHEN I STOPPED.

24 Q. DO YOU KNOW HOW LONG APPROXIMATELY YOU WORKED
25 FOR HIM IN TOTAL IN 2001?

26 A. I DON'T RECALL.

27 Q. WAS IT A MATTER OF DAYS, WEEKS OR MONTHS?

28 A. A FEW MONTHS I WOULD SUSPECT.

1 Q. WERE YOU FIRED OR DID YOU JUST STOP?

2 A. I QUIT.

3 Q. AND AFTER THAT YOU DIDN'T TALK TO DETECTIVE
4 LILLIENFELD ANYMORE?

5 A. YES, WE MAINTAINED CONTACT.

6 Q. SO YOU HAD A RELATIONSHIP DIFFERENT THAN
7 ANYTHING YOU WERE TELLING HIM ABOUT MR. GOODWIN?

8 A. YES. TO SAY "HI, HELLO."

9 Q. WAS THERE EVER A POINT IN YOUR RELATIONSHIP
10 WITH DETECTIVE LILLIENFELD WHERE HE ASKED YOU
11 SPECIFICALLY TO OBTAIN A PARTICULAR PIECE OF INFORMATION?

12 A. I CAN'T REMEMBER. THERE WAS SO MUCH
13 INFORMATION.

14 Q. CAN YOU ESTIMATE HOW MANY TIMES YOU TALKED TO
15 DETECTIVE LILLIENFELD DURING YOUR EMPLOYMENT WITH
16 MICHAEL?

17 A. A LOT. I DON'T KNOW HOW MUCH, THOUGH.

18 Q. WAS IT MAYBE DAILY?

19 A. SOMETIMES.

20 Q. DID YOU AND DETECTIVE LILLIENFELD EVER TALK
21 ABOUT CONVERSATIONS THAT YOU AND MICHAEL HAD REGARDING
22 MICHAEL'S IDEAS FOR DEFENDING HIMSELF IN THE MURDER CASE?

23 A. NO.

24 Q. DID YOU EVER TELL DETECTIVE LILLIENFELD THAT
25 YOU WERE PRESENT WHEN MICHAEL AND JEFF BENICE WERE TRYING
26 TO FIGURE OUT DEFENSE STRATEGIES?

27 A. NO.

28 Q. WHEN YOU WERE ASKED FOR CERTAIN SPECIFICS

1 FROM FILES THAT YOU WERE SUPPOSED TO RETRIEVE OR XEROX,
2 WAS THERE EVER A DISCUSSION ABOUT THE WHY THOSE
3 PARTICULAR FILES WERE NEEDED AND THE OTHER ONES WERE NOT?

4 A. NO.

5 Q. DID YOU EVER HAVE OCCASION TO REPORT THE
6 INCOME THAT YOU MADE FROM JEFFREY BENICE ON ANY KIND OF
7 TAX FORM OR STATEMENT?

8 A. NO.

9 MR. JACKSON: OBJECTION. RELEVANCE.

10 THE COURT: OVERRULED.

11 THE ANSWER CAN REMAIN.

12 Q. BY MS. SARIS: DID YOU EVER RECEIVE ANY
13 MONETARY COMPENSATION FROM DETECTIVE LILLIENFELD?

14 A. NO.

15 Q. ANY LOANS?

16 A. NO.

17 Q. HAD YOU EVER BEEN IN A ROOM IN MICHAEL
18 GOODWIN'S HOME THAT YOU BELIEVED THAT MICHAEL GOODWIN
19 USED AS A HOME OFFICE?

20 A. YES.

21 Q. DID YOU EVER DESCRIBE THAT ROOM TO DETECTIVE
22 LILLIENFELD?

23 A. YES.

24 Q. DID YOU TELL HIM THE NATURE OF SOME OF THE
25 DOCUMENTS THAT WERE INSIDE THAT ROOM?

26 A. YES.

27 Q. DID YOU EVER HAVE ANY SAY OVER WHICH
28 DOCUMENTS WERE COPIED OUT OF A PARTICULAR FILE? DID THEY

1 EVER GIVE YOU -- EITHER JEFFREY BENICE OR MICHAEL GOODWIN
2 GIVE YOU THE POWER TO USE YOUR OWN DISCRETION AS TO WHAT
3 DOCUMENTS WERE XEROXED?

4 A. MICHAEL GOODWIN WOULD SAY WHICH DOCUMENTS HE
5 WOULD PREFER TO HAVE OR WHICH WERE MORE IMPORTANT TO HIM
6 OR THINGS HE WAS LOOKING FOR.

7 Q. WOULD HE TELL YOU WHY THEY WERE IMPORTANT?

8 A. NOT REALLY.

9 Q. I'VE ASKED ABOUT ANY HELP WITH ANY LEGAL
10 ISSUES AND ANY MONETARY COMPENSATION. LET ME JUST STATE
11 IT MORE CLEARLY AND MORE GENERALLY.

12 HAVE YOU EVER ASKED DETECTIVE LILLIENFELD FOR
13 ANY FAVORS SINCE YOU EVER MET HIM IN 2001?

14 A. NO.

15 Q. OTHER THAN ACCOMPANYING YOU TO REGISTER --
16 WELL, LET ME ASK YOU THIS. WHOSE IDEA WAS IT THAT HE
17 ACCOMPANY YOU TO REGISTER?

18 A. IT WAS HIS IDEA.

19 Q. DID HE TELL YOU WHY?

20 A. NO. JUST SO I WOULD FEEL COMFORTABLE WITH
21 IT. AND WHEN I SAID "ACCOMPANY," HE MET ME DOWN THERE.
22 HE DIDN'T ACCOMPANY ME DOWN THERE.

23 Q. SO HE DIDN'T DRIVE YOU, BUT HE WAS THERE WHEN
24 YOU WALKED IN?

25 A. YES.

26 Q. AND YOU DO THIS AT AN ACTUAL POLICE STATION;
27 CORRECT?

28 A. YES.

1 Q. ARE YOU CURRENTLY ON PROBATION OR PAROLE?

2 A. NO.

3 Q. NOT EVEN FOR A MISDEMEANOR?

4 A. NO.

5 Q. IN 2001, WERE YOU -- OTHER THAN HAVING THE
6 OBLIGATION TO REGISTER, WERE YOU ON PROBATION OR PAROLE
7 AT THAT TIME?

8 A. NO.

9 Q. AT SOME POINT DID YOU BECOME AWARE THAT YOU
10 WERE GOING TO BE ASKED TO TESTIFY IN A HEARING NOW IN
11 2005?

12 A. YES. THIS HEARING?

13 Q. YES.

14 A. YES.

15 Q. WHEN WAS THE FIRST TIME THIS ISSUE OF YOU
16 BEING INVOLVED WAS BROUGHT TO YOUR ATTENTION?

17 A. ABOUT A MONTH OR SO AGO.

18 Q. AND HOW DID THAT OCCUR, BY WHOM?

19 A. DETECTIVE LILLIENFELD.

20 Q. DID HE TELL YOU THE NATURE OF WHAT IT WAS
21 THAT YOU WERE GOING TO BE DISCUSSING?

22 A. YES.

23 Q. DID HE SAY ANYTHING TO YOU ABOUT YOUR
24 TESTIMONY?

25 A. NO.

26 Q. WHAT DO YOU RECALL THE CONVERSATION BEING IN
27 TERMS OF INFORMING YOU OF THE REASON THAT YOU WERE GOING
28 TO BE REQUESTED TO BE HERE?

1 A. THAT THE WHOLE ISSUE IS THAT WHETHER OR NOT I
2 WAS PRIVY TO ATTORNEY/CLIENT INFORMATION OR I WAS A PART
3 OF THE DEFENSE TEAM.

4 Q. DID HE ASK YOU TO TESTIFY IN A PARTICULAR
5 WAY?

6 A. NO.

7 Q. DID HE ASK YOU WHETHER OR NOT YOU FELT LIKE
8 YOU WERE PART OF THE DEFENSE TEAM?

9 A. NO.

10 Q. DO YOU KNOW IF THE CONVERSATIONS THAT YOU HAD
11 WITH THE DETECTIVE WERE RECORDED EVER?

12 A. NO.

13 Q. YOU DON'T KNOW?

14 A. NO.

15 Q. DO YOU HAVE ANY FEELINGS OF EITHER FRIENDSHIP
16 OR ANIMOSITY TOWARDS MR. GOODWIN ONE WAY OR THE OTHER?

17 A. NO.

18 Q. WHEN YOU QUIT HIS EMPLOYMENT, WAS THAT ON
19 GOOD TERMS?

20 A. NO.

21 Q. WERE YOU ANGRY WITH HIM AT THAT TIME?

22 A. YES.

23 MS. SARIS: I HAVE NOTHING FURTHER AT THIS TIME.

24 THE COURT: CROSS?

25 MR. JACKSON: THANK YOU, YOUR HONOR.

26
27 ///

28 ///

CROSS-EXAMINATION

BY MR. JACKSON:

Q. YOU MET MICHAEL GOODWIN WHEN THE FIRST TIME?

A. SOMEWHERE IN '93. I DON'T KNOW, MAYBE MID '93.

Q. SO IN 2001 YOU WOULD HAVE KNOWN HIM FOR, WHAT, EIGHT YEARS OR SO?

A. YES.

Q. SO YOU HAD AN ONGOING RELATIONSHIP WITH MICHAEL GOODWIN?

A. MORE OR LESS.

Q. YOU DIDN'T START WORKING FOR MICHAEL GOODWIN BECAUSE THE POLICE OR ANYBODY ELSE TOLD YOU TO START WORKING FOR HIM, DID YOU?

A. NO.

Q. HE HIRED YOU; CORRECT?

A. YES.

Q. DID HE HIRE YOU, MR. JONES, AS A DEFENSE CONSULTANT?

A. NO.

Q. AS A DEFENSE STRATEGIST?

A. NO.

Q. DID HE HIRE YOU AS PART OF A QUOTE, UNQUOTE, DEFENSE TEAM?

A. NO.

Q. WHAT WERE YOU HIRED TO DO?

A. TO -- I WAS A CLERK. TO DELIVER --

MS. SARIS: YOUR HONOR, I'M SORRY. I'M GOING TO

1 OBJECT TO THE PRIOR QUESTION AS HIRED AS PART OF THE
2 DEFENSE TEAM.

3 THE COURT: ON WHAT GROUNDS?

4 MS. SARIS: ON THE GROUND THAT IT ASSUMES FACTS NOT
5 IN EVIDENCE. BEYOND THE SCOPE OF THIS WITNESS'S
6 KNOWLEDGE WHAT MR. GOODWIN FELT MR. JONES' CAPACITY WAS.
7 IF HE'S ASKING WHAT HIS TITLE WAS, THAT'S DIFFERENT.

8 THE COURT: WELL, HE WAS ASKING IF HE WAS HIRED AS
9 PART OF THE DEFENSE TEAM. AND I'M ASSUMING HE IS ASKING
10 FOR A COMMUNICATION FROM MR. GOODWIN TO MR. JONES.

11 SO WHY DON'T YOU REPHRASE.

12 MR. JACKSON: SURE.

13 Q. WERE YOU TOLD BY MR. GOODWIN THAT YOU WERE
14 BEING HIRED AS PART OF THE DEFENSE TEAM?

15 A. NO.

16 Q. ALL RIGHT. IN FACT, YOU WERE HIRED -- HAVE
17 YOU EVER HEARD THE PHRASE "LEGAL RUNNER"?

18 A. YES.

19 Q. DO YOU KNOW WHAT A LEGAL RUNNER IS? MAKES
20 COPIES, ET CETERA?

21 A. EXACTLY.

22 Q. WERE YOU HIRED TO DO THAT?

23 A. YES.

24 Q. WHAT WERE YOU PAID TO DO THAT?

25 A. \$15 AN HOUR.

26 Q. WOULD YOU EXPECT THAT IF YOU WERE A DEFENSE
27 STRATEGIST AND CENTRAL TO THE DEFENSE TEAM, YOU MIGHT GET
28 A LITTLE BIT MORE COMPENSATION THAN 15 BUCKS AN HOUR?

1 A. I HOPE WOULD SO.

2 MS. SARIS: OBJECTION. RELEVANCE. BEYOND THE
3 SCOPE. LACK OF FOUNDATION.

4 THE COURT: I WILL SUSTAIN THAT.

5 Q. BY MR. JACKSON: DID DETECTIVE LILLIENFELD
6 EVER THREATEN TO VIOLATE YOU FOR YOUR FAILURE TO REGISTER
7 UNLESS YOU COOPERATED WITH HIM?

8 A. NO.

9 Q. WAS THERE ANY THREAT, EITHER IMPLIED OR
10 SUGGESTED, TO YOU FROM MR. LILLIENFELD -- FROM DETECTIVE
11 LILLIENFELD AT ANY TIME?

12 A. NO.

13 Q. DID YOU COOPERATE WITH HIM AND GIVE HIM
14 INFORMATION VOLUNTARILY?

15 A. YES.

16 Q. NOW, YOU KNEW THAT YOU WERE AT THAT TIME --
17 THIS MAY SOUND STUPID, BUT THERE IS A REASON FOR IT --
18 YOU KNEW THAT YOU WERE AN EX-FELON AT THAT TIME WHEN YOU
19 WORKED FOR MICHAEL GOODWIN BACK IN 2001; CORRECT?

20 A. YES.

21 Q. AND YOU BECAME AWARE AT SOME POINT THAT IT
22 WAS ILLEGAL FOR MR. GOODWIN TO ASSOCIATE WITH AN EX-CON;
23 CORRECT?

24 A. YES.

25 MS. SARIS: OBJECTION. LACK OF FOUNDATION.
26 ASSUMES FACTS NOT IN EVIDENCE.

27 THE COURT: ALL RIGHT. SUSTAINED.

28 Q. BY MR. JACKSON: DID MR. GOODWIN EVER TELL

1 YOU THAT HE WAS CONCERNED ABOUT YOUR RELATIONSHIP BECAUSE
2 HE WASN'T SUPPOSED TO BE HANGING OUT WITH AN EX-CON?

3 MS. SARIS: OBJECTION. RELEVANCE.

4 THE WITNESS: YES.

5 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

6 Q. BY MR. JACKSON: DID MR. GOODWIN TAKE ANY
7 FURTHER STEPS TO DISTANCE HIMSELF FROM YOU VISAVIS
8 PAYMENTS?

9 A. YES.

10 Q. HOW SO?

11 A. HE HAD JEFF BENICE WRITE -- PAY ME ON A CHECK
12 OR TWO SO IT WOULD APPEAR THAT I WORKED FOR JEFF BENICE
13 WHEN, IN FACT, I WORKED FOR HIM.

14 Q. AND "HIM" MEANING MR. GOODWIN?

15 A. MR. GOODWIN, MICHAEL GOODWIN.

16 Q. AND WAS THIS IN ORDER TO SATISFY OR -- LET ME
17 REPHRASE THAT IF IT'S OKAY WITH THE COURT.

18 WAS THIS -- AT LEAST WAS IT COMMUNICATED TO
19 YOU BY MR. GOODWIN, THAT HIS CONCERN WAS TO SATISFY HIS
20 FEDERAL PAROLE OFFICER?

21 A. YES.

22 Q. ALL RIGHT. SO THAT HE WOULDN'T BE VIOLATED?

23 A. YES.

24 Q. ALTHOUGH YOU MAY HAVE RECEIVED COMPENSATION
25 FROM JEFF BENICE, JUST LET ME ASK YOU THIS OUTRIGHT: DID
26 YOU EVER WORK IN JEFF BENICE'S SPECIFIC EMPLOYMENT?

27 A. NO.

28 Q. HOW MANY TIMES WOULD YOU SAY IN TOTAL DID YOU

1 EVER GO FOR JEFF BENICE'S OFFICE?

2 A. A HANDFUL OF TIMES.

3 Q. "A HANDFUL" MEANING FIVE?

4 A. FIVE, SIX, SEVEN. I HAD TO DO QUITE A BIT OF
5 COPYING THERE.

6 Q. SO YOU WOULD COME TO DROP OFF THINGS?

7 A. DROP OFF THINGS.

8 Q. PICK UP ASSIGNMENTS?

9 A. PICK UP ASSIGNMENTS. PICK UP THINGS THAT
10 MR. GOODWIN HAD LEFT THERE FOR ME TO PICK UP AND GO
11 SOMEWHERE ELSE WITH.

12 Q. ALL RIGHT. DID YOU EVER HAVE A KEY TO THE
13 OFFICE?

14 A. NO.

15 Q. DID YOU HAVE YOUR -- DID YOU EVER HAVE YOUR
16 OWN OFFICE WITHIN JEFF BENICE'S OFFICE?

17 A. NO.

18 Q. DID YOU HAVE A KEY CARD OR A PARKING PERMIT?

19 A. NO.

20 Q. IN OTHER WORDS, DID YOU HAVE ANY ACCESS TO
21 THAT FACILITY AT JEFF BENICE'S LAW OFFICE AT ALL?

22 A. NO.

23 Q. HOW MANY TIMES WOULD YOU SAY IN TOTAL YOU'VE
24 EVER MET JEFF BENICE? AND WHEN I SAY "MET," I MEAN
25 WALKED UP TO HIM, "HELLO"; SHAKE HIS HANDS. "HOW ARE YOU
26 DOING?" TALK TO HIM?

27 A. I DON'T BELIEVE WE'VE EVER SHAKEN HANDS. BUT
28 I'VE MET HIM ONCE VERY INFORMALLY. AND I SAW HIM A FEW

1 TIMES AFTER THAT BY BEING IN THE OFFICE.

2 Q. DID JEFF BENICE EVER SPECIFICALLY SIT DOWN
3 WITH YOU IN MICHAEL GOODWIN'S PRESENCE AND GIVE YOU
4 INSTRUCTIONS ON THINGS TO DO?

5 A. NO.

6 Q. YOU MENTIONED ON DIRECT EXAMINATION THE ONE
7 TIME THAT YOU RECALL BEING IN A CONFERENCE ROOM WITH THE
8 TWO MEN, THE DEFENDANT MR. GOODWIN AND HIS LAWYER JEFF
9 BENICE; CORRECT?

10 A. YES.

11 Q. ALL RIGHT. HARKENING BACK TO THAT
12 CONVERSATION, WAS ANYTHING DISCUSSED SPECIFICALLY ABOUT
13 THE DEFENSE STRATEGY -- MR. GOODWIN'S DEFENSE STRATEGY
14 DURING THAT CONFERENCE ROOM CONVERSATION?

15 A. NO.

16 Q. YOU ALSO INDICATED ON DIRECT EXAMINATION THAT
17 YOU WAITED OUTSIDE THE CONFERENCE ROOM FOR MR. GOODWIN TO
18 FINISH HIS MEETING WITH JEFF BENICE; CORRECT?

19 A. YES.

20 Q. AM I TO TAKE FROM THAT -- LET ME REPHRASE
21 THAT.

22 IS IT ACCURATE TO SAY THAT WHEN THE TWO MEN
23 BEGAN DISCUSSING WHATEVER IT WAS THEY WERE DISCUSSING,
24 YOU WERE ASKED TO LEAVE THE ROOM?

25 A. YES.

26 Q. YOU HAVE NO IDEA WHAT WAS DISCUSSED IN THERE;
27 CORRECT?

28 A. NOT AT ALL.

1 Q. THE INFORMATION THAT YOU HAD SUPPLIED TO
2 DETECTIVE LILLIENFELD, FROM WHAT SOURCE WOULD YOU GET
3 THAT INFORMATION?

4 A. FROM THE FILES.

5 MS. SARIS: OBJECTION. VAGUE.

6 THE WITNESS: FROM MY FILES OR FROM MICHAEL
7 GOODWIN.

8 THE COURT: OKAY. THE OBJECTION IS OVERRULED.

9 Q. BY MR. JACKSON: SO YOU NEVER SUPPLIED
10 DETECTIVE LILLIENFELD OR ANY OTHER LAW ENFORCEMENT AGENCY
11 INFORMATION THAT YOU GLEANED FROM CONFERENCES OR MEETINGS
12 THAT YOU HAD WITH THE DEFENDANT AND JEFF BENICE; IS THAT
13 CORRECT?

14 A. NO.

15 Q. YOU KNOW WHAT, I ASKED THAT IN A DOUBLE
16 NEGATIVE. THAT WAS A BAD WAY TO ASK IT.

17 A. YES, THAT'S CORRECT.

18 Q. THANK YOU VERY MUCH.

19 MS. SARIS ASKED YOU ABOUT HAVING MET
20 DETECTIVE LILLIENFELD IN ANTICIPATION OF YOUR TESTIMONY
21 TODAY; CORRECT?

22 A. YES.

23 Q. OKAY. AND YOU SAID, YES, DETECTIVE
24 LILLIENFELD HAD MET YOU; CORRECT?

25 A. YES.

26 Q. AND TOLD YOU THAT YOU WERE GOING TO BE
27 NEEDED; IS THAT RIGHT?

28 A. YES.

1 Q. YOU ALSO MET ME, DID YOU NOT?

2 A. YES.

3 Q. AND WHEN YOU MET ME, DETECTIVE LILLIENFELD
4 WAS THERE; CORRECT?

5 A. YES.

6 Q. AND I ASKED YOU ABOUT YOUR RELATIONSHIP WITH
7 JEFF BENICE, DID I NOT?

8 A. YES.

9 Q. AND I ASKED YOU ABOUT YOUR RELATIONSHIP WITH
10 MICHAEL GOODWIN; CORRECT?

11 A. YES.

12 Q. WHAT DID I TELL YOU ABOUT YOUR TESTIMONY
13 TODAY?

14 MS. SARIS: OBJECTION. RELEVANCE AS TO THIS
15 WITNESS AS TO WHAT THE DISTRICT ATTORNEY TOLD HIM.
16 BEYOND THE SCOPE.

17 THE COURT: I THINK IT'S RELEVANT. OVERRULED.
18 YOU CAN ANSWER.

19 THE WITNESS: TO APPEAR HERE AND JUST TELL THE
20 TRUTH.

21 Q. BY MR. JACKSON: DID YOU EVER HEAR DETECTIVE
22 LILLIENFELD GIVE YOU THE SAME INSTRUCTION?

23 A. YES.

24 Q. TO TELL THE TRUTH?

25 A. YES.

26 Q. WERE YOU EVER ASKED BY DETECTIVE LILLIENFELD
27 TO LIE ABOUT YOUR TESTIMONY TODAY?

28 A. NO.

1 Q. WERE YOU EVER ASKED BY ME TO LIE ABOUT YOUR
2 TESTIMONY TODAY?

3 A. NO.

4 MR. JACKSON: YOUR HONOR, THANK YOU. I HAVE NO
5 FURTHER QUESTIONS AT THIS TIME.

6 THE COURT: REDIRECT?

7 MS. SARIS: YES.

8
9 REDIRECT EXAMINATION

10 BY MS. SARIS:

11 Q. SO, MR. JONES, BASICALLY ALL THAT MATTERS IS
12 JUST YOU DON'T FAVOR ONE SIDE OR THE OTHER, YOU'RE JUST
13 HERE TO TELL THE TRUTH; IS THAT RIGHT?

14 A. YES.

15 Q. DID YOU MEET WITH ME PRIOR TO TESTIFYING?

16 A. YES.

17 Q. DID YOU TALK TO ME?

18 A. NO.

19 Q. YOU CAME INTO MY OFFICE AND REFUSED TO ANSWER
20 QUESTIONS?

21 A. YES.

22 Q. CAN YOU EXPLAIN WHY IF YOU'RE JUST HERE TO
23 TELL THE TRUTH?

24 MR. JACKSON: OBJECTION. IRRELEVANT.

25 THE COURT: OVERRULED.

26 THE WITNESS: I HAD NO -- I JUST HAD NOTHING TO
27 SAY.

28 Q. BY MS. SARIS: YOU HAVE HAD SOME EXPERIENCE

1 EITHER WITH -- I'M ASKING NOW BASED ON YOUR EXPERIENCE,
2 BOTH AS A LAW ENFORCEMENT -- FORMER LAW ENFORCEMENT
3 OFFICER AND A FORMER DEFENDANT IN AT LEAST ONE CRIMINAL
4 MATTER, DID IT APPEAR TO YOU FROM YOUR EXPERIENCE THAT
5 MR. GOODWIN WAS INVOLVED IN HIS OWN DEFENSE?

6 MR. JACKSON: OBJECTION. RELEVANCE.

7 THE COURT: I THINK IT ALSO CALLS FOR SPECULATION.
8 I'M GOING TO SUSTAIN THE OBJECTION.

9 Q. BY MS. SARIS: BASED ON YOUR PRIOR EXPERIENCE
10 AND WHAT YOU OBSERVED BETWEEN MR. BENICE AND MR. GOODWIN,
11 DID IT APPEAR THAT MR. BENICE OR MR. GOODWIN WAS
12 DIRECTING, BASED ON WHAT YOU HEARD, HOW HIS DEFENSE OF
13 THE MURDER WAS GOING?

14 MR. JACKSON: OBJECTION. VAGUE. ALSO CALLS FOR
15 SPECULATION.

16 THE COURT: SUSTAINED.

17 MS. SARIS: ON WHICH GROUND, YOUR HONOR?

18 THE COURT: BOTH.

19 Q. BY MS. SARIS: DID YOU EVER HEAR MR. GOODWIN,
20 IN YOUR PRESENCE, TELL MR. BENICE WHAT HE WANTED TO DO IN
21 TERMS OF DEFENDING THE MURDER CASE?

22 A. NO.

23 Q. DID YOU EVER HEAR MR. BENICE TELL YOU -- IN
24 YOUR PRESENCE, MR. BENICE TELL MR. GOODWIN HOW HE WANTED
25 TO DEFEND THE MURDER CASE?

26 A. NO.

27 Q. YOU SAID THAT YOU KNEW MICHAEL OVER EIGHT
28 YEARS, FROM '93 TO 2001. BUT YOU WEREN'T IN CONTACT WITH

1 HIM FOR THAT TIME, WERE YOU?

2 A. NO.

3 Q. IN FACT, YOU HAD BEEN FIRED FROM HIS
4 EMPLOYMENT IN '93; CORRECT?

5 A. NO, I QUIT IN '93.

6 Q. YOU HADN'T BEEN FIRED FOR STEALING?

7 A. NO.

8 MS. SARIS: I HAVE NOTHING FURTHER.

9 THE COURT: ANYTHING ELSE?

10 MR. JACKSON: NO, YOUR HONOR.

11 THE COURT: THANK YOU, SIR. YOU ARE FREE TO GO.

12 THE WITNESS: THANK YOU.

13 THE COURT: MS. SARIS.

14 MS. SARIS: YOUR HONOR, I HAVE NO OTHER WITNESSES
15 AT THIS TIME AS TO THIS PRONG OF THIS MOTION.

16 THE COURT: OKAY.

17 MS. SARIS: MAY I BE HEARD?

18 THE COURT: YES.

19 MS. SARIS: I THINK THE RELEVANT ISSUE IS NOT SO
20 MUCH WHETHER DETECTIVE LILLIENFELD SPECIFICALLY TOLD
21 MICHAEL JONES TO GO IN AND SPY ON MEETINGS. I THINK THE
22 RELEVANT PORTION OF THE MOTION IS THAT AT SOME POINT,
23 EVEN ACCORDING TO MR. JONES' TESTIMONY -- WHICH IS IN
24 CONTRADICTION WITH MR. BENICE'S TESTIMONY.

25 AND I WOULD SUBMIT TO THE COURT THAT THE
26 COURT HAS AN ABSOLUTE CONFLICT OF TESTIMONY. JEFF BENICE
27 TESTIFIED THAT BUTCH JONES WAS EMPLOYED BY HIM AND HE
28 PAID HIM. JEFF BENICE IS AN OFFICER OF THE COURT WHO

1 INDICATED THAT HE WROTE A CHECK FOR THAT SERVICE.

2 MR. JONES CLAIMS THAT MR. BENICE NEVER
3 EMPLOYED HIM, ALTHOUGH HE ADMITS THAT HE DID RECEIVE A
4 CHECK. MR. JONES IS A CONVICTED FELON WHO REFUSED TO
5 TALK TO THE DEFENSE IN THIS CASE PRIOR TO HIS TESTIMONY;
6 AND QUIT AN EMPLOYMENT IN ANGER WITH MR. GOODWIN. SO I
7 THINK ON THAT PARTICULAR POINT, THE COURT CAN MAKE A
8 DETERMINATION THAT MR. BENICE ON THAT PARTICULAR ISSUE IS
9 MORE BELIEVABLE.

10 THE RELEVANT PORTION OF THE MOTION LIES IN
11 THE FACT THAT AT SOME POINT MR. JONES TOLD DETECTIVE
12 LILLIENFELD, I HAVE A CHECK FROM JEFF BENICE. THAT'S
13 UNCONTROVERTED. THAT'S SUPPORTED BOTH BY MR. BENICE'S
14 TESTIMONY AND BY MR. JONES' TESTIMONY.

15 AT THAT POINT IT WAS INCUMBENT UPON DETECTIVE
16 LILLIENFELD TO EITHER ASK FOR ASSISTANCE FROM A DISTRICT
17 ATTORNEY OR A COURT OR INQUIRE AS TO WHETHER OR NOT HE
18 WAS STEPPING OVER THE BOUNDS. MR. GOODWIN MAY HAVE
19 DIRECTED MR. JONES WHAT TO DO, BUT MR. JONES WAS PRIVY TO
20 INFORMATION THAT HAD TO DO WITH HIS DEFENSE IN THAT CASE.
21 HE WAS REPRESENTED BY COUNSEL. THE DETECTIVE KNEW IT.

22 THE DETECTIVE KNEW THAT MR. GOODWIN HAD
23 COUNSEL. HE KNEW THAT JEFF BENICE WAS HIS COUNSEL. AND
24 HE MAY HAVE BEEN TRYING TO SLIP WITHIN SOME SORT OF
25 PUSHING THE ENVELOPE. BUT WHEN IT COMES TO THE
26 ATTORNEY/CLIENT PRIVILEGE, I DON'T THINK THERE IS ANY
27 PUSHING THE ENVELOPE THAT CAN BE TOLERATED BY THIS SYSTEM
28 WHATSOEVER.

1 I THINK DETECTIVE LILLIENFELD KNEW THAT BUTCH
2 JONES WAS MEETING WITH JEFF BENICE. HE KNEW THAT THESE
3 THINGS WERE BEING DISCUSSED. AND IT WAS INCUMBENT UPON
4 HIM TO STOP THAT RELATIONSHIP DEAD IN ITS TRACKS. ANY
5 CONTACT THAT HE HAD WITH MR. JONES ONCE HE FOUND OUT THAT
6 MR. BENICE PAID HIM WAS IN VIOLATION OF THE
7 ATTORNEY/CLIENT PRIVILEGE, REGARDLESS OF WHAT THEY NOW
8 CLAIM THEY MAY HAVE LEARNED.

9 THE ISSUE IS NOT DID I LEARN SOMETHING
10 RELEVANT? OH, I LEARNED ABOUT THESE RECORDS. I LEARNED
11 ABOUT THESE RECORDS. BUT I DIDN'T LEARN ABOUT THOSE
12 RECORDS. THE ISSUE IS: YOU'RE NOT ALLOWED IN OUR SYSTEM
13 TO INVADE THE ATTORNEY-CLIENT PRIVILEGE. PERIOD. AND
14 ONCE IT'S INVADED, THE GOVERNMENTAL CONDUCT BECOMES
15 EGREGIOUS.

16 DETECTIVE LILLIENFELD KNEW BETTER. HE WAS
17 TRYING TO SIDE-STEP THAT BY FALLING BACK ON THIS IDEA
18 THAT MR. JONES WAS ONLY SORT OF PAID BY MR. BENICE, BUT
19 NOT REALLY EMPLOYED BY HIM. IT WAS AN INDEPENDENT
20 CONTRACTOR INSTEAD OF AN ACTUAL EMPLOYEE. YES, OF
21 COURSE, MR. JONES WAS NOT A LEGAL CONSULTANT. HE WAS NOT
22 A STRATEGIST. HE WAS A LEGAL RUNNER. BUT HE OBTAINED
23 SPECIFIC RECORDS THAT POINTED TO SPECIFICITIES OF A
24 DEFENSE IN WHAT WAS, AT THE TIME, A CAPITAL MURDER
25 CHARGE.

26 AND BASED ON THAT, WE WOULD ASK THE COURT TO
27 FIND THAT THE VIOLATION HAS OCCURRED. AND IN LIGHT OF
28 THE FACT THAT NO OTHER REMEDY IS AVAILABLE, WE ASK THE

1 COURT TO DISMISS THE CHARGES.

2 THE COURT: ALL RIGHT. MR. JACKSON.

3 MR. JACKSON: YOUR HONOR, THAT WAS AN INTERESTING
4 SOFT SHOE. BUT MS. SARIS, IN HER ARGUMENT -- BECAUSE THE
5 EVIDENCE WON'T SHOW IT -- PRESENTED ABSOLUTELY NO
6 EVIDENCE WHATSOEVER OF ANY VIOLATION OF AN
7 ATTORNEY/CLIENT PRIVILEGE.

8 WE ARE NOT HERE TO TALK ABOUT WHETHER OR NOT
9 MR. GOODWIN IS UPSET THAT ONE OF HIS FRIENDS, THAT SOME
10 GUY THAT HE EMPLOYED STARTED HAVING CONVERSATIONS WITH A
11 COP. WE'RE NOT HERE TO TALK ABOUT WHETHER OR NOT A COP
12 EVER, DURING THE COURSE OF HIS INVESTIGATION, CONTACTED
13 SOMEONE WHO WAS IN MIKE GOODWIN'S EMPLOY. THOSE ARE NOT
14 ISSUES BEFORE THE COURT.

15 THERE IS A SINGULAR ISSUE BEFORE THE COURT.
16 WHETHER OR NOT BUTCH JONES EMPLOYED BY THIS COURT; MIKE
17 GOODWIN; JEFF BENICE; ANYBODY ELSE, WHETHER THAT MAN
18 INVADED AN ATTORNEY/CLIENT PRIVILEGED CONVERSATION OR
19 COMMUNICATION BETWEEN JEFF BENICE AND MICHAEL GOODWIN.
20 THERE IS NO EVIDENCE OF ANY VIOLATION WHATSOEVER.

21 ALL THE PAYSTUBS IN THE WORLD DON'T CHANGE
22 THAT. THE TITLES THAT YOU GIVE BUTCH JONES OR MIKE JONES
23 DOESN'T CHANGE THAT. MS. SARIS SEEMS TO SUGGEST, IF NOT
24 OUTRIGHT SAY, THAT NOW THE ATTORNEY/CLIENT PRIVILEGE
25 DOCTRINE HAS SOMEHOW CHANGED WITH MR. GOODWIN. THAT IF
26 YOU RECEIVE A PAYCHECK FROM A LAWYER, YOU'RE
27 AUTOMATICALLY PART OF THE DEFENSE TEAM THAT'S NOT
28 ENTITLED TO EVER TALK TO A POLICE OFFICER.

1 THAT IS NOT THE STANDARD. IT'S NOT THE
2 STANDARD UNDER BARBER. IT'S NOT THE STANDARD UNDER
3 JORDAN, THE 1972 CASE FOUND AT 7 CAL. 3RD, 930, THAT
4 TALKS ABOUT A REQUIREMENT IS NEEDED TO INVADE AN
5 ATTORNEY/CLIENT PRIVILEGE.

6 IN OTHER WORDS, UNLESS SOMEONE IS REQUIRED
7 FOR THE DEFENSE TEAM TO BE THERE, ANY PERSON THAT HAPPENS
8 TO BE THERE IT'S DEEMED A WAIVER. NONE OF THESE THINGS
9 MAKE ANY DIFFERENCE BECAUSE NOT ONLY DID MR. JONES SAY I
10 WASN'T EMPLOYED BY JEFF BENICE AND I NEVER HEARD ANY
11 ATTORNEY/CLIENT PRIVILEGE; BUT JEFF BENICE SAID THAT.

12 AND I WILL TAKE ISSUE WITH ONE FACTUAL
13 COMMENT BY MS. SARIS. SHE SAID JEFF BENICE TESTIFIED
14 THAT, IN FACT, BUTCH JONES WAS HIS EMPLOYEE. WELL, IF
15 THE COURT RECALLS, JEFF BENICE SAID, YES, HE IS EMPLOYED
16 BY ME UNDER DIRECT EXAMINATION BY MS. SARIS. AND WHEN I
17 ASKED HIM ON CROSS AND GOT A LITTLE BIT MORE SPECIFIC
18 ABOUT TAX RECORDS AND WHAT KIND OF EMPLOYMENT, HE SAID,
19 WELL, IT DEPENDS ON YOUR DEFINITION OF "EMPLOYMENT."

20 HE WASN'T REALLY AN EMPLOYEE, BUT I PAID HIM
21 A COUPLE OF BUCKS TO GO DO SOME COPYING. AND WHAT WAS
22 THAT COPYING ABOUT? TONY RACKAUCKAS. ALL OF IT WAS
23 ABOUT TONY RACKAUCKAS, WHICH HAS NOTHING TO DO WITH
24 SEMINAL DEFENSE DISCUSSIONS IN THIS CASE.

25 SO ALL OF THAT TAKEN AT HIS FACE -- OR TAKEN
26 ON ITS FACE I SHOULD SAY, MEANS WE HAVE NOTHING. THERE
27 WAS NO ATTORNEY/CLIENT PRIVILEGE THAT WAS -- OR
28 ATTORNEY/CLIENT COMMUNICATION THAT WAS VIOLATED.

1 ABSOLUTELY NOTHING. WE'VE GOT A LEGAL RUNNER WHO WAS IN
2 COMMUNICATION WITH -- VOLUNTARILY IN COMMUNICATION WITH
3 DETECTIVE LILLIENFELD AND THAT'S IT. UNDER NONE OF THE
4 CASES AND UNDER NONE OF THE FACTS SHOULD THIS MOTION BE
5 DISMISSED FOR SOME ATTORNEY/CLIENT PRIVILEGE BASED ON
6 BUTCH JONES' RELATIONSHIP. AND I WILL SUBMIT.

7 MS. SARIS: BRIEFLY. I DON'T KNOW THAT MR. JACKSON
8 IS IN A POSITION TO DISCUSS WHAT IS A SEMINAL ISSUE TO
9 THE DEFENSE, NOT BEING PRIVY TO OUR DEFENSE STRATEGY.
10 JEFF BENICE MENTIONED THAT ALL HE CAN REMEMBER WAS TONY
11 RACKAUCKAS, BUT HE BELIEVED THERE TO BE MORE. JEFF
12 BENICE WAS VERY CLEAR THAT HE EMPLOYED MR. JONES -- WHICH
13 IS WHAT I ARGUED -- NOT WHETHER HE WAS EMPLOYEE OR AN
14 INDEPENDENT CONTRACTOR. HE AND THE DISTRICT ATTORNEY HAD
15 SOME ISSUE WITH, THAT'S IRRELEVANT AS FAR AS THE MOTION
16 IS CONCERNED.

17 IN THE MORROW CASE, WHICH IS CITED IN THE
18 COURT PAPERS AT 30 CAL. APP 4TH, 1252. THIS WAS A
19 DISTRICT ATTORNEY WHO WANTED TO GO ON A SKI VACATION WHO
20 SENT THE DISTRICT ATTORNEY INVESTIGATOR OR THE BAILIFF
21 INTO THE LOCKUP TO LISTEN IN ON DISCUSSIONS BETWEEN THE
22 LAWYER AND HER CLIENT JUST TO FIND OUT IF THEY WERE GOING
23 TO GO TO TRIAL BECAUSE SHE HAD A VACATION SHE WANTED TO
24 GO TO.

25 AND SHE SENT THIS INDIVIDUAL IN TO LISTEN TO
26 A WHISPERED CONVERSATION THAT LASTED LESS THAN TEN
27 MINUTES. AND THE COURT DISMISSED THAT CASE, BASICALLY
28 SAYING THAT THIS IS A VIOLATION. IT CIRCUMVENTS ALL THE

1 PROTECTIONS AFFORDED THE RIGHT OF COUNSEL.

2 IF BUTCH JONES HAD NEVER RECEIVED A PAYCHECK
3 FROM MR. BENICE AND HAD NEVER TOLD DETECTIVE
4 LILLIENFELD -- WHICH IS THE CRITICAL ISSUE -- THAT HE
5 RECEIVED THAT PAYCHECK, THEN I THINK THE PEOPLE'S
6 ARGUMENTS WOULD STAND. BUT THERE IS CERTAINLY PRECEDENT
7 IN CALIFORNIA FOR DISMISSING THE CASE ON THIS TYPE OF A
8 VIOLATION.

9 THIS DETECTIVE WAS ON NOTICE THAT THIS WAS
10 NOT JUST A FRIEND OF MICHAEL'S THAT WAS BETRAYING HIM;
11 BUT THAT WAS POTENTIALLY SOMEONE WHO WAS GIVEN MONEY AND
12 EMPLOYED BY HIS LAWYER. AND AT THAT POINT THE VIOLATION
13 WAS SUSTAINED.

14 SUBMITTED.

15 THE COURT: ANYTHING ELSE?

16 MR. JACKSON: THE ONLY THING I WOULD ADD TO THAT IS
17 IN MORROW, THERE WAS A COMMUNICATION THAT COULD BE
18 POINTED TO. I WOULD ASK MS. SARIS TO POINT TO THE
19 COMMUNICATION THAT SHE IS TALKING ABOUT.

20 SUBMITTED.

21 THE COURT: ANYTHING ELSE?

22 MS. SARIS: NO, YOUR HONOR.

23 THE COURT: YOU KNOW, I THINK THE ISSUE IS A LOT
24 BROADER THAN JUST WHETHER OR NOT THE ALLEGED
25 RUNNER/EMPLOYEE JONES WAS PRIVY TO SOME CONFIDENTIAL
26 COMMUNICATION. IT REALLY REQUIRES -- THE ISSUE AND THE
27 MOTION REALLY REQUIRES THE COURT TO FOCUS ON THE
28 INTENTION OF THE INVESTIGATING OFFICER IN CONTACTING

1 MR. JONES.

2 AND MY RECOLLECTION IS THE INITIAL CONTACT AT
3 LEAST WAS MADE AFTER THE INVESTIGATING OFFICER GOT SOME
4 INFORMATION OFF OF THE WIRE. AT THAT POINT MY
5 RECOLLECTION OF THE TESTIMONY WAS THAT THE DETECTIVE
6 STAYED IN TOUCH WITH MR. JONES. AND MR. JONES, ACCORDING
7 TO HIS OWN TESTIMONY, VIEWED THE RELATIONSHIP AS SOMEWHAT
8 OF A FRIENDSHIP.

9 AND I CAN'T SAY THAT THIS RISES TO THE LEVEL
10 OF MISCONDUCT THAT IS CITED IN THE CASE LAW --

11 MS. SARIS: I'M SORRY. IN WHAT?

12 THE COURT: I CAN'T SAY THIS RISES TO THE LEVEL OF
13 MISCONDUCT CITED IN THE CASE LAW. THERE WAS NO
14 INTENTIONAL INTERFERENCE WITH THE ATTORNEY/CLIENT
15 PRIVILEGE IN THIS CASE ACCORDING TO THIS TESTIMONY.

16 NO. 1, YOU HAVE THE CONTACT OF THE
17 INVESTIGATING OFFICER WITH MR. JONES AS PART OF AN
18 INVESTIGATION.

19 NO. 2, THERE IS REALLY NO CLEAR-CUT
20 RELATIONSHIP THAT I CAN SEE THAT WOULD ENCOMPASS JONES IN
21 THIS ATTORNEY/CLIENT RELATIONSHIP. FROM THE TESTIMONY,
22 HE DID SOME RUNNING FOR MR. BENICE; HE DID SOME COPYING
23 FOR MR. BENICE AND MR. GOODWIN. HE MAY HAVE LOOKED AT
24 SOME FILES AND OBTAINED SOME INFORMATION. BUT THE
25 RELATIONSHIP I DON'T THINK -- I WOULDN'T CATEGORIZE IT AS
26 ONE THAT IS COVERED BY THE ATTORNEY/CLIENT RELATIONSHIP.

27 AND SO I DON'T SEE THAT THERE WAS ANY
28 INTENTIONAL ACT ON THE PART OF LAW ENFORCEMENT TO

1 INTERFERE WITH THE ATTORNEY/CLIENT PRIVILEGE OR TO OBTAIN
2 PRIVILEGED MATERIAL. BUT THE CASES CITED, IN PARTICULAR
3 THE ONE WHERE THE D.A. HAD HER INVESTIGATOR LISTEN IN ON
4 A CONVERSATION, IS A PRETTY EGREGIOUS VIOLATION OF THE
5 ATTORNEY/CLIENT PRIVILEGE. AND I THINK THAT LED TO THE
6 COURT FINDING DISMISSAL WAS AN APPROPRIATE REMEDY.

7 BUT OUR FACTS ARE A FAR CRY FROM THAT
8 SITUATION. THERE MAY HAVE BEEN SOME RELATIONSHIP THAT
9 EXISTED BETWEEN MR. JONES AND MR. BENICE, BUT I CAN'T SAY
10 THAT DETECTIVE LILLIENFELD ATTEMPTED TO INTENTIONALLY
11 OBTAIN PRIVILEGED INFORMATION FROM THAT RELATIONSHIP BY
12 VIRTUE OF HIS CONTACT WITH MR. JONES.

13 SO I THINK THE MOTION TO DISMISS SHOULD BE
14 DENIED ON GROUNDS THAT THERE WAS NO INTENTIONAL
15 INTERFERENCE WITH THE ATTORNEY/CLIENT RELATIONSHIP. I
16 AGREE THAT PERHAPS THERE WAS A QUESTION THAT COULD HAVE
17 BEEN ASKED OR SHOULD HAVE BEEN ASKED. BUT THAT IN NO WAY
18 CAUSES ME CONCERN SUCH THAT I SHOULD FIND THE SANCTION AN
19 APPROPRIATE REMEDY, PARTICULARLY A DISMISSAL.

20 SO I WILL DENY THE MOTION BASED ON THAT
21 LIMITED GROUND.

22 MS. SARIS: THAT LEAVES US TWO OTHER MOTIONS. THE
23 ONE IS THE SECOND PRONG OF THE EGREGIOUS GOVERNMENTAL
24 MISCONDUCT, WHICH IS THE SEIZURE OF DOCUMENTS FROM
25 MR. GOODWIN'S HOME THAT WERE CLEAR ON THEIR FACE
26 ATTORNEY/CLIENT PRIVILEGE. AND THOSE RELATE TO THE
27 DATABASE AND THE DOCUMENTS THAT I TURNED OVER TO THE
28 COURT THAT WE AGREED A SPECIAL MASTER DID NOT NEED TO

1 REVIEW.

2 AND THEN THE SECOND MOTION ENTIRELY FOR THE
3 1538.5.

4 AND THEN THE THIRD MOTION, WHICH WE ARE AT A
5 PROCEDURAL CROSSROADS ON, WHICH IS THE MOTION TO RECUSE
6 THE D.A.'S OFFICE. WHICH I WOULD VERY MUCH LIKE TO SERVE
7 ON THE ATTORNEY GENERAL, HOWEVER, I'M STUMPED AS TO HOW
8 TO DO THAT WITHOUT TAINTING THEM.

9 AND I'M WONDERING IF THE COURT SHOULD NOT
10 APPOINT A SPECIFIC INDIVIDUAL IN THE ATTORNEY GENERAL'S
11 OFFICE TO HAVE SOMETHING IN THE NATURE OF A CONE OF
12 SILENCE -- ONLY FOR THE PURPOSES OF DISCUSSING THIS
13 MOTION -- WHO WOULD ASSURE US THAT IF THE MOTION WERE
14 GRANTED AND THE ATTORNEY GENERAL'S OFFICE DID COME IN AS
15 THE PROSECUTORIAL AGENCY, THAT THAT INDIVIDUAL WOULD HAVE
16 NO CONTACT WITH THE OTHER LAWYERS IN THEIR OFFICE.

17 THAT'S WHAT I'M PROPOSING. THAT'S WHY I
18 ADMIT AND AGREE THAT MY MOTION TO RECUSE IS PROCEDURALLY
19 DEFECTIVE IN THAT REGARD. BUT I REALLY DON'T KNOW HOW TO
20 DO IT OTHERWISE. ESPECIALLY IF THE COURT HAS READ THE
21 MOVING PAPERS WHEREIN THE DEFENSE STRATEGY IS LAID OUT IN
22 INTRICATE DETAIL RIGHT DOWN TO POTENTIAL
23 CROSS-EXAMINATION QUESTIONS; AND THE RELEVANCE OF EACH
24 AND EVERY SINGLE DOCUMENT OBTAINED THAT IS CLEAR AND ON
25 ITS FACE ATTORNEY/CLIENT PRIVILEGE.

26 I HAVE GIVEN THE DISTRICT ATTORNEY NOTICE OF
27 THESE MOTIONS, BUT OBVIOUSLY THEY DON'T HAVE THE
28 ARGUMENTS THAT THE COURT HAS.

1 AND THEN FINALLY THERE IS THE ISSUE OF THE
2 RECORDS FROM COLORADO, WHICH IS A SEPARATE ISSUE THAT I
3 WILL WAIT.

4 THE COURT: WELL, THE RECORDS FROM COLORADO IS THE
5 EASIEST ISSUE.

6 MS. SARIS: WELL, YES AND NO. I WANTED TO GIVE THE
7 COURT MISS MOREAU'S STATEMENT TO THE DETECTIVE SO THE
8 COURT CAN HAVE SOME CONTEXT. AND I JUST XEROXED THAT
9 THINKING IT WOULD BE NO PROBLEM. AND APPARENTLY COUNSEL
10 IS UPSET WITH YOU SEEING IT. AND I DON'T KNOW WHY.

11 THE COURT: ALL I KNOW IS THAT THERE WERE DOCUMENTS
12 PRESENTED TO THE COURT IN RESPONSE TO A SUBPOENA. AND I
13 HAD THESE DOCUMENTS IN THE COURT FILE. I HAVEN'T OPENED
14 THEM OR ANYTHING. BUT WHEN, MS. SARIS, YOU ASKED EARLIER
15 WHEN WE WERE OFF THE RECORD IF WE RECEIVED THE DOCUMENTS,
16 THAT'S WHEN I WAS ALERTED TO THE ISSUE. I DON'T RECALL.

17 DID THE WITNESS CLAIM THE PRIVILEGE?

18 MS. SARIS: THE WITNESS CLAIMED THE PRIVILEGE OF
19 DOCTOR/PATIENT. THERE WAS A COURT HEARING HELD IN
20 COLORADO. THAT COURT HEARING -- IT WAS DETERMINED THAT
21 THE RECORDS COULD BE GIVEN TO YOU UNDER SEAL; THAT YOU
22 COULD REVIEW THEM FOR RELEVANCE; AND RELEASE THEM AT YOUR
23 DISCRETION TO US.

24 WHAT I WOULD LIKE -- THE PURPOSE OF THE
25 RECORDS IS THIS WITNESS IS THE ONE THAT TESTIFIED THAT MY
26 CLIENT ALL BUT CONFESSED THIS TO HER. AT A PREVIOUS
27 INTERVIEW WITH LAW ENFORCEMENT IN 1999, SHE INDICATED
28 THAT MY CLIENT TRIED TO KILL HER. AND SHE DID SO IN VERY

1 DETAILED MEDICAL GROUNDS OF BEING BURNT; HAVING BONES
2 BROKEN. IT'S OUR CONTENTION THIS WAS A SUICIDE ATTEMPT
3 OR AN OVERDOSE OF PILLS CAUSED HER INJURIES.

4 THEREFORE, WE WANTED THE RECORDS TO SHOW THAT
5 SHE MADE A REALLY SERIOUS ALLEGATION TO LAW ENFORCEMENT
6 THAT WAS CLEARLY AND EASILY, IN OUR OPINION -- ALTHOUGH,
7 WE HAVEN'T SEEN THE RECORDS -- THAT WE CAN PROVE TO BE
8 FALSE. AND THEREFORE I WANTED TO GIVE THE COURT HER
9 STATEMENT TO LAW ENFORCEMENT SO THE COURT WOULD HAVE SOME
10 CONTEXT TO DETERMINE THE RELEVANCY OF THOSE DOCUMENTS.

11 THE COURT: WELL, I'M JUST WONDERING HAS SHE -- I
12 KNOW SHE APPEARED IN THIS COURT AT THE PRELIMINARY
13 HEARING. AND I DON'T RECALL IF THERE WAS A FORMAL
14 INVOCATION OF THE PRIVILEGE. BUT I WILL ACCEPT THE
15 REPRESENTATIONS THAT SHE ASSERTED THE PRIVILEGE.

16 MS. SARIS: SHE DID. AND, IN FACT, WE INQUIRED OF
17 HER WHETHER SHE WOULD SIGN A DOCUMENT AUTHORIZING US TO
18 HAVE THE RECORDS AND SHE DECLINED.

19 THE COURT: I MEAN, I'M HAPPY TO REVIEW IN CAMERA
20 THE DOCUMENTS TO SEE WHETHER OR NOT THERE IS ANYTHING
21 POTENTIALLY MATERIAL IN THERE THAT SHOULD BE DISCLOSED.

22 DO THE PEOPLE HAVE ANY PROBLEM WITH THAT?

23 MR. JACKSON: MAY WE HAVE JUST A MOMENT, YOUR
24 HONOR?

25 (DISCUSSION OFF THE RECORD.)

26 MR. JACKSON: ULTIMATELY, OBVIOUSLY THE RECORDS ARE
27 THE RECORDS. THE COURT CAN REVIEW THEM AT ITS LEISURE.
28 AND AT LEAST -- BASED ON THE REPRESENTATIONS OF

1 COUNSEL -- AT LEAST GLEAN FROM THE RECORDS WHAT IT IS
2 THAT COUNSEL IS SEEKING TO DO. FIRST AND FOREMOST, WE --
3 I DON'T THINK MR. DIXON NOR I WERE UPSET ABOUT THE COURT
4 LOOKING AT ANYTHING. SO I WANT TO CLEAR THAT UP FIRST
5 AND FOREMOST.

6 IT IS NOT MY POSITION AT THIS POINT THAT A
7 HEARSAY DOCUMENT -- A HEARSAY POLICE REPORT IS NECESSARY,
8 THAT'S ALL. I THINK IT'S A TWO-STEP PROCESS. IF THE
9 COURT REVIEWS THE MEDICAL RECORDS AND THEN DECIDES, YOU
10 KNOW WHAT, I DON'T HAVE ANY CONTEXT TO PUT THIS IN.
11 ALTHOUGH I HEARD THE PRELIMINARY HEARING AND HEARD HER
12 TESTIFY; HEARD THE CROSS-EXAMINATION, ET CETERA, ON THAT
13 POINT, WELL, THEN MAYBE WE CAN ADDRESS THAT POINT LATER.

14 BUT SINCE THE COURT IS GOING TO BE RULING ON
15 THE SUBSTANCE OF WHAT IS IN THE MEDICAL RECORDS, I DON'T
16 KNOW THAT -- I THINK THAT SUBMITTING HEARSAY POLICE
17 REPORTS MAY BE PUTTING THE CART BEFORE THE HORSE. THE
18 COURT MAY NOT NEED THEM.

19 THE COURT: WELL, I HEARD THE TESTIMONY OF THE
20 WITNESS. I RECALL JUST GENERALLY THE SUBSTANCE OF THE
21 TESTIMONY. AND IT WAS TESTIMONY THAT POTENTIALLY COULD
22 BE CRITICAL.

23 MS. SARIS: YOUR HONOR, I CAN'T DISAGREE MORE. YOU
24 CAN'T HAVE A CONTEXT TO SAY WHETHER OR NOT I GET THE
25 RECORDS UNTIL YOU READ WHAT SHE IS ACCUSING HIM OF.

26 THE COURT: BUT THAT'S SEPARATE FROM WHAT SHE
27 TESTIFIED TO.

28 MS. SARIS: WELL, I WASN'T ALLOWED TO GET INTO THIS

1 AT THE PRELIMINARY HEARING BECAUSE I COULDN'T SCHEDULE A
2 COURT APPEARANCE IN COLORADO SOON ENOUGH TO GET THESE
3 RECORDS. I DON'T KNOW IF THE COURT RECALLS, WE THOUGHT
4 WE WERE GOING TO HAVE THEM FEDERAL EXPRESSED.

5 THE COURT: NO, I REMEMBER THAT.

6 MS. SARIS: SO I WASN'T EVEN ALLOWED TO ASK HER --
7 I BELIEVE I ASKED HER IF SHE MADE AN ACCUSATION THAT HE
8 TRIED TO KILL HER. BUT WHEN YOU SEE THE DETAILS OF WHAT
9 SHE SAID IN THE STATEMENT -- WHICH YOU NEED THE STATEMENT
10 TO JUDGE THE RELEVANCE OF THOSE RECORDS. I MEAN ALL
11 THOSE RECORDS ARE GOING TO SAY IS THAT SHE WAS ADMITTED
12 TO A HOSPITAL WITH "X" COMPLAINTS.

13 THE RELEVANCE IS THAT SHE WAS ADMITTED TO THE
14 HOSPITAL WITH "X" COMPLAINTS, BUT SHE ACCUSED MY CLIENT
15 OF CAUSING A, B AND C INJURY. AND THE A, B AND C
16 INJURIES ARE PHENOMENAL; THEY'RE DETAILED. THEY'RE BURN
17 MARKS WITH -- I DON'T KNOW IF IT WAS A CIGARETTE OR AN
18 IRON. THERE IS A BROKEN BACK; A BROKEN -- I MEAN THERE
19 IS SO MANY OBVIOUS SPECIFICITIES.

20 THE COURT: BUT THE RELEVANCE WOULD BE THAT THIS IS
21 POTENTIALLY IMPEACHING INFORMATION, THAT IS, INFORMATION
22 WHICH WOULD TEND TO CALL IN TO QUESTION THIS WITNESS'S
23 CREDIBILITY ABOUT THE TESTIMONY THAT SHE WOULD GIVE AT
24 TRIAL, WHICH I WOULD ASSUME WOULD BE SIMILAR TO THE
25 TESTIMONY FROM THE PRELIMINARY HEARING.

26 AND SO IT WOULD ESSENTIALLY BE A -- I GUESS
27 ALONG THE LINES OF A MORAL TURPITUDE TYPE OF CONDUCT THAT
28 SHE'S REPORTING ONE THING AND THEN REPORTING SOMETHING

1 DIFFERENT IN THE MEDICAL RECORDS. IS THAT WHAT WE ARE
2 TALKING ABOUT HERE? THESE ARE RECORDS FROM THE HOSPITAL
3 THAT TREATED HER FOR PHYSICAL INJURIES?

4 MS. SARIS: RIGHT. WE BELIEVE TO BE JUST AN
5 OVERDOSE. BUT WHAT SHE CLAIMED TO BE SUBSTANTIAL
6 PHYSICAL INJURIES. YES. IT'S MORE THAN MORAL TURPITUDE.
7 IT'S THE SAME INDIVIDUAL. IT'S AN EGREGIOUS ALLEGATION.
8 IT'S TO A LAW ENFORCEMENT OFFICER. IT HAS TO DO WITH NOT
9 ONLY HER ATTITUDE TOWARDS TESTIFYING, HER ATTITUDE
10 TOWARDS MR. GOODWIN AND HER VORACITY IN GENERAL. AND HER
11 WILLINGNESS TO LIE ABOUT --

12 THE COURT: RIGHT. IT'S CREDIBILITY. IT IS
13 INFORMATION THAT MIGHT BEAR ON CREDIBILITY. SO I DON'T
14 NEED TO KNOW THE UNDERLYING ACCUSATION OR THE SPECIFICS
15 OF THE UNDERLYING ACCUSATION. IF THERE IS SOMETHING
16 POTENTIALLY RELEVANT IN HERE -- AND WHAT YOU ARE SAYING
17 IS WHAT I'M GOING TO BE LOOKING AT ARE THE ACCUSATIONS IN
18 THESE RECORDS?

19 MS. SARIS: YOU WON'T SEE ANY OF THOSE ACCUSATIONS
20 IN THE RECORDS. THAT ACCUSATIONS CAME TO LAW ENFORCEMENT
21 IN 1999.

22 THE COURT: OKAY. SO WHAT I WOULD BE LOOKING AT IS
23 ESSENTIALLY THE RECORDS OF HER HOSPITALIZATION; TREATMENT
24 OF INJURIES THAT YOU CLAIM SHE SEPARATELY CLAIMED WAS THE
25 RESULT OF MR. GOODWIN?

26 MS. SARIS: THAT'S CORRECT. THAT'S CORRECT. AND
27 WHAT I WANTED THE COURT TO HAVE WAS THE CONTEXT OF HER
28 ACCUSATION SO THAT THE COURT COULD SEE IF THERE IS A

1 DIFFERENCE. I DON'T THINK IN THOSE REPORTS IF WHAT I'M
2 BELIEVING TO BE TRUE, MY UNDERSTANDING IS THOSE REPORTS
3 ARE GOING TO SHOW A WOMAN WHO WAS TREATED AT THE MEDICAL
4 FACILITY FOR AN OVERDOSE OF PILLS.

5 THAT IN AND OF ITSELF, I DON'T KNOW THAT THAT
6 GIVES THE COURT CONTEXT ABOUT HER VORACITY. NOW THAT I
7 HAVE SAID IT OUT LOUD, IT DOESN'T MATTER; I CAN READ IT.
8 I JUST WANT THE RECORD TO BE CLEAR.

9 THE COURT: JUST GIVE ME SOME PRELIMINARY
10 INFORMATION SO I HAVE A CONTEXT. THE REPORT TO LAW
11 ENFORCEMENT WAS MADE WHEN?

12 MS. SARIS: IT WAS MADE IN 1999. AND IT WAS
13 DOCUMENTED IN A REPORT DATED SEPTEMBER 6, 1999. SO I
14 ASSUME THE INTERVIEW WAS WITHIN THAT TIME.

15 THE COURT: BUT WHEN IS THE INCIDENT ALLEGED TO
16 HAVE OCCURRED?

17 MS. SARIS: JANUARY OF 1993. AND THAT'S WHEN THOSE
18 RECORDS ARE.

19 THE COURT: SO THE INCIDENT WAS REPORTED SEPTEMBER
20 '99 AND IT INVOLVES AN INCIDENT OF JANUARY '93.

21 IS THAT RIGHT?

22 MS. SARIS: I'M SORRY. MY CLIENT INTERRUPTED. I
23 DIDN'T HEAR YOU. I APOLOGIZE.

24 THE COURT: THE INCIDENT WAS REPORTED TO LAW
25 ENFORCEMENT SEPTEMBER, '99, BUT IT PERTAINED TO A MATTER
26 THAT ALLEGEDLY OCCURRED IN JANUARY OF '93?

27 MS. SARIS: THAT'S CORRECT.

28 MR. JACKSON: EXCEPT IT WASN'T INITIALLY REPORTED

1 IN 1999. I THINK THAT'S WHEN AN OFFICER INTERVIEWED HER
2 ABOUT THAT SITUATION. SO IT'S NOT LIKE SHE JUST HELD
3 ONTO IT AND THEN WENT TO A POLICE STATION.

4 MS. SARIS: I DON'T KNOW WHAT SHE REPORTED IN THE
5 SUBSEQUENT SIX YEARS. BUT AS FAR AS IN THIS CASE, SHE
6 REPORTED IT TO DETECTIVE LILLIENFELD SPECIFICALLY. AND
7 SHE INDICATED AT THAT TIME THAT SHE HAD BEEN OVERDOSED
8 WITH LITHIUM THAT HAD BEEN SLIPPED INTO HER DRINK. THAT
9 SHE HAD A FRACTURED PELVIS; A FRACTURED TAILBONE; A
10 FRACTURED SKULL WITH A LACERATION THAT HAD TO BE SUTURED;
11 A BROKEN COLLAR BONE; INTERNAL INJURIES.

12 SHE BELIEVES SHE WAS PUSHED DOWN A FLIGHT OF
13 STAIRS. AND ALTHOUGH I CAN'T FIND IT SPECIFICALLY, SHE
14 INDICATED SHE SUFFERED A BURN TO HER BACK.

15 THE COURT: THE TESTIMONY AT THE PRELIMINARY
16 HEARING WAS THAT THE DEFENDANT WAS LIVING WITH HER AT
17 SOME POINT IN TIME OUT OF STATE. WHAT PERIOD OF TIME WAS
18 THAT?

19 MS. SARIS: IT WOULD HAVE BEEN 1993. THIS HAPPENED
20 RIGHT AROUND -- IT WOULD HAVE BEEN '92, BECAUSE THIS
21 HAPPENED IN JANUARY OF '93. SO THE RELATIONSHIP WOULD
22 HAVE BEEN BETWEEN '91 AND '93.

23 THE COURT: IT SEEMS TO ME, OBVIOUSLY, WITHOUT EVEN
24 LOOKING AT THESE RECORDS, IN ALL LIKELIHOOD I'M GOING TO
25 FIND THAT THE RECORDS CONTAIN INFORMATION THAT COULD
26 POTENTIALLY BE MATERIAL TO THE DEFENSE. AND I WILL
27 PROBABLY JUST ORDER THEM RELEASED.

28 I DON'T KNOW THAT I'M GOING TO GO THROUGH

1 EVERY SINGLE PAGE AND LOOK AT DOCTOR'S HANDWRITTEN NOTES
2 AND DETERMINE WHETHER OR NOT THE PRIVILEGE SHOULD PREVAIL
3 OVER THE DEFENDANT'S RIGHT TO A FAIR TRIAL.

4 I MEAN, THIS IS A PRETTY CRITICAL WITNESS.
5 AND IF I ACCEPT THE REPRESENTATION THAT THERE WAS A
6 REPORT MADE TO LAW ENFORCEMENT THAT SHE WAS BEATEN UP AND
7 HURT BY THE DEFENDANT; AND THESE RECORDS ARE RECORDS THAT
8 PERTAIN TO THAT INJURY, I FRANKLY DON'T EVEN SEE THE NEED
9 TO GO THROUGH THEM IN CAMERA.

10 IF THESE ARE THE RECORDS AND SHE'S ALREADY
11 REPORTED IT, I PRETTY MUCH JUST SAY THAT HIS RIGHT TO A
12 FAIR TRIAL PREVAILS THE PRIVILEGE. AND SHE HASN'T
13 ASSERTED THE PRIVILEGE IN THIS COURT EXCEPT THE
14 REPRESENTATIONS THAT SHE HAS ASSERTED THE PRIVILEGE IN
15 COLORADO.

16 MS. SARIS: SHE WAS NOT PRESENT AT THE HEARING WE
17 JUST HELD, NEITHER WAS I. THE HOSPITAL ASSERTED THE
18 PRIVILEGE FOR HER IN HER ABSENCE UNDER HIPAA. AND I
19 DON'T EVEN KNOW WHAT HIPAA STANDS FOR. I'M SORRY. I
20 THINK IT'S H-I-P-P-A. IT'S THE NEW PRIVACY ACT THAT SAYS
21 HOSPITALS CAN'T GIVE OUT INFORMATION.

22 THE COURT: I WILL BE HONEST WITH YOU, IT SEEMS TO
23 ME THAT IF SHE REPORTED THIS TO LAW ENFORCEMENT, SHE HAS
24 WAIVED THE PRIVILEGE. BUT I DON'T KNOW. AND, YOU KNOW,
25 UNLIKE ANOTHER ONE OF MY CASES WHERE A VICTIM HIRED A
26 LAWYER TO COME IN AND ASSERT THE PRIVILEGE, I'M KIND OF
27 WORKING IN A VACUUM HERE BECAUSE NOBODY IS HERE ASSERTING
28 THE PRIVILEGE ON BEHALF OF THIS WITNESS. I MEAN THE

1 PEOPLE CERTAINLY AREN'T.

2 MR. JACKSON: WELL, WE'RE NOT IN A POSITION TO,
3 LEGALLY WE CAN'T. SHE HAS TO -- THAT'S PERSONAL TO HER.
4 AND SHE HAS TO ASSERT, WHICH SHE DID AT THE PRELIMINARY
5 HEARING BY HER -- I THINK OSTENSIBLY THE COURT COULD FIND
6 THAT SHE ASSERTED THE PRIVILEGE WHEN SHE SAID I WILL NOT
7 SIGN ANY DOCUMENT TO RELEASE THE INFORMATION.

8 THE COURT: ALL RIGHT. I WILL TAKE A LOOK AT THESE
9 RECORDS. AND I WILL PROBABLY ORDER THEM DISCLOSED UNLESS
10 ANYBODY HAS ANY FURTHER ARGUMENT ON THAT.

11 MR. JACKSON: NO.

12 THE COURT: ALL RIGHT. AND THEN THE MORE
13 DIFFICULT, I GUESS, PROCEDURAL DECISION THAT WE HAVE TO
14 MAKE IS WHERE DO WE GO FROM HERE ON THE 1538.5 AND ON THE
15 RECUSAL MOTION. AND, FRANKLY, I DON'T KNOW THAT I HAVE A
16 SOLUTION FOR THE RECUSAL DILEMMA. I REALLY DON'T. AND I
17 DON'T KNOW THAT I CAN MAKE AN ORDER TELLING THE ATTORNEY
18 GENERAL'S OFFICE --

19 MS. SARIS: PERHAPS WHAT WE CAN DO IS SET A COURT
20 DATE WHERE WE CAN HAVE A REPRESENTATIVE FROM THE ATTORNEY
21 GENERAL'S OFFICE HERE AND SEE IF THEY HAVE SOME PROCEDURE
22 IN PLACE. I CAN'T IMAGINE, WHILE THIS IS RARE, THAT IT'S
23 THE FIRST TIME THAT IT EVER HAPPENED.

24 THE COURT: RIGHT. I WOULD ASSUME THAT THEY DO
25 HAVE SOME PROCEDURE BECAUSE THEY DO DEAL WITH THESE
26 MOTIONS.

27 MS. SARIS: I KNOW WHEN -- I'M JUST TRYING TO BASE
28 IT ON THE ONLY EXPERIENCE I HAVE IS WHEN THE RAMPART

1 SCANDAL HAPPENED, THE L.A. DISTRICT ATTORNEY'S OFFICE
2 ACTUALLY HAD ATTORNEYS THAT WERE ONLY PRIVY TO CERTAIN
3 THINGS BECAUSE THE OFFICERS' STATEMENT HAD BEEN COMPELLED
4 AND THEY WERE NOT ALLOWED TO COMMUNICATE. AND I JUST
5 THINK THERE MUST BE SOMETHING SIMILAR SET UP IN THE A.G.

6 THE COURT: I WOULD IMAGINE -- I WOULD HOPE SO.
7 AND IF NOT, MAYBE THIS WILL BE THE CASE TO CAUSE THAT.

8 MS. SARIS: MR. GOODWIN IS INCLINED TO DO THIS AS
9 SOON AS POSSIBLE. I'M IN TOWN TUESDAY AND WEDNESDAY OF
10 THIS WEEK. AND THEN I'M IN TOWN AGAIN AFTER THE -- WHERE
11 ALL THOSE "X"S ARE ON YOUR MAY CALENDAR. IT LOOKS AS IF
12 I WILL BE IN TOWN THE FIRST WEEK IN JUNE, WITH OBVIOUSLY
13 THE UNDERSTANDING THAT THAT COULD CHANGE AT ANY MOMENT OF
14 THE PHONE RINGING. I'M HAPPY TO SCHEDULE IT FOR JUNE
15 1ST, JUNE 6, JUNE 7.

16 THE COURT: ALL RIGHT. WHAT IS GOOD FOR THE
17 PEOPLE? BECAUSE, YOU KNOW, WE ALSO HAVE TO PROCEED WITH
18 THE 1538. AND YOU HAVE GIVEN ME THE WARRANT. I DON'T
19 KNOW THAT WE NEED TO TAKE ANY -- ARE WE GOING TO BE
20 TAKING ANY ADDITIONAL EVIDENCE ON THAT ISSUE?

21 MS. SARIS: WE ARE NOT.

22 THE COURT: SO YOU ARE SUBMITTING IT JUST ON THE
23 PAPERWORK AND THE WARRANT?

24 MS. SARIS: YES.

25 THE COURT: AND THE PEOPLE LIKEWISE WILL SUBMIT?

26 MR. JACKSON: THAT'S OUR ANTICIPATION AT THIS
27 POINT, YES. IF THERE IS NO LIVE WITNESSES ANTICIPATED
28 FROM THE DEFENSE SIDE, I DON'T SEE ANY NEED TO USE LIVE

1 WITNESSES. WE CAN'T DO THIS, OBVIOUSLY, TUESDAY OR
2 WEDNESDAY; WE HAVE TO CONTACT THE A.G.'S OFFICE.

3 MS. SARIS: RIGHT.

4 MR. JACKSON: THAT'S JUST NOT GOING TO BE ENOUGH
5 TIME.

6 THE COURT: SO GIVE ME A DATE -- I GUESS A
7 TENTATIVE DATE IN EARLY JUNE AND WE CAN GO FROM THERE.
8 YOU SAID JUNE 6 OR 7TH, ANY TIME THAT WEEK ACTUALLY IS
9 FINE. BUT I KNOW THE SITUATION THAT YOU REFERRED TO THAT
10 YOU MAY NOT BE AVAILABLE IF YOU GET A PHONE CALL.

11 MS. SARIS: RIGHT. HOW ABOUT THE 2ND OF JUNE, IS
12 THAT --

13 THE COURT: YES, THAT'S FINE.

14 MS. SARIS: OKAY.

15 MR. JACKSON: THAT'S A THURSDAY?

16 MS. SARIS: THAT'S A THURSDAY.

17 MR. JACKSON: THAT'S FINE WITH US, YOUR HONOR.

18 MR. DIXON: YES.

19 THE COURT: ALL RIGHT. MR. GOODWIN, DO YOU WANT TO
20 MAKE THAT A ZERO OF 60 DATE, JUNE 2ND?

21 THE DEFENDANT: YES, MA'AM.

22 THE COURT: COUNSEL JOIN?

23 MS. SARIS: YES.

24 THE COURT: ALL RIGHT. SO WE WILL DEAL WITH THE
25 RECUSAL AND THE 1538 ON JUNE 2ND. I WILL PROBABLY GIVE
26 YOU THE RECORDS ON THAT DATE. I WILL REVIEW THEM BEFORE
27 THEN.

28 AND WHAT ELSE? ANYTHING ELSE?

1 MS. SARIS: I HAVE TO CONTACT THE ATTORNEY GENERAL,
2 I SUPPOSE, AND HAVE THEM -- SHALL I DO THAT --

3 THE COURT: FOR THE JUNE 2ND DATE, I WOULD
4 RECOMMEND IT.

5 MS. SARIS: WHAT I WILL DO IS I WILL PHONE THEM AND
6 SEE IF THEY WANT TO -- IF THEY NEED ANY INPUT FROM EITHER
7 SIDE. I'M SURE MR. DIXON OR MR. JACKSON WILL BE HAPPY
8 TO --

9 MR. JACKSON: WHAT NORMALLY HAPPENS IS UNDER 1424,
10 THE DEFENSE SHOULD SUBMIT TO THE -- SERVE BOTH THE A.G.'S
11 OFFICE AND MY OFFICE. SHE HAS ALREADY SERVED MY OFFICE.
12 SHE HASN'T SERVED THE A.G.'S OFFICE.

13 IT DOESN'T REQUIRE MS. SARIS TO KIND OF
14 DISSEMINATE ALL THE SENSITIVE INFORMATION TO THE A.G.'S
15 OFFICE FOR THEM TO THEN BE ON NOTICE AND HAVE TO RESPOND,
16 ULTIMATELY. THAT WOULD BE MY SUGGESTION. FILE A MOTION
17 WITH THEM -- A FORMAL MOTION TO INDICATE THERE ARE
18 CERTAIN MATERIALS THAT CAN'T BE DISCLOSED AND WE'RE GOING
19 TO HAVE A HEARING ON THE 2ND.

20 MS. SARIS: I CAN GIVE THEM THE COPY THAT I GAVE
21 THE D.A., WHICH IS JUST BARE BONES.

22 THE COURT: OKAY. THAT'S A PLAN. WE WILL SEE YOU
23 JUNE 2ND ZERO OF 60. THANK YOU.

24 MS. SARIS: THANK YOU.

25
26 (THE MATTER WAS CONTINUED TO THURSDAY,
27 JUNE 2, 2005 AT 8:30 A.M.)

28 --000--

P107074

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE TERI SCHWARTZ, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL
REDACTED = PURSUANT TO 237(A)(2)
JUNE 2, JULY 14, AUGUST 17, SEPTEMBER 20,
NOVEMBER 16 AND DECEMBER 8, 2005

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN JR., ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

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SHEILA BROCK, CSR #10025
LORI D. CASILLAS, CSR #9869
ANDREA BILLUE, CSR #

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE V. GOODWIN
3 PASADENA, CALIFORNIA JUNE 2, 2005
4 DEPARTMENT NE E HON. TERI SCHWARTZ JUDGE
5 REPORTER: SHEILA BROCK, CSR NO. 10025
6 TIME: A.M. SESSION
7 APPEARANCES: (AS HERETOFORE MENTIONED.)
8

9 THE COURT: ALL RIGHT.

10 ON THE RECORD IN THE MICHAEL GOODWIN MATTER,
11 MR. GOODWIN IS PRESENT WITH COUNSEL; PEOPLE ARE REPRESENTED.

12 AND WE HAVE A REPRESENTATIVE FROM THE ATTORNEY
13 GENERAL'S OFFICE. LET ME ASK ALL COUNSEL TO STATE THEIR
14 APPEARANCES, PLEASE.

15 MR. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER, ON
16 BEHALF OF MR. GOODWIN.

17 MR. MATTHEWS: STEVEN MATTHEWS ON BEHALF OF THE
18 ATTORNEY GENERAL'S OFFICE.

19 MR. JACKSON: ALAN JACKSON ON BEHALF OF THE DISTRICT
20 ATTORNEY'S OFFICE.

21 THE COURT: SINCE WE HAVE A REPRESENTATIVE FROM THE
22 ATTORNEY GENERAL'S OFFICE ON THE MOTION TO RECUSE, WHY DON'T
23 WE HANDLE THAT FIRST, THEN WE HAVE A 1538.5. WE ALSO HAVE
24 THE ISSUE OF MEDICAL RECORDS WE CAN DEAL WITH LATER AND LATER
25 ON THE ISSUE TO THE MOTION TO RECUSE THE DISTRICT ATTORNEY'S
26 OFFICE.

27 THE DEFENSE HAS FILED A MOTION BASICALLY SEEKING
28 A RECUSAL OF THE DISTRICT ATTORNEY'S OFFICE AS A REMEDY SO TO

1 SPEAK IN LIEU OF, I GUESS, OF ANY OTHER REMEDY FOR THE
2 SEIZURE OF THE POTENTIALLY PRIVILEGED DOCUMENTS THAT WERE THE
3 SUBJECT MATTER OF THE PRIOR MOTION TO DISMISS.

4 AND, MS. SARIS, I'LL LET YOU ARGUE THE MATTER
5 FURTHER, IF YOU WISH TO. I MEAN, I THINK WE AGREE THERE'S NO
6 AUTHORITY, STATUTORY AUTHORITY, HERE FOR THIS MOTION, BUT
7 YOU'RE BRINGING IT, IT SEEMS TO ME, AS A REMEDY, A MOTION FOR
8 A REMEDY FOR A PROBLEM THAT YOU PERCEIVE WITH THE DISTRICT
9 ATTORNEY'S OFFICE HAVING POSSESSION OF PRIVILEGED DOCUMENTS
10 BECAUSE THIS ISN'T A CLASSIC CASE OF A CONFLICT THAT EXISTS.
11 I MEAN, THERE IS NO CONFLICT HERE, BUT I'M CONSTRUING YOUR
12 MOTION AS ONE THAT IS BROUGHT TO ADDRESS THE PROBLEM FOR
13 WHICH THE REMEDY OF DISMISSAL WAS NOT APPROPRIATE, AND NOW
14 YOU'RE ASKING THE COURT TO UTILIZE A RECUSAL STATUTE OR
15 MOTION AS AN ALTERNATIVE REMEDY, BUT I'LL LET YOU SPEAK.

16 MR. SARIS: OKAY. THE ONLY --

17 THE COURT: PUT IT IN YOUR OWN WORDS.

18 MR. SARIS: THERE IS, AND I THINK IT'S MORE RELATED TO
19 THE 1538.5 THAN THE SUMMARY WOULD OTHERWISE SUGGEST. OUR
20 RECUSAL MOTION IS BASED ON THE FACT THAT THIS COURT, AND I
21 GUESS WE SHOULD MAKE THE RECORD CLEAR, I MADE A MOTION TO
22 DISMISS THIS CASE FOR EGREGIOUS GOVERNMENTAL MISCONDUCT FOR
23 THE SEIZURE OF THE ATTORNEY/CLIENT PRIVILEGE DOCUMENTS.

24 IT'S MY UNDERSTANDING THAT THAT WAS DENIED.
25 THIS IS AN ALTERNATIVE THAT WE ARE SEEKING AS A LESS SEVERE
26 REMEDY TO ENSURE MR. GOODWIN'S RIGHTS TO A FAIR TRIAL UNDER
27 THE FOURTH, FIFTH, SIXTH, AND FOURTEENTH AMENDMENT OF BOTH
28 THE FEDERAL AND STATE CONSTITUTIONS.

1 I AM BASING THE MOTION TO RECUSE, NOT ONLY ON
2 THE DISTRICT ATTORNEY HAVING SEEN THE PRIVILEGED DOCUMENTS,
3 BUT ALSO ON THEM HAVING SEEN DOCUMENTS THAT WERE OBTAINED
4 ILLEGALLY AS A RESULT OF AN OVERBROAD SEARCH IN THE SEARCH
5 WARRANT, AND I KNOW THAT GETS INTO SOME OF THE ARGUMENTS OF
6 THE 1538.5. I WOULD LIKE TO ADDRESS PART OF THAT.

7 THE SEARCH WARRANT AUTHORIZED THE SEIZURE OF
8 MANY ITEMS RELATED TO A COMPUTER, A WOOL CAP, IF THEY CAN
9 FIND ONE, A TOOTHBRUSH, OR HAIR BRUSH, FOR DNA PURPOSES. BUT
10 IT ONLY AUTHORIZED THE SEIZURE OF TWO TYPES OF DOCUMENTARY
11 EVIDENCE, OF PAPER EVIDENCE, AND THAT WAS DOCUMENTS RELATED
12 TO OWNERSHIP OF THE HOME IN LAGUNA NIGEL AND DOCUMENTS
13 RELATING TO MR. GOODWIN'S TRAVEL.

14 THE RETURN OF THE SEARCH WARRANT SHOWS THAT
15 APPROXIMATELY BETWEEN, SOMEWHERE BETWEEN 112 AND 118 BOXES
16 WERE SEIZED. 114 WERE RETURNED MEANING THEY KEPT FOUR OF
17 THOSE BOXES. IN TERMS OF BEING ABLE TO USE THE PHRASE
18 "MURDER BOOK" WHICH IS A BINDER OF DISCOVERY THAT IS
19 PRESENTED TO THE DEFENSE WHEN ANY MURDER IS COMMITTED, I'VE
20 ARIBTRARILY JUST PUT THESE IN BINDERS SO THEY CAN BE LOOKED
21 THROUGH. I HAVE 61 BINDERS IN THIS MURDER BOOK. I BELIEVE
22 THE DISTRICT ATTORNEY HAD THEM IN BOXES. I PUT THEM IN
23 BINDERS.

24 IT IS OUR CONTENTION THAT 50 OF THOSE BINDERS
25 CONTAIN MATERIAL THAT THE DISTRICT ATTORNEY'S OFFICE OR ANY
26 PROSECUTORIAL AGENCY WOULD NOT BE ENTITLED TO AND FIVE OF
27 THOSE APPROXIMATELY CONTAIN SPECIFICALLY ATTORNEY/CLIENT
28 PRIVILEGE MATERIAL.

1 WHEN I MADE THE MOTION TO DISMISS THIS CASE FOR
2 ATTORNEY/CLIENT PRIVILEGE VIOLATIONS, THE DISTRICT ATTORNEY
3 RESPONDED, SAYING THAT SOME OF THE INFORMATION THAT I LISTED,
4 AS AN EXAMPLE, THEY WOULD HAVE BEEN ABLE TO GET FROM OTHER
5 SOURCES, MOST OF THOSE OTHER SOURCES WERE -- THE MOST
6 MEMORABLE ONE THAT COMES TO MIND IS A TREATMENT FOR A
7 SCREENPLAY MY CLIENT WROTE. THE TITLE WAS "BURRINGHAM."

8 IT IS OUR CONTENTION THAT IS AMONG THE
9 DOCUMENTS THAT SHOULD NOT HAVE BEEN SEIZED FROM MR. GOODWIN'S
10 HOME. SO WHILE WE ARE SAYING IT'S AN EGREGIOUS VIOLATION FOR
11 THEM TO HAVE TAKEN ATTORNEY/CLIENT PRIVILEGE DOCUMENTS, IT IS
12 ALSO A VIOLATION FOR THEM TO HAVE TAKEN ALL OF THE OTHER
13 BOXES OF INFORMATION, UNDERSTANDING THAT, ONCE A
14 PROSECUTORIAL AGENCY, OR SHERIFF'S OFFICE, OR GOVERNMENTAL
15 AGENCY HAS THE RIGHT TO TAKE ANY DOCUMENTS, ANY PAPER, AND
16 THEY SEIZE BOXES AND BOXES AND BOXES OF PAPERS, I CAN, AT
17 LEAST UNDER THE ARGUMENT THAT THEY ARE ALLOWED TO RETRIEVE
18 THEM, WE CAN DETERMINE WHAT THOSE PAPERS ARE TO SEE IF WHAT
19 THEY ARE ENTITLED TO IS INSIDE OF THEM.

20 THE PROBLEM IS IT'S LISTED IN THE EXHIBIT TO THE
21 1538.5 AND ALSO TO THE MOTION TO DISMISS. THEIR OWN
22 INVENTORY OF DOCUMENTS THAT WERE TAKEN LISTS SPECIFICALLY
23 INCOME TAX RECORDS, FINANCIAL RECORDS OF MY CLIENT'S
24 BUSINESS, BANK STATEMENTS, SUMMARIES MY CLIENT HAS WRITTEN
25 ABOUT THE CASE, ABOUT THE STRATEGY, AND PERHAPS MOST
26 EGREGIOUSLY LISTED IN THEIR INVENTORY ARE LETTERS TO AND FROM
27 ATTORNEYS, EITHER SPECIFICALLY THE WORD "ATTORNEYS" OR BY
28 NAME.

1 THE DISTRICT ATTORNEY AT ONE POINT MADE IT --
2 ONE OF THE DISTRICT ATTORNEYS IS MR. DIXON WHO SAID HE HAD
3 NOT READ MANY OF THE DOCUMENTS, AND THE OTHER DISTRICT
4 ATTORNEY, MR. JACKSON, SAID THAT HE DID NOT PURPOSELY READ
5 ANY ATTORNEY/CLIENT PRIVILEGE DOCUMENTS AND WAS PREPARED TO
6 PROCEED ON THIS CASE WITH THE PROMISE THAT HE WOULD NOT READ
7 THEM AND WITH, BASICALLY, WHAT I BELIEVE IS IN HIS MIND AN
8 HONEST REPRESENTATION THAT HE WAS GOING TO TRY NOT TO BE
9 TAINTED BY THEM, BUT, IN MY OPINION, IS SOMEWHAT OF A NAIVE
10 REPRESENTATION THAT YOU CAN DECIDE IN YOUR OWN MIND THAT I'M
11 GOING TO PROSECUTE A MAN WITH 40 THOUSAND PAGES OF DOCUMENTS,
12 AND I'M ONLY GOING TO USE 5,000, AND EVEN THOUGH I MIGHT HAVE
13 GLANCED AT OR READ THE OTHER 3,500, I PROMISE NOT TO USE
14 THEM.

15 I THINK MAYBE CERTAINLY IN A CASE WHERE SOMEONE
16 IS FACING THE PUNISHMENT OF LIFE WITHOUT EVER HAVING THE
17 POSSIBILITY OF PAROLE, I DON'T THINK HE SHOULD BE IN A
18 POSITION TO ACCEPT THE WORD OF A PROSECUTOR WHEN LOGIC WOULD
19 DICTATE THAT IT'S DIFFICULT, IF NOT, IMPOSSIBLE.

20 THE PRELIMINARY HEARING HAS ALREADY BEEN HELD IN
21 THIS CASE. IN A PERFECT WORLD, THE FORMER LAWYER FOR MR.
22 GOODWIN WOULD HAVE INFORMED ME ABOUT THIS ISSUE, AND PRIOR TO
23 THE DISTRICT ATTORNEY RECEIVING THESE PAPERS, I COULD HAVE
24 COME TO COURT AND ASKED FOR A SPECIAL MASTER. THAT DIDN'T
25 OCCUR.

26 IN A PERFECT WORLD, I WOULD HAVE READ THROUGH
27 THE 40,000 PAGES FASTER THAN THE THREE MONTHS IT TOOK ME.
28 THAT DID NOT OCCUR. MR. GOODWIN SHOULDN'T BE PUNISHED FOR

1 THOSE TWO LACKS OF OUR ABILITY TO CATCH THIS PROBLEM BEFORE
2 IT AROSE. I UNDERSTAND THAT BOTH THE DISTRICT ATTORNEY AND
3 THE ATTORNEY GENERAL ARE SOMEWHAT IN A POSITION WHERE THEY
4 HAVE TO ARGUE IN THE DARK. I HAVE PROVIDED THE COURT WITH AN
5 EIGHT-PAGE DATABASE, LISTING APPROXIMATELY 130 LETTERS THAT I
6 FOUND ON A CURSORY REVIEW OF THE DISCOVERY IN THOSE LETTERS.

7 I'VE OUTLINED FOR THE COURT THE BATES PAGE STAMP
8 NUMBER, INDICATING THAT AT SOME POINT A PROSECUTORIAL AGENCY
9 READ THESE, OR AT LEAST NOTED WHAT THEY WERE, PUT A NUMBER ON
10 THEM, MADE THEM A PART, AND INCORPORATED THEM INTO THE MURDER
11 BOOK.

12 I THEN INFORMED THE COURT OF THE ATTORNEY TO
13 WHOM THAT LETTER WAS WRITTEN OR THE ATTORNEY WHO WROTE TO MY
14 CLIENT AND THE RELEVANCE OF THOSE LETTERS TO THE DISTRICT
15 ATTORNEY'S PROSECUTION OF MR. GOODWIN IN THIS CASE. MANY OF
16 OF THE LETTERS HAVE TO DO WITH FINANCIAL ISSUES.

17 HOWEVER, THE BASIS OR MOTIVE IN THE DISTRICT
18 ATTORNEY'S CASE IS THIS BANKRUPTCY AND LAWSUIT BETWEEN
19 MICHAEL GOODWIN AND MICKY THOMPSON WHERE I HAVE NO DESIRE OR
20 INTENTION TO RELITIGATE THE CIVIL ISSUE. IT IS GOING TO LOOM
21 ITS HEAD AS IT DID IN THE PRELIM UNDER TWO OR THREE OF THE
22 WITNESSES, INCLUDING PHIL BARTNITTI, DELORES CORDEL, KAREN
23 STEVENS, WHO ALL TESTIFIED TO MANY OF THE ISSUES THAT WERE
24 DISCUSSED IN THE LETTERS BETWEEN MY CLIENT AND HIS ATTORNEY.

25 THAT DOES NOT EVEN ADDRESS THE OTHER 50 BINDERS
26 OF EVIDENCE MY CLIENT WAS DISCUSSING, OR WAS WRITING ABOUT,
27 IN AN EFFORT EITHER TO SELL HIS STORY EVENTUALLY OR CONSULT
28 WITH ATTORNEYS EVENTUALLY. THEY ARE THINGS I CANNOT POINT TO

1 ON THEIR FACE AND SAY THE DISTRICT ATTORNEY SHOULD HAVE
2 KNOWN, THEY ARE PRIVILEGED; HOWEVER, THEY ARE THINGS THAT
3 WERE NOT LISTED IN THE SEARCH WARRANT THAT THEY HAD NO
4 BUSINESS TAKING.

5 THERE IS A PROVISION IN THE SEARCH WARRANT LAW
6 WHEREIN A POLICE AGENCY WHO IS GOING INTO A HOME CAN SEIZE
7 ITEMS THAT ARE, ON THEIR FACE, CONTRABAND; FOR INSTANCE, IF
8 THEY ARE GOING TO MR. GOODWIN'S HOME AND THEY SAW,
9 HYPOTHETICALLY SPEAKING, A KILO OF COCAINE, THEY WOULD BE
10 TAKING IT IF IT WAS IN PLAIN VIEW. OBVIOUSLY, A SCREENPLAY
11 ABOUT THE MURDER, HOWEVER TEMPTING THAT MIGHT BE, IS NOT, ON
12 ITS FACE, CONTRABAND. IF IT WAS A DOCUMENT IN BIG BOLD FACE
13 THAT WAS TITLED "CONFESSION OF MICHAEL GOODWIN TO THE MURDER
14 OF MICKY THOMPSON," THAT MAY BE ON ITS FACE CONTRABAND.

15 THESE WERE ITEMS THAT I UNDERSTAND WHY THE
16 DISTRICT ATTORNEY AND THE LOS ANGELES SHERIFF'S OFFICE WERE
17 INTERESTED IN, BUT THEY HAD NO BUSINESS SEIZING IT WITHOUT A
18 COURT ORDER. MR. GOODWIN WAS ARRESTED ON THE DAY THIS ORDER
19 WAS GENERATED -- I'M SORRY -- THAT THE SEARCH WARRANT WAS
20 SERVED. HE WAS THERE BUT WAS NOT IN A POSITION TO DESTROY
21 ANY OF THE DOCUMENTS. IF THE LOS ANGELES SHERIFF'S OFFICE,
22 IN COOPERATION WITH THE ORANGE COUNTY POLICE, SAW DOCUMENTS
23 IN MR. GOODWIN'S HOME THAT THEY WANTED THAT WERE OUTSIDE THE
24 SCOPE OF THIS WARRANT, THEY OUGHT TO HAVE GONE BACK AND GOT
25 ANOTHER WARRANT. THEY SHOULD NOT HAVE SIMPLY SEIZED 118
26 BOXES WHEN THEY WERE ORDERED TO HAVE WHAT AMOUNTS TO
27 APPROXIMATELY 50 DOCUMENTS.

28 THESE DOCUMENTS I KNOW FOR A FACT THE DISTRICT

1 ATTORNEY HAS READ. I KNOW IT BECAUSE THEY LISTED IT IN
2 MOTIONS REGARDING THE ATTORNEY/CLIENT PRIVILEGE. I KNOW
3 BECAUSE, IN CONVERSATIONS THAT WE HAD, THEY QUOTED
4 PARTICULARLY MEMORABLE STATEMENTS FROM THE SCREENPLAY IN GIST
5 OR IN THE HALLWAY. WE'VE DISCUSSED THEM IN OPEN COURT, THE
6 PREJUDICE TO MR. GOODWIN. AND I THINK WE'VE MADE A PRIMA
7 FACIA SHOWING AND DO NOT NEED TO SHOW ACTUAL PREJUDICE, BUT I
8 THINK WE'VE GONE ABOVE AND BEYOND OUR BURDEN AND SHOWN ACTUAL
9 PREJUDICE IN THE MOTION THAT IS TITLED, THE "MOTION TO
10 DISMISS BASED ON VIOLATION OF ATTORNEY/CLIENT PRIVILEGE AND
11 ILLEGAL SEIZURE OF PERSONAL PAPERS."

12 I HAVE LAID OUT ACTUAL INCIDENTS THAT WILL
13 AFFECT MR. GOODWIN'S RIGHT TO HAVE A FAIR TRIAL. I CANNOT GO
14 INTO THE DETAILS, BUT I CAN SAY TO THE COURT AND ATTORNEYS
15 ARGUING THIS CASE, THEY RELATED TO THE BANKRUPTCY, THE
16 SETTLEMENT, AND RELATED TO THE CONDUCT OF MR. GOODWIN BOTH
17 BEFORE AND AFTER THE MURDER. I THINK IT'S REALLY IMPORTANT
18 TO NOTE FOR THE RECORD THAT ANY RESPONSIBLE REASONABLE
19 DEFENSE ATTORNEY IN ANY CASE, WHETHER IT'S A TRESPASS, DRUG
20 CASE, ROBBERY, MURDER, AND CERTAINLY IN A DEATH PENALTY CASE,
21 PART OF A DEFENSE IS TO POINT OUT TO THE JURY, WHO IS
22 EVENTUALLY GOING TO DECIDE GUILT, EVERY SINGLE INCIDENT THAT
23 THE DISTRICT ATTORNEY HAS ALLEGED A FACT AND EVERY SINGLE
24 INSTANCE THEY HAVE BEEN WRONG.

25 BUT FOR THE DISTRICT ATTORNEY'S SEIZURE OF THESE
26 DOCUMENTS, I HAVE LISTED IN MY PAPERS AT LEAST THREE OR FOUR
27 MAJOR ISSUES THAT WE COULD HAVE COME TO THE JURY AND SAID,
28 LOOK, THE DISTRICT ATTORNEY IN THIS CASE HAS SAID A, I HAVE

1 THESE DOCUMENTS, AND I WOULD HAVE HAD THEM ON
2 CROSS-EXAMINATION, I WOULD HAVE HAD THEM ON REBUTTAL, AND I
3 WOULD HAVE SAID I CAN PROVE TO YOU B. NOW, HOW CAN YOU TRUST
4 A DISTRICT ATTORNEY'S OFFICE THAT ASKS WHAT IS WRONG ABOUT A,
5 B, C, D, E, F?

6 TO TAKE THAT ARGUMENT AWAY FROM MR. GOODWIN NOW
7 AND TO SAY THAT, BECAUSE THEY WERE PRIVY TO THESE DOCUMENTS,
8 I'M NOT ALLOWED THEN BECAUSE THE DISTRICT ATTORNEY HAS
9 CORRECTED ALL THOSE MISTAKES, MR. JACKSON AND MR. DIXON ARE
10 SMART PEOPLE. THEY ARE NOT GOING TO MAKE THE SAME MISTAKES
11 THAT THE ORANGE COUNTY DISTRICT ATTORNEY WOULD HAVE MADE HAD
12 THEY NOT HAD THESE DOCUMENTS AND WHILE ON THEIR FACE THEY MAY
13 SEEM TRIVIAL.

14 WHEN YOU ADD THEM TOGETHER, THEY PUT OR WOULD
15 PUT THE DISTRICT ATTORNEY'S OFFICE, IN A STATE OF BEING
16 UNTRUSTWORTHY TO A JURY. FINALLY, I THINK THAT THE ISSUE OF
17 WHETHER OR NOT MY CLIENT CHOOSES TO TAKE THE STAND IN HIS OWN
18 DEFENSE, IT IS AMONG, IF NOT, THE MOST DIFFICULT, DECISIONS
19 ANY DEFENSE ATTORNEY EVER MAKES WHEN IT COMES TO A CRIMINAL
20 CASE.

21 AND I DON'T THINK, CERTAINLY NOT IN A CASE WHERE
22 LIFE WITHOUT THE POSSIBILITY OF PAROLE IS THE PUNISHMENT, WE
23 SHOULD NEVER EVER EVER HAVE TO BE IN A POSITION WHERE I AM
24 DEBATING WHETHER OR NOT TO PUT MY CLIENT ON THE STAND, AND
25 ONE OF THE ISSUES I AM CONSIDERING IS: DOES THE DISTRICT
26 ATTORNEY HAVE INSIGHT INTO MY CLIENT'S CHARACTER OR INSIGHT
27 INTO SOMETHING ABOUT HIM BASED ON LETTERS HE WROTE TO HIS
28 LAWYER AND WILL THEY NOT USE THAT AGAINST HIM?

1 BUT FOR THESE DOCUMENTS, BUT FOR THIS
2 SCREENPLAY, BUT FOR THESE LETTERS TO HIS ATTORNEY, WHICH I
3 WILL GO ON THE RECORD AS CHARACTERIZING AS -- AND I DON'T
4 THINK THAT MR. GOODWIN -- ACTUALLY, MAY I HAVE JUST A MOMENT
5 TO GET HIS PERMISSION FOR THIS CHARACTERIZATION?

6 THE COURT: YES.

7 (PAUSE IN THE PROCEEDINGS.)
8

9 MS. SARIS: I DON'T THINK IT WOULD BE UNFAIR TO SAY
10 THAT SOME OF THE LETTERS THAT MR. GOODWIN WROTE TO PAST CIVIL
11 ATTORNEYS, ESPECIALLY IN AREAS WITH EITHER THE BANKRUPTCY OR
12 LAWSUIT, THAT THERE WAS DISAGREEMENT, THAT THESE LETTERS
13 WOULD BEST BE DESCRIBED AS CONTENTIOUS. I THINK HAVING THAT
14 AS A BLUE PRINT WHETHER OR NOT THEY WANT TO USE IT OR THINK
15 THEY ARE GOING TO, WHETHER OR NOT THEY PROMISED NOT TO USE
16 IT, I THINK, IS FUNDAMENTALLY UNFAIR. I HAVE BEEN DOING THIS
17 FOR 13 YEARS. I'VE NEVER MADE WHAT I CONSIDERED A MOTION TO
18 RECUSE THAT BROUGHT IN -- I THINK I ONLY MADE ONE OTHER ONE.
19 IT HAD TO DO WITH A PERSONAL RELATIONSHIP WITH THE DISTRICT
20 ATTORNEY.

21 BUT IN THIS CASE WHERE MR. GOODWIN'S, LITERALLY
22 HIS 4TH, 5TH, 6TH, AND 14TH AMENDMENTS ARE VIOLATED ON THE
23 BASIS OF THEM HAVING THESE DOCUMENTS, IT'S JUST FUNDAMENTALLY
24 UNFAIR, AND FOR MR. GOODWIN TO HAVE TO BE FACING THIS SERIOUS
25 OF A CASE THIS MANY YEARS LATER IS DIFFICULT ENOUGH TO NOW DO
26 IT WHEN THE DISTRICT ATTORNEY HAS THIS UNFAIR ADVANTAGE. I
27 UNDERSTAND THE COURT IS DISINCLINED TO DISMISS THIS CASE
28 BASED ON EGREGIOUS GOVERNMENTAL MISCONDUCT, AND I DON'T KNOW

1 IF I SAY IT CORRECTLY, BUT I THINK PART OF THAT IS THAT THE
2 LOS ANGELES DISTRICT ATTORNEYS ARE SOMEWHAT BLAMELESS, AND I
3 DO BELIEVE THAT, TO A CERTAIN EXTENT, THEY'VE READ WHAT THE
4 ORANGE COUNTY DISTRICT ATTORNEY GAVE THEM.

5 ORANGE COUNTY HAD AN OPPORTUNITY TO CORRECT
6 THIS, AND THE ORANGE COUNTY DISTRICT ATTORNEY, AND WE
7 RECEIVED A LETTER FROM MR. BENISE, CHOSE NOT TO. THAT WAS
8 EGREGIOUS FOR THEM NOT TO LET THE DISTRICT ATTORNEYS IN LOS
9 ANGELES KNOW, AND ALSO I WILL SAY ON THE RECORD, FOR MR.
10 BENISE'S LAWYER NOT TO LET ME KNOW AND PERHAPS HE THOUGHT HE
11 HAD BECAUSE HIS LETTERS WERE IN THE DISCOVERY, THAT, TO BE
12 FAIR, PREVENTED US FROM RIGHTING THIS WRONG BEFORE IT BECAME
13 THIS DISASTER.

14 AS I SAID, THAT WASN'T DONE. I'M NOT ASKING
15 THIS COURT TO SANCTION THE LOS ANGELES DISTRICT ATTORNEY'S
16 OFFICE FINANCIALLY, I'M NOT ASKING THEM TO PUNISH MR. DIXON
17 OR MR. JACKSON PERSONALLY. I DO THINK THAT, WHEN THEY WERE
18 GOING THROUGH THE DISCOVERY AND THEY DID SEE A LETTER FROM,
19 FOR INSTANCE, DEFENSE LAWYER, AL STOKKE, S-T-O-K-K-E, ON HIS
20 LETTERHEAD TO MR. GOODWIN, THAT THAT SHOULD HAVE CAUSED THEM
21 PAUSE AND THAT, IN A PERFECT WORLD, THEY MAY HAVE SAID OKAY,
22 I'M TAKING THIS TO THE COURT TO SEE IF THERE'S ANY OTHER
23 LETTERS IN HERE I SHOULDN'T BE PRIVY TO.

24 THAT MIGHT BE ASKING TOO MUCH, BUT NOW THAT THEY
25 KNOW THAT THERE ARE THESE LETTERS AND NOW THAT THE COURT
26 KNOWS THERE ARE THESE LETTERS, I THINK THE ONLY REMEDY IS TO
27 TAKE EVERY PIECE OF DISCOVERY AWAY FROM THE LOS ANGELES
28 DISTRICT ATTORNEY'S OFFICE, TO APPOINT A SPECIAL MASTER TO

1 TAKE THESE 61 BINDERS, BRING THEM DOWN TO SOMEWHERE BETWEEN 5
2 AND 10 BINDERS, AND GIVE THEM TO AN AGENCY THAT IS NOT
3 TAINTED.

4 IN MY ESTIMATION, THAT CAN ONLY BE ACCOMPLISHED
5 THROUGH THE ATTORNEY GENERAL'S OFFICE. THE ATTORNEY
6 GENERAL'S OFFICE IN THEIR REPLY TO MY MOTION HAS SAID THEY
7 DON'T BELIEVE I MADE A SHOWING OF CONDUCT EGREGIOUS ENOUGH TO
8 WARRANT RECUSAL, AND CERTAINLY I HAVEN'T MADE A SHOWING OF
9 SPECIFIC CONFLICTS OF INTEREST IN THAT MR. JACKSON NEVER
10 REPRESENTED MR. GOODWIN, AND MR. GOODWIN DIDN'T HARM A MEMBER
11 OF THE DISTRICT ATTORNEY'S OFFICE.

12 I ACCEPT THAT THERE'S NOT THAT POTENTIAL
13 CONFLICT. THIS IS A MOTION UNDER DUE PROCESS. IT'S A MOTION
14 IN EQUITY; HOWEVER, ONE OF THEIR SOLUTIONS WAS THAT IT'S
15 POSSIBLE PERHAPS THAT WE TAKE MR. JACKSON AND MR. DIXON
16 PERSONALLY OFF THIS CASE.

17 AND I'M SORRY. THEY DID NOT SAY THAT. THEY
18 SAID MR. JACKSON. IF THE COURT IS CONSIDERING THAT, I WOULD
19 IMAGINE THE COURT WOULD ALSO CONSIDER MR. DIXON, DEPENDING ON
20 THE ETHICAL LAW THAT WOULD BE CREATED, THAT IS A POSSIBILITY
21 I'M WILLING TO DISCUSS. BUT I THINK IN THIS CASE, I THINK WE
22 MADE A SHOWING THAT THE ENTIRE LOS ANGELES DISTRICT
23 ATTORNEY'S OFFICE, BECAUSE OF THE VOLUME OF MATERIAL, I THINK
24 IT WOULD BE VERY DIFFICULT, EVEN FOR MR. DIXON AND MR.
25 JACKSON, AND PERHAPS I'M SPEAKING FOR THEM -- WE CAN ASK THEM
26 DIRECTLY -- TO SAY THESE MEMBERS -- IT WOULD ALMOST HAVE TO
27 BE THE ENTIRE UNIT, NOT KNOWING HOW THEIR OFFICE WORKS, AND
28 BECAUSE OF THAT, I THINK, OUT OF AN ABUNDANCE OF CAUTION,

1 THIS COURT OUGHT TO RECUSE THE ENTIRE DISTRICT ATTORNEY'S
2 OFFICE AND LET THE ATTORNEY GENERAL COME IN, AND LET MR.
3 GOODWIN HAVE HIS DAY IN COURT IN A FAIR EQUITABLE FORUM WHERE
4 WE CAN ARGUE ABOUT THE MERITS OF THE CASE WITHOUT BEING
5 SUBJECT TO EVIDENCE IN REBUTTAL AND DOCUMENTS AND STRATEGY
6 THAT WERE GARNISHED AS A RESULT OF ILLEGALLY OBTAINED
7 MATERIAL.

8 THE COURT: WELL, LET ME MAKE A COMMENT.

9 YOU MAKE THE SUGGESTION THAT THE COURT SHOULD
10 APPOINT A SPECIAL MASTER TO GO THROUGH THE 61 BINDERS AND
11 TAKE OUT THE PRIVILEGED MATERIAL AND ESSENTIALLY REDUCE OR
12 REDACT THE BINDERS TO A STATE OF PERHAPS FEWER THAN 61, I
13 WOULD PRESUME. I DON'T KNOW HOW MANY WOULD BE LEFT, AND THEN
14 THAT WOULD BE THE INFORMATION THAT THE PROSECUTOR WOULD BE
15 ABLE TO RELY ON IN PREPARATION OF THE CASE. WE HAD
16 PREVIOUSLY DISCUSSED THE APPOINTMENT OF A SPECIAL MASTER, BUT
17 THAT'S NOT IN RESPONSE TO DOING THAT.

18 IT WAS IN RESPONSE TO MAKING SURE THAT THE
19 PEOPLE DID NOT USE ANY OF THE EVIDENCE THAT THEY SHOULD NOT
20 HAVE HAD POSSESSION OF, AND I THINK WE TALKED ABOUT THAT WHEN
21 WE WERE DISCUSSING THE MOTION TO DISMISS. SO I HAVE
22 CONTEMPLATED THIS SUGGESTION. I THINK IT'S A GOOD SUGGESTION
23 BECAUSE, QUITE HONESTLY, THE REMEDY THAT YOU'RE SEEKING, I'M
24 NOT GOING CALL IT A RECUSAL MOTION BECAUSE IT REALLY ISN'T.

25 I MEAN, THERE IS NO CONFLICT HERE SUCH THAT MR.
26 GOODWIN WOULD BE DEPRIVED OF A FAIR TRIAL AND 1424 OF THE
27 PENAL CODE REQUIRES THAT YOU MAKE THAT SHOWING FOR THE COURT
28 TO GRANT A RECUSAL MOTION. BUT WE ARE DEALING WITH A

1 SITUATION THAT WE'VE PREVIOUSLY DISCUSSED, THAT THE L.A.D.A.
2 HAS IN ITS POSSESSION INFORMATION THAT IT SHOULD NOT HAVE,
3 AND NO ONE IS BLAMING THE L.A.D.A. FOR THAT, BUT NONETHELESS
4 THE INFORMATION IS THERE.

5 MR. SARIS: COULD I CLARIFY ONE THING? THE COURT SAID
6 REDACTED TO NON-PRIVILEGED INFORMATION. I GAVE THE COURT A
7 STACK OF FACIALLY PRIVILEGED INFORMATION. IT IS OUR
8 CONTENTION THAT IT'S NOT JUST THE NON-PRIVILEGED BUT IT'S
9 EVERYTHING THAT WAS OUTSIDE THE SCOPE OF THE WARRANT AND THE
10 COURT CHOSE NOT TO APPOINT A SPECIAL MASTER I THINK AT ONE
11 POINT BECAUSE WE WERE DISCUSSING WHAT SEEMED LIKE IT WAS
12 GOING TO BE 400 BOXES AND IT TURNED OUT TO BE APPROXIMATELY
13 800 PAGES OR I'M JUST GUESSING ON THAT.

14 IF WE TAKE INTO ACCOUNT EVERYTHING, I DON'T
15 REMEMBER THE SCOPE OF THE WARRANT AND THE SPECIAL -- AND THE
16 PRIVILEGED INFORMATION. WE'RE TALKING ABOUT IN EXCESS OF, I
17 THINK, 70 BOXES. WHAT IT COMES DOWN TO ARE BANKRUPTCY
18 RECORDS, FINANCIAL RECORDS, THE SCREENPLAY, ALL MY CLIENT'S
19 MISSIVES, SUMMARIES, TO-DO LISTS. I SEE THIS AS TWO SEPARATE
20 ISSUES. WE HAVEN'T ADDRESSED THE SEARCH WARRANT ISSUE.

21 THE COURT: THAT'S A WHOLE DIFFERENT CAN OF WORMS,
22 BUT IN DEALING WITH THE PRIVILEGED MATERIAL, IT'S, I THINK
23 WHAT WE'RE TALKING ABOUT HERE AS THE BASIS FOR YOUR MOTION
24 TODAY.

25 MR. SARIS: WELL, I THINK BOTH ARE THE BASIS.

26 THE COURT: BOTH ARE?

27 MR. SARIS: YES, ABSOLUTELY. BOTH ARE BECAUSE, WHEN I
28 PRESENTED THE MOTION FOR PRIVILEGE AND I WAS INFORMING THE

1 COURT ABOUT THINGS WE LEARNED FROM THOSE, SOME OF THOSE
2 DOCUMENTS, CERTAINLY NOT ALL, I WAS -- THE RESPONSE CAME IN
3 AND SAID WE WOULD HAVE LEARNED IT ANYWAY, BUT THE "ANYWAY"
4 CAME FROM ILLEGALLY SEIZED, IN MY OPINION, ILLEGALLY-SEIZED
5 DOCUMENTS.

6 THE COURT: BUT WE HAVEN'T LITIGATED THAT ISSUE.

7 MR. SARIS: CORRECT.

8 THE COURT: AND WE HAVE A DEPUTY ATTORNEY GENERAL
9 HERE. MAYBE WE ARE PREMATURE IN ADDRESSING THE RECUSAL
10 MOTION. MAYBE YOU NEED TO TAKE A STAND AND ADDRESS THE
11 1538.5 MOTION TO DETERMINE WHAT, IN FACT, WOULD BE THE
12 SUBJECT OF THE RECUSAL MOTION. SO WHY DON'T WE TAKE A STEP
13 BACK FOR A MOMENT AND DEAL WITH THE ISSUE OF -- WE ALREADY
14 KNOW AND I'M GOING TO STATE FOR THE RECORD THAT, BASED ON MY
15 REVIEW OF THE DOCUMENTS THAT ARE SUBMITTED AS EXHIBITS TO THE
16 MOTIONS, I HAVE REVIEWED, CERTAINLY NOT IN DETAIL, BUT I HAVE
17 REVIEWED YOUR SUBMITTED DOCUMENTS, AND CLEARLY, I CAN STATE
18 THAT THERE ARE MANY THAT ARE COVERED BY THE ATTORNEY/CLIENT
19 PRIVILEGE. I DON'T THINK ANYBODY DISAGREES.

20 BUT THE ISSUE AS TO THE REMEDY AND WHETHER OR
21 NOT RECUSAL IS APPROPRIATE WILL HAVE TO BE ADDRESSED LATER.
22 WHETHER OR NOT THE IMPROPERLY SEIZED DOCUMENTS THAT WERE
23 TAKEN AND WERE NOT AUTHORIZED BY THE WARRANT AS YOU SUGGEST,
24 MS. SARIS, THAT'S AN ISSUE THAT I HAVE TO LITIGATE, AND I
25 CAN'T LITIGATE IT BASED ON THE FOUR CORNERS OF THE WARRANTS.
26 AND I WAS TOLD THAT I WOULD. MY UNDERSTANDING IS THAT, TO
27 SHOW WHETHER OR NOT THE ITEMS WERE PROPERLY SEIZED, DON'T WE
28 HAVE TO HAVE SOME ADDITIONAL INFORMATION AS TO WHAT LAW

1 ENFORCEMENT BELIEVED AT THE TIME OF THE SEIZURE? I THINK WE
2 DO. DON'T WE?

3 MR. JACKSON: YOUR HONOR, THE STANDARD CLEARLY, AND
4 THIS IS WHAT THE COURT IS GETTING TO, THE STANDARD UNDER WHAT
5 IS PROPERLY OR IMPROPERLY SEIZED IS: WHAT WOULD A REASONABLE
6 OFFICER HAVE BELIEVED IN THE SAME OR SIMILAR CIRCUMSTANCE?
7 BEING HANDED A WARRANT SIGNED BY A MAGISTRATE THAT'S AS
8 EXPANSIVE AS THIS WARRANT IS, WHAT WOULD A REASONABLE OFFICER
9 HAVE DONE? IT'S A SUBJECTIVE STANDARD.

10 MR. SARIS: BECAUSE THERE WAS PAPERWORK SOUGHT AFTER
11 IN THE WARRANT, I WILL AGREE THAT THEY COULD HAVE TAKEN THE
12 STUFF OUT OF MR. GOODWIN'S HOME. THAT'S WHERE I THINK WE
13 DON'T NEED THE OFFICER TO TESTIFY. IF THE WARRANT AUTHORIZED
14 SEIZURE OF TWO PIECES OF PAPER, I THINK THEY ARE ALLOWED TO
15 GO THROUGH WHATEVER PAPER IS THERE AND LOOK FOR THE TWO
16 PIECES OF PAPER.

17 MY CONTENTION WITH THE 1538.5 IS WHAT WE WANT
18 RETURNED TO US IS, ONCE THAT THOSE ITEMS WERE INVENTORIED,
19 WHICH DOES NOT REQUIRE AN OFFICER, BUT I THINK IS THE DUTY OF
20 A PROSECUTORIAL AGENCY, ONCE THE ITEMS WERE INVENTORIED, THAT
21 DISTRICT ATTORNEY'S OFFICE HAD NO BUSINESS KEEPING THEM. IN
22 OTHER WORDS, I CAN SEE TAKING 116 BOXES, LOOKING FOR A TRAVEL
23 DOCUMENT. ONCE YOU LOOK IN THE VERY FIRST BOX AND IT SAYS,
24 "BOX NO. 3, I'LL GIVE YOU AN EXAMPLE FROM THE RETURNED INCOME
25 TAX RETURNS OF MR. GOODWIN.

26 WELL, THAT IS NOT AN ITEM TO BE SEIZED IN THE
27 WARRANT. THAT SHOULD HAVE BEEN RETURNED. INSTEAD, THAT WAS
28 DATE STAMPED AND MADE PART OF THE MURDER BOOK, SO I DON'T

1 THINK WE NEED THE OFFICE TO COME IN AND SAY "THIS IS WHY I
2 TOOK THE BOXES FROM THE HOME." I WILL STIPULATE THAT THEY
3 WERE LOOKING FOR A DOCUMENTARY PIECE OF EVIDENCE AND
4 THEREFORE HAD A RIGHT TO REMOVE PAPERS. OUR CONTENTION IS,
5 ONCE THEY WERE REMOVED AND THEIR VALUE AND THEIR IDENTITY AS
6 BEING BEYOND THE SCOPE OF THE WARRANT WAS MANIFESTED, THEY
7 HAD A DUTY TO RETURN THE ITEMS.

8 THE COURT: BUT THEY DID RETURN 116 OUT OF 120 BOXES
9 OF MATERIAL.

10 MR. SARIS: RIGHT. AND I THINK THE COURT CAN LOOK AT
11 THE RETURN AND SEE THIS IS WHAT -- COULD I HAVE JUST ONE
12 MOMENT, PLEASE?

13 THE COURT: SURE.

14 (PAUSE IN THE PROCEEDINGS.)
15

16 MR. SARIS: WHAT WE'RE SAYING IS THAT THE COURT CAN
17 LOOK AT THE MATERIAL FROM THE SEARCH WARRANT WHERE IT IS, I
18 THINK, A DECENT JOB AT ITEMIZING WHAT WAS TAKEN FROM THE
19 HOME. AND I THINK -- I DON'T KNOW WHAT MR. JACKSON WANTS
20 TO -- IF HE'S REALLY LOOKED AT THE DOCUMENTS, I DON'T
21 UNDERSTAND AND I'LL GIVE HIM A PAGE NUMBER, A BATES PAGE
22 STAMP NUMBER OF 1,000, FROM 1,000 TO 40,000. THOSE ARE THOSE
23 DOCUMENTS.

24 THOSE MAINLY ARE THE DOCUMENTS. IN OTHER WORDS,
25 I CAN SHOW YOU ON THE RETURN FOR THE SEARCH WARRANT A LIST OF
26 DOCUMENTS AND THEN SHOW YOU THE BATES PAGE STAMP NUMBERS
27 WHERE THEY BECAME PART OF THE MURDER BOOK TO SAY FOUR BOXES
28 WERE KEPT. WE'RE TALKING ABOUT FOUR BOXES OF PAPERS THAT

1 WERE STACKED ON THEIR SIDE THAT PROBABLY CONTAINED, I DON'T
2 KNOW, TWO TO THREE THOUSAND PAGES EACH.

3 THE COURT: BUT YOUR CONTENTION IS THAT THESE ARE NOT
4 DOCUMENTS THAT -- LET ME BACKTRACK.

5 YOU'RE CONCEDING THAT THEY WERE PROPERLY SEIZED,
6 BUT YOUR ARGUMENT IS THAT THEY SHOULD HAVE BEEN RETURNED?

7 MR. SARIS: ONCE THE NATURE OF THE DOCUMENT WAS
8 DISCOVERED, THEY SHOULD HAVE BEEN RETURNED TO MR. GOODWIN OR
9 HIS ATTORNEY.

10 THE COURT: BUT IF THEY ARE PROPERLY SEIZED AND THEY
11 HAVE EVIDENTIARY VALUE --

12 MR. SARIS: THEY ARE NOT -- THEY WERE NOT PROPERLY
13 SEIZED. THAT'S NOT WHAT I'M SAYING. THEY HAD A RIGHT TO
14 LOOK THROUGH THEM, IS WHAT I'M SAYING. THERE'S A DIFFERENCE
15 BETWEEN -- I DON'T WANT TO BE -- I'M SORRY IF I MISQUOTED IT,
16 IF I MISQUOTED MYSELF AND SAID THEY WERE PROPERLY SEIZED.
17 I'M NOT STIPULATING TO THAT. I'M STIPULATING THAT THE
18 WARRANT AUTHORIZED THE SEIZURE OF DOCUMENTS; THEREFORE, THEY
19 HAD THE RIGHT TO LOOK THROUGH EVERY DOCUMENT TO SEE IF THEY
20 CAN GET WHAT THEY WANTED. BUT THEY DIDN'T HAVE THE RIGHT TO
21 TAKE THEM OUT OF MR. GOODWIN'S POSSESSION PERMANENTLY.

22 I DON'T KNOW PHYSICALLY IF THEY HAD THE MANPOWER
23 TO GO TO THE HOME AND LOOK FOR THEM THERE, BUT, EVEN IF THEY
24 HAD THE RIGHT TO BRING THEM TO THE OFFICE AND LOOK THROUGH
25 THEM, THEY STILL DIDN'T HAVE THE RIGHT TO TAKE THEM AND
26 INCORPORATE THEM. I'LL GIVE YOU AN EXAMPLE THAT
27 COVERS BOTH IN BOX 1, A LETTER TO AL STOKKE, THE CRIMINAL
28 DEFENSE ATTORNEY IN ORANGE COUNTY. THAT IS ON BATES PAGE

1 STAMP NO. 27573.

2 SO UNDER NO THEORY OF THE CASE, FROM A
3 PROSECUTORIAL POINT OF VIEW, COULD THAT LETTER BE WITHIN THE
4 SCOPE OF THAT SEARCH WARRANT. THERE'S NO THEORY THAT
5 JUSTIFIES THE PROCEDURE OF THAT LETTER.

6 THE COURT: BUT, IF THE OFFICER AT THE TIME OF THE
7 SERVICE OF THE SEARCH WARRANT HAS PROBABLE CAUSE TO BELIEVE
8 THAT THE DOCUMENTATION IS EVIDENCE OF SOME CRIME OR HAS
9 EVIDENTIARY VALUE IN THIS CASE, THE OFFICER CAN SEIZE THAT
10 MATERIAL AS LONG AS THE OFFICER HAS A RIGHT TO BE CONDUCTING
11 THE SEARCH AND BEING AT THE LOCATION WHERE THE DOCUMENTS ARE
12 IN THE FIRST PLACE.

13 MR. SARIS: I DON'T THINK THAT'S THE STANDARD OF THE
14 LAW. I DON'T THINK IT IS FROM EVIDENTIARY VALUE. I THINK IT
15 HAS TO BE CONTRABAND ON ITS FACE.

16 THE COURT: I THINK IT HAS TO BE. AND WE NEED TO
17 DISCUSS IT. MY UNDERSTANDING IS, IF IT'S IN PLAIN VIEW OR
18 DISCOVERED AT THE TIME THAT THE SEARCH WARRANT IS BEING
19 PROPERLY EXECUTED, IT IS SUFFICIENT THAT THE OFFICER HAS
20 PROBABLE CAUSE TO BELIEVE THE ITEM IS EVIDENCE OF SOME
21 CRIME, AND IT IS NOT NECESSARY THAT THE ITEMS BE ASSOCIATED
22 WITH A PARTICULAR CRIME.

23 MR. SARIS: THAT'S CORRECT. I DON'T SEE HOW THAT GETS
24 YOU LETTERS BETWEEN MY CLIENT AND HIS LAWYER OR A
25 SCREENPLAY.

26 THE COURT: I DON'T KNOW --

27 MR. SARIS: OKAY.

28 THE COURT: -- BUT I THINK -- I THOUGHT WE WERE IN

1 AGREEMENT THAT THEY COULD PROPERLY SEIZE THIS MATERIAL AND
2 LOOK AT IT, AND THEN THE QUESTION WAS WHETHER OR NOT THEY CAN
3 USE IT IN THE PROSECUTION OF THIS CASE.

4 MR. SARIS: WELL, I DON'T EVEN THINK IT'S USED IN THE
5 PROSECUTION. I THINK, IF WE'RE GOING TO SPLIT THOSE HAIRS,
6 THEN THEY COULDN'T GIVE IT TO THE DISTRICT ATTORNEY. IN
7 OTHER WORDS, IF WE ARE SAYING THE OFFICERS' CONDUCT IS PROPER
8 AND LEGITIMATE, THEN THE OFFICERS PROPERLY WENT INTO THE HOME
9 AND SAID TO THEMSELVES "I'M ALLOWED TO HAVE PAPER, SOME
10 PIECES OF PAPER; THERE'S 118 BOXES OF PAPER; I'M ALLOWED TO
11 GO THROUGH THOSE 118 BOXES AND SEE IF WHAT I'M ALLOWED TO
12 HAVE IS IN THERE," AND THAT'S WHAT THEY ARE ALLOWED TO TURN
13 OVER TO THE DISTRICT ATTORNEY'S OFFICE. THAT'S LEVEL 1 OF
14 THE MALFEASANCE.

15 LEVEL 2 IS THE DISTRICT ATTORNEY'S OFFICE THEN
16 GETS THESE 118 BOXES, SEES LETTERS THAT ON THEIR FACE --
17 SEES, S-E-E-S, NOT S-E-I-Z-E -- SEES LETTERS THAT ARE ON
18 THEIR FACE ATTORNEY/CLIENT PRIVILEGE AND INCORPORATES THEM
19 INTO A MURDER BOOK.

20 THE COURT: OKAY. I'M TRYING TO SEPARATE THE
21 ATTORNEY/CLIENT PRIVILEGE DOCUMENTS FROM DOCUMENTS THAT --

22 MR. JACKSON: CAN I JUMP IN HERE? I DO HAVE SOME SKIN
23 IN THE GAME.

24 THE COURT: YES, YOU DO.

25 MR. JACKSON: JUDGE, YOU'RE EXACTLY RIGHT. YOU'RE
26 SEEING EXACTLY WHAT THE PROBLEM WITH MS. SARIS'S ARGUMENT IS.
27 THESE ARE TWO SEPARATE ISSUES. SHE AGREES. AND UNLESS I'M
28 HEARING THINGS WRONG -- AND I COULD BE BECAUSE THERE'S A

1 HUMMING IN MY EAR -- BUT UNLESS I'M HEARING THINGS, SHE SAID
2 I AGREE, JUDGE, THAT THE ITEMS WERE PROPERLY SEIZED AND GONE
3 THROUGH. THE STATE OF THE LAW IS THIS: I MEAN, I LEARNED
4 THIS IN FIRST YEAR LAW SCHOOL AND I'VE BEEN DOING THIS FOR A
5 LONG TIME AS THE COURT AS.

6 ONCE THE ITEMS ARE PROPERLY SEIZED, ANY ITEM OF
7 EVIDENTIARY VALUE, CONTRABAND OR NOT, CAN BE PROPERLY
8 RETAINED BY THE POLICE BECAUSE OF THE PLAIN VIEW DOCTRINE,
9 BECAUSE OF THE PROPER SEIZURE OF THE ITEM IN THE FIRST
10 PLACE. IF I'M LOOKING FOR A GUN AND I GRAB A GUN SAFE AND
11 BRING IT HOME AND I FIND MARIJUANA OR I FIND A NOTE THAT SAYS
12 I'M GOING TO SHOOT SO-AND-SO OR IF I FIND A PICTURE OF THE
13 PERSON WITH THE GUN, THE NOTE OR THE PICTURE MAY NOT BE
14 CONTRABAND ON ITS FACE, BUT IT IS EVIDENCE OF AN ONGOING
15 CRIME, OR INTENT TO COMMIT A CRIME, OR WAS USED IN THE
16 COMMISSION OF A CRIME THAT'S ON PAGE 1 OF THE SEARCH WARRANT,
17 WE CAN KEEP THOSE ITEMS. SO NOW WE AGREE. HANG ON.

18 THE COURT: YOU DON'T DISAGREE?

19 MR. SARIS: I DON'T DISAGREE.

20 THE COURT: SO YOU AGREE ON SOMETHING.

21 MR. JACKSON: GOOD. WE'VE CROSSED THAT BRIDGE.

22 NOW WE HAVE THE ITEMS PROPERLY SEIZED. WE ALL
23 AGREE WITH THAT. MS. SARIS JUST STIPULATED TO THAT.

24 MR. SARIS: I AGREE WITH THE CASE LAW YOU STATED.

25 MR. JACKSON: NOW WE HAVE THE ITEMS PROPERLY BECAUSE,
26 AS SHE SAID, THEY WERE PROPERLY SEIZED TO BEGIN WITH. NOW
27 THERE'S AN INVENTORY PROCESS. OFFICERS CAN'T KNOW IF THERE'S
28 A TRAVEL DOCUMENT THAT IS RESPONSIVE TO THE PARTICULAR SEARCH

1 WARRANT UNLESS THEY LOOK AT EVERY PAGE SO LABORIOUSLY. THEY
2 WENT THROUGH, AND I THINK IN QUITE AN AID TO MR. GOODWIN,
3 METICULOUSLY NOTED EVERY PAGE OF EVERY DOCUMENT AND BATES
4 STAMPED IT. THOSE PAGES THAT THE OFFICERS BELIEVED WERE OF
5 EVIDENTIARY VALUE, THEY RETAINED, MADE A COPY OF, AND
6 ACTUALLY KEPT A COPY AND RETURNED ALL THE ORIGINALS, I THINK,
7 WITH THE EXCEPTION OF JUST A FEW SUNDRY ITEMS TO MR. GOODWIN.

8 NOW THAT'S OFF THE TABLE. WE DON'T HAVE A RIPE
9 1538.5 MOTION TO SUPPRESS EVIDENCE BECAUSE OF AN IMPROPER
10 SEIZURE. THAT IS WHAT A 1538.5 IS. I DON'T MEAN TO SOUND
11 SO STRIDENT, JUDGE, BUT WE NEED TO MOVE LEGALLY BEYOND THAT
12 ISSUE AND JUST GET TO THE RIPE ISSUE OF RECUSAL BECAUSE
13 THAT'S WHERE WE ARE, UNLESS I'M MISSING SOMETHING.

14 MR. SARIS: I CAN MAKE THAT CLEAR IN YOUR EXAMPLE, IN
15 THE DISTRICT ATTORNEY'S EXAMPLE. HE SAID "POT OR PICTURE,"
16 OR -- THERE'S NO WAY THAT A SCREENPLAY OR TREATMENT FOR A
17 SCREENPLAY WRITTEN BY MY CLIENT IS, ON ITS FACE, CONTRABAND.

18 THE COURT: DOESN'T MATTER. BECAUSE, IF THEY PROPERLY
19 SEIZED IT, IF THEY BELIEVED THAT IT MAY BE EVIDENCE OF SOME
20 CRIME, FOR EXAMPLE, A STATEMENT OF THE DEFENDANT --

21 MR. SARIS: RIGHT. AND THAT'S MY ARGUMENT. I DO NOT
22 AGREE WITH THAT.

23 THE COURT: THAT IT CAN BE USED AS AN ADMISSION OR
24 CONFESSION.

25 MR. SARIS: RIGHT. THAT'S WHERE WE DISAGREE. WHEN I
26 SAID, AND IF THAT'S THE QUOTE I MADE, I TAKE IT BACK. IT WAS
27 NOT A PROPER SEIZURE IN THE LEGAL SENSE. WERE THEY ALLOWED
28 TO TAKE POSSESSION OF IT TO LOOK THROUGH IT? YES. THAT, I

1 AGREE WITH IT. BUT THEY WERE ONLY ALLOWED TO LOOK FOR TRAVEL
2 DOCUMENTS AND DOCUMENTS RELATING TO HOME OWNERSHIP, AND
3 UNLESS, ON ITS VERY FACE, A DOCUMENT SAID, "I, MICHAEL
4 GOODWIN, KILLED MICKY THOMPSON," OR SOME OTHER FACIALLY
5 RECOGNIZABLE CONTRABAND -- IN BOTH COUNSEL'S EXAMPLES, WE
6 HAVE MARIJUANA, WHICH IS FACIALLY RECOGNIZABLE, A PHOTO,
7 WHICH IS FACIALLY RECOGNIZABLE --

8 THE COURT: GIVE ME AUTHORITY FOR THAT. THAT'S WHERE
9 I'M HAVING TROUBLE WITH THE ARGUMENT. I DON'T BELIEVE YOU
10 CAN ONLY SEIZE SOMETHING THAT IS CONTRABAND ON ITS FACE.

11 MR. SARIS: PEOPLE VS. SKELTON 1 CAL.3RD --

12 MR. JACKSON: HANG ON, HANG ON, JUST TO CLARIFY
13 SOMETHING. MS. SARIS IS NOT SAYING WE DIDN'T PROPERLY SEIZE
14 IT. SHE IS SAYING WE COULDN'T PROPERLY KEEP IT. THAT'S
15 DIFFERENT. THERE'S NO LAW THAT SAYS THAT.

16 THE COURT: THAT'S WHY I'M ASKING HER --

17 MR. SARIS: NO. TO THE EXTENT WE'RE TALKING ABOUT
18 SEIZURE, IF THIS WERE SEVEN PAGES, I WOULD SAY THEY HAD NO
19 RIGHT TO EVEN TAKE IT AWAY. WE'RE TALKING ABOUT 118 BOXES,
20 SO I'M NOT GOING TO MAKE THE UNREASONABLE ARGUMENT THAT
21 PERHAPS THEY SHOULD HAVE BROUGHT 75 OFFICERS INDIVIDUALLY
22 INTO MR. GOODWIN'S HOME. I DON'T KNOW HOW THEY PHYSICALLY
23 WOULD HAVE DONE IT. TO THE EXTENT THEY HAD TO GO THROUGH THE
24 DOCUMENTS, THAT'S FINE. BUT, TO ME, IT'S A SEIZURE, IF YOU
25 KEEP IT, IN THIS CIRCUMSTANCE, 118 BOXES.

26 IF IT'S A FILE FOLDER AND THEY ARE GOING THROUGH
27 IT IN THE CLIENT'S HOME, FINE, THEY CAN LOOK RIGHT THERE,
28 AND, ONCE THEY TAKE IT OUT OF THE HOME, IT'S A SEIZURE. WITH

1 118 BOXES, THEY PROBABLY HAD A TRUCK, THEY PROBABLY CAME DOWN
2 AND TOOK IT TO THE OFFICE TO GO THROUGH. I DON'T THINK
3 THAT'S THE SEIZURE YET. THE SEIZURE IS WHEN THEY DON'T TAKE
4 THOSE BOXES BACK TO THE HOME. NOW I'VE LOOKED THROUGH THESE
5 THINGS, IT'S NOT WHAT I WANT, I'M TALKING IT HOME. THERE'S
6 NO SEIZURE YET. THAT'S MY CONCERN.

7 IF YOU WANT, I WILL MAKE THE ARGUMENT THAT THEY
8 SHOULD HAVE BROUGHT 75 SHERIFF'S OFFICERS OR 118 SHERIFF'S
9 OFFICERS INTO MR. GOODWIN'S ONE BEDROOM, TWO BEDROOM HOME AND
10 HAD EACH OF THEM GO THROUGH A BOX TO DETERMINE ON SITE
11 WHETHER THE ITEMS WERE CONTRABAND, FINE. I WILL MAKE THAT
12 ARGUMENT.

13 PEOPLE VS. SKELTON 1 CAL.3RD 144. "IN EXECUTING
14 A SEARCH WARRANT, OFFICERS MAY SEIZE ITEMS THAT ARE NOT
15 LISTED," ET CETERA, "THAT THEY SEE IN PLAIN VIEW AND CAN
16 REASONABLY IDENTIFY AS CONTRABAND." PEOPLE VS. BAKER. "AS
17 WELL AS ITEMS ON CLOSER EXTENSION ARE CONTRABAND." IN THAT
18 CASE IT WAS AN APPLIANCE WITH THE SERIAL NUMBER REMOVED.

19 "EVIDENCE OF CONTRABAND OR A CRIME MUST BE
20 IMMEDIATELY APPARENT," HORTON VS. CALIFORNIA, 496 U.S. 128 AT
21 PAGE 136.

22 A PIECE OF PAPER THAT IS 70 PAGES LONG -- I'M
23 SORRY -- A PACKET OF DOCUMENTS THAT SAYS "BURRINGHAM
24 TREATMENT FOR SCREENPLAY BY MICHAEL GOODWIN" IS NOT SOMETHING
25 THAT IS IMMEDIATELY ON ITS FACE CONTRABAND. THEY HAD NO
26 BUSINESS TAKING IT AWAY. WHETHER THEY TOOK IT --

27 THE COURT: "IF IT'S CONTRABAND OR EVIDENCE OF A
28 CRIME." YOU'RE LEAVING THAT PART OUT.

1 MR. SARIS: OR EVIDENCE OF A CRIME.

2 THE COURT: THAT'S WHERE I'M HAVING TROUBLE.

3 MR. JACKSON: THE POINT IS, IF I MAY INTERJECT,
4 SORRY. SKELTON AND ITS PRODIGY DEAL WITH TAKING AN ITEM OUT
5 OF A HOUSE THAT'S NOT LISTED IN THE SEARCH WARRANT. THESE
6 DOCUMENTS, ALL 50,000 PAGES, WERE RIPE TO TAKE. WE AGREE
7 THAT THEY WERE SEIZURES, THAT IT WAS -- IT WAS A SEIZURE,
8 AND, BY THE WAY, I WOULD THINK IN OTHER, SAY FOR INSTANCE,
9 NARCOTICS CASES, OR GUN POSSESSION CASES, I THINK MS. SARIS
10 MAY ARGUE DIFFERENTLY, THAT TAKING ITEMS AWAY IS NOT A
11 SEIZURE. ACTUALLY YOU ANALYZE THEM AND YOU LOOK AT THEM.
12 THAT HAVING BEEN SAID, WE ALL AGREE THESE ITEMS WERE ALL
13 PROPERLY SEIZED UNDER THE UMBRELLA OF THE PROPERLY EXECUTED
14 SEARCH WARRANT.

15 MR. SARIS: I DON'T AGREE WITH THAT. TO THE EXTENT I
16 SAID THAT, I APOLOGIZE.

17 THE COURT: LET ME DO THIS: LET ME TAKE A BREAK. THE
18 COURT REPORTER HAS BEEN GOING. I HAVE ANOTHER COUNSEL THAT
19 HAS TO GET OUT OF HERE. LET ME ASK COUNSEL IF YOU WOULD MEET
20 AND CONFER WITH EACH OTHER. SEE IF WE CAN NARROW DOWN SOME
21 OF THE ISSUES.

22 WE MAY BE ABLE TO. BUT I'D LIKE TO SEE IF WE
23 CAN THIS MORNING. I'D LIKE TO DO SOMETHING PRODUCTIVE, AND
24 WE CAN GO ON FOR HOURS WITHOUT MAKING ANY PROGRESS.

25 MR. MATTHEWS: YOUR HONOR, IF I MIGHT, I HAVEN'T HAD
26 AN OPPORTUNITY TO INTERJECT OR BE REQUESTED TO. I WOULD SAY
27 ONE ISSUE I KNOW WE CAN DEAL WITH TODAY SUMMARILY WOULD BE
28 THE RECUSAL MATTER. THE ONLY ISSUE COUNSEL RAISED IN THEIR

1 ARGUMENT IS THAT SHE CONSIDERED THIS A LESS SEVERE REMEDY
2 THAN DISMISSAL FOR THE ALLEGED MISCONDUCT.

3 AS THE COURT IS WELL AWARE, PENAL CODE SECTION
4 1424 IS NOT A REMEDY FOR ALLEGED MISCONDUCT, EVEN IF SUCH HAD
5 BEEN SHOWN IN THIS CASE, I THINK.

6 THE COURT: YOU CAN BE EXCUSED TODAY, IF YOU WANT,
7 BECAUSE WE'RE NOT GETTING ANYWHERE IS MY GUESS. THAT'S WHY
8 I'D LIKE COUNSEL TO MEET AND CONFER TO SEE IF THEY CAN NARROW
9 DOWN WHAT WE CAN DO. IT'S NOT LIKE WE'RE GETTING TO THE
10 MERITS OF THE RECUSAL MOTION. I AGREE WITH YOU AS TO THE
11 STATUTE AND WHAT THE COURT IS PERMITTED TO DO, BUT WE'RE NOT
12 THERE YET. SO LET ME TAKE A BREAK. I NEED TO TALK TO
13 COUNSEL ON THE HORN TRIAL AND GIVE THE COURT REPORTER AND
14 EVERYBODY ELSE A BREAK. LET'S RECESS FOR 10 MINUTES.

15 (RECESS TAKEN.)

16

17 THE COURT: ON THE RECORD. MR. GOODWIN IS HERE WITH
18 COUNSEL. PEOPLE ARE REPRESENTED. I ASKED COUNSEL TO DISCUSS
19 WHERE WE'RE HEADED THIS MORNING.

20 AND WHO WANTS TO GO FIRST?

21 MR. MATTHEWS: I THINK I WILL, YOUR HONOR. I THINK
22 THE ONE THING -- STEVEN MATTHEWS FOR THE ATTORNEY GENERAL'S
23 OFFICE.

24 I THINK THE ONE THING WE CAN AGREE ON IS THAT
25 THE RECUSAL MOTION IS RIPE FOR RULING TODAY.

26 THE COURT: OKAY.

27 MR. MATTHEWS: THAT IT WOULD BE THE BASIS, OF COURSE,
28 ON THE ALLEGATIONS THAT HAVE BEEN MADE AND THAT THE COURT

1 WOULD, OBVIOUSLY, BE RULING ON THE MOTION. IF IT WERE, FOR
2 INSTANCE, DENIED, THAT THE DENIAL WOULD OBVIOUSLY BE WITHOUT
3 PREJUDICE TO THE DEFENDANT FILING ANOTHER RECUSAL MOTION
4 SHOULD THE DEFENDANT BELIEVE THAT ANY NEW CIRCUMSTANCE OR
5 ACTION OR DECISION ON BEHALF OF THE DISTRICT ATTORNEY'S
6 OFFICE EVIDENCES A DISQUALIFYING CONFLICT PURSUANT TO SECTION
7 1424, SO I THINK THAT MAY BE ONE DECISION THAT WE CAN GET
8 TODAY.

9 THE COURT: I CAN DO THAT.

10 MS. SARIS: I CAN STATE THAT THE MOTION THAT I MADE
11 THAT WAS FOR EGREGIOUS GOVERNMENTAL MISCONDUCT, KEEPING IN
12 MIND IF RECUSAL IS NOT A LESSER OF A MOTION TO DISMISS, THAT
13 WE WOULD RENEW OUR MOTION TO DISMISS, AND WE, OF COURSE, HAVE
14 NO OBJECTION TO THE COURT RECONSIDERING THAT. BUT THAT'S
15 BASED ON THE SEIZURE OF ATTORNEY/CLIENT PRIVILEGED DOCUMENTS
16 AND THE ARGUMENTS THAT I MADE REGARDING THE PREJUDICE TO MR.
17 GOODWIN ARE BASED ON THE DOCUMENTS THAT WERE OUTLINED IN THE
18 DATABASE THAT I GAVE THE COURT.

19 AND THE ONLY THING I HAVE LEFT TO BE SAID ON
20 THAT IS THE WORD "CONFLICT" IN 1424, DISQUALIFYING CONFLICT,
21 DOES NOT, I THINK, JUST BY LOGIC, HAVE TO BE A SITUATION
22 WHERE A DISTRICT ATTORNEY USED TO REPRESENT THE DEFENDANT AS
23 A DEFENSE LAWYER OR A DISTRICT ATTORNEY IS HIMSELF THE VICTIM
24 OF A CRIME. I THINK CONFLICT IS WHERE THE DISTRICT ATTORNEY
25 EITHER PERSONALLY OR AS AN OFFICER HAS AN UNFAIR ADVANTAGE
26 DUE TO A SITUATION OUTSIDE THE DEFENDANT'S CONTROL THAT PUTS
27 HIM IN A POSITION WHERE HIS REPRESENTATION AND PROSECUTION OF
28 A MAN FACING LIFE CONFLICTS WITH THE FUNDAMENTAL FAIRNESSES,

1 JUSTICE, AND DUE PROCESS AND RIGHTS TO FAIR TRIAL, AND I
2 THINK WE HAVE MADE MORE THAN A SHOWING OF THAT HERE.

3 THE COURT: IS THE MATTER SUBMITTED?

4 MS. SARIS: YES.

5 MR. JACKSON: SUBMITTED.

6 THE COURT: UNDER 1424 THE COURT CANNOT GRANT THE
7 MOTION TO RECUSE THE DISTRICT ATTORNEY UNLESS THERE EXISTS A
8 CONFLICT OF INTEREST THAT WOULD RENDER IT UNLIKELY THAT THE
9 DEFENDANT WOULD RECEIVE A FAIR TRIAL.

10 I EVEN -- EVEN TAKING A BROAD VIEW OF THE TERM
11 "CONFLICT," I CAN'T SAY THAT ONE EXISTS HERE. THE ONLY THING
12 I CAN SAY IS THAT THE PEOPLE ARE IN POSSESSION OF PRIVILEGED
13 MATERIAL, THAT THEY HAVE AGREED -- AT LEAST THE LAST TIME WE
14 DISCUSSED THIS ISSUE -- THEY AGREED NOT TO USE THAT MATERIAL
15 IN ANY WAY AND NOT TO USE ANY EVIDENCE OBTAINED AS A RESULT
16 OF THAT MATERIAL IN THE TRIAL.

17 AND, AT THIS POINT, I'M GOING TO SAY THAT THERE
18 IS NO SHOWING THAT THE DEFENDANT WOULD RECEIVE ANYTHING OTHER
19 THAN A FAIR TRIAL BASED ON THE POSSESSION OF THIS
20 INFORMATION. SO, AT THIS POINT, I'M GOING TO DENY THE MOTION
21 UNDER 1424. OF COURSE, THAT'S WITHOUT PREJUDICE, AND IF
22 CIRCUMSTANCES CHANGE, OR IF OTHER FACTS ARE DEVELOPED, MS.
23 SARIS, I'M SURE YOU'LL RENEW THAT MOTION AND POSSIBLY EVEN
24 YOUR MOTION TO DISMISS, BUT AT THIS POINT I'M GOING TO DENY
25 THE 1424 RECUSAL MOTION.

26 THANK YOU, MR. MATTHEWS.

27 MR. MATTHEWS: THANK YOU, YOUR HONOR.

28 MS. SARIS: DOES THAT INCLUDE, YOUR HONOR, THE MOTION

1 AS WELL TO RELIEVE MR. JACKSON AND MR. DIXON SPECIFICALLY?

2 THE COURT: AT THIS POINT, YES, BECAUSE I THINK THAT
3 WOULD BE PART OF A RECUSAL MOTION, WHETHER IT'S RECUSAL OF
4 THE DISTRICT ATTORNEY'S OFFICE IN ITS ENTIRETY OR THESE
5 PARTICULAR D.A.'S, SO YES, THE MOTION IS DENIED.

6 ALL RIGHT. THEN LET'S CONTINUE TO DISCUSS THE
7 1538.5 BECAUSE I DON'T KNOW IF COUNSEL WAS ABLE TO AGREE ON
8 ANYTHING.

9 MS. SARIS: WHAT WE CAME TO -- AND I THINK I'LL TAKE
10 RESPONSIBILITY OF THIS -- IN AN EFFORT TO AVOID DELAY AND NOT
11 HAVE AN OFFICER TESTIFY, I WAS WILLING TO AGREE TO THIS COURT
12 THAT THE OFFICER HAD A RIGHT TO LOOK THROUGH THESE
13 DOCUMENTS. I WAS BEING FAR TOO PRACTICAL AND I APOLOGIZE FOR
14 THAT IN SAYING THAT PERHAPS 118 BOXES COULDN'T BE LOOKED
15 THROUGH AT THE HOME OF MR. GOODWIN. THEY SHOULD HAVE BEEN
16 LOOKED THROUGH AT THE HOME OF MR. GOODWIN, LET ME MAKE IT
17 VERY CLEAR: IN MY ARGUMENT THE DISTRICT ATTORNEY AND LOS
18 ANGELES COUNTY SHERIFF'S DEPARTMENT HAD NO RIGHT TO TAKE OUT,
19 FOR THE PURPOSE OF INCORPORATING INTO ANY MURDER BOOK OR
20 SHOWING TO THE DISTRICT ATTORNEY, ANY DOCUMENTS OTHER THAN
21 THOSE SPECIFICALLY STATED IN THE WARRANT, WHICH WERE TRAVEL
22 DOCUMENTS AND DOCUMENTS RELATING TO HOME OWNERSHIP.

23 I THINK THE ISSUE AND THE ARGUMENT THAT COUNSEL
24 AND I HAVE IS WHETHER OR NOT THE OTHER ITEMS THAT WERE TAKEN
25 WERE EITHER IMMEDIATELY APPARENT AS CONTRABAND OR EVIDENCE OF
26 A CRIME. I THINK THE COURT WAS RIGHT INITIALLY WHEN SHE SAID
27 WE NEED AN OFFICER TO TESTIFY AS TO THIS. I WOULD ASK FOR
28 EVERY SINGLE ITEM THAT WAS REMOVED FROM MY CLIENT'S HOME TO

1 BE RETURNED. IN THE ALTERNATIVE, I WOULD ASK THAT AN OFFICER
2 TESTIFY AS TO EACH AND EVERY DOCUMENT AND HOW THEY BELIEVED,
3 ON ITS FACE, THAT IT WAS EVIDENCE OF A CRIME.

4 THE COURT: WELL, I'M NOT GOING TO TELL THE PEOPLE HOW
5 THEY SHOULD PROCEED WITH THE MOTION. ALL I KNOW IS THAT, IF,
6 IN FACT, THERE ARE ITEMS THAT WERE TAKEN FROM THE HOME THAT
7 ARE OUTSIDE OF THE WARRANT OR OUTSIDE THE SCOPE OF THE
8 WARRANT, THAT DOESN'T END THE INQUIRY. THE INQUIRY,
9 OBVIOUSLY, THEN BECOMES WHETHER OR NOT THE INVESTIGATING
10 OFFICER, OR THE OFFICER THAT SEIZED THE MATERIAL, BELIEVED
11 THE ITEM TO BE EVIDENCE OF A CRIME. AND IF THE PEOPLE WANT
12 TO PRESENT TESTIMONY IN THAT REGARD, I'M HAPPY TO HEAR FROM
13 THE PEOPLE.

14 MS. SARIS, YOU HAD INDICATED LAST TIME THAT YOU
15 THOUGHT THE MOTION COULD BE HANDLED TODAY BASED SOLELY ON THE
16 WARRANT, AND YOU HAVE MADE SOME SHOWING, I BELIEVE, THAT
17 WOULD, I THINK, SHIFT THE BURDEN NOW BECAUSE IT DOES APPEAR
18 THAT THERE ARE SOME MATERIALS THAT ARE TECHNICALLY OUTSIDE
19 THE SCOPE OF THE WARRANT.

20 ARE WE IN AGREEMENT ON THAT, MR. JACKSON?

21 MR. JACKSON: YOUR HONOR, I WOULD SAY, PAINTING WITH A
22 BROAD BRUSH STROKE, PROBABLY SO. I DO HAVE -- I THINK
23 THERE'S A PROCEDURAL DEFECT WITH MS. SARIS'S SUGGESTION. THE
24 WARRANT AUTHORIZED THE TAKING -- AND I'LL JUST THROW A COUPLE
25 OF THINGS OUT THERE OFF THE TOP OF MY HEAD THAT I JUST JOTTED
26 DOWN.

27 ANY AND ALL PRINTED DOCUMENTS RELEVANT TO
28 COMPUTERS AND COMPUTER PROGRAMS AND COMPUTER COMPONENTS.

1 THE WARRANT SPECIFIES A BUNCH OF THINGS DEALING WITH INTERNET
2 ACCOUNTS, CONSUMER PROFILE ACCOUNTS, NAMES, ADDRESSES,
3 PAYCHECK METHODS, PAYMENT METHODS, CREDIT CARDS CREDIT CARD
4 ACCOUNTS, ALL DEALING WITH SOFTWARE AND SOFTWARE PROGRAMS.
5 THEN THE WARRANTS SAYS "ANY OF THE ABOVE EVIDENCE, WHETHER
6 DOCUMENTARY FORM OR OTHERWISE." IT ALSO SAYS "CHECKS,
7 SAVING'S ACCOUNT INFO, CHECKING ACCOUNT INFO 1987 TO '88,
8 TRAVEL BOOKS, DIARIES, JOURNALS OR OTHER WRITTEN MATERIAL
9 REGARDING TRAVEL OR THE PURCHASE OF A GUN."

10 AND THE WARRANT SPECIFIES, AS ALL DO, BECAUSE OF
11 CALIFORNIA'S LAW THAT ANY ITEM THAT, IF PROPERLY SEIZED, IF
12 IT WAS USED AS A MEANS FOR COMMITTING A FELONY, IF THERE WAS
13 EVIDENCE THAT IT WAS INTENDED TO BE USED IN THE COMMISSION OF
14 A FELONY, OR IF IT TENDS TO SHOW THAT A FELONY WAS COMMITTED
15 IN GENERAL, OR WHO COMMITTED IT, ALL THOSE ITEMS WERE CHECKED
16 ON THE FACE OF THE WARRANT BY THE MAGISTRATE.

17 THAT MEANS THAT PUTS US IN A POSITION OF TAKING
18 ALL THE DOCUMENTS. ONCE ALL THOSE DOCUMENTS WERE PROPERLY
19 TAKEN, AND WE CAN DANCE ON THE HEAD OF A PEN, I GUESS, ALL
20 DAY LONG, BUT MS. SARIS BASICALLY IS STIPULATING THAT THE
21 ITEMS WERE PROPERLY -- SHE WANTS TO SAY "LOOKED AT" -- BUT
22 THE POINT IS: IF YOU CAN LOOK AT SOMETHING, IT'S, IN TERMS
23 OF THE LAW, IT'S BASICALLY SEIZED.

24 WHETHER THEY LOOKED AT IT AT HIS HOME AND LOOKED
25 THROUGH ALL THOSE ITEMS AT HIS HOME, MR. GOODWIN'S, I THINK
26 MS. SARIS WOULD HAVE TO STIPULATE WE COULDN'T WALK OVER TO
27 THE DETECTIVE AND SAY, "NOPE, DON'T LOOK AT THAT; I'M GOING
28 TO TAKE IT BACK." THEREFORE, SINCE IT IS NO LONGER IN HIS

1 CONTROL, IT'S IN THE GOVERNMENT'S CONTROL, AT LEAST FOR THE
2 POINT AT WHICH IT'S BEING LOOKED AT, IT IS SEIZED. SO ALL
3 THE SEMANTICS ASIDE, MS. SARIS'S FIRST STIPULATION REMAINS
4 HER CURRENT STIPULATION, WHICH IS: THE ITEMS WERE PROPERLY
5 SEIZED. THE GEOGRAPHY OF WHERE THEY WERE LOOKED AT IS OF NO
6 CONSEQUENCE.

7 THAT HAVING BEEN SAID, IT'S NOT WHETHER OR NOT
8 DETECTIVE LILLIFIELD LET DETECTIVE VENTURA, DETECTIVE WHOEVER
9 FROM THE L.A. COUNTY SHERIFF'S DEPARTMENT OR WHATEVER DEPUTY
10 THEY USE TO HELP THEM, WHETHER THEY BELIEVED THE ITEM HAD
11 EVIDENTIARY VALUE AND WHAT IT WAS. IT'S WHETHER IT NOW HAS
12 ANY EVIDENTIARY VALUE, AND THAT'S MY DECISION.

13 THE COURT: WELL, THAT'S THE SUBJECT. THE DEFENSE IS
14 MAKING A MOTION TO RETURN THE PROPERTY, A MOTION TO SUPPRESS,
15 AND A MOTION TO RETURN.

16 CORRECT?

17 MS. SARIS: THAT'S CORRECT.

18 THE COURT: SO, AT THIS POINT EVEN IF WE ASSUME FOR
19 THE SAKE OF ARGUMENT THAT MS. SARIS HAS AGREED THAT THEY, THE
20 ITEMS WERE PROPERLY LOOKED AT WHICH IS ALL SHE'S AGREEING
21 TO --

22 MS. SARIS: CORRECT.

23 THE COURT: -- I THINK NOW THE PEOPLE CAN PRESENT
24 WHATEVER EVIDENCE THE PEOPLE WISH TO PRESENT; OTHERWISE, I
25 CAN RULE ON THE MOTION RIGHT NOW. THE ONLY THING I'M
26 QUESTIONING IS: I DON'T HAVE A REAL GOOD RECORD OF WHAT WAS
27 TAKEN AND NOT RETURNED AS OPPOSED TO WHAT WAS TAKEN AND
28 RETURNED. IN OTHER WORDS, THE INVENTORY THAT I HAVE THAT'S

1 HIGHLIGHTED --

2 MS. SARIS: OH, THE --

3 THE COURT: -- TO RETURN, ARE THE HIGHLIGHTED ITEMS,
4 THE ITEMS THAT ARE STILL IN THE POSSESSION OF LAW
5 ENFORCEMENT.

6 MS. SARIS: I BELIEVE THE HIGHLIGHTED ITEMS ARE ITEMS
7 THAT I AM ALLEGING ARE ATTORNEY/CLIENT PRIVILEGE. THE --
8 WHAT THE COURT HAS ARE ITEMS THAT WERE NOT RETURNED. THIS IS
9 THE RETURN ON THE SEARCH WARRANT. IT IS WHAT WAS TAKEN FROM
10 MY CLIENT'S HOME.

11 THE COURT: RIGHT.

12 MS. SARIS: SO NONE OF THESE WERE RETURNED TO HIM.

13 THE COURT: NONE OF THIS WAS RETURNED?

14 MS. SARIS: NONE. THIS IS A LIST OF WHAT THEY MADE
15 BATES STAMPED AND MADE PART OF THE RECORD.

16 THE COURT: GOT IT. SO THE HIGHLIGHTED ITEMS ARE THE
17 ITEMS THAT WERE THE SUBJECT OF THE RECUSAL MOTION IN ESSENCE
18 AND THE MOTION TO DISMISS, THAT BEING ALL OF THE
19 ATTORNEY/CLIENT PRIVILEGE DOCUMENTS?

20 MS. SARIS: THAT ARE FACIALLY RECOGNIZABLE AS
21 ATTORNEY/CLIENT PRIVILEGE DOCUMENTS.

22 THE COURT: WHICH WE DON'T NEED TO DETERMINE WHICH
23 DOCUMENTS THOSE ARE. OKAY. WE DON'T NEED TO DETERMINE
24 WHETHER THEY SHOULD BE RETURNED BECAUSE I THINK WE ALREADY
25 DISCUSSED THIS, THAT THE PEOPLE ARE NOT USING ANY OF THIS.

26 MS. SARIS: I'M SORRY. I APOLOGIZE. THE HIGHLIGHTED
27 ITEMS ARE ITEMS I BELIEVE NOT TO BE PART OF THE SEARCH
28 WARRANT. I APOLOGIZE.

1 THE COURT: OKAY.

2 MS. SARIS: IN OTHER WORDS, ALL OF THE ITEMS WERE
3 TAKEN. ALL OF THE ITEMS THE COURT HAS LISTED ON THE RETURN
4 WERE TAKEN FROM MR. GOODWIN AND NOT RETURNED. THE
5 HIGHLIGHTED ITEMS ARE ITEMS WE ARE CLAIMING ARE ABOVE AND
6 BEYOND THE SEARCH WARRANT. I'M SORRY.

7 THE COURT: THAT'S WHAT I THOUGHT WHEN I FIRST LOOKED
8 AT IT. SO THOSE ARE THE ITEMS STILL IN THE POSSESSION OF THE
9 PEOPLE.

10 MS. JACKSON: SO IS MS. SARIS SAYING NONE OF THESE
11 ITEMS WERE COPIED AND RETURNED?

12 MS. SARIS: NO. THEY MIGHT HAVE BEEN RETURNED, BUT
13 THEY WERE COPIED AND INCORPORATED INTO THE MURDER BOOK.

14 MR. JACKSON: I WANT TO MAKE SURE THE STUFF WAS GIVEN
15 BACK TO MR. GOODWIN.

16 THE COURT: THAT'S WHAT I NEED.

17 MS. SARIS: AFTER IT WAS XEROX'D AND INCORPORATED AND
18 MADE PART OF THE RECORD.

19 MR. JACKSON: RIGHT. MS. SARIS JUST SAID THEY
20 WEREN'T RETURNED. THEY WERE. THESE ITEMS WERE.

21 MS. SARIS: THEY WERE STOLEN FROM MY CLIENT; HOWEVER,
22 THEY WERE INCORPORATED ILLEGALLY IS OUR ARGUMENT IN THE
23 MURDER BOOK, AND THEY WERE BEYOND THE SCOPE OF THE WARRANT.

24 THE COURT: THE HIGHLIGHTED?

25 MS. SARIS: THE HIGHLIGHTED.

26 THE COURT: THE HIGHLIGHTED ITEMS ARE THEN THE ITEMS
27 SUBJECT TO THE MOTION TO RETURN AND/OR SUPPRESS.

28 MS. SARIS: CORRECT. THE OTHER ITEMS I CAN, I WAS

1 SAYING TO THE COURT AND TO COUNSEL, I SEE A BASIS, I SEE HOW
2 THESE RELATE TO WHAT WAS ASKED FOR IN THE WARRANTS. I DON'T
3 KNOW THAT COUNSEL AGREES WITH ME, BUT THERE'S SEVERAL ITEMS
4 WHERE IT'S CLEAR THEY ASK FOR BANK STATEMENTS, THEY TOOK
5 THOSE. THEY ASKED FOR TRAVEL DOCUMENTS, THEY TOOK TRAVEL,
6 AND WE'RE NOT SEEKING THOSE AT THIS TIME TO BE RETURNED.
7 WE'RE JUST SEEKING ITEMS WE BELIEVE ARE BEYOND THE SCOPE OF
8 THE WARRANT.

9 THE COURT: OKAY. BUT YOU'RE SEEKING TO EITHER HAVE
10 THEM RETURNED OR TO SUPPRESS THEM?

11 MS. SARIS: BOTH.

12 THE COURT: SOME OF THEM YOU WANT RETURNED, AND YOU
13 DON'T WANT THE PEOPLE TO USE, BE ENTITLED TO USE --

14 MS. SARIS: CORRECT.

15 THE COURT: -- IN EVIDENCE?

16 MS. SARIS: THIS IS ALL PAPER SO IT WAS ALL XEROX'D.

17 MR. JACKSON: AND, OBVIOUSLY, YOUR HONOR, SO THE
18 COURT IS CLEAR, ON ANY ITEM THAT WE'VE AGREED OR THAT ON ITS
19 FACE IS ATTORNEY/CLIENT PRIVILEGE, THE COURT HAS NEVER HEARD
20 ME MAKE ANY ARGUMENT IN OPPOSITION TO THAT. I DON'T HAVE ANY
21 PROBLEM NOT USING IT. THAT WAS EVIDENCED IN MY AFFIDAVIT. I
22 LOOKED AT TONS OF STUFF, AND I DON'T REMEMBER LOOKING AT ANY
23 ATTORNEY/CLIENT PRIVILEGE STUFF UNTIL MS. SARIS GAVE IT TO
24 ME. AND IT'S ONLY THE ITEMS SHE'S GIVEN TO ME. I HAVE NOT
25 GONE BACK AND FILTERED THROUGH 60-ODD BOXES OR 40-ODD BOXES
26 OF STUFF TO LOOK FOR OTHER THINGS.

27 THE COURT: LET ME JUST ASK YOU A QUESTION.

28 IT APPEARS THAT THESE ITEMS THAT ARE HIGHLIGHTED

1 ON THE RETURN ARE NOT THE ATTORNEY/CLIENT PRIVILEGED, THAT
2 THESE DO NOT INCLUDE THE PRIVILEGED DOCUMENTS; IS THAT RIGHT?

3 MS. SARIS: THEY ARE -- THEY WERE NOT FILTERED THROUGH
4 AT ALL, SO THEY MIGHT BE IN THERE, BUT THEY ARE -- IN OTHER
5 WORDS, I WOULD IMAGINE IF THERE'S SOMETHING ON ITS FACE
6 THAT'S ATTORNEY/CLIENT PRIVILEGE, IT'S HIGHLIGHTED, YES. BUT
7 IT WAS MAINLY EVERYTHING THAT WAS NOT IN THE SEARCH WARRANT.

8 THE COURT: BECAUSE IT DOESN'T LOOK LIKE THERE'S ANY.

9 MS. SARIS: I'LL GIVE YOU AN EXAMPLE. BOX 1, NO. 3,
10 LETTER TO AL STOKKE. THAT WOULD BE COVERED IN THE
11 ATTORNEY/CLIENT PRIVILEGE BEYOND THE SCOPE, SO I IMAGINE
12 IT'S HIGHLIGHTED. AND THEN, WHEN I SAW THE ENTIRE BINDER,
13 THE ENTIRE BOX WAS BEYOND THE SCOPE, AND I JUST HIGHLIGHTED
14 THE BOX NUMBER, SO THERE WOULD BE ITEMS IN THIS RETURN THAT
15 ARE ATTORNEY/CLIENT PRIVILEGE. THEY ARE JUST NOT SPECIFIED
16 IN YOUR COPY NOW.

17 THE COURT: BECAUSE WE ALREADY GOT THE AGREEMENT OF
18 THE PEOPLE.

19 MS. SARIS: RIGHT. AND I WANT IT VERY CLEAR FOR THE
20 RECORD THAT WE DON'T ACCEPT THAT AGREEMENT AS A DEFENSE, WE
21 DON'T TRUST IN THAT AGREEMENT, WE DON'T BELIEVE IN THAT
22 AGREEMENT, AND WE DON'T THINK THE AGREEMENT IS REMOTELY
23 RELEVANT TO MY CLIENT'S ABILITY TO RECEIVE A FAIR TRIAL.

24 IF THE WORD "RECUSAL" IS WHAT IS KEEPING THE
25 COURT FROM NOT ALLOWING THESE TWO INDIVIDUALS TO PROSECUTE
26 THE CASE, I WILL SAY ANY WORD THAT WILL SAY MY CLIENT CANNOT
27 GET A FAIR TRIAL IN THE COUNTY OF LOS ANGELES FROM THESE TWO
28 INDIVIDUALS, PAT DIXON AND ALAN JACKSON FROM THE LOS ANGELES

1 DISTRICT ATTORNEY'S OFFICE. I DON'T CARE IF WE CALL IT
2 "RECUSAL," I DON'T CARE IF WE CALL IT "MOTION IN EQUITY" TO
3 RELIEVE THESE TWO INDIVIDUALS AS PROSECUTORS, BUT I'M MAKING
4 FOR THE RECORD A MOTION BASED ON THE ATTORNEY/CLIENT
5 PRIVILEGED DOCUMENTS THAT MR. JACKSON HAS TAKEN, HAS SEEN,
6 WHETHER OR NOT HE RECALLS, THAT SAYS MR. GOODWIN CANNOT
7 RECEIVE A FAIR TRIAL FROM THESE INDIVIDUALS.

8 I WANT THAT VERY CLEAR THAT, IF IT DOESN'T FALL
9 INTO THE SMALL CATEGORY OF 1424, THEIR PROMISE TO US NOT TO
10 USE IT MEANS NOTHING. AND WE DON'T ACCEPT IT OR STIPULATE IN
11 ANY WAY THAT THAT IS GOOD ENOUGH FOR US. WE ARE ASKING FOR
12 THEM TO BE RELIEVED FROM THIS CASE.

13 THE COURT: ALL RIGHT. BUT AT THIS POINT, I BELIEVE
14 THERE WERE REPRESENTATIONS OF THE PROSECUTORS THAT WERE MADE
15 EARLIER AND THAT IS AT THE TIME THAT WE LITIGATED THE MOTION
16 TO DISMISS, AND ONE OF THE REASONS I DENIED THE MOTION TO
17 DISMISS WAS BECAUSE THERE WERE REMEDIES AND THINGS THAT COULD
18 BE DONE TO MAKE SURE THAT THE DEFENDANT WAS NOT PREJUDICED
19 AND THE REPRESENTATION WAS MADE THAT THE PEOPLE WOULD NOT BE
20 UTILIZING ANY INFORMATION OBTAINED FROM THE PRIVILEGED
21 MATERIALS IN THE PROSECUTION OF THIS CASE.

22 MS. SARIS: OUR MOTION SAYS THEY ALREADY HAVE.

23 THE COURT: I UNDERSTAND THAT YOUR MOTION ALLEGES THAT
24 YOU HAVE BEEN PREJUDICED ALREADY BECAUSE OF THE TACTICAL
25 APPROACH OR THE THEORY OF THE PROSECUTION'S CASE, AS IT
26 EXISTS TODAY WHICH IS DIFFERENT FROM WHAT IT WAS BEFORE AND
27 THAT YOU BELIEVE THAT YOUR CLIENT WILL BE PREJUDICED BECAUSE
28 YOU NOW WON'T BE ABLE TO ARGUE CERTAIN THINGS THAT THE

1 PEOPLE, YOU'RE COUNTING ON THE PEOPLE ARGUING AS EVIDENCE IN
2 THE CASE, BUT NOW YOU BELIEVE THEY ARE CHANGING THEIR
3 STRATEGY, SO YOU DON'T HAVE THE ABILITY TO ATTACK THE
4 PEOPLE'S THEORY OF THE CASE. BUT, TO BE HONEST WITH YOU,
5 THAT MAY BE A DISADVANTAGE TO THE DEFENSE, BUT IT DOESN'T, IN
6 MY MIND, RISE TO THE LEVEL OF DEPRIVING THE DEFENDANT OF A
7 FAIR TRIAL.

8 AND UNDER 1424, SPECIFICALLY, IT DOESN'T RISE TO
9 THE LEVEL OF DEPRIVING THE DEFENDANT OF A FAIR TRIAL,
10 SO I THINK WE CAN MOVE FORWARD FROM HERE, AND THE DEFENSE
11 DOESN'T HAVE TO ACCEPT THE REPRESENTATIONS OF THE PROSECUTION
12 THAT THEY ARE NOT GOING TO USE ANY INFORMATION THAT FLOWS
13 FROM THE PRIVILEGED MATERIAL. THAT LEADS ME TO ANOTHER CAN
14 OF WORMS WHICH IS: HOW TO EVER ENFORCE THAT ORDER. AND I
15 WANT TO TOUCH ON THE SUGGESTION THAT I APPOINT A SPECIAL
16 MASTER BECAUSE I THINK THAT, IN ORDER TO ENFORCE THAT ORDER
17 AS WELL AS TO PROPERLY RULE ON THE MOTION TO SUPPRESS, I HAVE
18 TO KNOW NOW WHAT IS IN THE POSSESSION OF THE PEOPLE THAT
19 CONSTITUTES ATTORNEY/CLIENT PRIVILEGED MATERIAL VERSUS
20 MATERIAL THAT'S OUTSIDE THE SCOPE OF THE WARRANT.

21 IF THE PEOPLE WANT TO PRESENT EVIDENCE ON A
22 1538.5 TO TRY TO JUSTIFY THE SEIZURE OF THE DOCUMENTS THAT
23 WERE OUTSIDE THE SCOPE OF THE WARRANT INITIALLY, THE PEOPLE
24 CAN DO THAT AT ANOTHER TIME, AND I WOULD IMAGINE THAT THE
25 PEOPLE WOULD BE PRESENTING SOME TESTIMONY IN THAT REGARD,
26 JUSTIFYING THE SEIZURE AND EXPLAINING THE POTENTIAL
27 EVIDENTIARY VALUE. BUT THAT HAS TO BE DISTINGUISHED FROM THE
28 ATTORNEY/CLIENT PRIVILEGE MATERIAL BECAUSE I CAN SEE A

1 SCENARIO WHERE I MAY PERMIT THE SEIZURE OF ITEMS OUTSIDE THE
2 SCOPE OF THE WARRANT IF THE PEOPLE CAN JUSTIFY THE SEIZURE
3 BUT STILL HOLD THE PEOPLE TO THEIR PROMISE AND
4 REPRESENTATION THAT THE ATTORNEY/CLIENT PRIVILEGED MATERIAL
5 WOULD NOT BE USED IN ANY WAY IN THE CASE.

6 SO I'M AT THE POINT NOW WHERE I'M LOOKING FOR
7 SOME HELP HERE AND FOR SOME SUGGESTIONS. I WOULD VERY MUCH
8 LIKE TO NOW UTILIZE THAT SUGGESTION OF A SPECIAL MASTER,
9 PERHAPS ONE THAT CAN WORK AT THE DIRECTION OF THE DEFENSE TO
10 GO THROUGH THE MATERIAL THAT WAS OBTAINED TO DISTINGUISH THE
11 ATTORNEY/CLIENT PRIVILEGED DOCUMENTS FROM THE OTHER DOCUMENTS
12 THAT WERE SEIZED AND TO MAKE A RECORD OF IT SOMEHOW, AND IF I
13 HAVE TO CONDUCT AN IN-CAMERA PROCEEDING LATER ON DOWN THE
14 ROAD WITH DEFENSE COUNSEL ON THAT, I'M HAPPY TO DO THAT, BUT,
15 AS WE'RE HEADING IN THE DIRECTION OF TRIAL, YOU KNOW, I HAVE
16 TO PLAN AHEAD.

17 AND BECAUSE I DON'T KNOW WHERE THIS CASE
18 ULTIMATELY WILL BE TRIED, I WANT TO TRY TO MAKE THE RECORD AS
19 CLEAN AS POSSIBLE AND AS CLEAR AS POSSIBLE FOR SOMEONE LATER
20 ON DOWN THE ROAD, AND MAYBE THAT IS THE BEST WAY TO PROCEED
21 NOW BEFORE WE FINISH THE 1538.5 MOTION. MAYBE WE OUGHT TO
22 GET SOME ASSISTANCE WITH GOING THROUGH THESE ITEMS AND
23 DIFFERENTIATING BETWEEN THEM.

24 MR. JACKSON: YOUR HONOR, I THINK YOU'RE EXACTLY
25 RIGHT. I THINK THERE'S A BRIGHT LINE OF DEMARCATION BETWEEN
26 THE ATTORNEY/CLIENT PRIVILEGED DOCUMENTS AND THE ITEMS THAT
27 WERE SEIZED PURSUANT TO A SEARCH WARRANT. I WANT TO
28 ADDRESS -- THE COURT KNOWS WHAT MY POSITION IS ON THE

1 ATTORNEY/CLIENT PRIVILEGED DOCUMENTS. I HAVE NO PROBLEM,
2 ABSOLUTELY NO PROBLEM ASSIGNING A SPECIAL MASTER. WE CAN GO
3 THROUGH -- HE OR SHE CAN GO THROUGH EVERY DOCUMENT I HAVE AND
4 SAY "I THINK THIS IS ATTORNEY/CLIENT PRIVILEGE, AND I THINK
5 THIS ISN'T," AND PRESENT THAT TO THE COURT.

6 THEN WE CAN HAVE A HEARING TO MAKE THAT
7 DETERMINATION IF I EVEN DISAGREE WITH THAT PERSON. THAT
8 HAVING BEEN SAID, I'D LIKE TO SET THAT ASIDE FOR A SECOND AND
9 VISIT WITH THE COURT FOR JUST A SECOND ABOUT THE SCOPE OF THE
10 WARRANT QUESTION THAT THE COURT HAS.

11 THE STATE OF THE LAW IS THAT ANY PROPERLY
12 EXECUTED SEARCH WARRANT CAN RENDER ANYTHING OF EVIDENTIARY
13 VALUE SO LONG AS IT WAS PROPERLY SEIZED, MEANING THAT
14 OFFICERS WERE AT THE LOCATION PROPERLY AND SAW IT AND THOUGHT
15 IT WOULD BE USED, THOUGHT THEY COULD USE IT, WHATEVER. THE
16 REASON I HAVE A PROBLEM, AND I'LL DO WHATEVER THE COURT
17 WANTS, IT'S YOUR DECISION ULTIMATELY, BUT MY TWO CENTS ARE AS
18 FOLLOWS: THE REASON I HAVE A PROBLEM SAYING, OKAY, WELL, WHY
19 DON'T WE HAVE A HEARING AND I'LL PRESENT EVIDENCE, JUDGE, OF
20 WHY THOSE ITEMS WERE RETAINED, WHY THE BANK RECORDS OF A
21 BANKRUPTCY WERE RETAINED, WHY THE E.S.I. FINANCIALS WERE
22 RETAINED, WHY BURRINGHAM WAS RETAINED, OR "I WANT YOU" WAS
23 RETAINED, THINGS LIKE THAT.

24 I CAN GO THROUGH THAT. THAT WOULD BE LONG AND
25 LABORIOUS, BUT THE FACT OF THE MATTER IS: THE GOVERNMENT IS
26 ON SOLID LEGAL FOOTING FOR THE USE OF ALL OF THAT
27 INFORMATION, AND HERE'S THE BEST EVIDENCE -- NOT TO THROW A
28 LITTLE LATIN AT THE COURT REPORTER -- BUT IT'S RES IPSA

1 LOQUITOR. IF I USE THE ITEM NO MATTER WHAT IT IS, PICK
2 SOMETHING, JUDGE, AN E.S.I. -- PAGE 52 OF AN E.S.I.
3 BANKRUPTCY FINANCIAL FORM FROM '93, IF I USE THAT ITEM
4 AGAINST MR. GOODWIN, GUESS WHAT? IT HAS EVIDENTIARY VALUE
5 BECAUSE I HAVE DECIDED TO USE IT.

6 THE COURT: CORRECT.

7 MR. JACKSON: THE ONLY QUESTION IS: WAS IT
8 ATTORNEY/CLIENT PRIVILEGE?

9 THE COURT: NO. THE ONLY QUESTION IS: WAS IT
10 PROPERLY SEIZED?

11 MS. SARIS: WHICH IS IMMEDIATELY APPARENT, IS THE
12 QUESTION.

13 MR. JACKSON: NO, NO, NO. MS. SARIS IS ABSOLUTELY
14 WRONG ON THE STATE OF THE LAW.

15 MS. SARIS: I'VE GIVEN THREE CASES. COUNSEL HAS NOT
16 CITED A SINGLE CASE THAT SAYS THAT LATER ON, SIX MONTHS DOWN
17 THE ROAD, A PROSECUTOR USING IT AS EVIDENCE, MAKES IT
18 SEIZABLE ABLE FROM THE OFFICERS.

19 MR. JACKSON: BECAUSE MS. SARIS IS CITING CASES FOR
20 PROPOSITIONS FOR WHICH THEY DON'T STAND.

21 THE COURT: THERE IS A CASE THAT AROSE OUT OF THIS
22 COURTHOUSE, PEOPLE VS. GALLEGOS, 96 CAL.APP.4TH, 612, WHICH
23 DEALT WITH A MOTION TO SUPPRESS EVIDENCE OBTAINED AS A RESULT
24 OF A SEARCH WARRANT, AND THE COURT SUPPRESSED THE ITEMS,
25 FINDING THAT THE ITEMS WERE OUTSIDE THE SCOPE OF THE SEARCH
26 WARRANT, AND THE COURT IN THAT CASE HELD THAT, TO JUSTIFY THE
27 SEIZURE OF THOSE DOCUMENTS IN PLAIN VIEW, IT WAS SUFFICIENT
28 THAT THE OFFICER OR THE INVESTIGATOR BELIEVED, OR HAD

1 PROBABLE CAUSE TO BELIEVE, THAT THE ITEM IS EVIDENCE OF SOME
2 CRIME.

3 IT IS NOT NECESSARY THAT THE ITEMS BE ASSOCIATED
4 WITH A PARTICULAR CRIME. THAT IS WHAT I BELIEVE TO BE THE
5 PRESENT STATE OF THE LAW.

6 NOW, MS. SARIS HAS PRESENTED EVIDENCE BASED ON
7 THE SEARCH WARRANT AND THE RETURN WHICH INDICATES TO ME THAT
8 THERE ARE SOME DOCUMENTS THAT WERE OBTAINED THAT WERE OUTSIDE
9 THE SCOPE OF THE SEARCH WARRANT. I THINK WE ALL AGREE THERE
10 ARE SOME DOCUMENTS THAT WERE SEIZED THAT DON'T FALL UNDER THE
11 SPECIFIC DESCRIPTION IN THE SEARCH WARRANT.

12 MR. JACKSON: ABSOLUTELY.

13 THE COURT: BUT, NEVERTHELESS, FROM THE PEOPLE'S
14 POSITION, WHAT I KNOW IS THAT THEY WERE PROPERLY SEIZED AND
15 NOW THAT THEY HAVE BEEN DETERMINED TO HAVE SOME EVIDENTIARY
16 VALUE, THE PEOPLE CAN USE THEM, AND THE PEOPLE CAN SUBMIT ON
17 THIS 1538.5 MOTION RIGHT NOW, IF YOU WANT.

18 I'M NOT TELLING YOU, MR. JACKSON, HOW TO
19 PROCEED. IF YOU WISH TO PRESENT THE TESTIMONY OF THE OFFICER
20 THAT SEIZED THE ITEMS TO SAY THAT HE OR SHE DIDN'T KNOW WHAT
21 WAS IN THE ITEMS AND SEIZED THEM TO LOOK AT THEM AND BELIEVED
22 THAT THEY MIGHT BE EVIDENCE OF THIS CRIME THAT IS ALLEGED, OR
23 ANOTHER CRIME, THEN YOU'RE FREE TO DO THAT. THAT'S ALL I'M
24 DOING IS OPENING THAT DOOR TO GIVE YOU NOW AN OPPORTUNITY TO
25 PRESENT WHATEVER EVIDENCE YOU WISH TO PRESENT, AND I THINK
26 THAT THE DEFENSE HAS MADE A PRIMA FACIA SHOWING TO SHIFT THE
27 BURDEN.

28 NOW, IF YOU WANT TO GO AHEAD AND SUBMIT IT ON

1 WHAT I HAVE, I CAN RULE; IF YOU WANT TO PRESENT EVIDENCE,
2 YOU MAY DO SO. THAT'S ALL.

3 MR. JACKSON: IF THE COURT IS FINDING THAT A PRIMA
4 FACIA SHOWING HAS BEEN MADE BY THE DEFENSE, OBVIOUSLY, JUDGE,
5 I'M NOT GOING TO REST ON MY MORALS. I WANT TO SUBMIT. I
6 BELIEVE WE HAVE SUFFICIENT EVIDENCE TO ILLUSTRATE WHY THESE
7 ITEMS WERE TAKEN.

8 THE COURT: I SUSPECT YOU DO, BUT I HAVEN'T HEARD IT,
9 SO, IF YOU WANT TO PRESENT IT, THAT'S WHAT WE CAN DO THE NEXT
10 TIME WE MEET.

11 MR. JACKSON: I WOULD SUGGEST, YOUR HONOR, THAT, IF
12 IT PLEASE THE COURT, I'D LIKE ENOUGH TIME TO BE ABLE TO --

13 THE COURT: SURE.

14 MR. JACKSON: -- SUBPOENA AN OFFICER, OR SEVERAL
15 OFFICERS WHO MAY HAVE BEEN INVOLVED, AND HAVE A HEARING.

16 THE COURT: BUT WHAT I WAS GOING TO SUGGEST NOW,
17 BECAUSE I FIGURED YOU MIGHT WANT TO DO THAT, IN THE INTERIM
18 MAYBE THIS WOULD BE A GREAT TIME TO GET SOMEBODY APPOINTED TO
19 WORK WITH MS. SARIS INITIALLY TO GO THROUGH THE DOCUMENTS, TO
20 SEPARATE THE ATTORNEY/CLIENT PRIVILEGED DOCUMENTS WHICH ARE
21 NOT GOING TO BE SUBJECT TO THE 1538.5 BECAUSE THE PEOPLE ARE
22 AGREEING BASICALLY NOT TO USE THE EVIDENCE OR ANYTHING
23 DERIVED FROM THE ATTORNEY/CLIENT PRIVILEGE EVIDENCE. SO WHAT
24 I'D LIKE TO SEE IS SOMEONE WORKING WITH MS. SARIS WHO HAS
25 ACCESS TO ALL THIS INFORMATION AND WHO KNOWS WHAT SHE
26 BELIEVES IS PRIVILEGED AND WHY IT'S PRIVILEGED, AND I KNOW
27 YOU HAVE THE SAME INFORMATION.

28 MR. JACKSON: RIGHT. AND I THINK THAT DOES VIOLENCE

1 TO THE POSITION OF AN UNBIASED SPECIAL MASTER. THE SPECIAL
2 MASTER, I MEAN --

3 THE COURT: THEN TELL ME HOW WE CAN DO IT. I JUST
4 WANT SOMEBODY TO BE ABLE TO GO THROUGH THIS MATERIAL AND
5 SPECIFY, LIKE, IN BOX 1, BOX 3, BOX 6, WHAT ITEMS ARE GOING
6 TO BE OUTSIDE THE SCOPE OF THE 1538.5 BECAUSE THE PEOPLE ARE
7 AGREEING.

8 MS. SARIS: WHY DON'T WE DO THIS: I ALREADY HAVE -- I
9 ALREADY GAVE YOU A HIGHLIGHTED COPY OF THE LIST. PERHAPS THE
10 DISTRICT ATTORNEY COULD SUBMIT A COPY WITH A DIFFERENT COLOR,
11 HIGHLIGHT AND SUGGEST IF HE BELIEVES ANYTHING IS OUTSIDE THE
12 SCOPE OR ANYTHING IS ATTORNEY/CLIENT, AND WE CAN GIVE IT TO
13 THAT INDIVIDUAL. THIS PERSON DOESN'T HAVE TO COME TO MY
14 OFFICE.

15 THE COURT: YOU GUYS CAN GO THROUGH THIS LIST.

16 MS. SARIS: WE DON'T AGREE. I'LL TELL YOU THAT NOW.

17 THE COURT: YOU'RE NOT GOING TO AGREE?

18 MR. JACKSON: AND I CAN ALSO INDICATE THAT, MS. SARIS,
19 THAT MAKES ABSOLUTELY NO SENSE. WHY WOULD I NOW GO THROUGH
20 ALL THE ATTORNEY/CLIENT PRIVILEGE DOCUMENTS WHEN SHE JUST
21 SPENT THE LAST THREE --

22 THE COURT: I THINK SHE'S TALKING ABOUT JUST THE LIST,
23 GOING THROUGH THE LIST.

24 MR. JACKSON: BUT THE LIST DOES US NO GOOD. WHAT I
25 SUGGEST IS THE FOLLOWING: THE SPECIAL MASTER SHOULD BE
26 APPOINTED TO COME OVER TO MY OFFICE AND LOOK THROUGH ALL OF
27 MY STUFF WITHOUT ME BEING THERE OR BEING PRIVY TO WHAT THEY
28 ARE DOING. THAT'S THE SUM AND SUBSTANCE OF THE MOTION. IT

1 DOESN'T DO MS. SARIS ANY GOOD TO TAKE THE ITEMS FROM HER.
2 THEY'VE GOT TO TAKE IT FROM US.

3 MS. SARIS: I DON'T CARE WHERE THE SPECIAL MASTER
4 WORKS. I THOUGHT HIGHLIGHTING THE NAMES ON THE DOCUMENTS ON
5 THE LIST FOR THIS COURT WOULD HAVE BEEN SUFFICIENT TO SHOW
6 THAT ON THEIR FACE -- AND I AGREE WITH THE GALLEGOS
7 INTERPRETATION. THE DEFINITION OF PROBABLE CAUSE IS ANY
8 ISSUE, WHICH IS, FROM ALL THE CASE LAW I'VE READ, THE
9 DEFINITION OF PROBABLE CAUSE IS IMMEDIATE APPEARANCE, WHICH
10 IS DIFFERENT THAN WHAT, OBVIOUSLY, MR. JACKSON THINKS.

11 I TRIED TO HIGHLIGHT THIS FOR THE COURT SO THE
12 COURT WOULD HAVE AT LEAST THE NAMES OF THE DOCUMENTS. THESE
13 ARE GOING TO BE HUGE IN NUMBER. IF THE COURT WANTS TO GIVE A
14 SPECIAL MASTER MY DATABASE AND MY HIGHLIGHTED COPY OF THAT
15 LIST, THE SPECIAL MASTER CAN GO TO MR. JACKSON. AND HE OR
16 SHE CAN BE TOLD THIS IS WHAT THE DEFENSE BELIEVES, YOU'RE ON
17 YOUR OWN, YOU DECIDE WHAT YOU BELIEVE. OBVIOUSLY, MR.
18 JACKSON WON'T HAVE A POSITION THAT YES, THIS IS OUTSIDE THE
19 SCOPE. HE MAY ARGUE THAT SOMETHING ISN'T OUTSIDE THE SCOPE,
20 BUT HE WON'T BE ARGUING SOMETHING IS OUTSIDE THE SCOPE. THAT
21 INDIVIDUAL CAN BRING ALL THOSE DOCUMENTS TO COURT, AND WE CAN
22 HAVE AN OFFICER TESTIFY AS TO HOW THAT WAS IMMEDIATELY
23 APPARENT AS PROBABLE CAUSE OR EVIDENCE.

24 THE COURT: THAT'S WHERE I'M HEADED.

25 MS. SARIS: I DON'T CARE IF HE DOES IT IN MR.
26 JACKSON'S OFFICE. THAT'S FINE. I HAVE A VERY SMALL OFFICE
27 FULL OF BOXES.

28 MR. JACKSON: THAT MAKES MORE SENSE.

1 THE COURT: ALSO BECAUSE I'M LOOKING AHEAD AND LOOKING
2 AT ANOTHER COURTROOM SOMEWHERE FAR AND AWAY WHEN THIS CASE IS
3 IN TRIAL, I WANT TO BE SURE THAT THE TRIAL COURT HAS THE
4 ABILITY TO ENFORCE THE COURT'S ORDER, AND WE WON'T BE ABLE TO
5 DO THAT UNLESS THERE IS SOMEONE, SUCH AS A SPECIAL MASTER,
6 WHO CAN REVIEW ALL THIS INFORMATION AND BASICALLY RENDER AN
7 OPINION AS TO WHETHER OR NOT THE ORDER IS BEING COMPLIED
8 WITH. AND THAT'S WHAT I'M LOOKING AHEAD FOR ALSO HERE IN
9 DOING THIS, AND THE SUGGESTION WAS MADE THIS MORNING AGAIN OF
10 THE SPECIAL MASTER. I THINK THAT'S A GOOD SUGGESTION THAT I
11 SHOULD TAKE ADVANTAGE OF.

12 SO WHAT I'M GOING TO DO IS, BECAUSE I DON'T WANT
13 TO BE IN A POSITION WHERE I HAVE TO GO THROUGH THE PRIVILEGED
14 MATERIAL WITH A SPECIAL MASTER BECAUSE, TO BE QUITE HONEST
15 WITH YOU, THE PRIVILEGED MATERIAL, I DON'T KNOW HOW THIS
16 MATERIAL PLAYS INTO THE CASE, IF AT ALL. I MEAN, I'VE HEARD
17 THE PRELIMINARY HEARING, BUT I'M NOT GOING TO HEAR THE TRIAL
18 AND I WANT TO BE SURE THAT THE ORDER IS COMPLIED WITH.

19 SO I NEED SOMEBODY TO ASSIST TO AT LEAST GO
20 THROUGH, AND I'M USING THIS RETURN THAT MS. SARIS SUBMITTED
21 BECAUSE IT APPEARS THAT THE HIGHLIGHTED ITEMS ARE ITEMS THAT
22 DO CONTAIN PRIVILEGED MATERIAL AS WELL AS THE MATERIAL THAT
23 HE OR SHE BELIEVES IS OUTSIDE THE SCOPE, AND IF A SPECIAL
24 MASTER CAN AT LEAST INITIALLY DISCUSS WITH HER WHAT SHE
25 BELIEVES TO BE IN EACH BOX, PRIVILEGED MATERIAL, MAYBE THAT
26 CAN BE DOCUMENTED SOMEHOW AND SEPARATED FROM THE MATERIAL
27 THAT IS BELIEVED TO BE OUTSIDE THE SCOPE.

28 AND THEN, IF THAT LIST IS PREPARED AND PRESENTED

1 TO YOU, MR. JACKSON, AND YOU DISAGREE WITH SOME OF THE ITEMS
2 THAT ARE DETERMINED TO BE OUTSIDE THE SCOPE, THEN WE CAN
3 ISOLATE THOSE ITEMS AND MAKE THOSE ITEMS THE SUBJECT OF THE
4 TESTIMONY ON THE 1538.5.

5 MS. SARIS: THAT'S FINE. I'M NOT WILLING TO POINT OUT
6 SPECIFIC BATES PAGE STAMP NUMBERS TO MR. JACKSON THAT ARE
7 ATTORNEY/CLIENT PRIVILEGED IN THE OFF CHANCE HE HAS YET TO
8 READ THEM.

9 THE COURT: THAT'S WHY I WANTED YOU TO WORK WITH THE
10 SPECIAL MASTER BECAUSE I DIDN'T -- YES, I AGREE. I DIDN'T
11 WANT THE SPECIAL MASTER TO HAVE TO GO THROUGH PRIVILEGED
12 MATERIAL WITH THE PEOPLE. I WANTED YOU TO PRESENT THE
13 SPECIAL MASTER, WHAT YOU BELIEVED TO BE THE PRIVILEGED
14 MATERIAL, AND THEN WE CAN TAKE IT FROM THERE.

15 MS. SARIS: I'M HAPPY TO GIVE THEM THE DATABASE AND
16 HIGHLIGHTED COPY OF THE RETURN, AND JUST SO THE COURT KNOWS,
17 THE RETURN IS SEPARATED INTO BOXES. THAT DOESN'T EXIST
18 ANYMORE IN ANYONE'S DISCOVERY.

19 THE COURT: BECAUSE NOW THEY ARE IN BINDERS?

20 MS. SARIS: OH, I DON'T KNOW HOW THE DISTRICT ATTORNEY
21 HAS THEIRS, BUT I KNOW FOR A FACT THAT THE DISTRICT ATTORNEY
22 WASN'T PRESENTED THOSE BOXES IN THE FORM THAT THE RETURN IS.
23 THE LOS ANGELES DISTRICT ATTORNEY WAS NOT GIVEN THOSE BOXES
24 IN THAT BOX 1 CONTAINS "X." I THINK I CAN FIND FOR THEM
25 WHERE THOSE ARE BASED ON MY CLIENT HAD A VERY INTRICATE
26 SYSTEM BY HAND IN THE DATABASE. I DON'T BELIEVE THE LOS
27 ANGELES DISTRICT ATTORNEY EVEN USES THE BATES NUMBERS FOR
28 ORANGE COUNTY. EVERY REFERENCE I MAKE SEEMS TO FALL ON DEAF

1 EARS FOR THAT.

2 YOU RE-STAMPED THEM?

3 MR. JACKSON: WE DIDN'T RE-STAMP THEM, BUT THAT'S NOT
4 A SYSTEM I USE OR NEED.

5 THE COURT: THIS IS WHAT I'M GOING TO DO: I'M GOING
6 TO SAY TO MS. SARIS I BELIEVE THERE IS A LIST SOMEWHERE OF
7 ATTORNEYS THAT HAVE AGREED TO SERVE AS SPECIAL MASTERS. YOU
8 MAY SUGGEST A NAME OR TWO. THE PEOPLE CAN EITHER AGREE OR
9 DISAGREE WITH THOSE NAMES. I'LL APPOINT ONE OF THE ONES THAT
10 YOU AGREE ON, AND THEN I'M GOING TO ASK YOU TO TAKE THE
11 INITIATIVE TO WORK WITH THE SPECIAL MASTER. THE PEOPLE ARE
12 GIVING THEIR PERMISSION FOR THIS PERSON TO HAVE ACCESS TO THE
13 PEOPLE'S MATERIAL.

14 ONCE YOU HAVE IDENTIFIED THE MATERIAL YOU
15 BELIEVE IS SUBJECT TO THE ATTORNEY/CLIENT PRIVILEGE, I WILL
16 ASK THAT THE SPECIAL MASTER THEN LOOK AT THAT MATERIAL IN
17 POSSESSION OF THE DISTRICT ATTORNEY.

18 MS. SARIS: I'VE DONE THAT AND GIVEN THAT TO THE
19 COURT. THE COURT HAS A SEPARATE COPY OF THAT. THE SPECIFIC
20 ATTORNEY/CLIENT PRIVILEGE LETTERS, THE COURT HAS THAT.

21 THE COURT: I HAVE A BINDER THAT YOU SUBMITTED THAT
22 CONTAINS THAT; RIGHT?

23 MS. SARIS: CORRECT. AND THAT'S THE COPY THAT WE CAN
24 GIVE TO THEM OF THE SPECIFIC LETTERS BACK AND FORTH. THEY
25 ARE THE ONES I FOUND TODAY. THERE'S ABOUT 130 OF THEM.

26 THE COURT: THERE MIGHT BE MORE?

27 MS. SARIS: THERE MIGHT BE, BUT THAT'S THE MAIN BASIS.

28 THE COURT: I'M HAPPY TO MAKE MY BINDER AVAILABLE, BUT

1 I DIDN'T THINK THAT INCLUDED EVERYTHING SO I'M GOING TO PUT
2 THE BALL IN YOUR COURT INITIALLY TO AT LEAST GET THE SPECIAL
3 MASTER APPOINTED AND GET THAT PERSON TO GO THROUGH THIS
4 MATERIAL AND TO ISOLATE THIS MATERIAL SOMEHOW OR IDENTIFY IT
5 AND THEN SEPARATE IT FROM THE MATERIAL THAT YOU THEN BELIEVE
6 IS OUTSIDE THE SCOPE OF THE WARRANT.

7 MS. SARIS: THE ONLY ISSUE WE ARE GOING TO HAVE IS, IF
8 THEY ARE GOING TO THE DISTRICT ATTORNEY'S COPY AND THE
9 DISTRICT ATTORNEY NO LONGER HAS THEM IN THE ORDER OF THE
10 ORANGE COUNTY BATES PAGE STAMP NUMBERS, HE'S GOING TO BE
11 LOOKING IN THE DARK.

12 THE COURT: HE OR SHE, THE SPECIAL MASTER, YOU MEAN?

13 MS. SARIS: YES.

14 THE COURT: IS GOING TO HAVE A TOUGH TIME. AND I'M
15 GOING TO HAVE TO PAY FOR ALL THAT TIME, BUT I THINK IT'S
16 GOING TO HAVE TO BE DONE, AND I DON'T KNOW OF ANY OTHER WAY
17 AROUND IT.

18 MS. SARIS: I'VE NEVER ASKED TO APPOINT A SPECIAL
19 MASTER. I JUST GO TO JUDGE WESLEY IN 100, AND WE AGREE TO AN
20 INDIVIDUAL.

21 THE COURT: I THINK WHAT WE WERE INITIALLY GOING TO DO
22 IS -- THERE IS A LIST DOWNTOWN?

23 THE CLERK: I BELIEVE IT'S IN THE -- I THINK IT'S
24 DOWNTOWN.

25 THE COURT: IT'S EITHER GOING TO BE IN THE PRESIDING
26 JUDGE'S OFFICE, THE SUPERVISING JUDGE'S OFFICE OF CRIMINAL OR
27 EVEN THE STATE BAR. IT MAY BE A STATE BAR.

28 MR. JACKSON: THE ONLY SUGGESTION I HAVE -- I DON'T

1 HAVE A PROBLEM WITH ANY OF THAT PROCEDURALLY EXCEPT I DON'T
2 THINK MS. SARIS SHOULD BE INVOLVED IN THE CHOICE OF THE
3 SPECIAL MASTER.

4 THE COURT: OKAY.

5 MS. SARIS: I THINK WE OUGHT TO AGREE ON ONE.

6 MR. JACKSON: I COULDN'T DISAGREE MORE.

7 MS. SARIS: I'M HAPPY TO PICK ONE.

8 MR. JACKSON: I'M SURE SHE'D BE HAPPY TO PICK ONE. IF
9 SHE STOPS AND LISTENS, WE SHOULDN'T BE IN THE PROCESS OF
10 PICKING ONE. THE COURT IS FULLY CAPABLE OF DOING SO.

11 THE COURT: I DON'T CARE. ALL I KNOW IS I THINK
12 THERE'S AN APPROVED LIST THAT'S PUT TOGETHER BY SOMEONE.
13 EITHER IT'S THE STATE BAR OR PRESIDING JUDGE. I'M
14 ALLOWING -- I'M NOT SAYING I'M GOING TO APPOINT SOMEONE THAT
15 YOU AGREE ON, BUT I'D LIKE TO SEE IF YOU CAN AGREE ON
16 SOMEONE. THERE MAY BE SOME PEOPLE ON THE LIST THAT YOUR'RE
17 FAMILIAR WITH THAT ARE REPUTABLE, AND IF YOU CAN AGREE ON
18 SOMEBODY, DO SO; IF YOU CAN'T AGREE ON SOMEBODY, I'LL APPOINT
19 SOMEBODY.

20 MR. JACKSON: WHEN DOES THE COURT WANT COUNSEL AND I
21 TO GET BACK TO THE COURT?

22 THE COURT: LET ME KNOW HOW LONG YOU THINK IT WILL
23 TAKE. I THINK IT WILL TAKE A WHILE.

24 MS. SARIS: TO AGREE ON SOMEONE AND APPOINT THEM, WE
25 CAN LOOK AT THAT.

26 THE COURT: DO IT. AND, AS SOON AS YOU CAN LET ME
27 KNOW, I'LL MAKE THE APPOINTMENT. WE DON'T HAVE TO HAVE A
28 FORMAL HEARING FOR THAT UNLESS THERE'S A DISAGREEMENT.

1 MR. JACKSON: ASSUMING WE CAN AGREE.

2 THE COURT: ASSUMING YOU CAN AGREE. WHY DON'T WE SET
3 IT FOR A STATUS CHECK ON -- LET'S MAKE IT TWO WEEKS.

4 MS. SARIS: IF THAT'S THE 15TH OR 16TH, I CAN DO THE
5 15TH. I PREFER THAT.

6 THE COURT: WHATEVER THE WANT.

7 MR. JACKSON: I'LL BE GONE THE 15TH, 16TH, AND 17TH.
8 I HAVE A BAD DAY ON THE 18TH.

9 MS. SARIS: THEN I CAN DO THE 13TH.

10 THE COURT: YOU WANT TO DO THE 13TH?

11 MR. JACKSON: THAT WILL WORK. IT SHOULDN'T TAKE US
12 VERY LONG.

13 MS. SARIS: DOES MR. GOODWIN HAVE TO BE HERE?

14 THE COURT: I'D LIKE HIM HERE, BUT IF HE WANTS TO
15 WAIVE HIS APPEARANCE, HE CAN.

16 THE DEFENDANT: I'D LIKE TO WAIVE IT, IF I CAN IF IT'S
17 ON A MONDAY.

18 THE COURT: SO, FOR PURPOSES OF SCHEDULING, JUNE 13
19 WILL BE THE DAY THAT WE APPOINT THE SPECIAL MASTER?

20 MR. JACKSON: YES, YOUR HONOR.

21 MS. SARIS: OR ACKNOWLEDGE IT HAS BEEN APPOINTED.

22 THE COURT: YES.

23 AND, MR. GOODWIN, YOU WANT TO WAIVE YOUR RIGHT
24 TO BE PRESENT ON THAT DATE?

25 THE DEFENDANT: YES. AND SOMEBODY WILL SET IT UP SO I
26 DON'T.

27 THE COURT: WE'LL PICK ANOTHER DAY NOW AND ORDER YOU
28 OUT.

1 COUNSEL, DO YOU JOIN IN THAT WAIVER?

2 MS. SARIS: I DO.

3 THE COURT: LET'S PICK ANOTHER DATE, MAYBE 30 DAYS
4 BEYOND THAT, TO HEAR THE MOTION AND IN THE INTERIM, IF THE
5 COURT HAS TO HAVE FURTHER CONTACT WITH THE SPECIAL MASTER.

6 AND COUNSEL, I ASSUME MR. GOODWIN DOESN'T WANT
7 TO BE BROUGHT OUT FOR ANY OF THAT STUFF?

8 MS. SARIS: HE DOES NOT WANT TO BE BROUGHT OUT FOR ANY
9 STATUS CONFERENCE DUE TO THE DIFFICULTY OF TRANSPORTING
10 BECAUSE OF HIS MEDICAL CONDITION.

11 THE COURT: WHY DON'T WE PICK A DATE AND ORDER HIM
12 BACK AND CONTINUE WITH THE MOTION ON THAT DATE, AND IF WE
13 HAVE ANY INTERIM DATES, WHICH I SUSPECT WE'LL HAVE TO HAVE
14 SOME STATUS CHECKS WITH COUNSEL AND THE SPECIAL MASTER, LET
15 MR. GOODWIN COME IN ON THOSE DATES?

16 MR. JACKSON: THURSDAY, JULY 14. DOES THAT WORK?

17 THE COURT: THAT'S FINE.

18 MS. SARIS: I WILL SAY THAT WITH A CAVEAT. THERE'S A
19 VERY GOOD CHANCE I'LL BE IN FLORIDA.

20 THE COURT: WHY DON'T WE MAKE IT THURSDAY, JULY 14, AS
21 A 0 OF 60 DATE?

22 YOU AGREE TO THAT?

23 THE DEFENDANT: YES, MA'AM.

24 THE COURT: COUNSEL JOIN?

25 MS. SARIS: YES.

26 THE COURT: IF WE HAVE TO CHANGE THE DATE, WE CAN.

27 MS. SARIS: I'M ASKING THAT THE COURT ORDER A
28 TRANSCRIPT OF THE PROCEEDINGS TODAY.

1 THE COURT: I'LL ORDER A TRANSCRIPT OF TODAY'S
2 PROCEEDINGS FOR EVERYBODY.

3 AND WE'LL RESUME ON THE 13TH, NON-APPEARANCE FOR
4 THE DEFENDANT, AND COUNSEL KNOWS WHAT TO DO TO GET THE BALL
5 ROLLING ON THE SPECIAL MASTER. WE'LL MEET AND CONFER ON THE
6 13TH.

7 THEN, MR. GOODWIN, IF ALL GOES ACCORDING TO
8 PLAN, WE'LL SEE YOU ON JULY 14 FOR FURTHER PROCEEDINGS ON THE
9 MOTION, AND IF WE HAVE TO BRING YOU BACK BEFORE THAT DATE,
10 WE'RE GOING TO BRING YOU BACK BEFORE THAT DATE.

11 THAT'S 0 OF 60, JULY 13.

12 MS. SARIS: IF ON THE 13TH, I'M AM NOT HERE FOR THE
13 STATUS CHECK, I'LL SEND SOMEONE FOR THE PURPOSE OF THE STATUS
14 CHECK.

15 THE COURT: VERY GOOD. THANK YOU.

16 (PAUSE IN THE PROCEEDINGS.)

17

18 THE COURT: BACK ON THE RECORD ON THE GOODWIN MATTER.

19 MR. BARSHOP IS PRESENT STANDING IN FOR MR.
20 JACKSON AND MS. SARIS IS HERE. I NEGLECTED TO REITERATE ON
21 THE RECORD WHAT I SAID OFF THE RECORD EARLIER, THAT I HAVE
22 REVIEWED THE S.D.T. RECORDS FROM ASPEN VALLEY HOSPITAL
23 REGARDING THE WITNESS, GALE MURRO HUNTER.

24 THE COURT FINDS THAT THIS INFORMATION
25 CONTAINED IN THE RECORDS IS MATERIAL TO THE CREDIBILITY OF
26 THIS WITNESS, AND I AM ORDERING THAT THESE RECORDS BE
27 PROVIDED TO THE DEFENSE AND THE DEFENSE IS GOING TO COPY THEM
28 AND MAKE A COPY FOR THE PEOPLE AND THEN RETURN THE ORIGINALS

1 TO THE COURT FILE, I'M ALSO SIGNING OFF ON A PROTECTIVE ORDER
2 AS WELL.

3 SO I WILL PROVIDE THESE TO MS. SARIS FOR THAT
4 PURPOSE.

5 AND MR. JACKSON IS AWARE THAT THAT'S WHAT WE'RE
6 DOING; RIGHT?

7 MS. SARIS: YES, I TALKED TO HIM.

8 THE COURT: OKAY. THANK YOU.

9 (PROCEEDINGS ADJOURNED TO
10 CONTINUE ON 7-13-05 IN
11 DEPARTMENT NE E.)
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, JULY 14, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 ALAN JACKSON, DEPUTY DISTRICT ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD ON
16 THE GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL.
17 THE PEOPLE ARE REPRESENTED. AND I GOT A MESSAGE THAT WE
18 WEREN'T GOING TO DO MUCH TODAY.

19 MS. SARIS: THAT WE WERE GOING TO TRY AND GET A
20 SPECIAL MASTER. MR. DIXON AND MR. JACKSON AND I DID NOT
21 RECOGNIZE ANY OF THE NAMES ON THE LIST. AND WE HAVE NO
22 IDEA. AND I'VE CHECKED WITH MY PRIVATE ATTORNEY FRIENDS
23 AND I COULDN'T FIND ANYONE. WE WERE HOPING THE COURT HAD
24 A SUGGESTION.

25 THE COURT: I DON'T EVEN HAVE THE LIST.

26 MS. SARIS: WE GOT THE LIST FROM THE INTERNET,
27 FROM THE STATE BAR SITE.

28 MR. JACKSON: THEY PUBLISH IT -- L.A. COUNTY BAR

1 PUBLISHES THE L.A. COUNTY -- ACTUALLY, THE STATE BAR
2 PUBLISHES THE L.A. COUNTY BAR LIST FOR ALL THE PEOPLE WHO
3 ARE RECOGNIZED AND QUALIFIED SPECIAL MASTERS. AND THERE
4 IS ABOUT I GUESS 100.

5 MS. SARIS: TWO PAGES.

6 MR. JACKSON: TWO PAGES SINGLE SPACED, SO MAYBE
7 100 TOTAL. AND I RECOGNIZED LORI LEVINSON, WHO I DON'T
8 THINK EITHER ONE OF US WOULD AGREE TO. AND I THINK
9 MR. DIXON RECOGNIZED ONE OTHER NAME. AND HE WAS
10 APATHETIC TO THAT, TOO.

11 MS. SARIS: AND I SHOWED THIS LIST TO LAWYERS
12 THAT HAVE BEEN IN MY OFFICE 30 YEARS AND THEY DIDN'T
13 RECOGNIZE A SOUL, OTHER THAN THAT NAME. SO IT'S SORT
14 OF -- I THINK WE ARE AT THE POINT NOW WE JUST TOSS A DART
15 AND PICK A SPECIAL MASTER AND LET HIM OR HER GO TO WORK.

16 THE COURT: OKAY.

17 MR. JACKSON: I DON'T THINK THERE IS ANYTHING
18 ELSE WE CAN DO.

19 THE COURT: OKAY. DO YOU HAVE A FEW MINUTES?
20 BECAUSE I WILL GO TRY TO FIND THAT LIST AND --

21 MR. JACKSON: LET ME SEE IF I BROUGHT IT WITH ME.

22 THE COURT: -- SEE IF I RECOGNIZE ANY OF THE
23 NAMES.

24 MS. SARIS: I MIGHT HAVE IT AS WELL. THE OTHER
25 THING IS THAT --

26 THE COURT: YOU KNOW, I THOUGHT THE COURT HAD A
27 LIST.

28 MS. SARIS: I WENT TO DEPARTMENT 100 AS

1 INSTRUCTED AND WAS TOLD TO LOOK ON THE WEB SITE.

2 MR. JACKSON: WE WENT TOGETHER ACTUALLY. AND
3 THAT'S WHAT JUDGE WESLEY SAID TO DO.

4 THE COURT: I GUESS NOT.

5 MR. JACKSON: I DON'T HAVE MY LIST WITH ME.

6 THE COURT: OKAY.

7 MS. SARIS: I WILL BE SURPRISED IF I DID.

8 MR. JACKSON: BUT IF THE COURT WERE TO GO --
9 YOU'VE GOT INTERNET ACCESS. IF YOU GO TO --

10 THE COURT: I JUST GO TO THE STATE BAR WEB SITE?

11 MR. JACKSON: EXACTLY. STATEBAR.ORG I THINK.
12 AND THEN DO A SEARCH FOR "SPECIAL MASTERS." AND THEN IT
13 WILL LIST ALL THE COUNTIES. CLICK ON "LOS ANGELES" AND
14 THERE IS THE LIST.

15 THE COURT: ALL RIGHT. JUST GIVE ME A COUPLE OF
16 MINUTES.

17 (PAUSE IN PROCEEDINGS.)

18 THE COURT: LET'S GO BACK ON THE RECORD.

19 THE RECORD SHOULD REFLECT THAT I DID RUN
20 THE LIST. AND APPARENTLY THERE IS AN L.A COUNTY BAR --
21 OR RATHER THE STATE BAR FOR L.A. COUNTY HAS A LIST OF
22 SPECIAL MASTERS. AND OUT OF ALL OF THEM IN THE COUNTY, I
23 DON'T RECOGNIZE ANY OF THE NAMES EITHER. SO MY GUESS IS
24 AS GOOD AS YOURS.

25 I GUESS ALSO WHAT WE CAN CONSIDER DOING IS
26 IF ANYONE KNOWS OF PERHAPS A RETIRED JUDGE. IF THE TWO
27 OF YOU WANT TO AGREE ON SOMEONE -- I'M HAPPY TO APPOINT
28 ANYONE THAT COUNSEL CAN AGREE ON. I REALLY THOUGHT THAT

1 WE HAD A LIST -- THAT THE COURT KEPT A LIST AND THAT
2 THERE WOULD BE NAMES THAT WE WOULD ALL RECOGNIZE.

3 OBVIOUSLY, I HAVE NEVER UTILIZED THIS
4 SPECIAL MASTER PROCEDURE BEFORE. BUT I'M CERTAINLY
5 WILLING TO CONSIDER THE APPOINTMENT OF ANYONE THAT IS
6 WILLING TO ACCEPT THE APPOINTMENT, WHETHER IT IS A
7 RETIRED JUDGE OR AN ATTORNEY.

8 SO I WILL LEAVE IT, AGAIN, UP TO YOU. I'M
9 NOT GOING TO REQUIRE THAT YOU PICK SOMEBODY OFF THIS LIST
10 THAT YOU DON'T KNOW. BUT I ASSUME THAT THEY ARE GOING TO
11 GET PAID THE SAME AS ANYONE ELSE BY WAY OF COURT
12 APPOINTMENT. SO, YOU KNOW, I'M HAPPY TO CONSIDER OTHER
13 OPTIONS IF --

14 MR. JACKSON: I HAVEN'T EVEN THOUGHT ABOUT THAT.
15 I DIDN'T REALIZE THAT -- I THINK THAT'S PROBABLY A GOOD
16 IDEA. I THINK MS. SARIS AND I COULD PUT OUR HEADS
17 TOGETHER AND COME UP WITH AT LEAST A RETIRED JUDGE THAT
18 BOTH OF US KNOW AND TRUST, I WOULD ASSUME, RATHER THAN
19 JUST THROWING A DART.

20 THE COURT: RIGHT. SOMEONE THAT'S WILLING TO
21 ASSIST. AND I KNOW THERE ARE A LOT OF PRIVATE JUDGES OUT
22 THERE THAT MIGHT BE INTERESTED IN DOING SOMETHING LIKE
23 THIS.

24 MR. JACKSON: MAY I HAVE A MOMENT?

25 THE COURT: SURE.

26 (DISCUSSION OFF THE RECORD.)

27 MS. SARIS: IF WE DO THAT AND WE PUT THIS OVER
28 FOR A FEW DAYS TO JUST GENERATE THAT PROCESS AND APPOINT

1 SOMEONE ON THE RECORD, CAN THAT BE A NON-APPEARANCE FOR
2 MR. GOODWIN?

3 THE COURT: SURE.

4 MS. SARIS: NOW I FILED A SUPPLEMENTAL POINTS AND
5 AUTHORITIES TO THE 1538.5. I THINK ONE OF THE THINGS WE
6 WANT TO CLARIFY IS: IS THE SPECIAL MASTER -- I'M NOT
7 SPEAKING FOR MR. JACKSON -- BUT I THINK WE HAD A
8 DIFFERENT IDEA OF WHAT THE SPECIAL MASTER WAS GOING TO
9 DO. AND MINE WAS THAT HE WAS GOING TO GO THROUGH THE
10 DISCOVERY; THE MURDER BOOK; AND NOTE, FLAG, TAKE OUT, DO
11 SOMETHING TO DOCUMENTS THAT WERE ATTORNEY/CLIENT
12 PRIVILEGE.

13 BUT I THOUGHT WHILE HE WAS ALREADY GOING
14 THROUGH THOSE 40,000 PAGES, THAT WE WOULD ALSO MAKE SOME
15 KIND OF REFERENCE OR NOTE OF DOCUMENTS THAT WERE NOT
16 NECESSARILY COVERED UNDER THE SEARCH WARRANT. AND THAT
17 WHEN WE TOOK TESTIMONY LATER ON, WE WOULD AT LEAST
18 SOMEWHAT NARROW DOWN THE DOCUMENTS THAT WE WOULD SHOW THE
19 WITNESS ON THE STAND AND ASK HOW THEY DETERMINED THEY
20 WERE IMMEDIATELY APPARENT TO CONTRABAND.

21 AS OPPOSED TO BRINGING IN EVERY SINGLE
22 DOCUMENT AND LIFTING IT OUT ONE AT A TIME. BECAUSE THERE
23 ARE CERTAIN DOCUMENTS THAT OBVIOUSLY ARE WITHIN THE
24 WARRANT THAT WERE TAKEN. AND I THINK THAT WOULD SAVE US
25 A LOT OF TIME. AND RATHER THAN HAVE A SPECIAL MASTER GO
26 THROUGH IT TWICE, PERHAPS THERE COULD BE SOME CODING
27 SYSTEM HE HAS THAT SAYS, OKAY, THESE DOCUMENTS ARE
28 ATTORNEY/CLIENT PRIVILEGE; AND THESE DOCUMENT ARE NOT

1 LISTED IN THE WARRANT.

2 HE WOULD NOT MAKE THE DETERMINATION
3 WHETHER THEY WOULD BE SUPPRESSED, BUT HE WOULD MAKE THE
4 DETERMINATION THAT THEY ARE NOT LISTED IN THE WARRANT.
5 AND THEN WE WOULD HAVE THIS COURT LITIGATE WHETHER THEY
6 SHOULD BE SUPPRESSED OR WHETHER THEY CAN BE JUSTIFIED IN
7 A PLAIN VIEW SEIZURE.

8 THE COURT: AND YOU SAID YOU HAVE --

9 MS. SARIS: I'M JUST PUTTING IT OUT BECAUSE
10 THAT'S WHAT MY UNDERSTANDING. I DON'T KNOW IF
11 MR. JACKSON AGREES WITH THAT OR NOT.

12 MR. JACKSON: I HAD ANTICIPATED -- WHEN MS. SARIS
13 AND I TALKED THE OTHER DAY AND SHE MENTIONED KIND OF THE
14 TWO-FOLD OR THE TWO-PRONG GUIDANCE THAT THE SPECIAL
15 MASTER WOULD GIVE US, I WAS NOT AWARE THAT SHE WAS
16 INTENDING FOR THE SECOND PRONG TO EVEN TAKE PLACE.

17 MY UNDERSTANDING IS THE COURT IS BEING
18 CAUTIOUS IN SAYING INSTEAD OF ME GOING THROUGH MY OWN
19 DOCUMENTS AND PULLING OUT ATTORNEY/CLIENT PRIVILEGED
20 STUFF -- WHICH THE WHOLE POINT OF THE ENDEAVOR IS THAT I
21 DON'T SEE THEM OR USE THEM -- HAVE A SPECIAL MASTER GO
22 THROUGH AND DO IT. I THOUGHT THAT WAS ALL THAT THE
23 SPECIAL MASTER WAS GOING TO BE APPOINTED TO DO.

24 I DON'T KNOW THAT -- AND, YOU KNOW, I
25 GUESS IN THE BROAD SCHEME OF THINGS, IT DOESN'T REALLY
26 MATTER. THE SPECIAL MASTER CREATES A SECONDARY LIST OF
27 THINGS, WELL, I DON'T THINK THAT'S RESPONSIVE TO THE
28 WARRANT; OR I DON'T THINK THAT'S RESPONSIVE TO THE

1 WARRANT. BUT I JUST THINK IT MIGHT BE A WASTE OF TIME
2 BECAUSE THAT'S EXACTLY WHAT THE BENCH IS GOING TO DO.
3 THAT'S WHAT YOU'RE THERE FOR. IT'S YOUR DETERMINATION AS
4 TO WHAT IS RESPONSIVE TO THE WARRANT, NOT SOME RETIRED
5 JUDGE OR A HIRED LAWYER.

6 THAT PERSON IS THERE TO PULL OUT ANY
7 POTENTIAL ATTORNEY/CLIENT PRIVILEGE. THEN THE COURT
8 MAKES A DETERMINATION AS TO WHETHER OR NOT I COULD OR
9 COULDN'T OR SHOULD OR SHOULDN'T SEE IT, ET CETERA. SO I
10 JUST DON'T KNOW THAT THAT SECONDARY PRONG IS REALLY
11 NECESSARY.

12 FOR ONE THING, YOUR HONOR, WE HAVE THE --
13 AND I WAS GOING TO MENTION THIS TO MS. SARIS -- WE HAVE
14 THE LIST THAT THE SHERIFF'S DEPARTMENT PROMULGATED THAT
15 IS THE RETURN TO THE SEARCH WARRANT THAT HAS EVERYTHING
16 IN IT. AND I WOULD ASSUME -- AT LEAST I PICTURED WHEN
17 MS. SARIS WAS ASKING: HOW IS THIS READILY APPARENT?

18 RATHER THAN HAVING THIS ENTIRE COURTROOM
19 FULL OF 44 BANKERS BOXES OR 115 BANKERS BOXES, WE WOULD
20 REFER TO THIS LIST AND SAY WHAT ABOUT THE GOODWINS' 1986
21 BANK RECORDS AND RECEIPTS, HOW IS THAT IMMEDIATELY
22 APPARENT? I DON'T KNOW THAT HE WOULD NEED TO PULL THAT
23 RECEIPT OUT TO SEE IT TO ANSWER THAT QUESTION AND
24 ULTIMATELY FOR THE COURT TO MAKE A DETERMINATION.

25 MS. SARIS: AND I'M FINE WITH THAT. AND I THINK
26 THAT WOULD SAVE TIME FOR THE SPECIAL MASTER IF WE GO OFF
27 THE RETURN OF THE SEARCH WARRANT. AND IF CERTAIN THINGS
28 ARE -- IF WE'RE UNABLE TO UNDERSTAND WHAT THE LIST REFERS

1 TO, WE CAN THEN BRING IN THAT DOCUMENT RATHER THAN -- I'M
2 HAPPY NOT TO CART IN THE BOXES THAT I CARTED IN FOR THE
3 PRELIM.

4 BUT I THINK I HAVE AN OBLIGATION TO GO
5 THROUGH EACH AND EVERY DOCUMENT WITH THE PERSON WHO TOOK
6 IT OUT. AND I THINK THE SUPPLEMENTAL POINTS AND
7 AUTHORITIES THAT I LISTED SPECIFIES THE CASE LAW FROM
8 SEVERAL OTHER JURISDICTIONS TO GIVE THE COURT GUIDANCE AS
9 TO THE ANALYSIS THAT HAS BEEN USED ACROSS THE COUNTRY.
10 SO I'M FINE WITH A SPECIAL MASTER JUST DOING THE
11 ATTORNEY/CLIENT PRIVILEGE.

12 MR. JACKSON: WE SHOULD TAKE ADVANTAGE OF THE
13 FACT THAT THE SHERIFF'S DEPARTMENT WAS EXTRAORDINARILY
14 THOROUGH -- I'VE NEVER SEEN AND PROBABLY NEVER AGAIN WILL
15 SEE A RETURN OF A SEARCH WARRANT LIKE THIS. I MEAN IT
16 LITERALLY LISTS EVERY BINDER; FOLDER; THE COLOR OF THE
17 BINDER; WHAT IT IS LABELED; AND THE DOCUMENTS THAT ARE
18 INSIDE IT; AND THE BOX NUMBER. SO WE MIGHT AS WELL
19 UTILIZE THIS RATHER THAN SCHLEPPING AROUND, YOU KNOW --

20 MS. SARIS: WELL, OFTENTIMES IT DOESN'T LIST WHAT
21 IS INSIDE THE BINDERS. BUT I THINK THAT'S PART OF OUR
22 MOTION IS THAT THEY WEREN'T ALLOWED TO OPEN THE BINDERS.
23 AND THAT'S ONE OF THE LEVELS OF INQUIRY.

24 THE COURT: WELL, I THINK THAT -- I THINK WE ARE
25 ALL IN AGREEMENT AS TO THE WORK OF THE SPECIAL MASTER.
26 AND I GUESS THE NEXT STEP IS TO GET THE PERSON WHO IS
27 GOING TO DO ALL THIS ON BOARD TO GET STARTED.

28 MR. JACKSON: DOES THE COURT -- WOULD THE COURT

1 CONSIDER -- INSTEAD OF HAVING ANOTHER APPEARANCE,
2 MS. SARIS SUGGESTED THAT MR. GOODWIN NOT NECESSARILY NEED
3 TO BE HERE FOR JUST US PICKING A NAME. MAYBE MS. SARIS
4 AND I COULD HOPEFULLY PUT OUR HEADS TOGETHER; FIND
5 SOMEBODY THAT WE COULD BOTH AGREE ON; AND THEN JUST CALL
6 THE COURT AS OPPOSED TO HAVING A FORMAL APPEARANCE. AND
7 THEN THE COURT COULD PERHAPS IN A NON-APPEARANCE
8 SITUATION PRODUCE A MINUTE ORDER.

9 MS. SARIS: LET'S SAY WE COULD, IN THIS FANTASY
10 WORLD OF MR. JACKSON'S, AGREE ON ONE THING IN THIS CASE;
11 AND THEN THAT NAME GETS DELIVERED TO YOU, YOU WOULD STILL
12 HAVE TO GET THAT PERSON ON BOARD. THEY MIGHT SAY: 40,000
13 PAGES? I'M NOT TOUCHING THAT.

14 THE COURT: WELL, ACTUALLY, I WAS GOING TO ASK
15 YOU TO GET THAT PERSON ON BOARD. BECAUSE YOU KNOW MORE
16 THAN I KNOW WHAT IS NEEDED AND WHAT IS THERE. I'M
17 SOMEWHAT IN THE DARK AS TO SOME OF THESE SPECIFICS.

18 MS. SARIS: THE FIRST QUESTION I AM ALWAYS ASKED
19 WHEN I APPOINT PEOPLE IS: HOW MUCH AM I GOING TO GET
20 PAID FOR THIS?

21 THE COURT: EXACTLY.

22 MS. SARIS: SO PERHAPS WE CAN NARROW THAT DOWN.

23 THE COURT: YOU KNOW, I'M HAPPY TO MAKE THE
24 APPOINTMENT AND PAY WHATEVER THE COURT AGREES TO PAY
25 PEOPLE IN THIS POSITION. AND I DON'T KNOW WHAT THAT IS
26 BECAUSE THE COURT DOESN'T HAVE A LIST OF SPECIAL MASTERS.
27 SO THE ONLY THING I CAN DO IS ASK YOU TO GIVE ME -- OR
28 MAKE CONTACT WITH MAYBE ONE OR TWO OR MAYBE THREE PEOPLE

1 THAT YOU TWO CAN AGREE ON THAT ARE WILLING TO ACCEPT A
2 COURT APPOINTMENT.

3 FIND OUT WHAT THAT PERSON CHARGES FOR THAT
4 WORK. AND THEN I CAN MAKE THE APPOINTMENT. I DON'T KNOW
5 HOW MANY HOURS OF WORK WE ARE TALKING ABOUT, BUT
6 OBVIOUSLY THIS IS NOT GOING TO BE INEXPENSIVE. SO I'M
7 PREPARED TO PAY -- I GUESS IT'S UNDER 987 -- WHAT IT IS I
8 NEED TO PAY -- OR 730. AS LONG AS IT'S WITHIN THE
9 GUIDELINES THAT THE COURT HAS ESTABLISHED FOR EXPERTS.
10 AND THEN I KNOW THAT THAT AMOUNT VARIES.

11 I DON'T WANT TO SAY THAT I'M GOING TO
12 APPOINT THE PERSON THAT'S GOING TO CHARGE THE LEAST
13 AMOUNT OF MONEY. BUT PERHAPS I CAN HAVE THE TWO OF YOU
14 JUST EXPLORE THOSE ISSUES AND CALL ME OR FAX ME WITH
15 NAMES AND THE PROPOSED RATE. AND I CAN ISSUE A MINUTE
16 ORDER. AND THEN PROVIDE A COPY OF THE MINUTE ORDER TO
17 THE TWO OF YOU. AND THEN LET YOU GO FROM THERE SINCE WE
18 ARE ALL IN AGREEMENT AS TO WHAT NEEDS TO BE DONE. AND
19 MS. SARIS HAS TO MAKE THE INFORMATION AVAILABLE TO THAT
20 PERSON.

21 MS. SARIS: THEY ARE NOT GOING TO BE COMFORTABLE,
22 JUST SO WE'RE CLEAR, IN MY OFFICE. I HAVE A SEPARATE SET
23 OF DISCOVERY. I ACTUALLY HAVE A SEPARATE SET OF THE
24 40,000 PAGES.

25 THE COURT: THEY ARE NOT GOING TO BE
26 COMFORTABLE --

27 MS. SARIS: I DON'T HAVE AN OFFICE TO PUT THEM
28 IN. THEY'RE GOING TO TAKE BINDERS AND GO TO A LIBRARY

1 ONE AT A TIME OR THREE AT A TIME OR SOMETHING.

2 THE COURT: OR A PRIVATE JUDGE, THE GOOD THING
3 THERE IS THAT THAT PERSON -- IF YOU'RE WILLING TO GIVE
4 THE MATERIAL TO SOMEBODY TO COPY. I DON'T KNOW THE
5 LOGISTICS.

6 MS. SARIS: OH, I COULDN'T COPY IT. I WOULD BE
7 HAPPY TO LEND THEM THE COPY I HAVE. BUT WHEN I DID THAT
8 FOR THE PRELIM, IT TOOK THREE CARS.

9 THE COURT: I CAN'T THINK OF ANY OTHER
10 ALTERNATIVE, I WILL BE HONEST WITH YOU.

11 MS. SARIS: BUT NOBODY HAS AN OBJECTION IF THIS
12 PERSON IS WILLING TO WORK IN THE LIBRARY IN THE PUBLIC
13 DEFENDER'S OFFICE TO HAVE THEM JUST GO THROUGH THE
14 BINDERS THERE.

15 THE COURT: I CAN'T IMAGINE THAT YOU ARE GOING TO
16 GET SOMEBODY THAT'S GOING TO WANT TO DO THAT, ESPECIALLY
17 A RETIRED JUDGE WHO PROBABLY HAS A REALLY NICE OFFICE
18 SOMEWHERE IN A HIGH RENT DISTRICT SOMEWHERE. BUT I DON'T
19 CARE.

20 MR. JACKSON: I DON'T CARE EITHER.

21 MS. SARIS: OKAY.

22 THE COURT: I'M GOING TO APPOINT ANYONE THAT YOU
23 TELL ME IS WILLING TO TAKE ON THIS ASSIGNMENT THAT YOU
24 TWO CAN AGREE ON. AND, AGAIN, IT DOESN'T HAVE TO BE A
25 RETIRED JUDGE. IF YOU TWO CAN AGREE ON A LAWYER OUT
26 THERE THAT'S WILLING TO ACCEPT THE APPOINTMENT. ANYONE
27 THAT'S WILLING TO ACCEPT A COURT APPOINTMENT AND ACCEPT
28 PAYMENT ALONG THE LINES OF WHAT THE COURT GUIDELINES

1 PROVIDE FOR THE PAYMENT OF EXPERT WITNESSES. I'M HAPPY
2 TO DO IT.

3 AND I'M GOING TO LEAVE IT REALLY TO BOTH
4 OF YOU, PARTICULARLY YOU, MS. SARIS. AND LET YOU GUIDE
5 ME IN THIS, BECAUSE I'M SOMEWHAT AT A LOSS. BUT WHAT DO
6 YOU WANT TO DO ABOUT ANOTHER DATE?

7 MS. SARIS: I WOULD LIKE THE NEXT DATE TO BE THE
8 DATE WE TAKE TESTIMONY OR AT LEAST MAKE A DECISION ON THE
9 ATTORNEY/CLIENT DOCUMENTS. THE PROBLEM IS I SEE THAT
10 BEING SORT OF A LONG HEARING.

11 THE COURT: IT COULD BE.

12 MS. SARIS: AND I KNOW MR. JACKSON IS ABOUT TO BE
13 ENGAGED IN SOMETHING.

14 MR. JACKSON: I'M STARTING A CAPITAL CASE IN
15 COMPTON A WEEK FROM TODAY THAT I EXPECT TO LAST -- WELL,
16 I EXPECT TO BE IN TRIAL FOR ABOUT THREE MONTHS. BUT THAT
17 DOESN'T MEAN THAT I CAN'T -- I MEAN THE JUDGE IS GOING TO
18 HAVE TO UNDERSTAND THAT -- WELL, HE IS NOT GOING TO HAVE
19 TO, BUT I'M GOING TO IMPORE HIM TO UNDERSTAND THAT I
20 HAVE OTHER OBLIGATIONS AS WELL.

21 THE COURT: LET ME JUST SAY THIS: AS LONG AS
22 MR. GOODWIN IS WILLING TO WAIVE TIME, I'M GOING TO LET
23 THE TIMING BE DICTATED BY WHAT NEEDS TO BE DONE AND HOW
24 MUCH TIME IT'S GOING TO TAKE.

25 MS. SARIS: LET ME STATE MR. GOODWIN'S POSITION
26 IS THAT HE OBVIOUSLY WANTS HIS TRIAL AS SOON AS POSSIBLE.
27 HE IS UNDERSTANDING OF THE FACT THAT I WILL TAKE
28 RESPONSIBILITY FOR THE LAST 30 DAYS. BUT IT IS HIS

1 DESPERATE DESIRE TO TRY THE CASE IN THE YEAR 2005. AND
2 IN A PERFECT WORLD, PRIOR TO THE HOLIDAY SEASON OF THE
3 YEAR 2005.

4 I DON'T KNOW THAT THAT CAN BE
5 ACCOMMODATED, BUT I WANT TO STATE FOR THE RECORD THAT IS
6 WHAT HE HAS EXPRESSED. SO I'M THINKING THAT A SPECIAL
7 MASTER COULD PROBABLY GET THROUGH THIS, IF WE CAN FIND
8 SOMEONE FAST ENOUGH, IN ABOUT TWO OR THREE WEEKS.

9 THE COURT: GIVEN THAT IT'S THE SUMMER, I'M NOT
10 THAT OPTIMISTIC. BUT I'M GOING TO -- AGAIN, I NORMALLY
11 EXERCISE A TREMENDOUS AMOUNT OF CONTROL OVER THE PACE OF
12 LITIGATION IN THIS COURT. BUT I HAVE TO SAY, THIS IS A
13 VERY UNUSUAL SITUATION. AND I KNOW THE WORK HAS TO BE
14 DONE IN ORDER TO LITIGATE THE ISSUES. SO I'M WILLING TO
15 ACCOMMODATE MR. GOODWIN IN ANY WAY THAT I CAN. BUT AT
16 THIS POINT, I HAVE TO WAIT AND DEFER. SO --

17 MS. SARIS: DOES THE WEEK OF AUGUST 8TH SEEM TOO
18 SOON?

19 THE COURT: WELL, LIKE I SAID --

20 MS. SARIS: OH, YOU JUST DON'T WANT TO MAKE A
21 DATE?

22 THE COURT: NO, I'M AVAILABLE. I WILL BE HAPPY
23 TO LITIGATE THE ISSUES AS LONG AS THE WORK IS DONE BY
24 THEN AND WE ARE READY TO GO. SO I'M HAPPY TO SET IT FOR
25 WHATEVER DATE YOU WOULD LIKE TO HAVE IT HEARD. BUT I
26 CAN'T GUARANTEE THAT YOU ARE GOING TO GET SOMEBODY THAT'S
27 GOING TO BE ABLE TO DO THIS THAT QUICKLY.

28 (DISCUSSION OFF THE RECORD.)

1 MS. SARIS: OKAY. HOW ABOUT THE WEEK OF AUGUST,
2 LIKE, THE 18TH OR 23RD OR 24TH?

3 THE COURT: WHY DON'T WE SET IT FOR THE 18TH AND
4 SEE WHERE WE ARE.

5 MR. JACKSON: THAT'S FINE. I MEAN THE GOOD NEWS
6 IS THERE IS TWO LAWYERS ON OUR SIDE. SO IF I'M ENGAGED
7 IN TRIAL, MR. DIXON CAN MAKE THE APPEARANCE.

8 THE COURT: ALL RIGHT. DO YOU WANT TO MAKE THAT
9 A ZERO OF 60 DATE FOR NOW?

10 MS. SARIS: YES.

11 THE COURT: MR. GOODWIN, DO YOU WANT TO AGREE TO
12 AUGUST 18TH AS ZERO OF 60?

13 THE DEFENDANT: YES.

14 THE COURT: COUNSEL JOIN?

15 MS. SARIS: I DO.

16 THE COURT: TELL ME THE -- SINCE WE NOW ARE AT
17 LEAST NARROWING DOWN THE TIME FRAME; AND IT LOOKS LIKE
18 AUGUST 18TH IS PROBABLY GOING TO GET US INTO OCTOBER TO
19 START A TRIAL, WHAT IS YOUR BEST ESTIMATE AS TO THE
20 LENGTH OF TIME THAT THIS CASE WILL TAKE SO WE CAN START
21 LOOKING FOR A HOME?

22 MR. JACKSON: MY BEST ESTIMATE IS THREE TO FOUR
23 WEEKS.

24 MS. SARIS: I THINK THAT'S RIGHT.

25 THE COURT: THREE TO FOUR WEEKS?

26 MR. JACKSON: THAT'S ASSUMING -- THAT'S
27 INCLUDING --

28 MS. SARIS: IS THAT SHORT IN YOUR MIND OR LONG?

1 THE COURT: NO, THAT'S REALLY SHORT. I EXPECTED
2 SOMETHING MUCH LONGER THAN THAT.

3 MR. JACKSON: NO. THE COURT HEARD --

4 THE COURT: THE WHOLE CASE?

5 MR. JACKSON: -- A LARGE PART OF THE CASE AT THE
6 PRELIM.

7 MS. SARIS: I MEAN IT DEPENDS ON WHERE WE ARE.
8 IF YOU ARE TALKING ABOUT A LONG-CAUSE COURT THAT DEVOTES
9 THE ENTIRE DAY, THREE TO FOUR WEEKS. IF WE'RE GOING TO
10 BE IN TRIAL FROM 11:00 TO 4:00, THEN I CAN SEE THIS GOING
11 SIX TO SEVEN WEEKS.

12 BUT I ALSO WANT TO JUST SORT OF STATE A
13 CAVEAT FOR THE RECORD IN THAT I'M BACK IN THE OFFICE, BUT
14 I DON'T KNOW HOW LONG I'M GOING TO -- I DON'T KNOW IF
15 THERE IS NOT GOING TO BE MORE TIME I'M GOING TO TAKE OFF.
16 SO I JUST WANT TO LEAVE THAT SORT OF FLOATING OUT THERE
17 IN CASE THAT ARISES ON THE 18TH AND IT TURNS OUT THAT I
18 HAVE TO BE ABSENT AGAIN.

19 THE COURT: ALL RIGHT. I MEAN GENERALLY
20 SPEAKING, A LONG-CAUSE CASE GOES DOWNTOWN WHEN IT'S MORE
21 THAN WHAT THE DISTRICT CAN HANDLE. WHETHER THIS WILL
22 QUALIFY AS ONE OF THOSE LONG-CAUSE CASES THAT THE
23 DISTRICT CAN'T HANDLE, I DON'T KNOW. CERTAINLY IF IT
24 WERE A TWO-MONTH CASE, OR SOMETHING ALONG THOSE LINES, I
25 COULD SAY THAT YOU PROBABLY WOULD BE GOING SOMEWHERE
26 ELSE. BUT WITH A THREE- TO FOUR-WEEK ESTIMATE, I DON'T
27 KNOW.

28 MS. SARIS: BUT THAT'S A THREE- TO FOUR-WEEK

1 ESTIMATE IN A LONG-CAUSE COURT.

2 THE COURT: NO, I UNDERSTAND.

3 MS. SARIS: SO I THINK MR. JACKSON MAY REVISE HIS
4 ESTIMATE IF HE WERE TO LEARN THAT HE ONLY HAD FOUR TO
5 FIVE DAYS IN TRIAL.

6 THE COURT: OKAY. GOT IT.

7 MS. SARIS: FOUR TO FIVE HOURS, I MEAN, A DAY TO
8 BE IN TRIAL.

9 MR. JACKSON: CORRECT. ASSUMING THAT WE'RE IN A
10 CALENDAR COURT THAT HAS A SUBSTANTIAL CALENDAR -- WHICH I
11 UNDERSTAND THAT ALL THE PASADENA CALENDAR COURTS DO --
12 THAT ESTIMATE COULD BE EXTENDED SOMEWHAT.

13 MS. SARIS: DOUBLED EVEN.

14 MR. JACKSON: IT COULD EVEN BE DOUBLED,
15 HYPOTHETICALLY, TO TWO MONTHS.

16 THE COURT: OH, GOSH. OKAY. WELL, LET ME -- I
17 WILL HAVE TO TALK WITH THE SUPERVISING JUDGE.

18 MS. SARIS: AND WHEN YOU DO THAT, CAN YOU MENTION
19 THE LOGISTICAL NIGHTMARE OF THE BOXES AND THE FACT THAT
20 MR. JACKSON AND I BOTH HAVE OFFICES --

21 THE COURT: I TELL YOU SOMETHING, I DON'T THINK
22 THAT -- I DON'T THINK THAT THE SUPERVISING JUDGE IN
23 PASADENA HAS ANY NEED TO KEEP THIS CASE IN THIS
24 COURTHOUSE OR DISTRICT.

25 MR. JACKSON: I THOUGHT YOU WERE THE SUPERVISING
26 JUDGE IN PASADENA.

27 THE COURT: NO.

28 MR. JACKSON: I REALLY DID. I'M NOT BEING

1 FLIPPANT. I REALLY THOUGHT YOU WERE THE SUPERVISING
2 JUDGE.

3 THE COURT: NO. I HANDLE ALL THE TRIALS. BUT I
4 WILL BE HONEST, I WOULDN'T CLASSIFY THIS AS NECESSARILY A
5 LONG-CAUSE CASE THAT WOULD BE SLATED TO GO OUT OF THE
6 DISTRICT. I NORMALLY WOULD MAKE THAT RECOMMENDATION ON
7 CASES THAT ARE A FEW MONTHS. I MEAN WE DO HAVE A
8 LONG-CAUSE COURT HERE, BUT THAT COURT IS TIED UP. WE
9 ALSO HAVE A LONG-CAUSE COURT IN BURBANK AND ALHAMBRA.

10 SO CONCEIVABLY THIS IS SOMETHING THAT
11 COULD STAY IN THE DISTRICT. IF THERE IS A SPECIAL
12 REQUEST TO GO DOWNTOWN, I WOULD URGE THAT MAYBE
13 INFORMALLY SOMEONE APPROACH JUDGE WESLEY DOWN THERE.
14 MAYBE THERE IS SOMEBODY DOWN THERE THAT ACTUALLY WANTS TO
15 VOLUNTEER FOR THE CASE. AND IN THAT SITUATION, I DON'T
16 THINK ANYBODY HERE WOULD HAVE A PROBLEM.

17 BUT I DON'T KNOW THAT WE ARE GOING TO MAKE
18 THE FIRST MOVE, LET ME PUT IT THAT WAY. BECAUSE THIS
19 WOULD -- NORMALLY WITH A THREE- TO FOUR-WEEK ESTIMATE, WE
20 KEEP CASES IN THE DISTRICT ALL THE TIME WITH THAT
21 ESTIMATE. SO I'M JUST GOING TO LEAVE IT, AGAIN, TO YOU
22 TWO. I WILL MENTION IT TO OUR SUPERVISING JUDGE, WHICH
23 IS JUDGE SWART. AND SEE IF HE HAS A SUGGESTION OR IF HE
24 WANTS TO TAKE THE INITIATIVE AND MAKE A PHONE CALL.

25 BUT THIS WOULD NOT TECHNICALLY BE A
26 LONG-CAUSE DOWNTOWN CASE FROM OUR PROSPECTIVE, UNLESS
27 THAT TIME ESTIMATE IS GOING TO BE TO INCREASED.

28 MS. SARIS: BUT I THINK THE WORST CASE SCENARIO

1 WOULD BE BURBANK OR ALHAMBRA, I MEAN IF IT'S GOING TO BE
2 THIS DISTRICT. I KNOW MR. DIXON AND I ARE BOTH -- I
3 DON'T KNOW ABOUT MR. JACKSON -- BUT I THINK I CAN SPEAK
4 FOR MR. DIXON JUST SEEING HOW CLOSE WE ARE LOCALLY.

5 THE COURT: OKAY. LET'S DO THIS, I WILL KNOW BY
6 AUGUST 18TH AT LEAST WHAT HIS FEELINGS -- THAT IS, JUDGE
7 SWART'S FEELINGS ARE ABOUT THE CASE GIVEN THE ESTIMATE.
8 AND I CAN LET YOU KNOW. AND IN THE MEANTIME, IF YOU HAVE
9 ANY SUGGESTIONS, I'M ALWAYS OPEN AND LET ME KNOW.
10 BECAUSE I KNOW THE TWO OF YOU ARE DOWNTOWN ALL THE TIME.

11 SO WE WILL JUST KIND OF IT LEAVE IT AT
12 THAT. AND WE CAN TALK ABOUT IT SOME MORE ON AUGUST 18TH.
13 SO AUGUST 18 WILL BE THE NEXT DATE. AND A SPECIAL MASTER
14 WILL BE APPOINTED. WE WILL DO THAT INFORMALLY.

15 MR. GOODWIN, TO THE EXTENT THAT YOU HAVE A
16 RIGHT TO BE PRESENT DURING ANY COMMUNICATION THE COURT
17 HAS WITH YOUR LAWYER AND THE DISTRICT ATTORNEY REGARDING
18 THE ISSUE OF THE SPECIAL MASTER, DO YOU WANT TO WAIVE AND
19 GIVE UP THAT RIGHT AND AGREE THAT WE CAN DO THIS
20 INFORMALLY THROUGH PHONE CALLS AND FAXES? AND UNLESS
21 YOUR ATTORNEY WANTS YOU BROUGHT OUT AND HAVE THE MATTER
22 PUT ON THE RECORD, I GUESS, YOU NEED TO AGREE TO WAIVE
23 YOUR PRESENCE.

24 THE DEFENDANT: I DO WAIVE.

25 THE COURT: COUNSEL JOIN?

26 MS. SARIS: YES.

27 THE COURT: AND THE PEOPLE JOIN?

28 MR. JACKSON: YES.

1 MS. SARIS: THE ONLY OTHER ISSUE THEN IS A
2 PROPOSED COURT ORDER REGARDING HOUSING THAT WAS FILED
3 UNDER SEAL TODAY.

4 THE COURT: OKAY. I WILL HAVE TO TAKE A LOOK AT
5 IT AND SIGN OFF ON IT.

6 MR. JACKSON: AND I ASSUME THAT'S EXPARTE. YOU
7 DON'T NEED ME?

8 MS. SARIS: YES.

9 THE COURT: YOU WANT ME TO LOOK AT IT? DO YOU
10 WANT TO DO SOMETHING WITH IT ON THE RECORD?

11 MS. SARIS: ONLY IN THAT IT'S A LITTLE BIT
12 UNUSUAL.

13 THE COURT: OKAY. I WILL LOOK AT IT.
14 MR. JACKSON IS LEAVING ANYWAY.

15 MR. JACKSON: YOUR HONOR, THANK YOU FOR YOUR
16 TIME.

17 THE COURT: OKAY. THANK YOU. CAN WE JUST SET A
18 DATE THAT YOU WILL BOTH LET ME KNOW THE PEOPLE THAT YOU
19 HAVE AGREED ON BEFORE, WHAT, THE END OF NEXT WEEK?

20 MS. SARIS: NEXT FRIDAY, YES.

21 MR. JACKSON: BY A WEEK FROM TOMORROW? YES.

22 THE COURT: BY THE 22ND. BECAUSE THEN I'M GOING
23 TO BE DARK THE FOLLOWING WEEK. SO CAN WE AGREE THAT WE
24 WILL HAVE THIS ISSUE RESOLVED AS TO THE PERSON THAT IS
25 WILLING TO ACCEPT APPOINTMENT THAT YOU TWO AGREE ON BY
26 THE 22ND?

27 MR. JACKSON: I THINK THAT'S VERY DOABLE.

28 MS. SARIS: YES.

1 THE COURT: OKAY. THANK YOU.

2
3 (WHEREUPON AN IN CAMERA MOTION WAS HEARD,
4 TRANSCRIBED UNDER SEPARATE COVER, PAGES
5 H-21 THROUGH H-25.)
6

7 (THE MATTER WAS CONTINUED TO THURSDAY,
8 AUGUST 18, 2005 AT 8:30 A.M.)

9 --000--
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1 CASE NUMBER: GA 052683
2 CASE NAME: MICHAEL FRANK GOODWIN
3 PASADENA, CA AUGUST 17, 2005
4 DEPT. NORTHEAST E HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES (AS HERETOFORE NOTED.)
6 REPORTER: ANDREA J. BILLUE, #3678
7 TIME: 9:53 A.M.
8
9

10 THE COURT: WE'LL GO ON THE RECORD AND PUT THIS
11 ON THE RECORD. MR. GOODWIN IS PRESENT WITH COUNSEL AND
12 THE PEOPLE ARE REPRESENTED MR. DIXON FOR THE PEOPLE. MS.
13 SARIS FOR THE DEFENSE.

14 WE PUT THE MATTER OVER TO TODAY'S DATE FOR A
15 FURTHER DISCUSSION ON A NUMBER OF MOTIONS THAT ARE
16 PENDING BEFORE THE COURT. ONE OF THE MOTIONS IS A MOTION
17 TO SUPPRESS EVIDENCE THAT WAS OBTAINED. IT IS CLAIMED
18 THERE WAS EVIDENCE OBTAINED WHICH IS OUTSIDE THE SCOPE OF
19 THE SEARCH WARRANT.

20 WE ARE ALSO PUTTING ON THE SIDE SO TO SPEAK
21 THE FURTHER CONSIDERATION OF THE ACCUSAL MOTION BASED ON
22 WHAT TURNS OUT TO BE AN EVALUATION OF WHAT IS PRIVILEGED
23 MATERIAL IN THE POSSESSION OF THE D.A.'S OFFICE, AND THE
24 LAST TIME WE MET WE DISCUSSED HAVING A SPECIAL MASTER
25 APPOINTED.

26 I WAS PRESENTED WITH AN ORDER TODAY FOR
27 APPOINTMENT OF SPECIAL MASTER THAT BOTH SIDES ARE
28 SATISFIED WITH THAT IS GEORGE BIRD. I AM GOING TO SIGN

1 THAT ORDER AND MY UNDERSTANDING, HE HAS AGREED TO WORK AS
2 SPECIAL MASTER IN THIS MATTER.

3 WE HAVE BEEN DISCUSSING OFF THE RECORD HIS
4 DUTIES, AND I THINK WE ARE IN AGREEMENT. I WILL LET
5 COUNSEL FILL THIS OUT. I WILL JUST INDICATE FOR THE
6 RECORD WHAT WE ARE AGREEING TO. I MEAN, I AM HAPPY TO
7 FILL THIS OUT. I DON'T CARE. LET'S MAKE IT'S SPECIFIC.
8 HE IS GOING TO BE APPOINTED TO GO THROUGH ALL OF THE
9 PROSECUTION'S DISCOVERY.

10 MR. DIXON: ES.

11 THE COURT: AND SEPARATE OUT WHAT HE BELIEVES IS
12 ATTORNEY-CLIENT PRIVILEGED MATERIAL THAT THE PROSECUTION
13 HAS IN THEIR POSSESSION. THAT IS THE FIRST THING HE IS
14 GOING TO DO.

15 THE SECOND THING, WE HAVE AGREED HE IS
16 GOING TO DO, HE IS GOING TO THEN GO THROUGH THE MATERIAL
17 IN THE POSSESSION OF THE PROSECUTION AND MAKE A
18 DETERMINATION AS TO WHAT IF ANY ITEMS HAVE BEEN SEIZED
19 THAT WERE NOT SPECIFIED IN THE WARRANT. SO, IN OTHER
20 WORDS, HE IS GOING TO DO TWO THINGS, DETERMINE WHAT IS
21 PRIVILEGED AND THEN DETERMINE WHAT WAS SEIZED THAT IS
22 OUTSIDE THE SCOPE OF THE WARRANT.

23 COUNSEL?

24 MR. DIXON: ON THE SECOND ISSUE, YOUR HONOR, I
25 WOULD BE MORE COMFORTABLE IF THE WORDING WAS LIKE HE IS
26 GOING TO MAKE A RECOMMENDATION TO THE COURT THAT HE --
27 THAT THESE DOCUMENTS MAY BE OUTSIDE THE SCOPE OF THE
28 WARRANT.

1 MS. SARIS: THAT IS FINE. IF HE COMES IN WITH
2 ITEMS, OBVIOUSLY, THE COURT CAN RULE THEY ARE IN THE
3 WARRANT. IF THEY ARE NOT IN THE WARRANT, THE OFFICER HAS
4 TO JUSTIFY IT. THAT IS THE FIRST THING THE COURT HAS TO
5 DO, RULE WHETHER IN OR OUT OF THE WARRANT.

6 THE OTHER THING IS, I HAD PROVIDED THE
7 COURT WITH COPIES OF ITEMS I BELIEVE TO BE
8 ATTORNEY-CLIENT PRIVILEGE. IN DOING THAT, I ACTUALLY
9 MADE A DATA BASE THAT THIS COURT HAS THAT WAS FILED UNDER
10 SEAL. I WOULD LIKE TO RELEASE TO MR. BIRD WITH OBVIOUSLY
11 INSTRUCTIONS NOT TO SHARE TO THE DISTRICT ATTORNEY. IN
12 GOING THROUGH DOCUMENTS, HE CAN AT LEAST SEE THE LETTERS
13 I AM CLAIMING WHICH CAN BE A STARTING POINT FOR HIM.

14 THE COURT: YOU GAVE ME A BINDER OF MATERIAL.
15 YOU ALSO GAVE ME SOME MATERIAL THAT IS IN AN ENVELOPE.

16 MS. SARIS: RIGHT. I HAVE AN EIGHT-PAGE DATA
17 BASE. IT IS LISTED EITHER BY BASE PAGE NUMBER OR BY
18 ATTORNEY NAME OF ACTUAL LETTERS THAT APPEAR IN DISCOVERY
19 THAT ARE ON EITHER MR. GOODWIN'S LETTERHEAD TO LAWYERS OR
20 THE LAWYERS' LETTERHEAD TO MR. GOODWIN. I WANT TO MAKE
21 CLEAR, I CAN SHARE THIS OR THE COURT CAN SHARE MY COPIES.
22 SO THE DISTRICT ATTORNEY CAN MAKE SURE I AM NOT GIVING
23 HIM SOMETHING NOT ON THE UP AND UP.

24 THE COURT: DO YOU WANT TO AGREE THEN, MR. BIRD
25 CAN CONTACT THE COURT AND I WILL RELEASE TO MR. BIRD THE
26 BINDER THAT YOU PROVIDED AS WELL AS THE MATERIAL THAT
27 WENT ALONG WITH THAT?

28 MS. SARIS: I THINK IT IS RESPECTIVE. IF YOU

1 JUST RELEASE THE DATA BASE THAT HAS ALL THE BATES STAMP
2 NUMBERS. IF YOU WANT THE BINDERS, FINE, THE TWO DATA
3 BASES PROBABLY THE MOST HELPFUL. ACTUALLY SAME DATA
4 BASE. THEY ARE JUST REORGANIZED.

5 THE COURT: ALL RIGHT. THEN DO WE HAVE A
6 STIPULATION THEN, NUMBER ONE, THE COURT WILL APPOINT AS
7 SPECIAL MASTER MR. BIRD?

8 MR. DIXON: SO STIPULATED.

9 MS. SARIS: SO STIPULATED.

10 THE COURT: CAN WE GET A STIPULATION THAT
11 MR. BIRD WILL DO THE FOLLOWING, WILL GO THROUGH ALL OF
12 DISCOVERY IN POSSESSION OF THE PROSECUTION. HE WILL ALSO
13 COME TO THE COURT AND GET MY COPY OF WHAT MS. SARIS
14 PROVIDED, AND TO THE COURT AND WILL MAKE A DETERMINATION
15 OF WHAT IF ANY MATERIAL IS DEEMED TO BE ATTORNEY-CLIENT
16 PRIVILEGE OR SUBJECT TO THE CLAIM OF ATTORNEY-CLIENT
17 PRIVILEGE.

18 DO YOU WANT TO STIPULATE TO THAT, COUNSEL?

19 MR. DIXON: YES, YOUR HONOR.

20 MS. SARIS: YES.

21 THE COURT: AND THE NEXT THING HE WILL DO IS
22 MAKE A DETERMINATION OF WHAT IS IN THE POSSESSION OF THE
23 PEOPLE THAT HE BELIEVES MAY BE OUTSIDE THE SCOPE OF THE
24 WARRANT OR AT LEAST THAT HE WOULD BE RECOMMENDING TO THE
25 COURT TO FIND THAT IS OUTSIDE THE SCOPE OF THE WARRANT.

26 COUNSEL, WANT TO STIPULATE TO THAT AS WELL?

27 MR. DIXON: YES, YOUR HONOR.

28 MS. SARIS: I WILL STIPULATE.

1 THE COURT: OKAY. SO I WILL SIGN OFF ON THAT
2 ORDER AND WE CAN GET STARTED WITH THAT.

3 WHEN DO YOU WANT A RETURN?

4 MS. SARIS: MAY I HAVE JUST A MOMENT?

5 THE COURT: SURE.

6 MS. SARIS: WE ARE JUST DEBATING HOW LONG IT
7 MIGHT TAKE HIM.

8 MR. DIXON: IT WILL TAKE AWHILE.

9 MS. SARIS: SHALL WE SEE WHERE WE ARE ON THE
10 14TH OF SEPTEMBER OR 19TH OF SEPTEMBER?

11 MR. DIXON: EITHER ONE OF THOSE IS FINE.

12 MS. SARIS: WHY DON'T WE SAY THE 14TH OF
13 SEPTEMBER -- THE 2TH0. MY ONLY QUESTION WOULD BE THEN I
14 DON'T KNOW IF HE HAS NOTHING ELSE TO DO AND DO IT FULL
15 TIME. IF THAT IS THE DAY, HE WILL HAVE RECOMMENDATIONS.
16 WE CAN START ARGUING ABOUT IT OR IF THAT IS THE DAY, HE
17 WILL JUST GIVE US PROGRESS REPORT. PERHAPS WHEN WE GET
18 CLOSER, WE CAN INFORM THE COURT WHAT WE THINK THAT DAY
19 WILL BE

20 MY SUGGESTION WILL BE BOTH COUNSEL CONTACT
21 MR. BIRD AND SEE WHAT HE IS DOING. I KNOW HE HAS AN
22 ACTIVE PRACTICE. HE IS A HARD WORKING GUY. HE HAS AN
23 ACTIVE PRACTICE.

24 SEPTEMBER 20TH, ZERO OF 60, MR. GOODWIN.

25 THE DEFENDANT: FRANKLY, I AM STRENUOUSLY
26 OPPOSED TO ANY FURTHER CONTINUANCES.

27 DOES THAT MEAN THE TRIAL WILL BE HELD WHEN?

28 THE COURT: WITHIN 60 DAYS OF SEPTEMBER 20TH.

1 THE DEFENDANT: UNLESS -- IN ALL DUE RESPECT,
2 NOBODY TOLD ME PRIOR TO THIS I WAS GOING TO ASK FOR A
3 CONTINUANCE.

4 THE COURT: LET'S GO OFF THE RECORD AND TALK TO
5 YOUR LAWYER AND LET HER EXPLAIN IT TO YOU.

6 (PROCEEDINGS HELD OFF THE RECORD.)

7 THE COURT: DO YOU WANT TO TAKE A BREAK?

8 MS. SARIS: NO, YOUR HONOR.

9 MR. GOODWIN IS NOT OBJECTING TO A
10 CONTINUANCE. HE WANTS TO READ SOMETHING INTO THE RECORD
11 THAT I AM NOT WILLING TO LET HIM READ INTO THE RECORD.
12 NO OBJECTION TO CONTINUANCE. OBJECTION TO HOUSING
13 CONDITIONS DURING THE CONTINUANCE AND MEDICAL CONDITIONS
14 WHICH THE COURT HAS ORDERED A RECOMMENDATION.

15 MR. GOODWIN, INSTEAD OF READING THIS, I
16 WOULD ASK THE COURT TO CLEAR THE COURTROOM.

17 THE COURT: LET'S DO THIS, ARE WE GOING TO GET
18 AGREEMENT THEN THAT SEPTEMBER 20TH IS AGREEABLE AS ZERO
19 OF 60 SO THAT YOUR ATTORNEY CAN ACCOMPLISH WHAT IT IS
20 THAT SHE IS TRYING TO GO ACCOMPLISH HERE?

21 SHE HAS SOME MOTIONS THAT ARE PENDING, AND
22 I CAN'T RULE FURTHER ON THESE MOTIONS UNTIL WE HAVE THE
23 SPECIAL MASTER GO THROUGH THE MATERIAL, AND IT MAY VERY
24 WELL BE A MOTION TO RECUSE THAT IS GOING TO BE RENEWED AS
25 WELL AS THE COMPLETION OF THE 1538.5 IF YOU WANT THOSE
26 MOTIONS DONE, THAT IS THE PROCEDURE BY WHICH WE ARE GOING
27 TO GET THERE.

28 DO YOU WANT TO AGREE THAT THE SEPTEMBER 20TH

1 DATE IS ZERO OF 60 FOR TRIAL?

2 THE DEFENDANT: IS THE SOLUTION JUST DISCUSSED
3 ACCEPTABLE AND CLEAR THE COURTROOM AND LET ME READ THIS?

4 THE COURT: YES. THAT IS WHY I WANT TO TAKE THE
5 TIME WAIVER FIRST.

6 YOU ARE AGREEING TO WAIVE TIME TO SEPTEMBER
7 20TH, ZERO OF 60?

8 THE DEFENDANT: I JOIN IN THAT WAIVER.

9 THE COURT: THANK YOU.

10 MR. DIXON IS LEAVING AND LET'S GO IN CAMERA
11 ON THIS REGARDING MEDICAL CONDITIONS.

12 (END OF PROCEEDINGS HELD IN OPEN COURT.)

13

14 PAGE I-8 - I-16 - SEALED IN CAMERA

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, SEPTEMBER 20, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON, DEPUTY DISTRICT
12 ATTORNEY, REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD ON
16 THE MICHAEL GOODWIN MATTER, MR. GOODWIN IS PRESENT WITH
17 COUNSEL.

18 LET ME HAVE COUNSEL STATE YOUR
19 APPEARANCES, PLEASE.

20 MR. DIXON: PAT DIXON, DEPUTY DISTRICT ATTORNEY.

21 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
22 ON BEHALF OF MR. GOODWIN.

23 MR. SUMMERS: THOMAS SUMMERS, PUBLIC DEFENDER'S
24 OFFICE ALSO ON BEHALF OF MR. GOODWIN.

25 THE COURT: OKAY. WHAT ARE WE DOING TODAY?

26 MS. SARIS: WELL, YOUR HONOR, I SPOKE TO GEORGE
27 BIRD, HE IS THE GENTLEMAN THAT YOU APPOINTED AS A SPECIAL
28 MASTER IN THIS CASE.

1 THE COURT: YES.

2 MS. SARIS: AND HE RECEIVED THE DOCUMENTS AND HAS
3 ASKED FOR 60 MORE DAYS TO REVIEW THEM.

4 THE COURT: ALL RIGHT. DID YOU AGREE TO A DATE?

5 MS. SARIS: NOVEMBER 17 AS ANOTHER ZERO OF 60
6 DATE, WITH THE UNDERSTANDING THAT IF MR. BIRD HAS GONE
7 THROUGH THOSE DOCUMENTS AND WE NEED SOME SORT OF
8 TESTIMONIAL HEARING FROM THE DETECTIVES WHO WENT THROUGH
9 THE HOUSE, THAT THAT WOULD OCCUR THE WEEK AFTER
10 THANKSGIVING, SEEING HOW THAT NEXT WEEK IS DARK.

11 THE COURT: AND THE PEOPLE ARE IN AGREEMENT WITH
12 THE ZERO OF 60 DATE?

13 MR. DIXON: THAT'S FINE, YOUR HONOR.

14 THE COURT: ALL RIGHT. MR. GOODWIN, DO YOU WANT
15 TO AGREE THAT TIME WILL BE WAIVED UNTIL NOVEMBER 17TH AND
16 WE WILL MAKE THAT A ZERO OF 60 DATE FOR YOUR TRIAL? DO
17 YOU UNDERSTAND AND AGREE TO THAT?

18 THE DEFENDANT: I DON'T REALLY WANT TO, BUT I
19 THINK I NEED TO BECAUSE OF THE MOTION. SO I'M GOING TO
20 AGREE, YES, YOUR HONOR.

21 MS. SARIS: I JOIN.

22 THE COURT: THEN WE WILL SEE YOU NOVEMBER 17. I
23 GUESS WE WILL CALL THAT TRIAL SETTING. AND IF MR. BIRD
24 IS FINISHED WITH HIS REVIEW, DO WE THEN ANTICIPATE THAT
25 THE MOTIONS WILL BE HEARD THE WEEK OF THE 28TH? IS THAT
26 THE PLAN?

27 MS. SARIS: YES. THAT THE MOTIONS AND TESTIMONY
28 WILL NEED TO BE TAKEN ABOUT WHY THEY JUSTIFIED THE THING

1 THAT THEY TOOK THAT ARE CLEARLY OUTSIDE THE --

2 THE COURT: RIGHT. WE HAVE MOTIONS PENDING THE
3 REVIEW OF THE SPECIAL MASTER.

4 MS. SARIS: RIGHT.

5 THE COURT: SO I JUST WANTED TO BE SURE THAT WE
6 THEN GET THOSE MOTIONS LITIGATED THAT WEEK. IS THAT THE
7 PLAN?

8 MS. SARIS: THAT IS THE PLAN.

9 MR. DIXON: YES.

10 THE COURT: ASSUMING THAT HE HAS COMPLETED HIS
11 REVIEW.

12 MS. SARIS: RIGHT. AND I HAVE TOLD MR. BIRD THAT
13 I WILL CONTACT HIM THE SECOND OR FIRST WEEK IN NOVEMBER
14 JUST TO GIVE US A HEADS UP SO YOU KNOW IF THE 28TH, IF
15 WE'RE GOING TO HAVE TO SET ASIDE A BLOCK OF TIME OR NOT
16 THAT WEEK.

17 THE COURT: ALL RIGHT. VERY GOOD.

18 MS. SARIS: AND AS ALWAYS WE HAVE CERTAIN ISSUES
19 WITH MR. GOODWIN'S INCARCERATION STATUS AND THE SHERIFFS
20 ARE NOT FOLLOWING THIS COURT'S ORDER FOR SPECIAL
21 TRANSPORT.

22 THE COURT: THEY ARE NOT?

23 MS. SARIS: THEY ARE NOT. HE WAS NOT GIVEN ONE
24 LAST WEEK. WE FINALLY DID GET A DOCTOR'S APPOINTMENT SET
25 UP FOR HIS KIDNEY. THAT IS SCHEDULED FOR THE 23RD. IT
26 TOOK THEM ALMOST TWO MONTHS TO SCHEDULE IT. THEY HAVE
27 NOT COMPLIED WITH THE COURT ORDER TO ALLOW HIM TO WEAR
28 TENNIS SHOES WITH SUPPORT. AND WE SUBMITTED ANOTHER

1 COURT ORDER TODAY FOR THE BACK PAIN THAT HE IS
2 EXPERIENCING.

3 APPARENTLY WHEN HE DOES NOT GET SPECIAL
4 TRANSPORTATION, HE IS FORCED TO WAIT ON BENCHES FOR LONG,
5 LONG PERIODS OF TIME. AND HE HAS HAD SEVERAL BACK
6 SURGERIES AND HAS SCREWS AND PLATES IN HIS BACK.

7 SO LAST WEEK HE DID NOT GET A SPECIAL
8 TRANSPORT BACK FROM COURT AND HE MISSED HIS AFTERNOON
9 MEDICATION. SO I DON'T KNOW HOW ELSE WE CAN LET THEM
10 KNOW THAT NOT ONLY DOES HE NEED A SPECIAL TRANSPORTATION
11 BACK TO THE JAIL TODAY. BUT ON THE 23RD WHEN HE GOES TO
12 THE COUNTY HOSPITAL, FOR WHATEVER PROCEDURE, THAT HE
13 NEEDS ONE BACK AND FORTH TO THE HOSPITAL AS WELL.

14 THE COURT: ALL RIGHT. SO WHAT IS IT THAT YOU
15 ARE ASKING THE COURT TO DO TODAY?

16 MS. SARIS: MR. GOODWIN IS ASKING THE COURT TO
17 MAKE A PHONE CALL TO WHOEVER THE -- MAYBE THE SHERIFFS
18 HERE WILL TELL US WHO CONTROLS THESE THINGS TO ENSURE
19 THAT THIS ORDER THAT HAS PREVIOUSLY BEEN ORDERED IS
20 FOLLOWED. THEY ARE COMING TO GET HIM -- I IMAGINE WE CAN
21 CONTROL WHAT HAPPENS FROM THE COURTHOUSE TODAY WITH A
22 SPECIAL TRANSPORT.

23 OUR CONCERN IS THE 23RD, WHICH IS THE
24 HOSPITAL VISIT, I DON'T WANT MR. GOODWIN TO BE IN A
25 POSITION WHERE HE TURNS DOWN A MEDICALLY NECESSARY
26 PROCEDURE BECAUSE HE FEELS THAT THE ALTERNATIVE OF NOT
27 HAVING A SPECIAL TRANSPORT IS GOING TO PUT HIM IN A
28 WHEELCHAIR.

1 THE COURT: CAN I SUGGEST THAT YOU DO A SPECIAL
2 ORDER FOR THAT DAY?

3 MS. SARIS: A SEPARATE SPECIAL ORDER?

4 THE COURT: YES.

5 MS. SARIS: OKAY.

6 THE COURT: AND THEN WE CAN FIND OUT WHO TO SEND
7 IT TO I GUESS OR FAX IT TO. AND THEN YOU CAN FOLLOW-UP.
8 AND IF THERE IS A PROBLEM, LET ME KNOW BEFORE THE 23RD.
9 I MEAN, THAT'S ALL I CAN SUGGEST TODAY.

10 MS. SARIS: WE WON'T KNOW IF THERE IS A PROBLEM
11 UNTIL IT OCCURS ON THE 23RD.

12 THE COURT: I MEAN IF WE FAX IT DOWN TO SOMEONE
13 WHO IS IN CHARGE OF SUCH THINGS AND YOU FOLLOW-UP WITH A
14 PHONE CALL, MAYBE YOU CAN FIND OUT IF THEIR PLAN IS TO
15 COMPLY. IF THEY ARE NOT WILLING OR NOT ABLE TO COMPLY
16 WITH THE ORDER, WE CAN ADDRESS IT THEN.

17 MS. SARIS: OKAY.

18 THE COURT: WE WILL DO THE BEST WE CAN,
19 MR. GOODWIN. SO WE WILL JUST SET THE MATTER ON THE 17TH
20 ZERO OF 60. AND COUNSEL WILL SUBMIT A NEW ORDER FOR
21 SPECIAL TRANSPORTATION FOR SEPTEMBER 23RD. AND WE WILL
22 DO THE BEST TO MONITOR THAT. OKAY?

23 MS. SARIS: OKAY. THANK YOU.

24 THE COURT: THANK YOU.

25
26 (THE MATTER WAS CONTINUED TO WEDNESDAY,
27 NOVEMBER 17, 2005 AT 8:30 A.M.)

28 --000--

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, NOVEMBER 16, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; ALSO PRESENT, GEORGE BIRD,
12 ATTORNEY AT LAW; PATRICK DIXON AND ALAN JACKSON,
13 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
14 OF THE STATE OF CALIFORNIA.
15

16 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD ON
17 THE MICHAEL GOODWIN MATTER, MR. GOODWIN IS PRESENT WITH
18 HIS COUNSEL. THE PEOPLE ARE REPRESENTED.

19 SINCE WE HAVE SO MANY COUNSEL HERE TODAY,
20 CAN I GET APPEARANCES.

21 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
22 ON BEHALF OF MR. GOODWIN.

23 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC
24 DEFENDER ALSO ON BEHALF OF MR. GOODWIN.

25 MR. JACKSON: ALAN JACKSON, ON BEHALF OF THE
26 PEOPLE, YOUR HONOR.

27 MR. DIXON: PAT DIXON, DEPUTY DISTRICT ATTORNEY.

28 THE COURT: ALSO PRESENT IS OUR SPECIAL MASTER.

1 MR. BIRD: GOOD MORNING, YOUR HONOR. GEORGE
2 BIRD, B-I-R-D.

3 THE COURT: I KNOW THAT WE PUT THIS ON CALENDAR
4 TODAY WITH THE EXPECTATION THAT WE WOULD HAVE SOME KIND
5 OF REPORT FROM MR. BIRD. AND THIS MORNING BEFORE
6 EVERYBODY GOT HERE, MR. BIRD REQUESTED SOME TIME TO
7 DISCUSS THE MATTER WITH THE COURT. AND BEFORE I DID
8 ANYTHING ALONG THOSE LINES, I WANTED TO PUT IT ON THE
9 RECORD JUST SO WE CAN ALL BE ON THE SAME PAGE WITH THIS.

10 SO, MR. BIRD, LET ME JUST SEE IF I
11 UNDERSTAND CORRECTLY WHERE WE ARE AT, THAT YOU HAVE
12 REVIEWED ALL OF THE MATERIAL THAT WAS IN THE POSSESSION
13 OF THE D.A.'S, MR. JACKSON AND MR. DIXON.

14 IS THAT RIGHT?

15 MR. BIRD: YES. I HAVE PRELIMINARILY REVIEWED
16 EVERYTHING. AND I SHARED WITH THE LAWYERS THIS MORNING
17 SOME OF THE SUBJECT MATTER THAT I WOULD LIKE TO DISCUSS
18 WITH YOU WITH REGARD TO MY FIRST REVIEW OF THE MATERIALS.

19 THE COURT: ALL RIGHT.

20 MR. BIRD: I EXPLAINED TO THEM, LOGISTICALLY,
21 SOME PROBLEMS THAT I HAVE ENCOUNTERED IN GOING THROUGH
22 THE MATERIALS. AND I'VE PREPARED A DRAFT REPORT THAT I
23 WOULD LIKE TO DISCUSS WITH YOU. MY GOAL IS TO ULTIMATELY
24 GIVE YOU A PRODUCT THAT WILL ASSIST THE COURT RATHER THAN
25 GIVING YOU SOMETHING THAT REQUIRES YOU TO THEN GO BACK
26 AND DO ALL THE SAME WORK AGAIN.

27 THE COURT: THAT SOUNDS LIKE A PLAN. ALL RIGHT.

28 MR. BIRD: I'VE ALSO SHARED WITH THE LAWYERS THAT

1 I ANTICIPATE CONCLUDING MY REVIEW AND PREPARATION OF A
2 REPORT BY THE FIRST WEEK OF JANUARY.

3 THE COURT: ALL RIGHT. VERY GOOD. THANK YOU.

4 SO I GUESS THE FIRST ORDER OF BUSINESS IS
5 TO DETERMINE WHETHER OR NOT THERE IS ANY OBJECTION TO THE
6 COURT GOING IN CAMERA -- I GUESS I WILL CALL IT IN
7 CAMERA -- WITH THE SPECIAL MASTER?

8 MR. DIXON: NO.

9 MR. JACKSON: NO OBJECTION.

10 MS. SARIS: I HAVE NO OBJECTION. DO YOU NEED IT
11 FROM MY CLIENT DIRECTLY?

12 THE COURT: SINCE I DON'T REALLY KNOW WHERE WE
13 ARE HEADED, MAYBE IN AN ABUNDANCE OF CAUTION I SHOULD ASK
14 MR. GOODWIN IF THAT'S AGREEABLE.

15 THE DEFENDANT: NO OBJECTION, YOUR HONOR.

16 THE COURT: ALL RIGHT. THANK YOU.

17 SO WHAT WE WILL DO IN A FEW MINUTES, THEN,
18 IS HAVE AN IN CAMERA WITH MR. BIRD. WE WILL DO
19 EVERYTHING ON THE RECORD AND WE WILL TAKE IT FROM THERE.
20 BUT INSOFAR AS TODAY'S PROCEEDINGS ARE CONCERNED, I KNOW
21 WE WERE GOING TO DISCUSS TODAY A DATE FOR MOTIONS. AND I
22 DON'T KNOW WHERE THAT PUTS US.

23 MS. SARIS: YOUR HONOR, THERE IS A FEW THINGS
24 THAT WE HAVE TO DISCUSS. OBVIOUSLY, NEXT WEEK WE WERE
25 PLANNING ON CALLING THE POLICE OFFICERS WHO WENT INTO
26 MR. GOODWIN'S HOME IN DECEMBER OF 2001 AND ASKING THEM
27 UNDER OATH TO JUSTIFY WHY THEY TOOK DOCUMENTS THAT WE
28 BELIEVE TO BE OUTSIDE THE SCOPE OF THE WARRANT.

1 OBVIOUSLY, THAT CAN'T BE DONE UNTIL
2 JANUARY NOW BECAUSE THE SPECIAL MASTER HAS TO ADVISE THE
3 COURT WHICH DOCUMENTS THOSE ARE, WHICH IS FINE.

4 MR. GOODWIN IS PUT IN AN UNENVIABLE POSITION OF HAVING
5 THE MOTIONS THAT WE THINK ARE RIGHTEOUS; NOT WANTING TO
6 BE PROSECUTED BY AN AGENCY THAT WE THINK HAS TAINTED
7 EVIDENCE; YET BEING FORCED TO NOW, OBVIOUSLY, AGREE TO A
8 CONTINUANCE IN ORDER TO HAVE THIS HAPPEN.

9 BASED ON THAT, OBVIOUSLY, MR. GOODWIN IS
10 GOING TO GIVE A TIME WAIVER. BUT WE'RE ASKING THE COURT
11 TO THEN SET A DATE, HOPEFULLY MAYBE THE END OF NOVEMBER,
12 TO RECONSIDER BAIL BASED ON THE FACT THAT IN LIGHT OF
13 WHAT IS HAPPENING, WHILE BEING NOT THE FAULT OF THE
14 GENTLEMAN SITTING TO MY RIGHT, CERTAINLY BEING THE FAULT
15 OF THE GOVERNMENT IN THAT DOCUMENTS WERE TAKEN THAT WERE
16 ATTORNEY/CLIENT PRIVILEGED.

17 THESE TWO INDIVIDUALS, THE L.A. D.A.'S
18 OFFICE DID NOT DO IT. HOWEVER, MR. GOODWIN IS THE
19 INJURED PARTY IN THAT REGARD. AND THE FACT THAT WE'RE
20 SPENDING ALL THIS TIME IS KEEPING HIM IN CUSTODY PRETRIAL
21 AND WITHOUT ANY BAIL BEING SET FOR WHAT IS GOING ON FOUR
22 YEARS NOW.

23 SO WHILE WE ARE GOING TO AGREE TO A
24 CONTINUANCE -- AND WE DO HAVE ALSO SOME DISCOVERY ISSUES
25 TO DISCUSS WITH THE COURT -- WE ARE ASKING THAT THE COURT
26 ENTERTAIN A BAIL MOTION PERHAPS THE 28TH, 29TH OR 30TH OF
27 NOVEMBER IN LIGHT OF THE FACT THAT WE'RE GOING TO BE
28 REQUIRED TO GIVE THIS EXTRA TIME, WHICH WE UNDERSTAND.

1 OBVIOUSLY, MR. BIRD IS GOING ABOVE AND BEYOND IN GETTING
2 THIS MATERIAL AS FAST AS HE COULD, BUT STILL MR. GOODWIN
3 IS SITTING IN JAIL WITHOUT BAIL.

4 THE COURT: WELL, WE CAN CERTAINLY PUT IT ON
5 CALENDAR.

6 MS. SARIS: AND AS FOR ANYTHING ELSE BEFORE
7 THE -- THAT WE NEED TO TAKE CARE OF ON THE RECORD, I
8 WOULD LIKE TO MAKE A STATEMENT FOR THE RECORD REGARDING
9 DISCOVERY. APPROXIMATELY ONE YEAR AGO THE LOS ANGELES
10 DISTRICT ATTORNEY'S REPRESENTATIVES AND THE SHERIFF
11 ALLOWED MYSELF, MY INVESTIGATOR, AND MY PARALEGAL AT THE
12 TIME AND A LAW CLERK TO GO TO THE SHERIFF'S HEADQUARTERS
13 ON RICKENBACKER AND LOOK AT EVIDENCE IN THIS CASE.

14 WE WERE SHOWN, IN MY RECOLLECTION,
15 APPROXIMATELY EIGHT TO TEN BOXES. MANY OF THOSE
16 INCLUDING PHYSICAL EVIDENCE -- ACTUAL PHYSICAL EVIDENCE
17 FROM THE CRIME SCENE. WE RENEWED THAT REQUEST SINCE I'VE
18 GOT NEW COUNSEL ASSISTING ME ON THIS CASE, TOM SUMMERS.
19 THEY WERE KIND ENOUGH TO ALLOW US TO GO AGAIN TO LOOK AT
20 THESE DOCUMENTS OR THESE BOXES. THIS TIME WE WENT TO A
21 LOCATION NEAR THE CIVIL BRAND -- WHERE THE CIVIL BRAND
22 USED TO BE.

23 AT THAT TIME WE WERE SHOWN APPROXIMATELY
24 16 BOXES, FOUR OR FIVE OF WHICH I HAD NOT SEEN. I WAS
25 GIVEN ONE DAY -- I WAS GIVEN TWO HOURS WITH MY COLLEAGUES
26 TO GO THROUGH THOSE BOXES AND ONE DAY TO XEROX THOSE
27 BOXES -- OR THE INFORMATION FROM THOSE BOXES THAT IN
28 THOSE TWO HOURS WE DEEMED NECESSARY.

1 ON FRIDAY, NOVEMBER 4TH, I SPENT SEVEN
2 HOURS AT THE XEROX MACHINE -- THE OLD XEROX MACHINE THAT
3 THE SHERIFF'S OFFICE USES -- XEROXING APPROXIMATELY 6- TO
4 7,000 DOCUMENTS, FOUR TO FIVE OF WHICH -- 4- TO 5,000 OF
5 WHICH I HAVE DETERMINED WERE NOT ORIGINALLY INCLUDED IN
6 THE DISCOVERY.

7 I'VE ASKED THE COURT TO SIGN AND THE COURT
8 HAS SIGNED AN ORDER FOR US TO HAVE ACCESS TO ALL OF THE
9 PHYSICAL EVIDENCE IN THE CASE. AND I JUST WANT TO MAKE
10 IT CLEAR THAT WHILE WE AGREED TO THE SHERIFF'S CONDITION
11 THAT WE COME IN ON THAT DAY, THAT WE'RE NOT DONE.
12 OBVIOUSLY, WE NEED TO GO THROUGH AND LOOK AT THIS
13 INFORMATION A SECOND OR THIRD OR MAYBE EVEN A FOURTH
14 TIME.

15 THERE IS JUST SO MUCH PHYSICAL EVIDENCE,
16 DOCUMENTARY EVIDENCE IN THIS CASE THAT I JUST WANT TO
17 MAKE IT CLEAR ON THE RECORD AND I WANT THE COURT TO MAKE
18 CLEAR, IF THE COURT IS WILLING, THAT WE NOT BE RESTRAINED
19 BY TIME. AND THAT, OBVIOUSLY, WE WILL DO IT AT ANYONE'S
20 CONVENIENCE. BUT I WOULD HAVE MUCH PREFERRED AND HAD
21 BETTER USE OF OUR TIME GOING IN FOR A COUPLE HOURS AT A
22 TIME XEROXING RATHER THAN ONE DAY, FEELING LIKE WE MAY
23 NEVER HAVE ACCESS TO THAT EVIDENCE AGAIN.

24 MR. DIXON: YOUR HONOR, WE HAVE NO OBJECTION TO
25 THAT. OBVIOUSLY, WE WANT COUNSEL TO HAVE FULL ACCESS TO
26 THE MATERIALS. AND AT MUTUALLY CONVENIENT TIMES, WE WILL
27 ARRANGE IT.

28 MS. SARIS: AND I ALSO JUST WANT TO MAKE CERTAIN

1 THAT THE L.A. DISTRICT ATTORNEY'S OFFICE HAS CHECKED WITH
2 ORANGE COUNTY DISTRICT ATTORNEY OR HAS SOME ASSURANCES
3 THAT EVERYTHING THAT WAS -- THAT THEY HAVE EVERYTHING.

4 IN OTHER WORDS, THAT THERE IS NOT A BOX
5 LYING AROUND IN ORANGE COUNTY THAT MAY HAVE INFORMATION.
6 THAT THERE HAS BEEN SOME SORT OF ASSURANCE FROM ORANGE
7 COUNTY THAT L.A. HAS EVERYTHING THAT ORANGE COUNTY HAD.

8 MR. DIXON: WELL, THAT'S WHAT WE THOUGHT
9 HAPPENED. APPARENTLY WE GOT TOO MUCH.

10 MS. SARIS: TOO MUCH OF SOME.

11 THE COURT: ALL RIGHT. WHAT ELSE?

12 MS. SARIS: BASED ON SOME OF THE INFORMATION WE
13 HAVE, I'VE GIVEN THE DISTRICT ATTORNEYS A LETTER, AN
14 INFORMAL REQUEST, THAT IS A CONTINUING ONGOING REQUEST
15 FOR ANY FURTHER DISCOVERY THAT THEY MIGHT COME ACROSS AND
16 ALSO FOR ANY BRADY MATERIAL.

17 THE COURT: ALL RIGHT.

18 MS. SARIS: OTHER THAN THAT, I BELIEVE JANUARY
19 10TH IS AN ACCEPTABLE DATE FOR WHEN THE SPECIAL MASTER
20 SHOULD BE DONE. AND AS FOR THE BAIL HEARING, ANY DAY ON
21 THE WEEK OF THE 28TH IS FINE WITH US.

22 THE COURT: ALL RIGHT. WHAT DATE IS GOOD FOR THE
23 PEOPLE TO COME IN ON THAT BAIL MOTION?

24 MR. DIXON: THE 29TH OR 30TH WOULD BE FINE WITH
25 US.

26 THE COURT: 30TH WOULD BE BETTER FOR THE COURT.

27 MS. SARIS: FINE.

28 THE COURT: SO WE WILL PUT THE BAIL MOTION ON

1 CALENDAR FOR NOVEMBER 30TH. AND IN TERMS OF A TIME
2 WAIVER, WHAT ARE WE GOING TO MAKE JANUARY 10TH?

3 MS. SARIS: I GUESS WE MAKE THAT ZERO OF 60. BUT
4 THERE WOULD BE AN UNDERSTANDING THAT IF WE NEED TO HAVE
5 WHAT WE ARE SORT OF CALLING THE "JUSTIFICATION HEARING"
6 FOR THE EVIDENCE THAT'S BEYOND THE SCOPE OF THE WARRANT,
7 THAT WE WOULD TRY AND START THAT AS SOON AFTER THE 10TH
8 AS POSSIBLE, WITHIN THAT WEEK IF POSSIBLE EVEN.

9 THE COURT: THAT'S FINE WITH ME. BUT ARE YOU
10 GOING TO HAVE ENOUGH INFORMATION BY THEN TO PROCEED WITH
11 THE MOTION?

12 MS. SARIS: I IMAGINE WE ARE -- AND THIS IS THE
13 WAY I ANTICIPATE IT, WE'RE GOING TO GET A LIST OF THE
14 INFORMATION THAT MR. BIRD HAS SORT OF SET ASIDE AND SAID
15 ON FIRST GLANCE THIS APPEARS TO BE BEYOND THE SCOPE OF
16 THE WARRANT AND NEEDS TO BE JUSTIFIED.

17 I HAVE ALL THAT INFORMATION. I KNOW WHERE
18 IT IS. I IMAGINE WE WILL GO OFF THE LIST OF BOXES
19 PROVIDED BY THE SHERIFF'S OFFICE. THE ONLY THING THE
20 COURT NEEDS TO DECIDE IS ARE WE GOING TO GO BY THE
21 DESCRIPTION PROVIDED BY THE SHERIFFS OR ARE WE GOING TO
22 GO A PAGE AT A TIME.

23 THE COURT: ALL RIGHT. THEN JANUARY 10TH,
24 MR. GOODWIN, IS BEING REQUESTED AS A ZERO OF 60 DATE. DO
25 YOU WANT TO AGREE TO THAT, SIR?

26 THE DEFENDANT: YES, YOUR HONOR.

27 THE COURT: COUNSEL JOIN?

28 MS. SARIS: YES.

1 THE COURT: ALL RIGHT. SO WE WILL DO JANUARY
2 10TH ZERO OF 60.

3 ARE THE PEOPLE IN AGREEMENT WITH THAT
4 DATE?

5 MR. DIXON: YES, YOUR HONOR. THANK YOU.

6 THE COURT: ALL RIGHT. BEFORE I GO IN CAMERA
7 WITH MR. BIRD, THERE WERE A NUMBER OF MOTIONS THAT ARE
8 CONFIDENTIAL IN NATURE --

9 MS. SARIS: YES.

10 THE COURT: -- WHICH WERE SUBMITTED. AND I DID
11 SIGN I THINK A COUPLE OF THEM.

12 MS. SARIS: I GOT THOSE.

13 THE COURT: I DID NOT SIGN SOME BECAUSE IT SEEMS
14 TO ME THAT THE REQUEST ISN'T REALLY AN EXPARTE REQUEST TO
15 THE EXTENT THAT IT DEALS WITH EVIDENCE.

16 MS. SARIS: PERHAPS WE'RE CONFUSED. I THOUGHT
17 THE ONLY ONES THE COURT DID NOT SIGN WERE THE MEDICAL
18 ONES.

19 THE COURT: NO.

20 THE CLERK: THERE WAS THE ONE ON TOP.

21 MS. SARIS: OH, REGARDING THE ACCESS?

22 THE COURT: NO. REGARDING -- WHY DON'T YOU COME
23 UP TO THE BENCH AND I WILL SHOW YOU.

24 MS. SARIS: MAY I?

25 THE COURT: AND THEN THIS ONE ALSO GOES WITH THAT
26 (INDICATING).

27 MS. SARIS: ALL RIGHT.

28 THE COURT: SO THE RECORD SHOULD REFLECT

1 MS. SARIS HAS LOOKED AT THE TWO ORDERS THAT I PULLED OUT
2 OF THE STACK THAT I DEEM AS PROPERLY ORDERS THAT THE
3 PEOPLE SHOULD HAVE INPUT ON BEFORE THE COURT SIGNS OFF ON
4 THEM. AND THEN THERE ARE OTHERS THAT I WILL DEAL WITH
5 EXPARTE BECAUSE THEY ARE TRULY EXPARTE IN NATURE. SO THE
6 TWO THAT MS. SARIS JUST LOOKED AT --

7 MS. SARIS: WELL, I THINK THE NAME OF THE
8 APPOINTMENT AND THAT ONE CAN STAY CONFIDENTIAL. BUT
9 REGARDING ACCESS --

10 THE COURT: OKAY. WE WILL JUST CALL IT ACCESS
11 AND REMOVAL --

12 MS. SARIS: THAT'S FINE.

13 THE COURT: -- OF EVIDENCE. CAN WE --

14 MS. SARIS: BALLISTIC EVIDENCE, ABSOLUTELY. I'M
15 ASKING FOR THE APPOINTMENT OF AN EXPERT. AND I'M ASKING
16 THAT EXPERT TO BE ABLE TO REMOVE THE BALLISTIC EVIDENCE;
17 TAKE IT TO HIS LAB; AND CONDUCT INDEPENDENT ANALYSIS.

18 THE COURT: SO BEFORE I SIGNED OFF ON ANYTHING
19 LIKE THAT, I WANTED TO BE SURE THAT THERE WAS NO
20 OBJECTION FROM THE PEOPLE.

21 MR. JACKSON: WITHOUT SEEING THE MOTION, JUDGE, I
22 CAN'T --

23 THE COURT: I WILL SHARE THIS WITH YOU, IF THAT'S
24 OKAY WITH --

25 MS. SARIS: THE ACCESS MOTION, CERTAINLY.

26 THE COURT: YES, THE ACCESS MOTION.

27 MR. JACKSON: MAY I?

28 THE COURT: YES.

1 (PAUSE IN PROCEEDINGS.)

2 MR. JACKSON: YOUR HONOR, BASED ON MY QUICK
3 REVIEW OF THIS AND UNDERSTANDING WHAT I'VE ALWAYS
4 UNDERSTOOD TO BE THE CRIME LAB'S POLICY, I DON'T THINK I
5 CAN ADDRESS THIS AT THIS POINT. I THINK I WOULD BE
6 JUMPING THE GUN. AND I PROBABLY NEED TO SPEAK WITH
7 MS. SARIS AND TRY TO WORK THIS OUT AS INFORMALLY AS
8 POSSIBLE. COULD WE HANDLE THIS ON THE 30TH OF NOVEMBER
9 WHEN WE COME BACK, JUDGE?

10 THE COURT: SURE.

11 MS. SARIS: THAT'S FINE. NOTHING IS GOING TO
12 HAPPEN NEXT WEEK ANYWAY.

13 MR. JACKSON: OKAY. GOOD. SECONDARILY, JUST SO
14 I KNOW PROCEDURALLY, I WASN'T HERE LAST TIME. DID WE SET
15 A DATE ON THE 28TH, A HARD DATE?

16 THE COURT: I DON'T THINK WE DID. MY NOTES SHOW
17 THAT WE WERE GOING TO HEAR THE MOTIONS THE WEEK OF
18 NOVEMBER 28.

19 MR. JACKSON: OKAY. FINE.

20 MS. SARIS: IF YOU NEED TO VACATE IT, THAT'S FINE
21 WITH US. WE'RE GOING TO COME BACK THE 30TH AS FAR AS WE
22 KNOW AS OUR NEXT DATE IS THE BAIL HEARING.

23 THE COURT: BUT I'M TALKING ABOUT THE 1538.
24 THERE WAS A RECUSAL MOTION.

25 MS. SARIS: THAT WAS GOING TO BE THE 28TH, YES.

26 THE COURT: DID WE ACTUALLY SET THE 28TH? I
27 DON'T RECALL THAT WE ACTUALLY SET THE 28TH.

28 MS. SARIS: I DON'T KNOW THAT WE TALKED ABOUT IT

1 OR DISCUSSED IT.

2 THE COURT: ALL RIGHT. SO THOSE MOTIONS ARE
3 ACTUALLY GOING TO HAVE TO WAIT UNTIL JANUARY.

4 MR. JACKSON: RIGHT.

5 THE COURT: SO WE DIDN'T -- I DON'T HAVE A SET
6 DATE, BUT WE ARE GOING TO COME BACK ON THE 30TH FOR THE
7 EVIDENCE MOTION; THE BAIL MOTION; AND WHATEVER ELSE NEEDS
8 TO BE ADDRESSED.

9 SO WHAT ELSE CAN WE DO THIS MORNING?

10 MR. DIXON: NOTHING, AT LEAST NOT WITH US.

11 THE COURT: THAT'S TRUE.

12 MS. SARIS: IS THERE ANYTHING THAT WE ARE GOING
13 TO NEED TO STICK AROUND FOR?

14 THE COURT: I DON'T KNOW.

15 MS. SARIS: I HAVE NO PROBLEM WITH THAT.

16 THE COURT: CAN YOU GUYS JUST STAND BY FOR A
17 LITTLE BIT? I HAVE TO TAKE A BREAK AND THEN I WILL DO
18 THE IN CAMERA.

19 MS. SARIS: SHOULD WE DO THE EXPARTE BEFORE OR
20 AFTER?

21 THE COURT: WHY DON'T WE DO IT AFTER THE BREAK.
22 LET'S DO THE EXPARTE ON YOUR ORDERS FIRST. AND THEN WE
23 WILL DO THE IN CAMERA ON MR. BIRD'S PART. AND THEN I
24 WILL LET YOU GUYS KNOW IF THERE IS ANYTHING MORE THAT WE
25 NEED TO ADDRESS ON THE RECORD SO YOU CAN GET OUT OF HERE.
26 SO WE WILL TAKE A BRIEF BREAK AND THEN WE'LL DO THAT.

27 MR. JACKSON: THANK YOU.

28

(WHEREUPON AN IN CAMERA PROCEEDING WAS
HELD, NOT TRANSCRIBED HEREIN.)
(PAGES K-14 THROUGH K-30.)

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, NOVEMBER 16, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; ALSO PRESENT, GEORGE BIRD,
12 ATTORNEY AT LAW; PATRICK DIXON AND ALAN JACKSON,
13 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
14 OF THE STATE OF CALIFORNIA.
15

16 THE COURT: ON THE RECORD IN THE GOODWIN MATTER.
17 ONCE AGAIN, MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE
18 PEOPLE ARE REPRESENTED. I WANTED TO PUT A COUPLE OF
19 MATTERS ON THE RECORD AFTER HAVING AN IN CAMERA
20 DISCUSSION WITH MR. BIRD, THE SPECIAL MASTER. BECAUSE I
21 WANTED TO INDICATE TO COUNSEL WHAT I ASKED OF OUR SPECIAL
22 MASTER HERE TO SEE IF ANYBODY HAS ANY PROBLEM WITH IT.

23 NO. 1, I HAVE ASKED THAT MR. BIRD
24 ESSENTIALLY REMOVE THE DOCUMENTS THAT ARE CLEARLY
25 PRIVILEGED, THAT IS, CORRESPONDENCE TO AND FROM
26 ATTORNEYS. I RECALL THAT WE REALLY DIDN'T HAVE ANY
27 DISPUTE THAT THERE WAS, IN FACT, PRIVILEGED MATERIAL.

28 THE ISSUE FOR THE COURT WAS: HOW DO WE

1 ENFORCE THE COURT'S ORDER? WHICH WAS BASICALLY THE
2 D.A.'S CONCESSION THAT THEY HAD, IN FACT, SOME MATERIAL
3 THAT WAS PRIVILEGED. AND IT WAS EITHER NOT LOOKED AT OR
4 IF IT WAS LOOKED AT, IT WAS NOT GOING TO BE USED IN THIS
5 CASE AND NO EVIDENCE DERIVED FROM IT WOULD BE USED IN THE
6 CASE.

7 I MEAN THIS IS HOW THIS ALL STARTED
8 BECAUSE I HAD SUGGESTED HOW WERE WE GOING TO ENFORCE THAT
9 ORDER IN TRIAL, ASSUMING THAT THERE IS ANOTHER TRIAL
10 JUDGE THAT'S GOING TO TRY THE CASE. AND THAT'S HOW WE
11 GOT STARTED WITH THE SPECIAL MASTER.

12 SO JUST TO MAKE THINGS EASIER FOR MR. BIRD
13 AND FOR THE COURT, IF COUNSEL HAS NO OBJECTION, I JUST
14 WANT HIM TO PULL OUT THE DOCUMENTS; REMOVE THEM FROM THE
15 BOXES AND PUT THEM IN A SEPARATE FILE; FOLDER; BOX;
16 WHATEVER. AND THEN MAKE A NOTATION AS TO WHAT PAGES WERE
17 REMOVED SO THAT WHEN THE PEOPLE GET THEIR BOXES BACK,
18 THEY WILL KNOW WHAT WAS TAKEN OUT AND WHAT PAGE AND SO ON
19 AND SO FORTH. SO I ASSUME NOBODY HAS ANY PROBLEM WITH
20 THAT?

21 MR. JACKSON: NO, YOUR HONOR.

22 MS. SARIS: I HAVE NO PROBLEM WITH IT.
23 OBVIOUSLY, WE'RE GOING TO USE IT AS A BASIS FOR RENEWING
24 OUR RECUSAL MOTION ONCE THE COURT LOOKS AT THAT.

25 THE COURT: YES, THAT'S PART OF THAT, TOO. YES.
26 AND THEN THE SECOND THING I'VE ASKED OF THE SPECIAL
27 MASTER -- BECAUSE THE SPECIAL MASTER MR. BIRD WAS ASKING
28 FOR THE COURT'S ASSISTANCE -- IS THAT HE DO A SIMILAR

1 THING WITH DOCUMENTS THAT APPEAR TO BE OUTSIDE THE SCOPE
2 OF THE WARRANT.

3 IN OTHER WORDS, THIS COURT HAS TO LITIGATE
4 THAT ISSUE ULTIMATELY AS TO WHETHER OR NOT THERE WERE
5 ITEMS SEIZED THAT WERE OUTSIDE THE SCOPE AND IF THAT
6 EVIDENCE SHOULD BE SUPPRESSED. THAT'S THE SUBJECT OF ONE
7 OF THE MOTIONS THAT THE COURT HAS PENDING BEFORE IT.

8 SO I HAVE ASKED -- TO THE EXTENT THAT
9 MR. BIRD CAN DO THIS AND HE SEEMS TO INDICATE THAT HE
10 CAN -- THE ONES THAT APPEAR TO BE OUTSIDE THE SCOPE --
11 AND I USE THE WORD "APPEAR" -- THAT HE SHOULD ATTEMPT TO
12 ISOLATE THOSE AS WELL. OBVIOUSLY, I DON'T EXPECT
13 MR. BIRD TO DO THE COURT'S JOB AND MAKE A DETERMINATION
14 OF WHAT IS OUTSIDE THE SCOPE BY LOOKING AT THE EVIDENCE
15 IN THE CASE OR THE PRELIMINARY HEARING TRANSCRIPT OR
16 ANYTHING LIKE THAT.

17 I THINK IT WOULD BE SUFFICIENT FOR OUR
18 PURPOSES IF HE JUST ATTEMPTS TO, USING THE WARRANT AS
19 GUIDANCE, ISOLATE AND SEGREGATE THOSE ITEMS AND THEN THE
20 COURT CAN REFER TO THEM LATER IN THE SUPPRESSION MOTION.

21 IS THAT AGREEABLE WITH EVERYBODY?

22 MR. JACKSON: JUST SO WE ARE CLEAR, YOU ARE
23 ASKING THAT THE SPECIAL MASTER ACTUALLY PULL AND ISOLATE
24 THE ITEMS THAT ARE OUTSIDE THE SCOPE -- THAT ARE FACIALLY
25 OUTSIDE THE SCOPE OF THE WARRANT. I EXPECT THOSE TO BE
26 POSSIBLY MORE VOLUMINOUS THAN THE ACTUAL ATTORNEY/CLIENT
27 PRIVILEGED DOCUMENTS THAT ARE FACIALLY PRIVILEGED.

28 ARE YOU ASKING THAT HE COMPILE THAT SECOND

1 SET AS WELL? I'M ASSUMING THAT -- LET'S ASSUME THERE IS
2 SEVERAL DOZEN PAGES OF PRIVILEGED DOCUMENTS THAT WOULD
3 FIT IN A THREE-RING BINDER AND HE CAN ISOLATE THOSE FROM
4 A PHYSICAL STANDPOINT. WHAT ARE YOU ASKING HIM TO DO
5 WITH THE ITEMS THAT HE DEEMS ARE -- LET'S SAY IT IS TWO
6 BANKERS BOXES FULL OF DOCUMENTS THAT ARE OUTSIDE THE
7 SCOPE -- THAT HE DECIDES ARE FACIALLY OUTSIDE THE SCOPE,
8 WHAT ARE WE DOING WITH THOSE? DO WE NOT GET THOSE BACK
9 OR --

10 THE COURT: YOU CAN GET THOSE BACK.

11 MR. JACKSON: HE IS JUST GOING TO FLAG THEM?

12 THE COURT: I JUST THINK WE NEED TO SEGREGATE
13 THEM SOMEHOW -- ISOLATE THEM SOMEHOW. MAYBE WHAT WE CAN
14 DO IS I CAN ASK MR. BIRD TO PUT THEM SOMEWHERE. AND
15 BEFORE WE -- AND BEFORE RETURNING THEM TO THE PEOPLE -- I
16 WILL PAY FOR IT, OBVIOUSLY; WE ARE PAYING FOR ALL OF
17 THIS -- TAKE IT DOWN TO KINKO'S OR SOMETHING AND
18 PHOTOCOPY IT FOR EVERYBODY SO THAT WE ALL HAVE COPIES OF
19 WHAT WE ARE CALLING OUTSIDE THE SCOPE OR POTENTIALLY
20 OUTSIDE THE SCOPE.

21 MR. JACKSON: RIGHT.

22 THE COURT: IN OTHER WORDS, THE DOCUMENTS THAT
23 ARE GOING TO BE SUBJECT TO THE HEARING.

24 MR. JACKSON: ALL RIGHT.

25 MS. SARIS: AND THIS IS WHERE WE'RE SORT OF
26 CAUGHT AND -- BECAUSE WE'RE SAYING THAT -- AND I DON'T
27 THINK IT'S TWO BOXES. I THINK IT'S CLOSER TO MAYBE
28 15,000 DOCUMENTS. FOR THE PEOPLE TO LITIGATE THIS,

1 THEY'RE GOING TO HAVE TO SEE THEM AND READ THEM. AND
2 MANY OF THOSE ARE THE DOCUMENTS THAT WE'RE BASING PART OF
3 OUR RECUSAL ON.

4 THE COURT: ON THE OUTSIDE THE SCOPE?

5 MS. SARIS: BOTH. ABSOLUTELY BOTH. SOME OF THE
6 THINGS THAT THEY HAD THAT ARE OUTSIDE THE SCOPE ARE
7 MENTIONED IN MY MOTION FOR RECUSAL AND DISMISSAL.

8 THE COURT: OKAY.

9 MS. SARIS: SO, UNFORTUNATELY, I THINK YOU ARE
10 RIGHT. THEY DO NEED TO SEE THEM TO HELP IN THE
11 LITIGATION. BUT BY THAT YOU ARE -- THEY ARE GOING TO
12 HAVE BEEN PRIVY TO THEM. AND THERE IS NO WAY TO TAKE
13 THAT BACK.

14 THE COURT: THAT I THINK GOES WITHOUT SAYING
15 BECAUSE THEY HAVE BEEN PRIVY TO EVERYTHING THAT THEY HAVE
16 HAD THAT THEY HAVE TURNED OVER TO MR. BIRD. WE HAVE JUST
17 GOTTEN REPRESENTATIONS FROM THE PEOPLE THAT -- AND I HAVE
18 NO REASON TO QUESTION --

19 MS. SARIS: I DO.

20 THE COURT: -- THAT THEY HAVEN'T GONE THROUGH
21 EVERYTHING.

22 MS. SARIS: AND I DO QUESTION THOSE
23 REPRESENTATIONS. NOT THAT THEY ARE FALSE, BUT THAT I
24 DON'T THINK THEY REALIZE WHAT THEY WERE LOOKING AT WAS
25 ATTORNEY-CLIENT PRIVILEGE. BECAUSE I'VE HAD THEM QUOTE
26 BACK -- MY CLIENT HAS A WAY WITH WORDS THAT IS VERY
27 EXAGGERATED WHEN HE IS SPEAKING SOMETIMES.

28 AND I HAVE HAD AT LEAST ONE OF THE COUNSEL

1 ON MY RIGHT QUOTE TO ME THESE PHRASES THAT THERE IS NO
2 WAY THEY CAME UP WITH OTHER THAN READING THESE DOCUMENTS.
3 THEY PROBABLY JUST DIDN'T KNOW THOSE WERE DOCUMENTS THAT
4 I WAS CLAIMING WERE ATTORNEY/CLIENT PRIVILEGE. THESE
5 PHRASES ARE JUST TOO OBSCURE. I'LL GIVE THE COURT AN
6 EXAMPLE --

7 THE COURT: I DON'T NEED THAT. MY CONCERN IS WE
8 STILL HAVE THESE MOTIONS WE HAVE TO HAVE LITIGATED. AND
9 ON A RECUSAL MOTION, OBVIOUSLY, THE ATTORNEY GENERAL IS
10 GOING TO COME IN I ASSUME AND TAKE A POSITION. AND YOU
11 KNOW THE PEOPLE CAN DO WITH THEIR BOXES WHATEVER THEY
12 WANT TO DO.

13 THEY KNOW THAT THESE MOTIONS ARE PENDING.
14 AND I DON'T THINK ANY OF US IS -- I DON'T THINK WE ARE
15 REALLY GOING TO BE DISPUTING WHAT THEY HAVE AND WHAT THEY
16 DON'T HAVE. THAT'S NOT REALLY THE ISSUE. WE KNOW THAT
17 THEY HAVE HAD ALL THIS MATERIAL. WE KNOW WHERE IT CAME
18 FROM. WE KNOW THE HISTORY. WE KNOW THE SOURCE.

19 THE ISSUE IS GOING TO BE: WHERE DO WE GO
20 FROM HERE? AND TO ASSIST ME IN THE LITIGATION -- AND I
21 THINK TO ASSIST ANYONE ELSE WHO PARTICIPATES IN THE
22 MOTION -- WE ARE GOING TO NEED TO HAVE THAT INFORMATION
23 AVAILABLE SO THAT THOSE WHO WANT TO REVIEW IT AND ARGUE
24 ABOUT IT CAN DO SO. SO LET'S JUST LEAVE IT AT THAT.

25 MS. SARIS: OKAY. AND I HAVE NO OBJECTION TO THE
26 SECOND PART OF HIS TASK, WHICH WAS THE ISOLATION OF THOSE
27 DOCUMENTS. I THINK THAT'S SMART.

28 THE COURT: ALL RIGHT. AND, AGAIN, IF WE HAVE TO

1 HAVE COPIES MADE BEFORE ITEMS ARE FLAGGED AND RETURNED, I
2 DON'T CARE. I JUST WANT TO HAVE A WAY OF LITIGATING
3 MOTIONS. AND THEN LATER ON, WHEREVER THIS CASE GETS
4 TRIED, THAT THERE IS SOME WAY THAT SOMEONE CAN HAVE THIS
5 AVAILABLE SO THAT IF THERE IS AN ISSUE LATER ON DOWN THE
6 ROAD THAT IT CAN BE ADDRESSED PROPERLY.

7 MR. JACKSON: YOUR HONOR, SINCE WE'RE GETTING TO
8 THE NUTS AND BOLTS OF THINGS, I WANT TO MAKE SURE THAT
9 I'M ON THE SAME PAGE WITH COURT AND COUNSEL. ON THE 10TH
10 I EXPECT MR. BIRD TO GRACIOUSLY APPEAR IN COURT AND GIVE
11 US OUR KIND OF MARCHING ORDERS, IF YOU WILL. THE COURT
12 WILL GIVE US OUR MARCHING ORDERS AFTER CONSULTATION WITH
13 MR. BIRD.

14 SUBSEQUENT TO THE 10TH, I EXPECT COUNSEL,
15 MS. SARIS, TO NOTICE A HEARING WHEREIN SHE EXPECTS TO
16 CALL AN OFFICER OR ALL OFFICERS TO JUSTIFY ANY DOCUMENTS
17 THAT MAY HAVE BEEN TAKEN OUTSIDE THE SCOPE. IF THERE IS
18 STILL A PENDING RECUSAL MOTION BY THE DEFENSE, I EXPECT
19 THAT SHE WILL THEN NOTICE THAT MOTION; NOTICE THE A.G.;;
20 AND FOLLOW THE STEPS OF THE PROPER RECUSAL MOTION.

21 CORRECT? AM I RIGHT ON THIS?

22 THE COURT: THAT'S WHAT I BELIEVE.

23 MS. SARIS: WELL, I NOTICED THE A.G. WE HAD A
24 MOTION AND THE COURT DISMISSED IT WITHOUT PREJUDICE -- OR
25 DENIED IT WITHOUT PREJUDICE. I'M HAPPY TO SEND THEM
26 SOMETHING AGAIN. OBVIOUSLY, MY RECUSAL IS GOING TO BE
27 BASED ON JUST THE ATTORNEY/CLIENT PRIVILEGE.

28 AND THEN IF THAT'S NOT GRANTED, IT'S BASED

1 ON THE ATTORNEY/CLIENT PRIVILEGE BECAUSE THE DOCUMENTS
2 THAT WERE OUTSIDE THE SCOPE. SO IF YOU WANT ME TO GET
3 THEM HERE ON THE 10TH, I'LL GET THEM HERE ON THE 10TH.
4 MY GUESS IS ON THE 10TH, WE HAVE AN UPDATE AND I WILL GET
5 THEM HERE AFTER THAT.

6 THE COURT: I THINK THE LATTER.

7 MS. SARIS: OKAY.

8 THE COURT: SO THE COURT ALSO INDICATED TO
9 MR. BIRD THAT THE COURT WOULD REMAIN AVAILABLE TO CONDUCT
10 ANY FURTHER IN CAMERA PROCEEDINGS IF THERE ARE ANY ISSUES
11 THAT ARISE BETWEEN NOW AND THE 10TH. IS IT AGREEABLE
12 WITH COUNSEL THAT THE COURT CONTINUE IN ITS EFFORTS TO
13 RESOLVE ISSUES AS THEY ARISE WITH MR. BIRD WITHOUT HAVING
14 EVERYBODY COME BACK AND PUT IT ON THE RECORD?

15 IS THAT AGREEABLE, MR. GOODWIN?

16 THE DEFENDANT: IT IS FOR ME.

17 MS. SARIS: YES.

18 MR. JACKSON: NO OBJECTION.

19 MR. DIXON: YES.

20 THE COURT: ALL RIGHT. VERY GOOD. THANK YOU
21 VERY MUCH. WE WILL SEE YOU ON THE 30TH FOR OUR BAIL
22 MOTION.

23 MR. JACKSON: THANK YOU, YOUR HONOR.

24 THE COURT: AND THEN, MR. BIRD, WE WILL SEE YOU
25 ON THE 10TH IF NOT BEFORE THEN.

26 MR. BIRD: THANK YOU. VERY GOOD.

27
28 (THE MATTER WAS CONTINUED TO WEDNESDAY,

NOVEMBER 30, 2005 AT 8:30 A.M.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 8, 2005
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 ALAN JACKSON, DEPUTY DISTRICT ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD IN THE GOODWIN
16 MATTER. ALL COUNSEL ARE HERE. MR. GOODWIN WAIVED HIS
17 APPEARANCE FOR PURPOSES OF THIS PROCEEDING.

18 BRING ME UP TO SPEED ON WHERE WE ARE AT.

19 MR. JACKSON: YOUR HONOR, I RECEIVED A
20 DECLARATION FROM MS. SARIS YESTERDAY AFTERNOON THAT WAS
21 NOT SIGNED. SHE EXPLAINED WHY THE COPY I GOT WAS NOT
22 SIGNED. I HAVE RECEIVED A SIGNED COPY FROM --

23 IS IT --

24 MS. SARIS: ANTHONY PAUL.

25 MR. JACKSON: -- ANTHONY PAUL THIS MORNING. IN
26 RESPONSE TO THAT, I HAD EXPECTED TO HAVE A LITTLE BIT
27 MORE NOTICE. BUT I WAS ABLE TO CONTACT THE PEOPLE THAT I
28 NEEDED TO CONTACT AT THE SHERIFF'S CRIME LAB; EXPLAIN

1 WHAT WAS IN THE DECLARATION. AND I GOT AN ASSOCIATED
2 DECLARATION FROM THE PEOPLE AT THE SHERIFF'S CRIME LAB
3 FROM HEIDI ROBBINS. THE COURT NOW HAS ACCESS TO THAT.

4 I DON'T EVEN KNOW IF YOU HAD A CHANCE TO
5 READ IT. BUT MY ARGUMENT IS BASICALLY ONE PARAGRAPH, TWO
6 PARAGRAPHS LONG. AND THE DECLARATION IS SIX OR EIGHT
7 SENTENCES. SO IF THE COURT WANTS TO TAKE A QUICK GLANCE
8 AT THAT BEFORE WE ARGUE IT. I THINK THAT WILL BRING YOU
9 UP TO SPEED ON WHERE WE'RE AT.

10 MS. SARIS: AND IF I CAN EXPLAIN ABOUT THE
11 DECLARATION. I SENT A DRAFT TO MR. PAUL. HE ASKED ME TO
12 PUT THE WORD "EXAMINATION" NEXT TO "TEST" EVERYWHERE. I
13 DID. I FAXED IT BACK TO HIM, BUT HE WAS TRAVELING AND
14 COULDN'T RECEIVE IT. SO I FAXED -- I SUBMITTED THE ONE
15 THAT HAD HIS HANDWRITING ON IT. AND THEN TYPED IT FOR
16 THE COURT SO THAT YOU COULD READ IT.

17 THE COURT: OKAY. THANK YOU.

18 (PAUSE IN PROCEEDINGS.)

19 THE COURT: ALL RIGHT. I HAVE READ THE
20 DECLARATION THAT WAS SUBMITTED BY THE DEFENSE AND THE
21 PEOPLE'S OPPOSITION. I CAN ONLY SUGGEST THE FOLLOWING:
22 THAT IF THERE IS NOT GOING TO BE A STIPULATION AS TO
23 CHAIN OF CUSTODY THAT THE EVIDENCE DOES NOT GET RELEASED.

24 MS. SARIS: YOUR HONOR, WE ARE ALSO REQUESTING
25 THE APPOINTMENT OF RICHARD WUNDERLICH, WHO IS A COURIER
26 FOR --

27 THE COURT: THAT'S FINE. BUT UNLESS THERE IS
28 GOING TO BE A STIPULATION AS TO CHAIN OF CUSTODY --

1 MS. SARIS: FROM OUR SIDE I HAVE NO PROBLEM WITH
2 THAT.

3 THE COURT: I MEAN FROM BOTH SIDES, IF BOTH SIDES
4 CAN AGREE. BECAUSE THE NATURE OF THIS EVIDENCE IS SUCH
5 THAT IF SOMETHING HAPPENS TO IT, THE PROSECUTION'S CASE
6 IS SIGNIFICANTLY COMPROMISED. IF YOU WANT TO TAKE
7 PHOTOGRAPHS OF THE SHELL CASINGS. I DON'T KNOW EXACTLY
8 WHAT IS INVOLVED. IS IT SHELL CASINGS?

9 MR. JACKSON: THERE IS SHELL CASINGS; THERE IS
10 CORONER'S BULLETS; AND THERE IS FRAGMENTS, ALL OF WHICH
11 WERE FOUND AT THE SCENE OR IN THE -- VISAVIS THE
12 AUTOPSIES.

13 MS. SARIS: AND, YOUR HONOR, I WOULD HAVE TO
14 RESPECTFULLY DISAGREE WITH THE COURT'S POSITION. THESE
15 PIECES OF EVIDENCE ONLY HELP OUR CASE. THEY ARE NOT --
16 LOSING THEM TODAY WOULDN'T COMPROMISE THE PEOPLE'S CASE
17 AT ALL, IN MY READING -- SO I HAVE NO OBJECTION.

18 THE COURT: SO IF YOU GUYS CAN ENTER INTO A
19 STIPULATION AS TO CHAIN OF CUSTODY, I HAVE NO PROBLEM
20 PERMITTING INDEPENDENT TESTING IN A DIFFERENT LOCATION.

21 MR. JACKSON: WELL --

22 THE COURT: BUT IF THERE IS NOT GOING TO BE A
23 STIPULATION, I'M NOT GOING TO ORDER THAT THE SHERIFF'S
24 DEPARTMENT GIVE UP THIS EVIDENCE. I THINK THAT
25 ACCOMMODATIONS CAN BE MADE SO THAT THE DEFENSE CAN HAVE
26 ACCESS; CAN TEST IT; EXAMINE IT; DO WHATEVER THEY NEED TO
27 DO BUT WITHOUT THE SHERIFF'S DEPARTMENT GIVING UP THE
28 CHAIN OF CUSTODY.

1 MR. JACKSON: AND I APPRECIATE MS. SARIS SPEAKING
2 FOR THE PROSECUTION IN OUR CASE. BUT QUITE FRANKLY, I
3 DON'T THINK SHE KNOWS WHAT WOULD AND WOULDN'T HURT OUR
4 CASE. AND SOMETHING TELLS ME FROM 11 YEARS OF
5 EXPERIENCE, I DON'T KNOW, TOSSING OUT BULLETS FRAGMENTS
6 AND CORONER'S BULLETS FROM A 17-YEAR-OLD DOUBLE HOMICIDE
7 CASE, I DON'T KNOW, I'M THINKING IT MIGHT, IN FACT,
8 IMPACT MY CASE.

9 THERE WILL BE NO STIPULATION TO THE CHAIN
10 OF CUSTODY. I HAVE THE BURDEN OF PROOF OF PROVING THAT
11 THE BULLETS FOUND AT THE CRIME SCENE MANY, MANY YEARS AGO
12 ARE THE SAME BULLETS THAT WE'RE EITHER INTRODUCING IN
13 COURT OR REFERRING TO IN COURT. I'M NOT GOING TO
14 STIPULATE TO THE CHAIN OF CUSTODY.

15 I THINK THAT DOES VIOLENCE TO WHAT A TRIER
16 OF FACT WOULD EXPECT FROM US, WHICH IS THE BURDEN OF
17 PROOF SEEMS TO BE GETTING HIGHER AND HIGHER EVERY DAY.
18 AND CERTAINLY I'M NOT TRYING TO BE OBSTREPEROUS EITHER.
19 AS THE COURT CAN TELL FROM THE TONE AND TENOR OF MISS
20 ROBBINS' DECLARATION AS WELL AS MY ARGUMENTS, WE WILL
21 MAKE EVERY EFFORT TO FACILITATE MR. PAUL'S EXAMINATION.

22 HE MENTIONED IN HIS DECLARATION THAT HE'S
23 CONCERNED ABOUT TIMING AND BEING UNDER THE CONTROL OF
24 SOMEONE ELSE. HE HAS ACCESS TO STATE OF THE ART
25 EQUIPMENT. BETTER EQUIPMENT THAN HE HAS ACCESS TO IN HIS
26 OWN LAB, IF HE EVEN HAS HIS OWN LAB.

27 MR. PAUL -- IF THE COURT DIDN'T KNOW AND
28 IT'S NOT MENTIONED IN THE DECLARATION -- USED TO WORK AT

1 THE SHERIFF'S CRIME LAB. HE'S FAMILIAR WITH THE
2 FACILITIES. HE KNOWS HOW IT OPERATES. HE IS ONE OF THE
3 PEOPLE THAT USED TO OVERSEE OTHER DEFENSE EXPERTS LOOKING
4 AT THE EVIDENCE.

5 I DON'T THINK IT IN ANY WAY SUBVERTS THEIR
6 ABILITY TO PERFORM ANY EXAMINATIONS THEY WANT TO. I
7 THINK, IN FACT, USING OUR STATE OF THE ART EQUIPMENT IT
8 PROBABLY WITH HELP THEM. SO THERE WILL BE NO STIPULATION
9 TO CHAIN OF CUSTODY. AND I WOULD ASK THAT THE COURT
10 ORDER EXACTLY WHAT MISS ROBBINS SUGGESTED, SIMPLY MAKE
11 THE FACILITY AVAILABLE TO MR. PAUL.

12 MS. SARIS: YOUR HONOR, I DON'T KNOW THAT
13 MR. JACKSON HAS EVER VISITED MR. PAUL'S LAB, BUT HE DOES
14 HAVE STATE OF THE ART EQUIPMENT AND HE DOES HAVE HIS OWN
15 LAB. AND LAST MONTH HE WAS AUTHORIZED TO TAKE BULLET
16 FRAGMENTS AND BULLET PIECES AND ACTUAL TEST FIRE FROM THE
17 SHERIFF'S LAB TO HIS OWN LAB TO CONDUCT THESE TESTS BY
18 ORDER OF THE COURT.

19 I HAVE BEEN ORDERED IN THE PAST NOT TO
20 OBJECT TO CHAIN OF CUSTODY. BUT IN ORDER FOR THIS COURT
21 TO SAY THAT WE HAVE TO HAVE A STIPULATION, BASICALLY PUTS
22 THIS DECISION IN THE D.A.'S OFFICE BECAUSE THEY CAN JUST
23 REFUSE TO STIPULATE.

24 THEY'VE HAD THESE BULLETS FRAGMENTS -- BY
25 THE WAY, WHICH THEY DIDN'T INTRODUCE AT THE PRELIMINARY
26 HEARING WHICH WASN'T PART OF THEIR CASE AT THE
27 PRELIMINARY HEARING. THEY'VE NEVER FOUND THE SHOOTERS.
28 THEY HAVE NEVER FOUND THE GUN. THERE IS NOTHING TO

1 COMPARE THEM TO. THEY HAVE OFFERED NO EVIDENCE OF THIS
2 IN ANY PRIOR COURT HEARING.

3 THEY'VE HAD THESE FOR 17 YEARS TO TEST.
4 NOW WE'RE ASKING TO GO IN AND DO OUR OWN TEST. THEY'VE
5 HAD IT LONG ENOUGH TO DO WHATEVER THEY NEED TO DO.
6 NOTHING WE'RE GOING TO DO -- WE'RE NOT EVEN GOING TO
7 TEST. WE'RE GOING TO EXAMINE THE BULLET FRAGMENTS.

8 THIS HAS BEEN DONE IN CASE AFTER CASE. SO
9 FOR MR. JACKSON TO STAND UP AND ASSERT THAT HE WON'T MAKE
10 A STIPULATION TO CHAIN OF CUSTODY, HE DOESN'T NEED TO.
11 I'M THE PARTY THAT OBJECTS TO CHAIN OF CUSTODY. I WILL
12 SAY I WILL NOT OBJECT TO CHAIN OF CUSTODY IF THE COURT
13 ALLOWS THIS OUT.

14 I'VE ASKED THE COURT TO APPOINT RICHARD
15 WUNDERLICH, WHOSE ENTIRE JOB -- WHOSE ENTIRE CAREER
16 INVOLVES AROUND PICKING EVIDENCE UP FROM SHERIFF'S LAB;
17 TAKING THEM TO INDEPENDENT TESTERS; AND RETURNING THEM TO
18 SHERIFF'S LABS. HE HAS DONE THIS FOR OVER 20 YEARS.

19 I PERSONALLY HAVE USED HIM IN AT LEAST 10
20 TO 15 CASES IN MY CAREER. I'VE NEVER HAD A COURT SAY
21 THAT THE DISTRICT ATTORNEY HAD TO AGREE TO CHAIN OF
22 CUSTODY; JUST THAT I COULD NOT THEN LATER OBJECT TO
23 ISSUES OF CHAIN OF CUSTODY, WHICH I DON'T INTEND TO DO.

24 THE COURT: AT THIS POINT I DON'T THINK THERE IS
25 A SUFFICIENT SHOWING FOR ME TO ORDER OVER THE PEOPLE'S
26 OBJECTION THE RELEASE OF THE EVIDENCE. AT THIS POINT I'M
27 GOING TO PERMIT YOUR EXPERT TO CONDUCT THE NECESSARY
28 EXAMINATION AT THE SHERIFF'S CRIME LAB. AND HE CAN COME

1 INTO COURT AND STATE WHY THAT'S NOT ADEQUATE.

2 AND IF A SHOWING IS MADE -- A SUFFICIENT
3 SHOWING IS MADE, I WILL RECONSIDER. BUT FOR RIGHT NOW I
4 DON'T KNOW WHAT KIND OF EXAMINATION HE HAS TO CONDUCT
5 THAT'S GOING TO REQUIRE THE RELEASE OF THE EVIDENCE.

6 MS. SARIS: OKAY. IF THE COURT WILL PERMIT ME,
7 THEN, I WOULD LIKE TO RESUBMIT MY COURT ORDER. BECAUSE
8 OBVIOUSLY IT'S GOING TO TAKE SIGNIFICANT MORE FUNDS FOR
9 HIM TO COME UP TO THE LAB.

10 THE COURT: NO, I KNOW.

11 MS. SARIS: OKAY. AND IF THAT IS NOT ADEQUATE,
12 THE COURT WILL ALLOW LEAVE FOR US TO COME AND EXPLAIN?

13 THE COURT: I THINK THERE HAS TO BE MORE OF A
14 SHOWING. AND AT THIS POINT I DON'T HAVE THAT. I MEAN
15 THE SHOWING THAT YOU HAVE MADE IS THAT YOU HAVE A RIGHT
16 TO CONDUCT -- OR TO HAVE YOUR EXPERT CONDUCT AN
17 EXAMINATION OF THIS EVIDENCE. YOU HAVE A RIGHT TO DO
18 THAT INDEPENDENT FROM ANY INTERFERENCE ON THE PART OF THE
19 PROSECUTION AND THE SHERIFF'S DEPARTMENT. AND THE
20 SHERIFF'S DEPARTMENT IS WILLING TO ACCOMMODATE YOUR
21 EXPERT IN THAT REGARD.

22 AND AS LONG AS THOSE SAFEGUARDS ARE IN
23 PLACE, I WOULD LIKE YOUR EXPERT TO ATTEMPT TO DO WHATEVER
24 IT IS YOU WANT HIM TO DO. AND IF HE IS SOMEHOW UNABLE TO
25 DO SO AT THE CRIME LAB, OR IF THERE IS INTERFERENCE, THEN
26 I WILL RECONSIDER THIS REQUEST AND WE CAN DISCUSS IT
27 FURTHER. BUT FOR RIGHT NOW, I WILL AUTHORIZE WHATEVER
28 FUNDS ARE NECESSARY TO COVER HIS EXPENSES FOR GOING TO

1 THAT LOCATION AND DOING THE TESTING.

2 MS. SARIS: WOULD THE COURT CONSIDER AN ORDER
3 DISALLOWING REPRESENTATIVES FROM THE DISTRICT ATTORNEY'S
4 OFFICE OR INVESTIGATING OFFICERS ON THIS CASE TO BE
5 PRESENT IN THE LAB WHILE MY EXPERT CONDUCTS HIS
6 EXAMINATION AND JUST LEAVE IT TO THE SHERIFF CRIME
7 PERSONNEL?

8 THE COURT: I THINK THE DEFENSE HAS A RIGHT TO
9 HAVE THEIR EXAMINATION DONE WITHOUT ANY INTERFERENCE OR
10 EVEN WITHOUT THE PRESENCE OF THE SHERIFF'S DEPARTMENT
11 REPRESENTATIVES.

12 DON'T YOU AGREE, MR. JACKSON?

13 MR. JACKSON: I HAVE NO PROBLEM WITH THAT, JUDGE.
14 MY UNDERSTANDING IN SPEAKING WITH MISS ROBBINS VERY
15 BRIEFLY ABOUT THIS YESTERDAY IS THEY HAVE A BASIC
16 PROTOCOL WHEREBY -- I MEAN WE'RE TALKING ABOUT AN
17 ELECTRON -- NOT AN ELECTRON MICROSCOPE. ACTUALLY, IT MAY
18 BE AN ELECTRON MICROSCOPE. I DON'T KNOW MUCH ABOUT THIS,
19 BUT A BIG EXPENSIVE MACHINE SUFFICE IT TO SAY.

20 APPARENTLY THEY HAVE A REPRESENTATIVE FROM
21 THE CRIME LAB THAT IS CONSIDERED THE SUPERVISOR OVER ANY
22 DEFENSE EXPERT THAT COMES IN. AND THEY DO IT ALL THE
23 TIME. BUT THAT ONE PERSON I THINK JUST IS IN THE ROOM OR
24 IN THE GENERAL AREA WHILE THAT EXPERT IS IN AND OUT OF
25 THE FACILITY ALL DAY LONG. AND THEY HAVE AS MUCH TIME AS
26 THEY WANT.

27 AND IF MR. PAUL NEEDS MULTIPLE DAYS, HE
28 CAN HAVE MULTIPLE DAYS. IF HE WANTS, YOU KNOW, WE WILL

1 GIVE HIM PENS AND PAPERS IF HE WANTS PENS AND PAPERS.
2 WE'RE NOT TRYING TO BE OBSTREPEROUS. SO, NO, I'M NOT
3 GOING TO BE THERE. I DON'T EXPECT THAT MY INVESTIGATING
4 OFFICER IS GOING TO BE THERE. THERE IS NO REASON FOR IT.

5 THE COURT: SO YOU AGREE?

6 MR. JACKSON: I AGREE. I AGREE.

7 THE COURT: OKAY.

8 MR. JACKSON: THE REASON I SAID THAT IS I DIDN'T
9 WANT TO LEAVE THE IMPRESSION WITH THE COURT THAT IT'S
10 GOING TO BE A BIG EMPTY ROOM. I DON'T THINK THAT'S
11 PROTOCOL. SO THERE WILL BE SOME SHERIFF'S CRIME LAB
12 PERSONNEL THERE AS A SUPERVISOR.

13 THE COURT: ALL RIGHT. LET'S SEE IF THIS CAN BE
14 ACCOMPLISHED THAT WAY. AND IF NOT, WE WILL TAKE ANOTHER
15 LOOK AT IT.

16 MR. JACKSON: THANK YOU, YOUR HONOR. I THINK
17 THAT'S ALL WE HAVE, JUDGE.

18 THE COURT: ALL RIGHT. AND THE REMAINING MATTERS
19 INVOLVE REALLY EXPARTE REQUESTS ON THE PART OF THE
20 DEFENSE REGARDING ORDERS THAT THE COURT MADE AS TO
21 TRANSPORTATION ISSUES; MEDICAL ISSUES; THINGS OF THAT
22 NATURE. I VIEW THAT AS ALL EXPARTE MATTERS, MR. JACKSON.
23 I ASSUME YOU AGREE?

24 MR. JACKSON: I DON'T HAVE ANY PROBLEM WITH THAT,
25 YOUR HONOR.

26 THE COURT: ALL RIGHT. SO THANK YOU FOR BEING
27 HERE. I GUESS WE ALREADY HAVE OUR NEXT DATE.

28 MS. SARIS: EXCEPT FOR THE COMPUTER SAYS IT'S

1 JANUARY 9TH AND I THINK IT'S JANUARY 10TH.

2 THE CLERK: I HAVE JANUARY 10TH.

3 MS. SARIS: I SEE MR. WRIGHT FROM COUNTY COUNSEL.
4 SO I'LL TRY TO FIGURE OUT WHO IS HERE FROM THE SHERIFFS.

5 THE COURT: THANK YOU.

6 MR. JACKSON: THANK YOU, YOUR HONOR.

7
8 (THE MATTER WAS CONTINUED TO TUESDAY,
9 JANUARY 10, 2006 AT 8:30 A.M.)

10 --000--
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B197574

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF AND RESPONDENT,

VS.

01 - MICHAEL FRANK GOODWIN,

DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

FEBRUARY 6, MARCH 6, 20, APRIL 4, 10 AND 19,

MAY 23, JUNE 7 AND 20, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

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KERRY RUIZ, CSR #6114
LORI D. CASILLAS, CSR #9869
SHEILA BROCK, CSR #10025

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, FEBRUARY 6, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: P.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; ALSO PRESENT, GEORGE BIRD AND
12 STEVEN MATTHEWS, ATTORNEYS AT LAW; ALAN JACKSON,
13 DEPUTY DISTRICT ATTORNEY, REPRESENTING THE PEOPLE
14 OF THE STATE OF CALIFORNIA.

15
16 THE COURT: LET'S CALL THE MATTER OF MICHAEL
17 GOODWIN, HE IS PRESENT WITH HIS COUNSEL. THE PEOPLE ARE
18 REPRESENTED.

19 LET ME GET EVERYONE TO PLEASE STATE THEIR
20 APPEARANCES.

21 MR. JACKSON: ALAN JACKSON ON BEHALF OF THE
22 PEOPLE, YOUR HONOR.

23 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
24 ON BEHALF OF MR. GOODWIN.

25 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC
26 DEFENDER, ALSO ON BEHALF OF MR. GOODWIN

27 THE COURT: ALSO PRESENT IS THE SPECIAL MASTER
28 MR. BIRD.

1 AND FROM THE ATTORNEY GENERAL'S OFFICE
2 YOUR APPEARANCE, PLEASE.

3 MR. MATTHEWS: THANK YOU, YOUR HONOR. STEVEN
4 MATTHEWS.

5 THE COURT: THANK YOU. THE COURT SET THIS
6 AFTERNOON FOR A HEARING ON THE DEFENSE MOTION, WHICH IS A
7 TWO-PRONG MOTION TO -- IT WAS BASICALLY A RENEWING OF THE
8 PREVIOUS MOTION TO DISMISS AND TO RECUSE BASED ON THE
9 VIOLATION -- THE PERCEIVED VIOLATION OF THE
10 ATTORNEY/CLIENT PRIVILEGE. I KNOW THE ATTORNEY GENERAL
11 FILED A RESPONSE. THE SPECIAL MASTER DID REMOVE ALL OF
12 THE PRIVILEGED DOCUMENTS FOR THE COURT FROM THE DISCOVERY
13 IN THE POSSESSION OF THE PEOPLE.

14 AND I GUESS SINCE WE HAVE THE ATTORNEY
15 GENERAL HERE, MAYBE WE SHOULD ADDRESS THAT ISSUE -- OR
16 THAT MOTION FIRST. I HAD PREVIOUSLY ASKED COUNSEL TO
17 AGREE THAT THE COURT COULD CONDUCT AN IN CAMERA WITH
18 MR. BIRD. AND AT THIS TIME I DON'T KNOW THAT THAT'S
19 ABSOLUTELY NECESSARY. BUT LET ME HEAR FROM COUNSEL AS TO
20 HOW YOU WANT TO PROCEED.

21 I READ YOUR MOVING PAPERS, MS. SARIS. I
22 READ THE OPPOSITION FILED BY THE ATTORNEY GENERAL, WHICH
23 OBVIOUSLY IS SOMEWHAT LIMITED BECAUSE THERE WAS NO ACCESS
24 GIVEN. AND PRIOR TO THE ATTORNEY GENERAL FILING THEIR
25 RESPONSE, I DID RECEIVE A PHONE CALL -- OR THE CLERK
26 DID. OBVIOUSLY IT WAS A PROBLEM FOR THE ATTORNEY GENERAL
27 TO RESPOND, I WAS TOLD, IN LIGHT OF THE FACT THAT THE
28 PRIVILEGED MATERIAL WAS NOT PROVIDED FOR OBVIOUS REASONS.

1 SO I DON'T KNOW WHERE WE ARE TODAY. I
2 DON'T KNOW IF THE ATTORNEY GENERAL IS IN A POSITION TO
3 PROCEED WITH WHAT LITTLE INFORMATION THEY HAVE ACCESS TO.
4 SO I GUESS -- I SEE MR. MATTHEWS STANDING. I DON'T KNOW
5 IF YOU WANT TO START.

6 MR. MATTHEWS: I DON'T KNOW WHETHER -- I BELIEVE
7 THE COURT HAS CORRECTLY ANALYZED WHERE THE ATTORNEY
8 GENERAL IS. THE ONLY THING WE KNOW IS THAT A MOTION HAS
9 BEEN BROUGHT. NO SUBSTANTIVE GROUNDS OR AFFIDAVITS OR
10 DECLARATIONS OR STATEMENT OF FACTS WAS SERVED ON THE
11 ATTORNEY GENERAL.

12 PURSUANT TO PENAL CODE SECTION 1424, THE
13 MOTION CAN'T BE GRANTED UNDER THESE CIRCUMSTANCES. THE
14 COURT COULD DENY THE MOTION FOR WHATEVER GROUNDS IF THE
15 COURT FINDS THAT THE MOTION IS WITHOUT MERIT; OR IF THE
16 COURT BELIEVES THAT THIS IS JUST A RENEWED MOTION MADE ON
17 THE SAME GROUNDS THE COURT HAS ALREADY DENIED. OTHER
18 THAN THAT, THE MOTION CAN'T BE GRANTED UNLESS THE
19 SUBSTANTIVE MOTION HAS BEEN SERVED ON THE ATTORNEY
20 GENERAL PURSUANT TO PENAL CODE SECTION 1424.

21 SO IT WOULD BE OUR POSITION THAT THE COURT
22 COULD TODAY DENY THIS MOTION PROCEDURALLY FOR IMPROPERLY
23 NOT SERVING THE ATTORNEY GENERAL WITH A MOTION. AND/OR
24 DENY THE MOTION SUBSTANTIVELY ON THE GROUNDS THAT IT HAD
25 BEEN ALLEGED, BUT THAT THE MOTION CAN'T BE GRANTED
26 WITHOUT SERVICE OF THE SUBSTANTIVE MOTION ON THE ATTORNEY
27 GENERAL.

28 THE COURT: THANK YOU.

1 MS. SARIS: YOUR HONOR, I DID CALL MR. MATTHEWS
2 BASED ON THE FACT THAT HE APPEARED AT THE LAST
3 APPEARANCE. I OFFERED TO SEND HIM OR DELIVER TO HIM A
4 COPY OF THE SUBSTANTIVE MOTION IF HE WERE INCLINED EITHER
5 THROUGH PHONE CALL OR SOME CERTIFICATION IN WRITING OR AN
6 APPEARANCE IN COURT TO INDICATE THAT THE ATTORNEY
7 GENERAL'S OFFICE WOULD DEVOTE A DIRTY TEAM AND A CLEAN
8 TIME TO THE READING OF THE MOTION.

9 THEY WERE UNWILLING TO DO THAT PRIOR TO
10 TODAY'S COURT APPEARANCE. THEREFORE I DID NOT GIVE THEM
11 A SUBSTANTIVE COPY. I WOULD POINT OUT, FOR THE RECORD,
12 THAT MY 50-SOME PAGE MOTION LISTS IN SOME DETAIL THE
13 LETTERS THAT I BELIEVE WERE ATTORNEY/CLIENT PRIVILEGED;
14 THE CONTENT OF THOSE LETTERS; THE NATURE OF THE
15 PREJUDICE. AND, OBVIOUSLY, GIVING IT TO THE NEW AGENCY
16 WOULD FURTHER TAINT THEM IF THE COURT WERE INCLINED TO
17 GRANT THE MOTION.

18 IF THEY ARE SAYING THAT NOW THEY WILL
19 ENTER INTO SOME SORT OF ARRANGEMENT, I SUPPOSE THEY CAN
20 HAVE THE SUBSTANTIVE COPY AND RESPOND. THEY DID RESPOND
21 IN A LENGTHY FILING OR BRIEFING THAT I THINK WOULD
22 ANSWER -- ALTHOUGH THEY WERE DOING IT IN THE DARK. IT
23 WAS BASICALLY RESPONDING TO WHAT I WAS SAYING
24 SUBSTANTIVELY, WHICH IS THAT THE REMEDY I'M SEEKING IS
25 OVERBROAD AND UNCALLED FOR; AND IT'S BEING REMEDIED IN
26 OTHER WAYS, INCLUDING THE RECUSAL OF THIS ONE OR TWO
27 PROSECUTORS.

28 I DON'T KNOW WHAT MORE THEIR RESPONSE

1 COULD BE TO THE ACTUAL SUBSTANCE IN THAT SOME OF THE
2 LETTERS ARE ACTUALLY TITLED WHAT THEIR CONTENT IS; AND
3 THERE IS NO REAL ARGUMENT ABOUT WHAT THIS LETTER IS OR
4 WHAT THAT LETTER IS. THE ONLY ARGUMENT IS OF IMPACT.
5 THAT BEING SAID, I'LL PROCEED HOWEVER THE COURT LIKES.
6 IF THE COURT IS WILLING TO ORDER THEM TO HAVE SOME SORT
7 OF A CONE OF SILENCE SET UP.

8 AND ON THE FIRST QUESTION OF THE COURT, I
9 HAVE NO PROBLEM WITH THE COURT CONDUCTING AN IN CAMERA
10 HEARING AND HEARING FROM MR. BIRD, TO WHOM I DID GIVE A
11 COPY OF THE SUBSTANTIVE MOTION AT THE TIME I SERVED THIS
12 COURT.

13 THE COURT: OKAY. I DON'T REALLY KNOW WHAT I
14 SHOULD DO IN TERMS OF THE RECUSAL MOTION AND THE REQUEST
15 BY THE ATTORNEY GENERAL THAT I DENY THE MOTION IN LIGHT
16 OF THE FACT THAT THEY DON'T HAVE ALL OF THE MATERIAL --
17 INFORMATION NECESSARY TO ARGUE. BUT LET ME JUST SEE IF I
18 CAN SHORT CIRCUIT THINGS A BIT. I IMAGINE THAT THE
19 ATTORNEY GENERAL IS WILLING TO DO THE CLEAN TEAM AND
20 DIRTY TEAM IF SO REQUESTED BY THE COURT.

21 RIGHT?

22 MR. MATTHEWS: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT. BUT I DON'T KNOW IF
24 THAT'S GOING TO GET US ANYWHERE. LET ME MAKE AN
25 OBSERVATION AND THEN SEE IF ANYONE WANTS TO COMMENT. IT
26 SEEMS TO ME THAT THE ISSUE IS REALLY CLEAR IN TERMS OF
27 WHETHER OR NOT THE PROSECUTION REPRESENTATIVE,
28 MR. JACKSON, VIEWED ATTORNEY/CLIENT PRIVILEGED MATERIAL.

1 WE ALL AGREE HE DID.

2 AND PREVIOUSLY THE COURT HAD MADE AN ORDER
3 THAT SUCH MATERIAL COULD NOT BE USED IN ANY WAY IN THE
4 TRIAL; AND THAT THE PEOPLE WOULD NOT PRESENT ANY EVIDENCE
5 BASED ON THE INFORMATION CONTAINED IN THE PRIVILEGED
6 MATERIAL. WE GOT THAT REPRESENTATION FROM MR. JACKSON.

7 WE THEN WENT DOWN A PATH OF TRYING TO PUT
8 TOGETHER SOME MECHANISM FOR THE COURT TO LATER ON ENFORCE
9 THAT ORDER. AND THAT'S WHERE MR. BIRD MADE AN IMPORTANT
10 ROLE WITH RESPECT TO THE COURT AS SPECIAL MASTER. AND WE
11 ALL AGREED THAT IT WOULD BE WISE TO SEEK THE ASSISTANCE
12 OF A SPECIAL MASTER, ESPECIALLY FROM MY PROSPECTIVE
13 BECAUSE THERE WERE A NUMBER OF BOXES OF MATERIAL THAT HAD
14 TO BE, I GUESS, REVIEWED AND DETERMINED TO BE TAKEN OUT
15 OF THE PROSECUTION'S POSSESSION.

16 THAT MATERIAL WAS ATTORNEY/CLIENT
17 PRIVILEGED MATERIAL THAT WE ALL AGREE EXISTS. IT HAS
18 BEEN REMOVED AND I HAVE REVIEWED, JUST VERY GENERALLY,
19 THE BOX THAT MR. BIRD HAD PRESENTED TO THE COURT OF THE
20 MATERIAL THAT HE REMOVED FROM THE PROSECUTION'S
21 DISCOVERY.

22 IT SEEMS TO ME THE MAIN ISSUE IS ONE OF
23 HANDLING THIS TRIAL IN A WAY THAT'S GOING TO BE FAIR TO
24 BOTH SIDES AND THAT'S ALSO GOING TO PRESERVE WHATEVER
25 RECORD AND OBJECTION THE DEFENSE HAS TO MR. JACKSON
26 VIEWING THE MATERIAL. AND THAT BRINGS US BACK TO THE
27 ISSUE OF WHETHER OR NOT RECUSAL OF MR. JACKSON IS
28 APPROPRIATE.

1 I DON'T KNOW IF IT'S ENTIRELY A 1424 PENAL
2 CODE SECTION MOTION. AND I SAY THAT BECAUSE I DON'T KNOW
3 HOW MUCH THE ATTORNEY GENERAL NEEDS TO BE A PARTICIPANT
4 IN THIS, THE WAY I VIEW IT. AND THIS IS JUST MY FEELING
5 ON IT. I HAVEN'T REACHED A CONCLUSION AT ALL BECAUSE I
6 NEED TO GET ALL OF YOUR COMMENTS.

7 BUT IT SEEMS TO ME THAT WHEN I MADE MY
8 PREVIOUS RULING, MY MAIN CONCERN WAS HOW TO ENFORCE IT;
9 THAT WAS WHAT STARTED, I THINK, ALL THIS WITH THE SPECIAL
10 MASTER. AND I AM STILL AT THE SAME PLACE. I'M STILL IN
11 A POSITION NOW WHERE -- REGARDLESS OF WHO DOES THE ACTUAL
12 TRIAL -- THAT IS, WHAT JUDGE DOES THE TRIAL -- HOW IS THE
13 COURT'S ORDER PRECLUDING THE USE OF THIS MATERIAL OR ANY
14 EVIDENCE DERIVED FROM THE MATERIAL GOING TO BE ENFORCED?
15 THAT'S, TO ME, MY MAIN CONCERN.

16 NOW I KNOW THAT, MS. SARIS, YOU BELIEVE
17 THAT THE ATTORNEY THAT -- STRIKE THAT -- THAT THE
18 DISTRICT ATTORNEY'S OFFICE SHOULD BE RECUSED. YOU
19 BELIEVE THAT THE COURT SHOULD DISMISS THE CASE AS A
20 SANCTION. AND WE CAN LITIGATE ALL OF THAT. BUT MY
21 IMMEDIATE CONCERN IS HOW TO GO ABOUT SEEING TO IT THAT
22 THE COURT'S ORDER IS GOING TO BE ENFORCEABLE. HOW THE
23 COURT IS GOING TO BE ABLE TO MONITOR IT.

24 AND IN THINKING ALONG THOSE LINES AND IN
25 REVIEWING THE CASE LAW ON RECUSAL, IT DAWNED ON ME -- AND
26 MAYBE IT JUST TOOK ME A LONG TIME TO SEE THIS -- BUT
27 DOESN'T THE COURT HAVE THE INHERENT AUTHORITY TO REMOVE
28 MR. JACKSON? THAT'S KIND OF A STRONG TERM. I DON'T WANT

1 TO USE "REMOVE." I DON'T WANT TO USE "RECUSE."

2 BUT TO ASK THE DISTRICT ATTORNEY'S OFFICE
3 TO PUT SOMEBODY ELSE ON THE CASE IN AN ABUNDANCE OF
4 CAUTION AND TO ASK THAT THEY -- I GUESS THE WORD IS
5 "BUILD A WALL" -- OR THE PHRASE IS "BUILD A WALL" AS A
6 METHOD FOR GUARANTEEING THAT THE COURT'S EARLIER ORDER IS
7 ENFORCEABLE AND ENFORCED.

8 AND I GUESS THAT'S WHERE I'M AT RIGHT NOW
9 WITH LOOKING AT MR. JACKSON. BECAUSE I DON'T THINK 1424
10 WOULD AUTHORIZE, UNDER THIS SCENARIO, THE REMOVAL OR THE
11 RECUSAL OF THE ENTIRE D.A.'S OFFICE.

12 MS. SARIS: BUT CAN I JUST --

13 THE COURT: BUT WE CAN LITIGATE THAT LATER.

14 MS. SARIS: OBVIOUSLY, THAT'S THE REQUEST. I'M
15 UNDERSTANDING THE COURT THINKS THAT MAY BE WITHOUT MERIT.

16 THE COURT: I THINK -- BUT I'M JUST KIND OF
17 SPEAKING OUT LOUD BECAUSE I HAVE THE ATTORNEY GENERAL AND
18 HE DOESN'T HAVE THE MATERIAL. I HAVE MR. JACKSON HERE
19 AND HE IS THE ONLY ONE WHO HAS VIEWED THIS MATERIAL. AND
20 IT'S HIS REPRESENTATION THAT HE HAS NOT DONE ANYTHING IN
21 THIS CASE SO FAR BASED ON THIS MATERIAL -- THIS
22 PRIVILEGED MATERIAL. WE HAVE A CO-PROSECUTOR IN THE CASE
23 THAT HASN'T VIEWED THE MATERIAL --

24 MS. SARIS: AND THAT'S WHERE I'M SORT OF CHOMPING
25 AT THE BIT. I CANNOT ACCEPT THAT REPRESENTATION,
26 OBVIOUSLY, ON ITS FACE. AND IF THE COURT IS CONSIDERING
27 ORDERING THE DISTRICT ATTORNEY'S OFFICE TO REASSIGN
28 PROSECUTORS -- WHICH I BELIEVE THE COURT DOES HAVE THE

1 INHERENT AUTHORITY TO DO -- AND THE ATTORNEY GENERAL
2 DOESN'T HAVE ANY STAND OR OBJECTION ON THAT, I SUPPOSE
3 COUNTY COUNSEL WOULD COME IN AT THAT POINT BECAUSE WE'RE
4 ASKING FOR BOTH MR. JACKSON AND MR. DIXON.

5 THE COURT: I KNOW.

6 MS. SARIS: AND MR. DIXON UNFORTUNATELY HAS BEEN
7 UNABLE TO ATTEND THESE HEARINGS. I KNOW ON PRIOR
8 OCCASIONS HE INDICATED THAT HE HASN'T READ THE MATERIAL.
9 BUT I DO THINK HE SHOULD BE SUBJECT TO SOME SORT OF
10 CROSS-EXAMINATION REGARDING THE STATEMENTS HE HAS MADE
11 AND WHAT PARTICULARLY THE CONVERSATIONS HE HAD WITH
12 MR. JACKSON.

13 BECAUSE THIS COURT AND I BOTH OBSERVED HIM
14 AT THE PRELIMINARY HEARING. HE CERTAINLY WAS NOT AT A
15 LOSS FOR WORDS. HE CERTAINLY WAS VERY UP TO SPEED ON
16 WHAT WAS GOING ON. SO IF HE HAS NOT READ ANYTHING, THEN
17 HE HAS HAD EXTENSIVE BRIEFING BY MR. JACKSON. AND I AM
18 NOT ATTRIBUTING ANY MALFEASANCE. I THINK IT'S IMPOSSIBLE
19 FOR HIM TO KNOW, HAVING GONE THROUGH 40,000 PAGES, WHAT
20 HE THINKS WAS DERIVED FROM AN ATTORNEY/CLIENT PRIVILEGED
21 PIECE OF PAPER AND WHAT HE BELIEVES WAS NOT.

22 AND THAT'S WHERE I THINK THE COURT IN
23 ENFORCING ITS PRIOR ORDER, NOT ONLY OUT OF AN ABUNDANCE
24 OF CAUTION OUT OF THE DUE PROCESS AND FAIRNESS FOR
25 MR. GOODWIN, THAT IF THE COURT IS NOT INCLINED UNDER 1424
26 TO ACT, THAT BOTH OF THESE PROSECUTORS HAVE TO BE
27 SHIELDED FROM REPRESENTING THE STATE AGAINST
28 MR. GOODWIN'S INTEREST IN THESE CIRCUMSTANCES --

1 THE COURT: WELL, LET ME GET THE ATTORNEY
2 GENERAL'S RESPONSE. BECAUSE I'M BASICALLY SITTING HERE
3 SAYING -- OR AT LEAST YOU ARE SAYING BASED ON WHAT I HAVE
4 SAID THAT YOU DON'T THINK THE ATTORNEY GENERAL WOULD HAVE
5 STANDING ON ARGUING THE MATTER IF I WASN'T GOING TO
6 ENTERTAIN IT OR GRANT IT UNDER 1424.

7 MR. MATTHEWS: YES, YOUR HONOR. JUST BRIEFLY.
8 THE AUTHORITY OF THE COURT TO DICTATE WHO IS THE
9 PROSECUTOR IN THE CASE IS DERIVED FROM 1424. 1424
10 PERMITS THE COURT OF FINDING A CONFLICT OF INTEREST TO
11 DISQUALIFY A PARTICULAR DISTRICT ATTORNEY AND/OR DISTRICT
12 ATTORNEY'S OFFICE.

13 ABSENT 1424, THE COURT HAS LIMITED OR NO
14 AUTHORITY TO DICTATE THE CHOICE OF THE PROSECUTION OR THE
15 PROSECUTORIAL AGENCY. AND THAT'S PURSUANT TO SEPARATION
16 OF POWERS. AND SO ABSENT THIS COURT FINDING A CONFLICT
17 OF INTEREST SHOULD THE CASE BE PROSECUTED BY THIS
18 PARTICULAR PROSECUTOR OR BY THE LOS ANGELES DISTRICT
19 ATTORNEY'S OFFICE, THERE IS NO OTHER AUTHORITY THE COURT
20 HAS TO DICTATE WHO WOULD BE THE PROSECUTOR IN THE CASE.

21 AND SO I THINK THE ONE THING OUR
22 OPPOSITION HAS DEMONSTRATED IS NOT ONLY IS THERE THIS
23 RECUSAL REMEDY FOR THE WRONG THEY HAVE ALLEGED, BUT THE
24 REMEDY OF RECUSING THE LOS ANGELES COUNTY DISTRICT
25 ATTORNEY AND ALL OF THE NEARLY 1,000 PROSECUTORS IN THAT
26 OFFICE DUE TO THIS CONFLICT HAS CLEARLY NOT BEEN
27 DEMONSTRATED BY THE ARGUMENTS THROUGH -- OR THE MOTION --
28 AT LEAST THE MOTION TO THE EXTENT THAT IT'S BEEN SERVED

1 ON THE ATTORNEY GENERAL.

2 THE COURT: THE POSITION THAT YOU ARE TAKING IS
3 THAT THE COURT CAN ONLY ACT UNDER 1424. I COULDN'T FIND
4 ANYTHING IN THE CASE LAW TO SUGGEST THAT THE COURT
5 DOESN'T HAVE INHERENT AUTHORITY INDEPENDENT OF 1424. I
6 AM MINDFUL OF THE FACT THAT THERE WAS A RECENT CASE THAT
7 WAS ORIGINALLY PUBLISHED, BUT WAS ORDERED DE-PUBLISHED
8 WHERE THE COURT THERE RELIED ON THE CODE OF CIVIL
9 PROCEDURE 128, I THINK IT IS.

10 I KNOW CASE LAW PRIOR TO THE ENACTMENT OF
11 1424 ALSO REFERRED TO THE CODE OF CIVIL PROCEDURE 128. I
12 BELIEVE IT'S CCP 128. AND I'M NOT SURE THAT THAT'S THE
13 CASE THAT I AM LIMITED TO JUST ACTING UNDER 1424 OR NOT.
14 AND I THINK IT'S NOT REALLY ALL THAT CLEAR. OBVIOUSLY,
15 IF THE CASE THAT I'M REFERRING TO OVER THE LAST FEW
16 MONTHS HAD NOT BEEN DE-PUBLISHED, WE WOULD HAVE
17 AUTHORITY.

18 BUT NEVERTHELESS, IT WAS NOT A CASE WHERE
19 THE CODE OF CIVIL PROCEDURE WAS UTILIZED FOR THE FIRST
20 TIME. THE CODE OF CIVIL PROCEDURE AND THE COURT'S
21 INHERENT AUTHORITY OF THE ORDERLY -- OR MAINTAINING THE
22 ORDERLY PROCEEDING OF -- THE COURT TO INHERENTLY MAINTAIN
23 PROCEEDINGS, THOSE ARE ALL POWERS THAT I THINK THE COURT
24 HAS.

25 NOW WHETHER IT GOES AS FAR AS TO SAY THAT
26 THE COURT HAS THE RIGHT TO REMOVE A PROSECUTOR, I DON'T
27 KNOW THAT THAT'S, IN FACT, THE CASE. THAT'S WHY I
28 COUCHED MY SUGGESTION IN TERMS OF THE D.A.'S OFFICE MAY

1 WISH TO ASSIGN ANOTHER PROSECUTOR IN AN ABUNDANCE OF
2 CAUTION AND TO ASSIST IN PRESERVING THE RECORD.

3 BECAUSE IF THERE IS A TRIAL AND A
4 CONVICTION, IF MR. JACKSON IS THE PROSECUTOR, IT IS GOING
5 TO BE A CAN OF WORMS, TO SAY THE LEAST, FOR APPELLATE
6 COUNSEL AND THE APPELLATE COURT TO MAINTAIN, I GUESS, A
7 CLEAR RECORD.

8 AND I DON'T KNOW HOW A TRIAL JUDGE IS
9 GOING TO DO IT. I DON'T THINK -- WELL, I DON'T WANT TO
10 GET TOO FAR AHEAD OF MYSELF, BUT THAT'S MY THOUGHT. I
11 KNOW THE ATTORNEY GENERAL FEELS 1424 IS THE ONLY STATUTE.

12 I DON'T KNOW, MR. JACKSON, IF YOU HAVE ANY
13 THOUGHTS ON IT. BUT IN A PERFECT WORLD, I WOULD SAY THAT
14 EVEN THOUGH YOU HAVE DEVOTED A LOT OF TIME AND ENERGY TO
15 THIS CASE AND A LOT OF PREPARATION -- OBVIOUSLY YOU KNOW
16 IT BETTER THAN ANYONE, YOU KNOW -- I WOULD SAY IN A
17 PERFECT WORLD, PERHAPS YOU SHOULD STEP ASIDE.

18 AND I WOULD LIKE THAT TO HAPPEN FROM, I
19 GUESS, BY YOU TAKING THAT INITIATIVE OR YOUR OFFICE
20 TAKING THE INITIATIVE RATHER THAN THE COURT. BUT THAT'S
21 JUST MY THOUGHT AND I'M NOT MAKING ANY DECISION HERE. I
22 DON'T HAVE MY MIND MADE UP. BUT IT JUST DAWNED ON ME
23 THAT IF I WERE IN THAT POSITION, FOR PURPOSES OF
24 PRESERVING A RECORD, I MIGHT WANT TO CONSIDER IT.
25 BUT IT'S YOUR CALL.

26 MR. JACKSON: YOUR HONOR -- AND THANK YOU VERY
27 MUCH FOR YOUR WORDS AND THOUGHTS. OBVIOUSLY YOU HAVE
28 SPENT A LOT OF TIME THINKING ABOUT THIS AS WELL. AND I

1 THINK COGENTLY TRYING TO ANALYZE THE SITUATION.

2 I GUESS I HAVE A COUPLE OF QUESTIONS. IT
3 SEEMS UNPRECEDENTED, I SUPPOSE. BUT I GUESS I HAVE A
4 COUPLE OF QUESTIONS TO CLARIFY WHAT THE COURT'S POSITION
5 IS. IS THE COURT'S POSITION THAT IF THE DISTRICT
6 ATTORNEY'S OFFICE, STEVE COOLEY, DOESN'T TAKE THE
7 INITIATIVE, FOR INSTANCE, TO REASSIGN THE CASE TO SOMEONE
8 OTHER THAN ME, THAT THE COURT WOULD BE THAT MUCH CLOSER
9 TO FINDING A 1424 CONFLICT OF INTEREST AND THEREFORE
10 REMOVING THE ENTIRETY OF THE D.A.'S OFFICE?

11 THE COURT: I DON'T -- I DON'T WANT YOU TO THINK
12 THAT THAT'S WHAT I'M EVEN SUGGESTING OR IMPLYING, NO.
13 THIS IS JUST -- I'M GOING TO GO -- LET'S PUT 1424 ON THE
14 SIDE FOR A MOMENT. AND LET'S JUST TALK ABOUT THE
15 INHERENT AUTHORITY OF THE COURT --

16 MR. JACKSON: OKAY.

17 THE COURT: -- AND THE BEST WAY TO HANDLE THIS
18 CASE IN THAT WE ARE LOOKING AT A TRIAL DATE COMING UP IN
19 THE NEAR FUTURE. THE CASE HAS COME A LONG WAY. WE HAVE
20 SPENT A LOT OF TIME IN MOTIONS ON IT AND JUST PERSON TO
21 PERSON. JUST LOOKING AT THIS FROM THE PROSPECTIVE OF
22 SOMEONE THAT KNOWS NOTHING ABOUT IT -- LIKE AN APPELLATE
23 COURT GETTING THE CASE LATER ON DOWN THE ROAD -- WHAT IS
24 GOING TO MAKE THINGS THE EASIEST FOR EVERYBODY?

25 WOULDNT IT BE THE ONE D.A. OUT OF A
26 THOUSAND THAT HAS HAD ACCESS TO THE INFORMATION THAT WE
27 AGREE IS PRIVILEGED AND IS ORDERED NOT TO USE THAT
28 INFORMATION IN ANY WAY, SHAPE OR FORM; ISN'T IT JUST, IN

1 AN ABUNDANCE OF CAUTION, THE WISEST THING TO DO?

2 IF YOU SAY NO, THEN -- AND YOU HAVE EVERY
3 RIGHT TO -- THEN I AM BACK TO WHERE I WAS TEN MINUTES AGO
4 HAVING TO GO THROUGH THE 1424 ANALYSIS. AND IF I GET
5 THROUGH THAT WITHOUT ORDERING A RECUSAL -- WHICH I WILL
6 BE HONEST WITH YOU, 1424 IS PRETTY STRICT AND THERE HAS
7 TO BE A PRETTY SIGNIFICANT SHOWING. AND I DON'T KNOW IF
8 AFTER THE ATTORNEY GENERAL BUILDS THE WALL AND HAS THE
9 CLEAN TEAM AND DIRTY TEAM AND REVIEWS THE MATERIAL; AND I
10 GET MR. BIRD ASSISTING ME, I DON'T KNOW IF AT THE END OF
11 THAT ROAD A MONTH FROM NOW I AM GOING TO BE IN ANY BETTER
12 POSITION THAN I AM RIGHT NOW.

13 I AM NOT OPTIMISTIC THAT THE 1424 ISSUE IS
14 GOING TO RESOLVE THINGS. I AM MINDFUL OF THE FACT THAT
15 THE RECUSAL REMEDY IS ONE THAT NEEDS TO BE EMPLOYED IN
16 THE RAREST OF SITUATIONS. AND IT TAKES A LOT TO GET TO
17 THAT POINT WHERE AN ENTIRE D.A.'S OFFICE WOULD BE RECUSED
18 AND PROPERLY SO. I DON'T KNOW THAT I AM GOING TO GET
19 THERE IN THIS CASE.

20 BUT I DO THINK EVENTUALLY I AM GOING TO
21 HAVE TO DETERMINE HOW THE COURT IS GOING TO BEST ENFORCE
22 ITS OWN ORDER. AND THAT'S WHERE I'M STUCK. AND THAT'S
23 WHY I WOULD LIKE TO TALK ABOUT THAT ONE FIRST. BECAUSE I
24 THINK AT THE END OF THE 1424 ROAD THAT'S WHERE WE ARE
25 GOING TO BE. BECAUSE I THINK I AM GOING TO END UP
26 PROBABLY DENYING THE 1424 MOTION, ALTHOUGH I HAVEN'T MADE
27 MY MIND UP. IT'S JUST BASED ON WHAT I HAVE SEEN. I
28 THINK IT IS A PRETTY SIGNIFICANT HURDLE THAT THE DEFENSE

1 HAS TO OVERCOME.

2 MR. JACKSON: I GUESS MY POSITION, YOUR HONOR,
3 WOULD BE -- ADDRESSING THIS FOR THE FIRST TIME IN OPEN
4 COURT AND ON THE RECORD -- I'M NOT GOING TO WALK OUT THE
5 DOOR AND SAY "GOODBYE" RIGHT NOW. AND I DON'T THINK THE
6 COURT EXPECTED ME TO. THIS IS SIMPLY JUDICIAL FOOD FOR
7 THOUGHT. AND I TAKE THE COURT'S SUGGESTIONS VERY, VERY,
8 VERY SERIOUSLY.

9 AT THIS POINT, THE POSITION THAT I THINK
10 THE ATTORNEY GENERAL IS IN AND I AM IN, AS A
11 REPRESENTATIVE OF THE OFFICE AND ULTIMATELY THE PEOPLE,
12 IS THAT I STILL DON'T BELIEVE LEGALLY THAT MR. GOODWIN
13 AND HIS REPRESENTATIVES HAVE MADE A CLEAR ENOUGH SHOWING
14 OF A CONFLICT OF INTEREST SO SUBSTANTIAL THAT EITHER ME
15 AS AN INDIVIDUAL PROSECUTOR OR MY OFFICE AS A
16 REPRESENTATIVE OF THE PEOPLE HAVE ABANDONED OR ARE GOING
17 TO ABANDON OUR DISCRETIONARY FUNCTION. AND I BELIEVE
18 THAT'S A RELATIVELY ACCURATE STATEMENT OF WHAT THEY HAVE
19 TO SHOW.

20 THAT HAVING BEEN SAID, IF THE COURT IS IN
21 A POSITION TO MAKE A DETERMINATION THAT FOR OUR PURPOSES
22 HERE TODAY AND THROUGH THE TRIAL -- WHOEVER THE
23 MAGISTRATE THAT HAPPENS TO BE THAT'S PRESIDING OVER THE
24 TRIAL -- THAT THERE WASN'T A SIGNIFICANT ENOUGH SHOWING,
25 THAT STILL LEAVES OPEN THE QUESTION FOR -- TO USE THE
26 COURT'S TERM -- A BIG CAN OF WORMS FOR THE APPEAL.

27 AND I WILL SIT DOWN, OBVIOUSLY, AND HAVE A
28 HEART-TO-HEART WITH MY COLLEAGUES AND DETERMINE IF IT

1 MIGHT NOT BE BEST IF I STEP ASIDE. WHAT I GUESS THE
2 POINT OF THE MATTER IS, THAT'S A DECISION THAT WE WILL
3 HAVE TO MAKE AS A STRATEGY DECISION NOT A LEGAL DECISION.
4 I BELIEVE LEGALLY WE ARE ON SOLID FOOTING AS A
5 PROSECUTORIAL AGENCY. AND THE COURT WOULD BE ON EQUALLY
6 SOLID FOOTING IN DENYING THE DEFENSE REQUEST TO RECUSE
7 THE OFFICE.

8 AND QUITE FRANKLY, I'M LIKE YOU, I DON'T
9 KNOW IF THE COURT HAS AN INHERENT AUTHORITY TO SAY,
10 MR. JACKSON, I'M NOT FINDING A CONFLICT SO EGREGIOUS IN
11 AND AMONG THE ENTIRETY OF THE DISTRICT ATTORNEY'S OFFICE;
12 BUT I AM FINDING A CONFLICT WITH YOU, SO YOU HAVE TO STEP
13 ASIDE AND ANYBODY ELSE IN THE OFFICE CAN HANDLE IT. I
14 DON'T KNOW IF THAT AUTHORITY RESTS WITH THE COURT.

15 I THINK MR. MATTHEWS BRINGS UP A VERY SAGE
16 POINT. THERE IS A -- I'M PART OF THE EXECUTIVE BRANCH.
17 THE COURT IS THE JUDICIAL BRANCH. AND I DON'T KNOW THAT
18 THERE IS NOT A SEPARATION OF POWERS PROBLEM THAT WE HAVE
19 WITH THAT. I DON'T THINK THE COURT CAN -- AND PLEASE
20 UNDERSTAND HOW I'M CHOOSING MY WORDS; I DON'T MEAN THIS
21 DISPARAGING -- THE COURT CAN'T PICK THE PROSECUTORS. AND
22 WE'RE GETTING AWFULLY CLOSE TO THAT.

23 THE COURT: WELL, I THREW IT OUT THERE BECAUSE
24 THE PROBLEM WITH THE 1424 MOTION IS THE ATTORNEY GENERAL
25 GETS TO ARGUE IT; AND HAS TO BASICALLY HAVE THE MATERIAL
26 THAT WAS PROVIDED TO THE COURT AND THE SPECIAL MASTER TO
27 ARGUE IT.

28 MR. JACKSON: RIGHT.

1 THE COURT: SO YOU CAN'T ARGUE IT.

2 MR. JACKSON: AND TAKING THAT TO ITS LOGICAL
3 EXTREME -- AND I THINK MR. MATTHEWS AND MS. SARIS WOULD
4 AGREE -- THAT 1424, AS IT'S WRITTEN, MEANS THAT I GET IT,
5 TOO. I'M SUPPOSED TO BE SERVED WITH THE SAME DOCUMENT
6 THAT THE ATTORNEY GENERAL'S OFFICE IS.

7 NOW WE ARE IN UNCHARTED -- IT MAY NOT BE
8 COMPLETELY UNCHARTED, BUT IT'S CERTAINLY NOT WELL
9 CHARTED TERRITORY BECAUSE OF THE NUANCES WITH THIS
10 PARTICULAR CASE.

11 AND I'M NOT EXCITED ABOUT THE IDEA OF
12 READING ANOTHER 50 PAGES FROM MS. SARIS. IN OTHER WORDS,
13 I SAY THAT TONGUE AND CHEEK. BUT I DON'T KNOW THAT I
14 NECESSARILY HAVE TO HAVE THOSE DOCUMENTS GIVEN WHERE WE
15 ARE RIGHT NOW. BUT I THINK MR. MATTHEWS DOES IN THAT HE
16 IS IN A UNIQUE POSITION ON THIS SIDE OF THE TABLE OF
17 SAYING, WELL, YOU SHOULDN'T GRANT THE MOTION BECAUSE I
18 DON'T THINK IT'S VERY GOOD. WE JUST DON'T HAVE THE
19 INFORMATION.

20 THE COURT: I'M BASICALLY AGREEING. IT'S JUST
21 THAT I AM NOT GETTING A RESPONSE FROM THE ATTORNEY
22 GENERAL THAT IS "SUBMITTED." IT'S "WE CAN'T RESPOND TO
23 THIS BECAUSE WE DON'T HAVE THE DOCUMENTS WE ARE ENTITLED
24 TO." AND I AGREE. BUT IF THE ATTORNEY GENERAL WERE TO
25 SAY, "WELL, WE DON'T THINK THERE IS A SUFFICIENT SHOWING
26 SUBMITTED. AND IF THE COURT WANTS TO DENY IT, SO BE IT."

27 I THINK I MADE IT CLEAR THAT THINK THE
28 DEFENSE HAS A PRETTY TOUGH BURDEN HERE. AND I DON'T SEE

1 THEM MAKING IT IN REVIEWING THE MATERIAL THAT WAS GIVEN
2 TO ME BY MR. BIRD. I DON'T SEE HOW THE DEFENSE IS GOING
3 TO MAKE THAT SHOWING, BUT THEY HAVE THE RIGHT TO ATTEMPT
4 TO MAKE THAT SHOWING.

5 MR. MATTHEWS: YOUR HONOR, I THINK MAYBE I DIDN'T
6 MAKE MYSELF CLEAR. I DID, IN THE MOTION I BELIEVE,
7 INDICATE THAT WE DO BELIEVE THAT AN INSUFFICIENT BASIS
8 HAS BEEN SHOWN. AND I AM WILLING TO SUBMIT ON OUR
9 OPPOSITION. AND MY ONLY POSITION IS THAT THE COURT COULD
10 NOT GRANT THIS MOTION UNLESS THE SUBSTANTIVE GROUNDS HAD
11 BEEN SERVED ON US. BUT THE COURT COULD SUBSTANTIVELY
12 DENY THE MOTION ON THE MERITS WITHOUT HAVING SERVED THOSE
13 SUBSTANTIVE GROUNDS ON US UNDER THE CIRCUMSTANCES IN THIS
14 CASE IN PARTICULAR.

15 SO I WILL SUBMIT ON THAT IF THAT'S WHAT
16 THE COURT WAS WANTING.

17 THE COURT: THANK YOU.

18 MS. SARIS: MAY I BE HEARD? FIRST OFF -- AND NO
19 DISRESPECT -- I'M JUST OUTRAGED THAT WE'RE ALL HAVING
20 THIS CONVERSATION WITH SORT OF A WINK AND A NOD. YES, WE
21 UNDERSTAND THAT MY CLIENT'S RIGHTS HAVE BEEN VIOLATED.
22 WE UNDERSTAND THAT MR. JACKSON SAW ATTORNEY/CLIENT
23 PRIVILEGED LETTERS, SOME OF WHICH EMBODY THE ACTUAL
24 CHARGE IN THIS CASE AND ARE TITLED AND LISTED "DEFENSES
25 IN THE THOMPSON MURDER."

26 IT'S AS IF WE'RE TALKING ABOUT SOMEONE WHO
27 OWES SOMEONE \$100 RATHER THAN THE STATE OF CALIFORNIA
28 ATTEMPTING TO LOCK MY CLIENT IN A METAL CAGE FOR THE REST

1 OF HIS LIFE. WE HAVE AN EGREGIOUS VIOLATION OF HIS
2 CONSTITUTIONAL RIGHTS. THIS COURT HAS THE INHERENT
3 AUTHORITY TO DISMISS THE CASE. THIS COURT HAS THE
4 INHERENT AUTHORITY TO SAY I'M GOING TO DISMISS THIS CASE
5 IF YOU CONTINUE TO HAVE 1424.

6 IT SOUNDS LIKE THIS COURT IS UNWILLING
7 OUTRIGHT TO DISMISS THIS CASE. YOU CERTAINLY CAN SAY TO
8 THE DISTRICT ATTORNEY'S OFFICE, I'M PERSONALLY OUTRAGED
9 BY THIS. WHAT MORE DOES THE DEFENDANT HAVE TO DO?
10 HE LABELED THE DOCUMENTS IN HIS HOME "ATTORNEY/CLIENT
11 PRIVILEGED." HE ASKED THAT A SPECIAL MASTER BE
12 APPOINTED.

13 SO IF IT DOESN'T RISE TO THE LEVEL OF
14 CONDUCT THAT WOULD CAUSE A CONFLICT OF INTEREST IN THE
15 DISTRICT ATTORNEY'S OFFICE, I DON'T KNOW WHERE WE WOULD
16 EVER GET A RECUSAL MOTION. THERE IS NOTHING MORE
17 SACROSANCT THAN AN ATTORNEY/CLIENT PRIVILEGED DOCUMENT.
18 THEY HAVE IT. WHETHER THEY GOT IT LEGALLY; ILLEGALLY;
19 WHETHER THEY READ IT WHEN THEY KNEW THEY SHOULDN'T HAVE
20 OR ACCIDENTALLY READ IT, THE FACT IS IT'S READ.

21 EVERY DECISION THAT THEY'RE GOING TO MAKE
22 CANNOT BE SAID TO NOW NOT BE DERIVED FROM THE READING OF
23 THOSE DOCUMENTS. MR. JACKSON AND MR. DIXON SIMPLY, AS A
24 MATTER OF LAW AND FAIRNESS, NEED TO BE REMOVED FROM THIS
25 CASE. IF THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL
26 WANTS A COPY OF MY MOTION, THAT'S FINE.

27 AS LONG AS -- AND I TRIED IN ADVANCE OF
28 THE COURT DATE AND WAS REBUFFED TO HAVE THAT SET UP SO

1 THAT WE COULD COME IN HERE AND ARGUE. AND MR. GOODWIN IS
2 AT ANOTHER DISADVANTAGE, HE IS NOW AT HIS FOURTH YEAR OF
3 HAVING NO BAIL.

4 I TRIED TO CALL THE ATTORNEY GENERAL. I
5 DON'T WANT TO HAVE A SITUATION WHERE WE COME INTO COURT
6 AND YOU SAY YOU DON'T HAVE THE SUBSTANTIVE DOCUMENTS.
7 ALL I ASKED FOR THEM WAS SOMETHING IN WRITING OR A
8 TELEPHONE CALL FROM THIS COURT THAT WOULD HAVE STOOD FOR
9 THE REPRESENTATION THAT THEY WERE NOT GOING TO SHARE WITH
10 ANYONE IN THE EVENT THAT THEY DO BECOME THE PROSECUTOR.

11 I WAS TOLD TO SHOW UP IN COURT. I'M
12 WILLING TO GIVE IT TO THEM. WE CAN PUT IT OVER FOR A
13 DAY. I DON'T SEE HOW A DEFENDANT CAN TRY ANY HARDER TO
14 PROTECT HIS RIGHTS THAN TO DO WHAT MR. GOODWIN DID BY
15 LABELING THESE DOCUMENTS AND ASKING THE COURT NOT TO LOOK
16 AT THEM. AND ASKING THEM TO APPOINT A SPECIAL MASTER.

17 AND I THINK WE'RE ALL SITTING HERE IN THIS
18 SORT OF ALICE IN WONDERLAND WORLD, AGREEING THAT THERE
19 HAS BEEN SOME VIOLATION. AND THE ONLY QUESTION IS: HOW
20 CAN WE LEAVE THE PEOPLE WHO VIOLATED BE RESPONSIBLE FOR
21 PROSECUTING A MAN WHERE HIS LIBERTY FOR THE REST OF HIS
22 LIFE IS AT STAKE. I DON'T THINK IT SHOULD BE AN ISSUE.
23 THIS SHOULD BE OUT OF AN ABUNDANCE OF CAUTION.

24 IT SHOULD BE BECAUSE THE SYSTEM SAID YOU
25 DON'T DO IT IN TERMS OF DUE PROCESS. THIS IS NOT A
26 QUESTION OF A CIVIL LAWSUIT FOR MONEY. THERE IS TOO MUCH
27 AT STAKE TO TAKE CHANCES. AND IF THE DISTRICT ATTORNEY
28 IS UNWILLING TO DO THE RIGHT THING ON THEIR OWN, THEN I

1 THINK THIS COURT HAS AN INHERENT ABILITY TO DO IT FOR
2 THEM.

3 THE COURT: WELL, THAT'S AN ISSUE THAT I'M SURE
4 WE WILL HAVE TO ADDRESS. BUT UNDER 1424, THE COURT IS
5 SEVERELY LIMITED IN WHAT IT CAN DO IN TERMS OF ORDERING
6 THE RECUSAL OF AN ENTIRE D.A.'S OFFICE. AND I DON'T
7 THINK WE ARE ANYWHERE CLOSE.

8 MS. SARIS: I BELIEVE THE COURT STILL HAS THE
9 AUTHORITY UNDER 1424 TO TAKE OFF THE INDIVIDUAL
10 PROSECUTORS.

11 THE COURT: THAT MAY BE. BUT TO RECUSE AN ENTIRE
12 D.A.'S OFFICE, WE ARE NOT EVEN CLOSE. AND TO RECUSE AN
13 INDIVIDUAL D.A., I THINK THE FINDING HAS TO BE PRETTY
14 MUCH THE SAME. ALTHOUGH THE COURTS HAVE MADE IT CLEAR,
15 AT LEAST IN THE MILLSAP CASE, M-I-L-L-S-A-P, 70 CAL APP
16 4TH, THAT THE COURT CAN TAKE OFF AN INDIVIDUAL
17 PROSECUTOR. BUT THE COURT STILL HAS TO FIND THE CONFLICT
18 OF INTEREST THAT THAT EXISTS; AND THAT THE CONFLICT IS SO
19 GRAVE AS TO RESULT IN THE LIKELIHOOD OF ACTUAL PREJUDICE
20 TO A DEFENDANT.

21 OBVIOUSLY MILLSAP INVOLVED PROSECUTORS
22 THAT WERE NAMED VICTIMS IN A CASE. THE APPELLATE COURT
23 ANALYZED 1424. AND THE CASE LAW IN THIS AREA FELT THAT
24 THOSE TWO PROSECUTORS COULD PROSECUTE MR. MILLSAP ON HIS
25 CASE, EXCEPT THEY COULD NOT PROSECUTE HIM ON THE COUNTS
26 WHERE THEY WERE NAMED VICTIMS.

27 I MEAN THAT TO ME IS A MUCH DIFFERENT
28 SCENARIO THAN WHAT WE HAVE HERE. AND I THINK I

1 DETERMINED A WHILE AGO THAT IT WASN'T THIS D.A.'S OFFICE
2 THAT COMMITTED THIS EGREGIOUS MISCONDUCT. MY
3 RECOLLECTION FROM HEARING THIS MOTION A WHILE BACK WAS
4 THAT IT WAS THE ORANGE COUNTY D.A.'S OFFICE THAT EVEN
5 WHEN GIVEN A LETTER STATING AN OBJECTION BY MR. GOODWIN'S
6 COUNSEL TO THE SEIZURE OF THESE DOCUMENTS THAT WERE
7 CLEARLY ATTORNEY/CLIENT PRIVILEGE, THAT THE ORANGE COUNTY
8 D.A.'S OFFICE BASICALLY TOLD HIM TO POUND SAND.

9 AND IF ANYTHING SHOULD HAVE BEEN DONE TO
10 RIGHT THE WRONG AT THAT TIME, IT SHOULD HAVE BEEN DONE BY
11 THEM. AND THEY SHOULD HAVE AT LEAST GONE TO THE COURT
12 AND NOTIFIED THE COURT OF THIS SITUATION. I THINK I HAD
13 MADE THOSE FINDINGS A WHILE AGO THAT IT WASN'T THIS
14 PROSECUTOR'S OFFICE THAT REALLY DID ANYTHING. AND IT WAS
15 THE DISCOVERY THAT WAS GIVEN TO THEM THAT CONTAINED SOME
16 OF THIS MATERIAL.

17 AND I GATHER, MR. JACKSON, I THINK WE
18 PREVIOUSLY DISCUSSED THAT YOU SORT OF RECOGNIZE THAT THIS
19 MIGHT BE MATERIAL THAT'S PRIVILEGED AND PROPERLY SO. BUT
20 AT THAT POINT WE WERE IN A DIFFERENT POSTURE WITH A
21 DIFFERENT AGENCY.

22 SO I'M NOT DEALING WITH AN AGENCY THAT HAS
23 COMMITTED WHAT YOU CALL, MS. SARIS, "EGREGIOUS MISCONDUCT
24 AND A CLEAR VIOLATION OF YOUR CLIENT'S RIGHTS." SO IT IS
25 A DIFFERENT SITUATION FROM SOME OF THE OTHER CASES THAT
26 HAVE DISCUSSED THIS ISSUE.

27 OBVIOUSLY, WHEN THERE WAS AN EGREGIOUS
28 VIOLATION -- AND I RECALL THE CASE WHERE THE PROSECUTOR

1 INSTRUCTED HER I.O. TO GO LISTEN IN ON A CONVERSATION.
2 THAT WAS A CASE THAT WAS SO EGREGIOUS THAT THE COURT FELT
3 THAT DISMISSAL WAS THE APPROPRIATE REMEDY. AND WHEN YOU
4 BROUGHT THIS MOTION TO MY ATTENTION BEFORE ON A MOTION TO
5 DISMISS, I CITED THAT CASE. AND THIS IS NOT ANYWHERE
6 CLOSE TO THAT SCENARIO. SO --

7 MS. SARIS: BUT, YOUR HONOR, MAY I JUST --

8 THE COURT: SO I TAKE EXCEPTION TO SOME OF THE
9 THINGS THAT ARE BEING SAID HERE. I'M NOT JUST DOING A
10 WINK AND A NOD AND ALICE IN WONDERLAND KIND OF SCENARIO
11 HERE. I RECOGNIZE THE FACT THAT THERE IS PRIVILEGED
12 MATERIAL THAT IS SIGNIFICANT AND REQUIRES THE UTMOST
13 RESPECT. AND I AM AWARE OF THE FACT THAT MR. JACKSON HAD
14 ACCESS TO IT AND PERHAPS MR. DIXON. I DON'T KNOW. I
15 CAN'T DETERMINE THAT NOW.

16 BUT IN TERMS OF THE 1424 RECUSAL OF THE
17 ENTIRE OFFICE, WE ARE NOT THERE. 1424, RECUSAL OF AN
18 INDIVIDUAL PROSECUTOR, AGAIN, I DON'T THINK WE ARE THERE.
19 I THINK IT'S GOING TO BOIL DOWN TO AN INHERENT AUTHORITY,
20 IF THERE IS SUCH AUTHORITY, THAT THE COURT HAS.

21 THERE ISN'T A VIOLATION OF SEPARATION OF
22 POWERS DOCTRINE TO EITHER ASK THE D.A.'S OFFICE TO DO
23 WHAT I THINK THEY SHOULD DO. ALTHOUGH I'M NOT TELLING
24 THEM THAT THAT'S WHAT THEY SHOULD DO, IT MIGHT COME DOWN
25 TO AN ACTUAL ORDER THAT THE COURT WILL HAVE TO MAKE.

26 I'M JUST LOOKING TO TRY TO GET THIS CASE
27 MOVED ALONG AS QUICKLY AS POSSIBLE IN LIGHT OF THE FACT
28 THAT IT IS SO OLD AND THAT MR. GOODWIN HAS BEEN IN

1 CUSTODY FOR A VERY LONG --

2 MS. SARIS: AND WE CAN CONTINUE TO WAIVE THAT
3 PROBLEM, UNFORTUNATELY, THE COURT HAS DECIDED THAT THIS
4 IS A CASE THAT DOESN'T WARRANT BAIL. OUR CONCERN IS THAT
5 IN THE MILLSAP CASE THERE IS THE POSSIBILITY THAT THESE
6 TWO DISTRICT ATTORNEYS, WHO HAD BEEN PHYSICALLY HARMED BY
7 THE DEFENDANT, MIGHT HOLD A GRUDGE; MIGHT HAVE THEIR
8 POWERS OF DISCRETION HURT BY THEIR PERSONAL HATRED OF A
9 MAN -- BY A PERSON WHO TRIED TO HARM THEM.

10 IN OUR CASE, IT'S NOT JUST THE PRINCIPLE
11 OF THE THING. THESE ARE ACTUAL LETTERS OF THE BLUEPRINT
12 OF THE DEFENSE TO THIS HOMICIDE. AND AS I STATED, THOUGH
13 I CAN'T GO INTO DETAIL IN OPEN COURT, THERE IS ALSO ALL
14 SORTS OF BLUEPRINTS HERE THAT ONE DOES NOT NEED TO BE A
15 ROCKET SCIENTIST TO SEE THAT.

16 AND MY CONCERN IS I FEEL LIKE THE DEFENSE
17 IS, OF COURSE, PUT IN THE POSITION TO TRUST THE D.A. TO
18 DO THE RIGHT THING. AND I'M NOT WILLING, ON MY CLIENT'S
19 BEHALF, TO TRUST THAT THEY DO THE RIGHT THING. AND
20 THAT'S WHERE WE SIT.

21 THE COURT: WELL, I'M NOT GOING TO LEAVE IT IN
22 THAT POSTURE. I MEAN I'M NOT GOING TO LEAVE A RULING ON
23 THIS MOTION TO THE D.A. I'M JUST THROWING OUT THERE THAT
24 I THINK I HAVE ENOUGH NOW TO DENY THE 1424 RECUSAL MOTION
25 AND TO EXCUSE THE ATTORNEY GENERAL FROM FURTHER
26 PARTICIPATION.

27 BECAUSE I THINK WHAT IT'S GOING TO BOIL
28 DOWN TO ON ANOTHER DAY WHEN THE PARTIES HAVE HAD AN

1 OPPORTUNITY TO BRIEF THE ISSUE, IS WHETHER OR NOT THERE
2 IS INHERENT AUTHORITY ON MY PART TO ENFORCE MY PREVIOUS
3 ORDER BY ASKING -- OR ORDERING THE REMOVAL OF THE D.A.
4 WHOSE HAD ACCESS TO THE PRIVILEGED MATERIAL THAT IS NO
5 LONGER IN THEIR POSSESSION. THAT'S HOW I WOULD LIKE TO
6 FRAME THE ISSUE.

7 IS THE MATTER SUBMITTED ON THE 1424?

8 MR. JACKSON: SUBMITTED.

9 MR. MATTHEWS: SUBMITTED.

10 MS. SARIS: NO, YOUR HONOR. I BELIEVE THAT -- I
11 DON'T BELIEVE THIS IS A FULL AND COMPLETE HEARING ON THE
12 1424 AS TO THE INDIVIDUAL PROSECUTORS. IF YOU ARE SAYING
13 IT IS A PROCEDURAL ISSUE, I'M HAPPY TO GIVE THE ATTORNEY
14 GENERAL ITS COPY. BUT I WOULD SIMPLY -- THE COURT HAS
15 NOT HAD THE IN CAMERA REVIEW WITH THE SPECIAL MASTER. I
16 DON'T KNOW HOW THOROUGHLY THE COURT HAS READ EACH
17 INDIVIDUAL LETTER THAT WE'RE CLAIMING WE'RE PREJUDICED BY
18 ITS DISCLOSURE.

19 BUT I DON'T WANT TO BE IN A SITUATION
20 WHERE THE APPELLATE COURT SAYS THIS DISMISSAL WAS BECAUSE
21 I REFUSED TO SERVE THE ATTORNEY GENERAL AND THE MATTER IS
22 NOT TAKEN UP ON ITS MERITS.

23 THE COURT: I THINK YOU WILL BE ABLE TO -- I AM
24 BASICALLY SAYING -- AND I WILL SAY IT AGAIN IF I DIDN'T
25 MAKE IT CLEAR -- THAT I DID REVIEW THE PRIVILEGED
26 MATERIAL THAT WAS PROVIDED TO ME BY THE SPECIAL MASTER.
27 MR. BIRD, WHO IS HERE, HAS PROVIDED THE COURT WITH A BOX.
28 IN THAT BOX IS ALL THE MATERIAL THAT MR. BIRD TOOK OUT OF

1 THE PEOPLE'S DISCOVERY AND PUT IT IN THAT BOX FOR MY
2 REVIEW.

3 NOW I DIDN'T DIGEST FULLY EVERY LETTER
4 THAT WAS IN THERE, BUT I GOT THE THRUST OF THE DEFENSE IN
5 THOSE LETTERS. AND I DON'T KNOW THAT I NEED TO GO IN
6 CAMERA WITH MR. BIRD. I'M HAPPY TO IF YOU FEEL -- IF
7 ANYONE FEELS I HAVEN'T MADE AN ADEQUATE RECORD AS TO MY
8 REVIEW OF WHAT IS IN THE BOX.

9 MS. SARIS: WELL, IS THE COURT SAYING YOUR REVIEW
10 OF WHAT IS IN THE BOX INCLUDED MY ANALYSIS OF WHAT IS IN
11 THE BOX? I MEAN IN FAIRNESS WITH -- NO DISRESPECT. I
12 OBVIOUSLY KNOW OUR DEFENSE BETTER THAN THE COURT.

13 THE COURT: YOU DO, YES.

14 MS. SARIS: AND I ATTEMPTED TO SHOW THE COURT WHY
15 THOSE DOCUMENTS WERE DETRIMENTAL TO THE DEFENSE. AND I
16 TOOK THEM ONE AT A TIME. AND IF THE COURT HAS NOT HAD AN
17 OPPORTUNITY TO DIGEST THEM, I'M SORT OF SITTING HERE
18 WONDERING IF THE GIST OF THE VIOLATION AND THE GRAVITY OF
19 THAT VIOLATION IS REALLY COMING THROUGH.

20 THE COURT: AND YOU CAN MAKE YOUR RECORD IF YOU
21 WISH. BUT I THINK YOU HAVE DONE AN EXCELLENT JOB IN
22 BRIEFING THE ISSUE. MAYBE IN AN ABUNDANCE OF CAUTION
23 WHAT I WILL DO IS I WILL GO IN CAMERA WITH MR. BIRD AND
24 GET WHATEVER HIS COMMENTS MIGHT BE ON THIS ISSUE. AND WE
25 CAN RESUME IN A FEW MINUTES. OKAY?

26
27 (WHEREUPON AN IN CAMERA PROCEEDING WAS
28 HELD, NOT TRANSCRIBED HEREIN.)

(PAGES N-28 THROUGH N-30.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, FEBRUARY 6, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: P.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; ALSO PRESENT, GEORGE BIRD AND
12 STEVEN MATTHEWS, ATTORNEYS AT LAW; ALAN JACKSON,
13 DEPUTY DISTRICT ATTORNEY, REPRESENTING THE PEOPLE
14 OF THE STATE OF CALIFORNIA.
15

16 THE COURT: BACK ON THE RECORD.

17 MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
18 THE PEOPLE ARE REPRESENTED. THE ATTORNEY GENERAL IS ALSO
19 HERE AND THE SPECIAL MASTER.

20 IN CHAMBERS I ONLY WENT ON THE RECORD FOR
21 A VERY SHORT PERIOD OF TIME. THERE WASN'T REALLY A WHOLE
22 LOT THAT MR. BIRD AND I NEEDED TO DISCUSS ON THE RECORD.
23 SUFFICE IT TO SAY, I STAND BY MY EARLIER COMMENTS. BUT I
24 DO FEEL THAT IN LIGHT OF WHERE I THINK WE ARE HEADED AND
25 WHERE I THINK WE ARE GOING TO END UP -- SINCE, MS. SARIS,
26 YOU WISH TO BE GIVEN AN OPPORTUNITY TO MAKE A BETTER
27 RECORD -- I'M IN A POSITION TO SAY THAT I DON'T BELIEVE
28 UNDER ANY SCENARIO WE ARE GOING TO GET TO A RECUSAL OF

1 THE ENTIRE D.A.'S OFFICE.

2 I JUST DON'T SEE THAT HAPPENING, EVEN
3 ASSUMING EVERYTHING YOU SAY IS TRUE. I DON'T SEE IT.
4 RIGHT NOW I'M DEALING WITH A SITUATION WHERE I HAVE ONE
5 LAWYER, POSSIBLY TWO. AND I HAVE TO AGREE THAT I'M NOT
6 GOING TO ASSUME THAT MR. DIXON HASN'T BEEN TAINTED
7 SOMEHOW.

8 I DO CERTAINLY ACCEPT THE REPRESENTATIONS
9 OF COUNSEL WHEN I THINK MR. DIXON SAID HE DIDN'T LOOK AT
10 THIS MATERIAL. BUT IN DISCUSSING THIS MATTER WITH THE
11 SPECIAL MASTER, MY UNDERSTANDING IS MR. DIXON IS A
12 SUPERVISOR IN MAJORS.

13 RIGHT?

14 MR. JACKSON: THAT'S CORRECT, YOUR HONOR.

15 THE COURT: WHATEVER YOUR UNIT IS CALLED.

16 MR. JACKSON: MAJOR CRIMES DIVISION OF THE D.A.'S
17 OFFICE. YES, HE IS MY SUPERVISOR.

18 THE COURT: SO HE MAY HAVE BEEN TAINTED. I DON'T
19 KNOW. BUT I'M WILLING TO -- AND I THINK IT WOULD BE
20 REALLY ADVISABLE TO -- HAVE A HEARING WHERE BOTH THE
21 ATTORNEY GENERAL AND MR. JACKSON CAN RESPOND TO THE
22 SPECIFIC CLAIMS THAT ARE BEING RAISED BY THE DEFENSE IN
23 THAT THE ISSUE REALLY IS ONE OF WHICH MR. GOODWIN IS
24 GOING TO GET A FAIR TRIAL.

25 AND TO ANALYZE THAT, I DO HAVE TO GIVE THE
26 PEOPLE AN OPPORTUNITY TO RESPOND POINT BY POINT TO
27 MS. SARIS'S CLAIM THAT THE PROSECUTION'S THEORY OF THE
28 CASE WAS ALTERED IN LIGHT OF THE PRIVILEGED INFORMATION.

1 AND I THINK IT'S ONLY FAIR THAT
2 MR. JACKSON AND THE ATTORNEY GENERAL GET THAT DOCUMENT AS
3 WELL AS THE PRIVILEGED MATERIAL; TAKE A LOOK AT IT; AND
4 RESPOND TO IT. BUT THERE IS GOING TO HAVE TO BE A WALL
5 ESTABLISHED.

6 RIGHT?

7 MS. SARIS: WELL, UNLESS THE COURT IS ALREADY
8 SAYING NOW THAT MR. JACKSON WON'T PROSECUTE THE CASE.

9 THE COURT: I AM NOT SAYING THAT YET BECAUSE I DO
10 THINK I HAVE TO GO THROUGH THE 1424 ANALYSIS COMPLETELY.
11 AND IF I DON'T DISQUALIFY MR. JACKSON AND MR. DIXON, JUST
12 MR. JACKSON UNDER 1424, I AM GOING TO HAVE TO TAKE UP THE
13 ISSUE OF THE COURT'S INHERENT AUTHORITY.

14 MS. SARIS: BUT HOW CAN I GIVE THIS DOCUMENT TO
15 MR. JACKSON? THAT'S MY QUESTION.

16 THE COURT: WELL, I THINK WHAT HE SAID IS THAT HE
17 IS ENTITLED TO GET A COPY OF WHAT YOU ARE SERVING ON THE
18 ATTORNEY GENERAL. AND I TEND TO AGREE WITH THAT, ISN'T
19 HE?

20 MS. SARIS: I DON'T KNOW THAT HE IS. HE IS
21 ENTITLED TO NOTICE OF THE MOTION. I MEAN IF THEY WANT TO
22 HAVE A REPRESENTATIVE FROM THE L.A. DISTRICT ATTORNEY'S
23 COME IN; AND THEY WANT TO SET THAT INDIVIDUAL UP WITH A
24 CONE OF SILENCE, I DON'T HAVE A PROBLEM WITH THAT.

25 THE COURT: BUT THE PROBLEM IS MR. JACKSON IS THE
26 ONLY ONE THAT CAN RESPOND TO THE ALLEGATIONS BECAUSE YOU
27 ARE BASICALLY SAYING THAT HE HAS ALTERED HIS THEORY OF
28 THIS CASE BASED ON SOME OF THE INFORMATION HE LOOKED AT

1 OR HAD THAT WAS PRIVILEGED.

2 AND TO FULLY AND FAIRLY LITIGATE IT, DON'T
3 I NEED TO GET SOME INPUT FROM HIM AS TO WHETHER OR NOT
4 THE THEORY OF THE PROSECUTION'S CASE WAS, IN FACT,
5 ALTERED?

6 MS. SARIS: I THINK CERTAINLY WE CAN INQUIRE OF
7 HIM AS TO WHAT WENT INTO THAT DECISION. BUT I'M NOT
8 WILLING TO PART WITH MY WORK PRODUCT. AND FRANKLY IF THE
9 COURT PUTS US IN THAT POSITION, THERE IS SIMPLY NO WAY
10 THAT I WILL ALLOW THE 50-PAGE SUMMARY OF THESE DOCUMENTS
11 TO BE IN THE HANDS OF ANY PERSON WHO COULD POTENTIALLY
12 PROSECUTE THIS CASE.

13 I HAVE ANALYZED OUR DEFENSE IN THIS CASE.
14 I'M ASSUMING THAT REASONABLE PEOPLE HAVING READ WHAT THIS
15 COURT HAS READ IN THE BOX THAT MR. BIRD HAS GIVEN THIS
16 COURT COULD COME TO THESE CONCLUSIONS. BUT I'M NOT
17 INTENDING TO HELP THE STATE OR THE GOVERNMENT TO PUT
18 MR. GOODWIN IN PRISON FOR THE REST OF HIS LIFE.

19 IF THE D.A.'S OFFICE IS ENTITLED TO THIS,
20 THEN THEY CAN HAVE IT UNDER A CONE OF SILENCE. AND I
21 WILL GIVE IT TO A PROSECUTOR WHO CAN ARGUE IT FROM THEIR
22 OFFICE. BUT I DON'T SEE HOW THIS COURT CAN REQUIRE ME TO
23 GIVE UP BASICALLY MY WORK PRODUCT TO THE DISTRICT
24 ATTORNEYS WHO THE BASIS OF THE RECUSAL MOTION IS THAT
25 THEY'VE SEEN MY WORK PRODUCT.

26 THE COURT: EXCEPT THAT I TEND TO AGREE WITH YOU
27 THAT THE FINAL RESULT IS GOING TO BE FAVORABLE TO YOU.
28 IF YOU DON'T WANT TO SHARE THAT WITH MR. JACKSON, THEN

1 I'M NOT GOING TO ORDER YOU TO. BUT AT THE VERY LEAST,
2 THE ATTORNEY GENERAL HAS TO HAVE THE PRIVILEGED MATERIAL
3 TO BE ABLE TO ANSWER THE ALLEGATIONS.

4 MS. SARIS: I HAVE NO PROBLEM GIVING IT TO THE
5 ATTORNEY GENERAL. I WOULD ASK THAT THE ATTORNEY GENERAL
6 PLACE ON THE RECORD THEIR UNDERSTANDING THAT IF FOR SOME
7 REASON THIS COURT CHANGES ITS MIND UNDER 1424 AND THEY
8 BECOME THE PROSECUTORIAL AGENCY, THAT THE INDIVIDUALS WHO
9 READ THIS MOTION HAVE NOTHING TO DO -- NO CONTACT; NO
10 DISCUSSIONS WITH THE INDIVIDUAL PROSECUTORS THAT MAY COME
11 ON TO THIS CASE.

12 MR. MATTHEWS: YOUR HONOR, IF I MAY. I BELIEVE
13 THE COURT HAS INDICATED THAT RECUSAL OF THE LOS ANGELES
14 DISTRICT ATTORNEY'S OFFICE IN ITS ENTIRETY IS PRETTY MUCH
15 OFF THE TABLE. AND THAT THE ONLY PRONG THAT WE'RE
16 LOOKING AT IS POSSIBLY THE RECUSAL OF THIS PARTICULAR
17 PROSECUTOR.

18 THAT BEING THE CASE, IF THE MOTION NOW IS
19 LIMITED TO THAT PARTICULAR REMEDY, IT IS NOT NECESSARY
20 FOR THE ATTORNEY GENERAL'S OFFICE TO BE SERVED WITH THE
21 SUBSTANTIVE GROUNDS OF THE MOTION. IF THE MOTION IS THEN
22 AT THIS POINT LIMITED TO THE ONLY REMEDY BEING THE
23 POSSIBLE RECUSAL OF THIS PARTICULAR PROSECUTOR, THEN WE
24 DON'T NEED TO SEE THE GROUNDS AND THE COURT CAN MAKE ITS
25 RULING TODAY ON THAT MOTION.

26 THE COURT: OKAY.

27 MR. MATTHEWS: AND THEN OUR ROLE IN THE CASE IS
28 WE NO LONGER HAVE A ROLE IN THE CASE. IT BECOMES A

1 MATTER FOR THE COURT AND THE DISTRICT ATTORNEY'S OFFICE
2 AND THE DEFENSE COUNSEL. AND I WOULD ALSO DIRECT THE
3 COURT ONCE AGAIN TO THE EVIDENCE IT DOES HAVE BEFORE IT,
4 WHICH IS THE DECLARATION THAT THIS PARTICULAR PROSECUTOR
5 HAS SIGNED, WHICH IS APPENDED TO OUR PRIOR OPPOSITION; IN
6 PARTICULAR THE PARAGRAPHS TWO, THREE AND FOUR OF THAT
7 DECLARATION. THANK YOU.

8 SUBMITTED AGAIN, YOUR HONOR.

9 THE COURT: ALL RIGHT. THANK YOU. THEN INSOFAR
10 AS THE COURT HAS FOUND THAT THE RECUSAL OF THE ENTIRE
11 D.A.'S OFFICE IS NOT AN APPROPRIATE REMEDY, NOR HAS THE
12 DEFENSE PRESENTED ENOUGH TO SHOW THAT THE ENTIRE D.A.'S
13 OFFICE NEEDS TO BE RECUSED IN THIS MATTER, I WILL THANK
14 AND EXCUSE THE ATTORNEY GENERAL. AND WE WILL LEAVE IT AS
15 A MOTION TO RECUSE THE INDIVIDUAL D.A.S.

16 THANK YOU.

17 MR. MATTHEWS: THANK YOU, YOUR HONOR.

18 MS. SARIS: CAN I HAVE JUST A MOMENT?

19 (DISCUSSION OFF THE RECORD.)

20 MS. SARIS: YOUR HONOR, MR. JACKSON AND I JUST
21 HAD A BRIEF DISCUSSION. HE INDICATES TO ME THAT HE DOES
22 NOT WANT TO SEE THE SUBSTANTIVE MOTION BASED ON MY
23 CONCERNS THAT HE SHARES. HOWEVER, THEY MIGHT -- I
24 BELIEVE MR. DIXON IS ENGAGED IN ANOTHER MATTER. AND I
25 BELIEVE THAT THEIR OFFICE -- JUMP IN ANY TIME. I'M
26 TALKING TO YOU -- WANTS TO MEET AND CHAT ABOUT THIS. I'M
27 HAPPY TO LET THAT HAPPEN.

28 THE COURT: ALL RIGHT.

1 MS. SARIS: AS LONG AS THE COURT WITHHOLDS THE
2 RULING. THERE IS NOT A TRUST ISSUE ON OUR PART. WE CAN
3 SEE IF ANYTHING CHANGES ON ITS OWN IN THE NATURAL COURSE
4 OF EVENTS.

5 MR. JACKSON: MAY --

6 MS. SARIS: GO AHEAD.

7 MR. JACKSON: I WANT TO MAKE SURE I'M VERY CLEAR
8 ABOUT WHAT THE COURT'S ACTUAL RULINGS THUS FAR ARE.
9 NO. 1, UNDER 1424, THE MOTION TO RECUSE THE ENTIRETY OF
10 THE D.A.'S OFFICE UNDER STEVE COOLEY HAS BEEN DENIED.

11 CORRECT?

12 THE COURT: YES.

13 MR. JACKSON: BEFORE WE TOOK OUR BREAK, JUDGE,
14 YOU SAID THAT YOU DO NOT BELIEVE YOUR RULING WAS -- YOU
15 SAID YOU DID NOT BELIEVE THAT UNDER 1424 THE RECUSAL OF
16 ALAN JACKSON -- I NEVER ACTUALLY THOUGHT I WOULD TALK
17 ABOUT MYSELF IN THE THIRD PERSON. HOWEVER, NOW THAT
18 WE'RE BACK ON THE RECORD AFTER YOUR IN CAMERA RECORD, IS
19 IT CORRECT THAT YOU ARE HOLDING BACK THAT DETERMINATION
20 UNDER 1424?

21 THE COURT: I THINK I HAVE TO --

22 MR. JACKSON: OKAY.

23 THE COURT: -- AT THIS POINT.

24 MR. JACKSON: AND IN LIGHT OF THAT, JUDGE, I
25 DON'T WANT TO SEE THE DOCUMENT YET.

26 THE COURT: ALL RIGHT.

27 MR. JACKSON: I NEED SOME TIME TO DECIDE AND
28 ABSORB WHAT THE NEXT STEP IS. TO SAY I'M BETWEEN A ROCK

1 AND A HARD PLACE DOESN'T DO IT JUSTICE. IF I SEE IT,
2 THEN OBVIOUSLY I HAND MS. SARIS THE ARGUMENT THAT SHE IS
3 BEGGING TO MAKE, WHICH IS I'M TAINTED ANYWAY.

4 THE COURT: RIGHT. AND I HAVE TO NOTE, AS WAS
5 POINTED OUT BY MR. MATTHEWS, THERE WAS A DECLARATION
6 FILED A LONG TIME AGO. AND THE DECLARATION OF
7 MR. JACKSON IS SOMETHING THAT AT THIS POINT, I AM
8 CERTAINLY CONSIDERING AS HIS DECLARATION AS TO THE FACTS
9 AS TO WHAT HE DID IN PREPARING THIS CASE. SO THAT'S
10 WHERE WE ARE AT.

11 AND WITHOUT SOMETHING ADDITIONAL, I DON'T
12 KNOW THAT I CAN GET TO THE POINT THAT I THOUGHT I WAS AT
13 BEFORE, WHICH WAS TO SAY THAT UNDER 1424 THERE WOULD BE
14 NO RECUSAL OF THE INDIVIDUAL D.A. MR. JACKSON OR
15 MR. DIXON OR BOTH OF THEM. SO IF WE ARE GOING TO LEAVE
16 THAT FOR ANOTHER DAY, THE ONLY THING I COULD HOPE FOR IS
17 THAT THE D.A.'S OFFICE MAKES A DECISION WHICH WOULD
18 OBVIATE THE COURT HAVING TO SPEND MORE TIME ON THIS
19 ISSUE.

20 BUT IF NOT, WE CAN COME BACK AND DO THE
21 1424 ARGUMENT AND RULING; AS WELL AS I WOULD LIKE SOME
22 BRIEFING OR CONSIDERATION OF THE ISSUE OF INHERENT
23 AUTHORITY.

24 MR. JACKSON: I CAN DO AT LEAST THAT.

25 THE COURT: OKAY. UNDER CODE OF CIVIL PROCEDURE.

26 MR. JACKSON: IT'S 128 YOU SAID?

27 THE COURT: YES.

28 MS. SARIS: AND, YOUR HONOR, I REMEMBER GETTING A

1 DECLARATION FROM MR. JACKSON. IT'S BEEN A WHILE SINCE
2 I'VE READ IT. AND OBVIOUSLY ANY KIND OF HEARING
3 SUBSEQUENT TO THAT, I WOULD EXERCISE OUR RIGHT TO
4 CROSS-EXAMINE HIM ON THAT DECLARATION.

5 THE COURT: YES. AND ALSO FOR THE RECORD, THIS
6 WAS A MOTION INITIALLY TO DISMISS FOR EGREGIOUS
7 GOVERNMENTAL MISCONDUCT. AND THE COURT IS DENYING THAT
8 MOTION. WELL, I PREVIOUSLY DENIED IT. AND I AM GOING TO
9 STAND BY THAT EARLIER RULING. NOTHING HAS CHANGED IN MY
10 OPINION BECAUSE WE ARE STILL DEALING WITH A RECUSAL
11 ISSUE.

12 AND, AGAIN, I WILL REITERATE, I DON'T
13 THINK THAT WE HAVE EGREGIOUS MISCONDUCT ON THE PART OF
14 THIS PROSECUTORIAL AGENCY SUCH THAT THE COURT WOULD HAVE
15 TO DISMISS THIS CASE AS A SANCTION.

16 MS. SARIS: AND SO WE'RE CLEAR, WE ARE NOT
17 NECESSARILY SEPARATING TWO INDIVIDUAL AGENCIES, NO. 1.
18 NO. 2, WE'RE NOT ASKING FOR IT TO BE DISMISSED SO MUCH AS
19 A SANCTION SUCH THAT IT IS POSSIBLE NOW TO HAVE A FAIR
20 TRIAL. NOT SO MUCH TO PUNISH AN OFFICE, BUT TO PRESERVE
21 MR. GOODWIN'S DUE PROCESS RIGHTS UNDER THE STATE AND
22 FEDERAL CONSTITUTION.

23 THE COURT: I AM GOING TO DENY THE MOTION AT THIS
24 TIME RELYING ON MY -- WHAT I HAVE JUST FOUND TO BE THE
25 FACTS. AND I THINK I FOUND THOSE FACTS LAST TIME I HEARD
26 THE MOTION. BUT I KNOW IT IS A MOTION THAT WON'T GO AWAY
27 AND WE WILL SEE WHAT DEVELOPS.

28 MS. SARIS: AND AS TO NOW ANOTHER TOPIC, IF WE'RE

1 THINKING ABOUT ANOTHER DATE TO GIVE THE DISTRICT ATTORNEY
2 SOME TIME TO CONSULT INTERNALLY, I HAVE REQUESTED FROM
3 THE SHERIFF'S DEPARTMENT CERTAIN RECORDS, MEDICAL AND
4 PSYCHOLOGICAL RECORDS.

5 I WAS ADVISED ORIGINALLY THAT WE WERE TO
6 GO THROUGH A PARTICULAR AGENCY CALLED TRISTAR,
7 T-R-I-S-T-A-R. I DID NOT HEAR BACK FROM THEM ON TODAY'S
8 SUBPOENA. THIS IS A PITCHESS REQUEST. THEY'VE SENT A
9 LETTER TO THE COURT TODAY BECAUSE I DID SEND IT VIA
10 S.D.T. THEY SENT IT TO ME TO TELL THE COURT THAT THEY'RE
11 NOT IGNORING THE S.D.T. I'M ASSUMING WE WOULD COME TO
12 COURT FOR THEM TO SAY YES OR NO TO A PITCHESS.

13 AND I'VE ACTUALLY BEEN ADVISED THAT THEY
14 MAY NOT SAY NO. SO WITH THAT IF WE'RE GOING TO COME
15 BACK, IT TAKES ME 16 CALENDAR DAYS. I THINK WE CAN STILL
16 DO THAT WITHOUT WAIVING TIME.

17 THE COURT: I KNOW WE SET THE 24TH.

18 MS. SARIS: 28TH.

19 THE COURT: DIDN'T WE SET FEBRUARY 24TH AS ZERO
20 OF 60?

21 MS. SARIS: I BELIEVE IT WAS THE 28.

22 MR. JACKSON: IT WAS THE 24TH.

23 MS. SARIS: IT WAS THE 24TH?

24 MR. JACKSON: YES.

25 MS. SARIS: OKAY.

26 THE COURT: I WILL TAKE THE 28TH AS ZERO OF 60.

27 MS. SARIS: NO, I'M JUST SAYING --

28 MR. JACKSON: I HAVE NO PROBLEM WITH THAT.

1 MS. SARIS: I WOULD PREFER THE D.A. COME BACK
2 SOONER. WOULD IT BE ALL RIGHT WITH THE COURT IF I PUT ON
3 A HEARING DATE 16 DAYS FROM THE 16TH OF FEBRUARY FOR THE
4 PURPOSES OF PITCHES COMPLIANCE?

5 THE COURT: THAT'S FINE.

6 MS. SARIS: OKAY. SO I CAN COME BACK AS SOON AS
7 TOMORROW. I DON'T KNOW HOW LONG THE D.A. WILL NEED.

8 MR. JACKSON: I'M JUST LOOKING AT THE CALENDAR IF
9 I COULD JUST HAVE A QUICK SECOND.

10 (PAUSE IN PROCEEDINGS.)

11 MR. JACKSON: JUDGE, DOES WEDNESDAY THE 15TH OF
12 FEBRUARY WORK FOR THE COURT'S CALENDAR? GIVE ME A LITTLE
13 OVER A WEEK TO DO WHAT I NEED TO DO.

14 THE COURT: SURE. ALL RIGHT. WE CAN SET THE
15 MATTER ON THE 15TH. DO YOU WANT TO DO THE AFTERNOON
16 AGAIN?

17 MS. SARIS: NO, THAT WAS FOR MR. BIRD.

18 THE COURT: WE DON'T NEED MR. BIRD NEXT TIME?

19 MS. SARIS: I'M HAPPY TO DO THE AFTERNOON IF IT'S
20 MORE CONVENIENT. AND MR. GOODWIN ISN'T --

21 THE COURT: I THINK THE TRANSPORTATION OF
22 MR. GOODWIN IS ACTUALLY MORE COMPLICATED IF WE DO THE
23 AFTERNOON. BUT LET ME JUST CHECK WITH MY BAILIFF.

24 DO YOU SEE ANY --

25 THE BAILIFF: I DON'T SEE IT AS BEING ANY MORE
26 COMPLICATED.

27 THE COURT: IT'S GOING TO BE COMPLICATED.

28 MR. JACKSON: MY REQUEST WOULD BE THE MORNING

1 JUST TO FACILITATE CERTAIN OTHER FOLKS IN THE COURTROOM,
2 IF THAT'S OKAY.

3 THE COURT: SURE. SO WE WILL PUT IT ON CALENDAR
4 THEN FEBRUARY 15TH. WE HAD A NUMBER OF OTHER ISSUES THAT
5 WE HAD TO ADDRESS ALSO. THERE WERE ISSUES REGARDING
6 THE --

7 MS. SARIS: BALLISTICS.

8 THE COURT: -- BALLISTICS, YES.

9 MS. SARIS: I BELIEVE THAT MR. DIXON AND I HAD
10 COME TO SOME CONCLUSION, BUT THEN HE GOT INTO THIS OTHER
11 TRIAL. SO WE'RE GOING TO HAVE TO PUT THAT TORCH TO THE
12 15TH AS WELL.

13 THE COURT: AND THEN THERE WAS ALSO A SUPPRESSION
14 ISSUE THAT WAS LEFT.

15 MS. SARIS: RIGHT. AND I THINK THAT SHOULD
16 PROBABLY WAIT UNTIL AFTER THE 15TH AS WELL.

17 THE COURT: OKAY. SO WE WILL RESUME ON THE 15TH.
18 AND THAT WILL BE AT 8:30. WE WILL GET TO IT AS SOON AS
19 WE CAN.

20 MS. SARIS: AND WHAT WOULD AN APPEARANCE FOR
21 MR. GOODWIN BE WITHOUT SOME CONCERNS, YOUR HONOR, THAT I
22 NEED TO ADDRESS OUTSIDE THE PRESENCE OF THE --

23 THE COURT: OF COURSE.

24 MS. SARIS: MAY I APPROACH?

25 THE COURT: YES. ALL RIGHT.

26 MR. JACKSON: YOUR HONOR, THANK YOU.

27 THE COURT: THANK YOU, MR. JACKSON AND MR. BIRD.
28 OFF THE RECORD.

(PROCEEDINGS CONTINUED TO WEDNESDAY,
FEBRUARY 15, 2006, IN DEPARTMENT "E.")

1 CASE NUMBER: GA052683-01
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, MARCH 6, 2006
4 DEPARTMENT E HON. TERI SCHWARTZ, JUDGE
5 REPORTER: KERRY M. RUIZ, CSR #6114
6 TIME: A.M. SESSION
7

8 APPEARANCES:
9

10 ALAN JACKSON, DEPUTY DISTRICT ATTORNEY, FOR THE
11 PEOPLE; ELENA SARIS AND THOMAS SUMMER, DEPUTY
12 PUBLIC DEFENDERS FOR THE DEFENDANT, MICHAEL
13 FRANK GOODWIN.
14

15 THE COURT: MICHAEL GOODWIN. MR. GOODWIN IS PRESENT WITH
16 HIS COUNSEL. LET ME HAVE ALL COUNSEL STATE THEIR APPEARANCE
17 FOR THE COURT REPORTER, PLEASE.

18 MR. JACKSON: AL JACKSON ON BEHALF OF THE PEOPLE.

19 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER.

20 MR. SAUNDERS: THOMAS SAUNDERS, DEPUTY PUBLIC DEFENDER,
21 ALSO ON BEHALF OF MR. GOODWIN.

22 THE COURT: WE PUT THE MATTER OVER TO TODAY'S DATE. I AM
23 NOT SURE WHERE WE ARE ON THE TIME. DID WE TAKE A NEW WAIVER?

24 MS. SARIS: WE HAVEN'T.

25 MR. JACKSON: WE DID NOT. I'M -- I WOULD SAY WE'RE
26 FIVE --

27 MS. SARIS: WE'RE FIVE OR SIX OF 60.

28 MR. JACKSON: CORRECT.

1 THE COURT: IT IS 10 OF 60.

2 MR. JACKSON: SO WE HAVE 50 DAYS LEFT. I HAVE REVIEWED
3 THE PEOPLE'S OPPOSITION TO THE DEFENSE RECUSAL AND THEIR
4 MOTION, THE REPLY THAT WAS FILED BY THE DEFENDANT. SO WHERE
5 ARE WE TODAY BECAUSE I KNOW THAT DEFENSE INDICATED THAT IT
6 NEEDED TIME TO REVIEW SOME OF THE EXHIBITS THAT WERE PROVIDED.

7 MS. SARIS: YOUR HONOR, THAT WOULD BE CORRECT. IF THE
8 COURT IS UNWILLING TO MAKE TO GRANT THE MOTION BASED ON THE
9 200 OTHER DOCUMENTS THAT THE DISTRICT ATTORNEY HAD NO ARGUMENT
10 AGAINST, THAT WE LAID OUT THE IMPORTANT POINTS IN OUR PRIOR
11 PROCEEDINGS, IT'S OUR POSITION THAT THE COURT CAN TAKE THOSE
12 FINANCIAL DOCUMENTS THAT SPEAK TO THIS ISSUE IN THE MURDER
13 CASE AND BASED ON THOSE SOLELY RECUSE MR. JACKSON. IF THE
14 COURT IS UNWILLING TO DO THAT, WE WOULD LIKE TIME TO ADDRESS
15 WHAT THEY'RE CLAIMING AS A WAIVER BASED ON THE OTHER EXHIBITS
16 THAT SOME OF WHAT WE HAVE AND SOME OF WHAT WE DON'T, BUT IT IS
17 OUR POSITION THAT BASED ON THE DISTRICT ATTORNEY'S OWN
18 ADMISSION THERE IS NO WAIVER AND NO ARGUMENT ON THOSE 217 SOME
19 PAGES THAT I THINK WE WENT TO GREAT LENGTHS TO SHOW THE COURT
20 IN OUR MOTION THAT, GRANTED, THE DISTRICT ATTORNEY WAS NOT
21 PRIVY TO, INDICATED WHY THAT WOULD BE PREJUDICIAL TOWARDS
22 MR. GOODWIN AND HOW THAT IMPACTS THE CHARGES THAT HE'S FACING
23 IN THIS COURTROOM TODAY.

24 MR. JACKSON: WELL, THE PEOPLE'S POSITION IS IF WHAT
25 MS. SARIS SAYS IS TRUE THEN NO OTHER TIME IS NECESSARY. I
26 DIDN'T HAVE THE BENEFIT OR THE LUXURY OF SEEING OR DISSECTING
27 THE ANALYSIS THAT MS. SARIS QUITE PAINSTAKINGLY WENT THROUGH.
28 IF I HEAR HER CORRECTLY, WHAT SHE'S SAYING IS, "WELL, YOUR

1 HONOR, IF I WIN, THEN WE CAN DO THIS TODAY. IF I LOSE, THEN I
2 WOULD LIKE A LITTLE BIT MORE TIME."

3 I'M NOT SO SURE THAT THAT'S A FAIR WAY TO ADDRESS
4 THIS. IF MS. SARIS HAS ALREADY ADDRESSED ALL 217 PAGES THAT
5 SHE SAYS IS NOW AT ISSUE AND I'VE SUBSEQUENTLY ADDRESSED THOSE
6 ON MY OWN, I BELIEVE THE COURT HAS ALL THE TOOLS TO MAKE A
7 DETERMINATION. WE JUST SEE DON'T SEE EYE TO EYE, MS. SARIS
8 AND MYSELF ABOUT THE IMPACT OF THOSE. I DON'T THINK IT'S 217.
9 I THINK IT'S 164 THAT I ANALYZED THAT HAVE NO IMPACT OR
10 BEARING ON THEIR LITIGATION.

11 SO IF WE JUST DON'T SEE EYE TO EYE, I THINK THIS IS
12 NOW THE TIME FOR THE COURT TO MAKE A DETERMINATION WHETHER OR
13 NOT ANYTHING RISES TO THE LEVEL OF RECUSAL.

14 MS. SARIS: THE ONLY PROBLEM ABOUT THAT, WE'RE TALKING
15 ABOUT TWO DIFFERENT GROUPS OF DOCUMENTS.

16 THE COURT: WELL, MY NOTES SHOW THAT THE LAST TIME WE
17 DISCUSSED THIS MATTER, THE COURT WAS DEALING WITH AN ISSUE OF
18 WHETHER OR NOT THE COURT HAD THE INHERENT AUTHORITY TO
19 DISQUALIFY THE PROSECUTOR PURSUANT TO A DEFENSE REQUEST FOR
20 VIOLATION OF THE ATTORNEY-CLIENT PRIVILEGE. I FOUND THAT I
21 DID NOT HAVE THE INHERENT AUTHORITY. I STILL FEEL THAT WAY.

22 MS. SARIS: I MUST HAVE MISHEARD YOU.

23 THE COURT: I SAID I STILL FEEL THE SAME WAY, THE SAME
24 WAY AS I FELT BEFORE WHEN I INDICATED IN RULING ON THE MOTION
25 THAT THE COURT DOES NOT HAVE THE INHERENT AUTHORITY TO
26 DISQUALIFY. ACTUALLY, I FOUND I MIGHT HAVE ON -- THE
27 ARGUMENT WAS THAT I DIDN'T HAVE AND I TEND TO AGREE BECAUSE
28 1424 IS SPECIFIC, BUT THEN WE GOT OFF INTO A DISCUSSION ABOUT

1 THE INHERENT AUTHORITY OF THE COURT TO ENFORCE ITS ORDER AND,
2 I MEAN, THE PEOPLE MADE AN ARGUMENT LAST TIME THAT THE COURT
3 DID NOT HAVE THE INHERENT AUTHORITY. THE DEFENSE MADE THE
4 ARGUMENT THAT I DID AND I THINK I AM ON SHAKY GROUND TO SAY
5 THAT I DO.

6 I THINK I HAVE AN OBLIGATION TO ENFORCE THE ORDER
7 THAT I MADE BECAUSE THE ORDER WAS AN APPROPRIATE ORDER
8 REGARDING PERCEIVED VIOLATION AS I FOUND IT, BUT TO TAKE THE
9 NEXT STEP OF FINDING THAT -- PUTTING ASIDE 1424 THAT THE COURT
10 HAS INHERENT AUTHORITY TO REMOVE THE DA, I THINK IS
11 QUESTIONABLE. I'M NOT REALLY PREPARED TO GO THAT FAR BASED ON
12 WHAT I'VE SEEN IN THE PEOPLE'S RESPONSE. THE PEOPLE'S
13 RESPONSE POINTS OUT A NUMBER OF THINGS; NO. 1, THAT THERE IS A
14 ARGUMENT NOW THAT WASN'T MADE EARLIER, AT LEAST NOT
15 SPECIFICALLY, THAT THERE WAS A WAIVER OF THE PRIVILEGE. THAT
16 APPEARS TO BE SOMEWHAT OF A VALID ARGUMENT, BUT IT DEPENDS ON
17 I THINK WHETHER OR NOT THE DOCUMENTS THAT WERE SUBMITTED BY
18 THE PEOPLE WERE IN FACT I GUESS PROVIDED BY SOMEONE ON THE
19 DEFENSE SIDE BECAUSE IF IT WAS PROVIDED BY MR. GOODWIN OR
20 SOMEONE ON HIS BEHALF, PERHAPS THERE IS A WAIVER OF PRIVILEGE
21 BUT I KNOW THE DEFENSE HASN'T HAD AN OPPORTUNITY TO RESPOND TO
22 THAT PARTICULAR ISSUE.

23 MS. SARIS: AND, YOUR HONOR, THAT WAS NOT EVEN ADDRESSED
24 IN THE PEOPLE'S MOTION SO GIVING US ANOTHER YEAR TO RESPOND
25 WON'T HELP. WE NEED A DIRECT QUESTION OF THE DISTRICT
26 ATTORNEY WHERE THEY GOT THESE DOCUMENTS, HOW LONG THEY HAVE
27 HAD THEM AND WHO WROTE THEM.

28 THE COURT: I WAS UNDER THE IMPRESSION YOU DIDN'T SEE

1 THEM.

2 MS. SARIS: I KNOW OF THEM. THE BINDER IS ABOUT THREE
3 INCHES THICK. IT WAS BOUND. I WAS SHOWN THE DOCUMENT. I
4 UNDERSTAND THERE IS AN "AMERICA'S MOST WANTED" DOCUMENT THAT'S
5 IN THE 40,000 PAGES OF DISCOVERY, BUT EVEN HAVING LOOKED AT
6 THIS "BURY HIM," "DEADLIEST RACE," "I WANT YOU," I HAVEN'T
7 SEEN PART OF THAT. IT SEEMS TO ME TO BE A COLLECTION OF
8 VARIOUS NEWSPAPER ARTICLES AND MEMOS. I DON'T KNOW.

9 THE COURT: WELL --

10 MS. SARIS: BUT IT SOUNDS TO ME LIKE THE COURT IS JUST
11 ASKING US TO SPEND MORE TIME ON AN ISSUE THAT YOU'VE MADE YOUR
12 MIND UP ON.

13 THE COURT: I AM NOT ASKING YOU TO SPEND MORE TIME ON IT
14 AT ALL. I AM JUST SAYING THAT GIVEN WHAT THE PEOPLE HAVE
15 PRESENTED TO THE COURT BY WAY OF, NO. 1, THAT THERE WAS A
16 WAIVER; NO. 2, THE ISSUE OF THE DOCUMENTS BEING IRRELEVANT AND
17 THIRD ARGUMENT THAT THERE WAS NO PREJUDICE, I MEAN, I THINK
18 THE PEOPLE'S RESPONSE ADDRESSES THE COURT'S CONCERNS AND I
19 DON'T KNOW AT THIS POINT THAT I'M PREPARED TO GO ANY FURTHER
20 ASSUMING I HAVE INHERENT AUTHORITY TO RECUSE THE DA TO ENFORCE
21 THE ORDER THAT I MADE EARLIER. I AM NOT PREPARED TO GO THAT
22 WAY.

23 I TEND TO THINK THAT THE PEOPLE MIGHT BE CORRECT IN
24 THE ASSERTION THAT I DO NOT EVEN HAVE THE INHERENT AUTHORITY,
25 BUT EVEN ASSUMING I DO, I AGREE WITH THE PEOPLE THAT THERE HAS
26 BEEN NO SUBSTANTIAL SHOWING OF PREJUDICE WHICH WOULD WARRANT
27 THE COURT TAKING THAT NEXT STEP. I THINK THE REMEDY THAT I
28 IMPOSED EARLIER IN THESE PROCEEDINGS IS ADEQUATE.

1 MS. SARIS: SO, BASICALLY, THIS COURT HAD US GO THROUGH
2 40,000 PAGES OF DISCOVERY AND BREAK DOWN FOR THE DISTRICT
3 ATTORNEY SOME 600 DOCUMENTS THAT WERE BETWEEN THE LAWYER AND
4 CLIENT, FUNNEL THOSE SO THEY WERE IN A DISCERNIBLE, EASILY
5 DIGESTED GROUP OF DOCUMENTS WITH THE UNDERSTANDING THAT THIS
6 COURT HAD THE AUTHORITY BECAUSE THAT'S CERTAINLY HOW I LEFT
7 THE COURTROOM THAT DAY TO KICK THEM OFF THIS CASE.
8 SPECIFICALLY, THEN, THE COURT GAVE THOSE DOCUMENTS THAT I
9 FUNNELED THROUGH, 40,000 LETTERS BETWEEN MY CLIENT AND HIS
10 LAWYER, AND HAD THEM READ THESE DOCUMENTS, RETURN THOSE
11 DOCUMENTS TO US TELLING US IN ESSENCE THAT THEY NEEDED TO SEE
12 THOSE DOCUMENTS IN ORDER TO ARGUE ABOUT THIS INHERENT
13 AUTHORITY THAT YOU TOLD US YOU HAD, AND HAVING DONE THAT,
14 THEIR DETERMINATION WAS THAT 200 OF THE DOCUMENTS IS
15 IRRELEVANT AND THAT THE REST AREN'T PREJUDICIAL WITHOUT REGARD
16 TO HOW WE HAVE LAID OUT THE PREJUDICE AND THE RELEVANCE IN OUR
17 PRIOR MOTIONS, THE COURT IS SAYING NOW SORT OF NUNC PRO TUNC
18 I NEVER HAD THE AUTHORITY IN THE FIRST PLACE?

19 THE COURT: I DIDN'T SAY THAT. I STARTED OUT BY
20 MISSPEAKING. I REALLY DID. I AM ASSUMING FOR SAKE OF
21 ARGUMENT THAT I HAVE THE INHERENT AUTHORITY, I WILL BE HONEST
22 WITH YOU, THOUGH THE LAST TIME YOU WERE BEFORE ME AND WE
23 ARGUED THE ISSUE OF WHETHER OR NOT THE COURT HAS THE INHERENT
24 AUTHORITY, I TOOK THE POSITION THAT I DO AND I THINK THAT THAT
25 IS TAKING A GIANT LEAP BECAUSE THERE IS NO CERTAINLY EXPRESSED
26 AUTHORITY OTHER THAN 1424 OF THE PENAL CODE FOR THE COURT TO
27 RECUSE THE DA, BUT I WAS IN A POSITION LAST TIME BEFORE I HAD
28 THE BENEFIT OF HEARING FROM THE PEOPLE ON THIS ISSUE ABOUT THE

1 PEOPLE NOT BEING ABLE TO USE THIS INFORMATION, I FELT THAT
2 THERE WAS THAT INHERENT AUTHORITY.

3 I STILL FEEL IF PUSHED AND IF THE PEOPLE DID NOT
4 RESPOND IN THE WAY THEY DID AND THERE WAS NO OTHER WAY THAT
5 THE COURT'S ORDER WOULD BE OBEYED OR ENFORCED, I WOULD BE
6 PREPARED TO GO THAT NEXT STEP. I THINK IT IS GOING OUT ON A
7 LIMB AND SO IF I AM GOING TO GO OUT ON A LIMB I WANT TO MAKE
8 SURE IT IS ABSOLUTELY NECESSARY. THE PEOPLE'S RESPONSE IS
9 BASICALLY A REITERATION OF SOMEWHAT OF AN EARLIER ARGUMENT
10 THAT I HEARD AND IT TOOK ME BACK TO ABOUT A YEAR AGO WHERE I
11 BASICALLY MADE SOME FINDINGS ABOUT THE ATTORNEY-CLIENT
12 PRIVILEGE MATERIAL AND I THINK THE PEOPLE WERE MORE ACCURATE
13 IN THEIR DESCRIPTION OF THIS MATERIAL THEN WHAT I HAD THE LAST
14 TIME.

15 I BELIEVE IT WAS ON THE 15TH WHEN I WAS DEALING WITH
16 YOUR ARGUMENT, MS. SARIS, AND THE REPORT FROM THE SPECIAL
17 MASTER SO MAYBE YOU CAN SAY THAT I HAD THE BENEFIT OF FURTHER
18 REFLECTION AND MAYBE YOU CAN SAY I HAVE HAD THE BENEFIT OF THE
19 PEOPLE'S RESPONSE, BUT WHILE I MIGHT HAVE BEEN MORE INCLINED
20 TO GO OUT ON A LIMB LAST TIME I REALLY FEEL IN REVIEWING MY
21 EARLIER RULING FROM LAST YEAR THAT IT IS ACCURATE. IT IS AN
22 ADEQUATE SANCTION, IF YOU WILL. I AM JUST NOT PREPARED TO GO
23 THAT EXTRA STEP.

24 FOR SAKE OF ARGUMENT, I AM GOING TO SAY THAT I HAVE
25 NOT HEARD AUTHORITY AND THAT I JUST DO NOT SEE THE NEED FOR
26 THE COURT TO TAKE THAT STEP TODAY.

27 MS. SARIS: WELL, PERHAPS I'M MISUNDERSTANDING. I WAS
28 SITTING IN THIS COURT NOT THE LAST TIME, BUT THE TIME PRIOR TO

1 THAT WHEN THIS COURT BASICALLY ASKED THE DISTRICT ATTORNEY TO
2 DO THE RIGHT THING, ASKED THE DISTRICT ATTORNEY TO GET OFF THE
3 CASE, IMPLIED TO THE DISTRICT ATTORNEY THIS HAD A VERY STRONG
4 CHANCE OF BEING REVERSED ON APPEAL IF THEY COULD EVER GET A
5 CONVICTION ON THIS CASE AND BASICALLY GAVE THEM TIME TO DO
6 WHAT THE RIGHT THING WAS. FRANKLY, I DO NOT KNOW HOW THAT
7 COULD HAVE CHANGED THIS COURT'S MIND IN THAT AS YOU SIT THERE
8 YOU HAVE BEEN GIVEN NO INFORMATION AS TO WHERE THE DOCUMENT --
9 WHERE THE DOCUMENT, "BURY HIM," CAME FROM, WHERE THE DOCUMENT
10 "DEADLIEST RACE," CAME FROM. THEY SEEM LIKE FOR SCREENPLAYS.

11 COUNSEL DIDN'T EVEN BOTHER -- HE HAD MOVING PAPERS
12 TO TELL US WHERE THEY CAME FROM. HOW CAN THIS COURT TALK
13 ABOUT THE CONDITION OF THAT WAIVER. WE HAVE NOT HAD AN
14 OPPORTUNITY TO ADDRESS THESE ARGUMENTS.

15 THE COURT: THAT'S FINE. I AM NOT TELLING YOU NOT TO. I
16 AM TELLING YOU ON WHAT I HAVE NOW AND AT SOME POINT I THINK I
17 HAVE TO GIVE YOU THE BENEFIT OF WHAT I HAVE NOW RATHER THAN
18 SAY, "OKAY, LET'S CONTINUE ON IN THIS AREA. I INDICATED LAST
19 TIME I DO HAVE INHERENT AUTHORITY. I ASKED THE PEOPLE TO
20 RESPOND. THE PEOPLE RESPONDED.

21 THE PEOPLE TOLD ME THAT THEY VIEWED MY REQUEST TO
22 HAVE THEM STEP ASIDE AS A VIOLATION OF POTENTIAL VIOLATION OF
23 SEPARATION OF POWERS AND, FRANKLY, THEY HAVE A GOOD POINT. IF
24 YOU WANT AN OPPORTUNITY TO NOW REBUTT WHAT THEY HAVE PRESENTED
25 BY WAY OF PUTTING FORTH YOUR BELIEF THAT THIS INFORMATION THAT
26 WAS PROVIDED TO THE COURT DIDN'T COME FROM THIS --

27 MS. SARIS: WELL, ACTUALLY, YOUR HONOR, THE BURDEN IS ON
28 THEM TO PROVE THAT IT DID. THEY ARE ARGUING WAIVER.

1 THE COURT: BUT I AM NOT SAYING HERE THAT THERE HAS BEEN
2 NO VIOLATION OF THE ATTORNEY-CLIENT PRIVILEGE. THIS CASE --
3 WE HAVE BEEN SPENDING OVER A YEAR NOW ON THESE MOTIONS AND I
4 THINK THE RECORD IS CLEAR THAT THE COURT FOUND AND THE SPECIAL
5 MASTER IDENTIFIED DOCUMENTS THAT FALL UNDER THE PURVIEW OF
6 DOCUMENTS THAT ARE PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE.
7 ALL I AM SAYING IS THAT GIVEN THE PEOPLE'S RESPONSE AND THE
8 REFUSAL TO STEP ASIDE, THERE IS NOT SUFFICIENT JUSTIFICATION
9 TO THE COURT TODAY TO SAY THAT I AM EXERCISING MY INHERENT
10 AUTHORITY TO ORDER MR. JACKSON OFF THE CASE. I'M NOT THERE.

11 MR. JACKSON: YOUR HONOR, IF I MAY INTERJECT ONE QUICK
12 POINT. I WANT TO MAKE SURE WE'RE TALKING ABOUT APPLES AND
13 APPLES. I USE THE WORD WAIVER VERY CAREFULLY AND CAUTIOUSLY
14 IN MY MOVING PAPERS.

15 I DID THAT BECAUSE OF THE COMPLEXITY OF THE NUMBER
16 OF DOCUMENTS WE WERE DEALING WITH, BUT I EXPLAINED IN NO
17 UNCERTAIN TERMS THAT WHAT I WAS DEALING WITH AND WHAT I
18 SUBMITTED TO THE COURT UNDER THE UMBRELLA OF A QUOTE UNQUOTE
19 WAIVER DEALT WITH ORIGINAL AS OPPOSED TO DUPLICATIVE
20 PRIVILEGED AND RELEVANT INFORMATION. I DID NOT SAY THAT THE
21 DOCUMENTS I SAW WERE NOT PRIVILEGED. I SAID THAT THE
22 DEFENDANT HAS SUFFERED NO PREJUDICE AS A RESULT OF ME HAVING
23 SEEN THEM AND FOR A CONVENIENT ONE-WORD SYNOPSIS OF THAT
24 DOCUMENT, I USED THE TERM WAIVER.

25 IT DOESN'T MATTER WHERE "I WANT YOU, OR "BURY YOU,"
26 "DEADLIEST RACE," OR ANY OF THAT CAME FROM SO LONG AS THAT
27 SAME INFORMATION BY AND LARGE COULD HAVE COME TO ME IN AN
28 UNPRIVILEGED FORUM. ALL I HAVE TO ESTABLISH IS THAT "I WANT

1 YOU," "BURY HIM," "DEADLIEST RACE," "AMERICA'S MOST WANTED,"
2 ARE NOT PRIVILEGED. I DON'T HAVE TO PROVE WHERE THEY CAME
3 FROM OR EVEN MR. GOODWIN SPECIFICALLY PENNED, P-E-N-N-E-D,
4 THEM.

5 I DO BELIEVE THAT ON THEIR FACE THEY ESTABLISH THAT
6 MR. GOODWIN IS THE AUTHOR. AS A MATTER OF FACT, IF YOU LOOK
7 ABOUT THE THIRD PAGE OF "I WANT YOU," IT SAYS BY MIKE GOODWIN.
8 I MEAN, I DON'T KNOW HOW MUCH MORE YOU NEED TO SAY. IF YOU
9 LOOK AT "BURY HIM" OR "DEADLIEST RACE," -- THAT'S WHY I
10 PROVIDED THESE TO THE COURT -- THEY ARE AUTHORED BY MIKE
11 GOODWIN ABOUT THIS CASE.

12 THAT BEING SAID, I'M NOT SAYING THAT HE PUBLISHED
13 THOSE EXACT PRIVILEGED LETTERS IN AN ALTERNATIVE FORM. I'M
14 SAYING THAT PEOPLE BY AND THROUGH THEIR INVESTIGATION OF 17
15 YEARS OF ACCESS TO UNPRIVILEGED SUBJECT MATTER, THAT DEEMS IT
16 UNNECESSARY FOR RECUSAL BECAUSE HE CAN'T SHOW A PREJUDICE SO I
17 WANT TO MAKE SURE WE'RE TALKING APPLES AND APPLES.

18 MS. SARIS: WE HAD TO SHOW PREJUDICE IN ORDER FOR THE
19 COURT TO DEAL WITH THE SANCTION OF ATTORNEY-CLIENT PRIVILEGE
20 THAT EXISTS NOWHERE IN 128 OR 1424. THE PREJUDICE ARGUMENT
21 HAS TO DO WITH WHETHER OR NOT THE DISTRICT ATTORNEY CAN
22 CONDUCT THEMSELVES IN A MANNER THAT IS NOT TAINTED BY A
23 CONFLICT OF INTEREST. SO THIS IDEA THAT WE HAVE SOME BURDEN
24 OF SHOWING PREJUDICE IS PUTTING THE LAW OF ATTORNEY-CLIENT
25 PRIVILEGE ON ITS HEAD. THERE HAS TO BE A SANCTION.

26 THERE HAS TO BE SOMETHING THAT THIS COURT SAYS --
27 THAT SAYS YOU HAVE THESE DOCUMENTS. YOU SHOULD NOT HAVE READ
28 THESE DOCUMENTS. EVEN IF THE COURT TAKES THE PEOPLE'S

1 ARGUMENT AT THEIR FACE VALUE AND EVEN IF ALL THE DOCUMENTS
2 THAT THEY SUBMITTED TO YOU, SOME OF WHAT WE HAVEN'T SEEN, WERE
3 AUTHORED BY MR. GOODWIN, WERE SENT TO SEVEN NEWS AFFILIATES,
4 THEY DO NOT INCLUDE LETTERS FROM MR. GOODWIN'S LETTERS TO HIM
5 DISCUSSING THE NATURE OF THE FINANCIAL ISSUES THAT ARE THE
6 BASIS FOR THE MOTIVE OF THIS MURDER.

7 NOTHING THE DISTRICT ATTORNEY HAS GIVEN THIS COURT,
8 NOTHING DISCUSSES VERY SPECIFIC WHITEWATER INVESTMENTS,
9 WHITEWATER COMINGLING OF FUNDS, PLEDGES, ASSURITIES. NONE OF
10 THOSE ARE IN "I WANT YOU," "BURY HIM," "DEADLIEST RACE." THAT
11 IS THE MOTIVE THAT THE DISTRICT ATTORNEYS ARE USING AS A
12 REASON FOR WHY MR. THOMPSON WAS KILLED.

13 HOW CAN THAT JUST BE DEEMED IRRELEVANT BY SOME SORT
14 OF FLICK OF A PEN BY THE DA? THAT'S HIGHLY RELEVANT. IF IT
15 WEREN'T RELEVANT, WE WOULDN'T HAVE HAD AT THE PRELIMINARY
16 HEARING FOUR OR FIVE WITNESSES TALK ABOUT THE BANKRUPTCY, THE
17 MONEY SITUATION THAT WAS GOING ON AT THE TIME. NONE OF THESE
18 PEOPLE WOULD HAVE TESTIFIED.

19 NOTHING THAT THE PEOPLE SAID ADDRESSES THE FINANCIAL
20 DOCUMENTS BETWEEN MY CLIENT AND HIS LAWYER AND NOTHING THAT
21 THE PEOPLE SAID ADDRESSES HIS 6TH AMENDMENT ISSUE AS I LAID
22 OUT IN TERMS OF THE THINGS THAT HIS LAWYER SAID TO HIM AND THE
23 THINGS THAT HE SAID TO HIS LAWYER AT THE TIME. THIS IS NOT A
24 MATTER OF HAD WE MET SOME THRESHOLD OF PREJUDICE. THIS IS A
25 MATTER OF NOW SITTING IN THIS ROOM KNOWING THAT MR. GOODWIN
26 NOW HAS LESS OF A CHANCE AT A FAIR TRIAL NOW BEFORE THOSE
27 LETTERS WERE READ, THAT ALONE SHOULD BE ENOUGH TO KICK OFF
28 MR. JACKSON.

1 THE COURT: I UNDERSTAND THE ARGUMENT. I DISAGREE WITH
2 YOU ABOUT THE POSITION THAT THE COURT SHOULD TAKE. I AM
3 NOT -- I AM NOT FINDING THAT THERE'S BEEN ANY VIOLATION OF
4 ATTORNEY-CLIENT PRIVILEGE. I THINK I HAVE BEEN CONSISTENT IN
5 MY POSITION THAT THERE HAS NOT BEEN.

6 I CANNOT SAY, HOWEVER, THAT THE VIOLATION THAT
7 OCCURRED AND, AGAIN, I HAVE TO GO BACK IN TIME BECAUSE IT IS
8 NOT THE DA'S OFFICE THAT COMMITTED THE MISCONDUCT THAT LED TO
9 THE COURT FINDING A VIOLATION OF THE ATTORNEY-CLIENT
10 PRIVILEGE. WE HAVE TO REMEMBER THAT IN SO GOING BACK TO WHEN
11 THIS ISSUE WAS FIRST BROUGHT UP, THE COURT FOUND THAT IT WAS
12 THE ORIGINAL COUNTY PROSECUTOR'S OFFICE THAT SHOULD HAVE DONE
13 THINGS TO GUARANTEE THAT THERE WAS NO VIOLATION OF
14 ATTORNEY-CLIENT PRIVILEGE. THEY DIDN'T, BUT WHEN THIS CASE
15 CAME TO THE L.A. DA'S OFFICE AND WAS BROUGHT BEFORE THIS
16 COURT, I CAN'T SAY THAT THERE WAS ANY MISCONDUCT ON THE PART
17 OF THE L.A. DISTRICT ATTORNEY'S OFFICE SUCH THAT THIS COURT
18 HAS A SANCTION FOR THAT MISCONDUCT AND SOMEHOW ORDER THIS
19 PROSECUTOR OFF THE CASE.

20 MS. SARIS: IT'S NOT A SANCTION FOR MISCONDUCT. IT'S A
21 SANCTION TO INSURE A FAIR TRIAL.

22 THE COURT: THEN WE GET TO THE RECUSAL ISSUE, THE
23 SPECIFIC ISSUE THAT WAS RAISED BY THE DEFENSE AND 1424 OF THE
24 PENAL CODE. UNDER 1424 THE COURT HAS TO MAKE SPECIAL,
25 BASICALLY SPECIAL FINDINGS OF CONFLICT TO SUCH A DEGREE THAT
26 IT WOULD PREVENT THE DEFENDANT FROM GETTING A FAIR TRIAL. I
27 DID NOT MAKE THOSE FINDINGS SO I DENIED YOUR REQUEST ON THE
28 1424, SPECIFICALLY, A COUPLE OF TIMES AND I STAND BY THAT

1 RULING WHICH THEN LED ME TO QUESTION WHETHER OR NOT THE COURT
2 NEEDED TO GO FURTHER AND FIND THAT UNDER THE COURT'S INHERENT
3 AUTHORITY THE COURT SHOULD ACT UNDER CCP 128 TO REMOVE THIS
4 PROSECUTOR FROM THIS PARTICULAR PROSECUTION AT YOUR REQUEST.

5 YOU ALSO ASKED THAT I REMOVE MR. DIXON. I WAS
6 CONSIDERING THAT AND I HAVE CONSIDERED IT. WHAT I'M SAYING
7 TODAY IS THAT ASSUMING FOR SAKE OF ARGUMENT I HAVE THAT
8 AUTHORITY. IS THIS THE CASE -- IS THIS THE VIOLATION OF
9 ATTORNEY-CLIENT PRIVILEGE THAT WARRANTS THE COURT TAKING THAT
10 EXTRAORDINARY STEP? I VIEW IT AS AN EXTRAORDINARY STEP
11 BECAUSE I HAVE ALREADY MADE AN ORDER THAT THE PEOPLE CANNOT
12 USE ANY INFORMATION DERIVED FROM PRIVILEGED MATERIAL, THAT THE
13 PEOPLE CANNOT USE THE PRIVILEGED MATERIAL, AND I THINK THAT BY
14 HAVING THE SPECIAL MASTER ASSIST THE COURT WE HAVE ISOLATED
15 THAT MATERIAL AND IT'S GOING TO BE A TRIAL ISSUE AS TO WHETHER
16 OR NOT THE PEOPLE ARE USING ANY EVIDENCE DERIVED FROM THAT
17 INFORMATION.

18 I DO NOT THINK THE COURT HAS TO TAKE THAT NEXT STEP
19 OF REMOVING MR. JACKSON. I THINK I CAN GUARANTEE THAT THE
20 ATTORNEY-CLIENT PRIVILEGED MATERIAL IS NOT USED.

21 MS. SARIS: I WOULD JUST LIKE THE RECORD TO BE CLEAR THAT
22 THE COURT ISOLATED OR THE SPECIAL MASTER ISOLATED THE
23 MATERIAL, BUT THEN BASED ON THE ARGUMENTS AND THE INHERENT
24 AUTHORITY I THOUGHT THE COURT WAS EXPRESSING, WE AGREED TO
25 TAKE THAT ISOLATED MATERIAL AND GIVE IT TO THE DISTRICT
26 ATTORNEY SO THE DISTRICT ATTORNEY SITTING NEXT TO ME HAS THAT
27 ISOLATED MATERIAL GRANTED HE MAY GIVE IT BACK.

28 THE COURT: HE HAD IT BEFORE. HE HAD IT BEFORE. THE

1 PROBLEM WAS THE WAY I SAW IT WAS THE LAST TIME WHEN I WAS
2 RULING ON THIS ISSUE I WAS THE ONE THAT RAISED THE QUESTION
3 WHETHER OR NOT I HAVE INHERENT AUTHORITY TO REMOVE THE DA AS A
4 REMEDY FOR THE PERCEIVED VIOLATION. THE PEOPLE DIDN'T HAVE AN
5 OPPORTUNITY TO RESPOND AT ALL AT THAT TIME. NOW, I HAVE HAD
6 THE BENEFIT OF SOME FURTHER RESPONSE FROM THE PEOPLE AND GIVEN
7 THAT I AM NOT PREPARED TO TAKE THAT NEXT STEP, I THINK I
8 HAVE --

9 MS. SARIS: YOUR HONOR, WE'VE DISCUSSED IT AND, FRANKLY,
10 I DON'T SEE WITH THE DISCUSSIONS WE'VE HAD ON THE RECORD
11 BEFORE WITH THE REQUEST THAT THIS COURT MADE OF THE DISTRICT
12 ATTORNEY WHICH I THINK MOST PEOPLE FEEL THAT THE DISTRICT
13 ATTORNEY STEPPING UP TO THE PLATE AND DOING THE RIGHT THING
14 HAVING BEEN IGNORED WE HAVE NO CHOICE BUT TO ASK THE COURT TO
15 HAVE YOURSELF ADDRESS THE SPECIFIC OPPOSITION THE PEOPLE HAVE
16 FILED THAT WE RECEIVED THURSDAY SOMEWHERE BETWEEN 10:00 AND
17 NOON. I RESPONDED TO IT FRIDAY WITH JUST BASICALLY THE
18 FINANCIAL PAGES ALONE WHICH WOULD HAVE SHOWN THE COURT THAT
19 MR. GOODWIN'S RIGHT TO A FAIR TRIAL WAS GOING TO BE
20 JEOPARDIZED. THE COURT DISAGREED WITH THAT.

21 I WOULD LIKE THE OPPORTUNITY TO ADDRESS THE ISSUES
22 RAISED IN THE SCREENPLAYS AND BOOKS OR WHATEVER THEY ARE THAT
23 THE DISTRICT ATTORNEY COPIED FOR THE COURT, ASSUMING WE HAD
24 THAT WHICH WE DO NOT, AND MR. GOODWIN IS WILLING TO WAIVE
25 TIME, IF WE CAN SET THE MARCH 20TH DATE AS ZERO OF 60. I'VE
26 NOTICED A PITCHES MOTION FOR THAT DATE AS WELL.

27 MR. JACKSON: JUDGE, I GUESS I'M CONFUSED A BIT ABOUT
28 WHAT THE NEXT STEP MS. SARIS IS PROPOSING IN THIS LITIGATION

1 IS. THE COURT HAS RULED APPARENTLY UNLESS I HEARD YOU
2 INCORRECTLY I'M NOT GOING ANYWHERE AT LEAST BASED ON THIS
3 MOTION AND MS. SARIS'S 55-PAGE ANALYSIS OF THE PRIVILEGED
4 MATERIALS. I'VE MADE IT ABUNDANTLY CLEAR THAT IS NOT
5 WITHSTANDING THE AUTHOR OR SOURCE OF THOSE ADDITIONAL
6 DOCUMENTS AND MY ARGUMENT STILL STANDS.

7 IF I COULD -- IF THOSE DOCUMENTS DON'T REPRESENT A
8 PRIVILEGED COMMUNICATION, THEN MR. GOODWIN QUITE SIMPLY CAN'T
9 ARGUE A PREJUDICE BASED ON MY REVIEW OF THE OTHER STUFF THAT
10 HAS THE SAME SUBJECT MATTER IN IT. SO MS. SARIS MAY SPEND THE
11 NEXT TEN DAYS PROVING THAT SOMEBODY ELSE, JOHN BRADLEY OR
12 SOMEBODY, TYPED OUT "BURY HIM" AS OPPOSED TO MR. GOODWIN. I
13 DON'T KNOW IF THAT WOULD HAVE ANY BEARING ON THE COURT'S
14 DECISION. IF IT WOULDN'T, THEN I DON'T THINK WE SHOULD SPIN
15 OUR WHEELS ON IT.

16 THE COURT: I CANNOT TELL THE DEFENSE HOW TO PROCEED.

17 MR. JACKSON: I UNDERSTAND, JUDGE.

18 THE COURT: I CAN BASICALLY MAKE MY RULINGS WHEN I AM
19 PRESENTED WITH ALL THE AVAILABLE INFORMATION AND THAT IS WHAT
20 I HAVE DONE TODAY.

21 MS. SARIS: I DIDN'T REALIZE THAT WAS A RULING. I
22 THOUGHT THE COURT HAD SAID THAT YOU WERE GOING TO GIVE US MORE
23 TIME TO RESPOND TO THE EXHIBITS. IF YOU ARE MAKING A FINAL
24 RULING, I DIDN'T HEAR THAT.

25 THE COURT: I THINK I HAVE SAID -- LET ME MAKE SURE IT
26 IS CLEAR. I AM BASICALLY SAYING THAT BASED ON WHAT I HAVE
27 NOW, ALL OF THE AVAILABLE INFORMATION TO ME INCLUDING NOW ALL
28 OF THE INFORMATION THAT I HAVE SEEN THAT IS IN THE PUBLIC

1 DOMAIN -- LET ME PUT IT THAT WAY. NOT THAT IT IS NOT
2 PRIVILEGED, BUT IT IS INFORMATION IN THE PUBLIC DOMAIN AND SO
3 BASED UPON ALL OF THE AVAILABLE INFORMATION THAT I HAVE AS OF
4 THIS MOMENT, I AM NOT PREPARED TO TAKE A STEP THAT I THINK IS
5 A DRASTIC STEP THAT DOES IMPLICATE SEPARATION OF POWERS
6 ARGUMENTS AND IS A REMEDY THAT I WOULD HAVE BEEN PREPARED TO
7 UTILIZE IN THE APPROPRIATE CASE. THIS IS NOT THE APPROPRIATE
8 CASE GIVEN ALL OF THE AVAILABLE INFORMATION I HAVE BEFORE ME
9 AND SO THAT IS WHERE I AM AT.

10 IF THE PEOPLE WANT TO -- STRIKE THAT. IF THE
11 DEFENSE WANTS TO BRING ANOTHER REQUEST ALONG THESE SAME LINES,
12 I CANNOT STOP YOU FROM DOING THAT, BUT I THINK WE HAVE
13 EXHAUSTED ALL THAT WE CAN AT THIS POINT ON THIS ISSUE. I HAVE
14 BEEN DEALING NOW WITH THIS ISSUE NOW FOR OVER A YEAR.

15 MS. SARIS: I'M NOT CERTAINLY IN ANY MOOD TO WASTE THE
16 NEXT TEN DAYS OF MY LIFE IF THE COURT IS MAKING A DECISION.
17 OUR CONCERN IS -- I GUESS OUR CONCERN IS THE COURT DIDN'T
18 LOOK AT FINANCIAL DOCUMENTS IN A LIGHT THAT WOULD SHOW ITS
19 RELEVANCE TO THE MURDER CHARGES. THIS IS GOING TO CREATE A
20 HUGE QUAGMIRE AT TRIAL IF THIS COURT IS NOT GOING TO BE THE
21 TRIAL COURT IN THAT IT'S GOING TO INVOLVE MULTIPLE MOTIONS
22 REGARDING EVERY WITNESS THAT TESTIFIES AND EVERY EXHIBIT
23 THAT'S EVEN PRODUCED, BUT AS I SAID IF THE COURT HAS RULED,
24 THEN -- I'LL TELL YOU THE PROBLEM THAT WE ARE HAVING IS THAT
25 THE SEPARATION OF POWERS ARGUMENT HAS BEEN SPECIFICALLY HELD
26 NOT TO BE RELEVANT IN TERMS OF 1424 IN THIS COURT'S AUTHORITY,
27 BUT WHAT WE'RE AFRAID OF IS THIS IS BEING DECIDED IN THE
28 PARADIGM OF BEING SOMEWHAT INCORRECT; THAT THIS COURT IS

1 WORRIED ABOUT THE SEPARATION OF POWERS WHICH HAS NOT COME INTO
2 PLAY UNDER THIS TYPE OF ANALYSIS UNDER THE CASES WITH SECTION
3 1424 AND I GUESS WE WOULD LIKE --

4 THE COURT: LET ME STOP YOU. THIS IS WHERE THE CONFUSION
5 IS. THIS IS NOT A 1424 SITUATION IN MY OPINION AND I THINK I
6 HAVE BEEN CONSISTENT IN SAYING THAT.

7 MS. SARIS: I SEE. SO THE COURT'S POSITION IS THE
8 SEPARATION OF POWERS BECOMES RELEVANT OUT OF 1424 ANY TIME THE
9 COURT TRIES TO TELL THE DISTRICT ATTORNEYS WHICH PROSECUTOR TO
10 HAVE EVEN IF IT'S NOT AN ASSURANCE OF A FAIR TRIAL.

11 THE COURT: UNDER 1424 THE COURTS HAVE RULED UNDER THE
12 SEPARATION OF POWERS ARGUMENTS, UNDER THE INHERENT AUTHORITY
13 OF THE COURT PURSUANT TO CCP 128, I COULD NOT FIND A THING.
14 THE ONE CASE THAT CAME DOWN SEVERAL MONTHS AGO THAT WE WERE
15 ALL AWARE OF WAS DE-CERTIFIED, I BELIEVE. IF NOT, IT WAS --
16 I DIDN'T REMEMBER WHAT ONE, BUT IT'S THE JIANG, J-I-A-N-G,
17 CASE, AND THIS COURT CANNOT CITE THAT AS AUTHORITY FOR THE
18 PROPOSITION THAT THE COURT HAS INHERENT AUTHORITY TO REMOVE
19 THE DA AND SO WHAT I AM LEFT WITH IS THE PROSECUTOR'S OFFICE
20 THAT IS TELLING ME THAT THEY ARE NOT ACCEPTING MY INVITATION
21 TO STEP ASIDE TO MAKE THINGS EASIER AND CLEARER.

22 THEY ARE TELLING ME THAT THEY HAVE A RIGHT AS THE
23 PROSECUTOR, THE EXECUTIVE BRANCH, TO CHOOSE THE PROSECUTOR
24 THAT THEY WANT TO TRY THIS CASE. THEY HAVE DONE SO AND THEY
25 ARE NOT GETTING OFF THE CASE UNLESS THE COURT ORDERS THEM OFF
26 THE CASE. I QUESTION MY INHERENT AUTHORITY IN LIGHT OF THE
27 ARGUMENT, IN LIGHT OF THE ARGUMENT THEY HAVE MADE WHICH IS IT
28 IS A SEPARATION OF POWERS ISSUE. THAT IS WHERE WE ARE AT.

1 THERE IS NO CASE AUTHORITY THAT WOULD PROVIDE THE
2 COURT WITH THE RIGHT TO DO THAT AND NOT CALL INTO QUESTION THE
3 SEPARATION OF POWERS ARGUMENT SO THAT IS WHERE I AM AT. IF
4 THERE IS A CASE THAT COMES DOWN IN THE NEXT COUPLE OF WEEKS
5 THAT TELLS ME UNDER CCP 128, UNDER THESE FACTS, THAT I CAN ACT
6 AND THAT IT IS NOT A VIOLATION OF SEPARATION OF POWERS, THEN I
7 WOULD BE ON FIRMER LEGAL GROUND. I DON'T FEEL COMFORTABLE ON
8 SHAKY, LEGAL GROUND. THAT'S WHAT I AM ON RIGHT NOW AND THAT
9 IS WHAT I WOULD BE DOING; BASICALLY, TAKING AN ACTION THAT IS
10 UNPRECEDENTED AND I AM NOT COMFORTABLE DOING IT AT THIS POINT.

11 MS. SARIS: PERHAPS THE COURT CAN INDULGE US IN ORDERING
12 A TRANSCRIPT OF THIS AND WE CAN PUT THE CASE OVER TO MARCH
13 20TH SO I CAN HAVE MY APPELLATE DEPARTMENT CONSIDER WHETHER WE
14 FILE FURTHER MOTIONS AT THAT TIME.

15 THE COURT: THAT IS NOT A PROBLEM. WE CAN DO THAT. DO
16 YOU WANT TO MAKE MARCH 20TH WHAT ZERO OF 60?

17 MS. SARIS: YES, PLEASE.

18 THE COURT: GOOD. DO YOU WANT TO MAKE MARCH 20TH ZERO OF
19 60?

20 THE DEFENDANT: YES.

21 THE COURT: PEOPLE JOIN?

22 MS. SARIS: YES.

23 THE COURT: PEOPLE HAVE ANY OBJECTION TO THAT DATE?

24 MR. JACKSON: MAY I JUST HAVE A QUICK SECOND, JUDGE. THE
25 20TH IS FINE.

26 MS. SARIS: I NOTICED THE SHERIFF FOR A PITCHESS MOTION.
27 UNFORTUNATELY, I WAS OUT ILL LAST WEEK AND I DIDN'T BRING A
28 COPY FOR THE COURT TODAY AND THE DISTRICT ATTORNEY TODAY.

1 I'LL HAVE IT FOR YOU TODAY OR TOMORROW. IT'S A PITCHESS
2 MOTION REGARDING THE ORIGINAL ARRESTING OFFICER WHO TOOK A
3 DISABILITY RETIREMENT. WE'RE ATTEMPTING TO GET HIS RECORDS.

4 WE ALSO HAVE THE ISSUE OF THE BALLISTICS, YOUR
5 HONOR. I HAD THOUGHT THAT MR. DIXON WORKED IT OUT.
6 APPARENTLY, HE HADN'T. WE'RE ASKING THE COURT TO SIGN THE
7 ORDER TO RELEASE THOSE TO US AND NOW THREE EXPERTS HAVE TURNED
8 ME DOWN IN TERMS OF GOING -- WE ARE NOT ATTEMPTING TO DO
9 ANYTHING BUT PHOTOGRAPH THESE AND ANALYZE THEM.

10 APPARENTLY, THE EQUIPMENT THAT THAT TAKES, EVERYONE
11 USES THEIR OWN EQUIPMENT. THIS IS QUITE HEAVY. ONE OF THE
12 EXPERTS COMES IN FROM LONG BEACH WHICH IS THE CLOSEST. THE
13 OTHER ONES ARE ALL THE WAY UP IN HAYWARD. IT DOESN'T SEEM TO
14 BE A REASON FOR THE POLICY ON THE DISTRICT ATTORNEY'S PART.
15 I'M SORRY, NOT THE DISTRICT ATTORNEY, THE SHERIFF'S. WELL,
16 LAST TIME WE TALKED ABOUT THIS ISSUE I THINK WE LEFT IT THAT
17 WE WOULD NEED A HEARING FOR THE COURT TO MAKE A DETERMINATION
18 AS TO WHETHER OR NOT THERE WAS GOOD CAUSE TO INDUCE THE
19 EVIDENCE.

20 MR. JACKSON: WELL, WE SUBMITTED MY POSITION WHICH IS
21 PRETTY SIMPLE. WE MAY NEED A HEARING, BUT MY POSITION IS
22 PRETTY SIMPLE. WE SUBMITTED A DECLARATION ON BEHALF OF THE
23 SHERIFF'S DEPARTMENT WHO INDICATED WE'LL MAKE ALL FACILITIES
24 AVAILABLE.

25 SHE CAN HAVE TWO OR THREE EXPERTS COME IN AND
26 PHOTOGRAPH OR ANALYZE THE EVIDENCE THERE AT THE SHERIFF'S
27 CRIME LAB; USE THE BIGGEST FACILITY ON THIS SIDE OF THE
28 MISSISSIPPI. THEY, THE SHERIFF'S DEPARTMENT, SIMPLY DON'T

1 RELEASE ITEMS. IF WHAT MS. SARIS IS SAYING IS TRUE, THESE
2 EXPERTS SIMPLY CANNOT BE FACILITATED BY THE SHERIFF'S
3 DEPARTMENT. ALL I WOULD ASK IS THAT THE EXPERTS COME IN HERE
4 AND SAY THAT IF THAT'S WHAT THE CASE IS.

5 MS. SARIS: I JUST DON'T UNDERSTAND WHY AGAIN IT JUST
6 SEEMS LIKE THE DISTRICT ATTORNEY ON THIS ISSUE IT'S A MATTER
7 OF, "I DON'T WANT TO SAY." WHAT ARE WE TRYING TO HIDE? I'VE
8 HAD EVIDENCE RELEASED TO ME OVER THE LAST 14 YEARS. IT'S NOT
9 A PROBLEM. WE'RE NOT TESTING THIS. WE'RE NOT HARMING THIS.
10 WE'RE NOT USING ANYTHING UP IN SOME SORT OF CHEMICAL ANALYSIS.
11 WE'RE TAKING PICTURES OF IT.

12 WE HAVE A CHAIN OF CUSTODY THROUGH A PROFESSIONAL
13 WHOSE SOLE JOB IN THIS WORLD IS PICKING UP EVIDENCE FROM CRIME
14 LABS AND TAKING IT TO EXPERTS. THIS IS A NEW POLICY ON THE
15 PART OF THE SHERIFF'S DEPARTMENT. THEY HAVE BEEN ORDERED TO
16 RELEASE STUFF SINCE THIS POLICY STARTED SEVERAL MONTHS AGO IN
17 COMPTON.

18 FOR INSTANCE, THE ONE EXPERT I HAVE, ANTHONY PAUL,
19 WAS INVOLVED IN A CASE WHERE THEY WERE JUST RECENTLY ORDERED
20 TO RELEASE EVIDENCE. IT'S BEEN 17 YEARS THAT THEY'VE HAD THIS
21 TO DO WHATEVER THEY WANT. WE'RE ASKING FOR TWO WEEKS.

22 MR. JACKSON: MAYBE I CAN SHORT-CIRCUIT. IT'S NOT ME.
23 IT'S NOT MY BALLISTICS. I DON'T HAVE THEM. QUITE FRANKLY, I
24 COULDN'T MAKE THE SHERIFF'S DEPARTMENT RELEASE THEM. IF
25 MS. SARIS DOESN'T WANT TO BRING IN THE EXPERTS AND TALK TO THE
26 COURT, SHE SHOULD GO THE WAY OF A DECLARATION. IT MIGHT
27 SATISFY THE COURT. THAT CHAIN OF CUSTODY AND ALL OF THAT KIND
28 OF STUFF IS GOING TO BE TAKEN CARE OF BECAUSE I THINK THE

SHERIFF'S DEPARTMENT'S CONCERN --

MS. SARIS: CHAIN OF CUSTODY IS THE DEFENSE OBJECTION. IT DOES NOT LIE WITH THE SHERIFF'S DEPARTMENT. THEIR CONCERN OUGHT TO BE WITH WHETHER WE'RE GOING TO DESTROY IT AND WHETHER WE'RE GOING TO GET IT BACK. THAT'S WHY WE'VE ASKED FOR THE APPOINTMENT OF RICHARD JUAN DOLAY.

THE COURT: BY WAY OF THE SHOWING, I THINK I HAVE BEEN IN A POSITION TO MAKE THE ORDER GIVEN THE APPROPRIATE SHOWING AND FOLLOW-UP ON THAT BECAUSE I THOUGHT THAT WAS SOMETHING YOU WOULD GET SOME --

MS. SARIS: WE THOUGHT THE DISTRICT ATTORNEY WOULD DO THE RIGHT THING. WELL, I'M HAPPY TO BRING IN FURTHER DECLARATIONS ON THE 20TH.

THE COURT: THAT'S FINE. I WILL NOT HESITATE TO MAKE THE ORDER. I JUST NEED SOME MORE INFORMATION AS TO WHY IT CANNOT BE DONE THE WAY I HAVE SUGGESTED SO JUST GIVE ME SOME FURTHER INFORMATION AND I WILL BE HAPPY TO MAKE THE ORDER. I DO NOT KNOW WHAT COMPTON --

MS. SARIS: IT WAS NOT ANTHONY PAUL'S REFUSAL TO GO. HE HAD A DECLARATION -- OR I DON'T KNOW. I KNOW HE DIDN'T GO TO COURT BECAUSE MR. PAUL IS NOT INCLINED TOWARD THE COURTROOM. HE SUBMITTED A DECLARATION INDICATING WHAT TYPE OF EQUIPMENT HE NEEDED, WHY HE NEEDED HIS OWN AND HOW HARD THAT WOULD BE TO BRING IT TO A LAB.

THE COURT: I AM SURE BASED ON THAT SHOWING THE COURT IN COMPTON ACTED PROPERLY AND I WILL PROBABLY BE DOING THE SAME THING. JUST GIVE IT TO ME. THAT'S ALL.

ANYTHING ELSE?

1 MR. JACKSON: NO, YOUR HONOR.

2 MS. SARIS: COURT SIGNED A MEDICAL ORDER. I PUT A
3 TEN-DAY LIMIT ON IT BECAUSE NOTHING HAS HAPPENED SO PERHAPS
4 MAYBE ON THE 20TH WE CAN INVITE SOMEONE IN. I BELIEVE I HAVE
5 PUT THAT IN THE ORDER AND I GAVE A COPY TO MY CLIENT.

6 MR. JACKSON: THANK YOU, YOUR HONOR.

7
8 (END OF PROCEEDINGS.)
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, MARCH 20, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; ALSO PRESENT, JOHN BOWERS,
12 ATTORNEY AT LAW; ALAN JACKSON, DEPUTY DISTRICT
13 ATTORNEY, REPRESENTING THE PEOPLE OF THE STATE OF
14 CALIFORNIA.
15

16 THE COURT: LET'S CALL THE MICHAEL GOODWIN
17 MATTER. HE IS PRESENT WITH HIS COUNSEL. THE PEOPLE ARE
18 REPRESENTED.

19 LET ME HAVE ALL COUNSEL STATE YOUR
20 APPEARANCES, PLEASE,

21 MR. JACKSON: ALAN JACKSON ON BEHALF OF THE
22 PEOPLE, YOUR HONOR.

23 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
24 ON BEHALF OF MR. GOODWIN.

25 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC
26 DEFENDER, ALSO ON BEHALF OF MR. GOODWIN.

27 MR. BOWERS: AND JOHN BOWERS COUNSEL FOR LOS
28 ANGELES COUNTY SHERIFF'S DEPARTMENT.

1 THE COURT: ALL RIGHT. WE HAVE A NUMBER OF --
2 WELL, A COUPLE OF MATTERS THAT WE NEED TO RESOLVE TODAY.
3 ONE OF THEM IS THE PITCHESS MOTION. THEN THERE IS ALSO A
4 MOTION REGARDING THE BALLISTICS.

5 WHERE DO COUNSEL WANT TO START?

6 MS. SARIS: WE PROBABLY SHOULD START WITH THE
7 PITCHESS SINCE MR. BOWERS IS HERE.

8 THE COURT: OKAY. THE RECORD SHOULD REFLECT THAT
9 THE COURT HAS READ AND REVIEWED THE DEFENSE MOTION FOR
10 PRETRIAL DISCOVERY PITCHESS AND BRADY MATERIAL. AND IF I
11 UNDERSTAND CORRECTLY YOU ARE SEEKING, MS. SARIS, THE
12 RECORDS OF COMPLAINTS REGARDING DEPUTY MICHAEL GRIGGS AND
13 THAT IS SERIAL NO. 035393.

14 THE ATTORNEY FOR THE SHERIFF'S DEPARTMENT
15 HAS FILED OPPOSITION. AND YOU HAVE ALSO FILED,
16 MS. SARIS, AN AMENDED DECLARATION WITH EXHIBITS AS WELL
17 THAT I HAVE REVIEWED. I DON'T KNOW THAT THE DEFENSE HAS
18 MADE THE RECOMMENDED REQUISITE SHOWING. I'M CURIOUS TO
19 HEAR ARGUMENT, THOUGH.

20 MS. SARIS: I'M SORRY. FROM US FIRST?

21 THE COURT: YES.

22 MS. SARIS: YOUR HONOR, WE'RE SEEKING MORE THAN
23 JUST THE RECORDS AND COMPLAINTS. WE'RE SEEKING BASICALLY
24 HIS PERSONNEL FILE BASED ON THE FACT THAT HE RESIGNED AS
25 INVESTIGATING OFFICER IN THE MIDST OF THIS INVESTIGATION
26 UNDER A CLOUD OF SUSPICION REGARDING HIS CLAIM OF
27 INTERFERENCE OF OUTSIDE FORCES IN THE INVESTIGATION.
28 AND ALSO HIS ALLEGED PROBLEM WITH ALCOHOL ABUSE.

1 BASICALLY UNDER THE CASES OF MEMRO AND
2 BRADY AND THE CITY OF SANTA CRUZ, THESE ARE RELEVANT TO
3 MR. GOODWIN'S DEFENSE IN THAT WE BELIEVE THE RECORDS WILL
4 SHOW THAT -- OBVIOUSLY WE HAVEN'T SEEN THE RECORDS. BUT
5 BASED ON THE COMPLAINT THAT WAS FILED BY DEPUTY GRIGGS IN
6 RESPONSE TO A COMPLAINT THAT WAS FILED AGAINST HIM -- OR
7 I GUESS I SHOULD SAY AN ANSWER TO A COMPLAINT; AND BASED
8 ON THE SEARCH WARRANT THAT WAS FILED BY DEPUTY GRIGGS
9 AROUND THAT SAME PERIOD FOR ANOTHER OTHER DISTINCT
10 SUSPECT FROM MICHAEL GOODWIN, WE BELIEVE THESE RECORDS
11 WILL SHOW AN ATTEMPT ON DETECTIVE GRIGGS' PART TO
12 INVESTIGATE MATTERS NOT RELATED TO MR. GOODWIN AND THAT
13 THOSE ATTEMPTS WERE SOMEHOW FOILED.

14 THAT EITHER HE WAS TOLD THAT HE COULDN'T
15 DO IT OR THAT THERE WAS SOME OUTSIDE FORCE THAT
16 INTERVENED FOCUSING THE INVESTIGATION SOLELY TOWARDS ONE
17 INDIVIDUAL. AND THAT MR. -- DETECTIVE GRIGGS' INABILITY
18 OR UNWILLINGNESS TO GO ALONG WITH THIS IS WHAT LED
19 PARTIALLY TO THE RETIREMENT THAT HE TOOK THAT WAS
20 DESCRIBED TO US AS A PSYCHIATRIC RETIREMENT.

21 OBVIOUSLY WITHOUT THOSE RECORDS, WE CAN'T
22 GO INTO DETAIL. THE LEVEL OF THRESHOLD OF SHOWING FOR
23 THE COURT TO REVIEW THESE RECORDS IN THE MOST RECENT
24 CASES ON PITCHESS IS VERY LOW. MR. GOODWIN IS DENYING
25 THIS OCCURRED. HE IS DENYING THAT HE WAS INVOLVED IN
26 THIS. AND WE'RE INDICATING THAT BASED ON THE MEMO THAT
27 WE PROVIDED TODAY TO THIS COURT, AS WELL AS THE SEARCH
28 WARRANT, WE CAN SHOW FACTS IN EVIDENCE SUGGESTING THAT

1 DETECTIVE GRIGGS WAS RESPONSIBLE FOR THE INITIAL
2 INVESTIGATION IN THIS CASE; WAS RESPONSIBLE FOR THE
3 INITIAL INTERVIEWS IN THIS CASE.

4 IF THE PSYCHIATRIC REPORTS AND PERSONNEL
5 FILE COME OUT THAT HE DID HAVE A PROBLEM WITH ALCOHOLISM,
6 PERHAPS HE WAS CITED FOR BEING DRUNK ON THE JOB. THOSE
7 WOULD BE RELEVANT TOWARDS MR. GOODWIN'S TRYING TO
8 DETERMINE WHAT ROAD THIS INVESTIGATION WAS TAKING; WHY IT
9 CHANGED; WHY A VIABLE SUSPECT WHO IS LISTED IN THE
10 INITIAL SEARCH WARRANT WAS ABANDONED.

11 THAT WOULD BE BRADY EVIDENCE TOWARDS
12 MR. GOODWIN'S CASE, AS WELL AS PITCHESS EVIDENCE. SO
13 WE'RE ASKING FOR THESE DOCUMENTS -- FOR THE COURT TO
14 REVIEW THESE DOCUMENTS UNDER BOTH OF THOSE THEORIES.

15 THE COURT: ALL RIGHT.

16 MR. BOWERS: ONE OF THE FUNDAMENTAL REQUIREMENTS
17 OF WARRICK, THE NEW SUPREME COURT CASE ON PITCHESS, IS
18 THAT THE SUPPORTING DECLARATION FIRST HAS TO IDENTIFY
19 THAT THE OFFICER DID SOMETHING WRONG. THAT'S THE VERY
20 FIRST HURDLE.

21 AND THEN THE SECOND STEP IS TO DEMONSTRATE
22 THAT THIS CONDUCT HERE CONTRAVENES SOME OF THE CHARGES.
23 IT'S ESSENTIALLY FIRST TWO STEPS -- IT IS VERY LOW, BUT
24 IT IS A HURDLE THAT WE HAVE TO OVERCOME. WE DON'T HAVE
25 ANY ALLEGATIONS OF MISCONDUCT BY DETECTIVE GRIGGS IN THIS
26 CASE. WE HAVE SPECULATION THAT HE WAS REMOVED BECAUSE OF
27 AN ALCOHOL PROBLEM.

28 HE SUPPOSEDLY PERMITTED A THIRD PERSON TO

1 SWAY THE INVESTIGATION. THE SUPPORTING DECLARATION
2 ACTUALLY SUGGESTS THAT HE DID NOT PERMIT THIS THIRD
3 PERSON TO SWAY THE INVESTIGATION. SO THERE IS NO
4 SPECIFIC FACTUAL SCENARIO OF OFFICER MISCONDUCT TO EVEN
5 GET TO WHETHER OR NOT THIS INFORMATION IS RELEVANT.

6 MS. SARIS: ACTUALLY, YOUR HONOR, THE WARRICK
7 DECISION STATED THAT THE SCENARIO IS THAT THE MISCONDUCT
8 COULD HAVE OCCURRED. AND I THINK WE'VE LAID THAT OUT.
9 OBVIOUSLY, A DENIAL BY THE DEFENDANT OF THE CHARGES IS
10 SUFFICIENT TO SHOW THAT -- THAT IN AND OF ITSELF IS A
11 FACTUAL SCENARIO SHOWING THAT IF WE CAN PROVE MISCONDUCT
12 MIGHT HAVE OCCURRED.

13 AND I THINK BASED ON THE FACT THAT WE'VE
14 ESTABLISHED IN THE ATTACHED DECLARATIONS MISCONDUCT DID
15 OCCUR. THERE WAS A SUSPECT WHO FAILED POLYGRAPH EXAMS;
16 WHO DID NOT HAVE AN ALIBI; AND WAS NO LONGER PURSUED.
17 AND THEN THIS OFFICER WAS REMOVED FROM THIS CASE AT SOME
18 POINT.

19 AND WHILE THIS IS GOING ON IN TIME,
20 ACCORDING TO THE COMPLAINT THAT WE HAVE WITH THE COURT,
21 THERE ARE COMPLAINTS COMING INTO THIS OFFICER WHEREIN HE
22 IS ALLEGING INTERNALLY IN THE MEMO, I WOULD TALK TO THIS
23 PARTICULAR WITNESS. THIS WITNESS ON ONE DAY TOLD ME "X."
24 OUTSIDE FORCES INTERVENED. I WAS TOLD TO REINTERVIEW
25 THIS WITNESS. THE NEXT TIME I INTERVIEWED THIS WITNESS I
26 WAS TOLD "Y."

27 NOW THAT IS A WITNESS THAT WAS RELEVANT TO
28 THE ORIGINAL INVESTIGATION IN THIS CASE. IF THAT WITNESS

1 IS CHANGING THEIR STORY, EITHER BY OUTSIDE INFLUENCE OR
2 BY DETECTIVE GRIGGS GETTING IT WRONG DUE TO ALCOHOLISM,
3 WE'RE ENTITLED TO LEARN WHAT WAS IN THE REPORTS THAT
4 RELATED TO THE SITUATION THAT MR. GOODWIN IS DESCRIBING
5 IN MARCH, APRIL, MAY, JUNE, JULY, AUGUST OF 1988 WHEREIN
6 VIABLE OTHER SUSPECTS ARE JUST COMPLETELY DROPPED OR
7 IGNORED.

8 THE COURT: BUT WE CAN'T -- OR YOU CAN'T REALLY
9 ATTRIBUTE THAT TO THIS DETECTIVE.

10 MS. SARIS: HE IS THE INVESTIGATING OFFICER ON
11 THE CASE.

12 THE COURT: BUT HE PURSUED THE LEADS.

13 MS. SARIS: AND THAT'S EXACTLY OUR POINT, HE DID
14 NOT PURSUE THE LEADS.

15 THE COURT: BUT HE DID PURSUE THE FOLLOW-UP. AND
16 MY UNDERSTANDING OF WHAT YOU PRESENTED IS THAT THE
17 COMPLAINTS CAME FROM A THIRD PARTY WANTING HIM TO FOCUS
18 IN A SPECIFIC DIRECTION.

19 MS. SARIS: THAT'S CORRECT. AND AFTER THOSE
20 COMPLAINTS WERE MADE HE WAS REMOVED FROM THE CASE.

21 THE COURT: SO WHERE IS THE MISCONDUCT ON THE
22 PART OF DEPUTY GRIGGS -- FOR DETECTIVE GRIGGS?

23 MS. SARIS: THE MISCONDUCT NEED NOT BE ON THE
24 PART OF HIM SPECIFICALLY. THE PART OF HIS SUPERVISOR.
25 I'M LOOKING FOR DETECTIVE GRIGGS' RECORDS BECAUSE THAT
26 WILL LAY OUT THE MISCONDUCT OF THE DEPARTMENT AT THE TIME
27 THIS WAS HAPPENING. IN OTHER WORDS, WE HAVE TO PROVE
28 MISCONDUCT OF AN OFFICER IN ORDER TO GET THE RECORDS.

1 THE COURT: WELL, YOU HAVE TO PROVE -- YOU HAVE
2 TO MAKE SOME SHOWING THAT DETECTIVE GRIGGS DID SOMETHING
3 IMPROPER FOR THE COURT THEN TO GRANT AN IN CAMERA TO
4 REVIEW HIS PERSONNEL FILE. AND I'M LIMITED IN WHAT I
5 LOOK AT. AND MY UNDERSTANDING IS I LOOK AT THE RECORDS
6 OF COMPLAINTS THAT HAVE BEEN FILED OR PRESENTED TO THE
7 AGENCY REGARDING DETECTIVE GRIGGS.

8 MS. SARIS: THAT WOULD BE UNDER PITCHESS. UNDER
9 BRADY WE'RE ASKING FOR DETECTIVE GRIGGS' DECLARATIONS AS
10 TO WHY HE OUGHT TO BE GRANTED PSYCHIATRIC LEAVE. THAT IS
11 THE GIST OF WHAT WE ARE SEEKING. HIS PETITION FOR AND
12 SUPPORTING DOCUMENTS SAYING I NEED, AS AN OFFICER OF THIS
13 DEPARTMENT, TO BE GRANTED AN EARLY RETIREMENT WITH A LOT
14 OF MONEY FOR THE REST OF MY LIFE AT A VERY HEFTY, LOVELY
15 TAX-FREE BENEFIT. AND THIS IS WHY I CAN NO LONGER DO
16 THIS WORK BECAUSE.

17 AND OUR UNDERSTANDING IS THAT -- AND THIS
18 HAS BEEN DESCRIBED TO US THROUGH CURRENT L.A.S.O.
19 OFFICERS -- THAT THERE WAS A PSYCHIATRIC PENSION THAT WAS
20 GRANTED IN PART BECAUSE OF WHAT WAS GOING ON AT THE TIME
21 OF THIS CASE; AND IN PART BECAUSE OF A PROBLEM WITH
22 ALCOHOL. UNDER BRADY AND PITCHESS, WE WOULD BE ENTITLED
23 TO KNOW WHAT DID HE SAY IN THESE REPORTS. DID HE SAY I
24 CAN'T TAKE THIS JOB ANYMORE BECAUSE --

25 THE COURT: SO YOU WANT HIS COMPLAINTS?

26 MS. SARIS: THAT'S CORRECT. I WANT HIS WHOLE
27 FILE. I WANT THE COURT TO REVIEW IT TO DETERMINE IF
28 THERE IS RELEVANCE TO WAS THIS INVESTIGATION INTERFERED

1 WITH.

2 THE COURT: YOU WANT COMPLAINTS THAT DETECTIVE
3 GRIGGS HAS LEVELED OR HAD LEVELED AGAINST HIS OWN
4 DEPARTMENT?

5 MS. SARIS: I DON'T KNOW THAT I WOULD CALL THEM
6 "COMPLAINTS." I WANT HIS APPLICATION FOR RETIREMENT.

7 THE COURT: I HAVE NEVER DONE A PITCHESS FOR
8 SOMETHING LIKE THAT, SO THIS IS A WHOLE NEW --

9 MR. BOWERS: NEITHER HAVE I.

10 MS. SARIS: I TRIED TO S.D.T. THEM. AND I WAS
11 TOLD THAT I WAS NOT ALLOWED TO HAVE THEM. AND THE ONLY
12 WAY TO GET THEM WAS TO DO IT THROUGH PITCHESS. THAT'S
13 WHY WE FILED ANOTHER PITCHESS. I MADE IT VERY CLEAR IN
14 MY MOVING PAPERS THIS IS PITCHESS AND BRADY. I CAN SEE
15 THE COURT SAYING, WELL, IT DOESN'T FALL IN THE EXACT "X,"
16 "Y" AND "Z" OF PITCHESS BECAUSE WE ARE NOT ASKING FOR
17 OUTSIDE PEOPLE WHO HAVE COMPLAINED.

18 ALTHOUGH WE WOULD BE ENTITLED TO THAT IF
19 IT BORE ON THIS FACT IN OUR OPINION. BUT IT CERTAINLY IS
20 BRADY MATERIAL IN THAT WE HAVE LAID OUT A POSSIBILITY
21 THAT IN THOSE PETITIONS FOR RETIREMENT, HE COULD HAVE
22 DISCUSSED THIS CASE. HE COULD HAVE DISCUSSED THE REASON
23 THAT HE'S LEAVING IS BECAUSE HE FELT SOMEHOW UNABLE TO
24 FOLLOW-UP SUBJECTS OR SUSPECTS THAT HE FELT RELEVANT AND
25 THAT HE WAS IN A POSITION THEREFORE --

26 THE COURT: IS HE GOING TO BE A WITNESS IN THIS
27 TRIAL?

28 MS. SARIS: I WENT TO SPEAK WITH DETECTIVE GRIGGS

1 IN ARIZONA. AND ACCORDING TO MY INVESTIGATOR -- BECAUSE
2 THE FIRST TIME HE WOULDN'T LET ME TO THE DOOR. HE
3 INDICATED IF WE CALLED HIM TO THE STAND, QUOTE, "I WOULD
4 SIT THERE AND DROOL."

5 THE SECOND TIME HE INTRODUCED ME TO HIS
6 DOG WITHOUT A LEASH AS THE GATE OPENED. SO I DON'T KNOW
7 HOW I'M GOING TO GET HIM TO THIS TRIAL. BUT, YES, I AM
8 GOING TO MAKE EVERY POSSIBLE EFFORT TO SUBPOENA HIM -- HE
9 IS IN ARIZONA -- AND HAVE HIM TESTIFY IN THIS CASE.

10 MR. BOWERS: YOUR HONOR, IF I MAY. THERE IS TWO
11 POINTS I NEED TO ADDRESS. NO. 1, THE PITCHESS REQUEST
12 HERE DOESN'T REALLY ASK FOR WHAT SHE'S ASKING FOR NOW IN
13 COURT. SO I DON'T THINK WE ACTUALLY BRIEFED THAT
14 PARTICULAR ISSUE BECAUSE IT WASN'T REQUESTED.

15 NO. 2, BRADY IS NOT AS LENIENT AS DEFENSE
16 COUNSEL WOULD LEAD US TO BELIEVE. IT'S NOT THAT IT MAY
17 EXIST, THAT EVIDENCE MAY EXIST; IT'S THAT EVIDENCE DOES
18 EXIST. AND EXCLUSION AT TRIAL WOULD -- THERE IS A
19 REASONABLE PROBABILITY THAT EXCLUSION OF THAT EVIDENCE AT
20 TRIAL MAY HAVE A DIFFERENT RESULT. RIGHT NOW WE'RE
21 DEALING WITH SPECULATION, WHICH DOESN'T RISE TO THE LEVEL
22 OF BRADY.

23 MS. SARIS: AND, YOUR HONOR, TO THAT I WOULD
24 RESPOND THAT THE COURT HAS THE OBLIGATION UNDER BRADY TO
25 REVIEW IT. AND I AGREE, IF WHAT WE'RE SAYING IS NOT IN
26 THERE, THEN WE'RE NOT ENTITLED TO IT. BUT I THINK IF THE
27 COURT, BASED ON OUR MOVING PAPERS -- AND I DID ASK FOR
28 HIS FILE REGARDING MEMOS, DECLARATIONS REGARDING HIS

1 PSYCHIATRIC RETIREMENT. I GUESS I COULD HAVE SAID
2 DIFFERENT WORDS TO MAKE IT MORE CLEAR. BUT I THOUGHT
3 THAT WAS PRETTY CLEAR.

4 HE APPLIED FOR RETIREMENT. HE MADE MOVING
5 PAPERS TOWARD THAT END. I DON'T EXPECT THE COURT TO SAY:
6 THIS IS DETECTIVE GRIGGS' PERSONNEL FILE, HERE YOU GO.
7 BUT I CERTAINLY DO THINK WE HAVE MADE A SHOWING THAT THE
8 COURT SHOULD HAVE AN IN CAMERA REVIEW OF THOSE FILES TO
9 DETERMINE IF BRADY MATERIAL EXISTS IN HIS CLAIM FOR
10 PSYCHIATRIC LEAVE.

11 MR. BOWERS: AND WITH ALL DUE RESPECT TO DEFENSE
12 COUNSEL, THE BRADY OBLIGATION RESTS WITH THE PROSECUTOR
13 NOT THE COURT.

14 THE COURT: RIGHT.

15 MS. SARIS: I DID FILE THIS WITH THE PROSECUTORS
16 AND ADVISED THEM THAT THE REASON I WAS FILING THIS IS
17 BECAUSE THERE WAS A BRADY COMPONENT TO THIS AS WELL.

18 THE COURT: GOOD MORNING, MR. JACKSON.

19 MR. JACKSON: GOOD MORNING, JUDGE. IF I MAY,
20 COUNSEL PUT IT IN THE BEST TERMS POSSIBLE. WHAT
21 MS. SARIS HAS SAID VERY ELOQUENTLY AND VERY LENGTHY IS,
22 YOU KNOW WHAT, I DON'T KNOW WHAT IS IN DETECTIVE GRIGGS'
23 FILE. I'M REAL CURIOUS AS TO WHAT IS IN HIS FILE BECAUSE
24 I THINK I MIGHT BE ABLE TO BEAT HIM UP ON SOME THINGS
25 THAT MAY EXIST BECAUSE I'VE SAT IN MY OFFICE AND
26 PONTIFICATED ABOUT AND SPECULATED ABOUT WHAT MIGHT EXIST.

27 SO I WAS WONDERING IF THE COURT WOULD
28 INVADE MR. GRIGGS' PERSONNEL FILE AND HIS PRIVACY RIGHTS

1 SO THAT I MIGHT QUELL ANY OR QUENCH ANY CONCERN THAT I
2 MIGHT HAVE CONCERNING MY SPECULATION ABOUT WHAT MAY BE IN
3 THERE. SHE HAS NOT PRESENTED ANY EVIDENCE TO SHOW THAT
4 DETECTIVE GRIGGS DID ANYTHING WRONG.

5 HE RETIRED. HE RETIRED UNDER CERTAIN
6 CONDITIONS. THERE IS 10,000 DEPUTY SHERIFFS. I IMAGINE
7 SEVERAL HUNDRED RETIRE EVERY YEAR. WE DO NOT INVADE THE
8 SANCTITY AND PRIVACY OF THEIR PERSONNEL RECORDS BASED ON
9 THIS KIND OF SPECULATION.

10 MS. SARIS: AND, YOUR HONOR, TO THAT END, I WOULD
11 CALL DETECTIVE GRIGGS AS MY WITNESS. I DON'T BELIEVE
12 HIM -- I MEAN GRANTED HE MIGHT BE HOSTILE TOWARD ME. BUT
13 I DIDN'T SEE HIM TESTIFY AT THE PRELIMINARY HEARING. AND
14 I HAVE A FEELING THE DISTRICT ATTORNEY DOESN'T WANT HIM
15 TO GET ANYWHERE NEAR THE STAND.

16 BUT FROM MY PROSPECTIVE, THIS ISN'T ANY
17 IMPEACHMENT EVIDENCE. I MEAN IT IS A SHAME THAT WE'RE
18 GOING INTO SOMEONE'S PSYCHIATRIC RECORDS. BUT GUESS
19 WHAT, WE'RE TRYING TO PUT A MAN IN A CAGE FOR THE REST OF
20 HIS LIFE. I THINK THAT THE TWO EVILS ARE VERY EASILY --
21 ONE IS WEIGHTED IN FAVOR OF AT LEAST THIS COURT LOOKING
22 INTO THOSE RECORDS.

23 YES, IT HAS TO BE SPECULATION BECAUSE I'M
24 NOT ALLOWED TO GO DOWN TO THE FILES AND LOOK AT THEM.
25 BUT BASED ON THE MEMO THAT WE'VE UNCOVERED THAT THE
26 ORANGE COUNTY DISTRICT ATTORNEY HID FROM US FOR TWO
27 YEARS, SO THEY OBVIOUSLY THOUGHT THERE WAS SOMETHING THE
28 MATTER WITH IT. THERE WAS A PROBLEM IN THIS

1 INVESTIGATION. PEOPLE WERE INTERFERING AND DETECTIVE
2 GRIGGS FELT THE PRESSURE.

3 BASED ON THE ACCOMPANYING SEARCH WARRANT,
4 HE HAD A VIABLE OTHER SUSPECT THAT NO ONE HAS BEEN ABLE
5 TO COME FORWARD AND SAY AND WE STOPPED INVESTIGATING HIM
6 BECAUSE OF "X." IT JUST FELL OFF THE FACE OF THE EARTH.
7 AND I THINK THAT IS ENOUGH AT LEAST FOR THIS COURT TO
8 INVADE THIS, QUOTE, SANCTITY OF THE PSYCHIATRIC RECORDS.

9 IN A PERFECT WORLD DETECTIVE GRIGGS WOULD
10 SIT DOWN AND TALK TO US ALL. THAT'S NOT HAPPENING.
11 MR. GOODWIN NEEDS TO BE PROTECTED. AND THE ONLY WAY TO
12 DO THAT IS TO HAVE THE COURT LOOK AT THESE RECORDS.

13 THE COURT: WELL, I DON'T KNOW THAT WHAT YOU ARE
14 ASKING ME TO DO IS NECESSARILY LEGALLY AUTHORIZED. BUT I
15 DO BELIEVE THAT WHAT YOU ARE ASKING FOR SHOULD BE
16 PROVIDED.

17 MS. SARIS: I'M HAPPY TO HAVE THEM PROVIDE IT
18 DIRECTLY TO ME.

19 THE COURT: SO MY PROBLEM IS YOU ARE ASKING THIS
20 COURT TO MAKE A FINDING NECESSARY UNDER PITCHESS WITH
21 REGARD TO AN IN CAMERA REVIEW OF A PERSONNEL FILE. AND I
22 DON'T KNOW THAT LEGALLY THERE IS ANY AUTHORITY FOR THAT
23 PROPOSITION GIVEN WHAT YOU HAVE ARGUED THIS MORNING.

24 HOWEVER, YOU HAVE PRESENTED AN ARGUMENT
25 THAT HAS MERIT IN THE SENSE THAT FROM WHAT I HAVE
26 REVIEWED YOU ARE RIGHT. I MEAN I REVIEWED THE MATERIAL
27 YOU PROVIDED. AND I OBVIOUSLY DON'T HAVE ALL OF THE
28 DISCOVERY IN THIS CASE NOR WOULD I WANT IT. BUT THERE

1 DOES SEEM TO BE SOME INVESTIGATION THAT WAS DONE TOWARDS
2 SOMEONE ELSE.

3 AND THEN IF WHAT YOU SAY IS TRUE THAT THEY
4 REACHED THE END OF THE ROAD AND EVERY INVESTIGATOR ON THE
5 CASE FOCUSED JUST ON MR. GOODWIN, THEN PERHAPS WE ARE
6 DEALING WITH A POTENTIAL BRADY SITUATION. BUT I DON'T
7 THINK THAT THIS COURT CAN UNDER PITCHESS ORDER THE
8 PRODUCTION OF DETECTIVE GRIGGS' PERSONNEL FILE IN ITS
9 ENTIRETY AND GO THROUGH THE FILE TO SEE IF PERHAPS HE
10 FILED SOME REQUEST WITH THE DEPARTMENT TO PERMIT HIM TO
11 RETIRE FOR MEDICAL REASONS BECAUSE OF THE PSYCHOLOGICAL
12 PRESSURE OR THE PRESSURE THAT WAS BROUGHT.

13 I JUST THINK IT'S ALL SPECULATION AT THIS
14 POINT. I THINK MR. JACKSON'S POSITION IS WELL TAKEN.
15 BUT I MEAN DON'T KNOW. I CAN'T MAKE THE ASSUMPTION THAT
16 DETECTIVE GRIGGS RETIRED FROM THE SHERIFF'S DEPARTMENT
17 BECAUSE OF PRESSURE HE RECEIVED FROM OUTSIDE INFLUENCES
18 OR FROM THAT PRESSURE COUPLED WITH THE POTENTIAL
19 SUBSTANCE ABUSE PROBLEM.

20 I JUST HAVE NO REASON TO BELIEVE THAT ANY
21 OF THAT OCCURRED. BUT I DO HAVE A QUESTION AS TO WHY
22 THERE WAS A DEAD END, SO TO SPEAK, AS TO THIS OTHER
23 INDIVIDUAL THAT WAS AT LEAST INITIALLY LOOKED AT. BUT I
24 DON'T KNOW WHAT ELSE YOU HAVE IN YOUR DISCOVERY THAT
25 INDICATES WHAT HAPPENED AS A RESULT OF THE -- WHAT WAS
26 IT? -- A POLYGRAPH THAT WAS TAKEN BY THE SUBJECT. THIS
27 IS ALL SPECULATION.

28 MS. SARIS: LET ME HELP TO CLARIFY SOMETHING. MY

1 UNDERSTANDING IS THAT MR. JACKSON DOESN'T HAVE DETECTIVE
2 GRIGGS' PERSONNEL RECORDS.

3 MR. JACKSON: THAT'S CORRECT.

4 MS. SARIS: OKAY. SO THE BRADY OBLIGATION
5 EXTENDS TOWARDS MR. JACKSON GETTING THOSE RECORDS BECAUSE
6 HE HAS MAYBE NOT PURE ACCESS, BUT CERTAINLY MORE ACCESS
7 THAN I TO THOSE RECORDS.

8 THE COURT: NOT NECESSARILY.

9 MS. SARIS: WELL, THEN THAT'S BASICALLY MAYBE
10 WHAT THIS HEARING SHOULD BE ABOUT IS GETTING THOSE
11 RECORDS TO MR. JACKSON. NOW FROM OUR PROSPECTIVE THE
12 DISTRICT ATTORNEY IS IN POSSESSION OF THOSE RECORDS AND
13 THERE IS BRADY MATERIAL THAT SHOULD BE DIRECTED TOWARDS
14 US.

15 IT HAS BEEN OUR EXPERIENCE IN THIS CASE
16 THAT WHEN THE DISTRICT ATTORNEY IS GIVEN THE OPPORTUNITY
17 TO DO SOMETHING THAT MIGHT ASSURE THE DEFENDANT A FAIR
18 TRIAL BY DOTTING ALL THE "I'S" AND CROSSING THE "T'S,"
19 THE DISTRICT ATTORNEY HAS BEEN ASKED TO BE FORCED TO DO
20 SUCH THINGS.

21 SO YOU CAN FORGIVE US IF WE DON'T HAVE
22 FAITH THAT EVEN IF THOSE RECORDS GET INTO MR. JACKSON'S
23 HANDS, HIS DEFINITION OF BRADY MAY BE SO NARROW AS TO NOT
24 HELP US. HOWEVER, THAT WOULD BE A FIRST STEP. AND IF
25 THE COURT WOULD ALLOW AT LEAST THE DISTRICT ATTORNEY THAT
26 ACCESS, THEN WE CAN HAVE THE ORDER OF THE DISTRICT
27 ATTORNEY TO PRODUCE THOSE RECORDS TO THE COURT FOR THE
28 BRADY DETERMINATION.

1 THE COURT: I CAN'T ORDER THAT INFORMATION
2 PROVIDED TO THE PEOPLE. THE PEOPLE WOULD HAVE TO PURSUE
3 THE PITCHESS ROUTE JUST LIKE YOU DID.

4 MS. SARIS: BUT IT'S NOT PITCHESS, THAT'S THE
5 PROBLEM.

6 THE COURT: WELL, IT IS BECAUSE IT'S THE
7 PERSONNEL RECORDS OF THE DETECTIVE.

8 MS. SARIS: THEN IT'S AVAILABLE TO US THROUGH
9 PITCHESS.

10 THE COURT: AND IT MAY ALSO BE AVAILABLE THROUGH
11 THE PEOPLE BRINGING A PITCHESS REQUEST. BUT STILL THE
12 STATUTES THAT APPLY APPLY EQUALLY TO BOTH SIDES. THE
13 COURT CANNOT ORDER THE PRODUCTION OF PERSONNEL RECORDS
14 WITHOUT SOME SHOWING UNDER PITCHESS.

15 MS. SARIS: THAT'S WHAT WE'VE GIVEN THE COURT
16 TODAY.

17 THE COURT: RIGHT. BUT I DON'T THINK YOUR
18 SHOWING IS SUFFICIENT BECAUSE YOU HAVE NOT PRESENTED ME
19 WITH ANY REASON TO BELIEVE THAT THERE IS ANY INFORMATION
20 IN THE PERSONNEL FILE WHICH WOULD SUPPORT THE ALLEGATION
21 THAT DETECTIVE GRIGGS DID SOMETHING IMPROPER THAT IS
22 MATERIAL TO THIS CASE.

23 IN FACT, I THINK TO THE CONTRARY. IT
24 APPEARS THAT HE FOLLOWED UP ON LEADS AND CLUES THAT WERE
25 VERY WELL DOCUMENTED. AND THERE APPEARED TO BE ANOTHER
26 SUSPECT OR SUBJECT THAT WAS UNDER INVESTIGATION. AND
27 THEN I'M ASSUMING IT ENDED, THAT INVESTIGATION. AND THEN
28 DETECTIVE GRIGGS, AS YOU SAY, RETIRED.

1 MS. SARIS: I DON'T KNOW WHAT MORE THIS COURT CAN
2 ASK US TO SHOW.

3 THE COURT: I DON'T KNOW THAT YOU CAN SHOW
4 ANYTHING MORE. BUT ON THE ISSUE OF BRADY -- AND I'M
5 TALKING ABOUT PITCHESS, I DON'T KNOW THAT THERE IS
6 ANYTHING ELSE THAT YOU CAN SHOW. BUT ON THE ISSUE OF
7 BRADY, YOU MAY HAVE A BETTER ARGUMENT WITH RESPECT TO
8 WHAT YOU THINK THAT MR. JACKSON AND THE SHERIFF'S
9 DEPARTMENT SHOULD PRESENT YOU WITH.

10 MS. SARIS: IF THE DISTRICT ATTORNEY HAS OR CAN
11 GET IN THEIR POSSESSION EVIDENCE THAT COULD BE
12 EXCULPATORY, THEY HAVE A DUTY TO TURN IT OVER. THEY ALSO
13 HAVE A DUTY UNDER BRADY AND ITS PROGENY TO SEEK OUT THAT
14 MATERIAL FROM OTHER GOVERNMENTAL AGENCIES.

15 THE COURT: BUT THEY MAY NOT HAVE ANY GREATER
16 RIGHT TO THE PERSONNEL FILE THAN YOU DO. IN OTHER WORDS,
17 THIS COURT CAN'T JUST ORDER ACCESS TO THE PERSONNEL FILE
18 BECAUSE THE PEOPLE MIGHT WANT TO ASK ME TO DO SO.

19 MS. SARIS: I THINK THIS COURT HAS THE AUTHORITY
20 SEVERAL WAYS, NOT ONLY UNDER PITCHESS. THE COURT HAS THE
21 AUTHORITY UNDER BRADY AND THE COURT HAS THE AUTHORITY
22 UNDER THE 4TH AND 14TH AMENDMENTS.

23 THE COURT: THE COURT -- WELL, AGAIN, BRADY IS AN
24 OBLIGATION THAT EXISTS. AND IT DOESN'T REQUIRE THE
25 COURT'S INTERVENTION; IT'S SELF-EXECUTING. BUT I DON'T
26 KNOW WHAT ALL OF THE INFORMATION IS IN THIS CASE. ALL I
27 KNOW IS WHAT YOU HAVE GIVEN ME. AND I DO BELIEVE YOU
28 HAVE AN ARGUMENT HERE.

1 THERE WAS ANOTHER INDIVIDUAL UNDER
2 SUSPICION. THERE WAS ANOTHER INDIVIDUAL WHO WAS
3 INVESTIGATED AND WAS THE SUBJECT OF A POLYGRAPH. I DON'T
4 KNOW WHAT HAPPENED AFTER ALL THAT. I JUST DON'T KNOW.
5 BUT THERE IS ENOUGH IN THIS MATERIAL THAT WAS PRESENTED
6 TO ME ON THE ISSUE OF PITCHESS MOTION TO GIVE ME SOME
7 QUESTIONS.

8 NOW I DON'T KNOW WHAT ELSE THE PEOPLE HAVE
9 IN THEIR DISCOVERY.

10 MR. JACKSON: WELL, YOUR HONOR, IF I CAN
11 INTERJECT. IF I'M NOT MISTAKEN, ABOUT THREE MINUTES AGO
12 MS. SARIS, IN OPEN COURT, ACCUSED ME OF EITHER LYING OR
13 CHEATING OR NOT UPHOLDING MY OBLIGATIONS PURSUANT TO MY
14 OFFICE'S COMMISSION TO PROSECUTE THESE CASES PUBLICLY. I
15 TAKE REAL ISSUE.

16 THE COURT: I DIDN'T HEAR THAT. I DIDN'T HEAR
17 HER SAY THAT.

18 MR. JACKSON: I DID. I HEARD HER SAY THAT WHEN
19 GIVEN THE PROPER OPPORTUNITY, I HAVE NOT CROSSED MY "T'S"
20 OR DOTTED MY "I'S." AND IF MS. SARIS WOULD LIKE TO MAKE
21 A PUBLIC RECORD AS TO HOW THAT HAS OCCURRED OR WHAT
22 SPECIFIC ALLEGATIONS SHE IS TALKING ABOUT, I WOULD INVITE
23 HER TO DO THAT. OTHERWISE, I WOULD HIGHLY RECOMMEND THAT
24 COUNSEL TAKE CAUTION IN HER ACCUSATIONS IN OPEN COURT.

25 THE COURT: LET ME JUST SAY THIS --

26 MS. SARIS: I CAN CLEAR IT UP. IT IS JUST WHEN
27 YOU ASKED THEM THAT THEY OUGHT TO LEAVE AND THEY SAID NO.

28 MR. JACKSON: AND THE COURT MADE A JUDICIAL

1 FINDING THAT IT WAS UNNECESSARY THAT I RECUSE MYSELF.

2 THE COURT: YES. THE DEFENSE HAS STRONGLY
3 DISAGREED WITH THAT.

4 MS. SARIS: RIGHT. I BELIEVE THE COURT ALSO
5 INVITED THE DISTRICT ATTORNEY TO RECUSE THEMSELVES OUT AN
6 OF AN ABUNDANCE OF CAUTION TO ENSURE A FAIR TRIAL. AND
7 THAT INVITATION WAS DECLINED.

8 THE COURT: I INTERPRETED --

9 MS. SARIS: THAT WAS MY POINT.

10 THE COURT: I INTERPRETED HER COMMENTS TO PERTAIN
11 TO JUST THAT INCIDENT AND NOTHING MORE.

12 MS. SARIS: THAT IS CORRECT.

13 MR. JACKSON: BUT TO ANSWER THE COURT'S QUESTIONS
14 SPECIFICALLY --

15 THE COURT: GO AHEAD.

16 MR. JACKSON: -- WITH REGARD TO DISCOVERY,
17 MS. SARIS HAS MORE -- AND IT'S THE ONLY TIME IN MY CAREER
18 I WILL EVER BE ABLE TO SAY THIS -- SHE HAS MORE DISCOVERY
19 THAN I HAVE. THE SPECIAL MASTER PROVIDED HER WITH A
20 SUBSTANTIAL AMOUNT OF INFORMATION THAT I DON'T HAVE
21 ACCESS TO BECAUSE IT WAS CONSIDERED PRIVILEGED.

22 NOT ONLY DOES SHE HAVE EVERY SINGLE
23 DOCUMENT THAT I'VE GOT; SHE'S GOT ABOUT -- I DON'T
24 KNOW -- SEVERAL HUNDRED PAGES MORE THAN I HAVE. SO
25 MS. SARIS KNOWS -- SHE HAS TO KNOW AT THIS POINT AND
26 MR. GOODWIN HAS TO KNOW AT THIS POINT THAT I HAVE NOTHING
27 IN MY POSSESSION THAT THEY DON'T HAVE.

28 SO WHEN IT COMES TO ANY PERSONNEL RECORDS

1 PERTAINING TO MR. GRIGGS, IF THEY DON'T HAVE IT, I DON'T
2 HAVE IT. IT'S PLAIN AND SIMPLE. I DON'T KNOW HOW ELSE I
3 CAN SAY IT OR HOW MANY MORE TIMES I CAN SAY IT.

4 MS. SARIS: I KNOW THEY DON'T HAVE IT. I'VE SEEN
5 WHAT THEY HAVE. I THINK THEY HAVE AN OBLIGATION TO GET
6 IT.

7 THE COURT: YES. I THINK THAT'S THE ISSUE.

8 MR. JACKSON: MY POSITION -- THE WAY I'M HEARING
9 THIS, JUDGE, IS MS. SARIS HAS AN ARGUMENT ABOUT
10 THIRD-PARTY CULPABILITY. FINE. THAT'S WHAT THESE SEATS
11 ARE FOR (INDICATING). LET HER MAKE THE ARGUMENT ABOUT
12 THIRD-PARTY CULPABILITY BASED ON THE SAME INFORMATION
13 THAT I'VE GOT.

14 I DON'T KNOW -- I'VE NEVER HEARD OF THE
15 NOVEL LEGAL THEORY THAT BASED ON AN ARGUMENT OF
16 THIRD-PARTY CULPABILITY -- WHICH IS A HURDLE SHE HAS TO
17 CROSS; AND SHE MAY OR MAY NOT BE ABLE TO CROSS THAT
18 HURDLE AT TRIAL -- THAT SHE THEN GETS TO GO ON A FISHING
19 EXPEDITION CONCERNING EVERY SINGLE PIECE OF SPECULATION;
20 EVERY SINGLE BIT OF SPECULATION CONCERNING THAT
21 THIRD-PARTY CULPABILITY.

22 SHE HAS ALL OF GRIGGS' NOTES. SHE HAS ALL
23 OF GRIGGS' REPORTS. SHE HAS 3,000 CLUE SHEETS. SHE HAS
24 EVERYTHING I'VE GOT. I DON'T HAVE ANY INTENTION ON
25 DIGGING AROUND IN DETECTIVE GRIGGS' PERSONNEL FILE ANY
26 MORE THAN I HAVE AN INTENTION ON DIGGING AROUND IN
27 DETECTIVE VERDUGO'S PERSONNEL FILE; DETECTIVE
28 LILLIENFELD'S PERSONNEL FILE; PAT DIXON'S PERSONNEL FILE.

1 THESE THINGS I DON'T SEE THE RELEVANCE.
2 AND SHE HAS THE TOOLS AVAILABLE THROUGH THE EVIDENCE CODE
3 AND THROUGH THE PENAL CODE TO MAKE HER POINT ABOUT
4 THIRD-PARTY CULPABILITY. I'M JUST NOT SEEING THE BRADY
5 CONNECTION.

6 THE COURT: WELL, I DON'T KNOW WHAT INFORMATION
7 THERE IS. AND THAT'S WHY I'M THROWING IT OUT TO YOU.
8 SHE PRESENTED TO ME IN HER EXHIBITS INFORMATION THAT I
9 DIDN'T KNOW EXISTED. OKAY? I HAVE HAD THIS CASE NOW FOR
10 OVER A YEAR. I DID NOT KNOW THAT THERE WAS ANOTHER
11 INDIVIDUAL THAT WAS LOOKED AT, QUOTE, UNQUOTE, AS A
12 POSSIBLE SUSPECT IN THE CASE. I KNEW NOTHING OF THAT.
13 I'M GETTING THIS FOR THE FIRST TIME WHEN I READ THE
14 MOTION THAT MS. SARIS HAS FILED.

15 SO I SEE HER POINT THAT SHE BELIEVES THAT
16 THERE WAS THIS VIABLE LEAD IN THE DIRECTION OF ANOTHER
17 INDIVIDUAL. WHETHER YOU WANT TO CALL IT "THIRD-PARTY
18 CULPABILITY" OR NOT, THAT'S GOING TO BE A LEGAL QUESTION
19 FOR THE COURT DOWN THE ROAD. BUT YOU HAVE AN
20 INVESTIGATION THAT WAS ONGOING THAT WAS GOING IN ONE
21 PARTICULAR DIRECTION AND THEN FOR WHATEVER REASON
22 STOPPED.

23 I DON'T HAVE ALL THE DISCOVERY. I DON'T
24 KNOW WHY THAT STOPPED. I HAVE A QUESTION. WHY DID THAT
25 STOP? WHY WAS THIS PERSON NO LONGER LOOKED AT? WHY DID
26 THE INVESTIGATION CEASE AS TO HIM?

27 NOW THERE IS INFORMATION THAT I HAVE
28 RECEIVED FROM HER THAT INDICATES THAT THERE WERE -- I

1 DON'T WANT TO CALL IT PROBLEMS, BUT THERE WAS TENSION.
2 THERE WAS OBVIOUS TENSION IN EXISTENCE AT THE TIME. AND
3 THAT TENSION WAS APPARENT. AND IT EXISTED BETWEEN THE
4 DETECTIVE AND OTHERS. SO THAT'S WHERE WE ARE AT. THIS
5 IS BRADY. THIS ISN'T PITCHESS. THIS IS BRADY.

6 WHETHER THERE IS INFORMATION THAT EXISTS
7 IN THE PERSONNEL FILE OF DETECTIVE GRIGGS OR THERE IS
8 INFORMATION KNOWN TO THE SHERIFF'S DEPARTMENT, I DON'T
9 KNOW. BUT I AM LOOKING TO THE PEOPLE. AND I AM POINTING
10 OUT THAT THERE IS A LEGITIMATE QUESTION HERE NOW THAT'S
11 BEEN RAISED. AND I DON'T KNOW THE ANSWER AS TO WHY
12 THINGS FOCUSED IN A PARTICULAR DIRECTION AND WHY THE
13 INVESTIGATION ENDED AS TO THIS OTHER INDIVIDUAL THE WAY
14 IT LOOKS LIKE IT DID.

15 BUT I DON'T KNOW THAT THAT'S TRUE. I'M
16 JUST SAYING THAT I DON'T HAVE ACCESS TO ALL YOUR
17 INFORMATION, SO I DON'T KNOW WHAT HAPPENED. THIS PERSON
18 WAS OBVIOUSLY VIEWED AS A SUSPECT. AND THEN WHAT
19 HAPPENED? DO YOU HAVE THAT INFORMATION? BECAUSE I
20 CERTAINLY DON'T KNOW THE ANSWER TO THAT QUESTION. AND IF
21 YOU DON'T KNOW THE ANSWER TO THE QUESTION, GIVEN THE 50
22 BOXES OF MATERIAL YOU HAVE, WELL, WHO DOES? AND ISN'T IT
23 INCUMBENT UPON THE PEOPLE TO MAKE AN ATTEMPT?

24 MR. JACKSON: WELL, YOUR HONOR, I BELIEVE I DO
25 KNOW THE ANSWER TO THAT QUESTION. AND IT'S CONTAINED IN
26 THE SAME INFORMATION THAT MS. SARIS HAS. ALTHOUGH THE
27 EXPLANATION SHE MIGHT NOT LIKE IT.

28 THE FACT OF THE MATTER IS THE PHYSICAL

1 EVIDENCE AND THE EYEWITNESS ACCOUNTS THAT SURROUNDED THE
2 MURDERS, NOT WITHSTANDING THIS PARTICULAR CLUE AND THE
3 PARTICULAR INFORMATION THAT CAME OUT ABOUT A WHITE GUY ON
4 A BICYCLE WAS COMPLETELY AND UTTERLY INCONSISTENT WITH
5 EVERY OTHER PIECE OF PHYSICAL INFORMATION THAT WE HAD
6 CONCERNING TWO INDIVIDUALS; BOTH AFRICAN/AMERICAN; BOTH
7 PEDALING AWAY ON BICYCLES IN A DIFFERENT DIRECTION THAN
8 THIS PERSON WAS.

9 SUPPOSEDLY THIS WAS WIDELY BROADCAST
10 INFORMATION CONCERNING THE DEATHS OF MICKEY AND TRUDY
11 THOMPSON IN THE BRADBURY ESTATES. TONS AND TONS OF
12 PEOPLE WERE CALLING. AND A PARTICULAR SET OF FACTS CAME
13 TO LIGHT ABOUT A GUY WHO WAS ON A BICYCLE PREVIOUSLY; WHO
14 CAUGHT A RIDE ON A MOTORCYCLE AND ZIPPED AWAY FROM THE
15 AREA GENERALLY. THIS PERSON WAS INTERVIEWED. THIS
16 PERSON WAS -- HIS FAMILY WAS INTERVIEWED. SURROUNDING
17 INDIVIDUALS WERE INTERVIEWED.

18 AND THE DETECTIVES FINALLY CAME TO A
19 DETERMINATION THAT NOTHING THAT THEY HAD FOLLOWED UP ON
20 CONCERNING THAT LEAD WAS CONSISTENT WITH THE PHYSICAL
21 EVIDENCE AND THE OVERWHELMING NUMBER OF WITNESSES WHO
22 SUBSTANTIATED A COMPLETELY DIFFERENT SET OF FACTS. TO
23 WIT, DUAL INDIVIDUALS; DUAL GUNS USED; TWO BICYCLES USED,
24 NOT ONE; GOING IN A DIFFERENT DIRECTION, NOT THE OTHER;
25 AFRICAN/AMERICAN, NOT WHITE; ET CETERA.

26 SO I THINK THE ANSWER IS THEY SIMPLY
27 COULDN'T SUBSTANTIATE THAT JOEY HUNTER, THIS THIRD
28 PERSON, WAS ACTUALLY INVOLVED IN THE MURDERS OF MICKEY

1 AND TRUDY THOMPSON. CONTRARY THEY COULD SUBSTANTIATE
2 THAT MIKE GOODWIN WAS INVOLVED IN THE MURDERS OF MICKEY
3 AND TRUDY THOMPSON. AND THE MORE INVESTIGATION THAT WAS
4 HAD KEPT POINTING TO MIKE GOODWIN. THE THREATS
5 BEFOREHAND; THE THREATS TO MICKEY THOMPSON; THE
6 THREATS --

7 THE COURT: ALL RIGHT.

8 MR. JACKSON: -- AFTERWARD.

9 THE COURT: YOU HAVE JUST PRESENTED ME WITH SOME
10 INFORMATION THAT OBVIOUSLY I DON'T HAVE ACCESS TO.

11 MS. SARIS: BUT, YOUR HONOR, IF I MAY JUST
12 CLARIFY. JOEY HUNTER WAS -- A COMPOSITE WAS PRESENTED IN
13 THE HERALD EXAMINER THE MORNING OF THE MURDER. AN
14 INDIVIDUAL CALLED AND SAID, "THAT'S MY NEIGHBOR." A
15 ROADBLOCK WAS DONE NEAR THE AREA. SEVERAL PEOPLE STOPPED
16 AND SAID, "I KNOW THAT INDIVIDUAL." HE WAS PUT IN A
17 PHOTO LINE-UP.

18 SEVERAL OF THE PEOPLE STOPPED AT THE
19 ROADBLOCK; PICKED HIM OUT OF THE LINE-UP. HE WAS THEN
20 PLACED IN A POLYGRAPH TEST. HE FAILED, NOT ONCE; NOT
21 TWICE; BUT THREE SEPARATE POLYGRAPH TESTS. TWO OF THE
22 INTERVIEWED EYEWITNESSES WHEN REINTERVIEWED INDICATED
23 THAT THEY FELT ONE OF THE SHOOTERS COULD HAVE BEEN A
24 WHITE MAN. HE WAS SEEN ON A BICYCLE WITHIN AN HOUR --

25 THE COURT: DO YOU HAVE THE INFORMATION THAT
26 MR. JACKSON HAS?

27 MS. SARIS: WE HAVE THE EXACT SAME INFORMATION.
28 HE IS FOLLOWED UP ON. HE IS ARRESTED. HE IS

1 POLYGRAPHED. HE GIVES AN ALIBI BY SAYING HE WAS WITH A
2 FRIEND OF HIS. THE FRIEND OF HIS HAD A COURT APPEARANCE.
3 THE COURT APPEARANCE WAS AT 9:00. THE FRIEND SAYS I
4 DON'T REMEMBER WHEN MY COURT WAS. IT WAS EITHER THAT DAY
5 OR THE NEXT DAY. SURE, JOEY WAS WITH ME. THAT IS IT.

6 AND THEN IT SAYS AT THE END OF THE LAST
7 PARAGRAPH -- MIND YOU, THESE ARE SEPARATE INVESTIGATORS
8 THAT ARE ON THIS CASE. AND WE'RE TALKING ABOUT 1989;
9 WITHIN A YEAR OR TWO OF THE MURDERS. AND IT SAYS
10 MR. HUNTER IS NO LONGER A SUSPECT. THAT'S IT.

11 NOW IN 1989 MR. GOODWIN WASN'T ARRESTED.
12 HE WASN'T ARRESTED IN '90; '91; '92. A COUPLE OF PEOPLE
13 UNFORTUNATELY SURROUNDING THE JOEY HUNTER INVESTIGATION
14 ARE NOW DEAD AS A RESULT OF THE DELAY. BUT THIS IDEA
15 THAT WE ARE NOW PRESENTING THIRD-PARTY CULPABILITY FOR
16 THE FIRST TIME -- I DON'T HAVE AN OPPORTUNITY TO PRESENT
17 EVIDENCE AT THE PRELIMINARY HEARING NECESSARILY.

18 I HAVE A FEELING THE DISTRICT ATTORNEY IS
19 GOING TO FIGHT LIKE TOOTH AND NAIL TO KEEP EVERY
20 THIRD-PARTY CULPABILITY OUT OF THIS TRIAL BECAUSE THEY
21 HAVE NO EVIDENCE OF MR. GOODWIN DOING ANYTHING. THEY
22 JUST HAVE EVIDENCE OF A MOTIVE. SO THIRD-PARTY
23 CULPABILITY WOULD ABSOLUTELY BLOW THEIR CASE OUT OF THE
24 WATER.

25 MR. HUNTER WAS A VIABLE SUSPECT. THE
26 TIMING OF THIS SEARCH WARRANT SHOWS THAT THEY WANTED HIM
27 AS A SUSPECT. WITHIN MONTHS OF THAT DETECTIVE GRIGGS
28 RETIRED.

1 THE COURT: ALL RIGHT. I THINK I HAVE HEARD
2 ENOUGH ON THE PITCHESS ISSUE. AND I WILL THANK AND
3 EXCUSE THE REPRESENTATIVE HERE WHO IS APPEARING ON BEHALF
4 OF THE SHERIFF'S DEPARTMENT. I AM DENYING THE PITCHESS
5 MOTION. I DO THINK THAT YOU HAVE A LEGITIMATE CONCERN
6 REGARDING THE EXISTENCE OF BRADY MATERIAL.

7 THE PEOPLE DON'T FEEL THAT THERE IS
8 ANYTHING MORE THAT THEY NEED TO DO TO PURSUE THEIR
9 OBLIGATIONS UNDER BRADY. AND YOU INDICATED THAT YOU HAD
10 S.D.T.'D OR TRIED TO S.D.T. SOME MATERIAL. AND I AM
11 GOING TO INVITE YOU TO, ONCE AGAIN, PURSUE THOSE OPTIONS.
12 AND IF THERE IS A MOTION TO QUASH THE S.D.T. OR ANY OTHER
13 MOTION BROUGHT ON BEHALF OF THE SHERIFF'S DEPARTMENT, I
14 WILL ENTERTAIN THAT MOTION.

15 MS. SARIS: MAY I INQUIRE OF MR. BOWERS THEN
16 WHERE TO ADDRESS THAT? BECAUSE I SENT OUT TWO S.D.T.'S
17 BEFORE --

18 THE COURT: WELL, AT THIS POINT I DON'T KNOW THAT
19 WE ARE TALKING ABOUT DETECTIVE GRIGGS' PERSONNEL FILE. I
20 MEAN IT SOUNDS TO ME LIKE YOU HAVE SOME GENERAL INQUIRIES
21 THAT YOU MAY NEED TO PRESENT TO THE INVESTIGATING OFFICER
22 IN THIS CASE OR AT LEAST THE SHERIFF'S DEPARTMENT IN
23 GENERAL.

24 I DON'T KNOW IF WHAT YOU WANT IS CONTAINED
25 IN DETECTIVE GRIGGS' PERSONNEL FILE. IT SOUNDS LIKE WHAT
26 YOU ARE ASKING FOR IS INFORMATION THAT WOULD DEMONSTRATE
27 THAT THERE WAS ANOTHER VIABLE SUSPECT THAT WAS LOOKED AT.
28 AND BECAUSE OF OUTSIDE PRESSURE, PERHAPS, THE

1 INVESTIGATION INTO THAT SUSPECT WAS TERMINATED. IF
2 THAT'S THE CASE, I DON'T KNOW WHAT ELSE TO TELL YOU.
3 IT'S NOT PITCHESS. BUT IT MAY VERY WELL BE INFORMATION
4 THAT YOU ARE ENTITLED TO.

5 MS. SARIS: WELL, I'VE HAD THAT MOTION PENDING
6 SINCE I FILED A BRADY MOTION IN THIS COURT ASKING FOR ALL
7 RELEVANT INTERVIEWS; ALL RELEVANT REPORTS. AND, YOU
8 KNOW, WE'RE ALMOST TWO YEARS INTO THIS AND I HAVEN'T
9 RECEIVED THOSE.

10 THE COURT: I KNOW. BUT, AGAIN, I DIDN'T KNOW
11 ANY OF THIS.

12 MS. SARIS: RIGHT. THERE WAS NO OPPORTUNITY TO
13 TELL THE COURT THIS PRIOR.

14 THE COURT: THAT'S WHAT I'M SAYING. I'M HEARING
15 THIS FOR THE FIRST TIME. I SEE WHERE YOU ARE GOING AND I
16 SEE WHAT THE PROBLEM IS. AND I SEE THAT THE PEOPLE FEEL
17 THAT THEY HAVE COMPLIED WITH THEIR OBLIGATION.

18 SO THE COURT CAN'T ORDER THE PEOPLE TO DO
19 ANYTHING MORE. BUT YOU CERTAINLY HAVE A RIGHT TO SEEK
20 THE PRODUCTION OF MATERIAL THAT YOU THINK IS RELEVANT IN
21 THIS CASE AND I URGE YOU TO DO SO. AND WE WILL TAKE IT
22 FROM THERE. THAT'S REALLY THE ONLY SOLUTION I CAN SEE TO
23 THIS PROBLEM. AND WHETHER ANYTHING ELSE EXISTS, I JUST
24 DON'T KNOW.

25 BUT I DON'T THINK IT'S PROPERLY A PITCHESS
26 MOTION. AND I DON'T THINK YOU MADE THE REQUIRED SHOWING
27 UNDER PITCHESS FOR THE COURT TO ORDER AN IN CAMERA AS TO
28 DETECTIVE GRIGGS'S PERSONNEL FILE. SO WHY DON'T WE LEAVE

1 IT AT THAT.

2 MS. SARIS: AND WILL THE COURT ORDER, PLEASE, A
3 TRANSCRIPT OF THESE PROCEEDINGS?

4 THE COURT: YES. THAT WILL MAKE THE COURT
5 REPORTER EXTREMELY HAPPY.

6 MS. SARIS: SORRY.

7 THE COURT: DO YOU NEED THAT ANY TIME IN THE NEAR
8 FUTURE?

9 MS. SARIS: YES, PLEASE.

10 THE COURT: OF COURSE. WORK IT OUT WITH LORI AND
11 I WILL ORDER A TRANSCRIPT.

12 AND THEN WE WERE GOING TO DEAL WITH THE
13 BALLISTICS TODAY?

14 MR. JACKSON: YES, YOUR HONOR.

15 MS. SARIS: YES. I SUBMITTED A DECLARATION FROM
16 ANTHONY PAUL PREVIOUSLY SUBMITTED. THIS COURT APPOINTED
17 ANTHONY PAUL BEFORE THERE WAS AN ISSUE WITH THE RELEASING
18 OF THE EVIDENCE. MR. PAUL HAS INDICATED TO ME THAT HE IS
19 NO LONGER AVAILABLE FOR AN APPOINTMENT. SO I HAVE
20 DESTROYED THAT APPOINTMENT AND REQUESTED A DIFFERENT
21 EXPERT.

22 HOWEVER, I INCLUDED IN MY MOVING PAPERS
23 THE DECLARATION AGAIN FOR MR. PAUL SHOWING THAT ONE OF
24 THE REASONS HE WOULD NOT TAKE THIS APPOINTMENT NOW IS
25 BECAUSE HE WILL NOT GO TO AN OUTSIDE LAB TO CONDUCT HIS
26 RESULTS.

27 I'VE ATTACHED THE FORENSIC ANALYTICAL
28 OFF-SITE POLICY. EVERY BALLISTICS EXPERT I'VE SPOKEN TO

1 AT THAT FACILITY INDICATED TO ME THEY WILL NOT ACCEPT AN
2 APPOINTMENT THAT STRAYS FROM THAT POLICY. AND THEY HAVE
3 LISTED FOR THIS COURT THE EQUIPMENT THAT WOULD BE
4 NECESSARY. NOT ONLY WOULD IT BE NECESSARY TO BRING THEIR
5 OWN, BUT THEY'VE ALSO DISCUSSED WHY THEY CAN'T USE THE
6 SHERIFF'S. EVEN THE SHERIFF HAD THAT EXACT THE SAME
7 EQUIPMENT, WHICH THEY MAY NOW NOT, PHYSICALLY THEY CAN'T
8 BRING THEIR EQUIPMENT.

9 IF THEIR EQUIPMENT IN THE SHERIFF'S LAB IS
10 CALCULATED INCORRECTLY, WE ARE JUST GOING TO BE REDOING
11 THEIR ERRORS.

12 THE COURT: I JUST RECEIVED, THOUGH, ALL OF THIS
13 INFORMATION. SO I HAVEN'T HAD AN OPPORTUNITY TO REVIEW
14 IT. I'M GOING TO HAVE TO TAKE A LOOK AT IT. AND THAT'S
15 GOING TO TAKE ME A LITTLE BIT OF TIME.

16 MS. SARIS: I'M INTERESTED IN GETTING THESE
17 RECORDS AS SOON AS POSSIBLE. SO I DON'T MIND SETTING
18 ANOTHER COURT DATE AS QUICKLY AS POSSIBLE. I SEE THE
19 24TH IS -- I DON'T THINK THE 22ND WOULD GIVE THEM ENOUGH
20 TIME TO COMPLY. APRIL 3RD?

21 THE COURT: OKAY. WE WILL SET THE MATTER --

22 MR. JACKSON: JUDGE, I'M SORRY --

23 (DISCUSSION OFF THE RECORD.)

24 MS. SARIS: THE 4TH IS BETTER FOR MR. JACKSON.

25 MR. JACKSON: IS THE 4TH OKAY?

26 THE COURT: ALL RIGHT. WE CAN SET IT ON THE 4TH.
27 SO I ASSUME THAT WILL BE ANOTHER HEARING DATE WHERE WE
28 WILL ORDER MR. GOODWIN OUT?

1 MS. SARIS: ACTUALLY, IF WE'RE NOT AT THAT POINT
2 LIKELY TO BE REQUESTING ANY SORT OF TIME WAIVER BECAUSE
3 IF -- GETTING TO THE NEXT ISSUE, MR. JACKSON AND I
4 DISCUSSED A POTENTIAL OF WHEN THIS MIGHT BE TRIED AND
5 WHEN WE MIGHT GET OUR WITNESS LIST RESPECTIVELY FROM ONE
6 ANOTHER BECAUSE THAT WILL DECIDE WHAT WITNESSES WE CALL
7 WHEN WE GET THEIRS.

8 MR. GOODWIN IS ASKING NOT TO HAVE TO COME
9 BACK NEXT TIME. AND I'M NOT SURE IF MR. JACKSON THINKS
10 BY THE 3RD HE WILL HAVE A WITNESS LIST OR IF WE WILL
11 PROBABLY TAKE IT TO TWO MORE WEEKS AFTER THAT.

12 MR. JACKSON: I IMAGINE I CAN HAVE A WITNESS LIST
13 AVAILABLE BY THE 4TH.

14 MS. SARIS: THEN I DO WANT MR. GOODWIN HERE ON
15 THE 3RD.

16 MR. JACKSON: ON THE 4TH.

17 MS. SARIS: 4TH, SORRY.

18 THE COURT: ALL RIGHT. BUT WE ARE ZERO OF 60
19 TODAY.

20 MS. SARIS: THAT'S CORRECT.

21 THE COURT: SO YOU JUST WANT TO ORDER -- WE WILL
22 JUST ORDER MR. GOODWIN BACK FOR APRIL 4TH AND CALENDAR
23 THAT FOR FURTHER PROCEEDINGS. LAST DAY AT THIS POINT IS
24 MAY 19TH. AND WE ARE GOING TO KEEP THAT DATE AS LAST
25 DAY?

26 MS. SARIS: RIGHT. THE 4TH WOULD BE 15 OF 60.

27 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE WE
28 NEED TO DO THIS MORNING?

1 MR. JACKSON: NO, YOUR HONOR.

2 MS. SARIS: THE COURT MAY BE IN POSSESSION OF
3 MEDICAL REPORTS FROM THE JAIL. WE ASKED THE COURT BE
4 ADVISED OF THE --

5 THE COURT: DID I GET ANY MEDICAL REPORTS FROM
6 THE JAIL?

7 MS. SARIS: AND MR. JACKSON ADVISES ME THAT WE
8 HAVE ONE OTHER ISSUE. THE COURT HAS TO PUT ON THE RECORD
9 THE DECISION TO RELEASE THE REPORTS THAT WE GOT FROM THE
10 MENINGER CLINIC REGARDING GAIL HUNTER; THE ONES THAT CAME
11 TO MY OFFICE INADVERTENTLY. THAT CAN'T JUST BE SOMETHING
12 I XEROX, SO THE COURT HAS TO -- I DON'T KNOW IF YOU WANT
13 TO REVIEW THEM OR IF YOU JUST WANT TO GIVE US BOTH
14 COPIES, BUT IT HAS TO BE ON THE RECORD.

15 THE COURT: I THOUGHT WE DID THIS ALREADY.

16 MS. SARIS: THAT WAS MEDICAL RECORDS FROM ASPEN
17 HOSPITAL. THIS IS PSYCHIATRIC FROM MENINGER CLINIC.

18 MR. JACKSON: AND I HAVE NOT SEEN THOSE. I
19 UNDERSTAND THAT THEY INADVERTENTLY WENT TO THE PUBLIC
20 DEFENDER'S OFFICE INSTEAD OF HERE. THEY WERE OPENED.
21 AND I'M ASSUMING --

22 MS. SARIS: NOT REVIEWED.

23 MR. JACKSON: I'M ASSUMING MS. SARIS WILL PUT ON
24 THE RECORD THAT --

25 MS. SARIS: I MEAN I LOOKED AT THEM TO SEE WHAT
26 THEY WERE, BUT I DIDN'T GO THROUGH THEM.

27 THE COURT: ALL RIGHT. YOU WANT ME TO ISSUE AN
28 ORDER THAT YOU CAN JUST HAVE ACCESS TO THEM AND GIVE A

1 COPY TO MR. JACKSON?

2 MS. SARIS: YES. I DID SUBPOENA THEM. AND
3 NORMALLY I WOULD NOT -- I WOULD OBJECT TO THE DISTRICT
4 ATTORNEY HAVING THEM. BUT IN THIS PARTICULAR CASE, I
5 WOULD PROBABLY GIVE THEM TO HIM ANYWAY, SO YES.

6 THE COURT: ALL RIGHT. I WILL MAKE THAT ORDER.

7 MR. JACKSON: I HAVE NO OBJECTION IF --

8 (DISCUSSION OFF THE RECORD.)

9 THE COURT: ALL RIGHT. I DON'T HAVE ANY
10 MEDICAL -- YOU SAID I WAS DUE A REPORT ON MR. GOODWIN?

11 THE CLERK: I HAVE IT.

12 THE COURT: OH, YOU HAVE IT. OKAY. GREAT.

13 MR. JACKSON: YOUR HONOR, I HAVE NO OBJECTION.
14 I'VE ASKED MS. SARIS TO DOCUMENT WHAT IS IN THE
15 PSYCHIATRIC RECORDS JUST TO MAKE SURE THAT WE HAVE THE
16 SAME IDENTICAL COPY.

17 MS. SARIS: JUST THE NUMBER OF PAGES.

18 MR. JACKSON: I DON'T HAVE ANY OBJECTION TO HER
19 TAKING POSSESSION OF THE ORIGINALS; MAKING A DUPLICATE
20 COPY FOR HERSELF AND ME; AND THEN RETURNING THE ORIGINALS
21 TO THE COURT.

22 THE COURT: ALL RIGHT.

23 MS. SARIS: THAT'S FINE. I CAN DO THAT TODAY.

24 THE COURT: ALL RIGHT. AND DO I HAVE A MEDICAL
25 REPORT HERE.

26 IS THERE ANYTHING ELSE?

27 MS. SARIS: I DON'T THINK WE NEED TO GO IN CAMERA
28 OR OFF WITHOUT MR. JACKSON FOR THIS POINT.

1 THE COURT HAS HAD SEVERAL MEDICAL ORDERS.
2 THE PROBLEM IS THE HIGH BLOOD PRESSURE MEDICATION IS NOT
3 BEING COMPLIED WITH. MR. GOODWIN HAS BEEN TOLD THAT HE
4 HAS NOW LOST THE ABILITY TO READ IN HIS RIGHT EYE
5 PERMANENTLY AS A RESULT OF THE BLOOD PRESSURE ISSUE.

6 HE IS IN DANGER OF LOSING IT IN HIS LEFT
7 EYE. BECAUSE WE DIDN'T SPECIFY EYE EXAM, HE WENT TO THE
8 L.C.M.C. YESTERDAY OR THE DAY BEFORE --

9 WAS IT THURSDAY OR FRIDAY?

10 THE DEFENDANT: FRIDAY.

11 MS. SARIS: -- AND SAW A UROLOGIST WHO SAID,
12 WELL, I ORDERED ALL THESE TESTS AND NONE OF THEM GOT
13 DONE. SO WE ARE IN A BETTER POSITION THAN WE WERE. I
14 ACTUALLY HAD ONE OF THE SHERIFFS WHO WAS DEALING WITH IT
15 SAY TO ME: HAVE YOU TRIED TO GET BAIL FOR YOUR CLIENT?
16 SO THEY'RE BASICALLY READY TO THROW UP THEIR HANDS SAYING
17 THEY MAY BE UNWILLING TO TREAT HIM MEDICALLY.

18 I ADVISED THEM THAT SINCE HE HAS HAD THREE
19 HOSPITAL VISITS SINCE OUR LAST APPEARANCE, IT SEEMS LIKE
20 THEY WERE COMPLYING. THEY TOLD ME AS A RESULT OF HIS
21 K-10 STATUS, I'M NOT ALLOWED TO KNOW WHEN THE APPEARANCES
22 ARE IN ADVANCE. BUT THAT HE HAS MORE NEXT WEEK AND MORE
23 AT THE END OF THE MONTH. SO PERHAPS ON THE 3RD --

24 THE COURT: 4TH.

25 MS. SARIS: -- THE 4TH WE CAN GET A FURTHER
26 UPDATE AND THIS COURT TODAY CAN SIGN AN EXAM FOR THE
27 L.C.M.C.

28 THE COURT: I WILL DO THAT.

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ANYTHING ELSE?

MS. SARIS: NO.

THE COURT: THANK YOU. SEE YOU ON APRIL 4TH.

(PROCEEDINGS CONTINUED TO TUESDAY, APRIL
4, 2006, IN DEPARTMENT "E.")

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, APRIL 4, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: CALLING THE MATTER OF MICHAEL
16 GOODWIN. MR. GOODWIN IS PRESENT.

17 LET ME HAVE COUNSEL STATE THEIR
18 APPEARANCES, PLEASE.

19 MR. DIXON: PAT DIXON AND ALAN JACKSON, DEPUTY
20 DISTRICT ATTORNEYS.

21 MS. SARIS: ELENA SARIS AND TOM SUMMERS, DEPUTY
22 PUBLIC DEFENDERS, ON BEHALF OF MR. GOODWIN.

23 THE COURT: LAST TIME COUNSEL SUBMITTED A REQUEST
24 EXPARTE IN NATURE REGARDING THE APPOINTMENT OF AN EXPERT
25 AND THE ORDER PERMITTING THE EXAMINATION OF EVIDENCE AND
26 THE COURT WAS GOING TO RULE ON THAT TODAY. AND I'M
27 INCLINED TO GRANT THAT REQUEST.

28 MR. JACKSON: YOUR HONOR, CAN YOU GIVE ME THE

1 SCOPE OF THE COURT'S ORDER REGARDING THE -- I'M ASSUMING
2 YOU ARE TALKING ABOUT THE FIREARMS OR THE FIREARM?

3 MS. SARIS: NO. IT WOULD BE BULLETS. THERE IS
4 NO GUN.

5 MR. JACKSON: BALLISTICS, GENERALLY.

6 THE COURT: RIGHT.

7 MR. JACKSON: WHAT IS THE SCOPE OF THE COURT'S
8 ORDER? WHAT IS THE COURT ORDERING US TO DO?

9 THE COURT: I DON'T THINK I'M ORDERING YOU TO DO
10 ANYTHING.

11 MR. JACKSON: SO WE WILL --

12 THE COURT: IT'S AN ORDER GRANTING ACCESS AND
13 PERMITTING AN INDEPENDENT ANALYSIS.

14 MR. JACKSON: OKAY. SO WE WILL -- AS WE KIND OF
15 POSTULATED AT AN EARLIER HEARING, WE WILL MAKE AVAILABLE
16 AND ACCOMMODATE ANY EXPERT -- MAKE AVAILABLE THE
17 BALLISTICS AND ACCOMMODATE ANY EXPERT THAT IS APPOINTED
18 BY THE COURT ON BEHALF OF MR. GOODWIN?

19 MS. SARIS: NO. THIS IS TO RELEASE THE EVIDENCE.
20 THIS IS NOT FOR THEIR LAB.

21 THE COURT: TO REMOVE AND EXAMINE.

22 MR. JACKSON: THAT'S MY QUESTION. IS THE -- SO
23 THE DEFENSE IS GOING TO HAVE A COURIER WHO WILL BE
24 NAMED --

25 MS. SARIS: RICHARD WUNDERLICH IS HIS NAME.
26 W-U-N-D-E-R-L-I-C-H.

27 THE COURT: WILL PICK UP THE ITEMS AND RETURN
28 THEM TO THE FACILITY, THE SHERIFF'S DEPARTMENT FACILITY.

1 MR. JACKSON: AND WOULD THE COURT PLEASE PUT A
2 TIME FRAME ON THAT ANALYSIS? I DON'T WANT THIS TO BE AN
3 OPEN-ENDED THING AND SOME EXPERT SITTING OUT THERE WITH
4 OUR BALLISTICS -- "OUR" MEANING "THE GOVERNMENT'S"
5 POSSESSION OF THE BALLISTICS SAYING: IT'S BEEN THREE
6 MONTHS AND I HAVEN'T DONE IT YET. TEN DAYS -- TEN
7 BUSINESS DAYS OR SOMETHING SEEMS REASONABLE.

8 MS. SARIS: SEEING AS HOW THEY ARE UP NORTH, FROM
9 THE DATE OF PICK UP TO THE DATE OF RETURN, THREE WEEKS IS
10 FINE.

11 THE COURT: I WILL GIVE YOU BACK YOUR ORDER. WHY
12 DON'T YOU GO AHEAD AND ADD THE MODIFICATION AND I WILL
13 SIGN IT.

14 MS. SARIS: I BELIEVE I PUT IN THE ORDER FOR THE
15 PAYMENT OF FUNDS. AND THERE WAS A PREVIOUS ORDER FOR THE
16 PAYMENT OF THE COURIER. MR. PAUL, AS I SAID, WILL NO
17 LONGER ACCEPT THE APPOINTMENT. SO I PUT IN A GENTLEMAN,
18 IT IS A VERY LONG NAME FROM SOUTH AFRICA; IT STARTS WITH
19 AN "S." OKAY.

20 THE COURT: YES, IT'S ALL THERE. THERE IS
21 ACTUALLY A SECOND ORDER HERE FOR THE APPOINTMENT.

22 MS. SARIS: RIGHT. ONE IS THE REMOVAL.

23 THE COURT: YES. ALL RIGHT. AND THAT'S ALL I
24 HAVE FOR TODAY; RIGHT?

25 MS. SARIS: NO, NOT ACTUALLY.

26 THE COURT: NO? OKAY.

27 MS. SARIS: THERE IS TWO OTHER ISSUES. WE HAD
28 PREVIOUSLY SUBPOENAED TO THIS COURT THE PERSONNEL

1 PSYCHIATRIC FILE OF DEPUTY SHERIFF MICHAEL GRIGGS. I DID
2 THAT IN JANUARY THROUGH AN S.D.T. I WAS TOLD THAT I HAD
3 TO SERVE THAT THROUGH PITCHESS. I RESUBPEONAED THAT
4 THROUGH PITCHESS. THE REPRESENTATIVES CAME IN ON MARCH
5 20TH AND ADVISED THIS COURT THAT IT WAS NOT PITCHESS.

6 WE CONTINUED TO DISAGREE WITH THAT RULING.
7 HOWEVER, IT WAS SUGGESTED THAT WE RESUBPOENA THAT
8 EVIDENCE, WHICH WE DID TODAY. I DO NOT KNOW IF THERE IS
9 A SHERIFF'S REPRESENTATIVE, BUT I DO HAVE A SUBPOENA. WE
10 WERE TURNED DOWN AT THE DOOR WHEN WE TOOK IT IN PERSON TO
11 THE SHERIFF'S REPRESENTATIVE ON EASTERN AVENUE BECAUSE WE
12 WERE TOLD, QUOTE, THIS HAS TO BE DONE THROUGH PITCHESS.

13 SO WE FOLLOWED THEIR PROCEDURE AND
14 CERTIFIED MAIL A SUBPOENA, WHICH IS WHAT THEY REQUEST US
15 TO DO. AND NOW WE'RE ASKING FOR A BODY ATTACHMENT TO
16 ISSUE FOR THE CUSTODIAN OF RECORDS OF THE SHERIFF'S, A
17 WOMAN BY THE NAME OF DEBORAH KNOX. AND I HAVE HER
18 PHYSICAL DESCRIPTION IF THE COURT REQUIRES.

19 THE COURT: ALL RIGHT. YOU CAN SUBMIT THAT.

20 MS. SARIS: I WROTE A LETTER ALONG WITH THE
21 SUBPOENA ADVISING THAT IF THEY HAVE CONCERNS, THAT THEY
22 SHOULD COME TO COURT. THIS IS GOING TO FALL INTO THE
23 NEXT ISSUE, WHICH IS WE'RE CURRENTLY 15 OF 60 FOR TRIAL
24 TODAY. WE'RE JUST NOW GETTING THE BALLISTICS EVIDENCE.
25 THE SHERIFF'S DEPARTMENT DOESN'T EVEN FEEL THE NEED TO
26 COMPLY WITH THE SUBPOENA BY AT LEAST SHOWING UP AND
27 ARGUING ABOUT THE NEED FOR ME TO HAVE THESE RECORDS.

28 AND I HAVE BEEN HANDED A WITNESS LIST WITH

1 A NAME OF A WITNESS I'VE NEVER SEEN BEFORE, HAVING THIS
2 CASE FOR NEARLY TWO YEARS AND ADVISED THAT, QUOTE,
3 DISCOVERY IS FORTHCOMING ON THAT WITNESS. ON FRIDAY WE
4 HAVE AN APPOINTMENT WITH THE SHERIFF'S DEPARTMENT TO LOOK
5 THROUGH BOXES OF EVIDENCE THAT WERE UNABLE TO BE LOCATED
6 EARLIER. WHEN WE LOOKED THROUGH THE FIRST GROUP OF
7 EVIDENCE, WE CAME AWAY WITH 6,000 NEW DOCUMENTS. THIS IS
8 A SMALLER GROUP OF EVIDENCE, BUT I ANTICIPATE ANOTHER
9 2,000 DOCUMENTS COMING. WE WERE GOING TO ASK THE COURT
10 TO PUT THE TRIAL DATE OVER TO EARLY JULY.

11 I'M ADVISED BY COUNSEL THAT THERE ARE
12 CONFLICTS IN THE SCHEDULE WITH REGARD TO ANOTHER CASE.
13 AND I THINK THAT SOME DECISIONS NEED TO BE MADE IN
14 REGARDS TO WHEN WE'RE HAVING THE WHAT I BELIEVE IS GOING
15 TO BE EITHER AN OSC OR SOME SORT OF A HEARING ON GRIGGS'
16 RECORDS TO DETERMINE AT WHAT POINT WE NEED TO DECIDE
17 WHETHER OR NOT TO PUT THIS CASE OVER AND TO WHAT DATE.

18 THE COURT: OKAY. MR. DIXON, YOU ARE STANDING.
19 I ASSUME THAT MEANS --

20 MR. DIXON: YES. COULD I ADDRESS THE COURT ON
21 THIS MATTER? FIRST, I APOLOGIZE FOR NOT BEING HERE THE
22 LAST COUPLE OF APPEARANCES. I WAS IN TRIAL IN 108 ON A
23 CASE THAT TOOK ALMOST TWO MONTHS. AND I ALSO THOUGHT
24 THAT MR. JACKSON WAS PROBABLY THE BEST PERSON TO HANDLE
25 THE RECUSAL ISSUES.

26 HAVING SAID THAT, I OBVIOUSLY TALKED WITH
27 HIM ABOUT CONTINUANCES. AND WHEN I WAS LAST HERE, I
28 HEARD ALMOST EVERY TIME WE WERE HERE THAT THE DEFENDANT

1 WAS NOT GOING TO WAIVE TIME; THAT WE WERE GOING TO GO TO
2 TRIAL ON MAY 19TH; THAT WAS A FIRM DATE; HE HAD BEEN IN
3 CUSTODY LONG ENOUGH; AND HE HAS BEEN IN CUSTODY FOR A
4 LONG TIME. AND SO I TOOK THAT SERIOUSLY.

5 AS THE COURT MAY OR MAY NOT KNOW
6 MR. JACKSON AND I ARE ALSO THE DEPUTY DISTRICT ATTORNEYS
7 ASSIGNED TO THE PHIL SPECTOR CASE. THAT WAS, UNTIL VERY
8 RECENTLY, SET FOR TRIAL AT THE END OF MAY. WE LOOKED AT
9 OUR CALENDERS AND SAID: THESE TWO CASES CAN'T GO RIGHT
10 ON TOP OF EACH OTHER. WE CAN'T DO THEM BOTH AT THE SAME
11 TIME. IN FACT, IT WOULD BE REALLY UNFAIR. AND I
12 WOULDN'T BE DOING MY JOB IF I TRIED TO DO THESE LITERALLY
13 BACK TO BACK.

14 AND SO IN THE SPECTOR CASE, THE DEFENSE
15 CAME TO US AND ASKED FOR A CONTINUANCE -- A SHORT
16 CONTINUANCE, WHICH STILL WOULD HAVE CONFLICTED WITH THIS
17 CASE. AND WE WENT TO JUDGE FIDLER AND WE ALL AGREED TO
18 GO OVER TO THE SECOND WEEK IN SEPTEMBER FOR TRIAL. AND I
19 DID THAT SPECIFICALLY BECAUSE I THOUGHT THAT -- I TOOK
20 COUNSEL AND MR. GOODWIN AT THEIR WORD THAT THEY WANTED TO
21 GO TO TRIAL; NO MORE CONTINUANCES; I'VE BEEN IN CUSTODY
22 LONG ENOUGH. SO WE CONTINUED THE SPECTOR CASE SO THAT WE
23 COULD DO THIS CASE.

24 NOW MS. SARIS'S REQUEST WOULD PUT US RIGHT
25 BACK IN THAT SITUATION AGAIN. I UNDERSTAND THAT THEY MAY
26 OR MAY NOT HAVE -- THEY MAY HAVE MORE THINGS TO DO.
27 THAT'S UP TO THE COURT. ALL I'M SAYING IS THAT THEY ARE
28 THIS LONG. WHEN WE HAVE ACCOMMODATED THEM AND WE'VE

1 MOVED CASES AROUND SO THAT WE COULD TRY THIS ACCORDING TO
2 WHEN THEY WANTED TO GO TO TRIAL.

3 IF THERE IS A CONTINUANCE, I THINK THIS
4 HAS TO BE TO A DATE THAT'S MUTUALLY CONVENIENT TO BOTH
5 PARTIES FOR OUR TRAIL SCHEDULES. IT IS NOT FAIR TO PUT
6 US IN THIS SITUATION WHERE WE HAVE TO DO THIS BACK TO
7 BACK WITH SPECTOR. AND THERE IS A CHANCE THAT PHIL
8 SPECTOR'S CASE MAY GET CONTINUED AGAIN. THERE IS NEW
9 COUNSEL COMING INTO THAT CASE. I DON'T KNOW.

10 BUT RIGHT NOW I JUST DON'T KNOW. I DO
11 KNOW THAT WE ARE READY TO GO TO TRIAL ON MAY 19TH. AND
12 IF MR. GOODWIN WANTS HIS TRIAL, WE WILL DO IT. ANYWHERE
13 BEYOND THAT, I WOULD ASK THIS TO GO OVER TO SEPTEMBER AS
14 ZERO OF 45. AND WE'LL TRY TO WORK EVERYTHING OUT WITH
15 JUDGE FIDLER.

16 AS AN ASIDE I WILL SAY, WE PLAN OUR
17 PERSONAL LIVES ON THIS, TOO. I MEAN I PURCHASED A
18 VACATION AND PAID FOR IT OUT OF THE COUNTRY IN MID JULY,
19 ASSUMING THAT I WOULD BE DONE WITH THIS. SO I RELIED ON
20 COUNSEL. SORRY THAT WAS A LITTLE TOO LONG.

21 MS. SARIS: AND, YOUR HONOR, I SORT OF RELIED ON
22 COUNSEL GETTING ME THE BALLISTICS EVIDENCE AND THE
23 DISCOVERY IN AN APPROPRIATE TIME. SO I DON'T THINK
24 THAT'S A FAIR RELIANCE. AND QUITE FRANKLY, I CAN'T TELL
25 THIS COURT HOW LITTLE I CARE ABOUT MR. SPECTOR, WHO IS A
26 MAN WHO IS OUT OF CUSTODY AT THE MOMENT.

27 IF MR. GOODWIN WERE OUT OF CUSTODY,
28 OBVIOUSLY WE WOULD HAVE A LOT MORE LENIENCY AS TO WHEN HE

1 COULD BE TRIED. MR. SPECTOR HAS NOT BEEN IN CUSTODY FOR
2 FOUR YEARS AWAITING TRIAL. MR. GOODWIN HAS. WE WOULD
3 HAVE LOVED TO HAVE TRIED THIS CASE IN DECEMBER. WE HAD
4 MOTIONS TO LITIGATE THAT HAD TO DO WITH THE FAIRNESS OF
5 THIS TRIAL. NOW WE'RE ASKING TO GET EVIDENCE.

6 FOR MR. DIXON TO COME AND SAY THAT HE
7 RELIED ON SOME PROMISE OR SUGGESTION THAT WE MADE THAT WE
8 WANTED A FAIR TRIAL ON THE ONE HAND AND THEN TO HAVE
9 ARGUED AGAINST RELEASING EVIDENCE FOR INDEPENDENT
10 EXAMINATION ON THE OTHER STRIKES ME AS FAULTY LOGIC.
11 WE'RE DESPERATE TO GO TO TRIAL AS QUICKLY AS POSSIBLE.
12 BUT WE ARE NOT ABOUT TO LOSE THE BALANCING END OF A FAIR
13 TRIAL IN ORDER TO DO THAT.

14 WE NEED TIME FOR THE BALLISTIC EVIDENCE.
15 AND WE NEED THESE RECORDS FROM DEPUTY GRIGGS. I DON'T
16 KNOW IF THE PERHAPS THE COURT CAN INQUIRE IF THE DISTRICT
17 ATTORNEY'S OFFICE HAS DONE ANYTHING SINCE THE LAST COURT
18 APPEARANCE TO FIND THESE PSYCHOLOGICAL RECORDS UNDER
19 BRADY FOR MR. GRIGGS. IF THE DISTRICT ATTORNEYS ARE SO
20 WILLING TO DO THIS CASE AND IF THIS HAS PRIORITY OVER
21 SPECTOR, HAVE THEM ASSIST US IN FINDING THESE RECORDS.

22 WE'RE HAVING TO LITIGATE AT EVERY SINGLE
23 AVENUE JUST TO GET THE MOST BASIC MODICUM OF FAIRNESS.
24 AND NOW WE'RE BEING TOLD WE'RE SUPPOSED TO RUSH WHILE
25 THOSE THINGS ARE BEING ARGUED ABOUT. THAT JUST SEEMS
26 SILLY TO ME.

27 MR. DIXON: YOUR HONOR, I'M NOT ASKING ANYBODY TO
28 RUSH OR I'M NOT TRYING TO BE UNFAIR. I'M SAYING THE

1 COURT HAS OBVIOUSLY BEEN HERE FOR EVERY APPEARANCE THAT
2 WE'VE ALL BEEN HERE AND HEARD MR. GOODWIN HAVE PROBLEMS
3 WITH WAIVING TIME AND SAYING THAT THIS CASE WAS GOING TO
4 GO IN SEPTEMBER.

5 THAT'S ALL I'M SAYING IS THAT WE HAVE A
6 CONFLICT HERE. WE TRIED TO ACCOMMODATE MR. GOODWIN. I
7 BELIEVED THIS CASE WAS GOING TO GO TO TRIAL ON MAY 19TH.
8 AND THE COURT -- AND I INVITE THE COURT TO PICK UP THE
9 PHONE AND ASK JUDGE FIDLER. I WAS IN HIS CHAMBERS AND I
10 SAID TO HIM, JUDGE, I CAN'T DO THIS CASE -- I CAN'T DO
11 SPECTOR IN MID JULY EVEN IF IT'S CONTINUED PAST MAY
12 BECAUSE WE'RE GOING TO DO THE MICHAEL GOODWIN CASE. AND
13 HE RELUCTANTLY AGREED TO PUT IT OVER TO SEPTEMBER.

14 MS. SARIS: I JUST WANT TO ALSO POINT OUT THAT I
15 DIDN'T GET A PHONE CALL THAT DAY FROM MR. DIXON WHEN HE
16 WAS IN JUDGE FIDLER'S COURT AND SAYING: IS MAY 19 A GO
17 DATE? BECAUSE I WOULD HAVE SAID, YOU KNOW WHAT, IF YOU
18 GET ME THE BALLISTICS EVIDENCE; IF YOU GET ME GRIGGS'
19 FILE; IF YOU GET ME THE DISCOVERY; IF YOU DON'T PUT A
20 NAME ON A WITNESS LIST TWO YEARS AFTER THE FACT THAT I'VE
21 NEVER HEARD OF, MAY 19TH CAN BE A GO DATE.

22 IF I HAD KNOWN ALL THOSE CAVEATS, I WOULD
23 HAVE TOLD HIM BEFORE HE APPEARED IN JUDGE FIDLER'S COURT,
24 OBVIOUSLY WE CAN'T DO IT MAY 19 NOW WHEN WE'RE JUST BEING
25 -- SERIOUSLY, TWO YEARS LATER I'M BEING GIVEN A NAME I'VE
26 NEVER SEEN BEFORE.

27 THE COURT: WHY DON'T WE START FROM THE
28 BEGINNING. LET'S BACK UP A MOMENT, PLEASE. ON THE ISSUE

1 OF THE BALLISTICS, THE COURT IS SIGNING AN ORDER. WHEN
2 IS THE EXAMINATION GOING TO BE COMPLETED OR CONDUCTED?

3 MS. SARIS: I CAN HAVE -- DEPENDING ON
4 MR. WUNDERLICH'S SCHEDULE, I CAN HAVE THAT DONE IN THE
5 NEXT FIVE -- WHAT IS TODAY, TUESDAY? BY THE END OF THE
6 WEEK, MONDAY OR TUESDAY. I THINK THAT THE -- I CAN TELL
7 FORENSIC ANALYTICAL TO RUSH THIS ANALYSIS. THEY OUGHT TO
8 HAVE AN ANALYSIS I THINK IN TWO WEEKS.

9 THE COURT: OKAY. SO THE BALLISTICS EXAMINATION
10 CAN BE CONDUCTED WITHIN TWO WEEKS. ON THE ISSUE OF --

11 MS. SARIS: WITHIN TWO WEEKS OF GETTING THE
12 EVIDENCE TO THEM.

13 THE COURT: RIGHT. AND ON THE ISSUE OF THE
14 S.D.T. ON THE SHERIFF'S DEPARTMENT, IS THERE A
15 REPRESENTATIVE FROM THE SHERIFF'S DEPARTMENT HERE
16 PURSUANT TO THE S.D.T? I DON'T SEE ANYONE.

17 DID YOU FILE THAT WITH THE CLERK?
18 THANK YOU.

19 MS. SARIS: LET ME ALSO GIVE YOU THE ORIGINAL
20 S.D.T., WHICH INCLUDES A LETTER FROM MY INVESTIGATOR
21 ADVISING US THAT THAT NEEDED TO BE SENT VIA THAT
22 CERTIFIED MAIL. THERE WAS ALSO ANOTHER S.D.T., YOUR
23 HONOR, FOR RECORDS FROM A DIFFERENT AGENCY. AND I DON'T
24 BELIEVE THERE IS A REPRESENTATIVE HERE OR THOSE RECORDS
25 IN COURT.

26 THE COURT: ALL RIGHT. WELL, I HAVE TWO
27 DIFFERENT DOCUMENTS HERE. I HAVE A SUBPOENA -- AN S.D.T.
28 THAT YOU ATTEMPTED TO SERVE ON THE CUSTODIAN OF RECORDS

1 THAT WAS NOT SERVED?

2 MS. SARIS: THEY WOULD NOT ACCEPT IT.

3 THE COURT: RIGHT.

4 MS. SARIS: THAT WAS THE SAME INDIVIDUAL WHO TOLD
5 US LAST TIME TO DO GO THROUGH PITCHESS, DEBORAH KNOX,
6 K-N-O-X.

7 THE COURT: SO THE FACT THAT THEY DIDN'T ACCEPT
8 IT CREATES A BIT OF AN OBSTACLE FOR THE COURT.

9 MS. SARIS: IF THE COURT WOULD READ THE LETTER
10 ATTACHED TO THE FIRST CERTIFICATION, THAT INDIVIDUAL GAVE
11 US THE ADDRESS AND TOLD US THE ONLY WAY THEY WOULD ACCEPT
12 THE SUBPOENAS IS THROUGH CERTIFIED MAIL. SO IT'S THE ONE
13 THAT'S CLIPPED WITH THE CERTIFIED MAIL. THERE IS A
14 SECOND PAGE TO THAT. OUR INVESTIGATOR WAS ADVISED THAT
15 IS THE ONLY WAY THE SHERIFF'S DEPARTMENT WOULD ACCEPT
16 MEDICAL AND PSYCHOLOGICAL RECORD SUBPOENAS.

17 WE'VE DONE THAT TWICE NOW. ONCE FOR THE
18 MARCH 20TH HEARING AND ONCE FOR TODAY. AND JUST SO THE
19 COURT KNOWS, I INCLUDED A LETTER IN THAT ADVISING THEM
20 AND MISS KNOX THAT THEIR OWN COUNSEL'S POSITION WAS THAT
21 THIS WAS NOT A PITCHESS ISSUE. AND THAT IF THEY HAD A
22 PROBLEM COMPLYING WITH THE SUBPOENA THAT THEY OUGHT TO
23 APPEAR IN PERSON.

24 THE COURT: WELL, I HAVE YOUR AFFIDAVIT. I DON'T
25 HAVE -- YOU SAY YOU'VE GIVEN ME A LETTER?

26 MS. SARIS: NO. IT IS A -- IT'S FROM MY
27 INVESTIGATOR IN THE ORIGINAL THAT HAS THE GREEN --

28 THE COURT: WELL, THEY BOTH HAVE --

1 MS. SARIS: MAY I APPROACH?

2 THE COURT: YES. THAT'S WHAT I WAS LOOKING AT,
3 BUT I DIDN'T CALL IT A LETTER.

4 MS. SARIS: I'M SORRY. IT'S AN E-MAIL.

5 THE COURT: IT'S AN E-MAIL, FYI. ALL RIGHT.

6 MS. SARIS: I CAN GET THAT IN DECLARATION FORM IF
7 THE COURT REQUESTS.

8 THE COURT: I MEAN THIS IS THE THING, I CAN'T
9 ORDER --

10 MS. SARIS: NO, I THINK THEY'VE MADE IT VERY
11 CONVENIENT. THEY REFUSED TO ACCEPT IT ON THE ONE HAND.
12 THEN THEY REQUIRE A CERTIFICATION. WHEN THERE IS A
13 CERTIFICATION THAT'S IGNORED, THERE IS NO ONE TO ISSUE A
14 BODY ATTACHMENT TOWARD. I DON'T THINK THAT'S AN
15 ACCIDENT.

16 THE COURT: WELL, IT MAY OR MAY NOT BE, BUT I
17 CAN'T REALLY DO A WHOLE LOT GIVEN WHAT YOU HAVE PROVIDED
18 TO THE COURT. I MEAN I DON'T HAVE SOMEONE THAT IS NOT
19 COMPLYING WITH A LAWFUL COURT ORDER.

20 MS. SARIS: WELL, DEBORAH KNOX IS NOT COMPLYING.
21 I DON'T THINK SHE HAS A RIGHT TO SAY WHEN SOMEBODY IS
22 HANDING HER A SUBPOENA, "I'M REFUSING TO ACCEPT IT." WE
23 HAVE HER NAME; WE HAVE HER PHYSICAL DESCRIPTION; WE HAVE
24 A VALID SUBPOENA. HER CHOICE IN REFUSING TO ACCEPT IT IS
25 SOMETHING SHE COME TO COURT AND ARGUE. BUT I THINK BASED
26 ON THAT, THE COURT CAN ISSUE A BODY ATTACHMENT FOR THE
27 CUSTODIAN OF RECORDS.

28 THE COURT: YOU THINK I CAN ISSUE A BODY

1 ATTACHMENT FOR HER REFUSAL TO ACCEPT THE SUBPOENA?

2 MS. SARIS: ABSOLUTELY.

3 THE COURT: SHE IS STANDING RIGHT THERE. I HAVE
4 AN INVESTIGATOR SAYING HE SPOKE TO HER FACE-TO-FACE AND
5 SHE SIMPLY WOULD NOT TAKE IT. I DON'T THINK YOU CAN WALK
6 AWAY FROM SERVICE AND THEN CLAIM YOU WERE NOT SERVED. IF
7 SHE THINKS THAT'S INAPPROPRIATE, IT'S UP TO HER TO COME
8 IN AND ASK FOR THE SUBPOENA TO BE QUASHED. SHE CAN'T
9 JUST PUT HER HANDS IN HER POCKET AND SAY "I'M NOT
10 TOUCHING IT."

11 THE COURT: ALL RIGHT. I'M RELUCTANT TO ISSUE A
12 BENCH WARRANT FOR HER, BUT I WILL ISSUE AND HOLD IT. AND
13 I WILL ASK YOU TO NOTIFY HER TO GIVE HER AN OPPORTUNITY
14 TO COME IN.

15 MS. SARIS: I'LL DO THAT THIS AFTERNOON. FOR
16 WHAT DATE?

17 THE COURT: WHAT DATE WOULD YOU LIKE?

18 MS. SARIS: HOW IS FRIDAY FOR THIS COURT?

19 THE COURT: I'M HERE. FRIDAY THE 7TH.

20 MR. JACKSON: THAT'S FINE, YOUR HONOR.

21 THE COURT: ALL RIGHT. I WILL ISSUE AND HOLD THE
22 BENCH WARRANT FOR THE CUSTODIAN, DEBORAH KNOX, K-N-O-X,
23 BASED ON THE REPRESENTATIONS OF COUNSEL. AND THAT WILL
24 BE HELD UNTIL THE DATE OF FRIDAY, APRIL 7TH, 8:30 IN THE
25 MORNING. I WILL ASK COUNSEL TO NOTIFY HER. I DON'T KNOW
26 THAT WE ARE GOING TO ACCOMPLISH ANYTHING WITH MISS KNOX
27 SINCE THE COURT HAS ALREADY ENTERTAINED THE PITCHESS
28 REQUEST. IT SEEMS LIKE WE ARE NOT REALLY GETTING

1 ANYWHERE. BUT ON THE --

2 MS. SARIS: I'M OPEN TO SUGGESTIONS, YOUR HONOR.

3 THE COURT: WELL, YOU INDICATED THAT YOU WANTED
4 THE COURT TO MAKE INQUIRY OF THE PEOPLE AS TO WHETHER OR
5 NOT THE PEOPLE CONDUCTED ANY FURTHER INVESTIGATION AS TO
6 WHAT YOU PERCEIVE TO BE BRADY INFORMATION. I'M CERTAINLY
7 INTERESTED IF THE PEOPLE EITHER DID OR DID NOT DO THAT
8 BECAUSE THAT COULD BE OF ASSISTANCE IN THIS MATTER OR IT
9 MAY NOT BE OF ASSISTANCE IN THIS MATTER.

10 WHERE DO WE STAND ON SUCH INQUIRY?

11 MR. JACKSON: YOUR HONOR, I'VE NOT MADE ANY
12 INQUIRIES AS TO THE SHERIFF'S DEPARTMENT'S CUSTODY OR
13 THEIR CONTROL OVER THESE -- I GUESS THEY WOULD BE
14 CONSIDERED GENERALLY PERSONNEL RECORDS. THEY SOUND LIKE
15 THEY ARE -- IT MIGHT BE A LITTLE BIT MORE SENSITIVE THAN
16 JUST PERSONNEL RECORDS. CERTAINLY MORE SENSITIVE THAN
17 JUST THE PITCHESS COMPLAINTS THAT WE'RE USED TO.

18 I'VE NOT MADE ANY INQUIRY AS TO WHETHER OR
19 NOT THEY WOULD BE WILLING TO GIVE THOSE DOCUMENTS OVER TO
20 ME. I DON'T THINK IT'S INCUMBENT UPON THE PEOPLE TO DO
21 THE WORK THAT THE DEFENSE IS REQUESTING. I DIDN'T -- IF
22 THE COURT WAS MAKING A FINDING THAT IT BELIEVED THAT
23 THOSE RECORDS CONTAINED BRADY INFORMATION, THEN THAT IS
24 MY FAILING.

25 I WAS NOT UNDER THE IMPRESSION THAT THE
26 COURT MADE THAT FINDING. IF THE COURT MAKES THAT FINDING
27 AND ORDERS ME TO AT LEAST MAKE THE INQUIRY AS TO GRIGGS'
28 PERSONNEL RECORDS, I WOULD CERTAINLY DO THAT. I BELIEVE

1 THAT THE DEFENSE, IF THEY WANT THOSE RECORDS AND THEY
2 BELIEVE THAT THERE IS SOMETHING OF VALUE IN THOSE
3 RECORDS, IT'S INCUMBENT UPON THEM TO FIGURE OUT A WAY TO
4 GET THEM.

5 IF THEY CAN'T GET THEM, I'M NOT HERE TO DO
6 THEIR DISCOVERY FOR THEM. I HAVE AN OBLIGATION TO TURN
7 OVER BRADY MATERIAL. BUT I CERTAINLY DON'T THINK THAT
8 MS. SARIS HAS MADE ANY REASONABLE SHOWING THAT THOSE
9 PERSONNEL RECORDS CONTAIN BRADY EXCULPATORY INFORMATION.

10 THE COURT: WELL, YOU KNOW, IT'S KIND OF SILLY
11 WHAT WE ARE DOING HERE. IT REALLY MAKES NO SENSE TO ME.
12 THE DEFENSE HAS MADE THEIR POSITION KNOWN AND THEY
13 PRESENTED THE COURT WITH A PITCHESS MOTION. THE
14 SHERIFF'S DEPARTMENT OPPOSED THE PITCHESS MOTION. AND
15 THE COURT FOUND THAT THERE WAS AN INSUFFICIENT SHOWING TO
16 GO IN CAMERA. THE COURT BELIEVES AND THE COURT I THINK
17 FOUND LAST TIME THAT IF WHAT MS. SARIS SAYS IS TRUE, THAT
18 IS THE NATURE OF THE --

19 WELL, I GUESS DETECTIVE GRIGGS RETIRED
20 FROM THE SHERIFF'S DEPARTMENT?

21 MR. JACKSON: CORRECT.

22 THE COURT: SO WHATEVER PRECIPITATED THAT, IF IT
23 HAD ANYTHING TO DO WITH THIS CASE OR ANY DISAGREEMENTS
24 ABOUT THIS CASE WITH HIS SUPERIORS OR ANY COMPLAINTS THAT
25 WERE MADE ABOUT HIS CONDUCT TO HIS SUPERIORS, IF THERE IS
26 ANY OF THAT INFORMATION IN THE POSSESSION OF THE AGENCY
27 INVESTIGATING THIS CASE, WHICH IS THE SHERIFF'S
28 DEPARTMENT, THEN THAT COULD POTENTIALLY BE CONSIDERED

1 BRADY MATERIAL.

2 AND IT'S NOT FOR THIS COURT TO MAKE THAT
3 DETERMINATION AS TO WHETHER OR NOT IT'S BRADY MATERIAL.
4 IT'S FOR THE PEOPLE TO MAKE THAT DETERMINATION. AND SO
5 I'M IN A BIT OF A QUANDARY HERE BECAUSE I'M NOT ORDERING
6 AN IN CAMERA BECAUSE I DON'T KNOW IF WHAT THE DEFENSE IS
7 SAYING IS TRUE.

8 BUT I THINK THE PEOPLE ARE ON NOTICE THAT
9 IF THERE IS THIS INFORMATION, IT IS PROBABLY GOING TO BE
10 CONSIDERED AT SOME POINT IN TIME BRADY MATERIAL IF IT
11 EXISTS; AND IF IT'S IN THE POSSESSION OF LAW ENFORCEMENT,
12 YOUR INVESTIGATING AGENCY.

13 MR. JACKSON: CERTAINLY I WILL MAKE INQUIRIES
14 BASED ON THE COURT'S CONCERNS. I'LL MAKE INQUIRIES AS TO
15 WHETHER OR NOT THE SHERIFF'S DEPARTMENT WILL EVEN GIVE
16 THAT INFORMATION TO ME. IN MY TEN YEARS OF EXPERIENCE, I
17 WOULD TEND TO THINK, JUDGE -- AND I'M NOT AT ALL TRYING
18 TO BUILD SOME KIND OF A WALL. BY THE SAME TOKEN, I'M NOT
19 TRYING TO DO MS. SARIS'S JOB FOR HER EITHER. I'M GOING
20 TO BE HONEST. I THINK SHE CAN DO HER JOB VERY, VERY
21 EFFECTIVELY. I HAVE MY OWN JOB TO DO.

22 WHEN I SAY THAT I DON'T WANT TO DO HER JOB
23 FOR HER, THAT DOESN'T MEAN THAT I'M TRYING TO HIDE
24 ANYTHING EITHER. I DON'T HAVE THAT INFORMATION. I JUST
25 DON'T KNOW IF I CAN GET THAT INFORMATION. BUT CERTAINLY,
26 BASED ON THE COURT'S CONCERNS AND WHAT I'M HEARING THE
27 COURT SAYING, I HAVE NO PROBLEM MAKING THAT INQUIRY. AND
28 I CAN DO THAT.

1 IT'S A PHONE CALL OR FIVE PHONE CALLS,
2 WHATEVER IT IS. I CAN MAKE THAT INQUIRY. AND I CAN
3 REPORT BACK ON FRIDAY AS TO WHAT MY FINDINGS ARE. IF THE
4 SHERIFF'S DEPARTMENT DOESN'T WANT TO GIVE IT TO ME
5 EITHER, THEN I THINK AT THAT POINT THE COURT MAY NEED TO
6 INTERVENE.

7 THE COURT: YES, I AGREE. BUT BECAUSE OF WHERE
8 WE ARE TODAY, I JUST DON'T HAVE ANY OTHER SUGGESTIONS.
9 WE DEALT WITH THE PITCHESS MOTION LAST TIME.

10 MR. JACKSON: RIGHT.

11 THE COURT: AND THERE WAS CERTAINLY A LOT OF
12 INFORMATION PRESENTED BY MS. SARIS THAT, IF TRUE, COULD
13 CONSTITUTE BRADY INFORMATION. BUT I THINK I DENIED THE
14 IN CAMERA BECAUSE AT THAT POINT IT WAS SPECULATION,
15 NOTHING MORE THAN SPECULATION. AND I THINK THAT WAS YOUR
16 POSITION, MR. JACKSON, OR AT LEAST THE SHERIFF'S
17 DEPARTMENT'S POSITION AT THE TIME. IT WAS THE SHERIFF'S
18 DEPARTMENT'S POSITION AT THE TIME.

19 MR. JACKSON: AND IT WAS MY POSITION, TOO, JUDGE,
20 I'LL BE HONEST. I'M THE ONE THAT SAID I THINK MS. SARIS
21 IS SEEKING TO FISH.

22 THE COURT: RIGHT. AND THAT'S WHY I DENIED THE
23 PITCHESS AND THE REQUEST FOR THE IN CAMERA REVIEW. BUT
24 AT THIS POINT, I SEE NO OTHER ALTERNATIVE THAN WHAT YOU
25 HAVE NOW SUGGESTED, WHICH IS TO MAKE INQUIRY; LET US KNOW
26 ON FRIDAY WHAT YOU HAVE FOUND OUT, IF ANYTHING; AND THEN
27 THE COURT CAN GO FROM THERE.

28 IF THERE IS NOTHING, THERE IS NOTHING. IF

1 THERE IS SOMETHING AND IT'S NOT BEING PROVIDED, THEN THE
2 COURT CAN TAKE THE NEXT STEP. BUT I THINK THAT THE
3 DEFENSE HAS DONE BASICALLY ALL THE DEFENSE CAN DO. THERE
4 WERE REPRESENTATIONS MADE THAT DEFENSE COUNSEL ATTEMPTED
5 TO GET THE COOPERATION OF THE DEPUTY. THERE WERE
6 REPRESENTATIONS MADE AS TO WHAT THE DEPUTY'S POSITION --
7 FORMER DEPUTY'S POSITION WAS IN NO UNCERTAIN TERMS.

8 AND, YOU KNOW, AT THIS POINT I THINK THE
9 DEFENSE HAS DONE REALLY ALL THEY CAN DO. SO I'M
10 INTERESTED IN HEARING BACK ON FRIDAY AS TO WHAT, IF
11 ANYTHING, YOU CAN FIND OUT. AND I APPRECIATE IT. I
12 REALLY DO. I CAN'T ORDER YOU TO DO IT, BUT I THINK IT'S
13 IN YOUR BEST INTEREST TO DO IT. SO WE WILL TALK ABOUT IT
14 FRIDAY.

15 WHAT ELSE CAN WE DO TODAY?

16 MS. SARIS: WELL, I'M THINKING THAT WE HAVE AN
17 APPOINTMENT WITH DETECTIVE LILLIENFELD TO GO THROUGH THE
18 EVIDENCE ON FRIDAY MORNING. PERHAPS WE MIGHT BE BETTER
19 OFF HAVING OUR COURT APPEARANCE MONDAY IF WE ARE NOT
20 GOING TO COME UP WITH A DATE FOR THE TRIAL TODAY.

21 IT SEEMS LIKE PERHAPS THE COURT WOULD WANT
22 TO KNOW WHAT WE FOUND IN THE DISCOVERY ON FRIDAY RATHER
23 THAN HAVING THE COURT APPEARANCE JUST BEFORE THAT, IT
24 SHOULD BE JUST AFTER THAT. I DIDN'T THINK ABOUT THAT.
25 UNLESS, OF COURSE, WE'RE GOING TO COME UP WITH A
26 CONTINUANCE DATE TODAY, WHICH I DON'T KNOW THAT WE CAN.

27 I MEAN, OBVIOUSLY, MR. GOODWIN, BASED ON
28 EVERYTHING THAT WE NEED, CANNOT GO TO TRIAL NOW ON MAY

1 19TH. OUR PREFERENCE IS TO GO TO TRIAL IN JULY. I'M NOT
2 TRYING TO CAUSE MR. DIXON ANY FINANCIAL LOSS. I
3 UNDERSTAND HIS POSITION ON WHY HE BOUGHT THE TICKETS FOR
4 HIS VACATION AND I RESPECT THAT. IF THE COURT IS GOING
5 TO TELL US AT SOME POINT THAT IF IT'S NOT MAY 19, IT'S
6 SEPTEMBER, WE WOULD CERTAINLY RATHER KNOW THAT SOONER
7 RATHER THAN LATER.

8 THE COURT: WELL, I'M NOT IN A POSITION TO TELL
9 YOU ANYTHING ABOUT THE TRIAL DATE. BECAUSE AT THIS
10 POINT, I DON'T REALLY KNOW WHAT THIS NEW INFORMATION IS
11 AND WHETHER OR NOT THERE IS GOOD CAUSE TO CONTINUE THE
12 CASE. I MEAN WE HAVEN'T EVEN GOTTEN THERE YET.

13 RIGHT NOW OUR LAST DAY IS MAY 19TH. AND
14 YOU HAVE INDICATED THIS MORNING THAT THERE IS A NEW
15 WITNESS ON THE WITNESS LIST. SO THIS IS THE FIRST I'M
16 HEARING OF THAT. AND IF THAT'S THE CASE, THERE MAY OR
17 MAY NOT BE GOOD CAUSE TO GO BEYOND MAY 19TH.

18 DID YOU WANT TO DISCUSS THAT NOW?

19 MR. JACKSON: CERTAINLY, JUDGE. AND I THINK IT'S
20 VERY RELEVANT GIVEN MS. SARIS'S POSITION ABOUT WHY SHE IS
21 SEEKING A CONTINUANCE. TO PUT THIS INTO PROSPECTIVE, SHE
22 CLAIMS THAT THE BALLISTICS, "WELL, THAT'S ALL THE
23 PEOPLE'S FAULT. WE'VE BEEN ASKING FOR IT AND THEY
24 HAVEN'T GIVEN US THE BALLISTICS."

25 THE DAY THAT MS. SARIS SAID, "I WOULD LIKE
26 TO SEE OR HAVE ACCESS TO THE BALLISTICS." WE SAID,
27 "SURE. YOU CAN HAVE ALL THE ACCESS THAT YOU WANT TO
28 RIGHT OVER THERE AT THE SHERIFF'S CRIME LAB."

1 THE COURT: RIGHT. NO, I --

2 MR. JACKSON: MY POSITION IS JUST, JUDGE, IF THE
3 RECORD IS GOING TO BE -- IF MS. SARIS IS GOING TO MAKE A
4 RECORD, IT SHOULD BE AN ACCURATE RECORD. WE NEVER
5 STONE-WALLED HER ABOUT ANY OF THIS EVIDENCE. SHE COULD
6 HAVE IT ANY TIME SHE WANTED TO. SHE HAD ALL THE ACCESS
7 THAT EVERYBODY ELSE IN THE COUNTY HAS. SHE DIDN'T WANT
8 TO HAVE IT THAT WAY. SHE WANTED TO HAVE IT HER WAY.

9 SO SHE DECIDED TO FIGHT AND FIGHT AND
10 FIGHT AND PUT HEARING AFTER HEARING AFTER HEARING OVER AT
11 CONTINUOUS COURT DATES UNTIL SHE COULD HAVE IT HER WAY.
12 FINE. NOW SHE'S GOT IT HER WAY, BUT IT COST HER SOME
13 TIME. MR. -- WHATEVER HIS NAME IS, IT BEGINS WITH A
14 "W" -- COULD HAVE HAD ACCESS AT THE SHERIFF'S CRIME LAB,
15 THE BIGGEST FACILITY IN THE REST OF THE --

16 THE COURT: THE RECORD WILL SPEAK FOR ITSELF. I
17 MEAN I'M CONFIDENT OF THAT.

18 MR. JACKSON: OKAY. JUDGE, THE SECOND POINT IS
19 WITH REGARD TO THESE DOCUMENTS THAT SHE CLAIMS SHE HASN'T
20 HAD ACCESS TO, SHE HAS HAD TWO YEARS TO HAVE ACCESS TO
21 ANYTHING SHE WANTED TO. EVERY SINGLE TIME SHE'S EVER
22 ASKED DETECTIVE LILLIENFELD, "CAN I GO BACK AND LOOK AT
23 THE BOXES?" DETECTIVE LILLIENFELD'S WORDS ARE ALWAYS THE
24 SAME, "SURE. PICK A DAY. WHAT DATE DO YOU WANT?" TWO
25 YEARS.

26 THIRD, WITH REGARD TO JOEL WEISSLER, WHO
27 IS A NEW NAME ON THE WITNESS LIST --

28 THE COURT: SPELL THE LAST NAME.

1 MR. JACKSON: I BELIEVE IT'S W-E-I-S-S-L-E-R.
2 FIRST NAME J-O-E-L, JOEL WEISSLER. THE FIRST TIME I EVER
3 HEARD OF THAT PERSON WAS ABOUT TEN DAYS AGO, SOMETHING
4 LIKE THAT, TEN DAYS AGO, 12 DAYS AGO. AND THIS IS A
5 WITNESS WHO, AMONG OTHER THINGS, WAS RELATED TO ONE OF
6 THE PARTIES INVOLVED, WAS RELATED TO TRUDY THOMPSON. AND
7 INDICATED TO US FOR THE VERY FIRST TIME -- HE SHOWS UP IN
8 NO REPORTS ANYWHERE -- FOR THE VERY FIRST TIME TEN OR 12
9 DAYS AGO I HEARD THAT HE OVERHEARD MR. GOODWIN
10 THREATENING TO KILL MICKEY AND TRUDY THOMPSON.

11 JUDGE, I WOULD IMAGINE THAT THERE ARE
12 DOZENS AND DOZENS OF WITNESSES OUT HERE WHO HAVE HEARD
13 MR. GOODWIN THREATEN TO KILL MICKEY AND TRUDY THOMPSON.
14 THERE ARE DOZENS THAT ARE ON THE WITNESS LIST. THERE ARE
15 DOZENS THAT ARE IN THE DISCOVERY THAT MR. SARIS AND
16 MR. GOODWIN ALREADY HAVE.

17 NOW THIS OTHER PERSON HAS CAME FORWARD AND
18 SAID THAT HE ALSO HEARD A CONVERSATION CONSISTENT WITH
19 THAT. IT MAY TURN OUT THAT THE CLOSER WE GET TO TRIAL,
20 TEN MORE PEOPLE COME FORWARD AND SAY I HEARD THIS, THAT
21 AND THE OTHER THING. THAT'S THE NATURE OF TRYING CASES.
22 I CAN'T HELP IT.

23 AND WE SHOULDN'T BE HAMSTRUNG BY A WITNESS
24 COMING FORWARD AND SAYING, HEY, I SAW ON THE INTERNET
25 THAT THERE IS A HARD TRIAL DATE. BY THE WAY, I JUST
26 THOUGHT I WOULD LET YOU KNOW I KNEW TRUDY AND I KNEW
27 MICKEY. AND I WAS AT THEIR HOUSE. AND I HEARD
28 MR. GOODWIN MAKE A THREAT AGAINST TRUDY AND MICKEY.

1 I'M TURNING IT OVER AT THE FIRST AVAILABLE
2 MOMENT. I STILL DON'T HAVE THE REPORTS FROM IT. BUT AS
3 SOON AS I GET IT, I WILL TURN IT OVER TO MS. SARIS. SO
4 WE SHOULDN'T BE HELD ACCOUNTABLE FOR THAT IN TERMS OF
5 SLOWING THINGS DOWN OR SLOWING MR. GOODWIN'S TRIAL DOWN.

6 MS. SARIS: YOUR HONOR, I DIDN'T MAKE A MOTION TO
7 EXCLUDE THE WITNESS. IT'S NOT HOLDING THEM ACCOUNTABLE
8 TO SAY, OKAY, SOMEONE NEW COMES FORWARD; WE ALL GET AN
9 OPPORTUNITY TO INVESTIGATE. THAT'S WHAT WE'RE ASKING
10 FOR. WE HAVE PLENTY OF GOOD CAUSE THAT WE WOULD BE HAPPY
11 TO SHARE WITH THE COURT. SOME OF WHICH IS BASED ON
12 INVESTIGATION THAT WE FINISHED LAST WEEK REGARDING PART
13 OF THIS CASE.

14 IF THE COURT WISHES, WE WILL GO NOW IN
15 CHAMBERS AND ADVISE THE COURT. WE WERE GOING TO COME IN
16 TODAY REGARDLESS OF THE NEW WITNESS, PARTLY BASED ON THE
17 BALLISTIC, BUT ALSO TO ASK FOR SOME TIME. WE DIDN'T
18 REALIZE WE WERE GOING TO BE PUT IN A POSITION THAT IF WE
19 GO BEYOND MAY, WE HAVE TO GO TO SEPTEMBER.

20 THAT IS SOMETHING WE'RE UNCOMFORTABLE
21 WITH, BUT GIVEN THE CHOICE BASED ON THE INVESTIGATION
22 THAT WE HAVE RECENTLY UNCOVERED, MR. GOODWIN HAS AGREED
23 TO PUT THIS CASE OVER FOR SOME PERIOD OF TIME. IF THAT
24 NEEDS TO GO FURTHER TO ACCOMMODATE SCHEDULING, WE'RE NOT
25 HAPPY ABOUT IT. BUT WE WOULD RATHER DO THAT THAN BE
26 RUSHED TO TRIAL, ESPECIALLY IN LIGHT OF AN INVESTIGATION
27 THAT WE'VE UNCOVERED THAT WE BELIEVE IS GOING TO LEAD
28 SOMEWHERE.

1 AND JUST FOR THE RECORD, IF I HAD MY WAY
2 ON EVERYTHING MR. JACKSON WOULDN'T BE HERE. SO CLEARLY I
3 DON'T GET MY WAY ON EVERYTHING.

4 MR. JACKSON: HERE. HERE.

5 THE COURT: DO YOU WANT TO PICK ANOTHER TRIAL
6 DATE TODAY OR DO YOU WANT TO DISCUSS IT FURTHER WHEN WE
7 KNOW --

8 MS. SARIS: WHY DON'T WE DISCUSS IT ON APRIL
9 10TH. IS THE 10TH AVAILABLE? IS THAT A DAY THAT WE --
10 BECAUSE I SAID INSTEAD OF FRIDAY TO DO MONDAY. WILL THE
11 10TH WORK?

12 MR. DIXON: WELL, OUR POSITION IS THAT EVEN IN
13 LIGHT OF WHAT HAS BEEN SAID HERE TODAY BY MS. SARIS, I
14 DON'T SEE WHY WE CAN'T BE READY TO TRY THIS CASE BY THE
15 LAST WEEK IN MAY AS IT IS NOW SET. THAT'S STILL, WHAT,
16 SIX, SEVEN WEEKS OFF. IT'S A LONG TIME.

17 I MEAN THE COURT HEARS BASICALLY THE
18 MASTER CALENDAR IN PASADENA AND SEES CASES COME IN AND
19 OUT ALL THE TIME THAT GET READY AND GO TO TRIAL WITHIN
20 THAT PERIOD OF TIME. GRANTED THIS IS NOT THE AVERAGE
21 CASE, BUT IT'S NOT THAT COMPLEX. YOU HEARD THE
22 PRELIMINARY HEARING. SO WE THINK THAT THIS CASE SHOULD
23 GO TO TRIAL WITHIN THE TIME FRAME THAT IS NOW SET.

24 IF THE COURT FEELS THAT THERE IS GOOD
25 CAUSE, I UNDERSTAND THAT; WE CAN REVISIT THIS ON MONDAY.
26 BUT IT IS OUR POSITION THAT WE RELIED ON EVERYTHING THAT
27 I HEARD THIS CASE WAS GOING TO GO IN MAY. AND WE NEED TO
28 PUT THIS OVER WITH A LONG WAIVER INTO SEPTEMBER AND SEE

1 IF WE CAN'T REORGANIZE AND REJUGGLE OUR OTHER CASE. AND
2 I MAY EVEN ASK THE COURT TO TALK WITH JUDGE FIDLER AND TO
3 ASSIST US IN THAT, IF THIS IS GOING TO GO OVER.

4 THE COURT: ALL RIGHT. LET'S DO THIS, IT APPEARS
5 TO ME THAT BASED ON WHAT I HAVE HEARD THIS MORNING THAT
6 THE DEFENSE, IF THEY ARE NOT GOING TO BE READY TO TRY THE
7 CASE WITHIN THE PERIOD, WHICH IS I THINK MAY 19TH YOU
8 SAID WAS -- WE AGREED WAS THE LAST DAY?

9 MR. JACKSON: THAT'S CORRECT. THAT'S 60 OF 60.

10 MS. SARIS: YES.

11 THE COURT: SO IF THE DEFENSE IS NOT GOING TO BE
12 READY, I DON'T HAVE ANY DOUBT BUT THAT THERE WOULD BE A
13 FINDING OF GOOD CAUSE JUST BASED ON WHAT LITTLE I HAVE
14 HEARD THIS MORNING. AND THAT'S BASED ON THE BALLISTICS
15 AND THE NEW WITNESS. AND THAT'S WITHOUT REFERENCE TO
16 ANYTHING THAT, MR. JACKSON, YOU MIGHT FIND OUT WITH ABOUT
17 THE DEPUTY GRIGGS SITUATION, WHICH WOULD ALSO CONSTITUTE
18 NEW INFORMATION AND COULD BE CONSIDERED IN THE GOOD CAUSE
19 ANALYSIS.

20 SO THE REALITY IS, I BELIEVE THAT IF
21 MR. GOODWIN IS WILLING TO WAIVE TIME AND IF MS. SARIS
22 NEEDS THE TIME, WE ARE GOING TO GET A TIME WAIVER AND THE
23 COURT IS GOING TO FIND GOOD CAUSE TO CONTINUE THE CASE.
24 THAT DOESN'T MEAN THAT I WOULD BE CONTINUING THE CASE TO
25 A DATE THAT IS NOT AGREEABLE WITH THE PEOPLE.

26 SO THE PEOPLE'S CONCERNS ARE CERTAINLY
27 NOTED AND WILL BE CONSIDERED. I HAVE NO INTENTION OF
28 FORCING ANYONE TO EITHER CANCEL A VACATION OR PUT OFF

1 THINGS THAT ARE SET IN STONE. NOW WHETHER OR NOT THE
2 SPECTOR CASE IS SET IN STONE, I DON'T KNOW.

3 CLEARLY THIS CASE SHOULD HAVE PRIORITY IF
4 IT COMES TO THAT. BUT I'M NOT GOING TO MAKE THAT
5 DETERMINATION AT THIS POINT. STATUTORILY AND BASED ON
6 THE COURT RULES, THIS CASE WOULD HAVE PRIORITY OVER ANY
7 OTHER CASE SUCH AS SPECTOR. BUT THAT'S NOT IMPORTANT
8 RIGHT NOW.

9 SO LET'S DO THIS, LET'S COME BACK ON
10 MONDAY. LET ME KNOW FOR SURE WHAT OTHER INFORMATION IS
11 OUT THERE, IF ANY. AND LET'S SET THE OSC ON THE WITNESS
12 KNOX. IT MAY BE UNNECESSARY DEPENDING ON WHAT,
13 MR. JACKSON, YOU FIND OUT REGARDING THAT INFORMATION.
14 AND WE CAN TALK ABOUT ANOTHER TRIAL DATE ON APRIL 10TH.

15 AND MY INTENTION IS -- SO THAT EVERYBODY
16 KNOWS, IF THE DEFENSE WANTS IT -- TO FIND GOOD CAUSE FOR
17 A CONTINUANCE. SO I GUESS THAT MAY 19TH DATE IS NO
18 LONGER GOING TO BE A VIABLE DATE. SO LET'S PLAN
19 ACCORDINGLY. AND I WILL SEE EVERYBODY BACK HERE ON
20 MONDAY MORNING AT 8:30.

21 IS THERE ANYTHING ELSE I NEED TO DO?

22 MR. JACKSON: THE LAST BIT OF HOUSEKEEPING, I
23 HAVE FILED WITH THE COURT THIS MORNING A PROPOSED WITNESS
24 LIST. THAT IS OBVIOUSLY, AS MY PREAMBLE KIND OF
25 INTIMATES, IT'S NOT EXHAUSTIVE. I DON'T WANT TO BE HELD
26 TO ONLY THE PEOPLE THAT ARE ON THIS LIST. OBVIOUSLY, IF
27 MY PREPARATION FOR TRIAL UNCOVERS OTHER INDIVIDUALS THAT
28 I WANT TO BE ABLE TO PUT ON THERE, I WANT TO HAVE THAT

1 LEVERAGE.

2 MR. DIXON AND I BOTH WILL BE ON IN
3 CONSULTATION ABOUT HOW WE WANT TO PREPARE OUR TRIAL.
4 HOWEVER, THIS IS A PRETTY GOOD FAITH ESTIMATE AS TO THE
5 FOLKS THAT WE ANTICIPATE PUTTING ON. AND THE COURT WILL
6 RECOGNIZE MOST OF THOSE NAMES. I'VE NOT RECEIVED
7 ANYTHING FROM MS. SARIS. SHE TOLD ME THIS MORNING THAT
8 SHE WANTED THE LUXURY OF HAVING MY WITNESS LIST BEFORE
9 SHE PROVIDED ME WITH HERS.

10 I WOULD ASK THAT MS. SARIS PROVIDE ME WITH
11 THAT WITNESS LIST OR AT LEAST A PROPOSED WITNESS LIST BY
12 THE 10TH. I DON'T THINK THAT THAT'S OUT OF BOUNDS IF
13 MS. SARIS COULD ACCOMMODATE US.

14 MS. SARIS: I CERTAINLY COULD COME UP WITH
15 SOMETHING BY THE 10TH. THAT'S NOT A PROBLEM.

16 MR. JACKSON: OKAY.

17 MS. SARIS: I DID HAVE ANOTHER SUBPOENA THAT I
18 SENT TO AN AGENCY REGARDING RECORDS. I WOULD ASK FOR THE
19 COURT TO PRESERVE JURISDICTION ON THAT UNTIL THE 10TH.
20 THAT WAS SERVED ON A RECORDS BUREAU THAT PERSONAL SERVICE
21 WAS ACCEPTED. THERE IS PROOF OF SERVICE THERE. AND IF
22 WE COULD HOLD THAT UNTIL THE 10TH AS WELL, I WILL CALL.
23 I HAVE A FEELING THAT'S JUST A MATTER OF AN INABILITY TO
24 LOCATE THEM OR SOME SORT OF CLERICAL ERROR.

25 THE COURT: DO YOU WANT ME TO ISSUE AND HOLD THE
26 BENCH WARRANT?

27 MS. SARIS: YES, PLEASE.

28 THE COURT: THEN I WILL ISSUE AND HOLD A BENCH

1 WARRANT FOR THE CUSTODIAN OF RECORDS REFERRED TO IN THIS
2 RETURNED SUBPOENA. IT WILL BE HELD UNTIL THE 10TH.

3 MS. SARIS: THANK YOU.

4 THE COURT: AND THEN WHAT ELSE?

5 MS. SARIS: THE MEDICAL ISSUES, YOUR HONOR, ARE
6 NOT BEING ADDRESSED STILL. AT SOME POINT, PERHAPS THE
7 10TH, I WOULD ASK THE COURT TO PERHAPS CALL THE
8 INDIVIDUALS RESPONSIBLE AT THE COUNTY JAIL. MR. GOODWIN
9 IS NOT GETTING HIS BLOOD PRESSURE MEDICATION. IT'S
10 AFFECTING HIS ABILITY TO SEE AND READ.

11 I'VE ATTEMPTED TO CONTACT HIS
12 OPHTHALMOLOGIST AT L.C.M.C. LEFT MESSAGES THAT WERE
13 UNRETURNED. DEPUTY BISAHA HAS BEEN TRANSFERRED.
14 MR. GOODWIN HAS NOT RECEIVED SPECIAL TRANSPORT ON HIS WAY
15 BACK TO THE JAIL. LAST TIME HE WAITED 11 HOURS IN A ROOM
16 AGAINST THE COURT ORDER.

17 I FILED AN ORDER TO HAVE HIM HAVE AN
18 ESCORT TEAM THAT WAITS FOR HIM IN COURT, FULLY AWARE THAT
19 IF THE COURT WERE TO SIGN THAT, THE JAIL WOULD GO
20 BALLISTIC AND SEND IN A REPRESENTATIVE. BUT THE OTHER
21 ORDER IS FOR AN IMMEDIATE MEDICAL EXAM BEFORE FRIDAY.

22 THE CONDITIONS THAT HE'S BEEN DIAGNOSED
23 WITH ARE POTENTIALLY LIFE THREATENING. HE IS NOT
24 RECEIVING ADEQUATE MEDICAL CARE IN THE COUNTY. AND I WAS
25 EVEN ADVISED BY ONE DEPUTY, QUOTE, "HAVE YOU REQUESTED
26 BAIL FOR THIS INDIVIDUAL?" IMPLYING TO ME THAT AT SOME
27 POINT THE COURT IS GOING TO HAVE TO ADDRESS THE ISSUE OF
28 IF MR. GOODWIN CANNOT RECEIVE ADEQUATE MEDICAL CARE IN

1 THE COUNTY, PERHAPS THE ISSUE OF BAIL SHOULD BE
2 RECONSIDERED.

3 THE COURT: ALL RIGHT. ON THE MEDICAL EXAM, I
4 HAVE SIGNED THE ORDER. AND I ALSO ORDERED SOMEONE TO BE
5 PRESENT ON MONDAY AT 8:30 IF THE ORDER WAS NOT COMPLIED
6 WITH. ON THE ORDER FOR SPECIAL TRANSPORT, YOUR
7 REPRESENTATION IS THAT DEPUTY BIS --

8 MS. SARIS: BISAHA, B-I-S-A-H-A.

9 THE COURT: -- HAS BEEN TRANSFERRED?

10 MS. SARIS: HE'S STILL IN THE DEPARTMENT. HE IS,
11 I BELIEVE, ON SOME SORT OF A NIGHT SHIFT NOW. AND THE
12 LAST TWO TIMES THAT MR. GOODWIN HAS BEEN TRANSPORTED --
13 USUALLY WHEN DEPUTY BISAHA IS ON IT, E-MAILS GO OUT TO
14 EVERYONE; PHONE CALLS HAPPEN.

15 I DON'T KNOW IF YOUR CLERK RECEIVED
16 ANYTHING. I DID NOT. AND IT'S MY UNDERSTANDING THAT
17 HE'S NO LONGER LOOKING INTO IT. HE ADVISED ME, QUITE
18 FRANKLY, THAT HIS EFFORTS ARE NOT BEING FRUITFUL. THAT
19 HE'S DOING EVERYTHING HE POSSIBLY CAN. AND I ABSOLUTELY
20 BELIEVE THAT.

21 BUT THAT ON THE OTHER END, IF IT'S EITHER
22 BEING IN THIS BASEMENT OR AT I.R.C., WHEN MR. GOODWIN
23 GETS TO THE JAIL, YOUR ORDERS ARE NOT BEING COMPLIED
24 WITH. HE IS NOT RECEIVING HIS BLOOD PRESSURE MEDICATION
25 IN THE EVENING.

26 THE COURT: ALL RIGHT. WELL, I'M RELUCTANT TO
27 SIGN OFF ON ANOTHER ORDER FOR SPECIAL TRANSPORT BECAUSE I
28 HAVE ALREADY ISSUED NUMEROUS ORDERS. SO IF THERE IS A

1 FAILURE BY THE SHERIFF'S DEPARTMENT TO COMPLY WITH THE
2 COURT'S ORDERS, I WILL CONDUCT A HEARING -- AN ORDER TO
3 SHOW CAUSE HEARING ON MONDAY, APRIL 10TH AT 8:30.

4 MS. SARIS: AND WHO WOULD WE INVITE TO THAT
5 ORDER? BECAUSE I HAVE ABSOLUTELY NO FAITH IN THE FACT
6 THAT MR. GOODWIN IS GOING TO GET SPECIAL TRANSPORT THIS
7 AFTERNOON.

8 THE COURT: WELL, I HAVE A COUPLE OF DEPUTIES
9 HERE THIS MORNING.

10 CAN I HAVE A WORD WITH YOU?

11 (DISCUSSION OFF THE RECORD.)

12 THE COURT: ALL RIGHT. BACK ON THE RECORD.

13 I HAVE HAD A CONVERSATION WITH THE BAILIFF
14 ASSIGNED TO THIS COURT AND DEPUTY MADERA, WHO IS ALSO
15 HERE. AND MY BAILIFF IS GOING TO LOOK INTO IT AND MAKE
16 SOME PHONE CALLS. APPARENTLY THE PROBLEM IS NOT ON THIS
17 END. IT'S WITH I.R.C. AND MY BAILIFF WILL MAKE SOME
18 PHONE CALLS AND SEE IF THERE IS SOMEONE THAT CAN PROVIDE
19 US WITH ADDITIONAL INFORMATION AND COME IN ON MONDAY
20 MORNING TO ADDRESS THE SITUATION.

21 MS. SARIS: MAY WE ALSO INVITE SOMEONE FROM THE
22 MEDICAL UNIT REGARDING THE POTENTIAL OF SELF-CARING
23 MEDICATION OR COMPLIANCE WITH THE COURT ORDERS REGARDING
24 THESE APPOINTMENTS?

25 THE COURT: WELL, I JUST SIGNED OFF ON ANOTHER --
26 ON THAT MEDICAL --

27 MS. SARIS: SO IF THAT IS NOT --

28 THE COURT: YES.

1 MS. SARIS: THANK YOU.

2 THE COURT: ALL RIGHT. WE WILL SEE YOU MONDAY,
3 8:30, APRIL 10TH. THANK YOU.

4

5 (THE MATTER WAS CONTINUED TO MONDAY,
6 APRIL 10, 2006 AT 8:30 A.M.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, APRIL 10, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; ALSO PRESENT, JOHN BOWERS,
12 ATTORNEY AT LAW; PATRICK DIXON AND ALAN JACKSON,
13 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
14 OF THE STATE OF CALIFORNIA.

15
16 THE COURT: ALL RIGHT. ON THE MICHAEL GOODWIN
17 MATTER, HE IS PRESENT WITH HIS COUNSEL. THE PEOPLE ARE
18 REPRESENTED. THE SHERIFF'S DEPARTMENT IS REPRESENTED.

19 LET ME HAVE COUNSEL STATE THEIR
20 APPEARANCES, PLEASE.

21 MR. BOWERS: JOHN BOWERS, COUNSEL FOR THE LOS
22 ANGELES COUNTY SHERIFF'S DEPARTMENT.

23 MR. DIXON: PAT DIXON AND ALAN JACKSON, DEPUTY
24 DISTRICT ATTORNEYS.

25 MS. SARIS: ELENA SARIS AND TOM SUMMERS, DEPUTY
26 PUBLIC DEFENDERS ON BEHALF OF MR. GOODWIN.

27 THE COURT: ALL RIGHT. ON THE ISSUE OF THE
28 SHERIFF'S DEPARTMENT BEING HEARD THIS MORNING, I ASSUME

1 YOU ARE HERE ON WHICH ISSUE?

2 MR. BOWERS: I'VE BEEN TOLD THAT THE SHERIFF'S --
3 I MEAN THE DEFENSE HAS ATTEMPTED TO SERVE A SUBPOENA FOR
4 PSYCHOLOGICAL RECORDS ON THE SHERIFF'S DEPARTMENT. AND
5 THAT A BODY ATTACHMENT WAS ISSUED AND HELD FOR DEBORAH
6 KNOX OF THE SHERIFF'S DEPARTMENT.

7 I THINK IT'S -- I DON'T KNOW THAT A BODY
8 ATTACHMENT IS APPROPRIATE IN THIS PARTICULAR CASE BECAUSE
9 I DON'T KNOW THAT MISS KNOX WAS ACTUALLY SERVED. THEY
10 SAID THEY ATTEMPTED SERVICE, BUT I DON'T KNOW THAT THE
11 SUBPOENA WAS LEFT AT THE STATION. IF IT HAD BEEN LEFT AT
12 THE STATION, I WOULD HAVE GOTTEN IT. SO I THINK THE BODY
13 ATTACHMENT SHOULD BE WITHDRAWN.

14 THE COURT: MS. SARIS.

15 MS. SARIS: I'M SORRY. THIS IS THE SITUATION,
16 YOUR HONOR, THAT WE DISCUSSED LAST TIME. AND I HAVE
17 THE -- I THINK I GAVE THE COURT A COPY. I DON'T KNOW IF
18 MR. BOWERS HAS HAD A COPY.

19 MR. BOWERS: NO. IN FACT, THAT WAS THE SECOND
20 PROBLEM. COUNSEL KNOWS THAT THE SHERIFF'S DEPARTMENT IS
21 REPRESENTED IN THIS PARTICULAR MATTER. AND THE FIRST
22 TIME I HEAR ABOUT THE SUBPOENA IS IN A PHONE CALL LAST
23 WEEK. WE WERE NOT PROVIDED WITH A COPY OF THE SUBPOENA,
24 SO WE HAVE NO WAY OF KNOWING THAT SERVICE WAS ATTEMPTED.

25 MS. SARIS: MISS KNOX BASICALLY PUT HER HANDS IN
26 HER POCKETS AND WOULDN'T ACCEPT SERVICE. SO IT'S KIND OF
27 HARD TO PROVIDE THEM WITH A COPY WHEN THEY ARE PLAYING
28 FIVE-YEAR-OLD. MR. BOWERS WAS IN THIS COURT A WEEK AGO.

1 AND RATHER THAN HAVING ME CHASE MY TAIL FOR A WEEK, HE
2 COULD HAVE TOLD US THEN THAT IF WE S.T.D.'D THESE RECORDS
3 AS SUGGESTED BY THE COURT, HE WOULD BE THE SAME
4 INDIVIDUAL TO COME IN HERE AND ARGUE THAT.

5 SO BASICALLY WE HAVE LOST A WEEK RUNNING
6 AROUND; CERTIFYING MAIL TO TRISTAR -- WHICH IS SOME SORT
7 OF LIABILITY WORKERS' COMP AGENCY THAT THE SHERIFF'S HIRE
8 TO HOUSE AND MAINTAIN THEIR RECORDS -- WHO HAVE SET
9 THEMSELVES UP TO THE POINT WHERE THEY DON'T ACCEPT
10 SERVICE IN PERSON; THEREFORE THERE IS NO ONE TO ATTACH.
11 AND WHEN WE GO TO MISS KNOX, SHE ADVISES US THAT WE HAVE
12 TO MAIL IT TO TRISTAR.

13 SO I DID TALK TO MR. BOWERS DURING THE
14 WEEK. I OFFERED TO FAX HIM THE NOTE FROM MY INVESTIGATOR
15 INDICATING OUR ATTEMPTS AT SERVICE. WE'RE ALL HERE NOW.
16 I'M WILLING TO DISCUSS WHAT WE NEED TO DO. I WOULD ASK
17 THE COURT TO RECONSIDER THE CONCEPT THAT THIS INFORMATION
18 IS NOT AVAILABLE UNDER PITCHESS UNDER 832.5 THROUGH 7.

19 WE WERE TOLD -- I BELIEVE THE DISTRICT
20 ATTORNEY'S ARGUMENT OR THAT COUNSEL'S ARGUMENT WAS THAT
21 THIS WAS A FISHING EXPEDITION. A FISHING EXPEDITION
22 WOULD BE, YOUR HONOR, I THINK THERE IS A COP AND HE MIGHT
23 BE BAD AND I WANT YOU TO CHECK HIS RECORDS. WE HAVE SO
24 MUCH MORE THAN THAT IN THIS CASE. WE DON'T HAVE TO SHOW
25 UNDER CITY VERSUS SANTA CRUZ AN ACTUAL PRIOR COMPLAINT.

26 THE THRESHOLD -- THE COURT HAS USED THE
27 TERM "VERY LOW" IN ORDER FOR US TO SHOW THAT THIS MIGHT
28 BE RELEVANT TO OUR DEFENSE. ALL IT IS IS THAT WE HAVE

1 INFORMATION THAT WILL FACILITATE THE ASCERTAINMENT OF
2 FACTS AND A FAIR TRIAL. THAT'S WHAT THE CITY OF SANTA
3 CRUZ THRESHOLD IS.

4 WE'VE SHOWN THIS COURT THAT A LOS ANGELES
5 SHERIFF'S OFFICER CURRENTLY WORKING AT THE LOS ANGELES
6 SHERIFF'S INDICATED TO BOTH MR. SUMMERS AND MYSELF THAT
7 MR. GRIGGS WAS AN ACTIVE ALCOHOLIC DURING THIS
8 INVESTIGATION.

9 WE'VE BEEN ADVISED BY OTHER LOS ANGELES
10 SHERIFF'S PERSONNEL, INCLUDING ONES CURRENTLY WORKING
11 THIS INVESTIGATION, THAT HE DID TAKE A PSYCHIATRIC LEAVE
12 IN THE MIDDLE OF THIS INVESTIGATION. THAT'S NOT A
13 FISHING EXPEDITION.

14 WE'VE ALSO SHOWN THIS COURT A SEARCH
15 WARRANT INDICATING THAT THERE WAS A VIABLE OTHER SUSPECT
16 WHO WAS IGNORED. AND WE'VE SHOWN THIS COURT A COMPLAINT
17 FROM THE VICTIM'S FAMILY MEMBER AND A RESPONSE BY THIS
18 OFFICER SHOWING THAT THIS EITHER ALCOHOLISM OR
19 PSYCHIATRIC DISABILITY THAT ALLOWED HIM TO TAKE THIS
20 RETIREMENT COULD HAVE AFFECTED HIS BIAS; CREDIBILITY; OR
21 JUDGMENT.

22 THAT MAKES THE RECORDS AVAILABLE TO US
23 UNDER PITCHES. REGARDLESS OF THEIR AVAILABILITY UNDER
24 PITCHES, THE COURT SHOULD ALLOW US TO HAVE THEM UNDER
25 SUBPOENA BECAUSE THEY ARE RELEVANT TO MR. GOODWIN'S
26 TRIAL.

27 ALL OF THE FACTORS IN THE PENAL CODE THAT
28 KEEP PERSONNEL RECORDS FROM US, KEEP THEM FROM US, QUOTE,

1 ANY INFORMATION THE DISCLOSURE OF WHICH WOULD CONSTITUTE
2 AN UNWARRANTED INVASION OF PRIVACY. MR. GOODWIN, AS THE
3 COURT KNOWS, IS LOOKING AT SPENDING THE REST OF HIS LIFE
4 IN PRISON. IT IS NOT AN UNWARRANTED INVASION OF OFFICER
5 GRIGGS' PRIVACY FOR THE COURT TO ALLOW US TO SEE THOSE.
6 THIS COURT HAS VIOLATED THE PRIVACY OF A CIVILIAN WITNESS
7 IN THIS CASE BECAUSE THEY FOUND RELEVANCE. AND THAT WAS
8 THE SAME INSTANCE IN THE CIVILIAN CASE AS IN THE
9 OFFICER'S CASE.

10 AND THE THIRD PRONG OF WHICH WE DESERVE
11 THIS DISCOVERY IS UNDER BRADY. AND I AM TROUBLED BY THE
12 DISTRICT ATTORNEY'S ABILITY TO SORT OF JUST SAY THE WORDS
13 "FISHING EXPEDITION" WHEN THEY HAVE NOW IN THEIR
14 POSSESSION AND THIS COURT HAS VIABLE ARGUMENTS THAT WE'RE
15 MAKING THAT ARE SPECIFIC TO THIS CASE AND SPECIFIC TO
16 THIS OFFICER.

17 MR. JACKSON: YOUR HONOR, I NEED TO ESTABLISH A
18 LITTLE BACK DROP, ESPECIALLY BASED ON A DECENT SEGUE
19 BASED ON MS. SARIS'S LAST COMMENT. THE COURT ASKED ME
20 LAST TIME WE WERE HERE IF I WOULDN'T -- THE BEST WAY TO
21 PHRASE IT IS SORT OF BE A FRIEND OF THE COURT AND SEE IF
22 I CAN GET THESE DOCUMENTS.

23 I, THAT DAY, MADE IN ROADS TO TRY TO DO
24 THAT. I WANTED TO SEE IF I COULD RETRIEVE THE DOCUMENTS.
25 I WASN'T GOING TO LOOK AT THEM BECAUSE, QUITE FRANKLY, I
26 STILL THINK IT'S A FISHING EXPEDITION. I STILL THINK
27 THAT I DON'T HAVE ANY RIGHT TO LOOK AT THEM. BUT I WAS
28 GOING TO SUBMIT THEM UNDER SEAL TO THE COURT TO HAVE THE

1 COURT GLANCE AT WHATEVER IT IS THAT YOU THINK IS
2 APPROPRIATE.

3 I SPOKE WITH LIEUTENANT -- I THINK IT'S
4 GARY --

5 MR. BOWERS: DAVID WHITHAM

6 MR. JACKSON: DAVID. SORRY. DAVID WHITHAM.
7 LAST NAME I THINK IS SPELLED W-H-I-T-H-A-M. HE'S A
8 LIEUTENANT AT THE SHERIFF'S DEPARTMENT. AND HE SAID,
9 "MR. JACKSON, YOU DON'T HAVE ACCESS TO THOSE DOCUMENTS.
10 EVEN IF YOU WANTED THEM FOR YOUR CASE IN CHIEF, YOU
11 WOULDN'T HAVE ACCESS TO THEM. LET ME PUT YOU IN CONTACT
12 WITH OUR LAWYERS."

13 I WAS CONTACTED BY A WOMAN BY THE NAME OF
14 GRETCHEN BUECHSENSCHUETZ. THE SPELLING IS I THINK ON
15 RECORD. SHE IS I BELIEVE A PARTNER OF MR. BOWERS. AND
16 SHE EXPLAINED -- I SAID, "GRETCHEN, CAN I GET THESE
17 DOCUMENTS? I'LL SUBMIT THEM TO THE COURT." AND SHE SAID,
18 "NO. YOU DON'T HAVE ANY GREATER ACCESS TO THESE
19 DOCUMENTS THAN THE GENERAL PUBLIC DOES. IF THE DOCUMENTS
20 ARE GOING TO BE SUBMITTED TO THE COURT, THERE HAS TO BE A
21 SHOWING."

22 AND I SAID, "DO ME A FAVOR, HAVE A
23 REPRESENTATIVE IN COURT TO EXPLAIN THAT POSITION TO TERI
24 SCHWARTZ. JUDGE SCHWARTZ HAS ASKED ME, AS A FRIEND OF
25 THE COURT, TO DO WHAT I COULD TO FACILITATE MS. SARIS'S
26 REQUEST." I WANTED TO MAKE SURE THAT THE COURT KNEW THAT
27 I DID NOT ASK THE LAWYERS TO COME IN TO BLOCK THIS. I
28 ASKED THEM TO EXPLAIN WHY I COULDN'T HAVE THEM EITHER.

1 MR. BOWERS: AND BACK TO MY ORIGINAL ISSUE. ONE
2 OF THE MAIN REASONS I'M HERE IS THE BODY ATTACHMENT ON
3 MISS KNOX. THE NOTES FROM THE INVESTIGATOR SAY "NOT
4 SERVED." AND ABSENT SERVICE OF THE SUBPOENA ON
5 MISS KNOX, THE BODY ATTACHMENT IS INAPPROPRIATE. I WOULD
6 ASK THAT THAT BE RECALLED.

7 THE COURT: THAT WILL BE RECALLED AND QUASHED.

8 MR. BOWERS: AS TO THE DOCUMENTS THE DEFENDANT --
9 THE DEFENSE IS SEEKING, THE PSYCHOLOGICAL RECORDS, IT'S
10 NOT OUR POSITION THAT THEY WILL NEVER BE AVAILABLE. THE
11 QUESTION IS WHETHER OR NOT THEY'VE MADE A FACTUAL SHOWING
12 TO SUPPORT THE DISCOVERY IN THIS PARTICULAR INSTANCE. IN
13 THIS PARTICULAR INSTANCE THEY SAY THE INITIAL
14 INVESTIGATION WAS INCOMPETENT, BUT THEY DON'T SAY WHY IT
15 WAS INCOMPETENT. THEY SAY A SUSPECT WAS IGNORED, BUT
16 THEY DON'T SAY THAT GRIGGS IGNORED THE SUSPECT OR THAT
17 OTHER INVESTIGATORS DOWN THE LINE IGNORED --

18 THE COURT: LET ME STOP YOU FOR A SECOND. FIRST
19 OF ALL, I'M NOT TALKING JUST ABOUT PSYCHOLOGICAL RECORDS.
20 THAT'S NOT WHAT THIS IS ABOUT. THIS IS ABOUT RECORDS IN
21 THE POSSESSION OF THE SHERIFF'S DEPARTMENT THAT MAY SHED
22 LIGHT ON WHY THE INVESTIGATING OFFICER AT THE TIME I
23 GUESS LEFT THE DEPARTMENT IN THE MIDDLE OF AN
24 INVESTIGATION.

25 IS THAT THE DEFENSE CLAIM?

26 MS. SARIS: IN THE MIDDLE, CERTAINLY, YES.

27 THE COURT: AND THERE WAS INFORMATION PRESENTED
28 TO THE COURT PREVIOUSLY THAT INDICATED THAT THERE WAS AN

1 INVESTIGATION UNDERWAY WHERE DEPUTY GRIGGS WAS PURSUING
2 ANOTHER SUSPECT. AT SOME POINT THERE WAS SOME
3 COMMUNICATION AND SOME COMPLAINT MADE ABOUT THE DEPUTY
4 NOT PURSUING THE INVESTIGATION INSOFAR AS IT MAY HAVE LED
5 TOWARDS MR. GOODWIN. BUT RATHER HE WAS PURSUING AN
6 INVESTIGATION THAT WAS LEADING TOWARDS ANOTHER
7 INDIVIDUAL.

8 AND I DON'T KNOW WHAT HAPPENED AT THAT
9 POINT THAT LED TO THE RETIREMENT -- EARLY RETIREMENT OF
10 THE DEPUTY. I PREVIOUSLY DENIED THE PITCHESS MOTION ON
11 THE GROUNDS THAT I DIDN'T THINK THAT DEFENSE MADE A
12 SUFFICIENT SHOWING THAT THERE WAS ANY MISCONDUCT
13 COMMITTED ON THE PART OF DEPUTY GRIGGS. AND THAT WAS THE
14 SHERIFF'S DEPARTMENT'S ARGUMENT TO THE COURT AT THE TIME
15 OF THE PITCHESS MOTION AND I AGREED.

16 I COMMENTED, HOWEVER, AT THE TIME THAT I
17 FELT THAT THIS WAS POTENTIAL BRADY MATERIAL IN THE
18 POSSESSION OF THE SHERIFF'S DEPARTMENT. AND SINCE THE
19 SHERIFF'S DEPARTMENT IS THE LEAD AGENCY ON THIS CASE,
20 WORKING WITH THE DISTRICT ATTORNEY'S OFFICE IN BRINGING
21 THIS CASE TO TRIAL AGAINST MR. GOODWIN, THAT ANYTHING IN
22 THE POSSESSION OF THE SHERIFF'S DEPARTMENT THAT COULD BE
23 POTENTIAL BRADY MATERIAL SHOULD BE PROVIDED. PERIOD.
24 END OF STORY.

25 SO I DON'T KNOW HOW WE GOT OFF ON THE
26 SUBJECT OF PSYCHOLOGICAL RECORDS. THAT IS NOT MY
27 CONCERN. I FRANKLY DON'T CARE ABOUT THE PSYCHOLOGICAL
28 RECORDS AS MUCH AS I CARE ABOUT POTENTIAL BRADY MATERIAL.

1 I DON'T KNOW WHAT LED TO THIS OFFICER LEAVING THIS
2 DEPARTMENT. BUT THERE IS A SUSPICION. THERE IS MORE
3 THAN SPECULATION THAT'S BEEN PRESENTED THAT IT MAY HAVE
4 SOMETHING TO DO WITH THE WAY HE WAS CONDUCTING THIS
5 INVESTIGATION AND THE DIRECTION IN WHICH THIS
6 INVESTIGATION WAS GOING.

7 AND IF THAT'S THE CASE, THEN CLEARLY THAT
8 WOULD BE BRADY MATERIAL. AND SHOULD BE PROVIDED TO THE
9 COURT -- RATHER IT SHOULD BE PROVIDED TO THE DEFENSE
10 WITHOUT A COURT ORDER AND WITHOUT COURT INTERVENTION. SO
11 WE'RE NOT DEALING WITH A PITCHESS MOTION NECESSARILY.
12 WE'RE NOT DEALING WITH AN S.D.T. WHERE THE COURT IS
13 ASKING FOR COMPLIANCE WITH THE S.D.T. AND ASKING THE
14 SHERIFF'S DEPARTMENT TO SUBMIT THE RECORDS UNDER SEAL.

15 THE COURT IS DEALING WITH POTENTIAL BRADY
16 MATERIAL, WHICH I ASKED MR. JACKSON LAST TIME TO TRY TO
17 FIND OUT IF IT EXISTED. AND IF SO, PROVIDE IT TO THE
18 DEFENSE. AND I THINK THAT IS WHERE WE ARE THIS MORNING
19 IN THIS MATTER. I'M LOOKING TO THE PROSECUTION TO
20 PROVIDE THIS INFORMATION TO THE DEFENSE TO THE EXTENT
21 THAT IT MAY CONSTITUTE BRADY MATERIAL.

22 NOW WHETHER IT INCLUDES PSYCHOLOGICAL
23 RECORDS, I DON'T KNOW. BUT THE CIRCUMSTANCES SURROUNDING
24 THE EARLY RETIREMENT OF THIS INVESTIGATING OFFICER IS
25 POTENTIAL BRADY MATERIAL IF IT HAS ANYTHING TO DO WITH
26 THE PROBLEMS ENCOUNTERED BY HIM IN THE COURSE OF THIS
27 INVESTIGATION.

28 SO WHEN WILL THE SHERIFF'S DEPARTMENT

1 PROVIDE THAT MATERIAL?

2 MR. BOWERS: BEFORE WE GO ANY FARTHER, YOUR
3 HONOR, I WOULD LIKE TO MAKE SURE THAT THAT'S THE ONLY
4 THING WE'RE LOOKING FOR. THAT I'M NOT GOING TO BE CALLED
5 IN NEXT WEEK BY MS. SARIS SAYING, "WHERE ARE THE
6 PSYCHOLOGICAL RECORDS? WHERE ARE THESE MEDICAL RECORDS
7 THAT I'VE BEEN ASKING FOR?"

8 THE COURT: WELL, I DON'T KNOW. BECAUSE SHE IS
9 BRINGING FORTH INFORMATION ABOUT SUBSTANCE ABUSE PROBLEMS
10 AND SO ON AND SO FORTH. I DON'T KNOW TO WHAT EXTENT THAT
11 MAY HAVE ANY RELEVANCE TO THE EARLY RETIREMENT OF THIS
12 DEPUTY. AT THIS POINT, I DON'T HAVE ANY INFORMATION TO
13 SUBSTANTIATE THAT. BUT DO I HAVE INFORMATION THAT LEAVES
14 ME TO QUESTION THE CIRCUMSTANCES SURROUNDING THE EARLY
15 RETIREMENT. AND I WILL LEAVE IT AT THAT.

16 WHETHER THAT INCLUDES ANY KIND OF
17 PSYCHOLOGICAL DISABILITY BECAUSE OF THE SUBSTANCE ABUSE
18 PROBLEM, I HAVE NO WAY OF KNOWING. SO I'M NOT ORDERING
19 PRODUCTION OF ANY PSYCHOLOGICAL RECORDS. BUT I AM
20 ORDERING -- AND IT DOESN'T TAKE A COURT ORDER, AS YOU
21 KNOW -- BUT I AM INSISTING UPON THE INFORMATION THAT
22 BEARS ON THIS DEPUTY'S EARLY RETIREMENT FROM THIS
23 INVESTIGATION.

24 MR. BOWERS: IF I MAY, YOUR HONOR, THERE IS AN
25 ISSUE HERE -- IT IS A TWO-FOLD PROBLEM. IF THE SHERIFF'S
26 DEPARTMENT -- AND I'M NOT AGREEING THAT THIS MIGHT BE
27 POTENTIAL BRADY INFORMATION. I THINK THE COURT IS GOING
28 A LITTLE BROAD THAT EVERYTHING IN THE HANDS OF THE

1 SHERIFF'S DEPARTMENT IS POTENTIAL BRADY INFORMATION IF
2 IT'S EXCULPATORY, WHATEVER.

3 THERE ARE VERY DIFFERENT DIVISIONS IN THE
4 SHERIFF'S DEPARTMENT. YOU HAVE THE INVESTIGATION
5 DIVISION. YOU HAVE WORKERS' COMPENSATION. YOU HAVE
6 INSURANCE. SO TO SAY THAT EVERYTHING WITHIN THE
7 SHERIFF'S DEPARTMENT IS POTENTIAL BRADY INFORMATION, I
8 THINK IS A LITTLE BROAD.

9 THE SECOND ISSUE IS, IF THE SHERIFF'S
10 DEPARTMENT REVIEWS THE DOCUMENTS CONCERNING THE DEPUTY'S
11 EARLY RETIREMENT AND DETERMINES THAT IT HAS ABSOLUTELY
12 NOTHING TO DO WITH THIS CASE, IT IS NOT BRADY INFORMATION
13 AND NOT SUBJECT TO DISCLOSURE.

14 THE COURT: CORRECT.

15 MR. BOWERS: AND I WOULD ARGUE THAT BY FORCING
16 THE SHERIFF'S DEPARTMENT TO BRING THIS STUFF INTO YOU TO
17 REVIEW IS A DISCLOSURE -- IF IT'S NOT BRADY, THERE IS NO
18 WAY THE COURT CAN ORDER IT TO BE DISCLOSED.

19 THE COURT: WELL, I THINK --

20 MR. BOWERS: BUT AS A MEMBER OF THE PROSECUTION
21 TEAM, THE SHERIFF'S DEPARTMENT CAN REVIEW IT; DETERMINE
22 WHETHER OR NOT IT HAS ANYTHING TO DO WITH THIS PARTICULAR
23 CASE. IF IT DOES, ADVISE THE DISTRICT ATTORNEY OF THAT
24 FACT. AND THEN THE DISTRICT ATTORNEY CAN COMPLY WITH HIS
25 OBLIGATIONS UNDER BRADY AND ADVISE THE DEFENSE.

26 THE COURT: AND THE COURT.

27 MR. BOWERS: AND THE COURT.

28 THE COURT: I THINK WE SHOULD DO THAT.

1 MR. JACKSON: SO, YOUR HONOR, I WANT TO MAKE SURE
2 THAT I'M CLEAR ABOUT THE PARAMETERS THAT THE COURT IS
3 SETTING. AND I REALIZE THAT BRADY IS NOT SOMETHING THAT
4 THE COURT NEEDS TO ORDER. I APPRECIATE, GIVEN THE
5 COMPLEXITY OF THIS PARTICULAR ISSUE, THE COURT GIVING US
6 SOME GUIDANCE. I WANT TO MAKE SURE THAT I'M COMPLYING
7 WITH THE LETTER OF WHAT THE COURT IS REQUESTING OR
8 DEMANDING OR INSISTING.

9 ONCE I GET A HOLD OF THE SHERIFF'S
10 REPRESENTATIVE -- AND ONE OF THEM IS HERE NOW,
11 ADVANTAGEOUSLY -- I EXPECT THAT THE PROCEDURE TO BE
12 FOLLOWED WOULD BE: I RELAY TO THE SHERIFF'S
13 REPRESENTATIVE EXACTLY -- AND I HAVE WRITTEN DOWN ALMOST
14 VERBATIM WHAT THE COURT'S CONCERNS ARE CONCERNING BRADY.

15 IN OTHER WORDS, IF DEPUTY GRIGGS'S EARLY
16 RETIREMENT HAD ANY BEARING ON HIS CONDUCT IN THE GOODWIN
17 CASE WHATSOEVER, THAT INFORMATION SHOULD BE PROVIDED TO
18 ME. THE COURT IS NOT REQUESTING THAT I GO THROUGH
19 PRIVATE DOCUMENTS IF I'M UNDERSTANDING YOU CORRECTLY.

20 THE COURT: CORRECT.

21 MR. JACKSON: OKAY. AS LONG AS I GET A
22 REPRESENTATION SIGNED BY SOMEBODY THAT THEY'VE REVIEWED
23 THE DOCUMENTS AND THAT THEY CAN SIGN, FOR INSTANCE, EVEN
24 SUBMIT A DECLARATION THAT PURSUANT TO A REVIEW AT THE
25 REQUEST OF THE COURT SUCH AND SUCH HAS THIS CONNECTION TO
26 THE GOODWIN CASE OR HAS NO CONNECTION TO THE GOODWIN
27 CASE, THAT SHOULD SATISFY THE COURT AND IT SHOULD SATISFY
28 MY OBLIGATIONS UNDER BRADY; CORRECT?

1 THE COURT: I BELIEVE IT WOULD.

2 MR. JACKSON: I BELIEVE IT WOULD, TOO. THANK
3 YOU.

4 MS. SARIS: I HATE TO BE THE LONE DECENT HERE
5 AGAIN BUT, YOUR HONOR, WE'RE ASKING FOR THE COURT TO
6 REVIEW THIS FILE. THIS IS -- OBVIOUSLY, SO FAR THE
7 SHERIFFS -- AND I WOULD LIKE TO GIVE THE COURT A LITTLE
8 BACKGROUND AS WELL.

9 DEPUTY GRIGGS, IN THE COMPLAINING MEMO
10 THAT I ATTACHED TO THE AMENDED PITCHES, PUT THIS MEMO
11 INTO EVIDENCE. IN OTHER WORDS, THIS MEMO WAS IN THE
12 EVIDENCE ALONG WITH THE WALLET THAT THE VICTIM WAS
13 WEARING; ALONG WITH THE BULLETS. HE PUT IT INTO
14 EVIDENCE. HE DIDN'T MAKE IT PART OF THE REGULAR POLICE
15 REPORT.

16 AND MR. GOODWIN AND HIS DEFENSE TEAM IN
17 ORANGE COUNTY TRIED VERY HARD TO GET THIS MEMO. AND WAS
18 ACTUALLY GIVEN A DIFFERENT MEMO THAT WAS ALSO CALLED
19 "ITEM NO. 95" THAT TURNED OUT TO BE A COMPLETELY
20 DIFFERENT MEMO FROM A CAPTAIN GRIMM, G-R-I-M-M. AND THIS
21 SORT OF GAME WENT ON FOR SIX, SEVEN MONTHS. AND IT
22 WASN'T UNTIL WE WERE ALLOWED ACCESS TO THE PHYSICAL
23 EVIDENCE THAT WE FOUND THIS MEMO AND WE UNDERSTOOD ITS
24 IMPORTANCE.

25 SO THIS IS A DEPARTMENT THAT IS SHOWING
26 ITSELF TO BE UNTRUSTWORTHY IN THEIR WILLINGNESS TO TURN
27 OVER POTENTIALLY EXCULPATORY INFORMATION. THIS IS A
28 DISTRICT ATTORNEY'S OFFICE WHO SAYS, "WELL, AS A FRIEND

1 OF THE COURT WE WILL LOOK INTO IT." BRADY IS A UNITED
2 STATES SUPREME COURT DECISION THAT PUTS AN AFFIRMATIVE
3 DUTY ON THE DISTRICT ATTORNEY'S OFFICE TO FIND THIS
4 INFORMATION.

5 THIS ISN'T AN AMICUS SITUATION. THEY HAVE
6 HAD THIS DUTY FOR THE BETTER PART OF TWO YEARS SINCE
7 THEY'VE BEEN INVOLVED. WE DISAGREE WITH THE COURT'S
8 RULING UNDER PITCHESS AND UNDER THE S.D.T. WE'RE HAPPY
9 TO TAKE WHATEVER THEY CAN GIVE US. I WILL ADVISE THE
10 COURT THAT I WOULD HOPE THAT WE WOULD BE VERY CLEAR AS TO
11 WHAT THE COURT IS SAYING THE DENIAL OF THE S.D.T. AND THE
12 PITCHESS ARE.

13 THIS IS AN ISSUE WE WILL WRIT. WE WILL
14 WRIT THIS PRETRIAL. THE ONLY WAY MR. GOODWIN IS
15 PROTECTED IS IF THIS COURT READS THAT PERSONNEL FILE.
16 WHAT THE COURT SAID TO MR. BOWERS JUST NOW THAT YOU DID
17 NOT WANT THE PSYCHOLOGICAL RECORDS, I ASSUME YOU MEANT
18 UNLESS THEY HAD INFORMATION RELATING TO THE GOODWIN CASE?

19 THE COURT: YES.

20 MS. SARIS: SO YOU'RE NOT MAKING ANY ORDER THAT
21 DISALLOWS HIM FROM REVIEWING PSYCHOLOGICAL RECORDS?

22 THE COURT: CORRECT.

23 MS. SARIS: BECAUSE IT IS OUR UNDERSTANDING THAT
24 IN ORDER TO GET A PSYCHOLOGICAL EARLY RETIREMENT -- AND
25 THIS GETS YOU A LARGE PERCENTAGE OF YOUR INCOME TAX FREE
26 FOR THE REST OF YOUR LIFE -- YOU MUST SUBMIT
27 DECLARATIONS. YOU MUST SUBMIT WITNESS STATEMENTS. AND
28 YOU MUST SUBMIT DOCTOR'S INFORMATION.

1 I'M ASKING THAT THIS COURT HAVE ALL OF
2 THOSE TO REVIEW. I'M NOT ASKING THE COURT TO OPEN THOSE
3 TO THE PUBLIC. I'M NOT ASKING THE COURT TO GIVE THOSE TO
4 THE PRESS. I'M SAYING THE ONLY WAY THAT MR. GOODWIN,
5 BASED ON ALL OF THE SHENANIGANS THAT HAVE GONE ON ON THIS
6 SIDE OF THE TABLE CAN RECEIVE A FAIR TRIAL IS IF THIS
7 COURT -- IT IS NOT AN UNWARRANTED INVASION OF PRIVACY; IT
8 IS ABSOLUTELY WARRANTED -- THIS COURT TO REVIEW THE
9 ENTIRETY OF MR. GRIGGS' PERSONNEL FILE AND THIS COURT
10 MAKE THE DETERMINATION AS TO WHAT IS AVAILABLE.

11 THE COURT: WELL, I'M NOT THERE YET. I THINK
12 WITH THE SHERIFF'S DEPARTMENT AND THE D.A. --
13 UNDERSTANDING NOW FULLY THE SUGGESTION BEING MADE BY THE
14 COURT -- THAT THEY ARE GOING TO LET ME KNOW AND LET THE
15 DEFENSE KNOW IF THERE IS ANYTHING THAT WOULD QUALIFY AS
16 POTENTIAL BRADY MATERIAL. SO I'M SATISFIED THAT THE
17 SHERIFF'S DEPARTMENT IS GOING TO CONDUCT AN INQUIRY AND
18 LET US KNOW.

19 NOW IF THERE IS NOTHING TO BE PROVIDED,
20 PERHAPS AT THAT POINT THE COURT CAN CONDUCT A LIMITED IN
21 CAMERA HEARING WITH THE SHERIFF'S DEPARTMENT
22 REPRESENTATIVE TO MAKE A RECORD AS TO WHAT WAS REVIEWED
23 AND WHAT WAS DETERMINED BY THEM NOT TO BE EXCULPATORY
24 BRADY EVIDENCE OR POTENTIAL BRADY EVIDENCE.

25 SO I DON'T THINK I'M AT THAT POINT YET.
26 BUT I AM AT THE POINT WHERE I WOULD RATHER USE THE WORD
27 "SUGGESTION," BECAUSE THIS IS IN MY VIEW STILL A BRADY
28 SITUATION AND THE INVESTIGATING AGENCY IS THE SHERIFF'S

1 DEPARTMENT. SO THE RECORDS PRESUMABLY, IF THEY EXIST,
2 ARE IN THE POSSESSION OF THE SHERIFF'S DEPARTMENT. AND
3 IT'S THE SHERIFF'S DEPARTMENT'S OBLIGATION AS THE
4 INVESTIGATING AGENCY WORKING WITH THE L.A. D.A. TO MAKE
5 THAT DETERMINATION AFTER REVIEWING ALL OF THE RELEVANT
6 INFORMATION.

7 SO THAT'S WHERE I'M AT. AND THAT'S WHERE
8 I WAS AT LAST WEEK WHEN I SUGGESTED THAT TO MR. JACKSON.
9 SO --

10 MS. SARIS: LET ME ASK ANOTHER JUST CLARIFYING
11 QUESTION, THEN. WE HAVE FOUND THE ADDRESS OF THIS
12 TRISTAR LOCATION WHICH SAYS THEY ONLY ACCEPT SERVICE BY
13 REGISTERED MAIL AND THEN FAILS TO RESPOND TO ANY SUBPOENA
14 THAT WE SEND BY REGISTERED MAIL. FAILS EVEN TO SEND A
15 LETTER TO US INDICATING THAT THEY ARE EITHER ARGUING
16 ABOUT IT OR UNWILLING TO COMPLY WITH IT OR UNABLE.

17 PERHAPS THE COURT CAN INQUIRE FROM
18 MR. BOWERS IF I WOULD BE GOING OVER THE EXACT SAME
19 TERRITORY TO DRIVE DOWN TO TRISTAR WITH A SUBPOENA IN
20 HAND -- BECAUSE I KNOW THAT THEY ALSO COVER WORKERS'
21 COMPENSATION -- IF THAT'S JUST SOMETHING ELSE THAT WILL
22 SOMEHOW INADVERTENTLY BRING MR. BOWERS BACK TO COURT
23 REPRESENTING ANOTHER PART OF THE AGENCY, IF WE CAN HAVE
24 SOME CLARIFICATION NOW AND I'LL SAVE A TRIP TO IRVINE.

25 MR. BOWERS: IT IS A SHORT ANSWER. MEDICAL
26 RECORDS WITHIN TRISTAR'S POSSESSION ARE PERSONNEL FILES
27 OF DETECTIVE GRIGGS. AND THE ONLY METHOD OF DISCOVERY OF
28 PERSONNEL FILES IS A PITCHESS MOTION UNDER 1043. A

1 SUBPOENA CANNOT COMPEL PRODUCTION OF THE INFORMATION.

2 THE COURT: WHERE DO WE GO FROM HERE?

3 MS. SARIS: WE NEED TO PICK A TRIAL DATE, YOUR
4 HONOR. WELL, ACTUALLY, I WOULD ASK FOR A DATE FOR
5 COMPLIANCE FOR THIS BRADY INFORMATION. I KNOW WE HAD
6 REQUESTED RECORDS FROM A NORWALK RECORDS BUREAU THAT
7 APPARENTLY ALSO HAVE NOT ARRIVED UNDER SEPARATE SUBPOENA
8 THAT MR. BOWERS IS NOT INVOLVED IN. I SPOKE TO THEM.
9 THEY INDICATE THEY'RE PUTTING IT TOGETHER. SO WHATEVER
10 DATE WE PICK FOR THE BRADY COMPLIANCE, PERHAPS WE COULD
11 HOLD THE WARRANT ON THAT PRIOR SUBPOENA THAT WE HELD TO
12 TODAY FOR THAT DATE.

13 THE COURT: OKAY. WHICH SUBPOENA IS THAT?

14 MS. SARIS: IT WAS A SUBPOENA THAT WE SENT TO
15 NORWALK RECORDS FOR AN APRIL 4TH COMPLIANCE DATE. AND I
16 WAS IN CONTACT WITH THEM BY PHONE. I BELIEVE HER NAME IS
17 HAMM, AUDREY. H-A-M-M.

18 MR. BOWERS: I'M SORRY. IS THIS A --

19 MS. SARIS: NO. THIS HAS NOTHING TO DO WITH YOU.

20 MR. BOWERS: OKAY.

21 THE COURT: ALL RIGHT. SO I DON'T HAVE -- DID
22 YOU GIVE ME A RETURN SERVICE ON THAT?

23 MS. SARIS: I DID.

24 THE COURT: DO WE HAVE IT?

25 MS. SARIS: IT'S HANDWRITTEN. IN FACT, I GAVE
26 THE COURT MY OWN COPY.

27 THE COURT: IT'S JUST TO THE CUSTODIAN OF
28 RECORDS --

1 MS. SARIS: R.I.B.

2 THE COURT: YES. BUT IT DOESN'T HAVE SOMEONE'S
3 NAME ON IT.

4 MS. SARIS: AT THE BOTTOM THERE SHOULD BE, HECTOR
5 ROJAS, R-O-J-A-S. AND I SPOKE TO MISS HAMM, H-A-M-M, WHO
6 SAID THAT IT'S JUST A MATTER OF XEROXING IT AND GETTING
7 IT TO US. SHE THOUGHT IT WOULD BE HERE BY TODAY. BUT
8 JUST TO MAINTAIN JURISDICTION, I WOULD ASK TO HOLD A
9 WARRANT. AND PERHAPS INQUIRE OF MR. BOWERS WHEN A
10 REALISTIC COMPLIANCE DATE ON THAT REVIEW.

11 MR. BOWERS: I'M GOING TO BE PURSUING THIS
12 PERSONALLY AND AS EXPEDITIOUSLY AS POSSIBLE. BUT I DON'T
13 KNOW HOW FAST THE WHEELS OF THE GOVERNMENT WILL TURN. IF
14 WE WERE TO COME BACK NEXT WEEK, I'VE ADVISED MR. JACKSON
15 THAT MY OFFICE IS ACTUALLY SHORT-HANDED NEXT WEEK. SO
16 THERE IS ONLY TWO ATTORNEYS HANDLING THE PITCHES MOTIONS
17 IN THE MORNINGS. BUT I CAN COME BACK IN THE AFTERNOON AT
18 1:30 IF THAT'S OKAY WITH THE COURT.

19 THE COURT: IT DOESN'T MATTER. JUST TELL ME WHAT
20 DAY.

21 MR. JACKSON: NEXT WEDNESDAY?

22 MR. BOWERS: NEXT WEDNESDAY AT 1:30?

23 MS. SARIS: THE 19TH IS FINE. AND CAN THAT BE A
24 NON-APPEARANCE FOR MR. GOODWIN?

25 THE COURT: ALL RIGHT. WEDNESDAY THE 19TH AT
26 1:30.

27 MR. BOWERS: 1:30.

28 MR. JACKSON: THAT'S FINE.

1 THE COURT: AND I WILL -- DID I PREVIOUSLY ISSUE
2 AND HOLD THE WARRANT ON THAT R.I.B.?

3 THE CLERK: YES.

4 MS. SARIS: YOU DID.

5 THE COURT: SO I WILL CONTINUE TO HOLD THE
6 WARRANT UNTIL WEDNESDAY THE 19TH.

7 MR. JACKSON: YOUR HONOR, CAN I HAVE JUST A
8 SECOND?

9 (DISCUSSION OFF THE RECORD.)

10 MR. JACKSON: YOUR HONOR, I'M SORRY ABOUT THAT.
11 THE 19TH IS FINE.

12 THE COURT: 19TH IS GOOD --

13 MR. JACKSON: YES, MA'AM.

14 THE COURT: -- AT 1:30? ALL RIGHT. AND THEN WE
15 NEED TO PICK ANOTHER DATE FOR MR. GOODWIN TO RETURN.

16 MR. GOODWIN, DO YOU WANT TO WAIVE YOUR
17 PRESENCE FOR THE PROCEEDINGS THAT WILL BE CONDUCTED
18 WEDNESDAY AFTERNOON APRIL 19TH?

19 THE DEFENDANT: YES, MA'AM.

20 THE COURT: COUNSEL JOIN?

21 MS. SARIS: YES. AND WE ARE REQUESTING, THEN,
22 THAT -- WE CURRENTLY HAVE A MAY 19TH AS A LAST DAY. I
23 BELIEVE WE'RE 20 OF 60 TODAY. I CAME INTO THIS COURT
24 LAST WEEK GETTING THE FINAL SIGNATURES TO AUTHORIZE THE
25 RETRIEVAL OF THE BALLISTICS EVIDENCE, AS WELL AS THE
26 APPOINTMENT OF EXPERT WITNESSES.

27 WE DO NOT FEEL THAT WE WOULD BE ABLE TO
28 HAVE THIS TRIAL GO BY MAY 19. WE'RE ASKING THAT WE MAKE

1 EITHER THE 12TH OR 19TH ZERO OF 60. THE TRIAL DATE WOULD
2 THEN FALL ON JULY 12 OR -- I'M SORRY -- JULY 10TH OR JULY
3 17TH AS A LAST DAY AS A GO DAY.

4 MR. GOODWIN IS NOT HAPPY ABOUT THE
5 PROSPECT OF WAIVING TIME. HOWEVER, HE UNDERSTANDS IT'S
6 NECESSARY THAT THE BALLISTICS TEST BE CONDUCTED AND THAT
7 THE INVESTIGATION THAT WE ARE IN THE MIDDLE OF BE
8 COMPLETED BEFORE TRIAL. AND THEREFORE HE IS WILLING TO
9 WAIVE TIME UNTIL MAY.

10 I KNOW THAT MR. DIXON HAS SOME CONFLICTS
11 WITH ANOTHER CASE. AND I WOULD JUST ASK THE COURT TO
12 TAKE INTO ACCOUNT THAT MR. GOODWIN IS THE ONE THAT'S IN
13 CUSTODY WITHOUT BAIL. AND IF PERHAPS THE COURT WANTS TO
14 TAKE A SECOND LOOK AT THAT ASPECT OF THE CASE IN LIGHT OF
15 MAYBE EVIDENCE THAT THE COURT DIDN'T HAVE BEFORE, UNDER
16 IN RE: BRIGHT, THEN WE WOULD BE WILLING TO PUT THIS CASE
17 WELL AFTER SPECTOR.

18 BUT IF THE BAIL SITUATION IS GOING TO STAY
19 THE SAME, THEN WE DO NOT BELIEVE THAT MR. DIXON'S
20 CONFLICT IN HIS SCHEDULE WITH THE PHIL SPECTOR TRIAL
21 SHOULD HAVE ANY BEARING ON WHETHER OR NOT THIS COURT
22 PLACES THE TRIAL DATE AT A CONVENIENT TIME.

23 THE COURT: WELL, WHEN WOULD BE A CONVENIENT TIME
24 FOR THE PEOPLE?

25 MR. DIXON: WELL, YOUR HONOR, THERE IS NOT MUCH
26 LEFT TO SAY AFTER MS. SARIS JUST SAID EVERYTHING SHE DID.
27 AND I'M SURE THE COURT RECALLS WHAT I SAID LAST TIME IS
28 WE'RE READY TO DO THIS CASE. WE WOULD LIKE TO DO IT ON

1 MAY 19TH.

2 I'VE BEEN HEARING -- WHILE I WAS TRYING
3 ANOTHER CASE IN DEPARTMENT 108, I WAS HEARING FROM ALAN
4 JACKSON THAT THE DEFENDANT SINCE JANUARY WASN'T GOING TO
5 WAIVE TIME. AND BECAUSE OF THAT, AS I TOLD YOU LAST
6 TIME, I WENT INTO COURT WITH THE DEFENSE IN SPECTOR. AND
7 IN FRONT OF JUDGE FIDLER, I MADE REPRESENTATIONS TO HIM.

8 IF WE CAN'T DO THIS CASE NOW, I WOULD ASK
9 THAT THIS GO OVER TO SEPTEMBER 12, ZERO OF 60. AND
10 PERHAPS THE COURT CAN COMMUNICATE WITH JUDGE FIDLER. AND
11 WE CAN SCHEDULE ANOTHER APPEARANCE WITH THE SPECTOR
12 LAWYERS AND SELECT ANOTHER DATE.

13 BUT WHAT MS. SARIS IS DOING IS EXACTLY
14 WHAT I WAS TRYING TO AVOID BY ASKING JUDGE -- OR GOING
15 ALONG WITH THE DEFENSE CONTINUANCE IN SPECTOR IS NOT TO
16 JAM THESE TWO CASES RIGHT UP AGAINST EACH OTHER. AND I
17 KNOW SHE DOESN'T LIKE THIS, BUT I DID RELY ON THE
18 INFORMATION I WAS HEARING THAT MR. GOODWIN WASN'T WAIVING
19 TIME.

20 I WASN'T HERE; I WAS TRYING ANOTHER CASE.
21 BUT THE COURT WAS HERE. AND IF I'M WRONG THAT
22 MR. GOODWIN WAS SAYING, NO, WE HAVE NO INTENTION OF
23 TRYING THIS CASE IN MAY, WELL, THEN PLEASE TELL ME THAT.
24 BUT IT WAS MY UNDERSTANDING THAT THIS WAS A VERY FIRM
25 DATE. AND I RELIED ON THAT AND SO DID JUDGE FIDLER AND
26 SO DID THE OTHER PARTIES. I JUST NEED SOME TIME TO WORK
27 THAT OUT WITH THEIR COURT.

28 AGAIN, I'M READY TO DO THIS. AND I

1 UNDERSTAND THE COURT'S POSITION FROM LAST TIME AND I'M
2 NOT GOING TO PURSUE IT ANYMORE. THE COURT INDICATED LAST
3 TIME THAT YOU'RE GOING TO FIND GOOD CAUSE TO CONTINUE
4 THIS. IT'S JUST THE MOST IMPORTANT THING TO ME IS A FIRM
5 TRIAL DATE. AND THAT'S WHAT I RELIED ON. AND THAT'S
6 APPARENTLY NO ONE'S FAULT, BUT I DID RELY ON IT. AND SO
7 DID ANOTHER JUDGE AND OTHER LAWYERS.

8 THE COURT: WELL, THIS IS THE PROBLEM I'M HAVING,
9 OKAY, THERE IS STILL THE ISSUE THAT YOU, MS. SARIS, SAID
10 YOU ARE GOING TO WRIT. SO TO SET A REALISTIC TRIAL DATE
11 SO THAT THE LAST DAY WOULD LAND IN JULY IS NOT REALISTIC.

12 MS. SARIS: ACCORDING TO MY APPELLATE DEPARTMENT
13 IT IS BECAUSE I DID CHECK THAT OUT. ACCORDING TO MY
14 APPELLATE DEPARTMENT THIS IS REALISTIC. BUT I DON'T NEED
15 TO WRIT IT IF ON THE 14TH -- OR WHATEVER DATE WE JUST
16 SET, THE 20TH, THE 19TH -- WE GET THOSE RECORDS, THEN
17 THERE ISN'T --

18 THE COURT: THIS IS THE PROBLEM I'M HAVING WITH
19 ALL THIS BECAUSE IT'S ALL SPECULATION AT THIS POINT. I
20 DON'T KNOW WHAT IS GOING TO BE PROVIDED, IF ANYTHING.
21 AND IF THERE IS NOTHING THAT'S GOING TO BE PROVIDED FROM
22 THE SHERIFF'S DEPARTMENT, I INDICATED A FEW MINUTES AGO
23 WHEN MR. BOWERS WAS HERE --

24 MR. JACKSON: HE JUST STEPPED OUT, JUDGE.

25 THE COURT: -- THAT I WAS GOING TO GO IN CAMERA
26 AND MAKE A RECORD. AND HOW CAN I DO ALL THAT WITH AN
27 IMPENDING TRIAL DATE KNOWING THAT WHATEVER RECORD THE
28 COURT MAKES IS THEN GOING TO BE THE SUBJECT OF A WRIT,

1 WHICH IS GOING TO REQUIRE THE PREPARATION OF A TRANSCRIPT
2 BY MY COURT REPORTER AND IT'S GOING TO TAKE TIME.

3 I DON'T SEE HOW IT'S REALISTIC TO SAY AT
4 THIS POINT GIVEN WHAT I KNOW THAT WE'RE SHOOTING FOR A
5 JULY DATE, AND TO SAY THAT TODAY THEN WOULD I THINK CAUSE
6 A WHOLE LOT OF PROBLEMS WITH THE TRIAL OF THE OTHER
7 CASE -- WHICH, OF COURSE, IS NOT MY MAIN CONCERN AND NOT
8 A CONCERN AT ALL. BUT THE PEOPLE DID RELY ON THE
9 REPRESENTATIONS THAT THIS CASE WOULD GO FIRST, SO --

10 MS. SARIS: I DON'T KNOW WHAT -- THIS CASE SHOULD
11 GO FIRST.

12 THE COURT: I AGREE.

13 MS. SARIS: MR. SPECTOR IS ANOTHER -- IN THE LINE
14 OF RICH WHITE MEN WHO ARE OUT ON BAIL FOR MURDER. MY
15 CLIENT ISN'T ONE OF THEM.

16 THE COURT: I UNDERSTAND THAT.

17 MS. SARIS: SO WHY --

18 THE COURT: IF YOU WANT ME TO CONTINUE DOING WHAT
19 YOU ARE ASKING ME TO DO, WHICH IS TO REVIEW -- ULTIMATELY
20 REVIEW IN CAMERA THE ENTIRETY OF A SHERIFF'S DEPARTMENT
21 PERSONNEL FILE ON A DETECTIVE WHO WAS THE INVESTIGATING
22 OFFICER IN THIS CASE WHO WAS PURSUING OTHER LEADS, IF YOU
23 WANT ME TO DO THAT, I'M JUST MAKING THE OBSERVATION JULY
24 IS NOT REALISTIC.

25 MS. SARIS: AND I UNDERSTAND THAT AND I
26 APPRECIATE THAT. AND MY CONCERN IS THAT MR. GOODWIN IS
27 HERE WITHOUT BAIL. I PERSONALLY HAVE HAD THIS CASE GOING
28 ON TWO YEARS. I WILL ACCEPT FOUR TO SIX MONTHS OF

1 PERSONAL ISSUES LAST YEAR THAT DELAYED MR. GOODWIN'S
2 CASE. THE REST OF THE TIME DEALING WITH MR. GOODWIN'S
3 CASE HAVE BEEN LITIGATING MOTIONS IN ORDER TO ENSURE THAT
4 HE HAS A FAIR TRIAL.

5 HE SHOULD NOT BE PLACED IN A POSITION
6 WHERE IN ORDER TO TRY AND HAVE THAT FAIR TRIAL AND HIS
7 WILLINGNESS TO WAIVE TIME FOR ONE MONTH AUTOMATICALLY
8 TURNS INTO SIX MONTHS BECAUSE THE DISTRICT ATTORNEY HAS A
9 HIGH-PROFILE TRIAL.

10 THE REALITY IS EVERYONE IN THIS ROOM KNOWS
11 THAT PHIL SPECTOR IS NOT GOING TO BE TRIED IN THE YEAR
12 2006. HIS LAWYERS HAVEN'T EVEN ARRIVED IN LOS ANGELES.
13 THEY HAVEN'T EVEN BEEN ASSOCIATED WITH THE CASE YET.

14 THE COURT: I'M NOT TALKING ABOUT THE SPECTOR
15 CASE.

16 MS. SARIS: WELL, THEN MR. GOODWIN HAS A RIGHT TO
17 HAVE A TRIAL DATE. AND THEN IF SOMETHING COMES UP, WE
18 CAN WAIVE TIME AT THAT POINT. BUT RIGHT NOW WE BELIEVE,
19 BASED ON THE INVESTIGATION WE HAVE TO DO -- AND, AGAIN,
20 PERHAPS WE'RE BEING NAIVE, BUT WE ARE CONVINCED THAT THE
21 GOODWIN NAME APPEARS IN THE GRIGGS' DISABILITY FILE.

22 I THINK THEY WOULD BE HARD PRESSED SEEING
23 THAT TO NOT TURN OVER THAT DISCOVERY TO US. I DO BELIEVE
24 THE COURT WILL HAVE TO LITIGATE THAT. IF WE CANNOT DO
25 THAT IN A TIMELY MANNER, THEN WE CAN GET A TIME WAIVER.
26 BUT AS IT STANDS RIGHT NOW, I THINK WE SHOULD BE MAKING
27 EVERY EFFORT TO GET THIS CASE TO TRIAL AS QUICKLY AS
28 POSSIBLE WITHOUT BEING PUNITIVE TOWARDS MR. GOODWIN.

1 THE COURT: THEN I'M NOT TAKING ANY FURTHER TIME
2 WAIVER. WE HAVE A LAST DAY RIGHT NOW OF MAY 19TH AND I
3 WILL PROCEED ACCORDINGLY.

4 MS. SARIS: WELL, OBVIOUSLY THAT IS UNFAIR,
5 PATENTLY UNFAIR. MR. GOODWIN NEEDS SOME TIME. HE
6 DOESN'T NEED EIGHT MONTHS, BUT WE DO NEED TWO OR THREE
7 MONTHS. AND I DON'T THINK A DEFENDANT WITHOUT BAIL YOUR
8 ONLY OPPOSITION IS YOU GET TWO MONTHS OR YOU GET EIGHT
9 MONTHS, BUT NOTHING IN BETWEEN.

10 THE COURT: ALL I'M SUGGESTING IS NOW WE ARE NOT
11 IN A POSITION TO PICK A FIRM DATE. AND I DON'T WANT TO
12 PICK ANOTHER DATE THAT ISN'T GOING TO BE A FIRM DATE. I
13 THINK WE ARE NOT BEING REALISTIC HERE. RIGHT NOW WE HAVE
14 MAY 19TH AS OUR LAST DATE. AND THE COURT --

15 MS. SARIS: AND I CAN TELL THE COURT NOW AS I
16 STAND HERE, REALISTICALLY, WE ARE NOT GOING TO BE READY
17 FOR TRIAL ON MAY 19TH.

18 THE COURT: BUT MY POINT IS UNTIL WE KNOW WHAT IS
19 GOING TO BE PROVIDED TO YOU, IF ANYTHING, WE ARE NOT
20 GOING TO BE IN A POSITION TO PICK ANOTHER TRIAL DATE. SO
21 WHY GO THROUGH THAT EXERCISE. WE HAVE A TRIAL DATE RIGHT
22 NOW.

23 MS. SARIS: I KNOW FOR A FACT THAT THAT TRIAL
24 DATE IS TOO SOON, SO WE HAVE TO AT LEAST EXPAND THAT. WE
25 ARE AT 20 OF 30. DOES THAT MEAN IN 10 DAYS THE DISTRICT
26 ATTORNEY IS GOING TO START SUBPOENAING WITNESSES AND I'M
27 SUPPOSED TO SUBPOENA WITNESSES, SEVERAL OF WHOM ARE OUT
28 OF STATE.

1 THE COURT: THAT'S NOT MY CONCERN. I HAVE A
2 TRIAL DATE RIGHT NOW OF MAY 19.

3 MS. SARIS: AND WE'RE ASKING TO WAIVE TIME AND WE
4 CAN MAKE A SHOWING OF GOOD CAUSE.

5 THE COURT: AND I'M HAPPY TO DO THAT. BUT I'M
6 NOT GOING TO SET A FIRM DATE TODAY. I WILL SET ANOTHER
7 DATE AS A TRIAL SETTING AND THEN WE CAN MONITOR THE
8 PROGRESS. BUT I DON'T WANT TO SET ANOTHER FIRM TRIAL
9 DATE. BECAUSE WHAT I'M HEARING IS THAT THE SETTING OF A
10 FIRM TRIAL DATE WAS RELIED ON BY THE PEOPLE. AND AS A
11 RESULT THE PEOPLE MADE OTHER COMMITMENTS. AND SO I DON'T
12 WANT TO PICK ANOTHER FIRM DATE UNTIL WE KNOW IT IS A FIRM
13 DATE.

14 MS. SARIS: OKAY. I WOULD ASK THAT IN THE FUTURE
15 THAT THE DISTRICT ATTORNEY, IF THEY'RE GOING TO RELY ON
16 SOMETHING, PICK UP THE PHONE AND CALL ME. I ALSO RELIED
17 ON THE FACT THAT THEY WOULD DO THE RIGHT THING AND BE OFF
18 THIS CASE AND A NEW SET OF PROSECUTORS COME ON. AND THIS
19 WOULDN'T BE AN ISSUE BECAUSE THEY WOULD NEED TO GET UP TO
20 SPEED.

21 OBVIOUSLY, WE'RE BOTH MAKING RELIANCES ON
22 THINGS THAT DIDN'T COME TO FRUITION. I'M HAPPY TO PICK A
23 TRAIL SETTING DATE. I AM ADVISING THE COURT MR. GOODWIN
24 IS SAYING AS IT STANDS NOW THE IDEA OF TRYING THIS IN
25 SEPTEMBER IS TOO LONG. THAT'S ON THE RECORD. THEN IF WE
26 WANT TO VACATE THE 19TH OR MAKE THE 19TH THE -- I THINK
27 WE SHOULD PROBABLY COME BACK SOONER.

28 THE COURT: WHAT DAY WOULD YOU LIKE?

1 MS. SARIS: SO WHY DON'T WE DO THAT. WHY DON'T
2 WE MAKE -- WHY DON'T WE HAVE MR. GOODWIN COME ON THE 19TH
3 OF APRIL IN THE EVENT THAT PERHAPS WE DO GET RECORDS
4 TURNED OVER. OR AT LEAST IF WE DON'T, WE WILL KNOW WE
5 HAVE TO LITIGATE THAT FURTHER. SO RATHER THAN MAKING
6 THAT A NON-APPEARANCE FOR HIM, HAVE HIM SHOW.

7 THE COURT: OKAY. SO WE WILL ORDER MR. GOODWIN
8 BACK FOR THE 19TH, WHICH IS NEXT WEDNESDAY. AND THAT'S
9 FOR A 1:30 APPEARANCE; RIGHT?

10 MS. SARIS: YES. AND ARE WE VACATING THE MAY
11 19TH TRIAL DATE THEN?

12 THE COURT: WELL, MAY 19TH IS THE LAST DAY RIGHT
13 NOW. WHAT DO THE PEOPLE RECOMMEND?

14 MS. SARIS: THAT WOULD BE 29 OF 60 IF WE DON'T.

15 MR. DIXON: I'M NOT HEARING THAT THERE IS ANY
16 POSSIBILITY THAT ON MAY 19TH WE'RE ALL GOING TO DECIDE,
17 HEY, WE'RE READY AND LET'S GO.

18 THE COURT: THAT'S WHAT I'M HEARING.

19 MR. DIXON: SO THAT WE NEED A TIME WAIVER BEYOND
20 THAT. AND I THINK IT NEEDS TO BE A LENGTHY TIME WAIVER.
21 YOUR HONOR, IF I COULD JUST SAY A COUPLE OF THINGS. ONE,
22 I DO THINK WE SHOULD BE ABLE TO RELY ON WHAT IS SAID HERE
23 IN COURT. HAVING SAID THAT, I'M NOT SUGGESTING THAT THE
24 SPECTOR CASE HAS PRIORITY OVER THIS OR NOT. I'M NOT
25 SUGGESTING THAT. I RECOGNIZE THAT THE RELATIVE BAIL
26 SITUATIONS.

27 ALL I'M SAYING IS THAT THAT'S WHEN IT'S
28 SET NOW. AND I HAD MADE REPRESENTATIONS TO JUDGE FIDLER.

1 I WOULD APPRECIATE IF THE COURT COULD COMMUNICATE -- IF
2 YOU WOULD COMMUNICATE WITH JUDGE FIDLER AND LET HIM KNOW
3 WHAT HAS HAPPENED HERE TODAY. AND I WILL WORK WITH
4 COUNSEL ON THAT CASE AND WE WILL SOMEHOW WORK THIS OUT.

5
6 HAVING SAID THAT, TO ANSWER YOUR QUESTION
7 DIRECTLY, I WOULD THINK IN LIGHT OF WHAT MS. SARIS SAID
8 THAT WE WOULD NEED AT LEAST A 60- TO 90-DAY WAIVER BEYOND
9 THAT FOR TRIAL SETTING. I JUST -- SO THAT WE HAVE A
10 BETTER PICTURE AT SOME POINT DOWN THE LINE WHEN WE CAN
11 TRY THIS CASE.

12 MS. SARIS: A 60-DAY TRIAL WAIVER FROM APRIL 19
13 IS FINE AT THIS POINT. BUT THAT'S A LITTLE SHORTER, BUT
14 THAT'S FINE FOR NOW.

15 MR. DIXON: FOR TRIAL SETTING. THEN IT NEEDS TO
16 BE 120 DAYS. BECAUSE WE'RE GOING TO BE RIGHT BACK WHERE
17 WE ARE.

18 MS. SARIS: OR WE CAN LEAVE IT AT 29 OF 60 AND
19 SEE WHAT COMES. I MEAN THIS EVERYONE CAN RELY ON, WE
20 WILL NOT BE READY TO HAVE THIS TRIAL ON MAY 19. BUT WE
21 ARE NOT WILLING TO GO TO SEPTEMBER.

22 THE COURT: AGAIN, THERE IS NOT A WHOLE LOT I CAN
23 DO RIGHT NOW. I UNDERSTAND THAT IT'S NOT REALISTIC TO
24 THINK THAT THE MAY 19TH DATE IS GOING TO BE A TRIAL DATE.
25 BUT ON THE OTHER HAND, I DON'T HAVE TO PUT THIS CASE ON
26 ANY DATE CERTAIN UNLESS IT'S CONVENIENT FOR ALL PARTIES.
27 AND I'M NOT HEARING ANY AGREEMENT HERE AS TO WHAT IS
28 GOING TO BE CONVENIENT FOR ALL PARTIES.

1 MR. DIXON: I DON'T THINK YOU ARE. AND I DON'T
2 THINK THAT THE COURT COULD ACTUALLY SET A TRIAL DATE
3 UNTIL BOTH PARTIES ARE SAYING TO THE COURT WE WILL BE
4 READY FOR TRIAL THAT DAY. WE'RE READY FOR TRIAL ON MAY
5 19TH. DEFENSE COUNSEL IS NOT. AND DOES NOT KNOW WHEN
6 THEY ARE GOING TO BE READY.

7 MS. SARIS: WELL, WE'RE ASKING FOR MAY 19 AS A
8 ZERO OF 60. I'VE ASKED FOR THAT ALREADY. I UNDERSTAND
9 THAT THE DISTRICT ATTORNEY IS READY FOR TRIAL. THEY ARE
10 NOT TRYING TO GET THE EVIDENCE AND GET RECORDS AND DEAL
11 WITH MR. GOODWIN'S FAIR TRIAL RIGHTS. I IMAGINE THEY
12 WERE READY A YEAR AGO. BUT WE'RE ASKING FOR MAY 19TH AS
13 ZERO OF 60. IF THE COURT IS DENYING THAT, WE WILL COME
14 BACK ON THE 19TH AS WHATEVER DATE THE COURT SUGGESTS.

15 I CAN SHOW THE COURT GOOD CAUSE BASED ON
16 THINGS THAT ARE OPEN ON THE RECORD. I CAN GO INTO
17 CHAMBERS AND SHOW THE COURT GOOD CAUSE BASED ON AN
18 ONGOING INVESTIGATION. MR. GOODWIN IS WILLING TO WAIVE
19 TIME TO THAT GOOD CAUSE. HE'S NOT WILLING TO WAIVE TIME
20 FOR PHIL SPECTOR.

21 THE COURT: I'M NOT SUGGESTING THAT HE WAIVE TIME
22 FOR PHIL SPECTOR. I'M JUST SUGGESTING THAT HE BE
23 REALISTIC WHEN WE TALK ABOUT ANOTHER TRIAL DATE. AND
24 RIGHT NOW BECAUSE I DON'T KNOW WHAT IS GOING TO BE
25 PROVIDED, IF ANYTHING, BY THE SHERIFF'S DEPARTMENT, THIS
26 IS ALL JUST AN EXERCISE IN FUTILITY IN MY MIND.

27 WHETHER WE MAKE MAY 19TH A ZERO OF 60 DATE
28 OR A LAST DAY IS MEANINGLESS RIGHT NOW BECAUSE WE DON'T

1 KNOW WHAT IT IS THAT THE DEFENSE STILL IS GOING TO BE
2 RECEIVING BY WAY OF DISCOVERY OR IF THE DEFENSE DOESN'T
3 RECEIVE ANYTHING. I DON'T WANT TO PUT ANYBODY UNDER THE
4 GUN TO FILE A WRIT AND GET A TRANSCRIPT WHEN WE ARE NOT
5 TALKING ABOUT A REALISTIC TRIAL DATE.

6 SO, MR. GOODWIN, IF YOU WANT TO AGREE MAY
7 19TH AS ZERO OF 60 -- I DON'T KNOW WHAT THAT MEANS OTHER
8 THAN MAY 19TH AS ZERO OF 60. WE'RE NOT GOING TO BE ABLE
9 TO PICK A TRIAL DATE UNTIL WE KNOW MORE. SO DO YOU WANT
10 TO AGREE TO THAT, SIR?

11 THE DEFENDANT: YES, YOUR HONOR.

12 THE COURT: COUNSEL JOIN?

13 MS. SARIS: I DO.

14 THE COURT: I DON'T KNOW WHAT ELSE TO DO. I CAN
15 MAKE AN OBSERVATION, HOWEVER, AS FOLLOWS: THAT DURING
16 THE SUMMER MONTHS, NO MATTER WHAT COURTROOM THIS CASE
17 ULTIMATELY GOES TO, THERE ARE GOING TO BE PROBLEMS
18 GETTING JURORS. PEOPLE TAKE VACATIONS. AND THE MIDDLE
19 OF THE SUMMER IS NEVER A GOOD TIME, AS FAR AS THE COURT
20 IS CONCERNED, TO START A TRIAL. BUT IF THAT'S WHEN IT
21 HAS TO BE, THAT'S WHEN IT HAS TO BE. MY RECOLLECTION IS,
22 MR. DIXON, THERE WAS A VACATION THAT YOU HAD MENTIONED
23 THAT WAS ALSO --

24 MS. SARIS: AND WE WERE TAKING THAT INTO ACCOUNT,
25 YOUR HONOR. WE UNDERSTAND THAT TO BE THE FIRST WEEK IN
26 JULY. AND WE WERE ASKING TO START AFTER THAT.

27 MR. DIXON: THEN LET'S GO SOONER, THEN. THEN WE
28 WON'T DO IT. THEN LET'S GO ON JUNE 10TH AND START THIS

1 TRIAL. I'M HAPPY TO DO THAT. BUT SHE CAN'T SAY THAT SHE
2 WILL BE ABLE TO DO IT THEN.

3 THE COURT: ALL RIGHT.

4 MR. DIXON: AND IF THE DEFENSE CAN SAY WE'LL BE
5 READY TO GO JUNE 10TH, THEN WE'LL BE READY TO DO IT.

6 MS. SARIS: MY UNDERSTANDING IS MR. DIXON WAS
7 GOING TO BE GONE THE FIRST WEEK IN JULY. I PUT 48
8 WITNESSES ON MY WITNESS LIST. I BELIEVE THE PEOPLE HAVE
9 48 AS WELL. SO I DON'T KNOW HOW WE'RE GOING TO DO --

10 MR. DIXON: THAT'S OKAY. I WON'T GO. LET'S HAVE
11 A TRIAL JUNE 10TH. SHE CAN'T SAY THAT SHE IS READY TO GO
12 TO TRIAL.

13 MS. SARIS: NOT UNTIL I SEE WHAT THE SHERIFFS
14 HAVE OBVIOUSLY, NO.

15 MR. DIXON: THAT'S MY POINT, YOUR HONOR.

16 MS. SARIS: IF THE COURT WANTS TO RECONSIDER THE
17 ISSUE OF BAIL IN LIGHT OF THE JOEY HUNTER EVIDENCE, THEN
18 PERHAPS WE SHOULD SET A HEARING.

19 THE COURT: THERE IS NOTHING THAT CHANGES THE
20 SITUATION WITH RESPECT TO BAIL IN MY OPINION. OKAY? SO
21 APRIL 19 --

22 MS. SARIS: AND THE ONLY OTHER ISSUE THEN WE HAVE
23 IS ANY LETTERS THAT WE MAY HAVE RECEIVED REGARDING THE
24 MEDICAL SITUATION. I DON'T KNOW IF THE COURT CAN INQUIRE
25 IF THERE IS A SHERIFF'S REPRESENTATIVE HERE FOR THAT.

26 THE COURT: LET ME DO THIS, APRIL 19TH AT 1:30 IS
27 GOING TO REQUIRE MR. GOODWIN TO BE HERE IN THE MORNING.
28 AND HE'S GOING TO BE SITTING AND WAITING UNTIL THE

1 AFTERNOON. I DON'T KNOW OF ANY OTHER WAY TO JUST ORDER
2 HIM OUT FOR THE AFTERNOON.

3 MS. SARIS: THEN WE WOULD ASK IT TO BE A
4 NON-APPEARANCE SINCE HE'S ALREADY GIVEN A TIME WAIVER TO
5 MAY 19. LET'S HAVE THE APRIL 19 DATE GO BACK TO BEING A
6 NON-APPEARANCE FOR HIM.

7 THE COURT: NON-APPEARANCE DATE FOR APRIL 19. I
8 WILL NEED TO ORDER HIM OUT FOR ANOTHER DAY. SO WHAT DAY
9 DO YOU WANT HIM ORDERED OUT?

10 MS. SARIS: WHY DON'T WE DO MAY 19TH THEN. OH,
11 YOU HAVE THAT CROSSED OFF. THE 17TH?

12 MR. JACKSON: VERY WELL.

13 MS. SARIS: 17TH OF MAY?

14 THE COURT: MAY 17TH.

15 MR. JACKSON: YOU KNOW WHAT, IS THAT A THURSDAY
16 OR FRIDAY?

17 MS. SARIS: IT'S A WEDNESDAY. 16TH? 15TH?

18 MR. JACKSON: THE 16TH WOULD BE BETTER. I'M
19 SORRY, JUDGE.

20 THE COURT: ALL RIGHT. MAY 16TH FOR MR. GOODWIN
21 TO BE ORDERED BACK. TIME WAIVER IS NOTED. AND HE IS
22 WAIVING HIS RIGHT TO BE PRESENT ON THE PROCEEDINGS
23 CONDUCTED ON APRIL 19TH AT 1:30. ON THE ISSUE OF THE
24 MEDICAL SITUATION, I DID GET A RESPONSE I THOUGHT. I
25 THOUGH I GOT A RESPONSE. THAT'S THE MARCH 28 RESPONSE.

26 MS. SARIS: I DIDN'T RECEIVE ANYTHING. ALTHOUGH
27 I DID SPEAK TO A DOCTOR AT THE HOSPITAL. THERE SEEMS TO
28 BE A DIVERGENCE OF OPINION. THE L.C.M.C. DOCTOR HAS

1 INDICATED TO MR. GOODWIN THAT HE NEEDS CERTAIN TESTS AND
2 HAS WRITTEN THOSE ON SOME FORM.

3 A GENTLEMAN BY THE NAME OF DR. -- EITHER
4 SANFORD -- SANDFOR, S-A-N-D-F-O-R, OR SANFORD, LAST NAME
5 PECK, P-E-C-K, WHO IS THE HEAD PHYSICIAN OF THE SHERIFFS
6 IN CHARGE OF THE JAIL HAS INDICATED TO ME THAT HE
7 BELIEVES MR. GOODWIN IS RECEIVING ADEQUATE MEDICAL CARE.
8 AND THAT THE ISSUE OF BLOOD PRESSURE IS BEING OVERSTATED
9 BY DR. REDDY.

10 THE COURT: I'M GOING TO SHARE WITH YOU THE
11 LETTER THAT I RECEIVED.

12 MS. SARIS: THIS IS THE GENTLEMAN I SPOKE TO,
13 S-A-N-D-E-R, SANDER PECK. THIS IS NOT THAT DIFFERENT
14 FROM WHAT I WAS TOLD. HOWEVER, MR. GOODWIN INDICATES TO
15 ME THAT HIS BLOOD PRESSURE WASN'T CHECKED AT ALL THIS
16 WEEKEND OR THIS MORNING. IT'S BEING MONITORED. AND THE
17 SITUATION WITH THE RETINAL ARTERY HAS TO DO WITH
18 HYPERTENSION AND HIGH BLOOD PRESSURE.

19 AND IF THAT'S NOT CONSTANTLY MONITORED,
20 THEN HE DOES FACE THE PROSPECT OF LOSING VISION IN HIS
21 EYE. I SIMPLY CANNOT GET DR. REDDY, THE OPHTHALMOLOGIST
22 AT L.C.M.C., TO RETURN MY PHONE CALLS. NOW I HAVE DR.
23 PECK SAYING EVERYTHING IS FINE AND SUBMITTING A LETTER
24 SAYING HE IS BEING MONITORED. BUT MY CLIENT IS TELLING
25 ME THAT'S NOT THE CASE.

26 AND HE HAS A NOTE ASKING FOR AN
27 APPOINTMENT WITHIN THREE WEEKS; THAT WAS DATED MARCH
28 14TH. THAT WAS BY THE OPHTHALMOLOGIST SPECIFICALLY FOR

1 THE ISSUE OF THE RETINAL DAMAGE. HE HAS NOT BEEN BACK
2 SINCE AND NOW WE'RE AT APRIL 10TH. SO IT'S BEEN OVER A
3 MONTH -- NEARLY A MONTH.

4 I DON'T KNOW WHAT MORE WE CAN DO. WE'VE
5 ASKED THEM TO COME INTO COURT. WE HAVE NOT OFFICIALLY
6 HAVE HAD OSC. I SUPPOSE I COULD SUBPOENA DR. REDDY. I
7 KNOW HE WORKS AT THE DOHENY CLINIC AND THAT L.C.M.C. IS
8 HIS SECOND JOB.

9 I SUPPOSE WE COULD ASK DR. PECK TO JOIN
10 US. BUT I KNOW DR. PECK IS GOING TO SAY THAT DR. REDDY
11 IS OVERSTATING IT. DR. REDDY HAS MY CLIENT BELIEVING --
12 AND THIS LETTER THAT I'M HOLDING FROM DR. PECK SEEMS TO
13 SUGGEST THAT THIS ISN'T AN OVERSTATEMENT.

14 YOU'RE TALKING ABOUT HYPERTENSION
15 POTENTIALLY LEADING TO LOSS OF SIGHT. PERHAPS WE NEED
16 SOMEONE FROM THE JAIL TO SAY EITHER THEY CANNOT GIVE HIM
17 CARE OR THEY'RE GOING TO LET HIM SELF-CARRY HIS
18 MEDICATION. I DON'T KNOW WHAT MORE TO DO.

19 THE COURT: I GUESS THE QUESTION IS: WHAT MORE
20 CAN THE COURT DO?

21 MS. SARIS: OTHER THAN SET BAIL, HAVE AN OSC.

22 THE COURT: TELL ME WHAT ORDER HAS NOT BEEN
23 COMPLIED WITH AND WE CAN SET THE OSC FOR THE SAME DATE,
24 APRIL 19TH.

25 MS. SARIS: I DON'T KNOW. THIS ORDER WAS
26 COMPLIED WITH IN TERMS OF SEEING THE EYE DOCTOR. THEN
27 THE EYE DOCTOR SAYS COME BACK IN THREE WEEKS AND THAT'S
28 NOT BEING FOLLOWED UP ON. SO IT'S HARD TO SAY. I DON'T

1 KNOW THAT HE HAS YET -- HE HAS YET TO SEE ANYONE FOR THE
2 KIDNEY AND WE'VE BEEN ORDERING THAT FOR THE LAST FOUR
3 MONTHS. SO CERTAINLY THE INTERNIST IS THE ORDER AND THE
4 FELLOW WHO WOULD DEAL WITH THE HYPERTENSION, WHO I ASSUME
5 IS SOME SORT OF CARDIOVASCULAR.

6 THE ORDER THAT WAS DATED MARCH 6 ASKS FOR
7 TREATMENT OF THE KIDNEY; THE BACK; THE TOE; THE PROSTATE;
8 THE HEARING; AND THE EYE. I BELIEVE THE KIDNEY; THE
9 PROSTATE; AND THE EYE ARE STILL OUTSTANDING.

10 THE COURT: WELL, I DON'T KNOW ABOUT THE EYE.

11 MS. SARIS: WELL, TO THE EXTENT THAT -- THE JAIL
12 COMPLIED. BUT THEN THERE IS A FOLLOW-UP THAT IS BEING
13 TOLD THAT'S REQUIRED. I CAN GET THAT MEDICAL REPORT.
14 THAT'S NOT SOMETHING MY CLIENT WROTE. THIS IS FROM THE
15 DOCTOR AT L.C.M.C. SAYING THAT IT'S NECESSARY THAT HE
16 COMES BACK IN THREE WEEKS AND AN INTERNAL MEDICINE
17 CONSULT. AND THAT WAS ALSO ASKED FOR HERE THAT IS NOT.

18 THE COURT: AND THAT'S DATED WHAT?

19 MS. SARIS: MARCH 14TH, '06.

20 THE COURT: SO WE ARE JUST ABOUT BEYOND THREE
21 WEEKS. ALL RIGHT. I'M GOING TO ASK YOU TO FILE A NOTICE
22 TO THE PARTIES THAT YOU FEEL DID NOT COMPLY WITH THE
23 COURT'S ORDERS. AND SET THAT NOTICE -- OR GIVE NOTICE OF
24 WHAT IT IS THAT YOU WANT THE COURT TO TAKE ACTION ON AND
25 LET THEM APPEAR ON THE NEXT DATE, THE 19TH. BUT I WILL
26 NEED SOME KIND OF FORMAL NOTICE PROVIDED IF YOU'RE ASKING
27 ME TO CONDUCT AN OSC. BECAUSE I'M NOT REAL CLEAR ON
28 EXACTLY WHICH OF MY ORDERS HAVE NOT BEEN COMPLIED WITH.

1 MS. SARIS: WELL, I CAN FIND THE EXACT DATE AND
2 ORDER. I KNOW THAT HE HAS NOT HAD A KIDNEY EXAMINATION
3 OR AN INTERNAL MEDICINE EXAMINATION. AND BOTH OF THOSE
4 HAVE BEEN SPECIFICALLY ORDERED BY THIS COURT.

5 THE COURT: OKAY. THEN --

6 MS. SARIS: I AM RETICENT OF SUBPOENAING AN
7 OPHTHALMOLOGIST WHO ACTUALLY TREATED --

8 THE COURT: I DON'T THINK YOU NEED TO SUBPOENA
9 ANYBODY. BUT YOU NEED TO NOTICE AN OSC AND SERVE IT ON
10 THE JAIL. AND THEN THEY CAN SEND A REPRESENTATIVE WHO
11 CAN ANSWER THE OSC, I GUESS IS THE BEST WAY TO DO IT.
12 BECAUSE WE HAVE SO MANY DIFFERENT PEOPLE GETTING SO MANY
13 DIFFERENT ORDERS BETWEEN TRANSPORTATION AND MEDICAL THAT
14 IT'S TOTALLY MIND BOGGLING.

15 MS. SARIS: TELL ME.

16 THE COURT: WHAT CAN I SAY? SO SET A FORMAL
17 HEARING; PROVIDE NOTICE. AND THEN I WILL DEAL WITH IT ON
18 THE AFTERNOON OF THE 19TH. NOW MR. GOODWIN ISN'T GOING
19 TO BE HERE ON THE 19TH.

20 MS. SARIS: THAT'S FINE.

21 THE COURT: SO YOU ARE GOING TO HAVE A --

22 MS. SARIS: AND I WILL SAY FOR THE RECORD THAT
23 MR. GOODWIN CANNOT HAVE SPECIAL TRANSPORT IN THE
24 AFTERNOON. AND IF HE'S FORCED TO WAIT DOWNSTAIRS FOR THE
25 ENTIRE DAY, HE WILL BE FORCED TO USE A WHEELCHAIR AFTER
26 THAT. AND THAT IS WHY HE IS WAIVING HIS APPEARANCE ON
27 THE 19TH.

28 THE COURT: AS LONG AS YOU CAN HANDLE WHATEVER

1 OSC ISSUES THAT YOU NEED TO HANDLE ON THAT DAY WITHOUT
2 HIM, THAT'S FINE.

3 MS. SARIS: THANK YOU. AND, YOUR HONOR, WILL THE
4 COURT ORDER A TRANSCRIPT OF THESE PROCEEDINGS AS IT
5 PERTAINS TO THE DENIAL OF THE PITCHESS AND THE S.D.T. AND
6 PERHAPS MR. BOWERS' PORTION?

7 THE COURT: WELL, THE PITCHESS WAS ALREADY DONE,
8 THOUGH, ON ANOTHER DATE. THIS WASN'T PART OF THE
9 PITCHESS. SO I'M RELUCTANT TO ASK MY ALREADY OVERWHELMED
10 COURT REPORTER FOR ANOTHER TRANSCRIPT. AND THEN THERE
11 WAS NO RULING TODAY FROM WHICH WRIT RELIEF CAN BE TAKEN.
12 I ESSENTIALLY GAVE SOME SUGGESTIONS TO MR. BOWERS AND HE
13 INDICATED HE IS GOING TO COMPLY WITH HIS OBLIGATION. SO
14 WHAT IS IT THAT YOU WANT ME TO ORDER MY OVERWHELMED COURT
15 REPORTER TO PREPARE?

16 MS. SARIS: THE PORTION OF THE TRANSCRIPT WHERE
17 MR. BOWERS APPEARED REGARDING THE DISCUSSION OF MY ASKING
18 THIS COURT TO RECONSIDER GIVING US THE INFORMATION UNDER
19 PITCHESS AND THE COURT'S DECISION THAT THIS IS
20 POTENTIALLY EXCULPATORY BRADY MATERIAL.

21 THE COURT: BUT IT'S THE SAME RULING THAT I MADE
22 ON THE PITCHESS MOTION. I DIDN'T --

23 MS. SARIS: I THINK YOU WERE MORE CLEAR THAT THIS
24 WAS BRADY IN THIS APPEARANCE.

25 THE COURT: WELL, I MAY HAVE BEEN MORE CLEAR, BUT
26 MY RULING ON THE PITCHESS MOTION HASN'T CHANGED. SO I
27 DON'T WANT TO ORDER IT. AND YOU HAVE TO UNDERSTAND WHY.
28 SHE IS OVERWHELMED. SO WHEN YOU NEED ONE, I WILL GET IT

1 TO YOU. BUT RIGHT NOW, NO. OKAY. THAT WILL BE THE
2 ORDER.

3
4 (THE MATTER WAS CONTINUED TO WEDNESDAY,
5 APRIL 19, 2006 AT 1:30 P.M.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, APRIL 19, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: P.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE
13 PEOPLE OF THE STATE OF CALIFORNIA.
14

15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
16 THE MICHAEL GOODWIN MATTER. HE IS PRESENT WITH COUNSEL.
17 THE PEOPLE ARE REPRESENTED. ALSO PRESENT IS THE ATTORNEY
18 FOR THE SHERIFF'S DEPARTMENT. AND I SEE THERE ARE A
19 NUMBER OF OTHER PEOPLE HERE.

20 WHY DON'T WE HAVE COUNSEL STATE THEIR
21 APPEARANCES FOR THE RECORD, PLEASE.

22 MR. BOWERS: JOHN BOWERS, COUNSEL FOR THE LOS
23 ANGELES COUNTY SHERIFF'S DEPARTMENT.

24 MR. JACKSON: ALAN JACKSON AND PATRICK DIXON FOR
25 THE PEOPLE.

26 MS. SARIS: ELENA SARIS AND TOM SUMMERS, DEPUTY
27 PUBLIC DEFENDERS ON BEHALF OF MR. GOODWIN.

28 THE COURT: WHAT DO YOU WANT TO DO FIRST,

1 MS. SARIS?

2 MS. SARIS: IT'S UP TO THE COURT. I KNOW THERE
3 IS TWO SEPARATE SETS OF COUNSEL. AND I DON'T KNOW IF
4 ANYONE HAS PRIORITY ISSUES.

5 MR. JACKSON: LET'S DO MR. BOWERS SINCE HE HAS
6 JOINED US FOR THE 15TH TIME. I WOULD SUGGEST THAT WE
7 MAYBE DO HIS CASE FIRST -- OR HIS ISSUE.

8 THE COURT: ALL RIGHT. WELL, THE RECORD SHOULD
9 REFLECT THAT WE HAVE PREVIOUSLY DISCUSSED THIS MATTER.
10 AND I BELIEVE IT WAS THE LAST TIME WE WERE HERE
11 MR. BOWERS HAD INDICATED A WILLINGNESS TO ASSIST THE
12 COURT IN DETERMINING WHETHER OR NOT THERE WAS ANY
13 POTENTIAL BRADY INFORMATION IN THE PERSONNEL FILE OR THE
14 RECORDS THAT WERE IN THE POSSESSION OF THE SHERIFF'S
15 DEPARTMENT AS TO DEPUTY GRIGGS. AND SINCE THAT LAST
16 APPEARANCE, I WAS INFORMED THAT THAT ACCESS WAS DENIED.

17 MR. BOWERS: ACTUALLY, THAT'S NOT CORRECT.

18 THE COURT: NO? WHAT HAPPENED?

19 MR. BOWERS: DISCUSSING THE ISSUE WITH COUNTY
20 COUNSEL, IT WAS DECIDED THAT NO ONE AT THE SHERIFF'S
21 DEPARTMENT HAS THE RIGHT OR THE AUTHORITY TO RUMMAGE
22 THROUGH THE PERSONNEL OF RECORDS OF ANY PEACE OFFICER;
23 THAT IT WOULD BE THE JUDGE'S RESPONSIBLE TO DO THAT.

24 THE COURT: OKAY.

25 MR. BOWERS: AND THAT THE VEHICLE FOR GETTING THE
26 RECORDS TO THE COURT WOULD BE A PITCHESS MOTION. AND I
27 ADVISED COUNSEL FOR THE DEFENSE TO FILE A NEW PITCHESS
28 MOTION WITH A DECLARATION FOCUSING ON THE REASONS THAT

1 DETECTIVE GRIGGS RETIRED EARLY, WHICH BRINGS US TO HERE.

2 IN THE PROCESS OF TRYING TO LOCATE A
3 CUSTODIAN, THE GENERAL DISCOVERY UNIT DOESN'T HAVE ACCESS
4 TO THAT SO WE CAN'T USE THEIR CUSTODIANS. IN TRYING TO
5 FIND A CUSTODIAN WHO WOULD BE QUALIFIED TO TALK ABOUT
6 THOSE RECORDS, ASSUMING THAT THE SHERIFF'S DEPARTMENT HAD
7 THEM, WE LEARNED THAT THE SHERIFF'S DEPARTMENT DOESN'T
8 HAVE THEM.

9 ANY RETIREMENT APPLICATIONS, DISABILITY
10 APPLICATIONS, THOSE ARE GOING TO BE HANDLED BY THE SAME
11 AGENCY THAT THE PUBLIC DEFENDER WOULD SUBMIT HER
12 APPLICATION OR THE DISTRICT ATTORNEY, IT'S FOR THE ENTIRE
13 COUNTY AND NOT THE SHERIFF'S DEPARTMENT. SO THE
14 SHERIFF'S DEPARTMENT DOES NOT HAVE ANY SUCH RECORDS.

15 THE COURT: WHEN WAS THAT DISCOVERED?

16 MS. SARIS: THIS AFTERNOON, YOUR HONOR. AND I
17 BASICALLY, JUST SO WE'RE CLEAR, THEY'RE SAYING DON'T STD,
18 PITCHESS; DON'T PITCHESS, STD; NO, PITCHESS; NO, PITCHESS
19 AGAIN; NO, STD. AND THAT'S WHERE WE ARE NOW.

20 THE COURT: NO. NOW WE ARE -- WE DON'T HAVE
21 THEM. EVEN IF WE COULD LOOK FOR THEM, WE DON'T HAVE
22 THEM.

23 MS. SARIS: WELL, THAT'S CORRECT. AND WHEN I
24 CHECKED WITH MY -- AFTER MR. BOWERS -- AND HE WAS VERY
25 KIND ENOUGH TO DISCUSS THIS WITH ME. AND I CALLED HIM
26 TODAY AND WE SPOKE. AND HE INDICATED THAT THIS WOULD BE
27 HANDLED IN THE SAME MANNER THAT HE INDICATED MY PERSONNEL
28 WOULD BE HANDLED.

1 SO I WENT TO MY HUMAN RESOURCE OFFICE AND
2 SAID, WHO WOULD I SUBPOENA? AND THEY, OH, THERE IS NO
3 COUNTY HUMAN RESOURCE OFFICE. YOU WOULD NEED TO SUBPOENA
4 THE SHERIFF'S DEPARTMENT. BECAUSE EVERY COUNTY AGENCY
5 KEEPS ITS OWN PERSONNEL RECORDS SEPARATE.

6 SO I SAID, ARE YOU TELLING ME THERE IS NOT
7 ONE UMBRELLA COUNTY AGENCY THAT I COULD SUBPOENA ASKING
8 FOR PERSONNEL RECORDS FROM A COUNTY EMPLOYEE? THEY SAID,
9 NO. IT WOULD HAVE TO BE THROUGH THE LAST DEPARTMENT
10 THROUGH WHICH THEY WERE EMPLOYED WHEN THEY REQUESTED
11 THEIR RETIREMENT.

12 NOW I ASKED MR. BOWERS IF THAT WAS
13 TRISTAR. HE INDICATED IT WAS NOT. IT WOULD BE THE
14 COUNTY.

15 MR. BOWERS: ACTUALLY, IT'S NOT THE COUNTY. THE
16 AGENCY IS SEPARATE AND DISTINCT FROM THE COUNTY OF LOS
17 ANGELES.

18 MS. SARIS: WHAT IS IT?

19 MR. BOWERS: THE LOS ANGELES COUNTY EMPLOYEE'S
20 RETIREMENT ASSOCIATION, WHICH HANDLES ALL THE RETIREMENT
21 CLAIMS; ALL THE DISABILITY CLAIMS FOR ALL COUNTY
22 EMPLOYEES.

23 MS. SARIS: AND I AM HAPPY TO SUBPOENA THESE,
24 YOUR HONOR. BUT I WOULD LIKE ON THE RECORD SOME
25 INDICATION OF WHAT THE SANCTION WOULD BE WHEN I SUBMIT
26 THIS SUBPOENA AND THEY TELL ME YOU HAVE TO GO THROUGH
27 PITCHES.

28 THE COURT: LET'S BACK UP. BECAUSE BEFORE WE GET

1 TO THAT ISSUE, I WANT TO DISCUSS WITH ALL OF YOU WHETHER
2 OR NOT THERE IS ANYTHING IN THE PERSONNEL FILE OF
3 DETECTIVE GRIGGS THAT REQUIRES THE COURT TO REVIEW IN
4 CAMERA. AND WHETHER OR NOT THE DEFENSE HAS MADE A
5 SUFFICIENT SHOWING THUS FAR.

6 AND IN ALL HONESTY, WERE IT NOT FOR THE
7 FACT THAT PITCHESS REQUIRES SOME ALLEGATION OF MISCONDUCT
8 ON THE PART OF THE POLICE OFFICER, THIS WOULD BE AN EASY
9 PITCHESS ISSUE. BUT THE THRESHOLD SHOWING WASN'T MADE
10 INITIALLY. I THOUGHT AT LEAST FOR A COUPLE OF DAYS UNTIL
11 TODAY, THAT DEFENSE HAD MADE THE INITIAL SHOWING
12 NECESSARY FOR THE COURT TO CONDUCT AN IN CAMERA REVIEW.
13 ALTHOUGH I KNOW THE SHERIFF'S DEPARTMENT DOESN'T AGREE
14 WITH THAT ANALYSIS.

15 MR. BOWERS: NOT NECESSARILY.

16 THE COURT: THEN I MISINTERPRETED THE SHERIFF'S
17 DEPARTMENT POSITION. BUT BOTTOM LINE, I HAVE SOME REAL
18 CONCERN AS TO THIS CASE AND WHAT THE DETECTIVES'S
19 POSITION WAS WITH RESPECT TO HIS INVESTIGATION OF THIS
20 CASE BACK YEARS AGO BEFORE HE RETIRED. I DON'T EVEN KNOW
21 WHEN HE RETIRED.

22 BUT I'M ASSUMING THIS WAS ALL DONE DURING
23 THE EARLY STAGES OF THIS INVESTIGATION. I'M ASSUMING
24 THAT FOR SAKE ARE THESE PROCEEDINGS. AND THAT'S WHAT
25 I'VE BEEN OPERATING UNDER THAT SET OF FACTS, THAT THERE
26 WAS SOME INVESTIGATION TAKING PLACE; THAT DETECTIVE
27 GRIGGS WAS PURSUING ALL LEADS. AND AT SOME POINT DURING
28 THE COURSE OF THE INVESTIGATION, SHORTLY AFTER THE

1 COMMISSION OF THE CRIMES AND THE MURDERS, THAT HE THEN
2 RETIRED FOR WHATEVER REASON.

3 AND THE ALLEGATION PRESENTED BY THE
4 DEFENSE IS THAT THEY BELIEVE -- AND THEY I THINK HAVE
5 MADE A SUFFICIENT SHOWING FOR THE COURT TO AGREE THAT
6 THERE IS AN ISSUE THERE; AND THEY ARE CONCERNED AS IS THE
7 COURT; AND I'M SURE THE PEOPLE THAT THERE MIGHT HAVE BEEN
8 SOME PERHAPS PROBLEM WITH THE DIRECTION IN WHICH THE
9 DETECTIVE WAS HEADED.

10 I DON'T KNOW. BUT I THINK THE DEFENSE HAS
11 MADE A SUFFICIENT SHOWING TO AT LEAST GET US TO A
12 PITCHESS MOTION AND AN IN CAMERA HEARING ASSUMING THE
13 INFORMATION WE ARE LOOKING FOR IS IN THE PERSONNEL FILE
14 OF DETECTIVE GRIGGS.

15 AT THIS POINT WHAT I WOULD LIKE TO DO --
16 AND I AM OPEN TO SUGGESTIONS -- BUT IT SEEMS TO ME THAT
17 IF THERE WERE ANY COMPLAINTS THAT WERE FILED AGAINST THE
18 DETECTIVE REGARDING HIS INVESTIGATION IN THIS CASE, THAT
19 PERHAPS THAT MIGHT BE A STARTING POINT FOR THE COURT IN
20 LIGHT OF WHAT HAS GONE ON UP TO TODAY.

21 IN AN ABUNDANCE OF CAUTION -- NOW
22 TECHNICALLY SPEAKING IS THERE AN ALLEGATION THAT THE
23 DEFENSE HAS MADE REGARDING MISCONDUCT ON THE PART OF
24 DETECTIVE GRIGGS IN THIS CASE? NO. BUT I HAVE SOME
25 CONCERN AND I THINK THE DEFENSE HAS MADE THE REQUISITE
26 SHOWING.

27 AND THIS IS UNPRECEDENTED, AS FAR AS I'M
28 CONCERNED. I MEAN THIS IS NOT YOUR TYPICAL PITCHESS.

1 IT'S MORE ALONG THE LINES OF BRADY AS WE DISCUSSED
2 BEFORE. BUT AT THIS POINT, I THINK THE COURT HAS SOME
3 INHERENT AUTHORITY, AS WE DISCUSSED THAT PHRASE ENOUGH
4 TIMES, TO EITHER REQUIRE THE PROSECUTION OR ITS AGENCY
5 THE SHERIFF'S DEPARTMENT TO LOOK FOR BRADY MATERIAL IN
6 THE PERSONNEL FILE OF DETECTIVE GRIGGS. AND IF THEY
7 CAN'T DO IT; YOU CAN'T DO IT; THIS COURT WILL DO IT.

8 AND WHAT I'M CONCERNED ABOUT IS IF THERE
9 WERE COMPLAINTS MADE ABOUT THE DIRECTION OF THE
10 INVESTIGATION, THAT WOULD PROPERLY BE IN THE PERSONNEL
11 FILE OF DETECTIVE GRIGGS. AND I THINK THAT'S BASICALLY
12 WHAT THIS IS ALL ABOUT.

13 NOW THE RETIREMENT OR DISABILITY
14 INFORMATION, I ACCEPT THE REPRESENTATION THAT THEY ARE
15 NOT GOING TO BE IN THE PERSONNEL FILE. BUT IF THERE WERE
16 ANY COMPLAINTS FROM ANY OTHER PARTIES ABOUT THE WAY THIS
17 INVESTIGATION IS TAKING SHAPE, THOSE COMPLAINTS WOULD BE
18 IN THE DETECTIVE'S PERSONNEL FILE.

19 SO MAYBE THAT'S A GOOD PLACE TO START. I
20 MEAN I WANT TO GET THIS CASE TO TRIAL SOME TIME THIS
21 YEAR, TOO. AND I JUST DON'T KNOW ANY OTHER WAY AROUND
22 THIS TO GET THE INFORMATION THAT I THINK THE DEFENSE IS
23 PROPERLY ENTITLED TO.

24 MS. SARIS: SO IS THE COURT GOING TO LOOK AT THE
25 PERSONNEL FILE?

26 THE COURT: I'M THROWING THIS OUT THERE AS A
27 SUGGESTION.

28 MS. SARIS: THEY -- APPARENTLY I MISSPOKE WHEN I

1 SAID ACCESS WAS DENIED TO THEM. IT WAS DISCUSSED AMONG
2 THE LAWYERS THAT THEY WERE NOT ALLOWED TO VIEW THEM,
3 WHICH TO ME IS A DISTINCTION WITHOUT A DIFFERENCE. SO I
4 THINK THE ONLY WAY THAT WE'RE GOING TO SEE WHAT IS IN THE
5 PERSONNEL RECORDS IS IF THIS COURT ORDERS THE PERSONNEL
6 RECORDS UNDER PITCHESS FOR AN IN CAMERA REVIEW.

7 THE COURT: WELL, I'M JUST FOR THE FIRST TIME NOW
8 ARTICULATING WHAT I THINK NOW IS A SUFFICIENT BASIS UPON
9 WHICH THIS COURT CAN ORDER AN IN CAMERA HEARING.
10 ALTHOUGH I HAVE NO AUTHORITY FOR THAT. AND I DON'T THINK
11 I CAN RELY ON PITCHESS TECHNICALLY BECAUSE THAT WASN'T
12 YOUR -- THAT WASN'T THE DEFENSE POSITION.

13 MS. SARIS: OUR DEFENSE POSITION IS THAT THE
14 INVESTIGATION WAS COMPROMISED. AND I THINK UNDER
15 PITCHESS WE'RE SAYING THAT INDIVIDUAL HAD A POTENTIAL
16 ALCOHOL PROBLEM THAT COULD HAVE AFFECTED THEIR JUDGMENT,
17 THEIR BIAS AND THEIR CREDIBILITY, THAT WOULD FALL UNDER
18 PITCHESS.

19 THE COURT: AND I DENIED THAT PITCHESS REQUEST OR
20 PITCHESS MOTION. AND I WOULD STILL DENY IT. WHAT I'M
21 SAYING IS THAT I THINK IF YOU WERE TO PUT IN A
22 SUPPLEMENTAL DECLARATION WHERE YOU JUST ARTICULATED, I
23 WOULD HAVE TO BRING IT. IF THERE WERE COMPLAINTS MADE BY
24 OTHER INDIVIDUALS ABOUT THE WAY IN WHICH THIS
25 INVESTIGATION WAS PROCEEDING WITH DETECTIVE GRIGGS, I
26 WOULD AT THAT POINT WITH THAT SHOWING ORDER UNDER
27 PITCHESS AN IN CAMERA REVIEW.

28 AND I'M THROWING IT OUT THERE BECAUSE THAT

1 HASN'T BEEN PRESENTED TO ME TECHNICALLY. ALTHOUGH WE'VE
2 BEEN DANCING AROUND THIS FOR A NUMBER OF APPEARANCES.

3 MR. SARIS: WELL, ACTUALLY, YOUR HONOR, IF I MAY
4 INTERRUPT. THE VERY FIRST PITCHES I FILED WE HAD AN
5 AMENDED DECLARATION AND WE INCLUDED THE RESPONSE TO THE
6 COMPLAINT. SO I THINK BY THE FACT OF A RESPONSE TO THE
7 COMPLAINT, ONE CAN INFER THAT A COMPLAINT WAS ORIGINALLY
8 MADE.

9 THE COURT: RIGHT. AND I HAVE --

10 MS. SARIS: AND YOU READ THE DETAILS OF THE
11 RESPONSE, IT'S OBVIOUSLY A COMPLAINT REGARDING HOW THE
12 INVESTIGATION WAS BEING CONDUCTED.

13 THE COURT: CORRECT.

14 MS. SARIS: SO I THINK THAT SECOND AMENDED
15 DECLARATION IS ENOUGH TO GET THE COURT --

16 THE COURT: IT MAY BE, I JUST DON'T KNOW. BUT
17 I'M THROWING THIS OUT THERE AS SOMETHING THAT I THINK CAN
18 SHORT CIRCUIT SOME OF THIS. BECAUSE ULTIMATELY I THINK
19 WE'RE ALL IN AGREEMENT AS TO WHAT THE DEFENSE MIGHT BE
20 ENTITLED TO. IT'S JUST THE MECHANICS OF GETTING IT.

21 AND I THINK THAT'S WHAT THE STARTING POINT
22 MIGHT BE. I'M HAPPY TO HEAR FROM THE SHERIFF'S
23 DEPARTMENT ON THE IN CAMERA REVIEW SOLELY LIMITED TO
24 COMPLAINTS ABOUT THE WAY THE INVESTIGATION WAS
25 PROGRESSING.

26 MR. BOWERS: AM I CORRECT IN ASSUMING THAT NO ONE
27 HAS THE ORIGINAL COMPLAINT AND THE ONLY DOCUMENT THAT THE
28 DEFENSE HAS IS THE RESPONSE TO THE COMPLAINT?

1 MR. JACKSON: THAT'S CORRECT.

2 MS. SARIS: AS FAR AS I KNOW, I DON'T HAVE ANY
3 OFFICIAL COMPLAINT.

4 THE COURT: SO THAT MIGHT BE A GOOD STARTING
5 POINT IF WE CAN REACH SOME AGREEMENT ON THAT. AND I MEAN
6 I LOOK TO MR. BOWERS FOR SOME SUGGESTIONS HERE. I MEAN
7 IF YOU ARE PREPARED TO SUBMIT THE MATTER AND I CAN CALL
8 THIS THE SUPPLEMENTAL PITCHESS MOTION AND LIMIT IT TO
9 THIS, THIS IS WHAT I'M INDICATING MY TENTATIVE RULING IS.
10 AND I THINK AT THAT POINT WE ARE HEADED IN THE RIGHT
11 DIRECTION.

12 AND THEN BASED ON WHAT IS PERHAPS IN
13 EXISTENCE IN THE PERSONNEL FILE, IT MIGHT BE OF SOME
14 ASSISTANCE IN GETTING TO -- WHAT IT IS THAT THE DEFENSE
15 IS LOOKING FOR? WHETHER OR NOT THIS CASE -- I DON'T
16 KNOW -- HAD A HAND HERE IN THE RETIREMENT?

17 MS. SARIS: DISABILITY LEAVE IS OUR
18 UNDERSTANDING.

19 THE COURT: DISABILITY. ALL RIGHT. THEN WE CAN
20 GO TO THAT NEXT STEP IN TRYING TO FIGURE OUT IF THERE IS
21 SOME CONNECTION WITH THE DISABILITY.

22 MR. BOWERS: WELL, UNDER PEOPLE VERSUS MUKE, THE
23 CUSTODIAN -- UNDER THE COURT'S RULING IN THIS PARTICULAR
24 CASE, THE ONLY DOCUMENTS THE CUSTODIAN WOULD BRING WITH
25 HER WOULD BE COMPLAINTS AGAINST DETECTIVE GRIGGS IN THIS
26 PARTICULAR CASE.

27 NO OTHER DOCUMENTS WOULD BE RESPONSIVE AND
28 WOULDN'T BE BROUGHT TO THE IN CAMERA HEARING. NOW WHEN

1 THE COURT SAYS THAT IT IS A STARTING PLACE, MY CONCERN IS
2 THAT'S A STARTING PLACE FOR WHAT?

3 THE COURT: WELL, IT IS A STARTING POINT FOR THE
4 COURT AT LEAST TO PRELIMINARY TAKE A LOOK TO SEE WHETHER
5 OR NOT THERE IS ANY BASIS TO GO ANY FURTHER. BECAUSE WE
6 SEEM TO BE UP AGAINST A WALL HERE. WE KNOW WHAT THE
7 DEFENSE IS LOOKING FOR IF IT EXISTED WOULD NOT BE IN THE
8 PERSONNEL FILE. BUT WE'RE NOT EXACTLY CERTAIN WHERE IT
9 WOULD BE. ALTHOUGH WE THINK IT WOULD BE WITH THE AGENCY
10 THAT ADMINISTERS THE COUNTY RETIREMENT.

11 MS. SARIS: WE THINK IT WOULD ALSO BE IN THE
12 PERSONNEL FILE. WE THINK PRIOR TO THIS HAPPENING, THE
13 SHERIFF'S SUPERVISOR WOULD HAVE HAD TO HAVE WRITTEN HIM
14 UP FOR SOME ISSUE. HE WOULD HAVE HAD IN THE FILE CERTAIN
15 DECLARATIONS INDICATING HE IS NO LONGER ABLE TO PERFORM
16 HIS DUTY. THIS IS A PSYCHIATRIC DISABILITY IS OUR
17 UNDERSTANDING, SO HE WOULD HAVE HAD TO LAY THE GROUND
18 WORK.

19 MR. BOWERS: COUNSEL IS SPECULATING. AND WE HAVE
20 A DECLARATION BY THE CUSTODIAN SAYING THAT THESE
21 DOCUMENTS DO NOT EXIST IN THE PERSONNEL FILE.

22 THE COURT: RIGHT.

23 MS. SARIS: THE DECLARATIONS PERHAPS DO NOT, BUT
24 THERE COULD BE, FOR INSTANCE, A HIGHER-UP, A CAPTAIN
25 SAYING HE IS NOT PERFORMING ON THIS CASE.

26 THE COURT: WELL, THAT'S --

27 MS. SARIS: THAT'S WHAT I'M TALKING ABOUT.

28 THE COURT: THAT'S WHY I'M SUGGESTING THIS

1 PROCEDURE. BECAUSE THIS WOULD BE A STARTING POINT BEFORE
2 WE HAVE TO TACKLE ANY OTHER OBSTACLES. SO I MEAN THAT'S
3 WHAT I WOULD LIKE TO DO. AND OBVIOUSLY THE SHERIFF'S
4 DEPARTMENT HAS THE RIGHT TO TAKE EXCEPTION TO WHAT THE
5 COURT IS PROPOSING; TO SEEK REVIEW OF THE COURT'S RULING.

6 SO THAT'S WHY I'M LOOKING TO THE SHERIFF'S
7 DEPARTMENT TO SEE IF WE CAN AT LEAST REACH A CONSENSUS
8 HERE THAT THIS MIGHT BE A FAIR EXPEDITIOUS WAY OF GETTING
9 TO THE HEART OF THE MATTER. AT LEAST A STARTING POINT.
10 BECAUSE I THINK ULTIMATELY WE'RE GOING TO GET THERE, IT'S
11 JUST A QUESTION OF WHEN AND HOW MANY TIMES WE WANT TO SET
12 THE MATTER ON CALENDAR.

13 MR. BOWERS: SO AT THE PRESENT TIME, THE ONLY
14 ORDER HERE WOULD BE GRANTING THE PITCHESS MOTIONS AS TO
15 THE COMPLAINTS FILED AGAINST DETECTIVE GRIGGS REGARDING
16 HIS HANDLING OF THIS PARTICULAR CASE?

17 THE COURT: THAT'S WHAT I'M PROPOSING, YES.

18 MS. SARIS: WOULD THAT, THEN, INCLUDE THOUGH HIS
19 SUPERIORS.

20 THE COURT: ANYTHING THAT CAN BE CONSTRUED AS A
21 COMPLAINT ABOUT THE WAY THE INVESTIGATION WAS BEING
22 HANDLED BY DETECTIVE GRIGGS.

23 MR. BOWERS: I DON'T FORESEE A PROBLEM, BUT I
24 CAN'T PROMISE THERE IS NO PROBLEM. IF I COULD HAVE I
25 GUESS FIVE BUSINESS DAYS JUST TO MAKE SURE THAT THERE IS
26 NO PROBLEM. AND IN THE EVENT THERE IS A PROBLEM AND THEY
27 WANT TO TAKE APPELLATE REVIEW, WE CAN.

28 THE COURT: THAT'S THE THING. I DON'T WANT TO

1 CAUSE ANYONE OR ANY SIDE TO HAVE TO SPEND ANY ADDITIONAL
2 TIME OR MONEY PURSUING THIS. THAT'S WHY I'M THROWING IT
3 OUT THERE AS A SUGGESTION AND A TENTATIVE. I DON'T WANT
4 IT TO BE A FINAL RULING BECAUSE I AM LOOKING FOR SOME
5 INPUT HERE. I MAY BE TOTALLY OFF THE MARK ON THIS.
6 THAT'S WHY I WOULD LIKE TO KNOW WHAT THE SHERIFF'S
7 DEPARTMENT'S POSITION IS.

8 SO BEFORE I ISSUE A FINAL RULING THAT IS
9 SUBJECT TO REVIEW IN THE HIGHER COURT, I MEAN IT IS A
10 WHOLE LOT EASIER FOR YOU TO JUST TELL ME IF YOU THINK I'M
11 WRONG AND I'M HAPPY TO RECONSIDER. BUT THIS IS WHERE I'M
12 AT. AND IF WE CAN DO IT SOONER RATHER THAN LATER,
13 WITHOUT CAUSING ANYONE TO HAVE TO SEEK APPELLATE REVIEW,
14 THIS IS THE WAY I WOULD LIKE TO PROCEED.

15 SO IF IN FIVE DAYS THE SHERIFF'S
16 DEPARTMENT DOESN'T HAVE ANY PROBLEM WITH IT, THEN MAYBE
17 WE CAN ARRANGE FOR THE CUSTODIAN TO COME IN ON THAT NEXT
18 DATE AND WE WILL TAKE IT FROM THERE. AND IN THE
19 MEANTIME --

20 MS. SARIS: MY ONLY CONCERN, JUDGE, IS THAT THEIR
21 POSITION IS GOING TO BE WITHOUT AN ORDER, THEY CAN'T
22 BREAK THAT WITHOUT THE COURT GRANTING A PITCHESS.

23 THE COURT: NO. WHAT I'M SAYING IS I'M GOING TO
24 DO THAT UNLESS THERE IS SOME REASON THAT I SHOULDN'T.
25 AND IF WE CAN GET THE CUSTODIAN TO APPEAR ON THE NEXT
26 COURT DATE, WE CAN RESOLVE THIS ISSUE, I BELIEVE, ONCE
27 AND FOR ALL.

28 I MEAN IF THE SHERIFF'S DEPARTMENT HAS NO

1 OBJECTION, THEN THAT'S GOING TO BE A RELATIVELY EASY
2 HEARING. AND I WILL GO IN CAMERA WITH COUNSEL FROM THE
3 SHERIFF'S DEPARTMENT AND THE CUSTODIAN AND TAKE IT FROM
4 THERE. IF THERE IS A PROBLEM AND THE SHERIFF'S
5 DEPARTMENT HAS A POSITION ON IT, I'LL GIVE THEM THAT
6 OPPORTUNITY TO PRESENT IT.

7 MR. BOWERS: AT THE PRESENT I DON'T FORESEE A
8 PROBLEM.

9 THE COURT: SO WHY DON'T WE TRY FOR THAT. AND IN
10 THE MEANTIME, IF WE ARE DEALING WITH ANOTHER AGENCY ON
11 THE DISABILITY ISSUE, THEN I GUESS COUNSEL YOU ARE GOING
12 TO HAVE TO LOOK INTO THAT.

13 MR. BOWERS: I WOULD ONLY SUGGEST TO DEFENSE
14 COUNSEL THAT THESE RECORDS ARE STILL PERSONNEL RECORDS
15 UNDER THE PENAL CODE AND A SUBPOENA IS NOT HOW TO GET
16 THEM.

17 MS. SARIS: I'M AT THE POINT WHERE I'M SUGGESTING
18 WE PUT IN HARDWOOD FLOORS SO WE CAN HEAR THE DANCE WHEN
19 IT OCCURS.

20 THE COURT: WELL, NO, I THINK THE WAY THAT YOU
21 PROCEED FROM HERE IS PRETTY CLEAR CUT. I MEAN WHAT I'M
22 HEARING IS THIS IS STILL PERSONNEL, QUOTE, UNQUOTE,
23 INFORMATION THAT IS SUBJECT TO PITCHESS. NOW, I'M TAKING
24 A RATHER LIBERAL VIEW OF PITCHESS RIGHT NOW. I THINK IN
25 OUR BROAD VIEW OF IT IN SAYING THAT I AM PREPARED TO MAKE
26 A FINDING ON THIS IN CAMERA FOR THIS REASON.

27 AND I WOULD ALSO PROBABLY DO THE SAME
28 THING BASED ON THE SHOWING THAT I HAVE SEEN SO FAR WITH

1 RESPECT TO THE DISABILITY RECORDS. AGAIN, YOU KNOW, I
2 THINK IF THERE WERE TO BE ANOTHER PITCHES SEEKING THOSE
3 RECORDS, I WOULD GRANT IT IN THE SAME WAY I'M INDICATING
4 I WOULD GRANT THE PITCHES AS TO THE PERSONNEL FILE
5 REGARDING THESE COMPLAINTS.

6 MS. SARIS: OKAY.

7 THE COURT: I DON'T THINK THERE IS GOING TO BE
8 MUCH OF A DANCE.

9 MS. SARIS: FIVE DAYS IS THE 26TH. I CAN COME
10 THE 26TH OR 27TH.

11 MR. JACKSON: THE 26TH IS NO GOOD FOR ME, JUDGE.
12 CAN I HAVE JUST A SECOND? THE 28TH LOOKS OKAY.

13 MS. SARIS: I CAN'T DO 28TH. I'LL BE OUT OF TOWN
14 ON A CONFERENCE.

15 MR. BOWERS: HOW ABOUT THE 27TH IN THE AFTERNOON?

16 THE COURT: OKAY.

17 MR. JACKSON: YOUR HONOR, THE 27TH SEEMS TO WORK
18 BEST.

19 THE COURT: I DON'T THINK --

20 MS. SARIS: I CAN'T DO IT IN THE AFTERNOON. I
21 CAN DO THE 26TH IN THE AFTERNOON; THE 25TH IN THE
22 AFTERNOON IF THAT GIVES MR. BOWERS ENOUGH TIME.

23 MR. BOWERS: 26TH IN THE AFTERNOON I CAN DO.

24 THE COURT: ACTUALLY, THE 26TH ISN'T GOOD FOR US.

25 MR. JACKSON: I CAN'T DO THE 26TH ANYWAY.

26 MS. SARIS: IS THE 25TH TOO SOON? THAT'S ONE,
27 TWO, THREE -- THAT'S THE FOURTH DAY.

28 MR. BOWERS: THAT'S GOING TO BE TOO SOON. AND I

1 ALSO HAVE A DOCTOR'S APPOINTMENT IN THE AFTERNOON.

2 THE COURT: HOW ABOUT THE FOLLOWING WEEK?

3 MS. SARIS: I CAN DO MONDAY THE 1ST.

4 MR. BOWERS: AS CAN I.

5 MR. JACKSON: MAY 1ST WILL WORK.

6 THE COURT: ALL RIGHT. LET'S SET THE MATTER FOR
7 MAY 1ST AT 1:30. AND I WILL CALL THAT AN IN CAMERA
8 REVIEW. AND THE COURT'S FINAL RULING UNLESS -- THERE IS
9 AN OBJECTION -- IS THAT THE SHERIFF'S DEPARTMENT HAS ON
10 THAT. SO IF THE CUSTODIAN IS AVAILABLE THAT AFTERNOON,
11 THAT WOULD BE HELPFUL.

12 MS. SARIS: AND MAY THAT BE A NON-APPEARANCE FOR
13 MR. GOODWIN?

14 THE COURT: YES.

15 MR. BOWERS: IF THAT IS THE ONLY COMPLAINT WITHIN
16 HIS PERSONNEL FILE, MAY I ASK THE COURT IF WE COULD
17 PROVIDE A DECLARATION OF AUTHENTICATION FOR THE COURT AS
18 OPPOSED TO HAVING THE CUSTODIAN COME OR DO YOU WANT THE
19 CUSTODIAN?

20 THE COURT: WELL, WHY DON'T WE START WITH A
21 DECLARATION. AND THEN IF THERE IS SOMETHING THAT THE
22 COURT NEEDS TO DO FURTHER IN CAMERA, THE COURT CAN ALWAYS
23 DO THAT ON ANOTHER DATE. ALL RIGHT. SO, MR. BOWERS, WE
24 WILL SEE YOU THEN. IF THERE IS ANY PROBLEM, JUST LIKE
25 LAST TIME, IF YOU WOULD LET US ALL KNOW AND WE WILL JUST
26 KIND OF TAKE IT FROM THERE.

27 MR. BOWERS: THANK YOU, YOUR HONOR.

28 THE COURT: THANK YOU.

1 MR. JACKSON: YOUR HONOR, COULD THE COURT REMIND
2 ME WHERE WE ARE IN THE CALENDAR?

3 THE COURT: I THINK WE TOOK A TIME WAIVER.

4 MR. JACKSON: WE DID, I JUST CAN'T REMEMBER --

5 THE COURT: 60 DAYS FROM MAY 19TH, I BELIEVE.

6 MS. SARIS: THAT'S CORRECT. AND I BELIEVE THAT
7 WE HAVE A DATE ON MAY 16TH THAT YOUR CLERK INFORMED ME WE
8 HAVE TO CHANGE.

9 THE CLERK: YES, THAT'S AT THE END.

10 THE COURT: RIGHT.

11 MS. SARIS: IT'S OUR POSITION THAT THE DISTRICT
12 ATTORNEYS AND THE PUBLIC SHOULD NOT BE PRESENT FOR THE
13 ISSUES REGARDING MR. GOODWIN'S MEDICAL. SO PERHAPS -- I
14 DON'T KNOW IF THE COURT AGREES. THAT'S OUR REQUEST.

15 THE COURT: ALL RIGHT.

16 MS. SARIS: I DON'T KNOW WHAT ELSE WE HAVE TO DO
17 WITH THE DISTRICT ATTORNEYS PRESENT. ALTHOUGH WE ARE
18 CURIOUS IF THE COURT HAS THOUGHT ABOUT ANYWHERE WE MIGHT
19 BE TRYING THIS MATTER.

20 THE COURT: IT DEPENDS ON THE TIME ESTIMATE AND
21 WHEN YOU WANT TO TRY THE MATTER. I WILL BE HONEST WITH
22 YOU, IF THE JULY 19TH OR THEREABOUTS, IF THAT DATE IS A
23 FIRM ONE, IT'S GOING TO BE OBVIOUSLY MORE DIFFICULT FOR
24 THE COURT TO GET YOU TO A COURT THAT WILL BE AVAILABLE
25 I'M ASSUMING THE TIME ESTIMATE HASN'T CHANGED? I MEAN WE
26 ARE STILL TALKING ABOUT APPROXIMATELY FOUR WEEKS; RIGHT?

27 MR. JACKSON: I THINK THAT'S A GENEROUS ESTIMATE,
28 YES.

1 MS. SARIS: WE THINK THAT'S RIDICULOUSLY LOW. IF
2 WE INTEND TO -- I THINK RIGHT NOW WE HAVE 100 WITNESSES
3 BETWEEN US. WE'RE THINKING CLOSER TO EIGHT WEEKS AS THE
4 COURT KNOWS.

5 THE COURT: IF THE PEOPLE ARE SAYING THAT THEY
6 PRESENTED MOST, IF NOT ALL, OF THEIR EVIDENCE AT THE
7 PRELIMINARY HEARING, I DON'T KNOW HOW YOU CAN GET TO
8 EIGHT WEEKS.

9 MR. JACKSON: I DON'T EITHER.

10 MS. SARIS: KEEP IN MIND THERE ARE WITNESSES THAT
11 AREN'T ON THE PRELIMINARY HEARING LIST THAT WEREN'T
12 CALLED AT THE PRELIMINARY HEARING. AND THERE IS STILL A
13 WITNESS FOR WHICH WE'RE WAITING DISCOVERY. AND PLUS WE
14 DIDN'T HAVE A DEFENSE AT THE PRELIMINARY HEARING AND WE
15 HAVE AN EXTENSIVE DEFENSE AT THE TRIAL.

16 MR. JACKSON: THE POINT IS THERE MAY BE SOME
17 HOLES FILLED IN, BUT THE TRIAL IS NOT GOING TO LOOK THAT
18 MUCH DIFFERENT FROM THE PRELIMINARY HEARING. AND WE'VE
19 BEEN SAYING THAT FROM THE BEGINNING. AND GRANTED COUNSEL
20 HAS PUT ON HER WITNESS LIST EVERY -- FOR INSTANCE, EVERY
21 SINGLE PATROL OFFICER THAT WAS EVER AT THE CRIME SCENE.

22 NOW MS. SARIS MAY CALL 100 WITNESSES. I
23 DON'T KNOW. BUT FROM MY PROSPECTIVE, HAVING GONE THROUGH
24 THE CASE BEFORE, IT DOESN'T SEEM LIKE IT'S GOING TO EVEN
25 BE FOUR WEEKS, BUT THAT'S JUST ME.

26 THE COURT: LET ME JUST SAY THIS, THE CASE IS IN
27 THIS DISTRICT. AND THE LAST TIME I DISCUSSED IT WITH THE
28 SUPERVISING JUDGE, IT WAS HIS OPINION -- AND I CONCUR --

1 THIS IS NOT A CASE THAT NEEDS TO GO ANYWHERE ELSE OUTSIDE
2 THE DISTRICT. WE HAVE A NUMBER OF COURTS WITHIN THE
3 NORTHEAST AND NORTH CENTRAL DISTRICT.

4 MS. SARIS: AND THAT'S FINE WITH US, YOUR HONOR.
5 THE ONLY THING I ALERTED THE COURT TO IS THAT FROM OUR
6 PROSPECTIVE, I THINK OUR LAST COUNT WAS 220 SOME BOXES
7 THAT WE WILL NOT BE ABLE TO ACCOMMODATE IN THIS
8 PARTICULAR FACILITY. SO I WOULD LET THE COURT KNOW THAT
9 IF WE ARE NOT DOWNTOWN, WE WOULD BE ASKING THE COURT FOR
10 FUNDS REGARDING EITHER STORAGE OR OFFICE SPACE OR
11 SOMETHING IN THIS VICINITY. AND, AGAIN, WE HAVE NO
12 PARTICULAR -- WE DON'T CARE WHERE IT'S TRIED, SO LONG AS
13 WE CAN ACCESS THE MATERIAL.

14 THE COURT: OKAY.

15 MR. JACKSON: I WANT A NEW OFFICE. DO I GET ONE,
16 TOO? I NEVER HEARD OF SUCH A THING.

17 THE COURT: THIS IS THE THING, I CAN'T TELL YOU
18 WITH ANY DEGREE OF CERTAINTY WHERE THIS CASE IS GOING TO
19 GO, WHAT COURTROOM IT'S GOING TO GO TO PHYSICALLY. I
20 KNOW WHEN THE CASE IS GOING TO START, YOU KNOW, THE
21 SUMMER MONTHS ARE DIFFICULT NOT ONLY FOR JURORS BUT FOR
22 COURTS, TOO.

23 SO THAT'S WHY I WAS HOLDING OFF BECAUSE I
24 DON'T -- BECAUSE I DON'T KNOW. IS JULY 19TH A DATE SET
25 IN STONE?

26 MR. JACKSON: IT'S CERTAINLY NOT FROM --

27 MR. DIXON: I DON'T WANT TO REPEAT EVERYTHING I
28 SAID BEFORE.

1 MS. SARIS: WE'RE MOVING HEAVEN AND EARTH TO TRY
2 THIS CASE BY JULY.

3 THE COURT: AGAIN, I HAVE TO MAKE AN OBSERVATION.
4 OKAY? THERE ARE OBVIOUSLY A NUMBER OF THINGS THAT STILL
5 HAVE TO BE DONE. FOR EXAMPLE, FOR THIS COURT TO EVEN
6 START THIS CASE IN JULY, SOMETHING WOULD HAVE TO BE DONE
7 IN THE CASE OF GETTING A LOT OF JURORS FOR A FOUR-WEEK
8 CASE. THE JURY ROOM HAS INFORMED ME THAT THAT TIME OF
9 YEAR, THEY ARE GOING TO NEED HUNDREDS OF JURORS. AND I
10 KNOW JUST FROM PERSONAL EXPERIENCE WITH JURORS, YOU DO
11 GET A LOT OF PEOPLE THAT ARE ON VACATION FROM SCHOOL AND
12 A LOT OF TEACHERS THAT HAVE THE SUMMER OFF AND THEN YOU
13 HAVE VACATIONS AND CHILD CARE PROBLEMS.

14 SO MY PERSONAL OPINION IS IF THE CASE GOES
15 JULY 19TH, IT'S GOING TO LAST A LOT LONGER THAN THE
16 ANTICIPATED ESTIMATE JUST BECAUSE OF JURY SELECTION. ON
17 THE OTHER HAND, IF THE CASE DOESN'T GO IN JULY AND GOES
18 TOWARDS THE END OF THE SUMMER, I CAN SEE THE CASE
19 PROCEEDING RAPIDLY WITHOUT THAT MANY PROBLEMS WITH
20 JURORS. BUT THAT'S JUST AN OBSERVATION.

21 I KNOW LAST SUMMER ONE OF OUR COURTS TRIED
22 SELECTING A JURY RIGHT AROUND THE BEGINNING OF SUMMER AND
23 FROM WHAT I RECALL IT WAS A DISASTER BECAUSE IT PROBABLY
24 TOOK LONGER FOR THEM TO SELECT THE JURY THAN IT DID TO
25 PUT THE CASE ON. AND THAT WAS PRIMARILY BECAUSE OF THE
26 SUMMER MONTHS, THE VACATION SCHEDULES OF PEOPLE AND THE
27 DIFFICULTY THAT PEOPLE HAVE WITH FAMILY AND CHILDREN AND
28 VACATION.

1 SO I MEAN THAT'S AN OBSERVATION. SO I
2 CAN'T TELL YOU TODAY WHERE YOU WILL BE. IT WILL BE
3 SOMEWHERE HERE. IT'S THE DESIRE OF THE SUPERVISING
4 JUDGE, I BELIEVE, STILL TO KEEP THE CASE HERE. BUT I
5 DIDN'T INDICATE TO HIM THAT IT WAS AN EIGHT-WEEK CASE. I
6 WILL TELL YOU THAT I DIDN'T THINK IT WAS AN EIGHT-WEEK
7 CASE.

8 I STILL DON'T THINK IT IS AN EIGHT-WEEK
9 CASE. IF IT IS AN EIGHT-WEEK CASE, THEN THIS IS THE KIND
10 OF CASE THAT SHOULD GO DOWNTOWN. AND THAT'S --

11 MS. SARIS: WELL, I THINK THERE WILL BE SOME
12 MOTIONS YET TO LITIGATE THAT WILL DECIDE.

13 THE COURT: ALL RIGHT. BUT WE ARE NOT THERE YET.
14 SO I GUESS TO ANSWER YOUR QUESTION, I HAVEN'T GIVEN IT
15 MORE THOUGHT THAN WHAT I JUST SAID. AND THAT'S ABOUT THE
16 EXTENT OF IT. SO WITH RESPECT TO DOING ANYTHING MORE
17 TODAY OTHER THAN THE MEDICAL ISSUES, WHY DON'T WE PICK
18 ANOTHER DATE. WE ARE DARK ON THE MAY 16TH DATE. AND I
19 THOUGHT THAT'S WHY MAYBE WE TOOK A TIME WAIVER FOR
20 SOMETHING LIKE MAY 19TH, BUT I DON'T RECALL.

21 MS. SARIS: I THINK WE JUST ARBITRARILY PICKED
22 THE 16TH TO BE HONEST, 22ND OR 23RD IS FINE.

23 THE COURT: ALL RIGHT.

24 MR. JACKSON: OF MAY?

25 MS. SARIS: DOES THE 23RD WORK WITH THE COURT IN
26 THE MORNING?

27 THE COURT: MAY 23RD? ALL RIGHT. I'M JUST GOING
28 TO ASSUME THAT WE HAVE OUR TIME WAIVER 60 DAYS FROM MAY

1 19TH. SO THAT WILL BE DAY FOUR OF 60.

2 MS. SARIS: AND MR. GOODWIN WILL BE ORDERED OUT
3 FOR THE 23RD BUT NOT FOR THE 1ST?

4 THE COURT: CORRECT.

5 MS. SARIS: THANK YOU.

6 MR. JACKSON: AND THAT'S AN 8:30 APPEARANCE?

7 THE COURT: CORRECT.

8 MR. JACKSON: OKAY. THANK YOU, YOUR HONOR.

9 THE COURT: ANYTHING ELSE, THEN, WITH THE PEOPLE?

10 MR. JACKSON: NOT WITH US.

11 MR. DIXON: NO, THANK YOU, YOUR HONOR.

12 MS. SARIS: NO.

13 THE COURT: OKAY. THANK YOU.

14

15 (THE MATTER WAS CONTINUED TO TUESDAY,
16 MAY 23, 2006 AT 8:30 A.M.)

17 (WHEREUPON A CLOSED HEARING WAS HELD
18 NOT TRANSCRIBED HEREIN.)

19 (PAGES S-23 THROUGH S-55.)

20 --OOO--

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE V. GOODWIN
3 PASADENA, CALIFORNIA MAY 23, 2006
4 DEPARTMENT NE E HON. TERI SCHWARTZ JUDGE
5 REPORTER: SHEILA BROCK, CSR NO. 10025
6 TIME: A.M. SESSION
7 APPEARANCES: (AS HERETOFORE MENTIONED.)
8

9 THE COURT: ON THE RECORD IN THE GOODWIN MATTER.
10 MR. GOODWIN IS PRESENT WITH HIS COUNSEL; PEOPLE ARE
11 REPRESENTED. I'M GOING TO ASK CALL COUNSEL TO STATE THEIR
12 APPEARANCES FOR THE RECORD.

13 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER, ON
14 BEHALF OF MR. GOODWIN.

15 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC DEFENDER,
16 ON BEHALF OF MR. GOODWIN.

17 MR. CASTRANOVA: JAMES CASTRANOVA ON BEHALF OF LOS
18 ANGELES COUNTY EMPLOYEES' RETIREMENT ASSOCIATION.

19 MR. DELMUIR: DAVID DELMUIR, CHIEF COUNSEL BY JAMES
20 J. CASTRANOVA, SENIOR STAFF COUNSEL.

21 MR. BOWERS: JOHN BOWERS, COUNSEL FOR LA COUNTY
22 SHERIFF'S DEPARTMENT.

23 MR. JACKSON: ALAN JACKSON FOR THE PEOPLE.

24 THE COURT: THE DEFENSE HAS FILED THE THIRD IN A
25 SERIES OF PITCHESS MOTIONS, WHICH THE COURT HAS REVIEWED.
26 IT'S REALLY A HYBRID PITCHESS BRADY MOTION. THAT'S HOW I
27 VIEW IT. I HAVE RECEIVED OPPOSITION FROM THE SHERIFF'S
28 DEPARTMENT AS WELL AS LACERA.

T-2

1 I'M AT THE POINT HONESTLY OF LEANING TOWARDS
2 GRANTING AN IN CAMERA REVIEW ON THE ISSUE OF THE SERVICE
3 CONNECTED DISABILITY RETIREMENT BECAUSE I'M CONCERNED
4 ABOUT THE POTENTIAL FOR BRADY MATERIAL.

5 LET ME SEE IF I CAN CRYSTALLIZE IN WORDS MY
6 THOUGHTS. PRIOR TO TODAY, THE COURT HAD GRANTED THE
7 PITCHESS MOTION BUT IN A VERY LIMITED FASHION, AND THE COURT
8 CONDUCTED AN IN CAMERA REVIEW WITH A REPRESENTATIVE OF THE
9 SHERIFF'S DEPARTMENT WITH THE CUSTODIAN OF RECORDS.

10 THERE WAS NOTHING TO DISCOVER IN THAT IN
11 CAMERA REVIEW. SINCE THAT TIME, I HAD CONSIDERED WHAT IT IS
12 EXACTLY THAT THE DEFENSE IS SEEKING IN LIGHT OF THE WAY THE
13 INVESTIGATION WAS HANDLED BACK IN, DURING THE YEARS OF 1988
14 TO 1993, WHICH ARE THE RELEVANT YEARS.

15 AND MY CONCERN IS AS FOLLOWS: IT APPEARS TO ME
16 THAT, IF THERE IS INFORMATION IN EITHER THE RETIREMENT OR
17 DISABILITY PERSONNEL FILE INVOLVING ANY COMPLAINTS ABOUT THE
18 WAY THIS INVESTIGATION WAS HANDLED, THEN I NEED TO MAKE A
19 RECORD OF THAT.

20 WE KNOW THAT THERE WAS SOME COMPLAINT BECAUSE I
21 HAVE DETECTIVES' RESPONSES TO THE COMPLAINT. YET, THE IN
22 CAMERA THAT THE COURT CONDUCTED REVEALED NOTHING. SO, BASED
23 ON THE THIRD PITCHESS, IT SEEMS TO ME THAT THE DEFENSE HAS
24 MADE AN ADEQUATE SHOWING BECAUSE IT APPEARS THAT IF, IN
25 FACT, A COMPLAINT WAS GENERATED, AND WE KNOW IT WAS, AND
26 THERE WAS A RESPONSE FILED BY DEPUTY GRIGGS, IT SEEMS TO ME
27 THAT IT'S REASONABLE TO BELIEVE THAT THIS INFORMATION MAY
28 HAVE BEEN CONNECTED SOMEHOW TO THE DISABILITY RETIREMENT.

1 AND, WITH THAT, I THINK THAT THE DEFENSE HAS MET
2 THEIR BURDEN FOR THE COURT TO GO IN CAMERA TO REVIEW THE
3 RECORDS, BUT I WANT TO LIMIT IT TO, AGAIN, COMPLAINTS ABOUT
4 THE WAY THE DEPUTY, DEPUTY GRIGGS, WAS CONDUCTING THE
5 INVESTIGATION.

6 MY UNDERSTANDING IS LACERA HAS DESTROYED ALL
7 THEIR FILES EXCEPT FOR THOSE THAT WERE RELIED ON IN GRANTING
8 THE DISABILITY RETIREMENT; IS THAT CORRECT?

9 MR. CASTRONOVA: THAT'S CORRECT.

10 THE COURT: SO THAT'S MY FEELING TODAY GIVEN THE
11 INFORMATION THAT THE DEFENSE HAS PROVIDED TO THE COURT, AND I
12 KNOW MR. BALLARD'S -- YOU'VE REPEATEDLY STATED YOUR POSITION.

13 AND, MR. CASTRANOVA, YOU'RE RELATIVELY A
14 NEWCOMER HERE ON THIS, BUT YOU WERE HERE LAST TIME. THAT IS
15 BASICALLY MY THINKING ON THIS.

16 DOES ANYBODY HAVE A COMMENT?

17 MS. SARIS: WE'RE CONCERNED WITH THE LIMITATION THAT
18 THE COURT IS IMPOSING. AND I'VE GIVEN YOU AN EXAMPLE AND
19 PERHAPS THE COURT IS ANTICIPATING US -- AND WE'RE JUST
20 SAYING DIFFERENT THINGS: OUR POSITION IS: ANYTHING THAT
21 MENTIONS THE THOMPSON HOMICIDE OR MR. GOODWIN IS MATERIAL TO
22 OUR DEFENSE, AT LEAST FOR IN CAMERA HEARING.

23 I WOULD ABSOLUTELY UNDERSTAND THE COURT'S
24 POSITION THAT I'M NOT ALLOWED TO SEE THE ENTIRE, FOR PRIVACY
25 AND OTHER REASONS, THE ENTIRE FILE, BUT AT LEAST FOR THE
26 COURT TO HAVE AN IN CAMERA REVIEW. WHEN THE COURT IS
27 LIMITING IT TO A COMPLAINT, IF THERE'S A, LIKE, MY
28 UNDERSTANDING IS FROM LACERA, A DOCTOR'S REPORT BASED ON A

1 CLAIM MADE BY DEPUTY GRIGGS THAT COULD DISCUSS SOMETHING
2 THAT DEPUTY GRIGGS SAID REGARDING THIS INVESTIGATION, I
3 THINK THAT WOULD BE RELEVANT. SOMETHING -- IT'S AS SIMPLE
4 AS A -- AND THIS IS SORT OF AN OFF-THE-WALL HYPOTHETICAL.

5 BUT EVEN A TIME CARD POTENTIALLY, IF IT'S KEPT
6 IN THE FILE AND DEPUTY GRIGGS HAS WRITTEN ON IT, "I CAN'T
7 STAND ONE MOMENT MORE INVESTIGATING THE THOMPSON HOMICIDE
8 UNDER THESE CONDITIONS," IT'S POTENTIALLY RELEVANT.

9 SO, WHEN THE COURT SAYS "COMPLAINTS," OUR
10 CONCERN IS THAT, AS LONG AS THE COURT REVIEWS EVERYTHING THAT
11 MIGHT HAVE SOME MATERIALITY TO THIS CASE AND THE WAY THAT
12 WE'VE STRUCTURED THE FINAL PITCHESSESS BASED ON --

13 THE COURT: IS THAT REALLY THE FINAL PITCHESSESS? I LIKE
14 THE SOUND OF THAT. BUT IS IT TRUE?

15 MS. SARIS: IT DEPENDS ON WHAT WE, OBVIOUSLY, WHAT WE
16 GET. I MEAN, I'M GOING TO BE HONEST. WE'RE NOT GOING TO
17 STOP UNTIL WE GET EVERYTHING THAT WE NEED TO ENSURE MR.
18 GOODWIN A FAIR TRIAL, AND OUR CONTENTION IS THAT IS IN THE
19 PERSONNEL FILE, THAT THERE IS SOMETHING RELEVANT UNDER
20 WARRICK, UNDER HILL UNDER PITCHESSESS. WE'VE MADE A SHOWING OF
21 MATERIALITY. WHAT THE MOST RECENTLY FILED MOTION STATES IS
22 BASICALLY THE CONTENTION, BASED ON ALL OF THE REPORTS THE
23 COURT HAS BEFORE IT AND THE OPPOSITION PAPERS FROM LACERA AND
24 THE SHERIFFS, INDICATING THAT, IN FACT, THIS CASE WAS
25 MENTIONED BY DETECTIVE GRIGGS IN HIS APPLICATION FOR
26 DISABILITY, IT WAS MENTIONED IN DOCTORS' REPORTS, AND IT WAS
27 MENTIONED IN HIS PERSONNEL FILE.

28 AND, AS LONG AS THE COURT MAKES A THOROUGH

1 REVIEW OF THAT, I THINK AT THAT POINT THEN MR. GOODWIN'S
2 RIGHTS WILL BE PROTECTED. BUT, IF WE LIMIT IT TO SIMPLY
3 COMPLAINTS, THAT'S WHERE I HAVE A CONCERN BECAUSE I DON'T
4 KNOW THAT THAT'S WHAT THEY CALL IT.

5 THE COURT: ALL RIGHT.

6 WHAT IS THE SHERIFF DEPARTMENT'S POSITION OR
7 LACERA'S POSITION?

8 MR. BOWERS: JUST A COUPLE OF THINGS. ONE, WE
9 ALREADY PROVIDED THE COURT A DECLARATION SAYING THAT THESE,
10 THE SHERIFF'S DEPARTMENT DOES NOT KEEP DISABILITY RETIREMENT
11 INFORMATION IN THE PERSONNEL FILES THAT THEY HAVE, THAT THOSE
12 ARE THE LACERA DOCUMENTS. SO IT REALLY DOESN'T AFFECT THE
13 SHERIFF'S DEPARTMENT. THE SECOND ISSUE IS: THE MOTION THAT
14 THE COURT GRANTED, THE IN CAMERA REVIEW, THE COURT HAD
15 LIMITED IT TO, MY IMPRESSION WAS, THE COURT LIMITED IT TO
16 TWO INTERNAL COMPLAINTS CONCERNING DETECTIVE GRIGGS'
17 HANDLING OF THIS PARTICULAR INVESTIGATION.

18 BASED ON MY DISCUSSIONS WITH THE CUSTODIAN OF
19 RECORDS, THE SEARCH FOR INFORMATION WAS NOT SO LIMITED. WE
20 LOOKED AT INTERNAL COMPLAINTS, EXTERNAL COMPLAINTS OF THIS
21 INVESTIGATION, OR ANY INVESTIGATION. THERE WAS -- THERE WAS
22 A WHOLE WORLD OF COMPLAINTS AGAINST DETECTIVE GRIGGS, AND
23 THERE WAS NOTHING TO DISCLOSE.

24 MY THIRD POINT IS HOW THE NAME, "MICKEY
25 THOMPSON," APPEARING ON A PIECE OF PAPER CAN IN ANY WAY FALL
26 UNDER BRADY. JUST BECAUSE THE NAME APPEARS ON A PIECE OF
27 PAPER IS BEYOND ME. BRADY IS A VERY STRICT STANDARD. I
28 MEAN, THE EXCLUSION OF EVIDENCE AT TRIAL IS A REASONABLE

1 PROBABILITY THAT THE OUTCOME WOULD BE DIFFERENT. SIMPLY
2 BECAUSE THE NAME APPEARS ON A PIECE OF PAPER DOESN'T MAKE IT
3 FALL UNDER BRADY, PITCHESS, OR ANYTHING.

4 IT COULD BE TIME CARD INCREASES SAYING, "I'M
5 SORRY; I CAN'T TAKE A VACATION DAY BECAUSE I'M DOING THE
6 MICKEY THOMPSON INVESTIGATION." THE PRESENCE OF THE NAME
7 DOES NOT MAKE A BRADY.

8 I BELIEVE THAT THE SHERIFF'S DEPARTMENT HAS
9 DISCLOSED EVERYTHING THERE IS TO DISCLOSE TO THIS COURT WITH
10 REGARD TO THESE PITCHESS MOTIONS.

11 THE COURT: ALL RIGHT. THANK YOU.

12 MR. CASTRANOVA: THERE ARE NO COMPLAINTS IN OUR
13 FILE. THERE'S VERY LITTLE IN TERMS OF WHAT COUNSEL WANTS TO
14 OBTAIN. THERE'S A MEDICAL REPORT FROM THE BOARD PANEL
15 DOCTOR WHO EXAMINED MR. GRIGGS IN CONNECTION WITH HIS
16 APPLICATION, AND THERE IS HIS APPLICATION WHICH WAS FILLED
17 OUT BY HIM. AND I BELIEVE THERE'S A PHYSICIAN'S STATEMENT
18 WHICH IS ATTACHED. OTHER THAN THAT, THERE ISN'T ANYTHING.

19 MS. SARIS: OUR ONLY RESPONSE IS, IF THE PRESENCE OF
20 THE NAME, MEANING, IN BRADY -- I'LL BE ASKING MR. BOWERS TO
21 GIVE ME THE PERSONNEL FILE.

22 THE PRESENCE OF THE NAME MAKES IT POTENTIALLY
23 RELEVANT, AND THAT'S WHAT GETS US THE IN CAMERA REVIEW, AND
24 IT'S UP TO THE COURT THEN TO DECIDE IF THE MATERIAL IS
25 BRADY. BUT THE PRESENCE OF THE NAME CERTAINLY SHOULD AT
26 LEAST RING AN ALARM THAT SAYS "I HAVE SOMEONE NEUTRAL WHO
27 HAS TO LOOK INTO THIS THAT CAN PROTECT MR. GRIGGS'S RIGHTS
28 AND MR. GOODWIN'S RIGHTS TO A FAIR TRIAL.

1 THE COURT: I'M INCLINED TO DO THAT AND CONDUCT THE
2 IN CAMERA REVIEW.

3 ANYTHING ELSE ON THAT ISSUE?

4 MS. SARIS: SUBMITTED.

5 MR. BOWERS: WAS THE COURT INTENDING TO CONDUCT AN IN
6 CAMERA REVIEW OF --

7 THE COURT: LET ME ASK MR. CASTRANOVA.

8 DO YOU HAVE THE CUSTODIAN WITH YOU?

9 MR. CASTRANOVA: I HAVE THE RECORDS WITH ME.

10 THE COURT: OKAY.

11 AND I SEE AN ENVELOPE, AND IT DOESN'T LOOK TOO
12 VOLUMINOUS, SO THE COURT IS PREPARED TO CONDUCT AN IN CAMERA
13 REVIEW OF THOSE RECORDS WHICH THE COURT WILL LOOK AT AND
14 DETERMINE IF THERE IS ANYTHING IN THERE THAT SHOULD BE
15 DISCLOSED UNDER BRADY.

16 MR. BOWERS: I UNDERSTAND ABOUT LACERA. BUT AS FAR
17 AS THE SHERIFF'S DEPARTMENT?

18 THE COURT: AS FAR AS THE SHERIFF'S DEPARTMENT, I
19 THINK THE SHERIFF'S DEPARTMENT, WE'VE ALREADY DONE THE IN
20 CAMERA ON THE SHERIFF'S DEPARTMENT.

21 MS. SARIS: I THINK HE JUST TOLD THE COURT THAT HE
22 ONLY LOOKED AT COMPLAINTS. AND I THINK THAT IF -- AT LEAST
23 IN CAMERA THE COURT SHOULD INQUIRE WHETHER OR NOT THE
24 THOMPSON HOMICIDE INVESTIGATION IS NAMED ANYWHERE ELSE IN
25 THIS FILE, BECAUSE, ACCORDING TO WHAT I'M HEARING FROM MR.
26 BOWERS, HE'S MADE A DETERMINATION THAT THAT'S NOT RELEVANT,
27 AND THAT'S THIS COURT'S DETERMINATION.

28 THE COURT: BUT I ALREADY HAD THE IN CAMERA WITH THE

1 CUSTODIAN.

2 MS. SARIS: REGARDING COMPLAINTS. HOWEVER, I THINK
3 THEY FILTERED IT ONE LEVEL BEFORE IT GOT TO YOU, AND I'M
4 INQUIRING WHETHER OR NOT THERE'S MORE THAT THEY LOOKED
5 THROUGH IN ORDER TO BRING WHAT THEY BROUGHT TO YOU.

6 MR. BOWERS: IF COUNSEL IS SUGGESTING THAT THE
7 SHERIFF'S DEPARTMENT REVIEWED THE DOCUMENTS LOOKING FOR
8 FORMAL COMPLAINTS, COUNSEL IS MISTAKEN.

9 MS. SARIS: PERHAPS WE CAN INQUIRE IF THE SHERIFF'S
10 DEPARTMENT PULLED OUT OUT EVERY INSTANCE WHERE THE THOMPSON
11 HOMICIDE WAS MENTIONED OR IF THEY NOTICED ONE AND DIDN'T PULL
12 IT FOR SOME REASON.

13 THE COURT: THAT, I DON'T KNOW, AND I DON'T RECALL. I
14 DON'T THINK WE EVEN TOUCHED ON THAT WITH THE CUSTODIAN.

15 MR. BOWERS: I DON'T BELIEVE WE DID.

16 MS. SARIS: PERHAPS WE CAN SET A COMPLIANCE DATE
17 WHERE THAT PART IS DONE AT LEAST FOR IN CAMERA REVIEW.

18 THE COURT: WELL, YOU KNOW, I HATE TO HAVE THE
19 CUSTODIAN COME BACK AGAIN.

20 MR. BOWERS, IS THERE ANY WAY THAT YOU CAN GET
21 THE INFORMATION AND REPRESENT TO THE COURT IF --

22 MR. BOWERS: I DON'T KNOW. WE WENT THROUGH THIS ISSUE
23 BEFORE WHERE I ADVISED THE COURT THAT I DON'T HAVE THE
24 AUTHORITY TO RUMMAGE AROUND ANYBODY'S PERSONNEL FILE IN
25 RESPONSE TO THE COURT'S ORDER FOR AN IN CAMERA HEARING. THE
26 CUSTODIAN WENT THROUGH THE PERSONNEL FILE, LOOKING FOR ANY
27 POTENTIALLY RESPONSIVE DOCUMENTS TO BE PRESENTED TO THE
28 COURT.

1 THE COURT: BUT THAT WOULD HAVE BEEN IN THE NATURE OF
2 COMPLAINTS ABOUT THE WAY DEPUTY GRIGGS WAS CONDUCTING THE
3 INVESTIGATION. I DON'T KNOW THAT THE CUSTODIAN LOOKED FOR
4 POTENTIAL BRADY MATERIAL IF IT EXISTED, AND I GUESS WHAT I'M
5 CONFRONTED WITH NOW IS SOMEWHAT OF A RE-ASSESSMENT OR
6 RE-EVALUATION OF MY PREVIOUS ORDER IN LIGHT OF THIS THIRD
7 PITCHESS MOTION.

8 MR. BOWERS: I'M STILL BOTHERED BY THE FACT THAT THE
9 APPEARANCE OF A NAME DOES NOT MAKE IT BRADY.

10 THE COURT: I AGREE WITH YOU THAT IT DOESN'T MAKE IT
11 BRADY. BUT MY CONCERN IS I CAN UNDERSTAND WHERE THE DEFENSE
12 IS COMING FROM IN TERMS OF WHY THEY BELIEVE THERE MIGHT BE
13 SOMETHING THERE. AND, AGAIN, I CAN ONLY LOOK AT WHAT I
14 HAVE, AND I DO HAVE A COMPLAINT TOO.

15 MR. BOWERS: MAY I MAKE A SUGGESTION? THAT THE COURT
16 ORDER THE CUSTODIAN TO BRING IN, FOR IN CAMERA REVIEW, ANY
17 DOCUMENT WITHIN THE PERSONNEL FILE OF DETECTIVE GRIGGS WHICH
18 CONTAINS A -- COUNSEL CAN HELP ME WITH THE WORDING -- A
19 NEGATIVE REFERENCE REGARDING THE MICKEY THOMPSON
20 INVESTIGATION.

21 THE COURT: I THINK SHE WANTS IT TO BE A REFERENCE TO
22 THE MICKEY THOMPSON INVESTIGATION.

23 MR. BOWERS: THAT'S OVERBROAD. AGAIN, IT COULD -- "I
24 CAN'T TAKE ANY VACATION TIME BECAUSE I'M IN THE MICKEY
25 THOMPSON INVESTIGATION," THAT DOES NOT EVEN COME CLOSE TO
26 BRADY.

27 THE COURT: WELL, IT -- TRUE ON ITS FACE. BUT I
28 THINK I HAVE ENOUGH FOR AN IN CAMERA REVIEW. LOOK, I'LL BE

1 HONEST WITH YOU. I DON'T WANT TO GET A FOURTH PITCHES
2 MOTION OR FIFTH PITCHES MOTION. I FEEL LIKE WE ARE GOING
3 TO GET THERE. AND AT SOME POINT I THINK THE DEFENDANT HAS
4 MADE A SUFFICIENT SHOWING UNDER -- THAT'S WHY I CALL IT A
5 HYBRID MOTION BECAUSE LAST TIME I REALLY LIMITED IT TO
6 PITCHES MATERIAL.

7 BUT NOW I'M STARTING TO SEE THE LIGHT IN TERMS
8 OF POTENTIAL BRADY MATERIAL, AND I THINK WE STARTED ALL THIS
9 WITH A DISCUSSION OF BRADY, AND SOMEHOW I'VE LIMITED IT,
10 BUT NOW I'M BACK TO I THINK WHERE I STARTED FROM WHERE MR.
11 JACKSON OFFERED AT THE VERY BEGINNING OF ALL THIS TO ASSIST
12 AND WAS FORECLOSED FROM DOING SO BY OPERATION OF LAW. AND
13 HERE WE ARE MONTHS LATER. SO I AGREE. I DON'T THINK IT'S
14 NECESSARILY BRADY MATERIAL, BUT I THINK, IF THERE
15 IS ANY REFERENCE TO THE THOMPSON MURDERS AND THE
16 INVESTIGATION OF THAT CRIME, I THINK IN AN ABUNDANCE OF
17 CAUTION THE COURT SHOULD TAKE A LOOK AT LEAST AND MAKE A
18 RECORD OF WHAT, IF ANYTHING, THERE IS.

19 AND THAT IS MY FEELING. I MEAN, THAT'S WHAT
20 I'D LIKE TO DO. I CAN SET THAT FOR A DATE AND GIVE YOU TIME
21 IF YOU WANT TO, TO SEEK WRIT REVIEW. BUT I'M INCLINED TO GO
22 THAT NEXT STEP.

23 MR. BOWERS: SO THE COURT'S ORDER IS TO BRING ANY
24 DOCUMENT REFERENCING THE MICKEY THOMPSON INVESTIGATION FOR
25 IN CAMERA REVIEW?

26 THE COURT: I THINK THAT WOULD BE THE SAFEST WAY FOR
27 THE COURT TO PROCEED RIGHT NOW, AND I CAN SET A DATE AT YOUR
28 CONVENIENCE.

1 MR. BOWERS: HOW ABOUT JUNE 7, YOUR HONOR?

2 THE COURT: IS THAT GOOD FOR THE DEFENSE AND THE
3 PEOPLE?

4 MR. BOWERS: AND POSSIBLY 1:30 BECAUSE I DON'T KNOW
5 WHAT THE CUSTODIAN SCHEDULE WILL BE DURING THE MORNING.
6 AFTERNOON, I CAN CONTROL.

7 MS. SARIS: THAT'S TWO WEEKS FROM NOW?

8 THE COURT: JUNE 7, YES.

9 MS. SARIS: THAT'S FINE.

10 THE COURT: MR. JACKSON, WHAT ABOUT YOU?

11 MR. JACKSON: YOUR HONOR, THAT'S A FINE DATE.

12 MS. SARIS: IF THAT'S A 1:30, I DON'T KNOW WHAT ELSE
13 WE'LL SET. BUT WOULD THE COURT CONSIDER MAKING THAT A
14 NON-APPEARANCE?

15 THE COURT: SURE. BUT LET'S SEE WHERE WE END UP.

16 MS. SARIS: I UNDERSTAND.

17 THE COURT: ALL RIGHT. WE'LL DO THE CUSTODIAN OF
18 RECORDS IN CAMERA REVIEW WITH THE SHERIFF'S DEPARTMENT AT
19 1:30 ON JUNE 7. AND I'LL HOLD OFF MAKING IT A NON-APPEARANCE
20 UNTIL I KNOW WHAT WE'RE DOING.

21 MS. SARIS: WE'LL DO LACERA'S TODAY.

22 THE COURT: YES. ALTHOUGH I DON'T KNOW WHEN I'LL GET
23 TO IT, BUT I'M JUST WONDERING, IS THERE ANY WAY I CAN DO THE
24 IN CAMERA ON LACERA AT A DIFFERENT TIME BECAUSE I HAVE A
25 HORRIBLE CALENDAR TODAY?

26 MS. SARIS: I DON'T MIND THE COURT DOING IT AT THE
27 COURT'S DISCRETION. I DON'T KNOW IF MR. CASTRANOVA HAS TO
28 BE THERE. IS THAT HOW IT WORKS? SO HE HAS TO COME BACK?

1 I'LL COME ANY TIME.

2 THE COURT: IT'S HIS CALL.

3 MR. CASTRANOVA: YOUR HONOR, I CAN LEAVE THE
4 DOCUMENTS WITH YOU, AND YOU CAN REVIEW THEM AT YOUR
5 CONVENIENCE.

6 THE COURT: THAT WOULD BE APPRECIATED.

7 MR. CASTRANOVA: JUST GIVE ME A CALL TO PICK THEM UP.

8 THE COURT: IT WOULD BE GREATLY APPRECIATED.

9 MS. SARIS: AT SOME POINT WE'LL GO ON THE RECORD
10 FORMALLY?

11 THE COURT: WHY DON'T WE DO THAT ON THE 7TH, AND THAT
12 WILL BE THE ON-THE-RECORD DISCUSSION IF EVERYONE CAN COME
13 BACK THEN.

14 AND IF YOU LEAVE THE RECORDS WITH ME, THAT
15 WOULD REALLY BE GREAT, AND I REALLY APPRECIATE THAT.

16 SO WE HAVE TWO ENVELOPES?

17 MR. CASTRANOVA: JUST ONE. I BROUGHT THREE COPIES.

18 THE COURT: GREAT. OKAY.

19 IF THAT'S AGREEABLE WITH EVERYBODY, THEN THAT
20 WOULD BE GREAT. SO JUNE 7?

21 MR. CASTRANOVA, THAT'S GOOD FOR YOU AT 1:30?

22 MR. CASTRANOVA: YES.

23 THE COURT: ALL RIGHT. PERFECT.

24 MR. CASTRANOVA: YEAH, 1:30 IS FINE.

25 THE COURT: 1:30? OKAY.

26 SO, WITH RESPECT TO THOSE ISSUES, I GUESS THAT'S
27 IT FOR TODAY.

28 SO THANK YOU, COUNSEL.

1 MR. BOWERS: THANK YOU, YOUR HONOR.

2 THE COURT: SEE YOU JUNE 7 AT 1:30.

3 (PAUSE IN THE PROCEEDINGS.)

4
5 THE COURT: ALL RIGHT. WHERE DOES THAT LEAVE US
6 TODAY? I KNOW THERE WAS ANOTHER MOTION FILED BY THE DEFENSE
7 WHICH WAS -- IT WAS THE MOTION TO EXCLUDE WITNESS TESTIMONY
8 AT TRIAL. THERE WERE A NUMBER OF WITNESSES WHOSE TESTIMONY
9 THE DEFENSE IS SEEKING TO HAVE EXCLUDED, AND THERE'S ALSO A
10 RENEWAL OF A RECUSAL MOTION, SO WE'RE --

11 MS. SARIS: THAT'S IN THE ALTERNATIVE?

12 THE COURT: YES. WE'RE STARTING TO GET TO THE POINT
13 WHERE A LOT OF THESE MOTIONS ARE REAPPEARING. BUT IT'S -- I
14 WOULD IMAGINE THAT THAT HEARING IS GOING TO TAKE SOME TIME.

15 WHAT DOES COUNSEL THINK WE SHOULD DO?

16 MS. SARIS: OUR CONCERN IS THAT WE FILED A MOTION IN
17 A TIMELY MANNER TO BE HEARD TODAY. I GOT A PHONE CALL FROM
18 MR. JACKSON, INDICATING HE WAS TOO BUSY TO RESPOND TO THE
19 MOTION. RIGHT NOW, THEORETICALLY, WE'RE AT FOUR OR FIVE OF
20 SIXTY. WE'RE NOT GOING TO BE GETTING THE RECORDS FOR TWO
21 MORE WEEKS. NOW I HAVE TO GO ON THE ASSUMPTION THAT THERE'S
22 SOMETHING, NOT ONLY DISCOVERABLE, BUT WORTHY OF INVESTIGATION
23 INTO THOSE RECORDS.

24 AND THE RULING ON THIS MOTION COULD AFFECT THE
25 TIMING DRAMATICALLY. TO THE EXTENT THAT THESE WITNESSES ARE
26 RELEVANT AND COUNSEL ADMITS THEY ARE RELEVANT, THEN
27 POTENTIALLY THE RECUSAL MOTION COULD BE RENEWED. IF THEY ARE
28 DEEMED RELEVANT AND THE RECUSAL IS NOT GRANTED, WE'RE STILL

1 WAITING ON DISCOVERY. I GUESS I DIDN'T LIST IT HERE, BUT
2 WE'RE WAITING ON DISCOVERY ON ONE WITNESS.

3 THAT IS MY ONLY CONCERN. SO I'M HAPPY TO GIVE
4 MR. JACKSON UNTIL THE 7TH TO RESPOND. AND WE CAN TRY AND DO
5 EVERYTHING ON THE 7TH, AND THAT WAY WE'LL BE WITHIN AT LEAST
6 TWO WEEKS OF TODAY TO HAVE SOME INDICATION OF WHAT IS GOING
7 ON. BUT WE ARE DESIROUS OF TRYING IT THIS SUMMER. AND I
8 KNOW THAT THE COURT IS NOT HAPPY WITH THAT DECISION. BUT,
9 OBVIOUSLY, IF THERE'S SOMETHING TO INVESTIGATE, WE'RE GOING
10 TO ASK FOR MORE TIME. AND WE WON'T KNOW UNTIL THE 7TH, SO
11 WE'RE SORT OF IN A LIMBO HOLDING PATTERN BY THE D.A.'S LACK
12 OF RESPONSE AND THE TIME IT WILL TAKE THE SHERIFFS,
13 UNDERSTANDABLY, TO COLLECT THE RECORDS.

14 SO I'M CONTENT FOR THE PRESENT TO PUT IT OVER TO
15 THE 7TH AND LEAVE OUR CALENDAR -- THAT WOULD BE SOMEWHERE
16 AROUND TWENTY-SOMETHING OF SIXTY.

17 MR. JACKSON: YOUR HONOR, THE DEFENSE IS SORT OF
18 REMARKABLE. THAT MS. SARIS WOULD CLAIM THAT THE DEFENSE IS
19 IN A POSITION OF DISADVANTAGE BY ME NOT HAVING RESPONDED
20 TODAY TO HER 402 MOTION, AND THAT'S EXACTLY WHAT THAT IS. I
21 MEAN, LET'S CALL A SPADE A SPADE. THIS IS AN IN LIMINE
22 MOTION THAT COULD BE HEARD ANY TIME BEFORE THE ISSUE ARISES
23 EVEN AFTER THE JURY IS PICKED.

24 SO EVERYTHING IN THAT MOTION REDOUNDS TO HER
25 BENEFIT. IF THE WITNESSES BY THE PEOPLE ARE EXCLUDED, IT
26 REDOUNDS TO THE DEFENDANT'S BENEFIT. IF I'M RECUSED, IT
27 REDOUNDS TO HER BENEFIT. SO I DON'T KNOW HOW SHE CAN SAY
28 SHE'S IN ANY WAY SUFFERING A DETRIMENT BY MY NOT HAVING

1 RESPONDED. I WAS VERY BUSY, AND I DID NOT HAVE A CHANCE TO
2 RESPOND TO IT. AND I SUGGEST IT WILL TAKE ME SOME TIME TO
3 RESPOND TO THAT MOTION.

4 IN ANY EVENT, THAT MOTION IN AND OF ITSELF
5 SHOULD NOT, AND COULD NOT, REASONABLY DELAY THIS TRIAL. THE
6 LACERA SITUATION MAY BE A LITTLE DIFFERENT. THE COURT HAS
7 SOME CONCERNS THAT IT HAS PUT ON THE RECORD CONCERNING
8 BRADY, POTENTIAL BRADY, MATERIAL. THAT'S A LITTLE
9 DIFFERENT. THAT MAY REQUIRE ADDITIONAL INVESTIGATION;
10 HOWEVER, I'M OPERATING ON THE OPTIMISTIC ASSUMPTION THAT
11 THAT INVESTIGATION BY THE COURT, VIS-A-VIE AN IN CAMERA
12 HEARING, WILL BE FRUITLESS.

13 I DON'T SEE ANY REASON AT THIS JUNCTURE NOT TO
14 SET A TRIAL DATE, AND I WOULD SUGGEST THE LAST TWO WEEKS OF
15 JULY, AND LET'S GET IT TRIED.

16 MS. SARIS: WE ALREADY HAVE A TRIAL DATE. THAT
17 DOESN'T ANSWER THE QUESTION. IF SEVEN WITNESSES ARE GOING
18 TO BE DIFFERENT, WE CAN'T DO THIS AFTER JURY SELECTION.
19 THIS IS A COMPLETELY DIFFERENT CASE TO TRY IF THE COURT
20 ISN'T GOING TO ALLOW THE FINANCIAL MATERIAL TO COME IN.

21 IF THE COURT ALLOWS IT TO COME IN, BY
22 DEFINITION, THE COURT HAS TO RECONSIDER THE RENEWAL BECAUSE
23 MR. JACKSON STOOD BEFORE THIS COURT AND ATTESTED THAT THE
24 FINANCIAL MATERIAL WAS IRRELEVANT.

25 THE COURT: WELL, THAT WAS THE ISSUE THAT I WANTED TO
26 RESOLVE BEFORE A TRIAL DATE. I AGREE THAT, TO THE EXTENT
27 THAT SOME OF THE WITNESS TESTIMONY IS, I GUESS, APPROPRIATELY
28 402 ISSUES, AS TO WHETHER OR NOT THEY CAN COME IN TO TESTIFY,

1 THAT'S A SEPARATE INQUIRY FROM, I THINK, THE LARGER ISSUE,
2 WHICH IS THE RENEWAL OF THE RECUSAL MOTION ON THE ASSUMPTION
3 THAT THE PEOPLE ARE GOING TO SEEK TO ADMIT THIS TESTIMONY.

4 MR. JACKSON: THAT DOESN'T CHANGE MS. SARIS'
5 POSITION. SHE NEEDS TO PREPARE THE TRIAL THE WAY SHE WANTS
6 TO. IF I'M RECUSED FIVE MINUTES BEFORE THE JURY IS SELECTED,
7 THEN GUESS WHO WINS IN THAT SCENARIO? THE DEFENDANT DOES,
8 NOT US.

9 THE COURT: WELL, YEAH.

10 MR. JACKSON: SO I DON'T SEE HOW MS. SARIS CAN CLAIM
11 THAT WE NEED TO RESOLVE ALL OF THESE ISSUES BEFORE SHE CAN
12 PREPARE HER CASE. SHE NEEDS TO PREPARE HER CASE THE WAY SHE
13 DOES IT.

14 THE COURT: THE PROBLEM IS, THOUGH, THE COURT HAS TO
15 MAKE ARRANGEMENTS TO GET A LARGE NUMBER OF POTENTIAL JURORS
16 SUMMONED TO THE COURT, AND THE COURT CAN'T DO THAT WITHOUT
17 KNOWING.

18 MR. JACKSON: ABSOLUTELY, JUDGE. DON'T MISINTERPRET
19 WHAT I WAS SAYING. I WAS USING AN EXAMPLE OF AFTER TRIAL
20 STARTED JUST TO KIND OF ENUNCIATE THE RULES BEHIND IN LIMINE
21 MOTIONS. I'M NOT BY ANY STRETCH SUGGESTING THAT WE WAIT TO
22 HEAR THIS MOTION UNTIL WE GET ON THE EVE OF TRIAL, NOT AT
23 ALL. I JUST NEED A LITTLE EXTRA TIME. I MAY EVEN BE ABLE TO
24 DO IT ON THE 7TH.

25 THE COURT: WHY DON'T WE TRY FOR THE 7TH. LET ME DO
26 THIS: I'M NOT GOING TO MAKE IT JUST A 1:30 IF COUNSEL IS
27 AVAILABLE BECAUSE THE ISSUES THAT ARE RAISED IN THIS NEW
28 RECUSAL MOTION ARE PRETTY COMPLICATED AND I WANT TO SPEND

1 SOME TIME ON IT. SO I'D LIKE TO HAVE MR. GOODWIN HERE, I'D
2 LIKE TO HAVE COUNSEL HERE IN THE MORNING. I CAN STILL HAVE
3 THE IN CAMERA MATTERS HANDLED AT 1:30 WITH THE OTHER
4 ATTORNEYS, BUT WHY DON'T WE SHOOT FOR THE 7TH IN THE MORNING?

5 MS. SARIS: FINE. IF WE RESOLVE THAT, CAN WE EXCUSE
6 MR. GOODWIN EARLIER --

7 THE COURT: YEAH, SURE.

8 MS. SARIS: -- IN THE AFTERNOON? PERFECT.

9 MR. JACKSON: AND, YOUR HONOR, I'VE PUT A LOT OF
10 EFFORTS TOWARD MAKING SURE ALL MY APPEARANCES HERE IN THIS
11 COURTROOM ARE FRUITFUL.

12 I UNDERSTAND, AND THIS COURT DOESN'T REALLY
13 CARE ABOUT THIS, BUT I HAVE OTHER OBLIGATIONS BETWEEN NOW
14 AND THE 7TH. THEY ARE A BIT OVERWELMING, THESE VIS-A-VIE
15 OTHER CASES. IF, IN FACT, I CANNOT SUBSTANTIALLY RESPOND TO
16 THE MOTION, I WILL CERTAINLY LET MS. SARIS KNOW. I DON'T
17 WANT HER TO SPIN HER WHEELS. AND I WILL CONTACT JENNIFER
18 AND THE COURT TO LET YOU KNOW THAT I CAN'T RESPOND IN A
19 TIMELY -- IN A FRUITFUL MANNER ON THE 7TH. I EXPECT I'LL BE
20 ABLE TO, BUT YOU -- I JUST WANT TO PUT THAT CAVEAT UP
21 THERE.

22 THE COURT: WELL, WHAT WE CAN DO IS I CAN ORDER MR.
23 GOODWIN BACK FOR THE 7TH. AND IF IT DEVELOPS THAT WE CAN
24 CONDUCT A HEARING ON THAT DATE, GREAT. IF NOT, WE CAN ALWAYS
25 CANCEL THE REMOVAL ORDER. I'LL TAKE A WAIVER NOW OF MR.
26 GOODWIN'S RIGHT TO BE PRESENT FOR THE PITCHESS BRADY ISSUES,
27 IF YOU WANT.

28 MS. SARIS: THAT'S FINE. THANK YOU.

1 THE COURT: ALL RIGHT.

2 MR. GOODWIN, DO YOU UNDERSTAND YOUR RIGHT TO BE
3 PRESENT WHEN THE COURT MAKES ITS RULING REGARDING THE IN
4 CAMERA PROCEEDINGS PURSUANT TO PITCHESS AND BRADY WITH
5 COUNSEL AND THE CUSTODIAN FOR LACERA IN THE SHERIFF'S
6 DEPARTMENT? DO YOU UNDERSTAND YOUR RIGHT TO BE PRESENT FOR
7 THAT?

8 THE DEFENDANT: YES, YOUR HONOR.

9 THE COURT: DO YOU WANT TO WAIVE AND GIVE UP YOUR
10 RIGHT TO BE PRESENT FOR THAT HEARING ON THE AFTERNOON OF JUNE
11 7?

12 THE DEFENDANT: YES, YOUR HONOR.

13 THE COURT: COUNSEL JOIN?

14 MS. SARIS: YES.

15 THE COURT: ALL RIGHT. I'LL FIND A WAIVER.

16 SO WHAT WE'LL DO, IF MR. JACKSON CAN'T RESPOND
17 TO THE MOTION, WE'LL VACATE THE MORNING OF THE 7TH AND JUST
18 RESUME AT 1:30 WITH THE IN CAMERA.

19 MR. JACKSON: AND WE'RE CURRENTLY SET?

20 MS. SARIS: THE 7TH IS SEVENTEEN OF SIXTY, I BELIEVE.

21 THE COURT: IT WILL BE SEVENTEEN OF SIXTY?

22 MS. SARIS: YES.

23 THE COURT: WHAT'S THE LAST DAY?

24 MS. SARIS: MY UNDERSTANDING IS IT'S JULY 17, OR
25 ACTUALLY IT'S THE 15TH OR 16TH, WHICH IS A WEEKEND.

26 MR. JACKSON: I THOUGHT IT WAS THE 19TH. THAT'S WHAT
27 I WANTED TO CLARIFY.

28 MS. SARIS: I THINK MAY 19 IS ZERO OF SIXTY.

1 SO PERHAPS, MR. JACKSON, I MEAN, AND THE WHOLE
2 DISTRICT ATTORNEY'S OFFICE WILL BE OFF THE HOOK. AND WE'LL
3 GET DISCOVERY AND ASK FOR THE CONTINUANCE ON THE 7TH, BUT
4 I'LL ASK THE COURT TO URGE MR. JACKSON TO RESPOND BY THE 7TH
5 SIMPLY BECAUSE THIS COULD CHANGE THE WHOLE FACE OF OUR
6 TRIAL. AND I THINK THAT, ASKING US TO GO THAT CLOSE TO THE
7 THIRTY OF SIXTY WITHOUT KNOWING WHO THE WITNESSES ARE AND
8 THE D.A. -- IT'S A LITTLE MUCH.

9 I APPRECIATE THE FACT THAT HE HAS OTHER CASES,
10 BUT CLEARLY, WE'RE WILLING TO HEAR, TO HAVE A BAIL MOTION
11 HEARD ANY TIME MR. JACKSON'S CASE HAS BECOME TOO
12 OVERWHELMING AND HE WANTS MORE TIME.

13 MR. JACKSON: THAT'S CUTE. BUT I WOULDN'T COUNT ON ME
14 NOT BEING HERE.

15 THE COURT: LET ME SEE COUNSEL AT THE BENCH REGARDING
16 SCHEDULING.

17 (SIDEBAR CONFERENCE HELD AT THE
18 BENCH OUT OF THE HEARING OF THE REPORTER.)

19
20 THE COURT: BACK ON THE RECORD THEN ON THE GOODWIN
21 MATTER.

22 I HAD A DISCUSSION WITH COUNSEL AT THE BENCH
23 REGARDING SOME OF THE COURT'S CONCERNS WITH RESPECT TO
24 SCHEDULING AND FINDING A COURT THAT IS GOING TO TRY THIS
25 CASE. THE COURT WILL SIMPLY PUT ON THE RECORD WHAT THE COURT
26 SAID AT THE BENCH, THAT THIS COURT IS AVAILABLE AND WILL WORK
27 WITH BOTH COUNSEL. WE HAVE SOME OTHER COURTS THAT MAY BE
28 AVAILABLE DEPENDING ON WHEN THIS CASE STARTS.

1 ALL OF THOSE THINGS WILL BE CONSIDERED, AND WE
2 WILL DISCUSS THEM FURTHER ON JUNE 7, SO WE'LL SEE EVERYBODY
3 BACK HERE JUNE 7. I'LL HOPE FOR THE BEST WITH RESPECT TO A
4 RESPONSE.

5 AND IS THERE ANYTHING ELSE WE NEED TO DO TODAY?

6 MR. JACKSON: I THINK THAT COVERS IT.

7 MS. SARIS: I SUBMITTED COURT ORDERS THAT NEED TO BE
8 SIGNED AGAIN.

9 THE CLERK: I HAVE THEM.

10 MS. SARIS: THANK YOU.

11 MR. JACKSON: THANK YOU, YOUR HONOR.

12 THE COURT: THANK YOU. SEE YOU JUNE 7.

13 (PROCEEDINGS ADJOURNED TO CONTINUE ON 6-7-06.)
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, JUNE 7, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: ON THE RECORD IN THE GOODWIN MATTER.
16 MR. GOODWIN HAS WAIVED HIS PRESENCE FOR THIS AFTERNOON'S
17 PROCEEDINGS. MR. JACKSON IS HERE. MS. SARIS IS HERE.
18 AND WE HAVE COUNSEL FOR THE LACERA.

19 MR. CASTRONOVA: YES. FOR L.A. COUNTY EMPLOYEES
20 RETIREMENT ASSOCIATION BY JAMES J. CASTRONOVA.

21 MS. SARIS: MR. BOWERS AND THE CUSTODIAN ARE IN
22 THE HALLWAY.

23 THE COURT: OKAY.

24 MR. JACKSON: YOUR HONOR, IF I COULD ADDRESS THE
25 COURT BRIEFLY.

26 THE COURT: YES.

27 MR. JACKSON: THIS DOESN'T HAVE ANYTHING TO DO
28 WITH THE PITCHESS MATERIALS THAT COUNSEL WILL BE DEALING

1 WITH TODAY AND THE COURT WILL BE DEALING WITH TODAY. I
2 SIMPLY WANTED TO STOP BY AND ASK THE COURT IF IT WOULD
3 MAKE AVAILABLE TO ME, GIVEN MS. SARIS'S MOTION, HER
4 RENEWED MOTION FOR RECUSAL AND IN THE ALTERNATIVE TO
5 EXCLUDE CERTAIN WITNESSES -- AFTER I SORT OF GOT INTO
6 MS. SARIS'S MOTION AND BEGAN ANALYZING IT AND DECIDING
7 HOW I NEEDED TO RESPOND AND WHAT INFORMATION I THINK THE
8 COURT NEEDS IN ORDER TO MAKE A REALISTIC DETERMINATION OF
9 THE SUPPOSITIONS MADE BY THE DEFENSE, I HAVE TO BE ABLE
10 TO ADDRESS THE SPECIFIC ITEMS OR AT LEAST SOME OF THE
11 SPECIFIC ITEMS THAT MS. SARIS KIND OF BROADLY AND
12 GENERALLY REFERENCES.

13 I'M GOING TO ASK THE COURT IF IT'S OKAY IF
14 I RETRIEVE, ONCE AGAIN, THE PRIVILEGED DOCUMENTS THAT I
15 HAD IN MY POSSESSION PREVIOUSLY AND HAVE SUBMITTED BACK
16 TO THE COURT THAT ARE BEING HELD UNDER SEAL WITH THE SAME
17 STIPULATIONS, I'M NOT GOING TO GIVE THEM TO ANYBODY ELSE.

18 IF I UTILIZE ANYBODY IN THE OFFICE TO HELP
19 ME, IT WILL BE A LAW CLERK WHO IS ON A TEMPORARY BASIS.
20 I DON'T EVEN KNOW THAT I'M GOING TO NEED A LAW CLERK IN
21 THIS PARTICULAR INSTANCE. I JUST -- I DON'T HAVE THEM
22 AND MS. SARIS MAKES SOME KIND OF -- WITH A SHOTGUN
23 APPROACH MAKES SOME BROAD GENERALIZATION. AND SINCE I'VE
24 GIVEN THEM BACK AND I DON'T HAVE THEM MEMORIZED, I DON'T
25 KNOW HOW TO RESPOND WITH THAT. I DON'T KNOW HOW TO
26 RESPOND.

27 THE CLERK: THE SPECIAL MASTER BOX.

28 THE COURT: BUT WE MARKED SOME OTHER ITEMS. I

1 KNOW WE MARKED EXHIBITS AND WE MARKED THE REDACTED AND
2 THE UNREDACTED. SO I'M GOING TO ASSUME --

3 MS. SARIS: I'M GOING TO OBJECT.

4 THE COURT: I JUST WANT TO MAKE SURE I HAVE THE
5 RIGHT --

6 THE CLERK: I'M GOING TO GO GRAB --

7 THE COURT: BECAUSE THERE IS A BOX IN MY CHAMBERS
8 AND THE CLERK WILL GO GET IT.

9 SO DO YOU WANT TO RESPOND?

10 MS. SARIS: YES, YOUR HONOR. MR. JACKSON WAS
11 VERY CLEAR IN HIS RESPONSE THAT THEY ARE IRRELEVANT. IT
12 WASN'T A MATTER OF GOING THROUGH AND TALKING ABOUT THE
13 CONTENTS AND HOW HE WOULD OR WOULD NOT USE MATERIAL
14 DERIVATIVE OF THOSE LETTERS. HE HAD THEM IN HIS
15 POSSESSION. HE MADE THE ARGUMENT THAT THEY WERE
16 IRRELEVANT. THE COURT HAS MY SPECIFIC PAGE BY PAGE --

17 THE COURT: ONE SECOND.

18 (PAUSE IN PROCEEDINGS.)

19 THE COURT: I HAVE A BOX HERE THAT HAS A NUMBER
20 OF TRANSCRIPTS ON TOP --

21 THE CLERK: THIS ISN'T PART OF THIS. THIS IS
22 WHAT MR. JACKSON ACTUALLY SUBMITTED.

23 MR. JACKSON: THAT'S FOR THE COURT. THOSE ARE
24 ATTACHMENTS TO ANOTHER RESPONSE THAT I MADE. THE ONLY
25 THING THAT I NEED, JUDGE, UNLESS THE COURT HAS TAKEN THE
26 BLUE SHEETS OFF, IS A STACK OF DOCUMENTS THAT MS. SARIS
27 CLAIMED WERE PRIVILEGED. AND I SEPARATED THEM, I THINK,
28 INTO SEVEN OR EIGHT STACKS AND SEPARATED THEM BY BLUE

1 SHEETS.

2 THE CLERK: RIGHT. THE BLUE SHEETS WITH THE
3 NUMBERS ON IT.

4 MR. JACKSON: THAT'S ALL I NEED.

5 THE COURT: BUT I THOUGHT GEORGE BIRD PROVIDED TO
6 US DURING THE IN CAMERA ADDITIONAL --

7 MR. JACKSON: JUST THOSE, THAT'S WHAT HE PROVIDED
8 YOU.

9 THE COURT: WELL, HE GAVE ME REPORTS.

10 THE CLERK: THAT'S THIS ONE RIGHT HERE. THIS IS
11 THE INDEX. SO THIS WASN'T IN HERE BEFORE. I THINK HE
12 JUST HAD THE ONE WITH THE BLUE MARKINGS BECAUSE THIS IS
13 WHAT WE RELEASED TO HIM THE LAST TIME.

14 THE COURT: SO WE'RE GOING TO PULL OUT OF THE BOX
15 THE OTHER --

16 THE CLERK: THE INDEX.

17 THE COURT: -- THE OTHER MARKED ITEMS. AND THE
18 SUBJECT OF THIS REQUEST IS WHAT IS IN THIS BOX, WHICH WAS
19 IN MY CHAMBERS SINCE IT WAS RETURNED TO ME BY MR. BIRD
20 WHO IS OUR SPECIAL MASTER.

21 MR. JACKSON: AND MY CONCERN, YOUR HONOR, THESE
22 AREN'T DOCUMENTS THAT MS. SARIS CLAIMED WERE PRIVILEGED.
23 THIS IS WHAT MR. BIRD HAS DETERMINED ARE PRIVILEGED.

24 MS. SARIS: I HAVE SUBMITTED TO THIS COURT UNDER
25 SEAL A PAGE-BY-PAGE ANALYSIS OF WHY THOSE LETTERS WOULD
26 BE RELEVANT. COUNSEL STOOD UP VERY CLEARLY, VERY
27 ABRUPTLY, VERY CURTLY AND VERY AUTHORITATIVELY AND SAID
28 THEY WERE IRRELEVANT.

1 I NOTICED THIS MOTION FOR MAY 19TH. FOR
2 HIM TO COME ON JUNE 7TH AND ASK FOR THE DOCUMENTS AGAIN,
3 WHICH IS A SLAP IN THIS COURT'S FACE AND OURS THAT HE
4 HASN'T EVEN BEGUN WRITING THE RESPONSE. I HEAR EVERY
5 TIME I COME HOW MUCH THEY WANT TO DO THIS TRIAL. SO
6 THERE IS THAT LEVEL. AND THE SECOND LEVEL IS THESE ARE
7 PRIVILEGED DOCUMENTS.

8 WE HAVE TAKEN 600 SOME PAGES OUT OF THE
9 40,000, WE'VE FILTERED THEM. WE HAVE ALREADY SHOWN A
10 SPOTLIGHT ON THEM ANYWAY. COUNSEL HAD HIS OPPORTUNITY TO
11 ARGUE. HE MADE IT VERY CLEAR ON THE RECORD THAT THEY
12 WERE IRRELEVANT. I'M ASKING THAT HE BE ORDERED TO
13 RESPOND BASED ON HIS PRIOR RESPONSE. HE IS NOW CHANGING
14 HIS MIND.

15 MR. JACKSON: SO COUNSEL IS ACTUALLY ASKING --
16 THIS IS THE FIRST TIME IN MY CAREER I'VE HEARD THIS.
17 SHE'S ASKING THAT I RESPOND WITHOUT BEING ABLE TO
18 RESPOND?

19 MS. SARIS: ACTUALLY, HE'S ALREADY RESPONDED.

20 MR. JACKSON: THAT'S INCREDIBLY NOVEL.

21 MS. SARIS: I'M ASKING TO RESPOND TO THE RESPONSE
22 HE'S MADE.

23 MR. JACKSON: ACTUALLY, THAT'S NOT TRUE. COUNSEL
24 HAS SUBMITTED A NEW AND DIFFERENT MOTION.

25 THE COURT: THIS IS THE WAY I VIEW IT. I NEED
26 COUNSEL TO RESPOND TO YOUR MOTION. AND HE WANTS TO
27 RESPOND TO YOUR MOTION. IF HE'S TELLING ME HE CAN'T
28 RESPOND WITHOUT THE DOCUMENTS, I'M GOING TO GIVE HIM THE

1 DOCUMENTS.

2 MR. JACKSON: THANK YOU, YOUR HONOR.

3 THE COURT: IT MAY BE THAT IF YOUR MOTION IS
4 SUCCESSFUL AND IS GRANTED, IT WILL HAVE NO EFFECT. I
5 DON'T KNOW WHAT THE RESULT WILL BE. IF I DENY THE
6 MOTION, THAT PUTS US IN ANOTHER PRECARIOUS SITUATION.

7 MS. SARIS: WELL, COULD PERHAPS --

8 THE COURT: BUT BE THAT AS IT MAY, THE PEOPLE
9 HAVE A RIGHT TO RESPOND TO YOUR MOTION AND TO LOOK AT THE
10 MATERIAL THAT YOU ARE CLAIMING IS THE SUBJECT MATTER OF
11 THIS MOTION.

12 YOU ARE ALSO ASKING IN THE ALTERNATIVE TO
13 RECUSE THE PEOPLE, AGAIN, IN ADDITION TO SUPPRESSING OR
14 EXCLUDING THE EVIDENCE. SO I DON'T KNOW HOW A PROSECUTOR
15 RESPONDS TO A MOTION TO EXCLUDE EVIDENCE WITHOUT KNOWING
16 WHAT THE EVIDENCE IS.

17 AND I THINK IT'S A FAIR REQUEST ON THE
18 PART OF MR. JACKSON. WHERE IT GETS US AT THE END OF
19 THIS, I'M NOT GOING TO WORRY ABOUT TODAY BECAUSE HE IS
20 TODAY ENTITLED TO THIS INFORMATION.

21 MS. SARIS: MY ONLY CONCERN, JUDGE, IS THAT WE
22 LITIGATED THIS ISSUE FOR THE BETTER PART OF EIGHT TO NINE
23 MONTHS. AT THAT TIME, AS I SAID, VERY DISMISSIVELY
24 COUNSEL SAID IT WAS IRRELEVANT. ON MAY 19TH I ASKED FOR
25 THIS MOTION TO BE HEARD. IT'S JUNE 7TH. THERE IS NO
26 RESPONSE.

27 IS THE COURT GOING TO LIMIT THE TIME FOR
28 RESPONSE? CAN WE HAVE SOME INDICATION OF WHEN A WRITTEN

1 RESPONSE WILL BE DUE IF THIS MATERIAL IS TURNED OVER?
2 AND SECOND, BASED ON THE FACT THAT THE DISTRICT ATTORNEY
3 HAS NOW PUT ON NEW WITNESSES THAT THEY DID NOT CALL AT
4 THE PRELIMINARY HEARING THAT THEY HAD PREVIOUSLY
5 INDICATED TO THIS COURT TO BE IRRELEVANT, WOULD YOUR
6 RULING UNDER 1424 CHANGE?

7 AND SHOULD I NOTICE THE SPECIAL -- THE
8 ATTORNEY GENERAL FOR THE NEXT COURT HEARING THAT WE HAVE
9 TO HEAR THIS IF ANY OF YOUR RULING UNDER 1424 AS BASED ON
10 ACCEPTING THE DISTRICT ATTORNEY'S POSITION THAT THESE
11 LETTERS ARE IRRELEVANT, NOW THE LETTERS ARE SUDDENLY
12 RELEVANT. I'M NOT SURE IN TERMS OF TIME --

13 THE COURT: I DON'T KNOW THAT THEY ARE RELEVANT.
14 I THINK YOU ARE MAKING A REQUEST TO EXCLUDE THE EVIDENCE
15 AND IN THE ALTERNATIVE TO RECUSE. I DON'T KNOW IF THE
16 PEOPLE ARE PLANNING ON USING THE INFORMATION THAT YOU ARE
17 SEEKING TO SUPPRESS. IF THEY ARE AND THEY DON'T HAVE ALL
18 OF IT, I'M GOING TO GIVE IT BACK TO THEM. IF THEY
19 AREN'T, THEN YOUR MOTION IS MOOT, ISN'T IT?

20 MR. JACKSON: IT APPEARS TO ME AND I WANT TO MAKE
21 SURE ON A -- I DON'T KNOW HOW MS. SARIS IS GETTING FROM
22 POINT A TO POINT B. IT'S THE MOST SEQUITOUS ARGUMENT
23 I'VE EVER HEARD IN MY LIFE. I DIDN'T SAY THE ITEMS THAT
24 THE COURT HAS ARE RELEVANT. THAT'S NOT MY POINT. I
25 DON'T KNOW HOW MUCH MORE CLEARLY I CAN SAY IT.

26 IN HER MOTION SHE IS NOW SAYING THINGS
27 THAT I EARLIER ARGUED ARE NOW SOMEHOW IMPACTED ON A
28 WITNESS LIST THAT I HAVE. SOME OF THE WITNESSES I MAY

1 CALL, SOME OF THEM I MAY NOT CALL. I DON'T KNOW. BUT
2 SHE IS SAYING, OH, LOOK AT THESE DOCUMENTS THAT HE SAID
3 WERE IRRELEVANT. THERE IS REFERENCE TO HIS -- LET'S PICK
4 A NAME JOHN GATES, FOR INSTANCE. WELL, JUDGE, I DON'T
5 HAVE THE DOCUMENT. I DON'T KNOW WHAT LETTER SHE IS
6 TALKING ABOUT.

7 AND SHE, ONCE AGAIN, CONSISTENT WITH HER
8 OTHER MOTIONS, SHE DIDN'T ATTACH MUCH OF ANYTHING. SHE
9 DIDN'T MAKE ANY SPECIFIC ARGUMENTS. IT WAS JUST BROAD
10 BASED. AND SO I'M NOT CONCEDING THAT THOSE LETTERS ARE
11 RELEVANT. I JUST NEED TO LOOK AT THEM TO SEE WHAT SHE'S
12 TALKING ABOUT. THAT'S ALL.

13 THE COURT: IT SEEMS LIKE A FAIR REQUEST. I
14 DON'T KNOW HOW TO RULE ON A MOTION THAT'S FILED BY THE
15 DEFENSE THAT THE PEOPLE SAY THEY CAN'T RESPOND TO.

16 MS. SARIS: NO, I COMPLETELY UNDERSTAND THE
17 REQUEST. EXCEPT FOR IN LIGHT OF THE FACT THAT THEY HAVE
18 ALREADY SAID THAT THESE LETTERS HAVE NOTHING TO DO WITH
19 ANYTHING. I'M FINE. MY OBJECTION HAS BEEN NOTED FOR THE
20 RECORD. IF THE COURT WANTS TO GIVE THEM BACK.

21 THE ATTACHMENTS I MADE WERE UNDER SEAL AND
22 THE COURT HAS THOSE. SO THE COURT HAS HAD THE
23 ATTACHMENTS AND MY LETTERS AND MY ANALYSIS FROM THE
24 BEGINNING OF THIS MOTION. I WOULD ASK THAT WHEN HE COMES
25 UP WITH A DATE BY WHICH -- I MEAN MR. GOODWIN IS NOT
26 HERE. HE SEEMS TO BE AT THE BOTTOM OF ALL THE OTHER
27 DISTRICT ATTORNEY'S RESPONSIBILITIES IN TERMS OF CASES.
28 AND I'M URGING -- ASKING THIS COURT TO URGE THE DISTRICT

1 ATTORNEYS -- WE ANTICIPATE TRYING THIS CASE THIS SUMMER.

2 WE ARE MORE THAN WILLING TO ACCOMMODATE
3 VACATION SCHEDULES OF THIS COURT AND GO INTO AUGUST. BUT
4 AT THIS POINT WE'RE NOT WILLING TO GO INTO SEPTEMBER AND
5 OCTOBER. AND IT'S UNFAIR TO ON THE ONE HAND DELAY THE
6 HEARING OF A MOTION FOR FOUR MONTHS OR TWO MONTHS AND
7 THEN TO TURN AROUND AND SAY YOU SHOULD BE READY TO GO.

8 WE STILL HAVE OUTSTANDING DISCOVERY. THE
9 DETECTIVE IS NOT RETURNING MY CALLS TO RECEIVE THE
10 PHYSICAL EVIDENCE. SO THERE IS ALL THESE THINGS THAT ARE
11 STILL HAPPENING THAT I NEED A TIME LINE ON THAT'S GOING
12 TO BE A DATE CERTAIN.

13 THE COURT: LET ME ASK MR. JACKSON, WHEN CAN YOU
14 FILE A RESPONSE?

15 MR. JACKSON: I EXPECT THAT I'LL BE ABLE TO --
16 TODAY IS THE 7TH, I EXPECT IF WE PUT IT OVER FOR TWO
17 WEEKS, MEANING AROUND TWO WEEKS FROM NOW. COUNSEL HAD
18 ASKED FOR THE 19TH AND I HAVE NO PROBLEM TRYING TO
19 ACCOMMODATE HER AND HER SCHEDULE. I'VE TRIED TO BE AS
20 ACCOMMODATING AS I COULD FOR THE LAST TWO YEARS. I WILL
21 CONTINUE TO DO SO. I ASKED HER OFF OF THE RECORD IF WE
22 COULD DO IT ON THE 20TH, TUESDAY INSTEAD OF MONDAY,
23 THAT'S A BETTER DATE FOR MYSELF AND MR. DIXON.

24 SHE INDICATED OFF THE RECORD THAT SHE'S
25 NOT HAPPY WITH THAT. THAT WOULD BE MY REQUEST, THE 20TH.
26 I THINK I CAN HAVE SOMETHING SUBSTANTIVE IN THE COURT'S
27 HANDS SEVERAL DAYS IN ADVANCE OF THAT SO THE COURT CAN
28 ABSORB WHATEVER IT IS THAT I SUBMIT.

1 THE COURT: OKAY. IS THERE A PROBLEM WITH THAT?

2 MS. SARIS: I HAVE SOMETHING ON THE 20TH. I CAN
3 RESCHEDULE IT. YOUR CLERK INDICATED TO ME THE 19TH WAS
4 BETTER THAN THE 20TH AS WELL FOR YOUR CALENDAR. AND I
5 HAVE A FEELING IF THIS IS GOING TO BE LITIGATED, IT'S
6 GOING TO TAKE SOME TIME. MR. GOODWIN IS SET TO RETURN ON
7 THE 19TH AND I HAVE A SERIES OF MEDICAL RECORDS TO --

8 THE COURT: YES. LET ME DO THIS, WE ALREADY HAVE
9 A TIME WAIVER UNTIL JULY 15TH; RIGHT?

10 MR. JACKSON: JULY 19TH.

11 THE COURT: JULY 19TH?

12 MR. JACKSON: I BELIEVE SO, JUDGE.

13 MS. SARIS: NO. WHAT DO YOU MEAN A "TIME
14 WAIVER"?

15 MR. JACKSON: MEANING THE TRIAL DATE.

16 MS. SARIS: LAST DAY IS JULY 17TH, BUT WE DON'T
17 HAVE ANOTHER COURT DATE AT ALL.

18 THE COURT: WELL, I HAVE LAST DAY JULY 15TH. AND
19 I THOUGHT --

20 MS. SARIS: THAT'S A SATURDAY.

21 MR. JACKSON: THAT'S WHY IT'S THE 17TH.

22 THE COURT: I'M SORRY. AND I THOUGHT MY CLERK
23 INDICATED WE HAD SET SOMETHING FOR THE 19TH. MAYBE
24 I'M IN ERROR.

25 THE CLERK: I HAD IT SET FOR THE 19 BECAUSE WHEN
26 THEY CALLED ME I HAD TO -- HE WAS ORDERED OUT FOR TODAY
27 AND I HAD TO GIVE ANOTHER DATE. I ASKED MS. SARIS TO TRY
28 TO COORDINATE WITH THE PEOPLE SO I COULD PICK A DATE TO

1 BRING HIM BACK AND NOT HAVE TO KEEP RESCHEDULING.

2 MS. SARIS: AND I TRIED AND MY MESSAGES WENT
3 UNRETURNED, SO I PICKED THE 19TH.

4 THE CLERK: AND AT THE TIME I HAD CHECKED THE
5 CALENDAR THE 19TH WAS A BETTER DATE.

6 THE COURT: BUT THE LAST DAY IS THE 17TH.

7 MR. JACKSON: THAT'S RIGHT. IT WAS MY MISTAKE.
8 I THOUGHT IT WAS THE 19TH. IT WAS THE 17TH.

9 THE COURT: SO WE CAN'T AGREE ON A DATE; IS THAT
10 RIGHT? THE 19TH OR THE 20TH, YOU CAN'T DO THE 20TH?

11 MS. SARIS: I CAN DO THE 20TH. IT WAS YOUR
12 CALENDAR THAT CONCERNED ME ON THE 20TH AS WELL.

13 THE COURT: I DON'T CARE. DID THEY HAVE SOME
14 SPECIAL DEFENDANT --

15 THE CLERK: AT THE TIME I TALKED TO HER THE
16 19TH --

17 THE COURT: NOW THEY ARE ALL BAD?

18 THE CLERK: NOW THEY'RE ALL BAD.

19 MR. JACKSON: WELL, IF THE 20TH WOULD WORK, I
20 WOULD APPRECIATE IT, JUDGE.

21 THE COURT: THAT'S A GREAT DAY. ALL RIGHT. AND
22 I WILL TAKE A LOOK AT WHATEVER IT IS THE PEOPLE ARE GOING
23 TO FILE. BUT THE RECORD SHOULD REFLECT THAT I'M
24 RETURNING TO MR. JACKSON THE BOX IN ITS ENTIRETY THAT
25 CONTAINED ALL OF THE MATERIAL.

26 SOME OF WHICH IS THE SUBJECT OF THE
27 MOTION, SO I'LL DO THAT. AND WE WILL SCHEDULE A HEARING
28 FOR JUNE 20TH. LET'S SCHEDULE IT IN THE MORNING SINCE WE

1 ARE GOING TO ORDER MR. GOODWIN OUT.

2 AND AT THAT TIME, WE WILL HAVE TO DEAL
3 WITH THE REMAINING ISSUES AND TRIAL DATE. AND AFTER I DO
4 MY CUSTODIES, I WANT TO GO IN CAMERA ON THE OTHER
5 MATTERS. SO THANK YOU, MR. JACKSON. WE WILL SEE YOU ON
6 THE 20TH. AND I'LL LOOK FORWARD TO GETTING YOUR
7 RESPONSE, HOPEFULLY --

8 MR. JACKSON: THE WEEK BEFORE THAT I WOULD
9 ASSUME.

10 THE COURT: OKAY. THAT WOULD BE GREAT. THANK
11 YOU.

12 MR. JACKSON: THANK YOU, YOUR HONOR.

13 MS. SARIS: AND I JUST HAVE MEDICAL ORDERS TO
14 SUBMIT.

15 (PAUSE IN PROCEEDINGS.)

16 THE COURT: COUNSEL FOR LACERA IS HERE. I WANT
17 THE RECORD TO REFLECT THAT I REVIEWED THE ENTIRE FILE
18 THAT WAS PRESENTED TO ME ON THE 24TH, I THINK IT WAS. I
19 WENT THROUGH AND I PAPER CLIPPED AND PUT POST-ITS ON THE
20 PORTIONS THAT I FEEL SHOULD BE DISCLOSED. I'M GOING TO
21 GIVE THIS BACK TO YOU COUNSEL, MR. CASTRONOVA. AND I
22 WILL ASK YOU TO TAKE A LOOK AT IT. AND THEN WE CAN
23 DISCUSS IT IN A FEW MINUTES. THANK YOU.

24 MR. CASTRONOVA: THANK YOU.

25 (PAUSE IN PROCEEDINGS.)

26 THE COURT: RECALLING THE MICHAEL GOODWIN MATTER.
27 WE ARE DEALING WITH BASICALLY SOME PITCHESS ISSUES.
28 MR. CASTRONOVA FROM LACERA PROVIDED THE COURT WITH A

1 PACKAGE OF MATERIAL THAT INVOLVED DEPUTY GRIGGS'
2 RETIREMENT. AND I WENT THROUGH IN CAMERA THE
3 DOCUMENTATION PROVIDED. I MARKED, SEPARATED BY POST-IT
4 AND PAPER CLIP THE PORTIONS THAT I FELT SHOULD BE
5 DISCLOSED. AND I ASKED MR. CASTRONOVA TO REVIEW THAT
6 MATERIAL.

7 DO YOU, SIR, HAVE ANY OBJECTION TO THE
8 COURT ORDERING THE DISCLOSURE OF THAT MATERIAL TO DEFENSE
9 COUNSEL?

10 MR. CASTRONOVA: I CONTINUE TO OPPOSE THE MOTION.
11 HOWEVER, IF YOUR HONOR SIGNS A MINUTE ORDER, WE WILL TURN
12 OVER THAT INFORMATION. I CAN UNDERSTAND WHY THE COURT IS
13 DOING WHAT THEY'RE DOING.

14 THE COURT: THE DOCUMENTS ARE THERE. THEY APPEAR
15 TO RELATE TO SOME OF THE THINGS THAT WERE SAID ABOUT --

16 MR. CASTRONOVA: SINCE MR. GRIGGS HAS INDICATED
17 HE OPPOSES IT, I'M JUST DOING THAT ON HIS BEHALF.

18 THE COURT: AND THEY ARE OTHERWISE PRIVILEGED, SO
19 I'M JUST GOING TO INCORPORATE YOUR PREVIOUS OBJECTIONS AS
20 NOTED ON THE RECORD. MY RULING IS THE SAME. I WENT IN
21 CAMERA AND THE COURT IS ORDERING DISCLOSURE OF THE
22 MATERIAL THAT HAS BEEN MARKED. WHAT I'M GOING TO ASK YOU
23 TO DO, MR. CASTRONOVA -- I DON'T KNOW IF YOU HAVE ANOTHER
24 COPY.

25 MR. CASTRONOVA: I DO.

26 THE COURT: IF YOU CAN RETURN TO ME THE ENTIRE
27 PACKAGE I GAVE TO YOU. AND IF YOU COULD ISOLATE OUT FROM
28 YOUR COPY THE PORTIONS THAT I'M ORDERING DISCLOSED SO

1 THAT I CAN KEEP THE PACKAGE AS AN EXHIBIT FOR APPELLATE
2 REVIEW, IF NECESSARY. I GUESS WHAT ARE WE UP TO IN
3 EXHIBITS --

4 JENNIFER, DO YOU HAVE ANY IDEA?

5 THE CLERK: WE HAVE SPECIAL MASTERS.

6 THE COURT: LET'S CALL IT COURT'S EXHIBIT FOR
7 LACERA PITCHESS -- I GUESS PITCHESS SLASH BRADY, HOW IS
8 THAT? SO WE WILL CALL THAT COURT'S EXHIBIT 1, LACERA
9 PITCHESS SLASH BRADY.

10 MR. CASTRONOVA: AND I'LL RECEIVE A MINUTE ORDER
11 TO THAT EFFECT?

12 THE COURT: YOU CAN GET A MINUTE ORDER IN --

13 HOW LONG?

14 THE CLERK: I HAVE TO WAIT UNTIL WE'RE DONE WITH
15 EVERYTHING BEFORE I CAN --

16 THE COURT: SO IF YOU JUST STAND BY.

17 MR. CASTRONOVA: OKAY.

18 THE CLERK: I'LL JUST FAX HIM ONE. HE'S GOING TO
19 GIVE IT TO HER?

20 MR. CASTRONOVA: I ALREADY DID.

21 THE COURT: AND THEN HE WILL GIVE ME PACKET?
22 OKAY.

23 MR. CASTRONOVA: YES.

24 THE COURT: OKAY. VERY GOOD. THANK YOU.

25 (PAUSE IN PROCEEDINGS.)

26 THE COURT: AND THEN WE HAVE THE SUBJECT MATTER
27 OF THE SHERIFF'S DEPARTMENT THIRD PITCHESS REQUEST THAT
28 THE COURT ORDERED AN IN CAMERA ON.

1 MR. BOWERS: YES, IT DID.

2 THE COURT: THE CUSTODIAN IS HERE?

3 MR. BOWERS: YES, YOUR HONOR.

4

5 (WHEREUPON AN IN CAMERA PROCEEDING WAS

6 HELD, NOT TRANSCRIBED HEREIN.)

7 (PAGES U-16 THROUGH U-21.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, JUNE 7, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE
13 PEOPLE OF THE STATE OF CALIFORNIA.
14

15 THE COURT: ALL RIGHT. LET ME GO BACK ON THE
16 RECORD ON THE GOODWIN MATTER. THE COURT HAS CONDUCTED AN
17 IN CAMERA REVIEW WITH THE CUSTODIAN OF RECORDS AND
18 COUNSEL FOR THE SHERIFF'S DEPARTMENT. IT APPEARS THAT
19 THERE IS NOTHING TO BE ORDERED DISCLOSED. HOWEVER, THERE
20 WAS A LARGE STACK OF MATERIAL; AND I DID NOT HAVE AN
21 OPPORTUNITY TO GO THROUGH PAGE BY PAGE THE MATERIAL.

22 I HAVE ASKED THE SHERIFF'S DEPARTMENT TO
23 GO THROUGH IT AND TO NARROW IT DOWN BECAUSE A LOT OF THE
24 INFORMATION PERTAINS TO A TIME PERIOD PRIOR TO THE CRIMES
25 INVOLVED IN THIS CASE, THE MURDERS IN THIS CASE. AND
26 THEY HAVE AGREED TO DO THAT.

27 AND NEXT FRIDAY THE 16TH I'M GOING TO ASK
28 THEM TO COME BACK WITH THE REDACTED PORTION AND I WILL

1 REVIEW IT IN CAMERA. BUT I LOOKED BRIEFLY AT THE
2 MATERIAL AND I DON'T THINK THERE IS ANYTHING TO BE
3 ORDERED DISCLOSED. BUT I WILL MAKE SURE THAT I'M CERTAIN
4 OF THAT ON THE 16TH. SO THE SHERIFF'S DEPARTMENT HAS
5 AGREED TO DO THAT, SO THANK YOU. WE WILL SEE YOU THEN.

6 MR. JACKSON: THANK YOU, YOUR HONOR.

7 MS. SARIS: AND, OF COURSE, YOUR HONOR, IT'S OUR
8 REQUEST -- NOT TO MAKE MORE WORK FOR THE COURT -- BUT
9 THAT THE COURT REVIEW IT PAGE BY PAGE.

10 THE COURT: I DON'T HAVE TIME TO REVIEW THE WHOLE
11 PACKAGE.

12 MS. SARIS: NOT TODAY.

13 THE COURT: BUT ON THE 16TH, YOU WANT ME TO
14 REVIEW FROM 1969 FORWARD?

15 MS. SARIS: MAYBE NOT 1969 FORWARD.

16 THE COURT: 1988 FORWARD? THAT'S WHAT I'M TRYING
17 TO DO. BECAUSE THE MATERIAL IS BASICALLY THE ENTIRE
18 FILE. SO THEY'RE GOING TO TAKE IT FROM 1988, THE DAY OF
19 OR SHORTLY BEFORE THE THOMPSON MURDERS, UP UNTIL THE DATE
20 OF DETECTIVE GRIGGS' RETIREMENT. AND THAT'S WHAT I'M
21 GOING TO GO THROUGH PAGE BY PAGE. SO WE WILL SEE YOU
22 GUYS ON FRIDAY THE 16TH.

23 MR. BOWERS: THANK YOU, YOUR HONOR.

24 THE WITNESS: THANK YOU.

25 THE COURT: AND THEN, MS. SARIS, WE WILL SEE YOU
26 BACK ON --

27 MS. SARIS: THE 20TH.

28 THE COURT: YOU CAN COME BACK ON THE 20TH. YOU

1 ARE WELCOME TO COME BACK ON THE 16TH, BUT I DON'T SEE A
2 NEED TO. YOU CAN JUST CALL, BUT THAT SHOULD CONCLUDE
3 THIS MATTER.

4 MS. SARIS: YES. AND THE ONLY OTHER THING I WAS
5 GOING TO BRING UP THAT I DON'T WANT TO --

6 THE COURT: OFF THE RECORD.

7

8 (THE MATTER WAS CONTINUED TO TUESDAY,
9 JUNE 20, 2006 AT 8:30 A.M.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, JUNE 20, 2006
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6 TIME: A.M. SESSION
7

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10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD IN THE GOODWIN
16 MATTER. MR. GOODWIN IS PRESENT WITH BOTH HIS COUNSEL.
17 THE PEOPLE ARE REPRESENTED.

18 I'M GOING TO ASK ALL COUNSEL TO PLEASE
19 STATE THEIR APPEARANCES.

20 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
21 ON BEHALF OF MR. GOODWIN.

22 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC
23 DEFENDER ALSO ON BEHALF OF MR GOODWIN.

24 MR. DIXON: PAT DIXON, DEPUTY DISTRICT ATTORNEY.

25 MR. JACKSON: ALAN JACKSON, DEPUTY DISTRICT
26 ATTORNEY FOR THE PEOPLE, YOUR HONOR.

27 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
28 THAT WE HAD A DISCUSSION AT THE BENCH REGARDING SOME

1 SCHEDULING MATTERS BEFORE MR. GOODWIN WAS BROUGHT UP.
2 ALSO, WE DISCUSSED THE FACT THAT THERE WERE TWO IN CAMERA
3 PROCEEDINGS WHERE THE COURT MADE CERTAIN ORDERS REGARDING
4 SOME DOCUMENTS. THE FIRST ORDER THE COURT MADE WAS WITH
5 RESPECT TO THE LACERA RECORDS THAT THE COURT ORDERED
6 PROVIDED TO THE DEFENSE.

7 I'M TOLD THAT THE DEFENSE HAS RECEIVED
8 THOSE DOCUMENTS AND THE COURT RECEIVED AND RETAINED THE
9 ENTIRE SET OF DOCUMENTS THAT WERE REVIEWED IN CAMERA,
10 ONLY A PORTION OF WHICH WERE ORDERED DISCLOSED.

11 AND, MS. SARIS, YOU DID RECEIVE THOSE THAT
12 WERE ORDERED DISCLOSED; CORRECT?

13 MS. SARIS: YES.

14 THE COURT: AND ALSO THE PEOPLE HAVE INDICATED A
15 DESIRE TO GET A COPY OF THOSE RECORDS, WHICH WE NEED
16 OBVIOUSLY TO ADDRESS AT SOME POINT. ALSO, THE COURT
17 CONDUCTED AN IN CAMERA HEARING ON FRIDAY THE 16TH WITH
18 MR. BOWERS OF THE SHERIFF'S DEPARTMENT AND THE CUSTODIAN
19 OF RECORDS.

20 THE COURT ALSO ORDERED SOME DOCUMENTS FROM
21 THEIR FILES PROVIDED TO THE DEFENSE. THE COURT STAYED
22 ITS ORDER UNTIL THE 29TH OF JUNE BECAUSE THERE WAS
23 ESSENTIALLY A REQUEST BY THE SHERIFF'S DEPARTMENT TO GIVE
24 HIM TIME TO REVIEW THEIR OPTIONS REGARDING WHETHER OR NOT
25 THEY WERE GOING TO SEEK WRIT RELIEF FROM THE COURT'S
26 ORDER. AND SO WE ARE AWAITING THEIR DECISION AND THEN
27 THEY SHOULD HAVE THAT BY THE 29TH OF JUNE.

28 SO WHERE DO COUNSEL WANT TO START TODAY?

1 MR. JACKSON: YOUR HONOR, ON THAT ISSUE, I CAN
2 SPEAK TO THE PEOPLE'S POSITION. CERTAINLY THE COURT
3 ECHOED WHAT I INDICATED AT SIDEBAR. I THINK THE RECORD
4 SHOULD CLEARLY REFLECT THAT MS. SARIS SOUGHT THESE
5 RECORDS -- GRIGGS'S RECORDS BOTH FROM LACERA AND FROM THE
6 LOS ANGELES SHERIFF'S DEPARTMENT PERSONNEL FILES
7 PREDICATED ON AN ARGUMENT THAT SHE BELIEVED -- AND I
8 BELIEVE THE COURT TOOK HER ARGUMENT TO MEAN THAT THERE
9 WAS IN SOME WAY, SHAPE FORM OR FASHION BRADY MATERIAL.

10 AND I THINK THE COURT FASHIONED ITS ORDERS
11 THAT THE COURT REVIEW IN CAMERA THESE FILES BASED ON
12 POTENTIAL BRADY MATERIAL, ET CETERA. ALTHOUGH THEY WERE
13 COUCHED ORIGINALLY UNDER THE UMBRELLA OF A PITCHESS
14 MOTION. IT SEEMS VERY CLEAR -- AND MS. SARIS HAS
15 MENTIONED IT SEVERAL TIMES -- THAT THE PEOPLE DO NOT
16 INTEND TO CALL MR. GRIGGS BECAUSE GRIGGS PLAYED, IN OUR
17 OPINION, FOR OUR CASE IN CHIEF A RELATIVELY MINOR ROLE IN
18 THE BEGINNING OF THE INVESTIGATION. ALTHOUGH HE WAS THE
19 LEAD INVESTIGATOR, IT'S NOT NECESSARY FOR OUR CASE. HE'S
20 RETIRED. HE'S OUT OF THE STATE. I CAN FACILITATE MY
21 EVIDENCE THROUGH OTHER MEANS.

22 MS. SARIS HAS INDICATED THAT SHE INTENDS
23 TO CALL HIM. ON SEVERAL OCCASIONS SHE HAS MADE THAT
24 STATEMENT. YET I BELIEVE IT'S MS. SARIS'S POSITION THAT
25 THE PEOPLE ARE NOT ENTITLED TO THE VERY MATERIAL THAT SHE
26 GOT FROM THE COURT SUBSEQUENT TO THE IN CAMERA REVIEW.
27 AND I DON'T GET THAT ARGUMENT AT ALL UNDER -- THIS IS NOT
28 A PITCHESS ISSUE. ACCORDING TO MS. SARIS'S OWN COMMENTS,

1 IT IS A BRADY ISSUE.

2 IF THEY GOT IT, WE'RE ENTITLED TO IT. IT
3 SEEMS LIKE A STRAW MAN ARGUMENT TO SAY THAT I'M GOING TO
4 PUT GRIGGS UP AND I'VE COLLECTED DOCUMENTS TO BEAT HIM UP
5 ON THE STAND IT TO PREPARE FOR IT. AND I'M GOING TO CALL
6 HIM MYSELF AND CUT HIM OFF AT THE KNEES OR WHATEVER HER
7 ARGUMENT IS, BUT I'M SURE IT'S ALONG THOSE LINES.

8 MS. SARIS: YOUR HONOR, IT'S NOT ONLY MY
9 POSITION, IT'S A POSITION SHARED BY THE CALIFORNIA
10 SUPREME COURT AND THE CALIFORNIA COURT OF APPEAL UNDER
11 TEAL, T-E-A-L, 118 CAL. APP 4TH, 488. THE DISTRICT
12 ATTORNEY IS NOT ENTITLED TO DOCUMENTS THAT THE DEFENSE
13 HAS GOTTEN BY WAY OF SUBPOENA DUCES TECUM. UNDER ALFRED
14 A 2003 CASE, 29 CAL. 4TH 1033, THE D.A. IS NOT A PARTY TO
15 A PITCHESS MOTION; GETS NOTHING MORE THAN THE NOTICE OF
16 THE DATE AND THE TIME OF THE HEARING. UNDER BECARADA,
17 B-E-C-A-R-A-D-A, VERSUS SUPERIOR COURT AT 131 CAL. APP
18 4TH, 409, THE OFFICER MAY VOLUNTARILY AGREE TO HAVE THE
19 DISTRICT ATTORNEY SEE HIS FILE. AND IF HE DOES SO, THEN
20 HE WAIVES THE PRIVILEGE TO THE ENTIRETY OF THE FILE. AND
21 WE'RE ENTITLED TO THE WHOLE PERSONNEL FILE.

22 UNDER BRADY, WHICH THE PEOPLE HAVE
23 ADVOCATED THEIR RESPONSIBILITY THAT THIS WOULD BE A
24 DISCOVERY ISSUE. THE ONLY THING PEOPLE ARE ENTITLED TO
25 IS 1054, IF WE INTEND TO CALLS GRIGGS AND THOSE RECORDS
26 BECOME PART OF WHAT WE HAVE HIM TESTIFY, THEN AND ONLY
27 THEN UNDER 1054 WOULD THE PEOPLE BE ENTITLED TO HAVE
28 DISCOVERY ON THAT WITNESS.

1 BUT NOTHING THAT WE HAVE DONE BY WAY OF
2 MOTION -- AND I WILL POINT OUT THAT THE DISTRICT ATTORNEY
3 RESISTED THROUGHOUT OUR ABILITY TO GET THESE RECORDS.
4 NOW THAT WE HAVE THESE RECORDS THEY WANT THEM. THE COURT
5 OF APPEAL AND THE SUPREME COURT HAVE SAID THEY ARE NOT
6 ENTITLED TO THEM UNDER 1054. AS I SAY, ONCE WE GET
7 CLOSER TO TRIAL IF THEY BECOME PART OF WHAT WE INTEND TO
8 HAVE GRIGGS TESTIFY ABOUT, THEY WOULD BE DISCOVERABLE.
9 BUT THEY'RE NOT DISCOVERABLE NOW.

10 THE COURT: WELL, I DON'T KNOW IF IT IS AN ISSUE
11 OF DISCOVERY. I THINK IF THE COURT MADE AN ORDER TO THE
12 SHERIFFS -- STRIKE THAT -- TO THE RETIREMENT AGENCY
13 LACERA TO PROVIDE THOSE DOCUMENTS UNDER BRADY, I DON'T
14 KNOW WHY THE PEOPLE WOULD NOT BE ENTITLED TO GET THE SAME
15 THING YOU HAVE.

16 MS. SARIS: YOUR HONOR, IF THE COURT LOOKS AT THE
17 LAST MOTION THAT WAS GRANTED, BECAUSE THE PRIOR TWO WERE
18 DISALLOWED, THAT WAS A MOTION UNDER PITCHESS AND AN
19 S.D.T. BRADY IS A CASE THAT SAYS THE PEOPLE HAVE TO GIVE
20 EXCULPATORY EVIDENCE TO THE DEFENSE.

21 BRADY DOES NOT PUT AN AFFIRMATIVE
22 REQUIREMENT ON THE DEFENSE TO TURN OVER ANYTHING TO THE
23 DISTRICT ATTORNEY, NOR DOES IT PUT AN AFFIRMATIVE
24 REQUIREMENT ON THE COURT TO TURN OVER ANYTHING TO THE
25 DISTRICT ATTORNEY.

26 IF THE DISTRICT ATTORNEY THOUGHT THESE
27 WERE RELEVANT AND THOUGHT THEY WERE BRADY, THEY HAD A
28 DUTY TO GET THEM THEMSELVES.

1 THE COURT: BUT THAT'S NOT THE ISSUE BECAUSE THE
2 DISTRICT ATTORNEY WAS PRECLUDED FROM OBTAINING THIS
3 INFORMATION BY THE SHERIFF'S DEPARTMENT AND LACERA AND WE
4 HAD TO LITIGATE THIS ISSUE. I MEAN I DON'T RECALL THE
5 DISTRICT ATTORNEY REFUSING TO ASSIST IN THIS MATTER.

6 I RECALL THE DISTRICT ATTORNEY REPORTING
7 TO THE COURT THAT THEY WERE UNABLE TO OBTAIN THE
8 DOCUMENTS BECAUSE THEY WERE PRIVILEGED DOCUMENTS AND THEY
9 COULDN'T GET THEM. THAT'S WHY THIS COURT CONDUCTED THE
10 IN CAMERA REVIEW OF THE MATERIAL; HEARD ARGUMENTS FROM
11 THE COUNTY; AND RULED THAT UNDER BRADY THE ITEMS THAT I
12 REVIEWED IN CAMERA CONTAINED SOME POTENTIALLY RELEVANT
13 MATERIAL UNDER BRADY.

14 I DON'T RECALL ORDERING IT UNDER PITCHESS.
15 BUT EVEN IF I CALL IT A HYBRID PITCHESS/BRADY MOTION, I
16 THINK IN ALL FAIRNESS ONCE YOU GOT IT, THE PEOPLE SHOULD
17 ALSO GET A COPY OF WHAT YOU RECEIVED. I DON'T SEE ANY
18 REASON WHY THEY SHOULDN'T. ESPECIALLY IF YOU ARE
19 PLANNING ON CALLING DETECTIVE GRIGGS TO TESTIFY AS A
20 WITNESS, WHICH THEN BRINGS INTO PLAY THE 1054 OBLIGATION.

21 SO I MEAN I HAVEN'T LOOKED AT TEAL OR
22 ALFRED OR THOSE CASES. I'M ASSUMING THAT WHAT YOU SAY IS
23 ACCURATE THAT TEAL INVOLVED THE S.D.T. SITUATION AND
24 THAT'S NOT OUR CASE. AND ALFRED DECIDED THE PITCHESS
25 ISSUE.

26 MS. SARIS: THAT'S CORRECT.

27 THE COURT: SO DO YOU HAVE A CASE THAT DECIDED
28 THE BRADY ISSUE THAT SAYS IF UNDER BRADY THE COURT ORDERS

1 CERTAIN ITEMS DISCLOSED THAT ONLY THE DEFENSE GETS IT?

2 MS. SARIS: YOUR HONOR --

3 THE COURT: BECAUSE BRADY ITSELF CONTEMPLATES
4 THAT THE PEOPLE HAVE ACCESS TO THIS INFORMATION.

5 MS. SARIS: EXACTLY. AND IF THE PEOPLE DON'T
6 HAVE ACCESS, THE COURT DOES NOT CONTEMPLATE -- I HAVE A
7 VERY HARD TIME BELIEVING THAT I COULD HAVE COME TO THIS
8 COURT IN THE SUMMER OF LAST YEAR AND ASKED FOR SANCTIONS
9 AGAINST THE DISTRICT ATTORNEY'S OFFICE FOR NOT COMPLYING
10 WITH BRADY BECAUSE THEY DID NOT GIVE ME GRIGGS'
11 PSYCHIATRIC RECORDS AND PERSONNEL FILE.

12 THE COURT WOULD NOT HAVE ENTERTAINED THAT
13 AS A MOTION. SO IF THE COURT WOULD NOT ENTERTAIN AS A
14 MOTION, THEN BY DEFINITION THE DISTRICT ATTORNEY DOESN'T
15 HAVE ACCESS TO THESE DOCUMENTS.

16 THE COURT: RIGHT. I THINK WE ARE IN AGREEMENT.

17 MS. SARIS: THEY DIDN'T TRY TO GET THESE
18 DOCUMENTS. OUR POSITION IS THEY'VE ADVOCATED. WE'VE
19 MADE A PRIMA FACIA SHOWING THAT THERE WERE DOCUMENTS IN
20 THIS FILE THAT WERE POTENTIALLY EXCULPATORY. THAT PUT AN
21 AFFIRMATIVE DUTY ON THEM TO GET THOSE DOCUMENTS.

22 THEY CAME TO COURT AND SAID THEY MADE A
23 PHONE CALL. THIS ISN'T A SITUATION WHERE THEY LITIGATED
24 THROUGH PROPER COURT PROCEDURES TO GET INTO GRIGGS'
25 PERSONNEL FILE. THEY DID NOT DO THAT. WHEN WE ATTEMPTED
26 TO DO THAT, THEY IN FACT ATTEMPTED TO BLOCK US.

27 SO NOW THAT WE HAVE THESE DOCUMENTS, AND
28 THEY THINK THEY MIGHT BE RELEVANT TO THEIR CASE --

1 ALTHOUGH ON THE ONE HAND THEY'RE SAYING GRIGGS HIMSELF IS
2 IRRELEVANT -- THEN THEY WANT A COPY OF THESE DOCUMENTS.
3 THERE IS ABSOLUTELY NO AUTHORITY UNDER ANY OF THE CASES
4 NOT KYLES V. WHITLEY; NOT BRADY VERSUS MARYLAND THAT SAYS
5 THE DEFENSE HAS TO TURN OVER TO THE PROSECUTION RELEVANT
6 DOCUMENTS THAT WE OBTAINED AS A RESULT OF A VALID COURT
7 ORDER.

8 THE COURT: MR. JACKSON.

9 MR. JACKSON: YOUR HONOR, IT AMAZES ME HOW
10 MS. SARIS'S RECOLLECTION IS INCONSISTENT WITH MINE SO
11 OFTEN. WE ATTEMPTED TO BLOCK THEIR ACCESS TO THE GRIGGS'
12 MATERIALS? MY RECOLLECTION IS THAT THE COURT LOOKED ME
13 RIGHT IN MY FACE, I WAS STANDING AT THAT PODIUM THREE
14 FEET AWAY, AND SAID, MR. JACKSON, AS A FRIEND OF THE
15 COURT WOULD YOU ASSIST MS. SARIS IN HER ATTEMPT THOSE GET
16 THESE DOCUMENTS? AND I SAID SURE.

17 WE CAME BACK A WEEK LATER, TEN DAYS LATER,
18 I HAD DONE EVERYTHING THAT I COULD. AND I WAS TOLD, AS
19 HAS BEEN EXPRESSED IN OPEN COURT BY MR. CASTRONOVA AND
20 MR. BOWERS, MR. JACKSON, WE WOULD LOVE TO HELP YOU, JUST
21 LIKE WE WOULD LOVE TO HELP MS. SARIS. WE CAN'T. YOU
22 DON'T HAVE ANY MORE ACCESS TO THESE DOCUMENTS, THESE
23 PRIVILEGED PRIVATE DOCUMENTS THAN MS. SARIS DOES.

24 IF MS. SARIS, AS THE LITIGANT, WANTS THEM,
25 SHE IS GOING TO HAVE TO SUBPOENA THEM. IF YOU WANTED
26 THEM, YOU WOULD HAVE TO DO THE SAME THING. I CAME BACK
27 AND RELAYED THAT TO THE COURT AND MS. SARIS TOOK
28 APPROPRIATE ACTIONS. AT NO TIME DID WE ATTEMPT TO BLOCK

1 ANYTHING THAT SHE WAS TRYING TO LITIGATE. WE SIMPLY
2 STAYED OUT OF IT. OUR DOG WASN'T IN THAT FIGHT, AS IT
3 WERE.

4 SECONDARILY, NOT 30 SECONDS AGO I SAID WE
5 DON'T HAVE AN INTENT TO CALL DETECTIVE GRIGGS BECAUSE I
6 CAN GET THAT EVIDENCE ELSEWHERE. AND MS. SARIS JUST
7 RELATED THAT AS ME SAYING GRIGGS WAS IRRELEVANT. I DON'T
8 THINK THAT DETECTIVE GRIGGS AS THE LEAD I.O. WHEN MICKEY
9 AND TRUDY THOMPSON WERE KILLED IS IRRELEVANT. I NEVER
10 SAID HE WAS IRRELEVANT. I SAID WE DIDN'T NEED TO CALL
11 HIM. THERE IS A DIFFERENCE.

12 I DON'T KNOW HOW ELSE TO PHRASE THIS,
13 EXCEPT FOR FALLING UNDER THE GUISE OF FUNDAMENTAL
14 FAIRNESS. IF SHE'S GOING TO CALL A WITNESS FOR WHOM SHE
15 HAS MATERIALS THAT SHE INTENDS TO IMPEACH HIM, HER OWN
16 WITNESS, THAT'S JUST NOT ALLOWED. WE CAN'T DO THAT.
17 THAT'S CALLED A STRAW MAN. AND COURTS -- LEGIONS OF
18 COURTS HAVE SAID YOU CAN'T DO THAT. SO I WOULD LIKE TO
19 KNOW, FIRST OF ALL, IF SHE IS GOING TO CALL HIM; AND
20 SECOND OF ALL, IF SHE IS, I GET THE DOCUMENTS. IT'S
21 1054.

22 THE COURT: SO YOU WANT ME TO ORDER IT UNDER
23 1054?

24 MR. JACKSON: I BELIEVE THAT IT'S RELEVANT UNDER
25 1054. I ALSO BELIEVE IT'S RELEVANT UNDER BRADY. I MEAN
26 WE'RE -- THERE IS KIND OF A CONVOLUTION OF ISSUES HERE,
27 BUT CERTAINLY AT THE END OF THE DAY, I THINK WE GET THE
28 MATERIALS. I THINK IT'S FAIR.

1 MS. SARIS: YOUR HONOR, MAY I JUST -- MAYBE A FEW
2 WORDS CAN HELP JOG MR. JACKSON. IRRELEVANT. FISHING
3 EXPEDITION. IRRELEVANT. MR. GRIGGS' PRIVACY RIGHTS.
4 ALL OF THOSE THINGS WERE THROWN IN OUR CASE NOT BY JOHN
5 BOWERS, COUNSEL FOR MR. GRIGGS, BUT BY THE LOS ANGELES
6 DISTRICT ATTORNEYS.

7 IF THEY WANT THESE RECORDS, THEY CAN
8 LITIGATE THIS. I SAT HERE THROUGH FIVE MOTIONS WHERE I
9 HAD TO DOT EVERY I AND CROSS EVERY T TO GET THESE
10 MATERIALS. IF COUNSEL WANTS THEM -- I ABSOLUTELY AGREE
11 THEY ARE ENTITLED TO THESE RECORDS ONCE WE MAKE THE
12 DECISION TO CALL DETECTIVE GRIGGS. DETECTIVE GRIGGS IS
13 CERTAINLY UNWILLING TO TALK TO US.

14 I HAVE HIM ON MY WITNESS LIST BECAUSE I
15 WOULD LIKE TO CALL HIM TO THE STAND. I HAVE NOT MADE
16 THAT FINAL DECISION. AND WHEN I DO MAKE THAT FINAL
17 DECISION, UNDER 1054, HE MAY BE ENTITLED -- THE DISTRICT
18 ATTORNEY, THAT IS -- TO THESE RECORDS. I DO NOT HAVE TO
19 MAKE THAT DECISION 60 DAYS BEFORE TRIAL.

20 THE LAW PUTS A REASONABLE TIME LIMIT ON
21 THAT. IF MR. GRIGGS COOPERATES AND I UNDERSTAND BETTER
22 WHETHER OR NOT TO CALL HIM, THEN PERHAPS I'LL HAVE THAT
23 DECISION MADE SOONER. THIS IS THE INVESTIGATING OFFICER
24 ON THE CASE. THE FACT THAT THE DISTRICT ATTORNEY DOESN'T
25 HAVE HIM ON THEIR WITNESS LIST IS SORT OF MIND BLOWING IN
26 AND OF ITSELF.

27 THIS IS THE FIRST OFFICER FOR THE FIRST 18
28 MONTHS OF THIS MURDER. SO, YES, IF THE DISTRICT ATTORNEY

1 DOESN'T CALL HIM, I CERTAINLY MIGHT. I'M ENTITLED TO
2 MAKE THAT DECISION ONCE WE FIND OUT WHETHER OR NOT HE'S
3 GOING TO TESTIFY. AND CERTAINLY WHETHER OR NOT HE'S
4 GOING TO COOPERATE WITH ME. BUT I AGREE UNDER 1054 IF
5 THEY BECOME RELEVANT, THEY'RE DUE TO THE D.A., BUT NOT AS
6 WE SIT HERE NOW.

7 THE COURT: WELL, UNDER 1054, IF YOU DECIDE TO
8 CALL DETECTIVE GRIGGS AS A WITNESS, THEN YOU ARE REQUIRED
9 TO PROVIDE ALL STATEMENTS AND ALL MATERIALS, SO THAT'S
10 NOT AN ISSUE. SO TO THE EXTENT THAT THAT DECISION HASN'T
11 BEEN MADE, WHY DON'T I DEFER A FINAL RULING UNTIL WE KNOW
12 WHAT THE DECISION IS. AND IF COUNSEL DECIDES TO CALL HIM
13 AS A WITNESS, THE PEOPLE WILL GET THIS INFORMATION. IF
14 COUNSEL DECIDES NOT TO CALL HIM AS A WITNESS, I MAY VERY
15 WELL ORDER IT IN ANY EVENT.

16 MS. SARIS: AND MAY I JUST POINT OUT FOR THE
17 RECORD THAT GRIGGS WOULD NOT NECESSARILY BE A HOSTILE
18 WITNESS TO US. HIS INTERPRETATION OF THE CASE IS NOT
19 NECESSARILY AT ODDS WITH OUR OWN. SO THE IDEA THAT I
20 WOULD CALL HIM SIMPLY TO -- I DON'T KNOW WHERE THAT COMES
21 FROM, BUT THAT'S CERTAINLY NOTHING THAT WE'VE EVER STATED
22 ON THE RECORD.

23 THE COURT: I DON'T THINK I HAVE TO LOOK AT WHAT
24 HIS PROPOSED TESTIMONY WOULD BE AS MUCH AS WHETHER OR NOT
25 YOU ARE IN POSSESSION OF DISCOVERABLE MATERIAL. SO I'M
26 GOING TO DEFER RULING ON THE ISSUE OF WHETHER OR NOT THE
27 PEOPLE GET IT IF THE WITNESS IS NOT CALLED. MY
28 INCLINATION HOWEVER IS TO ORDER IT AT SOME POINT. I

1 WOULD RATHER ORDER IT UNDER 1054 OBVIOUSLY.

2 MR. JACKSON: WELL, CERTAINLY, JUDGE. THAT'S AN
3 EASIER RULING TO MAKE. LIKE I SAID, THERE IS A
4 CONVOLUTION OF ISSUES HERE. BUT IT JUST SEEMS INHERENTLY
5 GAMESMANSHIP FOR MS. SARIS TO HAVE SOUGHT THESE RECORDS;
6 THEN ONCE SHE GETS THEM FOR A WITNESS THAT SHE SAYS IS
7 CONSISTENT WITH HER THEORY OF THE CASE, ET CETERA, ET
8 CETERA. BUT IT ULTIMATELY BEGAN AS A PROSECUTION WITNESS
9 TO SAY THE DEFENSE GETS THESE MATERIALS AND THE PEOPLE
10 DON'T. THAT IS IT FLIES IN THE FACE OF THE SPIRIT OF THE
11 DISCOVERY RULES HERE IN THIS PARTICULAR JUSTICE SYSTEM.

12 WE'RE NOT IN ENGLAND WHERE THE DEFENSE
13 GETS NOTHING AND THE PROSECUTION GETS NOTHING. WE ARE IN
14 AMERICA. AND BOTH SIDES ARE SUPPOSED TO GET EVERYTHING.
15 AND IF MS. SARIS REALLY WANTED TO PRESS THE 1054 ISSUE,
16 THEN I SUPPOSE I COULD HAVE KEPT -- I DON'T KNOW 40-ODD
17 THOUSAND PAGES OF MATERIALS UNTIL 30 DAYS OUTSIDE OF
18 TRIAL.

19 BUT I DON'T BELIEVE WE PLAY GAMES LIKE
20 THAT. I DON'T BELIEVE -- I DON'T THINK THE COURT WOULD
21 APPRECIATE IT. I KNOW THAT MS. SARIS WOULDN'T APPRECIATE
22 IT. I DON'T THINK MR. GOODWIN WOULD PROBABLY APPRECIATE
23 IT. AND CERTAINLY I DON'T APPRECIATE THIS STANCE THAT
24 MS. SARIS IS TAKING. WHAT IS GOOD FOR THE GOOSE IS GOOD
25 FOR THE GANDER. IF WE'VE PROVIDED ALL OF OUR MATERIALS
26 AND GIVEN ALL OF OUR DISCOVERY OVER IN THE SPIRIT OF KIND
27 OF PROFESSIONAL LITIGATION, I THINK WE ARE ENTITLED TO
28 THESE DOCUMENTS.

1 MS. SARIS: YOUR HONOR, I FIND THAT ULTIMATELY
2 IRONIC ON THE FACT THAT WE JUST GOT DISCOVERY YESTERDAY,
3 TWO YEARS LATER. SO THIS IS SORT OF --

4 MR. JACKSON: AND AS I CONTINUE TO INVESTIGATE
5 THE CASE, IF I INTERVIEW A NEW WITNESS, SHE IS GOING TO
6 GET ONE TOMORROW OR THE NEXT DAY. I COULDN'T HAVE GIVEN
7 JOEL WEISSLER'S STATEMENT TO HER SIX MONTHS AGO. I
8 HADN'T MET JOEL WEISSLER.

9 THE COURT: WELL, WE'RE GETTING A LITTLE FAR
10 AFIELD HERE. WHAT I'M GOING TO DO IS I'M GOING TO ASK
11 THE DEFENSE TO LET ME KNOW WHAT THEY DECIDE TO DO
12 REGARDING DETECTIVE GRIGGS. AND IF THEY DECIDE TO CALL
13 HIM AS A WITNESS, I'M GOING TO ORDER THAT INFORMATION
14 DISCLOSED TO THE PEOPLE UNDER 1054. IF THEY DECIDE NOT
15 TO, I MAY VERY WELL ORDER IT ANYWAY. SO WHY DON'T I
16 DEFER THE FINAL RULING ON THAT. OKAY?

17 MR. JACKSON: AND WHEN WILL THE DEFENSE MAKE THAT
18 DECISION?

19 MS. SARIS: YOUR HONOR, WE'RE ATTEMPTING TO REACH
20 MR. GRIGGS AGAIN. I HAVE A FEELING WHEN HE FINDS OUT
21 THAT WE'RE IN POSSESSION OF HIS RECORDS, HE IS GOING TO
22 BE EVEN MORE HOSTILE THAN HE IS. I DON'T CONSIDER AN
23 INVESTIGATING OFFICER AS A PROSECUTION WITNESS. I WOULD
24 LIKE TO THINK THAT THEY ARE NEUTRAL PARTIES WHEN
25 INVESTIGATING A CRIME. SO I'M HOPING THAT HE COOPERATES.
26 BUT I HAVE NO IDEA WHAT HE WILL SAY TO US. HE DOES LIVE
27 OUT OF THE STATE AND WE'RE ATTEMPTING TO SECURE HIS
28 APPEARANCE THROUGH AN OUT OF STATE SUBPOENA AS WELL.

1 THE COURT: ALL RIGHT. SO WHAT ELSE DO WE NEED
2 TO DISCUSS?

3 MR. JACKSON: I THINK THAT'S IT.

4 THE COURT: OKAY.

5 MS. SARIS: WE HAVE SOME OTHER THINGS, BUT THEY
6 CAN WAIT UNTIL AFTER THE MOTION.

7 MR. JACKSON: AND OUR POSITION -- I THINK IT'S
8 PRETTY CLEAR OUR POSITION IS THE SAME WITH THE
9 DOCUMENTS AS TO THE L.A.S.D. PERSONNEL DOCUMENTS.
10 ALTHOUGH I UNDERSTAND THAT THE DEFENSE HAS NOT YET GOTTEN
11 THOSE PERSONNEL FILE DOCUMENTS.

12 THE COURT: WELL, THOSE -- AGAIN, I'M DEALING
13 WITH A SITUATION WHERE IT'S NOT PITCHES MATERIAL.

14 MR. JACKSON: RIGHT.

15 THE COURT: AND THAT WAS MADE VERY CLEAR
16 PREVIOUSLY IN OPEN COURT AS WELL AS IN CAMERA. I WILL BE
17 HONEST WITH YOU. SO JUST SO THE RECORD IS CLEAR, I'M
18 HAPPY TO ALSO CONSIDER ORDERING THE SHERIFF'S DEPARTMENT,
19 MR. BOWERS AND THE CUSTODIAN OF RECORDS, TO PROVIDE BOTH
20 COUNSEL WITH THE DOCUMENTS THAT WERE ORDERED IN THE IN
21 CAMERA ON THE 16TH.

22 MR. JACKSON: THAT WOULD BE THE PEOPLE'S REQUEST.

23 MS. SARIS: AS LONG AS THE COURT EXTENDS US THE
24 SAME COURTESY AND ALLOWS US TIME TO STAY THAT ORDER AND
25 WRIT IT. WE'RE VERY -- THE COURT OF APPEAL AND
26 CALIFORNIA SUPREME COURT ARE VERY CLEAR WHETHER IT'S
27 BRADY, PITCHES, S.D.T., THE D.A. SIMPLY DOES NOT GET IT.
28 IF THE COURT MAKES THE ORDER AS LONG AS WE'RE ENTITLED TO

1 THE SAME COURTESY.

2 THE COURT: SURE. I HAVE NO PROBLEM WITH ANYONE
3 SEEKING APPELLATE REVIEW ON THIS. SO WITH RESPECT TO THE
4 MOTIONS, THERE HAS BEEN A NOTION FILED BY THE DEFENSE TO
5 EXCLUDE CERTAIN EVIDENCE IN THIS CASE. AND IN THE
6 ALTERNATIVE IF THE COURT IS NOT GOING TO EXCLUDE THE
7 EVIDENCE, TO ONCE AGAIN ORDER THE RECUSAL OF THE D.A.
8 AND THERE HAS BEEN A RESPONSE FILED.

9 AND THEN I THINK I JUST YESTERDAY RECEIVED
10 THE DEFENSE REPLY. AND I HAVE LOOKED AT EVERYTHING HERE.
11 AND IF ANYBODY WANTS TO ARGUE THE MATTER -- I WILL BE
12 HONEST WITH YOU, I DON'T SEE THE NECESSITY OF PRECLUDING
13 THE PEOPLE FROM CALLING THESE WITNESSES, NOR DO I SEE THE
14 NECESSITY OF THE D.A.'S ON THE CASE PRESENTLY BEING
15 RECUSED.

16 MS. SARIS: BRIEFLY, YOUR HONOR, YES.

17 THE COURT: SO YOU CAN ARGUE.

18 MS. SARIS: THANK YOU. I THINK THAT THE COURT
19 HAS MADE ITSELF VERY CLEAR THAT THE COURT DID NOT FIND
20 THERE WAS ENOUGH EGREGIOUS GOVERNMENTAL MISCONDUCT TO
21 DISMISS THIS CASE. SO I UNDERSTAND THAT WE'RE LOOKING
22 FOR ANOTHER REMEDY FOR A SITUATION THAT THE COURT HAS AT
23 LEAST AGREED WHETHER BY ACCIDENT OF THE LOS ANGELES
24 DISTRICT ATTORNEY'S OFFICE OR NOT, IS A SITUATION THAT
25 REQUIRES A REMEDY.

26 THE REMEDY OF THE SITUATION BEING THAT
27 THESE INDIVIDUALS HAVE SEEN DOCUMENTS THAT HAVE BEEN
28 DEEMED AND DETERMINED TO BE PROTECTED BY THE

1 ATTORNEY/CLIENT PRIVILEGE. WHEN WE FIRST HAD THE HEARING
2 ON THE RECUSAL. THE DISTRICT ATTORNEY MADE A COLOR-CODED
3 CHART WHEREIN HE INDICATED -- AND THIS IS A QUOTE -- THAT
4 SEVERAL OF THE DOCUMENTS WERE, QUOTE, IRRELEVANT BECAUSE
5 THEY RELATED TO FEDERAL LITIGATION. THAT IS THE BASIS ON
6 WHICH THIS COURT DECIDED NOT TO RECUSE THE DISTRICT
7 ATTORNEYS.

8 NOW WE'VE GOTTEN A WITNESS LIST WHERE
9 THERE IS AN ACTUAL OVERLAP -- A HUGE OVERLAP BETWEEN THE
10 WITNESSES THAT TESTIFIED IN MR. GOODWIN'S FEDERAL
11 INVESTIGATION AND THE WITNESSES THAT ARE GOING TO TESTIFY
12 TO THE FINANCIAL ISSUE THAT MAKE UP MOTIVE IN THE MURDER
13 TRIAL.

14 TO CALL THOSE IRRELEVANT WAS MISLEADING.
15 AND OUR POSITION IS THAT THE COURT SHOULD RECONSIDER A
16 RECUSAL BASED ON A NON-FLAWED VERSION OF THE FACTS. THE
17 FACTS ARE THAT WHEN MR. GOODWIN DECLARED BANKRUPTCY AND
18 WHEN HE WAS THEREBY EVENTUALLY INVESTIGATED FOR
19 BANKRUPTCY FRAUD AS A RESULT OF THE ORANGE COUNTY
20 DISTRICT ATTORNEY'S OFFICE RECOMMENDING THIS CASE TO THE
21 FEDERAL GOVERNMENT FOR FILING -- AND THE COURT HAS THOSE
22 DOCUMENTS THAT WE'VE INCLUDED AS EXHIBITS IN PRIOR
23 MOTIONS -- A BANKRUPTCY FRAUD INVESTIGATION WAS LAUNCHED
24 THAT WAS NOT SUSTAINED.

25 MR. GOODWIN WAS NEVER CONVICTED OF
26 BANKRUPTCY FRAUD. HE EVENTUALLY WAS FOUND TO HAVE FILED
27 FALSE LOAN DOCUMENTS AND DID SERVE TIME FOR THAT. THE
28 PEOPLE THAT TESTIFIED IN THE FEDERAL LITIGATION REGARDING

1 HIS BANKRUPTCY FRAUD, THE PEOPLE THAT PUT TOGETHER
2 FINANCIAL FLOW CHARTS, THE PEOPLE THAT PUT TOGETHER
3 EXPENSE SHEETS, THE PEOPLE THAT HANDLED THE BANKRUPTCY
4 LITIGATION FOR CLARK AND TREVITHICK -- WHICH I CAN BARELY
5 PRONOUNCE AND APOLOGIZE CANNOT SPELL -- WHICH WAS THE LAW
6 FIRM REPRESENTING MICKEY THOMPSON, THOSE PEOPLE NOT ONLY
7 TESTIFIED AT THE PRELIMINARY HEARING, BUT NOW THEY ARE ON
8 THE WITNESS LIST TO TESTIFY AT THE TRIAL.

9 AND THEY HAVE BEEN -- THEIR NUMBERS HAVE
10 GROWN IN THAT NOW WE HAVE DON CLARK, THE HEAD OF THAT LAW
11 FIRM; NOW WE HAVE KAREN STEPHENS; WE HAVE COLIN COOPER,
12 WHO WAS MR. GOODWIN'S PERSONAL ACCOUNTANT; WE HAVE DIANE
13 SEIDEL, WHO BY VIRTUE OF THE MARITAL PRIVILEGE COULD NOT
14 TESTIFY ABOUT ANY COMMENTS OR STATEMENTS. THE ONLY THING
15 SHE COULD TALK ABOUT WAS HER FINANCIAL SITUATION.
16 BECAUSE ONE OF THE ALLEGATIONS IN THE BANKRUPTCY FRAUD
17 WAS THAT HE WAS ILLEGALLY COMMINGLING FUNDS WITH HIS
18 WIFE.

19 SO ALL THE THINGS THAT MAKE THE BASIS OF
20 THE MOTIVE IN THE MURDER CASE ARE NOW -- WERE PREVIOUSLY
21 DISCUSSED WITH MR. GOODWIN AND HIS LAWYERS IN THESE
22 LETTERS. AND THE COURT HAS MY ANALYSIS WHEREIN I TOOK
23 THE LETTERS PAGE BY PAGE, LINE BY LINE AND INDICATED WHY
24 A DISTRICT ATTORNEY IS AT AN UNFAIR ADVANTAGE.

25 IT NOT ONLY BRINGS UP MR. GOODWIN'S SIXTH
26 AND FIFTH AMENDMENT RIGHTS UNDER THE STATE AND FEDERAL
27 CONSTITUTIONS, BUT ANY SITUATION WHERE AN UNFAIR
28 ADVANTAGE EXISTS BECAUSE THE DISTRICT ATTORNEY IS

1 BASICALLY GETTING INFORMATION THAT THEY SHOULD NOT BE
2 ENTITLED TO.

3 MR. GOODWIN SHOULD NOT HAVE TO TAKE THAT
4 INTO ACCOUNT WHETHER HE TAKES THE STAND. IN ORDER FOR
5 THE COURT TO ALLOW MR. JACKSON TO PROSECUTE THIS CASE,
6 THIS COURT IS ESSENTIALLY SAYING, MR. GOODWIN, YOU CANNOT
7 DEFEND YOURSELF. YOU CANNOT TAKE THE STAND AND DEFEND
8 YOURSELF. IT IS AN ABSOLUTE ABROGATION OF THE FIFTH AND
9 SIXTH AMENDMENT RIGHTS.

10 THESE LETTERS ARE A BLUEPRINT TO HIS
11 FINANCIAL SITUATION. THEY ARE A BLUEPRINT TO HIS
12 ATTEMPTS UNDER THE BANKRUPTCY LAWS, WHETHER IT BE LEGAL
13 OR ILLEGAL, TO AVOID PAYING THAT JUDGMENT. AND THEY ARE
14 WITHOUT A DOUBT A PSYCHOLOGICAL PROFILE OF THE GENTLEMAN
15 SITTING TO MY LEFT THAT NO DISTRICT ATTORNEY SHOULD BE IN
16 POSSESSION OF WHO IS PROSECUTING SOMEONE FOR THE CASE.

17 THE LETTERS WERE PREVIOUSLY DEEMED
18 ATTORNEY/CLIENT PRIVILEGE. WE'RE NOT ARGUING ABOUT
19 WHETHER OR NOT THEY WERE ATTORNEY/CLIENT PRIVILEGE.
20 COUNSEL MAY HAVE SAW THEM ACCIDENTALLY. COUNSEL DIDN'T
21 DO ANYTHING PERSONALLY -- AND I'M SPEAKING ABOUT THE
22 DISTRICT ATTORNEY -- ILLEGALLY TO OBTAIN THESE LETTERS.
23 THEY WERE DUMPED ON HIS LAP.

24 HOWEVER, THE DAMAGE IS DONE. AND AT SOME
25 POINT A REMEDY HAS TO BE FASHIONED. IF THIS COURT HAS
26 PREVIOUSLY SAID I DIDN'T HAVE THE AUTHORITY TO RECUSE THE
27 DISTRICT ATTORNEY, OUR FIRST POINT IS THIS: PERHAPS THIS
28 COURT WOULD HAVE THE AUTHORITY IF YOU KNEW YOU WERE NOT,

1 WHETHER ACCIDENTALLY OR PURPOSELY, MISLEAD IN TO BELIEVE
2 THAT THESE LETTERS, WHICH AN INCH AND A HALF THICK, WERE
3 NOT IRRELEVANT AS PREVIOUSLY STATED, NO. 1.

4 AND NO. 2, EVEN IF YOU DO NOT BELIEVE THAT
5 YOU HAVE THE AUTHORITY TO RECUSE, YOU CERTAINLY HAVE THE
6 AUTHORITY TO EXCLUDE THESE WITNESSES. AT ONE POINT THIS
7 COURT MENTIONED -- AND I THINK THAT WE'RE SPEAKING OF
8 GAMESMANSHIP AND WE'RE SPEAKING TODAY OF FAIRNESS -- THIS
9 COURT BASICALLY GAVE THE DISTRICT ATTORNEY TIME TO GO
10 BACK TO ITS OWN OFFICE AND DECIDE AMONG THEMSELVES
11 WHETHER OR NOT IT WOULD BE BETTER TO PERHAPS HAVE A
12 DIFFERENT PROSECUTOR. THEY DID NOT AVAIL THEMSELVES OF
13 THAT.

14 WE'RE ASKING THE COURT TO PUSH THAT
15 DECISION BY SAYING IF YOU INSIST ON HAVING THIS
16 PROSECUTOR, THIS IS THE PROSECUTOR WHO STOOD UP AND SAID
17 THESE WERE IRRELEVANT AND NOW HE'S STANDING UP AND SAYING
18 THEY'RE NOT PREJUDICIAL. MR. JACKSON IS NOT PRIVY TO MY
19 ANALYSIS, SO PERHAPS HE DOESN'T BELIEVE IT.

20 AND IF THE COURT DOESN'T HAVE THE
21 AUTHORITY TO EXCLUDE -- I'M SORRY -- TO RECUSE, THE COURT
22 CERTAINLY HAS AUTHORITY TO EXCLUDE. AND THE REMEDY FOR
23 THE DISTRICT ATTORNEY, IF THEY WANT TO PRESENT THIS CASE
24 FULLY AND TO THE BEST OF THEIR ABILITY, IS TO GET A
25 DIFFERENT PROSECUTOR OTHER THAN MR. JACKSON TO DO SO.

26 AND THE COURT HAVE A HAND IN THAT BY
27 MAKING A LEGITIMATE MOTION TO EXCLUDE WITNESSES THAT THEY
28 THEMSELVES TOLD THIS COURT WERE IRRELEVANT.

1 THE COURT: WELL, LET ME JUST ASK YOU A QUESTION
2 BEFORE I HEAR FROM THE PEOPLE ON THIS. I RECALL WHEN WE
3 FIRST STARTED OUT DOWN THIS ROAD, THE ATTORNEY/CLIENT
4 PRIVILEGE CLAIM, AND WE LITIGATED THOSE ISSUES
5 SURROUNDING THAT CLAIM. I RECALL THAT THE COURT'S RULING
6 WAS PRETTY CLEAR. THAT THE PEOPLE WERE NOT TO USE ANY
7 EVIDENCE OBTAINED FROM THE PRIVILEGED DOCUMENTS.

8 I APPOINTED A SPECIAL MASTER TO GO THROUGH
9 AND REVIEW ALL OF THE DISCOVERY IN THE POSSESSION OF THE
10 D.A. AND TO MAKE A DETERMINATION AS TO WHAT WAS
11 PRIVILEGED -- CLEARLY PRIVILEGED AND WHAT WAS NOT. WE
12 THEN HAD THE SPECIAL MASTER SET THOSE APART.

13 AND THE REASON -- ONE OF THE REASONS
14 ANYWAY THAT I APPOINTED THE SPECIAL MASTER WAS TO MAKE IT
15 EASIER FOR THE TRIAL COURT TO ENFORCE THIS COURT'S
16 EARLIER RULING REGARDING THE D.A.'S OBLIGATION NOT TO USE
17 ANY PRIVILEGED MATERIAL IN THEIR CASE. AND ALSO, NOT TO
18 USE ANY MATERIAL DERIVED FROM THE PRIVILEGED MATERIAL.

19 SO I ASSUME THAT THAT ORDER HAS BEEN TAKEN
20 SERIOUSLY BY THE PEOPLE. I ASSUME THAT THE PEOPLE ARE
21 CALLING WITNESSES THAT THEY WERE PLANNING ON CALLING ALL
22 ALONG. AND THAT THEY DID NOT OBTAIN ANY NEW INFORMATION
23 FROM THEIR ACCIDENTAL REVIEW OF THE PRIVILEGED MATERIAL.
24 SO CORRECT ME IF I'M WRONG ON THAT. I THOUGHT THAT'S
25 WHERE WE WERE UP TO THIS NEW MOTION THAT YOU FILED ON MAY
26 10TH.

27 MS. SARIS: IF THE COURT IS SAYING CAN I POINT TO
28 THINGS THAT HAVE CHANGED IN THE PROSECUTION FROM ORANGE

1 COUNTY TO LOS ANGELES? ABSOLUTELY. I MADE A LIST OF
2 THOSE IN THE MOTION. NOW IS IT MY BELIEF THAT THOSE WERE
3 BASED ON DOCUMENTS THAT WERE PROTECTED BY THE
4 ATTORNEY/CLIENT PRIVILEGE? YES.

5 THE COURT: BUT NOT -- I'M NOT TALKING ABOUT FROM
6 ORANGE COUNTY TO HERE. I'M TALKING ABOUT WHAT
7 MR. JACKSON AND MR. DIXON HAVE DONE SINCE THEY'VE COME
8 INTO POSSESSION OF THE PRIVILEGED MATERIAL.

9 MS. SARIS: WELL, THEY'VE HAD THAT SINCE ORANGE
10 COUNTY. THAT'S THE ONLY DELINEATION THAT I HAVE. I KNOW
11 THE THEORY THAT ORANGE COUNTY HAD. I KNOW THE THEORY
12 THAT THEY TRIED TO GET A GRAND JURY INDICTMENT ON HIM.
13 ONCE THE CASE CAME TO LOS ANGELES -- I'LL JUST GIVE YOU A
14 BASIC EXAMPLE. ORANGE COUNTY FILED SPECIAL CIRCUMSTANCES
15 FOR FINANCIAL GAIN. THOSE WERE NOT FILED IN LOS ANGELES.

16 NOW CAN I SIT HERE AND SAY TO THE COURT I
17 KNOW FOR A FACT THOSE WEREN'T FILED IN LOS ANGELES
18 BECAUSE THEY LOOKED AT ATTORNEY/CLIENT PRIVILEGED
19 DOCUMENTS AND REALIZED THAT, IN FACT, MICHAEL DID NOT
20 BENEFIT FINANCIALLY FROM MICKEY'S DEATH; AND MICHAEL WENT
21 INTO DETAIL ABOUT THAT IN THESE LETTERS TO HIS LAWYER? I
22 CANNOT. BUT NEITHER CAN THE DISTRICT ATTORNEY IS MY
23 POINT.

24 THE DISTRICT ATTORNEY CANNOT SIT HERE AND
25 SAY -- AND IT'S NOT BECAUSE THEY'RE UNKIND, UNTRUTHFUL,
26 IMMORAL. IT'S SIMPLY IMPOSSIBLE FOR A HUMAN BEING TO SAY
27 THIS FACT THAT I'M ARGUING IS DERIVATIVE FROM PAPER A BUT
28 NOT PAPER B.

1 AND IT IS MORE IMPOSSIBLE TO ASK
2 MR. JACKSON, WHO HAS REVIEWED THESE LETTERS IN DETAIL, TO
3 SAY EVERYTHING THAT YOU KNOW THAT YOU HAVE GLEANED ABOUT
4 WHAT BUTTONS TO PUSH ON MR. GOODWIN WHEN IT COMES TO THE
5 FINANCIAL ISSUE. WHAT DOCUMENTS YOU'VE READ; WHAT
6 PSYCHOLOGICAL PROFILE, I WANT TO YOU IGNORE THAT.
7 MR. JACKSON, I KNOW THAT YOU'VE READ THESE DOCUMENTS AND
8 IF YOU PRETTY PLEASE PROMISE AND DOUBLE DOG PROMISE IT'S
9 GOING TO BE OKAY.

10 MR. DIXON DOES NOT HAVE TO RELY ON BLIND
11 FAITH -- MR. GOODWIN, I'M SORRY -- SHOULD NOT HAVE TO
12 RELY ON BLIND FAITH. IT'S SIMPLY IMPOSSIBLE. LIKE I
13 CANNOT SAY TO THE COURT THIS IS THE REASON THEY CHANGED.
14 ALL I KNOW IS I HAVE A LIST IN MY MOVING PAPERS OF
15 SEVERAL DIFFERENT ARGUMENTS THAT WOULD HAVE BEEN MADE HAD
16 THEY NOT BEEN CORRECTED BY THE ATTORNEY/CLIENT PRIVILEGE
17 INFORMATION.

18 AND THOSE WERE IN THE FIRST MOVING PAPERS.
19 AND ON THEIR OWN, THESE LITTLE MISTAKES MAY NOT HAVE
20 AMOUNTED TO MUCH. BUT IF THIS DISTRICT ATTORNEY
21 PROCEEDED WITH THE 17 OR 27 LITTLE MISTAKES, A JURY WOULD
22 QUICKLY LOSE FAITH. THEY'RE NOT GOING TO PROCEED WITH
23 THOSE LITTLE MISTAKES BECAUSE THEY'VE BEEN CORRECTED BY
24 VIRTUE OF HAVING THESE DOCUMENTS BETWEEN MR. GOODWIN AND
25 HIS LAWYER --

26 THE COURT: AND I REMEMBER HEARING THAT VERY SAME
27 ARGUMENT NOT THAT LONG AGO WHEN WE LITIGATED THE RECUSAL.

28 MS. SARIS: WE DID. AND AT THAT TIME THE COURT

1 WAS UNDER THE IMPRESSION BECAUSE THE DISTRICT ATTORNEY
2 HAD ARGUED THAT THE FINANCIAL DOCUMENTS WERE IRRELEVANT.
3 AND THAT'S WHAT HAS CHANGED.

4 THE COURT: OKAY. I KNOW THAT'S A POINT OF
5 CONTENTION HERE AND THAT THE PEOPLE ARE DISAGREEING WITH
6 THAT.

7 MR. JACKSON: YOUR HONOR, AT RISK OF KIND OF
8 REDOUBLING OUR EFFORTS, I DON'T WANT TO JUST REITERATE
9 WHAT IS IN MY MOVING PAPERS. I HAVEN'T HEARD ANYTHING
10 NEW FROM MS. SARIS. I DON'T WANT TO WASTE THE COURT'S
11 TIME BY SIMPLY READING WHAT I'VE GOT IN MY PAPERS. IT
12 APPEARS THAT THE DEFENSE HAS BADLY CONFLATED TWO ISSUES.

13 ONE, WHAT IS THE RELEVANCE OF
14 MR. GOODWIN'S FINANCIAL STATUS AT OR AROUND THE TIME OF
15 THE MURDERS? I'VE NEVER SAID THAT THAT WAS IRRELEVANT.
16 CLEARLY IT WAS RELEVANT. THE COURT HEARD SEVERAL
17 WITNESSES SPEAK TO THAT ISSUE AT THE PRELIM. AND I
18 HADN'T GOTTEN THROUGH ALL THE 40,000 PAGES. HAVE I SEEN
19 SOME OF THESE DOCUMENTS? I DON'T KNOW IF I HAD OR NOT.

20 I WAS VERY HONEST WITH THE COURT WHEN THIS
21 FIRST CAME UP. AS I READ THROUGH THE DOCUMENTS, IF I SAW
22 SOMETHING WRITTEN BY MICHAEL GOODWIN, I GOT TO A POINT
23 THAT I JUST SHOVED IT ASIDE. IT WAS ALL SIGNED, THE SAME
24 THING, IT DIDN'T MAKE ANY DIFFERENCE TO ME.

25 BUT HIS FINANCIAL STATUS AT OR AROUND THE
26 TIME OF THE MURDERS; THE FACT THAT HE WAS BROUGHT
27 FINANCIALLY TO HIS KNEES; AND I ARGUED ALMOST VERBATIM IN
28 CLOSING ARGUMENT. THE FACT THAT HE WAS FORCED INTO

1 PERSONAL BANKRUPTCY AND PROFESSIONAL BANKRUPTCY, ALL OF
2 THOSE THINGS ARE CLEARLY RELEVANT.

3 WHAT I'M SAYING IS THIS IS NOT
4 PREJUDICIAL. AND WE'VE TALKED ABOUT THIS COLOR-CODED
5 DOCUMENT THAT I PRODUCED TO THE COURT. THE BLUE CODE,
6 THAT'S THIS EXHIBIT THAT I PRESENTED TO THE COURT.
7 EVERYTHING THAT WAS IN BLUE WAS PRESENTED TO THE COURT.
8 AND MY ARGUMENT WAS IT -- THOSE DOCUMENTS DEALT WITH
9 SOMETHING OTHER THAN THE MICKEY THOMPSON HOMICIDE -- THE
10 MICKEY AND TRUDY THOMPSON HOMICIDES.

11 I NEVER SAID THEY WERE IRRELEVANT. OR IF
12 I SAID THE WORD "IRRELEVANT," IT MAY HAVE BEEN AN
13 INARTFUL ATTEMPT TO SAY THEY SIMPLY ARE NOT IMPORTANT TO
14 MY LITIGATION AGAINST MR. GOODWIN FOR THE HOMICIDES.
15 THESE DOCUMENTS DEAL WITH THE FEDERAL LITIGATION AND
16 THEY'RE MOSTLY -- QUITE FRANKLY, THAT NOW THAT THE COURT
17 HAS READ THEM, THEY'RE KIND OF HARD TO GET THROUGH. BUT
18 IT'S MOSTLY THE DEFENDANT GRIPING AND COMPLAINING ABOUT
19 HIS LAWYERS AND HIM FIRING A LAWYER AND ANOTHER LAWYER.
20 SAYING I DON'T LIKE YOU ANYMORE AND BACK AND FORTH
21 BETWEEN HIM AND A COUPLE OF PERSONAL LAWYERS OF HIS,
22 WHICH I DON'T CARE ANYTHING ABOUT.

23 I NEVER SAID THESE DOCUMENTS WERE
24 IRRELEVANT. I SAID SHOW ME IN THESE DOCUMENTS WHERE
25 ANYTHING WRITTEN ON ANY PAGE, ANY PHRASE, OR ANY WORD
26 GIVES ME AN UPPER HAND SUCH THAT MR. GOODWIN CANNOT
27 RECEIVE A FAIR TRIAL. AND THAT'S THE ISSUE. NOT ALL
28 THIS NEBULOUS PSYCHOLOGICAL ADVANTAGE, THIS PSYCHOLOGICAL

1 PROFILE THAT'S BEEN DEVELOPED. I DON'T KNOW ANYTHING
2 ABOUT THAT.

3 I'M NOT A PSYCHOLOGIST. AND I HAVEN'T
4 DEVELOPED A PSYCHOLOGICAL PROFILE OF MR. GOODWIN. AND I
5 DON'T CARE ABOUT HIS PSYCHOLOGY. ALL I'M SAYING IS WHEN
6 THE RUBBER MEETS THE ROAD, I'LL SUPPLY MS. SARIS WITH MY
7 COPY IF SHE WANTS. THEN SHE CAN LOOK THROUGH THERE AND
8 POINT TO A PHRASE, A WORD, OR A PAGE, ANYTHING, A LINE,
9 ANYTHING THAT ESTABLISHES THAT THE DEFENDANT HAS SUFFERED
10 A PREJUDICE SO BAD THAT HE CANNOT RECEIVE A FAIR TRIAL IF
11 I CALL ANY OF THOSE WITNESSES WHO DEAL WITH HIS FINANCIAL
12 STATUS.

13 THE COURT: ALL RIGHT. THANK YOU.

14 MS. SARIS.

15 MS. SARIS: YOUR HONOR, MR. JACKSON IS OBVIOUSLY
16 NOT PRIVY TO MY ANALYSIS. AND I'M CERTAINLY NOT ABOUT TO
17 POINT OUT TO HIM HOW THIS WOULD ASSIST IN A -- THE COURT
18 HAS IT. WE ASKED THAT THE EXHIBIT BE FILED UNDER SEAL.
19 THAT WAS NOT ORIGINALLY DONE. I DON'T KNOW IF THE COURT
20 NOTED THAT, BUT I ASKED THAT IF THE DISTRICT ATTORNEY
21 ATTACHES THESE AS AN EXHIBIT, THAT THEY BE FILED UNDER
22 SEAL.

23 MR. JACKSON: I HAVE NO PROBLEM WITH THAT. AND I
24 WAS GOING TO ADDRESS THAT. I APOLOGIZE. I DON'T MEAN TO
25 INTERRUPT MS. SARIS. BUT MS. SARIS WAS ALSO NOT PRIVY TO
26 WHEN I DID FILE THE DOCUMENT. I ACTUALLY -- IF THE COURT
27 RECALLS I ASKED TO GO ON THE RECORD SO I COULD ESTABLISH
28 THAT EVERYTHING WAS SEALED. I DIDN'T WRITE IT ON THERE

1 THAT THIS SHOULD BE FILED UNDER SEAL. I 100 PERCENT
2 AGREE.

3 AND I TOLD THE COURT AFTER TODAY'S
4 ARGUMENT, I WOULD BE SUBMITTING BACK MY ONLY COPY OF THE
5 PRIVILEGED DOCUMENTS TO THE COURT FOR THE SHREDDER OR
6 WHATEVER THE COURT WANTS TO DO WITH IT. I'M NOT GOING TO
7 KEEP ANY OF THAT. I JUST KEPT IT FOR TODAY'S ARGUMENT.

8 THE COURT: SO WE WILL TAKE IT UNDER SEAL.

9 MS. SARIS: AND WITH THAT SAID, YOUR HONOR, WE
10 SUBMIT ON THE MOVING PAPERS.

11 THE COURT: ALL RIGHT. I'M GOING TO STAND BY MY
12 TENTATIVE RULING. I THINK THAT THE PEOPLE'S POSITION HAS
13 ACTUALLY A GREAT DEAL OF MERIT BASED ON WHAT I HAVE
14 REVIEWED AND WHAT I RULED ON IN THE PREVIOUS LITIGATION
15 IN TERMS OF WHETHER OR NOT THEY ARE ABLE TO COMPLY WITH
16 MY ORDER. I THINK THEY ARE. AND THE REMEDY WAS THAT
17 THEY WERE NOT PERMITTED TO USE EVIDENCE OBTAINED FROM THE
18 PRIVILEGED MATERIAL. AND THEY SAY THEY ARE NOT.

19 AND I GUESS UNTIL WE GET TO A POINT DURING
20 TRIAL WHERE THE DEFENSE WANTS TO RENEW THEIR MOTION BASED
21 ON TESTIMONY, I DON'T KNOW WHAT ELSE I CAN DO PRETRIAL IN
22 THAT REGARD. I MEAN IT'S AN UNFORTUNATE SITUATION I
23 THINK WE ALL AGREE. BUT WE REALLY KIND OF RESOLVED THIS
24 ISSUE BEFORE. AND I DON'T THINK THERE IS ANY NEED FOR
25 ANY ADDITIONAL SANCTION. BECAUSE THAT'S WHAT IS BEING
26 REQUESTED HERE IS THAT THE COURT EXCLUDE TESTIMONY.

27 THE COURT WILL NOT EXCLUDE TESTIMONY
28 THAT'S OTHERWISE RELEVANT AT THIS TRIAL. AND IT DOES

1 APPEAR THAT THE FINANCIAL MOTIVE IS THE MOTIVE IN THIS
2 CASE. AND THE COURT DOESN'T BELIEVE THAT THERE HAS BEEN
3 A SUFFICIENT SHOWING TO WARRANT THE RECUSAL OF THESE
4 PROSECUTORS FROM THIS CASE. BUT, AGAIN, THE COURT HAS
5 THE ABILITY TO MONITOR AND ENFORCE THE COURT'S PREVIOUS
6 ORDER. AND THAT WILL BE DONE.

7 MS. SARIS: IF WE'RE IN THIS COURT.

8 THE COURT: WELL, IF YOU ARE IN ANY COURT.
9 BECAUSE IF YOU ARE IN ANY COURT, THE MATERIAL HAS BEEN
10 REDACTED OR HAS BEEN SEPARATED. IT'S AVAILABLE. AND THE
11 ARGUMENTS CAN BE MADE IN FRONT OF ANY COURT THAT THIS
12 COURT'S ORDER BE COMPLIED WITH. SO I HAVE CONFIDENCE IN
13 MY COLLEAGUE'S ABILITY TO LITIGATE THOSE ISSUES AS THEY
14 ARISE. I DON'T THINK AT THIS POINT IT IS APPROPRIATE FOR
15 THE COURT TO TAKE ANY FURTHER ACTION PRETRIAL. SO THE
16 MOTION WILL BE DENIED.

17 WHAT ELSE?

18 MR. JACKSON: YOUR HONOR, BEFORE WE LEAVE THIS
19 ISSUE, I WOULD LIKE TO GO AHEAD AND COME FULL CIRCLE WITH
20 MY FILING OF THIS MOTION. I'M SEPARATING MY MOTION AS
21 WELL AS ATTACHMENT A, WHICH I FILED WHICH WAS THE
22 ANALYSIS OF THE LETTERS THAT MS. -- THE COMPLAINED OF
23 DOCUMENTS THAT MS. SARIS LET ME SEE -- IF I CAN GET IT
24 RIGHT -- THAT FORMED THE BASIS OF MS. SARIS'S LATEST
25 MOTION.

26 I'M GOING TO SEPARATE ATTACHMENT A, AS
27 WELL AS THE ENTIRETY OF THOSE DOCUMENTS, AND FILE THOSE
28 WITH THE CLERK SO THAT THERE IS NO QUESTION THAT I NOT

1 ONLY DON'T HAVE THE DOCUMENT, I DON'T EVEN HAVE MY OWN
2 ANALYSIS. AND I WILL KEEP THOSE ON MY HARD DRIVE AT THE
3 OFFICE, THAT ATTACHMENT WILL BE ERASED, DELETED, ET
4 CETERA. IF THERE IS ANYTHING FURTHER THE COURT REQUIRES
5 OF ME, I WOULD BE HAPPY TO COMPLY.

6 THE COURT: ALL RIGHT. WELL, THE RECORD SHOULD
7 REFLECT THAT YOU HAVE GIVEN THE CLERK THE DOCUMENTS AND
8 THE CLERK WILL SEAL THOSE DOCUMENTS AS WELL YOUR
9 OPPOSITION TO THE MOTION WHICH CONTAINS THAT MATERIAL.

10 MS. SARIS: AND, YOUR HONOR, MR. GOODWIN WOULD
11 LIKE TO ADDRESS THE COURT AS TO MEDICAL ISSUES. AND I
12 KNOW THAT NORMALLY WE WOULD DO THAT EXPARTE, HOWEVER IT
13 PLAYS INTO HIS -- IN OUR DECISION TO CONTINUE THIS CASE.
14 AND I WOULD ASK THAT THE COURT INDULGE HIM BRIEFLY AND
15 HEAR HIS CONCERNS REGARDING HIS DESIRE TO WAIVE TIME, BUT
16 HIS CONCERN ABOUT HIS MEDICAL.

17 THE COURT: ALL RIGHT. MR. GOODWIN?

18 THE DEFENDANT: I DO THAT NOW?

19 MS. SARIS: YES.

20 THE DEFENDANT: STAND UP?

21 MS. SARIS: NO.

22 THE DEFENDANT: YOUR HONOR, I WROTE THIS BECAUSE
23 I'M AFRAID I'LL STUMBLE. YOU'RE IN CHARGE OF MY WHOLE
24 LIFE, SO I'M NERVOUS TALKING TO YOU.

25 THERE IS SOME CRITICAL ISSUES ON THE
26 CONTINUANCE ON WHICH YOU'RE PROBABLY NOT AWARE. I'VE
27 BEEN IN JAIL FOR FOUR AND A HALF YEARS ON THESE FALSE
28 CHARGES. MY 93-YEAR-OLD FATHER HAS LOST HIS HOME, HAS NO

1 PLACE TO LIVE; AND MY YOUNGER BROTHER DIED, WHICH I DON'T
2 THINK WOULD HAVE HAPPENED IF I CAME OUT.

3 THE FIRST TWO AND A HALF YEARS OF THAT,
4 THEY HAD NO JUSTIFICATION TO KEEP ME IN JAIL AS RULED BY
5 THE ORANGE COUNTY APPEAL COURT. ALL RIGHT. I'VE BEEN
6 HERE FOR A LONG TIME WITHOUT JUSTIFICATION ON FALSE
7 CHARGES. AND THE HOSPITAL OPHTHALMOLOGIST WHO EXAMINED
8 ME IN MARCH SAID THAT I SHOULD SEE AN INTERNIST
9 IMMEDIATELY. THAT WAS OVER THREE MONTHS AGO.

10 I COULD HAVE SERIOUS HEART OR CIRCULATORY
11 PROBLEMS. AND YET THREE MONTHS LATER, NO INTERNIST VISIT
12 YET. AND THE HEAD PHYSICIAN AT THE LOS ANGELES COUNTY
13 COUNTY JAIL LIED TO MY LAWYER YESTERDAY, JUST YESTERDAY,
14 THAT I HAD REFUSED TO SEE AN INTERNIST WHEN NO VISIT WAS
15 OFFERED.

16 BECAUSE OF WHAT HAPPENED TO MY EYE, IT
17 INDICATES IT IS A PRECURSOR. IT DOESN'T CAUSE IT, BUT IT
18 INDICATES THAT I AM AT A 70 PERCENT GREATER CHANCE OF
19 HAVING A BRAIN BLEEDING STROKE, THAT'S THE KIND THAT
20 KILLS YOU. BLOOD PRESSURE CONTROL IS ESSENTIAL. MY
21 OPHTHALMOLOGIST ALSO STRESSED THIS WHEN HE RECONFIRMED
22 ALONG WITH A USC SENIOR MEDICAL OPHTHALMOLOGIST.

23 AFTER THE DOCTOR TOLD YOU HERE THAT MY EYE
24 WASN'T CAUSED BY BLOOD PRESSURE, I WENT BACK OUT THERE ON
25 THE 27TH OF APRIL; SAW HIM AGAIN, DR. REDDY AND SOMEONE
26 VERY SENIOR. AND THEY LAUGHED AND SAID I DON'T KNOW WHAT
27 THEY'RE TELLING YOU. WE'RE SORRY, BUT BLOOD PRESSURE IS
28 IT. AND YOU'RE LEFT EYE IS AT EXTREME RISK. BLOOD

1 PRESSURE IS THE NO. 1 CAUSE OF THIS PROBLEM.

2 SO BETWEEN THAT AND THE POTENTIAL OF THE
3 STROKE AND I HAVE NO -- I CAN READ IT OR NOT -- I PULLED
4 OFF THE INTERNET WHAT HAPPENS HERE, HOW BAD IT IS FOR
5 THIS RETINAL VISION. IN FACT, I PROBABLY SHOULD. ALL
6 RIGHT. SO I HAVE NOT SEEN AN INTERNIST.

7 I HAVE NOT SEEN A NEUROLOGIST BECAUSE WHEN
8 YOUR EYE SHOWS THIS PATTERN OF BLEEDING, YOU NEED TO SEE
9 A NEUROLOGIST TO EVALUATE WHY. BECAUSE THEY'RE CONCERNED
10 ABOUT A STROKE THAT I MENTIONED TO YOU. I HAVE NOT SEEN
11 A NEUROLOGIST YET. THOSE ARE THE TWO TO ME ARE THE MOST
12 IMPORTANT. THERE ARE A NUMBER OF OTHER DOCTORS THAT I
13 NEED TO SEE, AS YOU KNOW I SUFFER FROM BACK PAIN.

14 AND BEFORE I GO TO TRIAL WE'VE BEEN TRYING
15 TO GET ME INTO SEE AN ORTHOPEDIC SURGEON NOW FOR MANY
16 MONTHS. TO SHOW YOU I BELIEVE THE INTENTIONAL LACK OF
17 CARE AT THE JAIL, I WENT BACK AND REVIEWED YOUR COURT
18 ORDERS. YOU GAVE A COURT ORDER LAST AUGUST, YOUR HONOR,
19 FOR ME TO SEE A KIDNEY, URINARY AND PROSTATE EXAM.
20 IT HAS NEVER HAPPENED.

21 LAST THURSDAY, I MET WITH DR. FRANCIS T.
22 GREENE, WHO IS NO. 2 THERE UNDER DR. SANFORD PECK. HE
23 WAS VERY CANDID WITH ME. HE SAYS I WILL PUT IN FOR YOU
24 TO SEE A NEUROLOGIST. I'M NOT PERMITTED FOR YOU TO APPLY
25 TO SEE THE OTHER SPECIALIST BECAUSE THERE HAS ALREADY
26 BEEN AN APPLICATION. AND OUR SYSTEM IS SUCH THAT IF YOU
27 DON'T SEE THEM, THERE IS NO FOLLOW-UP TO REBOOK IT AND IT
28 IS ABOVE MY HEAD.

1 AND IT BOILED DOWN TO THE FOLLOWING -- AND
2 HE DIDN'T SAY I WOULD LIKE TO BE OFF THE RECORD. I
3 PRESUMED HE WOULD HAVE BEEN. THE ONLY WAY, MR. GOODWIN,
4 YOU'RE GOING TO SEE THESE SPECIALIST IS TO GET MY BOSS
5 INTO COURT AND DO WHATEVER ONE OF THOSE THINGS, ORDER TO
6 SHOW CAUSE. OTHERWISE YOU ARE NOT GOING TO.

7 MY ATTORNEY WAS TOLD I WAS NOT GOING
8 BECAUSE TRANSPORTATION WAS NOT AVAILABLE. THAT IS NOT
9 TRUE. I TALKED TO THE TRANSPORTATION DEPUTIES. I'VE
10 BEEN THERE ENOUGH THAT THEY CONFIDE IN ME.
11 TRANSPORTATION GOES BACK AND FORTH FROM THE JAIL TO
12 HOSPITAL QUITE OFTEN HEADING GOING ONE WAY OR THE OTHER.
13 THIS COURT ORDER THAT IF IT WAS NECESSARY FOR ME TO SEE A
14 SPECIALIST, THAT A DEPUTY WOULD ESCORT ME AND BRING ME
15 BACK.

16 THE REASON THAT THEY CAN'T TAKE ME IS
17 THERE IS ONLY ONE ROOM FOR WHAT IS CALLED A K-10. THAT
18 IS MY KEEP AWAY STATUS. MY HIGH PROFILE. AND SO THEY
19 ONLY CAN TAKE ONE AT A TIME K-10. BUT THE REASON THEY
20 CAN'T TAKE ME IS NOT TRANSPORTATION; IT'S BECAUSE THERE
21 IS NOT A ROOM AVAILABLE THAT THEY LEAVE ME IN FOR 12
22 HOURS A DAY, WHICH YOUR COURT ORDER SAYS THEY SHOULDN'T
23 DO ANYWAY. IF THEY FOLLOWED THE COURT ORDER, ALL THEY
24 NEED TO DO IS MAKE AN APPOINTMENT; TAKE ME OUT THERE; AND
25 BRING ME BACK. AND TRANSPORTATION IS NOT A PROBLEM.

26 FOR EXAMPLE -- AS A THIRD EXAMPLE, THE
27 OPHTHALMOLOGIST THAT I SAW ORIGINALLY IN MARCH EXPLAINED
28 THAT THERE IS A PROBLEM WITH THIS PARTICULAR MALADITHA

1 (SIC) VEINS GROW -- I DON'T KNOW ANOTHER WORD EXCEPT LIKE
2 BASTARD-LIKE -- I'M SORRY FOR THE WORDING. MY EYE RIGHT
3 NOW I CAN STILL SEE FUZZY. I HAVE TO SEE YOU EVERY
4 MONTH. BE SURE THEY GET YOU HERE EVERY MONTH.

5 THE LAST TIME I SAW HIM WAS MAY 27TH.
6 PARDON ME. APRIL 27TH. THAT MEANS I'M THREE AND A HALF
7 WEEKS OVERDUE ON THAT ONE. SO THEY'RE AT THE VERY LEAST
8 GUILTY OF WHAT IS CALLED DELIBERATE MANIVALANCE WHICH THE
9 U.S. SUPREME COURT SAYS THEY CANNOT DO UNDER ESTLE VERSUS
10 GAMBLE.

11 I THINK THEIR INTENTION IN TRYING NOT TO
12 GIVE ME CARE IS TO SAVE THE MONEY OR FOR WHATEVER REASON.
13 BUT THE EXCUSES FOR MY ATTORNEY I BELIEVE IS THEY CAN'T
14 GET TRANSPORTATION. THAT IS NOT TRUE. IF THE DEPUTY
15 GOES WITH ME, I CAN GET TRANSPORT. THE REASON THEY CAN'T
16 TAKE ME IS THEY WANT TO LEAVE ME THERE FOR 12 HOURS,
17 WHICH YOU HAVE RULED -- AND I SHOULD END THIS UP.

18 FINAL THING, I'M TELLING YOU NOT ONE TIME
19 SINCE YOU MADE THIS SPECIAL TRANSPORT COURT ORDER HAS IT
20 BEEN CORRECTLY ADHERED TO. NOT ONCE. I'VE HAD SENIOR
21 DEPUTIES SAY TO ME AT THE HOSPITAL, I'M NOT GOING TO READ
22 THAT. I SAID I CAN'T STAY HERE. I WILL MISS MY NIGHT
23 BLOOD PRESSURE MEDICATION. I'M NOT GOING TO HEAR ABOUT
24 IT.

25 THEY SEND ME BACK ON A BUS. I SIT AROUND
26 FOR SEVERAL HOURS. I GET BACK UP THERE 10:00 OR 10:30.
27 I MISSED MY BLOOD PRESSURE MEDICATION. THAT'S -- NOW
28 THAT'S BEEN CURED. WE FINALLY GOT SELF-CARING. BUT IT

1 CAN BE CURED SIMPLY IF THAT COURT MERELY ASKED THEM TO
2 SEND ME THOSE SPECIALISTS AND ADHERE TO THE COURT ORDER.

3 MS. SARIS: AND, YOUR HONOR, MY CONCERN IS AS
4 MR. GOODWIN'S COUNSEL, I THINK FOR THE LAST THREE MONTHS
5 I'VE PROBABLY SPENT 30 PERCENT OF MY TIME ON HIS MEDICAL
6 CARE. I'M ALMOST -- HE'S ABSOLUTELY NOT ABLE TO ASSIST
7 ME IN HIS DEFENSE AT THIS POINT, CERTAINLY NOT FOR THE
8 LAST FOUR WEEKS.

9 I DON'T KNOW WHAT MORE TO DO, BUT PUT IN
10 THE COURT ORDERS -- LAST TIME HE WAS HERE WE ASKED FOR AN
11 INTERNIST. HE'S NOT BEEN TAKEN. HE'S NOT SEEN A
12 NEUROLOGIST SINCE THESE DOCTORS TOOK STOOD UP IN COURT
13 AND SAID THEY WERE GOING TO TAKE HIM. AND IN MY DEALINGS
14 WITH MR. GOODWIN WHEN I NEED SOMETHING FOR HIS DEFENSE,
15 I'M HAVING TO DEAL WITH MORE PRESSING ISSUES SUCH AS HIS
16 BLOOD PRESSURE GOING THROUGH THE ROOF; OR HIS MEDICATION
17 NOT COMING; OR HIM NOT SEEING A DOCTOR, THEN HE IS
18 INCAPABLE OF ASSISTING. AND THAT'S A SITUATION THAT I
19 NEED TO ADDRESS WITH THE COURT.

20 IT'S NOT JUST A SITUATION WHERE, YOU KNOW,
21 HE'S WINING BECAUSE HE HAS BEEN IN JAIL FOR FOUR YEARS.
22 THIS IS A 61-YEAR-OLD MAN THAT NEEDS FAIRLY BASIC MEDICAL
23 CARE. MEDICAL CARE THAT HAS BEEN PROMISED. AND I DON'T
24 KNOW IF WE NEED ANOTHER OSC, BUT I WANT TO VERY CLEAR ON
25 THE RECORD THAT MR. GOODWIN IS UNABLE TO ASSIST ME IN HIS
26 DEFENSE WHEN HIS MEDICAL NEEDS ARE NOT TAKEN CARE OF.

27 THE DEFENDANT: I WOULD LIKE TO ADD ONE QUICK
28 THING, YOUR HONOR. YOU HEARD THE BLOOD PRESSURE

1 SITUATION. AND I THINK THAT'S CLEAR THAT THAT'S
2 ESSENTIAL. IT WAS EVEN ON THE ORIGINAL CONSULT, WHICH I
3 THINK WE SHOWED YOU BLOOD PRESSURE CONTROL ESSENTIAL.
4 TWO OUT OF THE LAST THREE DAYS THEY MASSIVELY SCREWED UP
5 MY BLOOD PRESSURE MEDICATION. DIDN'T GIVE IT TO ME IN
6 THE MORNING.

7 I HAD TO HAVE ALMOST A FIGHT. LUCKILY, I
8 RAN INTO A DEPUTY THAT WAS INTERESTED; GOT ME DOWN TO THE
9 INFIRMARY; AND JUST BY ACCIDENT I GOT MY BLOOD PRESSURE
10 MEDICATION.

11 MS. SARIS: HE'S ON SELF-CARE NOW. SO WE KNOW
12 FOR 15 DAYS HE WILL BE FINE. BUT WE DON'T KNOW WHAT
13 HAPPENS AT THE END OF THAT 15-DAY CYCLE. THAT REQUIRED
14 ABOUT THREE PHONE CALLS FROM ME TO DR. PECK AND TWO
15 DIFFERENT PEOPLE. I SUBMITTED SPECIAL FAXES YESTERDAY
16 TRYING TO GET HIS SPECIAL TRANSPORT THIS MORNING.

17 WAS THAT COMPLIED WITH?

18 THE DEFENDANT: NO.

19 MS. SARIS: AND THAT WAS NOT -- AND MR. GOODWIN
20 -- WE WANT TO WAIVE TIME. WE WANT TO MAKE TODAY ZERO OF
21 60. I'VE TOLD THE COURT. I'VE TOLD COUNSEL. WE'RE
22 INVOLVED IN OTHER INVESTIGATION THAT MAY REQUIRE A
23 FURTHER TIME WAIVER AND OUR ONLY CONCERN IS GETTING HIM
24 THE MEDICAL CARE HE NEEDS PRIOR TO TRIAL.

25 THE COURT: JUST TELL ME WHAT IT IS YOU WANT THE
26 COURT TO DO.

27 MS. SARIS: PERHAPS WE CAN HAVE THE COURT ORDER
28 DR. PECK INTO THIS COURT AT THE NEXT HEARING FOR AN ORDER

1 TO SHOW CAUSE. CERTAINLY EVEN IF MR. GOODWIN IS NOT
2 BEING ACCURATE IN HIS DAY-TO-DAY DESCRIPTION, I CAN TELL
3 THE COURT HE'S NOT BEEN TAKEN TO L.C.M.C. AND THERE IS
4 AT LEAST SIX ORDERS ON FILE REQUIRING THAT.

5 THE COURT: WILL YOU PREPARE THE DOCUMENT TO BE
6 SERVED ON THE SHERIFF'S DEPARTMENT?

7 MS. SARIS: YES. OFFICIALS INCLUDING THE MEDICAL
8 DIRECTOR. I'M SORRY. SAY THE LAST PART AGAIN.

9 THE COURT: DR. PECK I ASSUME IS IN CHARGE OF ALL
10 THE L.A. COUNTY MEDICAL; RIGHT?

11 MS. SARIS: YES, THE JAIL. YES.

12 THE COURT: SO WOULD YOU SERVE AN OSC ON
13 SHERIFF'S OFFICIALS. I GUESS WHOEVER IS IN CHARGE OF THE
14 COUNTY JAIL AND DR. PECK WHO IS IN CHARGE OF MEDICAL.
15 AND IF YOU CAN SERVE IT AND LAYOUT IN YOUR MOVING PAPERS
16 THE ALLEGATIONS, I WILL ISSUE AN ORDER TO SHOW CAUSE.
17 AND I WILL, AGAIN, GIVE THEM AN OPPORTUNITY TO ADDRESS
18 THESE ISSUES. BUT THAT'S REALLY ALL I CAN DO.

19 WHAT DAY WOULD YOU LIKE FOR THAT?

20 MR. DIXON: COULD I JUST ADDRESS SOMETHING FIRST?

21 THE COURT: SURE.

22 MR. DIXON: THE LANGUAGE HERE IS IMPORTANT. I
23 KNOW REVIEWING COURTS TAKE 1368 VERY SERIOUSLY. DID I
24 HEAR MS. SARIS SAY THAT SHE IS EXPRESSING A DOUBT UNDER
25 1368.

26 MS. SARIS: ACTUALLY, 1368 IS PSYCHOLOGICAL.

27 THE COURT: I HEARD HER SAY THE DEFENDANT CANNOT
28 ASSIST HER IN HIS DEFENSE, BUT I DIDN'T TAKE THAT TO

1 MEAN -- AND I MAY BE RIGHT OR WRONG. I DON'T KNOW. I
2 DIDN'T TAKE THAT TO MEAN THAT SHE WAS EXPRESSING A DOUBT.

3 MS. SARIS: ACTUALLY, NO. MR. GOODWIN IS MORE
4 THAN COMPETENT. IT IS A PHYSICAL SITUATION THAT IS
5 UNFORTUNATELY TAKING HIS TIME, HIS WORRY, HIS ATTENTION,
6 AS IT WOULD ANY OF US IF WE WERE IN THE SAME SITUATION.

7 THE COURT: YOU'RE NOT ASKING THE COURT TO
8 ADJOURN PROCEEDINGS UNDER 1368?

9 MS. SARIS: ABSOLUTELY NOT.

10 MR. DIXON: THANK YOU, YOUR HONOR.

11 MS. SARIS: I'M ASKING THE COURT TO MAKE SURE THE
12 SHERIFFS PROVIDE ADEQUATE MEDICAL CARE.

13 THE COURT: ALL RIGHT. WHAT DAY DO YOU WANT?

14 MS. SARIS: YOUR HONOR, WOULD THE COURT ALSO
15 CONSIDER AN OSC REGARDING THE TRANSPORTATION ISSUE THE
16 SAME DAY?

17 THE COURT: YES. BUT, AGAIN, I WANT YOU TO PUT
18 THIS IN WRITING AND GIVE THESE PEOPLE NOTICE OF THE
19 ALLEGATIONS, PLEASE.

20 MS. SARIS: I WAS GOING TO SAY THE 18TH. I SEE
21 THAT'S THE DAY YOU RETURN.

22 MR. JACKSON: JULY 18TH, IS THAT WHAT YOU SAID?

23 MS. SARIS: BUT THAT'S THE DAY THAT YOU ARE BACK.
24 IS THAT GOING TO BE A DAY THAT IS HORRIBLE?

25 MR. JACKSON: IT'S HORRIBLE FOR ME.

26 MS. SARIS: WE CAN DO THE 19TH OR 20TH.

27 THE COURT: IS THERE ANY POSSIBILITY WE CAN DO
28 THE FOLLOWING WEEK?

1 MR. JACKSON: SURE. THE ONLY DAY THAT I'M BOOKED
2 IS THE 25TH, THAT TUESDAY. BUT OTHERWISE I'M FINE.

3 MS. SARIS: I CAN DO THE 26TH.

4 MR. JACKSON: THAT'S FINE.

5 THE COURT: 26TH IS GOOD FOR EVERYBODY?

6 MR. JACKSON: SURE.

7 MS. SARIS: YES.

8 THE COURT: SO I WILL SET THE OSC ON THE 26TH OF
9 JULY. WHAT ELSE WE ARE GOING TO DO IN TERMS OF THE CASE
10 ITSELF?

11 MS. SARIS: THAT WOULD BE 36 OF 60 IF WE WERE TO
12 MAKE TODAY ZERO OF 60.

13 THE COURT: IF YOU AGREE TO MAKE TODAY ZERO OF
14 60, THEN THE LAST DAY WOULD BE --

15 MS. SARIS: AUGUST 17TH.

16 THE COURT: I HAVE -- TODAY IS JUNE 20TH; RIGHT?
17 SO THE 60 DAYS I HAVE --

18 MS. SARIS: I'M SORRY. 21ST. I'M SORRY.

19 MR. DIXON: WELL, THERE IS ANOTHER POINT OF VIEW
20 ON THIS.

21 THE COURT: OKAY.

22 MR. DIXON: WE WERE TOLD AND THE COURT WE WERE
23 READY TO GO THE LAST TIME IN MAY. WE WERE READY TO GO I
24 THINK THE LAST DAY. NOW IS JULY 17TH. WE'RE READY TO GO
25 TO TRIAL. MR. GOODWIN HAS ALWAYS ASKED FOR HIS TRIAL.
26 WE'RE READY TO DO THAT. I UNDERSTAND THE COURT'S
27 CONCERNS ABOUT SUMMER JURORS AND THE LIKE. I JUST WANT
28 THAT TO BE KNOWN WE ARE READY TO GO TO TRIAL ON THE NEXT

1 DATE.

2 IF THERE IS GOING TO BE A CONTINUANCE, I
3 THINK IT SHOULD BE MUTUALLY CONVENIENT TO BOTH PARTIES.
4 I DON'T THINK MS. SARIS GETS TO JUST TELL US WHEN WE'RE
5 GOING TO GO TO TRIAL. SHE CAN TELL US WE'RE GOING TO GO
6 TO TRIAL ON JULY 17TH. WE'RE READY TO GO TO TRIAL ON
7 THAT DATE. IF WE'RE GOING TO CONTINUE THIS FOR OUR
8 CALENDARS, IT WOULD BE BEST TO GO AFTER LABOR DAY. I
9 WOULD SUGGEST SEPTEMBER 15TH OR SOME DAY THAT NEXT WEEK,
10 THAT WOULD BE AFTER THE SUMMER HOLIDAYS AND THE COURT'S
11 CONCERNS WITH JURORS, TEACHERS AND THE LIKE.

12 MS. SARIS: AND, YOUR HONOR, I ATTEMPTED TO TALK
13 TO MR. DIXON IN THE HALLWAY. HE DIDN'T WANT TO TALK TO
14 ME ABOUT IT OFF THE RECORD. SO I ACTUALLY ASKED HIM WHEN
15 HIS VACATION WAS.

16 MR. DIXON: IT HAS NOTHING TO DO WITH VACATION.

17 MS. SARIS: SO I'M MORE THAN HAPPY TO ACCOMMODATE
18 A SCHEDULE IF IT'S REASONABLE. SO WHAT I SUGGEST WE DO
19 IS GOING TO THE 26TH NOW BECAUSE WE'RE OBVIOUSLY GOING TO
20 -- WE ARE IN A DIFFERENT SITUATION. IF MR. GOODWIN IS
21 NOT GETTING MEDICAL CARE, THAT IS OUR NO. 1 CONCERN.

22 I CAN GUARANTEE IF MR. GOODWIN GOT HIS
23 ADEQUATE MEDICAL CARE, WE CAN THEN PUT THE CASE THAT'S
24 CONVENIENT TO ALL PARTIES. AT THIS POINT OUR CONCERN IS
25 MEDICAL CARE. IF THE COURT FOUND A WAY TOMORROW TO GET
26 HIM IN THE HOSPITAL, I WOULD LET MR. DIXON PICK THE DATE.
27 BUT UNFORTUNATELY, THE MEDICAL CARE IS THE THING THAT'S
28 HOLDING UP.

1 THE COURT: WELL, I'M DOING EVERYTHING I CAN DO
2 TO MAKE SURE THAT MR. GOODWIN IS GETTING HIS MEDICAL
3 CARE.

4 MS. SARIS: AND YOU ARE BEING IGNORED I'M AFRAID.

5 THE COURT: I UNDERSTAND THAT. AND THAT'S WHY WE
6 WILL HAVE A SECOND OSC HEARING. BUT IN TERMS OF SETTING
7 A DATE WHERE THE LAST DATE IS AUGUST 21ST, IF YOU ARE
8 WILLING TO TAKE INTO ACCOUNT THE PROSECUTION'S TIME TABLE
9 AND SCHEDULE; ASK THE COURT'S SCHEDULE; I MEAN THAT MAY
10 NOT BE REALISTIC TO CALL THAT A LAST DAY.

11 IF THE CASE IS GOING TO STAY IN THE
12 DISTRICT, WHICH WE CERTAINLY WOULD LIKE TO HAVE HAPPEN,
13 WE'RE GOING TO NEED TO GIVE THE JURY ROOM ADVANCED NOTICE
14 SO THAT THEY CAN BRING IN A LARGE PANEL OF PROSPECTIVE
15 JURORS. YOU KNOW, AUGUST 21ST WILL BE MORE DIFFICULT
16 THAN A SEPTEMBER 15TH DATE. SO --

17 MS. SARIS: AGAIN, HERE IS MY CONCERN, I THINK WE
18 WILL NEED THE TIME FRANKLY. I HAVE CERTAIN
19 INVESTIGATION -- ONE MORE OUT OF STATE THAT I STILL HAVE
20 TO DO. I'LL BE DOING SOME NEXT WEEK. HOWEVER,
21 MR. GOODWIN -- WE CAN CERTAINLY DO IT OVER HIS OBJECTION.
22 BUT MY CONCERN IS -- AND I HAVE NOT FILED THE PAPERWORK
23 FOR THAT, MR. GOODWIN IS UNWILLING TO DO UNTIL HE SEES
24 WHAT HIS MEDICAL SITUATION IS. I'M HAPPY TO TELL THE
25 COURT THAT IF MR. GOODWIN -- THE 15TH OF SEPTEMBER IS A
26 FRIDAY, THE 18TH, THE 11TH, ANY ONE OF THOSE IS FINE BY
27 US.

28 THE COURT: ALL RIGHT.

1 MR. DIXON: MR. GOODWIN IS NOT IN CHARGE OF THIS,
2 OBVIOUSLY THE COURT IS. IF MR. GOODWIN WANTS HIS TRIAL,
3 WE WILL DO IT ON JULY 17TH. IF HE WANTS A CONTINUANCE,
4 THEN WE WILL WORK ON A MUTUALLY CONVENIENT DATE. IT
5 SEEMS TO ME THAT'S THE WAY IT GOES. WE'RE READY TO
6 PRESENT EVIDENCE CONSISTENT WITH WHATEVER THE COURT'S
7 ISSUES ARE, WHICH WE UNDERSTAND. AND THAT'S ONE OF THE
8 REASONS I SUGGESTED THE DATE IN SEPTEMBER IS BECAUSE THE
9 COURT HAS TALKED OFTEN ABOUT JUROR PROBLEMS IN LIGHT OF
10 THE SUMMER.

11 THE COURT: AND ACTUALLY COURT PROBLEMS AS WELL.
12 I MEAN THE SUMMER IS A VERY DIFFICULT TIME FOR EVERYBODY.

13 MS. SARIS: AND, YOUR HONOR, I'VE BEEN TRYING TO
14 GET INTO SEE THE EVIDENCE. TO THIS DAY I HAVE HAD NO
15 PHONE CALL RETURNED. I GOT NEW DISCOVERY YESTERDAY. SO
16 THE FACT THAT THE PEOPLE ARE, QUOTE, READY IS SOMEWHAT
17 MEANINGLESS.

18 THE COURT: WELL, TO THE EXTENT THAT I'M GOING TO
19 ASK COUNSEL TO AGREE TO A DATE, WHICH WILL BE THE LAST
20 DAY, I THINK THE POINT IS WELL TAKEN. IF MR. GOODWIN
21 DOES NOT WANT TO AGREE TO SOMETHING MORE REALISTIC AS A
22 LAST DAY, I DON'T KNOW WHAT I CAN DO. IT SOUNDS LIKE THE
23 PEOPLE ARE SAYING THEY'RE READY. THE DEFENSE IS SAYING
24 THEY'RE NOT READY.

25 AND I THINK IT IS APPROPRIATE FOR US TO
26 TRY TO SELECT A DATE THAT'S MUTUALLY CONVENIENT AS THE
27 LAST DAY. I WOULD RECOMMEND -- APART FROM WHAT MR. DIXON
28 SAID -- THAT SEPTEMBER IS A BETTER TIME FOR THE COURT

1 ADMINISTRATION. I WILL BE HONEST WITH YOU, WE HAVE A
2 NUMBER OF COURTS WHO ARE DARK IN AUGUST THROUGH LABOR
3 DAY.

4 MS. SARIS: MAY WE HAVE A MOMENT?

5 (DISCUSSION OFF THE RECORD.)

6 THE DEFENDANT: YOUR HONOR, CAN I JUST SAY ONE
7 THING, I WANT TO GET HOME WHEN THERE IS STILL ENOUGH OF
8 ME LEFT TO GET HOME. AND THIS IS INSANE.

9 MS. SARIS: YOUR HONOR, MR. GOODWIN'S CONCERN IS
10 NOT MESSING WITH ANYONE'S SCHEDULE. IT'S GETTING HIS
11 MEDICAL CARE. NOW WE'RE ALL THE WAY OUT TO THE 26TH
12 BECAUSE THAT'S THE DATE CONVENIENT TO THE COURT.

13 THE COURT: I CAN DO IT TOMORROW. I MEAN I'M
14 HERE. IF YOU CAN SERVE THE PEOPLE THAT YOU MENTIONED,
15 THE DOCTOR; TRANSPORTATION PEOPLE; AND THE SHERIFF'S
16 DEPARTMENT, IF YOU CAN SERVE THEM WITH AN OSC, I WILL PUT
17 IT ON CALENDAR ANY DAY WITHIN THE NEXT WEEK. I'M HAPPY
18 TO DO THAT.

19 COUNTY COUNSEL MAY WANT SOME ADDITIONAL
20 TIME TO RESPOND. BUT I'M VERY HAPPY TO SET THAT MATTER
21 IMMEDIATELY. THIS IS NOT THE FIRST TIME THE COURT HAS
22 HAD TO DO THIS. AND I'M RUNNING OUT OF PATIENTS IN THAT
23 REGARD. SO I WOULD LIKE TO GET THAT RESOLVED.

24 MS. SARIS: THEN MAYBE WE CAN HAVE THE 5TH OR 6TH
25 IN THE BEGINNING OF JULY.

26 MR. JACKSON: JULY 5TH OR 6TH?

27 THE COURT: FOR THE OSC. I THINK YOU NEED TO
28 CHECK WITH THE PEOPLE THAT YOU ARE SERVING.

1 MS. SARIS: THAT'S WHAT I MEAN. AND I'M OUT ALL
2 NEXT WEEK. I'LL BE HONEST, I'M IN A BIND AS WELL. I
3 UNDERSTAND THAT WE ALL SHOULD COME TO A MUTUALLY
4 AGREEABLE DATE. I'M SOLD ON THE IDEA THAT WE'RE NOT
5 GOING TO GET THE RIGHT JURY IN THE SUMMER. WE CAN DO IT
6 OVER HIS OBJECTION RIGHT NOW IF WE WANT MR. GOODWIN'S
7 ACQUIESCENCE TO THIS, WHICH I UNDERSTAND HIS
8 PROSPECTIVE --

9 THE COURT: I UNDERSTAND. ALL RIGHT. I DON'T
10 NEED HIS ACQUIESCENCE. IF YOU ARE ASKING ME TO CONTINUE
11 THIS MATTER SO THAT YOU HAVE TIME TO PREPARE, I WILL MAKE
12 A FINDING OF GOOD CAUSE TO CONTINUE THE MATTER SO THAT
13 THE LAST DAY IS WHATEVER DATE YOU ARE REQUESTING.

14 MS. SARIS: HOW IS THE 11TH OF SEPTEMBER?

15 THE COURT: WHY DON'T I MAKE THAT -- WHY DON'T I
16 MAKE THE LAST DAY THE 21ST. AND I WILL BRING YOU BACK ON
17 THE 11TH.

18 MR. DIXON: THAT IS SATISFACTORY, YOUR HONOR.

19 THE COURT: HOW IS THAT? I WILL FIND GOOD CAUSE
20 TO THE CONTINUE TO THE 21ST OF SEPTEMBER. BUT I WILL SET
21 THE MATTER FOR TRIAL ON THE 11TH OF SEPTEMBER AS OUR
22 TARGET DATE TO GET STARTED.

23 MS. SARIS: THAT'S FINE. WE'RE GOING TO NEED A
24 FEW DAYS LEEWAY BECAUSE WE HAVE OUT OF STATE WITNESSES.

25 THE COURT: I MEAN THAT'S THE BEST I CAN DO TO
26 FIND GOOD CAUSE. AND, MS. SARIS, YOU ARE SAYING YOU NEED
27 TIME TO PREPARE AND TO COMPLETE YOUR INVESTIGATION?

28 MS. SARIS: I DO. AND I AM REQUESTING THAT OVER

1 MR. GOODWIN'S OBJECTION.

2 THE COURT: ALL RIGHT. AND THE PEOPLE DON'T HAVE
3 ANY OBJECTION, I TAKE IT, TO THAT?

4 MR. DIXON: THAT'S FINE. THANK YOU VERY MUCH,
5 YOUR HONOR.

6 THE COURT: ALL RIGHT. I'M GOING TO FIND GOOD
7 CAUSE, THEN, TO CONTINUE THIS MATTER OVER THE DEFENDANT'S
8 OBJECTION TO THE 21ST OF SEPTEMBER AS THE LAST DAY. THE
9 DEFENSE HAS SHOWN GOOD CAUSE TO CONTINUE THE MATTER FOR
10 FURTHER INVESTIGATION AND PREPARATION. I WILL CALENDAR
11 THIS MATTER, HOWEVER, FOR STATUS CHECK ON THE SEPTEMBER
12 11TH DATE. WE WILL MAKE THAT A TARGET DATE AT LEAST TO
13 GET STARTED WITH MOTIONS.

14 AND PERHAPS WHEN WE COME BACK ON THE OSC,
15 WHENEVER WE DO THAT WE CAN ALSO DISCUSS THE NUMBER OF
16 JURORS AND SO ON AND SO FORTH AND WHERE THE CASE WILL BE
17 TRIED. BUT I FIRST WANT TO DISCUSS WHETHER OR NOT WE
18 WILL BE ABLE TO GET THE SPACE AS REQUESTED BY DEFENSE
19 COUNSEL TO SET UP. AND THAT'S GOING TO BE CRITICAL, SO I
20 HAVE ASKED THE COURT TO CALL THE COURT ADMINISTER AND HE
21 IS ON HIS WAY UP.

22 MS. SARIS: THEN WE BETTER LEAVE THE JULY 26 DATE
23 FOR THE OSC. THE LAST THING I WANT THEM TO SAY ON A
24 TECHNICALITY IS WE DIDN'T GIVE THEM ENOUGH NOTICE.

25 THE COURT: SO I WILL PUT IT ON CALENDAR JULY 26,
26 OSC. IF YOU WISH, I WILL ORDER THE DEFENDANT OUT FOR
27 THAT DATE. AND WE CAN HAVE A FURTHER STATUS CHECK ON
28 THAT DATE WHEN WE HAVE MORE INFORMATION. OKAY?

1 ANYTHING ELSE?

2 MR. DIXON: NO. THANK YOU, YOUR HONOR.

3 MS. SARIS: YES. WE HAVE ONE OTHER THING, YOUR
4 HONOR.

5 THE COURT: WHAT?

6 MS. SARIS: WE SUBPOENAED DOCUMENTS FROM SOMEONE
7 FOR THE LAST THREE MONTHS. THEY ORIGINALLY INDICATED TO
8 US THEY WOULD ACCEPT A FAX SUBPOENA. THEN THEY MADE US
9 DRIVE A CONSIDERABLE DISTANCE. WE SERVED THEM. WE'RE
10 ASKING THAT A BODY ATTACHMENT BE -- WE ARE NOT ASKING IT
11 TO BE HELD.

12 THE COURT: DID YOU GIVE THE CLERK?

13 MS. SARIS: I DID. THE PHYSICAL DESCRIPTION IS
14 ON IT.

15 THE COURT: YOU WANT ME TO ISSUE AND HOLD?

16 MS. SARIS: I DO NOT WANT IT HELD. I DON'T
17 KNOW --

18 THE COURT: YOU WANT IT RELEASED?

19 MS. SARIS: I'VE CALLED. I'VE BEGGED. I'VE SENT
20 SOMEONE THERE. I'VE OFFERED TO PICK IT UP. THEY'RE
21 ABSOLUTELY PLAYING GAMES WITH US.

22 THE COURT: WAIT. THIS IS THE --

23 THE CLERK: OH, HERE.

24 THE COURT: SO THIS IS THE -- WHAT IS IT?
25 RIVERSIDE COUNTY -- WHO ARE YOU SUBPOENAING?

26 MS. SARIS: THE CUSTODIAN OF RECORDS TERESA
27 GARCIA.

28 THE COURT: ALL RIGHT. I WILL FIND THAT THE

1 CUSTODIAN OF RECORDS TERESA GARCIA, SHE IS THE CUSTODIAN
2 FOR THE RIVERSIDE COUNTY SHERIFF'S DEPARTMENT, WAS
3 PROPERLY SERVED. THERE IS PROOF OF SERVICE ATTACHED.
4 SHE WAS SUPPOSED TO APPEAR OR ISSUE THE RECORDS TO THE
5 DEFENSE, OR THE COURT RATHER, BY NO LATER THAN TODAY AT
6 8:30 IN THE MORNING.

7 YOU HAVE HAD NO RESPONSE THEN?

8 MS. SARIS: I PHONED HER AND SHE TOLD ME TO GO
9 AHEAD AND ISSUE IT. TOLD ME THAT THE BEST I WOULD GET IS
10 A REJECTION LETTER.

11 THE COURT: THEN I WILL FIND THAT SERVICE HAS
12 BEEN MADE. AND THE WITNESS HAS FAILED TO COMPLY WITH THE
13 COURT'S SUBPOENA. IN WHICH CASE I WILL ISSUE A BODY
14 ATTACHMENT FOR THE IMMEDIATE ARREST OF TERESA GARCIA. I
15 WILL SET BAIL IN THE AMOUNT OF \$50,000. I WILL ASK YOU
16 TO CONTACT HER --

17 MS. SARIS: I'LL DO THAT NOW.

18 THE COURT: -- IMMEDIATELY AND LET HER KNOW OF
19 THE STATUS. ANYTHING ELSE?

20 MR. DIXON: NO. THANK YOU, YOUR HONOR.

21 MR. JACKSON: NO.

22 MS. SARIS: YES. MR. GOODWIN INSISTS THAT THE
23 ONLY WAY FOR HIM TO GET BACK SPECIAL TRANSPORT IS FOR THE
24 COURT TO ASK FOR A RADIO CAR.

25 THE COURT: I WILL MAKE THE REQUEST. BUT I WILL
26 ASK -- WE ARE GOING TO GO OFF THE RECORD.

27 MS. SARIS: OKAY.

28 (DISCUSSION OFF THE RECORD.)

(THE MATTER WAS CONTINUED TO FRIDAY,
SEPTEMBER 15, 2006 AT 8:30 A.M.)

--000--

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF AND RESPONDENT,

VS.

01 - MICHAEL FRANK GOODWIN,

DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

SEPTEMBER 15, 26, OCTOBER 6 AND 11, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 5 OF 24

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LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA FRIDAY, SEPTEMBER 15, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14
15 THE COURT: ALL RIGHT. ON THE MICHAEL GOODWIN
16 MATTER. THIS IS CASE NO. GA052683. MR. GOODWIN IS
17 PRESENT.

18 LET ME HAVE COUNSEL STATE YOUR
19 APPEARANCES, PLEASE.

20 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
21 ON BEHALF OF MR. GOODWIN.

22 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC
23 DEFENDER, ALSO ON BEHALF OF MR. GOODWIN.

24 MR. DIXON: PAT DIXON FOR THE PEOPLE.

25 MR. JACKSON: ALAN JACKSON FOR THE PEOPLE.

26 THE COURT: ALL RIGHT. I PUT THE MATTER ON
27 CALENDAR AT DEFENSE COUNSEL'S REQUEST, I BELIEVE, BECAUSE
28 THERE IS A MOTION FILED. AND I DON'T KNOW WHAT ELSE WE

1 NEED TO DISCUSS TODAY, BUT THAT'S WHY THE CASE WAS
2 CALENDARED.

3 SO, MS. SARIS.

4 MS. SARIS: THANK YOU. YES, WE ASKED THE CASE TO
5 BE ADVANCED FROM THE 26TH BECAUSE OF DISCOVERY WE
6 RECEIVED ON FRIDAY. I THINK THE MOTION PRETTY MUCH LAYS
7 OUT WHAT THE CHRONOLOGY OF WHAT HAPPENED WAS. I'M AT A
8 COMPLETE LOSS FOR HOW THE PROSECUTION KEPT THIS
9 INFORMATION FOR 63 DAYS. WE HAVE BEEN WORKING ON A
10 QUESTIONNAIRE, AS I STATED IN THE MOTION. WE'VE RENTED A
11 STORAGE FACILITY. I KNOW THIS COURT, YOU CALLED IN
12 EMERGENCY JURORS.

13 THE COURT: ACTUALLY, WE DIDN'T BECAUSE WE WERE
14 GOING TO START ON THE 5TH. AND I WAS TOLD THAT WE WOULD
15 BE ABLE TO DRAW FROM THAT WEEK'S POOL IN ADDITION TO THE
16 FOLLOWING WEEK'S POOL, SO WE WERE OKAY.

17 MS. SARIS: I KNOW WE DISCUSSED IT AT ANY RATE.

18 THE COURT: YES.

19 MS. SARIS: AND, YOUR HONOR, I DON'T KNOW WHAT
20 ELSE TO SAY. I'M ALMOST SPEECHLESS AT THE IDEA THAT
21 HAVING LISTENED TO THIS TAPE WITH AN INDIVIDUAL WHO IS
22 OBVIOUSLY NOT ALL THERE MENTALLY, WHO HAS HAD SEVERAL
23 STAYS AT PATTON STATE HOSPITAL, WHO HAS ABSOLUTELY NO
24 INFORMATION ON THE CASE, THAT COULDN'T HAVE BEEN
25 GENERATED FROM THE TELEVISION. AND THE INFORMATION THAT
26 HE DOES HAVE IS LAUGHABLE.

27 IT'S ALMOST AS IF THE INDIVIDUAL ON THE
28 TAPE IS INTERVIEWING FOR OR AUDITIONING FOR A ROLE ON THE

1 SOPRANOS. IT'S JUST ONE OF THE MOST LUDICROUS STATEMENTS
2 WE'VE HAD HANDED TO US IN THIS CASE. THAT ASIDE AND THE
3 FACT OF IT BEING HANDED TO US 30 DAYS BEFORE IS NOT
4 REALLY OUR CONCERN SO MUCH AS THE 63 DAYS OF SILENCE WHEN
5 WE WERE SPINNING OUR WHEELS.

6 NOT ONLY SPINNING OUR WHEELS, BUT BEING
7 FORCED TO ENDURE THE DISTRICT ATTORNEY STANDING UP AND
8 TALKING AND TELLING US OVER AND OVER AGAIN HOW THEY WERE
9 READY TO TRY THIS CASE. HOW THEY HAD GIVEN US THIS
10 DISCOVERY -- THEIR DISCOVERY. IN THE TIME THAT I'VE BEEN
11 HANDED THIS MOTION, I'VE BEEN HANDED AN UPDATED WITNESS
12 LIST. THE FIRST LIST HAD 43 NAMES. YESTERDAY'S WITNESS
13 LIST HAD 88 NAMES. TODAY IT'S UP TO 91.

14 I THINK THERE HAS BEEN A PATTERN AND
15 PRACTICE IN THIS CASE OF TRYING TO DELUGE US WITH
16 INFORMATION THAT IS USELESS. I THINK THAT'S EVIDENT IN
17 THE 40,000 PAGE MURDER BOOK. NOW WE HAVE 91 NAMES AND
18 THE PEOPLE HAVE GIVEN A THREE-WEEK TRIAL ESTIMATE.

19 AT SOME POINT, I THINK THAT -- I KNOW
20 THERE WAS ANOTHER HIGH-PROFILE CASE IN OUR OFFICE
21 RECENTLY WHERE THREE OF OUR DEATH PENALTY -- TWO OF THEM
22 OVER A YEAR AND A HALF AND THEY HAD TO GET OFF BECAUSE
23 THIS SAME 11TH-HOUR SNITCH. LUCKILY IN THIS CASE THIS
24 ISN'T A CONFLICT. HOWEVER, IT IS INAPPROPRIATE. IT'S
25 SOMETHING THAT AT SOME POINT HAS TO BE SANCTIONED IN
26 ORDER FOR IT TO BE STOPPED.

27 IF THE COURT IS UNWILLING TO EXCLUDE THIS
28 WITNESS, THEN WE DO NEED TIME JUST TO BE COMPETENT

1 COUNSEL. WE NEED TO GET THE RECORDS FROM PATTON. I'VE
2 PREPARED A COURT ORDER FOR THAT. I'VE SENT OUT SUBPOENAS
3 THE MINUTE THAT I GOT THIS INFORMATION. IT IS A MINIMUM
4 OF THREE WEEKS.

5 MORE THAN A CONTINUANCE, WE ARE ALSO
6 REQUESTING IF THE COURT IS NOT WILLING TO EXCLUDE THIS
7 WITNESS, A JURY INSTRUCTION THAT WE WOULD PROPOSE AS WE
8 GET CLOSER TO THE START OF TRIAL.

9 THE COURT: ALL RIGHT.

10 MR. DIXON: MAY I RESPOND?

11 THE COURT: YES. PLEASE.

12 MR. DIXON: THANK YOU. FIRST, I KIND OF WONDER
13 WHY WE'RE EVEN HERE. BECAUSE IT SEEMS TO ME THAT WHAT
14 THE COMPLAINT ABOUT IS THAT WE GAVE OVER DISCOVERY AND
15 COMPLIED WITH THE DISCOVERY STATUTE 30 DAYS BEFORE TRIAL.
16 THIS WITNESS THAT WE HANDED OVER HEARD STATEMENTS FROM --
17 INCRIMINATING STATEMENTS FROM THE DEFENDANT. THEY'RE
18 STATEMENTS OF THE DEFENDANT. WE HAVE AN OBLIGATION TO
19 HAND THAT INFORMATION OVER. AND THAT'S WHAT WE DID.

20 THE ISSUE ABOUT THE 30 DAYS, I WOULD BE
21 HAPPY TO GO IN CHAMBERS AND EXPLAIN THIS TO THE COURT.
22 THERE WAS AN ONGOING INVESTIGATION REGARDING THIS. AND I
23 THINK IF THE COURT SAW WHAT WE WOULD PRESENT TO THE COURT
24 IN CHAMBERS, YOU WOULD CLEARLY UNDERSTAND WHY WE DIDN'T
25 TURN THIS INFORMATION OVER UNTIL WE HAD TO.

26 JUST BEFORE THE 30-DAY DEADLINE ARRIVED,
27 MR. JACKSON AND I TALKED ABOUT THIS. AND WE SAID -- WE
28 BOTH CAME TO THE CONCLUSION THE STATUTE SAYS 30 DAYS, WE

1 BETTER STOP WHAT WE ARE DOING AND WE WILL TURN IT OVER.
2 AND THAT'S WHAT WE DID. IT SEEMS TO ME MS. SARIS'S
3 REMEDY HERE IS ONE IF WE USE THIS WITNESS -- AND AS I
4 TOLD HER, OUR OFFICE HAS A POLICY ON THIS TYPE OF
5 WITNESSES -- WE HAVE TO PRESENT THE INFORMATION TO A
6 COMMITTEE.

7 IT'S IN THE POLICY MANUAL. AND THE OFFICE
8 WILL DECIDE WHETHER OR NOT WE HAVE THE OPTION OF USING
9 THIS WITNESS. THAT HASN'T BEEN DECIDED YET, BUT WE'RE
10 GOING TO COMPLY WITH OUR OFFICE'S LEGAL POLICY MANUAL IN
11 DOING THIS. BUT I COULDN'T WAIT UNTIL WE DID THAT
12 BECAUSE WE WOULD HAVE BEEN BEYOND THE 30 DAYS.

13 SO WE GAVE THE INFORMATION UP AND I JUST
14 DON'T SEE THE REASON FOR THE COMPLAINTS HERE. IF WE GO
15 FORWARD AND IF THE OFFICE DECIDES THAT THIS WITNESS IS
16 USEABLE, IT SEEMS TO ME HER REMEDY IS A MOTION IN LIMINE.
17 WE HAVE MOTION DAYS SET IN THIS TRIAL. IF SHE BELIEVES
18 THE WITNESS IS THAT WHACKED OUT, I'M SURE WE CAN
19 DEMONSTRATE THAT IN CROSS-EXAMINATION.

20 I JUST WOULD ALSO LIKE TO SAY THAT IT
21 IS -- AND MS. SARIS SHOULD KNOW THIS AND PROBABLY DOES --
22 THE ALVAREZ CASE WHICH SHE ALLUDED TO WHERE THERE WAS A
23 SIMILAR SITUATION, THAT'S THE METROLINK TRAIN CRASH, THE
24 PUBLIC DEFENDER'S OFFICE WAS ON THAT. THERE WAS AN
25 IN-CUSTODY WITNESS WHO HAD INFORMATION THAT WAS BASICALLY
26 EXCULPATORY, SOME INCRIMINATING, BUT EXCULPATORY
27 INFORMATION.

28 AND WE HANDED THAT OVER BECAUSE THIS WAS

1 EXCULPATORY. AND WE TOLD THE PUBLIC DEFENDER'S OFFICE
2 AND JUDGE POUNDERS IN OPEN COURT THAT WE HAD NO INTENTION
3 EVER OF USING THIS WITNESS. AND WE WERE HOPING THAT IT
4 WOULDN'T BE USED FOR A REASON TO CONFLICT OUT OF THE
5 CASE. AND THE TRIAL DEPUTY ROSE REGLOVE, BASICALLY TOLD
6 ME THAT, TOO. THAT SHE DIDN'T WANT TO USE THE WITNESS
7 AND WANTED TO STAY ON THE CASE.

8 SO IT WAS A DECISION MADE BY THE UPPER
9 MANAGEMENT OF THEIR OFFICE. I THINK IT'S APPLES AND
10 ORANGES AND HAS NO PLACE BEING BROUGHT BEFORE THE COURT
11 HERE. BUT IN BOTH SITUATIONS, THIS CASE AND THE ALVAREZ
12 CASE, WE HAVE A LEGAL AND ETHICAL OBLIGATION TO TURN THIS
13 INFORMATION OVER. AND THAT'S WHAT WE DID.

14 AND I WOULD BE, AGAIN, HAPPY IN CHAMBERS
15 TO JUSTIFY WHY WE WAITED UNTIL THE 30TH DAY STILL
16 COMPLYING WITH THE DISCOVERY STATUTE, BUT WHY WE WAITED
17 THAT LONG. I THINK IT WOULD BE VERY CLEAR TO THE COURT.

18 THE COURT: WELL, LET ME JUST SAY A COUPLE OF
19 THINGS. FIRST OF ALL, I'M PLEASED THAT THIS WAS BROUGHT
20 TO MY ATTENTION. BECAUSE I REALLY WAS UNDER THE
21 IMPRESSION ALL ALONG THAT WE HAD VERY FIRM DATES
22 SCHEDULED. SO ANYWAY, I'M GLAD THAT THE MATTER WAS PUT
23 ON CALENDAR TODAY. SO WE CAN DISCUSS THOSE DATES IN
24 LIGHT OF THIS NEW INFORMATION.

25 NO. 2, I DON'T THINK THAT THIS IS GOING TO
26 BE AN ISSUE UNLESS THE PROSECUTION DECIDES TO USE THIS
27 WITNESS. HOWEVER, I DO UNDERSTAND THAT THE DEFENSE NEEDS
28 TIME TO INVESTIGATE THE BACKGROUND OF THIS WITNESS

1 INSOFAR AS IT MAY BEAR ON HIS VORACITY. SO GOING IN
2 CHAMBERS AND ASKING THE PEOPLE TO JUSTIFY SOMETHING IS
3 NOT NECESSARY TODAY.

4 MS. SARIS: YOUR HONOR, I'M JUST -- AS LONG AS
5 THE OFFER IS ON THE TABLE, OUR CONCERN IS NOT WITH THE 30
6 DAYS. AND I APPRECIATE THAT WE DID GET THE DISCOVERY. I
7 MEAN WE DID GET SOMETHING 30 DAYS BEFORE THE ANTICIPATED
8 TRIAL DATE. OUR CONCERN IS THE 63 DAYS IN BETWEEN WHEN
9 THE ORIGINAL WITNESS CAME FORWARD.

10 WE HAVE OTHER CONCERNS IN THAT IN JUNE OF
11 '04 WHEN MR. GOOD WAS TRANSFERRED TO LOS ANGELES, AN
12 ORANGE COUNTY INMATE WAS TRANSFERRED. I DON'T KNOW IF
13 IT'S THE SHERIFF OR THE PROSECUTION, BUT THEY'VE BEEN
14 ATTEMPTING TO GET SNITCHES PLACED ON MR. GOODWIN FOR FIVE
15 YEARS TO NO AVAIL.

16 SO THAT IF THIS WITNESS IS COMING OUT OF
17 THE WOOD WORK 30 DAYS JUST BEFORE TRIAL, IT DOESN'T
18 REALLY SURPRISE ME. WE WELCOME THE ACT OF DESPERATION ON
19 THE ONE HAND. THE PROBLEM IS WHILE WE CAN HANDLE IT IN
20 CROSS-EXAMINATION, WE CANNOT MAKE AN EFFECTIVE DIRECT
21 EXAMINATION WITHOUT A SERIES OF RECORDS THAT IS GOING TO
22 TAKE US THREE TO FOUR WEEKS TO OBTAIN.

23 SO IF THE DISTRICT ATTORNEY IS WILLING TO
24 GO AND EXPLAIN TO THIS COURT WHAT HAPPENED IN THAT 63
25 DAYS, THAT IS THE 63-DAY PERIOD DURING WHICH MR. SUMMERS
26 AND I HAVE BEEN IN FULL PREP TRIAL MODE; OUR OFFICE HAS
27 SPENT MONEY AND RESOURCES. AND THIS COURT KNOWS BECAUSE
28 THIS COURT HAS HELPED US WITH SOME OF THE BUILDING

1 ISSUES. AND WE HAVE A STORAGE FACILITY RENTED. WE HAVE
2 A MOVING COMPANY COMING ON TUESDAY. NONE OF THOSE THINGS
3 CAN BE TAKEN BACK.

4 NOW WE'RE GOING TO BE FORCED TO WORK THIS
5 AT A SATELLITE OFFICE WITHOUT BENEFIT OF THE E-MAIL WITH
6 ALL OF OUR STUFF IN STORAGE BECAUSE THOSE WHEELS WERE
7 GRINDING DURING THE PERIOD THAT THE DISTRICT ATTORNEY
8 KNEW ABOUT THIS NEW WITNESS FOR MONTHS.

9 MR. JACKSON HADN'T EVEN MET WITH THIS
10 INDIVIDUAL UNTIL LAST WEEK. THAT'S 63 DAYS FROM WHICH
11 THIS PERSON CAME FORWARD. AND IF THEY'RE WILLING TO
12 EXPLAIN TO THE COURT WHEN THEY WERE DOING AND WHY THIS
13 COMMITTEE -- I DIDN'T REALIZE THERE WAS THIS COMMITTEE,
14 TO BE HONEST WITH MR. DIXON. I KNEW THAT THERE WAS A
15 POLICY FOR WHEN THEY HANDLED SNITCHES. I DIDN'T KNOW
16 THERE WAS A FORMAL COMMITTEE.

17 WHY THIS COMMITTEE HADN'T MET IN JULY; IN
18 AUGUST; IN EARLY SEPTEMBER; IN LATE JUNE. I WOULD
19 APPRECIATE AN EXPLANATION ON THE RECORD BECAUSE THAT'S
20 THE BASIS OF OUR MOTION TO EXCLUDE THIS WITNESS.

21 THE COURT: WELL, I DON'T THINK THERE IS A
22 PROBLEM, THOUGH, WITH THE PEOPLE COMING FORWARD WITH THIS
23 INFORMATION WHEN THEY DID BECAUSE THEY HAVE AN OBLIGATION
24 TO. I CAN'T SAY THAT THEY SHOULD HAVE COME FORWARD
25 EARLIER AT THIS POINT. AND I DON'T REALLY WANT TO
26 CONDUCT AN IN CAMERA HEARING IF I DON'T HAVE TO.

27 SO MY PREFERENCE WOULD BE TO ASK THE
28 PEOPLE TO TELL ME AS SOON AS POSSIBLE AND TO TELL THE

1 DEFENSE WHAT THE POSITION OF THE D.A.'S OFFICE IS WITH
2 RESPECT TO THIS WITNESS.

3 MS. SARIS: CAN WE PUT A DATE ON THAT?

4 THE COURT: WELL, THAT'S WHAT I WOULD LIKE TO
5 INQUIRE. I MEAN YOUR POLICY SEEMS TO BE A POLICY THAT'S
6 BEEN IN EXISTENCE FOR QUITE SOME TIME. AND IT EITHER
7 MEETS THAT CRITERIA OR NOT. HOW LONG IS IT GOING TO TAKE
8 FOR SOMEBODY IN THE OFFICE OR THE COMMITTEE TO LOOK AT
9 WHAT HAS BEEN PRESENTED AND MAKE A DETERMINATION?

10 MR. DIXON: WELL, TO DIRECTLY ANSWER YOUR
11 QUESTION, I WOULD THINK INSIDE OF TWO WEEKS I WOULD HOPE.
12 I THINK AND I UNDERSTAND THE COURT'S RELUCTANCE TO HEAR
13 EXPARTE COMMUNICATIONS, THOUGH IT SEEMS THE DEFENSE HAS
14 NO PROBLEM WITH THAT. AND I THINK OUR EXPLANATION WOULD
15 ALSO MAKE -- HELP THE COURT UNDERSTAND WHY WE HAVEN'T
16 GONE TO THAT NEXT STEP YET.

17 THE COURT: ALL RIGHT. I WILL DO THAT SINCE BOTH
18 SIDES ARE NOW INSISTING ON --

19 MR. DIXON: I'M NOT INSISTING. I'M NOT
20 INSISTING. I'M ONLY OFFERING.

21 THE COURT: I FRANKLY DON'T LIKE TO, BUT IF IT'S
22 GOING TO HELP ME MAKE A DECISION DOWN THE ROAD, THAT'S
23 FINE. I WAS HOPING THAT THE PEOPLE WOULD GET A DECISION
24 AS TO WHAT THE PEOPLE ARE GOING TO DO WITH THE WITNESS
25 SOONER THAN TWO WEEKS.

26 MR. DIXON: AND IT COULD BE SOONER. IT COULD BE.

27 THE COURT: SO MAYBE THIS IS RIPE AT THIS TIME
28 FOR A CHAMBERS CONFERENCE?

1 MS. SARIS: AND THIS WILL BE PART OF THE RECORD,
2 JUST SEALED.

3 THE COURT: I WANT TO TAKE A WAIVER OF
4 MR. GOODWIN'S PRESENCE AND COUNSEL'S PRESENCE BEFORE I GO
5 IN CHAMBERS WITH THE PROSECUTION.

6 MS. SARIS: WELL, OBVIOUSLY, WE WOULD WANT TO
7 HEAR THE EXPLANATION. I UNDERSTAND THE COURT'S AND THE
8 DISTRICT ATTORNEY'S POSITION IN NOT LETTING US HEAR THIS
9 DISCUSSION. BUT, YES, IF IT WILL ASSIST THE COURT IN
10 MAKING A RULING ON OUR MOTION TO EXCLUDE.

11 THE DEFENDANT: WHAT DO I DO?

12 (DISCUSSION OFF THE RECORD.)

13 THE DEFENDANT: YES, I WILL.

14 MS. SARIS: AND I JOIN.

15 THE COURT: ALL RIGHT.

16 MS. SARIS: AND THEN IF WE CAN ADDRESS THE ISSUE
17 OF WHAT THIS HAS DONE TO EFFECT MR. GOODWIN'S HOUSING AND
18 MEDICAL.

19 THE COURT: ALL RIGHT. LET'S CONDUCT THE IN
20 CAMERA HEARING.

21
22 (WHEREUPON AN IN CAMERA PROCEEDING WAS
23 HELD, NOT TRANSCRIBED HEREIN.)

24 (PAGES W-11 THROUGH W-17.)
25
26
27
28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA FRIDAY, SEPTEMBER 15, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14
15 THE COURT: LET'S GO BACK ON THE RECORD, THEN, IN
16 THE GOODWIN MATTER. MR. GOODWIN IS ONCE AGAIN PRESENT
17 WITH BOTH OF HIS COUNSEL. THE PEOPLE ARE REPRESENTED.
18 THE RECORD SHOULD REFLECT THAT I DID GO IN CAMERA WITH
19 THE PROSECUTION. I DO HAVE ADDITIONAL INFORMATION. AND
20 THAT INFORMATION OBVIOUSLY IS HELPFUL.

21 BUT I DON'T KNOW WHERE THAT LEADS US TODAY
22 IN TERMS OF WHAT, IF ANYTHING, MS. SARIS, YOU WANT ME TO
23 DO. I'M NOT IN A POSITION TODAY TO MAKE AN ORDER TO
24 EXCLUDE ANY EVIDENCE AS A SANCTION FOR THE FAILURE TO
25 COMPLY WITH THE DISCOVERY LAWS BECAUSE, IN ESSENCE, I
26 THINK THE PEOPLE HAVE COMPLIED.

27 BUT THAT DOESN'T MEAN THAT I WOULD NOT
28 CONSIDER A REQUEST LATER ON TO IMPOSE A SANCTION, IF ANY,

1 IS WARRANTED. AND AT THIS POINT I JUST DON'T SEE IT.
2 BUT I GUESS WE CAN DISCUSS THIS AT A LATER DATE.

3 MR. DIXON: WELL, I'LL MAKE THIS SUGGESTION,
4 REALLY THIS ISSUE ISN'T RIPE FOR ANYTHING THE COURT JUST
5 SUGGESTED WITH ALL DUE RESPECT UNTIL A DECISION IS MADE
6 BY MY OFFICE. DURING THE BREAK, I'VE BEEN THINKING AND
7 TALKING TO MR. JACKSON AND WE ARE GOING TO TRY TO
8 EXPEDITE THIS.

9 I KNOW EARLIER I SAID TWO WEEKS AND I SAID
10 THAT AS AN ABSOLUTE OUTSIDE. WE WILL TRY TO GET AN
11 ANSWER MUCH SOONER THAN THAT. AND WHEN WE DO, WE WILL
12 INFORM COUNSEL. AND IF YOU WOULD LIKE WE COULD INFORM
13 YOUR CLERK OR WE CAN JUST INFORM COUNSEL AND LET HER DO
14 WHATEVER SHE WISHES WITH THE INFORMATION. AND EITHER
15 WAY, WE WILL TRY TO EXPEDITE THIS AS I CAN QUICKLY AS
16 POSSIBLE.

17 THE COURT: I APPRECIATE THAT.

18 MS. SARIS: WE WOULD APPRECIATE THAT, TOO. OUR
19 CONCERN OBVIOUSLY WE'VE LOST ABOUT FOUR DAYS ON THIS.
20 THIS WAS A SITUATION THAT IN 15 YEARS I'VE NEVER SEEN A
21 SNITCH COME FORWARD AND THE DEFENDANT GETS PUT IN
22 ADMINISTRATIVE SEGREGATION AND NOT THE SNITCH.

23 SO I DON'T UNDERSTAND WHY THAT OCCURRED.
24 I DO KNOW THAT WE SPENT AN AWFULLY LONG TIME AT THE LAST
25 COURT APPEARANCE MAKING SURE THAT HIS HOUSING AND
26 EVERYTHING WAS SET. AND THAT ALL GOT THROWN INTO CHAOS.
27 SO I MEAN OUR CONCERN OBVIOUSLY IS WE NEED THE TIME. WE
28 WANT THE TIME. WE WOULD PREFER THE COURT SET BAIL AT

1 THIS POINT CONSIDERING THE 63 DAYS DELAY TO US IS STILL
2 UNEXPLAINED.

3 UNDERSTANDING THAT'S PROBABLY NOT A
4 POSSIBILITY, I'M ASKING THE COURT'S INVENTION TO GET
5 MR. GOODWIN IN A UNIT THAT IS NOT THE MENTAL WARD, WHICH
6 IS THE ONLY PLACE HE CAN STAY FOR HIS SAFETY NOW, WHICH
7 IS RIDICULOUS. THEY DON'T GIVE HIM SHOWERS. THEY DON'T
8 GIVE HIM UTENSILS. HE'S HAVING TO EAT WITH HIS FINGERS.
9 HE HASN'T HAD A SHOWER SINCE SATURDAY THE 9TH?

10 THE DEFENDANT: LAST SATURDAY THE 9TH.

11 MS. SARIS: AND ALL OF THIS IS A RESULT OF THIS
12 INDIVIDUAL HAVING NOTHING TO DO WITH ANY DISCIPLINARY
13 ACTION. I VERIFIED WITH LIEUTENANT ANTUNA, A-N-T-U-N-A,
14 MR. GOODWIN DID NOT COMMIT ANY DISCIPLINARY INFRACTION.
15 HE WAS SENT TO THE HOLE FOR HIS SAFETY. AND CERTAINLY
16 THE JAIL CAN COME UP WITH A WAY TO PROTECT HIM WITHOUT
17 HIM HAVING TO BE IN THESE CONDITIONS, WHICH WE'VE ALREADY
18 DISCUSSED ARE INAPPROPRIATE FOR HIS HEALTH.

19 THE COURT: I DON'T THINK I CAN MAKE AN ORDER
20 TELLING THE SHERIFF'S DEPARTMENT WHERE TO PUT
21 MR. GOODWIN. BUT I THINK I CAN CONTINUE TO MAKE ORDERS
22 AND SIGN ORDERS TO GET HIM THE SHOWERS; THE MEDICATION;
23 UTENSILS. SO I MEAN THAT'S THE ONLY THING I CAN DO TODAY
24 WITH ALL OF THIS.

25 SO WHAT DO YOU WANT TO DO ABOUT THE 26TH
26 AND THE --

27 MS. SARIS: WELL, OBVIOUSLY --

28 THE COURT: AND THE DATES THAT WE'VE SET --

1 MS. SARIS: EVEN IF THE DISTRICT ATTORNEY COMES
2 TO US NEXT WEEK AND SAYS THEY INTEND NOT TO USE THIS
3 WITNESS, WE ARE THROWN OFF AT LEAST A WEEK. SO I DON'T
4 KNOW IF THE DISTRICT ATTORNEY HAS A DATE CERTAIN BY WHICH
5 THEIR COMMITTEE WILL MEET.

6 IF THEY WANT TO SAY ONE WEEK, TEN DAYS. I
7 DON'T KNOW WHAT TIME FRAME WE'RE TALKING ABOUT. WHAT
8 "EXPEDITE IT" MEANS. IF I CAN GET A SENSE OF THAT, I CAN
9 GIVE THIS COURT A SENSE OF THE NEXT COURT DATE WE'RE
10 REQUESTING.

11 MR. DIXON: WELL, AS I SAID, I'M GOING TO TRY TO
12 DO THIS AS QUICKLY AS POSSIBLE. MY GOAL IS TO GET IT
13 ACCOMPLISHED NEXT WEEK. THAT'S MY GOAL.

14 THE COURT: WHY DON'T WE KEEP THE 26TH.

15 MS. SARIS: THAT'S FINE. I ANTICIPATE THERE IS
16 GOING TO BE -- I THINK EVEN MR. GOODWIN AT THIS POINT IS
17 WILLING TO WAIVE SOME TIME FOR THIS --

18 THE COURT: TELL ME WHAT YOU WANT TO MAKE THE
19 26TH, BECAUSE RIGHT NOW WE HAVE LAST DAY OF 10/10.

20 MR. DIXON: WELL, IF WE'RE COMING BACK ON THE
21 26TH, WHY DON'T WE JUST SEE WHERE WE ARE ON THAT DATE.
22 WHY MOVE ANYTHING AT THIS POINT? I MEAN, I'M NOT GOING
23 TO -- I'M NOT GOING TO SAY, WELL, I CAN DO IT BY
24 WEDNESDAY INSTEAD OF BY NEXT FRIDAY. I'M TRYING TO BE
25 HONEST AND CANDID WITH THE COURT. BUT I'LL GET THE
26 INFORMATION TO MS. SARIS AS SOON AS POSSIBLE. AND MAYBE
27 THERE MAY BE NO NEED TO CHANGE THINGS. BUT CERTAINLY NOT
28 BEFORE THE 26TH.

1 MS. SARIS: I CAN TELL THE COURT THAT THE 26TH IS
2 FINE. I MEAN AS LONG AS EVERYONE IS CLEAR THAT WE KNOW
3 LONGER CAN KEEP THE 10TH AS THE LAST DAY NO MATTER WHAT
4 NOW. CERTAINLY BASED ON THE FACT THAT WE HAVE LOST A
5 WEEK IN THIS UPHEAVAL. IF WE WANT TO SET IT ON THE 26TH
6 AND SEE AT THAT POINT, THAT'S NOT GOING TO GIVE THE COURT
7 A VERY GOOD IDEA WHEN THE JURORS ARE GOING TO COME.

8 MY ANTICIPATION IS IF THE DISTRICT
9 ATTORNEY'S OFFICE SAYS, NO. WE WOULD PROBABLY HAVE A
10 LAST DAY SOMEWHERE THAT THE WEEK OF THE 24TH OR 19TH TO
11 24TH OF OCTOBER IN THAT AREA. IF THE DISTRICT ATTORNEY'S
12 OFFICE SAYS, YES, THEN WE'RE LOOKING TO AS FAR AS MID
13 NOVEMBER.

14 DOES THAT MAKE SOME SORT OF SENSE?

15 THE COURT: IT DOES.

16 MR. DIXON: WELL, LET'S JUST REVISIT IT ALL ON
17 THE 26TH. I WILL SAY THAT I -- I DON'T REALLY UNDERSTAND
18 AT THIS POINT WHY THE DEFENSE IS SAYING THEY NEED AT
19 LEAST ANOTHER WEEK WHEN NOTHING HAS REALLY HAPPENED. BUT
20 THAT MAY -- MAYBE I SHOULD WITHDRAW THAT. BECAUSE I
21 DON'T WANT TO OPEN A WHOLE EXPLANATION. IT'S HARD FOR ME
22 TO UNDERSTAND THAT. BUT I THINK WE SHOULD COME BACK THE
23 26TH AND SEE WHERE WE ARE.

24 THE COURT: LET ME JUST SAY THIS, JURY SELECTION
25 IN THIS CASE IS NOT GOING TO BE EASY AND IT'S NOT GOING
26 TO BE BRIEF. SO REGARDLESS OF WHAT THE LAST DAY IS, I
27 WOULD LIKE TO GET THIS CASE GOING BEFORE THE LAST DAY IN
28 TERMS OF SETTLING ON A QUESTIONNAIRE; DOING HARDSHIPS;

1 GIVING POTENTIAL JURORS THE QUESTIONNAIRE; DOING SOME
2 VOIR DIRE.

3 BECAUSE OTHERWISE AS WE GO LATER INTO THE
4 YEAR, IT'S GOING TO BE INCREASINGLY MORE DIFFICULT TO GET
5 A JURY THAT'S GOING TO BE AVAILABLE.

6 MS. SARIS: I WILL SAY WE ARE MAKING INCREDIBLE
7 PROGRESS IN THE QUESTIONNAIRE. AND THERE IS ONLY ABOUT,
8 SERIOUSLY, FIVE QUESTIONS THAT WE ARE EVEN ARGUING ABOUT.

9 THE COURT: SO MY FEELING AND MY REFERENCE WOULD
10 BE WE KEEP THE 26TH. I APPRECIATE THE FACT THAT
11 MR. GOODWIN WILL WAIVE TIME SO THAT THE 10TH ISN'T THE
12 LAST DAY. BUT AT THIS POINT I DON'T WANT TO DO ANYTHING
13 TO CHANGE WHAT WE HAVE. I DO WANT TO HEAR FROM WHAT THE
14 PEOPLE HAVE TO OFFER IN TERMS OF THE DECISION.

15 AND I WILL BE HONEST WITH YOU, IF THEY ARE
16 NOT GOING TO USE THE TESTIMONY AND WE ARE JUST GOING TO
17 BE DELAYED A WEEK, I WOULD STILL LIKE TO GET JURY
18 SELECTION STARTED ALMOST AROUND THE TIME THAT WE PLANNED.
19 I JUST DON'T SEE ANY WAY AROUND IT AS WE GO CLOSER TO THE
20 HOLIDAYS. THERE IS JUST NO WAY I'M GOING TO GET JURORS.

21 MS. SARIS: AS FAR AS WE'RE CONCERNED, THAT'S THE
22 ONLY REASON THE D.A. GAVE US THE -- IS TO HAVE US RUNNING
23 AROUND LIKE CHICKENS, BUT THAT'S MY HUMBLE OPINION.

24 THE COURT: WELL, I'M GOING TO KEEP THOSE DATES
25 WITH THAT UNDERSTANDING AND I WOULD LIKE ON THE 26TH TO
26 FINALIZE THAT QUESTIONNAIRE.

27 MS. SARIS: AND ALSO I THINK THAT WE OUGHT TO
28 HAVE A MUCH MORE REALISTIC IDEA OF HOW LONG THIS TRIAL IS

1 GOING TO LAST. I JUST CANNOT CONCEIVE THAT THE PEOPLE
2 BELIEVE THEIR CASE -- THAT ANY OF THIS CAN BE DONE IN
3 THREE WEEKS WITH 91 NAMES ON THE WITNESS LIST.

4 THE COURT: HAS THE PEOPLE'S TIME ESTIMATE
5 CHANGED?

6 MR. JACKSON: YOUR HONOR, WE PUT 21 WITNESSES ON
7 IN FIVE DAYS WITH THE PRELIMINARY HEARING WITH PRETTY
8 EXTENSIVE DIRECT AND CROSS-EXAMINATION. DO I THINK IT
9 COULD GO BEYOND -- I DON'T RECALL EVER SAYING THREE
10 WEEKS, BUT I DID SAY IT WOULDN'T LAST EIGHT WEEKS. I
11 THINK MY ESTIMATE WAS CLOSER TO FOUR WEEKS.

12 HAS IT CHANGED? NOT SUBSTANTIALY. I
13 MEAN IF EVERYBODY IS EFFICIENT, WE GET FULL COURT DAYS,
14 WE CAN GET A LOT OF WITNESSES DONE IN A COUPLE OF DAYS.
15 I MEAN EVERY DAY WE'LL BE VERY PRODUCTIVE I THINK. AND
16 NOT ANY OF THE -- THAT'S NOT TRUE, NOT ALL THE WITNESSES
17 WILL BE EXTENSIVELY LONG. I HAVE 91 WITNESSES ON MY
18 WITNESS LIST. THAT MAY INCREASE. IT MAY DECREASE. BUT
19 THAT'S A REALISTIC ESTIMATE.

20 THE COURT: WHY DON'T WE JUST RESUME THIS
21 DISCUSSION ON THE 26TH BECAUSE I THINK EVERYTHING DEPENDS
22 ON WHAT THE DECISION FROM THE D.A.'S OFFICE IS.

23 MS. SARIS: THE DECISION ON THE SNITCH NOT
24 WITHSTANDING 91 NAMES AT SOME POINT HAS TO BE NARROWED.
25 THERE ARE INDIVIDUALS ON THIS LIST THAT WE KNOW ARE NO
26 LONGER WITH US.

27 THE COURT: THAT ARE THERE LONGER WITH US. OKAY.
28 WELL --

1 MS. SARIS: AND THERE ARE THREE NAMES ON THE
2 DISTRICT ATTORNEY'S WITNESS LIST THAT ARE DECEASED. SO
3 I'M WONDERING WHETHER OR NOT THIS IS JUST AN ATTEMPT
4 AGAIN ON MAKE US SPIN OUR WHEELS RATHER THAN AN ACTUAL
5 EFFORT TO PIN DOWN WHO IS GOING TO BE CALLED AT TRIAL.

6 THE COURT: BUT IF YOU KNOW THAT THEY'RE GOING TO
7 BE DECEASED, I CAN'T IMAGINE THAT IT'S GOING TO TAKE A
8 LONG TIME TO PREPARE.

9 MS. SARIS: IT'S NOT GOING TO PREPARE --

10 THE COURT: WHAT ARE YOU COMPLAINING ABOUT?

11 MS. SARIS: WE WANT MONEY TO HIRE JOHN EDWARDS.
12 WHAT WE'RE COMPLAINING ABOUT IS THE LACK OF SPECIFICITY.
13 AND IT'S GETTING VERY CLOSE TO TRIAL. AND AT SOME POINT
14 THEY NEED TO BE ABLE TO SAY THESE ARE THE WITNESSES. AND
15 WITH 91 WITNESSES, WE'RE TALKING ABOUT PROBABLY 50 ON OUR
16 LIST, THIS IS A TWO- TO THREE-MONTH TRIAL.

17 THE COURT: WELL, I HAVE BEEN OPERATING UNDER THE
18 ASSUMPTION THAT IT WASN'T A TWO- TO THREE-MONTH TRIAL.
19 BUT IF IT IS, SO BE IT.

20 MR. JACKSON: DID I JUST HEAR COUNSEL SAY THERE
21 ARE 50 ON HER LIST?

22 THE COURT: THAT'S WHAT SHE SAID.

23 MR. JACKSON: AND I'VE RECEIVED EIGHT NAMES?

24 MS. SARIS: NO, YOU SAID EVERY SINGLE
25 POLICE OFFICER. THE VERY FIRST LIST YOU HAD --

26 MR. JACKSON: THAT INCLUDES THE PRIOR --

27 MS. SARIS: CERTAINLY.

28 MR. JACKSON: ALL RIGHT.

1 THE COURT: I'M GOING TO ASSUME -- EVEN ASSUMING,
2 WORSE CASE SCENARIO, THAT IT IS A TWO- TO THREE-MONTH
3 CASE, SO BE IT. I WILL HAVE TO MAKE SURE THAT THE
4 SUPERVISING JUDGE WANTS THIS CASE TO REMAIN HERE. I'M
5 ASSUMING HE DOES, BUT AS YOU KNOW I HAVE MADE
6 ARRANGEMENTS TO HAVE MY CALENDAR TRANSFERRED. SO,
7 OBVIOUSLY, I THINK THE TIME ESTIMATE -- I JUST CAN'T
8 IMAGINE IT BEING TWO TO THREE MONTHS, BUT I HAVE BEEN
9 WRONG BEFORE.

10 MS. SARIS: WE ARE MOVING ON THE 19TH INTO THIS
11 BUILDING JUST SO THE COURT KNOWS.

12 THE COURT: I WOULD THOUGH, AS I SAID, LIKE TO
13 GET STARTED WITH JURY SELECTION. BECAUSE AS SOON AS WE
14 CAN DO THAT, THE EASIER THINGS WILL BE AS WE APPROACH THE
15 HOLIDAYS. I DON'T MIND EVEN GOING THROUGH PART OF THE
16 JURY SELECTION AND THEN SENDING EVERYBODY HOME FOR A
17 PERIOD OF TIME. AS LONG AS WE CAN GIVE THESE PEOPLE A
18 TIME CERTAIN THAT THEY'RE GOING TO BE NEEDED. I JUST
19 DON'T WANT TO HIT THAT THANKSGIVING HOLIDAY AND CHRISTMAS
20 HOLIDAY AND HAVE TO THEN HARDSHIP FOR A TWO- TO
21 THREE-MONTH CASE IN MID NOVEMBER. SO THAT'S MY CONCERN.

22 MS. SARIS: THAT WOULD BE FINE WITH US.

23 THE COURT: AND YOU CAN -- I ASSUME THE DEFENSE
24 WOULD BE ABLE TO PROCEED WITH AT LEAST THAT PORTION OF
25 THE CASE EARLIER; IS THAT RIGHT?

26 MS. SARIS: I MEAN CERTAINLY, YES. THE
27 QUESTIONNAIRE WOULD BE CHANGED DEPENDING ON THE DISTRICT
28 ATTORNEY'S OFFICE DECISION OBVIOUSLY.

1 THE COURT: BUT ONCE YOU KNOW THAT DECISION.

2 MS. SARIS: WE WOULD BE READY TO DO VOIR DIRE.

3 THE COURT: VOIR DIRE AND ALL THAT STUFF. OKAY.

4 THEN I'LL JUST SEE EVERYBODY BACK ON THE 26TH. AND WE

5 WILL JUST LEAVE EVERYTHING IN PLACE AS IT IS.

6 MR. DIXON: THANK YOU, YOUR HONOR.

7 MR. JACKSON: THANK YOU, YOUR HONOR.

8

9 (THE MATTER WAS CONTINUED TO TUESDAY,

10 SEPTEMBER 26, 2006 AT 8:30 A.M.)

11 --OOO--

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, SEPTEMBER 26, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: ALL RIGHT. ON THE MICHAEL GOODWIN
16 MATTER, MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE
17 PEOPLE ARE REPRESENTED.

18 LET ME HAVE ALL COUNSEL STATE THEIR
19 APPEARANCES.

20 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
21 ON BEHALF OF MR. GOODWIN.

22 MR. SUMMERS: THOMAS SUMMER, DEPUTY PUBLIC
23 DEFENDER AS WELL AS ON BEHALF OF MR. GOODWIN.

24 MR. DIXON: PAT DIXON, DEPUTY D.A.

25 MR. JACKSON: ALAN JACKSON, DEPUTY D.A. FOR THE
26 PEOPLE.

27 THE COURT: ALL RIGHT. WE SET TODAY FOR A STATUS
28 CHECK.

1 WHAT IS OUR STATUS?

2 MS. SARIS: JUDGE, WE'VE BEEN TRYING TO REACH
3 SERI, S-E-R-I, THE LAB THAT DID THE DNA TEST. THE LATEST
4 UPDATE FROM OUR MONITORS IS THAT THE REFERENCE SAMPLE DID
5 NOT ARRIVE AS OF FRIDAY. THE SCRAPINGS AND THE HAIR DID
6 ARRIVE. AND THEY WERE ABLE TO AMPLIFY SOMETHING ENOUGH
7 TO PUT ON A MACHINE.

8 SO THERE IS NOT THE SITUATION CURRENTLY
9 WHERE THEY ARE SAYING THERE IS NOTHING TO COMPARE. THERE
10 IS STILL A CHANCE THAT THERE IS SOMETHING. WE DON'T KNOW
11 IF IT'S SOMETHING THAT IS GOING TO BE HAVE ENOUGH PEAKS
12 AND ENOUGH MARKERS TO MAKE A COMPARISON. WE WON'T KNOW
13 THAT -- THE MACHINE SHOULD HAVE SPIT OUT THE RESULT BY
14 NOW, BUT THEIR LAB IS NOT CALLING US BACK. AND THEY
15 WOULD TAKE ANOTHER DAY TO HAVE PEER REVIEW BEFORE THEY
16 WOULD PUBLISH THE RESULTS IN A REPORT.

17 MY MONITORS BELIEVE THAT THERE WOULD BE
18 SOMETHING WHICH WOULD NOT BE OF ANY EVIDENTIARY VALUE, OF
19 COURSE, BUT MATCH THE VICTIMS. THE ONLY WAY TO TELL IS
20 IF TWO MATCHES OF THE VICTIMS IS TO HAVE THE REFERENCE
21 SAMPLE TESTED FOR SOME OVERSIGHT ON THE PART OF THE
22 SHERIFF'S LAB. THAT SAMPLE DID NOT GET SENT TO SERI.

23 IN AN EFFORT TO EXPEDITE THINGS, WE ARE
24 NOT REQUESTING TO MONITOR THE TESTING OF THE REFERENCE
25 SAMPLE BECAUSE WE WANT THAT DONE AS SOON AS HUMANLY
26 POSSIBLE. AS IT WAS THE TESTING -- THE MONITORING OF THE
27 ORIGINAL TESTING TOOK AN EXTRA DAY BECAUSE ONE OF THE
28 INDIVIDUALS AT THE LAB KEPT LEAVING THE LAB BECAUSE HIS

1 DOG WAS ILL. SO WE DEFINITELY WILL HAVE A RESULT BY
2 FRIDAY. THEY CLAIM THEY WOULD HAVE GOT SOMETHING TODAY.
3 THE BOTTOM LINE IS WE DON'T KNOW.

4 WE'VE BEEN INFORMED THAT THE DISTRICT
5 ATTORNEY IS NOT GOING TO USE THE WITNESS THAT THEY HAD
6 PREVIOUSLY REVEALED TO US. HOWEVER, WE HAD SEVERAL ITEMS
7 OF INVESTIGATION AND DISCOVERY OUTSTANDING. AND WE WERE
8 RELUCTANT TO CALL THOSE OFF BECAUSE I DID NOT KNOW IF
9 THAT WAS A GUARANTEE THAT THIS WITNESS WOULD NOT BE USED
10 EVER OR WOULD ONLY BE USED FOR IMPEACHMENT PURPOSES.

11 AND SINCE I DIDN'T KNOW THAT, I DID
12 SUBPOENA SEVERAL DOCUMENTS TODAY. I UNDERSTAND THAT ONE
13 OF YOUR COURT PERSONNEL IS OUT SICK AND WE DON'T KNOW IF
14 SOME OF THOSE HAVE ARRIVED. THE BOTTOM LINE IS WE'RE
15 ASKING TO PUT IT OVER TO OCTOBER 10TH AS ZERO OF TEN.

16 MR. GOODWIN WOULD AGREE TO SUCH A
17 CONTINUANCE. WE THOUGHT WE WERE CLOSE ON AGREEING TO A
18 JURY QUESTIONNAIRE. THAT IS NOW APPARENTLY NOT THE FACT.
19 WE HAVE A QUESTIONNAIRE TO SUBMIT TO THIS COURT. IT IS
20 APPROXIMATELY 80 QUESTIONS. I BELIEVE THE DISTRICT
21 ATTORNEY WANTS TO SUBMIT THEIR OWN AND HAVE THE COURT
22 DECIDE WHICH TO USE.

23 AGAIN, I'M WILLING TO SIT DOWN AND GO
24 QUESTION BY QUESTION, BUT APPARENTLY THAT'S NOT A
25 FEASIBLE OPTION ANY LONGER. I WILL HAVE MINE TO THE
26 COURT AS SOON AS I XEROX IT. I DON'T KNOW IF WE COULD
27 HAVE THE 20TH AS A ZERO OF TEN DATE. WHAT I WOULD
28 PROPOSE IS CALL IN THE JURORS TO FILL IN THE

1 QUESTIONNAIRES ON THE 10TH AND STARTING THE VOIR DIRE ON
2 THE 30TH.

3 THE COURT: I'M NOT GOING TO CALL IN JURORS ON A
4 FRIDAY.

5 MS. SARIS: I DIDN'T EVEN REALIZE IT WAS A
6 FRIDAY. SORRY.

7 THE COURT: WE WILL HAVE TO COME UP WITH A
8 ANOTHER PLAN.

9 MS. SARIS: WE COULD DO THE 23RD AS ZERO OF TEN.

10 THE COURT: WHY DO WE NEED TO GO OVER SO FAR?

11 MR. DIXON: WELL, LET ME ADDRESS A COUPLE OF
12 THOSE ISSUES. WE'RE READY TO PROCEED NOW OR WITHIN THE
13 TIME SCHEDULE SET BY THE COURT. I DON'T THINK THAT THE
14 JURY QUESTIONNAIRE SHOULD BE A PROBLEM. THERE HAS BEEN A
15 LOT OF EFFORTS BETWEEN BOTH SIDES IN TRYING TO HAMMER
16 THIS OUT. AND THERE ARE SOME AREAS WHERE THERE JUST MAY
17 NOT BE AGREEMENT.

18 AND, OF COURSE, THIS WOULD BE OBVIOUSLY
19 THE COURT'S DECISION. BUT MY SUGGESTION WOULD BE -- AND
20 I THINK THIS WOULD INVOLVE THE LEAST AMOUNT OF WORK AND
21 TIME ON THE COURT'S BEHALF AND RESOLVE THE SITUATION --
22 IS FOR THE COURT TO ORDER US, EACH SIDE, TO SUBMIT OUR
23 BEST, FAIREST QUESTIONNAIRE AND THE COURT PICK ONE OR THE
24 OTHER. BECAUSE IT WOULD INVOLVE A LOT OF WORK TO TRY TO
25 PUT THE TWO TOGETHER. WE WOULDN'T ASK FOR THAT. JUST
26 PICK ONE OR THE OTHER.

27 AND I THINK THAT WOULD PUT PRESSURE ON
28 BOTH SIDES TO COME UP WITH THEIR FAIREST, MOST COMPLETE

1 QUESTIONNAIRE. I SAY "COMPLETE" WITH SOME HESITANCY
2 BECAUSE WITH ALL THE JURORS THAT WE'RE GOING TO HAVE, A
3 QUESTIONNAIRE THAT'S 30 PAGES LONG COMPARED TO ONE THAT'S
4 12 PAGES LONG INVOLVES A LOT MORE WORK FOR ALL PARTIES
5 INVOLVED.

6 BUT THAT WOULD BE MY SUGGESTION WITH THE
7 QUESTIONNAIRE. AND ALL IT WOULD INVOLVE ON THE COURT'S
8 BEHALF IS READING THE TWO QUESTIONNAIRES AND PICKING ONE.
9 THEN WHICHEVER QUESTIONNAIRE IT IS, WE WILL XEROX THEM
10 ALL OFF AND GET THEM READY TO GO. BUT I'M ULTIMATELY --
11 AGAIN, IT'S FOR THE COURT'S DECISION. WE'RE READY TO GO
12 WITHIN THE TIME FRAME THAT WE TALKED ABOUT LAST TIME.

13 IF THE COURT PUTS IT OVER TO WHAT
14 MS. SARIS SUGGESTED, I WOULD HOPE THAT THAT WOULD BE IT
15 AND THERE WOULD BE NO FURTHER CONTINUANCES. BECAUSE AS
16 I'M SURE THE COURT UNDERSTANDS AND THE DEFENSE
17 UNDERSTANDS, BOTH PARTIES HAVE A LOT OF WITNESSES HERE
18 AND TRYING TO KEEP THOSE WITNESSES KIND OF IN A HARNESS
19 GETTING READY FOR THE TRIAL IS A BIT OF A CHORE.

20 AND SO WHEN WE CONTINUE TO MOVE DATES,
21 THAT MEANS THAT WE HAVE TO DO ALL THAT WORK ALL OVER
22 AGAIN. SO WHAT WE WOULD LIKE IS A FIRM DATE SO THAT WE
23 CAN TELL OUR WITNESSES THIS IS WHEN WE'RE GOING TO GO AND
24 THIS IS WHEN WE WOULD LIKE YOU TO BE AVAILABLE FOR COURT.

25 MS. SARIS: AND, JUDGE, I CAN APPRECIATE THAT.
26 HOWEVER, I THINK THE COURT -- I MEAN I DON'T THINK THE
27 OVERRIDING CONCERN OF ANY COURT OR CASE SHOULD BE HOW
28 MUCH WORK IS INVOLVED. OBVIOUSLY IF WE BOTH SUBMIT

1 QUESTIONNAIRES, THERE MIGHT BE SOME THAT ARE GOOD ON BOTH
2 THAT HAVE TO BE PUT TOGETHER.

3 THAT'S WHAT I ATTEMPTED TO DO WITH THE
4 ONES THAT WE'VE SUBMITTED. THE REFERENCE SAMPLES THAT
5 WERE NOT SENT WERE NOT IN THE DEFENSE CONTROL. SO THAT
6 WASN'T ANYTHING -- WE ASKED FOR THOSE TO BE SENT. WE HAD
7 NO CONTROL OF THE FACT THAT THEY'RE NOW TEN DAYS LATE.
8 IF THEY HAD BEEN SENT AT THE SAME TIME OR NEAR IN TIME TO
9 THE SAMPLES, WE WOULD HAVE RESULTS BY NOW.

10 THE COURT: BUT THEY'RE GOING TO GET THAT SAMPLE?

11 MS. SARIS: THEY WERE SUPPOSED TO HAVE IT
12 YESTERDAY, BUT WE ARE TALKING ABOUT SEVEN DAYS TO DO THE
13 MITOCHONDRIAL TESTING ON THAT. AND THEN ANOTHER THREE
14 DAYS TO DO THE PEER REVIEW. NOW THE LAB WON'T EVEN TELL
15 ME OVER THE PHONE IF WE HAVE A REPORT UNTIL IT'S PEER
16 REVIEWED. AND THEY RECEIVED THEIR SCRAPINGS A WEEK AGO
17 MONDAY.

18 SO WE ARE SEVEN DAYS LATER AND I'M NOT
19 EVEN ALLOWED TO KNOW WHERE THE MARKERS ARE BECAUSE THEY
20 HAVE CERTAIN REQUIREMENTS UNDER ASCLAD BEFORE THEY'LL
21 EVEN SAY HERE IS THE REPORT. HERE IS THE RAW DATA. NOW
22 I DON'T KNOW IF THEY WILL RELEASE IT TO THE DISTRICT
23 ATTORNEY'S OFFICE BEFORE THAT UNDER ASCLAD. I'M NOT
24 SURE.

25 I'VE DONE -- I MEAN I'VE BEEN ON THE PHONE
26 TO THESE PEOPLE -- WHEN THE GENTLEMAN WAS LEAVING EARLY
27 TO TAKE CARE OF HIS DOG, I WAS CALLING AND TELLING HIM
28 THAT WE WERE PAYING \$2,000 A DAY TO HAVE THIS MONITORED.

1 THAT THIS WASN'T APPROPRIATE. THAT THIS WAS SUPPOSED TO
2 BE EXPEDITED. I CALLED MR. JACKSON WHEN I FOUND OUT
3 THERE WAS NO SAMPLE SENT.

4 SO WE'RE DOING EVERYTHING WE CAN. I DON'T
5 APPRECIATE THE IMPLICATION THAT WE'RE JUST TRYING TO PUT
6 IT OVER. WE HAVE SEVERAL WITNESSES THAT WE'VE SUBPOENAED
7 AS WELL. HOWEVER, MR. GOODWIN IS ENTITLED TO HAVE THIS
8 INFORMATION. AND WE STILL HAVEN'T HEARD AN ANSWER ON THE
9 ISSUE OF THE LAST-MINUTE WITNESS THAT WE DISCUSSED LAST
10 WEEK.

11 THE COURT: WELL, I KNOW THE COURT GOT A PHONE
12 CALL AND I WAS TOLD THAT THE DEFENSE GOT THE SAME PHONE
13 CALL, THAT THE PEOPLE WERE NOT GOING TO CALL AS A WITNESS
14 FOR ANY PURPOSE THE INFORMANT; IS THAT CORRECT?

15 MR. DIXON: THAT'S CORRECT, YOUR HONOR.

16 MS. SARIS: OH, I DIDN'T KNOW THAT IT WAS FOR ANY
17 PURPOSE.

18 THE COURT: WELL, I ASSUMED IT WAS. BUT LET ME
19 HAVE THE PEOPLE MAKE IT CLEAR.

20 MR. DIXON: THAT'S CORRECT, YOUR HONOR. AND I
21 THINK WHEN WE WERE LAST HERE IN COURT, I TOLD THE COURT
22 THAT WE WOULD TRY TO EXPEDITE THIS. AND WE TRIED TO DO
23 THIS BY LAST WEDNESDAY. AND I THINK I CALLED THE COURT
24 ON WEDNESDAY AFTERNOON AND CALLED MS. SARIS AND LEFT A
25 MESSAGE FOR HER AT THE SAME TIME.

26 MS. SARIS: AND THAT'S TRUE, I DID GET THAT
27 MESSAGE. I JUST WASN'T SURE IF THAT INCORPORATED
28 IMPEACHMENT AS WELL. THEN I THINK THE TESTING WILL BE

1 AVAILABLE TO US BY THE WEEK OF THE 16TH. AND I THINK
2 THAT'S WHEN WE SHOULD HAVE OUR -- AND THE REASON I'M
3 SUGGESTING A ZERO OF TEN DATE, NO. 1, MR. GOODWIN IS
4 WILLING TO CONTINUE THE CASE BASED ON HOW MUCH EFFORT WE
5 PUT OUT IN CHASING OUR TAILS OVER THIS WITNESS AND
6 DEALING WITH HIS HOUSING SITUATION THAT WAS A RESULT OF
7 HIS BEING MOVED FROM THAT POD.

8 WHAT I'M CONCERNED ABOUT IS IF THERE ARE
9 ENOUGH MARKERS AND THE REFERENCE SAMPLES ARE TESTED AND
10 THEY DO NOT MATCH. THEN WE WILL NEED, OBVIOUSLY, TO DO
11 OUR OWN COMPARISONS.

12 THE COURT: SO WHAT IS YOUR TIME FRAME FOR THAT?

13 MS. SARIS: WE SHOULD BE ABLE TO GET THAT DONE
14 WITHIN THE WEEK. I ASSUME ALL OF THESE WHO WE ARE
15 LOOKING AT, I HAVE A GOOD FAITH BELIEF THAT THOSE ARE ON
16 FILE.

17 THE COURT: OKAY. WELL, WITH RESPECT TO GOING
18 OVER FOR A PERIOD OF TIME, I WOULD RATHER DO SOMETHING
19 CONCRETE THE WEEK OF THE 16TH. IT DOESN'T HAVE TO BE
20 JURY SELECTION, BUT I JUST WANT TO GET THE CASE MOVING.
21 MY CONCERN, OBVIOUSLY, AS I INDICATED ALL ALONG, IS THE
22 HOLIDAYS AND OUR ABILITY TO GET JURORS THAT ARE GOING TO
23 BE ABLE TO STAY FOR THE DURATION.

24 AND I THINK EVERY DAY WE GO INTO OCTOBER
25 IS GOING TO MAKE IT THAT MUCH MORE DIFFICULT. I'M
26 ASSUMING THAT THE TIME ESTIMATE HASN'T CHANGED. AND IT'S
27 SOMEWHERE BETWEEN FOUR TO SIX WEEKS TO THREE MONTHS. IS
28 THAT WHERE WE LEFT IT?

1 MS. SARIS: I THINK THAT'S THE TWO GUESSES, YES.

2 THE COURT: OKAY.

3 MR. JACKSON: YOUR HONOR, IF I MAY, I THINK THE
4 COURT IS CORRECT, WE DO HAVE -- EVERYBODY INVOLVED HAS
5 SOME MOTIVATION TO GET THIS THING STARTED AND GET IT OFF
6 THE GROUND. IF THE COURT IS LOOKING AT THE WEEK OF THE
7 16TH, WHAT ABOUT SHIFTING EVERYTHING THAT WAS SUPPOSED TO
8 HAPPEN ON THE 5TH, THE 16TH WE WILL PASS OUT THE JURORS'
9 QUESTIONNAIRES.

10 WE WILL ALL BE IN COURT THAT DAY ANYWAY.
11 THE JURORS CAN TAKE THEM, HOWEVER THE COURT WAS GOING TO
12 FACILITATE THAT. WE CAN START OUR 402 MOTIONS ON THE
13 16TH. AND AT THAT POINT, FIGURE OUT HOW LONG WE BOTH
14 NEED FOR -- BOTH SIDES NEED TO GO OVER THE QUESTIONNAIRE,
15 MAYBE THREE DAYS, MAYBE FIVE DAYS DEPENDING ON THE SIZE
16 OF THE QUESTIONNAIRE.

17 MS. SARIS: THAT'S ANOTHER THING. WE'RE GOING TO
18 HAVE AN ISSUE WITH -- I THINK WE'RE GOING TO NEED TWO OR
19 THREE DAYS TO XEROX AND PROBABLY ANOTHER SEVEN TO READ
20 THEM. ESPECIALLY IF WE'RE THINKING OF 200 PEOPLE. MY
21 CONCERN WITH THE 16TH IS THAT THE 9TH IS A HOLIDAY. AND
22 SO THAT'S GOING TO DELAY THE TESTING. AND I DON'T WANT
23 US TO COME BACK AND HAVE JURORS FILL OUT A QUESTIONNAIRE
24 WHEN WE DON'T HAVE THE RESULTS OF THE DNA.

25 I THINK THAT WOULD BE JUST ANOTHER
26 EXERCISE IN FUTILITY. I THINK IF WE GO TO THE 18TH OR
27 19TH, WE WILL HAVE A BETTER SHOT OF ACTUALLY HAVING THE
28 ACTUAL PHYSICAL REPORT.

1 THE COURT: WELL, AS I INDICATED, THE PROBLEM IS
2 WE DIDN'T NOTIFY THE JURY ROOM WELL ENOUGH IN ADVANCE TO
3 GET A LARGE GROUP. AND THAT'S WHY I WANTED TO GET IT
4 ROLLING EARLIER IN THE MONTH TO TAKE ADVANTAGE OF THE
5 NUMBER OF PROSPECTIVE JURORS THAT ARE GOING TO BE CALLED
6 IN. BECAUSE WE HAVE A LIMITED NUMBER EACH WEEK.

7 LET ME JUST ASK THE CLERK TO SEE FROM THE
8 JURY ROOM IF THE JURY ROOM CAN GIVE US SOME KIND OF
9 ESTIMATE AS TO HOW THEIR LOOKING WITH PROSPECTIVE JURORS
10 ON THE WEEK OF THE 10TH OF OCTOBER; THE WEEK OF THE 16TH;
11 AND MAYBE THE WEEK OF THE 23RD. AND LET'S JUST SEE.

12 AND WHILE WE ARE DOING THAT, WE DID NOT
13 DISCUSS THE QUESTIONNAIRE AT ALL. AND THE COURT
14 INDICATED IT WOULD BE WILLING TO UTILIZE A QUESTIONNAIRE.
15 BUT THE PARAMETERS OF THAT HAVE NOT BEEN ESTABLISHED. SO
16 BEFORE ANYBODY STARTS PREPARING A 30-PAGE QUESTIONNAIRE,
17 MAYBE WE SHOULD JUST TOUCH ON THAT BRIEFLY. MY
18 ASSUMPTION IS THAT BOTH SIDES WANTED TO USE A
19 QUESTIONNAIRE --

20 MS. SARIS: I THINK THAT'S --

21 THE COURT: -- FOR A NUMBER OF REASONS.

22 MS. SARIS: I THINK THAT'S A FAIR ASSUMPTION
23 IN LIGHT OF THE HIGH POTENTIAL MEDIA PROFILE OF THE CASE.

24 THE COURT: RIGHT.

25 MS. SARIS: AND OUR QUESTIONNAIRE IS 20 PAGES,
26 IT'S 80 QUESTIONS. IT TOOK MY LAW CLERK ABOUT 45 MINUTES
27 TO FILL IT OUT. SO I'M ASSUMING IT WOULD TAKE AN AVERAGE
28 INDIVIDUAL NO MORE THAN AN HOUR, AN HOUR AND A HALF.

1 MR. SUMMERS: 40?

2 MS. SARIS: WHAT DO YOU SAY?

3 MR. SUMMERS: 40?

4 MS. SARIS: 40. AND IT DEALS WITH ISSUES THAT
5 ARE IN EVERY TRIAL THAT WOULD SAVE US FROM THE AMOUNT OF
6 TIME THAT THE VOIR DIRE WOULD TAKE UP. AND THEN IT DEALS
7 WITH SPECIFICALLY ISSUES OF THE AGE OF THE CASE;
8 SPECIFICALLY WITH ISSUES OF THE -- NOT THE DETAILED
9 FACTS, BUT THE NAMING OF THIS CASE TO SEE IF ANYONE HAS
10 HAD ANY PRIOR EXPERIENCE WITH THESE INDIVIDUALS. AND
11 THEN IT DEALS WITH THE FACT THAT THERE MIGHT BE MEDIA
12 COVERAGE.

13 I ADDED SEVERAL QUESTIONS THAT THE
14 DISTRICT ATTORNEY ASKED FOR. I HONESTLY TRULY UNTIL THIS
15 MORNING BELIEVED THAT WE WERE WITHIN FIVE QUESTIONS OF
16 HAVING AN AGREED-UPON QUESTIONNAIRE. I WAS SORT OF
17 BLIND-SIDED TODAY WHEN I WAS TOLD THAT I SHOULD JUST
18 SUBMIT ONE AND EVERYONE ELSE WOULD SUBMIT THEIRS.
19 APPARENTLY THAT WAS IN ERROR.

20 AND THAT'S THE QUESTIONNAIRE. AND WHILE
21 IT SEEMS LIKE 80 QUESTIONS IS A LOT, THEY ARE VERY FAST
22 YES OR NO. WILL YOU BE ABLE TO NOT DRIVE BY THE CRIME
23 SCENE? DO YOU KNOW WHERE THE CRIME SCENE IS LOCATED?
24 THOSE I DON'T THINK TAKE THAT LONG. AND I CAN'T IMAGINE
25 HAVING A CASE OF THIS SIZE WITHOUT A QUESTIONNAIRE. AND
26 I CAN'T IMAGINE -- THE OTHER POINT IS, THE MORE THAT WE
27 HAVE IN THE QUESTIONNAIRE, THE LESS TIME WE'RE GOING TO
28 NEED WHEN THE JURORS PHYSICALLY COME IN. WE'VE BEDDED

1 THEM DOWN TO THE POINT THAT WE WILL LIKELY NEED NO MORE
2 THAN FIVE MINUTES EACH.

3 THE COURT: IS THAT A PROMISE?

4 MS. SARIS: IF THE QUESTIONNAIRE IS EXTENSIVE
5 ENOUGH, FIVE MINUTES EACH; AN HOUR FOR --

6 THE COURT: FIVE MINUTES EACH?

7 MR. JACKSON: WAIT. WAIT. WAIT. I LOOKED AWAY
8 FOR TWO SECONDS --

9 MS. SARIS: IF A QUESTIONNAIRE IS EXTENSIVE
10 ENOUGH, I CAN CONCEIVE OF THAT BEING CONCEIVABLE.

11 MR. JACKSON: THERE IS A BRIGHT LINE RIGHT HERE
12 BETWEEN THE TWO SIDES.

13 MS. SARIS: OBVIOUSLY, IF WE ASK THE SIX
14 QUESTIONS ON THE BOARD, NO. IF WE HAVE AN EXTENSIVE
15 ENOUGH QUESTIONNAIRE, I BELIEVE THAT'S DEFINITELY WITHIN
16 REASON.

17 THE COURT: ALL RIGHT. IS THERE ANY DISPUTE,
18 THOUGH, AS TO THE AREAS TO BE COVERED ON THE
19 QUESTIONNAIRE? OR IS THERE SOMETHING ELSE THAT ONE SIDE
20 WANTS THAT THE OTHER SIDE DOESN'T? I MEAN I DON'T KNOW
21 EXACTLY WHAT YOU'RE THINKING OF OTHER THAN GENERAL
22 PRINCIPALS THAT APPLY TO ALL CRIMINAL CASES. IS THERE
23 ANY OTHER TOPIC THAT COUNSEL WISHES TO COVER IN THE
24 QUESTIONNAIRE?

25 MR. JACKSON: THERE IS NOT A -- THERE IS NOT AN
26 ENTIRE AREA THAT THE PEOPLE ARE SEEKING TO QUESTION ON
27 THIS QUESTIONNAIRE THAT THE DEFENSE IS NOT. IT'S MORE
28 COUNSEL'S EXAMPLE, WHY WOULD WE NEED A QUESTION IN THE

1 QUESTIONNAIRE THAT SAYS: CAN YOU NOT DRIVE BY THE CRIME
2 SCENE?

3 THE FIRST THING YOU'RE GOING TO SAY TO THE
4 JURORS IS: DON'T DRIVE BY THE CRIME SCENE. WE DON'T
5 NEED TO READ THAT IN A QUESTIONNAIRE. THEY DON'T NEED TO
6 ANSWER THAT IN A QUESTIONNAIRE. IT JUST MAKES IT THAT
7 MUCH LENGTHIER. I THINK OUR POINT IS THIS, MR. DIXON'S
8 AND MINE, IS WE CAN BRING THIS DOWN TO A MUCH MORE
9 REASONABLE SIZE. OBVIOUSLY, WE DO WANT TO ADDRESS THE
10 MEDIA ATTENTION THAT HAS BEEN IN THE PAST AND PROBABLY
11 WILL BE THROUGHOUT THE TRIAL.

12 WE DO WANT TO ADDRESS THEIR CONCEPT OF
13 CERTAINLY LEGAL PRINCIPALS, BUT THERE ARE NO BROAD --
14 KIND OF BROAD SPECTRUM AREAS THAT WE WANT TO ADDRESS THAT
15 THE DEFENSE DOESN'T. I THINK BOTH OF US -- MR. DIXON'S
16 IDEA IS A GOOD ONE. BOTH OF US SHOULD MAKE OUR BEST
17 EFFORT TO BRING THIS DOWN TO THE MOST REASONABLE CONCISE
18 QUESTIONNAIRE POSSIBLE. AND THE COURT SHOULD CHOOSE.
19 ULTIMATELY IT'S THE COURT'S QUESTIONNAIRE, WE'RE JUST
20 AUTHORS.

21 THE COURT: ALL RIGHT. I WOULD LIKE TO GET A
22 QUESTIONNAIRE FROM EACH SIDE BY NEXT WEEK. AND TRY TO
23 NARROW WHERE EACH IS COMING FROM.

24 MS. SARIS: WELL, ACTUALLY FRANKLY WHY NEXT WEEK?
25 WHY NOT TOMORROW? IF WE'RE REALLY TALKING ABOUT --

26 THE COURT: OKAY. I WILL TAKE IT TOMORROW.

27 MS. SARIS: I MEAN THAT WAY THE COURT CAN LOOK AT
28 THEM. BECAUSE AT SOME POINT THE COURT IS GOING TO HAVE

1 TO COMBINE THEM. AND I'M HAPPY TO DO THE ACTUAL -- I
2 MEAN IF THE COURT WANTS, OBVIOUSLY, AND IF THE D.A.
3 AGREES, I HAVE A TEMPLATE ON THE COMPUTER. I HAVE
4 SEVERAL OF THE QUESTIONS THAT WE DO AGREE ON. IF THE
5 COURT WANTS TO TYPE IT UP AGAIN, THAT'S FINE, TOO. BUT
6 I'VE HAD MINE READY FOR A COUPLE OF WEEKS. I DON'T THINK
7 WE SHOULD PUT IT OVER ANOTHER WEEK.

8 MR. JACKSON: WELL, MS. SARIS, TO THAT ISSUE I
9 WOULD JUST ASK FOR ONE LITTLE BIT OF LEEWAY. MS. SARIS
10 WAS KIND ENOUGH WHEN WE WERE DISCUSSING THE QUESTIONNAIRE
11 AND POSSIBLY COMBINING OUR EFFORTS, SHE WAS KIND ENOUGH
12 TO SAY, ALAN, I'VE ALREADY DONE IT. SO YOU DON'T HAVE TO
13 KIND OF REDOUBLE YOUR EFFORTS. SHE'S GOT THIS ON DISK ON
14 ELECTRONIC FILE. I MAY NEED UNTIL THURSDAY INSTEAD OF
15 TURNING -- I MAY NEED UNTIL THURSDAY TO GO THROUGH WHAT
16 SHE HAS AND WHAT I'VE GOT.

17 MS. SARIS: AND I'M HAPPY TO GIVE HIM A DISK.

18 MR. JACKSON: THURSDAY WOULD BE A LITTLE EASIER.

19 THE COURT: I'M WAITING FOR THE JURY PEOPLE TO
20 CALL ME BACK. LET ME WAIT UNTIL I HEAR FROM THE JURY
21 ROOM. SO THE PROPOSAL IS TO START SOME TIME THE WEEK OF
22 THE 16TH WITH JURORS FILLING OUT THE JURY QUESTIONNAIRE
23 AND THEN 402 MOTIONS. IS THAT PRETTY MUCH WHAT WE'RE
24 AGREEING TO?

25 MS. SARIS: IF IT'S LATE IN THE WEEK OF THE 16TH.
26 NOW IF MR. FEDOR, F-E-D-O-R, AT SERI WOULD RETURN A PHONE
27 CALL, WE WOULD HAVE A BETTER IDEA.

28 THE COURT: CAN THE PEOPLE ASSIST IN THAT REGARD

1 AT ALL?

2 MR. JACKSON: JUDGE, I'VE BEEN ON THE PHONE WITH
3 SERI SEVERAL TIMES AT MS. SARIS'S REQUEST. I ACTUALLY
4 HAVE STEPPED UP TO THE PLATE AND ASKED IF WE COULD GET
5 SOME ACCOMMODATION. AND SERI HAS BEEN VERY COOPERATIVE
6 WITH US -- I THINK BOTH SIDES. I AM NOT AS -- I'M NOT
7 AWARE OF SOME OF THE FACTS THAT MS. SARIS APPARENTLY IS
8 AWARE OF.

9 INDEED I WAS TOLD BY MY CRIME LAB LAST
10 WEEK THAT THE REFERENCE SAMPLE HAD BEEN SENT. AND
11 MS. SARIS TELLS ME THAT SHE'S BEEN IN CONTACT WITH SERI
12 THAT SAYS THEY DIDN'T RECEIVE IT. SO I DON'T KNOW WHERE
13 THE HICCUP IS BUT, SURE, IF THE COURT WANTS ME TO CALL
14 MR. FEDOR, I CAN CERTAINLY DO THAT ONE MORE TIME.

15 MS. SARIS: AND I ALSO LEFT MR. FEDOR
16 MR. JACKSON'S DIRECT LINE IN CASE HE FEELS MORE
17 COMFORTABLE TALKING TO THE D.A. IT WOULD NOT SURPRISE ME
18 AT ALL IF THEY HAVE NOT BEGUN TESTING THE REFERENCE
19 SAMPLE.

20 THE COURT: WELL, WHATEVER THE PEOPLE CAN DO TO
21 ASSIST IN TRYING TO EXPEDITE.

22 MR. JACKSON: CERTAINLY.

23 THE COURT: MY SUGGESTION IS THAT WE DO A STATUS
24 CHECK NEXT WEEK, LATE NEXT WEEK TO FIND OUT WHAT THE
25 SITUATION IS. I CAN LOOK AT THE QUESTIONNAIRE CERTAINLY
26 WHEN YOU SUBMIT IT AND HAVE SOME PRELIMINARY IDEA AS TO
27 WHAT I THINK SHOULD BE INCLUDED BY NEXT WEEK. WE
28 ORIGINALLY PUT THIS MATTER I THINK --

1 THE CLERK: ON THE 5TH --

2 MR. JACKSON: THE 5TH.

3 THE COURT: THAT DOESN'T SEEM TO BE A BAD DAY.

4 MR. JACKSON: SURE.

5 THE COURT: SO I GUESS SINCE WE PREVIOUSLY DID
6 NOT TAKE A TIME WAIVER, WHY DON'T WE TAKE A TIME WAIVER
7 THAT THE 5TH WILL BE DAY ZERO OF 20.

8 MS. SARIS: MAY I HAVE JUST A MOMENT?

9 (DISCUSSION OFF THE RECORD.)

10 THE DEFENDANT: YES, YOUR HONOR, IN LIGHT OF ALL
11 THE TIME MY ATTORNEYS HAVE HAD TO WASTE ON THIS.

12 MS. SARIS: AND, YOUR HONOR --

13 THE COURT: LET ME JUST TAKE IT FORMALLY, THEN.

14 MR. GOODWIN, DO YOU WANT TO AGREE TO MAKE
15 OCTOBER 5TH DAY ZERO OF 20 FOR TRIAL?

16 THE DEFENDANT: YES.

17 THE COURT: COUNSEL JOIN?

18 MS. SARIS: I JOIN.

19 THE COURT: ALL RIGHT.

20 MS. SARIS: AND, YOUR HONOR, MR. GOODWIN WAS
21 REFERRING TO THE LATE WITNESS THAT WE SCRAMBLED AROUND,
22 NOT WASTING TIME ON THE DNA.

23 THE COURT: NO, I UNDERSTAND. OKAY. THANK YOU.
24 JUST STAND BY BECAUSE I STILL WANT TO GET SOME IDEA HOW
25 THE JURY ROOM IS OR HOW THEY'RE GOING TO BE OPERATING THE
26 NEXT COUPLE OF WEEKS IN OCTOBER.

27 MR. DIXON: AND WHILE WE DO THAT, CAN I JUST
28 INQUIRE OF THE COURT AS TO ONE MORE SITUATION? IF WE

1 COME BACK ON THE 16TH, PASS OUT QUESTIONNAIRES, DOES THE
2 COURT ANTICIPATE THAT SOMETIME THAT WEEK WE WOULD BEGIN
3 ANY 402 MOTIONS THAT ARE GOING TO BE HEARD?

4 THE COURT: I WOULD LIKE TO.

5 MR. DIXON: THE REASON I ASK -- AND PERHAPS THE
6 COURT COULD INQUIRE OF DEFENSE COUNSEL -- IS IF THERE IS
7 GOING TO BE A MOTION TO EXCLUDE COLLENE AND GARY
8 CAMPBELL, THEN I WOULD LIKE TO ASK THE COURT TO SET A
9 DATE, PERHAPS OCTOBER 18TH OR OCTOBER 20TH, TO HEAR THAT
10 MOTION OF WHETHER OR NOT SHE SHOULD BE ALLOWED TO BE IN
11 THE COURTROOM DURING THE TRIAL OF THE MURDER OF HER
12 FAMILY MEMBERS.

13 AND SHE WOULD BE -- MIGHT ALSO BE
14 REPRESENTED BY OUTSIDE COUNSEL, SO THAT'S WHY I'M TRYING
15 TO CLEAR A DATE.

16 THE COURT: IS THAT GOING TO BE A MOTION?

17 MS. SARIS: I KNOW THAT THERE WILL BE NOT ONLY A
18 MOTION TO EXCLUDE ALL WITNESSES, WE ARE ALSO GOING TO ASK
19 THE COURT TO EXCLUDE THE INVESTIGATING OFFICER MARK
20 LILLIENFELD. SO, YES.

21 THE COURT: WHY DON'T YOU NOTICE THOSE MOTIONS
22 AND GIVE ME SOME --

23 MS. SARIS: ACTUALLY, I WON'T BE ABLE TO DO THAT
24 BY THE 5TH.

25 THE COURT: WILL YOU BE ABLE TO FILE IT --

26 MS. SARIS: I WASN'T PLANNING ON FILING A FORMAL
27 MOTION FOR THE EXCLUSION OF WITNESSES. THAT'S A MOTION I
28 MAKE AT THE START OF ALL TRIALS.

1 THE COURT: SO THEN WHAT IS THE PROBLEM WITH
2 OCTOBER 5TH IF YOU ARE NOT GOING TO BE FILING --

3 MS. SARIS: FOR THE DETECTIVE I WOULD BE FILING
4 AFFIDAVITS THAT I HAVE NOT COLLECTED YET. BUT FOR THE
5 WITNESSES, I JUST THINK IT'S PREMATURE. I MEAN WE ARE IN
6 THE MIDDLE OF DNA TESTING AND SOME INVESTIGATION. I
7 DON'T THINK COUNSEL CAN DICTATE WHEN WE DECIDE TO MAKE A
8 MOTION TO --

9 MR. DIXON: I'M NOT DICTATING. I WAS MERELY
10 INQUIRING OF THE COURT. AND THE REASON I DID IS BECAUSE
11 COLLENE CAMPBELL'S LAWYER STEVE TWIST HAS CERTAIN
12 DAYS -- AND I HAVE SIX OR SEVEN IN FRONT OF ME -- THAT
13 HE WOULD BE AVAILABLE. SO I WAS TRYING TO PLAN AHEAD OF
14 TIME TO SEE IF ANY OF THOSE DAYS WOULD WORK FOR THIS ONE
15 402 MOTION. AND I SHOULD PERHAPS SAY HE IS AN OUT OF
16 STATE LAWYER. HE IS FROM ARIZONA.

17 THE COURT: WELL, THE LAST TIME WE MET THE
18 DEFENSE INDICATED -- AND I KNOW THIS WAS BASED ON THE
19 ASSUMPTION THAT YOU WOULD HAVE MORE INFORMATION TODAY.
20 THE DEFENSE DID INDICATE THAT THE DEFENSE WOULD BE READY
21 TO AT LEAST START WITH HARDSHIP AND SOME JURY
22 QUESTIONNAIRES LATE NEXT WEEK.

23 MS. SARIS: RIGHT. IT WAS OUR UNDERSTANDING THAT
24 THE COURT WAS GOING TO CALL IN JURORS; HAND OUT
25 QUESTIONNAIRES AND THEN HAVE A SIGNIFICANT GAP.

26 THE COURT: YES. WE JUST DIDN'T KNOW HOW
27 SIGNIFICANT IT WAS GOING TO BE. THIS IS MY CONCERN, I
28 WOULD LIKE TO KNOW HOW MANY PROSPECTIVE JURORS ARE SET UP

1 TO COME IN EACH WEEK, BECAUSE FRANKLY WITH THE TIME
2 ESTIMATE AND THE HOLIDAYS, IT MAY BE THAT WE'RE GOING TO
3 HAVE TO GET PANELS EITHER FROM OTHER COURTS OR GET PANELS
4 THAT ARE SUPPOSED TO COME IN DIFFERENT WEEKS. BECAUSE
5 THERE IS A SET NUMBER OF PROSPECTIVE JURORS EACH WEEK
6 THAT ARE AVAILABLE.

7 MS. SARIS: IF WE'RE GOING TO CALL THEM BACK IN A
8 WEEK OR SO, WE COULD CERTAINLY GET THEM OVER MORE THAN
9 ONE DAY.

10 THE COURT: BUT IF YOU ONLY GET A CERTAIN
11 NUMBER --

12 MS. SARIS: PER WEEK.

13 THE COURT: THAT'S WHAT I'M SAYING. SO SOME
14 WEEKS WE HAVE SMALLER PANELS THAN OTHER WEEKS. BUT GIVEN
15 THAT WE'RE GOING TO BE RUNNING INTO HOLIDAYS, I'M NOT
16 CERTAIN THAT WE'RE GOING TO BE ABLE TO GET ENOUGH IF WE
17 START THE 23RD.

18 LET'S GO OFF THE RECORD.

19 (DISCUSSION OFF THE RECORD.)

20 THE COURT: LET ME SEE COUNSEL AT THE BENCH.

21 (PROCEEDINGS HELD AT SIDEBAR, NOT REPORTED.)

22 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
23 THAT WE HAVE HAD A BENCH CONFERENCE REGARDING SCHEDULING
24 AND OUR JUROR SITUATION. AND I THINK WHAT WE HAVE
25 DECIDED AND WE HAVE ALL AGREED TO THE FOLLOWING: THAT WE
26 WILL NOT COME BACK ON OCTOBER 5TH, BUT WE WILL COME BACK
27 ON OCTOBER 6TH.

28 OCTOBER 6, MR. GOODWIN, WE WILL CALL ZERO

1 OF 20. DO YOU WISH TO AGREE TO THAT, SIR?

2 THE DEFENDANT: YES, YOUR HONOR.

3 MS. SARIS: I JOIN.

4 THE COURT: SO THE 6TH WILL BE THE DAY THAT WE
5 WILL HAVE THE HEARING WITH OUTSIDE COUNSEL FOR THE FAMILY
6 ON THE DEFENSE MOTION TO EXCLUDE.

7 MS. SARIS: AND WE WILL GET NOTICE TO THE COURT
8 TO TRY AND HAVE THE OTHER 402'S BY THE WEEK OF THE
9 HOLIDAY, THE 10TH, 11TH IN THAT AREA.

10 THE COURT: OKAY. BUT AT LEAST WITH RESPECT TO
11 THE FAMILY, WE CAN DO IT ON THE 6TH. WE CAN ALSO
12 FINALIZE QUESTIONNAIRES ON THE 6TH AND GET A STATUS CHECK
13 ON THE DNA.

14 WHAT ELSE OTHER THAN THE EXPARTE MATTER?

15 MR. JACKSON: YOUR HONOR, A COUPLE OF
16 HOUSEKEEPING MATTERS, IF I COULD. NOT TO BE LABOR THIS,
17 BUT THE FIRST AND FOREMOST WITH REGARD TO THE WITNESS
18 THAT WAS BROUGHT UP LAST WEEK, MR. SALOMON, I HAD
19 SUBPOENAED CERTAIN RECORDS FROM PATTON STATE HOSPITAL. I
20 WAS PROVIDED A COURTESY COPY OF THOSE RECORDS TO MY
21 OFFICE.

22 I WANT TO PUT ON THE RECORD THAT I'VE
23 SUBMITTED AND LODGED WITH JEN MY COPY OF THOSE RECORDS
24 THAT ARE STILL SEALED. THEY ARE IN A SEALED IT LOOKS
25 LIKE A FED EX OR OVERNIGHT PACKAGE. I ASSUME THAT INSIDE
26 THAT THERE IS ANOTHER SEALED PACKAGE. I WANT THE RECORD
27 TO BE VERY CLEAR THAT I DID NOT OPEN THE PACKAGE AT ALL.
28 IT'S STILL IN ITS SEALED FORM. AND I'M GOING TO LODGE

1 THOSE WITH THE COURT IF IT'S OKAY JUST FOR HIPPA
2 CONCERNS.

3 THE COURT: OKAY.

4 MS. SARIS: AND, YOUR HONOR, ON THAT NOTE, I ALSO
5 SUBPOENAED THE DOCUMENTS AND THEY WERE SENT DIRECTLY TO
6 THE COURT. I DID NOT RECEIVE A COPY TO MY OFFICE, SO
7 THAT IS THE ONLY COPY THAT I HAVE SUBPOENAED. AND I'VE
8 NOT OPENED IT EITHER.

9 THE COURT: SO FOR THE RECORD I HAVE -- WE HAVE
10 HOW MANY --

11 THE CLERK: I HAVE ALL THREE COPIES. I HAVE
12 D.A., OUR COPY AND THE P.D.

13 MR. JACKSON: WHICH IS PURSUANT TO MY SUBPOENA.
14 IN OTHER WORDS, THEY SENT ME THE COURTESY COPY AND THE
15 COURT'S COPY. BUT I DON'T WANT TO HAVE ANY OF THEM.

16 THE COURT: SO ALL THREE PACKAGES WILL BE LODGED
17 WITH THE COURT AND WE WILL MAINTAIN THOSE RECORDS FOR
18 NOW. I GUESS THERE SHOULD BE SOME WAY TO GET THEM BACK
19 OR TO DESTROY THEM.

20 MS. SARIS: I BELIEVE THE COURT INDICATED THAT IF
21 WE DIDN'T USE THEM, WE WOULD DESTROY THEM AT THE END OF
22 THE CASE.

23 THE COURT: WE DO HAVE THE ABILITY TO DESTROY.
24 WE CAN WORK ON THAT.

25 MR. JACKSON: THE ONLY OTHER THING THAT DEALS
26 WITH THE PHYSICAL PLAN, I WAS GOING TO ASK THE COURT -- I
27 KNOW DOWNTOWN JUDGES HAVE ASKED I BELIEVE IT'S ADT, THE
28 MAINTENANCE FOLKS THAT RUN YOUR COURTHOUSES, THEY'VE

1 INSTALLED SCREENS, ELECTRIC SCREENS THAT CAN ROLE UP AND
2 DOWN. APPARENTLY IT IS A RELATIVELY SIMPLE PROCEDURE.

3 FOR INQUIRY PURPOSES, DO YOU KNOW WHAT AN
4 ELMO IS, OVERHEAD PROJECTOR?

5 THE COURT: I KNOW WHAT IT IS, YES.

6 MR. JACKSON: DOES THE COURT HAVE ONE HERE OR
7 WOULD WE HAVE --

8 THE COURT: WE HAVE ONE, BUT IT'S HARD TO GET.

9 THE CLERK: WE HAVE ONE THAT'S HARD TO GET
10 BECAUSE IT'S NORMALLY WITH THE CIVIL, BUT THE D.A.'S
11 OFFICE --

12 MR. JACKSON: I DIDN'T KNOW IF EACH COURTROOM HAD
13 ONE OR NOT. THAT'S FINE. I CAN TAKE CARE OF THAT. THE
14 ONLY THING IS WE ANTICIPATE USING SOME MULTI-MEDIA. WITH
15 THE COURT'S PERMISSION, WE WOULD ASK TO BE ABLE TO USE A
16 POWER POINT, EITHER IN OPENING STATEMENT OR CLOSING
17 ARGUMENT OR IN BOTH.

18 ALSO, THROUGHOUT THE COURSE OF THE TRIAL
19 WE MAY TRY TO, WITH THE COURT'S PERMISSION, UTILIZE AN
20 ELMO TO HELP FACILITATE SOME OF THE DOCUMENTARY EVIDENCE
21 THAT COULD BE PROJECTED ON A SCREEN. IF THE COURT COULD
22 SIMPLY ALLOW ADT TO INSTALL A SCREEN. THAT WOULD BE
23 HELPFUL. IF THE COURT DOESN'T WANT TO DO THAT, MAYBE WE
24 CAN SECURE A SCREEN FROM DOWNTOWN AND BRING IT DOWN HERE
25 FOR THE SEVERAL WEEKS THAT WE'RE GOING TO BE HERE.

26 MS. SARIS: THAT WOULD HELP US AS WELL. WE
27 ANTICIPATED THE SAME. AND WE WERE JUST GOING TO BRING A
28 PROJECTOR AND SCREEN. BUT AN ELMO WOULD BE MUCH BETTER.

1 THE COURT: OFF THE RECORD.

2 (DISCUSSION OFF THE RECORD.)

3 THE COURT: BACK ON THE RECORD.

4 WHAT ELSE?

5 MR. JACKSON: THAT'S IT, JUDGE.

6 THE COURT: OKAY. SO WE WILL MAKE INQUIRY
7 REGARDING THE SCREEN. AND COUNSEL WILL CALL US AND FIND
8 OUT IF COUNSEL CAN PROVIDE IT, THAT WOULD BE MUCH
9 APPRECIATED IF WE CAN GET IT.

10 SO IF THERE IS NOTHING ELSE --

11 MS. SARIS: I JUST WANT TO PUT ON THE RECORD THAT
12 WE DID HAND AN ADDITIONAL LIST TO THE DISTRICT ATTORNEY
13 TODAY. THAT'S BEEN FILED WITH YOUR HONOR.

14 THE COURT: ALL RIGHT. THE RECORD WILL REFLECT
15 THAT.

16 ANYTHING ELSE?

17 MR. JACKSON: NO, YOUR HONOR.

18 THE COURT: OKAY.

19 MR. DIXON: THANK YOU, YOUR HONOR.

20 MS. SARIS: YOUR HONOR, REGARDING THE MEDICAL
21 UPDATE THAT DR. PECK HAS SUBMITTED TO THE COURT,
22 MR. GOODWIN TAKES ISSUE WITH SEVERAL OF THEIR STATEMENTS
23 ABOUT THE CARE THAT HE HAS RECEIVED AND HAS ASKED TO BE
24 HEARD ON THOSE. I DON'T KNOW IF THE COURT WANTS ME TO
25 SIMPLY SUBMIT MORE MEDICAL ORDERS. I FEEL THAT MAYBE
26 THIS WAS AFFECTED AS A RESULT OF HIS MOVE. AND I'M
27 MAKING EVERY EFFORT TO GET HIM MOVED BACK. AND THAT
28 MIGHT TAKE CARE OF SOME OF IT. OUR MAIN CONCERN IS HIS

1 BACK CONDITION DURING THE TRIAL AND THAT STILL HAS NOT
2 BEEN ADDRESSED.

3 THE COURT: WELL, THE LETTER THAT I RECEIVED FROM
4 DR. PECK SEEMS TO INDICATE THAT ALL OF MR. GOODWIN'S
5 CONCERNS HAVE BEEN ADDRESSED. AND THERE IS REALLY
6 ALREADY VERY LITTLE THAT STILL NEEDS TO BE DONE.
7 ALTHOUGH THEY ARE TALKING ABOUT FURTHER WORK-UP ON NO. 7.
8 THEY ARE TALKING ABOUT A CORSET IF APPROVED BY CUSTODY.

9 MS. SARIS: HE HAS THAT. THAT UNFORTUNATELY
10 DOESN'T ENABLE HIM TO SIT FOR LONG PERIODS.

11 THE COURT: SO WHAT ARE YOU SUGGESTING?

12 MS. SARIS: THE THEORY AND PAIN MEDICATION --

13 THE COURT: WHAT DO YOU SUGGEST THAT DR. PECK
14 SHOULD ADDRESS? BECAUSE IF THERE IS SOMETHING
15 SPECIFIC --

16 MS. SARIS: WELL, HE INDICATES THAT HIS BLOOD
17 PRESSURE IS NOT BEING MONITORED. THAT IS INDICATED IN
18 NO. 1. IT SEEMS THAT PERHAPS THERE IS AN ISSUE WITH WHAT
19 DR. PECK HAS ORDERED AND WHAT HAS ACTUALLY OCCURRED. I
20 DOUBT OBVIOUSLY THAT DR. PECK IS MAKING UP THAT THERE IS
21 A CARDIOLOGY STRESS TEST. MY GUESS IS THAT IT WAS
22 ORDERED. BUT MICHAEL GOODWIN IS INDICATING THAT IT
23 DIDN'T OCCUR. SO IT'S VERY POSSIBLE THAT THAT'S WHAT THE
24 NOTES REFLECTED THAT WAS WHAT WAS SUPPOSED TO HAPPEN ON
25 AUGUST 8TH, BUT ACCORDING TO MR. GOODWIN NONE OF THOSE
26 ACCORD OF TESTS OCCURRED.

27 THE COURT: ALL RIGHT. I'M GOING TO ASK THAT
28 DR. PECK PROVIDE US -- AND IF YOU WILL DO THE ORDER,

1 MS. SARIS, THE RESULTS OF NO. 3. THE UPDATED BLOOD
2 PRESSURE RESULTS NO. 1 BECAUSE THEY'VE CHANGED IT ONCE
3 WEEKLY. THE RESULTS OF NO. 2 WHICH WOULD ADDRESS
4 WHETHER --

5 MS. SARIS: IT OCCURRED, YES.

6 THE COURT: IT OCCURRED? AND WHAT ELSE?

7 MS. SARIS: THE THERAPY.

8 THE COURT: NO. 6 TO ASSIST IN HAVING MR. GOODWIN
9 RELATIVELY PAIN FREE DURING TRIAL. I DON'T KNOW WHAT
10 MORE WE CAN DO.

11 MS. SARIS: I'M NOT SURE. HE IS SCHEDULED FOR
12 SURGERY ON HIS TOE. AND I THINK THAT WE'RE GOING TO TRY
13 TO DO THAT PRIOR TO THE TRIAL DATE. THEY DID ASPIRATE
14 HIS KNEE, WHICH WAS QUITE DISGUSTING, ON HIS LAST
15 APPEARANCE; BUT IT'S REFILLED. AND UNFORTUNATELY THAT
16 RELATES TO HIS BACK ISSUE BECAUSE WHEN HE CAN'T SIT HE
17 KNEELS.

18 THE COURT: WELL, I DON'T KNOW WHAT ELSE TO
19 SUGGEST OR ASK OF THE SHERIFF'S DEPARTMENT AT THIS POINT.

20 MS. SARIS: I GUESS THAT I WILL TALK TO DR. PECK
21 ABOUT THE REGULAR THERAPY AND WHATEVER PAIN MEDICATION HE
22 HAD TOLD THE COURT HE MIGHT BE ABLE TO -- I THINK HE SAID
23 HE WOULDN'T DO LADICANE, BUT HE WOULD DO SOMETHING ELSE.

24 MR. JACKSON: YOUR HONOR, NOT TO INTERRUPT, CAN
25 MR. DIXON AND I BE EXCUSED FOR THIS PORTION OF THE --

26 THE COURT: OH, YES. I APOLOGIZE.

27 MR. JACKSON: THAT'S OKAY. THANK YOU.

28 MR. DIXON: THANK YOU.

1 THE COURT: ALL RIGHT. WELL, IF YOU WILL,
2 MS. SARIS, IF YOU WILL DO AN ORDER, I WOULD JUST ASK FOR
3 DR. PECK TO RESPOND TO THAT ORDER.

4 MS. SARIS: PERHAPS WE CAN ASK HIM TO RESPOND BY
5 THE 6TH.

6 THE COURT: RIGHT. BUT I REALLY WANT TO LIMIT IT
7 BECAUSE WE HAVE BEEN ASKING A LOT.

8 MS. SARIS: PERHAPS I'LL JUST SUBMIT THE ORDER
9 THAT HE HAS TO ANSWER THE FOLLOWING QUESTIONS.

10 THE COURT: THAT'S WHY I WANTED TO SET THEM OUT
11 FOR THE RECORD.

12 WHAT ELSE? ANYTHING ELSE?

13 MS. SARIS: JUST THE EXPARTE ISSUE.

14 THE COURT: ANOTHER EXPARTE ISSUE?

15 MS. SARIS: YES. WE WOULD ASK TO GO INTO
16 CHAMBERS.

17 THE COURT: OKAY. WE WILL DO THAT. AND IS THERE
18 ANY REASON TO KEEP MR. GOODWIN IN COURT?

19 MS. SARIS: NO.

20

21 (WHEREUPON AN IN CAMERA PROCEEDING WAS
22 HELD, NOT TRANSCRIBED HEREIN.)

23 (PAGES X-27 THROUGH X-31.)

24

25

26

27

28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA FRIDAY, OCTOBER 6, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14

15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
16 THE MICHAEL GOODWIN MATTER, MR. GOODWIN IS PRESENT WITH
17 HIS COUNSEL. THE PEOPLE ARE REPRESENTED.

18 LET ME HAVE ALL COUNSEL PLEASE STATE THEIR
19 APPEARANCES.

20 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
21 ON BEHALF OF MR. GOODWIN.

22 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC
23 DEFENDER ALSO ON BEHALF OF MR. GOODWIN.

24 MR. DIXON: PAT DIXON, DEPUTY DISTRICT ATTORNEY.

25 MR. JACKSON: ALAN JACKSON, FOR THE PEOPLE, YOUR
26 HONOR.

27 MR. TWIST: AND, YOUR HONOR, I'M STEVE TWIST. I
28 FILED A MOTION FOR PROHIBITION PRO HOC BEECHI, APPEARING

1 ON BEHALF OF COLLENE CAMPBELL.

2 THE COURT: OKAY. AND, YES, I DID READ THE
3 MOTION. AND TECHNICALLY THE MOTION IS SUPPOSED TO BE
4 GRANTED, BUT I GUESS AT THIS TIME IT WILL BE OFFICIALLY
5 GRANTED.

6 MR. TWIST: THANK YOU, YOUR HONOR.

7 THE COURT: THE ISSUE THAT WE WERE GOING TO DEAL
8 WITH TODAY IS THE WITNESS EXCLUSION. AND SO WE CAN DO
9 THAT FIRST IF COUNSEL WISH.

10 MR. DIXON: THAT WOULD BE OUR PREFERENCE, YES.

11 MS. SARIS: YOUR HONOR, WE WERE ASKED TO MAKE
12 THAT MOTION EARLY TO ACCOMMODATE THE SCHEDULING OF
13 MRS. CAMPBELL AND HER ATTORNEY, WHICH WE WERE HAPPY TO
14 DO. WE FILED A POINT AND AUTHORITY IN SUPPORT OF THAT
15 MOTION. AND IN THAT MOTION INDICATED THAT WE WILL BE
16 UPDATING OUR WITNESS LIST.

17 AS A RESULT OF ANOTHER MOTION THAT I WAS
18 RESPONDING TO YESTERDAY, I DID NOT HAVE A CHANCE TO
19 ACTUALLY PHYSICALLY UPDATE THAT WITNESS LIST. BUT LET ME
20 STATE FOR THE RECORD THAT GARY CAMPBELL IS NO LONGER ON
21 OUR WITNESS LIST. OUR MOTION IS TO EXCLUDE ALL WITNESSES
22 FROM HEARING THE TESTIMONY OF OTHER WITNESSES. WE HAVE
23 NOT MADE A MOTION TO EXCLUDE CRIME VICTIMS OR CERTAIN
24 FAMILY MEMBERS ONLY.

25 WE'VE ONLY MADE A MOTION TO EXCLUDE
26 WITNESSES THAT WE ANTICIPATE CALLING. WE HAVE LISTED IN
27 THIS MOTION THE SUM AND SUBSTANCE OF SOME OF THE
28 TESTIMONY WE ANTICIPATE ELICITING FROM MRS. CAMPBELL. I

1 WAS NOT PRESENTED WITH ANY DOCUMENTATION THAT DANNY
2 THOMPSON, THE SON OF MICKEY THOMPSON WHO IS ON THE
3 PEOPLE'S WITNESS LIST, IS OBJECTING TO THE EXCLUSION
4 ORDER.

5 I DON'T KNOW THAT HE IS. AND WE DID NOT
6 ADDRESS THOSE SINCE IT WAS NOT ADDRESSED BY THE CAMPBELL
7 ATTORNEY. THERE IS ONE OTHER ASPECT OF TESTIMONY THAT WE
8 MAY GET INTO IN THE TRIAL. HOWEVER, SINCE WE ARE NOT
9 SURE ABOUT THAT YET, THAT IS A MATTER THAT WE WOULD ASK
10 PERMISSION TO DISCUSS WITH THE COURT EXPARTE IF OUR
11 PROPOSED OFFER OF PROOF IS FOUND WANTING IN THE MOTION
12 THAT WE DID LAYOUT IN WRITING.

13 WE WOULD ASK THE COURT TO NOTICE THE
14 DISTINCTION IN THE CASES COUNSEL HAS PRESENTED IN THAT
15 THOSE CASES HAVE TO DO WITH DEFENSE OBJECTING TO
16 INDIVIDUALS ON THE BASIS THAT THEIR PRESENCE WOULD SHOW
17 SYMPATHY. AND THAT IS NOT OUR CONTENTION. OUR
18 CONTENTION IS THAT THIS IS A WITNESS IN THE CASE.

19 WHILE WE DO NOT HAVE TO RESPOND TO CASES
20 THAT ARE UNPUBLISHED, TO THE EXTENT THAT THE COURT HAS
21 LOOKED AT THOSE CASES, THEY'RE EASILY DISTINGUISHABLE IN
22 THAT ONE CASE THE PERSON WAS INCOMPETENT TO TESTIFY
23 ACTUALLY AS A RESULT OF THE INJURIES PERPETRATED BY THE
24 DEFENDANT. AND THE OBJECTION WAS TO THE SYMPATHY THAT
25 THE JURORS WOULD MUSTER.

26 IN THE SECOND CASE, THE VICTIM WITNESS
27 TESTIFIED FIRST AND THEREFORE WAS NOT IN ANY WAY WORRIED
28 ABOUT SHAPING HIS TESTIMONY OR SOMEONE ELSE ALTERING

1 THEIR TESTIMONY IN THE FACE OF THAT INDIVIDUAL.

2 AS WE LAID OUT IN PAGES 6 THROUGH 8, OUR
3 BELIEF AS TO WHAT MRS. CAMPBELL WILL OFFER THIS CASE AND
4 WHAT HER PRESENCE IN THE COURTROOM WOULD DO TO THIS CASE,
5 WE THINK THAT WE ESTABLISHED GROUNDS FOR AN OVERRIDING
6 INTERESTED OF MR. GOODWIN IN HIS DUE PROCESS RIGHTS TO A
7 FAIR TRIAL. AND ASK THAT THE COURT UNDER 777 GRANT THE
8 MOTION TO EXCLUDE ALL WITNESSES.

9 AND WE WOULD LIKE TO POINT OUT THAT WE ARE
10 NOT EXCLUDING -- BY THIS ORDER ASKING THE COURT TO
11 EXCLUDE BY THIS ORDER ALL FAMILY MEMBERS OR OTHER
12 INDIVIDUALS IN THE FAMILY THAT WISH TO ATTEND THESE
13 PROCEEDINGS.

14 THE COURT: ALL RIGHT. PEOPLE.

15 MR. DIXON: YOUR HONOR, WITH THE COURT'S
16 PERMISSION IF I CAN JUST MAKE A FEW COMMENTS AND THEN
17 DEFER TO MR. TWIST.

18 MS. SARIS: I'M SORRY. JUST BRIEFLY, WE WOULD
19 LIKE TO INTERPOSE AN OBJECTION. THE DISTRICT ATTORNEY
20 HAS NO STANDING IN THESE PROCEEDINGS.

21 THE COURT: THE OBJECTION IS OVERRULED. I THINK
22 THEY DO.

23 SO GO AHEAD.

24 MR. DIXON: THANK YOU, YOUR HONOR. FIRST, WITH
25 DANNY THOMPSON, I THINK IT WOULD BE OUR REQUEST AND
26 MR. TWIST'S REQUEST THAT HE BE ALLOWED TO REMAIN IN THE
27 COURTROOM FOR THE OPENING STATEMENTS ONLY. THAT I THINK
28 IS THE ONLY TIME HE'LL BE HERE. AND OTHER THAN THAT, I

1 DON'T BELIEVE THERE IS ANY OBJECTION TO THE EXCLUSION
2 ORDER.

3 WITH RESPECT TO COLLENE CAMPBELL, I WOULD
4 LIKE TO JUST SAY A FEW WORDS. AND I KNOW MR. TWIST WHO
5 IS REALLY QUITE KNOWLEDGEABLE ON THE LAW IN THIS WILL SAY
6 MUCH MORE. BUT I WOULD LIKE TO INVITE THE COURT'S
7 ATTENTION TO PAGE 8 OF THE DEFENSE MOTION BECAUSE I THINK
8 THIS IS REALLY THE HEART OF IT.

9 IT SEEMS TO ME TO START OFF WITH THAT THE
10 BURDEN IS REALLY ON THE DEFENSE TO CONVINCE THE COURT
11 THAT THE DEFENDANT'S DUE PROCESS RIGHTS ARE GOING TO BE
12 VIOLATED BY ALLOWING COLLENE CAMPBELL IN THE COURTROOM.
13 AND I DON'T THINK THAT THAT'S THE CASE. AND I THINK WE
14 CAN REALLY UNDERSTAND WHERE THE DEFENSE IS COMING FROM BY
15 LOOKING SPECIFICALLY AT PAGE 8 HERE. AT LINE 25 COUNSEL
16 SAYS MRS. CAMPBELL WAS INTIMATELY INVOLVED IN THE
17 ORIGINAL INVESTIGATION OF THIS CASE. AND THEN GOES ON TO
18 CHARACTERIZE THAT AS A "WITCH HUNT."

19 I WOULD SAY TO THE COURT WHAT
20 MRS. CAMPBELL DID -- AND DEFENSE COUNSEL GOES ON FOR A
21 COUPLE OF PAGES AND OUTLINES WHAT SHE DID HERE AND THERE
22 AND HOW SHE HAS BEEN INVOLVED IN THIS CASE. THIS WAS A
23 DOUBLE HOMICIDE, AS THE COURT KNOWS; AN EXECUTION-STYLE
24 DOUBLE HOMICIDE OF HER FAMILY MEMBERS THAT WENT UNSOLVED
25 FOR SOME PERIOD OF TIME, A RATHER LONG PERIOD OF TIME
26 WITH NO ARRESTS.

27 WHAT ELSE WOULD A FAMILY MEMBER DO? A
28 CARING FAMILY MEMBER OTHER THAN TO TRY TO FIND OUT WHAT

1 HAPPENED TO HER BROTHER WHO WAS EXECUTED IN THIS STYLE.
2 MS. SARIS MAKES THIS OUT TO BE -- WELL, SHE SAYS RIGHT
3 HERE ON PAGE 8 STARTING AT LINE 26, "THE DEFENSE HAS MADE
4 NO SECRET OF OUR INTENTION TO EXPOSE THIS INVESTIGATION
5 AS A PURE AND UNADULTERATED WITCH HUNT WHOLLY VOID OF
6 OBJECTIVITY OR THOROUGHNESS."

7 AND IT GOES ON AT LINE 32, "THIS WITCH
8 HUNT WAS SPEARHEADED BY MRS. CAMPBELL." IT'S NOT A WITCH
9 HUNT AND TO CHARACTERIZE IT AND TRY TO CONVINCE THE COURT
10 TO KEEP MRS. CAMPBELL OUT OF THIS COURTROOM DURING THIS
11 TRIAL FOR THOSE REASONS I THINK IT JUST IMPROPER. WHAT
12 MRS. CAMPBELL DID IS WHAT I THINK ANY CARING FAMILY
13 MEMBER WOULD DO IN THE FACE OF THIS TRAGEDY.

14 NOW TO KEEP -- TO EXCLUDE COLLENE CAMPBELL
15 FROM THE COURTROOM, THE DEFENSE HAS TO CONVINCE THE COURT
16 THAT SHE IS NOT ONLY GOING TO TESTIFY, BUT TESTIFY TO
17 SUBSTANTIAL AND IMPORTANT ISSUES; AND THAT THAT'S GOING
18 TO VIOLATE MICHAEL GOODWIN'S RIGHTS.

19 WELL, THROUGHOUT THIS MOTION, I DON'T SEE
20 ANYTHING THAT SHE IS GOING TO TESTIFY TO OTHER THAN AGAIN
21 AT PAGE 8, STARTING AT LINE 17, "MRS. CAMPBELL WILL BE
22 QUESTIONED REGARDING INQUIRIES MADE INTO A REWARD BY THE
23 WITNESSES WHO ARE TESTIFYING FOR THE PROSECUTION."
24 THAT'S IT. SHE'S NOT -- MRS. CAMPBELL IS NOT ON OUR
25 LIST.

26 AND APPARENTLY IS ONLY ON THE DEFENSE LIST
27 FOR THAT SMALL RATHER LIMITED ISSUE THAT I THINK CAN BE
28 DEALT WITH THROUGH CROSS-EXAMINATION OF THESE WITNESSES

1 AND PERHAPS MRS. CAMPBELL BY THE DEFENSE WITHOUT
2 AFFECTING MICHAEL GOODWIN'S RIGHT TO A FAIR TRIAL IN THIS
3 CASE. I MEAN THIS IS A BALANCING TEST HERE. AND I HATE
4 TO SUGGEST THAT THERE IS ANY MEAN SPIRITEDNESS HERE ON
5 THE DEFENSE.

6 BUT CHARACTERIZING WHAT COLLENE CAMPBELL
7 DID TO TRY TO FIND OUT WHAT HAPPENED TO HER MURDERED
8 BROTHER AS A "WITCH HUNT" I THINK SAYS IT ALL. THAT'S
9 WHAT THIS IS ABOUT. AND IT'S JUST UNFAIR TO USE THAT
10 CHARACTERIZATION AND SUGGEST THAT THE VICTIM'S FAMILY,
11 THE REAL VICTIMS IN THIS CASE AT THIS TIME, SHOULDN'T BE
12 ALLOWED TO BE IN THIS COURTROOM. AND I WOULD ASK THE
13 COURT TO OVERRULE THE DEFENDANT'S OBJECTION. AND I WILL
14 DEFER TO MR. TWIST.

15 THANK YOU.

16 THE COURT: THANK YOU.

17 BEFORE I HEAR FROM MR. TWIST, JUST LET ME
18 GO BACK TO MS. SARIS. MR. DIXON IS CORRECT AND I HAVE
19 THE SAME QUESTION. WHAT IS THE OFFER OF PROOF AS TO WHAT
20 MRS. CAMPBELL WOULD BE TESTIFYING TO WHEN SHE IS CALLED
21 BY THE DEFENSE AS A WITNESS?

22 MS. SARIS: AND, YOUR HONOR, I WANT TO ADDRESS
23 THAT BECAUSE MR. DIXON HAS A HABIT OF TELLING ME WHAT MY
24 ARGUMENT IS AND TELLING ME WHY THAT ARGUMENT IS THEN
25 INCORRECT.

26 PAGE 6 THROUGH 8 LAYS OUT AN OVERVIEW OF
27 HER INVOLVEMENT IN THIS CASE. THE QUOTES FROM THE CASE
28 COME FROM THE DETECTIVE MICHAEL GRIGGS FROM A 12/88 --

1 DECEMBER OF '88 REPORT. NO ONE ON THE DEFENSE SIDE IS
2 ASKING MRS. CAMPBELL TO BE SANCTIONED. NO ONE IS SAYING
3 THAT WHAT SHE DID WAS IMPROPER. NO ONE IS SAYING THAT A
4 FAMILY MEMBER WHO CARED WOULD NOT HAVE BEHAVED SIMILARLY
5 OR SHOULD NOT HAVE BEHAVED SIMILARLY. THE POINT IS HER
6 CONDUCT MADE HER A WITNESS. THAT IS THE ISSUE.

7 THE COURT: WHAT IS THE OFFER OF PROOF THAT THE
8 DEFENSE HAS --

9 MS. SARIS: MEMO 95 WRITTEN BY THE DETECTIVE MIKE
10 GRIGGS. THIS WAS PREVIOUSLY ATTACHED TO A MOTION THE
11 COURT HAD IN ORDER TO GET INTO HIS PSYCHOLOGICAL
12 RETIREMENT RECORDS. WE'VE LISTED THREE OR FOUR WITNESSES
13 WHO MRS. CAMPBELL HAS CONTACTED WHO HAVE SUBSEQUENTLY
14 CHANGED THEIR STORY AS A RESULT -- ACCORDING TO DETECTIVE
15 GRIGGS, NOT ACCORDING TO THE DEFENSE TEAM -- AS A RESULT
16 OF THEIR CONTACT WITH MRS. CAMPBELL.

17 MRS. CAMPBELL HAD HIRED THROUGH THE ESTATE
18 A PRIVATE INVESTIGATOR. IN 1992, THERE WERE AT LEAST TWO
19 OR THREE INVESTIGATORS WORKING ON HER BEHALF, ALL OF WHOM
20 TOOK STATEMENTS FROM WITNESSES THAT ARE EXPECTED TO
21 TESTIFY. THOSE INCLUDE STEWART LINKLETTER; THOSE INCLUDE
22 WALTER DAHLEM, D-A-H-L-E-M; SCOTT SMITH; LANCE JOHNSON.

23 SHE WAS RESPONSIBLE FOR THE REWARD. THERE
24 WAS A RECENT CASE ON HABEAS THAT WAS OVERTURNED IN THE
25 CALIFORNIA COURT OF APPEAL FOR INEFFECTIVE ASSISTANCE OF
26 COUNSEL BECAUSE THE DEFENSE DID NOT INQUIRE AS TO THE
27 REWARD AS TO WHO HAD MADE INQUIRIES INTO THE REWARD; WHO
28 HAD ATTEMPTED TO OFFER THIS REWARD.

1 THE COURT: BUT THIS IS NOT A SECRET. I MEAN I
2 LISTENED TO THE PRELIMINARY HEARING IN THIS CASE TWO
3 YEARS AGO. I RECALL THOSE QUESTIONS BEING POSED TO
4 SEVERAL PEOPLE'S WITNESSES ON CROSS-EXAMINATION. IN
5 FACT, I RECALL THAT JUST ABOUT EVERY WITNESS THAT
6 TESTIFIED FOR THE PEOPLE WAS CROSS-EXAMINED ABOUT THEIR
7 CONTACT WITH MRS. CAMPBELL.

8 MS. SARIS: THAT'S CORRECT.

9 THE COURT: AND THEY HAVE TESTIFIED. SOME
10 ADMITTED HAVING CONTACT; SOME DENIED HAVING CONTACT. I
11 DON'T THINK THERE WAS ANY ISSUE THAT THERE WAS A REWARD.
12 I THINK ONE OR TWO OF THE WITNESSES WERE VERY WELL AWARE
13 OF THAT.

14 THIS IS OLD INFORMATION AS FAR AS I'M
15 CONCERNED. WHAT I'M LOOKING FOR HERE IS AN OFFER OF
16 PROOF AS TO WHAT SHE WOULD BE TESTIFYING TO. BECAUSE IN
17 ORDER FOR ME TO DETERMINE WHETHER OR NOT I SHOULD EXCLUDE
18 HER FROM ALL PROCEEDINGS, I WANT TO LOOK AT THE HISTORY
19 OF WHY IT IS THAT WITNESSES ARE EXCLUDED FROM TRIALS AND
20 THE PURPOSE OF THE STATUTE.

21 AND MY UNDERSTANDING IS IS THAT THAT LAW
22 WAS ENACTED TO GIVE THE COURT DISCRETION IN SITUATIONS
23 WHERE THERE WAS A RISK THAT WITNESS'S TESTIMONY MIGHT BE
24 INFLUENCED BY OTHER TESTIMONY THAT THEY HEAR AT THE
25 TRIAL. WELL, MRS. CAMPBELL WAS HERE DURING THE
26 PRELIMINARY HEARING. ACCORDING TO --

27 MS. SARIS: OVER OBJECTION.

28 THE COURT: YES, OVER OBJECTION. BECAUSE SHE WAS

1 NOT A WITNESS AT THE PRELIMINARY HEARING, SO WE DEALT
2 WITH THAT ISSUE. NOW YOU'RE TELLING ME SHE IS A WITNESS
3 AT THE TRIAL. I HAVE TO DETERMINE WHETHER OR NOT THERE
4 IS A DANGER HERE OF HER BEING PRESENT WITH RESPECT TO
5 OTHER WITNESSES TESTIFYING AND WHETHER THEY WILL SHAPE
6 THEIR TESTIMONY IN ACCORDANCE WITH WHAT SHE WANTS TO
7 HEAR.

8 I HAVE TO TAKE INTO ACCOUNT WHETHER OR NOT
9 HER TESTIMONY WILL BE INFLUENCED BY WHAT SHE HEARS. AND
10 THOSE ARE THE TWO CONCERNS THAT I HAVE. AND I CAN'T MAKE
11 THAT DETERMINATION WITHOUT KNOWING EXACTLY WHAT THE
12 DEFENSE IS OFFERING WITH RESPECT TO HER TESTIMONY BECAUSE
13 SO FAR WHAT I'VE HEARD, THERE IS NO DISPUTE. I KNOW WHAT
14 DETECTIVE GRIGGS WROTE. WE ALL KNOW THAT. THERE IS NO
15 DISPUTE. SO WHAT? OKAY.

16 WHERE DOES THAT -- WHY NOW DO I NEED TO
17 EXCLUDE THIS PERSON FROM HEARING THIS TESTIMONY AT THE
18 TRIAL? THIS TESTIMONY HAS BEEN BASICALLY IN EXISTENCE
19 FOR A NUMBER OF YEARS AND BROUGHT OUT AT THE PRELIMINARY
20 HEARING.

21 MS. SARIS: AND, YOUR HONOR, WE DID MAKE A MOTION
22 TO EXCLUDE MRS. CAMPBELL, AS WE DID ALL WITNESSES AT THE
23 PRELIMINARY HEARING. WE DID NOT CALL A SINGLE WITNESS.
24 THE PEOPLE CHOOSE NOT TO CALL HER, THEREFORE SHE WAS NOT
25 A WITNESS AT THE PRELIMINARY HEARING.

26 THE COURT: RIGHT.

27 MS. SARIS: IT WAS OUR CONTENTION THEN THAT
28 MRS. CAMPBELL -- AND IF THE COURT WANTS TO GO BACK TO THE

1 RECORD -- WE SAID AT THE PRELIMINARY HEARING IN OCTOBER
2 OF 2004 WE ANTICIPATE SHE WILL BE CALLED AT TRIAL. WE DO
3 NOT WANT HER TO HEAR THE TESTIMONY AT THE PRELIMINARY
4 HEARING FOR FEAR THAT SHE MAY SHAPE THAT.

5 THE COURT DISAGREED; ALLOWED HER INTO THE
6 PRELIMINARY HEARING. COMPOUNDING WHAT WE BELIEVE TO BE A
7 MISTAKE NOW DOES NOT AFFECT MR. GOODWIN'S DUE PROCESS
8 RIGHTS. SHE IS THE FACE OF THIS REWARD. I DON'T KNOW IF
9 THE COURT HAS HAD OCCASION TO SEE THE MOVIE -- THE SHOWS
10 UNSOLVED MYSTERY. I DON'T KNOW IF THE COURT HAS HAD
11 OCCASION TO SEE THE SHOW 48 HOURS. I BELIEVE THERE WAS A
12 HARD COPY EPISODE. THERE WAS AN AMERICA'S MOST WANTED.

13 THE COURT: LET ME JUST STOP YOU FOR A SECOND.
14 I HAVE NOT LOOKED AT OR SEEN ANYTHING THAT'S BEEN
15 REFERRED TO IN THIS CASE. I DON'T KNOW IF IT WAS
16 UNSOLVED MYSTERIES OR HARD COPY, WHATEVER YOU'VE JUST
17 MENTIONED. SO I AM ONLY AWARE OF THE EXISTENCE OF THESE
18 SHOWS BECAUSE I HEARD THE TESTIMONY AND IT WAS REFERRED
19 TO IN THE TESTIMONY. SO I DON'T HAVE ANY ACCESS NOR DID
20 I TRY TO GAIN ACCESS TO ANY OF THAT INFORMATION.

21 MS. SARIS: WELL, IN THE SHOWS -- LET ME JUST
22 EXPLAIN TO THE COURT -- MRS. CAMPBELL WENT ON, AS A
23 CONCERNED FAMILY MEMBER HAS A RIGHT TO DO. AND THIS
24 CONCERNED FAMILY MEMBER HAD ACCESS TO A FUND THAT WAS
25 WILLING TO OFFER A MILLION DOLLAR REWARD.

26 WE HEARD TESTIMONY AT THE PRELIMINARY
27 HEARING CERTAIN WITNESSES APPROACHED MRS. CAMPBELL BEFORE
28 THEY APPROACHED THE POLICE. JUST BECAUSE WE KNOW FROM

1 THE PRELIMINARY HEARING THAT CERTAIN WITNESSES ARE GOING
2 TO ACKNOWLEDGE THE REWARD AND CERTAIN WITNESSES ARE NOT
3 GOING TO ACKNOWLEDGE THE REWARD DOES NOT GIVE US ANY
4 CONFIDENCE IN THE FACT THAT THOSE WITNESSES WILL NOT
5 BOLSTER THEIR TESTIMONY WHEN LOOKING AT MRS. CAMPBELL IN
6 THE COURTROOM.

7 KNOWING THAT SHE CONTROLS THE PURSE
8 STRINGS OF THIS REWARD DOES NOT GIVE US CONFIDENCE THAT
9 IF A WITNESS WERE TO DENY INQUIRING ABOUT THIS REWARD AND
10 THE ONLY OTHER PARTY TO THAT CONVERSATION WAS COLLENE
11 CAMPBELL, AS A CONCERNED FAMILY MEMBER THERE IS -- AND
12 I'M NOT SAYING SHE WILL -- BUT THERE WOULD BE AN URGE TO
13 PERHAPS BE LESS THAN TRUTHFUL REGARDING THE CONVERSATION
14 THAT MAY HAVE OCCURRED THAT WE'RE NOT PRIVY TO.

15 MOREOVER, I DON'T THINK THE COURT CAN
16 UNDERESTIMATE THE CONTACT THAT SHE HAD WITH CERTAIN OF
17 THESE WITNESSES. DETECTIVE GRIGGS IN HIS MEMO INDICATED
18 THAT SHE HELP IN THE RECREATION OF THE CRIME SCENE. THAT
19 IS GOING TO BE A HUGE POINT OF CONTENTION IN THIS TRIAL.
20 THE RECREATION WAS DATED ON A PARTICULAR DATE. WE CAN
21 SHOW IN THE WITNESS'S STATEMENT THAT CERTAIN THINGS
22 CHANGED ABOUT THEIR STATEMENTS BASED ON THAT RECREATION.

23 AS I SAID, I'M VERY UNCOMFORTABLE BEING
24 FORCED INTO A POSITION IN FRONT OF THE DISTRICT ATTORNEYS
25 TO LAY OUT MY DEFENSE AND OUR STRATEGY IN ORDER TO
26 PROTECT MR. GOODWIN'S RIGHT TO A FAIR TRIAL. AND I WOULD
27 BE HAPPY TO GO EXPARTE AND EXPLAIN IN INTIMATE DETAIL
28 WHAT I THINK WE HAVE GIVEN A OVERVIEW OF IN OUR MOTION.

1 WE'VE LISTED NO LESS THAN FOUR INDIVIDUALS
2 WHO ARE GOING TO TESTIFY FOR THE PROSECUTION WHO SHE HAD
3 CONTACT WITH. IT IS WHOLLY OFFENSIVE THAT THE DISTRICT
4 ATTORNEY WOULD SUGGEST THAT WE'VE PUT MRS. COLLENE
5 CAMPBELL ON OUR WITNESS LIST IN A MEAN-SPIRITED FASHION.
6 IF THAT WERE THE CASE, WE WOULD HAVE LISTED EVERY SINGLE
7 INDIVIDUAL FAMILY MEMBER OF MR. THOMPSON.

8 THE COURT: OKAY. YOU'RE TALKING ABOUT FOUR
9 WITNESSES -- AND I AM HAPPY TO GO IN CAMERA WHEN
10 NECESSARY, BUT WE'RE NOT THERE YET. YOU'RE TALKING ABOUT
11 FOUR WITNESSES --

12 MS. SARIS: I'M TALKING ABOUT FOUR WITNESSES THAT
13 WE CAN NAME THAT DETECTIVE GRIGGS NAMED THAT SHE HAD
14 CONTACT WITH. WE LISTED SCOTT SMITH, WALTER DAHLEM.
15 THIS COURT HEARD TESTIMONY THAT SCOTT HERNANDEZ ATTEMPTED
16 TO GET IN TOUCH WITH MRS. CAMPBELL BEFORE THE POLICE.
17 THIS COURT HEARD TESTIMONY THAT JOHN WILLIAMS CONTACTED
18 MRS. CAMPBELL PRIOR TO CONTACTING THE POLICE.

19 THE COURT: BUT THAT'S ALREADY BEEN TESTIFIED TO.

20 MS. SARIS: AND I DON'T UNDERSTAND THE COURT'S
21 DISTINCTION. MRS. CAMPBELL HAS NOT HAD THE OPPORTUNITY
22 TO TESTIFY. SO THE FACT THAT THIS IS ALREADY ON RECORD
23 DOES NOT DO ANYTHING TO GUARANTEE MR. GOODWIN'S RIGHTS.
24 WITNESSES WHO TESTIFY AT THE PRELIM, THEY'RE STILL
25 EXCLUDED FROM THE TRIAL.

26 THE COURT: THE ARGUMENT IS, THOUGH, THAT SOMEHOW
27 A PARTICULAR WITNESS'S TESTIMONY IS GOING TO BE
28 INFLUENCED BY THE PRESENCE OF MRS. CAMPBELL. THAT'S THE

1 ARGUMENT. THE SECOND PART OF THAT ARGUMENT IS THAT
2 MRS. CAMPBELL'S TESTIMONY, WHEN SHE IS CALLED AS A
3 DEFENSE WITNESS, WILL SOMEHOW BE SHAPED OR INFLUENCED BY
4 HER LISTENING TO OR HAVING HEARD THE TESTIMONY OF OTHER
5 WITNESSES.

6 I'M LOOKING FOR INFORMATION THAT WOULD
7 SUPPORT THOSE CLAIMS. BECAUSE THAT IS WHAT THE STATUTE
8 IS BASICALLY TRYING TO PROTECT AGAINST. AND IF YOU LOOK
9 AT THE HISTORY OF THIS CODE SECTION, AS WELL AS ITS PRIOR
10 STATUTE -- I THINK IT WAS IN THE CCP -- I WANT YOU TO
11 ADDRESS WHY IT IS YOU FEEL THAT I SHOULD UPHOLD YOUR
12 REQUEST TO EXCLUDE HER FROM THE ENTIRE TRIAL. AND THOSE
13 ARE THE ISSUES THAT ARE PERTINENT TO ME. THEY MAY NOT BE
14 PERTINENT TO YOU, BUT THAT'S REALLY WHAT I'M LOOKING FOR.

15 MS. SARIS: I UNDERSTAND WHAT YOU ARE ASKING. MY
16 CONCERN AND MY QUESTION IS -- LET'S JUST TAKE AN
17 INDIVIDUAL RANDOMLY, LANCE JOHNSON, FOR INSTANCE, WHO WAS
18 A FRIEND OF THE FAMILY WHO TESTIFIED THAT HE MADE CERTAIN
19 OBSERVATIONS AT THE CRIME SCENE. SUBSEQUENT TO THAT HE
20 ASSISTED MRS. CAMPBELL, ACCORDING TO DETECTIVE GRIGGS, IN
21 GATHERING SOME INFORMATION; ACCORDING TO DETECTIVE
22 YARBOROUGH IN GATHERING SOME OTHER INFORMATION REGARDING
23 OTHER WITNESSES.

24 SIMPLY BECAUSE HE'S TESTIFIED ONCE DOES
25 NOT MEAN HE WON'T COME INTO COURT A SECOND TIME AND
26 BOLSTER THAT TESTIMONY IN FRONT OF A JURY FOR
27 MRS. CAMPBELL'S BENEFIT. THE REWARD IS FOR THE
28 CONVICTION OF AN INDIVIDUAL.

1 NOW THE IDEA THAT I'LL BE ABLE TO SAY TO
2 MR. JOHNSON, WELL, YOU DIDN'T SAY THAT AT THE PRELIMINARY
3 HEARING AND THAT WOULD BE ADEQUATE CROSS-EXAMINATION AND
4 ADEQUATE PROTECTION OF MR. GOODWIN'S RIGHTS, IT DOES NOT
5 HAVE THE SAME EFFECT TO A JURY AS HAD THIS INDIVIDUAL
6 HYPOTHETICALLY NOT EXAGGERATED IN THE FIRST PLACE.

7 THERE WILL BE ALL SORTS OF EXPLANATIONS
8 AND REASONS. MRS. CAMPBELL BEING THE FACE OF THE REWARD,
9 IF I WAS AN INDIVIDUAL THAT HAD THE INFORMATION, SHE'S
10 THE INDIVIDUAL THAT I WOULD TRY TO IMPRESS. IT'S
11 HAPPENING ALL OVER THE PLACE.

12 THE COURT: SO BASED ON YOUR ARGUMENT, WHAT YOU
13 ARE SAYING IS THAT THIS COURT SHOULD EXCLUDE
14 MRS. CAMPBELL NOT BECAUSE SHE IS A POTENTIAL WITNESS, BUT
15 BECAUSE OF THE AFFECT HER PRESENCE WILL HAVE ON THE
16 WITNESSES THAT WILL BE CALLED BY THE PEOPLE?

17 MS. SARIS: TWO-FOLD. THE COURT ASKED ME TO
18 ADDRESS THE REWARD. THAT IS HOW THE ADDRESSING OF THE
19 REWARD. SHE IS THE FACE OF THE REWARD. SHE IS AN
20 UNUSUAL CIRCUMSTANCE. THIS IS NOT A REWARD OFFERED BY
21 THE CITY. THIS IS NOT A REWARD THAT'S RANDOM. THIS IS A
22 REWARD THAT SHE IS THE FACE OF. THOSE ARGUMENTS ADDRESS
23 THE REWARD, WHICH I THOUGHT THE COURT HAD INQUIRED ABOUT.

24 REGARDING HER TESTIMONY AS A WITNESS, IT
25 IS OUR CONTENTION AND HAS ALWAYS BEEN OUR CONTENTION THAT
26 THIS CASE WAS NOT INVESTIGATED TO FIND THE KILLERS OF
27 MICKEY THOMPSON. THIS CASE WAS INVESTIGATED TO CONVICT
28 MICHAEL GOODWIN OF KILLING MICKEY THOMPSON.

1 DETECTIVE GRIGGS LAYS OUT IN DETAIL
2 MRS. CAMPBELL WAS INVOLVED IMMEDIATELY. SHE HIRED
3 PRIVATE INVESTIGATORS. THEY ILLEGALLY OBTAINED
4 MR. GOODWIN'S PHONE RECORDS.

5 WE WILL SHOW AT THE JURY TRIAL THESE PHONE
6 RECORDS BECAME THE BASIS OF A WARRANT. WE WILL SHOW THAT
7 THESE PHONE RECORDS LED THE DETECTIVES OFF ON THESE
8 TANGENTS TO FLORIDA IN THE MIDST OF THE JOEY HUNTER
9 INVESTIGATION WHEN THEY WERE SUPPOSED TO BE
10 INVESTIGATING, PRESUMABLY -- IF THEY WERE TRYING TO SOLVE
11 THE HOMICIDE -- AN INDIVIDUAL WHO FAILED A POLYGRAPH TEST
12 AS TO HIS INVOLVEMENT IN THE CASE.

13 WE EXPECT DETECTIVE GRIGGS TO TESTIFY IN
14 THIS CASE. WE EXPECT HIM TO TESTIFY THAT HE CONDUCTED A
15 THOROUGH INVESTIGATION. AND WE INTEND TO SHOW THAT, IN
16 EFFECT, HE DID NOT. THAT EVERY SINGLE TIME HE WENT TO DO
17 SOMETHING THAT DID NOT LEAD TO MICHAEL GOODWIN,
18 MRS. CAMPBELL MADE A COMPLAINT ABOUT HIM. AND HE SPENT A
19 GOOD DEAL OF HIS TIME ANSWERING HER COMPLAINTS -- AS
20 EVIDENCED BY MEMO 95 -- RATHER THAN INVESTIGATING OTHER
21 SUSPECTS THAT WERE VIABLE AND SHOULD HAVE BEEN
22 INVESTIGATED AT THE TIME.

23 THE COURT: BUT SO WHAT? I MEAN I KNOW THAT. I
24 KNOW THIS. WE HAVE HAD -- I HAVE HAD THIS CASE FOR TWO
25 YEARS. JUST TELL ME HOW MRS. CAMPBELL'S TESTIMONY IS
26 GOING TO BE SHAPED BY LISTENING TO THIS INFORMATION.
27 THIS IS NOT A NEWS FLASH. THIS IS INFORMATION THAT'S
28 BEEN IN THE RECORD ON THIS CASE FOR THE LAST TWO YEARS.

1 MS. SARIS: I DON'T KNOW THAT MRS. CAMPBELL IS IN
2 POSSESSION OF MEMO 95. I DON'T KNOW THAT SHE IS AWARE OF
3 THE ALLEGATIONS THAT WE FILED UNDER SEAL.

4 THE COURT: I THINK SHE HAS BEEN HERE WHEN YOU
5 HAVE MADE THESE ARGUMENTS. I DON'T KNOW THAT SHE HAS HAD
6 ACCESS TO THE INFORMATION THAT WAS PROVIDED
7 CONFIDENTIALLY. BUT YOU HAVE MADE THESE ARGUMENTS
8 BEFORE. I HAVE HEARD THESE ARGUMENTS AS TO THE
9 IMPORTANCE OF DETECTIVE GRIGGS' TESTIMONY IN THIS CASE OR
10 NOTES -- YOU KNOW, WHY YOU NEEDED TO HAVE ACCESS TO THAT.

11 I BASICALLY HAVE GIVEN YOU ALL THE
12 INFORMATION, BUT WE DID HAVE HEARINGS IN OPEN COURT. SO
13 THIS IS ALL PART OF THE RECORD AS FAR AS I'M CONCERNED.
14 I'M AWARE OF THIS FROM LISTENING TO THE ARGUMENT.

15 MS. SARIS: BUT THE STATUTE DOESN'T REQUIRE THAT
16 THIS BE PREVIOUSLY SECRET. THE STATUTE MERELY --

17 THE COURT: HOW DOES IT EFFECT HER? JUST TELL ME
18 BOTTOM LINE, SHE HAS BEEN HERE ALMOST EVERY DAY FOR TWO
19 YEARS. EVERY TIME WE HAVE BEEN HERE, THEY HAVE BEEN
20 HERE, MR. AND MRS. CAMPBELL, I PRESUME. I HAVE SEEN
21 THEM. I DON'T KNOW THEM PERSONALLY.

22 MS. SARIS: SO IT IS THE COURT'S POSITION THAT I
23 WILL NEVER BE ALLOWED TO EXCLUDE A WITNESS WHO MAKES AN
24 EFFORT TO COME TO EVERY COURT APPEARANCE?

25 THE COURT: NO. NO. I'M JUST ASKING YOU WHAT IS
26 GOING TO BE DISCLOSED AT THIS TRIAL THAT WILL AFFECT THE
27 TESTIMONY OF MRS. CAMPBELL WHEN YOU CALL HER AS YOUR
28 DEFENSE WITNESS? I HAVE HEARD NOW THE ARGUMENT THAT EVEN

1 IF YOU DON'T CALL HER AS A WITNESS, SHE SHOULD BE THROWN
2 OUT OF HERE BECAUSE OF THE REWARD.

3 THAT'S A DIFFERENT ARGUMENT. AND THE CASE
4 LAW THAT WAS CITED DOES ADDRESS THAT ISSUE. BUT ON THIS
5 ISSUE, I'M JUST ASKING FOR SPECIFICS AS TO HOW HER
6 TESTIMONY WILL BE INFLUENCED BY HEARING OTHER WITNESSES
7 TESTIFY TO THIS INFORMATION?

8 MS. SARIS: OBVIOUSLY, SINCE THERE IS NO JURY
9 HERE AND MRS. CAMPBELL HASN'T HAD THE OPPORTUNITY TO
10 TESTIFY TO THAT, I CAN'T ANSWER THAT COMPLETELY,
11 SPECIFICALLY. HOWEVER --

12 THE COURT: WELL, DO YOU THINK SHE'S GOING TO
13 DENY IT?

14 MS. SARIS: I DON'T KNOW.

15 THE COURT: WELL --

16 MS. SARIS: PERHAPS SOMETHING THAT THE DETECTIVE
17 SAYS WILL LEAD HER TO COUNTER SOMETHING THAT SHE
18 OTHERWISE WOULD NOT HAVE HEARD.

19 THE COURT: YOU ARE TALKING ABOUT DETECTIVE
20 GRIGGS?

21 MS. SARIS: DETECTIVE GRIGGS.

22 THE COURT: I'M HAPPY TO EXCLUDE HER DURING
23 DETECTIVE GRIGGS' TESTIMONY.

24 MS. SARIS: THE POINT IS NO TESTIMONY HAS BEEN
25 MADE IN FRONT OF THIS JURY. WE DON'T HAVE A JURY YET.
26 WE HAVE NEVER HAD TESTIMONY IN FRONT OF A JURY, SO
27 EVERYTHING WE'RE SPEAKING OF IS IN THE HYPOTHETICAL.

28 THE COURT: I KNOW, BUT I'M HAPPY TO -- YOU'RE

1 POINTING TO ONE --

2 MS. SARIS: OKAY. IF THE COURT WOULD PREFER,
3 EVERY SINGLE WITNESS THAT HAS ANYTHING TO DO WITH THE
4 INVESTIGATION OF THIS CASE AND POTENTIAL THREATS MADE
5 AGAINST MICKEY THOMPSON, IF THE COURT IS WILLING TO
6 EXCLUDE HER FROM ALL OF THOSE, THAT'S FINE. I DIDN'T
7 MAKE A WITNESS-BY-WITNESS EVALUATION.

8 THE COURT: BUT THE COURT HAS TO CONSIDER THAT.

9 MS. SARIS: BUT EVIDENCE CODE 777 ALLOWS THIS
10 COURT AND THIS COURT HAS THE DISCRETION TO EXCLUDE A
11 WITNESS WHO MAY TESTIFY.

12 THE COURT: AND THE COURT ALSO, IF YOU READ IT,
13 THE COURT ALSO HAS TO TAKE INTO ACCOUNT THE STATUTE THAT
14 WAS CITED BY COUNSEL FOR MRS. CAMPBELL. AND THE
15 CONSIDERATIONS THAT THE PEOPLE OF THIS STATE WANT THE
16 COURTS TO CONSIDER.

17 MS. SARIS: I ABSOLUTELY UNDERSTAND THAT.

18 THE COURT: ONE OF THOSE CONSIDERATIONS IS
19 WHETHER OR NOT I CAN ORDER A WITNESS EXCLUDED FOR
20 SOMETHING THAT ISN'T THE ENTIRE TRIAL. IF I CAN JUST GO
21 BY WITNESS TO WITNESS FROM ONE WITNESS TO ANOTHER, IF YOU
22 MAKE A SHOWING I'M HAPPY TO DO THAT.

23 THESE ARE ALL THE THINGS I HAVE TO
24 CONSIDER BEFORE I GRANT YOUR MOTION TO EXCLUDE THIS
25 WITNESS FROM ALL PROCEEDINGS DURING THIS TRIAL. AND
26 THAT'S WHY I'M ASKING YOU SPECIFIC QUESTIONS AND AN OFFER
27 OF PROOF AS TO SPECIFIC WITNESSES.

28 MS. SARIS: THAT'S FINE. IF THE PEOPLE WISH TO

1 GIVE ME A LIST OF THE WITNESSES THEY ACTUALLY INTEND TO
2 CALL, I CAN SHOW -- I DOUBT IT'S 91 WITNESSES. IF THEY
3 WANT TO NARROW IT DOWN, I'LL BE HAPPY TO COME BACK AND
4 EXPLAIN TO THIS COURT -- I CAN TELL THE COURT RIGHT NOW
5 SCOTT SMITH; WALTER DAHLEM; LANCE JOHNSON; MICHAEL
6 GRIGGS; YARBOROUGH; DOUG OLBERHOLTZER; JANSEN; COX;
7 JONES; LILLIENFELD; ALL OF THE POLICE OFFICERS; ALL OF
8 THE CRIME SCENE RECONSTRUCTIONISTS; ALL THE BALLISTICS
9 EXPERTS; ALL OF THE EYEWITNESSES. I THINK THERE WOULD BE
10 ABOUT THREE WITNESSES LEFT, HONESTLY. AND I'M NOT TRYING
11 TO BE --

12 THE COURT: YOU ARE MISSING THE POINT. I'M
13 REALLY ASKING --

14 MS. SARIS: NO. I THINK THE POINT IS THAT I
15 DON'T THINK THE COURT UNDERSTANDS HOW ALL OF THESE
16 WITNESSES ARE INVOLVED IN THAT.

17 THE COURT: GIVE ME SOME CREDIT. I HAVE BEEN
18 WITH THIS CASE FOR TWO YEARS NOW. I THINK I HAVE A
19 HANDLE ON WHAT THE DEFENSE POSITION IS AND WHAT THE
20 DEFENSE CASE IS AND WHAT THE PEOPLE'S CASE IS. I'M AWARE
21 OF INFORMATION THAT MAY BE BROUGHT OUT THROUGH ELICITED
22 TESTIMONY FROM DETECTIVE GRIGGS AND HE IS GOING TO BE A
23 WITNESS.

24 AND I JUST SAID THAT I'M WILLING TO
25 EXCLUDE MRS. CAMPBELL BASED ON WHAT I KNOW OF THE
26 PROPOSED TESTIMONY OF DETECTIVE GRIGGS. IF YOU CAN TELL
27 ME THAT YOU HAVE AN ARGUMENT SIMILAR TO THAT WITH RESPECT
28 TO ALL OF THESE OTHER WITNESSES, I'M HAPPY TO LISTEN.

1 THAT'S ALL I'M ASKING. I'M HAPPY TO EXCLUDE WITNESSES.
2 I'M HAPPY TO PERMIT WITNESSES TO REMAIN. I'M HAPPY TO
3 BALANCE. AND THAT'S WHAT I'M TRYING TO DO.

4 MS. SARIS: I WOULD BE HAPPY TO MAKE A LIST OF
5 EACH WITNESS AND EXPLAIN HOW MRS. CAMPBELL'S PRESENCE
6 WILL EITHER AFFECT THEIR TESTIMONY OR SHE WOULD BE
7 AFFECTED BY THEIR TESTIMONY.

8 THE COURT: THOSE ARE TWO SEPARATE ISSUES, SO
9 THEY DO HAVE TO BE ADDRESSED.

10 MS. SARIS: I AGREE.

11 THE COURT: MR. TWIST.

12 MR. TWIST: THANK YOU, YOUR HONOR. LET ME BEGIN
13 BY THANKING THE COURT FOR THE ADMISSION FOR THE PURPOSES
14 OF THIS CASE. LET ME ALSO SAY I WANT TO ACKNOWLEDGE
15 DEFENSE COUNSEL'S PROPER POINTING OUT TO THE COURT AND MY
16 ALLEGATION FOR THE COURT THAT THERE WAS A CASE CITED IN
17 OUR PAPERS THAT I GOT ON WEST LAW THAT IS, IN FACT, NOT
18 PUBLISHED ALTHOUGH PUBLISHED ON WEST LAW AND SHOULD NOT
19 HAVE BEEN CITED TO THE COURT. AND I WOULD BE VERY HAPPY
20 IF THE COURT WOULD JUST IGNORE THOSE LINES.

21 YOUR HONOR, I LISTENED CAREFULLY TO
22 DEFENSE COUNSEL'S ARGUMENT WITH THE COURT. AND OVER AND
23 OVER AGAIN, THE WORDS SHE USED WERE REPEATED. THE FACT
24 THAT MRS. CAMPBELL WILL BE IN THE COURTROOM WHILE OTHER
25 WITNESSES TESTIFY, QUOTE, DOES NOT GIVE US CONFIDENCE
26 THAT THERE MIGHT NOT BE SOME ALTERING OF TESTIMONY OR
27 BOLSTERING OF TESTIMONY. SAYING THAT THERE MIGHT BE THE
28 URGE TO ALTER TESTIMONY. QUICKLY ADDING, WE ARE NOT

1 SAYING THAT SHE WOULD OR ANYONE ELSE WOULD. THESE ARE
2 QUOTES FROM COUNSEL'S ARGUMENT TODAY.

3 THE ASSERTION THAT TESTIMONY MAY BE
4 INFLUENCED BY THE PRESENCE OF A WITNESS, FALLS FAR SHORT
5 OF ANY WITNESS, YOUR HONOR, FALLS FAR SHORT OF THE
6 STANDARD ESTABLISHED BY 1102.6. AND WE'VE CONTINUALLY
7 RE-ENFORCED IN THE CASES.

8 SO, YOUR HONOR, IF I MAY JUST BRIEFLY TALK
9 ABOUT WHAT THOSE CASES SAY AND WHAT THE LAW IS. AND
10 COMMENT ON DEFENSE COUNSEL'S CHARACTERIZATION OF THE
11 CASES. FIRST OF ALL, IN HER PAPERS, YOUR HONOR, AND
12 TODAY BEFORE YOU, SHE SAYS SHE HAS NOT MADE A MOTION TO
13 EXCLUDE CRIME VICTIMS ONLY WITNESSES.

14 WELL, IN FACT, YOUR HONOR, THAT'S NOT THE
15 CASE. COLLENE CAMPBELL IS A CRIME VICTIM AS DEFINED IN
16 1102.6 IN THIS CASE. AND A MOTION TO EXCLUDE COLLENE
17 CAMPBELL IS A MOTION TO EXCLUDE A CRIME VICTIM IN THE
18 CASE.

19 AND THE STATUTE SPEAKS OF THE STANDARDS.
20 MS. SARIS ACKNOWLEDGES IN HER PAPERS THAT THIS DECISION
21 IS REALLY NOT ONE OF CONSTITUTIONAL DIMENSION. AND LET
22 ME JUST QUOTE WHAT I THINK IS THE FIRST STANDARD OF THE
23 LAW BY JUDGE POSNER WHEN HE SAYS, "A REFUSAL TO EXCLUDE
24 WITNESSES UNTIL THEY TESTIFY IS NOT A DENIAL OF DUE
25 PROCESS."

26 AND THE CASE IS BELL VERSUS DUCKWORTH, 7TH
27 CIRCUIT, 1988 CASE. I MEAN THAT'S THE STANDARD OF LAW.
28 THIS IS AN ISSUE AS THE STATUTE MAKES CLEAR AND AS THE

1 CASES MAKE CLEAR IN THIS STATE AND STATES AROUND THE
2 COUNTRY COMMITTED TO YOUR HONOR'S SOUND DISCRETION.

3 IN FACT, IN CALIFORNIA THE COURTS TALK
4 ABOUT THE, QUOTE, UNQUOTE, EXTREMELY BROAD DISCRETION
5 THAT YOUR HONOR HAS WITH REGARD TO THIS STATEMENT. THE
6 REQUEST OF YOUR HONOR TO INVOKE YOUR HONOR'S DISCRETION
7 OR ASK FOR YOUR HONOR TO MAKE A DISCRETIONARY DECISION,
8 IS NOT THE SAME AS INVOKING A CONSTITUTIONAL RIGHT.

9 IN FACT, THERE IS NO FUNDAMENTAL
10 CONSTITUTIONAL FAIR TRIAL RIGHT TO EXCLUDE WITNESSES IN
11 CASE AFTER CASE AFTER CASE IN THIS STATE AND IN OUR
12 COUNTRY. CASES EVEN CITED BY DEFENSE COUNSEL, PEOPLE
13 VERSUS GRIFFIN, MAKE IT VERY CLEAR THAT THE ASSERTION
14 ALONE OF AN INFLUENCE ON A WITNESS'S TESTIMONY DOES NOT
15 RISE TO THE LEVEL OF A CONSTITUTIONAL VIOLATION.

16 EVIDENCE RULE 777 HAS GOT TO BE READ IN
17 CONJUNCTION WITH THE REQUIREMENTS OF 1102.6. COUNSEL HAS
18 FAILED TO READ THOSE STATUTES CORRECTLY AND CAREFULLY
19 TOGETHER. TOGETHER -- WHEN READ TOGETHER, THEY
20 DEMONSTRATE THAT COUNSEL HAS THE BURDEN TO DEMONSTRATE
21 SUBSTANTIAL PROBABILITY.

22 AND I WOULD POINT OUT TO YOUR HONOR AT
23 THIS POINT THE PROGRESSION OF THIS STATUTE. BEFORE THE
24 RULE OF EXCLUSION WAS ENACTED, IT WAS LEFT TO THE COURT'S
25 SOUND DISCRETION TO MAKE DECISIONS WITHOUT REGARD TO THE
26 RULE. THE RULE CAME IN AND 777 CAME IN AND ALLOWED THE
27 COURT THE DISCRETION TO EXCLUDE WITNESSES. PERIOD.

28 AND THEN AS HAPPENED IN CALIFORNIA AS HAS

1 HAPPENED IN VIRTUALLY EVERY STATE IN OUR COUNTRY, WE
2 BEGAN TO LEARN ABOUT HOW THAT APPLICATION LITERAL AND
3 INFLEXIBLE APPLICATION OF A RULE OF EXCLUSION DID
4 AFFIRMATIVE DAMAGE TO CRIME VICTIMS.

5 THE FINAL REPORT OF THE PRESIDENT'S TASK
6 FORCE IN 1982 CLEARLY DEMONSTRATES THAT AFFIRMATIVE HARM
7 THAT IS DONE TO CRIME VICTIM -- AND EVER SINCE THEN THERE
8 HAS BEEN A WAVE OF LEGAL CONSTITUTIONAL STATUTORY REFORM
9 THAT IS ALL HEADED IN ONE DIRECTION. AND THAT IS TO
10 REOPEN OUR PUBLIC COURTS TO EVEN THE VICTIM. WHAT A
11 NOVEL CONCEPT.

12 AND SO, YOUR HONOR, THAT IS WHY -- AND
13 THEN JUST TO FOLLOW THROUGH ON THE POINT OF PROGRESSION.
14 SO THEN WE HAD THE FIRST STATUTE THAT WAS ENACTED IN 1985
15 BY THE CALIFORNIA LEGISLATURE. IN THE WORDS OF THAT
16 STATUTE WITH REGARD TO THE RISK OF AN INFRINGEMENT ON A
17 FAIR TRIAL BY THE ALTERATION OF TESTIMONY, WAS THAT THERE
18 BE A SUBSTANTIAL RISK THAT TESTIMONY WOULD BE ALTERED.

19 IN THE 1995 AMENDMENT TO THAT STATUTE,
20 THAT STANDARD WAS CHANGED. AND NOW THE LEGISLATURE HAS
21 SAID THERE HAS TO BE A SUBSTANTIAL PROBABILITY THAT THERE
22 WILL BE A PREJUDICE TO THE DEFENDANT'S RIGHT TO A FAIR
23 TRIAL. "SUBSTANTIAL RISK" IS A LOWER STANDARD, YOUR
24 HONOR, THAN "SUBSTANTIAL PROBABILITY."

25 I WOULD SUBMIT TO THE COURT THAT THERE IS
26 NOTHING THAT HAS BEEN PRESENTED WITH REGARD TO WITH
27 RESPECT TO OFFICER GRIGGS OR ANY OTHER OF THE LIST OF
28 NAMES MENTIONED BY DEFENSE COUNSEL THAT WOULD RISE TO THE

1 LEVEL OF A SUBSTANTIAL PROBABILITY THAT TESTIMONY WILL BE
2 INFLUENCED IN A WAY THAT VIOLATES THE DEFENDANT'S
3 CONSTITUTIONAL RIGHT TO A FAIR TRIAL.

4 AND ALL OF THOSE FACTORS, SUBSTANTIAL
5 PROBABILITY OF PREJUDICE TO A FAIR TRIAL RIGHT HAVE TO BE
6 FOUND. I WOULD SUBMIT, YOUR HONOR, THAT THE DEFENDANT'S
7 RIGHT TO A FAIR TRIAL IS PRESERVED AND PROTECTED BY THE
8 UNITED STATES CONSTITUTION AND THE CALIFORNIA
9 CONSTITUTION THROUGH THE RIGHT TO CALL AND EXAMINE
10 WITNESSES AND THROUGH THE RIGHT TO CROSS-EXAMINE
11 WITNESSES.

12 AND THE QUESTION OF WHETHER OR NOT THOSE
13 WITNESSES' STATEMENTS FROM THE WITNESS STAND UNDER OATH
14 ARE CREDIBLE OR NOT IS NOT A MATTER FOR A LEGAL DEBATE.
15 IT IS A MATTER FOR THE JURY TO ASSESS ON THE BASIS OF
16 EXAMINATION AND CROSS-EXAMINATION. COUNSEL MAKES
17 REFERENCE TO THE CASES CITED BY -- THAT I CITED TO THE
18 COURT AND SAYS THAT THESE ARE ALL SYMPATHY CASES AND NOT
19 WITNESS CASES. THAT'S SIMPLY NOT TRUE.

20 THE HAMMONDS CASE, FOR EXAMPLE, YOUR
21 HONOR, WHICH IS A FEDERAL DISTRICT COURT CASE, NOT AN
22 APPELLATE CASE, THE HAMMONDS CASE IS A CASE INVOLVING A
23 WITNESS WHO IS SUBJECT TO RECALL AND WHOSE PRESENCE --
24 THE COURT CAN NOTE AT PAGE 20 OF THE CASE WOULD -- OR
25 POSSIBLY MIGHT INFLUENCE WITNESSES. VERY SIMILAR TO THE
26 ARGUMENTS THAT ARE BEING MADE TO THE COURT.

27 AND THERE, AGAIN, AS IN CASE AFTER CASE
28 THE COURTS ARE CONCLUDING THAT THE MERE POSSIBILITY OF

1 INFLUENCE OF TESTIMONY IS NOT SUFFICIENT TO RISE TO THE
2 LEVEL OF ANY FAIR TRIAL VIOLATION. THE FAIR TRIAL
3 VIOLATION MAY COME IN OTHER WAYS BY A VICTIM'S PRESENCE
4 IN THE COURTROOM. AND ONE OF THE WAYS YOUR HONOR CAN
5 LOOK AT THAT IS TO LOOK AT THE RECENT STANDARD ENACTED BY
6 CONGRESS IN THE CRIMES VICTIM'S RIGHTS ACT, WHICH WAS
7 CITED TO THE COURT. IRONICALLY, TRAGICALLY NAMED AFTER
8 GARY AND COLLENE'S SON.

9 IN THAT CASE THE CONGRESS SET WHAT THEY
10 THOUGHT WAS THE APPROPRIATE STANDARD WHERE THERE WAS
11 CLEAR AND CONVINCING EVIDENCE THAT A WITNESS'S TESTIMONY
12 WOULD BE MATERIALLY ALTERED. THAT'S WAY BEYOND THE
13 STANDARD THAT COUNSEL IS ASSERTING TO THE COURT THE COURT
14 OUGHT TO ADOPT.

15 AND EVEN IF CASES THAT WOULD FALL UNDER
16 THAT STANDARD, IT'S NOT A CONSTITUTIONAL VIOLATION IN ANY
17 EVENT. CALIFORNIA AUTHORITY CITED EVEN BY DEFENDANT'S
18 COUNSEL, THE GRIFFIN CASE IS A CASE INVOLVING WITNESSES
19 OR INFLUENCE ON WITNESSES. AND I WOULD ALSO POINT OUT TO
20 THE COURT IN THAT OPINION, THE OPINION CITED BY COUNSEL,
21 THAT THE COURT SAYS AT PAGE 30 OF THE CASE THAT "THE
22 ASSERTION OF A RISK" -- WHICH COUNSEL HAS MADE HERE
23 TODAY -- "IS NOT ENOUGH."

24 THE ASSERTION OF A RISK BECAUSE A VICTIM
25 MAY HAVE SOME INFORMATION OR SOME PRIOR INVOLVEMENT
26 BEFORE A TESTIMONIAL PROCEEDING IS NOT SIMPLY NOT ENOUGH
27 TO RISE TO THE LEVEL OF SUBSTANTIAL RISK UNDER THE
28 GRIFFIN CASE. AND NOW AN EVEN HIGHER STANDARD OF

1 SUBSTANTIAL PROBABILITY UNDER THE CURRENT STATUTE. SO,
2 YOUR HONOR, IF I MAY I'VE JUST GONE THROUGH THE POINTS
3 THAT COUNSEL MAKES IN HER REFERENCE TO MRS. CAMPBELL'S
4 TESTIMONY.

5 SHE SAYS THAT THE VICTIM IS -- THAT
6 MRS. CAMPBELL HAS BEEN INTEGRAL TO THE INVESTIGATION. I
7 SAY SO WHAT. IT'S COMMON PLACE. SHE'S ACTUALLY LESS
8 INTEGRAL IN THIS CASE THAN IF SHE HAD BEEN A DIRECT
9 WITNESS OR AN EYEWITNESS TO THE CRIME ITSELF. IT'S
10 COMMON PLACE.

11 UNDER THE RULE PROPOSED BY COUNSEL, IF A
12 VICTIM WHO WAS SOMEHOW INVOLVED WITH AN INVESTIGATION
13 WERE TO THEN THEREBY DISQUALIFY THEMSELVES FROM BEING IN
14 THE COURTROOM, THE LEGISLATIVE MANDATE OF THE 1102.6
15 WOULD NEVER BE MET. EVERY VICTIM WOULD BE EXCLUDED FROM
16 A COURTROOM UNDER THAT TEST.

17 THE COMMENT THAT SHE MADE -- THE PASSING
18 COMMENT THAT SHE MADE ABOUT ILLEGALLY OBTAINED EVIDENCE,
19 THAT IS AN ISSUE THAT MAY OR MAY NOT COME BEFORE THE
20 COURT ON A LEGAL MOTION. OR IF IT'S THE SUBJECT OF
21 TESTIMONY -- ALL OF THESE THINGS THAT ARE LISTED, BY THE
22 WAY, YOUR HONOR, ARE KNOWN OBVIOUSLY TO THE DEFENDANT.
23 OBVIOUSLY KNOWN BY VIRTUE OF THE FACT THAT THEY'VE BEEN
24 RECORDED IN A REPORT. OBVIOUSLY THOSE REPORTS ARE
25 AVAILABLE FOR EXAMINATION OR CROSS-EXAMINATION PURPOSES.

26 AND THAT IS WHAT PRESERVES, UNDER THE
27 CONSTITUTION AND THE RIGHT TO CONFRONTATION, THE
28 DEFENDANT'S RIGHT TO A FAIR TRIAL. THESE OTHER THINGS

1 ABOUT SHE REPORTED THAT MR. SMITH WAS THREATENED, BUT HE
2 DENIED. YOUR HONOR, I DON'T KNOW IF ANY OF THAT IS TRUE,
3 BUT THE POINT IS IT DOESN'T MATTER. SO WHAT. IT'S THE
4 SUBJECT OF EXAMINATION.

5 THE DEFENDANT KNOWS THAT BECAUSE IT'S BEEN
6 RECORDED SOMEWHERE. IT CAN BE THE SUBJECT OF
7 CROSS-EXAMINATION OR EXAMINATION AND THE JURY WILL HAVE
8 AN OPPORTUNITY TO ASSESS THE CREDIBILITY OF THAT
9 TESTIMONY AS IT COMES IN. THE POINT ABOUT MR. DAHLEM
10 CALLING THE POLICE AFTER HE SUPPOSEDLY SPOKE WITH
11 MRS. CAMPBELL, AGAIN, SO WHAT. IT'S RECORDED. IT CAN BE
12 THE SUBJECT OF EXAMINATION.

13 IT DOESN'T -- THE OTHER ITEMS DOESN'T, THE
14 FOLLOWING ITEMS DON'T RISE TO THE LEVEL OF A SUBSTANTIAL
15 PROBABILITY THAT A CONSTITUTIONAL RIGHT WILL BE VIOLATED
16 WHEN THE DEFENDANT'S CONSTITUTIONAL RIGHT IS PRESERVED
17 BECAUSE HE AND HIS COUNSEL CAN CONFRONT THE WITNESSES
18 THAT ARE CALLED TO THE STAND.

19 THE SPEARHEADED MEDIA CAMPAIGN, THE IRONY
20 HERE, YOUR HONOR, THIS REFERENCE TO 48 HOURS. THE
21 DEFENDANT HIMSELF IS A PERSON WHO HAS SOUGHT OUT THE
22 MEDIA. AND NOW TO TURN AROUND AND BLAME MRS. CAMPBELL
23 FOR RESPONDING TO MEDIA CALLS -- AGAIN, THE STANDARD THAT
24 WOULD BE SET THERE WOULD BE IF A VICTIM RESPONDED TO A
25 REPORTER'S INQUIRY ABOUT A MATTER IN A CASE THAT THAT
26 VICTIM WOULD DISQUALIFY THEMSELVES FROM THE COURT.

27 THAT IS NOT TO THE STANDARD THAT THE
28 CALIFORNIA LEGISLATURE SET OUT IN 1102.6. AND IT'S NOT

1 THE STANDARD THAT THE COURTS HAVE MAINTAINED. WITNESSES
2 COMING FORWARD AFTER SPEAKING WITH HER, SO WHAT. LET
3 THAT BE THE SUBJECT OF THE EXAMINATION.

4 HOSTED A MEETING WITH DETECTIVE
5 YARBOROUGH. YOUR HONOR, I HAVE REASON TO BELIEVE THAT'S
6 NOT TRUE. BUT EVEN IF IT WERE TRUE, IT DOESN'T MATTER.
7 ALL OF THIS INFORMATION BY VIRTUE OF THE FACT THAT IT'S
8 INCLUDED IN COUNSEL'S MOTION BEFORE THE COURT TODAY IS
9 KNOWN TO THE COUNSEL. KNOWN BECAUSE IT WAS REPORTED.
10 AND CAN BE THE SUBJECT OF EXAMINATION.

11 REWARDS, I THINK YOUR HONOR HAS DEALT WITH
12 THAT PERFECTLY WELL IN YOUR HONOR'S OWN COMMENTS. THE
13 FACT THAT A REWARD IS OFFERED IN A CASE DOES NOT AGAIN
14 DISQUALIFY A PERSON FROM BEING IN A PUBLIC TRIAL.
15 REMEMBER, YOUR HONOR, THAT THE CONSTITUTIONAL STANDARD IN
16 OUR COUNTRY ESTABLISHED BY THE SIXTH AMENDMENT IS THE
17 DEFENDANT HAS A RIGHT TO A SPEEDY AND PUBLIC TRIAL.

18 IF ANYTHING, THE WORDS OF THE CONSTITUTION
19 ARE TO BE CONSTRUED AS GIVING A PREFERENCE TO OPENNESS.
20 THE CALIFORNIA LEGISLATURE HAS ACKNOWLEDGED THAT
21 PREFERENCE FOR OPENNESS AS A CONSTITUTIONAL MATTER IN THE
22 COMMENTS THAT I SUPPLIED YOUR HONOR TO THE 1995
23 ENACTMENT.

24 THE POINT ABOUT TESTIMONY BEING BOLSTERED,
25 FOR A REWARD DUE TO HER PRESENCE, I THINK AS YOUR HONOR
26 YOURSELF POINTED OUT, THE FACT THAT THERE IS A REWARD AND
27 MAYBE THE SUBJECT OF SOME EXAMINATION OR
28 CROSS-EXAMINATION OF A WITNESS IS COMPLETELY IRRELEVANT

1 TO THE PRESENCE OF THE VICTIM OR THE PRESENCE OF
2 MRS. CAMPBELL AS A VICTIM IN THE COURTROOM.

3 WHETHER OR NOT SHE IS PRESENT IN THE
4 COURTROOM, COUNSEL IS GOING TO HAVE THIS OPPORTUNITY TO
5 EXAMINE. AND IT'S NO REASON TO FIND A SUBSTANTIAL
6 PROBABILITY THAT THE DEFENDANT'S FAIR TRIAL RIGHT WOULD
7 BE COMPROMISED IN ANY WAY.

8 HER 10TH POINT, WITNESSES HAVE INQUIRED
9 ABOUT A REWARD TO HER. YOUR HONOR, SHE'LL BE ABLE TO ASK
10 QUESTIONS ABOUT THAT. AGAIN, FACTUALLY, THIS MERE
11 ASSERTION DOES NOT RISE TO THE LEVEL OF A SUBSTANTIAL
12 PROBABILITY THAT, AGAIN, THE FAIR TRIAL RIGHT WOULD BE IN
13 ANY WAY IMPLICATED.

14 AS YOU GO THROUGH THIS LIST OF THINGS AND
15 REALLY BEGIN TO PARSE THROUGH COUNSEL'S ARGUMENT TO THE
16 COURT WITH REGARD TO MRS. CAMPBELL'S TESTIMONY, THERE ARE
17 ONLY REALLY TWO IDENTIFIED RISKS THAT ARE IDENTIFIED TO
18 THE COURT. AND THEY'RE BOTH ON PAGE 8 OF COUNSEL'S
19 PAPERS.

20 THE FIRST ONE IS THAT HER PRESENCE IN THE
21 COURTROOM WHILE OTHER WITNESSES ARE TESTIFYING IS A
22 STRONG MOTIVATION FOR WITNESSES WHO BELIEVE SHE HAS
23 CONTROL OVER THE FUNDS TO BOLSTER THEIR TESTIMONY. WELL,
24 YOUR HONOR, I THINK YOUR HONOR HAS DEALT ALREADY WELL
25 ENOUGH WITH THAT POINT.

26 WHETHER OR NOT SHE IS IN THE COURTROOM, IT
27 WILL BE THE SUBJECT OF EXAMINATION OR CROSS-EXAMINATION.
28 AND THAT IS WHAT PROTECTS THE DEFENDANT'S RIGHT TO A FAIR

1 TRIAL.

2 AND, SECONDLY, THE FOLLOWING PARAGRAPH,
3 SHE WILL BE QUESTIONED REGARDING INQUIRIES WERE MADE INTO
4 THE REWARD BY WITNESSES WHO ARE TESTIFYING FOR THE
5 PROSECUTION. AND THEN THIS, FRANKLY, YOUR HONOR, AND I
6 APOLOGIZE, BUT THIS OFFENSIVE CHARACTERIZATION ON LINE 22
7 THAT MRS. CAMPBELL WOULD HAVE THE OPPORTUNITY TO BE LESS
8 THAN FORTHRIGHT.

9 YOU KNOW, SAYING THAT A PERSON MIGHT HAVE
10 AN OPPORTUNITY -- AND AGAIN, I POINT OUT TO THE COURT
11 THAT THOSE ARE THE SAME WORDS THAT SHE USED IN HER
12 ARGUMENT TODAY ABOUT IT DOESN'T GIVE US CONFIDENCE THAT
13 THIS WOULDN'T HAPPEN, OR THERE WOULD BE AN OPPORTUNITY OR
14 THERE WOULD BE AN URGE. WE ARE NOT SAYING SHE WOULD, BUT
15 THERE WOULD BE THIS OPPORTUNITY.

16 THAT ALLEGATION THAT MAYBE SOMEONE WOULD
17 TAKE THE STAND AND PERJURE THEMSELVES, FIRST OF ALL, IS
18 OFFENSIVE TO MRS. CAMPBELL OR OUGHT TO BE OFFENSIVE TO
19 THE COURT. BUT, SECONDLY, FALLS FAR SHORT OF ANY
20 SUBSTANTIAL PROBABILITY THAT THE DEFENDANT'S FAIR TRIAL
21 RIGHT, THAT MERE ASSERTION AS THE COURT POINTS OUT IN
22 GRIFFIN, THE RISK ITSELF IS NOT SUFFICIENT TO ALLOW THE
23 COURT TO EXERCISE ITS DISCRETION TO EXCLUDE A WITNESS.

24 SO, YOUR HONOR, IF WE COULD JUST TURN IN
25 MY FINAL POINT TO 1102.6. IF THERE IS TO BE AN EXCLUSION
26 ORDER THROUGHOUT THE ENTIRE TRIAL OR DURING ANY WITNESS'S
27 TESTIMONY, THERE MUST BE A FINDING OF SPECIFIC FACTS THAT
28 THE COURT ENTERS INTO THE RECORD SUPPORTING A DECISION TO

1 EXCLUDE. AND THOSE FACTS MUST GIVE RISE TO A SUBSTANTIAL
2 PROBABILITY OF PREJUDICE TO THE DEFENDANT'S RIGHT TO A
3 FAIR TRIAL.

4 AND THEN AND ONLY THEN DOES THE COURT GET
5 TO THE POINT OF CONSIDERING HOW TO NARROWLY TAILOR THE
6 COURT'S DECISION FOR EXCLUSION. I THINK THIS IS THE
7 UNCONTROVERTED STANDARD. IT'S NOT A DENIAL OF DUE
8 PROCESS OR A FAIR TRIAL RIGHT TO APPLY THIS STANDARD.

9 AND I THINK WITH RESPECT TO EVERY SINGLE
10 WITNESS WHO HAS BEEN MENTIONED TO THE COURT TODAY OR WHO
11 COULD POSSIBLY BE MENTIONED TO THE COURT, REGARDLESS OF
12 WHAT THE WITNESS LIST MIGHT BE, THE COURT COULD NOT FIND
13 SPECIFIC FACTS THAT GIVE RISE TO A SUBSTANTIAL
14 PROBABILITY THAT A CONSTITUTIONAL RIGHT TO A FAIR TRIAL
15 WOULD BE CHALLENGED OR PREJUDICED BECAUSE OF THE
16 DEFENDANT'S RIGHT TO EXAMINE AND CROSS-EXAMINE WITNESSES.

17 THANK YOU, YOUR HONOR.

18 THE COURT: MS. SARIS.

19 MS. SARIS: MAY I BRIEFLY, YOUR HONOR?

20 THE COURT: LET ME JUST MAKE AN OBSERVATION AND
21 THEN YOU CAN RESPOND. THIS IS AN UNUSUAL SITUATION
22 BECAUSE WE HAVE TWO COMPETING INTERESTS AND TWO STATUTES.
23 HOWEVER, 1102.6 IS CONTROLLING HERE. BECAUSE ALTHOUGH
24 YOU SAID YOU ARE NOT CALLING THE VICTIMS OR YOU ARE NOT
25 MAKING YOUR MOTION TO EXCLUDE VICTIMS OF THE CRIME,
26 MRS. CAMPBELL DOES QUALIFY AS A VICTIM IN THIS CASE.

27 IS THAT CORRECT?

28 MS. SARIS: THAT IS CORRECT. I'M NOT

1 DISQUALIFYING HER, HOWEVER, AS A VICTIM WHICH IS THE
2 IMPLICATION. I'M ASKING FOR HER TO BE DISQUALIFIED AS A
3 WITNESS. I AGREE SHE FALLS UNDER BOTH STATUTES.

4 THE COURT: SO SHE IS ABLE TO TAKE ADVANTAGE, AND
5 HER COUNSEL HAS DONE SO, OF THE REQUIREMENTS IN PENAL
6 CODE SECTION 1102.6.

7 MS. SARIS: I DON'T DISAGREE.

8 THE COURT: YOU DISAGREE?

9 MS. SARIS: I DON'T DISAGREE WITH THAT.

10 THE COURT: OKAY. SO I THINK MY EARLIER QUESTION
11 TO YOU, MS. SARIS, WAS WHAT I NEED ANSWERS TO WHICH IS
12 YOU ARE GOING TO HAVE TO MAKE A SHOWING.

13 MS. SARIS: AND I WOULD LIKE TO POINT OUT THAT IN
14 MY VIEW 777 IS AN EXCEPTION TO 1102.6. IT DOES SAY WHEN
15 YOU MAKE THAT EXCEPTION, YOU HAVE TO BE BOUND BY THE
16 TENANTS OF 1102. AND I UNDERSTAND THAT. BUT I ALSO
17 THINK WHAT THIS COURT IS -- AND PERHAPS IT'S MY FAULT FOR
18 NOT ARTICULATING IT BETTER -- IT IS FAILING TO GRASP IN
19 TERMS OF OUR ARGUMENT IS THIS IS AN UNUSUAL SITUATION.
20 THIS IS A SITUATION UNLIKE ANY THAT I'VE EVER
21 ENCOUNTERED.

22 AND I THINK I'VE POINTED OUT THROUGH
23 DETECTIVE GRIGGS' MEMO -- WHICH I'VE NEVER HAD A
24 CONVERSATION OF ANY LENGTH WITH MRS. CAMPBELL. I DON'T
25 KNOW HER. I'M NOT IMPUNING HER AS AN INDIVIDUAL.

26 HOWEVER, BASED ON THE REPORTS IT IS CLEAR
27 AND BASED ON CONDUCT -- COUNSEL BROUGHT UP THE CRIME
28 VICTIM'S RIGHT ACT WAS NAMED AFTER HER SON, WHO WAS ALSO

1 TRAGICALLY MURDERED -- THERE IS A HISTORY WITH THIS
2 INDIVIDUAL WITNESS OF A WILLINGNESS TO GO OUTSIDE THE LAW
3 TO HAVE THE ENDS JUSTIFY THE MEANS.

4 MR. TWIST: YOUR HONOR, I WOULD JUST OBJECT TO
5 THAT CHARACTERIZATION OF ANYTHING THAT MRS. CAMPBELL
6 WOULD HAVE EVER DONE IN HER LIFE TO GO OUTSIDE THE LAW.
7 THAT'S TOTALLY IMPROPER.

8 MS. SARIS: AND I CAN UNDERSTAND THAT, YOUR
9 HONOR. AND I PERSONALLY DON'T KNOW OF THIS. I ONLY READ
10 DETECTIVE GRIGGS' REPORT WHEREIN SHE OFFERED HIM
11 ILLEGALLY OBTAINED INFORMATION AND INDICATED THAT SHE HAD
12 SOURCES THAT THE POLICE DID NOT HAVE AND SHE WAS WILLING
13 TO USE THOSE SOURCES TO --

14 THE COURT: THIS MAY BE WHAT THE REPORT REFLECTS,
15 BUT --

16 MS. SARIS: THAT'S CORRECT. AND THAT'S ALL I CAN
17 GO ON, JUDGE. I WASN'T THERE IN 1988 AND I DON'T KNOW.

18 THE COURT: AND THAT'S WHY I DID INDICATE AND I
19 THINK YOU NEED TO UNDERSTAND -- OR ALL COUNSEL NEEDS TO
20 UNDERSTAND, AND MR. TWIST ESPECIALLY, I THINK SHE SHOULD
21 BE EXCLUDED DURING DETECTIVE GRIGGS' TESTIMONY BASED ON
22 THE INFORMATION THAT I HAVE SEEN THAT MAY NOT BE
23 AVAILABLE TO OTHERS. AND SO I AGREE WITH YOU THERE.

24 MS. SARIS: AND FROM THAT --

25 THE COURT: BUT THAT'S WHERE YOU MADE THE
26 SHOWING. AND I'M COMPARING THAT SHOWING TO THE OTHER
27 WITNESSES. AND WHAT YOU SAID ABOUT THE OTHER WITNESSES,
28 I DON'T SEE IT YET. IF YOU CAN MAKE THAT SHOWING 1102.6

1 REQUIRES THAT I TAKE THOSE THINGS INTO CONSIDERATION AND
2 I MAKE SPECIFIC FINDINGS IF I'M GOING TO EXCLUDE THIS
3 WITNESS WHO IS ALSO A VICTIM.

4 MS. SARIS: AND I UNDERSTAND THAT.

5 THE COURT: AND AS TO DETECTIVE GRIGGS, I HAVE
6 THE ABILITY BASED ON INFORMATION I HAVE TO MAKE THOSE
7 FINDINGS. SO WE ARE ON THE SAME PAGE THERE. BUT THERE
8 IS A BIG DIFFERENCE BETWEEN WHAT I CAN FIND AS TO
9 DETECTIVE GRIGGS AND WHAT YOU HAVE GIVEN ME SO FAR AS TO
10 THE OTHER WITNESSES.

11 MS. SARIS: NO. AND I'M MERELY USING THAT TO
12 HAVE THE COURT UNDERSTAND MY CONCERN THAT THIS WITNESS
13 WHO HAS BEEN SO TRAGICALLY AFFECTED BY THIS MURDER COULD
14 POTENTIALLY BOLSTER HER TESTIMONY OR CHANGE HER
15 TESTIMONY. AND I USE THE DETECTIVE GRIGGS' EXAMPLE TO
16 SHOW THE COURT THAT IN THAT PARTICULAR SITUATION, SHE HAD
17 NO PROBLEM GOING OUTSIDE THE LAW IF SHE THOUGHT THE ENDS
18 JUSTIFIED THE MEANS. AND I DON'T THINK WE HAVE EVIDENCE
19 OF THAT IN ANY OTHER CASE UNDER 1102.

20 THE COURT: BUT WE DON'T HAVE EVIDENCE OF THAT
21 HERE EITHER. WE HAVE A VERY UNIQUE SITUATION WITH
22 DETECTIVE GRIGGS. AND I DON'T WANT TO COMMENT MUCH
23 FURTHER BECAUSE IT HAS TO DO WITH A LOT OF INFORMATION
24 THAT WAS DISCLOSED THAT WAS CONFIDENTIAL INFORMATION THAT
25 THE COURT IS PRIVY TO.

26 MS. SARIS: AND JUST SO THE COURT IS CLEAR, I'M
27 REFERENCING SPECIFICALLY MEMO 95, WHICH THE DETECTIVE
28 BOOKED INTO EVIDENCE. AND THAT IS WHEREIN HE SUGGESTS

1 THAT SHE INDICATED TO HIM SHE DID NOT MIND BREAKING THE
2 LAW OR GOING OUTSIDE THE LAW IF IT MEANT GETTING
3 INFORMATION AGAINST MICHAEL GOODWIN. AND THAT'S WHAT I'M
4 BASING IT ON.

5 THE COURT: MY POINT IS IS THAT I'M NOT JUST
6 CONSIDERING THAT REPORT. I HAVE OTHER INFORMATION THAT'S
7 BEEN BROUGHT TO MY ATTENTION ABOUT DETECTIVE GRIGGS. SO
8 I DO THINK THAT YOUR CHARACTERIZATION OF MRS. CAMPBELL'S
9 WILLINGNESS TO GO OUTSIDE THE LAW AND TO VIOLATE THE LAW,
10 I MEAN THAT MAY BE CONTAINED IN A REPORT WRITTEN BY AN
11 OFFICER, BUT IT DOESN'T NECESSARILY RING TRUE. SO --

12 MS. SARIS: I DON'T KNOW WHAT IS TRUE. MY JOB
13 HERE IS TO PROTECT MR. GOODWIN. AND MY MR. GOODWIN'S
14 RIGHTS ARE TO HAVE A FAIR TRIAL.

15 THE COURT: AND DURING DETECTIVE GRIGGS'
16 TESTIMONY, I THINK YOU ARE RIGHT.

17 MS. SARIS: OKAY. AND I THINK THAT I CAN SHOW
18 THE COURT -- IF THE COURT WILL ALLOW ME TO GO EXPARTE OR
19 FILE THE MOTION UNDER SEAL, I CAN LAY OUT FOR THE OTHER
20 WITNESSES HOW I THINK HER EITHER PRESENCE OR TESTIMONY
21 MAY BE AFFECTED.

22 THE COURT: OKAY.

23 MS. SARIS: I WOULD INDICATE ALSO -- AND, AGAIN,
24 BASED ON DETECTIVE GRIGGS, THIS IDEA OF THE MEDIA AND
25 MRS. CAMPBELL SIMPLY RESPONDING TO THE MEDIA, AGAIN, I
26 BASE THIS ON DETECTIVE GRIGGS. BUT IT WAS HER RECREATION
27 OF THE CRIME SCENE THAT WE HAVE AN ISSUE. AND THEREFORE
28 MY FURTHER FOLLOW-UP MOTIONS TO YOU WILL INCLUDE

1 INDIVIDUALS WHO WERE, FOR WANT OF A BETTER TERM,
2 EYEWITNESSES TO THIS CRIME.

3 AND I THINK THAT -- I DON'T KNOW HOW THE
4 COURT WANTS TO DO THAT. DOES THE COURT WANT ME TO PUT
5 THAT IN WRITTEN FORM AND FILE THAT UNDER SEAL? I DON'T
6 KNOW THAT THE COURT WANTS TO BRING MR. TWIST BACK. I
7 MEAN I THINK WE ARE IN AGREEMENT IN THE STANDARD. AND I
8 HAVE NOT DISAGREED WITH COUNSEL. I BELIEVE THAT IT IS UP
9 TO THE COURT'S DISCRETION. THAT'S WHY I CITED GRIFFIN.

10 HOWEVER, I THINK THIS INDIVIDUAL HAS JUST
11 BEHAVED IN A MANNER DIFFERENTLY. AND I'M NOT PASSING
12 JUDGMENT ON IT. DIFFERENTLY THAN ANY OTHER CRIME VICTIM
13 WITNESS. AND THEREFORE THIS COURT CAN TAKE A BALANCING
14 TEST. AND ALSO TAKE INTO ACCOUNT, NO. 1, THE COURT HAS
15 ACCOMMODATED THESE INDIVIDUALS FOR THE LAST FIVE YEARS IN
16 TERMS OF THE SCHEDULING TO ALLOW THEM TO SHOW UP AT ALL
17 THESE APPEARANCES.

18 NO. 2, THERE ARE OTHER FAMILY MEMBERS.
19 THAT'S WHY I TAKE ISSUE WITH THIS IDEA THAT I'M TRYING TO
20 EXCLUDE CRIME VICTIMS IN GENERAL. ONE WITNESS OUT OF
21 SEVERAL FAMILY MEMBERS. AND I HAVE NO ISSUE WITH THE
22 OTHER FAMILY MEMBERS SITTING HERE. SO I'M TAKING OFFENSE
23 AT THE ALLEGATION THAT SOMEHOW WE ARE AGAINST THIS
24 FAMILY. WE ARE TRYING TO PROTECT MR. GOODWIN'S RIGHTS
25 BASED ON ONE WITNESS WHO IS ASSERTED HERSELF -- INSERTED
26 HERSELF INTO THIS INVESTIGATION.

27 THE COURT: AND IF MRS. CAMPBELL WERE NOT A CRIME
28 VICTIM AS DEFINED IN PENAL CODE SECTION 1102.6, THIS

1 WOULD BE A 30-SECOND DISCUSSION AND THERE WOULD BE NO
2 ISSUE. BUT YOU REFER TO THE FACT THAT WE ARE IN
3 AGREEMENT ON THE SHOWING. I DON'T THINK WE ARE IN
4 AGREEMENT BECAUSE I DON'T THINK THE DEFENSE APPRECIATES
5 THE FACT THAT 1102.6 IS A MANDATE.

6 I CANNOT EXCLUDE A VICTIM OF A CRIME
7 SIMPLY BECAUSE THAT VICTIM MAY BE A WITNESS IN THIS CASE
8 WITHOUT GOING THROUGH THE STEPS THAT ARE LAID OUT IN THIS
9 STATUTE AND THE FINDINGS THAT THE COURT THEN HAS TO MAKE
10 TO JUSTIFY ITS RULING. THIS IS NOT JUST A DISCRETIONARY
11 CALL. THIS STATUTE TIES MY HANDS. IT IS A MANDATE.
12 THIS IS NOT DISCRETIONARY WITH THE COURT INSOFAR AS 1102
13 IS CONCERNED.

14 I HAVE TO MAKE THESE FINDINGS. I MUST
15 TAKE INTO ACCOUNT ALL OF THE FACTORS THAT ARE LAID OUT IN
16 THE STATUTE. YOU HAVE TO, MS. SARIS, MAKE A RECORD THAT
17 IS SUFFICIENT TO WARRANT MY FINDINGS IF I CHOOSE TO
18 EXCLUDE A VICTIM.

19 MS. SARIS: AND I'M WILLING --

20 THE COURT: SO THIS IS -- I DON'T SEE THIS AS A
21 EVIDENT CODE SECTION 777 DECISION. THIS IS NOT AN
22 EVIDENCE CODE SECTION 777 DECISION. I CAN CONSIDER,
23 HOWEVER, AND I CAN MAKE AN EXCEPTION TO 1102.6 AS
24 PROVIDED IN EVIDENCE CODE SECTION 777. AND THAT'S WHAT
25 THIS IS ABOUT.

26 MS. SARIS: AND I RESPECT AND UNDERSTAND THAT.
27 MY CONCERN WAS WE DID NOT LAY IT OUT WITNESS BY WITNESS
28 BECAUSE WHILE 1102.6 MAY BE A MANDATE, IT'S CERTAINLY

1 ISN'T CARTE BLANCHE TO VIOLATE 1054 OR TO ASK FOR MORE
2 THAN 1054 MY DISCOVERY REQUIREMENT OBLIGATES ME TO. SO
3 I'M HAPPY TO DO THIS EXPARTE IF THE COURT WILL GIVE ME
4 AUDIENCE AT SOME POINT.

5 THE COURT: I'M NOT ASKING YOU TO GIVE ME ANY
6 INFORMATION THAT YOU ARE NOT OTHERWISE REQUIRED TO
7 DISCLOSE. I'M JUST TELLING YOU THAT WHAT YOU HAVE GIVEN
8 ME SO FAR DOES NOT PROVIDE ME WITH ENOUGH INFORMATION TO
9 MAKE THE REQUISITE FINDINGS.

10 WE ARE DEALING WITH A CRIME VICTIM HERE
11 WHO YOU SAY IS ALSO A WITNESS; AND SHE HAPPENS TO BE A
12 DEFENSE WITNESS NOT A PEOPLE'S WITNESS. I STARTED OUT BY
13 ASKING YOU FOR AN OFFER OF PROOF AS TO WHAT SHE WOULD
14 TESTIFY TO.

15 MS. SARIS: AND I'M HAPPY TO GIVE THAT, JUST NOT
16 IN OPEN COURT.

17 THE COURT: AND I LEAVE IT UP TO YOU AS TO HOW
18 YOU GO ABOUT MAKING YOUR ATTEMPT TO MAKE YOUR SHOWING
19 HERE. BUT THESE ARE THE THINGS THAT I HAVE TO --

20 MS. SARIS: THEN I WOULD ASK FOR US TO SCHEDULE
21 AN EXPARTE HEARING SOMETIME NEXT WEEK AT THE CONVENIENCE
22 OF THE COURT SO THAT WE CAN MAKE THAT SHOWING IN CAMERA
23 AND HAVE A DETERMINATION, AT LEAST ON SOME LEVEL, WHICH
24 WITNESSES MAY OR MAY NOT -- SHE MAY OR MAY NOT BE ALLOWED
25 TO HEAR PRIOR TO US GIVING AN OPENING STATEMENT.

26 MR. DIXON: YOUR HONOR, COULD I JUST HAVE A
27 MOMENT TO TALK WITH COUNSEL ABOUT THIS AND THEN --

28 THE COURT: SURE.

1 (DISCUSSION OFF THE RECORD.)

2 THE COURT: BACK ON THE RECORD ON GOODWIN.

3 MR. TWIST: I WOULD DRAW YOUR HONOR'S ATTENTION
4 TO 1102.64, WHICH CLEARLY PROVIDES FOR A HEARING AT WHICH
5 ANY VICTIM WHO IS TO BE EXCLUDED FROM A CRIMINAL
6 PROCEEDING IS AFFORDED AN OPPORTUNITY TO BE HEARD IF THE
7 COURT MAKES SPECIFIC FACTUAL FINDINGS.

8 IF DEFENSE COUNSEL IS GOING TO SUBMIT
9 EVIDENCE TO THE COURT WITH REGARD TO MORE THAN SHE'S
10 DONE, WHICH I COMPLETELY AGREE THAT WOULD BE REQUIRED,
11 THE LEGISLATURE HAS PROVIDED THE VICTIM AN OPPORTUNITY
12 NOT TO BE EXPARTE, BUT TO BE HEARD ON ANY MATTER THAT
13 MIGHT BE SUBMITTED TO THE COURT THAT MIGHT INVOLVE THE
14 COURT'S FACTUAL FINDINGS.

15 AND WE WOULD CERTAINLY INVOKE, YOUR HONOR,
16 THAT RIGHT TO BE HEARD THAT THE LEGISLATURE HAS CREATED.
17 SHOULD IT BE --

18 THE COURT: LET ME JUST SAY SOMETHING. YOU ARE
19 ABSOLUTELY RIGHT. I DIDN'T EVEN SEE THAT WHEN I READ THE
20 STATUTE.

21 BUT I DON'T KNOW, MS. SARIS, IF YOU TAKE
22 ISSUE.

23 MS. SARIS: I ABSOLUTELY TAKE ISSUE. I MEAN --

24 THE COURT: AT THE WORDING OF THE STATUTE.

25 MS. SARIS: I TAKE ISSUE TO THE WORDING OF THE
26 STATUTE. I TAKE ISSUE TO THE FACT THE CALIFORNIA
27 CONSTITUTION AND THE U.S. CONSTITUTION WHICH GUARANTEE MY
28 CLIENT A RIGHT TO A FAIR TRIAL AND DUE PROCESS OF LAW

1 TRUMP ANY LEGISLATIVE PRESENCE REQUIRED BY THE VICTIM.

2 THE VICTIM CAN BE PRESENT AT THE HEARING.
3 THE COURT CAN CERTAINLY TAKE -- FIND AN EXCEPTION FOR
4 EVIDENCE AND TESTIMONY. YOU'RE ASKING MY CLIENT TO
5 CHOOSE BETWEEN TWO CONSTITUTIONAL RIGHTS. I WILL NOT
6 DIVULGE OUR DEFENSE IN ORDER TO HAVE THIS PERSON EXCLUDED
7 FROM THE COURTROOM. IF I'M FORCED TO THAT DECISION, I
8 THINK IT IS A MISTAKE.

9 THE COURT: LET ME JUST TRY TO GET SOME AGREEMENT
10 HERE IF POSSIBLE. I THINK THAT'S A GOOD POINT ALSO,
11 MR. TWIST. I THINK I CAN LISTEN TO THE OFFER OF PROOF
12 EXPARTE JUST NOT MAKE MY FINDINGS EXPARTE. AND I HAVE NO
13 INTENTION OF DOING THAT. BUT I THINK I WOULD RATHER DO
14 IT THAT WAY THAN THE WAY YOU SUGGEST BY JUST DOING
15 EVERYTHING IN OPEN COURT.

16 MR. TWIST: WELL, AGAIN, YOUR HONOR, THE
17 FUNDAMENTAL ISSUE HERE IS THE QUESTION OF WHETHER OR NOT
18 TO EXCLUDE WITNESSES FROM A TRIAL PROCEEDING IS NOT A
19 QUESTION THAT GIVES RISE TO A FUNDAMENTAL CONSTITUTIONAL
20 DUE PROCESS RIGHT AS COUNSEL ASSERTS. THAT'S SIMPLY NOT
21 THE CASE.

22 THE COURT: I THINK SHE IS TALKING ABOUT, THOUGH,
23 THE ISSUE OF DISCOVERY AND THE LIMITATIONS THAT ARE IN
24 PLACE TO PROTECT THE RIGHTS OF THE DEFENDANT. BECAUSE
25 THE PENAL CODE IN OUR STATE REQUIRES DEFENSE DISCLOSURE
26 OF THEIR WITNESS LIST AND STATEMENTS OF WITNESSES, BUT IT
27 DOES EXCLUDE A NUMBER OF DIFFERENT ITEMS.

28 AND SO I THINK THE POINT BEING THAT SHE

1 HAS NOT DISCLOSED INFORMATION THAT SHE OTHERWISE DOESN'T
2 HAVE A LEGAL OBLIGATION TO DISCLOSE. AND THAT TO
3 DISCLOSE IT IN OPEN COURT WOULD VIOLATE THE RIGHT THAT
4 THE DEFENSE HAS THE CONSTITUTIONAL RIGHT NOT TO HAVE TO
5 ESSENTIALLY PROVIDE THIS INFORMATION TO THE PEOPLE.

6 SO THAT'S ANOTHER ISSUE THAT -- I DON'T
7 KNOW, YOU BEING FROM OUT OF STATE -- YOU MIGHT NOT KNOW
8 SOME OF THE LATEST ON OUR STATUTES HERE. YES.

9 MR. DIXON: COULD I MAKE A SUGGESTION? THIS MAY
10 BE CUTTING IT TOO FINE, BUT MAYBE NOT. THE DEPUTY
11 DISTRICT ATTORNEYS IN THIS CASE WOULD BE HAPPY TO ABSENT
12 THEMSELVES FROM THE COURTROOM DURING THIS HEARING.
13 PERHAPS THE COURT COULD THEN SEAL THE TRANSCRIPT OF THE
14 HEARING AND ORDER THE PARTIES, INCLUDING MRS. CAMPBELL,
15 NOT TO DISCLOSE ANYTHING THAT GOES ON DURING THIS HEARING
16 TO THE PROSECUTION.

17 WE'RE HAPPY WITH THAT. BUT THAT WOULD
18 PROTECT MR. GOODWIN'S RIGHT FROM HAVING TO DISCLOSE
19 INFORMATION TO US AND ALSO ALLOW COUNSEL FOR COLLENE
20 CAMPBELL TO BE ABLE TO INTELLIGENTLY ARGUE THIS MOTION.
21 AND WE WOULD BE HAPPY TO LEAVE.

22 THE COURT: ALL RIGHT.

23 MS. SARIS: THAT WOULD BE TOTALLY UNACCEPTABLE TO
24 THE DEFENSE, YOUR HONOR.

25 THE COURT: OKAY.

26 MR. DIXON: I'M JUST TRYING.

27 MR. TWIST: AND, YOUR HONOR, WE CERTAINLY WOULD
28 AGREE TO THAT, TOO. AND WE WANT TO TRY VERY HARD TO ASK

1 THE COURT TO REACH A DECISION GIVING COUNSEL TO THE
2 DEFENSE AMPLE OPPORTUNITY TODAY TO PRESENT WHATEVER SHE
3 HAS. BUT TO ALLOW THE COURT TO BE ABLE TO REACH A
4 DECISION TODAY ON THIS ISSUE OF MRS. CAMPBELL'S
5 EXCLUSION. THE COURT HAS INDICATED SOME INCLINATION WITH
6 REGARD TO ONE OF THE WITNESSES. IF WE COULD PROCEED TO A
7 DECISION TODAY, THAT WOULD BE VERY HELPFUL, YOUR HONOR.

8 THE COURT: WELL, I THINK THE DECISION REALLY IS
9 WHAT I STATED. THE MOTION TO EXCLUDE IS DENIED, EXCEPT
10 WITH REFERENCE TO THE TESTIMONY OF DETECTIVE MICHAEL --
11 FORMER DETECTIVE MICHAEL GRIGGS. AND WE CAN REVISIT THE
12 ISSUE IF THE DEFENSE WISHES TO MAKE A FURTHER SHOWING.

13 I WILL SAY I DON'T KNOW IF THE DEFENSE IS
14 GOING TO BE ABLE TO DO THAT TODAY. I'M CERTAINLY
15 AVAILABLE TODAY TO LISTEN TO IT IF THAT'S WHAT THEY WANT
16 TO DO. BUT WE ARE GOING TO HAVE A SIGNIFICANT PERIOD OF
17 TIME I BELIEVE BETWEEN THIS HEARING TODAY AND THE ACTUAL
18 CALLING OF ANY DEFENSE WITNESSES.

19 SO I DON'T KNOW THAT IF IT'S NOT DONE
20 TODAY IT'S NOT GOING TO BE ABLE TO BE DONE. I THINK
21 THERE WILL BE TIME FOR IT TO BE LITIGATED AT YOUR
22 CONVENIENCE AS WELL. BUT I DON'T KNOW IF THE DEFENSE IS
23 READY AND WILLING TO GO IN CAMERA AND GIVE ME THE
24 INFORMATION THAT YOU SAY YOU WANT TO GIVE.

25 MS. SARIS: I WOULD LIKE TO BREAK IT DOWN WITNESS
26 BY WITNESS. I DID NOT SEE THE CODE SECTION AS REQUIRING
27 THAT. I THINK WE MADE A SHOWING BASED ON THE WILLINGNESS
28 ATTRIBUTED TO HER BY DETECTIVE GRIGGS. THE COURT HAS

1 OBVIOUSLY DISAGREED WITH THAT. I WOULD LIKE AN
2 OPPORTUNITY TO PUT TOGETHER A LIST OF WITNESS BY WITNESS.
3 AND I WOULD ONLY DO THAT WITH THE COURT EXPARTE.

4 MR. TWIST: AND, YOUR HONOR, I WOULD INVOKE WHAT
5 IS I THINK THE CLEAR RIGHT OF MRS. CAMPBELL UNDER
6 PARAGRAPH 4 NOT TO BE EXCLUDED FROM THAT OFFER, BUT TO BE
7 AFFORDED IN THE WORDS OF THE STATUTE AN OPPORTUNITY TO BE
8 HEARD.

9 THE COURT: WELL, BECAUSE OF THE COMPETING
10 INTERESTS HERE, THE BEST I CAN DO TODAY IS SAY THAT
11 DESPITE 1102.6, I THINK WHEN IT COMES TO THE DEFENSE
12 HAVING TO DISCLOSE INFORMATION THAT THEY DO NOT OTHERWISE
13 HAVE AN OBLIGATION TO DISCLOSE TO THE PROSECUTION, I DO
14 BELIEVE THAT THERE IS SOME MERIT TO THE IDEA THAT THE
15 COMMUNICATION OF THAT INFORMATION BETWEEN DEFENSE COUNSEL
16 AND THE COURT COULD BE DONE EITHER BY WAY OF AN IN CAMERA
17 HEARING OR BY DECLARATIONS UNDER SEAL SUBMITTED TO THE
18 COURT.

19 I DON'T KNOW THAT 1102.6 PRECLUDES
20 SOMETHING LIKE THAT. BUT I DO AGREE THAT BEFORE THE
21 COURT MAKES ANY ORDER EXCLUDING MRS. CAMPBELL FROM ANY
22 OTHER WITNESS'S TESTIMONY, THAT THAT WOULD HAVE TO BE
23 DONE ON THE RECORD AND THE COURT WOULD HAVE TO MAKE
24 FINDINGS.

25 AND I WILL DO THE BEST I CAN TO TRY TO
26 MAKE FINDINGS WITHOUT VIOLATING THE DEFENSE'S RIGHT TO
27 KEEP THEIR -- WELL, MAINTAIN THEIR PRIVILEGE THAT THEY
28 HAVE.

1 MR. DIXON: COULD WE HAVE JUST A MOMENT?

2 THE COURT: SURE.

3 (DISCUSSION OFF THE RECORD.)

4 MR. TWIST: YOUR HONOR, I JUST WANTED TO ADD ONE
5 THING IF I MAY, AND THAT IS WITH RESPECT TO
6 MRS. CAMPBELL'S RIGHTS UNDER PARAGRAPH 4 OF 1102.6. AND
7 I VERY MUCH APPRECIATE THE COURT'S ATTEMPT TO BALANCE
8 THESE WHAT APPEAR TO THE COURT TO BE COMPETING INTERESTS.

9 I WOULD SAY THAT THAT RIGHT AT A MINIMUM
10 WOULD GIVE MRS. CAMPBELL THE OPPORTUNITY TO REVIEW
11 PROPOSED FACTUAL FINDINGS BY THE COURT AND TO BE HEARD ON
12 THOSE PROPOSED FINDINGS IN A REASONABLY TIMELY WAY THAT
13 GIVES HER THE OPPORTUNITY TO EXERCISE WHAT, FRANKLY, IS
14 HER ALSO DUE PROCESS RIGHT. THAT'S, IN PART, SPELLED OUT
15 BY THIS STATUTE.

16 I APPRECIATE COUNSEL FOR THE PEOPLE
17 OFFERING NOT TO BE AVAILABLE. BECAUSE I THINK THE
18 GRAVAMEN OF THE REASON FOR THE RULES THAT YOUR HONOR
19 CITES IS ALLOWING THE DEFENSE TO HAVE A STRATEGY AND
20 THEORY OF DEFENSE THAT IS NOT DISCLOSED TO THE STATE.

21 BUT I THINK THE STATE ALSO HAS -- THE
22 RULES ARE SOMEWHAT DIFFERENT IN THE LAST 30 DAYS BEFORE
23 TRIAL. BUT I'M GOING TO DEFER TO MR. DIXON TO COMMENT
24 MORE FULLY IF YOU WANTED TO ON THAT POINT.

25 MR. DIXON: WELL, MY ONLY COMMENT WAS THAT THE
26 COURT -- WE ARE INSIDE THE DISCOVERY STATUTE RULES. AND
27 BOTH SIDES HAVE TO DISCLOSE THEIR WITNESSES AND MAKE AN
28 OFFER OF PROOF IF REQUIRED. AND ALSO THE COURT HAS IN

1 THE EVIDENCE CODE THE RIGHT TO OBVIOUSLY CONTROL OF YOUR
2 COURTROOM. AND YOU COULD ASK BOTH SIDES FOR AN OFFER OF
3 PROOF AS TO EVERY WITNESS. AND I THINK THAT'S ALL THAT
4 WE'RE REALLY TALKING ABOUT HERE.

5 YOU COULD ASK BOTH SIDES TO FILE A TRIAL
6 BRIEF AND OUTLINE THEIR CASE. AND YOU COULD SAY THAT
7 CERTAIN WITNESSES DIDN'T SEEM TO BE RELEVANT AND CERTAIN
8 WITNESSES WERE ACCEPTABLE. AND I THINK THAT SAME POWER
9 IS AVAILABLE TO THE COURT NOW TO CONDUCT THIS HEARING.

10 THE COURT: ALL RIGHT. I TEND TO AGREE BECAUSE
11 I'M -- THE MORE I'M THINKING ABOUT WHAT, MS. SARIS, YOU
12 ARE OFFERING IS REALLY I THINK STATEMENTS OF WITNESSES
13 THAT YOU WERE REQUIRED TO TURN OVER; ISN'T IT?

14 MS. SARIS: I'M OFFERING BOTH -- NO. I'M
15 OFFERING STATEMENTS THAT WOULD ALSO OTHERWISE BE
16 PROTECTED BY PERHAPS ATTORNEY/CLIENT PRIVILEGE; WORK
17 PRODUCT PRIVILEGE; THE STRATEGIES OF MY DEFENSE; AND WHY
18 CERTAIN WITNESSES THAT WE MAY HAVE TURNED OVER ALONG WITH
19 THEIR STATEMENT.

20 THE STRATEGY BEHIND HOW THEY ARE INVOLVED
21 IN THIS CASE AND WHAT OUR THEORY ABOUT THEM IS NOT
22 ANYTHING I WILL EVER HAVE TO TURN OVER; NOT ON THE DAY OF
23 TRIAL; NOT UNTIL THE CLOSING ARGUMENT. SO WHILE I AGREE
24 THAT THE STATEMENTS AND THE WITNESSES NEED TO BE TURNED
25 OVER, THEY HAVE BEEN, HOW THOSE RELATE TO THE POTENTIAL
26 ISSUES WITH CERTAIN WITNESSES HEARING OTHER WITNESSES IS
27 STRATEGY THAT I OUGHT NOT --

28 THE COURT: ALL RIGHT. WELL, LET ME DO THIS --

1 MR. DIXON: IT'S SPECULATION.

2 THE COURT: WE HAVE SPENT A LOT OF TIME THIS
3 MORNING. AND IT'S OBVIOUS TO ME THAT WE ARE NOT GOING TO
4 RESOLVE ALL OF THESE ISSUES. BUT THIS IS WHAT I WANT TO
5 DO, I AGREE WITH MR. TWIST AND MR. DIXON ON ONE POINT
6 HERE THAT I DO WANT TO HEAR AN OFFER OF PROOF AS TO THESE
7 WITNESSES BEFORE I GET ANY INFORMATION FROM THE DEFENSE
8 THAT THE PROSECUTION AND THE VICTIM IS NOT GOING TO BE
9 PRIVY TO.

10 SO WHY DON'T WE START WITH THAT. AND I
11 WILL ASK FOR AN OFFER OF PROOF AS TO THOSE WITNESSES THAT
12 I BELIEVE MAY, IN FACT, BE WITNESSES WHOSE TESTIMONY
13 COULD BE POSSIBLY SHAPED BY THE PRESENCE OF MRS. CAMPBELL
14 OR MRS. CAMPBELL'S TESTIMONY BE SHAPED OR INFLUENCED BY
15 THE TESTIMONY OF THESE WITNESSES. WE ARE GOING TO LEAVE
16 OUT OF ANY FURTHER IN CAMERA REVIEW. AND THAT'S THE WAY
17 I WANT TO HANDLE IT THIS MORNING. WE ARE GOING TO TAKE A
18 BREAK.

19 MS. SARIS: I'M SORRY. I DON'T UNDERSTAND.

20 THE COURT: YOU DON'T UNDERSTAND WHAT?

21 MS. SARIS: WHAT YOU JUST SAID.

22 THE COURT: GIVE ME AN OFFER OF PROOF ON THE
23 WITNESSES. BECAUSE THAT'S KIND OF HOW WE STARTED OUT
24 THIS DISCUSSION. I SAID GIVE ME AN OFFER OF PROOF AS TO
25 MRS. CAMPBELL. AND I WANTED TO GET AN OFFER OF PROOF AS
26 TO THE OTHER WITNESSES THAT YOU ARE CLAIMING WILL BE
27 INFLUENCED BY HER PRESENCE.

28 SO I WANT THAT FOR THE RECORD. I THINK

1 YOU NEED TO PUT THAT ON THE RECORD. AND I WOULD LIKE AN
2 OFFER OF PROOF AS TO THESE WITNESSES. AND THEN I WILL
3 MAKE A FURTHER RULING AS TO WHETHER OR NOT I WILL GO IN
4 CAMERA WITH YOU ON ANY OR ALL OF THOSE WITNESSES BASED ON
5 THE OFFER OF PROOF. THAT'S THE BEST I CAN DO TO TRY TO
6 MOVE THINGS ALONG AND TO ACKNOWLEDGE THE RESPECTIVE
7 RIGHTS OF ALL CONCERNED. SO WE'RE GOING TO TAKE A BREAK.

8 MS. SARIS: WE'RE NOT GOING TO BE READY TO DO
9 THAT TODAY. I DON'T KNOW IF THAT'S WHAT THE COURT IS
10 ANTICIPATING.

11 THE COURT: YOU CAN'T GIVE ME AN OFFER OF PROOF
12 ON THE WITNESSES THAT YOU ARE CALLING?

13 MS. SARIS: I'M CERTAINLY NOT PREPARED TO GIVE
14 ONE ON THE RECORD OR SOMETHING THAT THE D.A. WILL BE
15 PRIVY TO. AT THIS POINT, WE'VE GIVEN THE STATEMENTS THAT
16 WE NEED TO GIVE. AND --

17 THE COURT: WELL, I DON'T HAVE THOSE STATEMENTS.
18 SO MAYBE YOU HAVE GIVEN THEM, BUT I DON'T HAVE THEM AND I
19 NEED THEM.

20 MS. SARIS: SO THE COURT IS ASKING ME TO LAY OUT
21 MY ENTIRE DEFENSE IN ORDER TO EXCLUDE A WITNESS FROM
22 HEARING OTHER WITNESSES? I JUST DON'T UNDERSTAND HOW
23 THAT DOESN'T --

24 THE COURT: I DIDN'T SAY THAT. YOU ARE NOT
25 HEARING ME.

26 MS. SARIS: AN OFFER OF PROOF AS TO THE WITNESSES
27 THE DEFENSE INTENDS TO CALL.

28 THE COURT: YOU ARE CLAIMING THAT THESE

1 WITNESSES, THAT THEIR TESTIMONY IS GOING TO BE INFLUENCED
2 BY THE PRESENCE OF MRS. CAMPBELL. YOU ARE ALSO CLAIMING
3 THAT MRS. CAMPBELL'S TESTIMONY MIGHT BE INFLUENCED BY
4 WHAT THESE WITNESSES TESTIFY TO. RIGHT NOW I DON'T KNOW
5 WHAT WITNESSES YOU ARE TALKING ABOUT AND WHAT THEY WOULD
6 ADD TO THIS CASE. YOU TOLD ME WHAT MRS. CAMPBELL ADDS TO
7 THE CASE, WHICH FRANKLY --

8 MS. SARIS: I'M SORRY. THAT'S THE CONFUSION.
9 THESE AREN'T DEFENSE WITNESSES. THESE ARE WITNESSES THAT
10 HAVE TESTIFIED AT THE PRELIM AND THE WITNESSES THAT ARE
11 ON THE PEOPLE'S WITNESS LIST. I'M NOT SAYING THAT
12 MRS. CAMPBELL WILL NECESSARILY ONLY INFLUENCE DEFENSE
13 WITNESSES. SO DOES THE COURT WANT ME TO MAKE AN OFFER OF
14 PROOF AS TO THE PEOPLE'S WITNESSES?

15 THE COURT: THEN MAYBE I MISUNDERSTOOD YOUR
16 ENTIRE ARGUMENT. I THOUGHT YOUR ARGUMENT WAS THAT YOU
17 ARE CALLING MRS. CAMPBELL. AND YOU WANT HER EXCLUDED
18 BECAUSE OF THE TESTIMONY OF OTHER WITNESSES THAT ARE
19 GOING TO BE PRESENTED BY YOU --

20 MS. SARIS: NO.

21 THE COURT: -- IN YOUR DEFENSE.

22 MS. SARIS: NO. BY THE PEOPLE IN THEIR CASE IN
23 CHIEF AND WHO HAVE TESTIFIED AT THE PRELIM.

24 THE COURT: OKAY. AND I MADE MY RULING THAT THE
25 WITNESSES THAT TESTIFIED AT THE PRELIM HAVE TESTIFIED.
26 AND BASED ON THE MOTION THAT YOU PRESENTED AS TO THOSE
27 WITNESSES, I DON'T THINK THERE IS ANY CHANCE THAT EITHER
28 THEY ARE GOING TO BE INFLUENCED OR MRS. CAMPBELL IS GOING

1 TO BE INFLUENCED.

2 I THINK YOU DID ADEQUATELY CROSS-EXAMINE
3 THESE WITNESSES ON THE REWARD AND MOTIVE AND BIAS AND
4 INTEREST. I DON'T SEE ANYTHING MORE HERE, OTHER THAN
5 SPECULATION; AND I'M NOT PREPARED TO ENGAGE IN
6 SPECULATION IN LIGHT OF 1102.6. IF IT WERE A 777 CALL,
7 SHE WOULD BE OUT OF THE COURTROOM; NO QUESTIONS ASKED.
8 THIS IS NOT.

9 SO AT THIS POINT, WITH RESPECT TO THOSE
10 PROSECUTION WITNESSES, THAT'S NOT EVEN GOING TO BE ON THE
11 TABLE. SO IF THERE ARE SOME WITNESSES -- SPECIFIC
12 WITNESSES THAT YOU WANT ME TO CONSIDER --

13 MS. SARIS: NO. AND I APOLOGIZE FOR THAT
14 MISUNDERSTANDING. WHAT I WAS WILLING TO GO IN CAMERA AND
15 DISCUSS WITH THE COURT IS MY DEFENSE STRATEGY AS TO THE
16 WITNESSES THE PEOPLE HAVE PROPOSED AND WHY I THINK HER
17 PRESENCE WOULD -- BUT THAT HAS TO DO WITH MY
18 CROSS-EXAMINATION, WHICH IS NOT SUBJECT TO ANY SORT OF
19 DISCOVERY REGARDLESS OF WHAT HAS ALREADY BEEN TESTIFIED
20 TO.

21 I HAVE CERTAIN THEORIES THAT WE'RE
22 PRESENTING AT TRIAL THAT ARE -- IT IS A DEFENSE TO THE
23 CASE. I DID NOT PRESENT A DEFENSE AT THE PRELIMINARY
24 HEARING. SO THE PEOPLE ARE NOT NECESSARILY PRIVY TO
25 UNDERSTANDING HOW THE WITNESSES THEY CALL ARE GOING TO
26 FIT INTO OUR DEFENSE OF THIS CASE.

27 I'M HAPPY TO SHARE THAT WITH THE COURT IF
28 THE COURT THINKS THAT WILL CHANGE ITS MIND AS TO

1 MRS. COLLENE CAMPBELL'S PRESENCE. BUT I'VE NOT INTENDED
2 TO SAY THAT WITNESSES THAT THE PEOPLE DON'T KNOW ABOUT
3 THAT WE'RE CALLING ARE THE ONLY ONES THAT WILL BE
4 INFLUENCED BY HER TESTIMONY.

5 IN FACT, ALL OF THE WITNESSES I LISTED AND
6 REFERENCED IN MY ARGUMENT ARE PEOPLE ON THE PEOPLE'S
7 WITNESS LIST.

8 THE COURT: ALL RIGHT. WELL, THEN I'M BACK TO
9 SQUARE ONE. IF YOU WANT TO PRESENT SOMETHING UNDER SEAL
10 AS TO THOSE WITNESSES, I CAN'T PREVENT YOU FROM DOING SO.
11 I DON'T KNOW HOW ELSE TO HANDLE 1102.6, OTHER THAN IF
12 COUNSEL REFUSES TO MAKE ANY FURTHER COMMENTS IN OPEN
13 COURT, BUT SHE WISHES TO PRESENT ADDITIONAL INFORMATION
14 TO THE COURT, I DON'T KNOW THAT I CAN STOP IT.

15 BUT I CAN PUT EVERYTHING ON THE RECORD
16 AFTER I HEAR THAT INFORMATION BEFORE I MAKE MY FINDINGS
17 WITHOUT DISCLOSING THE INFORMATION. I WILL DO THE BEST I
18 CAN. THAT'S KIND OF WHERE WE ARE TODAY.

19 MR. DIXON: SO IS IT FAIR TO SAY, SO THAT I
20 UNDERSTAND AND MR. TWIST UNDERSTANDS THE COURT'S RULING,
21 AT LEAST AT THIS POINT IN TIME THE COURT'S TENTATIVE
22 DECISION IS THAT MRS. CAMPBELL WILL REMAIN IN THE
23 COURTROOM WITH THE EXCEPTION OF WHEN DETECTIVE GRIGGS
24 TESTIFIES?

25 THE COURT: THAT'S CORRECT.

26 MR. DIXON: THANK YOU.

27 THE COURT: ALL RIGHT. WE HAVE OTHER ISSUES TO
28 DISCUSS. AND SO FOR PURPOSES OF HAVING MR. TWIST REMAIN,

1 I THINK THAT PRETTY MUCH IS THE END OF THIS DISCUSSION
2 FOR TODAY. AND I GUESS WE WILL NOTIFY OR COUNSEL WILL
3 NOTIFY YOU, MR. TWIST, WHEN THE COURT IS GOING TO TAKE
4 THIS UP AGAIN.

5 MR. TWIST: YOUR HONOR, I THANK YOU FOR YOUR
6 COURTESY TODAY. AND I WOULD JUST ASK AGAIN THAT IF THE
7 COURT IS -- ON THE BASIS OF A SUBMISSION BY DEFENSE
8 COUNSEL -- GOING TO PROPOSE TO MAKE SOME FACTUAL FINDINGS
9 AS REQUIRED BY 1102.6, THAT I BE GIVEN AN OPPORTUNITY TO
10 CONSIDER THOSE IN ADVANCE OF THE DAY WHEN THE COURT IS
11 GOING TO CONSIDER THEM --

12 THE COURT: OKAY.

13 MR. TWIST: -- AND HEAR MRS. CAMPBELL'S RESPONSE.

14 THE COURT: OKAY. FAIR ENOUGH.

15 MR. TWIST: THANK YOU, YOUR HONOR.

16 THE COURT: OKAY. WE WILL TAKE A BREAK.

17 (BRIEF RECESS.)

18 THE COURT: LET'S RESUME ON THE RECORD IN THE
19 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
20 THE PEOPLE ARE REPRESENTED. AND TODAY WE WERE GOING TO
21 DISCUSS A NUMBER OF DIFFERENT ISSUES. PRIMARILY I WOULD
22 LIKE A STATUS REPORT ON WHERE WE ARE IN TERMS OF WHEN
23 COUNSEL BELIEVES THAT WE WILL REALISTICALLY BE ABLE TO
24 GET STARTED WITH THE JURY SELECTION. AS I INDICATED LAST
25 TIME, MY PREFERENCE WOULD BE TO TAKE ADVANTAGE OF AS MANY
26 POOLS AS POSSIBLE. AND THEY GET NEW POOLS EACH WEEK ON
27 MONDAY.

28 MR. JACKSON: YOUR HONOR, I CAN SPEAK TO THE

1 COURT'S CONCERN REGARDING THE TIMING ISSUE. THE DNA
2 QUESTION HAS BEEN ANSWERED, FOR LACK OF A BETTER TERM.
3 MS. SARIS AND I HAVE BEEN IN PRETTY CLOSE CONTACT
4 THROUGHOUT THE PROCESS OF HAVING SERI DOING THE DNA THAT
5 THE DEFENSE REQUESTED. THAT HAS BEEN COMPLETED. SHE IS
6 IN POSSESSION OF THE REPORTS. AND SHE INDICATES THAT
7 NOTHING FURTHER IS GOING TO BE REQUESTED ON HER PART.

8 THERE IS NOTHING FURTHER THAT WE'RE GOING
9 TO REQUEST THAT WOULD REQUIRE ANY DELAY IN THE TRIAL. WE
10 EXPECT THE 16TH -- THE DATE OF THE 16TH APPEARS TO BE,
11 BARRING ANY UNFORESEEN CIRCUMSTANCES, A GO DATE FOR THE
12 PROSECUTION. AND I DON'T KNOW IF MS. SARIS HAS ANY
13 HEARTBURN ABOUT THAT PARTICULAR DATE. WE HAVEN'T TALKED
14 ABOUT DATES PARTICULARLY, BUT I THINK WE'RE READY TO GO.

15 MS. SARIS: THE QUESTIONNAIRE IS THE ISSUE.

16 THE COURT: WELL, THAT'S ONE ISSUE.

17 MS. SARIS: THE 16TH WE HAVE NO PROBLEM WITH.
18 THE ONLY ISSUE I THINK WE'RE GOING TO HAVE IS ONCE THE
19 QUESTIONNAIRES ARE FILLED OUT, HOW LONG WE'RE GOING TO
20 HAVE TO READ THEM; AND HOW DETAILED ARE THEY GOING TO BE.
21 AND I SAID TO THIS COURT IF THE QUESTIONNAIRE WERE
22 SUFFICIENT, QUOTE, UNQUOTE, ENOUGH, I HONESTLY -- AND
23 WILL STICK TO THIS -- BELIEVE THAT AN AVERAGE OF FIVE
24 MINUTES PER LIVE JUROR AFTER THAT IS GOING TO BE ADEQUATE
25 IF THE QUESTIONNAIRE IS SUFFICIENT.

26 MR. JACKSON: AND, OF COURSE, SHE IS SPEAKING FOR
27 THE DEFENSE.

28 MS. SARIS: YES.

1 MR. JACKSON: RIGHT.

2 THE COURT: THIS IS MY THINKING, OKAY, AND IT'S
3 JUST MY THINKING. WE ARE GOING TO HAVE A LARGE PANEL OF
4 JURORS THE WEEK OF THE 16TH AS WE DISCUSSED. WE ARE
5 GOING TO HAVE ABOUT 150 JURORS NEXT WEEK THAT ARE GOING
6 TO GO TO WASTE BECAUSE I DON'T THINK WE HAVE ANY TRIALS
7 GOING NEXT WEEK AROUND HERE, DO WE?

8 THE CLERK: ACTUALLY, WE JUST SENT A TRIAL TO
9 DEPARTMENT "B." THEY'RE GOING TO BE PULLING JURORS.

10 THE COURT: THAT'S TRUE. IT'S THREE DEFENDANTS.
11 OKAY. NEVER MIND THAT. THEN THEY WON'T GO TO WASTE.

12 MS. SARIS: AND WE DO HAVE A FAIRLY SIGNIFICANT
13 MOTION THAT WE'RE STILL INTENDING ON FILING. WE WILL
14 PROBABLY HAVE IT TO THE PEOPLE AS EARLY AS MONDAY OR
15 TUESDAY.

16 THE COURT: I WAS JUST CONCERNED WITH THE
17 NUMBERS. BUT THAT'S TRUE, WE HAVE A THREE-DEFENDANT CASE
18 WE JUST SENT OUT. SO THOSE PEOPLE WILL BE BUSY. SO WE
19 CAN SHOOT FOR THE WEEK OF THE 16TH.

20 IN TERMS OF HOW MUCH TIME YOU ARE GOING TO
21 HAVE, I'M NOT GOING TO MAKE YOU READ ALL THESE
22 QUESTIONNAIRES OVERNIGHT. SO I THINK THERE WILL BE SOME
23 TIME THAT WE CAN TAKE TO ABSORB THE INFORMATION THAT YOU
24 ARE GETTING.

25 IN TERMS OF THE ACTUAL QUESTIONNAIRE THAT
26 WE ARE GOING TO USE, MS. SARIS HAS SUBMITTED A PROPOSED
27 QUESTIONNAIRE. AND THE PEOPLE HAVE SUBMITTED A PROPOSED
28 QUESTIONNAIRE. FRANKLY, I WOULD RATHER LIMIT THE

1 QUESTIONNAIRE RATHER THAN EXPAND THE QUESTIONNAIRE. SO I
2 LIKE THE SHORTER ONE BETTER. AND THAT WAS FROM THE
3 PEOPLE.

4 MS. SARIS: I TELL YOU OUR PROBLEM WITH THE
5 SHORTER ONE, JUST SO THE COURT IS AWARE. AND MY
6 QUESTIONNAIRE THAT I SUBMITTED WAS THE CLOSEST WE GOT TO
7 AGREEING. SO I PUT SOME QUESTIONS IN THERE THAT I THINK
8 ARE KIND OF SILLY LIKE NAME THREE PEOPLE YOU ADMIRE IN
9 LIFE.

10 I PUT THOSE IN BECAUSE WHEN WE WERE TRYING
11 TO AGREE, THE D.A. INSISTED ON THOSE. MY PROBLEM WITH
12 THE SHORTER QUESTIONNAIRE -- IN THEORY I LIKE IT. BUT
13 THE PROBLEM IS ASKING JURORS IN A QUESTIONNAIRE YES OR NO
14 QUESTIONS. IT IS ALMOST A WASTE OF THEIR TIME. YOU
15 DON'T GET TO SEE THEIR REACTION WHEN THEY SAY YES OR NO.
16 AND MOST OF THE QUESTIONNAIRE DID NOT REQUIRE AN
17 EXPLANATION THAT THE DISTRICT ATTORNEY SUBMITTED.

18 THAT'S MY MAIN PROBLEM WITH IT. THE BULK
19 OF OUR QUESTIONNAIRE HAD TO DO SPECIFICALLY WITH THIS
20 CASE, WHICH IS I THINK THE REASON WE'RE HAVING THE
21 QUESTIONNAIRE. I ALSO THINK IT'S IMPORTANT THAT WE
22 REALLY NAME THE INDIVIDUALS. I GREW UP IN THIS CITY. I
23 HAVE A FAMILIARITY WITH THIS CASE SEPARATE AND APART
24 SINCE I WAS IN COLLEGE.

25 YOU KNOW, MY DENTIST, HIS AUNT LIVED NEXT
26 DOOR TO MICKEY THOMPSON. I MEAN PASADENA CAN BE A
27 SMALLER TOWN THAN PEOPLE REALIZE. AND I THINK THAT THAT
28 IS NOT TAKEN INTO ACCOUNT IN THE QUESTIONNAIRE. I

1 HAVEN'T SEEN THE ENTIRETY OF THE QUESTIONNAIRE SUBMITTED
2 BY THE D.A. BUT I REALLY THINK THAT THOSE THINGS NEED TO
3 BE ADDRESSED WHEN WE DON'T HAVE TO ADDRESS THEM IN
4 PERSON.

5 THE COURT: WELL, I KNOW BOTH OF YOU IN YOUR
6 QUESTIONNAIRES SUBMITTED A BRIEF SYNOPSIS OF THE CASE.
7 AND --

8 MR. JACKSON: PAGE 5 OF OURS, JUDGE.

9 THE COURT: WHAT?

10 MR. JACKSON: PAGE 5 OF OURS.

11 THE COURT: PAGE 5 OF YOURS?

12 MR. JACKSON: RIGHT.

13 THE COURT: BUT IT WAS THE SAME ONE --

14 MS. SARIS: AS I SAID AT ONE POINT WE WERE VERY
15 CLOSE TO AGREEING. AND I JUST GAVE THE COURT MY -- THE
16 ONE THAT WE HAD SO CLOSE TO AGREEING.

17 THE COURT: OKAY. THIS IS MY FEELING ON THE
18 QUESTIONNAIRES. FRANKLY, SOME OF THE QUESTIONS ARE
19 REALLY KIND OF OUT THERE. LIKE YOUR FAVORITE TV SHOWS
20 AND THINGS OF THAT NATURE. WHO DO YOU MOST ADMIRE?
21 THESE KINDS OF THINGS. I DON'T KNOW THAT THEY ARE
22 HELPFUL IN TRYING TO DETERMINE WHETHER OR NOT A JUROR
23 SHOULD BE CHALLENGED FOR CAUSE.

24 SO I THINK WE NEED TO DISCUSS THAT.
25 SECONDLY, I DON'T HAVE A PROBLEM WITH YES AND NO ANSWERS.
26 I DON'T EXPECT THE QUESTIONNAIRE TO SUBSTITUTE FOR VOIR
27 DIRE. BUT WHAT I DO HOPE TO GET FROM A QUESTIONNAIRE IS
28 A JUROR'S FIRST RESPONSE OR REACTION BEFORE HAVING TIME

1 TO THINK ABOUT MUCH OF ANYTHING. AND THAT'S WHAT I WANT.
2 AND I DON'T WANT TO BURDEN JURORS. I DON'T WANT TO MAKE
3 THEM ANSWER ESSAY QUESTIONS. I PREFER THE LIMITED. YES,
4 NO ANSWERS. AND COUNSEL WILL HAVE PLENTY OF TIME TO
5 FOLLOW-UP.

6 BUT WHAT I'M LOOKING FOR IN A
7 QUESTIONNAIRE AND IT MAY BE DIFFERENT FROM WHAT THE
8 PARTIES ARE LOOKING FOR, IS JUST TO GET THAT VISCERAL
9 REACTION TO THIS CASE WITHOUT GIVING PEOPLE AN
10 OPPORTUNITY TO REFLECT.

11 AND THEN, SECONDLY, FINDING OUT THE EXTENT
12 TO WHICH ANYONE MAY KNOW THE PARTIES, THE FACTS, THE
13 STORIES AND THE TV SHOWS, THINGS OF THAT NATURE. SO
14 THAT'S WHY I LIKED THE PEOPLE'S QUESTIONNAIRE A LITTLE
15 BETTER BECAUSE IT WAS MORE I GUESS FOCUSED ALONG THOSE
16 LINES. AND THE QUESTIONS DID NOT ASK FOR A LOT OF
17 EXPLANATIONS. I KNOW JURORS WILL I THINK BE SOMEWHAT
18 OFFENDED IF WE GIVE THEM THE QUESTIONNAIRE THAT MAKES
19 THEM ANSWER THESE QUESTIONS LIKE THAT. SO THAT'S --

20 MS. SARIS: OFFENDED -- I'M SORRY -- BY FORCING
21 THEM TO WRITE TOO MUCH YOU MEAN?

22 THE COURT: YES. BY FORCING THEM TO -- IT ALMOST
23 LOOKS LIKE IT'S AN EXAMINATION, A TEST, AND WE ARE GIVING
24 THEM AN OPPORTUNITY TO WRITE LENGTHY ANSWERS AND THINGS
25 OF THAT NATURE. AND SOME OF THE QUESTIONS ARE NOT
26 LIMITED TO FOR CAUSE CHALLENGES. SO I DON'T WANT TO
27 OVERBURDEN THEM. AND I'M GOING TO GIVE YOU PLENTY OF
28 TIME TO VOIR DIRE AND FOLLOW-UP. BUT I DON'T HAVE ANY

1 PROBLEMS WITH YES AND NO QUESTIONS.

2 MS. SARIS: MY CONCERN IS JUST ACCEPTING -- I
3 HAVEN'T REALLY REVIEWED THE PEOPLE'S. I JUST REMEMBER
4 READING IT AND THINKING -- AND I DON'T MEAN THIS
5 OFFENSIVELY -- SORT OF USELESS IN THE SENSE THAT --

6 MR. JACKSON: SHE DOESN'T MEAN THAT OFFENSIVELY?

7 MS. SARIS: I MEAN THAT --

8 MR. JACKSON: SO I SHOULD TAKE THAT AS A
9 COMPLIMENT?

10 THE COURT: SO WHAT WOULD YOU SAY IF YOU MEANT
11 IT --

12 MS. SARIS: IF I MEANT IT OFFENSIVE I WOULD
13 SAY --

14 MR. SUMMERS: TOTALLY.

15 MS. SARIS: TOTALLY. NO.

16 USELESS AS A QUESTIONNAIRE IN THE SENSE
17 THAT ALL OF THOSE QUESTIONS ARE SIMPLY LIKE THE QUESTIONS
18 ON BOARD. THAT THEY'RE PRETTY MUCH 90 PERCENT OF -- WHAT
19 I RECALL READING -- ARE ASKED IN EVERY SINGLE CASE. AND
20 I, AGAIN -- OF LIMITED VALUE. HOW IS THAT?

21 THE COURT: I WAS HOPING THAT GIVEN WHAT I'VE
22 JUST SAID ABOUT HOW I WOULD LIKE TO LIMIT THE QUESTIONS
23 TO CHALLENGES FOR CAUSE; HOW I DON'T HAVE A PROBLEM
24 REALLY WITH THE SUBSTANCE OF THE PEOPLE'S QUESTIONNAIRE;
25 MAYBE ONE OR TWO QUESTIONS I THINK WENT KIND OF FAR BUT
26 THE DEFENSE SEEMED TO WANT SOMETHING SIMILAR, I THINK WE
27 CAN STILL HAMMER OUT AN AGREED-UPON QUESTIONNAIRE AND
28 BRING TO MY ATTENTION THE AREAS OF DISPUTE. THAT'S THE

1 WAY I WOULD LIKE TO HANDLE IT.

2 MS. SARIS: SO DOES THE COURT WANT US TO GO
3 THROUGH --

4 THE COURT: I THINK JUST FROM WHAT I HAVE SEEN IN
5 BOTH OF THESE QUESTIONNAIRES, I THINK THERE IS A LOT THAT
6 BOTH SIDES TO DO AGREE TO AND A LOT THAT CAN BE TAKEN OUT
7 BECAUSE IT DOESN'T -- IT ISN'T LIMITED TO CHALLENGES FOR
8 CAUSE. SO THOSE ARE THE GROUND RULES.

9 MS. SARIS: AND I JUST WANT TO BE CLEAR THAT THE
10 ONE THAT I PRESENTED WAS THE ONE THAT ATTEMPTED TO GET
11 ALL OF THESE QUESTIONS IN. THAT MIGHT BE WHY IT SEEMED
12 LIKE WE HAD A LOT OF POINTS OF AGREEMENT. I ATTEMPTED TO
13 INCLUDE EVERYTHING THEY ASKED FOR WHEN WE WERE TRYING TO
14 AGREE ON ONE.

15 MR. DIXON: SO THE COURT IS ASKING US TO MEET AND
16 CONFER AND GET BACK TO YOU. WHEN WOULD YOU LIKE US TO DO
17 THAT?

18 THE COURT: AS SOON AS YOU CAN. I MEAN, FOR
19 EXAMPLE -- AND I'M JUST THROWING THIS OUT -- ON PAGE 6 OF
20 MS. SARIS'S QUESTIONNAIRE, "PLEASE NAME THE THREE MOST
21 INFLUENTIAL PEOPLE IN YOUR LIFE."

22 MS. SARIS: AGAIN, THE D.A. ASKED FOR THAT AND I
23 PUT IT IN.

24 THE COURT: HISTORICAL FIGURES, THINGS OF THAT
25 NATURE, THAT TO ME I THINK WE CAN ELIMINATE, UNLESS THERE
26 IS SOME REASON THAT WE SHOULDN'T.

27 MS. SARIS: I ABSOLUTELY AGREE.

28 MR. JACKSON: AND THOSE -- THAT'S THREE QUESTIONS

1 OUT OF OUR QUESTIONNAIRE THAT COULD ACTUALLY MAKE OURS A
2 LITTLE BIT TIGHTER. AND I HAVE NO PROBLEM.

3 MS. SARIS: AND I HAVE NO PROBLEM MEETING. MY
4 CONCERN WAS MR. JACKSON AND I SPENT A GREAT DEAL OF TIME
5 AND THEN IT WAS NIPPED IN THE BUD.

6 THE COURT: TELL ME WHAT THE PRIMARY AREAS OF
7 DISAGREEMENT ARE. TELL ME WHAT IT IS --

8 MS. SARIS: I THOUGHT WHEN I SUBMITTED THE ONE
9 THAT I GAVE TO THIS COURT THAT WE WERE ABOUT THREE
10 QUESTIONS OFF. NOW I WAS TOLD THAT MR. DIXON CAME IN AND
11 STOPPED OUR NEGOTIATIONS, REFUSED TO LET US CONTINUE
12 TO --

13 THE COURT: OKAY. SO WHAT THREE QUESTIONS WERE
14 AT ISSUE?

15 MS. SARIS: THE ONLY ONE THAT I REMEMBER OUTRIGHT
16 THERE WAS THE WORDING OF ONE HAVING TO DO WITH HOW
17 MUCH -- WHETHER THE STANDARD OF A MURDER CASE IS THE SAME
18 FOR DRUNK DRIVING. I THOUGHT THAT WAS MISLEADING. THE
19 STANDARD OF PROOF FOR THE PEOPLE IN A MURDER CASE VERSUS
20 DRUNK DRIVING AND MURDER.

21 I MAY HAVE TAKEN THAT OUT OF THE ONE I
22 GAVE. ASKING THE JURORS TO SELF-IDENTIFY ETHNICITY.
23 THERE WAS A DISAGREEMENT ON THAT. I THINK THAT'S BEST
24 HANDLED ON PAPER. I THINK THAT'S A VERY DELICATE TOPIC
25 IN PERSON TO -- AND YET IT'S REQUIRED UNDER BATSON. AND
26 UNFORTUNATELY --

27 THE COURT: WHAT IS THE PEOPLE'S POSITION ON
28 THAT?

1 MR. JACKSON: IT'S ABSOLUTELY NOT REQUIRED UNDER
2 BATSON. AND AS A MATTER OF FACT MY POSITION IS TO ASK A
3 JUROR WHAT ETHNICITY OR RACE THEY ARE IS INVITING SOME
4 KIND OF WHEELER ERROR. THAT IS JUST NOT AN AREA THAT WE
5 ARE -- YOU KNOW, JUSTICE IS BLIND AND ALL THAT STUFF.
6 WE'RE NOT SUPPOSED TO ASK WHAT RACE YOU ARE AND MAKE ANY
7 DECISIONS PREDICATED ON WHAT RACE THEY ARE.

8 THEREFORE, IT LOOKS LIKE ANY EXCLUSION
9 THAT'S MADE, ANY PREEMPTORY CHALLENGE THAT'S MADE, OR
10 EVEN A CHALLENGE FOR CAUSE, IF WE'VE ASKED THE PREEMPTORY
11 QUESTION, "WHAT RACE ARE YOU? " IT COULD BE INFERRED THAT
12 WE'VE USED THAT IN OUR DECISION MAKING. SO --

13 MS. SARIS: AND MY CONCERN IS WHEN THERE IS A
14 BATSON CHALLENGE MADE AND THE CASE GOES UP ON APPEAL,
15 OFTENTIMES THE PROBLEM IS NO ONE ASKED THE WITNESS. AND
16 THE ATTORNEYS ARE SITTING THERE GUESSING AS TO THE
17 ETHNICITY. AND THE COURT OF APPEAL SAYS, "YOU DIDN'T
18 MAKE A RECORD."

19 THE COURT: BUT THAT'S RELEVANT. I MEAN THAT'S
20 THE WHOLE POINT, ISN'T IT? IN A WAY, YOU ARE JUDGING
21 PEOPLE IMPERMISSIBLY IF YOU BASE IT ON RACE. AND THE
22 ONLY WAY YOU ARE GOING TO BE ABLE TO BASE IT ON RACE
23 WITHOUT THESE QUESTIONS IS BY SEEING THE PERSON BECAUSE
24 YOU MAY BE WRONG.

25 MS. SARIS: BUT I THINK THIS QUESTION WOULD
26 PROTECT AGAINST KICKING PEOPLE OFF BASED ON RACE.
27 BECAUSE IF THEY ARE SO IDENTIFIED AND THEY MAY NOT APPEAR
28 VISUALLY TO BE OF A -- AND I MEAN THIS JUST SOUNDS

1 HORRIBLE NO MATTER HOW YOU SLICE IT -- BUT THERE ARE
2 TIMES WHERE A DISTRICT ATTORNEY OR EVEN A DEFENSE LAWYER
3 HAS KICKED OFF THREE PEOPLE IN A ROW; WE'VE APPROACHED
4 THE JUDGE AND SAID, LISTEN, THEY'RE DOING THIS ON RACE.
5 AND EVERYBODY IS IN DISAGREEMENT AS TO WHETHER OR NOT
6 THEY'RE EVEN OF THE SAME RACE.

7 THE COURT: THAT'S TRUE. BUT WHERE IS IT
8 REQUIRED, THOUGH, IN BATSON?

9 MS. SARIS: THE IDENTIFICATION OF THEM PRIOR TO
10 THEM LEAVING THE COURTROOM IS REQUIRED.

11 THE COURT: OKAY. YOU KNOW, I HAVEN'T TRIED
12 CASES WITH ANY OF YOU. I DO TRY TO MAKE AS COMPLETE A
13 RECORD AS POSSIBLE. I SPENT MY FIRST FEW YEARS DOING A
14 LOT OF APPELLATE WORK. AND I GUESS I'M OVERLY OBSESSIVE
15 ABOUT RECORDS. SO I DON'T THINK IF THAT'S THE ONLY
16 REASON WHY --

17 MS. SARIS: THAT'S THE ONLY REASON. SO THE COURT
18 WOULD INQUIRE AS THEY WERE LEAVING OR THE COURT WOULD ASK
19 THEM TO IDENTIFY --

20 THE COURT: NO, I WOULDN'T ASK THEM TO IDENTIFY
21 AT ALL. I WOULD WHEN WE ARE AT THE SIDEBAR IF THERE WERE
22 AN OBJECTION TO A CHALLENGE, WE WOULD PUT EVERYTHING ON
23 THE RECORD. I WOULD HAVE TO MAKE THE NECESSARY FINDING
24 AND PART OF THAT FINDING IS GOING TO INCLUDE SOME
25 DISCUSSION AND PERHAPS SOME AGREEMENT OF WHAT A PERSON'S
26 RACE IS. BUT WHETHER OR NOT WE ARE GOING TO HAVE TO CALL
27 THAT PERSON OVER AND ACTUALLY ASK THEM IF WE ARE ALL IN
28 SUCH DISAGREEMENT, HEY, YOU KNOW, I DON'T KNOW. I

1 THINK --

2 MR. SUMMERS: YOUR HONOR, SOME OF THE PEOPLE WILL
3 ALREADY BE EXCLUDED IF THE MOTION IS TO -- AND THERE IS A
4 PATTERN HERE -- SOME OF THE FOLKS THAT WILL BE
5 REFERENCED -- IN OTHER WORDS, SAYING YOU HAVE DONE IT
6 THIS MANY TIMES WILL ALREADY BE GONE AND THERE WOULDN'T
7 BE ANY CHANCE OF THAT.

8 THE COURT: SURE. TRUE. BUT WE ARE ALL HERE
9 WITH THE ABILITY TO OBSERVE THESE PEOPLE. SO I WOULD
10 RATHER NOT DO IT UP FRONT. AND IF THERE IS AN ISSUE
11 LATER, WE WILL TRY TO MAKE THE BEST RECORD. YES, YOU ARE
12 CORRECT, MR. SUMMERS. SOME OF THE PEOPLE WILL BE GONE.
13 BUT I KNOW COUNSEL GENERALLY AND THE COURT DOES TRY TO
14 KEEP TRACK OF THAT JUST FOR THAT VERY PURPOSE.

15 MS. SARIS: THOSE ARE THE ONLY REAL DISAGREEMENTS
16 I CAN SEE THAT WE HAD. I MEAN I ATTEMPTED TO BE
17 INCLUSIVE. I DON'T KNOW THAT FAVORITE TV SHOW IS
18 IMPORTANT, BUT I CERTAINLY THINK IT'S IMPORTANT TO KNOW
19 IF THEY'RE REGULAR WATCHERS OF CERTAIN CRIME TV SHOWS,
20 NOT JUST THE ONE THAT FEATURED THIS.

21 THE COURT: I DON'T KNOW WHICH ONE -- BECAUSE YOU
22 ALL HAVE --

23 MS. SARIS: PERHAPS IF THE D.A. IS IN AGREEMENT,
24 I'M HAPPY TO SIT DOWN. I THINK THAT'S THE EASIEST WAY TO
25 DO IT WITH THEM AND TRY AGAIN TO COME TO SOME --

26 THE COURT: ALL RIGHT. ARE YOU GUYS ON THE OTHER
27 SIDE OF THE TABLE HERE WILLING TO SPEND MORE TIME DOING
28 THIS?

1 MR. DIXON: WELL, I TOOK IT AS THE COURT'S
2 REQUEST THAT WE DO THAT. AND WE WILL CERTAINLY DO AS THE
3 COURT WISHES.

4 THE COURT: EXCEPT IF YOU FEEL THAT IT WOULD NOT
5 BE PRODUCTIVE, I'M NOT GOING TO MAKE THAT REQUEST. IF
6 YOU THINK THAT --

7 MR. JACKSON: WELL, IF I MAY, SINCE I AUTHORED
8 THE SHORTER QUESTIONNAIRE WITH MR. DIXON'S INFLUENCE AND
9 INPUT. THIS IS AS TIGHT -- WITH THE EXCEPTION OF -- FOR
10 INSTANCE, TO ANSWER THE COURT'S SPECIFIC QUESTIONS,
11 CONCERNING QUESTIONS 46, 47 AND 48, I THINK THOSE ARE THE
12 QUESTIONS THAT THE COURT HAD SOME CONCERN WITH. IF THE
13 COURT IS UNCOMFORTABLE WITH THEM THEN -- MR. DIXON IS
14 WHISPERING IN MY EAR THAT HE LIKES THOSE AND HE WANTS
15 THEM IN.

16 THOSE BEING CONSIDERED, THEY ARE ONLY
17 THREE QUESTIONS. I MEAN MY POINT WAS OURS IS PRETTY
18 TIGHT, PRETTY CONCISE AS IT IS. IT'S ONLY THREE
19 QUESTIONS. WITH REGARD TO THE TV SHOW QUESTION, THAT'S
20 ONE QUESTION THAT WE ASKED. AND I ACTUALLY AGREE WITH
21 MS. SARIS THAT MY QUESTION -- AND I THINK IT'S QUESTION
22 16, "HOW OFTEN DO YOU WATCH TV PROGRAMS THAT SHOW REAL
23 LIFE CRIME OR DRAMATIZATION?" I WANT TO KNOW ABOUT THE
24 CSI EFFECT. I WANT TO KNOW IF I HAVE SOMEONE THAT IS AN
25 ARM CHAIR INVESTIGATOR. THAT'S SOMETHING THAT I THINK
26 BOTH OF US WOULD LIKE TO KNOW.

27 MS. SARIS: CERTAINLY WITH THE RASH OF ONES THAT
28 ARE JUST SLAMMING DEFENSE LAWYERS, I THINK THAT THAT'S

1 IMPORTANT.

2 THE COURT: SO IT SOUNDS LIKE -- CORRECT ME IF
3 I'M WRONG HERE -- THAT THERE IS SOME AGREEMENT; AND THAT,
4 MS. SARIS, YOU DON'T REALLY HAVE AN OBJECTION TO THE
5 SUBSTANCE OF THE QUESTIONNAIRE SUBMITTED BY THE PEOPLE?

6 MS. SARIS: I HONESTLY --

7 THE COURT: YOU HAVE ADDITIONAL --

8 MS. SARIS: I DIDN'T GET A CHANCE TO LOOK AT IT
9 THAT CLOSELY, ONLY BECAUSE I ANTICIPATED THAT THEIRS WAS
10 NOT GOING TO BE TOO DIFFERENT FROM THE ONE THAT WE HAD
11 ALMOST AGREED ON. AND THEN WHEN I SAW THE LENGTH OF IT I
12 HAVE REALIZED THAT IT WAS DRAMATICALLY DIFFERENT. BUT I
13 THINK IF MR. JACKSON AND I HAVE A CHANCE TO SIT DOWN, WE
14 CAN CERTAINLY COME CLOSER.

15 THE COURT: AND THEN JUST LET ME KNOW THE AREAS
16 OF DISAGREEMENT. AND WHENEVER YOU CAN DO THAT, THE
17 SOONER THE BETTER.

18 IN TERMS OF THE MECHANICS, I'M ASSUMING
19 THAT ONE SIDE OR ANOTHER IS GOING TO PREPARE THE
20 QUESTIONNAIRE AND COPY IT.

21 MR. JACKSON: I THINK THE EASIER -- I'M HEARING
22 WHAT THE COURT SAYS ABOUT THE WAY THAT OUR QUESTIONNAIRE
23 WAS DRAFTED, THE YES/NO QUESTIONS; THE KIND OF POINTED,
24 CONCISE, NON-EXPLANATORY QUESTIONS. IT APPEARS THAT --
25 FOR INSTANCE, IN OUR CONFERENCE, THE FIRST THING I WOULD
26 ASK MS. SARIS -- AND I WILL INVITE THIS -- IS: ARE THERE
27 SPECIFIC QUESTIONS THAT ARE CONTAINED IN HERS THAT ARE
28 NOT CONTAINED IN OURS? I THINK THIS ONE COULD BE

1 REASONABLY USED AS THE BASIS OF FORMAT.

2 AND I'LL TAKE ON THE BURDEN OF DRAFTING
3 THE QUESTIONNAIRE, TRYING TO ACCOMMODATE MS. SARIS'S
4 PARTICULARIZED CONCERNS. AND THEN, OF COURSE, ONCE IT'S
5 ALL SAID AND DONE, WE WILL TAKE ON THE BURDEN OF MAKING
6 THOSE QUESTIONNAIRES DUPLICATED AND GETTING EVERYBODY
7 COPIES, ET CETERA.

8 MS. SARIS: I DON'T MIND THAT, BUT THERE IS ISSUE
9 WITH THEIR FACE PAGE AND THE FACT THAT THE CASE NUMBER
10 ISN'T INCLUDED ON EACH PAGE AND THE CONFIDENTIALITY
11 QUESTIONS AND --

12 MR. JACKSON: THAT'S SOMETHING THAT WE CAN TALK
13 ABOUT.

14 MR. DIXON: COULD WE JUST HAVE A MOMENT ON THAT?

15 THE COURT: YES.

16 (DISCUSSION OFF THE RECORD.)

17 MR. DIXON: THANK YOU, YOUR HONOR.

18 THE COURT: LET ME ASK A QUESTION, BOTH OF YOU
19 HAD THE SYNOPSIS KIND OF MIDWAY THROUGH. IS THERE A
20 REASON THAT WE ARE NOT GOING TO -- THAT YOU DON'T WANT TO
21 TELL THE JURORS WHAT THE NAME OF THIS CASE IS AND WHAT IT
22 INVOLVES RIGHT UP FRONT?

23 MR. JACKSON: THERE IS NO REASON.

24 MS. SARIS: I HAD A REASON.

25 MR. JACKSON: GO AHEAD.

26 MS. SARIS: WELL, ON THE ONE HAND, I MEAN THE
27 MOST RECENT LONG MURDER CASE THAT I WAS INVOLVED IN THE
28 COURT GAVE AN ESTIMATE OF A COUPLE OF MONTHS AND NO ONE

1 ASKED TO LEAVE FOR HARDSHIP. THE REASON WAS THAT WE WERE
2 IN JUDGE ITO'S COURT. AND EVEN THOUGH IT WAS EIGHT YEARS
3 MORE AFTER THE O.J. CASE, JURORS WANTED TO BE THERE.

4 NOW I DON'T MIND THAT -- I GET CONCERNED
5 OCCASIONALLY THAT IF A JUROR BELIEVES THEY'RE GOING TO BE
6 INVOLVED IN A MEDIA CASE THAT -- DO EITHER SIDE OF US
7 WANT SOMEONE WHOSE ONLY INTEREST IS THAT IT'S A MEDIA
8 CASE? I DON'T KNOW IF THAT'S GOOD OR BAD. I THINK THAT
9 WAS SORT OF MY -- AND I DON'T KNOW WHAT THE COURT IS
10 INTENDING ON ASKING FOR HARDSHIP. SO I GUESS THAT MIGHT
11 BE IRRELEVANT ANYWAY.

12 THE COURT: YOU KNOW, WHAT I HAVE DONE IN THE
13 PAST IS SIMILAR TO JUDGE ITO'S STORY. I HAD TWO THAT
14 WERE HIGH-PROFILE CASES, ONE WAS BECAUSE OF WHO THE
15 DEFENSE ATTORNEY WAS. AND I GOT THE SAME REACTION WHEN I
16 WENT TO HARDSHIP. I DIDN'T HAVE TO TELL THE PROSPECTIVE
17 JURORS MUCH OF ANYTHING. THEY SAW WHO HE WAS. HE WAS
18 PROMINENT ON TV AND THE NEWSCASTS AND HANDLING THE BIG
19 CASES.

20 A NUMBER OF THESE JURORS WANTED TO STAY
21 BECAUSE HE WAS THE DEFENSE ATTORNEY. A COUPLE YEARS
22 BEFORE THAT WE DID A HIGH-PROFILE CASE THAT I THINK GOT
23 SOME MEDIA COVERAGE LOCALLY. AND I THINK I DID IT IN
24 THAT CASE AND HAD FEWER HARDSHIP REQUESTS. I LIKE TO DO
25 IT BECAUSE OF THE IMPACT IT HAS ON THE HARDSHIPS. THAT'S
26 WHY I DO IT. BUT THAT'S WHY I'M ASKING.

27 BECAUSE MY PREFERENCE WOULD BE RATHER THAN
28 HAVE 100 PEOPLE TRYING TO GET OUT OF JURY SERVICE, MY

1 FEELING IS IS THAT IF THEY KNOW A LITTLE BIT ABOUT WHAT
2 WE ARE TALKING ABOUT AND WHY SOMETHING IS GOING TO TAKE
3 AS LONG AND BE JUST AN INTRUSION ON THEIR LIVES, I THINK
4 IT HAS SOME MERIT. I THINK THEY DESERVE TO KNOW BEFORE
5 THEY COMMIT TO EITHER STAYING OR ASKING FOR A HARDSHIP.
6 I KNOW THERE ARE A LOT OF PEOPLE IN THE CATEGORY THAT
7 PROBABLY HAVE A HARDSHIP THAT DON'T WANT TO BRING IT TO
8 OUR ATTENTION FOR WHATEVER REASON.

9 MS. SARIS: I DON'T HAVE AN OBJECTION TO IT.
10 THOSE WERE JUST MY THOUGHTS ON IT. BUT I'M FINE WITH
11 MINE.

12 THE COURT: AND MY FEELING IS WE ARE GOING TO GET
13 FEWER HARDSHIP REQUESTS. SO I DON'T WANT TO MISLEAD YOU.
14 I THINK THAT'S THE EFFECT IT'S GOING TO HAVE. BUT THAT'S
15 JUST A GUESS. I DON'T KNOW HOW IT'S GOING PLAY OUT.

16 MR. JACKSON: SO WHAT WOULD THE COURT'S
17 SUGGESTION BE FOR KIND OF REVISITING THIS UP FRONT.

18 THE COURT: WHAT I WOULD LIKE TO DO IS ONCE YOU
19 AGREE ON A QUESTIONNAIRE IS YOU CAN, IF YOU WISH, PUT THE
20 SYNOPSIS OR THE PARAGRAPH RIGHT UP FRONT OR I CAN TELL
21 THEM WHEN THEY COME IN WHAT CASE IT IS AND WE COULD GO
22 FROM THERE. SO I'M OPEN TO SUGGESTION. MY REFERENCE,
23 THOUGH, IS TO DO IT UP FRONT.

24 MR. JACKSON: OKAY. I HAVE NO -- I WILL
25 ACCOMMODATE THE COURT ANY WAY THAT THE COURT WISHES. THE
26 ONLY REASON THAT I HAD IT ON PAGE 5 -- BEGINNING ON PAGE
27 5 IS BECAUSE IT TENDS TO FLOW CATEGORICALLY. THIS IS THE
28 PART OF THE CASE WHERE WE'RE TALKING ABOUT DOES THE

1 PERSON KNOW YOU. DOES THE PERSON KNOW MS. SARIS OR
2 MR. GOODWIN OR MICKEY THOMPSON.

3 AND THAT SYNOPSIS, OBVIOUSLY, NEEDS TO BE
4 THERE KIND OF TO REITERATE THAT. ONE SUGGESTION MIGHT BE
5 TO DUPLICATE THAT PARAGRAPH ON THE VERY FIRST PAGE AND
6 SAY ON THE FIRST PAGE JUST A FACTUAL PAGE, HERE IS WHAT
7 THE CASE IS ABOUT THE TIME ESTIMATE IS THIS BLANK. AND
8 THEN BEGIN TO PAGE 2 WITH, "PLEASE GIVE THE FULL AND
9 COMPLETE ANSWERS UNDER OATH."

10 THAT WAY THEY'RE INFORMED AT LEAST THAT
11 THIS COULD BE A SIX-, EIGHT-, TEN-WEEK TRIAL. IS THAT
12 WHAT THE COURT IS THINKING ABOUT?

13 MS. SARIS: DO YOU WANT TO PUT A TIME ESTIMATE IN
14 WRITING?

15 THE COURT: WELL, I DON'T KNOW ABOUT THAT, BUT
16 I'M HAPPY TO DO THE FIRST PAGE AND TELL THEM WHAT IT'S
17 ABOUT.

18 MS. SARIS: I AGREE.

19 MR. JACKSON: BUT IF WE'RE TALKING ABOUT TIME
20 QUALIFYING AND TRYING TO IDENTIFY THOSE PEOPLE WHO ARE
21 JUST TRYING TO GET BOOTED BECAUSE --

22 THE COURT: WELL, WE CAN DO A SEPARATE HARDSHIP
23 SHEET IF THAT'S WHAT YOU WANT TO DO.

24 MS. SARIS: WEREN'T THEY GOING TO BE TIME
25 QUALIFIED PRIOR TO FILLING OUT THE QUESTIONNAIRE?

26 THE COURT: WELL, THAT'S THE THING, YES. BUT WE
27 CAN DO IT ONE OF TWO WAYS, I CAN BRING THEM IN; TELL THEM
28 WHAT CASE IT IS; AND THE DURATION -- THE ANTICIPATED

1 DURATION OF THE TRIAL. OR WE CAN JUST GIVE THEM A SINGLE
2 SHEET OF PAPER FOR HARDSHIP PURPOSES; TELL THEM ON THAT
3 PIECE OF PAPER WHAT THE CASE NAME IS; WHAT THE CASE
4 INVOLVES; THE, QUOTE, ESTIMATE THAT WE THINK IT WILL TAKE
5 X NUMBER OF WEEKS OR MONTHS OR WHATEVER. AND ASK THEM IF
6 THEY HAVE A HARDSHIP. SO I'M OPEN TO SUGGESTION. IT
7 DOESN'T HAVE TO BE ALL --

8 MR. JACKSON: MY REFERENCE WOULD BE IF THE COURT
9 TOLD THEM LIVE WHAT THE SYNOPSIS OF THE CASE IS; WHAT THE
10 COURT ANTICIPATES THE LENGTH OF THE TRIAL BEING. AND
11 THEN THEY GO DOWN AND BEGIN THE QUESTIONNAIRE PROCESS.

12 THE COURT: THAT'S FINE. BUT YOU WILL HAVE TO
13 AGREE ON A SYNOPSIS THAT I WILL GIVE THEM. I CAN READ
14 IT.

15 MR. JACKSON: THE COURT COULD READ IT RIGHT OFF
16 PAGE 5. BECAUSE MS. SARIS AND I DO AGREE ON THE
17 SYNOPSIS.

18 THE COURT: BUT THERE WAS A DIFFERENCE. THERE
19 WAS ONE MINOR DIFFERENCE.

20 MR. JACKSON: HANG ON, YOUR HONOR. I HAD TO
21 INDEX

22 MS. SARIS'S 30 PAGE --

23 THE COURT: I DON'T KNOW WHAT PAGE HERS IS ON.

24 MR. DIXON: WELL, WE MIGHT BE ABLE TO FIND IT BY
25 THIS AFTERNOON.

26 THE COURT: OKAY.

27 MR. JACKSON: HERE IT IS. IT'S ON PAGE 19.

28 THE COURT: YES, I THINK THE -- THIS IS HOW MINOR

1 IT WAS.

2 MS. SARIS: OH, "SHOT TO DEATH" RATHER THAN
3 "KILLED."

4 THE COURT: NO. NO. THAT'S ANOTHER ONE.
5 "WIDELY."

6 MS. SARIS: "WIDELY"?

7 MR. JACKSON: "IS WIDELY KNOWN AS THE INVENTOR
8 OF" --

9 MS. SARIS: DID I WRITE THAT?

10 THE COURT: THIS IS JUST MY NITPICKING.

11 MS. SARIS: ALL RIGHT. WE WILL TAKE OUT --

12 THE COURT: I DON'T CARE. I'M JUST SAYING, I
13 NOTICED ONE LITTLE DIFFERENCE. AND THEN YOU POINTED OUT
14 ANOTHER ONE. SO IF YOU GUYS CAN ALL AGREE ON ONE
15 VERSION, THAT'S FINE. OKAY.

16 THAT WILL BE THE END OF THAT DISCUSSION.
17 WHEN DO YOU WANT TO DISCUSS THIS FURTHER?

18 MS. SARIS: WE'RE GOING TO PROBABLY TRY TO GET
19 TOGETHER THIS AFTERNOON.

20 MR. JACKSON: SO NEXT WEEK, JUDGE. I THINK WE
21 NEED TO DO IT SOONER THAN LATER.

22 THE COURT: WHENEVER YOU WANT. JUST GIVE ME A
23 DAY WHEN YOU WILL RETURN. THERE HAVE BEEN SOME 980
24 REQUESTS.

25 MS. SARIS: OH, THERE HAVE BEEN?

26 THE COURT: THERE HAS BEEN AND I WILL SHARE THEM
27 WITH YOU. THEN THERE WAS A MOTION THAT WAS FILED TODAY
28 THAT I HAVEN'T HAD AN OPPORTUNITY TO REVIEW. SO WE ARE

1 GOING TO HAVE TO DO THAT. I AGREE THE SOONER THE BETTER.
2 SO WHEN DOES COUNSEL WANT TO MEET AGAIN AND DEAL WITH
3 THESE ISSUES?

4 MR. JACKSON: YOUR HONOR, WE'RE CLOSED ON MONDAY.
5 TUESDAY I'VE GOT TO BE DOWNTOWN -- MR. DIXON AND I HAVE
6 TO BE DOWNTOWN. WEDNESDAY WOULD BE THE EARLIEST THAT WE
7 COULD MEET REASONABLY. OR IF THE COURT WANTS TO MEET ON
8 TUESDAY, I CAN COME HERE AND MR. DIXON COULD BE --

9 MR. SUMMERS: NO, I COULDN'T BE HERE ON TUESDAY,
10 YOUR HONOR.

11 THE COURT: ALL RIGHT. LET'S TRY FOR WEDNESDAY,
12 THEN.

13 MS. SARIS: THAT'S FINE.

14 MR. JACKSON: THAT'S FINE.

15 THE COURT: YOU WANT TO TRY FOR WEDNESDAY MORNING
16 10:00 A.M.?

17 MS. SARIS: 10:00.

18 THE COURT: NOW YOU MENTIONED ADDITIONAL MOTIONS
19 THAT ARE GOING TO BE FILED?

20 MS. SARIS: EVIDENTIARY PRETRIAL IN LIMINE
21 MOTIONS THAT I THINK WHILE IT MIGHT BE WORTH DISCUSSING,
22 MAYBE WHILE THE QUESTIONNAIRES ARE BEING XEROXED. I MEAN
23 THE D.A. KNOWS IT IS A MOTION TO INTRODUCE THIRD-PARTY
24 CULPABILITY INTO EVIDENCE.

25 MR. JACKSON HAS INDICATED TO ME THAT HE
26 DOES NOT INTEND TO ARGUE IN HIS OPENING STATEMENT
27 REGARDING WHAT WE'RE CALLING DOUBLE HEARSAY, THAT SOMEONE
28 HEARD MICKEY SAY SOMETHING. AND IF THAT'S THE CASE, THEN

1 THAT NEGATES THE NEED FOR ANOTHER MOTION THAT WE WERE
2 INTENDING TO FILE. I SUPPOSE WE COULD INQUIRE IF THAT
3 UNDERSTANDING IS STILL CORRECT.

4 MR. JACKSON: THAT IS CORRECT WITH THE EXCEPTION
5 OF I BELIEVE ONE PERSON WHOM WE BELIEVE THE EVIDENCE CODE
6 ALLOWS FOR AT THIS JUNCTURE AND THAT IS NOT A -- JUST SO
7 WE'RE CLEAR, THAT IS NOT A REPRESENTATION THAT NONE OF
8 THAT EVIDENCE WILL BECOME RELEVANT OR RIPE DURING THE
9 COURSE OF THE TRIAL. MS. SARIS ASKED ME A VERY POINTED
10 QUESTION, WHAT DO I INTEND TO ELICIT OR PROFFER IN MY
11 OPENING STATEMENT. THOSE STATEMENTS ARE NOT AMONG THEM.

12 MS. SARIS: THAT WAS JUST IN TERMS OF THE TIMING.
13 OBVIOUSLY, WE'RE GOING TO BE MAKING THE MOTION. WE DON'T
14 HAVE TO DO THAT BEFORE JURY SELECTION IF THAT'S THE CASE.

15 MR. JACKSON: AND WE DO HAVE SEVERAL 402'S THE
16 PEOPLE ANTICIPATE.

17 THE COURT: LET'S DO THIS, WHEN WE MEET ON
18 WEDNESDAY, PERHAPS WE CAN FINALIZE THE QUESTIONNAIRE.
19 AND YOU CAN -- BOTH SIDES CAN JUST GIVE ME A TENTATIVE ON
20 WHAT MOTIONS WE ARE GOING TO HAVE TO LITIGATE SO I CAN
21 LOOK AT THEM AND MAKE TIME. I MEAN I HAVE NOT GIVEN MY
22 CALENDAR UP YET. AND, YOU KNOW, UNTIL WE ARE IN SESSION
23 FULL TIME ON THIS, I'M HANGING ONTO MY CALENDAR.

24 SO, YOU KNOW, I WOULD LIKE TO GET AT LEAST
25 A HEADS UP ON WEDNESDAY AS TO THE NATURE OF SOME OF THESE
26 MOTIONS, THE AREAS THAT I'M GOING TO HAVE TO FAMILIARIZE
27 MYSELF WITH IF I NEED TO. SO MAYBE WE CAN DO ALL THAT ON
28 WEDNESDAY. DO YOU WANT TO APPROACH THE BENCH ON THE

1 980'S AND I WILL SHOW THEM TO COUNSEL AND THEN YOU CAN
2 DISCUSS.

3 (SIDEBAR DISCUSSION, NOT REPORTED.)

4 THE COURT: BACK ON THE RECORD.

5 WE JUST HAD A BENCH DISCUSSION REGARDING
6 THE TWO 980 REQUESTS THAT THE COURT HAS RECEIVED. AND TO
7 DATE I HAVE RECEIVED A 980 REQUEST FROM 48 HOURS.

8 IS THERE ANYONE HERE FROM 48 HOURS?

9 I DON'T THINK SO. AND I HAVE RECEIVED A
10 980 REQUEST FROM KABC TV.

11 IS THERE ANYBODY HERE FROM KABC?

12 NOBODY. OKAY.

13 IF THEY DO INQUIRE, I GUESS I WILL ASK THE
14 CLERK TO LET THEM KNOW THAT COUNSEL AND I HAVE DISCUSSED
15 THE MATTER. AND WE ARE GOING TO TAKE UP ALL THE 980
16 REQUESTS ON WEDNESDAY. SO WE WILL SEE IF WE GET ANYBODY
17 SHOWING UP ON THAT DAY OR NOT. AND IF WE GET ANY FURTHER
18 REQUESTS, WE WILL DEAL WITH IT ON WEDNESDAY. SO WE WILL
19 RESUME ON WEDNESDAY THE 11TH, 10:00 O'CLOCK IN THE
20 MORNING.

21 WHAT ELSE DO WE NEED TO DISCUSS?
22 ANYTHING?

23 MR. JACKSON: YOUR HONOR, DID THE COURT RECEIVE
24 THE MOTIONS TO CONCERNING THE DISCOVERY ISSUES?

25 THE COURT: THE ONES THAT WERE FILED TODAY?

26 MR. JACKSON: CORRECT.

27 THE COURT: YES.

28 MR. JACKSON: I'M ASSUMING SINCE THE COURT HASN'T

1 MENTIONED THEM, YOU HAVE NOT HAD A CHANCE TO READ THEM?

2 THE COURT: I THOUGHT I MENTIONED THE ONES THAT
3 WERE FILED TODAY. I DIDN'T HAVE A CHANCE TO LOOK AT.
4 DID YOU WANT ME TO LOOK AT THEM TODAY?

5 MR. JACKSON: THE ONLY REASON IS -- NO, I DON'T
6 WANT TO BURDEN THE COURT WITH IT TODAY NECESSARILY.
7 SINCE WE'RE COMING BACK EARLY ENOUGH ON WEDNESDAY, I
8 GUESS WE COULD ADDRESS THOSE ISSUES ON WEDNESDAY. IT IS
9 GETTING LATE AND LATER AND LATER. AND THESE ARE
10 OUTSTANDING DISCOVERY ISSUES THAT THE PEOPLE BELIEVE --

11 THE COURT: I'M HAPPY TO DO IT TODAY. I JUST
12 HAVEN'T HAD A CHANCE TO READ IT. I'M HAPPY TO DO IT
13 TODAY. WHATEVER SUITS YOUR SCHEDULE. FOR ME THE EARLIER
14 THE BETTER, OBVIOUSLY, I WANT TO GET THESE THINGS DONE.

15 MR. JACKSON: IT'S FINE WITH ME. I'VE GOT NO
16 PLACE TO BE. IT'S 11:30.

17 THE COURT: WHY DON'T YOU GIVE ME A FEW MINUTES
18 AND I WILL TAKE A LOOK AT WHAT YOU EACH FILED AND WE WILL
19 WE WILL SEE WHAT WE CAN DO. OKAY?

20 MR. JACKSON: OKAY. FAIR ENOUGH.

21 (BRIEF RECESS.)

22 THE COURT: ALL RIGHT. LET'S RESUME ON THE
23 MICHAEL GOODWIN MATTER. HE IS PRESENT WITH COUNSEL. THE
24 PEOPLE ARE REPRESENTED.

25 I JUST REVIEWED THE MOTION TO COMPEL
26 DISCOVERY AND THE OPPOSITION, AS WELL AS I TOOK A LOOK AT
27 THE HINES CASE. I'M NOT CLEAR ON WHAT DEFENSE IS
28 CLAIMING IS WORK PRODUCT AND WHAT THE PEOPLE ARE SEEKING

1 THAT THEY DON'T ALREADY HAVE.

2 IT SOUNDS LIKE THE PEOPLE ARE SEEKING
3 NOTES OF THE EXPERT; IS THAT RIGHT?

4 MR. JACKSON: IT GOES A LITTLE BIT FURTHER THAN
5 THAT. I MADE AN INFORMAL REQUEST OF MS. SARIS AS TO
6 MS. PEZDEK SPECIFICALLY --

7 MS. SARIS: DOCTOR.

8 MR. JACKSON: AS TO MS. PEZDEK SPECIFICALLY
9 REGARDING HER REPORT INDICATING THAT SHE HAS REVIEWED
10 CERTAIN MATERIALS THAT MS. SARIS SUPPLIED TO HER. I
11 SIMPLY ASKED MS. SARIS COULD I HAVE THOSE DOCUMENTS THAT
12 WERE ACTUALLY SUPPLIED TO MS. PEZDEK -- OR DR. PEZDEK ON
13 WHICH SHE BASED HER CONCLUSIONS AND ON WHICH SHE BASED
14 HER REPORT. I WOULD LIKE TO SEE WHAT SHE REVIEWED AND I
15 WOULD LIKE ANY RAW NOTES OR WHATEVER SHE PREPARED IN
16 ANTICIPATION OF TESTIMONY AND/OR PREPARATION FOR HER
17 REPORT THAT SHE SUBMITTED TO ME. AND THAT'S ALL I WAS
18 ASKING FOR.

19 AND I WOULD MAKE A CONSISTENT REQUEST
20 WITH -- I HAVEN'T MADE IT YET -- BUT WITH DR. ROTHBERG
21 AND ANY OTHER EXPERT THAT SHE HAS CALLED. IT WAS AT THAT
22 POINT AFTER WE HUNG UP THE PHONE AND MS. SARIS ORIGINALLY
23 SAID SURE, I'LL GET THAT TO YOU; AND THEN I GOT A PHONE
24 CALL AND AN E-MAIL INDICATING -- BY MS. SARIS INDICATING
25 THAT SHE BELIEVES SHE HAS MET HER REQUIREMENTS UNDER
26 SECTION 1054 BECAUSE THE NAME AND THE REPORT WAS PROVIDED
27 AND THAT'S ALL THE STATUTE COMPELS ME TO PROVIDE.

28 I THEN GOT AN E-MAIL AFTER I ASKED -- IN

1 THE INTERIM I HAD SENT AN E-MAIL TO DR. PEZDEK SAYING
2 DR. PEZDEK, I WOULD LIKE TO INTERVIEW YOU. AND SHE THEN
3 SUBMITTED AN E-MAIL THAT SAYS, "MR. JACKSON, I'VE
4 SUBMITTED MY REPORT TO THE ATTORNEY WHO IS REPRESENTING
5 MR. GOODWIN. IT IS MY UNDERSTANDING THAT SHE HAS GIVEN
6 YOU A COPY OF THAT REPORT. I WAS APPOINTED ON A
7 CONFIDENTIAL BASIS TO ASSIST THE DEFENSE AND HAVE BEEN
8 ADVISED BY DEFENSE COUNSEL THAT SHE IS ASSERTING A
9 CONFIDENTIALITY PRIVILEGE."

10 THAT'S CONSISTENT WITH AN E-MAIL -- I'M
11 SORRY -- A VOICE MAIL MESSAGE THAT I THEN GOT FROM
12 MS. SARIS INDICATING I'VE ADVISED MS. PEZDEK AND ALL OF
13 MY EXPERTS NOT TO COOPERATE WITH YOU; NOT TO TALK TO YOU;
14 NOT TO BE SUBJECT TO ANY INTERVIEWS WITH YOU; NOT SUPPLY
15 YOU WITH ANY DOCUMENTATION.

16 SO THAT'S WHY I FELT THAT COURT
17 INTERVENTION AT THIS POINT WAS NECESSARY.

18 THE COURT: ALL RIGHT. LET ME JUST ASK A
19 QUESTION, MS. SARIS, WITH RESPECT TO DR. PEZDEK,
20 PRESUMABLY SHE HAS WRITTEN A REPORT; GIVEN YOU AN OPINION
21 AS TO THE IDENTIFICATIONS AND WHATEVER ELSE SHE PUT IN
22 THE REPORT I'M NOT PRIVY TO OBVIOUSLY -- BUT YOU PROVIDED
23 THAT REPORT TO THE PEOPLE.

24 MS. SARIS: THAT'S CORRECT.

25 THE COURT: WHY CAN'T YOU PROVIDE IN A REDACTED
26 FORM THE INFORMATION THAT SHE RELIED ON?

27 MS. SARIS: BECAUSE THE STATUTE DONE COMPEL ME TO
28 UNDER HINES. IT IS A CASE DIRECTLY ON POINT. WHEN

1 MS. PEZDEK TAKES -- DR. PEZDEK TAKES THE STAND, THEN
2 COUNSEL CAN INQUIRE WHAT UNDERLYING REPORTS SHE USED IN
3 MAKING HER FINDINGS AND CAN BE PROVIDED THOSE.

4 BUT UNTIL SHE TAKES THE STAND, SHE'S NOT
5 BEING PRESENTED AS A WITNESS. 1054 COMPELS ME TO GIVE
6 THE NAMES AND REPORTS OF PEOPLE I INTEND TO CALL. AS I
7 SIT HERE NOW, I MAY NOT EVEN PUT ON A DEFENSE, BUT I'VE
8 COMPLIED. COUNSEL MAKES IT SOUND AS IF I'M HIDING
9 SOMETHING. HE HAS THE REPORT WEEKS BEFORE THE TRIAL;
10 WEEKS BEFORE SHE'S BEING CALLED TO THE STAND.

11 1054.3 SAYS FINDINGS. AND HINES
12 INTERPRETS THAT AND IT LITERALLY VERBATIM SAYS UNDERLYING
13 REPORT THAT THE EXPERT USED IN MAKING THEIR DETERMINATION
14 IS NOT SUBJECT TO PRETRIAL DISCOVERY.

15 MR. JACKSON: YOUR HONOR, ON THAT ISSUE, WHAT
16 HINES SAYS -- AND I'LL QUOTE FROM COUNSEL'S PAPERS ON
17 PAGE 4 -- THE HINES COURT WENT ON TO DISCUSS THE
18 UNDERLYING REPORTS WHICH MAY HAVE BEEN RELIED ON BY THE
19 EXPERT IN FORMATION OF AN OPINION. THE COURT EXPRESSLY
20 HELD THAT THESE WERE NOT DISCOVERABLE. THEY HELD, QUOTE,
21 THE REPORT OF A NON-TESTIFYING EXPERT, ET CETERA, ET
22 CETERA.

23 THEN TOWARD THE BOTTOM OF THAT QUOTE, THE
24 COURT'S ORDER REQUIRING PRETRIAL DISCOVERY OF SUBSIDIARY
25 INFORMATION UPON WHICH AN EXPERT RELIES, BUT DOES NOT
26 INTEND TO OFFER INTO EVIDENCE IS NOT DISCOVERABLE.

27 IN HINES IT WAS -- WHAT WAS REQUESTED FROM
28 THE PROSECUTION WAS THE NOTES AND UNDERLYING DATA FROM AN

1 ADDITIONAL DOCTOR THAT WAS NEVER GOING TO BE CALLED BY
2 THE DEFENSE. HINES IS NOT ON POINT. YOU CAN'T EVEN
3 SQUARE IT WITH THE FACTS OF THE PRESENT CASE.

4 AND FOR MS. SARIS TO NOW CLAIM AFTER I'VE
5 RECEIVED A CURRICULUM VITAE AND A REPORT FROM DR. PEZDEK;
6 AND DR. PEZDEK HAS INDICATED SPECIFICALLY IN HER E-MAIL
7 THAT SHE INTENDS TO TESTIFY; AND FOR MS. SARIS TO PUT HER
8 ON HER WITNESS LIST, THEN TO COME TO COURT AND TRY TO
9 HIDE BEHIND IZAZAGA, ET CETERA, TO SAY I DON'T KNOW IF
10 I'M GOING TO CALL HER YET, THAT IS PURE UNADULTERATED
11 GAMESMANSHIP AND IT'S NOT ALLOWED.

12 MS. SARIS: YOUR HONOR, OBVIOUSLY HE HASN'T READ
13 THE ENTIRETY OF HINES. THE DOCTOR IN HINES WAS RELYING
14 ON ANOTHER DOCTOR'S REPORT. WHEN IT SAYS THE REPORT OF A
15 NON-TESTIFYING EXPERT, THEY'RE SPEAKING OF THE REPORT OF
16 THE OTHER PERSON ON WHICH THE DOCTOR THEY DISCLOSED
17 RELIED.

18 MR. JACKSON: AND THAT'S NOT WHAT I'M ASKING --

19 MS. SARIS: THIS IDEA OF GAMESMANSHIP --

20 THE COURT: HANG ON A SECOND.

21 MS. SARIS: I MEAN COUNSEL HAS A TENANCY OF
22 WHINING WHAT HE DOESN'T GET WHEN HE'S NOT ENTITLED TO IT.
23 DR. PEZDEK GAVE A REPORT. THAT REPORT INDICATED WHAT SHE
24 REVIEWED AND HOW SHE GOT TO HER CONCLUSION. THE REST IS
25 CROSS-EXAMINATION.

26 THE COURT: OKAY. MY QUESTION IS WHAT IS THE
27 PROBLEM WITH PROVIDING WHAT SHE REVIEWED? IF SHE
28 REFERRED TO IT IN HER REPORT AND INDICATED THAT BASED ON

1 HER REVIEW OF CERTAIN THINGS, SHE FORMED THE FOLLOWING
2 OPINION, HOW IS THAT OUTSIDE THE DISCOVERY STATUTE?

3 MS. SARIS: BECAUSE IT IS SPECIFICALLY OUTSIDE
4 THE DISCOVERY STATUTE. HINES SAID THAT WE DO NOT HAVE TO
5 GIVE WHAT SHE RELIED ON INFORMING HER OPINION.

6 THE COURT: OKAY.

7 MS. SARIS: AND IT ACTUALLY SAYS THAT THE RULING
8 MADE IN HINES WAS OVERBROAD.

9 THE COURT: CORRECT. BUT THE COURT NARROWED IT
10 DOWN AND INDICATED THAT THE DEFINITION OR THE WAY THEY
11 WERE DESCRIBED, PHRASE REPORTS OR DOCUMENTS --

12 MS. SARIS: DOCUMENTATION OR STATEMENTS OF THIRD
13 PERSONS WHICH THE TESTIFYING EXPERT HAS REFERRED TO,
14 CONSIDERED, OR RELIED ON IN CONNECTION WITH SAID OPINION
15 THAT COUNSEL INTENDS TO OFFER AT TRIAL. THAT WAS THE
16 ORDER MADE BY THE COURT AND THAT WAS DETERMINED BY HINES
17 TO BE OVERBROAD.

18 THE COURT: THEY INCLUDED IN THE DEFINITION OF
19 REPORTS OR DOCUMENTS, ORIGINAL DOCUMENTATION OF
20 EXAMINATIONS, TESTS, EXPERIMENTS, OR COMPARISONS.

21 MS. SARIS: AND THERE WEREN'T ANY OF THOSE.

22 MR. JACKSON: AND THAT'S --

23 MS. SARIS: SHE REVIEWED REPORTS OF WHAT IS IN
24 THE DISCOVERY TO MAKE HER OWN OPINION. SHE DIDN'T GO OUT
25 AND CONDUCT ANYTHING.

26 THE COURT: WELL, THEN --

27 MS. SARIS: SHE DIDN'T TALK TO MR. GOODWIN.

28 MR. JACKSON: THEN I'M NOT ASKING FOR THAT

1 INFORMATION. I JUST WANT TO KNOW WHAT SHE DID RELY ON.
2 AND IN THE REPORT IT INDICATES CERTAIN DOCUMENTS WERE
3 SUPPLIED TO HER. I WANT TO KNOW WHAT IT WAS. AND I
4 SHOULDN'T CERTAINLY HAVE TO WAIT UNTIL THE DOCTOR IS
5 CALLED TO THE STAND AND HER OUTRIGHT: WHAT DID YOU RELY
6 ON?

7 MS. SARIS: THAT'S EXACTLY WHEN THE LAW REQUIRES.

8 MR. JACKSON: NO, IT DOESN'T.

9 THE COURT: NO. MY ORDER IS GOING TO BE AS
10 FOLLOWS: THAT I THINK THE DEFENSE HAS TO COMPLY WITH
11 1054 BY PROVIDING REPORTS OR DOCUMENTS. AND THOSE
12 REPORTS OR DOCUMENTS INCLUDE, DOCUMENTATION OF
13 EXAMINATIONS, TESTS, EXPERIMENTS OR COMPARISONS. NOTHING
14 THAT HAS TO DO WITH CONVERSATIONS WITH DEFENSE COUNSEL
15 WORK PRODUCT PRIVILEGED MATERIAL, NONE OF THAT HAS TO BE
16 PROVIDED. BUT I DO THINK SHE HAS TO PROVIDE INFORMATION
17 AS TO WHAT SHE RELIED ON.

18 MS. SARIS: THE COURT IS SAYING --

19 THE COURT: THAT'S NOT PRIVILEGED.

20 MS. SARIS: THE COURT IS SAYING TWO DIFFERENT
21 THINGS AND THAT'S WHY I'M CONFUSED.

22 THE COURT: NO. I'M READING RIGHT FROM HINES.
23 AND I'M SAYING THIS IS HOW THEY'RE DEFINING REPORTS OR
24 DOCUMENTS. AND I AGREE. IF SHE CONDUCTED A TEST --

25 MS. SARIS: OKAY. THAT'S DIFFERENT THAN SAYING I
26 NEED TO REPORT INFORMATION SHE RELIED ON. SHE DID NOT
27 CONDUCT ANY TESTS. NOW IS THE COURT SEPARATELY ASKING ME
28 TO PICK OUT OF THE 40,000 PAGES OF DISCOVERY THE POLICE

1 REPORTS THAT SHE REVIEWED; THE INTERVIEWS THAT SHE
2 REVIEWED. I DON'T THINK I'M REQUIRED TO DO THAT.

3 THE COURT: I THINK WHATEVER SHE DID IN RENDERING
4 HER OPINION, WHATEVER SHE LOOKED AT IN RENDERING HER
5 OPINION IS SOMETHING THAT IS GOING TO HAVE TO BE PROVIDED
6 AT SOME POINT.

7 MS. SARIS: AND I AM IN ABSOLUTE AGREEMENT, WHEN
8 SHE TAKES THE STAND. I AM OBJECTING TO A PRETRIAL --

9 THE COURT: I THINK WE HAVE A LEGITIMATE
10 DISAGREEMENT THERE. I MEAN TECHNICALLY, YES, UNTIL SHE
11 TAKES THE STAND AND RENDERS HER OPINION, NOBODY IS
12 ENTITLED TO LOOK AT ANYTHING SHE RELIED ON. BUT THE
13 REALITY IS I'M NOT GOING TO INTERRUPT THIS TRIAL IF THERE
14 IS GOING TO BE A DISCOVERY ISSUE IN THE MIDDLE OF IT.
15 AND I'M NOT GOING TO DELAY THE TESTIMONY OF A WITNESS WHO
16 DIDN'T PROVIDE ALL OF THE INFORMATION RELIED ON, EXCEPT
17 FOR PRODUCT AND OTHER PRIVILEGED MATERIAL.

18 IF YOU HAVE A QUESTION ABOUT COMPLYING
19 WITH THE COURT'S ORDER, YOU CAN SUBMIT YOUR INFORMATION
20 UNDER SEAL. AND I WILL DO AN IN CAMERA AND TAKE OUT WHAT
21 IS PERCEIVED OR CLAIMED TO BE VALID WORK PRODUCT. I
22 THINK WHAT SHE RELIED ON, EXAMINATIONS, TESTS,
23 EXPERIMENTS, COMPARISONS, I DON'T KNOW HOW MUCH CLEARER I
24 CAN MAKE IT.

25 MR. JACKSON: AND ON THAT ISSUE, YOUR HONOR, JUST
26 SO WE'RE CLEAR, I DON'T WANT TO HAVE TO COME BACK TO THE
27 COURT YET AGAIN IF MS. SARIS'S NEXT COMMENT WHEN WE GO
28 OFF THE RECORD AND I ASK HER FOR THE STUFF IS, WELL, ALL

1 OF THIS IS WORK PRODUCT, I WOULD POINT THE COURT TO THE
2 WOODS CASE, WOODS VERSUS SUPERIOR COURT 1994, 25 CAL. APP
3 4TH, 178, SPECIFICALLY AT PAGE 187 I QUOTED WOODS IN MY
4 MOVING PAPERS, QUOTE, ELECTING TO PRESENT THE EXPERT AS A
5 WITNESS DESTROYS THE WORK PRODUCT PRIVILEGE.

6 MS. SARIS: AND THE DISAGREEMENT IS NOT WITH THE
7 STATEMENT. IT'S WITH --

8 THE COURT: TIMING.

9 MS. SARIS: I AGREE. AND I'M NOT DISAGREEING
10 WITH THE COURT THAT WERE THIS WITNESS TO TESTIFY AT
11 TRIAL, HE WOULD BE ENTITLED TO KNOW THAT. IF THIS COURT
12 IS ASKING ME TO DISCLOSE THAT EARLY, I'M ASKING THE COURT
13 FOR AUTHORITY TO DO THAT. IF THIS COURT IS SAYING I HAVE
14 TO DO THAT WITHOUT AUTHORITY, THEN I'M ASKING THE COURT
15 FOR A TRANSCRIPT.

16 I DO NOT INTEND TO DISCLOSE THIS PRETRIAL.
17 I WILL DISCLOSE IT -- AND I FEEL AS IF WE'RE BEING
18 THREATENED THAT SHE MAY TAKE THE STAND, WHICH IS HER
19 RIGHT, AND DISCLOSE IT AT THAT TIME AND THEN SOMETHING
20 BAD IS GOING TO HAPPEN. THAT'S WHAT THE LAW ALLOWS ME TO
21 DO AND THAT'S WHAT I INTEND TO DO.

22 MR. JACKSON: JUDGE, IS COUNSEL MAKING, AS AN
23 OFFICER OF THE COURT AND A MEMBER OF THE CALIFORNIA BAR,
24 IS COUNSEL LITERALLY MAKING THE STATEMENT -- AND I WOULD
25 LIKE TO GET THIS CLEAR -- THAT SHE IS UNDETERMINED AT
26 THIS POINT WHETHER OR NOT DR. PEZDEK WILL EVEN TESTIFY
27 KNOWING THAT TONI AND RON STEVENS ARE ON MY WITNESS LIST?
28 BOTH OF THOSE INDIVIDUALS HAVE POSITIVELY IDENTIFIED HER

1 CLIENT AS BEING AT OR NEAR THE CRIME SCENE WITHIN DAYS OF
2 THE CRIME. AND SHE KNOWS THAT I'M GOING TO PROFFER THAT
3 INFORMATION. YET SHE IS SAYING THAT THAT I.D. WITNESS
4 EXPERT, SHE'S NOT SURE IF SHE'S GOING TO USE HER YET.

5 THE COURT: I DON'T THINK SHE IS SAYING THAT.

6 MS. SARIS: I CAN SAY THAT. THESE ARE LAUGHABLE
7 WITNESSES THAT MAY PROVE THEMSELVES TO BE LAUGHABLE
8 WITNESSES IN FRONT OF THE JURY.

9 THE COURT: YOU ARE SAYING THAT? OKAY.

10 MS. SARIS: AND IF THAT IS THE CASE, THEN I WILL
11 NOT CALL THIS INDIVIDUAL. ON THE CHANCE THAT I DO INTEND
12 TO CALL HER, IF THEY COME UP WITH SOMETHING DIFFERENT AT
13 THE PRELIM AND SOUND MORE BELIEVE THAN INDIVIDUALS WHO
14 SAW SOMETHING FROM 80 FEET AWAY 14 YEARS AGO; AND I THINK
15 THAT AN EXPERT IS NECESSARY, THEN I WILL CALL THIS
16 WITNESS.

17 DO I LIKE CALLING EXPERT WITNESSES WHEN I
18 DON'T HAVE TO? ABSOLUTELY NOT. DID I TURN OVER THAT
19 REPORT IN AN ABUNDANCE OF CAUTION? YES, I DID. AND I'M
20 REQUIRED TO GIVE THE DISTRICT ATTORNEY WHAT SHE RELIED ON
21 WHEN I CALL HER TO THE STAND AND NOT ANY EARLIER.

22 THE COURT: KEEP IN MIND ONE THING, THOUGH. YOU
23 DON'T HAVE AN ABSOLUTE RIGHT TO PRESENT THIS TESTIMONY IF
24 THERE IS AN OBJECTION TO IT. AND THE COURT HAS TO
25 LITIGATE THAT ISSUE OUTSIDE THE PRESENCE OF THE JURY AND
26 YOU KNOW THAT.

27 MS. SARIS: I'M HAPPY TO SHOW THE COURT WHAT SHE
28 RELIED ON.

1 THE COURT: WHENEVER YOU MAKE UP YOUR MIND -- AND
2 I THINK IT GOES WITHOUT SAYING THAT THE TESTIMONY WE
3 ALREADY HEARD FROM THE PRELIMINARY HEARING REGARDING THE
4 EYEWITNESS IDENTIFICATION OF DAYS EARLIER, YOU KNOW, I
5 THINK IT'S FAIR TO SAY THAT YOU CAN REASONABLY ANTICIPATE
6 THAT I.D. IS GOING TO BE AN ISSUE AND YOU WOULD PROBABLY
7 LIKE TO CALL THE DOCTOR. THAT'S WHAT I'M HEARING.

8 MS. SARIS: I CAN REASONABLY ANTICIPATE THAT IT
9 WON'T BE NECESSARY BECAUSE IT DOESN'T PASS THE LAUGH
10 TEST. IF THE COURT WANTS ME TO SHOW YOU WHICH POLICE
11 REPORTS AND INTERVIEWS WITH THE STEVENSES DR. PEZDEK
12 RELIED ON I WILL DO SO. BUT NOTHING --

13 THE COURT: I'M ORDERING YOU TELL THE PEOPLE. I
14 DON'T WANT TO KNOW.

15 MS. SARIS: IF THAT IS THE RULING, THEN BEFORE I
16 AM COMPELLED TO MAKE THAT DISCLOSURE, I WOULD ASK THE
17 COURT FOR A TRANSCRIPT OF THESE PROCEEDINGS. THIS IS
18 EXACTLY WHAT HINES HAS PROHIBITED UNTIL SHE TAKES THE
19 STAND.

20 THE COURT: I'M NOT GOING TO ORDER A TRANSCRIPT.
21 WHAT I AM GOING TO ORDER IS IF YOU BELIEVE THAT IN
22 DISCLOSING THIS INFORMATION IS COVERED BY A VALID
23 PRIVILEGE, YOU MAY CLAIM THAT PRIVILEGE AND PRESENT TO ME
24 THE DOCUMENTATION UNDER SEAL AND POINT OUT WHICH AREAS OF
25 THE DOCUMENT YOU THINK ARE COVERED BY EITHER
26 ATTORNEY/CLIENT OR WORK PRODUCT PRIVILEGE.

27 AND AT THAT POINT IF WE HAVE A
28 DISAGREEMENT, I WILL MAKE MY COURT REPORTER WORK

1 OVERTIME; DO A TRANSCRIPT; AND YOU CAN TAKE IT UP. BUT
2 AT THIS POINT, I'M JUST SAYING I THINK YOU SHOULD
3 DISCLOSE WHATEVER INFORMATION SHE RELIED ON, IF IT'S
4 POLICE REPORTS AND OTHER THINGS THAT DO NOT FALL UNDER
5 THE ATTORNEY/CLIENT WORK PRODUCT PRIVILEGE, YOU SHOULD
6 DISCLOSE THEM. ONLY BECAUSE -- ONLY BECAUSE I'M TELLING
7 YOU UP FRONT, I'M NOT GOING TO DELAY THIS CASE.

8 MS. SARIS: I DON'T KNOW WHAT "SHOULD DISCLOSE"
9 MEANS. I MEAN AT ONE POINT THIS COURT INDICATED THE
10 DISTRICT ATTORNEY "SHOULD" RECUSE THEMSELVES. IS IT THAT
11 WHOLE BINDING OF A RULING?

12 THE COURT: I'M SAYING IF THERE IS FURTHER
13 LITIGATION ON THIS VERY ISSUE, THIS IS ONE OF THE THINGS
14 THAT'S GOING TO COME UP. AND IF YOU INTERPRET MY
15 "SHOULD" AS "YOU DON'T HAVE TO," THEN BE PREPARED LATER
16 ON IF YOU WANT TO CALL THE WITNESS THAT IT MIGHT
17 NECESSITATE A HEARING, WHICH MIGHT NECESSITATE FURTHER
18 DELAY, WHICH I'M NOT INCLINED TO DO.

19 SO YOU DO WHATEVER YOU WANT TO DO BASED ON
20 WHAT I JUST SAID. BUT I THINK THAT TO PREVENT US FROM
21 HAVING TO DELAY THIS CASE OR MISTRY THIS CASE, THAT YOU
22 SHOULD.

23 MS. SARIS: AND I THINK I'LL MAKE THAT DECISION
24 AFTER I HEAR THE STEVENSES TESTIFY. AND I THINK THAT IF
25 THE COURT IS ASKING FOR ANYTHING PRIOR TO THAT, I AGAIN
26 AM ASKING FOR A TRANSCRIPT. THIS IS AN ABSOLUTE ALREADY
27 DECIDED UPON ISSUE. WHAT MY EXPERT RELIED UPON IS NOT
28 DISCOVERABLE UNTIL SHE TESTIFIES.

1 AND THE THREAT OF A MISTRIAL OR POTENTIAL
2 SANCTIONS, IT CAN'T GET AROUND THE DISCOVERY STATUTE.

3 THE COURT: IT'S NOT A THREAT.

4 MS. SARIS: THAT'S WHAT I'M HEARING.

5 THE COURT: THE ISSUE IS GOING TO BE RAISED, I'M
6 SURE, IN A PRETRIAL MOTION BEFORE THIS WITNESS TESTIFIES.
7 AT THAT POINT -- I MEAN I DON'T KNOW WHY WE ARE ARGUING
8 ABOUT THIS. AT THAT POINT THESE ISSUES ARE GOING TO
9 ARISE AS TO WHAT HER OPINION IS AND WHETHER IT'S
10 ADMISSIBLE AND WHAT SHE RELIED ON. AND IF THERE IS
11 SOMETHING THAT IS I GUESS SIGNIFICANT AND OF CONSEQUENCE
12 TO THE PEOPLE THAT THEY DON'T HAVE, WHAT IS GOING TO
13 HAPPEN AT THAT POINT?

14 MS. SARIS: I'LL TELL THE COURT THERE IS NOTHING
15 THE PEOPLE DON'T HAVE. AND IT SHOULD BE OBVIOUS FROM
16 READING THE REPORTS WHAT SHE RELIED ON. SHE HAS
17 CONDUCTED ABSOLUTELY NO INDEPENDENT EXAMINATION. SHE'S
18 NOT MET THE STEVENSES. SHE IS A PSYCHOLOGIST TESTIFYING
19 AS TO GENERALLY ACCEPTED PRINCIPLES IN THE COMMUNITY.

20 THE COURT: AND WHETHER OR NOT THAT TESTIMONY IS
21 GOING TO BE ADMISSIBLE, IF YOU CHOOSE TO PRESENT IT, WILL
22 BE UP TO THE COURT. AND I'M JUST SIMPLY TELLING YOU WHAT
23 THE CONSIDERATIONS MIGHT BE OR MIGHT BE RAISED AT THAT
24 TIME. SO IF YOU ARE MAKING A REPRESENTATION THAT YOU
25 DON'T BELIEVE THAT THERE IS ANYTHING THAT THEY NEED THAT
26 THEY DON'T HAVE --

27 MS. SARIS: I'M MAKING THE REPRESENTATION --

28 THE COURT: -- THEN THERE SHOULDN'T BE ANY

1 PROBLEM. OKAY?

2 MR. JACKSON: AND I WOULD -- NOT TO BE BEAT A
3 DEAD HORSE. I WOULD END THIS BY MAKING SURE THAT
4 EVERYBODY IS CLEAR SO MS. SARIS DOESN'T SAY, WELL, HE
5 NEVER ASKED FOR IT AGAIN. I'M ASKING FOR ALL SUCH
6 RESPONSIVE DOCUMENTATION. AND BASED ON THE LAST LINE OF
7 MS. SARIS'S E-MAIL, "I'VE ADVISED HER OF MY POSITION" --
8 MEANING DR. PEZDEK -- "AND I'VE ADVISED MY OTHER EXPERTS
9 OF THIS POSITION AS WELL" TELLS ME THAT MS. SARIS HAS
10 SYSTEMATICALLY TOLD HER EXPERTS DO NOT SUBMIT TO AN
11 INTERVIEW WITH ME; DO NOT SUBMIT ANY PAPERWORK OR
12 DOCUMENTATION UPON ANY REQUEST.

13 I WANT TO MAKE IT CLEAR THAT ON THE RECORD
14 I AM REQUESTING ALL RESPONSIVE DOCUMENTATION UNDER 1054
15 AND THE CASE LAW PROGENY THAT FOLLOWS FOR ALL OF HER
16 EXPERTS, NOT JUST DR. PEZDEK.

17 MS. SARIS: THEY'VE BEEN COMPLIED TO TO DATE.
18 COUNSEL HAS THOSE REPORTS. THE FACT THAT I TURNED THEM
19 OVER EARLY SHOULD NOT BE THE BASIS OF HIM COMING IN AND
20 ACCUSING ME OF GAMESMANSHIP. HE GOT REPORTS THAT MOST
21 DEFENSE LAWYERS WOULDN'T GET UNTIL THE PERSON TOOK THE
22 STAND AND HE HAS THEM NOW. AND HE HAS AMPLE OPPORTUNITY
23 TO TALK TO THEM. THEY'RE ALL GROWN UP. I'VE NOT ADVISED
24 ANY OF THEM NOT TO SPEAK TO HIM.

25 I'VE ADVISED THEM THAT I'M CLAIMING A WORK
26 PRODUCT PRIVILEGE IN OUR COMMUNICATIONS REGARDING THAT.
27 AND THAT THE SAFEST BET WOULD BE TO HAVE ME THERE OR NOT
28 TO SPEAK TO THEM AT ALL. THE OTHER EXPERT IS

1 DR. ROTHBERG. COUNSEL WAS HERE WHEN THE COURT GAVE US
2 THOSE DOCUMENTS ON WHICH DR. ROTHBERG RELIED. I'VE
3 ALREADY ADVISED HIM AND I PUT IN MY MOTION HE HAS
4 CONDUCTED NO TESTS ON HIS OWN.

5 I ALSO HAVE A MOTION IN THE OPPOSITION
6 UNDER 913 TO PREVENT DISTRICT ATTORNEY JACKSON OR DIXON
7 FROM ASKING REGARDING THAT PRIVILEGE. AND I WOULD ASK A
8 RULING ON THAT MOTION IF AND WHEN THEY INTEND TO ASK DID
9 YOU GET AN INQUIRY THAT BECAUSE OF LAWYER'S ADVICE THEY
10 DIDN'T -- I DON'T WANT THEM TO BE HELD LIABLE UNDER 913.

11 THE COURT: THESE ARE ISSUES THAT I'M SURE ARE
12 GOING TO BE ARISE LATER ON. AND I DON'T KNOW WHAT ELSE I
13 CAN SAY TO TRY TO RESOLVE THEM. I'VE GIVEN YOU MY
14 OPINION AND THE SIGNIFICANCE OF DELAYING DISCLOSURE, IF
15 THAT'S WHAT IS GOING ON. NOT THAT YOU DON'T HAVE A RIGHT
16 TO, BUT I DON'T WANT TO BE IN A SITUATION WHERE A WITNESS
17 IS GOING TO TESTIFY AND FOR THE FIRST TIME THE PEOPLE ARE
18 GOING TO GET A PILE OF DOCUMENTS THAT THEY HAVEN'T SEEN.

19 MS. SARIS: IT'S NOTHING THEY HAVEN'T SEEN. I
20 CAN MAKE THAT ON THE RECORD NOW. EVERYTHING THAT HAS
21 BEEN GIVEN IS SOMEWHERE -- IS INTERVIEWS, REPORTS,
22 POLICE. THEY'VE DONE NO INDEPENDENT EXPERIMENTATION.
23 THE ONE INDIVIDUAL WHO HAS LOOKED AT DOCUMENTS, HIS
24 REPORT IS PENDING. COUNSEL KNOWS THAT.

25 THE COURT: OKAY. I THINK I HAVE TO LEAVE IT AT
26 THAT. I JUST DON'T KNOW WHAT ELSE DO I CAN DO.

27 MR. DIXON: THANK YOU.

28 MR. JACKSON: THANK YOU, YOUR HONOR.

1 THE COURT: SEE YOU ON THE 11TH. THANK YOU.

2 MS. SARIS: NOTHING ELSE, YOUR HONOR. THANK YOU.

3
4 (THE MATTER WAS CONTINUED TO WEDNESDAY,
5 OCTOBER 11, 2006 AT 8:30 A.M.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, OCTOBER 11, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
16 THE MICHAEL GOODWIN MATTER, MR. GOODWIN IS PRESENT
17 COUNSEL. STATE YOUR APPEARANCES, PLEASE.

18 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
19 ON BEHALF OF MR. GOODWIN.

20 MR. SUMMERS: THOMAS SUMMERS, DEPUTY PUBLIC
21 DEFENDER ALSO ON BEHALF OF MR. GOODWIN.

22 MR. JACKSON: ALAN JACKSON, FOR THE PEOPLE, YOUR
23 HONOR.

24 MR. DIXON: PAT DIXON, DEPUTY DISTRICT ATTORNEY.

25 THE COURT: THANK YOU.

26 LAST TIME WE DISCUSSED DEALING WITH TWO
27 THINGS TODAY 980 REQUEST AND QUESTIONNAIRES.

28 MR. JACKSON: YES, YOUR HONOR.

1 MS. SARIS: WE HAVE A QUESTIONNAIRE. WE AGREE.

2 THE COURT: GOOD. OKAY.

3 MS. SARIS: TINY LITTLE ISSUE THOUGH ON THE
4 QUESTIONNAIRE. IT'S NOT EVEN THAT WE AGREE ON IT. WE
5 JUST WANT TO LET THE COURT KNOW.

6 THE COURT: ALL RIGHT. DO YOU HAVE AN EXTRA
7 COPY?

8 MR. JACKSON: YOUR HONOR, I CAN GIVE THE COURT MY
9 COPY.

10 THE COURT: THANK YOU.

11 MS. SARIS: MY ONLY ISSUE AT ALL -- IT'S NOT EVEN
12 AN ISSUE -- AND I THINK THE D.A. AGREES AND WE'RE UP TO
13 WHATEVER SUGGESTION THE COURT HAS. PAGE 15 ASKS FOR THE
14 SIGNATURE UNDER PENALTY OF PERJURY. MY SUGGESTION IS
15 EITHER MOVE TO THAT PAGE 2 OR TO TELL THE JURORS WHEN
16 THEY SIT, BEFORE THEY START WRITING, THAT YOU'RE GOING TO
17 BE ASKED TO SIGN THIS UNDER PENALTY OF PERJURY. I JUST
18 WANT THEM TO KNOW THAT BEFORE, NOT TO GET THAT AT THE
19 VERY END. SO IF THE COURT JUST ORALLY TELLS THEM THAT,
20 THAT'S FINE.

21 THE COURT: WELL, MY SUGGESTION WOULD BE TO PUT
22 IT ON THE FRONT SHEET.

23 MR. JACKSON: I CAN DO THAT EASILY.

24 THE COURT: AND WHAT I WOULD LIKE TO DO IS PUT IT
25 ON A TOP SHEET THAT WILL ALSO CONTAIN THEIR NAME AND
26 THEIR JURY IDENTIFICATION NUMBER AND THEN THE
27 VERIFICATION UNDER PENALTY OF PERJURY, SO WE CAN TEAR IT
28 OFF AND THEN REFER TO THEM BY THEIR NUMBERS OR THE LAST

1 FOUR NUMBERS OF THEIR JUROR I.D. NUMBER.

2 AND IF SOMEONE CAN PREPARE A TOP PAGE FOR
3 ME. I THINK THAT WOULD ACTUALLY WORK BEST. AND I MIGHT
4 ALSO SUGGEST THAT YOU MIGHT WANT TO PUT YOUR SYNOPSIS ON
5 THAT.

6 MR. JACKSON: YOUR HONOR, WE SPOKE LAST TIME WE
7 WERE HERE AND CORRECT ME IF I'M WRONG, I THOUGHT THAT WE
8 HAD DECIDED BECAUSE -- I KNOW WE TALKED ABOUT TWO
9 OPTIONS, EITHER PUTTING A SYNOPSIS ON THE FRONT TO TELL
10 THE JURORS A LITTLE BIT ABOUT WHAT THE CASE IS ABOUT; OR
11 ANOTHER OPTION BEING THAT THE COURT WOULD BASICALLY READ
12 OUT LOUD AND ORALLY TELL THEM WHAT THE ISSUE IS ABOUT.
13 AND I THOUGHT WE HAD DECIDED ON THE SECOND, THAT'S THE
14 ONLY REASON I DIDN'T PUT IT ON THERE.

15 THE COURT: NO. I DIDN'T EXPECT YOU TO. I JUST
16 THOUGHT OF THIS TOP SHEET WHEN I WAS GOING THROUGH IT
17 YESTERDAY AND REALIZED THAT THE VERIFICATION SHOULD BE ON
18 THE SAME PAGE AS THE NAME. AND THEN WE CAN TEAR THAT
19 OFF. BECAUSE I REALLY DON'T WANT THE NAME PAGE TO BE --

20 MS. SARIS: I'M SORRY. ARE YOU SAYING TEAR IT
21 OFF PRIOR TO THE --

22 THE COURT: IN OTHER WORDS, WHEN THEY RETURN
23 THEIR COMPLETED QUESTIONNAIRES, THEY WILL HAVE ON THE
24 FRONT PAGE THEIR NAME; THE JUROR I.D. NUMBER; AND THEIR
25 VERIFICATION UNDER PENALTY OF PERJURY; AND ANYTHING ELSE
26 YOU WANT TO PUT IN THERE. SO THAT MIGHT BE A GOOD PLACE
27 TO PUT A SYNOPSIS. MY PLAN WOULD BE SINCE THE
28 QUESTIONNAIRE THAT YOU ARE PROPOSING IS GOING TO HAVE THE

1 I.D. NUMBER ON THE TOP RIGHT-HAND CORNER OF EVERY PAGE,
2 THAT WE DON'T NEED A NAME ATTACHED TO THOSE
3 QUESTIONNAIRES. BUT WE WILL NEED THE TOP SHEET.

4 MS. SARIS: WELL, THE WAY THAT MR. JACKSON HAS IT
5 THAT I LIKE IS THE NAME ON THE FRONT PAGE AND DATE AND
6 THEN HERE IT SAYS AT THE VERY BOTTOM IT SAYS THANK YOU
7 FROM YOU. AND THEN THE BACK PAGE IT HAS THE
8 VERIFICATION. I WOULD JUST PUT THAT SECOND. BUT ARE YOU
9 SAYING THAT WE ARE NOT GOING TO GET A COPY OF THEIR NAME?

10 THE COURT: NO, I'M NOT SAYING THAT.

11 MS. SARIS: WHEN DO WE TEAR IT OFF I GUESS IS THE
12 QUESTION, BEFORE WE XEROX IT OR AFTER?

13 THE COURT: AFTER. HOW IS THAT?

14 MS. SARIS: OKAY.

15 MR. JACKSON: SURE.

16 MS. SARIS: I STILL DON'T --

17 THE COURT: THESE ARE PUBLIC DOCUMENTS. AND AS
18 YOU KNOW, WE GENERALLY IN CRIMINAL CASES REFER TO JURORS
19 BY THEIR NUMBER. AND WE DON'T HAVE -- WELL, I DON'T USE
20 QUESTIONNAIRES. SO I CAN CONTROL WHETHER OR NOT A JUROR
21 IS REFERRED TO BY NAME WHEN WE'RE ON THE RECORD. AND WE
22 MAKE EVERY EFFORT TO NEVER REFER TO A JUROR BY NAME.

23 I THINK IT MAKES THE JURORS FEEL A LITTLE
24 BIT MORE COMFORTABLE AS WELL. SO THAT'S JUST WHAT I'M
25 PROPOSING SO THAT THE ENTIRE QUESTIONNAIRE NOT HAVE THE
26 NAME ATTACHED, BUT A REFERENCE TO THE NUMBER.

27 MR. JACKSON: YOUR HONOR, IF THE COURT -- SINCE
28 I'M KIND OF GOING TO DO THE LEG WORK, I WANT TO MAKE SURE

1 I GET THE COURT'S INSTRUCTIONS CLEAR. IF THE COURT WOULD
2 TURN THE PAGE -- THE SECOND PAGE BEHIND THE TOP SHEET,
3 THE FIRST COUPLE OF QUESTIONS OBVIOUSLY HAVE -- ONE OF
4 THEM HAS THE JURORS'S NAME FULL NAME; CORRECT?

5 MS. SARIS: NO.

6 THE COURT: I THOUGHT YOU TOOK THAT OUT.

7 MS. SARIS: NO, IT DOESN'T, THOUGH.

8 MR. JACKSON: IT DOESN'T? OKAY. MY MISTAKE. I
9 WAS THINKING THAT I HAD PLACED A QUESTION FOR THE NAME
10 HERE. OKAY. THAT'S FINE. THAT'S FINE. I CAN DO THAT
11 VERY EASILY.

12 THE COURT: AND I'M JUST SUGGESTING THAT JUST IN
13 AN EFFORT TO KEEP EVERYTHING TOGETHER IT MIGHT BE A GOOD
14 IDEA IF YOU CAN FIT IT ON THE VERIFICATION PAGE THAT YOU
15 MIGHT WANT TO PUT THE AGREED-UPON SYNOPSIS --

16 MR. JACKSON: I CAN --

17 MS. SARIS: I DON'T THINK THAT'S NECESSARY AND I
18 THINK IT WOULD TAKE IT OUT OF THIS ORDER. ONE OF THE
19 THINGS THAT MR. JACKSON CONVINCED ME OF WAS THE COUPLING
20 OF THE QUESTIONS MAKES SENSE THE WAY THEY'RE COUPLED.
21 AND IF THE COURT IS GOING TO READ IT ORALLY, IT JUST
22 SEEMS THE SYNOPSIS SHOULD COME BEFORE THE QUESTIONS
23 REGARDING THE TOPIC.

24 IN OTHER WORDS, THE FIRST PART IS ALL VERY
25 GENERAL: WHO ARE YOU? AND THEN THE SECOND PART IS YOUR
26 EXPERIENCE. AND THEN THE THIRD PART IS THE KNOWLEDGE OF
27 THE CASE. AND THAT'S WHERE --

28 THE COURT: I'M NOT SUGGESTING THAT WE TAKE

1 OUT --

2 MR. JACKSON: I CAN JUST COPY AND PASTE IT, THAT
3 PARAGRAPH.

4 THE COURT: NO. WE CAN LEAVE IT IN THE BODY
5 WHEREVER YOU AGREED TO PUT IT.

6 MR. JACKSON: RIGHT.

7 THE COURT: BUT AS WE DISCUSSED LAST TIME, I
8 WOULD LIKE THEM TO KNOW UP FRONT WHICH CASE IT IS. AND I
9 WAS GOING TO READ THAT TO THEM. BUT SINCE WE ARE GOING
10 TO DO A FACE SHEET THAT WE ARE GOING TO PULL OFF
11 ANYWAY -- IF YOU CAN FIT IT. IF YOU CAN'T FIT IT, LET'S
12 NOT DO IT.

13 MR. JACKSON: NO. NO. IT IS A SMALL PARAGRAPH
14 AND I CAN COPY AND PASTE TO THE FRONT AS WELL.

15 MS. SARIS: MY REFERENCE WOULD BE TO HAVE IT READ
16 TO THEM.

17 THE COURT: YOU WHAT?

18 MS. SARIS: MY PREFERENCE WOULD STILL BE TO HAVE
19 IT READ TO THEM AND LEAVE IT WHERE IT IS.

20 THE COURT: INSTEAD OF PUTTING ON THE FACE?

21 MS. SARIS: ON THE FACE SHEET.

22 THE COURT: OKAY. I DON'T CARE. IT WAS JUST A
23 SUGGESTION.

24 MR. JACKSON: WHATEVER THE COURT WANTS.

25 THE COURT: ALL RIGHT. AND DO WE NEED TO DISCUSS
26 ON THE QUESTIONNAIRE?

27 MS. SARIS: THAT'S IT.

28 THE COURT: I NOTICED THAT YOU TWO AGREED TO A

1 NUMBER OF QUESTIONS THAT I WANTED TAKEN OUT, BUT SO BE
2 IT.

3 MR. JACKSON: THERE WAS A --

4 MS. SARIS: I THINK ANY TIME WE AGREE.

5 MR. JACKSON: THERE WAS SOME NEGOTIATION.

6 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE ON
7 THE QUESTIONNAIRE ITSELF THAT WE NEED TO TALK ABOUT THEN?

8 MR. JACKSON: I DON'T BELIEVE SO, JUDGE.

9 MS. SARIS: NO.

10 THE COURT: ALL RIGHT. SO THE PLAN IS TO HAVE
11 ENOUGH OF THESE READY TO GO FOR MONDAY THE 16TH OR WHAT?

12 MR. JACKSON: YES, MA'AM.

13 THE COURT: MONDAY THE 16TH?

14 MS. SARIS: YES, THAT'S FINE. NOW THAT WE KNOW
15 IT'S APPROXIMATELY A TOTAL OF 15 PAGES, I GUESS 13 OF
16 WHICH ARE SUBSTANTIVE. I GUESS THE QUESTION IS THEN HOW
17 LONG DO WE GET TO --

18 THE COURT: THIS IS -- I THINK I MENTIONED THIS
19 LAST TIME. BUT IF NOT, I NEED TO MENTION IT TODAY. AS
20 YOU ALL KNOW THIS ONE TRIAL JURY SYSTEM REQUIRES A
21 CERTAIN NUMBER OF PROSPECTIVE JURORS TO BE ON CALL EACH
22 AND EVERY WEEK. SINCE OUR START DATE WAS SOMEWHAT FLUID,
23 WE DIDN'T ORDER AN EXTRA LARGE PANEL FOR THIS CASE,
24 THINKING THAT WE WOULD HAVE ENOUGH AT THE BEGINNING OF
25 THE WEEK.

26 I CHECKED WITH THE ASSISTANT SUPERVISING
27 JUDGE HERE BECAUSE WHAT I WOULD PROPOSE TO DO WOULD BE TO
28 ORDER IN PROBABLY HALF OF THE PROSPECTIVE JURORS THAT ARE

1 AVAILABLE TO COME IN ON MONDAY AND HARDSHIP THOSE
2 IMMEDIATELY. AND THEN RELEASE THEM BACK TO THE JURY ROOM
3 SO THAT ANYBODY ELSE NEEDING JURORS CAN GET THOSE JURORS.

4 I DON'T WANT TO BRING IN THE ENTIRE GROUP
5 OF PROSPECTIVE JURORS FOR THE WEEK ON MONDAY BECAUSE THEN
6 THAT'S GOING TO SHORT CHANGE PERHAPS SOMEONE ELSE LATER
7 IN THE WEEK. SO MY FEELING IS WE SEE HOW MANY WE GET
8 AFTER HARDSHIP MONDAY WITH MAYBE HALF OF THE PROJECTED
9 NUMBER. AND THEN WE MAKE A DETERMINATION AS TO WHETHER
10 OR NOT WE NEED TO BRING MORE PEOPLE IN THE NEXT DAY OR IF
11 WE CAN WAIT UNTIL WEDNESDAY OR THURSDAY, THAT WOULD BE
12 PREFERABLE.

13 BECAUSE IF THERE ARE OTHER CASES IN TRIAL,
14 I WOULD LIKE TO DO THE SAME THING WHERE WE CAN TRY TO
15 PRESERVE SOME OF THE JURORS THAT ARE GOING TO BE EXCUSED
16 IN THIS CASE FOR HARDSHIP REASONS.

17 MS. SARIS: THAT'S FINE BY US, HAVE AN A GROUP ON
18 MONDAY AND A B GROUP ON WEDNESDAY. AND TELL THE B GROUP
19 WE MAY NOT GET TO THEM.

20 THE COURT: I THINK WE WILL GET TO THE B GROUP
21 DEFINITELY. BUT MY ONLY CONCERN WAS WE MAY NOT EVEN
22 ENOUGH FROM THE FIRST GROUP ON THE 16TH TO GO TO
23 WEDNESDAY. WE MAY HAVE TO THEN, IF THAT'S THE CASE,
24 START THINKING ABOUT OTHER ALTERNATIVES. BUT IT GIVES US
25 A TREMENDOUS AMOUNT OF FLEXIBILITY.

26 MR. JACKSON: SURE. THAT'S FINE.

27 MS. SARIS: THAT'S FINE. DO WE KNOW HOW MANY
28 WE'RE EXPECTING ON MONDAY?

1 THE COURT: YES. THEY HAD GIVEN US THOSE NUMBERS
2 LAST TIME OR THE TIME BEFORE LAST. I KNOW I WROTE IT
3 DOWN. THEY ARE EXPECTING OUT OF 314 SUMMONED, 238 NEXT
4 WEEK.

5 MS. SARIS: SO WE WILL HAVE ABOUT 120 ON MONDAY
6 MAYBE?

7 THE COURT: YOU KNOW, THAT MAY BE A LITTLE HIGH.
8 I THINK WE'RE GOING TO HAVE TO SEE -- MAYBE WE CAN
9 DOUBLE-CHECK ON THAT 238 NUMBER. THAT JUST SEEMS HIGH.

10 THE CLERK: THAT'S ON THEIR HIGH END.

11 (DISCUSSION OFF THE RECORD.)

12 THE CLERK: HIGH 311, LOW 231.

13 THE COURT: I THOUGHT THE JURORS SUMMONED WERE
14 314, THE TOTAL SUMMONED. THAT CAN'T BE RIGHT.

15 THE CLERK: THAT'S THE 311, SO THAT'S ON THE
16 HIGH.

17 THE COURT: THAT'S DEFINITELY TOO HIGH?

18 THE CLERK: YES.

19 THE COURT: OKAY. WHAT I WOULD SUGGEST IS, I
20 THINK WE SHOULD TRY TO ORDER IN 100 FOR MONDAY, KNOWING
21 THAT WE ARE NOT GOING TO GET 100, AND THEN GO FROM THERE.
22 BECAUSE THAT WOULD STILL LEAVE US WITH AT LEAST ONE MORE
23 PANEL TO COME IN, SO WE CAN DO THAT.

24 AND WITH RESPECT TO THE OTHER ISSUE THAT I
25 HELD IN ABEYANCE, THE 980. I'M NOT INCLINED TO GRANT THE
26 980'S, EXCEPT I DON'T HAVE ANY PROBLEM WITH A STILL
27 CAMERA. IS ANYBODY HERE FROM THE MEDIA THAT HAS A 980
28 PENDING?

1 MS. CUMMINGS: YEAH, I'M WITH CBS 48 HOURS. AND
2 I'M NOT THE PRODUCER WHO ORDERED IT ORIGINALLY, BUT I CAN
3 SPEAK TO IT.

4 THE COURT: WHAT IS YOUR NAME?

5 MS. CUMMINGS: VALERIE CUMMINGS. AND THIS IS FOR
6 A PROGRAM 48 HOURS THAT DOES AN HOUR-LONG SHOW FOLLOWING
7 A CASE. AND SO WE REALLY WOULDN'T BE ABLE TO TELL THE
8 STORY JUST USING STILL PHOTOGRAPHS. WE WOULDN'T
9 NECESSARILY HAVE TO BE HERE EVERY DAY; AND WE WOULD
10 FOLLOW WHATEVER GUIDELINES THAT YOU LAYOUT SO THAT WE
11 DON'T SHOW THE JURY; SO THAT WE ONLY COVER THE ACTION
12 THAT'S TAKING PLACE HERE.

13 THE COURT: OKAY. THANK YOU.

14 MS. CUMMINGS: AND THERE IS ALSO OTHER
15 POSSIBILITIES. WE HAVE BETA CAMERAS THAT ARE SMALLER
16 CAMERAS THAT WE COULD USE THAT THEY WOULD BE LESS
17 INTRUSIVE AND LOTS OF DIFFERENT OPTIONS.

18 THE COURT: ALL RIGHT. THANK YOU.

19 YES, SIR.

20 MR. SPANO: JOHN SPANO WITH THE L.A. TIMES. IF I
21 UNDERSTAND IT CORRECTLY, YOU'VE APPROVED STILL CAMERAS
22 BEING PRESENT?

23 THE COURT: NO. I'M THROWING THIS OUT FOR
24 DISCUSSION WITH THE LAWYERS TODAY. AND THAT'S WHY I
25 INQUIRED IF THERE WERE ANY MEDIA PRESENT TODAY THAT HAD
26 980'S PENDING. MY TENTATIVE IS I HAVE NO PROBLEM WITH A
27 STILL CAMERA.

28 THE WITNESS: THANK YOU.

1 THE COURT: BUT I'M NOT REAL EXCITED TO DO A
2 CAMERA THAT'S GOING TO RECORD THE ENTIRE TRIAL FOR A
3 NUMBER OF REASONS, BUT --

4 MS. CUMMINGS: MAY I SAY ONE OTHER THING?

5 THE COURT: YES.

6 MS. CUMMINGS: BY NOT ALLOWING OUR VIDEO CAMERA
7 OTHER REPORTERS ARE ABLE TO BE HERE AND TO DOCUMENT THE
8 PROCEEDING, A STILL CAMERA CAN DOCUMENT THE PROCEEDINGS.
9 WE, BECAUSE OF OUR MEDIA, CAN ONLY DOCUMENT IT THROUGH A
10 CAMERA. AND SO IN SOME WAY WE'RE BEING -- IF YOU DECIDE
11 THAT WE CAN'T RECORD IT, WE WOULD BE GIVEN A
12 DISADVANTAGE.

13 UNIDENTIFIED WITNESS: I WOULD JUST LIKE TO POINT
14 OUT, YOUR HONOR, THAT THE IMPACT I THINK INSIDE THE JURY
15 ROOM IS MUCH DIFFERENT BETWEEN AN OCCASIONAL STILL
16 PHOTOGRAPHER AND CONTINUOUS VIDEO RECORDING.

17 MS. SARIS: I HOPE HE MEANT "COURTROOM" AND NOT
18 "JURY ROOM."

19 THE COURT: YES, I'M SURE. WHAT IS COUNSEL'S
20 POSITION? I KNOW WE HAD A RATHER INFORMAL BENCH
21 CONFERENCE ON THIS LAST TIME. I'M SURE THIS WON'T BE THE
22 LAST OF IT, BUT I THROW THAT OUT TO COUNSEL TO LET ME
23 KNOW HOW THEY FEEL. I MEAN MY INCLINATION WOULD BE NOT
24 TO ALLOW IT.

25 MS. SARIS, HAVE YOU GIVEN ANY THOUGHT TO
26 YOUR POSITION?

27 MS. SARIS: WELL, YOUR HONOR, MY CLIENT
28 DEFINITELY WOULD PREFER CAMERAS TO BE ALLOWED. AND THE

1 DEFENSE HAS NO OBJECTION TO THE CAMERAS. OUR POSITION
2 HAS BEEN 48 HOURS HAS ALREADY DONE TWO EPISODES ON THIS
3 CASE. THERE IS A PUBLIC PERCEPTION OUT THERE. SEVERAL
4 OF THESE WITNESSES HAVE GONE ON TELEVISION ALREADY NOT
5 WITH THEIR FACES COVERED. SEVERAL MISSTATEMENTS HAVE
6 BEEN MADE ABOUT MY CLIENT, BOTH PROFESSIONALLY AND
7 PERSONALLY.

8 HE CERTAINLY WISHES FOR THE PUBLIC TO SEE
9 THE TRUTH. HE FEELS THAT IF THESE PEOPLE ARE VIDEOTAPED
10 OR VIDEOED UNDER OATH, THAT PERHAPS A MORE PROPER
11 PORTRAYAL OF HIM WILL COME OUT IN THE MEDIA. AND FOR
12 THAT REASON, WE'RE NOT OBJECTING.

13 THE COURT: WELL, IT SOUNDS LIKE YOU ARE NOT
14 OBJECTING. BUT YOU ARE TELLING ME THAT YOUR CLIENT IS
15 REQUESTING IT.

16 MS. SARIS: MY PERSONAL OPINION IS I DON'T CARE.
17 I THINK THE COURTROOMS OUGHT TO BE OPEN TO THE PUBLIC.
18 THE DEFENSE POSITION IS BECAUSE OF MR. GOODWIN'S DESIRE
19 TO DO THIS, THEN YES, WE'RE REQUESTING THE 980'S BE
20 GRANTED.

21 THE COURT: I WILL LOOK TO THE PEOPLE.

22 MR. DIXON: YOUR HONOR, AS I MENTIONED AT THE
23 BENCH WHEN WE DISCUSSED THIS, IT'S THE POSITION OF THE
24 DISTRICT ATTORNEY THAT HE IS NOT OPPOSED TO THESE
25 MOTIONS.

26 THE COURT: WELL, ONE OF THE FACTORS THAT I HAVE
27 TO CONSIDER IS THE PARTY'S SUPPORT OR OPPOSITION. AND
28 FRANKLY, THE FACT THAT MR. GOODWIN IS REQUESTING THAT I

1 GRANT THE 980'S IS SOMEWHAT IMPORTANT -- TREMENDOUSLY
2 IMPORTANT TO THE COURT'S DETERMINATION OF THIS.

3 I'M GOING TO HAVE TO TAKE IT UNDER
4 SUBMISSION. WHAT I WOULD LIKE, HOWEVER, IS IF THE PEOPLE
5 AND THE DEFENSE WILL CONSULT WITH THEIR WITNESSES. AND
6 LET ME KNOW WHAT THE VIEW IS OF THE WITNESSES WHO WILL BE
7 TESTIFYING AS WELL AS THE FAMILY MEMBERS OF THE VICTIM.
8 PERHAPS I SHOULD GET EVERYBODY'S INPUT AT THIS POINT,
9 SINCE MR. GOODWIN IS ASKING ME TO GRANT IT.

10 MS. SARIS: JUST TO LET THE COURT KNOW THE
11 MAJORITY OF OUR WITNESSES ARE THE ORIGINAL INVESTIGATING
12 OFFICERS WHO ARE LESS THAN COOPERATIVE AS IT IS. SO THE
13 CHANCES OF THEM ANSWERING THE QUESTIONS FROM THE DEFENSE
14 ARE GOING TO BE SLIM TO NONE.

15 THE COURT: OKAY. WHATEVER WITNESSES CAN BE
16 CONSULTED AND THE COMMUNICATION PROVIDED TO THE COURT
17 WILL BE APPRECIATED. AND I HAVE TO TAKE ANOTHER LOOK AT
18 THIS PERHAPS ON MONDAY SINCE JURY SELECTION IS GOING TO
19 TAKE SOME TIME.

20 MS. SARIS: SPEAKING OF WHICH, WHEN DO WE
21 ANTICIPATE CALLING THEM TO RETURN FOR LIVE VOIR DIRE?

22 THE COURT: I THINK -- I'M PLANNING ON THE 23RD
23 OR 24TH.

24 MS. SARIS: I WAS MORE ANTICIPATING THE 30TH.

25 THE COURT: THE 30TH?

26 MS. SARIS: ONLY BECAUSE WE HAVE -- IT'S GOING TO
27 TAKE -- I DON'T KNOW WHAT, TWO OR THREE DAYS TO GET THE
28 QUESTIONNAIRES XEROXED. WE HAVE AT LEAST TWO MOTIONS

1 PENDING. ONE HAS BEEN FILED. ONE IS GOING TO BE FILED
2 THAT ARE GOING TO TAKE UP COURT TIME THAT WE'RE GOING TO
3 HAVE TO ACTUALLY BE IN COURT AND NOT READING THE
4 QUESTIONNAIRES. THE COURT IS IN POSSESSION OF ONE.
5 ACTUALLY, THE D.A. FILED ONE TODAY THAT WE'RE GOING TO
6 WANT TO BE HEARD ON AS WELL. MAYBE THE 26TH.

7 THE COURT: AND WHAT IS THE PEOPLE'S POSITION?

8 MR. JACKSON: YOUR HONOR, THE 23RD SOUNDS LIKE A
9 REASONABLE AMOUNT OF TIME TO HANDLE THE MOTIONS. AND ANY
10 DUPLICATION -- I MEAN THE DUPLICATION IS ON ME. I'VE
11 OFFERED AND I'M GOING TO STAND BY THAT OFFER, SO IT'S NOT
12 GOING TO TAKE ANY OF MS. SARIS'S TIME AT ALL. WE WILL
13 HAVE OUR REPROGRAPHICS UNIT TAKE CARE OF ALL THE
14 DUPLICATION AND WE WILL DISTRIBUTE THE COMPLETED
15 QUESTIONNAIRES TO MS. SARIS AND THE DEFENSE TEAM.

16 I DON'T SEE THAT ANY PENDING MOTION -- I
17 WANT TO CHOOSE MY WORDS CAREFULLY BECAUSE THERE IS
18 SOMETHING ELSE THAT WE NEED TO ADDRESS THIS MORNING. I
19 DON'T SEE THAT ANY MOTION THAT IS PENDING RIGHT NOW WOULD
20 TAKE AN EXTRAORDINARY AMOUNT OF TIME SIMPLY HEARING THE
21 MOTION. I SAY THAT WITH AN ASTERISK AND I'LL GET TO THAT
22 IN JUST A SECOND. BUT IT CERTAINLY SEEMS LIKE A WEEK IS
23 ENOUGH, INCLUDING THE WEEKEND IS ENOUGH TO HANDLE THE
24 QUESTIONNAIRES AT THIS POINT.

25 MS. SARIS: I DON'T THINK IT'S GOING TO TAKE ME
26 TIME TO XEROX IT, BUT I'M OBVIOUSLY NOT GOING TO BE
27 READING IT WHILE IT'S IN THE D.A. REPRODUCTION UNIT. HOW
28 LONG DO WE ANTICIPATE THAT -- MY EXPERIENCE IS THAT'S A

1 THREE-DAY PROCESS.

2 MR. JACKSON: I DON'T THINK SO. MY UNDERSTANDING
3 IS ESPECIALLY IF WE HAVE -- I MEAN BASED ON THE 100
4 NUMBER ON MONDAY, I'M NOT GOING TO WAIT UNTIL WE GET THE
5 OTHER SET OF QUESTIONNAIRES TO START REPRODUCTION. I
6 THINK THEY CAN GET THAT DONE IN A DAY. I THINK. NOW
7 I'VE GIVEN THEM A 250 OR 275 PACKET SET OF QUESTIONNAIRES
8 TO DUPLICATE AND IT DID TAKE THEM THREE DAYS BECAUSE
9 THAT'S ALMOST THREE TIMES THE AMOUNT THAT WE'RE TALKING
10 ABOUT. AND IF WE BREAK IT UP, IT WILL BE THAT MUCH
11 FASTER. BUT IF IT DOES TAKE MORE TIME, THEN I'LL
12 CERTAINLY LET EVERYBODY KNOW.

13 THE COURT: WHY DON'T WE SAY THIS, WE SHOULD -- I
14 DON'T LIKE BRINGING THEM BACK ON THE 30TH IF WE CAN GET
15 TO THEM SOONER. SO KEEPING THAT IN MIND, I THINK WE ARE
16 SOMEWHAT FLEXIBLE. AND IT DEPENDS ON WHEN WE ARE GOING
17 TO GET THE QUESTIONNAIRES; WHEN WE ARE GOING TO GET A
18 SUCH SUFFICIENT NUMBER OF JURORS. SO IT WILL BE PROBABLY
19 SOME TIME THE WEEK OF THE 23RD. I DON'T NECESSARILY WANT
20 TO MAKE THE 23RD AN ABSOLUTE DATE TO START. BUT --

21 MS. SARIS: IF THEY THINK THEY CAN GET THEM BY
22 THE 17TH, HOW IS THE 25TH?

23 THE COURT: I'M CERTAINLY WILLING TO DO WHATEVER
24 WILL WORK.

25 MS. SARIS: I MEAN THAT'S 150 PAGES FIVE TIMES.

26 THE COURT: WE CAN TENTATIVELY PROJECT FOR THE
27 25TH.

28 MR. DIXON: YOUR HONOR, IT SEEMS TO ME THAT'S A

1 GOOD IDEA. BECAUSE WHEN THEY COME IN ON THE 16TH TO FILL
2 OUT A QUESTIONNAIRE, WE NEED TO GIVE THEM A DEFINITE DATE
3 TO COME BACK. SO WHY DON'T WE JUST PICK THE 25TH AND
4 HAVE THEM COME IN.

5 THE COURT: OKAY. THAT WILL WORK. WE WILL TELL
6 THEM THAT. WHAT ABOUT THE TIME ESTIMATE? WHAT WOULD YOU
7 LIKE ME TO TELL THE JURORS ABOUT THE TIME ESTIMATE?

8 MR. JACKSON: YOUR HONOR, JIM MENTIONED SOMETHING
9 THIS MORNING ABOUT TIMING. MAYBE WE SHOULD ADDRESS THAT
10 ON THE RECORD.

11 THE COURT: WHY DON'T YOU APPROACH THE BENCH AND
12 WE CAN JUST TALK INFORMALLY.

13 MR. JACKSON: SURE.

14 (PROCEEDINGS HELD AT SIDEBAR, NOT REPORTED.)

15 THE COURT: ALL RIGHT. JUST SO THE RECORD IS
16 CLEAR, WE WERE JUST TALKING ABOUT SCHEDULING. AND I
17 GUESS THE BEST ESTIMATE I CAN GIVE ANYONE AT THIS POINT
18 IS TO SAY THAT THIS CASE WILL TAKE US UP TO BEFORE
19 CHRISTMAS. WE HAVE DISCUSSED DARK DAYS FOR THE COURT.
20 WE HAVEN'T DISCUSSED DARK DAYS FOR JURORS OR FOR COUNSEL,
21 SO OBVIOUSLY THAT'S SUBJECT TO CHANGE. BUT IN TERMS OF
22 THE TIME ESTIMATE, BUT I GUESS THAT'S A FAIR ESTIMATE AT
23 THIS POINT.

24 SO I WAS TOLD, THOUGH, THAT THERE WAS
25 SOMETHING ELSE THAT THE PEOPLE WANTED TO PUT ON THE
26 RECORD.

27 MR. JACKSON: RIGHT. YOUR HONOR, THERE ARE -- AS
28 THE COURT KNOWS, THERE ARE TWO THINGS THAT I NEED TO

1 BRING UP TO THE COURT. ONE OF WHICH -- AND I NEED TO DO
2 THIS IN SOME ORDER. I'M HOLDING IN MY HAND A 351.1
3 MOTION. AND I'M REFERRING TO IT IN THAT SENSE FOR A
4 REASON, I WANT TO FILE THIS MOTION NOW, BUT I DON'T WANT
5 TO HAVE ANY OPEN COURT DISCUSSION ABOUT THE SUBJECT
6 MATTER OF THIS MOTION BECAUSE AS, THE COURT KNOWS, WHAT
7 351.1 IS IT IS NOT TO BE DISCUSSED IN OPEN COURT IN ANY
8 WAY SHAPE, FORM OR FASHION.

9 SO I'M GOING TO FILE IT NOW. THE REASON I
10 DIDN'T FILE THIS PREVIOUSLY IS I DIDN'T WANT MS. SARIS TO
11 STAND UP AND SAY I'VE BEEN GIVEN THIS MOTION AND ALL OF A
12 SUDDEN TALK ABOUT IT AND USING THE WORDS THAT I'M SEEKING
13 TO SUPPRESS. SO IF THIS NEEDS TO BE LITIGATED -- AND I
14 BELIEVE IT PROBABLY DOES -- IT SHOULD BE DONE IN CHAMBERS
15 WITH ALL PARTIES BEING PRESENT. THAT HAVING BEEN SAID,
16 I'LL FILE WITH THE COURT THE MOTION. AND AS SOON AS SHE
17 GETS CONFORMED COPIES, I'LL GIVE COUNSEL A COPY OF IT.

18 THE COURT: SO WE'RE GOING TO FILE THIS UNDER
19 SEAL?

20 MR. JACKSON: THAT WOULD BE MY REQUEST, YOUR
21 HONOR.

22 THE COURT: OKAY. FAIR ENOUGH.

23 MR. JACKSON: AND ANY REFERENCE TO THIS MOTION
24 SHOULD BE AGAIN IN CHAMBERS OUTSIDE THE OPEN COURT FORUM.

25 THE COURT: OKAY. WELL, PRELIMINARILY I'LL JUST
26 SAY THAT NOTHING WILL BE DISCLOSED IN OPEN COURT THIS
27 MORNING AS TO THE NATURE OF THAT REQUEST.

28 MR. JACKSON: THANK YOU, YOUR HONOR.

1 THE COURT: WHEN DO YOU WANT TO CONDUCT THE
2 PRETRIAL HEARINGS IN THIS CASE? BECAUSE I WAS INFORMED
3 THIS MORNING THAT MS. SARIS HAS FILED A MOTION WITH THAT
4 RESPECT TO EVIDENCE THAT IF IT'S GRANTED, MIGHT HAVE AN
5 IMPACT ON THE TIME ESTIMATE.

6 MR. JACKSON: CORRECT. THE REASON THAT I FILED
7 THE 351.1 MOTION EARLIER THAN LATER IS BECAUSE AGAIN I
8 THINK INAPPROPRIATELY AND CONTRARY TO STATE BAR RULES OF
9 ETHICS THAT SUBJECT MATTER WAS BROUGHT UP IN THIS MOTION
10 AS WELL. AND I DON'T WANT THAT PART OF THIS MOTION TO BE
11 LITIGATED IN OPEN COURT EITHER.

12 I THINK THE BEST I CAN DO AT THIS POINT IS
13 TO SAY THAT WHEN WE COME BACK ON MONDAY, THAT'S THE
14 SOONEST I WOULD BE ABLE TO ADDRESS THIS THIRD-PARTY
15 CULPABILITY MOTION. I NEED TO BRING THE COURT'S
16 ATTENTION SOMETHING THAT IS OF GRAVE CONCERN TO THE
17 PROSECUTION. WE'VE BEEN GIVEN -- WE'VE BEEN ASKING FOR A
18 WITNESS LIST FOR HOWEVER LONG. IT'S BEEN WELL OVER A
19 MONTH, WELL OVER TWO MONTHS I BELIEVE. WE'VE BEEN
20 BEGGING THE DEFENSE FOR DISCOVERY IN THIS CASE.

21 THE DISCOVERY HAS NOT COMPLETELY BEEN
22 FORTHCOMING. WE'VE GOTTEN LITTLE SMATTERINGS HERE AND
23 THERE. SOME IN THE WAY OF INVESTIGATIVE REPORTS. SOME
24 IN THE WAY OF EXPERT REPORTS. I STILL HAVE YET TO
25 RECEIVE THE UNDERLYING DATA FROM DR. PEZDEK THAT WE
26 LITIGATED LAST WEEK.

27 MS. SARIS'S POSITION IS SHE IS NOT
28 OBLIGATED UNDER 1054.3 TO SUPPLY US WITH THAT UNDERLYING

1 DATA. AND THE COURT'S WORDS WERE MS. SARIS YOU ARE GOING
2 TO BASICALLY PROCEED WITH CAUTION. IF YOU DON'T GIVE
3 THOSE DOCUMENTS OVER, WE WILL HAVE TO ADDRESS IT DOWN THE
4 LINE. THOSE DOCUMENTS HAVE NOT BEEN GIVEN OVER.

5 BUT WE HAVE RECEIVED THREE SEPARATE
6 WITNESS LISTS FROM MS. SARIS. THE DEFENSE HAS NOW
7 COMPILED SOME 80-ODD WITNESSES I BELIEVE ON THEIR WITNESS
8 LIST. SO IT'S NOT LIKE MS. SARIS HASN'T GIVEN US
9 ANYTHING. SHE'S GIVEN US WITNESS LISTS.

10 THEN WE GET THIS LAST NIGHT, FIVE DAYS
11 BEFORE WE START TO PICK A JURY ON THIS CASE. AND THIS
12 THIRD-PARTY CULPABILITY MOTION LISTS 15 SEPARATE PEOPLE.
13 SOME OF WHOM ARE DEAD. SOME OF WHOM ARE IN PRISON. BUT
14 MANY OF WHOM ARE ALIVE. THE COMPLEXITY OF WHAT IS
15 ADDRESSED IN THIS MOTION WOULD TELL ANY EVEN CASUAL
16 OBSERVER THAT THIS HAS BEEN WORKED ON AND WORKED ON AND
17 LABORED OVER BY THE DEFENSE FOR SOME TIME, FOR A LONG
18 TIME.

19 YET NOT A SINGLE WITNESS THAT APPEARS IN
20 THIS MOTION THAT MS. SARIS ON PAGE 8 INDICATES SHE
21 INTENDS TO CALL APPEARS ON ANY WITNESS LIST. NOW GRANTED
22 MS. SARIS MAY SAY THESE WITNESSES APPEAR IN THE
23 DISCOVERY. THAT'S FINE. I'LL CONCEDE THAT THEY EITHER
24 ALL OR MOST OF THEM DO APPEAR IN THE DISCOVERY. THERE
25 ARE 40,000 PAGES OF DISCOVERY AND 1300 SEPARATE CLUE
26 SHEETS. ALMOST TWO A SHEET. THERE IS A DIFFERENT PERSON
27 LISTED ON EACH CLUE SHEET.

28 I THINK IT IS, DARE I SAY, DECEPTION FOR

1 MS. SARIS ACTIVELY NOT TO INCLUDE ANY OF THESE PEOPLE ON
2 ANY WITNESS LIST THAT SHE'S GIVEN US. NOW THE PEOPLE
3 HAVE NEVER REQUESTED NOR WOULD WE REQUEST A THEORY OF HER
4 DEFENSE. BUT WHAT WE DID REQUEST WAS QUITE REASONABLE.

5 GIVE US THE PEOPLE THAT YOU ANTICIPATE
6 CALLING AND LET US FIGURE OUT WHETHER OR NOT WE NEED TO
7 TAKE FURTHER ACTION TO INVESTIGATE; TO INTERVIEW; TO
8 CORROBORATE; TO REBUT. THAT'S PART OF TRYING A CASE AND
9 THAT'S THE SPIRIT OF 1054. SHE GETS TO KNOW WHO WE'RE
10 GOING TO CALL; SHE GETS TO TRY TO FIGURE OUT WHAT OUR
11 THEORY OF THE CASE IS; AND SHE GETS TO TRY TO REBUT THAT.

12 THE SAME WORKS FOR US. WE'RE ENTITLED TO
13 KNOW WHAT THE COMPLEXION OF HER CASE IS GOING TO BE. AND
14 WITHOUT KNOWING THE THEORY AND WITHOUT DISCLOSING WHAT
15 SHE INTENDS TO DO WITH EACH WITNESS, WE'RE ENTITLED TO
16 KNOW AT THE VERY MINIMUM WHO THE WITNESSES ARE. SO I SAY
17 ALL THAT AS A PREFACE TO SAY, I DON'T KNOW HOW MUCH TIME
18 IT'S GOING TO TAKE, YOUR HONOR, TO ADDRESS THESE
19 WITNESSES. SOME OF WHOM I'VE NEVER HEARD MS. SARIS EVER
20 REFER TO.

21 WHEN I SAY THAT THE 16TH LOOKS LIKE A GOOD
22 DAY FOR US TO LITIGATE THIS, THAT IS WITH SOME
23 TREPIDATION FOR OBVIOUS REASONS. WE WILL WORK DILIGENTLY
24 TO GET UP TO SPEED, IF YOU WILL, ON THIS PARTICULAR NEW
25 WITNESS LIST THAT WE JUST GOT. WHETHER WE'RE ABLE TO DO
26 THAT BY THE 16TH, I JUST CAN'T SAY.

27 BUT I GUESS I'M PUTTING THE -- ASKING THE
28 COURT TO PUT THE DEFENSE ON NOTICE THAT WE MAY BE ASKING

1 FOR MORE TIME. I JUST DON'T KNOW. BUT THAT'S WHAT --
2 THAT'S THE FIRST THING THAT I CAN SAY ABOUT THIS
3 PARTICULAR MOTION COMING TO US AT THIS TIME AT THIS LATE
4 DATE WITH NO PRIOR NOTICE OF ANY OF THESE WITNESSES.

5 MS. SARIS: WOW IS ALL I CAN SAY, JUDGE. THEY
6 DUMPED 40,000 PAGES ON US AND I'M THE ONLY ONE THAT
7 BOTHERED TO READ IT AND NOW I'M BEING CALLED DECEPTIVE.
8 THAT'S RIDICULOUS.

9 MR. JACKSON: YOUR HONOR, I DIDN'T SAY I DIDN'T
10 READ IT. AND I DIDN'T SAY I WASN'T FAMILIAR WITH THESE
11 PEOPLE. I SAID THEY WEREN'T ON MS. SARIS'S WITNESS LIST.
12 AND I SAID IT WAS A DECEPTION NOT TO PUT THEM ON THREE
13 SEPARATE WITNESS LISTS, THAT'S WHAT I SAID.

14 MS. SARIS: IT IS ABSOLUTELY MIND BLOWING TO ME.
15 THERE IS ABSOLUTELY NOTHING IN THIS MOTION THAT YOU COULD
16 NOT HAVE LEARNED BY READING THE DISCOVERY.

17 THE COURT: OKAY. BUT THAT MAY BE, BUT THE
18 QUESTION IS IF YOU PROVIDED A WITNESS LIST --

19 MS. SARIS: I AM CONTINUING TO PROVIDE WITNESS
20 LISTS. THESE WITNESSES WILL NOT BE CALLED UNTIL THE
21 COURT GRANTS ME PERMISSION TO CALL THEM AT TRIAL. WE
22 DIDN'T EVEN HAVE -- IF WE DID NOT HAVE AND DID NOT
23 INTEND, AS I'VE TOLD THE D.A. THAT WE INTENDED, TO
24 MITIGATE THIRD-PARTY CULPABILITY PRIOR TO TRIAL. WHICH
25 WE'RE NOT REQUIRED BY LAW TO DO, BUT IT JUST SEEMS THAT
26 IT WAS SUCH A PART OF THE CASE.

27 IF THE COURT DENIES THIS MOTION, THESE
28 INDIVIDUAL AREN'T ON OUR LIST. AND I'M NOT REQUIRED TO

1 TURN OVER ANY DISCUSSIONS I MAY HAVE HAD WITH THEM. IF
2 THE COURT ALLOWS THEM TO TESTIFY SOME OF THESE
3 INDIVIDUALS WE'VE TALKED TO -- MOST OF THESE INDIVIDUALS
4 WILL NOT HAVE ANY STATEMENT FROM US BECAUSE IT IS ALL IN
5 THE DISCOVERY.

6 THIS IS A THEORY THAT THE DISTRICT
7 ATTORNEY IN ORANGE COUNTY HAD; THAT THE L.A. COUNTY
8 SHERIFFS HAD; THAT THEY CHOSE TO IGNORE BECAUSE IT DIDN'T
9 LEAD TO MICHAEL GOODWIN. THERE ARE PAGES AND PAGES AND
10 PAGES OF INTERVIEWS. SOME OF THESE WITNESSES HAVE BEEN
11 INTERVIEWED FOUR AND FIVE TIMES IN THE DISCOVERY ALREADY.
12 SO THE FACT THAT I DIDN'T INCLUDE THESE INDIVIDUALS
13 BECAUSE WE HAVEN'T HAD A RULING ON WHETHER OR NOT THEY
14 ARE ALLOWED TO TESTIFY, THAT SEEMS A LITTLE SILLY YET.

15 THE COURT: BUT I HAVE BEEN READY, WILLING AND
16 ABLE TO ADDRESS THESE ISSUES --

17 MS. SARIS: YES. AND WE GOT THE --

18 THE COURT: -- TIME AND TIME AGAIN.

19 MS. SARIS: AND WE GOT THE DNA RESULTS LAST,
20 WHAT, LAST WEEK.

21 THE COURT: BUT I JUST GOT YOUR MOTION THIS
22 MORNING.

23 MS. SARIS: WE'VE BEEN ACTIVELY INVESTIGATING
24 THIS MOTION UP UNTIL LAST WEEK. AND, IN FACT, STILL HAVE
25 TWO INTERVIEWS TO CONDUCT. THIS HAS BEEN PENDING, BUT WE
26 COULD NOT HAVE TURNED IN THIS MOTION WITHOUT KNOWING THE
27 RESULTS OF THE DNA TEST.

28 MR. JACKSON: WELL, IT SEEMS TO ME THAT MS. SARIS

1 IS SPEAKING OUT OF BOTH SIDES OF HER MOUTH YET AGAIN.
2 SHE SAYS ON THE ONE HAND, WELL, JUDGE, I DIDN'T HAVE TO
3 FILE A THIRD-PARTY CULPABILITY MOTION. THAT'S SOMETHING
4 WE COULD HAVE DONE AT THE TIME WE CALLED THE WITNESS.
5 BUT YET AT THE SAME TIME SHE SAYS THE REASON I DIDN'T
6 TURN THESE WITNESSES OVER IS BECAUSE I'M WAITING FOR A
7 RULING ON THIRD-PARTY CULPABILITY. WHICH IS IT?

8 MS. SARIS: WE CHOSE TO DO IT BY WAY OF PRETRIAL
9 MOTION.

10 MR. JACKSON: NOW I'LL TELL YOU WHICH IT IS --
11 EXCUSE ME. MAY I FINISH?

12 MS. SARIS: YOU'RE ADHOMONYM ATTACK OR THE ACTUAL
13 LEGAL --

14 MR. JACKSON: WHICH IT IS --

15 THE COURT: OKAY. ONE AT A TIME, PLEASE.

16 MR. JACKSON: WHICH IT IS, YOUR HONOR, IS AN
17 ACTIVE SYSTEMATIC APPROACH OF HIDING THE BALL. AND IF
18 THE COURT WANTS TO CALL IT DECEPTION -- OR IF I WANT TO
19 CALL IT DECEPTION, WHATEVER. IT IS CLEARLY UNMITIGATED
20 HIDING THE BALL. AND THAT'S EXACTLY WHAT 1054 --

21 THE COURT: YES.

22 MR. JACKSON: -- MILITATES AGAINST.

23 THE COURT: I AM CONCERNED BECAUSE ON A NUMBER OF
24 OCCASION THE PEOPLE DID ON THE RECORD REQUEST THE NAMES
25 OF THE WITNESSES. NOW IT JUST SEEMS TO ME IF THE MOTION
26 COULD NOT HAVE BEEN BROUGHT BEFORE, THEN THAT IS
27 SOMETHING THAT I CAN'T DISPUTE. I HAVEN'T READ THE
28 MOTION. I HAVE NO IDEA WHAT IS IN THIS MOTION. I JUST

1 RECEIVED IT. SO IT'S PREMATURE FOR ME TO SAY MUCH OF
2 ANYTHING.

3 BUT WHAT I WILL SAY IS THAT IF THE PEOPLE
4 NEED TIME TO LITIGATE THIS MOTION, THE PEOPLE CAN HAVE AS
5 MUCH TIME AS THEY THINK THEY NEED. THE CODE PROVIDES FOR
6 30 DAYS AND I'M WILLING TO GIVE THE PEOPLE WHATEVER
7 AMOUNT OF TIME IS NECESSARY.

8 ON THE OTHER HAND, I DON'T KNOW THAT I CAN
9 GO FORWARD WITHOUT LITIGATING THIS MOTION. AND UNTIL WE
10 LITIGATE THE MOTION, WE CAN'T FIGURE OUT TIME ESTIMATE.
11 SO IT'S REALLY A SITUATION THAT I'M NOT REAL HAPPY TO BE
12 IN RIGHT NOW. SO LET ME JUST THROW OUT THE FIRST
13 QUESTION: WHEN DO THE PEOPLE THINK THEN THAT YOU WILL
14 REALISTICALLY BE READY TO LITIGATE THE MOTION? YOU SAID
15 MONDAY THE 16TH, BUT IS THAT REALISTIC?

16 MR. JACKSON: IT MAY NOT BE, YOUR HONOR. MAY I
17 HAVE JUST A MOMENT?

18 THE COURT: SURE.

19 (DISCUSSION OFF THE RECORD.)

20 MR. DIXON: I'M SORRY, YOUR HONOR. WE WILL JUST
21 NEED A COUPLE MINUTES.

22 (DISCUSSION OFF THE RECORD.)

23 MR. DIXON: THANK YOU, YOUR HONOR, FOR THE
24 MOMENT.

25 THIS WOULD BE OUR PROPOSAL. AND I KNOW
26 THAT ALL THIS IS KIND OF LIKE THE PERFECT STORM SITUATION
27 BECAUSE ON MONDAY THE 16TH, THE COURT IS HAVING PEOPLE
28 COME IN. YOU WOULD LIKE TO TELL THEM -- HARDSHIP THEM;

1 TELL THEM HOW LONG THIS CASE IS GOING TO BE BECAUSE YOU
2 CAN'T REALLY HARDSHIP THEM UNTIL WE DO THAT.

3 SO WE ARE WILL BE PREPARED TO PROCEED ON
4 THE THIRD-PARTY CULPABILITY MOTION ON MONDAY TO MEET THE
5 COURT'S NEEDS IN THAT SITUATION. I DON'T KNOW HOW LONG
6 IT WILL TAKE AND WHEN THE COURT IS HAVING JURORS COME IN,
7 DEPENDING ON THE RESULTS OF THAT MOTION, THEN WE MAY HAVE
8 OTHER REQUESTS. BUT AT LEAST I THINK THAT'S THE FIRST
9 STEP IN THAT PROCESS.

10 THE COURT: WELL, WHY DON'T WE CALL OFF OUR PLAN
11 TO BRING IN JURORS ON MONDAY. AND HOPE THAT NO ONE ELSE
12 IS CALLING FOR A LARGE PANEL OF JURORS ON MONDAY BECAUSE
13 THAT WILL TAKE THEM AWAY FROM US. WE CAN TENTATIVELY --

14 MS. SARIS: WHY WOULD WE HAVE TO DO THAT? I MEAN
15 THE COURT --

16 THE COURT: BECAUSE I CAN'T HARDSHIP ANYONE UNTIL
17 I KNOW WHETHER OR NOT THIS EVIDENCE IS GOING TO BE
18 ADMITTED. IF IT IS IT SOUNDS LIKE IT'S GOING TO EXTEND
19 THE DURATION OF THE TRIAL.

20 MS. SARIS: I DON'T KNOW THAT IT IS, TO BE
21 HONEST.

22 THE COURT: WELL, THAT'S WHAT I'M HEARING.

23 MS. SARIS: THERE IS A LOT OF WHAT YOU'RE HEARING
24 THAT'S INACCURATE, THOUGH. AND THAT'S WHAT IS TROUBLING
25 TO ME. I CAN'T EXPLAIN TO THE COURT WITHOUT MAYBE A
26 VISUAL REPRESENTATION HOW THESE MASSIVE AMOUNTS OF BOXES
27 WERE DELIVERED TO MY OFFICE WHERE ONE PAGE WOULD BE
28 BANKRUPTCY DOCUMENTS AND THE NEXT PAGE WOULD BE A NOTE

1 THAT THE OFFICER WROTE IN 1988 AND THE PAGE AFTER THAT
2 WOULD BE A BANKRUPTCY DOCUMENT.

3 SO IT'S ABOUT AS ULTIMATE OF AN IRONY AS I
4 CAN IMAGINE STANDING UP HERE AND BEING ACCUSED OF HIDING
5 THE BALL.

6 THE COURT: BUT THE ONLY THING I'M CONCERNED
7 ABOUT IS MOVING ALONG HERE. I'M NOT SAYING THAT YOU DID
8 ANYTHING WRONG. I'M JUST NOT ADDRESSING THAT RIGHT NOW.
9 I'M SAYING THE ISSUE BEFORE ME IS A THIRD-PARTY
10 CULPABILITY MOTION WHICH WAS JUST FILED, FOR WHATEVER
11 REASON. AND THE PEOPLE NEED TIME AND DESERVE TIME TO
12 RESPOND TO IT.

13 THEY ARE TELLING ME THEY CAN BE READY ON
14 THE 16TH. FRANKLY, I CAN BE READY ON THE 16TH TO HEAR
15 THE MOTION. WHAT DO I DO WITH 100 JURORS THAT I'M GOING
16 TO BRING IN ON MONDAY?

17 MR. DIXON: WELL, WHAT I WAS GOING TO SUGGEST AND
18 IT'S JUST A SUGGESTION, YOUR HONOR, WE THINK THAT THIS
19 MOTION MIGHT TAKE AT THE OUTSIDE TWO HOURS. I DON'T SEE
20 ANY TESTIMONY ON THIS. I THINK IT IS A LEGAL ARGUMENT
21 REVOLVING AROUND THE OFFER OF PROOF BY THE DEFENSE AND
22 EVERYONE'S TAKE ON WHAT THAT IS, VISAVIS THE HALL CASE.

23 THAT'S REALLY WHAT THE ARGUMENT IS AND
24 THEN THE COURT'S DECISION. SO IT SEEMS TO ME THAT IF WE
25 SET ASIDE TWO HOURS MONDAY MORNING, WE COULD HAVE PEOPLE
26 COME IN -- MAYBE 11:00 O'CLOCK IS PUSHING IT, BUT
27 CERTAINLY AT 1:30 WITH THE COURT'S DECISION AND THEN
28 EVERYONE'S REACTION TO THAT. AND THEN BE ABLE TO TELL

1 THOSE JURORS HOW LONG WE THINK THIS CASE MIGHT BE. THAT
2 WOULD BE MY SUGGESTION.

3 MS. SARIS: I'M NOT PLANNING ON OFFERING
4 TESTIMONY ON THE MOTION. AND I AGREE WITH COUNSEL'S
5 ANALYSIS THAT THAT'S HOW IT WOULD GO, THE OFFER OF PROOF
6 ON THE HALL.

7 THE COURT: ALL RIGHT. IF THAT'S YOUR TIME
8 ESTIMATE, I'LL BE GUIDED BY THAT AND WE WILL KEEP ON
9 SCHEDULE. WHEN THEY ORDER JURORS IN, THEY ORDER THEM IN
10 IN THE MORNING ANYWAY. SO WE CAN ALWAYS SEND THEM TO
11 LUNCH EARLY AND TRY TO GET TO THEM BY LATE MORNING, EARLY
12 AFTERNOON.

13 IT JUST DOES PUT ME IN A POSITION WHERE IF
14 ANOTHER JUDGE IS WAITING FOR JURORS ON MONDAY, I'M GOING
15 TO BE HOLDING THEM UP. SO LET ME PLAN ON DOING THAT, BUT
16 BY FRIDAY I MAY HAVE TO CHANGE OUR PLANS WITH RESPECT TO
17 HARDSHIP. OKAY? SO LET ME JUST -- I'LL FIND OUT BY
18 FRIDAY WHAT OUR SITUATION IS FOR ORDERING JURORS FOR
19 OTHER COURTS.

20 IS THAT AGREEABLE?

21 MS. SARIS: THAT'S FINE. WE ARE HERE EITHER WAY
22 THEN MONDAY?

23 THE COURT: YES.

24 MR. DIXON: FINE. THANK YOU, YOUR HONOR.

25 MS. SARIS: AND I WOULD LIKE TO REITERATE, YOUR
26 HONOR, FOR THE RECORD THAT EVERY WITNESS NAMED IN THIS
27 MOTION AND EVERY THEORY PROCLAIMED IN THIS MOTION IS
28 WITHIN THE PAGES OF THE DISCOVERY; OR WITHIN THE PAGES

1 THAT THE SHERIFF CHOSE NOT TO XEROX FOR US THAT WE
2 OBTAINED ON OUR OWN THAT I HAVE MAINTAIN FOR THE LAST
3 YEAR AND A HALF BACK PAGES WERE NOT XEROXED THAT SHOULD
4 HAVE BEEN; AND THAT WHAT IS NOT POSSESSION OF THE L.A.
5 SHERIFF'S DEPARTMENT IS IN THE POSSESSION OF THE L.A.
6 DISTRICT ATTORNEY'S OFFICE.

7 THE COURT: ALL RIGHT.

8 MR. DIXON: AT THE RISK OF -- I HAVEN'T SAID
9 THAT, MAYBE MR. JACKSON SAID PART OF IT. BUT AT THE RISK
10 OF REPEATING OURSELVES WE'VE ASKED AND RECEIVED A NUMBER
11 OF WITNESS LISTS. NONE OF THESE PEOPLE SAVE PERHAPS JOEY
12 HUNTER IS ON ANY OF THESE WITNESS LISTS.

13 AND I UNDERSTAND THAT THE COURT HAS NOT
14 HAD THE OPPORTUNITY TO READ MS. SARIS'S MOTION YET, BUT
15 WHEN YOU DO YOU WILL SEE THAT THIS IS A RATHER COMPLEX
16 OFFER OF PROOF THAT SHE'S MAKING. AND THE FACT THAT
17 THESE WITNESSES WEREN'T ON HER WITNESS LIST, PERHAPS TO
18 BE EXCLUDED BY THE COURT, BUT WITHIN THE 30 DAYS THE FACT
19 THAT THEY WEREN'T ON THE WITNESS LIST IS VERY -- I'M
20 TRYING TO UNDERSTATE IT -- SURPRISING TO ME.

21 MS. SARIS: IT'S JUST AS SURPRISING THE D.A.
22 WOULD NOT HAVE ANTICIPATED THIS ARGUMENT, YOUR HONOR. I
23 DON'T KNOW HOW ELSE TO PUT IT. I CAN'T INTEND TO CALL A
24 WITNESS THAT I DON'T KNOW IF IT'S GOING TO BE EVIDENTIARY
25 ALLOWED TO BE CALLED.

26 THE COURT: ALL RIGHT. ONE THING I DIDN'T
27 ADDRESS REGARDING THE QUESTIONNAIRE IS THIS WITNESS LIST.
28 I WOULD KIND OF LIKE TO HAVE THE WITNESS LIST ATTACHED TO

1 THE QUESTIONNAIRE, BUT I DON'T KNOW THAT THAT'S GOING TO
2 EVEN BE DOABLE.

3 MR. JACKSON: OURS IS COMPLETED. IT APPEARS THE
4 DEFENSE'S MAY BE CHANGING DAILY.

5 MS. SARIS: AND WE ANTICIPATE PUTTING SEVERAL
6 PEOPLE ON THE LIST THAT MAY HAVE COME NOWHERE NEAR. AND
7 OUR CONCERN IS WE WOULD WANT THE JURORS TO KNOW IF THEY
8 RECOGNIZED THE NAME. BUT I DON'T WANT TO BE IN A
9 POSITION WHERE THE D.A. IS GOING TO JUMP UP AND DOWN SAY,
10 WELL, YOU HAVEN'T GIVEN ME A STATEMENT OF THIS
11 INDIVIDUAL. BECAUSE WE MAY NOT HAVE DECIDED WHETHER TO
12 CALL THEM, YET WE WANT TO KNOW IF A JUROR RECOGNIZES THEM
13 SO THERE IS NOT AN ISSUE IN THE MEANTIME.

14 THE COURT: ALL RIGHT. WELL, I'M GOING TO ASK
15 THAT WHEN YOU PUT TOGETHER THIS QUESTIONNAIRE IN ITS
16 FINAL FORM, THAT YOU INCLUDE THE PEOPLE'S WITNESS LIST
17 AND THE DEFENSE WITNESS LIST TO THE EXTENT THAT MS. SARIS
18 HAS AN UPDATED WITNESS LIST. AND THAT WAY AT LEAST YOU
19 CAN COVER ALL BASIS.

20 MR. JACKSON: OURS IS GOING TO BE THE SAME ONE
21 THAT WE FILED WITH THE COURT. I'LL SIMPLY ASK MS. SARIS
22 TO PROVIDE --

23 MS. SARIS: I'LL E-MAIL MR. JACKSON MINE SO HE
24 CAN HAVE IT IN ELECTRONIC FORM.

25 THE COURT: WE WILL JUST ADD IT ON. I THINK
26 THERE IS A SECTION IN HERE WHERE THEY ARE ASKED IF THEY
27 KNOW ANY OF US.

28 MR. JACKSON: THERE IS.

1 THE COURT: OKAY.

2 MR. JACKSON: THERE IS. AND THEN AT THE VERY
3 END, I INCLUDED A QUESTION OUTLINING POTENTIAL WITNESSES
4 AND ATTACHED THERE IS GOING TO BE A POTENTIAL WITNESS
5 LIST. SO THAT WILL PROBABLY ADD ABOUT THREE OR FOUR
6 PAGES TO THE ENTIRETY OF THE QUESTIONNAIRE.

7 BUT THERE IS ONE OTHER THING THAT
8 MS. SARIS SAID IN HER ARGUMENT THAT RAISES EVEN MORE
9 CONCERN FOR ME AND THAT IS "ALMOST" ALL OF THESE
10 WITNESSES DO NOT HAVE A STATEMENT BY THE DEFENSE. WELL,
11 I'M ENTITLED TO THE ONES THAT DO HAVE STATEMENTS. AND IF
12 SHE CONTINUES HER INVESTIGATION AND CONTINUES TO GET
13 THOSE STATEMENTS, I'M ENTITLED TO THOSE, BE THEY WRITTEN,
14 ORAL, RECORDED OR OTHERWISE.

15 AND I'M VERY CONCERNED NOW THAT SOME OR
16 ALL OF THESE WITNESSES MAY HAVE BEEN INTERVIEWED BY THE
17 DEFENSE. AS MS. SARIS SAYS IN THIS INCREDIBLY COMPLEX
18 INVESTIGATION THAT SHE'S BEEN UNDERTAKING AND I HAVE YET
19 TO SEE ANYTHING. SO I WOULD ASK THE COURT ONCE AGAIN TO
20 ORDER MS. SARIS TO TURN OVER ANY RELEVANT DISCOVERY THAT
21 DEALS WITH ANY OF THESE WITNESSES THAT SHE HAS NOW PLACED
22 IN THIS THIRD-PARTY CULPABILITY MOTION SO THAT I CAN HAVE
23 A CHANCE TO INVESTIGATE MY SIDE.

24 MS. SARIS: I HAVE INTERVIEWED SOME OF THESE
25 WITNESSES. THEY DON'T SEE ANYTHING DIFFERENTLY THAN WHAT
26 THEY'VE SAID IN THE DISCOVERY. AND WHEN 1054 -- MY
27 OBLIGATIONS UNDER THAT STATUTE KICK IN, I'LL TURN THOSE
28 OVER TO THE DISTRICT ATTORNEY.

1 THE COURT: ALL RIGHT. I DON'T THINK THERE IS
2 ANYTHING ELSE FOR US TO DISCUSS TODAY. SO ARE WE JUST
3 GOING TO RECESS UNTIL MONDAY MORNING?

4 MR. DIXON: WHAT TIME WOULD YOU LIKE US HERE,
5 YOUR HONOR?

6 THE COURT: YOU KNOW, THE MORE I THINK ABOUT IT
7 THE MORE I'M THINKING I DON'T WANT TO BRING IN A PANEL OF
8 100. I REALLY DON'T ON MONDAY. I'M JUST STARTING TO
9 THINK OF HAVING THEM SIT IN THE JURY ROOM UNTIL WE ARE
10 DONE LITIGATING THESE ISSUES. AND WHILE TWO HOURS MAY BE
11 A REALISTIC TIME ESTIMATE, IT WOULDN'T SURPRISE ME IF IT
12 TOOK A LITTLE MORE.

13 MAYBE WE ARE BEING OVERLY OPTIMISTIC ON
14 BRINGING JURORS IN ON MONDAY. MAYBE WE SHOULD GIVE
15 OURSELVES A CUSHION. SO WHAT I WOULD LIKE TO DO IS HAVE
16 YOU COME IN FIRST THING -- WELL, MAYBE NOT FIRST THING
17 BECAUSE I DO HAVE SOME MATTERS ON THE 16TH. HOW ABOUT
18 10:00 A.M. ON MONDAY. I'M NOT GOING TO BRING IN A PANEL
19 ON MONDAY.

20 AND BY MONDAY AFTERNOON WE WILL KNOW
21 WHETHER OR NOT WE ARE GOING TO BE NEEDING A LARGE PANEL
22 TUESDAY, WEDNESDAY, WHATEVER. AND IF ANYBODY ELSE IS
23 GOING TO BE SELECTING A JURY, I'M SURE THEY ARE GOING TO
24 BE CALLING FOR SMALL PANEL AND THOSE PEOPLE WILL JUST
25 HAVE TO BE EXCUSED. AND ANY ADDITIONAL JURORS WE ARE
26 GOING TO NEED, WE WILL HAVE TO PICK UP THE NEXT WEEK I
27 GUESS.

28 MR. DIXON: SO THE MOTION THAT WAS FILED UNDER

1 SEAL, WE WILL HEAR THAT ALSO ON MONDAY?

2 THE COURT: WE CAN DO IT ANY TIME YOU WANT, SO
3 YOU LET ME KNOW IF YOU WANT TO HEARD MONDAY MORNING.

4 MR. DIXON: SINCE WE HAVE THAT DAY --

5 THE COURT: WE WILL DO ALL MOTIONS MONDAY
6 MORNING, LET'S SAY 10:00 O'CLOCK MONDAY MORNING.

7 MR. JACKSON: AND I'VE GOT A COUPLE OF OTHERS
8 THAT I WILL FILE BEFORE THE END OF TODAY, SO THAT WE CAN
9 HEAR THOSE ON MONDAY AS WELL. WE MIGHT AS WELL USE
10 MONDAY AS --

11 THE COURT: WE SHOULD.

12 MR. JACKSON: -- EFFICIENTLY AS WE CAN.

13 MS. SARIS: DID YOU SAY 10:00 A.M.?

14 THE COURT: I'M THINKING 10:00 A.M. IS REALISTIC.
15 AND THEN I GUESS WE WILL GO FROM THERE WHETHER WE ARE
16 GOING TO CALL IN PEOPLE FOR TUESDAY OR NOT WE CAN DECIDE
17 ON MONDAY. ALL RIGHT.

18 ANYTHING ELSE?

19 MR. DIXON: NO. THANK YOU, YOUR HONOR.

20 THE COURT: THANK YOU.

21
22 (THE MATTER WAS CONTINUED TO MONDAY,
23 OCTOBER 16, 2006 AT 10:00 A.M.)

24 --000--
25
26
27
28

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL
JUN 11 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE TERI SCHWARTZ, JUDGE PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

OCTOBER 16, 17, 18, 19, 23, 26, 30, 31, NOVEMBER 1 AND 6,
2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

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ATTORNEY GENERAL
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FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

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2101 THRU 2101/2400
2401 THRU 2401/2700
2701 THRU 2860/3000

LORI D. CASILLAS, CSR #9869
JEANETTE G. SOTO, CSR #8733

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, OCTOBER 16, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14

15 THE COURT: LET'S GO ON THE RECORD ON THE GOODWIN
16 MATTER. MR. GOODWIN IS PRESENT WITH BOTH OF HIS COUNSEL.
17 THE PEOPLE ARE REPRESENTED.

18 WHO IS HERE FROM DAVIS, WRIGHT AND TREME?

19 MR. WICKER: I AM, YOUR HONOR, AL WICKER ON
20 BEHALF OF 48 HOURS.

21 THE COURT: WHAT IS YOUR REQUEST, SIR.

22 MR. WICKER: I UNDERSTOOD THE COURT WAS GOING TO
23 CONSIDER COURT TV'S RULING AND ANY APPLICATION REGARDING
24 CAMERA ACCESS FOR THE TRIAL THIS MORNING.

25 THE COURT: COURT TV?

26 MR. WICKER: 48 HOURS' REQUEST FOR CAMERA ACCESS
27 DURING THE TRIAL.

28 THE COURT: RIGHT. I'M HAPPY TO CONSIDER IT.

1 MR. WICKER: OKAY.

2 THE COURT: I THINK WE LEFT OFF LAST TIME WITH
3 THE COURT INDICATING THAT IT HAD SOME RELUCTANCE TO GRANT
4 IT. I ASKED THE PROSECUTION TO LET ME KNOW WHAT THE
5 FEELINGS OF THE WITNESSES MIGHT BE ABOUT THIS. I DON'T
6 KNOW IF EITHER MR. DIXON OR MR. JACKSON HAS ANY INPUT.

7 MR. JACKSON: IF I MAY HAVE JUST A MOMENT, YOUR
8 HONOR.

9 (PAUSE IN PROCEEDINGS.)

10 MR. DIXON: YOUR HONOR, UNFORTUNATELY WE HAVE NO
11 INPUT ON THAT.

12 THE COURT: WELL, MY INCLINATION IS TO ALLOW IT
13 IN PART. AND THE PART BEING OPENING STATEMENTS, CLOSING
14 ARGUMENTS, VERDICT AND SENTENCE. AND THAT'S IF WE GET TO
15 VERDICT AND SENTENCING, THAT WOULD BE INCLUDED AS WELL.

16 SO WAS THERE SOMETHING MORE SPECIFIC?

17 MR. WICKER: YES, YOUR HONOR.

18 THE COURT: WHAT DID YOU WANT?

19 MR. WICKER 48 HOURS WOULD LIKE TO RECORD CERTAIN
20 WITNESS' TESTIMONY DURING THE TRIAL.

21 THE COURT: WHICH WITNESSES?

22 MR. WICKER: THOSE WOULD INCLUDE THE DEFENDANT,
23 IF HE WERE TO TESTIFY; THE LEAD INVESTIGATOR; SOME OF THE
24 EXPERT WITNESSES; AND SOME OF THE FAMILY MEMBERS, LIKELY.
25 MANY OF THE WITNESSES IN THIS CASE HAVE SPOKEN TO THE
26 PRESS ABOUT THIS MATTER DURING THE LAST FEW YEARS AND
27 LEADING UP TO THE TRIAL. AND WE BELIEVED IT WOULD BE IN
28 THE PUBLIC INTEREST TO ALLOW THE PUBLIC TO SEE WHAT THE

1 TESTIMONY IS THAT'S ACTUALLY GIVEN AT TRIAL IN THIS
2 MATTER.

3 IT DOESN'T APPEAR THAT MANY OF THESE
4 WITNESSES ARE INTIMIDATED BY THE PRESS OR THAT THE
5 PRESENCE OF AN UNOBTRUSIVE CAMERA IS GOING TO IN ANY WAY
6 AFFECT THEIR TESTIMONY. WE ALSO UNDERSTAND THAT THE
7 DEFENSE, IN FACT, SUPPORTS THE REQUEST FOR CAMERA ACCESS
8 IN THIS MATTER.

9 SO FOR THOSE REASONS WE WOULD ASK THE
10 COURT TO EXTEND ITS ORDER TO ALSO PERMIT 48 HOURS TO
11 RECORD THE WITNESSES THAT I JUST MENTIONED.

12 THE COURT: WELL, I DON'T KNOW WHO YOU ARE
13 TALKING ABOUT OTHER THAN THE DEFENDANT, AND I DON'T HAVE
14 ANY PROBLEM WITH THAT. THE DEFENDANT LAST WEEK REQUESTED
15 CAMERAS. BUT I DON'T KNOW WHICH OTHER WITNESSES YOU ARE
16 REFERRING TO.

17 MR. WICKER: WELL, I WOULD ASK FOR ALL THE EXPERT
18 WITNESSES TO BEGIN WITH YOUR, HONOR. SECONDLY, I WOULD
19 ALSO ASK FOR THE LEAD INVESTIGATOR FROM THE LAW
20 ENFORCEMENT AUTHORITY THAT INVESTIGATED THIS. I WOULD
21 ALSO ASK THE COURT TO CONSIDER THAT THE FAMILY MEMBERS
22 WHO MAY TESTIFY, HAVE THEIR TESTIMONY RECORDED AS WELL.

23 THE COURT: OKAY. WELL, THE REQUEST THAT YOU ARE
24 PRESENTING TODAY IS QUITE BROAD. AND I'M NOT PREPARED TO
25 GRANT ANYTHING FURTHER THAN WHAT I HAVE INDICATED. I
26 HAVE A NUMBER OF 980'S BEFORE ME. I HAVEN'T SIGNED OFF
27 ON ANY OF THEM YET, BUT I WILL. ON ONE OF THEM, I ASSUME
28 THERE WILL BE A POOL.

1 BUT RIGHT NOW ALL I'M INCLINED TO GRANT IS
2 THE OPENING, CLOSING, VERDICT, SENTENCE. IF THE
3 DEFENDANT CHOOSES TO TESTIFY, I HAVE NO PROBLEM WITH THAT
4 BECAUSE I THOUGHT HIS REQUEST WAS TO HAVE THAT COVERED.
5 AND IF THERE ARE ANY WITNESSES IN PARTICULAR THAT YOU
6 WOULD LIKE TO BRING TO MY ATTENTION, I'M HAPPY TO
7 ENTERTAIN THAT REQUEST ON ANOTHER DATE, BUT NOT THIS
8 MORNING. OKAY? BECAUSE I DON'T KNOW SPECIFICALLY WHO
9 YOU ARE REFERRING TO.

10 MR. WICKER: MAY WE PUT IN AN APPLICATION WITH
11 THE COURT WITH THE NAMES OF THOSE WITNESSES?

12 THE COURT: YES. THAT WOULD BE HELPFUL. AND
13 THEN I CAN DISCUSS IT WITH THE PARTIES.

14 MR. WICKER: THANK YOU.

15 THE COURT: EITHER COUNSEL WANT TO COMMENT,
16 ARGUE, OBJECT, ANYTHING?

17 MR. DIXON: THANK YOU. NO, NOT AT THIS TIME.

18 MS. SARIS: OUR POSITION HAS BEEN CLEAR, YOUR
19 HONOR. WE DON'T MIND THE CAMERAS FOR ALL THE WITNESSES
20 ESPECIALLY BECAUSE THEY HAVE GONE ON TELEVISION PRIOR.

21 THE COURT: ALL RIGHT. I ALSO RECEIVED A REQUEST
22 FROM KABC; AND THERE WAS ANOTHER ONE FROM KTLA.

23 IS ANYONE ELSE HERE IN SUPPORT OF THE 980
24 REQUESTS?

25 I THOUGHT THERE WAS ANOTHER ONE FROM THE
26 RADIO AND TELEVISION BROADCASTING ASSOCIATION. BECAUSE
27 I'M INCLINED TO GRANT THAT ONE AND THEN ORDER A POOL, BUT
28 I JUST DON'T HAVE IT IN FRONT OF ME. SO UNTIL I CAN SIGN

1 OFF ON IT, THOUGH, COUNSEL, YOU CAN COUNT ON WHAT I
2 INDICATED TODAY. OKAY.

3 MR. WICKER: THANK YOU, YOUR HONOR.

4 THE COURT: ALL RIGHT. THANK YOU.

5 WE LEFT OFF LAST WEEK DISCUSSING THE
6 PROPOSED QUESTIONNAIRE. I ASSUME THAT'S BEEN COMPLETED?

7 MR. JACKSON: IT HAS, YOUR HONOR. I'VE PLACED
8 THE BOX OF THE COMPLETED FIRST 250 COPIED DRAW AT THE
9 FEET OF THE BAILIFF. IT'S HERE FOR THE COURT'S --

10 THE COURT: OKAY. CAN I TAKE A LOOK AT JUST ONE
11 OF THEM. I ASSUME IT'S GOT A FACE PAGE ON IT AS WE
12 DISCUSSED?

13 MR. JACKSON: SURE. IT DOES, YOUR HONOR.

14 THE COURT: OKAY. THANK YOU.

15 AND THEN THERE WAS A MOTION THAT WAS
16 FILED -- ACTUALLY, A NUMBER OF MOTIONS, BUT IN PARTICULAR
17 THE MOTION THAT WE WERE GOING TO HEAR TODAY IS THE
18 THIRD-PARTY CULPABILITY MOTION FILED BY THE DEFENSE. AND
19 I HAD AN OPPORTUNITY TO REVIEW THAT MOTION IN ITS
20 ENTIRETY, AS WELL AS THE POINTS AND AUTHORITIES.

21 I DID JUST RECEIVE THIS MORNING THE
22 OPPOSITION. I DIDN'T DEVOTE A WHOLE LOT OF TIME TO IT AS
23 I WOULD HAVE LIKED TO, BUT I THINK I UNDERSTAND THE GIST
24 OF THE ARGUMENT PRESENTED BY THE PEOPLE.

25 SO WITH RESPECT TO THAT MOTION, I'M HAPPY
26 TO HEAR FROM BOTH SIDES IF YOU WISH TO ARGUE THE MATTER
27 ANY FURTHER.

28 MS. SARIS: YES, YOUR HONOR.

1 MR. JACKSON: YOUR HONOR, I DON'T MEAN TO
2 INTERRUPT BEFORE WE GET STARTED. IT'S NO SKIN OFF OUR
3 NOSE IF THE COURT WISHES TO TAKE MORE TIME. I DIDN'T
4 MEAN TO PRESS THE COURT BY FILING MY MOTION THIS MORNING.
5 AND I CERTAINLY WANT THE COURT TO HAVE A FULL
6 UNDERSTANDING OF WHAT OUR POSITION IS.

7 THE COURT: I PRETTY MUCH GATHERED THAT. I JUST
8 DIDN'T HAVE TIME TO REALLY GO THROUGH YOUR CHART AND SOME
9 OF THE TESTIMONY THAT YOU ATTACHED. BUT I THINK I HAVE A
10 PRETTY GOOD HANDLE IT ON, SO I'M NOT SAYING I NEED MORE
11 TIME.

12 MR. JACKSON: AND I CAN FILL THAT IN ORALLY WHEN
13 IT COMES TO MY ARGUMENT.

14 THE COURT: THAT'S FINE. THANK YOU.

15 MS. SARIS: THANK YOU, YOUR HONOR --

16 THE COURT: AND LET ME JUST INDICATE ONE THING.
17 THERE IS A 351.1 MOTION PENDING.

18 MS. SARIS: I WON'T MENTION THAT.

19 THE COURT: OKAY.

20 MS. SARIS: WE HAVE A RESPONSE TO THAT FOR
21 ANOTHER TIME.

22 THE COURT: YES.

23 MS. SARIS: THE MOTION THAT DARE NOT SPEAK ITS
24 NAME? OKAY.

25 IN MARCH OF 1988 WHEN MICKEY AND TRUDY
26 THOMPSON WERE KILLED, SEVERAL EYEWITNESSES SAW TWO BLACK
27 MEN ON BICYCLES. A NEIGHBOR BY THE NAME OF RICHARD
28 PASSMORE HAD SEEN A MAROON VOLVO WITH TWO ATHLETIC

LOOKING AFRICAN-AMERICAN MEN UNLOADING BICYCLES WITHIN A COUPLE OF BLOCKS OF THE MURDER, A DAY OR TWO BEFORE THE MURDER.

ONE OF THE EYEWITNESSES THOUGHT THAT PERHAPS ONE OF THE SHOOTERS COULD HAVE BEEN A WHITE MAN. APPROXIMATELY TWO AND A HALF MILES AWAY FROM THE CRIME SCENE, LESS THAN AN HOUR LATER, A MAN BY THE NAME OF JOEY HUNTER WAS SEEN HITCHHIKING FRANTICALLY WITH A BICYCLE AT A BUS STOP. HE WASN'T JUST STICKING HIS THUMB OUT, HE WAS ACTUALLY WAVING HIS ARMS UP AND DOWN. HE WAS SEEN BY SEVERAL INDIVIDUALS.

THEY CAME FORWARD WHEN A COMPOSITE HIT THE NEWSPAPERS -- I'M SORRY. THEY CAME FORWARD AND A COMPOSITE WAS DRAWN THAT HIT THE NEWSPAPER. WHEN THAT COMPOSITE WAS DRAWN, AN INFORMANT CALLED IN TO SAY THAT INDIVIDUAL LOOKED LIKE A MAN BY THE NAME OF JOEY HUNTER. SEVERAL OF THE PEOPLE THAT HAD SEEN THE HITCHHIKER SAID THAT, BUT FOR THE HAIRLINE, THIS WAS THE EXACT MAN THAT THEY HAD SEEN. TWO OF THEM ACTUALLY IDENTIFIED HIM FROM A LINE-UP OF PHOTOGRAPHS.

SOME TEN WEEKS BEFORE MICKEY THOMPSON AND TRUDY THOMPSON WERE MURDERED, A MAN BY THE NAME OF TOM WILSON WAS MURDERED IN VAN NUYS. IN THAT CASE, TWO APPARENTLY LOOKING BLACK MEN -- ONE TURNED OUT TO BE SAMOAN -- BURST THROUGH THE DOOR OF THEIR VAN NUYS HOME; SHOT MR. WILSON SEVERAL TIMES; AND THEN AGAIN AS THEY WERE LEAVING, SHOT HIM IN THE HEAD EXECUTION STYLE.

THE GUN AT THE SCENE JAMMED. NOW THAT'S

1 IMPORTANT BECAUSE AT THE MICKEY THOMPSON MURDER SCENE
2 THERE WERE LIVE ROUNDS EJECTED FROM A GUN. WE HAD SOME
3 TESTIMONY AT THE PRELIM -- AND I EXPECT OUR BALLISTIC
4 EXPERT WILL TESTIFY LIVE ROUNDS ARE EXPENDED ONE OF TWO
5 WAYS, A GUN JAM OR OPERATOR ERROR. THE GUN JAMMED AT THE
6 WILSON MURDER SCENE, THE FEMALE VICTIM WAS LEFT ALIVE.

7 APPROXIMATELY TWO WEEKS LATER, NEW YEAR'S
8 EVE, ONE OF THOSE SHOOTERS, THE AFRICAN/AMERICAN
9 GENTLEMAN BY THE NAME OF JOHN YOUNG DROVE DOWN TO BLYTHE;
10 WAS INVITED TO A TRAILER OF A COUPLE THAT HE KNEW; AND HE
11 SHOT THE WOMAN IN THE BACK OF THE HEAD EXECUTION STYLE;
12 AND HE SHOT THE MAN OF THAT COUPLE IN THE TORSO; AND THEN
13 FINISHED HIM OFF BY SHOOTING HIM IN THE HEAD.

14 JOHN YOUNG EVENTUALLY CONFESSED AND
15 INDICATED THAT A MAN BY THE NAME OF DEAN KENNEDY HAD
16 HIRED HIM TO DO THESE MURDERS. DEAN KENNEDY WAS FIVE
17 FOOT SIX AND 350 POUNDS AT THE TIME OF THESE CRIMES. HE
18 WAS IN CUSTODY ON THESE MURDERS WHEN MICKEY THOMPSON WAS
19 KILLED. BUT MR. YOUNG AND MR. PAEPULE, P-A-E-P-U-L-E,
20 THE SAMOAN INDIVIDUAL, WERE OUT OF CUSTODY. A FRIEND OF
21 DEAN KENNEDY'S BY THE NAME OF LARRY SHALEEN VISITED
22 MR. KENNEDY JUST PRIOR TO HIM BEING ARRESTED.

23 HE NOTICED IN MR. KENNEDY'S GARAGE TWO
24 BRAND NEW TEN SPEED BICYCLES. HE TEASED MR. KENNEDY
25 ABOUT THESE BICYCLES BECAUSE HE THOUGHT MR. KENNEDY WAS
26 TOO OVERWEIGHT TO BE ABLE TO RIDE THEM. MR. SHALEEN WAS
27 CLOSE FRIENDS WITH MR. KENNEDY AND HAD SEEN HIM SEVERAL
28 TIMES. HE KNEW THE AFRICAN/AMERICAN HIT MAN NAMED JOHN

1 YOUNG AND HAD SEEN HIM DRIVING A MAROON VOLVO IN THE
2 PAST, THE SAME THAT RICHARD PASSMORE HAD SEEN DAYS BEFORE
3 THE MURDER.

4 THE COURT: IS IT RICHARD SHALEEN NOT LARRY
5 SHALEEN?

6 MS. SARIS: IT'S LARRY SHALEEN.

7 THE COURT: LARRY SHALEEN?

8 MS. SARIS: LARRY SHALEEN. RICHARD PASSMORE.

9 THE COURT: GOT IT.

10 MS. SARIS: DEAN KENNEDY HAD TWO NEIGHBORS, WOMEN
11 NAMED LINDA OSBORNE AND KATHY O'NEILL. THEY ALSO SAW
12 THESE BIKES AND THEY HEARD DEAN KENNEDY BRAG ABOUT
13 KNOWING MICKEY THOMPSON. DEAN KENNEDY IS ALSO ASSOCIATED
14 WITH MICKEY THOMPSON THROUGH RACING.

15 WE LOCATED THIS WEEKEND AN ORIGINAL NOTE
16 OF DETECTIVE ROBINSON, ONE OF THE PEOPLE'S WITNESSES ON
17 THEIR LIST BY THE NAME OF MAX THUMMA INDICATED THAT DEAN
18 KENNEDY WAS INVOLVED IN -- I DON'T KNOW WHAT IT STANDS
19 FOR SCAT RACING, S-C-A-T, AT THE ASCOT TRACK WHEN
20 MR. MICKEY THOMPSON WAS ACTIVE.

21 MICKEY THOMPSON'S NEPHEW SCOTT CAMPBELL
22 WAS INVOLVED IN THE SALE OF DRUGS. IN 1976 HE HAD KILLED
23 AN INDIVIDUAL IN A DRUG DEAL GONE BAD. THAT INDIVIDUAL
24 HAD TIES TO A LOCAL GANG. IN 1982, SCOTT CAMPBELL WAS
25 BEING MONITORED BY THE DEA. AT THAT TIME HE WAS FLYING
26 BACK AND FORTH TO NORTH DAKOTA SETTING UP METH LABS,
27 TRADING KILOS OF COCAINE FOR MONEY AND METH.

28 HE HIMSELF WAS MURDERED IN 1982. THE

1 KILLERS OF SCOTT CAMPBELL WERE TWO GENTLEMEN BY THE NAME
2 OF LARRY COWELL AND DONNY DI MASIO. DONNY DI MASIO HAD
3 TIES TO THE SAME LOCAL GANG AS SCOTT CAMPBELL'S MURDER
4 VICTIM. LARRY COWELL WAS IN A BUSINESS THAT REPAIRED
5 CARS CALLED PANTERA'S.

6 LARRY COWELL HAD KNOWN THE CAMPBELL FAMILY
7 FOR YEARS. AND ALSO KNEW SEVERAL PEOPLE WHO KNEW DEAN
8 KENNEDY. AMONG THEM WAS ED LOSINSKI. ED LOSINSKI WAS A
9 LONG-TIME FRIEND OF MICKEY THOMPSON WHO HAD ACTUALLY
10 BUILT SOME OF THE WALLS AND HOUSES -- OR STRUCTURES AT
11 MICKEY THOMPSON'S HOME. HE HAD VERY UNORTHODOX SORT OF
12 GARAGE AREA THAT COULD HOLD PROBABLY THE LENGTH TWO OF
13 SEMI TRUCKS. AND ED LOSINSKI, THOUGH HE WAS AN ENGINEER,
14 WAS ALSO A MASON. SO ED LOSINSKI WAS AT MR. THOMPSON'S
15 HOME QUITE A BIT AND WOULD KNOW ALL OF THE BACK ROADS.

16 PART OF WHAT GOT DEAN KENNEDY CONVICTED
17 FOR THESE MURDER WAS THAT A MAN CAME FORWARD BY THE NAME
18 OF LARRY BEDENHART. HE DIDN'T COME FORWARD OF HIS OWN
19 ACCORD, HOWEVER. HE WAS ARRESTED WHEN HE WAS
20 TRANSPORTING DRUGS TO HAWAII. THE POLICE BELIEVED THAT
21 HE WAS INVOLVED WITH DEAN KENNEDY IN THE TRANSPORT OF
22 THESE DRUGS AND OFFERED HIM IMMUNITY IF HE WERE TO SET
23 DEAN KENNEDY UP.

24 THEY RECORDED PHONE CALLS. IN THOSE PHONE
25 CALLS DEAN KENNEDY CAN BE HEARD TELLING LARRY BEDENHART
26 HE WAS NOT WORRIED ABOUT DOING TIME FOR THE MURDERS OF
27 TOM WILSON AND GENOWAY IN BLYTHE, BECAUSE HE HAD AN
28 INDIVIDUAL WHO WOULD TAKE THE WRAP IF HE WOULD PAY HIM

1 SUBSTANTIALLY.

2 JOEY HUNTER WHO WAS THE HITCHHIKER THAT WE
3 PREVIOUSLY HEARD ABOUT, EVENTUALLY GAVE A CONFESSION TO
4 HIS COUSIN. THE DISTRICT ATTORNEY'S MOVING PAPERS TAKE
5 ISSUE WITH THE CONFESSION BECAUSE THEY BELIEVE IT TO BE A
6 JOKE. BUT WE WOULD LIKE TO POINT OUT THAT WOULD GO TO
7 WEIGHT NOT ADMISSIBILITY. MISS DALTON WE EXPECT WOULD
8 TESTIFY IN THIS CASE AND WE DON'T BELIEVE THAT TO BE HER
9 CURRENT STATE OF MIND.

10 THE ACTUAL CONVERSATION WAS MISS DALTON
11 ASKED HER COUSIN: "DID YOU DO IT?" JOEY SAID, "NO."
12 THEN SHE SAID THEN HE PAUSED AND SAID, "YEAH, I DID IT.
13 I KILLED THOSE PEOPLE." THEN HE PAUSED AGAIN WHEN HE SAW
14 THE LOOK OF SHOCK ON HER FACE AND SAID, "HA, HA, HA, YOU
15 BELIEVED ME, DIDN'T YOU?"

16 SO AGAIN THE QUESTION IS ONE OF WEIGHT NOT
17 ADMISSIBILITY REGARDING THE CONFESSION. THE INTERESTING
18 THING ABOUT JOEY HUNTER'S CONFESSION WAS THAT HE SAID HE
19 TOO WAS NOT WORRIED ABOUT DOING TOO MUCH TIME BECAUSE HE
20 KNEW A GENTLEMAN WHO WAS GOING TO WORK IT OUT SO THAT HE
21 HAD ONLY HAD TO DO A FEW YEARS AND HE WOULD BE PAID A
22 SUBSTANTIAL AMOUNT OF MONEY.

23 MR. HUNTER WAS UNABLE TO PROVIDE FOR AN
24 ALIBI FOR THE MURDER. HIS FRIEND -- HE SAID HE THOUGHT
25 HE WAS WITH HIS FRIEND DAVE WOOTEN. DAVE WOOTEN SAID
26 THAT HE THOUGHT HE WAS WITH MR. HUNTER ON THE 15TH OR
27 16TH BECAUSE HE HAD COURT. THE BEST MR. WOOTEN COULD DO
28 IS SAY THAT HE HAD A COURT DATE ON MARCH 16 AT 8:30 AND

1 HE THINKS JOEY HUNTER WAS WITH HIM. AS WE KNOW FROM
2 PRIOR TESTIMONY AND ALL THE EVIDENCE IN THE CASE,, THE
3 THOMPSONS WERE MURDERED AT 6:00 A.M. SO AN ALIBI AT 8:30
4 AS A POSSIBLE CERTAINLY DOES NOT ALIBI JOEY HUNTER FOR
5 THIS BEING WHAT WE BELIEVE TO BE THE LOOK-OUT.

6 IT'S OUR POSITION THAT JOEY HUNTER WAS A
7 LOOK-OUT ON THE CORNER OF MT. OLIVE AND WOODLYN. HE WAS
8 ON THAT CORNER BECAUSE HE WAS WHITE AND A BLACK MAN WOULD
9 HAVE BEEN TAKEN VERY EASY NOTICE OF.

10 HE WAS FRANTICALLY HITCHHIKING ON A
11 BICYCLE, WHICH WAS THE MODE OF ESCAPE FOR THE KILLERS.
12 HE DID FLEE TO SAN FRANCISCO AFTER THE POLICE -- AFTER
13 THIS HOMICIDE. HE TURNED HIMSELF INTO THE POLICE
14 DEPARTMENT, BUT ONLY AFTER A LOCAL GANG HAD COME TO HIS
15 MOTHER'S HOME BRANDISHING WEAPONS AND ASKING WHERE HE
16 WAS.

17 MR. YOUNG WAS INTERVIEWED, THIS IS THE
18 GENTLEMAN WHO IS THE AFRICAN/AMERICAN HIT MAN, AND HE DID
19 DENY IT.

20 IN 15 YEARS OF PRACTICE, I'VE NEVER HAD A
21 CLIENT'S DENIAL AND THE INQUIRIES INTO HIS SUSPICION. IN
22 1990 A CLUE NUMBERED 596 CAME INTO THE SHERIFF'S
23 DEPARTMENT. THIS WAS THE CLUE ASKING THE SHERIFFS TO
24 TAKE A CLOSER LOOK AT THE SIMILARITIES BETWEEN THE VAN
25 NUYS HOMICIDE AND THE BLYTHE HOMICIDES. THEY SENT THEIR
26 BALLISTIC EXPERT TO LOOK AT THE BULLETS.

27 THEY DETERMINED THE BULLETS FROM BLYTHE
28 AND VAN NUYS MATCHED ONE ANOTHER, BUT DID NOT MATCH THE

1 THOMPSON HOMICIDE. JOHN YOUNG EXPLAINED IN HIS
2 CONFESSION THAT IMMEDIATELY AFTER THE BLYTHE HOMICIDE,
3 THAT WEAPON WAS CUT UP INTO PARTS AND THROWN INTO THE
4 IVY.

5 DEAN KENNEDY, ACCORDING TO KATHY O'NEILL
6 AND LINDA OSBORNE HAD SEVERAL GUNS AT HIS HOME. THE CLUE
7 WAS PICKED UP AGAIN IN 19 -- IN 1990 THE CLUE -- AFTER
8 THE BALLISTICS LACK OF MATCH, THE CLUE WAS DROPPED. IT
9 WAS PICKED UP AGAIN IN '95, BUT NOT FOLLOWED THROUGH.

10 IN 1997 IT WAS ACTUALLY FOLLOWED THROUGH
11 MORE SERIOUSLY WITH AN AIM TOWARDS CONNECTING THESE
12 INDIVIDUALS TO MICHAEL GOODWIN. WHEN THAT DID NOT
13 HAPPEN, THE CLUE WAS AGAIN DROPPED.

14 AS THE COURT KNOWS, WE'RE NO LONGER
15 ALLOWED TO HAVE PERRY MASON MOMENTS. WE'RE NOT ABLE TO
16 JUST ASK -- BRING IN INDIVIDUALS AND BLAME THEM WITHOUT
17 SOME THRESHOLD SHOWING THAT THIS EVIDENCE WOULD LIKELY
18 RAISE THE PROBABILITY -- I'M SORRY -- WOULD LIKELY RAISE
19 THE POSSIBILITY THAT MR. GOODWIN WAS NOT GUILTY FOR THIS
20 OFFENSE. THE STANDARD OF THE LAW WAS CHANGED AFTER THE
21 MENDEZ ARLINE RULE, A-R-L-I-N-E.

22 WE NO LONGER HAVE TO RAISE A PROBABILITY
23 THAT THESE INDIVIDUALS DID IT, JUST CAST DOUBT ON
24 MR. GOODWIN'S GUILT. IN THE DEFENSE -- IN THE
25 PROSECUTION'S OPPOSITION, THEY INDICATE THAT WE'VE
26 ESTABLISHED NO CONNECTION BETWEEN THE SHOOTER AND DEAN
27 KENNEDY. THAT WE CAN'T PROVE THAT INTELLIGENCE WAS
28 GATHERED, IGNORING RICHARD PASSMORE AND WATCHING THESE

1 INDIVIDUALS TWO DAYS BEFORE THE CRIME SCENE.

2 THEY INDICATED THAT WE CAN'T SHOW AN
3 OPPORTUNITY TO CONTRACT THE KILLING; AN EVIDENCE OF
4 CONTACT BETWEEN KENNEDY AND THE HIT MAN; AN EVIDENCE OF
5 CONCOCTED PLAN; A DATE; A PAYMENT FOR THE KILLING; DNA;
6 HAIR; FIBER; BLOOD; OR FINGERPRINT. I WOULD JUST POINT
7 OUT THAT NONE OF THOSE ARE ATTRIBUTABLE TO MR. GOODWIN AS
8 WELL.

9 THEY CANNOT SHOW MR. GOODWIN IS IN ANY WAY
10 CONNECTED TO THIS CRIME. THEY HAVE NO DNA; NO FIBER; NO
11 BLOOD; NO FINGERPRINT; NO NAMED INDIVIDUAL AS THE
12 SHOOTER. IN FACT, AS THE PROSECUTION'S OPPOSITION POINTS
13 OUT IN WHAT I HAVE DESCRIBED AS THE ULTIMATE IRONY OF
14 THIS CASE, CALIFORNIA LAW HAS BEEN VERY CLEAR THAT IF WE
15 ONLY HAD MOTIVE, WE WOULD NOT BE ALLOWED TO BRING THAT
16 IN.

17 I MAINTAIN THAT IF DEAN KENNEDY WERE
18 CHARGED WITH THIS CRIME UNDER CALIFORNIA LAW, HE WOULD
19 NOT BE ENTITLED TO SHOW THAT MICHAEL GOODWIN COMMITTED
20 THIS OFFENSE BECAUSE ALL OF THE EVIDENCE THE PEOPLE CAN
21 PROVIDE IS MOTIVE ALONE.

22 WE HAVE OPPORTUNITY. DEAN KENNEDY HIMSELF
23 MAY HAVE BEEN IN CUSTODY. HE WAS LOOKING, HOWEVER, FOR
24 THE MONEY TO PAY THE FALL GUY AND HIS TWO HIT MAN WERE
25 OUT OF CUSTODY. JOEY HUNTER KNEW THE AREA, HAVING LIVED
26 THERE HIS WHOLE LIFE. DEAN KENNEDY KILLED TOM WILSON
27 BECAUSE TOM WILSON HAD BROKEN INTO HIS HOME. TOM WILSON
28 EVENTUALLY APOLOGIZED AND RETURNED WHAT HE HAD STOLEN,

1 BUT WILSON WAS KILLED FOR DISRESPECTING MR. KENNEDY.

2 HE KILLED THE GENTLEMAN IN BLYTHE BECAUSE
3 HE PAID FOR A DUNE BUGGY -- HE PURCHASED A DUNE BUGGY HE
4 DIDN'T WANT TO PAY FOR. DEAN KENNEDY NEEDS LITTLE MOTIVE
5 TO KILL AN INDIVIDUAL. WE HAVE PROPENSITY. BETWEEN THEM
6 THE TWO PEOPLE THAT WE ARE NAMING HAVE THREE MURDERS AND
7 ONE ATTEMPTED MURDER. BASED ON JOHN YOUNG'S CONFESSION,
8 WE CAN SHOW THAT IN EACH INSTANCE THE MURDER FOR HIRE WAS
9 FOR THE MAN AND THE WOMEN WERE KILLED OR ATTEMPTED TO BE
10 KILLED GRATUITOUSLY.

11 WE HAVE IDENTIFICATION IN THAT MR. HUNTER
12 WAS PICKED OUT BY A COUPLE OF THE INDIVIDUALS. CERTAIN
13 INDIVIDUALS DID NOT PICK HIM OUT OF THE PHOTO. HOWEVER,
14 IT'S IMPORTANT TO NOTE THIS WAS A VERY -- THEY WERE
15 ORIGINALLY SHOWN A VERY ROUGH COMPOSITE CALLED AN
16 IDENTI-KIT, WHICH ACTUALLY JUST PUTS DIFFERENT HAIRSTYLES
17 ON DIFFERENT PEOPLE WITH DIFFERENT MUSTACHES. AND THEY
18 DID NOT HAVE ONE IN THEIR PACK THAT MATCHED MR. HUNTER'S
19 HAIRLINE. SO THERE WAS AN ISSUE ABOUT HIS HAIRLINE. HE
20 MATCHES THE PHYSICAL DESCRIPTION IN EVERY OTHER WAY.

21 JOHN YOUNG FITS HIS COMPOSITE TO A T. IF
22 LLOYD MARLOW WERE TO TESTIFY, HE IS THE BLYTHE DETECTIVE
23 THAT ARRESTED MR. YOUNG FOR THE BLYTHE MURDER. LYLE
24 MAYORS IS THE LAPD DETECTIVE WHO ARRESTED HIM FOR THE VAN
25 NUYS MURDER. WE ALSO KNOW THAT THE COMPOSITE DRAWING OF
26 THE KILLER IN MICKEY THOMPSON IS SHOWN WEARING A HOOD.
27 LYLE MAYOR WILL TESTIFY THAT WHEN KIT PAEPULE WAS
28 ARRESTED, HE WAS ARRESTED IN A HOODED SWEATSHIRT.

1 WE HAVE THE PHYSICAL EVIDENCE. THE MAROON
2 VOLVO. THE BRAND NEW TEN SPEED BIKES. GRANTED ANYONE
3 COULD BUY A BIKE AT ANY TIME, BUT TWO WEEKS BEFORE THE
4 MURDER WITH A MAN WHO IS PHYSICALLY INCAPABLE OF RIDING
5 THOSE BIKES. WE HAVE JOEY HUNTER'S CONFESSION, GIVE IT
6 WHATEVER WEIGHT THE JURY DEEMS IT APPROPRIATE. AND WE
7 HAVE HIM SEEN WITH A BIKE THE MORNING OF THE MURDER.

8 THE HOLMES CASE FROM SOUTH CAROLINA HAD
9 CIRCUMSTANCES WHERE THE STATE WANTED TO OFFER DNA
10 EVIDENCE AGAINST THE DEFENDANT. THE DEFENDANT SOUGHT TO
11 INTRODUCE EVIDENCE OF A THIRD PARTY. AND THE SOUTH
12 CAROLINA COURT HELD THAT THE DEFENSE COULD NOT INTRODUCE
13 EVIDENCE OF A THIRD PARTY IN THE FACE OF DNA, BECAUSE
14 CLEARLY IT WOULD NOT RISE TO THE LEVEL OF DNA.

15 THE SUPREME COURT OF THE UNITED STATES
16 OVERTURNED SOUTH CAROLINA'S POSITION SAYING BY ACCEPTING
17 THE DNA, THE SOUTH CAROLINA COURTS WERE TAKING EVERY
18 DECISION OUT OF THE PROVINCE OF THE JURY.

19 IN THIS CASE, ONE HAS TO BASE THE DECISION
20 ON THE FACT THAT THIS IS A PURELY CIRCUMSTANTIAL EVIDENCE
21 CASE AGAINST MR. GOODWIN. THERE IS NO PAY-OUT SHEET.
22 THERE IS NO CONTRACT. THERE IS NO MONEY DROP. THERE IS
23 NO PHYSICAL EVIDENCE. THEY CAN'T EVEN IDENTIFY WHO THE
24 SHOOTERS ARE.

25 SO TO ALLOW ONE SIDE TO TELL WHAT THE
26 CIRCUMSTANCES WERE AND NOT ALLOW THE OTHER SIDE TO TELL
27 WHAT THE CIRCUMSTANCES WERE, WOULD BE PATENTLY UNFAIR.
28 EVEN IN CASES WHERE THE PROSECUTION'S CASE IS INCREDIBLY

1 STRONG, THE COURT'S HAVE HELD THE DEFENSE IS ENTITLED TO
2 PRESENT A FULL AND FAIR DEFENSE.

3 IN THIS CASE WHERE THE PROSECUTION
4 EVIDENCE CONNECTING MICHAEL GOODWIN TO THE MURDER IS
5 INCREDIBLY WEAK, BORDERING ON NONEXISTENT, THEREFORE
6 MR. GOODWIN OUGHT TO BE ABLE UNDER THE 14TH AMENDMENT TO
7 THE U.S. CONSTITUTION, ARTICLE 1, SECTION 15 OF THE
8 CALIFORNIA CONSTITUTION, AND CHAMBERS VERSUS ILLINOIS,
9 PEOPLE VERSUS TROMBETA TO INTRODUCE ALL EVIDENCE TO THIS
10 JURY AND LET THEM DECIDE WHETHER THE CIRCUMSTANCES, AS
11 THE PROSECUTOR CONTINUES TO STATE, POINT TO ONLY ONE
12 SUSPECT.

13 THE COURT: THANK YOU.

14 MR. JACKSON: YOUR HONOR, THAT WOULD BE A GREAT
15 ARGUMENT IF THAT WERE THE LAW. AS WE'VE POINTED OUT IN
16 OUR MOVING PAPERS IT'S NOT, NOT EVEN CLOSE. COUNSEL
17 GLARINGLY OMITTED ANY REFERENCE TO HALL IN HER ARGUMENT.
18 THE FACT OF THE MATTER IS HALL SETS THE TONE FOR WHAT IS
19 ADMISSABLE AS THIRD-PARTY CULPABILITY EVIDENCE.

20 LET ME START OFF BY SAYING, THERE IS A
21 COUPLE OF POINTS THAT I NEED TO MAKE, YOUR HONOR.

22 NO. 1, COUNSEL SORT OF ENDED HER ARGUMENT
23 BY COMPLAINING THAT, LOOK, THE CASE AGAINST MR. GOODWIN,
24 WE DON'T LIKE THAT CASE. WE THE DEFENSE THINK THAT THE
25 PROSECUTION HAS A WEAK CASE OR A THIN CASE OR A BOGUS
26 CASE OR WHATEVER AND THEREFORE BECAUSE WE DON'T LIKE THAT
27 CASE WE SHOULD BE ABLE TO INTRODUCE OTHERWISE
28 INADMISSIBLE EVIDENCE AS A COMPARISON.

1 AGAIN, THAT WOULD BE TERRIFIC. THAT WOULD
2 BE A GREAT ARGUMENT. AND WE WOULD CONCEDE IF THAT WERE
3 EVEN APPROACHING WHAT THE LAW IN THIS STATE IS. AND IT'S
4 NOT. NO COURT IN THIS STATE -- OR IN MY UNDERSTANDING IN
5 ANY STATE IN ANY JURISDICTION HAS EVER TAKEN THE POSITION
6 THAT YOU COMPARE THE STRENGTH OF THE CASE AGAINST THE
7 ACCUSED VERSUS THE STRENGTH OF THE CASE OF THE THIRD
8 PARTY. AND IF THEY COME CLOSE, YOU LET THE THIRD PARTY
9 CASE IN. YOU SIMPLY DON'T. IT'S NOT PROPER.

10 THIRD-PARTY CULPABILITY EVIDENCE UNDER
11 HALL AND ITS PROGENY MUST STAND ON ITS OWN. IT MUST
12 STAND THE TEST OF HALL. IT MUST STAND THE REASONABLE
13 DOUBT TEST AND THE 352 TEST, THE TWO-PRONGED TEST SET OUT
14 BY HALL.

15 IF THE DEFENDANT BELIEVES THAT THE CASE
16 AGAINST HIM IS THIN, HE HAS SEVERAL CONSTITUTIONAL
17 PROTECTIONS. NO. 1, HE HAS A PRELIMINARY HEARING. AN
18 INDEPENDENT UNBIASED MAGISTRATE SITS AS THE TRIER OF FACT
19 AND MAKES A DETERMINATION THAT THERE IS OR IS NOT ENOUGH
20 EVIDENCE TO PROCEED TO TRIAL. IN THIS PARTICULAR CASE,
21 IT HAPPENS TO HAVE BEEN THIS HONORABLE COURT.

22 NO. 2, THERE IS AN 1118 MOTION THAT
23 MS. SARIS CERTAINLY HAS AVAILABLE TO HER ON THE
24 DEFENDANT'S BEHALF. CONSTITUTIONALLY IF THE COURT
25 BELIEVES THAT THE PROSECUTION PUT THEIR BEST FOOT FORWARD
26 DURING THE PRESENTATION OF THE CASE TO THE JURY AND WE
27 DID NOT MEET OUR STANDARD OF PROOF, EVEN A MINIMAL
28 STANDARD OF PROOF, THE COURT DISMISSES AND MR. GOODWIN

1 GETS TO WALK AWAY.

2 AND NO. 3, THEY HAVE THE JURY VERDICT
3 AVAILABLE TO THEM. THESE ARE CONSTITUTIONAL REMEDIES,
4 CONSTITUTIONAL PROTECTIONS. CERTAINLY THEIR PROTECTION
5 IS NOT TO ARGUE, WELL, WE SHOULD BE ABLE TO THROW
6 ANYTHING WE WANT TO AGAINST THE WALL AND SEE WHAT STICKS.
7 THAT'S NOT A LEGALLY SOUND ARGUMENT. THEY ARE NOT
8 ENTITLED TO INADMISSABLE -- OTHERWISE INADMISSIBLE
9 EVIDENCE JUST BECAUSE THEY DON'T LIKE THE CASE AGAINST
10 MR. GOODWIN OR THEY BELIEVE THAT IT'S THIN.

11 MS. SARIS ALSO SAID -- AND SHE MENTIONED
12 SEVERAL THINGS ABOUT THE DEAN KENNEDY, LARRY COWELL
13 SITUATION AND COMPARED THOSE TO THE CASE AGAINST
14 MR. GOODWIN. MS. SARIS SEEMS TO CONFLATE IN HER ARGUMENT
15 THE DIFFERENCE BETWEEN A MOTIVE AND A THREAT. IF I HAVE
16 A REASON TO KILL SOMEONE, JUDGE, THAT'S A MOTIVE. IF I
17 PROMISE I'M GOING TO DO IT, THAT'S A THREAT.

18 THERE IS MORE THAN JUST MERE MOTIVE IN
19 THIS CASE. I WOULD ASK THE COURT TO HARKEN BACK TO THE
20 PRELIMINARY HEARING WHICH IS THE EVIDENCE THAT IS
21 CURRENTLY BEFORE THE COURT. NO. 1, THE DEFENDANT HAS A
22 CLEAR MOTIVE TO KILL MICKEY THOMPSON. MICKEY THOMPSON
23 HAD SUBJECTED HIM TO A FINANCIAL DEBACLE, THE LIKES OF
24 WHICH MR. GOODWIN WAS NOT USED TO. AND MR. GOODWIN WOULD
25 NOT TOLERATE BY ANYONE, ESPECIALLY A BUMPKIN, A REDNECK,
26 AS HE PUT IT, LIKE MR. THOMPSON. HE HAD THE MOTIVE.

27 HE MADE THE PROMISES THAT HE WOULD GO
28 THROUGH WITH THAT MOTIVE. NOW I WOULD ASK COUNSEL TO

1 SHOW US ANYWHERE IN THE RECORD WHERE DEAN KENNEDY, JOHN
2 YOUNG, KIT PAEPULE, LARRY COWELL, LARRY SHALEEN, JOEY
3 HUNTER, ANY OF THE PLAYERS THAT SHE'S TALKING ABOUT SAID
4 ANYTHING COMING CLOSE TO THE FOLLOWING, "I'M GOING TO
5 KILL THAT SON OF A BITCH. I'M GOING TO KILL THAT MOTHER
6 FUCKER. I'M GOING TO TAKE CARE OF HIM IF I LOSE THE
7 CIVIL SUIT. I'M GOING TO TAKE MICKEY OUT. I'M TOO SMART
8 TO GET CAUGHT. I'LL HAVE HIM WASTED. MICKEY DOESN'T
9 KNOW WHO HE'S FUCKING WITH. HE'S FUCKING DEAD."

10 LARRY COWELL? KIT PAEPULE? DEAN KENNEDY?
11 ANYTHING? I MEAN IF THIS IS THE BEST EFFORT THAT THE
12 DEFENDANT CAN COME UP WITH IN CREATING OR CRAFTING A
13 STORY THAT'S CONVENIENT TO HIM, HE'S MISSED THE MARK.

14 THE DEFENDANT ACTED WITH CONSCIOUSNESS OF
15 GUILT. AND THAT CONSCIOUSNESS OF GUILT INCLUDED
16 DIVESTING HIMSELF OF HIS PROPERTIES HERE IN CALIFORNIA;
17 DIVESTING HIMSELF OF HIS INVESTMENTS HERE IN CALIFORNIA;
18 WHITEHAWK; DESERT INVESTORS. PURCHASING A BOAT AT OR
19 NEAR THE TIME OF THE MURDERS. THE BOAT LOAN WAS
20 APPROVED, JUDGE, SIX DAYS BEFORE MICKEY AND TRUDY WERE
21 SHOT TO DEATH IN THEIR DRIVEWAY.

22 AND THEN THE DEFENDANT GOT ON THAT BOAT
23 AND FLED THE COUNTRY FOR THE BETTER PART OF TWO YEARS.
24 WHERE IS THE CONSCIOUSNESS OF GUILT OF DEAN KENNEDY? OF
25 LARRY COWELL? THE DEFENDANT WAS SPECIFICALLY IDENTIFIED,
26 SPECIFICALLY IDENTIFIED AT OR NEAR THE CRIME SCENE A FEW
27 BLOCKS AWAY FROM THE CRIME SCENE AT THE POINT OF INGRESS
28 AND EGRESS FROM THE NEIGHBORHOOD BY TWO WITNESSES WHO

1 SPECIFICALLY SAID I SAW HIM SITTING THERE. AND HE HAD
2 BINOCULARS. HE WAS DOING SURVEILLANCE.

3 WHERE IS THE EVIDENCE THAT DEAN KENNEDY
4 DID ANYTHING CLOSE TO THAT OR JOHN YOUNG OR KIT PAEPULE
5 OR LARRY COWELL? AND, FINALLY, THE DEFENDANT, CONTRARY
6 TO ANYTHING THAT THE DEFENSE HAS PROFFERED IN THEIR OFFER
7 OF PROOF, THE DEFENDANT CONFESSED TO THE CRIME.

8 THE COURT HEARD GAIL MOREAU HUNTER'S
9 STATEMENTS UNDER OATH THAT THE DEFENDANT BASICALLY
10 DESCRIBED AND DETAILED HOW HE HIRED THE TWO HIT MEN TO
11 CARRY OUT THE MURDERS. TO COMPARE THE EVIDENCE THAT THE
12 PEOPLE HAVE OR EXPECT TO PRESENT AGAINST THEIR OFFER OF
13 PROOF DOES VIOLENCE TO LOGIC. IT STRETCHES LOGIC TO THE
14 BREAKING POINT.

15 NOW, I WOULD LIKE TO GET TO THE SPECIFICS
16 OF THE DEFENSE OFFER OF PROOF. YOUR HONOR, AS YOU KNOW,
17 I DIDN'T HAVE A LOT OF TIME TO PREPARE MY RESPONSE. IT
18 TOOK AT LEAST THREE READINGS AND I'M NOT ALL THAT SMART,
19 I'LL ADMIT; PRETTY DUMB GUY; BUT IT TOOK ME THREE TIMES
20 TO GET THROUGH MS. SARIS'S MOTION BEFORE I COULD FIGURE
21 OUT WHAT THE HECK IS GOING ON HERE.

22 SO I CREATED A CHART. AND I WOULD ASK THE
23 COURT TO TAKE A GLANCE, A QUICK GLANCE AT THAT CHART. IT
24 MAKES A LITTLE BIT MORE SENSE WHEN I TALK ABOUT IT. ONE
25 OF THE FIRST THINGS THAT'S JUST BLATANTLY OBVIOUS,
26 GLARINGLY OBVIOUS THAT MS. SARIS DIDN'T MENTION IN HER
27 MOVING PAPERS OR IN HER ORAL ARGUMENT, NOT ONLY WAS DEAN
28 KENNEDY -- THE SUPPOSED MIDDLE MAN, IF YOU WILL -- IN

1 JAIL; LARRY COWELL WAS IN STATE PRISON WHEN THIS IS
2 SUPPOSED TO HAVE HAPPENED. THEY'RE IN DIFFERENT OF PARTS
3 OF THE STATE IN CUSTODY FACILITIES UNABLE TO MAKE CONTACT
4 WITH ONE ANOTHER ONE SHOULD CERTAINLY SUPPOSE.

5 NOW, IF WE TAKE THIS CHART AND GET DOWN TO
6 BRASS TACKS, WE START WITH A SINGULAR PROPOSITION AND ONE
7 THAT WAS INSINUATED AND SUGGESTED BY THE DEFENDANT'S
8 MOVING PAPERS, BUT NEVER OUT AND OUT STATED. AS A MATTER
9 OF FACT, COUNSEL DIDN'T OUT AND OUT STATE IT HERE. AND
10 IT GIVES ME PAUSE AS TO WHY NOT. AND I THINK I KNOW WHY
11 NOT, BECAUSE IT MAKES NO SENSE.

12 IF YOU BELIEVE THAT THE THEORY THAT THE
13 DEFENDANT IS PROPOUNDING, YOU WOULD HAVE TO START WITH
14 THE PROPOSITION THAT LARRY COWELL HIRED DEAN KENNEDY TO
15 COMMIT A DOUBLE HOMICIDE. SO LARRY COWELL IS ACTUALLY
16 THE ONE, ACCORDING TO THE DEFENSE THEORY, THAT HAS THE
17 MOTIVE.

18 WHAT IS LARRY COWELL'S POSSIBLE MOTIVE SHE
19 SUGGESTS THAT IT'S MICKEY THOMPSON'S, QUOTE, UNQUOTE,
20 DEVASTATING TESTIMONY, DEVASTATING TESTIMONY IN HIS FIRST
21 TRIAL AGAINST -- IN THE FIRST TRIAL AGAINST LARRY COWELL.

22 NOW COUNSEL MIGHT NOT HAVE READ THAT
23 TESTIMONY, BUT I DID. I HAD A COUPLE OF DETECTIVES DRIVE
24 DOWN TO ORANGE COUNTY LATE ON FRIDAY AND PULL THAT
25 TRANSCRIPT. AND AS I READ IT, CERTAIN THINGS STARTED TO
26 COMING TO LIGHT. THE COURT IN THAT CASE -- AND I HAVE
27 ATTACH IT AS EXHIBIT 1 -- THE COURT IN THAT CASE, JUDGE,
28 ALMOST KEPT THE TESTIMONY OUT.

1 YOU CAN HEAR THE OBJECTIONS BY MR. JONES
2 WHEN THE PROSECUTOR AVDY ATTEMPTS TO PUT MR. THOMPSON'S
3 TESTIMONY INTO TRIAL. AND JONES -- IT'S NOT OFTEN THAT I
4 AGREE WITH DEFENSE OBJECTIONS, BUT JONES ACTUALLY MADE A
5 PRETTY COLORABLE OBJECTION. HEY, LOOK THIS IS PRETTY
6 IRRELEVANT. AND WHAT IT WAS WAS THE FOLLOWING: LARRY
7 COWELL KILLED SCOTT CAMPBELL. HE KILLED HIM IN AN
8 AIRPLANE WITH DONNY DI MASIO. IT HAS ABSOLUTELY NOTHING
9 TO DO WITH MICKEY THOMPSON'S MURDER, BUT FOR THE PURPOSES
10 OF COUNSEL'S ARGUMENT I THINK IT'S IMPORTANT THAT WE
11 FLUSH THAT OUT JUST A LITTLE BIT AT LEAST.

12 LARRY COWELL RIGHT AFTER SCOTT CAMPBELL
13 ENDED UP HIS MISSING -- AND SCOTT'S BODY TRAGICALLY
14 ENOUGH WAS NEVER RECOVERED. THE AUTHORITIES BELIEVE THAT
15 HE WAS DUMPED OUT OF A SMALL PRIVATE AIRPLANE OVER THE
16 WATER BETWEEN HERE AND CATALINA OR MAYBE ON THE OTHER
17 SIDE OF THE CATALINA.

18 LARRY COWELL BEGAN MAKING SOME PHONE CALLS
19 WITHIN THE WEEKS AFTER SCOTT CAMPBELL WAS MISSING. AND
20 THOSE PHONE CALLS WERE MESSAGES ON SCOTT CAMPBELL'S
21 MACHINE SAYING, "HEY, BUDDY, YOUR CAR IS READY. COME
22 PICK IT UP." WELL, PROSECUTOR AVDY THOUGHT, WELL, YOU
23 KNOW WHAT, I'LL GIVE THIS A SHOT AND SEE IF I CAN MAKE
24 SOMETHING OUT OF IT. I'M GOING TO PUT MICKEY THOMPSON ON
25 THE STAND TO SHOW THAT, IN FACT, MICKEY THOMPSON IS A
26 MECHANIC. HE WOULD KNOW IF A CAR IS THIS IN REPAIRABLE
27 CONDITION.

28 | AND HE WILL TESTIFY THAT, IN FACT, THERE

1 WERE MAJOR PARTS TRANSAXLES MISSING; STARTERS;
2 ALTERNATORS MISSING. THAT CAR WAS NOT REPAIRED AS DEAN
3 COWELL (SIC) HAD INDICATED. THE PROBLEM IS THAT HE
4 TESTIFIED TO SEEING THE CAR A YEAR AFTER SCOTT CAMPBELL
5 WAS MISSING. THEREFORE THE OBJECTION BY MR. JONES. HEY,
6 JUDGE, THIS HAS NOTHING TO DO WITH ANYTHING. THIS IS A
7 YEAR LATER.

8 EVEN THE COURT -- AND I QUOTED THE COURT
9 IN MY MOVING PAPERS. THE COURT SAID I DON'T KNOW IF THIS
10 HAS ANY WEIGHT AT ALL, FOLKS. BUT I'M GOING TO WAIT AND
11 SEE. AND I'M GOING TO ALLOW MR. AVDY TO PUT THIS IN. IF
12 HE CAN TIE IT ALL UP, THEN FINE. IF NOT, IT BEARS LITTLE
13 WEIGHT.

14 NOW THAT IS THE TESTIMONY THAT THE DEFENSE
15 IS PROFFERING IS THE MOTIVE FOR LARRY COWELL, WHO IS IN
16 STATE PRISON FOR MURDER AT THE TIME, TO CONTRACT WITH
17 DEAN KENNEDY, WHO IS IN JAIL FOR DOUBLE MURDER -- RATHER
18 TRIPLE MURDER AT THE TIME, TO KILL MICKEY AND TRUDY
19 THOMPSON.

20 SO EVERYBODY IS JUST GOING TO KILL
21 EVERYBODY EVEN THOUGH NOBODY CAN TALK TO ANYONE AND THERE
22 IS NO EVIDENCE THAT THE TWO MEN EVER KNEW EACH OTHER.
23 COUPLE THAT WITH THE FACT THAT -- AND THIS IS AN
24 INCREDIBLY CREATIVE STORY. AND I HAVE TO GIVE THE
25 DEFENSE SOME CREDIT FOR CREATING THIS. DEAN KENNEDY; KIT
26 PAEPULE; JOHN YOUNG; ABSOLUTELY CONNECTED. WE CAN
27 CONNECT THOSE RIGHT UP THE LINE ON THE CHART.

28 TOM WILSON AND JEREMY GENOWAY AND

1 TRAGICALLY SUSAN BRANDT KILLED. WE CAN CONNECT THEM.
2 JOHN YOUNG ADMITTED IT. KIT PAEPULE ADMITTED IT. NOW
3 HOW DO WE GET BELOW THE BOLD LINE? HOW DO WE GET FROM
4 DEAN KENNEDY TO LARRY COWELL?

5 IF THE COURT READS THE DEFENSE MOVING
6 PAPERS VERY CLOSELY, THE ONLY LINK BETWEEN DEAN KENNEDY
7 AND LARRY COWELL IS THE FOLLOWING: ED LOSINSKI SAYS I
8 HAD A PANTERA. AND I TOOK IT TO DEAN COWELL'S (SIC)
9 SHOP -- SORRY -- LARRY COWELL'S SHOP TO GET IT FIXED. I
10 WOULD IMAGINE THAT A PANTERA BEING A PRETTY EXOTIC SPORTS
11 CAR, THERE IS FIVE OR SIX IN ALL OF ORANGE COUNTY PLACES
12 WHERE YOU CAN GET YOUR CAR FIXED.

13 THERE IS NO INDICATION THAT THERE WAS ANY
14 CONCERTED EFFORTS ON ED LOSINSKI'S PART OTHER THAN
15 CONVENIENCE. ED LOSINSKI ALSO SAYS I RACED SOME JET SKIS
16 AT THE SAME TIME WITH DEAN KENNEDY AND I KNEW DEAN
17 KENNEDY. ED LOSINSKI APPARENTLY -- ALTHOUGH I HAVE NOT
18 BEEN ABLE TO VERIFY THIS INDEPENDENTLY; I'LL TAKE
19 COUNSEL'S WORD FOR IT THAT THE REPORTS ARE ACCURATE --
20 THAT ED LOSINSKI WAS DOING SOME WORK ON MICKEY THOMPSON'S
21 HOME. OKAY. SO THERE IS A TENUOUS CONNECTION BETWEEN ED
22 LOSINSKI AND MICKEY THOMPSON.

23 NOW, THE DEFENSE IN ORDER TO PROVE THIS
24 CASE WOULD HAVE TO ESTABLISH BECAUSE THERE IS NO DIRECT
25 CONNECTION BETWEEN DEAN AND LARRY, THEY WOULD HAVE TO
26 ESTABLISH THAT ED LOSINSKI, WAS ALSO PART OF THE
27 CONSPIRACY. YOU NOTED IN DEFENDANT'S MOVING PAPERS SHE
28 MADE A POINT OF SAYING, HEY, YOU KNOW WHAT, SOMEBODY UP

1 THERE AT THE CRIME SCENE HAD TO KNOW THE AREA VERY WELL;
2 HAD TO HAVE BEEN DOING SOME INTELLIGENCE OR SURVEILLANCE.

3 LOW AND BEHOLD ED LOSINSKI WAS BUILDING A
4 BRICK WALL UP AT MICKEY THOMPSON'S HOUSE. SO IS THE
5 DEFENSE POSTURE THAT ED LOSINSKI IS PART OF THE
6 CONSPIRACY, SO HE SHOULD BE PROSECUTED FOR MURDER AS WELL
7 ALONG WITH DEAN AND LARRY? IF THAT'S THE BEST THEY CAN
8 DO, THAT'S A CREATIVITY THAT HAS NO LEGAL, SOUND
9 FOUNDATION.

10 SO WHERE DO THEY GO FROM THERE? HOW DO
11 THEY ATTACH THIS GROUP OF PLAYERS WHO HAVE NO CONNECTION
12 TO ONE ANOTHER TO THE CRIME SCENE? OUT COMES JOEY
13 HUNTER. AND IF YOU SEE FROM THE CHART, JOEY HUNTER IS IN
14 A CIRCLE, THERE IS NO LINES EMANATING FROM THE CIRCLE
15 BECAUSE THE DEFENSE CANNOT; HAS NOT; WILL NOT BE ABLE TO
16 ATTACH JOEY HUNTER TO ANYBODY HAVING ANYTHING TO DO WITH
17 THIS SCENARIO THAT THEY HAVE CREATED.

18 AND LET ME SAY THIS ABOUT JOEY HUNTER.
19 COUNSEL SPENT A FEW MINUTES TALKING ABOUT HIS I.D. "THE
20 HUNTER IDENTIFICATIONS" -- AND, JUDGE, I APOLOGIZE I'VE
21 SPENT SEVERAL PAGES KIND OF ELABORATING ON HOW WE GOT TO
22 JOEY HUNTER IN THE FIRST PLACE. HOW DID JOEY HUNTER COME
23 TO FRUITION. AND IT COMES DOWN TO THIS: JOEY HUNTER WAS
24 A RANDOM CLUE, A RANDOM PERSON THAT ANOTHER RANDOM PERSON
25 SAID LOOKS LIKE A COMPOSITE. HOW MUCH IS THAT WORTH?

26 IN GOING THROUGH THIS CASE, I FOUND 1300
27 CLUES, 1300, THAT'S NOT A MISTAKE. OF THOSE 1300 CLUES,
28 THERE IS ALMOST AS MANY PEOPLE NAMED THAT ARE POSSIBLE

1 SUSPECTS IN THIS CASE. THE POLICE HAD A MAMMOTH TASK TO
2 TRY TO APPROACH AND ELIMINATE THE BOGUS CLUES. CLUES
3 CAME IN FROM EVERY THIRD COUSIN IN SOUTHERN CALIFORNIA
4 AND EVERY TOM, DICK OR HARRY THROUGHOUT THE SOUTH, THAT
5 THAT COMPOSITE OF JOEY HUNTER LOOKS LIKE MY THIRD COUSIN
6 THAT MY AUNT MARRIED TWICE REMOVED.

7 AND THE GUY SITTING DOWN AT THE END OF THE
8 BAR THAT I HAD DRINKS WITH AND MARTINIS WITH THREE NIGHTS
9 AGO; AND SOME GUY I WENT TO HIGH SCHOOL WITH. HE IS AN
10 INFORMANT AT A RACE TRACK. HERE IS A NEWSPAPER. OH,
11 LOOK, JOEY HUNTER LOOKS JUST LIKE THE PEOPLE IN THE
12 NEWSPAPER. DOESN'T HE LOOK LIKE THAT GUY? OH, YEAH, I
13 THINK JOEY HUNTER LOOKS -- I MEAN, I'M SORRY -- THE
14 COMPOSITE LOOKS LIKE THAT GUY.

15 AMAZINGLY ENOUGH -- DO YOU WANT TO HEAR AN
16 IRONY? HERE IS A CLUE THAT SAYS THAT COMPOSITE LOOKS
17 JUST LIKE A GUY NAMED JOHN BRADLEY. JOHN BRADLEY IS
18 SITTING IN THE TAN JACKET IN THE BACK OF THIS COURTROOM.
19 HERE IS A CLUE THAT SAYS OH, LOOK, HERE IS THE COMPOSITE
20 OF THE GUY AT THE SCENE, THE HITCHHIKER. BOY, DOESN'T
21 THAT LOOK AN AWFUL LOT LIKE THE PERSON DEPICTED HERE
22 (INDICATING).

23 MS. SARIS: CAN COUNSEL STATE FOR THE RECORD WHAT
24 HE'S HOLDING UP AND WAIVING?

25 MR. JACKSON: I WILL. IT'S TWO PHOTOGRAPHS. ONE
26 OF WHICH IS THE COMPOSITE. THE SECOND OF WHICH HAPPENS
27 TO BE MARK GOODWIN, THE DEFENDANT'S OWN BROTHER. HE
28 LOOKS EXACTLY LIKE THE COMPOSITE. NOW IT'S NOT MY

1 POSITION NOR HAS IT EVER BEEN THAT MARK GOODWIN IS THE
2 GUY ON THE BICYCLE.

3 MY POINT IS THE FOLLOWING: THERE IS
4 ALMOST NOT A 28-YEAR-OLD WHITE GUY WITH A MUSTACHE AND
5 BLOND HAIR WHO DOESN'T LOOK LIKE THAT COMPOSITE. SO
6 COUNSEL DECIDED TO TAKE THIS CLUE AND RUN WITH IT.

7 WAS JOEY HUNTER IDENTIFIED AS THE
8 HITCHHIKER? THAT'S YET TO BE SEEN. THERE WERE FIVE
9 PEOPLE AS COUNSEL CORRECTLY STATES, FIVE PEOPLE WHO SAID
10 I SAW A HITCHHIKER DOWN AT IRWINDALE AND FOOTHILL -- BY
11 THE WAY, IT'S THREE MILES AWAY -- A LITTLE OVER -- LIKE,
12 3.1 MILES AWAY; WE CLOCKED IT FROM THE CRIME SCENE
13 VISAVIS THE ESCAPE ROUTE.

14 OF THOSE FIVE WITNESSES, TWO OF THEM SAID,
15 YEP, JOEY HUNTER LOOKS LIKE THAT GUY, HE LOOKS LIKE THE
16 COMPOSITE. BUT GUESS WHAT THE OTHER THREE SAID? THAT'S
17 NOT HIM. AND TWO OF THE OTHER THREE PICKED THE SAME GUY
18 OUT OF THE SIX PACK. SO IF THAT'S THE FOUNDATION FOR
19 MAKING AN IDENTIFICATION OF THE HITCHHIKER, WE HAVE EQUAL
20 OPPORTUNITY TO GO GET THE OTHER DUDE OUT OF THE SIX PACK
21 WHO WE HAPPEN TO KNOW WAS IN CUSTODY AT THE TIME.

22 AND THE REASON I KIND OF BEAT THIS DEAD
23 HORSE, YOUR HONOR, IS BECAUSE IT SOUNDS RIDICULOUS
24 BECAUSE IT IS RIDICULOUS. NOW COUNSEL SAID JOEY HUNTER
25 CONFESSED TO HIS COUSIN BONNIE DALTON AND THEREFORE THAT
26 PLACES HIM AT THE SCENE. AND COUNSEL SAYS THAT HIS
27 CONFESSION IS TO BE DETERMINED BY WEIGHT NOT
28 ADMISSIBILITY. THE CIRCUMSTANCES SURROUNDING HIS

1 CONFESSION ARE TO BE A QUESTION OF WEIGHT, NOT
2 ADMISSIBILITY.

3 THAT IS ABSOLUTELY INCORRECT. THAT'S NOT
4 WHAT THE LAW SAYS. FRIERSON SAYS IF THE COURT MAKES A
5 DETERMINATION -- AND YOU HAVE TO MAKE A DETERMINATION,
6 JUDGE -- OF THE CIRCUMSTANCES SURROUNDING THAT PARTICULAR
7 STATEMENT, AND THAT STATEMENT DOESN'T PASS THE SMELL
8 TEST, THEN THAT STATEMENT DOESN'T COME IN. IT CANNOT BE
9 DEEMED A CONFESSION.

10 AND WE'VE CITED A CASE DIRECTLY ON POINT
11 WHERE IN THAT CASE, IN FRIERSON, THE THIRD PARTY ACTUALLY
12 CONFESSED TO THE DEFENSE INVESTIGATOR, ACTUALLY CONFESSED
13 TO THE DEFENSE INVESTIGATOR. IT MAY HAVE BEEN ON TAPE
14 EVEN, AND THE COURT SAID, NO, THAT'S RIDICULOUS. WHY?
15 BECAUSE IT DOESN'T PASS THE TEST OF REASONABLENESS; OF
16 TRUSTWORTHINESS.

17 IF THE CONFESSION, JUST LIKE ANY OTHER
18 HEARSAY STATEMENT OR ANY OTHER EVIDENTIARY DETERMINATION,
19 IF IT DOESN'T HAVE INHERENT TRUSTWORTHINESS, IT'S NOT A
20 CONFESSION AT ALL. AND THIS WAS A JOKE MADE TO HIS
21 COUSIN. DID YOU DO IT, JOEY? NO.

22 BONNIE DALTON SITS FOR A SECOND. AND HE
23 SAYS, YEAH, OKAY. I DID IT. I DID IT. HA, HA, HA. AND
24 THE MOST TELLING POINT OF THAT ENTIRE EXCHANGE IS BONNIE
25 DALTON'S REACTION, WHICH SHE REITERATED OVER AND OVER AND
26 IT'S IN THE POLICE REPORTS -- HER REACTION WAS HE WAS,
27 SINGULARLY, FULL OF SHIT, TO QUOTE BONNIE DALTON. EVEN
28 SHE DIDN'T BELIEVE HIM.

1 SO WHAT DOES THAT LEAVE US WITH THIS?
2 COUNSEL NEEDED BADLY TO TRY TO ESTABLISH SOME LINK
3 BETWEEN THE KENNEDY CLAN, IF YOU WILL, AND COWELL TO THE
4 CRIME SCENE. SO HOW DO THEY DO IT? WE'RE GOING TO PICK
5 JOEY HUNTER. THE PROBLEM IS JOEY HUNTER HAS NEVER MET
6 LARRY COWELL. JOEY HUNTER HAS NEVER HEARD OF DEAN
7 KENNEDY. HE DOESN'T KNOW JOHN YOUNG. HE HAS NEVER MET
8 KIT PAEPULE. THERE IS NO EVIDENCE THAT ANY OF THESE
9 FOLKS EVER RAN IN THE SAME CIRCLES OR KNEW ONE ANOTHER.

10 AS FAR AS THE WILSON, GENOWAY AND BRANDT
11 MURDERS ARE CONCERNED, WE'VE GIVEN THIS COURT CASE AFTER
12 CASE AFTER CASE THAT SPECIFICALLY WAIVES AGAINST THIS
13 1101 (B) ATTEMPT BY THE DEFENSE TO GET IN PRIOR BAD ACTS.
14 IF THE COURT LOOKS BACK TO DAVIS -- IT'S THE DAVIS CASE.
15 I'M SORRY THERE IS SEVERAL CASES THAT I WAS LOOKING AT
16 AND THAT I BRIEFED.

17 IF THE COURT LOOKS BACK AT THE DAVIS CASE,
18 IN THAT PARTICULAR CASE THE SUPREME COURT LOOKED AT THE
19 FOLLOWING EVIDENCE THE DEFENDANT WAS CHARGED WITH
20 SEXUALLY ASSAULTING AND ULTIMATELY KILLING A FEMALE.
21 THE DEFENDANT SOUGHT TO PRESENT EVIDENCE OF A PERSON WHO
22 WAS ACTUALLY SEEN WITH THAT FEMALE THAT NIGHT. A GUY
23 NAMED REED.

24 THE DEFENSE POSITION WAS, WELL, MR. REED
25 HAS A PRIOR HISTORY OF SEXUALLY ASSAULTING PEOPLE. HE
26 HAD SEXUALLY ASSAULTED A WOMAN AT A PARTY NOT LONG AGO.
27 THE SUPREME COURT SAID THAT IS NOT GOOD ENOUGH. YOU
28 CAN'T BRING IN UNDER THE GUYS OF 1101 (B) EVIDENCE JUST

1 PRIOR BAD ACTS TO SHOW A PROPENSITY TO COMMIT THE ACT IN
2 QUESTION.

3 AND IRONICALLY ENOUGH, MS. SARIS ACTUALLY
4 USED THAT VERY WORD IN MAKING HER CASE FOR WHY THOSE TWO
5 OTHER MURDERS SHOULD COME IN. THE FACT THAT SOMEONE ELSE
6 IS, QUOTE, UNQUOTE, MORE LIKELY TO HAVE COMMITTED THE
7 MURDERS, IS NOT A FACT ABSENT ANY DIRECT OR
8 CIRCUMSTANTIAL LINK TO THE CRIMES THAT CAN COME BEFORE
9 THE JURY IN THE FORM OF THIRD-PARTY CULPABILITY EVIDENCE.

10 IF THE COURT LOOKS AT DAVIS AND SANDOVAL
11 AND PRIDE AND ALCALA. IN EACH OF THOSE CASES, I SUBMIT
12 TO THE COURT, IN EVERY SINGLE ONE OF THEM -- AND I HAVE
13 BRIEFED THEM IN MY PAPERS -- THE DEFENSE OFFER OF PROOF
14 WAS BETTER, TIGHTER, MORE CONNECTED THAN THE DEFENSE
15 OFFER OF PROOF IS IN THIS CASE. AND THE SUPREME COURT
16 SAID IN EACH AND EVERY CASE, THAT IS NOT ENOUGH.

17 THE DEFENSE SIMPLY AT THE END OF THE DAY
18 CANNOT CONNECT DEAN KENNEDY TO THE MURDER OF MICKEY AND
19 TRUDY THOMPSON. THEY CANNOT CONNECT JOHN YOUNG AND KIT
20 PAEPULE TO THE MURDERS OF MICKEY AND TRUDY THOMPSON.
21 THEY CANNOT CONNECT DEAN KENNEDY TO LARRY COWELL. AND
22 THEY CERTAINLY CANNOT CONNECT LARRY COWELL TO THE MURDERS
23 OR THE CRIME SCENE EITHER.

24 AND FINALLY, JOEY HUNTER CAN'T BE
25 CONNECTED TO ANYONE. HE'S NOTHING BUT A PHOTOGRAPH AND
26 HE IS AN IDIOT. AND I WILL SUBMIT THAT. IS IT A FUNNY
27 JOKE TO SAY TO YOUR COUSIN, OH, YEAH, I DID IT. HA, HA.
28 NO. IT LACKS TASTE. I WOULD SUBMIT JOEY HUNTER PROBABLY

1 HAS NO TASTE. BUT THAT DOESN'T MEAN HE'S THE GUY AT
2 IRWINDALE AND FOOTHILL. THERE IS ABSOLUTELY NO
3 CONCLUSIVE EVIDENCE OF THAT. AND THERE IS NO EVIDENCE
4 THAT HE HAS ANY CONNECTION WITH ANY OF THESE OTHER
5 PLAYERS.

6 BASED ON ALL THAT, YOUR HONOR, THIS IS
7 ABSOLUTELY A CREATIVE WAY TO TAKE THE JURORS' EYES OFF
8 THE BALL. A COMPARISON BETWEEN THAT SET OF CIRCUMSTANCES
9 AND THE INSTANT CASE IS LEGALLY IMPERMISSIBLE. AND THIS
10 THIRD-PARTY CULPABILITY EVIDENCE SHOULD BE SUPPRESSED.

11 THE COURT: THANK YOU, MR. JACKSON.

12 MS. SARIS: MAY I, YOUR HONOR?

13 THE COURT: YES. JUST GIVE ME -- LET ME JUST ASK
14 ONE QUESTION OF YOU, MS. SARIS, BEFORE YOU RESPOND IN
15 GENERAL. THE ARGUMENT THAT THERE IS NO CONCLUSIVE
16 EVIDENCE CONNECTING JOEY HUNTER TO THE AREA WHERE THE
17 HITCHHIKER WAS OBSERVED WITH A BICYCLE WHICH LED TO THE
18 COMPOSITE. DO YOU HAVE ANYTHING MORE TO OFFER WITH
19 RESPECT TO THE IDENTIFICATION OF THAT INDIVIDUAL AS JOEY
20 HUNTER BY -- I THINK IT WAS JUST THE TWO WITNESSES OR
21 THREE WITNESSES THAT DID NOT IDENTIFY HIM OUT OF THE
22 FIVE.

23 IS THAT RIGHT?

24 MR. JACKSON: THAT'S CORRECT, YOUR HONOR.

25 MS. SARIS: THE FIVE WITNESSES DESCRIBED HIM. HE
26 MATCHES THE GENERAL DESCRIPTION OF THE FIVE. TWO PICKED
27 HIM OUT OF A LINE-UP. I DON'T HAVE ANY PAPERWORK
28 INDICATING THAT HE WAS ACTUALLY -- THE OTHER THREE WERE

1 SHOWN A PICTURE AND THEY SAID DEFINITELY NOT. HE WAS IN
2 A LINE-UP AND WAS NOT IDENTIFIED BY THOSE THREE PEOPLE.
3 BUT AS FAR AS I HAVE IN TERMS OF DISCOVERY, I'VE NEVER
4 SEEN ONE OF THE OTHER INDIVIDUALS SAYING, OH, MY GOSH,
5 THAT'S NOT HIM.

6 WE HAVE MISS DALTON. WE INTEND TO HAVE
7 MISS DALTON. AND IT'S OUR UNDERSTANDING THAT SHE DID NOT
8 THINK THIS WAS A JOKE. SHE NEVER REITERATED THAT HE WAS,
9 QUOTE, SINGULARLY FULL OF SHIT. SHE SAID IT ONE TIME
10 WHEN SHE GAVE THE ORIGINAL STATEMENT. IT'S OUR
11 UNDERSTANDING THAT SHE WOULD TESTIFY THAT SHE FOUND HIM
12 TO BE SERIOUS.

13 I DON'T QUITE UNDERSTAND WHY THE EVIDENCE
14 THAT THE PROSECUTION IS TALKING ABOUT IS INADMISSABLE.
15 WE HAVE THE WITNESSES TO BACK THIS UP. WE HAVE THE TWO
16 DETECTIVES. WE HAVE THE TWO NEIGHBORS. RICHARD
17 PASSMORE. JOHN YOUNG IS NECESSARY. WE CERTAINLY ARE
18 ABLE TO GET HIM. LARRY BEDENHARDT AND ED LOSINSKI.

19 COUNSEL STOOD UP AND SAID COMPARISON
20 WEREN'T RELEVANT AND THEN PROCEEDED TO COMPARE EVIDENCE.
21 I WOULD POINT OUT IN HOLMES, THEY HAD DNA THAT MATCHED
22 THE DEFENDANT. THAT IS STRONGER THAN ANY OF THE I GUESS
23 PREVIEW OF THE OPENING STATEMENT MR. JACKSON GAVE US
24 REGARDING HIS EVIDENCE AGAINST MR. GOODWIN. YOU CAN'T
25 GET ANY STRONGER THAN THAT.

26 THE PROSECUTOR STOOD UP AND SAID WE HAVE
27 DNA. IT MATCHES THE DEFENSE. AND THE SUPREME COURT OF
28 THE UNITED STATES SAYS THAT IS NOT ENOUGH TO EXCLUDE

1 THIRD-PARTY CULPABILITY EVIDENCE. IT'S NOT A MATTER OF
2 CAN I PROVE THAT DEAN KENNEDY COMMITTED THIS BEYOND A
3 REASONABLE DOUBT.

4 DO I NEED TO PROVE THAT JOEY HUNTER AND
5 DEAN KENNEDY ARE CONNECTED? NOT NECESSARILY. THAT COULD
6 BE TWO SEPARATE THEORIES. MY POINT IS I'M ENTITLED TO
7 RAISE A REASONABLE DOUBT. I CAN DO THAT WITH ADMISSIBLE
8 EVIDENCE. ED LOSINSKI ISN'T JUST SOMEONE WHO BROUGHT HIS
9 CAR INTO LARRY COWELL'S SHOP. HE WAS A CLOSE FRIEND OF
10 LARRY COWELL'S AND A CLOSE FRIEND OF DEAN KENNEDY'S.

11 SO THIS IS ONE DEGREE OF SEPARATION, WHICH
12 I MAY POINT OUT FOR THE SAKE OF CONSTITUTIONALITY, NOT
13 THE SAKE OF COMPARISON OF THE RESPECTIVE STRENGTH OF THE
14 CASE IS ONE MORE DEGREE OF SEPARATION TOWARDS A SHOOTER
15 THAN THE PEOPLE ARE GOING TO BE ABLE TO PRESENT.

16 ALSO, AS I TOUCHED ON EARLIER, THERE WAS
17 BY A WITNESS BY THE NAME OF HACKMAN SOME INDICATION THAT
18 THE SHOOTER AT THE BOTTOM OF THE DRIVEWAY MAY HAVE BEEN
19 WHITE. COUNSEL'S 2.7 MILE OR 3.1 MILE DISTINCTION
20 BETWEEN IRWINDALE AND FOOTHILL IS IF YOU GO DOWN THE BACK
21 ROUTE OF WOODLYN.

22 OUR POINT IS THAT MR. HUNTER, BEING A
23 WHITE MAN, WOULDN'T HAVE TO DO THAT TO ESCAPE DETECTION.
24 HE COULD GO DOWN WOODLYN IN WHICH CASE IT IS A LITTLE
25 OVER TWO MILES AWAY FROM THE CRIME SCENE.

26 COUNSEL'S THIRD COUSIN AT THE BAR DRINKING
27 WHO MIGHT MATCH A DESCRIPTION WASN'T FOUND AT THE
28 LOCATION OF THE CRIME SCENE WITHIN AN HOUR OF THE MURDER

1 ON A BICYCLE. THOSE ARE RELEVANT FACTORS THAT A COURT --
2 THAT A JURY OUGHT TO HEAR. ESPECIALLY WHEN COUNSEL IS
3 GOING TO STAND UP -- AS WE KNOW HE DID AT THE END OF THE
4 PRELIM -- AND SAY WHO ELSE COULD IT BE?

5 IN HALL, THEY HAD THREE FACTORS THAT THE
6 COURT SAID SHOULD HAVE ALLOWED THE EVIDENCE IN;
7 FOOTPRINTS; LEFT-HANDEDNESS AND KNOWLEDGE. HERE WE HAVE
8 THE BICYCLES. WE HAVE THE MAROON VOLVO. WE HAVE THE
9 PROXIMITY OF MR. HUNTER TO THE CRIME SCENE. IF THAT'S
10 NOT HIM, THEN COUNSEL CAN ARGUE THAT.

11 WE CERTAINLY TAKE ISSUE WITH RON AND
12 TONYIA STEVENS PUTTING MR. GOODWIN AT THE CRIME SCENE.
13 IT DOESN'T MEAN IT'S INADMISSABLE. WE WILL JUST BE ABLE
14 TO STAND UP TO THE JURY AND SAY THIS IDENTIFICATION IS
15 LAUGHABLE 14 YEARS LATER. IT'S NOT NECESSARILY
16 INADMISSIBLE. IF THEY WANT TO SAY THAT ABOUT JOEY
17 HUNTER, THEY'RE FREE TO DO THAT. IT'S CALLED A 402 OR
18 IT'S CALLED CROSS-EXAMINATION. BUT IT CANNOT BE THE
19 BASIS FOR DENYING US RELEVANT EVIDENCE TO PUT BEFORE THE
20 JURY.

21 I DID NOT IN MY PAPERS STATE THAT MICKEY
22 THOMPSON'S TESTIMONY WAS DEVASTATING. IT WAS HIGHLY
23 INCRIMINATING BECAUSE IT HAD A POTENTIAL, IF BELIEVED, TO
24 BLOW APART LARRY COWELL'S ALIBI.

25 I DO NOT NEED TO PROVE THIS CASE BEYOND A
26 REASONABLE DOUBT AGAINST DEAN KENNEDY. I DON'T EVEN HAVE
27 TO MAKE IT MEET THE THRESHOLD OF A PRELIMINARY HEARING.
28 ALL I NEED TO DO IS SHOW THE COURT THAT THERE IS RELEVANT

1 EVIDENCE THAT RAISES DOUBT AS TO MR. GOODWIN'S GUILT.

2 THESE INDIVIDUALS, TO SAY THAT THE POLICE
3 WERE INUNDATED WITH A MAMMOTH AMOUNT OF CLUES, THAT IS
4 TRUE. THERE WERE SOME DEFINITE CRACK POTS WHO CALLED
5 INTO AMERICA'S MOST WANTED AND UNSOLVED MYSTERIES.
6 HOWEVER, THIS WAS LAW ENFORCEMENT CALLING IN SAYING THEY
7 WERE INVESTIGATING THESE DOUBLE HOMICIDES AND THEY WANTED
8 THIS TO BE LOOKED AT.

9 THERE IS PART AND PARCEL OF THE ENTIRE
10 DEFENSE CASE, WHICH IS IF THE EVIDENCE WAS NOT GOING TO
11 POINT TO MICHAEL GOODWIN, THE INVESTIGATORS IGNORED IT.
12 THERE IS NO WAY TO GET THAT WITH ITS FUROR IN FRONT OF
13 THIS JURY UNLESS THEY KNOW HOW SIMILAR THESE CRIMES WERE
14 AND HOW LITTLE WAS DONE TO INVESTIGATE THESE CRIMES
15 WHERE THE M.O. WAS THE SAME; A GUN MALFUNCTIONED; THE
16 PERPETRATORS MATCHED THE DESCRIPTION.

17 JOHN YOUNG -- WHEN KATHY OSBORNE AND LINDA
18 O'NEILL -- DID I MIX THEM UP? YES. LINDA OSBORNE AND
19 KATHY O'NEILL WERE SHOWN THE COMPOSITE OF THE BLACK
20 SHOOTER AT MICKEY THOMPSON'S, THEY BOTH IMMEDIATELY SAID,
21 OH, THAT'S JOHN YOUNG. BECAUSE HE HUNG AROUND DEAN
22 KENNEDY'S SO OFTEN, THAT'S WHO THEY THOUGHT THAT
23 COMPOSITE WAS.

24 THESE AREN'T PEOPLE WE RANDOMLY PICKED UP
25 OR CREATED IN ORDER TO MAKE A CASE. THESE ARE PEOPLE
26 THAT THE INVESTIGATORS SHOULD HAVE BEEN INVESTIGATING FOR
27 THE LAST 14 YEARS, BUT REFUSED TO WHEN IT DID NOT LEAD
28 BACK TO MICHAEL GOODWIN.

1 WE ALSO HAVE THE MOTION THAT DARE NOT
2 STATE ITS NAME IN REGARDS TO MR. HUNTER. THE OTHER
3 INDIVIDUAL, UNFORTUNATELY, THAT MR. HUNTER CONFESSED TO
4 WITH SOME DEGREE OF DETAIL IS AN INMATE WHO HAS
5 SUBSEQUENTLY DIED IN THE 17 YEARS IT TOOK THE PROSECUTOR
6 TO CHARGE MR. GOODWIN WITH THESE OFFENSES, THROUGH NO
7 FAULT OF OUR OWN OR HIS.

8 BUT I THINK WE'VE CERTAINLY ESTABLISHED
9 ENOUGH THAT, IF BELIEVED, THIS WOULD RAISE A REASONABLE
10 DOUBT AS TO MR. GOODWIN'S GUILT. AND, BY THE WAY,
11 COUNSEL'S THEORY OF HOW THEY'RE ALL CONNECTED IS NOT
12 NECESSARILY OUR THEORY. AND WE WOULD ASK THE COURT TO
13 RELY ON OUR MOVING PAPERS AND NOT HIS VERSION OF EVENTS.

14 MR. JACKSON: IF I MAY BRIEFLY RESPOND, YOUR
15 HONOR. I RELIED ON HER MOVING PAPERS AND HER VERSION OF
16 EVENTS IN COMING UP WITH THE CHART AND THE GRAPH. IT'S
17 DIRECTLY OUT OF HER MOVING PAPERS. THE FACT THAT THERE
18 IS FAULT IN IT IS NOT OURS BUT THEIRS.

19 COUNSEL SAYS OVER AND OVER, I DON'T HAVE
20 TO PROVE BEYOND A REASONABLE DOUBT THAT THESE OTHER
21 PEOPLE DID IT. ALL I HAVE TO PROVE IS THAT THERE IS SOME
22 RELEVANT EVIDENCE. THAT IS NOT TRUE. THAT'S PATENTLY
23 NOT THE STANDARD. AND SHE IGNORES IT OVER AND OVER AND
24 OVER.

25 THE STANDARD OF PROOF UNDER HALL IS THAT
26 SHE HAS TO CONNECT THE PEOPLE -- THE THIRD PARTY OR THIRD
27 PARTIES THAT SHE IS TALKING ABOUT WITH THE ACTUAL
28 PERPETRATION OF THE CRIME AND SHE CAN'T DO IT. SHE SAYS

1 THAT THERE IS SOME COMPOSITES THERE THAT ESTABLISHED THAT
2 JOEY HUNTER IS THE HITCHHIKER. WELL, THE IDENTIFICATIONS
3 DON'T BEAR THAT OUT. SHE IS CONCLUDING THAT HUNTER IS
4 THE HITCHHIKER AND THEREFORE HUNTER WAS WITHIN MILES OF
5 THE CRIME SCENE AND BLAH, BLAH, BLAH. THAT'S A LEAP SHE
6 CAN'T MAKE.

7 THE COURT: WELL, LET ME JUST STOP YOU FOR A
8 SECOND BECAUSE THE WAY I CHARTED OUT THE DEFENSE MOTION
9 DOES SUPPORT A LITTLE BIT OF WHAT MS. SARIS IS SAYING IN
10 THAT THE DESCRIPTION GIVEN BY I GUESS THE FIVE PEOPLE
11 THAT PROVIDED THE DESCRIPTION OF THIS INDIVIDUAL, JOEY
12 HUNTER DOES MATCH THAT DESCRIPTION. BUT THERE WERE TWO
13 WITNESSES, NEVERTHELESS, THAT DID IDENTIFY HIM --

14 MR. JACKSON: CORRECT.

15 THE COURT: -- AS BEING THE PERSON SEEN
16 HITCHHIKING WITH THE BICYCLE.

17 MR. JACKSON: THAT'S CORRECT.

18 THE COURT: SO YOU DO HAVE EVIDENCE -- AND I'M
19 ASSUMING IT'S THE MCKINNEYS THAT PROVIDED THAT TESTIMONY?

20 MR. JACKSON: LEONORE MCKINNEY AND HER SON ARE
21 THE TWO THAT ACTUALLY IDENTIFIED JOEY HUNTER OUT OF THE
22 SIX PACK.

23 THE COURT: RIGHT. SO YOU HAVE TWO WITNESSES
24 THAT DO, IN FACT, PUT JOEY HUNTER AT THE SCENE?

25 MR. JACKSON: CORRECT.

26 THE COURT: WHAT YOU ALSO HAVE, PERHAPS, IS THE
27 COUSIN BONNIE DALTON WHO ATTRIBUTES SOME STATEMENTS TO
28 JOEY HUNTER, NOT JUST THE ONE MENTIONED WHERE THERE IS

1 DISAGREEMENT AS TO WHETHER IT WAS A DECLARATION AGAINST
2 PENAL INTEREST OR A CONFESSION. BUT THERE WAS ALSO
3 ANOTHER STATEMENT ATTRIBUTED TO HUNTER BY HIS COUSIN, I
4 THOUGHT.

5 MR. JACKSON: THE SAME WOMAN.

6 THE COURT: YES, DALTON.

7 MR. JACKSON: RIGHT.

8 THE COURT: WHICH -- WHERE HE INDICATES AGAIN
9 SOMETHING INDICATING THAT HE IS NOT WORRIED, SOMEONE --
10 HE HAS SOMEONE WHO PROMISED HIM HE WOULD TAKE THE FALL OR
11 GIVE HIM \$50,000 IF HE TOOK THE FALL OR WHATEVER.

12 MR. JACKSON: CORRECT.

13 THE COURT: SO YOU HAVE A LITTLE BIT MORE AS TO
14 HUNTER. I AGREE THE CONNECTION, THOUGH, BETWEEN KENNEDY
15 AND LARRY COWELL COUPLED WITH PRESUMABLY THE TWO HIT MEN
16 WHO WERE, ACCORDING TO THE DEFENSE, YOUNG AND PAEPULE,
17 ALL OF THAT I DON'T SEE ANY CONNECTION, I'LL BE HONEST
18 WITH YOU. I THINK IT'S ALL VERY INTERESTING. IT
19 CERTAINLY MADE FOR INTERESTING READING WHEN I WAS TRYING
20 TO CHART OUT ALL OF THIS. BUT I DON'T SEE EVEN A REMOTE
21 THEORY HERE OF RELEVANCE.

22 AND, YOU KNOW, THE KEY HERE -- AND I THINK
23 WE ALL NEED TO GET ON THE SAME PAGE WITH THIS -- IS HALL
24 SETS OUT THE STANDARD IN CALIFORNIA. BUT IT DOESN'T
25 CHANGE THE ANALYSIS AS ONE INVOLVING A 352 ANALYSIS BY
26 THE COURT. AND THAT IS WHAT I'M LEFT WITH.

27 MR. JACKSON: CORRECT.

28 THE COURT: DO I HAVE RELEVANT EVIDENCE THAT

1 OUTWEIGHS WHATEVER POTENTIAL FOR PREJUDICE, CONFUSION OF
2 THE ISSUES; UNDUE CONSUMPTION OF TIME; SO ON AND SO FORTH
3 AS I'M REQUIRED TO DO UNDER 352. SO WHAT I'M LEFT WITH
4 AFTER ALL OF THIS -- AND THIS I'M JUST THROWING OUT THERE
5 TO ASSIST COUNSEL IN ANY FURTHER DISCUSSION -- IS IF, IN
6 FACT, THERE ARE TWO WITNESSES WHO PUT JOEY HUNTER AT THE
7 SCENE AND THERE ARE STATEMENTS BY JOEY HUNTER WHICH CAN
8 BE CONSTRUED AS CONFESSIONS OR ADMISSIONS AT THAT POINT,
9 PERHAPS THERE IS SOMETHING RELEVANT.

10 BUT I HAVEN'T EVEN BEGUN NOW TO DO THE 352
11 ANALYSIS. I'M JUST NOW SAYING OUT OF EVERYTHING THAT THE
12 DEFENSE HAS PRESENTED SO FAR, I THINK POTENTIALLY WHAT
13 HAS RELEVANCE IS THIS JOEY HUNTER PIECE OF EVIDENCE. BUT
14 WHETHER OR NOT THE 352 ANALYSIS ENDS WITH THE COURT
15 FINDING IN FAVOR OF THE DEFENSE, I JUST DON'T KNOW AT
16 THIS POINT BECAUSE I'M NOT REAL FAMILIAR WITH ANY OF THIS
17 EVIDENCE.

18 SO LET ME TRY TO CLARIFY, I ASSUME THEN,
19 MS. SARIS, YOU HAVE TWO WITNESSES LEONORE MCKINNEY AND
20 JOHN MCKINNEY WHO WILL TESTIFY THAT THEY CAN AND DID
21 IDENTIFY JOEY HUNTER AS BEING THE HITCHHIKER.

22 IS THAT YOUR OFFER OF PROOF?

23 MS. SARIS: THAT'S OUR OFFER OF PROOF, YES. AND
24 THE OTHER INDIVIDUALS' DESCRIPTION. NOW IN TERMS OF
25 PHYSICAL EVIDENCE -- I UNDERSTAND THE COURT IS HAVING
26 TROUBLE WITH THE THEORY, BUT JOEY'S CONFESSION TO MISS
27 DALTON INDICATED THE STATEMENT OF BEING PAID MONEY TO
28 TAKE THE FALL. THAT IS A CONNECTION IN AND OF ITSELF TO

1 DEAN KENNEDY WHO INDICATED THE EXACT SAME PLAN.

2 THE COURT: IT COULD BE. BUT SO IT'S SO TENUOUS,
3 I DON'T SEE THIS.

4 MS. SARIS: WHEN YOU CONNECT IT WITH THE MAROON
5 VOLVO THAT JOHN YOUNG WAS SEEN DRIVING; THE BICYCLES FOR
6 AN INDIVIDUAL WHO COULD NOT RIDE THEM; ALL WITHIN A
7 COUPLE OF WEEKS OF THE MURDER. THAT IS WHERE -- MAYBE
8 STANDING ALONE EACH INDIVIDUAL THING MIGHT NOT PASS
9 MUSTARD.

10 BUT WHEN YOU COMBINE ALL OF THEM WITH AN
11 INDIVIDUAL WHO HAS COMMITTED THREE HORRIFICALLY BRUTAL
12 MURDERS VERY SIMILAR TO THE MURDERS IN THE MICKEY
13 THOMPSON CRIME, THEN THE RELEVANCE COMES. SEPARATE AND
14 APART I AGREE WITH YOU. BUT I THINK WHAT WE'RE FAILING
15 TO DO IS PUT THEM ALL TOGETHER.

16 THE COURT: WELL, I TRIED TO PUT THEM ALL
17 TOGETHER. AND THAT'S THE DIFFICULTY I'M HAVING. THERE
18 IS A REASON I CAN'T PUT THEM ALL TOGETHER BECAUSE THE
19 CONNECTION OR THE LINKS THAT YOU REFER TO ARE REALLY
20 TENUOUS. I JUST DON'T SEE ANY CONNECTION WHATSOEVER
21 BETWEEN THE VAN NUYS AND THE BLYTHE MURDERS WITH THIS
22 CASE.

23 AND THAT'S REALLY WHERE IT BOILS -- YOU
24 KNOW, WHERE WE END UP WHEN WE LOOK AT THIS ANALYSIS.
25 YOUR CLAIM IS THAT THE VAN NUYS AND THE BLYTHE MURDERS
26 WERE COMMITTED BY THE SAME OR SIMILAR PEOPLE. I THINK
27 JOHN YOUNG ON ONE; AND THEN YOUNG AND PAEPULE ON THE
28 OTHER. THOSE WERE ORDERED BY DEAN KENNEDY.

1 DEAN KENNEDY IS SOMEHOW CONNECTED TO LARRY
2 COWELL. LARRY COWELL PRESUMABLY HAS A MOTIVE TO KILL
3 MICKEY THOMPSON BASED ON THE TESTIMONY THAT MICKEY
4 THOMPSON GAVE AT THE LARRY COWELL TRIAL. AND THEN YOU
5 HAVE A STATEMENT GIVEN BY DEAN KENNEDY TO THIS --

6 MS. SARIS: LARRY BEDENHARDT.

7 THE COURT: LARRY -- WHATEVER HIS NAME WAS --
8 THAT IS SIMILAR TO THE STATEMENT THAT HUNTER GIVES TO THE
9 COUSIN. YOU KNOW, I THINK IT'S INTERESTING, BUT IN TERMS
10 OF RELEVANCE, I DON'T SEE IT. I FRANKLY DON'T SEE IT.
11 WHAT I AM WILLING TO SAY AT THIS POINT IS THERE MAY BE
12 SOME RELEVANT INFORMATION WITH RESPECT TO THE JOEY HUNTER
13 CONNECTION. AND THAT'S WHAT I'M LEFT WITH RIGHT NOW.

14 I WOULD LIKE YOU BOTH TO ADDRESS THE 352
15 WEIGHING AND BALANCING ISSUE. I'M FAMILIAR WITH THE CASE
16 LAW. I DON'T THINK I NECESSARILY HAVE TO COMPARE THE
17 PROSECUTION'S EVIDENCE WITH WHAT THE DEFENSE WISHES TO
18 PRESENT. THE PROSECUTION'S CASE IS THE PROSECUTION'S
19 CASE. AND THEY ARE ENTITLED TO PRESENT WHATEVER EVIDENCE
20 THEY FEEL TENDS TO SUPPORT THE ALLEGATIONS THAT EXIST
21 AGAINST MR. GOODWIN.

22 THE DEFENSE, ON THE OTHER HAND, DOESN'T
23 HAVE TO CONVINCE ME THAT THEY HAVE -- THAT THE DEFENSE
24 HAS A STRONGER CASE. THE DEFENSE DOESN'T HAVE TO
25 CONVINCE ME THAT THE PEOPLE HAVE A WEAK CASE. THE
26 DEFENSE HAS TO SHOW ME THAT THERE IS SOME DIRECT OR
27 CIRCUMSTANTIAL EVIDENCE CONNECTING THE PROPOSED
28 THIRD-PARTY CULPABILITY EVIDENCE WITH THIS CASE.

1 AND I WILL GIVE YOU HUNTER PERHAPS HAS
2 SOMETHING RELEVANT PERHAPS THERE. TELL ME HOW UNDER 352,
3 THE WEIGHING AND BALANCING, WOULD DICTATE THAT I ALLOW
4 THAT INFORMATION TO COME IN. BECAUSE IT DOES REQUIRE THE
5 TESTIMONY OF TWO WITNESSES WHO WILL SAY THAT WAS HIM. IT
6 DOES REQUIRE THAT THE COUSIN WILL ATTRIBUTE THE TWO
7 STATEMENTS TO HIM WHICH COULD TEND TO INCRIMINATE HIM.
8 BUT I CAN'T DRAW ANY OTHER INFERENCES FROM ANY OF THAT.
9 SO I'M LEFT WITH A PERHAPS ON JOEY HUNTER.

10 SO MAYBE, MR. JACKSON, YOU MIGHT WANT TO
11 COMMENT ON THE 352 ANALYSIS THAT I HAVE TO --

12 MS. SARIS: CAN I GET BACK TO THIS VERY QUICKLY?

13 THE COURT: YES.

14 MS. SARIS: I JUST WANT TO MAKE SURE THAT IF THE
15 COURT IS DENYING THAT, THAT THE TENUOUS CONNECTION
16 BETWEEN MR. HUNTER AND MR. KENNEDY IS NOT THE BASIS.
17 BECAUSE WE ARE OFFERING THAT EVIDENCE BOTH TOGETHER AND
18 SEPARATELY.

19 THE COURT: YOU MEAN THE STATEMENT THAT JOEY
20 HUNTER PRESUMABLY MAKES TO HIS COUSIN; AND THEN THE
21 STATEMENT THAT DEAN KENNEDY PRESUMABLY MAKES TO LARRY
22 BEDENHARDT.

23 MS. SARIS: NO. THAT IS THE CONNECTION. WE'RE
24 TELLING YOU THAT IS THE CONNECTION. BUT I THINK THE
25 DEFENSE HAS THE RIGHT TO OFFER MORE THAN ONE THEORY. AND
26 IF THE COURT IS DENYING IT BASED ON THAT CONNECTION
27 ALONE, I WOULD ASK THE COURT TO LOOK AT THE DEAN KENNEDY
28 THEORY SEPARATE AND APART FROM JOEY HUNTER.

1 THE COURT: HOW?

2 MS. SARIS: BY WHAT WE STATED EARLIER, THE NATURE
3 OF THE MODUS OPERANDI; THE GUN JAMMING; THE MAROON VOLVO;
4 THE BICYCLES.

5 THE COURT: THE YOUNG AND PAEPULE CONNECTION?

6 MS. SARIS: THE YOUNG AND PAEPULE CONNECTION.

7 THE COURT: I DON'T HAVE ANYTHING OTHER THAN
8 SPECULATION AT THIS POINT ON THAT.

9 MS. SARIS: I JUST WANT TO BE SURE IT'S NOT BASED
10 SOLELY ON THAT CONNECTION. THAT WE'RE OFFERING THAT
11 INDEPENDENT AS WELL IF THE COURT FINDS THE CONNECTION
12 TENUOUS.

13 THE COURT: ALL RIGHT. YES. I DID CONSIDER BOTH
14 ARGUMENTS. AND I COME TO THE SAME CONCLUSION.

15 MS. SARIS: I JUST WANTED THE RECORD TO BE CLEAR.

16 THE COURT: YES, IT IS, I THINK.

17 MR. JACKSON.

18 MR. JACKSON: YOUR HONOR, WITH REGARD TO A 352
19 ANALYSIS -- AND THE COURT IS EXACTLY RIGHT. ONCE IT
20 MAKES A DETERMINATION -- A PRELIMINARY DETERMINATION THAT
21 THE EVIDENCE HAS SOME RELEVANCY, THEN IT MUST ENGAGE IN A
22 WEIGHING AND BALANCING ACT -- ACT? -- A WEIGHING AND
23 BALANCING OF THE EVIDENCE CONCERNING JOEY HUNTER.

24 I WOULD SUBMIT THE FOLLOWING: THERE WERE
25 FIVE WITNESSES. AND I'M TRYING NOT TO REPEAT MYSELF.
26 THERE WERE FIVE WITNESSES WHO SAID I SAW A YOUNGISH 25-
27 TO 28-YEAR-OLD WHITE MALE, LONG BLONDISH HAIR, MUSTACHE,
28 POSSIBLE MUSTACHE AT A SUCH AND SUCH CORNER, IRWINDALE

1 AND FOOTHILL, 3.1 MILES AWAY FROM THE CRIME SCENE AT
2 7:00 O'CLOCK IN THE MORNING OR 7:05 IN THE MORNING.

3 THE MURDERS IN THIS CASE TOOK PLACE AT
4 6:04 A.M. THAT'S MORE THAN AN HOUR LATER THAT HE'S 3.1
5 MILES AWAY. IT DOESN'T TAKE A GENIUS TO FIGURE OUT THAT
6 ANYBODY ON A BICYCLE AVERAGING SPEEDS OF AROUND 15 MILES
7 AN HOUR WOULD BE MUCH FARTHER AWAY -- 15 MILES AWAY
8 RATHER THAN THREE MILES AWAY HITCHHIKING.

9 NOW THE DEFENSE HAS TO MAKE A RELEVANCY
10 CONNECTION BETWEEN SEVERAL THINGS. THEY HAVE TO
11 ESTABLISH, NO. 1, THAT THE HITCHHIKER IS RELEVANT TO THE
12 MURDER.

13 NO. 2, THAT JOEY HUNTER IS THE HITCHHIKER.
14 I DON'T THINK THEY MAKE EITHER CONNECTION WITH ANYTHING
15 EXCEPT SPECULATION. GRANTED THERE ARE TWO WITNESSES WHO
16 SAY, PERSON NO. 3 LOOKS LIKE THE GUY, LOOKS LIKE THE
17 HITCHHIKER. THERE ARE THREE WITNESSES WHO PICKED SOMEONE
18 OTHER THAN JOEY HUNTER. NO, I'M LOOKING AT ALL SIX --
19 AND BY THE WAY, COUNSEL IS INCORRECT; SHE DOES HAVE THIS
20 REPORT.

21 BURT MUNSELL SAID NONE OF THE PEOPLE IN
22 THE SIX-PACK, NONE OF THEM IS THE HITCHHIKER THAT I SAW.
23 KEEP IN MIND BURT MUNSELL -- AND HE HAS BEEN IN
24 ACCURATELY DESCRIBED AS BURT "MUMFELL" IN MANY OF THE
25 POLICE REPORTS. IT'S NOT MS. SARIS'S FAULT, NECESSARILY,
26 BECAUSE THE POLICE REPORTS MISSPELLED HIS NAME.

27 BURT MUNSELL SAID HE SAW THE HITCHHIKER
28 BETWEEN SIX AND SEVEN MINUTES. HE HAD THE LONGEST TIME

1 TO LOOK AT HIM. THE MOST ACCURATE DESCRIPTION OF HIM.
2 AND HE SAID THAT'S NOT -- NONE OF THESE PEOPLE ARE THE
3 GUY THAT I SAW. THEN YOU HAVE TWO OTHER WITNESSES JAMES
4 ACOSTA, WHO SAID I THINK IT'S NO. 1. AND THEN, GOSH, I
5 CAN'T REMEMBER THE FIFTH PERSON'S NAME.

6 THE COURT: KIMBERLY WOOD.

7 MR. JACKSON: YES, KIMBERLY WOOD. THANK YOU.

8 WHO SAID, WELL, IT COULD BE ONE OF THESE
9 GUYS. AND IF I HAD TO PICK, IT WOULD BE EITHER NO. 4 OR
10 NO. 5. THAT IS NOT A SIGNIFICANT ENOUGH CONNECTION TO
11 EVEN PUT JOEY HUNTER AT THE CRIME SCENE OR AT A PLACE
12 THREE MILES FROM THE CRIME SCENE.

13 NOW COUPLE THAT WITH THE FOLLOWING: JOEY
14 HAD BEEN PARTYING -- ACCORDING TO ALL THE POLICE REPORTS
15 AND WITNESS STATEMENTS -- JOEY HUNTER HAD BEEN PARTYING
16 WITH HIS FRIEND FOR THE COUPLE OF DAYS BEFORE MARCH 16 --
17 MARCH 16 WAS ON A WEDNESDAY -- MONDAY AND TUESDAY HE HAD
18 BEEN HANGING OUT WITH HIS BUDDIES AND SOME GALS AND
19 PARTYING AND SMOKING DOPE AND SMOKING CRACK AND DRINKING
20 WHATEVER HE DID BACK IN THOSE DAYS.

21 AT 1:30 A.M. HE HAD BEEN PARTYING WITH HIS
22 FRIENDS ACCORDING TO SEVERAL FRIENDS AND ACCORDING TO
23 WOOTEN -- DAVE WOOTEN DROVE JOEY HUNTER TO HIS PARENTS'
24 HOUSE BECAUSE HE WAS -- I MEAN LOOK JOEY HUNTER IS NOT A
25 FRIEND OF MINE. AND I DON'T MEAN TO DISPARAGE HIM BEHIND
26 HIS BACK, BUT HE'S KIND OF A LOSER. HE WAS LIVING IN HIS
27 PARENTS' GARAGE, KIND OF CRASHING IN HIS PARENTS' GARAGE.

28 AT 1:30 IN THE MORNING HE GOES TO HIS

1 PARENTS' GARAGE AND CRASHES OUT. AND THEN AT 8:30 IN THE
2 MORNING, THE SAME PERSON DAVE WOOTEN PICKS HIM UP TO
3 ACCOMPANY DAVE WOOTEN OUT TO POMONA TO TAKE CARE OF A
4 TRAFFIC TICKET.

5 NOW IF THE DEFENSE THEORY IS CORRECT, JOEY
6 HUNTER WOULD HAVE BEEN DRUNK AND HUNG OVER AT 1:30 IN THE
7 MORNING. IN THE NEXT SEVERAL HOURS HE WOULD HAVE GOTTEN
8 UP; GOTTEN DRESSED; ENGAGED IN A SOPHISTICATED,
9 COORDINATED, CHOREOGRAPHED, DOUBLE HOMICIDE,
10 EXECUTION-STYLE MURDER UP IN BRADBURY; GOTTEN BACK ON HIS
11 BICYCLE SOMEHOW -- ALTHOUGH HE DIDN'T RIDE A BICYCLE OVER
12 TO PARTY WITH HIS FRIENDS. HE HAD GOTTEN A RIDE FROM
13 DAVE WOOTEN. WE DON'T ESTABLISH THAT HE HAD ANY
14 TRANSPORTATION AT THAT POINT.

15 FOUND A BICYCLE; RIDDEN DOWN THE HILL;
16 EVEN THOUGH EVERYBODY IDENTIFIED BLACK MEN -- EVERYBODY
17 WHO GOT A GOOD LOOK IDENTIFIED BLACK MEN AT THE SCENE,
18 NOT A WHITE GUY; GOTTEN DOWN TO IRWINDALE AND FOOTHILL;
19 BEEN IDENTIFIED BY A COUPLE OF PEOPLE; DUMP HIS BICYCLE;
20 HITCHHIKED HOME; AND GOT BACK IN BED BEFORE 8:30
21 IN THE MORNING. JUST SO HE COULD GO WHERE? KEEP IN MIND
22 HE'S JUST COMMITTED A DOUBLE HOMICIDE. TO COURT WHERE
23 EVERY COP IN THE FREE WORLD IS. THAT WOULD HAVE TO BE
24 THEIR THEORY.

25 ON BALANCE, THE ONLY THING THAT MS. SARIS
26 CAN POINT TO THAT'S IN ANY WAY INCRIMINATING ABOUT JOEY
27 HUNTER OR HIS CONDUCT IS THIS STUPID, ASININE REMARK THAT
28 HE MADE TO BONNIE DALTON ON A COUPLE OF DIFFERENT

1 OCCASIONS. I GUESS, ONCE HE WAS SOBER AND WAS JOKING AND
2 SARCASTIC. THE SECOND TIME HE WAS ADMITTEDLY DRUNK,
3 ACCORDING TO BONNIE DALTON, AND HE WAS IN A DRUNKEN RANT.
4 AND HE SAID SOMETHING TO THE EFFECT OF THIS -- THIS IS
5 HIS, QUOTE, UNQUOTE, CONFESSION THAT THE DEFENSE WANTS TO
6 RELY ON.

7 YEAH, I'M NOT WORRIED ABOUT IT. I KILLED
8 THOSE PEOPLE UP IN BRADBURY. YEAH, THEY'RE LOOKING AT
9 ME. I DID IT. YEAH, WE ACTUALLY USED A BUNCH OF WHITE
10 GUYS AND WE PAINTED THEIR FACES BLACK. AND THIS WAS
11 ACTUALLY A MAFIA HIT. NOT A REGULAR IN-TOWN THING, BUT A
12 MAFIA HIT. AND, OH, YEAH, I'M GOING TO DO TWO YEARS ON
13 THIS AND SOMEONE IS GOING TO GIVE ME 50,000 BUCKS.

14 THAT STATEMENT DOESN'T PASS THE SMELL
15 TEST.

16 THE COURT: LET ME ASK YOU ONE QUESTION BECAUSE
17 IT WAS REFERRED TO. THE ALLEGED CONFESSION TO THE
18 DECEASED INMATE FRANK -- WHAT IS IT? -- GULLET?

19 MS. SARIS: GULLET.

20 THE COURT: G-U-L-L-E-T. WHERE DOES THAT --

21 MR. JACKSON: IT DOESN'T COME IN TO THIS
22 DISCUSSION AT ALL.

23 THE COURT: I'M JUST ASKING BECAUSE I'M NOT
24 FAMILIAR WITH --

25 MS. SARIS: APRIL 23RD AFTER HE TURNED IN --

26 THE COURT: -- THIS EVIDENCE, HOW IT COMES TO
27 LIGHT IN YOUR DISCOVERY. BECAUSE IT'S REFERRED TO --

28 MR. JACKSON: THE REASON THAT I DIDN'T MENTION

1 IT -- AND THAT I DON'T THINK -- I DON'T THINK -- QUITE
2 FRANKLY I DON'T THINK IT'S ETHICAL FOR COUNSEL TO MENTION
3 IT AND TO RELY ON IT BECAUSE IT'S INADMISSIBLE. THERE IS
4 ABSOLUTELY NO HEARSAY EXCEPTION TO ALLOW THAT TO EVEN BE
5 ARGUED.

6 THE COURT: WHERE DOES IT COME FROM?

7 MS. SARIS: DETECTIVE GRIGGS FILED A SEARCH
8 WARRANT. WHEN JOEY HUNTER TURNED HIMSELF IN, HE WAS
9 TAKEN DOWN TO LOS ANGELES IN A HOLDING CELL. WHEN THAT
10 INDIVIDUAL GOT TO COURT -- GOT OUT OF THE HOLDING CELL,
11 HE CALLED THE DETECTIVES ON THE TASK FORCE.

12 THE COURT: HE BEING --

13 MS. SARIS: GULLET.

14 THE COURT: AND SO THIS IS, WHAT, ANOTHER TIP?

15 MR. JACKSON: JAILHOUSE INFORMANT.

16 MS. SARIS: IT'S AN INMATE THAT WHEN JOEY HUNTER
17 WAS ARRESTED WAS SITTING NEXT TO IN THE HOLDING CELL.

18 THE COURT: RIGHT. SO GULLET CALLED AFTER --

19 MS. SARIS: AFTER JOEY CONFESSES TO HIM, GULLET
20 CALLS THE TASK FORCE HOTLINE -- OR TELLS THE SHERIFF
21 THERE, I'VE GOT INFORMATION ON THE THOMPSON MURDER.
22 GRIGGS AND I BELIEVE JONES DRIVE OUT TO LONG
23 BEACH/LAKEWOOD HOLDING AND THEN THE COURT AND INTERVIEW
24 HIM THERE.

25 THE COURT: AND THAT'S BASICALLY THE SUBSTANCE OF
26 WHAT HE SAYS AT THE TIME?

27 MR. JACKSON: THAT'S CORRECT.

28 MS. SARIS: RIGHT. AND, YOUR HONOR, I'M SORRY,

1 BUT I'M GETTING A LITTLE TIRED OF THE CHARGE OF
2 "UNETHICAL." COUNSEL HAS MADE BLATANT
3 MISREPRESENTATIONS. EVIDENCE MIGHT BE INADMISSABLE, BUT
4 COUNSEL CAN'T ARGUE A POSITION HE KNOWS NOT TO BE TRUE.
5 BONNIE DALTON'S CONFESSION IS NOT THE ONLY EVIDENCE WE
6 HAVE. COUNSEL MAY HAVE FILED A MOTION ASKING ME NOT TO
7 MENTION CERTAIN THINGS, BUT COUNSEL KNOWS AS HE STANDS
8 THERE THERE IS OTHER EVIDENCE.

9 THE COURT: I UNDERSTAND. I UNDERSTAND. I'M
10 NOT --

11 MR. JACKSON: AND, YOUR HONOR, I TAKE GREAT ISSUE
12 WITH THAT. THAT OTHER EVIDENCE TO WHICH COUNSEL REFERS
13 IS NOT SOMETHING THAT CAN EVER BE UTILIZED IN ANY MOTION;
14 LAW AND MOTION; IN TRIAL. AND BY THE WAY, COUNSEL ALSO
15 KNOWS THAT THAT SAME TYPE OF EVIDENCE, THAT I WON'T
16 MENTION, GOES AGAINST HER IN A COUPLE OF DIFFERENT WAYS.
17 AND I'VE NEVER MENTIONED THAT AND WOULDN'T DO SO BECAUSE
18 I BELIEVE IT IS AGAINST THE CANNON OF LEGAL ETHICS. I'M
19 SIMPLY NOT GOING TO GET TO THAT POINT.

20 MS. SARIS: WE DO HAVE A MOTION THAT WE WILL FILE
21 ASKING THE COURT TO MAKE ADMISSION OF THAT EVIDENCE
22 REGARDLESS OF 351.1.

23 THE COURT: WELL, I HAVEN'T SEEN THAT YET.

24 MS. SARIS: NO.

25 MR. JACKSON: IN THE MEANTIME, WHAT I'M SAYING IS
26 I'M NOT CASTING ASPERSIONS ON MS. SARIS. I'M SAYING THAT
27 SHE EITHER KNOWS OR SHOULD KNOW BETTER THAN TO PUT THAT
28 IN A MOTION. THAT'S ALL I'M SAYING. IN ANY EVENT, I

1 DON'T THINK THE COURT CAN CONSIDER IT.

2 THE COURT: OKAY. LET'S CONTINUE.

3 MR. JACKSON: I GUESS IT COMES DOWN TO THE
4 FOLLOWING: ONCE THE COURT WEIGHS AND BALANCES THE
5 TENUOUS NATURE OF ALL THIS KIND OF CREATIVE EVIDENCE
6 SURROUNDING JOEY HUNTER, THAT EVIDENCE IS NO BETTER THAN
7 THE OTHER 1300 CLUES THAT WE'VE HAD SAYING I KNOW THE
8 WHITE GUY ON THE BICYCLE. I KNOW THE WHITE GUY ON THE
9 BICYCLE.

10 YES, THE DEFENSE CAN POINT TO A COUPLE OF
11 STATEMENTS THAT JOEY HUNTER MADE. BUT UNDER FRIERSON, I
12 THINK IT'S INCUMBENT UPON THE COURT TO TAKE THOSE
13 STATEMENTS INTO CONSIDERATION VISAVIS THE CIRCUMSTANCES
14 IN WHICH THEY WERE SAID.

15 THERE ARE OTHER CLUES THAT I WON'T GO INTO
16 AND COUNSEL HAS SEEN THEM. IN THOSE 1300 CLUES, I COULD
17 PROBABLY PULL OUT A DOZEN -- THAT MAY BE A LITTLE MUCH,
18 MAYBE TEN OTHER INSTANCES WHERE SOMEONE SOMEWHERE HAS
19 SAID JOE BLOW, MY COUSIN'S -- THIRD COUSIN'S NEPHEW ONCE
20 REMOVED CONFESSED TO THE MICKEY AND TRUDY THOMPSON
21 MURDERS. AND THOSE CLUES WERE GIVEN THEIR DUE
22 CONSIDERATION AND THEY WERE DISMISSED BECAUSE INHERENTLY
23 MOST OF THEM ARE BOGUS.

24 THE COURT: LET ME -- I UNDERSTAND THE ARGUMENT.
25 LET ME FOLLOW UP THEN WITH MS. SARIS.

26 I GUESS THE QUESTION -- THE BOTTOM LINE
27 QUESTION I HAVE WITH RESPECT TO HUNTER IS: CAN YOU
28 CONNECT HIM PHYSICALLY TO THE SCENE? BECAUSE MY

1 UNDERSTANDING IS YOUR ARGUMENT IS THAT HE WAS A LOOK-OUT
2 AT THAT LOCATION. HE WAS NOT ONE OF THE PERPETRATORS OR
3 SHOOTERS.

4 MS. SARIS: YOUR HONOR, NOT ONLY DID MR. HACKMAN,
5 MR. TRIARSI ALSO INDICATED THAT THE INDIVIDUAL AT THE
6 BOTTOM OF THE DRIVEWAY COULD HAVE BEEN WHITE. THERE IS
7 EVIDENCE THAT -- I MEAN, AGAIN, WE HAVE THIS JOE BLOW
8 THEORY. JOE BLOW WASN'T WITHIN A COUPLE OF MILES OF THE
9 CRIME SCENE THE MORNING OF THE MURDER WITH A BIKE.

10 DAVE WOOTEN IS THE ONE WHO WENT TO COURT
11 ON MARCH 16TH. ALL WE HAVE IS HIS WORD THAT HE PICKED
12 JOEY UP. AND I'VE SPOKEN TO DAVE WOOTEN. IF HE WERE TO
13 COME INTO THIS COURT AND TESTIFY, HE WOULD TELL YOU HE
14 HAS NO RECOLLECTION WHATSOEVER.

15 THE COURT: BUT WHAT DO WE HAVE THAT PUTS JOEY
16 HUNTER AT THE LOCATION OF THE HOMICIDES OTHER THAN COULD
17 BE WHITE?

18 MS. SARIS: WE DON'T HAVE ANYTHING THAT PUTS
19 ANYONE AT THE LOCATION OF THE HOMICIDE. I THINK THERE IS
20 PHYSICAL EVIDENCE TO SUPPORT THAT THERE WAS LIKELY AN
21 INDIVIDUAL ON WOODLYN AND MT. OLIVE. I THINK THERE IS
22 PHYSICAL EVIDENCE TO SUPPORT THAT BASED ON THE WAY THAT
23 TRUDY WAS FOUND. IN THAT THE DIRECTION THAT SHE RAN.
24 THERE WAS A FINGERNAIL -- AN ACRYLIC FINGERNAIL THAT WAS
25 BROKEN OFF THAT WAS BETWEEN -- IT WAS EAST OF THE
26 DRIVEWAY.

27 IN OTHER WORDS, SOMEONE -- AN INDIVIDUAL
28 HAD RUN OUT OF THE DRIVEWAY AND TURNED. SOMETHING MADE

1 THAT INDIVIDUAL -- TRUDY TURN BACK TOWARDS THE GATED
2 COMMUNITY AND NOT WOODLYN. SO THERE IS SOME EVIDENCE TO
3 SUPPORT SOMEONE WAS STANDING ON WOODLYN.

4 THERE IS STRONG CIRCUMSTANTIAL EVIDENCE TO
5 SUPPORT THAT ANYONE INVOLVED IN A HOMICIDE STANDING ON
6 WOODLYN WOULD HAVE TO BE WHITE IN ORDER NOT TO ATTRACT
7 ATTENTION. THERE IS HACKMAN AND ANTHONY TRIARSI WHO SAY
8 THE INDIVIDUAL THAT THEY SAW DOING THE SHOOTING COULD
9 HAVE BEEN WHITE.

10 AGAIN, I POINT OUT, YOUR HONOR, THAT AS
11 TENUOUS AS OUR EVIDENCE MAY BE, THERE IS NO EVIDENCE
12 INDICATING FROM THE PROSECUTION'S PROSPECTIVE WHO WAS AT
13 THE CRIME SCENE OR THAT MR. GOODWIN HAD ANY CONNECTION TO
14 THE CRIME SCENE WHATSOEVER.

15 THE COURT: WELL, YOU HAVE THE PROSECUTION'S
16 THEORY AND THERE WAS TESTIMONY DESCRIBING THE SHOOTERS AS
17 TWO AFRICAN/AMERICAN MALES, SO YOU DO HAVE THAT. BUT,
18 AGAIN, YOU ARE ASKING ME TO WEIGH THE STRENGTH OF THE
19 PROSECUTION'S EVIDENCE WITH THE STRENGTH OF WHAT YOU WISH
20 TO PRESENT.

21 MS. SARIS: NO. WHAT I'M ASKING THE COURT TO DO
22 IS THERE IS A CERTAIN LEVEL OF FAIRNESS THAT COMES DOWN
23 IN ALL TRIALS REGARDLESS OF WHETHER WE COUCH IT IN TERMS
24 OF THE FEDERAL CONSTITUTION OR THE STATE CONSTITUTION. I
25 THINK THAT THE IDEA OF 352, THE IDEA OF THIRD-PARTY
26 CULPABILITY, THE COURT HAS TO BE MORE OPEN-MINDED IN THIS
27 CASE THAN IT WOULD BE IN OTHER CASES. SPECIFICALLY
28 BECAUSE THE PEOPLE'S PROSECUTION, THE CASE IS SO WEAK

1 EVIDENTIARILY.

2 THE COURT: I DON'T KNOW THAT THERE IS ANY
3 AUTHORITY FOR THAT PROPOSITION.

4 MS. SARIS: YOU ARE TAKING A CASE THAT IS RELYING
5 PURELY ON CIRCUMSTANTIAL EVIDENCE AND THEN YOU'RE TELLING
6 THE JURORS, WE'RE ONLY LETTING YOU HAVE ONE CIRCUMSTANCE.
7 THAT IS THE AUTHORITY. IF IT'S PURELY CIRCUMSTANTIAL
8 EVIDENCE, THEN THE JURORS SHOULD HEAR EVERYTHING AND LET
9 THEM DECIDE.

10 THE COURT: BUT IT STILL HAS TO BE RELEVANT. I
11 MEAN THE JURY HAS TO HEAR AND CAN HEAR AND THE COURT HAS
12 TO PERMIT RELEVANT TESTIMONY WHERE THE RELEVANCE IS NOT
13 OUTWEIGHED BY THE UNDUE CONSUMPTION OF TIME; CONFUSION OF
14 THE ISSUES; PREJUDICE; SO ON AND SO FORTH. ALL OF THE
15 THINGS I HAVE TO WEIGH UNDER 352.

16 SO I'M SAYING WITH RESPECT TO THE JOEY
17 HUNTER EVIDENCE THAT I CERTAINLY HAVE BEEN OPEN-MINDED
18 WITH RESPECT TO ALL OF IT. BUT IT JUST BOILS DOWN TO
19 WHAT I SEEM TO THINK POTENTIALLY MIGHT HAVE RELEVANCE IS
20 JOEY HUNTER. BUT, AGAIN, THAT DEPENDS ON A CONNECTION
21 BETWEEN JOEY HUNTER AND THE CRIME SCENE. AND I'M NOT
22 HEARING IT.

23 MS. SARIS: I DON'T KNOW WHAT MORE TO TELL THE
24 COURT. I MEAN THIS IS A GENTLEMAN HITCHHIKING WITH A
25 BICYCLE. IT'S NOT AS IF HE'S STANDING AT THE SIDE OF THE
26 ROAD EATING AN ICE CREAM CONE WITH A BICYCLE. HE'S
27 FRANTICALLY TRYING TO GO SOMEWHERE WITH A BICYCLE WITHIN
28 AN HOUR OF THE MURDER WITHIN TWO AND A HALF MILES OF THE

1 CRIME SCENE.

2 THIS IS NOT, OH, THE WORLD DOESN'T STAND
3 STILL AND LOTS OF PEOPLE HAVE BICYCLES. THIS IS A MAN
4 WHO IF TAKEN THE ROUTE THAT WE'RE SAYING HE TOOK, WOULD
5 HAVE PUT HIM IN THAT AREA. AND HE'S HITCHHIKING
6 FRANTICALLY WITH HIS ARMS WAVING. THIS IS SOMEONE OUT OF
7 THE ORDINARY, UNUSUAL, WHO ALSO ADD TO THAT HIS
8 CONFESSION AND WE PUT HIM NEAR AND PART OF THIS CRIME
9 SCENE.

10 THE COURT: ANYTHING ELSE?

11 MR. JACKSON: SUBMITTED, YOUR HONOR.

12 THE COURT: WELL, AT THIS POINT, I'M PREPARED TO
13 SAY THAT WHATEVER RELEVANCE THE INFORMATION REGARDING
14 JOEY HUNTER MIGHT HAVE, AT THIS TIME I CAN'T SAY THAT
15 THAT RELEVANCE OUTWEIGHS THE UNDUE CONSUMPTION OF TIME;
16 CONFUSION OF THE ISSUES; AND THE POTENTIAL FOR PREJUDICE.
17 BUT PRIMARILY THE UNDUE CONSUMPTION OF TIME AND THE
18 CONFUSION OF THE ISSUES.

19 TO SAY THAT THE PEOPLE'S CASE IS WEAK,
20 DOESN'T NECESSARILY MEAN THAT THE DEFENSE GETS TO PUT
21 WHATEVER THE DEFENSE WANTS TO PUT AS A POSSIBLE THEORY.
22 I'M NOT FINDING THAT CONNECTION WHICH I WOULD LIKE TO
23 SEE. SO I'M NOT FORECLOSING THIS FOREVER. I'M JUST
24 SAYING RIGHT NOW I AGREE THERE IS SOME EVIDENCE TO
25 SUGGEST THAT AT LEAST ACCORDING TO BONNIE DALTON THAT
26 THIS JOEY HUNTER HAS ADMITTED SOME RESPONSIBILITY FOR THE
27 MURDERS.

28 OTHER THAN THAT, I -- WELL, LET ME SAY

1 THIS, THERE ARE THEN TWO POTENTIAL WITNESSES, LEONORE AND
2 JOHN MCKINNEY, WHO PLACE JOEY HUNTER PERHAPS A FEW MILES
3 AWAY HITCHHIKING WITH A BICYCLE. AT THIS POINT, I JUST
4 DON'T HAVE THAT MISSING LINK.

5 IF THE WITNESSES OR ANY OF THE WITNESSES
6 THAT I HEAR AT THE TRIAL REFER TO AN INDIVIDUAL WHO
7 APPEARS TO MATCH THE DESCRIPTION OF JOEY HUNTER AS A
8 LOOK-OUT, I'M CERTAINLY WILLING TO CHANGE MY MIND. BUT
9 AT THIS POINT, I THINK IT HAS MARGINAL RELEVANCE. AND
10 THE OTHER SIDE OF THAT, UNDER 352, JUST OVERWHELMS AND
11 OUTWEIGHS THE MARGINAL RELEVANCE I THINK IT HAS.

12 MS. SARIS: MAY I HAVE JUST A MOMENT?

13 (DISCUSSION OFF THE RECORD.)

14 MS. SARIS: THANK YOU.

15 THE COURT: SO WAS THERE ANYTHING ELSE?

16 MR. DIXON: JUST SO I COULD UNDERSTAND THE
17 COURT'S RULING AND CLARIFY IT. IT'S MY UNDERSTANDING
18 THAT REALLY THE COURT'S RULING ON THESE ISSUES IS IN TWO
19 PARTS. THE FIRST PART IS THAT -- AND PLEASE CORRECT ME
20 IF I'M WRONG. BUT THERE IS AN ORDER THAT THE DEAN
21 KENNEDY, LARRY COWELL, JOHN YOUNG, KIT PAEPULE, THE SCOTT
22 CAMPBELL MURDERS, THE VAN NUYS AND BLYTHE MURDERS ARE NOT
23 TO BE MENTIONED OR BROUGHT UP BY THE DEFENSE IN THIS
24 CASE.

25 AND THE SECOND PART OF THAT IS THAT WITH
26 RESPECT TO JOEY HUNTER, THAT SHOULD NOT BE BROUGHT UP IN
27 OPENING STATEMENT OR IN FRONT OF THE JURY UNLESS COUNSEL
28 APPROACHES THE BENCH OUTSIDE THE PRESENCE OF THE JURY AND

1 GETS A RULING FROM THE COURT; IS THAT CORRECT, YOUR
2 HONOR?

3 MS. SARIS: YOUR HONOR, I'M SORRY, IS THAT A
4 MOTION FOR AN ORDER? BECAUSE THAT'S NOT WHAT'S ON THE
5 TABLE. THE COURT HAS RULED ON THIRD-PARTY CULPABILITY
6 EVIDENCE.

7 THE COURT: CORRECT.

8 MS. SARIS: THIS IS AN ENTIRELY SEPARATE ISSUE.

9 MR. DIXON: WELL, THEN THAT'S MY MOTION.

10 THE COURT: OKAY. I'VE MADE MY RULING ON
11 THIRD-PARTY CULPABILITY. IF THE PEOPLE ARE ASKING THE
12 COURT TO ORDER THAT THERE BE NO REFERENCE TO JOEY HUNTER
13 IN THE OPENING STATEMENT, I THINK THAT'S A FAIR REQUEST.

14 MS. SARIS: I DON'T INTEND TO MENTION JOEY HUNTER
15 IN THE OPENING STATEMENT. HOWEVER, I HAVE NOT MADE ANY
16 SECRET OF IT AND THIS COURT KNOWS THAT ONE OF THE REASONS
17 THAT WE FEEL THIS CONNECTION THAT WE'RE TRYING TO MAKE
18 CAN'T BE MADE; ONE OF THE REASONS THAT ANY OF THE
19 EVIDENCE IN THIS CASE CAN'T BE MADE IS THAT THE POLICE
20 DEPARTMENT CONDUCTED A WHOLLY INADEQUATE BOTCHED
21 INVESTIGATION OF THIS CRIME.

22 TO NOT MENTION CERTAIN INDIVIDUALS OR
23 ASPECTS UNDER A THEORY OF FAILURE TO INVESTIGATE, WHICH
24 UNDER DUE PROCESS WE'RE ENTITLED TO SEPARATE AND APART
25 FROM THIRD-PARTY CULPABILITY, IT COULD BE RELEVANT IN
26 TERMS OF LEADS THAT WERE NOT FOLLOWED; CONVERSATIONS THAT
27 WERE NOT HAD.

28 FOR INSTANCE -- I'LL GIVE THE COURT A FOR

1 INSTANCE. AS THE COURT KNOWS IN THIS CASE, THE DNA
2 EVIDENCE THAT WAS UNDERNEATH THE -- THE SCRAPINGS OF THE
3 FINGERNAILS THAT WERE UNDERNEATH THE TWO VICTIMS IN THIS
4 CASE WAS NEVER TESTED. IT TURNED OUT TO NOT HAVE
5 EVIDENTIARY RELEVANCE TO THIS CASE.

6 HOWEVER, JOEY HUNTER WAS SOMEONE WHO WAS
7 ARRESTED, TURNED OUT ACCORDING TO THE POLICE IN 1988 THAT
8 FOR SOME REASON IT DIDN'T LEAD TO MICHAEL GOODWIN, SO IT
9 DIDN'T HAVE EVIDENTIARY RELEVANCE. IT'S RELEVANT FROM
10 THE DEFENSE PROSPECTIVE THAT JOEY HUNTER WAS NEVER
11 CONTACTED SINCE 1988.

12 MICHAEL GRIGGS, WHO THE CURRENT
13 INVESTIGATING OFFICER HAS NO PROBLEM DISRESPECTING IN
14 FRONT OF COUNSEL AND MYSELF, WHO HAS BEEN ON RECORD
15 SAYING HE DID A POOR JOB IN CERTAIN ASPECTS OF THIS CASE,
16 NEVER ONCE CONTACTED JOEY HUNTER AND SAT DOWN FOR AN
17 INTERVIEW.

18 NOW THE FACT THAT JOEY HUNTER IF THIS
19 COURT RULES HE MAY OR MAY NOT BE INVOLVED IN THIS AND
20 UNDER 352 IT MIGHT BE IRRELEVANT, THE FACT THAT THERE WAS
21 A HITCHHIKER SEEN WITH A BICYCLE NEAR IN TIME TO THE
22 MURDER AND EVERY SINGLE TIME THIS CASE WAS REOPENED, NOT
23 A SINGLE INVESTIGATOR WENT TO CONTACT THAT INDIVIDUAL.

24 THAT HAS RELEVANCE TO OUR DEFENSE,
25 SEPARATE AND APART WHETHER WE ARE BLAMING HIM FOR THE
26 MURDER. IT'S NOT FOR THE TRUTH OF WHATEVER HE WAS OR
27 WHATEVER HE DID, IT'S FOR THE FACT THAT BECAUSE SOMEWHERE
28 ALONG THE LINE SOME INVESTIGATOR SAID THIS GUY IS NEVER

1 GOING TO LEAD YOU TO MICHAEL GOODWIN, NO INVESTIGATOR
2 SUBSEQUENTLY SAT DOWN WITH AN INTERVIEW WITH JOEY HUNTER;
3 NOT SINCE 1988. AND THAT IS RELEVANT. AND TO BE
4 PRECLUDED FROM THAT IS TO BE PRECLUDED FROM HAVING A
5 DEFENSE IN GENERAL.

6 THE COURT: WELL, AGAIN, I THINK THE ONLY MOTION
7 BEFORE ME NOW IS THAT YOU NOT MAKE REFERENCE TO IT IN
8 YOUR OPENING STATEMENT. I CAN'T SAY WITHOUT HEARING WHAT
9 IS GOING TO BE PRESENTED THAT YOU WOULD NOT BE ABLE TO
10 ELICIT TESTIMONY REGARDING WHAT LEADS WERE FOLLOWED AND
11 WHAT LEADS WERE IGNORED. I'M JUST NOT PREPARED TO SAY
12 THAT.

13 I'M ASSUMING THAT THE PEOPLE ARE GOING TO
14 PRESENT SOME EVIDENCE FROM AN INVESTIGATING OFFICER IN
15 THIS CASE. MR. DIXON, MR. JACKSON, ARE YOU GOING TO BE
16 PRESENTING SOME EVIDENCE FROM AN INVESTIGATING OFFICER
17 WHO CONDUCTED PART OF THE INVESTIGATION?

18 MR. JACKSON: WE ARE NOT ANTICIPATING THAT.

19 THE COURT: OKAY.

20 MS. SARIS: I WOULDN'T EITHER IF I WERE THEM,
21 YOUR HONOR. LITTLE TO SAY, UNFORTUNATELY.

22 THE COURT: THEN HOW IS THAT SUBJECT RELEVANT?

23 MS. SARIS: I CERTAINLY WILL BE PRESENTING THAT
24 EVIDENCE.

25 THE COURT: OKAY. IF IN FACT THAT'S THE CASE,
26 YOU MAY THEN VERY WELL BE PERMITTED TO DO SO. BUT AT
27 THIS POINT, I THINK THE REQUEST TO ORDER THAT NOTHING BE
28 REFERRED TO IN THE OPENING STATEMENT REGARDING JOEY

1 HUNTER OR ANY OF THESE OTHER CHARACTERS THAT MAY BE -- OR
2 MAY CONSTITUTE THIS PROPOSED THIRD-PARTY CULPABILITY
3 EVIDENCE, I'M JUST NOT REALLY PREPARED TO DO ANYTHING
4 UNTIL I HEAR WHAT THE DEFENSE WISHES TO DO. BUT JUST
5 DON'T REFER TO IT IN THE OPENING STATEMENT.

6 MS. SARIS: I DIDN'T INTEND FOR ANY OF THOSE IN
7 THE OPENING STATEMENT, THAT'S FINE, IF THAT'S THE ORDER.

8 THE COURT: SO WHERE DOES THAT LEAVE US?

9 MS. SARIS: WHEN ARE THE JURORS COMING?

10 MR. JACKSON: I THINK WE'RE READY.

11 THE COURT: WHAT IS OUR TIME ESTIMATE?

12 MS. SARIS: NOW WHAT DO YOU MEAN BY "TIME
13 ESTIMATE"?

14 THE COURT: WELL, TIME ESTIMATE FOR THE TRIAL. I
15 WAS TOLD THAT WE NEEDED TO GET THIS MOTION LITIGATED
16 BEFORE I COULD HARDSHIP ANY JURORS. SO NOW THAT THIS
17 MOTION HAS BEEN RESOLVED, PERHAPS THERE CAN BE A
18 DEFINITIVE TIME ESTIMATE.

19 MR. DIXON: YOUR HONOR, OUR BEST ESTIMATE LOOKING
20 AT THE CALENDAR AND CONSIDERING WHEN WE ACTUALLY WILL
21 MAKE OPENING STATEMENTS -- AND I GUESS THAT'S WHAT WOULD
22 BE THE DATE THAT I WOULD BE GOING FORWARD FROM, I THINK
23 WE'LL BE FINISHED BEFORE THE CHRISTMAS HOLIDAY.

24 THE COURT: ALL RIGHT.

25 MS. SARIS: I'M SORRY. WE WERE POW-WOWING. I
26 HEARD BEFORE THE CHRISTMAS HOLIDAY.

27 THE COURT: RIGHT. ASSUMING THAT YOU START WITH
28 OPENING STATEMENTS ON THE 30TH OR A COUPLE DAYS BEFORE

1 THAT.

2 MR. SUMMERS: THE 30TH OF OCTOBER?

3 THE COURT: CORRECT.

4 MS. SARIS: I DON'T EVEN THINK WE WILL GET TO THE
5 LIVE JURORS UNTIL THE 26TH, 25TH OR 26TH.

6 MR. DIXON: WE WILL HAVE JURY QUESTIONNAIRES AND
7 KNOW EXACTLY WHAT WE'RE GOING TO DO, I THINK WE WILL PICK
8 A JURY PRETTY QUICK IN THIS CASE.

9 MS. SARIS: I WAS THINKING THE FIRST WEEK OF
10 NOVEMBER. I GUESS LATER IN THE WEEK, THAT'S OUR
11 ANTICIPATION IN THIS CASE.

12 THE COURT: YOU THINK IT'S GOING TO TAKE THAT
13 LONG TO SELECT A JURY?

14 MS. SARIS: WELL, I GUESS IT DEPENDS ON WHAT DAY
15 THE JURORS ARE COMING, BETWEEN TUESDAY AND WEDNESDAY AND
16 WHAT -- I'M STILL MAINTAINING THAT IF IT'S GOING TO TAKE
17 THEM THREE DAYS TO XEROX, WE'RE GOING TO NEED TO THE 26TH
18 OR 27TH. WE CERTAINLY DON'T WANT JURORS ON A FRIDAY I
19 IMAGINE.

20 THE COURT: WELL, TELL ME THIS, LET'S ASSUME FOR
21 SAKE OF ARGUMENT THAT THE OPENING STATEMENTS ARE GOING TO
22 START SOMEWHERE IN THE WEEK OF OCTOBER 30TH, IS THE TIME
23 ESTIMATE GIVEN BY MR. DIXON REALISTIC?

24 MS. SARIS: IT'S A LITTLE VAGUE TO SAY BEFORE
25 CHRISTMAS BREAK.

26 THE COURT: WELL, AS YOU CAN SEE ON THE CALENDAR,
27 THE COURT HAS SOME DARK DAYS WHICH MAY ACTUALLY COINCIDE
28 WITH SOME REQUESTED DARK DAYS OF SOME OF OUR JURORS. BUT

1 THE 21ST WOULD BE THE LAST DAY BEFORE THE CHRISTMAS
2 HOLIDAY THAT THE COURT WOULD BE IN SESSION.

3 MS. SARIS: I HESITATE BECAUSE I'M VERY RELUCTANT
4 TO BE PUT IN A POSITION WHERE WE MIGHT HAVE A WITNESS
5 ISSUE DUE TO THE HOLIDAYS AND WE EXPECT -- WE'RE PUSHING
6 TO GET DONE BEFORE CHRISTMAS. BUT I WOULD SAY EITHER THE
7 WEEK BEFORE THAT, THE 21ST, OR INTO THE NEXT WEEK THE
8 LATEST.

9 MR. DIXON: SO WE ARE PRETTY CLOSE.

10 MS. SARIS: AND A LOT OF IT DEPENDS ON HOW MANY
11 WITNESSES, IF ANY, WE NEED TO CALL. I'M NOT TRYING TO BE
12 CAGEY. WE JUST DON'T HAVE AN IDEA UNTIL WE SEE HOW SOME
13 OF THE WITNESSES PERFORM. BUT I'M SAYING IF IT GOES INTO
14 JANUARY, IT WOULD JUST GO INTO THE FIRST WEEK.

15 THE COURT: ALL RIGHT. I CAN ORDER IN A PANEL
16 FOR TOMORROW IF YOU WISH.

17 MS. SARIS: IS THERE A DIFFERENCE IN THE TUESDAY
18 OR WEDNESDAY JURORS?

19 THE COURT: NO, IT'S THE SAME. I MEAN THERE ARE
20 A SET NUMBER OF JURORS -- AND WE TALKED ABOUT THIS
21 BEFORE -- THAT ARE ON CALL FOR THIS ENTIRE WEEK. THERE
22 WERE NO JURORS I WAS TOLD BROUGHT IN TODAY. SO NO ONE
23 ELSE NEEDED TO SELECT A JURY.

24 I DON'T KNOW IF THERE IS GOING TO BE JURY
25 SELECTION GOING ON TOMORROW. I DON'T THINK SO IN ANY OF
26 OUR CRIMINAL CASES. I DON'T KNOW ABOUT OUR CIVIL. SO
27 THE ONLY DIFFERENCE WOULD BE IF WE LOSE SOME TO ANOTHER
28 COURT. BUT IT'S THE SAME PANEL THAT HAVE BEEN SUMMONED

1 FOR THE WEEK. AND WE JUST DON'T KNOW HOW MANY ARE GOING
2 TO ACTUALLY SHOW UP.

3 I CAN BRING THEM IN TOMORROW OR I CAN
4 BRING THEM IN, ASSUMING NO ONE ELSE IS CALLING FOR JURORS
5 TOMORROW. I CAN BRING IN MULTIPLE GROUPS ON WEDNESDAY
6 AND THURSDAY, HOWEVER YOU WANT TO DEAL WITH IT IS FINE
7 WITH ME. I KNOW WE STILL HAVE SOME OTHER MOTIONS TO
8 ADDRESS.

9 MS. SARIS: I HAVE TWO THAT WE ARE -- WELL, WE
10 HAVE AN OPPOSITION TO THE PACE REQUEST. AND THEN WE HAVE
11 A MOTION THAT DARE NOT SPEAK ITS NAME.

12 THE COURT: RIGHT. WHY DON'T WE DO THIS, UNLESS
13 IT'S INCONVENIENT, WHY DON'T WE RESUME THIS AFTERNOON
14 WITH WHATEVER MOTIONS WE NEED TO DO. AND AS LONG AS I
15 LET THE JURY ROOM NOW FAIRLY EARLY THIS AFTERNOON IF
16 WE'RE GOING TO NEED JURORS FOR TOMORROW, PERHAPS WE CAN
17 GET A BETTER IDEA AS TO WHAT WE ARE GOING TO DO TOMORROW.

18 MR. JACKSON: OKAY.

19 MS. SARIS: AND IF WE CALL IN THE JURORS
20 TOMORROW, DOES THE COURT ANTICIPATE JUST ORIGINAL THE
21 INTRODUCTION AND THEN HANDING THEM THE QUESTIONNAIRES?

22 THE COURT: MY EXPECTATION IS THAT I WOULD LIKE
23 TO BRING IN A PANEL AND HANDSHIP THAT PANEL. AFTER
24 HANDSHIP, THEN GIVE THEM THE QUESTIONNAIRES; HAVE THEM
25 REMAIN IN THE COURTHOUSE TO FILL OUT THE QUESTIONNAIRES.
26 AND ONCE THEY RETURN THE QUESTIONNAIRES, THEY WOULD BE
27 GIVEN A DATE TO RETURN. AND THAT'S WHAT WE NEED TO TALK
28 ABOUT AS WELL, WHETHER IT'S GOING TO BE THE 24TH OR 25TH

1 OR 26TH DEPENDING ON THE TURN AROUND.

2 MS. SARIS: OKAY.

3 THE COURT: THAT'S WHAT I ANTICIPATE DOING. NOW
4 THE HARDSHIP COULD TAKE US ALL DAY BECAUSE I JUST DON'T
5 KNOW HOW MANY PEOPLE --

6 MS. SARIS: I GUESS MY QUESTION IS WHEN THEY
7 RETURN IT, DO THEY JUST DROP IT OFF TO A COURT OFFICER OR
8 DO WE HAVE TO BE PRESENT?

9 THE COURT: OH, NO. NO. NO. ONCE WE GO THROUGH
10 A HARDSHIP AND THEY GET THE QUESTIONNAIRE, WE'RE
11 BASICALLY DONE AS LONG AS THEY TURN IN THE QUESTIONNAIRE
12 WITH US BEFORE THEY LEAVE, THAT'S ALL I'M GOING TO ASK
13 THEM TO DO TOMORROW OR WEDNESDAY OR WHEREVER.

14 MS. SARIS: OKAY. BECAUSE I MADE AN APPOINTMENT
15 WEDNESDAY AFTERNOON. I'M JUST TRYING TO SEE IF I SHOULD
16 CANCEL IT.

17 THE COURT: I DON'T THINK SO. SO WHY DON'T WE
18 TALK ABOUT IT THIS AFTERNOON. WE WILL FINISH PERHAPS
19 SOME OF THE OTHER MOTIONS THAT ARE PENDING. AND THEN WE
20 CAN GET A BETTER IDEA AS TO WHAT WE ARE GOING TO DO FOR
21 TOMORROW.

22 MR. JACKSON: YES, YOUR HONOR.

23 THE COURT: OKAY. 2:00 O'CLOCK.

24

25 (AT 12:00 P.M. A RECESS WAS TAKEN

26 UNTIL 1:30 P.M. OF THE SAME DAY.)

27 --OOO--

28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, OCTOBER 16, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 THE COURT: BACK ON THE RECORD. MR. GOODWIN IS
10 PRESENT WITH HIS COUNSEL. THE PEOPLE ARE REPRESENTED.

11 AND WHICH MOTIONS DID COUNSEL WANT TO
12 ADDRESS THIS AFTERNOON?

13 MS. SARIS: WELL, THE TWO THAT WE FILED OUR
14 OPPOSITION, I DON'T KNOW IF THE COURT HAS HAD AN
15 OPPORTUNITY TO READ THEM. WE RECEIVED THEM LAST WEEK;
16 GOT THE OPPOSITIONS IN THIS WEEKEND AS FAST AS WE COULD.
17 BUT IT MAY BE THAT THE COURT NEEDS TO LOOK AT THOSE
18 FURTHER. AND I DON'T KNOW THAT THE PEOPLE ARE READY TO
19 ADDRESS THE OTHER ONE, SO I'M NOT SURE. WE HAVE A
20 SEPARATE MOTION ORALLY THAT IS NOT IN WRITING THAT WE'RE
21 ASKING FOR.

22 THE COURT: WHAT ABOUT THIS ONE-PAGE REQUEST FOR
23 DISCOVERY THAT WAS FILED TODAY?

24 MR. JACKSON: I HAVE NO OBJECTION -- I MEAN I'M
25 NOT FIGHTING THAT. CERTAINLY IT WAS A REQUEST -- I THINK
26 A FORMAL REQUEST ON COUNSEL'S PART. AND WE'RE GOING TO
27 DO EVERYTHING WE CAN TO ACCOMMODATE HER IN THE NEXT DAY
28 OR SO.

1 THE COURT: SO NO COURT ACTION IS NEEDED.

2 MR. JACKSON: NO, YOUR HONOR, I DON'T BELIEVE SO.
3 I'M NOT OPPOSING IT.

4 THE COURT: WHAT IS THE MOTION THAT YOU HAVE?

5 MS. SARIS: WELL, THERE IS TWO THINGS WE NEED TO
6 DISCUSS REGARDING THE TRIAL ITSELF. ONE, IS THAT WE'RE
7 REQUESTING DAILY TRANSCRIPTS.

8 THE COURT: WHY?

9 MS. SARIS: BECAUSE WE EXPECT THAT THE CASE WILL
10 LAST MORE THAN NEARLY TWO MONTHS. WE EXPECT NEARLY 50
11 PEOPLE TO TESTIFY. BASICALLY MR. GOODWIN ISN'T -- WELL,
12 IT'S NOT A CAPITAL CASE; IT'S TREATED AS A CAPITAL CASE
13 FOR PURPOSES OF DENYING BAIL. SO WE'RE ASKING THE COURT
14 NOT NECESSARILY TO TREAT IT AS A CAPITAL CASE, BUT
15 CERTAINLY TO TREAT IT AS UNUSUAL IN REGARD TO OTHER
16 HOMICIDES BASED ON THE FACT THAT IT IS A CASE THAT AT ONE
17 POINT WAS SUBJECT TO THE DEATH PENALTY AND THEREFORE
18 WITHIN THE PARAMETERS OF 190.9.

19 I DON'T THINK THE COURT IS COMPELLED TO
20 PROVIDE US WITH DAILY TRANSCRIPTS. BUT I THINK IN LIGHT
21 OF HOW MANY WITNESSES ARE GOING TO BE TESTIFYING AND THE
22 LONG TIME PERIOD BETWEEN WHEN THE FIRST WITNESS TESTIFIES
23 AND WHEN WE EVENTUALLY WILL CLOSE, THAT IN THIS
24 CIRCUMSTANCE DAILIES WOULD BE APPROPRIATE.

25 I'VE HAD THEM GRANTED IN OTHER NON-CAPITAL
26 HOMICIDES IN CASES THAT LASTED OVER A MONTH, CERTAINLY ON
27 THE 9TH FLOOR DOWNTOWN SEVERAL TIMES. I KNOW IT'S
28 EXTREMELY UNPOPULAR WITH COURT REPORTERS AND I KNOW IT'S

1 A DIFFICULT TASK. HOWEVER, I THINK THERE IS A DEFINITE
2 NEED IN THIS CASE.

3 THE COURT: IS IT BECAUSE OF THE NUMBER OF
4 WITNESSES THAT YOU FEEL IT'S NECESSARY TO HAVE THESE
5 TRANSCRIPTS? OR IS IT THE DURATION OR A COMBINATION OF
6 THE TWO?

7 MS. SARIS: IT IS A COMBINATION OF THE TWO. AND,
8 ALSO, YOUR HONOR, WE ANTICIPATE THAT THE WITNESSES THAT
9 WE -- SOME OF THE WITNESSES THAT WE'RE GOING TO CALL ARE
10 GOING TO BE ORIGINAL INVESTIGATING OFFICERS THAT WE NEED
11 TO GET FROM OUT OF STATE THAT WE'RE OBVIOUSLY NOT
12 BRINGING UNTIL DECEMBER.

13 THEIR PURPOSE IN THIS TRIAL WILL BE
14 IMPEACHING ANYTHING THAT IS SAID NOW THAT WAS DIFFERENT
15 THAN 1988 THAT WAS SAID DIRECTLY TO THE OFFICERS. SO
16 THERE IS THE POTENTIAL IN THIS CASE TO HAVE A LOT OF
17 IMPEACHMENT BASED ON THE FACT THAT 20 YEARS HAS PASSED --
18 NEARLY 20 YEARS HAS PASSED SINCE THE CRIME.

19 MR. DIXON: YOUR HONOR, WE ARE NOT JOINING IN
20 THAT REQUEST. I'M NOT SURE THAT THIS IS -- THIS IS NOT A
21 DEATH PENALTY CASE. AND ALTHOUGH IT IS A FEW WEEKS LONG,
22 I DON'T SEE IT SO LONG AS TO REQUIRE THAT. SO WE WILL
23 NOT JOIN IN THAT REQUEST.

24 THE COURT: WELL, AT THIS POINT, I'M GOING TO
25 DENY THAT REQUEST. HOWEVER, IF THERE ARE ANY WITNESSES
26 WHO MAY TESTIFY THAT FALL INTO THE CATEGORY -- THE LATTER
27 CATEGORY OF IMPEACHMENT OR POTENTIAL WITNESSES WHO ARE
28 GOING TO BE IMPEACHED BY OUT OF STATE WITNESSES, I'M

1 HAPPY TO GRANT YOU THE DAILY WITH RESPECT TO CERTAIN
2 TESTIMONY IF THAT'S YOUR PLAN TO -- I ASSUME WHAT YOU ARE
3 TALKING ABOUT THEN, MS. SARIS, IS TO TAKE THAT TESTIMONY
4 IN TRANSCRIPT FORM AND HAVE THE POLICE OFFICERS THAT YOU
5 ARE GOING TO CALL REVIEW THAT INFORMATION? OR I'M NOT
6 QUITE SURE.

7 MS. SARIS: IT WOULD BE A SITUATION WHERE SOME OF
8 THAT TESTIMONY WOULD HAVE TO BE QUOTED BACK TO THESE
9 OFFICERS. AND I DON'T WANT TO BE TOLD OR ACCUSED OF
10 MISREPRESENTING WHAT THE EXACT QUOTE WAS BECAUSE FOUR
11 WEEKS OR FIVE WEEKS WOULD HAVE PASSED. I ANTICIPATE THAT
12 HAPPENING. AND I CAN UNDERSTAND THE COURT NOT MAKING THE
13 ORDER WITH RESPECT TO CERTAIN POLICE OFFICER WITNESSES,
14 BUT I ANTICIPATE THAT HAPPENING WITH A GREAT DEAL OF THE
15 WITNESSES IN THIS CASE.

16 THE COURT: BUT I THINK THERE HAS TO BE A PRETTY
17 SIGNIFICANT SHOWING FOR THE COURT TO GIVE YOU A DAILY.
18 AND AT THIS POINT, I DON'T THINK YOU HAVE MADE THAT
19 SHOWING. HOWEVER, AS TO CERTAIN WITNESSES YOU MAY. JUST
20 LET ME KNOW AHEAD OF TIME.

21 MS. SARIS: BEFORE THEY TESTIFY OR AT THE END OF
22 THE DAY?

23 THE COURT: NO. LET ME KNOW BEFORE THEY TESTIFY
24 OR LET ME KNOW BEFORE WE START AND GIVE ME THE NAMES OF
25 THOSE WITNESSES AND I WILL TALK TO THE COURT REPORTER AND
26 SEE WHAT ARRANGEMENTS WE CAN MAKE. I'M HAPPY TO GIVE YOU
27 PART OF A DAILY. BUT BECAUSE OF THE EXPENSE INVOLVED,
28 I'M NOT INCLINED TO GIVE IT TO YOU IN ITS ENTIRETY. SO

1 THAT WILL BE THE ORDER.

2 DO YOU WANT ME TO TAKE SOME TIME TO LOOK
3 AT THE RESPONSES THAT WERE FILED THIS AFTERNOON ON THESE?

4 MS. SARIS: YES, PLEASE, AND THE ORIGINAL MOTION.
5 BUT THERE ALSO IS THE ISSUE OF MR. GOODWIN'S PHYSICAL
6 SITUATION AT TRIAL. YOUR BAILIFF HAS ADVISED ME THAT HE
7 WILL NOT BE ABLE TO, QUOTE, TAKE A KNEE, AS HE'S DOING
8 NOW, IN FRONT OF THE JURY WHICH I THINK WOULD LOOK
9 AWKWARD.

10 THE COURT: I'M SORRY. HE'S WHAT?

11 MS. SARIS: TAKING A KNEE, MEANING HE'S BALANCING
12 HIMSELF ON ONE KNEE RATHER THAN SITTING IN THE CHAIR DUE
13 TO HIS BACK SITUATION. PART OF THE ISSUE HAS TO DO WITH
14 THE FACT THAT HE'S BEING CALLED SO EARLY IN THE MORNING
15 THAT HE'S SITTING ON THE HARD BENCHES FOR THREE HOURS.
16 PART OF IT IS HE'S NOT GETTING THE ADEQUATE MEDICATION OR
17 THE EXERCISES.

18 AT SOME POINT IN THE TRIAL, IF THIS
19 HAPPENS WE'RE GOING TO BE REQUESTING A BREAK. WE HAVE TO
20 FIGURE OUT, I SUPPOSE, A WAY TO ACCOMMODATE THAT WITHOUT
21 BRINGING ATTENTION TO THE JURY OR HAVING YOUR BAILIFF
22 ADMONISH MR. GOODWIN IN FRONT OF THE JURY FOR HIS
23 INABILITY TO SIT STILL. I MEAN IT IS A LEGITIMATE
24 MEDICAL ISSUE. AND I THINK WE HAVE TO WORK OUT SOMETHING
25 TO -- THE OTHER THING IS DURING THE LUNCH HOUR, WE'RE
26 REQUESTING THAT HE BE PROVIDED WITH SOMETHING IN THE BACK
27 THAT HE CAN LAY ON LIKE EITHER A MATTRESS OR BLANKETS SO
28 THAT HE CAN GET THROUGH THE AFTERNOON SESSION. AND JUST

1 SO THE COURT KNOWS --

2 MR. JACKSON: I JOIN IN THAT, YOUR HONOR, I WOULD
3 LIKE A MATTRESS AS WELL, JUST IN CASE.

4 MS. SARIS: I KNOW IT TENDS TO ELICIT SOME HUMOR,
5 BUT JUST SO THE COURT KNOWS WHEN I SEE MR. GOODWIN IN OUR
6 PRIVATE ROOMS, HE OFTEN HAS TO STAND UP AND THIS IS NOT
7 SOME ACT THAT HE PUTS ON FOR THE COURT OR FOR THE JURY.
8 SO IT DOES NEED TO BE ADDRESSED.

9 THE COURT: ALL RIGHT. WELL, I'M WILLING TO DO
10 WHATEVER I CAN TO ASSIST. I DON'T KNOW WHAT --

11 MS. SARIS: PERHAPS WE CAN HEAR FROM YOUR SHERIFF
12 WHAT HE IS SUGGESTING REGARDING THE NEED FOR BREAKS
13 DURING TRIAL AND HOW WE ARRANGE THAT.

14 THE COURT: OFF THE RECORD.

15 (DISCUSSION OFF THE RECORD.)

16 THE COURT: I JUST CONFERRED WITH THE BAILIFF.
17 AND I DON'T KNOW HOW TO GO ABOUT ACCOMMODATING THE
18 PROBLEMS THAT MR. GOODWIN IS EXPERIENCING OTHER THAN TO
19 SAY THAT WHEN MR. GOODWIN NEEDS TO TAKE A BREAK, WE NEED
20 TO COMMUNICATE.

21 AND SO PERHAPS HE CAN COMMUNICATE TO
22 COUNSEL AND COUNSEL CAN COMMUNICATE BACK TO THE BAILIFF
23 OR THE COURT. I DON'T KNOW HOW ELSE TO DO IT. I MEAN
24 OBVIOUSLY THE BAILIFF DOES NOT WANT TO BE IN A SITUATION
25 TO HAVE TO SAY ANYTHING TO MR. GOODWIN WHILE THE JURY IS
26 PRESENT WITH RESPECT TO HIS POSITION. SO WE MAY JUST
27 HAVE TO TAKE A LOT OF BREAKS. I JUST DON'T KNOW HOW ELSE
28 WE CAN DEAL WITH IT.

1 MS. SARIS: MY CONCERN IS I GUESS OVER THE COURSE
2 OF THE TRIAL IF I CAN I CONTINUE TO SAY WE NEED A BREAK,
3 IT'S GOING TO LOOK A LITTLE BIZARRE. LIKE EITHER -- I
4 MEAN I'M NOT SURE IF THERE IS A WAY WE CAN WORK SOMETHING
5 OUT WHERE MAYBE I JUST ASK TO APPROACH AND THE COURT IS A
6 LITTLE MORE LIBERAL ABOUT ALLOWING SIDEBARS.

7 THE COURT: MAYBE YOU CAN HELP ME HERE, IS IT THE
8 SITTING IN A CHAIR THAT IS UNCOMFORTABLE? IS IT
9 STANDING? WHAT IS IT THAT CAUSES THE MOST PAIN?

10 THE DEFENDANT: WHEN I HAVE TO SIT PRIMARILY OR
11 STAND FOR A LENGTH OF TIME. I HAVE MY BUNK SET UP AT THE
12 JAIL. I LAY IN IT FOR 20, 22 HOURS A DAY. I HAVE A
13 45-DEGREE RECLINER. I DON'T SIT FOR MORE THAN A HALF AN
14 HOUR AN ENTIRE DAY. 15 MINUTES TO EAT LUNCH; 15 MINUTES
15 TO EAT DINNER. OTHERWISE, I LAY DOWN AND THEN I GET UP
16 AND DO SOME EXERCISES.

17 TWO THINGS, NOW IF I CAN GET THE MEDICINE
18 THAT DR. PECK SAYS I'M SUPPOSED TO GET. I BELIEVE AT
19 SIDEBAR HE SAID THAT I WAS GOING TO GET STRONGER PAIN
20 MEDICATION. I HAVEN'T HEARD ANOTHER THING ABOUT IT. AND
21 I MISS MY MID-DAY -- THE REGULAR PAIN MEDICATION I GET IS
22 NOT VERY STRONG ANYWAY, BUT WHEN I'M HERE I DON'T GET THE
23 MID-DAY ONE.

24 SO IF I CAN GET THE STRONGER PAIN
25 MEDICATION, INCLUDING MY MID-DAY ONE. IF THERE WAS SOME
26 WAY INSTEAD OF GETTING ME UP LIKE THIS MORNING AT 3:30
27 AND I SAT FOR FOUR HOURS BEFORE I CAME INTO COURT ON HARD
28 BENCHES OR ON THE BUS; AND TWO HOURS OF THAT IS IN A

1 THREE-FOOT SQUARE CAGE ON A BUS THAT YOU CAN'T STRETCH.

2 AND IF THERE IS A WAY THAT I CAN SOMEWHERE
3 LAY DOWN, EVEN IF IT'S ME BRING MY OWN BLANKETS. I COULD
4 BRING TWO BLANKETS. IF THERE IS SOME PLACE I COULD LAY
5 DURING THE LUNCH BREAK AND OTHER BREAKS, I CAN MAKE IT I
6 THINK MAYBE WITHOUT OTHER BREAKS, JUST SO THOSE SIMPLE
7 THINGS.

8 THE COURT: WELL, I CAN'T DO ANYTHING ABOUT THE
9 TRANSPORTATION. I THINK WE HAVE EXHAUSTED ALL OUR
10 OPTIONS WITH RESPECT TO TRANSPORTATION. I KNOW THAT THE
11 MEDICATION ISSUE WE HAVE DEALT WITH AND I DON'T KNOW WHAT
12 THE --

13 MS. SARIS: DR. PECK OWES US A REPORT.

14 THE COURT: AND THAT'S WHAT WE'RE STILL WAITING
15 ON?

16 MS. SARIS: IT WAS DUE I BELIEVE NOT THE LAST
17 APPEARANCE, BUT THE ONE PRIOR, THE 6TH MAYBE.

18 THE COURT: HAVE YOU BEEN IN TOUCH WITH DR. PECK?

19 MS. SARIS: I'VE LEFT A MESSAGE.

20 THE COURT: OKAY. PERHAPS WE CAN GET HIS
21 ASSISTANCE WITH RESPECT TO THE MEDICATION PROBLEM. AND
22 I'M TOLD BY THE BAILIFF THAT YOU WILL HAVE TO GO
23 DOWNSTAIRS DURING THE NOON HOUR, BUT PERHAPS THERE IS A
24 PLACE DOWNSTAIRS.

25 THE BAILIFF: THE OTHER BREAKS ARE FINE. I WILL
26 HAVE A CELL DURING THE OTHER BREAKS, SO HE'LL BE ABLE TO
27 DO WHATEVER HE NEEDS TO DO. JUST AT THE LUNCH HOUR HE
28 HAS TO GO DOWNSTAIRS.

1 MS. SARIS: WHEN HE IS DOWNSTAIRS, WILL HE BE
2 ABLE TO LAY DOWN?

3 THE COURT: I'M GOING TO HAVE TO LEAVE THAT UP TO
4 THE SHERIFF'S DEPARTMENT.

5 THE BAILIFF: I CAN ASK THE SUPERVISOR, BUT I'M
6 NOT AWARE OF ANY PLACE WHERE HE CAN LAY DOWN.

7 (DISCUSSION OFF THE RECORD.)

8 MS. SARIS: I HAVE ASKED BEFORE FOR A COURT ORDER
9 ALLOWING HIM TO TAKE HIS BLANKETS WITH. PERHAPS THE
10 COURT WOULD BE INCLINED TO SIGN ANOTHER ONE OF THOSE TO
11 LET HIM BRING THEM TO COURT, THEN WE CAN SORT OF MAKE
12 SOME SORT OF MAKE-SHIFT THING DURING THE BREAKS.

13 THE COURT: ALL RIGHT. BUT IF YOU WOULD, IF YOU
14 COULD FOLLOW-UP WITH DR. PECK, I WOULD REALLY APPRECIATE
15 IT. BECAUSE I THINK THAT THE MEDICATION CAN BE -- OR THE
16 MEDICATION SITUATION CAN BE DEALT WITH WHERE HE CAN GET
17 MEDICATION DURING THE DAY. I DON'T KNOW HOW THEY CAN DO
18 IT, BUT IF THEY CAN.

19 MS. SARIS: HE HAS BEEN ALLOWED TO SELF-CARRY
20 BEFORE.

21 THE COURT: OKAY. WELL, THEN THAT WOULD BE
22 HELPFUL. SO WE WILL SEE. WE WILL DO THE BEST WE CAN,
23 MR. GOODWIN.

24 ALL RIGHT. DO YOU WANT ME TO TAKE A FEW
25 MINUTES NOW TO TAKE A LOOK AT YOUR OPPOSITION. I
26 APOLOGIZE, I DIDN'T HAVE TIME.

27 MS. SARIS: EITHER THAT OR WE CAN COME BACK
28 TOMORROW. WHATEVER IS EASIEST FOR THE COURT.

1 THE COURT: WHATEVER YOU WANT.

2 MS. SARIS: WELL, I'M THINKING IF WE COME BACK
3 TOMORROW PERHAPS WE CAN ALSO HEAR THE OTHER MOTION.
4 THERE IS A FURTHER MOTION TO EXCLUDE IN PARTICULAR THE
5 INVESTIGATING OFFICER, OR THE DESIGNATED INVESTIGATING
6 OFFICER I GUESS THE PEOPLE SAID EARLIER THEY'RE NOT
7 CALLING ONE.

8 THE COURT: I'M SORRY. THERE IS A NEW MOTION YOU
9 MEAN?

10 MS. SARIS: YES. DID THE COURT NOT GET THAT?

11 THE COURT: I DON'T KNOW WHAT YOU JUST FILED THIS
12 AFTERNOON BECAUSE I DIDN'T HAVE A CHANCE TO LOOK AT IT.

13 MS. SARIS: I FILED TWO OPPOSITIONS. ONE TO THE
14 351 MOTION AND ONE TO THE PACE RECORDS MOTION. AND THEN
15 THOSE ARE OPPOSITIONS TO THE PEOPLE'S, AND THEN I FILED A
16 MOTION TO EXCLUDE DETECTIVE LILLIENFELD --

17 THE COURT: TODAY YOU FILED THAT?

18 MS. SARIS: -- FROM THE COURTROOM DURING TRIAL.
19 YES.

20 THE COURT: YES, HERE IT IS. WHAT DID YOU WANT
21 TO DO ON JURORS? BECAUSE I'M TOLD THAT DEPARTMENT "F"
22 MAY BE BRINGING IN SOME JURORS TOMORROW. WHAT DID
23 COUNSEL WANT TO DO ABOUT THAT? DID YOU WANT TO START
24 WITH JURORS TOMORROW OR DO YOU WANT TO DO IT ON
25 WEDNESDAY?

26 MS. SARIS: IF THE COURT THINKS IT'S GOING TO
27 TAKE LONGER THAN THE MORNING SESSION THEN I --

28 THE COURT: I CAN DO THESE MOTIONS IN A FEW

1 MINUTES. THIS ISN'T --

2 MS. SARIS: NO. I'M SORRY. THE HARDSHIP I
3 MEANT. I HAVE AN APPOINTMENT WEDNESDAY AFTERNOON, BUT
4 I'M HAPPY TO DO IT WEDNESDAY MORNING, TUESDAY OR THURSDAY
5 ANY OF THESE DAYS ARE FINE WITH US.

6 MR. DIXON: ANYTHING IS FINE WITH US.

7 THE COURT: OKAY. I JUST DON'T WANT TO WASTE A
8 LOT OF JURORS. AND I KNOW THAT DEPARTMENT "F" IS IN JURY
9 SELECTION. THEY'RE GOING TO BE BRINGING IN ANOTHER GROUP
10 OF JURORS. SO WHAT I WOULD LIKE TO DO IS LET ME TAKE A
11 FEW MINUTES AND LOOK AT YOUR OPPOSITION. IF I'M GOING TO
12 NEED MORE TIME, I'LL LET YOU KNOW.

13 AND THEN WE CAN ASK THE JURY ROOM TO LET
14 US KNOW HOW MANY JURORS DEPARTMENT "F" IS GOING TO ORDER.
15 AND IF IT'S A SMALL NUMBER, MAYBE WE WILL LET THEM GO.
16 IF IT IS A LARGER NUMBER, MAYBE WE WILL HAVE TO TAKE THEM
17 FIRST AND HARDSHIP AND THEN GIVE THEM TO DEPARTMENT "F."

18 MR. DIXON: ONE OTHER THING THAT MAYBE I COULD
19 ASK THE COURT TO THINK ABOUT. AND I TALKED TO MS. SARIS
20 ABOUT THIS, IS IT'S MY HOPE TO BY THE TIME WE HAVE
21 OPENING STATEMENTS TO AT LEAST GIVE THE COURT A DRAFT OF
22 WHAT WE THINK THE JURY INSTRUCTIONS MIGHT BE. BUT THAT
23 BEGS THE QUESTION CALCRIM OR CALJIC?

24 THE COURT: MY ANSWER IS CALJIC. WHAT IS YOURS?

25 MS. SARIS: CALJIC?

26 MR. DIXON: I THINK WE ALL AGREE.

27 THE COURT: PERFECT.

28 MS. SARIS: WELL, WE HAVEN'T ACTUALLY THOUGHT

1 ABOUT IT. WE ASSUMED -- I HAVE AN ENTIRE PACKET HALFWAY
2 PREPARED WITH OBJECTIONS TO THE CALCRIMS.

3 THE COURT: WELL, SAVE YOUR OBJECTIONS.

4 MS. SARIS: I WOULD LIKE TO WITHHOLD THAT.
5 BECAUSE WHILE MR. DIXON TRULY DID BRING THIS UP, I HAVE
6 NOT HAD A CHANCE TO ADDRESS IT WITH MR. SUMMERS YET.

7 THE COURT: OKAY.

8 MS. SARIS: SO PERHAPS WE WILL DO THAT WHILE YOU
9 READ THE MOTIONS.

10 THE COURT: OKAY. THAT'S A GOOD IDEA.

11 MR. JACKSON: AND, YOUR HONOR, JUST SO THE COURT
12 KNOWS THERE IS AN OUTSTANDING MOTION THAT WE FILED. I
13 DON'T KNOW IF COUNSEL HAS AN OBJECTION TO IT OR NOT. WE
14 HAD VISITED BRIEFLY ABOUT IT WHEN I FILED IT. IT'S THE
15 JURY VIEW MOTION. SO I DON'T KNOW IF THE COURT WANTS TO
16 ADDRESS THAT OR NOT OR IF COUNSEL NEEDS MORE TIME.

17 THE COURT: YOU KNOW, WHAT I WAS TOLD IS THAT
18 BOTH SIDES ARE IN AGREEMENT.

19 MS. SARIS: YES, WE ARE NOT GOING TO OBJECT.

20 MR. JACKSON: OKAY. THEN THAT'S EASY, TOO.

21 THE COURT: BUT WHEN WERE YOU PLANNING ON DOING
22 THIS?

23 MR. JACKSON: THAT'S A GOOD QUESTION. AND, YOUR
24 HONOR, I WOULD LEAVE THAT -- I WOULD CERTAINLY INVITE THE
25 COURT TO GUIDE ME AND MR. DIXON AND MS. SARIS ON WHEN
26 THAT HAPPENS. I WOULD THINK CERTAINLY THAT IT WOULD BE
27 AT OR AROUND THE TIME THAT WE BEGIN THE CRIME SCENE
28 TESTIMONY, WHICH IS SUBSTANTIALLY INTO THE TRIAL.

1 MS. SARIS: AND OUR ONLY CONCERN IS LOGISTICS.
2 BECAUSE OUR CRIME SCENE INDIVIDUAL, THE BALLISTIC EXPERT
3 THAT WE HIRED, DOES NOT LIVE LOCALLY. AND IT WOULD BE
4 SILLY TO TAKE THE JURORS OUT FOR THE PEOPLE'S CASE AND
5 THEN BRING THEM BACK. I WOULD ASK PROBABLY TO TAKE HIM
6 OUT OF ORDER SO THAT HE CAN BE PRESENT. OR AT LEAST HAVE
7 HIM PRESENT AND WORK OUT SOMETHING. SO I MEAN IN TERMS
8 THE OVERALL GLOBAL NOTION, WE'RE NOT OPPOSED. BUT THERE
9 ARE LOGISTICS THAT NEED TO BE DEALT WITH.

10 THE COURT: ALL RIGHT. LET ME DO THIS, IF BOTH
11 SIDES ARE IN AGREEMENT, I MEAN I'M FINE WITH IT. I WOULD
12 LIKE YOU, HOWEVER, TO TRY TO RESOLVE SOME OF THE
13 LOGISTICAL QUESTIONS IF YOU CAN.

14 MR. JACKSON: SURE.

15 THE COURT: AND THEN WHATEVER ELSE NEEDS TO BE
16 DONE, I WILL TAKE IT FROM THERE.

17 MS. SARIS: IF WE COULD CONVINCE BOTH SIDES TO BE
18 IN AGREEMENT ON THE DAILIES, WOULD THE COURT CHANGE ITS
19 MIND?

20 MR. DIXON: THAT MIGHT BE AN UPHILL BATTLE FROM
21 OUR STANDPOINT.

22 THE COURT: OKAY. GOOD. YOU KNOW, I'M REALLY --
23 AGAIN, IT'S NOT SO MUCH THIS COURT, I'M LOOKING AT THE
24 GLOBAL PICTURE HERE. AND THIS IS VERY EXPENSIVE. AND IF
25 THIS IS PRECEDENT FOR DOING IT, THEN THERE IS AN AWFUL
26 LOT OF CASES THAT WOULD FALL INTO THAT CATEGORY AND I'M
27 CONCERNED ABOUT THAT.

28 MS. SARIS: WELL, I CAN JUST STATE FOR THE RECORD

1 THAT VERY FEW CASES ARE 18 YEARS OLD; OVER 40 WITNESSES;
2 GOING TO LAST TWO MONTHS; WITH INCREDIBLY TECHNICAL
3 FINANCIAL INFORMATION COMING IN; AND WITNESS STATEMENTS
4 FROM SOME WITNESSES 23 TIMES THEY WERE INTERVIEWED.

5 THE COURT: I'LL CONSIDER IT WITNESS BY WITNESS,
6 BUT AT THIS POINT --

7 MR. DIXON: THAT'S ACTUALLY NOT TRUE. I MEAN NOW
8 WITH DNA AND THE COLD CASES THAT ARE BEING FILED AND
9 PROSECUTED IT'S -- IT'S NOT UNCOMMON AT LEAST IN THE
10 GROUP THAT I SUPERVISE TO HAVE CASES THAT ARE THIS OLD.
11 I THINK YOU'RE GOING TO SEE IT MORE AND MORE.

12 THE COURT: MAYBE I SHOULD BASE IT ON THE AGE OF
13 THOSE THAT ARE GOING TO BE LISTENING TO THE TESTIMONY.
14 BECAUSE IF THERE WERE THE STANDARD, I THINK I WOULD NEED
15 A DAILY. BUT --

16 MR. DIXON: ME, TOO.

17 THE COURT: LET'S TAKE A BRIEF BREAK AND I WILL
18 LOOK AT THIS.

19 (BRIEF RECESS.)

20 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
21 THE GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS
22 COUNSEL. THE PEOPLE ARE REPRESENTED.

23 AND I HAVE TAKEN SOME TIME AND REVIEWED
24 THE MOTIONS THAT WERE FILED AND THE OPPOSITION THAT WAS
25 FILED TODAY. THERE IS ALSO A CONCERN THAT I HAVE THAT I
26 DISCUSSED BRIEFLY WITH COUNSEL OFF THE RECORD AT THE
27 SIDEBAR.

28 THERE ARE TWO ISSUES THAT HAVE BEEN

1 BROUGHT TO MY ATTENTION IN THE MOTIONS THAT PERHAPS WOULD
2 BE BEST HANDLED BY THE COURT IN CAMERA. I KNOW THE
3 DEFENSE IS OBJECTING TO IT. AND THE PEOPLE SEEM TO BE IN
4 AGREEMENT WITH THE COURT THAT IT MAY BE OF SUCH A
5 SENSITIVE NATURE THAT AN IN CAMERA HEARING WOULD BE
6 APPROPRIATE.

7 MS. SARIS: AND, YOUR HONOR, I CAN UNDERSTAND
8 THAT TO A CERTAIN EXTENT AS TO THE 351, BUT NOT AS TO THE
9 OTHER MOTION.

10 THE COURT: WELL, AGAIN, I BROUGHT THIS UP
11 BECAUSE MY CONCERN IS BOTH OF THESE MOTIONS INVOLVE
12 SITUATIONS THAT ARE QUITE DELICATE.

13 SO ARE THE PEOPLE IN AGREEMENT THAT WE
14 SHOULD GO IN CAMERA ON BOTH OR JUST THE ONE?

15 MR. DIXON: YES, BOTH, YOUR HONOR.

16 THE COURT: ALL RIGHT. THE ONE THAT WE CAN
17 HANDLE IN OPEN COURT IS THE PACE MOTION. AND I JUST
18 DON'T KNOW WHAT IS THE AUTHORITY THEN FOR THE PEOPLE TO
19 ASK FOR ALL OF THE INFORMATION.

20 MR. JACKSON: YOUR HONOR, I RECEIVED ACTUALLY A
21 MEMORANDUM FROM JUDGE WESLEY. AND THAT WAS -- JUDGE
22 WESLEY SENT THAT MEMO TO ALL SUPERIOR COURT JUDGES, I
23 BELIEVE IN -- I THOUGHT IT WAS COUNTY-WIDE. IT MAY HAVE
24 JUST BEEN IN THE CCB. AND BECAUSE I DIDN'T KNOW THAT
25 THIS OPPOSITION WAS GOING TO BE FILED TODAY, I DIDN'T
26 BRING THOSE DOCUMENTS.

27 BUT JUDGE WESLEY HAS AGREED AS THE
28 PRESIDING JUDGE THAT THE SUPERVISING JUDGE DOWNTOWN WHERE

1 ALL OF THESE PACE MANAGEMENT REQUESTS ARE MADE, THAT THIS
2 IS ABSOLUTELY THE APPROPRIATE REMEDY -- NOT THE
3 APPROPRIATE REMEDY -- THE APPROPRIATE WAY TO GO ABOUT
4 GETTING THESE DOCUMENTS. AND HE OUTLINED EXACTLY HOW THE
5 DECLARATION AND/OR THE ORDER IS SUPPOSED TO BE WRITTEN
6 INTO THE RECORD.

7 I'VE NEVER HEARD OF ANYBODY OBJECTING TO
8 PACE RECORDS. I MEAN IT'S DONE ON A CONSISTENT BASIS.
9 AND I THINK THE PUBLIC DEFENDER'S OFFICE RECENTLY HAS
10 BEGUN TO ARGUE ABOUT WHICH RECORDS COME IN. IS IT JUST
11 FOR THIS CASE? IS IT FOR TIME AND MEMORIAL ON A
12 PARTICULAR EXPERT.

13 AND JUDGE WESLEY'S SPECIFIC MEMO IS THE
14 PEOPLE GET THE FOLLOWING DOCUMENTS. AND IT'S LITERALLY
15 VERBATIM WHAT I SUPPLIED TO THE COURT. I WROTE IT OFF OF
16 HIS MEMO BECAUSE HE HAD A SAMPLE DECLARATION AND SAMPLE
17 ORDER. I JUST COPIED IT. OUR POSITION IS THIS GOES
18 DIRECTLY TO -- AND I'M JUST ARGUING THIS ORALLY, YOUR
19 HONOR, IF IT'S OKAY WITH THE COURT -- THIS GOES DIRECTLY
20 TO CREDIBILITY AND BIAS.

21 AND COUNSEL IS PATENTLY INCORRECT THAT I
22 WILL NOT HAVE ACCESS TO THIS INFORMATION WERE MR. GOODWIN
23 NOT INDIGENT, IN OTHER WORDS, WERE HE NOT BEING -- IF HE
24 WEREN'T GOING THROUGH PACE MANAGEMENT, BUT HIRING EXPERTS
25 ON HIS OWN. I ABSOLUTELY WOULD BE ENTITLED TO PAYMENTS
26 RECEIVED; HOW OFTEN THAT PARTICULAR EXPERT WORKS FOR THE
27 DEFENSE VERSUS WORKS FOR THE PROSECUTION; HOW MUCH OF HIS
28 OR HER ANNUAL SALARY PER ANNUM IS DEDICATED TO TESTIFYING

1 IN COURT.

2 THESE ARE ALL VERY STANDARD QUESTIONS THAT
3 EVERY EXPERT IN THE WORLD IS ASKED. AND I SHOULDN'T HAVE
4 TO WAIT UNTIL THEY ARE ON THE STAND AND TAKE THEIR WORD
5 FOR IT THAT THEY WILL GIVE ME AN HONEST ANSWER AS TO HOW
6 MUCH MONEY THEY'RE MAKING FROM THE DEFENSE.

7 IF THAT IS A SUBSTANTIVE PART OF THEIR
8 ANNUAL INCOME, I THINK THE JURY IS ENTITLED TO HEAR THAT.
9 THAT'S THE ONLY REASON THAT I SOUGHT THESE RECORDS TO
10 BEGIN WITH. AND I'VE DONE EXACTLY NO MORE, NO LESS THAN
11 THAT WHICH JUDGE WESLEY REQUIRES.

12 THE COURT: YOU KNOW, I MAY HAVE RECEIVED THAT
13 MEMO, BUT --

14 MS. SARIS: I HAVE ONE, JUDGE. AND OUR CONCERN
15 IS THAT JUDGE WESLEY IS NOT CITABLE AUTHORITY IN THIS
16 COURT, NO. 1. NO. 2, THE GIST --

17 THE COURT: LET ME SEE THE MEMO FIRST, BECAUSE
18 THAT'S --

19 MS. SARIS: THE GIST OF THE MEMO IS THAT THE
20 DEFENSE GETS NOTICE OF THIS REQUEST.

21 THE COURT: OKAY. WHAT YOU WANT ME TO LOOK AT?

22 MS. SARIS: YOU KNOW, I ASSUME THAT'S THE SAME
23 MEMO, BUT I DIDN'T SHOW IT TO COUNSEL.

24 THE COURT: IT LOOKS LIKE IT.

25 MR. JACKSON: NO. THIS IS NOT THE ENTIRETY OF
26 THE MEMO.

27 MS. SARIS: THERE ARE ATTACHMENTS TO THE MEMO.

28 THE COURT: DO YOU WANT TO GIVE ME EVERYTHING TO

1 LOOK AT? I PROBABLY HAVE IT SOMEWHERE, BUT IT WOULD BE
2 QUICKER IF --

3 MR. JACKSON: THE ATTACHMENTS --

4 MS. SARIS: WELL, THIS IS A HAND-OUT FROM THE
5 PUBLIC DEFENDER'S OFFICE. SO I'M NOT SURE WHICH CAME
6 MR. JUDGE WESLEY AND WHICH CAME FROM OUR OFFICE.

7 MR. JACKSON: WHILE COUNSEL IS LOOKING AT THAT,
8 JUDGE WESLEY ATTACHED A STANDARD REQUEST FROM THE D.A.
9 AND SAID, HEY, FROM THIS POINT FORWARD I WANT
10 EVERYTHING -- SO WE CAN HAVE A UNIFORM DISCLOSURE
11 SYSTEM -- I WANT EVERYTHING TO BASICALLY LOOK LIKE THIS.
12 AND IF YOU TAKE MY MOTION -- I'M SORRY, NOT MY MOTION --
13 MY ORDER, THAT'S EXACTLY WHAT I FOLLOWED.

14 MS. SARIS: THIS IS HOW THE REQUEST SHOULD LOOK.
15 JUDGE WESLEY DOES NOT SAY THAT IT HAS TO BE GRANTED IN
16 ALL CIRCUMSTANCES.

17 MR. JACKSON: AND THIS IS CORRECT, THAT'S THE
18 PROPOSED ORDER THAT JUDGE WESLEY ATTACHED TO HIS MEMO AND
19 THAT'S WHAT I FOLLOWED. AND JUDGE WESLEY DOES SAY
20 EXPRESSLY IN THE MEMO, NOT JUST THAT COUNSEL IS ENTITLED
21 TO NOTICE, BUT IT IS MY OPINION THAT THE PEOPLE ARE
22 ENTITLED TO THE FOLLOWING. AND THAT'S WHERE I GOT IT.

23 THE COURT: YES. AND JUST FOR THE RECORD, I'M
24 LOOKING AT A MEMO THAT WAS SENT TO ALL CRIMINAL COURT
25 JUDGES AND COMMISSIONERS FROM SUPERVISING JUDGE WESLEY
26 DATED JULY 27, 2006. I KNOW I HAVE SEEN THIS BEFORE, BUT
27 I DON'T THINK I PAID MUCH ATTENTION TO IT. SO I'M
28 LOOKING AT IT NOW.

1 IT'S ESSENTIALLY -- THE SUBJECT MATTER OF
2 IT IS ESSENTIALLY DISTRICT ATTORNEY'S REQUEST FOR PACE
3 RECORDS. AND IT APPEARS TO BE COURT POLICY AFTER A
4 MEETING WITH REPRESENTATIVES FROM THE D.A., THE PUBLIC
5 DEFENDER AND THE ALTERNATE PUBLIC DEFENDER.

6 MS. SARIS: I HAVE THEIR MEMOS THAT THEY WROTE IN
7 RESPONSE. THOSE WERE NOT INCORPORATED IN JUDGE WESLEY'S
8 MOTION -- OR MEMO.

9 THE COURT: ALL RIGHT. I HAVE LOOKED AT THE
10 TWO-PAGE MEMO. THERE IS ALSO AN ATTACHMENT THAT'S
11 ANOTHER MEMO DATED MARCH 8, 2006 FROM JUDGE WESLEY.

12 MR. JACKSON: TOWARD THE BOTTOM OF THAT PAGE I
13 BELIEVE IS WHERE HE INDICATES THAT THE PEOPLE ARE
14 ENTITLED TO THE FOLLOWING DOCUMENTS.

15 THE COURT: YES. IT SAYS IN THE SECOND TO THE
16 LAST PARAGRAPH THAT, "I HAVE TAKEN THE POSITION THAT WHAT
17 IS DISCOVERABLE IS THE TOTAL AMOUNT EARNED BY AN EXPERT
18 IN ANY GIVEN YEAR. THAT IS A PUBLIC RECORD. AND ANY
19 AMOUNT PAID TO AN EXPERT THAT HAS BEEN DISCLOSED BY
20 EITHER SIDE ON A PARTICULAR CASE."

21 MS. SARIS: AND OUR POSITION, IF I MAY BE HEARD?

22 THE COURT: YES.

23 MS. SARIS: THIS IS NOT A SUBJECT OF PRETRIAL
24 DISCOVERY. COUNSEL IS ABSOLUTELY RIGHT. HE HAS EVERY
25 RIGHT TO INQUIRE OF THESE EXPERT WITNESSES WHEN THEY
26 TESTIFY HOW MUCH THEY MAKE. COUNSEL IS GOING BACK FOUR
27 YEARS IN HIS REQUEST. OUR CONCERN IS TWO-FOLD.

28 IF MR. GOODWIN WERE RICH, HE WOULD HAVE

1 BEEN ABLE TO HIRE ANY EXPERT OF HIS CHOOSING. I'M FORCED
2 TO HIRE EXPERTS OFF AN APPROVED LIST. BY DEFINITION
3 THEY'RE GOING TO HAVE MORE APPOINTMENTS THAN ANY EXPERT
4 WHO IS NOT ON THAT LIST. SO THE RELEVANCE OF THE BIAS IS
5 GOING TO BE SKEWED.

6 MOREOVER, JURORS ARE GOING TO FEEL AS IF
7 THEIR SALARY AND THEIR TAX DOLLARS ARE GOING TOWARDS
8 THIS. AND UNDER 352 IT HAS THE POTENTIAL TO BE MUCH MORE
9 PREJUDICIAL THAN PROBATIVE. COUNSEL CAN CERTAINLY FIND
10 OUT HOW MUCH THESE EXPERTS WERE PAID ON THIS CASE.
11 THAT'S HIGHLY RELEVANT.

12 THE COURT: WELL, THAT I HAVE NO PROBLEM WITH.
13 THAT'S NOT --

14 MS. SARIS: IF MR. GOODWIN WERE NOT INDIGENT, HE
15 WOULD NOT BE ABLE TO FIND THAT OUT PRETRIAL. HE WOULD
16 HAVE TO SUBPOENA IT. AND THOSE EXPERTS WOULD BE ABLE TO
17 IN AND QUASH THAT SUBPOENA. SO I DON'T THINK
18 MR. GOODWIN, UNDERNEATH THE PROTECTION ARGUMENT, SHOULD
19 BE PUT IN A POSITION DIFFERENT THAN A DEFENDANT WHO COULD
20 AFFORD PRIVATE COUNSEL.

21 COUNSEL HAS A RIGHT TO ASK THESE
22 INDIVIDUALS ON THE STAND. THAT'S WHAT HAS HAPPENED FOR
23 YEARS AND YEARS AND YEARS PAST. IF THERE IS ANY REASON
24 TO DOUBT THAT, HE CAN CERTAINLY BY WAY OF SUBPOENA DUCES
25 TECUM GO AND FIND OUT THEIR PAST RECORDS.

26 BUT FOR THE LAST FOUR YEARS, THIS IS
27 OVERBROAD. AND MOREOVER, SOMEONE LIKE JACK ROTHBERG, WHO
28 IS OUR EXPERT, HAS BEEN ASSIGNED IN THIS CASE TO REVIEW

1 MEDICAL RECORDS. I WOULD ASK ANY ORDER, ANY QUESTION BE
2 PHRASED TO HIM REGARDING HIS REVIEW OF MEDICAL RECORDS.
3 HE IS SOMEONE ON THE PANEL WHO IS CALLED IN FOR SANITY
4 DETERMINATIONS AND 1368 EVALUATIONS TWO, THREE, FOUR
5 TIMES A WEEK.

6 TO ASK HIM HOW MANY TIMES HE'S BEEN
7 APPOINTED, ADDING UP ALL THOSE VERSUS HOW MANY TIMES HE'S
8 BEEN APPOINTED IN THIS PARTICULAR FIELD, AGAIN, WOULD
9 SKEW THE NUMBERS IN A WAY THAT'S PREJUDICIAL AND UNFAIR
10 TO MR. GOODWIN.

11 THE COURT: MY INITIAL REACTION -- I'M LOOKING AT
12 THE PEOPLE'S MOTION AND THE OPPOSITION, IS THAT THE
13 REQUEST IS TOO BROAD. AND I HAVE NO PROBLEM, HOWEVER,
14 WITH ORDERING THE DISCLOSURE OF THE PAYMENTS TO THE
15 WITNESSES ON THIS CASE SHOULD THESE BE WITNESSES THAT ARE
16 GOING TO TESTIFY.

17 OBVIOUSLY, MR. JACKSON CAN ISSUE AN S.D.T.
18 TO THESE WITNESSES AS WELL AND REQUEST THAT INFORMATION
19 BE BROUGHT TO COURT. I VIEW THAT AS SOMETHING THAT MIGHT
20 DELAY US. SO I HAVE NO PROBLEM WITH THE INFORMATION
21 REQUESTED ON THIS CASE. AT WHAT POINT ARE THEY GOING TO
22 BE DEEMED WITNESSES HOWEVER? I ASSUME THEY'RE DEEMED
23 WITNESSES NOW?

24 MR. JACKSON: OUR POSITION UNDER PEOPLE VERSUS
25 WOODS IS ABSOLUTELY. THEY APPEAR ON THE WITNESS LIST.
26 MS. SARIS HAS INDICATED TO US WHAT THEIR PROPOSED
27 TESTIMONY IS GOING TO BE ORALLY. AND SHE'S ALSO SUPPLIED
28 US WITH REPORTS.

1 MS. SARIS: AT THIS TIME I CAN SAY I'M
2 ANTICIPATING CALLING JACO SWANEPOEL. J-A-C-O. LAST NAME
3 S-W-A-N-E-P-O-E-L. AND MARK TAYLOR. I HAVE NOT YET MADE
4 THE DETERMINATION REGARDING DR. PEZDEK. IT WILL DEPEND
5 ON HOW THE STEVENSES TESTIFY. I DO NOT ANTICIPATE
6 CALLING KEN MOSES.

7 THE COURT: ALL RIGHT. IF THE PEOPLE WANT --

8 MS. SARIS: I'M SORRY. DR. ROTHBERG. BUT AGAIN
9 I WOULD ASK THAT TO BE LIMITED TO HIS CAPACITY AS A
10 PSYCHIATRIST REVIEWING MEDICAL RECORDS AND NOT IN HIS
11 CAPACITY AS A PSYCHOLOGIST. OR -- I'M SORRY, JUST FOR
12 THIS CASE?

13 THE COURT: AT THIS POINT, I'M PREPARED TO SAY
14 THE PEOPLE GET AND THEY SHOULD BE ENTITLED TO THE
15 INFORMATION WITH RESPECT TO THE PAYMENTS RECEIVED OR
16 AMOUNT BILLED BY EACH WITNESS WHO IS GOING TO TESTIFY AS
17 A DEFENSE EXPERT ON THIS CASE. AND THAT'S ABOUT AS FAR
18 AS I'M WILLING TO GO TODAY WITHOUT FURTHER AUTHORITY.

19 I APPRECIATE -- AND I WILL GIVE THIS BACK
20 TO COUNSEL, THE MEMO FROM JUDGE WESLEY. I DON'T KNOW
21 THAT HE MEANT FOR THESE MEMOS TO BE INTERPRETED BY THE
22 JUDGES AS PROVIDING US WITH AUTHORITY.

23 I THINK THIS IS MORE OF A PROCEDURAL
24 PROBLEM BEING ADDRESSED THAN ANYTHING ELSE. SO AT THIS
25 POINT, I DON'T HAVE ANY PROBLEM WITH AN ORDER IF THE
26 PEOPLE WANT TO PRESENT ONE.

27 MS. SARIS: AND, YOUR HONOR, I WOULD ASK THAT
28 ORDER BE LIMITED TO PEZDEK, ROTHBERG, SWANEPOEL AND

1 TAYLOR. AND IT IS OUR POSITION THAT COUNSEL SHOULD
2 S.T.D. THESE. AND WE HAVE AN OBJECTION TO THEM GETTING
3 THEM THROUGH PACE.

4 THE COURT: I DON'T KNOW THAT THEY HAVE TO S.D.T.
5 THEM. I WILL BE HAPPY TO SIGN OFF ON AN ORDER THAT'S
6 CONSISTENT WITH WHAT JUDGE WESLEY HAS CIRCULATED.

7 MR. JACKSON: AND, YOUR HONOR, THERE IS -- I MADE
8 IT PRETTY SIMPLE, SO THERE IS LITERALLY A LINE THAT THE
9 COURT COULD JUST DELETE VIA INTERLINEATION, I BELIEVE I
10 DRAFTED IT THAT WAY FOR THIS REASON JUST TO GIVE THE
11 COURT THE OPTION OF GIVING US WHAT WE WANTED OR EDITING
12 IT AS YOU SEE FIT.

13 MS. SARIS: IF THE COURT IS EDITING THE ORDER ON
14 PAGE 3 AND 4 OF THE PEOPLE'S PROPOSED ORDER, WE WOULD ASK
15 THEM TO CROSS OUT KEN MOSES AND DAVID OSCAR AT THIS TIME.

16 THE COURT: I HAVE CROSSED THEM OUT. I'M ALSO
17 GOING TO CROSS OUT PAYMENT HISTORY STARTING ON LINE 20
18 GOING TO LINE 21 BECAUSE THAT APPEARS --

19 MR. JACKSON: BECAUSE OF THE YEARS INCLUSIVE?

20 THE COURT: RIGHT. SO I'M GOING TO CROSS THAT
21 OUT. SO THAT WILL ONLY BE FOR THE AMOUNTS PAID TO EACH
22 OF THE EXPERTS ON THIS CASE.

23 MS. SARIS: THAT'S FINE.

24 MR. JACKSON: THANK YOU, YOUR HONOR.

25 THE COURT: ALL RIGHT. I WILL SIGN OFF ON THAT.

26 ALL RIGHT. WE ARE GOING TO HAVE TO DO AN
27 IN CAMERA.

28 MS. SARIS: OUR OBJECTION TO THE LACK OF PUBLIC

1 HEARING REGARDING THE MOTION IS NOTED FOR THE RECORD,
2 YOUR HONOR.

3 THE COURT: YES. I HAVE SOME CONCERNS THAT I'M
4 HAPPY TO PUT ON THE RECORD.

5 NO. 1, THE REQUEST IN THE PEOPLE'S MOTION
6 THAT WE HAVE DESIGNATED A 351 MOTION INVOLVES INFORMATION
7 THAT IS QUITE SENSITIVE AND IF DISCLOSED I BELIEVE WOULD
8 PREVENT THIS COURT FROM GETTING A FAIR AND IMPARTIAL
9 JURY. I THINK WE ARE GOING TO HAVE A TOUGH TIME WITH THE
10 PUBLICITY. AND I'M RELYING ON COUNSEL FOR THIS THAT
11 THERE WAS -- THERE WERE A NUMBER OF TV SHOWS THAT HAVE
12 BEEN PRESENTED AS WELL AS I GUESS ARTICLES.

13 I DON'T KNOW THE EXTENT TO WHICH ANY OF
14 OUR PROSPECTIVE JURORS HAVE SEEN THESE TV SHOWS OR READ
15 THE MATERIALS. MY CONCERN IS IF THERE ARE INTERESTED
16 PEOPLE OUT THERE THAT ARE PROSPECTIVE JURORS, HEARING
17 SOME OF THIS INFORMATION WITH RESPECT TO THE 351 MOTION,
18 I THINK WOULD MAKE IT ALMOST IMPOSSIBLE FOR THE COURT TO
19 FIND A FAIR AND IMPARTIAL JURY IN THIS MATTER.

20 I DON'T KNOW THAT THE INFORMATION IS
21 NECESSARILY EVEN RELEVANT TO ANY OF THE ISSUES IN OUR
22 CASE. AND SO I DON'T KNOW THAT ANY RIGHTS OR GOING TO BE
23 VIOLATED BY THE COURT CONDUCTING AN IN CAMERA REVIEW ON
24 THAT.

25 THE SECOND SITUATION INVOLVES THE DEFENSE
26 POINTS AND AUTHORITIES TO EXCLUDE A WITNESS AND THAT IS A
27 POLICE OFFICER WITNESS FROM BEING PRESENT DURING THE
28 COURSE OF THIS CASE OFFICER LILLIENFELD. THERE IS

1 INFORMATION CONTAINED IN THIS MOTION WHICH I BELIEVE
2 CONSTITUTES PERHAPS CONFIDENTIAL INFORMATION.

3 AND IN AN ABUNDANCE OF CAUTION, I WOULD
4 LIKE TO DEAL WITH THAT IN CHAMBERS AS WELL. I DON'T
5 THINK THAT THE PUBLIC HAS A RIGHT TO ANY OF THE
6 INFORMATION IF IT'S DEEMED TO BE CONFIDENTIAL UNDER THE
7 PENAL CODE AND THE EVIDENCE CODE AND THE CASE LAW.

8 SO I'M PREPARED TO OVERRULE THE DEFENSE
9 MOTION TO CONDUCT THESE HEARINGS IN OPEN COURT. I WILL
10 CONDUCT THESE HEARINGS IN CAMERA. LET ME ASK MY BAILIFF,
11 CAN WE GO IN THE JURY ROOM? I DON'T HAVE ANY ENOUGH ROOM
12 IN CHAMBERS.

13 THE BAILIFF: YES, MA'AM.

14 MS. SARIS: I'M SORRY, YOUR HONOR. JUST TO BE
15 CLEAR, AND I'M NOT ARGUING WITH THE COURT, IS THERE A
16 SPECIFIC CONFIDENTIAL PRIVILEGE THAT THE COURT IS
17 ASSERTING REGARDING THE SECOND MOTION?

18 THE COURT: YES. I THINK WE ALL ARE FAMILIAR
19 WITH IT. IF THIS SHOULD ARISE TO THAT LEVEL WHICH
20 COUNSEL INDICATED OFF THE RECORD IT WILL. THIS IS THE
21 TYPE OF INFORMATION THAT IS ROUTINELY THE SUBJECT OF
22 PITCHESS MOTIONS AND WE ALL KNOW THAT. OKAY? SO LET'S
23 SEE IF WE HAVE ANY ROOM IN THE JURY ROOM AND WE WILL GET
24 SET UP IN THERE.

25

26 (WHEREUPON AN IN CAMERA PROCEEDING WAS
27 HELD, NOT TRANSCRIBED HEREIN.)

28

(PAGES 90 THROUGH 105.)

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, OCTOBER 16, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: P.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (WHEREUPON IN CAMERA PROCEEDINGS CONCLUDED AND
16 THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
17 COURT.)
18

19 THE COURT: ALL RIGHT. BACK ON THE RECORD IN
20 OPEN COURT.

21 WE DID HANDLE THE TWO ISSUES THAT NEEDED
22 TO BE HANDLED IN CAMERA. AND I DID ORDER THAT THE NOTES
23 OF THE COURT REPORTER BE SEALED.

24 ANYTHING ELSE THAT WE NEED TO DISCUSS,
25 THEN, THIS AFTERNOON? I ASSUME WE WILL GET HOPEFULLY A
26 LARGE GROUP OF PROSPECTIVE JURORS TOMORROW MORNING AT
27 SOME POINT.

28 MS. SARIS: CALJIC IS FINE WITH US.

1 THE COURT: GOOD. SO WE HAVE A MEETING OF THE
2 MINDS --

3 MR. DIXON: THANK YOU.

4 THE COURT: -- ON THAT. AND, YES, I WOULD
5 APPRECIATE ANY JURY INSTRUCTIONS THAT YOU MIGHT WANT TO
6 PRESENT AT ANY TIME; IT'S NEVER TOO SOON.

7 MS. SARIS: CAN WE GET SOME IDEA OF -- DO WE HAVE
8 A SENSE OF HOW MANY ARE COMING TOMORROW?

9 THE COURT: WELL, WE CAN ASK FOR 100.

10 THE CLERK: I DID.

11 MS. SARIS: OKAY. IF WE GET 100 --

12 THE COURT: WE ARE NOT GOING TO GET 100, BUT THEY
13 CAN SUMMON IN 100. WE WILL SEE WHAT WE END UP WITH.

14 MS. SARIS: I'M JUST TRYING TO GET AN IDEA OF
15 WHEN WE WOULD BE BACK; HOW LONG THE PROCESS TAKES TO
16 BASICALLY -- THE XEROXING.

17 THE COURT: I THINK IT'S ALL GOING TO DEPEND ON
18 HOW MANY SURVIVE HARDSHIP. BECAUSE AT THIS POINT, I
19 DON'T KNOW HOW MANY PANELS WE ARE GOING TO HAVE TO BRING
20 IN. SO I'M MORE THAN HAPPY TO GIVE YOU PLENTY OF TIME TO
21 DO THE COPYING -- HAVE MR. JACKSON DO THE COPYING AT HIS
22 OFFICE. AND THEN HAVE COUNSEL REVIEW ALL THESE
23 QUESTIONNAIRES. I DON'T THINK THAT'S GOING TO BE A
24 PROBLEM.

25 WHAT I DO THINK WILL BE A PROBLEM IS
26 HAVING ENOUGH PROSPECTIVE JURORS WHO HAVE SURVIVED
27 HARDSHIP TO GO FORWARD. SO WITH THE GROUP TOMORROW, WE
28 ARE JUST GOING TO HAVE TO PLAY IT BY EAR AND SEE HOW MANY

1 SURVIVE HARDSHIP. AND THEN TAKE THIS FROM THERE BECAUSE
2 I MAY HAVE TO BRING IN ADDITIONAL PANELS THIS WEEK, AS
3 WELL AS NEXT WEEK.

4 MS. SARIS: ARE WE GOING TO GIVE THEM THE SENSE
5 OF OUR TRIAL SCHEDULE? IN OTHER WORDS, WE HAD DISCUSSED
6 MAYBE TAKING FRIDAYS OFF.

7 THE COURT: AT THIS POINT WHAT I WOULD LIKE TO DO
8 IS -- AND I WAS JUST THINKING ABOUT IT EARLIER AFTER
9 LUNCH. I WOULD LIKE TO GIVE THEM OUR SCHEDULE WITH
10 RESPECT TO THE TIME ESTIMATE GOING PERHAPS AS LONG AS
11 JUST AFTER THE 1ST OF THE YEAR, TELLING THEM THE DARK
12 DAYS THAT WE HAVE AROUND THE HOLIDAYS, THE TWO HOLIDAYS
13 AND NOT SAYING ANYTHING ELSE ABOUT OTHER DARK DAYS
14 BECAUSE I HAVE A FEELING WE'RE GOING TO HAVE PROBABLY
15 REQUESTS FOR A NUMBER OF DARK DAYS DEPENDING ON WHO IS
16 THIS SELECTED AS A JUROR IN THE CASE.

17 I KNOW THAT MY PREFERENCE, ONLY BECAUSE
18 IT'S MY PREFERENCE, IS TO DO MONDAY THROUGH THURSDAY.
19 FRIDAYS I WOULD LIKE TO HANDLE WHATEVER CLEAN UP I HAVE
20 TO HANDLE ON MY OTHER CASES AND WHATEVER ELSE NEEDS TO BE
21 DONE ON THIS CASE. BUT I DO WANT TO SEE WHAT THE
22 SCHEDULE IS GOING TO LOOK LIKE AFTER WE TRY TO
23 ACCOMMODATE ALL OF THESE PEOPLE WHO ARE GOING TO AGREE TO
24 STAY WITH US.

25 MS. SARIS: AND DO WE GO 9:00 TO 4:10, TO 4 --
26 WHAT ARE WE ANTICIPATING IN THAT?

27 THE COURT: I THINK I INDICATED SOME TIME AGO
28 THAT PROBABLY 10:00 O'CLOCK WOULD BE THE EARLIEST I CAN

1 START. MY CALENDAR IS GOING TO BE CALLED BY ANOTHER
2 JUDGE STARTING TOMORROW, BUT THE TRAILING CASES ARE STILL
3 GOING TO COME HERE AT 8:30 IN THE MORNING. SO I'M GOING
4 TO NEED AT LEAST AN HOUR WITH THOSE IN THE MORNING.

5 MS. SARIS: AND END AT 4:00?

6 THE COURT: I CAN END AT 4:00. I CAN END AT
7 4:30. I DON'T KNOW WHAT THE TRANSPORTATION SITUATION IS
8 WITH --

9 MS. SARIS: IT LOOKS LIKE THE 17TH IS CROSSED
10 OUT. IS THAT PART OF THE THANKSGIVING WEEK WE'RE TAKING
11 OFF?

12 THE COURT: THE 17TH IS THE MANDATORY TRAINING
13 THAT ALL CRIMINAL JUDGES HAVE BEEN REQUIRED TO
14 PARTICIPATE IN DOWNTOWN WITH JUDGE WESLEY.

15 MS. SARIS: SO THAT'S A YES, WE'RE NOT IN
16 SESSION?

17 THE COURT: THAT'S ALL I WILL SAY. WE PROBABLY
18 WON'T BE IN SESSION, THAT'S CORRECT.

19 MR. DIXON: YOUR HONOR, WITH RESPECT TO HARDSHIP,
20 WILL WE BE DOING THIS OR WILL THE JURY COMMISSIONER DO
21 THAT?

22 THE COURT: NO. WE ARE GOING TO HAVE TO DO IT
23 BECAUSE WE DIDN'T -- I DON'T THINK IT'S ENOUGH NOTICE FOR
24 THEM TO DO IT.

25 MR. DIXON: OKAY.

26 MS. SARIS: AND WE WOULD OBJECT STRONGLY TO A
27 JURY COMMISSIONER DOING IT.

28 THE COURT: I'M GOING TO DO IT. LIKE I SAID, I

1 THINK WE'RE GOING TO LOSE A LOT OF PEOPLE OBVIOUSLY
2 BECAUSE OF THE TIME ESTIMATE AND IT'S GOING TO TAKE US
3 SOME TIME. BUT I WOULD LIKE TO GET TO IT AS SOON AS WE
4 CAN TOMORROW SO WE CAN FREE UP 30 PROSPECTIVE JURORS FOR
5 DEPARTMENT "F." SO I THINK THE EARLIEST WE'LL BE ABLE TO
6 GET THOSE JURORS DOWN HERE IS PROBABLY 10:00 O'CLOCK
7 BECAUSE THEY HAVE TO BE PROCESSED.

8 MS. SARIS: AND THAT'S GOING TO BE HERE AND
9 THEY'RE GOING TO ANSWER FROM THE GALLERY? IS THAT THE
10 ANTICIPATION?

11 THE COURT: THAT'S WHAT I WOULD LIKE TO DO,
12 UNLESS I RUN INTO SOME PROBLEMS WHERE EVERYBODY STARTS
13 FIGURING OUT WHAT WILL GET THEM OFF AND --

14 MS. SARIS: I JUST DIDN'T KNOW HOW MANY PEOPLE WE
15 CAN HOLD IN HERE.

16 THE COURT: WE CAN'T HOLD VERY MANY. IT'S
17 PROBABLY NO MORE THAN 48. WE USUALLY HAVE A FEW
18 STANDING. SO LET ME SEE TOMORROW MORNING HOW MANY PEOPLE
19 ACTUALLY RESPOND TO THE CALL IN. AND THEN WE WILL GET A
20 BETTER IDEA BEFORE 10:00 O'CLOCK WHAT THEY HAVE AND WHAT
21 THEY CAN SEND US AND WE WILL TAKE IT FROM THERE.

22 MS. SARIS: AND I KNOW IT IS TECHNICALLY A JURY
23 INSTRUCTION, BUT DOES THE COURT -- SINCE THEY'RE GOING TO
24 FILL OUT THESE QUESTIONNAIRES IN THE BUILDING AND SINCE
25 NOW WE'RE SORT OF WALKING THROUGH CROWDS TO GET TO OUR
26 OFFICES, WILL THE COURT ADMONISH THEM REGARDING THAT
27 PARTICULAR INSTRUCTION JUST SO THAT WE DON'T OFFEND
28 ANYONE EARLY ON.

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THE COURT: YES.

MR. SUMMERS: EARLIER THAN NORMAL?

MS. SARIS: EARLIER THAN NORMAL.

THE COURT: ANYTHING ELSE?

MR. DIXON: NO. THANK YOU, YOUR HONOR.

THE COURT: THANK YOU.

(THE MATTER WAS CONTINUED TO TUESDAY,
OCTOBER 17, 2006 AT 10:00 A.M.)

(NEXT PAGE IS 301.)

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PASADENA, CALIFORNIA; TUESDAY, OCTOBER 17, 2006;

A. M. SESSION

DEPARTMENT NE-E

HON. TERI SCHWARTZ, JUDGE

(Appearances as indicated on appearance page.)

(Jeanette G. Soto, Official Reporter.)

(Prospective juror hardships were
heard and decided by the court.)

PASADENA, CALIFORNIA; TUESDAY, OCTOBER 17, 2006;

P. M. SESSION

DEPARTMENT NE-E

HON. TERI SCHWARTZ, JUDGE

(Appearances as indicated on appearance page.)

(Jeanette G. Soto, Official Reporter.)

(Prospective juror hardships were
heard and decided by the court.)

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, OCTOBER 18, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD ON THE MICHAEL
16 GOODWIN MATTER, MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
17 THE PEOPLE ARE REPRESENTED. WE HAVE A THIRD PANEL
18 SUPPOSEDLY COMING DOWN FROM THE JURY ROOM SHORTLY.
19

20 (WHEREUPON JURY VOIR DIRE CONTINUED.)

21 (THE MATTER WAS CONTINUED TO THURSDAY,
22 OCTOBER 19, 2006 AT 10:30 A.M.)

23 (NEXT PAGE IS 901.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, OCTOBER 19, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD IN THE MICHAEL
16 GOODWIN MATTER, MR. GOODWIN IS HERE WITH BOTH OF HIS
17 COUNSEL. THE PEOPLE ARE REPRESENTED.
18

19 (WHEREUPON JURY VOIR DIRE CONTINUED.)

20 (THE MATTER WAS CONTINUED TO MONDAY,
21 OCTOBER 23, 2006 AT 10:00 A.M.)

22 (NEXT PAGE IS 1201.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, OCTOBER 23, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14
15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
16 THE MICHAEL GOODWIN MATTER, HE IS PRESENT WITH HIS
17 COUNSEL. THE PEOPLE ARE REPRESENTED. WE HAVE ANOTHER
18 GROUP OF PROSPECTIVE JURORS IN THE HALL.

19
20 (WHEREUPON JURY VOIR DIRE COMMENCED.)
21 (THE MATTER WAS CONTINUED TO TUESDAY,
22 OCTOBER 24, 2006 AT 10:00 A.M.)
23 (NEXT PAGE IS 1501.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, OCTOBER 26, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD ON THE MICHAEL
16 GOODWIN MATTER, MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
17 THE PEOPLE ARE REPRESENTED.
18

19 (WHEREUPON JURY VOIR DIRE CONTINUED.)

20 (THE MATTER WAS CONTINUED TO MONDAY,
21 OCTOBER 30, 2006 AT 10:00 A.M.)

22 (NEXT PAGE IS 1801.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, OCTOBER 30, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
16 THE GOODWIN MATTER, MR. GOODWIN IS PRESENT WITH HIS
17 COUNSEL. THE PEOPLE ARE REPRESENTED. WE HAVE OUR
18 PROSPECTIVE JURORS OUT IN THE HALL.
19

20 (WHEREUPON JURY VOIR DIRE COMMENCED.)

21 (THE MATTER WAS CONTINUED TO TUESDAY,
22 OCTOBER 31, 2006 AT 10:00 A.M.)

23 (NEXT PAGE IS 2101.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, OCTOBER 31, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD. MR. GOODWIN
16 IS PRESENT WITH HIS COUNSEL. THE PEOPLE WERE
17 REPRESENTED.
18

19 (WHEREUPON JURY VOIR DIRE COMMENCED.)
20 (THE MATTER WAS CONTINUED TO WEDNESDAY,
21 NOVEMBER 1, 2006 AT 10:00 A.M.)
22 (NEXT PAGE IS 2401.)
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, NOVEMBER 1, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: LET'S GO ON THE RECORD THEN IN THE
16 MICHAEL GOODWIN MATTER, HE IS PRESENT WITH HIS COUNSEL.
17 THE PEOPLE ARE REPRESENTED. WE HAVE OUR JURY PANEL AND
18 PROSPECTIVE ALTERNATES IN THE HALL.
19

20 (WHEREUPON JURY VOIR DIRE COMMENCED.)

21 (THE MATTER WAS CONTINUED TO MONDAY,
22 NOVEMBER 6, 2006 AT 10:00 A.M.)

23 (NEXT PAGE IS 2701.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, NOVEMBER 6, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
20 WE ARE BACK IN TRIAL ON THE MICHAEL GOODWIN MATTER.
21 MR. GOODWIN IS HERE WITH BOTH OF HIS COUNSEL, MR. SUMMERS
22 AND MS. SARIS. THE PEOPLE ARE REPRESENTED BY MR. JACKSON
23 AND MR. DIXON. AND THIS MORNING I HAVE A COUPLE OF
24 MINUTES OF PRELIMINARY INSTRUCTIONS I WANT TO READ TO
25 YOU. AND THEN WE ARE GOING TO GET STARTED WITH THE
26 OPENING STATEMENTS.

27 (READING) MEMBERS AND ALTERNATE MEMBERS OF
28 THE JURY: YOU HAVE BEEN SELECTED AND

1 SWORN AS JURORS AND ALTERNATE JURORS. I
2 SHALL NOW INSTRUCT YOU AS TO YOUR BASIC
3 FUNCTIONS, DUTIES AND CONDUCT.

4 AT THE CONCLUSION OF THE CASE, I WILL GIVE
5 YOU FURTHER INSTRUCTIONS ON THE LAW. ALL
6 OF THE COURT'S INSTRUCTIONS, WHETHER GIVEN
7 BEFORE, DURING OR AFTER THE TAKING OF
8 TESTIMONY ARE OF EQUAL IMPORTANCE. YOU
9 MUST BASE THE DECISIONS YOU MAKE ON THE
10 FACTS AND THE LAW.

11 FIRST, YOU MUST DETERMINE THE FACTS FROM
12 THE EVIDENCE RECEIVED IN THE TRIAL AND NOT
13 FROM ANY OTHER SOURCE. A "FACT" IS
14 SOMETHING PROVED BY THE EVIDENCE OR BY
15 STIPULATION. A "STIPULATION" IS AN
16 AGREEMENT BETWEEN ATTORNEYS REGARDING THE
17 FACTS.

18 SECOND, YOU MUST APPLY THE LAW THAT I
19 STATE TO YOU TO THE FACTS AS YOU DETERMINE
20 THEM. AND IN THIS WAY THAT ARRIVE AT YOUR
21 VERDICT AND ANY FINDING YOU ARE INSTRUCTED
22 TO INCLUDE IN YOUR VERDICT.

23 YOU MUST ACCEPT AND FOLLOW THE LAW AS I
24 STATE IT TO YOU REGARDLESS OF WHETHER YOU
25 AGREE WITH IT. IF ANYTHING CONCERNING THE
26 LAW SAID BY THE ATTORNEYS IN THEIR
27 ARGUMENTS OR AT ANY OTHER TIME DURING THE
28 TRIAL CONFLICTS WITH MY INSTRUCTIONS ON

1 THE LAW, YOU MUST FOLLOW MY INSTRUCTIONS.
2 YOU MUST NOT BE INFLUENCED BY PITY FOR THE
3 DEFENDANT OR BY PREJUDICE AGAINST HIM.
4 YOU MUST NOT BE BIASED AGAINST THE
5 DEFENDANT BECAUSE HE HAS BEEN ARRESTED FOR
6 THIS OFFENSE, CHARGED WITH A CRIME, OR
7 BROUGHT TO TRIAL. NONE OF THESE
8 CIRCUMSTANCES IS EVIDENCE OF GUILT AND YOU
9 MUST NOT INFER OR ASSUME THAT ANY OR ALL
10 OF THEM THAT HE IS MORE LIKELY TO BE
11 GUILTY THAN NOT GUILTY.
12 YOU MUST NOT BE INFLUENCED BY MERE
13 SENTIMENT, CONJECTURE, SYMPATHY, PASSION,
14 PREJUDICE, PUBLIC OPINION, OR PUBLIC
15 FEELING. BOTH THE PEOPLE AND THE
16 DEFENDANT HAVE A RIGHT TO EXPECT THAT YOU
17 WILL CONSCIENTIOUSLY CONSIDER AND WEIGH
18 THE EVIDENCE, APPLY THE LAW, AND REACH A
19 JUST VERDICT REGARDLESS OF THE
20 CONSEQUENCES.
21 STATEMENTS MADE BY THE ATTORNEYS DURING
22 THE TRIAL ARE NOT EVIDENCE. HOWEVER, IF
23 THE ATTORNEYS STIPULATE OR AGREE TO A
24 FACT, YOU MUST REGARD THAT FACT AS PROVEN.
25 IF AN OBJECTION IS SUSTAINED TO A
26 QUESTION, DO NOT GUESS WHAT THE ANSWER
27 MIGHT HAVE BEEN. DO NOT SPECULATE AS TO
28 THE REASON FOR THE OBJECTION.

1 DO NOT ASSUME TO BE TRUE ANY INSINUATION
2 SUGGESTED BY A QUESTION ASKED A WITNESS.
3 A QUESTION IS NOT EVIDENCE AND MAY BE
4 CONSIDERED ONLY AS IT HELPS YOU TO
5 UNDERSTAND THE ANSWER.

6 DO NOT CONSIDER FOR ANY PURPOSE ANY OFFER
7 OF EVIDENCE THAT IS REJECTED OR ANY
8 EVIDENCE THAT IS STRICKEN BY THE COURT.
9 TREAT IT AS THOUGH YOU HAD NEVER HEARD OF
10 IT.

11 YOU MUST NOT INDEPENDENTLY INVESTIGATE THE
12 FACTS OR THE LAW OR CONSIDER OR DISCUSS
13 FACTS AS TO WHICH THERE IS NO EVIDENCE.
14 THIS MEANS, FOR EXAMPLE, THAT YOU MUST NOT
15 ON YOUR OWN VISIT THE SCENE, CONDUCT
16 EXPERIMENTS, OR CONSULT REFERENCE WORKS
17 FOR ADDITIONAL INFORMATION.

18 YOU MUST NOT CONVERSE AMONG YOURSELVES OR
19 WITH ANYONE ELSE, INCLUDING BUT NOT
20 LIMITED TO, SPOUSES, SPIRITUAL LEADERS,
21 THERAPISTS ON ANY SUBJECT CONNECTED WITH
22 THIS TRIAL, EXCEPT WHEN ALL OF THE
23 FOLLOWING CONDITIONS EXIST: THE CASE HAS
24 BEEN SUBMITTED TO YOU FOR YOUR DECISION
25 BY THE COURT FOLLOWING ARGUMENTS BY
26 COUNSEL AND THE JURY INSTRUCTIONS;
27 YOU ARE DISCUSSING THE CASE WITH A FELLOW
28 JUROR AND ALL 12 JURORS AND NO OTHER

1 PERSONS ARE PRESENT IN THE JURY
2 DELIBERATING ROOM.

3 ALSO, YOU MUST NOT READ OR LISTEN TO ANY
4 ACCOUNTS OR DISCUSSIONS OF THE CASE
5 REPORTED BY THE NEWSPAPERS OR OTHER NEWS
6 MEDIA, INCLUDING RADIO, TELEVISION, THE
7 INTERNET, OR ANY OTHER ELECTRONIC SOURCE.
8 YOU HAVE BEEN GIVEN NOTEBOOKS AND PENCILS.
9 LEAVE THEM ON YOUR SEAT WHEN YOU LEAVE
10 EACH DAY AND AT EACH RECESS. YOU WILL BE
11 ABLE TO TAKE THEM INTO THE JURY ROOM WHEN
12 YOU DELIBERATE.

13 YOU MAY TAKE NOTES. HOWEVER, YOU SHOULD
14 NOT PERMIT NOTETAKING TO DISTRACT YOU FROM
15 THE ONGOING PROCEEDINGS. REMEMBER YOU ARE
16 THE JUDGES OF THE BELIEVABILITY OF THE
17 WITNESSES. AND NOTES ARE ONLY AN AID TO
18 MEMORY AND SHOULD NOT TAKE PRECEDENCE OVER
19 RECOLLECTION.

20 A JUROR WHO DOES NOT TAKE NOTES SHOULD
21 RELY ON HIS OR HER RECOLLECTION OF THE
22 EVIDENCE AND NOT BE INFLUENCED BY THE FACT
23 THAT OTHER JURORS TAKE NOTES.

24 NOTES ARE FOR THE NOTETAKER'S OWN PERSONAL
25 USE IN REFRESHING HIS OR HER RECOLLECTION
26 OF THE EVIDENCE. SHOULD A DISCREPANCY
27 EXIST BETWEEN A JUROR'S RECOLLECTION OF
28 THE EVIDENCE AND A JUROR'S NOTES, OR

1 BETWEEN A JUROR'S RECOLLECTION AND THAT OF
2 ANOTHER, YOU HAVE THE RIGHT AND MAY
3 REQUEST THAT THE REPORTER READ BACK THE
4 RELEVANT TESTIMONY WHICH MUST PREVAIL.
5 YOU WILL BE PERMITTED TO SEPARATE AT THE
6 RECESSES. YOU MUST RETURN FOLLOWING THE
7 RECESSES AT SUCH TIMES AS I INSTRUCT YOU.
8 DURING RECESSES YOU MUST NOT DISCUSS WITH
9 ANYONE ANY SUBJECT CONNECTED WITH THIS
10 TRIAL.

11 AS FOR THE ALTERNATE JURORS, YOU ARE ALL
12 BOUND BY THESE ADMONITIONS. YOU MUST NOT
13 CONVERSE AMONG YOURSELVES OR WITH ANYONE
14 ELSE ON ANY SUBJECT CONNECTED WITH THIS
15 TRIAL; OR FORM OR EXPRESS ANY OPINION ON
16 IT UNTIL THE CASE IS SUBMITTED TO YOU.
17 WHICH MEANS UNTIL SUCH TIME AS YOU ARE
18 SUBSTITUTED IN FOR ONE OF THE 12 JURORS
19 AND BEGIN DELIBERATING ON THE CASE.

20 THIS MEANS THAT YOU MUST NOT DECIDE HOW
21 YOU WOULD VOTE IF YOU WERE DELIBERATING
22 WITH THE OTHER JURORS. AND THAT YOU MUST
23 NOT FORM OR EXPRESS AN OPINION ABOUT THE
24 CASE UNLESS AND UNTIL YOU HAVE BEEN
25 SUBSTITUTED IN AS A JUROR IN THIS CASE.
26 YOU MUST NOT VISIT OR VIEW THE PREMISES OR
27 PLACE WHERE THE CRIME CHARGED WAS
28 ALLEGEDLY COMMITTED OR ANY OTHER PREMISES

1 OR PLACE MENTIONED OR INVOLVED IN THE
2 CASE.

3 DURING THE COURSE OF THIS TRIAL AND BEFORE
4 YOU BEGIN YOUR DELIBERATIONS, YOU MUST
5 KEEP AN OPEN MIND ON THIS CASE AND UPON
6 ALL OF THE ISSUES THAT YOU WILL BE ASKED
7 TO DECIDE.

8 IN OTHER WORDS, YOU MUST NOT FORM OR
9 EXPRESS ANY OPINIONS ON THIS CASE UNTIL
10 THE MATTER IS FINALLY SUBMITTED TO YOU.
11 BEFORE AND WITHIN 90 DAYS OF YOUR
12 DISCHARGE AS A JUROR IN THIS CASE, YOU
13 MUST NOT REQUEST, ACCEPT OR DISCUSS WITH
14 ANY PERSON RECEIVING OR ACCEPTING ANY
15 PAYMENT OR BENEFIT IN CONSIDERATION FOR
16 SUPPLYING ANY INFORMATION CONCERNING THE
17 TRIAL.

18 ALSO, YOU MUST PROMPTLY REPORT TO THE
19 COURT ANY INCIDENT WITHIN YOUR KNOWLEDGE
20 AND INVOLVING AN ATTEMPT BY ANY PERSON
21 EITHER TO IMPROPERLY INFLUENCE ANY MEMBER
22 OF THIS JUROR TO TELL A JUROR HIS OR HER
23 VIEW OF THE EVIDENCE OF THIS CASE.

24 AT THIS TIME, THE LAWYERS WILL BE
25 PERMITTED TO MAKE AN OPENING STATEMENT, IF
26 THEY CHOOSE TO DO SO.

27 I ANTICIPATE THEY WILL.

28 AN OPENING STATEMENT IS NOT EVIDENCE.

1 BECAUSE IT IS NOT EVIDENCE, DO NOT TAKE
2 ANY NOTES DURING THE OPENING STATEMENT.
3 OPENING STATEMENT IS NOT AN ARGUMENT.
4 COUNSEL ARE NOT PERMITTED TO ARGUE THE
5 CASE AT THIS POINT IN THE PROCEEDINGS. AN
6 OPENING STATEMENT IS SIMPLY AN OUTLINE BY
7 COUNSEL OF WHAT HE OR SHE BELIEVES OR
8 EXPECTS THE EVIDENCE WILL SHOW IN THIS
9 TRIAL.

10 IT'S SOLE PURPOSE IS TO ASSIST YOU IN
11 UNDERSTANDING THE CASE AS IT IS
12 PRESENTED TO YOU. (READING CONCLUDED.)
13 AND WITH THAT, DO THE PEOPLE WISH TO
14 PRESENT AN OPENING STATEMENT?

15 MR. JACKSON: WE DO, YOUR HONOR. THANK YOU.
16 WITH THE COURT'S PERMISSION, MAY I DIM THE LIGHTS A
17 LITTLE IN THE COURTROOM?

18
19 **OPENING STATEMENT**

20 MR. JACKSON: GOOD MORNING.

21 THE JURY: MORNING.

22 MR. JACKSON: IT'S BEEN A LONG TIME COMING,
23 HASN'T IT? ACTUALLY, IT'S BEEN A LONGER TIME COMING, 18
24 YEARS -- MORE THAN 18 YEARS TO GET TO THIS PLACE. LADIES
25 AND GENTLEMEN, MY NAME IS ALAN JACKSON. ON BEHALF OF PATRICK
26 DIXON AND THE PEOPLE OF THE STATE OF CALIFORNIA, WE WANT
27 TO FIRST THANK YOU FOR AGREEING TO BE HERE THIS MORNING
28 AND LISTENING INTENTLY.

1 THIS IS THE OPPORTUNITY, AS JUDGE SCHWARTZ
2 JUST SAID, FOR THE PROSECUTION AND THE DEFENSE TO PRESENT
3 TO YOU WHAT WE BELIEVE THE EVIDENCE IS GOING TO SHOW.
4 WHICH EVIDENCE WE BELIEVE IS GOING TO PROVE THAT MICHAEL
5 GOODWIN IS GUILTY OF THE CRIMES FOR WHICH HE IS CHARGED,
6 THE MURDER OF MICKEY THOMPSON AND THE MURDER OF TRUDY
7 THOMPSON.

8 AND THAT EVIDENCE IS GOING TO BEGIN BY
9 TAKING US ON A JOURNEY. WE'RE GOING TO GO BACKWARD CLOSE
10 TO 50 YEARS. IT WAS SEPTEMBER 9TH, 1960, A BRASH YOUNG,
11 GOOD LOOKING AUTO MECHANIC TURNED RACE CAR DRIVER STOOD
12 ON AN EMPTY DESERT, A DRY LAKE BED, IF YOU WILL, KNOWN AS
13 THE BONNEVILLE SALT FLATS. HE KNELT DOWN WITH HIS HELMET
14 IN HIS HAND AND HE POSED FOR THIS PHOTOGRAPH. A
15 PHOTOGRAPH OF HIS CAR RIGHT BEHIND HIM.

16 A CAR THAT HE BUILT WITH HIS OWN TWO
17 HANDS. A CAR THAT HE BUILT IN A TWO-CAR GARAGE, FOLKS.
18 AS A MATTER OF FACT, NOT TOO FAR FROM HERE RIGHT UP THE
19 ROAD IN EL MONTE. A CAR THAT HE TUNED TO SUCH PERFECTION
20 THAT IT TURNED 2800 HORSEPOWER. THAT'S NOT A MISTAKE.
21 2800 HORSEPOWER IN THAT VEHICLE.

22 THAT SAME YOUNG MAN, JUST A FEW MINUTES
23 AFTER THAT PICTURE WAS TAKEN, STRAPPED HIMSELF INTO THAT
24 BEHEMOTH VEHICLE. AND LOOKING A LITTLE BIT MORE LIKE AN
25 ASTRONAUT THAN A RACE CAR DRIVER, MARION LEE THOMPSON --
26 KNOWN TO HIS FRIENDS AND FAMILY AS "MICKEY" -- STEPPED ON
27 THE GAS AND STEPPED INTO THE HISTORY BOOKS.

28 ON SEPTEMBER 9TH, 1960, MICKEY THOMPSON

1 SHATTERED THE 400 MILES AN HOUR SPEED BARRIER AND
2 ROCKETED TO A TOP SPEED OF 406.6 MILES PER HOUR. THAT
3 YOUNG MAN MICKEY THOMPSON ON SEPTEMBER 9TH, 1960, BECAME
4 A LEGEND.

5 SOME 27 YEARS LATER, THAT SAME LEGEND ON
6 MARCH 16, 1988, BECAME A VICTIM. AT 6:05 IN THE MORNING
7 MICKEY THOMPSON LEFT HIS HOUSE, A QUIET GATED COMMUNITY
8 IN BRADBURY. WALKED OUTSIDE THE GARAGE WITH THE LOVE OF
9 HIS LIFE TRUDY THOMPSON, HIS WIFE. WHEN THEY STEPPED
10 ONTO THE DRIVEWAY, THEY WERE CONFRONTED BY TWO
11 PROFESSIONAL GUNMEN, GUNMEN CARRYING .9 MILLIMETER
12 SEMI-AUTOMATIC AUTO-LOAD PISTOLS.

13 ONE GUNMAN ADDRESSED MICKEY THOMPSON. THE
14 OTHER GUNMAN ADDRESSED TRUDY THOMPSON. AND WITHIN
15 MINUTES, THE QUIET COMMUNITY OF BRADBURY WAS SHATTERED BY
16 GUNFIRE AS EACH GUNMAN FIRED UPON MICKEY AND TRUDY
17 VARIOUSLY, HITTING BOTH VICTIMS MULTIPLE TIMES. BUT OF
18 NOTABLE CONNECTION TO THIS PARTICULAR MURDER WAS HOW
19 MICKEY THOMPSON DIED THAT DAY.

20 THE EVIDENCE WILL PROVE IN THIS CASE THAT
21 TRUDY THOMPSON WAS ACTUALLY KILLED FIRST. THE LAST
22 VISION THAT MICKEY HAD BEFORE HE DIED WAS OF A BULLET
23 GOING THROUGH THE BACK OF TRUDY'S HEAD. AND WITH THAT
24 VISION, THE FIRST GUNMAN SCREWED THAT .9 MILLIMETER
25 PISTOL INTO HIS LEFT EAR AND FIRED A SHOT THROUGH
26 MICKEY'S BRAIN.

27 LADIES AND GENTLEMEN, THE EVIDENCE IN THIS
28 CASE WILL SHOW THAT ALTHOUGH MICKEY AND TRUDY THOMPSON

1 DIED, WERE MURDERED, WERE ASSASSINATED ON MARCH 16TH,
2 1988, THEIR DEMISE ACTUALLY BEGAN SOME FOUR YEARS EARLIER
3 WHEN MICKEY AND TRUDY THOMPSON MET AND WENT INTO BUSINESS
4 WITH MICHAEL FRANK GOODWIN, THE DEFENDANT IN THIS CASE.

5 MICKEY THOMPSON IN 1984 HAD LONG SINCE
6 CRAWLED OUT OF THE COCKPIT OF THOSE RACING MACHINES. AND
7 MICKEY THOMPSON WAS KNOWN IN THE AUTOMOTIVE WORLD AS A
8 HOUSEHOLD NAME. THE MAN WOULD DRIVE ANYTHING. IF YOU
9 STRAPPED A LAWN MOWER ENGINE ON A SKATEBOARD, HE WOULD
10 DRIVE THAT AND HE WOULD WIN.

11 HE SET LAND SPEED RECORD AFTER LAND SPEED
12 RECORD AFTER LAND SPEED RECORD. FROM A STOP TO A ROLLING
13 START; DRAGSTERS. HE EVEN GOT IN BOATS. THE GUY WASN'T
14 AFRAID OF ANYTHING. IF YOU COULD STRAP AN ENGINE ON IT,
15 HE WOULD TORQUE UP THE HORSEPOWER AND SET SOME KIND OF
16 RECORD.

17 BUT BY 1984, HE WAS A 55-YEAR-OLD MAN.
18 PRETTY TOUGH ON THE BODY. AT 55, HE DECIDED TO SLOW DOWN
19 A LITTLE BIT. HE AND TRUDY THOMPSON HAD NEVER GOTTEN
20 RACING OUT OF THEIR BLOOD. MICKEY THOMPSON HAD GONE INTO
21 SPORTS PROMOTION AND THE SPORTS PROMOTING BUSINESS. AND
22 HE WAS WILDLY SUCCESSFUL AT MARKETING CERTAIN THINGS AS
23 WELL.

24 IF YOU WERE A GEAR HEAD -- EVERYBODY KNOWS
25 WHAT A GEAR HEAD IS; RIGHT? A MOTOR HEAD. IF YOU WERE A
26 GEAR HEAD IN THE '80S, FOLKS, AND YOU OWNED A CAR, IT HAD
27 AN "M/T" ON IT SOMEWHERE; FROM RACING TIRES TO RACING
28 WHEELS; CARBURETORS; EXHAUST; SOMETHING WITH MICKEY

1 THOMPSON'S NAME AND LOGO ON IT WAS ON YOUR CAR. HE
2 ALSO WENT INTO A PROMOTION BUSINESS. AND I'M GOING TO
3 TALK FOR JUST A SECOND ABOUT WHAT THE EVIDENCE WILL SHOW
4 THAT THE PROMOTING BUSINESS CONSISTED OF. PROMOTION FROM
5 A CONCEPTUAL STANDPOINT IS A PRETTY SIMPLE THING. A
6 SPORTS PROMOTER SIMPLY PUTS AUDIENCES TOGETHER WITH
7 DRIVERS; COMBINES THEM. THE AUDIENCE PAYS A BUNCH OF
8 MONEY. THE DRIVERS MAKE A BUNCH OF MONEY. AND THE
9 PROMOTER GETS EVERYTHING ON TOP.

10 IT CAN BE INCREDIBLY PROFITABLE. A SPORTS
11 PROMOTER WILL TAKE AN EVENT, EITHER A DAY EVENT OR A
12 WEEKEND EVENT; HIRE DRIVERS TO DRIVE CERTAIN CARS OR
13 MOTORCYCLES OR BOATS OR WHATEVER, STICK THAT RACE IN A
14 VENUE AND THEN CHARGE PEOPLE. AND THEN DO EVERYTHING
15 FROM TAKE CARE OF THE CONCESSIONS; TAKE CARE OF THE LIVE
16 MUSIC THAT'S THERE; THE ADVERTISING THAT GOES ALONG WITH
17 IT.

18 AS YOU CAN IMAGINE FROM A CONCEPT, SPORTS
19 PROMOTION IS PRETTY SIMPLE. BUT THE PRACTICAL REALITY
20 IS, IT IS A TOUGH JOB. A REAL, REAL HARD JOB. MICKEY
21 THOMPSON WENT INTO THE SPORTS PROMOTION BUSINESS AND HE
22 PROMOTED RACES. HE WAS AT THE FOUNDATION OF TAKING WHAT
23 NORMALLY HAD BEEN OUTDOOR RACES AND DRAGGING THEM INSIDE
24 A STADIUM, UNHEARD OF UNTIL THE '80S.

25 YOU WOULD TAKE A BAJA TRUCK RACE, WHICH
26 NORMALLY THOSE AMONG US CAN'T AFFORD TO FLY OUT TO BAJA
27 AND STAND THERE AS TRUCKS ZOOM BY AT 145 MILES AN HOUR
28 AND WE GET TO SEE ONE EVERY 20 MINUTES. HE DECIDED,

1 WAIT, THAT'S NOT GOOD FOR AN AUDIENCE. LET'S BRING IT
2 INDOORS. I'M GOING TO HAUL HUNDREDS AND HUNDREDS OF TONS
3 OF DIRT INTO A STADIUM; BUILD HUGE MOUNDS; AND ASK THE
4 DRIVERS TO COME IN AND RACE AROUND IN A CIRCLE TRACK.
5 THERE IS THE SPORTS PROMOTION BUSINESS. AND MICKEY
6 THOMPSON WAS AT THE FOUNDING EDGE, THE CUTTING EDGE OF
7 BRINGING THOSE BUSINESSES OR THOSE EVENTS INSIDE
8 STADIUMS.

9 HE WASN'T THE ONLY PERSON THAT WAS
10 INVOLVED IN THE SPORTS PROMOTION BUSINESS. IN 1984,
11 THERE WAS ANOTHER GUY. AS A MATTER OF FACT, THERE WERE
12 QUITE A FEW PEOPLE. IT WAS A RELATIVELY CLOSED SOCIETY.
13 NOT THAT MANY PEOPLE WERE IN A POSITION TO BE A MOTOR
14 SPORTS PROMOTER, BUT THERE WERE OTHERS. AND THERE WAS
15 COMPETITION OUT THERE.

16 IN 1984 MICKEY THOMPSON MET MICHAEL
17 GOODWIN. MICHAEL GOODWIN WHO WAS BRASH, LOUD MOUTHED,
18 ECCENTRIC, OVER THE TOP, BIGGER THAN LIFE, KNOWN FOR HIS
19 AGGRESSIVE NATURE AND ABSOLUTELY VIOLENT TEMPER. MICHAEL
20 GOODWIN WAS ALSO A SPORTS PROMOTER. HE CONCENTRATED
21 MAINLY ON MOTORCYCLES, ON SUPERCROSS -- WHAT HAS BECOME
22 KNOWN AS SUPERCROSS. INSTEAD OF TRUCKS WHERE MICKEY
23 THOMPSON WOULD BRING TRUCKS AND SINGLE SEATERS AND DUNE
24 BUGGIES AND DRAGSTERS AND MUD CARS INDOORS, MICHAEL
25 GOODWIN CONCENTRATED ON MOTORCYCLES.

26 THE TWO MEN MET IN 1984 AND DECIDED TO GO
27 INTO BUSINESS TOGETHER. THE BUSINESS DEAL THAT WAS
28 STRUCK WAS SUPPOSED TO SOUND SOMETHING LIKE THIS: MIKE

1 GOODWIN WAS YOUNGER THAN MICKEY THOMPSON. BUT MICKEY
2 THOMPSON WAS MUCH MORE POPULAR AND HAD A MUCH BIGGER
3 NAME.

4 OF COURSE, MICKEY THOMPSON COULD PUT FOLKS
5 IN SEATS JUST BY THE USE OF HIS NAME. SO THE PARTNERSHIP
6 SOUNDED LIKE THIS: MIKE GOODWIN WOULD HANDLE AND BE
7 RESPONSIBLE FOR 70 PERCENT OF THE CAPITAL, 70 PERCENT OF
8 THE CASH THAT WENT INTO ANY PARTICULAR EVENT AS THEY
9 MERGED THEIR BUSINESS.

10 MICKEY THOMPSON CONVERSELY WAS RESPONSIBLE
11 FOR 30 PERCENT OF THE CAPITAL, BUT HE LENT HIS NAME TO
12 THE PROMOTION BUSINESS. THEREFORE WITH MICKEY THOMPSON
13 PROMOTIONS BEHIND IT, THEY EXPECTED -- MICKEY THOMPSON
14 EXPECTED FOR THIS TO BE A WIN/WIN SITUATION, A PROFITABLE
15 SITUATION.

16 MIKE GOODWIN WOULD MAKE PROFIT OFF OF
17 MICKEY THOMPSON'S NAME. MICKEY THOMPSON COULD START
18 CUTTING BACK, AT 55 YEARS OLD CUTTING BACK ON THE HARD
19 WORK THAT WAS, IN FACT, THE SPORTS PROMOTION BUSINESS.
20 THE EVIDENCE IN THIS CASE, HOWEVER, WILL SHOW THAT FROM
21 DAY ONE, LITERALLY DAY ONE, MICHAEL GOODWIN HAD BAD
22 INTENTIONS.

23 THE DEAL WAS STRUCK ON MARCH 30TH, 1984.
24 AND YOU CAN SEE FROM THESE DOCUMENTS, WE WILL INTRODUCE
25 THESE DOCUMENTS TO YOU. YOU'RE NOT EXPECTED, BY THE
26 WAY, I SHOULD TELL YOU RIGHT OFF THE BAT -- PEOPLE ARE
27 STRAINING TO READ THESE -- YOU ARE NOT EXPECTED TO READ
28 THESE. I'LL TELL YOU WHAT THESE DOCUMENTS ARE. THEY'RE

1 HERE FROM ILLUSTRATIVE PURPOSES.

2 THIS IS A COPY OF THE ACTUAL AGREEMENT
3 THAT MICKEY THOMPSON AND MIKE GOODWIN ENTERED INTO.
4 THEIR SIGNATURES ARE ON THE BOTTOM. WHAT IS IMPORTANT TO
5 NOTE IS THE DATE. LITERALLY, WE WILL PRESENT EVIDENCE
6 THAT THE DAY MICKEY THOMPSON WAS SUPPOSED TO SIGN THE
7 CONTRACT, MIKE GOODWIN HAD BAD INTENTIONS. HE WAS
8 OVERHEARD BY HIS OWN DRIVER TALKING TO ANOTHER EMPLOYEE
9 ABOUT HOW HE WAS GOING TO RIP OFF MICKEY THOMPSON.

10 MIKE GOODWIN HAD THE INTENT TO SCREW
11 MICKEY THOMPSON OUT OF HIS NAME, OUT OF HIS BUSINESS, AND
12 CERTAINLY OUT OF ALL OF HIS MONEY. MICHAEL GOODWIN HAD
13 BAD INTENTIONS FROM THE FIRST MOMENT. BUT HIS BIG
14 MISTAKE WAS THAT HE HORRIBLY, HORRIBLY UNDERESTIMATED
15 MICKEY THOMPSON.

16 YOU DON'T STRAP YOURSELF AT 31 YEARS OLD
17 INTO A 3,000 HORSEPOWER BEHEMOTH AND NOT GET A PRETTY
18 THICK SKIN, NOT GET A PRETTY TOUGH EXTERIOR.

19 MICHAEL GOODWIN HAD GRABBED A TIGER BY THE
20 TAIL, BUT DIDN'T KNOW IT. MICKEY THOMPSON WASN'T THE
21 MOST FORMALLY EDUCATED PERSON ON THE BLOCK. HECK, MICKEY
22 THOMPSON WASN'T THE MOST FORMALLY EDUCATED PERSON IN THE
23 ROOM MOST OF THE TIME. BUT WHAT HE WAS WAS BRILLIANT.

24 PEOPLE KNEW MICKEY THOMPSON TO BE A ROAD
25 SCHOLAR FROM THE SCHOOL OF HARD KNOCKS. HE WAS
26 SELF-TAUGHT AND HE HAD THE BUSINESS ACUMEN THAT COULD
27 RIVAL THE BEST OF THEM. MICKEY THOMPSON WASN'T GOING TO
28 GET SCREWED BY ANYONE.

1 THE TWO WERE SUPPOSED TO RUN -- THE TWO,
2 MICKEY THOMPSON AND MIKE GOODWIN, WERE SUPPOSED TO RUN A
3 RACE AT THE PONTIAC SUPERDOME THAT WAS SUPPOSED TO BE
4 THEIR FIRST RACE IN JULY. LITERALLY, THE INK ON THE
5 PAPER WASN'T EVEN DRY. THE INK ON THE PAPER OF THE
6 AGREEMENT WASN'T EVEN DRY BEFORE THINGS STARTED GOING
7 SOUTH.

8 MICKEY THOMPSON STARTED HAVING TO FRONT
9 MORE CASH AND MORE CASH. AND THESE PHONE CALLS COMING IN
10 SAYING MORE CASH, \$10,000 HERE; 20,000 THERE; 100,000
11 HERE. WELL, WAIT A MINUTE, I THOUGHT MIKE GOODWIN WAS
12 SUPPOSED TO HANDLE 70 PERCENT OF THE CAPITAL. WHY AM I
13 FRONTING ALL THIS MONEY?

14 THE EVIDENCE WILL SHOW THE REASON MICKEY
15 THOMPSON WAS FRONTING ALL THE MONEY IS BECAUSE MIKE
16 GOODWIN WAS CHEATING HIM. HE WAS SIFFENING MONEY OFF THE
17 TOP; SKIMMING MONEY OFF THE TOP OF THE COMPANY; AND
18 SKIMMING MONEY OUT OF THE POCKET OF MICKEY THOMPSON.

19 SO MICKEY THOMPSON DID EXACTLY WHAT
20 ANYBODY IN THIS JURISDICTION OR ANY OTHER JURISDICTION
21 WOULD BE ENTITLED TO DO AND HE DID IT QUICKLY. BY
22 NOVEMBER OF 1984 -- KEEP IN MIND, THEY HAD JUST BEEN IN
23 BUSINESS SINCE MARCH -- EIGHT MONTHS LATER MICKEY
24 THOMPSON FILED A LAWSUIT, AN AGGRESSIVE LAWSUIT. A
25 LAWSUIT THAT CLAIMED MIKE GOODWIN IS CHEATING ME AND MY
26 COMPANY OUT OF SUBSTANTIAL FUNDS.

27 THAT LAWSUIT -- ACTUALLY, THE WHEELS OF
28 JUSTICE IN THAT LAWSUIT SPUN PRETTY QUICKLY. WITHIN 18

1 MONTHS OR SO, WITHIN A YEAR AND A HALF, THE CASE WENT TO
2 TRIAL. MICKEY THOMPSON HAD SUED MIKE GOODWIN. AND THE
3 JUDGMENT WAS RENDERED IN FAVOR OF MICKEY. A JUDGMENT TO
4 THE TUNE OF \$793,069.40. ALMOST \$800,000 IN 1986
5 DOLLARS, FOLKS, WAS LEVIED AGAINST MICHAEL GOODWIN.

6 THE JUDGE FOUND THAT IN THE COURSE OF
7 EIGHT MONTHS OF DOING BUSINESS TOGETHER AND PUTTING ON
8 ONE OR TWO EVENTS, MIKE GOODWIN HAD ACCOMPLISHED ALMOST
9 THE UNIMAGINABLE. HE HAD STOLEN OVER \$500,000 --
10 \$512,000 TO BE EXACT -- FROM MICKEY THOMPSON. THAT,
11 COUPLED WITH COURT COSTS AND INTEREST, CAME TO A GRAND
12 TOTAL OF JUST UNDER \$795,000.

13 LADIES AND GENTLEMEN, THIS JUDGMENT FORMED
14 THE FOUNDATION FOR MIKE GOODWIN TO MURDER MICKEY THOMPSON
15 AND TRUDY THOMPSON FOUR YEARS LATER -- OR ACTUALLY TWO
16 YEARS LATER AFTER THE JUDGMENT. BUT THIS WAS JUST THE
17 TIP OF THE ICEBERG; THIS WAS JUST THE BEGINNING. BECAUSE
18 OVER THE NEXT YEAR AND A HALF OR TWO YEARS, THERE BEGAN A
19 SERIES OF LEGAL WRANGLINGS; A SERIES OF COURT BATTLES; A
20 SERIES OF FIGHTS INSIDE THE COURTROOM THAT WOULD RIVAL
21 ANY COURT BATTLE ANY TIME ANYWHERE.

22 AND WHAT IS NOTABLE ABOUT THOSE BATTLES,
23 IS THAT MIKE GOODWIN LOST EVERY SINGLE ONE. MICKEY
24 THOMPSON WAS PREVAILING OVER AND OVER AND OVER. MIKE
25 GOODWIN WAS SUFFERING A PATTERN OF LOSING THAT HE COULD
26 NOT AND WOULD NOT TOLERATE. HE HAD LOST ORIGINALLY THE
27 CIVIL SUIT THAT WE JUST TALKED ABOUT. HE WAS SUED. HE
28 FOUGHT IT. HE LOST. BUT HE WOULDN'T PAY THE JUDGMENT.

1 WE WILL INTRODUCE YOU TO EXPERTS THAT WERE
2 HANDLING THIS CASE ON BEHALF OF MICKEY THOMPSON, HIS
3 LAWYERS, WHO WILL SAY THAT MIKE GOODWIN HAD NO INTENTION
4 OF EVER PAYING THE JUDGMENT. AND HE WAS MANEUVERING
5 HIMSELF AND HIS COMPANY SUCH THAT HE DIDN'T HAVE TO PAY A
6 DIME.

7 MICKEY THOMPSON COULDN'T COLLECT ON THE
8 JUDGMENT. SO HE DID LEGALLY WHAT HE WAS ENTITLED TO DO,
9 HE BEGAN GOING AFTER CERTAIN ASSETS. AND THESE ARE ALL
10 LEGAL BATTLES. YOU HAVE TO APPLY TO GO AFTER CERTAIN
11 ASSETS. AND MICKEY THOMPSON WAS DOING THAT IN EVERY
12 SINGLE CASE AT EVERY SINGLE STAGE.

13 MIKE GOODWIN LOST HIS MERCEDES. IT
14 DOESN'T SOUND LIKE THAT BIG OF A DEAL, EXCEPT IF YOU WERE
15 MIKE GOODWIN AND YOU OWNED A 1982 380SL COUPE. ONE OF
16 THE HOTTEST MERCEDES ON THE ROAD BACK THEN. IT WAS HIS
17 ABSOLUTE PRIZED POSSESSION. MICKEY THOMPSON WENT AFTER
18 IT. MIKE GOODWIN FOUGHT IT. MIKE GOODWIN LOST.

19 THE INSPORT AGREEMENT. YOU'LL HEAR A
20 LITTLE BIT ABOUT THE INSPORT AGREEMENT. IT DOESN'T MEAN
21 ANYTHING TO YOU NOW, BUT THINK OF IT LIKE THIS: IN THE
22 MOTOR SPORTS PROMOTION BUSINESS, YOU NEED A CONTRACT.
23 THE INSPORT AGREEMENT IS EXACTLY THAT, IT'S JUST A
24 CONTRACT. AND THE BEARER OR THE HOLDER OF THAT CONTRACT
25 HAS THE UNIQUE ABILITY TO PUT ON RACES WITH CERTAIN
26 DRIVERS IN CERTAIN VENUES. YOU MAKE A LOT OF MONEY.

27 WITHOUT THAT SANCTION, WITHOUT THAT
28 PARTICULAR CONTRACT, YOU CAN'T PUT ON CERTAIN RACES WITH

1 THOSE PARTICULAR DRIVERS. THINK ABOUT IT LIKE THE NFL.
2 IF I GOT THE BEST ATHLETES IN THE WORLD TOGETHER, I
3 COULDN'T PUT ON AN NFL GAME BECAUSE I DON'T HAVE AN NFL
4 SANCTION; RIGHT? THE NFL HOLDS THAT CONTRACT. AND THOSE
5 TEAMS UNDER THE NFL CAN PUT ON THOSE GAMES WITH THAT
6 LOGO; RIGHT?

7 THE INSPORT AGREEMENT WAS THE SAME THING
8 FOR MOTOR SPORTS PROMOTIONS. MIKE GOODWIN HAD BEEN A
9 SIGNATORY TO THAT INSPORT AGREEMENT. AND, LITERALLY, IT
10 WAS WORTH TENS OF THOUSANDS, POTENTIALLY HUNDREDS OF
11 THOUSANDS OF DOLLARS TO THE HOLDER OF THAT CONTRACT. IN
12 ORDER TO TRY TO SATISFY HIS JUDGMENT, MICKEY THOMPSON
13 WENT AFTER THE INSPORT AGREEMENT. MIKE GOODWIN FOUGHT
14 IT. MIKE GOODWIN LOST.

15 THE ROSE BOWL EVENT -- I WILL TALK ABOUT A
16 COUPLE OF QUICK EVENTS HERE. IF YOU ARE IN SOUTHERN
17 CALIFORNIA AND YOU GET THE ROSE BOWL EVENT, THAT'S MONEY
18 IN YOUR POCKET. THE ROSE BOWL AND A COUPLE OF OTHER
19 VENUES -- AND I WILL TALK ABOUT ANOTHER ONE IN JUST A
20 SECOND. THE ROSE BOWL EVENT AND OTHER VENUES WOULD PUT
21 ON THESE WEEKEND EXTRAVAGANZAS. YOU'VE HEARD THE RADIO
22 COMMERCIALS. I WON'T TRY TO EMULATE THE ANNOUNCER, BUT
23 IT ALWAYS STARTS OUT "SUNDAY. SUNDAY. SUNDAY." YOU'VE
24 ALL HEARD THOSE. THERE IS GOING TO BE A TRUCK PULL;
25 THERE IS GOING TO BE A SUPERCROSS RACE; A MOTORCYCLE
26 RACE; WHATEVER.

27 THE ROSE BOWL EVENT WAS ONE OF THE
28 BIGGEST. IF YOU COULD BID ON AND GET THE EXCLUSIVE

1 RIGHTS TO THE ROSE BOWL EVENT, THAT WAS MONEY IN YOUR
2 POCKET. MICHAEL GOODWIN HAD BEEN BIDDING ON AND
3 SUCCESSFULLY GETTING THE ROSE BOWL EVENT FOR A DECADE.
4 FOR AS MANY AS TEN YEARS HE HELD THE CORNER ON THE MARKET
5 FOR THE ROSE BOWL EVENTS. HE HELD THE MONOPOLY.

6 IN 1987, FOLLOWING THE LAWSUIT, FOLLOWING
7 THE LEGAL BATTLES, FOLLOWING MICKEY THOMPSON GOING AFTER
8 THESE JUDGMENTS, MICHAEL GOODWIN FOUGHT FOR IT AND HE
9 LOST IT TO MICKEY.

10 AND THEN THE CROWN JEWEL, THE ANAHEIM
11 EVENT. THE ANAHEIM EVENT, IF YOU ARE A SOUTHERN
12 CALIFORNIA MOTOR SPORTS PROMOTER, IS AN ABSOLUTE MUST.
13 MORE MONEY THAN YOU KNOW WHAT TO DO WITH. LITERALLY,
14 OVER THE COURSE OF A WEEKEND, A SPORTS PROMOTER COULD
15 EXPECT TO GROSS PROFIT IN THE HUNDREDS OF THOUSANDS OF
16 DOLLARS. NOT 100. NOT 200. CLOSE TO 5- OR 6- SOMETIMES
17 \$700,000 IN PROFIT FOR ONE WEEKEND AT ANAHEIM.

18 MICHAEL GOODWIN FOR 13 YEARS, YEAR AFTER
19 YEAR AFTER YEAR HE BID ON THE ANAHEIM CONTRACT; HE GOT IT
20 EVERY YEAR. UNTIL 1987 AFTER THE LAWSUIT, AFTER MICKEY
21 THOMPSON WENT AFTER IT. THEN MICKEY THOMPSON WENT AFTER
22 THE ANAHEIM EVENT. AND IT WAS SUCH A BIG DEAL --
23 LITERALLY, YOU AND I DON'T EVER HEAR ABOUT SPORTS
24 PROMOTERS. YOU DON'T KNOW WHO PUTS ON AN EVENT.

25 BUT IN THIS CASE YOU DID. THE PROMOTER
26 MADE THE HEADLINES. THOMPSON WINS THE ANAHEIM EVENT.
27 THOMPSON GETS EXCLUSIVE ANAHEIM CONTRACT. THIS WAS A
28 HUGE DEAL. THIS WAS A STICK IN MICHAEL GOODWIN'S EYE.

1 FOR 13 YEARS HE HAD HAD IT. IN 1987 HE FOUGHT FOR IT AND
2 HE LOST IT.

3 THOSE ARE JUST THE LOSSES THAT MICHAEL
4 GOODWIN WAS SUFFERING OUTSIDE THE COURTROOM. AGAIN --
5 AND IT'S IMPORTANT TO NOTE HERE -- THE EVIDENCE WILL SHOW
6 THAT MICKEY THOMPSON NEVER, EVER, NOT ONE TIME EVER, WENT
7 AFTER A SINGLE PENNY OF MICHAEL GOODWIN'S MONEY. MICKEY
8 THOMPSON WAS GOING AFTER MICKEY THOMPSON'S MONEY THAT
9 MICHAEL GOODWIN WOULDN'T PAY HIM. A LEGAL JUDGMENT THAT
10 MIKE GOODWIN WAS DEFAULTING ON.

11 IN COURT MICHAEL GOODWIN DECIDED TO
12 DECLARE BANKRUPTCY. ACCORDING TO HIM AND HIS COURT
13 PAPERS, HIS BUSINESS WAS NOW DEFUNCT IN LARGE PART BASED
14 ON THE JUDGMENT FROM MICKEY THOMPSON; BASED ON THE COURT
15 LOSSES; THE BLOWS THAT MICKEY THOMPSON WAS LEVELING ON
16 HIM BASED ON THAT JUDGMENT. NOT ONLY BUSINESS
17 BANKRUPTCY, BUT PERSONAL BANKRUPTCY. MIKE GOODWIN LOST
18 HIS PERSONAL ASSETS AS WELL, THE MERCEDES WE HAVE TALKED
19 ABOUT AND OTHER SUCH THINGS.

20 MICHAEL GOODWIN DECIDED TO TAKE IT UPON
21 HIMSELF TO APPEAL ALL THESE JUDGMENTS; TO APPEAL THE
22 ORIGINAL LAWSUIT. HE TOOK IT TO THE APPELLATE COURT.
23 THE APPELLATE COURT, AGAIN, SIDED WITH MICKEY THOMPSON.
24 MIKE GOODWIN FOUGHT FOR IT AND HE LOST. HE THEN WENT TO
25 THE SUPREME COURT OF CALIFORNIA ASKING THEM TO OVERTURN
26 THIS JUDGMENT. HE FOUGHT FOR IT; HE LOST AT THE SUPREME
27 COURT. AS A MATTER OF FACT, THE SUPREME COURT WOULDN'T
28 EVEN HEAR THE CASE.

1 MICHAEL GOODWIN DECIDED THAT AN OFFENSE
2 WAS THE BEST DEFENSE IN THIS PARTICULAR CASE. HE
3 DECIDED, WHAT THE HECK, I'LL SUE MICKEY. SO HE
4 COUNTER-SUED MICKEY THOMPSON IN MARCH OF 1988. HE LOST
5 THAT SUIT, TOO.

6 AND FINALLY, AS ALMOST A LAST DITCH
7 EFFORT, MICHAEL GOODWIN MADE AN APPLICATION TO THE
8 BANKRUPTCY COURT TO SUSPEND HIS JUDGMENT. HE ASKED FOR
9 WHAT IS FORMALLY KNOWN AS A DISCHARGE OF PERSONAL DEBT OR
10 A DISCHARGE OF DEBT. I DON'T WANT TO GET TOO DEEP INTO
11 WHAT THE BANKRUPTCY EXPERTS WILL TELL YOU IN THIS FACET,
12 BUT IT BEARS REPEATING HERE. A DISCHARGE OF DEBT SOUNDS
13 LIKE THIS: MICHAEL GOODWIN WAS IN BANKRUPTCY; CORPORATE
14 BANKRUPTCY; PERSONAL BANKRUPTCY. HE WAS BASICALLY
15 CLAIMING DESTITUTION.

16 A DISCHARGE OF DEBT, THE EASIEST WAY TO
17 THINK ABOUT THAT IS TAKE AN ERASER AND WIPE THE SLATE
18 CLEAN. YOU WALK IN; YOU MAKE AN APPLICATION TO THE
19 COURT; AND YOU SAY, JUDGE, I DON'T HAVE ANYTHING. I
20 DON'T HAVE ANYTHING TO PAY MY BILLS. I DON'T HAVE
21 ANYTHING TO PAY MY CREDITORS, MY DEBTS. I WANT TO WIPE
22 THE SLATE CLEAN AND I WANT TO WALK AWAY. OKAY. FINE.
23 EXCEPT UNDER CHAPTER 11 IN BANKRUPTCY, THE CREDITORS GET
24 SOME SAY.

25 OF COURSE, MICKEY THOMPSON BEING MICKEY
26 THOMPSON; NOT HAVING COLLECTED ON HIS JUDGMENT; BEING
27 CHEATED AND SWINDLED OUT OF HUNDREDS OF THOUSANDS OF
28 DOLLARS OF HIS OWN MONEY HAD SOME SKIN IN THIS GAME.

1 THINK ABOUT THE DISCHARGE OF DEBT AS LOOKING A LITTLE BIT
2 LIKE THIS VISUAL. THE DEBTOR STANDS ON TOP. UNDERNEATH
3 IS A SERIES OF CREDITORS. MICKEY THOMPSON WAS SIMPLY ONE
4 OF A SERIES OR A NUMBER OF CREDITORS. HE WAS CERTAINLY,
5 AS THE EXPERT WILL TELL YOU DURING THE COURSE OF THIS
6 TRIAL, HE WAS CERTAINLY THE MOST AGGRESSIVE. HE WAS THE
7 ONE THAT WAS MOST ACTIVELY GOING AFTER THE MONEY THAT WAS
8 OWED HIM. BUT THERE WERE OTHER CREDITORS.

9 NOW AS A CREDITOR IN BANKRUPTCY
10 COURT, MICKEY THOMPSON HAD TWO OPTIONS. AND THESE ARE
11 IMPORTANT OPTIONS TO UNDERSTAND, THAT'S WHY I'M GETTING
12 INTO THIS. AND I DON'T MEAN TO PUT ANYBODY TO SLEEP, BUT
13 BEAR WITH ME FOR JUST A SECOND.

14 OPTION 1, LOOK AT THE CHECK MARK NEXT TO
15 MICKEY'S PICTURE. OPTION 1, PAY ME WHAT YOU OWE ME.
16 THAT'S ALL I ASK FOR. YOU CAN DO WHATEVER YOU WANT TO
17 WITH THE REST OF THE CREDITORS. BUT PAY ME WHAT YOU OWE
18 ME AND THEN GO ON ABOUT YOUR BUSINESS. YOU CAN WIPE OUT
19 YOUR DEBT AS TO ANYBODY ELSE. MY DOG IS NOT IN THAT
20 FIGHT. THAT'S OPTION 1.

21 OPTION 2, PAY ME WHAT YOU OWE ME. AND I'M
22 GOING TO SHOW THE BANKRUPTCY COURT THAT YOU HAVE ENGAGED
23 IN FRAUD, DECEIT, LYING ON THE COURT, AND THE BANKRUPTCY
24 COURT WON'T DISCHARGE ANY OF YOUR DEBT.

25 GUESS WHICH ONE MICKEY CHOSE? OPTION 2.
26 THAT WAS THE OBJECTION THAT MICKEY FILED WITH THE
27 BANKRUPTCY COURT. THAT CASE WAS SUPPOSED TO GO TO TRIAL
28 ON MARCH 18TH. MICKEY THOMPSON WAS KILLED TWO DAYS

1 BEFOREHAND.

2 MICHAEL GOODWIN WAS SUFFERING LOSS AFTER
3 LOSS AFTER LOSS AFTER LOSS AT THE HANDS OF MICKEY
4 THOMPSON. MICKEY THOMPSON WAS CRUSHING, LITERALLY,
5 CRUSHING MICHAEL GOODWIN UNDER THE WEIGHT OF THE COURT
6 SYSTEM; UNDER THE WEIGHT OF THE JUDICIAL SYSTEM.
7 AND MICKEY THOMPSON -- I'M SORRY -- MIKE GOODWIN WOULD
8 NOT TOLERATE THAT. THERE WERE STRAWS THAT WERE QUICKLY
9 BREAKING THAT CAMEL'S BACK.

10 SO MIKE GOODWIN DEVELOPED A PERSONAL
11 VENDETTA, AN EXTREMELY PERSONAL VENDETTA AGAINST MICKEY
12 THOMPSON. AND HE STARTED MAKING -- DURING THE COURSE OF
13 THESE LEGAL BATTLES, HE STARTED MAKING PROMISES ABOUT HOW
14 HE WAS GOING TO HANDLE MICKEY THOMPSON AND THIS VENDETTA
15 THAT HE HAD DEVELOPED AGAINST HIM.

16 IN STATEMENT AFTER STATEMENT, MICHAEL
17 GOODWIN BEGAN TO VERBALIZE WHAT HE WAS GOING TO DO TO
18 MICKEY THOMPSON. "I'M GOING TO KILL THAT SON OF A
19 BITCH." EVERYTHING THAT YOU SEE IN QUOTES IN THE NEXT
20 FEW SLIDES ARE DIRECT QUOTES THAT THE EVIDENCE WILL SHOW
21 MICHAEL GOODWIN MADE IN REFERENCE TO OR DIRECTLY TO
22 MICKEY THOMPSON. SOME OF THESE STATEMENTS WERE MADE TO
23 FRIENDS; SOME TO FAMILY; SOME IN FRONT OF EMPLOYEES AT
24 WORK.

25 THIS STATEMENT, "I'M GOING TO KILL THAT
26 SON OF A BITCH" WAS SAID IN FRONT OF KATHY WEESE, AN
27 EMPLOYEE OF MIKE GOODWIN'S. "YOU KNOW, MICKEY, I CAN
28 HAVE YOU TAKEN OUT. I CAN HAVE YOU FIXED." THIS

1 STATEMENT, AGAIN, IN FRONT OF KATHY WEESE ON THE PHONE
2 BEING OVERHEARD BY KATHY WEESE ON THE PHONE TO MICKEY
3 THOMPSON USING HIS NAME SPECIFICALLY; A THREAT DIRECTLY
4 TO MICKEY THOMPSON'S FACE. "I CAN HAVE YOU FIXED."

5 "I'M GOING TO KILL THAT MOTHER FUCKER."
6 AGAIN, A STATEMENT MADE IN FRONT OF AND OVERHEARD BY AN
7 EMPLOYEE OF MICHAEL GOODWIN'S HIMSELF, SCOTT HERNANDEZ.
8 "I'M GOING TO TAKE CARE OF HIM IF I LOSE THE CIVIL SUIT."
9 THIS STATEMENT WAS MADE IN THE SPRING OF 1988. RECALL,
10 MICHAEL GOODWIN FILED HIS OWN CIVIL SUIT AGAINST MICKEY
11 THOMPSON AND LOST IT IN THE SPRING OF 1988.

12 "THOMPSON IS DESTROYING ME. I'M GOING TO
13 TAKE HIM OUT." THIS COMMENT MADE TO A MUTUAL FRIEND AT
14 THAT TIME OF MICKEY THOMPSON AND MIKE GOODWIN'S. IN
15 RESPONSE TO THIS STATEMENT, "WELL, WAIT A MINUTE. WHAT
16 DO YOU MEAN YOU'RE GOING TO TAKE HIM OUT? DON'T SAY
17 THAT, MIKE." BILL WILSON SAID "IF YOU TAKE MICKEY OUT,
18 IF YOU KILL MICKEY, THEN HE'S DEAD AND YOU'RE IN JAIL."
19 MIKE GOODWIN'S RESPONSE, "THEY WILL NEVER CATCH ME."

20 "I HATE HIM. I WOULD LIKE TO KILL HIM."
21 PLAINLY PUT, SIMPLY PUT TO NINA WILSON OR IN FRONT OF
22 NINA WILSON AT THE SAME DINNER PARTY THAT THE LAST
23 STATEMENT WAS MADE IN FRONT OF BILL WILSON. AND YOU WILL
24 HEAR FROM THEM.

25 "THE ONLY WAY I CAN COME OUT AHEAD IS BY
26 TAKING CARE OF MICKEY THOMPSON." PROMISE AFTER PROMISE
27 AFTER PROMISE.

28 "YOU TOOK EVERYTHING. I'M GOING TO GET IT

1 BACK. I'LL KILL YOU." A STATEMENT MADE DIRECTLY TO
2 MICKEY THOMPSON OVERHEARD AT A RACE TRACK OUTSIDE THE
3 DOOR BY A WOMAN WHO HAS NO SKIN IN THE GAME WHATSOEVER,
4 JUST HEARD OVERHEARD A COMMENT BY MIKE GOODWIN.

5 I TOLD YOU ABOUT THAT PRIZED MERCEDES,
6 THAT 1982 SL COUPE. MICKEY THOMPSON WENT AFTER THAT AS A
7 PERSONAL ASSET. IT WAS ULTIMATELY SEIZED BY AUTHORITIES.
8 WE WILL INTRODUCE YOU TO DEPUTY JOHN WILLIAMS WHO IS NOW
9 A PUBLIC OFFICIAL IN ORANGE COUNTY; NO LONGER A SERVING
10 OFFICER. BUT HE IS A SERVING PUBLIC OFFICIAL, AN ELECTED
11 OFFICIAL.

12 HE WILL TELL YOU THAT WHEN HE WALKED UP TO
13 NOTIFY MIKE GOODWIN THAT HE WAS GOING TO HAVE TO SEIZE
14 HIS CAR, HE HAD LEGAL DOCUMENTATION THAT ENTITLED HIM,
15 JOHN WILLIAMS, TO SEIZE THE CAR, MIKE GOODWIN FLEW INTO
16 ONE OF HIS FAMOUS VIOLENT RAGES. HE FLEW INTO A RAGE.
17 HE TURNED BEAT RED. HIS NECK GOT THICK. EVERY VEIN ON
18 HIS FACE STARTED STICKING OUT. AND HE SCREAMED, "HE
19 DOESN'T KNOW WHO HE'S FUCKING WITH. HE'S FUCKING
20 DEAD" -- TO END THAT SENTENCE, IF HE THINKS HE'S GOING TO
21 TAKE MY CAR. THE CAR WAS, IN FACT, TAKEN.

22 AND THE ONE COMMENT OR THE ONE PROMISE
23 THAT SUMS UP MICHAEL GOODWIN'S INTENT WITH REGARD TO
24 MICKEY THOMPSON, "BEFORE HE SEES A DIME, I'LL HAVE HIM
25 WASTED. BEFORE HE SEES A DIME, I'LL HAVE HIM WASTED."

26 LADIES AND GENTLEMEN, BY MARCH 16TH OF
27 1988, MICHAEL GOODWIN HAD MADE GOOD ON ALL THESE
28 PROMISES. MICKEY THOMPSON LAY DEAD AT THE TOP OF HIS

1 DRIVEWAY AND THE LOVE OF HIS LIFE TRUDY AT THE BOTTOM OF
2 THE DRIVEWAY, LITERALLY SHOT TO DEATH UNCEREMONIOUSLY.

3 I WANT TO TALK FOR JUST A SECOND ABOUT THE
4 ACTUAL MURDERS, HOW THE MURDERS WERE CONDUCTED. THERE IS
5 SOMETHING VERY TELLING ABOUT THE CRIME SCENE. AND YOU'RE
6 GOING TO HAVE A LUXURY THAT MOST JURORS NEVER GET. WE'VE
7 MADE APPLICATION TO THE COURT AND GRACIOUSLY THE COURT
8 HAS GIVEN US PERMISSION AT SOME POINT DURING THE TRIAL TO
9 HAVE YOU FOLKS JOIN US AND VISIT THE CRIME SCENE. AND
10 IT'S GOING TO BE INCREDIBLY IMPORTANT TO VISIT THAT CRIME
11 SCENE. WHY? BECAUSE THIS NEIGHBORHOOD DOESN'T LOOK LIKE
12 ANY YOU'VE EVER SEEN IN YOUR LIFE.

13 LET ME DESCRIBE IT FOR JUST A SECOND. I
14 DON'T KNOW IF YOU CAN SEE THAT TINY LITTLE PEN LIGHT.
15 BUT THIS IS BRADBURY (INDICATING). AND IF YOU KIND OF
16 SQUINT YOUR EYES AND BLUR YOUR EYES A LITTLE BIT, YOU CAN
17 SEE THAT MAIN STREET LOOKS A LITTLE BIT LIKE A HORSESHOE.
18 THAT'S THE EASIEST WAY TO THINK ABOUT IT. BRADBURY IS
19 BUILT ON A MAIN STREET THAT LOOKS LIKE A HORSESHOE. AND
20 THAT MAIN STREET IS MT. OLIVE GOING INTO IT AND THEN
21 TURNS INTO WOODLYN RIGHT ABOUT HERE AND COMES DOWN
22 (INDICATING). ALL RIGHT?

23 IT'S SERVICED BY TWO ENTRANCES, ONE ON THE
24 EAST AND ONE ON THE WEST. I WANT TO TAKE YOU THROUGH A
25 COUPLE OF PICTURES OF THE CRIME SCENE SO THAT YOU CAN SEE
26 WHAT I'M TALKING ABOUT WHEN I SAY IT DOESN'T LOOK LIKE
27 ANYTHING YOU'VE EVER SEEN.

28 MICKEY THOMPSON'S HOUSE IS WHERE I'VE

1 HIGHLIGHTED RIGHT HERE, AT THE CORNER BASICALLY OF
2 MT. OLIVE AND WOODLYN (INDICATING). HE LIVED AT 53
3 WOODLYN LANE. AND BEHIND THAT, EVERYTHING TO THE WEST OF
4 WHERE THAT MT. OLIVE INTERSECTION IS ON THE HIGHLIGHTED
5 PORTION, IS BASICALLY THE GATED PART OF THE COMMUNITY.
6 HE LIVED IN THE GATED PART OF THE COMMUNITY.

7 THIS IS THE NEIGHBORHOOD IN DETAIL. AND
8 AS YOU CAN SEE, THERE IS NO GRID PATTERN. THERE IS NO
9 EAST AND WEST STREETS. THERE IS NO NORTH AND SOUTH
10 STREETS. THERE IS NO DECENT INTERSECTIONS. IT'S HARD TO
11 DESCRIBE. AND BECAUSE OF THAT I THINK IT'S GOING TO
12 BECOME VITALLY IMPORTANT FOR YOU FOLKS TO ACTUALLY PUT
13 YOUR EYES ON THAT SCENE.

14 MICKEY THOMPSON'S PROPERTY WAS
15 APPROXIMATELY WHERE I'VE HIGHLIGHTED HERE (INDICATING).
16 ACROSS THE STREET AND NEXT DOOR WHERE I'VE HIGHLIGHTED
17 THOSE SECTIONS ARE NEIGHBORS THAT YOU WILL END UP MEETING
18 THROUGHOUT THE COURSE OF THIS TRIAL. ACROSS THE STREET
19 AND ELEVATED -- THIS IS NOT AN ACCURATE TOPOGRAPHICAL
20 MAP. IT LOOKS FLAT HERE. BRADBURY IS ANYTHING BUT FLAT;
21 IT'S IN THE FOOTHILLS. AS YOU'LL SEE FROM THE NEXT
22 COUPLE OF SLIDES, IT DOESN'T LOOK LIKE A NORMAL
23 NEIGHBORHOOD.

24 YOU CAN SEE WHERE THE TRIARSI HOUSE IS.
25 IT IS ACROSS THE STREET, BUT IT'S ELEVATED PROBABLY A
26 GOOD 80 FEET, I WOULD SAY. I'M JUST GIVING AN ESTIMATE
27 OUT THERE, BUT YOU'LL BE ABLE TO SEE IT FOR YOURSELF.

28 MICKEY THOMPSON WAS SEEN STANDING AT THE

1 TOP OF HIS DRIVEWAY BEING COVERED BY GUNMAN NO. 1. AND
2 I'M ATTACHING RANDOM NUMBERS, OKAY, TO THESE GUNMEN.
3 GUNMAN NO. 1 WAS CONCENTRATING ON MICKEY THOMPSON.
4 GUNMAN NO. 2 WAS CONCENTRATING ON TRUDY THOMPSON.

5 WHAT HAPPENED AT 6:05 IN THE MORNING ON
6 MARCH 16, 1988, IS BASICALLY AS FOLLOWS: MICKEY AND
7 TRUDY LEFT FOR WORK BASICALLY THE SAME TIME EVERY DAY AND
8 THEY DROVE TO WORK TOGETHER. THEY ACTUALLY HAD AN OFFICE
9 IN ANAHEIM STADIUM. THAT SAME ANAHEIM STADIUM THAT
10 MICKEY THOMPSON HAD WON THAT INCREDIBLY VALUABLE CONTRACT
11 A YEAR EARLIER. THERE WAS SOMETHING WRONG WITH THE
12 GARAGE DOOR, EITHER THE CLICKER INSIDE THE CAR WASN'T
13 WORKING OR THEY HAD LOST IT, STUCK BETWEEN A SEAT OR
14 SOMETHING.

15 THE GARAGE DOOR OPENS UP AND TRUDY GETS IN
16 THEIR MINIVAN. SHE BACKS THE MINIVAN OUT OF THE GARAGE
17 DOOR. MEANWHILE MICKEY STAYS INSIDE THE GARAGE AND ONCE
18 SHE IS OUT, HE CLOSES THE GARAGE MANUALLY FROM INSIDE
19 WITH AN ELECTRONIC BUTTON. HE THEN WALKS OUTSIDE THE
20 HOUSE ADJACENT TO THE SIDEWALK -- OR ADJACENT TO THE
21 DRIVEWAY, I SHOULD SAY, DOWN THE SIDEWALK AND JOINS UP TO
22 MEET WITH TRUDY TO GET IN THE PASSENGER SIDE. SHE WAS
23 GOING TO DRIVE THAT DAY.

24 MICKEY THOMPSON NEVER MADE IT. HE WAS
25 ATTACKED BY HIS GUNMAN WHILE A SECOND GUNMAN ATTACKED
26 TRUDY IN THE VAN. AS SHOTS PIERCED THE SILENCE EARLY
27 THAT MORNING, NEIGHBORS BEGAN TO WAKE UP. NEIGHBORS
28 BEGAN TO HEAR THINGS. AND YOU'LL SEE WHEN WE GO OUT

1 THERE, IT DOESN'T MATTER WHAT TIME OF DAY OR NIGHT IT IS
2 THAT WE GO OUT THERE, YOU'LL SEE, IT IS A CANYON. IT'S
3 LIKE A CONCERT HALL. YOU CAN HEAR A PIN DROP IN THAT
4 CANYON.

5 AS THESE GUNSHOTS BEGAN TO RING OUT, ALL
6 THE NEIGHBORS BEGAN TO WAKE UP. AND THE TRIARSIS
7 SPECIFICALLY WITH A VIEW THAT LOOKS SOMETHING LIKE THAT
8 BEGAN TO LOOK OUT THEIR WINDOW (INDICATING). THEY HEARD
9 MULTIPLE GUNSHOTS AT FIRST. AND THEN THEY HEARD TRUDY
10 SCREAMING AND CRYING.

11 ALLISON TRIARSI, PHYLLIS TRIARSI AND
12 ANTHONY TRIARSI ARE THE NEIGHBORS ACROSS THE STREET.
13 DR. LANCE JOHNSON IS THE NEIGHBOR TO THE SIDE. THE
14 TRIARSIS, LOOKED OUT THEIR FRONT WINDOW AND COULD LOOK
15 DOWN AND UPON THE CRIME SCENE AREA. AND WHAT THEY WILL
16 TELL YOU IS THAT AFTER A VOLLEY OF SEVERAL GUNSHOTS HAD
17 BEEN LEVIED, PRESUMABLY AGAINST MICKEY THOMPSON --
18 BECAUSE OF THE AUTOPSY FINDINGS, IT'S PRESUMABLE THAT
19 MICKEY THOMPSON WAS SHOT MULTIPLE TIMES BEFORE THE COUP
20 D' GRAS SHOT.

21 AS A MATTER OF FACT, THE EVIDENCE WILL
22 SHOW THAT'S EXACTLY WHAT HAPPENED BASED ON THE WITNESS'S
23 OBSERVATIONS. AS HE STOOD AT THE TOP OF THE DRIVEWAY,
24 THE OTHER GUNMAN SHOT AT THE VAN. THE VAN HAD SEVERAL
25 BULLET HOLES IN IT. TRUDY THOMPSON WAS EITHER PULLED
26 FROM OR FELL OUT OF THE VAN. SHE THEN GOT DOWN TO HER
27 KNEES.

28 THE INJURES THAT SHE SUSTAINED INDICATE

1 THE FOLLOWING: SHE WAS CRAWLING DOWN THE DRIVEWAY. IT
2 IS A VERY, VERY STEEP DRIVEWAY. SHE WAS CRAWLING DOWN
3 THAT DRIVEWAY FOR HER LIFE. ALL OF HER ACRYLIC
4 FINGERNAILS BEGAN BREAKING OFF. SHE WAS SKINNING AND
5 SCRAPING HER KNEES. SHE WAS IN A DRESS THAT DAY.

6 THE SECOND GUNMAN FOLLOWED TRUDY THOMPSON
7 ALL THE WAY DOWN THE DRIVEWAY; GUN IN HAND COVERING HER;
8 BUT HE DIDN'T KILL HER YET. THAT WILL BECOME INCREDIBLY
9 IMPORTANT IN THIS TRIAL. HE DIDN'T KILL HER YET. MICKEY
10 THOMPSON, THOUGH SHOT SEVERAL TIMES -- MICKEY THOMPSON
11 ULTIMATELY SUFFERED SEVEN SEPARATE GUNSHOT WOUNDS.
12 SEVEN. BUT MICKEY WAS BUILT LIKE A FIRE PLUG; SHORT;
13 STOCKY; BIG BEAR OF A GUY. A SINGLE GUNSHOT WOUND WASN'T
14 GOING TO TAKE HIM DOWN.

15 AND HE WAS SHOT SEVERAL TIMES IN THE
16 ABDOMEN; IN THE HIPS; IN THE BUTTOCKS; THROUGH THE ARM.
17 BUT HE WAS KEPT ALIVE. AND THE EVIDENCE WILL SHOW THAT
18 AT ANY POINT AT ANY TIME EITHER OF THE GUNMAN COULD HAVE
19 PUT MICKEY THOMPSON DOWN LIKE THAT, ONE SHOT TO THE HEAD
20 WOULD DO IT. BUT THEY DIDN'T. HE WAS DISABLED, BUT HE
21 WAS KEPT ALIVE.

22 MEANWHILE TRUDY THOMPSON WAS BEING COVERED
23 BY THE OTHER GUNMAN. AND ONCE THEY WERE IN A POSITION
24 THAT THEY COULD SEE EACH OTHER AND MICKEY THOMPSON COULD
25 CLEARLY WATCH, THE SECOND GUNMAN PUT THE GUN TO THE BACK
26 OF TRUDY'S HEAD AND FIRED A BULLET THROUGH HER BRAIN.
27 THE EVIDENCE WILL SHOW THAT MICKEY THOMPSON'S LAST VISION
28 ON THIS PLANET WAS THAT OF HIS WIFE BEING EXECUTED.

1 AS I SAID WHEN I STARTED OUT, THE SECOND
2 GUNMAN THEN SCREWED THAT .9 MILLIMETER PISTOL INTO THE
3 LEFT EAR OF MICKEY THOMPSON, LITERALLY HIS LEFT EAR AND
4 FIRED A BULLET THAT PASSED COMPLETELY THROUGH HIS BRAIN
5 AND HE WAS KILLED. WITNESSES THAT SAW THIS, THEN WATCHED
6 AS THE GUNMAN JUMPED ON BICYCLES AND BEGAN TO PEDAL OFF.
7 AND THAT TOO WILL BECOME IMPORTANT.

8 THEY WILL TELL YOU THAT THEIR VIEW -- THE
9 TRIARSIS WILL TELL YOU THAT THEIR VIEW WAS BASICALLY
10 THIS -- AS YOU CAN SEE THE TOPOGRAPHICAL MAP DOESN'T
11 REALLY GIVE YOU THIS, BUT THIS PHOTOGRAPH SHOWS HOW
12 ELEVATED AND HIGH THEIR VIEW ACTUALLY WAS. AND THEN THIS
13 VIEW IS ACTUALLY FROM THEIR PROPERTY FROM THE TRIARSIS'
14 PROPERTY LOOKING DOWN ON THE THOMPSON PROPERTY. IF YOU
15 LOOK CLOSELY WHERE I'VE HIGHLIGHTED, THERE ARE TWO SHEETS
16 COVERING TWO BODIES. MICKEY THOMPSON IS AT THE TOP.
17 TRUDY THOMPSON IS AT THE BOTTOM. THAT'S TRUDY AT THE
18 BOTTOM OF THE DRIVEWAY. AND MICKEY LAY THERE
19 (INDICATING).

20 JUST AS IMPORTANT TO NOTE ABOUT WHAT
21 HAPPENED AT THE CRIME SCENE IS WHAT DIDN'T HAPPEN AT THE
22 CRIME SCENE. ALLOW ME TO EXPLAIN WHAT THE EVIDENCE WILL
23 SHOW. THIS WAS NOT A ROBBERY. THIS WAS A PROFESSIONAL
24 EXECUTION, PLAIN AND SIMPLE.

25 THERE WAS A VAN. IT WAS RUNNING. SHE
26 NEVER TURNED IT OFF. SHE COULDN'T TURN IT OFF. SHE PUT
27 IT IN REVERSE; SLAMMED INTO THE BACK OF A WALL, A
28 RETAINING WALL. AND THE GUNMAN, THE SECOND GUNMAN WAS

1 SUCCESSFUL IN GETTING HER OUT OF THE VAN. HE WASN'T
2 GOING TO LET HER ESCAPE. THEY DIDN'T TOUCH THE VAN. IF
3 THEY WANTED A GETAWAY CAR, WHY NOT TAKE THE VAN. IT WAS
4 RUNNING. THEY IGNORED THE VAN. THEY WEREN'T INTERESTED
5 IN THE VAN.

6 THERE WAS A LINCOLN CONTINENTAL, AN
7 EXPENSIVE CAR BACK IN 1988. A LINCOLN CONTINENTAL AT THE
8 TOP OF THE DRIVEWAY COMPLETELY UNTOUCHED; UNMOLESTED.
9 THE GUNMAN WEREN'T INTERESTED IN THE LINCOLN. THE HOUSE,
10 COMPLETELY UNTOUCHED. THIS HOUSE BEHIND A GATED
11 COMMUNITY BELONGING TO A RELATIVELY WEALTHY SPORTS
12 PROMOTER, AN AMERICAN RACING LEGEND; UNTOUCHED; NOT
13 BROKEN INTO; NO SIGNS OF FORCED ENTRY.

14 MICKEY THOMPSON, WHAT IS MOST NOTABLE
15 ABOUT THAT PHOTOGRAPH AS MICKEY THOMPSON LAY IN HIS OWN
16 POOL OF BLOOD, HAVING BEEN KILLED, HIS WALLET IS ALMOST
17 FALLING OUT OF HIS PANTS. A WALLET WITH \$500 CASH IN IT.
18 THE GUNMAN WEREN'T INTERESTED IN MICKEY THOMPSON'S MONEY.
19 AND TRUDY THOMPSON LAYING AT THE BOTTOM OF THE DRIVEWAY
20 BEJEWELLED, FOUR OR FIVE RINGS; AN INCREDIBLY EXPENSIVE
21 NECKLESS WITH THE "NO. 1," A GIFT FROM MICKEY THOMSON,
22 ENCRUSTED IN PURE DIAMONDS, ALL OF HER JEWELRY WAS LEFT
23 ON HER BODY.

24 THIS WAS A PROFESSIONAL HIT, PLAIN AND
25 SIMPLE. THE KILLERS WERE THERE TO DO ONE THING, MAKE
26 SURE MICKEY WATCHED AS TRUDY DIED AND THEN KILL MICKEY.

27 AND YOU CAN SEE -- ALTHOUGH THE OTHER
28 PHOTOGRAPHS ARE SOME WHAT DISTORTED, YOU CAN SEE FROM THE

1 TOP OF THE DRIVEWAY WHERE THIS PERSON IS POSED KIND OF ON
2 HIS KNEES AND THEN THERE IS A PERSON AT THE BOTTOM OF THE
3 DRIVEWAY DOWN HERE -- THAT'S APPROXIMATELY AS YOU WILL
4 SEE AND THE TESTIMONY WILL SUGGEST -- THAT'S
5 APPROXIMATELY WHERE TRUDY THOMPSON WAS. YOU CAN SEE ONE
6 CAN SEE THE OTHER PERFECTLY. THERE IS A VIEW.

7 ALL THE BLOOD THAT MICKEY THOMPSON WAS
8 LOSING AT THE TOP OF THE DRIVEWAY WILL SUGGEST THAT HE
9 WAS CRAWLING IN CIRCLES IN THIS AREA (INDICATING). AND
10 ULTIMATELY WAS SHOT TO DEATH RIGHT WHERE THE WHITE SHEET
11 IS.

12 AND THROUGH THIS WHOLE THING EVERY SINGLE
13 WITNESS, EVERY WITNESS WHO HEARD ANYTHING, FROM THE
14 JOHNSONS TO THE HACKMANS TO THE TRIARSIS, EVERY WITNESS
15 THAT HEARD ANYTHING HEARD THE SAME THING FROM MICKEY
16 THOMPSON. ALTHOUGH HE WAS -- HE SUFFERED SEVEN GUNSHOT
17 WOUNDS. ALTHOUGH HE WAS SHOT MULTIPLE TIMES IN THE TORSO
18 OVER AND OVER AND OVER TO DISABLE THIS BIG MAN, NOT ONE
19 TIME DID HE CALL FOR HELP FOR HIMSELF. NOT ONE TIME DID
20 HE COMPLAIN ABOUT HIS OWN INJURIES. NOT ONE TIME DID HE
21 CRY OUT THAT HE WAS DYING. THE MANTRA WAS THE SAME.
22 MICKEY THOMPSON REPEATED OVER AND OVER, "PLEASE, PLEASE
23 DON'T HURT MY WIFE."

24 AND THEN THESE PROFESSIONAL HIT MEN DID
25 EXACTLY THAT, THEY HURT HIS WIFE AND THEN THEY HURT HIM.
26 AS I SAID, THE GUNMEN GOT ON BICYCLES AND RODE AWAY. IF
27 ANYBODY CANNOT SEE A ROAD WHERE THAT RED LINE IS, IT'S
28 BECAUSE IT'S INCREDIBLY DIFFICULT TO FIND. UNLESS YOU'RE

1 ON THE PROPERTY; UNLESS YOU KNOW WHERE THAT ROAD LEADS,
2 YOU WOULD NEVER EVER TRAVEL DOWN THAT ROAD.

3 WHY IS THIS IMPORTANT? BECAUSE OF THE
4 COMPLEXITY OF BRADBURY. AGAIN, TO REITERATE, THIS IS A
5 HORSESHOE; AN EXIT AND AN ENTRANCE HERE; AN EXIT AND
6 ENTRANCE THERE, EAST TO WEST (INDICATING). THE EVIDENCE
7 WILL SHOW, LADIES AND GENTLEMEN, THAT IF YOU ARE GOING TO
8 DO SOMETHING BAD IN BRADBURY; IF YOUR ARE GOING TO COMMIT
9 A CRIME IN BRADBURY, YOU HAVE TO KNOW, YOU ABSOLUTELY
10 MUST KNOW TWO THINGS: YOU GOT TO KNOW HOW TO GET IN AND
11 YOU GOT TO KNOW HOW TO GET OUT. PLAIN AND SIMPLE.

12 THE PROFESSIONAL GUNMEN WHO ASSASSINATED
13 MICKEY THOMPSON AND HIS WIFE TRUDY KNEW EXACTLY HOW TO
14 GET OUT. THOSE TWO GUNMEN ON BICYCLES FOUND AND UTILIZED
15 AN OBSCURE ALMOST HIDDEN BICYCLE PATH TO MAKE THEIR
16 ESCAPE. HOW DID THEY KNOW WHERE TO GO? THREE DAYS
17 BEFORE THE MURDERS -- THE MURDERS WERE ON MARCH 16 --
18 THREE OR FOUR DAYS, SAY, MARCH 12 OR 13TH, A MAN WAS
19 SEATED IN A CAR ON A CURB AT AN INTERSECTION RIGHT WHERE
20 THAT HIGHLIGHTING IS, ON THE CORNER OF GARDI AND
21 MT. OLIVE.

22 HE WAS SEATED IN A CAR PARKED THE WRONG
23 WAY GOING THE WRONG DIRECTION AT A CURB. IT'S A
24 RESIDENTIAL NEIGHBORHOOD. THE EVIDENCE WILL SHOW THAT
25 THAT INTERSECTION IS LESS THAN 150 FEET, LITERALLY 148
26 FEET, AS A MATTER OF FACT, A STONES THROW FROM THE MOUTH
27 OF THE BIKE PATH THAT THE KILLERS USED.

28 THE KILLERS RODE THIS DIRECTION

1 (INDICATING). THEY WERE DESCRIBED AS TWO MALE BLACKS;
2 YOUNG; ATHLETIC; WEARING SOME KIND OF WARM-UP SUIT;
3 RIDING AT BREAK-NECK SPEED ON TEN SPEED BIKES. THEY WERE
4 SEEN RIGHT HERE AT THAT HIGHLIGHTED INTERSECTION BY A
5 WOMAN DRIVING HER CAR ON HER WAY TO AN APPOINTMENT THAT
6 MORNING. I THINK SHE HAD HER DOG WITH HER. HER NAME IS
7 WILMA JOHNSON.

8 SHE SAW THESE TWO BLACK MALES RIDING ON
9 BICYCLES CROSS HER PATH AND ENTER A BREAK IN THE FENCE
10 THAT HIDES THE BIKE PATH. THE KILLERS THEN WENT DOWN
11 THAT BREAK AND ONTO THE BIKE PATH. THEY WERE NEXT SEEN
12 AFTER THEY HAD TRAVELED THIS DIRECTION RIGHT THERE AT
13 THAT INTERSECTION (INDICATING). THE LOWER INTERSECTION
14 THAT'S HIGHLIGHTED, AT THE CORNER OF MT. OLIVE AND THE
15 BIKE PATH.

16 THEY WERE NEXT SEEN BY ANOTHER WOMAN WHO
17 HAD BEEN DROPPING HER KID OFF AT SCHOOL OR SOMETHING.
18 THEY THEN TURNED SOUTH. AND IF YOU CAN SEE RIGHT THERE,
19 THERE IS A FREEWAY ENTRANCE AND THEY MADE THEIR ESCAPE.
20 NOW WHY IS THAT FIRST PERSON IMPORTANT? BECAUSE THREE
21 DAYS BEFORE THE MURDERS, THAT PERSON WAS SEATED AT THAT
22 CURB LINE 148 FEET AWAY FROM THE MOUTH OF THE BIKE PATH
23 WITH BINOCULARS DOING SURVEILLANCE.

24 IMMEDIATELY, THE PEOPLE THAT SAW HIM --
25 AND BY THE WAY, THE PEOPLE THAT SAW HIM ARE A COUPLE, A
26 MARRIED COUPLE NAMED THE STEVENSES; RON AND TONYIA
27 STEVENS. TONYIA GOES BY TONI. RON AND TONI STEVENS
28 HAPPENED TO BE HOME THAT DAY. RON HAD JUST DRIVEN UP, AS

1 A MATTER OF FACT, AND IT WAS THE MIDDLE OF THE DAY. THEY
2 HAD EARLIER BEEN TO A NEIGHBORHOOD WATCH MEETING. AND
3 THEY WERE PRETTY VIGILANT FOLKS ABOUT SUSPICIOUS
4 CIRCUMSTANCES GOING ON IN THEIR NEIGHBORHOOD.

5 SO THEY LOOK OVER AT THE MAN PARKED AT THE
6 CURB LINE WHO HAD A PASSENGER WITH HIM. AND WITH THE
7 SPECIFIC INTENT TO IDENTIFY THIS MAN, THEY WALKED OVER TO
8 THE EDGE OF THEIR PROPERTY; GOT WITHIN ABOUT EIGHT FEET;
9 AND LOOKED HIM DIRECTLY IN THE FACE. THE MAN DROPPED THE
10 BINOCULARS; LOOKED THEM BACK IN THE FACE; PUT THE CAR IN
11 GEAR AND DROVE AWAY. HE WAS IN AN OLDER MODEL STATION
12 WAGON WITH OUT-OF-STATE PLATES.

13 RON AND TONI STEVENS DIDN'T IMMEDIATELY
14 MAKE THE CONNECTION BETWEEN WHAT HAPPENED ON MARCH 12 OR
15 13TH AND WHAT HAPPENED ON MARCH 16TH. BUT YEARS LATER
16 THEY CONTACTED THE POLICE AND THE POLICE INTERVIEWED THEM
17 ABOUT WHAT THEY HAD SEEN THAT DAY. THEY WANTED TO KNOW:
18 IS THIS IMPORTANT OR NOT? THE POLICE ASKED A SIMPLE
19 QUESTION: DO YOU REMEMBER WHAT THAT GUY LOOKED LIKE?
20 ABSOLUTELY. BOTH HUSBAND AND WIFE RECALLED WHAT HE
21 LOOKED LIKE. THEY DESCRIBED HIM AS MALE; WHITE; KIND OF
22 A BIG GUY; REDDISH/BROWNISH HAIR; CURLY; A POCK MARKED
23 FACE; IN HIS 40'S. MICHAEL GOODWIN WAS 43 IN 1988.

24 THEY WERE ASKED IF THEY WOULD LOOK AT A
25 SERIES OF -- LOOK AT A LINEUP -- ACTUALLY, RON STEVENS
26 WAS ASKED IF HE WOULD LOOK AT A SERIES OF PHOTOGRAPHS
27 FIRST. HE SAID, SURE, I'LL LOOK AT A SERIES OF
28 PHOTOGRAPHS AND SEE IF I CAN IDENTIFY THE PERSON. HE

1 LOOKED AT THE PHOTOGRAPHS AND HE POINTED TO A PARTICULAR
2 PICTURE.

3 SUBSEQUENT TO THAT, BOTH RON AND TONYIA
4 WERE ASKED: DO YOU THINK YOU COULD RECOGNIZE THE PERSON
5 IF YOU SAW HIM IN A LINEUP? BOTH RON AND TONYIA SAID,
6 YEP, I THINK I COULD. EVEN THOUGH YEARS HAD PASSED?
7 THEY SAID, YES, EVEN THOUGH YEARS HAVE PASSED, I THINK I
8 COULD RECOGNIZE THE MAN THAT WAS SEATED OUTSIDE MY HOUSE
9 WITH BINOCULARS DOING SURVEILLANCE THREE DAYS BEFORE THE
10 MURDERS.

11 AT THAT LINEUP THEY WERE SEPARATED. THEY
12 WERE BOTH INDIVIDUALLY SHOWN THE LINE AND BOTH PEOPLE
13 INDEPENDENTLY MADE AN IDENTIFICATION. BOTH PEOPLE
14 IDENTIFIED MICHAEL FRANK GOODWIN. HE WAS THE PERSON
15 SEATED OUTSIDE THEIR HOUSE SURVEILLING THE BIKE PATH.

16 LADIES AND GENTLEMEN, FOR WEEKS AND MONTHS
17 MICHAEL GOODWIN, THE EVIDENCE WILL SHOW, HAD BEEN SETTING
18 IN MOTION A SERIES OF EVENTS; A SERIES OF PLANS;
19 CAREFULLY CHOREOGRAPHED; CAREFULLY ORCHESTRATED PLANS TO
20 QUOTE, UNQUOTE, HAVE MICKEY THOMPSON WASTED AND THEN MAKE
21 HIS ESCAPE.

22 MARCH 16, 1988, WAS NOT A DATE CHOSEN AT
23 RANDOM. MICKEY AND TRUDY THOMPSON WERE NOT MURDERED ON
24 THAT DATE JUST BECAUSE IT WAS A SLOW WEDNESDAY. THIS WAS
25 A DATE WHEN ALL THE PIECES OF MICHAEL GOODWIN'S PLANS
26 BEGAN TO FALL INTO PLACE. THE EVIDENCE WILL SHOW, LADIES
27 AND GENTLEMEN, THAT MICHAEL GOODWIN WAS INVOLVED IN THE
28 MOST VICIOUS FINANCIAL BATTLE OF HIS LIFE; THE MOST

1 VICIOUS FINANCIAL BATTLE IMAGINABLE.

2 HE HAD DECLARED PERSONAL BANKRUPTCY. HE
3 HAD DECLARED CORPORATE BANKRUPTCY. HE HAD SUGGESTED THAT
4 HE WAS COMPLETELY DESTITUTE AT A TIME WHEN THE EVIDENCE
5 SUGGESTS THAT MICHAEL GOODWIN SHOULD HAVE BEEN AND COULD
6 HAVE BEEN GATHERING EVERY RESOURCE AVAILABLE TO HIM.
7 EVERY POSSIBLE NICKEL, DIME, PENNY, DOLLAR; ASKING
8 FRIENDS FOR MONEY, WHATEVER; GATHERING EVERY RESOURCE
9 AVAILABLE TO COLLECT ENOUGH TO PAY OFF SOME OF HIS DEBTS,
10 SOME OF HIS JUDGMENTS, SO THAT HE COULD GET HIS BUSINESS
11 BACK IN ORDER.

12 AT A TIME WHEN HE SHOULD HAVE BEEN DOING
13 THAT, WHAT WILL THE EVIDENCE SHOW MICHAEL GOODWIN WAS
14 DOING? HE BOUGHT A YACHT. A 57-FOOT WELLINGTON MOTOR
15 SAILOR. IN 1988, \$400,000 FOR THIS YACHT. WHY WOULD HE
16 DO THAT? A YACHT, IT IS A LUXURY ITEM. IT IS A
17 THROW-AWAY LUXURY ITEM. IN TIMES OF NEED, YACHT SALES GO
18 DOWN. IT IS A TOY FOR THE RICHEST OF THE RICH.

19 UNLESS, AS THE EVIDENCE WILL SHOW IN THIS
20 CASE, IT HAS ANOTHER PURPOSE. THE EVIDENCE WILL SHOW
21 THAT A WELL-STOCKED YACHT IS THE PERFECT GETAWAY VEHICLE.
22 IT'S THE ONLY ITEM YOU CAN BUY THAT YOU CAN LIVE ON, BUT
23 IT HAS NO ADDRESS. YOU EAT AND SLEEP THERE, BUT THERE IS
24 NO FRONT DOOR; NO BACK DOOR; NO POST BOX; NO TELEPHONE.
25 IT'S YOUR HOME, FOLKS, BUT YOU CAN STICK IT ANYWHERE ON
26 THE GLOBE, LITERALLY. YOU CAN SAIL IT INTO OR MORE
27 IMPORTANTLY OUT OF ANY JURISDICTION IN THE WORLD.

28 A WELL-STOCKED 57-FOOT MOTOR SAILOR IS

1 ABSOLUTELY THE PERFECT GETAWAY VEHICLE. WHY IS THAT
2 IMPORTANT? BECAUSE MARCH 16TH WAS NOT A DATE CHOSEN AT
3 RANDOM. WE WILL SUPPLY YOU WITH EVIDENCE THAT
4 ILLUSTRATES THAT ON MARCH 10TH, MICHAEL GOODWIN WAS
5 APPROVED FOR HIS \$400,000 BOAT LOAN. HE NOW HAD HIS
6 GETAWAY VEHICLE AND SIX DAYS LATER MICKEY THOMPSON WAS
7 DEAD.

8 TWO DAYS AFTER THAT, MIKE GOODWIN SOLD HIS
9 HOUSE. WE WILL INTRODUCE ESCROW DOCUMENTS SHOWING THAT
10 ON MARCH 18TH, MICHAEL GOODWIN PUT HIS HOUSE INTO ESCROW
11 TO GET RID OF IT. AND THEN WE WILL INTRODUCE TO A SERIES
12 OF DOCUMENTS DEALING WITH SOME REAL ESTATE INVESTMENTS OF
13 MIKE GOODWIN'S. WITHIN WEEKS OF THAT, WITHIN WEEKS OF
14 THE MURDERS, MICHAEL GOODWIN BEGAN TO DIVEST HIMSELF OF
15 EVERY CONNECTION, FINANCIAL AND OTHERWISE, THAT HE HAD TO
16 THE UNITED STATES OF AMERICA.

17 HE HAD BEEN HIDING A SERIES OF INVESTMENTS
18 IN HIS WIFE DIANE'S NAME. YOU'LL SEE THE NAME DIANE
19 GOODWIN. BUT WE WILL ALSO INTRODUCE EVIDENCE THAT SHOWS
20 BEYOND A REASONABLE DOUBT THAT MICHAEL GOODWIN WAS DOING
21 THAT ON PURPOSE. WHY? TO HIDE HIS ASSETS FROM MICKEY
22 THOMPSON; TO HIDE THOSE ASSETS FROM THE BANKRUPTCY COURT;
23 AND TO SET IN MOTION HIS ESCAPE PLAN WHEN HE KILLED
24 MICKEY.

25 HE SOLD WHITEHAWK INVESTMENTS. AND THEN
26 ANOTHER INVESTMENT DESERT INVESTORS WAS ALSO IN DIANE
27 GOODWIN'S NAME. WITHIN DAYS OF THE FIRST SALE, HE SOLD
28 ALL OF HIS INTEREST IN THOSE, THE SECOND ONE. SO WHAT

1 DID HE DO WITH ALL THIS MONEY?

2 THE EVIDENCE WILL SHOW, LADIES AND
3 GENTLEMEN, THAT ON MAY 11TH -- YOU MAY NOT BE ABLE TO
4 READ THAT, BUT I'LL JUST TELL YOU THE DATE -- ON MAY
5 11TH, 1988 -- THIS IS WITHIN WEEKS OF THE MURDERS --
6 MICHAEL GOODWIN BOUGHT \$275,000 WORTH OF GOLD BOUILLON.
7 LITERALLY, GOLD BOUILLON. PHYSICAL GOLD BOUILLON,
8 \$275,000 WORTH.

9 ON THAT SAME DAY, HE TRANSFERRED 10,000
10 U.S. DOLLARS TO A NUMBERED OFFSHORE BANK ACCOUNT IN THE
11 TURKS AND CAICOS ISLAND. TWO DAYS AFTER THAT ON MAY 13,
12 1988, MICHAEL GOODWIN TRANSFERRED ANOTHER \$140,000 IN
13 U.S. CURRENCY TO THAT SAME NUMBERED BANK ACCOUNT OFFSHORE
14 AT THE TURKS AND CAICOS ISLANDS. AND LATER THAT SAME DAY
15 PURCHASED ANOTHER \$75,000 WORTH OF GOLD BOUILLON.

16 LADIES AND GENTLEMEN, IN TWO DAYS' TIME
17 BETWEEN MAY 11TH AND MAY 13TH, MICHAEL GOODWIN WHO HAD
18 CLAIMED PERSONAL AND CORPORATE BANKRUPTCY; WHO HAD SAID
19 HE COULDN'T PAY A JUDGMENT; WHO COULDN'T PAY HIS DEBTS;
20 SOMEONE WHO CLAIMED ON COURT DOCUMENTS TO BE COMPLETELY
21 DESTITUTE, IN TWO DAYS' TIME LIQUIDATED AND TRANSFERRED
22 OFFSHORE \$500,000. AND THEN SAILED AWAY ON A \$400,000
23 YACHT.

24 LADIES AND GENTLEMEN, THE EVIDENCE IN THIS
25 CASE WILL SHOW THAT MICHAEL GOODWIN WAS NEVER EVER, EVER
26 GOING TO PAY MICKEY THOMPSON WHAT HE OWED HIM. FOR
27 MICHAEL GOODWIN IT WAS A MATTER OF PRIDE; IT WAS A MATTER
28 OF PRINCIPAL; IT WAS A MATTER OF EGO. HE WOULD NOT LOSE

1 TO THE LIKES OF MICKEY THOMPSON. NOT EVER.

2 HE WOULD SEE THAT MICKEY THOMPSON WAS
3 KILLED BEFORE HE EVER GOT A DIME OF HIS MONEY. AND HOW
4 DO WE KNOW THAT? BECAUSE WE GOT IT FROM THE ABSOLUTE,
5 MOST RELIABLE SOURCE. MICHAEL GOODWIN SAID SO. THANK
6 YOU VERY MUCH, LADIES AND GENTLEMEN.

7 THE COURT: THANK YOU, MR. JACKSON.

8 LET ME SEE COUNSEL BRIEFLY IN THE WELL AT
9 THE BENCH REGARDING SCHEDULING.

10 (PROCEEDINGS HELD AT SIDEBAR, NOT REPORTED.)

11 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
12 NORMALLY WE WOULD GO UNTIL 12 NOON. TODAY WE ARE JUST
13 GOING TO RECESS AT THIS POINT IN TIME. I HAVE SOME
14 MATTERS I HAVE TO TALK TO THE LAWYERS ABOUT. AND
15 MS. SARIS WILL PRESENT HER OPENING STATEMENT AT 1:30 THIS
16 AFTERNOON. SO YOU GET AN EXTRA HALF HOUR FOR LUNCH. I
17 GUESS THAT'S NOT TOO BAD.

18 JUST REMEMBER ALL OF THE ADMONITIONS,
19 PLEASE. IT'S VERY IMPORTANT THAT YOU NOT DISCUSS THE
20 CASE WITH ANYONE. YOU ARE NOT TO FORM OR EXPRESS ANY
21 OPINIONS ABOUT THE CASE. DO NOT CONDUCT ANY
22 DELIBERATIONS. AND IT'S CROWDED IN HERE. SO FOR RIGHT
23 NOW WE'RE GOING TO LET YOU GO OUT THROUGH THE BACK. SO
24 WE WILL SEE YOU ALL AT 1:30 THIS AFTERNOON. JUST LEAVE
25 YOUR NOTEBOOKS ON YOUR SEATS.

26
27 (THE FOLLOWING PROCEEDINGS WERE
28 HELD IN OPEN COURT OUTSIDE THE

1 PRESENCE OF THE JURY.)

2
3 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
4 THAT ALL OUR JURORS AND ALTERNATES HAVE LEFT THE
5 COURTROOM. AND WE NEEDED TO RECESS BECAUSE OF THE ORDER
6 THAT THE COURT MADE THE OTHER DAY ABOUT THE PEOPLE HAVING
7 A RIGHT TO LOOK AT -- STRIKE THAT -- THE, YES, THE PEOPLE
8 HAVING A RIGHT TO LOOK AT THE DEFENDANT'S, I GUESS,
9 PRESENTATION.

10 MS. SARIS: THEY'RE LOOKING AT IT NOW.

11 THE COURT: THEY'RE LOOKING AT IT NOW? DO WE
12 NEED TO DISCUSS ANYTHING OUTSIDE THE PRESENCE AT THIS
13 POINT OR DO YOU WANT TO --

14 MR. JACKSON: YOUR HONOR, WE'RE GOING TO NEED AN
15 OPPORTUNITY TO SIT DOWN AND KIND OF OBSERVE THIS JUST A
16 LITTLE BIT.

17 MS. SARIS: CAN WE JUST TAKE 15 MINUTES MAYBE?

18 THE COURT: OKAY. WE WILL TAKE A 15-MINUTE
19 RECESS. THANK YOU.

20 (BRIEF RECESS.)

21 THE COURT: ON THE GOODWIN MATTER, MR. GOODWIN IS
22 PRESENT WITH COUNSEL. THE PEOPLE ARE REPRESENTED. THERE
23 ARE NO JURORS OR ALTERNATES THAT ARE PRESENT.

24 MR. DIXON: YOUR HONOR, I HAVE SEVERAL PIECES OF
25 PAPER THAT COUNSEL HAS GIVEN TO ME. AND MAYBE I'LL MAKE
26 MY RECORD AND THEN OFFER IT TO THE COURT. ONE OF THE
27 SLIDES APPARENTLY THAT WILL BE SHOWN IS A LETTER DATED
28 MAY 17TH, 1988, FROM DELORES CORDELL TO THE SHERIFF'S

1 DEPARTMENT. AND IT APPEARS TO BE HEARSAY.

2 IN THE LETTER -- AND DELORES CORDELL WHO
3 WAS ONE OF THE THOMPSON LAWYERS -- IN THE LETTER IT SAYS
4 "ACCORDING TO HIS ATTORNEY, THE GOODWINS ARE PRESENTLY
5 IN FLORIDA AND ALL THEIR EFFECTS ARE IN STORAGE." IT
6 SEEMS TO ME THAT THAT'S CLEARLY DOUBLE HEARSAY. DELORES
7 CORDELL WILL TESTIFY. BUT WHAT IS IN THE LETTER IS
8 REALLY THREE LEVELS OF HEARSAY FROM GOODWIN TO HIS
9 ATTORNEYS TO DELORES CORDELL. AND I THINK THAT'S
10 IMPROPER UNLESS COUNSEL CAN LAY A PROPER FOUNDATION FOR
11 IT.

12 NEXT THERE IS A CLIP OUT OF A LOCAL
13 NEWSPAPER, APPARENTLY THE HERALD EXAMINER ACCORDING TO
14 THE BI-LINE. "DETECTIVES PLEAD FOR HELP IN THE THOMPSON
15 CASE." AND THEN A SERIES OF THREE PHOTOGRAPHS. IT
16 APPEARS TO ME THAT THAT'S CLEARLY HEARSAY.

17 AND THEN LASTLY, A HIGHLIGHT OF A LETTER
18 FROM OCTOBER 19TH, 1988, FROM AN ALLEN H. STOKES. IN THE
19 HIGHLIGHTED PART AND THE PART THAT I HAVE A PROBLEM WITH
20 IS CLEARLY MEANT TO COMMUNICATE TO THE JURY. "AS I HAVE
21 TOLD YOU BEFORE, I'M IN REGULAR COMMUNICATION WITH MY
22 CLIENT. HE IS NOT RUNNING OR HIDING FROM YOU. IF YOU
23 WANT HIM IN CALIFORNIA FOR ANY LAWFUL REASON, I WILL
24 PRODUCE HIM." AGAIN THAT'S HEARSAY. AND WE WOULD OBJECT
25 TO THAT. CAN I HAVE JUST ONE MORE MOMENT?

26 (DISCUSSION OFF THE RECORD.)

27 MR. DIXON: THANK YOU, YOUR HONOR. THAT WOULD BE
28 IT. WOULD THE COURT LIKE THESE? MAY I APPROACH?

1 THE COURT: SURE.

2 MR. DIXON: I'VE PUT A POST-IT NOTE ON EACH OF
3 THE PAPERS THAT I REFERRED TO.

4 THE COURT: THANK YOU. ALL RIGHT. MS. SARIS.

5 MS. SARIS: YES, YOUR HONOR. THEIR PRESENTATION
6 INCLUDED NEWSPAPER CLIPPINGS AS WELL. IT'S DEMONSTRATIVE
7 EVIDENCE. IT SIMPLY SHOWS THAT THE DETECTIVE ASKED
8 FOR -- THE ONLY THING THAT'S GOING TO BE LEGIBLE IS THE
9 HEADLINE "DETECTIVES PLEAD FOR HELP IN THE THOMPSON CASE"
10 SHOWING THAT IT HAPPENED. AND IT GOES ALONG WITH OUR
11 THEORY THAT ORIGINALLY THEY DIDN'T KNOW WHAT HAPPENED.

12 AGAIN, IT'S DEMONSTRATIVE MUCH LIKE THE
13 ANAHEIM HEADLINES WERE IN THE PEOPLE'S CASE. THE LETTER
14 FROM AL STOCKY, AL STOCKY IS EXPECTED TO TESTIFY. THE
15 IMPLICATION WAS THAT MR. GOODWIN WAS FLEEING THE COUNTRY
16 AND HIDING. BOTH OF THESE LETTERS SHOW THAT THE LAWYERS
17 WERE IN CONTACT, WHICH IS ALL THAT IS REQUIRED IN THE
18 BANKRUPTCY.

19 SO THE FACT THAT DELORES CORDELL HAD HEARD
20 FROM MICHAEL GOODWIN'S ATTORNEY IS EVIDENCE THAT HE
21 WASN'T HIDING OR FLEEING THE COUNTRY, WHICH WAS THE
22 IMPLICATION THAT THE PEOPLE MADE IN THEIR OPENING. AND
23 THAT AL STOCKY HAD ACTUALLY BEEN IN TOUCH WITH MICHAEL
24 GRIGGS AND SAID I'M WILLING TO PRODUCE HIM.

25 AGAIN, AL STOCKY WILL TESTIFY. AND IF YOU
26 LOOK CLOSELY AT THAT, THERE IS A NOTATION ON THE
27 LETTER -- THOUGH NOT HIGHLIGHTED FOR THE JURY -- THAT
28 ACTUALLY MICHAEL GRIGGS WROTE INDICATING THAT HE LEFT A

1 MESSAGE FOR STOCKY ONCE HE RECEIVED THAT. SO THIS WAS
2 WRITTEN BY HIM. IT'S DEMONSTRATIVE OF THE FACT THAT
3 WHILE MICHAEL GOODWIN MAY HAVE BEEN DOING OTHER THINGS
4 REGARDING THE BANKRUPTCY, HE WAS LETTING THE POLICE KNOW
5 WHERE HE WAS AT EVERY TURN.

6 MR. DIXON: IT'S STILL HEARSAY, YOUR HONOR. AND
7 IN ADDITION TO THAT ON THE ARTICLE, THAT HEADLINE IS
8 HEARSAY. AND THAT'S BEING OFFERED FOR THE TRUTH OF THE
9 MATTER BY THE DEFENSE. AND IN ADDITION TO THAT, AMONG
10 THE PHOTOGRAPHS AS YOU LOOK AT THE PAGE ON THE RIGHT-HAND
11 SIDE AT THE BOTTOM IS A PICTURE OF JOEY HUNTER. AND I
12 THOUGHT --

13 MR. JACKSON: THAT'S A PICTURE OF A COMPOSITE.

14 MS. SARIS: IT IS A COMPOSITE.

15 MR. DIXON: IT'S A COMPOSITE OF JOEY HUNTER.
16 IT'S CLEARLY SUPPOSED TO BE JOEY HUNTER. AT LEAST THAT'S
17 WHAT THE DEFENSE IS --

18 THE COURT: WHICH ONE ARE YOU REFERRING TO? THE
19 NEWSPAPER ARTICLE?

20 MS. SARIS: THE NEWSPAPER, YES.

21 MR. DIXON: THE NEWSPAPER ARTICLE. AND I THOUGHT
22 THAT WE WEREN'T GOING TO GET INTO THAT UNTIL THE DEFENSE
23 HAD CLEARED THAT WITH THE COURT.

24 MS. SARIS: I HAVE NO INTENTION OF INTRODUCING
25 THAT INDIVIDUAL AS JOEY HUNTER. THOSE WERE THE
26 COMPOSITES THAT WERE MADE. THE FACT THAT HE LOOKS
27 UNCANNILY LIKE JOEY HUNTER KIND OF GOES TO OUR
28 THIRD-PARTY THEORY.

1 THE COURT: WHAT ARE YOU OFFERING THE DELORES
2 CORDELL LETTER FOR? BECAUSE THAT WOULD CLEARLY BE
3 HEARSAY; WOULDN'T IT?

4 MS. SARIS: WELL, THAT THE LAWYERS THAT WERE
5 TALKING TO ONE ANOTHER. THE IMPLICATION IS THAT MICHAEL
6 HAD RUN AWAY. AND THIS WAS HAMMERED HOME WITH THE
7 PICTURES OF THE BOAT AND THE FACT THAT YOU CAN MOVE
8 ADDRESSES. IT IS CLEAR THAT DELORES CORDELL WAS NOT ONLY
9 ASSISTING THE POLICE BECAUSE THIS LETTER IS ADDRESSED TO
10 THE POLICE, BUT WAS IN TOUCH WITH MICHAEL'S ATTORNEY AT
11 THE TIME.

12 SO MICHAEL, FOR ALL OF THE RUNNING THEIR
13 CLAIMING HE DID, HAD HIS LAWYERS CONTACTING -- HIS
14 CRIMINAL LAWYER CONTACTING MICKEY THOMPSON'S LAWYERS.
15 AND WHEN DELORES CORDELL TESTIFIES, WE EXPECT THAT TO BE
16 SHOWN TO HER. IF NOT FOR THE TRUTH OF THE FACT THAT SHE
17 BELIEVED IT NECESSARILY, BUT THAT SHE THEN PASSED THAT
18 INFORMATION ALONG TO LAW ENFORCEMENT.

19 THE COURT: WELL, IF YOU ARE OFFERING FOR
20 NON-HEARSAY PURPOSES, THAT'S ONE THING. BUT IF YOU ARE
21 OFFERING IT TO PROVE THAT MR. GOODWIN WAS STAYING IN
22 TOUCH WITH HIS ATTORNEY, I THINK THE OBJECTION OF HEARSAY
23 IS WELL TAKEN.

24 MS. SARIS: THAT DELORES CORDELL WAS STAYING IN
25 TOUCH WITH MICHAEL'S ATTORNEY. BUT THE NON-HEARSAY
26 PURPOSE IS SHE WAS INDICATING TO THE POLICE WHERE HE WAS.
27 THIS WAS NOT A MAN HUNT, THIS WAS NOT --

28 THE COURT: OKAY. WHICH IS NON-HEARSAY PURPOSE.

1 MS. SARIS: YES.

2 THE COURT: IF THAT'S WHAT YOU ARE OFFERING IT
3 FOR, THAT'S HOW IT WILL BE LIMITED.

4 MR. DIXON: WELL, BUT WHAT IS THE RELEVANCE IN
5 THE NON-HEARSAY PURPOSE? THAT'S CLEARLY JUST A COVER.
6 THE TRUTH OF THE MATTER IS THE DEFENSE WOULD LIKE TO
7 ARGUE TO THIS JURY THAT BASED ON THAT LETTER, THE
8 DEFENDANT WASN'T RUNNING.

9 THE COURT: OKAY. BUT I JUST SAID THAT THEY
10 CAN'T DO THAT RIGHT NOW.

11 MS. SARIS: I WOULD LIKE TO JUST POINT OUT THE
12 PEOPLE'S PICTURES WEREN'T ON THE RECORD. THEY INTRODUCED
13 A LETTER FROM BILL REDFIELD, A BOAT BROKER, SAYING THAT
14 THE LOAN HAD CLOSED ON A PARTICULAR DAY. AGAIN, THE
15 LETTER ITSELF IS HEARSAY. IT'S DEMONSTRATIVE FOR WHAT
16 THEY WERE SAYING, WHICH IS THE LOAN WAS CLOSING ON A
17 PARTICULAR DAY. AND THEY WERE ABLE TO SHOW THOSE LETTERS
18 AS WELL AS OTHER LETTERS TO THIS JURY IN THE OPENING
19 STATEMENT. IF IT'S INTRODUCED FOR ACTUAL EVIDENCE TO THE
20 JURY, WE CAN ARGUE ABOUT THAT. BUT IT'S DEMONSTRATIVE
21 EVIDENCE THAT THEY ENGAGED IN AS WELL.

22 THE COURT: OKAY. BUT THE SENTENCE IN THIS
23 LETTER THAT I'M FINDING TO BE HEARSAY IS "ACCORDING TO
24 HIS ATTORNEY, THE GOODWINS ARE PRESENTLY IN FLORIDA." IF
25 YOU WANT TO SHOW THIS TO THE JURY AND ARGUE ALONG THE
26 LINES THAT DELORES CORDELL WAS COOPERATING, THEN THAT'S
27 NOT FOR THE TRUTH OF THE MATTER ASSERTED. YOU CAN DO
28 THAT.

1 BUT IF YOU ARE GOING TO ARGUE OR AT LEAST
2 MAINTAIN IN YOUR OPENING STATEMENT THAT THE GOODWINS ARE
3 PRESENTLY IN FLORIDA AND THEY WANT LAW ENFORCEMENT TO
4 KNOW WHERE THEY ARE, THAT'S CLEARLY A HEARSAY PURPOSE.
5 SO I WILL ASK YOU JUST TO LIMIT YOUR COMMENTS.

6 MS. SARIS: I THINK THE EXACT THING I HAD WAS A
7 LETTER FROM THOMPSON LAWYERS TELLING POLICE THEY HAD
8 HEARD FROM GOODWIN ATTORNEY.

9 THE COURT: OKAY. THE NEWSPAPER ARTICLE WITH THE
10 COMPOSITES, I DON'T KNOW, WHAT IS THAT BEING OFFERED FOR?
11 JUST THE --

12 MS. SARIS: IT'S A SEGUE FROM THIS IS THE STORY
13 OF THEIR LIFE TO THE MURDER HAPPENED. IT'S JUST A
14 VISUAL. IT'S NOT GOING TO BE ON LONG ENOUGH FOR ANYONE
15 TO READ THE TEXT.

16 THE COURT: SO IT'S JUST A VISUAL. AND THE ALLEN
17 STOCKY --

18 MS. SARIS: AL STOCKY.

19 THE COURT: -- AL STOCKY LETTER. "AS I HAVE TOLD
20 YOU BEFORE, I AM IN REGULAR COMMUNICATION WITH MY CLIENT.
21 HE'S NOT RUNNING OR HIDING FROM YOU. IF YOU WANT HIM
22 PRESENT IN CALIFORNIA FOR ANY LAWFUL REASON, I WILL
23 PRODUCE HIM." AND THE OFFER ON THAT IS?

24 MS. SARIS: THAT HE'S NOT RUNNING OR HIDING. AND
25 THAT THIS LETTER WAS SENT TO MICHAEL GRIGGS, WHO WAS THE
26 LEAD INVESTIGATOR IN OCTOBER OF 1988. AND THE PEOPLE'S
27 OPENING SUGGESTED HEAVILY THAT MICHAEL WAS ON THE RUN.

28 MR. DIXON: AND OUR OBJECTION IS THAT THAT LETTER

1 IS HEARSAY UNLESS MR. GOODWIN IS GOING TO TAKE THE STAND
2 AND SAY THAT HE TOLD HIS ATTORNEY THAT AND THE ATTORNEY
3 COMMUNICATED IT. OTHERWISE IT'S HEARSAY FROM GOODWIN.

4 MS. SARIS: THE POINT IS THAT THE LAWYER HAD
5 OFFERED TO PRODUCE HIM. THE POLICE NEVER ASKED THE
6 LAWYER TO MAKE GOOD ON THIS. SO IT DOESN'T MATTER WHAT
7 GOODWIN HAD TOLD STOCKY. IT'S THAT STOCKY WAS SAYING, IF
8 YOU WANT HIM -- IT WAS STOCKY'S POSITION -- IF YOU WANT
9 HIM, I WILL PRODUCE HIM.

10 THERE WERE LETTERS FROM THE BOAT PEOPLE
11 INTRODUCED IN THE PEOPLE'S OPENING. THERE WERE
12 PHOTOGRAPHS OF OTHER LETTERS THAT WERE SENT INDICATING
13 THAT MICHAEL WAS ON THE RUN.

14 MR. DIXON: WELL, THAT'S A LOGICAL INFERENCE THAT
15 CAN BE DRAWN FROM OUR EVIDENCE. WE WILL PRODUCE LOAN
16 DOCUMENTS, THE WHOLE TRACK THERE THAT'S ADMISSIBLE
17 EVIDENCE TO BE ABLE TO ARGUE THAT TO THIS JURY.

18 THE COURT: I DON'T THINK THAT THE DEFENSE CAN
19 TAKE THIS OCTOBER 19TH LETTER AND ARGUE THAT HE IS NOT --
20 OR LAST LEAST MAINTAIN AND TELL THE JURY THAT THIS LETTER
21 SHOWS HE IS NOT RUNNING OR HIDING. I THINK --

22 MS. SARIS: THE PHRASE THAT I HAVE IS THAT LETTER
23 FROM GOODWIN'S ATTORNEY TELLING THE POLICE THAT HE WOULD
24 PRODUCE HIM AT ANY TIME.

25 THE COURT: YOU KNOW, THAT'S SOMETHING I ASSUMED
26 THAT -- IS THIS LAWYER GOING TO BE TESTIFYING IN THIS
27 CASE?

28 MS. SARIS: YES.

1 THE COURT: AND HE IS GOING TO MAINTAIN THAT HE,
2 WHAT, WAS IN CONTACT WITH MR. GOODWIN?

3 MS. SARIS: MR. GOODWIN, IN FACT, SAT DOWN WITH
4 THE POLICE AT ONE POINT; BUT HE WAS IN CONTACT. AND,
5 YES, HE HAD NEVER ONCE BEEN ASKED TO BRING HIM BACK TO
6 CALIFORNIA.

7 THE COURT: ALL RIGHT. YOU KNOW, FOR THE
8 NON-HEARSAY PURPOSE THAT THE LAWYER OFFERED TO PRESENT
9 MR. GOODWIN, I DON'T HAVE ANY PROBLEM WITH THAT. BUT I
10 DO HAVE A PROBLEM WITH THE OTHER PART OF THAT STATEMENT.

11 IS THERE ANYTHING ELSE WE NEED TO DISCUSS?

12 MR. DIXON: NO. THANK YOU, YOUR HONOR.

13 THE COURT: OKAY. SO WE WILL RESUME AT 1:30.
14 THANK YOU.

15 MR. JACKSON: THANK YOU, YOUR HONOR.

16
17 (AT 12:00 P.M. A RECESS WAS TAKEN
18 UNTIL 1:30 P.M. OF THE SAME DAY.)

19 --000--
20
21
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, NOVEMBER 6, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION

8
9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: ALL RIGHT. BACK ON THE RECORD IN THE
14 GOODWIN MATTER. THE DEFENDANT IS PRESENT WITH HIS
15 COUNSEL. THE PEOPLE ARE REPRESENTED. WE DON'T HAVE ANY
16 JURORS PRESENT JUST YET.

17 ANYTHING BEFORE WE BRING THEM IN?

18 MS. SARIS: THIS IS BEING VERY SLOW, THAT'S ALL.

19 THE COURT: ANYTHING?

20 MR. DIXON: NO. THANK YOU, YOUR HONOR.

21 THE COURT: OKAY. WE ARE JUST WAITING FOR ALL OF
22 THEM TO ARRIVE.
23

24 (THE JURY ENTERED THE COURTROOM
25 AND THE FOLLOWING PROCEEDINGS WERE
26 HELD IN OPEN COURT.)
27

28 THE COURT: RESUMING IN THE GOODWIN MATTER. WE

1 HAVE ALL OF OUR JURORS AND ALTERNATES ONCE AGAIN PRESENT
2 THIS AFTERNOON. THE PARTIES ARE PRESENT.

3 MS. SARIS, DO YOU WISH TO PRESENT YOUR
4 OPENING STATEMENT?

5 MS. SARIS: YES. THANK YOU.

6
7 **OPENING STATEMENT**

8 MS. SARIS: GOOD AFTERNOON.

9 THE JURY: GOOD AFTERNOON.

10 MS. SARIS: I'M GOING TO ASK YOU TO KEEP AN OLD
11 STORY IN MIND AS WE PROCEED THROUGH THIS CASE. IT'S AN
12 OLD CHILDREN'S FAIRYTALE CALLED "THE EMPERORS'S NEW
13 CLOTHES." AT THE END OF THIS CASE, I'M GOING TO ASK YOU
14 TO HAVE THE COURAGE TO STAND UP AND SAY, BUT THIS IS
15 NAKED; NAKED SUSPICION. THEY'VE PROVEN NOTHING AT ALL.

16 WHAT THE EVIDENCE WILL SHOW IS THAT THE
17 KILLERS OF MICKEY AND TRUDY THOMPSON HAVE NEVER BEEN
18 IDENTIFIED; NEVER BEEN NAMED; NEVER BEEN CAUGHT; NEVER
19 BEEN ARRESTED. THE POLICE HAVE NO MURDER WEAPON; NO
20 FORENSIC EVIDENCE; NOTHING TYING ANY INDIVIDUAL TO THIS
21 CRIME, MUCH LESS TYING MICHAEL GOODWIN TO THESE UNKNOWN
22 ASSASSINS.

23 THERE IS NO PROOF OF A PAY OUT; A PLAN; A
24 MONEY DROP TO WOULD-BE ASSASSINS. THERE IS NOTHING BUT A
25 TWO-YEAR-OLD BUSINESS DISPUTE THAT THE POLICE SUSPECTED
26 MAY BE BEHIND THE MURDERS IN 1988. 18 YEARS LATER THE
27 POLICE STILL HAVE THEIR SUSPICIONS.

28 THIS IS A STORY OF A VERY BRUTAL MURDER; A

1 BOTCHED POLICE INVESTIGATION; AND A HOLLYWOOD VERSION OF
2 EVENTS THAT HAS BEEN PERPETUATED THAT HAS NO BASIS IN
3 REALITY. WE'RE GOING TO SHOW YOU THAT THE CIRCUMSTANTIAL
4 EVIDENCE THAT YOU HAVE HEARD DISCUSSED THIS MORNING IS
5 BASED ON FAULTY ASSUMPTIONS. AND ONCE THOSE ASSUMPTIONS
6 ARE EXPOSED AS FALSE, THE CASE WILL FALL APART LIKE A
7 HOUSE OF CARDS.

8 IN 1984, MICHAEL GOODWIN HAD HIMSELF A
9 PRETTY NICE LIFE. HE COMBINED -- HE HAD A HOUSE; A
10 BEAUTIFUL WIFE; A BEAUTIFUL HOUSE. HE HAD A BUSINESS
11 THAT COMBINED HIS HOBBIES AND HIS TALENT. HE INVENTED
12 WHAT IS KNOWN AS SUPERCROSS, INDOOR MOTORCYCLE RACING.

13 IN 1972 HE WAS THE FIRST PERSON TO BRING
14 MOUNDS OF DIRT INTO STADIUMS AND BUILD MOGULS AND HILLS
15 AROUND A CIRCULAR TRACK AND GET MOTORCYCLE RACERS TO RACE
16 AROUND THAT TRACK AS CLOSE AS YOU ARE ALL TO ONE ANOTHER.
17 HOW HIGH CAN YOU MAKE THIS MACHINE FLY? HOW FAST CAN YOU
18 GO? IT'S THE SAME PRINCIPLE THAT THE X-GAMES ARE BUILT
19 ON NOW.

20 WHEN MICHAEL WAS IN HIS HEY DAY, HE HELD
21 SEVEN OUT OF THE TOP TEN ATTENDANCE RECORDS AT ANAHEIM
22 STADIUM BEFORE HE EVEN MET MICKEY THOMPSON. ONLY BILLY
23 GRAHAM CONSISTENTLY ATTRACTED MORE PEOPLE TO STADIUM
24 EVENTS THAN MICHAEL GOODWIN. 70,000 PEOPLE AT ONE POINT
25 CAME TO SEE ONE OF HIS SHOWS.

26 AROUND THIS SAME TIME, MICKEY THOMPSON
27 ALSO HAD A SUCCESSFUL COMPANY. HE WASN'T INVOLVED IN THE
28 PROMOTION AS MUCH OF INDOOR RACING, BUT HE PARLAYED HIS

1 1950'S FAME FROM BREAKING THE SPEED RECORD IN BONNEVILLE
2 INTO A VERY SUCCESSFUL CAREER.

3 IN MARCH OF 1988, MICKEY THOMPSON AND HIS
4 WIFE TRUDY WERE FOUND MURDERED. OVER THE NEXT SEVERAL
5 WEEKS WE EXPECT WITNESSES TO BE PRESENTED TO YOU THAT WE
6 THINK WILL FALL INTO THREE CATEGORIES.

7 THE POLICE WITNESSES WHO ARE IMPORTANT
8 BECAUSE WHAT THEY'RE GOING TO DO IS EXPLAIN SOME OF THE
9 CRIME SCENE. BUT THERE IS GOING TO BE SOME SORT OF A
10 SCHISM BETWEEN THE POLICE VERSION OF EVENTS AND WHAT
11 WE'RE CALLING THE HOLLYWOOD FOLKLORE VERSION OF EVENTS.

12 THE OTHER WITNESSES THAT WE'RE GOING TO
13 PRESENT TO YOU HAVE TO DO WITH WHAT WE CALL ANIMOSITY
14 WITNESSES. THESE ARE WITNESSES WHO ARE COMING IN FOR THE
15 SOLE PURPOSE OF TELLING YOU THAT MICHAEL GOODWIN AND
16 MICKEY THOMPSON DIDN'T GET ALONG. AND THAT IN 1986
17 MICHAEL GOODWIN SAID SOME PRETTY HARSH THINGS IN THE HEAT
18 OF A LAWSUIT.

19 WE'RE ALSO GOING TO BE HEARING FROM
20 BANKRUPTCY AND BUSINESS PEOPLE. AND THIS IS WHEN YOU'LL
21 HEAR FROM TOM SUMMERS. BECAUSE MR. SUMMERS IS GOING TO
22 BE DISCUSSING WITH YOU THE FINANCIAL WITNESSES IN THIS
23 CASE; THE TRUSTEES; THE ACCOUNTANTS; AND THE LAWYERS.

24 ALL OF THEM WILL TELL YOU -- AND WE WILL
25 MAKE NO DISPUTE ABOUT IT -- HARSH WORDS WERE SPOKEN.
26 THIS WAS A BITTER LAWSUIT BY TWO MEN WHO HAD GONE INTO
27 BUSINESS AFTER BEING INVOLVED IN AN INCREDIBLY BRASH,
28 LOUD, ARROGANT, TESTOSTERONE-FILLED SPORT. AND THEY

1 BROUGHT THAT INTO THEIR BUSINESS HABITS. AND, YES, HARSH
2 WORDS WERE SPOKEN.

3 WE'RE ALSO GOING TO INTRODUCE YOU TO
4 PEOPLE THAT WE BELIEVE THE EVIDENCE WILL SHOW WERE EITHER
5 SEEKING A REWARD; THEIR 15 MINUTES OF FAME; OR TWO WOMEN
6 IN PARTICULAR THAT HAVE AN AXE TO GRIND WITH MICHAEL
7 GOODWIN. AND, FINALLY, WE'RE GOING TO ASK YOU TO LOOK AT
8 THE ACTUAL EYEWITNESSES TO THE CRIME.

9 THESE ARE INDIVIDUALS THAT WILL TELL YOU
10 THAT CERTAIN LEADS AND OBVIOUS SIGNS THAT THIS MAY HAVE
11 BEEN A ROBBERY WERE OVERLOOKED ONCE SUSPICION FOCUSED ON
12 MICHAEL GOODWIN.

13 WHAT I FIRST WANT TO TALK TO YOU ABOUT THE
14 HOLLYWOOD VERSION OF EVENTS. THIS FOLKLORE THAT HAS BEEN
15 GENERATED BY TELEVISION PROGRAMS AND THE MEDIA.
16 BASICALLY, THE MOST DANGEROUS OF ALL OF THESE WHEN THIS
17 CRIME HAPPENED WAS THAT THE POLICE WENT TO THE PRESS;
18 WENT TO THE TELEVISION SHOWS. AND THE TELEVISION SHOWS
19 DID THEIR OWN RECREATIONS. THE TELEVISION SHOWS HIRED
20 ACTORS AND DID THEIR OWN RECREATION OF WHAT HAPPENED.

21 WHAT WE'RE GOING TO SHOW IS THAT ONE OF
22 THINGS THAT WAS GENERATED FROM THIS RECREATION WAS THIS
23 IDEA THAT MICKEY WAS FORCED TO WATCH TRUDY DIE. ONE OF
24 THE THINGS THAT IS MOST CONSISTENT IN THIS CASE IS THE
25 EYEWITNESSES THAT -- OR THE EAR WITNESSES, AS COUNSEL
26 DESCRIBED IN THE CANYON YOU COULD HEAR. AND WHAT THEY
27 ALL SAID BASICALLY WAS THERE WAS A BURST OF GUNFIRE.

28 MICKEY DID YELL, "DON'T HURT MY WIFE.

1 DON'T HURT TRUDY." ANOTHER BURST OF GUNFIRE. A PAUSE.
2 A SMALLER BURST OF GUNFIRE. AND THEN ONE SHOT THAT RANG
3 OUT IN THE END THAT WAS LOUDER THAN THE OTHERS. THAT
4 TURNED OUT TO BE ONE OF THE MICKEY THOMPSON'S NEIGHBORS
5 ACTUALLY SHOOTING AT WHO HE THOUGHT THE KILLERS WERE AS
6 THEY SPED BY HIS HOUSE. BUT THE OTHER INFORMATION IS
7 VERY CONSISTENT, THE BURST OF GUNFIRE IN PARTICULAR
8 TIMES.

9 NOT ONE REPORT, NOT ONE WITNESS IN 1988
10 SAID MICKEY THOMPSON WAS FORCED TO WATCH HIS WIFE DIE.
11 YOU WILL NO HEAR EVIDENCE OF THAT AT ALL. THAT DIDN'T
12 COME ALONG UNTIL HOLLYWOOD GOT INVOLVED. AND LET ME MAKE
13 THIS VERY CLEAR: THIS IS A BRUTAL, HORRIBLE MURDER. IT
14 NEEDED NO HOLLYWOOD EMBELLISHMENT WHATSOEVER. BUT
15 HOLLYWOOD CAME KNOCKING.

16 AND ONE OF THE THINGS THAT I'M GOING TO
17 SHOW YOU NOW IS AN ACTUAL CLIP OF AN INDIVIDUAL WHO WENT
18 ON A TELEVISION PROGRAM. MANY OF THE PEOPLE THAT YOU'RE
19 GOING TO SEE TODAY CAME FORWARD TO THE POLICE AFTER
20 SEEING THESE TELEVISION PROGRAMS. SO YOU CAN UNDERSTAND
21 IF A MYTH WAS GENERATED THAT WAS NOT TRUE AND THESE
22 PEOPLE SAW IT AND THEN CAME TO THE POLICE, THAT'S
23 SOMETHING THAT YOU SHOULD KEEP IN MIND.

24 THIS IS A CLIP OF AN INDIVIDUAL WHO DID
25 NOT WITNESS THIS CRIME. HE WAS THE NEXT DOOR NEIGHBOR
26 WHO TOOK A SHOT AT THE PEOPLE HE THOUGHT WAS RESPONSIBLE.
27 HE DID NOT SEE WITH HIS OWN EYES THIS MURDER. AND I HAVE
28 THE SOUND OFF.

1 THE COURT: ARE WE KEEPING THE SOUND OFF?

2 MS. SARIS: NO.

3 THE COURT: ARE WE GOING TO GET A STIPULATION
4 THAT THE COURT REPORTER DOESN'T HAVE TO TRANSCRIBE THIS
5 INFORMATION?

6 MS. SARIS: YES.

7 MR. DIXON: SO STIPULATED, YOUR HONOR.

8 THE COURT: THANK YOU.

9 MS. SARIS: THAT'S A WITNESS WHO DID NOT VIEW THE
10 CRIME, BUT HAS GONE ON TELEVISION AS LATE AS 2001, AS
11 EARLY AS 1989 AND DESCRIBED THIS HOLLYWOOD VERSION OF
12 EVENTS THAT MICKEY WAS FORCED TO WATCH TRUDY DIE.

13 WHAT WE WILL SHOW YOU FOR THE FIRST TIME
14 IN THIS CASE IS THE ACTUAL BALLISTIC EVIDENCE. THE
15 ACTUAL SCIENTIFIC FIREARMS EXPERTS FORMER POLICE OFFICERS
16 WHO WENT TO THE CRIME SCENE; WHO DIAGRAMED THE CRIME
17 SCENE; WHO LOOKED AT WHERE THE BULLETS WERE; WHO LOOKED
18 AT WHERE THE CASINGS WERE; WHO HAVE COME UP WITH A
19 RECREATION OF THIS CRIME FROM A SCIENTIFIC, NOT A
20 HOLLYWOOD STANDPOINT.

21 AND WHAT THEY HAVE DETERMINED, YOU WILL
22 HEAR, IS THAT MICKEY WAS SHOT SEVERAL TIMES AND HE WAS
23 SHOT IMMEDIATELY. YOU'LL ACTUALLY HEAR THERE IS A POLICE
24 TERM FOR THIS. IT'S CALLED "CRITICAL MASS." IF SOMEONE
25 IS APPROACHING YOU, YOU DON'T AIM FOR THEIR HEAD OR THEIR
26 LEGS; YOU AIM FOR THEIR TORSO. YOU AIM FOR THE BIGGEST
27 TARGET AND YOU AIM OVER AND OVER AGAIN. AND THAT'S WHAT
28 HAPPENED IN THIS CASE.

1 ALSO, THAT ONE KILLER WAS A BETTER SHOT
2 THAN THE OTHER. YOU'VE HEARD THE TERM PROFESSIONAL HIT
3 MAN. ONE OF THINGS YOU WILL HEAR ABOUT THIS CRIME IS
4 THAT LIVE ROUNDS WERE EXPENDED FROM THE BULLET. MEANING
5 THE INDIVIDUAL HAD NO IDEA HOW TO HANDLE HIS WEAPON.
6 IT'S LIKE ON TELEVISION WHEN YOU SEE SOME POLICE OFFICER,
7 HE TAKES THE TOP BACK OF HIS GUN AND THEN HE DOES IT FOUR
8 MORE TIMES.

9 WELL, IN REALITY WHEN YOU DO THAT, A LIVE
10 BULLET SHOOTS OUT OF THE GUN. AND THAT'S WHAT HAPPENED
11 IN THIS CASE. THESE WEREN'T PROFESSIONAL HIT MEN. THEY
12 HAD NO IDEA HOW TO HANDLE A WEAPON. WE WILL ALSO SHOW
13 YOU THAT BOTH KILLERS SHOT AT BOTH VICTIMS. AND BUT FOR
14 ONE BEING A MUCH WORSE SHOT THAN THE OTHER, BOTH OF THE
15 VICTIMS WOULD HAVE DIED IN THE DRIVEWAY AT THE TOP OF THE
16 DRIVEWAY.

17 THIS IS A PICTURE -- AN OVERALL PICTURE OF
18 THE CRIME SCENE. I'M GOING TO SPEND A LOT OF TIME THIS
19 AFTERNOON TALKING ABOUT THE CRIME SCENE. I HAVE NO
20 INTENTION OF RELITIGATING THE LAWSUIT IN THIS CASE OR THE
21 BANKRUPTCY. THIS IS ABOUT A MURDER THAT OCCURRED ON
22 MARCH 16TH, 1988.

23 WHAT WE'VE DONE IS TAKEN A DIAGRAM OF THIS
24 CRIME SCENE -- THIS PICTURE WAS TAKEN THE MORNING OF --
25 AND WE'VE MADE OUR DIAGRAM OF IT. YOU'RE GOING TO GET
26 THIS IN MORE DETAIL. BUT BASICALLY, AGAIN, WE'VE PLOTTED
27 THE EXPENDED CASINGS, THE LIVE ROUNDS, AND THE BULLETS.
28 WE'VE GIVEN THEM DIFFERENT DESIGNATIONS. AND FOR THE

1 PURPOSE OF CLARITY, WE'VE COLOR COATED THEM. THE FIRST
2 GUNMAN IN RED; THE SECOND GUNMAN IN GREEN.

3 WHAT WE KNOW IS THAT RIGHT AWAY THE FIRST
4 THREE SHOTS SHOWN BY THIS -- THOSE THREE CIRCLES WHICH
5 ARE CASINGS. THE EXPERT WILL TELL YOU CASINGS EJECT TO
6 THE RIGHT. SO WE KNOW THAT THE INDIVIDUAL WHO WAS
7 SHOOTING WAS STANDING SOMEWHERE TO THE LEFT OF THESE
8 THREE CIRCLES.

9 IMMEDIATELY THEY HIT MICKEY THOMPSON.
10 THERE IS A VERY CIRCULAR WOUND IN HIS TORSO. HE HAD
11 ENOUGH TIME TO PUT HIS HAND OVER HIS STOMACH BEFORE THE
12 SECOND AND THIRD SHOTS. AND THOSE SHOTS WENT THROUGH
13 MICKEY'S HAND AND INTO HIS TORSO. THEY WERE MADE AT SUCH
14 CLOSE RANGE THAT THEY CONTINUED THROUGH HIM AND
15 ACTUALLY -- THEY WERE CLOSE ENOUGH RANGE TO CONTINUE
16 THROUGH HIM AND GO TO THE GARAGE, BUT THERE IS NO SOOT OR
17 STIPPLING. THAT'S WHAT IS IMPORTANT.

18 THIS IS AN AUTOPSY REPORT (INDICATING).
19 SOOT OR STIPPLING IS WHEN YOU PUT A GUN UP TO SOMEONE'S
20 HEAD OR UP TO SOMEONE'S BODY, IT ACTUALLY LEAVES BURNS;
21 POWDER; GUN POWDER COMES AND FIRES. THERE WASN'T ANY OF
22 THAT IN EITHER OF THESE BODIES. THAT MEANS THEY WERE A
23 MINIMUM OF TWO TO THREE FEET AWAY. CLOSE ENOUGH THOUGH
24 FOR THE GUN TO DISCHARGE AND GO THROUGH TO THE GARAGE AND
25 EXIT INSIDE THE GARAGE ACTUALLY LANDING IN THE WALL OF
26 THE INTERIOR OF THE GARAGE.

27 THE FOURTH BULLET WHICH IS WHAT IS SO
28 IMPORTANT IN THIS CASE -- ALL THREE BULLETS WERE IN A

1 VERY SMALL CIRCULAR LOCATION, MEANING THAT THE INDIVIDUAL
2 WHO WAS SHOT DID NOT MOVE VERY FAR. THE FOURTH BULLET
3 WENT OFF TRAJECTORY, WENT OFF DIFFERENTLY. AND THAT'S
4 THE BULLET THAT WOUND UP EXITING HIS BUTTOCKS. AND
5 THAT'S BECAUSE HE WAS FALLING.

6 AND THE CORONERS WILL TELL YOU AND THE
7 BALLISTICS EXPERTS WILL TELL YOU SEVERAL MAJOR ORGANS
8 WERE DAMAGED FROM THESE WOUNDS. NO ONE GOT UP AFTER
9 THIS. MICKEY THOMPSON WHEN HE FELL, HE FELL AND THAT WAS
10 IT. AND YOU WILL SEE IF WE DO GET TO TAKE YOU TO THE
11 CRIME SCENE, IF YOU ARE LYING ON THAT DRIVEWAY, THE GRADE
12 OF THAT DRIVEWAY IS SO STEEP YOU CANNOT SEE SOMEONE WHO
13 IS LYING AT THE BOTTOM. YOU CAN ONLY SEE SOMEONE IF
14 YOU'RE STANDING ON THE TOP OF THE DRIVEWAY AND STANDING
15 ON THE BOTTOM OF THE DRIVEWAY AND YOU ARE OF A PARTICULAR
16 HEIGHT. IF YOU'RE LYING ON THE DRIVEWAY, YOU HAVE NO
17 VIEW OF ANYTHING BELOW THE CERTAIN STEEP GRADE.

18 ALSO, WHAT WE WANT YOU TO KEEP IN MIND
19 WHEN YOU SEE THIS DIAGRAM AND HAVE IT EXPLAINED TO YOU,
20 IS THAT THE GREEN, THE SECOND SHOOTER UP IN THE CORNER --
21 AND I'VE LEFT MY POINTER. DO YOU HAVE A POINTER? THAT'S
22 OKAY.

23 UP IN THE CORNER AT THE TOP BODY THERE ARE
24 TWO ONE GREEN ROUND AND ONE GREEN TRIANGLE. AS THE
25 KILLERS WERE EXITING, AS MICKEY THOMPSON LAY ON THE
26 GROUND, THEY DID WALK UP AND SHOOT HIM IN THE HEAD. AND
27 THEY KNOW THAT MICKEY WAS ON THE GROUND WHEN THAT
28 HAPPENED BECAUSE OF THE ANGLE OF THE WOUND. THAT'S THE

1 SECOND LITTLE BURST OF GUNFIRE THAT CAME AFTER THE HUGE
2 PAUSE.

3 BUT WHAT IS IMPORTANT TO KNOW WHEN WE GET
4 TO THIS DIAGRAM IS THE CASING THAT WAS MARKED NO. 8.
5 THIS CASING WAS NEARLY HALFWAY DOWN THE DRIVEWAY AND IT
6 CAME FROM THE FIRST GUNMAN. THIS CASING SHOWS THAT THE
7 PERSON WHO SHOT AT MICKEY INITIALLY, WALKED HALFWAY DOWN
8 THE DRIVEWAY AND TRIED TO SHOOT AT TRUDY. NOT A
9 SITUATION WHERE ONE WAS ON ONE PERSON AND ONE WAS ON THE
10 OTHER PERSON AND THERE WAS ANY INCAPACITATION GOING ON.

11 WHAT OTHER THINGS DOES THE CRIME SCENE
12 HOLD THAT WE HAVEN'T TALKED ABOUT? THERE ARE SEVERAL
13 ACRYLIC FINGERNAILS THAT WERE IN THE CRIME SCENE. THESE
14 WERE LOCATED IN THE PORTIONS HERE (INDICATING). IT'S
15 IMPORTANT TO NOTE NO. 1. NO. 1 WHICH IS THE FAR RIGHT
16 CORNER -- AND, AGAIN, THIS WILL ALL BE EXPLAINED IN
17 DETAIL BY THE EXPERT -- IS OUT OF THE DRIVEWAY AND
18 TOWARDS MT. OLIVE.

19 TRUDY WASN'T PULLED FROM HER VEHICLE. SHE
20 RAN AWAY AND NEARLY GOT AWAY AND SOMETHING MADE HER
21 CHANGE HER MIND AND COME BACK. I DON'T KNOW IF SHE SAW
22 SOMETHING. I DON'T KNOW IF THERE WERE PEOPLE CHASING
23 HER. BUT THAT FINGERNAIL SHOWED SHE EXITED THE DRIVEWAY;
24 TURNED TO HER LEFT; AND CAME BACK; AND WAS SHOT AT THE
25 BASE OF HER DRIVEWAY.

26 AGAIN, IT IS A BRUTAL CRIME. IT NEEDS NO
27 HOLLYWOOD EMBELLISHMENT. BUT THE THING ABOUT THESE
28 FINGERNAILS THAT I WANT YOU TO KEEP IN MIND -- THIS IS

1 HOW THEY LOOKED (INDICATING). THEY WERE ACRYLIC SO THEY
2 BROKE FAIRLY EASILY. BUT THEY BROKE AT THE CRIME SCENE.
3 AND ANY FORENSIC SPECIALIST WILL TELL YOU THAT CONTACT
4 LEAVES A TRACE. SO TRUDY THOMPSON EITHER HAD CONTACT
5 WITH THE GROUND OR HER ASSAILANT. AND THESE NAILS WERE
6 BROKEN OFF AND THEY WERE COLLECTED AND THEY WERE
7 PRESERVED; AS WERE FINGERNAILS OF THE DEAD VICTIMS.

8 IN OTHER WORDS, THERE IS ACTUALLY CORONERS
9 PEOPLE WHO GO TO CRIME SCENES WHEN THE VICTIMS WEREN'T
10 TRANSPORTED TO THE HOSPITAL. IT WAS QUITE CLEAR BY THE
11 TIME THE POLICE ARRIVED THAT THEY HAD DECEASED. HE THEN,
12 THIS SPECIALIST, CUTS THEIR FINGERNAILS OFF AND SCRAPES
13 UNDERNEATH IT TO SEE IF ONE OF THE VICTIMS MAY HAVE HAD
14 CONTACT WITH THEIR ASSAILANT AND PERHAPS TEST THAT
15 INFORMATION. THAT WAS DONE IN THIS CASE AND YOU WILL SEE
16 THAT EVIDENCE.

17 WHAT I WANT TO SHOW YOU IN THE NEXT SLIDE
18 IS SOMETHING THAT WE THINK SUMS UP THIS ENTIRE CASE.
19 WELL, THAT'S NOT IT. THAT'S THE INSIDE OF THE ENVELOPE.

20 THIS IS WHAT WE BELIEVE SUMS UP THIS
21 ENTIRE CASE. AND THE LIGHT IS ON THIS SO I'M GOING TO
22 SHOW YOU ANOTHER VIEW. YOU WILL HEAR FROM A WOMAN BY THE
23 NAME OF LYNN HAROLD. LYNN HAROLD WORKS FOR THE SHERIFF'S
24 DEPARTMENT. SHE USED TO WORK FOR THE CORONERS WHEN THEY
25 HAD THEIR OWN LITTLE CSI TEAM.

26 SHE WILL TELL US THAT BACK IN THE DAY WHEN
27 THEY WENT TO CRIME SCENES THEY WERE GIVEN ENVELOPES.
28 THESE ARE THE ENVELOPES THEY WERE GIVEN. AND THE WHITE

1 SEAL WAS PREPACKAGED ON THE ENVELOPE, SO THAT WHEN THE
2 TECHNICIAN WAS IN THE CORONER'S DEPARTMENT AND GOT A CALL
3 TO GO TO RESPOND TO A HOMICIDE, THEY KNEW TO TAKE THE
4 ENVELOPES THAT HAD THE WHITE SEAL. THAT MEANS THEY WERE
5 STERILE. THERE WAS NOTHING IN THEM.

6 WHAT THE TECHNICIANS WERE THEN SUPPOSED TO
7 DO WAS BREAK THAT SEAL; PUT EVIDENCE INSIDE THAT THEY
8 COLLECTED; AND THEN TAPE RED OVER IT. THAT'S WHAT THEY
9 DID IN THIS CASE. THEY BROKE THE WHITE SEAL; THEY TAPED
10 RED OVER IT. THE VERY BOTTOM OF THE SLIDE IS A RULER
11 THAT WE HAVE -- OUR EXPERT PUT DOWN IN THE PICTURE TO
12 SHOW SCALE.

13 WHAT IS IMPORTANT TO NOTE ON THIS RULER IS
14 THE DATE, AUGUST 2ND OF 2006. THIS MATERIAL LAY IN THE
15 SHERIFF'S EVIDENCE LOCKER FROM MARCH 16, 1988 UNTIL
16 AUGUST 2ND, 2006 WHEN THE DEFENSE DEMANDED THAT IT BE
17 TESTED. AUGUST 2ND, 2006. AND NOT JUST THIS ENVELOPE.
18 EVERY SINGLE PIECE OF PHYSICAL EVIDENCE THAT WAS TAKEN
19 FROM THE CRIME SCENE WAS NOT TESTED FOR DNA UNTIL THE
20 DEFENSE REQUESTED IT BE TESTED.

21 NOW YOU MIGHT SAY, WELL, THIS CRIME WAS IN
22 1988. IT WOULD HAVE BEEN PRETTY SOPHISTICATED OF A
23 POLICE DEPARTMENT TO HAVE DNA TESTING. AND THAT IS TRUE.
24 BUT THEY HAD IT IN THE '90S. YOU'LL SEE THIS CASE WAS
25 REINVESTIGATED CLOSELY IN '92; '95; '97, 2001. NOT ONE
26 DETECTIVE SAT THERE, NOT ONE DETECTIVE, AND SAID, WELL,
27 IS THERE ANY GENETIC MATERIAL WE CAN TEST? IT DID NOT
28 HAPPEN. THIS WAS NOT TESTED UNTIL THE DEFENSE TESTED IT.

1 WHAT ELSE WAS FOUND AT THE CRIME SCENE?
2 THE STAR INDICATES A STUN GUN. THIS IS A TASER. NOW
3 THIS WAS SOMETHING THAT INITIALLY THE POLICE THOUGHT WAS
4 VERY IMPORTANT. AGAIN, IT ADDED TO THIS FOLKLORE.
5 MICKEY WAS INCAPACITATED. HE WAS GOING TO BE FORCED TO
6 WATCH TRUDY DIE. THE THEORY WAS THAT WHOEVER HIRED THESE
7 PROFESSIONAL ASSASSINS, ACCORDING TO HOLLYWOOD, MUST HAVE
8 BROUGHT THIS STUN GUN WITH THEM.

9 AND, LOOK, IT HAS TAPE ON IT. AND WHAT
10 THE TAPE WAS SIGNIFICANT FOR IS THAT THE ORIGINAL
11 INVESTIGATING OFFICERS, NOT HAVING MUCH EXPERIENCE WITH
12 TASERS AND STUN GUNS, ACTUALLY THOUGHT THAT ON THE
13 BATTERY PLATE THERE WAS A UNIQUE AND IDENTIFIABLE,
14 TRACEABLE NUMBER, LIKE A SERIAL NUMBER ON A GUN ON STUN
15 GUNS. IT TURNS OUT THAT'S NOT THE CASE. YOU CAN BUY
16 THESE IN ANY HARDWARE STORE. I THINK YOU ARE GOING TO
17 HEAR YOU COULD EVEN BUY THEM IN SOME RURAL GAS STATIONS.
18 THERE IS NO WAY TO TRACE THEM TO THE OWNER.

19 BUT ORIGINALLY THEY THOUGHT IT WAS
20 SIGNIFICANT BECAUSE THE TAPE WAS SUPPOSED TO HAVE HELD IN
21 THE BATTERY. AND THE BATTERY PACK WAS SUPPOSED TO HAVE
22 BEEN REMOVED TO KEEP IT FROM BEING TRACED. SO WHAT THEY
23 DID WAS THEY PRESERVED THIS TAPE. AND ON THIS TAPE IN
24 1988 THEY REMOVED A HAIR. THERE WAS A HAIR ON THE
25 MASKING TAPE.

26 NOW KEEP IN MIND THIS IS PART OF WHAT WAS
27 GENERATED. THE KILLERS MUST HAVE PROVIDED THE STUN GUN,
28 THE HIRED PERSON TO THESE INDIVIDUALS. AND THERE WAS A

1 HAIR ON THIS TAPE. AND THAT IS THE HAIR (INDICATING).
2 THAT IS THE SERIAL NUMBER SHOWING THAT'S THE HAIR THAT
3 THIS SAMPLE WAS REFERRED TO AS. AND WHAT HAPPENED? IT
4 LIE DORMANT IN A SHERIFF'S EVIDENCE LOCKER FOR 18 YEARS.

5 YOU WILL HEAR TESTIMONY THAT THE DETECTIVE
6 IN THIS CASE FLEW TO VARIOUS STATES ASKING EVERYONE WHO
7 EVER KNEW MICHAEL GOODWIN IF HE OWNED A STUN GUN. AND
8 WHILE HE WAS DOING THAT, THIS HAIR LIE DORMANT IN A
9 SHERIFF'S EVIDENCE LOCKER. AND WHAT DID WE DO? WE
10 PETITIONED THE COURT TO HAVE IT TESTED AND THEN WE TESTED
11 MICHAEL GOODWIN. THEREFORE MICHAEL GOODWIN AND HIS
12 MATERNAL RELATIVES ARE EXCLUDED AS THE SOURCE OF THIS
13 HAIR.

14 NOW WHEN YOU TEST A HAIR FOR DNA, IT'S
15 CALLED MITOCHONDRIAL TESTING. THAT'S A BIG WORD FOR
16 SAYING IT'S ONLY FROM WHAT YOU GET FROM MOM. IT'S NOT AS
17 SOPHISTICATED AS NUCLEAR TESTING IF YOU ARE TRYING TO
18 INCLUDE SOMEONE, IF YOU ARE TRYING TO SAY IT IS A MATCH.
19 BUT IF IT EXCLUDES YOU, IT EXCLUDES YOU 100 PERCENT.
20 THIS HAIR ON THE STUN GUN AT THE CRIME SCENE DID NOT
21 BELONG TO MICHAEL GOODWIN.

22 THERE IS ANOTHER MYTH THAT HOLLYWOOD --
23 AND ACTUALLY TODAY -- THAT HAS BEEN GENERATED. AND THAT
24 IS THAT MICHAEL GOODWIN FLED THE COUNTRY AFTER THESE
25 MURDERS. SOME CONSCIOUSNESS OF GUILT ON HIS PART. WE
26 WILL SHOW YOU THAT, IN FACT, THIS IS NOT TRUE. WHAT
27 MICHAEL GOODWIN DID IN MAY OF 1988 WAS GET IN A VAN WITH
28 HIS WIFE DIANE AND DRIVE TO JACKSONVILLE, FLORIDA.

1 HE HAD RECENTLY PURCHASED A 57-FOOT
2 WELLINGTON YACHT. THIS IS NOT SOMETHING THAT YOU CAN
3 WALK INTO THE 7/11 AND SAY I'LL HAVE TWO BOATS AND A
4 HOUSE. THERE IS ESCROWS. THERE IS BROKERS. IT TAKES
5 MONTHS TO DO THIS. HE HAD RECENTLY PURCHASED THIS. HE
6 GOT ON THE BOAT -- HE GOT ON THE BOAT IN JACKSONVILLE.
7 HE TOOK THAT BOAT UP TO SOUTH CAROLINA.

8 HOW DO WE KNOW THAT? THEY HAVE ALL THE
9 RECORDS. HE GOT PHONES INSTALLED ON THAT BOAT,
10 TELEPHONES AT THE MARINA ON THAT BOAT. HE THEN TOOK THAT
11 BOAT THROUGH THE FLORIDA KEYS; WENT DOWN TO CENTRAL
12 AMERICA. YOU WILL HEAR EVIDENCE THIS IS SOME OF THE BEST
13 SCUBA DIVING COUNTRY IN THE WORLD. MICHAEL WAS A WORLD
14 CLASS DIVER; AN AWARD WINNING UNDERWATER PHOTOGRAPHER.

15 AND THEN AFTER HE TOOK THAT BOAT DOWN TO
16 CENTRAL AMERICA, HE BROUGHT IT BACK UP TOWARDS THE
17 ALABAMA AREA. ALL THE WHILE HE WAS FLYING BACK AND FORTH
18 TAKING CARE OF BUSINESS IN CALIFORNIA. THEY HAVE HIS
19 PASSPORTS. WHAT THEY ALSO HAVE IS AFTER HE DID THIS, HE
20 SETTLED IN COLORADO TO LIVE CLOSE TO HIS PARENTS. THERE
21 WAS NEVER A TIME WHERE THE POLICE WERE LOOKING FOR
22 MICHAEL GOODWIN AND HE WAS NO WHERE TO BE FOUND.

23 IN FACT, WE'RE GOING TO SHOW YOU A LETTER
24 FROM AL STOCKY, MICHAEL GOODWIN'S ATTORNEY BACK IN 1988,
25 WHERE HE WROTE AND TOLD THE POLICE, "AS I TOLD YOU
26 BEFORE, I'M IN REGULAR COMMUNICATION WITH MY CLIENT. HE
27 IS NOT RUNNING OR HIDING FROM YOU. IF YOU WANT HIM
28 PRESENT IN CALIFORNIA FOR ANY LAWFUL REASON, I WILL

1 PRODUCE HIM."

2 YOU WILL HEAR NO EVIDENCE THAT THE POLICE
3 EVER, EVER ASKED MICHAEL GOODWIN TO COME BACK AND HE
4 REFUSED. IT DID NOT HAPPEN. YOU WILL ALSO SEE A LETTER
5 FROM MICKEY THOMPSON'S LAWYERS INDICATING THAT THE
6 LAWYER -- MICHAEL GOODWIN'S LAWYER WAS IN TOUCH WITH THEM
7 AS WELL. INDICATING TO THEM, THAT HE KNEW WHERE MICHAEL
8 WAS.

9 AND, FINALLY -- AND THESE NAMES YOU WILL
10 RECOGNIZE, DELORES CORDELL AND PHIL BARTINETTI, BECAUSE
11 THEY'LL BOTH BE HERE. YOU'LL SEE THAT TELEPHONES WERE
12 INSTALLED ON THE BOAT IN THE MARINAS. AND THERE WAS ALSO
13 SEVERAL ITEMS OF BOATING SUPPLIES BEING PURCHASED IN
14 MICHAEL GOODWIN'S AND DIANE GOODWIN, HIS WIFE AT THE
15 TIME. THERE WERE NO ALIASES BEING USED. THERE WAS NO
16 ATTEMPT TO DECEIVE ANYONE. HE HAD PHONES. HE BOUGHT
17 SUPPLIES. HE WENT ON HIS BOAT TRIP AS PLANNED.

18 DON'T MISTAKE THE FACT THAT MICHAEL
19 GOODWIN WAS TRYING TO KEEP HIS ASSETS OUT OF THE THOMPSON
20 JUDGMENT FOR THE FACT THAT HE WAS RUNNING FROM THE
21 POLICE. THESE LETTERS WILL SHOW YOU AND THE LAWYER WILL
22 TELL YOU THAT AT NO TIME DID THE POLICE ASK HIM TO COME
23 BACK AND HE REFUSED.

24 WHICH BRINGS US NOW TO THE BANKRUPTCY
25 WITNESSES. I'M NOT GOING TO GO INTO AS MUCH DETAIL
26 BECAUSE, FRANKLY, I DON'T WANT TO BORE YOU IN THE
27 AFTERNOON. BUT, ESSENTIALLY, WHAT IS IMPORTANT TO KNOW
28 IS WHEN THESE TWO INDIVIDUALS GOT TOGETHER, MICHAEL

1 GOODWIN AND MICKEY THOMPSON, IT SEEMED LIKE IT WOULD BE
2 OR SHOULD BE THE PERFECT MATCH.

3 MICHAEL HAD BUILT HIS EMPIRE IN
4 MOTORCYCLES. MICKEY HAD BUILT HIS EMPIRE IN CARS. IT
5 WOUND UP BEING THE PERFECT STORM. AS THE DISTRICT
6 ATTORNEY TOLD YOU, THE LAWSUITS CAME RIGHT AWAY.
7 LAWSUITS; COUNTER SUITS; WRITS; APPEALS; ARGUMENTS; COURT
8 APPEARANCES. AND INDEED MICKEY THOMPSON WON A JUDGMENT
9 OF OVER \$500,000. IT SOUNDS LIKE A LOT OF MONEY. BUT AS
10 YOU HEARD AND WILL HEAR, THAT IS ONE WEEKEND GATE
11 RECEIPT. ONE WEEKEND.

12 WHAT MICHAEL GOODWIN DID IN RESPONSE TO
13 THAT LAWSUIT IS SIMPLY REFUSE TO PAY. WRIT AFTER WRIT
14 AFTER WRIT THE LAWYERS PREPARED TRYING TO LEVY MICHAEL'S
15 PROPERTY. IN TWO YEARS THEY GOT A COUPLE OF ENGINE PARTS
16 AND LESS THAN \$2,000 ON A \$500,000 JUDGMENT. AGAIN, YOU
17 MIGHT NOT THINK OF THIS AS HONORABLE BEHAVIOR, BUT IT IS
18 NOT EVIDENCE OF A MURDER.

19 THEN GOODWIN'S LAWYERS TOOK AN EVEN BIGGER
20 STAND. AND I SAID "GOODWIN'S LAWYERS." HE HAD LAWYERS
21 DURING THIS WHOLE PERIOD. THEY DECLARED BANKRUPTCY. NOW
22 BANKRUPTCY PROTECTION, AS THE AIRLINES HAVE TOLD US AND
23 SHOWN US OVER THE YEARS, DOES NOT MEAN LIKE YOU'RE SOME
24 COLLEGE KID WHO CAN'T PAY HIS CREDIT CARD DEBT.
25 BANKRUPTCY PROTECTION FOR A CORPORATION OR AN INDIVIDUAL
26 WITH ASSETS ALLOWS YOU TO CONTINUE TO FUNCTION AS A
27 BUSINESS BUT KEEPS YOUR CREDITORS AT BAY.

28 IN THIS CASE, ALL OF THE LAWYERS WILL TELL

1 YOU THAT THAT MEANS THAT DURING THE TIME THAT MICHAEL
2 GOODWIN WAS IN BANKRUPTCY, MICKEY THOMPSON COULD NOT LEVY
3 HIS PROPERTY. IT WAS ILLEGAL. IT WOULDN'T HAVE
4 HAPPENED. MICHAEL GOODWIN DECLARED BANKRUPTCY IN 1986.

5 BUT ONE THING TO KEEP ALSO IN MIND ABOUT
6 THIS LAWSUIT, IS THAT MICHAEL HAD LAWYERS AND THEY KNEW
7 THE INTRICACIES OF BANKRUPTCY. AND MICKEY THOMPSON HAD
8 LAWYERS AND THEY KNEW THE INTRICACIES. AND THEY WERE
9 BATTLING; TRYING TO GET PROPERTY INTO THE BANKRUPTCY
10 ACCOUNT; TRYING TO KEEP PROPERTY OUT OF THE BANKRUPTCY
11 ACCOUNT.

12 MICKEY THOMPSON AND MICHAEL GOODWIN HAD
13 REACHED A SETTLEMENT OF THAT JUDGMENT DAYS BEFORE MICKEY
14 THOMPSON WAS MURDERED. AND AFTER MICKEY THOMPSON WAS
15 MURDERED, AFTER, MICHAEL GOODWIN WENT THROUGH WITH THAT
16 NEGOTIATED SETTLEMENT AND HE SIGNED A NON-DISCHARGE
17 AGREEMENT. THIS WAS A STIPULATION ON MICHAEL'S PART.
18 THIS WASN'T A COURT CASE THAT MICHAEL LOST. IT IS A
19 STIPULATED AGREEMENT BETWEEN THE PARTIES.

20 THE LAWYERS WILL TELL YOU, IT WAS IN THE
21 WORKS PRIOR TO THOMPSON BEING KILLED. AND EVEN AFTER
22 MICKEY THOMPSON WAS KILLED, MICHAEL GOODWIN WENT AHEAD
23 AND SIGNED THIS DOCUMENT. THAT SAYS, I HAVE A
24 BANKRUPTCY. I OWE YOU, YOU AND YOU. AND I'M TAKING THIS
25 DEBT AND I'M DOING IT SEPARATELY. AND THAT WAS A
26 NEGOTIATED DEAL BETWEEN MICKEY THOMPSON AND MICHAEL
27 GOODWIN THAT MICHAEL GOODWIN MADE GOOD ON EVEN AFTER
28 MICKEY THOMPSON DIED.

1 AND IT'S ANOTHER THING TO NOTE WHEN MICKEY
2 THOMPSON DIED, THAT AFFECTED THIS JUDGMENT NOT ONE IOTA.
3 THE MONEY IS STILL OWED AND STILL OUTSTANDING TO THE
4 ESTATE EVEN NOW. AND IT'S GONE UP INTO OVER A MILLION
5 WITH INTEREST. IT'S STILL OUTSTANDING. THERE WAS NO
6 FINANCIAL GAIN FOR MICHAEL GOODWIN WHEN MICKEY THOMPSON
7 DIED.

8 IN FACT, WHAT WOUND UP HAPPENING IS MICKEY
9 THOMSON GOT INFUSED HIS BUSINESS WITH MILLIONS OF DOLLARS
10 OF INSURANCE. IT WOULD SEEM THAT WOULD BE THE LAST THING
11 A BUSINESS RIVAL WOULD WANT TO DO. BUT THE MONEY, THE
12 JUDGMENT REMAINS UNPAID TO THIS DAY.

13 THERE IS ONE INVESTMENT THAT YOU WILL HEAR
14 ABOUT, YOU HEARD A LITTLE ABOUT IT TODAY. AND THIS IS
15 THE ONLY TIME I'M GOING TO GET REMOTELY INVOLVED IN THE
16 FINANCIAL DEALINGS. BECAUSE, AS I SAID, MR. SUMMERS IS
17 GOING TO DEAL WITH THAT ASPECT.

18 BUT BASICALLY WHEN MICHAEL GOODWIN LOST
19 THE LAWSUIT, AS ANYONE WHO LOSES A LAWSUIT AND HAS THE
20 INTENTION OF APPEALING COULD DO, YOU HAVE A COUPLE OF
21 OPTIONS. YOU CAN SAY TO YOUR CREDITOR, THE PERSON WHO
22 WON, OKAY, I'M GOING TO TAKE THE MONEY THAT I OWE YOU AND
23 I'M GOING TO PUT IT INTO AN ACCOUNT, LIKE AN ESCROW
24 ACCOUNT. AND I'M GOING TO APPEAL BECAUSE I THINK YOU'RE
25 WRONG. AND THAT WAY THE CREDITOR CAN'T COME AFTER YOUR
26 ASSETS BECAUSE YOU SET ASIDE THIS MONEY JUST IN CASE.

27 THERE ARE ALSO, YOUR WILL HEAR, COMPANIES
28 THAT WILL DO THAT, BONDING COMPANIES. SAY, YOU THE PAY

1 THE BONDING COMPANY MONEY AND THEY PUT THAT MONEY ASIDE
2 AND THEN YOUR CREDITORS CAN'T COME AFTER YOU WHILE YOU
3 APPEAL.

4 THERE IS A THIRD OPTION AND IT HAS TO BE
5 ACCEPTED BY THE COURT. AND THAT IS CALLED A PERSONAL
6 SURETY. THAT'S WHERE YOUR FRIENDS COME TO YOU OR YOU
7 OFFER YOUR FRIENDS; YOUR LAWYERS OFFER YOUR FRIENDS UP;
8 AND SAY, OKAY, MICHAEL GOODWIN IS APPEALING THIS. I HAVE
9 THIS MONEY COMING TO ME. IT IS AN INVESTMENT. IT IS A
10 REAL ESTATE INVESTMENT KNOWN AS JGA WHITEHAWK. IT'S
11 COMING TO ME. I KNOW IT'S GOING TO HIT BIG.

12 AND WHAT I WOULD LIKE TO DO IS APPEAL THE
13 JUDGMENT WITHOUT -- AND GET YOU OFF MY BACK AND BE ABLE
14 TO JUST GO ON WITH MY BUSINESS. AND THESE PEOPLE WILL
15 STAND UP; MY WIFE DIANE AND SOME OF HER RELATIVES,
16 FRIENDS, WILL STAND UP AND SAY IF MICHAEL GOODWIN LOSES
17 THIS APPEAL, WE ARE HERE WITH THIS INVESTMENT.

18 MICKEY THOMPSON'S LAWYERS WENT INTO COURT
19 AND THEY PERSUADED THE JUDGE, DON'T ACCEPT THIS. THE
20 INVESTMENT ISN'T WORTH ANYTHING. WE WILL NEVER SEE A
21 DIME. AND THE JUDGE AGREED WITH THEM. THEY WERE WRONG.

22 THE JGA WHITEHAWK INVESTMENT HIT MILLIONS,
23 MILLIONS. AND DIANE TOOK HER PROCEEDS, HER PROCEEDS.
24 DIANE GOODWIN IS NOT MICHAEL GOODWIN. DIANE GOODWIN HAD
25 HER OWN INVESTMENT. AND ONE OF THEM WAS JGA WHITEHAWK.
26 SHE TOOK HER PROCEEDS AND THEY WENT TO FLORIDA ON A
27 \$400,000 BOAT AND THEY CRUISED AROUND THE BAHAMAS ON THAT
28 MONEY.

1 MICHAEL GOODWIN DID NOT EXPERIENCE ANY
2 SORT OF A FINANCIAL HARDSHIP UNTIL MICKEY THOMPSON'S
3 LAWYERS WISED UP TO THIS INVESTMENT AND TOOK IT INTO THE
4 BANKRUPTCY ESTATE. THAT WAS SEVERAL MONTHS AFTER MICKEY
5 HAD BEEN MURDERED, SEVERAL MONTHS LATER. UP UNTIL THAT,
6 THEY ARE LIVING ON A YACHT CRUISING THE BAHAMAS ON THIS
7 INVESTMENT THAT THEY HAD OFFERED UP TO THIS JUDGMENT AND
8 IT HAD BEEN REJECTED.

9 EVENTUALLY, IT WAS TAKEN INTO THE
10 BANKRUPTCY ACCOUNT. AND YOU WILL HEAR THAT AT ONE POINT
11 THIS ACCOUNT HAD OVER \$800,000 IN IT, ENOUGH TO PAY
12 NEARLY EVERY CREDITOR. GUESS WHO GOT PAID? THE LAWYERS;
13 THE TRUSTEES; AND THE ACCOUNTANTS.

14 SO THIS INVESTMENT WAS A BIG DEAL, BUT IT
15 WAS DIANE'S INVESTMENT. AND THAT IS THE INVESTMENT THAT
16 RESULTED IN THE PURCHASE OF THE GOLD; THAT RESULTED IN
17 THE PURCHASE OF THE COINS; THAT WAS THEN SENT TO THIS
18 OFFSHORE ACCOUNT.

19 AND DID DIANE DO HER BEST TO KEEP THIS
20 MONEY OUT OF THE THOMPSON JUDGMENT? ABSOLUTELY. AND WAS
21 IT ABOVE BOARD? YES. WAS IT LEGAL? YES. WAS IT DONE
22 IN THEIR NAMES? YES. THAT'S HOW THEY KNEW ABOUT IT.
23 THESE WERE TRANSACTIONS THAT WERE REGISTERED. THESE WERE
24 TRANSACTIONS THAT WERE LEGAL. THESE WERE TRANSACTIONS IN
25 DIANE'S NAME. AND THAT'S WHAT THEY LIVED ON UNTIL THAT
26 MONEY WAS TAKEN INTO THE BANKRUPTCY ESTATE MONTHS AFTER
27 MICKEY THOMPSON WAS KILLED.

28 IN FACT, ON PAPER THEY DIDN'T EVEN HAVE A

1 RIGHT TO ACCESS THAT MONEY UNTIL JANUARY OF '89. AND IT
2 TOOK SEVERAL MORE MONTHS TO ACTUALLY GET THE ACTUAL
3 MONEY.

4 THE OTHER GROUP OF PEOPLE THAT WE THINK
5 YOU MIGHT HEAR ABOUT IN THIS CASE ARE PEOPLE WHO SAY THAT
6 HARSH WORDS WERE SPOKEN. AND WHAT I REALLY WANT YOU TO
7 KEEP IN MIND AS YOU HEAR THESE WITNESSES COME BEFORE YOU,
8 IS THAT THIS LAWSUIT HAPPENED IN 1986. AND WHAT I'M
9 CALLING ANIMOSITY WITNESSES REALLY ARE TALKING ABOUT
10 THINGS THAT HAPPENED IN THE HEAT OF THE MOMENT BETWEEN
11 MICHAEL GOODWIN AND MICKEY THOMPSON.

12 AND WHAT I REALLY WANT YOU TO KEEP IN MIND
13 IS WE'VE TALKED ABOUT THIS FOLKLORE THAT'S BEEN GENERATED
14 AND THESE TELEVISION SHOWS THAT HAVE COME THROUGH. I
15 WOULD LIKE YOU TO JUST TAKE NOTE OF THE WITNESSES THAT
16 CAME FORWARD TO THE POLICE PRIOR TO THE REWARDS BEING
17 ANNOUNCED AND HOLLYWOOD TAKING THIS CASE AND THE
18 WITNESSES THAT ARE COMING FORWARD AFTERWARDS.

19 ON THE LEFT SIDE WE HAVE BILL WILSON.
20 THAT'S IT. EVERY OTHER WITNESS, KATHY WEESE; GAIL
21 HUNTER; BARRON WEHINGER; SCOTT HERNANDEZ; JOHN WILLIAMS;
22 KAREN DRAGUTIN; BRANDON BRASSMAN; KYLE DICKERSON; JOEL
23 WEISSLER; MARILYN LARSON; SUSAN -- ALL OF THEM AFTER THE
24 REWARD UP TO \$1 MILLION WAS ANNOUNCED AND MICHAEL'S FACE
25 HAD BEEN PLASTERED ON TELEVISION ON AMERICA'S MOST
26 WANTED, ON 48 HOURS AS THE MAIN SUSPECT IN THE MURDER OF
27 MICKEY THOMPSON. ONLY AFTER, SOME 14 YEARS AFTER THE
28 FACT.

1 THE FIRST WITNESS WE WANT TO TALK TO YOU
2 ABOUT IS BILL WILSON. BILL WILSON WAS ACTUALLY A STADIUM
3 PROMOTER. HE WAS IN CHARGE OF THE ROSE BOWL AT ONE POINT
4 AND HE WAS ALSO IN CHARGE OF SAN DIEGO STADIUM. AND HE
5 IS A RETIRED POLICE OFFICER.

6 NOW IT'S INTERESTING TO NOTE THAT THERE
7 WAS SOME TALK THAT THE ROSE BOWL WAS THIS GREAT MONEY
8 GENERATING EVENT. MOST PROMOTERS WILL TELL YOU -- AND IF
9 ANYONE HAS ANY CONTACT WITH PASADENA -- THE ROSE BOWL IS
10 A VERY DIFFICULT EVENT TO PUT ON BECAUSE THE NEIGHBORS
11 ARE SO PICKY ABOUT WHAT GOES ON THERE; AND THE NOISE; AND
12 THE CROWDS; AND THE PARKING. IT IS NOT THE MONEY-MAKING
13 EVENT THAT THE OTHER STADIUMS CAN GENERATE.

14 BUT BILL WILSON IS COMING IN TO TELL YOU
15 ABOUT A DINNER PARTY THAT HE HAD. AND AT THAT DINNER
16 PARTY HE INVITED MICHAEL GOODWIN AND HIS WIFE. AND HE
17 WILL TELL YOU THAT WHEN HE WAS FIRST CONTACTED BY THE
18 POLICE IN AUGUST OF 1988, HE SAID THIS DINNER PARTY WAS
19 APPROXIMATELY ONE YEAR AGO. THAT PUTS THE DINNER PARTY
20 IN AUGUST OF 1987. THINGS WERE SAID; HARSH WORDS WERE
21 SAID AT THIS DINNER PARTY, INCLUDING, "I SHOULD HAVE HIM
22 RUBBED OUT. I'M GOING TO TAKE HIM OUT" OR "TAKE HIM
23 DOWN. I WOULD KILL HIM. I DIDN'T MEAN IT."

24 AND THEN BILL WILSON YEARS LATER BROUGHT
25 UP THE FACT THAT HE SAID, "YOU KNOW, MICHAEL, IN THAT
26 SITUATION NO ONE WINS." IT'S IMPORTANT TO NOTE THAT WHEN
27 BILL WILSON IS INTERVIEWED ABOUT THIS PARTY, IT KEEPS
28 GETTING CLOSER AND CLOSER TO THE ACTUAL MURDER. WHEN

1 HE'S ASKED TO RELATE IT TO EVENTS IN HIS LIFE -- AND
2 LET'S BE FAIR BECAUSE A 20-YEAR OLD EVENT IS HARD TO PIN
3 DOWN. BUT YOU RELATE IT TO SOMETHING IN YOUR LIFE. TELL
4 ME WAS IT WHEN YOU BOUGHT A HOME. WHEN YOU BOUGHT A NEW
5 CAR.

6 HE SAY, YEAH, IT WAS WHEN I BOUGHT MY NEW
7 HOME. THAT WOULD PUT THIS CONVERSATION IN 1984. IF IT
8 WAS WHEN HE REMODELED HIS HOME AND HE MISSPOKE, THAT
9 WOULD PUT THIS CONVERSATION IN 1986. BUT THE ONE THING
10 HE DOES REMEMBER IS THAT MICHAEL GOODWIN SHOWED UP TO HIS
11 HOUSE DRIVING A MERCEDES. A MERCEDES THAT YOU HAVE HEARD
12 ABOUT. AND HE WAS MAD, MAD BECAUSE MICKEY THOMPSON HAS
13 SEIZED HIS MERCEDES.

14 IF THAT'S WHEN THIS CONVERSATION OCCURRED,
15 THEN THIS CONVERSATION OCCURRED IN 1986. I HAVE NO
16 OBLIGATION TO PROVE ANYTHING TO YOU BEYOND A REASONABLE
17 DOUBT. I WILL PROMISE YOU RIGHT NOW, I WILL PROVE TO YOU
18 BEYOND A REASONABLE DOUBT MICHAEL GOODWIN'S MERCEDES WAS
19 TOWED IN 1986. AND HE GOT IT BACK 30 DAYS LATER. THAT'S
20 IT. 1986 FOR 30 DAYS.

21 WHO YOU WILL HEAR FROM ABOUT THE MERCEDES
22 THE MOST IS A MAN BY THE NAME OF JOHN WILLIAMS. JOHN
23 WILLIAMS WAS AN ORANGE COUNTY MARSHAL. HE REMEMBERS THIS
24 CASE BECAUSE THE NAME MICKEY THOMPSON WAS ON THE
25 PAPERWORK AND HE WAS A FAN. WELL, IF MICKEY THOMPSON
26 TOWED MICHAEL GOODWIN'S MERCEDES TO SATISFY A JUDGMENT,
27 IT WOULD HAVE TO BE 1986. IT SIMPLY COULD NOT BE 1988.
28 AND THE PEOPLE'S OWN ATTORNEYS WILL TELL YOU AS MUCH.

1 BECAUSE MICHAEL GOODWIN WAS PROTECTED BY BANKRUPTCY IN
2 1988. HE COULD NOT HAVE HIS PROPERTY LEVIED BY A
3 JUDGMENT CREDITOR, ONLY BY THE BANKRUPTCY ESTATE.

4 AND YOU WILL LEARN THAT IN FACT IN 1988,
5 MICHAEL GOODWIN VOLUNTARILY GAVE HIS MERCEDES TO SOMEONE
6 FROM THE REPRESENTING THE BANKRUPTCY TRUSTEE. YOU'LL
7 HEAR FROM HER. SHE DROVE TO HIS HOUSE. SHE PICKED IT
8 UP. IT WAS NO BIG DEAL. NO TOW YARD SCUFFLE. THE
9 MERCEDES WAS WHAT THEY CALL "UPSIDE DOWN." HE DIDN'T --
10 IT WAS OWED MORE THAN IT WAS WORTH.

11 HE DIDN'T NEED A MERCEDES ON A 57-FOOT
12 YACHT HEADING OUT TO THE BAHAMAS. HE VOLUNTARILY TURNED
13 THIS CAR IN IN 1988. YET JOHN WILLIAMS WILL COME IN AND
14 TELL YOU THAT HE TOWED THIS CAR AFTER MICHAEL GOODWIN WAS
15 IN BANKRUPTCY. AND HE WILL TELL YOU THAT HE WILL HAVE
16 ABSOLUTELY NO DOCUMENTATION TO BACK THIS UP. NONE.

17 AND KEEP IN MIND, HE IS THE SOURCE OF SOME
18 OF THE MOST EGREGIOUS THREATS THAT THE DISTRICT ATTORNEY
19 REPEATED TO YOU THIS MORNING. JOHN WILLIAMS. AND WE
20 WILL SHOW YOU THAT HE SIMPLY IS NOT TELLING YOU THE
21 TRUTH. WE WILL PROVE TO YOU THAT THE CAR WAS TOWED IN
22 1986. IT WAS VOLUNTARILY RELINQUISHED IN 1988 WITHOUT
23 ANY SCUFFLE; ANY BAD WORDS; AND YOU WILL MEET THE
24 INDIVIDUAL WHO WOUND UP STORING IT UNTIL IT WAS SOLD AT
25 AUCTION TO SATISFY THE BANKRUPTCY TRUSTEES NOT MICKEY
26 THOMPSON.

27 COULD JOHN WILLIAMS HAVE BEEN INVOLVED IN
28 THE 1986 TOW? IT'S VERY POSSIBLE. BUT THAT'S NOT WHAT

1 HE'S GOING TO COME INTO THIS COURT AND SAY. HE IS GOING
2 TO COME INTO THIS COURT AND SAY IT WAS JANUARY OF '88.

3 YOU ARE ALSO GOING TO HEAR FROM A COUPLE
4 THAT WE TALKED ABOUT THIS MORNING A LITTLE BIT, RON AND
5 TONYIA STEVENS. THIS IS THE COUPLE WHO SAW SOMEONE
6 OUTSIDE THEIR HOME. COUNSEL SAID THREE DAYS BEFORE THE
7 MURDER. THEY'VE NEVER PINNED DOWN THE DAY. THEY HAVE
8 NEVER GIVEN US A DAY SO THAT WE COULD GO INTO MICHAEL
9 GOODWIN'S BACKGROUND AND FIND OUT IF THERE WAS ANY
10 EVIDENCE TO REBUT WHAT DAY THEY SAID IT WAS.

11 IT'S EITHER THREE DAYS OR FOUR DAYS OR
12 FIVE DAYS OR SEVEN DAYS, THEY ARE NOT SURE. WHAT THEY
13 ARE SURE ABOUT IS THEY CAME IN 14 YEARS LATER, 14 YEARS
14 LATER. THEY HAD A CONVERSATION WITH THE DETECTIVE AT THE
15 TIME FEBRUARY 26 OF 2001.

16 MICHAEL GOODWIN'S PICTURE HAD BEEN ON
17 TELEVISION AS RECENTLY AS FEBRUARY 17TH OF 2001 IN THE
18 PROGRAM "UNSOLVED MYSTERIES." THIS IS THE COUPLE THAT
19 CLAIMS THEY ARE PICKING MICHAEL OUT OF A LINEUP BASED ON
20 THE FACT THAT THEY SAW HIM NEAR THEIR HOME 14 YEARS
21 EARLIER PARKED IN A CAR WITH BEANY ON AND BINOCULARS.

22 WHEN TONYIA STEVENS WAS FIRST INTERVIEWED
23 SHE TOLD THE DETECTIVE THAT SHE COULD NOT RECALL WHETHER
24 OR NOT THE CAR WAS OCCUPIED. WAS OCCUPIED. SHE WENT
25 WITH HUSBAND TO THE L.A. COUNTY JAIL WHERE THEY HAD TAKEN
26 MICHAEL TO STAND IN THIS LINEUP AND SHE PICKED HIM OUT OF
27 A LINEUP BECAUSE HIS FACE HAS BEEN PLASTERED ON
28 TELEVISION AS THE PRIME SUSPECT IN THIS MURDER FOR 14

1 YEARS.

2 WHAT IS ALSO INTERESTING TO NOTE, THE
3 PLACE THAT THEIR HOME IS ON GARDI AND MT. OLIVE, THERE IS
4 NO VIEW OF THE THOMPSON HOME. ONE CANNOT SEE THE
5 THOMPSON HOME. IT'S HILLY. IT'S ALMOST THREE-QUARTERS
6 OF A MILE AWAY. ONE CANNOT SEE THE ESCAPE ROUTE. IN
7 OTHER WORDS, WHERE THE BICYCLISTS CAME DOWN THE DRIVEWAY.

8 THIS ISN'T SOME HIDDEN BIKE COMMUNITY.
9 ONE OF THE SELLING FEATURES, ONE OF THE MOST ATTRACTIVE
10 FEATURES ABOUT BRADBURY IS THERE IS THIS PATH. AND IT'S
11 A JOGGING/BIKING PATH. AND EVERYONE KNOWS ABOUT IT THAT
12 LIVES ANYWHERE NEAR THE AREA. IN FACT, THERE IS A STOP
13 SIGN IF YOU GO UP, YOU HAVE TO WAIT. SOMETIMES I THINK
14 EVEN HORSES CAN GO ON IT. IT'S NOT A HIDDEN, REMOTE AREA
15 WHATSOEVER. BUT THERE IS NO VIEW OF THIS FROM THE
16 STEVENSES HOME.

17 WHAT NEIGHBORS OF THE STEVENSES WILL TELL
18 YOU IS THAT THEY DIDN'T SEE THIS CAR. WHICH IS FINE; TWO
19 PEOPLE COULD SEE SOMETHING DIFFERENT. HOWEVER, THEY DID
20 SEE THE POLICE SETTING UP ROAD BLOCKS RIGHT OUTSIDE THEIR
21 HOME. AND FOR WEEKS THEY HAD TO SHOW THEIR
22 IDENTIFICATION TO THE POLICE IN ORDER TO GET TO THEIR OWN
23 HOME. AND THE STEVENSES SAID NOTHING, SAID NOTHING ABOUT
24 THIS PERSON THAT THEY SAW IN THIS CAR UNTIL 14 YEARS
25 LATER, NINE DAYS AFTER THEY SEE HIS FACE ON TELEVISION
26 WHERE HE'S NAMED AS A SUSPECT AND A REWARD FOR MONEY IS
27 OFFERED.

28 YOU MIGHT HEAR FROM -- THOUGH WE DIDN'T

1 HEAR ABOUT IT THIS MORNING -- A WOMAN BY THE NAME OF GAIL
2 MOREAU HUNTER. I SAID AFTER MICHAEL GOT BACK FROM
3 FLORIDA AND ALABAMA, HE AND HIS WIFE DIVORCED. HE MOVED
4 TO ASPEN TO BE NEAR HIS PARENTS AND HE RESIDED WITH GAIL
5 MOREAU HUNTER. SHE HAS SAID OVER THE YEARS THAT GOODWIN
6 HAS IMPLIED HIS INVOLVEMENT IN THIS CASE.

7 BUT WHEN SHE IS INTERVIEWED, THE DETAILS
8 ARE ALL WRONG. A SILENCER WAS USED. NO NEIGHBOR HEARD
9 ANYTHING. YOU'RE GOING TO HEAR SEVERAL NEIGHBORS HEARD A
10 LOT. AND THERE WERE NO SILENCERS ON THESE WEAPONS. SHE
11 MADE ALLEGATIONS ABOUT MR. GOODWIN THAT PROVEN UNFOUNDED.

12 AND WHAT I THINK IS REALLY IMPORTANT TO
13 NOTE ABOUT GAIL MOREAU HUNTER -- IF, IN FACT, SHE DOES
14 TESTIFY -- IS THAT SHE MADE ALLEGATIONS TO THE LEAD
15 DETECTIVE WHO WAS INVESTIGATING THIS CASE. AND THEY WERE
16 ALLEGATIONS THAT CONCERNED MEDICAL RECORDS. AND RATHER
17 THAN THE LEAD DETECTIVE GOING TO TRY AND SCRUTINIZE THOSE
18 MEDICAL RECORDS AND SEE IF SHE WAS TELLING THE TRUTH, HE
19 SIMPLY WROTE THE ALLEGATIONS. THAT WAS IT.

20 AGAIN, MEDICAL RECORDS FROM ASPEN
21 HOSPITAL, WE CAN SHOW THAT WHAT SHE TOLD THE POLICE
22 OFFICERS WERE UNTRUE. AND PSYCHIATRIC RECORDS FROM
23 MENINGER CLINIC THAT IF SHE TESTIFIES, WE WILL HAVE A
24 PSYCHIATRIST TESTIFY TO TELL YOU ABOUT HER SUBSTANCE
25 ABUSE; DELUSIONS. BUT THE ISSUE IS THE DEFENSE SOUGHT
26 THESE RECORDS. THERE WAS NO SCRUTINIZING OF ANYONE
27 WILLING TO SAY ANYTHING BAD ABOUT MICHAEL GOODWIN.
28 AND THESE WERE READILY AVAILABLE TO ANY LAW ENFORCEMENT.

1 AND, FINALLY, IN TERMS OF THE WITNESSES,
2 WE THINK YOU MIGHT HEAR FROM SOMEONE NAMED KATHY WEESE.
3 IN FACT, ONE OF THE QUOTES THAT MICHAEL IS ACCUSED OF
4 SAYING COMES FROM KATHY WEESE. KATHY WEESE IS ALSO KNOWN
5 AS KATHY DOWNS; ALSO KNOWN AS KATHY JOHNSON; ALSO KNOWN
6 HAS KATHY ENGLIS; ALSO KNOWN AS KATHY MAY HORN, WITH
7 DATES OF BIRTH AND SOCIAL SECURITY NUMBERS TO MATCH.

8 MISS JOHNSON -- OR MISS WEESE WAS EMPLOYED
9 BY MR. GOODWIN FOR FOUR MONTHS IN 1986. RIGHT ABOUT THE
10 TIME THAT THE INITIAL LAWSUIT WAS COMING DOWN, THE
11 JUDGMENT WAS COMING DOWN. SHE CLAIMS THAT MICHAEL
12 GOODWIN AND MICKEY THOMPSON HAD SEVERAL PHONE CALLS WITH
13 ONE ANOTHER. MICKEY THOMPSON'S OWN LAWYERS WILL TELL YOU
14 THAT DID NOT HAPPEN. THEY ADVISED HIM AS MY CLIENT'S
15 LAWYERS ADVISED HIM, DON'T TALK IN PERSON. THE LAWYERS
16 WERE HANDLING IT. THEY WERE PAYING GOOD MONEY FOR THE
17 LAWYERS TO HANDLE THIS. THESE TWO MEN DID NOT SPEAK.

18 THE DETECTIVES WILL TELL YOU THAT THEY GOT
19 ALL OF MICHAEL GOODWIN'S PHONE RECORDS, FROM HIS BUSINESS
20 AND HIS HOME. NOT ONE CALL, NOT ONE CALL WILL THEY BE
21 ABLE TO PROVE SHOWED THAT MICHAEL GOODWIN AND MICKEY
22 THOMPSON SPOKE PERSONALLY. YET SHE WILL COME IN AND TELL
23 YOU THAT ON A SPEAKER PHONE MICHAEL SAID THESE HORRIBLE
24 THINGS TO MICKEY THOMPSON. AND THAT SHE MET MICKEY
25 THOMPSON AT ONE OF MICHAEL GOODWIN'S EVENTS.

26 SHE WAS ONLY EMPLOYED FOR FOUR MONTHS.
27 WHAT IS INTERESTING TO NOTE IS THAT SHE HAD TO LIE ON HER
28 APPLICATION TO WORK FOR MICHAEL GOODWIN BECAUSE SHE WAS

1 AN ESCAPED FELON WHO HAD WALKED AWAY FROM PRISON IN
2 COLORADO WHEN SHE WENT TO WORK FOR HIM. HE DID NOT HAVE
3 ANY EVENT THAT MICKEY THOMPSON WOULD HAVE BEEN AT. THERE
4 WAS NO WAY FOR KATHY WEESE TO HAVE MET MICKEY THOMPSON

5 THESE PEOPLE, AS YOU WILL HEAR, AS WE WILL
6 NOT PUT UP ANY DEFENSE ABOUT, THEY DID NOT GET ALONG.
7 AND THERE IS NO WAY THEY WERE SOCIALIZING OR SPEAKING TO
8 ONE ANOTHER ON THE PHONE IN 1986. SHE WILL CLAIM THAT
9 SHE MET HIM AND THAT MICHAEL AND HE WERE DISCUSSING SOME
10 BUSINESS AND THAT'S WHEN HE GOT VERY UPSET.

11 WELL, MICHAEL GOODWIN, ENDED HER
12 EMPLOYMENT ON MAY 2ND OF 1986 WHEN HE ACCUSED HER OF
13 STEALING. NOW THESE ALLEGATIONS WERE EVENTUALLY
14 UNFOUNDED. SHE WAS ACQUITTED. HOWEVER, SHE SPENT EIGHT
15 MONTHS IN JAIL WAITING TO FIGHT THESE CHARGES. AND AS A
16 RESULT OF THAT, THE COLORADO AUTHORITIES FOUND OUT WHERE
17 SHE WAS AND SHE WAS RETURNED TO PRISON.

18 TEN YEARS LATER, A DETECTIVE FLIES TO
19 WHERE SHE IS, AGAIN, INCARCERATED ON ANOTHER FELONY. AND
20 OFFERS TO, QUOTE, PROVIDE HER ANY ASSISTANCE HE CAN
21 PROVIDE HER. AND SHE IS COMING FORWARD TO TELL YOU THAT
22 SHE HEARD THESE CONVERSATIONS THAT PHYSICALLY COULD NOT
23 HAVE OCCURRED THAT THEY WILL HAVE NO DOCUMENTATION TO
24 BACK UP. AND YOU ARE ALLOWED AND THE JUDGE WILL TELL YOU
25 TO CONSIDER THE QUALITY OF THE TESTIMONY BEING PRESENTED
26 TO YOU.

27 AND, FINALLY -- WELL, LET ME JUST SAY ONE
28 MORE THING ABOUT KATHY WEESE. ONE OF THE THINGS THAT SHE

1 ALSO WANTS TO COME IN AND TELL US IS THAT SHE THINKS SHE
2 SAW A STUN GUN THAT LOOKED LIKE THE STUN GUN AT THE CRIME
3 SCENE IN GOODWIN'S HOME.

4 AND, AGAIN, HERE IS THE DETECTIVE WHO FLEW
5 ALL THE WAY TO GEORGIA TO GET THIS INFORMATION, WHILE THE
6 HAIR ON THE STUN GUN SAT IN THE EVIDENCE LOCKER UNTESTED
7 FOR 18 YEARS. 18 YEARS WHEN THEY HAD OPPORTUNITY TO TURN
8 SUSPICION INTO PROOF; OPPORTUNITY TO SOLVE A MYSTERY;
9 OPPORTUNITY TO SOLVE A MURDER; AND IT LAY DORMANT IN THE
10 SHERIFF'S EVIDENCE LOCKER.

11 THE LAST GROUP OF WITNESSES I WANT TO TALK
12 TO YOU ABOUT ARE THE ACTUAL CRIME SCENE WITNESSES AND
13 SOME OF THE EVIDENCE THAT WE'RE GOING TO BE ABLE TO TAKE
14 FROM THAT. BASICALLY, YOU'VE HEARD A LOT TODAY ABOUT HOW
15 THIS WAS AN ASSASSINATION AND A PROFESSIONAL CRIME.

16 WELL, WE'VE TALKED A LITTLE BIT ABOUT HOW
17 THEY DIDN'T EVEN KNOW HOW TO HANDLE THEIR WEAPONS. YOU
18 WILL HEAR ONE THING UNANIMOUS FROM THE WITNESSES AND THAT
19 IS THAT THE KILLERS FLED ON BICYCLES. EVERYBODY AGREES
20 ON THAT. THE KILLERS FLED ON BICYCLES. THEY BROUGHT
21 THEIR BIKES TO THE CRIME; THEY TOOK THEIR BIKES AWAY FROM
22 THE CRIME.

23 WHAT IS LESS WELL PUBLICIZED IN THE
24 HOLLYWOOD VERSION OF EVENTS IS THAT SEVERAL OF THESE
25 WITNESSES NOTICED THAT THESE BIKERS HAD DRAWSTRING CANVAS
26 BAGS ON THEIR BACKS. THEY BROUGHT BAGS TO THIS HOME.
27 NOW DID THINGS GO THE WAY THEY WANTED? WE WILL HAVE TO
28 LISTEN TO WHAT THE CRIME SCENE RECONSTRUCTION SHOWS US

1 ABOUT HOW MICKEY MAY HAVE CHARGED THESE INDIVIDUALS.

2 BUT THEY BROUGHT DRAWSTRING CANVAS BAGS
3 WITH THEM TO THIS HOME. THERE ARE SHOE PRINTS ON THE
4 SIDE DOOR, INDICATING SOMEONE WAS TRYING TO GET INTO THE
5 GARAGE. YOU WILL SEE THIS DOOR. THIS IS A PHOTO FROM
6 THE CRIME SCENE THAT DAY. IT'S VERY HARD TO SEE. BUT IF
7 YOU ARE FACING THE HOUSE, THIS DOOR LOOKS LIKE YOU CAN
8 ENTER INTO THE GARAGE.

9 AND WHAT IT ACTUALLY, THIS DOOR IS, IT'S
10 THE BACK OF A MOTOR FOR AN ELEVATOR THAT MICKEY THOMPSON
11 HAD INSTALLED IN HIS GARAGE. THERE WERE FOOTPRINTS TAKEN
12 FROM THIS AREA AND THEY WERE SHOE PRINTS THAT DID NOT
13 MATCH MICKEY THOMPSON.

14 SO WE DO KNOW THAT PEOPLE SPENT SOME TIME
15 TRYING TO GET INTO THAT GARAGE. WHY WOULD THEY WANT INTO
16 THAT GARAGE? THE EVIDENCE WILL SHOW THAT THERE WERE NO
17 FEWER THAN THREE SAFES IN THE THOMPSON HOME; TWO OF WHICH
18 WERE KEPT IN THE GARAGE.

19 ONE OF THE THINGS ALSO IMPORTANT TO NOTE
20 IS THAT THE THEORY BEING THAT THIS WAS AN ASSASSINATION;
21 AN ASSASSIN SHOOT. ONE OF THE THINGS THAT YOU WILL SEE
22 IS THAT WHEN THIS GARAGE DOOR OPENED AND THE VAN STARTED
23 TO BACK OUT, NO ONE STARTED FIRING. HOW DO WE KNOW? YOU
24 WILL SEE EVIDENCE THAT THE GARAGE DOOR WAS CLOSED WHEN
25 THE SHOOTING STARTED.

26 SO THIS ISN'T A SITUATION WHERE THE
27 INDIVIDUALS ARE STANDING THERE WAITING FOR THE DOOR TO
28 OPEN AND THEN JUST BEGIN FIRING. THERE WAS SOMETHING

1 ELSE HAPPENING BECAUSE OTHERWISE THE GARAGE DOOR WOULDN'T
2 HAVE BEEN CLOSED WHEN THE SHOOTING STARTED.

3 AND, FINALLY, WHAT IS IMPORTANT TO NOTE
4 ABOUT THAT -- AND YOU MIGHT BE THINKING, WELL, THAT'S
5 KIND OF OBSCURE. THE GARAGE DOOR IS OPEN AND THERE IS
6 BULLET HOLES IN IT. IT'S THE IDEA ABOUT THIS THEORY; THE
7 IDEA ABOUT THIS MYTH THAT'S BEEN PROMULGATED. BECAUSE IF
8 YOU TAKE THAT AWAY, RIGHT WHEN THIS CASE WAS CALLED AN
9 ASSASSINATION, RIGHT WHEN THIS CASE WAS CALLED A HATE
10 CRIME AND MICHAEL GOODWIN WAS NAMED AS A SUSPECT, THIS
11 CRIME SHOWS HATE; MICHAEL GOODWIN HATED MICKEY THOMPSON,
12 THEREFORE MICHAEL GOODWIN COMMITTED THIS CRIME.

13 IF THE CRIME DOESN'T SHOW HATE AND IT'S
14 JUST A BOTCHED ROBBERY, THEN EVERYTHING FALLS APART.
15 HOWEVER, WHAT YOU WILL LEARN FROM THE DETECTIVES IN THIS
16 CASE IS THAT THIS WAS INVESTIGATED FOR 18 YEARS. THEY
17 SOUGHT OUT THE HELP OF THE FBI; THE DEA; CUSTOMS; THE
18 SECRET SERVICE. THEY USED WIRE TAPS; SURVEILLANCE;
19 OFFERS OF IMMUNITY. AND, FINALLY, A MILLION DOLLAR
20 REWARD SO THAT WE COULD BE HERE 18 YEARS LATER TO HAVE
21 PEOPLE COME IN AND SAY THAT MICHAEL GOODWIN DID NOT LIKE
22 MICKEY THOMPSON AND THEREFORE YOU SHOULD CONVICT HIM OF
23 MURDER.

24 THIS IS NAKED SUSPICION. AFTER 18 YEARS
25 WE'RE BACK TO THE SAME PLACE THAT WE STARTED. AT THE END
26 OF THIS TRIAL I'M GOING TO ASK YOU TO RETURN A VERDICT OF
27 NOT GUILTY. IN THE MEANTIME I'M GOING TO ASK YOU TO
28 LISTEN TO ALL THE EVIDENCE AND KEEP AN OPEN MIND AS WE

1 PROCEED. AND I THANK YOU FOR YOUR ATTENTION.

2 THE COURT: THANK YOU, MS. SARIS.

3 MR. DIXON: YOUR HONOR, COULD WE TAKE A BREAK;
4 MOVE THE PODIUM; AND GET OUR WITNESSES AND WE'LL BE READY
5 TO GO.

6 THE COURT: SURE. WE WILL TAKE A 15-MINUTE
7 RECESS, LADIES AND GENTLEMEN. PLEASE REMEMBER ALL THE
8 ADMONITIONS. AND WE ARE GOING TO LET YOU GUYS WALK OUT
9 THROUGH THE BACK.

10 (BRIEF RECESS.)

11 THE COURT: ALL RIGHT. THEN THE RECORD SHOULD
12 REFLECT THAT ALL OUR JURORS AND ALTERNATES ARE ONCE AGAIN
13 PRESENT. WE ARE READY TO PROCEED. MR. GOODWIN IS HERE
14 WITH COUNSEL. THE PEOPLE ARE REPRESENTED.

15 YOU MAY CALL YOUR FIRST WITNESS.

16 MR. DIXON: THANK YOU, YOUR HONOR. BEFORE DOING
17 THAT I WOULD LIKE TO MARK AN EXHIBIT. I HAVE IT ON THE
18 ELMO. IT'S A SMALL EIGHT BY ELEVEN COLOR PHOTOGRAPH OF
19 THE VICTIMS IN THIS CASE, MICKEY AND TRUDY THOMPSON.

20 MAY THAT BE SO MARKED?

21 THE COURT: YES. PEOPLE'S 1 SO MARKED.

22

23 (MARKED FOR IDENTIFICATION PEOPLE'S
24 EXHIBIT NO. 1, PHOTO.)

25

26 MR. DIXON: BILL WILSON WILL BE OUR FIRST
27 WITNESS.

28 ///

1 WILLIAM WILSON,
2 CALLED BY THE PEOPLE AS A WITNESS, WAS
3 SWORN AND TESTIFIED AS FOLLOWS:
4

5 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

6 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
7 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
8 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
9 TRUTH SO HELP YOU GOD.

10 THE WITNESS: I DO.

11 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
12 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
13 NAME FOR THE RECORD.

14 THE WITNESS: WILLIAM, W-I-L-L-I-A-M. MIDDLE
15 INITIAL R. LAST NAME WILSON, W-I-L-S-O-N. I GO BY THE
16 NAME OF BILL.

17 THE CLERK: THANK YOU.

18 MR. DIXON: MAY I INQUIRE?

19 THE COURT: YES.

20 MR. SUMMERS: YOUR HONOR, EXCUSE ME, THERE WOULD
21 BE A MOTION TO EXCLUDE ANY OTHER WITNESSES.

22 THE COURT: IF THERE ARE ANY OTHER WITNESSES
23 PRESENT IN THE COURTROOM, WOULD YOU PLEASE STEP OUTSIDE.

24 MR. DIXON: THANK YOU, YOUR HONOR.

25 THE COURT: YOU MAY INQUIRE.

26 ///

27 ///

28 ///

1 DIRECT EXAMINATION

2 BY MR. DIXON:

3 Q GOOD AFTERNOON, MR. WILSON.

4 A AFTERNOON, SIR.

5 Q THANK YOU FOR COMING. I WOULD LIKE TO
6 INVITE YOUR ATTENTION TO THE SCREEN HERE, A PHOTOGRAPH
7 THAT WE'VE MARKED AS PEOPLE'S 1 FOR IDENTIFICATION.8 DO YOU RECOGNIZE THE TWO INDIVIDUALS IN
9 THAT PHOTOGRAPH?

10 A YES, I DO.

11 Q CAN YOU TELL US WHO YOU RECOGNIZE?

12 A MICKEY AND TRUDY THOMPSON.

13 Q INVITING YOUR ATTENTION TO 1984 THROUGH
14 1988, DID YOU KNOW THEM PERSONALLY?

15 A YES, I DID.

16 Q BOTH OF THEM?

17 A BOTH OF THEM.

18 Q HOW DID THAT COME ABOUT?

19 A IN 1984 I WAS RUNNING JACK MURPHY STADIUM,
20 WHICH IS NOW QUALCOMM STADIUM. AND MICKEY THOMPSON HAD
21 CALLED ME AND SAID HE WOULD LIKE ME TO COME SEE HIS
22 OFF-ROAD RACING AT POMONA AT THE RACE TRACK. AND SO MY
23 WIFE AND I DID GO DOWN AND WATCH THE RACES AND DID HAVE
24 DINNER WITH MICKEY AND TRUDY. THAT'S THE FIRST TIME
25 SOCIALLY WE WERE WITH THEM.26 Q AND AFTER THAT, SUBSEQUENT TO THAT, DID
27 YOU DO BUSINESS WITH HIM?

28 A YES, I DID.

1 Q AND DID YOU HAVE THEREFORE A PROFESSIONAL
2 RELATIONSHIP WITH MICKEY THOMPSON; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q DID YOU ALSO HAVE A SOCIAL RELATIONSHIP
5 WITH HIM?

6 A YES, I DID.

7 Q AND HOW LONG -- WELL, LET ME WITHDRAW THAT
8 AND ASK YOU: HOW OFTEN WOULD YOU SEE THE THOMPSONS
9 SOCIALLY?

10 A PROBABLY FOUR OR FIVE TIMES. CERTAINLY
11 EVERY TIME THAT THEY CAME TO OUR STADIUM TO PUT ON THEIR
12 EVENTS, WE WOULD GO SEE THEM. MY WIFE WENT TO ALL THE
13 EVENTS AND MY WIFE AND TRUDY BECAME PRETTY GOOD FRIENDS.

14 Q DID YOU ALL BECOME PRETTY GOOD FRIENDS?

15 A YES.

16 Q AND AS A RESULT OF THAT SOCIAL
17 RELATIONSHIP, DID YOU OFTEN SEE THEM TOGETHER?

18 A YES, I DID.

19 Q AND DID MICKEY THOMPSON APPEAR TO CARE
20 DEEPLY FOR HIS WIFE?

21 A OH, ABSOLUTELY.

22 Q WHY? EXPLAIN THAT.

23 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
24 CHARACTER EVIDENCE. RELEVANCE.

25 THE COURT: OVERRULED.

26 YOU CAN ANSWER.

27 Q BY MR. DIXON: PLEASE CONTINUE.

28 A THE FIRST TIME WE MET THEM IT WAS -- WE

1 HAD A DINNER WHEN HE WAS PUTTING ON HIS RACES IN POMONA
2 AND ALL HE COULD DO WAS TALK ABOUT TRUDY; ABOUT HOW MUCH
3 HE LOVED HER; THE LIGHT OF MY LIFE. AND HE GOT HER A
4 "10" NECKLACE THAT SHE WORE ON HER NECK WITH DIAMONDS.
5 AND HE JUST GLOWED. YOU COULD JUST TELL THE MAN WAS
6 TREMENDOUSLY IN LOVE WITH TRUDY.

7 Q AND DID THAT AFFECTION FROM MICKEY
8 THOMPSON FOR HIS WIFE FOR TRUDY, DID YOU SEE THAT EVERY
9 TIME YOU SAW THEM TOGETHER?

10 MR. SUMMERS: OBJECTION, YOUR HONOR. LEADING.
11 RELEVANCE.

12 THE COURT: SUSTAINED ON LEADING.

13 Q BY MR. DIXON: DID YOU OFTEN SEE THAT
14 AFFECTION OR WAS IT UNCOMMON OR A COMMON OCCURRENCE?

15 A IT WAS COMMON.

16 Q NOW, WE'RE HERE IN PASADENA TODAY. YOU
17 CAME A WAYS TO COME TO PASADENA. YOU DON'T LIVE HERE; IS
18 THAT RIGHT?

19 A NO. I LIVE IN POWAY.

20 Q BUT YOU ARE FAMILIAR WITH PASADENA?

21 A VERY FAMILIAR.

22 Q WHY?

23 A I WORKED FOR THE CITY FOR 30 YEARS.

24 Q IN WHAT CAPACITY?

25 A 27 YEARS AS A PASADENA POLICE OFFICER. I
26 WENT ALL THROUGH THE RANKS. AND THEN FOR THREE YEARS I
27 RAN THE ROSE BOWL.

28 Q LET'S TALK VERY BRIEFLY ABOUT YOUR POLICE

1 CAREER. YOU SAID YOU WENT THROUGH THE RANKS, SO YOU WERE
2 A NEW HIRE; YOU WERE A PATROLMAN; IS THAT CORRECT?

3 A YES.

4 Q DID THERE COME A TIME WHEN YOU WERE A
5 DETECTIVE?

6 A YES, THERE DID.

7 Q WHAT KIND OF DETECTIVE?

8 A WELL, THREE TIMES ACTUALLY. AS I WENT
9 THROUGH THE RANKS AS AN INVESTIGATOR. THAT'S WAS THE
10 FIRST STEP UP, IT'S NOW CORPORAL. BUT AS AN
11 INVESTIGATOR, I WORKED AS A NIGHT DETECTIVE. THAT WAS
12 GENERAL INVESTIGATION. AND WHEN I MADE SERGEANT LATER
13 AFTER I WAS IN PATROL FOR A WHILE, I WAS ASSIGNED TO THE
14 HOMICIDE/ROBBERY SECTION, WHICH I WAS IN CHARGE OF. I
15 DID THAT FOR ABOUT A YEAR AND A HALF, THEN MADE
16 DETAINMENT. LATER I MADE COMMANDER OR CAPTAIN. I WAS
17 THEN ASSIGNED TO THE INVESTIGATIVE BUREAU THAT'S IN
18 CHARGE OF THE INVESTIGATIVE BUREAU.

19 Q SO WERE THE SUPERVISOR OF ALL THE
20 DETECTIVES?

21 A YES.

22 Q AND THEN YOU GOT ONE MORE PROMOTION BEFORE
23 YOU LEFT FOR THE ROSE BOWL?

24 A COMMANDER.

25 Q AND COMMANDER IS IN CHARGE OF A NUMBER OF
26 CAPTAINS?

27 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

28 THE COURT: OVERRULED.

1 YOU CAN ANSWER.

2 THE WITNESS: A COMMANDER IS -- ACTUALLY THEY
3 WENT FROM CAPTAINS TO COMMANDER. BUT IT WAS A PROMOTION.
4 THEY DID AWAY WITH THE CAPTAINS, BUT THEY MOVED EVERYBODY
5 UP TO COMMANDER.

6 Q BY MR. DIXON: OKAY. AND THEN YOU SAID
7 YOU WENT TO THE ROSE BOWL?

8 A CORRECT.

9 Q COULD YOU EXPAND ON THAT? WHAT WERE YOUR
10 DUTIES AT THE ROSE BOWL?

11 A WELL, IT WAS 1980 I WENT TO THE ROSE BOWL.
12 AND I WAS THE THEN ROSE BOWL MANAGER, THE GENERAL
13 MANAGER. MY JOB WAS I WAS THE LANDLORD AND UCLA WAS OUR
14 TENANT. I BROUGHT UCLA IN UNDER TERRY DONAHUE; THEY
15 PRACTICED THERE; AND THEY CAME AND DECIDED TO MAKE THIS
16 THEIR HOME FIELD. MY JOB WAS TO GET PROMOTERS; GET
17 PEOPLE TO PUT EVENTS ON. WHEN I WAS HIRED I WAS TOLD TO
18 MARKET THE ROSE BOWL. LET'S USE IT. WE HAVEN'T USED IT
19 FOR YEARS AND YEARS. IT'S A WHITE ELEPHANT. AND THAT'S
20 WHAT I DID.

21 Q TO TRY TO MAKE THE CITY SOME MONEY?

22 A CORRECT.

23 Q AND IN THAT LAST ANSWER YOU USED THE WORD
24 I BELIEVE "PROMOTION" OR "PROMOTERS"; IS THAT RIGHT?

25 A THAT'S CORRECT.

26 Q THAT WAS PART OF YOUR BUSINESS DEALING
27 WITH SPORTS PROMOTERS; IS THAT CORRECT?

28 A YES, SIR.

1 Q AND YOU STAYED AT THE ROSE BOWL IN THAT
2 CAPACITY FOR SOME PERIOD OF TIME?

3 A THREE YEARS.

4 Q AND THEN WHERE DID YOU GO?

5 A THEN I WENT TO THE OLYMPIC GAMES IN LOS
6 ANGELES, IT WAS THE LAOOC IN 1984 AND STAYED THERE UNTIL
7 LATE SUMMER. AND THEN WENT TO SAN DIEGO TO RUN THE
8 STADIUM THERE.

9 Q THE FIRST OLYMPICS THAT MADE SOME MONEY?

10 A YES, SIR.

11 Q AND DID YOU GET A CHANCE TO SEE THAT
12 AQUATIC CENTER YET?

13 A I HAVE NOT.

14 Q JACK MURPHY STADIUM, WAS THAT JOB A RESULT
15 OF, AT LEAST IN PART, YOUR EXPERIENCE AT THE ROSE BOWL?

16 A YES, IT WAS.

17 Q AT JACK MURPHY STADIUM, DID THEY OR DID
18 YOU PARTICIPATE IN THE PROMOTION OF MOTOR SPORTS IN THE
19 STADIUM?

20 A YES. WHEN I GOT TO JACK MURPHY STADIUM,
21 WHICH IS NOW QUALCOMM STADIUM, SUPERCROSS HAD HAD A
22 COUPLE OF EVENTS THERE AND THEY WERE COMING BACK. AND SO
23 I KIND OF INHERITED WHAT WAS GOING TO HAPPEN THE NEXT
24 WINTER SEASON OFF SEASON FOR BASEBALL AND FOOTBALL, YES.

25 Q SUPERCROSS OR MOTORCROSS, IS THAT WHAT YOU
26 SAID?

27 A YES.

28 Q WHAT IS THAT?

1 A WELL, ACTUALLY IT'S MOTORCYCLES RACING ON
2 DIRT INSIDE A STADIUM.

3 Q AS A RESULT OF THAT, DID THERE COME A TIME
4 THAT YOU MET THE DEFENDANT IN THIS CASE MICHAEL GOODWIN?

5 A YES, I DID.

6 Q DO YOU SEE HIM IN COURT?

7 A I DO.

8 Q AND FOR THE RECORD COULD YOU POINT HIM
9 OUT?

10 A WITH THE BROWN SUIT WITH THE BEN FRANKLIN
11 GLASSES SITTING RIGHT OVER THERE (INDICATING).

12 THE COURT: IDENTIFYING MR. GOODWIN.

13 MR. DIXON: THANK YOU, YOUR HONOR.

14 Q HAD YOU ENGAGED IN ANY PROFESSIONAL
15 BUSINESS ACTIVITY WITH THE DEFENDANT WHEN YOU WERE AT THE
16 ROSE BOWL?

17 A YES.

18 Q COULD YOU DESCRIBE THOSE FOR US?

19 A MR. GOODWIN HAD INVITED ME TO SEE THEIR
20 RACES, HIS SUPERCROSS RACES AT ANAHEIM, WHICH WAS HIGHLY
21 SUCCESSFUL. I DID GO SEE THAT. MIKE GOODWIN INTENDED OR
22 WANTED TO GET SUPERCROSS RACING IN THE ROSE BOWL. THE
23 NEIGHBORHOOD WAS AGAINST IT. IT WAS A KIND OF LOSING
24 BATTLE FOR A COUPLE YEARS NO MATTER WHAT WE DID. BUT,
25 YES, I DID.

26 Q AND THEN ONCE YOU MOVED TO SAN DIEGO, DID
27 YOU CONTINUE THAT PROFESSIONAL RELATIONSHIP?

28 A YES, I DID.

1 Q WHILE IN SAN DIEGO, DID YOU ALSO DEAL WITH
2 MICKEY THOMPSON AS A PROMOTER?

3 A I DID.

4 Q IN WHAT CAPACITY? PLEASE EXPLAIN THAT.

5 A MICKEY CONVINCED ME THAT HE COULD TAKE HIS
6 POMONA RACING WITH A SMALL ATTENDANCE TO A STADIUM AND
7 MAKE IT WORK. AND I SAID, WELL, WE'VE GOT TIME IN THE
8 MONTHS OF FEBRUARY AND MARCH, LATE JANUARY, FEBRUARY,
9 MARCH WHEN THE CHARGERS WEREN'T PLAYING OR THE PADRES
10 WEREN'T PLAYING. THEY USED TO PLAY THERE. I SAID, "WE
11 COULD DO THIS." WE CAN BRING THE DIRT IN AND YOU CAN
12 HAVE YOUR EVENT. AND WE TRIED IT AND IT WAS A BIG
13 SUCCESS OF THE FIRST YEAR.

14 Q AND AS A RESULT OF THAT YOU CONTINUED A
15 PROFESSIONAL RELATIONSHIP WITH MICKEY THOMPSON?

16 A YES, I DID.

17 Q COULD YOU JUST BRIEFLY FOR A MOMENT
18 EXPLAIN WHAT SPORTS PROMOTERS DO IN TERMS OF WHAT YOU
19 WERE DOING AT JACK MURPHY STADIUM?

20 A WELL, WE HAVE TO GET A VENUE. THEY'LL
21 COME TO THE VENUE AND THEY'LL SELL THEMSELVES. WE CAN
22 PUT THIS SHOW ON. WE CAN DO THIS. WE CAN DRAW 50,000
23 PEOPLE. WE CAN MAKE THIS MUCH MONEY FOR THE CITY. WE
24 CAN DO THIS; WE CAN DO THAT FOR YOU. WE WILL PROMOTE IT.
25 WE WILL MARKET IT. WE WILL WORK A CONTRACT WITH YOU.
26 WE'LL NEGOTIATE YOUR RENT AND DO FORTH VERSUS CONCESSIONS
27 AND PARKING AND THE WHOLE THING. AND THAT'S THE WAY IT
28 WORKS OUT.

1 Q SO YOU PROVIDE THE VENUE; CORRECT?

2 A CORRECT.

3 Q AND THE SPORTS PROMOTER BRINGS IN --

4 A THE EVENT.

5 Q -- THE EVENT. AND HOW ABOUT ALL THE OTHER
6 ATTRACTIONS THAT GO ALONG WITH THAT? I DON'T KNOW.

7 T-SHIRTS; FOOD; ANY OF THAT, DO THEY PROVIDE THAT?

8 A THAT'S NEGOTIABLE WITH THE -- MOST PLACES,
9 MOST FACILITIES HAVE A CONCESSIONAIRE. AND MOST
10 FACILITIES HAVE A PRETTY HARD CONTRACT WITH THAT
11 CONCESSIONAIRE TO HANDLE EVERYTHING. BUT NOT IN EVERY
12 CASE, SUCH AS WE NEGOTIATED IN THEIR SPORTS, WE'LL LET
13 THEM HAVE THE NOVELTIES, THE SHIRTS AND SO FORTH. THAT'S
14 BIG. THAT'S A LOT OF MONEY.

15 Q NOW, WAS THERE A TIME WHEN YOU WERE IN SAN
16 DIEGO AT THE JACK MURPHY STADIUM -- AND FORGIVE ME IF
17 THAT'S THE NAME --

18 A THAT WAS THE NAME THEN.

19 Q OKAY. ALL RIGHT. WAS THERE A TIME WHEN
20 YOU WERE DEALING BOTH WITH THE DEFENDANT MICHAEL GOODWIN
21 AND MICKEY THOMPSON?

22 A YES.

23 Q DID YOU SUGGEST TO EITHER OF THEM OR BOTH
24 OF THEM THAT THEY MIGHT HAVE SOMETHING IN COMMON WITH
25 THIS KIND OF SPORTS MOTORCROSS, DUNE BUGGY PROMOTION?

26 A YES, I DID.

27 Q COULD YOU EXPLAIN THAT, PLEASE?

28 A YES. I WENT TO MICKEY AND I SAID, "HEY,

1 MICK, WHY DON'T YOU GET TOGETHER WITH MIKE AND SHARE THE
2 DIRT." THEY DON'T OWN THE DIRT. THEY USUALLY RENTED THE
3 DIRT. OR IF THEY DID OWN THE DIRT, THEY HAD A STORAGE
4 SOMEWHERE. AND SO I SAID, "WHY DON'T YOURSELF SOME
5 MONEY" -- BECAUSE THEY ALSO -- I REQUIRED THAT THEY BUILD
6 A NEW FIELD FOR BASEBALL. AND SO AFTER THE DIRT IS ALL
7 TAKEN OUT, THE NEW FIELD IS BROUGHT IN. AND WHY DON'T
8 YOU SHARE EXPENSES AND GO HALVIES ON BOTH, THE DIRT AND
9 THE BUILDING OF A NEW FIELD.

10 Q LET ME ASK YOU TO EXPAND A LITTLE BIT ON
11 THE DIRT. I MEAN WE AREN'T TALKING ABOUT A LITTLE BIT OF
12 DIRT HERE, WE'RE TALKING ABOUT A LOT OF DIRT.

13 A HUNDREDS OF TONS.

14 Q AND IT HAS TO BE TRUCKED INTO THE STADIUM.

15 A IT TAKES THREE DAYS TO TRUCK IT ALL IN AND
16 SET UP THE TRACK.

17 Q IN A STADIUM LIKE JACK MURPHY WHERE YOU
18 SAID THAT THEY PLAYED FOOTBALL AND BASEBALL AND YOU HAVE
19 THIS NICE GRASS FIELD; CORRECT?

20 A CORRECT.

21 Q AND THEY COME IN AND THEY POUR TONS OF
22 DIRT ON IT?

23 A CORRECT.

24 Q SO IT'S AN EXTENSIVE PROPOSITION?

25 A IT IS. PROBABLY 80-, 90-, \$100,000
26 PROPOSITION.

27 Q AND THEN TO GET THE DIRT OUT?

28 A AND THAT'S THE WHOLE THING IN AND OUT.

1 Q AND REBUILDING THE FIELD?

2 A CORRECT.

3 Q SO BASED ON YOUR YEARS OF EXPERIENCE IN
4 THIS BUSINESS AS A STADIUM MANAGER, NOT ONLY AT THE ROSE
5 BOWL BUT AT JACK MURPHY STADIUM IN SAN DIEGO, WOULD YOU
6 SAY THAT THIS IS A LARGE PART OF THE EXPENSE OF PUTTING
7 ON AN EVENT LIKE THAT?

8 A IT'S PROBABLY THE BIGGEST EXPENSE.

9 Q AND SO YOUR IDEA THAT WAS SUGGESTED TO
10 MICKEY THOMPSON WAS, HEY, TAKE THIS BIG EXPENSE AND SHARE
11 IT WITH ANOTHER GUY?

12 A CORRECT.

13 Q WHAT, IF ANYTHING, HAPPENED TO YOUR
14 KNOWLEDGE AS A RESULT OF YOUR SUGGESTION TO MICKEY
15 THOMPSON?

16 A MICKEY AND MIKE GOODWIN WENT INTO BUSINESS
17 AND PARTNERED UP.

18 Q AND THAT WAS APPROXIMATELY WHEN? DO YOU
19 RECALL?

20 A THAT WAS PROBABLY '86 OR -'7. I'M NOT
21 SURE.

22 Q MAYBE EARLIER, '84?

23 A IT MIGHT HAVE BEEN '85.

24 Q NOW, I WOULD LIKE TO SWITCH GEARS JUST A
25 LITTLE BIT AND ASK YOU IF YOU REMEMBER MARCH 16TH, 1988?

26 A I WILL NEVER FORGET IT.

27 Q DID YOU ON THAT DAY LEARN OF THE MURDERS
28 OF MICKEY AND TRUDY THOMPSON?

1 A I DID.

2 Q WHAT WERE YOU DOING WHEN THAT HAPPENED?

3 A I WAS DRIVING TO WORK DOWN THE 15 FREEWAY
4 APPROACHING ARROW DRIVE AND I WAS LISTENING TO THE RADIO.
5 AND THERE WAS A BLURB ABOUT THE 8:00 O'CLOCK NEWS AND --
6 THERE WAS A PROMO FOR THE 8:00 O'CLOCK NEWS. AND IT
7 ALERTED ME TO WHAT HAPPENED.

8 Q 8:00 IN THE MORNING?

9 A YES.

10 Q AND EVEN -- THIS IS QUITE A WHILE AGO, BUT
11 EVEN TO THIS DAY THIS IS -- IT'S AN EMOTIONAL ISSUE FOR
12 YOU; CORRECT?

13 A IT IS.

14 Q SOMETIME BEFORE THAT, A FEW MONTHS
15 PERHAPS, A MONTH OR A FEW MONTHS BEFORE THAT, DID YOU
16 HAVE A SOCIAL EVENT WITH THE DEFENDANT MIKE GOODWIN AT
17 YOUR HOME?

18 A YES, I DID.

19 Q WHAT KIND OF SOCIAL EVENT WAS THAT?

20 A IT WAS A DINNER. ACTUALLY, I BARBEQUED
21 THE STEAKS OUTSIDE AND BROUGHT THEM INSIDE THE HOUSE
22 BECAUSE IT WAS COLD. IT WAS THE LAST WEEK OF JANUARY,
23 ABOUT. AND WE HAD A DINNER IN MY HOUSE.

24 Q SO THE BEST OF YOUR RECOLLECTION WAS THIS
25 BARBECUE OR DINNER WAS IN JANUARY, THE LAST PART OF
26 JANUARY OF 1988; IS THAT RIGHT?

27 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

28 THE COURT: SUSTAINED.

1 MR. DIXON: YOUR HONOR, I WAS -- THAT WAS AN
2 ANSWER AND I WAS JUST FIRING THAT UP.

3 THE COURT: I UNDERSTAND THAT.

4 Q BY MR. DIXON: OKAY. I WILL ASK IT THIS
5 WAY: WHAT IS YOUR BEST RECOLLECTION AS TO WHEN THAT
6 HAPPENED?

7 A IT WAS THE LAST WEEK IN JANUARY.

8 Q OKAY. 1988?

9 A 1988.

10 Q AND WAS THERE A REASON FOR THIS DINNER?

11 A YES.

12 Q WHAT?

13 A IT WAS A RETURN OF THE FAVORS. WE HAD
14 SOCIALIZED -- MY WIFE NINA AND I HAD SOCIALIZED WITH THE
15 GOODWINS TWICE BEFORE, MIKE AND DIANE. WE HAD BEEN ON
16 THEIR BOAT FISHING. AND WE HAD BEEN TO A BIRTHDAY PARTY
17 AT MIKE'S HOUSE IN BLUE LAGUNA.

18 Q AND YOU ALSO HAD A PROFESSIONAL
19 RELATIONSHIP WHEN HIM; CORRECT?

20 A YES, I DID.

21 Q SO THIS WAS TO RECIPROCATATE FOR THE EVENTS
22 THAT YOU HAD WENT TO?

23 A CORRECT.

24 Q WHO WAS AT THE BARBECUE AT YOUR HOUSE IN
25 THE LAST PART OF JANUARY 1988?

26 A MY WIFE.

27 Q AND YOUR WIFE'S NAME?

28 A NINA WILSON. AND DIANE GOODWIN, MIKE'S

1 WIFE, AND MIKE AND MYSELF.

2 Q NOW, YOU SAID IN AN EARLIER ANSWER THAT
3 ALTHOUGH YOU BARBEQUED THE STEAKS OUTSIDE, IT WAS COLD
4 AND IT WAS THE LAST PART OF JANUARY AND EVENTUALLY YOU
5 CAME INDOORS; IS THAT RIGHT?

6 A THAT'S CORRECT.

7 Q UP UNTIL THAT -- TO A CERTAIN POINT IN
8 TIME THE CONVERSATION BEEN LIGHT AND FRIENDLY?

9 A YES. INITIALLY, YES, IT HAD BEEN.

10 Q AND DID THE SITUATION CHANGE?

11 A IT DID.

12 Q WHY?

13 A I HAD JUST POURED EVERYBODY A DRINK. MY
14 WIFE WAS AT THE KITCHEN SINK PREPARING VEGETABLES OR
15 SOMETHING. AND MIKE AND I WERE -- THE KITCHEN IS
16 ATTACHED TO THE DINING ROOM. THERE IS A SMALL DIVIDER IN
17 BETWEEN. AND MIKE AND I WERE IN TALKING TO ONE ANOTHER.
18 AND I WANTED TO KIND OF BREAK THE ICE AND SAID, "HOW'S IT
19 GOING, MIKE?"

20 Q JUST LIKE THAT?

21 A JUST LIKE THAT.

22 Q "HOW'S IT GOING?"

23 A "HOW'S IT GOING, MIKE?"

24 Q AND WHAT, IF ANYTHING, WAS THE DEFENDANT'S
25 RESPONSE TO YOUR "HOW'S IT GOING"?

26 A HE SAID "TERRIBLE."

27 Q DID HE SAY IT LIKE THAT?

28 A "TERRIBLE."

1 Q IN A RAISED VOICE AND UPSET?

2 A IN A RAISED VOICE AND UPSET.

3 Q AND DID YOU RESPOND TO THIS "TERRIBLE"?

4 A HE KEPT GOING.

5 Q WHAT DID HE SAY?

6 A "FUCKING THOMPSON IS KILLING ME. HE'S
7 DESTROYING ME. HE'S TAKING EVERYTHING I'VE GOT."

8 Q DID YOU RESPOND TO THAT OR WHAT HAPPENED
9 NEXT?

10 A I WAS STUNNED. I REALLY DIDN'T WANT TO
11 BELIEVE WHAT I WAS HEARING. I COULDN'T COME UP WITH A
12 QUICK RESPONSE. BUT THEN I THOUGHT, LET'S TRY TO REASON
13 WITH HIM. I SAID, "THAT'S NOT GOING TO WORK. NOBODY
14 WINS THAT ONE." I SAID, YOU KNOW, "MICKEY'S DEAD AND
15 YOU'RE IN PRISON."

16 Q SO TO THE BEST OF YOUR RECOLLECTION, HE
17 SAID THINGS WERE TERRIBLE. AND THEN WHAT DID HE SAY
18 NEXT?

19 A "FUCKING THOMPSON IS KILLING ME. HE'S
20 DESTROYING ME. HE'S TAKING EVERYTHING I'VE GOT."

21 Q AND WHAT DID HE SAY NEXT?

22 A THAT'S WHEN I TRIED TO REASON WITH HIM AND
23 I SAID, "NOBODY WINS THAT ONE. MICKEY'S DEAD AND YOU'RE
24 IN PRISON."

25 Q WHY DID YOU SAY "MICKEY'S DEAD"?

26 A I'M SORRY. I -- HE SAID, "I'M GOING TO
27 TAKE HIM OUT." I DROPPED THAT LINE. HE SAID, "FUCKING
28 THOMPSON IS KILLING ME. HE'S TAKING EVERYTHING I'VE GOT."

1 HE'S DESTROYING ME. I'M GOING TO TAKE HIM OUT."

2 Q THE DEFENDANT SAID I'M GOING TO TAKE
3 MICKEY OUT?

4 A CORRECT.

5 Q NOW, IN AN EARLIER ANSWER YOU SAID THAT HE
6 WAS RAISING HIS VOICE AS HE SAID "TERRIBLE." DID HE SAY
7 "I'M GOING TO TAKE HIM OUT" IN THE SAME WAY OR DID HE SAY
8 IT IN A DIFFERENT WAY?

9 A HE SAID IT LOUD AND CLEAR.

10 Q ANGRY?

11 A ANGRY.

12 Q AND IN RESPONSE TO THAT, THAT'S --

13 A YES. THAT'S WHEN I SAID, "NOBODY WINS
14 THAT ONE. MICKEY'S DEAD AND YOU'RE IN PRISON."

15 Q NOW, HOW FAR AWAY FROM YOU WAS THE
16 DEFENDANT WHEN HE SAID THIS IN THIS LOUD, ANGRY VOICE?

17 A THREE FEET.

18 Q SO LET ME WALK UP TO YOU AND YOU TELL ME
19 WHEN TO STOP.

20 A KEEP COMING. RIGHT HERE (INDICATING).

21 MR. DIXON: APPROXIMATELY TWO TO THREE FEET, YOUR
22 HONOR?

23 THE COURT: YES.

24 Q BY MR. DIXON: AND EVEN THOUGH YOU WERE
25 JUST TWO OR THREE FEET AWAY WHEN THE DEFENDANT SAID
26 "MICKEY'S KILLING ME. I'M GOING TO TAKE HIM OUT" HE SAID
27 IT IN A LOUD ANGRY VOICE?

28 A YES.

1 Q WHERE WAS YOUR WIFE WHEN THIS HAPPENED?

2 A SHE WAS TO MY LEFT, PROBABLY SIX OR EIGHT
3 FEET TO MY LEFT CUTTING UP VEGETABLES.

4 Q MAYBE THIS DISTANCE (INDICATING).

5 A YES.

6 MR. DIXON: SIX TO SEVEN FEET, YOUR HONOR?

7 THE COURT: YES.

8 MR. DIXON: THANK YOU.

9 Q AFTER THE DEFENDANT SAID HE'S GOING TO
10 TAKE ME MICKEY OUT AND YOU CAME BACK WITH YOUR RESPONSE,
11 DID YOUR WIFE SAY ANYTHING? WHAT HAPPENED NEXT?

12 A SHE DIDN'T SAY ANYTHING THEN AT THAT TIME.

13 Q WHAT HAPPENED NEXT?

14 A THEN HE SAID IN RESPONSE MY NOBODY WINS;
15 HE'S DEAD AND YOU'RE GOING TO BE IN PRISON, HE SAID, "OH,
16 NO." HE SAYS, "I'M TOO SMART FOR THAT. THEY'LL NEVER
17 CATCH ME."

18 Q THE DEFENDANT SAID, "THEY'LL NEVER CATCH
19 ME. I'M TOO SMART"?

20 A THAT'S RIGHT.

21 Q WAS HE STILL LOUD AND ANGRY AT THAT POINT
22 OR WAS HE KIDDING?

23 A HE WAS STILL LOUD --

24 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

25 MR. DIXON: ALL RIGHT. I'LL WITHDRAW THAT AND
26 ASK THIS.

27 Q WAS HE LOUD AND ANGRY WHEN HE SAID I'M TOO
28 SMART FOR THAT, NOBODY IS GOING TO CATCH ME OR DID HE

1 SPEAK IN A LOW, CALM VOICE?

2 A NO. HE WAS STILL AGITATED AND HE WAS
3 STILL LOUD.

4 Q AND DID YOU HAVE ANY RESPONSE TO HIS
5 STATEMENT OF "I'M TOO SMART. THEY'LL NEVER CATCH ME"?

6 A YES.

7 Q WHAT?

8 A I SAID, "COME ON, MIKE."

9 Q JUST LIKE THAT IN A LOUD VOICE?

10 A JUST LIKE THAT.

11 Q SO YOU WERE UPSET AT THAT POINT, TOO?

12 A I WAS UPSET, VERY UPSET.

13 Q WHY?

14 A I COULDN'T BELIEVE WHAT I WAS HEARING. IT
15 WAS A HORRIBLE THING. HE JUST SAID HE WAS GOING TO KILL
16 A FRIEND OF MINE. HE WAS GOING TO KILL HIM. HE WAS
17 GOING TO TAKE HIM OUT.

18 Q TO YOUR KNOWLEDGE, DID THE DEFENDANT KNOW
19 THAT YOU WERE FRIENDS WITH MICKEY THOMPSON?

20 A YES.

21 Q WHAT HAPPENED NEXT?

22 A WELL, AFTER I SAID, "COME ON, MIKE." HE
23 SAID, "WELL, YOU KNOW I'M JUST KIDDING. I COULD NEVER DO
24 ANYTHING LIKE THAT."

25 Q THIS WAS AT THE BEGINNING OF THE EVENING.
26 HAD DID THE REST OF THE EVENING GO?

27 A THIS WAS THE BEGINNING OF THE EVENING.

28 Q WHAT HAPPENED THE REST OF THE EVENING?

1 A MIKE AND DIANE LEFT THE ROOM, WENT TO
2 ANOTHER ROOM. AND I WENT OVER AND TALKED TO MY WIFE.

3 Q SHE WAS JUST A FEW FEET AWAY. WHAT WAS
4 SHE DOING AT THE TIME?

5 A CUTTING UP VEGETABLES.

6 Q WHAT DID YOU SAY?

7 A I SAID, "DID YOU HEAR THAT?"

8 Q AND WHAT DID SHE SAY?

9 MS. SARIS: OBJECTION. CALLS FOR HEARSAY.

10 MR. DIXON: IT'S A SPONTANEOUS STATEMENT.

11 THE COURT: SUSTAINED.

12 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

13 MR. DIXON: I'LL WITHDRAW IT.

14 MS. SARIS: MAY WE APPROACH ANY WAY?

15 THE COURT: ANY WAY, ON WHAT?

16 MS. SARIS: REGARDING SPEAKING OBJECTIONS.

17 THE COURT: WE WILL DO THAT IN A FEW MINUTES.

18 WHY DON'T YOU GO AHEAD.

19 Q BY MR. DIXON: YOU HAD A CONVERSATION WITH
20 YOUR WIFE. WHAT HAPPENED NEXT?

21 A WELL, THEN THEY CAME BACK IN THE ROOM AND
22 WE HAD DINNER AND WE DIDN'T TALK ABOUT IT AGAIN.

23 Q NOW, YOU TOLD US AT THE BEGINNING OF YOUR
24 TESTIMONY THAT YOU WERE A POLICE OFFICER FOR ALMOST 30
25 YEARS; RIGHT?

26 A 27 YEARS, YES.

27 Q AND A COMMANDER AND A HOMICIDE DETECTIVE?

28 A YES.

1 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED,
2 YOUR HONOR. MOVE TO STRIKE.

3 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

4 Q BY MR. DIXON: ALL RIGHT. AS A RESULT OF
5 THIS CONVERSATION AT YOUR HOUSE IN LATE JANUARY OF 1988,
6 DID YOU TAKE ANY ACTION?

7 A NO, I DID NOT.

8 Q WHY NOT?

9 A I JUST COULDN'T BELIEVE -- I JUST DIDN'T
10 WANT TO BELIEVE THAT HE COULD DO SOMETHING LIKE THAT AND
11 I JUST DIDN'T THINK HE WOULD.

12 Q DID THERE COME A TIME WHEN YOU HAD REGRETS
13 ABOUT THAT?

14 A YES.

15 Q ON THE MORNING OF JANUARY 16, 1988?

16 A CORRECT.

17 Q EXCUSE ME. MARCH 16, 1988?

18 A YES.

19 MR. DIXON: COULD I HAVE A MOMENT, PLEASE?

20 (DISCUSSION OFF THE RECORD.)

21 Q BY MR. DIXON: YOU SAID THAT AFTER THIS
22 BACK AND FORTH, THE COMMENTS THAT YOU TOLD US ABOUT
23 TAKING MICKEY OUT AND GETTING AWAY WITH IT AND THAT SORT
24 OF THING, THAT YOU DID SIT DOWN AND HAVE DINNER?

25 A WE DID.

26 Q WAS THERE ANYTHING THAT HAPPENED AT THAT
27 TIME WHEN THE COMMENTS WERE MADE OR THROUGH THE REST OF
28 THE EVENING THAT LED YOU TO BELIEVE THAT THE DEFENDANT

1 WAS JUST MAKING A JOKE OR NOT?

2 A NO. NOTHING LED ME TO BELIEVE THAT THE
3 DEFENDANT WAS MAKING A JOKE.

4 MR. DIXON: COULD I HAVE A MOMENT, PLEASE, YOUR
5 HONOR?

6 THE COURT: YES.

7 MR. DIXON: I WOULD LIKE TO MARK AS OUR NEXT
8 EXHIBIT PEOPLE'S 2 FOR IDENTIFICATION. IT IS A CHART.
9 IT'S REALLY A TIMELINE THAT SAYS, "BUSINESS DEALINGS" AND
10 THEN "DEFENDANT'S STATEMENTS" AT THE BOTTOM. MAY THAT BE
11 MARKED AS PEOPLE'S 2?

12 THE COURT: SO MARKED FOR IDENTIFICATION.

13
14 (MARKED FOR IDENTIFICATION PEOPLE'S
15 EXHIBIT NO. 2, CHART.)
16

17 MR. DIXON: I'LL SHOW IT TO COUNSEL.

18 Q AND I'M NOW SHOWING YOU PART OF PEOPLE'S 2
19 FOR IDENTIFICATION. DO YOU SEE ALMOST IN THE CENTER IT
20 SAYS "1/88" AND YOUR NAME? DO YOU SEE THAT?

21 A YES.

22 Q BELOW IT SAYS, "TAKE MICKEY OUT. TOO
23 SMART TO GET CAUGHT." IS THAT WHAT HE SAID TO YOU?

24 A HE DID.

25 Q AND HERE LOOKING AT A LITTLE LARGER VIEW
26 OF THE EXHIBIT PEOPLE'S 2. IS THAT APPROXIMATELY THE
27 RIGHT TIME JANUARY 1 OF '88; IS THAT CORRECT?

28 A CORRECT?

1 MR. SUMMERS: YOUR HONOR, WE WOULD OBJECT TO THE
2 USE OF THIS AS OTHER EVIDENCE THAT'S UNFOUNDED AND NOT
3 BEEN PROVEN.

4 MR. DIXON: WELL, I'M TAKING IT OFF RIGHT NOW.

5 THE COURT: OKAY. OVERRULED.

6 Q BY MR. DIXON: AND AS YOU SAID IT WAS THE
7 LATTER PART?

8 A THE LAST WEEK IN JANUARY.

9 Q THANK YOU VERY MUCH, MR. WILSON.

10 NOTHING FURTHER AT THIS TIME.

11 THE COURT: CROSS-EXAMINATION?

12 MS. SARIS: THANK YOU.

13
14 CROSS-EXAMINATION

15 BY MS. SARIS:

16 Q GOOD AFTERNOON, MR. WILSON.

17 A GOOD AFTERNOON.

18 Q DID YOU HAVE ANY INVESTIGATIVE DUTIES IN
19 THIS CASE AS A FORMER POLICE OFFICER?

20 A NO.

21 Q HOW DID MICHAEL GOODWIN GET TO DINNER AT
22 YOUR HOUSE THAT EVENING? DO YOU RECALL?

23 A HE DROVE WITH HIS WIFE.

24 Q DO YOU REMEMBER WHAT HE WAS DRIVING?

25 A AN OLD YELLOW MERCEDES.

26 Q DID HE INDICATE ANYTHING TO YOU THAT NIGHT
27 REGARDING THE MERCEDES?

28 A NOT THAT TIME.

1 Q AND WHAT WAS THE -- YOU SAID YOU HAD BEEN
2 TO A BIRTHDAY PARTY AT MICHAEL GOODWIN'S HOUSE
3 PREVIOUSLY. DO YOU KNOW WHOSE BIRTHDAY THAT WAS?

4 A HIS BIRTHDAY.

5 Q AND HOW LONG HAD IT TAKEN FOR TO YOU
6 RECIPROCATE?

7 A OH, IT WAS A WHILE. WE HAD JUST BOUGHT
8 THE HOUSE IN POWAY, SO IT WAS A COUPLE YEARS.

9 Q WHEN DID YOU BUY THE HOUSE IN POWAY?

10 A WE BOUGHT THE HOUSE IN POWAY IN '85, THE
11 END OF '84 THE TOP OF '85.

12 Q AND SO THIS -- DID YOU HAVE THEM OVER IN
13 PART TO SHOW OFF THE NEW HOUSE TO THEM?

14 A YES. WE HAD DONE A LOT OF WORK ON THE
15 HOUSE, NEW PLANTERS AND TREES AND BUSHES AND SHRUBS AND
16 EVERYTHING. AND I WANTED TO SHOW IT OFF.

17 Q WAS THAT ONE OF THE REASONS FOR THIS
18 DINNER PARTY?

19 A PARTLY.

20 Q AND YOU SAID THAT MICHAEL AND DIANE HAD
21 HAD YOU AND YOUR WIFE OVER SOCIALLY?

22 A YES.

23 Q YOU WERE AWARE OF A LAWSUIT BETWEEN MICKEY
24 THOMPSON AND MICHAEL GOODWIN?

25 A I WAS.

26 Q MICHAEL STARTED THE CONVERSATION BY SAYING
27 "MICKEY'S KILLING ME"; IS THAT RIGHT?

28 A NO.

1 Q I'M SORRY. HOW DID MICHAEL START THE
2 CONVERSATION?

3 A HE DIDN'T.

4 Q OKAY. HOW DID HE RESPOND TO "HOW'S IT
5 GOING, MIKE"?

6 A HE SAYS "TERRIBLE."

7 Q THEN WHAT DID HE SAY?

8 A "FUCKING THOMPSON IS KILLING ME."

9 Q DID YOU TAKE THAT AS A FIGURE OF SPEECH OR
10 DID YOU THINK THAT MICKEY WAS ACTUALLY KILLING HIM?

11 A NO. I TOOK IT AS A FIGURE OF SPEECH.

12 Q IS IT FAIR TO SAY -- AND YOU KNEW MICHAEL
13 MORE THAN JUST THIS ONE EVENING; CORRECT?

14 A OH, ABSOLUTELY, FOR YEARS.

15 Q WOULD YOU DESCRIBE HIM AS LOUD MOUTHED?

16 A MICHAEL IS A LOUD PERSON OR CAN BE.

17 Q WHAT ABOUT WAS HE EVER PRONE TO
18 EXAGGERATION THAT YOU KNEW?

19 A SOMETIMES.

20 Q DO YOU KNOW WHETHER OR NOT HE HIMSELF
21 RACED MOTORCYCLES?

22 A I DO.

23 Q AND DID HE?

24 A I WATCHED HIM RACE.

25 Q HOW MANY EVENTS DID HE -- OR IF ANY, DID
26 HE PUT ON ANY EVENTS AT THE ROSE BOWL WHILE YOU WERE
27 THERE?

28 A NO.

1 Q YOU HAD SAID SOMETHING ABOUT THE
2 NEIGHBORHOOD IS AGAINST THE ROSE BOWL. WHAT DO YOU MEAN
3 BY THAT?

4 A THE NEIGHBOR WAS AGAINST LOUD EVENTS, SUCH
5 AS CONCERTS AND SUPERCROSS. THEY HAVE SINCE RELENTED AND
6 THEY'VE HAD SUPERCROSS THERE.

7 Q DO THEY ALSO, THOUGH, HAVE TO HAVE, LIKE,
8 SOUND STUDIES DONE?

9 A WE HAD ALL KINDS OF SOUND STUDIES DONE.

10 Q DID THAT OCCUR AT JACK MURPHY STADIUM OR
11 IS THAT SOMEWHAT UNIQUE FOR THE ROSE BOWL?

12 A NO. WE HAD NO PROBLEM AT JACK MURPHY
13 STADIUM.

14 Q SO THAT SITUATION IS SOMEWHAT UNIQUE TO
15 THE ROSE BOWL?

16 A IT IS.

17 Q AND IS THAT BECAUSE IT'S IN SORT OF A
18 RESIDENTIAL DISTRICT?

19 A THAT'S CORRECT.

20 Q DO YOU RECALL BEING INTERVIEWED IN 1988
21 ABOUT THIS CASE?

22 A INTERVIEWED? I TALKED TO SOMEBODY ON THE
23 PHONE.

24 Q HOW WAS IT THAT YOU -- TELL ME ABOUT
25 THAT -- CAME TO CONTACT LAW ENFORCEMENT? WHEN DID YOU
26 MAKE THIS CALL?

27 A THE MORNING OF MARCH 16TH AT ABOUT 8:10 IN
28 THE MORNING. I CALLED L.A. --

1 Q I'M SORRY. DID YOU CALL 911 OR DID YOU
2 CALL --

3 A I CALLED L.A. -- THE LOS ANGELES SHERIFF'S
4 HOMICIDE SECTION.

5 Q DID YOU IDENTIFY YOURSELF AS A FORMER
6 HOMICIDE DETECTIVE?

7 A I IDENTIFIED MYSELF AS A FORMER POLICE
8 COMMANDER.

9 Q DO YOU REMEMBER WHO YOU SPOKE TO?

10 A NO.

11 Q DO YOU REMEMBER THE FIRST TIME YOU TALKED
12 TO A POLICE OFFICER IN PERSON?

13 A I THINK IT WAS MARK LILLIENFELD.

14 Q MARK LILLIENFELD. AND HE IS A DETECTIVE
15 ON THIS CASE?

16 A HE IS A DETECTIVE ON THE CASE, YES.

17 Q DO YOU SEE HIM IN THE ROOM?

18 A I DO.

19 Q CAN YOU POINT HIM OUT FOR US AND LET ME
20 KNOW WHO HE IS?

21 A HE'S THE GENTLEMAN WITH HIS HANDS
22 CLENCHED, KIND OF RED FACED AND SHORT HAIR RIGHT THERE
23 WITH THE GRIN ON HIS FACE.

24 Q I'M SORRY. OKAY.

25 THE COURT: DETECTIVE LILLIENFELD.

26 Q BY MS. SARIS: AND DO YOU REMEMBER WHEN
27 THAT CONVERSATION WITH DETECTIVE LILLIENFELD WAS?

28 A IT'S BEEN YEARS AGO, MAYBE FIVE OR SIX.

1 Q FIVE OR SIX YEARS AGO?

2 A YES.

3 Q WHEN YOU WERE GOING THROUGH THE
4 CONVERSATION YOU SAID YOU ORIGINALLY WHEN YOU TOLD US YOU
5 LEFT A LINE OUT AND THAT WAS THE LINE "I'M GOING TO TAKE
6 HIM OUT"?

7 A CORRECT.

8 Q AND THAT'S WHAT PROMPTED YOU TO MAKE
9 THIS -- TO RESPOND TO HIM ABOUT NO ONE WINNING?

10 A CORRECT.

11 Q HAD YOU EVER HEARD THE PHRASE "TAKE
12 SOMEONE OUT" BEFORE?

13 A YES.

14 Q AND WHAT DID IT MEAN?

15 A IN RACING YOU RUN THEM OFF THE TRACK.
16 IN LIFE YOU KILL THEM.

17 Q WHEN YOU SAY "RUN THEM OFF THE TRACK," DO
18 YOU MEAN YOU PHYSICALLY MOVE YOUR VEHICLE IN THEIR WAY?

19 A CORRECT. RIDE THEM OFF.

20 MS. SARIS: MAY I HAVE JUST A MOMENT?

21 (PAUSE IN PROCEEDINGS.)

22 Q BY MS. SARIS: I JUST WANT TO GET BACK TO
23 THE TIMING OF THIS CONVERSATION. YOU PURCHASED YOUR HOME
24 IN APPROXIMATELY NOVEMBER OF 1984?

25 A NO, IT WAS LATER. I THINK IT WAS
26 DECEMBER.

27 Q AND YOU MOVED IN SUBSEQUENT TO THAT?

28 A YES.

1 Q AND DID SOME WORK ON THE HOUSE?

2 A YES.

3 MS. SARIS: YOUR HONOR, I HAVE SOME CERTIFIED
4 DOCUMENTS OF -- I'LL SHOW THEM TO COUNSEL -- GRANTS AND
5 TRUST DEEDS REGARDING AN ADDRESS IN POWAY.

6 THE COURT: HOW MANY PAGES?

7 MS. SARIS: WHY DON'T I MAKE IT ALL ONE DOCUMENT.

8 THE COURT: HOW MANY PAGES?

9 MS. SARIS: IT'S ONE, TWO, THREE, FOUR, FIVE,
10 SIX.

11 THE COURT: ALL RIGHT. THAT WILL BE MARKED
12 DEFENSE A.

13
14 (MARKED FOR IDENTIFICATION DEFENSE'S
15 EXHIBIT NO. A, DOCUMENT.)
16

17 MS. SARIS: MAY I APPROACH THE WITNESS?

18 THE COURT: YES.

19 MR. DIXON: COULD I JUST HAVE A MOMENT, PLEASE?

20 THE COURT: YES.

21 (PAUSE IN PROCEEDINGS.)

22 MR. DIXON: THANK YOU.

23 MS. SARIS: THANK YOU. AND FOR THE EASE OF
24 IDENTIFICATION, I'M TAKING OUT THE STAPLE AND MAKING
25 THESE ONE.

26 THE COURT: ALL RIGHT.

27 MS. SARIS: AND I WOULD LIKE TO MARK THAT FOR
28 IDENTIFICATION PURPOSES DEFENSE A.

1 THE COURT: YES. SO MARKED.

2 Q BY MS. SARIS: MR. WILSON, I'M GOING TO
3 SHOW YOU SOME DOCUMENTS THAT ARE MARKED AS DEEDS AND
4 TRUSTS AND ASK IF YOU RECOGNIZE THE ADDRESS OR ANY OF THE
5 NAMES ON THAT DOCUMENT?

6 A YES, I DO.

7 Q DOES THAT REFER TO THE HOME THAT YOU
8 CURRENTLY RESIDE IN?

9 A YES, IT IS.

10 Q AND DOES THAT DOCUMENT HAVE ANY DATE ON IT
11 THAT WOULD INDICATE WHEN YOU PURCHASED THAT PROPERTY?

12 A IT SAYS OCTOBER 12, 1984.

13 Q AND AT THE TOP IS THERE ANOTHER STAMPED
14 INDICATING WHEN IT WAS MADE OFFICIAL?

15 A NOVEMBER 30TH, JUST A DAY BEFORE DECEMBER
16 1984.

17 Q AND ARE THOSE DOCUMENTS PERTAINING TO THE
18 SALE OF THE HOME THAT YOU JUST DESCRIBED?

19 A THEY ARE.

20 Q THANK YOU.

21 I HAVE NOTHING FURTHER. THANK YOU, YOUR
22 HONOR.

23 THE COURT: ANY REDIRECT?

24 MR. JACKSON: MAY WE HAVE JUST A MOMENT, YOUR
25 HONOR?

26 (PAUSE IN PROCEEDINGS.)

27 ///

28 ///

REDIRECT EXAMINATION

BY MR. DIXON:

Q WHEN THE DEFENDANT TOLD YOU AT YOUR DINNER PARTY THAT HE WAS GOING TO TAKE MICKEY OUT, DID YOU THINK HE MEANT IN RACING?

A NO.

Q HE WASN'T RACING THEN?

A HE WAS NOT RACING, HE WAS TALKING.

Q AND MICKEY THOMPSON CERTAINLY WASN'T RACING, WAS HE?

A NO.

Q AS I ASKED YOU IN MY FIRST SET OF QUESTIONS AND YOU INDICATED YOU CLEARLY REMEMBER THE DATE THAT MICKEY THOMPSON AND HIS WIFE WERE KILLED?

A YES.

Q DO YOU HAVE ANY DOUBT WHEN THE CONVERSATIONS THAT WE'VE TALKED ABOUT TODAY BETWEEN YOU AND THE DEFENDANT THAT OCCURRED AT THE BARBEQUE AT YOUR HOUSE OCCURRED?

A NO, I HAVE NO DOUBT.

Q LATE JANUARY 1988?

A CORRECT.

Q THANK YOU VERY MUCH.

NOTHING FURTHER, YOUR HONOR.

THE COURT: THANK YOU.

ANYTHING ELSE?

MS. SARIS: YES. THANK YOU.

///

RE CROSS-EXAMINATION

BY MS. SARIS:

Q MR. WILSON, LATE JANUARY OF 1988, YOU HAD BEEN IN YOUR HOME FOR NEARLY THREE YEARS?

A YES.

Q THIS WAS A DINNER THAT YOU HAD TO SHOW OFF YOUR NEW HOME TO MR. GOODWIN.

A I HAD DONE A LOT OF WORK IN THREE YEARS WORKING AT THE STADIUM AND ON THE PROPERTY WITH FRUIT TREES AND PLANTERS AND LAWNS. AND WE WERE PROUD OF IT. AND I THOUGHT WE OWED THEM A SOCIAL PARTY. MY WIFE WASN'T KEEN ON IT, BUT WE DID IT ANYWAY.

Q WHEN DID YOU SAY THAT YOU HAD SUGGESTED THIS PARTNERSHIP?

A I'M NOT SURE. IT COULD HAVE BEEN '85 OR -'6.

Q AND WHERE WERE YOU WORKING AT THAT TIME?

A I WAS A GENERAL MANAGER OF JACK MURPHY STADIUM, SAN DIEGO.

Q YOU DIDN'T CALL THE POLICE AT THIS DINNER PARTY, DID YOU?

A AT THE DINNER PARTY?

Q YES.

A NO.

Q DID YOU CALL MICKEY THOMPSON AFTERWARD?

A NO, I DIDN'T.

Q YOU SPOKE TO MICHAEL GOODWIN AFTER THAT DINNER PARTY, DID YOU NOT?

1 A I HAVE, YES.

2 Q AND YOU DON'T RECALL HAVING ANY
3 CONVERSATION WITH ANY SHERIFFS OR ANYONE PRIOR TO MEETING
4 DETECTIVE LILLIENFELD?

5 A OH, YES, I DID. I GOT A CALL IN THE
6 SUMMER AFTER THE EVENT. I WONDERED WHY IT TOOK SO LONG.

7 Q THE SUMMER AFTER?

8 A AFTER THE KILLINGS.

9 Q AND DO YOU REMEMBER WHO CALLED YOU?

10 A I DON'T REMEMBER THE NAME. HE SAID HE WAS
11 THE LEAD INVESTIGATOR IN THE CASE.

12 Q DOES THE NAME GRIGGS SOUND FAMILIAR?

13 A IT DOESN'T MEAN ANYTHING. I DON'T RECALL.

14 Q AND IN THIS CONVERSATION THAT YOU HAD WITH
15 THAT INDIVIDUAL, DID YOU TELL HIM THIS ENTIRE
16 CONVERSATION ABOUT WHAT YOU HAD SAID BACK REGARDING HOW
17 NO ONE WINS AND WHAT MICHAEL HAD RESPONDED ABOUT BEING
18 TOO SMART?

19 A NO. I TOLD HIM, I SAID, MIKE HAD
20 THREATENED TO HIM IN MY HOUSE.

21 Q SO YOU DIDN'T GO INTO DETAIL?

22 A I DID NOT.

23 Q YOU DIDN'T GO INTO DETAIL UNTIL YOU TALKED
24 TO DETECTIVE LILLIENFELD?

25 A THAT'S CORRECT.

26 Q DID YOU BRING SOME NOTES WITH YOU TODAY?
27 I HAVE A VERY BAD VIEW OF WHAT I'M SEEING.

28 A NO, I HAVE NO NOTES.

1 Q DO YOU REMEMBER WHEN -- OR WHAT MONTH
2 MICHAEL'S BIRTHDAY IS IN?

3 A NO.

4 Q YOU SAID THAT YOU HAD MADE -- YOU HAD BEEN
5 INVITED SOCIALLY TO HIS BOAT?

6 A WE HAD GONE FISHING ON HIS BOAT, YES.
7 BOTH MY WIFE AND I.

8 Q DID YOU KNOW HIM TO HAVE MORE THAN ONE
9 BOAT OR ACCESS TO --

10 MR. DIXON: OBJECTION. THIS GOES BEYOND THE
11 SCOPE OF REDIRECT. I WAITED FOR A WHILE.

12 THE COURT: IT DOES.

13 MS. SARIS: IT HAS TO DO WITH TIMING, YOUR HONOR,
14 WHICH WAS REOPENED IN REDIRECT.

15 THE COURT: ALL RIGHT.

16 THE WITNESS: I DON'T KNOW.

17 Q BY MS. SARIS: DID YOU KNOW WHETHER OR
18 NOT MICHAEL GOODWIN KNEW HIS WAY AROUND BOATS?

19 A HE WAS A SAILOR, YES.

20 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

21 MR. DIXON: THANK YOU. NOTHING FURTHER, YOUR
22 HONOR.

23 THE COURT: THANK YOU, SIR. YOU ARE EXCUSED.
24 THANKS FOR COMING IN.

25 YOU MAY CALL YOUR NEXT WITNESS.

26 MR. DIXON: THANK YOU, YOUR HONOR. OUR NEXT
27 WITNESS WOULD BE NINA WILSON.

28

1 NINA WILSON,
2 CALLED BY THE PEOPLE AS A WITNESS, WAS
3 SWORN AND TESTIFIED AS FOLLOWS:
4

5 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

6 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
7 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
8 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
9 TRUTH SO HELP YOU GOD.

10 THE WITNESS: I DO.

11 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,
12 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
13 NAME FOR THE RECORD.

14 THE WITNESS: NINA, N-I-N-A, WILSON, W-I-L-S-O-N.

15 THE CLERK: THANK YOU.

16 THE COURT: YOU MAY INQUIRE.

17 MR. DIXON: THANK YOU, YOUR HONOR.
18

19 DIRECT EXAMINATION

20 BY MR. DIXON:

21 Q GOOD AFTERNOON, MA'AM. THANK YOU FOR
22 COMING. I WOULD LIKE TO INVITE YOUR ATTENTION TO OUR
23 SCREEN, THAT'S AN EXHIBIT MARKED PEOPLE'S 1 FOR
24 IDENTIFICATION. BACK IN THE MID '80S, DID YOU KNOW THOSE
25 PEOPLE?

26 A YES, I DID.

27 Q AND WHO ARE THEY?

28 A THAT'S MICKEY AND TRUDY THOMPSON.

1 Q AT THAT TIME AND TODAY, ARE YOU MARRIED?

2 A YES, I AM.

3 Q TO WHOM?

4 A BILL WILSON.

5 Q OUR LAST WITNESS; RIGHT?

6 A YES.

7 Q AND BECAUSE OF -- PERHAPS BECAUSE OF HIS
8 BUSINESS OCCUPATION, DID YOU COME TO GET TO KNOW THE
9 THOMPSONS?

10 A YES, I DID, VERY WELL.

11 Q AGAIN, BECAUSE OF YOUR HUSBAND'S BUSINESS
12 INTEREST, WAS THERE A TIME WHEN YOU MET THE MAN THAT I'M
13 NOW STANDING BEHIND, THE DEFENDANT IN THIS CASE?

14 A YES.

15 Q YOU KNOW HIM AS?

16 A MR. MICHAEL GOODWIN.

17 MR. DIXON: INDICATING THE DEFENDANT, YOUR HONOR.

18 THE COURT: YES.

19 Q BY MR. DIXON: I WOULD LIKE YOU TO THINK
20 BACK TO JANUARY OF 1988. DID YOU HOST A DINNER PARTY AT
21 YOUR HOME?

22 A TO MY RECOLLECTION, IT WAS LIKE THE 1ST OF
23 FEBRUARY. YES, I DID.

24 Q OF WHAT YEAR?

25 A OF 1988.

26 Q OKAY. AND WHO WAS INVITED TO THIS DINNER
27 PARTY AT YOUR HOME?

28 A MY HUSBAND HAD INVITED MIKE AND DIANE

1 GOODWIN TO HAVE A BARBECUE AT OUR HOUSE.

2 Q AND WAS THERE SOME REASON FOR THIS DINNER
3 PARTY?

4 A YOU KNOW, I DON'T REALLY RECALL OTHER THAN
5 HE WORKED WITH MR. GOODWIN WITH THE RACES THAT TOOK PLACE
6 AT THE STADIUM. AND HE HAD INVITED HIM FOR JUST A SOCIAL
7 EVENING.

8 Q HAD YOU SOCIALIZED WITH THE DEFENDANT
9 BEFORE?

10 A YES, WE HAD. WE WERE INVITED TO
11 MR. GOODWIN'S BIRTHDAY PARTY THE PREVIOUS YEAR. AND ALSO
12 AN OUTING ON THEIR YACHT.

13 Q AND DID THIS DINNER PARTY RECIPROCATATE IN
14 SOME FASHION FOR THAT?

15 A I DON'T KNOW. I THINK IT WAS JUST A
16 GOODWILL DINNER TO SOCIALIZE FOR THE EVENING.

17 Q ALL RIGHT. WHAT KIND OF DINNER? STEAKS?
18 PASTA? BARBECUE?

19 A WE WERE BARBECUING I BELIEVE IT WAS
20 STEAKS. AND WE HAD SOME HORDOURVES AND SOCIAL DRINKS,
21 WINE AND SO FORTH.

22 Q EARLIER IN THE EVENING, DID THERE COME A
23 TIME WHEN YOU HEARD VOICES RAISED?

24 A YES. MY HUSBAND AND MR. GOODWIN WERE
25 HAVING A CONVERSATION. BILL HAD ASKED HIM HOW THINGS
26 WERE GOING.

27 Q WHERE WERE YOU WHEN THIS CONVERSATION TOOK
28 PLACE?

1 A I WAS AT THE KITCHEN SINK PREPARING CARROT
2 STICKS FOR THE DIP.

3 Q AND WHERE WAS YOUR HUSBAND?

4 A HE WAS SITTING ON THE OTHER SIDE -- THERE
5 IS KIND OF LIKE A COFFEE BAR BETWEEN THE KITCHEN AND THE
6 EATING AREA. AND HE WAS SITTING ON THE OPPOSITE SIDE.
7 AND MR. GOODWIN WAS STANDING AT THE END OF IT LEANING
8 AGAINST THE WALL WITH A DRINK MY HUSBAND HAD POURED HIM.

9 Q AND AT THE TIME OF THIS CONVERSATION, CAN
10 YOU GIVE US AN IDEA OF HOW FAR AWAY FROM YOU THE
11 DEFENDANT MICHAEL GOODWIN WAS?

12 A NO MORE THAN MAYBE SIX FEET.

13 Q COULD YOU TELL US USING ME AS THE PROP
14 HERE.

15 A PROBABLY JUST A LITTLE BIT CLOSER. ABOUT
16 RIGHT THERE.

17 MR. DIXON: SO THE DISTANCE BETWEEN US FIVE OR
18 SIX FEET, YOUR HONOR.

19 THE COURT: YES.

20 MR. DIXON: THANK YOU.

21 Q SO MY EARLIER QUESTION TO YOU WAS: DID
22 THERE COME A TIME WHEN YOU HEARD VOICES RAISED IN A
23 CONVERSATION? AND YOU ANSWERED YES.

24 A YES. YES.

25 Q TELL US WHAT HAPPENED?

26 A MY HUSBAND HAD ASKED MR. GOODWIN HOW
27 THINGS WERE GOING. AND THERE HAD BEEN GENERAL
28 CONVERSATION BEFORE AND IT WAS OF A MODERATE TONE. AND

1 AT THAT TIME WHEN HE ASKED HIM HOW THINGS WERE GOING, HE
2 SEEMED TO GET EXCITED AND HE SAID "TERRIBLE." AND THEN
3 HE STARTED IN ON THE CONVERSATION.

4 Q WHAT DID YOU HEAR THE DEFENDANT SAY NEXT?

5 A HE SAYS, "TERRIBLE." HE SAYS THAT "F"ING
6 THOMPSON IS TAKING EVERYTHING I'VE GOT." AND THE
7 CONVERSATION SEEMED TO ACCELERATE FROM THERE.

8 Q SO AFTER THE DEFENDANT SAID, "THOMPSON IS
9 TAKING EVERYTHING I'VE GOT," WHAT HAPPENED NEXT? WHAT
10 WAS SAID NEXT?

11 A WELL, THEN HE SAID -- HE SAYS, "I JUST
12 HATE HIM." HE SAYS, "I'M GOING TO TAKE HIM OUT. I'M
13 JUST GOING TO TAKE HIM OUT." AND MY HUSBAND GOT KIND OF
14 ALERTED. HE SAYS, "WELL, YOU DON'T MEAN THAT. NOBODY
15 WINS IN A SITUATION LIKE THAT." AND THE CONVERSATION
16 PROCEEDED.

17 Q DID THE DEFENDANT SAY SOMETHING ELSE AFTER
18 HE SAID, "I'M GOING TO TAKE HIM OUT. I'M GOING TO TAKE
19 HIM OUT"?

20 A WELL, BILL HAD SAID TO HIM, "MICKEY WOULD
21 END UP DEAD AND YOU WOULD END UP IN PRISON." AND HE
22 SAYS, "OH, NO. I WOULD MAKE SURE THEY COULDN'T PIN IT ON
23 ME. I'M TOO SMART FOR THAT."

24 Q AFTER YOUR HUSBAND -- HE'S A FORMER POLICE
25 OFFICER; RIGHT?

26 A YES.

27 Q AFTER YOUR HUSBAND SAID TO HIM, HEY,
28 THOMPSON WOULD BE DEAD AND YOU WOULD BE IN PRISON, THE

1 DEFENDANT SAID, "I'M TOO SMART FOR THAT. NOBODY WILL
2 CATCH ME"?

3 A YES. HE SAID, "NOBODY WILL PIN IT ON ME."

4 Q "NOBODY WILL PIN IT ON ME." COULD YOU
5 TELL US HOW THIS WAS SAID BY THE DEFENDANT? WAS IT CALM
6 AND COLLECTED AND JOKING? OR WAS IT SERIOUS, LOUD AND
7 AGITATED?

8 A WELL, IN THE BEGINNING WHEN THEY WERE
9 TALKING I WAS HALF LISTENING BECAUSE I WAS CONCENTRATING
10 ON WHAT I WAS DOING. BUT THEN WHEN HE BECAME EXCITED AND
11 THE VOLUME IN HIS TONE RAISE, I STOPPED WHAT I WAS DOING
12 AND WAS LOOKING RIGHT AT HIM. AND HE WAS TRULY EXCITABLE
13 IN HIS EXPRESSION. HIS EYES WERE WIDE. AND YOU COULD
14 TELL HIS FACE WAS VERY UPSET IN EXPRESSION. AND THAT'S
15 WHEN I LOOKED AT BILL AND I LOOKED OVER AT MRS. GOODWIN.
16 AND SHE WAS VERY AFFIXED ON MICHAEL WITH A VERY STRAIGHT
17 FACE. BUT HE SEEMED VERY ANGRY AT THE TIME.

18 Q DID HE APPEAR -- DID THE DEFENDANT APPEAR
19 TO BE ANGRY AS HE SAID "I'M GOING TO TAKE HIM OUT. I'M
20 GOING TO TAKE HIM OUT"?

21 A OH, YES. YES, THERE WAS NO QUESTION HE
22 WAS VERY UPSET AT THE TIME.

23 Q AND WAS HE JOKING OR KIDDING OR SERIOUS
24 WHEN HE SAID, "I'M TOO SMART FOR THAT. THEY WILL NEVER
25 PIN IT ON ME"?

26 A NO. HE WAS VERY SERIOUS. AND BILL KIND
27 OF GOT UPSET AND HE SAYS "OH, NO." AND THEN WHEN MIKE
28 LOOKED AROUND, HE LOOKED AT ME AND HE LOOKED AT BILL AND

1 HE GLANCED OVER AT HIS WIFE. AND HE SAID, "WELL, I'M
2 JUST JOKING." BECAUSE HE KNEW THAT WE WERE ALL PRETTY
3 MUCH TAKEN BY HIS REMARK. I MEAN IT WAS SHOCKING.

4 Q DID YOU THINK HE WAS JOKING?

5 A NO. NO.

6 Q WAS THERE AT THAT TIME OR ANY TIME THAT
7 EVENING ANY CONVERSATION ABOUT A CAR "LAST STRAW" ABOUT A
8 CAR?

9 A YOU KNOW, I'M NOT SURE. I DON'T REALLY
10 REMEMBER, THERE MAY HAVE BEEN. BUT, LIKE I SAID, I WAS
11 WORKING IN THE KITCHEN, SO I WASN'T ATTUNED TO EVERYTHING
12 THAT HE SAID.

13 Q BUT WHAT YOU TESTIFIED HERE TODAY TO, WERE
14 ATTUNED TO THAT?

15 A YES. WHEN THE VOICES BECAME HEIGHTENED IN
16 VOLUME AND EVERYTHING BECAME VERY KIND OF BOISTEROUS, IT
17 IMMEDIATELY GOT MY ATTENTION.

18 MR. DIXON: COULD I HAVE A MOMENT?

19 (PAUSE IN PROCEEDINGS.)

20 MR. DIXON: THANK YOU VERY MUCH. I APPRECIATE
21 IT. NOTHING FURTHER AT THIS TIME.

22 THE COURT: CROSS-EXAMINATION?

23

24 CROSS-EXAMINATION

25 BY MS. SARIS:

26 Q GOOD AFTERNOON, MRS. WILSON.

27 A GOOD AFTERNOON.

28 Q DO YOU RECALL IF THIS WAS A WEEKEND OR A

1 WEEKDAY?

2 A YOU KNOW, I'M NOT REAL POSITIVE. I JUST
3 KNOW THAT IT WAS HALF I THINK THE FIRST PART OF FEBRUARY,
4 LIKE IN THE FIRST WEEK. I WOULD THINK IT WAS ON A
5 WEEKEND, BUT I'M NOT REAL POSITIVE.

6 Q WOULD IT HAVE BEEN YOUR CUSTOM AND HABIT
7 TO HAVE PEOPLE OVER DURING THE WEEK?

8 A NOT NORMALLY.

9 Q HAD ANYONE BEEN DRINKING?

10 A THEY HAD JUST POURED A DRINK.

11 Q AND YOU ACTUALLY -- SO WAS THERE
12 CONVERSATION WHEN YOU FIRST WALKED IN -- WHEN THE
13 GOODWINS FIRST WALKED IN THE HOME?

14 A YOU KNOW, I WAS IN THE KITCHEN. MY
15 HUSBAND ANSWERED THE FRONT DOOR. AND I COULD HEAR VOICES
16 IN THERE, BUT I COULD NOT HEAR THE CONVERSATION.

17 Q AND THE CONVERSATION THAT YOU RELATED FROM
18 MICHAEL GOODWIN, THAT WAS IN RESPONSE TO THE SIMPLE
19 QUESTION, "HOW'S IT GOING"?

20 A YES.

21 Q HAD MICKEY THOMPSON'S NAME COME UP?

22 A APPARENTLY IT HAD. THEY HAD BEEN TALKING
23 I GUESS.

24 Q SO THERE MIGHT HAVE BEEN PART OF THE
25 CONVERSATION THAT YOU DIDN'T HEAR?

26 A PRIOR TO THEIR COMING INTO THE KITCHEN
27 AREA.

28 Q SO IT'S POSSIBLE? IS THAT A YES?

1 A IT'S POSSIBLE.

2 Q DO YOU KNOW HOW MICHAEL PHYSICALLY GOT TO
3 YOUR HOUSE?

4 A I ASSUME THEY DROVE.

5 Q DID YOU SEE A CAR?

6 A I NEVER WENT OUTSIDE. SO I COULDN'T TELL
7 YOU.

8 Q DID YOU HEAR ANY DISCUSSION ABOUT A
9 MERCEDES THAT EVENING?

10 A YOU KNOW, I'M NOT SURE, NO.

11 Q DID YOU CALL TRUDY AFTER THIS DINNER
12 PARTY?

13 A DID I CALL TRUDY?

14 Q YES.

15 A NO.

16 Q WAS THE -- YOU HAD SEEN MR. GOODWIN ON
17 OTHER SOCIAL OCCASIONS?

18 A YES.

19 Q WOULD YOU DESCRIBE HIM AS LOUD?

20 A HE COULD BE --

21 Q HOW ABOUT A BRAGGART?

22 A -- KIND OF FULL IN VOLUME. BUT, YOU KNOW,
23 NOT NORMALLY LOUD. A STRONG PERSONALITY.

24 Q WOULD YOU DESCRIBE HIM AS A BRAGGART?

25 A I CAN'T SAY THAT HE WAS REALLY THAT STATE
26 IN FRONT OF ME AT ANY TIME. OTHER THAN HE WAS A VERY
27 SELF-ASSURED PERSONALITY.

28 Q WHEN WAS THE FIRST TIME THAT YOU WERE

1 CONTACTED BY LAW ENFORCEMENT IN THIS CASE?

2 A MYSELF PERSONALLY?

3 Q YES.

4 A I'M NOT REAL POSITIVE. ALL I CAN SAY IT
5 WAS PROBABLY -- I DON'T KNOW SOMETIME AFTERWARDS. I
6 REALLY COULDN'T PINPOINT.

7 Q COULD IT HAVE BEEN 1999?

8 A YES, IT COULD HAVE BEEN.

9 Q AND DO YOU REMEMBER WHO CONTACTED YOU?

10 A I THINK IT WAS MR. LILLIENFELD.

11 Q DO YOU SEE HIM IN COURT TODAY? DO YOU
12 KNOW HOW HE LOOKS?

13 A YES.

14 Q AND IS HE THE GENTLEMAN SITTING WITH HIS
15 HAND COLLAPSED?

16 A YES.

17 THE COURT: IDENTIFYING DETECTIVE LILLIENFELD.

18 Q BY MS. SARIS: DID YOU CALL THE POLICE
19 AFTER THIS DINNER PARTY?

20 A DID I? NO.

21 Q WAS THE FACT THAT YOUR HUSBAND USED TO BE
22 A POLICE OFFICER SOMETHING HE KEPT SECRET OR DID HE TALK
23 ABOUT THAT?

24 A OH, NO. BILL WAS ALWAYS OPEN ABOUT THE
25 FACT THAT HE HAD BEEN A POLICE OFFICER.

26 Q WHEN THE PHRASE CAME OUT "TAKING
27 EVERYTHING I'VE GOT," DID ANYONE TRY AND CLARIFY WHAT
28 MR. GOODWIN MEANT BY THAT?

1 A NO.

2 Q DID YOU HAVE ANY IDEA WHAT HE MEANT BY
3 THAT?

4 A I KNEW THAT THERE HAD BEEN SOME SORT OF
5 LEGAL CASE BETWEEN HE AND MR. THOMPSON. BUT I WAS NEVER
6 INFORMED OF JUST WHAT WAS WHAT.

7 Q WAS PART OF -- WAS ANY PART OF THIS DINNER
8 PARTY TO SHOW OFF YOUR NEW HOME TO THE GOODWINS?

9 A I THINK IT WAS BASICALLY TO SAY THANK YOU
10 TO THEM FOR HAVING TREATED US SO NICELY BEFORE AND
11 INVITING US TO THEIR HOME. AND BASICALLY THAT.

12 Q DID -- WAS THERE ANY UPCOMING EVENT THAT
13 YOUR HUSBAND AND MR. THOMPSON WERE DISCUSSING OR
14 NEGOTIATING? DO YOU KNOW IF THEY STILL WERE DOING
15 BUSINESS TOGETHER?

16 A MR. THOMPSON?

17 Q I'M SORRY. MR. GOODWIN.

18 A YOU KNOW, I REALLY DON'T KNOW. I MEAN I
19 ATTENDED A LOT OF THE EVENTS AT THE STADIUM, BUT I DIDN'T
20 ALWAYS KEEP RIGHT ON TOP AS FAR AS WHAT WAS GOING ON.

21 Q DO YOU RECALL ANY DISCUSSION THAT NIGHT OF
22 ANY UPCOMING EVENT?

23 A NO, NOT REALLY. JUST GENERAL
24 CONVERSATION.

25 Q AFTER THIS CONVERSATION THAT YOU RELATED
26 TO US, DID YOU CONTINUE ON WITH YOUR EVENING?

27 A YES.

28 Q DID YOU HEAR ABOUT THE CRIME WHEN IT

1 OCCURRED IN 1988?

2 A I HEARD IT, YES.

3 Q DID YOU CALL THE POLICE AT THAT TIME?

4 A NO, I DIDN'T.

5 Q DO YOU REMEMBER WHERE YOU WERE WHEN YOU
6 HEARD ABOUT IT?

7 A I WAS HOME LISTENING TO THE RADIO WHEN THE
8 FIRST ANNOUNCEMENT I HEARD.

9 MS. SARIS: MAY I HAVE JUST A MOMENT?

10 (DISCUSSION OFF THE RECORD.)

11 Q BY MS. SARIS: DID YOU SPEAK TO
12 MR. GOODWIN AGAIN AFTER THIS PARTY?

13 A AFTER THAT PARTY, I DON'T BELIEVE SO. I
14 DON'T RECALL EVER HAVING DONE SO.

15 Q DO YOU RECALL HIM PHONING YOUR HOME AND
16 ASKING ABOUT YOUR HUSBAND?

17 A YES, I TAKE THAT BACK. YES, HE DID. HE
18 CALLED QUITE SOMETIME LATER AND HAD ASKED TO TALK TO
19 BILL.

20 Q DO YOU KNOW HOW LONG YOU LIVED IN YOUR
21 HOUSE AT THE TIME OF THIS DINNER PARTY?

22 A APPROXIMATELY, I WOULD SAY AT THAT POINT,
23 THREE AND A HALF YEARS.

24 Q HAD YOU HAD MR. GOODWIN OVER TO THAT HOME
25 BEFORE?

26 A NO.

27 Q AND HOW OFTEN DID YOU SEE THE THOMPSONS
28 DURING THAT TIME PERIOD?

1 A I SAW THEM AT A COUPLE OF THE EVENTS. AND
2 THEN THERE WAS SOME FUNCTION THAT BILL HAD TO GO TO IN
3 ANAHEIM AND WE SAW THEM THERE.

4 Q WERE YOU AWARE OF A LAWSUIT BETWEEN MICKEY
5 THOMPSON AND MICHAEL GOODWIN?

6 A I HAD HEARD THERE WAS ONE.

7 Q WHAT WAS YOUR UNDERSTANDING AT THE TIME OF
8 THE DINNER PARTY WHAT WAS HAPPENING IN THE LAWSUIT?

9 A I DON'T KNOW. I DIDN'T KNOW ANY DETAILS
10 OTHER THAN THE FACT THAT THERE WAS TENSION BETWEEN THE
11 TWO OF THEM AND A LAWSUIT. OTHER THAN THAT, I DIDN'T
12 KNOW.

13 Q AND WAS THAT SOMETHING, THE LAWSUIT, THAT
14 WAS YEARS IN THE PAST OR WAS IT CURRENTLY HAPPENING?

15 A FROM MY RECOLLECTION IT WAS SOMETHING THAT
16 WAS ONGOING AT THAT TIME.

17 Q DO YOU RECALL SPEAKING TO ANY POLICE
18 OFFICER ABOUT ANYTHING THAT YOU HEARD PRIOR TO 1999 -- OR
19 LET ME ASK IT THIS WAY.

20 IS DETECTIVE LILLIENFELD THE FIRST POLICE
21 OFFICER YOU SPOKE TO?

22 A YOU KNOW, TO THE BEST OF MY MEMORY, I
23 THINK HE WAS. BUT I'M NOT REAL POSITIVE.

24 Q DID YOU HEAR MICHAEL GOODWIN SAY TO YOUR
25 HUSBAND "MICKEY THOMPSON IS KILLING ME"? DID YOU HEAR
26 MICHAEL GOODWIN WHEN ASKED, "HOW'S IT GOING?" SAY TO YOUR
27 HUSBAND "THOMPSON IS KILLING ME"?

28 A NO, NOT IN THOSE WORDS. I HEARD HIM JUST

1 SAY HE WAS TAKING EVERYTHING THAT HE HAD.

2 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE.

3 THANK YOU, YOUR HONOR.

4 THE COURT: REDIRECT?

5 MR. DIXON: THANK YOU. NOTHING FURTHER, YOUR
6 HONOR.

7 THE COURT: THANK YOU. THANKS FOR COMING IN.
8 YOU ARE EXCUSED.

9 THE WITNESS: YOU'RE WELCOME.

10 THE COURT: THE PEOPLE MAY CALL THEIR NEXT
11 WITNESS.

12 MR. DIXON: THANK YOU, YOUR HONOR. WE WOULD CALL
13 KAREN DRAGUTIN. AND I WILL GO GET HER.

14
15 KAREN DRAGUTIN,
16 CALLED BY THE PEOPLE AS A WITNESS, WAS
17 SWORN AND TESTIFIED AS FOLLOWS:

18
19 THE CLERK: RIGHT THERE IS FINE. WOULD YOU
20 PLEASE RAISE YOUR RIGHT HAND.

21 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
22 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
23 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
24 TRUTH SO HELP YOU GOD.

25 THE WITNESS: I DO.

26 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,
27 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
28 NAME FOR THE RECORD.

1 THE WITNESS: MY NAME IS KAREN, K-A-R-E-N. AND
2 DRAGUTIN, D-R-A-G-U-T-I-N.

3 THE CLERK: THANK YOU.

4 THE COURT: YOU MAY INQUIRE.

5 MR. DIXON: THANK YOU, YOUR HONOR.

6
7 DIRECT EXAMINATION

8 BY MR. DIXON:

9 Q GOOD AFTERNOON. THANK YOU FOR COMING. I
10 THINK YOU CAME A LONG WAYS, SO I APPRECIATE IT. THANK
11 YOU.

12 A THANK YOU.

13 Q YOU NEED TO SPEAK UP. OKAY?

14 A UH-HUH.

15 Q I WOULD LIKE YOU TO THINK BACK TO MARCH OF
16 1988. DO YOU RECALL HEARING THAT MICKEY THOMPSON AND HIS
17 WIFE TRUDY WERE MURDERED?

18 A YES.

19 Q SOME MONTHS BEFORE THAT, DID YOU MEET
20 MICHAEL GOODWIN?

21 MS. SARIS: OBJECTION. LEADING AS TO TIME.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER THAT.

24 THE WITNESS: YES.

25 Q BY MR. DIXON: DO YOU SEE HIM HERE IN
26 COURT TODAY?

27 A YES.

28 Q AND WHERE IS HE SEATED?

1 A RIGHT OVER THERE (INDICATING) .

2 Q YOU CAN POINT OR TELL US WHAT HE'S
3 WEARING.

4 A THE GLASSES AND THE BROWN TIE AND BROWN
5 JACKET.

6 THE COURT: IDENTIFYING MR. GOODWIN.

7 MR. DIXON: THANK YOU, YOUR HONOR.

8 Q THE MAN I'M STANDING BEHIND; CORRECT?

9 A YES.

10 Q HOW DID IT COME ABOUT THAT YOU MET MICHAEL
11 GOODWIN?

12 A I WAS SHOPPING FOR AN APARTMENT AND SHARE
13 RENTAL. AND I MET A GENTLEMAN AND WE KIND OF HIT IT OFF
14 AND WE WENT OUT ON A DATE.

15 Q DO YOU REMEMBER THE NAME OF THIS
16 GENTLEMAN, EVEN A FIRST NAME?

17 A YES. FRED.

18 Q SO YOU MET FRED AND YOU WENT OUT ON A
19 DATE?

20 A YES.

21 Q AND DID ANYONE ELSE GO ALONG WITH YOU?
22 WELL, LET ME WITHDRAW THAT AND ASK IT THIS WAY. WHERE
23 DID YOU GO ON A DATE?

24 A WE WENT TO A RESTAURANT IN LAGUNA BEACH
25 CALLED LAS BRISAS.

26 Q PRETTY NICE RESTAURANT?

27 A YES.

28 Q AND DID ANYONE ELSE GO ALONG ON THIS

1 DINNER DATE TO LAS BRISAS?

2 A FRED'S SON WAS THERE. WE -- THE THREE OF
3 US WENT TOGETHER. AND MICHAEL GOODWIN AND HIS WIFE WERE
4 THERE. WE MET THEM THERE.

5 Q IS THAT THE FIRST TIME YOU HAD EVER MET?

6 A YES.

7 Q AFTER THAT EVENING, AFTER THE EVENING AT
8 LAS BRISAS, THE DINNER, DID YOU EVER SEE MICHAEL GOODWIN
9 AGAIN?

10 A NO.

11 Q ONE AND ONLY TIME; IS THAT CORRECT?

12 A RIGHT.

13 Q SO YOU AND FRED AND HIS SON AND THE
14 GOODWINS HAD DINNER. WAS THERE -- HOW WAS THE
15 CONVERSATION? WAS IT LIGHT AND JOVIAL FOR A WHILE OR
16 NOT?

17 A YEAH, THEY KNEW EACH OTHER VERY WELL. AND
18 IT WAS JOVIAL AND THEY TALKED ABOUT A LOT OF DIFFERENT
19 THINGS.

20 Q DID THERE COME A TIME WHEN IT CHANGED?

21 A YES.

22 Q THE CONVERSATION CHANGED?

23 A YES.

24 Q AND HOW DID THAT HAPPEN? WHAT WAS SAID?

25 A THEY STARTED TALKING ABOUT THE LAWSUITS
26 AND THE TROUBLE WITH THE LAWYERS. AND HIS ATTITUDE
27 CHANGED QUITE A BIT DURING THAT SECTION OF THE
28 CONVERSATION.

1 Q WHOSE ATTITUDE?

2 A MR. GOODWIN.

3 Q SO THERE WAS A CONVERSATION ABOUT A
4 LAWSUIT AND DURING THAT CONVERSATION GOODWIN'S ATTITUDE
5 CHANGED?

6 A YES.

7 Q HOW DID IT CHANGE?

8 A HE JUST GOT KIND OF COCKY AND ARROGANT AND
9 HE WAS MAD. HE WAS PRETTY UPSET.

10 Q FROM WHAT YOU HEARD THE DEFENDANT SAY
11 DURING THAT CONVERSATION, DID YOU KNOW WHO THE LAWSUIT
12 WAS AGAINST OR INVOLVED?

13 A YES. I REMEMBER THEM TALKING ABOUT MICKEY
14 THOMPSON.

15 Q WHEN THE DEFENDANT'S ATTITUDE CHANGED
16 DURING THIS CONVERSATION ABOUT THE LAWSUIT AND MICKEY
17 THOMPSON, WHAT DID THE DEFENDANT SAY TO THE BEST OF YOUR
18 RECOLLECTION?

19 A WELL, HE WAS TALKING ABOUT HOW HE WAS
20 UPSET AND HE WAS GETTING SCREWED BY THE LAWYERS. AND HE
21 MADE A STATEMENT SOMEWHERE AROUND THE LINE OF THAT HE WAS
22 GOING TO TAKE CARE OF HIM. THE ONLY WAY TO GET OUT OF
23 THE MESS WAS TO TAKE CARE OF MICKEY THOMPSON.

24 Q AND DID HE SAY HOW HE WAS GOING TO TAKE
25 CARE OF MICKEY THOMPSON? DID HE USE ANY SPECIFIC WORDS?

26 A NO.

27 Q DID YOU MAKE A LITTLE REPORT FOR YOURSELF
28 ON THIS?

1 A YES.

2 Q DO YOU HAVE THAT WITH YOU?

3 A NO.

4 Q OKAY. WOULD IT REFRESH YOUR MEMORY AS TO
5 EXACTLY WHAT YOU WROTE DOWN TO LOOK AT THAT REPORT?

6 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR,
7 AS TO WHAT SHE WROTE DOWN. SHE HASN'T SAID SHE DOESN'T
8 REMEMBER.

9 THE COURT: ALL RIGHT. LAY A FOUNDATION.

10 Q BY MR. DIXON: WOULD IT REFRESH YOUR
11 RECOLLECTION AS TO THE EXACT WORDS THAT MICHAEL GOODWIN
12 SAID TO JUST LOOK AT THAT TO REFRESH YOUR RECOLLECTION?

13 A YES.

14 MR. DIXON: MAY I APPROACH?

15 THE COURT: YES.

16 MR. DIXON: AND I HAVE GIVEN THIS UP IN
17 DISCOVERY. IT IS A TWO-PAGE REPORT.

18 Q I WOULD LIKE YOU TO READ IT TO YOURSELF
19 JUST THIS MIDDLE PARAGRAPH HERE. AND THEN ONCE YOU
20 FINISH READING THAT, LET ME KNOW AND I'LL ASK YOU ANOTHER
21 QUESTION.

22 HAVE YOU READ THAT ALL?

23 A OKAY.

24 Q NOT OUT LOUD. I JUST WANT YOU TO READ IT
25 TO YOURSELF.

26 A RIGHT.

27 Q AND THEN I WILL ASK YOU AGAIN. OKAY.
28 DOES THAT REFRESH YOUR RECOLLECTION?

1 A YES.

2 Q AND TO THE BEST OF YOUR RECOLLECTION, WHAT
3 WORDS DID THE DEFENDANT USE IN DESCRIBING WHAT HE WAS
4 GOING TO DO OR TO GET OUT OF THE MESS WITH MICKEY
5 THOMPSON?

6 A THAT THE ONLY WAY HE WAS GOING TO GET OUT
7 OF IT IS IF MICKEY THOMPSON DIED.

8 Q THE DEFENDANT SAID MICKEY THOMPSON HAD TO
9 DIE TO GET OUT OF THE MESS?

10 A UH-HUH.

11 Q IS THAT "YES"?

12 A YES.

13 Q AND DID HE SAY ANYTHING ELSE ABOUT HOW
14 THAT WAS GOING TO COME ABOUT?

15 A HE WASN'T SPECIFIC ABOUT HOW IT WAS GOING
16 TO COME OUT. BUT HE SAID IT COULD HAPPEN.

17 Q DID HE SAY WHETHER OR NOT HE WAS DOING
18 ANYTHING TO MAKE IT HAPPEN?

19 A NO.

20 Q AND WAS THERE ANY OTHER CONVERSATION ABOUT
21 TRIPS OR PLANNING TRIPS OR ANYTHING LIKE THAT?

22 A HE WAS TALKING ABOUT A BOAT AND GOING TO
23 BERMUDA. AND IT WAS STILL IN THE CONTEXT OF THAT
24 CONVERSATION. SO MY CONCLUSION WAS HE WAS GOING AWAY.

25 Q SO IT WAS IN THE SAME PART OF THE
26 CONVERSATION AS THE TAKING CARE OF THIS MESS AND MICKEY
27 HAD TO DIE; IS THAT RIGHT?

28 A YES. YES.

1 Q THE BOAT AND GOING TO BERMUDA; IS THAT
2 RIGHT?

3 A YES. YES.

4 Q NOW, AS YOU TOLD US EARLIER THIS IS THE
5 ONLY TIME THAT YOU EVER SAW MICHAEL GOODWIN; IS THAT
6 CORRECT?

7 A YES.

8 Q DID YOU SEE FRED AGAIN?

9 A NO.

10 Q NOW, AT SOME POINT DID YOU CONTACT LAW
11 ENFORCEMENT? DID YOU TRY TO GET TO THE POLICE ABOUT
12 THIS?

13 A YES.

14 Q AND HOW MANY TIMES DID YOU TRY TO DO THAT?

15 A WELL, I DID IT TWICE.

16 Q LET'S TALK ABOUT THE FIRST TIME. WHAT WAS
17 THE FIRST TIME THAT SOMETHING HAPPENED THAT MADE YOU TRY
18 TO CONTACT THE POLICE?

19 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.
20 MISSTATES HER TESTIMONY.

21 THE COURT: OVERRULED.

22 YOU CAN ANSWER.

23 THE WITNESS: I WAS WATCHING UNSOLVED MYSTERIES.
24 AND IT SHOWED THE CASE. AND I -- AFTER WATCHING THAT I
25 REALLY FELT LIKE WHAT I HAD OVERHEARD WAS RELEVANT TO IT
26 AND I CALLED IN TO GIVE THEM A STATEMENT.

27 Q BY MR. DIXON: AND DO YOU RECALL WHO YOU
28 CALLED OR WHAT NUMBER YOU CALLED?

1 A IT WAS A HOTLINE.

2 Q OKAY. A HOTLINE THAT WAS ON THE TV
3 PROGRAM?

4 A YES, EXACTLY.

5 Q AND WHAT, IF ANYTHING, HAPPENED AFTER YOU
6 CALLED THAT HOTLINE?

7 A A DETECTIVE CAME TO VISIT ME AT MY HOME.
8 AND WE TALKED A LITTLE BIT ABOUT THE DINNER. AND HE
9 SHOWED ME A PICTURE LINEUP SORT OF. AND I PICKED OUT
10 MR. GOODWIN OUT OF THE LINEUP.

11 Q CAN YOU GIVE US AN APPROXIMATE TIME,
12 MONTH, OR YEAR WHEN YOU CALLED THE HOTLINE NUMBER AND
13 THEN SUBSEQUENT TO THAT THE DETECTIVE CAME AND SHOWED YOU
14 PICTURES?

15 A IT WAS EARLY '89. LIKE FEBRUARY '89.

16 Q AND AT THAT TIME WERE YOU LIVING IN THE
17 GENERAL SOUTHERN CALIFORNIA AREA OR WERE YOU LIVING
18 ELSEWHERE?

19 A I WAS LIVING IN HUNTINGTON BEACH,
20 CALIFORNIA.

21 Q NOW LET ME ASK YOU A FEW QUESTIONS ABOUT
22 WHAT THE DETECTIVE DID. YOU SAID THEY SHOWED YOU SOME
23 PHOTOGRAPHS?

24 A YES.

25 Q WAS THERE ONE DETECTIVE OR MORE THAN ONE?

26 A JUST ONE.

27 Q DO YOU REMEMBER HIS NAME AT THIS TIME?

28 A NO, I DON'T.

1 Q AND HOW MANY PICTURES DID HE SHOW YOU,
2 JUST SIX, EIGHT, 20?

3 A I THINK IT WAS ONLY ABOUT SIX.

4 Q AND DID THEY ASK YOU TO LOOK AT THEM AND
5 SEE IF YOU RECOGNIZE THEM?

6 A YES.

7 Q AND DID YOU IMMEDIATELY RECOGNIZE --

8 A OH, YES.

9 Q -- THE MAN AS MICHAEL GOODWIN?

10 A YES.

11 Q THE SAME PERSON YOU IDENTIFIED HERE?

12 A YES.

13 Q NOW, YOU SAID IN AN EARLIER ANSWER, THAT
14 YOU CALLED THE POLICE TWICE; IS THAT RIGHT?

15 A YES.

16 Q HOW DID THE SECOND TIME COME ABOUT?

17 A WELL, I WAS LIVING IN -- I'M LIVING IN
18 BELLINGHAM. AND 48 HOURS CAME ON AND I HAPPENED TO CATCH
19 THAT PROGRAM. AND, AGAIN, I FELT -- THEY HAD A HOTLINE
20 AND ASKED IF YOU KNEW ANYTHING ABOUT IT. AND I, AGAIN,
21 FELT THAT WHAT I HAD OVERHEARD WAS RELEVANT AND I CALLED
22 THE HOTLINE. AND A DETECTIVE CALLED ME AND I GAVE THEM A
23 STATEMENT TO THE BEST OF MY RECOLLECTION.

24 Q NOW, THIS WASN'T A FACE-TO-FACE LIKE THE
25 TIME THAT YOU HAVE MET THE DETECTIVE WITH THE PICTURES?

26 A NO.

27 Q IT WAS OVER THE PHONE?

28 A YES.

1 Q AND DO YOU REMEMBER THE NAME OF THE
2 DETECTIVE YOU TALKED TO AT THAT TIME?

3 A I DON'T KNOW HIS -- I KNOW IT STARTS WITH
4 AN "L" AND IT'S -- BUT I DON'T REMEMBER HIS NAME
5 COMPLETELY.

6 Q AT THE RISK OF LEADING, MARK LILLIENFELD,
7 DOES THAT SOUND FAMILIAR?

8 A YES, THAT'S THE ONE.

9 Q BUT YOU DIDN'T MEET HIM FACE-TO-FACE?

10 A NO.

11 Q AND SO HE ASKED YOU SOME QUESTIONS AND YOU
12 TOLD HIM WHAT YOU REMEMBERED TO THE BEST OF YOUR ABILITY?

13 A YES.

14 Q AND IS THAT THE LAST TIME THAT YOU HAD
15 SIGNIFICANT CONTACT WITH LAW ENFORCEMENT UNTIL THE TRIAL?

16 A YES, I HAVE NEVER SEEN OR TALKED TO ANYONE
17 SINCE.

18 MR. DIXON: ONE MOMENT PLEASE, YOUR HONOR.

19 (PAUSE IN PROCEEDINGS.)

20 MR. DIXON: THANK YOU VERY MUCH. NOTHING FURTHER
21 AT THIS TIME.

22 THE COURT: CROSS-EXAMINATION?

23 MS. SARIS: THANK YOU.

24 THE WITNESS: CAN I HAVE A DRINK OF WATER,
25 PLEASE.

26 THE COURT: SURE. WE'LL GIVE YOU SOME OF THE
27 PRIVATE STASH.

28 THE WITNESS: THAT'S GOOD.

1 (PAUSE IN PROCEEDINGS.)

2 THE WITNESS: THANK YOU VERY MUCH.

3 THE CLERK: YOU ARE WELCOME.

4 THE COURT: ALL RIGHT. MS. SARIS.

5 MS. SARIS: THANK YOU.

6

7 CROSS-EXAMINATION

8 BY MS. SARIS:

9 Q GOOD AFTERNOON, MISS DRAGUTIN.

10 A HELLO.

11 Q WHEN YOU WATCHED THE PROGRAM UNSOLVED
12 MYSTERIES IN 1989, MR. GOODWIN'S PICTURE WAS ON THAT
13 SHOW; CORRECT?

14 A IT SEEMS LIKE THAT -- IT SEEMS LIKE THEY
15 WERE JUST SHOWCASING THE MURDERS AND THE PEOPLE THAT THEY
16 SUSPECTED SHOOTING. I DON'T RECALL WHETHER HIS PICTURE
17 WAS ON THERE OR NOT.

18 Q WHAT ABOUT 48 HOURS?

19 A YES.

20 Q WAS HE IDENTIFIED AS A SUSPECT IN THIS
21 CASE IN THAT PROGRAM?

22 A YES, I BELIEVE HE WAS.

23 Q THE UNSOLVED MYSTERIES THAT YOU SAW IN
24 1989, DID THAT MENTION ANY SORT OF REWARD?

25 A NO, I DON'T RECALL THAT.

26 Q YOU DON'T RECALL A \$250,000 REWARD BEING
27 ANNOUNCED DURING THAT PROGRAM?

28 MR. DIXON: OBJECTION. ASSUMES FACTS NOT IN

1 EVIDENCE.

2 THE COURT: SUSTAINED. REPHRASE.

3 Q BY MS. SARIS: YOU DON'T RECALL ANY REWARD
4 BEING ANNOUNCED AT ALL?

5 A NOT AT THAT TIME.

6 Q WAS THERE A REWARD ANNOUNCED DURING 48
7 HOURS?

8 A THERE WAS A MENTION OF A REWARD.

9 Q HOW MUCH?

10 A I DON'T KNOW. I DON'T REMEMBER.

11 Q DOES A MILLION DOLLARS SOUND FAMILIAR.

12 MR. DIXON: SAME OBJECTION, YOUR HONOR.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER THAT IF YOU CAN.

15 THE WITNESS: I DON'T REMEMBER HOW MUCH IT
16 WAS.

17 Q BY MS. SARIS: WHAT WAS THE NAME OF THE
18 GENTLEMAN THAT YOU WENT OUT ON THIS DATE WITH?

19 A HIS NAME WAS FRED.

20 Q FRED WHAT?

21 A I DON'T KNOW HIS LAST NAME.

22 Q AND HOW DID YOU MEET?

23 A I WAS ANSWERING AN AD FOR A SHARE RENTAL,
24 HE WAS RENTING OUT ROOMS IN HIS HOUSE.

25 Q AND YOU SAID THAT YOU OVERHEARD THIS
26 CONVERSATION. WAS THIS A SECRET CONVERSATION OR WAS IT
27 SOMETHING THAT WAS OPEN?

28 A NO. WE WERE ALL SITTING AT THE TABLE.

1 Q AND SO MR. GOODWIN WAS JUST TALKING TO YOU
2 NORMALLY?

3 A YEAH.

4 Q IS THAT A "YES"?

5 A YES, MA'AM.

6 Q DID YOU CALL THE POLICE AFTER THAT
7 CONVERSATION?

8 A NO.

9 Q HAD YOU HEAR THE NAME MICKEY THOMPSON
10 BEFORE THAT DINNER?

11 A NO.

12 Q AND YET THAT STOOD OUT TO YOU AS MICKEY
13 THOMPSON WITHOUT KNOWING HE WAS A RACING INDIVIDUAL?

14 A WHEN I SAW THE MURDER ON THE TELEVISION, I
15 THOUGHT OF THAT DINNER.

16 Q HAD YOU MET THIS FRED PERSON BEFORE GOING
17 OUT OR WAS THIS A BLIND DATE?

18 A NO. IT WAS ALMOST A BLIND DATE. WE JUST
19 MET AND WE WENT OUT THAT SAME NIGHT OR THE NEXT NIGHT,
20 I'M NOT SURE.

21 Q AND WHAT WAS THE DATE OF THIS DINNER?

22 A I HAVE NO CLUE WHAT DATE IT WAS.

23 Q WAS IT YOUR UNDERSTANDING THAT THERE WAS A
24 LAWSUIT BEING DISCUSSED?

25 A YES.

26 Q DO YOU REMEMBER ANY DETAILS THAT WERE
27 DISCUSSED ABOUT THE LAWSUIT?

28 A I REMEMBER THE DEMEANOR. HE WAS REALLY

1 UPSET AND HE WAS AGGRAVATED WITH LAWYERS AND HE WAS
2 CALLING THESE PEOPLE CROOKS. AND HE WAS -- HE GOT A
3 LITTLE AGITATED.

4 Q WAS THERE ALCOHOL AT THIS DINNER?

5 A YES.

6 Q HAD YOU BEEN DRINKING?

7 A YES.

8 Q AND HAD HE BEEN DRINKING?

9 A DEFINITELY.

10 Q DID YOU FIND HIM TO BE SOMEWHAT OF A LOUD,
11 BRASH PERSONALITY?

12 A YES.

13 Q YOU REFERRED TO SOMETHING TO REFRESH YOUR
14 RECOLLECTION DURING MR. DIXON'S QUESTIONING. WHEN DID
15 YOU WRITE THAT?

16 A I TRIED TO JOT DOWN SOME STUFF JUST BEFORE
17 I CAME UP HERE TO TRY TO HELP MYSELF, STEADY MYSELF.

18 Q SO THIS WASN'T WRITTEN CLOSE IN TIME TO
19 THE DINNER? THIS WAS WRITTEN --

20 A NO.

21 Q SO YOU WERE REFRESHING YOUR RECOLLECTION
22 TODAY WITH SOMETHING YOU WROTE DOWN WITHIN THE LAST WEEK?
23 IS THAT FAIR?

24 A YES.

25 Q IS THAT A "YES"?

26 A YES, MA'AM.

27 Q THE PROGRAM 48 HOURS -- I'M SORRY. THE
28 FIRST PROGRAM THAT YOU REFERRED TO, UNSOLVED MYSTERIES,

1 WHEN YOU CALLED INTO THAT HOTLINE, DID YOU GIVE YOUR
2 NAME?

3 A YES.

4 Q YOU INDICATED SOMEONE ACTUALLY CAME TO
5 YOUR HOME?

6 A YES.

7 Q AND SHOWED YOU A SERIES OF PHOTOGRAPHS?

8 A YES, MA'AM.

9 Q AND THIS WAS A LAW ENFORCEMENT OFFICER?

10 A YES.

11 Q DRESSED IN UNIFORM OR A BUSINESS SUIT?

12 A NO, HE WAS A DETECTIVE HE SAID.

13 Q SO HOW WAS HE DRESSED?

14 A HE WAS JUST DRESSED. HE WASN'T IN

15 UNIFORM. HE HAD A BADGE AND A GUN AND --

16 Q DO YOU REMEMBER HIS NAME?

17 A NO, MA'AM.

18 Q AND DID YOU GO BY THE SAME -- WHEN I ASKED
19 IF YOU GAVE YOUR NAME, DID YOU GO BY KAREN DRAGUTIN THEN?

20 A NO.

21 Q WHAT NAME DID YOU GO BY THEN?

22 A DO I HAVE TO SAY THAT?

23 THE COURT: DOES SHE HAVE TO SAY THAT?

24 MS. SARIS: WELL, I GUESS YOU ARE THE FINAL
25 ARBITER OF THAT.

26 MR. DIXON: OBJECTION. RELEVANCE, YOUR HONOR.

27 MS. SARIS: I ACTUALLY CAN LAY A FOUNDATION.

28 THE COURT: ALL RIGHT. LET'S GO TO THE SIDE BAR.

1 MS. SARIS: OKAY.

2

3 (PROCEEDINGS WERE HELD AT SIDEBAR AS FOLLOWS:)

4 THE COURT: OKAY. WE'RE AT THE SIDEBAR. WHAT IS
5 THE RELEVANCE?

6 MS. SARIS: WE HAVE EVERY ONE OF -- WE THINK --
7 PHONE CALLS INTO AMERICA'S MOST WANTED LIST. AND HER
8 NAME HAS NEVER APPEARED ON ANYTHING. WE WOULD BE ASKING
9 TO FIND OUT IF IT EXISTS. ALSO, WE COULD -- THIS COULD
10 HAVE DETAILS. IT COULD BE USED FOR IMPEACHMENT, PLUS WE
11 INTEND TO ASK HER TO VERIFY THAT SHE ACTUALLY CALLED.

12 THE COURT: I DON'T KNOW IF LORI CAN HEAR YOU.

13 MS. SARIS: APPARENTLY THEY HAVE IT.

14 MR. DIXON: NO, YOU HAVE IT, TOO.

15 MS. SARIS: WE WEREN'T PRIVY TO THE NAME CHANGE.

16 THE COURT: ALL RIGHT. SO THERE IS NO NEED FOR
17 THIS SIDEBAR?

18 MS. SARIS: WELL, IT DEPENDS. I HAVE NEVER -- I
19 DON'T KNOW THIS PERSON'S NAME.

20 MR. DIXON: IT SEEMS TO ME THAT THERE IS NO NEED
21 TO ASK HER IN OPEN COURT IF IT'S IN THE DISCOVERY. AND
22 IT IS IN THE DISCOVERY.

23 MR. JACKSON: AND IT'S OBVIOUSLY THE SAME PERSON.

24 MS. SARIS: IT WOULDN'T OBVIOUSLY BE THE SAME
25 CLUE.

26 MR. JACKSON: READ IT.

27 MS. SARIS: THERE IS NO WAY TO FIND IF IT IS A
28 DIFFERENT NAME.

1 MR. DIXON: THAT'S OUR REPRESENTATION. THIS IS
2 THE SAME CLUE.

3 THE COURT: ALL RIGHT.

4 MR. DIXON: I'M SURE MS. SARIS WILL CORRECT ME IF
5 I'M WRONG. SHE HAS HAD THIS FOR A LONG TIME. HER
6 CONFUSION WHICH SHE SAYS SHE DIDN'T HAVE IS SHE DOESN'T
7 HAVE IT UNDER THIS WITNESS'S NAME.

8 MS. SARIS: I DIDN'T REALIZE --

9 MR. DIXON: SHE DIDN'T MAKE THE CONNECTION. BUT
10 SHE HAS HAD THIS DISCOVERY. AND I WOULD BE SURPRISED IF
11 SHE INDICATED OTHERWISE.

12 THE COURT: ALL RIGHT. THIS IS --

13 MS. SARIS: I DIDN'T KNOW THIS WAS THIS
14 INDIVIDUAL. IT'S TWO DIFFERENT NAMES.

15 THE COURT: BUT THERE IS A CLUE SHEET THAT YOU
16 WERE JUST HANDED DATED 2/15/89. AND IT HAS A NAME THAT
17 APPARENTLY WAS ONE USED BY THIS WITNESS.

18 MR. DIXON: CORRECT.

19 THE COURT: AND SO IS THERE ANY NEED TO ELICIT ON
20 THE RECORD THE NAME THAT WAS USED, MS. SARIS?

21 MS. SARIS: WELL, I THINK THE COURT CAN JUST PUT
22 IT IN FOR THE RECORD.

23 THE COURT: IS THIS NECESSARY?

24 MS. SARIS: I THINK THAT IT IS FOR -- I MEAN --

25 MR. DIXON: THIS WOULD BE MY SUGGESTION TO MAKE
26 THE WITNESS FEEL MORE COMFORTABLE, WE WILL AGREE ONCE THE
27 WITNESS LEAVES TO STIPULATE THIS IS THE NAME SHE USED AT
28 THE TIME.

1 MS. SARIS: AT A LATER TIME?

2 THE COURT: OKAY. WE WILL HANDLE IT THAT WAY.

3 OKAY. THANK YOU.

4 (SIDEBAR PROCEEDINGS WERE CONCLUDED.)

5

6 THE COURT: LADIES AND GENTLEMEN, I DON'T KNOW IF
7 I TOLD YOU THIS BUT WHEN WE GO TO THE SIDEBAR, WE GO OVER
8 THERE SO THAT WE CAN TALK IN PRIVATE AND SO THAT YOU
9 DON'T HEAR US. AND THAT'S KIND OF THE EASIER WAY THAN
10 JUST HAVING YOU LEAVE THE COURTROOM AND TAKING A LOT OF
11 TIME.

12 SO WHEN WE ARE OVER THERE, YOU MAY HEAR US
13 BECAUSE THE COURT REPORTER HAS HER HEADSET ON AND SHE'S
14 TRYING TO PICK UP WHAT WE ARE SAYING ON A MICROPHONE.
15 BUT I WILL ENCOURAGE YOU TO JUST SIMPLY GET TO KNOW EACH
16 OTHER; WHISPER TO EACH OTHER; STAND; STRETCH; DO WHATEVER
17 YOU WANT. BUT DON'T TRY TO LISTEN TO WHAT WE'RE SAYING.

18 I KNOW IT IS A SMALL COURTROOM AND THE
19 ACOUSTICS ARE SUCH THAT YOU MAY HEAR. WE DON'T WANT YOU
20 TO HEAR. AND YOU SHOULDN'T BE CONCERNED ABOUT THAT.
21 ALL RIGHT. LET'S PROCEED.

22 THE WITNESS: JUDGE, CAN I MAKE A STATEMENT?

23 THE COURT: I'M SORRY?

24 THE WITNESS: CAN I MAKE A STATEMENT WHY I SAID
25 THAT?

26 THE COURT: NO. BUT I THINK WE HAVE RESOLVED IT.
27 SO LET'S JUST MOVE ON.

28 Q BY MS. SARIS: MISS DRAGUTIN, HAVE YOU HAD

1 ANY CONVERSATION WITH THE DISTRICT ATTORNEYS SINCE YOU'VE
2 TALKED TO THE DETECTIVES?

3 A YES.

4 Q AND WHEN WAS THAT, IF YOU RECALL?

5 A LAST NIGHT.

6 Q HOW ABOUT PRIOR TO THAT?

7 A NO.

8 Q DO YOU REMEMBER WHAT TYPE OF CAR, IF ANY,
9 MR. GOODWIN DROVE TO THAT DATE?

10 A YEAH, HE WAS DRIVING A MERCEDES.

11 Q WAS THERE ANY TALK OF THE MERCEDES AT THIS
12 DATE?

13 A YEAH. WE WENT OUTSIDE AND LOOKED AT IT.
14 HE HAD OPENED UP THE TRUNK AND THERE WAS SOME NITRO OR
15 SOMETHING THAT MAKES THE CAR GO FAST.

16 Q THE SON OF THIS INDIVIDUAL THAT CAME ALONG
17 WITH THE DATE, WAS THIS AN ADULT OR CHILD?

18 A IT WAS AN ADULT.

19 Q DO YOU REMEMBER HIS NAME?

20 A NO, I DON'T.

21 Q AND THE SHOW THAT YOU WATCHED, DID THEY
22 DESCRIBE THE CRIME SCENE IN THE SHOW?

23 MR. DIXON: OBJECTION. VAGUE. SHE TALKED ABOUT
24 TWO SHOWS.

25 THE COURT: SUSTAINED.

26 Q BY MS. SARIS: THE FIRST SHOW UNSOLVED
27 MYSTERIES?

28 A THE FIRST TIME I SAW ANYTHING WAS ON THE

1 NEWS.

2 Q AND WHEN YOU SAW THE NEWS WHEN WAS THAT?

3 A WHEN THE MURDERS HAPPENED.

4 Q AND DID YOU CONTACT THE POLICE AT THAT
5 TIME?

6 A NO, I DIDN'T.

7 Q SO THE SHOW THAT PROMPTED YOU TO CALL THE
8 POLICE, DID THEY DO SOME SORT OF ACTOR'S RECREATION OF
9 THIS CRIME?

10 A YES.

11 Q AND YOU SAID MR. GOODWIN APPEARED TO BE
12 UPSET AT HIS ATTORNEYS AND ATTORNEYS IN GENERAL; IS THAT
13 FAIR?

14 A YES.

15 Q WERE THERE OTHER THINGS DISCUSSED DURING
16 THIS DINNER?

17 A YES.

18 Q DO YOU RECALL ANY OF THE TOPICS?

19 A YES. THEY TALKED ABOUT THEIR CONQUESTS IN
20 THEIR YOUTH. AND A LOT OF WHAT I WOULD CALL BOY TALK; IT
21 WAS VERY BOISTEROUS.

22 Q AND, AGAIN, THIS CONVERSATION THAT YOU
23 WERE HAVING, WERE YOU IN A PRIVATE ROOM OF A RESTAURANT
24 OR JUST A REGULAR RESTAURANT AT A TABLE?

25 A THERE WASN'T VERY MANY PEOPLE AROUND US.
26 WE WERE ALL PRETTY MUCH SECLUDED AT THE TIME.

27 Q WERE THESE WHISPERED VOICES OR JUST A
28 REGULAR CONVERSATION?

1 A NO, JUST A REGULAR CONVERSATION.

2 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

3 (PAUSE IN PROCEEDINGS.)

4 MS. SARIS: NOTHING FURTHER, YOUR HONOR.

5 THE COURT: REDIRECT?

6 MR. DIXON: THANK YOU. NOTHING FURTHER.

7 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YOU
8 ARE EXCUSED. THANKS FOR COMING IN.

9 THE WITNESS: I'LL TAKE MY WATER.

10 THE COURT: OKAY.

11 MR. DIXON: THAT CONCLUDES IT.

12 THE COURT: ANY MORE WITNESSES FOR TODAY?

13 MR. DIXON: NONE, YOUR HONOR. THANK YOU.

14 THE COURT: ALL RIGHT. THEN, LADIES AND
15 GENTLEMEN, WE WILL TAKE OUR AFTERNOON RECESS AT THIS
16 TIME. PLEASE REMEMBER ALL THE ADMONITIONS. YOU MUST NOT
17 DISCUSS THIS CASE. YOU MUST NOT FORM OR EXPRESS ANY
18 OPINIONS ON IT. YOU MUST NOT CONDUCT ANY DELIBERATIONS.
19 PLEASE STAY AWAY FROM THE LOCATIONS INVOLVED OR MENTIONED
20 BY THE EVIDENCE.

21 PLEASE HAVE NO CONTACT WITH ANYONE WHO MAY
22 BE INVOLVED WITH THIS CASE, WITNESSES; LAWYERS; YOU KNOW
23 THE DRILL. I GUESS WE WILL SEE YOU ALL AT 10:00 A.M.
24 TOMORROW MORNING. WE SHOULD BE ABLE TO GET STARTED. AND
25 I THINK WE ARE WORKING IT OUT SO THAT THEY CAN ASSEMBLE
26 DOWN IN THE JURY ROOM.

27 THE CLERK: DOWN IN THE JURY ROOM, YES.

28 THE COURT: OKAY. AND WHEN YOU ARE ALL THERE,

1 THE CLERK WILL BRING YOU IN. SO THAT SHOULD BE IT FOR
2 THIS AFTERNOON. SO THANK YOU. WE WILL SEE YOU TOMORROW.
3 HAVE A NICE EVENING. AND LEAVE YOUR NOTEBOOKS ON YOUR
4 SEATS. THANK YOU.

5
6 (THE FOLLOWING PROCEEDINGS WERE
7 HELD IN OPEN COURT OUTSIDE THE
8 PRESENCE OF THE JURY.)
9

10 THE COURT: ALL THE JURORS AND ALTERNATES HAVE
11 LEFT THE COURTROOM. THERE WAS A REQUEST TO APPROACH
12 SIDEBAR EARLIER THAT I INDICATED WE WOULD DISCUSS LATER.
13 AND THEN WHEN WE WERE AT SIDEBAR I WAS TOLD BY
14 MR. SUMMERS THAT WE HAD SOME THINGS TO DISCUSS.

15 MR. SUMMERS: AND ONE OF THOSE, YOUR HONOR, I
16 THINK WE MAY WANT TO GO BACK TO SIDEBAR ON THE RECORD ON.
17 TWO, IS IF WE COULD HAVE AN UPDATE ON THE --

18 (DISCUSSION OFF THE RECORD.)

19 THE COURT: SO WHAT ELSE DID YOU WANT TO DISCUSS?

20 MR. SUMMERS: TWO, IS JUST AN UPDATE ON THE
21 EXPECTED WITNESSES OVER THE NEXT COUPLE OF DAYS, IF THAT
22 COULD BE FORTHCOMING. AND I GUESS THAT'S IT BESIDES THE
23 SIDEBAR.

24 THE COURT: A SIDEBAR REGARDING AN OBJECTION THAT
25 WE DISCUSSED EARLIER, IS THAT WHAT IT IS? NO? SOMETHING
26 NEW? WHY DO WE HAVE TO GO TO THE SIDEBAR, THE JURORS
27 AREN'T HERE? SO GIVE ME A HEADS UP ON WHAT THIS IS
28 ABOUT.

1 MR. SUMMERS: JUST WITH REGARD -- WE HAD A MOTION
2 PREVIOUSLY MADE BY MS. SARIS WITH REGARD TO CERTAIN
3 PEOPLE BEING IN THE COURTROOM.

4 THE COURT: OKAY. LET'S GO TO THE SIDEBAR.

5 MR. JACKSON: YOUR HONOR, THAT'S BEEN TAKEN CARE
6 OF.

7 THE COURT: LET'S GO TO SIDEBAR.

8
9 (PROCEEDINGS WERE HELD AT SIDEBAR AS FOLLOWS:)

10 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.
11 AND SINCE I DON'T KNOW WHAT IT'S ABOUT.

12 MR. SUMMERS: OKAY. IT'S JUST WE HAD THE
13 PREVIOUS MOTION WITH REGARD TO DETECTIVE LILLIENFELD.
14 NOW DURING THE COURSE OF PROCEEDINGS TODAY HE HAS BEEN
15 SITTING DIRECTLY BEHIND US WITH THE DISTRICT ATTORNEY LAW
16 CLERK. AND IT'S JUST NOT AN APPROPRIATE PLACE FOR THEM
17 TO BE SITTING IN LIGHT OF EVERYTHING.

18 MR. DIXON: HE WILL MOVE.

19 MS. SARIS: THE LAW CLERK IS --

20 MR. DIXON: THAT'S NO PROBLEM. ALL YOU HAVE TO
21 DO IS ASK US AND WE WILL MOVE.

22 MS. SARIS: WE NEVER KNOW WHAT --

23 THE COURT: AND THEN WHAT ELSE DO WE NEED --

24 MR. SUMMERS: I DIDN'T WANT TO DO IT AND POINT IT
25 OUT.

26 THE COURT: LET'S GO OFF THE RECORD.

27 (PROCEEDINGS AT SIDEBAR WERE CONCLUDED.)
28

1 THE COURT: ALL RIGHT. WE'RE BACK ON THE RECORD.
2 AND I THINK MS. SARIS YOU HAD ASKED TO APPROACH EARLIER.
3 I DON'T KNOW IF THAT ISSUE WAS EVER RESOLVED.

4 MS. SARIS: IT SORT OF WAS AND I GUESS IT COULD
5 BE RECURRING. IT'S JUST REGARDING THE SPEAKING OBJECTION
6 WITH COUNSEL ARGUING ABOUT A RULING. I'M HAPPY TO DO
7 THAT IF THAT'S THE COURT'S RULING, BUT I WOULD ASK FOR
8 SIDEBARS. IT WOULD BE MORE APPROPRIATE. SIMPLY BECAUSE
9 HE IS EXPLAINING TO THE JURORS WHAT THE OBJECTIONS ARE
10 ABOUT.

11 THE COURT: WELL, YES. YOU STATE THE GROUNDS FOR
12 THE OBJECTION AND THE PEOPLE CAN RESPOND IN A WORD OR
13 TWO.

14 MR. DIXON: FINE.

15 THE COURT: OR LESS AND IF THERE IS ANY FURTHER
16 NEED FOR ANY SIDEBAR CONFERENCE JUST LET ME KNOW. OKAY?
17 FAIR ENOUGH?

18 MS. SARIS: YES.

19 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE WE
20 NEED TO DISCUSS?

21 MR. SUMMERS: THE WITNESSES, YOUR HONOR, THE LINE
22 UP.

23 MR. DIXON: WE'LL MEET --

24 THE COURT: WELL, YOU'LL GET THAT --

25 MR. DIXON: WE WILL MEET AND CONFER AND WE'LL BE
26 HAPPY TO GIVE THEM THE NEXT SET OF WITNESSES.

27 THE COURT: ALL RIGHT. SO WE WILL BE IN RECESS
28 UNTIL 10:00 A.M. UNLESS THERE IS SOMETHING THAT NEEDS TO

1 BE TAKEN UP OUTSIDE THE JURY'S PRESENCE. IF SO, PLEASE
2 COME HERE FIRST THING TOMORROW MORNING.

3 MR. DIXON: I HAVE ONE OTHER SUGGESTION. AND
4 I'LL ONLY MAKE THE SUGGESTION. WHEN WE HAVE TWO LAWYERS
5 ON EACH SIDE, IT SEEMS TO ME THAT IT MIGHT BE APPROPRIATE
6 TO HAVE THE LAWYER WHO ASKS QUESTIONS ALSO MAKE THE
7 OBJECTIONS SO YOU DON'T HAVE TWO PEOPLE ON EITHER SIDE
8 POPPING UP WITH OBJECTIONS. I WOULD ONLY MAKE THAT AS A
9 SUGGESTION.

10 THE COURT: WELL, THAT'S NORMALLY HOW IT'S DONE.
11 THIS IS THE FIRST TIME TODAY THAT WE KIND OF HAD
12 MR. SUMMERS MAKING OBJECTIONS AND -- ACTUALLY, BOTH OF
13 YOU. BUT I THINK IT'S BETTER FORM TO DO IT THAT WAY.

14 IS THERE A PROBLEM WITH THAT?

15 MS. SARIS: ONLY BECAUSE, YOUR HONOR, IT'S
16 DIFFICULT TO COMMUNICATE WITH OUR CLIENT BECAUSE OF HIS
17 HEARING ISSUE. AND OFTENTIMES I'M DISTRACTED. AND SO IT
18 BASICALLY FALLS ON TO MR. SUMMERS TO MAKE THE OBJECTIONS,
19 ESPECIALLY WITH THE LEADING QUESTIONS.

20 WE WOULD ALSO BE HAVING AN ONGOING
21 OBJECTION TO THIS REPEATING OF EVERY SINGLE ANSWER PRIOR
22 TO THE NEXT QUESTION COMING OUT. IF NOT FOR IMPROPRIETY,
23 SIMPLY FOR THE FACT THAT WE'LL BE HERE UNTIL EASTER.
24 BUT, YES, IT IS DIFFICULT WITH MR. GOODWIN AND HIS
25 HEARING PROBLEM WHEN I HAVE TO CONSULT WITH HIM. THAT'S
26 WHY MR. SUMMERS HAS BEEN MORE READILY TO OBJECT. AND I
27 HAVE ONLY DONE IT WHEN I'VE NOTICED SOMETHING.

28 THE COURT: OKAY. THEN THAT WON'T BE A PROBLEM.

1 MR. DIXON: OKAY. THANK YOU, YOUR HONOR.

2 MS. SARIS: THANK YOU.

3 THE COURT: ALL RIGHT. THANK YOU.

4

5 (THE MATTER WAS CONTINUED TO TUESDAY,

6 NOVEMBER 7, 2006 AT 10:00 A.M.)

7 (NEXT PAGE IS 3001.)

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF AND RESPONDENT,

VS.

01 - MICHAEL FRANK GOODWIN,

DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL
JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

NOVEMBER 7, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 7 OF 24
PAGES 3001 THRU 3231/3300

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, NOVEMBER 7, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14
15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)

18
19 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
20 THE GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS
21 COUNSEL.

22 MS. SARIS: HE'S COMING.

23 THE COURT: BUT WE CAN PROCEED; RIGHT?

24 MS. SARIS: NO. WELL, WE HAVE THIS ISSUE THAT WE
25 NEED TO TALK ABOUT OUTSIDE OF THE PRESENCE OF THE JURY.

26 THE COURT: THAT'S WHAT I MEAN.

27 MS. SARIS: OKAY.

28 THE COURT: SO FOR PURPOSES OF THIS MORNING, WE

1 CAN PROCEED?

2 MS. SARIS: FOR NOW, YES. I'M SURE HE'S JUST
3 STUCK ON THE ELEVATOR.

4 THE COURT: AND THE PEOPLE ARE REPRESENTED. WHAT
5 DO WE NEED TO DISCUSS?

6 MS. SARIS: A COUPLE OF GENERAL TOPICS AND THEN
7 AT A COUPLE OF WITNESSES, YOUR HONOR. WE'VE BEEN MAKING
8 OBJECTIONS REGARDING SOME QUESTIONS ADDRESSED TO THE
9 WITNESSES REGARDING THREATS. THE QUESTION ALWAYS BEGINS
10 WITHIN A COUPLE OF MONTHS OF THE MURDER, DID YOU HEAR
11 STATEMENTS, OR WITHIN A COUPLE MONTHS OF THE MURDER.
12 THAT'S LEADING. AND I THINK IT GOES BY SO QUICKLY AND
13 THE CONTEXT MIGHT NOT BE EXPLAINED VERY WELL BY THE
14 DEFENSE, BUT THE WHOLE ISSUE -- OR PART OF THE ISSUE IS
15 THE TIMING.

16 AND WHEN MR. DIXON PUTS THAT IN THE
17 QUESTION, IT IS, IN FACT, LEADING. AND THE PROPER
18 QUESTION IS, WHEN, AND DID IT, AS OPPOSED TO WITHIN A
19 COUPLE MONTHS. AND WE WOULD JUST ASK THAT THE COURT BE
20 AWARE THAT THAT'S, IN OUR OPINION, AN ATTEMPT TO LEAD THE
21 WITNESS TO A PARTICULAR DATE.

22 ALSO, THE REPEATED ANSWERS IN THE NEXT
23 QUESTION. IT'S JUST A RESTATEMENT OF THE QUESTION AND
24 ANSWER WHICH IS IMPROPER. IT'S NOT A DIRECT QUESTION,
25 IT'S ARGUMENT. AND WE WOULD ASK THAT THE COURT ADMONISH
26 COUNSEL TO STOP. AND IT'S VERY EASY NOT TO DO.

27 AND THE LEAVING OF THE PICTURE OF MICKEY
28 AND TRUDY WITH THE DOG DURING THE COURSE OF THE ENTIRETY

1 OF THE WITNESS'S TESTIMONY WHEN IT'S SIMPLY TO ESTABLISH
2 IDENTITY, THAT NO ONE'S REALLY UNCLEAR ABOUT WHO WAS
3 KILLED IN THIS CASE, WE THINK IT'S PREJUDICIAL TO THE
4 JURY. AND WE WOULD ASK IF THEY'RE GOING TO DO THAT, THEY
5 TAKE IT DOWN AS SOON AS THEY MAKE THE IDENTIFICATION.

6 WE ANTICIPATE GREG KEAY, K-E-A-Y, TO
7 TESTIFY. HE'S ONE OF THE WITNESSES THAT WE'RE ASKING THE
8 COURT TO EXCLUDE MS. CAMPBELL AND DANNY THOMPSON FROM
9 BECAUSE THERE WAS A RECORDED -- TAPE-RECORDED PHONE CALLS
10 WITH THESE INDIVIDUALS PRIOR TO CONTACTING THE POLICE.
11 AND IN PRIOR TESTIMONY HE HAS GIVEN STATEMENTS THAT ARE
12 INCONSISTENT WITH THOSE PHONE CALLS AND THOSE INDIVIDUALS
13 WOULD BE CALLED TO IMPEACH HIM.

14 THE COURT: OKAY. YOU LOST ME ON THIS LAST ONE,
15 BECAUSE I THOUGHT WE ALREADY HAD HEARD THE MOTION TO
16 EXCLUDE AND MY ORDER WAS --

17 MS. SARIS: TO BRING IT UP WITH EACH WITNESS IF
18 THERE WAS SOMETHING SPECIFIC THAT SHE HAD TO DO WITH THE
19 WITNESS.

20 THE COURT: AND --

21 MS. SARIS: AND SHE --

22 THE COURT: -- PREVIOUSLY, I INDICATED THAT SHE
23 WOULD BE INCLUDED FOR THE TESTIMONY OF ONE WITNESS. AND
24 YOU'RE SAYING THAT THIS NEXT WITNESS -- I'M NOT SURE I
25 UNDERSTAND.

26 MS. SARIS: HE PHONED AND OFFERED ASSISTANCE.
27 HE'S CLAIMING THAT MICHAEL MADE THREATS REGARDING MICKEY
28 THOMPSON. HE PHONED THE FAMILY, COLLENE CAMPBELL AND

1 DANNY THOMPSON, A TOTAL OF THREE TIMES, COLLENE TWICE,
2 DANNY ONCE, EXPLAINING THE CONTEXT OF THE THREAT; THE
3 TIMING OF THE THREAT; THE NATURE OF THE THREAT.

4 WHEN HE TESTIFIED AT THE PRELIMINARY
5 HEARING, IT WAS DIFFERENT FROM WHAT HE SAID. AND SO WE
6 ANTICIPATE HAVING TO CALL ONE OR BOTH OF THOSE
7 INDIVIDUALS TO AUTHENTICATE THE TAPE RECORDING OF THEIR
8 CONVERSATION WITH HIM. AND SAY THAT HE SAID SOMETHING
9 DIFFERENT AT A PRIOR OCCASION EITHER AS TO THE TIMING OF
10 THE THREAT OR THE NATURE OF THE THREAT.

11 THE COURT: I STILL DON'T SEE IT. I'M NOT
12 FOLLOWING WHY WE WOULD NEED TO EXCLUDE.

13 MS. SARIS: BECAUSE THEY ARE WITNESSES TO THE
14 ACTUAL CONVERSATION.

15 THE COURT: BUT I THOUGHT YOU HAVE A TAPE.

16 MS. SARIS: WE DO HAVE A TAPE. THE COURT WOULD
17 PREFER WE PLAY THE TAPE?

18 THE COURT: I THOUGHT YOU WERE GOING TO PLAY THE
19 TAPE.

20 MS. SARIS: I WOULD PREFER TO CALL THE WITNESS
21 AND HAVE THEM SAY DOES THIS REFRESH YOUR RECOLLECTION AS
22 TO WHAT WAS STATED.

23 THE COURT: BUT IT'S ON A TAPE.

24 MS. SARIS: IT'S ON AN HOUR-LONG TAPE FOR FOUR
25 STATEMENTS, YES.

26 THE COURT: OKAY. I'M JUST NOT FOLLOWING, I
27 DON'T SEE WHAT THE PREJUDICE WOULD BE OR THE DANGER HERE
28 IN ALLOWING THEM TO REMAIN FOR THIS WITNESS.

1 WHAT IS THE PEOPLE'S POSITION WITH RESPECT
2 TO THAT?

3 MR. JACKSON: YOUR HONOR, I WAS GOING TO SAY THE
4 EXACT SAME THING. IT'S A TAPED CONVERSATION. IF COUNSEL
5 WISHES TO IMPEACH GREG KEAY WITH A PRIOR INCONSISTENT
6 STATEMENT, IT'S ON TAPE. WHY WOULDN'T SHE DO THAT AS
7 OPPOSED TO WAITING UNTIL HER CASE IN CHIEF AND THEN
8 CALLING COLLENE CAMPBELL TO THE STAND TO IMPEACH SOMEBODY
9 WHO TESTIFIED THREE WEEKS EARLIER?

10 THE COURT: AND I ASSUME THERE'S NO ISSUE AS TO
11 THE FOUNDATION OR THE AUTHENTICATION OF THE TAPE?

12 MR. JACKSON: I THINK GREG KEAY WILL PROBABLY SAY
13 THAT'S MY VOICE.

14 MR. SARIS: I THINK HE'LL PROBABLY SAY IT ISN'T.
15 I DON'T KNOW IF THE COURT RECALLS HIM FROM THE
16 PRELIMINARY HEARING. HE BARELY REMEMBERED ANYTHING, AND
17 WHAT HE DID REMEMBER, HE WAS VERY RELUCTANT TO ADMIT.

18 THE COURT: WELL, I MEAN THE PEOPLE WILL AGREE
19 THE TAPE THAT WE'RE TALKING ABOUT IS, IN FACT, THE TAPE
20 OF THE WITNESS AND --

21 MR. JACKSON: YES.

22 THE COURT: -- AND MS. CAMPBELL?

23 MR. JACKSON: YES. I HAVE NO -- I'VE HEARD THE
24 TAPE AND IT SOUNDS EXACTLY LIKE HIS VOICE. AND HE
25 IDENTIFIES HIMSELF AND SPELLS HIS NAME, SO I DON'T THINK
26 HE'LL SAY IT'S NOT HIM.

27 THE COURT: IF THERE'S NO ISSUE AS TO THE
28 AUTHENTICATION, I DON'T SEE A NEED TO EXCLUDE THEM FROM

1 THE COURTROOM.

2 WAS THAT IT FOR NOW, THEN, MS. SARIS?

3 MS. SARIS: NO, YOUR HONOR. THE NEXT WITNESS I
4 BELIEVE THAT'S COMING IS STEW LINKLETTER. WE HAVE AN
5 OBJECTION TO HIS TESTIMONY AS TO RELEVANCE. THIS IS THE
6 INDIVIDUAL WHO CLAIMS TO HAVE OVERHEARD A CONVERSATION AS
7 MICHAEL -- OR AS HE WAS DRIVING A CONTRACT -- OR MICHAEL
8 TOWARDS A CONTRACT SIGNING INDICATING THAT MICHAEL WENT
9 INTO THE CONTRACT WITH THE INTENTION TO RIP OFF MICKEY
10 THOMPSON.

11 WE'RE STRAYING FAR ENOUGH AWAY FROM THE
12 CRIME AS IT IS. THIS SEEMS TO STRAIN RELEVANCE BEYOND
13 THAT. OBVIOUSLY THERE WAS A CONTRACT, IT HAPPENED, AND
14 MICHAEL LOST THE LAWSUIT. THE INTENT OF GOING IN, IT'S
15 NOT RELEVANT TO THE MURDER. AND IT'S BAD CHARACTER
16 EVIDENCE DRESSED UP AS SOME SORT OF PROOF OF MOTIVE.
17 IT'S BASICALLY SAYING MICHAEL'S A JERK AND A CROOK.

18 THE COURT: ALL RIGHT. AND YOU FILED SOMETHING
19 THIS MORNING --

20 MS. SARIS: NO. THE PEOPLE FILED THAT REGARDING
21 OUR OTHER OBJECTION.

22 THE COURT: OH, THE PEOPLE FILED THAT.

23 MR. JACKSON: I ACTUALLY DID IN ANTICIPATION OF
24 AN OBJECTION.

25 MS. SARIS: BUT THAT'S NOT FOR THIS WITNESS.

26 THE COURT: NOT FOR THIS WITNESS.

27 MR. JACKSON: NO.

28 THE COURT: I DON'T RECALL EXACTLY WHAT THE

1 TESTIMONY WOULD BE. IT WOULD BE, THEN, AT THE TIME THE
2 CONTRACT WAS ENTERED INTO?

3 MR. DIXON: YES, YOUR HONOR.

4 THE COURT: AND THERE WAS A STATEMENT MADE BY
5 MR. GOODWIN INDICATING WHAT HIS INTENT WAS?

6 MR. DIXON: YES. THIS WITNESS TESTIFIED AT THE
7 PRELIMINARY HEARING. AND HE WILL TESTIFY MUCH AS
8 MS. SARIS JUST SAID, THAT HE WORKED FOR MICHAEL GOODWIN.
9 AND HE WAS ACTUALLY THE DRIVER OF THE VEHICLE OR THE
10 LIMOUSINE ON THE DAY THAT THE CONTRACT WAS SIGNED OR
11 AGREED TO.

12 AND AFTER THE CONTRACT WAS AGREED TO,
13 WHILE DRIVING THE DEFENDANT AND ONE OF THE DEFENDANT'S
14 OTHER EMPLOYEES OF THE COMPANY, THE DEFENDANT WENT ON FOR
15 SOME PERIOD OF TIME, MAYBE AS LONG AS 45 MINUTES, SAYING
16 HOW THIS CONTRACT HE JUST ENTERED INTO HE WAS GOING TO
17 SCREW MICKEY THOMPSON, THAT WAS HIS INTENTION FROM THE
18 BEGINNING. I REALLY THINK THAT GOES TO MOTIVE. IT SHOWS
19 THE BAD FAITH OF THIS LAWSUIT AND THE HATRED THAT WAS
20 GENERATED BY THE LAWSUIT RIGHT FROM THE BEGINNING.

21 THIS WASN'T JUST A REASONABLE DIFFERENCE
22 OF OPINION THAT PEOPLE GO TO COURT OVER. THIS SHOWS THE
23 DEFENDANT'S INTENTIONS FROM THE BEGINNING OF HOW HE --
24 AND THE EVIDENCE WILL BE -- HE WAS GOING TO RIP MICKEY
25 THOMPSON OFF.

26 THE COURT: AND THERE WAS ALSO -- MY NOTES
27 REFLECT FROM THE PRELIMINARY HEARING, WASN'T THERE A
28 THREAT --

1 MR. DIXON: YES.

2 THE COURT: -- IN THAT SAME CONVERSATION?

3 MR. DIXON: THERE WAS A THREAT, BUT THE THREAT
4 WAS TO THE WITNESS. AFTER THIS WENT ON FOR SOME TIME
5 BETWEEN JEANNIE BEARSLEEPER AND THE DEFENDANT, THE
6 DEFENDANT TURNED TO STEWART LINKLETTER AND SAID, "IF YOU
7 EVER SAY ONE WORD ABOUT THIS, I'LL HAVE YOU KILLED." AND
8 STEWART LINKLETTER SAID, "HEARD WHAT?" I MEAN, HE
9 FEIGNED NOT KNOWING WHAT HE WAS TALKING ABOUT, BECAUSE HE
10 THOUGHT THAT THAT'S WHAT HE SHOULD HAVE DONE AT THAT
11 POINT.

12 MS. SARIS: YOUR HONOR, THIS HAS NOTHING TO DO
13 WITH THE LAWSUIT. THIS WAS BEFORE ANY OF THE LAWSUIT.
14 THIS IS THE PARTNERSHIP AGREEMENT. IT'S PURE EVIDENCE OF
15 BAD CHARACTER OF MICHAEL GOODWIN. WHETHER OR NOT HE
16 INTENDED ANYTHING AT THE BEGINNING OF THE PARTNERSHIP
17 DOES NOT TALK ABOUT HATRED AT THE END OF A LAWSUIT AND
18 THE FACT THAT HE THREATENED AN INDIVIDUAL WHO'S STILL
19 ALIVE.

20 UNDER 352 THERE'S NO PROBATIVE VALUE IN
21 THIS EVIDENCE AND THE PREJUDICIAL VALUE IS HUGE. HE'S
22 SAYING THAT HE'S A CROOK. HE'S A THIEF. HE WENT IN TO
23 STEAL AND HE THREATENS PEOPLE. BUT IT BEARS NO RELEVANCE
24 TO THE MURDER. IT'S SIMPLY TO SAY THAT MICHAEL'S A BAD
25 GUY.

26 THE COURT: WHEN YOU SAY IT "BEARS NO RELEVANCE
27 TO THE MURDER," I HAVE TO QUESTION WHAT WE'RE DOING HERE
28 WITH ALL THE WITNESSES THAT ARE GOING TO BE CALLED. I

1 MEAN, THE PEOPLE'S CASE RESTS PRIMARILY ON THE FACT THAT
2 THEY BELIEVE THAT THERE WAS A MOTIVE ON THE PART OF
3 MR. GOODWIN TO DO HARM TO THE THOMPSONS, OR MR. THOMPSON,
4 BECAUSE OF A BUSINESS DISPUTE GONE BAD LEADING TO A
5 JUDGMENT.

6 THAT DOESN'T SEEM TO BE, ACCORDING TO YOUR
7 OPENING STATEMENT, MS. SARIS, AN ISSUE AT ALL. THAT
8 THERE WAS A BUSINESS DISPUTE AND THAT THERE WERE THINGS
9 SAID BY YOUR CLIENT IN ANGER AND THAT THINGS GOT HEATED.
10 THIS CONVERSATION, THOUGH, IS SPECIFICALLY WITH REFERENCE
11 TO THE PARTNERSHIP AGREEMENT WHICH FORMED THE BASIS OF A
12 LAWSUIT. SO I THINK IT'S -- I DON'T SEE IT AS CHARACTER
13 EVIDENCE. I SEE IT AS RELEVANT AND AN ADMISSION ON THE
14 PART OF MR. GOODWIN. AND IT TENDS TO SHOW HIS STATE OF
15 MIND WITH RESPECT TO HIS BUSINESS DEALINGS WITH
16 MR. THOMPSON.

17 IN ADDITION, THE FACT THAT HE MAKES A
18 THREAT, ALLEGEDLY, TO MR. LINKLETTER, I CAN'T IMAGINE
19 THAT THAT'S BEING OFFERED BY THE PEOPLE AS 1101 EVIDENCE
20 TO PROVE SINCE HE MADE THE THREAT TO SOMEONE ON THAT
21 OCCASION, THEREFORE, HE MADE A THREAT ON -- WITH RESPECT
22 TO THIS OCCASION, THE 1987/'88 LITIGATION.

23 IS THAT -- ARE THE PEOPLE OFFERING THAT TO
24 PROVE CONDUCT?

25 MR. DIXON: NO. THE PEOPLE ARE OFFERING IT TO
26 SHOW WHAT THE DEFENDANT'S STATE OF MIND WAS IN MAKING
27 THOSE STATEMENTS. CLEARLY HE WAS SERIOUS. THESE WERE
28 CONFIDENTIAL CONVERSATIONS. HE WASN'T JOKING. HE WAS

1 SERIOUS ABOUT HOW HE WAS GOING TO RIP MICKEY THOMPSON OFF
2 IN THIS CONTRACT. AND THEN AS AN AFTERTHOUGHT, REALIZING
3 THERE WAS A THIRD PARTY THERE, HIS DRIVER, HE ESSENTIALLY
4 SAID, "DON'T YOU TELL ANYONE THIS." THAT'S WHAT HE SAID.

5 THE COURT: WELL, IT'S ONLY CHARACTER EVIDENCE IN
6 MY VIEW IF THE PEOPLE ARE OFFERING IT TO PROVE CONDUCT
7 AND CONFORMITY WITH THE CHARACTER.

8 MS. SARIS: WELL, WHEN IT'S PUT TOGETHER WITH
9 WHAT THE COURT DOES HAVE IN FRONT OF IT WHICH ARE THREE
10 WITNESSES THAT THEY'RE INTENDING TO OFFER THAT MICHAEL --
11 THEY CLAIM MICHAEL THREATENED, SOMEBODY RECEIVED
12 ANONYMOUS LETTERS, IT GETS EVEN MORE TANGENTIAL. BUT
13 WHEN YOU PUT IT ALL TOGETHER, THAT'S EXACTLY WHAT THEY'RE
14 OFFERING IT FOR.

15 MICHAEL'S STATE OF MIND ENTERING THIS
16 CONTRACT IS IRRELEVANT. THE FACT IS HE LOST THE LAWSUIT.
17 HE HAD MOTIVE, IF THAT'S THE MOTIVE, WHEN HE LOST THE
18 LAWSUIT. THIS ISN'T SPEAKING OF ANY HATRED OF THE
19 LAWSUIT. THIS IS SUPPOSEDLY DAYS BEFORE THE PARTNERSHIP
20 AGREEMENT WAS ENTERED INTO.

21 SO TO SAY SOMETHING GOES TO SOMEONE'S
22 STATE OF MIND, IT STILL HAS TO HAVE SOME RELEVANCE TO THE
23 CASE.

24 THE COURT: RIGHT.

25 MS. SARIS: SO MICHAEL'S STATE OF MIND ABOUT
26 ENTERING INTO A CONTRACT TO RIP MICKEY OFF -- WAS HE
27 DOUBLY MAD? TRIPLY MAD? I DON'T UNDERSTAND THE POINT OF
28 THAT, OTHER THAN TO SHOW THAT HE THREATENED SOMEONE ON

1 THAT OCCASION. AND THEN WE'RE GOING TO TALK TO PENN
2 WELDON WHO'S GOING TO -- ALL OF THESE OTHER PEOPLE, AND
3 WHEN YOU ADD IT ALL UP, THAT'S EXACTLY WHAT THAT'S FOR.

4 THE COURT: I HAVEN'T READ THIS NEW MOTION THAT
5 WAS JUST FILED THIS MORNING. IT WAS JUST HANDED TO ME A
6 FEW MINUTES AGO, SO I HAVE NO IDEA WHAT IS IN IT. BUT IT
7 SEEMS TO ME THAT THE DEFENDANT'S STATEMENTS PRIOR TO
8 ENTERING INTO THE CONTRACT WITH THE VICTIM OVERHEARD BY
9 MR. LINKLETTER IS CERTAINLY RELEVANT WITH RESPECT TO HIS
10 STATE OF MIND, WHICH IF ONE WERE TO BELIEVE THE
11 STATEMENTS THAT HE FULLY INTENDED TO RIP OFF
12 MR. THOMPSON, WHICH IS SIMILAR TO THE CLAIM, I GUESS, IN
13 THE LITIGATION THAT WAS PENDING AT THE TIME.

14 SO I DO SEE ITS RELEVANCE AND I DON'T SEE
15 IT AS TOO PREJUDICIAL. I DON'T THINK THE PEOPLE ARE
16 OFFERING IT TO PROVE CONDUCT IN CONFORMITY WITH A
17 CHARACTER TRAIT. I THINK THEY'RE OFFERING IT FOR A
18 PERMISSIBLE PURPOSE THAT DOES NOT VIOLATE 1101(B).

19 MS. SARIS: THEN WE WOULD ASK THE COURT -- I'M
20 SORRY, THAT'S FINE, THEN.

21 WE WOULD ASK THE COURT TO RULE ON THE
22 OTHER MOTION, WHICH IS 1101(B), BECAUSE IT'S ALL GOING TO
23 COME BACK IN CLOSING ARGUMENT AS IT'S ALL 1101(B).

24 THE COURT: HOW COME I'M JUST GETTING THIS MOTION
25 TODAY?

26 MR. JACKSON: I'M SORRY, YOUR HONOR?

27 MS. SARIS: WELL, THESE THREATS AND THESE
28 ANONYMOUS LETTERS WERE NOT BROUGHT UP AT THE PRELIM. TO

1 US IT'S INCONCEIVABLE THAT THEY WOULD BE OFFERED, SO WE
2 DIDN'T -- WE'RE MAKING A 402 NOW.

3 I CALLED MR. JACKSON LAST NIGHT TO SAY,
4 YOU'RE NOT INTENDING TO INTRODUCE THESE ANONYMOUS THREATS
5 TO THE LAWYER, AND HE SAID THEY WERE. AND THERE'S NO WAY
6 WE COULD HAVE ANTICIPATED THAT THAT WAS GOING TO HAPPEN.
7 THESE ARE HEARSAY THREATS. THEY CANNOT SAY WHO THEY CAME
8 FROM. THEY WERE MAILED --

9 THE COURT: ALL RIGHT. I DON'T WANT TO DEAL WITH
10 THIS NOW AND I DON'T THINK WE NEED TO. IS THAT RIGHT?

11 MS. SARIS: WELL, IT'S THE SECOND WITNESS THIS
12 MORNING.

13 MR. DIXON: NO, IT'S NOT. MR. BARTINETTI WILL BE
14 THE FOURTH WITNESS THIS MORNING.

15 THE COURT: SO WE DON'T NEED TO DEAL WITH IT
16 RIGHT THIS MINUTE.

17 MR. DIXON: THAT'S FINE.

18 THE COURT: DO WE HAVE ALL OUR JURORS HERE?

19 MS. SARIS: MAY WE KNOW WHO THE WITNESSES ARE?
20 BECAUSE THE ORDER KEEPS CHANGING. AND AS I SAID, WE WERE
21 TOLD IT WAS LINKLETTER, BARTINETTI.

22 MR. DIXON: YOUR HONOR, WE SPOKE WITH DEFENSE
23 COUNSEL LAST NIGHT AND GAVE A LONG LIST OF WITNESSES. AS
24 ANY TRIAL LAWYER KNOWS, SOME WITNESSES HAVE MORE PROBLEMS
25 GETTING HERE THAN OTHERS. I DON'T WANT TO AND I DON'T
26 THINK THE COURT WANTS TO BE HELD HOSTAGE TO A SPECIFIC
27 ORDER OF WITNESSES IN ANY GIVEN DAY. BECAUSE ONE COULD
28 BE CAUGHT ON A FREEWAY ACCIDENT WHEN WE HAVE FIVE OTHERS

1 READY TO GO.

2 WHAT WE PLAN ON DOING THIS MORNING IS
3 GOING WITH STEWART LINKLETTER, BOB UTSEY, PENN WELDON,
4 AND THEN MR. BARTINETTI. THAT'S THE ORDER THIS MORNING.

5 MS. SARIS: PENN WELDON AND PHIL BARTINETTI ARE
6 THE SUBJECT OF THE MOTION BEFORE YOU.

7 THE COURT: ALL RIGHT. WELL, WE'LL HAVE TO SEE
8 WHERE WE ARE BEFORE THEY'RE CALLED. BUT I DON'T WANT TO
9 SPEND TIME NOW, I HAVEN'T READ THE MOTION YET. SO YOU'LL
10 HAVE TO PUT THAT ON HOLD.

11 WITH RESPECT TO THE OTHER OBJECTIONS THAT
12 WERE RAISED, I THINK THAT GIVEN THE NATURE OF THIS --
13 WELL, GIVEN THE PERIOD OF TIME THAT EXISTS BETWEEN THE
14 INCIDENT, THE MURDERS AND TODAY, WE'RE DEALING WITH MANY,
15 MANY YEARS.

16 FRANKLY, WHILE I AGREE THAT PRESENTING A
17 QUESTION TO A WITNESS BY STATING SEVERAL MONTHS PRIOR TO
18 FINDING OUT ABOUT THE MURDERS, DID YOU HEAR SUCH AND
19 SUCH, WHILE TECHNICALLY THAT MAY BE LEADING, I DON'T KNOW
20 HOW ELSE ONE CAN ELICIT INFORMATION THAT'S GOING TO MAKE
21 ANY SENSE.

22 MS. SARIS: DID YOU HEAR ABOUT ANY THREATS?

23 THE COURT: WELL, BUT WHEN?

24 MS. SARIS: WELL, THEN THEY CAN ASK WHEN.

25 THE COURT: WE'RE DEALING WITH AN 18-YEAR PERIOD
26 HERE.

27 MS. SARIS: WELL, EVERYBODY KNOWS WHAT STATEMENTS
28 WE'RE TALKING ABOUT. THE ISSUE IS THE TIMING. SO FOR

1 THEM TO NARROW THE TIMING -- AND WHEN THAT'S THE ONLY
2 ISSUE, THAT'S BASICALLY TESTIFYING.

3 THE COURT: I DON'T KNOW THAT THAT'S THE ONLY
4 ISSUE. I DON'T HAVE A PROBLEM WITH THE QUESTION. I
5 THINK AT SOME POINT, THOUGH, IF IT'S NOT POSED THAT WAY,
6 THERE'S AN OBJECTION REGARDING VAGUE AS TO TIME.

7 MS. SARIS: WE'RE NOT GOING TO OBJECT AS TO VAGUE
8 AS TO TIME. WE'D MUCH RATHER HAVE THAT THAN HAVE COUNSEL
9 TELL THEM WHEN THIS CONVERSATION OCCURRED.

10 THE COURT: I DON'T VIEW IT AS COUNSEL TELLING
11 THEM, BUT IF COUNSEL CAN ELICIT THE INFORMATION BY
12 NARROWING IT DOWN OR AT LEAST COMMUNICATING TO THE
13 WITNESS THE TIME PERIOD THAT THEY'RE ASKING ABOUT, I
14 DON'T THINK THAT'S IMPROPER WHEN WE'RE DEALING WITH
15 18 YEARS. BUT I DO THINK IT'S IMPROPER TO REPEAT THE
16 ANSWER, AND I WILL INDICATE THAT IT WAS DONE ON SEVERAL
17 OCCASIONS YESTERDAY AND IT SHOULDN'T BE CONTINUED.

18 SO THAT ONCE THE ANSWER IS GIVEN BY THE
19 WITNESS, IT NEED NOT BE REPEATED BY THE D.A. IN
20 PRESENTING THE NEXT QUESTION. I AGREE ON THAT. BUT TO
21 NARROW IT DOWN TO MONTHS BEFORE, I DON'T HAVE A PROBLEM.
22 I MEAN, THESE WITNESSES ARE HERE; THEY'VE GIVEN
23 STATEMENTS BEFORE; THEY'RE CERTAINLY SUBJECT TO VERY
24 INTENSE CROSS-EXAMINATIONS AS TO THE TIME. AND I DON'T
25 HAVE A PROBLEM WITH IT AS LONG AS IT'S GENERAL.
26 AND THAT IS GENERAL, NOT SPECIFIC.

27 THE CLERK: WE'RE WAITING ON ONE JUROR.

28 MS. SARIS: REGARDING THE PHOTOGRAPH, YOUR

1 HONOR.

2 THE COURT: ALL RIGHT. AND I RECALL THE
3 PHOTOGRAPH, PEOPLE'S 1, WAS ON THE SCREEN. I DON'T KNOW
4 WHY IT WAS ON THE SCREEN, BUT IT WAS ON THE SCREEN. HAD
5 YOU BROUGHT IT TO MY ATTENTION YESTERDAY, I WOULD HAVE
6 HAD IT TURNED OFF OR TAKEN OFF. I CAN'T SPEAK TO WHAT
7 HAPPENED YESTERDAY OTHER THAN IT WAS ON.

8 MS. SARIS: WELL, WE FINALLY CLOSED IT AFTER IT
9 WAS ON FOR A GOOD SEVERAL HOURS, AFTER IT ONLY NEEDED TO
10 BE ON THE SCREEN FOR A MINUTE.

11 THE COURT: I AGREE.

12 MR. JACKSON: IT WASN'T SEVERAL HOURS.

13 MR. DIXON: I DON'T THINK IT WAS ON FOR SEVERAL
14 HOURS. MR. SUMMERS FLIPPED THE PAPER OVER THERE AND CUT
15 IT OFF AND THAT'S FINE.

16 MR. SUMMERS: IT WAS DAYS AFTER THE OPENING.

17 MS. SARIS: IT WAS DAYS, WEEKS.

18 THE COURT: WHATEVER. YOU'RE GOING TO HAVE TO
19 LET ME KNOW WHEN IT'S A PROBLEM.

20 MS. SARIS: WELL, OBVIOUSLY, AGAIN, D.A. 101.
21 I'M NOT SUPPOSED TO HAVE TO SAY IN FRONT OF A JURY WHAT
22 IS ETHICAL, UNDERSTOOD CONDUCT. YOU DON'T PUT A PICTURE
23 OF SYMPATHETIC --

24 THE COURT: AREN'T THE CONTROLS LIKE RIGHT THERE?

25 MS. SARIS: IS THE COURT GIVING US PERMISSION TO
26 HAVE CONTROL OVER THE THING WHILE --

27 THE COURT: DIDN'T YOU HAVE CONTROL --

28 MS. SARIS: WELL, WE LET IT GO FOR AS LONG AS WE

1 COULD UNTIL WE THOUGHT IT WAS INAPPROPRIATE. BUT AT SOME
2 POINT IT JUST -- IT'S BAD FORM TO DO IT IN THE FIRST
3 PLACE, AND THEY KNOW IT.

4 THE COURT: I AGREE. BUT YOU WANT ME TO DO
5 SOMETHING ABOUT WHAT HAPPENED YESTERDAY.

6 MS. SARIS: NO. I WANT YOU TO ADMONISH THEM THAT
7 YOU'RE NOW -- THAT WE'RE ALL AWARE THAT THIS WAS A TRICK
8 THAT HAPPENED YESTERDAY AND ASK THAT IT NOT BE REPEATED.

9 MR. JACKSON: YOUR HONOR, I'VE GOT TO SAY --

10 THE COURT: I DON'T WANT TO GET INTO THAT. WE'RE
11 NOT GOING TO GET INTO THAT. I CAN'T SAY IT WAS A TRICK.
12 I CAN'T SAY WHAT HAPPENED HERE YESTERDAY. IT WAS ON.
13 THAT'S ALL I CAN SAY. AND WHAT YOU'RE TELLING ME IS THAT
14 MR. SUMMERS FINALLY HIT THE KILL SWITCH AND IT WENT OFF.

15 MR. SUMMERS: ACTUALLY, WHAT I DID, YOUR HONOR,
16 WAS FLIP OVER THAT FOLDER THAT'S ON TOP WHICH LOOKS LIKE
17 KIND OF -- IN FRONT OF THE JURY IT JUST LOOKS LIKE A
18 CHEAP TRICK. THEY DON'T KNOW THAT THE COURT'S GIVEN ME
19 PERMISSION TO DO THAT. IT JUST LOOKS LIKE WE'RE FOOLING
20 AROUND WITH THE --

21 MR. JACKSON: WHICH THE COURT HAD NOT GIVEN HIM
22 PERMISSION TO DO YESTERDAY. AND HE DID IT TWICE.

23 THE COURT: ANY TIME THERE IS SOMETHING YOU WANT
24 TO DISCUSS WITH ME OFF THE RECORD, FEEL FREE TO JUST SAY,
25 "CAN WE APPROACH?" AND I WILL HAVE YOU APPROACH IN THE
26 WELL. I MEAN, THAT WOULD HAVE BEEN THE SIMPLEST THING TO
27 DO.

28 MS. SARIS: AND THEN WHEN WE GOT BACK TO OUR

1 DESKS, THE PICTURE WOULD HAVE BEEN TAKEN DOWN. AND IT
2 WOULD HAVE BEEN QUITE OBVIOUS THAT WE OBJECTED TO THIS
3 NICE FAMILY PHOTO BEING UP IN FRONT OF THE JURY.

4 THE COURT: WHAT DO YOU WANT ME TO DO, THOUGH? I
5 CAN'T --

6 MS. SARIS: NOTHING. WE'VE HAD THE DISCUSSION.
7 THAT'S ALL I WAS ASKING.

8 THE COURT: I AGREE IT HAPPENED, BUT I -- YOU
9 KNOW, I CAN'T DO ANYTHING UNLESS SOMETHING IS BROUGHT TO
10 MY ATTENTION. SO IF IT HAPPENS AGAIN, I WILL TRY TO PAY
11 ATTENTION TO IT. AND I THINK EITHER COUNSEL CAN HIT THAT
12 KILL SWITCH, I WILL BE HONEST WITH YOU. SO, I MEAN,
13 THAT'S -- IT'S THERE. I DON'T HAVE ACCESS TO IT, BUT YOU
14 DO.

15 OKAY.

16 THE CLERK: THEY'RE ALL THERE.

17 THE COURT: THEY'RE ALL THERE. LET'S BRING THE
18 JURORS IN.

19 MS. SARIS: YOUR HONOR, I SORRY. THERE IS ONE
20 MORE THING. MR. SUMMERS REMINDED ME.

21 THE COURT: ONE MORE THING?

22 MS. SARIS: THERE'S A TIME LINE THAT'S BEING
23 SHOWN TO SOME OF THE WITNESSES, MR. WILSON YESTERDAY. IT
24 LOOKS LIKE IT MIGHT BE A DEMONSTRATION FOR CLOSING
25 ARGUMENT PURPOSES. AND WE DON'T THINK IT'S APPROPRIATE
26 TO AUTHENTICATE THAT. IT'S AN ARGUMENTATIVE,
27 DEMONSTRATIVE --

28 THE COURT: IT WASN'T AUTHENTICATED YESTERDAY. I

1 THINK MR. DIXON REFERRED TO JUST THAT PORTION OF IT. BUT
2 I UNDERSTAND THE OBJECTION. AND IF ANY MORE IS REVEALED
3 ON IT WITHOUT PROPER AUTHENTICATION, I WILL CERTAINLY
4 SUSTAIN AN OBJECTION.

5 MS. SARIS: WELL, EVEN THE BOX ITSELF, I MEAN,
6 THAT JUST SEEMS -- ARE THEY PREVIEWING THE FACT THAT THIS
7 IS ALL GOING TO COME AND SHOW THEM AT THE END? WHAT'S
8 THE POINT OF HAVING A BOX THAT SAYS 1-20-88 OR JANUARY
9 '88 WITH THE STATEMENT?

10 THE COURT: WHAT'S THE OBJECTION, THOUGH? I
11 DON'T UNDERSTAND THE OBJECTION.

12 MS. SARIS: RELEVANCE. THE DOCUMENT ITSELF IS
13 HEARSAY. IT'S NOT PROBATIVE OF ANYTHING. IT'S THE SAME
14 THING AS REPEATING AN ANSWER IN A QUESTION, IT'S DOING IT
15 ON PAPER. I MEAN I SUPPOSE YOU COULD GO TO THE BOARD AND
16 WRITE DOWN EVERYTHING THEY SAY.

17 THE COURT: WELL, IF IT'S DONE AGAIN AND IT'S
18 IMPROPER, I'LL SUSTAIN AN OBJECTION. I KNOW WE MARKED IT
19 AS AN EXHIBIT AND IT WAS FOCUSED IN ON A PARTICULAR DATE
20 THAT THE WITNESS WAS TALKING ABOUT. IT WASN'T REALLY PUT
21 INTO CONTEXT IN ITS ENTIRETY, THAT IS, THE DOCUMENT.

22 MR. DIXON: THAT'S WHY I JUST SHOWED A LITTLE
23 PART OF IT.

24 THE COURT: YES. IT WAS JUST A LITTLE TINY
25 PORTION OF IT. BUT, YOU KNOW, I'LL SUSTAIN AN OBJECTION
26 IF SOMETHING FURTHER IS SHOWN.

27 MR. DIXON: FOR THE RECORD, YOUR HONOR, I THINK
28 IT WAS MARKED AS PEOPLE'S 2 FOR IDENTIFICATION.

1 THE COURT: AND WE CAN CERTAINLY DEAL WITH IT
2 WHEN IT'S TIME TO DISCUSS THE ADMISSIBILITY OF THE
3 EXHIBIT.

4 ALL RIGHT. LET THE JURY IN.

5
6 (THE JURY ENTERED THE COURTROOM
7 AND THE FOLLOWING PROCEEDINGS WERE
8 HELD IN OPEN COURT.)

9
10 THE COURT: LET'S RESUME IN THE MATTER OF THE
11 PEOPLE VERSUS OF MICHAEL GOODWIN. MR. GOODWIN IS PRESENT
12 WITH HIS COUNSEL. THE PEOPLE ARE REPRESENTED. ALL OUR
13 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

14 GOOD MORNING, LADIES AND GENTLEMEN.

15 JURORS: GOOD MORNING.

16 THE COURT: AND THE PEOPLE MAY CALL THEIR NEXT
17 WITNESS.

18 MR. DIXON: THANK YOU, YOUR HONOR, THE PEOPLE
19 WILL CALL STEWART LINKLETTER.

20 MR. SUMMERS: YOUR HONOR, WE WOULD RENEW OUR
21 MOTION TO EXCLUDE ANY OTHER WITNESSES.

22 THE COURT: ALL RIGHT. ARE THERE ANY OTHER
23 WITNESSES IN THE COURTROOM?

24 MR. JACKSON: AND, YOUR HONOR, WE'LL JOIN IN
25 THAT.

26 THE COURT: YES. WITNESSES FOR EITHER SIDE?

27
28 CHARLES STEWART LINKLETTER,

1 CALLED BY THE PEOPLE AS A WITNESS, WAS
2 SWORN AND TESTIFIED AS FOLLOWS:

3
4 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

5 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
6 YOU MAY 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 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
11 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
12 NAME FOR THE RECORD.

13 THE WITNESS: IT'S CHARLES, C-H-A-R-L-E-S,
14 STEWART, S-T-E-W-A-R-T, LINKLETTER, L-I-N-K-L-E-T-T-E-R.
15 AND I GO BY STEWART IF SOMEBODY WANTS TO ADDRESS ME
16 PERSONALLY.

17 THE CLERK: THANK YOU.

18 THE COURT: ALL RIGHT. YOU MAY INQUIRE.

19 MR. DIXON: THANK YOU, YOUR HONOR.

20
21 DIRECT EXAMINATION

22 BY MR. DIXON:

23 Q GOOD MORNING, MR. LINKLETTER.

24 A MORNING.

25 Q THANK YOU FOR COMING. I WOULD LIKE YOU TO
26 THINK BACK TO 1988 AND THEN LOOK AT OUR SCREEN UP HERE
27 (INDICATING). LET'S SEE IF I CAN WORK THIS.

28 THIS IS PEOPLE'S 1 FOR IDENTIFICATION.

1 DID THERE COME A TIME IN 1988 THAT YOU MET THE PEOPLE
2 SHOWN IN PEOPLE'S 1 FOR IDENTIFICATION, MICKEY AND TRUDY
3 THOMPSON?

4 A NOT IN 1988.

5 Q EXCUSE ME. 1984?

6 A YES, 1984.

7 Q RIGHT. 1984.

8 A YES, I WAS AT THEIR HOUSE.

9 Q AND HOW DID THAT COME ABOUT?

10 A I WAS DELIVERING A DOCUMENT WHICH I
11 BELIEVED TO BE A BUSINESS CONTRACT BETWEEN MR. GOODWIN
12 AND MR. THOMPSON TO BE SIGNED AND DELIVERED BACK TO
13 LAGUNA BEACH.

14 Q SO WHERE EXACTLY DID YOU GO TO MEET MICKEY
15 AND TRUDY THOMPSON?

16 A AT THEIR HOUSE IN BRADBURY.

17 Q WERE YOU GIVEN DIRECTIONS TO GO THERE?

18 A YES.

19 Q BY WHOM?

20 A I PRESUME SOMEBODY IN MIKE'S OFFICE. BUT
21 I MAY HAVE JUST BEEN GIVEN THE ADDRESS AND LOOKED IT UP
22 IN THE THOMAS GUIDE.

23 Q AND BY "MIKE'S OFFICE," YOU MEAN MICHAEL
24 GOODWIN, THE DEFENDANT?

25 A YES.

26 Q DO YOU SEE HIM HERE IN COURT?

27 A YES.

28 Q AND COULD YOU POINT TO WHERE HE'S SITTING,

1 PLEASE.

2 A YES. RIGHT NEXT TO THOSE TWO PEOPLE THERE
3 (INDICATING), IN BETWEEN THOSE WHO PEOPLE.

4 MR. DIXON: INDICATING THE DEFENDANT, YOUR HONOR.

5 THE COURT: YES.

6 MR. DIXON: THANK YOU.

7 Q SO WHAT HAPPENED WHEN YOU WENT TO THE
8 THOMPSON'S HOUSE IN BRADBURY WITH THIS DOCUMENT? TELL US
9 WHAT HAPPENED.

10 A WELL, THEY WERE EXPECTING ME. I GAVE THE
11 ENVELOPE TO MICKEY THOMPSON. AND HE INVITED ME IN AND
12 OFFERED ME A COKE. AND I SAT IN THE LIVING ROOM WHILE HE
13 REVIEWED THE DOCUMENT. AND, YOU KNOW, THERE WAS A LOT OF
14 FLAGS ON IT WHERE HE WAS SUPPOSED TO SIGN. I SAW HIM
15 SIGNING THEM. AND HE PUT IT BACK IN THE ENVELOPE AND I
16 LEFT AND DELIVERED IT BACK TO THE STADIUM MOTOR SPORTS
17 CORPORATION OFFICE IN LAGUNA BEACH.

18 Q WHILE YOU SAT THERE AND WATCHED MICKEY
19 THOMPSON REVIEW THIS DOCUMENT THAT YOU BELIEVED TO BE A
20 CONTRACT, WAS HIS WIFE THERE?

21 A YES.

22 Q WERE THEY FORMAL AND ABRUPT WITH YOU OR
23 KIND AND GRACIOUS?

24 A THEY TREATED ME LIKE REAL NICE FOLKS.

25 Q NOW, A FEW MONTHS BEFORE THAT, I DON'T
26 KNOW, WEEKS, DAYS, MONTHS, SOMETIME BEFORE THAT, WERE YOU
27 WORKING FOR MICHAEL GOODWIN FROM TIME TO TIME?

28 A YES.

1 Q COULD YOU EXPLAIN THAT, PLEASE.

2 A WELL, IN 1984, STADIUM MOTOR SPORTS AND
3 PACE MANAGEMENT OUT OF HOUSTON, WANTED TO GET AWAY FROM
4 BEING -- HAVING THEIR RACES SANCTIONED, THEIR SUPERCROSS
5 RACES SANCTIONED BY THE AMERICAN MOTORCROSS ASSOCIATION.
6 SO THEY FORMED THEIR OWN SANCTIONING BODY CALLED
7 "INSPORT."

8 AND THROUGH KNOWING MIKE, HE GOT ME A JOB
9 THERE AS KIND OF AN ASSISTANT TO THE EXECUTIVE DIRECTOR.
10 AND SOMETIMES IT WASN'T VERY BUSY, SO WHEN THAT OCCURRED,
11 THEY TRIED TO GET ME SOME WORK DOWN AT STADIUM MOTOR
12 SPORTS CORPORATION IN LAGUNA. WE WERE -- OUR OFFICE WAS
13 UP IN IRVINE, SO IT WAS ONLY ABOUT A 20-MINUTE DRIVE.

14 Q AND STADIUM MOTOR SPORTS, THAT WAS MICHAEL
15 GOODWIN'S COMPANY; IS THAT CORRECT?

16 A YES.

17 Q AND THAT WAS LOCATED WHERE?

18 A ON GLENNEYRE STREET IN LAGUNA BEACH.

19 Q AND DID YOU AT THAT TIME KNOW A PERSON BY
20 THE NAME OF JEANNIE BEARSLEEPER?

21 A YES.

22 Q AND HOW DID YOU KNOW HER?

23 A SHE WAS THE PRESIDENT OF STADIUM MOTOR
24 SPORTS CORPORATION.

25 Q SO WAS -- THE HIERARCHY, AS YOU KNEW IT AT
26 STADIUM MOTOR SPORTS, WAS SHE ABOVE OR BELOW THE
27 DEFENDANT, MICHAEL GOODWIN?

28 A BELOW.

1 Q SO SHE WAS THE PRESIDENT, BUT HE WAS THE
2 CEO OR SOMETHING LIKE THAT?

3 A THE CEO; CHAIRMAN OF THE BOARD; THE
4 GOVERNOR, YOU NAME IT. HE WAS --

5 Q HE WAS THE BOSS?

6 A YES. AND OWNER, AS I UNDERSTOOD IT.

7 Q AS YOU SAID IN AN EARLIER ANSWER, FROM
8 TIME TO TIME WHEN THINGS WERE SLOW AT INTERSPORT --

9 A INSPORT.

10 Q -- INSPORT YOU WORKED FOR MICHAEL GOODWIN;
11 IS THAT RIGHT?

12 A UH-HUH, YES.

13 Q SOME DAYS OR WEEKS BEFORE YOU TOOK THE
14 CONTRACT TO THE THOMPSONS' HOUSE, WAS THERE A TIME WHEN
15 YOU WERE DRIVING A LIMOUSINE OR A CAR FOR MICHAEL GOODWIN
16 AND MISS SLEEPER?

17 A YES. I DROVE THEM BOTH IN A VAN. THEY
18 SAT IN THE BACK SEAT AND WE DROVE TO DOWNTOWN
19 LOS ANGELES, I BELIEVE. IT WAS A LAW OFFICE NEAR THE
20 BILTMORE HOTEL.

21 Q AND WHERE -- WAS THAT IN LAGUNA BEACH?

22 A YES.

23 Q AND WHAT HAPPENED WHEN YOU GOT TO THE
24 HOTEL?

25 A IT WASN'T A HOTEL, IT WAS A LAW OFFICE
26 NEAR THE BILTMORE. AND WHEN WE GOT THERE, JEANNIE AND
27 MIKE AND I WENT UP TO THIS LAW OFFICE. AND THERE WERE
28 SEVERAL PEOPLE THERE AND THEY ADJOURNED TO A BOARDROOM.

1 AND MIKE HANDED ME TWO ENVELOPES TO TAKE TO THE
2 LOS ANGELES COLOSSEUM.

3 Q TWO COMPLETELY SEPARATE ENVELOPES?

4 A YES.

5 Q AND DID HE GIVE YOU SOME INSTRUCTIONS?

6 A HE TOLD ME WHEN I GOT TO THE COLOSSEUM TO
7 PHONE HIM.

8 Q SO YOU TOOK THE TWO ENVELOPES AND DID
9 WHAT?

10 A GOT TO THE COLOSSEUM AND PHONED HIM.

11 Q WHEN YOU PHONED HIM, WHAT HAPPENED THEN?

12 A I COULD HEAR HIM SAY, "MICKEY, STEW'S AT
13 COLOSSEUM. DO WE HAVE A DEAL OR NOT?"

14 Q AND WHAT THEN?

15 A AFTER SEVERAL -- WHAT SEEMED LIKE SEVERAL
16 SECONDS, I COULD KIND OF HEAR MICKEY SAY, "YES."

17 Q AND THEN WHAT HAPPENED?

18 A MIKE TOLD ME TO TAKE UP ENVELOPE NO. 2 TO
19 THE GENERAL MANAGER THE COLOSSEUM.

20 Q AND DID YOU DO THAT?

21 A YES.

22 Q DO YOU RECALL HIS NAME?

23 A NO.

24 Q SO YOU WENT UP AND YOU TOOK ENVELOPE NO. 2
25 TO THE GENERAL MANAGER OF THE COLOSSEUM? DELIVERED IT?

26 A YES.

27 Q AND WHAT DID YOU DO NEXT?

28 A DROVE BACK TO THE LAW OFFICES WHERE MIKE

1 AND MICKEY AND THE ATTORNEYS WERE.

2 Q AND THEN WHAT HAPPENED?

3 A THEN WE LEFT.

4 Q WHEN YOU SAY "WE" --

5 A JEANNIE SLEEPER AND MIKE AND I LEFT IN THE
6 VAN AND DROVE BACK -- HEADED BACK TO LAGUNA BEACH.

7 Q WAS THIS MORNING OR AFTERNOON, OR DO YOU
8 RECALL?

9 A AFTERNOON.

10 Q SO THIS IS AFTERNOON AND YOU WERE DRIVING
11 MISS SLEEPER AND THE DEFENDANT BACK TO LAGUNA BEACH FROM
12 LOS ANGELES; RIGHT?

13 A RIGHT, YES.

14 Q IS THAT A LONG DRIVE?

15 A ABOUT 45 MINUTES PLUS, DEPENDING ON
16 TRAFFIC.

17 Q WERE YOU IN A POSITION TO HEAR ANY
18 CONVERSATION BETWEEN THE DEFENDANT AND MISS SLEEPER AT
19 THAT TIME?

20 A YES.

21 Q AND AT SOME POINT DID THE CONVERSATION
22 TURN TO THE CONTRACT THAT YOU APPARENTLY HAD JUST
23 DELIVERED? WAS THERE DISCUSSION ABOUT THE CONTRACT OR
24 MICKEY THOMPSON OR THE DEAL?

25 A WELL, THE DISCUSSION WAS ABOUT THE MEETING
26 THAT HAD JUST TAKEN PLACE AT THE LAW OFFICE.

27 Q OKAY. AND WHAT WAS SAID BY THE DEFENDANT?

28 A MIKE SAID TO JEANNIE THAT, "WE'RE GOING TO

1 SCREW MIKE OUT OF EVERYTHING."

2 Q IS THAT THE WORD HE USED, "SCREW"?

3 A I BELIEVE SO.

4 Q DID YOU EVER IN THE PAST -- LET ME
5 WITHDRAW THAT AND ASK THIS.

6 DO YOU RECALL TESTIFYING AT THE
7 PRELIMINARY HEARING IN THIS CASE?

8 A YES.

9 Q AT THAT TIME DID YOU TELL THE LAWYERS THAT
10 THE DEFENDANT WAS GOING TO RIP MICKEY THOMPSON OFF?

11 A YES. THERE WAS A LOT OF GOING -- IT WAS A
12 45-MINUTE DIATRIBE OF GOING AROUND IN CIRCLES ABOUT
13 SCREWING HIM; RIPPING HIM OFF; WHATEVER TERMINOLOGY YOU
14 WANT TO MAKE IT. I DON'T KNOW PRECISELY WHAT IT WAS.
15 THERE COULD HAVE BEEN SEVERAL MORE ADJECTIVES USED, BUT I
16 DON'T RECALL THEM.

17 Q SO YOU JUST SAID THAT FOR 45 MINUTES THERE
18 WAS A DIATRIBE?

19 A PRETTY MUCH.

20 Q AND WHO ENGAGED IN THE DIATRIBE? WAS IT
21 SLEEPER OR THE DEFENDANT, OR WAS IT BOTH?

22 A IT WAS -- AS I RECALL, ABOUT 99 PERCENT
23 MR. GOODWIN.

24 Q AND MR. GOODWIN WAS SAYING WHAT DURING
25 THIS 45 MINUTES?

26 A JUST THAT HE WAS GOING TO SCREW MICKEY OUT
27 OF HIS BUSINESS.

28 Q AND RIP HIM OFF?

1 A YES. I BELIEVE THAT WAS WHAT WAS ALSO
2 SAID, ALONG WITH PROBABLY MANY OTHER ADJECTIVES THAT I
3 CAN'T RECALL.

4 Q BUT THAT WAS THE THRUST OF THE
5 CONVERSATION --

6 A TOTALLY THE THRUST OF IT.

7 Q -- FOR THE 45-MINUTE TRIP?

8 A YES. WELL, ABOUT ONE MINUTE THERE WAS A
9 DISCUSSION OF THE FACT THAT THE OLYMPICS WERE COMING UP
10 AND THERE WOULD PROBABLY BE SOME LIMOUSINES AVAILABLE AT
11 A GOOD PRICE AFTER THE OLYMPICS TO BE ABLE TO DRIVE
12 AROUND IN.

13 Q BUT WAS THAT THE MAJORITY OF THE
14 CONVERSATION, ABOUT THE OLYMPICS AND LIMOUSINES, OR WAS
15 IT ABOUT MICKEY THOMPSON?

16 A THE LIMOUSINE LASTED ABOUT ONE MINUTE OUT
17 OF THE WHOLE CONVERSATION. I COULDN'T RECALL THE
18 CONVERSATION BECAUSE NOBODY ELSE WAS ENGAGED IN IT. IF
19 YOU KNOW WHAT I MEAN.

20 Q IT WAS JUST GOODWIN TALKING?

21 A YES.

22 Q TO SLEEPER?

23 A YES.

24 Q AND AT SOME POINT NEAR THE END OF THE
25 CONVERSATION DID THE DEFENDANT MICHAEL GOODWIN SAY
26 SOMETHING TO YOU?

27 A YES. HE SAID, "STEW, IF YOU EVER SAY A
28 WORD ABOUT THIS CONVERSATION TO ANYBODY, I WILL FUCKING

1 KILL YOU."

2 Q DID THAT SURPRISE YOU?

3 A NO. WELL, OF COURSE, IT'S PRETTY
4 SHOCKING. BUT THAT'S MIKE GOODWIN, AS FAR AS I WAS
5 CONCERNED.

6 Q AND YOU HAD WORKED FOR HIM FOR SOME PERIOD
7 OF TIME?

8 A YES.

9 Q WHAT DID YOU SAY, IF ANYTHING, AFTER
10 MR. GOODWIN SAID WHAT HE SAID TO YOU?

11 A I SAID, "WHAT CONVERSATION?"

12 Q WHY DID YOU SAY THAT?

13 A BECAUSE I THOUGHT HE WOULD LIKE TO HEAR
14 THAT.

15 Q THAT WAS THE CORRECT ANSWER?

16 A YES.

17 Q WAS THERE ANYTHING THAT HE SAID IN
18 RESPONSE TO THAT?

19 A SOMETHING APPROVING.

20 Q SO YOU KNEW YOU HAD GIVEN HIM THE RIGHT
21 ANSWER?

22 A DEFINITELY.

23 Q NOW, AT THE TIME WERE YOU MARRIED OR DID
24 YOU HAVE A GIRLFRIEND?

25 A YES, I HAD A GIRLFRIEND.

26 Q AND DID SHE ALSO WORK FOR MICHAEL GOODWIN?

27 A YES.

28 MR. DIXON: COULD I JUST HAVE A MOMENT, YOUR

1 HONOR?

2 THE COURT: YES.

3 (PAUSE IN PROCEEDINGS.)

4 Q BY MR. DIXON: MR. LINKLETTER, THANK YOU
5 VERY MUCH.

6 NOTHING FURTHER, YOUR HONOR.

7 THE COURT: CROSS-EXAMINATION?

8 MS. SARIS: THANK YOU.

9

10 CROSS-EXAMINATION

11 BY MS. SARIS:

12 Q GOOD MORNING, MR. LINKLETTER.

13 A GOOD MORNING.

14 Q DID YOU HEAR ABOUT THE NEWS OF MICKEY
15 THOMPSON'S MURDER WHEN IT HAPPENED IN 1988?

16 A YES.

17 Q DID YOU CALL THE POLICE AND ADVISE THEM OF
18 THIS CONVERSATION RIGHT WHEN YOU HEARD IT ON THE NEWS?

19 A I DIDN'T HEAR IT ON THE NEWS. MY WIFE
20 CALLED ME ON THE PHONE.

21 Q OKAY. DID YOU CALL THE POLICE WHEN YOU
22 HEARD ABOUT IT?

23 A NO, I DIDN'T.

24 Q YOU CONTACTED THE POLICE AFTER AN EPISODE
25 OF "AMERICA'S MOST WANTED"; IS THAT RIGHT?

26 A I BELIEVE THAT WAS THE PROGRAM.

27 Q DO YOU RECALL IF A REWARD WAS ANNOUNCED IN
28 THAT PROGRAM?

1 A I DON'T RECALL IF AN AWARD WAS ANNOUNCED
2 IN THAT PROGRAM AT THAT SPECIFIC TIME.

3 Q DO YOU RECALL AT ANY TIME A REWARD?

4 A YES, I DO.

5 Q AND WHEN DO YOU RECALL THE REWARD BEING
6 ANNOUNCED, OR WHEN YOU LEARNED OF IT?

7 A AT THE TIME IT WAS ANNOUNCED, AT WHICH
8 TIME I'M NOT AWARE OF. PROBABLY IN '89. I DON'T KNOW.

9 Q DO YOU REMEMBER THE MONETARY AMOUNT?

10 A ONE MILLION DOLLARS AT ONE POINT.

11 Q YOU CONTACTED THE FAMILY OF MICKEY
12 THOMPSON AS WELL, DID YOU NOT?

13 A I'M NOT SURE IF WE CONTACTED THEM OR THEY
14 CONTACTED US. BUT HOWEVER IT HAPPENED, WE WERE IN
15 CONTACT.

16 Q DO YOU RECALL IF YOU CALLED THE POLICE
17 BEFORE YOU CALLED -- OR BEFORE YOU CONTACTED --

18 A I NEVER CALLED THE POLICE PERSONALLY.

19 Q I'M SORRY. I HAVE TO FINISH THE QUESTION.
20 I'LL JUST LEAVE IT AT THAT.

21 YOU NEVER CALLED THE POLICE?

22 A NO.

23 Q DID YOU EVER DISCUSS THIS CASE WITH A
24 PRIVATE INVESTIGATOR?

25 A YES.

26 Q DO YOU REMEMBER THAT PERSON'S NAME?

27 A JIM REYNOLDS.

28 Q DO YOU -- WHAT WAS YOUR UNDERSTANDING OF

1 WHO THAT INDIVIDUAL WAS WORKING FOR?

2 A MRS. COLLENE CAMPBELL.

3 Q AND WHO IS MRS. COLLENE CAMPBELL IN
4 RELATION TO MICKEY THOMPSON?

5 A HIS SISTER.

6 Q AND YOUR WIFE, DID SHE DO SOME WORK FOR
7 JIM REYNOLDS?

8 A SHE WAS INTERVIEWED BY JIM REYNOLDS AND
9 DID SOMETHING THAT LOOKED LIKE WORK, BUT IT WASN'T PAID
10 FOR WORK.

11 Q DID SHE DO AN ASSET SEARCH ON MR. GOODWIN
12 FOR MR. REYNOLDS?

13 A I DON'T KNOW IF SHE DID OR NOT.

14 Q WAS SHE IN THE HABIT OF DOING WORK FOR
15 MR. REYNOLDS AND NOT GETTING PAID ON OTHER THINGS?

16 A SHE DID SOME WORK FOR JIM REYNOLDS,
17 PERIOD, ON THIS CASE, PERIOD.

18 Q SO SHE ASSISTED A PRIVATE INVESTIGATOR
19 THAT WAS HIRED BY THE RELATIVES OF MICKEY THOMPSON AND
20 SHE DID THAT WITHOUT ANY FINANCIAL PAY; IS THAT CORRECT?

21 A EXACTLY. PRECISELY.

22 Q YOU MENTIONED THE OLYMPICS WERE IN 1984.
23 DO YOU RECALL THE TESTIMONY THAT YOU'VE GIVEN THIS
24 MORNING, WHEN WAS THAT IN RELATIONSHIP TO THE OLYMPICS?

25 A PROBABLY IN THE SPRING. PROBABLY -- YES,
26 IT WAS PROBABLY TWO TO THREE MONTHS BEFORE THE OLYMPICS.
27 BUT I -- MAYBE ONE, TWO OR THREE. I DON'T KNOW FOR SURE,
28 BUT IT WAS BEFORE THE OLYMPICS.

1 Q SO THE OLYMPICS WEREN'T ACTUALLY GOING ON
2 WHEN YOU WERE DRIVING?

3 A NO. IT WAS BEFORE THE OLYMPICS STARTED.

4 Q BUT YOU MADE MENTION OF A CONVERSATION
5 WHERE MR. GOODWIN HAD SAID SOMETHING ABOUT LIMOS MIGHT
6 BECOME AVAILABLE?

7 A YES. AFTER THE OLYMPICS THERE WOULD
8 PROBABLY BE BUNCH OF LIMOS BEING DRIVEN AROUND. AND THEN
9 ONCE THE OLYMPICS WERE OVER, THEY WOULD PROBABLY BE
10 AVAILABLE AT A FAIRLY REASONABLE PRICE.

11 Q SO THE DOCUMENT THAT YOU TOOK TO THE
12 THOMPSON HOME, IT WAS YOUR UNDERSTANDING THAT WAS A
13 CONTRACT?

14 A YES, THAT WAS MY UNDERSTANDING. BUT --

15 Q AND THAT WAS SIGNED -- WAS THAT SIGNED IN
16 YOUR PRESENCE?

17 A IF I WAS SITTING AS FAR FROM HERE TO YOU,
18 IF YOU WOULD CALL IN MY PRESENCE, THEN YES, IT WAS.

19 Q OKAY. LET ME ASK YOU THIS WAY: WAS IT
20 YOUR PURPOSE OF GOING TO GET A SIGNATURE ON THE DOCUMENT?

21 A MY PURPOSE WAS TO DELIVER THE DOCUMENT TO
22 MICKEY THOMPSON FOR HIM TO LOOK OVER AND SIGN; PUT BACK
23 IN THE ENVELOPE; AND LEAVE WITH IT.

24 Q OKAY. AND YOU WEREN'T ASKED TO WITNESS IT
25 IS WHAT YOU'RE SAYING?

26 A NO.

27 THE COURT: AND FOR THE RECORD, THE DISTANCE
28 BETWEEN THE WITNESS AND MS. SARIS IS ABOUT 18 FEET.

1 MS. SARIS: THANK YOU, YOUR HONOR.

2 Q WERE THERE ANY LAWYERS AT MICKEY
3 THOMPSON'S HOUSE DURING THAT TIME?

4 A NO.

5 Q THE CONVERSATION THAT YOU RELATED TO US
6 REGARDING WHAT MR. THOMPSON SAID IN THE VAN --

7 MR. DIXON: OBJECTION. MISSTATES THE EVIDENCE.
8 IT WAS MR. GOODWIN THAT MADE THE STATEMENT IN THE VAN.

9 MS. SARIS: I'M SORRY. MR. GOODWIN.

10 Q WERE YOU AWARE OF ANY PART OF THE
11 AGREEMENT? HOW THE BUSINESS WAS GOING TO BE SPLIT? WHAT
12 MR. THOMPSON'S SALARY WAS IN RELATION TO MR. GOODWIN'S?

13 A NO, I WASN'T.

14 Q SO AS YOU SIT HERE NOW, DO YOU KNOW IF ON
15 THIS AGREEMENT, NOT WHAT YOU CONTEND MR. GOODWIN SAID WAS
16 HIS INTENTION, BUT ON THE PAPER, ARE YOU AWARE OF WHETHER
17 OR NOT ONE PERSON WAS GOING TO GET A MUCH BIGGER SALARY
18 THAN THE OTHER PERSON?

19 A NO.

20 Q HAVE YOU EVER SEEN THE PARTNERSHIP
21 AGREEMENT?

22 A THE PARTNERSHIP AGREEMENT?

23 Q YES.

24 A NO. IT'S ALWAYS BEEN A MANILA ENVELOPE
25 EVERY TIME I WAS EVER AROUND IT.

26 Q AND WHEN YOU TOOK TWO SEPARATE AND
27 DISTINCT ENVELOPES TO ANAHEIM STADIUM --

28 MR. DIXON: OBJECTION. THAT MISSTATES THE

1 EVIDENCE. IT WAS THE COLOSSEUM.

2 MS. SARIS: SORRY. THE COLOSSEUM.

3 Q WAS IT YOUR UNDERSTANDING THAT IF MICKEY
4 HAD AGREED TO SOMETHING, YOU WERE SUPPOSED TO GIVE ONE
5 ENVELOPE; BUT IF MICKEY HAD NOT AGREED TO SOMETHING, YOU
6 WERE SUPPOSED TO GIVE THE OTHER ENVELOPE?

7 A THAT WAS PRECISELY IT.

8 Q DID THEY APPEAR TO HAVE PAPERS OR
9 DOCUMENTS INSIDE THESE ENVELOPES?

10 A YES.

11 Q AND YOU ACTUALLY HEARD SOMEONE, YOU
12 BELIEVED, THAT MICHAEL GOODWIN HAD SAID, "MICKEY, DO WE
13 HAVE A DEAL?" YOU ACTUALLY HEARD SOMEONE SAY "YES" ON THE
14 OTHER END OF THE PHONE?

15 A YES. OR "OKAY."

16 Q BUT YOU COULD HEAR THEIR VOICE IS WHAT I'M
17 SAYING?

18 A YES.

19 Q HOW LONG DID YOU WORK FOR MICHAEL GOODWIN?

20 A PROBABLY A YEAR.

21 Q WOULD YOU DESCRIBE HIM AS LOUD?

22 A YES.

23 Q WOULD YOU DESCRIBE HIM AS OBNOXIOUS?

24 A YES.

25 Q BRASH?

26 A YES.

27 MS. SARIS: CAN I HAVE JUST A MOMENT?

28 (PAUSE IN THE PROCEEDING.)

1 Q BY MS. SARIS: DID YOU HAVE ANY
2 UNDERSTANDING OF WHEN YOU WERE AT THE COLOSSEUM, WHAT
3 KIND OF AN AGREEMENT WAS BEING NEGOTIATED?

4 A THIS WOULD JUST BE CONJECTURE ON MY
5 PART --

6 Q NO. I'M ONLY ASKING IF YOU KNOW.

7 A DO I KNOW EXACTLY WHAT WAS IN IT? NO. I
8 CAN TELL YOU WHAT I PRESUME WAS IT IN. AND THAT'S THE
9 BEST I CAN DO.

10 Q DID MR. GOODWIN TELL YOU WHAT WAS IN THEM?

11 A I DON'T BELIEVE SO.

12 Q BUT IT WAS AFTER THAT CONVERSATION THAT
13 YOU DROVE A CONTRACT TO MICKEY THOMPSON'S HOME? THAT WAS
14 AFTER THE COLOSSEUM?

15 A YES. SOMETIME AFTER. SEVERAL DAYS,
16 PROBABLY.

17 Q COULD IT HAVE BEEN LONGER? COULD IT HAVE
18 BEEN SEVERAL WEEKS OR MONTHS?

19 A IT COULD HAVE BEEN SOMEWHERE BETWEEN ONE
20 AND TWO WEEKS, AS I RECALL. BUT I CERTAINLY WOULDN'T
21 SWEAR TO WHAT THE TIME FRAME WAS.

22 Q BUT ARE YOU SURE THAT IT CAME IN THAT
23 ORDER? THE COLOSSEUM WITH THE TWO ENVELOPES WAS PRIOR TO
24 YOU DRIVING --

25 A ABSOLUTELY POSITIVE.

26 Q -- PRIOR TO YOU DRIVING TO THE BRADBURY
27 HOME?

28 A YES.

1 Q WHEN YOU WERE AT THE THOMPSONS' HOME AND
2 THESE INDIVIDUALS HAD -- YOU MAKE IT SOUND AS IF THEY
3 OPENED THEIR HOME AND TREATED YOU LIKE A GUEST; IS THAT
4 FAIR TO SAY?

5 A WELL, THEY TREATED ME LIKE SOMEBODY OTHER
6 THAN A DELIVERY BOY. WE DIDN'T HAVE DINNER.

7 Q DID YOU SAY ANYTHING TO MR. THOMPSON AT
8 THAT POINT ABOUT WHAT MR. GOODWIN HAD SAID?

9 A NO, I DIDN'T. I DIDN'T SAY HARDLY
10 ANYTHING TO MICKEY THOMPSON. I DIDN'T KNOW THE MAN. AND
11 I WASN'T THERE TO CONVERSE WITH HIM. I WAS THERE TO DO
12 BUSINESS.

13 Q HAD YOU WORKED AS A DELIVERY PERSON FOR
14 MR. GOODWIN ON OTHER OCCASIONS?

15 A NOT REALLY, NO.

16 Q DO YOU REMEMBER ANY OF THE NAMES OF THE
17 LAWYERS THAT WERE IN THE LAW FIRM THAT YOU SAID WAS NEAR
18 THE BILTMORE?

19 A NO.

20 Q WAS IT YOUR UNDERSTANDING WHEN YOU WERE
21 THERE THAT IT WAS THE LAWYER'S LAW FIRM THAT WERE
22 EMPLOYED BY MR. THOMPSON OR MR. GOODWIN? OR DO YOU NOT
23 KNOW?

24 A I DON'T KNOW.

25 Q WAS THERE MORE THAN ONE ATTORNEY PRESENT?

26 A I RECALL THAT THERE WAS QUITE A FEW PEOPLE
27 AROUND. I DON'T KNOW IF THEY WERE ALL ATTORNEYS.

28 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

1 THE COURT: REDIRECT?

2 MR. DIXON: JUST ONE OR TWO QUESTIONS. THANK
3 YOU, YOUR HONOR.

4
5 REDIRECT EXAMINATION

6 BY MR. DIXON:

7 Q MR. LINKLETTER, I THINK YOU TOLD THE
8 DEFENSE ATTORNEY THAT YOU REALLY DIDN'T LOOK AT THE
9 DOCUMENT THAT YOU TOOK TO MICKEY THOMPSON'S HOUSE; IS
10 THAT CORRECT?

11 A THAT'S CORRECT.

12 Q SO AS FAR AS YOU KNOW, IT COULD HAVE BEEN
13 A CONTRACT; SOME LEGAL DOCUMENTS; SOME PAPERS; HE JUST
14 HAD TO SIGN SOME THINGS?

15 A YES.

16 Q AND I THINK YOU SAID THAT APPARENTLY THERE
17 WERE LITTLE FLAGS OR POST-IT NOTES OR SOMETHING WHERE HE
18 WAS SUPPOSED TO SIGN?

19 A THAT'S WHAT IT LOOKED LIKE FROM THE
20 DISTANCE.

21 Q AND YOU WAITED FOR HIM TO DO THAT AND THEN
22 TOOK THE DOCUMENT AND LEFT?

23 A YEAH. HE PUT IT BACK IN THE ENVELOPE AND
24 SEALED IT AND I TOOK IT BACK.

25 Q SO WHATEVER DOCUMENT IT WAS?

26 A EXACTLY. HOWEVER, IT WAS MY UNDERSTANDING
27 WHEN I LEFT LAGUNA THAT I WAS TAKING A CONTRACT UP THERE.

28 Q ALL RIGHT. THANK YOU VERY MUCH.

1 NOTHING FURTHER.

2 THE WITNESS: YOU ARE VERY WELCOME.

3 THE COURT: ANYTHING FURTHER?

4 MS. SARIS: YES. CAN I JUST HAVE A MOMENT?

5 THE COURT: YES.

6 (PAUSE IN PROCEEDINGS.)

7 MS. SARIS: NOTHING FURTHER, YOUR HONOR.

8 THE COURT: THANK YOU, SIR. THANKS FOR COMING
9 IN.

10 THE WITNESS: YOU'RE WELCOME.

11 MR. JACKSON: THANK YOU, YOUR HONOR. WE'RE GOING
12 TO ASK BOB UTSEY TO JOIN US, PLEASE.

13
14 VICTOR UTSEY,
15 CALLED BY THE PEOPLE AS A WITNESS, WAS
16 SWORN AND TESTIFIED AS FOLLOWS:

17
18 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

19 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
20 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
21 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
22 TRUTH SO HELP YOU GOD.

23 THE WITNESS: I DO.

24 THE CLERK: THANK YOU, PLEASE BE SEATED. SIR,
25 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
26 NAME FOR THE RECORD.

27 THE WITNESS: VICTOR, V-I-C-T-O-R. UTSEY,
28 U-T-S-E-Y.

1 THE CLERK: THANK YOU.

2 THE COURT: YOU MAY INQUIRE.

3 MR. JACKSON: THANK YOU, YOUR HONOR

4
5 DIRECT EXAMINATION

6 BY MR. JACKSON:

7 Q SIR, DO YOU GO BY THE NAME "BOB"?

8 A BOB.

9 Q MR. UTSEY, I WANT TO DRAW YOUR ATTENTION
10 IF I COULD BACK TO 1988, SPECIFICALLY THE SUMMER OF 1988.

11 WHAT DID YOU DO FOR A LIVING BACK THEN?

12 A I RAN DARBY MARINE SUPPLY, WHICH WAS A
13 FULL SERVICE MARINA WITH A 150-TON LIFT.

14 Q AND WHERE IS THAT MARINA?

15 A IT'S LOCATED ON SHEM CREEK IN MOUNT
16 PLEASANT, SOUTH CAROLINA, WHICH IS JUST ACROSS THE RIVER
17 FROM THE CITY OF CHARLESTON. AND I WILL ADD THAT THE
18 MARINA IS NOW CLOSED. IT'S NOT IN EXISTENCE AT THIS
19 TIME.

20 Q SOUTH CAROLINA YOU SAID?

21 A YES, SIR.

22 Q THAT'S THE ACCENT?

23 A THAT'S --

24 Q OR IS IT THAT I JUST HAVE THE ACCENT?

25 A NO, IT'S THE ACCENT.

26 Q ALL RIGHT. MR. UTSEY, EXPLAIN TO THE
27 JURORS, IF YOU WOULD JUST FOR JUST A SECOND, WHAT ONE
28 DOES AT A MARINE SUPPLY DOCK OR HARBOR OR MARINA OR

1 WHATEVER IT IS YOU CALL IT FOR US LAND LOVERS.

2 A YES. WE OFFERED FULL SERVICE TO JUST
3 ABOUT ANY KIND OF A BOAT, FROM A 14-FOOTER ALL THE WAY UP
4 TO 126-FOOTER. WE'RE LIMITED IN THE CREEK IN TERMS OF
5 DRAFT.

6 Q WHAT IS DRAFT?

7 A THAT'S HOW MUCH OF THE BOAT IS BELOW THE
8 WATERLINE.

9 Q SO TIGER WOODS'S YACHT PROBABLY WOULDN'T
10 FIT?

11 A NO.

12 Q BUT SMALLER YACHTS FROM 100 FEET DOWN,
13 YES?

14 A THEY CAN GET BIGGER THAN THAT. BUT YOU'RE
15 CORRECT, THAT'S A GOOD ASSESSMENT.

16 Q OKAY. BACK IN JUNE OF 1988, DID YOU MEET
17 SOMEONE THAT YOU PRESENTLY SEE HERE IN COURT TODAY?

18 A (NO AUDIBLE RESPONSE.)

19 Q DO YOU UNDERSTAND MY QUESTION?

20 A YES, SIR.

21 Q ALL RIGHT. LOOK AROUND THE COURTROOM AND
22 TELL ME IF YOU RECOGNIZE SOMEONE THAT YOU MET BACK IN
23 1988.

24 A I DO NOT RECOGNIZE HIM.

25 Q DID YOU MEET SOMEONE WHOSE NAME YOU MIGHT
26 RECOGNIZE AS MICHAEL GOODWIN?

27 A YES.

28 Q ALL RIGHT. HOW DID YOU MEET MICHAEL

1 GOODWIN?

2 A HE ARRIVED AT DARBY MARINE WITH A 57-FOOT
3 VESSEL KNOWN AS A WELLINGTON. IT WAS BUILT BY A
4 GENTLEMAN NAMED WELLINGTON. AND THE NAME ON THE VESSEL
5 WAS "BELIEVE." AND HE TRANSACTED WITH ME TO DO SOME WORK
6 IN THE BOATYARD ON HIS VESSEL.

7 Q YOU'RE AN EX-NAVY MAN, YES?

8 A YES, SIR.

9 Q AND YOU'VE OBVIOUSLY GOT SOME EXPERTISE IN
10 THE MARINE LIFE-STYLE; CORRECT?

11 MS. SARIS: OBJECTION. LEADING.

12 THE COURT: SUSTAINED.

13 Q BY MR. JACKSON: EXPLAIN TO THE JURORS
14 WHAT YOUR EXPERTISE IS WITH REGARD TO BOATS AND YACHTS
15 AND THE MARINE LIFE-STYLE.

16 A WELL, WHILE I WAS IN THE NAVY I SPENT
17 QUITE A BIT OF TIME AROUND LARGE VESSELS AND SMALL
18 VESSELS. I WAS IN CHARGE OF MOST OF THE SMALL BOATS.
19 AND I STAYED IN THE NAVY AND SPENT QUITE A BIT OF TIME ON
20 AND OFF LARGE VESSELS.

21 AND SPENT QUITE A BIT OF TIME WORKING WITH
22 SMALLER VESSELS IN THE NAVY'S MINE SQUADRON FACILITIES.
23 I ACTUALLY WORKED ALSO WITH BRASSWELL SHIPYARDS IN
24 CHARLESTON, SOUTH CAROLINA, WHICH WAS A MAJOR MARINE
25 CONTRACTOR WITH THE GOVERNMENT. AND WE WORKED ON JUST
26 ABOUT ANY VESSEL THAT THE GOVERNMENT HAD, INCLUDING NAVAL
27 VESSELS OF WAR TYPE, FRIGATES, DESTROYERS AND WHAT HAVE
28 YOU.

1 I WENT TO WORK FOR DARBY MARINE IN WHICH
2 WE SPENT ALMOST ALL OF OUR TIME WORKING ON SMALLER
3 PLEASURE CRAFT, MOTOR YACHTS. ALSO, WE'VE SPENT QUITE A
4 BIT OF TIME WORKING ON FISHING VESSELS SUCH AS SHRIMP
5 BOATS, LONG LINERS FOR DEEP SEA FISH AND THOSE KIND OF
6 VESSELS.

7 WE DID EVERYTHING IN A YARD THAT COULD BE
8 DONE ON A BOAT. WE WOULD OVERHAUL ENGINES. WE WOULD
9 INSTALL ANY KIND OF EQUIPMENT THAT WAS NEEDED. AND WE
10 WOULD PAINT; DO FIBERGLASS WORK. AND WE ALSO OPERATED
11 WITH -- IN DOING ALL OF THOSE JOBS, WE HAD A NUMBER OF
12 SUBCONTRACTORS THAT WE CALLED UPON IF IT WAS A
13 SIGNIFICANT JOB TO DO. BUT MOST OF THE GENERAL WORK THAT
14 CAME IN, PUTTING A SONAR -- I MEAN A RADAR ON OR RADIO
15 EQUIPMENT; BILGE PUMPS; THOSE KIND OF THINGS, WERE JUST
16 STANDARD EVERYDAY PROCEDURES.

17 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

18 THE COURT: ON OR OFF THE RECORD?

19 MS. SARIS: ON THE RECORD, YES.

20
21 (PROCEEDINGS HELD AT SIDEBAR.)

22 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.

23 MS. SARIS: TWO ISSUES. AGAIN, ANOTHER DOCUMENT
24 THAT LOOKS LIKE A CLOSING ARGUMENT CHART HAS BEEN ON THE
25 BOARD NOW FOR THE BETTER PART OF -- EVER SINCE --

26 MR. SUMMERS: WE COVERED IT.

27 MS. SARIS: WE COVERED IT NOW.

28 THE COURT: THE JURORS HAVE BEEN LOOKING AT IT.

1 MR. JACKSON: WHAT'S THE PROBLEM WITH THE
2 DOCUMENT?

3 MS. SARIS: THE PROBLEM IS NONE OF IT HAS BEEN
4 AUTHENTICATED. AND IT'S --

5 MR. DIXON: COULD I HAVE A MOMENT? MAYBE I'LL
6 GET THE DOCUMENT.

7 (PAUSE IN PROCEEDINGS.)

8 MS. SARIS: WE HAVE A SECOND OBJECTION AS WELL.

9 MR. JACKSON: THAT'S THE DOCUMENT THAT WE
10 ANTICIPATE. I ALSO HAVE A LARGE BOARD THAT I PROBABLY
11 WOULD HAVE USED HAD WE NOT BEEN USING THE ELMO. EACH ONE
12 OF THOSE DOCUMENTS INDEPENDENTLY WILL BE AUTHENTICATED.

13 MS. SARIS: BY THIS WITNESS?

14 MR. JACKSON: I'M NOT GOING TO ASK THIS WITNESS
15 TO AUTHENTICATE.

16 MS. SARIS: THEN IT HAS NO BUSINESS BEING ON THE
17 BOARD DURING HIS TESTIMONY. IF THEY WANT TO SHOW A
18 PICTURE OF THE BOAT, THEN SHOW A PICTURE OF THE BOAT.
19 BUT WHY WOULD THEY BE ABLE TO SHOW THAT LIEN LETTER FROM
20 BILL REDFIELD OR A SECURITY AGREEMENT?

21 MR. JACKSON: I'M NOT ASKING FOR ITS ADMISSION.

22 MS. SARIS: WELL, THE JURORS ARE READING. THAT'S
23 THE PROBLEM WHEN YOU PUT IT ON A PROJECTOR AND YOU TAKE A
24 PAUSE. I'M LOOKING AT THE JURY AND THEY'RE TRYING TO
25 MAKE OUT THE LETTER AND THAT'S INAPPROPRIATE.

26 THE COURT: ALL RIGHT. LET ME DO THIS AT THIS
27 POINT, LET ME ASK THE PEOPLE NOT TO PUT DOCUMENTS ON THE
28 SCREEN UNTIL YOU ARE GOING TO ACTUALLY REFER TO THEM.

1 OKAY? BECAUSE I CAN'T MONITOR EVERYTHING. AND I FRANKLY
2 DIDN'T EVEN SEE THIS ON THE SCREEN.

3 MS. SARIS: THIS SHOULD BE EIGHT SEPARATE
4 DOCUMENTS UNTIL IT IS AUTHENTICATED, OR HOWEVER MANY
5 DOCUMENTS PER EACH WITNESS. THIS IS CLEARLY SOMETHING
6 FOR CLOSING ARGUMENT. TO PUT IT ALL ON THE SAME PAGE AT
7 ANY POINT -- I MEAN, EVEN NOW IF YOU SAY PART OF THIS IS
8 RELEVANT TO THIS WITNESS BECAUSE HE COULD TAKE THIS
9 PICTURE, THE JURORS ARE STILL GOING TO SEE A CHECK; AND
10 THEY'RE GOING TO SEE A LETTER THAT HAS NOT HAD ANYTHING
11 TO DO WITH THIS --

12 THE COURT: I DIDN'T SEE THIS. BUT ARE YOU
13 SUGGESTING THAT THE JURORS FROM WHERE THEY'RE SEATED TO
14 THE SCREEN, THAT THEY'RE ABLE TO READ WHAT IS WRITTEN ON
15 THERE?

16 MS. SARIS: YES. SPECIFICALLY, I SAW JUROR NO. 6
17 LOOKING AT IT INTENTLY AND WRITING NOTES.

18 MR. DIXON: THAT'S IMPOSSIBLE.

19 MS. SARIS: IT'S NOT IMPOSSIBLE.

20 THE COURT: LET ME DO THIS, NO. 1, I WILL ASK THE
21 PEOPLE NOT TO PUT IT UP THERE UNTIL IT'S REFERRED TO.
22 NO. 2, TRY NOT TO ENLARGE IT SO MUCH THAT THE JURORS
23 COULD READ IT.

24 MR. JACKSON: WELL, MAYBE I COULD TRY TO ZOOM
25 JUST ON -- I WANT THREE THINGS FROM THIS WITNESS -- FOUR.

26 THE COURT: I DON'T HAVE A PROBLEM WITH THE
27 DOCUMENT IN ITS ENTIRETY BEING SHOWN BECAUSE THIS IS
28 NOT --

1 THIS IS BEING MARKED FOR IDENTIFICATION, I
2 PRESUME --

3 MR. JACKSON: CORRECT.

4 THE COURT: -- AS THE PEOPLE'S NEXT IN ORDER,
5 WHICH WILL BE 3?

6 MR. JACKSON: CORRECT.

7 THE COURT: IT'S NOT BEING ADMITTED. THEY CAN
8 LOOK AT THIS, BUT THEY'RE NOT ABLE TO SEE WHAT IS WRITTEN
9 ON IT IF THEY'RE KEPT AT A CERTAIN SIZE ON THE SCREEN. I
10 DON'T HAVE A PROBLEM WITH THAT AT THIS TIME. WHEN IT'S
11 BEING OFFERED INTO EVIDENCE, THEN WE CAN DEAL WITH IT.

12 MS. SARIS: I HAVE A PROBLEM WITH THAT. I WOULD
13 TAKE EXCEPTION WITH WHAT THE JURORS CAN SEE. AND THERE
14 IS NO WAY THAT YOU CAN JUST FOCUS ON ONE, TWO OR THREE.

15 MR. JACKSON: THAT'S FINE. I HAVE NO REASON --

16 MS. SARIS: THERE IS NO REASON FOR SOMEONE ELSE'S
17 LETTER --

18 THE COURT: I WAS --

19 MR. SUMMERS: ALSO, AS THE JURORS GO TO FILE OUT,
20 WHAT HAPPENS IS THEY GET A CLOSE VIEW.

21 THE COURT: WELL, FEEL FREE TO KILL IT.

22 MR. DIXON: THE ONLY THING THAT MIGHT HAVE BEEN
23 LEFT UP THERE WAS A PICTURE.

24 MR. SUMMERS: NO. THERE IS NO DAMAGE YET WITH
25 THEM GETTING A CLOSER VIEW. BUT IF WE'RE SAYING THEY
26 CAN'T READ IT, I THINK THE NEXT LINE OF QUESTIONING IS
27 GOING TO HAVE TO DO WITH MICHAEL STOPPED PAYMENTS ON WORK
28 THAT WAS DONE.

1 AND, AGAIN, WE WOULD MAKE AN OBJECTION TO
2 IMPROPER 1101. WHAT'S THE RELEVANCE? THAT MICHAEL HAD
3 WORK DONE? HE HAD A DISPUTE WITH THIS GENTLEMAN AND IT
4 WASN'T LIKE THE CHECK BOUNCED, HE PURPOSELY STOPPED
5 PAYMENT ON THAT.

6 MR. JACKSON: THAT'S ABSOLUTELY INCORRECT. THE
7 CHECK DID, IN FACT, BOUNCE.

8 THE COURT: SO YOU ARE GOING TO ELICIT THIS
9 INFORMATION FROM MR. UTSEY? WHAT IS THE OFFER OF PROOF
10 AND THE RELEVANCE?

11 MR. JACKSON: MR. UTSEY RECALLS THIS PARTICULAR
12 TRANSACTION AND THIS PERSON, BOTH BECAUSE HE WAS BILKED
13 OUT CLOSE TO \$8,000 OUT OF A SIX-WEEK PERIOD ON THE
14 BELIEVE. THAT'S ONE OF THE RELEVANT POINTS OF WHY HE
15 REMEMBERS THIS TRANSACTION OUT OF PROBABLY TENS OF
16 THOUSANDS OF BOATS THAT HAVE BEEN IN AND OUT OF HIS
17 HARBOR. HE DOESN'T RECOGNIZE MR. GOODWIN, BUT HE
18 REMEMBERS MICHAEL GOODWIN AND HIS WIFE.

19 SECONDARILY, MS. SARIS INTIMATED YESTERDAY
20 IN HER OPENING STATEMENT THAT MR. GOODWIN WAS NEVER NOT
21 INTENDING TO PAY MICKEY THOMPSON ANYTHING. THAT HIS
22 WHOLE -- HE WAS SIMPLY NOT PAYING FOR SOMETHING THAT HE
23 THOUGHT THAT HE DIDN'T HAVE A LEGAL OBLIGATION TO PAY
24 FOR. HENCE HE FILED APPEALS. HENCE HE FILED
25 BANKRUPTCIES.

26 THIS IS CIRCUMSTANTIAL EVIDENCE THAT
27 MR. GOODWIN CERTAINLY -- AND THIS DOES GO TO SOME LEVEL
28 THAT THIS IS CIRCUMSTANTIAL EVIDENCE THAT MR. GOODWIN HAD

1 AN INTENTION AND HAD A MODIS OPERANDI OF NOT PAYING FOR
2 THINGS THAT HE JUST SIMPLY DIDN'T WANT TO PAY FOR.

3 THE COURT: THAT'S GOING TO REQUIRE MORE THAN A
4 SIDEBAR CONFERENCE IF YOUR PLAN IS TO INTRODUCE THE
5 EVIDENCE. IS THAT WHAT IS IN THE MOTION THAT WAS FILED
6 THIS MORNING?

7 MR. JACKSON: NO.

8 MS. SARIS: NO.

9 MR. JACKSON: NO.

10 THE COURT: ALL RIGHT. I MEAN, I CAN'T RULE ON
11 AN 1101(B) MOTION AT THE SIDEBAR WITH THE JURY SITTING
12 THERE. SO YOU ARE GOING TO HAVE DO THE BEST YOU CAN
13 WITHOUT --

14 MR. JACKSON: THAT'S FINE. AND CERTAINLY I THINK
15 MY FIRST -- THAT'S TWO SEPARATE ARGUMENTS.

16 MS. SARIS: WELL, WE'RE NOT MAKING THE ARGUMENT.
17 WE'LL STIPULATE THAT HE REMEMBERS THIS TRANSACTION. WE
18 DON'T NEED HIM TO CALL MICHAEL A CROOK AND A THIEF TO
19 REMEMBER WHO MICHAEL IS. WE'RE FINE WITH THAT TESTIMONY.
20 THAT DOESN'T GIVE THEM THE RIGHT TO PUT IN THAT HE TRIED
21 TO STEAL FROM HIM.

22 THE COURT: WELL, AT THIS POINT, I AGREE WITH
23 YOU, MS. SARIS. BUT WE ARE GOING TO HAVE TO LITIGATE
24 THIS ISSUE IF THAT'S THE ROAD THAT WE ARE GOING TO BE
25 TRAVELING DOWN.

26 MR. JACKSON: WELL --

27 MR. DIXON: AND I ASSUME THAT THERE WILL BE A
28 STIPULATION IN FRONT OF THE JURY THAT MICHAEL GOODWIN, AS

1 THIS WITNESS HAS REFERRED TO IS, IN FACT, THE DEFENDANT.

2 MR. JACKSON: THAT'S ALL I'M ASKING FOR.

3 MS. SARIS: WELL, THAT'S FINE. UNLESS YOU INTEND
4 TO CALL HIM A LIAR, A THIEF AND A CHEAT, THEN THAT
5 OBVIOUSLY CHANGES THE STIPULATION.

6 MR. JACKSON: IF I GET THE STIPULATION THAT THE
7 MICHAEL GOODWIN SEATED IN COURT IS THE MICHAEL GOODWIN
8 THAT WAS MARRIED TO DIANE, WHO HAD THE WORK DONE, THEN I
9 DON'T INTEND TO ELICIT THE INFORMATION CONCERNING HIS
10 MEMORY OF WHAT HE KNOWS OF THIS TRANSACTION.

11 THE COURT: ALL RIGHT.

12 MS. SARIS: SO THE STOP PAYMENT OF THE CHECK WE
13 WON'T ASK HIM ABOUT? OKAY. THAT'S FINE.

14 THE COURT: ALL RIGHT. THANKS.

15 (SIDEBAR PROCEEDINGS WERE CONCLUDED.)

16

17 THE COURT: FOR THE RECORD, THE SCREEN -- THE
18 PHOTOGRAPH, WAS THAT GOING TO BE MARKED FOR
19 IDENTIFICATION?

20 MR. JACKSON: YOUR HONOR, WE ARE ASKING THAT THIS
21 DOCUMENT IN ITS ENTIRETY BE MARKED AS PEOPLE'S NEXT IN
22 ORDER, PLEASE.

23 THE COURT: THIS WILL BE MARKED AS PEOPLE'S 3 FOR
24 IDENTIFICATION. AND WHAT IS BEING SHOWN IS A PHOTOGRAPH
25 OF A YACHT.

26 MR. JACKSON: THANK YOU, YOUR HONOR. I'LL PLACE
27 A P-3 IN THE UPPER LEFT-HAND CORNER.

28

(MARKED FOR IDENTIFICATION PEOPLE'S
EXHIBIT NO. 3, DOCUMENT.)

Q BY MR. JACKSON: MR. UTSEY, I DON'T REALLY
REMEMBER WHERE I LEFT OFF, SO PARDON ME IF I REPEAT
MYSELF VERY BRIEFLY.

YOU WERE TELLING US ABOUT YOUR PRETTY
EXTENSIVE HISTORY WITH REGARD TO SOME DEFENSE CONTRACTS
AND DEFENSE MARINE VESSELS, SPECIFICALLY NAVAL VESSELS.

DO YOU ALSO HAVE SOME INTIMATE KNOWLEDGE
OF PRIVATE MARINE VESSELS AS WELL?

A CORRECT.

Q HAVE YOU EVER BEEN A BOAT OWNER YOURSELF?

A YES.

Q IS IT COMMON OR UNCOMMON TO CHANGE THE
NAME OR PICK A NAME FOR YOUR OWN VESSEL?

A IT'S NOT UNCOMMON, ESPECIALLY IF -- IT IS
UNCOMMON IF THE BOAT IS NOT A -- WHAT YOU WOULD CALL A
REGISTERED VESSEL. I HAVE NO -- IF YOU REGISTERED THE
VESSEL USING THAT NAME, THE VESSEL'S NAME STAYS WITH IT.

Q IN THIS CASE YOU INDICATED THAT THE BOAT
THAT YOU WORKED ON FOR MR. GOODWIN WAS CALLED THE
"BELIEVE"; CORRECT?

A THAT IS CORRECT.

MR. JACKSON: YOUR HONOR, WITH THE COURT'S
PERMISSION, I WOULD ASK COUNSEL FOR A BRIEF STIPULATION
COVERING A COUPLE OF FACTORS.

NO. 1, I WOULD ASK COUNSEL TO KINDLY

1 STIPULATE THAT THE PHOTOGRAPH THAT'S ON THE ELMO RIGHT
2 NOW; AS WELL AS A COUPLE OF PHOTOGRAPHS AND SCHEMATICS
3 THAT I'M GOING TO SHOW MR. UTSEY IN JUST A SECOND, I'LL
4 MARK THESE INDIVIDUALLY, ARE, IN FACT, THE "BELIEVE"
5 ABOUT WHICH MR. UTSEY IS TESTIFYING. THAT, IN FACT, THE
6 "BELIEVE" WAS OWNED BY AND OPERATED BY IN HIS MARINE
7 HARBOR BY MICHAEL FRANK GOODWIN, THE PERSON SEATED TO
8 COUNSEL'S LEFT.

9 MS. SARIS: YOUR HONOR, WE UNDERSTAND THAT THIS
10 IS A 57-FOOT WELLINGTON. BUT WITH THAT PHOTO, WE CAN'T
11 SAY THAT THAT'S THE EXACT BOAT. BUT I HAVE NO PROBLEM
12 STIPULATING THAT THIS IS MICHAEL GOODWIN THAT HE'S
13 REFERRING TO.

14 MR. JACKSON: AND THAT'S FINE. WITH A
15 STIPULATION THAT THAT IS, IN FACT, A 57-FOOT WELLINGTON.
16 WHETHER IT'S THE "BELIEVE" OR SOMETHING EXACTLY
17 REPLICATING THE "BELIEVE," I DON'T CARE.

18 THE COURT: SO STIPULATED?

19 MS. SARIS: SO STIPULATED.

20 THE COURT: THE COURT WILL ACCEPT THAT
21 STIPULATION.

22 REMEMBER, LADIES AND GENTLEMEN, A
23 STIPULATION IS AN AGREEMENT BETWEEN THE ATTORNEYS
24 REGARDING THE FACTS. THEY STIPULATED TO THOSE FACTS.
25 YOU ARE TO REGARD THOSE FACTS AS HAVING BEEN PROVED.

26 MR. JACKSON: THANK YOU, YOUR HONOR. AND I'LL
27 TAKE CARE OF A LITTLE BIT OF HOUSEKEEPING AS WELL.

28 I'M GOING TO MARK FOR IDENTIFICATION, WITH

1 THE COURT'S PERMISSION, FOUR SEPARATE DOCUMENTS. ONE
2 APPEARS TO BE A TWO-PAGE EIGHT AND A HALF BY ELEVEN
3 DOCUMENT. THE FIRST PAGE OF WHICH INDICATES, "WELLINGTON
4 57 MOTOR SAILER." THE SECOND APPEARS TO BE A DRAWING OR
5 A SCHEMATIC LABELED, "WELLINGTON 57 MOTOR SAILER."

6 I'D LIKE THESE DOCUMENTS TO BE MARKED AS
7 PEOPLE'S NEXT IN ORDER.

8 THE COURT: PEOPLE'S 4. BOTH PAGES?

9 MR. JACKSON: YES, YOUR HONOR. I'LL PLACE A P4-A
10 AND P4-B ON THESE DOCUMENTS --

11 THE COURT: SO MARKED.

12 MR. JACKSON: -- ON THE UPPER RIGHT-HAND CORNER.

13
14 (MARKED FOR IDENTIFICATION PEOPLE'S
15 EXHIBIT NO. 4-A AND 4-B, DOCUMENTS.)
16

17 MR. JACKSON: I HAVE WHAT LOOKS TO BE AN ENLARGED
18 PHOTO, PROBABLY -- I DON'T KNOW -- EIGHT AND A HALF BY
19 FOURTEEN, MAYBE. SOMETHING LIKE THAT. A GLOSSY PHOTO OF
20 A LARGE SAILBOAT. ON THE BACK IT INDICATES "BELIEVE" AKA
21 "SCALLAWAG."

22 IF I COULD HAVE THAT MARKED AS PEOPLE'S
23 NEXT IN ORDER, PEOPLE'S 5.

24 THE COURT: YES. IT WILL BE MARKED PEOPLE'S 5
25 FOR IDENTIFICATION.

26
27 (MARKED FOR IDENTIFICATION PEOPLE'S
28 EXHIBIT NO. 5, DOCUMENT.)

1 MR. JACKSON: AND FINALLY, YOUR HONOR, THE LAST
2 PHOTOGRAPH IS JUST A 35 MILLIMETER OF WHAT APPEARS TO BE
3 THE SAME TYPE OF BOAT. IF I COULD HAVE THIS MARKED AS
4 PEOPLE'S 6.

5 THE COURT: SO MARKED, PEOPLE'S 6.

6
7 (MARKED FOR IDENTIFICATION PEOPLE'S
8 EXHIBIT NO. 6, PHOTO.)
9

10 MR. JACKSON: I'M ACTUALLY PLACING AN ORANGE DOT
11 ON THE BACK OF THAT PHOTO TO FACILITATE WRITING
12 PEOPLE'S 6 ON THE BACK OF IT.

13 THE COURT: ALL RIGHT.

14 MR. JACKSON: ALL RIGHT. MAY I APPROACH THE
15 WITNESS?

16 THE COURT: YES.

17 Q BY MR. JACKSON: BECAUSE THAT PHOTOGRAPH
18 MAY BE A LITTLE BIT DIFFICULT TO SEE, I'M GOING TO SUPPLY
19 YOU WITH A COUPLE OF OTHER PHOTOGRAPHS AS WELL AS A
20 SCHEMATIC.

21 IF I COULD ASK YOU TO TAKE A LOOK AT THOSE
22 DOCUMENTS -- OR THOSE DOCUMENTS AND PHOTOGRAPHS, AND TELL
23 ME IF YOU RECOGNIZE WHAT'S DEPICTED IN THOSE PHOTOGRAPHS,
24 WHAT'S JUST BEEN MARKED, AS A 57-FOOT WELLINGTON MOTOR
25 SAILER?

26 A IT IS, SIR.

27 Q IS THAT ALSO CONSISTENT WITH WHAT THE JURY
28 SEES ON THE OVERHEAD RIGHT NOW TO YOUR RIGHT, A 57-FOOT

1 WELLINGTON MOTOR SAILER?

2 A IT IS.

3 Q IS THAT A CUSTOM BOAT?

4 A NO, SIR.

5 Q IS THE WELLINGTON MANUFACTURING COMPANY --
6 WELL, LET ME ASK IT THIS WAY. ARE YOU AWARE OF HOW
7 MR. GOODWIN CAME INTO POSSESSION OF THAT PARTICULAR
8 WELLINGTON BOAT?

9 A ONLY BY WHAT I WAS TOLD BY EITHER
10 MRS. WELLINGTON OR MR. WELLINGTON.

11 Q DO YOU KNOW MR. AND MRS. WELLINGTON?

12 A NEVER MET THEM. I'VE ONLY SPOKEN TO THEM
13 ON THE TELEPHONE.

14 Q WERE YOU FAMILIAR WITH THEIR BOATS BACK IN
15 1988?

16 A NO, SIR.

17 Q WAS THIS THE FIRST WELLINGTON THAT YOU HAD
18 EVER WORKED ON?

19 A THE FIRST ONE WE HAD EVER WORKED ON. AND
20 AT THAT POINT, WE -- ME, AS THE MANAGER OF THE YARD, I
21 THOUGHT IT WOULD BE WHAT WE CALL A "CUSTOM BOAT" INSTEAD
22 OF A PRODUCTION LINE VESSEL.

23 Q THIS WAS A CUSTOM BOAT?

24 A THAT'S WHAT WE THOUGHT IT WAS. AND THAT'S
25 THE WAY I LOOKED AT IT, IT WAS CUSTOM BUILT. I DON'T
26 KNOW HOW MANY BOATS MR. WELLINGTON'S COMPANY BUILT.

27 Q OKAY. SO AT LEAST FROM YOUR PROSPECTIVE,
28 IT LOOKED LIKE A CUSTOM VESSEL?

1 MS. SARIS: OBJECTION. LEADING.

2 THE COURT: SUSTAINED.

3 Q BY MR. JACKSON: LET ME ASK IT THIS WAY, I
4 ASKED YOU JUST A SECOND AGO: WAS THE WELLINGTON 57 A
5 CUSTOM BOAT? AND YOU SAID NO. IT SOUNDS LIKE I MAY BE
6 CONFUSED ABOUT --

7 A WHEN WE HAD THE BOAT ARRIVE AT THE YARD,
8 WE TOOK IT TO BE A CUSTOM BUILT VESSEL BY WELLINGTON.

9 Q OKAY. THAT WAS MY QUESTION. ALL RIGHT.
10 FINE.

11 ARE YOU ALSO AN EXPERIENCED SAILOR, SIR?

12 A I'M NOT AN EXPERIENCED SAILOR, BUT I'M AN
13 EXPERIENCED MARINER. I DON'T PARTICULARLY CARE TO GET ON
14 SAILBOATS.

15 Q OKAY. ARE YOU FAMILIAR ENOUGH WITH
16 SAILBOATS TO KNOW THEIR FUNCTION AND FORM?

17 A YES, SIR.

18 Q AND THEIR CAPABILITIES?

19 A YES, SIR.

20 Q WHEN YOU MET MR. GOODWIN -- BY THE WAY,
21 DID YOU MEET ANYBODY ALONG WITH MR. GOODWIN WHEN THE BOAT
22 CAME INTO YOUR MARINE HARBOR?

23 A I WAS NOT THERE THE DAY THE BOAT ARRIVED,
24 OR I DID NOT SEE IT ARRIVE. BUT THE ONLY TWO PEOPLE THAT
25 I HAD CONTACT WITH AT THE TIME OF ITS ARRIVAL WAS
26 MR. GOODWIN AND HIS WIFE. AND I BELIEVE HER NAME WAS
27 DIANE. I'M NOT SURE.

28 Q ALL RIGHT. AND YOU DID HAVE CONTACT WITH

1 BOTH MICHAEL GOODWIN AND DIANE SOMEWHAT WHILE THE BOAT
2 WAS IN -- AT DOCK, I GUESS I WOULD SAY?

3 A CORRECT.

4 Q ALL RIGHT. WHAT WERE YOU ASKED TO DO WITH
5 REGARD TO THIS PARTICULAR BOAT?

6 MS. SARIS: OBJECTION. RELEVANCE.

7 THE COURT: SIDEBAR?

8
9 (PROCEEDINGS HELD AT SIDEBAR.)

10 MR. JACKSON: YOUR HONOR, I BELIEVE THERE IS AN
11 OFFER OF PROOF. MR. UTSEY WILL INDICATE THAT THE WORK
12 THAT HE WAS DOING WAS CONSISTENT WITH SOMEONE WHO WAS
13 GOING TO SAIL OFFSHORE. AND THAT IT WAS --

14 THE COURT: OKAY.

15 MR. JACKSON: -- NAVIGATION.

16 THE COURT: ALL RIGHT. OVERRULED.

17 (SIDEBAR CONCLUDED.)

18
19 MR. JACKSON: MAY I CONTINUE?

20 THE COURT: YES.

21 Q BY MR. JACKSON: MR. UTSEY, MY LAST
22 QUESTION TO YOU: WHAT WAS IT THAT YOU WERE ASKED TO DO
23 ON THIS BOAT?

24 A WE WERE ASKED TO PROVIDE LABOR TO INSTALL
25 SEVERAL PIECES OF EQUIPMENT.

26 Q DESCRIBE THAT EQUIPMENT FOR ME.

27 A I BELIEVE WE INSTALLED SOME BILGE PUMPS.
28 I BELIEVE THERE WAS SOME RADIO EQUIPMENT INSTALLED. I

1 THINK THAT'S ABOUT ALL I CAN REMEMBER.

2 Q WITH THE WORK THAT YOU DID -- BY THE WAY,
3 HOW LONG WAS THE BOAT AT YOUR MARINA?

4 A JUST ABOUT SIX WEEKS.

5 Q WITH THE WORK THAT YOU DID ON THIS
6 PARTICULAR MOTOR SAILER, THE "BELIEVE", WOULD THAT BOAT
7 HAVE BEEN CAPABLE OF SAILING OFFSHORE?

8 A YES, SIR.

9 Q DO YOU KNOW WHERE THE TURKS AND CAICOS
10 ISLANDS ARE?

11 A YES, SIR.

12 Q WOULD THIS 57-FOOT MOTOR SAILER, AFTER IT
13 WAS OUTFITTED BY YOUR MARINA, HAVE BEEN CAPABLE OF
14 SAILING DOWN TO THE TURKS AND CAICOS ISLANDS?

15 A YES, SIR.

16 Q GIVE THE JURORS, IF YOU WOULD, AN IDEA
17 ABOUT THE SIZE OF THAT BOAT. IF WE CAN'T TELL FROM THE
18 TWO-DIMENSIONAL PHOTOGRAPH, NONE OF US HAVE EVER BEEN ON
19 A 57-FOOT BOAT, HOW BIG IS THAT BOAT? IS IT BIG ENOUGH
20 TO LIVE ON?

21 A YOU VERY WELL COULD LIVE ON THAT BOAT.

22 Q IS THERE A KITCHEN FACILITY?

23 A CORRECT.

24 Q ARE THERE HEADS?

25 A CORRECT.

26 Q AND "HEAD" IS A MARINE TERM FOR
27 "BATHROOM"; CORRECT?

28 A YES, SIR.

1 Q ARE THERE -- GOSH, I KNEW THIS ONE TIME --
2 NOT CALLED "BEDROOMS," THEY'RE CALLED "STATE ROOMS"?

3 A CORRECT.

4 Q WERE THERE STATE ROOMS ON THIS BOAT?

5 A YES, SIR.

6 Q WAS THIS BOAT OUTFITTED SUCH THAT TWO
7 PEOPLE COULD LIVE TO THE BOAT FOR AN EXTENDED PERIOD OF
8 TIME?

9 A YES, SIR.

10 Q DURING THE COURSE OF THE WORK THAT YOU
11 WERE DOING ON THAT BOAT, DURING THAT SIX WEEK-TIME -- OR
12 TIME FRAME, I SHOULD SAY -- WAS THE LABOR GOING AT A
13 NORMAL PACE, IF YOU KNOW WHAT I MEAN?

14 A HE ARRIVED -- I BELIEVE THE VESSEL ARRIVED
15 JUNE 28. AND MR. GOODWIN AND I STRUCK AN AGREEMENT -- I
16 DO NOT BELIEVE WE PUT IT ON PAPER -- WHEREAS THE BOATYARD
17 WOULD PROVIDE THE LABOR ONLY FOR INSTALLING THE
18 EQUIPMENT; AND HE WOULD BE ALLOWED TO ORDER HIS
19 EQUIPMENT; AND WE WOULD CHARGE HIM 10 PERCENT ABOVE THE
20 COST OF THE EQUIPMENT.

21 WE WOULD INSTALL. AND THE ONLY REAL FEES
22 HE OWED THE BOATYARD WOULD BE FOR THE LABOR AND THE
23 10 PERCENT SURCHARGE ON TOP OF WHATEVER HE ORDERED.

24 Q AND WAS THAT WORK AND LABOR PROCEEDING AT
25 A NORMAL PACE?

26 A YES. WE FELT LIKE WE HAD A PRETTY GOOD
27 BIT OF TIME TO WORK ON IT. AND WE ALSO WERE -- SOMETIMES
28 WE COULDN'T DO A WHOLE LOT BECAUSE MR. GOODWIN HAD

1 ORDERED SOMETHING AND THEN WE HAD TO WAIT FOR IT TO
2 ARRIVE.

3 Q WHEN IT ARRIVED -- I DON'T MEAN TO
4 INTERRUPT YOU.

5 WHEN THAT EQUIPMENT WOULD ARRIVE, WOULD
6 YOU HAVE YOUR LABORERS, THEN, INSTALL IT ON THE BOAT?

7 A WHENEVER MR. GOODWIN SAID HE WAS READY FOR
8 US TO COME BACK ON BOARD.

9 Q AT SOME POINT, MR. UTSEY, DID MR. GOODWIN
10 APPROACH YOU IN AN INDICATION THAT HE HAD -- INDICATING
11 SOME URGENCY ABOUT GETTING THE PROJECT FINISHED?

12 MS. SARIS: OBJECTION. LEADING.

13 THE COURT: SUSTAINED.

14 Q BY MR. JACKSON: AT SOME POINT TOWARD THE
15 TIME BEFORE WHICH THE BOAT LEFT YOUR MARINA, DID YOU HAVE
16 A CONVERSATION WITH MR. GOODWIN?

17 A YES. HE APPROACHED ME, I WANT TO SAY THE
18 SECOND OR THIRD DAY IN THE MONTH OF AUGUST, AND ASKED ME
19 WHAT WE COULD DO TO EXPEDITE SOME OF THE LABOR.

20 Q DID IT APPEAR TO YOU, MR. UTSEY, FROM THAT
21 CONVERSATION THAT THERE WAS A SENSE OF URGENCY IN
22 MR. GOODWIN'S VOICE?

23 MS. SARIS: OBJECTION. LEADING.

24 THE COURT: SUSTAINED.

25 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE
26 THE CONVERSATION WHEN MR. GOODWIN APPROACHED YOU AND SAID
27 HOW FAST CAN YOU GET THIS DONE?

28 A WELL, WHEN HE FIRST APPROACHED ME ABOUT

1 WANTING TO KNOW HOW LONG IT WAS GOING TO TAKE TO FINISH
2 DOING THE WORK, I CONFRONTED MY YARD SUPERVISOR,
3 MR. CHAPMAN, AND ASKED HIM TO GIVE ME A STATUS AS TO HOW
4 QUICK HE COULD COMPLETE THE WORK.

5 AND MR. CHAPMAN BECAME A LITTLE IRRITATED
6 BECAUSE IT APPEARED AT THAT TIME, THE SENSE OF URGENCY
7 WAS NOTHING THAT EXISTED PRIOR TO THIS TIME. AND WE ALL
8 OF A SUDDEN HAD TO HURRY UP AND EXPEDITE WHAT WAS LEFT TO
9 DO THE VESSEL.

10 Q AND WERE YOU ABLE TO OR WERE YOUR WORKERS
11 ABLE TO EXPEDITE THAT LABOR AT MR. GOODWIN'S REQUEST?

12 A WE DID.

13 Q AND WAS HE -- DID HE ULTIMATELY SAIL AWAY
14 FROM THE MARINA?

15 A HE DID.

16 Q AND IS IT CALLED "PUT TO SEA"?

17 A HE GOT UNDERWAY.

18 Q GOT UNDERWAY. THERE YOU GO. I APOLOGIZE
19 FOR MY LACK OF EVEN THE MOST BASIC KNOWLEDGE OF SAILING.

20 YOU INDICATED THAT THAT BOAT WAS BIG
21 ENOUGH AND CAPABLE ENOUGH TO SAIL TO THE TURKS AND CAICOS
22 ISLANDS; CORRECT?

23 A THAT IS CORRECT.

24 Q WAS THAT A BIG ENOUGH BOAT, IF PROPERLY
25 EQUIPPED, TO BASICALLY SAIL ANYWHERE IN THE WORLD?

26 A I WOULD SAY SO IF THEY HAD -- THE ONLY
27 THING THAT I DIDN'T KNOW ABOUT THE VESSEL WAS IF HE HAD
28 THE CAPACITY LIKE HE HAD. THE QUESTION WAS: HOW MUCH

1 THE POTABLE WATER THEY COULD PRODUCE. MOST VESSELS THAT
2 TRAVEL TRANSATLANTIC HAVE TO HAVE SOME CAPACITY TO
3 PRODUCE POTABLE WATER.

4 Q AND IF, IN FACT, HE HAD A CAPACITY TO
5 PRODUCE POTABLE WATER, COULD IT SAIL TRANSATLANTIC?

6 A VERY EASILY.

7 Q AND EVEN IF IT DIDN'T HAVE THE CAPACITY TO
8 PRODUCE POTABLE WATER, COULD IT SAIL, FOR INSTANCE, TO
9 THE BAHAMAS AND TO SOUTH AMERICA AND DOWN THE COASTLINE?

10 A VERY EASILY.

11 Q WAS THIS BOAT SMALL ENOUGH TO ACTUALLY
12 SAIL INTO SMALL INLETS?

13 A I DON'T KNOW SPECIFICALLY WHAT THE DRAFT
14 OF THE VESSEL WAS. BUT I WOULD SAY IT WAS PROBABLY
15 SOMEWHERE -- BASED ON WHAT I SEE HERE IN THE PICTURES --
16 SOMEWHERE AROUND THE MAX OF A FOUR-FOOT DRAFT. WHICH
17 MEANS IT PROBABLY COULD -- WELL, IF IT MADE SHEM CREEK,
18 IT MEANS IT COULD PROBABLY MOVE INTO SMALL ESTUARIES AND
19 UNINHABITABLE WATERS WITHOUT A LOT OF PROBLEMS.

20 Q SO IT WAS BIG ENOUGH TO SAIL ANYWHERE IN
21 THE WORLD AND SMALL ENOUGH TO SAIL INTO OR VENTURE INTO
22 SMALL WATERWAYS AND INLETS?

23 A THAT'S CORRECT.

24 Q THANK YOU, MR. UTSEY. I APPRECIATE IT.

25 THANK YOU, YOUR HONOR.

26 THE COURT: CROSS-EXAMINATION?

27 MS. SARIS: THANK YOU.

28 ///

CROSS-EXAMINATION

BY MS. SARIS:

Q GOOD MORNING, MR. UTSEY.

A GOOD MORNING.

Q MR. GOODWIN ARRIVED APPROXIMATELY JUNE 28TH YOU SAID?

A HE ARRIVED ON THE 27TH. WE ACTUALLY MADE AN AGREEMENT TO DO THE WORK ON THE 28TH.

Q AND HE WAS ORDERING PARTS FROM OTHER -- FROM BOAT SUPPLIERS?

A CORRECT. HE REQUESTED THAT WE PUT A TELEPHONE ON HIS VESSEL, A LAND LINE, WHICH WE NORMALLY DID NOT DO IN THE MARINA. I TOLD HIM SINCE WE WERE ONLY PERFORMING THE LABOR, THAT WAS FINE WITH ME.

HE WANTED THE TELEPHONE TO DO HIS -- PER MR. GOODWIN TO ORDER HIS EQUIPMENT BECAUSE WE HAD AN AGREEMENT THAT HE COULD ORDER EVERYTHING HE WANTED FOR HIS BOAT FROM INDEPENDENT SUPPLIERS.

Q AND I THINK YOU SAID AT SOME POINT IN THE PROCESS HE WAS WAITING FOR THESE SUPPLIES TO COME IN?

A THAT'S CORRECT.

Q ARE THESE ALWAYS RELIABLE? ARE THEY BACKORDERED LIKE EVERY PART ON EVERYTHING SOMETIMES?

A WELL, TYPICAL IN THE MARINE SUPPLY BUSINESS, AS WELL AS MOST SUPPLY BUSINESSES, DEPENDING ON THE PRODUCT; AND WHO MADE IT; AND HOW POPULAR THE PRODUCT WAS AS TO WHETHER OR NOT IT WAS AVAILABLE IMMEDIATELY OR YOU HAD TO WAIT SEVERAL DAYS.

1 Q SO DID HE, TO YOUR KNOWLEDGE, GET A
2 TELEPHONE INSTALLED ON THE MARINA?

3 A YES, MA'AM. ON HIS VESSEL.

4 Q ON HIS VESSEL.

5 THE CHANGING OF A NAME ON A BOAT, IS THAT
6 LIKE A VANITY PLATE ON A CAR OR IS IT LESS COMMON? DO
7 YOU KNOW WHAT A VANITY PLATE IS?

8 A YES, MA'AM. IT IS NOT COMMON AT ALL FOR
9 MOTOR YACHTS AND SAILBOATS TO CHANGE -- AND FISHING
10 YACHTS TO CHANGE NAMES OF THE VESSEL.

11 Q WHAT ABOUT WHEN YOU ARE ON A MARINA AND
12 YOU SEE BOATS THAT ARE NAMED OBVIOUSLY AFTER SOMEONE'S
13 KID, LIKE "CLARA'S DAD" OR "CLARA'S HEART" OR SOMETHING,
14 HOW DID THAT GET THAT NAME? WAS THAT MADE YOU'RE SAYING
15 IN THAT NAME OR DID SOMEONE BUY IT AND CHANGE A NAME?

16 A THE ONLY TIME YOU REALLY FIND -- OR MY
17 EXPERIENCE IS, THE ONLY TIME YOU FIND VESSELS, WHETHER
18 THEY BE SPORT FISHERS, YACHTS OR MOTOR YACHTS OR
19 SAILBOATS CHANGE THEIR NAMES IS UPON A PURCHASE.

20 BUT IF THE VESSEL IS A REGISTERED VESSEL
21 WITH THE COAST GUARD, NORMALLY THOSE NAMES ARE NOT
22 CHANGED.

23 Q DID YOU EVER DETERMINE WHETHER OR NOT THIS
24 WAS A CUSTOM VESSEL? YOU SAID YOU THOUGHT IT MIGHT BE,
25 BUT THEN THERE WAS SOME HESITATION.

26 A WE FELT THAT WHEN THE BOAT ARRIVED, THAT
27 WE LOOKED AT IT AS A CUSTOM MADE VESSEL. IN OTHER WORDS,
28 THEY WEREN'T MANY WELLINGTON BOATS SITTING OUT THERE IN

1 THE PUBLIC.

2 Q AND DID THAT TURN OUT TO BE TRUE OR ARE
3 THERE WELLINGTON MADE BOATS OUT IN THE PUBLIC?

4 A THAT I COULDN'T TELL YOU.

5 Q MR. GOODWIN AND HIS WIFE, WHAT DID YOU
6 REFER TO THEM AS? HOW DID YOU TALK TO THEM IN DAILY
7 CONVERSATION?

8 A WELL, I REFER TO MR. GOODWIN AS MICHAEL,
9 MIKE. I DID NOT SPEAK TO HIS WIFE VERY MUCH, BUT I
10 ALWAYS REFERRED TO HER AS MRS. GOODWIN.

11 Q AT SOME POINT YOU SAID THAT YOU HAD A
12 CONVERSATION WITH THIS MR. CHAPMAN REGARDING SOME
13 URGENCY. THAT WAS MAYBE, WHAT, AFTER SIX WEEKS?

14 A I WANT TO SAY IT WAS THE SECOND OR THIRD
15 DAY OF AUGUST WHEN MR. GOODWIN APPROACHED ME TO ASK ME
16 HOW QUICK WE COULD FINISH THE WORK.

17 Q WHEN DO HURRICANES START, HURRICANE
18 SEASON?

19 A THAT IS HURRICANE SEASON. IT STARTS
20 JUNE 1 AND ENDS NOVEMBER 30TH.

21 Q SO A SENSE OF URGENCY MAY HAVE BEEN ABOUT
22 THE WEATHER?

23 MR. JACKSON: OBJECTION. SPECULATION.

24 THE COURT: SUSTAINED. REPHRASE THE QUESTION.

25 Q BY MS. SARIS: WELL, YOU'RE AN EXPERIENCED
26 MARINER, YES?

27 A YES, MA'AM.

28 Q HOW DOES THE WEATHER AFFECT WHEN

1 SOMEONE -- LET ME LOOK FOR THE WORD THAT YOU USED -- GETS
2 UNDERWAY?

3 A AT THAT TIME -- LET'S JUST PUT IT THIS
4 WAY.

5 MOST MARINERS, SENSIBLE MARINERS, THEIR
6 FIRST QUESTION ABOUT GETTING UNDERWAY IS: WHAT'S THE
7 WEATHER GOING TO BE? AND: WHAT ARE THE TIDES GOING TO
8 BE? THAT'S ALWAYS IN THE FOREFRONT OF ANY SENSIBLE
9 MARINER.

10 Q AND HOW DOES ONE FIND THAT INFORMATION
11 OUT?

12 A WELL, IF YOU'RE A MARINER, YOU HAVE A
13 RADIO ON YOUR VESSEL THAT YOU CAN REACH AT ANY TIME YOU
14 WANT TO GET THE WEATHER REPORT.

15 Q AND YOU SAID THAT YOU INSTALLED ONE OF
16 THOSE ON MR. GOODWIN'S VESSEL?

17 A I CAN'T SPECIFICALLY SAY I PUT THAT ITEM
18 ON HIS VESSEL.

19 Q WELL, WOULD YOU EXPECT HIM TO HAVE ONE ON
20 THE VESSEL?

21 A ABSOLUTELY.

22 Q WHEN THE ITEMS WOULD COME IN THAT
23 MR. GOODWIN HAD ORDERED -- CAN ONE GET MAIL AT A BOAT
24 DOCKED AT A MARINA? OR DID IT HAVE TO COME TO A P.O.
25 BOX? OR HOW DID THAT WORK?

26 A MY MARINA WAS A FULL-SERVICE MARINA. I
27 HAD A HUGE MARINE SUPPLY STORE. WE HAD JUST ABOUT
28 ANYTHING THAT WAS A COMMONLY USED ITEM ON A VESSEL UP TO

1 AND INCLUDING CLOTHING AND SHOES FOR ANY AVID MARINE
2 PERSON.

3 SO EVERYTHING THAT WE HAD SHIPPED WAS
4 SHIPPED TO DARBY MARINE AND SUPPLY WITH A STREET ADDRESS.
5 AND WE ACTUALLY HAD A SHIPPING CLERK THAT TOOK CARE OF
6 ALL OF OUR SHIPPING ITEMS.

7 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

8 (PAUSE IN THE PROCEEDING.)

9 MS. SARIS: THANK YOU, NOTHING FURTHER.

10 THE COURT: ANY REDIRECT?

11 MR. JACKSON: VERY BRIEFLY, YOUR HONOR.

12
13 REDIRECT EXAMINATION

14 BY MR. JACKSON:

15 Q YOU INDICATED, MR. UTSEY, THAT HURRICANE
16 SEASON WAS FROM JUNE TO NOVEMBER, NOT FROM AUGUST TO
17 NOVEMBER; CORRECT?

18 A CORRECT. JUNE 1 TO NOVEMBER 30.

19 Q SO IF SOMEBODY WAS OVERLY CONCERNED WITH A
20 HURRICANE, THEY'D PROBABLY BE CONCERNED ALL THE WAY BACK
21 TO JUNE; CORRECT?

22 MS. SARIS: OBJECTION. LEADING.

23 THE COURT: SUSTAINED.

24 Q BY MR. JACKSON: MR. UTSEY, DID YOU EVER
25 RECEIVE A CORRESPONDENCE AFTER MR. GOODWIN LEFT YOUR
26 MARINA IN 1988 OR 1989, JUST A LETTER?

27 MS. SARIS: OBJECTION. BEYOND THE SCOPE.
28 RELEVANT.

1 THE COURT: OVERRULED.

2 YOU CAN ANSWER.

3 Q BY MR. JACKSON: DID YOU EVER RECEIVE A
4 LETTER?

5 A CORRECT, I DID.

6 Q DO YOU RECALL WHERE THAT LETTER WAS
7 POSTMARKED FROM?

8 A SANTA ANA, CALIFORNIA.

9 Q YOU INDICATED ON CROSS-EXAMINATION THAT
10 MR. GOODWIN HAD A TELEPHONE LINE ON THE BOAT -- OR A
11 TELEPHONE PUT ON THE BOAT; CORRECT?

12 A A LAND LINE BY A LOCAL TELEPHONE COMPANY,
13 SOUTHERN BELL.

14 Q HOW LONG DOES THE CORD HAVE TO BE ON A
15 LAND LINE IF YOU'RE GOING TO SAIL TO THE TURKS AND CAICOS
16 ISLANDS?

17 A I DON'T THINK I UNDERSTAND.

18 Q THAT WAS KIND OF A STUPID QUESTION.

19 THE POINT IS, MR. UTSEY, WAS THE LAND LINE
20 STILL CONNECTED TO THE BOAT WHEN MR. GOODWIN SAILED AWAY?

21 A NO, SIR.

22 Q SO WHILE IT'S IN THE DOCK, THE PHONE
23 COMPANY LITERALLY STRUNG A LINE TO THE BOAT; CORRECT?

24 A THAT'S CORRECT.

25 Q DID YOU EVER NOTICE ANYTHING UNUSUAL ABOUT
26 MR. GOODWIN'S CONDUCT CONCERNING THAT TELEPHONE?

27 MS. SARIS: OBJECTION. IRRELEVANT. BEYOND THE
28 SCOPE.

1 THE COURT: WELL, ON BEYOND THE SCOPE, DO YOU
2 WANT TO REOPEN?

3 MR. JACKSON: BRIEFLY, YOUR HONOR. JUST ONE OR
4 TWO QUESTIONS, YES.

5 THE COURT: THEN THE RELEVANCE OBJECTION IS
6 OVERRULED.

7 Q BY MR. JACKSON: GO AHEAD, SIR.

8 A MR. GOODWIN CAME TO ME AND ASKED TO PUT A
9 PHONE ON THE VESSEL -- WHICH WAS NOT A NORMAL PRACTICE
10 THAT WE DID -- WITH THE IDEA THAT HE WAS GOING TO ORDER
11 EVERYTHING HIMSELF. BUT ONE OF THE THINGS THAT OCCURRED
12 AND WAS BROUGHT TO MY ATTENTION BY MY WORK FORCE AND
13 MR. CHAPMAN, MY SUPERVISOR, WAS --

14 MS. SARIS: OBJECTION, YOUR HONOR. I'M SORRY.
15 IT SOUNDS LIKE IT'S CALLING FOR HEARSAY.

16 THE COURT: SUSTAINED.

17 ASK ANOTHER QUESTION.

18 MR. JACKSON: YES, YOUR HONOR.

19 Q MR. UTSEY, WITHOUT TELLING US WHAT SOMEONE
20 ELSE TOLD YOU, DID YOU EVER NOTICE ANY OTHER -- ANY
21 UNUSUAL CONDUCT WITH REGARD TO MR. GOODWIN UTILIZING THAT
22 PHONE?

23 A I WAS IN THE YARD ONE DAY AND THE
24 PEOPLE -- MY EMPLOYEES CAME OFF THE YACHT AND I QUIZZED
25 THEM AS TO WHAT THEY WERE DOING. AND THEY SAID
26 MR. GOODWIN --

27 MS. SARIS: I'M SORRY, YOUR HONOR.

28 THE COURT: HE HAS ANSWERED THE QUESTION.

1 NEXT QUESTION.

2 Q BY MR. JACKSON: ALL RIGHT. WERE YOU EVER
3 ON THE BOAT DOING WORK? WERE YOU EVER -- LET ME PUT IT
4 THIS WAY, WERE YOU OR YOUR CREW ALLOWED TO DO ANY WORK ON
5 THE BOAT OR BE ON THE BOAT OR AROUND THE BOAT WHEN
6 MR. GOODWIN WAS ON THE PHONE?

7 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
8 SPECULATION. LACK OF PERSONAL KNOWLEDGE. NO FOUNDATION.

9 THE COURT: ALL RIGHT. LAY A FOUNDATION, PLEASE.
10 SUSTAINED.

11 Q BY MR. JACKSON: MR. UTSEY, WERE YOU EVER
12 ASKED, YOU PERSONALLY, EVER ASKED TO GET OFF THE BOAT
13 WHILE MR. GOODWIN USED THE PHONE?

14 A NO, SIR, I NEVER WAS, BUT MY EMPLOYEES
15 WERE.

16 MS. SARIS: OBJECTION, YOUR HONOR. MOTION TO
17 STRIKE. ASK THE JURY BE ADMONISHED.

18 THE COURT: "BUT MY EMPLOYEES WERE" WILL BE
19 STRICKEN.

20 MR. JACKSON: YOUR HONOR, IF I MAY, I THINK I
21 FORGOT THIS (INDICATING).

22 Q MR. UTSEY, IF YOU CAN LOOK TO YOUR RIGHT,
23 I SIMPLY WANTED TO ASK YOU: I THINK YOU'VE SEEN THESE IN
24 OTHER FORMS. DOES THIS APPEAR TO BE A SCHEMATIC --

25 WHAT I'VE GOT ON THE BOARD RIGHT NOW, YOUR
26 HONOR -- OR WHAT I HAVE ON THE ELMO, I THINK THIS IS
27 CALLED, IS PEOPLE'S 3. AND IT'S THREE PHOTOGRAPHS OR
28 FOUR PHOTOGRAPHS TO THE RIGHT OF PEOPLE'S 3.

1 TAKE A LOOK AT THAT SCHEMATIC. DOES THAT
2 APPEAR TO BE A 57-FOOT MOTOR SAILER?

3 A YES, SIR.

4 Q AND THE NEXT SCHEMATIC, DOES THAT APPEAR
5 TO BE AN OVERVIEW OF THAT SAME WELLINGTON 57?

6 A IS THIS THE SAME THING I HAVE HERE?

7 Q I'M ASKING YOU.

8 A OH, I UNDERSTAND. EXCUSE ME. I
9 APOLOGIZE.

10 Q DOES THAT LOOK LIKE IT'S CONSISTENT WITH A
11 57-FOOT MOTOR SAILER?

12 A IT DOES.

13 Q AND, FINALLY, I KNOW THEY'RE NOT VERY GOOD
14 QUALITY, AND PLEASE BEAR WITH ME, DOES THAT LOOK LIKE THE
15 "BELIEVE"?

16 A VERY SIMILAR TO IT, IF NOT.

17 Q AND, FINALLY, DOES THAT BOTTOM ONE LOOK
18 LIKE THE FRONT VIEW OF THE "BELIEVE"?

19 A YES, SIR.

20 Q OKAY.

21 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.
22 THANK YOU.

23 THE COURT: ANYTHING ELSE?

24 MS. SARIS: JUST BRIEFLY.

25
26 RECROSS EXAMINATION

27 BY MS. SARIS:

28 Q IS THERE ANYTHING ABOUT THE PICTURE THAT

1 WE JUST SAW THAT MAKES YOU KNOW IT'S A SPECIFIC BOAT AS
2 OPPOSED TO JUST A SPECIFIC TYPE OF BOAT? AM I MISSING
3 SOME SORT OF, LIKE, A LICENSE OR A NUMBER ON THERE THAT
4 YOU SAW?

5 A NO. IT -- MOST OF YOUR MOTOR YACHTS AS WE
6 REFER TO THEM HAVE BOW SPRITS AND KEELS LIKE THOSE
7 VESSELS. THE ONLY THING DIFFERENT WAS THAT ONE OF THEM
8 APPEARED THAT THE STERN HAD AN ANGLE TO IT. SOME CASES
9 THEY DON'T.

10 Q AND IS THAT ONLY UNIQUE TO A WELLINGTON?

11 A NO, MA'AM.

12 Q HURRICANE SEASON, DOES IT GET WORSE
13 TOWARDS THE END OF THE YEAR OR BETTER?

14 A WELL, LATELY IT'S BEEN TOWARDS THE END OF
15 THE SEASON.

16 MS. SARIS: THANK YOU. NOTHING FURTHER.

17 THE COURT: ANYTHING ELSE?

18 MR. JACKSON: I HAVE NO FURTHER QUESTIONS, YOUR
19 HONOR. THANK YOU.

20 THE COURT: THANK YOU, SIR. THANKS FOR COMING
21 IN. YOU ARE EXCUSED.

22 THE WITNESS: THANK YOU.

23 MR. DIXON: YES, YOUR HONOR. OUR NEXT WITNESS
24 WOULD BE PENN WELDON.

25 MS. SARIS: AND, YOUR HONOR, WE HAVE A MOTION AS
26 TO THAT WITNESS.

27 THE COURT: ALL RIGHT. LET'S GO TO THE SIDEBAR.

28 MS. SARIS: IT'S THE DOCUMENTS THAT YOU HAVE IN

1 FRONT OF YOU THAT WAS FILED THIS MORNING.

2 THE COURT: ALL RIGHT. LET'S GO TO THE SIDEBAR
3 FOR A SECOND.

4
5 (PROCEEDINGS HELD AT SIDEBAR.)

6 THE COURT: SINCE I STILL HAVEN'T HAD A CHANCE TO
7 READ THE MOTION, WHAT IS THE OFFER OF PROOF?

8 MR. JACKSON: YOUR HONOR, JUST SO THE RECORD IS
9 CLEAR, I ANTICIPATED AS OF VERY LATE THAT MS. SARIS WOULD
10 OBJECT TO CERTAIN, I GUESS, ARGUMENTS BEING MADE OF THE
11 1101(B) EVIDENCE COMING IN THROUGH PENN WELDON AND PHIL
12 BARTINETTI AND POSSIBLY JEFF COYNE. THE REASON I BRIEFED
13 IT IS BECAUSE I FIGURED THAT THE COURT WOULD APPRECIATE
14 OUR POSITION ACTUALLY BEING PUT ON PAPER.

15 OUR OFFER OF PROOF IS THE FOLLOWING: AND
16 THIS IS BASICALLY WHAT THE COURT HEARD A FEW DAYS AGO
17 BEFORE WE ACTUALLY STARTED JURY SELECTION, MAYBE A DAY
18 INTO IT WHEN WE TALKED ABOUT THE CHUCK CLAYTON INCIDENT.

19 MS. SARIS BROUGHT THAT UP AND HAS BEEN
20 AWARE OF ALL THESE INCIDENTS FROM DAY ONE. THEY ARE ALL
21 SORT OF COMBINED UNDER THE SAME RELEVANT HOSPICES, THAT
22 IS, THAT MIKE GOODWIN -- OUR POSITION IS THAT MIKE
23 GOODWIN HAD SUCH A VITRIOLIC RELATIONSHIP WITH MICKEY
24 THOMPSON AND THOSE WHO STOOD IN HIS STEAD, LEGALLY AND
25 OTHERWISE.

26 JEFF COYNE WAS THE CUSTODIAN APPOINTED BY
27 THE TRUSTEE, NOT A NORMAL CIRCUMSTANCE BY ANY STRETCH OF
28 THE IMAGINATION. HE WAS GOING AFTER SOME OF THE SAME

1 ASSETS THAT MICKEY THOMPSON WAS.

2 MICKEY THOMPSON, OF COURSE, SPEAKS FOR
3 HIMSELF.

4 AND THEN PHIL BARTINETTI WAS STANDING IN
5 MICKEY THOMPSON'S FOOTSTEPS GOING AFTER MIKE GOODWIN.

6 OUR POSITION IS THE SAME ANIMOSITY THAT
7 MIKE GOODWIN FELT FOR MICKEY THOMPSON WAS EXTENDED TO
8 JEFF COYNE AND PHIL BARTINETTI. THE THREE MUSKETEERS OF
9 MIKE GOODWIN'S HATRED AND VITRIOL.

10 WHAT WE HAVE AS AN OFFER OF PROOF FROM
11 PENN WELDON IS PENN WELDON WAS HIRED BY MIKE GOODWIN AS A
12 PRIVATE INVESTIGATOR. AND WAS SPECIFICALLY TOLD TO GET
13 DIRT AND PERSONAL INFORMATION ON PHIL BARTINETTI. NOT
14 MICKEY THOMPSON, BUT PHIL BARTINETTI. PHIL BARTINETTI --
15 I SHOULD PUT IT THIS WAY -- PENN WELDON ULTIMATELY DID
16 RECOVER CERTAIN INFORMATION THAT INDICATED PERSONAL
17 INFORMATION ABOUT HIS ADDRESS; WHAT KIND OF CAR HE DROVE;
18 POSSIBLE FAMILY INFORMATION.

19 DURING 1987, PHIL BARTINETTI -- WHO WILL
20 TESTIFY AND DID SO AT THE PRELIM AND THE COURT
21 REMEMBERS --

22 THE COURT: YES.

23 MR. JACKSON: -- DID NOT HAVE ANY KIND OF
24 RELATIONSHIP THAT WOULD EVEN COME CLOSE TO HIS ANIMOSITY.

25 THE COURT: SO ALL OF THIS IS BEING OFFERED TO
26 SHOW THE DEFENDANT'S MOTIVE AND HIS HATRED?

27 MR. JACKSON: CORRECT. FOR MICKEY THOMPSON. AND
28 WHAT PENN WELDON WILL SAY IS THAT HE WAS HIRED BY

1 GOODWIN. HE MET HIM WITH HIS WIFE AT A RESTAURANT AND
2 GOODWIN WENT OFF TELLING HIM HOW THOMPSON HAD RUINED HIS
3 LIFE; HE WAS GOING TO HAVE TO GET EVEN WITH HIM. HE WENT
4 ON FOR ALMOST AN HOUR ABOUT THAT.

5 AND THEN WENT ON TO SAY HIS LAWYER -- I
6 GOT TO GET INFORMATION ABOUT HIS LAWYER BECAUSE I'M IN
7 TRIAL AGAINST THESE GUYS RIGHT NOW AND I NEED THIS
8 INFORMATION. BUT IT WAS ALL PREFACED BY THE KIND OF
9 TIRADE THAT WE'VE HEARD A COUPLE OF WITNESSES SAY. THAT
10 THE DEFENDANT MADE STATEMENTS ABOUT THE MICKEY THOMPSON.
11 SO THAT'S HOW IT WAS INTRODUCED.

12 MS. SARIS: BUT THE PROBLEM IS, YOUR HONOR, THEY
13 ARE INTENDING TO INTRODUCE THROUGH PHIL BARTINETTI THAT
14 HE RECEIVED LETTERS AT HIS HOME. THESE LETTERS ARE
15 ANONYMOUS. THEY'VE NEVER BEEN TIED TO MICHAEL GOODWIN.
16 AND THEY'RE HORRIFICALLY OFFENSIVE AND PREJUDICIAL.

17 THE COURT: BUT THAT'S NOT WHERE WE ARE RIGHT
18 NOW.

19 MS. SARIS: THAT IS THE ONLY RELEVANCE OF
20 GETTING --

21 THE COURT: OKAY. TO THE EXTENT THAT THIS
22 WITNESS IS -- THIS WITNESS MAY TESTIFY TO STATEMENTS
23 MADE --

24 MS. SARIS: BY MICHAEL GOODWIN.

25 THE COURT: -- BY MICHAEL GOODWIN AND HOW MICHAEL
26 GOODWIN HIRED HIM TO GET DIRT, THINGS OF THAT NATURE, I
27 DON'T SEE HOW THAT'S CHARACTER EVIDENCE. QUITE FRANKLY,
28 I THINK IT'S RELEVANT EVIDENCE. THE ISSUE OF MOTIVE AND

1 HIS STATE OF MIND.

2 MS. SARIS: IT'S THE ISSUE OF HIM GETTING PHIL
3 BARTINETTI'S HOME ADDRESS AND THAT GETS INTO PHIL
4 BARTINETTI.

5 THE COURT: WELL, THAT'S -- BUT PHIL BARTINETTI,
6 FROM WHAT I RECALL, TESTIFIED THAT HE WAS THREATENED.

7 MS. SARIS: THEY'RE NOT TALKING ABOUT
8 THREATENING. PHIL BARTINETTI WAS THREATENED IN PERSON.
9 THAT'S DIFFERENT. THEY'RE TALKING ABOUT LETTERS SAYING,
10 "YOUR DAUGHTER HAS BEEN GANG RAPED."

11 THE COURT: IT'S 11:30. DO AS MUCH AS YOU CAN
12 WITHOUT GETTING INTO LETTERS.

13 MR. JACKSON: THIS WITNESS -- THERE'S NO LETTERS.

14 MS. SARIS: THE PERSONAL INFORMATION ABOUT PHIL
15 BARTINETTI AND HIS ADDRESS IS WHAT WE'RE OBJECTING TO
16 NOW. I THINK THE COURT NEEDS TO HEAR THE ENTIRETY OF
17 THIS AND NOT BE RUSHED BY THE FACT THAT THE JURY IS
18 WAITING ON THIS. THIS IS A HUGE ISSUE IN OUR CASE. IT
19 IS HIGHLY PREJUDICIAL.

20 I HAVE NO PROBLEM WITH HIM GETTING INTO
21 THE LUNCH WHERE MICHAEL YELLED AND SCREAMED. BUT ASKING
22 ABOUT THE PHIL BARTINETTI ADDRESS AND GETTING DIRT ON
23 HIM, AS TO RELEVANCE AT ALL -- UNLESS YOU ACCEPT THAT
24 THESE LETTERS WERE WRITTEN BY MICHAEL WHICH THEY CANNOT
25 SHOW AND SENT TO HIS HOME ADDRESS --

26 THE COURT: BUT IT SEEMS TO ME THAT THAT ARGUMENT
27 ISN'T CORRECT BECAUSE I KNOW WHAT PHIL BARTINETTI IS
28 GOING TO TESTIFY TO. I RECALL HIS TESTIMONY AT THE

1 PRELIM. HE WAS TAKEN OFF THE CASE.

2 MS. SARIS: THAT'S JEFF COYNE.

3 THE COURT: I THOUGHT --

4 MS. SARIS: NO. PHIL BARTINETTI WAS MICKEY'S
5 PERSONAL ATTORNEY. YOU'RE THINKING OF JEFF COYNE.

6 THE COURT: I TAKE THAT BACK.

7 MR. SUMMERS: HE DID NOT TESTIFY ABOUT THREATS AT
8 THE PRELIM.

9 THE COURT: OKAY. MY MISTAKE.

10 (SIDEBAR CONCLUDED.)

11
12 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
13 WE'RE GOING TO CALL A LUNCH BREAK. BUT DON'T GET USED TO
14 A TWO-HOUR LUNCH. OKAY? BECAUSE I'M HOPING IT WON'T
15 HAPPEN AGAIN.

16 REMEMBER ALL THE ADMONITIONS, PLEASE. AND
17 WE WILL SEE YOU BACK HERE AT 1:30 THIS AFTERNOON.

18
19 (THE FOLLOWING PROCEEDINGS WERE
20 HELD IN OPEN COURT OUTSIDE THE
21 PRESENCE OF THE JURY.)

22
23 THE COURT: THE RECORD SHOULD REFLECT THAT ALL
24 THE JURORS AND ALTERNATES HAVE LEFT THE COURTROOM.

25 AND BASED UPON THE SIDEBAR CONFERENCE, IT
26 APPEARS THAT IT MIGHT BE IMPORTANT FOR US TO DISCUSS THE
27 1101(B) AND THE OFFER OF PROOF AS TO THIS WITNESS. SO
28 WHY DON'T WE DISCUSS THAT.

1 THE DEFENSE POSITION IS THAT THIS
2 WITNESS'S TESTIMONY IS ONLY RELEVANT INsofar AS SOME
3 LETTERS ARE CONCERNED.

4 MS. SARIS: YOUR HONOR, IN TERMS OF THE
5 CONVERSATION THAT HE MAY HAVE HAD WITH MICHAEL GOODWIN,
6 AGAIN, TO THE EXTENT THAT ANY OF THESE WITNESSES ARE
7 RELEVANT, I UNDERSTAND THE COURT'S POSITION THAT IF
8 MICHAEL GOODWIN SAID THINGS ABOUT MICKEY THOMPSON AND
9 THIS COURT HAS LET THAT HAPPEN BEFORE, THAT'S FINE.

10 THE ISSUE WE HAVE WITH THIS WITNESS IS
11 THAT HE'S GOING TO ARGUE OR CLAIM THAT MICHAEL GOODWIN
12 ASKED HIM TO GET PERSONAL INFORMATION AND DIRT ON MICKEY
13 THOMPSON'S ATTORNEY. AND SUBSEQUENT TO THAT, MICKEY
14 THOMPSON'S ATTORNEY RECEIVED NASTY, NASTY ANONYMOUS
15 LETTERS REGARDING THE SEXUAL PRACTICES OF HIS DAUGHTER,
16 ALL SORT OF THINGS. THESE LETTERS HAVE NEVER BEEN
17 ATTRIBUTED TO MICHAEL GOODWIN, SO THEY'RE JUST RANDOM
18 LETTERS HE RECEIVED. HE THINKS BECAUSE THIS LAWSUIT WAS
19 VITRIOLIC, THEY MUST HAVE COME FROM MICHAEL.

20 THE COURT: "HE" BEING?

21 MS. SARIS: PHIL BARTINETTI.

22 AND THAT'S ONE OF THEIR NEXT COUPLE OF
23 WITNESSES. NOW, PHIL BARTINETTI HAS RELEVANCE TO THIS
24 CASE ON SEVERAL LEVELS. HE WAS MICKEY THOMPSON'S
25 PERSONAL LAWYER; HE HELPED DRAFT THE PARTNERSHIP
26 AGREEMENT; HE HELPED WITH THE LAWSUIT. WE'RE NOT ARGUING
27 ABOUT THAT.

28 IT'S SIMPLY THIS IDEA THAT MICHAEL MAY

1 HAVE BEEN A PERSON WHO SENT ANONYMOUS LETTERS TO A LAWYER
2 IN HIS HOME, THEREFORE, YOU SHOULD THINK HE'S A BAD GUY;
3 THEREFORE, YOU SHOULD CONVICT HIM OF MURDER.

4 AND MAYBE IF MICHAEL SIGNED THESE LETTERS,
5 OR IF, IN FACT, THEY EVER CAME FROM MICHAEL -- WHICH WE
6 MAINTAIN THEY DID NOT -- IT WOULD STILL BE MORE
7 PREJUDICIAL THAN PROBATIVE BECAUSE THE LETTERS ARE JUST
8 HORRIFIC. BUT THESE LETTERS CANNOT BE TIED TO MICHAEL
9 GOODWIN.

10 THE COURT: BUT ALL I'M HEARING HERE FROM THE
11 PEOPLE'S OFFER OF PROOF IS THE REQUEST FOR BARTINETTI'S
12 ADDRESS.

13 MS. SARIS: IN WHICH CASE, IF WE'RE NOT TYING IT
14 TO THE LETTERS, THERE'S NO RELEVANCE; AND THE PROBATIVE
15 VALUE IS NIL; AND THE PREJUDICIAL VALUE IS HUGE. BECAUSE
16 IT IMPLIES THAT HE WAS INTENDING HARM TO BARTINETTI. AND
17 THERE'S ABSOLUTELY NO PROBATIVE VALUE UNLESS YOU TALK
18 ABOUT THESE ANONYMOUS LETTERS.

19 THE COURT: AND WHAT'S THE OFFER BY THE PEOPLE AS
20 TO THE RELEVANCE OF SEEKING -- THE DEFENDANT SEEKING THE
21 ADDRESS OF BARTINETTI?

22 MR. DIXON: COULD I JUST HAVE A MOMENT?

23 (PAUSE IN PROCEEDINGS.)

24 MR. DIXON: YOUR HONOR, AS I WAS -- AND I
25 APOLOGIZE TO THE COURT REPORTER BECAUSE I WAS TRYING TO
26 COMMUNICATE THIS TO THE COURT BEFORE WE LET THE JURORS
27 GO.

28 I THINK THIS IS TWO SEPARATE ISSUES. AND

1 I THINK THE NEXT WITNESS, PENN WELDON, DOESN'T REALLY GET
2 TO WHERE THE COURT'S CONCERNS ARE. THIS IS WHAT I
3 BELIEVE HE WILL SAY AND I READ HIS REPORTS AND
4 INTERVIEWED HIM AGAIN THIS MORNING.

5 HE WILL SAY THAT HE BELIEVES IN AROUND
6 JANUARY OR SO OF 1988 HE WAS CONTACTED BY MR. GOODWIN.
7 HE WAS ASKED TO MEET HIM. AND THEY DID MEET AT A
8 RESTAURANT FOR BREAKFAST IN LAGUNA BEACH. MR. WELDON
9 ARRIVED THERE WITH HIS WIFE. THEY SAT DOWN. AND ALMOST
10 IMMEDIATELY THE DEFENDANT WENT INTO A TIRADE ABOUT HOW HE
11 WAS IN THIS LITIGATION WITH MICKEY THOMPSON; THOMPSON HAD
12 RUINED HIS LIFE; TAKEN EVERYTHING; AND HE WAS GOING TO
13 HAVE TO GET EVEN WITH HIM.

14 AND HE SPENT ALMOST AN HOUR DESCRIBING
15 THIS HATRED OF MICKEY THOMPSON, THE DEFENDANT DID. AND
16 HE HATED THOMPSON SO MUCH AND IT MADE THE WITNESS
17 UNCOMFORTABLE.

18 AT SOME POINT HE SAID HE WANTED -- HE WAS
19 IN TRIAL WITH -- ON THIS ISSUE AT THIS TIME AND THAT HE
20 WANTED ANY INFORMATION THAT HE COULD GET ON BARTINETTI.
21 AND THAT WAS KIND OF IT, AS FAR AS I UNDERSTAND.

22 NOW, THE WITNESS WILL SAY THAT HE DIDN'T
23 REALLY FEEL COMFORTABLE DOING ANY OF THIS. AND HE DIDN'T
24 REALLY LOOK INTO ANY INFORMATION OTHER THAN GOODWIN ASKED
25 HIM TO LOOK INTO WHAT LAWSUITS HE HAD. AND SINCE THAT
26 WAS PUBLIC INFORMATION HE DID THAT. BUT HE DID AT SOME
27 POINT DRIVE BY BARTINETTI'S HOUSE, BUT HE WILL SAY THAT
28 HE DID NOT GIVE THAT INFORMATION TO GOODWIN.

IT'S OUR POSITION THAT THIS WITNESS, PENN WELDON, IS RELEVANT FOR AGAIN DEMONSTRATING THE DEFENDANT'S HATRED -- OVER-THE-TOP HATRED OF MICKEY THOMPSON AND HIS INTENSE FEELINGS ABOUT THIS LAWSUIT THAT SPILLED OVER TO THE LAWYER. AND THAT'S THE EXTENT OF PENN WELDON'S TESTIMONY.

THE COURT: SO YOUR OFFER OF PROOF IS THAT THE DEFENDANT -- THAT THE DEFENDANT'S REQUEST FOR BARTINETTI'S ADDRESS, ASSUMING THAT'S WHAT THE TESTIMONY IS, HAS RELEVANCE BECAUSE IT DEMONSTRATES HIS ANIMOSITY TOWARDS THE MICKEY THOMPSON SITUATION AND ANYONE CONNECTED OR REPRESENTING MR. THOMPSON? AND SINCE MR. BARTINETTI WAS REPRESENTING MR. THOMPSON --

MR. DIXON: EXACTLY.

THE COURT: -- THEREFORE, THIS IS RELEVANT ON THE
ISSUE OF HIS HATRED?

HOWEVER, WHAT IS THE LOGICAL ARGUMENT
GOING TO BE IF I ALLOW YOU TO ELICIT THAT TESTIMONY? IS
THERE GOING TO BE SOME CLAIM THAT MR. GOODWIN COMMITTED
SOME OTHER ACTS OF MISCONDUCT THAT WOULD TEND TO SHOW
CONDUCT ON THIS OCCASION? WHERE ARE WE GOING WITH THIS?
BECAUSE WHAT I'M HEARING IS THAT THE DEFENSE POSITION IS
THAT IF YOU CAN'T CONNECT THIS TO THE LETTERS, THEN IT
HAS NO RELEVANCE. SO I WANT TO BE SURE THAT WE ARE NOT
GOING DOWN THAT PATH.

MR. DIXON: I UNDERSTAND. COULD I HAVE JUST A
MOMENT?

(DISCUSSION OFF THE RECORD.)

1 MR. DIXON: LET ME SEE IF I UNDERSTAND WHAT THE
2 COURT IS ASKING. AND FIRST LET ME SAY THAT, AGAIN, YOU
3 KNOW PEOPLE SAY DIFFERENT THINGS ON THE STAND, BUT IT'S
4 MY UNDERSTANDING AFTER READING THE REPORTS AND
5 INTERVIEWING MR. WELDON THAT HE'S GOING TO SAY THAT HE --
6 BECAUSE HE FELT UNCOMFORTABLE ABOUT MR. GOODWIN'S
7 DEMEANOR -- AND I'VE ASKED HIM NOT TO SAY THIS IN
8 COURT -- BUT JUST TO MAKE THE POINT, HE WAS WORRIED THAT
9 GOODWIN WAS SO ANGRY AND EMOTIONAL ABOUT THIS, THAT IF HE
10 DID -- PENN WELDON DID GIVE HIM THE INFORMATION ABOUT
11 WHERE BARTINETTI LIVED THAT SOME HARM MIGHT COME TO
12 BARTINETTI. THAT'S WHY HE DIDN'T DO IT.

13 NOW, I COULD SEE THAT THE COURT MIGHT HAVE
14 A PROBLEM WITH THAT BECAUSE THAT WAS CLEARLY HIS
15 SPECULATION. AND I'VE ASKED HIM NOT TO SAY THAT IN OPEN
16 COURT AND I DON'T BELIEVE HE WILL. BUT THAT'S WHY HE DID
17 NOT GIVE HIM THIS INFORMATION. SO ON THE LIMITED ISSUE OF
18 PENN WELDON, I DON'T SEE THAT THERE'S ANY PROBLEM.

19 NOW -- AND SO THAT'S WHY I'M NOT SURE I
20 KNOW WHAT THE COURT'S ASKING RIGHT NOW.

21 THE COURT: WELL, THE ONLY THING I'M ASKING IS,
22 THERE'S NO PROBLEM IF THE INFORMATION THAT YOU ARE TRYING
23 TO ELICIT FROM THE WITNESS ABOUT THE REQUEST FOR AN
24 ADDRESS IS NOT TAKEN AND PUT IN AN ARGUMENT THAT WOULD
25 VIOLATE 1101. THAT'S ALL I'M SAYING. IF IT'S A STEP IN
26 THE DIRECTION OF PRESENTING CHARACTER EVIDENCE, WE NEED
27 TO DEAL WITH THAT ISSUE AT THIS TIME SO WE KNOW WHERE WE
28 ARE HEADED. THAT'S ALL I'M ASKING.

1 MR. DIXON: WELL, THE 1101 IS THE LETTERS.
2 NOTHING -- I THINK THAT HAS TO DEAL WITH BARTINETTI, NOT
3 THIS WITNESS, PERHAPS. MAYBE I'LL DEFER TO MR. JACKSON
4 HERE BECAUSE HE MAY HAVE A BETTER THOUGHT ON THIS.

5 MR. JACKSON: I THINK THAT'S EXACTLY RIGHT. WHAT
6 MR. DIXON IS SAYING, YOUR HONOR, IS THAT THEY'RE
7 COMPLETELY SEVERABLE ISSUES. THE RELEVANCE OF PENN
8 WELDON AND THE INFORMATION, "THE DIRT," IF YOU WILL, THAT
9 HE WAS SUPPOSED TO GET ON BARTINETTI IS EXACTLY WHAT
10 WE'VE INDICATED AS AN OFFER OF PROOF. WE BELIEVE IT'S
11 RELEVANT TO SHOW GENERALLY SPEAKING --

12 THE COURT: I HAVE NO PROBLEM WITH THAT.

13 MR. JACKSON: OKAY. NOW, WITH REGARD TO 1101(B),
14 WHICH IS WHAT I'VE BRIEFED FOR THE COURT, WE HAVE A
15 COMPLETELY SEPARATE ISSUE AND A COMPLETELY SEPARATE
16 ARGUMENT THAT I DIDN'T EVEN ADDRESS IN MY OPENING
17 STATEMENT BECAUSE I WANT TO GET A COURT RULING.

18 IF THE COURT RULES AGAINST US ON ONE OR
19 MORE OF THOSE 1101(B) INCIDENCES, WE DON'T HAVE TO GO ANY
20 FURTHER. AND THAT'S -- YOUR RULING ON PENN WELDON IS
21 GOING TO HAVE NO EFFECT -- WE'RE NOT GOING TO STAND UP
22 HERE IN CLOSING ARGUMENT AND MAKE SOME GIANT LEAP TO
23 1101(B) THAT WE WOULDN'T MAKE --

24 THE COURT: WELL, WHERE ARE WE ENDED DOWN THE
25 1101(B) PATH?

26 MS. SARIS: HOW IS IT RELEVANT IF IT'S NOT FOR
27 THAT? JUST THE FACT THAT MY CLIENT MIGHT HAVE ASKED FOR
28 PHIL BARTINETTI'S ADDRESS DOES NOT SHOW HATRED. UNLESS

1 THERE'S SOMETHING --

2 THE COURT: NO. I THINK IT DOES SHOW -- IN THE
3 CONTEXT OF THE CONVERSATION THAT I'M HEARING HERE, THE
4 OFFER OF PROOF AS TO THE CONVERSATION, IT DOES
5 DEMONSTRATE EVERYTHING THAT WAS SAID ABOUT THE
6 PARTICIPANTS IN THE THOMPSON LAWSUIT. I THINK IT'S
7 RELEVANT ON THE ISSUE OF THE DEFENDANT'S STATE OF MIND
8 AND HIS MOTIVE.

9 WHAT I'M NOT GETTING AND I'M NOT CERTAINLY
10 SAYING, THAT LEADS US WHERE? WHERE ARE WE GOING WITH IT?
11 ARE WE NOW GOING TO THE 1101(B) ISSUE? AND IT SOUNDS
12 LIKE WE ARE. BUT THE CONVERSATION STANDING ALONE, I
13 DON'T HAVE A PROBLEM WITH. I WILL HAVE A PROBLEM IF IT
14 GETS INTO THE AREA OF CHARACTER EVIDENCE THAT SHOULD NOT
15 BE AND WILL NOT BE ADMITTED.

16 MS. SARIS: THE SECOND THAT PHIL BARTINETTI SAYS
17 THAT HE RECEIVED ANONYMOUS LETTERS AT HIS HOME IS THE
18 ISSUE.

19 THE COURT: WELL, ISN'T THAT --

20 MR. JACKSON: AND THAT'S WHAT WE NEED TO
21 LITIGATE.

22 THE COURT: I HAVEN'T READ THE MOTION BECAUSE I
23 JUST GOT IT. BUT ISN'T THAT THE SUBJECT OF THE MOTION?

24 MR. JACKSON: THAT'S WHAT WE NEED TO LITIGATE.

25 THE COURT: SO LET'S TALK ABOUT IT.

26 WHAT DO THE PEOPLE WANT TO PRESENT BY WAY
27 OF 1101(B)? BECAUSE NORMALLY THIS STUFF IS DONE BEFORE
28 TRIAL.

1 MR. JACKSON: YOUR HONOR, THE REASON THAT I'VE
2 BRIEFED IT -- AND AGAIN, COUNSEL HAS HAD ACCESS TO ALL OF
3 THIS FROM DAY ONE. THE REASON THAT I BRIEFED THIS --

4 IS THAT FUNNY?

5 MS. SARIS: YES.

6 MR. JACKSON: I DIDN'T REALIZE IT WAS SO FUNNY.

7 BASICALLY WHAT OUR ARGUMENT WOULD BE IS
8 PHIL BARTINETTI RECEIVED A SERIES OF LETTERS, ANONYMOUS
9 IN NATURE. THESE LETTERS WERE TYPEWRITTEN; THEY WERE
10 THREATENING; THEY WERE INTIMIDATING; HE FELT THREATENED
11 BY THEM; AND THEY WERE INCREDIBLY HATEFUL.

12 PHIL BARTINETTI WILL TESTIFY TO SEVERAL
13 THINGS WITH REGARD TO THE LETTERS IF THE COURT ALLOWS US
14 TO GET INTO THE LETTERS.

15 NO. 1, THAT THE LETTER -- THAT HE WAS
16 ENGAGED IN NO OTHER LEGAL DISPUTE OR PERSONAL DISPUTE
17 WITH ANY OTHER HUMAN BEING THAT WOULD HAVE RISEN TO THE
18 LEVEL OF THIS KIND OF ANIMOSITY, EXCEPT FOR ONE PERSON;
19 MICHAEL FRANK GOODWIN. EVERY ONE OF THE LETTERS I
20 BELIEVE WITH THE EXCEPTION OF ONE, I MAY BE MISTAKEN
21 ABOUT THAT, BUT AT LEAST SOME OF THE LETTERS, ONE OR MORE
22 OF THE LETTERS WERE POSTMARKED FROM SANTA ANA. ALTHOUGH
23 IT WAS 1987, THEY WERE POSTMARKED FROM SANTA ANA, WHICH
24 IS THE SAME POSTMARK THAT MICHAEL GOODWIN UTILIZED EVEN
25 WHEN HE WAS SAILING OFFSHORE.

26 THE COURT: WHY DON'T YOU JUST TELL ME WHAT WAS
27 IN THE LETTERS.

28 MR. JACKSON: I CAN SHOW YOU THE LETTERS.

1 MS. SARIS: I WOULD PREFER IT NOT BE ON THE
2 RECORD AND WITH THE PRESS AND EVERYONE HERE AND THEY JUST
3 BE HANDED TO THE COURT. THEY'RE PRETTY VILE.

4 THE COURT: WELL --

5 MR. SUMMERS: YOUR HONOR, MAY I BE HEARD?

6 THE COURT: NO.

7 MR. SUMMERS: ALL RIGHT.

8 MR. JACKSON: THE LETTERS BASICALLY SAY -- AND I
9 WILL FORGO SOME OF THE BLEEPES AND FOUL LANGUAGE IF THERE
10 IS ANY.

11 "HOW ARE YOU DOING? I'M FINE. I'M BACK
12 AROUND AFTER THAT MESS YOU GOT ME INTO A FEW YEARS BACK.
13 BOY, I WAS UPSET AT HOW YOU HANDLED THAT, BUT I LEARNED
14 SOMETHING WHEN I WAS DOWN. DON'T GET MAD, GET EVEN AND
15 I'M GOING TO. YOU'VE DONE OKAY FOR YOURSELF, HAVEN'T
16 YOU? I SEE YOU DRIVING THAT REAL PRETTY YELLOW CORVETTE
17 NOW. SAY HI TO MARGIE AND EUGINA" -- BOTH OF WHOM ARE
18 PERSONAL FAMILY MEMBERS OF PHIL BARTINETTI. "GUESS YOUR
19 DAUGHTER DIDN'T ADAPT VERY WELL TO COLLEGE." AND THEN
20 THERE'S A SEXUAL REFERENCE TO HIS DAUGHTER.

21 AND THAT'S SIMPLY A TYPEWRITTEN, UNSIGNED
22 LETTER RECEIVED BY PHIL BARTINETTI WITH A -- I BELIEVE
23 THIS ONE -- THAT ONE HAD A LOS ANGELES POSTMARK.

24 A SECOND LETTER --

25 THE COURT: WELL, HOW DO YOU -- I GET THE GIST OF
26 WHAT WAS IN THE LETTERS.

27 MR. JACKSON: AND ALL THE LETTERS ARE BASICALLY
28 THE SAME.

1 THE COURT: AND HOW DO YOU CONNECT IT TO
2 MR. GOODWIN?

3 MR. JACKSON: THROUGH CIRCUMSTANTIAL EVIDENCE.
4 IN ADDITION TO PHIL BARTINETTI'S COMMENTS THAT HE WASN'T
5 ENGAGED IN ANY -- HE HAS NO ENEMIES. HE HAD ONE PERSON
6 THAT WOULD HAVE WANTED TO DO HARM OR TO THREATEN OR
7 INTIMIDATE HIM; THAT WAS MICHAEL GOODWIN. AT LEAST ONE
8 OF THE LETTERS IS POSTMARKED FROM SANTA ANA. MICHAEL
9 GOODWIN SENT CORRESPONDENCE, EVEN FROM OVERSEAS,
10 POSTMARKED FROM SANTA ANA. MICHAEL GOODWIN HAD
11 THREATENED PHIL BARTINETTI SPECIFICALLY, BASICALLY
12 THROUGH CHUCK CLAYTON'S COMMENT.

13 CHUCK CLAYTON, IF THE COURT RECALLS, IS
14 THE GUY WHO WAS BEING DEPOSED BY PHIL BARTINETTI. HE
15 STANDS UP AND SAYS, "YOU KNOW WHAT, GOODWIN'S CORRECT.
16 HE SHOULD TAKE A CONTRACT OUT ON YOU, YOU DEGO BASTARD,"
17 OR SOMETHING LIKE THAT. THESE THINGS TAKEN IN TOTALITY,
18 INDICATE STRONG CIRCUMSTANTIAL EVIDENCE THAT MIKE GOODWIN
19 WAS NOT ONLY THE AUTHOR OF THE LETTERS, BUT HE DID, IN
20 FACT, MAKE THE THREATS TO PHIL BARTINETTI. AND
21 SUBSEQUENTLY, MAY HAVE THREATENED JEFF COYNE IN THE SAME
22 WAY. NOT MAY HAVE, HE DID. JEFF COYNE WILL TESTIFY THAT
23 HE DID.

24 THE COURT: THIS IS MY PROBLEM, AGAIN -- AND I
25 KIND OF WISH WE HAD DISCUSSED THIS EARLIER -- BUT HOW IS
26 THIS CHARACTER EVIDENCE? I'M NOT FOLLOWING THE ARGUMENT.
27 I KNOW THAT THE PEOPLE'S THEORY OF THE CASE IS THAT
28 MR. GOODWIN, ACCORDING TO THE PEOPLE'S OPENING STATEMENT,

1 WAS BASICALLY EVERY STEP OF THE WAY HE LOST A LEGAL
2 BATTLE; HE LOST OUT TO MR. THOMPSON. AND IT GOT TO THE
3 POINT -- I THINK HE USED THE PHRASE ONE TIME HE WAS
4 BROUGHT TO HIS KNEES BY MICKEY THOMPSON.

5 AND ALL OF THAT HAS BEEN PRESENTED AS
6 MOTIVE EVIDENCE AS -- AND IDENTIFICATION EVIDENCE SO AS
7 TO ARGUE, I ASSUME, LATER ON THAT MR. GOODWIN WAS THE ONE
8 THAT SOLICITED AND HIRED THE MURDERERS IN AN EFFORT TO
9 GET BACK AT MR. THOMPSON FOR ALL OF THESE THINGS.

10 I UNDERSTAND THAT ARGUMENT. WHAT I'M
11 WONDERING IS, NO. 1, IS THAT CHARACTER EVIDENCE? WHERE
12 ARE WE GOING WITH THIS EVIDENCE? IF WE ARE GOING TO
13 MOTIVE AND IDENTIFICATION, THEN WE HAVE TO HAVE SOME
14 CONNECTION BETWEEN THE LETTERS; THE THREATS; SOME
15 CONNECTION PRESENTED BY WAY OF COMPETENT EVIDENCE.

16 YOU ARE TELLING ME NOW THAT -- AND I
17 HAVEN'T HEARD THIS BEFORE -- THAT THERE IS CIRCUMSTANTIAL
18 EVIDENCE TENDING TO SHOW THAT MR. GOODWIN WROTE THE
19 LETTERS THAT WERE RECEIVED BY PHIL BARTINETTI. BUT LET'S
20 TAKE THE LETTERS OUT OF THE EQUATION. YOU HAVE
21 INDICATED, MR. JACKSON, THAT THERE IS EVIDENCE THAT THE
22 DEFENDANT EVERY STEP OF THE WAY HAS BEEN THREATENING TO
23 CAUSE HARM TO MR. THOMPSON AND HIS LEGAL TEAM. I DO
24 RECALL THE THREAT THAT YOU REFERRED TO IN THE DEPOSITION.

25 SO MY QUESTION IS: WHERE DOES THE
26 CHARACTER EVIDENCE COME IN AS OPPOSED TO MOTIVE EVIDENCE
27 AND ADMISSIONS AS TO WHAT ONE IS GOING TO ARGUE THAT THE
28 DEFENDANT SAID HE WAS GOING TO DO?

1 MR. JACKSON: I THINK THE COURT HIT THE NAIL
2 RIGHT ON THE HEAD. THIS IS NOT AS MUCH CHARACTER
3 EVIDENCE. WE'RE NOT SEEKING TO SHOW THAT MIKE GOODWIN IS
4 GENERALLY A BAD GUY. WE'RE SEEKING TO SHOW THAT WITH
5 REGARD TO THIS LITIGATION, HE WAS ABSOLUTELY HATEFUL.
6 EVERYTHING DEALING WITH THE LITIGATION IS HATEFUL.

7 SO IT'S NOT AS MUCH CHARACTER EVIDENCE IN
8 GENERAL OF THE BROAD BASE TERM TO SHOW HE HAS A
9 PREDISPOSITION TO DO ANYTHING. BUT WITH REGARD TO THE
10 BIG THREE, CERTAINLY MICKEY THOMPSON BEING THE BIGGEST OF
11 THEM, PHIL BARTINETTI AND JEFF COYNE, HE HATED THEM SO
12 MUCH THAT IT CIRCUMSTANTIALLY SUPPORTS THE IDEA THAT HE
13 WOULD HAVE PUT OUT AND DID, IN FACT, PUT OUT A HIT ON
14 MICKEY AND HIS WIFE.

15 THE COURT: MY RECOLLECTION OF CHARACTER EVIDENCE
16 IS THAT IT INVOLVES PRIOR ACTS OF MISCONDUCT.

17 MS. SARIS: YOUR HONOR, JUST DO TO CLARIFY
18 SOMETHING. THERE IS NO PROOF -- THE CIRCUMSTANTIAL
19 EVIDENCE THAT MICHAEL WROTE THE LETTERS IS THAT THEY WERE
20 POSTMARKED, ONE FROM LOS ANGELES AND ONE FROM CALIFORNIA
21 AND PHIL BARTINETTI HAS NO ENEMIES. I MEAN, THIS COURT
22 EXCLUDED THE CONFESSION OF ANOTHER MAN AT THE CRIME SCENE
23 BECAUSE THEY THOUGHT IT WAS TOO TANGENTIAL AND WOULD
24 RESULT IN TOO MUCH LITIGATION.

25 UNDER 352 THERE'S ABSOLUTELY NO PROBATIVE
26 VALUE TO THESE LETTERS. THE FACT THAT PHIL BARTINETTI
27 AND JEFF COYNE WERE THREATENED AND 19 YEARS LATER ARE
28 STILL ALIVE, IT'S ONLY TO PREJUDICE THE JURY AGAINST

1 MR. GOODWIN. THEY CANNOT TIE LETTERS TO MICHAEL GOODWIN,
2 SO WE CANNOT USE THOSE AS ONE ARGUMENT OF THEIR IDEA OF
3 THIS HATRED OF THE BIG THREE MUSKETEERS. AND IT WAS
4 CLAYTON AT THE DEPOSITION WHO THREATENED PHIL BARTINETTI.
5 CLAYTON, NOT MICHAEL GOODWIN. THERE IS NO THREAT FROM
6 MICHAEL GOODWIN TO PHIL BARTINETTI AT ALL.

7 MR. SUMMERS: YOUR HONOR --

8 MS. SARIS: OH, AND IF PENN WELDON HAD THIS
9 MEETING IN JANUARY OF 1988 TO GET PHIL BARTINETTI'S
10 LETTERS, IT CERTAINLY DOESN'T MAKE ANY SENSE THAT THESE
11 LETTERS HAVE ANYTHING TO DO WITH MICHAEL GOODWIN BECAUSE
12 THEY WERE ADDRESSED IN 1987.

13 THE COURT: LET'S TAKE THE LETTERS OUT OF THE
14 EQUATION. THE ARGUMENT IS THAT THE DEFENDANT MADE
15 CERTAIN STATEMENTS WHICH CIRCUMSTANTIALLY TEND TO
16 INDICATE THAT HE WAS GOING TO CAUSE HARM TO MR. THOMPSON
17 AND DID, IN FACT, CAUSE THE DEATH.

18 SO I'M TRYING TO FOCUS ON THE 1101 ASPECT
19 OF THIS CASE APART FROM THE LETTERS.

20 MS. SARIS: OKAY. SO, THEN, WE'RE TALKING ABOUT
21 STATEMENTS MICHAEL GOODWIN MADE TO PENN WELDON ABOUT HOW
22 MUCH HE --

23 THE COURT: WE'RE TALKING ABOUT STATEMENTS THAT
24 WERE MADE TO EVERYONE, ALL OF THE PEOPLE'S WITNESSES,
25 INCLUDING PENN WELDON. I HAVE NO PROBLEM WITH MR. WELDON
26 TESTIFYING TO THE CONVERSATION. I HAVE NO PROBLEM WITH
27 MR. WELDON INDICATING THAT A REQUEST FOR AN ADDRESS WAS
28 MADE BY MR. GOODWIN.

1 THIS IS JANUARY '88?

2 MS. SARIS: FOUR YEARS AFTER THE LITIGATION.

3 THE COURT: WHEN DOES THIS CONVERSATION TAKE
4 PLACE?

5 MR. DIXON: WELL, MR. WELDON WILL SAY THAT, LIKE
6 OTHER WITNESSES, HE RECALLS WHEN MICKEY THOMPSON WAS
7 KILLED. AND THE BEST OF HIS RECOLLECTION IS THAT THIS
8 HAPPENED A MONTH OR TWO BEFOREHAND.

9 I WILL TELL THE COURT, AND COUNSEL KNOWS
10 THIS, THAT ONE OF THE REPORTS SAYS JANUARY 1987. HE
11 DISAGREES WITH THAT. HIS RECOLLECTION IS THAT IT WAS
12 JANUARY 1988. THAT MUST BE A TYPO.

13 MS. SARIS: IT ACTUALLY HAD TO HAVE BEEN 1986
14 BASED ON THE CONTENTS BECAUSE A LAWSUIT WAS CURRENTLY
15 PENDING.

16 THE COURT: OKAY. BUT THIS IS -- THESE ARE ALL
17 STATEMENTS OF MR. GOODWIN. AND AS SUCH, THEY WOULD
18 QUALIFY AS ADMISSIONS. THEY TEND TO INDICATE WHEN TAKEN
19 WITH OTHER EVIDENCE, THAT HE WAS RESPONSIBLE --

20 MS. SARIS: AND, AGAIN, WE HAVE NO PROBLEM --

21 THE COURT: -- FOR THE CRIME.

22 MS. SARIS: ALL WE'RE CONCERNED ABOUT IS THE
23 ASKING FOR PHIL BARTINETTI'S ADDRESS.

24 THE COURT: WELL, THE ASKING OF PHIL BARTINETTI'S
25 ADDRESS, THERE'S NO PREJUDICE THERE UNLESS THE PEOPLE ARE
26 GOING TO PRESENT EVIDENCE REGARDING THE LETTERS.

27 MR. SARIS: THEN THERE'S NO RELEVANCE.

28 THE COURT: WE'RE NOT THERE YET.

1 MS. SARIS: RIGHT. BUT IF THERE'S NO PREJUDICE
2 IT'S BECAUSE THERE'S NO RELEVANCE TO IT.

3 THE COURT: THERE IS RELEVANCE TO IT. IT WAS
4 PART AND PARCEL OF BASICALLY A CONVERSATION. THE OFFER
5 OF PROOF IS THE CONVERSATION WAS MR. GOODWIN BASICALLY
6 EXPRESSING HIS ANGER AND FRUSTRATION --

7 MS. SARIS: AT MICKEY THOMPSON. BUT ANYTHING
8 ABOUT --

9 THE COURT: -- TOWARDS MICKEY THOMPSON AND
10 TOWARDS THE LAWSUIT AND TOWARDS I THINK INFERENTIALLY
11 ANYBODY CONNECTED WITH THE LAWSUIT. I DON'T HAVE A
12 PROBLEM WITH THAT CONVERSATION. SO THAT DOESN'T RESOLVE
13 THE OTHER ISSUE.

14 SO LET'S GO FORWARD WITH MR. WELDON TO THE
15 EXTENT THAT YOU CAN. I DON'T WANT TO GET INTO LETTERS.
16 BUT THE ONE CONVERSATION THAT YOU ARE SEEKING TO PRESENT,
17 I DON'T HAVE A PROBLEM WITH. BARTINETTI WAS NOT JUST
18 SOME STRANGER WHO HAPPENED TO BE WALKING DOWN THE STREET
19 SEEN TALKING TO MR. THOMPSON.

20 I MEAN, THERE WAS AN ESTABLISHED
21 RELATIONSHIP BETWEEN BARTINETTI'S LAW FIRM; BARTINETTI
22 HIMSELF WITH THE THOMPSONS. I MEAN, I DON'T KNOW HOW YOU
23 SEPARATE THEM. BEING ANGRY AT BARTINETTI IS CERTAINLY
24 RELEVANT ON THE ISSUE OF ONE'S ANGER ABOUT THE LAWSUIT
25 WHICH IS THE STATED MOTIVE FOR THE MURDERS. SO I DON'T
26 HAVE A PROBLEM WITH IT.

27 BUT, YOU KNOW, YOU GUYS ARE WAY AHEAD OF
28 ME. I'M NOT AT ALL CLEAR ON WHETHER OR NOT THE LETTERS

1 ARE GOING TO BE ABLE TO BE REFERRED TO IN THIS TRIAL AND
2 I'M GOING TO HAVE TO HEAR A WHOLE LOT MORE BEFORE WE GET
3 THERE. BUT I REALLY DON'T SEE UNDER 352 THAT THIS IS NOT
4 RELEVANT. AND IF IT IS RELEVANT, THAT ITS PREJUDICIAL
5 AFFECT OUTWEIGHS THE RELEVANCE. IT'S CLEARLY RELEVANT.

6 BARTINETTI IS, IN FACT, THE REPRESENTATIVE
7 OF THE THOMPSONS AND MICKEY THOMPSON IN THIS LAWSUIT.

8 MS. SARIS: AND BARTINETTI -- NOTHING HAPPEN AT
9 HIS HOME? NOTHING --

10 THE COURT: SO FAR THAT'S THE ONLY THING I'M
11 TALKING ABOUT. THAT'S THE ONLY THING I CAN RULE ON IS
12 WHAT IS BEING PRESENTED BY THIS WITNESS. SO I DON'T KNOW
13 WHAT ELSE YOU WANT ME TO DO RIGHT NOW. THIS IS ALL I'M
14 SAYING. THIS WITNESS CAN TESTIFY TO THAT CONVERSATION.
15 PERIOD. END OF STORY.

16 AND BEFORE WE HAVE TO GET INTO ANY OTHER
17 EVIDENCE SUGGESTING THAT THERE WAS MISCONDUCT OR OTHER
18 ACTS, WE ARE GOING TO HAVE TO HAVE A FULL-BLOWN HEARING
19 ON IT. AND I WILL HAVE TO MAKE A DECISION AT THAT POINT.

20 MR. DIXON: LET ME SUGGEST THIS, WHEN WE COME
21 BACK AT 1:30, PENN WELDON WILL TESTIFY. HOPEFULLY IN
22 LINE WITH MY OFFER OF PROOF. THE NEXT WITNESS WILL BE
23 PHIL BARTINETTI. AND IT IS OUR SUGGESTION OR OUR PLAN
24 THAT HE WOULD TESTIFY FULLY AND COMPLETELY EXCEPT FOR THE
25 LETTERS. WE'LL INDICATE TO THE COURT WHEN WE GET TO THAT
26 POINT. AND THE COURT CAN GIVE US GUIDANCE AS TO WHEN YOU
27 WOULD LIKE TO HAVE A HEARING --

28 THE COURT: AND THE GUIDANCE IS GOING TO BE WHEN

1 THE JURY IS NOT PRESENT. AND THE GUIDANCE IS GOING TO BE
2 WHEN WE ARE NOT TAKING TIME AWAY FROM THE JURY. SO I
3 WOULD IMAGINE THAT IF YOU START WITH BARTINETTI TODAY,
4 YOU ARE NOT GOING TO FINISH WITH BARTINETTI UNTIL WE
5 RESOLVE THE ISSUE.

6 MR. JACKSON: THAT'S FINE, YOUR HONOR.

7 THE COURT: YOU HAVE OTHER WITNESSES, LET'S GO
8 FORWARD. AT 4:30 TODAY WE WILL SCHEDULE TOMORROW MORNING
9 THE DISCUSSION THAT WE NEED TO HAVE WITH RESPECT TO THE
10 1101(B). OR IF WE FINISH WITH ALL YOUR WITNESSES EARLY,
11 WE CAN DO IT THIS AFTERNOON. BUT RIGHT NOW, I HAVE NOW
12 EXCUSED THE JURY 30 MINUTES BEFORE NOON. I HAVE
13 INDICATED TO COUNSEL REPEATEDLY THESE ARE THE ISSUES THAT
14 I AM READY TO DISCUSS AT 8:30 IN THE MORNING. SO THAT'S
15 REALLY THE IDEAL TIME TO DO IT. SO LET'S SEE HOW FAR WE
16 CAN GO TODAY.

17 MS. SARIS: AND CAN WE ALSO INCLUDE IN THAT ORDER
18 NOT TO DISCUSS VINCE TRICARICO -- I'M SORRY -- CLAYTON.

19 THE COURT: AS TO BARTINETTI?

20 MS. SARIS: AS TO BARTINETTI.

21 THE COURT: THE STATEMENT THAT CLAYTON MAKES TO
22 BARTINETTI; IS THAT WHAT YOU ARE SAYING?

23 MS. SARIS: I DON'T KNOW IF BARTINETTI IS GOING
24 TO SAY HE SAW IT OR HEARD IT OR HE --

25 MR. JACKSON: HE DIDN'T.

26 MS. SARIS: OKAY. SO THAT'S NOT GOING TO COME
27 OUT?

28 MR. JACKSON: NO. THAT'S VINCE TRICARICO.

1 THE COURT: SO WE WILL DO AS MUCH AS WE CAN TODAY
2 AND THEN WE WILL GO FROM THERE.

3 MS. SARIS: SO WHO'S COMING THIS AFTERNOON, THEN?

4 THE COURT: I ASSUME WELDON, AND WHO ELSE?

5 MR. JACKSON: BARTINETTI.

6 MR. DIXON: BARTINETTI.

7 MS. SARIS: IS THAT IT?

8 THE COURT: IS THAT ALL YOU HAVE LINED UP TODAY?

9 MR. DIXON: WE WILL CHECK, BUT I THINK THAT'S --

10 MS. SARIS: WELL, YOU KNOW, JUDGE, I UNDERSTAND
11 NOT GIVING US WITNESSES IN ADVANCE AND I CAN APPRECIATE
12 THAT.

13 THE COURT: OKAY. THIS IS THE THING, YOU GUYS
14 PROMISED ME, ALL OF YOU, THAT YOU WERE GOING TO MEET AND
15 CONFER AND THAT THE WITNESSES WERE GOING TO BE PROVIDED.
16 THAT IS, THE WITNESSES THAT WERE GOING TO BE CALLED,
17 THOSE NAMES WOULD BE PROVIDED TO COUNSEL BEFORE. NOW, I
18 DON'T KNOW IF BEFORE IS YESTERDAY AT 4:30 AND THIS
19 MORNING AT 8:30. BUT THERE NEEDS TO BE SOME GIVE AND
20 TAKE HERE WITHOUT MY INVOLVEMENT, SO --

21 MR. DIXON: AND THERE IS, YOUR HONOR. WE
22 COMMUNICATED LAST NIGHT AROUND 4:30 OR 5:00 O'CLOCK --

23 MS. SARIS: WE --

24 MR. DIXON: IF I COULD FINISH MY THOUGHT, PLEASE.

25 -- AND WE GAVE A WHOLE LIST OF WITNESSES,
26 INCLUDING THE ONES THAT WE PRESENTED THIS MORNING AND THE
27 ONES I JUST SUGGESTED AND A COUPLE OF OTHERS.

28 WHEN THE COURT ASKED ME WHO ELSE IS HERE,

1 I KNOW BECAUSE I'VE TALKED TO PHIL BARTINETTI AND PENN
2 WELDON, THEY ARE HERE. I'D JUST LIKE TO CHECK AND SEE
3 WHO ELSE HAS MADE IT HERE. BUT THE PEOPLE WE GAVE HER
4 LAST NIGHT WERE PEOPLE WE ANTICIPATED. WE'VE BEEN IN
5 FRONT OF THE COURT. I DON'T KNOW IF THEY'VE PHYSICALLY
6 SHOWN UP.

7 THE COURT: WELL, IF THERE IS A PROBLEM WITH
8 COUNSEL FOR THE DEFENSE NOT GETTING THE NAMES OF THE
9 WITNESSES, LET ME KNOW. IT SOUNDS LIKE --

10 MS. SARIS: WE GOT TWO SEPARATE LISTS. ONE FROM
11 A LAW CLERK YESTERDAY AND ONE FROM MR. JACKSON. THEY'RE
12 SEPARATE. THERE ARE ABOUT FOUR OR FIVE DIFFERENT NAMES.
13 THE COURT KNOWS WE STORE THINGS OFF-SITE. IF THERE'S
14 SOMEONE THEY'RE GOING TO REPLACE FOR MR. BARTINETTI AND
15 WE HAVE TO RUN DOWN THE STREET, JUST TELL US. THAT'S ALL
16 I'M ASKING. I DON'T NEED IT FIVE DAYS IN ADVANCE. BUT
17 IT'S 12:00 O'CLOCK, WE SHOULD KNOW WHO IS GOING TO BE
18 HERE AT 1:30.

19 MR. DIXON: AND I JUST TOLD YOU.

20 THE COURT: ALL RIGHT. LET'S TRY TO FILL UP THE
21 REST OF THE DAY AND WE WILL HAVE TO DEAL WITH THESE
22 ISSUES LATER.

23
24 (AT 12:00 P.M. A RECESS WAS TAKEN
25 UNTIL 1:30 P.M. OF THE SAME DAY.)

26 --000--
27
28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, NOVEMBER 7, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
14 RECORD.

15 MR. GOODWIN IS PRESENT WITH COUNSEL. THE
16 PEOPLE ARE REPRESENTED. WE DON'T HAVE ANY JURORS OR
17 ALTERNATES PRESENT YET.

18 ANYTHING BEFORE WE BRING THEM IN?

19 MR. DIXON: NOT FROM THE PEOPLE. I WILL TELL THE
20 COURT THAT WE EXPECT TO CALL PENN WELDON, GREG KEAY,
21 DAVID JACOBS, MR. TRICARICO AND PHIL BARTINETTI. THEY
22 ARE ALL AVAILABLE THIS AFTERNOON.

23 MS. SARIS: AND MR. TRICARICO IS THE ONE THAT WE
24 HAD THE ISSUE BECAUSE HE'S THE ONE THAT OVERHEARD CHUCK
25 CLAYTON, SO IT'S THE TOTALITY OF HIS TESTIMONY WHEREAS IT
26 WAS PARTIAL WITH BARTINETTI.

27 MR. DIXON: WELL, HE IS AVAILABLE, HE WILL BE
28 AVAILABLE AFTER THE JURY LEAVES FOR A MOTION IF YOU WOULD

1 LIKE, YOUR HONOR.

2 THE COURT: ALL RIGHT. WE PROBABLY SHOULD DO
3 THAT, SET ASIDE SOME TIME TO DO THAT.

4 ALL RIGHT. LET'S BRING THEM IN.

5
6 (THE JURY ENTERED THE COURTROOM
7 AND THE FOLLOWING PROCEEDINGS WERE
8 HELD IN OPEN COURT.)

9
10 THE COURT: THE RECORD SHOULD REFLECT THAT ALL
11 OUR JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT IN THE
12 TRIAL MATTER. MR. GOODWIN IS HERE WITH HIS COUNSEL. THE
13 PEOPLE ARE REPRESENTED.

14 AND THE PEOPLE MAY CALL THEIR NEXT
15 WITNESS.

16 MR. DIXON: THANK YOU, YOUR HONOR. THE PEOPLE
17 WOULD CALL PENN WELDON.

18
19 PENN WELDON,
20 CALLED BY THE PEOPLE AS A WITNESS, WAS
21 SWORN AND TESTIFIED AS FOLLOWS:

22
23 THE CLERK: YES. STAND UP AND RAISE YOUR RIGHT
24 HAND. THANK YOU.

25 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
26 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
27 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
28 TRUTH SO HELP YOU GOD.

1 THE WITNESS: I DO.

2 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
3 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
4 NAME FOR THE RECORD.

5 THE WITNESS: MY FIRST NAME IS PENN, P-E-N-N,
6 LAST NAME IS WELDON, W-E-L-D-O-N.

7 THE CLERK: THANK YOU.

8 THE COURT: YOU MAY INQUIRE.

9 MR. DIXON: THANK YOU, YOUR HONOR.

10

11 DIRECT EXAMINATION

12 BY MR. DIXON:

13 Q GOOD AFTERNOON, MR. WELDON.

14 A GOOD AFTERNOON.

15 Q THANK YOU FOR COMING.

16 WHAT IS YOUR PRESENT OCCUPATION?

17 A I'M A LICENSED PRIVATE INVESTIGATOR FOR
18 THE STATE OF CALIFORNIA.

19 Q HOW LONG HAVE YOU BEEN DOING THAT?

20 A ABOUT 20 YEARS.

21 Q BEFORE THAT DID YOU HAVE A CAREER IN LAW
22 ENFORCEMENT?

23 A YES. 20 YEARS IN THE SHERIFF'S DEPARTMENT
24 AS A DETECTIVE SERGEANT.

25 Q COULD YOU BRIEFLY DESCRIBE WHAT YOU DID.

26 A WHAT I DO NOW?

27 Q NO. WHAT YOU DID THEN.

28 A OH, WHAT I DID THEN. WELL --

1 MS. SARIS: I'M SORRY, YOUR HONOR. OBJECTION.
2 RELEVANCE.

3 THE WITNESS: WELL, TWO YEARS I WORKED IN VICE --

4 THE COURT: HANG ON.

5 THE OBJECTION IS RELEVANCE? WHAT IS YOUR
6 OFFER?

7 MR. DIXON: BRIEFLY JUST BACKGROUND EXPERIENCE.
8 I THINK IT RELATES TO WHAT HE'S GOING TO TESTIFY TO.

9 THE COURT: ALL RIGHT. OVERRULED.

10 THE WITNESS: TWO-AND-A-HALF YEARS OF VICE, TEN
11 YEARS OF NARCOTICS. PROMOTED TO SERGEANT; WENT TEN
12 MONTHS IN PATROL; AND THEN FINISHED UP MY CAREER AS A
13 DETECTIVE SERGEANT WITH MAJOR CRIMES.

14 Q BY MR. DIXON: SO YOU HAD A VARIETY OF
15 EXPERIENCE IN THE SHERIFF'S DEPARTMENT?

16 A YES, SIR.

17 Q AND NOW, WHAT DO YOU DO NOW?

18 A PRIMARILY I DO WORKERS' COMP FRAUD
19 INVESTIGATIONS.

20 Q BACK IN 1988 -- 1987, 1988, YOU WERE
21 EMPLOYED AS A PRIVATE INVESTIGATOR; CORRECT?

22 A YES. SELF-EMPLOYED, YES.

23 Q AND DID YOU DO THE SAME KIND OF WORK THEN?

24 A NO.

25 Q WHAT KIND OF WORK DID YOU DO BACK AT THAT
26 TIME?

27 A CRIMINAL CASES.

28 Q DESCRIBE THAT BRIEFLY FOR US.

1 A WELL, I WAS ON THE L.A. COUNTY
2 INVESTIGATOR LIST FOR APPOINTMENTS AND, IN PARTICULAR,
3 CRIMINAL CASES. AND MOSTLY IN POMONA SUPERIOR COURT.

4 Q AND WHEN YOU WERE APPOINTED TO WORK OFF
5 THAT LIST, DID YOU WORK FOR THE PROSECUTION OR DID YOU
6 WORK FOR THE DEFENSE?

7 A DEFENSE.

8 Q SO YOU HAD A BACKGROUND AS A DETECTIVE
9 SHERIFF; CORRECT?

10 A YES.

11 MS. SARIS: OBJECTION, YOUR HONOR. LEADING.

12 THE COURT: SUSTAINED.

13 Q BY MR. DIXON: AND THEN YOU WORKED FOR
14 DEFENSE ATTORNEYS FROM TIME TO TIME?

15 MS. SARIS: SAME OBJECTION, YOUR HONOR.

16 THE COURT: SUSTAINED.

17 Q BY MR. DIXON: HOW MANY CASES DID YOU WORK
18 FOR -- JUST APPROXIMATELY -- AS A DEFENSE INVESTIGATOR?
19 A LOT?

20 A YES, QUITE A FEW. I WOULD SAY 75 TO 100.

21 Q OKAY. I WOULD LIKE TO INVITE YOUR
22 ATTENTION TO MARCH OF 1988.

23 DO YOU RECALL HEARING THAT MICKEY AND
24 TRUDY THOMPSON WERE MURDERED?

25 A YES.

26 Q DO YOU REMEMBER WHERE YOU WERE WHEN YOU
27 HEARD THAT?

28 A YES, I DO.

1 Q WHERE?

2 A I WAS AT VILLA VERDE COUNTRY CLUB GETTING
3 READY TO PLAY GOLF, HAVING BREAKFAST IN THE LOUNGE.

4 Q AT THAT TIME DID YOU KNOW WHO MICKEY
5 THOMPSON WAS?

6 A YES.

7 Q A RACE CAR DRIVER?

8 A YES. A PROMOTER, A RACE CAR PROMOTER,
9 RACING BIG PROMOTIONS, THINGS LIKE THAT.

10 Q HAD YOU EVER MET HIM?

11 A NO, SIR.

12 Q AT THAT TIME HAD YOU EVER HEARD -- OR LET
13 ME ASK YOU THIS, SOMETIME BEFORE THAT, SOME WEEKS OR
14 MONTHS BEFORE THAT, DID YOU A MIKE GOODWIN?

15 A YES, I DID.

16 Q DO YOU SEE HIM HERE IN COURT TODAY?

17 A YES, I DO.

18 Q COULD YOU POINT TO HIM AND TELL THE JUDGE
19 WHERE HE'S NOW SITTING AND WHAT HE'S WEARING.

20 A HE'S THE GENTLEMAN SITTING NEXT TO THE
21 DEFENSE ATTORNEY.

22 Q THE MAN I'M NOW STANDING BEHIND
23 (INDICATING)?

24 A YES.

25 THE COURT: IDENTIFYING MR. GOODWIN, FOR THE
26 RECORD.

27 MR. DIXON: THANK YOU, YOUR HONOR.

28 Q SOME WEEKS OR MONTHS BEFORE YOU HEARD

1 ABOUT THE DEATH OF MICKEY THOMPSON, DID YOU MEET
2 MR. GOODWIN?

3 A YES, I DID.

4 Q PLEASE DESCRIBE HOW THAT CAME ABOUT.

5 A IT FIRST CAME ABOUT FROM A TELEPHONE CALL
6 FROM A RETIRED F.B.I. AGENT BY THE NAME OF FRENCHY
7 LAJENESS ASKING ME IF I WANTED TO TAKE A PRIVATE CASE
8 THAT HE DIDN'T HAVE TIME TO WORK. AND I SAID, YOU KNOW,
9 I'LL LOOK INTO IT AND SEE.

10 Q AND AS A RESULT OF THAT, WHAT HAPPENED
11 NEXT?

12 A I BELIEVE I HAD A BRIEF CONVERSATION WITH
13 MR. GOODWIN ON THE TELEPHONE AND AGREED TO MEET HIM FOR
14 BREAKFAST IN LAGUNA. ASKED HIM IF IT WAS ALL RIGHT IF I
15 BROUGHT MY WIFE AND HE SAID YES.

16 Q CAN YOU AT THIS TIME GIVE AN APPROXIMATE
17 MONTH AND YEAR OF THAT?

18 A ALL I CAN SAY IT WAS IN THE LAST PART OF
19 1987, NEAR THE END OF THE YEAR.

20 Q OKAY. SO DECEMBER -- NOVEMBER, DECEMBER
21 1987?

22 A YES, I WOULD SAY SO.

23 Q OKAY. SO SOME MONTHS BEFORE YOU HEARD OF
24 THE MURDER OF MICKEY THOMPSON; RIGHT?

25 A YES, SIR.

26 Q YOU ARRIVED AT THIS RESTAURANT IN LAGUNA
27 BEACH FOR BREAKFAST WITH YOUR WIFE?

28 A YES, SIR.

1 Q WHAT HAPPENED NEXT?

2 A WELL, WE GOT THERE -- MY WIFE AND I GOT
3 THERE FIRST. AND THEN MR. GOODWIN SHOWED UP AND SAT DOWN
4 AT THE TABLE AND INTRODUCED HIMSELF. AND I GOT THE
5 IMPRESSION THAT HE WAS UPSET ABOUT SOMETHING.

6 Q WHAT LEAD YOU TO HAVE THAT IMPRESSION?
7 WHAT DID YOU SEE OR HEAR?

8 A JUST HIS BODY LANGUAGE AND THE WAY HE
9 LOOKED. HE LOOKED FLUSHED AND EXCITED.

10 Q DID HE ENGAGE IN A CONVERSATION WITH YOU
11 OR TALK TO YOU, OR WHAT HAPPENED?

12 A YES, HE DID. WE TALKED ABOUT THINGS THAT
13 HE WANTED ME TO DO.

14 Q DID HE TELL YOU ABOUT WHY HE WANTED YOU TO
15 DO THESE? DID HE DESCRIBE SOME PROBLEM THAT HE WAS
16 HAVING?

17 A YES. HE SAID THAT HE JUST GOT -- IF YOU
18 PARDON THE EXPRESSION -- "FUCKED ROYALLY" BY MR. THOMPSON
19 IN A LAWSUIT.

20 Q AND DID HE GO ON TO DESCRIBE THAT IN
21 GREATER DETAIL?

22 A HE SAID THAT HE HAD COST HIM A
23 CONSIDERABLE AMOUNT OF MONEY AND HE WANTED TO GET EVEN
24 WITH HIM.

25 Q DID HE TALK ABOUT THE SUBJECT BRIEFLY FOR
26 A FEW MINUTES OR FOR TEN MINUTES, 20 MINUTES, AN HOUR?

27 A ACTUALLY, IT WENT ON FOR THE BETTER PART
28 OF AN HOUR, THE WHOLE TIME WE WERE THERE.

1 Q AND WITHOUT GOING INTO THE WHOLE HOUR'S
2 CONVERSATION, WHAT WAS THE DEFENDANT TELLING YOU DURING
3 THIS HOUR CONVERSATION ABOUT MICKEY THOMPSON AND THE
4 LAWSUIT?

5 A HE WAS CONCERNED ABOUT ME DOING SOME
6 INVESTIGATION ON MICKEY THOMPSON'S ATTORNEY.

7 Q AND WHAT DID HE SAY ABOUT THAT?

8 A FIRST OF ALL, HE WANTED TO FIND OUT WHAT
9 KIND OF CARS HE HAD; IF I COULD BUG THE CARS; IF I COULD
10 BUG MICKEY THOMPSON'S ATTORNEY'S HOUSE.

11 Q LET ME STOP YOU THERE.

12 WITH YOUR EXPERIENCE IN LAW ENFORCEMENT
13 AND AS A PRIVATE INVESTIGATOR, WHAT DID THAT MEAN, "BUG"?
14 WHAT DID THAT MEAN TO YOU?

15 A PLANT LISTENING DEVICES IN THE CAR AND IN
16 HIS HOUSE.

17 Q AND AFTER THE DEFENDANT ASKED YOU TO DO
18 THIS BUGGING, DID YOU HAVE A RESPONSE?

19 A YES, I DID.

20 Q WHAT WAS IT?

21 A I SAID I COULDN'T DO IT.

22 Q DID YOU TELL HIM WHY?

23 A I SAID BECAUSE IT WAS ILLEGAL.

24 Q WAS THAT THE ONLY TIME THE DEFENDANT ASKED
25 YOU TO BUG THE ATTORNEY'S HOUSE OR CAR?

26 A NO. HE ASKED ME SEVERAL OTHER TIMES IF I
27 COULD CHANGE MY MIND.

28 Q SEVERAL OTHER TIMES DURING THIS MEETING AT

1 THE RESTAURANT IN LAGUNA OR DIFFERENT DATES?

2 A NO. AT THE RESTAURANT IN LAGUNA.

3 Q SO THROUGH THE HOUR CONVERSATION, HE
4 REPEATED THIS REQUEST TO DO THE BUGGING?

5 A YES, SIR.

6 Q AND YOUR ANSWER EVERY TIME WAS?

7 A NO.

8 Q BECAUSE IT WAS ILLEGAL?

9 A YES.

10 Q DID THE DEFENDANT ASK YOU TO DO ANYTHING
11 ELSE WITH RESPECT TO THE ATTORNEY?

12 A YES. HE ASKED ME TO RUN CIVIL INDEXES TO
13 SEE IF THE ATTORNEY, MR. BARTINELLI, HAD ANY LAWSUITS
14 AGAINST HIM.

15 Q WHAT DOES THAT MEAN, CIVIL INDEXES?

16 A IT'S RECORDS IN SUPERIOR COURT, CIVIL
17 SUPERIOR COURT, INDICATING IF ANY LAWSUITS WERE PLACED
18 AGAINST MR. BARTINELLI OR IF HE WAS SUING SOMEBODY ELSE.

19 Q NOW, YOU TOLD US WHAT YOUR RESPONSE WAS TO
20 THE BUGGING REQUEST. HOW ABOUT THIS, DID YOU SAY YES OR
21 NO?

22 A I TOLD HIM I COULD DO THAT BECAUSE IT'S A
23 PUBLIC RECORD.

24 Q IT'S LEGAL TO GET THE INFORMATION?

25 A YES, IT IS.

26 Q WERE THERE ANY OTHER REQUESTS ABOUT PHIL
27 BARTINETTI, MICKEY THOMPSON'S ATTORNEY, FROM THE
28 DEFENDANT DURING THIS HOUR-LONG CONVERSATION?

1 A NO. IT WAS ALL GENERALLY ABOUT THE SAME
2 THING.

3 Q NOW, DURING THIS CONVERSATION AND THESE
4 REQUESTS, WAS THE DEFENDANT CALM AND COLLECTED IN TERMS
5 OF HIS DEMEANOR OR UPSET AND ANGRY, OR HOW WOULD YOU
6 CHARACTERIZE IT?

7 A I WOULD SAY HE WAS VERY UPSET AND ANGRY.

8 Q THROUGHOUT THE WHOLE HOUR?

9 A YES.

10 Q WHAT DID YOU SEE OR HEAR FROM THE
11 DEFENDANT THAT LEADS YOU TO SAY WHAT YOU'VE JUST SAID?

12 A WELL, HE KEPT SAYING THAT HE WAS UPSET,
13 THAT HE WAS REALLY JUST KNOCKED OVER BY THIS WHOLE THING
14 THAT WAS GOING TO COST HIM A LOT OF MONEY; PROBABLY ALL
15 THE MONEY THAT HE HAD. AND HE EVEN MADE A STATEMENT THAT
16 HE GOT SO MAD THE OTHER NIGHT, HE THREW A CHAIR THROUGH
17 HIS WINDOW AT HIS HOUSE.

18 Q HE TOLD YOU THAT?

19 A YES.

20 Q DID HE SEEM SERIOUS WHEN HE SAID THAT?

21 A PARDON ME?

22 Q WAS HE KIDDING?

23 A I DON'T BELIEVE SO.

24 Q OKAY. NOW, DURING THE CONVERSATION -- YOU
25 SAID YOU HAD YOUR WIFE THERE; IS THAT RIGHT?

26 A YES.

27 Q DID YOU REGRET THAT?

28 A YES.

1 Q WHY?

2 A WELL, HE WAS USING LANGUAGE THAT I REALLY
3 DIDN'T WANT MY WIFE TO HEAR.

4 Q DID YOU SAY ANYTHING TO HIM ABOUT THAT?

5 A NO.

6 Q AT SOME POINT THE MEETING ENDED AND AS A
7 RESULT OF THE MEETING HAD YOU AGREED TO DO ANY WORK FOR
8 THE DEFENDANT WITH RESPECT TO PHIL BARTINETTI?

9 A YES. I SAID I WOULD RUN THE CIVIL INDEXES
10 FOR HIM AND GET IN TOUCH WITH HIM BY TELEPHONE.

11 Q AND DID YOU DO THAT?

12 A YES, I DID.

13 Q DID YOU DO ANYTHING ELSE WITH RESPECT TO
14 PHIL BARTINETTI?

15 A I HAPPENED TO BE IN THE AREA WHERE I KNEW
16 MR. BARTINELLI LIVED. AND I DROVE BY THERE ONE DAY AND
17 PICKED UP A LICENSE NUMBER OF I BELIEVE IT WAS A JAGUAR
18 THAT WAS IN THE DRIVEWAY.

19 Q DID YOU EVER GIVE THAT INFORMATION TO THE
20 DEFENDANT?

21 A I BELIEVE I DID, BUT I CAN'T BE SURE OF
22 THAT.

23 Q JUST THE LICENSE PLATE, NOTHING ELSE?

24 A YES, JUST THAT.

25 Q OKAY.

26 A NO. I RAN THE CAR THROUGH D.M.V. AND
27 GAVE -- BECAUSE IT WAS REGISTERED TO MR. BARTINELLI.

28 Q AND, AGAIN, THAT'S SOMETHING THAT'S LEGAL

1 FOR ANYONE TO DO?

2 A YES, IT IS.

3 MR. DIXON: COULD I HAVE A MOMENT, PLEASE?

4 THE COURT: YES.

5 (DISCUSSION OFF THE RECORD.)

6 MR. DIXON: I DO HAVE ONE OR TWO OTHER QUESTIONS.
7 WELL, THAT'S FINE. I THINK I'VE ASKED EVERYTHING. THANK
8 YOU VERY MUCH.

9 THE WITNESS: YES, SIR.

10 THE COURT: CROSS-EXAMINATION?

11 MR. DIXON: NOTHING FURTHER.

12 MS. SARIS: THANK YOU.

13
14 CROSS-EXAMINATION

15 BY MS. SARIS:

16 Q GOOD AFTERNOON, MR. WELDON.

17 A GOOD AFTERNOON.

18 Q WAS IT YOUR INDICATION OR IMPRESSION THAT
19 MR. GOODWIN WAS IN TRIAL WITH MR. THOMPSON AT THE TIME
20 THAT YOU HAD YOUR MEETING?

21 A I DON'T REALLY RECALL.

22 Q DO YOU RECALL BEING INTERVIEWED IN THIS
23 CASE IN AUGUST OF 2004 BY A DEPUTY PUBLIC DEFENDER ALAN
24 JACKSON SITTING HERE?

25 MR. DIXON: DISTRICT ATTORNEY.

26 MR. JACKSON: D.A.

27 MS. SARIS: D.A. I'M SORRY.

28 Q DISTRICT ATTORNEY?

1 A YES, MA'AM.

2 Q AND DID YOU TELL HIM AT THAT TIME THAT
3 WHEN MR. GOODWIN CONTACTED YOU HE WAS IN TRIAL WITH
4 MR. THOMPSON?

5 A I COULD HAVE, YES.

6 Q HAVE YOU EVER BEEN SHOWN ANYTHING THAT
7 PURPORTED TO BE RECORDED NOTES OF THE INTERVIEW YOU HAD
8 WITH MR. JACKSON?

9 A YES.

10 Q WOULD LOOKING AT THAT NOW REFRESH YOUR
11 RECOLLECTION AS TO WHETHER YOU TOLD --

12 A NO. IF THAT'S WHAT IT SAYS, THAT'S WHAT I
13 SAID.

14 Q WELL, WHAT IT SAID IS NOT EVIDENCE, IT'S
15 ONLY WHAT YOU CAN TELL US.

16 SO DO YOU RECALL TELLING MR. JACKSON --

17 A I SAID I DON'T RECALL.

18 Q WOULD SHOWING YOU THIS REFRESH YOUR
19 RECOLLECTION?

20 A YES, IT WOULD.

21 MS. SARIS: MAY I APPROACH THE WITNESS?

22 THE COURT: YES.

23 MR. DIXON: COULD I SEE THE DOCUMENT?

24 MS. SARIS: SURE.

25 (PAUSE IN PROCEEDINGS.)

26 Q MS. SARIS: MR. WELDON, LET ME DIRECT YOUR
27 ATTENTION TO THIS THREE-PAGE DOCUMENT. THERE SEEMS TO BE
28 A DATE ON THE TOP LEFT CORNER, AUGUST 13, 2004.

1 DO YOU SEE YOUR NAME ON THAT DOCUMENT?

2 A YES.

3 Q WOULD YOU TURN TO THE SECOND PAGE AND SEE
4 IF THAT REFRESHES YOUR RECOLLECTION AS TO WHETHER OR NOT
5 YOU TOLD MR. JACKSON THAT AT THE TIME YOU MET MR. GOODWIN
6 HE WAS IN TRIAL WITH MR. THOMPSON?

7 A YES, I SEE THAT IN THERE NOW.

8 Q DOES THAT REFRESH YOUR RECOLLECTION AS TO
9 WHETHER OR NOT YOU TOLD MR. JACKSON THAT WAS THE CASE?

10 A YES.

11 Q AND WHAT IS YOUR RECOLLECTION?

12 A THAT HE WAS CURRENTLY IN TRIAL WHEN I WAS
13 TALKING TO HIM.

14 Q AND WAS IT YOUR UNDERSTANDING THAT PHIL
15 BARTINETTI WAS REPRESENTING MICKEY THOMPSON IN THIS
16 TRIAL?

17 A YES.

18 Q HAVE YOU EVER SEEN ANY TELEVISION PROGRAMS
19 ABOUT THIS CASE?

20 A PARDON ME?

21 Q HAVE YOU EVER SEEN ANY TELEVISION PROGRAMS
22 ABOUT THIS CASE?

23 A NO.

24 Q DO YOU HAVE ANY -- WHEN YOU WERE HAVING
25 THIS CONVERSATION WITH MR. GOODWIN, YOUR WIFE WAS SITTING
26 RIGHT AT THE TABLE WITH YOU?

27 A YES, MA'AM.

28 Q AND WERE YOU IN A PUBLIC RESTAURANT?

1 A YES, MA'AM.

2 Q DID YOU OBTAIN A PRIVATE ROOM OR WERE YOU
3 JUST AT A REGULAR TABLE?

4 A REGULAR TABLE.

5 Q WERE YOU AT THAT TIME A LICENSED PRIVATE
6 INVESTIGATOR?

7 A YES, MA'AM.

8 Q DID YOU HAVE ANY SORT OF A SYSTEM OF
9 KEEPING TRACK OF YOUR APPOINTMENTS, A DATE BOOK OF ANY
10 SORT?

11 A YES, MA'AM.

12 Q IS IT AVAILABLE NOW?

13 A NO, MA'AM.

14 Q AND MR. GOODWIN INDICATED IN THAT
15 CONVERSATION TO YOU THAT HE HAD, QUOTE, "JUST GOT FUCKED
16 BY MICKEY THOMPSON"?

17 A YES.

18 Q AND DID YOU TAKE THAT TO BE A REFERENCE TO
19 THE LAWSUIT?

20 A YES, MA'AM.

21 Q DID HE INDICATE TO YOU WHETHER OR NOT HE
22 THOUGHT HIS OWN CAR AND HOME WERE BEING BUGGED?

23 A NO, MA'AM.

24 Q DO YOU RECALL TALKING TO -- IN THE SAME
25 CONVERSATION THAT WE HAVE DISCUSSED -- DID YOU HAVE
26 ANOTHER CONVERSATION WITH A DETECTIVE BY THE NAME OF
27 LILLIENFELD IN THIS CASE?

28 A YES, MA'AM.

1 Q AND WAS THAT IN 1998?

2 A I DON'T RECALL.

3 Q HAVE YOU EVER BEEN SHOWN ANY KIND OF A
4 STATEMENT OR NOTES OF THAT CONVERSATION WITH DETECTIVE
5 LILLIENFELD?

6 A DID I MAKE ANY NOTES?

7 Q NO. HAVE YOU EVER BEEN SHOWN ANY NOTES
8 THAT DETECTIVE LILLIENFELD MADE, OR REPORT?

9 A I BELIEVE SO.

10 Q WOULD IT REFRESH YOUR RECOLLECTION TODAY
11 TO SEE A REPORT TO ANSWER THE QUESTION ABOUT WHETHER OR
12 NOT MR. GOODWIN INDICATED TO YOU THAT HE WANTED HIS HOUSE
13 AND CAR DEBUGGED?

14 A HE WANTS HIS CAR?

15 Q HIS HOUSE AND HIS CAR?

16 A NO, HE DIDN'T SAY ANYTHING ABOUT THAT.

17 Q HE DIDN'T SAY ANYTHING ABOUT THAT?

18 A NO.

19 Q WOULD IT HELP YOU AT ALL TO SEE THE REPORT
20 THAT DETECTIVE LILLIENFELD PREPARED?

21 A YES.

22 Q WOULD THAT POSSIBLY REFRESH YOUR
23 RECOLLECTION?

24 A YES.

25 MS. SARIS: MAY I APPROACH?

26 THE COURT: YES.

27 MS. SARIS: I'M SHOWING A TWO-PAGE REPORT TOP
28 LEFT DATED APRIL 18TH, 1998.

1 Q MR. WELDON, LET ME ASK YOU FIRST IF YOU
2 SEE YOUR NAME ON THIS REPORT. AND IF LOOKING AT THE
3 BOTTOM, THE LAST PARAGRAPH IN THIS REPORT, IF IT
4 REFRESHES YOUR RECOLLECTION?

5 A YES, I SEE MY NAME AT THE BOTTOM, THE LAST
6 PAGE.

7 Q NO. I'M SORRY.
8 THE FRONT PAGE.

9 A WELL, IT WAS IN THERE. I MUSH HAVE SAID
10 IT THEN, BUT I DON'T REMEMBER THIS.

11 Q YOU DON'T REMEMBER SAYING THAT MR. GOODWIN
12 ASKED YOU TO HAVE HIS HOUSE DEBUGGED?

13 A NO, MA'AM.

14 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

15 THE COURT: REDIRECT?

16 MR. DIXON: YES. JUST A FEW QUESTIONS. THANK
17 YOU.

18

19 REDIRECT EXAMINATION

20 BY MR. DIXON:

21 Q MR. WELDON, COUNSEL JUST SHOWED YOU A
22 REPORT.

23 DO YOU RECALL TELLING DETECTIVE
24 LILLIENFELD THAT --

25 MS. SARIS: OBJECTION, YOUR HONOR. IMPROPER
26 IMPEACHMENT. THERE IS NO --

27 Q BY MR. DIXON: DID THE DEFENDANT TELL
28 YOU --

1 THE COURT: HANG ON.

2 MR. DIXON: I'LL WITHDRAW IT.

3 THE COURT: OKAY.

4 Q BY MR. DIXON: DID THE DEFENDANT TELL YOU
5 THAT HE WAS GOING TO GET THOMPSON?

6 A YES, HE DID.

7 Q AND DID HE TELL YOU THAT THOMPSON HAD
8 RUINED HIS LIFE?

9 MS. SARIS: OBJECTION. LEADING.

10 THE WITNESS: YES, HE DID.

11 THE COURT: SUSTAINED.

12 MS. SARIS: MOTION TO STRIKE.

13 THE COURT: THAT WILL BE STRICKEN.

14 Q BY MR. DIXON: DO YOU REMEMBER ANYTHING
15 ELSE THAT THE DEFENDANT TOLD YOU WITH RESPECT TO WHAT
16 MICKEY THOMPSON WAS DOING TO HIM OR HAD DONE TO HIM?

17 A NO. OTHER THAN WHAT I'VE ALREADY SAID.

18 Q AND WHAT DID YOU ALREADY SAY?

19 MS. SARIS: OBJECTION. ASKED AND ANSWERED.

20 THE COURT: OVERRULED.

21 THE WITNESS: WELL, ALL I CAN SAY IS THAT HE WAS
22 VERY UPSET. HE WAS VERY FIDGETY. HE SAID, "I'VE GOT TO
23 GET HIM. I'VE GOT TO GET THROUGH THIS." THINGS OF THAT
24 NATURE. IT'S BEEN A LONG TIME.

25 Q BY MR. DIXON: I UNDERSTAND. I
26 UNDERSTAND.

27 WOULD IT REFRESH YOUR MEMORY TO LOOK AT
28 THIS REPORT?

1 A YES.

2 MR. DIXON: MAY I APPROACH, YOUR HONOR?

3 THE COURT: YES.

4 Q BY MR. DIXON: THIS IS 100197 OF
5 DISCOVERY. AND, MR. WELDON, I'LL INVITE YOUR ATTENTION
6 TO READING THE THIRD PHOTOGRAPH FROM THE BOTTOM TO
7 YOURSELF. WHEN YOU'VE FINISHED READING THAT, IF YOU'LL
8 LET ME KNOW AND THEN I WILL ASK SOME MORE QUESTIONS.

9 FINISH THAT --

10 A YES.

11 Q -- READING THAT PARAGRAPH? DOES THAT
12 REFRESH YOUR MEMORY ABOUT ANYTHING ELSE THAT THE
13 DEFENDANT SAID ABOUT MICKEY THOMPSON AND WHAT WAS
14 HAPPENING TO HIM AS A RESULT OF MICKEY THOMPSON'S
15 ACTIVITIES?

16 A YES.

17 Q WHAT?

18 A HE SAID THAT MICKEY HAD RUINED HIS LIFE
19 AND HE WANTED TO GET EVEN WITH HIM.

20 Q THANK YOU.

21 THANK YOU, YOUR HONOR. NOTHING FURTHER.

22 THE COURT: ANYTHING ELSE?

23 MS. SARIS: NO. THANK YOU.

24 THE COURT: THANK YOU, SIR. THANKS FOR COMING
25 IN. YOU ARE EXCUSED.

26 MR. JACKSON: YOUR HONOR, WE WOULD ASK DAVE
27 JACOBS TO JOIN US, PLEASE.

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DAVID JACOBS,
CALLED BY THE PEOPLE AS A WITNESS, WAS
SWORN AND TESTIFIED AS FOLLOWS:

THE CLERK: RAISE YOUR RIGHT HAND, SIR.
YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU MAY GIVE IN
THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH SO HELP
YOU GOD.

THE WITNESS: I DO.

THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
NAME FOR THE RECORD.

THE WITNESS: DAVID JACOBS. D-A-V-I-D.
J-A-C-O-B-S.

DIRECT EXAMINATION

BY MR. JACKSON:

Q MR. JACOBS, HOW ARE YOU THIS AFTERNOON?

A FINE. THANK YOU.

Q GOOD. GOOD. WHAT DO YOU DO FOR A LIVING
NOW?

A NOW?

Q NOW.

A I'M HAPPILY RETIRED.

Q OUTSTANDING.

WHAT DID YOU USED TO DO FOR A LIVING?

A I HAD KIND OF A UNIQUE CAREER. I STARTED

1 WITH THE CITY OF PASADENA IN 1968 AS A POLICE OFFICER.
2 WORKED MY WAY UP THE RANK TO LIEUTENANT. AND THEN WENT
3 OVER TO CITY HALL AND WAS TRAINED AND BECAME A RISK
4 MANAGER FOR THE CITY OF PASADENA.

5 IN 1984, I HAD THE OPPORTUNITY TO GO TO
6 THE ROSE BOWL AS THE GENERAL MANAGER -- ACTUALLY, 1983.

7 Q AND HOW LONG WERE THE GENERAL MANAGER OF
8 THE ROSE BOWL?

9 A I WAS THERE TWICE. ABOUT A TOTAL OF
10 15 YEARS.

11 Q PRETTY GOOD JOB?

12 A (NO AUDIBLE RESPONSE.)

13 Q IT GOES WITHOUT SAYING, DOESN'T IT?

14 A IT'S A DREAM JOB.

15 Q I'LL BET. I'LL BET.

16 I WANT TO ASK YOU A COUPLE OF QUESTIONS
17 CONCERNING YOUR EMPLOYMENT AS THE ROSE BOWL MANAGER.

18 DURING YOUR TENURE AS THE ROSE BOWL
19 MANAGER, DID YOU HAVE AN OPPORTUNITY TO OVERSEE CERTAIN
20 EVENTS THAT WERE PUT ON AT THE ROSE BOWL?

21 A YES, I DID.

22 Q CONCERNING ANY OF THOSE EVENTS, DO YOU
23 RECOGNIZE ANYBODY HERE IN COURT THAT YOU MET AS A RESULT
24 OF EVENTS BEING PUT ON AT THE ROSE BOWL?

25 A YES, I DO.

26 Q CAN YOU DESCRIBE WHERE THAT PERSON IS
27 SEATED AND WHAT HE OR SHE IS WEARING.

28 A HE'S SEATED AT THE DEFENDANT SEAT WEARING

1 A SUIT AND TIE.

2 Q WHAT COLOR IS HIS SUIT? THERE IS TWO MEN
3 SITTING AT THE --

4 A DARK SUIT, LIGHT GREEN TIE, WEARING --

5 Q THE MAN THAT I'M STANDING BEHIND
6 (INDICATING)?

7 A YES, CORRECT.

8 THE COURT: THEY'RE DRESSED ALIKE.

9 ALL RIGHT. YOU WERE STANDING BEHIND
10 MR. GOODWIN.

11 MS. SARIS: THE ONE WITH THE HAIR.

12 THE WITNESS: THE ONE WITH THE MOST HAIR.

13 THE COURT: DEFINITELY MR. GOODWIN.

14 MR. JACKSON: NOW, THAT'S JUST WRONG.

15 MR. DIXON: THAT'S NOT FAIR TO ME EITHER.

16 MR. JACKSON: THANK YOU, MR. JACOBS.

17 Q TELL ME WHAT CIRCUMSTANCES AROSE FOR YOU
18 TO MEET MR. GOODWIN.

19 A WELL, IN 19- -- I BELIEVE IT WAS 1984,
20 PRIOR TO THE OLYMPICS BEING HELD HERE, WE PUT ON THE
21 FIRST MOTORCROSS THAT I WAS GENERAL MANAGER FOR.

22 Q I WANT YOU TO TAKE A SECOND AND DESCRIBE
23 FOR THE JURORS WHAT ROSE BOWL EVENTS WERE LIKE, WHAT
24 PASADENA EVENTS WERE LIKE AT THE ROSE BOWL.

25 HOW MANY EVENTS WERE THERE IN GENERAL ON A
26 YEARLY BASIS AT THE ROSE BOWL?

27 A BY CITY ORDINANCE, THERE COULD ONLY BE
28 12 OF WHAT WE CONSIDERED MAJOR EVENTS. AND THAT WAS

1 BASICALLY AN EVENT THAT I BELIEVE 100,000 ATTENDANCE --
2 OR I'M SORRY, 50,000 ATTENDANCE.

3 Q OR MORE?

4 A YES.

5 Q AND WHAT WERE THOSE RESTRICTIONS BASED ON?

6 A BASED ON THE FACT THAT THE STADIUM SITS IN
7 A VERY UNIQUE LOCATION. IT'S IN THE ARROYO, A LOT OF
8 HOMES IN THE GENERAL AREA; A LOT OF EXPENSIVE HOMES AND
9 INFLUENTIAL PEOPLE.

10 Q BASED ON THE LOCATION OF THE HOMES JUST
11 OPPOSED TO A RESIDENTIAL AREA -- AFFLUENT RESIDENTIAL
12 AREA, WERE THERE NOISE RESTRICTIONS?

13 A WELL, WE HAD NOISE RESTRICTIONS FOR
14 CONCERTS. IT WAS 100 DECIBELS AT THE RIM. MOTORCROSSES
15 WE REQUIRED SPECIAL BUFFERS AND PUT RESTRICTIONS ON THE
16 BIKES THEMSELVES. THERE WAS NO WAY REALLY TO TOTALLY
17 CONTROL THE NOISE ON THE MOTORCROSS OR OFF-ROAD EVENTS.

18 Q WAS FOOTBALL CONSIDERED A MAJOR EVENT?

19 A YES, IT WAS.

20 Q SO IN COLLEGE FOOTBALL, THERE WOULD BE
21 EIGHT OR TEN OF THOSE A YEAR?

22 A SEVEN, AND DEPENDING ON THE YEAR.
23 U.C.L.A.'S SCHEDULE VARIES. EITHER SIX OR SEVEN GAMES
24 AND THEN THE ROSE BOWL GAME.

25 Q OKAY. SO THAT WOULD TAKE UP SEVERAL OF
26 THE 12 EVENTS; CORRECT?

27 A THAT'S CORRECT.

28 Q DID YOU ALWAYS LEAVE ROOM FOR AT LEAST ONE

1 CONCERT?

2 A YES. CONCERTS WERE THE HIGHEST REVENUE
3 GENERATING EVENT.

4 Q AND, MR. JACOBS, DID YOU ALSO LEAVE ROOM
5 FOR AT LEAST ONE MOTORCROSS --

6 A YES.

7 Q -- AFTER YOU GOT THERE IN 1983?

8 A YES. MOTORCROSSES WERE A VERY IMPORTANT
9 EVENT.

10 Q IN THE EARLY YEARS OF MOTORCROSS EVENTS,
11 WHO ALWAYS GOT THAT SINGULAR MOTORCROSS EVENT?

12 A WELL, DURING THE PERIOD OF TIME THAT I --
13 THE INITIAL PERIOD OF TIME THAT I WAS INVOLVED AT THE
14 ROSE BOWL, THEY WERE EXCLUSIVELY WITH MR. GOODWIN.

15 Q AT ANY POINT, AS YOUR TENURE AS THE --
16 DURING YOUR TENURE AS THE ROSE BOWL MANAGER, WERE YOU
17 EVER DISAPPOINTED IN ANY OF THE EVENTS THAT MICHAEL
18 GOODWIN PUT ON OR THE AFTERMATH THEREOF?

19 A YES. THE FIRST ONE IN 1984.

20 Q DESCRIBE THAT FOR US, PLEASE.

21 A WELL, IF I CAN PUT IT IN THE PROPER
22 CONTEXT. 1984 WAS THE YEAR WE HAD THE OLYMPICS AT THE
23 ROSE BOWL. THE ROSE BOWL WAS THE GOLD MEDAL GAMES OF THE
24 SOCCER. AND IT WAS ACTUALLY THE LARGEST ATTENDED VENUE
25 IN THE '84 OLYMPICS. AND ONE OF THE THINGS THAT WE WERE
26 VERY, VERY SPECIFIC ABOUT IN OUR ORIGINAL DISCUSSIONS AND
27 NEGOTIATIONS WITH MR. GOODWIN WAS THE MAINTAINING OF THE
28 FIELD.

1 IN THOSE DAYS YOU DIDN'T RE-SOD AFTER
2 EVERY EVENT. YOU MAINTAINED THE FIELD, YOU COVERED IT
3 WITH --

4 MR. SUMMERS: OBJECTION. NO QUESTION PENDING.
5 NARRATIVE, YOUR HONOR.

6 THE COURT: ALL RIGHT. ASK ANOTHER QUESTION.

7 Q BY MR. JACKSON: WHAT WAS THE -- YOU
8 MENTIONED THE SOD AND THE RE-SOD.

9 WHY IS THAT AN ISSUE WITH REGARD TO A
10 MOTORCROSS EVENT?

11 A WELL, BECAUSE WE HAD TO COVER THE GRASS.

12 Q WITH WHAT?

13 A WITH DIRT. FIRST WE COVERED IT WITH
14 PLASTIC AND THEN WITH DIRT IN THE INITIAL DAYS.

15 Q DURING THE COURSE OF COVERING THE GRASS
16 WITH PLASTIC AND DIRT, WAS THERE SOME AGREEMENT THAT THE
17 ROSE BOWL OFFICIALS, YOU SPECIFICALLY, WOULD PUT IN PLACE
18 FOR THE PROMOTER WHO WAS GOING TO RUN THE EVENT, THE
19 MOTORCROSS EVENT?

20 A SPECIFICALLY THAT THE FIELD WOULD BE
21 RETURNED IN THE CONDITION THAT IT WAS ORIGINALLY TAKEN
22 OVER. AND SPECIFICALLY THAT WHEN THEY GOT DOWN TO THE
23 FINAL STAGES OF THE REMOVAL OF THE DIRT, IT WOULD BE DONE
24 WITH HAND LABOR.

25 Q WITH REGARD TO MICHAEL GOODWIN'S PROMOTED
26 EVENT, IN 1984 SPECIFICALLY, DID MICHAEL GOODWIN MEET HIS
27 END OF THE BARGAIN AND RETURN THE FIELD IN -- I GUESS THE
28 CONDITIONS THAT WOULD BE APPROPRIATE FOR THE ROSE BOWL?

1 A NO, HE DID NOT.

2 Q AS A RESULT OF THAT, DID THE ROSE BOWL
3 UNDERGO ANY EXTRAORDINARY EXPENSE TO GET THAT FIELD BACK
4 INTO PLAYABLE ORDER?

5 A YES. WE HAD TO -- WE WERE UNDER A LOT OF
6 TIME CONSTRAINTS. WE HAD TO COMPLETELY RE-SOD THE FIELD.

7 Q MR. JACOBS, HAD YOU EVER MET MICKEY
8 THOMPSON?

9 A YES, I HAVE.

10 Q WHEN DID YOU FIRST MEET MICKEY THOMPSON?

11 A I'M NOT SURE THE EXACT YEAR. IT WAS IN
12 '86, '87, RIGHT IN THAT PERIOD OF TIME, I BELIEVE.

13 Q DID YOU KNOW MICKEY THOMPSON
14 PROFESSIONALLY OR SOCIALLY, OR BOTH?

15 A WELL, I THINK AFTER THAT I KNEW HIM BOTH.

16 Q OKAY. YOU INITIALLY MET HIM -- I'M
17 ASSUMING FROM YOUR ANSWER THAT THAT INITIAL MEETING WAS A
18 PROFESSIONAL MEETING?

19 A YES. HE INVITED ME TO POMONA TO SEE HIS
20 EVENT.

21 Q DID YOU GO TO HIS EVENT?

22 A YES, I DID.

23 Q WERE YOU IMPRESSED --

24 A ABSOLUTELY.

25 Q -- WITH HIM AS A PROMOTER?

26 A YES.

27 MS. SARIS: OBJECTION. RELEVANCE.

28 THE COURT: WHAT'S THE RELEVANCE?

1 MR. JACKSON: I'M SORRY, YOUR HONOR?

2 THE COURT: THE OBJECTION WAS RELEVANCE.

3 MR. JACKSON: YOUR HONOR, I'LL MOVE ON.

4 THE COURT: OKAY.

5 Q BY MR. JACKSON: DID YOU ALSO GET TO KNOW
6 HIM AFTER THAT SOCIALLY?

7 A YES, I DID.

8 Q AFTER THE POMONA EVENT THAT YOU JUST
9 DESCRIBED?

10 A YES.

11 Q HOW WOULD YOU DESCRIBE MR. THOMPSON IN
12 TERMS OF HIS PROFESSIONAL BUSINESS DEALINGS?

13 MR. SUMMERS: OBJECTION, YOUR HONOR. RELEVANCE.

14 THE COURT: OVERRULED.

15 Q BY MR. JACKSON: GO AHEAD.

16 A WELL, I WOULD DO BUSINESS WITH MICKEY
17 THOMPSON ON A HANDSHAKE. HE WAS ONE OF THE MOST
18 HONORABLE BUSINESSMAN I'VE EVER DEALT WITH.

19 Q HOW WOULD YOU DESCRIBE YOUR BUSINESS
20 DEALINGS WITH MR. GOODWIN ON A PROFESSIONAL BASIS?

21 MR. SUMMERS: OBJECTION, YOUR HONOR. RELEVANCE.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER.

24 Q BY MR. JACKSON: GO AHEAD, SIR.

25 A WELL, AFTER THAT INCIDENT THAT WE HAD, I
26 WAS VERY APPREHENSIVE. I CONSIDERED THAT MIKE WOULD
27 RATHER CHEAT YOU OUT OF A THOUSAND DOLLARS THAN MAKE
28 10,000 WITH YOU LEGALLY.

1 Q BASED ON YOUR ASSESSMENT -- LET ME ASK YOU
2 THIS, MR. JACOBS, WERE YOU IN A POSITION TO ASSIST ROSE
3 BOWL OFFICIALS IN DETERMINING WHO WOULD GET THAT MOTOR
4 SPORTS CONTRACT EVENT FOR THE YEAR?

5 A YES. ULTIMATELY, IT WAS THE CITY COUNCIL
6 AND I WOULD MAKE A RECOMMENDATION TO THE CITY COUNCIL.

7 Q AND WAS YOUR RECOMMENDATION TAKEN
8 SERIOUSLY BY THE CITY COUNCIL?

9 A I DON'T THINK THEY EVER --

10 Q OVERRULED YOU?

11 A -- OVERRULED ME ON A SPECIFIC EVENT THAT I
12 RECOMMENDED.

13 Q I WANT TO DRAW YOUR ATTENTION TO NOVEMBER
14 24TH OF 1986.

15 YOUR HONOR, MAY I HAVE JUST A MOMENT.
16 THERE'S A COUPLE OF DOCUMENTS THAT I NEED TO MARK.

17 (PAUSE IN PROCEEDINGS.)

18 MR. JACKSON: THANK YOU FOR YOUR PATIENCE.

19 YOUR HONOR, I HAD SOMEBODY COUNT ONE OF
20 THESE DOCUMENTS. I DIDN'T WANT TO STAND HERE AND COUNT
21 THEM OVER AGAIN. I'M HOLDING THREE DOCUMENTS, YOUR
22 HONOR. THE FIRST IS A CERTIFIED DOCUMENT FROM THE CITY
23 OF PASADENA THAT PURPORTS TO BE THE MINUTES FROM NOVEMBER
24 24TH, 1986.

25 THE COURT: DO YOU WANT THAT MARKED?

26 MR. JACKSON: YES, YOUR HONOR. I APOLOGIZE.
27 IT'S AN 11-PAGE DOCUMENT STAPLED. I'D LIKE TO HAVE THIS
28 MARK AS PEOPLE'S NEXT IN ORDER.

1 THE COURT: THAT WILL BE 7.

2
3 (MARKED FOR IDENTIFICATION PEOPLE'S
4 EXHIBIT NO. 7, DOCUMENTS.)
5

6 MR. JACKSON: THANK YOU. I'LL PLACE A P-7 ON THE
7 UPPER LEFT-HAND CORNER ON AN ORANGE DOT.

8 THE SECOND DOCUMENT I'M HOLDING IS A
9 78-PAGE DOCUMENT. HENCE, ME NOT WANTING TO COUNT THESE
10 PAGES. IT PURPORTS TO BE A CITY OF PASADENA CONTRACT.
11 IT IS ALSO A CERTIFIED COPY DOCUMENT. I WOULD ASK THAT
12 THIS DOCUMENT IN ITS ENTIRETY BE MARKED AS PEOPLE'S NEXT
13 IN ORDER, PEOPLE'S 8.

14 THE COURT: SO MARKED.

15 MR. JACKSON: THANK YOU, YOUR HONOR.
16

17 (MARKED FOR IDENTIFICATION PEOPLE'S
18 EXHIBIT NO. 8, DOCUMENTS.)
19

20 MR. JACKSON: AND FINALLY, THE LAST DOCUMENT IS A
21 MULTI-PAGE DOCUMENT THAT IS ALSO A CITY OF PASADENA -- IT
22 PURPORTS TO BE A CITY OF PASADENA MINUTES FROM THE BOARD
23 OF DIRECTORS. IT'S CERTIFIED AND IT IS FOUR PAGES IN
24 LENGTH.

25 THE COURT: SO THAT WILL BE MARKED PEOPLE'S 9 FOR
26 IDENTIFICATION.
27

28 (MARKED FOR IDENTIFICATION PEOPLE'S

EXHIBIT NO. 9, DOCUMENTS.)

MR. JACKSON: THANK YOU, YOUR HONOR. I'M PLACING A P-9 ON THE UPPER LEFT-HAND CORNER OF THAT DOCUMENT AS WELL.

Q I'M SORRY ABOUT THAT, MR. JACOBS. PART OF BEING A LAWYER.

LET ME DRAW YOUR ATTENTION TO NOVEMBER OF 1986. YOU INDICATED THAT IN THE EARLY YEARS OF MOTOR SPORTS EVENTS BEING RUN AT THE ROSE BOWL, MIKE GOODWIN WAS BASICALLY THE PERSON WHO RAN THOSE EVENTS.

A THAT'S CORRECT.

MR. SUMMERS: OBJECTION, YOUR HONOR. MISSTATES THE EVIDENCE.

THE COURT: ALL RIGHT. I'M GOING TO SUSTAIN THE OBJECTION.

Q BY MR. JACKSON: DESCRIBE ONE MORE TIME DURING THE EARLY YEARS WHEN YOU GOT THERE, 1984 UP TO 1986, WHO WAS IT THAT HAD BASICALLY THE EXCLUSIVE CONTRACT FOR RUNNING MOTOR SPORTS EVENTS AT THE ROSE BOWL?

MR. SUMMERS: OBJECTION. LEADING.

THE COURT: OVERRULED.

YOU CAN ANSWER.

THE WITNESS: MR. GOODWIN.

Q BY MR. JACKSON: ALL RIGHT. NOW IN 1986, DID THE ROSE BOWL OFFICIALS TAKE BIDS FROM MULTIPLE PROMOTERS FOR THE 1987 -- MAY OF 1987 ROSE BOWL EVENT?

1 A THAT'S CORRECT.

2 Q TAKING A LOOK AT --

3 MR. JACKSON: MAY I APPROACH THE WITNESS, YOUR
4 HONOR?

5 THE COURT: YES.

6 Q BY MR. JACKSON: TAKING A LOOK AT WHAT HAS
7 BEEN MARKED AS PEOPLE'S 7. I WILL ASK YOU TO LOOK AT THE
8 FOURTH PAGE ON PEOPLE'S 7 AND TELL ME, FIRST OF ALL, IF
9 YOU RECOGNIZE THE DOCUMENT THAT'S BEEN MARKED AS
10 PEOPLE'S 7?

11 A YES, I DO.

12 Q HOW DO YOU RECOGNIZE THAT DOCUMENT?

13 A IT'S THE CITY COUNCIL MINUTES, AGENDA.

14 Q AND ARE THOSE DOCUMENTS OR THOSE MINUTES
15 KEPT IN THE ORDINARY COURSE OF BUSINESS WHEN THE CITY
16 COUNCIL MEETS AND DETERMINES THINGS THAT ARE GOING TO
17 AFFECT THE CITY?

18 A THAT'S CORRECT.

19 Q AND IS THE ROSE BOWL PART OF THE SUBJECT
20 MATTER THAT'S DISCUSSED AT THESE MEETINGS?

21 A THAT'S CORRECT.

22 Q TAKING A LOOK AT PAGE 4 ON PEOPLE'S 7. IS
23 THERE ANY INDICATION THAT THE ROSE BOWL MOTOR SPORTS
24 EVENT WAS DISCUSSED OR DETERMINED OR DECIDED BY THE
25 PASADENA CITY COUNCIL SOME TIME IN NOVEMBER OF '86?

26 A YES. THE CITY COUNCIL APPROVED THE EVENT
27 AND APPROVED THE SELECTION OF MICKEY THOMPSON
28 ENTERTAINMENT GROUP TO PUT ON THAT EVENT.

1 Q BASED ON YOUR REVIEW OF THIS OFFICIAL
2 DOCUMENT, IS IT YOUR RECOLLECTION -- LET ME ASK IT THIS
3 WAY, BASED ON YOUR REVIEW OF THIS OFFICIAL DOCUMENT, WHAT
4 IS YOUR RECOLLECTION ABOUT THE MAY 1987 ROSE BOWL EVENT
5 VISAVIS MOTOR SPORTS? WHO GOT THAT CONTRACT?

6 A MICKEY THOMPSON.

7 Q I'M HOLDING A SECOND DOCUMENT THAT'S BEEN
8 MARKED AS PEOPLE'S 8.

9 MAY I APPROACH THE WITNESS, YOUR HONOR?
10 THE COURT: YES.

11 Q BY MR. JACKSON: TAKE A LOOK AT THAT
12 DOCUMENT AND TELL ME IF YOU RECOGNIZE WHAT THAT IS.

13 A THIS WAS AN AMENDMENT TO THE ORIGINAL
14 AGREEMENT.

15 Q AND WHAT KIND OF AN AGREEMENT IS THAT?

16 A IT'S AN AGREEMENT TO PUT ON THE
17 MOTORCROSS.

18 Q AND IS THAT A CONTRACT BETWEEN THE CITY OF
19 PASADENA AND A PARTICULAR MOTOR SPORTS PROMOTER FOR THE
20 MAY 2ND, 1987 ROSE BOWL EVENT?

21 A YES, IT WAS.

22 Q WHO'S THE PROMOTER THAT SIGNED THAT
23 CONTRACT?

24 A THE PROMOTER WAS MICKEY THOMPSON.

25 Q SO IF MY UNDERSTANDING IS CORRECT, THIS IS
26 THE ACTUAL CONTRACT THAT MICKEY THOMPSON GOT?

27 A THAT'S CORRECT.

28 Q DID MICKEY THOMPSON RUN THE EVENT IN 1987?

1 A YES, HE DID.

2 Q WAS IT SUCCESSFUL?

3 A YES, IT WAS.

4 Q TAKING A LOOK AT -- AND BY THE WAY, DO
5 PROMOTERS COME TO THE CITY OF PASADENA OR YOU, THE
6 GENERAL MANAGER OF THE ROSE BOWL, WELL IN ADVANCE IN
7 ORDER TO SECURE THE CONTRACT FOR EITHER MONTHS IN ADVANCE
8 OR YEARS IN ADVANCE?

9 A BASICALLY WE'RE IN A REACTIVE MODE AT THE
10 STADIUM. THE PROMOTERS COME TO US.

11 Q TAKE A LOOK AT PEOPLE'S 9.

12 YOUR HONOR, ONE MORE TIME?

13 THE COURT: YES.

14 Q BY MR. JACKSON: TAKING A LOOK AT
15 PEOPLE'S 9, WHAT DOES THAT DOCUMENT PURPORT TO BE?

16 A THIS IS A MINUTES OF A SPECIAL MEETING OF
17 CITY COUNCIL.

18 Q AND WHAT'S THE DATE ON THOSE MINUTES?

19 A FEBRUARY 29TH, 1988.

20 Q IN FEBRUARY OF 1988, DID MICKEY THOMPSON,
21 ONCE AGAIN, MAKE APPLICATION WITH THE CITY OF PASADENA TO
22 RUN THE 1988 EVENT, MOTOR SPORTS EVENT AT THE ROSE BOWL?

23 A YES, HE DID.

24 Q AND BASED ON THAT OFFICIAL DOCUMENT, WHAT
25 WAS THE RESULT OF HIS APPLICATION?

26 A HE WAS APPROVED.

27 Q SO MICKEY THOMPSON WAS SUPPOSED TO RUN THE
28 1988 -- THE SUMMER OF 1988 EVENT AS WELL?

1 A THAT'S CORRECT.

2 Q DID MICKEY THOMPSON RUN THAT EVENT,
3 MICKEY THOMPSON HIMSELF?

4 A I DON'T KNOW.

5 Q HE WAS DEAD BEFORE THAT EVENT WAS RUN;
6 CORRECT?

7 A THAT'S CORRECT.

8 Q ALL RIGHT. AT THE -- WERE YOU AT THE
9 ACTUAL 1986 PASADENA CITY COUNCIL MEETING AT WHICH TIME
10 MICKEY THOMPSON WAS AWARDED THE MAY OF 1987 EVENT?

11 A YES. I NEED TO MAKE ONE CLARIFICATION FOR
12 THE RECORD, IF I MAY, PLEASE.

13 Q PLEASE.

14 A WHEN WE BEGAN THESE INITIAL DISCUSSIONS, I
15 WAS THE GENERAL MANAGER OF THE ROSE BOWL. IN 1986 -- AND
16 SOMETIME IN 1986 OR '87, I BELIEVE IT WAS '86, I WAS
17 PROMOTED TO DIRECTOR OF THE COMMUNITY SERVICES AGENCY. I
18 HAD THE HEALTH DEPARTMENT, THE LIBRARY, RECREATION AND
19 THE ROSE BOWL. AND I MAINTAINED -- EVEN THOUGH THERE WAS
20 A GENERAL MANAGER, I MAINTAINED A HANDS-ON RELATIONSHIP
21 WITH THEM.

22 Q THANK YOU FOR THAT CLARIFICATION,
23 MR. JACOBS.

24 IN 1986, I WANT TO DRAW YOUR ATTENTION
25 BACK TO THAT SPECIFIC MEETING, THE MEETING AMONG THE CITY
26 COUNCIL MEMBERS WHEN MICKEY THOMPSON WAS AWARDED THE
27 CONTRACTOR, OR M.T.E.G., MICKEY THOMPSON ENTERTAINMENT
28 GROUP WAS AWARDED THAT CONTRACT.

1 DID YOU SEE MICKEY THOMPSON AT THAT
2 MEETING OR OUT IN THE HALLWAY?

3 A I SAW HIM OUT IN THE HALLWAY AFTER THE
4 ITEM WAS APPROVED.

5 Q WAS MICHAEL GOODWIN AT THAT MEETING OUT IN
6 THE HALLWAY?

7 A YES, HE WAS.

8 Q WHAT WAS MICKEY THOMPSON'S DEMEANOR WHEN
9 HE WAS NOTIFIED THAT HE HAD WON THE 1987 CONTRACT?

10 A AFTER I MADE MY RECOMMENDATION, I CAME OUT
11 AND ADVISED BOTH MR. GOODWIN AND MR. THOMPSON THAT MICKEY
12 HAD -- AND THEY WERE NOT TOGETHER, THEY WERE STANDING
13 SEPARATELY -- MICKEY ACTUALLY HAD TEARS IN HIS EYES. HE
14 WAS SO -- I DON'T KNOW HOW TO EXPRESS HIS FEELING, BUT HE
15 WAS SO EXCITED AND SO HAPPY, HE LITERALLY HAD TEARS IN
16 HIS EYES.

17 Q AND WHAT WAS MR. GOODWIN'S REACTION?

18 A MR. GOODWIN SEEMED VERY ANGRY AND UPSET
19 ABOUT THE FACT THAT HE DIDN'T PREVAIL IN THAT PARTICULAR
20 INSTANCE.

21 Q BEFORE HIS DEATH, DID MICKEY THOMPSON EVER
22 APPROACH YOU WITH ANY KIND OF A PLAN OR IDEA FOR MOTOR
23 SPORTS PROMOTIONS WITH REGARD TO PASADENA ROSE BOWL AND
24 OTHER SOUTHERN CALIFORNIA VENUES?

25 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

26 THE COURT: WHAT IS THE OFFER?

27 MR. JACKSON: YOUR HONOR, IF I MAY WE APPROACH.
28

1 (PROCEEDINGS HELD AT SIDEBAR.)

2 THE COURT: OKAY. WE'RE AT THE SIDEBAR.

3 MR. JACKSON: YOUR HONOR, MY OFFER OF PROOF IS
4 THAT MICKEY THOMPSON -- ACCORDING TO THIS WITNESS, MICKEY
5 THOMPSON APPROACHED THE WITNESS IN HIS CAPACITY AS THE
6 MANAGER OF THE ROSE BOWL -- OR WHATEVER HE SAID HIS
7 LATEST TITLE WAS -- WITH THE PLAN THAT MICKEY THOMPSON
8 ENTERTAINMENT GROUP WOULD GET AN EXCLUSIVE FIVE-YEAR
9 CONTRACT AT A THREE VENUE -- A SERIES OF VENUES, THREE
10 VENUES THROUGHOUT SOUTHERN CALIFORNIA, SAN DIEGO, ANAHEIM
11 AND THE ROSE BOWL.

12 THAT THAT WAS NOT PRIVATE KNOWLEDGE. THAT
13 MICKEY THOMPSON'S INTENTIONS WERE SOMEWHAT PUBLIC AND
14 THAT HE HAD AGREED, IN FACT AND IN PRINCIPAL, TO GIVE
15 MICKEY THOMPSON A FIVE-YEAR EXCLUSIVE. BUT THAT WOULD
16 HAVE BASICALLY RUN MICHAEL GOODWIN OUT OF THE MOTOR
17 SPORTS PROMOTION BUSINESS ALTOGETHER IN SOUTHERN
18 CALIFORNIA. THIS WAS IN 1987 -- I'M SORRY, EITHER LATE
19 '87 OR EARLY '88. IT WAS EARLY '88.

20 THE COURT: OKAY.

21 MR. SUMMERS: WHICH THE CITY DECLINED THE OPTION.

22 MR. JACKSON: BECAUSE HE WAS DEAD.

23 MR. SARIS: AND THERE'S NO INDICATION THAT
24 MICHAEL KNEW ABOUT THIS MEETING, THEREFORE --

25 THE COURT: WELL, IT'S CLEARLY RELEVANT IN TERMS
26 OF WHETHER OR NOT THE DEFENDANT HAD --

27 MS. SARIS: WAS STANDING THERE.

28 THE COURT: HANG ON.

1 -- WHETHER OR NOT HE HAD THE INFORMATION.
2 SO IS THERE ANY WAY OF LAYING THE FOUNDATION AS TO THIS
3 DISCUSSION?

4 MR. JACKSON: MICHAEL GOODWIN WAS NOT -- I MEAN,
5 I COULD ASK THE WITNESS WAS MICHAEL GOODWIN PRESENT
6 DURING THESE DISCUSSIONS OR WHEN YOU AGREED IN FACT OR IN
7 PRINCIPAL. I DON'T KNOW WHAT THE ANSWER TO THAT IS.
8 I'VE NEVER ASKED HIM. OR IF HE SPECIFICALLY NOTIFIED
9 MICHAEL GOODWIN, I DON'T KNOW WHAT THE ANSWER IS TO THAT
10 EITHER. MAYBE WE CAN ASK HIM OUT OF THE PRESENCE OF THE
11 JURY. BUT I BELIEVE THAT -- I MEAN, IT'S MY IMPRESSION
12 THAT THAT CERTAINLY GOES TO THE WEIGHT, NOT THE
13 ADMISSIBILITY.

14 THE COURT: BUT TELL ME HOW IT'S RELEVANT IF HE
15 DIDN'T KNOW, IF MR. GOODWIN DIDN'T KNOW.

16 MR. JACKSON: WELL, IT'S NO DIFFERENT THAN -- I
17 MEAN, IF MR. GOODWIN HAD ALREADY SAILED AWAY AND OFF TO
18 BERMUDA, IT WOULDN'T BE RELEVANT. BUT MY UNDERSTANDING
19 IS THIS OFFER WAS MADE BEFORE MICKEY THOMPSON WAS KILLED.
20 AND IT MAY HAVE HAD SOME IMPACT ON MIKE GOODWIN'S BELIEF
21 THAT MICKEY THOMPSON WAS RUNNING HIM INTO THE GROUND OR
22 DESTROYING HIM. I DON'T KNOW IF MIKE GOODWIN WAS TOLD BY
23 THIS WITNESS; IF MICKEY THOMPSON BRAGGED; IF IT BECAME
24 PUBLIC KNOWLEDGE, I JUST DON'T KNOW.

25 MS. SARIS: BUT IN ORDER TO ASK HIM IF HE
26 BRAGGED, YOU HAVE TO MENTION THE CONTRACT AND THE
27 NEGOTIATIONS OF WHICH MICHAEL WASN'T PRIVY. AND THIS
28 WITNESS HAS ALREADY OFFERED THROUGH COUNSEL OPENING THIS

1 DOOR -- AND WE TRIED TO OBJECT AND THE COURT LET IT IN --
2 THAT MICHAEL'S A CHEAT, HE JUST AS SOON CHEAT YOU OUT OF
3 MONEY, PURE CHARACTER EVIDENCE.

4 SO ANY QUESTIONS OF THIS WITNESS HAVE TO
5 BE AWAY FROM THE JURY. HE OBVIOUSLY HAS A BONE TO PICK.
6 I THINK COUNSEL KNEW THAT WAS COMING. AND IT'S --

7 THE COURT: I CAN'T DRAW THAT CONCLUSION AT THIS
8 POINT. BUT THE OBJECTION IS OVERRULED. LET'S TRY TO
9 KEEP HIS ANSWERS LIMITED, PLEASE.

10 MR. JACKSON: YES, YOUR HONOR.

11 (SIDEBAR CONCLUDED.)

12
13 MR. JACKSON: THANK YOU, YOUR HONOR. MAY I?

14 Q MR. JACOBS, DID MICKEY THOMPSON COME TO
15 YOU WITH ANY KIND OF A PLAN BEFORE HIS DEATH CONCERNING
16 SOUTHERN CALIFORNIA AND MOTOR SPORTS EVENTS HERE IN
17 SOUTHERN CALIFORNIA?

18 A YES. SOMETIME AFTER THE LAST MOTORCROSS
19 AND SOMETIME BEFORE HIS DEATH, IN THAT PERIOD, MICKEY
20 APPROACHED ME AND INDICATED THAT HE WAS VERY MUCH
21 INTERESTED IN PUTTING ON A THREE-STADIUM EVENT THAT WOULD
22 BE BASICALLY A SERIES. IT WOULD BE THE CITIES -- OR THE
23 STADIUMS AT ANAHEIM, SAN DIEGO AND PASADENA.

24 AND THAT HE WANTED TO PUT TOGETHER A
25 FIVE-YEAR CONTRACT THAT WOULD GIVE HIM THE EXCLUSIVE
26 RIGHTS TO PROMOTE MOTORCROSS AT THE ROSE BOWL FOR THOSE
27 FIVE YEARS. AND THAT HE WOULD GUARANTEE US A SANCTIONED
28 EVENT THAT WOULD BE PART OF THAT THREE EVENT SERIES.

1 Q WHAT IS THE SIGNIFICANCE OF A SANCTIONED
2 EVENT?

3 A WELL, THE EVENTS ARE SANCTIONED BY THE
4 MOTORCYCLE ORGANIZATIONS THAT OVERSEE THE EVENTS. THE
5 SANCTIONED EVENTS ARE THE ONES WHERE THE TOP RIDERS COME.
6 THEY DON'T EARN POINTS IN NON-SANCTIONED EVENTS. AND
7 THEY GET A GREATER EXPOSURE IN A SANCTIONED EVENT.

8 Q ARE YOU AWARE OF ANY OF THE SANCTIONING
9 BODIES?

10 A YOU KNOW, I DON'T RECALL THE NAMES OF
11 THEM. THEY WERE AMERICAN MOTORCYCLE ASSOCIATION.

12 Q SO A.M.A. WAS ONE?

13 A YES.

14 Q DOES THE NAME INSPORT SOUND FAMILIAR TO
15 YOU?

16 A I'M SORRY. IT'S BEEN SO MANY YEARS, I
17 JUST DON'T RECALL.

18 Q THAT'S OKAY.

19 HAD YOU AGREED EITHER IN FACT OR IN
20 PRINCIPAL TO THIS FIVE-YEAR EXCLUSIVE THREE-STADIUM
21 CONTRACT THAT INCLUDED THE ROSE BOWL FOR YOUR PART?

22 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER.

25 THE WITNESS: I AGREED IN THEORY. OF COURSE, IT
26 HAD TO ULTIMATELY BE APPROVED BY THE CITY COUNCIL. BUT I
27 WAS PREPARED TO SUPPORT IT IN FRONT OF THE CITY COUNCIL.

28 Q BY MR. JACKSON: AND YOUR UNDERSTANDING IN

1 YOUR CAPACITY AS THE MANAGER OF THE ROSE BOWL, THIS
2 FIVE-YEAR EXCLUSIVE CONTRACT, WHAT EFFECT WOULD THAT HAVE
3 HAD ON OTHER MOTOR SPORTS PROMOTERS THAT TRIED TO GET
4 INTO THE ROSE BOWL OR ANAHEIM OR SAN DIEGO?

5 A AGAIN, AT THIS TIME I WAS THE DIRECTOR OF
6 THE COMMUNITY SERVICES AGENCY --

7 Q MY MISTAKE. I APOLOGIZE.

8 A -- THAT THE ROSE BOWL WAS PART OF.

9 Q THANK YOU.

10 A IT WOULD HAVE TOTALLY PRECLUDED ANY OTHER
11 PROMOTER FROM PUTTING ON A MOTORCROSS AT THE ROSE BOWL.

12 Q DID YOU EVER ENTER INTO THIS FORMAL
13 AGREEMENT WITH MICKEY THOMPSON?

14 A NO. HE WAS SUBSEQUENTLY KILLED BEFORE WE
15 PROCEEDED.

16 Q THANK YOU.

17 THAT'S ALL I HAVE, YOUR HONOR.

18 THE COURT: CROSS-EXAMINATION?

19
20 CROSS-EXAMINATION

21 BY MR. SUMMERS:

22 Q MR. JACOBS, STARTING OUT WITH WHAT YOU
23 JUST FINISHED WITH, YOU INDICATED THAT THE REASON THE
24 FIVE-YEAR -- THIS FIVE-YEAR OPTION DIDN'T GO THROUGH WAS
25 BECAUSE MICKEY THOMPSON WAS NO LONGER ALIVE; IS THAT
26 CORRECT?

27 A THAT'S CORRECT.

28 Q IN FACT, THE COMPANY -- YOU KNOW THE NAME

1 OF MICKEY THOMPSON'S COMPANY THAT DID PROMOTIONS?

2 A IT WAS MICKEY THOMPSON ENTERTAINMENT
3 GROUP, I BELIEVE.

4 Q OKAY. AND ALSO KNOWN AS M.T.E.G.?

5 A YES.

6 Q IN FACT, DIDN'T M.T.E.G., HIS COMPANY, PUT
7 ON A RACE IN MAY OF 1988?

8 A I DON'T RECALL A SPECIFIC YEAR.

9 Q WELL, WE DO HAVE THE EXHIBITS?

10 SO YOU DON'T RECALL WHETHER OR NOT AFTER
11 MICKEY THOMPSON'S DEATH, M.T.E.G. PUT ON ANY EVENT AT THE
12 ROSE BOWL?

13 A YES. THERE WAS A MOTORCROSS AFTER HIS
14 DEATH.

15 Q PUT ON BY THE COMPANY M.T.E.G.?

16 A I DON'T REMEMBER WHETHER IT WAS UNDER THAT
17 NAME. I REMEMBER MS. COLLINS WAS THE PRIMARY PERSON
18 INVOLVED.

19 Q YOU MEAN COLLENE CAMPBELL?

20 A I MEAN CAMPBELL, YES.

21 Q MICKEY THOMPSON'S SISTER?

22 A THAT'S CORRECT.

23 Q SO SHE WAS INVOLVED OR IN A COMPANY THAT
24 PUT ON SOME TYPE OF EVENTS INVOLVING MOTOR VEHICLES AFTER
25 MICKEY THOMPSON'S DEATH AT THE ROSE BOWL?

26 A YES. THE THING THAT I SPECIFICALLY RECALL
27 ABOUT THAT EVENT IS IT WAS AN EVENT TO HELP RAISE FUNDS
28 FOR VICTIMS OF CRIME.

1 Q DO YOU RECALL ANY OTHER EVENTS PUT ON BY
2 MICKEY THOMPSON'S ASSOCIATED COMPANY AFTER HIS DEATH?

3 A NO.

4 Q I WANTED TO SHOW YOU AN EXHIBIT THAT
5 YOU'VE ALREADY LOOKED AT WHEN MR. JACKSON WAS QUESTIONING
6 YOU. AND THAT WOULD BE PEOPLE'S 7.

7 MAY I APPROACH, YOUR HONOR?

8 THE COURT: YES.

9 Q BY MR. SUMMERS: AND WHAT THAT IS, JUST TO
10 REMIND YOU, IS THE MINUTES FROM THE NOVEMBER 24, '86
11 MEETING. THE SPECIFIC ENTRY WITH REGARD TO MICKEY
12 THOMPSON THAT'S IN THAT -- IN THESE DOCUMENTS, WHAT
13 EXACTLY DOES IT SAY WITH REGARD TO MICKEY THOMPSON?

14 A DO YOU WANT ME TO READ THE WHOLE THING
15 OR --

16 Q JUST IF YOU COULD, JUST IN THE LEFT
17 COLUMN, IS THERE A TITLE FOR THE PROCEEDING THAT TOOK
18 PLACE THAT DAY WITH REGARD TO MICKEY THOMPSON?

19 A WELL, IT WAS A RECOMMENDATION FROM THE
20 OFFICERS AND DEPARTMENTS. AND DIRECTOR HOUSTON MADE A
21 RECOMMENDATION THAT THE CITY MANAGER'S REPORT BE APPROVED
22 AND RECOMMENDATIONS BE APPROVED.

23 Q IS THERE ANYTHING IN THERE THAT SAYS THAT
24 MICKEY THOMPSON WAS OFFICIALLY AWARDED THE CONTRACT TO DO
25 THE SHOW?

26 A YES. "BY MOTION OF DIRECTOR HOUSTON AND
27 SECONDED BY DIRECTOR COLE, ITEM NO. 1, AUTHORIZE THE CITY
28 MANAGER TO EXECUTE AN AGREEMENT WITH MICKEY THOMPSON

1 ENTERTAINMENT GROUP FOR USE OF THE ROSE BOWL, MAY 2ND,
2 1987."

3 Q DOES IT MAKE ANY MENTION OF MICHAEL
4 GOODWIN OR A BID BY MICHAEL GOODWIN IN THE MINUTES OF THE
5 MEETING?

6 A NO, IT DOES NOT.

7 Q IN FACT, LET ME JUST ASK YOU: AT THAT
8 TIME WHEN YOU WENT OUTSIDE AND YOU TOLD MICKEY THOMPSON
9 THAT THE CITY HAD DECIDED TO GO WITH HIM, YOU SAID HE WAS
10 VERY EMOTIONAL AND VERY HAPPY ABOUT THAT?

11 A THAT'S CORRECT.

12 Q AND WAS IT YOUR UNDERSTANDING THAT THAT
13 WAS BECAUSE THIS WAS THE FIRST TIME HE HAD BEEN ABLE TO
14 PUT ON A SHOW AT THE ROSE BOWL?

15 A NO. IT WAS MY UNDERSTANDING THAT HE WAS
16 ELATED THAT HE HAD PREVAILED BETWEEN THE TWO PROMOTERS.

17 Q IN FACT, HE PUT ON A SHOW EARLIER IN 1986,
18 IN MAY OF 1986, AT THE ROSE BOWL; CORRECT?

19 A THAT'S CORRECT.

20 Q AND, IN FACT, WHAT MICKEY THOMPSON PUT
21 ON -- THE TYPE OF SHOWS HE PUT ON INVOLVED FOUR-WHEEL
22 VEHICLES, DIDN'T THEY, THE ONES THAT HE PUT ON AT THE
23 ROSE BOWL?

24 A THAT'S CORRECT.

25 Q SORRY?

26 A YES. I BELIEVE THERE WERE MOTORCYCLES
27 INVOLVED, TOO.

28 Q BUT PRIMARILY -- IN FACT, EVEN WHAT IT

1 SAYS IN THE CONTRACT, IT REFERS TO OFF-ROAD RACING
2 VEHICLES; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q AND, IN FACT, THAT WAS THE NAME OF THE
5 EVENT, WAS THE OFF-ROAD RACING SERIES?

6 A THAT'S CORRECT.

7 Q YOU INDICATED THAT WHEN PEOPLE PUT UP
8 THESE BIDS, DOES THE CITY ESSENTIALLY OUTLINE ITSELF? IS
9 THIS A ONE-WAY STREET OR DOES THE CITY SAY ESSENTIALLY
10 WHAT THE MINIMUM REQUIREMENTS ARE GOING TO BE WITH REGARD
11 TO RENT OR CONCESSIONS OR ANY OF THAT SORT OF THING?

12 A WELL, THEY'RE BASICALLY OPEN TO
13 NEGOTIATION. NORMALLY THE FIRST STEP IS PROMOTERS COME
14 IN AND SUBMIT A BID. AND IN THIS PARTICULAR CASE, THEN
15 IT'S UP TO ME TO NEGOTIATE THE BEST DEAL FOR THE CITY.
16 AND THAT DEALS WITH CONCESSION, PARKING, SEATING, TAX,
17 THINGS OF THAT NATURE.

18 Q AND BASICALLY ONE OF THE THINGS YOU
19 NEGOTIATE IS WHAT FEE THAT THE PROMOTER WILL PAY YOU --
20 OR PAY THE CITY OR PAY THE ROSE BOWL IN ORDER TO PUT ON
21 THAT EVENT?

22 A THAT'S CORRECT.

23 Q AND THAT'S CALLED A RENTAL FEE?

24 A THAT'S CORRECT. IT'S ACTUALLY CALLED A
25 LICENSE AGREEMENT UNDER THE CITY'S TERMINOLOGY.

26 Q AND IN THE CONTRACT THAT WAS EVENTUALLY
27 SIGNED, I BELIEVE IS CONTAINED WITHIN PEOPLE'S 8 THAT YOU
28 ALREADY HAD A CHANCE TO LOOK AT, THE AMOUNT OF THE RENTAL

1 FEE WAS \$50,000 THAT WAS AGREED TO?

2 A I WOULD HAVE TO GO BACK AND CHECK. I'M
3 NOT SURE OF THE EXACT RENTAL FEE.

4 Q WOULD IT REFRESH YOUR RECOLLECTION TO TAKE
5 A LOOK AT THE CONTRACT?

6 A YES, IT WOULD.

7 MR. SUMMERS: MAY I APPROACH?

8 THE COURT: YES.

9 MR. SUMMERS: FOR THE RECORD, I'M HANDING THE
10 WITNESS WHAT IS CONTAINED IN PEOPLE'S NO. 8.

11 Q YOU'RE FAMILIAR WITH THE CONTRACT, SIR?

12 A YES.

13 Q WILL YOU TAKE A LOOK AND SEE, IS THERE AN
14 AGREEMENT FOR THE LICENSE OR RENTAL AGREEMENT?

15 A IT'S NORMALLY THE FIRST PORTION OF THE --

16 MR. SUMMERS: IF I MAY, YOUR HONOR.

17 Q PAGE 7, ARTICLE 2.

18 A PAGE 7.

19 Q WHERE IT SAYS ARTICLE 2.

20 A I STILL HAVEN'T FOUND THE EXACT AMOUNT TO
21 BE DEPOSITED.

22 Q DOES 50,000 SOUND ABOUT RIGHT?

23 A THAT'S CORRECT.

24 Q ALSO, WAS THERE A STIPULATION IN THE
25 CONTRACT THAT TEN DAYS AHEAD OF THE EVENT THAT THE
26 PROMOTER WOULD HAVE TO DEPOSIT IN ESCROW OF 200,000?

27 A THAT'S CORRECT.

28 Q AND THAT \$200,000 WOULD AUTOMATICALLY --

1 IS DESIGNED AUTOMATICALLY TO COME OUT OF TICKET SALES
2 LEADING UP TO THE EVENT; IS THAT CORRECT?

3 A THAT'S CORRECT.

4 Q AND IF, IN FACT, \$200,000 HADN'T BEEN
5 GENERATED IN TICKET SALE TEN DAYS BEFORE THE EVENT, THEN
6 THE PROMOTER WAS REQUIRED TO DEPOSIT HIS OWN MONEY TO
7 MAKE UP THE DIFFERENCE; IS THAT CORRECT?

8 A TO THE BEST OF MY RECOLLECTION, YES.

9 Q THERE WAS ALSO AGREEMENTS AND STIPULATIONS
10 WITH REGARD TO HOW LONG THE EVENT COULD GO ON BECAUSE OF
11 THE CONCERN ABOUT NOISE IN THE NEIGHBORHOOD; IS THAT
12 RIGHT?

13 A YES. THERE WERE PENALTIES IF IT DIDN'T
14 END AT A PARTICULAR POINT IN TIME.

15 Q DOES \$2,000 A MINUTE RING A BELL?

16 A THAT'S CORRECT.

17 Q THE EVENTS THAT MICHAEL GOODWIN PUT ON, DO
18 YOU RECALL WHETHER THERE WAS MORE THAN ONE?

19 A I KNOW THERE WAS AN '84, I BELIEVE '85 OR
20 '86.

21 Q SO AT THE MOST, YOU'RE SAYING THREE
22 EVENTS?

23 A TWO. I BELIEVE IT WAS TWO TO THE BEST OF
24 MY RECOLLECTION. I'M SORRY. I JUST DON'T RECALL.

25 Q SO NOT TEN YEARS WORTH OF EVENTS?

26 A I'M SORRY, SIR?

27 Q NOT TEN YEARS WORTH OF EVENTS?

28 A NO.

1 Q AND THIS -- ON ITS TERM, THESE WERE NOT
2 EXCLUSIVE CONTRACTS, WERE THEY?

3 A THEY WERE EXCLUSIVE LICENSE AGREEMENTS FOR
4 THAT PARTICULAR DATE.

5 Q FOR THAT DAY?

6 A YES.

7 Q YOU COULDN'T PUT ON AN EVENT WITH A
8 DIFFERENT PROMOTER THAT SAME DAY?

9 A THAT'S CORRECT.

10 Q BUT IN TERMS OF THE REST OF THE YEAR,
11 THERE WAS NOTHING IN THE CONTRACT THAT SAID THAT THAT WAS
12 EXCLUSIVE?

13 A THERE WAS NOTHING IN THE CONTRACT. THERE
14 WERE OTHER CONSTRAINTS.

15 Q THE CONSTRAINTS THAT MR. JACKSON WENT OVER
16 WITH YOU ABOUT THE NUMBER OF EVENTS THAT COULD BE PUT ON
17 DURING THE YEAR?

18 A THAT'S CORRECT.

19 Q BUT IT WAS UP TO THE CITY OR ROSE BOWL
20 WHETHER THEY WANTED TO PUT ON A MOTOR VEHICLE EVENT IN
21 FEBRUARY OR MOTORCYCLE EVENT IN MAY; CORRECT? IF THEY
22 WANTED, IF THEY COULD FIT IT INTO THAT ALLOTTED NUMBER?

23 A WELL, NOT TO SOUND TOO TECHNICAL, BUT
24 FEBRUARY WE WOULDN'T PUT ON EVENT BECAUSE YOU COULDN'T DO
25 A RE-SOD IN FEBRUARY. THE GRASS WOULDN'T GROW.

26 Q WELL, IT WAS AN EXAMPLE THAT THEY COULD
27 PUT ON MORE THAN ONE IF THEY CHOSE TO IF IT FIT INTO THE
28 ALLOTTED NUMBER OF EVENTS?

1 A THAT'S CORRECT.

2 Q AND THE EVENTS THAT MICHAEL GOODWIN DID
3 PUT ON, WERE THEY SUPERCROSS EVENTS?

4 A THAT'S CORRECT.

5 Q AND DO YOU RECALL WHETHER THOSE EVENTS
6 INVOLVED IN ANY WAY, SHAPE OR FORM ANY OTHER TYPE OF
7 VEHICLE?

8 A I DON'T RECALL WHETHER HE HAD ANY --
9 BASICALLY THEY WERE MOTORCYCLES. I DON'T RECALL WHETHER
10 HE HAD SOME 4-RUNNERS IN THERE OR NOT.

11 Q THE PRIMARY --

12 A WAS MOTORCYCLES.

13 Q -- PRESENTATION WAS MOTORCYCLES?

14 A THAT'S CORRECT.

15 Q AND THE PRIMARY PRESENTATION IN THE MICKEY
16 THOMPSON SHOWS WAS FOUR-WHEELED VEHICLES OF ALL DIFFERENT
17 TYPES?

18 A THE WHOLE PRIMARY, THAT'S CORRECT.

19 Q AND THEN HE EVEN ADDED IN FOR ONE OF THE
20 SHOWS ADDED IN A MONSTER TRUCK EXHIBIT OR EXHIBITION; IS
21 THAT CORRECT?

22 A THAT'S CORRECT.

23 Q THANK YOU.

24 I HAVE NO FURTHER QUESTIONS.

25 THE COURT: REDIRECT?

26 MR. JACKSON: ONLY ONE QUESTION.

27

28 REDIRECT EXAMINATION

1 BY MR. JACKSON:

2 Q JUST SO I'M CLEAR, MR. SUMMERS ASKED IF
3 THIS WAS AN EXCLUSIVE CONTRACT.

4 TO FOLLOW UP ON THAT: HOW MANY MOTOR
5 SPORTS EVENTS PER YEAR WERE ALLOTTED FOR ANY PROMOTERS
6 FOR THE ROSE BOWL?

7 A ONE MOTORCROSS A YEAR -- ONE MOTOR EVENT A
8 YEAR, THAT'S CORRECT.

9 Q WHETHER IT INVOLVED FOUR-WHEEL DRIVES OR
10 MOTORCYCLES OR LAWN MOWERS?

11 A THAT'S CORRECT.

12 MR. JACKSON: THAT'S ALL I HAVE.

13 THE COURT: FURTHER CROSS?

14
15 RECROSS EXAMINATION

16 BY MR. SUMMERS:

17 Q WHEN YOU SAY "ALLOTTED," YOU'VE TALKED
18 ABOUT HOW THERE COULD BE 12 MAJOR EVENTS -- 12 OR SO
19 MAJOR EVENTS A YEAR; IS THAT CORRECT?

20 A I THINK THERE WERE TWO THINGS THAT
21 DICTATED USE OF THE ROSE BOWL. NO. 1, JUST THE CITY
22 ORDINANCE THAT ALLOTTED THE 12 EVENTS; AND THEN THE
23 POLITICAL DECISIONS. AND IT WAS CLEAR TO -- MADE VERY
24 CLEAR TO ME BY THE CITY COUNCIL THAT THEY DID NOT WANT
25 MORE THAN ONE MOTORCROSS EVENT.

26 Q BUT THERE WAS NOTHING IN THE LAW OR IN THE
27 CHARTER THAT SAID THAT THAT WAS THE MAXIMUM NUMBER?

28 A NO, SIR. THERE WAS NO LEGAL BINDING RULE

1 THAT PROHIBITED IT.

2 Q THANK YOU.

3 THE COURT: ANYTHING ELSE?

4 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

5 THE COURT: ALL RIGHT. THANK YOU, SIR. THANKS
6 FOR COMING IN. YOU ARE EXCUSED.

7 THE WITNESS: THANK YOU.

8 THE COURT: ALL RIGHT. WE WILL TAKE OUR
9 AFTERNOON RECESS AT THIS TIME, 15-MINUTE BREAK.

10 LADIES AND GENTLEMEN, REMEMBER THE
11 ADMONITIONS. DON'T DISCUSS THE CASE. DON'T FORM OR
12 EXPRESS ANY OPINIONS. DON'T CONDUCT ANY DELIBERATIONS.
13 AND PLEASE DON'T TALK TO ANY OTHER WITNESSES THAT ARE
14 INVOLVED IN THIS CASE. WE WILL SEE YOU BACK HERE IN
15 15 MINUTES.

16 (BRIEF RECESS.)

17 THE COURT: THE RECORD SHOULD REFLECT ALL OUR
18 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT. THE
19 PARTIES ARE PRESENT.

20 THE PEOPLE MAY CALL THEIR NEXT WITNESS.

21 MR. DIXON: THANK YOU, YOUR HONOR. THE PEOPLE
22 WOULD CALL GREG KEAY.

23

24 GREG KEAY,

25 CALLED BY THE PEOPLE AS A WITNESS, WAS
26 SWORN AND TESTIFIED AS FOLLOWS:

27

28 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

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

5 THE WITNESS: I DO.

6 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
7 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
8 NAME FOR THE RECORD.

9 THE WITNESS: GREGORY KEAY. G-R-E-G-O-R-Y.
10 K-E-A-Y.

11 THE CLERK: THANK YOU.

12 THE COURT: YOU MAY INQUIRE.

13 MR. DIXON: THANK YOU, YOUR HONOR.

14
15 DIRECT EXAMINATION

16 BY MR. DIXON:

17 Q GOOD AFTERNOON, MR. KEAY. THANK YOU FOR
18 COMING.

19 DO YOU KNOW MICHAEL GOODWIN?

20 A YES.

21 Q HOW DO YOU KNOW HIM?

22 A HE'S MY COUSIN.

23 Q SO OBVIOUSLY YOU SEE HIM HERE IN COURT,
24 THE MAN IN A GREENISH SUIT WITH THE GLASSES ON; CORRECT?

25 A YES.

26 Q THANK YOU.

27 INVITING YOUR ATTENTION BACK TO 1988. HAD
28 YOU EVER HEARD OF A PERSON BY THE NAME OF MICKEY

1 THOMPSON?

2 A I EVENTUALLY DID, YES.

3 Q DO YOU BY ANY CHANCE REMEMBER HEARING THAT
4 MICKEY THOMPSON WAS KILLED?

5 A YES.

6 Q SOME WEEKS OR MONTHS BEFORE THAT, BEFORE
7 MICKEY THOMPSON WAS KILLED THAT YOU HEARD ABOUT IT, WERE
8 YOU AT A FAMILY GATHERING AT MIKE GOODWIN'S HOUSE?

9 A YES.

10 Q WHAT KIND OF FAMILY GATHERING? CAN YOU
11 TELL US ABOUT IT.

12 A WELL, I THINK THAT IT WAS AFTER ONE OF THE
13 MOTORCROSS -- SUPERBOWL OF MOTORCROSSES. BUT I HAVE BEEN
14 THINKING AND THINKING AND I'M NOT REALLY SURE IF IT WAS
15 EVEN THEN THAT WE WENT DOWN THERE, BUT I KNOW WE ENDED UP
16 DOWN AT HIS HOUSE.

17 MY MOM AND DAD AND MYSELF IN LAGUNA BEACH.

18 Q OKAY. MIKE GOODWIN'S HOUSE WAS DOWN IN
19 LAGUNA BEACH?

20 A RIGHT.

21 Q AND YOU AND YOUR MOM AND DAD WERE DOWN AT
22 HIS HOUSE?

23 A RIGHT.

24 Q CAN YOU GIVE US AN ESTIMATE AS TO HOW MANY
25 WEEKS OR MONTHS BEFORE YOU HEARD ABOUT MICKEY THOMPSON'S
26 DEATH THAT YOU WERE DOWN THERE WITH YOUR MOM AND DAD AT
27 MIKE GOODWIN'S HOUSE?

28 A IT WAS TWO OR THREE MONTHS.

1 Q OKAY. NOW, THIS WAS A FAMILY GATHERING;
2 IS THAT CORRECT?

3 A YES.

4 Q DINNER OR FOOD?

5 A I DON'T REMEMBER WHETHER WE ATE OR NOT.

6 Q PROBABLY SOME DRINKS?

7 A I DON'T REMEMBER. I DON'T THINK SO.

8 Q OKAY. WAS THERE A CONVERSATION AMONG
9 EVERYONE?

10 A WELL, I DON'T KNOW ABOUT EVERYONE, IT WAS
11 MY DAD, MY UNCLE, MIKE AND MYSELF.

12 Q DID THE SUBJECT OF MICKEY THOMPSON COME
13 UP?

14 A YES.

15 Q WHO BROUGHT IT UP?

16 A MIKE DID.

17 Q AND WHAT DO YOU RECALL THE DEFENDANT MIKE
18 GOODWIN SAYING ABOUT THE MICKEY THOMPSON SUBJECT?

19 A HE SAID THAT MICKEY WAS OUT TO GET ALL OF
20 HIS MONEY AND BEFORE THAT WOULD HAPPEN, HE WOULD HAVE HIM
21 WASTED.

22 Q DID HE SAY HE WOULD HAVE HIM WASTED JUST
23 ONCE OR TWICE OR MORE TIMES?

24 A I JUST REMEMBER ONCE.

25 Q AND ARE YOU CERTAIN YOU HEARD THAT?

26 A YES.

27 Q NO QUESTION ABOUT IT?

28 A NONE.

1 Q DID YOU REACT TO IT OR SAY ANYTHING?

2 A I DON'T REMEMBER WHAT I DID. IT WAS SO
3 LONG AGO.

4 Q SURPRISE? SHOCK?

5 A I DON'T KNOW ABOUT SURPRISED OR SHOCKED.

6 Q BUT YOU DO RECALL THAT?

7 A YES.

8 Q AND AT SOME POINT THE FAMILY GATHERING
9 ENDED AND YOU LEFT; IS THAT RIGHT?

10 A YES.

11 Q THANK YOU.

12 NOTHING FURTHER.

13 THE COURT: CROSS-EXAMINATION?

14

15 CROSS-EXAMINATION

16 BY MS. SARIS:

17 Q GOOD AFTERNOON, MR. KEAY.

18 A GOOD AFTERNOON.

19 Q IS YOUR DATE OF BIRTH JANUARY 30TH, 1952?

20 A IT IS.

21 Q AS YOU SIT HERE NOW, ARE THERE WARRANTS
22 OUT FOR YOUR ARREST?

23 A NOT THAT I AM AWARE OF.

24 Q DID YOU FAIL TO APPEAR IN A COURT
25 APPEARANCE THIS MARCH 2006?

26 MR. DIXON: OBJECTION. RELEVANCE. WHAT IS THE
27 RELEVANCE?

28 THE COURT: LET'S GO TO THE SIDEBAR.

1
2 (PROCEEDINGS HELD AT SIDE BAR.)

3 MR. DIXON: YOUR HONOR --

4 THE COURT: HANG ON.

5 ARE WE ALL SET?

6 WHAT'S THE RELEVANCE?

7 MS. SARIS: YOUR HONOR, FAILURE TO APPEAR HAS
8 BEEN HELD BY CASE LAW TO BE A CRIME OF MORAL TURPITUDE.
9 THIS GENTLEMAN HAS FOUR D.U.I.'S. HE HAS THREE CURRENT
10 WARRANTS OUT FOR HIS ARREST FROM SAN BERNARDINO AND
11 RIVERSIDE COUNTY. EACH TIME HE PROMISED TO APPEAR UNDER
12 PENALTY OF PERJURY AND HE FAILED TO DO SO.

13 MR. JACKSON: WE'LL HAVE TO SEE THAT CASE LAW.

14 MS. SARIS: ABSOLUTELY. WE HAVE IT.

15 MR. JACKSON: AND I WOULD LOVE TO HAVE BEEN TOLD
16 BEFOREHAND WHEN COUNSEL WAS GOING TO IMPEACH WITH
17 SOMETHING WHAT SHE'S GOING TO IMPEACH WITH.

18 MS. SARIS: I'M NOT GOING TO IMPEACH HIM IF HE
19 ADMITS IT.

20 MR. JACKSON: THIS IS IMPEACHMENT, COUNSEL.

21 MS. SARIS: RIGHT. ONLY IF HE DENIES THAT HE'S
22 GOT IT DO I NEED TO --

23 MR. JACKSON: NO.

24 MS. SARIS: THAT'S -- TELL US. WILLFUL FAILURE
25 TO APPEAR IN COURT DOES INVOLVE MORAL TURPITUDE, SO MAY
26 POSSIBLY BE USED TO IMPEACH A WITNESS TESTIFYING, IN THIS
27 CASE IT WAS A DEFENDANT. 132 CAL. APP 4TH, 1552.

28 MR. JACKSON: I WILL HAVE TO SEE THAT CASE.

1 THE COURT: I'M SORRY. WHAT DO YOU HAVE THAT
2 SHOWS? HE FAILED TO APPEAR AND WHEN? BECAUSE I'M
3 LOOKING AT THE DOCUMENTS THAT YOU JUST WERE HANGING ONTO.
4 WHAT CAN YOU --

5 MR. SUMMERS: FOUR SEPARATE DOCUMENTS.

6 THE COURT: OKAY.

7 MR. SUMMERS: EACH OF THEM IS A PRINTOUT OF A --
8 A PRINTOUT OF EACH DAY OF THE COURT, THE MINUTE ORDERS.
9 ONE IS A FAILURE TO APPEAR ON THE FIRST DATE IN WHICH
10 THEY -- THE COURT XEROXED THE CITATION. AND ON ONE OF
11 THE CASES HE ACTUALLY FAILED TO APPEAR ON THE DATE THAT'S
12 IN THE CITATION. ON THE OTHER ONES, HE EVENTUALLY FAILED
13 TO APPEAR ON EVERY SINGLE ONE OF THEM.

14 THE COURT: SAY IT AGAIN.

15 MR. SUMMERS: THAT HE HAS WARRANTS OUTSTANDING.
16 HE ACTUALLY HAS MORE THAN THAT. HE HAS, I THINK FROM MY
17 OUTSTANDING, WE HAVE CERTIFIED COPIES OF FOUR OF THEM.

18 MS. SARIS: RIVERSIDE, SAN BERNARDINO --

19 THE COURT: WELL, IT WOULD HAVE BEEN NICE IF I
20 HAD BEEN TOLD BECAUSE HE MIGHT HAVE A FIFTH AMENDMENT
21 RIGHT AT THIS POINT.

22 SO THE OBJECTION IS RELEVANCE?

23 MR. DIXON: ALSO, I WOULD ALSO OBJECT TO THIS.
24 IT'S ONE THING IF HE HAD BEEN CONVICTED OF THIS. WILLFUL
25 FAILURE TO APPEAR, WE HAVE NO IDEA WHETHER THAT'S TRUE OR
26 NOT.

27 THE COURT: I DON'T HAVE ANY IDEA ABOUT MUCH OF
28 ANYTHING AND I AM CONCERNED. SO WE ARE GOING TO HAVE TO

1 BRING HIM BACK AND DISCUSS THIS OUTSIDE THE PRESENCE OF
2 THE JURY. SO LET'S -- DO YOU HAVE OTHER QUESTIONS?

3 MS. SARIS: I DO.

4 THE COURT: LET'S DO THAT AND WE WILL JUST HAVE
5 TO DO WHAT WE CAN.

6 (SIDE BAR CONCLUDED.)

7
8 Q BY MS. SARIS: MR. KEAY, HAS THE
9 PROSECUTION DISCUSSED ANY OFFERS REGARDING ANY CASES THAT
10 YOU MIGHT BE INVOLVED IN IN ORDER FOR YOU TO TESTIFY
11 TODAY?

12 A NO.

13 Q THE TIMING OF THIS EVENT, DO YOU RECALL
14 THAT IT HAD ANYTHING TO DO YOUR SONS'S GRADUATION?

15 A IT COULD HAVE.

16 Q DID YOU TELL US AT A PREVIOUS HEARING ON
17 THIS MATTER THAT IT WAS AROUND THE TIME OF YOUR SON'S
18 GRADUATION FROM HIGH SCHOOL?

19 A I DON'T REMEMBER.

20 Q WHEN DID YOUR SON -- HOW MANY SONS DO YOU
21 HAVE?

22 A SIX.

23 Q AND NEAR 1987, 1988 OR 1986, DID ANY OF
24 THEM GRADUATE HIGH SCHOOL?

25 A NO.

26 Q DID YOUR SON JOSEPH EVER GRADUATE HIGH
27 SCHOOL?

28 A I THINK HE GOT A G.E.D.

1 Q DID YOU EVER RECALL TELLING ANYONE THAT
2 THE REASON FOR THE CELEBRATION WAS THAT MR. GOODWIN HAD
3 INVITED YOUR FAMILY TO ONE OF HIS MOTORCROSS EVENTS TO
4 CELEBRATE YOUR SON'S GRADUATION?

5 A DO I REMEMBER THAT PARTICULARLY?

6 Q YES.

7 A NO.

8 Q DO YOU REMEMBER THAT MR. GOODWIN WAS
9 PUTTING ON THIS EVENT?

10 A HE PUT THEM ON EVERY YEAR.

11 Q AND DO YOU REMEMBER WHAT STADIUM IT WAS
12 IN?

13 MR. DIXON: OBJECTION. THAT ASSUMES FACTS NOT IN
14 EVIDENCE.

15 THE COURT: OVERRULED.

16 YOU CAN ANSWER.

17 THE WITNESS: IT WAS EITHER AT THE COLOSSEUM OR
18 IN ANAHEIM.

19 Q BY MS. SARIS: AND AT FAMILY GATHERINGS
20 YOU ALL MET AT THE EVENT AND THEN WENT TO MR. GOODWIN'S
21 HOUSE IN LAGUNA BEACH?

22 A I'M NOT SURE IF WE MET AT THE MOTORCROSS
23 OR NOT. THE MORE I THINK ABOUT IT IS I DON'T KNOW IF WE
24 WERE AT A MOTORCROSS OR WE JUST ENDED UP AT HIS HOUSE. I
25 WOULD ASSUME THAT WE WERE AT A MOTORCROSS BECAUSE THAT'S
26 NORMALLY WHEN WE GOT TOGETHER.

27 Q WELL, DID YOU EVER GET TOGETHER WITH
28 MR. GOODWIN OUTSIDE OF MOTORCROSS EVENTS?

1 A YES.

2 Q HOW OFTEN?

3 A IT VARIED.

4 Q BETWEEN 1986 AND 1988, HOW OFTEN DID YOU
5 SEE MICHAEL GOODWIN?

6 A I CAN'T REMEMBER.

7 Q DO YOU RECALL TELLING US THAT YOU ONLY SAW
8 HIM ONCE A YEAR AT MOTORCROSS EVENTS?

9 A YOU MEAN IF I ONLY SEE HIM AT MOTORCROSS
10 EVENTS AND THAT'S THE ONLY TIME I SEE HIM? I DON'T KNOW
11 IF THAT'S TRUE OR NOT.

12 Q WELL, DO YOU RECALL SITTING IN THIS
13 COURTROOM IN OCTOBER OF 2004 WHEN ASKED ABOUT THE NATURE
14 OF THE FAMILY GATHERING THE FOLLOWING EXCHANGE:

15 COUNSEL, TRANSCRIPT PAGE 30, LINE 10.

16 (READING) QUESTION: "WHAT WAS THE NATURE
17 OF THE FAMILY GATHERING THAT YOU
18 ATTENDED?"

19 ANSWER: "IT WAS JUST TO GO TO THE HOUSE
20 AFTER THE MOTORCROSS."

21 QUESTION: "AND WAS THIS A MOTORCROSS THAT
22 MR. GOODWIN WAS INVOLVED IN PUTTING ON?"

23 ANSWER: "YES." (READING CONCLUDED.)

24 DO YOU RECALL GIVING THAT TESTIMONY?

25 A TWO YEARS AGO, NO. BUT --

26 Q WELL, TWO YEARS AGO DID YOU COME INTO THIS
27 COURTROOM AND SIT IN THAT CHAIR?

28 A I WAS IN SOME COURTROOM. I DON'T KNOW IF

1 IT WAS THIS ONE.

2 Q WAS IT THE SAME PROCEDURE; YOU SWORE TO
3 TELL THE WHOLE TRUTH AND YOU WERE ASKED QUESTIONS
4 ABOUT --

5 A YES.

6 Q -- I'M SORRY, ABOUT THIS EVENT?

7 A YES.

8 Q DO YOU RECALL THAT SPECIFICALLY -- I
9 BELIEVE YOU REFERRED TO THAT YOU THOUGHT IT MIGHT BE THE
10 SUPERBOWL OF MOTORCROSS?

11 A THAT'S WHAT HE PUT ON.

12 Q DO YOU KNOW WHETHER OR NOT THAT WAS
13 EXCLUSIVELY AN ANAHEIM STADIUM EVENT?

14 A I THINK IT WAS ALL OVER.

15 Q DO YOU RECALL WHETHER OR NOT YOU HAD BEEN
16 DRINKING AT THIS EVENT?

17 A NO.

18 Q NO, YOU DON'T RECALL, OR NO, YOU HADN'T
19 BEEN DRINKING?

20 A NO, I DON'T RECALL.

21 Q DO YOU KNOW WHETHER OR NOT ALCOHOL IS
22 SERVED AT THESE EVENTS?

23 A IT IS.

24 Q WERE YOU SITTING IN SOME -- WHEN YOU
25 NORMALLY GO TO THESE EVENTS WITH MR. GOODWIN, DID YOU SIT
26 IN SOME SORT OF PRESS BOX OR --

27 A YES.

28 Q I'M SORRY?

1 A YES.

2 Q IS HE ALWAYS WITH YOU OR ARE THERE TIMES
3 WHEN HE'S AROUND DEALING WITH THINGS IN THE STADIUM?

4 A HE'S NOT ALWAYS WITH US. HE'S DEALING.

5 Q DID YOU KNOW ANYTHING ABOUT MR. GOODWIN
6 BEING INVOLVED IN A LAWSUIT WITH MR. THOMPSON?

7 A NO.

8 Q DO YOU RECALL WHETHER OR NOT MR. GOODWIN
9 WAS DRINKING AT THIS EVENT?

10 A NO.

11 Q THE COMMENT THAT YOU QUOTED FOR US,
12 M.T. -- I'M SORRY -- MICKEY THOMPSON IS OUT TO GET ALL OF
13 HIS MONEY AND BEFORE IT HAPPENED HE WOULD HAVE HIM
14 WASTED.

15 IF YOU DIDN'T UNDERSTAND OR DIDN'T KNOW
16 ABOUT THE LAWSUIT, WHAT DID YOU THINK HE WAS REFERRING TO
17 IN TERMS OF THOMPSON OUT TO GET HIS MONEY?

18 A WELL, I DIDN'T KNOW FOR A FACT THAT HE WAS
19 INVOLVED IN A LAWSUIT, BUT I COULD HAVE ASSUMED THAT HE
20 WAS.

21 Q WAS THERE A LONG INVOLVED CONVERSATION
22 ABOUT THIS LAWSUIT?

23 A NOT THAT I REMEMBER.

24 Q WAS THIS A REGULAR CONVERSATION WHERE
25 SEVERAL PEOPLE WERE IN THE SAME ROOM OR WAS HE WHISPERING
26 IT TO YOU?

27 A I DON'T EVEN RECALL IF THE LAWSUIT WAS
28 BROUGHT UP.

1 Q HAVE YOU EVER SEEN ANY TELEVISION PROGRAMS
2 ABOUT THIS CASE?

3 A YEARS AGO.

4 Q DID ANY OF THOSE MENTION ANY SORT OF A
5 FINANCIAL REWARD FOR INFORMATION?

6 A NOT THAT I KNOW OF.

7 Q AS YOU SIT HERE NOW, DO YOU KNOW WHETHER
8 OR NOT THERE IS A REWARD IN THIS CASE?

9 A OTHER THAN YOU BRINGING IT UP LAST TIME I
10 WAS HERE, NO.

11 Q YOU HAD A CONVERSATION WITH THE
12 DEFENDANTS -- I'M SORRY -- THE VICTIM MICKEY THOMPSON'S
13 SISTER IN THE CASE, COLLENE CAMPBELL.

14 A DID I?

15 Q YES.

16 A AT SOME POINT, YES.

17 Q WERE YOU AWARE THAT SHE WAS THE ONE
18 OFFERING THIS REWARD?

19 MR. DIXON: OBJECTION. ASSUMES FACTS NOT IN
20 EVIDENCE.

21 THE COURT: SUSTAINED.

22 Q BY MS. SARIS: DID YOU KNOW WHETHER OR NOT
23 THE REWARD WAS BEING OFFERED THE FAMILY OF MICKEY
24 THOMPSON?

25 A DID I KNOW IT THEN OR NOW?

26 Q DID YOU KNOW IT THEN WHEN YOU SPOKE TO
27 MRS. CAMPBELL?

28 A NO.

1 Q DO YOU KNOW IT NOW?

2 A YES. WELL, I KNOW THERE'S A REWARD
3 BECAUSE YOU WERE KIND ENOUGH TO BRING IT UP THE LAST TIME
4 WE WERE IN COURT.

5 Q YOU NEVER HEARD ABOUT IT PRIOR TO THAT?

6 A I MIGHT HAVE HEARD IT ON T.V., YES.

7 Q A REWARD -- A FINANCIAL REWARD WOULD BE
8 VERY IMPORTANT TO YOU IN YOUR CIRCUMSTANCES RIGHT NOW,
9 WOULD IT NOT?

10 A AS?

11 Q YOU OWE A GREAT DEAL OF MONEY TO THE
12 I.R.S., DON'T YOU?

13 MR. DIXON: OBJECTION. THAT ASSUMES FACTS NOT IN
14 EVIDENCE.

15 THE COURT: SUSTAINED.

16 MR. DIXON: MAY WE APPROACH?

17 Q BY MS. SARIS: DO YOU RECALL A MONETARY
18 AMOUNT EVER BEING MENTIONED?

19 A NO.

20 Q DID YOU EVER CALL THE POLICE TO REPORT
21 THIS CONVERSATION?

22 A I MIGHT HAVE.

23 Q ISN'T IT TRUE THAT, IN FACT, YOU ACTUALLY
24 CALLED THE FAMILY THAT WAS OFFERING THE REWARD BEFORE YOU
25 CALLED THE POLICE?

26 A I DON'T REMEMBER WHO I CALLED FIRST.

27 Q DO YOU REMEMBER DIALING 9-1-1 AT ANY
28 POINT?

1 A NO.

2 Q YOU DON'T LIKE MR. GOODWIN, DO YOU?

3 A THAT'S -- IT'S NOT THAT I DON'T LIKE
4 MR. GOODWIN. IT'S I DON'T LIKE WHAT MR. GOODWIN DID.

5 Q DO YOU CONSIDER HIM A BRAGGART?

6 A PARDON ME?

7 Q DO YOU CONSIDER HIM A BRAGGART?

8 A YES.

9 Q A LOUD MOUTH?

10 A YES.

11 Q ARE YOU JEALOUS OF THE SUCCESS THAT HE'S
12 HAD IN YOUR FAMILY?

13 A NO. NO.

14 Q DO YOU RECALL -- OR DO YOU CONSIDER THAT
15 HE ALWAYS HAS TO BE THE BIG SHOT IN ANY SITUATION?

16 A USUALLY.

17 Q DID YOU OFFER TO MRS. CAMPBELL THAT YOU
18 DIDN'T MIND GOING OUTSIDE THE LAW TO TRY AND HELP NAIL
19 MR. GOODWIN FOR THIS CASE?

20 A DO I RECALL THAT?

21 Q YES.

22 A NO.

23 Q DO YOU KNOW THAT YOUR CONVERSATION WITH
24 MRS. CAMPBELL WAS RECORDED?

25 A I DO NOW FROM WHAT YOU BROUGHT UP AT THE
26 LAST TESTIMONY THAT I DID, YES.

27 Q DO YOU RECALL TELLING HER IN THE
28 CONVERSATION, "HE DOESN'T PLAY BY THE RULES, SO I DON'T

1 HAVE TO PLAY BY THE RULES"?

2 A DO I REMEMBER SAYING THAT?

3 Q YES.

4 A NO.

5 Q DO YOU REMEMBER TELLING MRS. CAMPBELL THAT
6 YOU WERE THE BLACK SHEEP OF THE FAMILY?

7 A NO.

8 Q THE CONVERSATION THAT YOU'RE RELATING TO
9 US REGARDING THIS EVENT AT MR. GOODWIN'S HOME, WOULD THAT
10 HAVE BEEN IN 1986?

11 A TO TELL YOU THE TRUTH, I DON'T KNOW WHAT
12 YEAR IT WAS. IT WAS SO LONG AGO. YEARS, MONTHS.

13 MS. SARIS: MAY I HAVE JUST A MOMENT?

14 (DISCUSSION OFF THE RECORD.)

15 Q BY MS. SARIS: MR. KEAY, I ASKED YOU HOW
16 FAR OFTEN YOU HAD SEEN MICHAEL GOODWIN TODAY AND YOU SAID
17 THAT YOU SAW HIM OTHER THAN AT THESE EVENTS.

18 DO YOU RECALL THAT JUST NOW?

19 A IF I SEEN HIM OTHER THAN JUST AT THE
20 SUPERBOWL OF MOTORCROSS?

21 Q RIGHT.

22 A YES.

23 Q AND DO YOU RECALL TESTIFYING IN THIS
24 COURT -- PAGE 36, COUNSEL -- WHEN ASKED:

25 (READING) QUESTION: "HOW OFTEN DO YOU SEE
26 HIM?"

27 ANSWER: "SUPERBOWL OF MOTORCROSS."

28 QUESTION: "SO YOU SAW HIM ONCE A YEAR?"

1 ANSWER: "NO. WE DIDN'T GO EVERY YEAR,
2 BUT QUITE A FEW TIMES." (READING
3 CONCLUDED.)

4 A CORRECT.

5 THE COURT: FOR THE RECORD, I NEED THE VOLUME,
6 THE PAGE AND LINE.

7 MS. SARIS: I HAVE IT AS MR. KEAY'S PRIOR
8 TESTIMONY. I DON'T HAVE A VOLUME. IT'S PAGE 36, LINE
9 28 --

10 MR. SUMMERS: VOLUME I, YOUR HONOR.

11 MR. SARIS: -- PAGE 37, LINE 28.

12 THE COURT: ALL RIGHT. THANK YOU.

13 MS. SARIS: LINE 1 THROUGH 4.

14 Q SO YOU AT THAT TIME IN YOUR TESTIMONY
15 INDICATED THAT YOU ONLY SAW HIM AT MOTORCROSS AND YOU
16 SOMETIMES DIDN'T EVEN GO EVERY YEAR TO THAT.

17 A DID I SAY THAT THEN?

18 Q YES.

19 A I DON'T REMEMBER.

20 Q DO YOU RECALL IN YOUR CONVERSATION WITH
21 MRS. CAMPBELL, TELLING HER THAT YOU RECALLED THIS EVENT
22 SPECIFICALLY BECAUSE YOUR SON WAS GRADUATING HIGH SCHOOL?

23 A NO.

24 Q WERE YOU AWARE OF MR. GOODWIN'S BUSINESS
25 PRIOR TO PROMOTING MOTORCROSS EVENTS?

26 A THE QUESTION?

27 Q WERE YOU AWARE OF WHAT MR. GOODWIN DID
28 BEFORE HE STARTED DOING MOTORCROSS?

1 MR. DIXON: OBJECTION. RELEVANCE.

2 THE COURT: IS THERE AN OFFER OF PROOF ON THAT?

3 MS. SARIS: JUST THAT THIS INDIVIDUAL WOULD KNOW
4 BACKGROUND ABOUT MR. GOODWIN. APPARENTLY THEY'RE
5 RELATED.

6 THE COURT: ALL RIGHT. OVERRULED.

7 YOU CAN ANSWER.

8 Q BY MS. SARIS: DID HE PROMOTE ROCK
9 CONCERTS, TO YOUR KNOWLEDGE?

10 A YES.

11 Q DID HE HAVE ANY CONNECTION, AS FAR AS YOU
12 KNOW, TO THE STATE OF FLORIDA?

13 A HE WAS RAISED THERE. PENSACOLA.

14 MS. SARIS: I HAVE NOTHING FURTHER AT THIS TIME,
15 YOUR HONOR, SUBJECT TO RECALL.

16 MR. DIXON: NOTHING FURTHER.

17 THE COURT: THANK YOU, SIR. PLEASE STEP OUTSIDE.

18 NEXT WITNESS?

19 MR. JACKSON: THANK YOU, YOUR HONOR. WE'RE GOING
20 TO ASK PHIL BARTINETTI TO JOIN US.

21 THE COURT: OKAY.

22

23 PHILIP BARTINETTI,

24 CALLED BY THE PEOPLE AS A WITNESS, WAS

25 SWORN AND TESTIFIED AS FOLLOWS:

26

27 THE CLERK: RAISE YOUR RIGHT HAND.

28 YOU DO SOLEMNLY STATE THAT THE TESTIMONY

1 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
2 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
3 TRUTH SO HELP YOU GOD.

4 THE WITNESS: I DO.

5 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
6 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
7 NAME FOR THE RECORD.

8 THE WITNESS: IT'S PHILIP, P-H-I-L-I-P,
9 BARTINETTI, B-A-R-T-I-N-E-T-T-I.

10 THE COURT: YOU MAY INQUIRE.

11 MR. JACKSON: THANK YOU, YOUR HONOR.

12
13 DIRECT EXAMINATION

14 BY MR. JACKSON:

15 Q MR. BARTINETTI, GOOD AFTERNOON.

16 A GOOD AFTERNOON.

17 Q HOW ARE YOU, SIR?

18 A NOT TOO BAD.

19 Q GOOD.

20 WHAT DO YOU DO FOR A LIVING, SIR?

21 A I 'M A LAWYER.

22 Q HOW LONG HAVE YOU BEEN AN ATTORNEY?

23 A IT WILL BE 35 YEARS THIS PAST JANUARY.

24 Q ARE YOU LICENSED TO PRACTICE HERE IN THE
25 STATE OF CALIFORNIA?

26 A I AM.

27 Q AND HOW LONG HAVE YOU BEEN LICENSED TO
28 PRACTICE HERE?

1 A 35 YEARS.

2 Q MR. BARTINETTI, DESCRIBE THE NATURE OF
3 YOUR PRACTICE.

4 A IT'S A -- WHAT I WOULD CALL A GENERAL
5 BUSINESS LITIGATION PRACTICE. SO I DO EVERYTHING BUT THE
6 TYPE OF THING YOU'RE DOING HERE, CRIMINAL LAW; FAMILY
7 LAW; AND IF THERE ARE DISPUTES BETWEEN LABOR UNIONS AND
8 MEMBERS, I DON'T DO THAT TYPE OF WORK. BUT ANYTHING ELSE
9 OF A CIVIL NATURE I DO.

10 Q ARE YOU A SOLE PRACTITIONER OR DO YOU WORK
11 WITH A FIRM?

12 A I WORK WITH A FIRM.

13 Q AND WHAT IS THE NAME OF THAT FIRM?

14 A THE FIRM IS CLARK AND TREVITHICK. AND
15 TREVITHICK IS T-R-E-V, AS IN VICTOR, I-T-H-I-C-K.

16 Q BACK ABOUT 18 -- WELL, ACTUALLY, BACK
17 ABOUT 22 YEARS AGO, BACK IN 1984 OR SO, WHAT WAS THE
18 NATURE OF YOUR PRACTICE?

19 A IT WAS THE SAME TYPE OF PRACTICE, BUSINESS
20 LITIGATION.

21 Q AND WERE YOU AT CLARK AND TREVITHICK BACK
22 IN 1984?

23 A I WAS.

24 Q IN THE EARLY TO MID '80S, WHAT WAS YOUR
25 TITLE AT THE FIRM, OR DID YOU HAVE A DESIGNATION AT THE
26 FIRM?

27 A IT WAS EITHER -- WE CALLED OURSELVES
28 EITHER "PARTNERS" OR "PRINCIPALS." AND I HEADED UP THE

1 LITIGATION PRACTICE OF THE FIRM.

2 Q AND IS LITIGATION ANOTHER WAY OF SAYING A
3 TRIAL LAWYER?

4 A THAT'S OPEN TO DISPUTE WITH SOME PEOPLE.
5 SOME LITIGATORS, THEY NEVER GET TO COURT. I WAS A
6 COMBINATION OF LITIGATOR AND A TRIAL LAWYER, SO I DID
7 BOTH.

8 Q ALL RIGHT. DID YOU EVER MEET DURING THE
9 COURSE OF YOUR PROFESSION A PERSON BY THE NAME OF MARION
10 LEE THOMPSON, KNOWN TO HIS FRIENDS AND FAMILY AS MICKEY
11 THOMPSON?

12 A I DID.

13 Q WHAT WERE THE CIRCUMSTANCES UNDER WHICH
14 YOU CAME TO KNOW MICKEY THOMPSON?

15 A MICKEY HAD COME TO MY PARTNER DON CLARK
16 ABOUT A POTENTIAL LITIGATION MATTER AND DON INTRODUCED
17 MICKEY AND ME.

18 Q APPROXIMATELY WHEN WAS THAT?

19 A THAT WOULD HAVE BEEN SOMETIME IN THE LATE
20 SUMMER OR EARLY FALL OF 1984.

21 Q WHAT WAS THE NATURE, MR. BARTINETTI, OF
22 YOUR -- OF YOUR CONNECTION TO MICKEY THOMPSON? IN OTHER
23 WORDS, WHY DID MICKEY THOMPSON COME TO THE FIRM OR COME
24 TO DON CLARK?

25 A MICKEY HAD BEEN A --

26 MR. SUMMERS: OBJECTION, YOUR HONOR. FOUNDATION.

27 MR. JACKSON: I'LL LAY A FOUNDATION, YOUR HONOR.

28 THE COURT: ALL RIGHT. THANK YOU.

1 Q BY MR. JACKSON: DID YOU HAVE
2 CONVERSATIONS WITH MICKEY THOMPSON AND WITH DON CLARK
3 ABOUT THE NATURE OF ANY POTENTIAL REPRESENTATION THAT YOU
4 MAY BE ENGAGED FOR OR PAID FOR?

5 A YES, I DID.

6 Q WHAT WAS THE NATURE OF THAT POTENTIAL
7 REPRESENTATION BACK IN AUGUST OR SEPTEMBER OF 1984?

8 A THERE WAS A DISPUTE BETWEEN MICKEY AND A
9 BUSINESS PARTNER OVER A CONTRACT THAT HAD BEEN ENTERED
10 INTO EARLIER THAT YEAR.

11 Q WE'LL GET INTO THE DETAILS IN JUST A
12 MINUTE, IF YOU'LL BEAR WITH ME.

13 BUT AS A FOUNDATIONAL MATTER, DID YOU EVER
14 MEET THE PERSON WITH WHOM MICKEY THOMPSON SAID HE HAD
15 ENTERED INTO A CONTRACT?

16 A YES, I DID.

17 Q WHO WAS THAT PERSON?

18 A HIS NAME WAS MIKE GOODWIN.

19 Q DO YOU SEE THAT PERSON IN COURT TODAY?

20 A YES, I DO.

21 Q WHERE IS HE SEATED AND WHAT IS HE WEARING,
22 SIR?

23 A HE'S WEARING A SUIT, TIE AND HE'S SEATED
24 AT THE RIGHT END OF THE TABLE AS I LOOK AT THE TABLE.

25 Q THE FAR RIGHT END OF THE TABLE?

26 A YES.

27 Q THERE'S TWO PEOPLE, TWO MALES SEATED AT
28 THE FAR RIGHT END OF THE TABLE, COULD YOU DECIPHER WHICH

1 ONE HE IS?

2 A HE'S THE ONE WITH HAIR.

3 MR. JACKSON: TOM, I PROMISE, IT'S NOT --

4 MR. SUMMERS: I'LL WEAR MY TOUPEE TOMORROW.

5 Q BY MR. JACKSON: MR. BARTINETTI, DURING
6 THE COURSE OF YOUR REPRESENTATION, WERE YOU PRIVY TO THE
7 ACTUAL PARTNERSHIP AGREEMENT THAT FORMED THE FOUNDATION
8 FOR THE DISPUTE BETWEEN MICKEY THOMPSON AND MICHAEL
9 GOODWIN?

10 A YES.

11 MR. JACKSON: YOUR HONOR, I HAVE WHAT APPEARS TO
12 BE -- WHAT IS LABELED AS AN AGREEMENT FOR TRANSFER OF
13 STOCK. IT PURPORTS TO BE A PARTNERSHIP AGREEMENT. IT'S
14 A MULTI-PAGE DOCUMENT ON EIGHT AND A HALF BY ELEVEN
15 PAPER, THE LAST PAGE OF WHICH IS A SIGNATORY PAGE BEARING
16 THE PURPORTED SIGNATURE OF MICHAEL GOODWIN AND MICKEY
17 THOMPSON REPRESENTING BOTH MICKEY THOMPSON ENTERTAINMENT
18 GROUP AND MICKEY THOMPSON INDIVIDUALLY, AS WELL AS
19 MICHAEL GOODWIN'S SIGNATURE TWICE AS CHAIRMAN OF STADIUM
20 MOTOR SPORTS, CORP., AS WELL AS MICHAEL GOODWIN
21 INDIVIDUALLY.

22 MAY I HAVE THIS MARKED AS PEOPLE'S NEXT IN
23 ORDER.

24 THE COURT: PEOPLE'S 10 FOR IDENTIFICATION.

25 MR. JACKSON: THANK YOU.

26
27 (MARKED FOR IDENTIFICATION PEOPLE'S
28 EXHIBIT NO. 10, DOCUMENTS.)

1
2 MR. JACKSON: ON THE FACE PAGE OF THAT DOCUMENT
3 I'M PLACING A P-10 ON THE UPPER LEFT-HAND CORNER.

4 MAY I APPROACH THE WITNESS?

5 THE COURT: YES.

6 Q BY MR. JACKSON: MR. BARTINETTI, IF YOU'LL
7 BEAR WITH ME, I HAVE SEVERAL DOCUMENTS THAT I'M GOING TO
8 ASK YOU TO LOOK AT THROUGH THE COURSE OF OUR DISCUSSION
9 THIS AFTERNOON. THAT'S THE FIRST OF IT, PEOPLE'S 10.

10 DO YOU RECOGNIZE THAT DOCUMENT? IF YOU
11 CAN PERUSE IT AND TELL ME IF YOU RECOGNIZE THAT.

12 A YES, I DO.

13 Q WHAT IS THAT DOCUMENT? OR WHAT IS IT A
14 COPY OF?

15 A IT'S AN AGREEMENT FOR TRANSFER OF STOCK.

16 Q AND FOR THOSE OF US WHO ARE UNINITIATED,
17 WHAT DOES THAT MEAN? WHAT'S THE EFFECT OF THAT DOCUMENT?

18 A THIS IS THE TYPE OF DOCUMENT UNDER WHICH
19 PEOPLE EITHER ACQUIRE OR GIVE UP STOCK IN A CORPORATION.
20 SO IT'S ESSENTIALLY AN OWNERSHIP INTEREST IN A
21 CORPORATION.

22 Q AND WHO IS THIS OWNERSHIP INTEREST -- WHO
23 DOES THAT OWNERSHIP INTEREST DOCUMENT EFFECT?

24 A THIS ONE EFFECTS VARIOUS PARTIES,
25 INCLUDING MICHAEL GOODWIN, MICKEY THOMPSON, STADIUM MOTOR
26 SPORTS, AND MICKEY THOMPSON ENTERTAINMENT GROUP.

27 Q DOES THAT DOCUMENT PURPORT TO HAVE CERTAIN
28 RECITALS OR OBLIGATIONS IN IT OF THE PARTIES OR THE

1 SIGNATORIES THERETO?

2 A YES, IT DOES.

3 Q AND ARE YOU AWARE OF WHAT THE SPECIFICS OF
4 THOSE RECITALS ARE?

5 A I HAVE A GENERAL KNOWLEDGE, AS I SIT HERE.
6 IF I READ THE DOCUMENT, I COULD GIVE YOU THE SPECIFICS.

7 Q ALL I WANT IS A GENERAL KNOWLEDGE.

8 LET ME ASK YOU THIS WAY: DOES THAT
9 DOCUMENT CONTRACTUALLY BIND, OR SHOULD IT HAVE
10 CONTRACTUALLY BOUND MICKEY THOMPSON AND MICHAEL GOODWIN
11 AND THEIR RESPECTIVE COMPANIES FOR CERTAIN OBLIGATIONS
12 AMONG EACH OTHER OR BETWEEN EACH OTHER?

13 A YES.

14 Q I'M GOING TO USE A WORD AND TELL ME IF
15 THIS IS CLOSE ENOUGH FOR GOVERNMENT WORK, AN ACCURATE
16 REPRESENTATION.

17 IS THAT A PARTNERSHIP AGREEMENT?

18 A NO.

19 Q TELL ME WHAT THE DIFFERENCE BETWEEN THAT
20 RECITAL OR THAT DOCUMENT IS AND A PARTNERSHIP AGREEMENT?

21 A WELL, A PARTNERSHIP AGREEMENT BY
22 DEFINITION USUALLY IS TWO PEOPLE COMING TOGETHER IN ONE
23 BUSINESS SHARING PROFITS, SHARING EXPENSES AND THE MONEY
24 IS REALLY THEIR MONEY AND THEIR OWNERSHIP. WHEREIN A
25 CORPORATE STRUCTURE YOU HAVE ANOTHER LAYER IN BETWEEN. A
26 PERSON OWNS STOCK IN THE CORPORATION; THE CORPORATION
27 MAKES MONEY; AND THEN IT'S DISTRIBUTED EITHER AS SALARY
28 OR AS DIVIDEND ON THE SHARE.

1 SO IT'S JUST DIFFERENT STRUCTURES. HERE
2 WE'RE DEALING WITH CORPORATIONS RATHER THAN WITH A
3 PARTNERSHIP TYPE OF ARRANGEMENT. IT HAS SOME
4 SIMILARITIES, BUT IT'S A CORPORATE ARRANGEMENT.

5 Q WAS MICKEY THOMPSON ENTERTAINMENT GROUP
6 ONE OF THE CORPORATIONS INVOLVED IN THIS?

7 A YES.

8 Q AND WHO WAS THE PRINCIPAL OF MICKEY
9 THOMPSON ENTERTAINMENT GROUP?

10 A MICKEY THOMPSON.

11 Q WAS STADIUM MOTOR SPORTS CORPORATION ONE
12 OF THE SIGNATORIES OR ONE OF THE CORPORATIONS INVOLVED IN
13 THIS AGREEMENT?

14 A YES.

15 Q AND WHO WAS THE PRINCIPAL IN 1984 OF
16 STADIUM MOTOR SPORTS CORPORATION?

17 A MICHAEL GOODWIN.

18 Q SO IF YOU TAKE THE CORPORATION LAYER OUT
19 OF IT AND TALK ABOUT THE HUMAN ELEMENT, WE'RE TALKING
20 ABOUT AN AGREEMENT BETWEEN MICHAEL GOODWIN AND MICKEY
21 THOMPSON; CORRECT?

22 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

23 THE COURT: SUSTAINED.

24 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE
25 THE HUMAN BEINGS BEHIND THE CORPORATIONS AND THE
26 OBLIGATIONS THAT THOSE HUMAN BEINGS HAD PURSUANT TO THE
27 RECITALS IN THAT TRANSFER OF STOCK?

28 MR. SUMMERS: OBJECTION. VAGUE AND COMPOUND.

1 THE COURT: COMPOUND. PLEASE REPHRASE IT.

2 MR. JACKSON: I'LL TRY.

3 Q TELL ME WHO THE PEOPLE WERE INVOLVED IN
4 THAT RECITAL.

5 A WELL, THE PEOPLE ARE MICHAEL GOODWIN AND
6 MICKEY THOMPSON.

7 Q THANK YOU. I SHOULD HAVE STARTED OFF WITH
8 THAT QUESTION, SHOULDN'T I?

9 WHAT WAS THE BUSINESS OBLIGATION -- WHAT
10 WAS THE OBLIGATION OF THE RESPECTIVE BUSINESSES PURSUANT
11 TO THAT TRANSFER OF STOCK?

12 A THE GENERAL DESCRIPTION OF WHAT WAS
13 HAPPENING WAS THAT THE PARTIES WERE IN A TENTATIVE WAY,
14 SUBJECT TO SOME CONDITIONS, PUTTING THEIR BUSINESSES
15 TOGETHER AND AGREEING TO SHARE PROFITS AND LOSSES AND
16 EXPENSES ON A CERTAIN FORMULA BASIS.

17 Q AND WHAT WAS THAT -- AND JUST IN GENERAL
18 TERMS, WHAT WAS THE FORMULA BASIS OF THAT AGREEMENT?

19 A THE FORMULA BASIS WAS THAT 70 PERCENT
20 WOULD GO TO GOODWIN AND 30 PERCENT WOULD GO TO THOMPSON,
21 OR THE OWNERSHIP AND THE EVENTUAL JOINT ENTITY.

22 Q WAS THERE CONSIDERATION GIVEN IN THE
23 PARTNERSHIP AGREEMENT OF THE NAME OR THE USE OF THE NAME
24 MICKEY THOMPSON?

25 A THERE WAS A PROVISION IN THIS AGREEMENT
26 FOR THE USE OF THE MICKEY THOMPSON NAME.

27 Q AND PURSUANT TO YOUR UNDERSTANDING OF THE
28 LITIGATION BACK THEN, WAS THAT CONSIDERED -- I'M GOING TO

1 USE THE WORD "CONSIDERATION" IN THE LEGAL TERM.

2 WAS IT VALUABLE CONSIDERATION IN TERMS OF
3 THIS RECITAL OR THIS CONTRACT?

4 A IT WAS MY UNDERSTANDING IT WAS IMPORTANT.

5 Q ALL RIGHT. AGAIN, I'M GOING TO ASK YOU TO
6 EDUCATE US JUST A LITTLE BIT. WHEN I USE THE TERM
7 "CONSIDERATION," IN A HYPOTHETICAL SITUATION,
8 MR. BARTINETTI, IF I ASKED TO BUY YOUR NEW CAR -- OR YOUR
9 USED CAR, RATHER, AND I PULL OUT A THOUSAND DOLLARS AND
10 HAND YOU THAT THOUSAND DOLLARS FOR THE CAR, IS THE MONEY
11 THAT I'M HANDING YOU CONSIDERED VALUABLE CONSIDERATION
12 FOR THE CAR?

13 A YES.

14 Q OKAY. SO "CONSIDERATION" IS A LEGAL TERM
15 THAT MEANS VALUE; CORRECT?

16 A I THINK THAT'S A FAIR STATEMENT.

17 Q OKAY. AND THE NAME -- YOUR UNDERSTANDING
18 OF THIS AGREEMENT WAS THE NAME "MICKEY THOMPSON" AND
19 "MICKEY THOMPSON ENTERTAINMENT GROUP" WAS A VALUABLE
20 CONSIDERATION IN AND AMONG THE PARTIES TO THE CONTRACT?

21 A YES.

22 Q IN FACT, WAS IT YOUR UNDERSTANDING THAT --
23 WELL, LET ME ASK YOU THIS WAY, DID DON CLARK HAVE
24 ANYTHING -- OR DID CLARK AND TREVITHICK HAVE ANYTHING TO
25 DO WITH THE DRAFTING OF THE TRANSFER OF STOCK?

26 A YES.

27 Q WHEN MICKEY THOMPSON CAME TO YOU AS A
28 LITIGATOR, WHAT WAS HIS COMPLAINT CONCERNING THIS

1 TRANSFER OF STOCK?

2 MR. SUMMERS: OBJECTION. CALLS FOR HEARSAY, YOUR
3 HONOR.

4 MR. JACKSON: MAY WE APPROACH?

5 THE COURT: SURE.

6
7 (PROCEEDINGS HELD AT SIDEBAR.)

8 THE COURT: OKAY. WE'RE AT THE SIDEBAR.

9 THE OBJECTION IS HEARSAY?

10 MR. JACKSON: YES, YOUR HONOR. THE PEOPLE ARE
11 NOT OFFERING THIS FOR THE TRUTH OF THE MATTER ASSERTED AT
12 THIS POINT, BUT RATHER WHY THE LITIGATION WAS ENTERED
13 INTO, TO BEGIN WITH. WHETHER THE COMPLAINT WAS
14 SPECIFICALLY THEFT OF \$500 OR \$5,000, THAT'S NOT WHAT I'M
15 INTERESTED IN. I'M INTERESTED IN WHAT THE CHIEF
16 COMPLAINT WAS. AND I BELIEVE THE EVIDENCE WILL BE THAT
17 THAT COMPLAINT WAS THAT THE BUSINESS WAS SOMEHOW NOT
18 BEING HANDLED IN AN APPROPRIATE FASHION.

19 THE COURT: SO THE NATURE OF THE DISPUTE IS WHAT
20 YOU WANT TO KNOW?

21 MR. JACKSON: CORRECT. AND THE NATURE OF THE
22 DISPUTE ENDED UP BLOWING UP.

23 THE COURT: ALL RIGHT. WELL, IF IT'S NOT OFFERED
24 FOR A HEARSAY PURPOSE --

25 MR. JACKSON: WE HAVE CERTIFIED DOCUMENTS THAT
26 WILL ULTIMATELY TELL WHAT THE JUDGMENT WAS. AND THAT'S
27 WHAT WE WILL BE ENTERING INTO EVIDENCE AS --

28 MS. SARIS: HOW IS THAT NOT --

1 THE COURT: HANG ON.

2 SO MR. BARTINETTI WAS HIRED BY
3 MR. THOMPSON, THEN, TO FILE A LAWSUIT?

4 MR. JACKSON: CORRECT.

5 THE COURT: ALL RIGHT. I DON'T HAVE ANY PROBLEM
6 WITH HIM HIRING HIM TO FILE A LAWSUIT WITH RESPECT TO A
7 BUSINESS DISPUTE. I DON'T KNOW THAT WE NEED TO KNOW THE
8 SPECIFICS OF THE BUSINESS DISPUTE.

9 MR. JACKSON: MAYBE IT WAS --

10 THE COURT: I THINK THE LAWSUIT WILL SPEAK FOR
11 ITSELF; THE DOCUMENTS; THE COMPLAINTS AND THINGS OF THAT
12 NATURE.

13 MR. JACKSON: IT MAY HAVE AN INARTFUL QUESTION,
14 BUT THAT'S BASICALLY WHAT I'M GETTING AT. WHY DID HE
15 COME TO YOU? AND I EXPECT THE ANSWER TO BE SOMETHING
16 LIKE BECAUSE HE DIDN'T THINK HE WAS BEING HANDLED
17 APPROPRIATELY IN THE BUSINESS. SO WE WENT TO THE
18 LAWSUIT --

19 MS. SARIS: HOW ABOUT -- I'M SORRY, LORI.

20 HOW ABOUT: DID HE ASK YOU TO FILE A
21 LAWSUIT? THAT WAY WE DON'T GET INTO ANY MICKEY SAID
22 MICHAEL WAS STEALING, BLAH, BLAH, BLAH.

23 THE COURT: YES. I WOULD RATHER KEEP IT GENERAL
24 FOR NOW BECAUSE I KNOW THE DOCUMENTS WILL BE PRESENTED
25 LATER.

26 MR. JACKSON: YOUR HONOR, I HAVE NO PROBLEM
27 LEADING, BUT I'VE BEEN GIVEN --

28 MS. SARIS: BECAUSE YOU'VE --

1 THE COURT: OKAY. NOW, WAIT A MINUTE BECAUSE THE
2 COURT REPORTER IS GOING TO GO NUTS. ONE AT A TIME. OH,
3 GOSH. OKAY.

4 ANYTHING ELSE? MR. SUMMERS, SPEAK INTO
5 THE MICROPHONE.

6 MR. SUMMERS: WE MAY NOT GET A YES ANSWER.

7 THE COURT: WE MAY NOT.

8 MR. SUMMERS: AND HE MAY --

9 THE COURT: SO WHY DON'T YOU NOT OBJECT TO HIM
10 LEADING. OKAY?

11 MS. SARIS: TO THAT ONE QUESTION.

12 (SIDEBAR CONCLUDED.)

13
14 MR. JACKSON: MAY I, YOUR HONOR?

15 THE COURT: YES.

16 MR. JACKSON: THANK YOU.

17 Q MR. BARTINETTI, DID MICKEY THOMPSON COME
18 TO YOU OR COME TO CLARK AND TREVITHICK AND ULTIMATELY
19 MEET YOU WITH A REQUEST THAT YOU FILED A LAWSUIT ON HIS
20 BEHALF?

21 A WELL, THE INITIAL REQUEST WAS NOT FOR THE
22 LAWSUIT. THE INITIAL WAS FOR CONSULTATION AS TO ADVICE
23 ON WHAT TO DO.

24 Q OKAY. AND DID YOU CONSULT WITH MICKEY
25 THOMPSON CONCERNING -- AND IF YOU WILL ALLOW ME TO
26 WITHDRAW THAT QUESTION.

27 WAS THE CONSULTATION SURROUNDING THE
28 AGREEMENT BETWEEN MIKE GOODWIN AND HIMSELF?

1 A YES.

2 Q DID YOU, IN FACT, CONSULT WITH MICKEY
3 THOMPSON?

4 A I DID.

5 Q DID YOU BECOME HIS LEGAL REPRESENTATIVE?

6 A I DID.

7 Q ULTIMATELY, NOTWITHSTANDING EARLY
8 CONSULTATION, ULTIMATELY DID MICKEY THOMPSON FILE A
9 LAWSUIT WITH YOU AS THE LEGAL REPRESENTATIVE?

10 A YES, HE DID.

11 Q WHO WAS THAT LAWSUIT AGAINST?

12 A IT WAS AGAINST MR. MICHAEL GOODWIN AND HIS
13 COMPANY STADIUM MOTOR SPORTS CORPORATION.

14 Q WHEN THERE'S A LAWSUIT FILED IN CIVIL
15 COURT, WHAT IS THE DOCUMENT THAT'S USED? WHAT'S THE TOOL
16 THAT'S USED TO FILE THE LAWSUIT?

17 A IT'S REFERRED TO AS A COMPLAINT.

18 Q WHAT IS THE ORDINARY RESPONSIVE DOCUMENT
19 THAT ONE WOULD EXPECT TO GET IN CIVIL COURT AFTER ONE
20 GETS A COMPLAINT?

21 A AN ANSWER.

22 MR. JACKSON: YOUR HONOR, I HAVE A MULTI-PAGED
23 DOCUMENT THAT PURPORTS TO BE AN ANSWER TO A COMPLAINT
24 WITH THE PARTIES MICKEY THOMPSON, MICKEY THOMPSON
25 ENTERTAINMENT GROUP AND MICHAEL GOODWIN STADIUM MOTOR
26 SPORTS CORPORATION. THIS IS A NINE-PAGE DOCUMENT. MAY I
27 HAVE THIS MARKED AS PEOPLE'S NEXT IN ORDER?

28 THE COURT: SO IT WILL BE PEOPLE'S 11.

1 MR. JACKSON: THANK YOU, YOUR HONOR. I'M PLACING
2 A P-11 IN THE UPPER LEFT-HAND CORNER.

3
4 (MARKED FOR IDENTIFICATION PEOPLE'S
5 EXHIBIT NO. 11, DOCUMENTS.)
6

7 Q BY MR. JACKSON: MR. BARTINETTI, TAKE A
8 LOOK AT THAT DOCUMENT.

9 THAT APPEARS TO BE THAT A PHOTOSTATIC
10 COPY; CORRECT?

11 A IT DOES.

12 Q DO YOU RECOGNIZE THE DOCUMENT IN TOTAL?

13 A YES, IT DOES APPEAR TO BE THE ANSWER.

14 Q OKAY. IS THAT A COURT DOCUMENT THAT
15 INDICATES THAT A COMPLAINT WAS FILED AND OBVIOUSLY AN
16 ANSWER TO THAT COMPLAINT WAS THEN FILED?

17 A IT DOES. BECAUSE IT HAS A CASE NUMBER.
18 AND WITHOUT A COMPLAINT BEING FILED, THERE WOULDN'T BE A
19 CASE NUMBER.

20 Q WHAT IS THAT CASE NUMBER, FOR THE RECORD,
21 PLEASE?

22 A THE CASE NUMBER IS C513615.

23 Q WOULD THAT BE THE SAME CASE NUMBER AS THE
24 ORIGINAL COMPLAINT THAT WOULD HAVE BEEN FILED BY MICKEY
25 THOMPSON?

26 A YES.

27 Q WHO IS THAT ANSWER FROM?

28 A THE ANSWER IS FILED ON BEHALF OF

1 DEFENDANTS MICHAEL F. GOODWIN AND STADIUM MOTOR SPORTS
2 CORP.

3 Q BASED UPON YOUR REVIEW OF THAT DOCUMENT
4 AND YOUR MEMORY AS THE LEAD LITIGATOR INVOLVED IN THIS
5 DISPUTE, CAN YOU SAY THAT THERE WAS A -- AT THIS POINT AT
6 LEAST, AT THE POINT THAT THE ANSWER WAS FILED, A
7 FULL-BLOWN LAWSUIT GOING ON?

8 A YES.

9 MR. JACKSON: THE FILE DATE FOR THE RECORD, YOUR
10 HONOR, INDICATES NOVEMBER 29TH, 1984.

11 THE COURT: ALL RIGHT.

12 Q BY MR. JACKSON: WAS THE ORIGINAL
13 COMPLAINT FILED IN NOVEMBER OF 1984?

14 A YOU KNOW, AS I SIT HERE NOW, I DON'T
15 BELIEVE IT WAS. I BELIEVE IT WAS FILED EARLIER. MAYBE
16 IN --

17 Q HOW MUCH EARLIER?

18 A MAYBE IN OCTOBER.

19 Q ALL RIGHT. DO YOU REMEMBER THE DATE
20 THAT -- YOU HAVE THE PARTNERSHIP AGREEMENT IN FRONT OF
21 YOU. DO YOU REMEMBER THE EFFECTIVE DATE OF THE
22 PARTNERSHIP -- AND I'M USING THE WORD "PARTNERSHIP
23 AGREEMENT" VERY LOOSELY. I UNDERSTAND THAT THERE IS A
24 TECHNICAL CORPORATE DIFFERENCE, BUT BEAR WITH ME.

25 THE PARTNERSHIP AGREEMENT THAT'S BEEN
26 LABELED -- OR BEEN MARKED AS PEOPLE'S -- HELP ME OUT --

27 A TEN.

28 Q -- PEOPLE'S 10, WHAT WAS THE EFFECTIVE

1 DATE OF THAT?

2 A THEY DON'T USE THE LANGUAGE "EFFECTIVE
3 DATE." I THINK THE LANGUAGE HAS A FUNCTIONAL EQUIVALENT
4 OF THAT. IT SAYS DATED FOR PURPOSES OF REFERENCE, MARCH
5 30TH, 1984.

6 Q ALL RIGHT. SO WITHIN SEVEN OR EIGHT
7 MONTHS OF THAT PARTNERSHIP AGREEMENT -- OR THE TWO
8 COMPANIES COMING INTO PARTNERSHIP TOGETHER, MICKEY
9 THOMPSON FILED A LAWSUIT?

10 A YES.

11 MR. SUMMERS: YOUR HONOR, I UNDERSTAND WHY
12 COUNSEL IS USING A SHORTHAND, BUT THE TESTIMONY HAS BEEN
13 IT WASN'T A PARTNERSHIP AGREEMENT; IT WASN'T A
14 PARTNERSHIP. AND IT'S MISLEADING OR MISSTATES THE
15 EVIDENCE TO SAY OTHERWISE OR ASK QUESTIONS OTHERWISE.

16 THE COURT: SUSTAINED.

17 Q BY MR. JACKSON: WAS IT A CORPORATE
18 PARTNERSHIP?

19 A YOU COULD VIEW IT THAT WAY BECAUSE THEY
20 WERE PUTTING TWO ENTITIES TOGETHER.

21 Q OKAY. SO IF I WERE TO USE THE WORD "A
22 CORPORATE PARTNERSHIP AGREEMENT" WITH REGARD TO THAT
23 PARTICULAR DOCUMENT, WOULD THAT BE AN ACCURATE -- ALBEIT
24 NOT TECHNICALLY CORRECT -- AN ACCURATE ASSESSMENT OF THAT
25 DOCUMENT?

26 A AS A LITIGATOR, IT WOULDN'T OFFEND ME. IF
27 YOU HAD A CORPORATE LAWYER UP HERE, HE MIGHT FIGHT YOU
28 TOOTH AND NAIL. BUT FOR ME I UNDERSTAND WHAT YOU'RE

1 ASKING ME ABOUT.

2 Q OKAY. WHAT WAS THE REASON FOR THE
3 LAWSUIT, MR. BARTINETTI?

4 A THERE HAD ARISEN A DISPUTE BETWEEN
5 THOMPSON AND GOODWIN OVER THE ADVANCING OF MONIES TO PUT
6 ON THE EVENTS THAT WERE GOING TO BE PUT ON BY MICKEY
7 THOMPSON ENTERTAINMENT GROUP AND STADIUM MOTOR SPORTS.

8 Q COULD YOU DESCRIBE THAT IN A LITTLE BIT
9 MORE DETAIL.

10 A WHAT HAPPENED WAS IN THE -- IT WAS EITHER
11 MID OR LATE SUMMER OF 1984, THERE WAS AN EVENT FOR MICKEY
12 THOMPSON --

13 MR. SUMMERS: YOUR HONOR, EXCUSE ME FOR
14 INTERRUPTING. I WOULD OBJECT AT THIS POINT THAT IT'S A
15 NARRATIVE AND THERE IS NO FOUNDATION FOR THE INFORMATION
16 THAT'S BEING RELATED.

17 THE COURT: ALL RIGHT. SUSTAINED.

18 Q BY MR. JACKSON: DID YOU HAVE A
19 CONVERSATION WITH -- WELL, WERE THERE DEPOSITIONS TAKEN
20 IN RELATIONSHIP TO THE LAWSUIT?

21 A YES.

22 Q WERE THESE DEPOSITIONS UNDER OATH?

23 A YES.

24 Q ARE ALL DEPOSITIONS IN CIVIL SUITS UNDER
25 OATH?

26 A THEY'RE SUPPOSED TO BE, YES.

27 Q PURSUANT TO PENALTY OF PERJURY?

28 A YES.

1 Q DURING THE COURSE OF THOSE DEPOSITIONS,
2 DID YOU AS THE LEAD LITIGATOR ON BEHALF OF MICKEY
3 THOMPSON LEARN WHAT THE ULTIMATE DISPUTE WAS ABOUT?

4 A YES.

5 Q WOULD YOU BE ABLE TO FILE A LAWSUIT AS A
6 LITIGATOR IF YOU DIDN'T AT LEAST HAVE A WORKING
7 UNDERSTANDING OF THE NATURE OF THE DISPUTE?

8 A YOU WERE NOT SUPPOSED TO UNDER THE RULES
9 OF PROFESSIONAL CONDUCT AND I WOULDN'T.

10 Q ALL RIGHT. AND YOU HOLD A BAR LICENSE;
11 CORRECT?

12 A I DO.

13 Q AND THAT BAR LICENSE IS ACTIVE?

14 A YES.

15 Q AND YOU'RE IN GOOD STANDING WITH
16 CALIFORNIA STATE BAR?

17 A YES.

18 Q BASED ON THE DEPOSITIONS THAT YOU TOOK AND
19 YOUR ROLE AS THE LEAD LITIGATOR, HAVING TAKEN THOSE
20 DEPOSITIONS AND LEARNING AS MUCH ABOUT THE DISPUTE AS
21 POSSIBLE, DO YOU HAVE AN UNDERSTANDING, AS YOU SIT HERE
22 TODAY, ABOUT THE NATURE OF THE DISPUTE BETWEEN MICHAEL
23 GOODWIN AND MICKEY THOMPSON WITH REGARD TO THAT CORPORATE
24 PARTNERSHIP AGREEMENT?

25 MR. SUMMERS: FOUNDATION, YOUR HONOR. AGAIN, IT
26 CALLS FOR HEARSAY ON ITS FACE.

27 THE COURT: OVERRULED.

28 YOU CAN ANSWER.

1 THE WITNESS: YES.

2 Q BY MR. JACKSON: GIVEN THAT FOUNDATION,
3 MR. BARTINETTI, COULD YOU GO AHEAD AND DESCRIBE FOR THE
4 JURORS AS YOU'RE ABOUT TO, WHAT THE NATURE OF THE DISPUTE
5 WAS.

6 A THERE WAS A MICKEY THOMPSON EVENT -- AND
7 BY THAT I MEAN MICKEY THOMPSON ENTERTAINMENT GROUP
8 EVENT -- THAT WAS TO TAKE PLACE IN I THINK IT WAS
9 PONTIAC. AND MICKEY WAS ASKED TO PUT UP SOME MONEY FOR
10 THE EVENT AND HE SAID HE WOULD. HE WAS ASKED BY THE
11 PRESIDENT OF MR. GOODWIN'S COMPANY, JEANNIE BEAR SLEEPER,
12 TO PUT UP THE MONEY. AND HE SAID I'LL PUT UP 30 PERCENT,
13 MR. GOODWIN HAS TO PUT UP HIS 70 PERCENT. MR. GOODWIN
14 REFUSED TO PUT UP HIS 70 PERCENT. THE EVENT WAS IN
15 JEOPARDY.

16 THEN -- I WON'T USE THAT WORD. I WAS
17 GOING TO USE A WORD THAT WOULDN'T BE APPROPRIATE. IT'S
18 TOO MUCH A STREET TERM. BUT THEN THINGS REALLY FELL
19 APART RAPIDLY. MR. GOODWIN ASSERTED CONTROL OVER THE
20 THOMPSON ENTITIES, SAID YOU'VE DEFAULTED, I'M GOING TO
21 TAKE YOUR COMPANY. OF COURSE, THOMPSON TOOK EXCEPTION TO
22 THAT. AND THAT'S AT THE POINT THAT HE CAME TO OUR OFFICE
23 AND THE LITIGATION BEGAN SHORTLY THEREAFTER.

24 Q DID IT APPEAR BASED ON YOUR REVIEW OF ALL
25 THE DOCUMENTS AND THE DEPOSITIONS THAT YOU TOOK FROM THE
26 PRINCIPALS INVOLVED -- OR THE PARTIES INVOLVED THAT MIKE
27 GOODWIN WAS ATTEMPTING TO TAKE OVER MICKEY THOMPSON
28 ENTERTAINMENT GROUP, OR A LARGE PORTION THEREOF?

1 MR. SUMMERS: OBJECTION. LEADING.

2 THE COURT: SUSTAINED.

3 Q BY MR. JACKSON: WHAT WAS YOUR
4 UNDERSTANDING, MR. BARTINETTI -- OR LET ME ASK IT THIS
5 WAY, YOU MENTIONED SOMETHING AT THE END OF YOUR LAST
6 ANSWER ABOUT MR. GOODWIN ASSERTING CONTROL OR ATTEMPTING
7 TO ASSERT CONTROL OVER MICKEY THOMPSON'S COMPANY.
8 DESCRIBE WHAT YOU MEAN BY THAT.

9 MR. SUMMERS: YOUR HONOR, I'D ASK THE COURT TO
10 LIMIT THE ANSWER. NOT THAT IT'S NOT BEING OFFERED FOR
11 THE TRUTH, BUT TO --

12 THE COURT: EXPLAIN THE LITIGATION PROCESS?

13 MR. SUMMERS: YES.

14 THE COURT: YES.

15 MR. JACKSON: FINE, YOUR HONOR.

16 THE COURT: ALL RIGHT. SO, LADIES AND GENTLEMEN,
17 CERTAIN EVIDENCE IS BEING ELICITED FROM THIS WITNESS NOT
18 SO MUCH FOR THE TRUTH OF WHAT WAS STATED, BUT TO EXPLAIN
19 GENERALLY SPEAKING THE NATURE OF THE DISPUTE INVOLVED IN
20 THIS LAWSUIT.

21 MR. JACKSON: THANK YOU, YOUR HONOR.

22 Q WITH THAT, MR. BARTINETTI --

23 A I THINK I HAVE THE QUESTION IN MIND.

24 WHAT OCCURRED WAS WHEN THIS DISPUTE CAME
25 UP AND THERE BECAME A DISPUTE OVER PUTTING UP THE MONEY,
26 MR. GOODWIN MADE IT CLEAR THAT HE WAS GOING TO RUN MICKEY
27 THOMPSON ENTERTAINMENT GROUP; HE WAS GOING TO RUN STADIUM
28 MOTOR SPORTS; AND THAT MR. THOMPSON WAS GOING TO HAVE NO

1 SAY IN THE RUNNING OF THE COMPANIES AND COULD NOT EXPECT
2 TO RECEIVE ANY REVENUE FROM THE OPERATIONS. AT WHICH
3 POINT MICKEY WANTED HIS COMPANY BACK; AND THAT'S WHY HE
4 CAME TO US.

5 Q BASED ON YOUR EXPERIENCE AS A LITIGATOR IN
6 BUSINESS DISPUTES, WOULD THAT -- HAD THAT BEEN
7 SUCCESSFUL, HAD THAT ASSERTION BEEN SUCCESSFUL BY
8 MR. GOODWIN, WOULD THAT HAVE EFFECTIVELY RUN MICKEY
9 THOMPSON OUT OF BUSINESS AND HIS COMPANY END UP IN MIKE
10 GOODWIN'S HANDS?

11 MR. SUMMERS: OBJECTION. LEADING. CALLS FOR A
12 CONCLUSION.

13 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

14 THE COURT: SUSTAINED.

15 MS. SARIS: MAY WE APPROACH?

16
17 (PROCEEDINGS HELD AT SIDEBAR.)

18 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

19 MS. SARIS: YOUR HONOR, I'M ASKING THE COURT TO
20 FINALLY AFTER SEVEN WITNESSES NOW CITE THIS PROSECUTOR
21 FOR MISCONDUCT. GIVE AN INSTRUCTION TO THE JURY THAT
22 LEADING QUESTIONS ARE INAPPROPRIATE. THIS IS NOW THE
23 FIFTH OR SIXTH WITNESS. IT'S A HABIT. HE ASKS THE
24 QUESTION; HE GETS THE ANSWER HE WANTS OUT; THEN HE BACKS
25 OFF AND HE ASKS AN OPEN-ENDED QUESTION EXPECTING THE
26 RESPONSE TO BE EXACTLY WHAT THE LEADING QUESTION WAS.

27 THE COURT: ALL RIGHT. WELL, I HAVE CONTINUED TO
28 SUSTAIN DEFENSE OBJECTIONS.

1 MS. SARIS: AND WE'RE ASKING FOR IT TO BE CITED
2 AS MISCONDUCT AT THIS POINT AND ASKING THE JURY TO BE
3 INSTRUCTED.

4 THE COURT: I WILL, THOUGH, HOWEVER, NOT CITE
5 ANYONE FOR MISCONDUCT RIGHT NOW, BUT SIMPLY ADMONISH THAT
6 THE PEOPLE TRY TO POSE THE QUESTIONS IN A NONLEADING
7 FASHION. AND IF IT CONTINUES, WE MAY GET TO THAT STEP,
8 BUT WE'RE NOT ANYWHERE CLOSE TO THAT YET.

9 MR. JACKSON: YOUR HONOR, I WOULD SIMPLY PUT IT
10 IN IN MY OWN DEFENSE, MAYBE COUNSEL SHOULD CONSIDER THE
11 700 SERIES OF THE EVIDENCE CODE. THIS WITNESS IS CLEARLY
12 AN EXPERT.

13 THE COURT: HE IS AN EXPERT AND I THINK I HAVE
14 BEEN SOMEWHAT LIBERAL ON ALLOWING TESTIMONY BASED ON
15 THAT, BUT STILL, THE OBJECTIONS HAVE BEEN I THINK WELL
16 TAKEN ON THE LEADING ASPECT OF SEVERAL WITNESSES ALREADY.
17 AND I, AT THIS POINT, JUST WANT THE RECORD TO REFLECT
18 THAT YOU ARE BEING ASKED TO AVOID LEADING QUESTIONS.

19 I DO AGREE THAT THIS WITNESS IS AN EXPERT;
20 HE HAS QUALIFIED AS AN EXPERT. AND TO THAT EXTENT, I
21 THINK I HAVE BEEN PRETTY PERMISSIVE. BUT I DON'T THINK
22 IT JUSTIFIES ALL OF THE QUESTIONS THAT HAVE BEEN POSED SO
23 FAR.

24 MS. SARIS: AND I WOULD JUST ASK THE COURT TO
25 CONSIDER THE LAST QUESTION EVEN ON ITS FACE. I MEAN,
26 EVEN AN EXPERT: WOULD THAT HAVE EFFECTIVELY RUN MICKEY'S
27 BUSINESS INTO THE GROUND? I MEAN, IT'S INFLAMMATORY
28 LANGUAGE.

1 THE COURT: ALL RIGHT. I HAVE SUSTAINED THE
2 OBJECTION. LET'S MOVE ON FOR NOW. THANK YOU.

3 (SIDE BAR CONCLUDED.)

4

5 THE COURT: YOU MAY CONTINUE.

6 MR. JACKSON: THANK YOU, YOUR HONOR.

7 Q WHAT EFFECT HAD THAT BEEN -- IF MICKEY
8 THOMPSON HAD NOT REQUESTED YOUR HELP, WHAT EFFECT MIGHT
9 THAT ASSERTION BY MIKE GOODWIN HAVE HAD?

10 MR. SUMMERS: YOUR HONOR, OBJECTION. CALLS FOR A
11 CONCLUSION. CALLS FOR SPECULATION. AND THERE IS NO
12 FOUNDATION FOR ANY EXPERTISE ON THIS PARTICULAR SUBJECT.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER THAT.

15 THE WITNESS: MICKEY THOMPSON WOULDN'T HAVE HAD A
16 COMPANY.

17 Q BY MR. JACKSON: ULTIMATELY DURING THE
18 COURSE OF THIS LITIGATION -- WELL, WAS THERE A TRIAL?

19 A THERE WAS A TRIAL.

20 Q WAS IT A JURY TRIAL LIKE WE HAVE HERE OR
21 WAS IT A BENCH TRIAL?

22 A IT WAS A BENCH TRIAL BEFORE A RETIRED
23 JUDGE.

24 Q OKAY. WHAT WAS THE RESULT OF THAT BENCH
25 TRIAL?

26 A THE COURT FOUND IN FAVOR OF MICKEY
27 THOMPSON FOR BREACH OF CONTRACT AND AWARDED HIM DAMAGES
28 AND HIS COMPANY DAMAGES.

1 MR. JACKSON: YOUR HONOR, I HAVE A FOUR-PAGE
2 DOCUMENT THAT PURPORTS TO BE A MINUTE ORDER FROM THE
3 SUPERIOR COURT OF CALIFORNIA, LOS ANGELES, THE HONORABLE
4 LESTER E. OLSON, JUDGE PRO TEM. THIS IS FILED MARCH 1ST,
5 1986. AND IT APPEARS TO BE A NOTICE OF TENTATIVE
6 DECISION OF JUDGMENT.

7 MAY THIS BE MARKED AS PEOPLE'S NEXT IN
8 ORDER.

9 THE COURT: PEOPLE'S 12.

10 MR. JACKSON: THANK YOU. I'VE PLACED A P-12 IN
11 THE UPPER LEFT-HAND CORNER OF THE DOCUMENT. IT'S A
12 FOUR-PAGE DOCUMENT, I DON'T KNOW IF I MENTIONED THAT.

13 AND I'M APPROACHING THE WITNESS WITH THE
14 COURT'S PERMISSION.

15 THE COURT: YES.

16
17 (MARKED FOR IDENTIFICATION PEOPLE'S
18 EXHIBIT NO. 12, DOCUMENTS.)
19

20 Q BY MR. JACKSON: TAKE A LOOK AT THE
21 DOCUMENT THAT I'VE JUST MARKED AS PEOPLE'S 12.

22 A YES.

23 Q AND TELL ME IF YOU RECOGNIZE THAT
24 DOCUMENT.

25 A I DO.

26 Q OKAY. WHAT IS THAT DOCUMENT?

27 A THIS IS WHAT IS REFERRED TO AS A NOTICE OF
28 TENTATIVE DECISION WHICH IS REQUIRED BY THE CODE OF CIVIL

1 PROCEDURE AS A FIRST STEP TOWARD A JUDGMENT.

2 Q AND ULTIMATELY WAS THERE A JUDGMENT
3 RENDERED IN THIS CASE?

4 A THERE WAS.

5 Q WAS THE JUDGMENT CONSISTENT OR
6 INCONSISTENT WITH THAT TENTATIVE DECISION?

7 A CONSISTENT.

8 MR. JACKSON: I HAVE A SECOND DOCUMENT, YOUR
9 HONOR. WELL, THIS IS THE FOURTH OR FIFTH DOCUMENT,
10 ACTUALLY.

11 IF I MAY HAVE JUST A MOMENT. I WANT TO
12 TRY TO KEEP THIS DOWN TO A MINIMUM.

13 THE COURT: ALL RIGHT.

14 (PAUSE IN PROCEEDINGS.)

15 MR. JACKSON: I'M JUST GOING TO MARK FOR THE TIME
16 BEING, WITH THE COURT'S PERMISSION, ONE DOCUMENT. I HAVE
17 SEVERAL ON THIS ISSUE. A FOUR-PAGE DOCUMENT THAT
18 PURPORTS TO BE A SUPERIOR COURT OF THE STATE OF
19 CALIFORNIA FOR THE COUNTY OF LOS ANGELES, JUDGMENT AFTER
20 TRIAL BY COURT, CASE NO. C, AS IN CHARLIE, 513615.

21 I WOULD LIKE TO HAVE THIS DOCUMENT MARKED
22 PEOPLE'S NEXT IN ORDER.

23 THE COURT: PEOPLE'S 13.

24 MR. JACKSON: THANK YOU.

25

26 (MARKED FOR IDENTIFICATION PEOPLE'S
27 EXHIBIT NO. 13, DOCUMENTS.)
28

1 MR. JACKSON: MAY I APPROACH THE WITNESS?

2 THE COURT: YES.

3 Q BY MR. JACKSON: TAKE A LOOK AT THAT
4 DOCUMENT, MR. BARTINETTI, AND TELL ME IF YOU RECOGNIZE
5 WHAT THAT IS.

6 A YES. THIS IS A JUDGMENT AS ENTERED.

7 Q ALL RIGHT. IS THAT THE JUDGMENT THAT
8 JUDGE OLSON ULTIMATELY RENDERED AFTER THE TRIAL OF THE
9 THOMPSON/GOODWIN MATTER?

10 A YES.

11 Q WHAT WAS THE RESULT OF THE TRIAL?

12 A THE RESULT OF THE TRIAL WAS A JUDGMENT IN
13 FAVOR OF THOMPSON IN THE SUM OF 514,000, PLUS PREJUDGMENT
14 INTEREST, PLUS ATTORNEY'S FEES FOR A TOTAL JUDGMENT IN
15 EXCESS OF \$700,000.

16 Q IS THERE A SPECIFIC NUMBER ON THAT
17 DOCUMENT THAT INDICATES THE EXACT JUDGMENT AMOUNT?

18 A NO. WHAT THERE IS IS THE PRINCIPAL AMOUNT
19 OF \$514,388 CENTS. THERE IS A --

20 Q MR. BARTINETTI, I'M SORRY. I'M GOING TO
21 WRITE THOSE NUMBERS DOWN. 514 --

22 A 388.

23 Q YES, SIR.

24 A PREJUDGMENT INTEREST FROM THE DATE OF THE
25 FILING OF THE COMPLAINT. AND THIS DOES GIVE THE DATE.
26 OCTOBER 10TH, 1984 TO THE DATE OF THE JUDGMENT OF
27 \$80,961.

28 Q OKAY.

1	A	AND ATTORNEY'S FEES AND COSTS OF
2	\$197,720.40.	

3 Q IF MY MATH IS CORRECT, DOES THAT COME UP
4 TO A TOTAL OF \$793,069.40?

5 | A I WOULDN'T QUARREL WITH YOU.

6 Q WHEN THAT JUDGMENT WAS ENTERED AGAINST
7 MICHAEL GOODWIN, DID MICHAEL GOODWIN PAY MICKEY THOMPSON
8 THROUGH CLARK AND TREVITHICK?

9	A	NO.
---	---	-----

10 Q WHAT DID HAPPEN AFTER THE JUDGMENT WAS
11 ENTERED?

12 A AFTER THE JUDGMENT WAS ENTERED, THE NEXT
13 PROCEDURAL THING THAT HAPPENED WAS AN ATTEMPT BY S.M.C.
14 AND MR. GOODWIN TO AVOID POSTING A CORPORATE BOND. I
15 KNOW THAT IS NOT CLEAR TO SOMEONE WHO ISN'T INVOLVED IN
16 THE PROCESS.

17 ONCE A JUDGMENT IS ENTERED, A PARTY CAN GO
18 AND WHAT THEY CALL "EXECUTE ON THE JUDGMENT." SO THEY GO
19 TAKE PROPERTY OF THE JUDGMENT DEBTORS TO SATISFY THE
20 JUDGMENT. THE NORMAL WAY TO STOP A PLAINTIFF FROM DOING
21 THAT, IF YOU WANT TO APPEAL IS YOU GO TO A CORPORATION
22 AND THAT CORPORATION PUTS UP MONEY AND SAYS IN THE EVENT
23 THE APPEAL ISN'T SUCCESSFUL, WE WILL PAY YOU, PLAINTIFF.

24 AT THAT POINT, THE PLAINTIFF CANNOT TRY
25 AND GET ANY ASSETS OF THE DEFENDANT TO SATISFY THE
26 JUDGMENT BECAUSE IT HAS THE EFFECT OF SAYING HERE IS
27 SOMETHING THAT YOU GET IN LIEU OF BEING ABLE TO GO AFTER
28 THE ASSETS OF THE DEFENDANT.

1 Q WAS THAT DONE IN THIS CASE?

2 A NO.

3 Q WHAT DID HAPPEN IN THIS CASE?

4 A THE DEFENDANTS -- AND AT THIS POINT
5 JUDGMENT DEBTORS, MR. GOODWIN AND HIS COMPANY, ATTEMPTED
6 TO PUT UP WHAT THEY CALL PRIVATE SURETIES TO SATISFY THE
7 CODE REQUIREMENT AND TO STOP THE PLAINTIFFS, MICKEY
8 THOMPSON AND MICKEY THOMPSON ENTERTAINMENT GROUP, FROM
9 COLLECTING ON THEIR JUDGMENT.

10 Q WHAT THAT SUCCESSFUL?

11 A NO.

12 Q WHY NOT?

13 A THE COURT FOUND THAT THE PARTIES PUT UP
14 WERE RELATED PARTIES AND DID NOT SATISFY THE REQUIREMENTS
15 OF THE CODE. AND THE JUDGMENT CREDITORS, MR. THOMPSON
16 AND HIS COMPANY, WERE NOT REQUIRED TO ACCEPT THOSE FOLKS
17 AS SURETIES.

18 Q MR. BARTINETTI, DID YOU AS A
19 REPRESENTATIVE -- LET ME WITHDRAW THAT AND ASK IT THIS
20 WAY, DID MICKEY THOMPSON OBJECT TO THE PRIVATE SURETIES
21 BEING PUT UP SO THAT MR. GOODWIN COULD POST BOND DURING
22 THE APPEAL?

23 A VIGOROUSLY.

24 Q AND DID MICKEY THOMPSON PREVAIL ON THAT?

25 A YES.

26 Q WHAT HAPPENED AFTER MICKEY THOMPSON
27 PREVAILED ON THAT PARTICULAR ISSUE?

28 A OUR OFFICE, THROUGH MYSELF AND ONE OF THE

1 OTHER PRINCIPALS, DOLORES CORDELL, BEGAN EFFORTS TO TRY
2 AND COLLECT ON THE JUDGMENT.

3 Q WERE HER EFFORTS SUCCESSFUL?

4 A NO. I THINK WE GOT MAYBE A THOUSAND
5 DOLLARS OR SOMETHING OVER A PERIOD OF A FEW MONTHS.

6 Q WELL, MR. BARTINETTI, WHY WEREN'T THEY
7 SUCCESSFUL? IF YOU HAD A LEGAL JUDGMENT, WHY COULDN'T
8 YOU JUST GO COLLECT ON IT?

9 MR. SUMMERS: OBJECT.

10 MR. JACKSON: GO AHEAD. I'M SORRY?

11 MR. SUMMERS: OBJECTION, YOUR HONOR. FOUNDATION.
12 CALLS FOR SPECULATION.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER.

15 THE WITNESS: WE WERE NOT ABLE TO FIND ANY
16 ASSETS. FROM THE INVESTIGATION WE HAD DONE, IT APPEARED
17 THAT ASSETS HAD BEEN TRANSFERRED IN ORDER TO THWART OUR
18 ATTEMPTS TO COLLECT ON THE JUDGMENT.

19 MR. SUMMERS: OBJECTION, YOUR HONOR. MOTION TO
20 STRIKE AS TO THE PURPOSE.

21 THE COURT: THE WORD "THWART" WILL BE STRICKEN.

22 Q BY MR. JACKSON: WERE YOU AWARE OF ANY --
23 DURING YOUR INVESTIGATION OF THE ASSETS, WERE YOU AWARE
24 OF ANY ASSETS THAT HAD, IN FACT, BEEN TRANSFERRED?

25 A YES, WE DID BECOME AWARE OF IT. I CAN'T
26 SAY THAT WE KNEW RIGHT AT THE FRONT WHEN WE COULDN'T FIND
27 ANYTHING, BUT WE WENT THROUGH A NUMBER OF -- WHAT WE CALL
28 JUDGMENT -- EQUIVALENT OF JUDGMENT DEBTOR EXAMS AND SUCH

1 TRYING TO LOCATE ASSETS.

2 Q DID YOU LOCATE ANY OF THOSE ASSETS IN
3 SOMEBODY ELSE'S NAME?

4 A WE DID.

5 MR. SUMMERS: OBJECTION, YOUR HONOR.

6 THE COURT: I'LL SUSTAIN THE OBJECTION.

7 Q BY MR. JACKSON: WERE YOU ABLE TO EVER
8 FIND ANY ASSETS THAT HAD BEEN TRANSFERRED? IN OTHER
9 WORDS, FOLLOW THE MONEY?

10 A WE WERE ABLE TO FOLLOW THE MONEY, BUT WE
11 WEREN'T ABLE TO AT THAT POINT SECURE COLLECTION OF THOSE
12 DOLLARS TO GET THEM BACK INTO THE HANDS OF THE JUDGMENT
13 DEBTOR SO THAT WE COULD COLLECT ON THEM AND SATISFY THE
14 JUDGMENT.

15 Q WAS MICKEY THOMPSON GOING AFTER THIS
16 JUDGMENT VIGOROUSLY OR LACKADAISICALLY?

17 A WELL, IT WAS OUR OFFICE THAT WAS DOING IT
18 ON HIS BEHALF AND I THINK YOU WOULD SAY THAT WE WERE
19 DOING IT PROFESSIONALLY. I WOULDN'T CALL IT THAT WE WERE
20 OUT OF CONTROL. WE WERE TRYING TO TAKE THE STEPS THAT
21 PROFESSIONALLY LAW FIRMS DO IN REPRESENTING JUDGMENT
22 CREDITORS.

23 Q WAS MICHAEL GOODWIN, THROUGH HIS
24 REPRESENTATIVES, ATTEMPTING TO BLOCK YOUR EFFORTS TO
25 COLLECT ON THE JUDGMENT?

26 A YES.

27 Q DURING THE COURSE OF THE LITIGATION THAT
28 ENSUED, WERE YOU SUCCESSFUL IN -- WELL, WHO DID THE

1 ASSETS GO TO THAT YOU WERE ABLE TO FOLLOW, THE ASSETS
2 THAT YOU WERE ABLE TO FOLLOW?

3 MR. SUMMERS: OBJECTION. VAGUE, YOUR HONOR.
4 LACK OF FOUNDATION.

5 THE COURT: SUSTAINED. WE ARE GOING TO NEED A
6 FOUNDATION FOR THAT.

7 Q BY MR. JACKSON: WHAT WAS THE PROCESS --
8 WHEN YOU SAID JUST A SECOND AGO YOU WERE ABLE TO FOLLOW
9 CERTAIN MONIES, WHAT WAS THE PROCESS THAT YOU GO THROUGH
10 TO FOLLOW THOSE MONIES?

11 A WELL, THERE ARE A NUMBER OF STEPS THAT YOU
12 TAKE AND THAT WE DID TAKE. ONE IS TO HAVE PRIVATE
13 INVESTIGATORS DO WHAT THEY CALL JUST A BASIC PUBLIC
14 RECORD SEARCH, WHICH IS SOMETHING THAT TODAY MOST PEOPLE
15 CAN DO BY COMPUTER. FIND OUT WHAT REAL PROPERTY, IF ANY,
16 IS IN A PERSON'S NAME. TRY AND FIND OUT, YOU KNOW, ANY
17 SUBSTANTIAL PERSONAL PROPERTY THAT THEY OWN. AND WE WENT
18 GENERALLY THROUGH THOSE STEPS.

19 AND, AGAIN, MYSELF, MS. CORDELL AND A
20 PARALEGAL WERE THE ONES PRIMARILY INVOLVED.

21 Q AND WHAT DID THOSE PUBLIC RECORD SEARCHES
22 REVEAL WITH REGARD TO MIKE GOODWIN'S ASSETS?

23 MR. SUMMERS: OBJECTION. HEARSAY. FOUNDATION.

24 THE COURT: SUSTAINED.

25 Q BY MR. JACKSON: TELL ME, WHO DID THE
26 PUBLIC RECORDS SEARCH?

27 A YOU KNOW, AS I SIT HERE TODAY, I THINK IT
28 WAS DONE EITHER BY ELLY ANGUIANO, WHO WAS THE PARALEGAL;

1 OR BY AN OUTSIDE SERVICE THAT MS. ANGUIANO CONTRACTED
2 WITH BASED ON OUR AUTHORITY TO DO SO.

3 THE REPORTER: CAN I HAVE THE SPELLING?

4 THE WITNESS: OF ANGUIANO? A-N-G-U-I-A-N-O.

5 Q BY MR. JACKSON: AFTER YOU RECEIVED
6 INFORMATION BASED ON THOSE PUBLIC RECORD SEARCHES, DID
7 CLARK AND TREVITHICK ON BEHALF OF MICKEY THOMPSON GO BACK
8 TO COURT IN ORDER TO TRY TO SECURE ANY ASSETS?

9 A YES AND NO. NOT BACK TO SUPERIOR COURT
10 BECAUSE SOMETHING ELSE HAD OCCURRED IN THE PROCESS THAT
11 PUT US IN ANOTHER FORUM, SO TO SPEAK.

12 Q OKAY. I THINK I KNOW WHERE YOU'RE GOING.
13 WHAT HAPPENED?

14 A MR. GOODWIN FILED BANKRUPTCY ON BEHALF OF
15 STADIUM MOTOR SPORTS. BUT AT THE TIME THEY FILED, THEY
16 CHANGED THE NAME OF STADIUM MOTOR SPORTS TO -- I THINK IT
17 WAS CALLED E.S.I.

18 MR. JACKSON: YOUR HONOR, I'M HOLDING A DOCUMENT
19 THAT APPEARS TO BE A CERTIFIED DOCUMENT. IF I CAN HAVE
20 JUST A SECOND.

21 MY COUNT IS A 20-PAGE DOCUMENT. IT
22 PURPORTS TO BE UNITED STATES BANKRUPTCY COURT, CENTRAL
23 DISTRICT OF CALIFORNIA BANKRUPTCY DOCUMENT. THE TITLE
24 PAGE INDICATES PETITION UNDER CHAPTER 11, RE:
25 ENTERTAINMENT SPECIALTIES, INC. THE CASE NUMBER "S," AS
26 IN SAM, "A," AS IN ALPHA, 86-05280.

27 I WOULD LIKE TO HAVE THIS DOCUMENT MARKED
28 AS PEOPLE'S NEXT IN ORDER.

1 THE COURT: PEOPLE'S 14 FOR IDENTIFICATION.

2
3 (MARKED FOR IDENTIFICATION PEOPLE'S
4 EXHIBIT NO. 14, DOCUMENTS.)
5

6 MR. JACKSON: THERE'S A SECOND DOCUMENT THAT I'D
7 LIKE TO HAVE MARKED WHILE I'M DOING THIS HOUSEKEEPING.

8 IT'S ALSO A MULTI-PAGE DOCUMENT. IT LOOKS
9 LIKE A TEN-PAGE DOCUMENT THAT IS A UNITED STATES
10 BANKRUPTCY COURT, CENTRAL DISTRICT OF CALIFORNIA,
11 CERTIFIED DOCUMENT DATED 6/29 -- THE CERTIFICATION DATE
12 IS 6/29/2004 REGARDING PETITION UNDER CHAPTER 11, RE:
13 MICHAEL FRANK GOODWIN, CASE NUMBER "S," AS IN SAM, "A,"
14 AS IN APPLE, 86-06186 -- IT LOOKS LIKE EITHER "J" OR
15 "TR." IT'S HANDWRITTEN.

16 AS PEOPLE'S 15, YOUR HONOR?

17 THE COURT: YES. SO MARKED.

18
19 (MARKED FOR IDENTIFICATION PEOPLE'S
20 EXHIBIT NO. 15, DOCUMENTS.)
21

22 MR. JACKSON: MAY I APPROACH?

23 THE COURT: YES.

24 Q BY MR. JACKSON: TAKE A LOOK FIRST AT
25 PEOPLE'S 14 AND WE'LL GET TO 15 IN A MOMENT.

26 DO YOU RECOGNIZE THAT DOCUMENT?

27 A I DO.

28 Q WHAT IS THAT DOCUMENT?

1 A THAT'S A VOLUNTARY PETITION UNDER CHAPTER
2 11 OF THE BANKRUPTCY LAWS FOR A COMPANY KNOWN AS
3 ENTERTAINMENT SPECIALTIES, INC.

4 Q AND PEOPLE'S 15?

5 A PEOPLE'S 15 IS A PETITION, AGAIN, CHAPTER
6 11 MARKED INDIVIDUAL FOR MICHAEL FRANK GOODWIN.

7 Q WHAT IS THE EFFECTIVE DATE OF THE E.S.I.
8 BANKRUPTCY PETITION?

9 A IT WAS FILED SEPTEMBER 19TH. AND MY
10 UNDERSTANDING OF BANKRUPTCY LAW IS THE FILING IS THE
11 EFFECTIVE DATE.

12 Q OKAY. SEPTEMBER 19TH OF WHAT YEAR?

13 A OF 1986.

14 Q AND WHAT ABOUT THE PERSONAL BANKRUPTCY
15 PETITION?

16 A THAT APPEARS TO BE NOVEMBER 9TH, 1986.

17 Q ALL RIGHT. WHEN DID YOU GET NOTIFICATION
18 THAT BOTH E.S.I. AND MICHAEL GOODWIN HAD FILED FOR
19 CHAPTER 11 PROTECTION?

20 A I WOULD SAY THAT ON THE FIRST ONE, IT
21 PROBABLY WOULD HAVE BEEN WITHIN 24 HOURS THAT WE KNEW
22 THAT THE ONE HAD BEEN FILED FOR ENTERTAINMENT
23 SPECIALTIES, FORMALLY KNOWN AS STADIUM MOTOR SPORTS.

24 Q WHAT EFFECT WOULD THE E.S.I. AND PERSONAL
25 BANKRUPTCY OF MR. GOODWIN HAVE ON MICKEY THOMPSON'S
26 ATTEMPTS TO COLLECT ON THE JUDGMENT?

27 A IN FEDERAL COURT, THE FILING OF BANKRUPTCY
28 CONSTITUTES AN AUTOMATIC STAY. SO WHEN E.S.I. FILED IN

1 SEPTEMBER, WE COULD NO LONGER TRY TO COLLECT ON THE
2 E.S.I. JUDGMENT, BUT WE COULD CONTINUE TO TRY TO COLLECT
3 FROM MR. GOODWIN'S PERSONAL ASSETS. WHEN HE FILED, WE NO
4 LONGER WERE ALLOWED TO PROCEED AGAINST HIS ASSETS WITHOUT
5 THE CONSENT OF THE BANKRUPTCY COURT.

6 Q BEFORE MR. GOODWIN APPLIED OR PETITIONED
7 THE BANKRUPTCY COURT FOR CHAPTER 11 PROTECTION FOR HIS
8 PERSONAL BANKRUPTCY -- OR HIS PERSONAL ASSETS, I SHOULD
9 SAY, DID YOU ON BEHALF OF MICKEY THOMPSON ATTEMPT TO LEVY
10 ANY OF MR. GOODWIN'S PERSONAL ASSETS?

11 A OUR OFFICE DID, YES.

12 Q CAN YOU DESCRIBE SOME OR ALL OF THOSE
13 ASSETS THAT YOU ATTEMPTED TO LEVY.

14 A THE ONE THAT PRIMARILY STICKS IN MY MIND
15 IS AN AUTOMOBILE.

16 Q CAN YOU DESCRIBE THE AUTOMOBILE.

17 A IT'S MY MEMORY IT WAS A MERCEDES.

18 Q WERE YOU SUCCESSFUL ON BEHALF OF MICKEY
19 THOMPSON IN -- I'M GOING TO USE THE WORD "REPOSSESSING,"
20 THAT'S PROBABLY NOT THE BEST WORD -- IN "EXECUTING"
21 THE -- WELL, WHY DON'T I ASK YOU, WHAT IS IT CALLED?

22 A WELL, IT WOULD BE EXECUTING UNDER A
23 JUDGMENT. BUT THE BANKRUPTCY HAD THE EFFECT OF REALLY
24 STAYING THE PROCESS. SO BY THE TIME THAT THE BANKRUPTCY
25 WAS FILED, WE HAD NOT IN THE LANGUAGE OF LAW PERFECTED
26 OUR CLAIM TO THE CAR.

27 EVEN THOUGH IT'S MY MEMORY THAT LAW
28 ENFORCEMENT HAD GOTTEN IT IN THEIR POSSESSION. BUT THEN

1 THERE'S A CERTAIN PERIOD OF TIME WHEN A PERSON CAN GO IN
2 AND ARGUE THAT THAT ASSET SHOULD NOT BE TAKEN OR THAT
3 ASSET ISN'T THEIRS OR SOMETHING OF THAT NATURE.

4 SO THE BANKRUPTCY REALLY STOPPED ANY OF
5 THOSE COLLECTION ACTIVITIES INCLUDING THAT ADDRESSED TO
6 THE CAR.

7 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
8 HONOR?

9 MR. DIXON: YOUR HONOR, COULD WE APPROACH
10 BRIEFLY?

11 THE COURT: ON THE RECORD OR OFF?

12 MR. JACKSON: NO, OFF THE RECORD.

13 THE COURT: JUST COME IN THE WELL.

14 (PROCEEDINGS HELD AT SIDEBAR, NOT REPORTED.)

15 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
16 ARE GOING TO TAKE OUR AFTERNOON RECESS AT THIS TIME.
17 PLEASE REMEMBER ALL THE ADMONITIONS. I'M GOING TO BRING
18 YOU BACK AT 10:30 TOMORROW MORNING AND MAYBE I CAN
19 ACTUALLY KEEP YOU UNTIL NOON AND THEN WE CAN RESUME AT
20 1:30. SO WE WILL TRY TO TAKE CARE OF WHATEVER WE NEED TO
21 TAKE CARE OF BY 10:30. IF YOU WILL RETURN AT 10:30, WE
22 WILL DO OUR BEST TO GET YOU STARTED RIGHT AWAY AND CUT
23 DOWN ON THAT TWO-HOUR LUNCH HOUR.

24 SO HAVE A GOOD EVENING AND WE WILL SEE YOU
25 TOMORROW MORNING AT 10:30.

26
27 (THE FOLLOWING PROCEEDINGS WERE
28 HELD IN OPEN COURT OUTSIDE THE

1 PRESENCE OF THE JURY.)

2
3 THE COURT: ALL THE JURORS AND ALTERNATES HAVE
4 LEFT THE COURTROOM.

5 WHAT TIME SHOULD WE RESUME, THEN, WITH
6 MR. BARTINETTI?

7 MR. JACKSON: I'M SORRY, YOUR HONOR?

8 MR. DIXON: WHAT TIME SHOULD WE RESUME?

9 MS. SARIS: WE WILL PROBABLY WANT HIM EARLIER
10 THAN THE JURORS.

11 THE COURT: SO WE WILL DO THE ONE THIS AFTERNOON
12 AND THEN WHAT TIME?

13 MR. DIXON: I WOULD THINK 10:00 O'CLOCK WOULD BE
14 SUFFICIENT.

15 THE COURT: 10:00 O'CLOCK?

16 MS. SARIS: 10:00 O'CLOCK? IF YOU DON'T WANT TO
17 KEEP THE JURY WAITING, I WOULD SAY 9:45, 9:30. I WOULD
18 RATHER NOT BE RUSHED.

19 THE COURT: ALL RIGHT. LET'S SAY 9:30. THANKS.
20 SEE YOU TOMORROW.

21 AND THEN THE WITNESS WE ARE GOING TO
22 PROCEED WITH THIS AFTERNOON IS AVAILABLE NOW; RIGHT?

23 MR. DIXON: YES.

24 MR. JACKSON: OUTSIDE.

25 THE COURT: AND WE HAVE A 402 ON THAT. THE COURT
26 ACTUALLY HAD INDICATED PREVIOUSLY THAT IT WOULD DEFER
27 FINAL RULING UNTIL I HEARD MORE INFORMATION. LET ME JUST
28 SEE IF THE COURT REPORTER NEEDS A BREAK.

1 (PAUSE IN PROCEEDINGS.)

2 THE COURT: SO WHY DON'T WE PICK UP WHERE WE LEFT
3 OFF ON THOSE PRETRIAL MOTIONS AND I WILL HEAR FROM THE
4 WITNESS.

5 MR. DIXON: YOUR HONOR, WE CALL VINCE TRICARICO
6 TO THE STAND. I'LL GO GET HIM.

7
8 VINCE TRICARICO,
9 CALLED BY THE PEOPLE AS A WITNESS, WAS
10 SWORN AND TESTIFIED AS FOLLOWS:

11
12 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

13 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
14 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
15 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
16 TRUTH SO HELP YOU GOD.

17 THE WITNESS: I DO.

18 THE CLERK: THANK YOU PLEASE BE SEATED. SIR,
19 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
20 NAME FOR THE RECORD.

21 THE WITNESS: MY NAME VINCENT TRICARICO.
22 V-I-N-C-E-N-T. T-R-I-C-A-R-I-C-O.

23 THE CLERK: THANK YOU.

24 THE COURT: YOU MAY INQUIRE.

25 MR. DIXON: FINE. THANK YOU, YOUR HONOR.

26
27 DIRECT EXAMINATION

28 BY MR. DIXON:

1 Q THANKS FOR COMING TODAY. I'M SORRY YOU
2 HAD TO WAIT.

3 I WOULD LIKE TO ASK YOU ABOUT AN INCIDENT
4 THAT OCCURRED IN 1988.

5 DURING THAT TIME WERE YOU EMPLOYED?

6 A YES.

7 Q WHAT IS YOUR OCCUPATION?

8 A I'M AN ATTORNEY. I WAS AN ATTORNEY THEN.
9 AND I WAS A MEMBER OF THE FIRM OF CLARK AND TREVITHICK.

10 Q I BET YOU KNEW PHIL BARTINETTI?

11 A YES. AND I STILL DO.

12 Q DID YOU WORK FOR HIM AT THE TIME?

13 A I WORKED WITH HIM. PHIL AND I WERE
14 PARTNERS.

15 Q ALL RIGHT. AND SO YOU ARE LICENSED BY THE
16 STATE OF CALIFORNIA AS AN ATTORNEY?

17 A THAT'S CORRECT.

18 Q WAS THERE AN INCIDENT -- AND THE REASON WE
19 CALLED YOU TO THE STAND, THERE WAS AN INCIDENT THAT --
20 THERE WAS AN OUTBURST AT YOUR FIRM; IS THAT CORRECT?

21 A THAT'S CORRECT.

22 Q AND FOR THE PURPOSE OF THIS HEARING, WE
23 WILL TRY TO CUT TO THE CHASE.

24 DID YOU LEARN OF A -- OR MEET A PERSON BY
25 THE NAME OF CHUCK CLAYTON?

26 A YES. I SUBSEQUENTLY LEARNED THAT THAT WAS
27 HIS NAME.

28 Q THIS IS THE FIRST TIME YOU HAD SEEN HIM?

1 A THAT'S CORRECT.

2 Q AND AFTER THE INCIDENT YOU LEARNED HIS
3 NAME?

4 A THAT'S CORRECT.

5 Q APPARENTLY IS IT CORRECT --

6 AND I HOPE I'LL -- SINCE WE'RE IN A
7 HEARING HERE, I HOPE I CAN BE FORGIVEN FOR THE LEADING --
8 THE COURT: GO AHEAD.

9 MR. DIXON: CAN WE GET TO THE CHASE HERE?

10 THE COURT: YES, PLEASE DO.

11 Q BY MR. DIXON: IS IT FAIR TO SAY THAT AT
12 SOME POINT YOU LEARNED THAT MR. CLAYTON WAS THERE AT YOUR
13 FIRM FOR A DEPOSITION; IS THAT RIGHT?

14 A YES, I DID.

15 Q DID YOU PARTICIPATE IN THAT DEPOSITION?

16 A NO, I DID NOT.

17 Q DO YOU KNOW WHO DID?

18 A PHIL BARTINETTI TOOK THE DEPOSITION.

19 Q WAS IT YOUR UNDERSTANDING AT THE TIME PHIL
20 BARTINETTI WAS REPRESENTING MICKEY THOMPSON?

21 A IT BECAME MY UNDERSTANDING AFTER THE
22 INCIDENT. TO BE QUITE FRANK, I DIDN'T KNOW PRIOR TO THAT
23 DEPOSITION WHAT IT WAS ABOUT.

24 Q OKAY. OKAY. WELL, TELL ME WHERE YOU WERE
25 WHEN YOU -- WELL, LET ME WITHDRAW THAT AND ASK YOU THIS,
26 CHUCK CLAYTON MADE -- FOR THE WANT OF A BETTER TERM -- AN
27 OUTBURST, A STATEMENT; IS THAT CORRECT?

28 A THAT'S CORRECT.

1 Q WHERE WERE YOU WHEN YOU HEARD THIS
2 STATEMENT OR OUTBURST?

3 A I WAS WALKING DOWN A CORRIDOR IN OUR
4 OFFICE, COMING FROM ONE END OF THE OFFICES AND GOING PAST
5 THE RECEPTION AREA. AND HE CAME OUT OF THE CONFERENCE
6 ROOM WHICH WAS FORWARD OF THE RECEPTION AREA. AND HE
7 CAME OUT THE DOOR AND LITERALLY BURST THROUGH, SLAMMED
8 THE DOOR AND MADE A STATEMENT TO ME. AND HE WAS VERY
9 ANGRY WHEN HE MADE THE STATEMENT. I HAD NO IDEA WHY HE
10 WAS TALKING TO ME, BUT HE MADE A STATEMENT TO ME AT THAT
11 POINT.

12 Q LET ME ASK YOU A COUPLE MORE QUESTIONS AND
13 THEN WE'LL GET RIGHT TO THAT.

14 THE ROOM THAT HE BURST OUT OF AND OPENED
15 THIS DOOR, WAS THAT A ROOM WHERE YOUR FIRM WOULD NORMALLY
16 HOLD A DEPOSITION?

17 A YES.

18 Q OKAY. AND WHEN YOU HEARD THE STATEMENT,
19 HOW FAR AWAY FROM HIM WERE YOU?

20 A OH, I MEAN, HE WAS ALMOST A FOOT AWAY FROM
21 ME.

22 Q I MEAN, ABOUT THE DISTANCE WE ARE NOW?

23 A THAT'S ABOUT RIGHT, YES.

24 MR. DIXON: A FOOT OR TWO, YOUR HONOR?

25 THE COURT: YES.

26 MR. DIXON: THANK YOU.

27 Q AND YOU SAID HE WALKED OUT OF THE ROOM AND
28 CAN YOU DESCRIBE EXACTLY, TO THE BEST OF YOUR

1 RECOLLECTION, HOW THE DOOR OPENED? WHAT HIS FACIAL
2 APPEARANCE WAS? WHAT WAS HIS Demeanor?

3 A THE DOOR WAS JUST ABRUPTLY OPENED AND HE
4 CAME OUT QUICKLY. AND HE SEEMED ANGRY, HE SEEMED UPSET,
5 AND IT'S -- YOU KNOW, I'VE TAKEN A NUMBER OF DEPOSITIONS
6 IN MY LIFE AND I CAN RECALL SIMILAR INSTANCES WHERE
7 PEOPLE ARE VISIBLY UPSET. THEY'RE NOT HAPPY ABOUT THE
8 WAY THEY'VE BEEN TREATED AT A DEPOSITION; THINK THEY'VE
9 BEEN TREATED UNFAIRLY. AND HE WAS ANGRY ABOUT THAT.

10 Q OKAY. AND WHAT DID HE SAY AS HE BURST OUT
11 OF THE DOOR?

12 A HE SAID TO ME AS HE -- AND HE STOPPED IN
13 FRONT OF ME AND SAID, "GOODWIN WAS RIGHT. THE WAY TO
14 DEAL WITH A LAWYER LIKE THAT IS TO HIRE A HIT MAN AND DO
15 AWAY WITH THEM."

16 Q WAS THERE ANY ETHNIC SLUR AS PART OF THIS?

17 A YOU KNOW, AT THE END OF THAT STATEMENT HIS
18 VOICE DROPPED A LITTLE BIT, BUT I DID HEAR THE EXPRESSION
19 "DEGO," AND IT WAS FOLLOWED BY A TERM EITHER "RAT" OR
20 "BASTARD," OR BOTH.

21 Q SO TO THE BEST OF YOUR RECOLLECTION, WHAT
22 WAS THE STATEMENT?

23 A THE STATEMENT WAS, IN SUBSTANCE, "GOODWIN
24 WAS RIGHT. THE ONLY WAY TO DEAL WITH A LAWYER LIKE THAT
25 IS TO HIRE A HIT MAN AND WASTE HIM, DO AWAY WITH HIM."
26 AND THEN HE ENDED IT, AGAIN, IN A SOMEWHAT LOWER VOICE
27 BUT SAID, "DEGO." AND I'M NOT SURE WHICH WORD FOLLOWED,
28 IT WAS EITHER "RAT" OR "BASTARD," OR BOTH.

1 Q SO YOU DIDN'T KNOW HIM AND HE DIDN'T KNOW
2 YOU?

3 A I HAD NEVER MET THE MAN BEFORE. NEVER
4 LAID EYES ON HIM.

5 Q SO WHEN YOU SAY HE WAS TALKING RIGHT TO
6 YOU, WAS THERE ANYONE ELSE AROUND?

7 A I BELIEVE THE RECEPTIONIST WAS AT THE
8 DESK.

9 Q SO IT WAS KIND OF APPARENTLY A RANDOM
10 THING THAT HE WAS TALKING TO YOU?

11 A IT SEEMED LIKE HE JUST WANTED TO SAY
12 SOMETHING TO SOMEBODY. HE WAS CLEARLY ANGRY AND WANTED
13 TO GET SOMETHING OFF HIS CHEST.

14 Q AND IN AN EARLIER ANSWER YOU SAID THE LAST
15 PART OF HIS STATEMENT TRAILED OFF IN VOLUME; IS THAT FAIR
16 TO SAY?

17 A YES.

18 Q HOW WOULD YOU CHARACTERIZE THE FIRST PART
19 OF THE STATEMENT IN TERMS OF VOLUME?

20 A IT WAS LOUD. I MEAN, I'M NOT PREPARED TO
21 SAY HE WAS YELLING, BUT HE WAS LOUD. IT WAS NOT A
22 CONVERSATIONAL TONE.

23 Q IT WAS LOUDER THAN CONVERSATIONAL TONE,
24 BUT NOT AS LOUD AS A SHOUT OR YELL, OR WAS IT A SHOUT?

25 A THAT'S A DIFFICULT LINE TO DRAW. BUT HE
26 SPOKE LOUD ENOUGH THAT I'M SURE IF OTHERS WERE IN THAT
27 CORRIDOR, IN THAT VICINITY, THEY CERTAINLY WOULD HAVE
28 HEARD HIM. FOR EXAMPLE, I HAVE TO BELIEVE THE

1 RECEPTIONIST WOULD HAVE HEARD, BUT I DON'T RECALL WHO
2 ELSE MIGHT HAVE BEEN WITHIN EARSHOT.

3 WE HAVE -- THAT CONFERENCE ROOM TOOK UP
4 THE REST -- EXCUSE ME -- THE REST OF THAT CORRIDOR TO THE
5 CORRIDOR THAT THEN TURNS LEFT AND THERE WOULD BE OFFICES
6 BEHIND THAT OTHER CORRIDOR. THERE WOULD HAVE BEEN OTHER
7 OFFICES IN THE OTHER DIRECTION FROM THE RECEPTIONIST.

8 Q NOW, AFTER THE STATEMENT WAS MADE, DID YOU
9 RESPOND TO HIM? DID YOU TALK TO HIM? WHAT HAPPENED
10 NEXT?

11 A I SAID TO HIM, "WHAT ARE YOU SAYING? YOU
12 SHOULDN'T EVEN BE THINKING THINGS LIKE THAT."

13 Q DID HE RESPOND?

14 A HE DIDN'T. AND HE WALKED ON, AS I RECALL.

15 Q OUT OF YOUR OFFICES?

16 A HE WENT PASSED ME, IT DIDN'T LOOK -- I
17 DON'T BELIEVE HE WAS HEADING OUT OF THE OFFICES. HE
18 MIGHT HAVE BEEN HEADING IN THE DIRECTION I CAME FROM,
19 WHICH WAS IN THE DIRECTION OF THE MEN'S ROOM AND I WENT
20 BACK TOWARD MY OFFICE WHICH WAS AROUND THE CORNER.

21 Q SO YOU -- I TAKE IT BY THAT ANSWER YOU DID
22 NOT GO INTO THE CONFERENCE ROOM OR WHERE BARTINETTI MIGHT
23 HAVE BEEN IF HE WAS THE ONE THAT WAS THE SUBJECT OF THIS?

24 A I SPOKE TO PHIL AT THE END OF THE DAY. I
25 DID NOT TALK TO HIM AT THAT TIME.

26 MR. DIXON: COULD I HAVE A MOMENT, PLEASE?

27 THE COURT: YES.

28 (PAUSE IN PROCEEDINGS.)

1 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
2 TIME, YOUR HONOR.

3 THE COURT: CROSS?

4 MS. SARIS: THANK YOU.

5
6 CROSS-EXAMINATION

7 BY MS. SARIS:

8 Q GOOD AFTERNOON, MR. TRICARICO.

9 A TRICARICO.

10 Q SORRY.

11 DO YOU RECALL TALKING TO ONE OF THE
12 INVESTIGATING OFFICERS IN THIS CASE ON APRIL 20TH OF
13 1988?

14 A I RECALL TALKING TO ONE OF THE
15 INVESTIGATORS SHORTLY AFTER THIS INCIDENT OCCURRED.

16 Q OKAY.

17 A THE EXACT DATE OF COURSE IS --

18 Q DO YOU REMEMBER SAYING TO HIM THAT THE
19 QUOTE WAS -- AND I'M QUOTING NOW, "MAYBE THE WAY TO DEAL
20 WITH A LAWYER LIKE THAT WAS TO WASTE HIM OR GET A HIT
21 MAN," AND THEN SOMEHOW GOODWIN'S NAME WAS USED BUT YOU
22 DIDN'T RECALL -- YOU WERE UNABLE TO ACTUALLY REMEMBER
23 WHAT WAS SAID?

24 A I DON'T BELIEVE I TOLD THE INVESTIGATOR
25 THAT. I DON'T RECALL WHAT WAS SAID.

26 Q HAVE YOU EVER SEEN YOUR STATEMENT OR ANY
27 NOTES PERTAINING TO YOUR STATEMENT FROM THAT ORIGINAL
28 INVESTIGATOR?

1 A I DID.

2 Q WOULD LOOKING AT IT NOW REFRESH YOUR
3 RECOLLECTION?

4 A I LOOKED AT IT BEFORE I CAME HERE.

5 Q REGARDING THE APRIL 20TH, 1988 DATE?

6 A YES.

7 Q AND DID YOU NOTICE IN THAT STATEMENT THAT
8 HE CLAIMED YOU WERE UNABLE TO REMEMBER WHAT YOU SAID?

9 A I DO RECALL SEEING THAT. I ALSO RECALL
10 THE USE OF THE WORD "MAYBE" THERE WHICH IS NOT SOMETHING
11 THAT I WOULD HAVE SAID TO HIM.

12 Q THAT THE QUOTE WAS "MAYBE THE WAY TO DEAL
13 WITH A LAWYER LIKE THAT WAS TO WASTE HIM OR GET A HIT
14 MAN," WITHOUT MICHAEL GOODWIN'S NAME IN THE QUOTE AT ALL?

15 A GOODWIN WAS REFERENCED IN THE STATEMENT.

16 Q RIGHT. "AND THEN, MR. TRICARICO STATED
17 FURTHER THAT HE SOMEHOW USED GOODWIN'S NAME."

18 A THAT'S WHAT THE STATEMENT SAYS. THE PIECE
19 OF PAPER.

20 Q RIGHT. AND THAT WOULD HAVE BEEN TAKEN
21 VERY CLOSE IN TIME TO THIS DEPOSITION? YES?

22 A THAT'S MY RECOLLECTION, YES.

23 Q AND SO 20 YEARS LATER, THE IDEA THAT
24 MR. GOODWIN'S NAME WAS ACTUALLY IN THIS QUOTE AND HE
25 SHOULD HIRE A HIT MAN TO KILL THAT LAWYER LIKE MICHAEL
26 SAID AND THIS ITALIAN ETHIC SLUR, THAT'S SOMETHING YOU
27 RECALL NOW 20 YEARS LATER?

28 MR. DIXON: OBJECTION. ARGUMENTATIVE.

1 MS. SARIS: THERE IS NO JURY HERE.

2 THE COURT: WHAT'S THE POINT? THE WITNESS HAS
3 SAID THAT'S NOT WHAT HE SAID, SO --

4 MS. SARIS: THAT WHICH IS NOT -- OKAY.

5 Q SO WHAT YOU TOLD DETECTIVE -- THE
6 DETECTIVE THAT INTERVIEWED YOU IN '88 IS NOT WHAT WAS
7 SAID?

8 A I'M NOT FOLLOWING YOUR QUESTION. THERE'S
9 A PIECE OF PAPER THAT YOU'RE LOOKING AT THAT, AS I
10 UNDERSTAND IT, PURPORTS TO SAY WHAT I TOLD THE DETECTIVE.

11 Q YES.

12 A IT IS ESSENTIALLY IN MY VIEW ACCURATE. IT
13 IS INACCURATE IN SOME RESPECTS AND SPECIFICALLY WITH
14 RESPECT TO THE USE OF THE WORD "MAYBE," BECAUSE THERE WAS
15 NO MAYBE ABOUT IT.

16 AND MY RECOLLECTION CLEARLY WAS THAT HE
17 DID REFER TO GOODWIN WHEN HE MADE THE STATEMENT ABOUT
18 HIRING SOMEBODY. AND I ALSO DO RECALL THE ETHNIC SLUR.
19 I'M ITALIAN. THAT'S SOMETHING THAT STICKS WITH ME.

20 Q WHAT WAS THE NAME OF THE RECEPTIONIST THAT
21 WAS THERE?

22 A YOU KNOW, PHIL COULD PROBABLY TELL ME AND
23 I WOULD SAY YES. I DON'T REALLY RECALL WHAT HER NAME IS.

24 Q I'M CONFUSED. YOU SEEM TO RECALL MORE
25 ABOUT THE INCIDENT TODAY THAN YOU DID IN '88.

26 MR. DIXON: OBJECTION. ARGUMENT AGAIN, YOUR
27 HONOR.

28 THE COURT: ALL RIGHT. IT IS ARGUMENT. IF YOU

1 WILL PLEASE REPHRASE IT.

2 Q BY MS. SARIS: DO YOU RECALL THE ETHNIC
3 SLUR BEING "WAP" AND NOT "DEGO"?

4 A MY BEST RECOLLECTION IS "DEGO."

5 Q DO YOU REMEMBER THE DATE OF THE
6 DEPOSITION?

7 A NO. IT WAS IN MARCH, BECAUSE WHAT I DO
8 REMEMBER IS I HAD BEEN WITH THE FIRM ABOUT A YEAR AND I
9 HAD STARTED IN MARCH OF '87.

10 Q SO DO YOU THINK IT WAS MARCH OF '88?

11 A I BELIEVE SO. IT WAS MARCH. AND MY BEST
12 RECOLLECTION IS IT WAS A YEAR AFTER I HAD BEEN WITH THE
13 FIRM.

14 Q HAD MICKEY THOMPSON ALREADY BEEN KILLED?

15 A I DON'T -- YOU KNOW, I DON'T RECALL.

16 Q WELL, THERE WAS A DEPOSITION OF CHARLES
17 CLAYTON IN AUGUST OF 1988, COULD IT HAVE BEEN IN AUGUST?

18 A I DON'T BELIEVE SO. YOU KNOW --

19 Q WOULD YOUR FIRM KEEP NOTES OF THE
20 DEPOSITION OR RECORD OF THE FACT THAT ONE WAS TAKEN?

21 A WELL, I MEAN THERE WOULD BE NOTES IN THE
22 FILE, CERTAINLY.

23 Q DID YOU MAKE ANY ATTEMPT TO FIND THAT
24 BEFORE COMING TODAY?

25 A NO.

26 Q WERE YOU ASKED TO?

27 A NO.

28 Q WHAT HAPPENED INSIDE THE DEPOSITION ROOM?

1 A I WAS NOT INSIDE THE DEPOSITION ROOM.

2 Q SO YOU HAVE NO IDEA WHAT MR. CLAYTON WAS
3 RESPONDING TO?

4 A THAT'S CORRECT.

5 Q AND MR. CLAYTON DIDN'T TELL YOU IN HIS
6 OUTBURST WHAT IT WAS HE WAS RESPONDING TO?

7 A HE DID NOT.

8 Q DID YOU WORK FOR THIS FIRM WHEN YOU WERE
9 NOT QUITE A LAWYER YET?

10 A NO.

11 Q YOU WERE NEVER A LAW CLERK?

12 A THAT STATEMENT IS ALSO INCORRECT. I'VE
13 BEEN PRACTICING LAW FOR 35 YEARS.

14 Q I'M SORRY. I WASN'T REFERRING TO A
15 STATEMENT. I'M ASKING IF YOU EVER WERE AN UNPAID OR LESS
16 THAN A LAWYER IN THE FIRM'S CAPACITY?

17 MR. DIXON: OBJECTION. RELEVANCE.

18 THE WITNESS: NO.

19 THE COURT: OVERRULED.

20 THE ANSWER CAN REMAIN.

21 Q BY MS. SARIS: SO WHEN YOU FIRST JOINED
22 THE FIRM YOU WERE AN ATTORNEY. WERE YOU OF A PARTICULAR
23 LEVEL IN 1988? IN OTHER WORDS, WAS THERE -- WERE YOU A
24 PARTNER OR AN ASSOCIATE OR SOMETHING?

25 A I JOINED THE FIRM INITIALLY AS OF COUNSEL
26 FOR A TEMPORARY PERIOD, A SORT OF GETTING TO KNOW YOU. I
27 HAD BEEN A PARTNER AT ANOTHER FIRM FOR EIGHT YEARS AND
28 HAD BEEN WITH THAT OTHER FIRM 15 YEARS. AND AFTER BEING

1 WITH CLARK AND TREVITHICK ABOUT A YEAR, I WAS ASKED TO
2 BECOME A MEMBER OF THE FIRM, AN EQUITY SHAREHOLDER.

3 Q AND IS IT YOUR RECOLLECTION, THEN, THAT
4 THIS INCIDENT OCCURRED AFTER YOU WERE A PARTNER?

5 A YES. MY RECOLLECTION IS THAT I WAS ASKED
6 TO BECOME A MEMBER OF THE FIRM IN DECEMBER OF '87. SO IT
7 WAS ACTUALLY LESS THAN A YEAR I HAD BEEN WITH THE FIRM,
8 ABOUT NINE MONTHS. AND BY THE TIME THIS INCIDENT
9 OCCURRED, WHICH I THOUGHT WAS IN MARCH OF '88, IT WAS IN
10 THE LATE '80S, BUT I'M PRETTY SURE IT WAS MARCH OF '88,
11 AND SO BY THAT TIME I HAD BEEN A MEMBER OF THE FIRM.

12 MS. SARIS: JUST A MOMENT.

13 (DISCUSSION OFF THE RECORD.)

14 Q BY MS. SARIS: YOU'VE AFTER BEEN A MEMBER
15 OF THE CALIFORNIA BAR FOR HOW LONG, OR SINCE WHEN, IF
16 YOU --

17 A '87 OR '86. PROBABLY -- OH, NO. NO. NO.
18 I'M SORRY. '84 OR '85.

19 Q THANK YOU.

20 OH, I'M SORRY. ONE MORE QUESTION, YOUR
21 HONOR.

22 DID YOU JOIN THE CALIFORNIA BAR
23 SPECIFICALLY TO TAKE YOUR JOB AT CLARK AND TREVITHICK OR
24 WERE YOU A CALIFORNIA LAWYER PRIOR?

25 A I WAS A CALIFORNIA LAWYER PRIOR.

26 Q FOR HOW LONG?

27 A I CAME OUT HERE ORIGINALLY IN '81. AND I
28 WAS INVOLVED IN A MATTER -- IN AN ANTI-TRUST MATTER THAT

1 KEPT ME OUT HERE ABOUT 18 MONTHS. AND THEN I WENT BACK
2 EAST FOR A YEAR AND CAME BACK IN '84.

3 MY PRIOR FIRM HAD OFFICES IN LOS ANGELES
4 AND WASHINGTON AND NORTH CAROLINA. SO I TOOK THE BAR --
5 I CAN'T BE CERTAIN, IT WAS EITHER '84 OR '85 THAT I WAS
6 ADMITTED IN CALIFORNIA.

7 Q FOR A DIFFERENT FIRM?

8 MR. DIXON: OBJECTION. WHAT --

9 THE WITNESS: YES.

10 MR. DIXON: WHAT'S THE RELEVANCE?

11 THE COURT: THE ANSWER CAN REMAIN. OVERRULED.

12 ANYTHING ELSE?

13 MS. SARIS: THANK YOU. NO, YOUR HONOR.

14 THE COURT: ANYTHING ELSE?

15 MR. DIXON: NOT AT THIS TIME. THANK YOU.

16 THE COURT: ALL RIGHT. WHAT TIME DO YOU WANT THE
17 WITNESS ORDERED BACK?

18 MR. DIXON: WELL, I KNOW THAT THE WITNESS HAS AN
19 APPEARANCE IN ORANGE COUNTY. I'LL LET HIM EXPLAIN THAT
20 TO THE COURT AND THEN WE WILL --

21 THE COURT: JUST TELL ME.

22 MS. SARIS: WELL, YOUR HONOR, THE MOTION PENDING
23 WOULD NEGATE THE NEED FOR THE WITNESS AND WE WOULD ASK TO
24 BE HEARD.

25 THE COURT: IT MAY OR MAY NOT, BUT FOR RIGHT NOW
26 WHAT TIME?

27 MR. DIXON: 1:30 TOMORROW AFTERNOON.

28 THE COURT: UNLESS --

1 THE WITNESS: I BELIEVE I CAN BE BACK AT 1:30. I
2 HAVE A HEARING BEFORE A DISCOVERY REFEREE AT 10:00
3 O'CLOCK. I SHOULD HAVE NO PROBLEM.

4 THE COURT: ALL RIGHT. I WILL MAKE THE ORDER FOR
5 1:30 TOMORROW AFTERNOON SUBJECT TO A FINAL RULING THIS
6 AFTERNOON. AND MR. DIXON OR MR. JACKSON WILL CONTACT
7 YOU.

8 MR. DIXON: YES. IF HE'S NOT NEEDED, WE'LL
9 CONTACT HIM.

10 THE COURT: THANK YOU.

11 MR. DIXON: THANK YOU.

12 THE WITNESS: THANK YOU.

13 MR. DIXON: YOUR HONOR --

14 THE COURT: ALL RIGHT.

15 MR. DIXON: I'M THE PROPONENT OF THE EVIDENCE AND
16 I THINK THERE IS TWO LAYERS HERE. FIRST ONE -- AND I
17 DON'T -- THE FIRST ONE IS WHETHER THIS IS EXCITED
18 UTTERANCE OR NOT. AND I THINK IT'S CLEAR THAT IT IS FROM
19 ALL THE CIRCUMSTANCES SURROUNDING IT.

20 AND THE SECOND IS WHY IS IT RELEVANT?
21 IT'S RELEVANT BECAUSE I THINK FROM THE STATEMENT IT'S AN
22 ADMISSION TO CLAYTON FROM GOODWIN. IT'S A STATEMENT FROM
23 GOODWIN AND THAT'S AN EXCEPTION TO THE HEARSAY RULE.

24 GOODWIN'S RIGHT. HE MIGHT AS WELL HAVE
25 SAID GOODWIN SAID, INSTEAD OF GOODWIN'S RIGHT. THAT'S
26 WHAT HE'S REALLY SAYING. GOODWIN SAID THAT HE OUGHT TO
27 HIRE A HIT MAN AND TAKE THIS GUY OUT. THAT'S WHAT'S
28 REALLY GOING ON HERE AND THAT'S AN ADMISSION. AN

1 ADMISSION PLUS THE EXCITED UTTERANCE, IT'S ADMISSIBLE IN
2 OUR VIEW.

3 THE COURT: LET ME JUST ASK ONE QUESTION BECAUSE
4 WE DIDN'T GET THROUGH THE TESTIMONY OF MR. BARTINETTI,
5 BUT I'M GOING TO ASSUME THAT HE'S GOING TO LAY A FURTHER
6 FOUNDATION REGARDING WHAT WENT ON AND INSIDE DURING THE
7 DEPOSITION.

8 IS THAT RIGHT?

9 MR. DIXON: ABSOLUTELY TRUE. HE'S GOING TO TELL
10 US WHO MR. CLAYTON WAS AND HIS RELATIONSHIP TO THE
11 DEFENDANT AS A BUSINESS PARTNER, AND THAT'S THE
12 CONNECTION THERE.

13 MS. SARIS: YOUR HONOR, THE EXCITED UTTERANCE
14 SECTION IN CASE LAW HAS STATED THAT THE COMMENT HAS TO
15 NARRATE OR DESCRIBE THE EVENT. CLEARLY THAT WAS NOT WHAT
16 WAS GOING ON. MR. GOODWIN WAS NOT IN THE ROOM WITH PHIL
17 BARTINETTI AT ALL AT THE DEPOSITION NARRATING THAT
18 SOMEBODY OUGHT TO HIRE A HIT MAN.

19 THE POINT OF HEARSAY EXCEPTION ARE WHEN
20 THERE'S SOMETHING THAT MAKES THE STATEMENT SO RELIABLE AS
21 TO TRUST THE FACT THAT IT'S AN OUT-OF-COURT STATEMENT
22 BEING OFFERED AGAINST AN INDIVIDUAL.

23 HERE THERE'S TWO LEVELS. WE HAVE NO IDEA
24 WHAT MIKE GOODWIN SAID TO CHUCK CLAYTON, WHETHER CHUCK
25 CLAYTON READ SOMETHING; WHETHER CHUCK CLAYTON HEARD
26 MICHAEL GIVE A SPEECH SOMEWHERE; WHETHER HE SAW SOME
27 TREATMENT FOR A MOVIE LYING AROUND WHERE ONE OF THE
28 CHARACTERS PERHAPS HIRED A HIT MAN; WE DON'T KNOW WHETHER

1 IT'S BEFORE OR AFTER THE MURDER.

2 THAT LEVEL IS NOT JUST BECAUSE MIKE SAID
3 IT, IT'S AN ADMISSION. THERE HAS TO BE SOME LEVEL OF
4 RELIABILITY. AND THERE'S NO WHERE WHERE CLAYTON IS
5 ACTUALLY SAYING MIKE GOODWIN TOLD ME, HE SAID GOODWIN WAS
6 RIGHT, AS IF GOODWIN'S GENERAL ATTITUDE ABOUT LAWYERS IS,
7 THEY OUGHT TO BE TAKEN OUT AND SHOT. THERE IS NOTHING
8 THAT SAID HE MADE A STATEMENT, FIRST OFF.

9 AND THE SECOND LEVEL -- AND CASE LAW IS
10 VERY CLEAR -- IT HAS TO NARRATE THE EVENT. THE ANALOGY
11 BEING IF SOMEONE IS BEING TORTURED AND THEY SAY "OW," THE
12 "OW" IS RELEVANT AND ADMISSIBLE. WHAT THE INFORMATION
13 THEY GIVE AS A RESULT OF THE TORTURE IS NOT. IT HAS TO
14 BE DESCRIBING THE EVENT THAT IS HAPPENING. AND THIS
15 GENTLEMAN WAS NOT IN THE ROOM AND THIS COMMENT DOES NOT
16 INTERNALLY HAVE ANY INDICIA OF RELIABILITY

17 MR. DIXON: THAT'S EXACTLY WHAT HAPPENED. HE WAS
18 YELLING "OW" AFTER BARTINETTI CROSS-EXAMINED HIM IN THE
19 DEPOSITION AND IT CAME OUT WHAT GOODWIN TOLD HIM.
20 GOODWIN'S RIGHT. THE SAME THING AS GOODWIN TOLD ME.
21 THEY OUGHT TO GO GET A HIT MAN AND TAKE CARE OF THIS GUY.

22 MS. SARIS: WE WOULD NEED TO HEAR FROM
23 MR. CLAYTON AS TO WHETHER OR NOT GOODWIN'S TOLD HIM THAT
24 OR IF HE READ IT SOMEWHERE OR IT WAS A GENERAL FEELING
25 THAT EVERYONE KNEW MIKE GOODWIN HAD ABOUT LAWYERS.

26 AND THE LEVEL OF PREJUDICE OF THIS
27 STATEMENT VERSUS THE PROBATIVE VALUE AFTER 27 OR MORE
28 WITNESSES ARE GOING TO BE PARADED IN FRONT OF THIS JURY

1 TO SAY THAT MICHAEL GOODWIN SAID BAD THINGS ABOUT MICKEY
2 THOMPSON, ESPECIALLY THE PREJUDICIAL IMPACT OF THE WORD
3 "HIT MAN."

4 THE COURT: ALL RIGHT. WELL, LET ME JUST SAY
5 THIS, I FEEL MORE COMFORTABLE WITH THE FACT THAT THIS IS
6 A SPONTANEOUS STATEMENT THAN I DO WITH THE ADMISSION
7 PART. I DON'T HAVE ANY QUESTION. BUT ASSUMING THAT
8 MR. BARTINETTI IS GOING TO TESTIFY THAT HE WAS PRETTY
9 ROUGH WITH MR. CLAYTON DURING THE COURSE OF THE
10 EXAMINATION, ASSUMING THAT, I CAN SAY WITH SOME DEGREE OF
11 CERTAINTY THAT THIS WOULD HAVE BEEN A STATEMENT WHICH
12 RESPONDED OR EXPLAINED A CONDITION FOR AN EVENT
13 PERCEIVED. THAT'S NOT THE ISSUE.

14 THE QUESTION FOR ME IS, WAS IT SOMETHING
15 THAT MR. GOODWIN SAID TO MR. CLAYTON? AND I DON'T HAVE
16 ENOUGH INFORMATION AT THIS POINT.

17 MR. DIXON: WELL, ALL WE HAVE IS OF COURSE THE
18 STATEMENT. BUT THE EXCITED UTTERANCE OR SPONTANEOUS
19 STATEMENT SECTION AS THE COURT HAS JUST FOUND, THIS IS A
20 SPONTANEOUS STATEMENT --

21 THE COURT: RIGHT.

22 MR. DIXON: -- GIVES THE STATEMENT RELIABILITY.
23 AND ALL I CAN SAY -- AND I'M SORRY TO REPEAT MYSELF -- IS
24 THAT WHAT IS SAID HERE IS AN INDICATION OF RELIABILITY
25 THAT GOODWIN SAID IT. GOODWIN'S RIGHT. IN MY VIEW,
26 THAT'S THE SAME AS SAYING GOODWIN SAID WHAT HE SAID.
27 WHERE ELSE WOULD THIS -- THIS IS NOT A COMMENT OR A
28 STATEMENT THAT THIS MAN THOUGHT ABOUT OR CONCOCTED OR --

1 THE COURT: NO. I HAVE NO PROBLEM --

2 MR. DIXON: HE CAME OUT WITH IT AND HE CAME OUT
3 WITH IT BECAUSE IT WAS TRUTHFUL. AND IT'S TRUTHFUL THAT
4 GOODWIN WAS RIGHT, GOODWIN MUST HAVE SAID THAT TO HIM.
5 GOODWIN'S RIGHT. WE OUGHT TO KILL THIS GUY AND HIRE A
6 HIT MAN.

7 THE COURT: RIGHT. BUT WHAT I'M SAYING IS I HAVE
8 NO DOUBT THAT THIS IS A SPONTANEOUS STATEMENT, ASSUMING
9 THAT THE TESTIMONY IS THAT MR. BARTINETTI GAVE
10 MR. CLAYTON A HARD TIME.

11 I'M HAVING A PROBLEM WITH THE 352 ANGLE.
12 AND FOR ME TO FIND THAT THE UNDERLYING STATEMENT CAME
13 FROM MR. GOODWIN AND CONSTITUTES AN ADMISSION IS A LITTLE
14 BIT DIFFICULT FOR ME AT THIS POINT. THAT'S ALL I'M
15 SAYING.

16 I THINK THAT YOU TAKE THE NAME "GOODWIN"
17 OUT OF THAT STATEMENT AND YOU HAVE MR. CLAYTON SAYING THE
18 ONLY WAY TO DEAL WITH A LAWYER LIKE THAT IS TO HIRE A HIT
19 MAN. I DON'T HAVE ANY PROBLEM WITH THE STATEMENT. BUT
20 ONCE WE GET TO THE ISSUE OF WHETHER OR NOT THIS CAME FROM
21 MR. GOODWIN AND IN WHAT CONTEXT IT CAME FROM MR. GOODWIN
22 AND WHEN IT CAME FROM MR. GOODWIN AND WHETHER IT WAS IN
23 WRITING OR WHETHER IT WAS SPOKEN, I'M HAVING A BIT OF A
24 PROBLEM WITH IT BECAUSE UNDER 352 I HAVE TO WEIGH AND
25 BALANCE THE PROBATIVE AND THE PREJUDICIAL EFFECT.

26 THIS IS A STATEMENT THAT IS EXTREMELY
27 PREJUDICIAL TO MR. GOODWIN. OBVIOUSLY, I AGREE WITH
28 MS. SARIS ON THAT. HOW MUCH PROBATIVE VALUE DOES IT HAVE

1 DEPENDS ON HOW RELIABLE THE INITIAL STATEMENT IS. AND I
2 DON'T KNOW WHAT MORE CAN BE PRESENTED ON THAT. I HAVE NO
3 PROBLEM WITH THE STATEMENT WITHOUT "MR. GOODWIN."

4 MS. SARIS: WHAT'S THE RELEVANCE OF THE
5 STATEMENT, THEN, IF MR. GOODWIN --

6 THE COURT: WELL, I DON'T KNOW THE RELATIONSHIP
7 THAT EXISTS BETWEEN MR. CLAYTON AND MR. GOODWIN. I
8 REMEMBER WHEN WE HAD THIS HEARING ORIGINALLY, THERE WAS
9 AN OFFER OF PROOF AS TO THE RELATIONSHIP OR THE POSITION
10 THAT MR. CLAYTON HAD IN THE COMPANY OR WITH RESPECT TO
11 THERE BEING A BUSINESS ASSOCIATION THERE. OTHERWISE, WHY
12 WAS HE BEING EXAMINED IN THIS CONTEXT?

13 MS. SARIS: BUT EVEN ASSUMING THAT THAT'S THE
14 CASE, FOR THE PURPOSE OF THIS HEARING, WE'LL AGREE THAT
15 MR. CLAYTON AND MR. GOODWIN HAD BUSINESS DEALINGS.

16 IF MR. CLAYTON CAME OUT OF AN INTERVIEW
17 AND SAID SOMEONE OUGHT TO HIRE A HIT MAN, THAT RELEVANCE
18 TO MICHAEL GOODWIN NOW IN A TRIAL WHERE SOMEONE IS
19 ACCUSED OF HIRING A MAN IS TOTALLY PREJUDICIAL WITH
20 ABSOLUTELY NO PROBATIVE VALUE.

21 THE COURT: EXACTLY. IT'S EXTREMELY PROBATIVE --

22 MS. SARIS: THAT A BUSINESS PARTNER THINKS A HIT
23 MAN OUGHT TO BE HIRED?

24 THE COURT: IT'S A SPONTANEOUS STATEMENT,
25 CLEARLY. IT'S A SPONTANEOUS STATEMENT. YOU ARE TELLING
26 ME THAT I HAVE TO WEIGH IT UNDER 352. WHAT I'M SAYING TO
27 YOU IS IT DEPENDS ON THE RELATIONSHIP THAT THE PEOPLE CAN
28 ESTABLISH EXISTS BETWEEN CLAYTON AND GOODWIN. SO --

1 MS. SARIS: I'M JUST SAYING LET'S ASSUME THAT
2 THEY CAN ESTABLISH THE MOST INTIMATE OF BUSINESS
3 RELATIONSHIPS. HOW IS THAT NOT MORE PREJUDICIAL THAN
4 PROBATIVE THAT CLAYTON BELIEVES SOMEBODY OUGHT TO HIRE A
5 HIT MAN TO KILL -- AND I'M ASSUMING THAT THE COURT IS
6 EXCLUDING THE STATEMENT AS IT RELATES TO MR. GOODWIN.

7 MR. DIXON: WELL, I'D LIKE TO BE HEARD --

8 THE COURT: I THOUGHT THAT WAS YOUR REQUEST.

9 MS. SARIS: THAT IS MY REQUEST. AND I DON'T KNOW
10 IF COURT HAS RULED.

11 MR. DIXON: I'D LIKE TO JUST ADDRESS THAT FROM A
12 SLIGHTLY DIFFERENT ANGLE.

13 THE COURT JUST SAID THAT UNDER 352 THE
14 COURT'S HAVING SOME ISSUE WITH THAT. AND I CAN SEE THAT,
15 ESPECIALLY WHEN -- IF WE LOOK AT IT IN AN ISOLATED
16 FASHION, JUST THIS STATEMENT.

17 BUT IF THE ISSUE IS THE LEVEL OF
18 RELIABILITY WITH RESPECT TO GOODWIN'S RIGHT, WE OUGHT TO
19 HIRE A HIT MAN, HOW MANY OTHER WITNESSES HAVE WE HEARD IN
20 THIS COURTROOM WHO SAY THIS MAN -- WE JUST HAD ONE, GREG
21 KEAY, WE OUGHT TO WASTE MICKEY THOMPSON. OTHERS SAID WE
22 OUGHT TO GET RID OF HIM. THERE'S BEEN A NUMBER OF
23 WITNESSES SO FAR. SO I DON'T KNOW IF IT'S THAT
24 PREJUDICIAL. THIS JURY HAS ALREADY HEARD THAT.

25 AND I WOULD SUGGEST TO THE COURT THAT IT
26 CERTAINLY ADDS A LEVEL OF -- I WOULD HOPE COMFORT TO THE
27 TRUSTWORTHINESS OF THIS SPONTANEOUS STATEMENT, WHICH IS
28 DEEMED BY THE EVIDENCE CODE TO BE TRUSTWORTHY TO A LARGE

1 DEGREE ANYWAY.

2 THIS IS NOT NEW NEWS. THIS IS NOT THE
3 ONLY EVIDENCE IN THIS CASE, THAT MICHAEL GOODWIN WANTED
4 TO HIRE A HIT MAN TO GET RID OF MICKEY THOMPSON, OR
5 WANTED TO GET RID OF HIM. THERE'S LOTS OF WITNESSES
6 HERE. AND I WOULD THINK THAT THAT MAY GIVE THE COURT
7 SOME LEVEL OF COMFORT THAT THIS IS A TRUSTWORTHY
8 STATEMENT AND THAT THE PREJUDICIAL VALUE ISN'T THAT GREAT
9 BECAUSE THE JURY HAS ALREADY HEARD IT.

10 THE COURT: OKAY. I THINK MAYBE I'M NOT BEING
11 UNDERSTOOD CORRECTLY.

12 MR. DIXON: OKAY.

13 THE COURT: YOU HAVE PREVIOUSLY TOLD ME THAT THIS
14 STATEMENT YOU ARE OFFERING WOULD BE ADMISSIBLE DESPITE A
15 HEARSAY OBJECTION BECAUSE IT FITS WITHIN TWO HEARSAY
16 EXCEPTIONS. AND ON EACH LEVEL, THERE'S A VALID HEARSAY
17 EXCEPTION. I AGREE. THE STATEMENT THAT WAS MADE BY
18 MR. CLAYTON IN RESPONSE TO TOUGH QUESTIONING BY
19 MR. BARTINETTI IS A SPONTANEOUS STATEMENT.

20 IT DESCRIBES THE EVENT THAT JUST OCCURRED
21 OR HIS FEELING ABOUT THE EVENT THAT JUST OCCURRED. I
22 DON'T HAVE ANY PROBLEM WITH THAT STATEMENT. AND I DON'T
23 HAVE ANY PROBLEM WITH THE BELIEF THAT IT'S RELIABLE
24 BECAUSE IT IS A SPONTANEOUS STATEMENT AND IT HAS INHERENT
25 RELIABILITY.

26 THE FIRST EXCEPTION TO THE HEARSAY RULE,
27 THOUGH, IS THE ADMISSION. AND I'M NOT REAL CLEAR AS TO
28 WHETHER OR NOT THIS WAS, IN FACT, AN ADMISSION BY

1 MR. GOODWIN. THAT'S ALL I'M SAYING. THAT PART OF IT I
2 HAVE A LITTLE BIT OF TROUBLE WITH. AND I'M TRYING TO
3 WEIGH AND BALANCE THE STATEMENT WITHOUT REFERENCE TO
4 GOODWIN.

5 THE STATEMENT, ASSUMING THERE'S A BUSINESS
6 RELATIONSHIP OR SOME TYPE OF SPECIAL RELATIONSHIP THAT
7 EXISTS BETWEEN CLAYTON AND GOODWIN; AND SOMEHOW CLAYTON
8 HAS INFORMATION ABOUT THE ASSETS -- WHICH IS WHAT I HAVE
9 YET TO HEAR, BUT I'M ASSUMING THAT'S COMING BASED ON THE
10 OFFER OF PROOF LAST WEEK OR THE WEEK BEFORE -- THEN
11 CLEARLY IT'S A SPONTANEOUS STATEMENT AND I WOULD FIND IT
12 RELEVANT.

13 THE PART THAT I'M STRUGGLING WITH IS THE
14 PART THAT "GOODWIN WAS RIGHT." I DON'T KNOW IF THAT
15 NECESSARILY MEANS THAT WAS A STATEMENT GIVEN BY -- I JUST
16 DON'T KNOW ENOUGH. LET ME HEAR A LITTLE BIT MORE --

17 MS. SARIS: WELL, MR. CLAYTON I THINK IS DEAD.

18 THE COURT: I UNDERSTAND THAT.

19 MS. SARIS: SO HOW ARE WE GOING TO EVER GET MORE
20 ON THAT?

21 THE COURT: I DON'T KNOW.

22 MS. SARIS: OH. BECAUSE WE'RE --

23 THE COURT: I'M JUST TELLING YOU I'M HAVING A
24 PROBLEM WITH IT.

25 MS. SARIS: AND OUR POSITION IS THE ADMISSION
26 MAKES IT HEARSAY, WHICH MEANS THE COURT DOESN'T EVEN HAVE
27 TO GET TO 352, SO IT'S INADMISSIBLE. AND THEN IF THE
28 COURT SAYS THAT THAT IS POTENTIALLY AN ADMISSION, THEN

1 352 KICKS IN AND SAYS IT'S MORE PREJUDICIAL THAN
2 PROBATIVE. WHAT IS THE PROBATIVE VALUE OF A BUSINESS
3 PARTNER --

4 THE COURT: OKAY. LET ME -- MAYBE I'M NOT CLEAR
5 BECAUSE THIS IS WHAT I'M HAVING TROUBLE WITH. I HAVEN'T
6 HEARD THE TESTIMONY OF WHAT MR. BARTINETTI WAS DOING IN A
7 DEPOSITION WITH MR. CLAYTON. I CAN ONLY ASSUME, BASED ON
8 WHAT I HAVE BEEN TOLD, THAT THERE WAS SOME RELATIONSHIP
9 OR SOME KNOWLEDGE THAT MR. CLAYTON HAD ABOUT ASSETS.
10 BECAUSE I WAS TOLD THIS WAS AKIN TO A JUDGMENT DEBTOR
11 EXAM. THIS WAS AN EXAMINATION OF MR. CLAYTON AFTER THERE
12 WAS A JUDGMENT RENDERED.

13 IS THAT RIGHT?

14 MR. JACKSON: MY UNDERSTANDING -- I DON'T KNOW IF
15 IT WAS A SPECIFIC JUDGMENT DEBTOR EXAM OR NOT. BUT IT
16 WAS DEFINITELY IN CONNECTION WITH MICHAEL GOODWIN'S
17 BUSINESS AND HIS RELATIONSHIP WITH CLAYTON IN THEIR
18 BUSINESSES TOGETHER.

19 THE COURT: I NEED TO HEAR FROM BARTINETTI ON
20 THAT. AND I'M JUST SAYING, ASSUMING THERE'S A
21 CONNECTION, I WILL IN A BETTER POSITION TO DETERMINE
22 WHETHER OR NOT THE FIRST LEVEL OF HEARSAY IS, IN FACT, A
23 VALID OBJECTION OR A VALID EXCEPTION. I JUST DON'T KNOW.

24 MR. DIXON: SO CAN WE DEFER THIS UNTIL
25 MR. BARTINETTI TESTIFIES ON THAT ISSUE TOMORROW?

26 THE COURT: I THINK THAT'S THE BEST WAY TO HANDLE
27 IT. RIGHT NOW THE ONLY THING I CAN SAY IS THE STATEMENT
28 DOES APPEAR TO BE A SPONTANEOUS STATEMENT. AND IN AN

1 ABUNDANCE OF CAUTION WITHOUT HEARING ANYTHING MORE, IF
2 THERE'S A CONNECTION BETWEEN THESE TWO INDIVIDUALS, I
3 WOULD AT LEAST SANITIZE THE STATEMENT TO TAKE OUT
4 "GOODWIN" UNTIL I HEAR MORE.

5 MR. SUMMERS: YOUR HONOR --

6 THE COURT: BUT I'M EVALUATING THE OFFER OF PROOF
7 AND THE ARGUMENT BASED ON WHAT I PERCEIVE TO BE A VALID
8 HEARSAY EXCEPTION SPONTANEOUS STATEMENT.

9 MR. SUMMERS: YOUR HONOR, WOULD THE COURT PERMIT
10 US TO SUBMIT FURTHER AUTHORITY? I HAVEN'T MISUNDERSTOOD
11 THE COURT'S COMMENT, BUT EVEN ON THE ISSUE OF 1240
12 WHETHER THAT APPLIES OR NOT.

13 THE COURT: YES. I WOULD APPRECIATE ALL THE
14 AUTHORITY YOU CAN PROVIDE.

15 LET'S DO THIS, I KNOW WE ARE WELL BEYOND
16 THE TIME THAT I WANTED TO SPEND TODAY ON THIS CASE. BUT
17 LET ME SAY THIS, I HAVE BEEN CONFRONTED WITH A NUMBER OF
18 ISSUES TODAY THAT WE REALLY NEED TO DEAL WITH OUTSIDE THE
19 PRESENCE OF THE JURY. THIS IS ONE OF THEM. I
20 APPRECIATED THE HEADS UP THIS AFTERNOON SO THAT WE COULD
21 GET THIS WITNESS ON. BUT I DON'T WANT TO HAVE THIS COME
22 UP AGAIN. AND THERE WERE A NUMBER OF THINGS THAT
23 OCCURRED. NAMELY, THE IMPEACHMENT INFORMATION REGARDING
24 MR. KEAY.

25 THIS IS INFORMATION THAT IF YOU HAVE IT,
26 AND THERE'S A QUESTION ABOUT IT, I NEED TO KNOW ABOUT IT
27 BEFORE WE PROCEED.

28 MS. SARIS: BUT AM I TO ASSUME --

1 THE COURT: I DON'T KNOW WHAT THE OFFER OF PROOF
2 IS.

3 MS. SARIS: WE HAD CERTIFIED DOCUMENTS INDICATING
4 THERE WERE SEVERAL WARRANTS OUT FOR THIS MAN'S ARREST. I
5 ASSUMED HE KNEW. HE SIGNED PROMISES TO APPEAR AND DIDN'T
6 SHOW UP.

7 THE COURT: THIS IS IN THE CONTEXT OF SEVERAL
8 CRIMINAL CASES THAT EXIST?

9 MS. SARIS: SEVERAL CRIMINAL CASES THAT CURRENTLY
10 EXIST. AND I THINK IT'S RELEVANT ON SEVERAL LEVELS.

11 THE COURT: IT MAY BE RELEVANT, COUNSEL, BUT YOU
12 KNOW AS WELL AS I KNOW THAT IF IT'S ABOUT PENDING CASES,
13 THERE'S AN ISSUE HERE THAT I NEED TO DEAL WITH. DON'T I?

14 MS. SARIS: AS FAR AS I'M CONCERNED FOR THIS
15 CASE, I ONLY NEED TO DEAL WITH ELICITING WHAT I WOULD
16 HOPE WOULD BE TRUTHFUL RESPONSES. IF HE SAID YES, THEN I
17 SUPPOSE WE WOULD HAVE SOME KIND OF AN ISSUE TO DEAL WITH.
18 I'M NOT ASKING HIM TO BE TAKEN INTO CUSTODY.

19 I JUST THINK THAT IT'S RELEVANT FOR
20 EVERYONE, THE JURORS AND EVERYONE TO KNOW THAT THEY'RE
21 PUTTING A PERSON ON THE STAND WITHOUT CHECKING ANYTHING
22 ABOUT THEIR CRIMINAL PAST, WHO'S WALKING INTO THIS COURT
23 WITH WARRANTS, WHO HAS FOUR CASES OF D.U.I.

24 THE COURT: OKAY. THAT'S MY POINT. IF HE HAS
25 FOUR PENDING CASES OF D.U.I. AND YOU WANT TO ASK HIM ANY
26 QUESTION ABOUT THOSE CASES, THE COURT NEEDS TO BE TOLD
27 ABOUT IT AHEAD OF TIME BECAUSE OF THE FIFTH AMENDMENT
28 ISSUE THAT MAY ARISE. SO THAT'S SOMETHING THAT I SHOULD

1 HAVE BEEN TOLD ABOUT.

2 MS. SARIS: WELL, I APOLOGIZE, THEN. WE ASSUMED
3 IT WAS SIMPLY AN IMPEACHMENT FOR THE FACT THAT HE'S
4 WILLING TO SIGN DOCUMENTS UNDER PENALTY OF PERJURY, MUCH
5 LIKE TAKING AN OATH, AND IGNORE THE RESPONSIBILITY THAT
6 COMES ALONG WITH THAT. I APOLOGIZE TO THE COURT.

7 WE DO NEED TO HAVE MR. KEAY AVAILABLE TO
8 CONTINUE QUESTIONING HIM ON THESE TOPICS AND PERHAPS IF
9 WE KNOW THE DATE WE CAN HAVE A COUNSEL APPOINTED.

10 THE COURT: WELL, I DON'T KNOW WHAT THE DOCUMENTS
11 ARE. AND I DON'T KNOW WHAT THE CASES ARE. AND I DON'T
12 KNOW IN WHAT CONTEXT THESE BENCH WARRANTS WERE ISSUED. I
13 DON'T KNOW IF THE WITNESS HAD HIS CASE AND APPEARED AT
14 THE ARRAIGNMENT. I DON'T KNOW WHETHER THESE WERE CITE
15 OUTS.

16 MS. SARIS: THEY'RE SOME OF EACH.

17 THE COURT: I JUST DON'T KNOW ENOUGH. I DON'T
18 KNOW IF HE HIRED COUNSEL. I DON'T KNOW IF COUNSEL WAS
19 APPOINTED. I DON'T KNOW ANYTHING. AND BEFORE IT'S
20 SPRUNG ON ME IN FRONT OF A JURY, I HAVE SOME CONCERNS
21 THAT NEED TO BE ADDRESSED. SO --

22 MS. SARIS: WE ALSO HAVE THE CONCERN THAT IT'S
23 ALSO EXCULPATORY INFORMATION THAT WE SHOULD HAVE BEEN
24 PROVIDED. WE SHOULDN'T HAVE TO BE GOING OUT AND FINDING
25 THIS. THIS IS RELEVANT EXCULPATORY INFORMATION ON THE
26 PEOPLE'S WITNESS THAT I WOULD FRANKLY THINK UNDER BRADY
27 WE WOULD HAVE BEEN ENTITLED TO.

28 THE COURT: AND YOU MAY HAVE. BUT AT SOME POINT

1 I WOULD APPRECIATE A HEADS UP.

2 MS. SARIS: I'LL XEROX THE DOCUMENTS FOR THE
3 COURT TONIGHT.

4 THE COURT: WHETHER IT'S EXPARTE OR WHATEVER.
5 BUT I REALLY CAN'T HAVE THIS SPRUNG ON ME, LET ALONE THE
6 PEOPLE. I MEAN, I'M THE ONE THAT WAS KIND OF CAUGHT
7 BECAUSE I DIDN'T HAVE ANY INFORMATION ABOUT IT AND IT
8 JUST SEEMED TO RAISE A RED FLAG.

9 SO WE ARE GOING TO HAVE TO DEAL WITH THAT
10 PROBABLY AS SOON AS POSSIBLE BECAUSE WE LEFT OFF WITHOUT
11 COMPLETING, I GUESS, THE EXAMINATION OF THAT WITNESS.

12 SO WHEN DO YOU WANT TO DO ALL THIS? WHEN
13 DO YOU WANT TO BRING MR. KEAY BACK? WHEN DO YOU WANT TO
14 GIVE ME THE INFORMATION? WHEN DO YOU WANT TO DEAL WITH
15 THE 1101 MOTION? WE HAVE THE JURY COMING BACK AT 10:30
16 TOMORROW. WOULD YOU LIKE TO COME IN AT 8:00 O'CLOCK
17 TOMORROW MORNING OR 8:30? I DON'T KNOW WHAT TO SUGGEST.

18 MS. SARIS: WE CAN BE HERE AT 8:30. I CAN HAVE
19 THE DOCUMENTS HERE. I JUST DON'T WANT TO KEEP THEM
20 WAITING WHILE I XEROX THEM, BUT I'LL HAVE THEM FIRST
21 THING IN THE MORNING.

22 THE COURT: LET'S TRY TO DEAL WITH THESE ISSUES
23 AT 8:30 TOMORROW AND GET AS MUCH DONE AS WE CAN BEFORE
24 10:30.

25 AND, AGAIN, I WILL INVITE COUNSEL TO -- IF
26 IT'S EXPARTE, THAT'S FINE, TOO. JUST LET ME KNOW AHEAD
27 OF TIME. I DON'T WANT TO TAKE TIME AWAY FROM THE JURORS.

28 SO TO THE EXTENT THAT YOU CAN ANTICIPATE

1 THESE ISSUES, LET ME KNOW AHEAD OF TIME.

2 MR. SUMMERS: IN THAT SPIRIT, YOUR HONOR, I'VE
3 BEEN MEANING TO ASK PERMISSION AND BRING IT TO THE
4 COURT'S ATTENTION. WE HAVE A PERSON WHO HAS BEEN
5 APPOINTED AS AN EXPERT AS TO SOME OF THE FINANCIAL
6 ISSUES. AND WE WOULD LIKE TO ASK PERMISSION FOR HIM TO
7 BE PRESENT DURING CERTAIN WITNESSES WHO TESTIFY ON THOSE
8 ISSUES. AND ONE OF THOSE IS MS. CORDELL WHO MAY OR MAY
9 NOT BE CALLED TOMORROW.

10 AND THE OTHER THING I WANTED TO BRING TO
11 EVERYONE'S ATTENTION IS DEPENDING ON HOW IT GOES, I MAY
12 HAVE TO HAVE HER ASK TO BE ORDERED BACK AS A DEFENSE
13 WITNESS FOR THE DEFENSE PART OF THE CASE. AND I WAS
14 TRYING TO MAKE SURE THAT THAT DIDN'T HAVE TO HAPPEN. I
15 CAN BE MORE SURE OF THAT IF SHE DOESN'T TESTIFY TOMORROW,
16 BUT I'M JUST BRINGING IT UP.

17 THE COURT: YES. I DON'T KNOW. I DON'T HAVE ANY
18 PROBLEM IF YOU HAVE AN EXPERT AND YOU WANT TO HAVE THAT
19 EXPERT PRESENT DURING CERTAIN TESTIMONY. YOU ARE GOING
20 TO HAVE TO WORK IT OUT, I GUESS, WITH THE PEOPLE AS TO
21 WHEN THAT WILL OCCUR.

22 MR. DIXON: WELL, WE HAD MADE ARRANGEMENTS FOR
23 DOLORES CORDELL TO FLY DOWN FROM OAKLAND AND TO BE HERE
24 TOMORROW.

25 MS. SARIS: AND BECAUSE OF THE COURT'S BREAK,
26 THERE'S THINGS WE NEED TO PICK UP ON THURSDAY IN A
27 DIFFERENT COUNTY. AND WE WANTED TO BE ABLE TO DO THAT
28 BEFORE MS. CORDELL TESTIFIED. BUT WE CAN BRING HER DOWN

1 AGAIN. IT'S ONLY OAKLAND. IT'S NOT ITALY.

2 MR. SUMMERS: NOBODY SAID WE'VE GOT MS. CORDELL
3 COMING IN ON WEDNESDAY.

4 THE COURT: WELL, AGAIN, YOU GUYS NEED MEET AND
5 CONFER ABOUT THE WITNESS LINEUP. I DON'T KNOW WHAT ELSE
6 TO SAY ABOUT THAT. IF WE HAVE TO BRING HER BACK AGAIN IN
7 THE DEFENSE CASE, WE WILL HAVE TO BRING HER BACK IN THE
8 DEFENSE CASE.

9 MR. JACKSON: THEY CAN DO IT AT THEIR EXPENSE.

10 THE COURT: OKAY. WE WILL SEE YOU 8:30.

11

12 (THE MATTER WAS CONTINUED TO WEDNESDAY,

13 NOVEMBER 8, 2006 AT 8:30 A.M.)

14 (NEXT PAGE IS 3301.)

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

NOVEMBER 8, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
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FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 8 OF 24
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LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, NOVEMBER 8, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: LET'S GO BACK ON THE RECORD IN
20 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
21 THE PEOPLE ARE REPRESENTED. THE JURORS AND ALTERNATES
22 ARE NOT HERE THIS MORNING.

23 WE HAVE SOME ISSUES TO DISCUSS OUTSIDE
24 THEIR PRESENCE. WE LEFT OFF YESTERDAY WITH A DISCUSSION
25 REGARDING THE PROPOSED TESTIMONY OF MR. -- I CAN'T

1 PRONOUNCE HIS NAME.

2 MR. DIXON: TRICARICO.

3 THE COURT: YES. THANK YOU. TRICARICO.

4 MR. DIXON: WELL, I'M NOT SURE THAT'S RIGHT
5 EITHER, BUT THAT'S WHAT MR. JACKSON SAYS IT IS.

6 MR. JACKSON: TRICARICO.

7 THE COURT: TRICARICO, OR WHATEVER. WE KNOW WHO
8 HE IS. AND HE TESTIFIED YESTERDAY.

9 I WAS CONCERNED ABOUT THE EXCEPTIONS TO
10 THE HEARSAY RULE THAT WERE INVOKED. AND WE LEFT OFF WITH
11 MR. BARTINETTI HAVING TO FILL THE GAP IF THE PEOPLE
12 WANTED TO PROCEED WITH THAT. WERE WE GOING TO DO THAT
13 THIS MORNING?

14 MR. DIXON: YES. YOU ORDERED MR. BARTINETTI BACK
15 AT 9:30, YOUR HONOR.

16 THE COURT: SO WE WERE GOING TO PUT HIM ON AT
17 THAT POINT TO FURTHER DISCUSS THAT ISSUE; CORRECT?

18 MR. DIXON: CORRECT.

19 MR. JACKSON: CORRECT.

20 THE COURT: AND WERE THERE ANY ADDITIONAL POINTS
21 AND AUTHORITIES THAT ARE GOING TO BE PRESENTED ON THAT?

22 MS. SARIS: YOUR HONOR, WE DID XEROX WHAT WE
23 THOUGHT WAS THE DEPOSITION FOR YOU, BUT WE REALIZE NOW
24 THERE'S A SECOND DEPOSITION. I HAVE TO XEROX THAT AS
25 WELL. IT ENDS WITH, "WOULD YOU LIKE A COPY? YES,

1 PLEASE." AND AS DOES THE OTHER ONE. THERE'S NO
2 INDICATION THAT WE CAN SEE AT ANY TIME WHERE ANYONE
3 STORMED OUT.

4 BUT BEYOND THAT, WE STILL MAINTAIN THAT
5 MR. BARTINETTI'S TESTIMONY IS IRRELEVANT. YESTERDAY WE
6 SAID FOR THE PURPOSE OF THE HEARING WE'D STIPULATE THAT
7 MR. CLAYTON HAD SOME SORT OF BUSINESS RELATIONSHIP
8 BECAUSE WE THOUGHT THIS WAS A VERY EASY CALL. WE'RE NOT
9 WILLING TO STIPULATE TO WHAT MR. CLAYTON WAS IN RELATION
10 TO MR. GOODWIN OTHER THAN HIS INSURANCE AGENT, WHICH WE
11 WILL STIPULATE TO.

12 HOWEVER, IN LOOKING AT THE SPONTANEOUS
13 DECLARATION -- OR THE CASE LAW -- THE MOST RECENT CASE,
14 WE HAVE NOT BRIEFED IT, BUT I DID PULL IT AND WOULD LIKE
15 TO GIVE THE COURT THE CITE, IS PEOPLE VERSUS RAMIREZ,
16 143 CAL. APP. 4TH, 1512.

17 IT HAS TO DO WITH HOW LONG OF A TIME GOES
18 BY BETWEEN WHAT WAS SAID, BUT IT ALSO HAS A DISCUSSION
19 REGARDING BEING UNDER A NERVOUS EXCITEMENT. THE IDEA
20 BEING THAT ANGER DOESN'T EQUAL SPONTANEITY.

21 AND JUST SO THE COURT KNOWS, I BELIEVE IN
22 ANY FORM OF A QUOTE, IT WAS "GOODWIN'S RIGHT" EVEN AT THE
23 WORST POSSIBLE INTERPRETATION OF THE QUOTE, AT THAT TIME
24 MR. CLAYTON KNEW BOTH DIANE GOODWIN, FRANK GOODWIN AND
25 MIKE GOODWIN, SO THERE'S ALSO AN AMBIGUITY AS TO THE

1 INFERENCE, NOT JUST THE SPONTANEITY LEVEL BUT THEY
2 HEARSAY INFERENCE THAT PERHAPS THIS IS REPEATING
3 SOMETHING THAT WAS SAID BY ONE OF THE GOODWINS.

4 IT WOULD ALSO BE OUR CONTENTION THAT HIS
5 ABILITY TO REFLECT ON A PRIOR STATEMENT MADE TO HIM, IS
6 EVIDENCE OF LACK OF SPONTANEITY. IT WASN'T SOMETHING
7 THAT HE WAS COMING UP WITH, BUT SUPPOSEDLY REMEMBERING,
8 GOING BACK TO AND ADDRESSING IN MAKING HIS OWN ALLEGED
9 THREAT.

10 I DON'T KNOW WHICH TRANSCRIPT WOULD BE
11 MORE RELEVANT. AGAIN, I WAS -- I HAD READ THE DATES
12 WRONG AND THOUGHT THAT MR. TRICARICO WASN'T WORKING
13 DURING THIS TRANSCRIPT, BUT APPARENTLY HE WAS. SO I CAN
14 GIVE THAT TO YOUR --

15 THE COURT: SO WERE THERE TWO --

16 MS. SARIS: TWO DEPOSITIONS OF MR. CLAYTON. ONE
17 IN NOVEMBER OF '87; AND ONE AFTER MICKEY HAD BEEN
18 MURDERED IN, I THINK, AUGUST OF '88.

19 THE COURT: BECAUSE I WAS LEFT WITH THE
20 IMPRESSION WHEN WE DISCUSSED THIS EARLIER THAT THIS WAS
21 SOME TYPE OF -- NOT JUDGMENT DEBTOR EXAM, BUT SOME TYPE
22 OF DEPOSITION TO FIND OUT ABOUT THE ASSETS.

23 MR. JACKSON: THAT'S CORRECT. MY UNDERSTANDING
24 IN REREADING DOLORES CORDELL'S REPORTS, ET CETERA -- AND
25 I'M NOT SURE IF I BROUGHT THIS OUT AT THE PRELIMINARY

1 HEARING OR NOT -- BUT SHE WOULD STAND IN A POSITION TO
2 KNOW THIS.

3 THERE WAS AN INCREDIBLY COMPLEX SHELL GAME
4 THAT THE DEFENDANT WAS ENGAGING IN REGARDING HIS
5 COMPANY -- NAMES OF HIS COMPANIES IN 1986, 1987. THESE
6 COMPANIES -- IT WENT FROM ENTERTAINMENT SPECIALITIES,
7 INC., E.S.I., TO SUPERCROSS, INC., S.X.I. AND DURING THE
8 COURSE OF THIS, DIANE GOODWIN, MR. GOODWIN'S WIFE, ENDED
9 UP ESTABLISHING THAT SHE WAS THE OWNER OF A COMPANY
10 CALLED SUPERCROSS, INC. AND THAT SUPERCROSS, INC. WAS
11 FINANCED BUT ONE CHARLES CLAYTON.

12 CHARLES CLAYTON ACTUALLY UNDERWROTE THE
13 CONTRACT TO TRANSFER ASSETS TO DIANE GOODWIN IN THE NAME
14 OF SUPERCROSS, INC. BUT THE DEFENDANTS IN THAT LAWSUIT
15 NEVER DISCLOSED THAT DIANE HAD GIVEN CLAYTON -- IN
16 RESPONSE TO HIM UNDERWRITING THE CONTRACT, DIANE GOODWIN
17 HAD SUPPOSEDLY WRITTEN OUT SOME KIND OF A PROMISSORY NOTE
18 TO CLAYTON FOR HER WHITEHAWK PROPERTIES, BUT HER
19 WHITEHAWK PROPERTIES ENDED UP BEING PRETTY CLEARLY IN HER
20 NAME ONLY TO SUBVERT THE JUDGMENT THAT THOMPSON WAS GOING
21 AFTER. AND IT ACTUALLY BELONGED TO THE DEFENDANT AND
22 DIANE.

23 AS THE COURT CAN SEE, IT'S AN
24 INCREDIBLY COMPLEX SHELL GAME THAT AT LEAST THE
25 BARTINETTI, CORDELL AND CLARK AND TREVITHICK TEAM

1 BELIEVED MR. GOODWIN WAS ENGAGING IN, BUT CHUCK CLAYTON
2 WAS IN THE MIDDLE OF THE SHELL GAME. THAT'S THE EASIEST
3 WAY TO EXPLAIN IT.

4 MS. SARIS: ACTUALLY, THESE DEPOSITIONS DON'T
5 HAVE TO DO WITH THAT. MR. SUMMERS CAN EXPLAIN WHAT THEY
6 ARE. THEY ARE COMPLAINT'S FILED BY MICHAEL GOODWIN, HIS
7 CROSS-COMPLAINT.

8 MR. SUMMERS: THE NOVEMBER OF '87 DEPOSITION IS
9 TAKEN BY MR. BARTINETTI AS SIMPLY A DISCOVERY TOOL IN A
10 LAWSUIT THAT HAD BEEN FILED BY MICHAEL GOODWIN AGAINST
11 MICKEY THOMPSON AND ON BEHALF OF CERTAIN CORPORATE
12 ENTITIES THAT WERE IDENTIFIED WITH THEM. BUT IT WAS
13 ANOTHER CIVIL LAWSUIT THAT HAD BEEN -- IN WHICH MICKEY
14 THOMPSON WAS THE DEFENDANT, MR. BARTINETTI ACTING AS HIS
15 LAWYER WAS TAKING A NORMAL DEPOSITION PURSUANT TO
16 DISCOVERY.

17 MR. DIXON: WELL, THAT MAY BE TRUE. IT'S KIND OF
18 OUR POSITION, IT DOESN'T REALLY MATTER WHAT THE
19 DEPOSITION WAS ABOUT. APPARENTLY FROM THE TESTIMONY SO
20 FAR FROM MR. TRICARICO, HE WAS VERY UPSET. AND I THINK
21 THE COURT, AS I UNDERSTAND IT, HAS MADE A RULING AT LEAST
22 TO THIS POINT THAT THE STATEMENT APPEARS TO BE AN EXCITED
23 UTTERANCE. AND FROM THIS POINT ON, THE REAL ISSUE IS
24 WHETHER THE NEXT LEVEL DOWN HEARSAY EXCEPTION APPLIES TO
25 THE GOODWIN. AND WHAT EXACTLY MR. CLAYTON'S RELATIONSHIP

1 WAS TO THE DEFENDANT.

2 THE COURT: WELL, LET ME JUST ADD TO THAT.
3 THAT'S CERTAINLY PARTIALLY CORRECT. BUT ALSO THE FINDING
4 I MADE YESTERDAY THAT IT APPEARED TO BE A SPONTANEOUS
5 STATEMENT OR EXCITED UTTERANCE PURSUANT TO 1240 OF THE
6 EVIDENCE CODE DEPENDED IN SOME PART ON WHAT THE
7 DEPOSITIONS WERE ABOUT. I KNEW NOTHING AND STILL KNOW
8 VERY LITTLE ABOUT THESE DEPOSITIONS.

9 AND MY ASSUMPTION YESTERDAY WAS THAT
10 MR. BARTINETTI WAS DEPOSING MR. CLAYTON AND THINGS GOT
11 HEATED. AND THAT LEAD TO THE STORMING OUT OF
12 MR. CLAYTON; AND THEN THE STATEMENT THAT HE MADE TO
13 MR. TRICARICO. SO IT'S -- I DON'T THINK I HAVE REALLY
14 COMPLETED MY ANALYSIS ON THE 1240 ISSUE.

15 BUT YOU ARE CORRECT, THE SECOND LINK WAS
16 THE ADMISSION. AND I HAVEN'T HEARD -- I HAVEN'T HEARD
17 MUCH YET ABOUT THAT EITHER. SO I DON'T KNOW HOW WE ARE
18 GOING TO PROCEED. I ASSUME THEN THAT THE COURT WILL
19 RECEIVE THE COPIES OF THE DEPOSITIONS.

20 IS THAT --

21 MS. SARIS: I GAVE YOU ONE THIS MORNING. AND I
22 THINK GRACIE IS XEROXING THE OTHER ONE FOR YOU AS WELL.

23 THE COURT: SO FOR EACH DEPOSITION -- AND WHICH
24 DEPOSITION DO WE THINK --

25 MS. SARIS: WELL, THIS WITNESS SAID IT WAS MARCH

1 '88. THERE WAS NO DEPOSITION OF CHUCK CLAYTON IN MARCH
2 '88. IT HAD TO NOVEMBER OF '87 OR AUGUST '88.

3 MR. DIXON: WELL, I THINK THAT WILL BE CLARIFIED
4 WHEN MR. BARTINETTI RETURNS AT 9:30.

5 THE COURT: SO DO YOU WANT ME HOLD OFF ON -- DO
6 YOU WANT ME TO HOLD OFF ON ANY FURTHER RULING?

7 MR. DIXON: YES, PLEASE, YOUR HONOR.

8 THE COURT: ALL RIGHT. AND MR. KEAY?

9 MS. SARIS: KEAY.

10 THE COURT: K-E-A-Y.

11 MS. SARIS: I'VE GIVEN THE COURT THE CERTIFIED
12 DOCKETS INDICATING THE -- WHAT THEY DID WHEN THEY XEROXED
13 THE DOCKETS FOR US, IS THEY NOT ONLY GAVE US THE MINUTE
14 ORDER SHOWING BENCH WARRANTS HAD BEEN ISSUED, BUT THE
15 ACTUAL TICKET THAT HE INITIALLY GOT. SOME OF THEM -- ONE
16 OF THEM AT LEAST WAS A FAILURE TO APPEAR AT HIS
17 ARRAIGNMENT; THE OTHER ONES WERE WHERE HE HAD BEEN BEFORE
18 COURT; PROMISED TO APPEAR; AND FILED TO APPEAR.

19 THE COURT: ALL RIGHT. AND THE CASE YOU CITED
20 YESTERDAY WAS?

21 MS. SARIS: A CASE WHERE IT WAS A FELONY FAILURE
22 TO APPEAR AND AN INDIVIDUAL HAD -- I GUESS HAD BEEN
23 APPEARING ON AN OPEN FELONY AND FAILED TO APPEAR AND THEN
24 WANTED TO ADDRESS -- AND HE WAS THE DEFENDANT, AND SO IT
25 WAS ALLOWED TO BE USED AGAINST HIM AS A MORAL TURPITUDE.

1 IN THIS CASE WE HAVE A REPEATED PATTERN ON
2 THE PART OF MR. KEAY TO SHIRK HIS RESPONSIBILITIES TO THE
3 COURT; AS WELL AS FOUR INSTANCES OF DRIVING UNDER THE
4 INFLUENCE THAT WERE NOT DISCLOSED TO US IN DISCOVERY.

5 THE COURT: WELL, I MEAN, THERE ARE A COUPLE OF
6 ISSUES CONCERNING THIS PROPOSED IMPEACHMENT. NO. 1,
7 WHETHER OR NOT FAILURE TO APPEAR ON A CITATION ON A
8 MISDEMEANOR CASE IS MORAL TURPITUDE. I LOOKED AT THE --
9 I THINK IT'S MIENTUS CASE, O YOU HAVE THE CITE HANDY,
10 ANYBODY, FOR THE RECORD?

11 LET ME GET MY NOTES.

12 (PAUSE IN PROCEEDINGS.)

13 THE COURT: ALL RIGHT. FOR THE RECORD, THE
14 MIENTUS CASE CITED BY COUNSEL IS 132 CAL. APP. 4TH, 1552.

15 IN LOOKING AT THAT CASE LAST NIGHT, IT IN
16 MY OPINION APPEARS TO BE DISTINGUISHABLE FROM OUR
17 SITUATION HERE. SO I DON'T KNOW IF ANYONE WANTS TO
18 DISCUSS THAT ISSUE FIRST. THIS IS NOT A FELONY FAILURE
19 TO APPEAR WHERE A DEFENDANT WAS ON BAIL AND THAT WAS THE
20 HOLDING ON THAT CASE REGARDING MORAL TURPITUDE.

21 SO I'M ASSUMING THAT THE DOCUMENTS YOU
22 PROVIDED THIS MORNING ARE THE CERTIFIED COPIES AND IT
23 APPEARS THAT THESE ARE CITATIONS.

24 IS THAT RIGHT?

25 MS. SARIS: HE WAS CITED OUT ON MISDEMEANORS.

1 THE COURT: CORRECT. AND YOU HAVE GIVEN ME A
2 NUMBER OF DOCUMENTS.

3 MS. SARIS: AND ONE -- YES, THEY ATTACHED ALL THE
4 CITATIONS, EVEN IF THE CASE HAD PROCEEDED PAST THE
5 CITATION STAGE, THE COURT JUST ATTACHED THAT AS PART OF
6 THEIR DOCKET. SO ONE OF THEM WAS THE INITIAL; HE WAS
7 CITED OUT AND HE NEVER SHOWED UP. BUT THE OTHER ONES HE
8 ACTUALLY WENT TO COURT; HE PROCEDURALLY WENT THROUGH
9 SEVERAL STEPS; HE WAS ORDERED BACK AND HE DIDN'T SHOW UP.
10 BUT THEY INCLUDED THE ORIGINAL CITATION IN THE DOCKET AS
11 JUST PART OF THE COURT FILE.

12 AS IT STANDS NOW, HE HAS AN OPEN WARRANT
13 FOR A 14601 THAT HE'S NOT APPEARED ON AT ALL. HE'S GOT
14 FOUR CONVICTIONS FOR D.U.I. AND I BELIEVE THREE -- ONE
15 CONVICTION, FOUR ARRESTS. AND I THINK THREE OF THEM ARE
16 IN WARRANT STATUS -- ALL FOUR OF THEM ARE IN WARRANT
17 STATUS.

18 MR. DIXON: YOUR HONOR, AND OUR POSITION IS NONE
19 OF THAT IS MORAL TURPITUDE. THIS IS DISTINGUISHABLE FROM
20 THE CASE THAT COUNSEL CITED, AS THE COURT INDICATED, THAT
21 WAS A FELONY. I COULD SEE THAT A FAILURE TO APPEAR ON A
22 FELONY CONVICTION OF -- A WILLFUL FAILURE TO APPEAR ON A
23 FELONY MIGHT BE THAT'S WHAT THE CASE SAYS, BUT WE'RE A
24 LONG WAYS FROM THAT. THESE ARE MISDEMEANOR CITE OUTS.
25 WE DON'T KNOW WHETHER THEY'RE WILLFUL OR NOT. AND I JUST

1 THINK THAT'S A LONG WAYS AWAY FROM THE CASE THAT'S BEEN
2 CITED TO THE COURT.

3 AND, ONE, IT'S NOT MORAL TURPITUDE ON ITS
4 FACE. AND TWO, THIS IS CLEARLY AN AREA WHERE ANYONE
5 LOOKING AT THIS, I WOULD HOPE, WOULD SEE THAT IT IS
6 DISTINGUISHABLE FROM THE CASE COUNSEL CITED. AND THAT IT
7 SHOULD HAVE BEEN BROUGHT TO THE COURT'S ATTENTION AT
8 SIDEBAR OR OUT OF THE PRESENCE SO WE ALL COULD HAVE
9 TALKED ABOUT IT AS WE ARE NOW BEFORE IT WAS BLURTED OUT
10 WITHOUT ANY WARNING TO THE JURY.

11 MS. SARIS: YOUR HONOR, THERE IS A CASE TILLIS
12 DIRECTLY ON POINT. I HAVE A RIGHT TO EXPECT THAT THIS
13 WITNESS WILL TELL ME HIS TRUE RECORD. NOW, I AGREE
14 WITH --

15 THE COURT: HANG ON ONE SECOND.

16 (PAUSE IN PROCEEDINGS.)

17 THE COURT: ALL RIGHT. GO AHEAD.

18 MS. SARIS: THE --

19 THE COURT: TILLIS CASE?

20 MS. SARIS: THE TILLIS CASE, I HAD A RIGHT TO
21 EXPECT THAT HE WOULD ACTUALLY TELL US THE TRUTH. I
22 SUPPOSE IN AN ABUNDANCE OF CAUTION WE SHOULD HAVE GONE
23 EXPARTE TO THE COURT TO SAVE THE JUROR'S TIME AND WE
24 APOLOGIZE FOR THAT.

25 HOWEVER, THE DISTRICT ATTORNEY CALLED TO

1 THE STAND AN INDIVIDUAL THAT IS IN WARRANT STATUS. AND
2 THAT'S SOMETHING THAT WE HAD A RIGHT TO KNOW. WHETHER OR
3 NOT IT COULD HAVE BEEN ADMISSIBLE, IT WAS POTENTIAL BRADY
4 INFORMATION. THAT IS THE ONLY BREACH OF ANY
5 RESPONSIBILITY HERE HAVING TO DO LEGALLY.

6 NOW, FROM A TIME AND EFFICIENCY
7 STANDPOINT, YES, WE PROBABLY SHOULD HAVE BROUGHT THIS TO
8 YOUR ATTENTION. WE HAVE NO FIFTH AMENDMENT RIGHT TOWARDS
9 MR. KEAY. THAT'S NOT OUR RESPONSIBILITY OR OBLIGATION.
10 HOW CAN THESE NOT BE WILFUL FAILURES TO APPEAR? THERE
11 ARE FOUR.

12 AND HE DID APPEAR IN COURT. AND WE CAN
13 SHOW FROM THE DOCKET THAT HE WAS ORDERED BACK BY A JUDGE.
14 THIS WASN'T A SITUATION WHERE A POLICE OFFICER GAVE HIM A
15 TICKET AND HE DIDN'T COME IN. THERE ARE MORE THAN ONE
16 OCCASION WHERE HE WAS ORDERED BACK, HE WAS REPRESENTED BY
17 COUNSEL, AND HE DID NOT APPEAR.

18 IT ALSO GOES TO HIS MOTIVE IN THIS CASE
19 REGARDING THE REWARD. AFTER MAKING A FEW SNIDE COMMENTS,
20 HE DID, IN FACT, INDICATE THAT HE SAW THE REWARD ON
21 TELEVISION. WE ALSO ATTEMPT TO ELICIT THAT THIS
22 GENTLEMAN IS WELL OVER \$200,000 IN DEBT TO THE I.R.S. WE
23 HAVE THE CERTIFIED TAX LIENS TO PROVE THAT.

24 THERE WAS RECENTLY A CASE WHERE A LAWYER
25 WAS HELD IN INEFFECTIVE ASSISTANCE OF COUNSEL FOR NOT

1 INQUIRING INTO THE NATURE OF THE REWARD AND THE NEED FOR
2 THE REWARD. IN LOS ANGELES COUNTY IT WAS A DEPUTY PUBLIC
3 DEFENDER. AND THE COURT SAID THAT IT WAS INEFFECTIVE
4 ASSISTANCE NOT TO GO INTO THAT AREA. NOW WE HAVE
5 DOCUMENTARY CERTIFIED EVIDENCE THAT HE IS NOT A NORMAL
6 RUN-OF-THE-MILL INDIVIDUAL SEEKING MAYBE TO GET RICH, BUT
7 PERHAPS SOMEONE WHOSE LIFE IS ABOUT TO BE RUINED BY THE
8 I.R.S. \$200,000 IN DEBT FOR A NORMAL CITIZEN IS A PRETTY
9 GOOD INCENTIVE TO WANT TO MAKE SOMETHING UP TO GET A
10 REWARD. AND WE WERE SHUT DOWN IN THAT LINE OF
11 IMPEACHMENT AND WE WOULD LIKE THAT ADDRESSED AS WELL.

12 THE COURT: ALL RIGHT. WELL, THAT SEEMS TO BE
13 THE EASIER OF THE TWO ISSUES FOR ME. WHAT DO YOU HAVE
14 FROM THE I.R.S. THAT SHOWS THAT THIS WITNESS WAS IN DEBT?

15 MS. SARIS: A NOTICE OF FEDERAL TAX LIEN TOTALING
16 \$192,000 CERTIFIED BY SAN BERNARDINO COUNTY; AND A STATE
17 TAX LIEN APPEARING TO BE IN THE NEIGHBORHOOD OF \$36,000
18 GOING BACK ALL THE WAY TO '86 THROUGH '93 ARE THE ONES
19 THAT CAUGHT UP TO HIM SO FAR.

20 THE COURT: WELL, WHAT DOCUMENTATION, THOUGH?

21 MS. SARIS: IT IS A NOTICE OF TAX LIEN.

22 THE COURT: AND I ASSUME THE PEOPLE HAVE SEEN
23 THESE?

24 MR. JACKSON: NO, WE HAVE NEVER.

25 MR. DIXON: NO, WE HAVE NOT.

1 MS. SARIS: WE WEREN'T ALLOWED TO ASK THE
2 QUESTIONS, SO THEY DID NOT.

3 THE COURT: DO YOU HAVE A COPY, THEN, FOR THE
4 PEOPLE, OR SHOULD I SHARE THIS?

5 MS. SARIS: I DID NOT BRING A COPY.

6 MR. DIXON: IS IT OKAY IF THE JUDGE SHARES IT
7 WITH US?

8 MS. SARIS: ABSOLUTELY.

9 MR. DIXON: THANKS.

10 MS. SARIS: I JUST DIDN'T GET A CHANCE. I WAS
11 COPYING DEPOSITIONS THIS MORNING. I'M SORRY.

12 MR. DIXON: THANK YOU.

13 (PAUSE IN PROCEEDINGS.)

14 MR. DIXON: YOUR HONOR?

15 THE COURT: YES.

16 MR. JACKSON: YOUR HONOR, MAY I APPROACH?

17 MR. DIXON: WE'RE READY TO INITIALLY ADDRESS
18 THIS.

19 THE COURT: THANK YOU. ALL RIGHT. I HAVE BEEN
20 HANDED A NOTICE OF FEDERAL TAX LIEN. TAXPAYER'S NAME
21 GREGORY KEAY, K-E-A-Y, COVERING A PERIOD FROM 1986 TO
22 1993 IN THE AMOUNT OF \$192,266. THERE'S A NOTICE OF
23 STATE TAX LIEN, SAME TAXPAYER, GREGORY, K-E-A-Y, IN THE
24 AMOUNT \$36,227, DATED SEPTEMBER 15TH, 1998. AND THEN
25 THERE IS ANOTHER NOTICE OF STATE TAX LIEN IN THE

1 WITNESS'S NAME DATED 4-25-06 AND THAT'S \$38,855, AND IT
2 LOOKS LIKE FOR TAXABLE YEARS 1988, 1989, 1990, '91, '92,
3 '93 AND 2001.

4 AND THEN THE ONE BEFORE THAT, '86, '87,
5 '88, '89, '90, '91, '92. AND THEN THE LAST ONE IS A
6 NOTICE OF STATE TAX LIEN IN THE WITNESS'S NAME DATED
7 9-15-98 FOR THE TAX YEAR 1993, TOTAL 2,850.

8 AND THE DEFENSE WANTS TO INQUIRE OF THIS
9 WITNESS AS TO WHETHER OR NOT THE WITNESS WAS AWARE OF THE
10 FINANCIAL OBLIGATION THAT HE HAD TO THE GOVERNMENT FOR
11 TAXES; AND THEREFORE, THAT WOULD BE A MOTIVE AND AN
12 INCENTIVE FOR HIM TO WANT TO TAKE ADVANTAGE OF A REWARD.

13 IS THAT PRETTY MUCH IT?

14 MS. SARIS: THAT, AND THERE IS A MORAL TURPITUDE
15 ASPECT OF IT. THIS MAN HASN'T PAID HIS TAXES IN 14
16 YEARS. DOESN'T LISTEN TO THE COURT TO COME BACK TO COURT
17 ON A WARRANT. HE'S TAKING AN OATH. APPARENTLY HE
18 DOESN'T TAKE THAT VERY SERIOUSLY. IT'S ALL PART OF THE,
19 QUOTE, "SYSTEM" THAT HE HAS BEEN BUCKING AGAINST,
20 FLAUNTING FOR THE LAST 14 YEARS.

21 RATHER THAN HAVE HIM APPEAR TO HAVE THIS
22 SORT OF CLOAK OF RELIABILITY, THAT HE'S JUST SOMEBODY WHO
23 WAS A COUSIN WHO HEARD A STATEMENT. HE IS, IN FACT, A
24 WANTED FUGITIVE IN SERIOUS DEBT.

25 THE COURT: WELL, I VIEW THIS AS TWO SEPARATE

1 ISSUES. SO LET'S START WITH THE ISSUE OF HIS TAX
2 LIABILITY. IN TERMS OF IT PROVIDING A MOTIVE, AN
3 INTEREST OR BIAS FOR TESTIMONY IN THIS CASE, CLEARLY I
4 THINK THE FACT THAT HE OWES MONEY OR IS IN DEBT MAY, IN
5 FACT, BE RELEVANT ON THE ISSUE OF HIS CREDIBILITY.

6 AND I WOULD THINK IT'S SAFE TO SAY THAT
7 HIS FAILURES TO APPEAR ARE IN THE SAME CATEGORY. BUT I
8 DON'T KNOW HOW YOU WANT TO APPROACH THIS AND WHAT YOU ARE
9 PROPOSING. I MEAN, THESE ARE CERTIFIED DOCUMENTS THAT
10 INDICATE THERE IS A TAX LIEN, BUT IT DOESN'T REALLY TELL
11 ME MUCH MORE THAN THAT.

12 MS. SARIS: SUCH AS?

13 THE COURT: SUCH AS WHETHER OR NOT ANY OF THIS
14 HAS BEEN PAID; WHETHER OR NOT THIS IS DUE TO WILLFUL
15 FAILURE TO PAY TAXES OR SOME OTHER DISAGREEMENT WITH THE
16 I.R.S. I MEAN, I CAN'T ASSUME A WHOLE LOT FROM THESE
17 DOCUMENTS.

18 MR. DIXON: YOUR HONOR, THAT'S ONE OF A NUMBER OF
19 POINTS I WAS GOING TO HOPE TO MAKE TO THE COURT.

20 ONE IS, WE DON'T KNOW WHAT CAUSED ALL THAT
21 OR IF HE ACTUALLY DOES OWE IT. I MEAN, IF YOU LOOK AT
22 IT, FROM WHAT I'VE BEEN ABLE TO TELL, IS THAT A LOT --
23 MOST OF IT IS INTEREST AND PENALTIES WITH THE I.R.S. AND
24 IT APPEARS THAT THERE'S A SUGGESTION THAT PERHAPS HE
25 DIDN'T PAY TAXES OVER A NUMBER OF YEARS. BUT WHAT

1 RESULTED IN THAT AND WHETHER HE ACTUALLY DOES OWE THAT IS
2 OPEN TO A LOT OF QUESTIONS.

3 BUT WHAT I WANTED TO SAY IS TWO THINGS.
4 ONE, THE COURT JUST SAID A MOMENT AGO THAT HE OWES A LOT
5 OF MONEY. AND THAT MIGHT BE AN ISSUE FOR A MOTIVE IN A
6 CASE LIKE THIS. I THINK THAT THAT -- IN MY --
7 RESPECTFULLY, MY OPINION, IT MIGHT BE A DOOR THAT WE
8 DON'T WANT TO GO THROUGH BECAUSE ALL OF US OWE A LOT OF
9 MONEY. MAYBE NOT TO THE GOVERNMENT, TO THE BANKS AND
10 STUFF, WITH MORTGAGES.

11 I MEAN, IF YOU USE THAT AS A CRITERIA
12 HERE, TAXES, MORTGAGE, CAR PAYMENT, EVERYBODY COULD USE
13 THE REWARD IN THIS CASE. AND ARE WE REALLY GOING TO
14 INQUIRE HOW MUCH MONEY EVERYBODY OWES AND USE THAT A
15 YARDSTICK TO SEE WHETHER OR NOT THEY MIGHT BE INTERESTED
16 IN THE REWARD IN THIS CASE, TO THE EXTENT THAT THERE IS
17 ONE?

18 I THINK A FOUNDATIONAL QUESTION SHOULD BE:
19 HAS HE DONE ANYTHING TO TRY TO PURSUE THE REWARD? DOES
20 HE HAVE AN INTEREST IN PURSUING THE REWARD? WHO HAS HE
21 TALKED TO? WHAT HAS HE -- PAPERWORK HAS HE FILLED OUT TO
22 TRY TO OBTAIN THE REWARD IF THERE'S A CONVICTION IN THIS
23 CASE. I DON'T KNOW ANY OF THAT, BUT IT SEEMS TO ME
24 THAT'S A FOUNDATIONAL QUESTION BECAUSE IF IT'S JUST A
25 QUESTION OF HOW MUCH MONEY YOU OWE, I MEAN, EVERYBODY

1 WITH A BIG MORTGAGE -- AND NOWADAYS IN CALIFORNIA
2 EVERYBODY'S GOT A PRETTY BIG MORTGAGE -- WHATEVER THIS
3 REWARD IS WOULD HELP ANYONE.

4 SO I THINK THERE'S A FOUNDATIONAL
5 REQUIREMENT HERE THAT HASN'T BEEN MET. AFTER MANY
6 QUESTIONS, HE SAID YEAH, HE HEARD THAT THERE WAS A REWARD
7 ON T.V. ONCE. I DON'T KNOW IF THAT OPENS THE DOOR TO HIS
8 OR EVERY WITNESS'S FINANCIAL BALANCE SHEET. AND THAT'S
9 REALLY WHAT COUNSEL IS SUGGESTING.

10 MS. SARIS: ACTUALLY, YOUR HONOR, IT'S NOT. THE
11 CASE IS WHETHER OR NOT THEY HAD EVEN BEEN AWARE OF THE
12 REWARD. AND THE FACT OF SOMEONE OWING A LOT OF MONEY TO
13 SOMEONE I THINK IS WHAT WE'RE GOING TO BE SPENDING THE
14 NEXT THREE MONTHS IN HERE AS MOTIVE FOR A MURDER
15 PROSECUTION, IF I'M NOT MISTAKEN.

16 SO OBVIOUSLY IT'S HUGE MOTIVE ALL OVER THE
17 PLACE. WE'RE NOT INQUIRING OF EVERY WITNESS. WE'RE
18 INQUIRING OF A WITNESS WHO'S WILLFULLY FAILED TO PAY HIS
19 TAXES. I THINK MR. SUMMERS CAN ADDRESS WHAT HE'S DONE
20 SINCE. IT'S A WILLFUL FAILURE.

21 THE COURT: THAT'S WHAT I'M HAVING A PROBLEM
22 WITH. YOU'VE HANDED ME DOCUMENTS AND INDICATED THAT THE
23 WITNESS WAS GIVEN NOTICE OF FEDERAL AND STATE TAX LIENS.
24 I DON'T KNOW ANYTHING MORE THAN THAT.

25 MR. SUMMERS: IT DOES SAY ON THE DOCUMENTS, YOUR

1 HONOR, THAT THIS IS -- THE LIEN IS FILED AFTER A
2 PROCEDURE OF DEMANDS ARE MADE. IT SPECIFICALLY NOTES
3 PARTICULAR CODE SECTIONS THAT DEMANDS HAVE BEEN MADE.
4 IT'S SORT OF A LAST RESORT THAT THE FEDERAL GOVERNMENT
5 FILES THESE LIENS.

6 THE COURT: I DON'T KNOW. I DON'T KNOW WHAT
7 THE --

8 MS. SARIS: WELL, IT'S ADDRESSED IN THE CODE
9 SECTION. IF THE COURT WANTS, WE CAN GET A CODE SECTION.
10 THIS IS PART OF A PROCEDURE, THIS IS THE FINAL STEP --
11 AND THE CODE SECTION IS I THINK LISTED IN THE LIEN
12 ITSELF?

13 MR. SUMMERS: YES.

14 THE CLERK: WHAT IS THE LIEN ON?

15 MR. SUMMERS: FAIL TO PAY HIS INCOME TAXES.

16 THE COURT: NO. BUT I MEAN, A "LIEN" USUALLY
17 MEANS THAT YOU ARE PUTTING IT SOMEWHERE.

18 MR. JACKSON: YOU'RE ATTACHING IT.

19 THE COURT: YES. THANK YOU, "ATTACHING."

20 MR. DIXON: RIGHT, YOUR HONOR. AND MAYBE I CAN
21 BE HELPFUL IN THIS.

22 I UNDERSTAND THAT MR. KEAY'S BUSINESS IS
23 TO REMODEL HOMES. AND, YOU KNOW, THERE MAY BE LIENS
24 ASSOCIATED WITH WORK HE DID ON VARIOUS HOMES THAT MAY BE
25 BETWEEN THE HOMEOWNER AND HIM AND THE I.R.S. I DON'T

1 KNOW. BUT THAT'S THE ONLY THING I COULD THINK OF, IS I
2 DO KNOW THAT HE DOES A LOT OF REMODELS AND IS A CARPENTER
3 AND A CONTRACTOR. AND THE PEOPLE IN THOSE BUSINESSES END
4 UP WITH LIENS EVERY ONCE IN A WHILE.

5 MR. SUMMERS: IT SAYS 1040.

6 MS. SARIS: IT IS A PERSONAL LIEN. IT'S NOT A
7 BUSINESS LIEN. WHY DON'T WE JUST HAVE HIM HERE AND WE
8 CAN ASK HIM WHAT HE KNOWS AND WHETHER WILFULLY FAILED TO
9 APPEAR AND FAILED TO PAY.

10 THE COURT: WELL, I DON'T WANT TO GET INTO THE
11 WILFULLY FAILED TO APPEAR IN FRONT OF THE JURORS.

12 MS. SARIS: OKAY.

13 THE COURT: BUT FOR PURPOSES OF FURTHER
14 DISCUSSION ON THE TAX LIENS, I WOULD LIKE TO HEAR FURTHER
15 FROM HIM ON THAT OUTSIDE THE PRESENCE OF THE JURY. SO
16 MAYBE WE CAN HANDLE THAT THIS MORNING OR --

17 MR. DIXON: WELL, HE'S NOT HERE. BUT WE'LL
18 ARRANGE TO HAVE HIM HERE IN THE NEXT FEW DAYS. WE'LL
19 CLEAR IT WITH COURT AND COUNSEL. AND GO BACK AND GET HIM
20 BACK HERE TO COURT. AND ALERT THE COURT WHEN WE BELIEVE
21 HE CAN BE HERE AND THE COURT CAN SCHEDULE THE HEARING AT
22 THE COURT'S CONVENIENCE.

23 MS. SARIS: I'M NOT -- JUST ON THAT NOTE,
24 MR. SUMMERS AND I WILL NOT BE AVAILABLE TOMORROW.

25 THE COURT: OKAY. ALL RIGHT. SO WE WILL HAVE TO

1 ARRANGE THAT.

2 ON THE FAILURES TO APPEAR, I HAVEN'T
3 REALLY HAD A CHANCE TO GO THROUGH THESE DOCUMENTS, BUT IT
4 LOOKS LIKE THESE ARE PENDING. YOU INDICATED THEY WERE
5 PENDING CASES BECAUSE ONE OF THEM LOOKS LIKE A PROBATION
6 VIOLATION.

7 MR. SUMMERS: ONE OF THEM IS A PROBATION
8 VIOLATION FOR A DRUNK DRIVING CONVICTION.

9 THE COURT: OKAY.

10 MR. SUMMERS: IN FACT, ONE OF THOSE CONVICTIONS,
11 IF THE OTHERS WERE BROUGHT TO LIGHT, WOULD BECOME A
12 FELONY DRIVING CONVICTION BECAUSE THERE ARE THREE OTHER
13 SEPARATE OFFENSES ALLEGED.

14 THE COURT: BUT THERE'S --

15 MR. SUMMERS: WHAT'S DEPICTED IS A PATTERN OF
16 GETTING ARRESTED; HAVING A CASE FILED; FAILING TO APPEAR;
17 GETTING ARRESTED FOR A NEW OFFENSE; GOING -- EITHER
18 GETTING CITED TO COURT AND FAILING TO APPEAR; OR GOING TO
19 COURT ONCE AND FAILING TO APPEAR; THEN BEING ARRESTED FOR
20 ANOTHER OFFENSE. IN THE MIDDLE OF THIS SERIES OF EVENTS,
21 ONE OF THOSE GETS PUT ON PROBATION; HE DOESN'T DO WHAT
22 HE'S SUPPOSED TO DO ON PROBATION; PICKS UP ANOTHER CASE.

23 MR. DIXON: YOUR HONOR, NOT TO SEE THIS TOO FAR,
24 BUT HAVING THE OPPORTUNITY NOW TO READ MIESTUS -- IS THAT
25 HOW YOU PRONOUNCE IT? -- ANYWAY, 32 CAL. APP. 4TH AT

1 1552, WHICH I BELIEVE WAS CITED BY THE DEFENSE. I WON'T
2 TAKE THE TIME TO READ IT ALL, I'M A REALLY BAD READER OUT
3 LOUD. BUT UNDER THE MORAL TURPITUDE HEAD NOTE IN THE
4 CASE ITSELF, IN SUBSECTION TWO, IT TALKS ABOUT WHAT IS
5 REQUIRED HERE. AND IT TALKS ABOUT ELEMENTS OF THIS
6 FELONY CRIME THAT HAD TO BE PROVED. AND I JUST THINK
7 THAT IF THE COURT READS THAT --

8 THE COURT: WELL, I DID. THAT'S WHAT --

9 MR. DIXON: IT DOESN'T APPLY.

10 MS. SARIS: WE MAKE NO QUALMS THAT THIS IS A
11 DIFFERENT CASE. THAT WAS A FELONY. I DON'T KNOW ABOUT
12 CITING HEAD NOTES, BUT IT'S BY ANALOGY. THIS IS A FELONY
13 FAILURE TO APPEAR FELONY IN MIESTUS.

14 WHAT WE HAVE ON MR. KEAY'S BEHALF, THE
15 COURT CAN ANALOGIZE IS WORSE. THIS IS FOUR SEPARATE
16 OCCASIONS; BEING ORDERED BACK BY THE COURT; FAILING TO
17 APPEAR. IT'S FELONY CONDUCT, IT IS JUST NOT BEING
18 ADDRESSED BECAUSE HE DOESN'T SHOW UP IN COURT OFTEN
19 ENOUGH. HAD HE SHOWN UP IN COURT, YES, THIS MAN WOULD
20 HAVE BEEN SUBJECT TO FELONY PROSECUTION. HE HAS FOUR
21 D.U.I.'S IN A SHORT PERIOD OF TIME.

22 MR. DIXON: THAT'S NOT WHAT COUNSEL SAID AT
23 SIDEBAR YESTERDAY WHEN WE WENT UP HERE AND I MADE THE
24 OBJECTIONS. THEY SAID THIS CASE WAS EXACTLY ON POINT.
25 NOT THAT THERE WAS AN ANALOGY TO IT, BUT IT WAS EXACTLY

1 ON POINT. AND I THINK THE COURT REPORTER'S NOTES WOULD
2 REFLECT THAT.

3 WE'RE TALKING ABOUT WITH MR. KEAY SOME
4 D.U.I.'S, NOT WHAT HAPPENED IN THIS CASE. AND I --

5 MS. SARIS: THERE'S A CASE ON POINT THAT HOLDS
6 FAILURE TO APPEAR IS MORAL TURPITUDE. NOW, IT'S FOR A
7 FELONY IN THAT CASE. THE CONDUCT IS THE SAME IN THIS
8 CASE.

9 THE COURT: IT IS NOT THE SAME.

10 MS. SARIS: THE CONSEQUENCE IS NOT THE SAME, THE
11 CONDUCT IS.

12 THE COURT: MY READING OF MISTUS IS THAT THEY
13 WERE DEALING WITH A FELONY CASE WHERE A DEFENDANT WAS
14 RELEASED ON BAIL; CHARGED WITH A FELONY OFFENSE AND
15 FAILED TO APPEAR. IN ORDER TO EVADE THE PROCESS OF THE
16 COURT, THERE WAS A FAILURE TO APPEAR. AND IN THAT
17 SITUATION, IT WAS PROPER TO USE THAT AS A MORAL TURPITUDE
18 IMPEACHABLE OFFENSE.

19 MS. SARIS: THEN PERHAPS WE CAN INQUIRE OF
20 MR. KEAY WHETHER HIS FAILURES TO APPEAR WERE WILLFUL.
21 HE'S ALSO NOW LIED ABOUT IT.

22 THE COURT: I DON'T KNOW THAT THAT'S ANALOGOUS TO
23 OUR SITUATION HERE.

24 THE OTHER ISSUE IS I'M TRYING TO FIGURE
25 OUT WHETHER OR NOT HE'S GOT ANY FIFTH AMENDMENT RIGHTS ON

1 ANY OF THESE CASES. ONE OF THEM IS A PROBATION
2 VIOLATION.

3 AND IT'S AN ACTIVE PROBATION VIOLATION; IS
4 THAT WHAT YOU'RE SAYING?

5 MS. SARIS: RIGHT. BUT IT SEEMS THAT IT'S STILL
6 OPEN.

7 THE COURT: IS IT STILL OPEN?

8 MR. SUMMERS: IT'S AN OUTSTANDING BENCH WARRANT
9 ON A PROBATION VIOLATION.

10 THE COURT: ALL RIGHT. AND THEN WHAT ABOUT THE
11 OTHER CASES? I WAS GIVEN COPIES OF THREE SEPARATE
12 CITATIONS.

13 IS THAT CORRECT?

14 MS. SARIS: THE ONLY THING THAT WE'VE --

15 MR. SUMMERS: THERE'S A FOURTH ONE THAT DOESN'T
16 HAVE A CITATION ON IT. IT'S FROM THE RIVERSIDE COUNTY
17 THAT THE COURT SHOULD HAVE.

18 THE COURT: IN WHAT PACKAGE? HERE (INDICATING)?
19 HERE (INDICATING)? BECAUSE I HAVE THREE.

20 I HAVE A CASE WITH A CITATION DATE OF --
21 IT LOOKS LIKE 10-6-01, I HAVE A CITATION DATE 6-24-00,
22 AND 1-7-00.

23 MR. SUMMERS: I'M SORRY. COULD YOU REPEAT THOSE.

24 THE COURT: ALL RIGHT. THE FIRST ONE I HAVE IS A
25 CITATION DATE OF 1-7-00. AND THIS IS THE ONE THAT LOOKS

1 LIKE IT MAY BE A PROBATION VIOLATION. AND ACCORDING TO
2 THIS DOCUMENT, PROBATION WAS REVOKED; A BENCH WARRANT WAS
3 ISSUED BACK IN -- WAS IT '01? '01. THEN THE DOCUMENTS
4 WITH THE CITATION DATED 6-24-00 --

5 MR. SUMMERS: OKAY.

6 THE COURT: -- THERE WAS A FAILURE TO APPEAR ON
7 AN ARRAIGNMENT WHICH WAS I SUPPOSE THE CITATION. BECAUSE
8 ON THE CITATION, THE WITNESS WAS ORDERED TO APPEAR AT
9 8-2-00 AT 8:00 A.M., AND THEN THERE'S AN ENTRY DATED
10 11-14-01. SO I'M NOT --

11 MR. SUMMERS: YOUR HONOR, ON THE ONE THAT BEGINS
12 WITH THE DATE OF VIOLATION 10-6-01, I GO LIKE THIS
13 (INDICATING), I HAVE THE FOURTH CASE. I DON'T KNOW IF
14 THAT'S HOW THEY WERE COPIED TO THE COURT.

15 THE COURT: LET'S START FROM THE BEGINNING,
16 THOUGH.

17 I HAVE A PROBATION VIOLATION WITH A BENCH
18 WARRANT ISSUED IN '01. I HAVE A SECOND CITATION WHERE
19 THE APPEARANCE DATE IS SUPPOSED TO BE 8-2-00.

20 MS. SARIS: ON 8-2-00, HE WAS ARRAIGNED ON A
21 D.U.I. AND REQUESTED TIME TO HIRE PRIVATE COUNSEL. 8-16
22 HE PLEAD NOT GUILTY. STATED THAT HE HAD RETAINED PRIVATE
23 COUNSEL. BENCH WARRANTED ON SEPTEMBER 18TH AT A PRETRIAL
24 ON HIS THIRD OPEN D.U.I. HE PLED -- THE ONLY ONE HE PLED
25 GUILTY TO AND WAS PLACED ON PROBATION WAS IN APRIL OF

1 '00. AND THAT'S THE ONE THAT HE WAS IN VIOLATION OF HIS
2 PROBATION FOR ON NOVEMBER 14TH OF 2001 WHERE THEY TRIED
3 TO RESCHEDULE HIS ARRAIGNMENT ON HIS OTHER D.U.I AND
4 REISSUED THE WARRANT BECAUSE HE FAILED TO APPEAR ON THAT.

5 AND THE MOST RECENT IS MARCH OF 2006 WHERE
6 HE BENCH WARRANTED ON A 14601.

7 MR. SUMMERS: THAT IS NOT BEFORE THE COURT, BUT
8 IT IS AN L.A. COUNTY CASE, ACTUALLY.

9 MS. SARIS: AND WE'LL POINT OUT WITH HIS RECORD,
10 THAT WOULD REQUIRE MANDATORY JAIL TIME.

11 THE COURT: WHAT IS THE CASE NUMBER? LET ME RUN
12 IT. CAN YOU GIVE THE CASE NUMBER TO THE CLERK. ALL
13 RIGHT.

14 MS. SARIS: I DON'T KNOW THAT HE HAS A FIFTH
15 AMENDMENT RIGHT THAT NEEDS PROTECTING IN THE SENSE THAT
16 THERE'S NOTHING INCRIMINATING THAT HE'S NECESSARILY GOING
17 TO SAY. I MEAN, I SUPPOSE THE ISSUE OF WHETHER IT'S
18 WILLFUL. BUT CERTAINLY THE QUESTIONS I ASKED HIM WAS:
19 ARE YOU AWARE IT'S OUT THERE? THE ANSWER WAS CLEAR IN
20 FRONT OF THE JURY, NO. WHICH WE MAINTAIN NOT ONLY IS
21 THAT A LIE, BUT THE IDEA OF -- THE JURY IS ALLOWED TO
22 LOOK AT THE QUALITY OF THE TESTIMONY PUT BEFORE THEM.

23 AND THE DISTRICT ATTORNEYS HAVE CALLED
24 THIS INDIVIDUAL TO THE STAND, EITHER WILLFULLY
25 IGNORING -- AND I'M NOT SAYING THAT THEY HAD THIS -- I

1 DON'T REALLY THINK THAT THEY WOULD HAVE -- I WOULD HOPE
2 THAT THEY WOULDN'T HAVE HAD THIS -- WELL, I DON'T KNOW IF
3 THEY HAD THIS INFORMATION AND DIDN'T SHARE IT WITH US.

4 IF THEY DIDN'T DO ANYTHING TO GET IT. IF
5 THEY DIDN'T ASK THE WITNESS ABOUT IT. THIS IS ALL PART
6 OF OUR DEFENSE, WHICH IS, LISTEN, THEY DIDN'T SCRUTINIZE
7 ANYONE WHO SAID BAD THINGS ABOUT MICHAEL GOODWIN BECAUSE
8 THEY DIDN'T WANT TO KNOW IT; THEY DIDN'T WANT TO LOOK
9 BEYOND THAT.

10 MR. DIXON: HE HAD A DRUNK DRIVING CONVICTION?

11 MS. SARIS: FOUR.

12 THE COURT: WELL, YOU KNOW, AGAIN, IT'S -- I
13 DON'T SEE THE MIESTUS CASE HAS BEING DIRECTLY ON POINT.
14 I UNDERSTAND THE ARGUMENT HERE, BUT I FRANKLY DON'T KNOW
15 THE CIRCUMSTANCES SURROUNDING ANY OF THESE FAILURES TO
16 APPEAR OR CONVICTION OF THE D.U.I.

17 ON THE ISSUE OF THE FIFTH AMENDMENT,
18 THAT'S MY ISSUE AND THE COURT HAS TO MAKE SURE THAT THAT
19 IS PROPERLY ADDRESSED.

20 AND THE ONLY THING I CAN SAY IS IF THERE'S
21 GOING TO BE ANY QUESTIONING ON ANY PENDING CASE, IT DOES
22 IMPLICATE IN MY MIND A FIFTH AMENDMENT QUESTION. AND
23 THAT'S WHY I WAS UPSET YESTERDAY ABOUT NOT BEING TOLD
24 ABOUT THIS AHEAD OF TIME.

25 SO I DON'T KNOW WHAT THE STATUS OF THESE

1 CASES ARE NOW. I KNOW WHAT YOU HAVE PROVIDED TO ME AND
2 WHAT THEY INDICATE. ARE THESE WARRANTS STILL
3 OUTSTANDING? HAVE THEY NOT BEEN TAKEN CARE OF? DO YOU
4 HAVE COPIES OF THE WARRANTS? AND THEN IS THERE A NEW
5 CASE IN L.A. COUNTY THAT WE ARE RUNNING RIGHT NOW?

6 MR. SUMMERS: YES, WE HAVE IT.

7 THE COURT: AND WHAT DOES THAT SHOW?

8 MR. SUMMERS: IT SHOWS CASE NO. 6IG00049, DATE OF
9 OFFENSE 12-16-05, CASE FILED JANUARY 3RD; 14601.1;
10 FAILURE TO APPEAR AT ARRAIGNMENT; BENCH WARRANT ISSUED;
11 \$26,000 ON MARCH 8 OF '06.

12 THE COURT: ALL RIGHT. SO ASSUMING THAT WARRANT
13 IS OUTSTANDING, THE ISSUE IS WHETHER OR NOT THE FACT THAT
14 THE WITNESS HAS A WARRANT OUTSTANDING FOR DRIVING ON A
15 SUSPENDED LICENSE IS MORAL TURPITUDE. I DON'T VIEW
16 MIESTUS AS BEING ON POINT IN THAT REGARD.

17 MS. SARIS: HOW ABOUT THE FACT THAT THE WITNESS
18 DENIED IT?

19 MR. JACKSON: HE SHOULDN'T HAVE BEEN ASKED IN THE
20 FIRST PLACE.

21 THE COURT: WELL, I DON'T KNOW THAT HE KNEW IT.

22 MS. SARIS: WELL, THAT'S THE QUESTION. IF HE
23 KNEW IT, THAT'S THE QUESTION. I CERTAINLY AM ENTITLED TO
24 ASK HIM IF HE HAS A WARRANT OUT FOR HIS ARREST. HOW IS
25 THAT NOT RELEVANT?

1 THE COURT: I DIDN'T SAY IT WASN'T RELEVANT. I'M
2 SAYING I DON'T THAT HE KNEW IT.

3 MS. SARIS: RIGHT. SO I'M SAYING LET'S ASK HIM
4 OUTSIDE THE PRESENCE OF THE JURY WHAT HE KNEW.

5 THE COURT: PERHAPS. I DON'T KNOW. BECAUSE MY
6 CONCERN IS WHETHER OR NOT THAT'S A PENDING CASE. AND I
7 MIGHT HAVE TO ADVISE HIM HE HAS A RIGHT TO COUNSEL.

8 MS. SARIS: WELL, WE CAN HAVE A.P.D. AVAILABLE TO
9 REPRESENT HIM.

10 THE COURT: DO YOU THINK IT'S THAT EASY?

11 MS. SARIS: I DON'T KNOW. I KNOW I'VE BEEN
12 CALLED AT MY OFFICE MANY A LATE AFTERNOON TO COME DOWN TO
13 A COURT AND TALK TO A WITNESS WHO WAS TESTIFYING.

14 THE COURT: AGAIN, I DON'T VIEW A 14601 AS MORAL
15 TURPITUDE. I DON'T KNOW THAT THE FAILURE TO APPEAR ON A
16 14601 IS MORAL TURPITUDE BASED ON MIESTUS. I CERTAINLY
17 DON'T THINK THE 23152 CASES ARE NECESSARILY MORAL
18 TURPITUDE.

19 ARE THEY?

20 MR. JACKSON: D.U.I. CASES ARE NOT CONSIDERED
21 MORAL TURPITUDE.

22 THE COURT: SO WE'RE TALKING ABOUT IN THE MIESTUS
23 CASE, A VIOLATION OF A FELONY STATUTE, 1320.5 OF THE
24 PENAL CODE, AND I DON'T HAVE THAT HERE. SO, YOU KNOW, MY
25 INCLINATION IS TO SAY OUTSIDE THE PRESENCE OF THE JURY, I

1 WILL ADVISE HIM OF HIS RIGHT TO HAVE -- TO CONSULT WITH
2 COUNSEL BEFORE ANSWERING THE QUESTIONS. AND PERHAPS THE
3 FACT THAT HE HAS A WARRANT MAY OR MAY NOT BE A RELEVANT
4 INQUIRY. I'LL PERMIT THE QUESTION OUTSIDE THE PRESENCE
5 OF THE JURY ASSUMING HE HAS OBTAINED ADVICE OF COUNSEL IF
6 HE DESIRES.

7 SO WE CAN DO THAT ALL ON THE SAME DAY;
8 RIGHT?

9 MS. SARIS: THAT'S FINE.

10 MR. DIXON: YOUR HONOR, WE WILL ATTEMPT TO LOCATE
11 HIM AND FIND SOME TIMES AND DATES WHEN HE CAN RETURN TO
12 THE COURTHOUSE AND INFORM THE COURT WHEN WE HAVE THAT
13 INFORMATION.

14 MS. SARIS: OKAY. WE HAD A MOTION -- I'M NOT
15 SURE IF THE COURT RULED ON IT. I REALIZE MY NOTES ARE
16 NOT COMPLETE. WE HAD MADE A MOTION PRIOR TO THE
17 BEGINNING OF TRIAL TO FEDERALIZE OUR OBJECTIONS. AND
18 WE'VE BEEN USING VERY SHORTHAND WORDS TRYING NOT TO
19 INTERRUPT THE JURY. AND I DON'T KNOW IF THE COURT HAS
20 PUT IT ON THE RECORD OR --

21 THE COURT: I DON'T THINK SO. I DON'T RECALL IT.

22 MS. SARIS: OKAY. AND I WOULD ASK THAT WE HAVE
23 THAT ADDRESSED AT THIS TIME.

24 THE COURT: AND YOUR REQUEST IS?

25 MS. SARIS: THAT WHEN WE MAKE AN OBJECTION ON

1 FOUNDATIONAL; LEADING; ANY OF THE BAISES OF OBJECTIONS ON
2 STATE COURT GROUNDS, THAT THE COURT ACCEPT THAT OBJECTION
3 AS ALSO BEING BASED ON THE U.S. FEDERAL CONSTITUTION SO
4 THAT WE DO NOT HAVE TO WASTE THE COURT AND THE JURY'S
5 TIME EVERY TIME WE MAKE AN OBJECTION AS TO FOUNDATION BY
6 SAYING WE OBJECT AS TO FOUNDATIONAL GROUNDS UNDER THE
7 FOURTH, FIFTH, SIXTH, FOURTEENTH AMENDMENT OF THE U.S.
8 AND CALIFORNIA CONSTITUTION. AND ASK THAT THAT BE
9 ASSUMED IN ALL OF OUR OBJECTIONS UNLESS THE COURT DEEMS
10 IT UNNECESSARY IN A PARTICULAR OBJECTION.

11 THE COURT: I DON'T HAVE ANY PROBLEM WITH THAT.

12 MR. DIXON: NONE HERE, YOUR HONOR.

13 MS. SARIS: THAT BEING THE CASE, COULD THE COURT
14 NUNC PRO TUNC THAT ORDER TO THE BEGINNING OF THIS TRIAL?

15 THE COURT: ALL RIGHT.

16 MS. SARIS: THANK YOU.

17 THE COURT: I ASSUME MR. BARTINETTI IS AROUND?

18 MR. DIXON: I'LL GO CHECK, YOUR HONOR.

19 MR. JACKSON: YOUR HONOR, COULD I HAVE THE -- I
20 APOLOGIZE, MR. SUMMERS LISTED A CASE NUMBER FOR THE
21 14601 --

22 THE COURT: YES, WE'VE GOT THAT.

23 (WHEREUPON UNRELATED MATTERS WERE HEARD.)

24 THE COURT: LET'S RESUME IN THE GOODWIN MATTER.
25 WE ARE OUTSIDE THE PRESENCE OF THE JURY.

1 MR. BARTINETTI IS STILL ON THE WITNESS
2 STAND AND YOU ARE REMINDED, SIR, THAT YOU HAVE BEEN
3 PREVIOUSLY SWORN. YOU ARE STILL UNDER OATH.

4 CAN YOU STATE YOUR NAME AGAIN FOR THE
5 RECORD, PLEASE.

6 THE WITNESS: YES, YOUR HONOR. PHILIP
7 BARTINETTI.

8 THE COURT: THANK YOU.

9 MR. JACKSON: THANK YOU, YOUR HONOR.

10
11 DIRECT EXAMINATION (RESUMED)
12 BY MR. JACKSON:

13 Q MR. BARTINETTI, THE COURT HAS ASKED US TO
14 DISCUSS A MATTER OUTSIDE THE PRESENCE OF THE JURY. SO
15 I'M GOING TO NARROW YOUR FOCUS, IF I COULD, TO CONTACTS
16 THAT YOU'VE HAD BY AN INDIVIDUAL -- CONTACTS THAT YOU'VE
17 HAD WITH AN INDIVIDUAL BY THE NAME OF CHARLES CLAYTON.

18 DOES THAT NAME RING A BELL?

19 A YES, IT DOES.

20 Q HOW DO YOU KNOW THAT INDIVIDUAL?

21 A MR. CLAYTON WAS SOMEONE WHO WAS INVOLVED
22 IN LITIGATION AND I RECALL DEPOSING HIM ON ONE OCCASION.

23 Q WHEN YOU SAY "INVOLVED IN LITIGATION,"
24 INVOLVED IN WHICH LITIGATION?

25 A IN THE ONGOING LITIGATION OR LITIGATIONS

1 BETWEEN MICKEY THOMPSON ENTERTAINMENT GROUP, STADIUM
2 MOTOR SPORTS, ENTERTAINMENT SPECIALTIES AND THE TWO
3 INDIVIDUALS.

4 Q I KNOW IT'S BEEN A LONG TIME,
5 MR. BARTINETTI. DO YOU RECALL IN WHAT CAPACITY
6 MR. CLAYTON WAS CONNECTED TO THAT LITIGATION OR THOSE
7 LITIGATIONS?

8 A MY MEMORY IS THAT HE WAS SOMEHOW INVOLVED
9 IN FINANCING. HE WAS RECEIVING SECURITY INTERESTS IN
10 SOME OF THE S.M.C. OR GOODWIN PROPERTY. AND IT'S ALSO MY
11 MEMORY THAT HE HAD SOME INVOLVEMENT WITH OWNING CERTAIN
12 ASSETS WITH MRS. GOODWIN, DIANE GOODWIN.

13 Q OKAY. THAT WOULD BE -- DIANE GOODWIN
14 WOULD BE THE DEFENDANT'S WIFE AT THAT TIME?

15 A THAT IS CORRECT.

16 Q DO YOU RECALL, AS YOU SIT HERE TODAY,
17 MR. BARTINETTI, WHAT IT WAS THAT YOU WERE INTERESTED IN
18 OR WHAT YOU WERE DEPOSING HIM ABOUT?

19 A I HAVE ONLY THE MOST HAZY RECOLLECTION.
20 IT HAD SOMETHING TO DO WITH ENTERTAINMENT SPECIALTIES,
21 INC., WITH OWNERSHIP INTERESTS AND WITH ASSETS THAT MAY
22 HAVE BEEN ASSIGNED TO HIM BY THE JUDGMENT DEBTORS, EITHER
23 MR. GOODWIN OR HIS COMPANY.

24 Q AT SOME POINT, MR. BARTINETTI, MR. GOODWIN
25 FILED SUIT AGAINST MR. THOMPSON, CORRECT, A COUNTERSUIT?

1 A THERE WAS A SUIT, YES.

2 Q DO YOU RECALL, AS YOU SIT HERE TODAY,
3 WHETHER YOUR DEPOSITION WAS IN RELATIONSHIP TO THE
4 LITIGATION GOING FROM MICKEY THOMPSON TO GOODWIN OR THE
5 LITIGATION GOING FROM GOODWIN TO MICKEY THOMPSON, OR DO
6 YOU KNOW?

7 A I CANNOT RECALL. BUT BY THE TIME LINE, I
8 WOULD ASSUME THAT IT WAS EITHER SOMETHING RELATED TO
9 TRANSFER OF ASSETS OR TO THE GOODWIN VERSUS THOMPSON
10 LITIGATION RELATING TO THE ROSE BOWL.

11 Q OKAY. YOU MENTIONED THE TIME FRAME. DO
12 YOU HAVE A TIME FRAME IN MIND AS TO WHEN YOU DEPOSED
13 MR. CLAYTON?

14 A MY MEMORY SERVES ME IT WAS SOME TIME IN
15 '87 OR EARLY '88.

16 Q DO YOU KNOW WHETHER OR NOT YOU DEPOSED HIM
17 ONCE, TWICE, MULTIPLE TIMES OR --

18 A I HAVE A MEMORY OF ONLY ONE OCCASION.
19 THERE COULD HAVE BEEN MORE THAN ONE, BUT I HAVE A MEMORY
20 OF AN OCCASION BECAUSE IT WAS IN OUR FORMER SUITE OF
21 OFFICE IN OUR CURRENT BUILDING. WE'RE NOW ON THE 12TH
22 AND 13TH FLOOR, AND AT THAT TIME WE WERE JUST ON THE 13TH
23 FLOOR OF THE BUILDING.

24 Q WHEN YOU WERE ON THAT 13TH FLOOR, WAS
25 VINCE TRICARICO WORKING WITH THE FIRM AT THAT POINT?

1 A YES, HE WAS.

2 Q DO YOU REMEMBER THE TONE AND TENOR OF YOUR
3 DEPOSITION WITH MR. CLAYTON?

4 A YES.

5 Q COULD YOU DESCRIBE THAT FOR THE COURT, AS
6 BEST YOU CAN, PLEASE.

7 A IT WAS VERY TENSE BECAUSE I HAD IN I GUESS
8 PROFESSIONAL TERMS, A VERY UNHAPPY CAMPER WHO WAS SITTING
9 ACROSS THE TABLE FROM ME.

10 Q I'M SORRY. GO AHEAD.

11 A I WAS VERY CAREFUL TO STAY EXACTLY TO THE
12 QUESTIONS; NOT ENGAGE IN ANY OF THE POTENTIAL FOR
13 EMOTION. AND WE GOT THROUGH THE DEPOSITION IN, I THINK,
14 A VERY PROFESSIONAL FASHION.

15 Q WHAT IS YOUR NORMAL DEMEANOR DURING THE
16 COURSE OF A DEPOSITION? YOU KNOW, THAT'S PROBABLY A BAD
17 QUESTION. LET ME JUST ASK YOU POINTEDLY.

18 WHAT WAS YOUR DEMEANOR, IF YOU RECALL,
19 DURING THE DEPOSITION OF CHUCK CLAYTON, THE ONE THAT
20 YOU'RE REFERRING TO?

21 A I WOULD DESCRIBE IT AS VERY PROFESSIONAL.
22 IT WAS PROBABLY -- THOSE OF US WHO REMEMBER "DRAGNET,"
23 WOULD SAY JACK WEBB, JUST THE FACTS.

24 Q DO YOU RECALL IF ANY OF THE CONVERSATION
25 BETWEEN YOU AND MR. CLAYTON DURING THE COURSE OF THE

1 DEPOSITION GOT HEATED?

2 A NOT FROM MY END. HIS ANSWERS WERE VERY --
3 I GUESS THE WORD WOULD BE SNIPPY. HE WAS OBVIOUSLY VERY
4 AGITATED.

5 Q DO YOU REMEMBER HIS AGITATION GROWING AT
6 ANY POINT DURING THE DEPOSITION OR FROM THE BEGINNING
7 TOWARD THE END?

8 A WELL, IT WENT PRETTY QUICKLY FROM A VERY
9 LOW LEVEL TO A HIGH LEVEL. I THINK THAT WAS MAINTAINED
10 THROUGHOUT THE DEPOSITION. IT WAS CLEAR THAT WE WEREN'T
11 GOING TO HAVE A FRIENDLY INTERCHANGE.

12 Q DID MR. CLAYTON STAY FOR THE ENTIRE
13 DEPOSITION? IN OTHER WORDS, UNTIL YOU WERE SATISFIED AND
14 YOU WERE FINISHED WITH YOUR QUESTIONING AND THEN HE LEFT?
15 OR WAS THERE ANY POINT IN TIME IN WHICH HE STOOD UP AND
16 WALKED OUT?

17 A I DO NOT RECALL HIM WALKING OUT BEFORE I
18 FINISHED THE QUESTIONING. BUT WHEN THE DEPOSITION WAS
19 OVER, MY MEMORY IS OF A VERY QUICK EXIT.

20 Q WHERE DO YOU RECALL THIS DEPOSITION TAKING
21 PLACE?

22 A IT WAS RIGHT IN THE CONFERENCE ROOM ON
23 THE -- IT WOULD BE THE NORTHWEST SIDE OF OUR SUITE OF
24 OFFICES. WE HAD THE ENTIRE FLOOR.

25 Q IS THAT CONFERENCE ROOM SERVICED BY A

1 HALLWAY?

2 A YES.

3 Q DO YOU RECALL WHEN THE DEPOSITION WAS
4 OVER, DID YOU FOLLOW MR. CLAYTON OUT INTO THE HALLWAY OR
5 DID YOU STAY WHERE YOU WERE WITH THE COURT REPORTER -- I
6 SHOULD SAY THE REPORTER, OR ANY OTHER INDIVIDUALS, OR DID
7 YOU GO WITH HIM OUT IN THE HALLWAY? DO YOU RECALL?

8 A MY MEMORY IS THAT I PROBABLY SPENT TWO OR
9 THREE MINUTES IN THE ROOM WITH THE COURT REPORTER;
10 SPELLINGS; DOCUMENTS; THAT TYPE OF THING. AND BY THE
11 TIME I WALKED OUT, MR. CLAYTON WAS NO LONGER THERE.

12 Q WHAT WAS THE LEVEL OF MR. CLAYTON'S
13 AGITATION, IF YOU CAN DESCRIBE IT FOR US AND FOR THE
14 COURT, AT THE POINT OF WHICH THE DEPOSITION WAS FINALLY
15 COMPLETED AND HE LEFT THE ROOM?

16 A I CAN'T DESCRIBE THE LEVEL. I CAN JUST
17 SAY HE WAS UPSET; HE GOT UP; HE LEFT.

18 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

19 THE COURT: CROSS-EXAMINATION?

20 MR. SUMMERS: THANK YOU.

21 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
22 HONOR?

23 THE COURT: YES.

24 (DISCUSSION OFF THE RECORD.)

25 MR. JACKSON: YOUR HONOR, MAY I INQUIRE OF THE

1 COURT?

2 THE COURT: YES.

3 MR. JACKSON: DID THE COURT WISH TO -- AND
4 MR. DIXON JUST BROUGHT THIS UP, MAYBE I MISUNDERSTOOD
5 SOMETHING.

6 DID THE COURT WISH TO ENGAGE
7 MR. BARTINETTI OUTSIDE THE PRESENCE OF THE JURY AT THIS
8 TIME ABOUT THREAT LETTERS, ET CETERA?

9 THE COURT: WE COULD DO THAT, SURE.

10 MR. JACKSON: WE CERTAINLY COULD.

11 THE COURT: THIS WOULD BE A GOOD TIME.

12 MR. JACKSON: OKAY. I COULD GENERALLY ASK HIM, I
13 DON'T THINK IT WILL TAKE ALL THAT LONG, IF YOU'LL ALLOW
14 ME SOME LEEWAY. MAY I CONTINUE QUESTIONING?

15 THE COURT: YES.

16 MR. JACKSON: THANK YOU.

17 Q MR. BARTINETTI, LET ME ASK YOU A COUPLE OF
18 QUESTIONS ABOUT SOME CORRESPONDENCE YOU RECEIVED IN 1987
19 AND SUBSEQUENT THERETO.

20 I'VE GOT A NUMBER OF DOCUMENTS. YOUR
21 HONOR, WOULD THE COURT -- DOES THE COURT WANT ME TO GO
22 AHEAD AND MARK THESE DOCUMENTS AS PEOPLE'S NEXT IN ORDER
23 OR FOR THE PURPOSES OF THIS HEARING?

24 THE COURT: THESE ARE THE LETTERS?

25 MR. JACKSON: CORRECT.

1 THE COURT: WHY DON'T WE DO IT FOR PURPOSES OF
2 THIS HEARING. WE WILL JUST MARK THEM AS THE COURT'S
3 EXHIBIT, COURT'S EXHIBIT -- HOW MANY DO YOU HAVE?

4 MR. JACKSON: I'VE GOT ONE, TWO, THREE, FOUR,
5 FIVE, SIX, SEVEN, EIGHT -- NINE DIFFERENT PACKETS. SOME
6 ARE LETTERS, SOME ARE ENVELOPES.

7 THE COURT: AND THEY ALL HAVE DATES ON THEM?

8 MR. JACKSON: THEY DO.

9 THE COURT: SO WE'LL MARK THEM COLLECTIVELY AS
10 COURT'S EXHIBIT 1.

11 MR. JACKSON: COLLECTIVELY AS COURT'S --

12 THE COURT: YES, 1.

13 MR. JACKSON: OKAY.

14

15 (COURT'S EXHIBIT NO. 1 WAS MARKED FOR
16 IDENTIFICATION.)

17

18 Q BY MR. JACKSON: MR. BARTINETTI, LET ME
19 BRING TO YOUR ATTENTION -- OR DRAW YOUR ATTENTION TO A
20 SERIES OF PHOTOSTATIC COPIES THAT I HAVE. FIRST OF ALL,
21 THESE ARE ALL MARKED AS COURT'S EXHIBIT 1. SO I'LL REFER
22 TO THEM BY EITHER A DATE OR A POSTMARK, SOMETHING LIKE
23 THAT.

24 I'M HOLDING IN MY HAND WHAT APPEARS TO BE
25 THREE PHOTOSTATIC COPIES OF WHAT APPEAR TO BE ENVELOPES.

1 DO YOU RECOGNIZE THESE THREE PHOTOSTATIC
2 COPIES?

3 A I DO.

4 Q THE FIRST COPY IS POSTMARKED 10-19-87; THE
5 SECOND COPY IS POSTMARKED 10-20-87; AND THE THIRD COPY IS
6 POSTMARKED 10-20-87 ALSO.

7 HOW DO YOU RECOGNIZE THESE THREE
8 ENVELOPES, FIRST OF ALL?

9 A I'M THE ONE WHO PULLED THE LETTERS OUT OF
10 THE MAILBOX AT MY HOUSE.

11 Q THE ADDRESS THAT APPEARS ON THE ENVELOPE,
12 800 WILSHIRE BOULEVARD, WHAT ADDRESS IS THAT?

13 A THAT OTHER ONE IS ALSO 800. THE ONE I
14 REMEMBER IS THE 815 SOUTH RIMPAU.

15 Q SO OF THE THREE, TWO OF THEM APPEAR TO BE
16 ADDRESSED TO AN 800 WILSHIRE BOULEVARD, WHICH WAS CLARK
17 AND TREVITHICK; CORRECT?

18 A CORRECT.

19 Q AND ONE IS -- THAT HAS THE WORD
20 "BONVEVANT" (SIC) -- IS ADDRESSED TO YOUR HOME BACK IN
21 1987?

22 A AND THAT'S THE FIRST ONE I RECALL
23 RECEIVING.

24 Q ALL RIGHT. FINE. ALSO, I HAVE SEVERAL
25 DOCUMENTS THAT I'LL LAY UP IN FRONT OF YOU THAT APPEAR TO

1 BE CORRESPONDENCE OF SOME KIND -- THERE ARE ACTUALLY FIVE
2 CORRESPONDENCE.

3 DO YOU RECOGNIZE THOSE FIVE DOCUMENTS?

4 A I DO.

5 MR. JACKSON: YOUR HONOR, FOR THE RECORD, THE
6 EASIEST WAY FOR ME TO DIFFERENTIATE BETWEEN THEM IS THE
7 SALUTATION, OR THE GREETING I SHOULD SAY. ONE STARTS
8 "HEY, BARTY," B-A-R-T-Y. ONE STARTS "PH BOY." THE THIRD
9 STARTS "PHIL, MY MAN." THE FOURTH STARTS "DEAR PHIL."
10 AND THE FIFTH STARTS "HI, PHIL."

11 DID YOU RECEIVE ALL THREE -- I'M SORRY,
12 ALL FIVE OF THESE LETTERS AT SOME POINT IN OR AROUND
13 1987?

14 A IT'S MY MEMORY THAT I DID.

15 Q ALL RIGHT. AND SOME OR ALL OF THOSE
16 CORRESPONDENCE CAME IN SOME OR ALL OF THESE ENVELOPES;
17 CORRECT?

18 A CORRECT.

19 Q IS IT CORRECT THAT THE ENVELOPE THAT IS
20 DATED -- POSTMARKED, RATHER, 19, OCTOBER 1987 HAS A SANTA
21 ANA POSTMARK ON IT?

22 A THAT IS CORRECT.

23 Q AND THE OTHER TWO HAVE LOS ANGELES
24 POSTMARKS; IS THAT CORRECT?

25 A THAT'S CORRECT.

1 Q DURING THE COURSE OF YOUR REPRESENTATION
2 OF THE ESTATE OF MICKEY THOMPSON, DID YOU CONTINUE TO
3 RECEIVE CORRESPONDENCE FROM MICHAEL GOODWIN?

4 MS. SARIS: OBJECTION, YOUR HONOR. LACK OF
5 FOUNDATION. CORRESPONDENCE FROM MICHAEL GOODWIN?

6 THE COURT: SEE IF YOU CAN LAY A FOUNDATION.

7 MR. JACKSON: SURE.

8 Q DID YOU EVER RECEIVE A LETTER THAT WAS
9 SIGNED MIKE GOODWIN?

10 A YES.

11 Q DID YOU EVER RECEIVE NOTES THAT WERE --
12 THEY LOOKED LIKE MEMOS THAT WERE -- BEGAN "TO," COLON,
13 "PHIL BARTINETTI" "FROM," COLON, "MIKE GOODWIN"?

14 A I CAN'T REMEMBER HOW IT WAS ADDRESSED, BUT
15 I DO RECALL RECEIVING A LETTER.

16 Q OKAY. DO YOU REMEMBER SEEING MIKE
17 GOODWIN'S SIGNATURE?

18 A YES.

19 Q TAKE A LOOK AT THIS DOCUMENT DATED AUGUST
20 9 -- I'M SORRY, AUGUST 8, 1989. IT'S HEAVILY REDACTED.
21 ALL I'M INTERESTED IS, MR. BARTINETTI, IS THE GREETING
22 AND THE SALUTATION.

23 DO YOU RECOGNIZE THE GREETING AND/OR THE
24 HANDWRITING ON THE GREETING?

25 MR. SUMMERS: OBJECTION. FOUNDATION, YOUR HONOR,

1 AS TO THE HANDWRITING.

2 THE COURT: OVERRULED.

3 YOU CAN ANSWER.

4 THE WITNESS: YES, I DO RECALL THAT BEING HIS
5 HANDWRITING.

6 Q BY MR. JACKSON: WHOSE HANDWRITING?

7 A MIKE GOODWIN'S.

8 Q DO YOU SEE THE SIGNATURE ON THE FOURTH
9 PAGE OF THIS REDACTED DOCUMENT?

10 A I DO.

11 Q AND WHAT IS THAT SIGNATURE?

12 A "SINCERELY, MIKE GOODWIN." IT APPEARS TO
13 ME TO BE MR. GOODWIN'S SIGNATURE.

14 THE COURT: NOW, WHICH DOCUMENT DID YOU JUST
15 REFER TO?

16 MR. JACKSON: YOUR HONOR, THIS IS A SIXTH
17 CORRESPONDENCE THAT IS NOT A THREAT LETTER, BUT, RATHER,
18 SIMPLY A CORRESPONDENCE BETWEEN WHAT I BELIEVE -- WITH
19 THE PROPER FOUNDATION LAID -- BETWEEN MICHAEL GOODWIN AND
20 PHIL BARTINETTI IN 1989. AND MY NEXT QUESTION TO HIM IS,
21 DID IT COME IN THIS -- OR DO YOU RECOGNIZE THIS ENVELOPE
22 AND DOES IT HAVE A PARTICULAR POSTMARK ON IT?

23 THE COURT: SHOULD WE MARK THIS --

24 MR. JACKSON: THIS IS PART OF THE COURT'S EXHIBIT
25 1.

1 THE COURT: OH, OKAY. THANK YOU.

2 MR. JACKSON: IT'S ALL PART OF THE SAME SET OF
3 DOCUMENTS.

4 THE COURT: THANK YOU.

5 MS. SARIS: YOUR HONOR, IS THERE ANY WAY THAT WE
6 CAN ASK THAT THEY BE MARKED SEPARATELY SIMPLY BECAUSE ONE
7 IS OBVIOUSLY SIGNED MICHAEL GOODWIN AND THE OTHERS ARE
8 JUST LETTERS? IT DOESN'T MAKE A LOT OF SENSE.

9 MR. DIXON: WE CAN DO IT ANY WAY YOU WANT.

10 THE COURT: YES. LET'S MARK THIS LETTER THAT'S
11 SIGNED BY MR. GOODWIN AND THE ENVELOPE AS COURT'S
12 EXHIBIT 2.

13 MR. JACKSON: SURE.

14

15 (COURT'S EXHIBIT NO. 2 WAS MARKED FOR
16 IDENTIFICATION.)

17

18 Q BY MR. JACKSON: MR. BARTINETTI, IF YOU
19 WILL TAKE OUT --

20 COURT'S EXHIBIT 2 INCLUDES, YOUR HONOR, AN
21 UNREDACTED LETTER THAT PURPORTS TO BE FROM MICHAEL
22 GOODWIN; A REDACTED LETTER THAT'S EXACTLY THE SAME, IT'S
23 JUST COPIED AND REDACTED; AN ENVELOPE THAT WE BELIEVE
24 MR. BARTINETTI WILL ESTABLISH THE LETTER CAME IN, OR
25 PURPORTEDLY CAME IN; AND A LETTER FROM MR. BARTINETTI TO

1 MICHAEL GRIGGS.

2 ALL RIGHT. TAKING YOU BACK,
3 MR. BARTINETTI, TO THIS DOCUMENT THAT LOOKS TO BE AN
4 ENVELOPE AND THEN THERE'S ANOTHER DOCUMENT INSIDE IT.

5 CAN YOU TAKE A LOOK AT THE UNREDACTED
6 VERSION OF THE DOCUMENT THAT WAS INSIDE THAT ENVELOPE.
7 AND TELL ME IF YOU RECOGNIZE IT AS BEING AN UNREDACTED
8 VERSION OF WHAT I'VE JUST SHOWED YOU WITH THE GREETING
9 AND SALUTATION FROM MICHAEL GOODWIN?

10 A WELL, IT HAS THE SAME SETUP, THE "TO," THE
11 "FROM" AND THE SIGNATURE BLOCK APPEARS THE SAME.

12 Q OKAY. DID THAT LETTER, TO THE BEST OF
13 YOUR KNOWLEDGE, COME IN THIS ENVELOPE?

14 A AS I SIT HERE TODAY, I BELIEVE IT DID.
15 CAN I SAY ABSOLUTELY FOR CERTAIN THAT IT CAME IN THIS
16 ENVELOPE? NO. BUT THE TIMING AND EVERYTHING ELSE IS
17 THAT YES, THIS IS WHAT IT CAME IN.

18 Q AND THIS ENVELOPE THAT YOU'RE HOLDING NOW
19 THAT'S COURT'S EXHIBIT 2, DOES IT BEAR A POSTMARK?

20 A IT DOES.

21 Q AND WHERE'S THE POSTMARK FROM?

22 A SANTA ANA.

23 Q OKAY. MR. BARTINETTI, THE FIVE LETTERS
24 THAT YOU EARLIER INDICATED THAT YOU RECEIVED VARIOUSLY AT
25 THE FIRM ADDRESS AND AT YOUR HOME ADDRESS, FIRST OF ALL,

1 THERE APPEARS TO BE FIVE CORRESPONDENCE THERE; CORRECT?

2 A YES.

3 Q YOU DO NOT HAVE IN FRONT OF YOU FIVE
4 CORRESPONDING ENVELOPES; IS THAT RIGHT?

5 A THAT IS CORRECT. BUT I REMEMBER THE OTHER
6 TWO.

7 Q THAT'S WHAT I WAS ABOUT TO SAY.

8 OF THOSE FIVE LETTERS, CAN YOU EXPLAIN TO
9 THE COURT WHICH ONES -- HOW MANY YOU RECEIVED AT HOME AND
10 HOW MANY YOU RECEIVED AT THE OFFICE, OR DO YOU REMEMBER?

11 A I HAVE A VIVID MEMORY OF RECEIVING THREE
12 AT HOME BECAUSE IT WAS ONLY THROUGH AN UNUSUAL
13 CIRCUMSTANCE THAT I WAS ABLE TO INTERCEPT THE FIRST ONE
14 FROM A MEMBER OF MY FAMILY RECEIVING IT.

15 Q OKAY.

16 A AND SO I WENT HOME EVERY DAY AT LUNCH FOR
17 TWO WEEKS TO SEE IF ANY OTHERS CAME SO THAT I CAN BE SURE
18 AND INTERCEPT THEM. AND THERE WERE TWO OTHERS THAT HAD
19 ANAHEIM POSTMARKS ON THEM.

20 Q OKAY. DO YOU -- BY THE WAY, DURING THE
21 COURSE OF THIS LITIGATION, WAS -- OR DO YOU HAVE
22 KNOWLEDGE OF WHERE MR. GOODWIN WAS LIVING, RESIDING AND
23 DOING BUSINESS DURING THAT TIME?

24 MS. SARIS: OBJECTION, YOUR HONOR, COMPOUND.

25 THE COURT: OVERRULED

1 YOU CAN ANSWER.

2 THE WITNESS: YES. HE WAS DOWN IN THE ORANGE
3 COUNTY AREA AROUND LAGUNA.

4 Q BY MR. JACKSON: OKAY. DURING THE TIME
5 THAT YOU RECEIVED THESE LETTERS --

6 YOUR HONOR, I WILL FORGO THE FORMALITY OF
7 HAVING MR. BARTINETTI READ THE LETTERS. I THINK THE
8 COURT CAN READ THEM QUICKER THAN MR. BARTINETTI COULD OUT
9 LOUD AND THEY'RE CERTAINLY GOING TO BE A PART OF THE
10 RECORD.

11 DID YOU CONSIDER, MR. BARTINETTI,
12 THESE LETTERS TO BE THREATENING IN NATURE?

13 A YES.

14 Q WHY DID YOU CONSIDER THEM TO BE
15 THREATENING IN NATURE?

16 A BECAUSE BY THE CONTENTS OF THE LETTER, I
17 KNEW THAT SOMEBODY HAD BEEN FOLLOWING ME. BECAUSE IT
18 DIDN'T HAVE FULL INFORMATION ON MY FAMILY; IT HAD ONLY
19 INFORMATION THAT SOMEBODY TAILING ME WOULD KNOW. AND
20 ALSO THE REFERENCE TO AFRICAN-AMERICANS WAS REFERENCED TO
21 GOOD FRIENDS OF OURS WHO MY WIFE AND DAUGHTER WERE
22 VISITING FREQUENTLY DURING THAT TIME SINCE MY DAUGHTER
23 HAD JUST COME BACK INTO TOWN.

24 Q DID ANY OF THE LETTERS REFERENCE
25 ACCURATELY YOUR DAUGHTER BY NAME, FOR INSTANCE?

1 A WELL, THEY USED A NAME THAT'S HER FORMAL
2 NAME, A NAME SHE HATES, AND SHE ALWAYS USED THE SHORT
3 NAME. SHE NEVER USED HER FORMAL NAME.

4 Q DID ANY OF THESE LETTERS INCLUDE RACIAL
5 EPITHETS OR WERE THEY RACIST IN NATURE WITH REGARD TO THE
6 AFRICAN-AMERICAN REFERENCE THAT YOU MENTIONED?

7 A YES.

8 Q WERE THESE LETTERS, IN YOUR OPINION, WAS
9 THERE AN INTENT TO INTIMIDATE YOU FOR ANY REASON?

10 A ABSOLUTELY.

11 Q WERE YOU ENGAGED IN 1985, '86, '87 THROUGH
12 '88 IN ANY LITIGATION OTHER THAN THE LITIGATION INCLUDING
13 MICHAEL GOODWIN OR INVOLVING MICHAEL GOODWIN, ANY
14 LITIGATION THAT YOU CONSIDERED TO BE VOLATILE OR
15 VITRIOLIC ENOUGH TO WARRANT THIS KIND OF CORRESPONDENCE?

16 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER.

19 THE WITNESS: NO.

20 Q BY MR. JACKSON: DID YOU HAVE ANY KNOWN
21 ENEMIES THAT WOULD WARRANT THIS KIND OF THREAT LETTER
22 COMING TO YOU?

23 A CERTAINLY NONE I KNEW OF.

24 Q PERSONAL OR BUSINESS RELATIONSHIPS?

25 A THERE'S SOME GUYS I BEAT IN GOLF WHO

1 WEREN'T HAPPY WHEN I BEAT THEM, BUT OTHER THAN THAT, I
2 CAN'T THINK OF ANYBODY.

3 Q WHEN YOU RECEIVED THESE LETTERS, BASED ON
4 YOUR OWN PERSONAL LIFE AND BASED ON YOUR BUSINESS LIFE,
5 YOUR PROFESSIONAL LIFE, WHEN YOU RECEIVED THESE LETTERS,
6 WHO IMMEDIATELY DID YOU ATTRIBUTE THESE LETTERS TO?

7 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

8 THE COURT: YES. IT'S NOT RELEVANT.

9 Q BY MR. JACKSON: DO YOU BELIEVE THAT THERE
10 WAS ANYBODY ELSE IN YOUR LIFE OR YOUR WIFE'S LIFE THAT
11 YOU'RE AWARE OF THAT WOULD HAVE HAD SOME KIND OF IMPULSE
12 TO DO HARM TO YOU?

13 MR. SUMMERS: OBJECTION. LEADING AND RELEVANCE,
14 YOUR HONOR.

15 THE COURT: OVERRULED.

16 YOU CAN ANSWER.

17 MS. SARIS: YOUR HONOR, I'M SORRY. THE
18 OBJECTION, TO ANYBODY ELSE?

19 MR. JACKSON: ANYBODY OTHER THAN -- I'M SORRY.
20 I'LL REPHRASE THE QUESTION.

21 Q ANYBODY OTHER THAN MICHAEL GOODWIN TO DO
22 HARM TO YOU OR YOUR FAMILY?

23 A NO.

24 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
25 HONOR?

1 THE COURT: YES.

2 (DISCUSSION OFF THE RECORD.)

3 MR. JACKSON: YOUR HONOR, THAT'S ALL I HAVE AT
4 THIS TIME.

5 THE COURT: CROSS-EXAMINATION?

6 MR. SUMMERS: THANK YOU.

7
8 CROSS-EXAMINATION

9 BY MR. SUMMERS:

10 Q SIR, THE LETTER -- AND I THINK IT'S
11 COURT'S EXHIBIT 2 -- THAT HAD A LETTER AND ENVELOPE THAT
12 WAS JUST SHOWN TO YOU GOING TO 1989.

13 DO YOU RECALL THAT?

14 A YES.

15 Q WHEN WAS THE LAST TIME YOU HAD SEEN THE
16 LETTER THAT WAS CONTAINED IN THERE?

17 A IT WOULD PROBABLY BE A COUPLE OF YEARS.

18 Q AND PRIOR TO THAT, WHEN WAS THE LAST TIME?

19 A YOU KNOW, I CAN'T GIVE YOU THE EXACT DATE
20 BECAUSE IT WOULD HAVE BEEN PERIODICALLY AS WE WENT
21 THROUGH WHAT I GUESS I'D CALL THIS PROCEDURE, I WOULD
22 REVIEW ITEMS THAT THE FILE.

23 Q ITEMS IN WHAT FILE?

24 A THE MICKEY THOMPSON ENTERTAINMENT GROUP,
25 STADIUM MOTOR SPORTS, ENTERTAINMENT SPECIALTIES FILE.

1 Q SO WHAT WE HAVE IN COURT HERE, THEN, IS A
2 COPY OF THE LETTER THAT YOU RECEIVED?

3 A THAT'S CORRECT.

4 Q AND THIS COPY, I ASSUME, WAS TURNED OVER
5 AT SOME POINT TO LAW ENFORCEMENT?

6 A THAT IS MY MEMORY.

7 Q AND THE ENVELOPE THAT YOU WERE SHOWN, YOU
8 SAID YOU CAN'T BE SURE WHETHER THAT'S THE ENVELOPE IT
9 CAME IN -- THAT THE LETTER CAME IN OR NOT; IS THAT
10 CORRECT?

11 A YES. I SAID I LOOKED AT IT AND I CAN'T
12 GIVE YOU -- I CAN'T SAY ABSOLUTELY THAT IS, BUT FROM THE
13 DATE AND EVERYTHING SURROUNDING IT, I BELIEVE IT IS.

14 Q AND DOES PART OF YOUR BELIEF INVOLVE WHAT
15 SOMEBODY ELSE TOLD YOU OR WHAT SOMEBODY ELSE PRESENTED TO
16 YOU WITH REGARD TO THAT?

17 A NO.

18 Q IS THERE ANY RETURN ADDRESS ON THE
19 ENVELOPE?

20 A I DON'T HAVE IT IN FRONT OF ME. I DON'T
21 RECALL IF THERE WAS.

22 MR. SUMMERS: YOUR HONOR, MAY I APPROACH?

23 THE COURT: YES.

24 Q BY MR. SUMMERS: HANDING THE WITNESS THE
25 ENVELOPE (INDICATING).

1 A YES. THAT'S CONSISTENT WITH MY MEMORY.
2 NO RETURN ADDRESS.

3 Q AND THAT WAS MY NEXT QUESTION.

4 THE LETTER THAT -- THE ENVELOPE THAT YOU
5 RECALL RECEIVING IN 1989, YOU RECALL THAT DID NOT HAVE A
6 RETURN ADDRESS?

7 A AS I SIT HERE TODAY, I CAN'T ANSWER THAT.

8 Q NOW, YOU'VE ALSO INDICATED THAT IT'S
9 POSSIBLE THAT YOU HAD TAKEN MR. CLAYTON'S DEPOSITION MORE
10 THAN ONCE?

11 A IT'S POSSIBLE. BUT I JUST HAVE A VIVID
12 MEMORY OF THE ONE TIME.

13 Q YOU HAVE A VIVID MEMORY OF THAT BECAUSE OF
14 WHAT HAPPENED DURING THE DEPOSITION OR SOME COMMENTS THAT
15 WERE MADE LATER ON BY SOMEBODY WHO WASN'T PRESENT AT THE
16 DEPOSITION?

17 A IT'S A COMBINATION, BECAUSE MR. CLAYTON IN
18 ANY OF MY DEALINGS WITH HIM HAD BEEN VERY ANTAGONISTIC.
19 AND IMMEDIATELY FOLLOWING THAT DEPOSITION, I HAD A VERY
20 UPSET RECEPTIONIST AND A SOMEWHAT DISTURBED PARTNER WHO
21 CONFRONTED ME ALMOST IMMEDIATELY WHICH I'M SURE BURNS
22 THAT TIME IN MY MEMORY.

23 Q DO YOU RECALL SPEAKING TO INVESTIGATORS
24 FROM THE SHERIFF'S DEPARTMENT SHORTLY AFTER THE MURDERS
25 OF MICKEY AND TRUDY THOMPSON?

1 A I DO.

2 Q AND DO YOU RECALL THE SUBJECT OF
3 MR. CLAYTON COMING UP IN ONE OF THOSE INTERVIEWS?

4 A I DO RECALL TALKING TO ONE OF THE
5 INVESTIGATORS ABOUT MR. CLAYTON, YES.

6 Q AND SPECIFICALLY ABOUT THE DEPOSITION THAT
7 WE'VE BEEN DISCUSSING, THE ONE THAT'S BURNED IN YOUR
8 MEMORY?

9 A YES.

10 Q AND AS PART OF YOUR DISCUSSION WITH THAT
11 DETECTIVE, DID YOU HAVE OCCASION TO SPEAK TO
12 MR. TRICARICO ABOUT WHAT HE HAD HEARD OR SEEN?

13 A I DON'T UNDERSTAND YOUR QUESTION.

14 Q AS YOU WERE TALKING TO THE SHERIFF OR THE
15 SHERIFF'S REPRESENTATIVE AND YOU WERE DISCUSSING THIS
16 DEPOSITION, AND EITHER AT THE TIME OR AT SOME LATER
17 POINT, DID THAT CAUSE YOU TO GO TO MR. TRICARICO AND SORT
18 OF INVESTIGATE OR RENEW AN INVESTIGATION ABOUT WHAT
19 ACTUALLY HAPPENED?

20 A I DON'T THINK SO. I DON'T REMEMBER THAT.

21 Q DO YOU RECALL EVER SPEAKING TO
22 MR. TRICARICO ABOUT IT AND RELATING THAT CONVERSATION TO
23 THE SHERIFF'S REPRESENTATIVE?

24 A I REMEMBER TALKING TO MR. TRICARICO ABOUT
25 IT ON THE DAY IT HAPPENED. AND I CAN'T RECALL IF I

1 MENTIONED MR. TRICARICO TO THE SHERIFF OR I MENTIONED IT
2 ONLY THE RECEPTIONIST. BUT I DID MENTION ONE OR THE
3 OTHER OR BOTH TO THE SHERIFF.

4 Q DO YOU RECALL WHICHEVER ONE IT WAS THAT
5 YOU MENTIONED TO THE SHERIFF, THAT IN YOUR DISCUSSIONS
6 WITH THAT PERSON, THAT THEY COULDN'T BE SURE OR SURE
7 ENOUGH TO TESTIFY UNDER OATH ABOUT WHAT WAS SAID?

8 MR. JACKSON: OBJECTION. THAT'S HEARSAY.

9 THE COURT: SUSTAINED.

10 MR. SUMMERS: WELL, YOUR HONOR, DEPENDING ON WHO
11 THE PARTY IS, I THINK THAT'S ACTUALLY PRIOR A
12 INCONSISTENT STATEMENT.

13 THE COURT: WELL, NOT THE WAY YOU PHRASED IT. IF
14 YOU WANT TO REPHRASE THE QUESTION, THAT'S FINE.

15 Q BY MR. SUMMERS: DO YOU RECALL WHETHER YOU
16 AS A RESULT OF THIS CONVERSATION, WHETHER YOU GAVE THE
17 SHERIFF'S REPRESENTATIVE THE NAME OF THE RECEPTIONIST?

18 A MY BEST MEMORY IS THAT I DID.

19 Q DO YOU RECALL WHETHER OR NOT YOU GAVE THAT
20 PERSON -- AGAIN, I'M TALKING ABOUT IN THAT PERIOD SHORTLY
21 AFTER THE MURDERS -- WHETHER YOU GAVE THAT SHERIFF'S
22 REPRESENTATIVE THE NAME OF MR. TRICARICO?

23 A I DON'T RECALL.

24 Q AND I THINK YOUR TESTIMONY WAS THAT
25 IMMEDIATELY MR. TRICARICO CAME INTO THE CONFERENCE

1 ROOM -- OR IMMEDIATELY AFTER MR. CLAYTON HAD LEFT?

2 A NO.

3 Q OKAY. WHAT WAS THE TIMING?

4 A TIMING WAS TWO OR THREE MINUTES, FOUR
5 MINUTES AFTER THE DEPOSITION WAS OVER, I CAME OUT OF THE
6 CONFERENCE ROOM AND WAS CONFRONTED BY THE RECEPTIONIST
7 WHO LOOKED LIKE SHE HAD THE BLOOD DRAINED FROM HER FACE
8 AND MR. TRICARICO.

9 Q AND IT WAS -- HE WAS STANDING OUTSIDE OF
10 THE CONFERENCE ROOM OR STANDING IN THE RECEPTION AREA
11 HIMSELF?

12 A YES. RECEPTION AREA.

13 Q AND AT THAT POINT HE TOLD YOU ABOUT
14 SOMETHING THAT HE HAD OVERHEARD OR HEARD -- OR A COMMENT
15 THAT HE HAD HEARD?

16 A MY MEMORY IS THAT HE MORE REAFFIRMED WHAT
17 THE RECEPTIONIST SAID, BECAUSE SHE WAS THE ONE THAT WAS
18 MORE AGITATED.

19 Q SO IF I CAN -- CAN I CHARACTERIZE IT AS
20 THAT IT WAS NOT A SITUATION THAT HE CAME TO YOU WITH THE
21 INFORMATION OR WITH ANY CONVERSATION?

22 A I THINK YOU CAN CHARACTERIZE IT THAT WAY.
23 BECAUSE I'M THE ONE WHO WAS PUTTING ONE FOOT IN FRONT OF
24 THE OTHER AND GOT OUT TO THE RECEPTION AREA. AND THAT'S
25 WHERE THE TWO OF THEM WERE STANDING.

1 Q OKAY. YOU SAID THAT YOU RECOGNIZED DURING
2 THIS DEPOSITION THAT YOU HAD AN UNHAPPY CAMPER?

3 A YES.

4 Q IS THAT FROM EXPERIENCE OF DEALING WITH
5 UNHAPPY CAMPERS IN DEPOSITIONS AND LITIGATION?

6 A YES.

7 Q DID YOU -- YOU TESTIFIED THAT THERE WAS
8 SOME OF MR. CLAYTON'S -- SOME OF HIS ANSWERS WERE
9 BASICALLY SNIPPY OR SNIDE. I THINK "SNIPPY" WAS THE WORD
10 I REMEMBER; IS THAT CORRECT?

11 A YES.

12 Q DID YOU TAKE THE OPPORTUNITY TO NOTE OR
13 CITE ANY OF THAT FOR THE RECORD, HIS DEMEANOR OR THE
14 NATURE OF HIS ANSWERS OR HIS CONDUCT?

15 A NO.

16 Q THIS DEPOSITION, TO YOUR MEMORY, IS THIS A
17 DEPOSITION OR A PROCEEDING THAT HE CAME TO VOLUNTARILY?

18 A WELL, I GUESS YOU WOULD HAVE TO DEFINE
19 "VOLUNTARILY." MY MEMORY IS THAT WE WENT THROUGH QUITE
20 AN EXERCISE BEFORE HE WAS CONVINCED THAT THIS WAS A LEGAL
21 PROCESS AND THAT HE WAS GOING TO HAVE TO BE THERE.

22 Q DID HE HAVE A LAWYER WITH HIM?

23 A MY MEMORY IS THAT HE WAS -- HE CAME
24 WITHOUT A PERSONAL LAWYER, BUT MR. GOODWIN'S LAWYER
25 WAS -- OR ONE OF MR. GOODWIN'S LAWYER WAS IN ATTENDANCE.

1 Q AND DURING THE COURSE OF YOUR QUESTIONING,
2 DO YOU REMEMBER THE NAME OF THAT PARTICULAR LAWYER FOR
3 MR. GOODWIN?

4 A RIGHT OFF THE TOP OF MY HEAD, NO.

5 Q DO YOU REMEMBER THAT PERSON INTERPOSING
6 OBJECTIONS DURING YOUR QUESTIONING?

7 A I DON'T HAVE A VIVID MEMORY OF THAT. I
8 JUST MEMBER THE PERSON WAS VERY PROFESSIONAL.

9 Q DO YOU RECALL THAT PERSON SAYING OUT LOUD
10 IN THE PRESENCE OF MR. CLAYTON AND YOURSELF, SAYING
11 THAT -- SOMETHING ALONG THE LINES OF "MR. CLAYTON'S NOT
12 MY CLIENT, BUT IF HE WERE MY CLIENT, I WOULD INSTRUCT HIM
13 NOT TO ANSWER"?

14 A THAT DOES REFRESH MY MEMORY THAT THAT WAS
15 SAID.

16 Q AND DO YOU REMEMBER THAT THAT HAPPENED
17 MORE THAN ONCE?

18 A NO. I'D HAVE TO REVIEW THE TRANSCRIPT.

19 Q IS IT YOUR RECOLLECTION THAT -- WELL, IS
20 IT YOUR RECOLLECTION THAT AFTER THE LAWYER SAID THAT,
21 THAT MR. CLAYTON EVER REFUSED TO ANSWER A QUESTION?

22 A I CAN'T RECALL THAT.

23 MR. SUMMERS: YOUR HONOR, I'M AFRAID I'M GOING TO
24 HAVE TO ASK HIM TO TAKE A LOOK AT THE TRANSCRIPT.

25 THE COURT: ALL RIGHT. YOU KNOW WHAT I'M GOING

1 TO DO, I'M GOING TO ASK MR. BARTINETTI TO STEP OUTSIDE
2 FOR A MOMENT.

3 THE WITNESS: ALL RIGHT, YOUR HONOR.

4 THE COURT: AND I KNOW WE HAVE OUR JURORS
5 ASSEMBLED.

6 THE CLERK: I ASKED GAIL TO GIVE ME A CALL WHEN
7 ALL 18 WERE THERE.

8 (THE WITNESS EXITED THE COURTROOM.)

9 THE COURT: ALL RIGHT. MR. BARTINETTI HAS LEFT
10 OF THE COURTROOM.

11 WE ARE KIND OF SHORT ON TIME. SO I
12 DON'T KNOW WHERE THIS IS HEADED, BUT I HAVE HEARD ENOUGH.

13 SO WHERE ARE WE GOING WITH THIS?

14 MS. SARIS: I SUPPOSE IT DEPENDS ON WHAT THE
15 COURT DEEMS --

16 THE COURT: WELL, I MEAN THE ISSUE HERE IS
17 WHETHER OR NOT THE STATEMENT UTTERED BY MR. CLAYTON UPON
18 LEAVING THE DEPOSITION WAS AN EXCITED UTTERANCE; RIGHT?

19 MS. SARIS: THAT'S ONE OF THE ISSUES, YES.

20 THE COURT: AND THEN THE SECOND PRONG OF THAT
21 WOULD HAVE BEEN THE ADMISSION. BUT WE NEED TO DEAL WITH
22 THE FIRST PRONG, WHICH IS THE EXCITED UTTERANCE. I DON'T
23 THINK IT IS. NOT IF THE DEPOSITION WENT ACCORDING TO THE
24 WAY DEPOSITIONS GO AND IT WAS CONCLUDED. AND THIS WAS A
25 RESPONSE TO THE DEPOSITION BEING CONCLUDED.

1 I THOUGHT FRANKLY WHEN I FIRST HEARD ABOUT
2 THIS THAT SOMETHING HAPPENED DURING THE COURSE OF THAT
3 DEPOSITION. BUT FROM LISTENING TO MR. BARTINETTI, I HAVE
4 NO REASON TO BELIEVE THAT HE AT NO TIME DID ANYTHING BUT
5 ACT AS THE CONSUMMATE PROFESSIONAL DURING THE COURSE OF
6 THIS DEPOSITION. SO I DON'T KNOW WHAT THE PEOPLE'S
7 THEORY IS IN TERMS OF HOW THIS WOULD BE AN EXCITED
8 UTTERANCE.

9 BUT EVEN ASSUMING SOMETHING PRECIPITATED
10 THIS RESPONSE, THE SECOND PART OF THAT HAS TO BE THE
11 STATEMENT IS DESCRIBING THAT EVENT. I DON'T HAVE THAT
12 EITHER. SO I DON'T HAVE ANY CORRELATION BETWEEN WHAT WAS
13 SAID IN THE DEPOSITION TO WHAT WAS UTTERED BY
14 MR. CLAYTON.

15 SO INsofar AS THAT ARGUMENT IS CONCERNED,
16 I'M GOING TO SUSTAIN THE DEFENSE OBJECTION. I DON'T
17 THINK IT IS AN EXCITED UTTERANCE UNDER 1240 AND I DON'T
18 HAVE TO GET TO THE SECOND ISSUE.

19 WITH RESPECT TO THE LETTERS, THAT'S A
20 DIFFERENT STORY AND I WOULD LIKE TO SEE THE LETTERS.

21 AND WHAT IS THE DEFENSE ARGUMENT AS TO THE
22 LETTERS?

23 MS. SARIS: YOUR HONOR, THERE'S NO CONNECTION OF
24 THESE LETTERS TO MR. GOODWIN OTHER THAN MR. BARTINETTI'S
25 BELIEF. WHICH IS IRRELEVANT. THEY'RE HIGHLY

1 PREJUDICIAL.

2 THE COURT: WELL, I DIDN'T LET MR. BARTINETTI
3 TELL YOU --

4 MS. SARIS: WELL, ACTUALLY, YOU ALLOWED
5 MR. JACKSON TO SAY, IS THERE ANYBODY ELSE THAT WOULD BE
6 ANGRY WITH YOU?

7 THE COURT: RIGHT. BUT HE WASN'T PERMITTED TO
8 GIVE AN OPINION AS TO WHO THEY WERE FROM.

9 MS. SARIS: TWO OF THE LETTERS ARE POSTMARKED
10 LOS ANGELES. SANTA ANA, AS THE COURT KNOWS, COVERS ALL
11 OF ORANGE COUNTY. IF THERE'S A MAIN POST OFFICE IN SANTA
12 ANA -- THIS IS NOT LIKE IT'S SOME SMALL TOWN IN ALASKA.

13 THERE'S ABSOLUTELY NO PROBATIVE VALUE TO
14 THE LETTERS. AND THERE'S NO CONNECTION TO MR. GOODWIN.
15 SO TO ALLOW THEM IN TO SHOW THAT MR. GOODWIN WAS
16 THREATENING MR. BARTINETTI IS HIGHLY PREJUDICIAL WITHOUT
17 ANY PROBATIVE VALUE TYING HIM TO THESE LETTERS.

18 MR. SUMMERS: WHAT THE COURT WILL SEE JUST
19 LOOKING AT THE INTERNAL CONTEXT OF THE LETTERS IS THAT
20 THEY DON'T REFER IN ANY WAY TO ANYTHING MATCHING
21 MR. GOODWIN. THE PERSON REFERS TO THEMSELF AS SOMEONE
22 WHO'S BEEN AWAY FOR A FEW YEARS, WHO POSSIBLY IS A FORMER
23 CLIENT, IT WOULD SOUND LIKE ON ITS FACE IN THE LETTERS.
24 THERE'S NOTHING IN THERE THAT SAYS -- THAT MAKES ANY
25 REFERENCE TO ANYTHING LIKE WHAT WAS GOING ON WITH

1 MR. GOODWIN.

2 MS. SARIS: AND THERE'S NO REFERENCE TO MICKEY
3 THOMPSON IN THE LETTERS AT ALL.

4 MR. JACKSON: WELL, THAT WOULD SORT OF DEFEAT THE
5 PURPOSE OF THEM BEING ANONYMOUS. I MEAN, MR. GOODWIN MAY
6 BE A LOT OF THINGS, I DON'T THINK HE'S COMPLETELY STUPID.

7 HAD HE SAID, BY THE WAY, I'M NOT GOING TO
8 SIGN THIS AND GUESS WHO IT'S FROM? BUT THIS IS IN
9 RESPONSE TO THE MICKEY THOMPSON LITIGATION, IT WOULDN'T
10 TAKE A GENIUS TO FIGURE OUT WHO IT WAS FROM.

11 I DON'T THINK THAT IS AS TELLING AS WHAT
12 MR. BARTINETTI SAID ABOUT THESE LETTERS CERTAINLY
13 INDICATED THAT NOT ONLY THAT SOMEONE HAD DONE IN
14 ANTISEPTIC RESEARCH, BUT THAT HE HAD BEEN FOLLOWED
15 SPECIFICALLY. HIS PERSONAL INFORMATION HAD BEEN GLEANED
16 BY SOMETHING MORE INTIMATE THAN JUST GOING TO THE D.M.V.
17 AND CERTAINLY THAT IS CONSISTENT WITH MR. GOODWIN HIRING
18 EITHER PENN WELDON OR ANOTHER PERSON, BECAUSE PENN WELDON
19 MAY HAVE REFUSED TO GIVE HIM CERTAIN INFORMATION TO GET
20 THE INFORMATION THAT HE FINALLY SOUGHT.

21 MR. GOODWIN IS NOT OF THE SORT TO SIMPLY
22 TAKE NO FOR AN ANSWER IT SEEMS TO ME.

23 MS. SARIS: IT'S AN AWFUL LOT OF SPECULATION FOR
24 AN INCREDIBLY PREJUDICIAL STATEMENT, ESPECIALLY IN LIGHT
25 OF THE COURT'S PRIOR RULING KEEPING OUT SOME OF THE

1 STATEMENTS WE HAD WANTED TO INTRODUCE BASED ON
2 CONSUMPTION OF TIME, ET AL, AND PREJUDICE AND CONFUSION
3 TO THE JURY.

4 THE COURT: WELL, YOU KNOW, THIS IS PREJUDICIAL
5 IF, IN FACT, THE INFERENCE CAN BE DRAWN THAT THE LETTERS
6 CAME FROM MR. GOODWIN. BUT THIS IS CLASSIC, IT SEEMS TO
7 ME, 1101(B) EVIDENCE, IF, IN FACT, THAT CONNECTION IS
8 MADE.

9 I DON'T KNOW THAT THE PEOPLE CAN'T ASK THE
10 JURORS TO DRAW AN INFERENCE FOR PURPOSES OF 1101
11 EVIDENCE. SO I WOULD RATHER DEAL WITH THE REAL ISSUE,
12 WHICH IS: IS THIS CHARACTER EVIDENCE? ASSUMING THAT
13 INFERENCE IS DRAWN THAT THE LETTERS CAME FROM OR WERE
14 GENERATED BY MR. GOODWIN IT'S CHARACTER EVIDENCE. AND IF
15 SO, IS IT BEING OFFERED FOR A PERMISSIBLE REASON?

16 AND THE PEOPLE'S THEORY ON THIS IS WHAT?

17 MR. JACKSON: NOT THAT IT'S CHARACTER EVIDENCE AT
18 ALL. I SORT OF SPOKE TO THIS YESTERDAY AND SO DID
19 MR. DIXON. WE'RE NOT OFFERING THAT JUST TO SHOW THAT
20 MR. GOODWIN IS A BAD GUY IN GENERAL. WE'RE SHOWING IT --
21 WE'RE OFFERING IT, RATHER, SUCH THAT THE JURY CAN DRAW A
22 REASONABLE CIRCUMSTANTIAL EVIDENCE INFERENCE THAT
23 MR. GOODWIN WAS SO UPSET AT THE THOMPSON LITIGATION IN
24 GENERAL, THAT HE WAS TAKING HIS IRE OUT NOT ONLY ON
25 MICKEY THOMPSON WHICH ULTIMATELY LEAD TO HIS DEMISE, HIS

1 AND TRUDY'S DEMISE, BUT ON THOSE CLOSEST TO MICKEY
2 THOMPSON AND THOSE WHO STOOD IN MICKEY THOMPSON'S SHOES
3 THROUGH HIS LEGAL REPRESENTATIVE.

4 IN OTHER WORDS, NOT THAT MR. THOMPSON IS A
5 BAD GUY IN GENERAL -- I'M SORRY, MR. GOODWIN IS A BAD GUY
6 IN GENERAL, BUT THAT MR. GOODWIN WAS EXTRAORDINARILY
7 ANGRY ABOUT WHAT WAS GOING ON WITH MICKEY THOMPSON.
8 SIMPLY PUT. IT'S NOT CHARACTER EVIDENCE, IT'S 1101(B) --

9 THE COURT: WELL, IT'S CHARACTER EVIDENCE. IT'S
10 CHARACTER EVIDENCE. IT'S JUST NOT CHARACTER EVIDENCE
11 BEING USED TO SHOW A PREDISPOSITION.

12 MR. JACKSON: CORRECT. IT'S NOT BEING USED TO
13 SHOW HIS DEMEANOR. IT'S BEING USED TO SHOW IDENTITY AS
14 TO WHO KILLED MICKEY THOMPSON.

15 THE COURT: WELL, I DIDN'T VIEW IT THAT WAY, BUT
16 I'M NOT GOING TO SUGGEST HOW YOU SHOULD ARGUE IT. I
17 DIDN'T VIEW IT THAT WAY BECAUSE UNDER 1101(B), IF IT'S
18 CHARACTER EVIDENCE WHICH IT, IN MY OPINION, COULD BE IF
19 THE INFERENCE IS DRAWN THAT IT CAME FROM THE DEFENDANT.

20 THE ONLY PERMISSIBLE WAY IT COULD BE USED
21 IS IF IT GOES TO AN ISSUE IN THE CASE AS SET FORTH IN
22 1101(B) WHETHER IT'S MOTIVE, INTENT, IDENTITY, THINGS OF
23 THAT NATURE.

24 NOW, THE WAY I UNDERSTAND THE TESTIMONY --
25 AND THIS INVOLVES SOME ANALYSIS OF TESTIMONY I HAVEN'T

1 YET HEARD, BUT I'M FAMILIAR WITH IT FROM THE PRELIMINARY
2 HEARING, THERE'S GOING TO BE TESTIMONY FROM MR. COYNE, IS
3 IT, THE BANKRUPTCY TRUSTEE --

4 MR. JACKSON: CORRECT.

5 THE COURT: -- THAT THERE WAS A DIRECT THREAT --

6 MR. JACKSON: CORRECT.

7 THE COURT: -- THAT HE CLAIMS WAS MADE TO HIM BY
8 MR. GOODWIN.

9 MR. JACKSON: CORRECT.

10 THE COURT: WE HAVE OTHER TESTIMONY THAT HAS BEEN
11 ELICITED ALREADY ABOUT THREATS THAT WERE MADE TO OTHERS.

12 MS. SARIS: YOU SAID "TWO OTHERS"? I'M SORRY.

13 THE COURT: YES, TO OTHERS.

14 IF THE INFERENCE -- THREATS ABOUT "IF YOU
15 TELL ANYBODY, I'LL KILL YOU," THINGS OF THAT NATURE.

16 MS. SARIS: OH, "TO OTHERS." I'M SORRY. I
17 UNDERSTAND.

18 THE COURT: TO OTHERS.

19 IF THE INFERENCE CAN BE DRAWN THAT THESE
20 LETTERS ARE SOMEHOW RELATED TO THE LITIGATION, IN MY
21 OPINION, THIS IS EVIDENCE OF MOTIVE.

22 ISN'T IT?

23 MR. DIXON: YES.

24 MR. JACKSON: CERTAINLY NOT EXCLUSIVE, I DON'T
25 BELIEVE, TO MOTIVE OR IDENTITY. I THINK IT'S BOTH. BUT

1 CERTAINLY THIS GOES TO THE DIRECT MOTIVE THAT WE'RE
2 PROPOUNDING AS THE THEORY OF OUR CASE. I.E., THE
3 LITIGATION WAS CRUSHING MIKE GOODWIN. MIKE GOODWIN
4 WANTED TO LASH OUT AT ANYBODY CONNECTED TO THE
5 LITIGATION. AND THIS IS CIRCUMSTANTIAL EVIDENCE THAT HE
6 WAS LASHING OUT AT BARTINETTI WHICH IS, IN TURN,
7 CIRCUMSTANTIAL EVIDENCE THAT HE WAS LASHING OUT AT MICKEY
8 THOMPSON.

9 MS. SARIS: THAT LIVED IN THE HOUSE THAT JACK
10 BUILT. THIS IS RIDICULOUS, YOUR HONOR.

11 MR. JACKSON: EXCUSE ME?

12 MS. SARIS: THESE ARE LETTERS THAT ARE WRITTEN TO
13 A LAWYER WHO'S STILL ALIVE; WHO HAS NO IDEA WHO THEY COME
14 FROM; AND THEY'RE BEING USED TO PROVE THAT MR. GOODWIN
15 KILLED ONE OF HIS CLIENTS. AND HAD -- THEIR MOTIVE
16 EVIDENCE IS THERE. UNDER 352 THIS IS CUMULATIVE. THIS
17 IS PREJUDICIAL.

18 ARE WE ACTUALLY SAYING IN THIS CASE THAT
19 THEY DON'T HAVE ENOUGH MOTIVE WITHOUT THESE LETTERS?
20 THAT THERE'S NO WAY FOR THIS JURY TO KNOW WITHOUT THESE
21 LETTERS THAT MICHAEL GOODWIN MAY HAVE HAD A MOTIVE TO
22 KILL MICKEY THOMPSON?

23 THE COURT: I DON'T THINK THAT'S THE ISSUE. I'M
24 JUST FOCUSING SOLELY ON 1101 AND 1101(B) AND WHAT THE
25 EVIDENCE CODE PERMITS AND PROHIBITS.

1 MS. SARIS: SO THIS LETTER WHICH BASICALLY
2 DISRESPECTS MR. BARTINETTI'S FAMILY AND FRIENDS OF HIS
3 SHOWS A MOTIVE TO KILL MICKEY THOMPSON?

4 THE COURT: I THINK IF IN THE INFERENCE IS DRAWN
5 THAT THE LETTERS WERE WRITTEN BY MR. GOODWIN OR AT HIS
6 DIRECTION, THEN IT'S PRETTY POWERFUL CIRCUMSTANTIAL
7 EVIDENCE THAT HIS ANGER WAS SUCH THAT IT WOULD BE
8 RELEVANT ON AN ISSUE OF WHETHER OR NOT IT WAS THE
9 BUSINESS DISPUTE AND LAWSUIT THAT CAUSED THE DEATHS OF
10 THE VICTIMS IN THIS CASE, AND THAT IS THE PEOPLE'S
11 THEORY.

12 I'M JUST LOOKING AT IT SOLELY AS MOTIVE.
13 AND I'M ALSO TAKING INTO ACCOUNT EVIDENCE THAT WE HAVEN'T
14 HEARD YET, OR THE JURY HASN'T HEARD YET WHICH I KNOW IS
15 COMING, AND THAT'S THE EVIDENCE OF MR. COYNE.

16 I'M ALSO TAKING INTO ACCOUNT THE TESTIMONY
17 OF MR. WELDON AS TO WHAT WAS REQUESTED OF MR. WELDON AS A
18 PRIVATE INVESTIGATOR RETAINED BY MR. GOODWIN AND THE
19 INFORMATION THAT HE WAS SEEKING. I THINK ALL OF THAT
20 COUPLED OR TAKEN TOGETHER, CERTAINLY CAN LEAD ONE TO DRAW
21 AN INFERENCE THAT THE LETTERS WERE GENERATED BY
22 MR. GOODWIN OR AT HIS DIRECTION. YOU KNOW, THE
23 PREJUDICIAL VALUE RESTS IN LARGE PART ON HOW OR WHAT
24 INFERENCE IS TO BE DRAWN FROM THESE.

25 IF THE INFERENCE IS DRAWN THAT THEY DON'T

1 COME FROM MR. GOODWIN OR THEY'RE NOT RELATED TO THE
2 GOODWIN/THOMPSON LAWSUIT, THEY HAVE NO PREJUDICIAL VALUE.

3 MS. SARIS: THEY ALSO HAVE NO RELEVANT VALUE.

4 THE COURT: CORRECT. BUT I THINK I'M PERMITTED
5 TO DRAW AN INFERENCE AT THIS POINT IN DETERMINING THE
6 LEGAL ISSUE AND WHETHER OR NOT --

7 MS. SARIS: AND THE INFERENCE IS --

8 THE COURT: LET ME FINISH.

9 -- WHETHER OR NOT THE JURY GIVES IT THE
10 WEIGHT TO WHICH THE PEOPLE WANT TO ATTRIBUTE TO IT.
11 THAT'S UP TO THE JURY.

12 BUT FOR PURPOSES OF MY ANALYSIS, I THINK I
13 CAN DRAW THE INFERENCE THAT THIS IS COMING FROM
14 MR. GOODWIN OR AT HIS DIRECTION BASED UPON THE TESTIMONY
15 OF MR. WELDON; BASED UPON THE ANTICIPATED TESTIMONY OF
16 MR. COYNE; AND BASED UPON THE TESTIMONY OF OTHER
17 WITNESSES THAT I HAVE HEARD SO FAR WITH THE ALLEGED
18 THREATS.

19 SO I -- THAT'S HOW I VIEW IT. I DON'T
20 VIEW IT AS ANYTHING MORE THAN MOTIVE EVIDENCE UNDER
21 1101(B). I COULDN'T FIND ANY CASE LAW THAT PREVENTS ME
22 FROM DRAWING AN INFERENCE. SO I'M SOMEWHAT AT A
23 DISADVANTAGE BECAUSE NOBODY'S GIVEN ME MUCH AUTHORITY.

24 MS. SARIS: THAT PREVENTS YOU FROM DRAWING AN
25 INFERENCE THAT --

1 THE COURT: NOBODY'S GIVEN ME MUCH AUTHORITY IN
2 THIS AREA. CHARACTER EVIDENCE I KNOW IS NOT ADMISSIBLE
3 TO SHOW CONDUCT. BUT UNDER 1101(B) WHERE THERE'S A
4 VIOLENT CRIME INVOLVED AND THERE IS A PREVIOUS
5 RELATIONSHIP, THERE IS AUTHORITY FOR THE PROPOSITION THAT
6 PRIOR ACTS --

7 MS. SARIS: WHEN THE INDIVIDUAL COMMITS THE PRIOR
8 ACT. THIS WAS A HIRED HIT.

9 THE COURT: -- OR RELEVANT TO SHOW MOTIVE.

10 MS. SARIS: MR. COYNE'S THREAT, THEORETICALLY IF
11 WE BELIEVE IT, WAS THAT DURING AN OFFICE DISPUTE,
12 MR. GOODWIN HIMSELF WAS ANGRY AND SAID THINGS. THAT HAS
13 NOTHING TO DO WITH LETTERS AND IT HAS NOTHING TO DO WITH
14 THEIR ALLEGATION WHICH IS HIT MEN WERE HIRED.
15 MR. GOODWIN DIDN'T FLY OFF THE HANDLE OUT OF SOME KIND OF
16 RAGE AND KILL MICKEY THOMPSON IN A BAR SOMEWHERE.

17 I MEAN, THIS IS -- THAT'S MOTIVE. MOTIVE
18 IS YOU WERE SO ANGRY AT THIS PERSON THAT YOU -- THERE'S
19 SOME INDICIA THAT YOU ACT IN A WAY THAT WOULD INDICATE
20 THAT YOU'RE GOING TO ACT THAT WAY. THIS IS PURE
21 CHARACTER.

22 THE COURT: NO. YOU ARE WRONG. I'M NOT SAYING
23 THAT THIS IS RELEVANT TO SHOW CONDUCT IN CONFORMITY WITH
24 THIS BEHAVIOR.

25 MS. SARIS: THEN WHERE IS THE RELEVANCE OF --

1 THE COURT: ON THE ISSUE OF MOTIVE; ON THE ISSUE
2 THE LEVEL OF HOSTILITY AND ACRIMONY THAT EXISTED --

3 MS. SARIS: BETWEEN TWO OTHER MEN?

4 THE COURT: NO. BETWEEN MR. GOODWIN AND THE
5 THOMPSONS AND THOSE PEOPLE WHO WERE WORKING ON BEHALF OF
6 EITHER THE THOMPSONS OR THE BANKRUPTCY COURT. I MEAN,
7 THAT'S HOW I SEE IT. NOBODY'S GIVEN ME MUCH AUTHORITY,
8 SO IF YOU HAVE SOME AUTHORITY, I'M HAPPY TO LOOK AT IT.

9 MS. SARIS: WELL, IF WE WOULD ASK THEM TO
10 WITHHOLD ANY EVIDENCE FROM THE JURY ON THE LETTERS UNTIL
11 WE HAVE AN OPPORTUNITY TO FURTHER BRIEF THIS. THIS DID
12 NOT -- IT DID NOT APPEAR TO US AT ALL THAT THE COURT
13 COULD MAKE THE INFERENCE THAT THESE LETTERS CAME FROM
14 MR. GOODWIN. IT SEEMS THAT THE JURY IS FORCED BY LAW
15 UNDER LAW TO MAKE INFERENCES IN LINE WITH THE PRESUMPTION
16 OF INNOCENCE AND REASONABLE -- BEFORE THEY CAN DETERMINE
17 ANYTHING BEYOND A REASONABLE DOUBT.

18 FUNDAMENTAL FAIRNESS DUE PROCESS WOULD
19 SEEM TO REQUIRE THAT UNLESS THE PEOPLE COULD CONNECT
20 THESE LETTERS AS COMING FROM MR. GOODWIN, THEY HAVE
21 ABSOLUTELY NO EVIDENTIARY VALUE IN THIS CASE.

22 THE COURT: SHORT OF A SIGNATURE BY MR. GOODWIN
23 OR A FINGERPRINT ON THE LETTERS, THERE IS CIRCUMSTANTIAL
24 EVIDENCE HERE THAT CONNECTS MR. GOODWIN.

25 MS. SARIS: AND THERE IS CIRCUMSTANTIAL EVIDENCE

1 THAT OTHER PEOPLE KILLED MICKEY THOMPSON. THIS COURT
2 EXCLUDED THAT. AT WHAT POINT IS THE COURT GOING TO OPEN
3 THE DOOR AND LET US PLAY FAIR AND INTRODUCE EVIDENCE
4 ABOUT OTHER MATTERS THAT THIS JURY IS BEING NOT ALLOWED
5 TO HEAR WHEN WE'RE GOING SUCH GREAT LENGTH --

6 THE COURT: THIRD PARTY CULPABILITY IS A SEPARATE
7 ISSUE. AND I REALLY WOULD ASK YOU TO CONFINE YOUR
8 COMMENTS TO THE ISSUES THAT ARE PRESENT BEFORE THE COURT.

9 MS. SARIS: WELL, THE ISSUE THAT'S PRESENT IS
10 MR. GOODWIN'S RIGHT TO GET A FAIR TRIAL AND HIS DUE
11 PROCESS RIGHTS.

12 THE COURT: I UNDERSTAND THAT.

13 MS. SARIS: AND WHAT'S HAPPENING IS THE DISTRICT
14 ATTORNEY'S SIDE IS BEING ALLOWED TO TANGENTIALLY BRING IN
15 FOUR, FIVE, SIX, SEVEN LAYERS OF INFERENTIAL
16 CIRCUMSTANTIAL EVIDENCE. AND WE'RE NOT BEING ALLOWED TO
17 INTRODUCE EVEN ONE EXTRA LAYER THAT MIGHT, QUOTE,
18 "CONFUSE" THE JURY WHEN WE'RE ASKED TO INTRODUCE EVIDENCE
19 OF ANOTHER INDIVIDUAL.

20 THE COURT: I DON'T KNOW WHAT EVIDENCE YOU ARE
21 REFERRING TO. IF YOU ARE REFERRING TO THIRD PARTY
22 CULPABILITY, THE COURT BELIEVES -- AND THE RECORD SHOULD
23 REFLECT -- THAT I MADE A RULING CONSISTENT WITH WHAT I
24 BELIEVE TO BE THE ESTABLISHED LAW. AND I DO NOT VIEW
25 THAT AS CIRCUMSTANTIAL EVIDENCE THAT SOMEONE ELSE

1 NECESSARILY COMMITTED THE CRIME. WE WENT THROUGH THAT
2 HEARING.

3 MS. SARIS: THE PROBLEM --

4 THE COURT: AND THE RECORD IS CLEAR AS TO WHAT
5 THE COURT'S RULING WAS AND THE CASE LAW AND THE AUTHORITY
6 THAT THE COURT RELIED ON.

7 I'M NOW BEING ASKED TO INTRODUCE EVIDENCE
8 UNDER 1101(B). AND I'M TRYING TO ANALYZE THAT IN THE
9 BEST WAY I CAN WITHOUT THE BENEFIT OF AUTHORITY FROM
10 EITHER SIDE.

11 MY ANALYSIS IS WHAT I JUST STATED. IF YOU
12 WANT TO PRESENT ME WITH ADDITIONAL AUTHORITY THAT
13 INDICATES I CAN'T DRAW AN INFERENCE, THE INFERENCE THAT
14 I'M DRAWING, I'M HAPPY TO CONSIDER IT.

15 MS. SARIS: THAT'S FINE. MAY WE JUST REQUEST
16 THAT THAT EVIDENCE BE STAYED BEFORE THIS JURY UNTIL AT
17 LEAST MONDAY?

18 MR. SUMMERS: THE OTHER CONCERN, YOUR HONOR, IS
19 THE COURT MENTIONED MR. COYNE. I THINK THE COURT
20 CAN'T -- GIVEN WHAT JUST HAPPENED WITH THE 402 WITH
21 MR. BARTINETTI, THAT THE COURT SHOULD -- OUGHT TO WAIT
22 AND DEFER TO SEE IF MR. COYNE ACTUALLY TESTIFIES AND WHAT
23 THAT TESTIMONY IS --

24 THE COURT: WELL, I CERTAINLY WILL.

25 MR. SUMMERS: -- BEFORE USING THAT. I'M SORRY.

1 THE COURT: I CERTAINLY WILL. I WAS JUST GIVING
2 YOU MY ANALYSIS OF WHAT I HAVE SO FAR --

3 MS. SARIS: BUT THIS WITNESS IS ABOUT TO TAKE THE
4 STAND. AND THAT SEEMS TO BE --

5 THE COURT: I'M SORRY?

6 MS. SARIS: THIS WITNESS IS ABOUT TO TAKE THE
7 STAND, SO WE'RE ASKING THAT THAT ISSUE NOT BE --

8 THE COURT: THAT'S FINE.

9 MR. DIXON: WELL, YOUR HONOR, WITH RESPECT TO
10 MR. COYNE, I THINK MR. SUMMERS IS WRONG ON THAT. THIS
11 COURT HEARD THE PRELIMINARY HEARING; YOU HEARD -- THE
12 COURT HEARD HIS TESTIMONY ON THIS ISSUE. SO I THINK IT'S
13 ALTOGETHER FAIR THAT THE COURT CONSIDER THAT AS AN OFFER
14 OF PROOF, SO TO SPEAK, IN REVIEWING OTHER EVIDENCE,
15 SPECIFICALLY WHAT IS BEFORE THE COURT AT THIS TIME.

16 THE COURT: I HAVE. I HAVE. AND THAT'S PART OF
17 MY ANALYSIS.

18 MR. DIXON: THANK YOU.

19 THE COURT: SO I'M CERTAINLY WILLING TO GIVE
20 COUNSEL AN OPPORTUNITY TO ADDRESS THE QUESTION AS I SEE
21 IT, WHICH IS WHETHER OR NOT THE COURT CAN DRAW THE
22 INFERENCE; OR WHETHER OR NOT THE COURT HAS TO INQUIRE
23 MORE ON THE ISSUE OF MOTIVE. I KNOW THE CASE LAW IS
24 PRETTY CLEAR THAT WHEN IT'S BEING OFFERED ON THE ISSUE OF
25 IDENTITY, IT'S A DIFFERENT ANALYSIS. AND IT'S MUCH MORE

1 RIGID IN TERMS OF WHAT THE COURT NEEDS TO REQUIRE.

2 BUT ON THE ISSUE OF MOTIVE, I DON'T
3 BELIEVE THAT THE CASE LAW PROHIBITS OR PRECLUDES THE
4 COURT FROM DRAWING AN INFERENCE THAT THE COURT CHOOSES TO
5 DRAW FROM THE AVAILABLE EVIDENCE.

6 IF YOU HAVE AUTHORITY TO THE CONTRARY,
7 PLEASE LET ME KNOW. SO LET'S NOT REFER TO IT UNTIL THIS
8 ISSUE IS RESOLVED.

9 WE WILL TAKE A BRIEF BREAK. WE WILL BRING
10 OUR JURORS IN.

11 (BRIEF RECESS.)

12 (THE JURY ENTERED THE COURTROOM

13 AND THE FOLLOWING PROCEEDINGS WERE

14 HELD IN OPEN COURT.)

15

16 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

17 JURORS: GOOD MORNING.

18 THE COURT: THE RECORD SHOULD REFLECT THAT ALL
19 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

20 MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE ARE
21 REPRESENTED. WE LEFT OFF YESTERDAY WITH MR. BARTINETTI
22 ON THE WITNESS STAND.

23 AND MR. BARTINETTI, YOU MAY RESUME YOUR
24 SEAT ON THE WITNESS STAND. YOU HAVE BEEN PREVIOUSLY
25 SWORN. YOU ARE REMINDED THAT YOU ARE STILL UNDER OATH.

1 PLEASE STATE YOUR NAME AGAIN FOR THE RECORD.

2 THE WITNESS: PHILIP BARTINETTI.

3 THE COURT: THANK YOU.

4 THE WITNESS: THANK YOU, YOUR HONOR.

5 MR. JACKSON: THANK YOU, YOUR HONOR.

6

7 DIRECT EXAMINATION (CONTINUED)

8 BY MR. JACKSON:

9 Q MR. BARTINETTI, WHEN WE LEFT OFF YESTERDAY
10 WE WERE TALKING ABOUT SOME OF THE LEGAL DOCUMENTS THAT
11 HAVE BEEN -- AS A MATTER OF FACT, FORGET ABOUT THAT.

12 WHEN WE LEFT OFF YESTERDAY WE HAD
13 DISCUSSED THE CORPORATE PARTNERSHIP AGREEMENT AND THE
14 ULTIMATE DEMISE OF THE BUSINESS RELATIONSHIP AND BEGAN TO
15 DISCUSS SOME OF THAT INFORMATION.

16 DO YOU RECALL THAT?

17 A I DO.

18 Q OKAY. I'M GOING TO TRY TO PICK UP
19 APPROXIMATELY WHERE I LEFT OFF YESTERDAY. I MAY ASK YOU
20 SOME REDUNDANT QUESTIONS, BUT BEAR WITH ME IF I DO.

21 AFTER MR. GOODWIN FILED FOR BANKRUPTCY,
22 YOU MENTIONED YESTERDAY THAT THERE WAS A CORPORATE AND A
23 PERSONAL BANKRUPTCY FILED BY MR. GOODWIN THAT YOU BECAME
24 AWARE OF; CORRECT?

25 A CORRECT.

1 Q DID MR. GOODWIN TAKE ANY OTHER MEASURES
2 WITH REGARD TO THE ULTIMATE JUDGMENT -- LEGAL MEASURES
3 WITH REGARD TO THE ULTIMATE JUDGMENT THAT WAS RENDERED
4 AGAINST HIM IN MAY OF 1986?

5 A YES. HE FILED AN APPEAL.

6 MR. JACKSON: WAS THERE AN OBJECTION?

7 THE COURT: I'M SORRY. WAS THERE AN OBJECTION?

8 MR. SUMMERS: I'LL WITHDRAW IT.

9 Q BY MR. JACKSON: THE NEXT DOCUMENT THAT I
10 HAVE IN MY HAND APPEARS TO BE AN OCTOBER 28, 1987 APPEAL
11 OF CIVIL JUDGMENT. IT BEARS THE TITLE, IN THE COURT OF
12 APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE
13 DISTRICT, DIVISION 2, MICKEY THOMPSON, MICKEY THOMPSON
14 ENTERTAINMENT GROUP, PLAINTIFFS VERSUS MICHAEL GOODWIN,
15 STADIUM MOTOR SPORTS CORP., DEFENDANTS AND APPELLATES.

16 I WOULD LIKE TO HAVE THIS MARKED IN ITS
17 ENTIRETY AS PEOPLE'S NEXT IN ORDER.

18 THE COURT: 16.

19 MR. JACKSON: THANK YOU, YOUR HONOR. I'M PLACING
20 P-16 ON THE TOP OF DOCUMENT.

21
22 (MARKED FOR IDENTIFICATION PEOPLE'S
23 EXHIBIT NO. 16, DOCUMENTS.)
24

25 Q BY MR. JACKSON: DO ME A FAVOR,

1 MR. BARTINETTI, AND TELL ME IF YOU RECOGNIZE THAT
2 CERTIFIED DOCUMENT?

3 A I DO.

4 Q HOW DO YOU RECOGNIZE IT?

5 A WELL, THIS WAS SOME GOOD NEWS THAT CAME IN
6 THE MAIL. THIS WAS THE DECISION OF THE COURT OF APPEAL
7 UPHOLDING THE DECISION OF THE TRIAL JUDGE.

8 Q DID MIKE GOODWIN PREVAIL ON HIS REQUEST AT
9 THE APPELLATE LEVEL?

10 A NO.

11 Q IS THIS THE ACTUAL DECISION OF THE
12 APPELLATE COURT INDICATING THAT MICKEY THOMPSON
13 PREVAILED?

14 A YES. THAT'S A COPY OF THE FINAL DECISION.

15 Q BY THE WAY, I DIDN'T ASK YOU THIS: THIS
16 HAS A FILE DATE STAMP ON IT; CORRECT?

17 A YES. THAT'S THE FILE STAMP OF THE COURT
18 OF APPEAL. SO WHEN WE RECEIVE THAT, WE KNOW THE DATE ON
19 WHICH THE APPEAL WAS DECIDED BECAUSE THAT TRIGGERS SOME
20 OTHER DATES.

21 Q AND WHAT DATE WAS THIS APPEAL DECIDED?

22 A IT WAS DECIDED OCTOBER 28TH, 1987.

23 Q THANK YOU.

24 FOLLOWING HIS LOSS AT THE APPEAL LEVEL, OR
25 AT THE SECOND DISTRICT LEVEL, DID YOU BECOME AWARE AS THE

1 LEAD LITIGATOR INVOLVED IN THIS LAWSUIT THAT MR. GOODWIN
2 HAD TAKEN THIS CASE FURTHER, OR TAKEN HIS REQUEST
3 FURTHER?

4 A YES.

5 Q HOW SO?

6 A WE RECEIVED NOTICE THAT HIS LAWYERS HAD
7 FILED A REQUEST WITH THE CALIFORNIA SUPREME COURT THAT
8 THEY REVIEW THE DECISION OF THE COURT OF APPEAL.

9 MR. JACKSON: I HAVE TWO DOCUMENTS, YOUR HONOR.
10 ONE IS A SINGLE PAGE PHOTOSTATIC COPY THAT'S DATED
11 JANUARY 29, 1988. IT PURPORTS TO BE TITLED "ORDER
12 DENYING REVIEW."

13 I HAVE A SECOND DOCUMENT THAT'S A
14 FOUR-PAGE -- CHECK THAT -- A FIVE-PAGE DOCUMENT. EIGHT
15 AND A HALF BY ELEVEN PHOTOSTATIC COPIES. I WOULD LIKE
16 HAVE THESE MARKED AS -- I'M SORRY. THE TITLE ON THE
17 FIVE-PAGE DOCUMENT IS "MINUTES OF THE SUPREME COURT OF
18 CALIFORNIA." IT'S VOLUME 78. IF I CAN HAVE THESE MARKED
19 AS NEXT IN ORDER AS PEOPLE'S 17 AND 18 RESPECTIVELY.

20 THE COURT: SO MARKED.

21 MR. JACKSON: THANK YOU.

22
23 (MARKED FOR IDENTIFICATION PEOPLE'S
24 EXHIBIT NOS. 17 AND 18, DOCUMENTS.)
25

1 Q BY MR. JACKSON: TAKE A LOOK,
2 MR. BARTINETTI, AT PEOPLE'S 17 AND TELL ME IF YOU
3 RECOGNIZE THAT DOCUMENT?

4 A I DO.

5 Q HOW DO YOU RECOGNIZE THIS?

6 A THIS IS AN ORDER WE RECEIVED FROM THE
7 SUPREME COURT, A COPY OF THE ORDER DENYING REVIEW.

8 Q WHAT DOES THAT MEAN IN LAY TERMS?

9 A WHAT IT MEANS IS THAT THE SUPREME COURT
10 HAD DECLINED TO HEAR THE CASE. AND BY ITS ACTION, THE
11 DECISION OF THE COURT OF APPEAL WOULD BE THE FINAL
12 DECISION.

13 Q AND THAT DECISION WAS WHAT?

14 A THE DECISION WAS TO AFFIRM THE DECISION OF
15 THE TRIAL COURT THAT MADE THE AWARD IN FAVOR OF MICKEY
16 THOMPSON AND MICKEY THOMPSON ENTERTAINMENT GROUP.

17 Q TAKE A LOOK AT PEOPLE'S 18. AND I
18 SPECIFICALLY WOULD LIKE YOU TO TAKE A LOOK AT THE VERY
19 LAST PAGE OF THE LAST ENTRY ON THAT SET OF MINUTES.

20 DO YOU RECOGNIZE WHAT THAT DOCUMENT IS?

21 A YES. THESE ARE THE MINUTES OF THE SUPREME
22 COURT. WHAT THAT MEANS IS WHEN THEY TAKE ACTION ON
23 VARIOUS CASES, THEY MAKE A RECORD OF THE CASES THEY TAKE
24 ACTION ON AND ALSO A SUMMARY DESCRIPTION OF WHAT ACTION
25 THEY TOOK.

1 Q AND ON PAGE -- I THINK IT'S THE FIFTH
2 PAGE, MR. BARTINETTI, IF YOU'LL BEAR WITH ME, ON THE VERY
3 LAST ENTRY, IS THERE AN ENTRY REGARDING THE THOMPSON
4 VERSUS GOODWIN LITIGATION?

5 A YES, THERE IS.

6 Q AND WHAT DOES THAT INDICATE?

7 A THAT INDICATES THAT -- THE ATTEMPT BY
8 GOODWIN AND S.M.C. TO HAVE THE DECISION OF THE TRIAL
9 COURT OVERTURNED, MORE DIRECTLY THE DECISION THE COURT OF
10 APPEAL AFFIRMING THAT DECISION REVIEWED, THAT THAT
11 PETITION WAS DENIED.

12 Q ALL RIGHT. WAS THERE ANY LEGAL ACTION
13 FILED BY MIKE GOODWIN THROUGH HIS LAWYERS AGAINST MICKEY
14 THOMPSON OR MICKEY THOMPSON'S COMPANY?

15 MR. SUMMERS: OBJECTION. VAGUE AS TO TIME.

16 THE COURT: SUSTAINED.

17 Q BY MR. JACKSON: AT ANY TIME, EVER?

18 A WELL, I KNEW OF ONE AT LEAST.

19 MR. JACKSON: OKAY. YOUR HONOR, I'M HOLDING A
20 STAPLED THREE-PAGE DOCUMENT THAT IS, IN FACT, CERTIFIED.
21 IT INDICATES ORANGE COUNTY SUPERIOR COURT RECORDS COPY
22 REQUEST. THE SECOND PAGE OF WHICH INDICATES SUPERIOR
23 COURT OF THE STATE OF CALIFORNIA OF THE COUNTY OF ORANGE
24 MINUTE ORDER. AND IT IS IN THE MATTER OF -- I'M SORRY,
25 CASE NO. 531815, SUPERCROSS, INC. VERSUS MICKEY THOMPSON

1 ENTERTAINMENT. IT INDICATES SUMMARY JUDGMENT.

2 MAY I HAVE THIS DOCUMENT MARKED AS
3 PEOPLE'S NEXT IN ORDER?

4 THE COURT: 19 FOR IDENTIFICATION.

5 MR. JACKSON: THANK YOU.

6
7 (MARKED FOR IDENTIFICATION PEOPLE'S
8 EXHIBIT NO. 19, DOCUMENTS.)
9

10 MR. JACKSON: I'M PLACING A P-19 IN THE UPPER
11 LEFT-HAND CORNER.

12 Q MR. BARTINETTI, I'M GOING TO ASK YOU TO
13 LOOK AT THIS DOCUMENT AS WELL.

14 DO YOU RECOGNIZE THAT DOCUMENT?

15 A I DO.

16 Q WHAT IS THAT?

17 A THAT IS A -- THE MINUTE ORDER WHICH IS THE
18 ORDER OF THE TRIAL COURT. AND IT'S A RECORD THAT IS
19 CREATED BY NORMALLY THE CLERK OF THE COURT INDICATING HOW
20 THE COURT -- HOW THE JUDGE HAS RULED ON A PARTICULAR
21 MOTION OR APPLICATION.

22 Q IS THAT MINUTE ORDER IN RELATIONSHIP TO
23 THE LAWSUIT THAT YOU SAID YOU WERE AWARE OF FROM MIKE
24 GOODWIN TO MICKEY THOMPSON?

25 A YES, I WAS INVOLVED IN IT.

1 Q IS IT FAIR TO SAY THAT MIKE GOODWIN SUED
2 MICKEY THOMPSON?

3 A YES, IT IS.

4 Q DOES THAT DOCUMENT TELL YOU WHETHER OR NOT
5 THAT SUIT BY MIKE GOODWIN WAS SUCCESSFUL OR UNSUCCESSFUL?

6 A YES, IT DOES.

7 Q WHAT DOES IT TELL YOU?

8 A IT TELLS US THAT SUMMARY JUDGMENT WAS
9 ENTERED IN FAVOR OF MICKEY THOMPSON AS A DEFENDANT IN
10 THAT LITIGATION.

11 Q WHAT IS THE DATE OF THIS MINUTE ORDER?

12 A YOU JUST DID SUCH A GOOD JOB PUTTING IT
13 BACK IN, I'M GOING TO TAKE IT OUT AGAIN AND LOOK.

14 IT INDICATES IT WAS ENTERED ON MARCH 2ND,
15 1988.

16 Q YOU'RE AWARE OF THE DATE THAT MICKEY
17 THOMPSON WAS MURDERED?

18 A YES, I AM.

19 Q WHEN WAS MICKEY THOMPSON MURDERED?

20 A MARCH 16, 1988.

21 Q THIS DENIAL BY THE SUPREME COURT WAS --
22 I'M SORRY.

23 THIS DENIAL AT THE SUPERIOR COURT LEVEL
24 WAS SOME 14 DAYS BEFORE MICKEY THOMPSON'S MURDER?

25 A CORRECT.

1 Q DID CLARK AND TREVITHICK REPRESENT MICKEY
2 THOMPSON IN HIS EFFORTS TO COLLECT ON THE JUDGMENT WHILE
3 MIKE GOODWIN WAS IN BANKRUPTCY IN THE FEDERAL COURT
4 SYSTEM?

5 A WELL, AT THAT POINT WHAT WE WERE TRYING TO
6 DO WAS NOT SO MUCH TO COLLECT ON THE JUDGMENT, BUT TO
7 HAVE THE BANKRUPTCY COURT PUT US IN A POSITION WHERE WE
8 COULD COLLECT ON THE JUDGMENT AND WE WERE CO-COUNSEL.

9 IN LAYMEN'S TERMS, WE WERE JOINED WITH
10 ANOTHER FIRM IN REPRESENTING MICKEY BECAUSE WE BROUGHT IN
11 A PROFESSIONAL BANKRUPTCY FIRM TO DEAL WITH THE
12 TECHNICALITIES AND THE PROCEDURES OF BANKRUPTCY COURTS,
13 BUT WE WERE ALSO INTIMATELY INVOLVED.

14 Q WHAT WAS THE NAME OF THAT OTHER FIRM?

15 A SULMEYER, KUPETZ, BAUMANN AND ROTHMAN.

16 Q DURING THE COURSE OF THE BANKRUPTCY
17 PROCEDURES, MR. BARTINETTI, DID MIKE GOODWIN BY AND
18 THROUGH HIS LAWYERS AND/OR E.S.I., HIS COMPANY, OR -- I'M
19 SORRY, I MISSPOKE -- MOTOR SPORTS CORPORATION, DID THEY
20 FILE FOR A DISCHARGE OF DEBT?

21 A YES.

22 Q AS A CREDITOR -- DID MICKEY THOMPSON STAND
23 IN THE SHOES OF A JUDGMENT CREDITOR? IS THAT A CORRECT
24 TERM?

25 A THAT IS A CORRECT TERM, YES.

1 Q AS A CREDITOR, DID YOU ON BEHALF OF MICKEY
2 THOMPSON FILE ANY OBJECTION TO THE DISCHARGE OF DEBT BY
3 MIKE GOODWIN?

4 A YES. IT'S MY MEMORY THAT ALONG WITH THE
5 SULMEYER OFFICE, THAT WE HAVE FILED AN OBJECTION, WHAT
6 THEY CALL AN OBJECTION TO DISCHARGE.

7 MR. JACKSON: YOUR HONOR, I'M HOLDING A
8 DOCUMENT -- A FIVE-PAGE DOCUMENT THAT PURPORTS TO BE FROM
9 THE LAW OFFICES OF SULMEYER, KUPETZ, BAUMANN AND ROTHMAN;
10 AS WELL AS CLARK AND TREVITHICK. IT PURPORTS TO BE A
11 UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT OF
12 CALIFORNIA COMPLAINT, BANKRUPTCY CASE NUMBER "S" AS IN
13 SAM, "A" AS IN ALPHA, 86-06166-JR. IT'S ENTITLED
14 "COMPLAINT OBJECTING TO DISCHARGE OF DEBTOR."

15 MAY I HAVE THIS MARKED AS PEOPLE'S NEXT IN
16 ORDER?

17 THE COURT: YES. PEOPLE'S 20 FOR IDENTIFICATION.

18 MR. JACKSON: THANK YOU.

19
20 (MARKED FOR IDENTIFICATION PEOPLE'S
21 EXHIBIT NO. 20, DOCUMENTS.)
22
23

24 MR. JACKSON: MAY I APPROACH?

25 THE COURT: YES.

1 Q BY MR. JACKSON: MR. BARTINETTI, TELL ME
2 IF YOU RECOGNIZE THIS PARTICULAR DOCUMENT (INDICATING)?

3 A I DO.

4 Q HOW DO YOU RECOGNIZE THIS?

5 A WELL, IT'S SOMETHING THAT WAS JOINTLY
6 PREPARED AND I REVIEWED IT BEFORE MR. SAHN, S-A-H-N, OF
7 THE SULMEYER FIRM SAW TO ITS FILING.

8 Q DO YOU KNOW WHEN THE TRIAL ON THAT MATTER,
9 THE -- LET ME ASK YOU THIS FOUNDATIONALLY, IN THE
10 BANKRUPTCY COURT IN FEDERAL COURT, DOES THE JUDGMENT
11 CREDITOR HAVE AN OPPORTUNITY TO BE HEARD BEFORE THERE'S A
12 DISCHARGE OF DEBT BY THE DEBTOR?

13 A YES.

14 Q IS THAT CONSIDERED A TRIAL MATTER OR A
15 HEARING MATTER?

16 A THEY CALL IT A TRIAL IN BANKRUPTCY COURT
17 EVEN THOUGH -- IT'S BASICALLY THE TYPE OF PROCEDURE WE
18 HAVE HERE, BUT THERE'S SOME DIFFERENT PROCEDURAL RULES IN
19 BANKRUPTCY COURT.

20 Q IS THERE A JURY OR DOES THE JUDGE SIT AS
21 THE TRIER OF FACT?

22 A IT'S NORMALLY THE JUDGE SITTING. THEY
23 HAVE SOME SITUATIONS UNDER WHICH THEY CAN HAVE JURIES.
24 BUT NORMALLY IT'S A JUDGE WHO SITS AND HEARS THE EVIDENCE
25 AND MAKES A DECISION.

1 Q THROUGH YOUR REPRESENTATION, WAS MICKEY
2 THOMPSON, IN FACT, REJECTING TO THE DISCHARGE OF MIKE
3 GOODWIN'S DEBT?

4 A YES.

5 Q WAS HE OBJECTING BASED ON JUST HIS --
6 MICKEY THOMPSON'S DEBT OR WAS HE CLAIMING FRAUD AND/OR
7 DECEIT ON THE PART OF MIKE GOODWIN?

8 MR. SUMMERS: I'M GOING TO OBJECT, YOUR HONOR.
9 FIRST OF ALL, THE PHRASING OF THE QUESTION. IT WAS THE
10 LAWYERS WHO FILED. IT CALLS FOR HEARSAY AND THERE'S NO
11 FOUNDATION.

12 THE COURT: SUSTAINED.

13 Q BY MR. JACKSON: THE DOCUMENT THAT YOU
14 HAVE IN FRONT OF YOU, WAS THAT THE COMPLAINT OR WAS THAT
15 THE INITIATION OF YOUR LEGAL OBJECTION TO THE DISCHARGE
16 OF DEBT?

17 A YES, IT WAS.

18 Q WERE YOU -- THROUGH MICKEY THOMPSON, WERE
19 YOU ATTEMPTING TO THWART THE DISCHARGE OF ALL OF MIKE
20 GOODWIN'S -- I'M SORRY -- THE ENTIRETY OF THE DISCHARGE
21 OF DEBT ON BEHALF OF MIKE GOODWIN?

22 A YES. WE WERE ASKING FOR A TOTAL
23 PROTECTION FOR ALL CREDITORS.

24 Q THANK YOU.

25 MR. BARTINETTI, YOU HAD THE OPTION, DID

1 YOU NOT, OF ASKING FOR THE PROTECTION OF JUST MICKEY
2 THOMPSON AS A CREDITOR; CORRECT?

3 A THAT IS CORRECT.

4 Q YET, MICKEY THOMPSON AND YOU CHOSE, AS A
5 LEGAL TACTIC, TO OBJECT TO THE DISCHARGE OF ANY DEBT;
6 CORRECT?

7 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

8 THE COURT: SUSTAINED.

9 MR. JACKSON: YOUR HONOR, I'M SATISFIED. I'LL
10 MOVE ON.

11 Q THROUGH THE COURSE, MR. BARTINETTI, OF
12 YOUR REPRESENTATION OF MICKEY THOMPSON, DID YOU GET TO
13 KNOW HIM AS MORE THAN JUST A CLIENT?

14 A YES.

15 Q HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP
16 WITH MICKEY THOMPSON?

17 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

18 THE COURT: OVERRULED.

19 YOU CAN ANSWER.

20 THE WITNESS: IT BECAME A VERY GOOD FRIENDSHIP.

21 Q BY MR. JACKSON: DID YOU SEE HIM SOCIALLY?

22 A YES.

23 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

24 THE COURT: ALL RIGHT.

25

1 (PROCEEDINGS HELD AT SIDEBAR.)

2 THE COURT: WE'RE AT THE SIDEBAR.

3 MS. SARIS: YOUR HONOR, THIS TESTIMONY WAS
4 ELICITED AT THE PRELIMINARY HEARING. AND IT'S AN EFFORT
5 TO ELICIT GOOD CHARACTER EVIDENCE OF THE VICTIM, WHICH IS
6 NOT AT ISSUE AND SERVES NO PROBATIVE VALUE BUT ONLY TO
7 INFLAME THE JURORS AGAINST MICHAEL GOODWIN.

8 THE COURT: WHAT IS THE OFFER OF PROOF?

9 MR. JACKSON: I ANTICIPATE ASKING OR AT LEAST
10 TRYING TO ELICIT INFORMATION THAT HE BECAME EXTREMELY
11 CLOSE WITH MICKEY THOMPSON. I THINK THIS BEARS ON THE
12 ULTIMATE ISSUE THAT WE WERE HEARING BEFORE THE JURORS
13 CAME IN WHICH IS PHIL BARTINETTI WAS MORE THAN SIMPLY A
14 LEGAL MOUTHPIECE; HE WAS A CLOSE FRIEND; A CLOSE SOCIAL
15 ACQUAINTANCE OF MICKEY THOMPSON. THAT WOULD HAVE COME
16 THROUGH IN ALL OF HIS REPRESENTATIONS.

17 I BELIEVE THAT MIKE GOODWIN WAS SORT OF
18 ATTACKING PHIL BARTINETTI NOT JUST -- AND ESPECIALLY ON A
19 PERSONAL LEVEL, NOT JUST BECAUSE HE WORKED AT THE LAW
20 FIRM THAT HAD MICKEY THOMPSON'S CASE BUT BECAUSE THEY
21 WERE BEST FRIENDS.

22 THE COURT: ALL RIGHT. WELL, SINCE THIS
23 TESTIMONY MAY OR MAY NOT BE RELEVANT, DEPENDING ON WHAT
24 THE COURT'S RULING IS ON THE 1101(B), WHY DON'T WE AVOID
25 IT.

1 MR. JACKSON: OKAY. THE ONLY THING I WAS GOING
2 TO CLOSE WITH WAS WHERE AND WHEN HE FOUND OUT THAT MICKEY
3 THOMPSON DIED. I BELIEVE THAT'S RELEVANT. I DON'T THINK
4 IT'S OVERLY PREJUDICIAL.

5 MS. SARIS: I DON'T KNOW THE RELEVANCE. THERE
6 WOULD BE A RELEVANCE OBJECTION.

7 MR. JACKSON: WELL, HE CONTINUED TO REPRESENT THE
8 ESTATE AFTERWARDS.

9 THE COURT: ALL RIGHT. I'LL OVERRULE THAT
10 OBJECTION.

11 (SIDE BAR CONCLUDED.)

12
13 MR. JACKSON: MAY I?

14 THE COURT: YES.

15 MR. JACKSON: THANK YOU.

16 Q MR. BARTINETTI, AT THE POINT AT WHICH
17 MICKEY THOMPSON WAS KILLED, HOW LONG HAD YOU KNOWN HIM?

18 A IT WAS JUST SHORT OF THREE AND A HALF
19 YEARS.

20 Q HAD YOU REPRESENTED HIM IN A LEGAL
21 CAPACITY, PROFESSIONAL CAPACITY FOR THAT ENTIRE TIME?

22 A YES.

23 Q AS YOU SIT HERE TODAY, MR. BARTINETTI, DO
24 YOU RECALL HEARING ABOUT MICKEY THOMPSON AND TRUDY
25 THOMPSON'S MURDER?

1 A YES.

2 Q COULD YOU DESCRIBE WHERE YOU WERE AND WHAT
3 YOU WERE DOING WHEN YOU HEARD THIS?

4 MS. SARIS: OBJECTION. RELEVANCE.

5 THE COURT: OVERRULED.

6 YOU CAN ANSWER.

7 THE WITNESS: I WAS GETTING READY TO GO TO WORK.
8 I WAS STANDING IN KIND OF THE WINDOW SEAT AREA OF THE
9 RESIDENCE LOOKING OUT TOWARD DOWNTOWN, AND IT WAS SORT OF
10 AN OVERCAST DAY AND I GOT A PHONE CALL.

11 Q BY MR. JACKSON: AND WHO WAS THE PHONE
12 CALL FROM?

13 MR. SUMMERS: OBJECTION. RELEVANCE.

14 THE WITNESS: IT WAS MICKEY'S SISTER CALLING.

15 THE COURT: SUSTAINED. THAT WILL BE STRICKEN.

16 MR. JACKSON: MAY I, YOUR HONOR? I HEARD SOME
17 OTHER TALKING. I WASN'T SURE WHO WAS SAYING WHAT.

18 THE COURT: I SUSTAINED THE OBJECTION ON
19 RELEVANCE AND STRUCK THE ANSWER.

20 Q BY MR. JACKSON: WHEN DID YOU -- WITHOUT
21 TELLING ME WHO YOU GOT THE PHONE CALL FROM, WHEN DID YOU
22 RECEIVE THIS PHONE CALL?

23 A IT'S MY MEMORY -- I'M NOT AN 8:00 O'CLOCK
24 IN THE OFFICE SORT, AND SO IT'S MY MEMORY IT WAS BETWEEN
25 8:00 AND 9:00 O'CLOCK ON THAT MORNING.

1 Q MR. BARTINETTI, FINALLY, I WANT TO ASK YOU
2 ABOUT THE LITIGATION IN GENERAL.

3 HOW WOULD YOU DESCRIBE THE LEVEL OF VIGOR
4 WITH WHICH THIS LITIGATION WAS FOUGHT ON BOTH SIDES?

5 A AT THE HIGHEST LEVEL.

6 Q WAS IT THE HIGHEST LEVEL THAT YOU'VE EVER
7 ENCOUNTERED IN YOUR PROFESSIONAL CAREER?

8 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

9 THE COURT: ALL RIGHT. SUSTAINED. LET'S STAY
10 AWAY FROM LEADING QUESTIONS, PLEASE.

11 Q BY MR. JACKSON: TELL ME -- WHEN YOU SAY
12 "THE HIGHEST LEVEL," DESCRIBE THAT IN MORE DETAIL FOR THE
13 JURORS, PLEASE.

14 A THE LEVEL OF DISCOMFORT IN TERMS OF TRYING
15 TO ARRANGE EVEN THE MOST BASIC THINGS, DEPOSITIONS;
16 SECURING COPIES OF DOCUMENTS; DOING THINGS THAT THE
17 PARTIES ARE REQUIRED TO DO BY COURT ORDER IN ORDER TO
18 MOVE THE CASE FORWARD, EVERY STEP WAS A FIGHT, EVERY STEP
19 WAS CONFLICT.

20 AND PROBABLY THE TOP TEN OF ALL CASES I'VE
21 HAD AND FOR A CASE OF THIS LENGTH AND THE NUMBER OF
22 DIFFERENT LEGAL PROCEEDINGS, IT WAS PROBABLY THE MOST
23 VIGOROUSLY CONTESTED I'VE EVER BEEN INVOLVED IN.

24 Q MR. BARTINETTI, THANK YOU FOR YOUR TIME.

25 THE COURT: CROSS-EXAMINATION?

1 MR. SUMMERS: THANK YOU.

2
3 CROSS-EXAMINATION

4 BY MR. SUMMERS:

5 Q GOOD MORNING, MR. BARTINETTI.

6 A GOOD MORNING.

7 Q I'M GOING TO TAKE YOU SORT OF BACK THROUGH
8 SOME OF THE THINGS YOU'VE ALREADY TALKED ABOUT AND ASK
9 THEM ABOUT IN A LITTLE BIT DIFFERENT WAY.

10 THE CONTRACT THAT YOU DESCRIBED, THE
11 AGREEMENT FOR AN EXCHANGE OF STOCK, THAT WAS OFFICIALLY
12 DATED ON MARCH 30TH OF 1984?

13 A THAT IS CORRECT.

14 Q AND TO YOUR KNOWLEDGE, WAS THAT THE --
15 WERE THE PARTIES TO THAT AGREEMENT, WERE THEY REPRESENTED
16 BY ATTORNEYS DURING THE NEGOTIATIONS?

17 A THEY WERE.

18 Q AND DID THE NEGOTIATIONS CONTINUE OR LAST
19 OVER A PERIOD OF WEEKS?

20 A FROM WHAT I HEARD, YES.

21 Q AND FROM YOUR LAW FIRM, YOUR LAW FIRM WAS
22 REPRESENTING MICKEY THOMPSON IN THOSE NEGOTIATIONS;
23 CORRECT?

24 A THAT'S CORRECT.

25 Q AND THAT WAS A GENTLEMAN NAMED DON CLARK?

1 A CORRECT.

2 Q AND A GENTLEMAN NAMED GERALD WOLD,
3 W-O-L-D, WAS REPRESENTING MR. GOODWIN?

4 A YES.

5 Q AND WHEN YOU GOT TO THE TRIAL, THE TRIAL
6 STARTED IN DECEMBER OF 1985?

7 A THAT'S MY MEMORY. IT WAS DECEMBER OR
8 JANUARY, CORRECT.

9 Q AND I THINK YOU MIGHT HAVE SAID THAT --
10 NOT TODAY, SOME OTHER TIME, THAT YOU DID CLOSING ARGUMENT
11 ON VALENTINE'S DAY?

12 A I REMEMBER IT WAS VALENTINE'S DAY.

13 Q OF 1986?

14 A CORRECT.

15 Q AND PART OF THE DISPUTE AT ISSUE IN THE
16 LAWSUIT WAS, IN FACT, AN INTERPRETATION OF THE CONTRACT
17 OR THE AGREEMENT ITSELF.

18 IS THAT FAIR TO SAY?

19 MR. JACKSON: OBJECTION. RELEVANCE.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER.

22 THE WITNESS: I REMEMBER THERE WAS AN ISSUE
23 RAISED AS TO THE INTERPRETATION OF THE CONTRACT, YES.

24 Q BY MR. SUMMERS: AND, IN FACT, BOTH OF
25 THOSE LAWYERS I MENTIONED, MR. WOLD AND MR. CLARK,

1 TESTIFIED IN THE TRIAL?

2 A THAT IS CORRECT.

3 Q AND THAT WAS -- IF YOU RECALL, THAT WAS
4 BECAUSE THERE WERE ISSUES ABOUT THE INTENTIONS AND THE
5 MEANING OF CERTAIN PHRASES IN THE CONTRACT?

6 MR. JACKSON: OBJECTION. SPECULATION AND
7 RELEVANCE.

8 THE COURT: OVERRULED.

9 YOU CAN ANSWER.

10 THE WITNESS: THAT WAS WHY THEY WERE CALLED TO
11 TESTIFY, CORRECT.

12 Q BY MR. SUMMERS: NOW, THE AGREEMENT ITSELF
13 ALSO PROVIDED FOR SALARIES FOR EACH OF THE TWO
14 INDIVIDUALS; CORRECT?

15 A THAT'S MY MEMORY.

16 Q AND, IN FACT, AT LEAST FOR THE FIRST TWO
17 YEARS, THE SALARY OF MICKEY THOMPSON WAS DESIGNATED AT, I
18 THINK, \$50,000.

19 DOES THAT SOUND RIGHT?

20 A I WOULD HAVE TO LOOK AT THE AGREEMENT.

21 Q OKAY. WOULD THAT REFRESH YOUR
22 RECOLLECTION?

23 A SURE.

24 MR. SUMMERS: MAY I APPROACH, YOUR HONOR?

25 THE COURT: YES.

1 MR. SUMMERS: I'M HANDING THE WITNESS PEOPLE'S
2 10.

3 Q IF YOU CAN LOOK AT THAT DOCUMENT AND SEE
4 IF IT REFRESHES YOUR RECOLLECTION AS TO THE RESPECTIVE
5 SALARIES.

6 A YES.

7 Q AND WITH YOUR RECOLLECTION REFRESHED, DID
8 IT CALL FOR MICKEY THOMPSON TO RECEIVE A SALARY OF
9 \$50,000?

10 A YES.

11 Q AND AS TO MICHAEL GOODWIN, IT WAS PHRASED
12 IN TERMS OF A SALARY NOT IN EXCESS OF A CERTAIN AMOUNT?

13 A THAT IS CORRECT.

14 Q WHAT WAS THAT AMOUNT?

15 A 300,000 IN 1984 AND 325,000 IN 1985.

16 Q THANK YOU. I'LL TAKE THAT BACK.

17 NOW, AT THE TIME OF THE MAKING OF THAT
18 AGREEMENT, IF YOU KNOW, HAD MICKEY THOMPSON PUT ON EVENTS
19 INSIDE STADIUMS?

20 A IT WAS MY UNDERSTANDING HE HAD.

21 Q AND MR. GOODWIN AT THAT TIME, AT THE TIME
22 OF MAKING THE AGREEMENT, HAD HE BEEN PUTTING ON EVENTS
23 INSIDE STADIUMS?

24 A YES.

25 Q AND THE CONTRACT MADE PROVISIONS FOR

1 BASICALLY THEM TO PUT ON JOINT EVENTS OF MOTORCYCLES ONE
2 NIGHT OR ONE DAY AND FOUR-WHEELED VEHICLES THE NEXT?

3 A I WOULD HAVE TO LOOK AT THE AGREEMENT TO
4 SAY PRECISELY WHAT IT PROVIDED. BUT I KNOW THAT THE
5 OVERALL CONCEPT WAS THAT THEY WERE GOING TO TRY TO HAVE
6 ONE ENTITY PROMOTE BOTH THE AUTOS AND THE MOTORCYCLES.

7 Q AND THE AGREEMENT AS IT'S TITLED IS
8 ACTUALLY FOR A TRANSFER OF STOCK AND THAT WOULD BE IN A
9 70 PERCENT, 30 PERCENT RATIO?

10 A YES.

11 Q AND SO IS IT FAIR TO SAY THAT BASICALLY IT
12 WAS ENVISIONED THAT AT THE CLOSING OF THIS AGREEMENT,
13 THAT MICKEY THOMPSON WOULD BE TRADING 70 PERCENT OF THE
14 STOCK IN HIS COMPANY FOR 30 PERCENT OF THE STOCK IN
15 MICHAEL GOODWIN'S COMPANY?

16 A THAT WAS EVENTUALLY WHAT WAS SUPPOSED TO
17 HAPPEN, CORRECT.

18 Q AND ALSO IN THAT CONTRACT IT PROVIDED FOR
19 A RESCISSION PERIOD, THE OPTION WAS SOLELY FOR
20 MR. GOODWIN TO RESCIND THE AGREEMENT AT A CERTAIN POINT
21 IN TIME?

22 A THERE WAS A PROVISION, WHAT THEY CALL A
23 RESCISSION PERIOD, YES.

24 Q AND THERE WAS A CERTAIN AMOUNT OF TIME, DO
25 YOU RECALL, ABOUT A SIX-MONTH PERIOD BEFORE YOU WOULD

1 HAVE THE OPTION TO RESCIND THE AGREEMENT?

2 A YOU'RE TESTING ME HARD HERE, BUT THAT IS
3 MY MEMORY OF WHAT IT SAID.

4 Q AND THEN, AGAIN, AT THE END OF ANOTHER
5 YEAR PAST THAT SIX-MONTH DATE, WAS THERE ANOTHER PERIOD
6 WHERE MR. GOODWIN WOULD HAVE AN OPTION?

7 A IT'S MY MEMORY IT IS, BUT I'LL RELY ON
8 WHAT THE DOCUMENT SAYS.

9 Q YOUR MEMORY IS PRETTY GOOD. IF YOU WANT
10 TO DOUBLE-CHECK IT WITH THE DOCUMENT.

11 A THANK YOU.

12 Q IF YOU KNOW, THE REASON FOR THAT
13 RESCISSION PERIOD, WAS THAT BECAUSE IN ANY WAY THAT THE
14 VIABILITY OF DOING TRUCKS IN STADIUMS WAS AN UNKNOWN OR
15 WAS NOT A PROVEN COMMODITY?

16 A I WOULD BE GUESSING.

17 Q THE LAWSUIT FILED IN SEPTEMBER OF 1984,
18 YOU BEGAN TRIAL IN LATE '85 OR EARLY '86; IS THAT
19 CORRECT?

20 A I THINK IT WAS FILED IN OCTOBER. I KNOW
21 THERE WAS AN APPLICATION FOR A PRELIMINARY INJUNCTION
22 MADE BY THOMPSON M.T.E.G., BUT I THINK THAT WAS -- IF I'M
23 NOT MISTAKEN -- IN EARLY OCTOBER. IT COULD BE LATE
24 SEPTEMBER, BUT I'M NOT POSITIVE.

25 Q AND EVENTUALLY -- AND MAYBE PART OF THAT

1 INJUNCTION -- THE PETITION FOR AN INJUNCTION WAS THE
2 COMPANIES TO THE EXTENT THEY HAD BEEN MELDED TOGETHER,
3 WERE SEPARATED BACK OUT?

4 A YES. THAT'S WHAT WE SOUGHT BY THE
5 PRELIMINARY INJUNCTION.

6 Q AND DID THAT HAPPEN WITHIN A FAIRLY SHORT
7 PERIOD OF TIME WITHIN THE LAWSUIT, SAY, THE FIRST --
8 WITHIN THE FIRST THREE MONTHS OF THE LAWSUIT?

9 A YES.

10 Q ONCE THAT HAD OCCURRED OR EVEN PRIOR TO
11 THAT, DID YOU GIVE ANY ADVICE TO MR. THOMPSON WITH REGARD
12 TO HAVING CONTACT WITH MR. GOODWIN?

13 A ONCE THAT HAD OCCURRED, THE TEMPORARY
14 RESTRAINING ORDER OR INJUNCTION?

15 Q CORRECT. ONCE THE COMPANIES HAD BEEN
16 EXTRICATED FROM EACH OTHER?

17 A I KNOW AT ALL TIMES IN THE EARLY PERIOD OF
18 THE SUIT I WAS TRYING TO SEE IF I COULD BRING THE PARTIES
19 TOGETHER TO RESOLVE IT. AND I KNOW THAT THERE WAS ADVICE
20 WHICH LED TO MEETINGS PRIOR TO THE T.R.O. WHETHER WE DID
21 MEETINGS AFTER THAT, I'M NOT CERTAIN.

22 Q DID THERE COME A CERTAIN POINT IN TIME
23 DURING THE PENDENCY OF THE LAWSUIT BEFORE THE TRIAL HAD
24 STARTED THAT YOU GAVE ADVICE TO YOUR CLIENT, TO
25 MR. THOMPSON, THAT HE SHOULD NOT HAVE CONTACT OR SHOULD

1 NOT COMMUNICATE WITH MR. GOODWIN?

2 A I DON'T REMEMBER DIRECTING HIM ONE WAY OR
3 THE OTHER.

4 Q DID THERE COME A POINT DURING THAT
5 PENDENCY WHERE YOU REALIZED THAT THERE WAS NOT GOING TO
6 BE A SETTLEMENT OR THERE WAS A VERY SLIM CHANCE OF
7 SETTLEMENT?

8 A YES. THAT PROBABLY WAS BY SEPTEMBER OF
9 1984.

10 Q THE COMPLAINT, WERE YOU INVOLVED IN FILING
11 THE COMPLAINT?

12 A YES.

13 Q AND THAT SOUGHT A CERTAIN AMOUNT OF MONEY
14 AND DAMAGES; CORRECT?

15 A IT DID. I CAN'T RECALL IF WE SPECIFIED A
16 SUM OR IF WE JUST SAID THAT IT WAS IN EXCESS OF THE
17 JURISDICTIONAL MINIMUM OF THE COURT.

18 Q IN THE COURSE OF THE TRIAL AND EVENTUALLY
19 THE JUDGE'S -- MAKING YOUR ARGUMENT TO THE JUDGE, YOU
20 WERE TRYING TO ESTABLISH MONETARY DAMAGES?

21 A CORRECT.

22 Q AND THE JUDGE ULTIMATELY ENDED UP DECIDING
23 IN FAVOR OF YOUR SIDE TO THE TUNE OF AROUND \$514,000?

24 A IN TERMS OF GENERAL DAMAGES, YES.

25 Q AND WHEN WE'RE TALKING ABOUT THOSE

1 DAMAGES, YOUR ARGUMENT AND YOUR CLAIM WAS SPECIFICALLY
2 THAT THAT WAS MONEY THAT WAS BASICALLY OUT OF POCKET OF
3 MICKEY THOMPSON?

4 A WELL, I THINK WE HAD TWO ARGUMENTS. I
5 THINK THERE WAS OUT OF POCKET; AND THEN THERE ALSO IS THE
6 LOST OPPORTUNITY WHEN THE COMPANY WAS KEPT FROM HIM BY
7 MR. GOODWIN'S REFUSAL TO UNWIND THE TRANSACTION.

8 Q DID THE JUDGE IN HIS RULING, IF YOU
9 RECALL, DID HE BREAK DOWN THE AWARD OF DAMAGES IN TERMS
10 OF -- ALONG THOSE LINES THAT YOU JUST POINTED OUT?

11 A I THINK HE DID. THERE WERE TWO COMPONENTS
12 TO MAKE UP THE 514,000.

13 Q WAS -- AGAIN, I'LL TEST YOUR MEMORY, WAS
14 ABOUT 380,000 OF IT FOR WHAT WE WOULD CALL OUT OF POCKET
15 FOR MICKEY THOMPSON?

16 A I WISH I WOULD HAVE STUDIED MY MATH MORE
17 BECAUSE I REMEMBER ONE COMPONENT WAS AROUND 150 -- YEAH,
18 THAT WOULD BE A BALLPARK FIGURE TO GET US TO THE 514.

19 Q AND WHEN I SAY OUT OF POCKET, I MEAN
20 THAT'S MONEY THAT MICKEY THOMPSON HAD AT ONE POINT THAT
21 HE HAD DELIVERED IN SOME WAY TO MICHAEL GOODWIN THAT HE
22 HADN'T GOTTEN BACK; IS THAT CORRECT?

23 A I THINK THAT WAS A PORTION OF IT. IT WAS
24 MONEY THAT HE SPENT THAT THE JUDGE FOUND THAT HE SHOULD
25 NOT HAVE SPENT IF MR. GOODWIN HAD LIVED UP TO THE

1 CONTRACT.

2 Q SO AT LEAST AS TO THAT PORTION IN THE 380,
3 350,000-DOLLAR RANGE, THAT WAS NOT AN AWARD THAT HAD TO
4 DO WITH TRYING TO QUANTIFY SOMETHING LIKE LOSS OF
5 REPUTATION OR DAMAGE TO GOODWILL?

6 A NO. NO. IT WAS NOT COMPONENTS OF EITHER
7 OF THOSE TYPES.

8 Q SO IT WASN'T ANYTHING THAT SOMEBODY MIGHT
9 VIEW AS A WINDFALL? THIS IS MONEY THAT HE WAS -- YOUR
10 CLAIM WAS AND THE JUDGE AGREED THAT HE WAS OWED?

11 A CORRECT.

12 Q DRAWING YOUR ATTENTION TO SOMETHING THAT
13 YOU TESTIFIED WHICH IS CALLED THE SURETY.

14 A YES.

15 Q THAT PROCEDURE THAT YOU EXPLAINED
16 YESTERDAY, I WANTED TO JUST ASK A COUPLE MORE QUESTIONS
17 ABOUT IT.

18 YOU SAID THAT THE SHOWING ON BEHALF OF
19 MR. GOODWIN HAD BEEN INSUFFICIENT.

20 IS THERE SPECIFICALLY A STATUTE IN THE
21 CALIFORNIA CODE OF CIVIL PROCEDURE DEALING WITH PERSONAL
22 SURETIES?

23 A AT LEAST ONE AND MAYBE MORE.

24 Q AND SO TO THAT EXTENT THERE'S A PROVISION
25 IN THE LAW, IT'S NOT UNHEARD OF OR AN OUTLANDISH SORT OF

1 PROCEDURE, IS IT?

2 A IT IS UNHEARD OF. IT'S THE FIRST TIME AND
3 ONLY TIME IN 35 YEARS OF PRACTICE I'VE ENCOUNTERED IT.

4 Q WHO WERE THE PEOPLE THAT CAME FORWARD, IF
5 YOU REMEMBER, TO STAND AS PERSONAL SURETIES?

6 A THERE WAS A GUY, JOHN GATES WAS ONE NAME
7 THAT HITS ME. THE OTHER WAS EITHER DIANE SEIDEL GOODWIN
8 OR MR. GOODWIN'S FATHER. THERE WAS A RELATIVE WHO WAS
9 THE SECOND PERSON, IF I REMEMBER CORRECTLY.

10 Q AND WHEN THESE FOLKS COME AND THERE'S --
11 EVIDENTLY YOUR FIRM OBJECTED AT SOME POINT AND THERE WAS
12 A HEARING HELD?

13 A CORRECT.

14 Q AND THE PROCEDURE IS THEY DON'T JUST COME
15 IN AND SAY I PROMISE; THEY HAVE TO COME INTO COURT AND
16 MAKE SOME SHOWING ABOUT WHAT THEIR ASSETS ARE?

17 A THAT IS CORRECT.

18 Q AND THEY HAVE TO DO THAT IN SOME DETAIL AS
19 TO THE LOCATION AND THE AMOUNT AND ANY OTHER OBLIGATIONS
20 THEY MIGHT HAVE?

21 A THEY HAVE TO DO WHAT IS REQUIRED BY THE
22 CODE AND THEY HAVE TO SATISFY THE JUDGE THAT THEY MEET
23 THE REQUIREMENTS OF THE CODE. AND WE DID HAVE AN EVENING
24 HEARING ON THAT.

25 Q YOU INDICATED THAT IT WAS THE JUDGE'S

1 DECISION BUT THAT YOUR FIRM OBJECTED?

2 A THE JUDGE DECIDED THAT OUR OBJECTIONS WERE
3 WELL TAKEN.

4 Q AND ONE OF THE ASSETS THAT IT BEEN PLEDGED
5 BY DIANE GOODWIN WAS SOMETHING CALLED J.G.A. WHITEHAWK?

6 A I REMEMBER WHITEHAWK.

7 Q AND DO YOU RECALL WHETHER YOUR FIRM HAD
8 ANY PARTICULAR OBJECTION TO THAT PARTICULAR ASSET BEING
9 PLEDGED?

10 A AS I SIT HERE TODAY, I CAN'T RECALL IF
11 WHITEHAWK WAS A SUBJECT OF OUR OBJECTION OR NOT.

12 Q WOULD ONE OF YOUR OBJECTIONS BE THAT AN
13 ASSET THAT WAS PLEDGED WAS TOO SPECULATIVE OR WAS SUBJECT
14 TO RETURNS IN THE FUTURE THAT YOU COULDN'T BE GUARANTEED
15 OF?

16 A IF I'M GOING TO BE A GOOD LAWYER, I
17 DEFINITELY OUGHT TO OBJECT TO SOMETHING THAT'S NOT FIXED.
18 IF IT WAS SOMETHING AS THEY SAY ON THE COME OR UNCERTAIN,
19 I THINK IT WOULD BE UNPROFESSIONAL OF ME NOT TO OBJECT.

20 I DON'T RECALL IF THAT WAS A CIRCUMSTANCE
21 IN THIS CASE, THOUGH, WITH REGARD TO THAT ASSET.

22 Q RIGHT. YOU INDICATED THAT YOUR FIRM
23 BASICALLY TOOK ON CO-COUNSEL ONCE THE CASE GOT TO THE
24 BANKRUPTCY ARENA?

25 A THAT IS CORRECT.

1 Q AND DID YOUR ROLE IN THE CASE DIMINISH AT
2 ALL ONCE THE JUDGMENT HAD BEEN OBTAINED?

3 A NOT REALLY.

4 Q DID ANY OTHER LAWYER IN YOUR OFFICE TAKE A
5 MORE PROMINENT ROLE AT THAT POINT WHEN THE JUDGMENT HAD
6 BEEN OBTAINED?

7 A NOT IMMEDIATELY. BUT IN THE COURSE OF THE
8 BANKRUPTCY, MY PARTNER BECAME MORE INVOLVED.

9 Q THAT'S DOLORES CORDELL?

10 A THAT IS CORRECT.

11 Q BUT DURING THE ATTEMPTS TO THE -- INITIAL
12 ATTEMPT TO ENFORCE THE JUDGMENT, YOU WERE STILL VERY MUCH
13 INVOLVED IN IT?

14 A I WAS VERY MUCH INVOLVED. I WASN'T THE
15 ONE NECESSARILY CREATING PAPERS OR GOING OUT AND DOING
16 INVESTIGATION, BUT I WAS MAKING THE DECISIONS IN THE
17 OFFICE AS TO HOW WE SHOULD APPROACH COLLECTION.

18 Q AND DO YOU RECALL -- WHEN YOU GO TO
19 COLLECT ON A JUDGMENT ONE OF THE THINGS YOU DO IS FOR
20 EVERY COUNTY THAT YOU WANT TO SEEK OUT THE ASSETS OF THE
21 PROPERTY OF THE PERSON THAT YOU HAVE THE JUDGMENT
22 AGAINST, YOU HAVE TO GET SOMETHING CALLED A WRIT; IS THAT
23 CORRECT?

24 A THAT'S CORRECT.

25 Q AND DO YOU RECALL HOW QUICKLY YOU WENT

1 ABOUT OBTAINING WRITS AFTER RECEIVING THE JUDGMENT?

2 A I CAN'T TELL YOU IF IT WAS A WEEK OR A
3 MONTH OR A MONTH AND A HALF. I KNOW THAT WE DID NOT --
4 ONCE WE HAD THE RIGHT TO COLLECT, THERE WAS AN AUTOMATIC
5 STAY. WHICH MEANS THAT FROM THE TIME THE JUDGMENT WAS
6 ENTERED, THERE'S A PERIOD OF TIME, USUALLY 60 TO 90 DAYS,
7 WHEN THE PERSON WHO HAS THE JUDGMENT CAN'T GO COLLECT ON
8 THE JUDGMENT. THAT'S WHY THEY CALL IT AN AUTOMATIC STAY.

9 BUT AFTER THAT AUTOMATIC STAY, I THINK WE
10 WERE DILIGENT IN FILING ABSTRACTS OF JUDGMENT WHICH PUT A
11 LIEN AGAINST ANY REAL PROPERTY IN ANY COUNTY WHERE WE
12 FILED THE ABSTRACT. AND I THINK THAT WE STARTED THE
13 INVESTIGATION TO DETERMINE IF THERE'S ANY PROPERTY THAT
14 WE COULD LEVY AGAINST UNDER A WRIT OF EXECUTION.

15 MR. SUMMERS: MAY I JUST HAVE ONE MOMENT, YOUR
16 HONOR?

17 THE COURT: YES.

18 (PAUSE IN PROCEEDINGS.)

19 Q BY MR. SUMMERS: YOU SAID THAT IN THE
20 PROCESS OF ENFORCING THE JUDGMENT, THAT YOU MAYBE
21 DIDN'T -- I FORGET EXACTLY WHAT YOUR PHRASE WAS -- BUT
22 THAT YOU WERE SORT OF MORE MAKING DECISIONS THAN ACTUALLY
23 GOING OUT AND OBTAINING THE ACTUAL DOCUMENTS AND GOING
24 THROUGH THE LEGAL PROCEDURES?

25 A THAT'S CORRECT. I DIDN'T ACTUALLY SIT

1 DOWN AND FILL OUT THE FORMS AND DO THOSE TYPE OF THINGS.
2 I WAS THE ONE THAT PEOPLE WOULD COME TO WHEN THEY WERE
3 GOING TO DO THINGS AND SAY IS THIS THE APPROACH WE SHOULD
4 TAKE, OR SHOULD WE TAKE ANOTHER APPROACH? SO I WAS
5 MAKING THOSE TYPES OF DECISIONS.

6 Q ASSUMING THAT THE DEBTOR DOESN'T DECLARE
7 BANKRUPTCY, HOW LONG IS THE WRIT EFFECTIVE?

8 A WELL, YOU HAVE TEN YEARS TO COLLECT UNDER
9 THE JUDGMENT.

10 Q RIGHT. I'M NOT TALKING ABOUT THE JUDGMENT
11 IN GENERAL. I'M TALKING ABOUT AN INDIVIDUAL WRIT THAT
12 YOU GET FOR A SPECIFIC COUNTY.

13 IS THERE A TIME PERIOD, AN EXPIRATION
14 PERIOD IN THE LAW?

15 A THERE IS. AND I CAN'T TELL YOU WHAT IT
16 IS.

17 Q DO YOU THINK MS. CORDELL COULD?

18 MR. JACKSON: OBJECTION. SPECULATION.

19 THE COURT: SUSTAINED.

20 Q BY MR. SUMMERS: BUT WHEN YOU DO HAVE
21 SOMEONE, A DEBTOR DECLARE BANKRUPTCY, THAT BASICALLY ENDS
22 THE LEGAL EFFECTIVENESS OF THE WRIT.

23 IS THAT FAIR TO SAY?

24 A THAT WOULD BE FAIR TO SAY.

25 Q AND YOU SAID I THINK YESTERDAY THAT THERE

1 WAS NO -- THERE WAS NOT A LONG LAG BETWEEN THE BANKRUPTCY
2 BEING DECLARED, THE CORPORATE BANKRUPTCY, AT LEAST, AND
3 YOU AND YOUR LAW FIRM FINDING OUT ABOUT IT?

4 A THAT'S CORRECT.

5 Q AND ONCE YOU DID THAT, YOU WERE ACTUALLY
6 IN THE BANKRUPTCY COURT FAIRLY QUICKLY AS WELL; IS THAT
7 CORRECT?

8 A THAT'S CORRECT.

9 Q AND DO YOU RECALL, WAS THAT BECAUSE YOU
10 GOT A NOTICE FROM THE COURT OR AN ORDER FROM THE COURT,
11 OR DO YOU RECALL HOW YOU FOUND OUT ABOUT THE BANKRUPTCY?
12 LET'S START WITH THE CORPORATE BANKRUPTCY.

13 A IT'S MY MEMORY THAT WE FOUND OUT ABOUT IT
14 FROM OPPOSING COUNSEL BEFORE WE RECEIVED THE DOCUMENT.
15 THERE'S A DOCUMENT THAT YOU RECEIVE THAT NORMALLY
16 CONTAINS THE AUTOMATIC STAY. AND MY MEMORY IS THAT WE
17 KNEW ABOUT IT VERY QUICKLY AFTER IT WAS DONE.

18 Q AND YOU INDICATED ALSO AGAIN YESTERDAY
19 THAT AT ONE POINT YOUR LAW FIRM HAD SEIZED A MERCEDES
20 THAT WAS SOME WAY ASSOCIATED WITH MICHAEL GOODWIN?

21 A CORRECT.

22 Q AND THAT WAS ONLY HELD FOR A BRIEF PERIOD
23 OF TIME?

24 A DEPENDS ON WHAT YOU MEAN BY "A BRIEF
25 PERIOD OF TIME."

1 Q WELL, IF YOU'RE NOT THE GUY WHO OWNS THE
2 CAR, WAS IT A BRIEF PERIOD OF TIME? I MEAN WAS IT 30
3 DAYS? 15 DAYS?

4 A IT WASN'T HELD BY MY CLIENT OR BY OUR
5 OFFICE. IT'S SEIZED BY THE SHERIFF AND HELD BY THE
6 SHERIFF FOR A PERIOD OF TIME. WHEN SOMEBODY CAN COME IN
7 AND SAY YOU SHOULDN'T HAVE TAKEN IT BECAUSE I'M NOT THE
8 JUDGMENT DEBTOR. OR YOU SHOULDN'T HAVE TAKEN IT BECAUSE
9 I'M THE BANK AND I REALLY OWN THE CAR AND THE PERSON
10 WHOSE GARAGE IT WAS IN ISN'T THE OWNER.

11 AND I'M SURE THAT MS. CORDELL CAN GIVE YOU
12 THE DETAILS ON THE TIMING OF THAT, BUT I RECALL THAT --
13 IT'S MY MEMORY THAT THE PERSONAL FILING WAS AS A RESULT
14 OF THE LEVY ON THAT CAR.

15 Q AND IN THAT PARTICULAR CASE, WAS IT A BANK
16 THAT CAME FORWARD AND INFORMED YOU OR INFORMED YOUR FIRM
17 THAT WE HAVE AN INTEREST IN THIS CAR. AND THAT IT'S --
18 AND IT'S THIS AMOUNT OF MONEY THAT WE'RE OWED ON THE CAR?

19 A I DON'T REMEMBER. I JUST REMEMBER WE
20 DIDN'T GET THE CAR.

21 Q DO YOU REMEMBER ANY CORRESPONDENCE WITH
22 ANY LAW FIRM FROM THE BANK OR REPRESENTING THE BANK WITH
23 REGARD TO THE MERCEDES?

24 A I HAVE A MEMORY, BUT NOT ONE THAT'S
25 SPECIFIC ENOUGH TO GIVE ME THE NAME OF A LAWYER; A

1 LENDING INSTITUTION; OR ANYTHING. I REMEMBER THERE WAS
2 SOMETHING LIKE THAT INVOLVED, BUT I CAN'T TELL YOU
3 SPECIFICALLY.

4 Q AND SPECIFICALLY, JUST SO WE UNDERSTAND,
5 THAT THE PROBLEM WOULD BE THAT SOMEBODY ELSE WOULD
6 BASICALLY HAVE -- SOMEBODY ELSE WOULD HAVE PRIORITY OVER
7 THE DEBT THAT YOU WERE TRYING TO COLLECT IN THAT
8 SITUATION?

9 A THAT COULD BE -- YES. I MEAN, IF A BANK
10 OWNS THE CAR AND THE OTHER PERSON IS JUST PURCHASING THE
11 CAR, YOU COULDN'T GET ANYTHING PAST THAT PERSON'S EQUITY,
12 YOU COULDN'T GET THEIR EQUITY.

13 Q SO IF SOMEBODY STILL OWED THE BANK 28,000
14 ON A 30,000-DOLLAR CAR, THAT WOULDN'T MAKE IT VERY MUCH
15 WORTH YOUR WHILE TO GO AHEAD AND TRY TO SEIZE IT OR
16 CONVERT IT OR DO ANYTHING ELSE WITH IT?

17 A THAT'S TRUE. BECAUSE YOU HAVE COST OF
18 EXECUTION. IF YOU ONLY HAVE 2,000 WORTH OF EQUITY,
19 YOU'RE NOT GOING TO DO SOMETHING -- NORMALLY YOU'RE NOT
20 GOING TO DO SOMETHING LIKE THAT BECAUSE IT WOULD NOT BE
21 VERY INTELLIGENT.

22 Q AND THAT WOULD HAVE OBVIOUSLY HAD HAD TO
23 HAVE HAPPENED BEFORE -- YOUR RECOLLECTION IS BEFORE THE
24 PERSONAL BANKRUPTCY?

25 A THAT IS MY RECOLLECTION.

1 Q IS IT POSSIBLE THAT THAT CAR WAS ACTUALLY
2 A CORPORATE CAR?

3 A IT IS POSSIBLE.

4 Q AND IN THAT CASE, IT WOULD HAVE -- ANY
5 SEIZURE WOULD HAVE HAD TO HAVE BEEN BEFORE THE CORPORATE
6 BANKRUPTCY WAS IN EFFECT?

7 A THAT IS CORRECT.

8 Q AND I THINK WE WENT THROUGH THE DOCUMENT
9 YESTERDAY, BUT I THINK THAT WAS SEPTEMBER OF '86 IS WHEN
10 THAT CORPORATE BANKRUPTCY WAS FILED?

11 A I DON'T KNOW IF IT'S '86 OR '85. I WOULD
12 HAVE TO LOOK. I THINK IT'S '86.

13 Q RIGHT. IT WOULD HAVE HAD TO HAVE BEEN
14 AFTER THE JUDGMENT?

15 A CORRECT.

16 Q NOW I WANT TO -- I MEAN NO DISRESPECT AND
17 YOU'VE PROBABLY BEEN IN THIS POSITION, I'VE GOT TO ASK
18 YOU ABOUT A COUPLE OF THINGS THAT ARE MAYBE A LITTLE
19 BIT -- PEOPLE DON'T LIKE TO TALK ABOUT.

20 BUT YOUR LAW FIRM, I BELIEVE YOU DESCRIBED
21 IT AS A CORPORATION; CORRECT?

22 A IT'S A PROFESSIONAL CORPORATION.

23 Q IT'S NOT A CHARITABLE INSTITUTION OR A
24 NONPROFIT ORGANIZATION?

25 A WE ARE SOMETIMES. WE DON'T INTEND TO BE.

1 Q PRO BONO AND THEN THERE'S PRO BONO.

2 A ABSOLUTELY.

3 Q IN THE COURSE OF YOUR REPRESENTATION OF
4 MR. THOMPSON IN THE LITIGATION WITH MR. GOODWIN, WAS YOUR
5 FIRM CHARGING HOURLY RATES FOR ITS LAWYERS?

6 A WE WERE.

7 Q AND AT THE END OF THE LAWSUIT WHEN YOU
8 WERE SUCCESSFUL, WERE YOU ABLE TO GO AND -- OR DID YOU GO
9 AND FILE WITH THE COURT SOME TYPE OF DOCUMENT SAYING WHAT
10 BASICALLY YOUR COST, THE ATTORNEY COST, HAD BEEN IN THE
11 LAWSUIT?

12 A YES, WE DID.

13 Q AND THROUGHOUT THE PERIOD THE LITIGATION
14 HAD YOUR FIRM BEEN KEEPING TRACK OF THE HOURS THAT THEY
15 WERE SPENDING ON THE LITIGATIONS BETWEEN MICKEY THOMPSON
16 AND MICHAEL GOODWIN?

17 A YES, WE WERE.

18 Q HAD YOU ALSO BEEN BILLING EITHER MICKEY
19 THOMPSON OR THE COMPANY M.T.E.G. THROUGHOUT THIS PERIOD?

20 A YES.

21 Q DO YOU HAVE IN YOUR MEMORY HOW MUCH THE
22 COSTS WERE WHEN YOU WENT IN, IN THE SUMMER OF '86, WHAT
23 THE COSTS WERE?

24 A I REMEMBER IT WAS EXPENSIVE. IT HAD BEEN
25 AN EXPENSIVE CASE. I CAN GIVE YOU AN ESTIMATE. AND MY

1 ESTIMATE WOULD BE THAT IT WAS IN THE NEIGHBORHOOD OF
2 175,000 TO \$200,000, SOMEWHERE IN THAT NEIGHBORHOOD.
3 MAYBE A LITTLE LESS.

4 Q AND YOUR FIRM, AS YOU SAID, CONTINUED TO
5 REPRESENT MICKEY THOMPSON OR HIS COMPANY AS THE
6 LITIGATION TRAVELED INTO THE BANKRUPTCY ARENA?

7 A CORRECT.

8 Q AND, AGAIN, THAT WAS A SITUATION WHERE THE
9 LAW FIRM WAS BILLING MICKEY THOMPSON FOR ITS EFFORTS?

10 A THAT IS CORRECT.

11 Q AND WHEN YOU -- DO YOU RECALL -- AND MAYBE
12 YOU WOULDN'T FILE FOR COST AT ALL, BUT HAD YOUR COST BEEN
13 PAID, HAD MICKEY THOMPSON PAID ANY OF YOUR COSTS UP TO
14 THE POINT WHERE AFTER THE JUDGMENT YOU WENT AND FILED
15 YOUR DOCUMENT?

16 A WELL, IF YOU MEAN BY -- BECAUSE WE HAVE
17 TWO CATEGORIES OF BILLING. YOU BILL FOR YOUR TIME AND
18 THEN YOU BILL FOR THE OUT-OF-POCKET COSTS YOU ADVANCE FOR
19 THE CLIENT.

20 FOR EXAMPLE, IT COSTS A CERTAIN SUM OF
21 MONEY TO THE COURT TO FILE A COMPLAINT. WHEN YOU TAKE A
22 DEPOSITION, YOU HAVE TO PAY THE COURT REPORTER. SO THERE
23 ARE VARIOUS OUT-OF-POCKET COSTS AND THIS WAS AN EXPENSIVE
24 CASE.

25 AND MY MEMORY IS THAT IN THE EARLY STAGES

1 MICKEY WAS ADVANCING THE COSTS AND HE PAID BOTH COSTS AND
2 ATTORNEY'S FEES. SO HE PAID BOTH COMPONENTS OF WHAT HE
3 WAS INCURRING IN THE LITIGATION.

4 Q AND YOU SAID AT A CERTAIN POINT HE WAS
5 DOING THAT. AT SOME POINT DID HE STOP PAYING COSTS AND
6 THE HOURS OR BOTH, OR DO YOU RECALL?

7 A NO, HE NEVER STOPPED PAYING. WHAT
8 HAPPENED, THOUGH, IS I HAVE FOUND TYPICAL IN LITIGATION
9 BECAUSE OF THE EXPENSE OF LITIGATION, IT CAME TO A POINT
10 WHERE WE HAD TO SIT WITH HIM AND SAY WE UNDERSTAND THESE
11 COSTS ARE ABSOLUTELY INCREDIBLE IN THIS CASE. IF YOU CAN
12 JUST PUT US ON A SCHEDULE, AND HE PUT US ON A SCHEDULE OF
13 PAYMENTS, AND SO WE DID NOT INSIST THAT HE PAY 30 DAYS.

14 Q DID YOU EVER TAKE THE POSITION OR JUST
15 ADVISE HIM THAT, LOOK, IT'S NOT WORTH IT, THE AMOUNT OF
16 MONEY THAT WE'RE COSTING YOU IS NOT GOING TO BE WORTH IT
17 IN LIGHT OF WHAT WE'RE TRYING TO GET AT?

18 A OH, WE DISCUSSED IT. WE SAID THAT -- AND
19 QUITE HONESTLY, I TOLD HIM, I SAID -- LET ME USE THE WORD
20 "OBSCENE" -- WHAT IS HAPPENING HERE IS OBSCENE BECAUSE
21 THE COSTS ON BOTH SIDES ARE EXCEEDING THE AMOUNT IN
22 DISPUTE. THE ONLY THING THAT YOU HAVE GOING FOR YOU,
23 MICKEY, IS THAT YOU ARE RIGHT. AND THE CONTRACT PRICE
24 FOR ATTORNEY'S FEES. YOU'VE GOT THE 200,000,
25 APPROXIMATELY, FOR THE MAIN CASE. AND AS WE GO ON, SINCE

1 THIS IS RELATED TO THE COLLECTION, YOU WILL BE ENTITLED
2 UNDER SOME GOOD THEORIES TO A RECOVERY OF THOSE FEES.

3 BUT WE TALKED ABOUT IT A LOT. AND WE ALSO
4 TALKED ABOUT THAT HE HAD THE OPTION AT ANY POINT OF
5 SAYING I DON'T WANT TO DO THIS ANYMORE. I'LL JUST LET MY
6 JUDGMENT SIT OVER HERE. AND IF ASSETS ARE TAKEN AWAY SO
7 I CAN'T COLLECT ON IT, SO BE IT. BUT WE DID TALK ABOUT
8 IT A LOT, BECAUSE AS I SAY, THIS WAS A VIGOROUSLY
9 CONTESTED LITIGATION.

10 Q SO ALSO IT WAS IN YOUR MIND OR YOUR
11 CONCLUSION THAT THERE WAS A GOOD CHANCE OR AT LEAST A
12 VIABLE CHANCE THAT YOU WERE GOING TO RECOVER THE MONEY
13 THAT YOU COST AND THE MONEY THAT HE WAS OWED?

14 A YES. WE HAD GREAT HOPE.

15 Q AND DO YOU RECALL, WERE YOU OR YOUR FIRM
16 INVOLVED IN THE PROBATE OF THE ESTATE OF MICKEY AND TRUDY
17 THOMPSON?

18 A YES, WE HAD INVOLVEMENT IN THAT.

19 Q DID YOUR FIRM FILE A CLAIM FOR THE COST
20 AND THE ATTORNEYS FEES THAT IT WAS OWED BY MICKEY
21 THOMPSON WITH THE ESTATE?

22 MR. JACKSON: OBJECTION. RELEVANCE.

23 THE COURT: SUSTAINED.

24 Q BY MR. SUMMERS: JUST A COUPLE MORE
25 QUESTIONS.

1 IS IT UNUSUAL THAT SOMEBODY WOULD FILE A
2 BANKRUPTCY IN RESPONSE TO GETTING A JUDGMENT AGAINST THEM
3 IN CIVIL COURT?

4 A IT'S HARD TO SAY WHETHER IT'S UNUSUAL. IT
5 HAPPENS. A LOT OF IT DEPENDS ON YOUR ABILITY TO MOVE
6 YOUR ASSETS OR TO PUT YOURSELF IN A POSITION IN THE
7 BANKRUPTCY WHERE YOU CAN INDEED GET THE PROTECTION TO GET
8 THINGS TO CALM DOWN TO REORGANIZE YOUR BUSINESS. BECAUSE
9 IS IT GOING TO BE A REORGANIZATION BANKRUPTCY? IS IT
10 JUST GOING TO BE A FLAT OUT BANKRUPTCY WHERE YOU'RE
11 SAYING I'M THROWING UP MY HANDS; PUTTING ALL MY ASSETS
12 THERE; LET THE COURT DEAL WITH IT AND GIVE THE MONEY OUT
13 TO CREDITORS.

14 THIS WAS A REORGANIZATION, AS WE
15 UNDERSTOOD IT, WHERE THEY WERE SAYING TIME OUT, WE DON'T
16 HAVE ASSETS NOW TO PAY LIABILITY SO WE WANT THE COURT
17 PROTECTION IN ORDER TO REORGANIZE OUR BUSINESS SO THAT WE
18 CAN PAY OUR DEBTS.

19 Q SO LET ME ASK YOU ABOUT THAT BRIEFLY.

20 THERE WAS ANOTHER COMPANY OF MICKEY
21 THOMPSON'S THAT WAS ASSOCIATED WITH THEM THAT'S MENTIONED
22 BRIEFLY IN THE CONTRACT. AND THE NAME OF THAT COMPANY IS
23 MICKEY THOMPSON ADVANCED ENGINEERING.

24 A I'M FAMILIAR WITH THAT.

25 Q BUT THAT WAS NOT -- THAT COMPANY WAS NOT

1 THE SUBJECT OF ANY OF THE REQUIREMENTS OR ANY OF THE
2 EXCHANGES OF STOCK THAT WERE INVOLVED IN THE AGREEMENT?

3 A THAT IS MY UNDERSTANDING.

4 Q DID YOU OR DID YOUR COUNSEL OR DID
5 MR. THOMPSON DURING THE PENDENCY OF THE LAWSUIT, DID HE
6 MOVE ANY OF HIS ASSETS INTO MICKEY THOMPSON ADVANCED
7 ENGINEERING?

8 A I CERTAINLY WASN'T INVOLVED IF HE DID.

9 Q AND YOU WERE NOT DIRECTLY INVOLVED IN THE
10 PROBATE?

11 A I WAS NOT DIRECTLY INVOLVED IN THE
12 PROBATE.

13 Q NOW, I REALLY DO HAVE JUST A COUPLE MORE
14 QUESTIONS.

15 IS IT UNUSUAL THAT SOMEONE WOULD APPEAL
16 AFTER GETTING A JUDGMENT AGAINST THEM?

17 A NO.

18 Q HAVE YOU DONE SO WHEN YOU THOUGHT YOU GOT
19 THE RAW END OF A DEAL OR RULING AND SO FORTH?

20 A THERE HAVE BEEN SOME RARE OCCASIONS WHERE
21 I'VE HAD TO APPEAL.

22 Q AND THE JUDGMENT THAT YOU OBTAINED, THAT
23 STILL SURVIVES TO THIS DAY; IS THAT CORRECT?

24 A YOU KNOW, I ACTUALLY CAN'T TELL YOU
25 BECAUSE THEY'RE RENEWABLE EVERY TEN YEARS. WE JUST HIT

1 THE 20-YEAR MARK ON THAT JUDGMENT, SO I DON'T KNOW.

2 Q SO IT WOULD HAVE BEEN -- IT WOULD HAVE
3 BEEN AT LEAST UNTIL 1996?

4 A YES.

5 Q AND IF IT WAS RENEWED, IT WOULD HAVE BEEN
6 ENFORCEABLE TO THIS DAY?

7 A IF IT WAS RENEWED, NO, BECAUSE WE'RE IN
8 2006. SO IF IT WERE RENEWED IN -- SAY, ANY TIME BEFORE
9 TODAY, IN '96, IT WOULD EXPIRE IF NOT RENEWED AGAIN.

10 Q IF IT WAS RENEWED AND THEN AGAIN RENEWED,
11 IT WOULD STILL BE ENFORCEABLE TODAY?

12 A THAT IS CORRECT.

13 MR. SUMMERS: THANK YOU. I HAVE NO FURTHER
14 QUESTIONS.

15 THE COURT: ALL RIGHT. IT'S TIME FOR THE NOON
16 RECESS. SO WHY DON'T WE TAKE OUR AFTERNOON RECESS. WE
17 WILL RETURN AT 1:30.

18 LADIES AND GENTLEMEN, PLEASE REMEMBER ALL
19 THE ADMONITIONS. AND WE WILL SEE YOU BACK HERE AT 1:30.

20 WE'LL BE IN RECESS UNTIL 1:30.

21
22 (AT 12:00 P.M. A RECESS WAS TAKEN
23 UNTIL 1:30 P.M. OF THE SAME DAY.)

24 --000--

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12
13 CASE NUMBER: GA052683
14 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
15 PASADENA, CALIFORNIA WEDNESDAY, NOVEMBER 8, 2006
16 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
17 APPEARANCES: (AS HERETOFORE MENTIONED.)
18 REPORTER: LORI D. CASILLAS, CSR NO. 9869
19 TIME: P.M. SESSION
20

21 (THE JURY ENTERED THE COURTROOM
22 AND THE FOLLOWING PROCEEDINGS WERE
23 HELD IN OPEN COURT.)
24

25 THE COURT: THE RECORD SHOULD REFLECT ALL OUR

1 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

2 MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE ARE
3 REPRESENTED. MR. BARTINETTI IS STILL ON THE WITNESS
4 STAND.

5 SIR, YOU HAVE BEEN PREVIOUSLY SWORN. I
6 REMIND YOU YOU ARE STILL UNDER OATH. AND I THINK THE
7 PEOPLE ARE GOING TO PICK UP WITH THE REDIRECT; RIGHT?

8 MR. JACKSON: IF MR. SUMMERS IS FINISHED.

9 MR. SUMMERS: YES.

10

11 REDIRECT EXAMINATION

12 BY MR. JACKSON:

13 Q I'M NOT GOING TO TAKE TOO LONG,
14 MR. BARTINETTI. WE WILL GET YOU OUT OF HERE.

15 A THANK YOU.

16 Q WHEN MICKEY THOMPSON FIRST CAME TO YOU AND
17 YOUR OFFICE WITH A REQUEST FOR CONSULTATION CONCERNING
18 THE AGREEMENT FOR THE PARTNERSHIP WITH MIKE GOODWIN, WAS
19 THERE ANY EFFORT ON HIS PART THROUGH YOU TO RESOLVE THIS
20 AMICABLY WITHOUT COURT INTERVENTION?

21 A YES.

22 Q WOULD YOU DESCRIBE THAT FOR US, PLEASE.

23 A AFTER THE INITIAL CONSULTATION IT WAS
24 AGREED I WOULD CONTACT DARRYL WOLD, SINCE HE WAS THE
25 ATTORNEY WE KNEW TO BE REPRESENTING MR. GOODWIN. I DID

1 CONTACT HIM. WE HAD A NUMBER OF CONVERSATIONS WHICH LED
2 UP TO A MEETING AMONG MR. WOLD, MR. GOODWIN, MYSELF,
3 MR. THOMPSON AND A TED JOHNSON, WHO WAS THE -- I GUESS
4 YOU'D SAY NUMBERS GUY, FINANCIAL MAN FOR MICKEY THOMPSON.

5 Q HOW WERE THOSE EFFORTS BY MICKEY THOMPSON
6 TO RESOLVE THIS WITHOUT COURT INTERVENTION MET?

7 A WELL, WE HAD THE INITIAL CONVERSATIONS,
8 PEOPLE PUT OUT THEIR POSITION. AND THEN IT BECAME CLEAR
9 THAT MAYBE THE ONLY AVENUE WAS TO AGREE TO SOME
10 RELATIONSHIP OR SOME ARRANGEMENT WHEREBY MR. THOMPSON
11 COULD GET HIS COMPANY BACK AND RUN HIS COMPANY;
12 MR. GOODWIN COULD RUN HIS COMPANY, AND THEN THE PARTIES
13 WOULD SEE IF THEY COULD RESOLVE THE DISPUTE.

14 AND SO PROPOSALS ALONG THOSE LINES
15 EMANATED FROM, I GUESS, WE WOULD CALL IT THE THOMPSON
16 CAMP.

17 Q AND HOW WERE THOSE PROPOSALS MET BY THE
18 GOODWIN CAMP?

19 A REJECTED.

20 Q OUTRIGHT?

21 A YES.

22 Q MR. SUMMERS ASKED YOU A COUPLE OF
23 QUESTIONS ABOUT THE ORIGINAL JUDGMENT THAT AMOUNTED TO A
24 LITTLE OVER \$514,000. THE ULTIMATE JUDGMENT IN THIS
25 CASE, INCLUDING COSTS AND ATTORNEY'S FEES, I THINK WAS

1 SOMEWHERE IN THE NEIGHBORHOOD OF \$793,000; CORRECT? WE
2 TALKED ABOUT THAT YESTERDAY.

3 A YES. YES, THAT IS CORRECT.

4 Q TO YOUR KNOWLEDGE, HAS THAT JUDGMENT
5 INCLUDING INTEREST THAT'S BEEN EARNED OVER THE YEARS, HAS
6 THAT JUDGMENT EVER BEEN PAID BY MIKE GOODWIN?

7 A NO.

8 Q TO THIS DAY?

9 A TO THIS DAY.

10 Q MICKEY THOMPSON ON THE OTHER HAND WITH
11 REGARD TO THE BILLS THAT WERE OWED TO YOUR LAW FIRM, DID
12 HE PAY WHAT HE OWED YOU?

13 A HE PAID US ON THE SCHEDULE WE HAD AGREED
14 TO UNTIL THE TIME OF HIS DEATH.

15 Q YOU NEVER HAD ANY PROBLEMS COLLECTING
16 MONIES FROM MR. THOMPSON?

17 A WE DID NOT HAVE ANYTHING THAT WE VIEWED TO
18 BE COLLECTION PROBLEMS, NO.

19 Q AFTER MICKEY THOMPSON'S DEATH, DID YOU
20 EVER RECEIVE ANY CORRESPONDENCE FROM MICHAEL GOODWIN?

21 A YES, I DID.

22 Q DID YOU EVER RECEIVE ANY INSTRUCTIONS FROM
23 MICHAEL GOODWIN ABOUT HOW YOU WERE SUPPOSED TO CONTACT OR
24 STAY IN CONTACT OR CORRESPOND WITH --

25 MR. SUMMERS: OBJECTION. BEYOND THE SCOPE.

1 THE COURT: SUSTAINED.

2 MR. JACKSON: MAY WE APPROACH, YOUR HONOR?

3

4 (PROCEEDINGS HELD AT SIDEBAR.)

5 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

6 MR. JACKSON: YOUR HONOR, I WOULD SIMPLY ASK -- I
7 DIDN'T WANT TO DO THIS IN FRONT THE JURY. I WOULD SIMPLY
8 ASK LEAVE TO REOPEN FOR ONE OR TWO QUESTIONS.

9 THE COURT: ALL RIGHT.

10 (PAUSE IN PROCEEDINGS.)

11 THE COURT: WE'RE BACK ON THE RECORD.

12 MS. SARIS: IF WE'RE GETTING INTO CORRESPONDENCE,
13 I WANT TO KNOW IF MR. BARTINETTI'S BEEN WARNED ABOUT WHAT
14 WE'RE SPEAKING OF. I KNOW WE'RE NOT GOING TO SPEAK --

15 MR. JACKSON: ABSOLUTELY. NO. NO. AS AN OFFER
16 OF PROOF, I UNDERSTAND MS. SARIS'S CONCERN. THAT'S NOT
17 WHAT I'M GETTING INTO.

18 I BELIEVE HE WILL SIMPLY SAY -- AND I
19 MEANT TO BRING THIS UP IN MY ORIGINAL DIRECT
20 EXAMINATION -- THAT MICHAEL GOODWIN WAS VERY SPECIFIC IN
21 A COUPLE OF CORRESPONDENCE ABOUT THIRD PARTY
22 INTERMEDIARIES, NO RETURN ADDRESS ENVELOPES THAT WERE
23 SUPPOSED TO BE PUT INSIDE OTHER ENVELOPES SO THAT HE CAN
24 HIDE HIS WHEREABOUTS.

25 THE COURT: OKAY.

1 MS. SARIS: I WOULD OBJECT TO RELEVANCE AND
2 ULTIMATE CONCLUSION WHY MIKE GOODWIN WOULD DO THAT. THIS
3 WITNESS COULD JUST TALK ABOUT WHAT OCCURRED SO THAT HE
4 CAN HIDE HIS WHEREABOUTS.

5 THE COURT: RIGHT. NO.

6 MR. JACKSON: THAT'S MY OFFER OF PROOF.

7 THE COURT: RIGHT. I THINK THAT'S THE ARGUMENT,
8 BUT THE EVIDENCE IS THAT --

9 MR. JACKSON: HE GAVE THE INSTRUCTIONS ON HOW TO
10 CONTACT HIM.

11 THE COURT: YES. SO THE OBJECTION'S OVERRULED.

12 (SIDEBAR CONCLUDED.)

13
14 MR. JACKSON: MAY I, YOUR HONOR?

15 THE COURT: YES.

16 MR. JACKSON: THANK YOU.

17 Q MR. BARTINETTI, I WAS ASKING YOU ABOUT A
18 CORRESPONDENCE OR ANY CORRESPONDENCE THAT YOU HAD WITH
19 MICHAEL GOODWIN AFTER THE DEATH OF MICKEY THOMPSON. AND
20 YOU INDICATED THAT YOU HAD HAD SOME CORRESPONDENCE WITH
21 HIM; CORRECT?

22 A YES.

23 Q VERY NARROWLY, LET ME ASK YOU A QUESTION
24 ABOUT ANY CORRESPONDENCE FROM MICHAEL GOODWIN WHEREIN
25 MICHAEL GOODWIN PURPORTED TO GIVE YOU INSTRUCTIONS ON HOW

1 HE COULD BE CONTACTED OR COMMUNICATED WITH.

2 A YES.

3 Q COULD YOU DESCRIBE THAT INSTRUCTION, IF
4 YOU WILL.

5 A MY BEST MEMORY OF IT WAS THAT I WAS TO
6 SEND A LETTER OR SEND A FAX TO A CERTAIN PLACE. AND THE
7 PERSON WHO WAS TO RECEIVE IT WAS DESCRIBED AS AN
8 INTERMEDIARY. AND THEN THE INTERMEDIARY IN SOME WAY
9 WOULD COMMUNICATE WITH MR. GOODWIN. AND THEN I SHOULD
10 ANTICIPATE -- BECAUSE OF HAVING TO GO THROUGH THESE
11 VARIOUS -- OR INTERMEDIARIES, THAT I SHOULD NOT
12 ANTICIPATE A RESPONSE TO ANY COMMUNICATION FOR
13 APPROXIMATELY ONE WEEK.

14 Q AND WAS MR. GOODWIN'S CORRESPONDENCE WITH
15 YOU, WERE HIS INSTRUCTIONS EXPLICIT WITH REGARD TO THE
16 FACT THAT IT WAS HIS INTENTION THAT YOU NOT BE PRIVY TO
17 WHERE HE WAS?

18 MS. SARIS: OBJECTION. LEADING.

19 THE COURT: SUSTAINED.

20 Q BY MR. JACKSON: DO YOU RECALL
21 SPECIFICALLY WHY MR. GOODWIN WENT TO SUCH LENGTHS TO
22 INSTRUCT YOU HOW TO CONTACT HIM THROUGH THIRD PARTY
23 INTERMEDIARIES, ET CETERA?

24 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

25 THE COURT: SUSTAINED.

1 MR. JACKSON: I'M ASKING -- I'M SORRY, COUNSEL
2 MAY NOT HAVE HEARD THE QUESTION. I WAS ASKING WAS HE
3 INSTRUCTED BY MICHAEL GOODWIN AS TO THAT FACT, NOT IS HE
4 SPECULATING ABOUT THAT.

5 MS. SARIS: I BELIEVE THE QUESTION WAS "WHY."

6 THE COURT: WELL, LAY A FOUNDATION AND THE
7 OBJECTION WILL BE OVERRULED.

8 MR. JACKSON: YES, YOUR HONOR.

9 MAY I HAVE A MOMENT?

10 THE COURT: WHAT ARE WE DOING?

11 MR. JACKSON: OKAY. THANK YOU. I SIMPLY WANTED
12 TO SHOW COUNSEL -- COUNSEL HAS THIS LETTER, BUT THERE'S A
13 LOT OF DISCOVERY HERE. I WANTED TO LET THEM KNOW BEFORE
14 MY NEXT QUESTION WHAT I WAS GOING TO BE REFERRING TO.

15 THE COURT: ALL RIGHT.

16 Q BY MR. JACKSON: MR. BARTINETTI, DID YOU
17 REVIEW A LETTER THAT HAD THOSE INSTRUCTIONS BY
18 MR. GOODWIN ABOUT HOW HE WAS TO BE CONTACTED IN ANY
19 FUTURE CORRESPONDENCE?

20 A YES.

21 Q DO YOU REMEMBER SPECIFICALLY WHETHER OR
22 NOT MR. GOODWIN SAID THAT HE HAD AN INTENT TO NOT LET YOU
23 KNOW WHERE HE WAS?

24 A IT'S MY MEMORY THAT HE DID.

25 Q WOULD IT REFRESH YOUR RECOLLECTION IF YOU

1 LOOKED AT A CORRESPONDENCE FROM MICHAEL GOODWIN TO YOU?

2 A I BELIEVE IT WOULD.

3 MR. JACKSON: MAY I APPROACH, YOUR HONOR?

4 THE COURT: YES.

5 MS. SARIS: DOES THE WITNESS NEED HIS
6 RECOLLECTION REFRESHED? I BELIEVE HE SAID THAT WAS HIS
7 MEMORY.

8 THE COURT: OVERRULED.

9 MR. JACKSON: THANK YOU.

10 Q TAKE A LOOK FROM THE WORD "SINCE" DOWN ON
11 THE FIRST PAGE AND TO SPECIFICALLY THE PARAGRAPH AT THE
12 THIRD PAGE STARTING "HERE ARE."

13 A SO YOU WANT ME TO READ TO MYSELF?

14 Q JUST TO YOURSELF. NOT THE ENTIRE THING,
15 BUT JUST THE BOTTOM PARAGRAPH ON THE FIRST TO THE THIRD
16 PAGE. AND WE CAN EXPEDITE THIS A LITTLE BIT.

17 A THANK YOU.

18 (DOCUMENT REVIEWED BY THE WITNESS.)

19 THE WITNESS: YES, I BRIEFLY REVIEWED THOSE.

20 Q BY MR. JACKSON: OKAY. LET ME GRAB THE
21 LETTER BACK.

22 DOES THAT REFRESH YOUR RECOLLECTION
23 REGARDING MR. GOODWIN'S STATED INTENT WITH REGARD TO HIS
24 INSTRUCTIONS ON HOW TO COMMUNICATE WITH HIM?

25 A YES.

1 Q AND WHAT WAS THAT STATED INTENT?

2 A THE STATED INTENTION WAS THAT HE WANTED TO
3 HAVE TIME TO NEGOTIATE WITH EITHER US OR THE TRUSTEE.
4 AND HE WANTED, IN EFFECT, ASSURANCE THAT WE WEREN'T GOING
5 TO TRY TO FIND OUT WHERE HE WAS. AND HE WAS TAKING THESE
6 STEPS BECAUSE HE WAS GOING TO ENSURE THAT WE COULD NOT
7 FIND OUT WHERE HE WAS.

8 MR. JACKSON: ALL RIGHT. THANK YOU. THAT'S ALL
9 I HAVE.

10 THE COURT: FURTHER CROSS?

11 MR. SUMMERS: THANK YOU.

12

13 RE-CROSS EXAMINATION

14 BY MR. SUMMERS:

15 Q NOW, YOU SAID SPECIFICALLY THAT HAD TO DO
16 WITH THE ASSETS; CORRECT? THAT WAS THE REASON THAT WAS
17 GIVEN TO YOU?

18 A NO.

19 Q YOU SAID -- I BELIEVE YOU SAID SOMETHING
20 ALONG THE LINES OF SO THAT WE CAN -- WE WOULD HAVE THE
21 FREEDOM OR LEEWAY TO NEGOTIATE ABOUT ASSETS?

22 A NO. WHAT HE WAS SAYING WAS THAT HE NEEDED
23 TIME TO -- HE WANTED TO HAVE TIME TO NEGOTIATE. AND THAT
24 HE DIDN'T WANT TO BE CONCERNED THAT WE WERE USING ANY
25 DISCUSSIONS WITH HIM AS A WAY OF FINDING OUT WHERE HE

1 WAS.

2 Q AND SPECIFICALLY HE WAS NEGOTIATING WITH
3 YOU ABOUT STILL A SETTLEMENT OF THE LAWSUIT?

4 A WE UNDERSTOOD HE WAS GOING TO MAKE A
5 PROPOSAL.

6 Q REGARDING AGAIN THIS ONGOING LAWSUIT?

7 A AT THIS TIME IT WAS BANKRUPTCY, SO IT WAS
8 MORE BANKRUPTCY CLAIM, CORRECT.

9 Q AND ONE OF THE THINGS THAT HE SAID IS THAT
10 HE DIDN'T WANT YOU, FOR EXAMPLE, ATTACHING THE BOAT?

11 A HE MADE A REFERENCE TO THE FACT THAT HE
12 WAS WORRIED THAT WE WOULD GO AFTER THE BOAT, YES.

13 Q WHEN -- ASIDE FROM THE PART -- THE POINT
14 AT WHICH YOU ENCOURAGED SOME SETTLEMENT NEGOTIATIONS AND
15 SAT DOWN WITH THE LAWYERS AND THE ACCOUNTANTS, DID YOU
16 EVER -- AND THIS GOES BACK TO A QUESTION THAT I ASKED YOU
17 BEFORE -- DID YOU ENCOURAGE OR DISCOURAGE CONTACT BETWEEN
18 THE TWO GENTLEMEN, THOMPSON AND GOODWIN, WHEN THERE WERE
19 NO ATTORNEYS PRESENT?

20 A I CANNOT RECALL THAT. I CAN CERTAINLY SEE
21 THAT THERE WOULD HAVE BEEN SITUATIONS IN THIS CASE, MAYBE
22 A DISCREET ISSUE WHERE I WOULD HAVE RECOMMENDED THAT.
23 BUT AS A GENERAL RULE, NO.

24 Q AND DISCREET ISSUES WHERE YOU WOULD HAVE
25 RECOMMENDED THAT THERE NOT BE CONTACT BETWEEN YOUR CLIENT

1 AND MR. GOODWIN?

2 A OH, YES. I CAN FORESEE THAT THAT WOULD
3 HAVE HAPPENED.

4 Q AND AT THE POINT WHEN YOU RECEIVED THIS
5 LETTER, WERE YOU PLAYING SOME ROLE, ANY ROLE IN LAW
6 ENFORCEMENT OR IN A MURDER INVESTIGATION OR ANYTHING LIKE
7 THAT?

8 A I DON'T KNOW WHAT YOU MEAN BY "ROLE." I
9 DON'T THINK I'VE EVER PLAYED ANY ROLE IN LAW ENFORCEMENT.

10 MR. SUMMERS: NOTHING ELSE, YOUR HONOR.

11 THE COURT: ANYTHING ELSE?

12 MR. JACKSON: NO, YOUR HONOR. THANK YOU VERY
13 MUCH.

14 THE COURT: THANK YOU, SIR.

15 THE WITNESS: THANK YOU, YOUR HONOR.

16 THE COURT: YOU ARE EXCUSED.

17 MR. JACKSON: THANK YOU, YOUR HONOR.

18 OUR NEXT WITNESS I BELIEVE IS BARRON
19 WEHINGER.

20 MR. DIXON: I'LL GO GET HIM.

21

22 BARRON WEHINGER,

23 CALLED BY THE PEOPLE AS A WITNESS,

24 WAS SWORN AND TESTIFIED AS FOLLOWS:

25

1 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

2 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
3 YOU MAY 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 THE CLERK: THANK YOU. WOULD YOU PLEASE STATE
8 AND SPELL BOTH YOUR FIRST AND LAST NAME FOR THE RECORD.

9 THE WITNESS: MY NAME IS BARRON WEHINGER.
10 B-A-R-R-O-N. W-E-H-I-N-G-E-R.

11 THE CLERK: THANK YOU.

12 THE COURT: YOU MAY INQUIRE.

13 MR. DIXON: THANK YOU, YOUR HONOR.

14
15 DIRECT EXAMINATION

16 BY MR. DIXON:

17 Q GOOD AFTERNOON. THANK YOU FOR COMING.

18 I KNOW YOU CAME FROM SOME DISTANCE AND I
19 APPRECIATE IT.

20 A THANK YOU.

21 Q I WOULD LIKE TO INVITE YOUR ATTENTION BACK
22 TO 1984, MAYBE LATE 1984.

23 FIRST QUESTION: WHERE DID YOU LIVE THEN?

24 A COLORADO. DURANGO, COLORADO.

25 Q AND HAD YOU LIVED THERE FOR SOME PERIOD OF

1 TIME?

2 A YES, I DID.

3 Q WHO DID YOU LIVE THERE WITH?

4 A MY MOTHER AND MY STEPFATHER.

5 Q YOUR STEPFATHER'S NAME?

6 A TOM VILLELLI.

7 Q HOW OLD WERE YOU THEN?

8 A I WAS 16 YEARS OLD.

9 Q BECAUSE OF YOUR STEPFATHER, DID YOU KNOW
10 MIKE GOODWIN?

11 A YES.

12 Q DO YOU SEE HIM HERE IN COURT?

13 A YES.

14 Q COULD YOU POINT TO HIM AND TELL THE JUDGE
15 WHAT HE'S WEARING AND WHERE HE'S SITTING.

16 A HE'S WEARING A GREEN TIE AND A TAN JACKET
17 (INDICATING).

18 THE COURT: AND HE'S POINTING TO THE DEFENDANT,
19 MR. GOODWIN.

20 MR. DIXON: THANK YOU, YOUR HONOR.

21 Q PRIOR TO 1984 HAD YOU EVER MET HIM?

22 A MAYBE ONE TIME.

23 Q AND THE RELATIONSHIP WAS WITH YOUR
24 STEPFATHER AND MR. GOODWIN; CORRECT?

25 A YES.

1 Q WHEN YOU MET MR. GOODWIN THESE ONE OR TWO
2 TIMES, DID YOU HAVE CONVERSATIONS WITH HIM?

3 A YES.

4 Q DID YOU SHARE A COMMON INTEREST WITH
5 MR. GOODWIN?

6 A YES.

7 Q WHAT WAS THAT?

8 A MOTORCYCLES.

9 Q WHAT ABOUT MOTORCYCLES?

10 A ABOUT MOTORCROSS, ABOUT RIDING IN THE
11 SUPERBOWL MOTORCROSS.

12 Q WAS THAT -- AT THAT POINT IN YOUR LIFE
13 WHEN YOU WERE 16, WHAT THAT A PASSION FOR YOU?

14 A YES, IT WAS.

15 Q SOMETHING THAT YOU WERE VERY INTERESTED
16 IN?

17 A I WAS BECOMING A PRO.

18 Q AND BECAUSE OF MR. GOODWIN'S INVOLVEMENT,
19 YOU TALKED. AND DID HE EVER OFFER YOU ANY POSSIBLE
20 OPPORTUNITIES IN THAT AREA?

21 A YES, HE DID.

22 MS. SARIS: OBJECTION. LEADING.

23 THE COURT: SUSTAINED.

24 Q BY MR. DIXON: DID HE EVER TALK TO YOU
25 ABOUT POSSIBILITIES IN THAT SPORT?

1 A YES, HE DID.

2 Q WHAT DID HE SAY TO YOU?

3 A HE OFFERED MY BROTHER AND I -- TO SET US
4 UP WITH BRAND NEW BIKES THE NEXT DAY. AND IF WE RODE
5 FROM SEPTEMBER TO JANUARY, HE WOULD PUT US IN ONE RACE.
6 AND IF WE CAME IN THE TOP TEN IN THAT RACE, WE WOULD RIDE
7 THE SUPERBOWL OF MOTORCROSS.

8 Q WHEN WAS THAT CONVERSATION? WAS IT DURING
9 THE TIME FRAME I SUGGESTED OR WAS IT A DIFFERENT TIME?

10 A YES. IT WAS ON A SUNDAY AT ABOUT 9:00
11 O'CLOCK IN THE MORNING AT THE NEW YORK BAKERY IN DURANGO,
12 COLORADO.

13 Q IS IT CORRECT TO SAY THAT ONCE IN A WHILE
14 THE DEFENDANT WOULD COME AND VISIT YOUR FATHER AT YOUR
15 HOME?

16 A YES.

17 Q AND THIS IS ONE OF THOSE TIMES?

18 A YES.

19 Q AT THAT SAME TIME, THE SAME PERIOD OF TIME
20 THAT THE DEFENDANT SUGGESTED THE SUPERCROSS OF
21 MOTORCYCLES OPPORTUNITY TO YOU, DID YOU OVERHEAR ANOTHER
22 CONVERSATION BETWEEN MR. GOODWIN AND YOUR FATHER?

23 A YES.

24 Q WHERE WERE YOU WHEN THAT OCCURRED?

25 A I WAS DOWNSTAIRS IN THE DOWNSTAIRS BAR.

1 Q AT YOUR HOME OR --

2 A AT MY HOME.

3 Q AND WHO ELSE WAS PRESENT?

4 A MY STEPFATHER, TOM VILLELLI.

5 Q AND WHO ELSE?

6 A MY -- I BELIEVE MY FAMILY WAS THERE, BUT
7 THEY WERE UPSTAIRS.

8 Q WAS THE DEFENDANT THERE?

9 A YES.

10 Q ABOUT WHAT TIME OF THE DAY OR NIGHT WAS
11 THIS?

12 A IT WAS EVENING, BEFORE DINNER.

13 Q AND WHAT WERE YOU DOING AT THE TIME OF
14 THIS CONVERSATION?

15 A I PROBABLY HANDED HIM A BEER OR TWO AND
16 WAS SHOOTING POOL.

17 Q JUST BEFORE DINNER?

18 A CORRECT.

19 Q DID YOU -- COULD YOU FROM THAT VANTAGE
20 POINT OVERHEAR ANY CONVERSATION BETWEEN YOUR FATHER AND
21 THE DEFENDANT?

22 A YES.

23 Q AND DID YOU HEAR THE SUBJECT MATTER AT
24 THAT TIME?

25 A YES.

1 Q WHAT WAS IT?

2 A IT WAS -- DO YOU WANT ME TO SAY EXACTLY
3 WHAT I HEARD?

4 Q PLEASE.

5 A MIKE WAS SAYING, "I'LL KILL HIM."

6 Q DID HE SAY WHO HE WAS GOING TO KILL?

7 A YES.

8 Q WHO?

9 A MICKEY THOMPSON.

10 Q HE SAID HE WAS GOING TO KILL MICKEY
11 THOMPSON?

12 A YES. IF HE LOST HIS POWER TO RUN THE
13 SUPERBOWL OF MOTORCROSS, HIS MILLION-DOLLAR-A-YEAR
14 INCOME.

15 Q SO TO THE BEST OF YOUR RECOLLECTION, WHAT
16 WAS THE FULL STATEMENT OF EVERYTHING THAT YOU --

17 A THEY WERE TALKING ABOUT HIS COURT BATTLE.
18 AND NEXT YOU KNOW, I HEARD SOMETHING ABOUT KILLING HIM,
19 "I'LL KILL HIM." IT SHOCKED ME AS WELL. AND THEY WENT
20 ON DISCUSSING ABOUT MONEY AND THIS AND THAT. AND HE CAN
21 GET IT DONE FOR THIS AND HE COULD DONE GET IT DONE FOR
22 THAT. AND THAT'S WHERE I KIND OF -- THEY KIND OF STEPPED
23 ASIDE AND I STEPPED ASIDE AS WELL.

24 Q WHEN YOU HEARD THE DEFENDANT SAY I'M GOING
25 TO KILL HIM, DID THAT CATCH YOUR ATTENTION?

1 A ABSOLUTELY.

2 Q AND DID YOU PAY DIRECT ATTENTION TO WHAT
3 WAS SAID FROM THAT POINT ON TO THE BEST YOU COULD?

4 A NO. THEY ACTUALLY SIDED OFF TO THE WEIGHT
5 ROOM.

6 Q YOU MENTIONED IN AN EARLIER ANSWER SOME
7 DISCUSSION BETWEEN THE DEFENDANT AND YOUR FATHER ABOUT
8 MONEY.

9 IS THAT WHAT YOU SAID?

10 A YES.

11 Q TO THE BEST OF YOUR RECOLLECTION, CAN YOU
12 TELL THE COURT AND JURORS WHAT YOU HEARD ABOUT MONEY.

13 A I HEARD MIKE SAY, "I CAN GET IT DONE FOR
14 50 GRAND." I HEARD MY STEPFATHER SAY, "I COULD GET IT
15 DONE FOR 20 GRAND." AND THEN MIKE SAID, "I DON'T WANT TO
16 GET YOU INVOLVED, TOM." AND THAT WAS ALL I HEARD.

17 Q AS A 16-YEAR-OLD, IS THAT SOMETHING THAT
18 SURPRISED OR SHOCKED YOU?

19 A WHEN SOMEBODY OFFERS YOU A CHANCE TO RIDE
20 SUPERBOWL OF MOTORCROSS, YOU LISTEN TO EVERY WORD THEY
21 SAY. AND WHEN I HEARD THAT, I'LL NEVER FORGET IT.

22 Q IS THAT SOMETHING -- LET ME WITHDRAW AND
23 ASK YOU THIS, THIS CONVERSATION, THIS EVENT THAT WE'RE
24 TALKING ABOUT, IS THAT SOMETHING THAT'S VIVID IN YOUR
25 MEMORY EVEN TODAY?

1 A YES.

2 Q NOW, AFTER THIS, SUBSEQUENT TO THE
3 CONVERSATION THAT YOU'VE JUST TOLD US, DID YOU SEE THE
4 DEFENDANT IN YOUR HOME IN COLORADO AGAIN?

5 A YES.

6 Q CAN YOU IN ANY WAY PINPOINT THAT IN TERMS
7 OF TIME? IS THERE SOME EVENT THAT OCCURRED AT OR NEAR
8 THE TIME THAT YOU SAW THE DEFENDANT IN YOUR HOME AGAIN?

9 A YES. I WAS 20 YEARS OLD THE NEXT TIME I
10 SAW HIM.

11 Q SO THIS IS A FEW YEARS LATER?

12 A YES.

13 Q AND LET ME ASK YOU THIS: IN YOUR INTEREST
14 IN MOTOR SPORTS, AT THAT TIME HAD YOU HEARD THE NAME
15 MICKEY THOMPSON?

16 A YES.

17 Q DO YOU RECALL WHEN MICKEY THOMPSON WAS
18 MURDERED?

19 A YES.

20 Q DID YOU SEE THE DEFENDANT IN YOUR HOME
21 NEAR THAT TIME?

22 A AFTER THAT TIME, YES.

23 Q WITHIN DAYS?

24 A IT MUST HAVE BEEN AT THE TIME TOM'S MOTHER
25 CALLED HIM TO TELL TOM THAT THEY WERE LOOKING FOR MIKE

1 GOODWIN. AND MIKE GOODWIN WAS SITTING ON MY DAD'S BED.
2 AND HE WOULDN'T COME OUT AND TALK TO US BOYS LIKE HE
3 NORMALLY WOULD.

4 Q IN THE PAST WHEN YOU DEALT WITH THE
5 DEFENDANT, YOU TALKED ABOUT THE SUPERBOWL OF MOTORCROSS
6 AND MOTORCYCLES, HOW WOULD YOU CHARACTERIZE THE
7 DEFENDANT'S DEMEANOR? HE WAS A CALM, KIND OF LOW-KEY GUY
8 OR WAS HE A LITTLE --

9 A LOUD AND BOISTEROUS. YOU KNEW WHEN YOU
10 WERE TALKING TO MIKE.

11 Q WAS HE LIKE THAT ALL THE TIME?

12 A ALL THE TIME. EXCEPT FOR THE TIME THAT
13 YOU JUST ASKED ME ABOUT.

14 Q SHORTLY AFTER YOU HEARD ABOUT THE MURDERS
15 OF MICKEY THOMPSON?

16 A RIGHT.

17 Q AND HOW WAS HE THEN?

18 A HE WAS EMBARRASSED TO FACE US BOYS.

19 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.
20 MOTION TO STRIKE.

21 THE COURT: ALL RIGHT. THAT WILL BE STRICKEN.
22 SUSTAINED.

23 Q BY MR. DIXON: YOU CAN DESCRIBE HOW HE WAS
24 IN TERMS OF HIS BEHAVIOR, WHETHER IT WAS LOUD AND
25 BOISTEROUS, OR ACTING IN SOME OTHER FASHION.

1 A HE WAS ABSOLUTELY QUIET. I HANDED THE
2 PHONE TO TOM IN THE ROOM AND MIKE LOOKED AWAY.

3 MR. DIXON: THANK YOU. COULD I HAVE JUST ONE
4 MOMENT, YOUR HONOR?

5 (DISCUSSION OFF THE RECORD.)

6 MR. DIXON: THANK YOU, YOUR HONOR. NOTHING
7 FURTHER AT THIS TIME.

8 THE COURT: CROSS-EXAMINATION?

9

10 CROSS-EXAMINATION

11 BY MS. SARIS:

12 Q GOOD AFTERNOON. IS IT MR. WEHINGER?

13 A WEHINGER.

14 Q YOU CONTACTED THE POLICE IN THIS CASE ON
15 AUGUST 20TH, 2003 FOR THE FIRST TIME; IS THAT CORRECT?

16 A NO, IT ISN'T. MY FATHER DID.

17 Q YOUR FATHER DID?

18 IS ABOUT THE TIMING CORRECT, THOUGH, THE
19 2003 AREA?

20 A YES.

21 Q AUGUST 20TH -- YOU SAID SEEN THE AUGUST
22 6TH PROGRAM OF "48 HOURS"?

23 A MY FATHER DID, YES.

24 Q WERE YOU IN THE ROOM?

25 A NO.

1 Q THE AUGUST 9TH PROGRAM OF "AMERICA'S MOST
2 WANTED" OR "UNSOLVED MYSTERIES"?

3 A NO.

4 Q SO HOW MANY HAD YOU SEEN, HOW MANY
5 PROGRAMS OF THE SHOW?

6 A I SAW ONE -- IT MIGHT HAVE BEEN IN 2000.

7 Q SO YOUR FATHER SAW A PROGRAM ABOUT THE
8 SHOW AND YOU INDICATED THAT HE HAD SUGGESTED THAT HE
9 COULD HIRE A HIT MAN FOR \$20,000, YET, HE CONTACTED THE
10 POLICE?

11 A NO. NO. NO. YOU'RE TALKING ABOUT THE
12 WRONG FATHER.

13 Q YOUR ACTUAL FATHER, NOT YOUR STEPFATHER?

14 A CORRECT.

15 Q WHEN YOU CONTACTED THE POLICE -- OR WHEN
16 THEY CONTACTED YOU IN AUGUST OF 2003, IS THAT THE ONLY
17 TIME YOU SPOKE TO THEM OR DID YOU SPEAK TO THEM AGAIN IN
18 AUGUST 2004?

19 A WHO ARE YOU TALKING ABOUT?

20 Q THE POLICE.

21 A THEY CONTACTED ME WHEN I WAS LAST HERE,
22 2003, TWO YEARS AGO WHEN I SAW YOU HERE.

23 Q AND YOU TESTIFIED IN THIS VERY ROOM ON
24 THIS VERY MICROPHONE?

25 A YES.

1 Q AND YOU TOOK AN OATH AT THAT POINT TO
2 SWEAR TO TELL THE TRUTH, THE WHOLE TRUTH?

3 A YES.

4 Q DID YOU MENTION ANYTHING ABOUT THE \$50,000
5 THEN?

6 A NO.

7 Q NO.

8 DID YOU MENTION ANYTHING IN YOUR 2003
9 INTERVIEW WITH THE POLICE ABOUT THE \$50,000?

10 A I MIGHT HAVE. I DON'T REMEMBER.

11 Q WOULD LOOKING AT THE REPORT THAT THE
12 POLICE GENERATED REFRESH YOUR RECOLLECTION?

13 A SURE.

14 Q BEFORE I ASK YOU THAT, DO YOU REMEMBER
15 SPEAKING TO THE GENTLEMAN SITTING TO MY LEFT HERE, ONE OF
16 THE DISTRICT ATTORNEYS, ALAN JACKSON?

17 A YES, I DO.

18 Q DID YOU MENTION ANYTHING TO HIM WHEN YOU
19 SPOKE TO HIM ABOUT THIS \$50,000?

20 A NO.

21 Q NO. SO LET ME --

22 MAY I APPROACH, YOUR HONOR?

23 THE COURT: YES.

24 Q BY MR. SARIS: -- SHOW YOU A REPORT -- THE
25 WITNESS'S NAME IS HIGHLIGHTED IN YELLOW, DATED AT THE

1 TOP, AUGUST 20TH, 2003.

2 IF YOU COULD LOOK OVER THAT REPORT AND
3 FIRST OFF TELL ME IF YOU SEE YOUR NAME.

4 A YES.

5 Q WOULD YOU READ THAT REPORT TO YOURSELF AND
6 TELL ME IF THAT REFRESHES YOUR RECOLLECTION AS TO WHETHER
7 OR NOT YOU MENTIONED \$50,000.

8 A YES. I'VE ALREADY READ THIS REPORT AND A
9 COUPLE THINGS ARE NOT ACCURATE. AND AS IS THE FIRST LINE
10 HERE --

11 Q I'M NOT ASKING YOU TO CRITIQUE THE REPORT.
12 I'M ASKING YOU IF THE REPORT WILL HELP REFRESH YOUR
13 RECOLLECTION ABOUT THE \$50,000.

14 A YES.

15 Q DO YOU THINK READING IT WILL HELP YOU?

16 A NO. I'VE ALREADY READ THIS.

17 Q IS THERE ANYTHING --

18 MR. DIXON: OBJECTION. NO FOUNDATION THAT IT
19 WILL REFRESH THE RECOLLECTION.

20 THE COURT: SUSTAINED.

21 Q BY MS. SARIS: IS THERE ANYTHING ABOUT
22 ANYTHING YOU'VE READ THAT REFRESHES YOUR RECOLLECTION
23 ABOUT WHETHER OR NOT YOU'VE EVER TOLD A POLICE OFFICER
24 ABOUT THIS CLAIM OF \$50,000?

25 A WOULD YOU LIKE TO KNOW WHY I DIDN'T TELL

1 THEM THE LAST TIME I WAS HERE?

2 Q SIR, I'M ASKING IF YOU EVER TOLD THEM WHEN
3 YOU SPOKE TO THE POLICE, NOT IN COURT.

4 A I DON'T UNDERSTAND THE QUESTION.

5 Q YOU WERE INTERVIEWED BY THE POLICE BEFORE
6 YOU CAME TO COURT; CORRECT?

7 A CORRECT.

8 Q DID YOU EVER MENTION THIS \$50,000 TO THE
9 POLICE?

10 A NO.

11 Q DO YOU RECALL WHEN YOU TESTIFIED IN COURT
12 INDICATING THAT THIS CONVERSATION ACTUALLY OCCURRED IN
13 DECEMBER OF 1987 AND NOT 1984?

14 A CAN YOU REPEAT THE QUESTION?

15 Q SURE.

16 WHEN YOU TESTIFIED HERE ON A PRIOR
17 OCCASION, DO YOU RECALL CLAIMING THIS CONVERSATION
18 OCCURRED IN DECEMBER OF 1987?

19 A NO, I DON'T REMEMBER. I DON'T RECALL.

20 Q SO NO ONE HAS APPROACHED YOU IN THE
21 INTERVENING TIME SINCE YOU'VE TESTIFIED TO TELL YOU THAT
22 MICHAEL GOODWIN WAS OUT OF THE COUNTRY IN '87. AND,
23 THEREFORE, YOU HAVE TO CHANGE YOUR TESTIMONY ABOUT WHEN
24 THIS CONVERSATION WAS?

25 MR. DIXON: OBJECTION. ARGUMENTATIVE AND ASSUMES

1 FACTS NOT IN EVIDENCE.

2 THE COURT: SUSTAINED.

3 Q BY MS. SARIS: HAVE YOU EVER HAD A CHANCE
4 REVIEW YOUR TRANSCRIPT FROM TESTIFYING IN THIS MATTER ON
5 A PREVIOUS OCCASION?

6 A I DON'T UNDERSTAND THE QUESTION.

7 Q DID THE DISTRICT ATTORNEY OR ANYONE SHOW
8 YOU WHAT PURPORTED TO BE A TYPED TRANSCRIPT OF YOUR
9 TESTIMONY IN THIS COURT ON A PREVIOUS OCCASION?

10 A NO.

11 Q DO YOU RECALL TESTIFYING IN THIS COURT ON
12 A PREVIOUS OCCASION THAT THE DAY THE THOMPSONS WERE
13 MURDERED, MICHAEL GOODWIN WAS IN YOUR HOME?

14 A YES.

15 Q IS THAT YOUR RECOLLECTION?

16 A THE DAY OR A DAY AFTER OR SIX DAYS AFTER,
17 SOMEWHERE IN THAT TIME FRAME. WHENEVER IT WAS AIRED ON
18 T.V. AND TOM'S MOTHER CALLED THE HOUSE.

19 Q DO YOU RECALL TESTIFYING HERE, HOWEVER,
20 THAT IT WAS THE DAY OF THE MURDER?

21 MR. DIXON: OBJECTION. VAGUE. "HERE." WHEN
22 HERE?

23 THE COURT: YES. WE NEED SOME CLARIFICATION AS
24 TO THE DATE.

25 Q BY MS. SARIS: YOU TESTIFIED IN A

1 PRELIMINARY HEARING IN THIS MATTER IN OCTOBER OF 2004; IS
2 THAT CORRECT?

3 A YES.

4 Q IN THIS COURT IN FRONT OF THIS SAME JUDGE
5 IN THIS COURTROOM?

6 A YES.

7 Q AT THAT TIME DO YOU RECALL THE QUESTION
8 BEING ASKED OF YOU, "WHEN YOU LEARNED MICKEY THOMPSON HAD
9 BEEN KILLED, HOW CLOSE IN TIME WAS MIKE GOODWIN AT YOUR
10 HOUSE SITTING ON THAT BED?"

11 AND YOUR ANSWER, "FROM WHAT I CAN
12 REMEMBER, I THOUGHT IT WAS THE DAY OF THE MURDER"?

13 A THAT'S CORRECT.

14 THE COURT: WHAT PAGE?

15 MS. SARIS: SORRY. MR. WEHINGER'S TRANSCRIPT,
16 PAGE 82, LINES 22 THROUGH 27.

17 Q ARE YOU AWARE OF ANY REWARD OFFERED IN
18 THIS CASE?

19 A NO.

20 Q DO YOU RECALL WHAT MONTH OF 1984 THAT YOU
21 REMEMBER THIS CONVERSATION OCCURRING?

22 A CAN YOU REPEAT THE QUESTION?

23 Q DO YOU RECALL WHAT MONTH -- I BELIEVE YOU
24 SAID IT WAS 1984 THAT YOU HEARD THIS CONVERSATION. WHAT
25 MONTH?

1 A IT HAD TO BE SEPTEMBER, I GUESS.

2 Q AND WHY WOULD YOU GUESS THAT?

3 A BECAUSE WE -- WE WOULD HAVE TO GET A TUTOR
4 TO RIDE EIGHT HOURS A DAY TO BE ABLE TO RIDE IN THAT
5 RACE, SO IT WOULD HAVE TO BE THE BEGINNING OF SCHOOL AND
6 THAT'S USUALLY SEPTEMBER.

7 Q IS IT YOUR TESTIMONY MR. GOODWIN DECIDED
8 WHO WAS ALLOWED TO RACE IN THE MOTORCROSS EVENT?

9 A NO. HE OFFERED IT TO US IN ONE RACE. IF
10 WE CAME IN THE TOP TEN IN THAT RACE, WE'D RIDE THE
11 SUPERBOWL OF MOTORCROSS.

12 Q AND A.M.A. SANCTIONED EVENT THAT YOU NEED
13 TO HAVE "X" NUMBER OF POINTS TO PARTICIPATE IN, HE WAS
14 GOING TO SOMEHOW GET A 16-YEAR-OLD TO RACE IN?

15 MR. DIXON: OBJECTION. ARGUMENTATIVE. ASSUMES
16 FACTS NOT IN EVIDENCE.

17 THE COURT: SUSTAINED.

18 Q BY MS. SARIS: IS THE SUPERBOWL, TO YOUR
19 KNOWLEDGE, A.M.A. SANCTIONED, AMERICAN MOTORCYCLE
20 ASSOCIATION?

21 A AT THAT TIME I DIDN'T KNOW.

22 Q DO YOU KNOW ANYTHING ABOUT A POINT SYSTEM
23 IN MOTORCROSS?

24 A YES.

25 Q DOES ANY RIDER GET TO RIDE IN A SUPERBOWL

1 OR DOES ONE NEED TO ACHIEVE A CERTAIN LEVEL OF POINTS?

2 MR. DIXON: OBJECTION. VAGUE. WHEN?

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: IN 1984, DO YOU NOW, WAS
5 THERE A POINT REQUIREMENT TO RIDE IN A SUPERBOWL OF
6 MOTORCROSS?

7 A IN 1984, NO, I DIDN'T KNOW.

8 Q DO YOU RECALL THE NAME OF THE FIRST
9 DETECTIVE YOU SPOKE TO ON THIS CASE?

10 A MARK LILLIENFELD.

11 Q DO YOU RECALL TESTIFYING IN THIS COURT ON
12 A PREVIOUS OCCASION THAT THE ONLY THING YOU HEARD
13 MR. GOODWIN SAY WAS HE WOULD HAVE HIM TAKEN CARE OF IF HE
14 LOST?

15 A YES.

16 Q HOW OFTEN DID YOU SEE MR. GOODWIN IN THE
17 LATE '80S?

18 A MAYBE ONCE OR TWICE A YEAR.

19 Q HAD YOU BEEN DRINKING AT THE TIME THAT YOU
20 HAD THIS CONVERSATION WITH MR. GOODWIN THAT YOU RELATED
21 TO US?

22 A NO.

23 Q DID YOU TELL US IN PRIOR TESTIMONY THAT
24 EVEN THOUGH YOU WERE ONLY 16 OR 17 YEARS OLD, YOU WERE
25 ALLOWED TO DRINK AFTER RIDING MOTORCYCLES WITH

1 MR. GOODWIN?

2 A WITH MY FATHER, YES.

3 Q AND DID YOU TELL US AT THAT TIME THAT, IN
4 FACT, YOU HAD BEEN DRINKING DURING THIS CONVERSATION?

5 A I DON'T RECALL. I DON'T KNOW WHAT YOU
6 CONSIDER DRINKING. I WAS ONLY 16 YEARS OLD. I WASN'T
7 DRINKING. I WAS ALLOWED TO HAVE A BEER AFTER DINNER OR
8 AFTER A RIDE, BUT AT THE TIME OF THE CONVERSATION, NO, I
9 WASN'T DRINKING.

10 Q DID YOU TELL US IN A PRIOR TESTIMONY IN
11 THIS MATTER THAT MR. GOODWIN SPENT CHRISTMAS OF 1987 WITH
12 YOUR FAMILY AND THAT'S WHEN YOU HEARD THIS CONVERSATION?

13 A I DON'T RECALL THAT.

14 Q DO YOU RECALL WHETHER OR NOT WHEN YOU HEAR
15 THIS CONVERSATION ANY SORT OF LEGAL ACTIVITY WAS GOING ON
16 BETWEEN MR. GOODWIN AND MR. THOMPSON?

17 A CAN YOU REPEAT THE QUESTION?

18 Q SURE.

19 DO YOU KNOW WHETHER OR NOT ANY LITIGATION
20 HAD HAPPENED, ANY LAWSUITS HAD BEEN FILED WITH THESE
21 INDIVIDUALS IN COURT OR JUST HAVING A DISPUTE?

22 A NO. I HEARD THAT THERE WAS A COURT CASE.
23 AND IF HE HAD LOST HIS COURT CASE AND LOST HIS MILLION
24 DOLLAR A YEAR INCOME, HE WOULD DO WHAT HE SAID HE WOULD
25 DO.

1 Q A MILLION DOLLAR A YEAR INCOME, WAS THAT
2 ALSO PART OF HIS CONVERSATION?

3 A YES.

4 Q DID YOU MENTION THAT IN ANY OF YOUR
5 PREVIOUS STATEMENTS?

6 A I DON'T RECALL.

7 Q DID YOU CONTACT -- WHEN YOU SAY YOUR
8 STEPFATHER WAS IN THE ROOM AT THE TIME, DID YOU TELL
9 ANYONE -- HAVE YOU TOLD ANYONE BEFORE TODAY THAT YOUR
10 STEPFATHER WAS ABLE TO DO THIS APPARENT CRIME FOR
11 \$20,000.

12 MR. DIXON: OBJECTION. THAT ASSUMES FACTS NOT IN
13 EVIDENCE. THAT'S NOT IN EVIDENCE. MISSTATES THE
14 TESTIMONY.

15 THE COURT: YES. SUSTAINED ON THAT GROUND.

16 Q BY MS. SARIS: DID YOU TELL US THAT,
17 QUOTE, FROM YOUR STEPFATHER, "I WOULD GET IT DONE FOR
18 \$20,000"?

19 A WHEN?

20 Q JUST NOW, A COUPLE MINUTES --

21 A YES.

22 Q AND DID YOU CALL THE POLICE AND TELL THEM
23 THAT YOUR STEPFATHER WAS MAKING THESE THREATS?

24 A MY STEPFATHER NEVER MADE ANY THREATS.

25 Q HE WAS JUST SAYING THAT HE COULD HIRE A

1 HIT MAN CHEAP?

2 A WHAT'S THE QUESTION?

3 Q THE COMMENT THAT YOU TOLD US I BELIEVE YOU
4 ATTRIBUTED TO YOUR STEPFATHER. AM I CONFUSING IT WITH
5 YOUR FATHER, I WOULD GET IT DONE FOR \$20,000?

6 A AND?

7 Q IS THAT ATTRIBUTABLE TO YOUR STEPFATHER OR
8 FATHER?

9 A MY STEPFATHER.

10 Q HAD YOU CALLED THE POLICE EVER AND ADVISED
11 THEM THAT YOUR STEPFATHER HAD SAID THIS?

12 A NO.

13 Q DID YOU TALK TO ANY MEMBER OF
14 MR. THOMPSON'S FAMILY BEFORE YOU TALKED TO THE POLICE?

15 A NO.

16 Q "NO"?

17 A NO.

18 Q HAVE YOU SUBSEQUENTLY?

19 A NO.

20 Q DO YOU RECALL TELLING -- WELL, DID YOU
21 EVER CALL IN TO ONE OF THESE CALL-IN SHOWS OF "UNSOLVED
22 MYSTERIES" OR "AMERICA'S MOST WANTED"?

23 A YES.

24 Q AND DO YOU REMEMBER WHEN THAT WOULD HAVE
25 BEEN?

1 A THAT WOULD HAVE BEEN 1999, SOMEWHERE IN
2 THERE.

3 Q AND DID YOU GIVE THIS INFORMATION AT THAT
4 TIME?

5 A NO. THE LADY WOULDN'T TAKE ANY OF MY
6 INFORMATION FROM ME AT ALL.

7 Q SO DID YOU CALL --

8 A SHE SAID THE CRIME WAS SOLVED AND THAT
9 THEY WERE NO LONGER TAKING CALLS.

10 Q THIS WAS IN 1999?

11 A THEREABOUTS. IT HAD TO BE BEFORE 2000,
12 BEFORE I GOT MY NEW TRUCK, SO IT WAS AROUND THERE.

13 Q SO YOU SAW A PROGRAM ON THE TELEVISION AND
14 IT HAD A NUMBER AT THE BOTTOM OF THE SCREEN?

15 A CORRECT.

16 Q AND YOU CALLED THAT NUMBER AND THE LADY
17 SAID SHE WOULDN'T TAKE YOUR INFORMATION?

18 A CORRECT. IT WAS YEARS LATER WHEN MY
19 FATHER CALLED.

20 Q YOU INDICATED THAT YOU DIDN'T RECALL
21 SPECIFICALLY WHETHER OR NOT MR. GOODWIN -- OR YOU'VE
22 TESTIFIED THAT MR. GOODWIN SPENT CHRISTMAS OF '87 WITH
23 YOUR FAMILY.

24 DO YOU KNOW, AS YOU SIT HERE, WHETHER OR
25 NOT HE DID?

1 A IT'S HARD TO REMEMBER THAT FAR BACK.

2 Q DO YOU RECALL TESTIFYING AT A PREVIOUS
3 HEARING IN THIS MATTER -- COUNSEL, PAGE 96, LINES 27 AND
4 28 -- THE QUESTION WAS ASKED, "DO YOU RECALL WHETHER OR
5 NOT MR. GOODWIN SPENT CHRISTMAS WITH YOUR FAMILY IN
6 1987?"

7 ANSWER: "YES, I DO."

8 AND THE QUESTION: "AND DID HE?"

9 ANSWER: "I THINK HE DID. YES, HE DID."

10 DO YOU RECALL THAT TESTIMONY?

11 A YES.

12 Q AND DO YOU RECALL TELLING US IN THIS COURT
13 THAT THE CONVERSATION YOU HEARD BETWEEN MICHAEL GOODWIN
14 AND YOUR STEPFATHER WAS, IN FACT, IN DECEMBER 1987?

15 A NO.

16 Q AND YOU'VE NOT BEEN SHOWN ANY INFORMATION
17 BETWEEN NOW AND THEN THAT WOULD MAKE YOU CHANGE YOUR
18 TESTIMONY REGARDING THE DATE OF THIS CONVERSATION?

19 A NO.

20 Q SO TO THE BEST OF YOUR RECOLLECTION, THIS
21 CONVERSATION WAS 1984?

22 A CORRECT.

23 Q AND NOW YOU RECALL THAT THE COMMENT WAS
24 "I'LL KILL HIM," NOT "I'LL TAKE CARE OF HIM"?

25 A YES.

1 Q AND WHEN YOU TESTIFIED TWO YEARS AGO IN
2 COURT, THE COMMENT WAS STILL "I'LL TAKE CARE OF HIM."
3 THIS IS THE FIRST TIME "I'LL KILL HIM" HAS COME UP; IS
4 THAT RIGHT?

5 A THAT'S RIGHT. I DIDN'T WANT TO GET MY
6 FOLKS INVOLVED. AND NOW MY MOTHER'S DEAD, SO I CAN SAY
7 WHAT I HEARD.

8 Q YOUR MOTHER WOULD HAVE BEEN INVOLVED IN
9 THIS?

10 A I DON'T KNOW. I DIDN'T WANT TO GET THEM
11 INVOLVED IN IT. AND NOW MY MOTHER'S PASSED ON, GOD REST
12 HER SOUL, SO NOW I CAN SAY WHAT I REALLY HEARD.

13 Q SO WHEN YOU CAME INTO THIS COURT, DID YOU
14 ADVISE THE DISTRICT ATTORNEYS THAT WHEN YOU TOOK AN OATH
15 TO TELL THE TRUTH THAT YOU WERE GOING TO HOLD BACK
16 BECAUSE OF WORRYING ABOUT EMBARRASSING YOUR FAMILY?

17 A NO ONE ASKED ME --

18 MR. DIXON: OBJECTION. ARGUMENTATIVE.

19 THE COURT: SUSTAINED.

20 MR. DIXON: THANK YOU.

21 Q BY MS. SARIS: DID YOU INDICATE TO US IN
22 ANY WAY THAT YOU WERE NOT WILLING TO SAY THE EXACT QUOTE
23 BECAUSE OF ANY EMBARRASSMENT TO YOUR FAMILY WHEN YOU
24 TESTIFIED UNDER OATH IN COURT?

25 MR. DIXON: SAME OBJECTION. ARGUMENTATIVE.

1 THE COURT: SUSTAINED.

2 Q BY MS. SARIS: THE DIFFERENCE BETWEEN "I'M
3 GOING TO TAKE CARE OF HIM" AND "I'LL KILL HIM" WOULD
4 SOMEHOW EMBARRASS YOUR FAMILY?

5 MR. DIXON: OBJECTION. ARGUMENTATIVE.

6 THE COURT: SUSTAINED.

7 MS. SARIS: MAY WE APPROACH, YOUR HONOR?

8 THE COURT: NOT AT THIS POINT. SEE IF YOU CAN
9 REPHRASE THAT QUESTION.

10 Q BY MS. SARIS: THE PHRASING OF THE QUOTE
11 THAT YOU GAVE US IN 2004 WHEN YOU TESTIFIED UNDER OATH
12 WAS THAT YOU HEARD MICHAEL GOODWIN SAY, "I'LL TAKE CARE
13 OF HIM"; IS THAT CORRECT?

14 A YES, THAT IS CORRECT.

15 Q AND NOW THE PHRASING OF THE QUOTE THAT YOU
16 ARE TELLING US IN 2006 IS YOU HEARD MICHAEL GOODWIN SAY,
17 "I'LL KILL HIM"?

18 A THAT IS CORRECT.

19 Q CAN YOU EXPLAIN TO ME HOW THAT WOULD
20 EMBARRASS YOUR FAMILY SUCH THAT YOU WOULD CHANGE YOUR
21 TESTIMONY UNDER OATH?

22 MR. DIXON: OBJECTION. ARGUMENTATIVE.

23 THE COURT: YOU CAN ANSWER THAT.

24 OVERRULED.

25 THE WITNESS: I HAVE ANSWERED EVERY QUESTION AS

1 TRUTHFULLY AS I CAN REMEMBER.

2 MS. SARIS: MAY I HAVE JUST A MOMENT?

3 (DISCUSSION OFF THE RECORD.)

4 Q BY MS. SARIS: WHAT WAS YOUR UNDERSTANDING
5 OF GOODWIN'S ROLE IN MOTORCYCLE RACES?

6 A HE PUT ON THE SUPERBOWLS OF MOTORCROSS.

7 Q WHAT YOU SAY "PUT ON," WHAT DID YOU THINK
8 THAT HE DID?

9 A HE WAS THE MANAGER OF PUTTING IT
10 ALTOGETHER. GETTING THE RIDERS, GETTING THE SPONSORS. I
11 DON'T KNOW.

12 Q WERE YOU PARTICULARLY CLOSE WITH YOUR
13 STEPFATHER, OR ARE YOU PARTICULARLY CLOSE?

14 A NOW? NO.

15 Q IN 1984?

16 A I WAS AS CLOSE AS ANY KID IS TO A
17 STEPFATHER, YES. WE RODE, WE HUNTED, WE FISHED.

18 Q AND WHAT ABOUT IN 2003?

19 MR. DIXON: OBJECTION. RELEVANCY.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER THAT.

22 THE WITNESS: I HAVEN'T SPOKE TO TOM IN
23 12 YEARS SINCE THEN, OR LONGER.

24 Q BY MS. SARIS: IS THERE ANYONE THAT YOU
25 TOLD THAT THE COMMENT -- PRIOR TO TODAY, IS THERE ANYONE

1 IN LAW ENFORCEMENT THAT YOU'VE REPEATED THE COMMENT TO OF
2 "I'LL KILL HIM" AND THE \$50,000?

3 A NO.

4 MS. SARIS: I HAVE NOTHING FURTHER.

5 THE COURT: REDIRECT?

6 MR. DIXON: NO. THANK YOU, YOUR HONOR. NO
7 FURTHER QUESTIONS.

8 THE COURT: THANK YOU, SIR. YOU ARE FREE TO GO.
9 THANKS FOR COMING.

10 MR. JACKSON: THANK YOU, YOUR HONOR. WE'RE GOING
11 TO ASK DOLORES CORDELL TO JOIN US.

12 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

13
14 DOLORES CORDELL,
15 CALLED BY THE PEOPLE AS A WITNESS,
16 WAS SWORN AND TESTIFIED AS FOLLOWS:

17
18 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,
19 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
20 NAME FOR THE RECORD.

21 THE WITNESS: DOLORES, D-O-L-O-R-E-S, CORDELL,
22 C-O-R-D-E-L-L.

23 THE CLERK: THANK YOU.

24 THE COURT: I MAY INQUIRE.

25 MR. JACKSON: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION

BY MR. JACKSON:

Q MS. CORDELL, WHAT DO YOU DO FOR A LIVING,
MA'AM?

A I'M AN ATTORNEY.

Q HOW LONG HAVE YOU BEEN PRACTICING?

A ABOUT 27 YEARS.

Q AND ARE YOU LICENSED TO PRACTICE HERE IN
THE STATE OF CALIFORNIA?

A YES, I AM.

Q HAVE YOU BEEN LICENSED TO PRACTICE HERE IN
CALIFORNIA THE ENTIRE TIME THAT YOU'VE BEEN AN ATTORNEY?

A YES.

Q DO YOU ASSOCIATE WITH A PARTICULAR LAW
FIRM?

A YES. CLARK AND TREVITHICK.

Q HOW LONG HAVE YOU BEEN WITH CLARK AND
TREVITHICK?

A SINCE 1979.

Q AND DURING THE COURSE OF YOUR TENURE WITH
CLARK AND TREVITHICK, DID YOU EVER HAVE AN OCCASION TO
PRACTICE OR TO WORK ON THE CASE OF MICKEY THOMPSON OR
MICKEY THOMPSON ENTERTAINMENT GROUP VERSUS MICHAEL
GOODWIN AND/OR STADIUM MOTOR SPORTS CORPORATION OR

1 ENTERTAINMENT SPECIALTIES, INC.?

2 A YES.

3 Q WHEN DID YOU FIRST MEET MICKEY THOMPSON?

4 A THE FIRST -- I MAY HAVE MET HIM LIKE IN
5 THE HALLWAYS OF CLARK AND TREVITHICK SOMETHING LIKE THAT.
6 BUT THE FIRST TIME I REALLY HAD ANY SERIOUS CONTACT WITH
7 HIM WAS IN MAY OF 1986.

8 Q DID YOU MEET HIM IN YOUR PROFESSIONAL
9 CAPACITY OR IN A SOCIAL EVENT, OR WHAT?

10 A PROFESSIONAL CAPACITY. I APPEARED ON HIS
11 BEHALF AT A HEARING, A POST-JUDGMENT HEARING IN HIS CASE
12 AGAINST MIKE GOODWIN.

13 Q NOW, IN YOUR POSITION, AT CLARK AND
14 TREVITHICK I WANT TO DRAW YOUR ATTENTION BACK TO THE
15 '80S.

16 IN THE MID '80S, MID TO LATE '80S, WHAT
17 WAS YOUR TITLE OR POSITION IN CLARK AND TREVITHICK?

18 A I WAS AN ASSOCIATE AND THEN I BECAME A
19 PARTNER SOMETIME AROUND -- I BELIEVE IT WAS 1984.

20 Q DID YOU HAVE ANY KIND OF SPECIALTY?

21 A YES. I DID A LOT OF COLLECTIONS ON
22 JUDGMENT AND CREDITOR WORK.

23 Q WERE YOU ASKED BY PHIL BARTINETTI -- BY
24 THE WAY, DO YOU KNOW PHIL BARTINETTI?

25 A OH, YES.

1 Q HOW DO YOU KNOW HIM?

2 A HE WAS A PARTNER AT CLARK AND TREVITHICK
3 WHO TRAINED ME AS A LITIGATOR.

4 Q OKAY. YOU SAID THAT YOU DID A LOT OF
5 COLLECTING OF JUDGMENTS AND LEVYING ON ASSETS AND THINGS
6 OF THAT NATURE; CORRECT?

7 A YES.

8 Q MS. CORDELL, WHAT EDUCATION, TRAINING AND
9 BACKGROUND QUALIFIED YOU TO ENGAGE IN THAT SORT OF
10 PRACTICE OF LAW?

11 A WELL, I HAD -- OBVIOUSLY I HAD A LAW
12 DEGREE. I WAS A LICENSED ATTORNEY AND I HAD ENGAGED IN A
13 LOT OF WHAT ARE CALLED PREJUDGMENT REMEDIES; ATTACHMENTS;
14 WORKING WITH THE SHERIFF'S DEPARTMENT; READING, OF
15 COURSE, THE SIGNIFICANT LEGAL WORKS ON HOW YOU LEVY ON
16 ASSETS AND HOW YOU HANDLE COLLECTION OF JUDGMENTS TAKING
17 SEMINARS.

18 Q ARE YOU A MEMBER OR HAVE YOU EVER BEEN A
19 MEMBER OF THE LOS ANGELES COUNTY BAR ASSOCIATION?

20 A YES.

21 Q DOES THE LOS ANGELES COUNTY BAR
22 ASSOCIATION HAVE ANY KIND OF PREJUDGMENT REMEDY SECTION
23 OR ANY TRAINING IN THAT AREA?

24 A NOT WHEN I FIRST STARTED PRACTICING LAW,
25 BUT I BECAME ONE OF THE FOUNDING MEMBERS OF THE

1 LOS ANGELES COUNTY BAR ASSOCIATION PROVISIONAL AND
2 POST-JUDGMENT REMEDIES SECTION, WHICH IS QUITE A
3 MOUTHFUL. BUT BASICALLY I WAS ON THE EXECUTIVE COMMITTEE
4 AND I LATER BECAME THE CHAIRMAN OF THAT COMMITTEE.

5 WHAT WE DID IS DEAL WITH VARIOUS ISSUES
6 INVOLVING THINGS SUCH AS COLLECTION OF JUDGMENTS,
7 INJUNCTIONS AND RECEIVERSHIPS.

8 Q OKAY. WERE YOU TASKED WITH THE
9 RESPONSIBILITY OF LOOKING IN TO -- WELL, LET ME ASK YOU
10 THIS FIRST OF ALL, DID YOU EVER MEET MICHAEL GOODWIN?

11 A YES. MANY TIMES.

12 Q DO YOU SEE HIM HERE IN COURT?

13 A YES, I DO.

14 Q WHERE IS HE SEATED AND WHAT IS HE WEARING,
15 MA'AM?

16 A HE'S SEATED THERE (INDICATING), WEARING A
17 TAN JACKET AND A KIND OF GREENISH TIE.

18 THE COURT: IDENTIFYING MR. GOODWIN, FOR THE
19 RECORD.

20 MR. JACKSON: THANK YOU.

21 Q WHEN DID YOU FIRST MEET MICHAEL GOODWIN?

22 A I BELIEVE IT WAS IN MAY OF 1986 AT THE
23 HEARING THAT I FIRST REPRESENTED MICKEY THOMPSON AT.

24 Q WERE YOU TASKED BY CLARK AND TREVITHICK OR
25 ANYBODY ELSE WITH THE RESPONSIBILITY OF LOOKING INTO MIKE

1 GOODWIN'S PERSONAL ASSETS AND BUSINESS ASSETS,
2 SPECIFICALLY WITH AN EYE TOWARD DETERMINING WHAT THOSE
3 ASSETS WERE?

4 A YES. PHIL BARTINETTI ASKED ME TO DO THAT.

5 Q WHAT DID YOUR INVESTIGATION REVEAL? I
6 SHOULD START BY ASKING YOU WHEN THIS WAS, MS. CORDELL, I
7 APOLOGIZE FOR INTERRUPTING YOU.

8 A THIS WOULD HAVE BEEN IN MAYBE APRIL OR MAY
9 OF 1986.

10 Q OKAY. IN APRIL OR MAY OF 1986, WHAT DID
11 YOU -- WHAT -- HOW DID YOU START THIS PROCESS?

12 A I BELIEVE THE FIRST THING WE DID, WHICH
13 WOULD HAVE BEEN FAIRLY ROUTINE, WAS WE CONTACTED TRANS
14 WEST INVESTIGATIONS, WHICH WAS A PRIVATE INVESTIGATION
15 FIRM AND ASKED THEM TO DO A ROUTINE ASSET SEARCH ON
16 MICHAEL GOODWIN AND ON HIS CORPORATION, STADIUM MOTOR
17 SPORTS CORPORATION.

18 Q AS A RESULT OF THAT SEARCH, WERE YOU ABLE
19 TO DETERMINE WHETHER OR NOT MICHAEL GOODWIN HAD ANY
20 PERSONAL ASSETS OF ANY VALUE OR WHETHER OR NOT STADIUM
21 MOTOR SPORTS CORPORATION WAS A SOLVENT COMPANY OR HAD
22 ASSETS OF ITS OWN?

23 MR. SUMMERS: OBJECTION. FOUNDATION, YOUR HONOR.

24 THE COURT: ALL RIGHT. I'LL SUSTAIN IT.

25 REPHRASE IT.

1 Q BY MR. JACKSON: WHAT DID YOU DETERMINE
2 FROM THE RESEARCH THAT -- WELL, LET ME ASK IT THIS WAY:
3 YOU HIRED A PRIVATE INVESTIGATIVE FIRM;
4 CORRECT?

5 A YES.

6 Q THAT INVESTIGATIVE FIRM LOOKED INTO THE
7 DEFENDANT'S PERSONAL ASSETS AND BUSINESS ASSETS UNDER
8 STADIUM MOTOR SPORTS CORPORATION; CORRECT?

9 A CORRECT.

10 Q WERE YOU THEN GIVEN REPORTS ABOUT THOSE
11 ASSETS?

12 A YES, I WAS.

13 Q WHAT DID YOU DO WHEN YOU FINALLY GOT THOSE
14 REPORTS?

15 A OUR INITIAL STEP WAS TO GET -- THIS WOULD
16 HAVE BEEN, AGAIN, ROUTINE, THAT WE WOULD GO AND GET
17 WHAT'S CALLED A WRIT OF EXECUTION FROM THE COURT.
18 BECAUSE WHEN YOU HAVE A JUDGMENT AGAINST SOMEONE, IT
19 ISN'T THAT THAT PERSON THEN HAS TO SIMPLY WRITE YOU A
20 CHECK AND HAND YOU THE MONEY. YOU HAVE TO GO FIND THE
21 ASSETS OF THAT PERSON IF THEY DON'T VOLUNTARILY PAY YOU.

22 AND THEN YOU HAVE TO HAVE THE SHERIFF OR
23 THE MARSHAL GO OUT AND SERVE THESE WRITS OF EXECUTION
24 EITHER ON THEIR BANK OR ON PEOPLE WHO MAY OWE THE
25 JUDGMENT CREDITOR MONEY. AND THEN YOU TRY TO COLLECT

1 THAT MONEY FROM PEOPLE WHO ARE HOLDING ASSETS THAT BELONG
2 TO THE JUDGMENT CREDITOR -- OR THE JUDGMENT DEBTOR,
3 RATHER.

4 Q WERE YOU AWARE OF THE JUDGMENT THAT MICKEY
5 THOMPSON HELD AGAINST MIKE GOODWIN?

6 A YES.

7 Q I GUESS YOUR LAST ANSWER BEGS THE
8 QUESTION: WHY DIDN'T YOU JUST CONTACT MIKE GOODWIN AND
9 SAY WRITE US A CHECK?

10 MR. SUMMERS: OBJECTION. LEADING. MISSTATES THE
11 EVIDENCE -- OR ASSUMES FACTS NOT IN EVIDENCE.

12 THE COURT: OVERRULED.

13 YOU CAN ANSWER.

14 Q BY MR. JACKSON: WHY DIDN'T DO YOU THAT?

15 A THAT WASN'T MY ROLE IN THIS. PHIL
16 BARTINETTI MAY HAVE DONE THAT.

17 AND ALSO, THE HEARING THAT I APPEARED AT
18 IN -- WHAT DID I SAY? -- IT WAS MAY OF 1986, WAS A
19 HEARING WHERE MIKE GOODWIN HAD GONE INTO COURT AND ASKED
20 THE JUDGE TO PREVENT US FROM GOING AFTER ANY OF HIS
21 ASSETS UNTIL HE COULD APPEAL THE JUDGMENT.

22 TYPICALLY YOU CANNOT STOP AN EXECUTION ON
23 A JUDGMENT, YOU CAN'T STOP THE JUDGMENT CREDITOR FROM
24 GOING AFTER YOUR ASSETS UNLESS YOU POST A CASH BOND. IN
25 THIS CASE, THE CASH BOND WOULD HAVE BEEN OVER A MILLION

1 DOLLARS. AND MIKE GOODWIN EITHER DIDN'T HAVE OR WAS
2 REPRESENTING HE DIDN'T HAVE THAT MONEY.

3 Q ALL RIGHT. WHO WOULD THAT BOND NORMALLY
4 BE POSTED WITH?

5 A IT WOULD BE POSTED WITH THE COURT.

6 Q SO WHAT HAPPENED WHEN MIKE GOODWIN WENT
7 INTO COURT AND ASKED FOR A STAY OF EXECUTION ON ANY OF
8 THE WRITS UNTIL HE FILED AN APPEAL?

9 A THE JUDGE DENIED THAT MOTION.

10 Q SO WAS MICKEY THOMPSON, THROUGH YOUR LAW
11 FIRM, IN A POSITION TO BEGIN GOING AFTER THAT JUDGMENT --
12 COLLECTING ON THE JUDGMENT?

13 A YES, IT WAS.

14 Q AND DID YOU, IN FACT, START DOING THAT?

15 A YES, WE DID.

16 Q SO THERE WAS NO VOLUNTARY OFFER BY MIKE
17 GOODWIN TO PAY THE JUDGMENT IN TOTAL?

18 A NOT THAT I AM AWARE.

19 Q IF THERE HAD BEEN, WOULD YOU HAVE HAD TO
20 ENGAGE IN THIS COLLECTION EFFORT?

21 MR. SUMMERS: OBJECTION. CALLS FOR SPECULATION.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER.

24 THE WITNESS: IF HE HAD OFFERED TO PAY, NO, WE
25 WOULDN'T HAVE ENGAGED IN THAT. IN FACT, THAT'S NORMALLY

1 WHAT HAPPENS IN A CASE.

2 Q BY MR. JACKSON: ALL RIGHT. YOU INDICATED
3 THAT YOU BEGAN THE PROCESS OF LEVYING ON CERTAIN ASSETS.

4 WHAT DID YOU BEGIN TO LEVY ON OR COLLECT
5 AGAINST ON FIRST?

6 A I BELIEVE THE FIRST THING WAS WE SENT OUT
7 A WRIT TO HAVE MR. GOODWIN'S MERCEDES PICKED UP. IT WAS,
8 YOU KNOW, A CAR WORTH MANY THOUSANDS OF DOLLARS, SO WE
9 DID THAT.

10 Q WHEN WAS THAT, APPROXIMATELY?

11 A I BELIEVE THAT WAS ABOUT JUNE OR JULY OF
12 1986. IT TAKES A LITTLE WHILE TO GET ALL THIS PAPERWORK
13 TOGETHER.

14 Q ALL RIGHT. AND WAS THAT A SUCCESSFUL
15 COLLECTION ATTEMPT ON YOUR PART?

16 A THE MERCEDES WAS PICKED UP BY THE SHERIFF.
17 HOWEVER, AFTER THEY GOT THE MERCEDES, IT TURNED OUT THAT
18 MR. GOODWIN'S BANK -- I THINK IT WAS LANDMARK BANK -- HAD
19 A SIGNIFICANT LIEN ON THE MERCEDES, SO THERE REALLY
20 WASN'T MUCH VALUE LEFT THAT WOULD HAVE RESULTED IN ANY
21 MONEY OF ANY CONSEQUENCE BEING PAID TO MICKEY THOMPSON.

22 Q SO ULTIMATELY WHAT HAPPENS TO AN ASSET
23 LIKE THAT THAT'S -- LET ME USE THE TERM "UPSIDE DOWN" --
24 WHAT HAPPENS TO AN UPSIDE ASSET LIKE THAT?

25 A YOU JUST RELEASE IT. IT'S NOT WORTH YOUR

1 TIME AND MONEY TO GO AFTER IT.

2 Q SO AS FAR AS YOU KNOW, MIKE GOODWIN MAY
3 HAVE GOT THAT MERCEDES BACK?

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

5 Q BUT BASED ON THE ATTEMPT TO COLLECT --
6 BASED ON THE ATTEMPTS TO COLLECT ON THE ASSETS TO BEGIN
7 WITH, YOUR UNDERSTANDING IS THE MERCEDES WAS, IN FACT,
8 PHYSICALLY TAKEN FROM HIM AT LEAST FOR A TIME?

9 A YES.

10 Q DID YOU UNDERTAKE TO DO ANY JUDGMENT
11 DEBTOR EXAMS IN ORDER TO FIND OUT WHAT ASSETS MIKE
12 GOODWIN OR HIS COMPANY MAY HAVE?

13 A YES, WE DID.

14 Q AND WHAT DOES A JUDGMENT DEBTOR
15 EXAMINATION LOOK LIKE?

16 A OKAY. YES. WELL, SOMETHING I HAD TO
17 LEARN WHEN I WENT INTO PRACTICE, TOO.

18 WHAT HAPPENS IS YOU GET AN ORDER FROM THE
19 COURT DIRECTING THE JUDGMENT DEBTOR OR OTHER PEOPLE WHO
20 MAY HAVE SOME ASSETS THAT BELONG TO THE JUDGMENT DEBTOR,
21 ORDERING THOSE PEOPLE TO APPEAR IN COURT. YOU GO IN
22 BEFORE THE JUDGE AND THE COURT CLERK SWEARS IN THE
23 JUDGMENT DEBTOR OR WHOEVER THE WITNESS IS. THEN THE
24 ATTORNEY AND THE WITNESS GO INTO A ROOM THAT THEY HAVE AT
25 THE COURTHOUSE -- AND THIS WOULD HAVE BEEN THE DOWNTOWN

1 L.A. -- SOMETIMES -- WE HAD COURT REPORTERS THERE TO TAKE
2 DOWN THE TESTIMONY.

3 AND IT'S KIND OF LIKE A DEPOSITION. AND
4 YOU ASK QUESTIONS OF THE JUDGMENT DEBTOR OR WHOEVER THE
5 WITNESS IS ABOUT THE ASSETS OF THE JUDGMENT DEBTOR SO YOU
6 CAN TRY TO LOCATE WHERE ARE THE BANK ACCOUNTS? DO YOU
7 OWN ANY STOCK? DO YOU HAVE ANY REAL PROPERTY?
8 DO YOU HAVE ANY BOATS OR ANY KIND OF ASSETS YOU CAN THINK
9 OF?

10 AND WE -- AND IF THE PERSON REFUSES TO
11 ANSWER THOSE QUESTIONS, WHAT THE ATTORNEY FOR THE
12 JUDGMENT CREDITOR DOES IS SIMPLY TAKES THAT WITNESS BACK
13 IN BEFORE THE JUDGE AND ASKS THE JUDGE TO ORDER THE
14 WITNESS TO ANSWER THE QUESTION.

15 Q SO THIS CAN GET -- TO SAY THE LEAST, IT
16 SOUNDS LIKE VERY PERSONAL.

17 A IT GETS VERY PERSONAL. I BELIEVE I'VE
18 EVEN HAD PEOPLE ASK FOR THE CHANGE OUT OF THEIR POCKETS
19 JUST TO SEE WHAT THEY WERE CARRYING WITH THEM. SOMETIMES
20 IT TURNS UP SURPRISING INFORMATION.

21 Q SO IT'S NOT -- YOU'RE SAYING THAT PEOPLE
22 HAVE ACTUALLY TURNED THEIR POCKETS INSIDE OUT AT A
23 JUDGMENT DEBTOR EXAM?

24 A YES.

25 Q WOW.

1 BUSINESS ASSETS, WERE YOU ABLE TO SECURE
2 ANY BUSINESS ASSETS UNDER THE BUSINESS NAME STADIUM MOTOR
3 SPORTS CORPORATION?

4 A WHAT WE DID IS WE SERVED A WRIT, A WRIT OF
5 EXECUTION ON THE LOS ANGELES COUNTY COLOSSEUM. THE
6 STADIUM MOTOR SPORTS CORPORATION WAS RUNNING A RACE THERE
7 IN JULY OF 1986. THERE WERE PROCEEDS OF THAT RACE THAT
8 THE COLOSSEUM WOULD HAVE COLLECTED AND THEN TURNED OVER
9 THE PERCENTAGE TO STADIUM MOTOR SPORTS CORP.

10 SO WE TIED UP THAT MONEY BY SERVING OUR
11 WRIT.

12 Q WHAT EFFECT WOULD THAT HAVE HAD ON THE
13 COMPANY STADIUM MOTOR SPORTS CORPORATION?

14 A IT WOULD HAVE DEPRIVED THEM OF --
15 MR. SUMMERS: OBJECTION, YOUR HONOR. CALLS FOR
16 SPECULATION.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER.

19 Q BY MR. JACKSON: GO AHEAD, MA'AM.

20 A IT WOULD HAVE DEPRIVED STADIUM AND DID
21 DEPRIVE STADIUM MOTOR SPORTS CORPORATION OF POSSESSION OF
22 THAT MONEY.

23 Q HOW WOULD YOU CHARACTERIZE HOW
24 AGGRESSIVELY, ON BEHALF OF MICKEY THOMPSON AND MICKEY
25 THOMPSON ENTERTAINMENT GROUP, M.T.E.G., YOU WERE GOING

1 AFTER THE ASSETS OF MIKE GOODWIN AND STADIUM MOTOR SPORTS
2 CORPORATION?

3 A VERY AGGRESSIVE. I WAS EXPERIENCED IN
4 THAT FIELD. AND IT WAS MY PRACTICE TO GO AFTER PARTIES
5 VERY AGGRESSIVELY IF THEY DIDN'T PAY.

6 Q IF YOU WILL GIVE ME JUST A MINUTE,
7 MS. CORDELL.

8 (PAUSE IN THE PROCEEDINGS.)

9 MR. JACKSON: I'M A LITTLE TECHNICALLY
10 CHALLENGED, JUDGE. I THINK THE LAMP HAS TO WARM UP OR
11 SOMETHING.

12 THE COURT: WHY DON'T WE TAKE OUR AFTERNOON
13 RECESS AT THIS TIME AND YOU WILL HAVE PLENTY OF TIME.

14 MR. JACKSON: I'M SORRY. I DIDN'T MEAN TO THROW
15 US INTO A SPIN.

16 THE COURT: LET'S TAKE A 15-MINUTE BREAK. LADIES
17 AND GENTLEMEN, PLEASE REMEMBER ALL THE ADMONITIONS. I
18 WILL SEE YOU BACK HERE IN 15 MINUTES.

19 (BRIEF RECESS.)

20 THE COURT: ALL OF OUR JURORS AND ALTERNATES ARE
21 ONCE AGAIN PRESENT. MR. GOODWIN IS PRESENT WITH COUNSEL.
22 THE PEOPLE ARE REPRESENTED.

23 MS. CORDELL IS STILL ON THE WITNESS
24 STAND.

25 AND, MR. JACKSON, YOU MAY CONTINUE.

1 MR. JACKSON: THANK YOU, YOUR HONOR.

2 Q MS. CORDELL --

3 A YES.

4 Q -- DURING THE COURSE OF THE LITIGATION
5 SURROUNDING THE JUDGMENT THAT WAS OWED TO MICKEY
6 THOMPSON, DID THE DEFENDANT, MIKE GOODWIN, EVER POST A
7 BOND?

8 A NO.

9 Q WHAT IS A BOND?

10 A OKAY. WHEN A JUDGMENT IS ENTERED AGAINST
11 A DEFENDANT, THE DEFENDANT BECOMES A JUDGMENT DEBTOR.
12 THE PLAINTIFF, OR NOW THE JUDGMENT CREDITOR, CAN START TO
13 GO OUT AND LEVY, THAT IS, GET AHOLD OF ASSETS THAT BELONG
14 TO THE JUDGMENT DEBTOR IN ORDER TO EITHER LIQUIDATE THEM,
15 OR IF THEY'RE CASH, CREDIT IT TOWARD PAYMENT OF THE
16 JUDGMENT, THE MONEY THAT'S OWED.

17 NOW, THE JUDGMENT DEBTOR STILL HAS THE
18 RIGHT TO APPEAL WHAT THE JUDGMENT IS, BUT UNLESS A BOND
19 IS POSTED FOR ONE AND A HALF TIMES THE AMOUNT OF THE
20 JUDGMENT, THE JUDGMENT CREDITOR CAN STILL GO OUT AND LEVY
21 AND TAKE AHOLD OF ASSETS OF THE JUDGMENT DEBTOR. IN THIS
22 CASE, MIKE GOODWIN AND STADIUM MOTOR SPORTS ASSETS.

23 Q ALL RIGHT. SO WITHOUT THAT BOND, MICKEY
24 THOMPSON WAS STILL ABLE TO GO AFTER CERTAIN OF THE ASSETS
25 OF MIKE GOODWIN AND STADIUM MOTOR SPORTS CORPORATION?

1 A THAT'S CORRECT. AND I SHOULD ADD, TOO,
2 THE BOND HAS TO BE ONE AND A HALF TIMES THE AMOUNT OF THE
3 JUDGMENT. SO IN THIS CASE, THE CASH BOND WOULD HAVE TO
4 HAVE BEEN OVER A MILLION DOLLARS.

5 Q RIGHT. WITH REGARD TO THE APPEAL, COULD
6 MIKE GOODWIN STILL FILE THE APPEAL JUST WITHOUT THE BOND?

7 A THAT'S CORRECT.

8 Q SO IN OTHER WORDS, THE FACT OF THE APPEAL
9 WOULD NOT THWART MICKEY THOMPSON'S ATTEMPTS TO EXERCISE
10 HIS RIGHTS UNDER THE JUDGMENT; CORRECT?

11 A CORRECT.

12 Q WAS THERE EVER A PERSONAL SURETY APPLIED
13 FOR BY MIKE GOODWIN?

14 A YES, HE DID.

15 Q I'M GOING TO ASK YOU THE SAME TYPE OF
16 QUESTION: WHAT'S A PERSONAL SURETY?

17 A OKAY. THERE'S TWO WAYS YOU CAN -- WELL,
18 THERE'S REALLY THREE WAYS BASICALLY THAT YOU CAN STOP A
19 JUDGMENT CREDITOR FROM GOING AFTER YOUR ASSETS.

20 ONE IS YOU GET A STAY FROM THE JUDGE,
21 WHICH IN OUR CASE THE JUDGE DENIED. THE SECOND WAY IS
22 YOU CAN POST --

23 Q LET ME INTERRUPT YOU REAL QUICK. I
24 APOLOGIZE. I KNOW MY MOTHER WOULD KILL ME IF I
25 INTERRUPTED LIKE THAT AT THE DINNER TABLE.

1 THAT'S IMPORTANT. A STAY IS A LEGAL
2 REQUEST THAT THE DEFENDANT COULD HAVE MADE TO KEEP YOU
3 FROM ACCESSING ANY OF HIS ASSETS UNDER THAT JUDGMENT;
4 CORRECT?

5 A YES. AND HE DID TAKE THAT MOTION.

6 Q AND DID HE LOSE THAT MOTION?

7 A YES, HE LOST THAT MOTION.

8 Q OKAY. GO ON WITH YOUR EXPLANATION IF YOU
9 WOULDN'T MIND.

10 A OKAY.

11 Q THANK YOU.

12 A THE SECOND THING YOU CAN DO IS TO POST
13 THIS BOND FOR ONE AND A HALF TIMES THE JUDGMENT. AND THE
14 THIRD THING THAT'S ALLOWED UNDER THE CODE, THE CODE OF
15 CIVIL PROCEDURE, IS THAT THE JUDGMENT DEBTOR CAN COME IN
16 WITH WHAT ARE CALLED PERSONAL SURETIES. AND THESE ARE
17 ESSENTIALLY INDIVIDUALS WHO WILL COME IN AND SAY THAT IF
18 THE DEBTOR LOSES THE APPEAL, THAT I HAVE ENOUGH ASSETS
19 THAT I CAN MAKE SURE THAT THE JUDGMENT CREDITOR GETS PAID
20 ON THE JUDGMENT.

21 AND THAT'S THE NEXT STEP THAT MIKE GOODWIN
22 AND STADIUM MOTOR SPORTS TOOK RIGHT AFTER WE SEIZED THE
23 MONEY FROM THE COLOSSEUM RACE.

24 Q AND WHAT HAPPENED WHEN MR. GOODWIN APPLIED
25 FOR OR PETITIONED THE COURT FOR A PERSONAL SURETY?

1 A WE WENT IN FOR HEARINGS BEFORE THE TRIAL
2 JUDGE. THOSE LASTED SEVERAL WEEKS. DURING THAT TIME WE
3 COULD NOT CONTINUE TO LEVY ON MR. GOODWIN'S ASSETS ON
4 BEHALF OF MICKEY THOMPSON. WE ALSO -- THE PERSONAL
5 SURETIES THAT MR. GOODWIN WAS ASKING THE COURT TO ACCEPT
6 WERE HIS WIFE, DIANE SEIDEL GOODWIN, DIANE GOODWIN'S
7 FATHER, I CAN'T REMEMBER WHAT HIS FIRST NAME WAS, BUT
8 MR. SEIDEL; AND THEN A BUSINESS ASSOCIATE OF HIS KNOWN AS
9 JOHN GATES.

10 Q DID YOU ON BEHALF OF MICKEY THOMPSON FIGHT
11 AGAINST THOSE THREE INDIVIDUALS' PETITION FOR PERSONAL
12 SURETY?

13 A OH, WE CERTAINLY DID.

14 Q WHY?

15 A NUMBER ONE, BECAUSE IT WAS MR. GOODWIN'S
16 WIFE WHO WAS THE MAIN SURETY. AND ONE OF THE THINGS WE
17 DISCOVERED IN THE COURSE OF THAT PERSONAL SURETY HEARING
18 IS THAT MIKE GOODWIN HAD TRANSFERRED ALL KINDS OF ASSETS
19 TO HIS WIFE AND NOW THEY WERE CLAIMING THEY WERE HER
20 SEPARATE PROPERTY.

21 Q AND UNDER THAT CLAIM, WAS MIKE GOODWIN,
22 THEN, CLAIMING THAT YOU CANNOT ACCESS THOSE ASSETS THAT
23 WERE UNDER HER NAME?

24 A THAT IS WHAT WAS CONTENDED AS THE CASE
25 WENT, ABSOLUTELY.

1 Q DID THAT END UP BE A POINT OF CONTENTION,
2 A POINT OF LEGAL DISPUTE?

3 A ABSOLUTELY.

4 Q DID MICKEY THOMPSON PREVAIL ON HIS
5 OBJECTION TO THESE PERSONAL SURETIES?

6 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED,
7 YOUR HONOR.

8 THE COURT: OVERRULED.

9 YOU CAN ANSWER.

10 THE WITNESS: YES, WE CERTAINLY DID. AND IT WAS
11 ABOUT ON SEPTEMBER 9, 1986.

12 Q BY MR. JACKSON: DID ANYTHING SIGNIFICANT
13 HAPPEN AFTER SEPTEMBER 9TH, 1986 OR THEREABOUTS?

14 A WITHIN TEN DAYS STADIUM MOTOR SPORTS
15 CORPORATION CHANGED ITS NAME TO ENTERTAINMENT
16 SPECIALTIES, INC. AND THEN ENTERTAINMENT SPECIALTIES,
17 INC. FILED FOR BANKRUPTCY.

18 Q THAT'S ABOUT AS CLEAR AS MUD, ISN'T IT,
19 MS. CORDELL? CAN YOU SEE THAT?

20 A UM --

21 Q HERE'S WHAT I'M GOING TO DO -- OH, LOOK AT
22 THAT.

23 A OH.

24 Q I WAS BORN IN THE '60S.

25 I'M GOING TO SHOW YOU WHAT'S PREVIOUSLY

1 BEEN MARKED AS PEOPLE'S 14 FOR IDENTIFICATION.

2 A OKAY.

3 Q LET'S SEE IF YOU CAN READ THAT COPY A
4 LITTLE BIT BETTER.

5 DO YOU RECOGNIZE THAT DOCUMENT,
6 MS. CORDELL?

7 A OH, WAIT. YES.

8 Q WHAT IS THAT DOCUMENT?

9 A THIS IS THE FILING OF THE BANKRUPTCY BY
10 ENTERTAINMENT SPECIALTIES, INC. AND IT REFLECTED -- IT
11 SAYS F.D.B.A., WHICH IS FORMALLY DOING BUSINESS AS
12 STADIUM MOTOR SPORTS CORPORATION.

13 Q THAT WAS MY NEXT QUESTION, MS. CORDELL.
14 BASED ON YOUR EXPERIENCE WITH THIS
15 LITIGATION AND IN THIS LAWSUIT, WHAT IS E.S.I.?

16 A E.S.I. ESSENTIALLY WAS THE NEW NAME OF
17 STADIUM MOTOR SPORTS CORPORATION.

18 Q MS. CORDELL, IF I OWN A COMPANY AND I CALL
19 IT ALAN JACKSON ENTERPRISES; AND THAT COMPANY IS A GOING
20 CONCERN; AND I HAVE A FILING WITH -- I KNOW I HAVE TO
21 FILE IT WITH SOMEBODY IN SACRAMENTO; CORRECT?

22 A YES.

23 Q WHO'S THAT?

24 A SECRETARY OF STATE.

25 Q IF I MAKE MY FILING WITH THE SECRETARY OF

1 STATE UNDER THE NAME ALAN JACKSON ENTERPRISES; AND LET'S
2 SAY I'M THE SOLE OWNER OF THAT COMPANY, CAN I AT MY OWN
3 WHIM CHANGE THAT NAME TO A.J.J. ENTERPRISES?

4 A YES.

5 Q IS THAT, IN FACT, WHAT HAPPENED WITH
6 STADIUM MOTOR SPORTS CORPORATION, IT JUST CHANGED THE
7 NAME TO E.S.I., ENTERTAINMENT SPECIALTIES, INC.?

8 A CORRECT.

9 Q BUT THE GOING CONCERN WAS THE SAME ENTITY;
10 CORRECT?

11 A YES.

12 Q SO, IN EFFECT, STADIUM MOTOR SPORTS
13 CORPORATION WHICH YOU HAD BEEN ATTEMPTING TO LEVY ON,
14 CHANGED ITS NAME TO E.S.I. AND THEN DECLARED BANKRUPTCY?

15 A CORRECT.

16 MR. SUMMERS: OBJECTION. LEADING. ASKED AND
17 ANSWERED.

18 THE COURT: SUSTAINED.

19 MR. SUMMERS: MOTION TO STRIKE.

20 THE COURT: IT WILL BE STRICKEN.

21 Q BY MR. JACKSON: WHAT HAPPENED AFTER
22 E.S.I. DECLARED BANKRUPTCY?

23 A WELL, THE FIRST THING THAT HAPPENED WITHIN
24 THE BANKRUPTCY ITSELF WAS THAT MR. GOODWIN BROUGHT IN A
25 GENTLEMAN BY THE NAME OF CRAIG CALDWELL. AND WHAT

1 MR. GOODWIN AND CRAIG CALDWELL ASKED THE COURT TO DO WAS
2 THIS, STATE -- E.S.I. --

3 MR. SUMMERS: YOUR HONOR, OBJECTION. I'M SORRY
4 TO INTERRUPT.

5 OBJECTION. THIS IS A NARRATIVE WITHOUT
6 ANY QUESTION PENDING AT THIS POINT.

7 THE COURT: ALL RIGHT. ASK ANOTHER QUESTION,
8 PLEASE.

9 Q BY MR. JACKSON: WHAT SIGNIFICANCE DID
10 MR. CALDWELL -- WELL, LET ME BACK OFF THAT FOR JUST A
11 SECOND BEFORE WE GET TO THAT POINT. LET ME ASK YOU
12 ANOTHER QUESTION.

13 AFTER E.S.I. DECLARED BANKRUPTCY OR FILED
14 FOR BANKRUPTCY PROTECTION, WHAT DID YOU DO ON BEHALF OF
15 MICKEY THOMPSON TO CONTINUE LEVYING ASSETS AGAINST
16 MR. GOODWIN OR THE COMPANY?

17 A OKAY. AND WE COULDN'T CONTINUE TO LEVY
18 AGAINST E.S.I./STADIUM MOTOR SPORTS CORP.

19 Q WHY?

20 A BECAUSE WHEN A PERSON OR A COMPANY FILES A
21 BANKRUPTCY, THERE'S WHAT'S CALL AN AUTOMATIC STAY THAT
22 PREVENTS ALL CREDITORS, INCLUDING IN THIS CASE MICKEY
23 THOMPSON, FROM TAKING ANY ACTION TO COLLECT THE DEBT OF
24 THE BANKRUPT.

25 Q SO WHAT DID YOU DO ON BEHALF OF MICKEY

1 THOMPSON?

2 A WELL, AT THIS POINT ONLY THE CORPORATION
3 WAS IN BANKRUPTCY. SO I WENT INTO COURT AND ASKED THE
4 JUDGE TO GIVE US WHAT'S CALLED A TURN OVER ORDER
5 DIRECTING THAT MR. GOODWIN TURN OVER HIS STOCK IN
6 ENTERTAINMENT SPECIALTIES, INC., E.S.I., TO MICKEY
7 THOMPSON.

8 Q WAS THAT STOCK CONSIDERED A PERSONAL ASSET
9 HELD BY MIKE GOODWIN INDIVIDUALLY?

10 A YES, IT WAS.

11 Q AND WAS THAT SUBJECT TO LEVY
12 NOTWITHSTANDING E.S.I.'S BANKRUPTCY?

13 MR. SUMMERS: OBJECTION, YOUR HONOR. IT'S
14 CALLING FOR LEGAL CONCLUSIONS AND LEADING.

15 THE COURT: WELL, IT WILL BE SUSTAINED ON LEADING
16 GROUNDS.

17 Q BY MR. JACKSON: WHAT WAS THE EFFECT OF
18 THE STOCK, THE E.S.I. STOCK -- LET ME ASK IT THIS WAY,
19 HOW WAS THE E.S.I. STOCK AFFECTED BY THE COMPANY E.S.I.
20 FILING FORMAL BANKRUPTCY?

21 A WELL, THERE WAS NO EFFECT ON THE STOCK.
22 THAT WAS STILL AN ASSET OF MR. GOODWIN'S --

23 Q AND SO WHAT DID YOU DO?

24 A -- AND MR. GOODWIN AT THAT POINT WAS NOT
25 IN BANKRUPTCY.

1 Q AND SO WHAT DID YOU DO ON BEHALF OF MICKEY
2 THOMPSON?

3 A SO WE ASKED THE COURT TO GIVE US AN ORDER
4 DIRECTING MIKE GOODWIN TO TURN OVER THE E.S.I. STOCK TO
5 MICKEY THOMPSON SO THAT HE COULD USE IT, YOU KNOW, SELL
6 IT OR WHATEVER HE COULD DO WITH IT IN ORDER TO SATISFY
7 THE JUDGMENT.

8 THAT WOULD ESSENTIALLY GIVE MICKEY
9 THOMPSON CONTROL OF E.S.I., EVEN THOUGH IT WAS IN
10 BANKRUPTCY.

11 Q AND TAKING A LOOK -- THIS HAS BEEN
12 MARKED -- IT LOOKS VERY SIMILAR, BUT I'M GOING TO FREEZE
13 THIS FOR JUST A SECOND.

14 TAKE A LOOK AT WHAT HAS BEEN MARKED AS
15 PEOPLE 15.

16 BEFORE I ASK YOU ABOUT THE DOCUMENT
17 ITSELF, WHAT WAS THE RESULT OF YOU ATTEMPTING TO GET THAT
18 TURN OVER ORDER OF THE E.S.I. STOCK?

19 A WELL, WITHIN A VERY SHORT ORDER, I THINK
20 WITHIN JUST A FEW DAYS, MIKE GOODWIN FILED BANKRUPTCY.

21 Q MEANING PERSONAL BANKRUPTCY?

22 A PERSONAL BANKRUPTCY.

23 Q TAKE A LOOK AT THE DOCUMENT THAT'S IN
24 FRONT OF YOU AND TELL ME IF YOU RECOGNIZE THAT DOCUMENT.

25 A YES. THAT IS THE -- MIKE GOODWIN'S

1 PETITION FOR BANKRUPTCY.

2 Q AND WHAT IS THE DATE ON THAT?

3 A IT WAS -- IT LOOKS LIKE IT WAS FILED ON
4 NOVEMBER 6TH OR 8TH, 1986.

5 Q WHAT EFFECT DID THIS BANKRUPTCY HAVE ON
6 YOUR ATTEMPT TO LEVY ON THE E.S.I. STOCK?

7 A IT COMPLETELY STOPPED US FROM LEVYING ON
8 THE E.S.I. STOCK AND ON ANY OTHER ASSETS OF MR. GOODWIN.

9 Q SO WHAT HAPPENED AFTER MR. GOODWIN FILED
10 FOR PERSONAL BANKRUPTCY AS WELL AS CORPORATE BANKRUPTCY?

11 A WE WERE PROBABLY IN COURT -- IT SEEMED
12 LIKE IT WAS EVERY WEEK FROM ABOUT SEPTEMBER TO DECEMBER.
13 THERE WERE CONSTANT HEARINGS. THE BIG ONE, HOWEVER, WAS
14 WHEN MR. CALDWELL CAME IN WITH THIS -- WITH WHAT WAS AN
15 OFFER TO LOAN E.S.I. \$150,000.

16 Q EXPLAIN WHAT SIGNIFICANCE MR. CALDWELL --
17 AND BY THE WAY, DO YOU KNOW HIS FIRST NAME?

18 A CRAIG CALDWELL.

19 Q WHAT SIGNIFICANCE DID CRAIG CALDWELL HAVE
20 WITH REGARD TO YOUR LAWSUIT, MICKEY THOMPSON'S LAWSUIT
21 AGAINST MICHAEL GOODWIN?

22 A WELL, THIS IS THE WAY IT CAME DOWN --

23 MR. SUMMERS: OBJECTION, YOUR HONOR. I'M
24 OBJECTING TO THE QUESTION AS VAGUE AND TO THE -- AS VAGUE
25 AND --

1 MR. JACKSON: VAGUE AND VAGUE?

2 MR. SUMMERS: VAGUE AND VAGUER.

3 MR. JACKSON: MAYBE I'LL -- THAT'S A NEW ONE.

4 THE COURT: SO YOU'RE SUSTAINING HIS OBJECTION?

5 MR. JACKSON: I JUST THOUGHT IT WAS KIND OF
6 FUNNY.

7 I'LL TRY TO REPHRASE IT, YOUR HONOR.

8 Q HOW DID YOU FIRST MEET CRAIG CALDWELL?

9 A IN COURT WHEN MR. CALDWELL CAME IN WITH
10 MR. GOODWIN SAYING THAT HE WAS WILLING TO LOAN E.S.I.,
11 THE FORMER STADIUM MOTOR SPORTS CORP., \$150,000 SO THAT
12 THE COMPANY WOULD HAVE MONEY TO FINANCE THE RUNNING OF A
13 RACE IN ANAHEIM.

14 Q ALL RIGHT. I'M GOING TO ASK YOU TO SLOW
15 THAT DOWN JUST A LITTLE BIT.

16 A OKAY.

17 Q WHY WAS CRAIG CALDWELL, THIS PERSON,
18 COMING TO A BANKRUPTCY COURT IN ORDER TO ASK TO LOAN
19 MONEY TO MIKE GOODWIN OR TO E.S.I.?

20 A OKAY. WHENEVER A COMPANY IS IN
21 BANKRUPTCY, IF ANYONE WANTS TO LOAN MONEY TO IT, YOU HAVE
22 TO GET APPROVAL OF THE BANKRUPTCY COURT ITSELF.

23 Q OKAY. WAS THAT THE FIRST TIME YOU HAD MET
24 OR HEARD OF CRAIG CALDWELL?

25 A YES, IT WAS.

1 Q AND WHAT WAS THE NATURE OF THAT PARTICULAR
2 HEARING? LET'S TALK ABOUT THAT HEARING AND THEN EXPLAIN
3 WHAT YOU JUST DID A LITTLE SLOWER FOR US, PLEASE.

4 A OKAY. WHAT THE TRANSACTION WAS, IS CRAIG
5 CALDWELL WAS GOING TO LOAN E.S.I. \$150,000. MIKE GOODWIN
6 SAID THAT E.S.I. NEEDED THAT MONEY BECAUSE OTHERWISE IT
7 WOULDN'T HAVE ANY CASH TO PREPARE FOR A RACE THAT IT WAS
8 GOING TO RUN AT ANAHEIM STADIUM IN THE END OF JANUARY OF
9 1987.

10 Q ALL RIGHT. AND WHAT HAPPENED AT THAT
11 HEARING?

12 A WELL, WHEN WE LOOKED AT THE PAPERS, THE --
13 WHAT MR. GOODWIN AND CRAIG CALDWELL WERE PROPOSING WAS
14 THAT MR. CALDWELL WOULD LOAN E.S.I. \$150,000. IN ORDER
15 THAT MR. CALDWELL WOULD HAVE SECURITY TO PROTECT HIS --
16 THE MONEY HE WAS OWED FROM E.S.I., HE WAS GOING TO TAKE
17 WHAT IS CALLED A SECURITY INTEREST WHICH IS LIKE A LIEN
18 AGAINST E.S.I.'S ASSETS.

19 AND IT'S RATHER SIMILAR TO WHEN YOU BUY A
20 HOUSE AND THE BANK LOANS YOU THE MONEY TO BUY THE HOUSE
21 AND THEN TAKES BACK A MORTGAGE. IT'S KIND OF -- WHAT
22 MR. CALDWELL WAS GETTING WAS KIND OF LIKE A MORTGAGE.

23 Q IS ANOTHER WAY OF PUTTING THAT -- I'M
24 GOING TO TRY IT PUT IT IN THE SIMPLEST TERMS SO I CAN
25 ACTUALLY UNDERSTAND IT -- KIND OF LIKE COLLATERAL?

1 A YES, IT WAS COLLATERAL.

2 Q GIVE ME SOME MONEY AND YOU'LL GET YOUR
3 CLAWS INTO THE COMPANY, AND IF I DON'T PAY IT BACK?

4 A THEN IF YOU DON'T PAY THE MONEY BACK, THEN
5 I GET TO TAKE THE ASSETS TO PAY ME BACK.

6 Q WAS THERE ANY PROBLEM THAT YOU SAW AS
7 MICKEY THOMPSON'S REPRESENTATIVE WITH THIS IDEA?

8 A COLOSSAL.

9 Q TELL ME ABOUT THAT.

10 A THE PROBLEM WAS THAT THE WAY THAT
11 MR. GOODWIN AND MR. CALDWELL HAD STRUCTURED THIS LOAN,
12 WAS THAT MR. CALDWELL HAD TO BE PAID BACK ON DECEMBER
13 30TH, 1986 WHICH WAS A MONTH BEFORE THE ANAHEIM RACE WAS
14 GOING TO BE RUN. THAT MEANT THAT THERE WAS NO WAY E.S.I.
15 WAS GOING TO BE ABLE TO PAY BACK MR. CALDWELL.

16 Q SO WHAT EFFECT WOULD THAT HAVE HAD?

17 MR. SUMMERS: OBJECTION, YOUR HONOR. CALLS FOR
18 SPECULATION AND CALLS FOR A CONCLUSION.

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER.

21 Q BY MR. JACKSON: GO AHEAD, MS. CORDELL.

22 A SO I'M SORRY --

23 Q SO WHAT NET EFFECT WOULD THAT HAVE HAD?

24 A IT WOULD HAVE MEANT MR. CALDWELL WOULD
25 HAVE TAKEN ALL THE ASSETS OF E.S.I. FOR \$150,000.

1 MR. SUMMERS: SPECULATION, YOUR HONOR. MOVE TO
2 STRIKE.

3 THE COURT: OVERRULED.

4 Q BY MR. JACKSON: AND WHAT EFFECT WOULD
5 THAT HAVE HAD ON MICKEY THOMPSON'S ATTEMPTS TO LEVY ON
6 ANY FUTURE MONIES THAT E.S.I. HELD?

7 A HE WOULD HAVE BEEN COMPLETELY CUT OFF FROM
8 LEVYING ANYTHING OR COLLECTING ANYTHING EVEN FROM THE
9 BANKRUPTCY OF ANY CONSEQUENCE.

10 Q IF CRAIG CALDWELL ENDED UP WITH THE E.S.I.
11 ASSETS, WHAT WOULD HAVE BEEN THE VALUE OF E.S.I., THE
12 COMPANY?

13 A ONLY THE \$150,000 THAT WOULD HAVE BEEN
14 PAID INTO THE BANKRUPTCY COURT BY CRAIG CALDWELL WHICH
15 WOULD NOT HAVE PAID MICKEY'S JUDGMENT OR ANY OF THE OTHER
16 EXPENSES SUCH AS ATTORNEY'S FEES.

17 Q HAVE YOU EVER HEARD THE TERM SHELL
18 COMPANY?

19 A YES.

20 Q WHAT DOES THAT MEAN?

21 A WELL, IT WOULD HAVE LEFT -- IT MEANS A
22 COMPANY WITH NO ASSETS.

23 Q AND WOULD E.S.I. HAVE, BY DEFINITION, HAD
24 THIS IDEA BY MR. GOODWIN AND MR. CALDWELL BEEN ACCEPTED,
25 WOULD THIS HAVE RENDERED E.S.I. A SHELL COMPANY?

1 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

2 THE COURT: ALL RIGHT. SUSTAINED.

3 Q BY MR. JACKSON: WHAT WOULD THE -- HAD
4 THIS BEEN ACCEPTED BY THE COURT, WHAT WOULD HAVE BEEN THE
5 NET EFFECT OF THE E.S.I. IN TOTAL?

6 A THAT E.S.I. WOULD HAVE ESSENTIALLY NO
7 ASSETS TO PAY MICKEY THOMPSON, OR ANY OTHER CREDITOR FOR
8 THAT MATTER.

9 Q DID YOU BECOME AWARE THAT CRAIG CALDWELL
10 HAD MADE ANY OTHER -- HAD DONE ANYTHING ELSE WITH
11 REGARD --

12 MR. SUMMERS: OBJECTION, YOUR HONOR. WELL, I'LL
13 LET YOU FINISH THE QUESTION.

14 MR. JACKSON: THANK YOU.

15 Q DID YOU BECOME AWARE DURING THE COURSE OF
16 THIS LITIGATION THAT CRAIG CALDWELL HAD ENGAGED IN ANY
17 OTHER ACTS THAT WOULD HAVE AFFECTED MICKEY THOMPSON'S
18 JUDGMENT RIGHTS?

19 A YES. WELL, IT BECAME -- I SHOULD SAY WE
20 FOUND OUT LATER ON, WE DIDN'T KNOW IT AT THE TIME OF THE
21 HEARING, BUT WE FOUND OUT LATER ON --

22 MR. SUMMERS: YOUR HONOR, EXCUSE ME, I'M GOING TO
23 OBJECT THE WAY THE SENTENCE IS ALREADY PHRASED. IT'S
24 WITHOUT PERSONAL KNOWLEDGE, WITHOUT FOUNDATION.

25 THE COURT: ALL RIGHT. SUSTAINED.

1 Q BY MR. JACKSON: DID YOU AT SOME POINT
2 EVER HEAR THE NAME STADIUM MOTOR SPORTS COMPANY AGAIN?

3 A WELL, STADIUM MOTOR SPORTS CORPORATION.

4 Q I'M SORRY. CORPORATION.

5 A YES, WE DID.

6 Q WAS IT -- WAS STADIUM MOTOR SPORTS
7 CORPORATION THE NAME OF THE COMPANY THAT MIKE GOODWIN
8 CHANGED FROM TO BECOME E.S.I.?

9 A CORRECT.

10 Q DID YOU EVER HEAR STADIUM MOTOR SPORTS
11 CORPORATION AGAIN?

12 A YES, I DID.

13 Q IN WHAT CONTEXT?

14 A CRAIG CALDWELL ON ABOUT NOVEMBER -- EARLY
15 NOVEMBER OF 1986, AT THE TIME WHEN HE WAS PROPOSING TO
16 MAKE THIS LOAN TO E.S.I. HAD INCORPORATED A COMPANY IN
17 THE NAME OF STADIUM MOTOR SPORTS CORPORATION.

18 MR. SUMMERS: OBJECTION, YOUR HONOR. MOTION TO
19 STRIKE. FOUNDATION. THERE'S NO PERSONAL KNOWLEDGE.

20 THE COURT: ALL RIGHT. LAY A FOUNDATION.
21 SUSTAINED. THE ANSWER WILL BE STRICKEN.

22 Q BY MR. JACKSON: DID YOU EVER SEEK TO --
23 OR DID YOU EVER INQUIRE WITH THE SECRETARY OF STATE OF
24 CALIFORNIA, THE INCORPORATION BY CRAIG CALDWELL UNDER THE
25 NAME STADIUM MOTOR SPORTS CORPORATION?

1 A YES, I DID.

2 Q AND WHAT DID YOU LEARN?

3 MR. SUMMERS: OBJECTION, YOUR HONOR. CALLS FOR
4 HEARSAY.

5 THE COURT: SUSTAINED.

6 Q BY MR. JACKSON: HOW DID YOU GET THE
7 INFORMATION?

8 A I WENT ONLINE -- WELL, RECENTLY I WENT
9 ONLINE. AT THE TIME WE HAD TO GET SOMETHING DIRECTLY
10 FROM THE SECRETARY OF STATE.

11 Q ALL RIGHT.

12 A BUT I'VE GONE ONLINE AND I DO HAVE A
13 PRINTOUT SHOWING THAT C.E. CALDWELL --

14 MR. SUMMERS: OBJECTION, YOUR HONOR.

15 THE COURT: ALL RIGHT. ASK ANOTHER QUESTION.

16 Q BY MR. JACKSON: IS STADIUM MOTOR SPORTS
17 CORPORATION CURRENTLY A GOING CONCERN?

18 A NO.

19 Q HAS IT EVER BEEN A GOING CONCERN AFTER
20 MIKE GOODWIN CHANGED THE NAME FROM S.M.C. TO E.S.I.?

21 A NOT TO MY KNOWLEDGE.

22 Q HAS IT EVER BEEN OWNED BY ANY OTHER HUMAN
23 BEING?

24 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE AND
25 RELEVANCE.

1 THE COURT: OVERRULED.

2 YOU CAN ANSWER.

3 THE WITNESS: THE NAME WAS OWNED BY CRAIG
4 CALDWELL AFTER THE BANKRUPTCY WAS FILED.

5 MR. SUMMERS: SAME OBJECTION. MOTION TO STRIKE,
6 YOUR HONOR. FOUNDATION.

7 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

8 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
9 HONOR?

10 THE COURT: YES.

11 (PAUSE IN THE PROCEEDINGS.)

12 Q BY MR. JACKSON: DO YOU KNOW JEFFERY
13 COYNE?

14 A YES, I DO.

15 Q WHO IS JEFF COYNE?

16 A JEFF COYNE WAS THE TRUSTEE THAT WAS
17 APPOINTED BY THE BANKRUPTCY JUDGE TO TAKE CHARGE OF THE
18 ENTERTAINMENT SPECIALTIES BANKRUPTCY.

19 Q DID YOU WORK CLOSELY WITH JEFF COYNE
20 DURING THE COURSE OF THIS LITIGATION?

21 A YES. IN FACT, IT WAS OUR MOTION ASKING
22 FOR THE APPOINTMENT OF A TRUSTEE IN THE BANKRUPTCY THAT
23 RESULTED IN THE APPOINTMENT OF JEFF COYNE.

24 MR. SUMMERS: OBJECTION. MOTION TO STRIKE, YOUR
25 HONOR. EVERYTHING AFTER "YES" AS NON-RESPONSIVE.

1 THE COURT: YES, THAT WILL BE STRICKEN.

2 Q BY MR. JACKSON: DID YOU EVER APPLY WITH
3 THE BANKRUPTCY COURT FOR ANY EXTRAORDINARY MEASURE WITH
4 REGARD TO MR. GOODWIN OR E.S.I.'S CHAPTER 11?

5 A YES.

6 MR. SUMMERS: OBJECTION, YOUR HONOR. LEADING.

7 THE COURT: SUSTAINED.

8 MR. JACKSON: YOUR HONOR, MAY WE APPROACH?

9

10 (PROCEEDINGS HELD AT SIDEBAR.)

11 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.

12 MR. JACKSON: YOUR HONOR, I WOULD SIMPLY ASK FOR
13 THE COURT'S GUIDANCE ON THESE LEADING OBJECTIONS. IT
14 SOUNDS -- IT APPEARS THAT COUNSEL HAS FOUND AN ACORN AND
15 IS GOING BACK TO THE TROUGH QUITE A BIT. SHE IS CLEARLY
16 AN EXPERT.

17 THE COURT: SHE IS.

18 MR. JACKSON: I'M NOT FEEDING HER ANSWERS, I'M
19 SIMPLY TRYING TO GET TO A POINT WITHOUT HAVING TO ASK --

20 THE COURT: HOW ABOUT --

21 MR. JACKSON: -- SO WHAT HAPPENED NEXT?

22 THE COURT: HOW ABOUT, HOW DID JEFF COYNE BECOME
23 INVOLVED?

24 MR. JACKSON: YOUR HONOR --

25 THE COURT: THAT'S A NON-LEADING QUESTION AND,

1 YOU KNOW, THERE'S ANOTHER WAY OF GETTING AN EXPLANATION.

2 MR. JACKSON: DID YOU ASK FOR EXTRAORDINARY -- MY
3 POSITION, I'M GOING TO GET A LITTLE DEFENSIVE, YOUR
4 HONOR -- DID YOU ASK FOR EXTRAORDINARY RELIEF FROM THE
5 BANKRUPTCY COURT, THAT'S NOT LEADING. I'M NOT SUGGESTING
6 THE ANSWER. IF THE ANSWER IS NO, NO, WE DIDN'T.

7 THE COURT: I THINK IT IS LEADING. YOU KNOW,
8 THERE HAS BEEN A CONSISTENT PROBLEM WITH MAYBE YOUR
9 DEFINITION OF LEADING AND MY DEFINITION OF LEADING. I
10 THINK A LOT OF THESE QUESTIONS HAVE BEEN LEADING AND
11 THAT'S WHY I HAVE BEEN SUSTAINING THE OBJECTIONS. I
12 DENIED THE REQUEST FOR ANY KIND OF MISCONDUCT CITATION
13 BECAUSE I DON'T BELIEVE THIS IS INTENTIONAL ON YOUR PART.
14 I THINK WE HAVE AN HONEST DISAGREEMENT AS TO THE FORM OF
15 THE QUESTION.

16 MY BELIEF IS WHEN THE QUESTION CAN BE
17 ANSWERED YES OR NO AND THE ANSWER IS INCLUDED IN THE
18 QUESTION, THAT TECHNICALLY IS A LEADING QUESTION AND I
19 WILL CONTINUE TO SUSTAIN THE OBJECTIONS.

20 A LOT OF THESE QUESTIONS CAN REALLY BE
21 ASKED IN A NON-LEADING WAY AND THAT'S ALL I'M SUGGESTING.

22 WHAT WAS THE DEFENSE PROBLEM?

23 MS. SARIS: OUR POSITION IS WITH REGARD TO ASKING
24 HER TO TESTIFY TO THINGS SHE LOOK UP ON THE INTERNET.
25 THAT'S WHAT WE'RE SAYING FOUNDATION. YOU CALL SACRAMENTO

1 AND YOU FIND OUT THERE'S A CORPORATION, THAT'S --

2 THE COURT: THAT'S HEARSAY.

3 MR. SARIS: -- THAT'S HEARSAY.

4 THE COURT: BUT THE OBJECTION WAS FOUNDATION. SO
5 I HAVE TO GET THE QUESTIONS ASKED PROPERLY AND I HAVE TO
6 GET THE OBJECTIONS MADE PROPERLY FOR ME TO RULE IN YOUR
7 FAVOR, BOTH SIDES HERE, SO --

8 MS. SARIS: THE OTHER ISSUE THAT WE HAVE IS IT
9 DOESN'T HAVE TO BE WILLFUL MISCONDUCT FOR THIS COURT TO
10 INSTRUCT THE JURY THAT IT'S IMPROPER.

11 THE COURT: I UNDERSTAND THAT. BUT I THINK BY
12 SUSTAINING THESE OBJECTIONS, THE JURY CERTAINLY
13 UNDERSTANDS WHAT IS GOING ON. AGAIN, I DON'T THINK THERE
14 IS ANYTHING WILLFUL HERE.

15 MS. SARIS: IT DOESN'T HAVE TO BE WILLFUL, BUT WE
16 STILL COME OFF LOOKING LIKE WE'RE TRYING TO HIDE
17 SOMETHING WHEN IT'S --

18 MR. DIXON: WELL, THEN DON'T OBJECT.

19 MS. SARIS: -- IT'S PRETTY BASIC.

20 THE COURT: I WILL SUSTAIN MY OWN OBJECTIONS,
21 OKAY? DO YOU WANT ME TO DO THAT? I WILL SUSTAIN MY OWN
22 OBJECTIONS.

23 MR. JACKSON: YOUR HONOR, I ASKED IN ALL HONESTY
24 AND IT'S GETTING A LITTLE BIT LATE, I'VE ASKED FOR
25 GUIDANCE, I'VE GOT IT. YOUR RULES ARE THE RULES, I'LL

1 ATTEMPT TO -- ONE OF THE THINGS I TAKE -- I DO TAKE A
2 LITTLE BIT MORE LIBERTY WHEN I HAVE AN EXPERT ON THE
3 STAND AND I'VE BEEN DOING ALL THE EXPERTS.

4 THE COURT: AND IT IS A COMPLICATED AREA AND I
5 AGREE.

6 MR. JACKSON: AND I APOLOGIZE. I MEAN NO
7 DISRESPECT AND I WILL CONTAIN MYSELF.

8 MR. DIXON: CAN I THROW MY TWO CENTS IN?

9 I'LL JUST TAKE ANOTHER MOMENT. I WOULD
10 MAKE THIS REQUEST OR SUGGESTION. THAT SOME LEADING
11 QUESTIONS THAT ARE MERELY FOUNDATIONAL THAT WE ALL KNOW
12 LIKE ARE -- HELP EXPEDITE THE SITUATION AS LONG AS WE
13 DON'T ASK LEADING QUESTIONS IN AN IMPORTANT FUNDAMENTAL
14 AREA WHERE THERE ARE ISSUES THAT ARE BEING CONTESTED.
15 AND I THINK THAT WE BOTH -- WE BOTH -- THE PROSECUTOR --
16 BOTH THE PROSECUTORS HAVE TRIED AND WILL TRY EVEN HARDER
17 TO AVOID ASKING LEADING QUESTIONS IN THAT AREA, BUT SOME
18 FUNDAMENTAL FOUNDATIONAL THINGS I WOULD THINK --

19 MS. SARIS: WE WOULD STILL OBJECT. I'M SORRY.

20 MR. DIXON: BUT IT'S THE COURT'S --

21 THE COURT: LORI IS GOING NUTS. OKAY. DID YOU
22 GET ALL THAT? JUST LOOK AT HER (INDICATING).

23 MR. DIXON: BUT I THINK THE COURT GETS MY POINT,
24 SO THANK YOU.

25 THE COURT: I UNDERSTAND. THIS IS THE THING. I

1 DON'T HAVE ANY PROBLEM GIVING YOU, MR. JACKSON AND
2 MR. DIXON, CERTAIN LIBERTIES, AND THAT'S FINE IN A
3 COMPLICATED AREA. BUT THE PROBLEM IS, I DON'T KNOW
4 WHAT'S FOUNDATIONAL AND WHAT ISN'T.

5 MR. JACKSON: I UNDERSTAND.

6 THE COURT: AND SO I'M KIND OF AT A LOSS HERE,
7 TOO. I'M HAPPY TO GIVE YOU SOME LEEWAY IN THIS AREA WHEN
8 WE'RE DEALING WITH AN EXPERT. BUT AGAIN, I CAN'T PREVENT
9 COUNSEL FROM MAKING AN OBJECTION.

10 MR. JACKSON: ABSOLUTELY.

11 THE COURT: I CAN JUST INDICATE THAT PERHAPS SOME
12 OF THE FOUNDATIONAL MATTERS, IF IT'S APPARENT TO ME THAT
13 IT'S A FOUNDATIONAL MATTER, I MAY OVERRULE THE OBJECTION
14 AT THAT POINT.

15 I THINK SOME LEEWAY IS PERMISSIBLE. IT'S
16 JUST THAT THIS IS AN AREA THAT'S SO COMPLICATED, I DON'T
17 KNOW WHAT'S FOUNDATIONAL AND WHAT ISN'T. SO I'M --

18 MS. SARIS: BUT THE IDEA THAT -- AND THAT'S THE
19 PROBLEM. THERE'S REALLY NOTHING FOUNDATIONAL BECAUSE OUR
20 FOUNDATIONS ARE COMPLETELY DIFFERENT. I MEAN, THEIR
21 FOUNDATION FOR ASKING THESE, YOU WILL TAKE THE SAME FACT
22 AND IT WILL HAVE TWO DIFFERENT MEANINGS. SO TO SAY,
23 WELL, YOU KNOW, IT'S A LONG TRIAL, THINGS ARE
24 COMPLICATED, LET'S JUST CUT CORNERS, WE CAN'T DO THAT.
25 THERE ARE SO MANY INTRICACIES THAT, YOU KNOW, SIX WORDS

1 MIGHT CHANGE THE MEANING OF SOMETHING.

2 FOR INSTANCE, COUNSEL REPEATEDLY REFERRING
3 TO A "PARTNERSHIP AGREEMENT." IT'S JUST INACCURATE.
4 THEY CAN CONTINUE TO DO IT, BUT IT'S INACCURATE. WE'RE
5 NOT WILLING TO CUT THOSE CORNERS, NOT IN THIS CASE OF
6 THIS MAGNITUDE. IT MIGHT BE COMPLICATED, BUT IT'S ALSO
7 GOT VERY SERIOUS CONSEQUENCES.

8 THE COURT: ALL I CAN SAY IS THIS LAST QUESTION,
9 I MEAN, I SUSTAINED THE OBJECTION AND I THINK PROPERLY SO
10 BECAUSE IT WASN'T FOUNDATIONAL, SO WE WILL JUST KIND OF
11 GO FROM THERE.

12 MR. JACKSON: YES, MA'AM.

13 THE COURT: THANK YOU.

14 (SIDE BAR CONCLUDED.)

15
16 THE COURT: YOU MAY CONTINUE.

17 MR. JACKSON: THANK YOU, YOUR HONOR.

18 Q HOW DID JEFF COYNE GET INVOLVED WITH THIS
19 LITIGATION?

20 A ON BEHALF OF MICKEY THOMPSON, OUR FIRM AND
21 MICKEY THOMPSON'S OTHER COUNSEL, MADE A MOTION TO THE
22 BANKRUPTCY COURT JUDGE ASKING THAT -- WHAT'S CALLED A
23 TRUSTEE BE APPOINTED.

24 Q WHY?

25 A BECAUSE THERE WERE SO MANY ASSETS THAT HAD

1 DISAPPEARED AND THAT HAD DIFFERENT VALUATIONS AND THAT
2 WERE -- CONFUSING THINGS THAT WERE HAPPENING IN THE
3 BANKRUPTCY THAT --

4 MR. SUMMERS: OBJECTION, YOUR HONOR. NARRATIVE.

5 THE COURT: ALL RIGHT. THE QUESTION --

6 MR. SUMMERS: AND THE ANSWER IS WITHOUT
7 FOUNDATION.

8 THE COURT: YES. THE QUESTION HAS BEEN ANSWERED.
9 ASK ANOTHER QUESTION.

10 Q BY MR. JACKSON: DID JEFF COYNE EVENTUALLY
11 AT THE BANKRUPTCY COURT'S ORDER BECOME THE TRUSTEE?

12 A YES, HE DID.

13 Q AND WHAT WAS HE THE TRUSTEE OF?

14 A HE WAS THE TRUSTEE OF THE ENTERTAINMENT
15 SPECIALITIES, INC. BANKRUPTCY.

16 Q ABOUT WHEN DID YOU MAKE YOUR APPLICATION?

17 A I BELIEVE IT WAS ABOUT IN MAY OF 1987.

18 Q IN TOTAL, WERE YOU EVER ABLE TO COLLECT
19 THE ENTIRETY OF THE 700-PLUS-THOUSAND DOLLARS JUDGMENT --

20 A NO.

21 Q -- OWED BY MIKE GOODWIN AND STADIUM MOTOR
22 SPORTS CORPORATION TO MICKEY THOMPSON?

23 A NO.

24 Q HOW WOULD YOU CHARACTERIZE THE DEMEANOR OF
25 THIS ENTIRE LITIGATION?

1 A IN ALL MY --

2 MS. SARIS: OBJECTION. VAGUE, YOUR HONOR, AND
3 IRRELEVANT.

4 THE COURT: OVERRULED.

5 YOU CAN ANSWER.

6 THE WITNESS: IN ALL MY YEARS OF PRACTICE
7 INCLUDING MANY, MANY LAWSUITS AND LITIGATION I'VE BEEN
8 INVOLVED IN, THIS WAS ABSOLUTELY BEYOND A DOUBT THE MOST
9 BITTER AND CONTENTIOUSLY FOUGHT LAWSUIT I'VE EVER BEEN
10 INVOLVED IN.

11 MR. JACKSON: THANK YOU, MS. CORDELL.

12 THE COURT: CROSS-EXAMINATION?

13 MR. SUMMERS: THANK YOU.

14

15 CROSS-EXAMINATION

16 BY MR. SUMMERS:

17 Q GOOD AFTERNOON, MS. CORDELL. YOU
18 INDICATED IN YOUR LAST ANSWER, OR CLOSE TO YOUR LAST
19 ANSWER WAS THAT YOU HAD NOT RECOVERED IN ITS ENTIRETY THE
20 JUDGMENT OF MICKEY THOMPSON AND HIS ASSOCIATED COMPANY
21 AGAINST MICHAEL GOODWIN.

22 WHAT -- AND LET ME BREAK IT DOWN IN THE
23 TIME FRAME.

24 FROM THE TIME THAT YOU OBTAINED THE
25 JUDGMENT OR THE JUDGMENT WAS OBTAINED BY YOUR LAW FIRM

1 UNTIL THE CORPORATE BANKRUPTCY WAS DECLARED,
2 APPROXIMATELY HOW MUCH OR WHAT WAS THE VALUE OF ANY
3 ASSETS THAT YOU -- HAD YOU OBTAINED OF MR. GOODWIN?

4 A AS I RECALL, THAT WE DID MANAGE TO LEVY ON
5 AN ENGINE THAT BELONGED TO MR. GOODWIN AND I THINK IT
6 NETTED A COUPLE THOUSAND DOLLARS.

7 Q AND I THINK YOU INDICATED YOU HAD ALSO
8 LEVIED ON THE BOX OFFICE PROCEEDS FROM AN EVENT. COULD
9 IT HAVE BEEN JUNE 7 OF '86?

10 A THAT SOUNDS ABOUT RIGHT. JUNE OR JULY.

11 Q AND THAT AMOUNT OF MONEY WAS ABOUT
12 \$456,000 THAT WAS AT ISSUE WHEN YOU LEVIED?

13 A I KNOW IT WAS IN THE HUNDRED DOLLARS OF
14 THOUSANDS, YES.

15 Q AND AT THAT POINT, DID SOMEBODY FILE A
16 THIRD PARTY CLAIM ON THAT SEVERAL HUNDRED THOUSAND
17 DOLLARS BOX OFFICE PROCEED?

18 A YES, THEY DID.

19 Q AND DID THAT PREVENT YOU FROM ACTUALLY
20 COLLECTING THOSE -- THE BOX OFFICE PROCEEDS?

21 A AS I RECALL, THE PROCEEDS ENDED UP BEING
22 RETURNED TO ENTERTAINMENT SPECIALTIES, INC. BECAUSE WE
23 HAD LEVIED WITHIN SO MANY DAYS OF THE FILING OF THE
24 BANKRUPTCY. I BELIEVE THEY WERE RECOVERED BY THE
25 BANKRUPTCY ESTATE.

1 Q IN FACT, THERE WAS -- THE L.A. COLOSSEUM
2 FILED AN INTERPLEADER; IS THAT CORRECT?

3 A I KNOW THERE WAS SOMETHING THAT THE L.A.
4 COLOSSEUM FILED, YES.

5 Q DO YOU KNOW -- COULD YOU EXPLAIN WHAT AN
6 "INTERPLEADER" IS.

7 A IN THIS CONTEXT -- I CAN'T RECALL WHAT IT
8 WOULD HAVE BEEN IN THIS CONTEXT, BUT I BELIEVE THAT THE
9 COLOSSEUM WAS ALLEGING SOMETHING ABOUT THE LEVY ITSELF,
10 THAT THEY DIDN'T HAVE TO TURN THE FUNDS OVER. LET ME
11 CORRECT THAT.

12 AN INTERPLEADER WOULD HAVE BEEN THAT THE
13 COLOSSEUM WOULD HAVE TURNED THE FUNDS OVER TO THE COURT.

14 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND A
15 36-PAGE DOCUMENT ENTITLED "COMPLAINT AND INTERPLEADER," I
16 BELIEVE IT'S DEFENSE B.

17 THE COURT: DO YOU WANT TO MARK B FOR
18 IDENTIFICATION?

19 MR. SUMMERS: YES.

20 THE COURT: IT WILL BE SO MARKED.

21 MR. SUMMERS: I'LL SHOW IT TO COUNSEL.

22
23 (DEFENSE EXHIBIT NO. B WAS MARKED FOR
24 IDENTIFICATION.)
25

1 MR. SUMMERS: MAY I APPROACH THE WITNESS, YOUR
2 HONOR?

3 THE COURT: YES.

4 Q BY MR. SUMMERS: I'M HANDING THE WITNESS
5 FOR IDENTIFICATION AS DEFENSE B -- WOULD YOU TAKE A LOOK
6 AT THAT AND SEE IF YOU RECOGNIZE THAT OR CAN IDENTIFY IT?

7 A YES. YES. THERE WERE SEVERAL PEOPLE WHO
8 WERE MAKING CLAIMS TO THE PROCEEDS OF THE MONEY FROM THE
9 COLOSSEUM. AND I SEE IN HERE THE PEOPLE NAMED INCLUDE
10 JOHN GATES, WHO WAS ONE OF THE PERSONS WHO WAS PUT UP AS
11 A PERSONAL SURETY; AND ALSO WILLIAM BUTCHER WHO
12 MR. GOODWIN HAD BUSINESS DEALINGS WITH. AND THEY WERE
13 MAKING CLAIM TO THAT COLOSSEUM MONEY AS WELL.

14 Q AND BASICALLY THE COLOSSEUM SAID MICKEY
15 THOMPSON'S CLAIMING THIS MONEY; THESE FOLKS ARE CLAIMING
16 THIS MONEY; I DON'T WANT TO MAKE A DECISION; I DON'T WANT
17 TO BE LIABLE TO ANYBODY ELSE, AND FILES IT WITH THE COURT
18 AND HAS THE COURT MAKE A DECISION?

19 A EXACTLY.

20 Q AND AS A RESULT OF THAT, THAT WAS -- THAT
21 INTERPLEADER ACTION WAS FULLY LITIGATED BY YOUR LAW FIRM?

22 A NO, IT WOULDN'T HAVE BEEN LITIGATED
23 BECAUSE OF THE BANKRUPTCY BEING FILED. I DON'T BELIEVE
24 WE EVER ACTUALLY GOT INTO COURT OR EVEN DISCOVERY ON THAT
25 BECAUSE OF THE BANKRUPTCY.

1 Q WHEN -- ARE YOU SAYING THAT THE ACTION,
2 THE INTERPLEADER ACTION WAS ACTUALLY REMOVED TO THE
3 BANKRUPTCY COURT?

4 A I DON'T KNOW WHAT THEY DID WITH IT, BUT
5 EVERYTHING SEEMED TO HAVE STOPPED ON THAT BECAUSE IT WAS
6 A MOOT POINT ONCE THE BANKRUPTCY WAS FILED.

7 Q AND WHAT HAPPENED TO THE FUNDS, THEN, WAS
8 THAT THEY ACTUALLY WENT INTO THE BANKRUPTCY ESTATE?

9 A I BELIEVE THEY WENT INTO THE BANKRUPTCY
10 ESTATE.

11 Q LET ME GET BACK TO THAT IN HOPEFULLY A FEW
12 MOMENTS AND LET ME TALK ABOUT -- OR ASK YOU ABOUT WRITS
13 AND ENFORCEMENT.

14 THAT'S YOUR SPECIALTY; CORRECT?

15 A IT WAS AT THAT TIME, YES.

16 Q WHEN YOU WANT TO GO OUT AND YOU'VE GOT A
17 JUDGMENT, YOU WANT TO ENFORCE IT, YOU WANT TO -- YOU NEED
18 TO GET A WRIT FROM THE -- ANY COUNTY IN WHICH YOU BELIEVE
19 THERE'S PROPERTY THAT YOU WANT TO GET AHOLD OF; IS THAT
20 CORRECT?

21 A THAT'S RIGHT.

22 Q IS THAT WHAT YOU DID IN THIS CASE, IN THE
23 CASE OF THE JUDGMENT THAT MICKEY THOMPSON HAD OBTAINED?

24 A YES.

25 Q AND THE FIRST STEP IN DOING THAT IS YOU

1 FILE AN APPLICATION WITH THE COURT?

2 A I THINK YOU FILE IT WITH THE COURT CLERK.

3 Q AND SPECIFICALLY DID YOU DO THAT IN THIS
4 CASE?

5 A YES, I DID. OR I SHOULD SAY OUR PARALEGAL
6 DID UNDER MY DIRECTION.

7 MR. SUMMERS: I HAVE IN MY HANDS, YOUR HONOR, A
8 TWO-PAGE CERTIFIED DOCUMENT ENTITLED "APPLICATION FOR
9 ISSUANCE OF WRIT." IT IS CERTIFIED AND I'M SHOWING IT TO
10 COUNSEL.

11 THE COURT: AND YOU WANT IT MARKED DEFENSE C?

12 MR. SUMMERS: YES.

13

14 (DEFENSE EXHIBIT NO. C WAS MARKED FOR
15 IDENTIFICATION.)

16

17 Q BY MR. SUMMERS: MA'AM, IF YOU WOULD TAKE
18 A LOOK AT DEFENSE C AND TELL ME IF YOU RECOGNIZE THAT
19 DOCUMENT?

20 A YES, THIS APPEARS TO BE THE APPLICATION
21 FOR THE WRIT.

22 Q AND, IN FACT, YOU SIGNED THE APPLICATION?

23 A YES.

24 Q AND AT THE BOTTOM OF THE SECOND PAGE, IN
25 FACT, THERE'S A -- THE COURT GOES AHEAD -- AND I'M NOT

1 SURE WHAT THE WORD WOULD BE -- BUT THE COURT GRANTS YOUR
2 APPLICATION AND SIGNS OFF ON A WRIT?

3 A I BELIEVE WHAT THEY ACTUALLY DO IS THEY
4 ISSUE THE WRIT ITSELF WHICH IS A SEPARATE DOCUMENT.

5 MR. SUMMERS: I HAVE IN MY HAND, YOUR HONOR,
6 ANOTHER TWO-PAGE DOCUMENT -- ACTUALLY, MAY I JUST HAVE A
7 MOMENT, YOUR HONOR?

8 (PAUSE IN THE PROCEEDINGS.)

9 MR. SUMMERS: I DO, IN FACT, HAVE IN MY HAND A
10 TWO-PAGE DOCUMENT. I'M SHOWING IT TO COUNSEL. IT'S
11 ENTITLED "WRIT ISSUE PURSUANT TO ORDER, JUNE 4, '86."

12 THE COURT: WE'LL MARK THAT DEFENSE D FOR
13 IDENTIFICATION.

14
15 (DEFENSE EXHIBIT NO. D WAS MARKED FOR
16 IDENTIFICATION.)

17
18 Q BY MR. SUMMERS: MA'AM, I WOULD ASK YOU TO
19 TAKE A LOOK AT DEFENSE D AND ONCE YOU'VE HAD A CHANCE TO
20 LOOK AT IT, I'LL ASK YOU ABOUT IT.

21 IS THAT A WRIT?

22 A YES, THAT WOULD BE A WRIT.

23 Q DOES THAT LOOK LIKE THE WRIT THAT WAS
24 ISSUED IN RESPONSE TO THE APPLICATION THAT IS BEFORE YOU
25 WITH YOUR SIGNATURE ON IT?

1 A IT'S HARD TO SAY, BUT IT PROBABLY IS. IT
2 USUALLY TAKES A COUPLE OF WEEKS FOR A WRIT TO ISSUE. AND
3 THE APPLICATION IS MAY 23RD AND THE WRIT WAS ISSUED ON
4 JUNE 4TH, SO IT'S VERY LIKELY THIS WAS THE WRIT.
5 ALTHOUGH, I'M NOT SURE TO WHAT COUNTY BECAUSE THE
6 APPLICATION FOR THE WRIT ASKS FOR WRITS TO BE ISSUED TO
7 SAN DIEGO COUNTY. AND I'M NOT CLEAR ABOUT WHAT EXHIBIT D
8 IS, FOR WHICH COUNTY.

9 Q LET'S STICK WITH -- EXHIBIT D IS ACTUALLY
10 TO ORANGE COUNTY, ISN'T IT? I'M SORRY --

11 A NO. I THOUGHT IT SAID --

12 Q ARE WE ON D, THE WRIT?

13 A -- THE COUNTY OF SAN DIEGO.

14 THE COURT: D IS THE ACTUAL WRIT AND C IS THE
15 APPLICATION.

16 Q BY MR. SUMMERS: ON D, THE WRIT, THAT
17 ACTUALLY IS FOR ORANGE COUNTY?

18 A THAT'S WHAT I WAS LOOKING FOR. I DON'T
19 SEE ANYTHING ON IT. HOWEVER, I DO NOTICE -- OH, THERE,
20 YOU'RE RIGHT, THERE'S ORANGE.

21 THE APPLICATION SAYS TO THE COUNTY OF SAN
22 DIEGO.

23 Q OKAY. STICKING WITH THE WRIT THAT ALSO
24 HAS -- DOES THAT HAVE YOUR NAME ON IT AS WELL?

25 A NO. THE WRIT WOULD NOT HAVE MY NAME ON

1 IT. IT WOULD HAVE THE COURT CLERK'S NAME ON IT BECAUSE
2 IT'S LIKE AN ORDER ISSUED BY THE COURT.

3 Q IS THAT YOUR NAME IN THE UPPER LEFT-HAND
4 CORNER?

5 A OH, IF YOU MEAN -- I DIDN'T SIGN IT, BUT
6 YES, MY NAME IS IN THE UPPER LEFT-HAND CORNER.

7 Q SO THAT DOCUMENT IS A WRIT THAT YOU HAVE
8 SOMETHING TO DO WITH AND IT APPLIES TO THE PARTICULAR
9 CASE OF GOODWIN VERSUS THOMPSON?

10 A EXACTLY.

11 Q AND SO THAT WRIT ISSUED ON JUNE 4TH OF '86
12 ENTITLED YOU TO GO AFTER PROPERTY IN ORANGE COUNTY THAT
13 YOU BELIEVED BELONGED TO MICHAEL GOODWIN OR STADIUM MOTOR
14 SPORTS?

15 A YES.

16 Q ASSUMING THAT THE DEBTOR DOESN'T DECLARE
17 BANKRUPTCY, HOW LONG IS THAT WRIT GOOD FOR?

18 A I BELIEVE IT'S GOOD FOR ABOUT 60 DAYS, 60
19 TO 90 DAYS. LET ME TAKE THAT BACK.

20 IT COULD BE AS LONG AS SIX MONTHS. IT'S
21 BEEN A WHILE SINCE I'VE WORKED WITH WRITS.

22 Q DOES THE CODE OF CIVIL PROCEDURE 699.530,
23 DOES THAT MEAN ANYTHING TO YOU OFF THE TOP OF YOUR HEAD?

24 A NO, NOT OFF THE TOP OF MY HEAD.

25 Q LET'S TAKE YOUR OUTSIDE FIGURE THAT YOU

1 SAID, AND WHEN I SAY IS THAT GOOD FOR A CERTAIN PERIOD,
2 MEANING BY LAW, DOES THAT WRIT EXPIRE AFTER A CERTAIN
3 PERIOD OF TIME?

4 A YES, IT DOES.

5 Q AND TO YOUR RECOLLECTION, IT'S A PERIOD OF
6 AROUND BETWEEN 90 DAYS AND 180 DAYS?

7 A YES, TO MY RECOLLECTION.

8 Q SO TAKING THE LONGEST PERIOD -- TAKING THE
9 LONGEST PERIOD THAT YOU'VE GIVEN US, THE WRIT THAT YOU
10 HAVE, THEN, WOULD HAVE BEEN GOOD UNTIL APPROXIMATELY
11 DECEMBER 4 OF 1986?

12 A THE WRIT ITSELF WOULD HAVE BEEN GOOD, YES,
13 IF YOU COULD STILL LEVY.

14 Q RIGHT. IF SOMEBODY HADN'T -- IF IT
15 WASN'T -- FOR SOMEBODY WHO HAD DECLARED BANKRUPTCY?

16 A EXACTLY.

17 Q DO YOU REMEMBER, DID YOU GO APPLY FOR
18 ANOTHER WRIT IN 1986, IN DECEMBER OF 1986, LET'S SAY?

19 A WE WOULDN'T HAVE APPLIED FOR ANOTHER WRIT
20 BECAUSE BOTH THE JUDGMENT DEBTORS WERE IN BANKRUPTCY.

21 Q IT WOULD HAVE BEEN A WASTE OF TIME AND
22 MONEY?

23 A YES, IT WOULD.

24 Q ARE YOU FAMILIAR WITH ALSO IN THE CODE OF
25 CIVIL PROCEDURE SOMETHING CALLED "LEVY INSTRUCTIONS"?

1 A YES.

2 Q AND WHAT ARE THOSE?

3 A THOSE ARE INSTRUCTIONS THAT THE JUDGMENT
4 DEBTOR OR THE -- I MEAN THE JUDGMENT CREDITOR OR THE
5 CREDITOR'S LAW FIRM WILL PREPARE TO GIVE TO THE MARSHAL
6 OR SHERIFF TELLING THEM WHERE TO GO TO FIND AN ASSET.
7 AND THEN, FOR EXAMPLE, YOU KNOW, GO TO BANK OF AMERICA AT
8 THIS ADDRESS AND LEVY ON THE BANK ACCOUNT OF MIKE GOODWIN
9 AND STADIUM MOTOR SPORTS, FOR EXAMPLE.

10 AND THOSE ARE INSTRUCTIONS THAT OUR LAW
11 FIRM WOULD HAVE PREPARED DIRECTING IT TO THE LEVYING
12 OFFICER.

13 Q AND EACH OF THOSE INSTRUCTIONS, THEN,
14 WOULD BE DELIVERED TO, AT THAT TIME, THE MARSHAL'S OFFICE
15 OF THAT PARTICULAR COUNTY?

16 A THE MARSHAL OR THE SHERIFF, YES.

17 Q AND REFERRING TO THE WRIT THAT YOU HAVE
18 THERE, THAT WOULD HAVE BEEN -- YOU WOULD HAVE DELIVERED
19 AT SOME POINT LEVYING INSTRUCTIONS TO THE ORANGE COUNTY
20 MARSHALS?

21 A YES. IT WOULD HAVE GONE TO THE ORANGE
22 COUNTY MARSHAL -- LEVYING INSTRUCTIONS WOULD HAVE BEEN
23 GIVEN TO THE ORANGE COUNTY MARSHAL ALONG WITH THE WRIT OF
24 EXECUTION.

25 MR. SUMMERS: I HAVE IN MY HAND A ONE-PAGE

1 DOCUMENT ENTITLED -- NOT HAVING ANY TITLE. IT SAYS
2 "LITIGANT'S COPY," IT HAS THE NAME MICKEY THOMPSON VERSUS
3 MICHAEL GOODWIN ON IT. AND I'LL ASK THAT BE MARKED
4 DEFENSE E FOR IDENTIFICATION.

5 THE COURT: SO MARKED.

6
7 (DEFENSE EXHIBIT NO. E WAS MARKED FOR
8 IDENTIFICATION.)
9

10 Q BY MR. SUMMERS: I'M GOING TO HAND YOU
11 DEFENSE E AND ASK YOU IF YOU RECOGNIZE THAT DOCUMENT?

12 A YES. THAT WOULD HAVE BEEN THE
13 INSTRUCTIONS THAT CLARK AND TREVITHICK GAVE TO THE
14 MARSHAL IN ORANGE COUNTY TO LEVY ON MIKE GOODWIN'S CAR.
15 YES, THE CAR.

16 Q AND IS YOUR NAME ON THAT AS WELL?

17 A YES. THIS COPY DOESN'T HAVE MY SIGNATURE,
18 BUT MY NAME IS ON IT.

19 Q DOES THAT LOOK LIKE A COPY OF A CARBON TO
20 YOU?

21 A THAT'S USUALLY THE WAY THEY WERE DONE IN
22 THOSE DAYS, YES.

23 Q AND OBVIOUSLY YOU HAVE TO GET THE
24 INSTRUCTIONS OUT WITHIN WHATEVER THE PERIOD IS, 90 DAYS
25 OR 180 DAYS, IN ORDER TO LEVY ON -- LEGALLY LEVY ON ANY

1 PROPERTY; CORRECT?

2 A YES.

3 Q WHAT'S THE DATE ON THE LEVY INSTRUCTION
4 THAT YOU HAVE IN YOUR HAND?

5 A IT'S JUNE 11, 1986, WHICH WOULD MEAN WE
6 SENT IT OUT A FEW DAYS AFTER GETTING THE WRIT.

7 Q WHEN IS THE NEXT TIME -- AFTER THE SUMMER
8 OF 1986, WHEN IS THE NEXT TIME THAT YOU WOULD EVER -- OR
9 LET ME ASK IT THIS WAY, THE NEXT TIME YOU WOULD HAVE EVER
10 SOUGHT A WRIT WOULD HAVE BEEN AFTER YOU HAD OBTAINED SOME
11 RELIEF FROM THE BANKRUPTCY STAY; IS THAT CORRECT?

12 A WE NEVER OBTAINED ANY RELIEF FROM THE
13 BANKRUPTCY STAY. THERE WAS A NON -- THERE WAS AN
14 AGREEMENT THAT MICKEY THOMPSON'S DEBT AGAINST MIKE
15 GOODWIN AND STADIUM MOTOR SPORTS CORP WOULD NOT BE
16 CONSIDERED WIPE OUT BY THE BANKRUPTCY.

17 Q AND THE EFFECT OF THAT WOULD BE THAT YOU
18 WERE NO LONGER STAYED FROM ENFORCING IT; CORRECT?

19 A THAT'S CORRECT. IF YOU CAN FIND ASSETS.

20 Q AND THAT OCCURRED IN 19 -- AUGUST OF 1988;
21 IS THAT CORRECT?

22 A YES, AROUND THEN.

23 Q AND AT THAT POINT YOU GOT A BANKRUPTCY
24 JUDGMENT AS WELL; IS THAT CORRECT?

25 A YES, IT WAS IN THE BANKRUPTCY COURT.

1 Q AND YOU ACTUALLY APPLIED FOR AND GOT A
2 WRIT FOR THE U.S. MARSHALS IN AUGUST OF 1988?

3 A THAT MAY BE, BUT I DON'T SPECIFICALLY
4 RECALL. AT THAT POINT WE WERE ALL PERHAPS A LITTLE
5 ADDLED.

6 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND A
7 FIVE-PAGE DOCUMENT ENTITLED "AFFIDAVIT AND REQUEST FOR
8 ISSUANCE OF A WRIT OF EXECUTION." MAY IT BE MARKED
9 DEFENSE F?

10 THE COURT: YES, SO MARKED.

11
12 (DEFENSE EXHIBIT NO. F WAS MARKED FOR
13 IDENTIFICATION.)
14

15 Q BY MR. SUMMERS: MA'AM, I'M GOING TO HAND
16 YOU WHAT HAS BEEN MARKED AS DEFENSE F AND ASK YOU IF YOU
17 RECOGNIZE OR CAN IDENTIFY THAT PARTICULAR DOCUMENT?

18 A WELL, IT LOOKS LIKE -- I'M NOT SURE THIS
19 IS ALL THE SAME DOCUMENT BECAUSE I SEE AN AFFIDAVIT AND
20 REQUEST FOR ISSUANCE OF A WRIT OF EXECUTION. THE NEXT
21 PAGE IS THE WRIT ITSELF. MAYBE THEY'RE JUST OUT OF
22 ORDER. THIS MAY BE IT.

23 Q DO YOU SEE ANY -- I'M SORRY.

24 DO YOU SEE ANY INFORMATION ON THERE THAT
25 WOULD TIE THE DOCUMENT OR DOCUMENTS TO YOU AND/OR YOUR

1 LAW FIRM?

2 A THERE'S AN APPLICATION FOR ISSUANCE OF A
3 WRIT OF EXECUTION. IT'S DATED APRIL OF 1991. THE
4 JUDGMENT WAS ENTERED IN AUGUST OF 1988, BUT APPARENTLY WE
5 DIDN'T APPLY FOR THE WRIT UNTIL APRIL OF 1991. PROBABLY
6 BECAUSE THERE WAS NO ASSETS TO BE FOUND.

7 Q AND DO YOU RECALL GOING, THEN, TO THE
8 STATE COURT AGAIN ON OR ABOUT OR NEAR AUGUST OF '88 AND
9 ASKING FOR WRITS AGAIN?

10 A IN AUGUST OF '88?

11 Q UH-HUH.

12 A NO, I'M NOT REAL CLEAR ABOUT THAT. AFTER
13 MARCH OF 1988, PEOPLE WERE PRETTY UPSET.

14 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND A
15 TWO-PAGE DOCUMENT CERTIFIED ENTITLED "APPLICATION FOR
16 ISSUANCE OF WRIT OF POSSESSION OF SALE, EXECUTION AND
17 ORDER." I BELIEVE THAT WOULD BE DEFENSE G.

18 THE COURT: SO MARKED.

19
20 (DEFENSE EXHIBIT NO. G WAS MARKED FOR
21 IDENTIFICATION.)

22
23 MR. SUMMERS: I'M GOING TO HAND THAT TO COUNSEL.

24 Q MA'AM, LET ME HAND YOU DEFENSE G AND SEE
25 IF YOU CAN RECOGNIZE AND/OR IDENTIFY THAT DOCUMENT.

1 A THIS APPEARS TO BE -- YES, THIS WOULD BE
2 AN APPLICATION FOR ISSUANCE OF A WRIT. AND APPARENTLY IT
3 WAS FILED WITH THE COURT AT MY REQUEST IN AUGUST OF 1988.

4 Q AND IT BEARS YOUR SIGNATURE; IS THAT
5 CORRECT?

6 A YES. YES, IT DOES.

7 Q AND IT RELATES, AGAIN, TO THE SAME LAWSUIT
8 TO WHICH WE'VE BEEN REFERRING?

9 A THAT'S RIGHT. WELL, THIS -- THE SAME
10 LAWSUIT BUT AFTER IT WAS DEEMED NON-DISCHARGEABLE IN
11 BANKRUPTCY.

12 Q THE SAME JUDGMENT BUT IN AUGUST OF '88?

13 A YES.

14 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND
15 ANOTHER DOCUMENT. MAY I MARK IT AS DEFENSE H? IT'S A
16 ONE-PAGE DOCUMENT. IT'S ENTITLED "DEERINGS CALIFORNIA
17 CODE, THE ANNOTATED CODE OF CIVIL PROCEDURE SECTION
18 699.530."

19 THE COURT: ALL RIGHT. THAT WILL BE MARKED
20 DEFENSE H.

21
22 (DEFENSE EXHIBIT NO. H WAS MARKED FOR
23 IDENTIFICATION.)

24
25 Q BY MR. SUMMERS: MA'AM, I'M GOING TO SHOW

1 YOU NOW ANOTHER DOCUMENT, DEFENSE H. AND ARE YOU
2 FAMILIAR WITH WHAT IS DEPICTED THERE?

3 A WELL, THIS IS A COMPUTER PRINTOUT FROM
4 LEXUS NEXUS OF A CODE OF CIVIL PROCEDURE SECTION 699.530.

5 Q AND YOU'RE FAMILIAR WITH THE LEXUS --

6 A YES.

7 Q -- SERVICE?

8 A YES, I AM.

9 Q AND YOU'RE FAMILIAR WITH DEERINGS
10 ANNOTATED CODES?

11 A YES.

12 Q AND DOES THAT CODE SECTION APPLY TO WRITS
13 AND THE TIME PERIOD IN WHICH THEY ARE ENFORCED OR LEGALLY
14 ACTED UPON?

15 MR. JACKSON: I WOULD SIMPLY INTERPOSE AN
16 OBJECTION AS TO TIME.

17 THE COURT: ALL RIGHT. CAN YOU REPHRASE THAT?
18 THAT WILL BE SUSTAINED.

19 Q BY MR. SUMMERS: DEERINGS ANNOTATED
20 INCLUDES INFORMATION ABOUT PREVIOUS AMENDMENTS TO THE
21 STATUTE?

22 A THERE'S A HISTORICAL DERIVATION AT THE
23 BOTTOM, BUT IT'S CUT OFF. I DON'T HAVE THE COMPLETE
24 HISTORY OF IT. BUT IT SEEMS TO HAVE BEEN --

25 MR. JACKSON: OBJECTION, YOUR HONOR. THE

1 VAGUENESS OBJECTION STILL APPLIES. THE WITNESS HAS
2 ANSWERED THE QUESTION AT THIS POINT. I WOULD STILL
3 OBJECT AS TO VAGUE AS TO TIME ON THAT PARTICULAR CODE
4 SECTION.

5 THE COURT: I'M GOING TO OVERRULE THE OBJECTION
6 AND SEE IF YOU CAN GET THE REST OF THE ANSWER.

7 Q BY MR. SUMMERS: YOU WERE STARTING TO SAY
8 THAT IT APPEARED THAT THERE WAS SOME HISTORICAL
9 INFORMATION ABOUT THE STATUTE?

10 A THERE'S HISTORICAL DERIVATION. I NOTICE
11 THE HISTORY, IT SAYS IT WAS ADDED BY STATUTES IN 1982.

12 Q IN OTHER WORDS, THAT WOULD HAVE BEEN --
13 THE STATUTE WOULD HAVE BEEN EXACTLY THE SAME IN 1984,
14 '85, '86, '87 AND SO ON?

15 A IT APPEARS SO.

16 MR. SUMMERS: YOUR HONOR, THERE'S A DOCUMENT THAT
17 WE WISH TO PROJECT ON TO THE SCREEN AND I WOULD LIKE TO
18 GIVE COUNSEL A CHANCE TO REVIEW IT FIRST BEFORE WE DO
19 THAT.

20 MR. JACKSON: YOUR HONOR, WE HAVE AN OBJECTION TO
21 WHAT WE THINK MIGHT BE DISPLAYED AT THIS POINT. I THINK
22 WE NEED TO APPROACH AND DISCUSS IT AT SIDEBAR VERY
23 BRIEFLY.

24 MR. DIXON: AT LEAST AS THE FORM.

25 MR. JACKSON: RIGHT.

1
2 (PROCEEDINGS HELD AT SIDEBAR.)

3 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

4 MS. SARIS: THIS IS A -- WE COULDN'T FIND OUR
5 PRINTED COPY, THIS IS A SCANNED COPY OF IT, A BANKRUPTCY
6 REPORTER PUBLISHED CASE. IT'S A -- WE JUST TOOK A BOOK,
7 PUT IT ON A SCANNER AND IT'S REGARDING THE L.A.
8 COLOSSEUM, THE INTERPLEADER ACTION.

9 MS. CORDELL INDICATED THAT SHE WAS
10 INVOLVED IN LITIGATION AND HER NAME IS ONE OF THE FILING
11 ATTORNEYS. THE ONLY THING THE JURY WILL BE ABLE TO SEE
12 IS THAT IT'S THE -- I'LL SHOW THEM THE TITLE OF THE
13 DOCUMENT. AND THEN I'LL BE ABLE TO CALL OUT JUST HER
14 NAME. I MEAN, THEY'LL SEE THAT'S WHAT IT IS, BUT THEY
15 WON'T HAVE TIME OR ENOUGH DISTANCE TO READ THE -- IT'S A
16 BANKRUPTCY, IT'S A FILING.

17 MR. JACKSON: THERE'S A PUBLISHED -- MY PROBLEM
18 IS OBVIOUSLY IT'S A PUBLISHED OPINION THAT'S GOING TO BE
19 SHOWN TO THE JURY. IT'S COMPLETELY INAPPROPRIATE. I
20 MEAN --

21 THE COURT: YOU'RE USING THIS TO REFRESH HER
22 RECOLLECTION, IS THAT --

23 MS. SARIS: YES.

24 THE COURT: WELL, THEN WHY DON'T YOU JUST HAVE
25 HER LOOK AT IT.

1 MS. SARIS: WE CAN'T FIND IT.

2 THE COURT: WHAT DO YOU MEAN?

3 MR. JACKSON: ON THE COMPUTER.

4 MR. DIXON: HAVE HER STEP DOWN AND LOOK AT IT.

5 THE COURT: TAKE A LOOK AND SEE IF IT REFRESHES
6 HER MEMORY AND THEN WE DON'T HAVE TO PROJECT IT.

7 (SIDE BAR CONCLUDED.)

8

9 THE COURT: ALL RIGHT. LET'S PROCEED. DO YOU
10 WANT TO SHOW THE WITNESS SOMETHING?

11 MR. SUMMERS: WHILE WE WAIT FOR OUR HEART RATES
12 ALL TO MODERATE A LITTLE BIT, I'LL SHOW THE WITNESS.

13 MS. SARIS: MAY I, YOUR HONOR?

14 THE COURT: YES.

15 Q BY MR. SUMMERS: MA'AM, WE'RE SHOWING YOU
16 AN IMAGE OF A DOCUMENT ON A COMPUTER RIGHT NOW TO SEE IF
17 THAT REFRESHES YOUR RECOLLECTION WITH REGARD TO THE
18 LITIGATION IN BANKRUPTCY OF THE PROCEEDS FROM THE L.A.
19 COLOSSEUM EVENT.

20 A I BELIEVE -- I BELIEVE THIS WAS SOMETHING
21 THAT WAS SHOWN TO ME AT THE PRELIMINARY HEARING. AND IT
22 WAS THE SULMEYER -- IF THIS IS WHAT I'M THINKING OF -- IT
23 WAS THE SULMEYER FIRM THAT HANDLED THIS, WHICH WAS THE
24 FIRM THAT WAS HELPING MICKEY THOMPSON IN THE BANKRUPTCY.

25 Q IS YOUR NAME REFLECTED IN THIS PUBLISHED

1 OPINION?

2 A YES. AND THAT DOES HAPPEN SOMETIMES
3 BECAUSE ATTORNEYS -- IF YOU HAVE TWO FIRMS THAT ARE
4 REPRESENTING A PARTY IN A CASE, OUT OF COURTESY,
5 WHICHEVER FIRM SUBMITS A PLEADING TO THE COURT, THEY WILL
6 ALSO INCLUDE THE CO-COUNSEL'S NAME ON THE PLEADING. AND
7 THAT'S CLEARLY WHAT HAPPENED IN THIS CASE. VICTOR SAHN
8 OF THE SULMEYER FIRM APPARENTLY HANDLED THIS APPEAL, BUT
9 HE PUT MY NAME ON THE PLEADINGS AS WELL, SO THERE IT
10 SHOWS UP.

11 MR. SUMMERS: I THINK WE CAN HAVE MS. SARIS AND
12 HER COMPUTER STEP DOWN.

13 Q SO THAT WOULD HAVE BEEN -- AS YOU LOOK AND
14 RECALL THAT LAWSUIT, THAT WOULD HAVE BEEN ONE OCCASION IN
15 WHICH MICKEY THOMPSON, YOUR LAWYERS -- OR HIS LAWYERS DID
16 NOT PREVAIL ON A PARTICULAR ISSUE?

17 A APPARENTLY NOT.

18 Q AND --

19 A WELL, I ASSUME. I HAVE NOT READ THIS
20 CASE. HOWEVER, I KNOW WE DID NOT GET THE MONEY FROM THE
21 COLOSSEUM.

22 Q YOU WOULD REMEMBER THAT?

23 A I WOULD HAVE REMEMBERED THAT. MY
24 UNDERSTANDING IS IT WENT INTO THE BANKRUPTCY COURT. I
25 DON'T KNOW IF MR. GOODWIN EVER GOT IT EITHER.

1 Q WELL, AT THAT POINT HE WOULD HAVE BEEN
2 UNDER THE JURISDICTION OF THE BANKRUPTCY COURT; CORRECT?

3 A THAT DOESN'T MEAN A GREAT DEAL. HE WAS
4 WHAT'S CALLED A CHAPTER 11 DEBTOR WHICH MEANT HE STILL
5 HAD HIS HANDS ON HIS ASSETS. THAT'S WHY WE ASKED FOR A
6 TRUSTEE TO BE APPOINTED SO HE SUPPOSEDLY WOULDN'T,
7 ALTHOUGH HE CONTINUED TO DUMP ASSETS.

8 Q LET'S TALK A LITTLE BIT ABOUT THAT.
9 YOU MADE A MOTION FOR THE JUDGE TO APPOINT
10 A TRUSTEE.

11 WAS THAT GRANTED IMMEDIATELY?

12 A I COULDN'T SAY IF IT WAS GRANTED
13 IMMEDIATELY, NO.

14 Q IN FACT, DO YOU RECALL THAT RATHER THAN
15 GRANTING YOUR REQUEST FOR A TRUSTEE TO BE APPOINTED, THE
16 JUDGE ACTUALLY APPOINTED AN EXAMINER?

17 A THAT'S RIGHT. HE APPOINTED JOSEPH CAROLE
18 AS THE EXAMINER.

19 Q AND THEN WITHIN A COUPLE OF MONTHS AFTER
20 THAT, THE COURT DID, IN FACT, APPOINT A TRUSTEE -- AND
21 I'M GOING TO TALK ABOUT THE E.S.I. BANKRUPTCY RIGHT
22 NOW -- DO YOU RECALL THAT GENTLEMAN'S NAME?

23 A I BELIEVE THAT WAS JEFF COYNE -- OR NO,
24 ACTUALLY, THERE WAS SOMEONE ELSE APPOINTED FIRST AND THEN
25 HE RESIGNED.

1 Q WAS IT THE NAME JOHN STUHLEY,
2 S-T-U-H-L-E-Y?

3 A YES.

4 Q AND DID YOU KNOW MR. STUHLEY PRIOR TO HIS
5 BEING APPOINTED TRUSTEE BY THE COURT?

6 A I'M NOT SURE I EVER HAD ANY COMMUNICATIONS
7 WITH MR. STUHLEY. HE WAS KIND OF IN AND OUT, I THINK,
8 FAIRLY QUICKLY.

9 Q AND DID MR. STUHLEY FILE A MOTION OR AN
10 APPLICATION WITH THE COURT ACTUALLY TO EMPLOY YOUR LAW
11 FIRM AND THE SULMEYER LAW FIRM AS HIS COUNSEL AS TRUSTEE?

12 A HE MAY HAVE. THERE WAS AN AWFUL LOT GOING
13 ON AT THAT TIME, SO THAT MAY HAVE BEEN ONE OF THE THINGS
14 THAT HAPPENED. WE DIDN'T BECOME COUNSEL, THOUGH, TO MY
15 KNOWLEDGE.

16 Q AND DID SOMEBODY, THROUGH THEIR LAWYER,
17 OBJECT TO YOU BECOMING COUNSEL?

18 A I IMAGINE IT WOULD BE MR. GOODWIN.

19 Q LET ME JUST ASK YOU THIS QUESTION: DID
20 THE COMPANY E.S.I., DID THEY HAVE LEGAL REPRESENTATION IN
21 THE BANKRUPTCY AND BEFORE THE BANKRUPTCY?

22 A ABOUT 12 LAWYERS AT DIFFERENT TIMES.

23 Q AND MICHAEL GOODWIN INDIVIDUALLY -- AND
24 LET ME JUST ASK ABOUT AT THE TIME AT WHICH MR. STUHLEY
25 WAS APPOINTED, OR UP TO THAT TIME, DID MICHAEL GOODWIN

1 INDIVIDUALLY HAVE LEGAL REPRESENTATION FOR HIM IN THE
2 PERSONAL BANKRUPTCY?

3 A YES, HE DID.

4 Q WHAT --

5 MR. SUMMERS: WELL, I HAVE -- YOUR HONOR, I HAVE
6 IN MY HAND ANOTHER DOCUMENT, A CERTIFIED FEDERAL DOCUMENT
7 ENTITLED "FINDINGS OF FACT AND CONCLUSIONS OF LAW," AND I
8 THINK THAT WOULD BE DEFENSE I FOR IDENTIFICATION.

9 THE COURT: HOW MANY PAGES?

10 MR. SUMMERS: FIVE PAGES PLUS A CERTIFICATION
11 SLIP.

12 THE COURT: THANK YOU.

13
14 (DEFENSE EXHIBIT NO. I WAS MARKED FOR
15 IDENTIFICATION.)

16
17 Q BY MR. SUMMERS: MA'AM, I'M GOING TO HAND
18 YOU SOMETHING THAT'S BEEN IDENTIFIED AS DEFENSE
19 EXHIBIT I. WOULD YOU TAKE A LOOK AT THAT AND SEE IF YOU
20 RECOGNIZE OR CAN IDENTIFY IT?

21 A OKAY.

22 Q OR JUST LET ME KNOW WHEN YOU'VE HAD A
23 CHANCE TO REVIEW IT.

24 A I HAVEN'T READ IT IN DETAIL, BUT BASICALLY
25 I GET THE GIST OF IT, YES.

1 Q IS IT A FINDING MADE BY THE JUDGE IN THE
2 BANKRUPTCY COURT IN THE -- BASICALLY MAKING A FINDING,
3 DENYING THE TRUSTEE'S REQUEST TO HAVE YOUR FIRM AND THE
4 SULMEYER FIRM APPOINTED?

5 A AS COUNSEL FOR THE TRUSTEE, YES.

6 Q AND THAT WAS SOMETHING THAT YOUR FIRM --
7 DID -- WAS THAT SOMETHING THAT YOUR FIRM OBJECTED TO?

8 A NO. WE WERE ASKING TO BE APPOINTED AS
9 COUNSEL BECAUSE WE WERE SO FAMILIAR WITH THE CASE. WE
10 THOUGHT IT WOULD BE MORE ECONOMICAL.

11 Q WHAT -- IF YOU HAD BEEN SUCCESSFUL AT THAT
12 POINT AND YOU BECOME COUNSEL FOR THE TRUSTEE, AT THAT
13 POINT, IF THERE'S MONEY BROUGHT INTO THE ESTATE, YOUR
14 FIRM IS PAID OUT OF THOSE FUNDS; IS THAT CORRECT?

15 A THE ATTORNEY'S FEES FOR CLARK AND
16 TREVITHICK WOULD HAVE HAD WHAT'S CALLED A PRIORITY AS AN
17 ADMINISTRATIVE EXPENSE. ALL DEPENDING ON UPON WHETHER
18 ANY MONEY CAME IN AT ALL, WHICH WAS UNCERTAIN AT THAT
19 POINT.

20 Q SO IF MONEY CAME IN, WOULD THAT -- WOULD
21 THE ADMINISTRATIVE FEES SO-CALLED, DOES THAT COME OFF THE
22 TOP?

23 A IT DEPENDS. IT DEPENDS. YOU HAVE TO MAKE
24 A RATHER LENGTHY AND TEDIOUS APPLICATION TO THE COURT
25 EXPLAINING WHAT YOU'VE DONE AND WHY IT BENEFITED THE

1 ESTATE. AND, OF COURSE, THERE HAS TO BE MONEY THERE IN
2 THE FIRST PLACE.

3 Q WELL, IS THAT TRUE IF YOU'RE APPOINTED
4 AS -- OR IF YOU'RE APPROVED AS COUNSEL FOR THE TRUSTEE,
5 DO YOU HAVE TO SHOW THAT THE ACTIONS THAT YOU TOOK
6 BENEFITED THE ESTATE?

7 A ABSOLUTELY.

8 Q IS THERE A SEPARATE CODE SECTION FOR
9 ATTORNEYS FOR CREDITORS THAT HAVE TO SHOW -- IN ORDER TO
10 GET COMPENSATED THAT THEY WOULD SHOW THAT THEY HAD
11 PERFORMED SOME BENEFIT TO THE ESTATE?

12 A ATTORNEYS FOR CREDITORS DON'T GET
13 COMPENSATED UNLESS THEY CAN COME IN AND SPECIFICALLY SHOW
14 THAT THEY BENEFITED THE ESTATE. CLARK AND TREVITHICK DID
15 GET SOME MONEY OUT OF THE ESTATE BECAUSE WE LOCKED UP A
16 VERY SIGNIFICANT PIECE OF PROPERTY AFTER THE MURDERS.

17 Q AND YOU -- AND YOU WENT THROUGH THAT
18 TEDIOUS PROCESS OF FILING WITH THE COURT, THE BILLING --
19 THE MINUTES AND THE BILLINGS THAT YOUR FIRM HAD EXPENDED
20 ON THE BANKRUPTCY?

21 A YES. AND I BELIEVE THERE WERE OBJECTIONS
22 TO EVEN PAYING THOSE.

23 Q DO YOU RECALL HOW MUCH YOUR FIRM
24 PETITIONED THE E.S.I. BANKRUPTCY COURT FOR?

25 A I CAN'T REMEMBER THE EXACT AMOUNT. I DO

1 REMEMBER THAT PRETTY MUCH ALL OF MR. GOODWIN'S ATTORNEYS
2 AND THE TRUSTEES GOT PAID AND OUR BILL GOT CUT PRETTY
3 SIGNIFICANTLY.

4 Q HIS ATTORNEYS GOT PAID BEFORE YOU DID?

5 A YES.

6 Q ARE YOU SURE ABOUT THAT?

7 A THAT WAS -- YES, I FEEL QUITE CERTAIN
8 ABOUT THAT. WE OBJECTED AND PRETTY MUCH THE ATTORNEY'S
9 FEES FOR MR. GOODWIN WERE PAID OUT OF THE BANKRUPTCY
10 ESTATE.

11 Q SO YOU STOOD IN LINE IN THE BANKRUPTCY
12 COURT NEXT TO MR. GOODWIN'S ATTORNEYS AND THEY WERE PAID
13 OUT OF THE FUNDS AHEAD OF YOU?

14 A YES.

15 Q APPROXIMATELY WHEN DID THAT OCCUR? WAS
16 THAT NOVEMBER OF 1989?

17 A I CAN'T REMEMBER WHEN THE BANKRUPTCY
18 ESTATE CLOSED. IT WOULD HAVE BEEN AROUND THAT TIME. IT
19 MIGHT HAVE BEEN IN '89, IT MAY HAVE BEEN A LITTLE LATER.
20 I KNOW IT WAS AT LEAST A YEAR OR MORE AFTER THE MURDERS,
21 AFTER MR. GOODWIN HAD DISAPPEARED.

22 MR. SUMMERS: YOUR HONOR, MOTION TO STRIKE AS
23 NON-RESPONSIVE AND NO QUESTION PENDING.

24 THE COURT: ALL RIGHT. THAT WILL BE STRICKEN.

25 Q BY MR. SUMMERS: IN FACT, YOUR LAW FIRM

1 ALSO FILED A CLAIM, AND I BELIEVE IT WAS YOU PERSONALLY
2 WHO FILED THE CLAIM FOR YOUR LAW FIRM IN THE PROBATE
3 ESTATE FOR MICKEY THOMPSON AND TRUDY THOMPSON.

4 MR. JACKSON: OBJECTION. RELEVANCE.

5 THE COURT: DO YOU WANT TO GO TO SIDEBAR?
6

7 (PROCEEDINGS HELD AT SIDEBAR.)

8 THE COURT: WE'RE AT THE SIDEBAR.

9 WHAT'S THE RELEVANCE?

10 MR. SUMMERS: YOUR HONOR, ONE PERSON'S THEORY
11 ABOUT WINNING IS ARGUABLE AND REASONABLE. ANOTHER
12 PERSON'S IS EQUAL. MICKEY THOMPSON HAD A JUDGMENT THAT
13 THE COURT DID NOTHING ON. HE EXPENDED -- THE LAW FIRM
14 FILED A CLAIM IN THE PROBATE ESTATE FOR \$286,000 WHICH
15 THEY ATTRIBUTED TO REPRESENTATION OF THOMPSON AND
16 LITIGATION WITH GOODWIN. SO WE HAVE HIS OUT OF POCKET 4-
17 OR \$500,000, THE EVIDENCE SAYS HE OWES HIS ATTORNEYS
18 \$286,000, AND HE'S COLLECTED ZERO.

19 THE COURT: WELL, WHAT'S THE RELEVANCE?

20 MR. SUMMERS: YOUR HONOR, THE RELEVANCE IS THEY
21 ARE SAYING THAT MICKEY THOMPSON WAS THE BIG WINNER. I
22 THINK THAT'S REBUTTED BY THIS -- BY THAT EVIDENCE.

23 MR. JACKSON: NO.

24 THE COURT: ONE AT A TIME.

25 I'M NOT FOLLOWING THE ARGUMENT HERE. IT

1 WAS A PROBATE --

2 MR. SUMMERS: THEIR ARGUMENT IS -- THEIR ARGUMENT
3 IS -- SPEAKING FOR THEM, IS THAT MICKEY THOMPSON WAS
4 WINNING, PREVAILING AT EVERY STAGE OF THE GAME --

5 THE COURT: CORRECT.

6 MR. SUMMERS: -- AFTER THE CONTEST.

7 THAT FLIES AGAINST SOMEBODY WHO IS OUT OF
8 POCKET \$400,000 AND WHO HAS \$286,000 OF ATTORNEY'S FEES
9 RELATING TO THAT LITIGATION. THAT PERSON IS ARGUABLY NOT
10 WINNING AND IS ARGUABLY IN A WORSE POSITION THAN THE GUY
11 ON THE OUT --

12 THE COURT: RIGHT. BUT THE QUESTION DOESN'T --
13 I'M NOT FOLLOWING THE RELEVANCE OF THE QUESTION BECAUSE
14 IT HAS TO DO WITH THE PROBATE ESTATE.

15 SO I'M GOING TO SUSTAIN THE OBJECTION.
16 YOU CAN PROBABLY GET THAT INFORMATION IN ANOTHER MANNER.

17 MR. DIXON: WELL, IF WE COULD JUST PRESS THIS AS
18 LONG AS WE'RE HERE, WE HAVE NOT OBJECTED UP TO THIS POINT
19 BUT CONSIDERED IT. ALL THESE QUESTIONS ABOUT ATTORNEY'S
20 FEES HERE SEEMS TO ME TO BE OF LITTLE OR NO RELEVANCE,
21 ESPECIALLY IN LIGHT OF THE ATTEMPTED ARGUMENT THAT WAS
22 JUST MADE TO JUSTIFY IT. I JUST DON'T SEE THAT ANY OF
23 THAT'S RELEVANT ON THESE DISCUSSIONS ABOUT ATTORNEY'S
24 FEES HERE.

25 MR. JACKSON: AND COUNSEL HAS USED AS

1 JUSTIFICATION FOR THIS LINE OF QUESTIONING THAT OUR
2 ARGUMENT WAS MICKEY THOMPSON WAS A BIG WINNER. WE DIDN'T
3 SAY HE WAS A FINANCIAL WINNER. WE'RE VERY CLEAR. WE'RE
4 SAYING THERE ARE CERTAIN LEGAL BATTLES WHEN THEY WENT UP
5 AGAINST EACH OTHER, MICKEY THOMPSON PREVAILED TIME AFTER
6 TIME AFTER TIME, BUT HE NEVER GOT THE MONEY THAT WAS OWED
7 TO HIM. THAT'S NOT WHAT WE'RE CLAIMING.

8 THE COURT: AND I THINK THE EVIDENCE ESTABLISHES
9 THAT FACT. SO THIS CLAIM ON A PROBATE ESTATE DOESN'T
10 REALLY ADD ANYTHING. BUT I THINK THE DEFENSE HAS MADE
11 THE POINT PRETTY CLEAR THAT THOMPSON NEVER GOT A DIME.

12 MR. JACKSON: CORRECT.

13 THE COURT: WHAT ELSE IS THERE?

14 MR. SUMMERS: THERE'S ALSO -- THESE ARE -- THE
15 FACT THAT IT'S IN PROBATE, IT'S A CLAIM FILED FOR
16 ATTORNEY SERVICES UP TO THE DEATH, AND THAT'S IN THE
17 PETITION. IT WAS STATED BY MR. BARTINETTI THAT MICKEY
18 WAS BASICALLY UP TO DATE OR NOT BEHIND IN PAYMENTS. THIS
19 WAS ARGUABLY -- I'M NOT -- NOTHING IS GOING TO COME OUT
20 IRON CLAD AND SAY THAT, BUT IT'S ARGUABLY INDICATING THAT
21 THAT'S NOT THE CASE.

22 AND THE FACT THAT THEY CAN COUCH THEIR
23 POSITION AND THAT IT'S LEGAL BATTLES THAT HE'S WINNING
24 AND THAT'S REASON FOR THE MOTIVE, WE OUGHT TO BE ALLOWED
25 TO REBUT THAT WITH A PLAUSIBLE -- OR WITH EVIDENCE THAT'S

1 EQUALLY PLAUSIBLE THAT WOULD --

2 THE COURT: SO YOU BASICALLY WANT TO SHOW THAT
3 MICKEY THOMPSON OWED HIS LAWYERS MONEY AT THE TIME OF HIS
4 DEATH AND WASN'T CURRENT ON HIS OBLIGATION? THAT'S WHAT
5 I'M HEARING. IS THAT RIGHT?

6 MR. SUMMERS: YES.

7 THE COURT: ALL RIGHT. THE OBJECTION IS
8 SUSTAINED.

9 (SIDE BAR CONCLUDED.)

10

11 Q BY MR. SUMMERS: MA'AM, I WANT TO CALL
12 YOUR ATTENTION TO SOME OTHER PROCEEDINGS THAT TOOK PLACE
13 IN DECEMBER OF 1986. WAS AN AUCTION HELD AT THAT TIME OF
14 THE ASSETS OF THE COMPANY KNOWN AS E.S.I.?

15 A I DON'T BELIEVE THERE WAS AN AUCTION OF
16 ALL OF THE ASSETS. THERE WAS AN AUCTION OF -- AFTER WE
17 HAD PREVENTED THE CALDWELL TRANSACTION AND THE DEFAULT
18 FROM HAPPENING, THE JUDGE SAID OKAY, WE'RE GOING TO PUT
19 THIS -- WHAT'S CALLED THE INSPORT AGREEMENT UP TO BID IN
20 THE BANKRUPTCY COURT.

21 Q IS IT YOUR RECOLLECTION THAT THAT WAS THE
22 ONLY ASSET?

23 A I BELIEVE THAT WAS THE ONLY ASSET THAT WAS
24 PUT UP TO BID. THERE MAY HAVE BEEN SOME MINOR OTHER
25 ASSETS, BUT I THINK THAT WAS THE KEY ASSET.

1 Q DID MICKEY THOMPSON BID ON WHATEVER ASSETS
2 WERE AUCTIONED, DID HE BID ON THOSE?

3 A YES, HE DID.

4 Q AND DID DIANE GOODWIN, MICHAEL GOODWIN'S
5 WIFE, DID SHE ALSO PUT A BID IN?

6 A SHE PUT A BID IN ALONG WITH CHUCK CLAYTON.

7 Q AND WHO WON THE RIGHT TO THOSE ASSETS?
8 IT'S A YES OR NO.

9 MR. DIXON: YOUR HONOR --

10 THE COURT: YOU MEAN, DO YOU KNOW?

11 DO YOU KNOW?

12 Q BY MR. SUMMERS: I MEAN, I'M SORRY.
13 TURNING TO LESS WHIMSICAL TOPICS, IT'S NOT A YES OR NO.

14 A OSTENSIBLY IT WAS DIANE GOODWIN AND CHUCK
15 CLAYTON. THAT WAS WHAT WAS REPRESENTED TO THE COURT.

16 Q WELL, THE COURT MADE A FINDING AND MADE AN
17 ORDER WITH REGARD TO THE ASSETS AND WHO THEY WENT TO;
18 CORRECT?

19 A WELL --

20 Q THAT'S A YES OR NO.

21 A WELL, THEY MADE AN ORDER. IT'S NOT WHO
22 THE ASSETS WENT TO.

23 Q THE COURT DID, THOUGH?

24 A AS FAR AS I KNOW, YES.

25 Q AND MONEY WENT INTO THE ESTATE BASED ON

1 THAT WINNING BID, CORRECT, AT LEAST \$125,000 DOWN
2 PAYMENT?

3 A IT WAS -- I BELIEVE THE FULL AMOUNT OF THE
4 BID WAS 600- OR 650,000 WITH 125- OR 150,000 DOWN. THE
5 REST OF IT TO BE MADE IN PAYMENTS, WHICH WERE NEVER MADE.

6 MR. SUMMERS: YOUR HONOR, MOTION TO STRIKE AS
7 NON-RESPONSIVE.

8 THE COURT: "WHICH WERE NEVER MADE" WILL BE
9 STRICKEN.

10 Q BY MR. SUMMERS: YOU INDICATED THAT
11 EVENTUALLY AFTER THE DEATH OF MICKEY THOMPSON THAT YOU
12 WERE SUCCESSFUL IN BRINGING IN SOME TYPE OF ASSET INTO
13 THE BANKRUPTCY ESTATE; IS THAT CORRECT?

14 A YES.

15 Q AND THAT ASSET WAS KNOWN AS SOMETHING
16 CALLED J.G.A. WHITEHAWK?

17 A THAT WAS THE SHORTHAND TERM FOR IT, YES.

18 Q AND THE J.G. IN J.G.A., THAT STOOD FOR --
19 OR THAT -- YES, THAT STOOD FOR JOHN GATES?

20 A YES.

21 Q AND JOHN GATES WAS ONE OF THE PEOPLE WHO
22 WAS OFFERED AS A SURETY WHEN MICHAEL GOODWIN WAS
23 INITIALLY ATTEMPTING TO STAY THE JUDGMENT OR STAY THE
24 EXECUTION OF THE JUDGMENT?

25 A THE SAME JOHN GATES.

1 Q THAT ASSET, THAT J.G.A. WHITEHAWK ASSET
2 WAS ALSO PLEDGED BY DIANE GOODWIN AT THOSE HEARINGS
3 INVOLVING THE PERSONAL SURETIES; IS THAT CORRECT?

4 A THAT WAS ONE OF THE ASSETS THAT THEY
5 PURPORTED TO PUT UP.

6 BUT IF I COULD EXPLAIN WHAT THAT ASSET
7 WAS. IT CHANGED SUBSTANTIALLY BETWEEN THE PERSONAL
8 SURETY HEARING AND 1988.

9 Q AND THAT CHANGE WENT FROM SOMETHING THAT
10 YOU DIDN'T -- OR YOU DIDN'T FEEL WAS SUFFICIENT FOR THE
11 SURETY PURPOSES TO SOMETHING THAT PAID TWO AND A HALF
12 MILLION DOLLARS?

13 A IT WAS A REAL ESTATE DEVELOPMENT THAT HAD
14 NOT BEEN BUILT AS OF THE PERSONAL SURETY HEARING.

15 Q THE PERSONAL SURETY HEARINGS WERE IN?

16 A IN AUGUST OF 1986.

17 Q SOMETIME IN 1988?

18 A YES. SO IT WAS TWO YEARS LATER AFTER THIS
19 REAL ESTATE DEVELOPMENT HAD BEEN BUILT.

20 Q HADN'T THERE BEEN ALREADY SEVERAL
21 DISBURSEMENTS ON THAT REAL ESTATE INVESTMENT?

22 A NOT TO THE BANKRUPTCY ESTATE.

23 Q THAT'S NOT MY QUESTION.

24 A NO, THERE HAD NOT BEEN -- WELL,
25 DISBURSEMENTS. I KNOW THERE WERE DISBURSEMENTS AFTER THE

1 MURDERS OF ABOUT 325,000, BUT IT DID NOT GO TO THE
2 BANKRUPTCY ESTATE.

3 Q PRIOR TO THE MURDERS ARE YOU AWARE OF ANY
4 DISBURSEMENTS?

5 A THERE MIGHT HAVE BEEN A COUPLE HUNDRED
6 THOUSAND, BUT AGAIN, IT DIDN'T GO TO THE BANKRUPTCY
7 ESTATE.

8 Q MA'AM, YOU'VE MENTIONED JEFFREY COYNE. IN
9 FACT, IN FEBRUARY OF 1988, JEFFREY COYNE AS TRUSTEE TO
10 THE E.S.I. ESTATE WAS HOLDING OVER \$800,000 IN FUNDS;
11 ISN'T THAT CORRECT?

12 A NOT TO MY KNOWLEDGE.

13 Q OKAY.

14 THE COURT: LET ME INQUIRE BECAUSE IT'S 4:30.

15 HOW MUCH MORE DO YOU HAVE, MR. SUMMERS?

16 MR. SUMMERS: I HAVE A FAIRLY SUBSTANTIAL AMOUNT,
17 YOUR HONOR.

18 THE COURT: ALL RIGHT. THIS MIGHT BE A GOOD TIME
19 TO RECESS. AND WE ARE GOING TO RESUME MONDAY. I BELIEVE
20 THAT WAS THE PLAN.

21 MR. DIXON: CAN WE HAVE JUST HAVE A MOMENT WITH
22 THE WITNESS AND COUNSEL WITH REGARD TO SCHEDULING?

23 THE COURT: MR. DIXON, MR. JACKSON, WHY DON'T YOU
24 TAKE THE EXHIBITS.

25 MR. DIXON: YES.

1 THE COURT: I'M GOING TO SUGGEST MONDAY AT 1:30
2 JUST TO BE ON THE SAFE SIDE.

3 SO MS. CORDELL, ARE YOU AVAILABLE MONDAY
4 AT 1:30?

5 THE WITNESS: I CAN COME BACK DOWN, YES.

6 THE COURT: SO WHY DON'T WE DO IT MONDAY AT 1:30
7 WITH MS. CORDELL. THIS WAY WE DON'T HAVE TO KEEP YOU ALL
8 WAITING IN THE MORNING. SO LET'S TRY FOR 1:30 AND MAYBE
9 WE WILL BE MORE EFFICIENT WITH OUR TIME.

10 SO, LADIES AND GENTLEMEN, PLEASE REMEMBER
11 THE ADMONITIONS. DO NOT DISCUSS THIS CASE. DON'T FORM
12 OR EXPRESS ANY OPINIONS ON IT. DON'T CONDUCT ANY
13 DELIBERATIONS. STAY AWAY FROM THE LOCATIONS INVOLVED.
14 AND MOST IMPORTANTLY, DON'T READ OR LISTEN TO ANYTHING
15 ABOUT THIS CASE REPORTED IN THE MEDIA OR ONLINE OR
16 ANYWHERE ELSE.

17 AND WE WILL BE IN RECESS UNTIL MONDAY,
18 NOVEMBER 13TH, 1:30 IN THE AFTERNOON. SEE YOU THEN.
19 HAVE A GOOD WEEKEND.

20
21 (THE FOLLOWING PROCEEDINGS WERE
22 HELD IN OPEN COURT OUTSIDE THE
23 PRESENCE OF THE JURY.)
24

25 THE COURT: ALL RIGHT. ALL THE JURORS AND

1 ALTERNATES HAVE LEFT THE COURTROOM. WE ARE GOING TO
2 RESUME WITH THE TESTIMONY AT 1:30 ON MONDAY. I WILL SEE
3 COUNSEL BACK HERE PRETTY EARLY MONDAY MORNING TO RESOLVE
4 SOME OF THE ISSUES THAT ARE OUTSTANDING.

5 ALSO, I'M GOING TO SUGGEST THAT YOU ALL
6 GET TOGETHER BEFORE WE RESUME AT 1:30 AND PERHAPS YOU CAN
7 SHARE EXHIBITS AND PERHAPS EXHIBITS CAN BE VIEWED SO THAT
8 WE DON'T HAVE TO TAKE TIME WITH THE JURY PRESENT.

9 IS THAT POSSIBLE?

10 MS. SARIS: YEAH. THAT WAS JUST A SITUATION WE
11 COULDN'T FIND THE HARD COPY. THAT WAS ALL. WE WOULD
12 HAVE NORMALLY JUST HANDED IT TO THEM.

13 THE COURT: BUT EVEN THE OTHER EXHIBITS, NOT JUST
14 THE COMPUTER.

15 MR. JACKSON: YOUR HONOR, COUNSEL HAS EVERY ONE
16 OF OUR EXHIBITS. WE DON'T HAVE ANY OF THEIR EXHIBITS
17 BECAUSE THEY'RE CLAIMING THAT THEY'RE IMPEACHMENT. SO
18 THEY'RE HANDING THEM TO US -- A LOT OF THEM FOR THE FIRST
19 TIME.

20 THE COURT: WELL, YOU KNOW, I HAVE TO SAY I DON'T
21 WANT THAT TO HAPPEN.

22 MS. SARIS: I DON'T UNDERSTAND THAT. WE --

23 THE COURT: YOU DON'T UNDERSTAND WHAT?

24 MS. SARIS: WE HAVE EVERY ONE THEIR EXHIBITS. I
25 MEAN, I DON'T KNOW WHAT THEY WANT.

1 THE COURT: WHAT I'M GOING TO ORDER THAT YOU DO
2 IS ANY EXHIBITS YOU PLAN TO USE IN YOUR EXAMINATION,
3 BEFORE WE START AT 1:30, PLEASE MAKE SURE THE PEOPLE HAVE
4 HAD AN OPPORTUNITY TO LOOK AT THEM. BECAUSE WE ARE
5 WASTING TIME A LOT OF PRECIOUS TIME AND THE JURORS ARE
6 GROWING IMPATIENT AND SOMEWHAT BORED. SO I MEAN, WE HAD
7 A NUMBER OF INCIDENTS WHERE IT LOOK A WHILE FOR COUNSEL
8 TO SHOW DOCUMENTS AND FOR THE PEOPLE TO REVIEW THEM. I
9 DON'T WANT THAT TO HAPPEN AGAIN. ALL RIGHT?

10 SO WHENEVER YOU DECIDE TO DO IT, DO IT,
11 AND DON'T TAKE TIME AWAY FROM THE JURORS. SO GET THOSE
12 THINGS DONE BEFORE WE RESUME AT 1:30 ON MONDAY, PLEASE.

13 MR. SUMMERS: WELL --

14 THE COURT: AND WITH ALL FUTURE WITNESSES, MAKE
15 SURE THAT'S DONE AHEAD OF TIME.

16 MR. SUMMERS: HOW DO WE KNOW WHAT SOMEONE'S NOT
17 GOING TO REMEMBER OR IS GOING TO SAY SOMETHING THAT'S
18 CONTRADICTORY? WE DON'T KNOW THAT WE'RE GOING TO NEED
19 DOCUMENTS.

20 THE COURT: IF YOU BELIEVE, REASONABLY EXPECT
21 THAT YOU HAVE A DOCUMENT THAT YOU ARE GOING TO HAVE TO
22 SHOW TO A WITNESS, SHARE IT WITH THE PEOPLE BEFORE THE
23 JURY COMES INTO THE COURTROOM. I DON'T THINK THAT'S
24 ASKING TOO MUCH.

25 MS. SARIS: NO. IT'S THE SAME WITH THE PHIL

1 BARTINETTI LETTERS. I MEAN, WE HAD THOSE BUT COUNSEL HAD
2 TO DISTINGUISH WHICH ONE HE WAS SPEAKING OF AND WE HADN'T
3 LOOKED AT IT.

4 THE COURT: THAT WAS OUTSIDE OF THE PRESENCE. I
5 DON'T CARE HOW LONG WE TAKE OUTSIDE OF THE PRESENCE. I'M
6 TALKING ABOUT WHILE THE JURY IS SITTING IN THE JURY BOX
7 AND YOU GUYS ARE EXCHANGING EXHIBITS FOR THE FIRST TIME.
8 THAT'S NOT ACCEPTABLE. SO SHOW THEM TO COUNSEL -- IF YOU
9 REASONABLY ANTICIPATE YOU ARE GOING TO USE THEM, SHOW
10 THEM TO COUNSEL AND LET'S TRY TO EXPEDITE -- LET'S TRY TO
11 USE THESE JURORS' TIME MORE WISELY.

12 I'M JUST SAYING THERE WERE A LOT OF TIME
13 LAPSES WHERE THE JURORS WERE GROWING VERY IMPATIENT.

14 MR. SUMMERS: YOUR HONOR, I WOULD JUST SAY THAT A
15 LOT OF THOSE DOCUMENTS, ALSO, I THINK THEY HAVE. THEY'RE
16 NOT NECESSARILY DOCUMENTS THAT ARE -- THAT SHOULD BE NEW
17 TO ANYBODY.

18 THE COURT: WELL, THEN GIVE THEM A LIST SO THAT
19 WE DON'T HAVE TO TAKE TIME AWAY FROM THE JURY WHILE THEY
20 SITTING HERE TO LOOK AT THE DOCUMENTS. I MEAN, THIS IS
21 NOT AN EASY PAPER KIND OF CASE. I MEAN, THESE DOCUMENTS
22 APPEAR TO BE, AT LEAST, LENGTHY AND COMPLICATED
23 DOCUMENTS. SO ALL I'M SAYING IS THAT I WANT BOTH SIDES
24 TO SHARE WITH EACH OTHER EXHIBITS, SO THAT WE DON'T HAVE
25 TO STOP EVERY TIME YOU ARE GOING TO MARK A DOCUMENT FOR

1 IDENTIFICATION AND THEN SHOW IT TO A WITNESS.

2 MR. SUMMERS: THAT MIGHT GO MORE SMOOTHLY IF WE
3 KNEW WHO THE WITNESSES WERE MORE THAN 24 HOURS.

4 THE COURT: I'M GOING TO EXPECT THAT BOTH SIDES
5 ARE GOING TO CONTINUE TO SHARE INFORMATION WITH EACH
6 OTHER AND GET THAT OUT OF THE WAY.

7 MR. DIXON: THAT'S A REALLY UNFAIR COMMENT
8 BECAUSE I SPOKE WITH MS. SARIS, AS I SAID WE'VE BEEN
9 DOING, AT LEAST THE DAY BEFORE; TELL THEM WHO'S GOING TO
10 BE HERE. SHE KNEW EXACTLY WHO WAS GOING TO BE HERE
11 TODAY. MR. SUMMERS'S COMMENTS, THERE JUST FLAT OUT NOT
12 FAIR AND NOT TRUE. THEY KNEW EXACTLY WHO WAS GOING TO BE
13 HERE TODAY.

14 MR. SUMMERS: I SAID MORE THAN 24 HOURS. THE
15 POINT IS WE HAVE 40,000 PAGES OF DISCOVERY, I MEAN, IT'S
16 JUST NOT A SIMPLE CASE WHERE YOU CAN SAY, OH, GEE,
17 DOLORES CORDELL'S COMING IN TOMORROW OR -- I'M NOT SAYING
18 IT'S THEIR FAULT OR SOME TERRIBLE THING. I'M SAYING THAT
19 IT'S NOT UNEXPECTED THAT IF THAT'S THE LAG TIME WE HAVE
20 WITH 90 WITNESSES AND 40,000 PAGES THAT IT'S GOING TO BE
21 SOMETIMES DIFFICULT TO HAVE EVERYTHING GATHERED AND SHOWN
22 TO THE PEOPLE AHEAD OF TIME.

23 THE COURT: ALL RIGHT.

24 MS. SARIS: WE WILL DO OUR BEST. WE WILL TRY.

25 THE COURT: AGAIN, THIS ISN'T ME BECAUSE I'M

1 IMPATIENT. I'M LOOKING AT 18 JURORS AND I'M JUST TELLING
2 YOU WHAT THEIR BODY LANGUAGE IS TELLING ME AND THEY'RE
3 GROWING VERY IMPATIENT WITH THE DELAY.

4 SO TO THE EXTENT THAT THE PEOPLE CAN GET
5 THE NAMES OF THE WITNESSES IN ADVANCE TO THE DEFENSE AND
6 THE DEFENSE CAN SHARE THEIR EXHIBITS WITH THE PEOPLE, IT
7 WOULD BE MUCH APPRECIATED BY THE PEOPLE THAT ARE SITTING
8 ON THIS CASE AND HAVING TO DECIDE THE FACTS.

9 WHAT TIME MONDAY MORNING FOR THE HEARINGS?

10 MR. DIXON: WELL, WHAT HEARINGS ARE UP TO BAT?

11 THE COURT: WELL, I THOUGHT WE WERE GOING TO DO
12 THE HEARINGS WITH THE WITNESS KEAY, WHATEVER HIS NAME IS,
13 ON THE F.T.A.'S AND THE 23152'S.

14 WEREN'T WE GOING TO DO THAT?

15 MR. DIXON: FINE.

16 THE COURT: AND WE WERE GOING TO DO FURTHER
17 HEARING WITH POINTS AND AUTHORITIES ON THE 1101(B),
18 WEREN'T WE?

19 MS. SARIS: YES.

20 THE COURT: WHAT ELSE WERE WE GOING TO DECIDE?

21 MR. DIXON: I THINK THAT'S IT.

22 THE COURT: IS THAT IT? JUST THOSE TWO ISSUES?

23 MR. DIXON: I THINK SO.

24 THE COURT: I KNOW THAT MY NOTES SHOW THAT WE HAD
25 OTHER ISSUES WE WERE GOING TO LITIGATE REGARDING

1 SPONTANEOUS STATEMENTS, NANCY WILKINSON, JOEL WEISSLER,
2 WHEN ARE WE GOING TO DO THAT?

3 MR. JACKSON: THEY ARE NOT -- WELL, LET ME -- NOT
4 ANY TIME SOON.

5 THE COURT: OKAY. WHAT DO YOU MEAN "NOT ANY TIME
6 SOON"?

7 MR. JACKSON: LIKE TOWARD THE END OF THE TRIAL.

8 THE COURT: SO THEY'RE NOT EXPECTED TO TESTIFY
9 NEXT WEEK?

10 MR. JACKSON: NO, MA'AM.

11 THE COURT: SO YOU'RE GOING TO HAVE TO KEEP ME
12 POSTED ON THAT BECAUSE I REALLY WANT TO TRY TO SCHEDULE
13 THAT OUT.

14 MR. JACKSON: AND I'M NOT SAYING WE CAN'T
15 LITIGATE IT ON MONDAY. I THOUGHT THE COURT WAS INQUIRING
16 WHETHER OR NOT THIS IS SOMETHING LIKE RIGHT AT OUR HEELS.
17 IT'S NOT NIPPING AT OUR HEELS.

18 THE COURT: OH. WHY DON'T WE TRY TO DO AS MUCH
19 AS WE CAN MONDAY MORNING SINCE THEY'RE COMING IN AT 1:30.

20 MR. JACKSON: FINE.

21 MR. SUMMERS: DOES SHE WANT TO HEAR FROM THEM?

22 MR. JACKSON: I DON'T KNOW WHERE NANCY WILKINSON
23 IS, BUT I KNOW JOEL -- SHE'S FLYING? WILKINSON FLIES,
24 AND JOEL WEISSLER IS A LONG DRIVE.

25 THE COURT: OKAY. WHATEVER YOU CAN WORK OUT. IF

1 WE CAN'T DO IT MONDAY, LET ME KNOW WELL IN ADVANCE SO WE
2 CAN SCHEDULE IT.

3 THERE WAS ANOTHER THING. OH, YES, THE CRIME
4 SCENE VIEW -- AND WE CAN GO OFF THE RECORD ON THIS. SO
5 WE WILL CALL IT DAY.

6
7 (THE MATTER WAS CONTINUED TO MONDAY,
8 MARCH 6, 2006 AT 1:30 P.M.)
9 (NEXT PAGE IS 3601.)

10 --000--
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B197374

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL
JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

NOVEMBER 13, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 9 OF 24
PAGES 3601 THRU 3796/3900

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, NOVEMBER 13, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
20 THE GOODWIN MATTER.

21 MR. GOODWIN IS PRESENT WITH HIS COUNSEL,
22 THE PEOPLE ARE REPRESENTED. THERE ARE NO JURORS OR
23 ALTERNATES THAT ARE PRESENT THIS MORNING. WE SET ASIDE
24 THIS TIME TO LITIGATE SOME ISSUES OUTSIDE THE PRESENCE OF
25 THE JURY.

26 AND I DON'T KNOW WHERE COUNSEL WANTS TO
27 START THIS MORNING, BUT MY NOTES INDICATE THAT WE HAVE A
28 NUMBER OF MATTERS TO RESOLVE. SPECIFICALLY THE PROPOSED

1 IMPEACHMENT OF WITNESS GREG KEAY WITH TAX LIENS AND
2 FAILURES TO APPEAR. THERE WAS AN ISSUE OF 1101(B) MATTER
3 REGARDING THE LETTERS THAT WERE RECEIVED BY
4 MR. BARTINETTI.

5 AND DID WE HAVE SOMETHING ELSE TO TALK
6 ABOUT?

7 MS. SARIS: IF SHE WAS AVAILABLE, THE
8 WILKINSON LADY --

9 THE COURT: YES. YES.

10 MR. JACKSON: I BELIEVE SHE WILL BE HERE IN LESS
11 THAN AN HOUR. BOTH GREG KEAY AND NANCY WILKINSON ARE
12 EXPECTED -- IT WAS A LITTLE BIT SHORT NOTICE, BUT I THINK
13 WE HAVE THEM HERE FOR 10:00 O'CLOCK, BOTH OF THEM.

14 THE COURT: OKAY.

15 MR. JACKSON: IN THE MEANTIME, CERTAINLY WE CAN
16 ADDRESS THE BARTINETTI LETTER ISSUE.

17 THE COURT: ALL RIGHT. THE PEOPLE HAD FILED A
18 REQUEST FOR THE ADMISSION OF THE LETTERS AS 1101(B)
19 EVIDENCE. THE DEFENSE HAS FILED OPPOSITION.

20 AND THE COURT HAS DONE SOME PRELIMINARY
21 RESEARCH IN THE MATTER AS WELL AS HAVING REVIEWED THE
22 EXHIBITS, COURT'S EXHIBITS 1 AND 2 WHICH CONSIST OF NINE
23 DOCUMENTS. THE COURT READ THE LETTERS THAT
24 MR. BARTINETTI RECEIVED; AS WELL AS THE LETTERS RECEIVED
25 FROM MR. GOODWIN TO MR. BARTINETTI. AND THEN THE LETTER
26 MR. BARTINETTI WROTE TO COUNSEL -- STRIKE THAT -- TO THE
27 INVESTIGATING OFFICER.

28 THE QUESTION I LEFT OFF WITH ON WEDNESDAY

1 WAS WHETHER OR NOT THE COURT CAN MAKE AN INFERENCE THAT
2 THE LETTERS CAME FROM MR. GOODWIN. AND IF THE COURT CAN
3 DRAW THAT INFERENCE, THEN THE COURT HAD INDICATED THAT IT
4 FELT THAT THEY MIGHT BE PROBATIVE ON THE ISSUE OF MOTIVE
5 INTENT. NOT SO MUCH IDENTITY AS THE PEOPLE SUGGEST, BUT
6 I SUPPOSE ONE COULD SAY IDENTITY AS WELL.

7 BUT IN ALL HONESTY, WHEN I LOOKED VERY
8 CAREFULLY AT THESE LETTERS, I CAME TO THE CONCLUSION THAT
9 I REALLY CAN'T INFER ANYTHING. I MEAN, I DON'T KNOW WHAT
10 THEY ARE. THEY ARE NOT SPECIFIC AS TO BEING -- WELL, AS
11 TO MAKING THREATS, THEY ARE NOT SPECIFIC AS TO ANY
12 LITIGATION OR SITUATION.

13 IT SEEMS THAT THE AUTHOR OF THESE LETTERS
14 WAS FOLLOWING MR. BARTINETTI AND PERHAPS CONDUCTING
15 SURVEILLANCE ON HIS HOME. BUT OTHER THAN THAT, I CAN'T
16 REALLY MAKE A CONNECTION BETWEEN THESE LETTERS AND THE
17 THOMPSON/GOODWIN LITIGATION OR THE THOMPSON CASE. I
18 CAN'T DRAW AN INFERENCE THAT MR. GOODWIN AUTHORED THESE
19 LETTERS BECAUSE OF THE POSTMARK OR THE CONTENT.

20 I MEAN, THAT'S WHERE I'M STUCK. OBVIOUSLY
21 THESE LETTERS HAVE BEEN WRITTEN BY SOMEBODY THAT IS VERY
22 UPSET AND ANGRY WITH MR. BARTINETTI.

23 MR. JACKSON: YOUR HONOR, I MAY BE ABLE TO OFFER
24 SOME ASSISTANCE. AS WE SPOKE ON -- I BELIEVE IT WAS
25 WEDNESDAY, TUESDAY OR WEDNESDAY OF LAST WEEK, OBVIOUSLY
26 THE LETTERS IN AND OF THEMSELVES DON'T MENTION THE
27 GOODWIN LITIGATION OR THE GOODWIN/THOMPSON LITIGATION.
28 IF THEY DID, I DON'T THINK WE WOULD BE SITTING HERE

1 DISCUSSING IT. THEY WOULD BE FACIALLY ADMISSIBLE.

2 I THINK THE COURT HAS TO TAKE INTO
3 CONSIDERATION THE GENERAL CIRCUMSTANCES AND THE BROAD
4 CIRCUMSTANCES UNDER WHICH THESE LETTERS WERE RECEIVED.
5 THIS IS NOT A BLIND THEORY THAT THE PEOPLE ARE
6 SUGGESTING. THIS IS BASED ON VERY POWERFUL
7 CIRCUMSTANTIAL EVIDENCE THAT INCLUDES AT LEAST FIVE
8 ELEMENTS.

9 NUMBER ONE, THE CLAYTON THREAT, THE COURT
10 IS AWARE THAT VINCE TRICARICO HEARD A THREAT. THE COURT
11 HAS DEEMED IT UNDER 352 MORE PREJUDICIAL THAN PROBATIVE,
12 GIVEN THE FACT THAT THERE ARE SOME HEARSAY ISSUES THAT
13 THE COURT IS GRAPPLING WITH. WE ACCEPT THAT. HOWEVER,
14 THE COURT CAN CERTAINLY CONSIDER THAT IN DETERMINING
15 WHETHER OR NOT THERE IS A CIRCUMSTANTIAL LINK TO THE
16 BARTINETTI LETTERS AND MR. GOODWIN.

17 SO THERE WAS AN IMPLICIT THREAT THAT THE
18 PEOPLE BELIEVE EXISTED FROM MR. GOODWIN TRAVELING THROUGH
19 CHUCK CLAYTON TO TRICARICO AND BARTINETTI IN THAT
20 DEPOSITION. SOMETHING TO THE EFFECT THAT GOODWIN IS
21 RIGHT, I SHOULD HAVE A CONTRACT PUT OUT ON YOU OR PUT OUT
22 ON HIM. SOMETHING LIKE THAT.

23 NUMBER TWO, WE INTRODUCED EVIDENCE OF PENN
24 WELDON. THIS PARTICULAR PERSON WAS HIRED BY MR. GOODWIN
25 ON HIS FACE TO -- ON ITS FACE, RATHER, TO -- THE
26 COMMISSION WAS TO GET INFORMATION NOT ABOUT THOMPSON, BUT
27 ABOUT BARTINETTI. THAT INFORMATION INCLUDED CAR
28 INFORMATION, LICENSE PLATES, ADDRESSES, PERSONAL

1 INFORMATION, THINGS LIKE THAT. THESE LETTERS
2 SPECIFICALLY REFERENCE THAT EXACT SAME TYPE OF
3 INFORMATION.

4 NOW MR. WELDON HAS INDICATED THAT HE
5 DIDN'T SUPPLY MR. GOODWIN WITH ALL OF THAT DETAILED
6 INFORMATION. BUT CERTAINLY IT WOULDN'T TAKE MUCH OF A
7 LEAP, A CIRCUMSTANTIAL LEAP TO INFER THAT MR. GOODWIN
8 WENT ELSEWHERE, THAT HE DIDN'T TAKE NO FOR AN ANSWER,
9 THAT HE DIDN'T SIMPLY STOP AT PENN WELDON IN SEEKING THIS
10 PERSONAL INFORMATION.

11 THE COURT: I THINK -- LET ME JUST INQUIRE
12 BECAUSE MY RECOLLECTION IS THAT PENN WELDON INDICATED
13 THAT HE PROVIDED D.M.V. INFORMATION?

14 MR. JACKSON: THAT'S CORRECT. I BELIEVE HIS
15 TESTIMONY, IF I REMEMBER CORRECTLY, WAS HE DROVE BY
16 BARTINETTI'S HOME; THAT HE FOUND -- HE SAW OR FOUND A CAR
17 THAT HAD -- I THINK HE DESCRIBED IT AS A JAGUAR, POSSIBLY
18 BELONGING TO MRS. BARTINETTI AT THE TIME. RAN D.M.V.
19 RECORDS THAT WERE -- THAT HE MADE SURE HE TOLD THE COURT
20 WERE PUBLIC RECORDS AND HE DID IT LEGALLY. AND THEN
21 SUPPLIED THAT INFORMATION AND NOTHING MORE TO MR. GOODWIN
22 AND THAT BASICALLY ENDED THEIR PROFESSIONAL RELATIONSHIP.

23 THE INFORMATION IN THE LETTER CERTAINLY,
24 AS THE COURT SUGGESTS, INDICATES THAT MR. GOODWIN WAS
25 BEING FOLLOWED -- I'M SORRY -- MR. BARTINETTI WAS BEING
26 FOLLOWED. AND WE WOULDN'T EVEN SUGGEST THAT HE WAS BEING
27 FOLLOWED BY MR. GOODWIN. WE THINK, AGAIN, MR. GOODWIN IS
28 A LOT OF THINGS, BUT WE DON'T THINK HE'S STUPID. HE

1 WASN'T GOING TO FOLLOW MR. BARTINETTI HIMSELF, BUT
2 RATHER, HAVE IT HIRED OUT.

3 NUMBER FOUR, THE TIMING OF THE LETTERS IS
4 INDICATIVE OF THE GOODWIN/THOMPSON LITIGATION.
5 MR. BARTINETTI WAS SPECIFICALLY ASKED THE QUESTION, DID
6 YOU HAVE ANY OTHER VITRIOLIC OR OTHERWISE LITIGATION THAT
7 HAD THE TYPE OF ANIMOSITY THAT YOU WOULD EXPECT TO
8 RECEIVE THIS TYPE OF LETTER? HE SAID THERE WAS NOTHING
9 IN MY PROFESSIONAL LIFE OR SOCIAL LIFE THAT WOULD
10 ENGENDER THIS KIND OF ANIMOSITY WITH THE EXCEPTION OF ONE
11 CASE, AND THAT WAS THE GOODWIN CASE.

12 AND THAT SORT OF FALLS INTO THE TIMING
13 ISSUE AS WELL AS THE ANIMOSITY ISSUE, THAT'S FOUR AND
14 FIVE OF THOSE ELEMENTS. THE TIMING WAS THESE LETTERS
15 WERE RECEIVED IN LATE 1987, AT THE HEIGHT ARGUABLY OF THE
16 THOMPSON/GOODWIN LITIGATION. THE LETTERS STOPPED
17 THEREAFTER, AFTER MICKEY THOMPSON WAS DEAD AND MIKE
18 GOODWIN LEFT THE COUNTRY, HE GOT NO MORE LETTERS.

19 SO I THINK THAT ON -- IN TOTAL, CERTAINLY
20 RISES TO THE LEVEL OF POWERFUL CIRCUMSTANTIAL EVIDENCE
21 THAT MIKE GOODWIN WAS IMPLICITLY -- AND GRANTED, HE NEVER
22 SAID IN THE LETTERS, OR THE AUTHOR OF THE LETTERS NEVER
23 SAID I'M GOING TO KILL YOU OR CERTAINLY DIDN'T SAY I'M
24 GOING TO KILL YOU BECAUSE OF MICKEY THOMPSON, BUT
25 CERTAINLY THIS IS POWERFUL ENOUGH CIRCUMSTANTIAL EVIDENCE
26 THAT THE JURY SHOULD BE ABLE TO WEIGH AND BALANCE THE
27 EFFECT THAT THIS EVIDENCE HAS ON THEIR DETERMINATION OF
28 THE DEFENDANT'S GUILT.

1 I BELIEVE UNDER 352, THAT THE PROBATIVE
2 NATURE OF THE LETTERS CERTAINLY OUTWEIGHS ANY PREJUDICE
3 THAT THE DEFENDANT WOULD SUFFER AT THE HANDS OF HAVING
4 THESE LETTERS INTRODUCED INTO EVIDENCE.

5 AND I WOULD POINT THE COURT TO THE EXACT
6 LANGUAGE OF THE PENAL CODE SECTION 352. IT'S NOT WHETHER
7 OR NOT THE PREJUDICE OUTWEIGHS THE PROBATIVE VALUE, IT'S
8 WHETHER OR NOT THE PREJUDICE SUBSTANTIALLY OUTWEIGHS THE
9 PROBATIVE VALUE.

10 SO IF THERE IS A SCINTILLA OF PROBATIVE
11 VALUE TO THE EVIDENCE, THE COURT MUST WEIGH AND BALANCE
12 THAT IN THE FAVOR OF THE PROBATIVE VALUE; AND ONLY
13 EXCLUDE IT UNDER THE TRUTH AND EVIDENCE LAW, TRUTH AND
14 EVIDENCE PROVISION OF THE CONSTITUTION. ONLY EXCLUDE IT
15 IF THE PREJUDICE SUBSTANTIALLY OUTWEIGHS THE PROBATIVE
16 VALUE. AND I THINK WE CERTAINLY MADE A CASE FOR THE
17 PROBATIVE NATURE OF THESE LETTERS.

18 MS. SARIS: WE JUST HAVE A COUPLE OF ISSUES WITH
19 THOSE, YOUR HONOR. FIRST OFF, THE COURT DID NOT DISALLOW
20 CLAYTON'S THREATS UNDER 352. THE COURT DISALLOWED IT
21 BECAUSE THERE WAS NO SPONTANEITY. WHICH MEANS THAT IT
22 HAD NO INDICIA OF INTERNAL RELIABILITY WHICH MEANS THE
23 COURT CANNOT CONSIDER IT BECAUSE MR. CLAYTON COULD HAVE
24 HAD TIME TO FORMULATE A LIE OR SOME OTHER ASPECT OF --

25 THE COURT: WELL, JUST TO CORRECT YOU, I THINK
26 THE RULING WAS IT WAS SPONTANEOUS. IT'S JUST THAT THE
27 CONTENT WAS NOT ABOUT THE EVENT THAT CAUSED IT. THERE
28 WAS NOTHING THAT HAPPENED DURING THE COURSE OF THE

1 DEPOSITION, THERE WAS NO ARGUMENT OR DISRUPTION.

2 WHAT I RELIED ON BASICALLY WAS THE
3 TESTIMONY THAT THE DEPOSITION HAD ENDED AND CLAYTON
4 STORMED OUT AND MADE THESE STATEMENTS, BUT THEY WERE NOT
5 WITH REFERENCE TO THE DEPOSITION. SO THEY WERE
6 SPONTANEOUS, PER SE, BUT NOT ADEQUATE TO COMPLY WITH THE
7 SPONTANEOUS STATEMENT EXCEPTION BECAUSE THEY WEREN'T
8 DESCRIBING THE EVENT.

9 SO I JUST WANTED THE RECORD TO BE CLEAR,
10 BUT GO AHEAD.

11 MS. SARIS: WELL, I DON'T RECALL A 352 RULING
12 UNDER THAT STATEMENT.

13 THE COURT: RIGHT.

14 MS. SARIS: SO THE IDEA THAT THAT ONE PRONG ALSO
15 HAS TO GO BACK TO OTHER LAYERS TO GET TO GOODWIN. IT
16 JUST SHOWS HOW FAR WE'RE REACHING. PENN WELDON SAID HE
17 RAN A CIVIL INDEX AND HE GAVE MICHAEL GOODWIN A LICENSE
18 PLATE NUMBER. THAT'S WHAT HE SAID. HE DIDN'T SAY THAT
19 HE GAVE HIM AN ADDRESS. THERE'S ABSOLUTELY NO TESTIMONY
20 THAT MR. GOODWIN DID NOT TAKE NO FOR AN ANSWER, THAT
21 MR. GOODWIN HIRED ANOTHER INDIVIDUAL.

22 THE WAY THE COURT FOUND -- THE PROSECUTION
23 FOUND PENN WELDON WAS TO LOOK THROUGH MR. GOODWIN'S
24 RECORDS. CERTAINLY IF THEY HAD ANOTHER P.I. THAT WAS
25 HIRED, WE WOULD HAVE HEARD ABOUT HIM. THEY CAN'T JUST
26 INFER THAT AS A SEPARATE, OH, MR. GOODWIN'S THE KIND OF
27 GUY WHO WOULDN'T TAKE NO FOR AN ANSWER, THEREFORE, WE CAN
28 INFER THERE AGAIN ANOTHER LAYER THAT HE WENT TO THIS P.I.

1 THAT WE CAN'T PROVE AND THAT THAT P.I. WHO WE CAN'T PROVE
2 FOLLOWED PHIL BARTINETTI THAT WE CAN'T PROVE, GOT THIS
3 INFORMATION THAT WE CAN'T PROVE AND GAVE IT TO MICHAEL
4 GOODWIN. THERE'S THREE LAYERS OF INFERENCE IN THEIR
5 PRONG NUMBER TWO. THERE'S TWO LAYERS OF INFERENCE IN
6 THEIR PRONG NUMBER ONE.

7 THE IDEA THAT MR. BARTINETTI WAS FOLLOWED
8 AS OPPOSED TO JUST AN INDIVIDUAL CAME BY ONCE AND GOT
9 THIS INFORMATION OR RAN THEM HIMSELF OR KNEW HIS DAUGHTER
10 OR HAD BEEN DISGRUNTLED BOYFRIEND OF THE DAUGHTER, THE
11 HEIGHT OF THE LITIGATION BEING 1987, I THINK THAT IS
12 DEFINITELY ARGUABLE. BUT IT WAS PROBABLY -- THE HEIGHT
13 WAS BETWEEN '84, '86, '87 AND '88. THERE'S NOTHING THAT
14 OCCURRED JUST BEFORE THESE LETTERS THAT WOULD BE OF
15 SUBSTANTIAL PEEK THAT THE PEOPLE CAN POINT TO THAT THESE
16 LETTERS WOULD HAVE BEEN GENERATED FROM.

17 AND THE LETTERS HAVE NO -- AS THE COURT
18 NOTED, NO TIE TO THIS LITIGATION WHATSOEVER. AND IT'S
19 NOT A MATTER OF JUST WILL IT HELP THE PEOPLE'S CASE BY
20 PREJUDICING THE JURY AGAINST MR. GOODWIN. HAT IS THE
21 PROBATIVE VALUE? HOW DOES IT GO TO MOTIVE? MR. GOODWIN
22 HAS NEVER ARGUED THAT THERE'S NO MOTIVE OR THAT HE AND
23 MICKEY WERE FRIENDS OR THAT HE HAD A RIGHT TO BE ON THAT
24 PROPERTY OR THAT -- ANYTHING THAT THESE LETTERS WOULD
25 REBUT -- WELL, THEY HAVE NOTHING TO DO WITH MICKEY, AS A
26 MATTER OF FACT. BUT HE'S NEVER ARGUED THAT THEY HAD A
27 PERSONAL SOCIAL RELATIONSHIP WITH MR. BARTINETTI OR ANY
28 INDICATION THAT THESE LETTERS WOULD POINT TO ANYTHING TO

1 HELP THE JURY OTHER THAN TO SAY WHOEVER WROTE THESE
2 LETTERS IS A BAD GUY, LET'S INFER MICHAEL GOODWIN'S A BAD
3 GUY, THEREFORE, WE USE THAT EVIDENCE TO HELP CONVICT HIM
4 OF A MURDER.

5 THE COURT: I'M LOOKING OVER MY NOTES.

6 MS. SARIS: AND I'M SORRY. MR. SUMMERS POINTED
7 OUT THAT MR. WELDON INDICATED THAT HIS MEETING WITH
8 MR. GOODWIN WAS NOVEMBER OR DECEMBER OF '87.

9 THE COURT: I WAS JUST GOING TO SAY THAT. MY
10 NOTES INDICATE THAT THE MEETING BETWEEN MR. WELDON AND
11 MR. GOODWIN ALLEGEDLY OCCURRED BETWEEN THE LAST --
12 ACCORDING TO MY NOTES -- THE LAST PART OF 1987, AROUND
13 NOVEMBER, DECEMBER. THESE LETTERS SEEM TO PREDATE THAT
14 MEETING.

15 SO IT IS A REAL LEAP FOR THE COURT TO TRY
16 DRAW THE INFERENCE THAT THE PEOPLE WANT ME TO DRAW. I
17 THINK CERTAINLY THAT IS A POSSIBLE REASONABLE INFERENCE,
18 BUT I CAN'T SAY THAT I BELIEVE BASED UPON THE TESTIMONY
19 OF MR. BARTINETTI AND MR. WELDON AND REVIEWING THESE
20 LETTERS WRITTEN IN OCTOBER OF '87 ALONG WITH THE CONTENT,
21 I JUST CAN'T DRAW THAT CONNECTION. I CAN'T INFER ENOUGH
22 FOR THE COURT TO, THEN, DECIDE THIS ISSUE UNDER 1101(B)
23 AND THAT'S REALLY WHERE I'M AT.

24 IT TROUBLES ME THAT THE TESTIMONY AS TO
25 THE DATE OF THE MEETING IS SOMEWHAT OFF. HAD THAT
26 MEETING BEEN IN EARLY OCTOBER, THAT COUPLED WITH THE
27 STATEMENTS THAT MR. GOODWIN MADE TO MR. WELDON, PERHAPS I
28 COULD DRAW AN INFERENCE. BUT I JUST CAN'T WITH WHAT I

1 SEE IN THE COURT'S EXHIBIT.

2 MY NOTES ALSO SHOW THAT AT THE TIME OF THE
3 MEETING THEY WERE IN LITIGATION, SO YES, THE DATE OF THE
4 WELDON MEETING I THINK IS CRITICAL.

5 MR. JACKSON: AND UNFORTUNATELY, I MEAN, WE'RE
6 BOUND BY THE TESTIMONY THAT WAS GIVEN. CERTAINLY
7 MR. WELDON WAS NOT -- HE DIDN'T SAY I REMEMBER LIKE IT
8 WAS YESTERDAY, IT WAS A SATURDAY, THE SUN WAS UP, IT WAS
9 10:00 O'CLOCK IN THE MORNING AND IT WAS DECEMBER 3RD. I
10 BELIEVE MR. DIXON ON DIRECT EXAMINATION ELICITED THE FACT
11 THAT HE SAID HE BELIEVED IT WAS SOMETIME IN LATE 1987. IF
12 HE HAD TO PINPOINT IT, IT WOULD BE DECEMBER. THAT IS THE
13 EVIDENCE. CERTAINLY.

14 HE DID NOT SAY THAT IN EARLIER POLICE
15 REPORTS, AND I THINK HE WAS GENERALLY IMPEACHED ON THAT,
16 BUT THAT'S NOT -- CERTAINLY IN MY MIND I'M NOT -- MY
17 THEORY IS CERTAINLY NOT HUNG BY THAT PARTICULAR
18 TESTIMONY. I THINK WE HAVE TO TAKE IT IN TOTAL WHETHER
19 OR NOT MR. GOODWIN HAD INFORMATION PREVIOUS TO MR. WELDON
20 OR AFTER MR. WELDON. I THINK THE CIRCUMSTANTIAL EVIDENCE
21 IS EXACTLY THE SAME. THAT MR. GOODWIN WAS SEEKING
22 PERSONAL INFORMATION ABOUT MR. BARTINETTI.

23 IF THE COURT IS CONCERNED WITH THE TIMING
24 OF WELDON'S TESTIMONY, THERE'S ABSOLUTELY NOTHING I CAN
25 DO ABOUT THAT. IT IS WHAT IT IS. BUT I CERTAINLY DON'T
26 THINK IT KNOCKS THE LEGS OUT FROM UNDER THE
27 CIRCUMSTANTIAL ARGUMENT THAT WE'D LIKE TO BE ABLE TO MAKE
28 TO THE JURORS, AND THEN THEY CAN TOSS IT OUT IF THEY

1 DECIDE IT'S UNWEIGHTY.

2 THE COURT: THAT'S THE PROBLEM WITH 1101(B),
3 BECAUSE OF THE NATURE OF 1101(B) EVIDENCE, IT HAS TO BE
4 CLEAR. I MEAN, THERE HAS TO BE NOT SIMPLY AN ARGUMENT
5 THAT CAN BE MADE BASED UPON CIRCUMSTANTIAL EVIDENCE, I
6 THINK THERE HAS TO BE MORE AND THAT'S KIND OF THE POINT
7 THAT I'M TRYING TO MAKE.

8 FOR EXAMPLE, WE HAVE OTHER CRIMES EVIDENCE
9 IN OTHER CONTEXT, WE'RE USING OTHER CONVICTIONS, WE'RE
10 USING DIRECT TESTIMONY OF VICTIMS WHO WOULD COME IN AND
11 TESTIFY DURING THE COURSE OF A TRIAL AS TO A PRIOR
12 SIMILAR INCIDENT. WE REALLY HAVE MORE CONCRETE TYPES OF
13 EVIDENCE THAN WE DO HERE. THERE'S CERTAINLY, I GRANT
14 YOU, AN ARGUMENT THAT CAN BE MADE THAT THE LETTERS WERE
15 WRITTEN BY MR. GOODWIN. BUT WHETHER OR NOT THAT'S THE
16 ONLY REASONABLE INTERPRETATION, I CAN'T GO THAT FAR.

17 AND THE QUESTION I HAD LAST WEEK IS REALLY
18 THE SAME QUESTION I HAVE TODAY, IS, HOW MUCH OF AN
19 INFERENCE CAN I DRAW? HOW STRONG IS THAT ARGUMENT OR
20 THAT CIRCUMSTANTIAL EVIDENCE? AND THEN I HAVE TO WEIGH
21 AND BALANCE UNDER 352 WHETHER OR NOT IT SHOULD BE
22 ADMITTED UNDER 1101(B) TO SHOW MOTIVE, INTENT AND
23 IDENTITY.

24 ON THE ISSUE OF IDENTITY, IT HAS TO BE
25 EXTREMELY SIMILAR TO THE PRESENT CRIME. THAT DOESN'T
26 APPLY. IT COULD POSSIBLY BE MOTIVE, BUT BASED ON WHAT I
27 HAVE SO FAR, I JUST CAN'T SAY WITH ANY DEGREE OF
28 CERTAINTY THAT THIS IS THE ONLY REASONABLE INFERENCE THAT

1 CAN BE DRAWN.

2 SO BASED ON THAT, I THINK THAT'S FATAL TO
3 ANY 1101(B) ANALYSIS, ESPECIALLY WHEN WE'RE TALKING ABOUT
4 THE MEETING BETWEEN GOODWIN AND WELDON AND THE DATE.

5 HOWEVER, I KNOW MR. COYNE IS GOING TO BE
6 COMING UP AND TESTIFYING AS TO THREATS THAT WERE MADE.
7 AND IT MAY WELL BE THAT I'M GOING TO HAVE DIFFERENT
8 INFORMATION AT THAT POINT, SO YOU CAN RENEW THE ARGUMENT.
9 BUT BASED ON WHAT I HAVE SO FAR, I JUST CAN'T UNDER 352
10 DRAW THE NECESSARY INFERENCE THAT THE LETTERS WERE
11 WRITTEN BY THE DEFENDANT AND THAT THEY INDICATE INTENT OR
12 MOTIVE ON THE PART OF THE DEFENDANT TO LASH OUT OR HARM
13 VIOLENTLY ALL THOSE THAT ARE CONNECTED WITH THE THOMPSON
14 LITIGATION.

15 MR. JACKSON: WELL, THANK YOU FOR YOUR
16 CONSIDERATION, YOUR HONOR. AND AFTER MR. COYNE
17 TESTIFIES, WE MAY OR MAY NOT RENEW -- IF ANY ADDITIONAL
18 INFORMATION IS PRESENTED, WE MAY OR MAY NOT RENEW A
19 REQUEST OUTSIDE THE PRESENCE OF THE JURY.

20 MS. SARIS: YOUR HONOR, WHILE WE'RE ON THE
21 MR. COYNE TOPIC, THERE'S TWO THINGS THE PEOPLE ARE TRYING
22 TO GET IN UNDER JEFFREY COYNE. ONE OF WHICH IS THAT
23 SOMETHING HE WAS TOLD. AND I'M WONDERING IF THE COURT
24 INTENDS TO LITIGATE THAT WITH MR. COYNE OR IF WE CAN BE
25 CLEAR THAT THAT IS PURE HEARSAY.

26 THERE'S A STATEMENT THAT MR. COYNE MADE AT
27 THE PRELIM. I ANTICIPATE THE PEOPLE WILL WANT TO MAKE IT
28 IN FRONT OF THE JURY THAT MR. GOODWIN THREATENED HIM AT A

1 PARTICULAR MEETING. THAT'S SEPARATE AND APART FROM ON
2 THE MORNING OF THE 16TH, HE WAS TOLD BY HIS SECURITY
3 GUARD THAT, QUOTE, "TWO ITALIAN LOOKING MEN" WERE LOOKING
4 FOR A PARTICULAR CAR THAT HE HAD.

5 WE THINK THE SAME APPROACH CAN BE ARGUED
6 REGARDING THE 1101 OF THIS INFORMATION IN THAT -- WELL,
7 EXCEPT FOR IT'S AN EVEN STRONGER ARGUMENT FOR THE DEFENSE
8 BECAUSE IT IS HEARSAY. MR. COYNE NEVER SAW THESE MEN AND
9 I DON'T BELIEVE THE GUARDS ARE HERE OR COMING OR BEING
10 OFFERED OR THEY'RE EVEN IDENTIFIED FOR THAT MATTER. SO
11 THERE'S A HEARSAY LAYER ON TOP OF THE RELEVANCE AND THE
12 PROBATIVE VERSUS PREJUDICIAL.

13 THE COURT: YES. WHAT WERE THE PEOPLE SEEKING TO
14 PRESENT WITH RESPECT TO THE COYNE INCIDENT?

15 MR. JACKSON: YOUR HONOR, THE -- COUNSEL IS
16 CORRECT TO A CERTAIN DEGREE. ON THE MORNING OF THE
17 MURDERS, JEFF COYNE WAS ON HIS WAY TO THE OFFICE WHEN HE
18 HEARD -- I BELIEVE HE HAD HEARD ON THE RADIO OF THE
19 MICKEY THOMPSON AND TRUDY THOMPSON MURDERS.

20 ONCE HE GOT TO THE OFFICE THAT MORNING,
21 WHICH WAS AT A DOWNTOWN BANK BUILDING, I THINK IT WAS THE
22 CITIBANK TOWER, AS SOON AS HE WALKED IN THE DOOR, I
23 BELIEVE THE EVIDENCE WILL SUGGEST THAT EITHER THE HEAD OF
24 THE SECURITY FOR THE BUILDING OR ONE OR MORE OF THE
25 SECURITY GUARDS ACTUALLY APPROACHED HIM. AND IN HIS
26 WORDS, RATHER URGENTLY, RATHER EXCITEDLY SAID,
27 "MR. COYNE, YOU NEED TO BE AWARE THERE WERE TWO GUYS,
28 SUSPICIOUS LOOKING ITALIAN MEN DOWNSTAIRS AND THEY WERE

1 LOOKING FOR YOUR CAR."

2 THE FURTHER EXPLANATION WAS THEY WERE DOWN
3 IN THE PARKING LOT, THEY SAID SOMETHING TO THE EFFECT OF,
4 "WHERE DOES JEFF COYNE PARK?" AND THEY DESCRIBED HIS CAR
5 WHICH WAS A VERY DISTINCT, UNIQUE RED CORVETTE.
6 MR. COYNE IMMEDIATELY KIND OF LEAPT INTO ACTION, LEFT THE
7 BUILDING, MOVED HIS FAMILY OUT OF THEIR HOUSE. AND THEN
8 SUBSEQUENTLY MOVED HIMSELF OUT OF THEIR HOUSE BELIEVING
9 THAT THIS -- THE TIMING OF IT IN ADDITION TO THE THREATS,
10 THE SPECIFIC THREATS THAT MR. GOODWIN HAD LEVELED AGAINST
11 HIM, THAT BAD STUFF WILL HAPPEN TO HIM IF HE DOESN'T LET
12 UP. HE TOOK THAT AS A DIRECT THREAT AND A SERIOUS RISK.

13 AND WE WOULD BE -- AT SOME POINT WE WOULD
14 BE SEEKING THE ADMISSION OF THAT INFORMATION AS WELL.

15 MS. SARIS: CAN I JUST CLARIFY? DO WE HAVE THE
16 GUARD?

17 MR. JACKSON: NO. WE BELIEVE THAT THE
18 STATEMENTS ARE EXCITED UTTERANCES.

19 THE COURT: TECHNICALLY SPEAKING, THEY CERTAINLY
20 COULD BE EXCITED UTTERANCES. AND WHAT IS THE DEFENSE
21 POSITION? THAT THE INFERENCE CAN'T BE DRAWN THAT
22 THESE -- OR THAT THIS INFORMATION ISN'T IN ANY WAY
23 CONNECTED --

24 MS. SARIS: NUMBER ONE, THAT IT'S NOT CONNECTED
25 TO MICHAEL GOODWIN OR MICKEY THOMPSON. NUMBER TWO, WE
26 HAVE NO INFORMATION THAT THE GUARDS HEARD ABOUT THE
27 RUMOR. SUPPOSEDLY TWO MEN WALKED UP TO THE GUARDS,
28 THEY'RE NOT SNEAKING THROUGH THE PARKING LOT, THEY WALKED

1 UP TO THE GUARDS AND SAID DO YOU KNOW WHERE JEFFREY COYNE
2 PARKS? AND THEY WERE, QUOTE, "SUSPICIOUS LOOKING, DARK
3 SWORTHY ITALIAN MEN."

4 AND SO THE EXCITED UTTERANCE THAT WE'RE
5 DRAWING FROM MEN INQUIRING ABOUT THE PARKING SPOT OF A
6 WORKER IN A BUILDING WITHOUT ANY INDICATION THAT THESE
7 MEN -- AND THERE'S NOTHING IN THEIR STATEMENT THAT SAYS,
8 OH, MY GOD, MICKEY THOMPSON WAS MURDERED, WE JUST HEARD
9 IT ON THE RADIO. BY THE WAY, TWO ITALIAN LOOKING GUYS
10 WERE LOOKING FOR YOUR CAR. IT'S, OH, MR. COYNE, GOOD
11 MORNING. LISTEN, WE NEED TO INFORM YOU OF SOMETHING.
12 THESE TWO ITALIAN GUYS WERE LOOKING FOR YOUR CAR, HAVING
13 NO CONNECTION TO THIS CRIME WHATSOEVER.

14 AND WE CAN'T DECIDE WHETHER IT'S
15 SPONTANEOUS OR EXCITED WITHOUT FINDING OUT FROM THEM WHAT
16 IT IS THAT HAPPENED AND WHAT IT IS THAT MADE THEM -- AND
17 HOW THEY FELT ABOUT WHAT HAPPENED AND WHETHER IT MADE
18 THEM SO UNNERVED AS TO RECITE SOME UTTERANCE THAT HAS
19 SOME INTERNAL INDICIA OF RELIABILITY. WE HAVE NO IDEA
20 WHAT THEY HEARD.

21 THE COURT: WELL, I THINK JEFFREY COYNE CAN
22 PROVIDE THE FOUNDATION AS TO THE NATURE AND CIRCUMSTANCES
23 OF THIS STATEMENT OR STATEMENTS THAT WERE COMMUNICATED TO
24 HIM FROM THE SECURITY GUARDS. I MEAN, I DON'T KNOW IF
25 IT'S ONLY THE SECURITY GUARDS THAT COULD LAY THE
26 FOUNDATION FOR THIS BEING EXCITED UTTERANCES. I THINK
27 COYNE CAN, IF HE'S ABLE TO, SO I DON'T KNOW ABOUT THAT.
28 PERHAPS I SHOULD HEAR FURTHER FROM MR. COYNE.

1 MR. JACKSON: RIGHT. I THINK THAT WOULD PROBABLY
2 BE IN AN ABUNDANCE OF CAUTION. THAT'S WHAT WE WERE
3 PLANNING ON DOING. WE WEREN'T GOING TO SEEK TO ELICIT
4 THIS INFORMATION WITHOUT THE COURT'S FIRST HAVING HEARD
5 IT AND DISCUSSED IT OUTSIDE THE PRESENCE OF THE JURY. AS
6 A MATTER OF FACT, I WILL BRIEF THE ISSUE FOR THE COURT
7 FORMALLY.

8 JUST TO TAKE THIS ONE STEP FURTHER,
9 MS. SARIS SAYS THERE'S NO CONNECTION THAT CAN BE MADE
10 BETWEEN THE GOODWIN LITIGATION AND THE COYNE THREATS.
11 MR. COYNE IMMEDIATELY APPLIED THROUGH THE BANKRUPTCY
12 COURT THROUGH JUDGE RYAN FOR A BULLET PROOF VEST AND A .9
13 MILLIMETER LUGAR. BOTH OF WHICH THE BANKRUPTCY COURT
14 APPROVED. LITERALLY, THE BANKRUPTCY COURT GAVE HIM
15 PROTECTION. AND I BELIEVE MAY HAVE EVEN PAID FOR
16 SECURITY ON HIS HOME.

17 MR. COYNE SHORTLY THEREAFTER HAVING
18 SUFFERED THE STRESS OF THIS LITIGATION AND THE STRESS OF
19 THE THREATS AS WELL AS MICKEY THOMPSON'S MURDERS, SOUGHT
20 TO BE RELIEVED AND WAS, IN FACT, GRANTED RELIEF BY THE
21 BANKRUPTCY COURT.

22 SO CERTAINLY GIVEN THE CIRCUMSTANCES IN
23 1988, JEFF COYNE IS IN THE BEST POSITION TO TELL US ABOUT
24 THOSE GENERAL CIRCUMSTANCES AND THE ENVIRONMENT
25 SURROUNDING THOSE THREATS. HE BELIEVED THAT THIS WAS
26 DIRECTLY CONNECTED TO THE MICKEY THOMPSON MURDERS AND
27 TOOK ACTION THEREAFTER.

28 MS. SARIS: AND, YOUR HONOR, IT'S OUR POSITION

1 THAT IF MR. GOODWIN THREATENED MR. COYNE, THAT'S A
2 SEPARATE ISSUE AND HE CAN BELIEVE WHAT HE WANTS. THE
3 ITALIAN LOOKING MEN HAVE NO CONNECTION AND COYNE'S BELIEF
4 AS TO THEIR CONNECTION IS IRRELEVANT TO THIS COURT
5 DECIDING WHETHER OR NOT -- SIMPLY MUCH LIKE
6 MR. BARTINETTI BELIEVING THESE LETTERS CAME FROM
7 MR. GOODWIN, THAT'S NOT THE RELEVANT ISSUE.

8 IT'S IF MR. COYNE TOOK STEPS BECAUSE
9 MR. GOODWIN THREATENED HIM PERSONALLY, THAT'S A SEPARATE
10 352 ISSUE THAT WE'LL ADDRESS THAT HAS NOTHING TO DO WITH
11 THE ITALIAN MEN. THE ITALIAN MEN LOOKING FOR HIS CAR
12 BEING CONNECTED TO MR. GOODWIN, THERE'S GOING TO BE
13 ABSOLUTELY NO EVIDENCE OFFERED THAT THE THOMPSON NAME WAS
14 MENTIONED OR THAT HAS ANY INDICATION THAT THIS HAS TO DO
15 WITH THAT LITIGATION.

16 MR. COYNE'S PERCEPTION OF THAT IS
17 IRRELEVANT. AND ALL OF THE THINGS THAT HE TOOK AND ALL
18 THE STEPS THAT HE TOOK THROUGH THE BANKRUPTCY CAN BE
19 ATTRIBUTED TO THE FACT THAT MR. GOODWIN SUPPOSEDLY
20 THREATENED HIM PERSONALLY.

21 MR. JACKSON: AND, YOUR HONOR, THAT ACTUALLY
22 RAISES A GOOD POINT. COUNSEL INDICATED IN HER MOVING
23 PAPERS THAT THESE WERE SORT OF BLIND THEORIES, AND I
24 WOULD SUGGEST THE FOLLOWING TO THE COURT: WE ARE
25 ARMED -- WE THE PROSECUTION HAVE BEEN ARMED WITH A
26 CERTAIN AMOUNT OF INFORMATION THAT THE COURT IS JUST NOW
27 GETTING, BUT MS. SARIS BRINGS UP A GOOD POINT WHEN SHE
28 TALKS ABOUT THE TWO ITALIAN MEN AND THERE'S NO

1 CONNECTION.

2 WE ARE NOW CONFRONTED WITH MR. GOODWIN
3 BEING AT THE EPICENTER OF THE FOLLOWING EVENTS: THE
4 LITIGATION WITH MICKEY THOMPSON. WE KNOW THAT MICKEY
5 THOMPSON WAS KILLED BY HIRED KILLERS. IT WAS A CONTRACT
6 KILLING. BASICALLY WE'VE ALREADY PROVED THAT. AND
7 CERTAINLY THE COURT I DON'T THINK WOULD HAVE ANY --

8 MS. SARIS: DID WE MISS THAT PART? I'M SORRY.

9 MR. JACKSON: I DON'T MEAN PROVED IT IN FRONT OF
10 THE JURY. I MEAN BETWEEN THE PRELIM AND NOW, THE COURT
11 IS CERTAINLY ARMED WITH THAT INFORMATION, THAT THIS WAS A
12 CONTRACT KILLING. THIS IS NOT A ROBBERY GONE BAD, THIS
13 WAS A CONTRACT KILLING.

14 NUMBER TWO, MR. GOODWIN WAS RECITED AS
15 HAVING SAID TO MR. BARTINETTI -- AND KEEP IN MIND I USE
16 KIND OF THE TRIFECTA, IF YOU WILL, THE THREE MUSKETEERS,
17 BARTINETTI, THOMPSON AND COYNE. HE WAS RECITED AS HAVING
18 SAID "I OUGHT TO PUT A CONTRACT OUT ON YOU, TOO."

19 AND NOW JEFF COYNE ON THE DAY OF THE
20 MURDERS, WE'RE NOT TALKING ABOUT A RANDOM DATE, WE'RE
21 TALKING ABOUT MARCH 16TH, 1988, THE ACTUAL MORNING OF THE
22 MURDERS, JUST HOURS AFTER MICKEY AND TRUDY WERE SLAIN,
23 TWO SWORTHY LOOKING MEN WERE LOOKING FOR JEFF COYNE'S
24 CAR. IS THAT SUGGESTIVE OF A CONTRACT THAT MAY NOT HAVE
25 BEEN FULFILLED?

26 CERTAINLY THESE THINGS PUT TOGETHER DO NOT
27 EQUATE TO A BLIND THEORY. THAT'S WHY IT WAS IMPORTANT
28 FOR US TO EXPLORE THE CLAYTON INFORMATION THROUGH

1 TRICARICO, THE -- OBVIOUSLY THE THOMPSON MURDERS
2 THEMSELVES AND EXPLORING HOW THOSE MURDERS WENT DOWN AND
3 THE IMPORTANCE OF THE ACTUAL CRIME SCENE, SHOWING THAT IT
4 WAS NOT A ROBBERY.

5 AND NUMBER THREE, SORT OF THE THIRD LEG OF
6 THE STOOL, MR. COYNE WAS CONFRONTED ON THE DAY OF THE
7 MURDERS WITH TWO PEOPLE WHO APPEARED TO HAVE BAD
8 INTENTIONS, QUESTIONABLE INTENTIONS, AT THE VERY LEAST.
9 THAT COUPLED WITH MR. GOODWIN LOOKING JEFF COYNE DIRECTLY
10 IN THE FACE JUST DAYS BEFORE AND SAYING, "IF YOU DON'T
11 LET UP, BAD THINGS ARE GOING HAPPEN TO YOU."

12 I BELIEVE IT CREATES AN INCREDIBLY
13 POWERFUL CIRCUMSTANTIAL CASE THAT MR. GOODWIN WAS TAKING
14 SOME DRASTIC ACTION AGAINST ALL THREE MEN WHO WERE
15 DROPPING HIM TO HIS KNEES LEGALLY AND FINANCIALLY.

16 THE COURT: YES. I MEAN, I THINK IF JEFFREY
17 COYNE CAN PROVIDE OR LAY THE FOUNDATION FOR THESE
18 STATEMENTS FROM THE SECURITY GUARDS TO BE EXCITED
19 UTTERANCES OR SPONTANEOUS STATEMENTS, THAT'S A DIFFERENT
20 STORY. I WILL HAVE TO ANALYZE IT UNDER THAT THEORY. BUT
21 RIGHT NOW --

22 MS. SARIS: AND THEY'RE UNAVAILABILITY WHICH IS
23 REQUIRED UNDER 1240 AS WELL.

24 THE COURT: THAT'S WHAT I SAID. I HAVE TO HEAR
25 FROM JEFFREY COYNE. I MEAN, IT MAY WELL BE THAT THESE
26 ARE SIMPLY NOT EXCITED UTTERANCES AND, THEREFORE, WE
27 DON'T HAVE TO GO ANY FURTHER.

28 MS. SARIS: BUT I'M SAYING EVEN IF THEY ARE

1 EXCITED UTTERANCES, THEY STILL HAVE TO PROVE THE GUARDS
2 ARE NOT AVAILABLE.

3 MR. JACKSON: THAT'S NOT TRUE. EXCITED UTTERANCE
4 DOESN'T REQUIRE UNAVAILABILITY. FORMER TESTIMONY
5 REQUIRES UNAVAILABILITY. EXCITED UTTERANCE IS ADMISSIBLE
6 ON ITS FACE.

7 THE COURT: I DON'T KNOW HOW FAR WE WILL GET.

8 MR. JACKSON: AND, YOUR HONOR, I DON'T KNOW IF
9 MR. COYNE WILL BE ABLE TO ESTABLISH THAT FOUNDATION OR
10 NOT. WE JUST NEED TO ASK HIM. AND I JUST WANTED TO GIVE
11 THE COURT KIND OF A GLOBAL OVERVIEW OF WHY WE'RE SEEKING
12 THIS INFORMATION.

13 MS. SARIS: IS HE DUE IN TOMORROW?

14 THE COURT: WHEN IS MR. COYNE COMING IN?

15 MR. JACKSON: I BELIEVE -- LISA'S NOT HERE. I
16 BELIEVE HE'S COMING IN TOMORROW.

17 THE COURT: TOMORROW?

18 MR. JACKSON: YES, MA'AM.

19 MS. SARIS: APPARENTLY IT'S NOT UNAVAILABLE.
20 THAT IS PRIOR TESTIMONY, UNAVAILABILITY IS NOT REQUIRED.
21 I WAS THINKING ADMISSION.

22 THE COURT: RIGHT. IT DOESN'T REQUIRE.

23 MR. JACKSON: RIGHT.

24 MR. SUMMERS: YOUR HONOR, IF I MAY, TO THE EXTENT
25 THAT THE BARTINETTI LETTERS CONTINUE TO LINGER IN THE
26 BACKGROUND AND ARE RECITED AS SOME SORT OF EVIDENCE, THE
27 COURT NEEDS TO BE AWARE OF SOME OTHER FACTUAL
28 UNDERPINNINGS THAT HAVE BEEN PRODUCED IN THE TRIAL WHICH

1 IS, ONE, BARTINETTI WAS A LITIGATOR, HE WAS BROUGHT IN TO
2 LITIGATE. HIS TESTIMONY WAS AFTER THE TRIAL WHICH HE HAD
3 THE JUDGMENT IN MAY OF '86, THAT HIS ROLE WHILE STILL
4 EXTENSIVE HAD BEEN TO BASICALLY MAKE MORE EXECUTIVE
5 DECISIONS; THAT MS. CORDELL TOOK THE FRONTLINE REALLY OF
6 GOING INTO COURT EVERY DAY AS FAR AS THE JUDGMENT AND
7 ENFORCING THE JUDGMENT.

8 SECONDLY, WHEN THE -- BY THE TIMING OF THE
9 LETTERS WHICH IS OCTOBER OF '87, NOT ONLY HAD CORDELL
10 BEEN MORE ACTIVE AND GOING TO COURT EVERY DAY, BUT THERE
11 WAS ANOTHER LAW FIRM THAT SPECIALIZED IN BANKRUPTCY THAT
12 WAS ALSO THE SULMEYER, KUPETZ LAW FIRM THAT THEY HAD
13 BROUGHT IN TO ACT AS CO-COUNSEL.

14 SO MR. BARTINETTI BY THAT POINT WAS NOT
15 SOMEBODY WHO WAS AT THE POINT OF THE LITIGATION AND HE
16 WAS NOT SOMEBODY WHO WOULD HAVE BEEN ENGENDERING THAT
17 KIND OF ANIMOSITY AT THE POINT THAT THE LETTERS WERE
18 SENT. JUST FOR CONSIDERATION.

19 MS. SARIS: WHEN DO WE THINK WE MIGHT HEAR FROM
20 MR. COYNE?

21 THE COURT: WELL, I GUESS TOMORROW.

22 MR. JACKSON: TOMORROW MORNING, CERTAINLY.

23 THE COURT: WE WILL HAVE TO SET ASIDE SOME TIME
24 IN THE MORNING BEFORE WE BRING THE JURY IN.

25 MR. JACKSON: SURE. I DON'T THINK IT WILL BE
26 LONG TESTIMONY. I THINK WE JUST NEED TO ASK HIM, WHAT
27 DID YOU HEAR THAT MORNING?

28 MS. SARIS: AND WE WOULD CERTAINLY LIKE ANY

1 IDENTIFYING INFORMATION ABOUT THESE GUARDS, OBVIOUSLY,
2 FOR DISCOVERY ISSUES IN TERMS OF THE HORSE'S MOUTH, AS IT
3 WERE.

4 THE COURT: I ASSUME ALL THE INFORMATION HAS BEEN
5 PROVIDED.

6 MS. SARIS: THEY'VE ALWAYS JUST BEEN REFERRED TO
7 AS SECURITY GUARDS IN THE BUILDING.

8 MR. JACKSON: WELL, WE DID GO TO EXTRAORDINARY
9 LENGTHS TO TRY TO IDENTIFY AND FIND THESE FOLKS, AND
10 18 YEARS LATER WE JUST COULDN'T DO IT. THEY HAVE NOT
11 BEEN IDENTIFIED BY NAME OR REFERENCE TO THEIR EMPLOYMENT
12 RECORDS OR TAX RECORDS OR CITIBANK'S MANAGEMENT RECORDS,
13 WE WENT THROUGH ALL THAT STUFF.

14 MS. SARIS: PERHAPS THIS IS A GOOD TIME, THEN, ON
15 THE RECORD TO REMIND THE COURT THAT WE DO HAVE A PENDING
16 MOTION UNDER -- FOR A SPEEDY TRIAL. AND THAT IF IN THE
17 EVENT THIS DOES NOT WORK OUT, THIS IS ONE OF THE THINGS
18 THAT WE WOULD CITE AS PREJUDICIAL AND CIRCUMSTANCE FOR
19 THE FAILURE TO FILE CHARGES IN A TIMELY MANNER.

20 THE COURT: YES. I DO RECALL THAT THE COURT
21 ESSENTIALLY DEFERRED ANY FURTHER RULING ON THE MOTION TO
22 DISMISS FOR LACK OF SPEEDY TRIAL PENDING THE PRESENTATION
23 OF THE EVIDENCE IN THE TRIAL.

24 MS. SARIS: AND IT HASN'T COME UP IN FRONT OF THE
25 JURY YET IN TERMS OF THE WITNESSES THAT HAVE TESTIFIED SO
26 FAR. BUT I WOULD ASK THE COURT IF THE COURT WOULD PREFER
27 US TO SPEAK TO THIS ISSUE AS IT COMES UP OR AT THE END.

28 FOR INSTANCE, THERE MAY BE TESTIMONY THAT

1 THIS WAS TRUDY AND MICKEY'S HABIT OF LEAVING THEIR HOUSE
2 AT A PARTICULAR TIME. SABLE REEVES WAS THE HOUSEKEEPER,
3 SHE'S PASSED AWAY, WOULD HAVE INDICATED THAT WASN'T THE
4 CASE.

5 I DON'T KNOW IF THE COURT WOULD LIKE
6 PERHAPS THAT TRANSCRIPT SUBMITTED AFTER SOMEONE MAKES
7 THAT STATEMENT OR IF THE COURT WANTS US WAIT TO THE END
8 OF THE TRIAL AND THEN, IF NECESSARY, SUBMIT THOSE
9 INSTANCES WHERE WE BELIEVE HAD THE PEOPLE NOT WAITED,
10 CERTAIN WITNESSES AND RECORDS WOULD HAVE BEEN AVAILABLE
11 AND ALIVE TO REBUT CERTAIN EVIDENCE.

12 THE COURT: MY PREFERENCE WOULD BE THAT YOU WAIT.

13 MS. SARIS: OKAY.

14 THE COURT: OBVIOUSLY BECAUSE THE ISSUE OF
15 PREJUDICE ISN'T AN ISSUE, UNLESS AND UNTIL --

16 MS. SARIS: I WASN'T SURE WITH ALL THE BREAKS IF
17 THE COURT WAS GOING TO REMEMBER, OR WANT TO REMEMBER, OR
18 WE JUST CITED IT ALONG WITH THE TESTIMONY THAT WAS
19 PRESENTED.

20 THE COURT: YOU CAN JUST GIVE ME A HEADS UP IF IT
21 MIGHT BE SOMETHING THAT I WANT TO MAKE REAL GOOD NOTES
22 ON.

23 MS. SARIS: SO FOR JEFFREY COYNE, THAT'S ONE OF
24 THE THINGS THAT WE WOULD BE --

25 THE COURT: ALL RIGHT. THANK YOU.

26 OKAY. SO WE WILL DO THE JEFFREY COYNE
27 HEARING TOMORROW MORNING. AND THEN I GUESS WE ARE
28 WAITING ON SOME OF THE WITNESSES TO COME IN.

1 MR. JACKSON: GREG KEAY AND NANCY WILKINSON AND
2 I'LL CHECK DOWNSTAIRS. I'M SORRY. I WAS JUST INFORMED
3 THAT THEY ARE HERE.

4 THE COURT: EVERYBODY'S HERE?

5 MR. JACKSON: DOES THE COURT WANT TO GO AHEAD AND
6 HAVE THE WITNESSES COME UP?

7 THE COURT: YES. JUST GIVE ME ONE MINUTE.

8 MR. JACKSON: SURE.

9 (WHEREUPON UNRELATED MATTERS WERE HEARD.)

10 THE COURT: ALL RIGHT. RESUMING ON THE MICHAEL
11 GOODWIN MATTER.

12 MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
13 THE PEOPLE ARE REPRESENTED. WE'RE OUTSIDE THE PRESENCE
14 OF THE JURY AND WE HAVE THE PEOPLE'S WITNESS,
15 MS. WILKINSON, REGARDING THE EVIDENCE THAT THE PEOPLE
16 WANT TO PRESENT.

17 MR. DIXON: YES, YOUR HONOR. THANK YOU.

18
19 NANCY WILKINSON,
20 CALLED BY THE DEFENDANT AS A WITNESS, WAS
21 SWORN AND TESTIFIED AS FOLLOWS:

22
23 THE COURT: ALL RIGHT. LET'S HAVE YOU SWORN.
24 PLEASE STAND AND RAISE YOUR RIGHT HAND.

25 THE CLERK: YES. STAND UP AND RAISE YOUR RIGHT
26 HAND. THANK YOU.

27 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
28 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT

1 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
2 TRUTH SO HELP YOU GOD.

3 THE WITNESS: I DO.

4 THE CLERK: THANK YOU. PLEASE BE SEATED.

5 MR. DIXON: MAY I INQUIRE?

6 THE COURT: JUST STATE YOUR NAME AND SPELL YOUR
7 LAST NAME.

8 THE WITNESS: OKAY. IT'S NANCY LUCIA, FORMALLY
9 WILKINSON. LUCIA IS L-U-C-I-A.

10 THE COURT: THANK YOU. YES, YOU MAY INQUIRE.

11 MR. DIXON: THANK YOU, YOUR HONOR.

12

13 DIRECT EXAMINATION

14 BY MR. DIXON:

15 Q GOOD MORNING. THANK YOU FOR COMING.

16 A GOOD MORNING.

17 Q WE HAVE JUST A FEW QUESTIONS FOR YOU
18 OUTSIDE OF THE PRESENCE OF THE JURY WITH RESPECT TO KIND
19 OF AN EVENT, A STARTLING EVENT AT THE THOMPSON HOUSE.

20 WITH THAT IN MIND, I WOULD LIKE TO DIRECT
21 YOUR ATTENTION TO THE LATE SUMMER, EARLY FALL OF 1987.

22 DO YOU HAVE THAT IN MIND?

23 A I DO.

24 Q DID YOU KNOW MICKEY AND TRUDY THOMPSON AT
25 THAT TIME?

26 A I DID.

27 Q HOW DID YOU KNOW THEM?

28 A I WORKED FOR MICKEY AND TRUDY PART TIME

1 FLYING INTO THE RACES FOR THE WEEKENDS, AND TRUDY AND I
2 WERE VERY CLOSE. SHE ATTENDED MY WEDDING IN MAY OF THAT
3 YEAR.

4 Q SO YOU BECAME GOOD FRIENDS?

5 A YES.

6 Q YOU FLEW INTO THE RACES TO DO EXACTLY
7 WHAT?

8 A I WAS IN CHARGE -- I WASN'T IN CHARGE OF
9 REGISTRATION YET, I DID REGISTRATION, TIMING AND SCORING.

10 Q FOR THE VEHICLES THAT WERE RACING?

11 A YES, ALL OF THE VEHICLES. RIGHT.

12 Q BUT THAT'S PROBABLY NOT WHY YOU WERE AT
13 THE THOMPSON HOUSE IN THE LATE SUMMER, EARLY FALL IN
14 1987?

15 A NO. AS I STATED, I WAS MARRIED IN MAY OF
16 1987. AND TRUDY AND DEBORAH COLLINS -- WHO ALSO WORKED
17 FOR MICKEY AND TRUDY -- AND I HAD TAKEN A PICTURE WITH
18 TRUDY AND SHE WANTED TO SEE IT, SO I WAS THERE SHOWING
19 HER MY WEDDING PICTURES.

20 Q SO YOU WERE IN THE THOMPSON HOUSE?

21 A CORRECT.

22 Q DO YOU RECALL WHERE?

23 A I BELIEVE IT WAS IN AN UPSTAIRS ROOM.

24 Q SO THIS WOULD HAVE BEEN IN AN UPSTAIRS
25 SECOND FLOOR ROOM?

26 A SECOND FLOOR ROOM.

27 Q AND DID THIS FLOOR -- DID THIS ROOM HAVE
28 WINDOWS OF SOME KIND?

1 A IT HAD ONE WINDOW. I REMEMBER SEEING A
2 COUCH, THERE WAS A WINDOW OFF TO THE RIGHT LIKE THERE WAS
3 ANOTHER STEP AND I THINK OFF TO THE RIGHT.

4 Q LARGE OR SMALL?

5 A I DON'T RECALL.

6 Q OKAY. AND AT SOME POINT AS YOU'RE TALKING
7 ABOUT THE PHOTOGRAPHS WITH TRUDY THOMPSON AND -- WHO WAS
8 THE OTHER PERSON?

9 A DEBORAH COLLINS.

10 Q DID YOU SEE MICKEY THOMPSON?

11 A YES. WE WERE PROBABLY -- I DON'T RECALL
12 WHERE WE WERE IN THE PICTURES, BUT WE HAD ALREADY STARTED
13 LOOKING AT THE PICTURES. AND MICKEY CAME RUNNING
14 UPSTAIRS AND JUST SCREAMING, "DON'T YOU KNOW, KEEP THE
15 WINDOWS CLOSED, KEEP THE DRAPES CLOSED. GOODWIN COULD
16 HAVE A SNIPER OUT THERE RIGHT NOW (INDICATING)."

17 Q NOW, AS YOU JUST MADE THAT STATEMENT, YOU
18 WERE DOING THINGS WITH YOUR HANDS AND YOUR HEAD. COULD
19 YOU TELL US WHAT YOU WERE DOING FOR THE RECORD AND THEN I
20 WILL ASK ANOTHER QUESTION.

21 A SORRY. WE HAD OUR HANDS ON THE PICTURES,
22 BASICALLY, AND WE JUST KIND OF STOPPED.

23 Q AND PLEASE CORRECT ME IF I'M WRONG, I
24 THOUGHT THAT IN YOUR EARLIER ANSWER WHEN YOU DESCRIBED
25 WHAT MICKEY THOMPSON SAID AS HE RAN UP THE STAIRS, YOU
26 WERE DOING SOMETHING WITH YOUR HANDS TO DEMONSTRATE WHAT
27 HE WAS DOING.

28 WAS I INCORRECT?

1 A I DON'T RECALL IF HE WAS DOING ANYTHING.
2 THAT WAS JUST MY -- SORRY.

3 Q OKAY. ALL RIGHT. WELL, DESCRIBE FOR US
4 MICKEY THOMPSON'S DEMEANOR AT THAT TIME. WAS HE COOL AND
5 COLLECTED OR CALM, OR WAS HE AGITATED AND UPSET?

6 A NO. HE WAS VERY UPSET, VERY UPSET. AND
7 HE WAS SCREAMING. HE WAS SCREAMING AT TRUDY.

8 Q AND HE WAS SCREAMING AT TRUDY TO CLOSE THE
9 DOORS BECAUSE --

10 A YEAH, RIGHT.

11 Q -- BECAUSE OF WHAT YOU SAID ABOUT THE
12 SNIPER?

13 A THE WINDOW. THE WINDOW, RIGHT.

14 Q SO WHAT HAPPENED NEXT AFTER MICKEY
15 THOMPSON RAN UPSTAIRS SCREAMING THESE WORDS?

16 A I DON'T -- I BELIEVE HE WENT OVER TO -- I
17 DON'T REMEMBER IF HE OR TRUDY WENT UP THERE AND CLOSED
18 IT, BUT I BELIEVE HE DID BECAUSE WE WERE ALL JUST SITTING
19 THERE. I THINK HE WENT OVER AND HE QUICKLY, AS HE WAS
20 RUNNING AND YELLING, HE WENT OVER AND CLOSED THE DRAPES
21 AND SHUT THE WINDOW.

22 Q WAS THERE ANYTHING ABOUT THAT THAT MADE
23 YOU BELIEVE THAT MICKEY THOMPSON WASN'T SERIOUS OR WAS
24 JOKING ABOUT WHAT HE SAID?

25 A NO. HE WAS VERY, VERY SERIOUS. I DON'T
26 RECALL SEEING HIM THAT FRANTIC BEFORE.

27 Q AND THIS WAS OBVIOUSLY NOT THE FIRST TIME
28 YOU'D SEEN MICKEY THOMPSON?

1 A RIGHT. RIGHT.

2 Q YOU'D WORKED WITH HIM OFTEN?

3 A RIGHT.

4 Q AND WAS HE GENERALLY AN EXCITABLE KIND OF
5 GUY, WAS PRONE TO SCREAMING? OR WAS HE CALM AND COOL AND
6 COLLECTED?

7 A I NEVER REALLY SAW HIM GET TOO UPSET. HE
8 AND DRIVERS WOULD HAVE CONFRONTATIONS HERE AND THERE.
9 BUT THAT'S THE ONLY THING I WOULD SEE.

10 Q SO IS IT FAIR TO SAY THIS WAS ONE OF THE
11 SITUATIONS WHERE YOU HAD SEEN HIM MORE UPSET THAN YOU HAD
12 EVER SEEN HIM BEFORE?

13 MS. SARIS: OBJECTION. LEADING.

14 THE COURT: SUSTAINED.

15 Q BY MR. DIXON: HAD YOU EVER SEEN HIM THAT
16 UPSET BEFORE?

17 A NOT LIKE THAT.

18 MR. DIXON: CAN I HAVE A MOMENT?

19 THE COURT: YES.

20 (DISCUSSION OFF THE RECORD.)

21 MR. DIXON: YOUR HONOR, FOR THE PURPOSES OF THIS
22 MOTION, I THINK THAT CONCLUDES MY QUESTIONS.

23 THE COURT: THANK YOU.

24 CROSS-EXAMINATION?

25

26 CROSS-EXAMINATION

27 BY MS. SARIS:

28 Q GOOD MORNING, MS. LUCIA. WHAT TIME OF DAY

1 WAS THIS?

2 A I DON'T RECALL.

3 Q DO YOU REMEMBER IF IT WAS DAYTIME OR
4 NIGHTTIME?

5 A NO. I WAS TRYING TO RECALL BECAUSE I HAD
6 BEEN UP THERE A COUPLE OF TIMES DURING THAT PERIOD. I
7 DON'T RECALL IF IT WAS DAY OR NIGHT.

8 Q YOU HAD BEEN THERE BEFORE RECENTLY?

9 A WE HAD MEETINGS, WE HAD DIFFERENT MEETINGS
10 AND THINGS FOR THE RACES.

11 Q AROUND THE SAME TIME?

12 A PROBABLY -- I MEAN, I WOULD SAY MAYBE
13 MONTHS, MAYBE.

14 Q AND YOU RECALL THE WINDOW ACTUALLY BEING
15 OPEN OR JUST DRAPES BEING OPEN?

16 A I KNOW THE DRAPES WERE OPEN. I DON'T
17 RECALL IF THE WINDOW -- I DON'T RECALL. I'M SORRY. I
18 REMEMBER THE DRAPES BEING OPEN.

19 Q AND YOU DON'T KNOW WHERE MICKEY THOMPSON
20 WAS COMING FROM?

21 A DOWNSTAIRS.

22 Q ARE YOU SURE HE WAS IN THE HOUSE OR COULD
23 HE HAVE BEEN IN THE GARAGE?

24 A I MET HIM WHEN I GOT THERE DOWNSTAIRS.

25 Q WHERE WAS HE IN THE HOUSE WHEN YOU
26 ARRIVED?

27 A I DON'T REMEMBER WHERE HE WAS.

28 Q WAS HE ALONE?

1 A NO. HE AND TRUDY AND DEBORAH WERE
2 TOGETHER.

3 Q AND SO ALL THE WOMEN WENT UPSTAIRS AND HE
4 STAYED DOWNSTAIRS?

5 A YES.

6 Q SO DID HE TELL YOU ABOUT WHAT HAD JUST
7 HAPPENED DOWNSTAIRS OR DID HE JUST RUN UP AND YELLED TO
8 CLOSE THE WINDOWS?

9 A HE JUST RAN UP AND JUST START YELLING.

10 Q SO YOU HAVE NO IDEA WHAT PRECIPITATED HIM
11 RUNNING IN?

12 A I DON'T.

13 MS. SARIS: I HAVE NOTHING FURTHER.

14 THE COURT: REDIRECT?

15 MR. DIXON: NO. THANK YOU.

16 THE COURT: THANK YOU, MA'AM.

17 THE WITNESS: YOU'RE WELCOME.

18 (THE WITNESS EXITED THE COURTROOM.)

19 THE COURT: ALL RIGHT. THE WITNESS HAS LEFT THE
20 COURTROOM AND THE PEOPLE ARE OFFERING THIS TESTIMONY IN
21 SUPPORT OF THE REQUEST TO ADMIT THE STATEMENTS UNDER WHAT
22 THEORY?

23 MR. DIXON: EXCITED UTTERANCES.

24 THE COURT: AND THE RELEVANCE?

25 MR. DIXON: WELL, THE RELEVANCE IS TO INDICATE
26 HIS STATE OF MIND, HIS FEAR OF MICKEY THOMPSON -- EXCUSE
27 ME -- OF MIKE GOODWIN, AND ALSO HIS FEAR OF SOMETHING
28 LIKE THAT HAPPENING TO HIM AT ANY GIVEN MOMENT AT HIS

1 HOME.

2 THE COURT: AND THE DEFENSE ARGUMENT?

3 MS. SARIS: YOUR HONOR, NUMBER ONE, IT'S NOT AN
4 EXCITED UTTERANCE BECAUSE IT'S NOT NARRATING OR
5 DESCRIBING ANY EVENT. WE DO NOT KNOW WHAT IT WAS THAT
6 PRECIPITATED HIS RUNNING.

7 AND, SECOND, THE CASE LAW IS VERY CLEAR
8 THAT THE VICTIM'S STATE OF MIND IN FEAR OF THE DEFENDANT
9 IS NOT RELEVANT UNLESS IT PROVES SOMETHING RELEVANT TO
10 THE CASE, SUCH AS MY CLIENT CLAIMING HE HAD A RIGHT TO BE
11 IN MICKEY'S HOME; MY CLIENT CLAIMING THERE WAS
12 SELF-DEFENSE; MY CLIENT CLAIMING MICKEY HAD INVITED HIM.
13 OTHERWISE, GENERAL FEAR OF THE VICTIM, ESPECIALLY IN A
14 HEARSAY CONTEXT HAS BEEN RULED COMPLETELY INADMISSIBLE.
15 WE HAVE SEVERAL CASES ON POINT IF THE COURT WANTS THOSE
16 CITES.

17 IT HAS TO DO -- HIS STATE OF MIND HAS TO
18 BE RELEVANT TO SOME ISSUE IN THE CASE. SO IF WE WERE
19 ARGUING, FOR INSTANCE, MICKEY THOMPSON WAS AT THE WINDOW
20 TO SIGNAL A PLANE THAT WAS DROPPING DRUGS AND THAT'S WHY
21 HE WAS MURDERED, THEY COULD SHOW THAT MICKEY THOMPSON
22 WOULD NEVER STAND AT THE WINDOW BECAUSE HE WAS AFRAID OF
23 MICHAEL GOODWIN.

24 MICKEY THOMPSON AND HIS WIFE WERE MURDERED
25 IN THE DRIVEWAY OF THEIR HOME; THEY WERE NOT MURDERED BY
26 A SNIPER. AND MICKEY THOMPSON DID NOT CHANGE ANYTHING
27 ABOUT HIS ROUTINE OR WHAT HE DID AS A RESULT OF ANY FEAR,
28 WHICH IS THE ONLY WAY IT WOULD BE RELEVANT.

1 MR. DIXON: WELL, IT ALSO GOES TO SHOW THE LEVEL
2 OF HOSTILITY OF THE LITIGATION THAT'S BEEN DESCRIBED SO
3 FAR IN THIS COURTROOM. AND AT THIS TIME, IN LATE SUMMER
4 TO EARLY FALL OF 1987, THAT WAS ESPECIALLY TRUE. AND I
5 THINK THIS ALSO SHOWS IT'S CONSISTENT WITH OUR THEORY OF
6 THE CASE THAT WE PRESENTED TO THE JURY AND THE COURT.

7 THE COURT: SO YOU ARE SAYING THAT THE RELEVANCE
8 OF THE STATEMENT IS NOT SO MUCH THE FEAR OF THE VICTIM,
9 BUT THE HOSTILITY OF THE LITIGATION? SO THAT YOU ARE NOT
10 NECESSARILY OFFERING THE STATEMENT TO SHOW ANY STATE OF
11 MIND ON THE PART OF THE VICTIM. BECAUSE I THINK COUNSEL
12 IS RIGHT, I RECALL SEEING CASES, ALTHOUGH NONE COME TO
13 MIND RIGHT NOW SPECIFICALLY, SO I'M INTERESTED IN THE
14 CITATIONS.

15 BUT I REMEMBER SEEING CASES THAT INDICATE
16 YOU CAN'T BRING IT IN FOR FEAR, TO SHOW FEAR, BUT YOU
17 CERTAINLY CAN FOR OTHER REASONS. AND TO SHOW THE LEVEL
18 OF HOSTILITY IN THIS LITIGATION WOULD SEEM TO ME TO BE
19 EXTREMELY RELEVANT.

20 MS. SARIS: EXCEPT FOR, YOUR HONOR, IT DOESN'T
21 MENTION THE LITIGATION. THEY CAN'T POINT THAT ANYTHING
22 OCCURRED ON THAT DAY THAT CREATED THIS EXCITED UTTERANCE.
23 IN OTHER WORDS, IF THIS WAS THE DAY THAT WE COULD
24 PINPOINT, FOR INSTANCE, THAT A LAWYER HAD JUST PHONED OR
25 THAT A DOCUMENT HAD JUST BEEN FILED OR A RULING HAD JUST
26 BEEN MADE, BUT THIS HAS NOTHING TO DO WITH THE HOSTILITY.
27 THAT'S MICHAEL GOODWIN'S STATE OF MIND.

28 THEY'RE OFFERING THIS WHERE MICKEY WAS

1 AFRAID. SO THAT DOESN'T SPEAK TO MICHAEL GOODWIN'S
2 HOSTILITY. IT'S MICKEY THOMPSON'S BELIEF THAT MICHAEL
3 GOODWIN HATES HIM OR MIGHT HAVE A SNIPER IS NOT RELEVANT
4 TO WHETHER OR NOT MICHAEL HAD SOME HOSTILITY. IF HE HAD
5 RAN UP AND SAID, OH, MY GOD, DON'T YOU KNOW WE'RE IN THE
6 MIDDLE OF LITIGATION? CLOSE THOSE WINDOWS. OH, MY GOD,
7 THE COURT RULING CAME DOWN YESTERDAY, CLOSE THOSE
8 WINDOWS. OH, I JUST GOT ANOTHER MEAN AND NASTY
9 THREATENING LETTER FROM MICHAEL GOODWIN, CLOSE THOSE
10 WINDOWS.

11 THIS WAS JUST MICHAEL GOODWIN MAY HAVE A
12 SNIPER OUTSIDE. THERE'S NO REFERENCE TO THE LITIGATION.
13 SO THE STATE OF MIND OF MICKEY THOMPSON IS ALL THIS CAN
14 GO TO AND THAT'S NEVER RELEVANT.

15 AND IF THE COURT LIKES -- BECAUSE WE DID
16 BRIEF THIS IN ANTICIPATION OF ANOTHER STATEMENT THAT WE
17 EXPECTED THE PEOPLE TO OFFER THAT IS NOT BEING OFFERED
18 FROM ANOTHER WITNESS WHO'S NOT ON THE LIST, I HAVE NO
19 PROBLEM, IT WILL TAKE ME MAYBE 20 MINUTES TO GO GET THOSE
20 CASES.

21 THE COURT: NO. I MEAN, I'M FAMILIAR THAT -- I
22 KNOW THERE ARE CASES ON THE STATE OF MIND OF THE VICTIM
23 BEING IN FEAR OF THE DEFENDANT. SO, YES, ONE CITATION
24 WOULD BE HELPFUL.

25 BUT ON THE ISSUE OF THIS BEING AN EXCITED
26 UTTERANCE, I DON'T HAVE ANY PROBLEM DEEMING IT AN EXCITED
27 UTTERANCE BECAUSE THE --

28 MS. SARIS: WHAT IS IT NARRATING? I'M SORRY.

1 THE COURT: IT'S -- THE WAY I HEARD THIS
2 TESTIMONY IS THAT MICKEY COMES RUNNING IN PERHAPS
3 NOTICING A WINDOW OPEN, WHICH I THINK IS A REASONABLE
4 INFERENCE --

5 MS. SARIS: HE'S RUNNING UP THE STAIRS YELLING.

6 THE COURT: HE'S RUNNING UP THE STAIRS YELLING,
7 PERHAPS THINKING OR KNOWING OR SEEING THAT A WINDOW IS
8 OPEN AND HE'S SCREAMING KEEP THE WINDOW CLOSED, KEEP THE
9 DRAPES CLOSED, WE COULD HAVE A SNIPER OUT THERE, I THINK
10 IT DOES DESCRIBE WHATEVER HIS OBSERVATION WAS ABOUT THE
11 ROOM AND THE WINDOW.

12 MS. SARIS: HOWEVER -- AND PERHAPS WE CAN RECALL
13 THE WITNESS, IT SEEMED TO ME THAT SHE WAS SAYING MICKEY
14 WAS EXCITED RUNNING UP THE STAIRS. SO HOW WOULD HE HAVE
15 NOTICED -- I ASKED SPECIFICALLY, WAS HE DOWNSTAIRS OR WAS
16 HE OUT IN THE GARAGE?

17 THE COURT: HOW WOULD SHE KNOW? SHE WAS SITTING
18 IN THE ROOM SHOWING WEDDING PICTURES.

19 MS. SARIS: EXACTLY. SO HOW CAN WE SAY THAT
20 HE --

21 THE COURT: I CAN SAY IT. THIS IS A LITTLE
22 DIFFERENT FROM THE LAST BIT OF INFORMATION I HAD. THIS
23 INFERENCE IS A REASONABLE INFERENCE. AND, REALLY, THE
24 ONLY REASONABLE INFERENCE THAT CAN BE DRAWN FROM THIS
25 CIRCUMSTANTIAL EVIDENCE.

26 I HAVE NO PROBLEM DRAWING THE INFERENCE
27 THAT MICKEY SAW THE WINDOW WAS OPEN AND CAME RUNNING UP
28 THE STAIRS IN AN EFFORT TO PROTECT THE PEOPLE UPSTAIRS AS

1 WELL AS HIMSELF. I MEAN, THIS ONE IS A WHOLE LOT
2 DIFFERENT THAN THE OTHERS. I CAN REASONABLY DRAW THAT
3 INFERENCE, THAT THAT'S WHAT HE OBSERVED AND THAT'S
4 EXACTLY WHAT HE'S DESCRIBING.

5 THE QUESTION I HAVE IS WHETHER OR NOT IT'S
6 COMING IN FOR AN ADMISSIBLE PURPOSE WHICH IS TO
7 DEMONSTRATE THE HOSTILITY OF THE LITIGATION AND NOT THE
8 STATE OF MIND OF THE VICTIM.

9 SO IF YOU CAN GET ME A CASE CITE AND IF
10 THE PEOPLE HAVE ANY CASE CITE.

11 MR. JACKSON: YOUR HONOR, I CAN POSSIBLY ASSIST
12 THE COURT. 1250 OF THE EVIDENCE CODE GENERALLY -- AND
13 THE PROGENY THAT FOLLOWS OUT OF 1250 SPEAKS TO THIS
14 ISSUE, AND COUNSEL'S CORRECT. THE STATE OF THE LAW IS
15 THAT AS A GENERAL RULE, AND IT IS A VERY GENERAL RULE,
16 THAT THE PROSECUTION CANNOT UTILIZE THE VICTIM'S FEAR FOR
17 THE ISSUE OF FEAR OF THE VICTIM.

18 NOW, THE VICTIM'S STATEMENTS OF FEAR MAY
19 BE USED FOR A PLETHORA OF OTHER EVIDENCE OR OTHER
20 INFORMATION AND CERTAINLY COUNSEL COULD REASON -- AND
21 WE'VE GOT TONS OF IT IN THIS CASE THAT WE'RE NOT SEEKING
22 TO INTRODUCE IN OUR CASE IN CHIEF UNLESS THE DOOR IS
23 OPENED FOR OTHER EVIDENTIARY VALUE, WHEREIN THE
24 STATEMENTS HAVE OTHER EVIDENTIARY VALUE.

25 IN THIS PARTICULAR CASE, IT DOES HAVE
26 OTHER EVIDENTIARY VALUE. IN THIS PARTICULAR CASE, MICKEY
27 THOMPSON SAW THAT THE WINDOW WAS OPENED, PRESUMABLY, OR
28 SAW SOMETHING OR WHATEVER IT WAS THAT WAS THE IMPETUS FOR

1 HIM RUNNING UPSTAIRS. HE SPECIFICALLY RAN UPSTAIRS AND
2 SAID IN HIS OWN WORDS HEY, YOU CAN'T KEEP THAT WINDOW
3 OPEN, GOODWIN. NOT IN GENERAL, HEY, SOMEONE COULD GET
4 SHOT IN GENERAL OR IT'S COLD UP HERE OR MY ELECTRICITY
5 BILL IS THROUGH THE ROOF THIS MONTH, IT'S GOODWIN COULD
6 HAVE A SNIPER OUT THERE.

7 THIS SPECIFICALLY SHOWS EXACTLY THAT WHICH
8 THE PROSECUTION IS PROFFERING TO THIS JURY. THERE WAS AN
9 INTENSE LEVEL OF HOSTILITY, AN INTENSE LEVEL OF ANIMOSITY
10 BETWEEN THE TWO LITIGANTS, AND THAT IS THE UNDERLYING
11 MOTIVE. THAT'S WHY WE'RE OFFERING IT. NOT FOR THE FEAR
12 OF MICKEY THOMPSON SPECIFICALLY OR GENERALLY, BUT THAT HE
13 VERY, VERY SPECIFICALLY WAS SPEAKING OF THE LITIGATION
14 BETWEEN HIMSELF AND GOODWIN.

15 I DON'T THINK -- AS MS. SARIS SUGGESTS, I
16 DON'T THINK THERE'S ANY NECESSITY THAT HE MENTIONED THE
17 WORD LITIGATION OR LAWSUIT IN HIS STATEMENT. I THINK
18 THAT CAN BE GENERALLY INFERRED.

19 MS. SARIS: THE PROBLEM IS UNDER 1250 THIS WAS
20 EXACTLY WHAT IS PRECLUDED. AND UNLESS HIS STATE OF MIND
21 IS RELEVANT AND THE EVIDENCE IS OFFERED TO PROVE OR
22 EXPLAIN ACT OR CONDUCT OF A DECLARANT. NOW, THAT MIGHT
23 EXPLAIN WHY HE'S RUNNING UP THE STAIRS, BUT THAT HAS NO
24 RELEVANCE TO THIS LITIGATION. THE ONLY RELEVANCE THIS
25 COULD OFFER IS THAT MICKEY THOMPSON WAS AFRAID.

26 THIS IDEA THAT THERE'S A LEVEL OF
27 HOSTILITY, THAT MIGHT BE RELEVANT TO THE PROSECUTION OF
28 MICHAEL GOODWIN, BUT IT HAS NOTHING TO DO WITH HIS

1 STATEMENT. GOODWIN COULD HAVE A SNIPER DOESN'T SHOW THE
2 LEVEL OF HOSTILITY OF THE LITIGANTS, IT SHOWS MICKEY
3 THOMPSON'S FEAR OF MICHAEL GOODWIN.

4 THERE'S A PLETHORA, TO USE COUNSEL'S WORD,
5 OF EVIDENCE OF HOSTILITY WITHOUT OFFERING A HEARSAY
6 STATEMENT THIS IS NOT NECESSARILY A SPONTANEOUS UTTERANCE
7 NARRATING AN EVENT THAT DOES NOT SPEAK -- IT'S ALMOST
8 LIKE A KNEE JERK. WELL, IF WE ASK FOR IT TO COME IN TO
9 SHOW HOSTILITY, THE COURT WILL LET IT IN.

10 THEY'RE ASKING FOR IT TO GET IN UNDER FEAR
11 OF STATE OF MIND. THEY MIGHT BE CALLING IT SOMETHING
12 ELSE. BUT IF IT'S NOT OFFERED TO SHOW MICKEY THOMPSON'S
13 FEAR OF MICHAEL GOODWIN, THEN IT HAS NO RELEVANT PURPOSE
14 TO THIS CASE. AND IF IT'S OFFERED TO SHOW THE FEAR, THEN
15 1250 AND ITS PROGENY IS SPECIFICALLY EXCLUDED.

16 MR. JACKSON: AND I WOULD SIMPLY RESPOND THAT
17 EVENT THAT THE STATEMENT IS DESCRIBING IS THE LAWSUIT.
18 AND WE'RE NOT OFFERING IT TO SHOW FEAR AND WE WOULDN'T
19 STAND UP AND OFFER IT AND SAY, LADIES AND GENTLEMEN, BOY,
20 YOU SURE CAN TAKE INTO CONSIDERATION HOW FEARFUL MICKEY
21 THOMPSON WAS. WE COULDN'T DO THAT.

22 THAT WOULD BE NOT WHAT WE'RE OFFERING IT
23 FOR. WE'RE OFFERING IT TO SHOW THAT THIS WAS NOT A GOOD
24 OLD FASHIONED LAWSUIT BETWEEN TWO BUSINESSES. THIS WAS
25 PERSONAL, IT ENGENDERED ENORMOUS EMOTION ON BOTH SIDES
26 AND THAT'S THE MOTIVE BEHIND THE KILLING. THAT'S WHAT
27 WE'RE SEEKING TO PROVE.

28 THE COURT: IF THIS IS AN EXCITED UTTERANCE,

1 ISN'T IT RELEVANT ON THE ISSUE OF IDENTITY?

2 MS. SARIS: WELL, FIRST OFF, IDENTITY --

3 THE COURT: YES.

4 MS. SARIS: -- WAS GOODWIN OUTSIDE WITH A SNIPER?

5 THE COURT: NO. THE ISSUE OF IDENTITY IN THE
6 CASE.

7 MS. SARIS: WELL, WE WOULD OBJECT FIRST OFF TO
8 THE COURT MAKING THE DISTRICT ATTORNEY'S ARGUMENT FOR
9 THEM.

10 THE COURT: I'M ASKING THE QUESTION.

11 MS. SARIS: IDENTITY NEEDS TO BE VERY SPECIFIC.

12 THE COURT: I'M ASKING THE QUESTION. ISN'T IT --
13 THE LEVEL OF HOSTILITY OF THIS LAWSUIT, WE HAVE HEARD
14 NOTHING BUT TESTIMONY --

15 MS. SARIS: TOTALLY ESTABLISHED.

16 THE COURT: -- THAT THIS LAWSUIT, I MEAN, IS
17 CERTAINLY UNIQUE IN THE SITUATION INsofar AS THE
18 HOSTILITY THAT WAS GENERATED BY MR. GOODWIN AND JUST
19 MR. GOODWIN. I MEAN, THAT'S WHAT WE'VE HEARD SO FAR.
20 I'VE HEARD NOTHING YET TO INDICATE THAT THE SAME FEELINGS
21 WERE HELD BY THE VICTIM. I MEAN, THIS IS ALL BEEN TAKEN
22 BY STATEMENTS THAT MR. GOODWIN HAS ALLEGEDLY MADE. AND
23 THAT'S THE PEOPLE'S CASE.

24 MS. SARIS: SO THE FACT THAT MR. THOMPSON FELT
25 HOSTILITY, TOO, IS EXPRESSED IN THIS STATEMENT?

26 THE COURT: NO. NO, I DIDN'T SAY THAT. WE HAVE
27 HAD NO EVIDENCE THUS FAR --

28 MS. SARIS: WELL, WE HAVE MR. BARTINETTI SAYING

1 THAT IT WAS UNREASONABLE TO PROCEED FINANCIALLY.

2 I MEAN, THE IDEA OF THE HOSTILITY HAS ALREADY BEEN
3 ESTABLISHED BY OTHER WITNESSES. AND THAT FEAR AND
4 PROBABILITY OF THIS JURY ACCEPTING THIS EVIDENCE FOR THE
5 IMPROPER PURPOSE OF MICKEY THOMPSON'S FEAR REGARDLESS OF
6 WHETHER THE D.A. SAID IS OUTRIGHT OR WITH A WINK AND A
7 NOD, IS FAR MORE PREJUDICIAL THAN PROBATIVE IN THE SENSE
8 THAT, AGAIN, STATE OF THE MIND AND CONDUCT BECOME
9 RELEVANT WHERE THEY'RE BEING REBUTTED, WHERE WE'RE
10 OFFERING SOMETHING TO INDICATE THAT THE CONDUCT IS
11 RELEVANT.

12 MICHAEL GOODWIN IS NOT. AND WE HAVE MADE
13 THIS ARGUMENT IN OUR OPENING STATEMENT, WE WILL SIGN A
14 STIPULATION TO THIS, WE ARE NOT EVER GOING TO SAY I DON'T
15 KNOW WHAT EVERYONE'S TALKING ABOUT. THIS WAS AN
16 ABSOLUTELY NORMAL LITIGATION. I'VE BEEN IN FOUR LAWSUITS
17 AND IT WAS NO DIFFERENT THAN ANY OTHER. THAT'S GOING TO
18 BE AN UNREBUTTED PRINCIPLE THROUGHOUT THESE PROCEEDINGS,
19 THAT THIS WAS A VITRIOLIC LAWSUIT.

20 THE DANGER OF A JURY ACCEPTING THIS
21 INFORMATION FOR AN IMPROPER PURPOSE IS SO GREAT -- AND WE
22 CAN TELL THAT BECAUSE LITERALLY THAT IS THE PURPOSE
23 THEY'RE TRYING TO GET IT IN FOR, IT'S JUST BEING
24 BOOTSTRAPPED WITH THIS HOSTILITY, WHETHER THEY SAY IT
25 OUTRIGHT.

26 THE CONDUCT OF MICKEY THOMPSON AND HIS
27 BELIEF AS TO THE FACT THAT IT WAS MICHAEL GOODWIN THAT
28 WAS UPSET AT HIM IN TERMS OF IDENTITY, THAT'S BEEN

1 ESTABLISHED. THE LITIGATION HAS BEEN ESTABLISHED AS
2 VITRIOLIC. THE LITIGANTS HAVE BEEN ESTABLISHED AS
3 MICHAEL GOODWIN AND MICKEY THOMPSON. THERE'S NO OTHER
4 LAWSUIT OF MICKEY THOMPSON THAT WE'RE ALLEGING HE WAS
5 INVOLVED IN THAT WOULD HAVE RESULTED IN SOME SORT OF --
6 AGAIN, WE'RE BACK TO FEAR. THERE'S NO RELEVANCE TO THE
7 STATEMENT WITHOUT THE FEAR OF MICHAEL GOODWIN.

8 THE COURT: I SEE IT DIFFERENTLY. I'M JUST NOT
9 SURE THAT THE WAY I SEE IT IS LEGALLY CORRECT. BUT, YOU
10 KNOW, IN JUST SITTING HERE THINKING ABOUT IT, THIS IS
11 MORE AKIN TO 1101(B) EVIDENCE OR ANYTHING ELSE. AND WE
12 SPENT HALF THE MORNING LITIGATING 1101(B).

13 I MEAN, HERE YOU HAVE AN ACTUAL STATEMENT
14 WHERE YOU HAVE A PERSON OR A VICTIM DESCRIBING WHAT HE
15 PERCEIVES TO BE AN EVENT THAT THE DEFENDANT HIRED
16 SOMEBODY TO SHOOT HIM ON A PREVIOUS OCCASION.

17 MS. SARIS: 1101(B) IS THE CONDUCT OR ACTIONS OF
18 MR. GOODWIN.

19 THE COURT: CORRECT.

20 MS. SARIS: THIS STATEMENT DIDN'T DESCRIBE THAT.
21 THAT DESCRIBED MR. --

22 THE COURT: CORRECT. I'M JUST LOOKING AT A
23 THEORY OF ADMISSIBILITY. BECAUSE IT DOESN'T STRIKE ME AS
24 SIMPLY BEING RELEVANT ON THE ISSUE OF FEAR ON THE PART OF
25 THE VICTIM.

26 MS. SARIS: BUT MICKEY --

27 THE COURT: I AGREE THAT'S NOT THE ISSUE HERE.

28 MS. SARIS: BUT UNDER 1101(B), MICHAEL GOODWIN

1 HAD TO HAVE DONE OR SAID SOMETHING.

2 THE COURT: ALL I'M SAYING IS -- AND I'M JUST
3 GETTING THIS FOR THE FIRST TIME. I MEAN, I THOUGHT WHEN
4 WE STARTED THIS WAS SIMPLY AN EXCITED UTTERANCE, BUT WHEN
5 I ASKED FOR THE THEORY OF RELEVANCE, THE HOSTILITY OF THE
6 LITIGATION IS EXTREMELY RELEVANT.

7 AND WHAT IS STRIKING TO ME IS THAT HERE I
8 HAVE A STATEMENT THAT I BELIEVE IS SUFFICIENTLY RELIABLE
9 AND TRUSTWORTHY TO SHOW THAT THE LEVEL OF THE HOSTILITY
10 IN THIS LITIGATION WAS SUCH THAT THE VICTIM WOULD BE LED
11 TO BELIEVE THAT THE DEFENDANT WOULD HIRE A GUNMAN TO KILL
12 HIM. THAT'S WHAT I'M HEARING.

13 MS. SARIS: RIGHT. AND IF WE TAKE OUT "LED TO
14 BELIEVE" AND PUT IN "FEAR," THEN 1250 -- WHICH WE COULD,
15 IN FACT, SUBSTITUTE THAT THE VICTIM FEARED THAT MICHAEL
16 GOODWIN WOULD HIRE A GUNMAN, THEN IT'S SPECIFICALLY
17 PRECLUDED UNDER 1250.

18 UNDER 1101(B), IT HAS TO HAVE SOME
19 CONNECTION TO WHAT MICHAEL GOODWIN DID, SAID, PRIOR ACT,
20 PRIOR CONDUCT. THIS IS MICKEY THOMPSON'S MENTAL STATE,
21 MICKEY THOMPSON'S BELIEF --

22 THE COURT: BUT HOW DOES ONE GET TO THAT POINT IF
23 NOT FOR STATEMENTS AND COMMUNICATIONS MADE DURING THE
24 COURSE OF THE LITIGATION ATTRIBUTED TO THE DEFENDANT?

25 MS. SARIS: WELL, NOW THAT'S A HUGE LEAP. WHERE
26 DID THAT -- I MEAN, MICKEY THOMPSON USED TO BRAG ABOUT
27 LOTS OF THINGS THAT DIDN'T EXIST IN NATURE. HE WOULD FLY
28 A COMMERCIAL AIRLINE AND THEN TELL EVERYONE --

1 THE COURT: I HAVEN'T HEARD ANY OF THAT SO FAR.

2 MS. SARIS: WELL, YOU ALSO HAVEN'T HEARD THAT
3 MICHAEL GOODWIN SAID TO MICKEY THOMPSON I'M GOING TO HIRE
4 A SNIPER. WE'RE JUST ASSUMING THAT.

5 THE COURT: LOOK, I'M PERMITTED TO DRAW CERTAIN
6 INFERENCES AND I'M REALLY JUST THINKING OUT LOUD HERE.
7 IT SEEMS TO ME THAT THIS IS THE FIRST BIT OF EVIDENCE, IF
8 BELIEVED, THAT DEMONSTRATES THAT THE LEVEL OF HOSTILITY
9 WAS SUCH THAT IT WAS NOT ONLY ON THE PART OF MR. GOODWIN,
10 BUT IT WAS APPRECIATED AND FELT BY THE OTHER SIDE. AND
11 ALL I'VE HEARD SO FAR IS TESTIMONY FROM OTHER PEOPLE WHO
12 HAVE ATTRIBUTED STATEMENTS TO MR. GOODWIN DESCRIBING THE
13 LEVEL OF HOSTILITY OF THIS LAWSUIT.

14 THIS IS THE FIRST BIT OF EVIDENCE I'M
15 HEARING THAT TENDS TO SHOW THAT THIS VITRIOLIC LAWSUIT,
16 ACRONYMOUS LAWSUIT, THE LEVEL OF HATRED AND HOSTILITY
17 THAT HAS TAKEN PLACE DURING THE COURSE OF THE LITIGATION,
18 AND LITIGATION LASTED FOR YEARS, THIS IS THE FIRST TIME
19 I'M HEARING IT FROM THE VICTIM'S SIDE.

20 AND I'M NOT SO MUCH CONCERNED THAT IT
21 TENDS TO SHOW THE VICTIM WAS FEARFUL, BECAUSE THE VICTIM
22 BEING FEARFUL IS NOT ONLY NOT RELEVANT, IT'S
23 INADMISSIBLE. BUT THE FACT THAT THE VICTIM APPRECIATED
24 THE LEVEL OF HATRED AND CONTEMPT COMMUNICATED BY
25 MR. GOODWIN TO OTHERS IS PRETTY POTENT EVIDENCE --

26 MS. SARIS: AND RELEVANT FOR WHAT? I'M SORRY.

27 THE COURT: AND WHAT?

28 MS. SARIS: AND RELEVANT HOW THAT THE VICTIM

1 PERCEIVED IT?

2 THE COURT: THAT IT EXISTED. IT TENDS TO SHOW
3 THAT IT EXISTED. YOUR WHOLE CLAIM HERE BASED ON WHAT
4 I'VE HEARD SO FAR IS THAT THESE STATEMENTS WERE NOTHING
5 BUT STATEMENTS MADE IN ANGER, STATEMENTS MADE BECAUSE OF
6 THE TYPE OF LITIGATION THAT WAS GOING ON. AND THESE
7 STATEMENTS WERE MADE BY SOMEBODY WHO IS RATHER LOUD,
8 SOMEWHAT BOISTEROUS, OBNOXIOUS, HOWEVER PEOPLE HAVE
9 DESCRIBED IT. BUT THAT THESE STATEMENTS HAVE NO MEANING
10 OTHER THAN TO DESCRIBE SOMEONE BLOWING OFF STEAM.

11 AND THAT'S THE WHOLE DEFENSE CASE, THAT
12 THESE STATEMENTS WERE MADE, IF THEY WERE MADE BY
13 MR. GOODWIN, THAT'S WHY THEY WERE MADE. HE'S BLOWING OFF
14 STEAM. BUT IT'S NOT THAT HE WOULD EVER GO TO SUCH
15 EXTREME MEASURES TO CARRY OUT THE THINGS THAT HE SAID.

16 I'M SEEING IT FROM THE OTHER SIDE. I'M
17 SEEING IT FOR THE FIRST TIME FROM THE OTHER SIDE. AND TO
18 ME THAT'S EXTREMELY RELEVANT AND I DO THINK IT QUALIFIES
19 AS A 1240 EXCITED UTTERANCE.

20 MS. SARIS: MICKEY THOMPSON'S BELIEF THAT MICHAEL
21 GOODWIN HATED HIM IS RELEVANT --

22 THE COURT: NO. YOU CAN CHARACTERIZE WHAT I'M
23 SAYING --

24 MS. SARIS: I'M TRYING TO UNDERSTAND WHAT YOU'RE
25 SAYING --

26 THE COURT: I THINK I MADE IT CLEAR.

27 MS. SARIS: -- BECAUSE I'M HOPING THE COURT CAN
28 GIVE US AN OPPORTUNITY TO BRIEF THIS ISSUE, SO I AM

1 REALLY TRYING TO UNDERSTAND.

2 THE COURT: OKAY.

3 MS. SARIS: YOU'RE SAYING THAT THE VICTIM
4 APPRECIATED THE LEVEL OF HATRED AND CONTEMPT.

5 THE COURT: TO APPRECIATE THE LEVEL OF HATRED AND
6 CONTEMPT ONE HAS TO HEAR IT. ONE HAS TO HEAR ABOUT
7 THREATS, ONE HAS TO HEAR ABOUT STATEMENTS. ONE HAS TO,
8 BASED ON ALL OF THAT, FORM A BELIEF THAT THE PERSON THAT
9 THEY ARE IN LITIGATION WITH IS SO ANGRY THAT THEY WILL GO
10 TO EXTREME MEASURES.

11 MS. SARIS: AND COULD THIS PERSON HAVE HEARD
12 ABOUT THIS THIRD AND FOURTH HAND?

13 THE COURT: I DON'T KNOW. I'M JUST SAYING THIS
14 IS WHAT I'M SEEING AND WHAT I'M EXPRESSING OUT LOUD IN MY
15 THOUGHT PROCESS HERE. AND IT'S PRETTY COMPLICATED,
16 BECAUSE IT'S NOT BEING OFFERED SIMPLY FOR FEAR, IT IS
17 BEING OFFERED TO SHOW THE LEVEL OF HOSTILITY. AND, YOU
18 KNOW, THAT'S HOW I SEE IT. I DON'T KNOW ANYTHING THAT
19 PRECLUDES THIS EVIDENCE. I DON'T THINK 1250 PRECLUDES
20 IT. I DON'T THINK 1252 PRECLUDES IT. I DON'T THINK
21 1101(B) NECESSARILY PRECLUDES IT. NO MATTER HOW I LOOK
22 AT IT, I CAN'T FIND ANY AUTHORITY REQUIRING ME TO
23 PRECLUDE IT. IT HAS RELEVANCE AND IT IS OTHERWISE
24 ADMISSIBLE AS AN EXCEPTION TO THE HEARSAY RULE.

25 SO IF YOU'VE GOT SOMETHING ON POINT THAT
26 TELLS ME WHY I SHOULDN'T ADMIT IT, THEN --

27 MS. SARIS: WE'LL HAVE IT BRIEFED BY TOMORROW
28 MORNING.

1 THE COURT: OKAY. SO MY --

2 MS. SARIS: I NOTICE THE COURT DID NOT LIST 352.
3 HAS THE COURT ALREADY MADE DECISION OR SHOULD WE BRIEF
4 THAT AS WELL?

5 THE COURT: NO. I'M TALKING ABOUT -- WE'RE
6 TALKING ABOUT TWO THINGS HERE. WE'RE TALKING ABOUT
7 ADMISSIBILITY AND RELEVANCE. THAT'S ALL I'M TALKING
8 ABOUT. THE 352 IS THE LAST ANALYSIS THAT I HAVE TO
9 UNDERTAKE. BUT AS YOU CAN SEE BASED ON MY COMMENTS, I
10 SEEM TO BE ARTICULATING A NUMBER OF WAYS THIS EVIDENCE IS
11 EXTREMELY POWERFUL AND POTENTIALLY RELEVANT TO A NUMBER
12 OF ISSUES IN THE CASE.

13 SO, YES, YOU SHOULD ADDRESS ALL OF THE
14 ISSUES.

15 MR. DIXON: YOUR HONOR, GREG KEAY IS HERE IF WE
16 CAN JUST HAVE A MOMENT.

17 MR. JACKSON: MAYBE FIVE MINUTES TO CHAT WITH HIM
18 FOR A MINUTE.

19 THE COURT: YES.

20 MR. JACKSON: THANK YOU, YOUR HONOR.

21 (DISCUSSION HELD OFF THE RECORD.)

22 THE COURT: ALL RIGHT. RESUMING IN THE GOODWIN
23 MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE
24 ARE REPRESENTED. AND WE HAVE ANOTHER ISSUE TO LITIGATE
25 WITH RESPECT TO MR. GREG KEAY.

26 MR. DIXON: WELL, MR. KEAY IS HERE, YOUR HONOR.
27 COULD THE COURT KINDLY GIVE US SOME GUIDANCE ON HOW YOU
28 SEE THIS HEARING GOING. WOULD YOU LIKE ME TO INQUIRE

1 INITIALLY OR I'M HAPPY TO DO THAT TO TRY TO CLARIFY SOME
2 OF THESE AREAS. IT MIGHT INVOLVE A LITTLE LEADING,
3 BUT --

4 THE COURT: I THINK THE WAY WE LEFT IT LAST TIME
5 WAS THAT THE DEFENSE CLAIMED THAT THEY SHOULD BE
6 PERMITTED TO IMPEACH THE WITNESS WITH A COUPLE OF THINGS.
7 ONE OF THEM IS THE OUTSTANDING BENCH WARRANT IN THE
8 INGLEWOOD CASE AND THE WITNESS'S ALLEGED PRIOR FAILURES
9 TO APPEAR. ALL OF THAT BEING MORAL TURPITUDE.

10 THE DEFENSE ALSO WANTS TO USE THE FACT
11 THAT THERE WERE TAX LIENS. AND I DON'T HAVE ENOUGH
12 INFORMATION, SO I GUESS TECHNICALLY, ISN'T IT THE
13 DEFENSE'S BURDEN?

14 MR. DIXON: WELL, I'M HAPPY TO EITHER THROUGH
15 QUESTIONS OR MAKE AN OFFER OF PROOF. I'VE TALKED WITH
16 THE WITNESS, I THINK I CAN CLARIFY MOST OF THESE ISSUES.
17 WHATEVER WAY YOU WOULD LIKE TO GO IS FINE WITH ME.

18 THE COURT: WELL, THE DEFENSE PUT FORTH A THEORY
19 THAT THE TAX LIENS ARE RELEVANT BECAUSE IT TENDS TO SHOW
20 THAT THE WITNESS PROVIDED INFORMATION BECAUSE OF THE
21 REWARD AND HE DESPERATELY NEEDED THE MONEY. I DON'T KNOW
22 WHAT THE TAX LIENS WERE ABOUT, IF HE KNEW ABOUT THEM OR
23 ANYTHING ELSE, AND I DON'T KNOW IF THE DEFENSE DID.

24 DID YOU KNOW, MS. SARIS?

25 MS. SARIS: I KNOW IT'S 14 YEARS OF FAILURE TO
26 PAY TAXES. I FIND IT HARD TO BELIEVE THAT WAS AN
27 OVERSIGHT, BUT IT POSSIBLE.

28 THE COURT: I DON'T KNOW ANYTHING ABOUT THE TAX

1 LIENS, SO THAT'S WHERE I LEFT IT. YOU KNOW, IT MAY OR
2 MAY NOT HAVE SOME BEARING ON THE WITNESS'S --

3 MR. DIXON: WELL, IF I CAN FIRST ADDRESS THE
4 COURT WITH RESPECT TO THE FAILURES TO APPEAR. AND I MAY
5 BE MISTAKEN, BUT MY RECOLLECTION FROM THE LAST TIME WE
6 DISCUSSED THIS WAS THAT THE COURT MADE A DETERMINATION
7 THAT FAILURES TO APPEAR ON THESE MISDEMEANORS WOULD NOT
8 BE CRIMES OF MORAL TURPITUDE AND I THOUGHT THAT ISSUE WAS
9 PUT TO REST.

10 IF IT HELPS AT ALL TO SOLIDIFY THAT
11 DECISION, IT'S MY OFFER OF PROOF THAT THE WITNESS WILL
12 TESTIFY THAT AT SOME POINT HE REALIZED HE HAD A NUMBER OF
13 DRUNK DRIVING CASES. AND HE HIRED AN ATTORNEY, A
14 MR. GREENBERG, I BELIEVE, WHO WENT INTO COURT WITHOUT
15 HIM, APPEARED, RESOLVED THE MATTERS, THE WARRANTS WERE
16 RECALLED. AND THE WITNESS PAID A FINE OF -- A
17 SIGNIFICANT FINE, AND THAT WAS IT. SO I DON'T KNOW WHERE
18 THAT -- IF THAT HELPS THE COURT AT ALL.

19 THE COURT: IT DOES, BECAUSE DEFENSE CITED A CASE
20 THAT WILLFUL FAILURE TO APPEAR ON FELONY WHICH THEN IS A
21 SEPARATE CRIME IS A CRIME OF MORAL TURPITUDE. THE
22 QUESTION I HAD ABOUT THESE FAILURES TO APPEAR IS IF THEY
23 WERE AT ALL ANALOGOUS TO THE -- I CAN'T REMEMBER THE
24 CASE -- MIESTUS --

25 MR. JACKSON: MIESTUS.

26 MS. SARIS: I STILL THINK WE NEED TO HEAR FROM
27 MR. KEAY, BECAUSE FRANKLY, BASED ON THE PAPERWORK, THAT
28 EXPLANATION DOESN'T MAKE ANY SENSE.

1 THE COURT: I DON'T KNOW. BUT I AM MINDFUL OF
2 THE FACT THAT IN MISDEMEANORS, THE DEFENDANT DOESN'T HAVE
3 TO APPEAR AND THEY FREQUENTLY DON'T APPEAR. SO WHETHER
4 OR NOT THE FAILURES TO APPEAR WERE IN ANY WAY WILLFUL ON
5 THE PART OF THE WITNESS, I DON'T KNOW.

6 SO IF ANYONE WANTS TO PRESENT THAT
7 TESTIMONY, I'M HAPPY TO LISTEN TO IT. I WOULD ALSO
8 ACCEPT THE OFFER OF PROOF, BUT THE DEFENSE DOESN'T HAVE
9 TO. SO --

10 MR. DIXON: WELL, MR. KEAY IS HERE SO HE CAN --
11 AND I'LL ASK HIM QUESTIONS ABOUT THAT.

12 THE COURT: ALL RIGHT.

13 ALL RIGHT. MR. KEAY, YOU'VE BEEN
14 PREVIOUSLY SWORN. YOU'RE REMINDED YOU'RE STILL UNDER
15 OATH. PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

16 THE WITNESS: GREGORY KEAY, K-E-A-Y.

17 THE COURT: THANK YOU.

18 MR. DIXON: THANK YOU, YOUR HONOR.

19
20 GREGORY KEAY,
21 CALLED BY THE DEFENDANT AS A WITNESS, WAS
22 PREVIOUSLY SWORN AND TESTIFIED AS FOLLOWS:

23
24 REDIRECT EXAMINATION

25 BY MR. DIXON:

26 Q GOOD MORNING, MR. KEAY.

27 A MORNING.

28 Q THANK YOU FOR COMING BACK. I'M GOING TO

1 ASK YOU SOME QUESTIONS IN TWO DIFFERENT AREAS.

2 FIRST, AT SOME POINT -- I GUESS IT WAS THE
3 LATE '90S, YOU HAD A NUMBER OF DRUNK DRIVING CASES IN SAN
4 BERNARDINO COUNTY; IS THAT CORRECT?

5 A YES.

6 Q AND AT SOME POINT -- WELL, LET ME ASK YOU:
7 HOW MANY DID YOU BELIEVE THAT YOU HAD? THREE OR FOUR,
8 WHAT?

9 A NO, NO.

10 Q TWO OR THREE?

11 A TWO.

12 Q OKAY. AND DID YOU RETAIN AN ATTORNEY TO
13 HELP YOU WITH THAT?

14 A YES.

15 Q WHAT WAS ATTORNEY'S NAME?

16 A DANIEL GREENBERG.

17 Q GREENBERG?

18 A YES, SIR.

19 Q NOW, TO YOUR KNOWLEDGE OR UNDERSTANDING,
20 DID MR. GREENBERG GO TO COURT ON YOUR BEHALF --

21 A YES.

22 Q -- ON THOSE CASES?

23 A YES.

24 Q AND DID HE COMMUNICATE WITH YOU
25 AFTERWARDS?

26 A YES.

27 Q AND WHAT DID HE TELL YOU ABOUT THAT?

28 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

1 THE COURT: ALL RIGHT. LAY A FOUNDATION, PLEASE.

2 Q BY MR. DIXON: CAN YOU GIVE US AN
3 APPROXIMATE MONTH AND YEAR WHEN MR. GREENBERG WENT TO
4 COURT ON YOUR BEHALF IN SAN BERNARDINO COUNTY, AND THEN
5 WHEN HE COMMUNICATED WITH YOU?

6 A I BELIEVE IT WAS FIVE OR SIX YEARS AGO.

7 Q AND AFTER MR. GREENBERG WENT TO COURT ON
8 YOUR BEHALF, WHAT, IF ANYTHING, DID HE TELL YOU ABOUT
9 YOUR CASES AND HIS APPEARANCE ON YOUR BEHALF IN COURT?

10 A HE TOLD ME I HAD A 1200-DOLLAR FINE AND I
11 HAD TO GO TO D.U.I. SCHOOL.

12 Q DID YOU BELIEVE OR DID YOU THINK THAT YOU
13 HAD ANY OUTSTANDING WARRANTS BEFORE HE APPEARED IN COURT
14 ON YOUR BEHALF?

15 A NO.

16 Q WAS THERE ANY DISCUSSION ABOUT WARRANTS OR
17 RECALLING WARRANTS WITH MR. GREENBERG AFTER HE WENT TO
18 COURT WITH YOU?

19 A NO.

20 Q YOU JUST WERE TOLD THAT YOU HAD TO PAY A
21 FINE AND GO TO D.U.I. SCHOOL; IS THAT RIGHT?

22 A THAT'S CORRECT.

23 Q AND AS FAR AS YOU KNOW, DID THAT TAKE CARE
24 OF THE MATTERS?

25 A YES.

26 Q LET'S TURN OUR ATTENTION TO TAX MATTERS.

27 AT SOME POINT -- WELL, MAYBE WHEN YOU WERE
28 LAST HERE IN COURT DID YOU HEAR SOME QUESTIONS ABOUT

1 TAXES?

2 A YES, I DID.

3 Q WHAT IS THE SITUATION WITH THAT? WERE YOU
4 SICK AT SOME POINT?

5 A I WAS SICK FOR A NUMBER OF YEARS AND
6 DIDN'T WORK, SO --

7 Q WHEN YOU SAY YOU DIDN'T WORK, YOU JUST
8 DIDN'T WORK AT ALL?

9 A DIDN'T WORK.

10 Q AND WHAT WAS -- WHAT DID YOU DO, IF
11 ANYTHING, WITH RESPECT TO YOUR TAXES IN THOSE YEARS THAT
12 YOU DIDN'T WORK?

13 A WHAT I ASSUMED IS IF YOU DIDN'T MAKE
14 "X" AMOUNT OF DOLLARS, THAT YOU DIDN'T HAVE TO FILE, SO I
15 DIDN'T FILE. SO I HAVE SINCE TALKED TO AN ATTORNEY AND A
16 C.P.A. WHO HAVE TOLD ME THAT IF YOU DON'T FILE, THE
17 I.R.S. FILES FOR YOU. SO I'M ASSUMING THAT'S WHAT
18 HAPPENED HERE.

19 Q HAVE YOU EVER BEEN PERSONALLY CONTACTED BY
20 A REPRESENTATIVE FROM THE I.R.S. ON THESE ISSUES?

21 A NO.

22 Q TO YOUR KNOWLEDGE, HAS THE I.R.S. LEVIED
23 ON ANY OF YOUR PROPERTY?

24 A NOT THAT I'M AWARE OF.

25 Q AND YOU DO HAVE SOME REAL AND PERSONAL
26 PROPERTY?

27 A YES.

28 Q AND HAVE THEY GARNISHED ANY OF YOUR WAGES,

1 TO YOUR KNOWLEDGE?

2 A NO.

3 Q HAVE YOU RECEIVED ANY NOTICES IN THE MAIL?

4 A NOT LATELY. NOT WITHIN THE LAST FEW
5 YEARS.

6 Q PRIOR TO THAT DID YOU?

7 A YES.

8 Q SO THAT'S THE EXTENT OF WHAT YOU KNOW
9 ABOUT THE TAX SITUATION?

10 A YES.

11 MR. DIXON: MAY I HAVE A MOMENT?

12 (DISCUSSION OFF THE RECORD.)

13 Q BY MR. DIXON: I BELIEVE THAT THE LAST
14 TIME YOU WERE HERE IN COURT, AND I MAY BE WRONG ON THIS,
15 BUT I THINK THAT SOMEONE ASKED YOU ABOUT A REWARD; IS
16 THAT CORRECT?

17 A YES.

18 Q HAVE YOU EVER DONE ANYTHING TO TRY TO
19 OBTAIN A REWARD IN THIS CASE?

20 A NO.

21 Q DID YOU EVER FEEL THAT YOUR FINANCIAL
22 SITUATION REQUIRED YOU TO TRY TO OBTAIN A REWARD?

23 A NO.

24 Q WHEN WAS THE FIRST TIME THAT YOU LEARNED
25 OF A REWARD?

26 A AT THE LAST TRIAL, WELL -- I'LL TAKE THAT
27 BACK.

28 WHEN THE -- WHEN I FIRST LEARNED OF IT, IT

1 WAS PROBABLY 18 YEARS AGO, OR 19 YEARS AGO, WHENEVER THIS
2 CASE STARTED.

3 Q WOULD THAT BE NEAR THE TIME OF THE
4 MURDERS?

5 A YES.

6 Q AND THEN DID YOU GIVE THE REWARD ANY
7 THOUGHT UNTIL YOU CAME TO PASADENA TO COURT HERE?

8 A NO.

9 Q WHEN YOU SAY THE FIRST TIME YOU CAME TO
10 COURT, DO YOU MEAN LAST WEEK OR TWO YEARS AGO AT THE
11 PRELIMINARY HEARING WHEN YOU TESTIFIED HERE?

12 A TWO YEARS AGO.

13 Q OKAY. AND THAT'S THE LAST -- THEN THE
14 REWARD WAS MENTIONED AGAIN; IS THAT CORRECT?

15 A YES.

16 Q AND IS THAT THE NEXT TIME YOU THOUGHT
17 ABOUT IT?

18 A YES.

19 Q FROM THAT TIME TO THE TIME OF THE
20 PRELIMINARY HEARING UNTIL NOW, HAVE YOU DONE ANYTHING IN
21 AN AFFIRMATIVE WAY TO TRY TO LEARN MORE ABOUT THE REWARD?

22 A NO.

23 Q HAVE YOU DONE ANYTHING TO TRY TO OBTAIN
24 THE REWARD?

25 A NO.

26 Q DO YOU BY ANY CHANCE KNOW THE TERMS AND
27 CONDITIONS OF THE REWARD?

28 A NO.

1 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
2 TIME.

3 THE COURT: CROSS-EXAMINATION?

4 MR. SUMMERS: YOUR HONOR, MAY I?

5 THE COURT: SURE.

6 MR. SUMMERS: YOUR HONOR, DEFENSE PRESENTED TO
7 THE COURT A NUMBER OF DOCUMENTS. DOES THE COURT HAVE
8 THOSE?

9 THE COURT: YES.

10 MR. SUMMERS: AND I DON'T THINK THEY'VE BEEN
11 MARKED IN ANY WAY FOR IDENTIFICATION.

12 THE COURT: NO. I WILL GIVE THEM ALL BACK TO
13 YOU. I THOUGHT THESE WERE OUR COPIES, BUT I GUESS NOT.

14 MS. SARIS: I THINK THEY ARE. WE JUST WANT TO
15 MAKE SURE WE HAVE THE SAME ONES.

16 THE COURT: OH, OKAY.

17 MS. SARIS: AND I THINK THE COURT HAS THE
18 CERTIFIED ONES.

19 MR. SUMMERS: YOUR HONOR, WHY DON'T I RETURN TO
20 THE COURT EVERYTHING EXCEPT THE TAX LIENS SO THAT THE
21 COURT CAN FOLLOW ALONG.

22 THE COURT: OKAY.

23 MS. SARIS: AND SO THE RECORD IS CLEAR, I'M
24 SORRY, THE COURT HAS -- THAT IS THE COURT'S COPY AND THE
25 ORIGINAL CERTIFICATION IN PURPLE WE DO HAVE STILL.

26 THE COURT: OKAY. AND THE COPIES I HAVE ARE OF
27 THE CITATIONS THAT -- AND THERE'S THREE OF THEM. ONE IS
28 KP49921, LT96438 IS THE SECOND ONE, THE THIRD ONE JUST

1 HAS A NUMBER 78427.

2 OKAY. YOU MAY INQUIRE.

3
4 RECROSS EXAMINATION

5 BY MR. SUMMERS:

6 Q SIR, YOU INDICATED THE NAME OF THE
7 ATTORNEY THAT YOU CONSULTED WAS GREENBERG; IS THAT
8 CORRECT?

9 A YES, SIR.

10 Q AND WHEN YOU DID THAT, WAS THAT AFTER
11 BEING ARRESTED OR CITED FOR DRUNK DRIVING?

12 A DID I RETAIN HIM AFTER THAT?

13 Q YES.

14 A YES.

15 Q AND IT'S YOUR TESTIMONY THAT YOU HAVE TWO
16 ARRESTS FOR DRUNK DRIVING?

17 A IN MY WHOLE LIFE OR --

18 Q YES.

19 MR. DIXON: WELL, THAT'S OUTSIDE THE AREA OF
20 RELEVANCE.

21 THE COURT: YES. SUSTAINED.

22 Q BY MR. SUMMERS: WELL, GOING BACK TO,
23 LET'S SAY, 1995?

24 A TWO, YES.

25 Q AND DO YOU RECALL OF THOSE TWO, WAS IT THE
26 FIRST ONE THAT YOU SOUGHT AND RETAINED MR. GREENBERG?

27 A I'M NOT SURE. I DON'T REMEMBER WHICH ONE.

28 Q AND DO REMEMBER APPROXIMATELY WHAT YEAR

1 THIS WAS THAT HE TOLD YOU THAT YOU BASICALLY HAD TO GO TO
2 A SCHOOL AND PAY A CERTAIN FINE?

3 A NO.

4 MR. SUMMERS: MAY I APPROACH THE WITNESS, YOUR
5 HONOR?

6 FOR THE COURT'S INFORMATION, I'M HOLDING
7 THE CITATION THAT ENDS IN 427.

8 THE COURT: ALL RIGHT. LET'S DO THIS. I'M GOING
9 TO MARK FOR IDENTIFICATION THE THREE CITATION PACKAGES
10 THAT WERE PROVIDED TO THE COURT AND THE NUMBERS I JUST
11 READ FOR THE RECORD A MOMENT AGO. SO THOSE THREE
12 PACKAGES I'M GOING TO MARK AS COURT'S EXHIBIT 2 FOR
13 PURPOSES OF TODAY'S HEARING. AND THEN WE WILL REFER TO
14 THEM INDIVIDUALLY BY THE CITATION NUMBER.

15 SO YOU MAY INQUIRE AS TO WHICH ONE?

16 MR. SUMMERS: ENDING IN 427.

17 THE COURT: YES. THANK YOU.

18
19 (COURT'S EXHIBIT NO. 2 WAS MARKED FOR
20 IDENTIFICATION.)

21
22 Q BY MR. SUMMERS: SIR, I'D LIKE YOU TO TAKE
23 A LOOK AT THE FRONT PAGE OF THAT DOCUMENT.

24 YOU SEE BASICALLY A COPY OF A CITATION
25 THERE?

26 A YES.

27 Q DOES THAT HAVE YOUR SIGNATURE ON IT?

28 A IT LOOKS LIKE IT, YES.

1 Q AND IT HAS A PROMISE TO APPEAR ON A
2 CERTAIN DATE?

3 A YES.

4 Q AND THE DATE OF THE CITATION IS OCTOBER 6
5 OF '01?

6 A YES.

7 Q AND THE PROMISE TO APPEAR IS FOR NOVEMBER
8 28 OF '01?

9 A YES.

10 Q AND DOES THAT ADDRESS THAT'S DEPICTED ON
11 THE CITATION, DOES THAT -- DO YOU RECOGNIZE THAT ADDRESS?

12 A YES.

13 Q IS THAT YOUR ADDRESS?

14 A IT WAS AT THE TIME.

15 Q OKAY. AND THE VEHICLE DESCRIBED IN THAT
16 CITATION, IS THAT FAMILIAR TO YOU?

17 A YES.

18 Q SO --

19 MR. SUMMERS: THANK YOU, YOUR HONOR. I NOW ASK
20 TO APPROACH WITH THE CITATION ENDING IN 438.

21 THE COURT: ALL RIGHT. THANK YOU.

22 Q BY MR. SUMMERS: SIR, SHOWING YOU THE
23 CITATION ENDING 438, DOES THAT APPEAR ON THE FRONT PAGE
24 TO YOU TO BE A COPY OF A CITATION?

25 A IS THIS THE TICKET?

26 Q RIGHT.

27 A YES.

28 Q DOES THAT HAVE YOUR SIGNATURE ON IT?

1 A YES.

2 Q AND DOES THAT ALSO HAVE AN ADDRESS ON IT
3 THAT YOU RECOGNIZE --

4 A YES.

5 Q -- AS YOUR ADDRESS AT THE TIME?

6 A YES.

7 Q AND THE DATE OF THE CITATION IS JUNE 24 OF
8 2000?

9 A YES.

10 Q AND THE PROMISE -- AND THEN YOUR SIGNATURE
11 IS ON A PROMISE TO APPEAR ON AUGUST 2ND OF 2000?

12 A OKAY.

13 Q THAT APPEARS TO BE WHAT IS DEPICTED?

14 A YES.

15 Q SO THAT WOULD BE TWO ARRESTS FOR DRUNK
16 DRIVING. I'M GOING TO ASK YOU TO TAKE A LOOK AT THE
17 CITATION ENDING IN 921, YOUR HONOR.

18 THE COURT: YES.

19 Q BY MR. SUMMERS: SIR, SHOWING YOU THAT,
20 AGAIN, THE FRONT PAGE SHOWS A CITATION?

21 A YES.

22 Q AND THE DATE OF THE CITATION?

23 A JANUARY 7TH.

24 Q OF 2000?

25 A YES.

26 Q AND IS THAT YOUR SIGNATURE DEPICTED THERE?

27 A YES.

28 Q AND DO YOU RECOGNIZE THE ADDRESS?

1 A YES.

2 Q AND THERE'S A PROMISE TO APPEAR BY YOUR
3 SIGNATURE FOR WHAT DATE?

4 A MARCH 1ST.

5 Q OF 2000?

6 A RIGHT.

7 Q AND THAT ALSO APPEARS TO BE A DRUNK
8 DRIVING ARREST CITATION; IS THAT CORRECT?

9 A YES.

10 MR. SUMMERS: YOUR HONOR, IN THAT SAME PACKET TO
11 WHICH IS ATTACHED THE CITATION ENDING IN 921, THERE
12 APPEARS TO BE A DOCUMENT ENTITLED "ADVISOR OF RIGHTS AND
13 WAIVER FORM," MISDEMEANOR.

14 THE COURT: YES, I HAVE THAT.

15 Q BY MR. SUMMERS: SIR, I WOULD LIKE YOU TO
16 TAKE A LOOK AT THIS DOCUMENT. IT APPEARS TO BE TWO
17 PAGES.

18 AND DO YOU RECOGNIZE THAT DOCUMENT OR THAT
19 COPY?

20 A I BELIEVE THIS IS WHAT I SIGNED AT THE
21 COURT.

22 Q AT THE COURT.

23 SO -- AND THIS DOCUMENT DOES NOT
24 INDICATE -- THIS DOCUMENT INDICATES THAT YOU'RE GIVING UP
25 YOUR RIGHT TO HAVE AN ATTORNEY PRESENT; CORRECT?

26 A THIS ONE (INDICATING)?

27 Q YES.

28 A YES.

1 Q AND THE DATE ON THIS DOCUMENT IS -- WELL,
2 THERE'S A SIGNATURE AT ONE POINT THAT'S DATED APRIL 17 OF
3 2000.

4 THAT'S YOUR SIGNATURE?

5 A YES.

6 Q AND A SIGNATURE BELOW IT REFERRING TO
7 DEFENDANT WITH NO ATTORNEY THAT'S DATED APRIL 14 OF 2000?

8 A YES.

9 Q AND THOSE ARE BOTH YOUR SIGNATURES?

10 A YES.

11 Q AND THAT'S BASICALLY A FORM AGREEING TO
12 GIVE UP YOUR RIGHTS AND PLEAD GUILTY TO A DRUNK DRIVING?

13 A RIGHT. YES.

14 Q DO YOU RECALL BEING IN COURT THE DAY THAT
15 YOU -- ON A DAY THAT YOU SIGNED THAT DOCUMENT THAT I WAS
16 JUST REFERRING TO AND BEING SENTENCED BY A JUDGE?

17 A YES.

18 Q AND MR. GREENBERG WAS NOT PRESENT WITH YOU
19 ON THAT DAY?

20 A NO.

21 Q SO IS IT YOUR TESTIMONY THAT IT WAS AFTER
22 THAT DATE OR BEFORE THAT DATE THAT YOU RETAINED
23 MR. GREENBERG?

24 A I BELIEVE IT WAS BEFORE THAT DATE.

25 Q AND AS FAR AS YOUR OBLIGATIONS ON THAT
26 CASE, THE CASE IN WHICH YOU SIGNED THAT WAIVER FORM,
27 THOSE CAME FROM THE JUDGE; CORRECT?

28 A YES.

1 Q AND WERE YOU GIVEN A DATE TO COME BACK TO
2 SHOW PROOF OF THE DRIVING PROGRAM?

3 A I DON'T REMEMBER.

4 Q WERE YOU GIVEN PAPERWORK AND TOLD TO COME
5 BACK -- OR A DATE TO COME BACK BY WITH PROOF THAT YOU HAD
6 PAID A FINE?

7 A I THINK I DID, BUT I DON'T REMEMBER THAT'S
8 WHAT HAPPENED.

9 Q SO DO YOU RECALL GOING TO COURT ON MARCH
10 1ST OF 2000?

11 A ARE YOU TALKING ABOUT THE ONE ON THE
12 DOCUMENT THAT I SIGNED THERE THAT YOU SHOWED ME?

13 Q YES.

14 A DO I REMEMBER GOING TO COURT?

15 Q YES.

16 A YES.

17 Q AND SO IT APPEARS THAT SUBSEQUENT TO YOUR
18 PLEA IN THAT CASE, WHICH WAS IN APRIL OF 2000, THAT YOU
19 WERE CITED OR ARRESTED ON JUNE 24 OF 2000; CORRECT?

20 A THE QUESTION AGAIN, PLEASE.

21 Q IT APPEARS FROM THE CITATION ENDING IN 438
22 THAT YOU WERE ARRESTED OR CITED FOR DRUNK DRIVING AGAIN
23 ON JUNE 24 OF 2000; IS THAT CORRECT? DO YOU HAVE ANY
24 MEMORY OF THAT?

25 A NO, I DON'T.

26 Q I HAVE THE CITATION ENDING IN 427 THAT
27 WOULD HAVE BEEN IN OCTOBER 6 OF '01.

28 DO YOU HAVE ANY RECOLLECTION OF BEING

1 PULLED OVER OR ARRESTED OR CITED ON THAT DATE?

2 A NO.

3 Q DO YOU RECALL GOING TO COURT ON THE DATE
4 THAT YOU HAD SIGNED THE PROMISE TO RETURN ON NOVEMBER 28
5 OF '01?

6 A NO.

7 Q AS TO THE TAX LIENS THAT WE'VE BEEN
8 DISCUSSING, DID YOU FILE A TAX RETURN FOR THE TAX YEAR
9 ENDING IN DECEMBER 31 OF 1986?

10 A I DON'T REMEMBER.

11 Q DO YOU REMEMBER -- WHEN WAS THE LAST TIME
12 YOU DID FILE AT A TAX RETURN? DO YOU RECALL THAT?

13 A NO.

14 Q AND IS IT YOUR TESTIMONY THAT FROM 1986
15 UNTIL 2001 THAT YOU DID NOT ACTUALLY WORK?

16 A NO, NOT THOSE YEARS. NOT FROM '86 TO
17 2001, NO.

18 Q SO YOUR TESTIMONY IS THOSE YEARS YOU HAD
19 NO INCOME?

20 A NO, I DIDN'T SAY THAT. I JUST DIDN'T WORK
21 FROM PROBABLY '94 TO '99, MAYBE 2000. SOMETHING LIKE
22 THAT.

23 Q AND --

24 MR. SUMMERS: YOUR HONOR, I'M HOLDING IN MY HAND
25 A DOCUMENT ENTITLED "NOTICE OF FEDERAL TAX LIEN." IT HAS
26 A DOCUMENT NUMBER ENDING WITH 698.

27 THE COURT: WHY DON'T WE GO AHEAD AND MARK THAT
28 AS COURT'S EXHIBIT 3 FOR THIS HEARING.

1 (COURT'S EXHIBIT NO. 3 WAS MARKED FOR
2 IDENTIFICATION.)

3
4 MR. SUMMERS: IF I MAY APPROACH.

5 Q SIR, SHOWING YOU THAT DOCUMENT, COURT'S
6 EXHIBIT 3, THERE'S A P.O. BOX LISTED THERE AND AN
7 ADDRESS.

8 DO YOU RECOGNIZE THAT P.O. BOX?

9 A YES.

10 Q AND THE ADDRESS OR THE TOWN?

11 A RIGHT.

12 Q IS THAT THE TOWN WHERE YOU LIVE?

13 A YES.

14 Q IS THAT ALSO THE P.O. BOX THAT YOU RECEIVE
15 THE MAIL AT?

16 A ACTUALLY, IT'S MY WIFE'S P.O. BOX. MY
17 P.O. BOX IS 879.

18 Q AND I BELIEVE YOU ARE DIVORCED NOW, BUT
19 FOR THE YEARS -- WHEN DID YOU GET DIVORCED?

20 A FOUR YEARS AGO.

21 Q SO WERE YOU LIVING WITH YOUR WIFE PRIOR TO
22 THAT?

23 A YES.

24 Q WHEN DID YOU STOP LIVING WITH YOUR WIFE?

25 A FOR ONE YEAR.

26 Q AND IN APPROXIMATELY WHICH YEAR DID THAT
27 HAPPEN?

28 A WELL, LET'S JUST SAY FOUR YEARS AGO.

1 Q AND HOW LONG WERE YOU MARRIED PRIOR TO
2 THAT?

3 A 34 YEARS.

4 Q DID YOUR WIFE RECEIVE -- EVER RECEIVE ANY
5 MAIL FOR YOU IN HER P.O. BOX?

6 A I DON'T KNOW. I'M ASSUMING SHE PROBABLY
7 HAS, YEAH.

8 Q DO YOU RECALL ANY OCCASION WHERE SHE WOULD
9 HAND YOU MAIL THAT SHE HAD RECEIVED IN HER P.O. BOX?

10 A ON OCCASIONS.

11 Q AND YOU NEVER RECEIVED ANY DOCUMENTATION
12 OR CORRESPONDENCE FROM THE I.R.S. INDICATING THAT YOU
13 OWED THIS MUCH MONEY AND GIVING YOU A CHANCE TO PAY THAT?

14 A NOT IN THOSE YEARS.

15 Q WHAT YEAR, IF ANY, DID YOU RECEIVE
16 DOCUMENTATION INDICATING THAT YOU WERE -- YOU OWED TAXES?

17 A ACTUALLY, IT'S JUST BEEN RECENTLY, WITHIN
18 THE LAST SIX MONTHS.

19 Q AND THAT'S WHEN YOU SOUGHT OUT THE ADVICE
20 OF AN ATTORNEY?

21 A NO.

22 Q OKAY. WITH REGARDS TO THE TAX PROBLEM, I
23 BELIEVE YOU INDICATED THAT YOU HAD CONSULTED AN ATTORNEY
24 AND RECEIVED SOME ADVICE?

25 A YES.

26 Q WAS THAT IN THE LAST SIX MONTHS?

27 A YES.

28 Q AFTER YOU RECEIVED OR HAD SOME NOTION OF

1 SOME PROBLEM WHERE YOU HAD BACK TAXES OWED?

2 A YES.

3 Q AND BY THE SAME TOKEN, YOU NEVER RECEIVED
4 ANY CORRESPONDENCE FROM THE STATE OF CALIFORNIA, FROM THE
5 FRANCHISE TAX BOARD INDICATING THAT YOU HAD BACK TAXES
6 OWED?

7 A LATELY, WITHIN THE LAST SIX MONTHS.

8 Q NOT IN THE PRIOR 20 YEARS?

9 A NOT THAT I RECALL.

10 Q WAS IT SOMETHING THAT'S POSSIBLE THAT YOU
11 JUST DON'T RECALL?

12 MR. DIXON: OBJECTION. ANYTHING IS POSSIBLE,
13 YOUR HONOR. SPECULATING.

14 THE COURT: SUSTAINED.

15 Q BY MR. SUMMERS: DO YOU HAVE SOME TYPE OF
16 CONDITION OR ONGOING PROBLEM WITH YOUR MEMORY?

17 A NO.

18 Q DID YOU ALSO -- DO YOU RECALL GETTING A
19 TICKET, I BELIEVE, IN DECEMBER OF LAST YEAR FOR DRIVING
20 ON A SUSPENDED LICENSE?

21 A YES.

22 Q AND THAT TICKET INDICATED THAT YOU SHOULD
23 REPORT TO THE INGLEWOOD COURTHOUSE?

24 A YES.

25 Q DID YOU DO THAT?

26 THE COURT: ALL RIGHT. LET ME INTERRUPT.

27 MR. KEAY, I HAVE A PRINT OUT ON THAT CASE.
28 AND I NEED TO TELL YOU A COUPLE OF THINGS BEFORE YOU

1 ANSWER ANY QUESTIONS ABOUT THAT CASE.

2 YOU HAVE A RIGHT TO HAVE AN ATTORNEY
3 REPRESENT YOU.

4 DO YOU UNDERSTAND THAT?

5 THE WITNESS: YES.

6 THE COURT: DO YOU WANT THE COURT TO APPOINT A
7 LAWYER FOR YOU?

8 THE WITNESS: WELL, I'VE CHECKED INTO THIS.

9 THE COURT: OKAY. WHATEVER YOU WANT. I MEAN,
10 JUST ANSWER YES OR NO IF YOU WANT ME TO GIVE YOU A
11 LAWYER.

12 THE WITNESS: NO.

13 THE COURT: OKAY. GO AHEAD.

14 Q BY MR. SUMMERS: DID YOU GO TO COURT ON
15 THAT TICKET IN INGLEWOOD ON THE DATE THAT YOU WERE
16 SUPPOSED TO?

17 A NO.

18 Q HAVE YOU BEEN AT ANY TIME SINCE THAT DATE
19 TO THAT COURT?

20 A NO.

21 Q IS THAT BECAUSE YOU FORGOT THAT YOU HAD A
22 DATE TO GO TO COURT?

23 A ACTUALLY, I PUT THE TICKET UP IN A CABINET
24 AND I FORGOT ABOUT IT.

25 Q SIR, HAVE YOU HAD ANY CONVERSATIONS WITH
26 THE DISTRICT ATTORNEYS WHO ARE SITTING HERE IN COURT WITH
27 REGARD TO ANY OF THOSE PROBLEMS, THE PROBLEMS WITH
28 WARRANTS OR THE PROBLEMS WITH TAXES?

1 A NO.

2 Q AND DO YOU RECALL BEING ARRESTED OR CITED
3 IN RIVERSIDE COUNTY IN 1996? DO YOU RECALL THAT?

4 MR. DIXON: YOUR HONOR, I'M GOING TO MAKE AN
5 OBJECTION TO THAT. THAT'S TEN YEARS AGO. ISN'T THAT A
6 LITTLE STALE AT THIS POINT?

7 THE COURT: SUSTAINED.

8 MR. SUMMERS: WELL, I UNDERSTAND IT'S TEN YEARS
9 AGO, YOUR HONOR, BUT THE WARRANT APPEARS TO BE
10 OUTSTANDING AND DOES PERTAIN --

11 THE COURT: FROM WHICH CASE IS THIS?

12 MR. SUMMERS: THIS ONE MIGHT HAVE GOTTEN STAPLED
13 WITH ANOTHER ONE BECAUSE IT WAS IN OUR COPIES. IT'S A
14 SUPERIOR COURT OF COUNTY OF RIVERSIDE CASE AND IT DOESN'T
15 HAVE A CITATION ATTACHED TO IT AS THE OTHERS DO IN OUR
16 PACKET.

17 THE COURT: SO IT'S IN COURT'S EXHIBIT 2 YOU'RE
18 SAYING?

19 MR. SUMMERS: YES. IN OUR PACKET IT WAS.

20 THE COURT: OKAY. WHICH CITATION IS IT ATTACHED
21 TO?

22 MR. SUMMERS: I CAN'T REMEMBER FROM WHEN I PULLED
23 THEM APART WHICH ONE IT IS.

24 MS. SARIS: IF I MAY, YOUR HONOR, I MAY BE ABLE
25 TO FIND IT.

26 THE COURT: ALL RIGHT.

27 MR. SUMMERS: MS. SARIS IS IN CHARGE OF THE
28 STAPLING IN OUR ORGANIZATION. YOUR HONOR, WE BELIEVE IT

1 WOULD BE THE ONE ENDING 427.

2 MS. SARIS: 427?

3 MR. SUMMERS: YES.

4 MR. DIXON: YOUR HONOR, I WOULD RENEW MY
5 OBJECTION. IT IS RATHER OLD AND, THEREFORE, QUESTIONABLE
6 RELEVANCE.

7 THE COURT: OKAY. LET ME LOOK AT IT.

8 MR. DIXON: PARDON?

9 THE COURT: LET ME JUST LOOK AT IT.

10 MR. DIXON: OKAY.

11 (PAUSE IN PROCEEDINGS.)

12 MR. SUMMERS: YOUR HONOR, THE RELEVANCE IS THE
13 ENTRIES ON AUGUST 15TH OF '96, JULY 11TH OF '96 --

14 THE COURT: YOU KNOW, I CAN TAKE NOTICE OF WHAT'S
15 ON HERE. LET'S MOVE ON.

16 MR. DIXON: IF I COULD, YOUR HONOR, I WOULD ALSO
17 NOTE THAT THE LANGUAGE IN THAT EXHIBIT ON PAGE 2, THAT
18 SAYS OF THE WARRANT IS RECALLED.

19 THE COURT: RIGHT. I SEE THAT. I'M GOING TO
20 JUST TAKE NOTICE OF THESE DOCUMENTS, COURT'S EXHIBIT 2.
21 LET'S MOVE ON.

22 MR. SUMMERS: WELL, WOULD THE COURT TAKE NOTICE
23 THAT THE WARRANT RECALL WAS ON MAY --

24 THE COURT: I'LL TAKE NOTICE OF EVERYTHING IN THE
25 DOCUMENT.

26 ANYTHING ELSE?

27 Q BY MR. SUMMERS: DID YOU DISCUSS WITH THE
28 DISTRICT ATTORNEYS IN COURT THE FACT THAT YOU WERE SICK

1 AND THAT'S WHY YOU HADN'T COMPLETED YOUR OBLIGATIONS?

2 A WHAT QUESTION ARE YOU TALKING ABOUT? TO
3 WHAT?

4 Q THE ISSUE OF WHY -- EITHER WHY YOU DIDN'T
5 GO BACK TO COURT OR WHY YOU HADN'T PAID YOUR TAXES?

6 A WHICH ONE IS IT? IS IT WHETHER -- WHAT IS
7 YOUR QUESTION?

8 Q LET'S START WITH WHY YOU HADN'T PAID YOUR
9 TAXES.

10 DID YOU DISCUSS THAT WITH THE DISTRICT
11 ATTORNEY?

12 A YES, I TOLD THEM WHY.

13 Q AND DID YOU -- SO DID YOU ALSO DISCUSS
14 WITH THEM THE WARRANTS THAT YOU HAD OUTSTANDING OR THE
15 DRUNK DRIVING CASES?

16 A DID I TALK TO THEM ABOUT IT OR --

17 Q YES.

18 A I GUESS. I MEAN, I JUST -- WE DIDN'T GO
19 INTO DETAIL ON IT. THEY ASKED ME SOME QUESTIONS AND I
20 SAID YES OR NO.

21 Q SPECIFICALLY WITH REGARD TO THOSE -- TO
22 WHETHER YOU HAD DRUNK DRIVING CASES AND WHAT THE STATUS
23 WAS?

24 A AND WHETHER I HAD AN ATTORNEY.

25 Q OKAY.

26 MR. SUMMERS: NOTHING FURTHER.

27 THE COURT: ANYTHING ELSE?

28 MR. DIXON: NOTHING FURTHER. THANK YOU, YOUR

1 HONOR.

2 THE COURT: THANK YOU, SIR. YOU MAY STEP
3 OUTSIDE.

4 ANY FURTHER ARGUMENT?

5 MR. SUMMERS: YOUR HONOR, IF I MAY, THE RIVERSIDE
6 CASE FROM 1995, '96 INDICATES THAT A PRIVATE COUNSEL,
7 MR. GREENBERG, WAS RETAINED. AND THAT AT A CERTAIN -- HE
8 WAS RETAINED AND HIS APPEARANCE WAS MADE AFTER AN INITIAL
9 WARRANT WAS RECALLED. SO A WARRANT WAS RECALLED, AN
10 ATTORNEY CAME IN AND THEN ANOTHER WARRANT ISSUED.

11 THAT IS IN COMPLETE CONTRADICTION TO WHAT
12 WAS ORIGINALLY OFFERED AS AN OFFER OF PROOF IN THIS
13 MATTER, WHICH IS THAT -- AS WAS THE OTHER TESTIMONY,
14 FRANKLY -- THAT HE WAS INFORMED THAT THIS WAS ALL TAKEN
15 CARE OF AND THAT HE HAD TO DO -- HE SIMPLY HAD TO
16 COMPLETE A PROGRAM AND PAY A FINE.

17 THE CASE ON WHICH MR. GREENBERG APPEARED
18 WAS NOT A PROBATIONARY CASE, NOT A CONVICTION, AND IT
19 PREDATES EVERY OTHER WARRANT. THE CASE ON WHICH HE WAS
20 SENTENCED, HE INDICATED THAT HE WAS IN COURT, THE WAIVER
21 FORM INDICATES THAT HE WAS PRESENT AND PLED WITHOUT AN
22 ATTORNEY, SO THE REST OF HIS TESTIMONY BASICALLY
23 INDICATES EITHER THAT HE FORGOT, PUT A TICKET AWAY OR
24 CAN'T REMEMBER ANY OF THESE OBLIGATIONS.

25 AND SO JUST TO FACTUALLY TO REBUT WHAT WAS
26 OFFERED AS REASON FOR HIM NOT FULFILLING HIS OBLIGATIONS,
27 IT DOESN'T LINE UP. BASICALLY THE ONLY CASE HE HAD
28 MR. GREENBERG PREDATES ALL THE OTHER WARRANTS. THE

1 WARRANTS OVERLAP.

2 AND IT SHOWS A REPEATED PATTERN OF, A,
3 DISOBEYING COURT ORDERS AND OBLIGATIONS. AND, B, GIVING
4 MISLEADING INFORMATION ABOUT IT.

5 THE COURT: ALL RIGHT. ANYTHING ELSE?

6 MS. SARIS: IN TERMS OF THE FACTUAL OR THE --

7 THE COURT: IN TERMS OF YOUR ARGUMENT AS TO WHY
8 THIS IS PERMISSIBLE IMPEACHMENT, MORAL TURPITUDE CONDUCT.

9 MR. SUMMERS: WELL, YOUR HONOR, THERE'S A
10 MISDEMEANOR CODE SECTION FOR 853.7, WHICH IS FAILURE TO
11 APPEAR ON A MISDEMEANOR WHICH IS THE EQUIVALENT OF A
12 FELONY STATUTE THAT WAS EVALUATED IN MIESTUS.

13 UNDER WHEELER AND SO FORTH, WE -- THE
14 ISSUE OF MISDEMEANOR CONDUCT, WHETHER IT RISES TO A
15 CONVICTION OR NOT, BECOMES RELEVANT. THIS IS CONDUCT
16 THAT IN MIESTUS UNDER DIFFERENT CIRCUMSTANCES THE COURT
17 CITED AS MORAL TURPITUDE. SO WE HAVE AS A MISDEMEANOR
18 CONDUCT, THEN, OF MORAL TURPITUDE ON A REPEATED BASIS.
19 AND THAT DOES ESTABLISH AND THAT IS ESTABLISHED BY THE
20 TESTIMONY OF THE WITNESS.

21 FURTHER, YOUR HONOR, UNDER PEOPLE VERSUS
22 ADAMS AT 149 CAL. APP. 3RD, 1190, SIMPLY THE STATUS AS A
23 PROBATIONER IS RELEVANT AS TO THE BIAS AND TO -- BIAS AND
24 WILLINGNESS TO COOPERATE OR TO SEEK THE HELP OF A
25 PROSECUTOR, AND THAT THAT IS RELEVANT. THE RULING IN
26 THAT CASE IS THAT THAT INFORMATION IS RELEVANT.

27 THE COURT: I KNOW THAT, BUT THAT'S NOT WHAT WE
28 WERE TALKING ABOUT ORIGINALLY. I THOUGHT THE ARGUMENT

1 WAS THAT YOU WANTED TO USE THIS INFORMATION FOR
2 IMPEACHMENT. THERE WASN'T ANYTHING THAT I WAS MADE AWARE
3 OF THAT DEFENSE WANTED TO QUESTION THE WITNESS REGARDING
4 THE STATUS ON THE PROBATION.

5 YOU COULD ASK HIM WHAT WAS HIS STATUS ON
6 PROBATION. IF HE WAS ON PROBATION AT THE TIME THAT HE
7 PROVIDED INFORMATION, I MEAN, THAT COULD BE POTENTIALLY
8 IRRELEVANT, BUT THAT'S NOT WHAT WE'RE TALKING ABOUT HERE.
9 I THOUGHT THIS MOTION WAS REGARDING FAILURES TO APPEAR ON
10 THE MISDEMEANOR CASES AND HAVING TAX LIENS AS MORAL
11 TURPITUDE CONDUCT FOR PURPOSES OF IMPEACHMENT.

12 AND MIESTUS IS THE ONLY CASE ON POINT.
13 AND THAT CASE IS PRETTY SPECIFIC THAT EVERY PERSON
14 CHARGED WITH A FELONY AND RELEASED ON BAIL AND ORDERED TO
15 OBEY THE PROCESS OF THE COURT WILLFULLY FAILS TO APPEAR
16 IN THAT CASE THAT WAS DEEMED TO BE PROPERLY USED FOR
17 IMPEACHMENT PURPOSES. THAT'S NOT WHAT WE HAVE HERE.

18 MR. SUMMERS: WELL, NO, WE DON'T, YOUR HONOR.
19 WHAT WE HAVE IS MISDEMEANOR CONDUCT SIMILAR TO THAT IN
20 MIESTUS. ALSO THE ISSUE OF --

21 THE COURT: I DON'T SEE ANYTHING WHERE HE POSTED
22 BAIL AND WILLFULLY FAILED TO APPEAR TO EVADE THE PROCESS
23 OF THE COURT. IT LOOKS LIKE HE TOOK CARE OF ALL THESE
24 CASES AT SOME POINT.

25 MR. SUMMERS: WELL, HE DIDN'T. ABSOLUTELY EVERY
26 SINGLE ONE OF THOSE THE WARRANTS ARE OUTSTANDING.

27 THE COURT: THESE ARE WARRANTS OUTSTANDING?

28 MR. SUMMERS: YES.

1 THE COURT: I HAVE DOCUMENTS WHERE HE CAME IN AND
2 PLED. I DON'T KNOW WHAT YOU'RE TALKING ABOUT WARRANTS
3 OUTSTANDING. I THOUGHT YOU WERE TALKING ABOUT THE
4 FAILURES TO APPEAR.

5 MR. SUMMERS: FAILURES TO APPEAR -- THE FAILURES
6 TO APPEAR ARE OFTEN MULTIPLE WITHIN THE SAME CASE, BUT IN
7 EVERY SINGLE ONE OF THESE CASES THERE'S A WARRANT
8 OUTSTANDING.

9 THE COURT: WHAT, FOR A VIOLATION OF PROBATION?

10 MR. SUMMERS: FOR THAT CASE ON WHICH HE WAS ON
11 PROBATION, YES. FOR EACH OF THE OTHER CASES, UNLESS HE'S
12 CLEARED IT UP SINCE THE DATE OF CERTIFICATION --

13 THE COURT: I THOUGHT I SAW HE PLED ON THE ONE
14 CASE THAT YOU USED -- YOU REFERRED TO THE WAIVERS ON. I
15 MEAN, HE'S APPEARED ON -- IT LOOKS LIKE ON ALL THESE
16 CASES THAT YOU PROVIDED ME IN COURT'S 2. HE HAS
17 APPEARED.

18 MR. SUMMERS: YOUR HONOR, HE'S -- WELL --

19 THE COURT: I MEAN, HE MADE APPEARANCES ON THESE
20 CASES.

21 MR. SUMMERS: I DON'T BELIEVE HE MADE APPEARANCES
22 ON THE MOST RECENT CASE.

23 THE COURT: THE ONE IN INGLEWOOD?

24 MR. SUMMERS: WELL, THAT FOR SURE.

25 MR. DIXON: WELL, JUST A MOMENT AGO COUNSEL SAID
26 THAT THERE WERE WARRANTS OUTSTANDING ON ALL OF THEM AND
27 NOW HE'S JUST TALKING ABOUT THE INGLEWOOD CASE.

28 MS. SARIS: THERE ARE WARRANTS OUTSTANDING.

1 THE COURT: I'M DONE. I HAVE A PACKAGE OF
2 MATERIAL YOU GAVE ME. THE MATERIAL SEEMS TO SUGGEST THAT
3 HE MADE APPEARANCES ON ALL OF THESE CASES, IN WHICH AT
4 LEAST ONE OF THE THREE HE PLED. I DON'T KNOW THAT I CAN
5 SAY THAT ANY OF THIS IS MORAL TURPITUDE CONDUCT.

6 I MEAN, DO I HAVE BAIL FORFEITED ON ANY OF
7 THESE CASES? DO I HAVE HIS RELEASE ON BAIL AND EVIDENCE
8 THAT HE WILLFULLY FAILED TO EVADE THE PROCESS OF THE
9 COURT? WHAT I HAVE IS BASICALLY A GUY THAT DOESN'T TAKE
10 HIS MISDEMEANOR CITATIONS VERY SERIOUSLY, LOSES THEM,
11 PUTS THEM AWAY, IGNORES THEM AND DEALS WITH THEM ON HIS
12 OWN TIME, ON HIS OWN SCHEDULE.

13 MR. SUMMERS: YOUR HONOR, EVERY SINGLE --

14 THE COURT: I DON'T HAVE HIM LEAVING THE
15 JURISDICTION. I DON'T HAVE HIM FORFEITING ANY BAIL. I
16 DON'T HAVE FAILURES TO APPEAR THAT WERE NEVER TAKEN CARE
17 OF. IN AT LEAST THREE OF THESE CASES, IF THERE'S A
18 FOURTH ONE, I DON'T KNOW THE STATUS OF THAT, BUT ON THREE
19 OF THEM HE HAS GONE INTO COURT ON ALL THREE OF THEM.

20 MR. SUMMERS: YOUR HONOR, THAT'S INCORRECT.

21 THE COURT: WELL, THEN JUST SHOW ME WHICH CASES
22 THAT YOU SAY HE'S NEVER APPEARED IN COURT.

23 MR. SUMMERS: LET'S TAKE -- THE COURT CAN PICK
24 ONE. THE CITATION ENDING 438.

25 THE COURT: WELL, HE PLED NOT GUILTY. I DON'T
26 KNOW WHAT YOU'RE TALKING ABOUT. HE SAYS HE RETAINED
27 COUNSEL, DANIEL GREENBERG.

28 MR. SUMMERS: WAIT. OKAY.

1 MR. DIXON: HE REPEATEDLY SAYS THAT HE'S RELEASED
2 O.R. I JUST DON'T GET IT.

3 MR. SUMMERS: OKAY. YOUR HONOR, THE LAST ENTRY
4 IN THIS CASE IS FOR SEPTEMBER 18TH OF 2000.

5 THE COURT: AND?

6 MR. SUMMERS: WHICH INDICATES A WARRANT WAS
7 ISSUED FOR FAILURE TO APPEAR.

8 THE COURT: FOR WHAT?

9 MR. SUMMERS: FAILING TO APPEAR FOR PRETRIAL.

10 THE COURT: I DON'T KNOW. I SHOW HE WAS ADVISED
11 OF RIGHTS. HE ASKED FOR A CONTINUANCE. SO YOU'RE
12 SAYING --

13 MR. SUMMERS: CORRECT.

14 THE COURT: -- IF HE FAILED TO APPEAR ON ONE OR
15 TWO OF MULTIPLE APPEARANCES ON A VARIETY OF MISDEMEANOR
16 CASES, THAT FROM THAT I SHOULD FIND THAT THAT IS MORAL
17 TURPITUDE CONDUCT?

18 MR. SUMMERS: YOUR HONOR, IN EVERY SINGLE ONE OF
19 THESE CASES HE FAILED TO APPEAR. AND CURRENTLY --

20 THE COURT: AT SOME POINT?

21 MR. SUMMERS: AND CURRENTLY --

22 THE COURT: I COULD PROBABLY SAY THAT WITH EVERY
23 MISDEMEANOR CASE THAT COMES BEFORE THE COURT. IT DOESN'T
24 NECESSARILY RISE TO THE LEVEL OF THE CONDUCT THAT WAS
25 DISCUSSED IN MIESTUS.

26 MR. SUMMERS: BUT THE COURT DOES NOT HAVE A
27 SITUATION WHERE HE DID COME BACK IN AND CLEAR ANY OF
28 THESE UP. WHAT HAPPENED IS, HE PICKED UP NEW OFFENSES.

1 THE COURT: I DON'T SEE THE ANALOGY WITH MIESTUS,
2 QUITE FRANKLY. IN ALL OF THESE CASES HE WAS RELEASED
3 O.R. I MEAN, THIS IS --

4 MR. SUMMERS: AND THE MINUTE ORDERS INDICATE HE
5 WAS RELEASED O.R. CUSTODY STATUS, RELEASED O.R. FOR THE
6 NEXT COURT DATE. HE'S BEEN IN COURT EVEN CITING THE
7 COURT'S EXAMPLES --

8 THE COURT: HOW IS THIS THE SAME AS MIESTUS?

9 MR. SUMMERS: HE'S IN COURT --

10 THE COURT: HOW IS THIS THE SAME AS MIESTUS?

11 MR. SUMMERS: FAILING TO APPEAR.

12 THE COURT: HOW IS THIS THE SAME AS MIESTUS? DO
13 YOU HAVE EVIDENCE THAT HE'S RELEASED ON BAIL, CHARGED
14 WITH A FELONY AND HIS FAILURE TO APPEAR WAS WILLFUL AND
15 DONE IN ORDER TO EVADE THE PROCESS OF THE COURT?

16 WHAT I AM FINDING IS THAT THIS GUY
17 BASICALLY HANDLES HIS NUMEROUS MISDEMEANOR CASES IN A WAY
18 THAT A LOT OF PEOPLE DO, WHICH IS THEY'RE SO NUMEROUS AND
19 SO MANY, THAT FROM TIME TO TIME THEY IGNORE THEM, THEY
20 SHOW UP WHEN IT'S CONVENIENT FROM THEM. I KNOW WHEN I
21 WAS CALLING A MISDEMEANOR CALENDER, HALF THAT CALENDAR
22 WERE BENCH WARRANT WALK-INS BECAUSE PEOPLE DON'T PAY
23 ATTENTION TO THEIR MISDEMEANOR APPEARANCES.

24 I HAVE NOTHING TO INDICATE THAT ANYTHING
25 OF VALUE WAS POSTED AND FORFEITED HERE. I HAVE NOTHING
26 TO INDICATE THAT HE'S A FUGITIVE FROM JUSTICE.

27 MR. SUMMERS: YOUR HONOR, THESE CASES ARE
28 CERTIFIED RECENTLY. EVERY ONE OF THEM SHOWS A WARRANT

1 OUTSTANDING.

2 THE COURT: ANYTHING ELSE?

3 MR. DIXON: NOTHING FROM THE PEOPLE, YOUR HONOR.

4 THE COURT: THAT WILL CONCLUDE OUR 402 MOTIONS
5 FOR TODAY. WE'LL RESUME AT 1:30 WITH JURY.

6 AND WHAT TIME TOMORROW MORNING ARE WE
7 GOING TO RESUME WITH --

8 MS. SARIS: IS THE COURT MAKING A FINDING -- I'M
9 SORRY -- THAT THERE ARE NO WARRANTS OUT FOR MR. KEAY?

10 THE COURT: I'M NOT MAKING ANY FINDING. I'M
11 FINDING THAT YOU DON'T HAVE MORAL TURPITUDE CONDUCT BASED
12 ON WHAT I SEE.

13 MS. SARIS: AND REGARDING BIAS AND HIS BELIEF
14 THAT THE DISTRICT ATTORNEY MAY HELP HIM ON OUTSTANDING
15 WARRANTS?

16 MR. DIXON: THERE'S NO EVIDENCE --

17 THE COURT: YOU DIDN'T ASK THAT AND YOU DIDN'T
18 ASK ABOUT THE PROBATION STATUS.

19 MS. SARIS: BECAUSE WE WERE SHOT DOWN.

20 THE COURT: NO. YOU SPECIFICALLY REQUESTED OF
21 THE COURT PERMISSION TO IMPEACH THE WITNESS WITH HIS
22 PRIOR CONDUCT OF MORAL TURPITUDE. SPECIFIC ACTS OF MORAL
23 TURPITUDE.

24 MS. SARIS: WE WEREN'T EVEN ALLOWED TO GET INTO
25 IT.

26 THE COURT: HIS MOTIVE, INTEREST OR BIAS OR HIS
27 STATUS ON PROBATION OR BENCH WARRANT, THAT WASN'T THE
28 OFFER THAT YOU MADE AT THE TIME.

1 MS. SARIS: WE WERE TOLD NOT TO DISCUSS THAT
2 UNTIL THE COURT COULD DETERMINE WHETHER OR NOT THIS WAS A
3 WILLFUL FAILURE TO APPEAR AND WHETHER THESE WERE, IN
4 FACT, JUST CASES -- WE WERE ACTUALLY TOLD AT THE SIDEBAR
5 NOT TO DISCUSS THIS.

6 THE COURT: IF HE HAS PENDING CASES AT THE TIME
7 THAT HE COOPERATES WITH LAW ENFORCEMENT, THAT WASN'T AN
8 ISSUE THAT WAS BROUGHT TO MY ATTENTION IN TERMS OF
9 CROSS-EXAMINATION. YOU KNOW THE LAW AS WELL AS I DO.
10 YOU'RE FREE TO ASK THOSE QUESTIONS.

11 BUT THE FACT THAT HE DOESN'T APPEAR ON
12 THESE CASES OR HAS THESE CASES IS NOT MORAL TURPITUDE
13 IMPEACHMENT. HIS MOTIVE, INTEREST OR BIAS IN COOPERATING
14 WITH LAW ENFORCEMENT BECAUSE HE HAS PENDING CASES OR
15 BECAUSE HE'S ON PROBATION OR PAROLE, YOU KNOW THAT THAT'S
16 SOMETHING THAT THE COURT WOULD NOT PRECLUDE YOU FROM
17 DOING.

18 SO I THOUGHT WE WERE TALKING ABOUT
19 IMPEACHMENT.

20 MS. SARIS: WE'RE TALKING ABOUT BOTH BECAUSE HE
21 DENIED THEM. AND WHEN WE ASKED TO SHOW THEM TO HIM, A
22 SIDEBAR REQUEST WAS GRANTED AND WE WERE TOLD NOT TO
23 DISCUSS THIS UNTIL A 402. SO WE DIDN'T GET INTO THE
24 IMPEACHMENT ON BIAS BECAUSE WE WERE TOLD THAT THIS WAS
25 NOT AN AREA THAT WE WERE ALLOWED TO DISCUSS.

26 THE COURT: YOU CAN DISCUSS IT ALL YOU WANT.

27 MS. SARIS: FINE. THEN WE WOULD ASK HIM NOT TO
28 BE RELEASED ON ANY SUBPOENA, THEN -- OR ACTUALLY, WE'D

1 ASK HIM TO BE ORDERED ON CALL NOW.

2 THE COURT: YOU CAN. I DON'T THINK YOU FINISHED
3 YOUR CROSS-EXAMINATION WITH HIM, SO YOU CAN CERTAINLY
4 HAVE HIM RECALLED. WHY DON'T WE DO THAT AT 1:30.

5 MR. DIXON: ALL RIGHT. WE WILL DO THAT.

6 THE COURT: SO WE WILL INTERRUPT. I DON'T HAVE
7 ANY PROBLEM WITH THAT. AND THEN TOMORROW WE WILL DO THE
8 WITNESS --

9 MS. SARIS: COYNE.

10 THE COURT: -- COYNE. WHAT TIME DO YOU THINK
11 WE'LL BE ABLE TO DO THAT?

12 MR. JACKSON: LET ME -- MAY I INQUIRE?

13 THE COURT: OR JUST LET ME KNOW THIS AFTERNOON
14 BEFORE WE RECESS AND I CAN TELL THE JURY WHEN TO COME
15 BACK.

16
17 (AT 12:00 P.M. A RECESS WAS TAKEN
18 UNTIL 1:30 P.M. OF THE SAME DAY.)

19 --000--
20
21
22
23
24
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28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, NOVEMBER 13, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE JURY ENTERED THE COURTROOM
10 AND THE FOLLOWING PROCEEDINGS WERE
11 HELD IN OPEN COURT.)
12

13 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
14 THE TRIAL. MR. GOODWIN IS HERE WITH HIS COUNSEL. THE
15 PEOPLE ARE REPRESENTED. AND ALL OUR JURORS AND
16 ALTERNATES ARE PRESENT.

17 GOOD AFTERNOON, LADIES AND GENTLEMEN.

18 THE JURORS: GOOD AFTERNOON.

19 THE COURT: WERE WE GOING TO CONTINUE, THEN, WITH
20 MS. CORDELL OR MR. --

21 MR. DIXON: YOUR HONOR, YOU SUGGESTED MR. KEAY BE
22 HERE TO -- WITH THE COURT'S PERMISSION FOR THE CONTINUED
23 CROSS-EXAMINATION. WE WILL INTERRUPT MS. CORDELL'S
24 TESTIMONY.

25 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
26 SOMETIMES WE TAKE WITNESSES OUT OF ORDER OR WE INTERRUPT
27 WITNESSES. AND ACTUALLY COUNSEL FOR THE DEFENSE DIDN'T
28 FINISH WITH MR. KEAY AND HE'S HERE. SO WE WOULD LIKE TO

1 GET HIM ON AND THEN WE WILL RESUME WITH MS. CORDELL'S
2 TESTIMONY.

3 YOU MAY CALL YOUR NEXT -- OR RECALL
4 MR. KEAY.

5 ALL RIGHT. MR. KEAY, YOU HAVE BEEN
6 PREVIOUSLY SWORN. YOU ARE REMINDED THAT YOU ARE STILL
7 UNDER OATH. PLEASE STATE YOUR NAME AGAIN FOR THE RECORD.

8 THE WITNESS: GREGORY KEAY, K-E-A-Y.

9 THE COURT: THANK YOU.

10 AND, MS. SARIS, YOU MAY CONTINUE YOUR
11 CROSS-EXAMINATION.

12 MS. SARIS: THANK YOU.

13
14 CROSS-EXAMINATION (CONTINUED)

15 BY MS. SARIS:

16 Q GOOD AFTERNOON, MR. KEAY.

17 A GOOD AFTERNOON.

18 Q JUST TO BE CLEAR, YOU INDICATED LAST TIME
19 THAT YOU HAD HEARD ABOUT A REWARD IN THIS CASE 18 OR 19
20 YEARS AGO; IS THAT CORRECT?

21 A CORRECT.

22 Q WAS THAT FROM A SPECIFIC PERSON OR A
23 TELEVISION PROGRAM?

24 A I THINK IT WAS ON T.V., BUT I'M NOT SURE.

25 Q AND YOU'RE CURRENTLY ON PROBATION IN A
26 MISDEMEANOR CASE RIGHT NOW?

27 A NO.

28 Q YOU ARE NOT?

1 A NO.

2 Q WERE YOU CITED FOR A VIOLATION IN 2000 AND
3 PUT ON PROBATION AT ANY POINT?

4 A I DON'T REMEMBER.

5 Q YOU DON'T REMEMBER.

6 YOUR HONOR, MAY I APPROACH THE WITNESS
7 HOLDING A DOCUMENT ENDING IN 921?

8 THE COURT: SURE.

9 Q BY MS. SARIS: LET ME JUST ASK YOU, SIR,
10 TO TAKE A LOOK AT THIS DOCUMENT (INDICATING). IT APPEARS
11 TO BE SOME SORT OF A TICKET, A CITATION.

12 DOES THAT BEAR ANY IDENTIFYING INFORMATION
13 REGARDING YOU?

14 A YES.

15 Q AND DOES THAT REFRESH YOUR RECOLLECTION AS
16 TO WHETHER OR NOT YOU WERE EVER CITED FOR A MISDEMEANOR
17 OFFENSE IN THE YEAR 2000?

18 A YES.

19 Q NOW, IN THAT DOCUMENT, ON THE BACK PAGE,
20 HAVE YOU -- WOULD YOU LIKE AN OPPORTUNITY TO REVIEW THIS
21 TO SEE IF MAYBE THAT REFRESHES YOUR RECOLLECTION AS TO
22 WHETHER OR NOT YOU'VE EVER BEEN PLACED ON PROBATION?

23 A MY --

24 THE COURT: JUST DO ME A FAVOR, WHY DON'T YOU
25 READ THAT DOCUMENT TO YOURSELF AND THEN LET US KNOW WHEN
26 YOU'RE FINISHED.

27 THE WITNESS: OKAY.

28 MS. SARIS: AND YOU CAN LOOK AT ANY PORTION OF

1 THE DOCUMENT IF THAT WILL HELP.

2 (PAUSE IN PROCEEDINGS.)

3 Q BY MS. SARIS: DOES THAT REFRESH YOUR
4 RECOLLECTION AS TO WHETHER YOU HAVE EVER BEEN PLACED ON
5 PROBATION?

6 A THE QUESTION WAS, AND THE WAY I UNDERSTOOD
7 IS IF I WAS ON PROBATION NOW.

8 Q THAT'S MY QUESTION.

9 A NO.

10 Q SO IS IT YOUR UNDERSTANDING THAT THE
11 PROBATION IN THIS DOCUMENT IS EXPIRED?

12 A YES.

13 Q IF I WERE TO DRAW YOUR ATTENTION TO THE
14 PORTION OF THE DOCUMENT INDICATING THAT PROBATION IS IN
15 VIOLATION --

16 MR. DIXON: OBJECTION. HEARSAY.

17 THE COURT: OVERRULED.

18 YOU WANT HIM TO LOOK AT SOMETHING, THEN?

19 MS. SARIS: YES, PLEASE. THIS DOCUMENT -- AND I
20 MIGHT AS WELL MARK IT DEFENSE NEXT IN ORDER, YOUR HONOR.

21 THE COURT: AND IT'S JUST THE ONE PAGE?

22 MS. SARIS: NO. IT'S A --

23 THE COURT: THE WHOLE PACKAGE?

24 MS. SARIS: YES.

25 THE COURT: ALL RIGHT. THAT WILL BE DEFENSE J.

26
27 (DEFENSE EXHIBIT NO. J WAS MARKED FOR
28 IDENTIFICATION.)

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MS. SARIS: IT'S A 14-PAGE DOCUMENT -- I'M SORRY,
K?

THE COURT: J.

MS. SARIS: J.

Q DOES THIS DOCUMENT BEAR A FORM INDICATING
THAT YOU, IN FACT, PLED GUILTY TO A MISDEMEANOR?

A YES.

Q AND IS THERE A PORTION OF THIS DOCUMENT
THAT INDICATES THAT CURRENTLY YOU ARE IN VIOLATION OF
YOUR PROBATIONARY STATUS?

A WHERE IS THE DATES?

Q WELL, HAVE YOU -- THE DATE IN THIS
DOCUMENT, NOVEMBER OF 2001.

A FIVE YEARS AGO, SIX YEARS AGO?

Q YES. THAT YOU WERE PLACED INITIALLY IN
VIOLATION OF YOUR PROBATION AS A STATUS.

A I DON'T KNOW. I'M NOT AWARE OF IT.

Q ARE YOU AWARE CURRENTLY THAT THERE'S A
WARRANT OUT FOR YOUR ARREST?

MR. DIXON: OBJECTION, YOUR HONOR. MAY WE
APPROACH THE SIDEBAR?

THE COURT: I'M GOING TO SUSTAIN THE OBJECTION.
LET'S MOVE ON.

Q BY MS. SARIS: DO YOU KNOW WHETHER OR NOT
THERE'S A WARRANT OUT FOR YOUR ARREST AT THIS TIME?

MR. DIXON: OBJECTION. WE ALREADY DEALT WITH
THIS.

1 MS. SARIS: YOUR HONOR, MAY WE APPROACH SIDEBAR?

2 THE COURT: YOU DIDN'T GET AN ANSWER TO THAT LAST
3 QUESTION.

4 Q BY MS. SARIS: DO YOU KNOW WHETHER OR NOT
5 THERE'S A WARRANT OUT FOR YOUR ARREST?

6 A NO.

7 MS. SARIS: ON A SEPARATE ISSUE, YOUR HONOR.

8 THE COURT: YOU WANT TO APPROACH ON A SEPARATE
9 ISSUE?

10 MS. SARIS: PLEASE.

11

12 (PROCEEDINGS HELD AT SIDEBAR.)

13 THE COURT: ALL RIGHT. WE ARE THE SIDEBAR.

14 MS. SARIS: YOUR HONOR, THE WITNESS REEKS OF
15 ALCOHOL AND I BELIEVE HE HAS BEEN DRINKING AND I WOULD
16 ASK TO INQUIRE. AND I WOULDN'T WANT TO PUT THAT BEFORE
17 THE JURY WITHOUT ASKING. PERHAPS THE COURT CAN GET A
18 LITTLE CLOSER. IT'S NOT VERY DIFFICULT.

19 THE COURT: OKAY. BUT --

20 MR. DIXON: WE TALKED TO HIM --

21 THE COURT: ONE AT A TIME.

22 MR. DIXON: OKAY. SORRY. WELL, I'M NOT GOING TO
23 VOUCH FOR IT ONE WAY OR THE OTHER. BUT I WILL SAY THAT I
24 TALKED TO HIM AND SAT DOWN AS CLOSE AS I AM TO THE COURT
25 OUTSIDE AND TALKED TO HIM FOR A FEW MOMENTS. I DIDN'T
26 NOTICE ANYTHING, BUT I WASN'T LOOKING FOR IT, SO I DON'T
27 KNOW. IF WE WANT TO GIVE HIM A BLOOD ALCOHOL TEST --

28 MS. SARIS: WELL, MY CONCERN IS HE'S NOT

1 REMEMBERING, IN WHICH CASE SOME OF THE STUFF MIGHT
2 ACTUALLY BE ABLE TO BE INTRODUCED IF HIS FAILURE TO
3 REMEMBER IS BECAUSE HE'S COMING TO THE STAND INTOXICATED.

4 MR. DIXON: YOUR HONOR --

5 THE COURT: THIS IS THE THING. FOR THE LIMITED
6 PURPOSE FOR WHICH I HAVE ALLOWED YOU TO ASK THE QUESTION
7 WHICH GOES TO MOTIVE, INTEREST AND BIAS AND THE QUESTION
8 BEING WHETHER HE'S ON PROBATION OR WAS ON PROBATION AT
9 THE TIME THAT HE COOPERATED WITH LAW ENFORCEMENT, IF HE
10 DOESN'T REMEMBER OR IS NOT AWARE OF THE SITUATION, THEN
11 TECHNICALLY I THINK YOU'RE STUCK WITH THAT ANSWER.

12 MS. SARIS: UNLESS, OF COURSE, HE'S NOT
13 REMEMBERING BECAUSE HE'S INTOXICATED.

14 THE COURT: EXACTLY. AND I DON'T HAVE ANY WAY OF
15 DETERMINING WHETHER OR NOT HE'S INTOXICATED. THAT'S THE
16 PROBLEM.

17 MR. JACKSON: EXCEPT, YOUR HONOR, THIS MORNING --

18 THE COURT: HE TESTIFIED THE SAME WAY.

19 MR. JACKSON: EXACTLY THE SAME WAY.

20 MS. SARIS: I DIDN'T APPROACH HIM THIS MORNING.
21 I DON'T KNOW THAT HE WAS OR WASN'T DRINKING THIS MORNING.

22 THE COURT: WELL, THIS IS THE THING. HE'S
23 OBVIOUSLY GOT A PROBLEM WITH ALCOHOL AND HIS TOLERANCE IS
24 PROBABLY BEYOND WHAT ANY OF US WOULD BE ABLE TO CONSUME.
25 SO THE FACT THAT HE MAY HAVE HAD A DRINK OR TWO DOESN'T
26 NECESSARILY MEAN HE'S INTOXICATED.

27 I DON'T SEE ANY EVIDENCE THAT HE'S
28 INTOXICATED JUST BASED ON THE WAY HE WALKED UP TO THE

1 STAND. HE STATED HIS NAME, HE SPELLED HIS LAST NAME. I
2 MEAN, HE SEEMS TO BE THE SAME WAY HE WAS THIS MORNING AND
3 HE WAS LAST TIME.

4 MS. SARIS: I WILL JUST ASK HIM WHAT HE HAD TO
5 DRINK.

6 THE COURT: YOU CAN ASK HIM IF HE HAD ANY DRINKS
7 TODAY.

8 MR. JACKSON: UNDER 352 WE WOULD OBJECT. THAT IS
9 OBVIOUSLY MORE PREJUDICIAL THAN PROBATIVE. HIS
10 TESTIMONY, AS THE COURT HEARD OUTSIDE THE PRESENCE OF THE
11 JURY, WAS CONSISTENT WITH WHAT IT IS NOW. THERE IS NO
12 INDICATION THAT HE WAS DRINKING OR DRUNK OR CERTAINLY
13 INTOXICATED TO A POINT THAT --

14 THE COURT: RIGHT. UNDER 352, THEN, I'LL SUSTAIN
15 THE OBJECTION.

16 MS. SARIS: THEN WOULD THE COURT ACCEPT THIS
17 AS -- TAKE JUDICIAL NOTICE OF THIS AND LET IT INTO THE
18 JURY? AS IT STANDS RIGHT NOW, IT APPEARS THAT HE'S NOT
19 ON PROBATION WHICH IS NOT THE CASE.

20 THE COURT: WE CAN TALK ABOUT THAT LATER AND I
21 WILL TAKE JUDICIAL NOTICE. AND JUST FOR THE RECORD, WHAT
22 YOU SHOWED HIM WAS PART OF A COURT'S EXHIBIT 2 THAT WE
23 DEALT WITH THIS MORNING. AND AS KNOW, I HAD A HARD TIME
24 FIGURING OUT WHAT DOCUMENT SAID WHAT.

25 SO WE CAN CERTAINLY DISCUSS IT AND I WILL
26 CERTAINLY TAKE NOTICE OF ANY OFFICIAL COURT DOCUMENT IF
27 IT'S RELEVANT.

28 MR. DIXON: BUT, YOUR HONOR, I MEAN -- BUT IT'S

1 NOT RELEVANT.

2 THE COURT: WELL, I'M NOT GOING TO DO IT RIGHT
3 NOW.

4 MR. DIXON: BUT IF HE DOESN'T REMEMBER OR EVEN IF
5 HE'S ON PROBATION, THEN HE WOULD HAVE NO MOTIVE OR BIAS
6 IN DEALING WITH US OR US HELPING HIM, SO THERE'S A WHOLE
7 LINE OF QUESTIONING THAT SHOULD END.

8 THE COURT: WELL, IT SHOULD AND IT WILL. AND IF
9 I FIND IT RELEVANT, I'LL TAKE JUDICIAL NOTICE. AND,
10 AGAIN, IT WILL ONLY BE RELEVANT IF I CAN DETERMINE FROM
11 THE DOCUMENTS THAT HE WAS ORDERED TO COME BACK AND HE
12 DIDN'T COME BACK, OR HE WAS PLACED ON PROBATION AND WAS
13 NOTIFIED OF A VIOLATION.

14 SO THAT'S WHY I'LL DEFER OUR JUDICIAL
15 NOTICE DISCUSSION FOR NOW. BUT HE DID TESTIFY HE DOESN'T
16 REMEMBER. AND IF HE DID, OR IF HE WAS ON PROBATION, HE
17 WASN'T AWARE OF IT AND THAT'S --

18 MS. SARIS: BUT THAT GOES TO WHETHER OR NOT HE'S
19 TELLING THE TRUTH, WHICH WE CANNOT DETERMINE. AND I
20 THINK THE QUESTION OF WHETHER OR NOT HE'S BEEN DRINKING
21 GOES TO HIS ATTITUDE AND TESTIMONY AND ATTITUDE TOWARDS
22 TESTIFYING, IT GOES TO BIAS, IT GOES TO HIS WILLINGNESS
23 TO BASICALLY NOT TAKE ANY -- ANYTHING HE DOES IN COURT
24 SERIOUSLY. AND THAT'S PART OF OUR ARGUMENT WITH THE
25 FAILURES TO APPEAR.

26 BUT IN THIS PARTICULAR CASE, THE CASE LAW
27 IS CLEAR. I'M ALLOWED TO ASK IF A WITNESS IS GIVING
28 TESTIMONY WHILE UNDER THE INFLUENCE.

1 MR. DIXON: BUT THERE'S NOTHING TO INDICATE THAT
2 HE'S UNDER THE --

3 MS. SARIS: GO SMELL HIS BREATH.

4 MR. DIXON: BUT THAT DOESN'T MEAN HE'S UNDER THE
5 INFLUENCE. IF HE HAD A GLASS OF WINE -- AND I DON'T KNOW
6 IF HE DID OR DIDN'T HAVE A GLASS OF WINE AT LUNCH --
7 BUT --

8 THE COURT: I'M GOING TO SAY THIS, YOU CAN ASK
9 HIM A QUESTION IF YOU HAVE A CONCERN THAT HIS INABILITY
10 TO RECOLLECT IS BEING AFFECTED BY ANY SUBSTANCE, ANY
11 MEDICATION, ANYTHING LIKE THAT. BUT I DON'T THINK YOU'RE
12 GOING TO GET VERY FAR. AND I DON'T WANT A DISCUSSION OF
13 ALCOHOL ON HIS BREATH BECAUSE IT DOESN'T PROVE ANYTHING.
14 BUT YOU CAN INQUIRE GENERALLY.

15 MS. SARIS: OKAY.

16 THE COURT: OKAY?

17 (SIDE BAR CONCLUDED.)

18
19 THE COURT: BACK ON THE RECORD.

20 YOU MAY CONTINUE, MS. SARIS.

21 MS. SARIS: THANK YOU.

22 Q MR. KEAY, ARE YOU TAKING ANY MEDICATION OR
23 HAVING ANY CONDITION CURRENTLY THAT WOULD PREVENT YOU
24 FROM REMEMBERING ANYTHING THAT HAPPENED YEARS PAST?

25 A NO.

26 Q SO YOU'VE TAKEN NOTHING TODAY AT ALL?

27 A AM I ON MEDICATION?

28 Q MEDICATION, ANYTHING --

1 A I TAKE DARVON FOR PAIN.

2 Q HAVE YOU BEEN DRINKING?

3 A NO.

4 Q DO YOU ANTICIPATE ANY ASSISTANCE FROM THE
5 DISTRICT ATTORNEY'S OFFICE IN ANY CRIMINAL MATTER THAT
6 YOU MAY OR MAY NOT HAVE PENDING?

7 A NO.

8 Q DID THEY INQUIRE OF YOU PRIOR TO YOU
9 TAKING THE STAND WHETHER OR NOT YOU HAD ANY CRIMINAL
10 MATTERS PENDING?

11 A NO.

12 Q DID THEY INQUIRE OF YOU WHETHER OR NOT YOU
13 HAD ANY WARRANT FOR YOUR ARREST?

14 A NO.

15 MR. SARIS: NOTHING FURTHER AT THIS TIME.

16 THE COURT: ANY FURTHER REDIRECT?

17 MR. DIXON: NO, THANK YOU, YOUR HONOR. NOTHING
18 FURTHER.

19 THE COURT: ALL RIGHT. THANK YOU, SIR.

20 MR. DIXON: MAY THIS WITNESS BE EXCUSED?

21 THE COURT: YES, HE MAY.

22 MR. DIXON: THANK YOU.

23 THE COURT: AND WE WILL CONTINUE WITH
24 MS. CORDELL.

25 MR. DIXON: I'LL GET HER.

26 THE COURT: MS. CORDELL, YOU HAVE BEEN PREVIOUSLY
27 SWORN AS A WITNESS. YOU'RE REMINDED THAT YOU'RE STILL
28 UNDER OATH. YOU MAY RESUME THE WITNESS STAND AND PLEASE

1 JUST STATE YOUR NAME AGAIN FOR THE RECORD.

2 THE WITNESS: DOLORES, D-O-L-O-R-E-S, CORDELL,
3 C-O-R-D-E-L-L.

4 THE COURT: THANK YOU.

5 MR. SUMMERS: THANK YOU, YOUR HONOR.

6

7 DOLORES CORDELL,
8 CALLED BY THE PEOPLE AS A WITNESS, WAS
9 PREVIOUSLY SWORN AND TESTIFIED AS FOLLOWS:

10

11 CROSS-EXAMINATION (CONTINUED)

12 BY MR. SUMMERS:

13 Q MS. CORDELL, ONE OF THE THINGS THAT WE
14 WERE TALKING ABOUT WHEN YOU WERE LAST TESTIFYING WAS
15 ACTIVITIES THAT -- IN YOUR LAW FIRM THAT TOOK PLACE, SOME
16 OF THEM BEFORE MICKEY AND TRUDY THOMPSON WERE MURDERED
17 AND SOME OF THOSE AFTERWARDS. AND I UNDERSTAND IT'S BEEN
18 A WHILE AND YOU'VE HAD A CHANCE JUST A LITTLE WHILE AGO
19 TO LOOK THROUGH SOME DOCUMENTS THAT WE SHOWED YOU TO
20 REVIEW IN RELATION TO THE VARIOUS BANKRUPTCY CASES.

21 IS THAT CORRECT?

22 A YES, I THINK THREE OR FOUR DOCUMENTS.

23 Q AND DO YOU -- IN FACT, THROUGHOUT THE YEAR
24 OF 1988 AFTER MARCH OF 1988, YOUR LAW FIRM FILED SEVERAL
25 LAWSUITS CALLED ADVERSARIAL ACTIONS IN THE BANKRUPTCY
26 COURT; IS THAT CORRECT?

27 A THE ONE I REMEMBER WAS THE ONE TO TRY TO
28 GET AHOLD OF WHAT WAS CALLED THE WHITEHAWK INVESTMENT.

1 BECAUSE AT THAT POINT THE HOUSES HAD BEEN BUILT IN THAT
2 TRACT AND NOW THERE WAS MONEY STARTING TO COME OUT OF IT.

3 Q AND THAT WOULD HAVE BEEN AFTER MARCH OF
4 '88?

5 A YES.

6 Q DO YOU ALSO RECALL FILING A LAWSUIT
7 AGAINST BILL LOBEL, L-O-B-E-L?

8 A NO. BILL LOBEL WAS ONE OF HIS ATTORNEYS,
9 MIKE GOODWIN'S ATTORNEYS.

10 Q RIGHT. DO YOU RECALL FILING -- SO YOU DO
11 NOT RECALL FILING ANY LAWSUIT IN THE BANKRUPTCY COURT
12 AGAINST HIM?

13 A NOT THAT I RECALL. IF YOU HAVE A
14 DOCUMENT, THOUGH, IT MIGHT REFRESH MY MEMORY.

15 Q SURE.
16 SHOWING TO COUNSEL ANOTHER VOLUMINOUS
17 DOCUMENT.

18 MAY I APPROACH, YOUR HONOR?

19 THE COURT: YES.

20 Q BY MR. SUMMERS: AND, AGAIN, THIS ISN'T
21 SOMETHING UNLESS YOU FEEL THE NEED TO, THAT YOU NEED TO
22 LOOK THROUGH, IF YOU COULD JUST LOOK AT THE FACE PAGE.

23 THE COURT: AND WHAT IS THIS JUST FOR THE RECORD?

24 MR. SUMMERS: IT IS A COMPLAINT --

25 THE WITNESS: COMPLAINT FOR ATTORNEY MALPRACTICE,
26 NEGLIGENCE, PER SE, BREACH OF CONTRACT, ET CETERA.

27 THE COURT: ALL RIGHT. THANK YOU.

28 THE WITNESS: OH, AND FOR TURNOVER OF ESTATE

1 PROPERTY UNDER SECTIONS 541 AND 542.

2 Q BY MR. SUMMERS: DOES THAT REFRESH YOUR
3 RECOLLECTION?

4 A ACTUALLY, I DON'T REMEMBER FILING THIS.
5 BUT LIKE I SAID, WE WERE ALL A LITTLE BIT IN A STATE OF
6 SHOCK FOR QUITE A WHILE.

7 Q THAT DOES HELP?

8 A YES, I SIGNED THIS, SO I MUST HAVE
9 PREPARED IT.

10 Q AND THE SIGNATURE DATE OF NOVEMBER 30 OF
11 '88?

12 A COULD I JUST SEE -- OH, OKAY. YES, I SEE
13 WHAT THAT IS NOW.

14 IT WAS ON BEHALF OF THE ESTATE OF MICHAEL
15 FRANK GOODWIN. SO IT WAS COMPLAINING ABOUT LOBEL'S
16 CONDUCT WHO WAS MIKE GOODWIN'S ATTORNEY IN THE
17 BANKRUPTCY.

18 Q SO THIS WOULD BE ANOTHER LAWSUIT FILED
19 AFTER MARCH OF 1988?

20 A YES.

21 Q NOW, AFTER MARCH OF '88, YOUR LAW FIRM HAD
22 M.T.E.G., MICKEY THOMPSON ENTERTAINMENT GROUP AS A CLIENT
23 CONTINUED ON TO BE YOUR CLIENT; CORRECT?

24 A YES.

25 Q AND WHO WAS YOUR CLIENT ON BEHALF OF
26 MICKEY THOMPSON'S ESTATE?

27 MR. JACKSON: OBJECTION. RELEVANCE.

28 THE COURT: OVERRULED.

1 YOU CAN ANSWER THAT.

2 THE WITNESS: IT WOULD HAVE BEEN THE EXECUTOR OF
3 HIS ESTATE.

4 Q BY MR. SUMMERS: IS THAT COLLENE CAMPBELL?

5 A YES.

6 Q AND DID YOU HAVE ANY CONTACT WITH HER
7 ATTORNEY AT THAT TIME, MR. RACKAUCKAS?

8 A I DON'T BELIEVE SO.

9 MR. JACKSON: OBJECTION. ASSUMES FACTS NOT IN
10 EVIDENCE.

11 THE COURT: SUSTAINED.

12 MR. JACKSON: MOVE TO STRIKE.

13 THE COURT: THAT WILL BE STRICKEN.

14 Q BY MR. SUMMERS: IN TERMS OF YOUR CONTACTS
15 WITH THE COMPANY M.T.E.G., DO YOU RECALL WHO -- FOR LACK
16 OF A BETTER WORD -- THE POINT PERSON WAS THAT YOU TALKED
17 TO?

18 MR. JACKSON: OBJECTION. RELEVANCE.

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER.

21 MR. JACKSON: AND VAGUE AS TO TIME ALSO.

22 THE COURT: ALL RIGHT. THAT WILL BE SUSTAINED.

23 Q BY MR. SUMMERS: AFTER MARCH OF 1988?

24 MR. JACKSON: THEN BECAUSE OF THE DATE, WE WOULD
25 MOVE TO STRIKE BECAUSE OF RELEVANCE.

26 THE COURT: REPHRASE THE QUESTION, PLEASE.

27 Q BY MR. SUMMERS: YOUR CLIENT -- M.T.E.G.
28 CONTINUED TO BE YOUR CLIENT AFTER MARCH OF 1988; CORRECT?

1 A YES.

2 Q DO YOU RECALL HAVING CONTACT WITH A
3 PARTICULAR PERSON IN THAT COMPANY WITH REGARD TO YOUR
4 LEGAL OBLIGATIONS AND SO FORTH AFTER MARCH OF '88?

5 MR. JACKSON: OBJECTION. ONCE AGAIN, RELEVANCE.

6 THE COURT: I'M GOING TO SUSTAIN IT.

7 Q BY MR. SUMMERS: MA'AM, WE ALSO TALKED
8 ABOUT THE EXTENT TO WHICH YOUR LAW FIRM PETITIONED FOR
9 ITS OWN FEES AND COSTS, PETITIONED THE BANKRUPTCY ESTATE.

10 IN TERMS OF THE DOCUMENTS THAT YOU -- THAT
11 YOU'VE LOOKED AT, DO YOU RECALL NOW WHETHER OR NOT YOUR
12 LAW FIRM DID DO THAT IN NOVEMBER OF '89?

13 A WELL, I RECALL YES, WE DID PETITION FOR
14 FEES BECAUSE OF WORK WE HAD DONE FOR THE ESTATE.

15 Q AND THAT WAS IN TWO DIFFERENT WAYS;
16 CORRECT? ONE WAS AS WHAT IS CALLED SPECIAL COUNSEL TO
17 THE TRUSTEE?

18 A YES.

19 Q AND THE OTHER IS AS COUNSEL TO A CREDITOR
20 OF THE ESTATE; CORRECT?

21 A YES.

22 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND YET
23 ANOTHER MULTI-PAGE DOCUMENT ENTITLED "APPLICATION FOR
24 COMPENSATION AND REIMBURSEMENT OF EXPENSES BY SPECIAL
25 COUNSEL" TO THE CHAPTER 11 TRUSTEE. I'VE SHOWN THAT TO
26 COUNSEL.

27 THE COURT: WE WILL MARK IT DEFENSE K.
28

1 (DEFENSE EXHIBIT NO. K WAS MARKED FOR
2 IDENTIFICATION.)

3
4 Q BY MR. SUMMERS: MA'AM, DO YOU RECOGNIZE
5 THIS DEFENSE K AS ONE OF THE DOCUMENTS THAT WE HAD YOU
6 TAKE A STAB AT?

7 A YES. THE FIRST NAME ON THIS IS VICTOR
8 SAHN'S NAME AGAIN. AND PROBABLY THE SULMEYER FIRM
9 ACTUALLY PREPARED THIS, BUT WE WOULD HAVE BEEN ONE OF THE
10 ATTORNEYS THAT WAS MAKING THE APPLICATION --

11 Q AND --

12 A -- FOR FEES.

13 Q DOES IT ALSO INCLUDE BASICALLY SUMMARIES
14 OF BILLINGS ON BEHALF OF YOUR LAW FIRM?

15 A YES, IT WOULD.

16 Q AND THESE, IF I COULD JUST SHOW YOU, REFER
17 TO BILLINGS ALL THAT WERE AFTER JUNE OF 1988?

18 A YES, THAT WOULD BE CORRECT. BECAUSE OF
19 THE LAWSUIT THAT WE FILED ABOUT WHITEHAWK, THAT WAS
20 PRIMARILY WHAT THAT WAS FOR.

21 Q AND THAT'S MANY, MANY PAGES OF THE
22 DOCUMENTS REGARDING YOUR BILLINGS?

23 A IT WAS A VERY COMPLICATED CASE, YES.

24 Q AND I WANTED TO CORRECT ONE THING I HAD
25 ASKED YOU ABOUT LAST WEDNESDAY.

26 YOUR HONOR, I HAVE IN MY HAND A TWO-PAGE
27 DOCUMENT ENTITLED "APPLICATION FOR ISSUANCE OF WRIT."

28 THE COURT: DO YOU WANT THAT MARKED?

1 MR. SUMMERS: YES, PLEASE. THAT WOULD BE L?

2 THE COURT: YES, DEFENSE L.

3

4 (DEFENSE EXHIBIT NO. L WAS MARKED FOR
5 IDENTIFICATION.)

6

7 Q BY MR. SUMMERS. I ASKED YOU ABOUT A
8 SIMILAR DOCUMENT LAST WEDNESDAY THAT HAD TO DO WITH A
9 DIFFERENT COUNTY.

10 WOULD YOU JUST TAKE A LOOK AT THIS
11 DOCUMENT AND SEE IF YOU RECOGNIZE IT.

12 A THIS WOULD BE THE APPLICATION FOR WRIT OF
13 EXECUTION. IT SEEMS TO BE IT WAS FILED IN JUNE OF 1986.

14 Q AND THAT SPECIFICALLY INCLUDES A REQUEST
15 FOR A WRIT FOR ORANGE COUNTY; IS THAT CORRECT?

16 A YES.

17 Q NOW, IF WE CAN -- JUST TO RECAP FOR A
18 MOMENT, GOING BACK TO DECEMBER OF 1986, THERE WAS AN
19 ACTION OF SORTS HELD BY THE BANKRUPTCY COURT; CORRECT?

20 A CORRECT.

21 Q AND THAT WAS THE ASSETS OF THE COMPANY AT
22 THAT POINT KNOWN AS E.S.I.?

23 A E.S. -- I'M NOT SURE IF IT WAS ALL THE
24 ASSETS. I KNOW THE MAIN THING WAS WHAT WAS CALLED THE
25 INSPORT AGREEMENT WHICH GAVE THE E.S.I. THE RIGHT TO RUN
26 THE RACE AT ANAHEIM ESSENTIALLY.

27 Q AND IT GAVE IT THE RIGHT PURSUANT TO A
28 SANCTION FROM THE AMERICAN MOTORCYCLE ASSOCIATION?

1 A YES, THAT'S RIGHT.

2 Q AND, AGAIN, IN THE -- DO YOU RECALL AND
3 WERE YOU PRESENT AT THAT AUCTION?

4 A YES, I WAS.

5 Q AND WAS MICKEY THOMPSON ONE OF THE BIDDERS
6 AT THAT AUCTION?

7 A YES, HE WAS.

8 Q AND DIANE GOODWIN AND CHARLES CLAYTON
9 WERE -- FORMED ANOTHER BIDDER AT THE AUCTION; CORRECT?

10 A ALLEGEDLY, YES.

11 Q WELL, DID THEY BID AT THE AUCTION OR NOT?

12 A WELL, THE REPRESENTATIONS THAT WERE MADE
13 ABOUT MR. CLAYTON TURNED OUT NOT TO BE TRUE, BUT
14 NOMINALLY HE WAS A BIDDER.

15 Q SO THAT'S A "YES"?

16 A AS FAR AS WE KNEW AT THE TIME IT WAS A
17 YES.

18 Q THEY EITHER BID OR THEY DIDN'T BID.

19 A OH, THEY DID BID.

20 Q AND THE JUDGE, THAT WOULD BE JUDGE RYAN'S
21 COURT?

22 A YES.

23 Q AND JUDGE RYAN AWARDED -- BASICALLY
24 AWARDED THE ASSETS TO THE DIANE GOODWIN/CHARLES CLAYTON
25 ENTITY; CORRECT?

26 A I WOULDN'T SAY "AWARDED" WOULD BE THE
27 WORD. THEY BID THE HIGHEST AMOUNT.

28 Q THEN THE JUDGE --

1 A AFFIRMED THE SALE WHICH HAD A PAYOUT ON IT
2 WHICH IT WAS NEVER MADE.

3 Q AND THAT ENTITY WAS KNOWN -- THAT DIANE
4 GOODWIN/CHARLES CLAYTON ENTITY WAS KNOWN HAS SUPERCROSS,
5 INCORPORATED?

6 A YES.

7 Q AND THAT COMPANY, SUPERCROSS, INCORPORATED
8 HAD MICHAEL GOODWIN AS PRESIDENT?

9 A I BELIEVE SO.

10 Q GOING BACK, IF WE CAN, JUST FOR A FEW
11 MOMENTS TO THAT WHITEHAWK, THE J.G.A. WHITEHAWK
12 INVESTMENT.

13 YOU INDICATED THAT IT WAS A REAL ESTATE
14 INVESTMENT?

15 A YES. IT WAS AN INVESTMENT IN THE BUILDING
16 OF HIGH-END HOMES UP -- I THINK AROUND CANYON, OR IT WAS
17 IN VENTURA SOMEWHERE.

18 Q AND YOU INDICATED IN '86 WHEN THAT
19 INVESTMENT WAS OFFERED AS PART OF THE SURETY HEARING THAT
20 THE HOMES HAD NOT BEEN BUILT; IS THAT CORRECT?

21 A CORRECT.

22 Q AND DO YOU RECALL WHETHER, IN FACT,
23 THOUGH, THAT THEY HAD ALREADY BEEN PRESOLD?

24 A I DON'T RECALL THAT. BUT --

25 Q ALL RIGHT.

26 A -- I KNOW ENOUGH ABOUT PRESALES.

27 Q OKAY. SO THE ANSWER IS YOU DON'T
28 REMEMBER?

1 A I DON'T REMEMBER IF THERE WERE PRESALES,
2 BUT IT WOULDN'T HAVE MEANT MUCH.

3 Q THIS -- IN FACT, THIS J.G.A. WHITEHAWK
4 INVESTMENT WAS DIANE GOODWIN'S ASSET?

5 A WELL, THAT WAS ONE OF THE DISPUTES.

6 Q MS. CORDELL, I KNOW THAT THERE WERE
7 DISPUTES ABOUT WHO WAS THE ACTUAL OWNERS OF OR HAD THE
8 RIGHT TO THAT ASSET.

9 YOU AT LEAST CLAIM THAT IT WAS COMMUNITY
10 PROPERTY?

11 A AT LEAST, YES.

12 Q OKAY. AND WHAT I WOULD LIKE TO FOCUS ON
13 IS THAT THIS RIGHT, WHOEVER YOU SAY IT BELONGED TO, WAS A
14 RIGHT TO RETURNS FROM THAT INVESTMENT?

15 A YES.

16 Q AND THOSE RETURNS ARE WHAT YOU WERE SAYING
17 THAT YOU'RE RESPONSIBLE FOR BRINGING INTO THE BANKRUPTCY
18 ESTATE EVENTUALLY THROUGHOUT '88, AT LEAST; CORRECT?

19 A YES.

20 Q AND THE RETURNS ON THIS ASSET WERE --
21 ENDED UP BEING SOMEWHERE IN THE NEIGHBORHOOD OF TWO OR
22 TWO AND A HALF MILLION DOLLARS?

23 A I'M NOT SURE HOW MUCH ACTUALLY WENT INTO
24 THE BANKRUPTCY ESTATE BECAUSE BEFORE WE WENT INTO
25 COURT --

26 Q MY QUESTION IS JUST THE RETURNS FROM THAT,
27 THAT YOU CAN IDENTIFY FROM THAT ASSET.

28 MR. JACKSON: OBJECTION. I'M SORRY. OBJECTION.

1 THAT APPEARS TO CALL FOR HEARSAY AND THAT ALSO APPEARS TO
2 BE IRRELEVANT. DEPENDING ON THE TIME FRAME.

3 THE COURT: SUSTAINED.

4 Q BY MR. SUMMERS: WELL, YOU'RE AWARE OF THE
5 AMOUNT -- WHEN YOU SAY YOU BROUGHT A CERTAIN AMOUNT OF
6 THAT ASSET, A CERTAIN AMOUNT OF THAT ASSET INTO THE
7 BANKRUPTCY ESTATE, DO YOU HAVE A NUMBER IN MIND THAT YOU
8 BROUGHT INTO THE BANKRUPTCY COURT?

9 MR. JACKSON: OBJECTION. RELEVANCE. VAGUE AS TO
10 TIME.

11 THE COURT: YES, IT IS VAGUE. REPHRASE IT,
12 PLEASE.

13 Q BY MR. SUMMERS: DO YOU HAVE A NUMBER IN
14 MIND THAT YOU BROUGHT INTO FROM THE TIME THAT YOU SUED IN
15 THE BANKRUPTCY COURT TO BRING IT INTO THE BANKRUPTCY
16 COURT, DO YOU HAVE A RECOLLECTION OF THE AMOUNT THAT WAS
17 BROUGHT IN?

18 MR. JACKSON: OBJECTION. SAME OBJECTION. VAGUE
19 AS TO TIME AND RELEVANCE.

20 THE COURT: ALL RIGHT. SUSTAINED.

21 Q BY MR. SUMMERS. IS THAT ASSET AND THE
22 RETURN ON THAT INVESTMENT, TO YOUR KNOWLEDGE, BASICALLY
23 THE FULL AMOUNT OF MONEY THAT WENT INTO THE BANKRUPTCY
24 ESTATE?

25 MR. JACKSON: OBJECTION. RELEVANCE.

26 THE COURT: OVERRULED.

27 YOU CAN ANSWER THAT.

28 THE WITNESS: I THINK IT WAS THE ONLY ASSET THAT

1 WENT INTO THE BANKRUPTCY ESTATE. ALL THE REST OF THE
2 GOODWINS' ASSETS HAD BEEN DISSIPATED BY THEM.

3 MR. SUMMERS: YOUR HONOR, I WOULD ASK THE COURT
4 TO INSTRUCT THE WITNESS TO SIMPLY ANSWER THE QUESTIONS
5 PUT FORWARD. AND I WOULD MOVE TO STRIKE THE REMAINDER OF
6 THAT ANSWER AS BEING NON-RESPONSIVE.

7 THE COURT: ALL RIGHT. THE LAST PART OF THAT
8 QUESTION AFTER "BANKRUPTCY ESTATE" WILL BE STRICKEN.
9 THANK YOU.

10 Q BY MR. SUMMERS: THAT INTEREST, AT LEAST
11 THE INTEREST IN J.G.A. WHITEHAWK, THAT WAS SOMETHING THAT
12 YOU WERE ABLE TO BRING INTO THE ESTATE BECAUSE IT HAD NOT
13 BEEN SOLD, IT HAD NOT BEEN GIVEN AWAY AT THE POINT THAT
14 YOU WENT IN, IN THE SUMMER OF '88?

15 MR. JACKSON: OBJECTION. BASED ON THE TIME,
16 RELEVANCE.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER.

19 THE WITNESS: THAT'S NOT ENTIRELY ACCURATE. THE
20 REASON WE HAD TO FILE THE LAWSUIT --

21 MR. SUMMERS: MA'AM --

22 THE WITNESS: NO, THAT IS NOT ENTIRELY ACCURATE.

23 Q BY MR. SUMMERS: OKAY. THAT SPECIFIC
24 ASSET, THE J.G.A. WHITEHAWK ASSET, YOU WERE ABLE TO BRING
25 INTO THE ESTATE BECAUSE THE INVESTMENT ITSELF YOU SHOWED
26 BELONGED IN THE ESTATE; IS THAT CORRECT?

27 A THAT WOULD BE A MORE ACCURATE STATEMENT,
28 YES.

1 Q AND WHATEVER THE LITIGATION WAS, YOU WERE
2 ABLE TO SHOW THAT IT BELONGED IN EITHER THE CORPORATE
3 ESTATE OR THE MICHAEL GOODWIN INDIVIDUAL ESTATE, THE
4 BANKRUPTCY ESTATES?

5 A I'M NOT SURE THERE WAS EVER A JUDGMENT --
6 WHEN YOU SAY "SHOW," I'M NOT SURE THAT THERE WAS EVER A
7 JUDGMENT. I THINK MAYBE WE SETTLED IT WITH JOHN GATES
8 WHO WAS KIND OF THE MIDDLEMAN BETWEEN THE GOODWINS AND
9 WHITEHAWK.

10 Q AND, AGAIN, YES OR NO, IF YOU CAN. IF YOU
11 CAN'T, SAY SO.

12 YOUR FEAR AND THE REASON YOU LITIGATED WAS
13 THAT YOU WERE AFRAID THAT THE RETURNS ON THAT INVESTMENT
14 WOULD GO TO DIANE AND WOULD NOT GO INTO THE ESTATE?

15 A TO DIANE OR MR. GOODWIN, YES.

16 Q TOUCHING BACK AGAIN ON SOMETHING WE DID ON
17 LAST WEDNESDAY, AGAIN, WITH REGARD TO THE GATE RECEIPTS
18 FROM THE JUNE OF '86 LOS ANGELES COLOSSEUM EVENT, WE
19 SHOWED YOU A DOCUMENT INDICATING THE JUDGE'S DECISION
20 WITH REGARD TO THOSE FUNDS.

21 DO YOU RECALL THAT? THAT WAS WHAT WE
22 SHOWED YOU ON THE COMPUTER.

23 A WELL, I THINK THAT WAS A -- I THINK IT WAS
24 THE COURT OF APPEALS CASE, BUT I'M NOT SURE.

25 Q AND THAT WAS A RULING THAT ORDERED THOSE
26 FUNDS INTO --

27 MR. JACKSON: OBJECTION. RELEVANCE.

28 THE COURT: OVERRULED.

1 YOU CAN ANSWER.

2 WHY DON'T YOU FINISH THE QUESTION FIRST.

3 Q BY MR. SUMMERS: THE BASIC RULING WAS THAT
4 THOSE BOX OFFICE PROCEEDS WOULD GO INTO THE CORPORATE
5 E.S.I. BANKRUPTCY ESTATE?

6 A I'M SORRY. I DIDN'T GET A CHANCE TO READ
7 THAT OPINION. AS I SAID, IT WAS HANDLED BY VICTOR SAHN,
8 NOT ME.

9 Q AGAIN, LET ME TRY THIS AS A YES OR NO.
10 WERE YOU SUCCESSFUL IN GETTING THOSE
11 PROCEEDS INTO -- PURSUANT TO YOUR LEVY, WERE YOU
12 SUCCESSFUL IN OBTAINING THOSE PROCEEDS FOR MICKEY
13 THOMPSON OR M.T.E.G.?

14 A NO.

15 Q AND WE ALSO SHOWED YOU SOME TRANSCRIPTS OF
16 SOME HEARING IN NOVEMBER OF '89.

17 AND DO YOU RECALL BEING PRESENT AT THAT
18 HEARING IN THE BANKRUPTCY COURT?

19 A YOU MEAN THE FEE APPLICATION HEARING?

20 Q YES.

21 A YES, I DO.

22 Q AND AT THAT HEARING, VARIOUS PARTIES WERE
23 MAKING PETITIONS FOR THEIR LEGAL FEES OR OTHER TYPES OF
24 FEES BEING PAID OUT OF THE BANKRUPTCY ESTATE; IS THAT
25 CORRECT?

26 A YES.

27 Q AND YOUR LAW FIRM WAS ONE OF THOSE
28 PARTIES?

1 A YES, WE WERE.

2 Q DO YOU RECALL THE AMOUNT THAT YOUR LAW
3 FIRM WAS SEEKING?

4 A I THINK IT WAS ABOUT 135,000, BASED ON
5 WHAT YOU SHOWED ME EARLIER TODAY.

6 Q AND DO YOU RECALL THE AMOUNT THAT THE
7 COURT ENDED UP ORDERING AS TO THAT PARTICULAR REQUEST?

8 A I BELIEVE THE DOCUMENT YOU SHOWED ME SAID
9 80,000.

10 Q AND THE LAW FIRM THAT YOU WERE ASSOCIATED
11 WITH AT THAT POINT -- SULMEYER AND KUPETZ; IS THAT HOW
12 YOU PRONOUNCE IT?

13 A YES.

14 Q THAT LAW FIRM WAS -- FILED THE SAME
15 REQUEST WITH YOUR LAW FIRM FOR ATTORNEY'S FEES; CORRECT?

16 A YES. WE WORKED ON THE SAME MATTERS
17 TOGETHER.

18 Q AND DID THE COURT END UP ORDERING, IF YOU
19 RECALL, FEES FOR THAT FIRM?

20 A SOME FEES, YES.

21 Q DO YOU RECALL THE AMOUNT?

22 A NO, I DON'T.

23 Q ALSO AT THAT HEARING -- STRIKE THAT.

24 MICHAEL FITZGERALD WAS SOMEBODY WHO
25 REPRESENTED MICHAEL GOODWIN AT SOME POINT IN THE
26 LITIGATIONS?

27 A ONE OF THE ATTORNEYS, YES.

28 Q AND AT THAT HEARING THAT WE WERE JUST

1 DISCUSSING, DID HE SEEK ATTORNEY'S FEES FROM THE ESTATE?

2 A YES.

3 Q AND --

4 A PRETTY MUCH EVERYONE DID.

5 Q AND THE COURT, IN FACT, DENIED THAT
6 REQUEST; CORRECT?

7 A I BELIEVE THAT'S WHAT THE ORDER SAYS. I
8 HAVE NO PARTICULAR MEMORY OF THAT.

9 Q AND DO YOU RECALL THAT PHILLIP GASTIRE WAS
10 AN ATTORNEY REPRESENTING DIANE GOODWIN IN SOME OF THE
11 LITIGATION?

12 A THE NAME IS FAMILIAR. THERE WERE SO MANY
13 ATTORNEYS, IT'S HARD TO KEEP TRACK.

14 Q AND HE ALSO MADE A REQUEST FOR ATTORNEY'S
15 FEES AT THAT HEARING AS WELL.

16 MR. JACKSON: OBJECTION. RELEVANCE.

17 MR. SUMMERS: IT'S IN RESPONSE TO WHAT WAS STATED
18 ON WEDNESDAY, YOUR HONOR.

19 THE COURT: ALL RIGHT. OVERRULED.

20 Q BY MR. SUMMERS. HE ALSO MADE REQUESTS FOR
21 ATTORNEY'S FEES?

22 A I BELIEVE SO.

23 Q AND THAT WAS DENIED BY THE COURT?

24 A I DON'T RECALL LOOKING AT THAT
25 PARTICULARLY. I ONLY LOOKED AT WHAT HAPPENED TO CLARK
26 AND TREVITHICK AND THE SULMEYER FIRMS IN THOSE PAPERS.

27 Q THAT -- THOSE FILINGS THAT YOU MADE IN
28 THAT CASE WERE IN THE PERSONAL BANKRUPTCY.

1 DO YOU RECALL THAT?

2 A YES, THEY WOULD HAVE BEEN IN THE PERSONAL
3 BANKRUPTCY BECAUSE THAT HAD WHITEHAWK.

4 Q DID YOU ALSO FILE FOR COMPENSATION IN THE
5 CORPORATE BANKRUPTCY?

6 A I BELIEVE WE DID.

7 Q AND THE TRUSTEE AT THE POINT WHERE YOU
8 WERE FILING FOR FEES IN THE CORPORATE BANKRUPTCY, THAT
9 WAS A PERSON NAMED RON DURKIN?

10 A YES.

11 Q D-U-R-K-I-N?

12 A UH-HUH.

13 Q OKAY. I WOULD LIKE TO TALK A LITTLE BIT
14 ABOUT A TERM THAT WE'VE HAD THROWN AROUND A LITTLE BIT
15 HERE WHICH IS A "DISCHARGE." IN BANKRUPTCY, NEVER MIND
16 THE GOODWIN CASES, IF YOU CAN JUST EXPLAIN WHAT IT MEANS
17 IN BANKRUPTCY TO GET A DISCHARGE.

18 A BASICALLY WHAT IT MEANS IS WHEN YOU'RE
19 DISCHARGED FROM YOUR DEBTS, ANYTHING YOU HAVE SCHEDULED
20 AS A DEBT IN THE PAST, YOU DON'T HAVE TO PAY. NOW, IT'S
21 A LITTLE DIFFERENT WHEN YOU HAVE, AS IN THESE CASES,
22 THESE WERE WHAT WERE CALLED CHAPTER 11 PROCEEDINGS.

23 IT WASN'T -- IN A CHAPTER 11 YOU DON'T
24 TAKE THE ASSETS OF THE DEBTOR AND JUST DISTRIBUTE THEM TO
25 THE CREDITORS, INSTEAD THE DEBTOR TRIES TO WORK OUT SOME
26 KIND OF PLAN OR PAYOUT WITH THE CREDITORS.

27 Q AND YOU FILED -- OR YOUR LAW FIRM FILED --
28 ON BEHALF OF MICKEY THOMPSON, FILED A SUIT FOR SOMETHING

1 CALLED NON-DISCHARGE; IS THAT CORRECT?

2 A THAT IS CORRECT.

3 Q AGAIN, SETTING ASIDE THE GOODWIN
4 LITIGATION, IF YOU COULD JUST EXPLAIN WHAT IT WOULD MEAN
5 FOR SOMEONE TO SUE FOR NON-DISCHARGE.

6 A WHEN A CREDITOR SUES FOR
7 NON-DISCHARGABILITY, WHAT THEY'RE ASKING FOR IS FOR THE
8 BANKRUPTCY COURT TO SAY THAT DESPITE THE BANKRUPTCY, THIS
9 PARTICULAR DEBTOR HAS TAKEN ACTIONS WHICH WERE TO DEFRAUD
10 OR SOME KIND OF IMPROPER CONDUCT SUCH THAT IT WOULD NOT
11 BE FAIR FOR THE DEBTOR TO BE DISCHARGED FROM THEIR DEBTS.
12 THEY SHOULD STILL BE OBLIGATED TO PAY THOSE DEBTS.

13 Q AND THE LAWSUIT THAT YOU FILED, YOU FILED
14 IN FEBRUARY OF '87; IS THAT CORRECT?

15 A THAT'S PROBABLY AROUND THE TIME, YES. IT
16 WASN'T LONG AFTER THE BANKRUPTCY WAS FILED.

17 Q YOU ALSO FILED MOTIONS IN EACH BANKRUPTCY
18 FOR CONVERSION TO CHAPTER 7?

19 A YES, WE DID.

20 Q AND THAT WOULD ESSENTIALLY MEAN IF THOSE
21 MOTIONS OR THOSE ACTIONS WOULD HAVE BEEN GRANTED, THAT
22 THE JUDGE WOULD HAVE BASICALLY LIQUIDATED WHATEVER ASSETS
23 WERE THERE AND USED THEM TO PAY OFF THE CREDITORS; IS
24 THAT CORRECT?

25 A ARE YOU TALKING ABOUT JUST THE MOTIONS TO
26 CONVERT TO A CHAPTER 11 OR ARE YOU INCLUDING THE
27 NON-DISCHARGABILITY?

28 Q I'M JUST INCLUDING THE MOTIONS TO CONVERT

1 TO CHAPTER 7.

2 A YES. WELL, TWO THINGS IT WOULD HAVE
3 MEANT.

4 Q IN FACT, LET ME STEP AWAY FROM THAT FOR
5 JUST A MOMENT AND ASK YOU HYPOTHETICALLY WHAT IT WOULD
6 MEAN.

7 AGAIN, APART FROM THE GOODWIN LITIGATIONS,
8 IF A BANKRUPTCY ESTATE IS CONVERTED FROM CHAPTER 11 TO
9 CHAPTER 7, WHAT IS THE DISTINCTION?

10 A OKAY. IN A CHAPTER 11, THE DEBTOR BECOMES
11 WHAT'S CALLED A DEBTOR IN POSSESSION. THAT MEANS THE
12 DEBTOR IS STILL BEING ABLE TO WRITE CHECKS ON THEIR BANK
13 ACCOUNT, TO CONTROL THEIR OWN ASSETS, AND TO PRETTY MUCH
14 CONTINUE TO DO BUSINESS AS NORMAL.

15 I MENTIONED A TRUSTEE BEING APPOINTED THE
16 OTHER DAY. ONE OF THE REASONS YOU HAVE A TRUSTEE
17 APPOINTED IS SO THAT THE DEBTOR NO LONGER HAS CONTROL OF
18 THEIR ASSETS, THE TRUSTEE DOES. THEORETICALLY.

19 IN THE CHAPTER 7, INSTEAD, WHAT HAPPENS IS
20 IT DEBTOR NO LONGER HAS CONTROL OF THEIR ASSETS. THEY'RE
21 SUPPOSED TO BE SOLD OFF, THE MONEY PUT INTO THE
22 BANKRUPTCY ESTATE AND THEN DISTRIBUTED TO CREDITORS
23 PRORATED.

24 Q AND THAT MEANS FOR A CORPORATION THAT'S IN
25 CHAPTER 11, IT MEANS NO LONGER WOULD THEY BE ALLOWED TO
26 SORT OF CONTINUE ON AS AN ONGOING BUSINESS, THEY WOULD
27 BASICALLY BE SOLD OFF?

28 A THAT'S RIGHT. THEIR ASSETS WOULD BE SOLD

1 OFF.

2 Q NOW, AS TO THE NON-DISCHARGE SUIT THAT YOU
3 FILED, YOU FILED THAT IN THE PERSONAL BANKRUPTCY;
4 CORRECT?

5 A YES. CORPORATIONS ARE NOT DISCHARGED.
6 PARENTHETICALLY CORPORATIONS ARE NOT DISCHARGED. IT'S A
7 DIFFERENT SITUATION.

8 Q I WON'T EVEN OBJECT TO THAT.
9 WHICH IT MEANS IF YOU'RE SUCCESSFUL, IF
10 THE COURT GRANTS A NON-DISCHARGE, IT SORT OF PUTS
11 EVERYONE BACK TO SQUARE ONE? IN OTHER WORDS, DOES THAT
12 MAKE ANY SENSE?

13 A WELL, SQUARE ONE IN THE SENSE THAT YOUR
14 DEBTS -- THE DEBTOR STILL OWES YOUR DEBT. OF COURSE, YOU
15 DON'T KNOW WHAT HAPPENS TO THE ASSETS IN THE MEANTIME.

16 Q SO IT PUTS YOU BACK TO THE POINT WHERE YOU
17 OWE -- YOU WOULD OWE A JUDGMENT IF SOMEBODY HAS A
18 JUDGMENT AGAINST YOU?

19 A EXACTLY.

20 Q IF YOU HAVE ANY KIND OF DEBT THAT YOU OWE,
21 YOU WOULD STILL OWE?

22 A CORRECT.

23 Q AND PEOPLE WOULD BE -- INSTEAD OF GOING
24 THROUGH THE BANKRUPTCY, THEY WILL BE ABLE TO RESORT TO
25 WHATEVER CIVIL REMEDIES WERE AVAILABLE?

26 A YES.

27 Q AND ESSENTIALLY THAT WOULD BE THE POSITION
28 THAT YOU WERE IN ON MAY 7TH OF 1986; CORRECT?

1 A I DON'T THINK THE NON-DISCHARGEABLE
2 JUDGMENT WAS ENTERED UNTIL AUGUST OF '88.

3 Q RIGHT. BUT YOUR POSITION IN TERMS OF
4 ENFORCING THE JUDGMENT --

5 A OH, I'M SORRY.

6 Q -- WOULD HAVE BEEN WHAT IT WAS IN MAY OF
7 '86?

8 A YES. I'M TRYING TO THINK IF WE HAD TO
9 WAIT UNTIL THE BANKRUPTCY WAS CLOSED OR NOT. I DON'T
10 THINK SO.

11 Q WOULD -- AT THE POINT WHERE YOU WERE
12 GRANTED THAT NON-DISCHARGE, WOULD THAT GIVE YOU THE RIGHT
13 TO LEVY ON ASSETS THAT WERE IN THE BANKRUPTCY ESTATE, IN,
14 FOR EXAMPLE, THE CORPORATE BANKRUPTCY ESTATE?

15 A NO, I DON'T BELIEVE SO. BECAUSE THOSE
16 WOULD HAVE ASSETS NOT OF MR. GOODWIN, BUT OF THE
17 CORPORATION.

18 Q AND, IN FACT, THERE HAD BEEN A TRIAL --
19 YOU HAD BEEN HEADED TOWARDS A TRIAL ON YOUR ACTION FOR
20 NON-DISCHARGE; IS THAT CORRECT?

21 A YES, WE WERE.

22 Q AND, IN FACT, YOU HAD REACHED A SETTLEMENT
23 PRIOR TO MARCH 18TH OF 1988 IN THE NON-DISCHARGE ACTION?

24 A NOT EXACTLY.

25 Q OKAY. DID YOU FILE A -- DO YOU REMEMBER
26 FILING A REQUEST WITH THE COURT TO EXTEND THE DEADLINE
27 FOR FILING BRIEFS IN THE TRIAL BECAUSE OF THE SETTLEMENT
28 NEGOTIATIONS?

1 A BECAUSE OF SETTLEMENT NEGOTIATIONS, YES.

2 Q DO YOU RECALL APPROXIMATELY WHEN YOU WOULD
3 HAVE FILED THAT OR WHEN YOU WOULD HAVE -- STRIKE THAT.

4 I HAVE IN MY HAND A TWO-PAGE DOCUMENT,
5 I'LL SHOW IT TO COUNSEL, ENTITLED "STIPULATION TO
6 CONTINUE DATE FOR FILING OF TRIAL BRIEFS."

7 WOULD THAT BE M?

8 THE COURT: YES. MARKED M FOR IDENTIFICATION.

9
10 (DEFENSE EXHIBIT NO. M WAS MARKED FOR
11 IDENTIFICATION.)

12
13 Q MR. SUMMERS: MA'AM, I'M HANDING YOU
14 DEFENSE M AND ASKING YOU FIRST IF YOU -- JUST IF YOU
15 RECOGNIZE THE DOCUMENT?

16 A YES.

17 Q AND THAT IS BASICALLY A DOCUMENT --
18 STIPULATION THAT YOU FILED WITH THE COURT INDICATING
19 THAT, QUOTE, "PLAINTIFF AND DEBTOR ARE REQUESTING AN
20 EXTENSION OF TIME TO FILE THE BRIEFS DUE TO THE FACT THAT
21 THEY'RE ENGAGED IN EXTENSIVE NEGOTIATIONS TO SETTLE THE
22 ABOVE REFERENCED ADVISORY PROCEEDING. THE SETTLEMENT
23 INVOLVES A COMPLEX STIPULATION WHICH PRESENTLY CONSISTS
24 OF APPROXIMATELY SEVEN PAGES AND REQUIRES CONSULTATION
25 WITH THE PARTY'S BANKRUPTCY COUNSEL AND THE CHAPTER 11
26 TRUSTEE. THE PARTIES ARE CONCERNED THEY WILL NOT BE ABLE
27 TO BOTH NEGOTIATE THE SETTLEMENT AND PREPARE THE TRIAL
28 BRIEFS FOR TIMELY FILING ON MARCH 11, 1988. BOTH PARTIES

1 BELIEVE IN GOOD FAITH THAT A SETTLEMENT ON THE ADVISARY
2 PROCEEDINGS WILL BE CONSUMMATED AND FURTHER PAPERS
3 CONCERNING THAT SETTLEMENT WILL BE FILED WITH THIS COURT
4 BY MARCH 11, 1988."

5 THAT'S WHAT THE DOCUMENT SAYS?

6 A YES.

7 Q AND THAT IS THE DOCUMENT THAT WAS SIGNED
8 BY YOU AND A PERSON NAMED RONALD COULOMBE --

9 A I THINK IT'S COULOMBE, C-O-U-L-O-M-B-E.

10 Q I'LL GO WITH COULOMBE.

11 THAT'S A DOCUMENT THAT WAS SIGNED BY YOU
12 AND RONALD COULOMBE?

13 A YES. THAT WAS MIKE GOODWIN'S MOST RECENT
14 ATTORNEY IN THAT CASE.

15 Q AND THE DOCUMENT INDICATES IT WAS DATED
16 MARCH 9TH OF 1988, AND THEN THERE'S AN ORDER ENTERED ON
17 MARCH 10TH; CORRECT?

18 A YES.

19 Q I WANT TO REFER YOU TO A DOCUMENT I'VE
20 ALREADY SHOWN TO YOU WHICH IS YOUR REQUEST -- OR YOURS
21 AND THE SULMEYER LAW FIRM'S REQUEST FOR APPLICATION FOR
22 COMPENSATION.

23 AND LET ME JUST ASK: WHEN YOU'RE DOING --
24 WHEN YOU'RE FILING FOR COMPENSATION FROM THE BANKRUPTCY
25 COURT, YOU'RE FILING A LEGAL DOCUMENT; CORRECT?

26 A YES.

27 Q AND USUALLY YOU'RE FILING IT UNDER PENALTY
28 OF PERJURY?

1 A I THINK FEE APPLICATIONS WERE UNDER
2 PENALTY OF PERJURY. THERE'S ALSO A FEDERAL COURT RULE
3 THAT WHEN THE ATTORNEYS SIGN THE DOCUMENT, THAT IT HAS TO
4 BE CORRECT TO THE BEST OF THEIR KNOWLEDGE.

5 Q AND WHEN YOU'RE TRYING TO JUSTIFY YOUR
6 COMPENSATION, ONE OF THE THINGS YOU'RE DOING IS
7 SUBMITTING BILLING SLIPS?

8 A YES.

9 Q AND WHAT EXACTLY IS A BILLING SLIP?

10 A WELL, THE LAW FIRM, YOU FILL OUT THE SLIP
11 SHOWING WHICH CLIENTS YOU'RE CHARGING FOR HOW MUCH TIME
12 FOR WHATEVER SERVICES ARE BEING PROVIDED.

13 Q AND THESE BILLINGS SLIPS ARE FILLED OUT BY
14 THE INDIVIDUAL ATTORNEYS; CORRECT?

15 A YES.

16 Q AND THAT'S DONE AT A POINT CLOSE IN TIME
17 TO WHENEVER THE ACTIVITY IT IS THAT THEY'RE BILLING FOR?

18 A IDEALLY IT'S AT THE TIME YOU DO IT SO YOU
19 DON'T FORGET.

20 Q AND THE BILLING THAT YOU SUBMITTED IN THIS
21 DOCUMENT, ARE THOSE ACCURATE?

22 A THEY WOULD HAVE BEEN ACCURATE, YES.

23 Q IF I COULD, I WOULD LIKE TO APPROACH WITH
24 THIS DOCUMENT AND ASK YOU TO TAKE -- I'M SORRY.

25 (PAUSE IN PROCEEDINGS.)

26 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND A
27 CERTIFIED VERSION OF THAT SAME DOCUMENT. MAY I MARK THAT
28 DEFENSE N AS IN NANCY.

1 THE COURT: YES. THANK YOU. N FOR
2 IDENTIFICATION.

3 AND THE NAME OF THAT DOCUMENT AGAIN?

4 MR. SUMMERS: IS "VERIFIED FIRST INTERIM
5 APPLICATION BY COUNSEL FOR CREDITOR FOR COMPENSATION AND
6 REIMBURSEMENT OF SERVICES."

7 THE COURT: THANK YOU.

8
9 (DEFENSE EXHIBIT NO. N WAS MARKED FOR
10 IDENTIFICATION.)

11
12 MR. JACKSON: YOUR HONOR, IF I MAY, DOES THAT
13 HAVE A DATE ON IT, MR. SUMMERS?

14 MR. SUMMERS: THE FACE? IT HAS NOVEMBER 9, 1989.

15 MR. JACKSON: THANK YOU.

16 Q BY MR. SUMMERS: AND ONE OF THE THINGS
17 YOU'RE DOING IN THESE DOCUMENTS IS YOU'RE GOING BACK FOR
18 YEARS SOMETIMES TO SHOW WHAT YOU'VE DONE AND WHAT YOU
19 DESERVE TO BE REIMBURSED FOR; CORRECT?

20 A IT CAN.

21 Q I'M GOING TO SHOW YOU A PAGE FROM THAT
22 DOCUMENT (INDICATING).

23 AND DO YOU RECOGNIZE WHAT IS DEPICTED
24 THERE?

25 A YES. THIS WOULD HAVE BEEN MY BILLING FOR
26 THE DATE BEFORE THE MURDERS, TALKING TO SEVERAL PEOPLE
27 INCLUDING MR. COULOMBE, AND RESEARCHING SOME ISSUES
28 BECAUSE THERE WAS A PROBLEM WITH THE PROPOSED SETTLEMENT.

1 Q ONE OF THE ACTIVITIES THAT YOU INDICATE IN
2 THERE IS PREPARATION OF STIPULATION TO CONTINUE TRIAL.

3 A YES.

4 Q AND ANOTHER UNDER THAT IS, IT WOULD APPEAR
5 TO BE PREPARATION OF STIP JUDGMENT.

6 A IT SAYS "JUDGMENT," YES.

7 Q THE WORD IN FRONT OF "JUDGMENT" IS WHAT?

8 A IT'S BEEN CROSSED OUT, BUT IT SAYS "STIP,"
9 YES.

10 Q COULD THAT HAVE BEEN YOUR CROSSING YOUR T,
11 WHAT APPEARS TO BE A CROSS OUT?

12 A WELL, LET'S SEE. IT'S -- I'M NOT KNOWN
13 FOR THE BEST HANDWRITING.

14 Q OKAY. AND THAT ALSO INDICATES THIS
15 DOCUMENT, TELEPHONE CALLS TO MR. RENTS. AND HE WAS THE
16 ATTORNEY FOR THE TRUSTEE AND THE PERSONAL BANKRUPTCY;
17 CORRECT?

18 A YES.

19 Q TELEPHONE CALL TO MS. EISEN. SHE WOULD
20 HAVE BEEN ONE OF THE ATTORNEYS FOR THE TRUSTEE IN THE
21 CORPORATE BANKRUPTCY?

22 A CORRECT.

23 Q AND AS YOU SAID, TELEPHONE CALL TO
24 MR. COULOMBE AND A TELEPHONE CALL TO MR. SAHN?

25 A YES.

26 Q WAS IT YOUR RECOLLECTION THAT YOU HAD
27 REACHED A SETTLEMENT AS OF MARCH 15TH?

28 A MY RECOLLECTION IS THAT WE HAD -- WE

1 THOUGHT WE HAD WORKED OUT SOME SERIOUS LEGAL ISSUES ABOUT
2 A STIPULATED JUDGMENT TO DENY DISCHARGEABILITY, BUT NONE
3 OF THE PAPERS HAD BEEN SIGNED BY ANYONE AT THAT POINT.

4 Q AND THE SETTLEMENT THAT YOU BELIEVED YOU
5 HAD WORKED OUT, YOU WERE -- AT THAT POINT YOU WERE ACTING
6 ON BEHALF OF YOUR CLIENT, MR. THOMPSON; CORRECT?

7 A YES.

8 Q AND IF YOU HAD FILLED OUT A STIPULATION TO
9 CONTINUE THE TRIAL, WOULD THAT HAVE BEEN AN INDICATION
10 THAT -- A PRETTY SERIOUS INDICATION THAT THERE WAS A
11 SETTLEMENT?

12 A IT WAS A PRETTY SERIOUS INDICATION. WE
13 THOUGHT THAT MAYBE THIS TIME, JUST MAYBE WE MIGHT HAVE A
14 SETTLEMENT.

15 Q AND THAT SETTLEMENT WAS THAT, AMONG OTHER
16 THINGS, UNDERSTOOD, WAS BASICALLY THAT MICKEY THOMPSON'S
17 DEBT WOULD NOT BE DISCHARGEABLE IN THE BANKRUPTCY;
18 CORRECT?

19 A CORRECT.

20 Q HOWEVER, THE BANKRUPTCY, MR. GOODWIN WOULD
21 NOT BE DISCHARGED AS TO THE OTHER DEBTORS -- OR THE OTHER
22 CREDITORS, I'M SORRY; IS THAT CORRECT?

23 A WOULD NOT BE -- HE WOULD BE DISCHARGED AS
24 TO THE OTHER CREDITORS. THAT WAS THE LEGAL PROBLEM WE
25 RAN INTO, IS WHETHER WE COULD DO THAT OR NOT.

26 Q AND THAT WAS THE HOLD UP THAT YOU THOUGHT
27 YOU HAD ON THE 15TH?

28 A ACTUALLY, I THINK WE LEARNED ABOUT IT

1 EITHER ON THE 14TH OR 15TH, YEAH. IT WAS GOING TO BE A
2 PROBLEM.

3 Q AND EVENTUALLY THAT SETTLEMENT WHICH SAID
4 MICKEY THOMPSON CAN -- HIS DEBT WILL NOT BE DISCHARGED,
5 HE CAN GO RECOVER CIVILLY ON HIS JUDGMENT; CORRECT?

6 A YES.

7 Q AND THEN THE REST OF THE -- THAT
8 SETTLEMENT EVENTUALLY WENT THROUGH, DID IT NOT?

9 A YES, IT DID.

10 Q AND THAT EVENTUALLY WENT THROUGH AS EARLY
11 AS THE END OF THAT MONTH, THE END OF MARCH; CORRECT?

12 A YES.

13 Q AND I THINK I HAVE IT HERE SOMEWHERE, SO
14 LET ME KNOW IF YOU NEED TO LOOK AT IT, BUT IT BASICALLY
15 SAID THAT GOODWIN WOULD HAVE THE OPPORTUNITY TO PRESENT A
16 PLAN TO THE BANKRUPTCY COURT. BUT IF ONE HADN'T BEEN
17 APPROVED BY AUGUST 1ST OF '88, THAT AT THAT POINT, MICKEY
18 THOMPSON, HIS JUDGMENT WOULD BE ENFORCEABLE?

19 A I THINK THAT WAS ONE OF THE TERMS. IT WAS
20 A VERY LONG SETTLEMENT AGREEMENT.

21 Q DO YOU RECALL ACTUALLY FILING, THEN,
22 STIPULATIONS TO CONTINUE THAT TRIAL DATE FROM MARCH 18 TO
23 LATER DATES IN APRIL?

24 A I'M NOT SURE IF WE CONTINUED THE TRIAL
25 BEFORE THE MURDERS. WE OBVIOUSLY CONTINUED THEM
26 AFTERWARDS.

27 Q WELL, YOU AT LEAST DRAFTED A DOCUMENT
28 APPARENTLY SAYING -- STIPULATING TO A CONTINUANCE OF A

1 TRIAL?

2 A YES.

3 Q AND AT A CERTAIN POINT THE TRIAL DATE WAS
4 CONTINUED TO EARLY APRIL?

5 A I THINK IT WAS AROUND THEN, YES.

6 Q AND YOU WERE ABLE TO WORK OUT THE PROBLEM
7 AND GET THE SETTLEMENT SIGNED WITHIN A COUPLE OF WEEKS OF
8 THE 15TH?

9 A YES.

10 Q NOW, I THINK -- I BELIEVE YOU TESTIFIED
11 THAT -- AND I DON'T MEAN TO CHARACTERIZE YOUR TESTIMONY,
12 SO LET ME JUST ASK YOU, IS IT USUAL THAT PEOPLE WHO LOSE
13 A JUDGMENT, END UP SETTTLING TO MAKE SOME SORT OF PAYMENTS
14 ON THAT JUDGMENT?

15 A USUALLY YOU DO TRY TO SETTLE IT WHILE IT'S
16 UP ON APPEAL. USUALLY YOU SETTLE IT FAIRLY QUICKLY, IF
17 IT'S GOING TO SETTLE AT ALL.

18 Q BUT YOUR SPECIALTY AT THE TIME WAS
19 POST-JUDGMENT REMEDIES, WHICH MEANS WHAT YOU DO WHEN YOU
20 CAN'T SETTLE IT; CORRECT?

21 A ONE OF MY SPECIALTIES, YES.

22 Q AND IN YOUR EXPERIENCE, IT IS ALSO COMMON
23 THAT PEOPLE WHO LOSE CASES AND THEN END UP WITH JUDGMENTS
24 AGAINST THEM, THAT THEY DECLARE BANKRUPTCY?

25 A NO, I DON'T BELIEVE I SAID THAT. IT'S
26 SURPRISINGLY RARE, IN MY EXPERIENCE.

27 Q HAVE YOU WRITTEN DOCUMENTS, WRITTEN
28 MEMORANDUM AND LETTERS OVER THE YEARS TO SHERIFF'S

1 DETECTIVES WITH REGARD TO MR. GOODWIN?

2 A I BELIEVE I DID WRITE A LETTER AFTER THE
3 MURDERS AT THE REQUEST OF ONE OF THE SHERIFF DETECTIVES
4 GIVING A SUMMARY OF WHAT HAD HAPPENED.

5 Q DO YOU RECALL ALSO WRITING LETTERS TO
6 REPRESENTATIVES OF THE ORANGE COUNTY DISTRICT ATTORNEY'S
7 OFFICE?

8 A I MAY HAVE. I KNOW I PREPARED A VERY
9 LENGTHY MEMO WITH DOCUMENTS THAT WAS USED WITH VARIOUS
10 AGENCIES.

11 Q OKAY. AND IT'S POSSIBLE THAT ONE OF THOSE
12 AGENCIES WAS THE ORANGE COUNTY DISTRICT ATTORNEY'S
13 OFFICE?

14 A YES, VERY POSSIBLE.

15 Q WAS THERE A SECOND AUCTION HELD IN THE
16 BANKRUPTCY COURT IN DECEMBER OF 1987 WITH REGARD TO THAT
17 INSURE AGREEMENT?

18 A I BELIEVE THERE WAS AND I THINK THAT'S
19 WHEN MICKEY THOMPSON ACQUIRED IT.

20 Q SO HE ACQUIRED IT BY BIDDING A CERTAIN
21 AMOUNT OF MONEY?

22 A YES. AND I THINK HE HAD TO PAY CASH.

23 Q AND SO THAT MONEY WOULD HAVE GONE INTO THE
24 CORPORATE BANKRUPTCY ESTATE; CORRECT?

25 A YES, IT WOULD HAVE GONE TO THE CORPORATE
26 BANKRUPTCY ESTATE. I'M NOT SURE WHEN THE MONEY WAS DUE,
27 THOUGH.

28 Q MA'AM, THIS IS ALSO A DOCUMENT THAT YOU

1 WERE SHOWN OVER THE NOON HOUR (INDICATING). IT'S A COURT
2 DOCKET FOR BANKRUPTCY CASE NUMBER 86-05280.

3 THE COURT: WE WILL MARK THAT HAS DEFENSE O FOR
4 IDENTIFICATION.

5
6 (DEFENSE EXHIBIT NO. O WAS MARKED FOR
7 IDENTIFICATION.)

8
9 Q BY MR. SUMMERS: THAT BIDDING WOULD HAVE
10 BEEN IN THE CORPORATE BANKRUPTCY, SO IF IT WAS DECEMBER
11 OF '87, THEN JEFFREY COYNE WOULD HAVE BEEN THE TRUSTEE AT
12 THAT POINT?

13 A YES. YES.

14 MR. SUMMERS: MAY I APPROACH, YOUR HONOR?

15 THE COURT: YES.

16 Q BY MR. SUMMERS. MA'AM, SHOWING YOU PAGE 5
17 OF THAT DOCUMENT, IT SHOWS -- DO YOU SEE AN ENTRY IN
18 THERE FOR DECEMBER 12?

19 A THAT'S 1986. THAT WOULD HAVE BEEN THE
20 SALE TO DIANE GOODWIN THAT WAS CONFIRMED FOR \$125,000
21 CASH AND A 500,000-DOLLAR NOTE WHICH WAS NEVER PAID ON.

22 Q WOULD YOU LOOK AT DECEMBER '87 AND SHOW ME
23 WHERE THAT SECOND AUCTION IS DEPICTED THERE.

24 A IT'S A LITTLE BIT OUT OF ORDER. I DON'T
25 SEE ANYTHING ON THIS FOR '87, DECEMBER OF '87. OH, WAIT.

26 NO, I DON'T SEE IT IN DECEMBER. I DON'T
27 SEE ANY ENTRY FOR DECEMBER OF 1987. SO IT'S POSSIBLE --
28 WELL --

1 Q IS IT POSSIBLE --

2 A I DON'T KNOW.

3 Q -- THERE WAS NO SECOND AUCTION?

4 A I'M TRYING TO THINK HOW IT WAS THAT MICKEY
5 GOT TO RUN THE ANAHEIM RACE INSTEAD OF ONE OF MIKE
6 GOODWIN'S COMPANIES. AND EITHER MICKEY GOT THE --

7 Q WITHOUT --

8 A I DON'T KNOW, THEN.

9 Q BUT YOU RECALL TESTIFYING IN FRONT OF A
10 GRAND JURY IN ORANGE COUNTY THAT THERE WAS A SECOND
11 AUCTION AND THAT MICKEY THOMPSON BID \$500,000 FOR THAT
12 INSPORT AGREEMENT?

13 A I KNOW HE PAID \$500,000 AT SOME POINT AND
14 I CAN RECALL GOING INTO COURT, SO I'M PUZZLED BY THAT.

15 Q MY QUESTION IS: DO YOU RECALL TESTIFYING
16 AT THAT HEARING THAT THAT, IN FACT, IS WHAT HAPPENED,
17 THAT THERE WAS AN AUCTION IN DECEMBER OF '87, THAT YOU
18 WENT TO COURT AND MICKEY THOMPSON BID AND WON THE INSPORT
19 AGREEMENT?

20 A I MAY HAVE. I HAVEN'T LOOKED AT THAT
21 TRANSCRIPT FOR A WHILE.

22 Q WOULD IT REFRESH YOUR RECOLLECTION TO LOOK
23 AT A TRANSCRIPT --

24 A YES. YES.

25 Q -- OF THAT TESTIMONY?

26 THE COURT: ALL RIGHT. LET'S DO THIS. LET'S
27 TAKE OUR AFTERNOON RECESS, LADIES AND GENTLEMEN, AT THIS
28 TIME. PLEASE REMEMBER THE ADMONITIONS. DON'T DISCUSS

1 THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T
2 CONDUCT ANY DELIBERATIONS. PLEASE DON'T HAVE ANY CONTACT
3 WITH ANYONE CONNECTED WITH THE CASE. WE WILL RESUME IN
4 15 MINUTES. THANK YOU.

5 (THE JURY EXITED THE COURTROOM.)

6 (RECESS TAKEN.)

7 THE COURT: BACK ON THE RECORD.

8 ALL OF OUR JURORS AND ALTERNATES ARE ONCE
9 AGAIN PRESENT.

10 HANG ON A SECOND.

11 WE'RE BACK ON THE RECORD AND MS. CORDELL
12 IS STILL ON THE WITNESS STAND.

13 AND YOU MAY, MR. SUMMERS, CONTINUE.

14 MR. SUMMERS: THANK YOU.

15 Q MS. CORDELL, I WAS ASKING YOU BEFORE THE
16 BREAK IF IT WOULD REFRESH YOUR RECOLLECTION TO LOOK AT A
17 TRANSCRIPT FROM YOUR TESTIMONY AT THE HEARING IN ORANGE
18 COUNTY.

19 AND DOES THAT DOCUMENT REFRESH YOUR
20 RECOLLECTION?

21 A YES, IT DOES. AND THERE WAS A HEARING IN
22 EARLY DECEMBER OF 1987 IN WHICH MICKEY THOMPSON GOT THE
23 INSPORT AGREEMENT.

24 Q OKAY. YOUR TESTIMONY WAS AT THAT TIME,
25 "WE ALL SHOWED UP IN COURT ON THE -- I THINK IT WAS EARLY
26 DECEMBER OF 1987 AND THE JUDGE JUST ESSENTIALLY HELD LIKE
27 AN AUCTION AND, YOU KNOW, THE GOODWINS BID A CERTAIN
28 AMOUNT AND I THINK PACE MANAGEMENT, ANOTHER RACE

1 COMPANY --"

2 QUESTION, "RIGHT."

3 ANSWER, "-- CAME IN AND THEY BID ON IT AND
4 MICKEY BID THE MOST MONEY. I THINK IT WAS HALF A MILLION
5 DOLLARS FOR THAT SOME INSPORT AGREEMENT."

6 THAT WAS YOUR TESTIMONY THEN?

7 A YES. I HAVE A CORRECTION TO MAKE
8 REGARDING THE DOCKET THAT YOU SHOWED ME EARLIER.

9 Q OKAY. IS THAT WITH REGARD TO WHETHER OR
10 NOT THERE WAS AN AUCTION IN DECEMBER OF '87?

11 A YES. IT'S REGARDING WHAT THE DOCKET
12 REFLECTS NOW THAT I'VE HAD A CHANCE TO LOOK AT IT MORE
13 CLOSELY. AND IT DOES REFLECT THERE WAS A HEARING ON
14 DECEMBER 1, 1987. THE ONE FROM --

15 Q MA'AM, I'M SORRY, THERE'S NO QUESTION
16 PENDING.

17 A OKAY.

18 Q DID YOU ALSO TESTIFY AT THAT HEARING IN
19 ORANGE COUNTY IN 2001 THAT IN RESPONSE TO A QUESTION,
20 THAT PEOPLE DECLARE BANKRUPTCY ALL THE TIME TO PROTECT
21 THEIR INTEREST?

22 A YES. PEOPLE DO IT TO DECLARE THEIR
23 INTEREST -- TO PROTECT THEIR INTERESTS. NOT NECESSARILY
24 BECAUSE OF JUDGMENTS, BUT FOR A LOT OF REASONS.

25 MR. SUMMERS: THANK YOU. I HAVE NO FURTHER
26 QUESTIONS.

27 THE COURT: REDIRECT?

28 MR. JACKSON: THANK YOU, YOUR HONOR.

REDIRECT EXAMINATION

BY MR. JACKSON:

Q MS. CORDELL, LET'S TAKE A LOOK AT THAT
DOCKET.

DO YOU HAVE IT IN FRONT OF YOU?

A NO. DEFENSE ATTORNEY TOOK IT.

Q I'VE GOT IT. THANK YOU.

YOUR HONOR, I'M HOLDING WHAT HAS BEEN
PREVIOUSLY IDENTIFIED AS DEFENSE --

MR. SUMMERS: O.

THE COURT: THE DOCKET?

MR. JACKSON: YES, MA'AM.

THE COURT: O.

MR. JACKSON: THANK YOU. -- DEFENSE O. THANK
YOU.

MAY I APPROACH?

THE COURT: YES.

Q BY MR. JACKSON: DID YOU HAVE AT THE
BREAK, MS. CORDELL, HAVE A CHANCE TO TAKE A CLOSER LOOK
AT THAT DOCUMENT?

A YES, I DID.

Q MR. SUMMERS ASKED YOU SPECIFICALLY ABOUT
SOME DATES ON OR ABOUT DECEMBER OF 1987. AND I BELIEVE
HIS QUESTION WAS SOMETHING ALONG THE ORDER OF: DO YOU
SEE AN ENTRY OR AN ENTRY DATE OF DECEMBER OF 1987.

CORRECT?

A CORRECT.

1 Q AND DID YOU SEE ONE?

2 A NOT AT THAT TIME, BECAUSE THE ONE ON THE
3 LEFT-HAND SIDE --

4 Q MS. CORDELL, LET ME TAKE THIS ONE QUESTION
5 AT A TIME.

6 DID YOU SEE AN ENTRY DATE ON THE LEFT-HAND
7 SIDE OF THE DOCKET SHOWING DECEMBER OF 1987?

8 A IT DOESN'T LOOK LIKE IT, NO.

9 Q OKAY. NOW, SO THAT WE ALL KNOW WHAT I'M
10 TALKING ABOUT, DO YOU SEE A SERIES OF DATES RUNNING ALONG
11 THE LEFT-HAND COLUMN -- FOR THE COURT AND COUNSEL --
12 LEFT-HAND COLUMN OF THIS DOCKET?

13 A YES.

14 Q AND DID YOU LOOK AT THE DATE MARKED
15 JANUARY 30, 1987?

16 A YES, I DID.

17 Q AND WHILE I'M STANDING UP HERE, IN THE
18 BODY OF THAT ENTRY, DID YOU READ THAT?

19 A I LOOKED OVER IT AT THE BREAK, YES.

20 Q AND WHAT DOES HAVING READ THE BODY OF THAT
21 ENTRY TELL YOU?

22 A THAT THERE WAS --

23 MR. SUMMERS: OBJECTION. CALLS FOR HEARSAY, YOUR
24 HONOR.

25 THE COURT: OVERRULED.

26 YOU CAN ANSWER.

27 THE WITNESS: THAT THERE WAS A HEARING ON
28 DECEMBER 1, 1987 AT 11:30 A.M. AND IT WAS ESSENTIALLY --

1 ACCORDING TO THE DOCKET, IT WAS A MOTION --

2 THE COURT: ALL RIGHT. YOU'VE ANSWERED THE
3 QUESTION. WE'LL TAKE IT FROM THERE.

4 Q BY MR. JACKSON: MS. CORDELL, BASED ON
5 YOUR REVIEW OF DOCKET NOW THAT YOU'VE HAD A CHANCE TO
6 LOOK AT IT MORE CLOSELY, WHAT IS YOUR RECOLLECTION ABOUT
7 WHAT HAPPENED ON DECEMBER 1ST OF 1987?

8 A DIANE GOODWIN AND OSTENSIBLY CHUCK CLAYTON
9 HAD NOT PAID ANYTHING FOR THE INSPORT AGREEMENT AFTER
10 THEIR INITIAL DOWN PAYMENT IN DECEMBER OF 1986.

11 MR. SUMMERS: OBJECTION, YOUR HONOR. SORRY TO
12 INTERRUPT.

13 THE COURT: WHAT IS THE OBJECTION?

14 MR. SUMMERS: NON-RESPONSIVE.

15 THE COURT: OVERRULED.

16 BUT ASK ANOTHER QUESTION, PLEASE.

17 Q BY MR. JACKSON: TELL ME WHAT FURTHER
18 HAPPENED AT THAT PARTICULAR HEARING?

19 A OKAY. THE TRUSTEE CAME INTO COURT --

20 Q WHO WAS THE TRUSTEE, MA'AM?

21 A THE TRUSTEE WOULD HAVE BEEN JEFF COYNE AT
22 THAT POINT.

23 Q AND WHAT HAPPENED?

24 A AND THE TRUSTEE ASKED THAT THE COURT
25 ESSENTIALLY UNWIND THE SALE OF THE INSPORT AGREEMENT.

26 Q IS THERE A REASON THAT WAS GIVEN FOR WHY
27 THE INSPORT AGREEMENT WAS ASKED TO BE UNWOUND?

28 A YES. BECAUSE DIANE GOODWIN --

1 MR. SUMMERS: OBJECTION, YOUR HONOR. BEYOND THE
2 SCOPE.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER.

5 THE WITNESS: BECAUSE DIANE GOODWIN WAS REFUSING
6 TO PAY THE \$500,000 THAT SHE HAD PROMISED TO PAY WHEN SHE
7 HAD BOUGHT THE INSPORT AGREEMENT THE PREVIOUS YEAR.

8 Q BY MR. JACKSON: SO WHAT HAPPENED AFTER
9 THE TRUSTEE CAME IN ON DECEMBER 1ST, 1987 AT THAT
10 HEARING? WHAT WAS THE ULTIMATE OUTCOME?

11 A THE COURT ESSENTIALLY PUT THE INSPORT
12 AGREEMENT UP TO BID AGAIN.

13 Q WHO BID ON IT?

14 A YOU KNOW, I SAID AT THE -- I BELIEVE -- I
15 KNOW IT WAS PACE MANAGEMENT AND MICKEY THOMPSON AND I
16 BELIEVE THE GOODWINS ALSO BID ON THAT AS WELL.

17 Q WHO WON IT?

18 A MICKEY THOMPSON.

19 Q HOW MUCH DID HE PAY FOR IT, IF YOU RECALL?

20 A MY RECOLLECTION IS HE PAID \$500,000.

21 Q AND THAT WAS IN DECEMBER OF 1987; CORRECT?

22 A YES.

23 Q MA'AM, YOU MENTIONED THE INSPORT AGREEMENT
24 AND DIANE SEIDEL. WHAT HAPPENED TO THE INSPORT AGREEMENT
25 WHEN DIANE SEIDEL AND CHUCK CLAYTON BID ON IT AND WERE
26 GIVEN THE SALE OF THAT INSPORT AGREEMENT?

27 A THEY PAID --

28 MR. SUMMERS: OBJECTION. VAGUE AS TO TIME, YOUR

1 HONOR.

2 THE COURT: ALL RIGHT. SUSTAINED.

3 Q BY MR. JACKSON: WHEN WAS IT THAT THEY BID
4 ON IT AND WERE GIVEN THE INSPORT AGREEMENT?

5 A IN DECEMBER OF 1986.

6 Q SO IN DECEMBER OF 1986 -- LET ME WITHDRAW
7 IT AND ASK IT THIS WAY, FOLLOWING DECEMBER OF 1986, HOW
8 DID THE INSPORT AGREEMENT END UP BACK AS THE SUBJECT OF A
9 HEARING IN FRONT OF THE BANKRUPTCY COURT?

10 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED,
11 YOUR HONOR.

12 THE COURT: IT HAS BEEN SUSTAINED.

13 Q BY MR. JACKSON: DID DIANE SEIDEL -- WHAT
14 WAS THE PAYMENT STRUCTURE FOR DIANE SEIDEL AND CHUCK
15 CLAYTON TO PURCHASE THE INSPORT AGREEMENT IN 1986?

16 A OKAY. IT WAS \$125,000 PAID AS A DOWN
17 PAYMENT AND THEN IN JULY FOR THE NEXT THREE YEARS THEY
18 WERE SUPPOSED TO PAY THE REMAINDER OF THE \$500,000
19 OWED -- OR PAID \$500,000 STILL OWED AT THE RATE OF ABOUT
20 168- -- \$167,000 IN JUNE FOR THE NEXT THREE YEARS.

21 Q I'M SORRY TO INTERRUPT.

22 WHAT HAPPENED?

23 A THE 1ST OF JUNE OF 1987 CAME AROUND, DIANE
24 GOODWIN CLAIMED THAT SHE HAD -- THERE WAS SOMETHING ABOUT
25 AN -- SHE HAD ASSIGNED --

26 MR. SUMMERS: OBJECTION. HEARSAY, YOUR HONOR.
27 MOTION TO STRIKE.

28 MR. JACKSON: I'LL ASK ANOTHER QUESTION.

1 THE COURT: ALL RIGHT. THANK YOU.

2 Q BY MR. JACKSON: THE ONLY THING I WANT TO
3 KNOW IS, MS. CORDELL, DID SHE PAY FOR IT?

4 A NO, SHE DIDN'T.

5 Q DID SHE DEFAULT ON IT?

6 A YES.

7 Q IS THAT HOW IT ENDED UP BACK IN BANKRUPTCY
8 COURT?

9 A THAT'S MY UNDERSTANDING, YES.

10 Q YOU INDICATED ON -- I'M SORRY -- ON
11 CROSS-EXAMINATION THAT DIANE SEIDEL BOUGHT THE INSPORT
12 AGREEMENT -- LET ME REPHRASE THAT -- PURPORTED TO BUY OR
13 REQUESTED TO BUY THE INSPORT AGREEMENT UNDER A PARTICULAR
14 COMPANY NAME?

15 A YES.

16 Q WHAT WAS THAT NAME?

17 A SUPERCROSS, INC.

18 Q OR WHAT IS THE RELATIONSHIP BETWEEN
19 SUPERCROSS, INC. AND E.S.I. AND STADIUM MOTOR SPORTS
20 CORPORATION?

21 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER.

24 THE WITNESS: THE -- OF COURSE STADIUM MOTOR
25 SPORTS CORP. CHANGED ITS NAME TO ENTERTAINMENT
26 SPECIALTIES, INC., FILED BANKRUPTCY --

27 Q BY MR. JACKSON: WHO WAS THE PRINCIPAL
28 BEHIND STADIUM SPORTS, CORP.?

1 A MICHAEL GOODWIN.

2 Q WHO WAS THE PRINCIPAL BEHIND E.S.I.?

3 A MICHAEL GOODWIN.

4 MR. SUMMERS: OBJECTION --

5 Q WHO WAS THE PRINCIPAL BEHIND -- I'M
6 SORRY, IF I CAN FINISH -- SUPERCROSS, INC.?

7 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE AND
8 ARGUMENTATIVE.

9 THE COURT: OVERRULED.

10 YOU CAN ANSWER.

11 THE WITNESS: IT WAS DIANE GOODWIN; HOWEVER, MIKE
12 GOODWIN RAN IT.

13 Q BY MR. JACKSON: J.G.A. WHITEHAWK, IN
14 1980 -- WHEN DID DIANE GOODWIN REQUEST TO PUT J.G.A.
15 WHITEHAWK UP HAS A SURETY FOR THE COMPANY E.S.I.?

16 A WELL, SHE NEVER PUT THAT UP AS A SURETY.
17 WHAT SHE SAID WAS I OWN THIS -- THIS WAS IN AUGUST OF
18 1986 BEFORE THE BANKRUPTCIES WERE FILED AT THIS PERSONAL
19 SURETY HEARING.

20 WHAT SHE CAME IN SAYING IS HERE IS AN
21 ASSET THAT I HAVE, J.G.A. WHITEHAWK, AND IT'S GOING TO
22 BELIEVE WORTH "X" DOLLARS SOME DAY. AND THEY WERE
23 ASSIGNING A CURRENT VALUE TO IT.

24 Q ALL RIGHT. AND THAT CURRENT VALUE, WAS
25 THAT CONSIDERED A STABLE VALUATION OR A FIXED VALUATION
26 OR SOMETHING SPECULATIVE?

27 A IT WAS SPECULATIVE.

28 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

1 THE COURT: ALL RIGHT. I'LL OVERRULE THE
2 OBJECTION. THE ANSWER CAN REMAIN.

3 MR. JACKSON: I'M SORRY, YOUR HONOR. I DIDN'T
4 HEAR THE ANSWER.

5 THE WITNESS: IT WAS VERY SPECULATIVE BECAUSE THE
6 PROJECT HADN'T BEEN BUILT YET.

7 Q BY MR. JACKSON: MR. SUMMERS ASKED YOU
8 ABOUT THE COLOSSEUM BOX OFFICE PROCEEDS.

9 DO YOU RECALL THAT?

10 A YES.

11 Q WHERE DID THOSE PROCEEDS ULTIMATELY GO?

12 A THEY PROBABLY WENT TO THE BANKRUPTCY
13 ESTATE BECAUSE WE LEVIED ON THEM WITHIN 90 DAYS OF
14 E.S.I.'S FILING BANKRUPTCY.

15 Q DID MIKE GOODWIN PERSONALLY RECOVER THOSE
16 BOX OFFICE RECEIPTS, TO YOUR KNOWLEDGE?

17 A I DON'T KNOW.

18 Q IF THEY WENT INTO THE ESTATE, THE
19 BANKRUPTCY ESTATE, WOULD MIKE GOODWIN HAVE HAD ACCESS TO
20 OR CONTROL OVER THOSE PROCEEDS?

21 MR. SUMMERS: OBJECTION. LEADING.

22 THE COURT: SUSTAINED.

23 Q BY MR. JACKSON: DESCRIBE IF, IN FACT, THE
24 PROCEEDS WENT TO THE E.S.I. BANKRUPTCY ESTATE, WHO WOULD
25 HAVE MAINTAINED CONTROL OVER THOSE PROCEEDS.

26 A ALL RIGHT. AS I MENTIONED BEFORE, A
27 CHAPTER 11 DEBTOR HAS CONTROL OF THE ASSETS OF THE
28 COMPANY THAT'S IN BANKRUPTCY. SO IF THOSE PROCEEDS OF

1 THE COLOSSEUM BOX OFFICE WENT BACK TO E.S.I., WHICH I
2 BELIEVE THEY DID, THEN MIKE GOODWIN WOULD HAVE HAD
3 CONTROL OVER THOSE PROCEEDS FROM THAT POINT ON.

4 MR. SUMMERS: OBJECTION. MOTION TO STRIKE AS
5 NON-RESPONSIVE AND SPECULATIVE.

6 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

7 Q BY MR. JACKSON: AT SOME POINT,
8 MR. CORDELL, DID MIKE GOODWIN LOSE CONTROL OVER THE
9 PROCEEDS OF HIS BANKRUPTCY ASSETS?

10 A THEORETICALLY, YES.

11 Q DESCRIBE THAT FOR US.

12 A WELL, THAT WOULD HAVE BEEN WHEN THE
13 TRUSTEE WAS APPOINTED.

14 Q AND WHAT IMPACT DOES A TRUSTEE BEING
15 APPOINTED HAVE ON A DEBTOR IN POSSESSION?

16 A IT MEANS THAT THE DEBTOR IN POSSESSION,
17 THEN, HAS TO RUN EVERYTHING HE DOES THROUGH THE TRUSTEE.
18 THE TRUSTEE TAKES CHARGE OF THE BANK ACCOUNTS AND
19 ESSENTIALLY -- NOT EXACTLY MANAGES THE BUSINESS BUT
20 OVERSEAS THE BUSINESS TO MAKE SURE THAT THE CREDITORS ARE
21 NOT DEFRAUDED.

22 Q WHY WAS THERE A TRUSTEE INSTALLED IN THIS
23 PARTICULAR CHAPTER 11?

24 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED,
25 YOUR HONOR.

26 THE COURT: I THINK IT WAS SUSTAINED.

27 Q BY MR. JACKSON: REGARDING THE
28 SETTLEMENT -- OR PROPOSED SETTLEMENT, MR. SUMMERS ASKED

1 YOU ABOUT A STIPULATION TO CONTINUE THE TRIAL REGARDING
2 THE DISCHARGE OF JUDGMENT.

3 DO YOU RECALL THAT?

4 A YES.

5 Q DESCRIBE MICKEY THOMPSON'S -- WELL, LET ME
6 ASK YOU A COUPLE OF FOUNDATIONAL QUESTIONS.

7 YOU WERE MICKEY THOMPSON'S LEGAL
8 REPRESENTATIVE; CORRECT?

9 A YES.

10 Q DID YOU AS HIS LEGAL REPRESENTATIVE
11 REFLECT IN COURT DOCUMENTS IN COURT PROCEEDINGS, HIS
12 WISHES CONCERNING SETTLEMENT OR NEGOTIATIONS?

13 A YES, I'M SURE WE WOULD HAVE.

14 Q WHAT WAS MICKEY THOMPSON'S ATTITUDE
15 TOWARDS SETTLEMENT?

16 A HE VERY MUCH WANTED TO SETTLE.

17 Q WERE YOU AS HIS LEGAL REPRESENTATIVE OPEN
18 TO NEGOTIATIONS FROM MIKE GOODWIN'S REPRESENTATIVES ON
19 HIS SIDE?

20 A YES. ALWAYS.

21 Q DID YOU KNOW A PERSON NAMED RON COULOMBE?

22 A YES.

23 Q WHO WAS RON COULOMBE?

24 A HE WAS THE LAST OF A STRING OF
25 MR. GOODWIN'S LAWYERS THAT I DEALT WITH.

26 Q WAS RON COULOMBE, AS YOU UNDERSTOOD HIS
27 RELATIONSHIP TO MIKE GOODWIN, AN AGENT OF MIKE GOODWIN?

28 A YES.

1 Q WAS HE ACTING WITHIN THE SCOPE OF HIS
2 RESPONSIBILITIES TO REPRESENT HIM IN COURT?

3 A YES. HIS NAMES WERE ON THE PLEADINGS.

4 Q AND HE WAS ACTING WITHIN THAT SCOPE OF
5 RESPONSIBILITY WHEN DEALING WITH YOU; CORRECT?

6 A YES.

7 MR. SUMMERS: OBJECTION, YOUR HONOR. NO
8 FOUNDATION.

9 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION.

10 Q BY MR. JACKSON: DID, IN FACT,
11 MR. COULOMBE AT LEAST REPRESENT TO YOU THAT HE
12 REPRESENTED MICHAEL GOODWIN'S INTERESTS?

13 A YES, HE DID.

14 MR. SUMMERS: OBJECTION, HEARSAY, YOUR HONOR.
15 MOTION TO STRIKE.

16 MR. JACKSON: YOUR HONOR, I WOULD ASK THE COURT
17 TO REFER TO 1222 OF THE EVIDENCE CODE.

18 THE COURT: ALL RIGHT. OVERRULED.

19 MR. JACKSON: THANK YOU.

20 Q DESCRIBE, IF YOU WILL, MS. CORDELL, THE
21 SETTLEMENT NEGOTIATIONS THAT WAS BROUGHT TO THE TABLE BY
22 RON COULOMBE ON BEHALF OF MIKE GOODWIN AND HIS CAMP?

23 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE,
24 CALLS FOR A NARRATIVE AND ASKED AND ANSWERED.

25 THE COURT: OVERRULED.

26 YOU CAN ANSWER.

27 THE WITNESS: OKAY. THERE WERE LETTERS
28 EXCHANGED. AND MR. COULOMBE AND I HAD MANY, MANY

1 DISCUSSIONS ABOUT THE TERMS. AT ONE POINT MR. GOODWIN
2 DEMANDED THAT HE BE ABLE TO WITHDRAW OR LIEN, GET MONEY
3 OUT OF ONE OF HIS ASSETS.

4 Q BY MR. JACKSON: WAS THAT ACCEPTABLE?

5 MR. SUMMERS: OBJECTION, YOUR HONOR. MOTION TO
6 STRIKE. NON-RESPONSIVE AND NO FOUNDATION FOR THE LAST
7 COMMENT.

8 THE COURT: ALL RIGHT. WHAT MR. GOODWIN ASKED
9 WILL BE STRICKEN.

10 Q BY MR. JACKSON: WERE YOU, IN FACT,
11 INFORMED BY MR. COULOMBE, THAT MR. GOODWIN WAS SEEKING
12 CERTAIN ASSETS BE PULLED OUT?

13 A HE WAS SEEKING TO PULL MONEY OUT OF THE
14 CERTAIN ASSETS.

15 MR. SUMMERS: OBJECTION. CALLS FOR --

16 THE COURT: I'M SORRY. WHAT IS THE OBJECTION?

17 MR. SUMMERS: CALLS FOR HEARSAY. MOTION TO
18 STRIKE.

19 THE COURT: GIVE ME A SECOND HERE.

20 OVERRULED. THE ANSWER CAN REMAIN.

21 MR. JACKSON: THANK YOU.

22 Q IN FACT, WHAT WAS IT THAT MR. GOODWIN
23 THROUGH MR. COULOMBE WAS SEEKING TO PULL OUT?

24 MR. SUMMERS: OBJECTION. ASSUMES FACTS NOT IN
25 EVIDENCE, YOUR HONOR. NO FOUNDATION.

26 MR. JACKSON: I'LL REPHRASE THE QUESTION, YOUR
27 HONOR.

28 THE COURT: THANK YOU.

1 Q BY MR. JACKSON: WHAT WAS IT THAT
2 MR. COULOMBE REPRESENTED TO YOU THAT MR. GOODWIN WISHED
3 TO PULL OUT OF THE ASSETS?

4 MR. SUMMERS: OBJECTION. HEARSAY.

5 THE COURT: OVERRULED.

6 THE WITNESS: \$300,000 IN CASH FROM THE VALUE OF
7 AN INTEREST IN A PROPERTY CALLED DESERT INVESTORS.

8 Q BY MR. JACKSON: AND WAS THAT ACCEPTABLE
9 TO YOU?

10 A NO.

11 Q WHY?

12 A BECAUSE WE HAD TALKED ABOUT NO FURTHER --
13 MR. GOODWIN TAKING NO FURTHER MONEY OUT OF HIS ASSETS SO
14 THAT THERE WOULD BE ENOUGH MONEY TO PAY MICKEY THOMPSON'S
15 JUDGMENT. AND THIS CAME UP, AS IT ALWAYS DID, AT THE
16 LAST MINUTE --

17 MR. SUMMERS: OBJECTION, YOUR HONOR.
18 NON-RESPONSIVE. NO QUESTION PENDING.

19 THE COURT: "LIKE IT ALWAYS DID" WILL BE
20 STRICKEN.

21 Q BY MR. JACKSON: MS. CORDELL, WERE THERE
22 ONGOING SETTLEMENT NEGOTIATIONS BETWEEN MIKE GOODWIN'S
23 CAMP AND MICKEY THOMPSON'S CAMP THROUGHOUT YOUR TENURE AS
24 MICKEY THOMPSON'S REPRESENTATIVE?

25 MR. SUMMERS: OBJECTION. VAGUE AND
26 ARGUMENTATIVE.

27 THE COURT: OVERRULED.

28 THE WITNESS: THE ENTIRE TIME.

1 Q BY MR. JACKSON: AND DID YOU FIND -- AS
2 MICKEY THOMPSON'S LEGAL REPRESENTATIVE, HOW DID YOU
3 FIND -- HOW WOULD YOU CHARACTERIZE THE PROPOSED
4 NEGOTIATIONS FROM MIKE GOODWIN'S CAMP?

5 MR. SUMMERS: OBJECTION, YOUR HONOR.
6 ARGUMENTATIVE.

7 THE COURT: OVERRULED.

8 THE WITNESS: EXTREMELY FRUSTRATING. WE WOULD
9 THINK WE HAD A DEAL AND THEN MR. GOODWIN WOULD CHANGE
10 SOMETHING AT THE LAST MINUTE AND IT WOULD FALL APART.
11 AND WE PROBABLY WENT THROUGH A DOZEN ROUNDS OR MORE OF
12 SETTLEMENT LIKE THAT.

13 Q BY MR. JACKSON: WAS IT YOUR BELIEF AS
14 MICKEY THOMPSON REPRESENTATIVE THAT THESE NEGOTIATIONS
15 WERE BEING SOUGHT IN GOOD FAITH?

16 MR. SUMMERS: OBJECTION, YOUR HONOR. RELEVANCE,
17 FOUNDATION.

18 THE COURT: OVERRULED.

19 Q BY MR. JACKSON: GO AHEAD, MA'AM.

20 A WE FINALLY HAD TO COME TO THE CONCLUSION
21 BASED ON THIS COURSE OF CONDUCT THAT THEY WERE SIMPLY NOT
22 IN GOOD FAITH BY MR. GOODWIN.

23 Q CONCERNING MARCH OF 1988, MR. SUMMERS MADE
24 REFERENCE TO THE LAST, IF YOU WILL, PROPOSED
25 NEGOTIATION -- OR SETTLEMENT PROPOSAL BY MIKE GOODWIN'S
26 CAMP.

27 DESCRIBE, IF YOU WILL, FOR THE JURORS WHAT
28 HAPPENED TO THAT PARTICULAR PROPOSAL.

1 A I BELIEVE WE EVEN TALKED THROUGH THE
2 WEEKEND, THIS WAS THE WEEKEND BEFORE MICKEY AND TRUDY
3 WERE MURDERED.

4 Q "WE" MEANING WHO?

5 A MR. COULOMBE AND I. SORRY.

6 Q OKAY.

7 A AND IT WAS EITHER ON MONDAY OR TUESDAY WE
8 THOUGHT WE HAD ARRIVED AT AN AGREEMENT. MR. GOODWIN HAD
9 WITHDRAWN HIS DEMAND TO WITHDRAW THE 300,000 FROM THE
10 ASSETS WHICH REALLY SURPRISED US AT THE TIME. AND THEN
11 WE CALLED THE COURT -- OR I CALLED THE COURT AND TALKED
12 TO THE LAW CLERK.

13 Q AND WHAT SPECIFICALLY WERE YOU SEEKING
14 GUIDANCE ON?

15 A WE WANTED TO JUST MAKE MICKEY THOMPSON'S
16 JUDGMENT NON-DISCHARGEABLE, NOT TO DENY A COMPLETE
17 DISCHARGE OF ALL DEBTS OF MIKE GOODWIN, AND THE LAW CLERK
18 TOLD US WE COULDN'T DO THAT.

19 Q THAT WAS ILLEGAL, IN FACT?

20 A YES. AND THERE WAS A CASE THAT I
21 RESEARCHED THAT SAID JUST THAT.

22 Q SO, IN FACT, THE DEAL FELL THROUGH, OR DID
23 IT?

24 A WE TRIED TO PUT IT BACK TOGETHER. THAT
25 WAS APPARENTLY MY CALLS ON THE 15TH TO TRY TO RESURRECT
26 THIS DEAL AND WORK IT OUT.

27 Q DID MR. COULOMBE SAY ANYTHING TO YOU
28 SPECIFICALLY WITH REGARD TO MIKE GOODWIN'S INTENTIONS AT

1 OR -- ON OR AROUND THE 15TH OF MARCH OR JUST BEFORE THAT?

2 MR. SUMMERS: OBJECTION, YOUR HONOR. RELEVANCE,
3 HEARSAY AND PRIVILEGE.

4 THE COURT: OVERRULED.

5 Q BY MR. JACKSON: GO AHEAD, MA'AM.

6 A HE SAID MIKE GOODWIN SAID THE DEAL WAS
7 OFF.

8 MR. JACKSON: THANK YOU, YOUR HONOR.

9 THE COURT: ANY FURTHER CROSS?

10 MR. SUMMERS: YES.

11
12 RECROSS EXAMINATION

13 BY MR. SUMMERS:

14 Q MA'AM, DO YOU RECALL TESTIFYING IN OCTOBER
15 OF 2004 WITH REGARD TO SOME OF THESE VERY SAME MATTERS?

16 A YES.

17 Q DO YOU RECALL TESTIFYING OR BEING
18 QUESTIONED WITH REGARDS TO A SETTLEMENT IN MARCH OF 1988
19 PRIOR TO THE MURDERS?

20 A YES.

21 Q DID YOU EVER STATE AT THAT TIME THAT
22 MICHAEL GOODWIN HAD REJECTED THE SETTLEMENT?

23 A I'M NOT SURE IF I STATED THAT AT THAT
24 TIME, BECAUSE I HADN'T REREAD SOME DOCUMENTS THAT I HAD
25 PREPARED RIGHT AFTER THE MURDERS AT THAT POINT.

26 Q DO YOU RECALL BEING ASKED -- AND THIS IS
27 VOLUME III, I BELIEVE PAGE 32 -- VOLUME II -- I'M SORRY,
28 VOLUME III, PAGE 32, LINE 13.

1 YOU WERE, IN FACT, ASKED AT THAT TIME --
2 OR DO YOU RECALL TESTIFYING AT THAT TIME WITH REGARD TO
3 THE SETTLEMENT?

4 A YES.

5 Q IN FACT, YOU WERE ASKED, QUESTION, "AND,
6 IN FACT, YOU HAD ACTUALLY COME TO SOME SORT OF AGREEMENT
7 IN FEBRUARY OR MARCH OF '88?"

8 ANSWER, "I WOULD SAY WE HAD AN ORAL
9 EXPECTATION THAT WE WOULD SIGN PAPERS BUT WE HAD BEEN AT
10 THAT PLACE MANY, MANY TIMES BEFORE."

11 DO YOU RECALL YOUR TESTIMONY ON THAT DATE?

12 A YES.

13 Q DO YOU RECALL TESTIFYING WITH REGARD TO
14 SOME OF THOSE SAME MATTERS TO THE ORANGE COUNTY GRAND
15 JURY IN FEBRUARY -- I'M SORRY IN 2001?

16 A YES.

17 Q DO YOU RECALL TESTIFYING IN THAT HEARING
18 THAT WEEK, MONDAY OR TUESDAY OF THE MURDERS, IT LOOKED
19 LIKE WE HAD A SETTLEMENT?

20 A YES.

21 Q AND, IN FACT, THE SETTLEMENT THAT YOU
22 EVENTUALLY AGREED UPON WAS THE SAME SETTLEMENT THAT HAD
23 BEEN NEGOTIATED PRIOR TO MARCH 16TH?

24 MR. JACKSON: OBJECTION. THAT'S IRRELEVANT.

25 THE COURT: OVERRULED.

26 THE WITNESS: YES, IT WAS THE ONE WE HAD BEEN
27 DISCUSSING FOR SOME TIME.

28 Q BY MR. SUMMERS: SO AT ANY OTHER TIME

1 DURING THE DISCUSSIONS, THE NEGOTIATIONS AND SO FORTH,
2 HAD YOU EVER DRAFTED A STIPULATION WITH REGARD TO A
3 JUDGMENT?

4 A I MAY HAVE, YES.

5 Q AND, IN FACT, THE AGREEMENT THAT YOU
6 EVENTUALLY ARRIVED AT INCLUDED -- OR YOU HAD SOMEHOW
7 CIRCUMVENTED THE PROBLEM THAT WAS INVOLVED WITH SINGLING
8 OUT MICKEY THOMPSON'S DEBT FOR NON-DISCHARGE?

9 A YES. I DON'T RECALL HOW, BUT SOMEHOW WE
10 WORKED AROUND THAT. AND I BELIEVE IT WAS WITH THE HELP
11 OF THE TRUSTEES.

12 Q AND YOU HAVE -- I THINK IT'S DEFENSE O UP
13 THERE.

14 A YES, I DO.

15 Q MAY I SEE THAT, PLEASE?

16 MA'AM, IT'S YOUR TESTIMONY THAT YOU WERE
17 CONFUSED BECAUSE THIS COPY, THERE'S BASICALLY A DIGIT
18 SLICED OFF OF IT, THE FIRST DIGIT OF THE MONTH?

19 A YES.

20 Q SO IF I COULD JUST WRESTLE WITH MY BOOKS A
21 WHILE, THE LAST ENTRY FOR 1987 INDICATES THERE'S A
22 2-23-87; CORRECT?

23 A RIGHT.

24 Q AND BY INFERENCE, THAT WOULD HAVE TO BE
25 ACTUALLY 12-23-87; CORRECT?

26 A WELL, AFTER LOOKING AT IT MORE CLOSELY,
27 YES.

28 Q IF YOU GO BACK, YOU CAN SEE THERE'S

1 ENTRIES PRIOR TO THAT, OCTOBER 10, 1987?

2 A RIGHT.

3 Q IS THERE ANY ENTRY THERE FOR DECEMBER 1ST
4 OF '87 INDICATING WHAT'S INDICATED FOR DECEMBER OF '86
5 WHICH IS THAT ASSETS WERE SOLD? LET ME QUOTE THE EXACT.

6 "SALE OF DEBTOR ASSETS, SALE CONFIRMED FOR
7 \$125,000 CASH AND 500,000-DOLLAR NOTE."

8 DO YOU SEE ANY ENTRY LIKE THAT FOR
9 DECEMBER OF '87?

10 A WELL, IT SAYS ORDER FOR AVOIDING INTEREST
11 OF SUPERCROSS, INC. AND CERTAIN CONTRACTS AND A-U-T-H,
12 AUTHORIZING SALE OF CONTRACTS. SO, YES, IT'S RIGHT IN
13 THERE, HEARING FOR DECEMBER 1, 1987.

14 Q THAT TO YOU INDICATES THAT AN AUCTION WAS
15 HELD AND A SALE WAS CONDUCTED AND WHAT THE PRICE WAS --

16 A YES.

17 Q -- AND WHAT WAS BID?

18 A APPARENTLY WHAT HAPPENED WAS THE TRUSTEE,
19 JEFF COYNE, WAS TRYING TO GET INSPOINT AGREEMENT BACK FROM
20 DIANE GOODWIN BECAUSE NO PAYMENT HAD BEEN MADE. AND IN
21 ORDER TO DO THAT, WENT INTO COURT ASKING FOR AN ORDER FOR
22 DIANE GOODWIN EITHER TO BE ORDERED TO PAY THE MONEY OR
23 THAT THEY WOULD GO AHEAD AND SELL THE ASSETS TO SOMEONE
24 ELSE, AND THAT IS WHAT HAPPENED.

25 Q WHAT HAPPENED IS, THAT SOME PAYMENTS WERE
26 FORTHCOMING FROM DIANE GOODWIN; ISN'T THAT WHAT HAPPENED?

27 A I DON'T RECALL ANY PAYMENTS BEING
28 FORTHCOMING AT THAT TIME.

1 Q SO IT'S YOUR --

2 A BUT THAT MIGHT HAVE GONE TO THE TRUSTEE.
3 I MIGHT NOT HAVE KNOWN.

4 Q SO IT WOULD BE YOUR -- IT WOULD BE YOUR
5 TESTIMONY, THEN, THAT JEFF COYNE CONDUCTED THIS AUCTION,
6 THIS SALE?

7 A NO, HE WOULDN'T HAVE CONDUCTED IT. THE
8 JUDGE WOULD HAVE. HE WOULD HAVE BEEN ASKING FOR IT, FOR
9 THAT TO TAKE PLACE TO GET MONEY INTO THE E.S.I.
10 BANKRUPTCY ESTATE.

11 Q WELL, HE WOULD HAVE HAD TO HAVE BEEN
12 PRESENT IF THERE WERE GOING TO BE FUNDS OFFERED AND A
13 SALE CONDUCTED; CORRECT?

14 A HE PROBABLY WAS, BECAUSE IT WAS HIS
15 MOTION.

16 Q AND YOU INDICATED THAT IT'S YOUR
17 RECOLLECTION THAT MICKEY THOMPSON PAID \$500,000 CASH?

18 A I THINK SO, BUT I CAN'T BE ENTIRELY
19 CERTAIN. THERE MAY HAVE BEEN A NOTE THAT WAS TO BE PAID
20 AFTER ANAHEIM OR SOMETHING LIKE THAT.

21 Q AND THAT WOULD HAVE BEEN MONEY THAT WOULD
22 HAVE GONE INTO THE E.S.I. BANKRUPTCY ESTATE; CORRECT?

23 A YES.

24 Q SO THERE WOULD HAVE BEEN \$460,000,
25 APPROXIMATELY, FROM THE BOX OFFICE PROCEEDS THAT WOULD
26 HAVE GONE INTO THAT ESTATE?

27 A WELL, DEPENDS WHAT TIME. IF IT WENT IN
28 WHEN MR. GOODWIN WAS IN CONTROL OF IT, IT WOULD NOT HAVE

1 GONE TO THE TRUSTEE. IT WOULD HAVE GONE TO MR. GOODWIN.

2 Q IT WOULD HAVE GONE TO THE ESTATE?

3 A WELL, MR. GOODWIN WAS STILL CONTROLLING.

4 Q SO, THEN, WE HAVE ANOTHER -- WE HAVE
5 \$500,000 BASICALLY THAT MICKEY THOMPSON WOULD HAVE PAID
6 THAT WOULD HAVE GONE INTO THE BANKRUPTCY ESTATE; CORRECT?

7 A DEPENDING ON UPON WHEN HE PAID IT, YES.

8 Q SO JUST FROM THOSE TWO TRANSACTIONS THERE,
9 APPROXIMATELY \$900,000 WOULD HAVE GONE INTO THE
10 BANKRUPTCY ESTATE -- OR WOULD HAVE BEEN SCHEDULED TO GO
11 INTO THE BANKRUPTCY ESTATE PRIOR TO MICKEY THOMPSON'S
12 DEATH; CORRECT?

13 A GOING IN AND STAYING IN ARE TWO DIFFERENT
14 THINGS, BUT YES.

15 Q WELL, YOU'RE NOT ACCUSING MR. COYNE OF ANY
16 IMPROPRIETY, ARE YOU?

17 A NO. BUT THERE WERE TRUSTEE'S FEES AND
18 ATTORNEY'S FEES FOR THE ATTORNEY FOR THE TRUSTEE THAT
19 WOULD HAVE HAD TO HAVE BEEN PAID FIRST.

20 Q RIGHT. BUT THAT'S DONE LATER ON,
21 THAT'S -- THE MONEY GOES IN AND THEN AS YOU'VE INDICATED
22 BEFORE, ATTORNEYS AND ADMINISTERS AND SO FORTH GO TO
23 COURT AND ASK FOR THEIR CHUNK OF IT; CORRECT?

24 A OH, YES.

25 Q SO I'M JUST ASKING ABOUT WHAT WENT IN.

26 A WELL, THAT'S WHAT WENT IN. I DON'T KNOW,
27 LIKE I SAID, WHAT STAYED IN IF MR. GOODWIN WAS IN CONTROL
28 OF IT.

1 Q MA'AM, YOU INDICATED THAT WHAT IS IN THE
2 DOCKET IS FOR -- MAY I APPROACH? -- NOVEMBER 30TH OF '87.
3 THERE'S AN ENTRY FOR THE TRUSTEE'S MOTION FOR ORDER OF
4 AVOIDING INTEREST AND CERTAIN CONTRACT AND AUTHORIZING
5 SALE OF CONTRACTS IN THE ALTERNATIVE FOR AN ORDER
6 COMPELLING COMPLIANCE OF THE COURT'S PRIOR ORDER.

7 A YES.

8 Q INDICATES A HEARING ON DECEMBER 1ST.

9 A RIGHT.

10 Q ON DECEMBER 1ST, IT INDICATES HEARING
11 HELD, REQUIRED AGREEMENTS TO BE EXECUTED.

12 A YES. AND THAT PROBABLY --

13 Q IS THAT WHAT IT INDICATES, MA'AM?

14 A YES, IT DOES. YES, REQUIRED AGREEMENTS,
15 RIGHT.

16 Q AND THEN ON DECEMBER 23RD, '87, IT
17 INDICATES A HEARING REGARDING TRUSTEE MOTION COMPELLING
18 COMPLIANCE WITH PRIOR COURT ORDER, RESOLVED BY
19 STIPULATION; CORRECT?

20 A YES.

21 Q AND IT IS YOUR TESTIMONY THAT SOMEWHERE IN
22 THAT IS AN ACTUAL AUCTION AND SALE OF THE INSUREMENT
23 AGREEMENT?

24 A YES.

25 Q MA'AM, YOU WERE GIVEN AN OPPORTUNITY TO
26 TAKE A LOOK AT THIS DOCUMENT, DEFENSE O, DURING THE NOON
27 HOUR; CORRECT?

28 A YES.

1 Q AND DO YOU HAVE ANY DOCUMENTATION YOURSELF
2 WITH REGARD TO THIS SECOND AUCTION AND SALE OF THE
3 INSPORT?

4 A THERE WOULD HAVE TO BE SOME PLEADINGS IN
5 THE -- WE PROBABLY HAD 80 BOXES OF DOCUMENTS. SOMEWHERE
6 IN THERE, THERE WOULD HAVE BEEN SOMETHING ABOUT THAT
7 HEARING.

8 Q AND IT'S YOUR TESTIMONY, THEN, THAT MICKEY
9 THOMPSON WOULD HAVE HAD THAT INSPORT AGREEMENT IN HAND
10 BY -- DO YOU RECALL WHEN HE WOULD HAVE HAD POSSESSION OF
11 IT BY?

12 A WELL, HE WOULD HAVE HAD THE RIGHTS UNDER
13 IT BY THE END OF JANUARY BECAUSE THAT'S WHEN THE ANAHEIM
14 RACE WAS RUN BY MICKEY.

15 Q SO -- AND YOU'RE INDICATING THAT HE HAD
16 THOSE RIGHTS FOR THAT ANAHEIM RACE?

17 A HE HAD THE RIGHT TO WHAT'S CALLED AN
18 AMERICAN MOTOR ASSOCIATION SANCTION WHICH IS WHAT THE
19 INSPORT AGREEMENT GAVE YOU, AND THAT WAS VERY IMPORTANT
20 TO RUNNING THAT RACE.

21 Q OKAY.

22 MR. SUMMERS: THANK YOU.

23 THE COURT: ANYTHING FURTHER FROM THE PEOPLE?

24 MR. JACKSON: JUST ONE QUESTION, YOUR HONOR.

25

26 FURTHER REDIRECT EXAMINATION

27 BY MR. JACKSON:

28 Q AFTER THE SETTLEMENT OF DISCHARGE OF

1 JUDGMENT ULTIMATELY, DID MICKEY THOMPSON EVER SEE ANY OF
2 MIKE GOODWIN'S MONEY?

3 A NOT HIMSELF, NO.

4 Q WHY?

5 A BECAUSE HE WAS MURDERED.

6 MR. JACKSON: THANK YOU.

7 THE COURT: ANYTHING ELSE?

8
9 FURTHER RECROSS EXAMINATION

10 BY MR. SUMMERS:

11 Q MA'AM, DID ANYBODY SEE THE MONEY OR IS THE
12 JUDGMENT STILL OUTSTANDING?

13 A THERE WAS SOME MONEY THAT CAME OUT OF THE
14 WHITEHAWK PROPERTY TO THE BANKRUPTCY TO EITHER MICKEY
15 THOMPSON'S ESTATE OR M.T.E.G. I DON'T RECALL HOW MUCH
16 THAT WAS, BUT IT WASN'T ANYWHERE NEAR WHAT THE JUDGMENT
17 WAS.

18 Q DID NOT SATISFY THE JUDGMENT AND THE REST
19 OF THE JUDGMENT REMAINS OUTSTANDING?

20 A YES. I THINK WITH INTEREST, IT'S WELL
21 OVER A MILLION DOLLARS NOW.

22 MR. SUMMERS: NOTHING ELSE.

23 THE COURT: ANYTHING ELSE?

24 MR. JACKSON: NOTHING ELSE, YOUR HONOR. THANK
25 YOU. MAY THIS WITNESS BE EXCUSED?

26 THE COURT: ANY OBJECTION?

27 MS. SARIS: NO, YOUR HONOR.

28 MR. JACKSON: THANK YOU, YOUR HONOR.

1 THE COURT: THANK YOU. YOU ARE EXCUSED.

2 THE NEXT WITNESS?

3 MR. DIXON: DALE NEWMAN.

4 THE COURT: THANK YOU.

5 THE CLERK: PLEASE RAISE YOUR RIGHT HAND TO BE
6 SWORN.

7
8 DALE NEWMAN,
9 CALLED BY THE PEOPLE AS A WITNESS, WAS
10 SWORN AND TESTIFIED AS FOLLOWS:

11
12 THE COURT: ALL RIGHT. LET'S HAVE YOU SWORN.
13 PLEASE STAND AND RAISE YOUR RIGHT HAND.

14 THE CLERK: YES. STAND UP AND RAISE YOUR RIGHT
15 HAND. THANK YOU.

16 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
17 YOU MAY 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 THE CLERK: PLEASE BE SEATED. WOULD YOU PLEASE
22 STATE AND SPELL YOUR FIRST AND LAST NAME FOR THE RECORD.

23 THE WITNESS: FIRST NAME IS DALE, D-A-L-E, LAST
24 NAME IS NEWMAN, N-E-W-M-A-N.

25 THE CLERK: THANK YOU.

26 THE COURT: YOU MAY INQUIRE.

27 MR. DIXON: THANK YOU, YOUR HONOR.

28

DIRECT EXAMINATION

BY MR. DIXON:

Q GOOD AFTERNOON, MR. NEWMAN. THANKS FOR
WAITING. I THINK YOU WERE HERE LAST WEEK.

A YES.

Q WELL, THANK YOU VERY MUCH FOR COMING BACK.
I JUST HAVE A FEW QUESTIONS FOR YOU TODAY.

I WOULD LIKE YOU TO THINK BACK TO THE '80S
AND MAYBE EVEN BEFORE THAT.

DID YOU KNOW MICKEY THOMPSON?

A YES, I HAVE.

Q YOU MET HIM?

A I MET HIM.

Q I WOULD LIKE YOU TO LOOK AT PEOPLE'S 1
THAT WE HAVE UP THERE ON THE SCREEN.

DO YOU RECOGNIZE THE GENTLEMAN IN THAT
PICTURE TO BE MICKEY THOMPSON?

A THAT'S NOT A SHARP PICTURE, BUT I WOULD
SAY IT LOOKS LIKE HIM.

Q WELL, I TELL YOU WHAT, I'LL BRING IT UP TO
YOU AND LET YOU SEE IT. OKAY?

I'M GOING TO SHOW YOU PEOPLE'S 1 FOR
IDENTIFICATION AND INVITE YOUR ATTENTION TO --

A THAT'S MICKEY.

Q OKAY. GREAT. THANKS.

DURING THE '80S, DID YOU HAVE A HOBBY, A
SPORT THAT INVOLVED WATER?

A WELL, OFF AND ON I'VE ENJOYED THE WATER

1 ALL MY LIFE.

2 Q WERE YOU A DIVER?

3 A DIVING, YES.

4 Q DID THERE COME A TIME IN 1987 THAT YOU
5 WENT DIVING IN MEXICO?

6 MS. SARIS: OBJECTION. LEADING.

7 THE COURT: SUSTAINED.

8 THE WITNESS: ABOUT THIS TIME OF YEAR, ROUGHLY IN
9 THE FALL.

10 THE COURT: LET'S TRY IT AGAIN.

11 SUSTAINED.

12 Q BY MR. DIXON? IN 1987 DID YOU EVER GO TO
13 MEXICO?

14 A YES.

15 Q WHY?

16 A I FLEW A FRIEND DOWN THERE IN MY AIRPLANE
17 TO MEET WITH SOMEONE SO WE COULD GO DIVING ON THE BOAT.

18 Q WHO WAS THE FRIEND?

19 A THE PERSON'S NAME WAS MARTINE PASOS.

20 Q A LONG TIME FRIEND?

21 A MANY YEARS.

22 THE COURT: SPELL THE LAST NAME, PLEASE.

23 THE WITNESS: P-A-S-O-S.

24 THE COURT: THANK YOU.

25 Q BY MR. DIXON: AND WHERE EXACTLY DID YOU
26 GO IN MEXICO?

27 A BAJA. TO BE SPECIFIC, AN AREA CALLED CABO
28 POLMO. MARTY OWNED A PROPERTY DOWN THERE.

1 Q OKAY. THAT'S CABO --

2 A POLMO.

3 Q WHERE IS THAT LOCATED?

4 A IT'S ON THE EAST CAPE REGION. IT'S ABOUT
5 50, 60 MILES NORTH OF THE CAPE, SAN JOSE CABO, THE TOWN.

6 Q I THINK IN AN EARLIER ANSWER YOU SAID THAT
7 YOU FLEW DOWN THERE?

8 A YES.

9 Q SO YOU ARE A DIVER AND A PILOT?

10 A I FLEW MY OWN AIRPLANES.

11 Q OKAY. AT THAT TIME WHEN YOU FLEW DOWN TO
12 MEXICO, HAD YOU EVER MET THE DEFENDANT IN THIS CASE, MIKE
13 GOODWIN?

14 A NEVER.

15 Q ONCE YOU ARRIVED, DID YOU MEET THE MAN I'M
16 NOW STANDING BEHIND (INDICATING)?

17 A YES.

18 Q HOW DID THAT HAPPEN?

19 A HE SENT A BOAT INTO THE BEACH TO PICK US
20 UP.

21 Q WAS THAT THE PURPOSE OF YOUR TRIP?

22 A YES. WELL, THAT WAS ONE OF THE PURPOSES,
23 BUT YES.

24 Q TO GO DIVING?

25 A YES.

26 Q AND DID YOU GO DIVING ON A BOAT?

27 A OFF OF THE BOAT, YES.

28 Q DESCRIBE THE BOAT FOR US.

1 A IT WAS A NICE BOAT, ABOUT A 60-FOOTER,
2 ROUGHLY. KIND OF A PLEASURE CRUISER.

3 Q YOU HAD BEEN DIVING ON BOATS BEFORE THIS?

4 A MANY TIMES.

5 Q ARE THERE CERTAIN BOATS THAT ARE DESIGNED
6 SPECIFICALLY FOR SCUBA DIVING, ARE THERE WITH THE
7 FACILITIES AND A LARGE DECK AREA?

8 A YOU CAN SCUBA DIVE FROM ALMOST ANY BOAT IF
9 YOU SO DESIRE.

10 Q EVEN A SAILBOAT?

11 A I'VE DONE IT.

12 Q WAS THE BOAT THAT YOU WENT ON, THE BOAT
13 THAT YOU MET MIKE GOODWIN ON, WAS THAT A SAILBOAT?

14 A NO. NO. IT WAS A POWER BOAT.

15 Q IT WAS A POWER BOAT.

16 I WOULD LIKE YOU TO LOOK AT -- JUST TO
17 MAKE THIS CLEAR, LOOK AT WHAT WE'VE PREVIOUSLY MARKED AS
18 PEOPLE'S 5 FOR IDENTIFICATION. WRONG WAY.

19 DO YOU SEE THAT? IT'S PEOPLE'S 5 FOR
20 IDENTIFICATION.

21 A YES. IT LOOKS LIKE A REVERSE IMAGE OF
22 SOMETHING. THAT'S A MOTOR SAILER, AS A MATTER OF FACT.

23 Q WAS THAT THE BOAT THAT YOU WENT ON?

24 A NO.

25 Q NO. SURE OF THAT?

26 A ABSOLUTELY SURE.

27 Q DID THE BOAT THAT YOU WENT ON HAVE A NAME?

28 A AS I REMEMBER, I BELIEVE IT WAS CALLED

1 "THE DEMONSTRATOR."

2 Q "DEMONSTRATOR," OKAY.

3 A I WOULDN'T SWEAR BY IT, BUT I THINK SO.

4 Q AND YOU THOUGHT IT WAS ABOUT A 65-FOOT
5 POWER BOAT?

6 A 60, IN THAT RANGE.

7 Q BASED ON -- WELL, LET ME WITHDRAW THAT AND
8 ASK YOU THIS, HOW LONG WERE YOU ON THE BOAT, "THE
9 DEMONSTRATOR"?

10 A OVERNIGHT ONLY. OVERNIGHT AND THE NEXT
11 DAY.

12 Q THE NEXT DAY DID YOU GO SCUBA DIVING?

13 A WE DID NOT SCUBA DIVE. STRICTLY SKIN
14 DIVING, FREE DIVE. SPEAR FISHING TYPE DIVING.

15 Q WHERE YOU HAVE TO HOLD YOUR BREATH?

16 A UH-HUH.

17 Q IS THAT "YES"?

18 A THE ANSWER IS YES.

19 Q BASED ON YOUR TIME ON "THE DEMONSTRATOR,"
20 DID YOU COME TO A BELIEF AS TO WHOSE BOAT THAT WAS?

21 A NOT REALLY. I THOUGHT IT WAS
22 MR. GOODWIN'S, BUT I CAN BE WRONG.

23 Q NOW, WHILE YOU WERE ON "THE DEMONSTRATOR,"
24 DID YOU HAVE DINNER AT SOME POINT OR SOME COCKTAILS?

25 A I BELIEVE WE HAD SOMETHING TO EAT. I
26 CAN'T REMEMBER. THIS IS MANY, MANY YEARS AGO NOW. I
27 DON'T REMEMBER WHAT THE FARE WAS, BUT WE ATE.

28 Q DID YOU OVERHEAR A CONVERSATION THAT STUCK

1 IN YOUR MIND?

2 A YES, I DID.

3 Q AND --

4 A IN THE EVENING.

5 Q AND THIS WAS IN THE EVENING; IS THAT
6 CORRECT?

7 A YES.

8 Q AND YOU WERE ON THE BOAT OR SOMEWHERE
9 ELSE?

10 A ON THE BOAT.

11 Q AND EXACTLY -- TO THE BEST OF YOUR
12 RECOLLECTION, WHERE WERE YOU ON THE BOAT?

13 A ON THE BRIDGE DECK.

14 Q SO THAT WOULD HAVE BEEN WHERE THE STEERING
15 EQUIPMENT IS?

16 A STEERING AND BENCH SEATS UP ON TOP.

17 Q OKAY. WAS THE DEFENDANT, MR. GOODWIN,
18 NEARBY?

19 A HE WAS SITTING FORWARD NEAR THE COMMAND
20 STATION WITH HIS WIFE.

21 Q WITH HIS WIFE?

22 A I BELIEVE IT WAS HIS WIFE.

23 Q YOU WERE INTRODUCED TO A WOMAN THAT WAS
24 WITH HIM?

25 A YES.

26 Q AND WAS THERE A CONVERSATION BETWEEN THE
27 DEFENDANT, MR. GOODWIN, AND HIS WIFE OR SOMEONE ELSE THAT
28 YOU OVERHEARD AT THE TIME?

1 A YES, I DID. AND IT WAS NOT INTENDED TO BE
2 OVERHEARD, BUT IT WAS VERY QUIET THAT NIGHT.

3 MS. SARIS: OBJECTION. MOTION TO STRIKE, "NOT
4 INTENDED TO BE OVERHEARD." LACK OF FOUNDATION.

5 THE COURT: SUSTAINED. IT WILL BE STRICKEN.

6 Q BY MR. DIXON: COULD CHARACTERIZE OR TELL
7 THE JURY HOW THIS CONVERSATION WAS SAID. WAS IT LOUD AND
8 BOISTEROUS OR LOW AND SECRETIVE?

9 A IT WAS LOW AND --

10 MS. SARIS: OBJECTION. CALLS FOR SPEC -- I'M
11 SORRY -- LEADING AS TO "SECRETIVE."

12 Q BY MR. DIXON: WAS IT LOUD OR LOW?

13 A LOW.

14 THE COURT: OVERRULED WAS MY RULING.

15 MR. DIXON: OH. I'M TRYING TO MOVE THINGS ALONG.

16 THE COURT: THANK YOU.

17 MR. DIXON: I'M TRYING TO COOPERATE.

18 Q WHAT DID YOU HEAR? WHAT WAS SAID?

19 A IT WAS A GENERAL CONVERSATION BETWEEN THEM
20 AND I WASN'T TRYING TO EAVESDROP, EITHER, BY THE WAY,
21 BUT --

22 MS. SARIS: OBJECTION, YOUR HONOR. MAY WE
23 APPROACH?

24
25 (PROCEEDINGS HELD AT SIDEBAR.)

26 THE COURT: OKAY. WE'RE AT THE SIDEBAR.

27 MS. SARIS: BASED ON MR. DIXON'S LAST QUESTION,
28 WE DIDN'T REALIZE IF IT WAS SPOKEN BETWEEN MR. GOODWIN

1 AND HIS WIFE. WE MAINTAIN THE PRIVILEGE OF SPOUSAL
2 COMMUNICATION.

3 THE COURT: WHAT'S THE STATEMENT?

4 MR. DIXON: OH, THE STATEMENT IS BASICALLY ABOUT
5 THE LAWSUIT AND THAT I'M GOING TO TAKE CARE OF -- I'M
6 GOING TO TAKE CARE OF THOMPSON AND NOBODY WILL FIND IT
7 OUT. SPOKEN ON A BOAT WITH GUESTS ON IT THAT HE INVITED,
8 IT'S HARDLY PRIVILEGED.

9 MS. SARIS: HE ALREADY TRIED TO ESTABLISH THAT IT
10 WAS SECRETIVE AND LOW. MR. GOODWIN IS MAKING EVERY
11 EFFORT TO HAVE A COMMUNICATION WITH HIS WIFE. IT'S
12 PRIVILEGED.

13 THE COURT: I DON'T KNOW THAT IT IS.

14 MR. DIXON: THAT'S WHAT I JUST SAID. I DIDN'T
15 THINK IT WAS.

16 MR. SUMMERS: WE'VE GOT ONE OF THOSE, TOO.

17 MR. DIXON: IN THIS SETTING, I JUST DON'T SEE
18 HOW --

19 THE COURT: SO YOUR POSITION IS THAT THE
20 CONVERSATION WAS NOT INTENDED TO BE PRIVATE. WHAT I'M
21 CONCERNED ABOUT IS THAT IT WAS BASICALLY A STATEMENT
22 INDICATING HIS INTENTION TO COMMIT A CRIME. I DON'T HAVE
23 THE CODE SINCE ONE OF YOU GUYS HAS IT HERE. I NEED TO
24 REFRESH MY MEMORY ON --

25 MR. SUMMERS: I'M TIRED OF THUMBING THROUGH
26 DOCUMENTS.

27 THE COURT: LET'S GO OFF THE RECORD FOR A SECOND.

28 (PAUSE IN PROCEEDINGS.)

1 THE COURT: LET'S GO BACK ON THE RECORD.

2 WELL, I'M LOOKING AT THE SECTION THAT
3 DEALS WITH THIS IN THE EVIDENCE CODE, 980 AND 981. THERE
4 IS A CRIME OR FRAUD EXCEPTION, ISN'T THERE? IN ADDITION
5 TO THE FACT THAT IT WAS A STATEMENT MADE ON A BOAT WITH
6 OTHER PEOPLE AROUND.

7 MS. SARIS: WELL, I DON'T THINK THE COURT HAS
8 ENOUGH INFORMATION TO FIND A CRIME OR FRAUD. IF THE
9 COURT IS FINDING IT IS PUBLIC, THAT'S A DIFFERENT STORY.

10 THE COURT: WELL, I'M SAYING THAT IT APPEARS TO
11 BE SO FAR THAT BASED ON THE OFFER OF PROOF --

12 MR. DIXON: WELL , YOUR HONOR, THAT'S WHAT I
13 WANTED TO MAKE SURE THAT I DIDN'T MISLEAD ANYONE. I
14 WANTED TO GIVE THE COURT THE EXACT QUOTE THAT I BELIEVE
15 FROM MY INTERVIEW AND FROM THE REPORTS GOODWIN SAID,
16 "DON'T WORRY, HONEY. I'M GOING TO TAKE CARE OF THEM.
17 THEY'RE NOT GOING TO GET US." SO --

18 THE COURT: WELL, I WILL STAND BY MY EARLIER
19 COMMENTS. I DON'T KNOW THAT WE NEED TO HAVE A HEARING
20 OUT OF THE PRESENCE OF THE JURY.

21 DO WE?

22 MR. DIXON: WE'RE NOT ASKING FOR ONE.

23 MS. SARIS: NO. IF THAT'S THE STATEMENT, I DON'T
24 THINK THAT CONSTITUTES A CRIME. SO THE ONLY BASIS THE
25 COURT COULD HAVE IS THAT IT'S NOT PRIVILEGED.

26 THE COURT: I THINK IT DOES CONSTITUTE A CRIME
27 TAKEN IN CONTEXT, BUT AT THIS POINT SECRETIVE WAS
28 STRICKEN. I DON'T HAVE ANY EVIDENCE THAT THIS WAS

1 INTENDED TO REMAIN CONFIDENTIAL. FRANKLY, I DON'T EVEN
2 KNOW THAT IT WAS HIS WIFE, BUT THOSE ARE JUST QUESTIONS I
3 HAVE IN MY MIND.

4 MR. DIXON: YEAH. HE DIDN'T KNOW. THERE'S NO
5 EVIDENCE OF THAT. I DON'T KNOW.

6 THE COURT: IT WAS A WOMAN HE WAS INTRODUCED TO.

7 WAS IT HIS WIFE? I MEAN --

8 MR. JACKSON: WE HAVE NO WAY OF KNOWING THAT
9 UNLESS MR. GOODWIN TAKES THE STAND AND WE ASK HIM.

10 THE COURT: I TELL YOU WHAT. GO DEAL WITH OTHER
11 THINGS. DO YOU HAVE OTHER MATTERS WITH THIS WITNESS?

12 MR. JACKSON: THAT'S IT.

13 MR. DIXON: NO, THAT'S IT.

14 THE COURT: TIMING, DO YOU HAVE ANY OTHER
15 WITNESSES?

16 MR. DIXON: I HAVE OTHER WITNESSES.

17 MR. JACKSON: WE DO.

18 THE COURT: WHY DON'T YOU HAVE THIS WITNESS STAND
19 BY, LET'S GET STARTED WITH ANOTHER WITNESS AND WE'LL DEAL
20 WITH THIS IN ABOUT A HALF AN HOUR.

21 (SIDE BAR CONCLUDED.)

22
23 THE COURT: ALL RIGHT. WHAT WE'RE GOING TO DO AT
24 THIS POINT IS TAKE A WITNESS OUT OF ORDER. SO, SIR, I'M
25 GOING TO ASK YOU TO STEP DOWN AND STEP OUT INTO THE
26 HALLWAY. WE'RE NOT DONE WITH YOU YET. OKAY?

27 THE WITNESS: OKAY.

28 THE COURT: BUT WE WILL TAKE ANOTHER WITNESS OUT

1 OF ORDER AT THIS POINT.

2 WE'RE TAKING A WITNESS OUT OF ORDER.

3 MR. DIXON: YES, YOUR HONOR. OUR WITNESS OUT OF
4 ORDER WOULD BE GREG SMITH.

5 THE COURT: SIR, WOULD YOU PLEASE COME UP TO THE
6 WITNESS STAND AND FACE THE CLERK, PLEASE. AND RAISE YOUR
7 RIGHT HAND.

8
9 GREG SMITH,
10 CALLED BY THE PEOPLE AS A WITNESS, WAS
11 SWORN AND TESTIFIED AS FOLLOWS:

12
13 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
14 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
15 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
16 NOTHING BUT THE TRUTH SO HELP YOU GOD.

17 THE WITNESS: I DO.

18 THE CLERK: PLEASE HAVE A SEAT. PLEASE STATE AND
19 SPELL YOUR FIRST AND LAST NAME FOR THE RECORD.

20 THE WITNESS: IT'S GREGORY SMITH, S-M-I-T-H.

21 THE CLERK: THANK YOU.

22 THE COURT: YOU MAY INQUIRE.

23 MR. DIXON: THANK YOU VERY MUCH, YOUR HONOR.

24

25 DIRECT EXAMINATION

26 BY MR. DIXON:

27 Q GOOD AFTERNOON. THANK YOU FOR COMING,
28 MR. SMITH.

1 COULD YOU TELL US WHAT YOU PRESENTLY DO.

2 A I PRESENTLY AM THE EXECUTIVE DIRECTOR OF
3 THE CONVENTION SPORTS AND ENTERTAINMENT DEPARTMENT FOR
4 THE CITY OF ANAHEIM.

5 Q SO WHAT DO YOU DO IN THAT JOB?

6 A ALL OF THE FACILITIES THAT THE CITY OF
7 ANAHEIM OWNS ARE UNDER MY OVERSIGHT. I MANAGE THE
8 DAY-TO-DAY OPERATIONS OF THE ANAHEIM CONVENTION CENTER
9 AND I OVERSEE THE CONTRACTS FOR THE MANAGEMENT OF ANGEL
10 STADIUM, THE HONDA CENTER, FORMALLY THE ARROWHEAD POND,
11 AND THE GROVE OF ANAHEIM.

12 Q THE ANAHEIM STADIUM, DOES THAT COME UNDER
13 YOUR JURISDICTION?

14 A YES. ANGEL STADIUM PREVIOUSLY WAS KNOWN
15 AS ANAHEIM STADIUM.

16 Q OKAY. THANKS.

17 HOW LONG HAVE YOU BEEN IN THAT BUSINESS?

18 A I STARTED WITH THE CITY OF ANAHEIM IN THE
19 BUSINESS IN 1972.

20 Q I WOULD LIKE TO INVITE YOUR ATTENTION TO
21 THE '80S, SAY, OH, STARTING WITH '82, '83, '84.

22 WHAT WAS YOUR JOB THEN?

23 A IN 1982 I WAS AN EVENT COORDINATOR FOR
24 BOTH THE STADIUM AND THE CONVENTION CENTER. I MOVED ONTO
25 BECOME FULL TIME AT THE CONVENTION CENTER IN 1984 AS THE
26 ASSISTANT MANAGER OF THE STADIUM.

27 Q IS IT FAIR TO SAY THAT YOU'VE BEEN IN THAT
28 BUSINESS SINCE -- WHAT DID YOU SAY? -- 1970 --

1 A 1972, YES, SIR.

2 Q -- UNTIL NOW?

3 A YES.

4 Q OVER 30 YEARS?

5 A YES, SIR.

6 Q I WOULD LIKE TO INVITE YOUR ATTENTION TO
7 THE MAN THAT I'M NOW STANDING BEHIND (INDICATING),
8 MICHAEL GOODWIN, THE DEFENDANT IN THIS CASE.

9 DO YOU KNOW THIS PERSON?

10 A YES, I DO.

11 Q HOW DID YOU FIRST MEET HIM?

12 A I THINK MY FIRST MEETING WITH MR. GOODWIN
13 WAS AT ONE OF HIS MOTORCROSS EVENTS AT THE STADIUM WHILE
14 I WAS WORKING IN THE TICKET OFFICE.

15 Q IS THAT HOW YOU STARTED?

16 A I STARTED AT THE STADIUM IN THE PARKING
17 LOT, BUT I WAS PROMOTED UP INTO THE BOX OFFICE AND TICKET
18 OFFICE FOR BOTH THE STADIUM AND CONVENTION CENTER A FEW
19 YEARS AFTER I HAD FIRST STARTED.

20 Q DID THERE COME A TIME WHEN YOU DEALT WITH
21 THE DEFENDANT, MR. GOODWIN, ON A CONTRACTUAL BASIS
22 REPRESENTING THE CITY AND ANAHEIM STADIUM?

23 A YES, I DID.

24 Q DESCRIBE THAT, PLEASE.

25 A WHEN I WAS THE ASSISTANT MANAGER OF
26 ANAHEIM STADIUM, ONE OF MY DUTIES WAS TO BOOK THE
27 FACILITY; TO PROGRAM THE FACILITY FOR EVENTS OTHER THAN
28 BASEBALL; ANGELS BASEBALL AND RAMS FOOTBALL. AND SO

1 THERE WERE MANY OCCASIONS WHERE I WOULD INTERACT WITH
2 MR. GOODWIN EITHER IN ESTABLISHING DATES FOR THE EVENTS
3 OR FOR HOSTING THE EVENT AND MAKING THE PREPARATIONS FOR
4 THE FACILITY FOR THE EVENTS.

5 Q AT THE TIME THAT WE'RE NOW TALKING
6 ABOUT -- BECAUSE THE RAMS LONG AGO LEFT; CORRECT?

7 A YES.

8 Q AT THE TIME THAT WE'RE NOW TALKING ABOUT,
9 ANAHEIM STADIUM HAD TWO MAJOR TENANTS, THE ANGELS AND THE
10 RAMS; CORRECT?

11 A THAT'S CORRECT.

12 Q BUT WAS PART OF YOUR JOB TO TRY TO MAKE
13 SURE THAT THE STADIUM WAS FULLY UTILIZED AS MUCH AS THE
14 TIME AS POSSIBLE?

15 A ABSOLUTELY. THAT WAS ONE OF MY DIRECTIVES
16 WAS TO BOOK THE FACILITY AS OFTEN AS WE POSSIBLY COULD,
17 MAXIMIZING THE RETURN TO THE CITY OF ANAHEIM FOR ITS
18 INVESTMENT IN THE STADIUM.

19 Q AND FOR THE TAXPAYERS IN THAT CITY?

20 A THAT'S CORRECT, YES, SIR.

21 Q SO WITH THOSE TWO TENANTS, THE RAMS AND
22 THE ANGELS, WAS THERE ONE MONTH OUT OF THE YEAR THAT WAS
23 KIND OF A DOWN TIME?

24 A YES. WHAT -- WE WOULD TYPICALLY HAVE RAMS
25 GAMES THROUGH DECEMBER, ON SOME RARE OCCASION RAMS MIGHT
26 BE IN THE PLAYOFFS IN EARLY JANUARY, BUT GENERALLY THE
27 RAMS SEASON WOULD END AT THE END OF DECEMBER AND THE
28 ANGEL SEASONS WOULD START THE 1ST OF APRIL.

1 SO THE MONTH OF JANUARY BECAME THE MONTH
2 THAT WE CAN HOST EVENTS THAT MIGHT RUIN THE PLAYING
3 FIELD, THE GRASS FIELD. AND SO IF WE WERE DONE WITH WHAT
4 WE WERE DOING IN THE MONTH OF JANUARY, WE COULD REPLANT
5 THE PLAYING FIELD AND IT WOULD TAKE ROOT IN TIME FOR US
6 TO BE ABLE TO PLAY BASEBALL APRIL 1ST.

7 SO THE MONTH OF JANUARY BECAME THE MONTH
8 THAT WE COULD DO MOTOR SPORTS EVENTS OR ANY OTHER EVENT
9 WHERE WE WEREN'T CONCERNED ABOUT THE CONDITION OF THE
10 FIELD.

11 Q AND ANAHEIM STADIUM AT THE TIME THAT WE'RE
12 TALKING ABOUT, WAS THE PLAYING FIELD A BIG INVESTMENT OR
13 AN IMPORTANT INVESTMENT?

14 A WHEN WE WOULD REBUILD THE FIELD AFTER OUR
15 MOTOR SPORTS EVENTS, IT WOULD TAKE SEVERAL WEEKS AND COST
16 US ANYWHERE FROM \$75,000 TO \$100,000 TO REPLACE.

17 Q AND WHY? WHY DID THAT HAPPEN?

18 A WELL, EVEN THOUGH WE WOULD PROTECT THE
19 FIELD WITH PLYWOOD AND OTHER MATERIALS, THE FIELD
20 WOULD -- THE GRASS WOULD DIE, IT WOULD BE COVERED FOR
21 SEVERAL WEEKS AND THE GRASS WOULD DIE. AND IT WOULD
22 BECOME COMPACTED FROM ALL THE WEIGHT FROM THE DIRT THAT'S
23 BROUGHT IN FOR THE MOTOR SPORTS EVENTS AS WELL.

24 SO JUST THE USE OF THE FIELD AT THAT TIME,
25 PUTTING ALL OF THAT DIRT AND THE HEAVY MACHINERY ON THE
26 FIELD REQUIRED US TO SCRAPE OFF THE OLD DEAD GRASS AND
27 REBUILD THE FIELD.

28 Q AND IT'S A LOT OF DIRT; RIGHT?

1 A A LOT OF DIRT, YES, SIR.

2 Q COULD YOU DESCRIBE THE MOTOR -- IN
3 GENERAL, THE MOTOR SPORTS EVENTS THAT WERE HELD IN
4 JANUARY AND THE KIND OF DIRT THAT WE'RE TALKING ABOUT
5 THAT WAS BROUGHT INTO THE STADIUM TO PUT THOSE ON.

6 A THE EVENTS THAT WE HOSTED AT THE STADIUM
7 FIRST STARTED WITH THE MOTORCROSS EVENT THAT MR. GOODWIN
8 PRODUCED. AS TIME PROGRESSED AND WE SOUGHT TO SEEK MORE
9 REVENUE FOR THE STADIUM, IT WAS DETERMINED THAT WE COULD
10 PUT ON ANOTHER EVENT IN THE STADIUM AND WE ENDED UP IN --
11 I BELIEVE IN 1983 -- HOSTING THE TRUCK AND TRACTOR PULL
12 AND MUD BOG EVENT AT THE STADIUM ON ANOTHER WEEKEND IN
13 JANUARY.

14 Q WITH THE SAME DIRT?

15 A WITH THE SAME DIRT, YES.

16 Q WHICH WAS COST EFFECTIVE?

17 A YES, IT WAS. THE STADIUM -- THE CITY OF
18 ANAHEIM OR THE STADIUM WAS NOT RESPONSIBLE FOR THE DIRT
19 THAT WAS IMPORTED FOR THE EVENTS. THAT WAS THE
20 RESPONSIBILITY OF THE SHOW PRODUCERS.

21 Q BUT WITH HAVING MORE THAN ONE DIRT
22 EVENT -- OR MOTOR SPORT DIRT EVENT IN THE STADIUM WOULD
23 SPREAD THE COST OF THAT TO MULTIPLE SPORTS PROMOTERS; IS
24 THAT RIGHT?

25 A YES. ULTIMATELY, WE BOOKED THE THIRD
26 MOTOR SPORTS EVENT IN THE STADIUM, THE OFFROAD VEHICLE
27 RACE, AND, IN EFFECT, WE WERE CAPITALIZING BOTH ON THE
28 TIME THAT WE HAD TO UTILIZE THE STADIUM AND BEING ABLE TO

1 SPREAD THE COST OF THE RECONSTRUCTION OF THE FIELD AS
2 WELL AS THE COST OF THE IMPORTATION OF THE MOTOR SPORT
3 DIRT AMONG SEVERAL EVENTS AND NOT JUST ONE.

4 Q BUT GOING BACK KIND OF TO THE BEGINNING
5 FILLING UP JANUARY WITH MOTOR SPORTS, IS IT CORRECT TO
6 SAY THAT THE DEFENDANT, MIKE GOODWIN, WAS THE FIRST
7 PERSON IN THERE WITH THAT IDEA; IS THAT CORRECT?

8 A YES, THAT'S CORRECT. AND I'M NOT SURE
9 EXACTLY THE DATE THAT THE MOTORCROSS STARTED AT THE
10 STADIUM, BUT IT WAS PRIOR TO THE RAMS MOVING TO ANAHEIM
11 STADIUM IN 1980.

12 Q SO IS IT CORRECT TO SAY THAT THE
13 DEFENDANT, MIKE GOODWIN, HELD THIS MOTORCROSS SPORTING
14 EVENT IN JANUARY FOR A NUMBER OF YEARS?

15 A YES, THAT'S CORRECT.

16 Q AND THAT HELPED THE CITY OF ANAHEIM, IT
17 HELPED YOUR STADIUM GENERATE REVENUE FOR THAT DOWN MONTH
18 IN JANUARY?

19 A IT WAS A GREAT REVENUE PRODUCER FOR US,
20 YES.

21 Q NOW, COULD YOU FOR JUST A MOMENT AND
22 BRIEFLY TELL US WHAT THE RESPONSIBILITIES OF A SPORTS
23 PROMOTER LIKE THE DEFENDANT -- OR PERHAPS MICKEY THOMPSON
24 WHO CAME LATER; CORRECT?

25 A YES.

26 Q WHAT THEIR RESPONSIBILITIES WOULD BE IN
27 PUTTING ON AN EVENT LIKE THE MOTOR SPORT, MOTORCROSS
28 SPORTING EVENT IN RELATIONSHIP TO YOUR MANAGEMENT OF THE

1 STADIUM.

2 WHAT WOULD THEY HAVE TO DO?

3 A WELL, THE STADIUM ITSELF WOULD PROVIDE THE
4 PHYSICAL FACILITY. WE WOULD RENT THE STADIUM FOR A
5 PERCENTAGE OF THE GROSS TICKET SALES. WE WOULD PROVIDE
6 THE GAME -- EVENT DAY STAFFING, USHERS AND SECURITY
7 GUARDS AND ALL OF THE STAFFING NECESSARY TO SUCCESSFULLY
8 PROMOTE THE EVENT, AND WE WOULD BILL THE PRODUCER OF THE
9 SHOW FOR THAT EXPENSE.

10 SO WE PROVIDED THE STADIUM AND PROVIDED
11 THE GAME DAY STAFFING. ALL OF THE OTHER RESPONSIBILITIES
12 FOR PRODUCTION OF THE EVENT, PUTTING TOGETHER THE ACTUAL
13 RACE, BRINGING IN AND BUILDING THE RACE TRACK, SELLING,
14 PROMOTING, ADVERTISING THE EVENT ITSELF, SELLING
15 SPONSORSHIPS, WORKING OUT THE T.V. DEALS OR WHATEVER ELSE
16 IT TOOK TO SUCCESSFULLY PROMOTE THE EVENT FROM THE
17 PRODUCTION SIDE WERE THE RESPONSIBILITY OF THE EVENT
18 PROMOTERS.

19 Q LIKE MICKEY THOMPSON OR MIKE GOODWIN?

20 A THAT'S CORRECT.

21 Q AND IS IT FAIR TO SAY IN YOUR EXPERIENCE
22 OF ALL THE YEARS IN WORKING WITH THESE PEOPLE, THAT IT
23 WAS AN OPPORTUNITY TO MAKE A LOT OF MONEY OR PERHAPS LOSE
24 MONEY?

25 A WELL, IT WAS CERTAINLY AN OPPORTUNITY TO
26 MAKE A LOT OF MONEY.

27 Q JUST ONE OR TWO WEEKENDS, BUT THEY CAN
28 MAKE A LOT OF MONEY; IS THAT CORRECT?

1 A YES, SIR.

2 Q NOW, YOU SAID I THINK IN AN EARLIER ANSWER
3 THAT IN YOUR PRESENT JOB YOU HAVE RESPONSIBILITY NOT ONLY
4 FOR THE STADIUM BUT, FOR EXAMPLE, WHAT USED TO BE KNOWN
5 AS THE POND OR WHERE THE DUCKS PLAYED, AND I THINK YOU
6 SAID IT HAD A DIFFERENT NAME NOW.

7 A IT'S THE HONDA CENTER.

8 Q OKAY. SORRY. WE'LL CALL IT THE HONDA
9 CENTER.

10 BUT THERE THEY DO CONCERTS, RIGHT, LIKE
11 MUSIC CONCERTS?

12 A YES, THEY DO.

13 Q AND THEY HAVE PROMOTERS, TOO, WHO DO WORK
14 ON THOSE; CORRECT?

15 A YES, THEY DO.

16 Q IN YOUR EXPERIENCE IN WORKING IN THIS
17 FIELD, DOES THE NAME OF THE PROMOTER MAKE A DIFFERENCE?
18 FOR EXAMPLE, IF I WENT TO SEE THE ROLLING STONES AT THE
19 HONDA CENTER, I PROBABLY WOULDN'T CARE WHO WAS PUTTING IT
20 ON, BUT IN YOUR EXPERIENCE, IS THAT GENERALLY YOUR
21 FEELING?

22 A THAT WOULD BE GENERALLY MY FEELING, YES,
23 THAT THE EVENT ITSELF IS WHAT ATTRACTS THE ATTENDANCE,
24 NOT WHO NECESSARILY IS PUTTING ON THE EVENT.

25 Q WOULD YOU HAVE THE SAME OPINION, THOUGH,
26 ABOUT THESE MOTOR SPORT EVENTS, FOR EXAMPLE, WITH MICKEY
27 THOMPSON OR EVEN GOODWIN?

28 A A LITTLE LESS. I DON'T BELIEVE THAT THE

1 PROMOTER -- THE NAME OF THE PROMOTER DROVE THE
2 ATTENDANCE. BUT THE NAME OF THE PROMOTER WOULD HELP
3 CREATE THE EVENT, HELP BRING THE RACERS, FOR EXAMPLE, IN
4 THIS CASE TO COME TO THE EVENT. THE CREDIBILITY OF THE
5 PROMOTER IS IMPORTANT IN THAT SCENARIO.

6 Q SO, FOR EXAMPLE, THE DEFENDANT, MIKE
7 GOODWIN, WITH MOTORCYCLISTS MIGHT HELP PROMOTE OR BRING
8 PEOPLE TO THE EVENT; CORRECT?

9 A YES.

10 Q AND MICKEY THOMPSON, MAYBE ANYBODY
11 INVOLVED IN MOTOR SPORTS; RIGHT?

12 A I'M NOT SURE I UNDERSTAND YOUR QUESTION.

13 Q AND WITH MICKEY THOMPSON, WHEN HE PROMOTED
14 AN EVENT, HIS NAME WOULD HELP DRAW CONTESTANTS, TOO?

15 A I BELIEVE SO.

16 Q WELL, YOU TOLD US THAT BASED ON WHAT WAS
17 GOING ON AT THE STADIUM, JANUARY WAS A DOWN MONTH AND
18 MIKE GOODWIN'S EVENT HELPED MAKE MONEY FOR YOU; CORRECT?

19 A THAT'S CORRECT.

20 Q AS AN EXECUTIVE AT THE STADIUM IN THE
21 EARLY OR MID '80S, DID YOU MAKE A DECISION TO BRING IN
22 OTHER MOTOR SPORT EVENTS?

23 A I WAS PART OF A DECISION-MAKING TEAM THAT
24 FIRST DECIDED UPON THE SECOND WEEKEND WHICH WAS THE EVENT
25 THAT I REFERRED TO EARLIER, THE TRUCK AND TRACTOR PULL
26 AND MUD BOG EVENTS THAT WERE PROMOTED BY A COMPANY CALLED
27 PACE MANAGEMENT OUT OF HOUSTON, TEXAS. AND I BELIEVE OUR
28 FIRST EVENT WAS IN 1983. THEN --

1 Q WELL, LET ME ASK YOU A QUESTION ABOUT
2 THAT. OKAY?

3 YOU -- ANAHEIM STADIUM, YOU AND OTHER
4 PEOPLE MADE A DECISION TO BRING IN PACE TO PUT ON THE
5 TRUCK PULL; CORRECT?

6 A YES, SIR.

7 Q USING THE SAME DIRT?

8 A YES.

9 Q SO THIS WAS A SECOND EVENT DURING JANUARY,
10 A MOTOR SPORT EVENT, AT ANAHEIM STADIUM; IS THAT RIGHT?

11 A YES, THAT'S CORRECT.

12 Q WAS THERE ANY COMPLAINT FROM ANYONE ELSE
13 WHEN YOU BROUGHT THIS IN, PACE IN?

14 A WELL, MR. GOODWIN COMPLAINED. HE FELT
15 THAT AT THAT TIME HE WAS PUTTING ON A VERY SUCCESSFUL
16 EVENT AND HE THOUGHT THAT A SECOND EVENT WAS GOING TO
17 DETER OR INTERFERE WITH HIS TICKET SALES FOR HIS EVENT.

18 AND I RECALL SPECIFICALLY HIM SAYING TO ME
19 AT ONE POINT IN TIME THAT WE WERE KILLING THE GOOSE THAT
20 LAID THE GOLDEN EGG. THAT HIS EVENT WAS GOING TO SUFFER
21 BECAUSE WE WERE WATERING DOWN THE MARKET WITH ANOTHER
22 EVENT COMING INTO THE FACILITY.

23 Q WAS HE MEEK ABOUT THIS COMPLAINT OR RATHER
24 AGGRESSIVE?

25 A HE WAS VERY AGGRESSIVE CONCERNING THAT.
26 VERY UPSET AND CONCERNED THAT WE WERE MAKING THIS
27 DECISION.

28 Q NOT WITHSTANDING THAT, DID YOU GO FORWARD

1 AND DEAL WITH THE PACE SPORTS PEOPLE FROM TEXAS?

2 A YES, WE DID.

3 Q WAS MR. GOODWIN'S PREDICTION THAT YOU
4 KILLED THE GOOSE THAT LAID THE GOLDEN EGG COME TRUE OR
5 NOT?

6 A NO, IT DID NOT. BOTH EVENTS DID EXTREMELY
7 WELL. BOTH WERE CONTINUED TO BE SELL OUTS.

8 Q AND BASED ON THAT, DID YOU MAKE A DECISION
9 OR THE PEOPLE IN ANAHEIM ALONG WITH YOUR INPUT MAKE A
10 DECISION TO ADD A THIRD EVENT IN 1986?

11 A YES. AFTER A COUPLE OF YEARS OF HAVING
12 THE TWO EVENTS IN THE MONTH OF JANUARY AND CONTINUED
13 GREAT SUCCESS WITH THOSE EVENTS, WE WERE APPROACHED BY
14 MICKEY THOMPSON ABOUT PUTTING ON ANOTHER EVENT IN THE
15 MONTH OF JANUARY WHICH WAS THE OFFROAD VEHICLE RACES.
16 AND WE DELIBERATED OVER THAT IDEA AND ULTIMATELY BOOKED
17 THE THIRD EVENT IN THE STADIUM IN 1986 FOR JANUARY OF
18 1987.

19 MR. DIXON: YOUR HONOR, I WOULD LIKE TO MARK THIS
20 EXHIBIT, IF I CAN FIX THIS UP. THIS IS PEOPLE'S 21 FOR
21 IDENTIFICATION. I BELIEVE THAT'S THE NEXT IN ORDER.

22 THE COURT: YES. AND THAT'S A PHOTOGRAPH.

23 MR. DIXON: OF MICKEY THOMPSON AND A CAR.

24 THE COURT: THANK YOU.

25

26 (MARKED FOR IDENTIFICATION PEOPLE'S
27 EXHIBIT NO. 21, PHOTO.)

28

1 MR. DIXON: WELL, WE HAVE TO LIVE WITH THAT.

2 Q THAT'S PEOPLE 21 FOR IDENTIFICATION,
3 MR. SMITH. DO YOU SEE THAT ON OUR SCREEN?

4 A YES, I DO.

5 Q AND DO YOU RECOGNIZE THAT PERSON IN THE
6 FOREGROUND?

7 A YES, I DO.

8 Q WHO DO YOU RECOGNIZE HIM TO BE?

9 A TO BE MICKEY THOMPSON.

10 Q THE PERSON THAT YOU DEALT WITH IN 1986?

11 A CORRECT.

12 Q HAD YOU HAD ANY DEALINGS WITH HIM PRIOR TO
13 THAT?

14 A SOME LIMITED DEALINGS. MICKEY THOMPSON
15 ALSO PRODUCED AT THE ANAHEIM CONVENTION CENTER, THE
16 SOUTHERN CALIFORNIA OFFROAD EQUIPMENT SHOW WHICH WAS A
17 EXHIBIT SHOW OF OFFROAD VEHICLES ON THE EXHIBIT FLOOR OF
18 THE CONVENTION CENTER. I HAD LIMITED CONTACT WITH HIM,
19 BUT I DID KNOW HIM FROM PRODUCING THAT SHOW AT THE
20 CONVENTION CENTER.

21 Q WAS YOUR CONTACT ON A PROFESSIONAL BASIS?

22 A YES, IT WAS.

23 Q AND HOW WOULD YOU CHARACTERIZE THAT?

24 A WELL, MY CONTACT AT THAT TIME WAS IN TERMS
25 THAT I WAS THE MAINTENANCE MANAGER OF THE FACILITY AT THE
26 ANAHEIM CONVENTION CENTER AT THAT TIME. SO I COORDINATED
27 THE CLEANING OF THE FACILITY BEFORE, DURING AND AFTER HIS
28 PARTICULAR EVENT.

1 Q ONE MORE QUESTION WITH RESPECT TO PEOPLE'S
2 21. DO YOU RECOGNIZE THE VEHICLE THAT'S IN THE
3 BACKGROUND?

4 A YES, I DO.

5 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

6 MR. DIXON: I THINK ACTUALLY IT IS RELEVANT TO
7 HIS DEALINGS WITH MICKEY THOMPSON.

8 THE COURT: ALL RIGHT. OVERRULED.

9 THE WITNESS: YES, I RECOGNIZE THAT VEHICLE.

10 Q BY MR. DIXON: AND HOW DO YOU RECOGNIZE
11 IT?

12 A THAT'S THE CHALLENGER VEHICLE THAT HE
13 DROVE IN EXCESS OF 400 MILES AN HOUR.

14 Q PART OF HIS REPUTATION FOR PUTTING -- THAT
15 LED TO PUTTING ON THESE EVENTS?

16 A YES, IT IS.

17 Q THANK YOU.

18 SO YOU ENTER INTO WHAT KIND OF
19 NEGOTIATIONS AND THEN AGREEMENT WITH MICKEY THOMPSON IN
20 1986?

21 A IN 1986 WE ENTERED INTO AN AGREEMENT THAT
22 PROVIDED THE MICKEY THOMPSON ENTERTAINMENT GROUP TO
23 PRODUCE AN OFFROAD VEHICLE SHOW ON A SATURDAY IN JANUARY
24 OF 1987.

25 Q IN ANAHEIM STADIUM?

26 A IN ANAHEIM STADIUM, YES, SIR.

27 Q AGAIN, USING THE SAME DIRT?

28 A USING THE SAME DIRT, YES.

1 Q IN AN EARLIER QUESTION AND ANSWER, YOU
2 TOLD US HOW THERE WAS SOME COMPLAINTS WHEN PACE
3 MANAGEMENT CAME IN TO PUT ON THE SECOND EVENT.

4 DO YOU RECALL THAT?

5 A YES, SIR.

6 Q DID PACE COMPLAIN WHEN MICKEY THOMPSON
7 CAME IN?

8 A NO, THEY DID NOT.

9 Q ANYONE ELSE?

10 A MIKE GOODWIN COMPLAINED, YES.

11 Q COULD YOU TELL US ABOUT THAT.

12 A SIMILAR COMPLAINTS. MIKE GOODWIN
13 COMPLAINED THAT THE THIRD EVENT NOW WOULD DILUTE HIS
14 SUPERCROSS EVENT, TAKE AWAY BUSINESS FROM THAT EVENT, AND
15 EXPRESSED SEVERE CONCERN OVER THAT AND ALSO PROPOSED THAT
16 HE COULD PUT IT ON AS WELL.

17 Q DID YOU TAKE MR. GOODWIN UP ON THAT OFFER?

18 A NO, WE DID NOT.

19 Q DID YOU CONCLUDE AN AGREEMENT WITH MICKEY
20 THOMPSON?

21 A YES, WE DID.

22 Q AND WHAT WAS THE RESULT OF THAT WEEKENDS'S
23 EVENT?

24 A ANOTHER VERY SUCCESSFUL WEEKEND WITH THE
25 OFFROAD VEHICLE RACES. MY RECOLLECTION IS THAT WE DID
26 THE PACE EVENT, THE TRUCK AND TRACTOR PULL MUD BOG EVENT
27 THE FIRST WEEKEND, THE MICKEY THOMPSON OFFROAD VEHICLE
28 RACES THE FOLLOWING WEEKEND, THEN I BELIEVE WE HAD A

1 WEEKEND OFF AND THEN DID SUPERCROSS THAT LAST WEEKEND IN
2 JANUARY.

3 Q AND THAT WAS IN WHAT YEAR?

4 A 1987.

5 Q AND AFTER THAT YEAR, DID YOU CONTINUE TO
6 DO BUSINESS WITH MIKE GOODWIN?

7 A AFTER 1987, NO.

8 Q WHY?

9 A WELL, THERE WERE SEVERAL ISSUES LEADING UP
10 TO 1987.

11 Q PLEASE DESCRIBE THEM.

12 A FIRST WE WERE TRYING TO WORK THE DIRT --
13 SHARING OF THE DIRT COST BETWEEN THE THREE MOTOR SPORTS
14 PROMOTERS. AND MIKE GOODWIN WAS VERY UPSET THAT WE WERE
15 HAVING THIS THIRD EVENT AND THREATENED NOT TO
16 PARTICIPATE, THAT HE WOULD NOT USE THE SAME DIRT THAT THE
17 OTHER EVENT PROMOTERS WOULD USE.

18 Q WAS THERE A DIFFERENCE IN THE DIRT?

19 A NO DIFFERENCE IN THE DIRT. WE WERE NOT --
20 WE WERE CONCERNED OVER THAT PROSPECT BECAUSE THE FACT
21 THAT YOU'RE BRINGING IN ALL OF THIS DIRT AND LAYING IT ON
22 YOUR FIELD AND THE DAMAGE THAT IT DOES CAUSE, BOTH IN
23 COMPACTION AND DAMAGE TO IRRIGATION SYSTEMS, THINGS LIKE
24 THAT, WE DIDN'T WANT TO DOUBLE THE RISK OF PROBLEMS
25 TAKING PLACE, AND IN EFFECT, INCREASING THE PROMOTERS'
26 COST BY HAVING TWO DIFFERENT DIRT COMPANIES BRINGING IN
27 DIRT.

28 SO WE DID NOT LIKE THAT PROSPECT OF HAVING

1 TWO DIFFERENT DIRT PROVIDERS IN OUR FACILITY.

2 Q LET ME JUST ASK A CLARIFYING QUESTION,
3 PLEASE.

4 DID I HEAR IN YOUR LAST ANSWER, AND PLEASE
5 TELL ME IF I'M WRONG, THAT THE CONCEPT OF BRINGING IN A
6 LOAD OF DIRT AND THEN TAKING IT OFF AND THEN BRINGING
7 IN A SECOND LOAD OF DIRT WOULD DO MORE DAMAGE THAN JUST
8 BRINGING IN ONE LOAD OF DIRT AND LEAVING IT THERE?

9 A YES, THAT'S CORRECT.

10 Q OKAY. BUT THAT'S WHAT GOODWIN WANTED TO
11 DO, TO DO THIS TWICE?

12 A HE HAD THREATENED THAT THAT'S WHAT HE
13 WANTED TO DO. WE INSISTED THAT ONLY ONE DIRT PROVIDER DO
14 THE WORK, AND ULTIMATELY WE HAD ONLY ONE DIRT PROVIDER DO
15 BRING IN AND TAKE OUT THE DIRT FOR THE 1987 SEASON. BUT
16 IT WAS AN ONGOING PROBLEM FOR US.

17 Q I THINK YOU -- BEFORE I KIND OF
18 INTERRUPTED YOU WITH THAT QUESTION, YOU WERE TELLING US
19 THAT THERE WERE A SERIES OF ISSUES THAT LED TO THE
20 TERMINATION OF YOUR BUSINESS RELATIONSHIP WITH MIKE
21 GOODWIN; IS THAT CORRECT?

22 A YES, SIR.

23 Q COULD YOU CONTINUE.

24 A THE SECOND CONCERN THAT WE HAD WAS OVER
25 MR. GOODWIN'S -- I'LL CALL IT NEGATIVE ADVERTISING ON THE
26 OTHER EVENTS THAT WE HAD. HE WAS UPSET THAT WE WERE
27 DOING THE EVENTS. HE WAS CONCERNED THAT THESE EVENTS
28 WERE GOING TO TAKE BUSINESS AWAY FROM HIM. AND SO THERE

1 WERE ADVERTISEMENTS DURING THE OTHER -- PRIOR TO THE
2 OTHER EVENTS SUGGESTING TO THE PUBLIC THAT DON'T GO TO
3 THESE EVENTS, COME TO MY EVENT ON THE SPECIFIC DATE OF
4 HIS EVENT.

5 SO THERE WAS SOME NEGATIVE PUBLICITY OR
6 NEGATIVE ADVERTISING GOING AGAINST TWO OF OUR EVENTS THAT
7 WE'RE HAVING IN THE STADIUM.

8 Q DID THAT MAKE YOU HAPPY?

9 A NO, IT DID NOT.

10 Q WHY?

11 A WE DIDN'T WANT TO HURT ANYBODY. WE FELT
12 THAT THE EVENTS -- ALL THREE EVENTS COULD BE SUCCESSFUL
13 AND THERE WAS NO REASON TO BE COUNTERPRODUCTIVE ON ANY OF
14 THE EVENTS THAT WE WERE HOSTING THERE. WE FELT THAT THAT
15 NEGATIVE PUBLICITY COULD ONLY HURT US AS WELL AS THE
16 OTHER TWO SHOWS.

17 Q WAS THERE ANOTHER REASON WHY THE EVENTS
18 WERE -- YOU TERMINATED YOUR BUSINESS RELATIONSHIP WITH
19 THE DEFENDANT, MR. GOODWIN?

20 A YES. ULTIMATELY THE FACT THAT WE WERE
21 ADVISED THAT MR. GOODWIN'S -- EITHER HIMSELF OR HIS
22 COMPANY --

23 MR. SUMMERS: OBJECTION, YOUR HONOR. THIS
24 APPEARS TO BE ABOUT TO LAUNCH INTO HEARSAY AND OBJECTION
25 ON THAT GROUND AND FOUNDATION.

26 THE COURT: ALL RIGHT. SUSTAINED.

27 MR. DIXON: WELL, THIS GOES TO THIS WITNESS'S
28 STATE OF MIND AND WHY HE ENTERED INTO CERTAIN BUSINESS

1 RELATIONSHIPS. WHETHER IT'S TRUE OR NOT IS NOT REALLY
2 IMPORTANT AT THIS POINT.

3 THE COURT: SO YOU'RE OFFERING IT FOR NON-HEARSAY
4 PURPOSE?

5 MR. DIXON: YES.

6 THE COURT: ALL RIGHT. OVERRULED.

7 Q BY MR. DIXON: PLEASE, CONTINUE.

8 A IT CAME TO OUR ATTENTION THAT THERE WAS A
9 BANKRUPTCY FILING BY MR. GOODWIN AND HIS COMPANY. AND
10 THAT BECAME VERY TROUBLESOME FOR US, BECAUSE THESE EVENTS
11 REQUIRE A LOT OF CASH UP FRONT. YOU SPEND A LOT OF MONEY
12 BEFORE YOU SELL A TICKET. AND SO WE WERE VERY CONCERNED
13 OVER THE ABILITY OF A BANKRUPT ORGANIZATION TO
14 SUCCESSFULLY HOST A SUPERCROSS EVENT.

15 Q AND YOU WERE CONCERNED BECAUSE OF YOUR JOB
16 WITH THE CITY OF ANAHEIM AND YOUR FIDUCIARY RELATIONSHIP
17 WITH THE TAXPAYER?

18 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

19 THE COURT: SUSTAINED.

20 Q BY MR. DIXON: WHY WOULD YOU BE WORRIED
21 ABOUT THIS BEYOND JUST PUTTING ON THE EVENT?

22 A WELL, WHEN AN ORGANIZATION DOES NOT HAVE
23 SUFFICIENT FUNDS TO PRODUCE AN EVENT, THINGS GET CUT OUT
24 OF THEIR BUDGET. EITHER IT'S ADVERTISING AND THE
25 PRODUCTION OF THE EVENT. AND WE FELT THAT THIS COULD
26 SEVERELY HURT THE QUALITY OF THE EVENT AND THE ACTUAL
27 SALES, THE NUMBER OF PEOPLE THAT WOULD BUY TICKETS
28 BECAUSE OF POTENTIAL REDUCTION AND THE MARKETING OF THE

1 EVENT.

2 Q SO BECAUSE OF ALL THOSE REASONS, INCLUDING
3 THE BANKRUPTCY THAT YOU'VE JUST DESCRIBED, DID THE CITY
4 OF ANAHEIM MAKE A DECISION NOT TO DEAL WITH MIKE GOODWIN
5 ANYMORE?

6 A YES.

7 Q HOW WAS THAT COMMUNICATED TO HIM?

8 A I KNOW THERE WAS A -- I'M NOT 100 PERCENT
9 SURE ON THE METHOD WE USED TO COMMUNICATE TO MR. GOODWIN
10 ON OUR DECISION TO AWARD THAT EVENT, THAT CONTRACT TO
11 ANOTHER PROMOTER. IT COULD HAVE BEEN ORAL OR IT COULD
12 HAVE BEEN WRITTEN. I JUST DON'T RECALL.

13 Q SO AS A RESULT OF THE DECISIONS YOU'VE
14 JUST DESCRIBED, YOU DECIDED TO DO WHAT WITH THIS JANUARY
15 MOTOR SPORTS EVENT? WHO WAS GOING TO RUN THEM NOW?

16 A WELL, WE HAD TWO OTHER MOTOR SPORTS
17 PROMOTERS THAT WERE DOING EVENTS IN THE MONTH OF JANUARY
18 AVAILABLE TO US, BOTH CAPABLE, IN OUR OPINION, OF
19 PRODUCING THE EVENT AND SO WE ASKED FOR AN R.F.P.,
20 "REQUEST FOR PROPOSAL" FROM THOSE TWO ENTITIES ON
21 PRODUCING THE EVENT.

22 Q WHO WERE THE TWO ENTITIES?

23 A PACE MANAGEMENT WHO PRODUCED THE TRUCK AND
24 TRACTOR PULL AND MICKEY THOMPSON ENTERTAINMENT GROUP THAT
25 PRODUCED THE OFFROAD VEHICLE RACES.

26 Q AND WHAT WERE YOU ASKING THEM TO DO
27 EXACTLY? I MEAN, THEY WERE ALREADY EACH DOING ONE OF THE
28 THREE EVENTS; CORRECT?

1 A YES, THEY WERE EACH DOING ONE OF THE
2 THREE.

3 Q AND WERE THEY GOING TO CONTINUE TO DO ONE
4 OF THE THREE FOR THE NEXT YEAR, 1988?

5 A YES. OUR INTENTION WAS FOR THEM TO
6 CONTINUE TO DO THEIR EVENT THAT THEY ALREADY DID AND IN
7 ADDITION PICK UP THIS ADDITIONAL SUPERCROSS EVENT.

8 Q SO -- AND PLEASE CORRECT ME IF I'M WRONG,
9 SO YOU KIND OF ASKED THEM FOR BIDS ON HOW TO DO THE MOTOR
10 CROSS EVENT THAT MIKE GOODWIN HAD DONE FOR YEARS?

11 A YES. ACTUALLY, IT WAS NOT A FORMAL BID
12 BECAUSE OUR RENTAL AND ALL THE TERMS OF THE AGREEMENT
13 WERE STANDARD. WE WEREN'T ASKING THEM TO BID UP WHAT
14 THEY WOULD PAY US TO DO IT. THAT WAS ALREADY SET. SO IT
15 WAS A MATTER OF PROVIDING US WITH YOUR QUALIFICATIONS AND
16 TELL US WHY YOU THINK WE SHOULD BE SELECTING YOU TO PUT
17 ON THIS EVENT.

18 Q TO PUT ON THE MOTORCROSS EVENT?

19 A YES.

20 Q AND SO WHAT WAS THE RESULT OF THAT REQUEST
21 OF THESE TWO PARTIES, MICKEY THOMPSON AND PACE
22 MANAGEMENT?

23 A WE ENDED UP AWARDING THE SUPERCROSS EVENT
24 TO THE MICKEY THOMPSON ENTERTAINMENT GROUP.

25 Q DID YOU HEAR ANY COMPLAINTS, OUTCRY FROM
26 GOODWIN?

27 A MIKE GOODWIN WAS VERY UPSET ABOUT THAT,
28 YES.

1 Q COULD YOU DESCRIBE THAT IN GREATER
2 DETAILS, PLEASE.

3 MR. SUMMERS: OBJECTION. FOUNDATION, YOUR HONOR.

4 THE COURT: ALL RIGHT. SUSTAINED.

5 AND WITH THAT, WE'RE GOING TO TAKE OUR
6 AFTERNOON RECESS AT THIS TIME.

7 LADIES AND GENTLEMEN, PLEASE DON'T DISCUSS
8 THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T
9 CONDUCT ANY DELIBERATIONS. AND WE WILL SEE YOU TOMORROW
10 MORNING. WE'RE GOING TO TRY FOR 10:00 A.M. SO WE WILL
11 SEE YOU TOMORROW AT 10:00 A.M. HAVE A GOOD EVENING.

12 (THE JURORS EXITED THE COURTROOM.)

13 THE COURT: LET'S GET MR. NEWMAN, PLEASE. AND
14 THANK YOU, SIR.

15 WE WILL SEE YOU TOMORROW MORNING AT 10:00
16 A.M.

17 ALL RIGHT. MR. NEWMAN, COME ON UP.
18 RESUME YOUR SEAT ON THE WITNESS STAND. THERE'S SOMETHING
19 THAT WE'RE GOING TO HAVE TO DO OUTSIDE THE PRESENCE OF
20 THE JURY.

21 THE WITNESS: I NOTICED THAT.

22 THE COURT: YOU'VE BEEN PREVIOUSLY SWORN. YOU'RE
23 REMINDED YOU'RE STILL UNDER OATH.

24 MR. JACKSON: THANK YOU, YOUR HONOR.

25
26 DIRECT EXAMINATION (CONTINUED)

27 BY MR. JACKSON:

28 Q JUST A COUPLE OF QUICK QUESTIONS OF

1 CLARIFICATION, MR. NEWMAN.

2 MR. DIXON WAS ASKING YOU EARLIER ABOUT A
3 STATEMENT THAT YOU HEARD WHILE YOU WERE ON THE BOAT FROM
4 MIKE GOODWIN.

5 A THAT'S CORRECT.

6 Q WITHOUT TELLING ME THE ESSENCE OF THE
7 STATEMENT, WITHOUT GIVING ME THOSE WORDS, I WANT TO ASK
8 YOU A COUPLE OF QUESTIONS ABOUT WHERE YOU WERE.

9 HOW FAR WERE YOU FROM MR. GOODWIN WHEN HE
10 MADE THIS STATEMENT?

11 A YOU'RE TALKING 19 YEARS, BUT IN THE
12 BALLPARK I WOULD SAY WITHIN FIVE, SIX FEET, MAXIMUM.

13 Q AND THIS STATEMENT WAS MADE VERBALLY, IT
14 WASN'T MADE OUT LOUD, IT WASN'T WRITTEN DOWN OR ANYTHING
15 LIKE THAT?

16 A NO. OUT LOUD, NO. QUIETLY. BUT --

17 Q QUIETLY BUT IT WAS MADE OUT LOUD? IN
18 OTHER WORDS, IT WAS SPOKEN, NOT WRITTEN?

19 A YEAH. IT WAS SPOKEN, NOT --

20 Q NOT?

21 A SPOKEN, NOT WRITTEN.

22 Q OKAY. THANK YOU, MR. NEWMAN.

23 SECONDARILY, YOU INDICATED THAT THE
24 STATEMENT WAS DIRECTED TOWARD A FEMALE; CORRECT?

25 A YES.

26 Q DO YOU KNOW WHO THAT FEMALE IS? DO YOU
27 HAVE PERSONAL KNOWLEDGE? I DON'T WANT YOU TO SPECULATE.
28 I WANT YOU TO TELL ME IF YOU HAVE PERSONAL KNOWLEDGE AS

1 TO WHO THAT FEMALE WAS.

2 A I DON'T. I HAVE REASON TO BELIEVE.

3 Q BUT YOU HAVE NO PERSONAL KNOWLEDGE AS TO
4 THE IDENTITY OF THE FEMALE?

5 A ABSOLUTELY NOT. NOT TO SWEAR TO IT, NO.

6 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
7 HONOR?

8 THE COURT: YES.

9 (PAUSE IN PROCEEDINGS.)

10 Q BY MR. JACKSON: MR. NEWMAN, AT THE TIME
11 OF THIS TRIP, HOW MANY OTHER PEOPLE WERE ON THE BOAT IN
12 TOTAL?

13 A THERE WAS OTHER PERSONS ON THE BOAT. THEY
14 WERE NOT WITH US ON THE BRIDGE DECK, THEY WERE DOWN BELOW
15 IN THE SALON. THERE WAS --

16 Q WERE YOU IN THE SAME ROOM AS --

17 A IT WAS NOT IN A ROOM. NO, NO. START OVER
18 AGAIN.

19 Q WERE YOU IN THE SAME ROOM AS MR. GOODWIN
20 AND THIS FEMALE WHEN THE STATEMENT WAS MADE OR
21 STATEMENTS?

22 A IT WAS NOT A ROOM. IT WAS ON TOP OF THE
23 COMMAND BRIDGE.

24 Q AND YOU SAID YOU WERE FIVE TO SIX FEET
25 AWAY. IS THAT ABOUT AS FAR AS I'M STANDING FROM YOU
26 RIGHT NOW (INDICATING)?

27 A MAYBE EVEN CLOSER.

28 Q HOW ABOUT NOW (INDICATING)?

1 A PROBABLY CLOSER, YEAH.

2 Q HOW ABOUT NOW (INDICATING)?

3 A YES.

4 MR. JACKSON: YOUR HONOR, ABOUT THREE FEET?

5 THE COURT: YES.

6 THE WITNESS: FOUR FEET.

7 MR. JACKSON: THANK YOU.

8 (DISCUSSION OFF THE RECORD.)

9 Q BY MR. JACKSON: MR. NEWMAN, A COUPLE MORE
10 QUESTIONS JUST FOUNDATIONALLY. IT'S A TEAM EFFORT.

11 HOW IS IT THAT YOU CAME TO BE UP ON THAT
12 BRIDGE DECK WITH MR. GOODWIN AND THIS FEMALE?

13 A WE WERE INVITED UP AFTER WE ATE.

14 Q WHO'S "WE"?

15 A ME, MYSELF AND MY FRIEND MARTINE.

16 Q SO MARTINE WAS UP ON THE BRIDGE DECK ALSO?

17 A RIGHT. WE WERE FACING EACH OTHER.

18 Q SO IT WAS YOU, MARTINE, MR. GOODWIN AND A
19 FEMALE, AND IT WAS AT THAT TIME WITH ALL FOUR OF YOU
20 GATHERED TOGETHER ON THE TOP OF THE BRIDGE DECK THAT THE
21 STATEMENT WAS MADE?

22 MS. SARIS: OBJECTION. LEADING.

23 THE WITNESS: YES.

24 THE COURT: SUSTAINED.

25 Q BY MR. JACKSON: WHO WAS UP ON THE TOP OF
26 THE BRIDGE DECK WHEN MR. GOODWIN MADE THE STATEMENT?

27 A THE FOUR OF US.

28 Q OKAY. AND YOU AND MR. MARTINE -- HOW IS

1 IT THAT YOU AND MR. MARTINE --

2 A MR. POSAS.

3 Q I'M SORRY. YOU'RE RIGHT. IT'S MARTINE
4 POSAS.

5 HOW IS IT THAT YOU AND MR. POSAS ENDED UP
6 ON TOP OF THE BRIDGE DECK WITH MR. GOODWIN?

7 A WE WERE INVITED UP TO HAVE A DRINK OF
8 CHAMPAGNE.

9 Q BY WHOM?

10 A BY MR. GOODWIN.

11 MR. JACKSON: OKAY. THANK YOU. THAT'S ALL I
12 HAVE.

13 THE COURT: CROSS?

14

15 CROSS-EXAMINATION

16 BY MS. SARIS:

17 Q GOOD AFTERNOON, MR. NEWMAN. DO YOU
18 RECOGNIZE MR. GOODWIN AS HE SITS HERE? OR DO YOU JUST
19 KNOW IT'S HIM BECAUSE YOU CAME IN TO TESTIFY ON THE CASE?

20 A WELL, NOT ANYMORE. IT'S LIKE MYSELF,
21 WE'VE ALL AGED A LITTLE BIT.

22 Q AND DID YOU HAVE PERSONAL KNOWLEDGE THAT
23 IT WAS MIKE GOODWIN? DID YOU SEE SOME I.D. OR SOMETHING
24 THAT DAY ON THE BOAT?

25 A HE WAS INTRODUCED AS SUCH.

26 Q AND THE WOMAN, WAS SHE INTRODUCED AS MIKE
27 GOODWIN'S WIFE?

28 A YES.

1 Q AND DO YOU RECALL THE STATEMENT? DO YOU
2 RECALL THE STATEMENT?

3 A WHICH STATEMENT ARE YOU TALKING ABOUT?

4 Q THE ONE THAT YOU OVERHEARD?

5 A ONLY IN CONTEXT, NOT TO QUOTE IT. I
6 WOULDN'T QUOTE IT NOW. I WOULDN'T EVEN TRY.

7 MS. SARIS: THANK YOU. I HAVE NOTHING FURTHER.

8 MR. JACKSON: MAY I, YOUR HONOR?

9 THE COURT: YES.

10

11

REDIRECT EXAMINATION

12 BY MR. JACKSON:

13 Q TO THE BEST OF YOUR RECOLLECTION, WHAT WAS
14 THE SUM AND SUBSTANCE OF THE STATEMENT THAT YOU
15 OVERHEARD?

16 A THE SUM AND SUBSTANCE WAS A THREAT TO TAKE
17 CARE OF SOMEBODY THAT WAS CAUSING THEM SOME PROBLEMS. IT
18 SOUNDED LIKE IT WAS IN A LEGAL VEIN. SOME KIND OF LEGAL
19 PROBLEMS. I HAD NO IDEA AT THE TIME WHAT IT WAS ABOUT AT
20 THAT TIME. IT WAS QUITE THREATENING, THOUGH.

21 Q YOU TOOK IT AS A THREATENING COMMENT?

22 A YES. ABOUT SOMEONE, YES.

23 Q DID --

24 A I HAD NO IDEA WHO IT WAS ABOUT.

25 Q MR. GOODWIN DIDN'T MENTION ANY NAMES?

26 A AT THAT TIME, NO.

27 Q YOU SAID THAT YOU CAN'T REMEMBER THE EXACT
28 WORDS THAT WERE USED --

1 A IT'S 19 YEARS HENCE. IF YOU'LL BEAR WITH
2 ME ON THAT ONE.

3 Q I'LL BEAR WITH YOU ALL DAY LONG.
4 DO YOU THINK IT MIGHT REFRESH YOUR
5 RECOLLECTION OR ASSIST YOU IN REMEMBERING SOME OF THE
6 WORDS THAT WERE USED BY MR. GOODWIN IF YOU WERE TO LOOK
7 AT A REPORT OR A SYNOPSIS?

8 A SURE.

9 MS. SARIS: YOUR HONOR, ARE WE SHOWING HIM -- CAN
10 WE MAKE THE RECORD CLEAR WHAT WE'RE SHOWING HIM? IS THIS
11 A POLICE REPORT OR A D.A. --

12 MR. JACKSON: WE REALLY DON'T KNOW WHAT WE'RE
13 SHOWING HIM YET.

14 THE COURT: ALL RIGHT. WHEN YOU GET IT, LET US
15 KNOW.

16 MR. JACKSON: OKAY. PAGE 10 AND 11 ON APRIL 17,
17 2001 POLICE REPORT, YOUR HONOR.

18 THE COURT: ALL RIGHT. THANK YOU.

19 Q MR. JACKSON: MR. NEWMAN, I'M GOING TO ASK
20 YOU TO DO ME A FAVOR.

21 A CERTAINLY.

22 Q I WANT YOU TO READ BEGINNING AT THIS
23 BOTTOM PARAGRAPH TO YOURSELF, NOT OUT LOUD, OKAY, JUST
24 READ IT TO YOURSELF, THAT BOTTOM PARAGRAPH ALL THE WAY UP
25 TO THIS TOP PHOTOGRAPH (INDICATING).

26 A I GOT IT.

27 Q AND THEN WHEN YOU'RE FINISHED READING IT,
28 JUST LOOK UP FROM THE PAGE AND I'LL ASK YOU A QUESTION.

1 A OKAY.

2 Q OKAY. HAVING READ THAT, DOES THAT REFRESH
3 YOUR RECOLLECTION AS TO WHAT MR. GOODWIN SAID WHILE YOU
4 WERE UP ON THAT BRIDGE DECK?

5 A PRETTY MUCH IN THAT VEIN, YES.

6 Q WHAT WAS SAID?

7 A I CAN READ IT IF YOU WANT.

8 Q TELL ME, IS THAT -- IS YOUR RECOLLECTION
9 THAT THE WORDS THAT ARE ON THAT PAGE ARE THE WORDS THAT
10 YOU REMEMBER HEARING MR. GOODWIN USE?

11 A PRETTY MUCH SO.

12 Q OKAY. HAVING THAT IN MIND, WHY DON'T YOU
13 TELL US EXACTLY WHAT HE SAID.

14 MS. SARIS: I'M GOING TO OBJECT TO HIM READING,
15 YOUR HONOR.

16 THE COURT: SUSTAINED.

17 JUST GO AHEAD AND TELL US WHAT YOU
18 REMEMBER MR. GOODWIN SAYING WITHOUT READING THE DOCUMENT.

19 THE WITNESS: HE WAS -- WELL, CAN I NARRATE A
20 LITTLE BIT OR WHAT?

21 THE COURT: YES.

22 THE WITNESS: HE WAS BASICALLY TRYING TO COMFORT
23 HIS WIFE OR COMPANION AS TO A SITUATION THAT THEY WERE
24 INVOLVED IN WHICH I HAD NO KNOWLEDGE OF AT THE TIME AND
25 DIDN'T KNOW WHOM THEY WERE SPEAKING ABOUT.

26 ANYWAY, IT GOT DOWN TO, DON'T WORRY,
27 HONEY, I'M GOING TO GET THEM TAKEN CARE OF AND THEY'RE
28 NOT GOING TO BE BOTHERING US ANYMORE. DON'T YOU WORRY

1 ABOUT IT. THINGS OF THAT NATURE.

2 IT WAS A GRAVE SOUNDING COMMENT.

3 THE COURT: ALL RIGHT. THANK YOU.

4 THE WITNESS: IT SOUNDED -- IT WAS MORE THAN AN
5 IDLE COMMENT.

6 MR. JACKSON: THAT'S ALL I HAVE.

7 OH, APPARENTLY NOT.

8 Q MR. NEWMAN, DID YOU INDICATE -- DID YOU
9 HAVE ANY CONTACT WITH MR. GOODWIN THE NEXT DAY AFTER THIS
10 COMMENT WAS MADE?

11 A NOT VERY MUCH. WE WERE JUST BASICALLY
12 DIVING OFF OF A BOAT.

13 Q DID MR. GOODWIN SAY ANYTHING ELSE THE
14 FOLLOWING DAY --

15 A NOTHING.

16 Q -- THAT GAVE YOU SOME INSIGHT AS TO WHAT
17 THIS COMMENT WAS ABOUT?

18 A NOT A WORD.

19 MR. JACKSON: THAT'S ALL I HAVE.

20 THE COURT: CROSS?

21

22 RECROSS EXAMINATION

23 BY MS. SARIS:

24 Q THE NATURE OF THE STATEMENT WAS -- IT
25 SEEMED TO BE CONSOLING HIS WIFE OR THIS WOMAN; IS THAT
26 FAIR? HE SEEMED TO BE CONSOLING HIS WIFE OR THIS WOMAN?

27 A YES. YES.

28 Q DON'T WORRY, HONEY, YOU HEARD THAT?

1 A YES.

2 Q DO YOU REMEMBER HEARING SOMETHING LIKE,
3 "THEY'RE NOT GOING TO GET US"?

4 A YES.

5 Q DO YOU REMEMBER THEM -- THE COMMENT
6 REFERRING TO ONE PERSON OR TO A "THEY," LIKE TO A PLURAL?

7 A PLURAL. IT SEEMED LIKE IT WAS A "THEY" AT
8 THE TIME. IT COULD HAVE BEEN "HE," "THEY." I THOUGHT IT
9 WAS "THEY." AGAIN, IT'S 19 TO YEARS LATER, I CAN'T --

10 Q COULD THIS HAVE BEEN IN JULY OF 1986?

11 A NO.

12 Q "NO"?

13 A NO.

14 Q IS IT FAIR TO SAY YOUR MEMORY OF THIS
15 EVENT WOULD HAVE BEEN BETTER IN 1988 THAN NOW?

16 A OBVIOUSLY, YES, IT WOULD BE, OF COURSE.

17 MS. SARIS: THANK YOU. NOTHING FURTHER.

18 THE COURT: ANYTHING ELSE?

19 MR. JACKSON: I MAY HAVE MISSED THIS.

20

21 REDIRECT EXAMINATION

22 BY MR. JACKSON:

23 Q DID MS. SARIS ASK YOU IF ONE OF THE
24 COMMENTS THAT YOU HEARD WAS, "DON'T WORRY, HONEY, I'M
25 GOING TO TAKE CARE OF THEM"?

26 MS. SARIS: NO, I DIDN'T.

27 THE WITNESS: UH-HUH, YES.

28 Q BY MR. JACKSON: IS THAT ONE OF THE

1 COMMENTS THAT YOU HEARD?

2 A YES.

3 MR. JACKSON: THAT'S ALL I HAD, YOUR HONOR. I
4 WASN'T SURE IF THAT WAS IN THE RECORD OR NOT.

5 THE COURT: ANYTHING ELSE?

6 MS. SARIS: NO, YOUR HONOR.

7 THE COURT: ALL RIGHT. THANK YOU, SIR. IF YOU
8 WOULD COME BACK AT 10:00 A.M. TOMORROW.

9 THE WITNESS: OH, REALLY?

10 THE COURT: UH-HUH.

11 THE WITNESS: OKAY.

12 THE COURT: SEE YOU THEN.

13 ANY OTHER EVIDENCE THAT THE PEOPLE WISH TO
14 PRESENT ON THIS ISSUE?

15 MR. JACKSON: NO.

16 MR. DIXON: NO, YOUR HONOR.

17 THE COURT: AND THE DEFENSE?

18 MS. SARIS: NO, YOUR HONOR.

19 THE COURT: ALL RIGHT. ANY FURTHER ARGUMENT?

20 MS. SARIS: NO, YOUR HONOR. ALTHOUGH WE DO THINK
21 IT'S CLEAR THAT IT WAS HIS WIFE AS MUCH AS IT WAS HIM AND
22 WE WOULD ASK THE COURT TO ACCEPT THAT.

23 THE COURT: I DON'T KNOW THAT UNLESS COUNSEL
24 WANTS TO STIPULATE TO THAT.

25 MR. JACKSON: ABSOLUTELY NOT.

26 THE COURT: ALL RIGHT.

27 MS. SARIS: I THINK THAT THE COURT CAN'T FIND IT
28 WAS MR. GOODWIN, THEN, IN THAT CONTEXT. BUT OTHER THAN

1 THAT, WE'LL SUBMIT.

2 THE COURT: ALL RIGHT. I'M GOING TO ALLOW THE
3 STATEMENT. NUMBER ONE, I DON'T KNOW WHO THE LADY WAS.
4 BUT ASSUMING FOR THE SAKE OF ARGUMENT AND THERE'S AN
5 INFERENCE THAT CAN BE DRAWN IT WAS MR. GOODWIN'S WIFE, IT
6 APPEARS TO BE A STATEMENT OF HIS INTENT TO COMMIT A CRIME
7 TAKEN IN THE CONTEXT OF ALL THE OTHER EVIDENCE THAT'S
8 BEEN PRESENTED.

9 SO WE WILL RESUME TOMORROW MORNING AT 9:00
10 O'CLOCK WITH MR. COYNE AND THEN FURTHER DISCUSSION ON THE
11 ISSUE REGARDING THE STATEMENT THAT MS. WILKINSON
12 ATTRIBUTES TO MR. THOMPSON.

13 MR. DIXON: DID YOU SAY 9:00 O'CLOCK?

14 THE COURT: 9:00 O'CLOCK FOR MR. COYNE'S
15 TESTIMONY AND THEN FURTHER ARGUMENT ON THE ISSUE THAT WE
16 HELD IN ABEYANCE TODAY.

17 MR. JACKSON: THE WILKINSON ISSUE.

18 MR. DIXON: THANK YOU.

19 THE COURT: THE WILKINSON ISSUE. WE DON'T NEED
20 HER.

21 MR. JACKSON: OH, COUNSEL WAS GOING TO SUBMIT
22 SOME PAPERS.

23 MS. SARIS: I CAN TELL THE COURT THE NAME RIGHT
24 NOW OF ONE OF THE CASES, JABLONSKI, BUT I DON'T HAVE THE
25 CITE RIGHT OFF THE TOP OF MY HEAD. J-A-B-L-O-N-S-C-I.

26 THE COURT: OKAY. I'LL CHECK IT OUT AND THEN
27 I'LL SEE YOU ALL TOMORROW MORNING. THANK YOU.

28 MS. SARIS: AND, YOUR HONOR, AT SOME POINT,

1 ESPECIALLY PRIOR TO MR. GOODWIN POTENTIALLY TAKING THE
2 STAND, THERE'S THE ISSUE OF HIS TOOTH THAT IS MISSING AND
3 WE'VE SUBMITTED SEVERAL COURT ORDERS.

4 IT IS SOMEWHAT PREJUDICIAL IN TERMS OF HIS
5 LOOKS. AND WERE HE OUT OF CUSTODY, HE WOULD GET IT FIXED
6 RIGHT AWAY. AND, OF COURSE, HE CAN'T DO THAT BECAUSE
7 HE'S NOT OUT OF CUSTODY. I'VE ASKED THE COURT TO SIGN A
8 COURT ORDER. PERHAPS THE COURT CAN MAKE A CALL. THEY'RE
9 NOT PAYING ANY ATTENTION TO US WHATSOEVER. THEY CLEANED
10 HIS TEETH.

11 THE COURT: I DON'T KNOW THAT THEY'RE GOING TO
12 CONSIDER THIS A MEDICAL NECESSITY. AND I WONDER WHETHER
13 OR NOT THE COURT CAN EVEN PROPERLY ORDER THEM TO DO IT.
14 IT'S COSMETIC, IT'S NOTHING --

15 MS. SARIS: IT IS COSMETIC; HOWEVER, THE JURY --
16 HE HAS THE RIGHT TO BE SEEN THE SAME AS HE HAS A RIGHT TO
17 BE DRESSED IN CLOTHES. THIS IS SOMETHING WE'D TAKE CARE
18 OF IF HE WERE OUT ON BAIL. AND IT'S JUST NOT FAIR TO HIM
19 THAT HIS BAIL STATUS EFFECTS PERHAPS HOW A JURY LOOKS AT
20 HIM.

21 THE COURT: I AGREE, BUT I'M JUST SAYING I DON'T
22 KNOW IF THE SHERIFF'S DEPARTMENT IS GOING TO DO ANYTHING
23 ABOUT THAT ORDER. IN FACT, I BELIEVE THAT THEY WILL
24 CHALLENGE THE ORDER. AND THEY WOULD HAVE PROPER GROUNDS
25 TO CHALLENGE THE ORDER BECAUSE IT'S NOT MEDICALLY
26 NECESSARY. I CAN'T EVEN GET THE SHERIFF'S DEPARTMENT TO
27 DO WHAT IS MEDICALLY NECESSARY, LET ALONE DO SOMETHING
28 THAT IS COSMETIC. I WILL SIGN AN ORDER AND THAT'S ALL I

1 CAN DO.

2 MS. SARIS: WELL, THEN, WE WOULD ASK TO SUSPEND
3 THE PROCEEDINGS AND HAVE THAT O.S.C. SO THAT --

4 THE COURT: WHY DON'T YOU START WITH THE ORDER.

5 MS. SARIS: WE'VE DONE TWO, JUDGE. TWO.

6 THE COURT: FOR WHAT?

7 MS. SARIS: THE TOOTH, THE CAP.

8 THE COURT: I DON'T KNOW WHAT ELSE I CAN DO. DO
9 YOU WANT TO NOTICE COUNSEL FOR THE SHERIFF'S DEPARTMENT
10 TO COME IN ONE MORNING THIS WEEK?

11 MS. SARIS: YES.

12 THE COURT: AND WE WILL SEE IF --

13 MS. SARIS: I'LL SUBMIT ANOTHER ORDER AND ADVISE
14 THEM THAT THAT IS THE COURT'S INTENTION.

15 THE COURT: OKAY. WHY DON'T WE DO THAT. AND
16 I'LL SIGN THE ORDER. THANK YOU.

17
18 (THE MATTER WAS CONTINUED TO TUESDAY,
19 NOVEMBER 14, 2006 AT 9:00 A.M.)

20 (NEXT PAGE IS 3901.)

21 --000--
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28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, NOVEMBER 14, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: ALL RIGHT. LET'S RESUME IN THE
20 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
21 THE PEOPLE ARE REPRESENTED.

22 I UNDERSTAND THAT MR. -- I ASSUME
23 MR. COYNE IS HERE?

24 MR. JACKSON: YES, YOUR HONOR.

25 THE COURT: AND WITH RESPECT TO THE STATEMENT
26 THAT WAS ATTRIBUTED TO MR. THOMPSON, DO EITHER COUNSEL
27 WISH TO ARGUE THAT MATTER FURTHER?

28 MR. JACKSON: YOUR HONOR, I HAVE RECEIVED

1 COUNSEL'S MOVING PAPERS ON THE ISSUE CONCERNING
2 MISS WILKINSON'S PROPOSED TESTIMONY. AND ONCE AGAIN I
3 GUESS THE SIMPLEST ARGUMENT, THE WAY THAT I WOULD BROACH
4 THIS IS MS. SARIS IS JUST WRONG. SHE TENDS TO DO THE
5 SAME THING IN HER MOVING PAPERS THAT SHE DID YESTERDAY
6 AND FOCUS THE COURT'S ATTENTION ON MICKEY THOMPSON'S
7 FEARS. THAT IS VERY SIMPLY NOT OUR THEORY OF THE
8 ADMISSION OF THIS -- OR THE ADMISSIBILITY RATHER OF THIS
9 STATEMENT.

10 WHETHER OR NOT MICKEY THOMPSON WAS
11 AFRAID -- AND THE REALITY IS, YOUR HONOR, WE COULD
12 PROBABLY HAVE 15 WITNESSES WALK INTO THIS COURT. I THINK
13 IT WOULD BE A WASTE OF THE JUDICIAL EFFICIENCY. BUT WE
14 COULD HAVE WITNESSES WALK INTO THE COURTROOM AND SAY
15 MICKEY THOMPSON WASN'T AFRAID OF ANYTHING.

16 WE'RE NOT PROPOSING THIS EVIDENCE TO PROVE
17 FEAR. WE'RE PROPOSING THIS EVIDENCE TO PROVE THE LEVEL
18 OF ANIMOSITY; THE LEVEL OF VITRIOL IN THE LITIGATION IN
19 GENERAL. AND THAT'S VERY SIMPLY WHY IT'S ADMISSIBLE.

20 THE FACT THAT COUNSEL CITES A DEATH
21 PENALTY CASE IN HERNANDEZ THAT TALKS ABOUT HOW FEAR --
22 THE STATE OF MIND OF THE VICTIM AND HIS FEAR IS
23 IRRELEVANT, WE AGREE WITH. FIRST THINGS OUT OF OUR
24 MOUTH. WE'RE NOT OFFERING IT UNDER 1250. WE ARE
25 OFFERING IT TO PROVE ANOTHER FACTOR, WHICH IS THAT THIS
26 LITIGATION WAS NOT ONE OF CONCILIATORY SETTLEMENT.

27 COUNSEL HAS SUGGESTED THROUGH HIS
28 CROSS-EXAMINATION AND MS. SARIS HAS SUGGESTED IN HER

1 OPENING STATEMENT THAT THE PEOPLE ARE FLATLY WRONG. THAT
2 MIKE GOODWIN DIDN'T HAVE THE MOTIVE THAT WE ATTRIBUTE TO
3 HIM TO KILL MICKEY THOMPSON. WHY? FOR ONE REASON,
4 BECAUSE WE'RE ON THE VERGE OF SETTLEMENT.

5 AS A MATTER OF FACT MR. SUMMERS SPENT THE
6 LION'S SHARE OF HIS CROSS-EXAMINATION YESTERDAY WITH MISS
7 CORDELL ESTABLISHING, HEY, LOOK THEY ARE RIGHT ON THE
8 EDGE OF SETTLEMENT. MR. GOODWIN HAD MADE SETTLEMENT
9 OFFERS. HIS CAMP WAS APPROACHING MICKEY THOMPSON AND
10 MAKING IN ROADS TOWARDS SETTLEMENT. DIDN'T YOU,
11 MISS CORDELL, SIGN A STIPULATED CONTINUANCE FOR THE
12 TRIAL? WHY MISS CORDELL? BECAUSE WE WERE APPROACHING A
13 SETTLEMENT.

14 THE PROSECUTIONS'S THEORY IS THAT THERE
15 WAS NO GOOD FAITH SETTLEMENT. AND THE LEVEL OF ANIMOSITY
16 AMONG THE PLAYERS IS THE HEIGHT OF THE MOTIVE THAT ENDED
17 UP LEADING TO MICKEY AND TRUDY'S DEATH. THIS STATEMENT
18 BY MICKEY THOMPSON RUNNING UPSTAIRS; DESCRIBING AN EVENT
19 HE HAD OBVIOUSLY JUST SEEN, TO WIT, AN OPEN CURTAIN OR A
20 SHADE AT A WINDOW IS EXACTLY WHAT THE EVIDENCE CODE
21 ALLOWS FOR. IT IS AN EXCITED UTTERANCE THAT NARRATES AN
22 EVENT THAT MICKEY THOMPSON HAD JUST PERCEIVED. AND
23 THAT'S SIMPLY WHY WE WANT TO INTRODUCE IT.

24 MS. SARIS: YOUR HONOR, THE REASON THAT I
25 ORIGINALLY ARGUED THAT IT WAS BEING OFFERED FOR FEAR IS
26 BECAUSE THE EXACT QUOTE BY MR. DIXON WAS IT IS OFFERED TO
27 SHOW FEAR UNTIL THE COURT CORRECTED HIM AND TOLD HIM THAT
28 WAS AN INAPPROPRIATE PURPOSE, THAT WAS THE INITIAL

1 PROFFER.

2 IN MY MOVING PAPERS I ADDRESSED BOTH AND
3 OTHER ASPECTS OF THIS QUOTE. THE REASON HERNANDEZ IS
4 QUOTED "IT'S VERY IMPORTANT THAT WE DISTINGUISH BETWEEN
5 THE DECLARANT'S STATE OF MIND VERSUS THE DECLARANT MAKING
6 A STATEMENT THAT SPEAKS OF THE ACCUSED STATE OF MIND."
7 THE PEOPLE CAN HAVE WHATEVER THEORY THEY CHOOSE TO HAVE.
8 THEY CAN ARGUE WHATEVER THEY CHOOSE TO ARGUE BASED ON THE
9 RELEVANT EVIDENCE.

10 THIS STATEMENT DOESN'T ADDRESS THE LEVEL
11 OF HOSTILITY. IT'S NOT EVEN -- I MEAN WITH THE
12 LITIGATION, WHICH IS THEIR THEORY, IT COULD BE A
13 STATEMENT OF ANIMOSITY. BUT AS I PUT IN MY MOVING PAPERS
14 THE STATEMENT IN AND OF ITSELF DOESN'T MENTION THE
15 LITIGATION. HE COULD BE MAD AT TRUDY. HE COULD BE UPSET
16 OVER ANYTHING. HE COULD BE UPSET OVER ANY NUMBER OF
17 THINGS.

18 THE PROBLEM IS IN ORDER TO ACCEPT THIS AS
19 EVIDENCE AGAINST MICHAEL GOODWIN, WE HAVE TO TAKE THE
20 STEPS OF LOGIC THE SAME WAY WE HAD TO TAKE THE STEPS OF
21 LOGIC WITH THE ANONYMOUS LETTERS; THAT SOMEONE TOLD --
22 THAT ACTUALLY WOULD HAVE TO BE MR. GOODWIN TOLD MICKEY
23 THAT HE WAS GOING TO HAVE A SNIPER. OTHERWISE IT IS
24 ANOTHER LEVEL OF HEARSAY THAT WE DON'T HAVE AN EXCEPTION
25 FOR.

26 WE HAVE ABSOLUTELY NO EVIDENCE THAT
27 MICHAEL GOODWIN SAID THIS. UNLESS YOU BOOT STRAP AN
28 INCORRECT VERSION OF THE CRIME, WHICH IS THAT BECAUSE

1 THEY WERE EVENTUALLY KILLED BY HIT MEN THAT MEANS THAT
2 MICHAEL WAS TOLD -- IT GOES IN TOO MANY LAYERS IN ORDER
3 TO HAVE ANY KIND OF RELEVANCE.

4 AND SETTING ASIDE ALL OF THAT, THE FACT
5 THAT THIS IS NOT AN EXCITED UTTERANCE, MICKEY THOMPSON
6 COULD NOT HAVE SEEN THE DRAPES EVEN IF HE SAW A WINDOW
7 OPEN BECAUSE HE WAS DOWNSTAIRS. HE WAS EXCITED WHEN HE
8 WAS RUNNING UP, SUPPOSEDLY. THAT WOULD MEAN THAT EVERY
9 COMMENT FOR THAT FOUR-YEAR PERIOD WOULD HAVE TO BE
10 EXCITED.

11 EVERY TIME A WINDOW WAS OPEN; EVERYTHING
12 MICKEY SAID WOULD HAVE TO BE ADMITTED AGAINST MICHAEL
13 GOODWIN. AND THAT JUST DOESN'T MAKE LOGICAL SENSE AND
14 THAT'S NOT WHAT 1240 INTENDED. IT HAS TO BE AN EVENT
15 WITH SOME OBJECTIVE LEVEL OF SPONTANEITY AND EXCITEMENT.
16 IF IT HAS TO DO WITH THE HOSTILITY OF LITIGATION, THEN
17 UNDER 352 WE CERTAINLY HAVE ENOUGH INFORMATION THAT THIS
18 LITIGATION WAS HOSTILE.

19 AND THIS PARTICULAR STATEMENT DOES NOT ADD
20 TO THE PROBATIVE NATURE OF THE HOSTILITY OF THE
21 LITIGATION. IT IS JUST AN INCREDIBLY PREJUDICIAL BELIEF
22 OF MICKEY THOMPSON'S REGARDING MICHAEL GOODWIN AND HIS
23 CONDUCT. BUT IT DOES NOT ADD TO THE PROBATIVE NATURE OF
24 WHETHER OR NOT THERE WAS THIS LEVEL OF ANIMOSITY. AND
25 SIMPLY BECAUSE MR. GOODWIN DENIES -- OR WE ARE ARGUING
26 THAT THERE WAS A SETTLEMENT DOES NOT MEAN THAT THEY HAVE
27 CARTE BLANCHE TO GET IN EVERY THIRD, FOURTH, FIFTH LEVEL
28 OF HEARSAY.

1 IN ORDER FOR THIS STATEMENT TO BE
2 ADMITTED, WE WOULD HAVE TO KNOW WHAT MICKEY THOMPSON WAS
3 DOING PRIOR; AND WE WOULD HAVE TO KNOW HOW HE LEARNED OF
4 THAT BELIEF IN ORDER FOR IT TO BE RELEVANT AGAINST
5 MICHAEL GOODWIN. THOSE ARE JUST STEPS THAT WE DON'T
6 HAVE.

7 AND EVEN IF THE COURT FINDS THAT THIS IS
8 SOMEHOW SPONTANEOUS, THEN UNDER 352 IT SIMPLY HAS TO BE
9 EXCLUDED BASED ON THE LACK OF PROBATIVE NATURE FOR THE
10 PROFFERED REASON THAT IT'S BEING SHOWN. IT HAS NOTHING
11 TO DO WITH THE LITIGATION. IT IS HIGHLY PREJUDICIAL. IT
12 IS THE TOTAL ANTITHESIS OF MR. GOODWIN'S DUE PROCESS AND
13 CONFRONTATION CLAUSE RIGHTS UNDER THE STATE AND FEDERAL
14 CONSTITUTION.

15 THE COURT: ALL RIGHT. ANYTHING ELSE?

16 MR. JACKSON: I'M SORRY, YOUR HONOR?

17 THE COURT: ANYTHING ELSE?

18 MR. JACKSON: THE ONLY THING THAT I WOULD SUGGEST
19 TO THE COURT -- AND I DON'T WANT TO BEAT A DEAD HORSE.
20 THE COURT KNOWS THIS. MS. SARIS IS SUGGESTING THAT WE
21 TAKE THIS STATEMENT COMPLETELY IN A VACUUM, IN A BEAKER,
22 IF YOU WILL, IN AN ANTISEPTIC ENVIRONMENT OF A CHEMISTRY
23 LAB. THAT'S NOT THE WAY THAT EVIDENCE COMES INTO THE
24 TRIAL.

25 THE TIMING IS EXACTLY IN THE MIDDLE OF
26 THIS HOSTILE LITIGATION. THE STATEMENT WAS IN CONTEXT
27 GIVEN THE FACT THAT THE LITIGATION WAS ONGOING. MICKEY
28 THOMPSON REFERENCES A PARTICULAR PERSON. HE IS NOT

1 TALKING ABOUT BEING CONCERNED THAT THE SHADE WAS OPEN
2 BECAUSE THE BOOGEYMAN IS GOING TO GET YOU. HE WAS
3 CONCERN THAT THE SHADE WAS OPEN BECAUSE MIKE GOODWIN WAS
4 AT ISSUE.

5 OF COURSE, THE COURT HAS TO TAKE THIS IN
6 CONTEXT. AND, OF COURSE, THIS DID IN FACT DEAL WITH THE
7 LITIGATION. AND IT SPEAKS DIRECTLY TO WHETHER OR NOT
8 THIS LITIGATION WAS HOSTILE. PART OF WHAT SPEAKS MOST
9 LOUDLY ABOUT THIS IS WHY MS. SARIS IS ARGUING AGAINST IT
10 SO VIGOROUSLY. BECAUSE SHE KNOWS IT SPEAKS DIRECTLY TO
11 THE LITIGATION AND IS AN ISSUE THEY WANT TO BE ABLE TO
12 PUT TO BED.

13 THEY WANT TO BE ABLE TO SAY ON THE ONE
14 HAND, THIS LITIGATION WAS NOT AS HOSTILE AS THE
15 PROSECUTION MAKES IT OUT TO BE. AND ON THE OTHER HAND,
16 WE DON'T WANT YOU TO USE THE EVIDENCE THAT SHOWS THAT IT
17 IS AS HOSTILE AS YOU THINK IT IS.

18 MS. SARIS: YOUR HONOR, WE'RE ARGUING VIGOROUSLY
19 BECAUSE THIS IS A BLATANT ATTEMPT TO DENY MY CLIENT THE
20 RIGHT TO CONFRONT AND CROSS-EXAMINE THE WITNESSES AGAINST
21 HIM. AGAIN, UNDER THE PEOPLE'S THEORY, ALL FOUR YEARS OF
22 ANY STATEMENT MICKEY THOMPSON MADE UNDER THAT THEORY
23 WOULD BE RELEVANT. AND THEIR THEORY IS SEPARATE AND
24 APART FROM THIS STATEMENT.

25 WE'RE NOT ARGUING THAT THEY AREN'T ALLOWED
26 TO PRESENT THIS THEORY. IT'S JUST THAT THIS STATEMENT
27 HAS NO PROBATIVE VALUE. AND THE DANGER OF A JURY
28 MISINTERPRETING THE PURPOSE OF THIS STATEMENT IS GREAT.

1 ESPECIALLY WITH THE WAY THAT THESE TWO PROSECUTORS COME
2 CLOSE TO CROSSING THE ENVELOPE, LEAVING IT OUT THERE TO
3 THE JURY THAT THEY WOULD HAVE THE CONFUSION OF
4 INTERPRETING A STATEMENT AS EVIDENCE OF MICHAEL GOODWIN'S
5 GUILT AS OPPOSED TO EVIDENCE OF THE HOSTILITY OF THE
6 LITIGATION. THAT'S WHERE 352 COMES IN. AND THE COURT
7 HAS TO CONSIDER THAT THERE IS NO PROBATIVE VALUE WORTH
8 THAT.

9 MR. JACKSON: WELL, I DON'T QUITE UNDERSTAND.
10 AND I TAKE A LITTLE ISSUE WITH MS. SARIS'S AD HOMONYM
11 ATTACK THAT THESE TWO PROSECUTORS APPROACH THE LINE. I
12 WOULD LIKE TO HAVE AN EXAMPLE OF ANY APPROACHING LINES.
13 MR. DIXON AND MYSELF --

14 MS. SARIS: THE PRESUMPTION --

15 MR. JACKSON: MR. DIXON AND MYSELF TAKE PRIDE IN
16 OUR PROFESSIONALISM. I TAKE ISSUES WITH THOSE PERSONAL
17 ATTACKS.

18 MS. SARIS: I HAVE AN EXAMPLE.

19 THE COURT: ALL RIGHT. WELL, THAT'S ALL NICE AND
20 WONDERFUL, BUT I'M NOT INTERESTED.

21 SO IS THE MATTER SUBMITTED?

22 MR. JACKSON: YES, YOUR HONOR.

23 MS. SARIS: SUBMITTED.

24 THE COURT: AS I SAID YESTERDAY, I WAS I THINK
25 THINKING OUT LOUD YESTERDAY AND I CONTINUED TO PONDER
26 THIS SITUATION FOR QUITE SOMETIME YESTERDAY. THERE ARE A
27 NUMBER OF THEORIES UPON WHICH THE PEOPLE CAN RELY TO
28 ADMIT THIS INFORMATION. INITIALLY, THE ARGUMENT WAS IT

1 IS A SPONTANEOUS STATEMENT THEREFORE IT IS ADMISSIBLE AND
2 I AGREED WITH THAT. AND I FOUND OR INDICATED THAT I FELT
3 IT WAS ADMISSIBLE.

4 HOWEVER, WHEN THE 352 OBJECTION WAS MADE,
5 AND THE COURT HAD TO ARTICULATE A THEORY OF RELEVANCE, I
6 THINK IT DAWNED ON ALL OF US THAT THIS IS NOT EVIDENCE
7 BEING PRESENTED FOR THE TRUTH OF THE MATTER ASSERTED,
8 THAT IS, THAT MR. GOODWIN WOULD HAVE A SNIPER OUTSIDE OF
9 THE THOMPSON HOME.

10 IF ONE WERE TO EVALUATE THAT OFFER OF
11 PROOF THAT WAY, IT WOULD CLEARLY BE HEARSAY. AND THEN
12 THE COURT WOULD HAVE TO FIND IT IS A 1240 STATEMENT AND
13 THAT ITS PROBATIVE VALUE OUTWEIGHS ITS PREJUDICIAL
14 EFFECT, ALL OF WHICH I CAN EASILY FIND.

15 HOWEVER, IT'S NOT BEING OFFERED FOR THE
16 TRUTH. AND IF IT'S NOT BEING OFFERED FOR THE TRUTH, IT'S
17 RELEVANT ON THE ISSUE OF THE LEVEL OF HOSTILITY THAT
18 EXISTED IN THIS LITIGATION.

19 IT'S CIRCUMSTANTIAL EVIDENCE WHICH WOULD
20 TEND TO CORROBORATE THE PEOPLE'S ARGUMENT AND THE
21 PEOPLE'S WITNESSES THAT THIS LITIGATION WAS SO VITRIOLIC;
22 THIS LITIGATION WAS SO INTENSE AND CAUSED SUCH ANIMOSITY
23 AND HATRED BETWEEN THE PARTIES, THAT MR. THOMPSON TRULY
24 BELIEVED THAT BECAUSE OF THE LITIGATION HE WAS INVOLVED
25 IN WITH MR. GOODWIN, THAT HIS LIFE WAS IN DANGER. THAT'S
26 A NON-HEARSAY PURPOSE IN MY MIND.

27 AND I AGREE WITH MR. JACKSON'S ARGUMENT
28 THAT ALL OF THE DEFENSE CROSS-EXAMINATION THUS FAR HAS

1 BEEN TO, I GUESS, DISPUTE THE PEOPLE'S THEORY THAT THIS
2 WAS THE MOTIVE FOR THESE MURDERS. AND YESTERDAY IS A
3 PERFECT EXAMPLE WHEN WE WERE DEALING WITH MISS CORDELL.
4 AND THE ISSUE WAS VERY OBVIOUSLY WHETHER OR NOT THIS
5 LAWSUIT WAS COMING CLOSE TO BEING SETTLED PRIOR TO THE
6 MURDERS. THAT IS A REAL CRITICAL ISSUE IN THIS CASE.

7 WHAT HAPPENED DURING THE COURSE OF THE
8 LITIGATION BETWEEN THESE PARTIES IS BASICALLY THE ENTIRE
9 PEOPLE'S CASE. AND THE INFORMATION THAT HAS BEEN
10 ELICITED FROM WITNESSES BY THE PEOPLE HAS ALL BEEN
11 CIRCUMSTANTIAL EVIDENCE TENDING TO SHOW THAT BECAUSE OF
12 THE ANIMOSITY GENERATED AND THE VITRIOLIC NATURE OF THIS
13 LAWSUIT THAT MR. GOODWIN HAD A MOTIVE TO MURDER THESE TWO
14 PEOPLE.

15 SO MY ANALYSIS IS, ASSUMING IT'S HEARSAY,
16 IT COMES IN UNDER 1240. ITS PROBATIVE VALUE OUTWEIGHS
17 ANY PREJUDICIAL EFFECT. HOWEVER, I THINK THE PROPER
18 ANALYSIS WOULD BE THAT THIS IS A NON-HEARSAY STATEMENT
19 NOT OFFERED FOR THE TRUTH OF THE MATTER ASSERTED. AND
20 THE PEOPLE CAN'T ARGUE THAT IT'S OFFERED FOR THE TRUTH OF
21 THE MATTER ASSERTED.

22 HOWEVER, IT IS CIRCUMSTANTIAL EVIDENCE
23 TENDING TO CORROBORATE THE PEOPLE'S DESCRIPTION OF WHAT
24 THEY BELIEVE THE MOTIVE WAS IN THIS CASE. IT'S
25 CIRCUMSTANTIAL EVIDENCE THAT THE LITIGATION GOT SO OUT OF
26 HAND AND WAS SO INTENSE THAT THERE WAS A REALISTIC BELIEF
27 ON THE PART OF MR. THOMPSON THAT HIS LIFE WAS IN DANGER.

28 NOW, THE REASON I SAY THAT IT'S

1 CIRCUMSTANTIAL EVIDENCE TO SHOW ALL OF THAT IS BECAUSE
2 IT'S NOT SO IMPORTANT AS TO WHAT WAS SAID, IF ANYTHING,
3 BY MR. GOODWIN. AND I DON'T THINK MR. THOMPSON
4 ATTRIBUTES THE STATEMENT TO MR. GOODWIN, BUT HE IS
5 ATTRIBUTING A BELIEF. AND THAT BELIEF HAS TO BE BASED ON
6 SOME FACT OR FACTS.

7 AND IT APPEARS TO ME THAT GIVEN THE
8 TESTIMONY I HAVE HEARD SO FAR, IT'S NOT UNREASONABLE TO
9 CONCLUDE THAT MR. THOMPSON, AS A PARTY TO THIS
10 LITIGATION, WAS AWARE OF AND A PARTICIPANT IN THE
11 GOINGS-ON BETWEEN THE SIDES. THEREFORE, HE WAS AWARE OF
12 THE FACT THAT THIS LITIGATION ROSE -- OR THE HATRED
13 GENERATED BY THE LITIGATION WAS RATHER INTENSE. THIS
14 STATEMENT WAS ALLEGEDLY MADE BY MISS WILKINSON EARLY
15 FALL -- OR SHE HEARD IT EARLY FALL, LATE SUMMER 1987. SO
16 IT'S NOT THAT LONG BEFORE THE MURDERS.

17 SO FOR THOSE REASONS, I VIEW IT AS A
18 NON-HEARSAY STATEMENT COMING IN FOR THE VALUE THAT IT
19 BRINGS OR DEMONSTRATES IN TERMS OF THE LEVEL OF HOSTILITY
20 BELIEVED TO HAVE EXISTED BY MR. THOMPSON; NOT BEING
21 OFFERED FOR THE TRUTH. IT'S EXTREMELY PROBATIVE. AND
22 THE PREJUDICIAL EFFECT, QUITE FRANKLY, WE HAVE HEARD
23 NOTHING BUT STATEMENTS FROM THE PEOPLE'S WITNESSES
24 ATTRIBUTED TO MR. GOODWIN THAT HE ALLEGEDLY WANTS TO KILL
25 MR. THOMPSON.

26 SO THE EXTENT TO WHICH THIS IS TOO
27 PREJUDICIAL IS NONEXISTENT. IT'S SIMPLY THE SAME KIND OF
28 EVIDENCE THAT WE HAVE HEARD FROM JUST ABOUT EVERY WITNESS

1 THAT HAS TESTIFIED SO FAR. SO I DO BELIEVE UNDER 352 THE
2 PROBATIVE VALUE IS CONSIDERABLE. THE PREJUDICIAL EFFECT
3 MINIMAL TO NONEXISTENT WHEN TAKEN IN CONTEXT WITH THE
4 OTHER EVIDENCE. SO I WILL ALLOW IT.

5 ON THE OFFER OF PROOF AS TO MR. COYNE --

6 MS. SARIS: YOUR HONOR, I'M SORRY. ON THAT NOTE,
7 I JUST WANT IT VERY CLEAR FOR THE RECORD THAT WE HAVE NOT
8 STATED THAT WE'RE ARGUING THAT THIS LITIGATION WAS
9 ANYTHING LESS THAN HOSTILE NOR DO WE INTEND TO. SO TO
10 THE EXTENT THAT THE COURT IS RELYING ON AN INCORRECT
11 THEORY OF THE DEFENSE, I WOULD LIKE THE RECORD TO BE
12 CLEAR. AND, SECOND, IS THE COURT INDICATING SOME SORT OF
13 LIMITING INSTRUCTION THAT THE COURT --

14 THE COURT: ABSOLUTELY.

15 MS. SARIS: AND DO WE HAVE THAT ARTICULATED OR IS
16 THAT --

17 THE COURT: I WAS GOING TO SIMPLY TELL THE JURY
18 WHAT I'M SUPPOSED TO TELL THEM, WHICH IS THIS STATEMENT
19 IS NOT BEING ADMITTED FOR THE TRUTH OF THE MATTER
20 ASSERTED, THAT IS THAT MR. GOODWIN HAS SOME SNIPER
21 STANDING OUTSIDE THE HOUSE. BUT IT'S BEING ADMITTED AS
22 CIRCUMSTANTIAL EVIDENCE TENDING TO SHOW HOW THE VICTIM
23 PERCEIVED THE TENOR OF THIS LAWSUIT OR THIS LITIGATION.

24 AND I DO TAKE ISSUE WITH THE STATEMENT
25 THAT YOU ARE NOT DISPUTING THE LEVEL OF HOSTILITY. THE
26 CROSS-EXAMINATION OF MISS CORDELL YESTERDAY --

27 MS. SARIS: WE ARE DISPUTING WHETHER OR NOT THERE
28 WAS A SETTLEMENT, NOT THAT THERE WASN'T HOSTILITY PRIOR

1 TO THAT. THAT'S A DIFFERENT ISSUE ENTIRELY.

2 THE COURT: WELL, I SEE IT AS THE SAME ISSUE
3 BECAUSE IF THE ARGUMENT IS THAT IT'S THE LAWSUIT THAT
4 CAUSED MR. GOODWIN TO FORM THE INTENT TO HAVE THE
5 THOMPSONS OR MR. THOMPSON TAKEN OUT, CERTAINLY THAT
6 INTENT WOULD BE SOMEWHAT VITIATED WERE ONE TO ASSUME THAT
7 THEY WERE ON THE VERGE OF A SETTLEMENT JUST PRIOR TO THE
8 MURDERS. OTHERWISE IT WOULD HAVE NO RELEVANCE.

9 MS. SARIS: WELL, THE POINT BEING THAT FOR FOUR
10 YEARS THERE HAD BEEN HOSTILITY AND THIS PARTICULAR PERIOD
11 THERE WAS A SETTLEMENT. I JUST WANT THE RECORD CLEAR.
12 I'M ACCEPTING THE COURT'S RULING. I WANT THE RECORD
13 CLEAR THAT OUR ARGUMENT HAS NEVER BEEN THAT THERE WAS NO
14 HOSTILITY. MY OPENING STATEMENT WAS QUITE CLEAR, THERE
15 WAS HOSTILITY.

16 THE POINT OF MISS CORDELL'S
17 CROSS-EXAMINATION, IN VERY SMALL PART, WAS THAT THERE WAS
18 INDEED A SETTLEMENT IN MARCH OF 1988. NOW, THE FACT OF
19 THE HOSTILITY PRIOR TO THAT IS NOT DISPUTED, NOR HAS IT
20 BEEN DISPUTED, NOR WILL IT BE DISPUTED.

21 THE COURT: I UNDERSTAND YOUR ARGUMENT. AND,
22 AGAIN, I THINK THE RECORD IS CLEAR AS TO THE EVIDENCE
23 THAT'S BEEN PRESENTED SO FAR.

24 MS. SARIS: WE WOULD ALSO ASK THAT SHE NOT BE
25 CALLED THIS MORNING AT LEAST THEN, SO THAT WE COULD CHECK
26 WITH OUR -- WE MAY LOOK INTO THIS MATTER FURTHER.

27 THE COURT: WELL, THERE IS NO REASON TO NOT HAVE
28 HER TESTIFY. WHEN WAS SHE SUPPOSED TO TESTIFY?

1 MR. JACKSON: NOT TODAY.

2 MS. SARIS: OKAY.

3 MR. DIXON: WE WILL GIVE COUNSEL NOTICE OF WHEN
4 SHE'S GOING TO TESTIFY.

5 THE COURT: ALL RIGHT. AS TO MR. COYNE, I
6 UNDERSTAND HE IS HERE. AND IN LOOKING AT THE PLEADINGS
7 ON THAT, I NEGLECTED TO DISCUSS OR EVEN CONSIDER
8 YESTERDAY A REAL OBSTACLE WITH THIS INFORMATION AND
9 THAT'S CRAWFORD. I KNOW THE PEOPLE ADDRESSED THAT IN
10 THEIR POINTS AND AUTHORITIES THIS MORNING.

11 I DON'T KNOW THAT WE NEED TO HAVE A 402 OR
12 A HEARING OUTSIDE THE PRESENCE WITH MR. COYNE TO THE
13 EXTENT THAT THE PEOPLE WANT TO BRING IN THE STATEMENTS OF
14 THE SECURITY GUARDS. SO MAYBE WE CAN CUT SHORT THIS PART
15 OF THE HEARING BY DISCUSSING SOME OF THE ISSUES THAT WE
16 DIDN'T DISCUSS YESTERDAY WITH RESPECT TO THAT STATEMENT.

17 MR. JACKSON: SURE. WITH REGARD --

18 MS. SARIS: CAN I ASK A PRELIMINARY QUESTION? I
19 DIDN'T HAVE AN OPPORTUNITY TO BRIEF THIS BECAUSE WE WERE
20 BRIEFING THE -- WHAT I DEEM THE "OPEN WINDOW" COMMENT.
21 HOWEVER, IN LOOKING AT THE STATEMENTS FROM MR. COYNE, I'M
22 UNDER -- IT'S VERY CLEAR -- AND THIS IS AN INTERVIEW THAT
23 MR. JACKSON -- AND I XEROXED THIS FOR THE COURT -- WAS
24 PRESENT AT THAT A BUILDING MANAGER TOLD HIM THAT TWO
25 SECURITY GUARDS SAW THIS.

26 SO WE MAY EVEN HAVE SUCH A LEVEL OF
27 HEARSAY THAT WE DON'T NEED TO GET INTO A 1240 OR CRAWFORD
28 OR A CONFRONTATION DISCUSSION. BUT THE COMMENT THAT WAS

1 TOLD TO MR. JACKSON AND MR. LILLIENFELD WAS THAT THIS WAS
2 AN EXTRA LEVEL -- AND I'M JUST SAYING PERHAPS IT WOULD
3 SAVE US A LOT OF TIME.

4 MR. JACKSON: MY UNDERSTANDING IS -- AND
5 CERTAINLY WE CAN ADDRESS THAT, BUT I THINK IT'S BEST TO
6 HEAR FROM MR. COYNE. MY UNDERSTANDING IS THE PEOPLE --
7 THAT THE BUILDING MANAGER MAY HAVE BEEN THERE. MY
8 UNDERSTANDING AT LEAST -- AND I COULD BE WRONG ABOUT
9 THIS -- BUT MY UNDERSTANDING IS NOTWITHSTANDING THE
10 BUILDING MANAGER BEING THERE, I BELIEVE MR. COYNE WILL
11 TESTIFY THAT THE ONE OR MORE SECURITY GUARDS THAT
12 ACTUALLY CONFRONTED THE TWO WHITE MALES WERE THERE AS
13 WELL TALKING TO THEM. THAT'S MY UNDERSTANDING. IF IT'S
14 NOT, IF MY UNDERSTANDING IS WRONG, THEN MS. SARIS MAY BE
15 RIGHT.

16 THE COURT: WELL, LET'S ASSUME FOR SAKE OF
17 ARGUMENT THAT THE STATEMENT CAME FROM A SECURITY GUARD;
18 AND THERE AREN'T TWO LEVELS OF HEARSAY. AND LET'S ASSUME
19 FOR SAKE OF ARGUMENT THAT MR. COYNE WOULD TESTIFY TO
20 CIRCUMSTANCES THAT WOULD CONSTITUTE AN EXCITED UTTERANCE
21 THEORY OF ADMISSIBILITY ON THIS EVIDENCE, FORGETTING
22 CRAWFORD FOR A MOMENT.

23 UNDER 352 THE ONLY RELEVANCE, THE WAY I
24 UNDERSTAND IT FROM READING THE PEOPLE'S POINTS AND
25 AUTHORITIES, IS THAT THE PEOPLE WANT THE JURY TO INFER
26 FROM THAT STATEMENT THAT MR. GOODWIN WAS SOMEHOW BEHIND
27 THE SURVEILLANCE THAT WAS OBVIOUSLY BEING CONDUCTED ON
28 MR. COYNE.

1 MR. JACKSON: CORRECT.

2 THE COURT: AND IT IS A SIMILAR ARGUMENT AFTER
3 THINKING ABOUT IT A LOT YESTERDAY AND LAST NIGHT, I VIEW
4 IT AS A SIMILAR ARGUMENT TO THE ARGUMENT THAT WAS MADE
5 WITH RESPECT TO THE LETTERS.

6 MR. JACKSON: CORRECT. I DON'T THINK THE COURT
7 IS VERY FAR OFF THE MARK. I MEAN THAT'S WHY WE ARGUED
8 VIGOROUSLY FOR THE ADMISSION OF THE LETTERS. AS I SAID
9 YESTERDAY, THE COURT HAS NOT HAD THE LUXURY OF STEPPING
10 BACK AND LOOKING AT ALL OF THE PEOPLE'S EVIDENCE IN
11 CONTEXT.

12 ONE OF THE THINGS THAT I WOULD INVITE THE
13 COURT TO DO IS TO LOOK AT THREE THINGS OR THREE SERIES OF
14 THINGS IN CONTEXT. AND, BY THE WAY, I BELIEVE THAT
15 CRAWFORD IS NOT AN ISSUE. THIS WAS NOT A TESTIMONIAL --
16 IF THE EVIDENCE IS SUBMITTED, AS I EXPECT IT TO BE, THE
17 SECURITY GUARDS WERE NOT TALKING IN ANTICIPATION OF ANY
18 LITIGATION. THEY CERTAINLY WEREN'T TALKING TO A POLICE
19 OFFICER. THEY WERE BLURTING SOMETHING OUT TO JEFF COYNE.
20 IT'S NOT TESTIMONIAL. CRAWFORD IS ONLY IMPLICATED IN
21 TESTIMONIAL STATEMENTS.

22 THAT NOTWITHSTANDING, I BELIEVE THAT IT
23 SORT OF DOES VIOLENCE TO THE PEOPLE'S ARGUMENT IN TOTAL
24 TO TAKE THESE STATEMENTS ONE AT A TIME. THIS IS A
25 CIRCUMSTANTIAL THEORY. THIS IS CIRCUMSTANTIAL CASE.

26 AND CERTAINLY IF THE COURT TAKES INTO
27 CONSIDER THE FACT THAT PENN WELDON WAS HIRED BY MIKE
28 GOODWIN TO DO SURVEILLANCE ON PHIL BARTINETTI; IF PHIL

1 BARTINETTI AT THE HEIGHT OF THIS LITIGATION RECEIVED NOT
2 ONLY THREATS SORT OF BEHIND HIS BACK, TO WIT, THE CHUCK
3 CLAYTON THREATS; BUT ALSO INTIMIDATING LETTERS ON THEIR
4 FACE AT HIS HOME AND WAS OBVIOUSLY FOLLOWED OR SURVEILLED
5 AT HIS HOME BECAUSE PERSONAL INFORMATION WAS KNOWN.

6 AND THAT MIKE GOODWIN WAS IN A POSITION TO
7 BE CONFRONTED NOT ONLY BY MICKEY THOMPSON'S ACTIVE -- HIS
8 ACTIVITIES, VISAVIS THE LAW; BUT ALSO PHIL BARTINETTI'S
9 ACTIVITIES, VISAVIS THE LAW, COUPLE THAT WITH JEFF COYNE
10 STEPPING INTO THE PICTURE. JEFF COYNE TAKING OVER AS
11 TRUSTEE OF THE ESI BANKRUPTCY. AND JEFF COYNE BASICALLY
12 HOLDING MIKE GOODWIN'S PURSE STRINGS.

13 AND NOTWITHSTANDING MIKE GOODWIN
14 ATTEMPTING TO PLAY CERTAIN SHELL GAMES WITH CERTAIN
15 COMPANIES WITH SURETIES THAT WERE A LITTLE OFF COLOR AND
16 A LITTLE TOO CLOSE IN CONTACT. JEFF COYNE RECOGNIZING
17 THAT AND TAKING AWAY THAT MONEY AND THOSE ASSETS THAT
18 MIKE GOODWIN WAS SO DESPERATELY TRYING TO ACQUIRE.

19 NOW WE HAVE THREE INDIVIDUALS, PHIL
20 BARTINETTI; MICKEY THOMPSON; JEFF COYNE. WE KNOW WHAT
21 THE EVIDENCE IS CONCERNING PHIL BARTINETTI. NOW TAKE
22 JEFF COYNE --

23 THE COURT: LET ME STOP YOU FOR A SECOND.
24 BECAUSE IT'S TEN TO 10:00 AND I KNOW THE JURORS ARE
25 COMING BACK AT 10:00.

26 MR. JACKSON: SURE.

27 THE COURT: BUT ARE YOU PLANNING ON CALLING
28 MR. COYNE THIS MORNING?

1 MR. JACKSON: NO, YOUR HONOR. WE WERE GOING TO
2 CALL HIM THIS AFTERNOON. I BELIEVE WE HAVE WITNESSES
3 THAT WILL FILL UP THE MORNING.

4 MR. DIXON: YES.

5 THE COURT: BECAUSE RATHER THAN CONDUCT A HEARING
6 OUTSIDE THE PRESENCE OF THE JURY, I UNDERSTAND THAT THE
7 TESTIMONY BY MR. COYNE IS GOING TO INCLUDE, IN LARGE
8 PART, THE LITIGATION; HIS PARTICIPATION IN THE
9 LITIGATION; AND THEN THE ALLEGED THREATS --

10 MR. JACKSON: CORRECT.

11 THE COURT: -- THAT HE SAYS MR. GOODWIN LEVELED
12 AGAINST HIM.

13 MR. JACKSON: THAT'S RIGHT.

14 THE COURT: SO I'M HAPPY TO CONSIDER THIS MOTION
15 AFTER I HEAR THAT TESTIMONY. IF THE ARGUMENT IS THAT I
16 NEED TO HEAR THE TESTIMONY TO TAKE IT INTO CONTEXT, I
17 HAVE ALREADY HEARD THE BARTINETTI TESTIMONY. SO I'M
18 HAPPY TO LISTEN TO THIS TESTIMONY. I DON'T THINK I NEED
19 TO DO IT OUTSIDE THE PRESENCE.

20 MR. JACKSON: THE ONLY THING I THOUGHT THE
21 COURT -- THE REASON I ASKED HIM TO JOIN US THIS MORNING
22 IS I THOUGHT THE COURT WANTED TO HEAR FROM HIM AS TO THE
23 DEMEANOR OF THE -- JUST FOR A 1240 ISSUE -- THE DEMEANOR
24 OF THE SECURITY GUARDS.

25 THE COURT: YES. BUT, AGAIN, I WAS JUST ASSUMING
26 THAT THAT WAS GOING TO BE THERE. BECAUSE MY PROBLEM WAS
27 THE QUESTION THAT I RAISED UNDER 352, IF YOU WANT ME TO
28 CONDUCT A HEARING OUTSIDE THE PRESENCE --

1 MR. JACKSON: NO, I DON'T THINK IT'S NECESSARY.
2 AS AN OFFER OF PROOF I CAN TELL YOU I'VE INTERVIEWED --

3 THE COURT: I THINK YOU'RE GOING TO MAKE IT. I
4 THINK --

5 MS. SARIS: ASSUMING THERE IS --

6 THE COURT: BASED ON WHAT I'M SEEING, I THINK
7 THAT THERE IS GOING TO BE A SHOWING THAT THIS IS AN
8 EXCITED UTTERANCE. BUT IF COUNSEL WANTS AN OPPORTUNITY
9 TO PURSUE IT OUTSIDE THE PRESENCE OF THE JURY, I'M HAPPY
10 TO DO THAT.

11 MS. SARIS: CERTAINLY TO THE EXTENT THAT WHEN HE
12 WAS INTERVIEWED BY MR. JACKSON AND MR. LILLIENFELD, HE
13 SAID THE BUILDING MANAGER TOLD HIM THE SECURITY GUARD
14 SAID. AND A THIRD LAYER THE SECURITY GUARD SAID THAT
15 THESE ITALIAN MEN ASKED, WHICH IS ANOTHER LEVEL OF
16 HEARSAY. SO I SUPPOSE WE SHOULD GET THAT ON THE RECORD
17 AT SOME POINT IF THE COURT IS UNCLEAR AS TO HOW MANY
18 LEVELS OF HEARSAY AND WHETHER THERE WAS A SPONTANEOUS
19 UTTERANCE.

20 THE COURT: I WAS JUST ASSUMING FOR SAKE OF
21 ARGUMENT IT WAS A SPONTANEOUS STATEMENT. BECAUSE I WAS
22 LOOKING AT THE 352 ANALYSIS. ASSUMING IT IS, THE
23 CONNECTION THAT THE PEOPLE WANT THE JURY TO DRAW AND THE
24 COURT TO ANALYZE IS SOMETHING THAT I'M NOT PREPARED TO DO
25 WITHOUT HEARING FROM MR. COYNE ON THE OTHER PART OF HIS
26 TESTIMONY.

27 SO IF I'M BEING ASKED TO FIND THAT THIS IS
28 RELEVANT -- ASSUMING IT'S ADMISSIBLE AS A SPONTANEOUS

1 STATEMENT -- IF I'M BEING ASKED TO FIND IT'S RELEVANT
2 TAKEN IN CONTEXT, I HAVE TO HEAR FROM MR. COYNE. SO WHY
3 DON'T WE JUST LET MR. COYNE TESTIFY THIS AFTERNOON AS TO
4 THE ALLEGED THREATS AND THEN WE CAN PICK THIS DISCUSSION
5 UP LATER. AND MR. COYNE WILL BE HERE THIS AFTERNOON. SO
6 WE CAN GET ANY ADDITIONAL TESTIMONY OUTSIDE THE PRESENCE
7 BECAUSE WE ONLY HAVE FIVE MINUTES THIS MORNING, SO I
8 WOULD RATHER JUST GET STARTED THIS MORNING.

9 MS. SARIS: WE WERE ANTICIPATING MR. COYNE. SO
10 LET ME MAKE SURE I HAVE THE RIGHT FILES FOR WHO IS HERE
11 THIS MORNING.

12 THE COURT: ALL RIGHT. LET'S TAKE A QUICK BREAK
13 ON THAT AND THEN WE WILL GET STARTED.

14 (BRIEF RECESS.)

15 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
16 THAT ALL OUR JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT
17 IN THE GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS
18 COUNSEL. THE PEOPLE ARE REPRESENTED.

19 MR. SMITH YOU CAN RESUME THE WITNESS
20 STAND. YOU HAVE BEEN PREVIOUSLY SWORN AND YOU ARE
21 REMINDED YOU ARE STILL UNDER OATH. PLEASE JUST STATE
22 YOUR NAME AGAIN FOR THE RECORD.

23 THE WITNESS: MY NAME IS GREGORY SMITH.

24 THE COURT: THANK YOU.

25 YOU MAY CONTINUE, MR. DIXON.

26 MR. DIXON: THANK YOU, YOUR HONOR. BEFORE DOING
27 SO I WOULD LIKE TO MARK A NUMBER OF EXHIBITS THAT I PLAN
28 ON SHOWING THIS WITNESS. IT'S PEOPLE'S 22 WHICH I

1 BELIEVE IS NEXT IN ORDER.

2 THE COURT: PEOPLE'S 22. AND WHAT IS THAT?

3 MR. DIXON: IT IS A LETTER, ANAHEIM STADIUM,
4 DATED JUNE 18TH, 1987. MAY THAT BE SO MARKED?

5 THE COURT: YES. 22 FOR IDENTIFICATION.

6
7 (MARKED FOR IDENTIFICATION PEOPLE'S
8 EXHIBIT NO. 22, LETTER.)

9
10 MR. DIXON: 23 FOR IDENTIFICATION, THIS IS AGAIN
11 ON ANAHEIM STADIUM LETTERHEAD, "OCCUPANCY AGREEMENT, JULY
12 16, 1987." PEOPLE'S 23, PLEASE.

13 THE COURT: SO MARKED.

14
15 (MARKED FOR IDENTIFICATION PEOPLE'S
16 EXHIBIT NO. 23, DOCUMENT.)

17
18 MR. DIXON: AS PEOPLE'S 24 FOR IDENTIFICATION,
19 "OCCUPANCY AGREEMENT" AGAIN ON ANAHEIM STADIUM
20 LETTERHEAD, NOVEMBER 26, 1986. MAY THAT BE SO MARKED AS
21 PEOPLE'S 24?

22 THE COURT: SO MARKED.

23
24 (MARKED FOR IDENTIFICATION PEOPLE'S
25 EXHIBIT NO. 24, DOCUMENT.)

26
27 MR. DIXON: NEXT IS PEOPLE'S 25 FOR
28 IDENTIFICATION. AGAIN, A DOCUMENT ON ANAHEIM STADIUM

1 LETTERHEAD "NEWS CONFERENCE AT ANAHEIM STADIUM, AUGUST
2 27, 1987." MAY THAT BE SO MARKED?

3 THE COURT: YES. 25.

4
5 (MARKED FOR IDENTIFICATION PEOPLE'S
6 EXHIBIT NO. 25, DOCUMENT.)
7

8 MR. DIXON: PEOPLE'S 25. THANK YOU.

9 PEOPLE'S 26 FOR IDENTIFICATION, AGAIN, A
10 DOCUMENT ON ANAHEIM STADIUM LETTERHEAD "MOTORCROSS RACES,
11 JANUARY 30, 1988." MAY THAT BE SO MARKED AS PEOPLE'S 26?

12 THE COURT: SO MARKED.

13
14 (MARKED FOR IDENTIFICATION PEOPLE'S
15 EXHIBIT NO. 26, DOCUMENT.)
16

17 MR. DIXON: AS PEOPLE'S 27 FOR IDENTIFICATION,
18 THIS IS FROM THE LOS ANGELES TIMES, JUST A HEADLINE,
19 "THOMPSON GIVEN ANAHEIM STADIUM AGREEMENT." MAY THAT BE
20 SO MARKED?

21 THE COURT: PEOPLE'S 27 FOR IDENTIFICATION.

22
23 (MARKED FOR IDENTIFICATION PEOPLE'S
24 EXHIBIT NO. 27, NEWSPAPER CLIPPING.)
25

26 MR. DIXON: THANK YOU.

27 AS PEOPLE'S 28 FOR IDENTIFICATION, AGAIN,
28 A HEADLINE "THOMPSON GETS ANAHEIM RACING" WITH AN

1 ACCOMPANYING ARTICLE, PEOPLE'S 28, PLEASE.

2 THE COURT: THAT WILL BE MARKED 28 FOR
3 IDENTIFICATION.

4
5 (MARKED FOR IDENTIFICATION PEOPLE'S
6 EXHIBIT NO. 28, NEWSPAPER CLIPPING.)

7
8 MR. DIXON: WE'RE GETTING CLOSE TO THE END HERE.
9 AS PEOPLE'S 29 FOR IDENTIFICATION, THIS IS A MULTI-PAGE
10 DOCUMENT OF SOME ADVERTISING FOR ANAHEIM STADIUM RACING
11 FOR JANUARY OF 1988. MAY THAT BE MARKED AS PEOPLE'S 29?

12 THE COURT: SO MARKED.

13
14 (MARKED FOR IDENTIFICATION PEOPLE'S
15 EXHIBIT NO. 29, DOCUMENT.)

16
17 MR. DIXON: AND LASTLY IS PEOPLE'S 30 FOR
18 IDENTIFICATION, A LETTER ON MICKEY THOMPSON ENTERTAINMENT
19 GROUP STATIONARY ADDRESSED TO "DEAR MOTOCROSS FAN." MAY
20 THAT BE SO MARKED AS PEOPLE'S 30?

21 THE COURT: SO MARKED.

22
23 (MARKED FOR IDENTIFICATION PEOPLE'S
24 EXHIBIT NO. 30, LETTER.)

25
26 MR. DIXON: AND AS THE COURT HAD SUGGESTED, WE
27 HAVE SHOWN THESE DOCUMENTS TO COUNSEL.

28 THE COURT: THANK YOU.

1 MR. DIXON: NOW MAY I INQUIRE?

2 THE COURT: YES.

3

4 DIRECT EXAMINATION (RESUMED)

5 BY MR. DIXON:

6 Q GOOD MORNING. THANK YOU FOR COMING BACK.

7 A GOOD MORNING.

8 Q THANKS FOR COMING BACK.

9 WHEN WE LEFT OFF YESTERDAY, YOU WERE
10 TELLING US ABOUT ANAHEIM STADIUM, SPECIFICALLY JANUARY OF
11 YOUR CALENDAR YEAR AND THE EVENTS THAT TOOK PLACE DURING
12 THE '80S; IS THAT CORRECT?

13 A THAT'S CORRECT, YES, SIR.

14 Q AND I THINK YOU TOLD US WITHOUT GOING BACK
15 OVER ALL OF IT, THERE WAS A CHANGE IN A PROGRESSION OF
16 EVENTS AND PROMOTERS DURING THE EARLY TO MID '80S THERE
17 AT ANAHEIM STADIUM?

18 A THAT'S CORRECT.

19 Q AND RIGHT BEFORE WE LEFT, YOU TOLD US THAT
20 FOR THE 1988 SEASON THAT YOU HAD DECIDED TO CHANGE YOUR
21 RELATIONSHIP WITH THE DEFENDANT'S COMPANY, MIKE GOODWIN'S
22 COMPANY; IS THAT CORRECT?

23 A THAT'S CORRECT.

24 Q AND WHY WAS THAT?

25 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED,
26 YOUR HONOR.

27 THE COURT: OVERRULED.

28 YOU CAN ANSWER.

1 Q BY MR. DIXON: YOU CAN ANSWER.

2 A THE REASON THAT WE DECIDED TO RELOOK AT
3 THE PRODUCERS OF THE SHOWS SINCE WE ANNUALLY CONTRACT FOR
4 THE EVENTS, EACH YEAR THERE IS A NEW CONTRACT AND NO
5 MULTI-YEAR AGREEMENTS, EXCEPT WITH THE ANGELS AND THE
6 RAMS AT THAT PARTICULAR TIME.

7 AT THAT TIME, AS I PREVIOUSLY TESTIFIED,
8 THERE WERE SOME VERY STRONG CONCERNS OVER OUR ABILITY TO
9 HOST MULTIPLE EVENTS AND PARTICULARLY WITH THE SITUATIONS
10 THAT AROSE FROM MR. GOODWIN'S COMPANY. IT HAD DECLARED
11 BANKRUPTCY. WE HAD HAD DIFFICULTY IN COORDINATING THE
12 USE OF THE DIRT BETWEEN ALL THREE. MR. GOODWIN RESISTED
13 STRONGLY THAT COOPERATION THAT WE WERE TRYING TO ATTAIN.

14 AND THEN WE WERE ALSO EXPERIENCING SOME
15 NEGATIVE ADVERTISING ON OUR TWO OTHER EVENTS FROM
16 MR. GOODWIN'S COMPANY ON, PLEASE COME TO MY EVENT, DON'T
17 BASICALLY GO TO THE OTHER EVENTS.

18 Q SO THE BANKRUPTCY WAS A PROBLEM FOR
19 ANAHEIM STADIUM?

20 A YES, IT WAS.

21 Q AND DID YOU, AS ONE OF THE MANAGERS -- ONE
22 OF THE EXECUTIVES FOR ANAHEIM STADIUM FOR THE CITY OF
23 ANAHEIM, VIEW YOUR RELATIONSHIP WITH ANY OF THESE PEOPLE
24 OR PROMOTERS AS A PARTNERSHIP?

25 A WE ALWAYS LOOK AT ALL OF THE RELATIONSHIPS
26 THAT WE HAVE WITH OUR EVENT PRODUCERS AS PARTNERS. AND
27 WE DO THAT BECAUSE THE SUCCESS OF THE EVENT AS THE
28 PRODUCER OR THE EVENT IS SUCCESSFUL SO ARE WE. WE

1 RECEIVE A PERCENTAGE OF THE TICKET SALES. IN THE CASE OF
2 THESE EVENTS WE RECEIVE 10 PERCENT OF EVERY TICKET SOLD
3 AS OUR RENTAL FOR THE STADIUM.

4 WE WOULD RECEIVE REVENUE FROM PARKING. WE
5 WOULD RECEIVE REVENUE FROM FOOD AND BEVERAGE. AND AS
6 ATTENDANCE WAS HIGH OR GREW, OUR NET RETURN FOR THAT
7 EVENT WOULD GROW AS WELL. SO IT TRULY WAS A PARTNERSHIP
8 WITH EVERY EVENT THAT WE BOOKED AT THE STADIUM.

9 Q IF THINGS WERE SUCCESSFUL EVERYBODY WAS
10 SUCCESSFUL?

11 A YES, SIR.

12 Q SO FROM THAT POINT OF VIEW, THAT POINT OF
13 VIEW OF ANAHEIM STADIUM LOOKING AT THE PROMOTERS AS
14 PARTNERS, WAS THE NEGATIVE -- AND YOU CHARACTERIZED IT
15 "NEGATIVE ADVERTISING" BY THE DEFENDANT'S COMPANY, WAS
16 THAT TROUBLING?

17 A IT WAS TROUBLING. WE WERE CONCERNED ABOUT
18 OUR OTHER EVENTS BEING SUCCESSFUL. AND WE DIDN'T WANT TO
19 DO ANYTHING THAT WOULD NEGATIVELY IMPACT THOSE EVENTS.
20 WE FELT THAT THE THREE COULD COHABITATE SUCCESSFULLY
21 DURING THE MONTH OF JANUARY. AND THERE WAS NO REASON TO
22 HAVE ANY NEGATIVITY ON ANY PARTICULAR EVENT. AND, IN
23 FACT, WE EXPERIENCED SUCCESS.

24 Q AT THAT TIME THE TIME THAT WE'RE NOW
25 TALKING ABOUT HERE, TRYING TO ORGANIZE THE 1988 JANUARY
26 EVENTS, DID YOU AT ANAHEIM STADIUM HAVE PLANS FOR
27 EXPANDING TO A FOURTH WEEKEND?

28 A THAT WAS OUR ULTIMATE GOAL. WE HAD FOUR

1 WEEKENDS AVAILABLE TO US IN THE MONTH OF JANUARY. THIS
2 WAS THE ONLY TIME OF THE YEAR THAT WE COULD HOST THESE
3 SHOWS BECAUSE OF THE FOOTBALL AND BASEBALL SEASON. SO IN
4 AN ATTEMPT TO MAXIMUM THE RETURN TO THE CITIZENS OF
5 ANAHEIM, OUR GOAL -- WE PROBABLY NETTED IN THE
6 NEIGHBORHOOD OF \$200,000 PER EVENT IN PROFIT OFF OF EACH
7 EVENT. AND ULTIMATELY WE FELT THAT WE COULD DO FOUR
8 SHOWS. AND ULTIMATELY WE WANTED TO SEE A MILLION DOLLAR
9 NET RETURN TO THE CITY FOR THE MONTH OF JANUARY.

10 Q AND AS AN EXECUTIVE AT ANAHEIM STADIUM,
11 HOW DID YOU VIEW THE DEFENDANT'S COMPANY'S CONTINUED
12 PARTICIPATION IN THOSE JANUARY MOTOR SPORT EVENTS IN
13 LIGHT OF THIS PLAN TO GO TO A FOURTH WEEKEND?

14 A WELL, THE HISTORY HAD BEEN THAT MIKE
15 GOODWIN WAS VERY DIFFICULT IN THE BEGINNING WHEN WE FIRST
16 ADDED THE SECOND EVENT, WHICH WAS THE TRUCK PULL EVENT.
17 HE RESISTED AND ARGUED THAT WE SHOULDN'T DO THAT. AND
18 THEN WHEN WE ADDED THE THIRD EVENT, WHICH WAS MICKEY
19 THOMPSON'S OFF-ROAD VEHICLE RACE, AGAIN, THERE WAS A LOT
20 OF DIALOGUE AND DEBATE OVER WHETHER WE SHOULD BE DOING
21 THIS OR NOT. AND HOW IT WAS GOING TO HURT HIS MOTORCROSS
22 EVENT. AND HE FOUGHT US IN BOOKING THOSE EVENTS.

23 Q NOW I WOULD LIKE --

24 MAY I APPROACH, YOUR HONOR?

25 THE COURT: YES.

26 Q BY MR. DIXON: ON THE BOARD WE HAVE THE
27 SAME DOCUMENT THAT I'M GOING TO SHOW TO YOU. IT'S
28 PEOPLE'S 22 FOR IDENTIFICATION. AND IT MAY BE A LITTLE

1 HARD TO READ FROM HERE ON THE SCREEN, SO I'M GOING TO
2 HAND YOU A COPY AND ASK YOU TO LOOK AT IT FOR A MOMENT.
3 AND THEN TELL US IF YOU RECOGNIZE IT IN ANY FASHION?

4 A YES, I DO, RECOGNIZE IT.

5 Q AND WHAT DO YOU RECOGNIZE IT TO BE?

6 A THIS IS A LETTER SIGNED BY THE GENERAL
7 MANAGER OF THE STADIUM AT THAT TIME ON JUNE 18TH, 1987,
8 WILLIAM TURNER. AND THIS LETTER WAS ADDRESSED TO MICKEY
9 THOMPSON, C.E. ALTMAN FROM PACE MANAGEMENT, AND MIKE
10 GOODWIN SUPERCROSS ANNOUNCING THAT WE HAD REVIEWED
11 SUBMITTALS ON PRODUCING THE MOTOR SPORTS EVENT AT ANAHEIM
12 STADIUM AND OUR SELECTION FOR THE MOTOCROSS WAS MICKEY
13 THOMPSON ENTERTAINMENT GROUP.

14 Q NOW, MR. TURNER WHO SIGNED THAT LETTER,
15 PEOPLE'S 22, WHAT WAS HIS POSITION VISAVIS YOURS?

16 A HE WAS GENERAL MANAGER OF ANAHEIM STADIUM.
17 I WAS OPERATIONS MANAGER OR IN EFFECT HIS ASSISTANT.

18 Q COULD IT ROUGHLY CORRESPOND TO THE CEO OF
19 THE STADIUM AND THEN THE CHIEF OPERATING OFFICER, THE
20 COO, WHICH WOULD BE YOUR POSITION?

21 A THAT WOULD BE A GOOD ANALOGY IN THE
22 PRIVATE INDUSTRY, YES.

23 Q THIS LETTER WAS SENT OUT AS A RESULT OF
24 THE STADIUM'S DECISION TO DO WHAT?

25 A THE STADIUM'S DECISION TO LOOK AT WHO WE
26 FELT IT WOULD BE IN OUR BEST INTEREST TO PRODUCE THE
27 MOTORCROSS EVENT IN 1988.

28 Q THE THIRD WEEKEND IN 1988?

1 A YES.

2 Q THAT MOTORCROSS EVENT THAT PRIOR TO THAT
3 YEAR HAD BEEN RUN BY THE DEFENDANT'S COMPANY; IS THAT
4 CORRECT?

5 A THAT'S CORRECT.

6 Q OH, I WANTED TO ASK YOU. WE LOOK AT THE
7 LETTER -- AND I'M GOING TO WALK UP HERE -- BUT UNDER
8 "MIKE GOODWIN" IT SAYS "SUPERCROSS, INC."; CORRECT?

9 A YES, IT DOES.

10 Q IS THAT THE COMPANY THAT YOU DEALT WITH IN
11 THE PAST?

12 A NOT TO MY RECOLLECTION. I BELIEVE THE
13 COMPANY WE HAD DEALT WITH WAS STADIUM MOTOR SPORTS
14 CORPORATION I BELIEVE WAS THE NAME OF THE COMPANY THAT WE
15 HAD DEALT WITH UNDER CONTRACT IN PRIOR YEARS.

16 Q AND YOU MENTIONED A BANKRUPTCY. SO THE
17 BANKRUPTCY OCCURRED WITH THAT COMPANY AND NOW THERE WAS A
18 NEW COMPANY?

19 MR. SUMMERS: OBJECTION. FOUNDATION, YOUR HONOR.

20 THE COURT: SUSTAINED.

21 Q BY MR. DIXON: IF YOU KNOW. I MEAN YOU
22 MENTIONED THAT STADIUM MOTORCROSS HAD BEEN AN EARLIER
23 COMPANY OF THE DEFENDANT'S; RIGHT?

24 A YES.

25 Q DO YOU KNOW HOW THIS SUPERCROSS CAME
26 ABOUT?

27 A I CAN'T TELL YOU EXACTLY HOW THAT COMPANY
28 WAS ESTABLISHED. BUT IT WAS NOT THE COMPANY THAT WE HAD

1 BEEN PREVIOUSLY DEALING WITH.

2 Q OKAY. IN AN EARLIER ANSWER I BELIEVE
3 YESTERDAY, YOU SAID THAT WHEN ANAHEIM STADIUM -- WHEN THE
4 EXECUTIVES AT ANAHEIM STADIUM MADE THIS DECISION TO ASK
5 SOMEONE ELSE OTHER THAN THE DEFENDANT TO TAKE THE THIRD
6 WEEKEND IN JANUARY, THE MOTORCROSS WEEKEND, THAT YOU DID
7 NOT ASK THE DEFENDANT'S COMPANY TO MAKE A PROPOSAL FOR
8 THAT. WAS THAT YOUR TESTIMONY?

9 A I THINK, YES, IT WAS. I BELIEVE THAT
10 INITIALLY STADIUM MOTORCROSS, SMC, WAS UNDER BANKRUPTCY
11 AND THAT WAS THE REASON WE WERE GOING THROUGH -- ONE OF
12 THE REASONS WE WERE GOING THROUGH THIS PROCESS. SO WE
13 WERE NOT INTERESTED IN HEARING A PROPOSAL FROM STADIUM
14 MOTORCROSS.

15 SOMEWHERE IN THAT PROCESS, WE WERE ADVISED
16 THAT THERE WAS THIS COMPANY -- THIS NEW COMPANY THAT MIKE
17 GOODWIN WAS INVOLVED WITH. AND I DON'T RECALL IF WE SENT
18 THE NEW COMPANY A REQUEST FOR A PROPOSAL OR IF MIKE
19 GOODWIN RESPONDED TO OUR PROPOSAL WITHOUT OUR REQUEST
20 WITH THIS NEW COMPANY. I DON'T RECALL THE SPECIFICS
21 THERE.

22 Q BUT IS IT FAIR TO SAY THAT NO MATTER HOW
23 IT CAME ABOUT, THE LETTER OF JUNE 18, 1987, PEOPLE'S 22,
24 WAS SENT OUT TO ALL THREE OF THE PEOPLE WE'VE TALKED
25 ABOUT, ALL THREE OF THE COMPANIES THAT WE'VE TALKED
26 ABOUT?

27 A YES, IT WAS.

28 Q NOW, I WOULD LIKE YOU TO LOOK AT ANOTHER

1 DOCUMENT BRIEFLY, IT'S UP ON THE SCREEN AS PEOPLE'S 23
2 FOR IDENTIFICATION. I BELIEVE IT IS A MULTI-PAGE
3 DOCUMENT. AND IF YOU COULD, WOULD YOU TAKE A MOMENT TO
4 LOOK AT IT AND THEN TELL US IF YOU RECOGNIZE IT IN ANY
5 FASHION?

6 A THIS IS AN OCCUPANCY AGREEMENT BETWEEN THE
7 CITY OF ANAHEIM AND MICKEY THOMPSON ENTERTAINMENT GROUP
8 DATED JULY 16, 1987, FOR HOSTING THE JANUARY 23RD, 1988,
9 EVENT AT ANAHEIM STADIUM.

10 Q THIS WAS THE EVENT THAT WE JUST TALKED
11 ABOUT WITH PEOPLE'S 22 THAT YOU PUT OUT FOR PROPOSAL, THE
12 MOTORCROSS EVENT; IS THAT CORRECT OR INCORRECT?

13 A THIS INCLUDES -- I WOULD HAVE TO SPEND A
14 PEOPLE MOMENT TO REVIEW IT.

15 Q PLEASE DO.

16 A YES. THIS INCLUDES THE EVENTS OF OFF-ROAD
17 VEHICLE RACE; THE ATV AND ULTRA-STOCK RACE; TRUCK/TRACTOR
18 PULL EVENT; MUD BOG VEHICLE RACE; AND THE MOTOCROSS
19 EVENT. SO IT IS A CONTRACT FOR THOSE EVENTS IN JANUARY.

20 Q JANUARY OF?

21 A 1988.

22 Q FINANCIALLY, WAS THAT SUCCESSFUL TO THE
23 CITY OF ANAHEIM?

24 A YES, IT WAS.

25 Q BY THE WAY, AFTER THE LETTER, PEOPLE'S 22,
26 WAS SENT OUT, DID YOU PERSONALLY TO YOUR KNOWLEDGE HAVE
27 ANY INTERACTION WITH MIKE GOODWIN WITH RESPECT TO THAT
28 DECISION?

1 A WELL, THERE WERE PHONE CALLS QUESTIONING
2 WHY WE WERE DOING THIS; CHALLENGING OUR DECISION TO
3 CONSOLIDATE AND MOVE FORWARD IN THIS MANNER.

4 Q COULD YOU CHARACTERIZE THOSE PHONE CALLS
5 AS CALM, PROFESSIONAL OR UPSET AND AGITATED?

6 A UPSET AND AGITATED.

7 Q THANK YOU.

8 MAY I APPROACH?

9 THE COURT: YES.

10 Q BY MR. DIXON: SHOWING YOU PEOPLE'S 24 FOR
11 IDENTIFICATION. AGAIN, I HAVE THAT UP ON THE SCREEN.
12 WOULD YOU TAKE A MOMENT AND LOOK AT PEOPLE'S 24 AND TELL
13 US IF YOU RECOGNIZE IT IN ANY FASHION?

14 A YES. THIS IS AN OCCUPANCY AGREEMENT
15 BETWEEN THE CITY OF ANAHEIM, ANAHEIM STADIUM, AND MIKE
16 GOODWIN'S COMPANY ENTERTAINMENT SPECIALTIES, INC., DOING
17 BUSINESS AS STADIUM MOTOR SPORTS CORPORATION FOR THE
18 PRODUCTION OF THE JANUARY 29TH, 1987 SUPERCROSS EVENT;
19 ALONG WITH A PRESS DAY ON JANUARY 31ST.

20 Q SO THIS WAS THE 1987 CONTRACT WITH MIKE
21 GOODWIN'S COMPANY; IS THAT CORRECT?

22 A YES. SORRY. THE SUPERCROSS EVENT WAS ON
23 JANUARY 31ST AND THE PRESS DATE WAS ON JANUARY 29TH OF
24 THAT YEAR 1987.

25 Q THAT WAS, IN FACT, THE LAST EVENT THAT
26 MIKE GOODWIN'S COMPANY PUT ON AT YOUR STADIUM?

27 A THAT IS CORRECT.

28 MR. DIXON: AGAIN, MAY I APPROACH?

1 THE COURT: YES.

2 Q BY MR. DIXON: SHOWING YOU PEOPLE'S 25 FOR
3 IDENTIFICATION. I WOULD LIKE YOU TO LOOK AT THIS FOR A
4 MOMENT AND SEE IF YOU RECOGNIZE IT. AND I WILL HAVE A
5 FEW MORE QUESTIONS.

6 A YES, I RECOGNIZE THIS DOCUMENT.

7 Q WHAT EXACTLY IS IT BRIEFLY?

8 A IT IS AN ANNOUNCEMENT FOR A PRESS
9 CONFERENCE SIGNED BY WILLIAM TURNER GENERAL MANAGER OF
10 ANAHEIM STADIUM ANNOUNCING A PRESS CONFERENCE FOR
11 THURSDAY, AUGUST 27TH, 1987, TO ANNOUNCE THE CHANGE IN
12 OUR RELATIONSHIPS WITH OUR PROMOTERS AND AWARDING THE
13 SUPERCROSS EVENT TO MICKEY THOMPSON.

14 Q DO YOU ACTUALLY REMEMBER THIS NEWS
15 CONFERENCE? DID YOU ATTEND IT?

16 A YES, I DO RECALL THIS PRESS CONFERENCE.
17 AND PARTICULARLY I RECALL BECAUSE MICKEY HAD BROUGHT DOWN
18 HIS "CHALLENGER" RACE CAR AND WE HAD SET IT OUT IN FRONT
19 OF THE STADIUM. AND THERE ARE SOME PICTURES SOMEWHERE, I
20 HAVEN'T SEEN IN QUITE SOMETIME, OF THAT CAR SITTING IN
21 FRONT OF OUR STADIUM.

22 Q I THINK I MAY HAVE SHOWN YOU THIS
23 YESTERDAY, BUT I'LL DO IT AGAIN JUST IN CASE I DON'T
24 REMEMBER. PEOPLE'S 21 FOR IDENTIFICATION IS THAT THE
25 "CHALLENGER"?

26 A YES, IT IS.

27 Q NOW, FROM ANAHEIM STADIUM'S STANDPOINT,
28 FROM YOUR STANDPOINT AS AN EXECUTIVE THERE, WHY WOULD YOU

1 HAVE A NEWS CONFERENCE FOR ALL THIS?

2 A TO ANNOUNCE TO THE PUBLIC THAT THE EVENTS
3 WERE HAPPENING NEXT JANUARY AND THAT THE PRODUCERS OF THE
4 SHOW -- WHO THOSE PRODUCERS WERE. AND TO BEGIN THE
5 PUBLICITY ON THIS NEW ARRANGEMENT.

6 Q WELL, THE SHOWS, I GUESS FOR WANT OF A
7 BETTER TERM, THE EVENTS HAD BEEN GOING ON FOR SOME YEARS;
8 CORRECT?

9 A YES, THEY HAD.

10 Q SO WHAT HAD CHANGED?

11 A THE PRODUCER OF THE MOTORCROSS HAD CHANGED
12 FROM MIKE GOODWIN TO MICKEY THOMPSON. THAT WAS THE CRUX
13 OF THE ANNOUNCEMENT.

14 Q AND THAT WAS THE REASON FOR THE PRESS
15 CONFERENCE?

16 A THE PRIMARY REASON, YES.

17 Q AND AS AN EXECUTIVE AT ANAHEIM STADIUM,
18 DID YOU REQUEST -- LET ME WITHDRAW THAT. AND JUST ASK
19 YOU: HOW DID IT COME ABOUT THE "CHALLENGER" SHOWED UP --

20 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

21 Q BY MR. DIXON: -- AT THE NEWS CONFERENCE?

22 THE COURT: OVERRULED.

23 THE WITNESS: THE FACT THAT MICKEY WAS WELL-KNOWN
24 IN THE MOTOR SPORTS INDUSTRY WE FELT WAS HELPFUL. HAVING
25 THIS HISTORICAL MONUMENT TO HIS SUCCESS OUT AT THE
26 STADIUM LED CREDIBILITY TO WHAT HE COULD DO AND HOW
27 SUCCESSFUL HE COULD TAKE ANYTHING. AND WE FELT THAT THAT
28 JUST WAS AN EXAMPLE OF MICKEY THOMPSON AND HIS SUCCESS

1 STORY.

2 Q BY MR. DIXON: AND THE "CHALLENGER" WAS A
3 SYMBOL OF THAT SUCCESS?

4 A YES, IT WAS.

5 Q AS SOMEONE IN THIS BUSINESS, WHAT DID THE
6 "CHALLENGER" DO?

7 MR. SUMMERS: OBJECTION. RELEVANCE, YOUR HONOR.

8 THE COURT: OVERRULED.

9 MR. SUMMERS: VAGUE.

10 Q BY MR. DIXON: WHAT WAS THE "CHALLENGER" A
11 SYMBOL OF WHAT MICKEY THOMPSON DID?

12 A OF MICKEY THOMPSON BEING A SUCCESSFUL RACE
13 CAR DRIVER AND BREAKING MANY RECORDS IN THE RACING
14 INDUSTRY OVER THE YEARS.

15 Q INCLUDING THE LAND SPEED RECORD?

16 A YES, SIR.

17 Q NEXT I PUT PEOPLE'S 26 FOR IDENTIFICATION
18 UP ON THE SCREEN. AND I WILL HAND A COPY OF IT TO YOU
19 AND ASK YOU AGAIN TO BRIEFLY TAKE A LOOK AT IT AND I WILL
20 HAVE A FEW QUESTIONS.

21 DO YOU RECOGNIZE THAT EXHIBIT PEOPLE'S 26?

22 A YES. I RECOGNIZE THIS DOCUMENT AS A
23 SETTLEMENT -- WHAT WE WOULD CALL A "SETTLEMENT REPORT"
24 FOR THE MOTORCROSS EVENT ON JANUARY 30TH, 1988.

25 Q FOR THOSE IN PRIVATE INDUSTRY, WOULD THAT
26 BE A ROUGH EQUIVALENT TO A PROFIT AND LOSS STATEMENT?

27 A I WOULDN'T CHARACTERIZE THIS AS A PROFIT
28 AND LOSS STATEMENT. I WOULD CHARACTERIZE THIS AS A

1 DOCUMENTATION OR AN ACCOUNTING OF ALL OF THE MONEY THAT
2 THE CITY OF ANAHEIM HAD UNDER CONTROL FOR THIS EVENT.
3 THE CITY OF ANAHEIM, THE STADIUM STAFF WOULD SELL THE
4 TICKETS FOR THE EVENT. SO WE COLLECTED TICKET SALES. WE
5 HAD DEPOSITS THAT WERE MADE WITH A CONTRACT. AND WE ALSO
6 SHARED IN REVENUES FROM OUR FOOD AND BEVERAGE.

7 SO WE WERE ACCOUNTING FOR THE MONEY THAT
8 WE HAD CONTROL OF. AND IT ALSO THEN DEDUCTS PAYMENTS
9 THAT WE MADE OUT TO THE PROMOTER OF THE EVENT. AND THE
10 BOTTOM LINE IS, COME TO A NUMBER OF A FINAL SETTLEMENT
11 THAT WE WOULD OWE THE PROMOTER OF THE EVENT.

12 Q SO WOULD IT BE -- AND I'M NO ACCOUNTANT,
13 SO I WILL JUST ASK YOU -- WOULD IT BE -- WOULD THIS
14 DOCUMENT, PEOPLE'S 26, BE A STEP IN THE PROCESS IN TRYING
15 TO DETERMINE A PROFIT AND LOSS STATEMENT FOR THAT EVENT?

16 A THIS DOCUMENT WILL GIVE YOU THE NUMBERS
17 THAT WERE EARNED IN TICKET SALES AND IN CONCESSION SALES.
18 IT DOES NOT REFLECT ANY EARNINGS THAT THE EVENT PROMOTER
19 MAY HAVE MADE DIRECTLY, FOR EXAMPLE, FROM SPONSORSHIPS OR
20 FROM TELEVISION INCOME. BECAUSE THAT MONEY WOULD NOT
21 FLOW THROUGH THE STADIUM FUNDS. IT FLOWED DIRECTLY FROM
22 THOSE SOURCES TO THE EVENT PROMOTER.

23 Q WOULD IT IN ANY WAY, PEOPLE'S 26, INDICATE
24 WHETHER OR NOT THE CITY OF ANAHEIM HAD BEEN SUCCESSFUL
25 WITH RESPECT TO THIS EVENT?

26 A IT CERTAINLY IS A PARTIAL ACCOUNTING OF
27 THE REVENUES WE RECEIVED FROM THE EVENT. OBVIOUSLY, WE
28 RECEIVED RENTAL; 10 PERCENT THE GROSS TICKET SALES. IT

1 ALSO -- BUT IT DOES NOT INCLUDE OTHER REVENUES SUCH AS
2 PARKING LOT INCOME AND OTHER STREAMS OF REVENUE THAT WE
3 MAY HAVE ENJOYED FROM THE EVENT.

4 Q AND ALTHOUGH YOU CHARACTERIZE YOUR
5 RELATIONSHIP WITH THE PROMOTERS AS A PARTNERSHIP, YOUR
6 JOB AS EXECUTIVE IS TO MAKE SURE THE CITY MADE MONEY?

7 A THAT'S WHY WE'RE IN THE BUSINESS, YES.

8 Q AND WHAT EVENT DOES PEOPLE'S 26 DOCUMENT?
9 WHICH EVENT WAS THIS?

10 A THIS IS DOCUMENTING THE JANUARY 30TH, 1988
11 MOTORCROSS EVENT.

12 Q THAT WAS THE FIRST ONE THAT MICKEY
13 THOMPSON PUT ON?

14 A YES.

15 Q THEN PRIOR YEARS HAD BEEN DONE BY THE
16 DEFENDANT MIKE GOODWIN?

17 A THAT'S CORRECT.

18 Q IN 1988, THE MICKEY THOMPSON MOTORCROSS
19 EVENT, WAS THAT FINANCIALLY SUCCESSFUL OR NOT?

20 A YES, VERY MUCH SO.

21 Q THANK YOU. PEOPLE'S 27 FOR
22 IDENTIFICATION. I PROBABLY DON'T EVEN NEED TO TAKE IT UP
23 THERE. CAN YOU SEE THAT? WE REALLY ARE JUST CONCERNED
24 WITH THE HEADLINE.

25 A I CAN SEE THE HEADLINE.

26 Q OKAY. GOOD. WELL, THAT'S ALL I CAN SEE,
27 TOO. IT LOOKS LIKE IT MIGHT BE FROM THE L.A. TIMES;
28 RIGHT?

1 A YES, IT IS.

2 Q ON AUGUST 27, 1987. WHAT DOES THIS MEAN
3 TO YOU? DO YOU REMEMBER SEEING THIS? DOES THIS HAVE
4 ANYTHING TO DO WITH THE PUBLICITY OR THE NEWS CONFERENCE,
5 THAT TYPE OF THING?

6 A YES. WE HAD A PRESS CONFERENCE ANNOUNCING
7 THE CHANGE IN THE PROMOTER OF THE EVENT. AND THIS IS AN
8 ARTICLE RELATED TO THAT EVENT.

9 Q SO PEOPLE CAME TO THE PRESS CONFERENCE AND
10 COVERED IT AND WROTE ABOUT IT?

11 A YES.

12 Q AND IT GOT OUT INTO THE L.A. TIMES?

13 A YES, IT DID.

14 Q ALONG THOSE SAME LINES PEOPLE'S 28 FOR
15 IDENTIFICATION. AGAIN, THIS TIME FROM THE ORANGE COUNTY
16 REGISTER. IT LOOKS LIKE AUGUST 28, THE NEXT DAY, 1987.
17 WAS THIS AN ARTICLE ALSO THAT WAS GENERATED AS A RESULT
18 OF THE PRESS CONFERENCE THAT WE TALKED ABOUT?

19 A YES, IT WAS.

20 Q SO APPARENTLY AT LEAST IN SOME CORNERS OF
21 THE MEDIA THE CHANGE THAT YOU MADE WAS NEWS WORTHY?

22 A YES, IT WAS.

23 Q PEOPLE'S 29 FOR IDENTIFICATION. THIS IS A
24 MULTI-PAGE DOCUMENT. I'VE JUST PUT THE FIRST PAGE UP ON
25 THE SCREEN PEOPLE'S 29. IF I CAN APPROACH, I'LL SHOW
26 YOU. THANK YOU. CAN YOU BRIEFLY LOOK AT THAT AND TELL
27 US IF YOU RECOGNIZE THAT DOCUMENT?

28 A THIS IS AN ADVERTISING DOCUMENT GENERATED

1 BY THE MICKEY THOMPSON ENTERTAINMENT GROUP CONCERNING
2 THEIR EVENTS ON JANUARY 23RD, 24TH AND 30TH OF 1988.
3 PRIMARILY PUBLICIZING OR SELLING THE MICKEY THOMPSON
4 OFF-ROAD GRAND PRIX; OFF-ROAD VEHICLE RACES; THE THUNDER
5 DRAGS; AND THE MOTOCROSS EVENT.

6 Q OKAY. AND IS THAT THE KIND OF PUBLICITY
7 THAT THE STADIUM WOULD DO FOR YOUR JANUARY MOTOR SPORTS
8 EVENTS?

9 A THE STADIUM IN ITSELF, THE CITY OF
10 ANAHEIM, DID NOT GENERATE ADVERTISING OR ANY PUBLICITY OF
11 THAT NATURE. THIS WOULD BE GENERATED BY THE PRODUCER OF
12 THE SHOW.

13 Q SO EACH INDIVIDUAL PROMOTER WOULD DO THE
14 ADVERTISING THEY THOUGHT WAS REQUIRED?

15 A YES.

16 Q AND THAT ADVERTISING WAS DONE FOR WHICH
17 EVENT?

18 A THIS PARTICULAR EVENT WERE THE EVENTS ON
19 THE 23RD, 24TH AND 30TH, WHICH WERE THE OFF-ROAD VEHICLE
20 RACES AND THE MOTORCROSS EVENT.

21 Q BY MICKEY THOMPSON?

22 A BY MICKEY THOMPSON 1988.

23 Q LASTLY, PEOPLE'S 30 FOR IDENTIFICATION.
24 CAN YOU SEE IT FROM THERE? I'LL BRING IT UP TO YOU. DO
25 YOU RECOGNIZE THIS DOCUMENT, PEOPLE'S 30?

26 A I RECOGNIZE THE DOCUMENT AS ONE SIGNED BY
27 MICKEY THOMPSON ADDRESSED TO MOTORCROSS FANS.

28 Q AND UNDER -- HOW WAS THAT GENERATED, IF

1 YOU KNOW? IF YOU KNOW?

2 A IT WASN'T GENERATED BY THE STADIUM ITSELF,
3 NO.

4 Q WOULD THAT ALSO BE PART OF THE PUBLICITY
5 IN ADVERTISING THAT EACH OF THE PROMOTERS WOULD DO FOR
6 THEIR OWN INDIVIDUAL EVENTS?

7 A YES.

8 Q OKAY. NOW I'M JUST GOING TO REMIND YOU OF
9 THESE EXHIBITS THAT WE'VE ALREADY TALKED ABOUT. LET ME
10 SEE IF I CAN DO THIS. THERE. WE'VE TALKED ABOUT THESE
11 EXHIBITS, PEOPLE'S 22, 23, 24, 25 AND 26. ALL THOSE
12 DOCUMENTS, WHICH I WILL HAND YOU NOW, WERE ON ANAHEIM
13 STADIUM LETTERHEAD; CORRECT?

14 A YES, THEY ARE.

15 Q AND WERE THOSE ALL PREPARED IN THE NORMAL
16 COURSE OF BUSINESS AT ANAHEIM STADIUM?

17 A YES, THEY WERE.

18 Q A BUSINESS DOCUMENT?

19 A YES, IT IS.

20 Q THAT REFLECTED THE EVENTS AT OR NEAR THE
21 TIME THAT THEY WERE GENERATED?

22 A THAT'S CORRECT.

23 Q AFTER THE DECISION IN AUGUST 1987 TO
24 CHANGE THE PROMOTER FOR THE MOTORCROSS EVENT AT ANAHEIM
25 STADIUM WHERE YOU WENT FROM MIKE GOODWIN TO MICKEY
26 THOMPSON, DID THERE COME A TIME WHEN YOU SAW THE
27 DEFENDANT MIKE GOODWIN IN A COURT-LIKE SETTING?

28 A YES.

1 Q WHEN APPROXIMATELY WAS THAT?

2 A I DON'T RECALL THE SPECIFIC DATE OF THAT
3 COURT APPEARANCE. I WAS SUBPOENAED TO APPEAR IN A
4 BANKRUPTCY HEARING IN SANTA ANA.

5 Q TO THE BEST OF YOUR RECOLLECTION WAS THIS
6 BANKRUPTCY HEARING IN SANTA ANA, WAS IT BEFORE YOUR
7 DECISION TO REPLACE MIKE GOODWIN WITH MICKEY THOMPSON AS
8 THE PROMOTER OF THE MOTORCROSS EVENT OR AFTER?

9 A I CAN'T REMEMBER.

10 Q GENERALLY IN THAT TIME, CAN YOU GIVE IS A
11 YEAR? '86?

12 A WELL, IT WAS IN 1987. AND IT WAS AFTER
13 THE MOTOR SPORTS EVENTS OF JANUARY OF '87. AND I'M NOT
14 SURE IF IT WAS AFTER OUR DECISION AND ANNOUNCEMENT IN THE
15 SUMMER OR IF IT WAS PRECEDING THAT DECISION. BUT IT WAS
16 AT A TIME WHERE DECISIONS WERE BEING MADE OR HAD RECENTLY
17 BEEN MADE.

18 Q AND COMMUNICATED TO THE DEFENDANT?

19 A I BELIEVE THAT THIS WAS PRIOR TO THE
20 AUGUST ANNOUNCEMENT BECAUSE THE NATURE OF THE BANKRUPTCY
21 HEARING -- AND WHAT I WAS ASKED TO COME FORWARD AND
22 TESTIFY UPON -- WOULD LEAD ME TO BELIEVE THAT A FINAL
23 DECISION HADN'T BEEN MADE YET.

24 Q BUT AS YOU TOLD US YESTERDAY, YOUR
25 RECOLLECTION WAS THAT YOU DID NOT ASK FOR A PROPOSAL FROM
26 THE DEFENDANT; IS THAT CORRECT?

27 A I DON'T BELIEVE WE DID. I'M NOT WITH 100
28 PERCENT CERTAIN WHETHER WE HAD OR HAD NOT. BUT I BELIEVE

1 GOODWIN LOTS OF TIMES OVER THESE YEARS; RIGHT?

2 A YES, I HAD.

3 Q DID YOU RECOGNIZE HIS VOICE OR NOT?

4 A YES, I DID.

5 Q SO WHAT WAS THE FIRST THING THAT YOU WERE
6 AWARE OF? DID YOU SEE HIM? DID YOU HEAR HIM? WHAT
7 HAPPENED?

8 A WELL, WHEN I HEARD HIS VOICE, THEN I
9 GLANCED BEHIND ME TO SEE IF I WAS THE ONE THAT WAS BEING
10 SPOKEN TO. AND THERE WAS NO ONE ELSE EXCEPT MIKE GOODWIN
11 BEHIND ME. THE ROW WAS EMPTY -- MY ROW WAS EMPTY.

12 Q AND HE SAID?

13 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED,
14 YOUR HONOR.

15 THE COURT: SUSTAINED.

16 Q BY MR. DIXON: WHEN HE SAID THE WORDS THAT
17 YOU TESTIFIED TO, WAS THIS SAID IN A FRIENDLY, JOKING
18 MANNER OR IN SOME OTHER WAY?

19 A NO. IT WAS NOT A FRIENDLY CONVERSATION.
20 I DID NOT TAKE IT AS BEING A FRIENDLY CONVERSATION. I
21 TOOK IT AS THREATENING.

22 Q WHY DID YOU TAKE IT AS THREATENING?

23 A WELL, THAT I'LL BE SORRY ABOUT THIS, I
24 CONSIDER VERY THREATENING.

25 Q AND DID ANY PART OF THAT CONVERSATION AS
26 YOU HEARD IT AT THAT TIME MAKE YOU THINK OR DID YOU
27 RELATE BACK TO THE EARLIER CONVERSATIONS THAT YOU HAD
28 WITH THE DEFENDANT ABOUT --

1 MR. SUMMERS: OBJECTION -- SORRY. OBJECTION.
2 LEADING.

3 THE COURT: SUSTAINED.

4 Q BY MR. DIXON: DID IT REMIND YOU OF ANY
5 OTHER CONVERSATIONS THAT YOU HAD HAD?

6 A WELL, I HAD SEVERAL CONVERSATIONS WITH
7 MIKE GOODWIN LEADING UP TO THIS. AND HE WAS -- IN EVERY
8 CONVERSATION I HAD WITH HIM HE WAS UNHAPPY. HE WAS MAD
9 THAT WE WOULD CONSIDER NOT HAVING HIM COME BACK AND PUT
10 ON THE SUPERCROSS EVENT. HE WAS CONFRONTATIONAL AND
11 VERY, VERY UPSET.

12 Q WAS THIS THE FIRST TIME THAT YOU HAD FELT
13 THREATENED OR HAD YOU FELT THREATENED BEFORE?

14 A I DON'T RECALL FEELING THE WAY I FELT IN
15 THE COURTROOM IN ANYTHING THAT HAPPENED PRIOR. THERE MAY
16 HAVE BEEN COMMENTS MADE THAT WERE AGGRESSIVE IN NATURE
17 ABOUT WHAT WE ARE DOING. BUT THIS WAS THE FIRST WHERE I
18 CONSIDERED IT THREATENING WHEN I WAS BEING TOLD THAT I
19 WOULD REGRET THIS DECISION.

20 Q THANK YOU.

21 COULD I HAVE JUST A MOMENT, YOUR HONOR?

22 THE COURT: YES.

23 (PAUSE IN PROCEEDINGS.)

24 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
25 TIME.

26 THE COURT: CROSS-EXAMINATION?

27 MR. SUMMERS: THANK YOU.
28

CROSS-EXAMINATION

BY MR. SUMMERS:

Q GOOD MORNING. MR. SMITH.

A GOOD MORNING.

MR. SUMMERS: MAY I APPROACH, YOUR HONOR, AND
RETRIEVE A COUPLE OF EXHIBITS THAT ARE UP THERE?

THE COURT: YES.

Q BY MR. SUMMERS: MR. SMITH, YOU I BELIEVE
INDICATED THAT THE ONLY MULTI-YEAR CONTRACT THAT YOU HAD
AT ANAHEIM STADIUM DURING THAT TIME PERIOD WAS WITH ONE
OF THE SPORTS TEAMS. I THINK THE ANGELS; IS THAT
CORRECT?

A WE HAD MULTI-YEAR AGREEMENTS WITH THE
CALIFORNIA ANGELS AND THE LOS ANGELES RAMS. I DON'T
RECALL ANY OTHER MULTI-YEAR AGREEMENT IN PLACE.

Q AND SO THE AGREEMENT THAT YOU TALKED
ABOUT, THE MULTI-EVENT AGREEMENT, IN JANUARY OF '88 -- OR
TO PUT ON A MONTH-LONG EVENT IN JANUARY OF '88, THAT WAS
A ONE-YEAR AGREEMENT?

A YES, IT WAS.

Q NOW, SIR, THE DOCUMENTS THAT YOU HAVE BEEN
IDENTIFYING AND DESCRIBING THIS MORNING, ARE THOSE
DOCUMENTS THAT YOU AT SOME TIME BROUGHT TO COURT WITH
YOU?

A DID I BRING THESE DOCUMENTS TO COURT?

Q NOT NECESSARILY TODAY, BUT ON SOME OTHER
OCCASION?

A NO.

1 Q DID THE DISTRICT ATTORNEY'S OFFICE --
2 SOMEONE FROM THE DISTRICT ATTORNEY'S OFFICE ASK YOU TO
3 BRING SOME DOCUMENTS WITH YOU AT SOME POINT TO AN
4 INTERVIEW OR ANYTHING LIKE THAT?

5 A NO. I DID NOT BRING THOSE DOCUMENTS.
6 THOSE DOCUMENTS WERE HELD IN OUR FILES AT THE ANAHEIM
7 CONVENTION CENTER.

8 Q DO YOU KNOW HOW THOSE DOCUMENTS GOT TO
9 COURT?

10 A I WASN'T PRESENT AT THE TIME THOSE
11 DOCUMENTS WERE RETRIEVED. BUT I MADE ARRANGEMENTS TO
12 HAVE THE FILE BOXES FROM THE EVENTS THAT WE HAD -- THE
13 REMAINING FILES THAT WE HAD FROM THE EVENTS IN THE MID
14 '80S AVAILABLE TO THE INVESTIGATORS TO COME REVIEW AND
15 THEY -- AGAIN, I WAS NOT THERE -- BUT THEY SELECTED SOME
16 DOCUMENTS AND TOOK THEM.

17 Q WERE THESE INVESTIGATORS FROM THE LOS
18 ANGELES SHERIFF'S DEPARTMENT? THE LOS ANGELES DISTRICT
19 ATTORNEY'S OFFICE?

20 A I BELIEVE IT WAS THE LOS ANGELES SHERIFF'S
21 OFFICE.

22 Q SO THE INITIAL ACT OF TAKING THOSE
23 DOCUMENTS AND MAKING THEM AVAILABLE WAS AT THE REQUEST OF
24 THE SHERIFF'S OFFICE?

25 A TO THE BEST OF MY UNDERSTANDING, YES.

26 Q AND THEY -- I ASSUME THIS WAS A LOT OF
27 DOCUMENTS? OR WAS IT MORE THAN ONE BOX OF DOCUMENTS?

28 A MOST OF THE FILES THAT WE HAD FROM BACK IN

1 THE MID '80S WERE DESTROYED OR GONE. WHEN WE
2 RELINQUISHED CONTROL OF THE STADIUM TO THE ANGELS IN
3 1996, SOME OF THOSE FILES WERE LOST OR DESTROYED. BUT WE
4 DID RETAIN SEVERAL FILE BOXES OF FILES THAT WE CONTINUED
5 TO RETAIN AT THE ANAHEIM CONVENTION CENTER.

6 Q AND WAS YOUR IMPRESSION OR YOUR
7 OBSERVATION THAT THE DOCUMENTS THAT WE HAVE BEEN GOING
8 OVER THIS MORNING WERE JUST NOT THE ENTIRETY OF WHAT THE
9 DOCUMENTATION THAT YOU PRESENTED; IS THAT CORRECT?

10 A WELL, I DO KNOW THAT THERE ARE MORE
11 DOCUMENTS IN OUR FILES OTHER THAN WHAT YOU HAVE PRESENTED
12 HERE TODAY.

13 Q I WOULD LIKE TO DIRECT YOUR ATTENTION, IF
14 I MAY, TO PEOPLE'S 23 AND PEOPLE'S 24. I BELIEVE YOU
15 TESTIFIED THAT WHEN YOU TALK ABOUT TAKING BIDS OR OFFERS
16 ON IT, YOUR CONTRACT WAS PRETTY STANDARD WHEN SOMEBODY
17 WANTED TO PUT ON A MOTOR SPORTS SHOW?

18 A WE HAD A BASIC CONTRACT THAT WAS A
19 STANDARD AGREEMENT. WE WOULD TYPICALLY ATTACH AN
20 ADDENDUM TO EACH CONTRACT, WHICH ARE THE FOLLOWING PAGES.
21 IN THIS PARTICULAR CASE THE CONTRACT DATED NOVEMBER 26,
22 1986 WITH MICHAEL GOODWIN FOR THE JANUARY 29TH, 1987,
23 SUPERCROSS HAD FOUR PAGES OF ADDENDUM "A" AND ONE PAGE OF
24 ADDENDUM "B" THAT OUR BASIC CONTRACT.

25 Q AND SHOWING YOU PEOPLE'S 23, WHICH WOULD
26 BE THE CONTRACT FROM JULY 16 OF '87 FOR THE JANUARY OF
27 '88 SHOW, CAN YOU DESCRIBE THAT CONTRACT?

28 A AGAIN, IT IS A FORM CONTRACT. ONE PAGE --

1 ACTUALLY, THERE IS A SIGNATURE PAGE THAT WOULD BE ON THE
2 BACK AND WAS NOT PHOTOCOPIED. AND THEN AN ADDENDUM "A"
3 OF THREE PAGES LEGAL; AND ADDENDUM "B" TWO PAGES; AND
4 ADDENDUM "C" ONE PAGE -- OR SORRY -- ADDENDUM "B" ONE
5 PAGE; AND ADDENDUM "C" ONE PAGE.

6 Q SO IF I HAVE GOT IT RIGHT, THERE IS AN
7 ADDENDUM "C" IN PEOPLE'S 23, WHICH I'LL CALL THE "MICKEY
8 THOMPSON CONTRACT." AND THERE IS NOT AN ADDENDUM "C" IN
9 PEOPLE'S 24, WHICH I WILL CALL THE "GOODWIN CONTRACT"?

10 A THAT'S CORRECT.

11 Q AND ADDENDUM "C" IN PEOPLE'S 23, ONE OF
12 THINGS IN THERE, IN FACT, PARAGRAPH 2 IS THAT "THE
13 EXHIBITOR" -- THAT MEANS "THE PROMOTER" IS THAT
14 ANOTHER --

15 A YES. IT WOULD BE THE PERSON THAT THE CITY
16 OF ANAHEIM WAS CONTRACTING WITH. IN THIS PARTICULAR CASE
17 THE MICKEY THOMPSON ENTERTAINMENT GROUP.

18 Q THAT PARAGRAPH INCLUDES A GUARANTEE TO THE
19 CITY ABOUT A CERTAIN NUMBER OF TICKET SALES; IS THAT
20 CORRECT?

21 A THAT'S CORRECT.

22 Q AND WHAT WAS THE AMOUNT OF TICKET SALES
23 THAT WAS GUARANTEED BY MICKEY THOMPSON GROUP?

24 A WELL, THE PARAGRAPH STIPULATES THAT
25 EXHIBITOR AGREES TO GUARANTEE TO CITY THAT THE TICKET
26 SALES FOR THE MOTORCROSS EVENT SHALL NOT BE LESS THAN THE
27 TEN-YEAR AVERAGE OF MOTOCROSS EVENTS HELD AT ANAHEIM
28 STADIUM.

1 Q AND IT ALSO SAYS THAT THAT TEN-YEAR
2 AVERAGE WAS DETERMINED TO BE A CERTAIN AMOUNT IN TICKET
3 SALES?

4 A YES.

5 Q AND THAT AMOUNT IS WHAT?

6 A \$707,856.

7 Q AND IS IT YOUR RECOLLECTION -- AND MAYBE
8 BASED ON A DOCUMENT THAT YOU HAVE SEEN HERE THIS MORNING
9 OR DISCUSSED -- THAT THAT TICKET SALES LEVEL WAS MET BY
10 THE MOTORCROSS EVENT IN 1988?

11 A IT'S MY RECOLLECTION IT WAS, YES.

12 Q THE SETTLEMENT EVENT INDICATES TICKET
13 SALES, I BELIEVE, PEOPLE'S 26 INDICATES TOTAL TICKET
14 SALES OF \$690,000; IS THAT CORRECT?

15 A THIS DOES NOT -- THIS DOES NOT EXPRESS THE
16 ENTIRE TICKET SALES. THIS IS ONLY THE TICKET SALES THAT
17 ARE MADE WHERE THE MONEY IS UNDER THE CONTROL OF THE CITY
18 OF ANAHEIM. THERE WERE OTHER TICKET SALES THAT ALSO
19 OCCURRED.

20 THIS STATEMENT WILL INDICATE THAT THERE
21 WERE TICKET SALES BY THE PROMOTER OF THE EVENT IN THE
22 AMOUNT OF \$28,556. AND THERE COULD BE OTHER TICKET SALES
23 IN ADDITION TO THAT BY OTHER AGENCIES. WE WOULD HAVE TO
24 GO BACK TO THE ACTUAL BOX OFFICE REPORT TO GET THE TOTAL
25 TICKET SALES FOR THE EVENT. THIS DOES NOT REFLECT THAT.

26 Q OKAY. YOU'RE SAYING THAT UNDER
27 "DEDUCTIONS" WHERE IT SAYS "PROMOTER'S ACCOUNT," THAT
28 THAT ACTUALLY INCLUDES TICKET SALES BY THE PROMOTER?

1 A YES, THAT'S WHAT THAT WOULD BE.

2 Q SPEAKING IN TERMS OF ACTUAL PEOPLE IN THE
3 SEATS, DO YOU RECALL HOW MANY PEOPLE ATTENDED THE
4 MOTORCROSS EVENT IN 1988 THAT WAS PUT ON BY MICKEY
5 THOMPSON AT ANAHEIM STADIUM?

6 A I DON'T REMEMBER SPECIFICALLY, NO.

7 Q WOULD IT REFRESH YOUR RECOLLECTION TO LOOK
8 AT ANY NEWSPAPER ACCOUNTS WITH REGARD TO THAT EVENT?

9 A WELL, NEWSPAPER ACCOUNTS TYPICALLY AREN'T
10 ACCURATE ON WHAT THE ATTENDANCE REALLY WAS. NEWSPAPER
11 ACCOUNTS ARE MERELY REPORTING WHAT IS BEING ANNOUNCED BY
12 THE PROMOTER OF THE EVENT. THE REAL TEST OF HOW MANY
13 PEOPLE WERE IN THE STADIUM, IF WE WERE ABLE TO GO BACK
14 AND LOOK AT THE TURN-STYLE REPORTS, THE ACTUAL NUMBER OF
15 CLICKS ON THE TURN-STYLE OF PEOPLE COMING INTO THE
16 STADIUM.

17 Q WELL, IF THE PROMOTER ANNOUNCED SALES OF
18 38,000, THAT MEANS THERE WOULD ACTUALLY BE FEWER THAN
19 THAT THAT ACTUALLY ATTENDED?

20 A I COULDN'T ANSWER. I WOULDN'T KNOW WHY
21 THE NUMBER WOULD BE ANNOUNCED THAT WOULD BE MORE OR LESS
22 THAN THE ACTUAL. WE WOULD NOT GET INVOLVED IN THE
23 ANNOUNCED ATTENDANCE.

24 Q SO YOU ARE SAYING THAT THE NUMBER OF
25 PEOPLE WHO ATTEND AN EVENT IS SOMETHING THAT'S
26 PUBLICIZED, CORRECT, BY EITHER THE PROMOTER OR BY ANAHEIM
27 STADIUM ITSELF?

28 A IT WOULD ALWAYS BE PUBLICIZED BY THE

1 PROMOTER. WE WOULD NOT PUBLICIZE IT.

2 Q AND THE MEDIA TYPICALLY THAT COVERED THE
3 EVENT WOULD THEN RELATE THAT FIGURE IN WHATEVER MEDIA
4 COVERAGE THEY PROVIDED?

5 A THAT'S CORRECT.

6 MR. SUMMERS: YOUR HONOR, MAY WE APPROACH WITH
7 REGARD TO EVIDENTIARY ITEM?

8 THE COURT: WELL, YOU KNOW WHAT, LET'S TAKE A
9 BRIEF BREAK AT THIS TIME. WE'RE GOING TO GO ANOTHER
10 HOUR. SO, LADIES AND GENTLEMEN, WE WILL TAKE A
11 TEN-MINUTE BREAK. PLEASE REMEMBER ALL THE ADMONITIONS.
12 AND WE WILL SEE YOU BACK HERE IN TEN MINUTES.

13
14 (THE FOLLOWING PROCEEDINGS WERE
15 HELD IN OPEN COURT OUTSIDE THE
16 PRESENCE OF THE JURY.)

17
18 THE COURT: ALL THE JURORS AND ALTERNATES HAVE
19 LEFT. WHAT IS THE REQUEST ABOUT?

20 MR. SUMMERS: MR. --

21 MR. DIXON: WELL, MAYBE I CAN SET IT UP HERE,
22 YOUR HONOR. AND THE DEFENSE CAN TELL ME WHERE I'M WRONG.
23 AS YOU RECALL, THERE WERE A NUMBER OF QUESTIONS ABOUT
24 ATTENDANCE. AND AT SOME POINT, MR. SUMMERS ASKED THE
25 WITNESS: WOULD IT REFRESH YOUR RECOLLECTION WITH RESPECT
26 TO ATTENDANCE TO LOOK AT NEWSPAPER ARTICLES? AND HE SAID
27 NO, TYPICALLY NEWSPAPER ARTICLES ARE NOT RELIABLE FOR ONE
28 WAY OR THE OTHER.

1 AND THEN MR. SUMMERS CAME UP AND SHOWED ME
2 A DOCUMENT, WHICH WOULD -- WHICH I APPRECIATE THAT HE WAS
3 INTENDING ON REFRESHING THE WITNESS'S MEMORY WITH. IT
4 WAS A NEWSPAPER ARTICLE. AND I MERELY SAID TO HIM, I'M
5 GOING TO OBJECT. THERE IS NO FOUNDATION THAT THE
6 WITNESS -- THAT THIS WOULD REFRESH THE WITNESS'S MEMORY
7 IN LIGHT OF HIS EARLIER QUESTIONS. I THINK THAT'S WHY
8 WE'RE HERE.

9 MR. SUMMERS: THAT'S PARTIALLY WHY WE'RE HERE,
10 YOUR HONOR. THE PEOPLE'S EVIDENCE WAS ALSO NOT JUST
11 ABOUT -- WAS ABOUT MEDIA COVERAGE AND PUBLICITY
12 SURROUNDING AN EVENT; AND THE EFFECT THAT THAT MIGHT HAVE
13 HAD ON OTHER PARTIES, APPARENTLY, WHO MIGHT HAVE READ
14 THOSE STORIES OR OBSERVED THOSE PRESS CONFERENCES.

15 AND IN THIS CASE THE ARTICLE INDICATES
16 THAT IT WAS A POORLY ATTENDED EVENT. IT SAYS -- THE
17 HEADLINE ITSELF IS "ONLY 38,000 FANS." AND I WOULD ASK
18 TO INTRODUCE IT AND SHOW IT FOR THAT PURPOSE TO REBUT
19 BASICALLY WHAT HAS BEEN EVIDENCE WITH REGARD TO PUBLICITY
20 AND GOOD PUBLICITY WITH REGARD TO THE EVENT.

21 MR. DIXON: WELL, THAT'S DIFFERENT. I MEAN
22 THAT'S CLEARLY HEARSAY. THE NEWSPAPER ARTICLE IS CLEARLY
23 HEARSAY. IF THE WITNESS CAN TESTIFY TO THAT, FINE. BUT
24 MY POINT WAS THAT HE INDICATED THAT WOULDN'T REFRESH HIS
25 MEMORY.

26 THE COURT: CORRECT.

27 MR. DIXON: SO I DON'T SEE ANY WAY TO GET THAT
28 NEWSPAPER ARTICLE IN FRONT OF HIM.

1 THE COURT: WELL, THERE ARE WAYS, BUT THAT'S NOT
2 WHAT WE ARE TALKING ABOUT HERE. IN TERMS OF REFRESHING
3 HIS RECOLLECTION, AT THIS POINT THERE IS NO FOUNDATION.
4 HE DIDN'T INDICATE HE NEEDED HIS RECOLLECTION REFRESHED.

5 HOWEVER, I'M SURE THAT YOU CAN CONTINUE
6 YOUR INQUIRY. AND PERHAPS AT SOME POINT HE WILL NEED TO
7 LOOK AT SOMETHING. IN TERMS OF MARKING IT AS AN EXHIBIT,
8 YOU CAN MARK IT AS AN EXHIBIT AND WE WILL DISCUSS THE
9 ADMISSIBILITY LATER. BUT AT THIS POINT, I WILL SUSTAIN
10 THE OBJECTION IF THAT IS, IN FACT, THE OBJECTION.

11 MR. DIXON: WELL, THAT WAS -- YES, YOUR HONOR,
12 THAT WAS THE OBJECTION. I MERELY SAID IT TO MR. SUMMERS
13 KIND OF HERE AT THE TABLE I WOULD, IN LIGHT OF WHAT
14 MR. SUMMERS SAID, OBJECT AS TO HEARSAY IN USING THIS
15 DOCUMENT FOR THE TRUTH OF THE MATTER THAT IT WAS POORLY
16 ATTENDED OR WELL ATTENDED.

17 MR. SUMMERS: YOUR HONOR, I WOULD OFFER IT IN
18 THAT CASE FOR A NON-HEARSAY PURPOSE AS TO WHAT THE MEDIA
19 PRESENTED AS THE SUCCESS OR LACK OF SUCCESS OF THE EVENT.

20 THE COURT: WELL, THIS IS THE THING, YOU CAN ASK
21 HIM ANYTHING YOU WANT; AND YOU CAN SHOW HIM ANYTHING YOU
22 WANT IF HIS MEMORY NEEDS TO BE REFRESHED. WE'RE JUST NOT
23 AT THAT POINT YET. IF YOU DO LAY A FOUNDATION THAT HE
24 NEEDS HIS MEMORY REFRESHED, YOU CAN SHOW HIM THE ARTICLE.

25 MS. SARIS: BUT, YOUR HONOR, IT'S NOT FOR MEMORY
26 REFRESHING. IT'S TO REBUT SOME OF THE ARTICLES THE
27 PEOPLE PUT UP. I DON'T KNOW IF THE COURT NOTICED THEY
28 WERE ON THE SCREEN AND THEY WERE SHOWN ABOUT THE MEDIA

1 SURROUNDING THE EVENT. THESE ARE L.A. TIMES AND ORANGE
2 COUNTY REGISTER --

3 THE COURT: WELL, YOU CAN MARK WHATEVER EXHIBITS
4 YOU WANT. IT'S JUST THAT WE ARE NOT ADMITTING THEM AND
5 THE JURORS ARE NOT GOING TO BE INFORMED OF THE CONTENT.

6 MS. SARIS: THE JURORS WERE INFORMED OF THESE,
7 HOWEVER, AND THAT IS FOR THE PURPOSE OF SHOWING --

8 THE COURT: THERE WAS NO OBJECTION.

9 MS. SARIS: BUT THE POINT IS THEY WERE SHOWN THEM
10 FOR THE PURPOSE OF SHOWING THE MEDIA SURROUNDING IT.
11 THIS IS ALL PART OF MICHAEL GOODWIN WAS HUMILIATED IN
12 PUBLIC BECAUSE THE MEDIA EXPRESSED CONCERN AND INTEREST
13 IN THE NEWS CONFERENCE THAT MICKEY THOMPSON WON THE
14 EVENT. AND WE HAVE A RIGHT NOW TO REBUT THAT, WHICH IS
15 THIS EVENT WAS A DUD. IT WAS AN ABSOLUTE BOMB.

16 MR. SUMMERS: AND, YOUR HONOR, EXCUSE ME --

17 THE COURT: WAIT --

18 MR. SUMMERS: -- BUT IT WAS PRESENTED TO US AS
19 THEY WILL ONLY BE ABLE TO SEE THE HEADLINES. WE'RE NOT
20 OFFERING THE --

21 THE COURT: YOU CAN ASK HIM ANYTHING YOU WANT AND
22 SHOW HIM ANYTHING YOU WANT. IN TERMS OF ADMITTING THOSE
23 AS EXHIBIT, WE'RE GOING TO TALK ABOUT THAT LATER. OKAY?

24 MS. SARIS: OKAY.

25 (BRIEF RECESS.)

26
27 (THE JURY ENTERED THE COURTROOM

28 AND THE FOLLOWING PROCEEDINGS WERE

1 HELD IN OPEN COURT.)

2
3 THE COURT: BACK ON THE RECORD IN THE GOODWIN
4 MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE
5 PEOPLE ARE REPRESENTED. ALL OF OUR JURORS AND ALTERNATES
6 ARE ONCE AGAIN PRESENT. MR. SMITH IS STILL ON THE
7 WITNESS STAND.

8 AND, MR. SUMMERS, YOU MAY CONTINUE.

9 MR. SUMMERS: THANK YOU.

10 Q SIR, LET ME RETURN THESE EXHIBITS FOR YOUR
11 REVIEW. GOING BACK TO THE ADDENDUM THAT'S IN THE
12 THOMPSON CONTRACT THAT'S NOT IN THE GOODWIN CONTRACT, DO
13 YOU KNOW WHY THAT GUARANTEE WAS PUT IN THERE?

14 A MY RECOLLECTION IS THAT MICKEY THOMPSON
15 OFFERED THAT GUARANTEE IN HIS PROPOSAL WHEN WE WERE
16 REVIEWING THE PROPOSALS FOR AWARDING THE EVENT.

17 Q WAS THERE ANY ENFORCEMENT IN THAT CONTRACT
18 CLAUSE WITH REGARD TO WHAT HAPPENS IF THAT FIGURE IS NOT
19 MET IN TICKET SALES?

20 A WELL, I DON'T RECALL IF THERE WAS EVER AN
21 ENFORCEMENT IF THE TICKET SALES FELL BELOW THE GUARANTEE
22 OR NOT. I DON'T HAVE A RECOLLECTION.

23 Q AND YOU INDICATED THAT IN PEOPLE'S 26, THE
24 SETTLEMENT STATEMENT, THAT THE ENTRY UNDER "DEDUCTIONS"
25 FOR "PROMOTER'S ACCOUNT" IS WHAT AUGMENTED THE OTHER
26 AMOUNT THAT SAYS TOTAL TICKET SALES?

27 A YES. THERE IS A LINE UNDER "RECEIPTS,"
28 THAT'S RECEIPTS THAT THE CITY OF ANAHEIM HAD RECEIVED

1 INDICATING TICKET SALES OF \$690,832. ADDITIONALLY, ON
2 THIS SETTLEMENT STATEMENT IT INDICATES THAT THE PROMOTER
3 HAD ALSO SOLD 28,556.50 CENTS, WHICH WOULD BE TICKET
4 SALES.

5 Q SO "TOTAL TICKET SALES" DOESN'T REALLY
6 MEAN "TOTAL TICKET SALES"?

7 A IT MEANS TOTAL TICKET SALES MADE BY
8 ANAHEIM STADIUM.

9 Q AND THE AMOUNT THAT'S IN THERE THAT YOU'RE
10 SAYING IS THE AMOUNT OF TICKETS SOLD BY THE PROMOTER,
11 DOES THAT INFORMATION JUST COME FROM THE PROMOTER?

12 A WELL, WE ACCOUNT FOR ALL OF THE TICKETS.
13 WE WILL ISSUE THE TICKETS TO THE PROMOTER AT THEIR FACE
14 VALUE. AND THEN TICKETS THAT ARE NOT RETURNED TO US ARE
15 THEN CONSIDERED SOLD TICKETS. AND --

16 Q AND THE PROMOTER WOULD THEN BE RESPONSIBLE
17 FOR GIVING YOU 10 PERCENT OF THE TICKETS -- OF THE AMOUNT
18 OF TICKETS THAT THEY SOLD?

19 A YES. THERE IS ANOTHER DOCUMENT THAT WOULD
20 CONSOLIDATE ALL OF THE TICKET SALES INTO ONE REPORT.
21 THAT IS NOT THIS DOCUMENT.

22 Q AND IS THAT ANY OF THE DOCUMENTS THAT
23 WE'VE SEEN THIS MORNING?

24 A NO, IT'S NOT.

25 Q ALSO, STICKING RIGHT NOW WITH THE
26 CONTRACTS. THE ADDENDUM "A" IN PEOPLE'S 24, WHICH WOULD
27 BE THE GOODWIN CONTRACT, THAT INDICATES THAT THE
28 EXHIBITOR AGREES THAT THE EVENT WILL HAVE FULL

1 SANCTIONING OF THE AMERICAN MOTORCYCLE ASSOCIATION; IS
2 THAT CORRECT?

3 A THAT'S CORRECT.

4 Q AND IS THERE A SIMILAR CLAUSE IN THE --
5 WHAT WE WILL CALL THE THOMPSON CONTRACT?

6 A I NEED TO REVIEW IT, BUT I DON'T BELIEVE
7 THERE IS. I BELIEVE THAT WE DELETED THAT REQUIREMENT
8 WHEN WE WENT OUT AND SOUGHT PROPOSALS FOR DOING THE MOTOR
9 SPORTS EVENT. WE DID NOT WANT THE SANCTIONING BODY TO BE
10 MAKING THE DECISIONS FOR US ON WHO WOULD PUT THE EVENTS
11 ON AT THE STADIUM. AND, IN EFFECT, REQUIRING THE
12 SANCTIONING BODY TO APPROVE GAVE THE SANCTIONING BODY THE
13 ULTIMATE AUTHORITY ON WHO WOULD BE PUTTING ON THE EVENTS
14 AT THE STADIUM.

15 Q SO THE MICKEY THOMPSON MOTORCROSS EVENT
16 THAT WAS PUT ON, THAT DID NOT HAVE AN AMA SANCTION?

17 A I DON'T RECALL IF IT DID OR DID NOT.

18 Q YOU DON'T RECALL ONE WAY OR THE OTHER?

19 A NO.

20 Q IS THERE ANYTHING THAT MIGHT REFRESH YOUR
21 RECOLLECTION AS TO WHETHER OR NOT MICKEY THOMPSON HAD AN
22 AMA SANCTION WHEN HE PUT ON THAT JANUARY OF '88 EVENT?

23 A WELL, I'M SURE THERE IS A DOCUMENT OR A
24 STATEMENT SOMEWHERE REGARDING THE SANCTIONING. I JUST
25 DON'T RECALL.

26 Q YOU INDICATED THAT YOU HAD A PRESS
27 CONFERENCE IN THE SUMMER OF AUGUST OF '87 TO PROMOTE THE
28 FACT THAT MICKEY THOMPSON WAS PUTTING ON THE MOTORCROSS

1 EVENT; IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q AND, IN FACT, HE HAD PUT ON EVENTS AT
4 ANAHEIM THAT PREVIOUS WINTER; IS THAT CORRECT?

5 A YES, THAT'S CORRECT.

6 Q AND IS IT -- FROM YOUR EXPERIENCE IN THIS
7 FIELD, IS THERE A DIFFERENT AUDIENCE FOR MOTORCYCLE
8 EVENTS VERSUS CAR AND TRUCK EVENTS?

9 A THERE ARE DIFFERENT AUDIENCES. THERE IS
10 CROSSOVER AS WELL. PEOPLE WILL GO TO BOTH. RACE FANS
11 WILL GO TO MOTORCYCLE EVENTS AND OFF-ROAD RACES. THERE
12 ARE OTHERS THAT WILL JUST GO TO ONE OR THE OTHER.

13 Q AND DID YOU FEEL THAT BECAUSE OF THAT,
14 THAT MICKEY THOMPSON NEEDED SOME TYPE OF BOOST IN
15 PUBLICITY FOR THE MOTORCROSS EVENT?

16 A I THINK THAT FROM OUR PROSPECTIVE WE
17 WANTED TO SEE THE ENTIRE MONTH RECEIVE A BOOST, IF YOU
18 WILL. GET PUBLICITY ABOUT THE FACT THAT WE WERE GOING TO
19 CONTINUE TO DO THESE EVENTS IN THE MONTH OF JANUARY. AND
20 WE FELT IT WAS VERY IMPORTANT TO CONTINUE PROMOTING MOTOR
21 SPORTS MONTH OF JANUARY AT ANAHEIM STADIUM.

22 Q THE MICHAEL GOODWIN EVENT THAT HAD BEEN ON
23 THERE FOR THE PREVIOUS, HOWEVER MANY YEARS -- HOW MANY
24 PRIOR YEARS WAS IT? DO YOU RECALL?

25 A I CAN'T RECALL SPECIFICALLY, BUT FROM
26 SOMEWHERE IN THE '70S AND FORWARD UNTIL 1988.

27 Q LET'S TALK ABOUT THE PREVIOUS -- THE PAST
28 FIVE YEARS, THE FIVE YEARS PRIOR TO THE 1988 EVENT. WERE

1 THOSE -- WERE THE MICHAEL GOODWIN EVENTS SELLOUTS?

2 A I BELIEVE THAT GENERALLY WE HAD SELLOUTS
3 OR NEAR SELLOUTS FOR THE SUPERCROSS EVENTS AT THE
4 STADIUM.

5 Q AND DO YOU -- IS THERE A PARTICULAR NUMBER
6 OF PEOPLE ATTENDING THAT WOULD EQUATE TO SOLD OUT?

7 A THAT WOULD BE A FUNCTION OF HOW MANY
8 TICKETS WERE GIVEN OUT COMPLIMENTARY, OF COURSE. AND
9 THAT COULD BE SIGNIFICANT, IN THE THOUSANDS PERHAPS. IT
10 ALSO WOULD BE A FUNCTION OF HOW MANY SEATS WE WOULD NOT
11 SELL FOR SAFETY REASONS. THE STADIUM HAD
12 APPROXIMATELY -- AT THAT TIME APPROXIMATELY -- FOR
13 BASEBALL OUR CAPACITY WAS 65,000 SEATS. FOOTBALL WAS
14 ABOUT 68,000 SEATS.

15 Q AND DO YOU RECALL MICHAEL GOODWIN'S EVENTS
16 RECEIVING ATTENDANCE IN THE 70,000'S?

17 A I CAN'T BELIEVE THAT THAT COULD HAVE
18 HAPPENED. I DON'T BELIEVE WE EXCEEDED 70,000 SEATS
19 BECAUSE WE DIDN'T HAVE 70,000 SEATS.

20 Q SO WOULD IT BE FAIR TO SAY THAT SOMEWHERE
21 IN THE UPPER 60,000'S WOULD HAVE BEEN THE EQUIVALENT OF A
22 SELLOUT?

23 A YES, IT WOULD BE. PROBABLY WITH THE SEATS
24 NOT SOLD FOR SAFETY REASONS, THE FIRST EIGHT OR TEN ROWS
25 ON THE FIELD LEVEL, TAKING THOSE SEATS OUT OF THE
26 CAPACITY PERHAPS IN THE MID 60'S, 63 TO 65, SOMEWHERE IN
27 THAT RANGE, AS SOLD SEATS.

28 Q SO IT'S YOUR RECOLLECTION THAT THE

1 ATTENDANCE FOR -- AND I WAS USING THE FIVE YEARS PRIOR
2 FOR THE MICHAEL GOODWIN EVENTS WOULD HAVE BEEN SOMEWHERE
3 CLOSE TO THAT 60 OR 65,000 RANGE?

4 A GENERALLY SPEAKING, PROBABLY.

5 Q NOW, YOU'VE INDICATED THAT AS A
6 REPRESENTATIVE OF THE ANAHEIM STADIUM THAT YOU ARE
7 CONCERNED -- OR YOU TAKE SOME PART AND YOU ARE CONCERNED
8 ABOUT PROMOTION AND PUBLIC RELATIONS; CORRECT?

9 A YES, WE DO.

10 Q AND SO DOES THAT MEAN YOU WOULD ALSO
11 MONITOR -- BESIDES PUTTING OUT PRESS RELEASES AND SO
12 FORTH, YOU WOULD ALSO PAY ATTENTION TO MEDIA COVERAGE OF
13 EVENTS THAT WERE PUT ON?

14 A YES, WE WOULD.

15 Q DO YOU RECALL AFTER THE MICKEY THOMPSON
16 EVENT IN 1988 THAT THERE WAS -- THERE WERE MEDIA STORIES
17 INDICATING THAT IT WAS A POORLY ATTENDED EVENT?

18 A I DON'T RECALL THAT.

19 Q DO YOU RECALL SPEAKING TO MICKEY THOMPSON
20 ABOUT ANY POSSIBLE REASONS WHY THE ATTENDANCE MIGHT HAVE
21 BEEN AT A CERTAIN FIGURE FOR THAT EVENT?

22 A NO, I DON'T.

23 Q DO YOU RECALL READING ANY MEDIA COVERAGE
24 ABOUT THAT SPECIFIC EVENT OF MICKEY THOMPSON AND
25 MOTORCROSS IN 1988?

26 A NOT SPECIFICALLY ON THE MOTOCROSS EVENT,
27 NO.

28 MR. SUMMERS: YOUR HONOR, I HAVE A DOCUMENT WHICH

1 IS REALLY TWO SHEETS OF PAPER TAPED TOGETHER. MAY IT BE
2 MARKED DEFENSE NEXT IN ORDER? I THINK IT'S P.

3 THE COURT: P, YES, FOR IDENTIFICATION.

4
5
6 (MARKED FOR IDENTIFICATION DEFENSE'S
7 EXHIBIT NO. P, DOCUMENT.)
8

9 Q BY MR. SUMMERS: SIR, I'M GOING TO HAVE
10 YOU TAKE A LOOK AT WHAT HAS BEEN MARKED AS DEFENSE -- LET
11 ME MARK IT AS DEFENSE P AND SEE IF YOU RECOGNIZE --

12 MR. DIXON: OBJECTION. NO FOUNDATION FOR
13 REFRESHING RECOLLECTION.

14 MR. SUMMERS: I'M NOT REFRESHING HIS
15 RECOLLECTION. I'M ASKING FIRST IF HE RECOGNIZES --

16 THE COURT: HANG ON A SECOND. THAT OBJECTION IS
17 OVERRULED.

18 Q BY MR. SUMMERS: SIR, JUST TAKE A LOOK AT
19 THE DOCUMENT AND THEN I'M GOING TO ASK YOU A COUPLE OF
20 QUESTIONS ABOUT IT.

21 A OKAY.

22 Q DO YOU RECALL READING THAT PARTICULAR
23 DOCUMENT AFTER THE EVENT WAS HELD BY MICKEY THOMPSON AND
24 MOTORCROSS IN 1988?

25 A NO, I DON'T.

26 Q ARE YOU FAMILIAR WITH THE PUBLICATION?

27 A THIS APPEARS TO BE FROM THE LOS ANGELES
28 TIMES.

1 Q WOULD THAT HAVE BEEN A NEWSPAPER THAT YOU
2 WOULD HAVE TAKEN A LOOK AT TO SEE WHAT KIND OF COVERAGE
3 YOUR EVENTS GOT?

4 A IT PROBABLY WOULD BE, YES.

5 Q AND WOULD THE ORANGE COUNTY REGISTER BE
6 ANOTHER NEWSPAPER THAT YOU WOULD ALSO LOOK AT TO SEE HOW
7 THE MEDIA COVERAGE WAS FOR YOUR EVENTS?

8 A YES, IT WOULD.

9 Q DO YOU RECALL SEEING, IF NOT THAT SAME
10 STORY, STORIES SIMILAR TO THAT WITH REGARD TO THE 1988
11 MICKEY THOMPSON MOTOCROSS EVENT?

12 A I DON'T RECALL SPECIFICALLY READING
13 NEWSPAPER ARTICLES AFTER THE EVENT.

14 Q DOES THAT DOCUMENT REFRESH YOUR
15 RECOLLECTION WITH REGARD TO THE ATTENDANCE OF THE EVENT?

16 A ACTUALLY, IT DOES NOT. I DO NOT HAVE A
17 SPECIFIC RECOLLECTION ON WHAT THE ATTENDANCE WAS. THIS
18 ARTICLE SUGGESTS THAT THE ATTENDANCE WAS 38,000 PEOPLE
19 FOR THE MOTORCROSS EVENT AND 65,000 PEOPLE AT AN EARLIER
20 EVENT AT THE STADIUM. I JUST CAN'T REMEMBER WHAT THOSE
21 ATTENDANCES WERE.

22 Q OKAY. LET ME ASK YOU ABOUT ANOTHER EVENT.
23 I'M NOT SURE IF IT SAYS ANYTHING ABOUT IT IN THE
24 CONTRACT, BUT DURING THAT SAME MONTH OF JANUARY OF '88,
25 WERE THERE ALSO, SCHEDULED BY MICKEY THOMPSON
26 ENTERTAINMENT GROUP, SOME TYPE OF DRAGSTER EVENTS?

27 A YES.

28 Q DO YOU RECALL THAT AT ONE OF THE EVENTS

THERE WAS A DRAGSTER BROUGHT OUT FOR EXHIBITION AND THERE WAS A CRASH?

A YES, I REMEMBER THAT.

Q AND DID THAT EVENT ALSO RECEIVE MEDIA
COVERAGE?

A YES, IT DID.

Q DID THAT -- IS IT YOUR RECOLLECTION THAT THAT EVENT OR THAT CRASH ENDED UP CAUSING INJURIES TO SPECTATORS IN THE STANDS?

A YES, I DO.

Q AND WAS THERE ACTUALLY THEN A POLICE INVESTIGATION CONDUCTED OF THE INCIDENT?

A YES, SIR, IT WAS.

Q AND ALL OF THAT WAS COVERED IN THE MEDIA?

A I RECALL READING THAT IN THE MEDIA, YES.

Q DO YOU RECALL -- OR DOES THIS LOOK FAMILIAR OR IS THE SIMILAR IN TONE OR TENOR TO THE MEDIA COVERAGE THAT YOU SAW AT THE TIME?

THE COURT: FOR THE RECORD WHAT IS "THIS"?

MR. SUMMERS: IT IS WHAT I WOULD ASK TO MARK AS
PEOPLE'S Q --

MR. JACKSON: DEFENSE Q.

MR. SUMMERS: -- I MEAN DEFENSE Q. AND IT IS A ONE-PAGE DOCUMENT DEPICTING A NEWSPAPER ARTICLE.

THE COURT: ALL RIGHT. THAT WILL BE MARKED AS
DEFENSE Q.

(MARKED FOR IDENTIFICATION DEFENSE'S

EXHIBIT NO. Q, DOCUMENT.)

THE WITNESS: I DON'T SPECIFICALLY RECALL THIS ARTICLE, BUT I RECALL READING ARTICLES ABOUT THE INCIDENT.

Q BY MR. SUMMERS: AND, IN FACT, WHAT HAPPENED WAS -- WELL, LET ME ASK YOU. THE INCIDENT WHERE THERE WAS A CRASH INVOLVING A DRAGSTER, THAT WAS SORT OF AN EXHIBITION THAT WAS BEING HELD, A PROMOTION THAT WAS BEING HELD AT ONE OF THE EARLIER MICKEY THOMPSON EVENTS?

A YES. AT THE TRUCK AND TRACTOR PULL, WHICH WAS THE WEEK PRIOR TO THIS EVENT. THE PLAN WAS TO BRING OUT ONE OF THESE DRAGSTERS AND LIGHT UP THE ENGINE AND HAVE FLAMES SHOOT OUT OF ITS EXHAUST PIPES AND GET PEOPLE EXCITED TO COME BACK AND SEE WHAT MICKEY WAS CALLING THE THUNDER DRAGS, WHICH WAS PART OF -- I BELIEVE PART OF HIS OFF-ROAD VEHICLE WEEKEND, WHICH WOULD BE THE FOLLOWING WEEKEND.

Q AND WHAT HAPPENED? THERE WAS A CRASH AND DEBRIS FLEW INTO THE CROWD; IS THAT CORRECT?

A YES. THE DRIVER OF THE THUNDER DRAG STARTED THE ENGINE AND FOR SOME REASON POPPED THE CLUTCH AND ALLOWED THE VEHICLE TO GO. THE VEHICLE HIT ANOTHER PIECE OF EQUIPMENT THAT WAS ON THE FIELD AND A TIRE OR AN AXLE -- I THINK IT WAS A TIRE BROKE OFF OF THE THUNDER DRAG AND FLEW INTO THE SEATS; THE CAR CRASHED INTO THE WALL.

Q AND DO YOU RECALL THAT THERE WERE ANY

1 LAWSUITS FILED AS A RESULT OF THAT AGAINST THE CITY OF
2 ANAHEIM?

3 A I DON'T RECALL SPECIFICALLY IF ANAHEIM
4 RECEIVED ANY CLAIMS OR LAWSUITS AS A RESULT OF THAT. I
5 DO KNOW THAT MICKEY THOMPSON ENTERTAINMENT GROUP AND
6 THEIR INSURERS HANDLED THE ENTIRE -- I DON'T EVEN KNOW IF
7 THERE WAS ANY LITIGATION, BUT HANDLED ALL OF THOSE
8 CLAIMS.

9 Q BUT, IN FACT, WHAT HAPPENED WAS THAT THE
10 INSURANCE COMPANY CANCELLED THE INSURANCE FOR THE ACTUAL
11 DRAGSTER EVENT; CORRECT?

12 A THAT'S CORRECT.

13 Q AND THAT AS WELL RECEIVED MEDIA COVERAGE
14 BECAUSE PEOPLE HAD TO KNOW THAT THAT EVENT WAS CANCELLED;
15 CORRECT?

16 A YES.

17 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND WHAT
18 I'LL ASK TO BE MARKED AS DEFENSE R.

19 THE COURT: AND IT IS WHAT?

20 MR. SUMMERS: IT IS TWO PAGES TAPED TOGETHER
21 DEPICTING A NEWSPAPER ARTICLE.

22 THE COURT: SO MARKED DEFENSE R FOR
23 IDENTIFICATION.

24
25 (MARKED FOR IDENTIFICATION DEFENSE'S
26 EXHIBIT NO. R, DOCUMENT.)
27

28 Q BY MR. SUMMERS: SIR, DO YOU SEE ON

1 DISPLAY THERE WHAT HAS BEEN MARKED DEFENSE R. DOES THAT
2 REPRESENT THE BASIC TENOR AND TONE OF THE ARTICLES AT THE
3 TIME?

4 A I DON'T RECALL THE ARTICLE OR READING THE
5 ARTICLE. I RECALL READING ARTICLES ABOUT THE
6 CANCELLATION. I DON'T HAVE SPECIFIC MEMORY ON THIS
7 ARTICLE. BUT JUST OF WHAT HAPPENED IS, YES, THE
8 INSURANCE COMPANY CHOSE NOT TO INSURE THE EVENT.

9 AND SO THAT EVENT WHICH WAS AN ADDITIONAL
10 EVENT ABOVE AND BEYOND THE OFF-ROAD VEHICLE RACES THAT HE
11 WAS ALREADY PRODUCING -- AND I BELIEVE THAT THAT
12 PARTICULAR EVENT WAS GOING TO BE ON THE SUNDAY OF THESE
13 OFF-ROAD VEHICLE RACES DID NOT OCCUR.

14 Q AND DO YOU KNOW MR. GLICK WHO IS THE
15 AUTHOR OF THAT ARTICLE?

16 A NO, I DON'T.

17 Q NOW, WE'VE BEEN TALKING MOSTLY ABOUT
18 MICKEY THOMPSON'S FIRST MOTORCROSS SHOW. I WANT TO ASK
19 YOU ABOUT -- AND I THINK YOU TESTIFIED ABOUT THIS --
20 ABOUT THE FIRST TIME MICKEY THOMPSON PUT ON ANY EVENT AT
21 ANAHEIM STADIUM. AND I BELIEVE YOUR TESTIMONY WAS THAT
22 WAS JUST THE YEAR BEFORE IN 19 -- WELL, LET ME JUST ASK
23 YOU.

24 A YES. THE FIRST EVENT THAT MICKEY THOMPSON
25 PRODUCED AT ANAHEIM STADIUM WAS THE OFF-ROAD VEHICLE
26 RACES IN 1987.

27 Q AND PRIOR TO THAT, THE ONLY THING THAT HE
28 PUT ON HAVING ANYTHING TO DO WITH ANAHEIM WAS AN

1 EQUIPMENT SHOW?

2 A THE SOUTHERN CALIFORNIA OFF-ROAD EQUIPMENT
3 SHOW, WHICH WAS A LARGE CONSUMER-TYPE SHOW AT THE ANAHEIM
4 CONVENTION CENTER IN WHICH OFF-ROAD EQUIPMENT, OFF-ROAD
5 VEHICLES WERE DISPLAYED.

6 Q AND DO YOU RECALL WAS THAT A YEARLY EVENT
7 OR DID HE DO THAT JUST ONE TIME?

8 A IT WAS AN ANNUAL EVENT.

9 Q DO YOU RECALL WAS THAT ONGOING UP UNTIL --
10 DID IT STOP HAPPENING AT A CERTAIN POINT BEFORE 1988?

11 A YES, IT WAS AN ANNUAL EVENT THAT WENT ON
12 FOR MANY YEARS AT THE CONVENTION CENTER. AND I DON'T
13 RECALL THE LAST YEAR IT OCCURRED. BUT IT WAS SOMETIME IN
14 THE '80S, I JUST CAN'T RECALL WHEN.

15 Q OKAY. NOW, YOU INDICATED THAT YOU
16 RECEIVED PHONE CALLS FROM MICHAEL GOODWIN IN WHICH HE
17 INDICATED HIS DISPLEASURE WITH SOME OF THE ACTIONS THAT
18 ANAHEIM STADIUM WAS TAKING?

19 A YES, SIR.

20 Q DID YOU RECEIVE PHONE CALLS FROM
21 ANYBODY -- FROM ANY OTHER PEOPLE WHO WERE ALSO VOICING
22 THEIR DISPLEASURE WITH THAT DECISION? SPECIFICALLY, DOES
23 THE NAME "JEAN SLEEPER" RING A BELL WITH YOU?

24 A YES. JEAN SLEEPER WAS AN EMPLOYEE OF MIKE
25 GOODWIN. AND I HAD NUMEROUS CONTACTS WITH HER AS WELL.
26 AND I DON'T RECALL SPECIFICALLY CONVERSATIONS WITH HER,
27 BUT I'M SURE THAT WE HAD SEVERAL CONVERSATIONS AS
28 WELL.

1 Q I WOULD LIKE TO ASK YOU A COUPLE OF
2 QUESTIONS ABOUT PEOPLE'S 29, WHICH IS THE ADVERTISING
3 THAT YOU HAVE TESTIFIED ABOUT. AND THERE IS -- WITH
4 REGARD TO THE OFF-ROAD AND THUNDER DRAGS AND THE
5 STADIUM -- I'M SORRY. WITH REGARD TO THE OFF-ROAD EVENT,
6 THERE IS PARTICULAR LANGUAGE THAT'S USED; IS THAT
7 CORRECT?

8 A YES, THERE IS.

9 Q AND IT SAYS, "ALL THE TOP OFF-ROAD TEAMS
10 AND DRIVERS WILL BE THERE"?

11 A THAT'S CORRECT.

12 Q AND THE BOTTOM PORTION, THAT SPECIFICALLY
13 REFERS TO ADVERTISING OR PROMOTING THE MOTORCROSS EVENT.
14 DOES IT HAVE THAT SAME LANGUAGE?

15 A NO, IT DOES NOT.

16 Q AND IF YOU COULD EXPLAIN A LITTLE BIT MORE
17 ABOUT WHAT THAT AMERICAN MOTORCYCLE ASSOCIATION AND
18 SANCTION IS. IS THAT SOMETHING THAT IF YOU DON'T HAVE IT
19 THAT CERTAIN TEAMS AND CERTAIN DRIVERS WILL NOT
20 PARTICIPATE IN YOUR EVENT?

21 A I BELIEVE THAT WE WERE TOLD AT ONE TIME
22 THAT IF THE EVENT WASN'T SANCTIONED BY THE AMA, AMERICAN
23 MOTORCYCLE ASSOCIATION, THAT THERE COULD BE CERTAIN TEAMS
24 THAT MAY LIKE NOT TO PARTICIPATE. I'M NOT CERTAIN TO THE
25 EXTENT, BUT I DO RECALL A CONVERSATION WITH THE AMA ABOUT
26 THAT.

27 Q AND THAT WOULD BE ONE REASON WHY YOU WOULD
28 HAVE IN THE MICHAEL GOODWIN CONTRACT THAT HE HAD THAT

1 SANCTION SO THAT THERE WOULDN'T BE ANY PROBLEM WITH
2 CERTAIN TEAMS OR DRIVERS NOT ATTENDING. IS THAT FAIR TO
3 SAY?

4 A YES. MY RECOLLECTION IS -- WELL, MIKE
5 GOODWIN WAS STILL PRODUCING THE EVENT. THERE WERE
6 SANCTIONING ISSUES AND WE WERE CONCERNED ABOUT THE
7 SANCTIONING OF THE EVENT AND WHAT IT MAY DO TO THE EVENT.
8 AND SO AT THAT PARTICULAR TIME WE WANTED TO ENSURE THAT
9 THERE WAS SANCTIONING BY THE AMA.

10 Q AND WAS -- YOU'VE TALKED ABOUT THE FIRST
11 YEAR THAT YOU TRIED TO DO IT WITH THREE DIFFERENT
12 PROMOTERS BASICALLY, CORRECT, MICKEY THOMPSON; MICHAEL
13 GOODWIN; AND PACE?

14 A YES.

15 Q AND WAS MICHAEL GOODWIN -- YOU SAID HE WAS
16 UPSET. WAS HE UPSET ABOUT PACE'S EVENT AS WELL?

17 A ORIGINALLY WHEN WE BOOKED THE PACE EVENTS
18 IN EARLY JANUARY, WHICH I BELIEVE OCCURRED IN THE EARLY
19 '80S, MAYBE 1982 FOR AN EVENT IN 1983, YES, MIKE WAS
20 UPSET AT US MAKING THIS BOOKING. BACK THEN THE GENERAL
21 MANAGER OF THE STADIUM WAS AN INDIVIDUAL NAMED TOM
22 LIGLER. AND I RECALL MR. LIGLER REPORTING THAT HE HAD
23 DISCUSSIONS ABOUT THIS WITH MR. GOODWIN, BUT HE ELECTED
24 TO GO AHEAD AND BOOK IT.

25 Q IN YOUR STATEMENT THAT YOU ATTRIBUTED TO
26 MR. GOODWIN, YOU SAID ONE OF THE THINGS THAT YOU TOOK AS
27 THREATENING WAS THAT HE SAID, "YOU'LL BE SORRY." IS THAT
28 RIGHT?

1 A YES.

2 Q AND HE ALSO I BELIEVE YOU INDICATED HIS
3 STATEMENT WAS "I'LL BE BACK"?

4 A YES.

5 MR. SUMMERS: THANK YOU, YOUR HONOR. I HAVE NO
6 FURTHER QUESTIONS.

7 THE COURT: REDIRECT?

8 MR. DIXON: JUST A FEW QUESTIONS. THANK YOU,
9 YOUR HONOR.

10

11 REDIRECT EXAMINATION

12 BY MR. DIXON:

13 Q MR. SMITH, YOU TESTIFIED ON DIRECT
14 EXAMINATION I BELIEVE THAT THE 1988 MOTORCROSS EVENT PUT
15 ON BY MICKEY THOMPSON WAS FINANCIALLY SUCCESSFUL; IS THAT
16 CORRECT?

17 A YES, IT WAS.

18 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED.

19 THE COURT: OVERRULED.

20 Q BY MR. DIXON: AND AS YOU THINK BACK ON
21 THE MOTORCROSS EVENTS THAT WERE PUT ON BY THE DEFENDANT
22 MIKE GOODWIN, WERE THOSE FOR THE MOST PART FINANCIALLY
23 SUCCESSFUL ALSO?

24 A YES, THEY WERE.

25 Q SO AS AN EXECUTIVE AT ANAHEIM STADIUM IN
26 1987, WERE THERE OTHER BUSINESS REASONS THAT YOU CHOSE TO
27 GO WITH MICKEY THOMPSON FOR THIS MOTORCROSS EVENT AND NOT
28 WITH MIKE GOODWIN?

1 MR. SUMMERS: OBJECTION. LEADING AND ASKED AND
2 ANSWERED.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER.

5 THE WITNESS: YES, THERE WAS A BIGGER PICTURE
6 THAT WE WERE SEEING WITH THE MONTH OF JANUARY. THE
7 VISION OF THEN GENERAL MANAGER OF THE STADIUM WILLIAM
8 TURNER WAS TO FILL EVERY AVAILABLE WEEKEND WITH EVENTS.
9 WHEN WE HAD THE OPPORTUNITY; THE DIRT WAS ALREADY IN THE
10 FACILITY. WE SHOULD BE ABLE TO CAPITALIZE ON THAT TIME
11 AND THE CIRCUMSTANCES AND HOST AS MANY EVENTS AS WE
12 POSSIBLY COULD.

13 SO WE WERE LOOKING AT IT FROM THE BIG
14 PICTURE OF PRODUCING AS MANY SHOWS AS WE POSSIBLY CAN.
15 DRAWING IN AS MANY PEOPLE OVER THAT ENTIRE MONTH FOR ALL
16 OF THE EVENTS SO THAT THE STADIUM WOULD MAXIMIZE ITS
17 REVENUE BACK TO THE CITIZENS OF ANAHEIM.

18 Q YOU CHARACTERIZED EARLIER THE PROMOTERS AS
19 PARTNERS IN THAT; IS THAT CORRECT?

20 A YES, I DO.

21 Q WAS THERE A -- WAS ONE OF THE FACTORS WHO
22 THE PARTNERS WERE AND THE EASE OF DEALING WITH THEM?

23 MR. SUMMERS: OBJECTION. VAGUE.

24 THE COURT: ALL RIGHT. THE OBJECTION IS
25 SUSTAINED.

26 Q BY MR. DIXON: WERE THE PARTNERS A FACTOR
27 IN THIS WHOLE OVERALL PLAN?

28 A YES.

1 Q HOW?

2 A WELL, WE FELT THAT IT WAS VERY CRITICAL TO
3 THE SUCCESS OF THE ENTIRE MONTH THAT OUR PARTNERS WORKED
4 TOGETHER TO MAKE SUCCESSFUL EVENTS FOR THE ENTIRE MONTH.
5 THAT THERE BE COOPERATION; THAT THERE BE MUTUAL HELP
6 PROMOTING EACH OTHER'S EVENTS. IN ADVANCE, AS THE NEXT
7 EVENT WAS COMING IN THE WEEK BEFORE, THAT THAT COULD BE
8 PROMOTED AT THE PRECEDING EVENT SO THAT THE EVENT IN ITS
9 ENTIRETY WOULD BE SUCCESSFUL.

10 Q DID MICKEY THOMPSON MEET THOSE CRITERIUM?

11 A YES, HE DID.

12 Q HOW?

13 MR. SUMMERS: OBJECTION, YOUR HONOR. ASKED AND
14 ANSWERED. AND BEYOND THE SCOPE.

15 THE COURT: OVERRULED.

16 YOU CAN ANSWER.

17 THE WITNESS: MICKEY WAS VERY COOPERATIVE IN ALL
18 OF THE ASPECTS THAT WE WERE LOOKING AT; SHARING OF THE
19 DIRT COST; MUTUAL AID OR MUTUAL HELP TO THE OTHER EVENTS
20 TO MAKE THEM SUCCESSFUL ALLOWING US TO MAXIMIZE
21 ATTENDANCE AT THE OTHER EVENTS.

22 Q BY MR. DIXON: WAS HE EASY OR DIFFICULT TO
23 DEAL WITH ON A BUSINESS LEVEL?

24 MR. SUMMERS: OBJECTION. RELEVANCE.

25 THE COURT: OVERRULED.

26 THE WITNESS: MICKEY THOMPSON WAS A VERY EASY,
27 VERY HONORABLE MAN TO DEAL WITH.

28 Q BY MR. DIXON: COULD YOU EXPLAIN? EXPAND?

1 MR. SUMMERS: OBJECTION, YOUR HONOR. RELEVANCE.
2 CHARACTER EVIDENCE. BEYOND THE SCOPE.

3 THE COURT: ALL RIGHT. I WILL SUSTAIN IT.

4 MR. DIXON: THANK YOU. NOTHING FURTHER.

5 THE COURT: ANYTHING ELSE FROM THE DEFENSE?

6 MR. SUMMERS: NO.

7 THE COURT: THANK YOU, SIR.

8 ANY OBJECTION TO EXCUSING THE WITNESS?

9 MR. DIXON: NONE, YOUR HONOR. THANK YOU.

10 THE COURT: THANK YOU, SIR. YOU ARE EXCUSED.

11 THE WITNESS: THANK YOU.

12 MR. DIXON: YOUR HONOR, I THINK WE HAVE TIME TO
13 INVITE DALE NEWMAN BACK, IF YOU WOULD LIKE.

14 THE COURT: YOU HAVE TEN MINUTES. YOU CAN GET
15 HIM ON AND OFF?

16 MR. DIXON: IF YOU WOULD LIKE, I'LL TRY.

17 THE COURT: WELL, IS THAT REALISTIC, COUNSEL?

18 MS. SARIS: NO. CROSS. NO.

19 THE COURT: NO? NOT REALISTIC? THEN WE MIGHT AS
20 WELL JUST DO IT AT 1:30. ALL RIGHT. WE WILL TAKE OUR
21 AFTERNOON RECESS AT THIS TIME, LADIES AND GENTLEMEN.
22 PLEASE DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
23 OPINIONS. DON'T CONDUCT ANY IN DELIBERATIONS. WE WILL
24 SEE YOU BACK HERE AT 1:30, THEN. HAVE A GOOD LUNCH.

25

26 (THE FOLLOWING PROCEEDINGS WERE
27 HELD IN OPEN COURT OUTSIDE THE
28 PRESENCE OF THE JURY.)

1
2 THE COURT: ALL RIGHT. ALL THE JURORS AND
3 ALTERNATES HAVE LEFT THE COURTROOM. ARE THERE ANY OTHER
4 ISSUES THAT WE NEED TO ADDRESS BEFORE RESUMING AT 1:30
5 THIS AFTERNOON?

6 MR. JACKSON: NOT THAT I CAN THINK OF.

7 MR. DIXON: I THINK WE'RE OKAY. BUT YOU NEVER
8 KNOW.

9 THE COURT: WE MIGHT ACTUALLY GET THROUGH A
10 WITNESS'S TESTIMONY WITHOUT INTERRUPTION?

11 MS. SARIS: LET'S NOT GET HASTY NOW.

12 THE COURT: OKAY. LET'S TRY FOR THAT AT 1:30
13 THEN. THANK YOU.

14
15
16 (AT 12:00 P.M. A RECESS WAS TAKEN
17 UNTIL 1:30 P.M. OF THE SAME DAY.)

18 --000--
19
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4
5 CASE NUMBER: GA052683
6 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
7 PASADENA, CALIFORNIA TUESDAY, NOVEMBER 14, 2006
8 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
9 APPEARANCES: (AS HERETOFORE MENTIONED.)
10 REPORTER: LORI D. CASILLAS, CSR NO. 9869
11 TIME: P.M. SESSION
12

13 (THE JURY ENTERED THE COURTROOM
14 AND THE FOLLOWING PROCEEDINGS WERE
15 HELD IN OPEN COURT.)
16

17 THE COURT: ALL RIGHT. ON THE RECORD IN THE
18 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL.
19 THE PEOPLE ARE REPRESENTED. ALL OUR JURORS AND
20 ALTERNATES ARE PRESENT.

21 MR. NEWMAN, YOU HAVE BEEN PREVIOUSLY
22 SWORN. YOU ARE REMINDED YOU ARE STILL UNDER OATH.
23 PLEASE STATE YOUR NAME FOR THE RECORD.

24 THE WITNESS: DALE NEWMAN.

25 THE COURT: THANK YOU.

26 MR. DIXON, YOU MAY CONTINUE.

27 MR. DIXON: THANK YOU, YOUR HONOR.
28

1 DIRECT EXAMINATION (RESUMED)

2 BY MR. DIXON:

3 Q WELCOME BACK, MR. NEWMAN.

4 A THANK YOU.

5 Q THE LAST TIME YOU WERE HERE BEFORE THE
6 JURY, YOU WERE TELLING US, AS I RECALL, THAT IN THE FALL
7 OF 1987 YOU WENT WITH A FRIEND. WHAT WAS THAT FRIEND'S
8 NAME AGAIN?9 A THE FRIEND'S NAME WE CALLED HIM "MARTY,"
10 SHORT FOR MARTIN PASOS.

11 Q YOU WENT TO MEXICO IN YOUR AIRPLANE?

12 A CORRECT.

13 Q WHERE IN MEXICO?

14 A THE AREA IS CALLED THE EAST CAPE REGION.
15 AND SPECIFICALLY A REGION CALLED CABO POLMO. IT IS THE
16 NORTHERN MOST CORRAL REEF IN THE PACIFIC.

17 THE COURT: CAN YOU SPELL IT, PLEASE?

18 MR. DIXON: I CAN TRY.

19 THE WITNESS: CABO POLMO?

20 THE COURT: YES.

21 MR. DIXON: WELL, YOU HAVE THE CABO DOWN; RIGHT?

22 THE COURT: "CABO" I'VE GOT.

23 THE WITNESS: P-O-L-M-O, POLMO.

24 THE COURT: ALL RIGHT.

25 MR. DIXON: I THINK HE'S RIGHT.

26 THE COURT: ALL RIGHT. THANK YOU.

27 Q BY MR. DIXON: THANK YOU, MR. NEWMAN.

28 AND YOU WENT DOWN THERE TO GO SKIN DIVING;

1 CORRECT?

2 A GENERALLY SPEAKING. IT WAS MARTY'S, BUT I
3 WAS FLYING THE AIRPLANE.

4 Q AND AT SOME POINT YOU MET A MIKE GOODWIN;
5 IS THAT RIGHT?

6 A CORRECT. ON HIS BOAT.

7 Q THE NAME OF IT WAS?

8 A DEMONSTRATOR.

9 Q AND JUST TO LEAD US RIGHT TO UP WHERE WE
10 LEFT OFF, YOU TOLD US THAT IN THE EVENING YOU WERE HAVING
11 DRINKS ON THE BOAT, CHAMPAGNE; IS THAT RIGHT?

12 A RIGHT. ON THE BRIDGE DECK.

13 Q AND THE BRIDGE DECK IS UP WHERE THE
14 STEERING SOMETIMES IS; CORRECT?

15 A CORRECT.

16 Q ABOVE THE REST OF THE BOAT?

17 A UH-HUH.

18 Q IS THAT A "YES"?

19 A YES.

20 Q AND DID SOMEONE INVITE YOU TO THAT PART OF
21 THE BOAT?

22 A MIKE INVITED US UP TO HAVE A COUPLE OF
23 DRINKS AND A BOTTLE OF CHAMPAGNE.

24 Q SO MIKE INVITED YOU UP ON THE DECK TO HAVE
25 A COUPLE OF DRINKS?

26 A RIGHT. IT WAS EARLY EVENING. I DON'T
27 REMEMBER THE EXACT TIME, BUT IT WAS EVENING, DARK.

28 Q AND WHO ELSE WAS ON THIS PART OF THE DECK

1 WITH YOU AND MIKE GOODWIN? ANYONE ELSE?

2 A WELL, AS I SAID BEFORE, MARTY AND I.

3 Q OKAY.

4 A AND I BELIEVE HIS WIFE. SHE WAS
5 INTRODUCED AS SUCH TO ME AT ANY RATE.

6 Q MIKE GOODWIN'S WIFE?

7 A RIGHT.

8 Q AT THAT POINT, DID YOU OVERHEAR A
9 CONVERSATION?

10 A SOMEWHERE ALONG THE TIME FRAME IN THERE,
11 YES, I DID.

12 Q AND WHO WAS THE SPEAKER?

13 A THEY WERE COMMISERATING BACK AND FORTH.
14 BUT MIKE WAS GENERALLY TALKING TO HER ABOUT SOME
15 CIRCUMSTANCES THAT THEY WERE IN. I PICKED UP ON THE IDEA
16 THAT IT WAS SOME LEGAL MATTER THAT WAS GOING ON.

17 Q AND I UNDERSTAND IT WAS A WHILE AGO, BUT
18 TO THE BEST OF YOUR RECOLLECTION, THE BEST OF YOUR
19 MEMORY, WHAT WAS SAID BY MIKE GOODWIN?

20 A WELL, THE THING THAT STUCK OUT IN MY MIND
21 PRIMARILY, WHICH IS OBVIOUSLY WHY I'M HERE, WAS A
22 THREATENING NATURE OF AN ATTEMPT TO REASSURE HIS WIFE
23 THAT NOTHING BAD WAS GOING TO HAPPEN BECAUSE HE WAS GOING
24 TO TAKE CARE OF THE PARTY INVOLVED. I HAD NO IDEA WHO
25 THE PARTY INVOLVED WAS AT THAT POINT.

26 Q SO LATER DID YOU LEARN?

27 A I DID LEARN, YES.

28 Q AND WHO --

1 MS. SARIS: OBJECTION. CALLS FOR HEARSAY. LACK
2 OF FOUNDATION.

3 THE COURT: SUSTAINED.

4 Q BY MR. DIXON: AND WHEN THIS STATEMENT WAS
5 MADE THAT YOU JUST TOLD US ABOUT THAT YOU THOUGHT WAS
6 THREATENING -- LET ME ASK THIS: WAS THERE ANYTHING OTHER
7 THAN THE WORDS THAT MADE YOU FEEL THIS WAS THREATENING?

8 A IT WAS THE TONE IT WAS IN. I'VE BEEN IN
9 BUSINESS FOR MANY YEARS AT THAT POINT. SO AS A
10 CONSEQUENCE YOU GET USED TO PICKING UP ON PEOPLE'S
11 INCLINATIONS.

12 Q SO YOU'RE USING YOUR LIFE EXPERIENCE?

13 A RIGHT. RIGHT. UNLESS YOU'RE UNCONSCIOUS
14 YOU HAVE TO DO SOMETHING.

15 Q SO IT WAS THE WORDS AND THE TONE?

16 A WORDS AND TONE.

17 Q AND AFTER YOU HEARD THIS, DID YOU SAY
18 SOMETHING? DID YOU INTERRUPT THE CONVERSATION? WHAT
19 HAPPENED?

20 A NONE OF MY BUSINESS AT THAT POINT. I KNEW
21 NOTHING ABOUT WHAT THE CONVERSATION WAS OR REFERRING TO
22 WHO.

23 Q LATER, WITHOUT TELLING US WHAT WAS SAID
24 LATER ON THAT EVENING OR THE NEXT DAY, DID YOU TALK TO
25 YOUR FRIEND MARTY ABOUT IT?

26 A UNDER HIS BREATH AT SOME POINT IN TIME
27 WHEN WE WERE ALONE.

28 MS. SARIS: OBJECTION, YOUR HONOR.

1 NON-RESPONSIVE. IT'S YES OR NO.

2 MR. DIXON: I'LL WITHDRAW. AND WE MIGHT HAVE TO
3 LEAD IN THIS AREA, BUT I'M JUST TRYING TO GET THIS
4 RESPONSE SO WE DON'T GET ANY HEARSAY.

5 Q EITHER THAT EVENING OR THE NEXT DAY, DID
6 YOU TALK TO MARTY ABOUT WHAT YOU OVERHEARD WITHOUT
7 TELLING US WHAT MARTY SAID?

8 A YEAH. HE BRIEFLY SAID --

9 MS. SARIS: OBJECTION, YOUR HONOR.

10 MR. DIXON: ALL RIGHT.

11 Q ALL RIGHT. SO YOU TALKED TO MARTY; RIGHT?

12 A YES, I DID.

13 Q OKAY. GREAT. AND DID YOU GO DIVING THAT
14 NEXT DAY?

15 A WE WERE DIVING DURING THE DAY, YES.

16 Q AND AT THAT POINT DID THAT END THE TRIP ON
17 THE DEMONSTRATOR?

18 A BASICALLY, YES, IT DID. WE WENT BACK
19 ASHORE PROBABLY SOMETIME IN THE EARLY AFTERNOON.

20 Q WAS THAT THE ONLY TIME YOU HAD EVER MET
21 MIKE GOODWIN?

22 A FIRST AND LAST.

23 MR. DIXON: COULD I HAVE A MOMENT, PLEASE, YOUR
24 HONOR?

25 THE COURT: YES.

26 (DISCUSSION OFF THE RECORD.)

27 MR. DIXON: THANK YOU, YOUR HONOR. NOTHING
28 FURTHER AT THIS TIME.

1 THE COURT: CROSS-EXAMINATION?

2 MS. SARIS: THANK YOU.

3

4

CROSS-EXAMINATION

5 BY MS. SARIS:

6 Q GOOD AFTERNOON, MR. NEWMAN. DO YOU RECALL
7 BEING INTERVIEWED BY A DETECTIVE IN THIS MATTER IN 1988?

8 A 1988? IT WAS NOT UNTIL 1991.

9 Q YOU DON'T RECALL A MAN BY THE NAME OF
10 DETECTIVE GRIGGS INTERVIEWING YOU?

11 A WHO?

12 Q DETECTIVE MICHAEL GRIGGS?

13 A IT MIGHT HAVE BEEN ON THE PHONE IF
14 ANYTHING.

15 Q OKAY. DO YOU THINK THAT YOUR MEMORY OF
16 THIS EVENT WOULD HAVE BEEN BETTER IN '88 OR TODAY?

17 A OH, FAR BETTER IN '88.

18 Q HAD YOU EVER BEEN SHOWN ANYTHING REGARDING
19 ANY INTERVIEWS YOU HAD HAD IN THE PAST IN '88 THAT MIGHT
20 HELP REFRESH YOUR RECOLLECTION ABOUT THIS EVENT?

21 A NO, I HAVE NOT.

22 Q ARE YOU ABSOLUTELY CERTAIN THIS EVENT DID
23 NOT OCCUR IN JULY OF 1986?

24 A IT IS WHAT I SAID IT WAS.

25 Q WOULD LOOKING AT ANY KIND OF A STATEMENT
26 OR NOTES OF AN INTERVIEW BETWEEN YOU AND ONE OF THE
27 ORIGINAL INVESTIGATING OFFICERS HELP REFRESH YOUR
28 RECOLLECTION AS TO WHETHER OR NOT YOU TOLD THAT OFFICER

1 FIRST DETECTIVE DO YOU THINK THAT MIGHT HELP YOU REMEMBER
2 WHAT YOU TOLD HIM?

3 A IT MAY, BUT I VERY SERIOUSLY DOUBT IF I
4 TOLD HIM '86.

5 MS. SARIS: MAY I APPROACH THE WITNESS?

6 THE COURT: YES.

7 Q BY MS. SARIS: SHOWING YOU A HANDWRITTEN
8 STATEMENT. TELL ME FIRST IF YOU RECOGNIZE YOUR NAME, FOR
9 EXAMPLE, PERHAPS IN THE YELLOW.

10 A WELL, YES, OBVIOUSLY IT'S HIGHLIGHTED.

11 Q AND DID YOU TELL DETECTIVE GRIGGS IN JULY
12 OF 1988 THAT THIS BOAT TRIP OCCURRED IN JULY OF 1986?

13 A I CERTAINLY DID NOT. THAT WOULD EITHER
14 HAVE TO BE A TYPO ON HIS PART OR WHATEVER.

15 Q THAT WOULD BE A TYPO ON HIS PART?

16 A WELL, IT WOULD HAVE TO BE SOMETHING
17 BECAUSE IT WAS NOT CORRECT. REGARDLESS IT WAS NOT
18 CORRECT.

19 Q DOES THIS STATEMENT ALSO INDICATE THAT
20 CABO POLMO WAS MENTIONED AS THE PLACE OF THE DIVE?

21 A YES, IT DID.

22 Q AND YOU INDICATED THAT YOU HAD BEEN ON A
23 DIVE BOAT WITH MR. GOODWIN A TOTAL OF ONE TIME?

24 A ONE TIME AND ONE TIME ONLY.

25 Q DID THIS BOAT HAVE A CREW?

26 A YES, IT DID.

27 Q DO YOU RECALL HOW MANY PEOPLE?

28 A I'M NOT QUITE SURE. I THINK TWO, BUT

1 POSSIBLY THREE. I'M NOT SURE.

2 Q DID YOU GO SKIN DIVING OR SCUBA DIVING
3 OFTEN BACK THEN?

4 A I WAS DIVING FOR MANY YEARS.

5 Q WAS IT MORE THAN A YEARLY TRIP FOR YOU?

6 A NOT DOWN THERE. I DOVE ALL OVER THE
7 PACIFIC AND ALL OVER MEXICO, BUT NOT THERE, NOT ON
8 ANYBODY'S BOAT.

9 Q THAT'S CONSIDERED A GOOD AREA FOR SCUBA
10 DIVING, IS IT NOT?

11 A SCUBA OR SKIN DIVING, YES.

12 Q HAVE YOU EVER SEEN ANY TELEVISION SHOWS
13 PROFILING THIS CASE?

14 A I'VE HEARD IT MENTIONED IN PASSING. I
15 NEVER REALLY GOT INTO WHAT HAPPENED WITH THE CASE. ONLY
16 THAT I KNOW IT HAD GONE ON SINCE IT WAS IN ORANGE COUNTY.

17 Q DID YOU CONTACT THE POLICE IN THIS MATTER
18 OR DID YOU CONTACT SOMEONE ELSE FIRST?

19 A INITIALLY?

20 Q YES.

21 A INITIALLY I CONTACTED THE SISTER OF MICKEY
22 THOMPSON. COLLENE IS HER NAME.

23 Q WERE YOU AWARE AT THAT TIME -- OR LET ME
24 ASK YOU: AT THAT TIME WAS, AS FAR AS YOU KNEW, COLLENE
25 CAMPBELL SPONSORING SOME REWARD FOR INFORMATION IN THIS
26 CASE?

27 A I THINK I HEARD ABOUT IT. I'M NOT SURE,
28 BUT I GOT AHOLD OF COLLENE THROUGH MY UNCLE, WHO WAS A

1 FRIEND OF MICKEY'S.

2 Q THIS COMMENT THAT YOU HEARD DID NOT
3 MENTION MICKEY THOMPSON AT ALL, DID IT?

4 A NOT AT ALL.

5 Q AND, IN FACT, YOU DON'T REALLY ACTUALLY
6 RECOGNIZE MR. GOODWIN, DO YOU, FACIALLY? DO YOU REMEMBER
7 HIM?

8 A ANYMORE, NOW?

9 Q NOW, AS YOU SIT HERE.

10 A NO.

11 Q THE WOMAN THAT YOU WERE INTRODUCED TO AS
12 HIS WIFE, DID YOU HEAR HER AT ANY POINT? DID SHE SPEAK
13 AT ANY POINT?

14 A THEY WERE SPEAKING BACK AND FORTH.

15 Q DID HE SEEM TO BE TRYING TO CONSOLE OR
16 COMFORT HER WITH THIS CONVERSATION?

17 MR. DIXON: OBJECTION. THAT CALLS FOR
18 SPECULATION.

19 THE COURT: SUSTAINED.

20 Q BY MS. SARIS: WELL, YOU HEARD ENOUGH TO
21 INDICATE THAT YOU THOUGHT THE COMMENT WAS THREATENING;
22 CORRECT?

23 A YES.

24 Q DID YOU HEAR ANYTHING TO INDICATE WHETHER
25 YOU THOUGHT THE COMMENT WAS AN ATTEMPT TO CONSOLE?

26 A YES. IT SEEMED LIKE THAT TO ME. BUT ALSO
27 QUITE A FIRM THREAT. BUT, YES, IT WAS TRYING TO CONSOLE
28 HER, LIKE I SAID. I'M TRYING TO GET CONTROL OF THIS,

1 HONEY.

2 Q YOU ALSO SAID THAT THE COMMENT REFERRED TO
3 A PLURAL, I AM GOING TO TAKE CARE OF "THEM"; IS THAT
4 CORRECT?

5 A AFTER ALL THAT TIME I WOULD NOT SAY FOR
6 SURE EITHER WAY.

7 Q WELL, DID YOU TESTIFY IN A HEARING
8 YESTERDAY UNDER OATH --

9 A OUTSIDE --

10 Q -- OUTSIDE THE PRESENCE OF THE JURY?

11 A YES, I DID.

12 Q DO YOU RECALL AT THAT TIME THAT THE
13 STATEMENT WAS "I'M GOING TO TAKE CARE OF THEM," PLURAL?

14 A I RECALL SAYING THAT, YES.

15 Q AND DO YOU RECALL SPECIFICALLY ASKING IF
16 IT WAS A "HIM" OR "THEM"?

17 A IT WAS A HIM OR THEM -- SINCE YOU
18 REFRESHED MY MEMORY.

19 Q IS THAT A FAIR STATEMENT?

20 A YES, I GUESS IT WOULD BE.

21 Q YOU ALSO INDICATED JUST NOW THAT YOU
22 THOUGHT THAT THIS WAS DEFINITELY RELATED TO SOME SORT OF
23 LEGAL MATTER; IS THAT CORRECT?

24 A THAT WAS THE SOUND OF IT.

25 Q HAD YOU SAID ANYTHING TO PROVOKE THIS
26 COMMENT? OR WERE YOU WALKING INTO TWO PEOPLE HAVING A
27 CONVERSATION THAT YOU OVERHEARD?

28 A WE WERE SITTING BASICALLY -- MARTY AND I

1 WERE SITTING FACING EACH OTHER ON TWO LOUNGES WITH OUR
2 SHOULDER TOWARDS THE SEAT WHICH THEY WERE SITTING WITH
3 THEIR BACKS TOWARDS US MORE OR LESS.

4 Q SO IT'S FAIR TO SAY THAT YOU OVERHEARD A
5 CONVERSATION?

6 A OVERHEARD? I'M SURE THAT'S NOTHING THEY
7 WANTED TO DISCUSS WITH US EITHER WAY.

8 Q AND YOU DID NOT INQUIRE OF THEM DIRECTLY
9 REGARDING THE STATEMENT?

10 A NONE OF MY BUSINESS.

11 Q YOU REMEMBERED TALKING ON THE PHONE TO
12 SOME INDIVIDUAL, HOWEVER, MUCH CLOSER IN TIME TO THE BOAT
13 TRIP, SOME INDIVIDUAL THAT PURPORTED TO BE A POLICE
14 OFFICER INQUIRED OF YOU ABOUT THIS COMMENT?

15 A I DID NOT SPEAK TO ANYBODY WITH THE POLICE
16 DEPARTMENT UNTIL -- THAT I KNOW OF, EXCEPT FOR THAT THING
17 THAT YOU HAVE THERE IN YOUR HAND. THAT MUST HAVE BEEN ON
18 THE PHONE. UNTIL 1991, I WAS OUT THE COUNTRY THREE
19 YEARS.

20 Q IN JULY OF 1988, WERE YOU LOCAL? WERE YOU
21 IN TOWN?

22 A YES, I WAS. BUT I DIDN'T HAVE A
23 FACE-TO-FACE INTERVIEW. I THINK I MIGHT HAVE MADE A
24 STATEMENT ON THE TELEPHONE THAT WOULD -- ABOUT THE END OF
25 IT, THAT'S PROBABLY WHERE THAT CAME FROM.

26 Q WHEN YOU SAY THAT --

27 I MIGHT AS WELL MARK THIS FOR
28 IDENTIFICATION. IT'S NOW DEFENSE S.

1 THE COURT: S.

2
3 (MARKED FOR IDENTIFICATION DEFENSE'S
4 EXHIBIT NO. S, DOCUMENT.)
5

6 Q BY MS. SARIS: AND JUST SO WE'RE CLEAR FOR
7 THE RECORD, WHEN YOU SAY THAT "STATEMENT," YOU'RE
8 REFERRING TO THE HANDWRITING --

9 A THE PAPER THAT YOU HAVE IN YOUR HAND.

10 Q -- IN YELLOW HIGHLIGHT?

11 A RIGHT.

12 MS. SARIS: THANK YOU, YOUR HONOR. NOTHING
13 FURTHER.

14 THE COURT: REDIRECT?

15 MR. DIXON: NO, THANK YOU, YOUR HONOR. NOTHING
16 FURTHER.

17 THE COURT: ALL RIGHT. ANY OBJECTION TO EXCUSING
18 THE WITNESS?

19 MR. DIXON: NONE.

20 THE COURT: THANK YOU, SIR. THANKS FOR COMING
21 IN. YOU ARE EXCUSED.

22 MR. DIXON: YOUR HONOR, OUR NEXT WITNESS WOULD BE
23 JOHN WILLIAMS.

24
25 JOHN WILLIAMS,
26 CALLED BY THE PEOPLE AS A WITNESS, WAS
27 SWORN AND TESTIFIED AS FOLLOWS:
28

1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

2 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
3 YOU MAY 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: YES, I DO.

7 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
8 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
9 NAME FOR THE RECORD.

10 THE WITNESS: JOHN WILLIAMS. J-O-H-N.
11 W-I-L-L-I-A-M-S.

12 THE CLERK: THANK YOU.

13 THE COURT: YOU MAY INQUIRE.

14 MR. DIXON: THANK YOU, YOUR HONOR.

15

16 DIRECT EXAMINATION

17 BY MR. DIXON:

18 Q GOOD AFTERNOON, MR. WILLIAMS. THANK YOU
19 FOR COMING.

20 A YES.

21 Q YOU CAME FROM ORANGE COUNTY?

22 A YES, I DID.

23 Q IN FACT, YOU'RE EMPLOYED DOWN THERE,
24 AREN'T YOU?

25 A YES, I AM.

26 Q WHAT DO YOU DO?

27 A I'M THE ORANGE COUNTY PUBLIC ADMINISTRATOR
28 AND PUBLIC GUARDIAN.

1 Q AND WHAT DOES THAT MEAN?

2 A I'M ELECTED AS THE ORANGE COUNTY PUBLIC
3 ADMINISTRATOR AND APPOINTED AS THE PUBLIC GUARDIAN AND
4 PUBLIC CONSERVATOR. AND AS THE PUBLIC ADMINISTRATOR, WE
5 PROTECT ASSETS OF DECEASED PERSONS. WE ARRANGE FOR
6 BURIAL OF INDIVIDUALS WHERE THERE IS NO FAMILY TO TAKE
7 CARE OF THOSE THINGS FOR THEM.

8 AND AS A PUBLIC GUARDIAN, PUBLIC
9 CONSERVATOR WE HAVE ABOUT 13- TO 1400 INDIVIDUALS UNDER
10 CONSERVATORSHIP OR GUARDIANSHIP. AND WE TAKE CARE OF
11 THEIR AFFAIRS FOR THEM AND PAY THEIR BILLS. AND I'M
12 APPOINTED BY THE COURT TO DO THIS.

13 Q SO ONE OF YOUR JOBS AS THE PUBLIC
14 ADMINISTRATOR IS AN ELECTED COUNTYWIDE POSITION?

15 A YES. THAT IS THE ELECTED SIDE. AND THE
16 PUBLIC GUARDIAN IS AN APPOINTMENT BY THE BOARD OF
17 SUPERVISORS.

18 Q SO ONCE YOU GOT ELECTED, THEN YOU GOT THE
19 OTHER JOBS?

20 A YES, I DID.

21 Q HOW LONG HAVE YOU BEEN IN THOSE JOBS?

22 A ALMOST FOUR YEARS IN JANUARY. THIS IS MY
23 FIRST TERM IN OFFICE SINCE NOVEMBER OF '02. IT'S A
24 FOUR-YEAR TERM. I TOOK OFFICE IN JANUARY OF '03.

25 Q AND SO YOU'VE STOOD FOR ELECTION ONCE?

26 A YES, I DID IN JUNE. I WAS UNOPPOSED. SO
27 BEGINNING THIS COMING JANUARY, I HAVE ANOTHER FOUR-YEAR
28 TERM.

1 Q YOU'VE BEEN AN EMPLOYEE FOR THE COUNTY OF
2 ORANGE FOR QUITE A BIT OF TIME?

3 A WELL, ACTUALLY, ORIGINALLY IN THE
4 PROBATION DEPARTMENT OF ORANGE COUNTY FOR TWO YEARS. AND
5 THEN 20 YEARS AS A DEPUTY MARSHAL. I RETIRED IN 1995 AT
6 THE RANK OF SERGEANT.

7 Q AND THAT'S REALLY WHAT I WOULD LIKE TO
8 FOCUS ON TODAY IS IN 19 -- LET ME ASK IT THIS WAY: 1986,
9 '87, '88, IN THAT AREA, WERE YOU A DEPUTY MARSHAL?

10 A YES, I WAS. I WAS A DEPUTY TWO OR THE
11 EQUIVALENT OF A CORPORAL DEPENDING ON WHAT OTHER
12 DEPARTMENTS CALLED IT. I WAS ON PATROL AND CIVIL DUTIES
13 AND ARREST WARRANT DUTIES.

14 Q AND THAT'S WHAT I WOULD LIKE TO ASK YOU
15 ABOUT. IN LOS ANGELES COUNTY, WE NO LONGER HAVE A
16 MARSHALS DEPARTMENT.

17 IS THERE STILL ONE IN ORANGE COUNTY?

18 A NO. THERE WAS A MERGER IN 2000 WHEREBY
19 THE DEPUTY MARSHALS ALL BECAME DEPUTY SHERIFFS. SO THE
20 TWO DEPARTMENTS WERE COMBINED INTO ONE. SO WE HAVE AN
21 ORANGE COUNTY SHERIFF'S DEPARTMENT THAT RUNS THE JAILS
22 AND PROVIDES COURT SERVICES TO ALL OF THE COURTS. THERE
23 ARE NO LONGER MUNICIPAL COURTS EITHER. WE HAVE JUSTICE
24 COURT. SO THERE WAS A MERGER OF MARSHALS INTO THE
25 SHERIFF'S DEPARTMENT.

26 Q BUT BACK IN '86, '87, '88, THERE WAS A
27 MARSHAL'S DEPARTMENT?

28 A YES, THERE WAS.

1 Q AND YOU WERE A DEPUTY TWO MARSHAL?

2 A YES, I WAS.

3 Q AND WHAT WERE YOUR SPECIFIC DUTIES? I
4 THINK YOU MENTIONED CIVIL PATROL. WHAT DOES THAT MEAN?

5 A YES. WELL, AS A CIVIL -- WHAT WE CALL THE
6 CIVIL DUTIES, IT ALSO INCLUDED ARREST WARRANTS. BUT WE
7 WOULD SERVE SUBPOENAS. WE WOULD LEVY ON PROPERTY. WE
8 WOULD DO BANK GARNISHMENTS AND PICK UP PROPERTY UNDER
9 COURT ORDER, SUCH AS MOTOR VEHICLES OR BOATS.

10 AND WE WOULD DO -- WE WOULD TAKE COURT
11 PROCESS WITH US TO THE FIELD. AND IT WOULD BE MULTIPLE
12 CASES. AND TYPICALLY WE WERE ACTING ON BEHALF OF A
13 PLAINTIFF WHO WANTED SOMETHING SERVED ON AN ACTION TAKEN
14 ON A CIVIL CASE TO COLLECT A JUDGMENT.

15 Q SO LET ME SEE IF I UNDERSTAND THAT,
16 BECAUSE WE'VE HAD OTHER WITNESS TALKING ABOUT JUDGMENTS
17 AND JUDGMENT DEBTORS AND COLLECTING ON JUDGMENTS.

18 A YES.

19 Q SO IF A PERSON HAD BEEN A PLAINTIFF IN A
20 LAWSUIT AND THEY WON AND THEY HAD A JUDGMENT AGAINST THE
21 DEFENDANT IN THAT LAWSUIT, THEY EITHER WOULD GET MONEY OR
22 THEY COULD GO TRY TO GET THEIR ASSETS?

23 A YES.

24 Q AND THAT'S WHERE IF THEY WANTED TO GET AN
25 ASSET LIKE A CAR, IS THAT WHERE THEY GET INVOLVED WITH
26 SOMEONE LIKE YOURSELF --

27 A YES.

28 Q -- IN THOSE YEARS?

1 A AND THAT PROCESS IS STILL IN EFFECT NOW.
2 WHEN SOMEONE WINS A CIVIL JUDGMENT, THEY CAN GO TO
3 COURT -- THE ATTORNEY OR IF IT'S SMALL CLAIMS --
4 INDIVIDUALS CAN PULL A WRIT OF EXECUTION AND BRING IT TO
5 THE SHERIFF'S DEPARTMENT. I DON'T BELIEVE THERE IS ANY
6 MORE MARSHALS DEPARTMENTS IN CALIFORNIA. AND THE
7 PLAINTIFF HAS OPTIONS TO COLLECT ON THEIR JUDGMENT.

8 THEY BRING THE WRIT TO THE SHERIFF AND
9 FILL OUT A FORM SAYING I WANT TO GARNISH A BANK ACCOUNT
10 OR PICK A CAR UP. AND IF IT'S TO PICK UP PROPERTY,
11 TYPICALLY THEY HAVE TO PAY A DEPOSIT. SO, FOR EXAMPLE,
12 YOU'RE GOING TO LEVY ON A CAR -- WHICH IS WHY I KNOW I'M
13 HERE TODAY -- THERE WOULD BE A FEE TO PAY FOR THE TOW.

14 AND USUALLY THAT'S ABOUT 30 TO 60 DAYS
15 WORTH OF STORAGE FEES IN A TOW YARD. SO THE SHERIFF
16 WOULD GET THE DEPOSIT UP FRONT WITH A WRIT FROM THE
17 COURT. AND THEN WHEN THE PLAINTIFF GETS SIGNED
18 INSTRUCTIONS, THEN THE SHERIFF WOULD GO OUT AND MAKE THAT
19 LEVY ON THE PROPERTY WITH THE WRIT OF EXECUTION AS THE
20 AUTHORITY.

21 Q AND DURING THE PERIOD OF TIME THAT WE'RE
22 TALKING ABOUT '86, '87, '88, IN THAT AREA, IT WOULD BE
23 THE MARSHAL NOT THE SHERIFF IN YOUR LAST ANSWERS;
24 CORRECT?

25 A YES.

26 Q IN LISTENING TO SOME OF THESE WITNESSES
27 WHO TESTIFIED, IT SOUNDS LIKE ALL THIS IS PRETTY LEGALLY
28 TECHNICAL STUFF; IS THAT RIGHT?

1 MS. SARIS: OBJECTION. LEADING. LACK OF
2 FOUNDATION REGARDING OTHER WITNESSES.

3 THE COURT: SUSTAINED.

4 Q BY MR. DIXON: WHEN YOU WERE A DEPUTY TWO
5 MARSHAL ENGAGED IN THESE ACTIVITIES, WAS IT A SIMPLE
6 SITUATION OR WAS IT SOMEWHAT TECHNICAL?

7 MS. SARIS: OBJECTION. VAGUE.

8 THE COURT: OVERRULED.

9 YOU CAN ANSWER.

10 THE WITNESS: IT COULD BE VERY TECHNICAL. WE
11 RECEIVED ADDITIONAL TRAINING AS DEPUTY MARSHALS WHEN WE
12 GO THROUGH THE POLICE ACADEMY. TYPICALLY, THE SHERIFFS
13 HAD TO GO AN EXTRA WEEK OF TRAINING FOR JAIL LEGAL ISSUES
14 ON HOW TO OPERATE AND WORK IN A JAIL SITUATIONS; AND THE
15 MARSHAL TYPICALLY WOULD HAVE ONE WEEK OF CIVIL SCHOOL.
16 FOR EXAMPLE, I WENT UP TO SANTA MARIA --

17 MS. SARIS: I'M GOING TO OBJECT AS NO QUESTION
18 PENDING. NARRATIVE.

19 THE COURT: SUSTAINED.

20 Q BY MR. DIXON: DID YOU HAVE SOME
21 BACKGROUND AND TRAINING, THEN, WHILE YOU WERE A DEPUTY --
22 OR WHEN YOU BECAME A DEPUTY MARSHAL IN THE WHOLE CIVIL
23 PROCESS?

24 A YES.

25 Q AND WHAT WAS THAT?

26 A THAT WAS A ONE-WEEK COURSE, A 40-HOUR
27 REQUIRED BY P.O.S.T., THE COMMISSION OF PEACE OFFICERS
28 STANDARD AND TRAINING. AND I THINK WE HAD TO HAVE THAT

1 COMPLETED WITHIN THE FIRST YEAR AFTER COMPLETING THE
2 ACADEMY. AND I DID TAKE THAT COURSE.

3 Q AND AT THE TIME THAT WE ARE TALKING ABOUT,
4 DID THE ORANGE COUNTY MARSHALS DEPARTMENT HAVE SPECIFIC
5 POLICIES THAT YOU AS AN EMPLOYEE AS A DEPUTY MARSHAL
6 WOULD HAVE TO FOLLOW IN THESE SITUATIONS?

7 A OH, YES, WE DID.

8 Q A BOOK OF POLICIES?

9 A WE HAD OUR MANUAL OF PROCEDURE AS WE CALL
10 IT. AND THE STATE MARSHALS ASSOCIATION, WHICH IS SIMILAR
11 TO THE STATE SHERIFF'S ASSOCIATION, HAS THE SAME THING
12 NOW IN THEIR MANUAL OF PROCEDURE ON HOW TO CARRY OUT A
13 COURT PROCESS. SO THAT THROUGH THE STATE OF CALIFORNIA
14 IT WAS A STANDARDIZED PROCESS TO LEVY A BANK ACCOUNT OR
15 LEVY ON A CAR OR SERVE A WAGE GARNISHMENT AND THOSE TYPES
16 OF THINGS. SO WE HAD OUR OWN MARSHALS OPERATIONS MANUAL
17 AND POLICIES AND PROCEDURES AS WELL AS THE STATE
18 ASSOCIATION MANUAL.

19 Q WERE YOU CAREFUL IN FOLLOWING THOSE
20 PROCEDURES?

21 A OH, YES. YES.

22 Q NOW, I WOULD LIKE TO INVITE YOUR ATTENTION
23 TO A SPECIFIC LEVY ON A CAR THAT YOU PARTICIPATED IN.

24 DO YOU REMEMBER THE LEVY, I GUESS IS THE
25 RIGHT TERM, ON A MICHAEL GOODWIN'S CAR?

26 A YES, I DO.

27 Q AND TO THE BEST OF YOUR RECOLLECTION, AT
28 THIS TIME -- AND I KNOW IT WAS A WHILE AGO -- WHEN DID

1 THAT OCCUR?

2 A IT HAD OCCURRED IN LATE 1987 OR EARLY 1988
3 IN LAGUNA BEACH, CALIFORNIA.

4 Q AND THAT'S YOUR BEST RECOLLECTION?

5 A YES, IT IS.

6 Q AS YOU SIT HERE NOW -- I MEAN THAT WAS
7 QUITE A WHILE AGO. DO YOU HAVE A VAGUE RECOLLECTION OF
8 THIS OR A SPECIFIC RECOLLECTION?

9 A WELL, I HAVE A SPECIFIC RECOLLECTION
10 BECAUSE THERE WAS A CELEBRITY PERSON INVOLVED IN THE
11 CASE. AND I HAD A FEW FAMOUS PEOPLE CASES IN THE '80S
12 THAT I DEALT WITH. AND WITH THIS CASE MICKEY THOMPSON I
13 THINK WAS VERY WELL KNOWN. AND MY PARTNER WHO WENT ON
14 VACATION GAVE ME THIS CASE TO WORK. IT WAS ACTUALLY IN
15 HIS PART, THE AREA OF JUDICIAL DISTRICT. AND HE BRIEFED
16 ME ON IT BEFORE HE WENT ON VACATION.

17 Q BEFORE YOUR PARTNER BRIEFED YOU ON THIS
18 MATTER, HAD YOU HEARD THE NAME "MICKEY THOMPSON"?

19 A OH, YES. YES. WITH THE OFF-ROAD RACING
20 AT ANGEL STADIUM AND ANAHEIM WHERE THEY HAD THE DIRT BIKE
21 RACES AND EVERYTHING GOING ON.

22 MS. SARIS: YOUR HONOR, I'M SORRY. MAY I ASK THE
23 COURT TO ADMONISH THE WITNESS TO SIMPLY ANSWER THE
24 QUESTION PENDING, PLEASE.

25 THE COURT: ALL RIGHT. MR. WILLIAMS, DO THE BEST
26 YOU CAN TO NOT GIVE US ANY ADDITIONAL INFORMATION.

27 THE WITNESS: OKAY. ALL RIGHT.

28 Q BY MR. DIXON: SO IT WAS BECAUSE OF THAT

1 THAT YOU THOUGHT OF THIS AS A CELEBRITY CASE?

2 A YES.

3 Q AFTER YOUR PARTNER BRIEFED YOU ON THIS
4 MATTER AND GAVE YOU THE FILE, WHAT DID YOU DO TO
5 ACCOMPLISH YOUR TASK? WELL, MAYBE WHAT WAS YOUR TASK?
6 WHAT WERE YOU SUPPOSED TO DO?

7 A MY TASK ON HIS CASE WHILE HE WAS ON
8 VACATION, I BELIEVE, IT WAS TO CHECK ON A FEW EVICTIONS
9 THAT WERE IN THE PROCESS TO SEE IF THE PEOPLE WERE
10 MOVING. AND ON A VEHICLE LEVY LIKE THIS PARTICULAR CASE,
11 JUST DRIVE BY AND SEE IF THE VEHICLE WAS THERE. IF IT
12 HAPPENED TO BE THERE, THEN I WOULD MAKE THE LEVY.

13 Q AND DID YOU DO THIS ON THE MICHAEL
14 GOODWIN/MICKEY THOMPSON VEHICLE LEVY?

15 A YES, I DID.

16 Q WHOSE VEHICLE WAS GOING TO BE TAKEN?

17 A I BELIEVE IT WAS MR. GOODWIN'S VEHICLE
18 UNDER THE LEVY WITH THE INSTRUCTIONS.

19 Q YOU HAD ALL THE PAPERWORK?

20 A I DID.

21 Q SO WHAT DID YOU DO TO ACCOMPLISH THIS?

22 A I WENT OUTSIDE OF MY ASSIGNED AREA WITH
23 THE OTHER CASES AND MY PARTNER'S AREA AND I DROVE TO THE
24 LAGUNA BEACH LOCATION. AND I REMEMBER I HAD TO DRIVE I
25 THINK THERE IS ONLY TWO OR THREE WAYS TO THE TOP OF THE
26 HILLS IN LAGUNA BEACH. AND I DROVE UP THE HILL NEAR
27 MR. GOODWIN'S HOUSE. I DROVE RIGHT BY IT AND I DIDN'T
28 SEE THE CAR. AND I CONTINUED UP TO WHAT IS CALLED THE

1 TOP OF THE WORLD AREA. AND DID WHATEVER I WAS DOING AND
2 THEN ON THE WAY BACK DOWN THE HILL, I LOOKED AND THE CAR
3 WAS IN THE DRIVEWAY. SO I PULLED IN BEHIND IT AND
4 INITIATED THE LEVY.

5 Q LET ME ASK YOU A COUPLE MORE QUESTIONS
6 BASED ON THAT LAST ANSWER.

7 DID THE PAPERWORK THAT YOU HAD AT THE TIME
8 HAVE A DESCRIPTION OF THE CAR THAT YOU WERE TO LEVY?

9 A YES. IT WAS TYPICAL THAT WE REQUIRED A
10 LICENSE NUMBER. AND WE ALWAYS HAD A DMV PRINTOUT THAT
11 WAS PREPARED -- THAT WAS TAPED TO THE BACK OF THE
12 INSTRUCTIONS THAT THE PLAINTIFF ATTORNEY SIGNED.

13 Q SO WHAT KIND OF CAR WAS THIS THAT YOU WERE
14 LOOKING FOR?

15 A I JUST REMEMBER IT WAS A MERCEDES.

16 Q BUT THE INFORMATION THAT YOU HAD WOULD
17 HAVE MORE DETAILS THAN THAT AT THE TIME?

18 A OH, YES. IT WOULD BE -- THEY WOULD
19 INSTRUCT A LEVY ON A CERTAIN YEAR, MAKE AND MODEL OF A
20 VEHICLE. AND GET A LICENSE NUMBER AND THEN WE WOULD
21 CONFIRM THAT WITH THE DMV PRINTOUT THAT WAS ATTACHED TO
22 THE BACK OF THE WORKSHEET TO MAKE SURE THEY, IN FACT, WE
23 WERE LEVYING ON THE RIGHT CAR.

24 Q THAT WOULD BE IMPORTANT?

25 A YES.

26 Q SO ON THE DAY THAT WE ARE TALKING ABOUT
27 YOU DROVE TO LAGUNA BEACH; WENT TO THE TOP OF THIS HILL;
28 AND THEN DROVE BACK DOWN AND YOU SAW THE CAR?

1 A YES.

2 Q WHAT HAPPENED NEXT?

3 A WHEN YOU DO A VEHICLE LEVY, THE PROCEDURE
4 IS THAT YOU MAKE A DEMAND FOR THE PROPERTY. IN THIS CASE
5 IT'S THE VEHICLE OR THE MONEY. BUT WE'RE TRAINED THAT IF
6 IT IS A VERY LARGE AMOUNT OF MONEY, OBVIOUSLY SOMEBODY IS
7 NOT GOING TO HAVE HUNDREDS OF THOUSANDS OF DOLLARS. AND
8 I JUST REMEMBER IT WAS A VERY LARGE JUDGMENT. SO I
9 CALLED FOR THE TOW TRUCK AND CALLED IN A LOCATION TO THE
10 RADIO DISPATCH. AND HE SAID I NEED A TOW TRUCK TO COME
11 TO THIS LOCATION FOR A VEHICLE LEVY. AND THEN I WENT TO
12 THE DOOR AND KNOCKED ON THE DOOR AND CONTACTED THE
13 DEFENDANT.

14 Q THE DEFENDANT, THE MAN THAT I'M NOW
15 STANDING BEHIND?

16 A YES, SIR.

17 Q MIKE GOODWIN?

18 A YES.

19 MS. SARIS: I'M SORRY, YOUR HONOR. I'M GOING
20 TO -- I DON'T BELIEVE HE SAID HE RECOGNIZED MR. GOODWIN.
21 DID I MISS THAT?

22 THE COURT: DO YOU WANT TO -- WELL, FOR THE
23 RECORD MR. DIXON WAS STANDING BEHIND MR. GOODWIN AND THAT
24 WAS THE ANSWER. SO THE RECORD SHOULD REFLECT THAT IS
25 MR. GOODWIN THAT MR. DIXON IS STANDING BEHIND.

26 Q BY MR. DIXON: TO THE BEST OF YOUR
27 RECOLLECTION IS THAT THE MAN THAT CAME TO THE DOOR, THE
28 MAN I'M NOW STANDING BEHIND?

1 A YES, SIR, IT WAS.

2 Q THANK YOU.

3 AND I WAS STANDING BEHIND THE DEFENDANT,
4 YOUR HONOR. THANK YOU.

5 SO YOU CALLED THE TOW TRUCK; WENT TO THE
6 FRONT DOOR; MET THE DEFENDANT. WHAT HAPPENED NEXT?

7 A I SERVED A COPY OF THE WRIT AND A
8 WORKSHEET ADVISING THE DEFENDANT THAT WE'RE LEVYING ON
9 THE VEHICLE. I TOLD HIM WHAT I WAS DOING. AND I DON'T
10 KNOW HOW FAR YOU WANT ME TO GO. THERE WAS A VERY HEATED
11 EXCHANGE THAT TOOK PLACE.

12 Q LET ME ASK YOU A COUPLE MORE QUESTIONS.

13 A YES.

14 Q THE FIRST ONE IS: HOW WERE YOU DRESSED AT
15 THE TIME?

16 A IN A FULL PEACE OFFICER UNIFORM SIMILAR TO
17 THE DEPUTY IN THE COURTROOM. ONLY THE DEPUTY SHERIFF'S
18 HERE WEAR GREEN TROUSERS. WE WORE AN ENTIRELY TAN
19 UNIFORM WITH THE BROWN STRIPES ON MY ARM AS A DEPUTY TWO;
20 THE SHOULDER PATCHES; AND A BADGE IDENTIFYING ME AS A
21 DEPUTY MARSHAL OF ORANGE COUNTY.

22 Q SO YOU WERE DRESSED AS A PEACE OFFICER?

23 A YES.

24 Q IN FULL UNIFORM; CORRECT?

25 A YES, I WAS.

26 Q AND YOUR CAR?

27 A THE CARS WERE PLAIN WHITE BACK THEN. THEY
28 WERE PLAIN WHITE WITH A SPOTLIGHT IN FRONT AND AN AMBER

1 LIGHT ON THE REAR. AND THEY HAD AN "E" PLATE AS THEY
2 CALL THEM WITH A LITTLE BUTTON ON THE CAR AND A COUNTY OF
3 ORANGE SEAL ON THE BACK OF THE CAR.

4 Q SO WHEN YOU WENT UP TO THE FRONT DOOR AND
5 MET THE DEFENDANT, YOU WERE IN FULL UNIFORM, WHAT
6 HAPPENED NEXT?

7 A I CONTACTED THE DEFENDANT. I ASKED IF HE
8 WAS THE DEFENDANT MR. GOODWIN. YES. AND A DISCUSSION
9 ENSUED. I TOLD HIM I WAS GOING TO BE TAKING THE CAR
10 PURSUANT TO THE JUDGMENT. AND THAT'S WHEN THE EXCHANGE
11 OCCURRED THAT HE TOLD ME THAT THERE IS NO WAY I WAS GOING
12 TO TAKE THE CAR. AND --

13 Q LET ME ASK YOU ANOTHER QUESTION. WHEN YOU
14 EXPLAINED TO HIM WHAT YOU WERE THERE FOR --

15 A YES.

16 Q -- DID YOU DO IT IN THE KIND OF TONE THAT
17 YOU WERE JUST TESTIFYING LIKE? I MEAN WERE YOU CALM AND
18 COLLECTED?

19 A YES. I'M ALWAYS CALM BECAUSE I KNOW THOSE
20 CAN BE VOLATILE SITUATIONS. I WAS ALWAYS CALM. I'M NOT
21 A DEPUTY ANYMORE. BUT I WOULD SERVE THE WRIT AND I TELL
22 HIM WHY I WAS THERE. THEY MIGHT WANT TO GET LEGAL
23 ADVICE. THAT I HAVE A COURT ORDER, A WRIT OF EXECUTION;
24 THAT I'M GOING TO BE LEVYING ON THE PROPERTY.

25 MS. SARIS: YOUR HONOR, I'M GOING TO OBJECT.
26 MAKE A MOTION TO STRIKE AFTER THE WORD "YES."

27 THE COURT: ALL RIGHT. THAT WILL BE STRICKEN.

28 Q BY MR. DIXON: BY THE WAY, HAD YOU PUT

1 ANYTHING ON THE CAR?

2 A YES. I PUT A LARGE YELLOW STICKER ON THE
3 CAR; TAPED IT TO THE FRONT WINDSHIELD. IT STATED THAT
4 THE VEHICLE HAD BEEN LEVIED ON BY THE MARSHAL OF ORANGE
5 COUNTY.

6 Q WHEN YOU SAY IT WAS "LARGE," HOW BIG WAS
7 IT?

8 A MAYBE SIX BY SIX INCHES BRIGHT YELLOW.
9 AND YOU FILL IN THE NAME OF THE CASE WITH A PEN OR
10 PENCIL. AND I ALWAYS SCOTCH TAPED IT.

11 Q SO IT WAS EASILY VISIBLE?

12 A YES.

13 Q ABOUT HOW FAR AWAY FROM THE DEFENDANT WERE
14 YOU AT THE TIME THAT YOU WERE TELLING HIM WHAT YOU WERE
15 DOING? CAN YOU TELL ME WHAT THE DISTANCE --

16 A INITIALLY ABOUT AS CLOSE AS WE ARE WHERE I
17 COULD HAND HIM THE PAPERWORK AND HE ACCEPTED THE
18 PAPERWORK.

19 THE COURT: SIX OR SEVEN FEET.

20 MR. DIXON: THANK YOU, YOUR HONOR.

21 THE WITNESS: YES.

22 Q BY MR. DIXON: AND COULD YOU, TO THE BEST
23 OF YOUR RECOLLECTION, SPECIFICALLY TELL US WHAT THE
24 DEFENDANT SAID IN RESPONSE TO WHAT YOU SAID TO HIM?

25 A AT THE TIME I CONTACTED THE DEFENDANT, HE
26 TOLD ME THERE WAS NO WAY IN HELL I WAS GOING TO TAKE HIS
27 CAR. AND BASICALLY THOSE WERE THE WORDS. AND I SAID,
28 WELL, YES, I AM. AND A HEATED EXCHANGE TOOK PLACE.

1 Q DESCRIBE THE HEATED EXCHANGE TO THE BEST
2 OF YOUR RECOLLECTION. WHAT DID THE DEFENDANT SAY?

3 A MAY I MENTION THAT THIS IS THE TIME HIS
4 WIFE CAME TO THE DOOR ALSO.

5 Q PLEASE.

6 A MRS. GOODWIN ALSO CAME TO THE DOOR AND
7 THERE WAS A HEATED EXCHANGE. AND THEY TOLD ME THAT THERE
8 WAS NO WAY I WAS GOING TO TAKE THE CAR. AND I EXPLAINED
9 TO THEM -- FINALLY, I SAID I'M GOING TO TAKE THE CAR FROM
10 YOU. I HAVE A COURT ORDER. AND IF YOU INTERFERE WITH
11 ME, I'M GOING TO HAVE TO CALL THE LAGUNA BEACH POLICE
12 DEPARTMENT TO BACK ME UP IF NECESSARY. BUT I WILL ARREST
13 AND TAKE YOU TO JAIL. AND I WILL STILL TAKE THE CAR. OR
14 YOU CAN CALM DOWN AND I'LL LET YOU GET YOUR PROPERTY OUT
15 OF THE CAR.

16 Q IN AN EARLIER ANSWER IN THAT ANSWER, YOU
17 SAID THERE WAS A HEATED EXCHANGE. WERE YOU HEATED? WERE
18 YOU UPSET?

19 A NO. NO.

20 Q WHO WAS UPSET?

21 A WELL, THE DEFENDANT MR. GOODWIN AND HIS
22 WIFE WERE VERY -- THE DISCUSSIONS AT THAT TIME WAS THEY
23 WEREN'T GOING TO LET ME TAKE --

24 MS. SARIS: OBJECTION, YOUR HONOR. I'M SORRY.
25 THE QUESTION HAS BEEN ANSWERED.

26 THE COURT: IT HAS BEEN.

27 THE WITNESS: OKAY.

28 Q BY MR. DIXON: NOW AFTER YOU TOLD THEM

1 INVENTORY. AND I WAS KEEPING AN EYE ON THEM FOR MY
2 SAFETY, BUT IT WAS JUST THIS VERY FOUL LANGUAGE ON HOW,
3 YOU KNOW, THEY WERE BASICALLY TELLING ME THAT MICKEY
4 THOMPSON WAS GOING TO HAVE SOMETHING HAPPEN TO HIM. IT
5 WAS VERY UGLY, PROFANITY-LACED COMMENTS DIRECTED AT THE
6 PLAINTIFF, NOT ME. WHICH IS HOW I PREFER IT FROM AN
7 OFFICER SAFETY POSITION. I WAS BY MYSELF.

8 Q YOU WERE BY YOURSELF?

9 A YES.

10 Q AND AT THAT POINT, HAD YOU CALLED FOR ANY
11 POLICE OFFICER BACK UP?

12 A NO. BECAUSE THEY --

13 MS. SARIS: OBJECTION, YOUR HONOR.
14 NON-RESPONSIVE.

15 THE COURT: ALL RIGHT. SUSTAINED. EVERYTHING
16 AFTER NO.

17 Q BY MR. DIXON: DID THE DEFENDANT MICHAEL
18 GOODWIN MAKE THIS STATEMENT THAT YOU JUST TOLD US ABOUT
19 WHAT HE WAS GOING TO DO TO MICKEY THOMPSON JUST ONCE OR
20 NUMEROUS TIMES?

21 A OH, NO. NO. NUMEROUS TIMES AS THEY WOULD
22 MAKE TRIPS BACK AND FORTH TO THE HOUSE WITH THEIR
23 PROPERTY. HE WOULD COME BY AND KIND OF JUST SAY TO ME,
24 "HE DOESN'T KNOW WHO HE'S FUCKING WITH." AND GESTURING.
25 "HE'S FUCKING DEAD TO ME." VERY ANIMATED AND VOCAL. AND
26 I MADE NOTES ON MY WORKSHEET ABOUT THE COMMENTS THEY WERE
27 MAKING. BECAUSE I HAD BEEN DOING CAR LEVY FOR PROBABLY
28 TEN YEARS; I HAD BEEN A DEPUTY TWO YEARS AT THAT TIME;

1 AND THIS WAS ONE OF THE MOST --

2 MS. SARIS: OBJECTION, YOUR HONOR.
3 NON-RESPONSIVE.

4 THE COURT: ALL RIGHT. SUSTAINED. MR. WILLIAMS,
5 THIS WILL GO A LOT FASTER IF YOU JUST ANSWER THE
6 QUESTION.

7 THE WITNESS: OKAY.

8 Q BY MR. DIXON: IS THERE ANYTHING ABOUT THE
9 EVENT THAT YOU ARE TESTIFYING ABOUT RIGHT NOW ABOUT WHAT
10 YOU JUST TALKED ABOUT THAT MAKES THIS STAND OUT IN YOUR
11 MIND AFTER ALL THESE YEARS?

12 A YES.

13 Q WHAT?

14 A IT WAS THE DEGREE OF VICIOUS LANGUAGE THAT
15 WAS USED ABOUT A PLAINTIFF IN A LAWSUIT. WHERE TYPICALLY
16 IF I ADVISE SOMEONE TO JUST CALL YOUR LAWYER; WE'RE GOING
17 TO STORE THE CAR; GET SOME LEGAL ADVICE; TRY TO RELAX;
18 IT'S NOT THE END OF THE WORLD. AND USUALLY IT WOULD END.
19 THIS CARRIED ON FOR THE WHOLE TIME UNTIL THE TOW TRUCK
20 ARRIVED.

21 Q HOW LONG WOULD YOU ESTIMATE THAT THIS AS
22 YOU SAID CARRIED ON? WAS IT FIVE MINUTES? TEN MINUTES?
23 20 MINUTES?

24 A I BELIEVE IT WAS PROBABLY IN AND OUT OF
25 THE CALL, AN HOUR AT THE MOST. SO BY THE TIME I CALLED
26 THE TOW TRUCK AND THE TOW TRUCK DRIVER ARRIVED WAS
27 PROBABLY NO MORE THAN 15 MINUTES. AND THEN I COMPLETED
28 AN INVENTORY. SO AS I SAY, THE WHOLE THING WAS RIGHT AT

1 AN HOUR OR SLIGHTLY LESS. SO THE TIME FOR ME TO DO THE
2 INVENTORY; THE TOW TRUCK DRIVER TO ARRIVE WAS MAYBE 15
3 MINUTES. THAT WOULD BE LARRY TOWING BACK THEN IN LAGUNA
4 BEACH. AND THERE WAS A TOW TRUCK CONSTANTLY ON PAROLE.
5 THEY ALWAYS HAD A QUICK RESPONSE. SO THEY WOULD HAVE
6 BEEN THERE IN A MATTER OF MINUTES.

7 Q SO THESE COMMENTS THAT WERE DIRECTED TO
8 MICKEY THOMPSON ABOUT WHAT WAS GOING TO HAPPEN TO MICKEY
9 THOMPSON WERE REPEATED OVER ABOUT A 15-MINUTE PERIOD; IS
10 THAT RIGHT?

11 A YES.

12 Q COULD YOU CHARACTERIZE FOR US THE MANNER
13 IN WHICH THESE WERE SAID AND THE TONE IN WHICH THEY WERE
14 SAID.

15 MS. SARIS: OBJECTION. ASKED AND ANSWERED.

16 Q BY MR. DIXON: AND THE VOLUME IN WHICH WAS
17 USED BY THE DEFENDANT?

18 A I WOULD SAY IT WAS A VERY LOUD HEATED AND
19 VERY VOCAL ANGRY COMMENTS STATED TO ME ABOUT THE
20 PLAINTIFF IN THE CASE MICKEY THOMPSON.

21 Q NOW, EVENTUALLY, WAS THE CAR TOWED AWAY?

22 A YES, IT WAS.

23 Q AND DID THE DEFENDANT AND THE PERSON THAT
24 YOU BELIEVE TO BE HIS WIFE, DID THEY HAVE AN OPPORTUNITY
25 TO RETRIEVE ITEMS FROM THE CAR?

26 A OH, YES.

27 Q AND YOU PROVIDED THAT FOR THEM?

28 A WELL, AS PART OF OUR POLICY.

1 MS. SARIS: OBJECTION, YOUR HONOR.

2 NON-RESPONSIVE.

3 THE COURT: ALL RIGHT. ASK ANOTHER QUESTION,
4 PLEASE.

5 Q BY MR. DIXON: DID YOU ALLOW THEM,
6 NOTWITHSTANDING WHAT WAS GOING ON, AN OPPORTUNITY TO
7 RETRIEVE THEIR PERSONAL ITEMS FROM THE VEHICLE?

8 A YES, I DID.

9 Q YOU MENTIONED IN AN EARLIER ANSWER THAT AT
10 TIMES YOU TOOK NOTES AS TO WHAT WAS BEING SAID?

11 A YES.

12 Q HOW DID YOU MEMORIALIZE THOSE NOTES?

13 A ON THE BACK OF THE WORKSHEETS THAT WE HAD
14 WITH THE CASE PACKAGE. THERE WAS A LINED AREA ACROSS THE
15 BACK OF THE WORKSHEET WHERE WE COULD MAKE ANY NOTES THAT
16 WE NEEDED TO MAKE. SO I MADE NOTES TO THE COMMENTS THAT
17 WERE MADE.

18 Q DID YOU FILE ANY OTHER POLICE REPORTS WITH
19 YOUR DEPARTMENT AS A RESULT OF THIS?

20 A NO. NO.

21 Q WHY NOT?

22 MS. SARIS: OBJECTION. RELEVANCE.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER.

25 THE WITNESS: THERE WAS NO CRIME OCCURRED -- NO
26 CRIME HAD OCCURRED. SO IT WOULDN'T HAVE REQUIRED A D.R.
27 NUMBER OR DEPARTMENT REPORT NUMBER TO SAY MAKE A CRIME
28 REPORT OR AN ARREST REPORT SINCE THERE WAS NO ARREST OR

1 NO CRIME HAD OCCURRED AT THAT TIME UNDER STATUTES
2 AVAILABLE THERE HAD NOT BEEN A CRIME OCCURRED.

3 Q SO THAT'S WHAT IT WOULD HAVE TAKEN TO
4 TRIGGER A REPORT?

5 A YES.

6 Q NOW AT THAT POINT THIS EVENT WAS OVER; THE
7 CAR WAS TOWED; AND YOU WENT ON YOUR DUTIES?

8 A YES, I DID.

9 Q DID THERE EVER COME A TIME WHEN YOU
10 REPORTED THIS INCIDENT TO YOUR SUPERVISOR?

11 A YES.

12 Q WHEN DID THAT OCCUR?

13 A OH, IT WAS THAT VERY DAY. THIS WAS BEFORE
14 CELL PHONES. AT THE END OF OUR WATCH WE WOULD COME BACK
15 TO THE OFFICE AND WORKING IN CIVIL CASES. YOU WOULD HAVE
16 TO CALL PLAINTIFF ATTORNEYS ON AN EVICTION OR CAR LEVY.
17 SO I WOULD COME IN AN HOUR AND A HALF BEFORE SHIFT AND
18 MAKE ALL OF MY PHONE CALLS.

19 AND IN THIS CASE I CALLED THE PLAINTIFF'S
20 ATTORNEY IN THIS MATTER, THE THOMPSON VERSUS GOODWIN
21 MATTER, AND ADVISED THEM THAT WE LEVIED ON THE CAR. AND
22 I ADVISED HIM OF THE COMMENTS THAT HAD BEEN MADE
23 THREATENING THE PLAINTIFF.

24 Q AND THEN SUBSEQUENT TO THAT, AFTER THAT,
25 DID THERE EVER COME A TIME WHEN YOU TOLD A SUPERVISOR OR
26 SOMEONE ELSE ABOUT THIS EVENT?

27 A OH, YES. I TOLD MY SERGEANT IMMEDIATELY
28 WHEN I GOT IN. I SAID, WELL, YOU KNOW, THE CAR --

1 MS. SARIS: OBJECTION, YOUR HONOR. ASKED AND
2 ANSWERED.

3 THE COURT: SUSTAINED.

4 Q BY MR. DIXON: YOU TOLD YOUR SERGEANT?

5 A I DID.

6 Q AND SUBSEQUENT TO THAT IN THE DAYS OR
7 WEEKS OR MONTHS THAT FOLLOWED, DID THIS EVER COME UP
8 AGAIN?

9 A YES, IT DID.

10 Q WHEN?

11 A THE DAY THAT MICKEY AND TRUDY THOMPSON
12 WERE MURDERED.

13 Q AND WHAT HAPPENED? PLEASE DESCRIBE IT FOR
14 US.

15 A FROM MY RECOLLECTION I HEARD ABOUT IT ON
16 THE RADIO THE DAY THAT IT HAPPENED. AND I RACED IN FROM
17 THE FIELD. AND MY RECOLLECTION WAS MY SERGEANT ALREADY
18 HAD A RADIO ON AND HAD HEARD THAT IT HAD HAPPENED. AND
19 SO I SAID I CAN'T --

20 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
21 HEARSAY.

22 THE COURT: SUSTAINED.

23 Q BY MR. DIXON: AT THAT POINT ON THE DAY
24 THAT YOU HEARD ABOUT THE MURDERS, DID YOU HAVE A
25 CONVERSATION ABOUT THIS EARLIER EVENT THAT YOU DESCRIBED
26 FOR THE COURT AND JURY?

27 A YES, WE DID.

28 Q NOW, AS YOU'VE TOLD US THIS WAS A LONG

1 TIME AGO. AND YOU CAN'T GIVE US A SPECIFIC DATE WHEN IT
2 HAPPENED, CAN YOU?

3 A NO. NO, I CANNOT.

4 Q BUT DO YOU HAVE A SPECIFIC RECOLLECTION --
5 BUT YOU HAVE A SPECIFIC RECOLLECTION OF IT?

6 A YES, I DO. IT WAS WEEKS -- JUST WEEKS
7 BEFORE THE MURDER. MAYBE THREE MONTHS WOULD BE -- 12
8 WEEKS ROUGHLY. IT WAS IN THE THREE-MONTH RANGE AT THE
9 MOST AFTER I MADE THE LEVY TO WHEN THE MURDERS HAPPENED.

10 Q SO WHAT HAPPENED THERE BETWEEN YOU AND
11 MR. GOODWIN, DO YOU HAVE A SPECIFIC RECOLLECTION OF THAT?

12 A OH, YES, I DO.

13 Q ANY DOUBT IN YOUR MIND?

14 A NO DOUBT IN MY MIND.

15 MR. DIXON: COULD I HAVE A MOMENT PLEASE, YOUR
16 HONOR?

17 THE COURT: YES.

18 (DISCUSSION OFF THE RECORD.)

19 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
20 TIME.

21 THE COURT: DO YOU NEED A MOMENT?

22 MR. DIXON: YES. THANK YOU. I'M SORRY.

23 (PAUSE IN PROCEEDINGS.)

24 MR. DIXON: THANK YOU, YOUR HONOR. I APOLOGIZE.
25 NOTHING FURTHER.

26 THE COURT: CROSS-EXAMINATION?

27
28 CROSS-EXAMINATION

1 BY MS. SARIS:

2 Q GOOD AFTERNOON, MR. WILLIAMS.

3 A GOOD AFTERNOON.

4 Q MAY I SEE A COPY OF THOSE NOTES THAT YOU
5 MADE DURING THIS ENCOUNTER?

6 A I DON'T HAVE A COPY OF THE NOTES.

7 Q YOU DON'T HAVE A COPY OF THE NOTES?

8 A NO.

9 Q OKAY. DO YOU HAVE A COPY OF THE WRIT OF
10 EXECUTION?

11 A NO.

12 Q DID THE DISTRICT ATTORNEYS ASK YOU TO FIND
13 ONE OR BRING ONE TO COURT TODAY?

14 A NO.

15 Q DID THEY ASK YOU TO LOOK FOR YOUR NOTES?

16 A THEY ASKED, YES. I DON'T HAVE ANY NOTES.
17 THE DEPARTMENT RETAINED ALL THE NOTES, THE WORKSHEETS.

18 Q DID YOU GO TO THE DEPARTMENT AND ASK THEM?

19 A I DID.

20 Q AND?

21 A AND THEY PURGED THE RECORDS. THE CIVIL
22 WORKSHEETS ARE PURGED. SO MY WORKSHEET THAT I HAD MADE
23 ALL THE NOTES ON, UNBEKNOWNST TO ME, WAS PURGED. THE
24 COUNTY -- EACH COUNTY HAS A PROCESS AS FAR AS SHREDDING
25 RECORDS. SO BECAUSE IT WAS A CIVIL MATTER --

26 Q I'M SORRY. THE QUESTION WAS YOU LOOKED
27 AND THEY'RE NOT THERE?

28 A THEY DON'T HAVE THEM. THEY ARE GONE.

1 Q THIS TOW THAT YOU CLAIM COULDN'T HAVE BEEN
2 ANY LATER THAN THREE MONTHS BEFORE THE MURDER; IS THAT
3 CORRECT?

4 A LATER THAN --

5 Q ANY CLOSER -- COULD IT HAVE BEEN TWO YEARS
6 PRIOR TO THE MURDER?

7 A NO. NO. NO.

8 Q YOU'RE ABSOLUTELY CERTAIN?

9 A YES.

10 Q AS CERTAIN AS YOU WERE ABOUT THE
11 STATEMENTS MR. GOODWIN ALLEGEDLY MADE?

12 MR. DIXON: OBJECTION. THAT CALLS FOR
13 SPECULATION. IMPROPER --

14 THE COURT: SUSTAINED.

15 Q BY MS. SARIS: WELL, YOU CLAIM TO BE
16 CERTAIN OF ALL OF THE STATEMENTS THAT WERE MADE; IS THAT
17 CORRECT?

18 A YES.

19 Q OKAY. ARE YOU AS CERTAIN ABOUT THAT AS
20 YOU ARE ABOUT THAT DATE?

21 MR. DIXON: OBJECTION, YOUR HONOR. THAT'S
22 IMPROPER TO ASK TO COMPARE.

23 THE COURT: SUSTAINED.

24 Q BY MS. SARIS: DID YOUR SCHOOL, THIS
25 40-HOUR CLASS THAT YOU WERE IN, DID THEY TEACH YOU ABOUT
26 YOUR ABILITY TO LEVY ON A PERSON'S PROPERTY WHEN THEY
27 WERE IN BANKRUPTCY?

28 A THE INSTRUCTION WAS THAT IF THERE WERE A

1 BANKRUPTCY FILING, YOU WOULD NOT MAKE THE LEVY.

2 Q AND IS IT YOUR UNDERSTANDING THAT IT WOULD
3 BE ILLEGAL TO TOW SOMEONE'S PROPERTY IF THEY WERE IN
4 BANKRUPTCY?

5 A ABSOLUTELY, YES.

6 Q AND IN JANUARY OF 1988, DO YOU KNOW
7 WHETHER OR NOT MR. GOODWIN WAS IN BANKRUPTCY?

8 A NO.

9 Q YOU DON'T KNOW?

10 A NO.

11 Q THE WRIT THAT YOU WERE EXECUTING
12 SPECIFICALLY HAD THE NAME "MICKEY THOMPSON" ON IT?

13 A MY PARTNER TOLD ME IT WAS THE MICKEY
14 THOMPSON CASE. IT MIGHT HAVE BEEN HIS COMPANY NAME OR
15 HIS NAME, BUT HE TOLD ME IT WAS MICKEY THOMPSON.

16 Q AND THAT'S WHAT MADE YOU RECALL THIS
17 BECAUSE IT WAS A CELEBRITY TYPE?

18 A YES. IT WAS A CELEBRITY NAME. YES.

19 Q I'M SHOWING YOU WHAT HAS PREVIOUSLY BEEN
20 MARKED AS DEFENSE D, LIKE DAVID.

21 MAY I APPROACH THE WITNESS?

22 THE COURT: YES.

23 MR. DIXON: COULD I SEE THE DOCUMENT, PLEASE.

24 MS. SARIS: SURE. IT'S D.

25 Q THIS APPEARS TO BE A WRIT OF EXECUTION FOR
26 A MONEY JUDGMENT. DOES THAT DOCUMENT LOOK FAMILIAR TO
27 YOU?

28 A YES. AND THE WRIT IS DIRECTED TO THE

1 SHERIFF MARSHAL OR CONSTABLE OF THE COUNTY OF ORANGE.

2 Q AND THAT'S WHO YOU WERE EMPLOYED BY?

3 A THE COUNTY OF ORANGE.

4 Q AND WHAT IS THE DATE OF THAT WRIT?

5 A THIS WRIT WAS ISSUED ON JUNE 4TH, 1986.

6 Q AND HOW LONG ARE WRITS -- HOW LONG BEFORE
7 THEY EXPIRE?

8 A I BELIEVE IT IS 180 DAYS.

9 Q SO IT'S FAIR TO SAY THAT THIS PARTICULAR
10 WRIT COULD NOT HAVE BEEN USED TO TOW A PERSON'S VEHICLE
11 IN JANUARY OF '88; CORRECT?

12 A NO. THAT'S CORRECT. THEY WOULD HAVE HAD
13 TO GET A NEW WRIT WITHIN THE 180-DAY PERIOD OF THE LEVY
14 DATE.

15 Q I'M SHOWING YOU WHAT HAS BEEN PREVIOUSLY
16 MARKED DEFENSE E ALONG WITH THE WRIT.

17 MAY I APPROACH THE WITNESS, YOUR HONOR?

18 THE COURT: YES.

19 Q BY MS. SARIS: THERE IS INSTRUCTIONS; IS
20 THAT CORRECT?

21 A YES.

22 Q AND THOSE ARE DIRECTED TO YOU AS THE
23 MARSHAL?

24 A YES.

25 Q AND DO THESE APPEAR TO BE INSTRUCTIONS
26 REGARDING A WRIT FOR THE SEIZURE OF A MERCEDES WITH THE
27 LICENSE PLATE OF TWO, THE NUMBER, AND THE WORD "HEAVY"?

28 A YES.

1 Q AND WHEN IS THAT DATED?

2 A THE WORKSHEET IS INDICATED 6/11 OF '86.

3 Q DOES THAT THEN CORRESPOND TO THE WRIT I
4 JUST SHOWED YOU MARKED DEFENSE D?

5 A I BELIEVE IT WAS --

6 Q WOULD YOU NEED TO SEE IT AGAIN TO MAKE
7 SURE?

8 A NO.

9 Q SIR, YOU USED A COMPANY BY THE NAME OF
10 LARRY HUNT TOWING; IS THAT CORRECT?

11 A YES.

12 Q LARRY HUNT TOWING WAS A LOCAL TOW FACILITY
13 IN THE AREA?

14 A YES.

15 MS. SARIS: YOUR HONOR, I HAVE A RECEIPT FROM
16 LARRY HUNT TOWING THAT I WOULD LIKE TO MARK DEFENSE NEXT
17 IN ORDER, PLEASE.

18 THE COURT: ALL RIGHT. THAT WILL BE DEFENSE T.

19

20 (MARKED FOR IDENTIFICATION DEFENSE'S
21 EXHIBIT NO. T, DOCUMENT.)

22

23 Q BY MS. SARIS: SIR, I HAVE A PHOTOCOPY OF
24 AN ORIGINAL RECEIPT FROM LARRY HUNT TOWING DATED 8/14/86
25 INDICATING THIS IS AN ORIGINAL COUNTY MARSHAL IMPOUND
26 TOW.

27 DO YOU RECOGNIZE THAT DOCUMENT?

28 A YES, I DO.

1 Q AND LARRY HUNT TOWING, IS THAT THE COMPANY
2 THAT YOU WERE REFERENCING?

3 A YES.

4 Q DOES THAT REFER TO A MERCEDES?

5 A YES, IT DOES.

6 Q DOES THAT REFER TO A MERCEDES WITH THE
7 LICENSE PLATE TWO, THE NUMBER, AND "HEAVY"?

8 A YES.

9 Q DOES THAT HAVE AN ADDRESS -- I DON'T KNOW
10 IF YOU CAN READ IT.

11 A ALTA VISTA LAGUNA -- 667 ALTA VISTA.

12 Q AND WHAT IS THAT ADDRESS? DO YOU KNOW?

13 A I BELIEVE WHERE I PICKED THE CAR UP. I
14 DON'T KNOW.

15 Q OKAY. AND THE DATE ON THAT DOCUMENT, SIR?

16 A 8/14/86.

17 Q SO SOME TWO AND A HALF YEARS PRIOR TO
18 MICKEY THOMPSON -- OR TWO YEARS PRIOR TO MICKEY AND TRUDY
19 THOMPSON'S MURDER IS THE DATE OF THIS TOW RECEIPT?

20 A YES.

21 Q ARE YOU ABSOLUTELY CERTAIN, THEN, THE
22 CONVERSATIONS THAT YOU HAVE TOLD US ABOUT IN COURT TODAY
23 DID NOT OCCUR IN AUGUST OF 1986?

24 A YES.

25 Q DO YOU HAVE ANY DOCUMENTATION EITHER FROM
26 THE BANKRUPTCY COURT OR LARRY HUNT TOWING TO BACK UP YOUR
27 CLAIM THAT YOU TOWED MR. GOODWIN'S VEHICLE WHILE
28 MR. GOODWIN WAS IN BANKRUPTCY?

1 A SAY THAT AGAIN.

2 Q DO YOU HAVE ANY DOCUMENTATION TO BACK UP
3 YOUR CLAIM THAT YOU TOWED THIS VEHICLE IN 1988?

4 A NO.

5 Q AND JUST SO THAT WE'RE CLEAR, THE LARRY
6 HUNT TOW RECEIPT ACTUALLY SAYS THIS IS AN ORANGE
7 COUNTY -- THAT IS WHAT "O.C." STANDS FOR IN THIS?

8 A YES.

9 Q AN ORANGE COUNTY MARSHAL TOW?

10 A YES.

11 Q AND THAT WOULD BE AUGUST OF 1986 WITHIN
12 THE TIME PERIOD THAT THE WRIT WHICH HAS THE NAME MICKEY
13 THOMPSON ON IT WOULD STILL BE IN EFFECT; IS THAT CORRECT?

14 A YES.

15 Q AND YOU INDICATED THAT MICKEY THOMPSON WAS
16 THE PLAINTIFF IN THIS SUIT; IS THAT CORRECT?

17 A YES, IT IS.

18 Q AND THAT YOU CALLED THE PLAINTIFF'S
19 ATTORNEY REGARDING THIS TOW?

20 A YES.

21 Q AND SO IT WAS YOUR UNDERSTANDING THAT THIS
22 WAS A TOW TO ENFORCE A CIVIL JUDGMENT THAT TWO PARTIES
23 HAD SUED ONE ANOTHER AND MICKEY THOMPSON HAD WON?

24 A YES. WELL, EITHER ONE PARTY SUED. I
25 DON'T KNOW IF BOTH PARTIES SUED EACH OTHER. BUT THERE
26 WAS A SUIT AND THERE WAS A JUDGMENT AWARDED.

27 Q AND THIS WAS TO ENFORCE THAT JUDGMENT?

28 A YES.

1 Q FOR MONIES OWED ON THAT JUDGMENT?

2 A YES.

3 Q YOU TESTIFIED IN A PREVIOUS HEARING ON
4 THIS MATTER; IS THAT CORRECT?

5 A YES, I DID.

6 Q AND WHEN ASKED IF YOU COULD IDENTIFY
7 MR. GOODWIN FACIALLY, YOU INDICATED IN ALL HONESTY THAT
8 IF YOU HAD BEEN SHOWN A LINE-UP, CHANCES ARE YOU WOULDN'T
9 HAVE BEEN WITH ABLE TO PICK HIM OUT?

10 A YES, THAT WOULD HAVE BEEN DIFFICULT.

11 Q AND CURRENTLY AS YOU SIT HERE NOW, YOU
12 HAVE A FACIAL RECOGNITION?

13 A WELL, WE'VE BOTH AGED AND IT'S BEEN EIGHT
14 YEARS AND, YES, I BELIEVE THAT'S HIM.

15 Q DO YOU KNOW THE NAME GARY ROBERTS?

16 A NO.

17 Q ARE YOU AWARE OF WHETHER OR NOT
18 MR. GOODWIN HAD A PERSONAL ASSISTANT?

19 A NO.

20 Q AFTER THIS TOWING INCIDENT THAT YOU CLAIM
21 HAD THIS HEATED DISCUSSION, YOU DIDN'T CALL 911 AT THAT
22 POINT, DID YOU?

23 A NO.

24 Q WHEN YOU HEARD ABOUT THE MURDERS, DID YOU
25 CALL 911 AT THAT POINT?

26 A NO.

27 Q DID YOU ATTEMPT TO GET IN TOUCH WITH ANY
28 INDIVIDUAL RELATED TO THE THOMPSON HOMICIDE?

1 A YES.

2 Q AND WHO WAS THAT?

3 A THE L.A. COUNTY SHERIFF'S DEPARTMENT.

4 Q WHO DID YOU SPEAK TO?

5 A I DON'T RECALL. I SPOKE TO A FEMALE CLERK
6 AND TOLD HER WHO I WAS AND WHY I WAS CALLING AND THAT I
7 HAD INFORMATION THAT I THOUGHT MIGHT BE PERTINENT.

8 Q DO YOU HAVE ANY INFORMATION OR
9 DOCUMENTATION OF THAT CALL?

10 A NO.

11 Q YOU CAME TO THIS PARTICULAR LITIGATION AS
12 A RESULT OF CONTACTING MICKEY THOMPSON'S SISTER COLLENE
13 CAMPBELL; IS THAT CORRECT?

14 MR. DIXON: OBJECTION. VAGUE.

15 THE COURT: SUSTAINED.

16 Q BY MS. SARIS: DID YOU EVER MEET A
17 DETECTIVE BY THE NAME OF LILLIENFELD?

18 A OH, YES.

19 Q AND WHAT YEAR WAS THAT?

20 A AFTER 2002. I DON'T RECALL SPECIFICALLY,
21 BUT I SPOKE TO HIM.

22 Q AND AT THAT TIME DID YOU INDICATE TO HIM
23 THAT YOU HAD THIS -- WHAT YOU DISCUSSED WITH US IN COURT
24 TODAY?

25 A OH, YES.

26 Q AND DID YOU ALSO ADVISE HIM THAT YOU
27 BELIEVE THIS TOWING OCCURRED NEAR ABOUT 1988?

28 A YES.

1 Q ARE?

2 A OR LATE 1987, MONTHS BEFORE THE HOMICIDE
3 OCCURRED.

4 Q SOME MONTHS? HOW MANY MONTHS?

5 A AS I SAID BEFORE, ABOUT THREE MONTHS AT
6 THE MOST.

7 Q DID HE INDICATE TO YOU THAT THAT WOULD
8 HAVE BEEN -- AT ANY POINT, DID HE INDICATE TO YOU THAT
9 WOULD HAVE BEEN IMPOSSIBLE BASED ON MICHAEL GOODWIN'S
10 BANKRUPTCY STATUS?

11 A NO. I WAS NEVER TOLD, EVEN BY THE
12 DEFENDANT, HE WAS IN BANKRUPTCY OR I WOULDN'T HAVE TAKEN
13 HIS CAR.

14 Q SO IF MR. GOODWIN HAD SAID, "I'M IN
15 BANKRUPTCY," YOU WOULD NOT HAVE TOWED HIS VEHICLE?

16 A OH, ABSOLUTELY NOT. I WOULD ASKED FOR A
17 COPY OF THE FILING AND JUST JOTTED DOWN THE BANKRUPTCY
18 CASE NUMBER. AND THEN WE WOULD NOTIFY THE PLAINTIFF'S
19 ATTORNEY THAT BECAUSE THERE IS A BANKRUPTCY, WE CAN'T
20 LEVY ON THE PROPERTY. THERE IS A RELIEF FROM STAY ISSUED
21 FROM THE BANKRUPTCY COURT, OTHERWISE WE CAN'T LEVY.

22 Q SO IF I CAN SHOW YOU THIS RECEIPT AGAIN.

23 YOUR HONOR, MAY I APPROACH AGAIN?

24 THE COURT: YES.

25 Q BY MS. SARIS: DOES THIS INDICATE IF THE
26 CAR WAS RELEASED BACK TO MR. GOODWIN, WHAT DATE?

27 A I'M NOT SURE HOW TO READ THE FORM. IT'S
28 DATED 9/16/86 AND THEN IT SHOWS 8/14/86.

1 Q AND DOES IT SHOW THAT HE WAS CHARGED FOR
2 SOME 30 DAYS OF STORAGE?

3 A TOWING 45. I CAN'T READ THIS. IT'S LIKE
4 300. I CAN'T SEE, 300-SOME DOLLARS.

5 Q AND THAT CHARGE APPEARS TO BE FOR THE
6 STORAGE AT LARRY HUNT TOWING?

7 A YES.

8 Q AND DOES THE -- WELL, MAYBE IT'S DIFFICULT
9 TO READ ON THIS COPY. BUT DOES THE SIGNATURE APPEAR TO
10 BE DIANE GOODWIN'S?

11 MR. DIXON: WELL, THAT CALLS FOR SPECULATION.
12 THERE IS NO FOUNDATION.

13 THE COURT: SUSTAINED.

14 Q BY MS. SARIS: BUT THE DATE AT THE BOTTOM
15 SO THAT THE JURY CAN SEE BECAUSE THEY CAN'T SEE -- WELL,
16 ON THE SCREEN IT APPEARS TO BE SEPTEMBER 16 OF 1986.
17 YES?

18 A YES.

19 Q SO THIS DETECTIVE WHEN HE ORIGINALLY GOT
20 YOUR STATEMENT, HE DIDN'T SAY TO YOU OR QUESTION YOU AT
21 ALL OR MENTION TO YOU THAT MICHAEL GOODWIN WAS IN
22 BANKRUPTCY IN 1988?

23 A HE MAY HAVE MENTIONED IT, BUT I DIDN'T
24 KNOW ANYTHING ABOUT A BANKRUPTCY UNTIL RECENTLY SINCE
25 2002 WHEN I INQUIRED ABOUT THIS CASE. AND AS I SAID, THE
26 BANKRUPTCY RAISES A RED FLAG. AND WE WOULDN'T HAVE
27 COMPLETED THE LEVY -- I WOULDN'T HAVE COMPLETED THE LEVY
28 IF HE HAD BEEN IN BANKRUPTCY.

1 MY DEPARTMENT WOULD HAVE RELEASED THE
2 VEHICLE TO HIM AT NO CHARGE. HE WOULDN'T HAVE EVEN HAD
3 TO PAY FOR THE STORAGE. WE WOULD HAVE TAKEN THE STORAGE
4 OUT OF THE PLAINTIFF'S DEPOSIT AND ISSUED A RELEASE ORDER
5 TO MR. GOODWIN TO GO GET HIS CAR AT NO CHARGE. SO I
6 DON'T KNOW WHY HE WAS CHARGED. HE SHOULDN'T HAVE BEEN
7 CHARGED.

8 Q WELL, THIS WAS PRIOR TO THE BANKRUPTCY
9 WHEN YOU TOWED THE VEHICLE?

10 MR. DIXON: OBJECTION. IS COUNSEL TESTIFYING
11 NOW?

12 THE COURT: SUSTAINED.

13 Q BY MS. SARIS: DO YOU KNOW OF ANY OCCASION
14 THAT, IN FACT, THE CAR WAS TOWED WHILE HE WAS IN
15 BANKRUPTCY?

16 A NO. BECAUSE I DIDN'T KNOW THERE WAS A
17 BANKRUPTCY.

18 Q EVEN AS YOU SIT HERE NOW, NO ONE FROM THE
19 DISTRICT ATTORNEY'S OFFICE OR THE DETECTIVE HAS SHOWN YOU
20 THAT DOCUMENTATION?

21 MR. DIXON: OBJECTION. COMPOUND.

22 MS. SARIS: ALL RIGHT. I'LL SEPARATE IT.

23 THE COURT: CAN YOU DO ME A FAVOR, TRY TO SLOW
24 DOWN JUST A LITTLE BIT.

25 MS. SARIS: SURE. I'M SORRY.

26 Q HAS ANYONE FROM THE DISTRICT ATTORNEY'S
27 OFFICE SHOWN YOU ANY, SINCE YOU HAVE MADE THESE
28 INDICATIONS, ANY DOCUMENTATION THAT MICHAEL GOODWIN

1 WAS --

2 MR. DIXON: OBJECTION. THAT'S ARGUMENTATIVE.

3 THE COURT: OVERRULED.

4 THE WITNESS: THEY DIDN'T SHOW ME ANYTHING
5 INDICATING THERE WAS A BANKRUPTCY. I WAS TOLD THERE WAS
6 A BANKRUPTCY, BUT I DON'T RECALL WHEN THE BANKRUPTCY WAS
7 FILED. AND IF, IN FACT, HE WAS IN BANKRUPTCY AT THE TIME
8 I MADE MY LEVY IN LATE 1987 OR EARLY 1988 --

9 Q BY MS. SARIS: DO YOU ALLOW FOR THE
10 POSSIBILITY THAT YOU MADE YOUR LEVY IN 1986 AND YOU'RE
11 SIMPLY INCORRECT ABOUT IT BEING IN 1988?

12 A NO, NOT AT ALL. I CAN ANSWER WHY IF YOU
13 WANT.

14 Q I WOULD LIKE TO KNOW IF YOU HAVE ANY
15 DOCUMENTARY PROOF OF THIS AT ALL?

16 A IF A CASE HAD BEEN WORKED BY MY DEPARTMENT
17 IN 1986 -- IN 1988, WHEN I CAME BACK FROM THE FIELD AND
18 CONTACTED SERGEANT LARA ABOUT THE DAY THE MURDERS HAD
19 HAPPENED, IF WE HAD WORKED A CASE IN '88 AND RELEASED THE
20 CAR BECAUSE OF THE BANKRUPTCY, HE WOULDN'T HAVE EVEN BEEN
21 ABLE TO FIND THAT WORKSHEET FOR SEVERAL DAYS BECAUSE IT
22 WOULD HAVE BEEN ARCHIVED IN THE COURTHOUSE BASEMENT.

23 HE HAD THE WORKSHEET WHEN I GOT INTO THE
24 FIELD WAITING, MEANING IT HAD JUST BEEN PROCESSED AND
25 PERHAPS THE CAR WAS STILL IN STORAGE. BUT IF -- AS I
26 SAY, IF I DIDN'T -- I DON'T DOUBT THE VEHICLE WAS LEVIED
27 ON IN 1986. I HAVE LEVIED ON THE SAME VEHICLE MORE THAN
28 ONE TIME.

1 SO IT MAY BE THE CASE THAT IT WAS LEVIED
2 ON IN '86, AND THE VEHICLE WAS RELEASED. I DON'T KNOW.
3 PLAINTIFFS AND DEFENDANTS MAKE DEALS WITH EACH OTHER TO
4 MAKE PAYMENTS AND THINGS. I DON'T KNOW.

5 Q SIR, LET ME ASK THIS --

6 MR. DIXON: COULD THE WITNESS FINISH THE ANSWER,
7 PLEASE.

8 THE COURT: YES.

9 MS. SARIS: WELL, I'M GOING TO OBJECT THEN AS
10 NON-RESPONSIVE. THE QUESTION WAS: DO YOU HAVE ANY
11 DOCUMENTARY EVIDENCE?

12 THE WITNESS: NO, I DO NOT.

13 Q BY MS. SARIS: AND WOULD IT CHANGE YOUR
14 OPINION AT ALL TO SEE THE ACTUAL BANKRUPTCY FILING OF
15 MICHAEL GOODWIN OR HIS COMPANY TO SHOW YOU, IN FACT, THAT
16 HE WAS IN BANKRUPTCY FROM 1986 ON?

17 MR. DIXON: OBJECTION. ARGUMENTATIVE.

18 THE COURT: SUSTAINED.

19 Q BY MS. SARIS: IS THERE ANYTHING ABOUT
20 YOUR TESTIMONY THAT WOULD BE AFFECTED IF I WERE TO SHOW
21 YOU DOCUMENTARY EVIDENCE OF --

22 MR. DIXON: OBJECTION. ARGUMENTATIVE.

23 MS. SARIS: CAN I FINISH THE QUESTION?

24 Q -- IF I WERE TO SHOW YOU EVIDENCE OF
25 MICHAEL GOODWIN BEING IN BANKRUPTCY IN 1988?

26 MR. DIXON: OBJECTION. ARGUMENTATIVE.

27 THE COURT: SUSTAINED.

28 MR. DIXON: THANK YOU.

1 Q BY MS. SARIS: LET ME ASK YOU THIS: THE
2 WRITS THAT I HAVE SHOWN YOU, THEY ARE FILED AS A
3 RESULT -- THEY ARE ACTUALLY FILED IN THE COURT, ARE THEY
4 NOT? AND I'M REFERRING TO DEFENSE D.

5 A MAY I EXPLAIN JUST WHEN SOMEONE HAS A
6 JUDGMENT AND THEY ARE READY TO ENFORCE THE JUDGMENT,
7 EITHER THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY GOES TO
8 THE COURT; PAYS A FEE. IT'S ON THE BOTTOM. IT'S LIKE --
9 BACK THEN 3.50 OR \$4. THE COURT ISSUES A WRIT ON THE
10 SPOT AND STAMPS THE COURT SEAL ON IT.

11 Q OKAY. AND IS THAT THEN FILED IN SOME SORT
12 OF ACCOUNT OR LAWSUIT?

13 A YES. THE COURT WOULD THEN NOTE IN THE
14 DOCKET THAT A WRIT OF EXECUTION HAS BEEN ISSUED. AND
15 THEY WANT TO KNOW WHICH COUNTY IS IT GOING TO. SO IF THE
16 JUDGMENT WERE IN L.A. COUNTY AND THEY WANTED TO PICK THE
17 CAR UP IN ORANGE COUNTY WITH -- OH, THE WITNESS IS NOT
18 THERE. BUT ON THE TOP OF THE WRIT THAT'S WHERE YOU FILL
19 IN THE COUNTY NAME, SO YOU'RE DIRECTING THE WRIT TO THE
20 SHERIFF, MARSHAL OR CONSTABLE OF THE COUNTY OF, AND IT'S
21 BLANK, AND IN THIS CASE THEY TYPED IN "ORANGE."

22 Q THAT'S RIGHT HERE, "ORANGE"?

23 A SOMETIMES.

24 Q OKAY. MY QUESTION, SIR, IS: IS THERE A
25 DOCKET ENTRY THEN FOR THIS TOW THAT YOU ALLEGE TO HAVE
26 DONE WHILE MICHAEL GOODWIN WAS IN BANKRUPTCY?

27 A THE DOCKET WOULDN'T SHOW WHAT THE
28 PLAINTIFF WAS CHOOSING TO LEVY ON. IT WOULD ONLY SHOW

1 THAT A WRIT OF EXECUTION WAS ISSUED TO WHATEVER COUNTY
2 THE PLAINTIFF SAID. THEN THE COURT WOULD JUST SHOW A
3 WRIT ISSUED. THEN IT'S UP TO THE PLAINTIFF TO DETERMINE
4 WHAT PROPERTY LEVY IN THAT COUNTY.

5 Q OKAY. SO DO YOU HAVE ANY DOCUMENTARY
6 EVIDENCE OF A WRIT THAT ISSUED AT ANY POINT IN THE FIRST
7 SIX MONTHS OF 1988?

8 A I WOULDN'T. I ASSUME THE COURT FILE WOULD
9 REFLECT A WRIT BEING ISSUED.

10 Q IF A WRIT HAS ISSUED, YOU ARE SAYING THE
11 COURT FILE WOULD REFLECT IT?

12 A YES.

13 Q AND AN INDIVIDUAL WOULD GO TO THAT COURT
14 FILE AND PICK IT UP MUCH LIKE WE'RE SHOWING UP ON THE
15 SCREEN RIGHT NOW?

16 MR. DIXON: OBJECTION. ARGUMENTATIVE.

17 THE COURT: SUSTAINED. REPHRASE THE QUESTION.

18 Q BY MS. SARIS: IN 2002, DID YOU CONTACT
19 DETECTIVE LILLIENFELD BEFORE YOU CONTACTED THE SISTER OF
20 MICKEY THOMPSON?

21 A NO, I CONTACTED HIM AFTERWARD.

22 Q AND THE SISTER OF MICKEY THOMPSON, AT THAT
23 TIME DID SHE HOLD ANY SORT OF OFFICE IN ORANGE COUNTY TO
24 YOUR KNOWLEDGE?

25 A I BELIEVE SHE WAS ON THE CITY COUNCIL OF
26 SAN JUAN CAPISTRANO.

27 Q HAD YOU BEEN ELECTED TO OFFICE AT THAT
28 POINT?

1 A YES. I WAS A COLLEGE TRUSTEE AND I STILL
2 AM AT THE COMMUNITY DISTRICT.

3 Q AND HAD YOU BEEN APPOINTED TO OFFICE SINCE
4 THAT TIME, ELECTED TO A DIFFERENT POSITION AND APPOINTED?

5 A YES.

6 Q AND WHAT YEAR WAS IT THAT YOU WERE ELECTED
7 TO YOUR OFFICE?

8 A I WAS ELECTED IN NOVEMBER OF 2002 AS THE
9 ORANGE COUNTY PUBLIC ADMINISTRATOR AND TOOK OFFICE IN
10 JANUARY OF '03.

11 Q AND YOU WERE APPOINTED THEN AS THE
12 GUARDIAN IN WHAT?

13 A AND THAT HAPPENED ABOUT EIGHT WEEKS LATER
14 IN MARCH OF '03.

15 Q IT'S YOUR INDICATION THAT DIANE GOODWIN
16 WAS CUSSING AS WELL, THE WIFE?

17 A YES, MA'AM.

18 Q USING THE "F" WORD AS WELL?

19 A YES.

20 Q DID YOU SEE ANY IDENTIFICATION FROM ANY OF
21 THESE INDIVIDUALS THAT WERE SCREAMING AT YOU THAT DAY?

22 A NO, I DON'T ASK FOR I.D. I JUST TOOK
23 THEIR WORD FOR IT THAT THEY WERE THE DEFENDANT AND HIS
24 SPOUSE.

25 Q CAN YOU DESCRIBE THE INDIVIDUAL THAT WAS
26 THE MALE?

27 A THE GENTLEMAN HERE AT THE TABLE, THE
28 DEFENSE TABLE. AND I ASSUME THAT IT RESEMBLES HIM.

1 WE'VE ALL AGED 18 YEARS, SO I BELIEVE THAT IS HIM.

2 Q SO WOULD YOU DESCRIBE THE INDIVIDUAL THAT
3 YOU SAW THAT DAY? DO YOU HAVE AN ACTUAL MEMORY OF
4 HEIGHT, WEIGHT, BEARD, MUSTACHE BACK THEN? ANYTHING?

5 A NOT REALLY. I DON'T BELIEVE THERE WAS
6 FACIAL HAIR. AND THE SPOUSE WAS A TALL, SLENDER WOMAN.
7 I THOUGHT MAYBE FIVE SEVEN, FIVE EIGHT TALL.

8 Q DO YOU REMEMBER HER HAIR COLOR?

9 A NO, I DON'T.

10 Q BUT YOU DO REMEMBER THE PHRASE, "MICKEY
11 THOMPSON IS FUCKING WITH ME"?

12 A NO. "MICKEY THOMPSON IS FUCKING DEAD. HE
13 DOESN'T KNOW WHO HE'S FUCKING WITH." AND THAT WAS
14 REPEATED SEVERAL TIMES.

15 Q SEVERAL TIMES AS YOU STOOD OUTSIDE
16 MR. GOODWIN'S HOME IN JANUARY OF 1988?

17 A YES. WHILE I WAS DOING THE VEHICLE
18 INVENTORY AND THEY WERE REMOVING THEIR PROPERTY FROM THE
19 CAR.

20 MS. SARIS: MAY I HAVE JUST A MOMENT?

21 (PAUSE IN PROCEEDINGS.)

22 Q BY MS. SARIS: JUST TO NARROW THE TIME
23 FRAME A LITTLE BIT MORE, COULD IT HAVE BEEN IN -- DO YOU
24 RECALL A SPECIFIC MONTH AT ALL?

25 A NO, I DON'T.

26 Q YOU WOULD HAVE HAD A WRIT IN YOUR HAND
27 WHEN YOU WENT OUT THERE?

28 MR. DIXON: OBJECTION. ASKED AND ANSWERED.

1 THE COURT: OVERRULED.

2 YOU CAN ANSWER.

3 THE WITNESS: YES, WITH A PACKAGE. WE HAVE -- I
4 DON'T KNOW. I DON'T WANT TO OVERSTEP MY BOUNDS.

5 THE COURT: ALL RIGHT. YOU HAVE ANSWERED THE
6 QUESTION.

7 THE WITNESS: YES.

8 Q BY MS. SARIS: AND YOU INDICATED ON DIRECT
9 THAT WHEN MR. DIXON WAS ASKING YOU REGARDING THE
10 STATEMENT YOU SAID SOMETHING TO THE EFFECT OF THE
11 STATEMENT YOU'RE HERE TO TESTIFY ABOUT OR THE COMMENT
12 THAT YOU ARE HERE, YOU KNEW WHY YOU WERE COMING TODAY?

13 A YES, I DID.

14 Q AND YOU KNEW WHAT STATEMENT YOU WERE GOING
15 TO BE ASKED ABOUT?

16 A YES.

17 Q AND YOU KNEW YOU WERE GOING TO BE ASKED
18 ABOUT THIS TOW?

19 A YES.

20 Q NOW, DID YOU ATTEMPT TO CONTACT LARRY HUNT
21 TOW IN THE INTERIM?

22 A I THINK I LOOKED IN THE PHONE BOOK IN
23 SOUTH ORANGE COUNTY, WHICH IS WHERE I LIVE, AND THEY
24 DON'T EXIST ANYMORE. AND THAT'S WHAT I RELAYED TO
25 DETECTIVE LILLIENFELD.

26 Q DID YOU TRY TO FIND LARRY HUNT HIMSELF?

27 A NO. I JUST LOOKED IN THE PHONE BOOK TO
28 SEE IF THEY WERE EVEN THERE. AND THEY ARE NOT, SO I

1 ASSUMED THEY ARE LONG GONE OUT OF BUSINESS.

2 Q WELL, ACTUALLY, SIR, THERE IS A TOW
3 FACILITY IN THAT EXACT SAME LOCATION AT 1825 LAGUNA
4 CANYON ROAD, IS THERE NOT?

5 A I DON'T KNOW. I DIDN'T DRIVE DOWN THERE.
6 I JUST LOOKED IN THE PHONE BOOK TO SEE IF THEY WERE STILL
7 THERE.

8 Q AND WHEN YOU WERE HERE IN -- OKAY. LET ME
9 JUST FOUNDATIONALLY: WERE YOU HERE TESTIFYING IN THIS
10 MATTER IN OCTOBER OF 2004?

11 A I BELIEVE THAT WAS THE PRELIMINARY
12 HEARING, YES, I WAS AT THE PRELIMINARY HEARING, YES.

13 Q AND I ASKED YOU SIMILAR QUESTIONS, DID I
14 NOT, REGARDING YOUR ABILITY TO PIN DOWN THE TIME FRAME
15 FOR THIS TOW?

16 A YES.

17 Q WHAT STEPS HAVE YOU TAKEN BETWEEN 2004 AND
18 NOW TO TRY AND RETRIEVE ANY DOCUMENTARY EVIDENCE?

19 MR. DIXON: OBJECTION. ARGUMENTATIVE.

20 THE COURT: SUSTAINED.

21 Q BY MS. SARIS: HAVE YOU DONE ANYTHING TO
22 LOOK FOR ANY EVIDENCE SINCE 2004?

23 A NO.

24 Q AND HAVE YOU BEEN -- JUST IN FAIRNESS,
25 HAVE YOU BEEN ASKED TO BY THE DISTRICT ATTORNEY?

26 A NO. BECAUSE --

27 Q NO, I'M SORRY. IS THAT A YES OR NO?

28 A HAVE I BEEN ASKED? NO, THEY DID NOT ASK

1 ME TO TRY TO FIND ANY EVIDENTIARY DOCUMENTATION ABOUT
2 NOTES.

3 Q HAS THE SHERIFF'S OFFICE ASKED YOU TO DO
4 THAT?

5 A THE LOS ANGELES COUNTY SHERIFF?

6 Q YES.

7 A NO. I BELIEVE THEY'VE DONE THAT ON YOUR
8 THEIR OWN TO TRY TO VERIFY AS MUCH AS THEY CAN.

9 Q DO YOU RECALL WHO YOU SPOKE TO WHEN YOU
10 CALLED THE PLAINTIFF'S ATTORNEY TO ADVISE THEM OF THE
11 SITUATION?

12 A I BELIEVE IT WAS A MALE. I DON'T KNOW IF
13 THE -- WELL, THE WRIT OF EXECUTION WOULD HAVE THE
14 ATTORNEY OF RECORD. I DON'T KNOW IF THAT'S WHO I SPOKE
15 TO. I THINK I SPOKE TO A MAN.

16 Q YOU SPOKE TO A MAN?

17 A YES.

18 Q WOULD THE NAME PHIL BARTINETTI, DOES THAT
19 RING ANY BELLS?

20 A NO, IT DOESN'T. I JUST REMEMBER SPEAKING
21 TO A MAN AND LETTING HIM KNOW THAT I MADE THE LEVY AND
22 ABOUT THE THREATS THAT WERE MADE.

23 Q DID YOU PERCEIVE THAT THIS WAS AN ACTUAL
24 LAWYER AND NOT SOME ASSISTANT OF HIS?

25 A YES. YES. I'M PRETTY SURE I DID SPEAK TO
26 THE ATTORNEY ON THE WRIT, BUT I CAN'T BE ABSOLUTELY
27 CERTAIN.

28 Q JUST SO WE ARE CLEAR, ON THE WRIT ITSELF

1 HAS A WOMAN'S NAME. I DON'T KNOW IF YOU NOTICED --

2 A I DIDN'T KNOW WHEN I LOOKED AT THE WRIT.
3 BUT I SPOKE TO A MAN AND LET HIM KNOW THE STATUS OF THE
4 LEVY AND I THAT WE HAD THE CAR IN CUSTODY.

5 MS. SARIS: MAY I APPROACH AGAIN?

6 Q AND JUST SO WE ARE CLEAR, WHOSE NAME DOES
7 APPEAR AT THE TOP?

8 A DELORES CORDELL. I BELIEVE IT IS ON
9 WILSHIRE BOULEVARD IN L.A.

10 Q THANK YOU.

11 THE COURT: AND FOR THE RECORD THAT'S DEFENSE --

12 MS. SARIS: DEFENSE D, LIKE DAVID.

13 THE COURT: THANK YOU.

14 Q BY MS. SARIS: IS THERE ANY DOCUMENT THAT
15 I CAN SHOW YOU NOW THAT YOU WOULD LIKE TO SEE THAT WOULD
16 CHANGE YOUR OPINION OR HELP YOU REMEMBER WHETHER OR NOT
17 THIS COULD HAVE OCCURRED IN JANUARY?

18 MR. DIXON: OBJECTION. ARGUMENTATIVE.

19 THE COURT: SUSTAINED.

20 Q BY MS. SARIS: I DON'T WANT YOU TO BE IN A
21 POSITION WHERE THERE IS SOMETHING YOU WANT TO LOOK AT AND
22 YOU HAVEN'T. IS THERE ANYTHING THAT YOU WOULD LIKE TO
23 SEE FROM ME?

24 MR. DIXON: OBJECTION. ARGUMENT THE WAY IT WAS
25 PHRASED.

26 THE COURT: SUSTAINED.

27 Q BY MS. SARIS: SIR, CAN I PROVIDE YOU WITH
28 ANY DOCUMENTATION WHATSOEVER REGARDING MR. GOODWIN OR HIS

1 BANKRUPTCY THAT WILL HELP YOU IN ANY WAY WITH YOUR
2 TESTIMONY TODAY?

3 MR. DIXON: SAME OBJECTION, YOUR HONOR.

4 MS. SARIS: MAY WE APPROACH?

5 THE COURT: LET'S TAKE OUR AFTERNOON RECESS AT
6 THIS TIME. LADIES AND GENTLEMEN, PLEASE DON'T DISCUSS
7 THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T
8 CONDUCT ANY DELIBERATIONS. DON'T TALK TO ANYBODY
9 INVOLVED. WE WILL SEE YOU BACK HERE IN 15 MINUTES.
10 THANK YOU.

11
12 (THE FOLLOWING PROCEEDINGS WERE
13 HELD IN OPEN COURT OUTSIDE THE
14 PRESENCE OF THE JURY.)

15
16 THE COURT: ALL RIGHT. MR. WILLIAMS, CAN YOU
17 COME BACK IN 15 MINUTES, PLEASE?

18 THE WITNESS: YES, I WILL.

19 THE COURT: THANK YOU.

20 (PAUSE IN PROCEEDINGS.)

21 THE COURT: ALL THE JURORS AND ALTERNATES HAVE
22 LEFT. THE WITNESS HAS LEFT.

23 WHAT DID YOU WANT TO DISCUSS AT THE BENCH?

24 MS. SARIS: I'M TRYING TO HEAD OFF THE ARGUMENT
25 THAT WE SOMEHOW DIDN'T SHOW HIM ENOUGH DOCUMENTS OR THAT
26 THERE IS SOME -- APPARENTLY THE D.A. FEELS NO NEED TO
27 PRESENT ANY DOCUMENTARY EVIDENCE REGARDING ANY OF THESE
28 ALLEGATIONS. I'M ASKING --

1 THE COURT: ISN'T THAT YOUR ARGUMENT?

2 MS. SARIS: YES. AND I'M ASKING IF HE WANTS TO
3 SEE IT BECAUSE THE LAST THING I WANT IS THE D.A. TO STAND
4 UP AND SAY WE HAD SOMETHING WE DIDN'T SHOW HIM. OR IF HE
5 HAD LOOKED AT SOMETHING, HE COULD HAVE CHANGED SOMETHING.
6 WE HAVE THE BANKRUPTCY DOCUMENTS. WE HAVE ANYTHING HE
7 WOULD LIKE.

8 AND I WOULD JUST LIKE AN OPPORTUNITY FOR
9 HIM TO SAY ON THE RECORD IN FRONT OF THE JURY EITHER, NO,
10 I DON'T NEED ANYTHING. I'M DARN SURE IN WHAT I'M SAYING,
11 WHICH IS INCORRECT. OR, YES, I WOULD LIKE TO LOOK AT
12 THIS AND HAVE THE OPPORTUNITY TO SEE THEM. SO THAT IN
13 SIX MONTHS -- OR I'M SORRY -- TWO MONTHS FROM NOW WHEN WE
14 GO TO CLOSING --

15 MR. DIXON: I HOPE IT WON'T BE TWO MONTHS.

16 MS. SARIS: SEVEN MONTHS FROM NOW WHEN WE GO TO
17 CLOSING, WE DON'T HEAR THE ARGUMENT, OH, WELL, DEFENSE
18 COUNSEL DIDN'T SHOW HIM ENOUGH INFORMATION OR DIDN'T HAVE
19 THE RECORDS.

20 THE COURT: THE PROBLEM IS YOU ARE DEALING WITH A
21 WITNESS THAT IN NO UNCERTAIN TERMS INDICATES THE DATE IS
22 WHAT IT IS. AND YOU HAVE NOT BEEN ABLE TO SHAKE HIM FROM
23 THAT.

24 MS. SARIS: NOR DO I WANT TO.

25 THE COURT: HE IS ADAMANT ABOUT THAT. SO
26 ANYTHING THAT -- WELL, ANYTHING THAT YOU'RE TRYING TO DO
27 AND BASED ON THE QUESTIONS YOU HAVE ALREADY ASKED, THIS
28 IS ALL LEADING TO ARGUMENT. AND THAT YOU ARE ARGUING

1 WITH A WITNESS WHO HAS STATED ON SEVERAL OCCASIONS HE IS
2 CERTAIN.

3 MS. SARIS: AND I'M NOT TRYING TO SHAKE HIS
4 CERTAINTY WHATSOEVER. I'M JUST TRYING TO HEAD OFF THE
5 ARGUMENT THAT I'M SOMEHOW BEING SNEAKY OR NOT GIVING HIM
6 THE PROPER INFORMATION. CERTAINLY THE LAST THING I WANT
7 IS FOR HIM TO CHANGE HIS MIND.

8 THE COURT: WELL, I THINK THE OBJECTION BASED ON
9 ARGUMENTATIVE, THOUGH, BASED ON WHAT I SAID I BELIEVE THE
10 TESTIMONY WAS, I THINK THOSE OBJECTIONS SHOULD BE
11 SUSTAINED.

12 MS. SARIS: THAT'S FINE. I'LL ASK HIM IN THE
13 HALLWAY IF THERE IS ANYTHING I CAN PROVIDE TO HIM AND
14 THEN ASK HIM IF THAT OFFER WAS MADE.

15 MR. DIXON: IT'S THE SAME ARGUMENT. THIS IS
16 ARGUMENT.

17 THE COURT: ALL RIGHT. IT IS ARGUMENT. AND, YOU
18 KNOW, THIS IS THE THING, I MEAN YOU CAN'T REFRESH HIS
19 RECOLLECTION WITH SOMETHING IF HE DOESN'T NEED HIS
20 RECOLLECTION REFRESHED.

21 MS. SARIS: I GUESS I'M NOT BEING CLEAR AND I
22 APOLOGIZE.

23 THE COURT: YOU WANT TO HEAD OFF AN ARGUMENT FROM
24 THE PEOPLE.

25 MS. SARIS: THAT I DIDN'T GIVE HIM THE
26 OPPORTUNITY. SO I'M JUST ASKING IF HE WANTS THE
27 OPPORTUNITY. I DON'T KNOW IF HE IS GOING TO SAY YES OR
28 NO. I JUST WANT TO KNOW AT SOME POINT THAT THEY'RE NOT

1 GOING TO STAND UP AND SAY, WELL, HE WASN'T SHOWN THE
2 PROPER PAPERWORK.

3 THE COURT: I DON'T KNOW WHAT PAPERWORK YOU ARE
4 REFERRING TO.

5 MS. SARIS: THAT'S WHAT I'M SAYING. I JUST WANT
6 TO MAKE SURE HE SAYS NO.

7 MR. DIXON: AND THAT'S ARGUMENTATIVE.

8 THE COURT: THAT'S WHAT HE SAID, THERE IS NOTHING
9 HE NEEDS TO SEE. THERE IS NOTHING HE WANTS TO SEE.
10 THERE IS NOTHING HE HAS SEEN. HE'S ADAMANT. SO THE
11 OBJECTION WILL BE SUSTAINED. WE WILL TAKE A BREAK.

12 MR. DIXON: MAY THIS WITNESS BE EXCUSED, YOUR
13 HONOR?

14 THE COURT: IF THERE IS NOTHING ELSE, SURE.

15 MS. SARIS: WE HAVEN'T DECIDED THAT YET.

16 THE COURT: THEN LET ME KNOW.

17 (BRIEF RECESS.)

18
19 (THE JURY ENTERED THE COURTROOM
20 AND THE FOLLOWING PROCEEDINGS WERE
21 HELD IN OPEN COURT.)

22
23 THE COURT: ALL RIGHT. ALL THE JURORS AND
24 ALTERNATES ARE ONCE AGAIN PRESENT. THE PARTIES ARE
25 PRESENT.

26 MS. SARIS.

27 MS. SARIS: THANK YOU.

28 Q MR. WILLIAMS, I JUST HAVE A FEW MORE

1 QUESTIONS.

2 YOU INDICATED THAT YOU WERE THERE FOR
3 APPROXIMATELY 45 MINUTES TO AN HOUR?

4 A YES.

5 Q AND ALL THAT TIME IN THE MIDST OF THE
6 TIARAED THAT YOU'VE DESCRIBE, DID MR. GOODWIN AT ANY
7 POINT SAY YOU CAN'T DO THIS, I'M IN BANKRUPTCY?

8 A NO, NEVER.

9 Q DID HE AT ANY POINT OFFER TO CALL HIS
10 LAWYER OR ANY OTHER LAWYER TO PROVE TO YOU OR TO OFFER TO
11 YOU THAT HE WAS IN BANKRUPTCY?

12 A NO. I WOULDN'T HAVE DONE THAT.

13 Q I'M SORRY?

14 A I WOULD NOT HAVE DONE THAT IF HE WAS IN
15 BANKRUPTCY.

16 Q YOU WOULD NOT HAVE TOWED THE VEHICLE?

17 A OH, NO.

18 MS. SARIS: OKAY. THANK YOU.

19 THE COURT: ANYTHING ELSE?

20 MR. DIXON: NO, THANK YOU. NOTHING FURTHER.

21 THE COURT: ALL RIGHT. THANK YOU, SIR.

22 THE WITNESS: THANK YOU, YOUR HONOR.

23 MR. DIXON: MAY THIS WITNESS BE EXCUSED?

24 THE COURT: ANY OBJECTION?

25 MS. SARIS: NO.

26 THE COURT: YES. THANK YOU. NEXT WITNESS.

27 MR. JACKSON: WE'RE GOING TO ASK JEFF COYNE TO
28 JOIN US, YOUR HONOR.

1 THE COURT: ALL RIGHT.

2

3

JEFFREY COYNE,

4

CALLED BY THE PEOPLE AS A WITNESS, WAS

5

SWORN AND TESTIFIED AS FOLLOWS:

6

7

THE CLERK: SIR, PLEASE STEP FORWARD. YOU CAN

8

STAND RIGHT THERE, SIR. PLEASE RAISE YOUR RIGHT HAND.

9

YOU DO SOLEMNLY STATE THAT THE TESTIMONY

10

YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT

11

SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE

12

TRUTH SO HELP YOU GOD.

13

THE WITNESS: I DO.

14

THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,

15

WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST

16

NAME FOR THE RECORD.

17

THE WITNESS: JEFFREY COYNE. J-E-F-F-R-E-Y.

18

C-O-Y-N-E.

19

THE CLERK: THANK YOU.

20

THE COURT: YOU MAY INQUIRE.

21

MR. JACKSON: THANK YOU, YOUR HONOR.

22

23

DIRECT EXAMINATION

24

BY MR. JACKSON:

25

Q MR. COYNE, THANK YOU FOR JOINING US. TELL

26

THE JURORS WHAT YOU DO FOR A LIVING RIGHT NOW, SIR.

27

A I DO A NUMBER OF THINGS. I'M A SENIOR

28

LECTURING FELLOW AT DUKE UNIVERSITY, SCHOOL OF LAW. I

1 TEACH THE CORPORATE REORGANIZATION COURSES. I ALSO OWN
2 SOME BUSINESSES AND DAY-TO-DAY MANAGE THOSE AS WELL.

3 Q ARE YOU A PRACTICING LAWYER?

4 A I STILL MAINTAIN AN ACTIVE LICENSE
5 IN CALIFORNIA.

6 Q HOW LONG HAVE YOU BEEN A MEMBER OF THE BAR
7 HERE IN CALIFORNIA?

8 A SINCE 1979.

9 Q AND WHAT WAS YOUR PRACTICE -- OR WERE YOU
10 IN PRACTICE FROM 1987 UNTIL ANOTHER DATE CERTAIN BEFORE
11 YOU MOVED BACK EAST AND STARTED TEACHING LAW?

12 A FROM NOVEMBER OF 1979 WHEN I GOT MY BAR
13 RESULTS TO THE PRESENT TIME, I'VE KEPT AN ACTIVE TICKET
14 TO PRACTICE. BUT I MAINTAINED CLIENTS AND DID CLIENT
15 MATTERS UP UNTIL 1994 WHEN I MOVED TO THE EAST COAST.

16 Q BACK IN THE '80S, SPECIFICALLY MID '80S,
17 LATE '80S, WHAT WAS YOUR PRACTICE LIKE?

18 A I WAS HEAD OF THE BANKRUPTCY DEPARTMENT
19 FOR A VERY LARGE FIRM.

20 Q IS THAT A FIRM HERE IN LOS ANGELES?

21 A YES, LOS ANGELES. BUT ALSO OFFICES ALL
22 OVER THE WORLD.

23 Q WHAT WAS THE NAME OF THAT FIRM?

24 A THE FIRM WAS GRAHAM AND JAMES.

25 Q AND WHEN DID YOU GET YOUR PROFESSORSHIP AT
26 DUKE?

27 A I STARTED TEACHING AT DUKE IN 1994. IT'S
28 BEEN 12 YEARS.

1 Q OKAY. AND PREVIOUSLY DID YOU GO TO DUKE?

2 A I WENT TO DUKE IN 1976 TO 1979; RECEIVED
3 MY J.D. FROM DUKE, MY LAW DEGREE.

4 Q OKAY. SO YOU GOT YOUR LAW DEGREE FROM
5 DUKE AND NOW YOU ARE A PROFESSOR AT DUKE?

6 A THAT'S CORRECT.

7 Q BASKETBALL FAN?

8 A YES, DEFINITELY.

9 Q YOU WOULD RATHER BE BACK THERE WATCHING
10 BASKETBALL THAN HERE, I ASSUME?

11 A WELL, NO GAME TODAY, BUT BY THURSDAY.

12 Q LUCKY MAN, COACH K.

13 MR. COYNE, WHAT IS A "BANKRUPTCY TRUSTEE"?

14 A A BANKRUPTCY TRUSTEE IS A PERSON APPOINTED
15 TO TAKE CONTROL OF BANKRUPTCY ASSETS TO ADMINISTER THEM
16 AND TO GIVE THE PROCEEDS OF THAT ADMINISTRATION TO
17 CREDITORS.

18 Q HOW DOES THE -- DOES A BANKRUPTCY TRUSTEE
19 AFFECT THE DAY-TO-DAY LIFE OF A COMPANY THAT IS IN
20 BANKRUPTCY?

21 A WHEN YOU HAVE A COMPANY THAT IS NOT IN
22 BANKRUPTCY, IT SIMPLY OPERATES WITH A BOARD OF DIRECTORS;
23 OFFICERS; EMPLOYEES IN A DAY-TO-DAY FASHION. THE MOMENT
24 IT FILES BANKRUPTCY, A WHOLE NEW ENTITY IS CREATED. IT'S
25 CALLED THE BANKRUPTCY ESTATE.

26 NOW IN NORMAL BANKRUPTCY PROCEDURE, THE
27 SAME PEOPLE WHO RAN IT BEFORE, THE DIRECTORS; THE
28 OFFICERS; THE EMPLOYEES, CONTINUE TO OPERATE IT AFTER THE

1 BANKRUPTCY IS FILED, THEY BECOME WHAT IS CALLED THE
2 DEBTOR IN POSSESSION. SO THE DEBTOR STILL POSSESSES AND
3 MANAGES THE ASSETS.

4 THIS CONTINUES IN A CHAPTER 11
5 REORGANIZATION CASE OF A COMPANY UNLESS AND UNTIL THAT
6 DEBTOR DOES SOMETHING WRONG. THERE IS EITHER MALFEASANCE
7 OR DISHONESTY OR SOME LEVEL OF MISJUDGMENT THAT CAUSES
8 CREDITORS AND A JUDGE TO AGREE A TRUSTEE NEEDS TO BE
9 APPOINTED.

10 IF THAT HAPPENS, THE JUDGE WILL MAKE AN
11 ORDER SAYING LET'S APPOINT A TRUSTEE. THE U.S. TRUSTEE
12 WILL PICK A TRUSTEE FROM A SHORT LIST OF STANDING
13 TRUSTEES; THEY WILL APPOINT THAT TRUSTEE; AND THE JUDGE
14 WILL CONFIRM THE TRUSTEE.

15 THAT TRUSTEE STEPS IN AND TAKES OVER ALL
16 THE FUNCTIONS OF THE DIRECTORS AND OFFICERS OF THE
17 CORPORATION; TAKES CONTROL OF THAT ENTIRE BUSINESS
18 ACTIVITY; AND IS CHARGED WITH RUNNING IT IN THE BEST
19 POSSIBLE FASHION FOR THE CREDITORS.

20 Q IN YOUR TENURE AS A BANKRUPTCY LAWYER,
21 HAVE YOU EVER KNOWN ANY BANKRUPTCY TRUSTEES?

22 A I'VE KNOWN MANY, YES.

23 Q HAVE YOU EVER BEEN ONE?

24 A I HAVE INDEED.

25 Q WERE YOU ON THAT SHORT STANDING LIST BACK
26 IN THE '80S.

27 A I WAS.

28 Q AND WERE YOU EVER ASSIGNED AS A BANKRUPTCY

1 TRUSTEE, JUST IN GENERAL, DURING THE COURSE OF YOUR
2 PRACTICE?

3 A I WAS APPOINTED A CHAPTER 11 TRUSTEE MANY,
4 MANY TIMES.

5 Q ABOUT HOW MANY TIMES?

6 A FOR LARGE CASES, APPROXIMATELY 25 VERY
7 LARGE CASES. AND THEN LITERALLY THOUSANDS OF TIMES IN
8 SMALL CASES AND CHAPTER 7'S.

9 Q AND YOU'VE SINCE BECOME A BUSINESS OWNER
10 YOURSELF; CORRECT?

11 A YES, SIR.

12 Q YOU BUY AND SELL BUSINESSES?

13 A I DO.

14 Q DO YOU EVER ENGAGE IN A PRACTICAL -- AND
15 I'M TALKING ABOUT A BUSINESS PRACTICING, NOT NECESSARILY
16 A LEGAL PRACTICE, A BUSINESS PRACTICE OF VALUING AND
17 POSSIBLY BUYING COMPANIES THAT ARE IN BANKRUPTCY
18 THEMSELVES?

19 A I DO THIS ALL THE TIME, YES.

20 Q SO BANKRUPTCY IS SORT OF YOUR LIFE? YES?

21 A I HATE TO PUT IT THAT WAY. I THINK THE
22 WIFE AND KIDS WOULD HAVE A DIFFERENT VIEW, BUT YES.

23 Q ALL RIGHT. FAIR ENOUGH. FAIR ENOUGH. I
24 WOULD LIKE YOU TO LOOK AROUND THE COURTROOM, MR. COYNE,
25 AND TELL ME IF YOU RECOGNIZE ANYBODY SITTING IN THE
26 COURTROOM WITH WHOM YOU HAVE HAD ANY KIND OF PROFESSIONAL
27 RELATIONSHIP IN TERMS OF YOUR BEING AN APPOINTED
28 BANKRUPTCY TRUSTEE?

1 A YES, SIR. I SEE MICHAEL GOODWIN SITTING
2 AT COUNSEL TABLE. HE WAS, I BELIEVE, THE PRESIDENT OF
3 ENTERTAINMENT SPECIALTIES, INC., E.S.I., A COMPANY OVER
4 WHICH I WAS APPOINTED AS TRUSTEE.

5 Q ALL RIGHT. I'M GOING TO -- YOU'VE TOUCHED
6 ON QUITE A BIT OF THIS, SO I'M GOING TO ASK YOU TO
7 FORMALIZE YOUR EDUCATION, TRAINING AND BACKGROUND. WHAT
8 QUALIFIED YOU BACK IN THE 1980'S TO BE A BANKRUPTCY
9 TRUSTEE? AND SPECIFICALLY TO PERFORM THE DUTIES
10 NECESSARY AS THE BANKRUPTCY TRUSTEE OVER E.S.I. OR
11 ENTERTAINMENT SPECIALTIES, INC.

12 A I RECEIVED A DEGREE IN ECONOMICS FROM UC
13 BERKELEY IN 1976. I THEN WENT TO DUKE UNIVERSITY AND
14 RECEIVED A JURIS DOCTORATE IN 1979. I TOOK THE BAR EXAM
15 AND PASSED IT. I THEN PRACTICED IN THE BANKRUPTCY FIELD
16 FROM THAT POINT UNTIL I WAS APPOINTED ON THE STANDING
17 PANEL OF TRUSTEES IN 1986.

18 FROM 1986 UP UNTIL THE E.S.I. TRUSTEE
19 APPOINTMENT, I HAD RUN SEVERAL VERY LARGE BUSINESSES IN
20 BANKRUPTCY SUCCESSFULLY. I TOOK OVER AND RAN PIONEER
21 CHICKEN COMPANY, 400 FRIED CHICKEN RESTAURANTS. I TOOK
22 OVER AND SUCCESSFULLY RAN HELIONETICS, A COMPANY WITH
23 FOUR DIVISIONS AND 100 MILLION DOLLARS A YEAR IN SALES.
24 H-E-L-I-O-N-E-T-I-C-S.

25 I HAD DONE A NUMBER OF SMALLER BANKRUPTCY
26 TRUSTEESHIPS WHERE I'VE TAKEN SMALLER BUSINESSES AND
27 EITHER SUCCESSFULLY REMOVED THEM FROM BANKRUPTCY BACK AS
28 OPERATING COMPANIES OR LIQUIDATED THEM FOR THE BENEFIT OF

1 THE CREDITORS.

2 Q MR. COYNE, WHEN A COMPANY GOES INTO
3 CHAPTER 11, WHAT IS THE ULTIMATE GOAL OF THE BANKRUPTCY
4 COURT AND CHAPTER 11 WITH REGARD TO THAT COMPANY?

5 A THE CONCEPT IS ONE THAT'S VERY OLD. THE
6 WORD "BANKRUPTCY" ACTUALLY COMES FROM AN OLD GREEK TERM
7 WHERE IF YOU OWED MONEY TO YOUR CREDITORS, AS A MERCHANT,
8 THEY WOULD TAKE AND BREAK YOUR BENCH. YOU CAN NO LONGER
9 TRADE. EVENTUALLY THAT GOT PRETTY MESSY. AND LEGAL
10 CONCEPTS OF GIVING PEOPLE A SECOND CHANCE OR FRESH START
11 EVOLVED.

12 THE CONCEPT BEING THAT YOU GET MORE MONEY
13 FROM PERHAPS A SHAMED DEBTOR THAN YOU DO FROM A DEBTOR
14 WHO COULD DO NO MORE BUSINESS. BANKRUPTCY IS INTENDED BY
15 BOTH THE STATEMENT IN THE PREAMBLE OF OUR CURRENT CODE
16 AND THE FIRST ONE BACK IN 1802, TO GIVE PEOPLE A FRESH
17 CHANCE; TO GIVE THEM ANOTHER SHOT AT MAKING THINGS RIGHT.

18 Q YOU SAID NORMALLY IN A CHAPTER 11 THERE
19 WAS A DEBTOR IN POSSESSION. DOES THAT MEAN THAT THE
20 PRESIDENT OF A COMPANY, FOR LACK OF A BETTER PHRASE,
21 MAINTAINS POSSESSION OF THE COMPANY; YET THE BANKRUPTCY
22 COURT PROTECTS THAT PRESIDENT AND THE ASSETS OF THE
23 COMPANY FROM CERTAIN JUDGMENT CREDITORS? IS THAT AN
24 ACCURATE STATEMENT?

25 A IT IS.

26 Q OKAY. INARTFUL AS I MAY BE, BASED ON THAT
27 WHY WOULD YOU EVER STEP IN AS A TRUSTEE IF A DEBTOR IN
28 POSSESSION UNDER CHAPTER 11 PROTECTION IS SUPPOSED TO DO

1 THE BEST WORK POSSIBLE FOR THEIR CREDITORS?

2 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER.

5 THE WITNESS: IN MOST CASES, THE DEBTOR IN
6 POSSESSION, THE PERSON WHO RAN THE COMPANY BEFORE THE
7 BANKRUPTCY, HAS NO NEW DIRECTION; AND THE SAME THINGS
8 THAT GOT THEM IN BANKRUPTCY GET THEM INTO FURTHER
9 TROUBLE. WHEN THAT HAPPENS, THE COMPANY IS LOSING MONEY.
10 THINGS ARE GOING IN A FASHION WHERE IT APPEARS TO BE
11 DISHONEST OR THERE IS MALFEASANCE.

12 THEN THE BANKRUPTCY HAS TO BE REDIRECTED.
13 THE U.S. TRUSTEE IS CHARGED TO WATCH THE BANKRUPTCY AND
14 WHEN THEY SEE THIS HAPPEN, THEY THEN GO TO COURT AND SEEK
15 APPOINTMENT THE PRIVATE TRUSTEE SUCH AS MYSELF.

16 Q BY MR. JACKSON: IS IT USUAL OR UNUSUAL
17 FOR A TRUSTEE TO BE APPOINTED IN A CHAPTER 11 BANKRUPTCY?

18 A OUT OF ALL THE CHAPTER 11'S THAT WILL BE
19 FILED THIS YEAR, PERHAPS 10 PERCENT WILL SUCCESSFULLY
20 REORGANIZE. THE BALANCE OF THOSE WILL GO TO A TRUSTEE AT
21 ONE POINT OR ANOTHER BECAUSE THEY WERE UNSUCCESSFUL.
22 GENERALLY THE CASE WILL NOT GO TO A TRUSTEE IN THE MIDDLE
23 OF OPERATION. IT USUALLY HAPPENS WHEN THE BUSINESS HAS
24 FAILED.

25 Q TAKING THE CASE OF E.S.I., WHY WERE YOU
26 APPOINTED AS TRUSTEE IN E.S.I.?

27 A A MOTION WAS MADE BEFORE THE BANKRUPTCY
28 COURT TO GET AN EXAMINER APPOINTED. THAT EXAMINER WAS

1 APPOINTED; DID A STUDY; MADE A REPORT TO THE COURT. AND
2 BASED ON THAT EXAMINER'S OBSERVATION AND HIS FINDING, A
3 TRUSTEE WAS TO BE APPOINTED. THE DOCKET INDICATES I WAS
4 NOT THE FIRST TRUSTEE APPOINTED. THE FIRST TRUSTEE
5 DECLINED. AND THEREAFTER, I WAS APPROACHED; ACCEPTED;
6 AND WAS APPOINTED.

7 Q AT ANY POINT DURING YOUR TENURE AS THE
8 TRUSTEE OVER E.S.I., DID YOU DETERMINE THAT THERE WAS
9 INDEED DISHONESTY AND/OR MALFEASANCE IN THE RUNNING OF
10 E.S.I. OF MICHAEL GOODWIN?

11 MR. SUMMERS: OBJECTION. RELEVANCY. FOUNDATION.
12 THE COURT: SUSTAINED.

13 Q BY MR. JACKSON: WHAT WAS YOUR FINDING
14 ONCE YOU BECAME A TRUSTEE? WELL, LET'S ASK IT THIS WAY
15 FOUNDATIONALLY: ONCE YOU BECAME THE TRUSTEE, DID YOU
16 HAVE ACCESS TO ALL THE BUSINESS ASSETS; DEBTS; PROFIT AND
17 LOSS STATEMENTS; OTHER BUSINESS DOCUMENTS THAT I CAN'T
18 THINK OF THE NAME OF? DID YOU BEGIN RUNNING THE COMPANY?

19 A WHEN I WAS APPOINTED TRUSTEE THERE WAS NO
20 OPERATING COMPANY TO RUN. THE COMPANY, THE OPERATING
21 PART OF THE COMPANY HAD BEEN SOLD BY E.S.I. TO A COMPANY
22 OWNED AND OPERATED BY MR. GOODWIN'S WIFE AND A FELLOW
23 NAMED MR. CLAYTON.

24 Q WHAT WAS THE NAME OF THAT COMPANY?

25 A THAT WAS -- I RECALL IT AS S.X.I. I
26 BELIEVE IT WAS SPORTS --

27 Q SUPERCROSS, INC.?

28 A RIGHT. SUPERCROSS, S.X.I. RIGHT.

1 Q AND WHAT DID YOU FIND WITH REGARD TO THE
2 RUNNING OF E.S.I. AND TRANSFER OF ASSETS TO S.X.I.?

3 MR. SUMMERS: OBJECTION. RELEVANCE. FOUNDATION.
4 THE COURT: OVERRULED.

5 THE WITNESS: WHENEVER I TAKE OVER A CHAPTER 11
6 COMPANY, I GO THROUGH ALL THE PLEADINGS; I GO THROUGH ALL
7 THE BOOKS AND RECORDS. IT IS MY JOB TO FIND ASSETS. I'M
8 SUPPOSED TO FIND WHAT DO THEY AND WHERE DO IT GO. SO I
9 COMMENCED ON THIS EFFORT WITH E.S.I. I RAN INTO A FAIR
10 AMOUNT OF FRUSTRATION AND DIFFICULTY FINDING OUT WHAT DID
11 THEY OWN? WHERE DID IT GO? HOW IS IT THAT THIS E.S.I.
12 COMPANY IS GOING TO HAVE ACCESS TO DISTRIBUTE TO
13 CREDITORS?

14 Q BY MR. JACKSON: WHY WERE YOU FRUSTRATED?

15 A PART OF IT WAS NOT GETTING GOOD RESPONSES
16 FROM MR. GOODWIN AND COUNSEL. PART OF IT WAS FINDING
17 DOCUMENTS THAT SHOULD HAVE BEEN DONE AND WEREN'T DONE.
18 FOR EXAMPLE, THE S.X.I. CONTRACT OF SALE REQUIRED CERTAIN
19 DOCUMENTATION OF A DEBT OWED BY A S.X.I. TO E.S.I. BUT
20 IT WASN'T THERE.

21 Q SO WHAT DID THAT LEAD YOU TO BELIEVE AS
22 FAR AS THE TRANSFER OF ASSETS BETWEEN E.S.I. AND S.X.I.?

23 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

24
25 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

26 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

27 MS. SARIS: YOUR HONOR, I DON'T KNOW HOW MUCH THE
28 COURT HAS -- WE DISCUSSED THIS EARLIER. MR. COYNE'S

1 OPINION AS TO WHETHER OR NOT THESE TRANSFERS WERE
2 FRAUDULENT -- THERE WAS A BANKRUPTCY FRAUD GOING TO --
3 THIS WAS AN ISSUE WE SAID WE WERE GOING TO ADDRESS. I
4 THOUGHT IT WAS PROBABLY GOING TO BE MORE ADDRESSED BY
5 KAREN STEPHENS, BUT CLEARLY THAT'S WHERE THIS IS GOING.
6 I MEAN HE CAN STATE WHAT OCCURRED WITHOUT STATING HIS
7 OPINION AS TO WHETHER OR NOT IT WAS FRAUDULENT AND THE
8 RELEVANCE OF HIS OPINION, WHICH IS WHAT IS BEING ASKED
9 FOR.

10 MR. JACKSON: HE IS AN EXPERT. I DON'T THINK
11 THERE COULD BE ANY BETTER EXPERT IN EXISTENCE AS FAR AS
12 BANKRUPTCY IS CONCERNED. IF IN HIS EXPERT OPINION THAT
13 THERE WERE FRAUDULENT TRANSFERS AND FRAUDULENT GOINGS-ON
14 BETWEEN CLAYTON AND S.X.I. AND SEIDEL AND GOODWIN, IT IS
15 CERTAINLY RELEVANT INsofar AS IT ESTABLISHES THE LENGTH
16 TO WHICH MIKE GOODWIN WOULD GO TO KEEP MICKEY THOMPSON
17 FROM RECOVERING HIS JUDGMENT.

18 THE COURT: BUT WHAT I'M HEARING, MS. SARIS, IS
19 THAT WE HAVE DISCUSSED THIS WHEN WE WERE TALKING ABOUT
20 THE 402'S. AND THAT THIS WAS ONE OF THE AREAS WE WERE
21 GOING TO COVER.

22 MS. SARIS: THAT'S CORRECT.

23 MR. JACKSON: I DON'T RECALL THAT.

24 THE COURT: I DON'T RECALL THAT EITHER.

25 MS. SARIS: IT WAS NOT THIS AFTERNOON. IT WAS A
26 WHILE BACK WHEN WE WERE TALKING ABOUT BANK FRAUD. THE
27 ISSUE IS NOT THE -- THAT'S FINE. IT'S THE TERMINOLOGY
28 "THIS IS FRAUDULENT." HE IS NOT A PROSECUTOR. THIS IS

1 WHERE HIS OPINION HE CAN SAY THAT HE MOVED AROUND ASSETS
2 AND THAT SORT OF THING. BUT THIS IDEA THAT THERE WAS
3 SOME FRAUD, MICHAEL GOODWIN WAS CHARGED AND WENT TO --
4 AND NOT NONE OF THOSE CHARGES OF FRAUD WERE SUSTAINED.

5 THE COURT: RIGHT. AND I THOUGHT THAT'S WHAT THE
6 SUBJECT OF WHAT WE WERE GOING TO AVOID IN THIS CASE.

7 MR. JACKSON: NO. NO. NO. WHO --

8 THE COURT: NO?

9 MR. JACKSON: WHO -- WHAT WE'RE GOING TO AVOID IS
10 MICHAEL GOODWIN ENGAGED IN FRAUDULENT LOAN DOCUMENTS,
11 MAINLY CONCERNING THE BOAT.

12 THE COURT: AND THAT WAS THE BASIS OF THE
13 PROSECUTION.

14 MR. JACKSON: YES, I HAVE NO -- I'M NOT GETTING
15 INTO THAT.

16 MS. SARIS: IT'S THE WORD "FRAUD." ACTUALLY, IF
17 YOU LOOK AT THE ORIGINAL COMPLAINT AGAINST MIKE GOODWIN
18 WHERE JEOPARDY ATTACHED, HE WAS CHARGED WITH BANKRUPTCY
19 FRAUD OR FRAUDULENT ASSETS. THOSE CHARGES WERE WITHDRAWN
20 AFTER A JURY -- IT WENT TO JURY ON LOAN DOCUMENTS. SO IT
21 IS AKIN TO AN ACQUITTAL.

22 THEREFORE THE IDEA OF BEING FRAUD IF HE
23 WANTS TO ARGUE THAT THINGS WERE PLAYED AROUND WITH AND
24 FRAUD, IT IS A LEGAL TERM. AND HE WAS CHARGED AND THIS
25 WAS NOT SUSTAINED.

26 MR. JACKSON: WELL --

27 THE COURT: I DON'T THINK IT'S BEING USED AS A
28 LEGAL TERM. AND I DON'T THINK IT'S BEING REFERENCED WITH

1 ANY PROSECUTION. SO I'M GOING TO OVERRULE THE OBJECTION.
2 I DON'T RECALL THAT WE WERE GOING TO DISCUSS ANYTHING
3 OUTSIDE THE PRESENCE, BUT IF THIS IS BASICALLY GOING TO
4 BE THE ARGUMENT, I'M PREPARED TO RULE. AND I THINK WE
5 CAN GO INTO IT.

6 I DON'T THINK FRAUD IS JUST A LEGAL TERM.
7 I THINK THE WITNESS IS QUALIFIED AS AN EXPERT TO TESTIFY
8 WITH HIS OPINIONS BASED ON WHAT HE LOOKED AT; AND THE
9 BOOKS THAT HE WENT OVER; AND THE TRANSFERS THAT HE IS
10 REFERRING TO. BUT AS LONG AS WE STAY AWAY FROM
11 FRAUDULENT ACTIVITY AS SEPARATE CRIMINAL CONDUCT, I DON'T
12 UNDERSTAND --

13 MR. JACKSON: I'M NOT INTERESTED IN THAT.

14 MS. SARIS: THIS WITNESS'S OPINION AS TO WHETHER
15 IT WAS FRAUDULENT GOES TO WHETHER OR NOT MICHAEL WAS
16 HOSTILE OR ENGAGED IN CONDUCT TOWARDS MICKEY. HE CAN
17 TESTIFY AS TO WHAT IT WAS AND WHAT OCCURRED. AND COUNSEL
18 CAN ARGUE THAT THAT'S FRAUD, BUT HIS OPINION AS TO FRAUD,
19 IT'S A LEGAL OPINION.

20 THE COURT: WELL, I THINK THE MOST ONE CAN SAY IS
21 THAT IT MAY BE CHARACTER EVIDENCE. BUT IN ALL HONESTY,
22 THIS ISN'T BEING OFFERED FOR THE TRUTH, IS IT? IT'S
23 BEING OFFERED FOR HIS OPINION AND LAYING THE FOUNDATION
24 FOR THE THREATS THAT CAME LATER.

25 MS. SARIS: NO. THIS IS BEING OFFERED FOR THE
26 TRUTH.

27 THE COURT: I DON'T KNOW.

28 MR. JACKSON: YOUR HONOR, IT'S BEING OFFERED FOR

1 TWO THINGS. NO. 1, TO ESTABLISH THE RELATIONSHIP THAT
2 JEFFREY COYNE ENDED UP HAVING WITH MICHAEL GOODWIN. AND
3 SECONDARILY, AS AN EXPERT TO ESTABLISH THAT IN HIS EXPERT
4 OPINION -- LOOK, THE REALITY IS NONE OF THE FIVE OF US
5 STANDING HERE KNOW THE IMPLICATIONS OF -- WE'RE NOT AS
6 SMART AS MIKE GOODWIN.

7 MR. DIXON: I THINK YOUR HONOR IS, BUT THE --

8 MR. JACKSON: AND CERTAINLY, OTHER THAN YOUR
9 HONOR, WE'RE NOT AS SMART AS JEFF COYNE IS. WE DON'T
10 KNOW THE IMPLICATIONS. AND CERTAINLY THE JURY DOESN'T
11 KNOW THE IMPLICATIONS OF MOVING CERTAIN ASSETS, CHANGING
12 NAMES, THINGS LIKE THAT.

13 THE COURT: ALL RIGHT. YOU'RE OFFERING THIS NOT
14 AS A LEGAL CONCLUSION, BUT AS HIS OPINION?

15 MR. JACKSON: CORRECT.

16 THE COURT: OPINION TESTIMONY, NOT ON THE ISSUE
17 OF CHARACTER?

18 MR. JACKSON: ABSOLUTELY NOT.

19 THE COURT: BUT ON THE ISSUE OF --

20 MR. JACKSON: HIDING MONEY.

21 MS. SARIS: WELL, THEN LET'S JUST TALK ABOUT
22 HIDING MONEY. WHY DID HE CHARACTERIZE IT AS FRAUD?

23 MR. JACKSON: I DON'T THINK I USED THE WORD
24 "FRAUD."

25 MS. SARIS: IT'S COMING.

26 MR. DIXON: THE WORD "MALFEASANCE."

27 MR. JACKSON: IT MAY BE -- IT VERY WELL MAY BE
28 THAT HE WAS MOVING MONEY AROUND THAT HE FOUND WAS NOT --

1 THE COURT: CORRECT ME IF I'M WRONG, BUT BESIDES
2 PRESENTING THIS WITNESS AS AN EXPERT WITNESS, THIS
3 WITNESS IS A PERCIPIENT WITNESS AS TO WHAT WENT ON?

4 MR. JACKSON: CORRECT.

5 THE COURT: AND WAS ACTUALLY, ACCORDING TO THE
6 PRELIM TESTIMONY AT LEAST AND THE OFFER OF PROOF HERE,
7 HE'S GOING TO TESTIFY THAT HE WAS THREATENED BECAUSE OF
8 HIS CONDUCT --

9 MR. JACKSON: CORRECT.

10 THE COURT: -- AS A TRUSTEE.

11 MS. SARIS: AND WE HAVE NO ISSUE WITH ANYTHING --
12 WE'RE HAPPY TO GET INTO WHERE ALL THE MONEY WENT. AND
13 HOW IT WENT. IT'S THE CHARACTERIZATION OF HIS OPINION
14 THAT THESE WERE FRAUDULENT TRANSFERS.

15 THE COURT: BUT YOU CAN CHALLENGE THAT ON
16 CROSS-EXAMINATION. I DON'T KNOW HOW I CAN PREVENT HIM
17 FROM TESTIFYING AS TO WHAT HIS OPINION WAS WHEN HE WAS
18 APPOINTED AS TRUSTEE. HE TOOK OVER AND HE STARTED
19 LOOKING INTO THE TRANSFERS.

20 I MEAN THIS IS AN EXPERT HERE AND YOU CAN
21 CROSS-EXAMINATION HIM IF YOU FIND THE OPINION THAT THIS
22 WAS FRAUDULENT TO BE SUBJECT TO DISPUTE. BUT THIS ISN'T
23 COMING IN AS BAD CHARACTER EVIDENCE. THIS IS ALL, I
24 THOUGHT, LAYING THE FOUNDATION FOR WHAT OCCURRED.

25 MS. SARIS: IT'S RELEVANT AS TO HIS OPINION AS TO
26 WHETHER OR NOT IT WAS FRAUD.

27 THE COURT: WELL, IT'S VERY RELEVANT THOUGH ON
28 THE RELATIONSHIP THAT EXISTED BETWEEN MR. COYNE AND

1 MR. GOODWIN, ISN'T IT?

2 MR. SUMMERS: IF I MAY, YOUR HONOR, HE CAN
3 TESTIFY ABOUT WHAT HE ALLEGED AND WHAT ACTIONS HE TOOK.
4 SAYING HE'S AN EXPERT DOESN'T DO AWAY WITH RELEVANCE
5 ISSUES AND 352 ISSUES. IF HE TOOK CERTAIN ACTIONS, THEN
6 AND ALLEGED CERTAIN ACTIVITIES THAT THEN HE CAN DESCRIBE
7 THAT AND WHAT THE REACTION WAS. THIS IS A SIMILAR ISSUE
8 THAT WE GOT INTO WITH MISS CORDELL. AND SHE IS JUST
9 SAYING WHAT HAPPENED, NOT WHAT HER ALLEGATIONS WERE.
10 HERE IS WHAT HAPPENED, INSTEAD OF BEING ASKED WHAT WAS
11 THE ALLEGATION.

12 MS. SARIS: HE CAN TALK ABOUT THE RELATIONSHIP.
13 IT'S JUST THE CHARACTERIZATION THAT MAKES IT --

14 THE COURT: I DON'T THINK IT MAKES A CHARACTER
15 EVIDENCE, NO. 1. AND EVEN IF IT DOES MAKE IT CHARACTER
16 EVIDENCE, THIS WHOLE PROSECUTION IS PREMISED ON ONE THING
17 AND THAT IS THAT THE MOTIVE FOR THE MURDERS WAS BECAUSE
18 OF THE BUSINESS DISPUTE THAT EXISTED AND THE LENGTHS TO
19 WHICH MR. GOODWIN WOULD GO TO AVOID HAVING TO SATISFY THE
20 JUDGMENT AND BASICALLY PAYING UP. I DON'T SEE --

21 MS. SARIS: WE HAVE TO QUARREL WITH THE
22 DESCRIPTION OF THAT. IT'S JUST THE IDEA THAT WHAT IS
23 YOUR OPINION ABOUT THAT.

24 THE COURT: WELL, I THINK AS LONG AS THERE WAS A
25 FOUNDATION, I'M GOING TO OVERRULE THE OBJECTION.

26 MR. JACKSON: THANK YOU, YOUR HONOR.

27 (PROCEEDINGS HELD AT SIDEBAR CONCLUDED.)
28

1 THE COURT: YOU MAY CONTINUE.

2 MR. JACKSON: THANK YOU, YOUR HONOR. IS IT
3 POSSIBLE THAT WE COULD ASK LORI TO READ BACK THE LAST
4 QUESTION? I SIMPLY DON'T HAVE IT IN MIND.

5

6 (RECORD READ AS FOLLOWS:

7 "Q SO WHAT DID THAT LEAD YOU TO BELIEVE
8 AS FAR AS THE TRANSFER OF ASSETS BETWEEN
9 E.S.I. AND S.X.I.?"

10

11 MR. JACKSON: THANK YOU, LORI. MAY I, YOUR
12 HONOR?

13 THE COURT: YES.

14 Q BY MR. JACKSON: WHAT SHE SAID
15 (INDICATING).

16 A THANK YOU.

17 Q IF YOU CAN, MR. COYNE, ALL LEVITY ASIDE.
18 I'M INTERESTED IN WHAT YOU FOUND ONCE YOU GOT INTO THE
19 BOOKS AND THE TRANSFER OF ASSETS TO S.X.I.

20 A TO MAKE IT VERY SIMPLE, LOTS OF GAPING
21 HOLES. LOTS OF QUESTIONS.

22 Q OKAY.

23 A THINGS I COULD NOT UNDERSTAND. THINGS
24 THAT SHOULD HAVE BEEN THERE THAT WEREN'T. THINGS THAT
25 WERE NOT FULLY ACCOUNTED FOR. LOTS OF QUESTIONS.

26 Q ALL RIGHT. AND WAS THIS NORMAL? WAS THIS
27 A NORMAL CONDITION OF A COMPANY OR A GOING CONCERN THAT
28 WAS IN CHAPTER 11?

1 MR. SUMMERS: OBJECTION. VAGUE, YOUR HONOR.

2 THE WITNESS: NOT AT ALL.

3 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

4 Q BY MR. JACKSON: CAN YOU EXPLAIN WHEN YOU
5 SAY THIS WAS UNCOMMON OR NOT NORMAL?

6 A NOT ONLY IS IT NOT NORMAL, BUT THE
7 BANKRUPTCY LAW REQUIRES THAT YOU KEEP GOOD RECORDS.
8 YOU'VE GOT TO HAVE SOMETHING THAT SHOWS THE COURT AND THE
9 CREDITORS THAT YOU'RE DOING THE CORRECT JOB. THAT'S PART
10 OF THE PROTECTION OF CHAPTER 11 THERE IS A GIVE AND TAKE.
11 YOU GET PROTECTION, BUT YOU MUST SHOW WHAT YOU'RE DOING.

12 Q IS IT YOUR OPINION AFTER HAVING LOOKED AT
13 THESE BOOKS THAT MICHAEL GOODWIN WITH REGARD TO S.X.I.
14 PREVIOUSLY DOING BUSINESS AS E.S.I. WAS, IN FACT,
15 MAINTAINING FIDUCIARY DUTY TO HIS CREDITORS?

16 MR. SUMMERS: OBJECTION, YOUR HONOR. MISSTATES
17 THE EVIDENCE. HE WAS THE TRUSTEE AS TO E.S.I. NOT --

18 THE COURT: ALL RIGHT. I'M GOING TO SUSTAIN THE
19 OBJECTION. REPHRASE THE QUESTION.

20 MR. JACKSON: YES, MA'AM.

21 Q WAS IT YOUR OPINION AFTER HAVING LOOKED AT
22 THE BOOKS OF E.S.I., THAT E.S.I. AS THE PRINCIPAL OF
23 E.S.I. MICHAEL GOODWIN WAS MAINTAINING HIS FIDUCIARY
24 OBLIGATION TO HIS CREDITORS?

25 A THIS IS AN EVOLUTIONARY PROCESS. AT FIRST
26 WHEN I STARTED, I JUST HAD QUESTIONS. I DIDN'T
27 UNDERSTAND HOW IT WENT FROM AN OPERATING COMPANY TO
28 BASICALLY A GUTTED FACADE, NOTHING LEFT IN THE E.S.I.

1 BUT A LITTLE BIT OF CASH AND SOME PAPERS; TO A SETTING
2 WHERE THERE WAS SUDDENLY A COMPANY S.X.I. NOMINALLY OWNED
3 BY MRS. GOODWIN AND MR. CLAYTON. BUT WHEN I CONTACTED
4 S.X.I. IT WAS ALWAYS MR. GOODWIN WHO WAS THE RESPONDING
5 PARTY AND MADE ALL OF THE STATEMENTS AND DECISIONS.

6 I HAD SOME REAL CONCERN OVER THIS. AND I
7 EXAMINED IT FURTHER. I HIRED AN ACCOUNTANT. I HIRED
8 LAWYERS. I GOT INTO DIGGING. AND THE FURTHER I DUG, THE
9 MORE QUESTIONS AROSE. AT THE SAME TIME I WAS
10 CONTINUOUSLY BEING PEPPERED WITH DEMANDS TO DO THIS AND
11 DO THAT BY THE GOODWINS.

12 Q DOES A DEBTOR IN POSSESSION NORMALLY HAVE
13 A FIDUCIARY OBLIGATION TO THE OUTSTANDING JUDGMENT
14 CREDITORS?

15 A TO ALL JUDGMENTS OR JUST PEOPLE THAT THEY
16 OWE MONEY TO THERE IS A FIDUCIARY OBLIGATION IMPOSED BY
17 LAW.

18 Q AND WHAT IS, IN FACT, A FIDUCIARY
19 OBLIGATION?

20 A IF YOU MAKE A COMMON EXAMPLE, YOU PUT
21 MONEY IN A TRUST FOR YOUR KIDS. AND THE TRUSTEE WHO IS
22 HOLDING THAT MONEY DIPS INTO IT AND TAKES IT OUT, THAT'S
23 BREACH OF A FIDUCIARY OBLIGATION. SOMEBODY WAS TRUSTED
24 AND THEY HAVE AN EXTREME DUTY OF TRUST. AND IF THEY
25 BREAK THAT DUTY, THAT'S A BREACH OF FIDUCIARY OBLIGATION.

26 Q DID YOU KNOW WHO MICKEY THOMPSON WAS.

27 A I DID.

28 Q WHO WAS MICKEY THOMPSON IN RELATION TO

1 YOUR JOB AS THE TRUSTEE OVER E.S.I.?

2 A I HAD NEVER HEARD MR. THOMPSON'S NAME
3 BEFORE I WAS APPOINTED TRUSTEE. I LIVE A SHELTERED LIFE.
4 JUST NOT SOMETHING I HAD HEARD. AND VERY RAPIDLY IN THE
5 PROCESS I LEARNED THAT HE WAS A CREDITOR. THAT HE
6 CLAIMED A LOT OF MONEY FROM E.S.I. AND FROM MR. GOODWIN.

7 Q DID YOU -- THE TRUSTEE OVER E.S.I. DID YOU
8 OWE MICKEY THOMPSON A FIDUCIARY OBLIGATION?

9 A ABSOLUTELY.

10 Q WAS IT ONE OF YOUR PRIMARY OBLIGATIONS AS
11 THE TRUSTEE RUNNING E.S.I.?

12 A IT WAS ONE OF THE MANY OBLIGATIONS, BUT IT
13 WAS MORE FOR HIM THAN ANY OTHER CREDITOR. EVERY CREDITOR
14 WAS OWED THAT SAME DUTY. HE WAS CERTAINLY THE MOST VOCAL
15 AND THE MOST INTERESTED.

16 Q AFTER YOU LOOKED AT THE BOOKS AFTER THIS
17 EVOLUTIONARY PROCESS THAT YOU JUST EXPLAINED TO THE
18 JURORS, AS YOU LEARNED MORE ABOUT E.S.I. AND MICHAEL
19 GOODWIN'S RUNNING OF E.S.I., DID YOU FORM AN OPINION
20 CONCERNING WHETHER OR NOT MICHAEL GOODWIN WAS ACTIVELY
21 ENGAGED IN ATTEMPTING TO BLOCK ANY ATTEMPT BY CREDITORS
22 TO COLLECT ON THEIR JUDGMENTS?

23 A I FORMED AN OPINION THAT MUCH OF WHAT I
24 SAW IN E.S.I. AND SUBSEQUENTLY THE TRANSFER TO S.X.I.
25 WAS ALL DONE FOR THE PURPOSE OF MOVING THE BUSINESS
26 WITHOUT PAYING THE CREDITORS.

27 Q MR. COYNE, DID YOU FIND AN ASSET CALLED
28 THE INSPORT AGREEMENT?

1 A THE INSPORT AGREEMENT WAS PART OF WHAT WAS
2 SOLD BEFORE I GOT THERE TO S.X.I. IT WAS KIND OF THAT
3 CENTRAL AGREEMENT THAT ALLOWED FIRST E.S.I. AND LATER
4 S.X.I. TO RUN THESE MOTORCROSS SPORTING EVENTS.

5 Q FROM WHOM WAS THE INSPORT AGREEMENT SOLD
6 OR FROM WHAT ENTITY?

7 A E.S.I. HELD IT. SOLD IT WITH BANKRUPTCY
8 COURT PERMISSION TO S.X.I. AND THE SALE WAS SOME MONEY
9 DOWN AND MUCH MORE MIGHT NEED TO COME TO BE SECURED BY
10 THAT AGREEMENT ITSELF AND OTHER COLLATERAL AND CERTAIN
11 GUARANTEES.

12 Q WHO WERE THE STATED PRINCIPALS OF S.X.I.
13 WHO PURPORTED TO PURCHASE THE INSPORT AGREEMENT?

14 A NOW MY MEMORY DOES NOT RECALL WHETHER IT
15 WAS LISTED AS DIANE SEIDEL OR DIANE SEIDEL GOODWIN OR
16 SIMPLY DIANE GOODWIN. ONE OF THOSE NAMES. IT WAS
17 MR. GOODWIN'S WIFE WHO WAS ONE OF THE PRINCIPALS.

18 Q DIANE?

19 A DIANE.

20 Q ANYBODY ELSE?

21 A THERE WAS A MR. CLAYTON WHO WAS ALSO
22 LISTED.

23 Q WAS THAT OF CONCERN TO YOU THAT THE
24 DEFENDANT'S WIFE WAS A PURPORTED PURCHASER OF ONE OF THE
25 LARGEST ASSETS OF E.S.I.?

26 A IT WAS INDEED.

27 Q WHY?

28 A I'VE WORK IN THE BANKRUPTCY WORLD A LONG

1 TIME. CERTAIN THINGS SET OFF SIGNALS. THE DEBTOR HAS A
2 BANK ACCOUNT IN THE GRAND CAYMEN. THE DEBTOR JUST SOLD
3 HIS PRIMARY ASSETS TO HIS WIFE. THAT SETS OFF A -- IT'S
4 THE SAME SORT OF ORDER OF MAGNITUDE YOU HAVE TO GET THOSE
5 FACTS FILLED IN. IT JUST RAISES A GREAT MANY QUESTIONS.

6 Q DID, IN FACT, S.X.I. THE PRINCIPALS BEING
7 DIANE GOODWIN OR DIANE SEIDEL, WHICHEVER NAME SHE USED
8 AND CHUCK CLAYTON, DID S.X.I. UTILIZING THOSE PRINCIPALS
9 MAKE GOOD ON THEIR PURCHASE AGREEMENT OF THE INSPORT
10 AGREEMENT?

11 A THAT'S SOMETHING THAT SET OFF ANOTHER
12 FLYER WHEN I GOT THERE. THEY WERE IN DEFAULT. WHEN I
13 CHECKED THE DOCUMENTATION, I HAD NO WAY TO ENFORCE THE
14 AGREEMENT THAT WAS MADE WITH THE BANKRUPTCY COURT'S
15 PERMISSION. IT WAS NEVER FULLY DOCUMENTED.

16 Q AND THAT MEANT WHAT?

17 A WHICH MEANT THAT THE DOCUMENTATION THAT
18 WOULD GIVE ME A SECURITY INTEREST IN THE INSPORT
19 AGREEMENT SIMPLY WASN'T IN PLACE PROPERLY. IT HAD NEVER
20 BEEN DONE. AND OF COURSE THE PERSON WHO WAS RESPONSIBLE
21 FOR DOING IT WAS E.S.I. MR. GOODWIN AND HIS LAWYERS
22 SELLING TO S.X.I. MRS. GOODWIN AND HER LAWYERS.

23 Q DID THIS APPEAR TO YOU AS AN EXPERT IN THE
24 FIELD TO BE SOMEWHAT OF A "SHELL GAME" TO USE A LAY TERM?

25 MR. SUMMERS: OBJECTION. FOUNDATION, YOUR HONOR.
26 LEADING.

27 THE COURT: SUSTAINED.

28 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE

1 THE ACTIVITY BETWEEN MICHAEL GOODWIN; HIS WIFE DIANE
2 GOODWIN; E.S.I.; S.X.I.; CHUCK CLAYTON; AND THE INSPORT
3 AGREEMENT?

4 A I HATE TO USE THE "F" WORD, BUT FRAUD.

5 Q DID YOU BELIEVE THAT MICKEY THOMPSON'S
6 RIGHTS AS A JUDGMENT CREDITOR WERE BEING SOMEWHAT
7 AFFECTED BY THE ACTIVITIES OF E.S.I.; DIANE GOODWIN;
8 CHUCK CLAYTON AND S.X.I.?

9 A I DID.

10 Q IN WHAT WAY?

11 A I FELT THAT E.S.I. -- WHICH CLEARLY
12 UNEQUIVOCALLY OWED MR. THOMPSON MONEY -- WOULD NOT HAVE
13 THE MONEY WITH WHICH TO PAY HIM BECAUSE THE PRIMARY
14 ASSETS OF E.S.I. HAD BEEN SHIFTED AWAY. MOREOVER, THE
15 MONEY THAT WAS SUPPOSED TO BE PAID BY S.X.I. TO E.S.I.
16 WAS NOT COMING NOT IN THE WAY IT WAS SUPPOSED TO AND
17 DIDN'T COME UNTIL I STARTED DEMANDING IT, ENFORCING IT TO
18 COME.

19 Q ALL RIGHT. I'M ACTUALLY GOING TO TRY A
20 SENTENCE WITHOUT AN ACRONYM IN IT OR INITIALS. I CAN'T
21 DO IT. INSPORT IS AN ACRONYM.

22 WHAT DID YOU DO WITH REGARD TO THE INSPORT
23 AGREEMENT?

24 A INITIALLY, I THINK THE FIRST THING I DID
25 WAS HAVE COUNSEL BRIEFED ON IT. AND I HAD MY LAWYERS
26 SPEAK WITH WILLIAM LOBEL WHO WAS THE -- OFFICIALLY THE
27 DEBTOR'S LAWYER FOR E.S.I. BUT IN ALL FUNCTIONS SPOKE
28 WITH MR. GOODWIN AND I SAID THIS IS SOMETHING THAT NEEDS

1 TO BE DOCUMENTED CORRECTLY ACCORDING TO THE WAY IT WAS
2 REPRESENTED TO THE BANKRUPTCY COURT.

3 INSPOINT IS NOW HELD BY S.X.I. YOU EITHER
4 HAVE TO GET THIS STRAIGHT OR WE'RE GOING TO REQUIRE IT.
5 THAT DIDN'T YIELD WHAT WE EXPECTED, SO I INSTRUCTED
6 COUNSEL TO FILE A MOTION TO REQUIRE THIS DOCUMENTATION TO
7 BE BROUGHT UP TO SNUFF. MY RECOLLECTION IS THAT THEY DID
8 SO FILE AND THAT THAT WAS ONGOING AND ULTIMATELY WAS
9 SUCCESSFUL. I BELIEVE ULTIMATELY WE OBTAINED A
10 STIPULATION AFTER MUCH BACK AND FORTH AND THAT
11 DOCUMENTATION WAS FINALLY DONE.

12 Q ALL RIGHT. WAS THERE CERTAIN MONIES THAT
13 WERE, IN FACT, PAID FROM THE CLAYTON/SEIDEL S.X.I.
14 ENTITY TOWARD THAT INSPOINT AGREEMENT?

15 A EVENTUALLY, 385,000 OF THE 500,000 DUE WAS
16 PAID.

17 Q AND WHAT ABOUT THE OTHER OUTSTANDING
18 BALANCE?

19 A THE BALANCE OF 115,000 WAS UNDER
20 DISCUSSION. THERE WERE A VARIETY OF CLAIMS BY MR. AND
21 MRS. GOODWIN THAT THEY SHOULDN'T HAVE TO PAY IT OR THAT
22 YOU SHOULD HAVE TO PAY SOME MONEY OUT OF THE BANKRUPTCY
23 FIRST. BUT I WAS FAIRLY ADAMANT THAT WE FIRST HAD TO
24 COLLECT THE FULL AMOUNT AS INDICATED IN THE AGREEMENT.
25 THAT WAS SOMETHING THAT WASN'T PAID AND NEEDED TO BE
26 PAID. IF IT WAS NOT PAID, I BELIEVE MY EXPRESSION WAS
27 THAT THE AGREEMENT WAS IN BREACH AND I WOULD REPOSSESS
28 THE AGREEMENT.

1 Q AND WERE YOU IN A POSITION OF REPOSSESSION
2 OF THE INSPORT AGREEMENT?

3 A I HAD INSTRUCTED COUNSEL TO GET ALL THE
4 DOCUMENTATION TOGETHER.

5 Q SO YOU DID, IN FACT, BEGIN THAT PROCESS?

6 A YES.

7 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

8 THE COURT: SUSTAINED.

9 Q BY MR. JACKSON: DID YOU, IN FACT, BEGIN
10 THAT PROCESS OR ANY OTHER PROCESS CONCERNING THE INSPORT
11 AGREEMENT?

12 A I DID.

13 Q DURING YOUR TENURE AS THE BANKRUPTCY
14 TRUSTEE FOR E.S.I., DID E.S.I. OR MIKE GOODWIN EVER OWN
15 THAT INSPORT AGREEMENT FREE AND CLEAR?

16 A DURING MY TENURE, NO.

17 Q DO YOU REMEMBER THE DATE THAT MICKEY
18 THOMPSON WAS KILLED?

19 A I REMEMBER IT WAS MARCH OF 1988.

20 Q BEFORE MICKEY THOMPSON WAS KILLED IN MARCH
21 OF 1988 -- WELL, WERE YOU STILL THE BANKRUPTCY TRUSTEE
22 FOR E.S.I. --

23 A I WAS.

24 Q -- AT THE TIME THAT MICKEY AND TRUDY
25 THOMPSON WERE KILLED?

26 A YES, I WAS.

27 Q AT THAT TIME BEFORE THEY WERE KILLED, DID
28 MICHAEL GOODWIN EVER OWN THAT INSPORT AGREEMENT FREE AND

1 CLEAR?

2 MR. SUMMERS: OBJECTION. VAGUE, YOUR HONOR.

3 MR. JACKSON: I'LL REPHRASE IT, YOUR HONOR.

4 Q I BELIEVE THIS WILL CLEAR IT UP. WHILE
5 YOU WERE THE BANKRUPTCY TRUSTEE,

6 A WHILE I WAS THE BANKRUPTCY TRUSTEE? NO.

7 Q DID YOU HAVE INFORMATION, MR. COYNE, AS
8 THE BANKRUPTCY TRUSTEE THAT ANYBODY ELSE WAS INTERESTED
9 IN PURCHASING THE INSPORT AGREEMENT?

10 A I DID.

11 Q DID YOU HAVE INFORMATION THAT ANY OTHER
12 ENTITIES WERE MAKING IN-ROADS TOWARD THAT END?

13 MR. SUMMERS: OBJECTION, YOUR HONOR. FOUNDATION.
14 HEARSAY. RELEVANCE. AND LEADING.

15 THE COURT: ON LEADING GROUNDS, IT'S SUSTAINED.

16 MR. JACKSON: I'LL REPHRASE.

17 Q WHO --

18 A MR. THOMPSON'S COUNSEL APPROACHED ME AND
19 SAID SHOULD THE AGREEMENT EVER GET REPOSSESSED, THERE
20 WOULD BE A QUALIFIED AND EAGER BIDDER FOR IT.

21 Q DURING THE COURSE OF YOUR TENURE AS THE
22 BANKRUPTCY TRUSTEE, DID MIKE GOODWIN'S PARENTS EVER COME
23 INTO THE PICTURE?

24 A YES, THEY DID.

25 Q COULD YOU DESCRIBE THAT FOR US, PLEASE?

26 A AT SOME POINT IN TIME I RECEIVED A DEMAND
27 FROM I BELIEVE IT WAS MR. GOODWIN THAT A DEBT FROM THE
28 BANKRUPTCY MONIES THAT I HAD COLLECTED INTO E.S.I. OVER

1 TO MR. GOODWIN'S PARENTS. I CAN'T REMEMBER THE FIRST
2 NAMES, BUT THERE WAS A CLAIM OF SOME \$20,000 TO THEM.

3 Q AND WHAT AFFECT DID THAT HAVE ON E.S.I.
4 AND YOUR CONTROL OVER E.S.I.?

5 A WHEN YOU DO A CHAPTER 11 LIKE E.S.I., YOU
6 DON'T START HANDING OUT CASH UNTIL YOU'RE SURE OF THE
7 ENTIRE CREDITOR PICTURE. I REFUSED. I SAID THAT UNTIL I
8 COULD SEE THAT THAT MONEY ACTUALLY CAME IN, AND THAT THEY
9 WERE ACTUALLY SECURED OR HAD SOME PRIORITY, I WOULD NOT
10 APPROACH THE COURT AND SEEK TO DISTRIBUTE THAT MONEY.
11 EVEN IF I WANTED TO, I COULD NOT DO IT WITHOUT COURT
12 PERMISSION.

13 Q DID YOU BLOCK THAT MONEY GOING TO HIS
14 PARENTS?

15 A I DID.

16 Q DO YOU REMEMBER ANY ACTIVITY WITH REGARD
17 TO YOUR POSITION AS THE BANKRUPTCY TRUSTEE FOR E.S.I.
18 CONCERNING A MERCEDES?

19 A I RECALL IT, YES.

20 Q TELL ME WHAT YOU REMEMBER ABOUT THAT.

21 A THERE WAS SOME DISCUSSION WITH I BELIEVE
22 IT WAS MR. THOMPSON'S COUNSEL, BUT I LEARNED THAT THERE
23 WAS A MERCEDES BEING DRIVEN BY MR. GOODWIN, A LARGE
24 EXPENSIVE MERCEDES. I ALSO WAS INFORMED AND IT APPEARED
25 FROM WHAT I COULD SEE IN THE BOOKS THAT SOME OF THE LEASE
26 PAYMENTS FOR THAT MERCEDES HAD BEEN MADE BY THE COMPANY.

27 I TOOK THE POSITION WITH MR. GOODWIN'S
28 COUNSEL THAT THAT MERCEDES EITHER HAD TO BE TURNED OVER

1 TO THE ESTATE OR GIVEN BACK TO THE LEASE COMPANY IF IT
2 HAD NO EQUITY. BUT ONE WAY OR ANOTHER THERE WERE DOLLARS
3 IN THAT MERCEDES THAT BELONGED TO E.S.I. --

4 Q DID YOU AS THE BANKRUPTCY TRUSTEE HAVE
5 CONTROL OVER THAT QUOTE, UNQUOTE, ASSET, THAT MERCEDES IF
6 YOU WANTED IT?

7 A IF I CAN PROVE THAT THE LEASE PAYMENTS
8 WERE MADE BY E.S.I., I BELIEVE I COULD HAVE OBTAINED
9 POSSESSION.

10 Q WHAT DID YOU DO IN FACT?

11 A IN FACT, MY RECOLLECTION IS REALLY HAZY ON
12 THIS. BUT I BELIEVE THAT MERCEDES WAS GIVEN BACK TO THE
13 BANK EVENTUALLY. I BELIEVE THAT IT WENT OUT OF
14 MR. GOODWIN'S POSSESSION AND BACK TO THE LEASING COMPANY.

15 Q WAS THAT IN RESPONSE TO ANYTHING THAT YOU
16 DID?

17 A I BELIEVE IT WAS. AT LEAST I WAS TOLD IT
18 WAS.

19 Q DID YOU MAKE A DEMAND?

20 MR. SUMMERS: OBJECTION, YOUR HONOR. MOVE TO
21 STRIKE AS FOUNDATION. LACK OF FOUNDATION.

22 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

23 Q BY MR. JACKSON: DID YOU MAKE A DEMAND TO
24 EFFECT THAT HE RELINQUISH THE CONTROL OF THE MERCEDES?

25 A I DID.

26 Q NOW, DID YOU EVER HAVE ANY FACE-TO-FACE
27 MEETINGS WITH MICHAEL GOODWIN?

28 A SEVERAL, YES.

1 Q DURING THE COURSE OF ANY OF THOSE
2 MEETINGS -- I'M GOING TO ASK YOU ABOUT THREE DIFFERENT
3 THINGS. WHAT WAS MICHAEL GOODWIN'S ATTITUDE TOWARD YOUR
4 POSITION ON THE INSPORT AGREEMENT?

5 MR. SUMMERS: OBJECTION. VAGUE AS TO TIME.

6 THE COURT: SUSTAINED.

7 Q BY MR. JACKSON: AT SOME POINT DURING YOUR
8 CONTROL -- YOUR TENURE AND CONTROL OF E.S.I., DID YOU
9 HAVE A MEETING WITH MICHAEL GOODWIN WHERE THE ISSUE OF
10 THE INSPORT AGREEMENT CAME UP?

11 A I DID.

12 Q WHEN WAS THAT, APPROXIMATELY?

13 A THE BEST REFERENCE I CAN GIVE IT WAS TWO
14 TO THREE WEEKS BEFORE MICKEY THOMPSON'S DEATH.

15 Q DID THE ISSUE OF YOUR BLOCKING MONIES
16 GOING TO MR. GOODWIN'S PARENTS COME UP DURING THAT
17 MEETING?

18 A IT DID.

19 Q DID THE ISSUE OF THE MERCEDES COME UP
20 DURING THAT MEETING?

21 A I BELIEVE IT DID, YES.

22 Q DID THE ISSUE OF YOUR CONTROL OVER THE
23 FUNDS AND ASSETS OF E.S.I. AND SALE OF THOSE ASSETS TO
24 S.X.I. AND DIANE GOODWIN AND CHUCK CLAYTON, DID THAT
25 ISSUE COME UP?

26 MR. SUMMERS: OBJECTION. LEADING AND COMPOUND,
27 YOUR HONOR.

28 THE COURT: SUSTAINED.

1 Q BY MR. JACKSON: DID THE ISSUE OF MICHAEL
2 GOODWIN'S -- I'M SORRY.

3 DID THE ISSUE OF YOUR CONTROL OVER
4 E.S.I.'S ASSETS COME UP AT THAT MEETING?

5 A THE ISSUE OF MY UNWILLINGNESS TO PAY DIANE
6 GOODWIN HER CLAIM THAT SHE WAS OWED 100 -- I BELIEVE
7 \$130,000 CAME UP. THE ISSUE OF MY UNWILLINGNESS TO BACK
8 AWAY FROM DEMANDING PAYMENT ON THE S.X.I. OWNERSHIP OF
9 INSPORT CAME UP. AND THEY WERE DISCUSSED AT LENGTH WITH
10 MR. GOODWIN AND MR. LOBEL.

11 Q I WANT TO INVITE YOUR ATTENTION
12 SPECIFICALLY TO THAT MEETING AND ASK YOU, WHAT WAS THE
13 DEFENDANT'S DEMEANOR TOWARD YOU DURING THAT MEETING?

14 A THE MEETING PROCEEDED IN A FAIRLY CIVIL
15 MANNER WHILE MY LAWYER AND MR. GOODWIN'S LAWYER MR. LOBEL
16 WERE BOTH PRESENT. DEMANDS WERE MADE. STATEMENTS WERE
17 HEATED. STATEMENTS WERE MADE, BUT IT WAS STILL CIVIL.
18 WHEN WE HAD COME TO AN IMPASSE AND IT WAS CLEAR THAT WE
19 WERE NOT GOING TO DO WHAT MR. GOODWIN REQUESTED,
20 MR. LOBEL AND MS. EISEN WERE LEAVING. MR. GOODWIN
21 APPROACHED TO ME AND SPOKE TO ME.

22 Q AND TELL ME ABOUT THAT CONVERSATION. WHAT
23 DID MR. GOODWIN SAY?

24 A MR. GOODWIN WAS LITERALLY INCHES FROM ME.
25 HE HAD JUST PULLED A PILL BOX OUT AND PUT SOMETHING IN
26 HIS MOUTH. HE LOOKED ME DEAD IN THE EYE AND WITH
27 TREMENDOUS ANGER SAID, "YOU BETTER LIGHTEN UP OR THINGS
28 WILL GET BAD."

1 I KIND OF BACKED UP A MOMENT, NOT REALLY
2 BELIEVING I HEARD WHAT HE SAID. AND THEN HE SAID
3 SOMETHING -- AND, AGAIN, THE EXACT WORDS HERE ARE HAZY
4 FOR ME. I WAS VERY ANGRY. HE SAID, "IF YOU RUIN MY
5 LIFE, I'LL RUIN YOURS" OR WORDS TO THAT EFFECT. I
6 BELIEVE THE WORDS MORE COLORFUL, BUT I DON'T SWEAR.

7 Q I'M GOING TO ASK YOU, IF YOU WOULDN'T
8 MIND, TO TAKE LEAVE FROM YOUR NORMAL POSITION ABOUT
9 SWEARING AND RELATE TO THE JURORS YOUR BEST RECOLLECTION
10 OF THE ACTUAL WORDS THAT WERE USED BY MICHAEL GOODWIN.

11 A I BELIEVE HE SAID, "IF YOU FUCK UP MY
12 LIFE, I'LL FUCK UP YOURS."

13 Q DID YOU TAKE HIM SERIOUSLY?

14 A OH, YES.

15 Q DID YOU TAKE THAT COMMENT OR THAT PHRASE
16 AS A THREAT?

17 A I TOOK THAT COMMENT AS AN INTENTIONAL
18 THREAT, CAUSE TO MAKE ME BACK UP AND DO SOMETHING
19 ILLEGAL, DISHONEST OR IMMORAL.

20 Q HOW DID YOU REACT TO THAT COMMENT BY MIKE
21 GOODWIN?

22 A I GOT ANGRY. AT THAT MOMENT I REMEMBER MY
23 THOUGHT PROCESSING GOING TO THE EXTENT THAT ANYBODY WHO
24 WILL DO THIS HAS SOMETHING TO HIDE AND I WILL NOT BACK
25 UP.

26 Q DID THE DEFENDANT SAY ANYTHING BEFORE
27 MAKING THESE THREATS? DID THE DEFENDANT SAY ANYTHING
28 SPECIFIC ABOUT, FOR INSTANCE, HIS PARENTS?

1 A THERE WERE SEVERAL DISCUSSIONS DURING THE
2 MORE CIVIL PART OF THE MEETING IN WHICH HE WAS REQUESTING
3 THAT PAYMENT BE MADE TO HIS PARENTS AND TO HIS WIFE FOR
4 INSPORT, THE SUPPOSED POST-PETITION DEBT, SO THAT THEY
5 COULD THEN TURN AROUND AND USE THAT MONEY TO PAY THE
6 MONIES DUE ON THE INSPORT AGREEMENT.

7 Q DID HE APPEAR TO YOU TO TAKE ISSUE WITH
8 YOUR BLOCKING OF THAT MONEY GOING TO HIS PARENTS, THAT HE
9 WANTED TO GO TO HIS PARENTS?

10 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED.

11 THE COURT: OVERRULED.

12 THE WITNESS: HE DID. HE WAS QUITE EXCITABLE,
13 VERY ANGRY.

14 Q BY MR. JACKSON: WHEN HE ACTUALLY ISSUED
15 THE THREAT -- OR WHAT YOU TOOK TO BE A THREAT, AND SAID
16 SOMETHING TO THE EFFECT OF "IF YOU MESS WITH ME, I'LL
17 MESS WITH YOU," WHAT WAS HIS ACTUAL DEMEANOR LIKE, HIS
18 FACIAL EXPRESSION, HIS BODY LANGUAGE?

19 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED.

20 THE COURT: OVERRULED.

21 THE WITNESS: THIS IS 18 YEARS AGO.

22 Q BY MR. JACKSON: I UNDERSTAND.

23 A AT THAT TIME MR. GOODWIN WAS A LOT
24 YOUNGER, A LOT BIGGER, A LOT SCARIER. I WAS A LITTLE BIT
25 LIGHTER MYSELF, THAT WAS 80 POUNDS AGO. AND THE DEMEANOR
26 WAS EIGHT INCHES FROM MY FACE. INTENTIONALLY ANGRY.
27 JUST BARELY RESTRAINED. THAT BLACK RAGE. HE WAS
28 TREMBLING AND HE WAS SPEAKING IN A STACCATO VERY, VERY

1 EXCITED AND ANGRY FASHION.

2 Q MR. COYNE, YOU'VE INDICATED TO THIS JURY
3 THAT YOU HAVE BEEN A BANKRUPTCY TRUSTEE ON LITERALLY
4 THOUSANDS OF BANKRUPTCIES. AND YOU HAVE BEEN THE
5 APPOINTED TRUSTEE ON SEVERAL, 25 OR MORE OF WHAT YOU
6 WOULD CONSIDER TO BE LARGE BANKRUPTCY ESTATES.

7 DESCRIBE THIS BANKRUPTCY ACTION, THE
8 GOODWIN BANKRUPTCY ACTION WITH E.S.I. AS COMPARED TO THE
9 OTHER BANKRUPTCIES THAT YOU'VE BEEN INVOLVED WITH IN YOUR
10 PROFESSIONAL CAREER?

11 A IN A BANKRUPTCY THERE IS ALWAYS TENSION.
12 NOBODY IS HAPPY BECAUSE THERE ARE DEBTS. THERE ARE
13 LOSSES. PEOPLE ARE SENSITIVE ABOUT THEIR MONEY. BUT IN
14 THIS CASE, E.S.I., THIS IS THE HIGHEST LEVEL I HAD EVER
15 SEEN OF ACRIMONY, ANGER, INTENSITY, RESENTMENT AND RAGE.
16 I HAVE NEVER SEEN IT BEFORE OR SINCE.

17 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
18 HONOR.

19 (DISCUSSION OFF THE RECORD.)

20 MR. JACKSON: THANK YOU, MR. COYNE; YOUR HONOR.

21 THE COURT: CROSS-EXAMINATION?

22 LET ME ASK A QUESTION BEFORE YOU START:
23 IT'S FIVE TO 4:00 AND I KNOW WE WERE TRYING TO FINISH
24 WITH MR. COYNE'S TESTIMONY TODAY.

25 IS THAT REALISTIC?

26 MR. JACKSON: NO, NOT AT THIS POINT.

27 MS. SARIS: NO. WE MIGHT AS WELL JUST --

28 MR. JACKSON: I DON'T THINK SO.

1 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
2 WOULD NORMALLY GO UNTIL 4:30, BUT THERE ARE STILL SOME
3 THINGS, BELIEVE IT OR NOT, THAT I HAVE TO DO OUTSIDE YOUR
4 PRESENCE WITH THE LAWYERS. SO SINCE WE'RE NOT GOING TO
5 FINISH MR. COYNE TODAY --

6 MS. SARIS: ACTUALLY -- I'M SORRY, YOUR HONOR. I
7 DON'T KNOW THAT THE COURT WILL HAVE ENOUGH WITHOUT THE
8 CROSS TO MAKE THE RULING.

9 THE COURT: I THINK I DO.

10 MS. SARIS: OKAY.

11 THE COURT: I THINK IT WILL BE OKAY. SO I'M
12 GOING TO SEND YOU HOME NOW. AND WE WILL RESUME AT 10:00
13 A.M. TOMORROW.

14 COUNSEL?

15 MR. JACKSON: THAT'S FINE.

16 MR. DIXON: YES.

17 MS. SARIS: YES.

18 THE COURT: OKAY. 10:00 A.M. TOMORROW. LADIES
19 AND GENTLEMEN, PLEASE REMEMBER ALL THE ADMONITIONS. WE
20 WILL SEE YOU TOMORROW MORNING AT 10:00 A.M.

21
22 (THE FOLLOWING PROCEEDINGS WERE
23 HELD IN OPEN COURT OUTSIDE THE
24 PRESENCE OF THE JURY.)

25
26 THE COURT: ALL RIGHT. BACK ON THE RECORD. WE
27 STILL HAVE MR. COYNE HERE. AND I DON'T KNOW IF WE NEED
28 ANY FURTHER TESTIMONY AT THIS POINT, BUT THIS WOULD BE

1 THE TIME WHEN WE SHOULD ELICIT IT IF NECESSARY.

2 MR. JACKSON: THE ONLY THING THAT I WOULD INVITE
3 THE COURT TO CONSIDER IS THE OFFER OF PROOF. I THINK THE
4 OFFER OF PROOF IS EXACTLY WHAT I'VE STATED THREE OR FOUR
5 TIMES. I THINK MR. COYNE'S TESTIMONY IS UNNECESSARY AS
6 YOU KNOW. THE LION'S SHARE OF WHAT THE COURT WANTED TO
7 HEAR CONCERNING HIS RELATIONSHIP ON THE ISSUES I THINK
8 HAS BEEN ELICITED.

9 THE COURT: RIGHT.

10 MR. JACKSON: I MEAN I COULD ASK HIM ABOUT THE
11 INCIDENT ON THE DAY OF THE MURDERS, BUT I THINK IT'S
12 GOING TO BE EXACTLY WHAT I'VE TOLD YOU IT'S GOING TO BE.

13 THE COURT: WELL, YOU MAY NOT HAVE ANY MORE
14 QUESTIONS, BUT I THINK THERE MIGHT BE SOME QUESTIONS FROM
15 THE DEFENSE SIDE.

16 MS. SARIS: IT'S NECESSARY. I CAN ASK ABOUT THE
17 ACTUAL STATEMENT.

18 THE COURT: I KNEW THAT THERE WAS A DISAGREEMENT
19 BETWEEN THE TWO OF YOU.

20 MS. SARIS: THIS CAN BE VERY EASY. IT WON'T TAKE
21 LONG.

22

23 EXAMINATION

24 BY MS. SARIS:

25 Q MR. COYNE, THE MORNING OF THE MURDERS,
26 YOU'VE RELATED THAT CERTAIN THINGS WERE SAID TO YOU
27 REGARDING PEOPLE COMING TO YOUR PARKING GARAGE?

28 A YES.

1 Q AND WAS THAT THE BUILDING THAT THE
2 SECURITY MANAGER THAT SPOKE TO YOU?

3 A IT WAS ONE OF THE SECURITY OFFICERS.

4 Q AND HOW DID THAT OCCUR? YOU JUST DROVE IN
5 TO THE OFFICE; HE CAME UP TO YOUR CUBICLE? HOW DID THAT
6 WORK?

7 A NO. WHEN I WAS DRIVING INTO WORK I HEARD
8 ON KFWB THAT MICKEY AND TRUDY THOMPSON HAD BEEN KILLED.

9 Q WHAT TIME DO YOU DRIVE IN?

10 A NORMALLY AT 7:30, 8:00 O'CLOCK IN THE
11 MORNING. BUT THAT MORNING I WAS LATE. AT THE TIME I HAD
12 FOUR CHILDREN AND SOMETHING HAD HAPPENED WITH THE KIDS
13 AND SO I WAS RUNNING LATE; IT WAS PERHAPS 9:30. AND I
14 HEARD THIS AND TURNED MY CAR AROUND; DROVE HOME CALLED
15 THE SHERIFF'S DEPARTMENT. AND I GOT THE SHERIFF OVER
16 THERE; EXPLAINED MY SUSPICION AND MY CONCERN; AND THEN I
17 TOOK MY FAMILY, LOADED THEM IN THE CAR AND SENT THEM OUT
18 OF THE STATE.

19 Q AND WHEN DID YOU HAVE THIS CONVERSATION
20 WITH THE SECURITY GUARD?

21 A AFTER I HAD GOTTEN MY FAMILY SAFELY AWAY;
22 LOCKED UP THE HOUSE. I THEN DROVE TO WORK BECAUSE I WAS
23 CONCERNED FOR MY FIRM AND THE PEOPLE IN IT.

24 Q ABOUT HOW MANY HOURS AFTER -- OR WHAT TIME
25 OF DAY --

26 A I WOULD VENTURE A GUESS ABOUT 11:30 A.M.
27 I WAS BACK TO GRAHAM AND JAMES IN CITICORP PLAZA. I
28 DROVE INTO THE PARKING GARAGE; PARKED MY CAR; WENT

1 UPSTAIRS TO THE 34TH FLOOR AND WAS NO SOONER AT MY DESK
2 WHEN HE CAME INTO MY OFFICE.

3 Q AND "HE" BEING THE ACTUAL SECURITY GUARD
4 OR THE HEAD OF SECURITY?

5 A THE ACTUAL SECURITY.

6 Q DO YOU RECALL TELLING LILLIENFELD THAT IT
7 WAS THE BUILDING MANAGER WHO TOLD YOU ABOUT THE SECURITY
8 GUARD?

9 A THERE WERE SEVERAL CONVERSATIONS. THE
10 BUILDING MANAGER HAD SPOKEN WITH THE OFFICE MANAGER AT
11 GRAHAM AND JAMES. AND THE BUILDING MANAGER'S STATEMENTS
12 WERE RELATED TO ME. AND HE LATER TALKED TO ME ABOUT IT.
13 BUT THE SECURITY GUARD ALSO CAME TO MY OFFICE.

14 Q AND THAT WAS ABOUT 11:30?

15 A ABOUT 11:30, YES.

16 Q AND WHAT DID HE TELL YOU?

17 A HE TOLD ME THAT THEY WERE VERY CONCERNED
18 THAT THERE HAD BEEN TWO MEN -- ITALIAN LOOKING FELLOWS
19 THEY HAD JACKETS WITH NICE SHIRTS. SHOES, BUT NO SOCKS.
20 THEY WERE LARGE HUSKY MEN AND THEY HAD BEEN WALKING
21 THROUGH THE PARKING LOT LOOKING FOR MY CAR.

22 Q HOW DID HE KNOW THEY WERE LOOKING FOR YOUR
23 CAR?

24 A BECAUSE THEY ASKED HIM.

25 Q SO HE RELATED TO YOU THAT SOMEONE ELSE HAD
26 SAID TO HIM "WHERE IS MR. COYNE'S CAR"?

27 MR. JACKSON: OBJECTION, YOUR HONOR. THIS IS NOT
28 CROSS-EXAMINATION. IF COUNSEL WANTS TO ELICIT IN A

1 NON-LEADING FASHION. THIS IS NOT CROSS-EXAMINATION. OR
2 I WILL TAKE THE WITNESS ON DIRECT EXAMINATION. THE
3 WITNESS SHOULD BE ABLE --

4 THE COURT: I DON'T CARE WHO DOES IT.

5 MR. JACKSON: AS LONG AS COUNSEL IS NOT LEADING,
6 I DON'T HAVE A PROBLEM.

7 MS. SARIS: I'M TRYING TO CLARIFY. LET ME JUST
8 ASK YOU --

9 MR. JACKSON: CLARIFY WITHOUT LEADING.

10 Q BY MS. SARIS: WAS THERE A COMMENT THAT HE
11 MADE TO YOU ABOUT WHAT WAS SAID?

12 A YES. I'LL TRY TO MAKE THAT MORE CLEAR.

13 Q THANK YOU.

14 A HE SAID THESE TWO MEN CAME TO HIM ASKING
15 FOR THE RED CORVETTE WITH THE WHITE TOP THAT BELONGED TO
16 THIS COYNE. WHERE DOES HE PARK IT? WHERE IS IT? WHERE
17 IS HE?

18 Q AND WHERE DID THEY COME TO HIM BASED ON
19 WHAT YOU WERE TOLD?

20 A HE WAS ATTENDING IN THE PARKING LOT. HE
21 WAS PATROLLING THE PARKING LOT WHEN THEY CAME TO HIM.

22 Q HE ALSO TOLD ME THAT AS SOON AS HE GOT
23 SUSPICIOUS AND SAID WHY ARE YOU ASKING? WHAT ARE YOU
24 DOING HERE? THEY BOTH RAN TO THEIR CAR; JUMPED IN THEIR
25 CAR; AND DROVE AWAY RAPIDLY OUT THE WRONG ENTRANCE UP A
26 ONE-WAY STREET THE WRONG WAY. HE WAS SUSPICIOUS AND VERY
27 EXCITABLE BECAUSE WHEN HE HAD SEEN THIS ALL HAPPEN, HE
28 THOUGHT IT WAS VERY UNUSUAL.

1 Q HE RELATED THAT TO YOU?

2 A HE DID.

3 Q OKAY. AND WHAT TIME DID HE SAY ALL THAT
4 HAD OCCURRED?

5 A HE SAID THAT THAT HAD OCCURRED A COUPLE OF
6 HOURS BEFORE, ROUGHLY 9:30.

7 Q AND YOU WERE IN YOUR OFFICE 34 FLOORS UP
8 IN YOUR BUILDING?

9 A I WAS UP IN MY OFFICE 34 FLOORS UP IN MY
10 BUILDING AT 11:30 WHEN HE SPOKE TO ME.

11 MS. SARIS: THANK YOU.

12 THE COURT: ANYTHING ELSE?

13 MR. JACKSON: THAT'S FINE, YOUR HONOR.

14 MS. SARIS: I'M SORRY. I JUST HAVE ONE OTHER.

15 Q HAVE YOU EVER SEEN YOUR STATEMENT TO
16 DETECTIVE LILLIENFELD? WOULD THAT HELP REFRESH YOUR
17 RECOLLECTION AS TO WHETHER THE ACTUAL GUARD CAME TO YOU
18 OR WHETHER SOMEONE TOLD YOU WHAT THE GUARD SAID TO THEM?

19 MR. JACKSON: YOUR HONOR, I DON'T BELIEVE THE
20 WITNESS SAID THAT HE COULDN'T REMEMBER.

21 MS. SARIS: I'M ASKING WOULD THAT HELP AT ALL.

22 MR. JACKSON: SHE'S ASKING IF IT WOULD REFRESH
23 HIS RECOLLECTION THAT HASN'T BEEN --

24 THE COURT: I AGREE WITH YOU, BUT I'M GOING TO
25 OVERRULE THE OBJECTION.

26 THE WITNESS: LET ME ANSWER THAT I HAVE A
27 SPECIFIC RECOLLECTION OF THIS. I'VE NEVER SEEN THAT
28 DOCUMENT BEFORE. I'M GLAD TO LOOK AT IT. I CAN'T VOUCH

1 FOR WHETHER MR. LILLIENFELD UNDERSTOOD ME CORRECTLY OR IF
2 I WAS SIMPLY INARTICULATE IN MY EXPLANATION. BUT I HAVE
3 A SPECIFIC RECOLLECTION OF THIS GUARD COMING AND TELLING
4 ME WHAT WAS GOING ON BECAUSE IT WAS CHILLING.

5 Q BY MS. SARIS: AND WHEN -- AND THAT GUARD,
6 DO YOU KNOW HIS NAME?

7 A NO.

8 Q NOT EVEN A FIRST NAME?

9 A NO.

10 Q WAS THIS AN INDIVIDUAL THAT WORKED THERE
11 AS FAR AS YOU KNEW?

12 A YES.

13 Q DO YOU KNOW -- DO YOU REMEMBER THE NAME OF
14 ANY OF THE FOLKS THAT WE'RE TALKING ABOUT, THE BUILDING
15 MANAGER; THE SECURITY GUY?

16 MR. JACKSON: AT THIS POINT, IT'S DISCOVERY. IT
17 DOESN'T MATTER.

18 THE COURT: YOU KNOW WHAT, THE JURY IS NOT HERE.
19 I'M GOING TO ALLOW IT. JUST HURRY UP.

20 MS. SARIS: OKAY. THAT'S IT.

21 Q DO YOU REMEMBER ANY NAMES AT ALL?

22 A I'M GETTING TO THAT STAGE WHERE THEY HAVE
23 ALL FADED. I CAN STILL REMEMBER THE FACES, BUT THIS IS
24 MANY THOUSANDS OF PEOPLE AGO.

25 Q WAS HE WEARING A SECURITY UNIFORM OR A
26 BUSINESS SECURITY --

27 A SECURITY UNIFORM.

28 Q AND DID YOU REMEMBER HIS NAME AND NOW YOU

1 HAVE FORGOTTEN IT?

2 A I WOULD KNOW WHEN HE WAS TALKING TO ME,
3 HI, I'M BOB THE SECURITY GUARD SORT OF THING.

4 Q HE CAME AND INTRODUCED HIMSELF?

5 A YEAH. BUT IT WAS PRETTY CLEAR I HAD SEEN
6 HIM BEFORE AT CITICORP PLAZA. I KNEW WHO HE WAS. AND
7 THE UNIFORM WAS A DEAD GIVEAWAY.

8 MS. SARIS: THANK YOU.

9 THE COURT: ANYTHING ELSE?

10 MS. SARIS: NO. THANK YOU.

11 THE COURT: AND FROM THE PEOPLE?

12 MR. JACKSON: NO, YOUR HONOR.

13 THE COURT: ALL RIGHT. SO WE ARE GOING TO HAVE
14 MR. COYNE COME BACK THEN TOMORROW MORNING AT 10:00 A.M.;
15 RIGHT?

16 MR. JACKSON: YES, YOUR HONOR.

17 THE COURT: OKAY. SEE YOU TOMORROW MORNING THEN
18 AT 10:00 A.M.

19 THE WITNESS: I SHALL BE HERE. THANK YOU.

20 (PAUSE IN PROCEEDINGS.)

21 THE COURT: ALL RIGHT. THE WITNESS HAS LEFT THE
22 COURTROOM.

23 I UNDERSTAND WHAT THE OFFER OF PROOF IS.
24 I DON'T THINK THERE IS ANY DISPUTE AS TO WHAT MR. COYNE
25 TESTIFIED TO. AGAIN, I'M GOING TO ASSUME FOR THE SAKE OF
26 ARGUMENT THAT THIS IS A SPONTANEOUS STATEMENT. BECAUSE
27 IT APPEARS TO ME THAT THE REAL ISSUE IS THE RELEVANCE AND
28 WHETHER OR NOT THE COURT CAN DRAW -- OR ANYONE CAN DRAW

1 AN INFERENCE THAT ASSUMING THESE PEOPLE WERE UP TO NO
2 GOOD, WHETHER OR NOT THAT'S IN ANY WAY CONNECTED TO THE
3 CONDUCT OF MR. GOODWIN.

4 AND I LIKENED IT THIS MORNING TO THE
5 LETTERS. THE LETTERS, HOWEVER, THERE WAS CERTAINLY
6 PERHAPS NOT AS MUCH INFORMATION IN THOSE LETTERS THAT
7 WOULD LEAD ONE TO MAKE THE INFERENCE THE PEOPLE WERE
8 SEEKING. THERE IS A LITTLE BIT MORE HERE. BUT I THINK
9 THE ULTIMATE QUESTION IS 352 AT THIS POINT.

10 MR. JACKSON: I THINK YOU'RE EXACTLY RIGHT.
11 THE -- YOU CAN'T TAKE WHAT HAPPENED ON MARCH 16TH, 1988
12 AT 8:30, 9:00 O'CLOCK IN THE MORNING AT CITICORP PLAZA,
13 YOU CAN'T TAKE THAT IN A VACUUM. AND THAT'S WHAT WE'RE
14 ASKING THE COURT TO DO IS TO LOOK AT THIS IN THE TOTALITY
15 OF WHAT WE BELIEVE HAPPENED WAS OR WAS HAPPENING
16 SYSTEMATICALLY BY MIKE GOODWIN.

17 IS IT A COINCIDENCE THAT EVERY SINGLE
18 PERSON WHO HAD ANY CONTACT WITH THIS GUY WAS BEING
19 THREATENED AND VERY ODD THINGS WERE HAPPENING ALL AT THE
20 SAME TIME IN THE MIDDLE OF THE VITRIOLIC RELATIONSHIP
21 BETWEEN HIM AND MICKEY THOMPSON?

22 AND EVERY SINGLE PERSON THAT HAD ANY REAL
23 FINANCIAL OR LEGAL RELATIONSHIP WITH MICHAEL GOODWIN
24 STARTED GETTING THREATENED. I MEAN ON THE DAY OF THE
25 MURDERS, THESE TWO GUYS SHOW UP SUSPICIOUSLY. THAT HAD
26 NEVER HAPPENED BEFORE. IT'S NEVER HAPPENED SINCE.

27 JEFF COYNE WAS A BANKRUPTCY TRUSTEE OVER
28 THE MOST VIOLENT -- AND I'M USING THAT WORD IN THE LAY

1 TERMS -- THE MOST VIOLENTLY ARGUED AND LITIGATED
2 BANKRUPTCY HE HAS EVER BEEN INVOLVED WITH. HE HAS NEVER
3 SEEN THAT BEFORE. HE HAS NEVER SEEN IT AFTER.

4 PHIL BARTINETTI WHO IS A PROFESSIONAL
5 LITIGATOR HAD NEVER BEEN INVOLVED IN A LAWSUIT THE LIKES
6 OF WHICH HE ENGAGED WITH MIKE GOODWIN. HE HAD NEVER
7 BEFORE. HE HAD NEVER AFTER.

8 I THINK WHEN YOU TAKE ALL THREE OF THOSE
9 THINGS IN TOTAL, JUDGE, IT'S SORT OF LIKE RE SIP LOQUIDUS
10 (SIC), IT SPEAKS FOR ITSELF. IT IS WHAT IT IS. WE'RE
11 NOT SAYING WHEN THE ITALIAN GUYS WERE COMMENTING ON MIKE
12 GOODWIN. WE'RE NOT SAYING IN THE LETTERS IT MENTIONED
13 THE THOMPSON LITIGATION. OF COURSE, THEY DIDN'T. IF
14 THEY DID, I DON'T THINK WE WOULD BE ARGUING THIS.

15 WE'RE SAYING THAT CIRCUMSTANTIALY, THIS
16 EVIDENCE IS PROBATIVE TO THE EXTENT THAT THE JURY SHOULD
17 BE ENTITLED TO WEIGH IT. AND IF THEY DON'T LIKE IT,
18 THROW IT OUT. IF THEY DO, IF THEY BELIEVE IT'S PROBATIVE
19 TO THE ISSUE OF HIS GUILT OR INNOCENCE, THEN THEY CAN
20 ATTACH WHATEVER WEIGHT THEY WANT TO IT. THAT'S ALL THAT
21 WE'RE ASKING.

22 THE COURT: LET ME SEE IF I CAN PUT MY THOUGHTS
23 ON THE RECORD IN ASSESSING THE PROBATIVE VALUE. I HAVE
24 TO CONSIDER, AS YOU SAID, ALL OF THE EVIDENCE THAT'S BEEN
25 PRESENTED. THE MOST DAMAGING PART OF THE EVIDENCE, AT
26 LEAST WITH MR. COYNE, HAS BEEN PRESENTED.

27 MR. JACKSON: I AGREE.

28 THE COURT: THE TWO ITALIAN MEN WITH OR WITHOUT

1 SOCKS RUNNING AROUND A PARKING LOT LOOKING FOR MR. COYNE
2 AND HIS CAR ON THE DAY OF THE MURDERS IS INTERESTING, BUT
3 WHEN I COMPARE IT TO WHAT I HAVE HEARD SO FAR, IT ADDS
4 PRACTICALLY NOTHING.

5 I THINK SIMILAR TO THE ARGUMENT THIS
6 MORNING ABOUT THE STATEMENTS MADE BY MR. GOODWIN THAT
7 THIS PERHAPS, IF IT HAD RELEVANCE -- OR IF IT DOES HAVE
8 RELEVANCE, COULD BE INTRODUCED AS CIRCUMSTANTIAL EVIDENCE
9 TENDING TO SHOW THE LEVEL OF HOSTILITY AND ACRIMONY THAT
10 EXISTED IN THIS LITIGATION.

11 AND IF THERE WAS SOMETHING MORE, PERHAPS
12 INVOLVING MR. GOODWIN IN THIS CONDUCT BY THE TWO ITALIANS
13 WITHOUT SOCKS, MAYBE I CAN DRAW THAT INFERENCE. BUT
14 QUITE FRANKLY, I'M HAVING A HARD TIME MAKING OR DRAWING
15 THAT INFERENCE IN LIGHT OF WHAT I HAVE.

16 AND WHAT I HAVE RIGHT NOW IS SO
17 DEVASTATING THAT THIS DOESN'T ADD MUCH OF ANYTHING TO
18 MR. COYNE'S TESTIMONY, AT LEAST BASED ON WHAT I HAVE
19 HEARD ON THE DIRECT. I CERTAINLY HAVEN'T HEARD THE
20 CROSS. SO I DON'T KNOW WHAT IS COMING. BUT JUST LOOKING
21 AT IT AT THIS OFFER OF PROOF UNDER 352, BECAUSE THE
22 PROBATIVE VALUE IS SO LIGHT, I'M NOT EVEN LOOKING AT THE
23 PREJUDICIAL EFFECT.

24 I MEAN GRANTED I WILL GIVE YOU THIS, THE
25 PREJUDICIAL EFFECT IS PROBABLY AS MINIMAL AS THE
26 PROBATIVE VALUE BASED ON WHAT WE HAVE SO FAR. BUT, YOU
27 KNOW, UNDER 352 IT'S STILL A WEIGHING AND BALANCING THAT
28 I HAVE TO ENGAGE IN. AND THAT'S WHERE I'M LEANING RIGHT

1 NOW IS TO FIND IT HAS SUCH MINIMAL PROBATIVE VALUE --

2 MR. JACKSON: IT'S THE SOCKS, ISN'T IT?

3 THE COURT: IT WAS.

4 MR. JACKSON: IT WAS THE SOCKS.

5 MR. SUMMERS: ACTUALLY, YOUR HONOR, I HAVE NO
6 QUESTIONS.

7 MS. SARIS: OUR ONLY CONCERN IS THAT HE BE
8 ADMONISHED. AND, OF COURSE, THE DEFENSE DOESN'T AGREE
9 WITH THE IDEA THAT IT'S SPONTANEOUS, BUT WE OBVIOUSLY ARE
10 NOT GOING TO WORRY ABOUT IT.

11 THE COURT: I'M CUTTING TO THE CHASE.

12 MS. SARIS: NO, I GET IT. NO PROBLEM.

13 THE COURT: IT MAY OR MAY NOT BE SPONTANEOUS, BUT
14 I WILL DEAL WITH THE EASIER ISSUE.

15 MS. SARIS: AS LONG AS WE LET HIM KNOW THAT THAT
16 WAS THE RULING.

17 MR. JACKSON: I INFORMED HIM OF THAT BEFORE HE
18 TOOK THE STAND THAT THAT WAS ABSOLUTELY OFF LIMITS. AND
19 I'LL DO THE SAME THING. HE KNOWS.

20 THE COURT: LET'S GO OFF THE RECORD.

21
22 (THE MATTER WAS CONTINUED TO WEDNESDAY,
23 NOVEMBER 15, 2006 AT 10:00 A.M.)

24 (NEXT PAGE IS 4201.)

25 --000--
26
27
28

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE TERI SCHWARTZ, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL
REDACTED = PURSUANT TO 237(A)(2)
NOVEMBER 15, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 11 OF 24
PAGES 4201 THRU 4408/4500

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, NOVEMBER 15, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
20 RECORD ON THE MICHAEL GOODWIN MATTER. MR. GOODWIN IS
21 PRESENT WITH HIS COUNSEL. THE PEOPLE ARE REPRESENTED.
22 THE JURORS AND ALTERNATES ARE NOT YET PRESENT.

23 I WAS ADVISED THAT WE HAD A MATTER TO
24 DISCUSS OUTSIDE OF THE PRESENCE OF THE JURY THIS MORNING.

25 MR. JACKSON: I COMPLETELY FORGOT. I APOLOGIZE.
26 I WAS THINKING ABOUT SOMETHING ELSE.

27 IT'S THE ISSUE THAT I BROUGHT UP OFF THE
28 RECORD YESTERDAY INFORMALLY AND WOULD SIMPLY ASK FOR A--

1 SOME FORMAL GUIDANCE FROM THE COURT ON THE ISSUE OF THE
2 ACQUITTAL.

3 MY UNDERSTANDING IS BOTH FROM AN OFFER OF
4 PROOF FROM THE DEFENSE, AS WELL AS IN TALKING TO KATHY
5 WEESE, THAT DURING HER TENURE AS AN EMPLOYEE OF MICHAEL
6 GOODWIN, AT SOME POINT, LEVELED ACCUSATIONS OF -- I THINK
7 IT WAS EMBEZZLEMENT OF SOME \$30,000 AGAINST KATHY WEESE.

8 MS. WEESE WAS PROSECUTED FOR THAT CRIME --
9 OR FOR THAT ALLEGED CRIME, I GUESS, AND IT WAS ULTIMATELY
10 ACQUITTED. I THINK THE RULES OF EVIDENCE ARE THE SAME
11 FOR EVERYBODY. IF THE DEFENDANT WERE TO TAKE THE STAND
12 AND IF HE WERE ACQUITTED ON CERTAIN CHARGES, I COULDN'T
13 IMPEACH HIM ON THAT AND CERTAINLY I DON'T THINK THAT
14 MS. WEESE SHOULD BE SUBJECTED TO CROSS-EXAMINATION ON
15 THAT ISSUE, GIVEN THE FACT THAT THE JUDICIAL SYSTEM
16 WAS -- SHE ENJOYED ITS BENEFITS AND WAS, IN FACT, LEGALLY
17 ACQUITTED OF THAT CRIME OF ALL CHARGES SURROUNDING THAT
18 CRIME.

19 I ALSO WOULD MAKE NOTE THAT MS. WEESE IS
20 GOING TO ADMIT THAT SHE'S A PRIOR FELON, THAT SHE HAS, I
21 THINK, EITHER TWO OR THREE FELONY CONVICTIONS. I'M NOT
22 SURE SHE KNOWS WHICH, BUT SHE'LL TALK OPENLY ABOUT THOSE.
23 I JUST DON'T SEE THE PROBATIVE VALUE OF MS. SARIS, OR
24 MR. SUMMERS, CROSS-EXAMINING MS. WEESE ON SOMETHING THAT
25 SHE WAS LITERALLY ACQUITTED ON.

26 SO THAT'S WHAT I'M ASKING GUIDANCE ON.

27 THE COURT: AND THE DEFENSE POSITION IS WHAT?

28 MS. SARIS: THAT -- TWO SEPARATE ISSUES. ONE

1 GOES TO BIAS AND HER DISLIKE OF OUR CLIENT AND
2 WILLINGNESS TO SAY ANYTHING NOW TO GET HIM INTO TROUBLE.
3 HIS ACCUSATION NOT ONLY RESULTED IN EIGHT MONTHS IN JAIL
4 FOR HER, BUT IT ALERTED THE AUTHORITIES TO THE FACT THAT
5 SHE WAS A FELONY FUGITIVE -- FUGITIVE FELON FROM COLORADO
6 AND SHE WAS -- BECAUSE SHE HAD LIED ABOUT HER NAME IN
7 ORDER TO GAIN EMPLOYMENT WITH MR. GOODWIN. WHEN SHE WAS
8 IN CUSTODY THEY RECOGNIZED HER TRUE NAME. SHE WAS
9 EXTRADICTED BACK TO COLORADO AND FORCED TO DO THE REST OF
10 HER TIME AND THEN SOME ON THE ORIGINAL CHARGE.

11 SO IT DOES GO TO BIAS. AND, AGAIN, IF SHE
12 WANTS TO BRING UP THAT SHE WAS ACQUITTED, AGAIN, I THINK
13 THAT'S EVEN MORE SORT OF PREJUDICIAL TO HER IN HER MIND
14 THAT HE STUCK HER WITH CHARGES WHEN SHE WOUND UP DOING A
15 LOT OF TIME AS A RESULT OF BOTH OF THAT AND HER FELONY
16 FUGITIVE STATUS.

17 AND, SECOND, THE MISDEMEANORS FOR WHICH
18 SHE DOES HAVE CONVICTIONS, SHE HAS FELONY CONVICTIONS,
19 BUT THE MISDEMEANORS ARE THEFT WHICH ARE CRIMES OF MORAL
20 TURPITUDE THAT WE WOULD BE ALLOWED TO INQUIRE AS TO THEIR
21 CONDUCT DESPITE HER WILLINGNESS TO ADMIT THE FACT OF
22 THOSE CONVICTIONS.

23 THE COURT: WHEN DID MR. GOODWIN MAKE THE
24 ACCUSATIONS?

25 MS. SARIS: MAY 2ND, 1986. THE SHERIFF'S CAME
26 INTO THE OFFICES IN ORANGE COUNTY, ARRESTED HER IN FRONT
27 OF EVERYONE, AND SHE STAYED EIGHT MONTHS BEFORE SHE WAS
28 EXTRADICTED TO COLORADO.

1 THE COURT: SHE WAS EIGHT MONTHS IN CUSTODY IN
2 ORANGE COUNTY?

3 MS. SARIS: CORRECT.

4 THE COURT: AND WHAT HAPPENED DURING THAT
5 EIGHT-MONTH PERIOD?

6 MS. SARIS: I ASSUME SHE WAS FIGHTING THE
7 CHARGES.

8 THE COURT: SO THE CASE WAS EVENTUALLY FILED AND
9 THAT'S WHY SHE REMAINED IN CUSTODY UNTIL THE TRIAL,
10 PRESUMABLY?

11 MS. SARIS: THAT'S CORRECT. AND THEN AFTER THE
12 TRIAL, ASSUMING THIS IS CORRECT AND SHE WAS ACQUITTED,
13 SHE WAS TAKEN BACK TO COLORADO. SHE HAD WALKED AWAY FROM
14 A PRISON THERE. ONE OF THESE, I GUESS, PRISONS YOU CAN
15 WALK AWAY FROM. AND SHE WAS RETURNED THERE AS A RESULT
16 OF THEM FINDING OUT HER REAL NAME.

17 THE COURT: AND WHEN DID SHE FIRST COME FORWARD
18 AND PROVIDE INFORMATION?

19 MS. SARIS: 2001.

20 MR. JACKSON: SHE NEVER ACTUALLY CAME FORWARD.
21 SHE WAS FOUND. SHE NEVER RAISED HER HAND, SHE NEVER CAME
22 FORWARD TO THE AUTHORITIES, EVER. SHE WAS LOCATED AND
23 FOUND IN 2001 BY DETECTIVE LILLIENFELD WHO CONTACTED HER
24 IN GEORGIA.

25 MS. SARIS: SHE WAS --

26 MR. JACKSON: AT THAT POINT SHE WAS INTERVIEWED
27 AND ASKED ABOUT HER RELATIONSHIP WITH MR. GOODWIN,
28 ET CETERA, ET CETERA.

1 MS. SARIS: SHE CLAIMS TO HAVE COME FORWARD AND
2 THERE'S NO RECORD OF IT PRIOR. SHE WAS INTERVIEWED IN
3 2001 IN A GEORGIA FACILITY WANTED ON A WACO, TEXAS
4 WARRANT.

5 THE COURT: SO THE DEFENSE WISHES TO INQUIRE
6 ABOUT THE CASE IN ORANGE COUNTY WHICH LEAD TO HER
7 INCARCERATION FOR A PERIOD OF EIGHT MONTHS. AND WHAT
8 KINDS OF THINGS DO YOU WANT TO INQUIRE ABOUT? SIMPLY THAT
9 THE ALLEGATION WAS MADE BY MR. GOODWIN?

10 MS. SARIS: THAT'S CORRECT. AS A RESULT OF WHAT
11 HE SAID, SHE DID SUBSTANTIAL TIME IN JAIL AND THAT AS A
12 RESULT OF WHAT HE SAID, SHE WAS FORCED BACK TO COLORADO
13 TO ANSWER ON THOSE CHARGES.

14 THE COURT: AND THE PEOPLE'S POSITION IS THAT THE
15 DEFENSE SHOULDN'T BE ABLE TO ASK ABOUT ANY OF THAT?

16 MR. DIXON: WELL, SHE WAS FOUND NOT GUILTY OF
17 THOSE CRIMES.

18 THE COURT: NO. BUT NOT THE CONVICTION OR THE
19 CONDUCT, BUT JUST THE FACT.

20 MR. DIXON: BUT FOR ALL INTENTS AND PURPOSES,
21 THAT'S WHAT THEY'RE GOING TO DO. AND IT'S DIFFICULT FOR
22 ME TO BELIEVE THAT DEPUTY PUBLIC DEFENDERS WOULD BE
23 WANTING TO PURSUE SOMEBODY WHO WAS FOUND NOT GUILTY OF A
24 CRIME. AND THE FACT THAT THEY SAY, WELL, BECAUSE OF ALL
25 THIS SHE WAS SENT -- BECAUSE OF MR. GOODWIN'S ACTIONS SHE
26 WAS SENT TO COLORADO, IT'S NOT NECESSARILY SO.

27 THE FACT OF THE MATTER IS THAT GOODWIN
28 MADE ACCUSATIONS AGAINST HER AND SHE WAS FOUND NOT

1 GUILTY. THAT SHOULD BE THE END OF IT. THERE SHOULDN'T
2 BE ANY INQUIRY. SHE WAS FOUND NOT GUILTY. I MEAN,
3 THAT'S KIND OF A PRINCIPAL IN THE LAW. I MEAN, EVEN AT
4 THE PENALTY PHASE OF A CASE, IF SOMEBODY HAD PRIOR
5 CONDUCT, THEY WENT TO TRIAL, FOUND NOT GUILTY, THE
6 PROSECUTION CAN'T BRING IT UP. IT SHOULDN'T BE BROUGHT
7 UP.

8 MS. SARIS: RIGHT. WE'RE NOT ASKING TO BRING IT
9 UP FOR THE CONVICTION.

10 MR. DIXON: THAT'S EXACTLY WHAT THEY WANT.

11 MS. SARIS: ACTUALLY, WE DON'T NEED TO BECAUSE WE
12 HAVE THE OTHER CONVICTIONS.

13 THE COURT: THIS IS HOW I WOULD GET IT. THE FACT
14 THAT SHE WAS INCARCERATED FOR A PERIOD OF EIGHT MONTHS ON
15 A CHARGE THAT WAS ULTIMATELY FOUND TO BE NOT TRUE,
16 POTENTIALLY HAS SOME RELEVANCE ON THE ISSUE OF BIAS, HER
17 BIAS.

18 MR. DIXON: OR THE DEFENDANT'S BIAS. I MEAN, IF
19 HE TOOK THE STAND, COULD WE ASK HIM ABOUT -- THAT YOU
20 MADE FALSE ACCUSATIONS AGAINST KATHY WEESE JUST BECAUSE
21 YOU DIDN'T LIKE HER. I MEAN, WOULD THAT BE FAIR? WE
22 CAN'T DO THAT.

23 THE COURT: YOU KNOW, I CAN'T ANSWER THAT
24 QUESTION. I CAN ONLY ANSWER THE QUESTION THAT'S BEEN
25 PRESENTED, WHICH IS, IS IT FAIR GAME FOR THE DEFENSE TO
26 GO INTO THE INCARCERATION FOR EIGHT MONTHS?

27 YOU KNOW, TECHNICALLY SPEAKING, IT GOES TO
28 HER MOTIVE, INTEREST AND BIAS IN THE CASE AND HER DISLIKE

1 OF MR. GOODWIN. I DON'T KNOW IF THERE'S A WAY THAT IT
2 CAN BE SANITIZED. I THINK IT CAN. I THINK THE FACT THAT
3 MR. GOODWIN MADE FALSE ALLEGATIONS AGAINST THIS LADY THAT
4 CAUSED HER PROBLEMS, THAT CERTAINLY GOES TO MOTIVE,
5 INTEREST AND BIAS. I DON'T KNOW HOW ELSE TO DO THAT.

6 MS. SARIS: WELL, I DON'T KNOW THAT THE
7 ALLEGATIONS WERE FALSE SO MUCH AS SHE WAS ACQUITTED.

8 THE COURT: WELL, THE ALLEGATIONS I'D HAVE TO
9 ASSUME WERE FALSE BASED UPON THE ACQUITTAL.

10 MR. JACKSON: YOUR HONOR, THEN WE WOULD ASK FOR
11 A --

12 MS. SARIS: I'M SORRY. WAS I -- .

13 MR. JACKSON: -- AN INSTRUCTION BY THE COURT TO
14 TAKE JUDICIAL NOTICE OF THE ACQUITTAL AND INSTRUCT THE
15 JURORS IF, IN FACT, MS. SARIS DECIDES TO CROSS-EXAMINE
16 MS. WEESE ON THIS ISSUE, THAT, IN FACT, THE ALLEGATIONS
17 THAT WERE MADE BY MR. GOODWIN WERE FOUND LEGALLY TO BE
18 FALSE --

19 MS. SARIS: WELL, I WOULD ASK --

20 MR. JACKSON: -- AND NOT SUBSTANTIATED.

21 MS. SARIS: I WOULD ASK THAT THE COURT INSTRUCT
22 THAT SHE WAS LEGALLY ACQUITTED OF THOSE CHARGES.

23 MR. GOODWIN WAS CERTAINLY NOT CHARGED WITH FILING A FALSE
24 POLICE REPORT. THERE WAS A SERIOUS QUESTION ABOUT THIS
25 29,000-DOLLAR CHECK, THE JURY BELIEVED -- OR \$30,000 THAT
26 MS. WEESE -- THAT MICHAEL GOODWIN GAVE TO HER.

27 THE COURT: I DON'T THINK THE DEFENSE CAN HAVE IT
28 BOTH WAYS.

1 MS. SARIS: WE'RE NOT ASKING FOR IT TO BE BOTH
2 WAYS. WE'RE ASKING IF THE COURT IS INSTRUCTING ON WHAT
3 LEGALLY HAPPENED, WHAT LEGALLY HAPPENED IS AN ACQUITTAL.
4 THERE WAS NO LEGAL FINDING THAT MICHAEL GOODWIN MADE
5 FALSE CHARGES. THAT DOESN'T APPEAR ANYWHERE IN THE
6 RECORD.

7 MR. JACKSON: THE CHARGES WERE PROVED BY A JURY
8 TO BE FALSE CHARGES. INACCURATE CHARGES, UNSUBSTANTIATED
9 CHARGES.

10 MS. SARIS: SHE WAS ACQUITTED.

11 MR. JACKSON: HOWEVER YOU WANT TO PUT.

12 MS. SARIS: SHE WAS ACQUITTED. THAT'S THE LEGAL
13 TERM.

14 THE COURT: I KNOW WHAT THE LEGAL TERM IS, BUT I
15 DON'T THINK YOU CAN HAVE IT BOTH WAYS. I DON'T THINK YOU
16 CAN MASK THE FACT THAT SHE WENT TO TRIAL AND BASICALLY
17 THAT THE CHARGES WERE FOUND TO NOT BE TRUE. THAT IS THE
18 SAME BASICALLY AS AN ACQUITTAL. THE CHARGES WERE NOT
19 PROVED.

20 MS. SARIS: THE CHARGES WERE NOT PROVED. THAT'S
21 FINE. IT'S JUST THE AFFIRMATIVE NATURE OF THE PEOPLE'S
22 THING WAS THAT MR. GOODWIN MADE FALSE CHARGES. WE CAN
23 GET INTO THE LITIGATION, WE ACTUALLY FOUND SOME OF THE
24 PAPERWORK ON IT. AND I DON'T WANT TO RELITIGATE IT, SHE
25 WAS ACQUITTED. THERE'S ABSOLUTELY NO DENYING SHE WAS
26 ACQUITTED. IT'S ONLY FOR BIAS.

27 HER MORAL TURPITUDE AS TO BEING A THIEF
28 AND A FELON, THAT HAS NOTHING TO DO WITH THESE CHARGES.

1 THAT HAS TO DO WITH OTHER CHARGES. SO WE HAVE NO PROBLEM
2 WITH THAT. AND IF THE COURT WANTS TO SAY FOUND TO BE NOT
3 TRUE --

4 THE COURT: I DON'T THINK WE HAVE TO REFER TO
5 CHARGES, PERIOD. I MEAN, BASED ON WHAT -- I MEAN, WHAT
6 YOU'RE TELLING ME IS THAT BASED ON ALLEGATIONS MADE BY
7 MR. GOODWIN, THIS WITNESS WAS PUT IN CUSTODY FOR EIGHT
8 MONTHS.

9 MS. SARIS: UH-HUH.

10 THE COURT: I THINK THAT'S AS FAR AS IT GOES.

11 MS. SARIS: AND HER REAL NAME WAS DISCOVERED AND
12 SHE WAS TAKEN TO ANOTHER STATE TO ANSWER. AND THAT'S HOW
13 THEY FOUND OUT SHE WAS A -- SHE HAD ACTUALLY MADE A NEW
14 LIFE, HAD A NEW NAME, NEW DATE OF BIRTH, NEW SOCIAL
15 SECURITY NUMBER AND ALL THAT WAS DISCOVERED AS A RESULT
16 OF MR. GOODWIN PICKING UP THE PHONE.

17 THE COURT: WELL, IF YOU'RE TELLING ME THAT THERE
18 WAS AN ALLEGATION MADE BY MR. GOODWIN THAT SHE EMBEZZLED
19 MONEY AND THAT AS A RESULT OF THAT ALLEGATION SHE SAT IN
20 CUSTODY FOR EIGHT MONTHS UNTIL SHE WAS ACQUITTED, IT
21 SEEMS TO ME THAT THAT'S UNDER 352 RELEVANT INFORMATION
22 WITH MINIMAL PREJUDICIAL EFFECT AS LONG AS THE JURY ISN'T
23 MISLEAD INTO THINKING THAT THERE WAS SUBSTANCE TO THE
24 CHARGES.

25 SO I THINK IF YOU OPEN THE DOOR TO THAT
26 FACT ON THE ISSUE OF BIAS, THE DOOR CAN BE CLOSED BY THE
27 PEOPLE IN ANY WAY THE PEOPLE WANT IT. AND THAT IS TO
28 SUGGEST THAT THE CHARGES WERE GROUNDLESS OR THE CHARGES

1 WERE WITHOUT ANY FOUNDATION AND FACT, OR THE CHARGES WERE
2 FLAT OUT FALSE.

3 MR. SARIS: AND IF THAT'S THE CASE, THEN THAT
4 OPENS THAT DOOR TO US ACTUALLY TALKING ABOUT WHAT
5 ACTUALLY OCCURRED.

6 THE COURT: NO, I DON'T THINK SO, BECAUSE YOU'RE
7 BOUND BY THE ACQUITTAL. WE'RE NOT GOING TO RELITIGATE
8 THE CASE. BUT YOU'RE TELLING ME THAT THIS LEAD TO AN
9 ACQUITTAL.

10 MS. SARIS: RIGHT. AND THAT'S FINE. IF THE
11 PEOPLE WANT -- IF THAT OPENS THE DOOR TO THE JURY HEARING
12 IT WAS AN ACQUITTAL, THAT'S FINE. IF IT OPENS THE DOOR
13 TO MS. WEESE EXPLAINING HOW SHE REALLY DIDN'T DO THIS OR
14 DIDN'T DO THAT AND THIS IS WHAT THE JURY FOUND AND THIS
15 IS WHAT THEY HELD AND THIS IS WHAT -- I MEAN, WE'VE GOT
16 THE RECORDS, WE CAN AT SOME POINT.

17 THE COURT: I THOUGHT YOU WERE ONLY ASKING FOR
18 PERMISSION TO INQUIRE ABOUT THE FACT THAT SHE WAS IN
19 CUSTODY --

20 MS. SARIS: I AM.

21 THE COURT: -- FOR EIGHT MONTHS BASED ON
22 ALLEGATIONS THAT WERE MADE BY THE DEFENDANT?

23 MS. SARIS: AND I'M NOW ASKING THE COURT AT WHAT
24 POINT THE PEOPLE OPEN THE DOOR BY TRYING TO -- AS YOU
25 REFER TO IT, CLOSE THE DOOR THAT WE OPENED. I DON'T
26 UNDERSTAND HOW THEM JUST NOT SAYING IT'S AN ACQUITTAL FOR
27 THE CHARGES WERE FOUND TO BE NOT TRUE. WHAT I'M
28 CONCERNED ABOUT IS, THEN, MS. WEESE TAKING THAT A STEP

1 FURTHER. AND IF SHE TAKES THAT A STEP FURTHER, THEN WE
2 TAKE IT A STEP FURTHER AND IT GOES ON AND ON.

3 THE COURT: WE'RE NOT GOING TO RELITIGATE THE
4 FACTS. THE REALITY IS WHAT YOU'RE TELLING ME,
5 MR. GOODWIN MADE ALLEGATIONS THAT WERE FOUND TO BASICALLY
6 BE WITHOUT MERIT. THE PROSECUTION CAN ASK THE QUESTIONS
7 ANY WAY THEY WANT AS LONG AS THEY ARE LEGALLY PROPER
8 QUESTIONS. IF THEY WANT TO CALL IT AN ACQUITTAL, THEY
9 CAN CALL IT AN ACQUITTAL. IF THEY WANT TO CALL IT
10 BASELESS CHARGES, GROUNDLESS CHARGES, THEY CAN DO THAT.
11 WE'RE NOT GOING TO RELITIGATE THE TRUTH OF THE
12 ALLEGATIONS.

13 BUT THE FACT OF THE MATTER IS IT LEAD TO
14 AN ACQUITTAL, SO I DON'T KNOW HOW MUCH MILEAGE YOU'RE
15 GOING TO GET OUT OF THIS OTHER THAN THE FACT THAT SHE MAY
16 BELIEVE THAT MR. GOODWIN IS RESPONSIBLE FOR HER SITTING
17 IN CUSTODY FOR EIGHT MONTHS.

18 MR. DIXON: WELL, I THINK -- MR. JACKSON AND I
19 BOTH INTERVIEWED THIS WITNESS. AND WHAT I SUSPECT IS
20 THAT SHE'S GOING TO SAY A JURY FOUND HER NOT GUILTY AND
21 THAT SHE DIDN'T DO ANY OF THIS AND THAT'S PROBABLY AS FAR
22 AS IT GOES.

23 MS. SARIS: THAT'S FINE.

24 MR. DIXON: I DON'T THINK THAT THAT OPENS THE
25 DOOR TO RELITIGATE THIS CASE AND ALLOW THE DEFENSE TO TRY
26 TO SUGGEST THAT SHE EMBEZZLED FUNDS THAT A JURY FOUND
27 THAT SHE DID NOT.

28 THE COURT: CORRECT.

1 MS. SARIS: I DON'T DISAGREE WITH THAT. AND I
2 THINK THAT WOULD BE FINE. IF SHE SAID A JURY FOUND HER
3 NOT GUILTY, I THINK THAT'S INDEED WHAT HAPPENED.

4 THE COURT: ALL RIGHT. THEN WE HAVE THAT ISSUE
5 RESOLVED.

6 MS. SARIS: NOW, AS TO THE OTHER ISSUES OF MORAL
7 TURPITUDE, THERE IS NO -- THE OTHER CHARGES, THEY'RE
8 CLEAR, THEY'RE THEFT-RELATED OFFENSES AND SHE WAS IN
9 CUSTODY WHEN SHE SPOKE TO THE DETECTIVE, SHE WAS ON
10 PROBATION. PRIOR CASE LAW WE PROVIDED TO THE COURT
11 SUGGESTS THAT WE WOULD ALLOW TO INQUIRE ABOUT WHETHER SHE
12 FELT LIKE SHE WAS GOING TO GET ANYTHING AS A RESULT OF
13 THAT.

14 THE COURT: CORRECT.

15 MS. SARIS: OKAY.

16 THE COURT: ANYTHING ELSE?

17 MR. JACKSON: NOT AT THIS TIME, YOUR HONOR. I
18 HAVE -- JUST SO THAT THE COURT IS AWARE, AND MS. SARIS
19 ACTUALLY HEARD -- OR PROBABLY OVERHEARD A LITTLE BIT OF
20 THIS CONVERSATION, I HAVE INFORMED MR. COYNE OF THE
21 COURT'S RULING YESTERDAY AT LEAST AT THIS JUNCTURE. NONE
22 OF THE INCIDENT CONCERNING THE -- FOR LACK OF A BETTER
23 TERM -- THE TWO ITALIAN MEN WILL BE ADDRESSED OR
24 ELICITED.

25 THE COURT: ALL RIGHT. THANK YOU.

26 OKAY. WE WILL JUST WAIT A COUPLE MINUTES
27 AND WE WILL BRING OUR JURY IN.

28 (PAUSE IN PROCEEDINGS.)

1 THE COURT: GOING BACK ON THE GOODWIN MATTER.

2 ANYTHING BEFORE WE BRING THE JURORS IN?

3 MR. JACKSON: NO, YOUR HONOR.

4

5 (THE JURY ENTERED THE COURTROOM

6 AND THE FOLLOWING PROCEEDINGS WERE

7 HELD IN OPEN COURT.)

8

9 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

10 THE RECORD SHOULD REFLECT THAT ALL OF OUR JURORS AND

11 ALTERNATES ARE ONCE AGAIN PRESENT IN THE TRIAL MATTER.

12 THE PARTIES ARE PRESENT.

13 MR. COYNE IS STILL ON THE WITNESS STAND.

14 SIR, YOU'VE BEEN PREVIOUSLY SWORN AND I REMIND YOU YOU'RE

15 STILL UNDER OATH. COULD YOU PLEASE JUST STATE YOUR NAME

16 AGAIN FOR THE RECORD.

17 THE WITNESS: YES, YOUR HONOR. I'M JEFFREY

18 COYNE.

19 THE COURT: THANK YOU.

20 AND THEN, MR. SUMMERS, YOU MAY START YOUR

21 CROSS-EXAMINATION.

22 MR. SUMMERS: THANK YOU.

23

24 CROSS-EXAMINATION

25 BY MR. SUMMERS:

26 Q GOOD MORNING, MR. COYNE.

27 A GOOD MORNING, MR. SUMMERS.

28 Q YOU BECAME TRUSTEE OF THE E.S.I. ESTATE IN

1 APRIL OF 1987?

2 A I BELIEVE IT WAS JUNE OF 1987.

3 Q AND YOU RESIGNED FROM THAT POSITION IN
4 APPROXIMATELY LATE MARCH OF '88?

5 A THAT IS CORRECT.

6 Q AND ORIGINALLY YOU INDICATED UPON LOOKING
7 INTO YOUR TASK AND REVIEWING THE FILE OR VARIOUS FILES
8 WITH REGARD TO E.S.I., THAT YOU HIRED AN ACCOUNTANT AND
9 YOU HIRED LAWYERS; IS THAT CORRECT?

10 A THAT'S ALSO CORRECT.

11 Q AND SPECIFICALLY THE LAW FIRM YOU HIRED
12 WAS CALLED GRAHAM AND JAMES?

13 A I HIRED MY OWN LAW FIRM, GRAHAM AND JAMES
14 TO REPRESENT ME, YES.

15 Q AND YOU WERE A PARTNER IN THAT FIRM?

16 A I WAS.

17 Q BUT YOU DID NOT ACT IN THIS PARTICULAR
18 SITUATION AS BOTH A TRUSTEE AND YOUR OWN ATTORNEY FOR THE
19 TRUSTEE?

20 A AS A TRUSTEE, I'M AN INDEPENDENT ENTITY.
21 I'M NOT ACTING AS THE LAWYER AND THE TRUSTEE. JUST THE
22 TRUSTEE.

23 Q RIGHT. YOU MENTIONED I THINK MS. EISEN
24 YESTERDAY. IS THAT DEBORAH EISEN?

25 A THAT IS INDEED DEBORAH EISEN.

26 Q AND SHE WAS ASSOCIATED WITH THAT LAW FIRM
27 AT THE TIME THAT YOU WERE THE TRUSTEE?

28 A SHE WAS.

1 Q AND DOES THE NAME RICHARD GIBSON OR DICK
2 GIBSON RING A BELL WITH YOU?

3 A YES, INDEED.

4 Q WAS HE ALSO ASSOCIATED WITH THE LAW FIRM?

5 A HE WAS.

6 Q AND WERE THOSE TWO PEOPLE IN THE FOREFRONT
7 OF THAT LAW FIRM IN TERMS OF DEALING WITH THE E.S.I.
8 BANKRUPTCY, TO YOUR RECOLLECTION?

9 A I BELIEVE MS. EISEN WAS LEAD COUNSEL ON
10 THAT ENGAGEMENT. I BELIEVE MR. GIBSON AND SOME OTHER
11 ASSOCIATES WORKED ON THE FILE.

12 Q AND YOU INDICATED, I BELIEVE, THAT
13 MS. EISEN WAS PRESENT AT THE MEETING WHERE THE STATEMENTS
14 WERE MADE THAT YOU TESTIFIED ABOUT REGARDING MR. GOODWIN?

15 A SHE WAS PRESENT FOR THE DISCUSSION
16 PRECEDING THE THREATS. SHE WAS GONE AT THE TIME
17 MR. GOODWIN APPROACHED ME.

18 Q RIGHT. THERE HAD BEEN SOME OTHER MEETING
19 THAT HAD PRECEDED THE EXCHANGE THAT YOU HAD WITH
20 MR. GOODWIN?

21 A THERE WAS A MEETING IN WHICH WE WERE
22 ATTEMPTING TO SETTLE ISSUES TO DEAL WITH OUTSTANDING
23 QUESTIONS, CONCERNS, PROBLEMS THAT WE EACH PERCEIVED WITH
24 THE CASE.

25 Q WHAT HIS -- DO YOU KNOW WHERE THE MEETING
26 TOOK PLACE?

27 A THE MEETING TOOK PLACE ON THE 34TH FLOOR
28 OF THE CITY CORP PLAZA BUILDING. DOWNTOWN LOS ANGELES.

1 Q THAT WOULD BE AT THAT TIME THE OFFICES OF
2 THE LAW FIRM GRAHAM AND JAMES?

3 A CORRECT.

4 Q AND YOU INDICATED THAT MR. LOBEL WHO WAS
5 ATTORNEY FOR E.S.I. OR -- HE WAS PRESENT AS WELL AT THE
6 MEETING THAT PRECEDED?

7 A MR. LOBEL WAS SUBSTITUTE COUNSEL FOR THE
8 DEBTOR IN POSSESSION WHICH WENT OUT OF POSSESSION, SO I
9 GUESS TECHNICALLY FOR THE DEBTOR. AND HE WAS PRESENT FOR
10 PORTIONS OF THOSE DISCUSSIONS, YES.

11 Q DO YOU RECALL WHETHER ANYBODY ELSE WAS
12 PRESENT DURING THOSE DISCUSSIONS THAT PRECEDED THE
13 EXCHANGE?

14 A I RECALL THERE WAS ANOTHER PARTY PRESENT,
15 BUT I CANNOT DREDGE UP AT THE MOMENT WHO IT WAS.

16 Q DO YOU EVEN HAVE AN IDEA WHAT ENTITY THAT
17 PERSON MIGHT HAVE BEEN ASSOCIATED WITH? WHETHER IT BE
18 YOUR LAW FIRM, MR. GOODWIN, WITH LOBEL'S LAW FIRM,
19 ANYTHING EVEN TO THAT EXTENT?

20 A I DON'T.

21 Q DO YOU RECALL THE NAME DOLORES CORDELL?

22 A I KNOW THAT NAME, YES.

23 Q WAS SHE -- TO YOUR KNOWLEDGE, WAS SHE
24 COUNSEL FOR ONE OF THE CREDITORS OF THE E.S.I. ESTATE?

25 A MY RECOLLECTION IS THAT SHE WAS COUNSEL TO
26 ONE OF THE MICKEY THOMPSON RELATED CREDITORS, YES.

27 Q AND HOW MANY OTHER CREDITORS WERE THERE IN
28 THAT -- IN THE E.S.I. BANKRUPTCY?

1 A I DO NOT RECALL AT THIS TIME.

2 Q COULD YOU MAKE AN ESTIMATE ABOUT THE
3 NUMBER?

4 A I CAN TELL YOU THERE WERE MORE CREDITORS
5 THAN JUST MR. THOMPSON, BUT I COULD NOT TELL YOU HOW
6 MANY.

7 Q AND DO YOU RECALL THE AMOUNT OF -- THE
8 TOTAL AMOUNT OF -- IF THIS MAKES SENSE AND MAYBE IT
9 DOESN'T -- THE TOTAL AMOUNT OF THE CLAIMS THAT WERE
10 FILED, MEANING THE DOLLAR AMOUNT OF THE VALUE OF THE
11 CLAIMS THAT WERE FILED?

12 A THE CASE NEVER HAD A BAR DATE DURING THE
13 TENURE -- MY TENURE AS TRUSTEE. SO IT'S A MEANINGLESS
14 QUESTION. YOU DON'T GAUGE THE CLAIMS UNTIL YOU GET A BAR
15 DATE. THE CLAIMS PROCESS IS CLOSED AND THEN YOU CAN SAY
16 EVERYBODY WHO HAS A CLAIM HAS MADE A CLAIM, THEN YOU CAN
17 TALLY THEM UP. BUT THAT HADN'T HAPPENED YET.

18 Q IT WASN'T -- SO THERE WOULD HAVE BEEN SOME
19 CLAIMS FILED TO THAT POINT, TO THE POINT OF THE END OF
20 YOUR TENURE, BUT NOT ALL OF THEM; IS THAT FAIR?

21 A THERE'S A MULTI STEP PROCESS. MR. GOODWIN
22 AND E.S.I. THEMSELVES WOULD HAVE LISTED CLAIMS IN THE
23 SCHEDULES ATTACHED TO THE CHAPTER 11 PETITION. AND THEY
24 WOULD HAVE SAID THESE PEOPLE ARE CREDITORS. THEY WOULD
25 HAVE, THEN, INCURRED DEBTS DURING THE ONGOING PORTION OF
26 THE CHAPTER 11, WHERE THEY WERE RUNNING THE COMPANY, AND
27 THOSE WOULD BE CREDITORS.

28 THERE WOULD HAVE BEEN LAWYERS,

1 ACCOUNTANTS, TRUSTEES WHO DID ACTIONS AND INCURRED
2 EXPENSES DURING THE COURSE OF THE CHAPTER 11, AND THEY
3 WOULD BE TRUSTEES. THE CLERK OF COURT, THE U.S. TRUSTEE
4 AND MANY OTHERS WOULD ALSO HAVE CLAIMS, BUT THAT WOULD
5 NOT HAVE COMPLETED UNTIL EITHER THE CASE CONVERTED TO
6 CHAPTER 7, OR THERE WAS A PLAN OF REORGANIZATION OR THERE
7 WAS A SEPARATE ORDER MAKING A BAR DATE.

8 Q WAS -- DO YOU RECALL DURING YOUR TENURE,
9 WAS EVEN THE PERSONAL ESTATE OR THE TRUSTEE OF THE
10 PERSONAL BANKRUPTCY ESTATE OF MR. GOODWIN, WAS THAT
11 PERSON A CREDITOR OF THE E.S.I. BANKRUPTCY?

12 A MY RECOLLECTION IS THAT THAT TRUSTEE -- I
13 BELIEVE IT WAS ROBERT MOSER AT THE TIME, WAS ASSERTING A
14 CLAIM. I DON'T RECALL WHETHER HE FILED THE OFFICIAL
15 CLAIM FORM, BUT I DO RECALL SEVERAL DISCUSSIONS WITH HIM
16 ABOUT THE PERSONAL INDIVIDUAL BANKRUPTCY AND THE
17 CORPORATE BANKRUPTCY.

18 Q OKAY. MR. JACKSON USED THE PHRASE
19 YESTERDAY "FREE AND CLEAR" WITH REGARD TO THE IN-SPORT
20 AGREEMENT. I WOULD LIKE TO ASK YOU A LITTLE BIT ABOUT
21 THAT.

22 I WOULD ASSUME THAT YOU HAVE SOME
23 EXPERTISE AND KNOWLEDGE IN PROPERTY PRINCIPALS?

24 A I THINK WE CAN SAY SO, YES.

25 Q THIS IS ACTUALLY A DREAM COME TRUE, I GET
26 TO ASK A LAW PROFESSOR HYPOTHETICAL QUESTIONS.

27 THERE'S A DIFFERENCE BETWEEN -- IN YOUR
28 MIND WHEN YOU ANSWERED THAT QUESTION, THERE'S A

1 DIFFERENCE BETWEEN POSSESSION, THE CONCEPT OF POSSESSION
2 AND OWNERSHIP, FREE AND CLEAR?

3 A NOT JUST IN MY MIND. THE BANKRUPTCY CODE
4 SECTION 363 DEFINES THE CONCEPT OF AN ASSET BEING
5 ENCUMBERED OR BEING FREE AND CLEAR. AS DOES ARTICLE 9 OF
6 THE UNIFORM COMMERCIAL CODE. THESE ARE VERY CLEAR
7 DEFINITIONS AND THESE WERE THE DEFINITIONS I WAS WORKING
8 WITH WHEN I ANSWERED MR. JACKSON'S QUESTION.

9 Q IF WE COULD, AND YOU CAN TELL ME IF WE
10 CAN'T -- JUST TO STEP AWAY FROM THE BANKRUPTCY FOR A
11 MINUTE. ARE THESE KINDS OF CONCEPTS THAT WOULD BE SIMILAR
12 TO ONES WHERE YOU GET A MORTGAGE DEED ON A -- TRUST DEED
13 ON A HOUSE WHERE THAT'S THE KIND OF ENCUMBRANCE THAT
14 YOU'RE TALKING ABOUT? WHERE THE BANK -- IF YOU DON'T
15 PAY, THE BANK CAN REPOSSESS THE HOUSE?

16 A IT'S ACTUALLY A LITTLE MORE SIMILAR TO YOU
17 GET A BORROWING AGAINST YOUR CAR AND THERE'S A SEPARATE
18 FILING THAT ENCUMBERS THE TITLE.

19 Q ALL RIGHT. AND WHEN YOU'RE TALKING ABOUT
20 SOMETHING LIKE AN AGREEMENT, A SANCTIONING AGREEMENT, AND
21 YOU'RE TALKING ABOUT OWNING THAT FREE AND CLEAR, IS THAT
22 ACTUALLY MORE AKIN TO SOMETHING LIKE A LEASE WHERE AT THE
23 END OF THE LEASE PERIOD YOU DON'T OWN THE AGREEMENT, IN
24 FACT, AT THE END OF THE PERIOD YOU GIVE IT BACK OR IT'S
25 GONE, WHATEVER YOU HAD POSSESSORY INTEREST IN IS GONE?

26 A NO.

27 Q NO.

28 IS IT -- WELL, LET ME TALK ABOUT THAT

1 SITUATION YOU JUST TALKED ABOUT WHERE YOU -- WITH THE CAR
2 WHERE YOU --

3 A I WOULD LIKE TO HELP YOU. WOULD YOU LIKE
4 ME TO EXPLAIN IT?

5 Q SURE.

6 A THE BANKRUPTCY CODE CHANGES THE RULES.
7 WHEN I ENTER INTO A CONTRACT WITH YOU TO BUY YOUR PODIUM,
8 I MIGHT HAVE TEN DAYS IN WHICH TO BUY THAT PODIUM. ON
9 DAY NINE IF I FILE BANKRUPTCY, YOU'RE STILL STUCK.
10 IT'S CALLED AN EXECUTORY CONTRACT AND YOU STILL CANNOT
11 GET OUT OF THE CONTRACT UNTIL THE BANKRUPTCY COURT SAYS
12 SO.

13 AS STRANGE AS THAT IS, EVEN IF YOUR
14 CONTRACT SAYS IN CASE OF BANKRUPTCY IT'S NULL AND VOID,
15 EVEN IF YOUR CONTRACT SAYS IT CAN'T GO MORE THAN TEN
16 DAYS, THE BANKRUPTCY CODE ALLOWS IT TO GO FURTHER.

17 Q OKAY. I WAS TRYING TO KEEP US OUT OF THE
18 BANKRUPTCY FOR A MOMENT.

19 A I'M SORRY.

20 Q BUT I UNDERSTAND YOUR ANSWER.

21 GOING TO THE EXAMPLE THAT I GAVE, THOUGH,
22 ABOUT WHERE YOU PURCHASE A CAR, BASICALLY YOU GIVE
23 TITLE -- YOU BORROW THE MONEY FROM A BANK AND YOU GIVE
24 TITLE TO THE BANK; CORRECT? IS THAT THE SITUATION THAT
25 YOU --

26 A ROUGHLY TRYING TO DIFFERENTIATE BETWEEN
27 SECURITY INTEREST AND REAL PROPERTY, WHICH IS THE HOUSE
28 EXAMPLE; AND A SECURITY INTEREST IN PERSONAL PROPERTY

1 SUCH AS A CAR OR A CONTRACT, OR A STACK OF CASH OR
2 ANYTHING ELSE, THAT'S NOT REAL ESTATE.

3 Q LET'S SAY THAT I BUY A -- I QUALIFY OR
4 PURCHASE A CAR WITH AN AGREEMENT JUST LIKE THE ONE THAT
5 YOU DESCRIBED WHERE I BORROW THE MONEY TO BUY THE CAR
6 FROM THE BANK. I SIGN TITLE TO THE BANK AND THEN I GET
7 THE CAR AS LONG AS I KEEP MAKING PAYMENTS.

8 IS THAT -- ARE YOU WITH ME?

9 A I WILL SAY, THOUGH, THAT YOU'RE ABILITY TO
10 KEEP THE CAR IS DEFINED BY THE AGREEMENT THAT YOU MADE
11 WITH THE BANK.

12 Q OKAY. LET'S SAY THE AGREEMENT WITH THE
13 BANK IS THAT AS LONG AS I MAKE THE PAYMENTS I GET TO KEEP
14 POSSESSION OF THE CAR. AND ONCE I MAKE FIVE YEARS WORTH
15 OF THE PAYMENTS, I OWN THE CAR, I GET TITLE, I OWN THE
16 CAR.

17 WOULD THAT BE FREE AND CLEAR THEN?

18 A UNLESS YOU'VE ENCUMBERED THE CAR
19 OTHERWISE, THAT WOULD BE FREE AND CLEAR.

20 Q OKAY. LET'S HOLD ON TO THAT HYPOTHETICAL.

21 IF IN YEAR THREE OF THAT AGREEMENT, I
22 AM -- I TAKE THE CAR, I PAINT IT A POLKA DOT PATTERN, I
23 DRIVE IT TO ALASKA, I DRIVE TO ALASKA, TO ARGENTINA, I
24 SET UP A SHOWER IN IT, I SLEEP IN IT, DO I OWN THAT CAR
25 FREE AND CLEAR?

26 A AND YOUR THREE -- YOU'VE GOT A FIVE-YEAR
27 SECURITY INTEREST AGAINST IT. YOU'RE MAKING YOUR
28 PAYMENTS ON TIME, THE BANK IS INCREDIBLY STUPID AND HAS

1 MADE NO LIMITATION ON WHAT YOU CAN TO THE CAR, THE ANSWER
2 IS STILL YES.

3 Q I DO OWN IT FREE AND CLEAR?

4 A NO, YOU DON'T OWN IT FREE AND CLEAR. YOU
5 HAVE POSSESSION. YOU DO NOT HAVE THE BANK TAKING
6 POSSESSION FROM YOU. YOU DON'T OWN IT FREE AND CLEAR.

7 Q SO THAT WAS MY QUESTION. LET'S SAY WHEN I
8 GET TO ARGENTINA I SPEND A YEAR DRIVING GIVING LESSONS IN
9 THAT SAME CAR. I,M USING THAT CAR TO GIVE DRIVING
10 LESSONS AND I KEEP MAKING MY PAYMENTS. IT'S -- I'M STILL
11 UP ON MY PAYMENTS FOR THAT YEAR -- NOW YEAR FOUR, DO I
12 NOW OWN THAT CAR FREE AND CLEAR?

13 A IF YOU HAVE NOT YET PAID FOR THE CAR, YOU
14 STILL DON'T OWN IT FREE AND CLEAR.

15 Q THAT WOULD BE AN ANALOGOUS SITUATION. IF
16 YOU BOUGHT A HOUSE -- YOU HAVE A 30-YEAR MORTGAGE ON THE
17 HOUSE -- YOU MAKE PAYMENTS FOR 29 YEARS, IN YEAR 29,
18 MONTH ONE, YOU STILL DO NOT TECHNICALLY OWN THAT HOUSE
19 FREE AND CLEAR; IS THAT YOUR UNDERSTANDING?

20 A FREE AND CLEAR IS EXACTLY LIKE IT SOUNDS.
21 IF YOU'RE NOT FREE AND YOU'RE PARTIALLY CAPTIVE, YOU'RE
22 STILL NOT FREE.

23 Q IT DOESN'T MATTER IF YOU'VE RAISED 20 KIDS
24 AND 30 GRANDKIDS AND WRITTEN 20 BEST SELLERS ABOUT
25 BANKRUPTCY WHILE YOU LIVED IN THAT HOUSE. YOU STILL OWE
26 MONEY ON IT. YOU DON'T OWN IT FREE AND CLEAR?

27 A THAT WOULD BE THE DEFENSE, YES.

28 Q NOW, YOU HAD INDICATED THAT ONE OF THE

1 THINGS YOU DID WAS YOU TRIED TO RAISE MONEY AND PRODUCE
2 ASSETS FOR THIS ESTATE -- THIS BANKRUPTCY ESTATE.

3 A I BELIEVE WHAT I SAID WAS I WAS TRYING TO
4 MARSHAL THE ASSETS, BRING ALL THE ASSETS THAT SHOULD BE
5 IN THE COMPANY INTO THE COMPANY. I WASN'T RAISING
6 CAPITAL, I WAS JUST TRYING TO GET BACK THAT WHICH SHOULD
7 BE IN IT.

8 Q AND YOU INDICATED THAT YOU HAD TO COMPEL
9 PAYMENT ON THE AGREEMENT TO PURCHASE THE INSPORT?

10 A IT WAS ACTUALLY A MULTI-STEP PROCESS.
11 FIRST, I HAD TO GET THAT SALES AGREEMENT CHANGED AND DONE
12 IN THE FASHION THAT IT SHOULD HAVE BEEN DONE IN THE FIRST
13 INSTANCE SO THAT I HAD A PROPER SECURITY INTEREST AGAINST
14 THE AGREEMENT, AS WAS THE ORIGINAL MOTION BEFORE THE
15 COURT. AND THEN I HAD A COMPELLING PAYMENT.

16 Q OKAY. BUT BEFORE YOU COULD EVEN GET THE
17 LEVERAGE YOU NEEDED TO COMPEL PAYMENT, YOU HAD TO GET THE
18 CONTRACT SIGNED PROPERLY WITH THE PROPER SECURITY
19 AGREEMENTS WITHIN IT?

20 A THAT IS CORRECT.

21 Q IT SOUNDS LIKE THAT TOOK SOME TIME, MAYBE
22 IT DIDN'T, BUT IT SOUNDS AS IF THAT WAS NOT A ONE DAY
23 PROCESS?

24 A THAT WAS A BACK AND FORTH PROCESS OVER A
25 PERIOD OF MONTHS.

26 Q OKAY. AND WHAT HAPPENED -- AND AS I USE
27 OF THE WORD LEVERAGE, WHAT HAPPENED IS ONCE YOU GOT THE
28 AGREEMENT SIGNED PROPERLY, IS THEN YOU HAD AT LEAST THE

1 MECHANISM TO REPOSSESS THE INSPORT AGREEMENT?

2 A ONCE I HAD THE CORRECT SECURITY
3 DOCUMENTATION, I THEN HAD A LEGITIMATE RIGHT TO SAY
4 EITHER PAY ACCORDING TO THE AGREEMENT OR I WILL TAKE
5 STEPS TO TAKE THE COLLATERAL BACK.

6 Q DID YOU -- IN REVIEWING THE PAPERWORK, DID
7 YOU ACTUALLY HAVE A PROMISSORY NOTE FROM S.X.I. OR DIANE
8 GOODWIN AND/OR MR. CLAYTON, PROMISSORY NOTE PAYABLE TO
9 E.S.I.?

10 A MY BEST RECOLLECTION -- AND THIS IS AGAIN
11 18, 19 YEARS AGO WHEN I REVIEWED THE FILE -- WAS THAT
12 THERE WAS A PROMISSORY NOTE OR NOTES. TODAY AS I SIT
13 HERE, I DON'T RECALL IF IT WAS DIANE SEIDEL, DIANE SEIDEL
14 GOODWIN OR DIANE GOODWIN WHICHEVER SHE SIGNED IT IN.

15 I BELIEVE SHE AND MR. CLAYTON BOTH SIGNED
16 PROMISSORY NOTES, BUT THE REQUIRED SECURITY DOCUMENTATION
17 WAS SIMPLY ABSENT.

18 Q OKAY.

19 A I BELIEVE THERE WERE GUARANTEES AS WELL.

20 Q AND YOU INDICATED THAT -- WELL, MAYBE YOU
21 DIDN'T INDICATE, BUT LET ME ASK:

22 ONCE YOU GOT THE MECHANISM TO REPOSSESS,
23 THAT THERE WERE ACTUALLY THEN PAYMENTS MADE ON THAT NOTE
24 OR ON THAT OBLIGATION?

25 A MY BEST RECOLLECTION IS THAT THERE WERE
26 TWO PAYMENTS FROM THE CLAYTON FAMILY TRUST. THAT THEY
27 AGGREGATED \$385,000 OF THE \$500,000 OWING.

28 Q AND AT THAT POINT, DO YOU RECALL

1 APPROXIMATELY WHEN THOSE PAYMENTS WERE MADE?

2 A I DON'T HAVE A CLEAR RECOLLECTION OF THE
3 DATE. I RECALL IT WAS A PROCESS OF GETTING THE PAYMENTS
4 AFTER LEVERAGE AND DEMANDS WERE ESTABLISHED. AND I
5 RECALL A VERY DIFFICULT SETTING TRYING TO COLLECT THE
6 BALANCE OF THE OBLIGATION.

7 Q THE ORIGINAL PROMISSORY NOTE, DO THEY CALL
8 FOR PAYMENTS BASICALLY IN A THREE-YEAR PERIOD -- OR
9 PERIODIC THREE -- THREE PAYMENTS OVER A THREE-YEAR
10 PERIOD? DO YOU RECALL THAT?

11 A AS I SIT HERE TODAY, I CAN'T RECALL THE
12 TERMS OF THAT PROMISSORY NOTE.

13 Q AND WHAT YOU'RE SAYING, THEN, IS THAT
14 WHATEVER THE TERMS WERE, YOU'VE SORT OF REDID THE NOTE OR
15 REDID THE OBLIGATION WHEN YOU HAD IT SIGNED AND HAD THE
16 SECURITY MECHANISM PUT IN PLACE?

17 A WELL, I REDID NOTHING. I BELIEVE I
18 INSTRUCTED COUNSEL TO GO TO COURT AFTER THE DEBTOR'S --
19 RATHER, MRS. GOODWIN'S REPRESENTATIVE -- MR. CLAYTON'S
20 REPRESENTATIVES REFUSED TO MOVE FORWARD.

21 I BELIEVE THERE WAS A MOTION MADE. I
22 BELIEVE, FINALLY THERE WAS PROGRESS ON GETTING THE
23 DOCUMENTATION PROPERLY DONE. AND I BELIEVE IT WAS
24 FINALLY PROPERLY DONE AFTER WE -- AFTER I INSTRUCTED
25 COUNSEL AND COUNSEL FORCED THAT TO HAPPEN.

26 I DON'T BELIEVE I HAD A HAND IN DRAFTING
27 ANY OF THE DOCUMENTATION. I BELIEVE THAT WAS DONE
28 BETWEEN MR. LOBEL AND MS. EISEN ULTIMATELY, OR

1 MR. GIBSON.

2 Q AND WOULD -- EVEN IF YOU DIDN'T DRAFT IT,
3 THOUGH, WOULD THEY HAVE COME TO YOU FOR APPROVAL OR INPUT
4 ON WHATEVER AGREEMENT THEY MADE?

5 A AS THE TRUSTEE THEY WOULD HAVE, YES.

6 Q LET ME JUST ASK YOU: DID YOU EVER ASK THE
7 COURT, OR HAVE MS. EISEN ASK THE COURT, FOR AUTHORIZATION
8 TO SELL THE INSPORT AGREEMENT?

9 A I WOULDN'T HAVE.

10 Q DID YOU EVER -- AND I KNOW WHAT THE
11 ANSWERS ARE GOING TO BE BASED ON THAT QUESTION, BUT LET
12 ME JUST ASK:

13 DID YOU EVER EMPLOY AN AUCTIONEER, OR ANY
14 OTHER PARTY, TO PRESIDE OVER AN AUCTION OF THAT ASSET?

15 A AGAIN, I WOULDN'T HAVE REQUIRED COURT
16 AUTHORITY TO DO IT ONCE A SECURITY DOCUMENTATION WAS IN
17 PLACE. I DON'T RECALL EMPLOYING AN AUCTIONEER BECAUSE
18 THAT IS A FUNCTION I COULD HAVE DONE MYSELF.

19 Q DID YOU EVER -- BUT YOU DIDN'T PRESIDE
20 OVER ANY SALE OF THE INSPORT AGREEMENT YOURSELF?

21 A NO.

22 Q DID MICKEY THOMPSON IN DECEMBER OF 1987,
23 DID HE ENGAGE IN ANY BIDDING PROCESS AT ANY SALE OF THAT
24 INSPORT AGREEMENT?

25 A PLEASE DEFINE "BIDDING PROCESS".

26 Q A SITUATION WHERE THE INSPORT AGREEMENT
27 WAS PUT UP FOR SALE MUCH AKIN TO AN AUCTION AND DIFFERENT
28 PARTIES COME IN TO SAY WHAT THEY'RE WILLING TO BID FOR

1 IT.

2 A I BELIEVE, AS I PREVIOUSLY TESTIFIED,
3 MR. THOMPSON'S COUNSEL APPROACHED ME REGARDING THE
4 AGREEMENT TO SELL THE INSPORT AGREEMENT AND THE FACT OF
5 ITS DEFAULT AND THE FACT THAT IT WAS NOT FREE AND CLEAR
6 AND THE FACT THAT THE S.X.I. CORPORATION WAS NOT DOING
7 WHAT IT WAS SUPPOSED TO BE DOING AND ASSURED ME THAT
8 THERE WOULD BE BIDDERS SHOULD I GET TO THE PLACE OF
9 SELLING THAT AGREEMENT AS PART OF THE COLLATERAL.

10 Q BUT YOU NEVER GOT TO THAT PLACE?

11 A NO.

12 Q BECAUSE YOU GOT \$385,000?

13 A NO.

14 Q BECAUSE YOU RESIGNED?

15 A BECAUSE I DIDN'T -- WELL, I DID RESIGN
16 BEFORE THAT STEP COULD BE TAKEN, YES.

17 Q SO THE \$385,000 DID NOT ELIMINATE THE
18 BREACH?

19 A NO.

20 Q THE \$385,000 WAS SPECIFICALLY PAYMENT ON
21 THE PROMISE TO PURCHASE THE INSPORT AGREEMENT?

22 A IT WAS PARTIAL PAYMENT ON THAT AGREEMENT,
23 YES.

24 Q SO WHAT WOULD HAVE BEEN OWING ONCE YOU
25 RECEIVED THAT PAYMENT WAS ABOUT 115 OR \$125,000?

26 A I BELIEVE 115,000.

27 Q IF I MAY -- AND I BELIEVE WE MET YESTERDAY
28 AND I SHOWED YOU SOME DOCUMENTS PERTAINING TO THE E.S.I.

1 BANKRUPTCY ESTATE.

2 A YES.

3 Q WHAT I HAVE IN MY HAND IS DEFENSE O WHICH
4 IS A COPY OF A DOCUMENT THAT YOU LOOKED AT. IT'S THE
5 DOCKET FOR THE E.S.I. BANKRUPTCY.

6 MR. SUMMERS: MAY I APPROACH, YOUR HONOR?

7 THE COURT: YES.

8 Q BY MR. SUMMERS: DO YOU -- FIRST OF ALL,
9 DO YOU RECOGNIZE THAT, IN GENERAL?

10 A I RECOGNIZE THIS IS THE DOCUMENT YOU
11 SHOWED ME YESTERDAY.

12 Q OKAY. AND DOES IT PURPORT TO BE THE
13 DOCKET FOR THE E.S.I. CORPORATE BANKRUPTCY?

14 A IT BEARS OF THE TITLE "ENTERTAINMENT
15 SPECIALTIES, INC." AND SHOWS THE CASE NUMBER FOR E.S.I.
16 IT ALSO SAYS DOCKET.

17 Q ALL RIGHT. WHAT IS A DOCKET?

18 A IN ANY BANKRUPTCY CASE ANYWHERE IN THE
19 U.S, THERE'S TO BE A LISTING OF ALL PLEADINGS FILED IN
20 THE CASE. THAT IS A DOCKET.

21 Q AND THAT DOCKET IS PRODUCED BY THE COURT
22 CLERK?

23 A I BELIEVE IT IS, YES.

24 Q SO IT WOULD REFLECT ANY DOCUMENT THAT'S
25 FILED IN THE BANKRUPTCY?

26 A IN THEORY.

27 Q IN THEORY.

28 AND ARE THOSE DOCUMENTS NUMBERED?

1 A IF DONE CORRECTLY, YES.

2 Q IN THE DOCKET BEFORE YOU, DOES IT APPEAR
3 TO HAVE BASICALLY A NUMBERING SYSTEM THAT WOULD
4 CORRESPOND TO THE DATE? IN OTHER WORDS, IF SOMETHING
5 HAPPENED DECEMBER 1ST, THAT DOCUMENT WOULD BE NUMBER ONE,
6 IF SOMETHING HAPPENED DECEMBER 3RD, THAT NUMBER DOCUMENT
7 WOULD BE NUMBER TWO AND SO ON. DO THEY APPEAR TO BE IN
8 CHRONOLOGICAL ORDER?

9 A I'VE LOOKED AT A LOT OF DOCKETS OVER THE
10 YEARS AND THAT'S SUPPOSED TO BE THE CONCEPT, BUT IT
11 DOESN'T ALWAYS HAPPEN THAT WAY.

12 Q OKAY. I WOULD LIKE TO POINT YOU TO AN
13 ENTRY IN THERE WITH REGARD TO WHAT I THINK YOU
14 TESTIFIED -- AND YOU CAN VERIFY THIS IF I'M WRONG, AN
15 ENTRY IN DECEMBER OF '86 WITH REGARD TO -- IT DOESN'T
16 SPECIFY THAT IT'S AN INSPORT AGREEMENT, BUT IT SAYS THE
17 SALE OF DEBTOR ASSETS CONFIRM FOR \$125,000 CASH AND A
18 \$500,000 NOTE.

19 A IN DECEMBER OF '86 I WAS BLISSFULLY
20 UNAWARE OF THIS CASE.

21 Q CORRECT. BUT SUBSEQUENTLY YOU BECAME
22 AWARE, AND YOU TESTIFIED YESTERDAY, THAT YOU BECAME AWARE
23 OF THE HISTORY OF THE CASE.

24 A I REVIEWED THE FILES, YES.

25 Q YOU BECAME AWARE THAT THE ASSET INSPORT
26 HAD BEEN ALREADY SOLD OR TRANSFERRED TO ANOTHER ENTITY?

27 A THAT IS CORRECT.

28 Q DO YOU -- FROM LOOKING AT THIS DOCUMENT

1 FOR THE PERIOD AFTER YOUR TENURE BEGAN, DO YOU SEE ANY
2 ENTRY IN THAT DOCKET THAT REFLECTS THE SALE OF AN ASSET,
3 ANY ASSET, OF E.S.I. FOR \$500,000?

4 A DO I -- LET ME SEE IF I UNDERSTAND YOU
5 CORRECTLY.

6 IS THERE A DOCKET ENTRY THAT SHOWS A SALE
7 OF E.S.I. ASSET FOR \$500,000?

8 Q CORRECT. AND LET ME JUST CLUE YOU OFF TO
9 ONE THING IS THE DATES GET CUTOFF AS YOU GO FORWARD, SO
10 WHAT LOOKS LIKE -- WHAT LOOKS LIKE IT'S A ONE IS ACTUALLY
11 AN 11. AS YOU CAN SEE, IT FOLLOWS FROM THE PREVIOUS
12 PAGE, 10 FOR OCTOBER, 10-19, SO THESE ARE ACTUALLY
13 ENTRIES FOR NOVEMBER AND DECEMBER OF '87. AND THEN
14 STARTS UP IN MARCH OF '88.

15 A IF YOU SAY SO.

16 Q DOES THAT -- YOU WERE -- THAT PERIOD OF
17 TIME WAS WHEN YOU WERE TRUSTEE FOR THE ESTATE; CORRECT?

18 A OH, YES, I RECALL THIS MOTION.

19 Q OKAY. SO, THEN, I WOULD JUST REITERATE MY
20 QUESTION TO YOU: DO YOU SEE ANYTHING FROM THE SPAN OF
21 YOUR TENURE THAT REFLECTS A SALE OF ANY ASSET FOR
22 \$500,000?

23 A WELL, FOR ONE, I HAD TO BRING TO FORCE
24 SUPER CROSS TO DOCUMENT THE PRIOR SALE DONE IN '86. THAT
25 IT HAD NOT PROPERLY BEEN DOCUMENTED. THEY HAD REFUSED TO
26 COMPLY WITH WHAT THEY TOLD THE COURT IN THE EARLIER
27 MOTION.

28 Q RIGHT.

1 A AND THAT'S WHAT I HAD TO DO TO GET THEM TO
2 THE TABLE TO ACTUALLY SIGN THE DOCUMENT.

3 Q SO THEY DID THAT AND THAT'S IN -- THAT
4 MOTION IS IN DECEMBER OF '87?

5 A AGAIN, IT SAYS ONE AND TWO, BUT IF YOU SAY
6 SO. I BELIEVE IT'S PROBABLY IN THAT TIME FRAME.

7 Q AND SUBSEQUENT TO THAT ENTRY, THERE IS AN
8 ENTRY THAT INDICATES HEARING ON A TRUSTEE EX PARTE MOTION
9 THAT WAS HELD. AND IT SAYS REQUIRED AGREEMENTS TO BE
10 EXECUTED.

11 AND THAT'S -- WOULD THAT BE WHAT YOU'RE
12 TALKING ABOUT?

13 A WELL, THAT IS PART OF IT. NOT ONLY DO WE
14 HAVE TO GO -- I BELIEVE IN NOVEMBER, BUT BACK AGAIN IN
15 DECEMBER, AND BACK AGAIN ONE MORE TIME IN DECEMBER, TO
16 FINALLY FORCE THEM TO SIGN WHAT THEY SHOULD HAVE SIGNED
17 BEFORE MY TENURE.

18 EVEN WHEN WE GOT A COURT ORDER, WE HAD TO
19 GO BACK AGAIN TO FORCE THEM TO COMPLY WITH THE COURT
20 ORDER.

21 Q OKAY. WHAT WOULD BE DECEMBER 23RD, THEN,
22 THERE IS A HEARING HELD AND IT SAYS RESOLVED BY
23 STIPULATION. AND THAT WOULD REFLECT WHAT YOU'VE BEEN
24 TALKING ABOUT, IS YOU HAD TO GO BACK AND FINALLY THERE
25 WAS A -- I PRESUME BY STIPULATION -- THE DOCUMENTS WERE
26 SIGNED AND SHORTLY AFTER THAT THE MONEY PAID OVER?

27 A THE STIPULATION DID REMOVE US FROM GOING
28 TO HEARING ON THE SECOND MOTION TO COMPLY -- COMPELLING

1 COMPLIANCE WITH THE COURT'S PRIOR ORDER, AND I BELIEVE IT
2 WAS -- WE HELD UP THE MOTION KIND OF WITH THE RIGHT TO
3 REFILE IT IF THEY DIDN'T SIGN THE DOCUMENTATION.

4 BUT I, AGAIN, DON'T RECALL THE EXACT DATE
5 THAT THEY FINALLY SIGNED THE DOCUMENTS OR THAT THE
6 PAYMENTS STARTED TO COME IN. BUT IT WAS CLEARLY AROUND
7 THAT TIME.

8 Q OKAY. AND THEN THE NEXT ENTRY AFTER THAT,
9 AFTER THAT DECEMBER 23RD ENTRY, IS MARCH 23RD WHEN
10 MR. DURKIN TOOK OVER AS TRUSTEE?

11 A IT APPEARS SO.

12 Q ALL RIGHT. SO FROM WHAT YOU'VE JUST
13 LOOKED AT, AND FROM WHAT YOUR RECOLLECTION IS, IF
14 SOMEBODY TESTIFIED REPEATEDLY THAT NO PAYMENTS WERE EVER
15 MADE ON THE INSPORT AGREEMENT, THAT WOULD BE FALSE?

16 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
17 IT'S ARGUMENTATIVE.

18 THE COURT: SUSTAINED.

19 Q BY MR. SUMMERS: FROM WHAT YOU'VE JUST
20 SAID AND WHAT YOU'VE JUST REVIEWED AND WHAT YOU TESTIFIED
21 TO, IF SOMEBODY TESTIFIED REPEATEDLY THAT THERE WAS A
22 SALE --

23 MR. JACKSON: OBJECTION.

24 Q BY MR. SUMMERS: -- OF AN ASSET OF
25 \$500,000 IN DECEMBER OF '87 --

26 MR. JACKSON: OBJECTION. COUNSEL --

27 Q BY MR. SUMMERS: -- THAT WOULD BE FALSE?

28 THE COURT: SUSTAINED.

1 MR. JACKSON: YOUR HONOR, IF I LODGE AN
2 OBJECTION, COULD YOU ADMONISH COUNSEL, ESPECIALLY IF HE'S
3 LEADING A WITNESS DOWN AN AREA THAT HE KNOWS HE CAN'T GO,
4 IF HE WOULD STOP HIS QUESTION AND ALLOW ME TO INTERPOSE
5 MY OBJECTION?

6 THE COURT: YES. WHEN THERE'S AN OBJECTION, I DO
7 NEED TO RULE ON IT BEFORE WE GO ONWARD.

8 MR. JACKSON: THANK YOU.

9 MR. SUMMERS: OFTEN TIMES COUNSEL ASKED IF HE CAN
10 BE ALLOWED TO FINISH AND I DON'T KNOW UNTIL THE COURT
11 RULES.

12 THE COURT: OKAY. THANK YOU.

13 Q BY MR. SUMMERS: DID MICKEY THOMPSON,
14 DURING YOUR TENURE AS TRUSTEE OF THE E.S.I. ESTATE, PAY
15 \$500,000 FOR THE INSPORT AGREEMENT?

16 A NO.

17 Q DID MICKEY THOMPSON OR A COMPANY THAT HE
18 REPRESENTED, OR THAT REPRESENTED HIM, PAY \$500,000 FOR
19 ANY ASSET OF E.S.I. DURING YOUR TENURE?

20 A NOT TO MY KNOWLEDGE.

21 Q TO YOUR KNOWLEDGE, DID MICKEY THOMPSON, OR
22 A COMPANY REPRESENTING HIM, PAY ANY AMOUNT OF MONEY FOR
23 ANY ASSET OF E.S.I. DURING YOUR TENURE OF THE E.S.I.
24 BANKRUPTCY?

25 A NOT THAT I RECALL TODAY.

26 Q DID MICKEY THOMPSON OR A REPRESENTATIVE
27 COMPANY OWE \$500,000 TO E.S.I. OR PURSUANT TO A
28 PROMISSORY NOTE DURING YOUR TENURE?

1 A NOT THAT I RECALL.

2 Q THAT'S ONE WAY TO CARRY OUT YOUR FIDUCIARY
3 DUTY TO THE CREDITORS OF THE ESTATE IS TO BASICALLY
4 ENFORCE -- OR TRY TO ENFORCE DEBTS -- THAT ARE OWED TO
5 THE ESTATE, THAT'S BASICALLY WHAT YOU WERE DOING WITH THE
6 INSPOINT AGREEMENT; CORRECT?

7 A I TRIED TO GATHER ALL LEGITIMATE ASSETS OF
8 THE ESTATE, YES.

9 Q AND A DEBT OWED, WOULD THAT BE CALLED AN
10 ASSET OR A POTENTIAL ASSET?

11 A A POTENTIAL ASSET. IF IT IS INDEED OWED.

12 Q SO THAT WOULD HAVE BEEN SOMETHING THAT YOU
13 WOULD HAVE BEEN AWARE OF, OR MADE YOURSELF AWARE OF IF
14 IT, IN FACT, EXISTED?

15 A IF IT, IN FACT, EXISTED, I WOULD HAVE
16 REVIEWED IT, I WOULD HAVE MADE A DETERMINATION ON DO I
17 SEEK TO COLLECT IT, WHEN DO I SEEK TO COLLECT IT, HOW DO
18 I SEEK TO COLLECT IT. IN A LOT OF THESE CASES, YOU GO
19 FIRST AFTER THE MOST FRAGILE ASSETS TO MAKE SURE YOU
20 DON'T LOSE THEM.

21 Q AND LET ME JUST ASK YOU: PURSUANT TO ANY
22 OTHER LEGALLY BINDING OBLIGATION, DID MICKEY THOMPSON OR
23 A REPRESENTATIVE COMPANY OWE ANY MONEY TO THE E.S.I. --
24 TO E.S.I. DURING YOUR TENURE AS THE TRUSTEE?

25 A I DON'T RECALL.

26 MR. SUMMERS: I'LL SUSTAIN MY OWN OBJECTION TO MY
27 NEXT QUESTION, SO WE WILL SKIP THAT.

28 THE WITNESS: THEN I GUESS I WON'T ANSWER IT.

1 MR. SUMMERS: WELL, YOU CAN ANSWER IT.

2 THE WITNESS: NO.

3 Q BY MR. SUMMERS: YOU TOOK OVER IN JUNE
4 OF -- YOU BELIEVE IN JUNE OF '87?

5 A I BELIEVE THAT'S WHEN I ACCEPTED AND
6 QUALIFIED AS TRUSTEE, YES. BUT I CAN LOOK AT THIS DOCKET
7 IF THAT HELPS.

8 Q IF THAT WILL REFRESH YOUR RECOLLECTION.

9 A YES. THE DOCKET ENTRY HERE SHOWS JUNE 29,
10 1987, AMENDED APPOINTMENT AND NOTICE OF APPOINTMENT OF
11 CHAPTER 11 TRUSTEE.

12 Q AND YOU SAID THAT YOU SET OUT TO REVIEW --
13 LET ME ASK:

14 WAS ONE OF THE THINGS YOU REVIEWED THE
15 ACTUAL COURT FILE, THE DOCUMENTS THAT HAD BEEN FILED SO
16 FAR?

17 A NO.

18 Q WHAT DID YOU LOOK AT?

19 A I LOOKED AT THE U.S. TRUSTEE'S FILES.
20 VERY MUCH LIKE COURTS EVERYWHERE, GETTING TO THE COURT
21 FILE IS TOUGH AND LABORIOUS. AND I WENT FIRST TO THE
22 U.S. TRUSTEE'S FILE BECAUSE IT WAS AVAILABLE.

23 Q AND SO EVEN WHILE THERE IS A DEBTOR IN
24 POSSESSION, AND I THINK YOU TESTIFIED TO THIS, THEY'RE
25 RESPONSIBLE TO THE U.S. TRUSTEE'S OFFICE FOR MAKING
26 PERIODIC REPORTS?

27 A THAT IS CORRECT.

28 Q AND ARE THOSE CALLED INTERIM RATING

1 REPORTS, SOMETHING ALONG THOSE LINES?

2 A U.S. TRUSTEE HAS ANY NUMBER OF REPORTS.
3 SOME OF THEM ARE INTERIM OPERATING REPORTS, BUT THEY'VE
4 GOT A NUMBER OF OTHERS.

5 Q SO THE DOCUMENTS THAT YOU REVIEWED IN THE
6 U.S. TRUSTEE'S FILE, DO YOU RECALL WHO GENERATED THOSE
7 DOCUMENTS OR WHAT KIND OF DOCUMENTS THEY WERE?

8 A PRINCIPALLY I WENT THROUGH THE PLEADINGS
9 THAT HAD BEEN FILED TO DATE, FOCUSING, I BELIEVE, ON THE
10 SECTION 1104 MOTION FOR APPOINTMENT OF A TRUSTEE.

11 Q SO THE U.S. TRUSTEE'S FILE HAD SOME OF THE
12 SAME DOCUMENTS THAT WOULD HAVE BEEN IN THE COURT FILE?

13 A YES.

14 Q DO YOU RECALL SEEING ANY REPORTS -- YOU
15 INDICATED THAT THERE WERE GAPS AND THAT THERE WERE
16 QUESTIONS RAISED. I'M JUST TRYING TO FIND OUT WHAT
17 DOCUMENTS YOU WERE LOOKING AT, WHEN THOSE QUESTIONS WERE
18 RAISED.

19 A THOSE WERE QUESTIONS THAT WERE RAISED WHEN
20 I ASKED THE DEBTOR TO TURN OVER THE BOOKS, RECORDS AND
21 DOCUMENTS OF THE COMPANY. AND ONCE I STARTED REVIEWING
22 THOSE, I HAD A LOT OF QUESTIONS.

23 Q WERE THERE ANY OF THOSE REPORTS, THE
24 REPORTS THAT THE DEBTOR IN POSSESSION MADE TO THE
25 U.S. TRUSTEE, WERE THERE ANY OF THOSE IN THE
26 U.S. TRUSTEE'S FILE?

27 A MY BEST RECOLLECTION IS THAT THERE WERE,
28 BUT THOSE REPORTS WERE NOT PARTICULARLY HELPFUL TO

1 FINDING ASSETS.

2 Q YOU INDICATED THAT ONE OF THE THINGS THAT
3 YOU NOTICED WAS THAT THERE WERE PAYMENTS BEING MADE ON A
4 MERCEDES.

5 A MY BEST RECOLLECTION IS THAT I WAS TOLD OF
6 SUCH PAYMENTS. AT THIS MOMENT I CAN'T TELL YOU IF I SAW
7 IT IN A DOCUMENT OR IT WAS PRESENTED TO ME IN WRITTEN
8 FORM. I DO RECALL THAT IT WAS AN ISSUE THAT I WEIGHED IN
9 ON.

10 Q AND YOUR INTEREST IN THAT WOULD HAVE BEEN
11 BECAUSE THE MERCEDES ITSELF, THEN, WOULD HAVE BEEN A
12 POTENTIAL ASSET OF THE ESTATE?

13 A WELL, HERE WE ARE, A GENTLEMAN IN PERSONAL
14 CHAPTER, HIS COMPANY'S IN CHAPTER AND HE'S DRIVING A VERY
15 EXPENSIVE MERCEDES. A CREDITOR COMES TO ME AND SAYS, SO
16 WHAT'S THIS? WHY IS THE DEBTOR DRIVING AN EXPENSIVE
17 MERCEDES? AND I BELIEVE THEY TOLD ME THE CORPORATION HAD
18 PAID FOR LEASE PAYMENTS ON THAT CAR.

19 I HAD TO TAKE A POSITION, BECAUSE QUITE
20 FRANKLY, IT WAS EMBARRASSING TO THE ESTATE IF WE WERE
21 ALLOWING THAT TO HAPPEN WITH COMPANY MONEY.

22 Q BECAUSE IF THE COMPANY IS UP TO DATE ON
23 THE PAYMENTS, IT MEANS MONEY IS GOING OUT OF THE ESTATE
24 TO PAY FOR THAT?

25 A IF, IN FACT, THAT EXPENSIVE MERCEDES HAD
26 BEEN PAID FOR EVEN IN PART BY THE ESTATE, THEN THE ESTATE
27 HAD AN INTEREST IN THE CAR.

28 Q YOU INDICATED AS WELL YESTERDAY, YOU USED

1 A PHRASE PEPPERED, THAT YOU WERE BEING PEPPERED WITH
2 DEMANDS FROM THE GOODWINS.

3 DO YOU RECALL THAT?

4 A I DO.

5 Q AND I ASSUME THAT MEANS DIANE GOODWIN AND
6 MICHAEL GOODWIN?

7 A I DON'T BELIEVE THAT DIANE AND I EVER
8 SPEAK TWO WORDS. IT WOULD EITHER BE WILLIAM LOBEL ON
9 DIANE'S BEHALF OR A LETTER FROM DIANE DELIVERED BY
10 WILLIAM LOBEL OR MR. GOODWIN DELIVERING THE DEMAND.

11 Q AND AMONG THOSE REQUESTS -- AGAIN, I THINK
12 YOU'VE ALREADY INDICATED, AMONG THOSE REQUESTS OR DEMANDS
13 IS THAT YOU MAKE PAYMENTS ON WHAT THEY SAID WERE LOANS
14 THAT WERE OWING TO CERTAIN PARTIES TO DIANE AND TO -- I
15 THINK --

16 A FRANK AND MYRNA GOODWIN.

17 Q YOU GOT THE NAMES TODAY.

18 A I THOUGHT ABOUT IT ALL NIGHT.

19 Q DID THEY ALSO ASK THAT YOU PURSUE OTHER
20 ASSETS OR THAT YOU SELL OTHER ASSETS OF THE ESTATE?

21 A I BELIEVE THEY DID, YES.

22 Q DO YOU RECALL SPECIFICALLY -- AND, AGAIN,
23 LET ME BACK UP. STRIKE THAT.

24 WHEN YOU ARE GETTING THIS INFORMATION,
25 SOME OF THIS IS COMING FROM THE LAWYERS -- I MEAN, IN
26 OTHER WORDS, YOUR LAWYER IS TELLING YOU -- RELATING
27 SOMETHING THAT'S BEEN TOLD TO THEM?

28 A OH, YES.

1 Q AND THE CORRESPONDENCE THAT YOU'VE TALKED
2 ABOUT THAT YOU SAW, EITHER LETTERS FROM DIANE GOODWIN,
3 DID YOU ALSO GET LETTERS FROM MICHAEL GOODWIN?

4 A I DON'T RECALL WHETHER I GOT THEM FROM
5 MICHAEL GOODWIN.

6 Q DID YOU HAVE LETTERS THAT WERE MAYBE SENT
7 TO ONE OF THE LAWYERS, MS. EISEN OR MR. GIBSON, THAT THEY
8 WOULD, THEN, SIT DOWN WITH YOU AND CONSULT WITH YOU
9 ABOUT?

10 A FROM TIME TO TIME I WOULD MEET WITH
11 MS. EISEN OR MR. GIBSON ABOUT THE CASE, AND IF THEY HAD
12 CORRESPONDENCE THEY WISHED TO BRING TO MY ATTENTION, THEY
13 WOULD DO SO.

14 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND A
15 ONE-PAGE DOCUMENT. IT APPEARS TO BE A LETTER. I'M NOT
16 SURE WHAT NEXT IN ORDER IS.

17 THE COURT: DEFENSE U.

18 THE CLERK: IT'S U IS NEXT IN ORDER.

19 MR. JACKSON: IF I MAY HAVE JUST A MOMENT, YOUR
20 HONOR.

21 THE COURT: YES.

22 (PAUSE IN PROCEEDINGS.)

23 (DEFENSE EXHIBIT NO. U WAS MARKED FOR
24 IDENTIFICATION.)

25 Q BY MR. SUMMERS: SIR, I'M JUST GOING TO
26 ASK YOU WITHOUT SAYING ANYTHING MORE TO JUST TAKE A LOOK
27 AT THIS DOCUMENT AND TELL ME IF -- AND, AGAIN, JUST
28 ANSWER YES OR NO, IF YOU RECOGNIZE IT?

1 A ACTUALLY, I DON'T.

2 Q OKAY. DO YOU RECOGNIZE THE HANDWRITING?

3 A I DON'T.

4 Q OKAY. I'LL JUST TAKE THAT BACK, THEN.

5 DO YOU RECALL THAT ONE OF THE THINGS THAT
6 THE GOODWINS WERE ASKING TO YOU SELL AS AN ASSET WAS THE
7 MERCEDES?

8 MR. JACKSON: OBJECTION. CALLS FOR HEARSAY.

9 THE COURT: SUSTAINED.

10 MR. SUMMERS: YOUR HONOR, I BELIEVE THAT'S A
11 NON-HEARSAY PURPOSE, YOUR HONOR. THE QUESTION IS JUST
12 WAS THAT ASKED OF HIM OR REQUESTED OF HIM.

13 THE COURT: WELL, I'LL SUSTAIN THE OBJECTION. IF
14 YOU WANT TO BE HEARD AT SIDE BAR AS TO THE NON-HEARSAY
15 PURPOSE, I'LL BE HAPPY TO HEAR YOU.

16 MR. SUMMERS: I WILL, PLEASE.

17 THE COURT: OKAY.

18 (PROCEEDINGS HELD AT SIDE BAR.)

19 THE COURT: ALL RIGHT. WE'RE AT THE SIDE BAR.

20 WHAT'S THE OFFER?

21 MR. SUMMERS: THE OFFER JUST GOES AS TO THE STATE
22 OF MIND OF MR. GOODWIN WITH REGARD TO THIS VEHICLE AND
23 WITH REGARD TO HIS INTERACTIONS WITH THE TRUSTEE WITH
24 REGARD TO THIS VEHICLE. I'M NOT OFFERING TO SAY THAT
25 HE -- OR THAT HE DEFINITELY WANTED TO SELL IT, I'M JUST
26 ASKING IF THAT WAS ONE OF THE REQUESTS THAT WAS MADE WITH
27 REGARD TO ASKING. IT'S EITHER YES OR NO. IT'S NOT
28 OFFERED --

1 THE COURT: WELL, YOU ARE ASKING IT FOR THE TRUTH
2 AND SO --

3 MR. SUMMERS: OF WHETHER IT WAS SAID BUT NOT
4 WHETHER HE --

5 THE COURT: WELL, THEN IT WOULD HAVE NO RELEVANCE
6 IF IT'S JUST BEING ASKED FOR WHAT WAS SAID AS OPPOSED TO
7 OFFERING IT FOR THE TRUTH, WHICH IS WHAT I'M GATHERING
8 YOU'RE OFFERING IT FOR.

9 MS. SARIS: IT'S ACTUALLY THE STATE OF MIND OF
10 MR. GOODWIN.

11 THE COURT: MR. GOODWIN?

12 MS. SARIS: YES.

13 THE COURT: HIS STATE OF MIND IS RELEVANT HOW?

14 MS. SARIS: SUPPOSEDLY HE KILLED OVER THE FACT
15 THAT HIS MERCEDES WAS TAKEN. WE HAVE EVIDENCE AND
16 WITNESSES THAT WILL TESTIFY THAT HE ASKED IT TO BE SOLD.

17 THE COURT: HE CAN TESTIFY TO THAT, BUT THAT IS
18 CLEARLY HEARSAY, AS YOU KNOW.

19 MS. SARIS: HE HAS BEEN TESTIFYING ABOUT THINGS
20 MR. GOODWIN SAID. THIS IS DIRECT IMPEACHMENT OF THOSE
21 THINGS THAT WHAT IS GOOD FOR THE GOOSE IS GOOD FOR THE
22 GANDER. ONE CANNOT INDICATE TO THE JURY CERTAIN THINGS
23 WERE SAID ABOUT THE MERCEDES AND THEN THE DEFENSE TRIES
24 TO TALK ABOUT OTHER THINGS THAT WERE SAID ABOUT THE
25 MERCEDES, KEEP THOSE OUT. THIS IS ALL PART OF THE
26 CONVERSATION RELATING TO THE MERCEDES.

27 THE COURT: THE PEOPLE ELICITED INFORMATION WHICH
28 WOULD CONSTITUTES AN ADMISSION. THIS QUESTION SEEKS TO

1 ELICIT INFORMATION WHICH IS HEARSAY.

2 OBJECTION SUSTAINED.

3 (SIDE BAR CONCLUDED.)

4 Q BY MR. SUMMERS: SIR, LET ME ASK YOU A
5 COUPLE OF QUESTIONS ABOUT MS. EISEN AGAIN.

6 DID SHE -- IF SHE FILED PLEADINGS WITH THE
7 BANKRUPTCY COURT, DID SHE DO THAT ON YOUR BEHALF?

8 A SHE WAS COUNSEL FOR THE TRUSTEE, SO I
9 CAN'T IMAGINE HER DOING IT ON ANYBODY ELSE'S BEHALF.

10 Q AND WOULD IT HAVE BEEN YOUR WORKING
11 ARRANGEMENT THAT SHE WOULD SUBMIT FOR YOUR REVIEW ANY
12 PLEADINGS SHE FILED?

13 A NO.

14 Q DID YOU HAVE HER FILE A COUNTERCLAIM --
15 WELL, LET ME BACK UP AND ASK YOU ABOUT THE CLAIM.

16 WERE THERE CERTAIN LAWSUITS THAT WERE
17 BEING MADE AGAINST E.S.I. OR AGAINST YOU AS THE TRUSTEE
18 DURING YOUR TENURE?

19 A FROM BEFORE MY TENURE, I RECALL THERE WAS
20 AN ADVERSARY PROCEEDING BROUGHT BY, I BELIEVE,
21 MRS. GOODWIN TO TRY AND ENFORCE AN ALLEGED POST-PETITION
22 DEBT. I BELIEVE THAT THAT WAS STOPPED FOR A PERIOD WHILE
23 A TRUSTEE WAS APPOINTED AND THEN AS I STEPPED INTO THE
24 SHOES OF TRUSTEE, THAT RESUMED.

25 Q WOULD ADVERSARIAL ACTIONS BE REFLECTED AT
26 LEAST AT THEIR INITIAL PLEADING -- OR INITIAL FILING,
27 WOULD THOSE BE REFLECTED IN THE DOCKET?

28 A THEY'RE SUPPOSED TO BE, YES.

1 Q DO YOU SEE A FILING OR AN ADVERSARIAL
2 ACTION FILED ON BEHALF OF FRANK AND MYRNA GOODWIN?

3 A I WOULD BE GLAD TO TAKE A LOOK FOR IT,
4 YES.

5 Q IF YOU WOULD.

6 A I BELIEVE I HAVE IT.

7 Q I'M SORRY, SIR.

8 A I BELIEVE I FOUND THAT NOTATION.

9 Q OKAY. AND THERE IS AN INDICATION, THEN,
10 THAT FRANK AND MYRNA GOODWIN, WHO YOU UNDERSTOOD TO BE
11 MICHAEL GOODWIN'S PARENTS, FILED A LAWSUIT?

12 A NOT NECESSARILY A LAWSUIT. AN ADVISORY
13 PROCEEDING.

14 Q WHAT IS THAT? LET'S TALK ABOUT THAT.

15 A THE BANKRUPTCY CODE DEFINES CERTAIN
16 PROCEDURES THAT CAN BE DONE BY MOTION AND IT DEFINES
17 CERTAIN PROCEDURES THAT ARE DONE BY ADVISORY PROCEEDING.
18 A MOTION IS A SHORTER LESS FORMAL PROCEEDING, AN ADVISORY
19 PROCEEDINGS BRINGS INTO EFFECT MORE PROCEDURAL
20 SAFEGUARDS.

21 Q IS AN ADVERSARIAL PROCEEDING COUSIN TO A
22 LAWSUIT? IS IT FAIRLY SIMILAR? IN OTHER WORDS, DOES ONE
23 HAVE TO FILE AN INITIAL COMPLAINT AS THEY WOULD IN A
24 LAWSUIT?

25 A YES, THERE'S A COMPLAINT AND A RESPONSE.
26 BUT AS FAR AS BEING A COUSIN, IT'S MORE OF A RED HEADED
27 COUSIN.

28 Q AND DO YOU RECALL IN RESPONSE -- OR IN AN

1 ADVERSARIAL PROCEEDING HAVING MS. EISEN FILE A
2 COUNTERCLAIM ON YOUR BEHALF?

3 A AS I SIT HERE TODAY, I DON'T RECALL THAT.

4 Q DO YOU THINK IT MIGHT REFRESH YOUR
5 RECOLLECTION TO LOOK AT A DOCUMENT?

6 A IT MIGHT. I'M WILLING TO TRY.

7 Q I KNOW YOU'RE A STICKLER ABOUT WHETHER
8 YOUR RECOLLECTION IS REFRESHED, SO I JUST WANT TO FIND
9 OUT IF IT'S POSSIBLE IN THE FIRST INSTANCE.

10 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND WHAT
11 I WILL ASK TO BE MARKED AS NEXT FOR IDENTIFICATION AS
12 DEFENSE V. IT IS A 21-PAGE DOCUMENT ENTITLED
13 "COUNTERCLAIM OF JEFFERY C. COYNE."

14 THE COURT: ALL RIGHT. THAT WILL BE MARKED
15 DEFENSE V FOR IDENTIFICATION

16 (DEFENSE EXHIBIT NO. V WAS MARKED FOR
17 IDENTIFICATION.)

18 Q BY MR. SUMMERS: AND, SIR, YOU'RE WELCOME
19 TO JUST TAKE A LOOK AT THE FIRST PAGE AND SEE IF THAT
20 REFRESHES YOUR RECOLLECTION AND ANY OTHER PAGES BEYOND
21 THAT.

22 A I RECALL INSTRUCTION GIVEN AND DISCUSSION
23 ABOUT THIS DOCUMENT. AS I SIT HERE TODAY, I DON'T RECALL
24 THIS DOCUMENT.

25 Q OKAY. DO YOU -- SO YOU WOULD RECALL SOME
26 OF THE ISSUES THAT ARE PUT FORWARD IN THAT DOCUMENT?

27 A WELL, AGAIN, I'VE NOT READ THE DOCUMENT,
28 BUT I REMEMBER IN TERMS OF THE COUNTERCLAIM OF JEFFERY C.

1 COYNE CHAPTER 11 TRUSTEE FOR AVOIDANCE OF PREFERENTIAL
2 TRANSFERS, AVOIDANCE OF FRAUDULENT TRANSFERS, BREACH OF
3 FIDUCIARY DUTY, FAILURE TO TURN OVER PROPERTY OF THE
4 ESTATE AND EQUITABLE SUBORDINATION. THOSE CONCEPTS I
5 DISCUSSED WITH MS. EISEN AND I BELIEVE WE DISCUSSED
6 MOVING FORWARD ON THEM, YES.

7 Q AND THE TALK ABOUT THE BREECH OF FIDUCIARY
8 DUTY, WAS ONE OF THE ALLEGATIONS IN THAT COUNTERCLAIM
9 THAT MRS. GOODWIN, DIANE GOODWIN HAD BREECHED HER
10 FIDUCIARY DUTY AS AN OFFICER OF E.S.I. BY HOLDING ONTO
11 THE MERCEDES FOR A CERTAIN PERIOD OF TIME?

12 A WOULD YOU LIKE ME TO REVIEW THIS TO ANSWER
13 YOUR QUESTION? BECAUSE AS I SIT HERE TODAY, I DON'T
14 RECALL THAT SPECIFICITY.

15 Q IF I MAY APPROACH, I CAN TRY TO POINT YOU
16 TO THE PROPER PAGE.

17 A I'LL TAKE ALL THE HELP I CAN GET.

18 Q I THINK THESE THREE PAGES (INDICATING),
19 BUT SPECIFICALLY THIS PORTION HERE ON PAGE 13, THERE'S
20 ANOTHER REFERENCE AND CLAIMS ON PAGE 14 AND THAT SHOULD
21 DO IT. IF YOU WOULD LIKE TO TAKE A LOOK --

22 A LET ME DO SO.

23 YES, I'VE READ THE INDICATED SECTIONS.

24 AS TO YOUR QUESTION, THIS REFERS TO THE
25 COMPANY CAR. I BELIEVE THAT WAS THE MERCEDES, BUT I'M
26 NOT SURE AS I SIT HERE TODAY. I RECALL THERE WAS AN
27 E.S.I. COMPANY CAR THAT WE WERE SAYING THAT HAD NOT BEEN
28 TURNED OVER ALONG WITH THE MONEY, THE CHECKS, THE REST OF

1 THE THINGS THAT HAD NOT BEEN PROPERLY TURNED OVER.

2 Q AND IS IT YOUR RECOLLECTION THAT THAT
3 COMPANY CAR WAS TURNED OVER ON APPROXIMATELY JANUARY 20TH
4 AS INDICATED IN THAT DOCUMENT?

5 A MY BEST RECOLLECTION IS THAT THERE WAS A
6 TURN OVER OF THE COMPANY VEHICLE TO THE BANK, NOT TO THE
7 TRUSTEE, BUT WENT TO THE BANK THAT WAS STILL OWED MONEY
8 ON IT BECAUSE THERE WAS NO EQUITY IN THE VEHICLE.

9 Q WOULD THAT BE LANDMARK BANK?

10 A I DON'T RECALL.

11 Q AND LET ME JUST APPROACH.

12 SIR, IF I CAN JUST ASK YOU TO REVIEW THIS
13 PORTION OF PAGE 15 (INDICATING), AND SEE IF THAT
14 REFRESHES YOUR RECOLLECTION AS TO WHAT TYPE OF CAR THE
15 COMPANY CAR WAS.

16 A IT APPEARS THE PLEADING REFERS TO A
17 MERCEDES.

18 Q AND YOU'VE TESTIFIED ABOUT A MERCEDES
19 BEING YOUR RECOLLECTION OF WHAT THE CAR WAS?

20 A THAT'S MY BEST RECOLLECTION, YES.

21 Q THANK YOU.

22 DO YOU RECALL APPROXIMATELY THE AMOUNT OF
23 MONEY THAT WAS IN THE ACCOUNT OF THE E.S.I. BANKRUPTCY AT
24 THE TIME THAT YOU ENDED YOUR TENURE?

25 A MY BEST RECOLLECTION IS ABOUT \$830,000.

26 Q AND I MENTIONED HIS NAME BEFORE, BUT YOUR
27 SUCCESSOR WAS -- AS TRUSTEE -- WAS A GENTLEMAN NAMED
28 RONALD DURKIN?

1 A YES.

2 Q DID YOU -- IN THE PROCESS OF HANDING OVER
3 YOUR TENURE, DID YOU APPRISE HIM OF WHAT ASSETS YOU HAD
4 IN HAND AND AVAILABLE?

5 A YES, OF COURSE.

6 Q DOES A TRUSTEE EVER HAVE TO FILE WITH THE
7 COURT SOMETHING CALLED AN INVENTORY, WHAT WOULD INDICATE
8 WHAT ASSETS ARE IN HAND OR ON HAND?

9 A THERE ARE TIMES WHEN A TRUSTEE DOES. IT
10 IS NOT A REQUIREMENT FOR EVERY TRUSTEE TO DO SO.
11 CERTAINLY AS I ENDED MY STAY AS TRUSTEE, I WOULD DO AN
12 ACCOUNTING WHICH SHOWED EVERYTHING THAT I ADMINISTERED,
13 EVERYTHING THAT I TURNED INTO CASH, WHERE THE CASH WAS
14 AND I WOULD TURN OVER THE CASH TO THE NEW TRUSTEE.

15 I GUESS THE SHORT ANSWER IS NO.

16 Q DO YOU RECALL ANY OTHER ASSETS OR ANY
17 PHYSICAL ASSETS OF E.S.I. BEING HELD IN STORAGE DURING
18 YOUR TENURE?

19 A THERE WAS A TRAILER, I BELIEVE A NUMBER OF
20 VEHICLES, SOME MOTORCYCLES. THERE WAS A YOU STORE IT
21 FACILITY WITH SOME ASSETS IN IT THAT I BELIEVE I FINALLY
22 GOT TURNED OVER WELL INTO THE TRUSTEE TENURE.

23 Q AND DO YOU RECALL A STORAGE FACILITY
24 CALLED REPUBLIC STORAGE? NOT PUBLIC, BUT REPUBLIC
25 STORAGE?

26 A NO, SIR.

27 Q DID YOU HAVE ANY PARTICULAR STORAGE
28 FACILITIES THAT YOU HAD UTILIZED WHEN YOU WERE TRUSTEE?

1 A I HAD A WAREHOUSE THAT LOOKED LIKE THE
2 RAIDERS OF THE LOST ARK WAREHOUSE, AND FOR PERHAPS
3 100 CASES. DIFFERENT CHAPTER 11S AND 7S. I WOULD
4 UTILIZE THAT ONE WAREHOUSE IN PASADENA AS A REPOSITORY OF
5 RECORDS, ASSETS AND SO FORTH.

6 Q WAS THAT THE ONLY ONE YOU USED OR WERE
7 THERE OTHERS?

8 A FROM TIME TO TIME IN A BIG CHAPTER 11 I
9 MIGHT USE DOZENS OF OTHERS. AT THAT POINT IN TIME I WAS
10 RUNNING PIONEER CHICKEN WITH 400 RESTAURANTS. I'M SURE I
11 HAD STORAGE FACILITIES ALL OVER FIVE STATES AND TWO
12 COUNTRIES.

13 Q AND DID YOU RED ONION, TOO, DIDN'T YOU?

14 A I DID. I STILL HAVE THE SCARS.

15 MR. SUMMERS: YOUR HONOR, I HAVE IN MY HAND A
16 SIX-PAGE DOCUMENT ENTITLED "TRUSTEE INVENTORY." MAY IT
17 BE MARKED DEFENSE --

18 THE COURT: W.

19 (DEFENSE EXHIBIT NO. W WAS MARKED FOR
20 IDENTIFICATION.)

21 MR. SUMMERS: MAY I APPROACH, YOUR HONOR?

22 THE COURT: YES.

23 Q BY MR. SUMMERS: SIR, WOULD YOU JUST TAKE
24 A LOOK AT THAT AND TELL ME IF YOU CAN RECOGNIZE OR
25 IDENTIFY THE DOCUMENT, DEFENSE W?

26 A I DON'T BELIEVE I'VE EVER SEEN IT BEFORE.

27 Q WOULD YOU KNOW IF YOU WOULD RECOGNIZE IF
28 THE ITEMS THAT WERE ON HAND WHEN YOU HANDED THE ESTATE

1 OVER TO MR. DURKIN, IF THOSE ITEMS -- YOU WOULD RECOGNIZE
2 THOSE ITEMS IN THAT DOCUMENT?

3 A I TRULY CAN'T SAY.

4 Q ARE THEY SIMILAR TYPE OF ITEMS TO WHAT YOU
5 HAD YOU DESCRIBED, SOME OF THE ITEMS AS BEING VEHICLES --

6 A VEHICLES, A TRAILER, I RECALL THERE WAS
7 SOME OFFICE FURNITURE.

8 Q OKAY. NOW, HOW DOES A TRUSTEE TYPICALLY
9 GET PAID AS A TRUSTEE?

10 A THE TRUSTEE IN A BANKRUPTCY HAS FIRST TO
11 GET SOME ASSETS TO ADMINISTER. IF THERE ARE NO ASSETS,
12 THERE'S NO PAYMENT. THE BANKRUPTCY CODE DEFINES THE
13 MAXIMUM AMOUNT THAT CAN BE PAID TO A TRUSTEE, BUT THE
14 TRUSTEE MUST MAKE APPLICATION TO THE BANKRUPTCY COURT.
15 SHOW WHAT THEY'VE DONE IN ADMINISTERING THE ESTATE, AND
16 MAKE A CLAIM FOR PAYMENT LESS THAN THE STATUTORY MAXIMUM.

17 Q AND DOES A TRUSTEE, THEN, ALSO HAVE TO
18 ACCOUNT FOR THE TIME AND EXPENSES THAT THEY EVENTUALLY --
19 THAT THEY EXPEND ON A CASE?

20 A TYPICALLY SO, YES.

21 Q SO EVENTUALLY WHAT HAPPENS IS, IF THERE
22 ARE ACTUALLY ASSETS IN A CASE, THE TRUSTEE AND THE
23 TRUSTEE -- THE PROFESSIONALS HIRED BY THE TRUSTEE WOULD
24 COME BACK TO THE COURT AND SAY WE WOULD LIKE TO BE
25 REIMBURSED AND HERE IS WHAT WE DID FOR THE ESTATE?

26 A TYPICALLY SO, YES.

27 Q AND THE WAY THEY WOULD DO THAT TYPICALLY
28 IS BY KEEPING TRACK OF THEIR TIME, LIKE BILLING SLIPS,

1 TIME SLIPS, SOMETHING ALONG THOSE LINES?

2 A THAT'S NOT HOW I DID IT, BUT I CAN'T SPEAK
3 FOR THE INDUSTRY.

4 Q HOW DID YOU DO IT?

5 A I WAS A PARTNER OF A VERY LARGE FIRM. IF
6 I WROTE AN HOUR INTO OUR BUILDING SYSTEM, I HAD BETTER
7 COLLECT IT OR I HAD TO FACE MY PARTNERS. SO IN A TRUSTEE
8 MATTER WHERE IT WAS A HUGE UNCERTAINTY WHETHER I WOULD
9 EVER BE PAID, I WOULD KEEP SUCH HOURS IN MY PERSONAL
10 CALENDAR AND NEVER REFLECT THEM ON THE FIRM'S BILLINGS
11 UNLESS AND UNTIL THERE WAS A PROSPECT OF BEING PAID.

12 Q OKAY.

13 A OKAY. FOR EXAMPLE, IN PIONEER CHICKEN,
14 NOT A SINGLE HOUR WAS ON MY TIME SLIPS BUT THE COURT PAID
15 ME A MILLION DOLLARS WHICH I HANDED TO THE FIRM AND THEN
16 BACKED IT UP WITH THE APPROPRIATE TIME RECORDS.

17 Q OKAY. AND YOU'VE ACTED IN SITUATIONS
18 WHERE YOU WERE ACTUALLY THE LAWYER FOR A -- SOMEBODY WHO
19 WAS IN BANKRUPTCY?

20 A WHENEVER I'M ACTING AS COUNSEL AT ANY
21 POINT IN TIME, I KEPT A TIME SHEET THAT WENT STRAIGHT
22 INTO THE FIRM'S BILLING SYSTEM.

23 Q THE CONVERSATION THAT -- OR THE EXCHANGE
24 THAT YOU DESCRIBED WITH MR. GOODWIN YESTERDAY, DO YOU
25 HAVE ANY RECORDS OR TIME RECORDS REFLECTING WHAT DATE
26 THAT MIGHT HAVE BEEN OR WHAT TYPE OF EVENT IT WAS?

27 A NOT TODAY.

28 Q WERE YOU ASKED TO BRING ANY RECORDS BY THE

1 DISTRICT ATTORNEY'S OFFICE?

2 A NO. I TAKE THAT BACK.

3 THEY ASKED ME TO LOOK FOR RECORDS, BUT I
4 DIDN'T HAVE ANY.

5 Q WHEN WERE YOU ASKED TO LOOK FOR RECORDS?

6 A I DON'T RECALL IF IT WAS THE D.A.'S OFFICE
7 OR ONE OF THE POLICE INVESTIGATORS, BUT I BELIEVE IT WAS
8 SOME YEARS AGO. IT WAS AFTER I MOVED FROM CALIFORNIA.

9 Q NOW, IT'S YOUR TESTIMONY AND YOUR
10 RECOLLECTION THAT THE COMPANY CAR WAS BASICALLY
11 VOLUNTARILY TURNED OVER, OR I KNOW YOU'LL HEAD -- THE
12 WORD VOLUNTARILY IS STRIKING A NERVE, BUT THE CAR WAS
13 SURRENDERED BY THE GOODWINS?

14 A MY BEST RECOLLECTION THAT -- AFTER A LOT
15 OF NEGOTIATION, DISCUSSION, THEY FINALLY TURNED OVER A
16 CAR. WHETHER IT WAS TO ME OR TO THE BANK, MY BEST
17 RECOLLECTION WAS THE BANK. BUT AS I SIT HERE, I DON'T
18 RECALL.

19 Q OKAY.

20 A IF IT WAS TO ME, IT WOULD GO TO AN
21 ADJUSTOR. I WOULD NEVER PHYSICALLY PERSONALLY TAKE
22 POSSESSION OF SUCH AN ASSET. IT JUST -- AS A TRUSTEE,
23 YOU JUST DON'T GET INTO THE MERCEDES AND DRIVE AWAY.
24 THAT'S A BAD THING.

25 Q PICK UP A CHICKEN FROM PIONEER CHICKEN AND
26 WALK AWAY WITH IT?

27 A PLEASE. I'VE NOT EATEN YET.

28 MR. SUMMERS: THANK YOU, SIR. I HAVE NO

1 FURTHER QUESTIONS.

2 THE COURT: REDIRECT?

3 MR. JACKSON: THANK YOU, YOUR HONOR.

4

5 REDIRECT EXAMINATION

6 BY MR. JACKSON:

7 Q MR. COYNE, I'M GOING TO BE RELATIVELY
8 BRIEF.

9 WERE THE GOODWINS OR S.X.I.'S PAYMENTS
10 CONCERNING THE INSPORT AGREEMENT IN GOOD STANDING?

11 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE.

12 THE COURT: OVERRULED.

13 THE WITNESS: MY BEST RECOLLECTION IS THAT WE --
14 I THE TRUSTEE, MY COUNSEL -- NEVER CONSIDERED THE ISSUE
15 IN GOOD STANDING.

16 Q BY MR. JACKSON: DID YOU CONSIDER THEM TO
17 BE IN BREACH?

18 A I DID.

19 Q MR. SUMMERS ASKED YOU SIGNIFICANT NUMBERS
20 OF QUESTIONS ABOUT -- USING HYPOTHETICALS -- ABOUT CARS
21 AND REAL PROPERTY, REAL ESTATE MORTGAGES, ET CETERA, LET
22 ME FOLLOW UP ON THAT LINE OF QUESTIONING.

23 IF I LEASE A CAR, ACCORDING TO THE
24 HYPOTHETICAL THAT YOU GAVE TO MR. SUMMERS -- OR
25 MR. SUMMERS GAVE TO YOU. IF I LEASE A CAR, AND I'M IN
26 GOOD STANDING MAKING PAYMENTS ON THAT CAR, AS PER THE
27 CONTRACT TO THE BANK OR THE LENDER, WHOEVER IT IS THAT I
28 LEASE THE CAR FROM, I HAVE TOTAL POSSESSORY RIGHTS FOR

1 THAT VEHICLE FOR THE TERM OF THE CONTRACT; CORRECT?

2 A AS I PROBABLY SAID TO MR. SUMMERS, IF THE
3 BANK IS FOOLISH ENOUGH TO NOT HAVE A GOOD AGREEMENT WITH
4 YOU, THAT WOULD BE CORRECT.

5 Q AND LET'S ASSUME FOR PURPOSES OF THIS REAL
6 QUICK HYPOTHETICAL THAT THAT IS, IN FACT, THE CASE. I'M
7 JUST TALKING ABOUT MY POSSESSORY INTEREST, 100 BUCKS A
8 MONTH AND I'M MAKING MY PAYMENT AND I'M IN GOOD STANDING.
9 I GET TO COMPLETELY POSSESS THE CAR WITH NO INPUT BY THE
10 BANK AT THAT POINT; CORRECT?

11 A WELL, AGAIN, I'VE NEVER SEEN A BANK LEASE
12 OR ENCUMBER A CAR WITHOUT HAVING SOME REAL STRONG 'YOU
13 CAN'T TAKE IT TO BUENOS AIRES AND LIVE IN IT' KIND OF
14 PROVISIONS, BUT YES.

15 Q NOW, GIVEN THE FACT THAT THE GOODWINS
16 AND/OR S.X.I. USED THE NAME SEIDEL OR GOODWIN, YOU
17 WEREN'T SURE WHICH, BUT LET'S CALL IT S.X.I.
18 UNDERSTANDING THAT IT'S EITHER DIANE SEIDEL GOODWIN OR
19 CHUCK CLAYTON OR BOTH. GIVEN THE FACT THAT S.X.I. WAS IN
20 DEFAULT, DID THAT IMPACT THEIR POSSESSORY INTEREST OVER
21 THE INSPORT AGREEMENT?

22 A IT PLACED IT AT RISK.

23 Q OKAY. NOW, YOU REVIEWED THE BOOKS FOR
24 E.S.I. BEFORE YOU TOOK OVER -- OR AS YOU TOOK OVER AS
25 TRUSTEE; CORRECT?

26 A I DID, YES.

27 Q AND THOSE BOOKS PREDATED YOUR COMING INTO
28 THE CASE; CORRECT?

1 A THAT'S CORRECT.

2 Q SO YOU LOOKED AT 1986, 1985 BOOKS PERHAPS?

3 A I DON'T REMEMBER HOW FAR BACK. I REVIEWED
4 EVERYTHING I COULD GET MY HANDS ON.

5 Q DID YOU FIND IN YOUR REVIEW OF THE BOOKS
6 THAT AT SOME POINT E.S.I. HAD AN UNENCUMBERED ASSET THAT
7 WAS WHOLLY OWNED BY E.S.I. CALLED THE INSPORT AGREEMENT?

8 MR. SUMMERS: OBJECTION. LEADING. CALLS FOR
9 HEARSAY.

10 THE COURT: SUSTAINED.

11 Q BY MR. JACKSON: DID YOU, IN FACT, LOOK AT
12 ANY OF THE BOOKS CONCERNING THE INSPORT AGREEMENT BEFORE
13 THE INSPORT AGREEMENT WAS SOLD TO S.X.I.?

14 A NO.

15 Q AFTER THE INSPORT AGREEMENT WAS SOLD TO
16 S.X.I., WAS THERE A CONTRACT FOR THE PAYMENTS THAT WERE
17 SUPPOSED TO BE MADE ON THE INSPORT AGREEMENT?

18 A THERE WERE, AS I RECALL, PLEADINGS FILED
19 IN CONNECTION WITH THE SALE THAT SAID CERTAIN THINGS
20 WOULD HAPPEN. AND THEN THERE WAS DOCUMENTATION OF THE
21 SALE THAT DID NOT COMPLY WITH WHAT HAD HAPPENED AT THE
22 SALE. SO THERE WAS, I BELIEVE, PROMISSORY NOTES AND
23 GUARANTEES. I DON'T BELIEVE THAT THERE WAS A SECURITY
24 AGREEMENT WHICH WOULD HAVE BEEN THE CONTRACT THAT SAID
25 THIS IS COVERED BY AN ENCUMBRANCE AND IF YOU DON'T DO
26 WHAT YOU'RE SUPPOSED TO DO WE CAN TAKE IT BACK.

27 Q AND THAT'S WHAT YOU TOOK CARE OF?

28 A THAT'S WHAT I TOOK CARE OF.

1 Q SO, IN OTHER WORDS, DID YOU -- IS IT FAIR
2 TO SAY THAT YOU PUT RESTRICTIONS ON THAT INSPORT
3 AGREEMENT CONTRACTUALLY?

4 A THAT'S FAIR TO SAY, YES.

5 Q AND YOU WERE HOLDING THE STRINGS OF THAT
6 INSPORT AGREEMENT AS THE TRUSTEE?

7 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

8 THE COURT: SUSTAINED.

9 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE
10 YOUR RELATIONSHIP TO THE INSPORT AGREEMENT AFTER YOU
11 BECAME TRUSTEE AND GOT THE CONTRACT PROPERLY WRITTEN?

12 MR. SUMMERS: OBJECTION. VAGUE.

13 THE COURT: OVERRULED.

14 THE WITNESS: AT THE TIME I BEGAN AS TRUSTEE, I
15 WORKED AS EFFECTIVELY AS I COULD TO BRING ASSETS INTO THE
16 BANKRUPTCY. THAT INSPORT AGREEMENT HAD ALREADY LEFT THE
17 BUILDING, AS IT WERE, AND THE PAYMENT HAD NOT BEEN MADE
18 FOR IT. NOT ONLY HAD THE PAYMENT NOT BEEN MADE, BUT
19 MONEY THAT WAS SUPPOSED TO BE IN THE COMPANY WASN'T
20 TURNED OVER. BOOKS AND OTHER THINGS WEREN'T TURNED OVER.
21 AND I WORKED FURIOUSLY TO GET EVERYTHING TURNED OVER THAT
22 BELONGED TO THE BANKRUPT COMPANY.

23 AMONG THOSE THINGS WAS THE RIGHT TO HOLD
24 THAT INSPORT AGREEMENT AS COLLATERAL, AS IN, WE CAN TAKE
25 IT BACK IF YOU DON'T PAY. AND THUS, TO FORCE PAYMENT
26 UNDER OF THE TERMS OF THE SALE THE BANKRUPTCY COURT HAD
27 APPROVED BEFORE MY TENURE.

28 Q AND UP UNTIL, AND INCLUDING THE TIME OF

1 MICKEY THOMPSON'S MURDER ON MARCH 16, 1988, WAS THAT
2 INSPORT AGREEMENT FULLY PAID OFF BY S.X.I.?

3 A IT WAS NOT.

4 Q MR. SUMMERS SHOWED YOU A DOCKET -- I THINK
5 I'M HOLDING THIS -- THIS IS DEFENSE O, I BELIEVE.

6 AND MR. SUMMERS ASKED TO YOU FLIP THROUGH
7 THE DOCKET AND REFER TO CERTAIN GOINGS ON IN COURT;
8 CORRECT?

9 A THAT'S CORRECT.

10 Q WOULD THIS DOCKET SHOW AN OFFER BY A
11 CREDITOR -- OR INTEREST BY A CREDITOR TO PURCHASE THE
12 INSPORT AGREEMENT?

13 A NO, SIR, IT WOULD NOT.

14 Q WHO WAS THE MOST ACTIVE CREDITOR? YOU
15 SAID THERE WERE A NUMBER OF THEM. WHO WAS THE MOST
16 ACTIVE CREDITOR IN YOUR EXPERIENCE IN THE E.S.I.
17 BANKRUPTCY?

18 MR. SUMMERS: OBJECTION. ASKED AND ANSWERED,
19 YOUR HONOR.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER.

22 THE WITNESS: CLEARLY MICKEY THOMPSON.

23 Q BY MR. JACKSON: WHICH CREDITOR APPROACHED
24 YOU WITH AN OFFER OR SOME INDICATION THAT THEY WERE
25 INTERESTED BUYING THE INSPORT AGREEMENT?

26 A MICKEY THOMPSON, THROUGH HIS COUNSEL.

27 Q WHICH CREDITOR CAME TO YOU, MR. COYNE,
28 WITH CONCERNS ABOUT THE MERCEDES?

1 A MICKEY THOMPSON'S COUNSEL.

2 Q AND AFTER THOSE CONCERNS WERE RAISED, DID
3 YOU TAKE SOME ACTION WITH REGARD TO THE MERCEDES?

4 A I DID.

5 Q ONE LAST QUESTION.

6 YOU INDICATED THAT YOU RESIGNED AS TRUSTEE
7 IN MARCH OF 1988; CORRECT?

8 A THAT IS CORRECT.

9 Q DID YOUR RESIGNATION HAVE ANYTHING TO DO
10 WITH THE STATEMENTS THAT MR. GOODWIN MADE AT THAT MEETING
11 TO YOU ABOUT, SOMETHING TO THE EFFECT OF, "IF YOU FUCK
12 WITH ME, I'LL FUCK WITH YOU"?

13 MR. SUMMERS: OBJECTION, YOUR HONOR. LEADING.
14 BEYOND THE SCOPE.

15 THE COURT: SUSTAINED ON LEADING GROUNDS.

16 MR. JACKSON: MAY I APPROACH, YOUR HONOR?

17 THE COURT: APPROACH TO SIDE BAR?

18 MR. JACKSON: YES, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 (PROCEEDINGS HELD AT SIDE BAR.)

21 THE COURT: ALL RIGHT. WE'RE AT THE SIDE BAR.

22 MR. JACKSON: YOUR HONOR, I KNEW MR. SUMMERS WAS
23 GOING TO HAVE AN ISSUE WITH THE WAY I LED THAT QUESTION.
24 I DO NOT WANT TO TAKE ANY RISK IN THAT HE WILL SAY I
25 QUIT, BECAUSE, IN PART, ON THE ITALIAN GUYS, SO I WOULD
26 LIKE TO BE ABLE TO LEAD -- I HAVE ASKED HIM OFF THE
27 RECORD OUTSIDE --

28 THE COURT: OKAY.

1 MR. JACKSON: -- DID THE THREATS HAVE ANY IMPACT
2 IN YOU RESIGNING AND HE SAID ABSOLUTELY. BUT I DON'T
3 WANT TO TAKE ANY CHANCES.

4 MS. SARIS: WHAT'S THE RELEVANCE?

5 THE COURT: I'LL ALLOW IT.

6 MS. SARIS: WE HAVE ANOTHER OBJECTION.

7 THE COURT: WHAT'S THE OBJECTION?

8 MS. SARIS: THE RELEVANCE.

9 THE COURT: THE RELEVANCE OF THE QUESTION?

10 MS. SARIS: YES.

11 MR. JACKSON: THEN WHY DID MR. SUMMERS BRING UP
12 THE FACT THAT HE RESIGNED IN 1988 DIRECTLY AFTER THE
13 MURDERS AND THEN SUGGEST THAT THERE MAY HAVE BEEN SOME
14 IMPROPRIETY WITH REGARD TO PAYMENTS? I MEAN, THAT WAS
15 PART OF THE CROSS-EXAMINATION.

16 MS. SARIS: WE WERE LAYING A TIME FRAME OVER WHAT
17 HE KNEW.

18 THE COURT: BUT THE FACT THAT HE RESIGNED OVER
19 THE THREATS IS CERTAINLY RELEVANT.

20 OVERRULED.

21 MR. JACKSON: THANK YOU.

22 (SIDE BAR CONCLUDED.)

23 MR. JACKSON: MAY I, YOUR HONOR?

24 THE COURT: YES.

25 Q BY MR. JACKSON: MR. COYNE, YOU INDICATED
26 YESTERDAY THAT DURING THAT THE COURSE OF THAT MEETING
27 THAT MR. SUMMERS REFERRED TO IN CROSS-EXAMINATION, THE
28 DATE OF WHICH YOU'RE NOT POSITIVE ABOUT, THAT MICHAEL

1 GOODWIN MADE A STATEMENT -- ACTUALLY TWO SETS OF
2 STATEMENTS TO YOU, THE FIRST BEING SOMETHING TO THE
3 EFFECT THAT IF YOU DON'T LET UP, BAD THINGS WILL HAPPEN,
4 THE SECOND OF WHICH WAS, "IF YOU FUCK WITH ME, I'LL FUCK
5 WITH YOU."

6 DID THOSE STATEMENTS, MR. COYNE, HAVE ANY
7 IMPACT IN YOUR DECISION TO LEAVE AS -- OR TO ASK FOR
8 RELIEF FROM THE COURT AS BANKRUPTCY TRUSTEE IN THE E.S.I.
9 BANKRUPTCY?

10 A THOSE STATEMENTS IN CONJUNCTION WITH THE
11 DEATHS OF MICKEY THOMPSON AND HIS WIFE TRUDY, LEFT ME IN
12 A PLACE WHERE I COULD NOT OBJECTIVELY WORK WITH THIS
13 ESTATE. I WAS SO ANGRY AND SO UPSET AS TO HAVE NO
14 ABILITY TO CONTINUE TO BE FAIR OR EVEN IN MY OWN
15 FRAMEWORK BE JUSTIFIED IN CONTINUING TO DO THINGS THAT
16 REQUIRED OBJECTIVITY.

17 MR. JACKSON: THANK YOU, MR. COYNE.

18 THE COURT: ANY FURTHER CROSS?
19

20 RECROSS EXAMINATION

21 BY MR. SUMMERS:

22 Q SIR, DID YOU EVER GIVE A MERCEDES TO
23 MICKEY THOMPSON?

24 A SIR, I CAN HONESTLY SAY SITTING HERE AS I
25 DO NOW, THAT I'VE NEVER IN MY LIFE GIVEN A MERCEDES TO
26 ANYBODY.

27 Q DID YOU EVER GIVE MICKEY THOMPSON THE
28 INSPORT AGREEMENT OR THE RIGHTS TO THE INSPORT AGREEMENT?

1 A NO, SIR.

2 MR. SUMMERS: THANK YOU.

3 THE COURT: ANYTHING ELSE?

4 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

5 THE COURT: THANK YOU, MR. COYNE.

6 THE WITNESS: THANK YOU, YOUR HONOR.

7 THE COURT: YOU ARE EXCUSED. I ASSUME THERE IS
8 NO OBJECTION TO THAT?

9 MR. JACKSON: NO OBJECTION, YOUR HONOR.

10 MS. SARIS: NO, YOUR HONOR.

11 THE COURT: OKAY. THANK YOU.

12 THE WITNESS: THANK YOU, TOO.

13 MR. DIXON: YOUR HONOR, OUR NEXT WITNESS IS SCOTT
14 HERNANDEZ. AND IF I CAN JUST HAVE A COUPLE MINUTES JUST
15 TO MAKE SURE HE'S OUT THERE.

16 THE COURT: SURE.

17

18 SCOTT HERNANDEZ,

19 CALLED BY THE PEOPLE AS A WITNESS, WAS

20 SWORN AND TESTIFIED AS FOLLOWS:

21

22 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

23 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
24 YOU MAY 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 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,

1 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
2 NAME FOR THE RECORD.

3 THE WITNESS: SCOTT HERNANDEZ, S-C-O-T-T, LAST
4 NAME H-E-R-N-A-N-D-E-Z.

5 THE CLERK: THANK YOU.

6 THE COURT: YOU MAY INQUIRE.

7 MR. DIXON: THANK YOU, YOUR HONOR.

8

9 DIRECT EXAMINATION

10 BY MR. DIXON:

11 Q GOOD MORNING.

12 A GOOD MORNING.

13 Q THANK YOU FOR COMING. I THINK YOU COME
14 FROM OUT OF STATE; IS THAT CORRECT?

15 A YES, I HAVE.

16 Q I APPRECIATE IT.

17 I WOULD LIKE TO INVITE YOUR ATTENTION BACK
18 TO 1995 -- EXCUSE ME -- 1985 AND 1986.

19 DID YOU LIVE IN CALIFORNIA AT THE TIME?

20 A YES, I DID.

21 Q AND AT SOME POINT WHILE YOU WERE IN
22 CALIFORNIA, DID YOU WORK FOR MICHAEL GOODWIN?

23 A YES, I DID.

24 Q DO YOU SEE HIM HERE IN COURT TODAY?

25 A YES, I DO.

26 Q AND COULD YOU POINT OUT WHERE HE'S SITTING
27 AND WHAT HE'S WEARING.

28 A THERE. IN THE GREENISH GRAY SUIT

1 (INDICATING) .

2 Q THE MAN I'M NOW STANDING BEHIND
3 (INDICATING) ?

4 A YES.

5 THE COURT: IDENTIFYING MR. GOODWIN.

6 MR. DIXON: THANK YOU.

7 Q HOW IS IT THAT YOU CAME TO WORK FOR
8 MICHAEL GOODWIN?

9 A THERE WAS AN AD IN THE PAPER FOR A GENERAL
10 CLERK AND I GOT THE POSITION.

11 Q DID MICHAEL GOODWIN HAVE A COMPANY THAT HE
12 RAN?

13 A SUPER CROSS, INCORPORATED.

14 Q AND THAT'S THE COMPANY THAT YOU WENT TO
15 WORK FOR?

16 A YES, I DID.

17 Q APPROXIMATELY WHEN -- AND I KNOW IT WAS A
18 WHILE AGO -- WHEN DID YOU START WORK THERE?

19 A TO MY BEST RECOLLECTION, IT WOULD HAVE
20 BEEN SPRING OF '85.

21 Q AND WHERE WAS THE OFFICES OF MICHAEL
22 GOODWIN'S COMPANY LOCATED WHEN YOU FIRST WENT TO WORK FOR
23 HIM?

24 A THAT WOULD HAVE BEEN IN EL TORO,
25 CALIFORNIA.

26 Q DID THERE COME A TIME WHEN THE LOCATION
27 CHANGED?

28 A YES. TO NEWPORT BEACH FASHION ISLAND.

1 THAT WOULD HAVE --

2 Q WHERE THE SHOPPING CENTER IS?

3 A YES.

4 Q AND APPROXIMATELY WHEN DID THE LOCATION OF
5 THE DEFENDANT'S BUSINESS CHANGE FROM EL TORO TO FASHION
6 ISLAND?

7 A I BELIEVE THAT WOULD HAVE BEEN '86, EARLY
8 '87, SOMEWHERE AROUND THERE.

9 Q HOW LONG DID YOU ACTUALLY WORK FOR HIM?

10 A FROM SPRING OF 1985 UNTIL LATE 1987.

11 Q LATE 1987?

12 A YES.

13 Q AND HOW DID YOU LOOK -- WELL, WHY DID YOU
14 STOP WORKING FOR HIM?

15 A ESSENTIALLY WE WENT TO WORK ONE DAY AND
16 THE OFFICE WAS SHUT.

17 Q SO YOU WENT TO FASHION ISLAND AND THE
18 DOORS WERE SHUT?

19 A THE DOORS WERE SHUT.

20 Q SO WE'RE GOING TO TALK THIS MORNING, MY
21 QUESTIONS AND YOUR ANSWERS, ABOUT THE PERIOD OF TIME THAT
22 YOU WORKED FOR HIM. OKAY?

23 A OKAY.

24 Q BY THE WAY, DID YOU KNOW AT ANY TIME,
25 WHILE YOU WORKED FOR MICHAEL GOODWIN, A WOMAN BY THE NAME
26 OF JEANNIE SLEEPER?

27 A YES.

28 Q AND HOW DID YOU KNOW THAT PERSON?

1 A SHE WAS THE -- I BELIEVE HER TITLE WAS
2 VICE PRESIDENT.

3 Q WAS SHE THERE WHEN YOU FIRST STARTED?

4 A YES.

5 Q AND DID SHE CONTINUE TO WORK WITH THE
6 COMPANY UNTIL --

7 A YES.

8 Q -- THE DAY THE DOORS WERE SHUT?

9 A YES.

10 Q HOW ABOUT A KATHY JOHNSON?

11 A YES.

12 Q YOU KNEW THAT PERSON?

13 A YES, I DID.

14 Q AND HOW DID YOU COME TO KNOW THAT PERSON?

15 A SHE WAS HIRED WHEN I WAS WORKING AT THE
16 EL TORO OFFICE AS, I BELIEVE, A RECEPTIONIST.

17 Q WAS SHE THERE WHEN YOU FIRST STARTED OR --

18 A SHE WAS HIRED AFTER I STARTED.

19 MR. DIXON: COULD I JUST HAVE A MOMENT?

20 (PAUSE IN PROCEEDINGS.)

21 MR. DIXON: THANK YOU, YOUR HONOR.

22 Q NOW, WHEN YOU FIRST STARTED, YOU ANSWERED
23 AN AD TO BE A GENERAL CLERK?

24 A CORRECT.

25 Q WHEN YOU GOT THERE, WHEN YOU STARTED WORK
26 FOR MICHAEL GOODWIN, WHAT EXACTLY WAS YOUR JOB?

27 A GENERAL OFFICE. XEROXING, ANSWERING
28 PHONES, ASSISTING THE PRODUCTION MANAGEMENT.

1 Q AND DID YOUR JOB, OR WHAT YOU DID FROM DAY
2 TO DAY, CHANGE OVER THE PERIOD OF TIME THAT YOU WORKED
3 THERE?

4 A I WAS HIRED AS A GENERAL CLERK AND THEN
5 OVER MY FIRST SIX MONTHS THERE I WAS PROMOTED TO
6 PRODUCTION COORDINATOR FOR THE EVENTS. AND THEN TOWARDS
7 THE END OF 1987 I BECAME -- MORE PRODUCTION MANAGEMENT
8 RESPONSIBILITIES.

9 Q SO AS YOU WORKED THERE FOR THIS -- WHAT
10 WAS IT, TWO YEARS OR SO --

11 A A LITTLE OVER TWO YEARS.

12 Q -- YOU WERE PROMOTED A NUMBER OF TIMES?

13 A YES.

14 Q DID YOU -- IN ANY OF THESE JOBS THAT YOU
15 HAD WITH MICHAEL GOODWIN'S COMPANY, INTERACT WITH HIM
16 DIRECTLY?

17 A YES, I DID. TOWARDS THE END MORE THAN IN
18 THE BEGINNING.

19 Q AND TOWARDS THE END, WAS THAT OFTEN ON A
20 DAILY BASIS, WEEKLY BASIS, WHAT?

21 A PRODUCTION MEETINGS THREE TIMES A WEEK I'M
22 SURE, AT LEAST.

23 Q FROM ALL OF YOUR INTERACTIONS WITH MICHAEL
24 GOODWIN DURING THIS PERIOD OF TIME THAT YOU WORKED AT HIS
25 COMPANY, COULD YOU CHARACTERIZE WHETHER IT SEEMED THAT HE
26 WAS PLEASED OR DISPLEASED WITH YOUR PERFORMANCE?

27 A WITH MY PERFORMANCE, I FELT HE WAS PLEASED
28 WITH MY PERFORMANCE, YES.

1 Q AND, IN FACT, YOU WERE PROMOTED YOU SAID?
2 MS. SARIS: OBJECTION. LEADING. ASKED AND
3 ANSWERED.

4 THE COURT: SUSTAINED.

5 THE WITNESS: YES.

6 Q BY MR. DIXON: HOW MANY TIMES WERE YOU
7 PROMOTED?

8 A IT WOULD HAVE BEEN TWICE.

9 Q COULD YOU DESCRIBE FOR US, FOR EXAMPLE,
10 WHEN YOU WERE IN FASHION ISLAND, WHERE YOUR OFFICE WAS IN
11 RELATIONSHIP TO HIS AND JEANNIE SLEEPER'S?

12 A WE SHARED AN OFFICE WALL. ESSENTIALLY MY
13 DESK WOULD BE HERE (INDICATING), THERE WOULD BE THE WALL
14 (INDICATING), THEN MIKE GOODWIN'S OFFICE JUST ON THE
15 OTHER SIDE OF THIS WALL (INDICATING).

16 Q AND WERE THOSE WALLS LIKE -- OR PROBABLY
17 IN MR. COYNE'S LAW FIRM, THICK AND WOODEN, OR WERE THEY
18 LIKE IN THE COUNTY WHERE THEY'RE PRETTY THIN?

19 A THEY WERE SHALLOW THIN WALLS. YOU CAN
20 HEAR EVERYTHING PRETTY MUCH.

21 Q SO YOU CAN HEAR WHAT WAS GOING ON IN
22 DIFFERENT OFFICES?

23 A YES.

24 Q WHILE YOU WERE WORKING THERE, DID YOU EVER
25 HEAR THE NAME MICKEY THOMPSON?

26 A YES, I DID.

27 Q AND TO THE BEST THAT YOU CAN REMEMBER, DID
28 YOU HEAR THAT NAME MICKEY THOMPSON EARLY IN YOUR WORK

1 HISTORY THERE OR LATER ON, OR WAS THERE A CONSTANT SOURCE
2 OF DISCUSSION?

3 MS. SARIS: OBJECTION. VAGUE, YOUR HONOR.

4 MR. DIXON: WELL, I'LL WITHDRAW IT AND ASK IT
5 AGAIN.

6 Q DID YOU EVER HEAR THE NAME MICKEY THOMPSON
7 WHILE YOU WERE WORKED THERE?

8 A YES.

9 Q DID YOU HEAR IT JUST ONCE IN A WHILE OR
10 OFTEN?

11 MS. SARIS: SAME OBJECTION, YOUR HONOR. VAGUE.
12 CALLS FOR HEARSAY.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER.

15 Q BY MR. DIXON: YOU CAN ANSWER.

16 A TOWARDS THE END IT WAS FREQUENT
17 CONVERSATION, A NAME THAT CAME UP QUITE A BIT.

18 Q AND AS AN EMPLOYEE THERE, DID YOU HAVE ANY
19 IDEA WHAT THIS WAS ABOUT?

20 A AT THE BEGINNING, NO, BUT TOWARDS THE LAST
21 YEAR OF MY EMPLOYMENT I DISCOVERED QUITE A BIT WHAT IT
22 WAS ABOUT.

23 Q AND WHAT DID YOU BELIEVE IT WAS ABOUT?

24 MS. SARIS: OBJECTION, YOUR HONOR. LACK OF
25 FOUNDATION.

26 THE COURT: SUSTAINED.

27 MR. DIXON: IT GOES TO THIS WITNESS'S STATE OF
28 MINE AND WHAT HE'S GOING TO RELATE TO US LATER ON WHY IT

1 WAS IMPORTANT, WHY HE REMEMBERED IT.

2 THE COURT: LAY A FOUNDATION.

3 Q BY MR. DIXON: HOW OFTEN DID YOU HEAR THIS
4 ABOUT MICKEY THOMPSON AND -- WERE THERE PROBLEMS?

5 A I KNEW THAT IT WAS A SOURCE OF TENSION IN
6 THE OFFICE.

7 Q AND WAS THAT TENSION OVER THE PERIOD OF
8 TIME THAT YOU WORKED THERE, INCREASING OR DECREASING?

9 A INCREASING.

10 Q AND WAS THIS A MATTER THAT WAS DISCUSSED
11 AMONG THE EMPLOYEES, THE TENSION, ON A WEEKLY, MONTHLY,
12 DAILY BASIS?

13 A IT WOULD VARY FROM WEEK TO WEEK, BUT
14 TOWARDS THE END OF MY EMPLOYMENT IT WAS A PRETTY CONSTANT
15 TENSION IN THE OFFICE. PEOPLE WERE AWARE OF IT AND SPOKE
16 OF IT.

17 Q WHEN YOU SAY "TENSION," CAN YOU TELL US
18 MORE, WHY DO YOU SAY TENSION?

19 A WHEN MICKEY THOMPSON WAS BROUGHT UP BY
20 MIKE GOODWIN, IT WAS USUALLY IN A RAGEFUL MANNER. NOT
21 GEARED TOWARDS THE OFFICE PERSONNEL, BUT HIM EXPRESSING
22 HIS ANGER AND FRUSTRATION AND THE DEALINGS WITH MICKEY
23 THOMPSON.

24 Q NOW, IN YOUR LAST ANSWER YOU TOLD US THAT
25 YOU HEARD MICHAEL GOODWIN TALK ABOUT MICKEY THOMPSON; IS
26 THAT RIGHT?

27 A YES.

28 Q DURING THE LATTER PART OF YOUR EMPLOYMENT

1 AT HIS FIRM, DID YOU HEAR THE DEFENDANT TALK LIKE THIS
2 ABOUT MICKEY THOMPSON JUST ONCE IN A WHILE, ONCE A MONTH,
3 ONCE A WEEK, DAILY?

4 A IT WOULD BE PRETTY MUCH DAILY TOWARDS THE
5 END FOR THE LAST SEVERAL MONTHS OF MY EMPLOYMENT THERE.

6 Q EVERY TIME HE WAS IN THE OFFICE?

7 A I WOULD SAY THAT WAS MIKE GOODWIN'S
8 PRIMARY FOCUS.

9 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
10 SPECULATION.

11 THE COURT: SUSTAINED.

12 MS. SARIS: MOTION TO STRIKE.

13 THE COURT: THAT WILL BE STRICKEN.

14 Q BY MR. DIXON: BASED ON WHAT YOU HEARD AT
15 THE OFFICE, DID YOU HEAR IT JUST RARELY WHEN HE WAS IN
16 THE OFFICE OR ALL THE TIME WHEN HE WAS IN THE OFFICE?

17 A ALL THE TIME, YES.

18 Q NOW, YOU SAID IN AN EARLIER ANSWER THAT
19 THE WALLS THERE WERE PRETTY THIN.

20 DO YOU REMEMBER A SPECIFIC INCIDENT WHERE
21 THERE WAS LOUD TALKING, SHOUTING OR SOMETHING LIKE THAT
22 WITH RESPECT TO MICKEY THOMPSON?

23 A YES, I DO.

24 Q COULD YOU RELATE THAT FOR US, PLEASE.
25 PLEASE TELL US -- KIND OF -- TRY TO PINPOINT THE BEST YOU
26 CAN WHEN THIS HAPPENED.

27 A THIS WOULD BE TOWARDS THE END OF MY
28 EMPLOYMENT, LATE '87, LATE PART OF THE YEAR 1987.

1 Q WHEN -- CAN YOU IN 1987 PINPOINT A MONTH
2 WHEN THE DOORS WERE CLOSED AND YOU SHOWED UP AND NOBODY
3 WAS THERE?

4 A THAT'S REALLY DIFFICULT FOR ME TO REMEMBER
5 THAT EXACT DATE.

6 Q THE TRUTH IS THE BEST YOU CAN -- IS LATE
7 19 --

8 A I'M THINKING OCTOBER, NOVEMBER, MAYBE.
9 SOMEWHERE AROUND THERE.

10 Q OKAY. AND THIS CONVERSATION THAT YOU WERE
11 ABOUT TO TELL US ABOUT, DID THAT OCCUR WITHIN DAYS, WEEKS
12 OR MONTHS BEFORE THE FIRM CAME TO AN END?

13 A WITHIN WEEKS PRIOR TO THE ENDING.

14 Q AND WAS THIS DURING THE DAY OR NIGHT?
15 WHAT TIME?

16 A IT WAS DURING THE WORKDAY.

17 Q BUSINESS HOURS?

18 A BUSINESS HOURS, YES.

19 Q AND WHERE WERE YOU WHEN YOU HEARD THIS?

20 A I WAS IN MY OFFICE.

21 Q AND WHERE WAS THE DEFENDANT, IF YOU KNEW?

22 A EXCUSE ME?

23 Q WHERE WAS THE DEFENDANT?

24 A IN HIS OFFICE.

25 Q AND HOW FAR AWAY FROM YOUR OFFICE WAS HIS
26 OFFICE WHEN THIS HAPPENED?

27 A IN RELATION TO MY DESK, HIS DESK WOULD BE
28 THE DISTANCE TO THE JUDGE WITH A WALL BETWEEN US.

1 Q AND YOU SAID A THIN WALL?

2 A YES.

3 MR. DIXON: AND YOUR HONOR, EIGHT FEET?

4 THE COURT: I WOULD AGREE.

5 MR. DIXON: THANK YOU.

6 Q SO WHAT DID YOU HEAR FIRST? WHAT DID YOU
7 HEAR ABOUT?

8 A I COULD HEAR HIM ON THE PHONE SPEAKING
9 WITH THE ATTORNEYS WITH THE MICKEY THOMPSON CASE. JUST
10 OVER TIME I COULD RECOGNIZE THE VOICES OF THE ATTORNEYS.
11 AND AFTER THE PHONE CONVERSATION, I HEARD A RUCKUS IN THE
12 OFFICE, IT SOUNDED LIKE BOOKS FLYING, HITTING THE WALL,
13 AND MIKE GOODWIN GOING INTO A RAGE.

14 Q TO YOUR KNOWLEDGE, WAS HE THE ONLY ONE IN
15 THE OFFICE, IN HIS OFFICE?

16 A YES, IN HIS OFFICE.

17 Q SO YOU HEARD BOOKS FLYING AND MICHAEL
18 GOODWIN GOING INTO A RAGE.

19 DID YOU HEAR ANY WORDS SPOKEN BY MIKE
20 GOODWIN?

21 A YES, I DID.

22 Q WHAT DID YOU HEAR?

23 A "I'LL KILL THAT MOTHER FUCKER. I'LL KILL
24 THAT MOTHER FUCKER."

25 Q AND WAS IT SAID AT THE VOICE LEVEL THAT
26 YOU JUST RELATED TO US?

27 A NO. IT WAS IN ANGER, JUST LIVID ANGER.

28 Q CORRECT ME IF I'M WRONG, MR. HENDERSON,

1 BUT EVEN AS YOU TELL US -- REPEAT THOSE STATEMENTS NOW,
2 IS IT UPSETTING TO YOU?

3 A YES.

4 Q WAS IT UPSETTING AT THE TIME?

5 A UH-HUH.

6 Q DO YOU WANT TO TAKE A MOMENT? IT'S FINE.
7 WE CAN.

8 A I'M FINE.

9 Q MR. HERNANDEZ, ARE YOU OKAY TO CONTINUE?

10 A YES.

11 Q IT WAS VERY UPSETTING?

12 A UH-HUH.

13 Q "YES"?

14 A YES.

15 Q AND, IN FACT, THE NEXT DAY, DID YOU TRY TO
16 COME TO WORK?

17 A I DID GO TO WORK. I WAS VERY EMOTIONAL
18 AND JEAN SLEEPER, THE VICE PRESIDENT, HAD ONE OF THE
19 SECRETARIES DRIVE ME HOME.

20 Q SO ALTHOUGH YOU TRIED TO COME IN THE NEXT
21 DAY, YOU BASICALLY WENT HOME?

22 A OH, YES. YEAH, I DID GO HOME.

23 MS. SARIS: OBJECTION. LEADING.

24 THE COURT: SUSTAINED.

25 Q BY MR. DIXON: AND WHY DID YOU GO HOME?

26 A I WAS JUST TOO EMOTIONAL. I COULDN'T
27 FOCUS.

28 Q IF I COULD, I WOULD LIKE TO ASK YOU A FEW

1 MORE QUESTIONS, THOUGH, ABOUT THE STATEMENT THAT THE
2 DEFENDANT -- THAT YOU JUST RELATED TO US THAT THE
3 DEFENDANT SAID AFTER TALKING ON THE PHONE WITH THESE
4 ATTORNEYS.

5 WHAT HAPPENED IN THE OFFICE AFTERWARDS?

6 MS. SARIS: OBJECTION. LACK OF FOUNDATION.
7 VAGUE AS TO "OFFICE."

8 THE COURT: ALL RIGHT. SUSTAINED.

9 Q BY MR. DIXON: I'M ASKING YOU ABOUT THE
10 DAY YOU WERE IN THE OFFICE WHEN YOU HEARD THE DEFENDANT
11 MAKE THESE STATEMENTS THAT YOU JUST RELATED TO US THAT
12 UPSET YOU SO MUCH.

13 AFTER -- IMMEDIATELY AFTER YOU HEARD THE
14 DEFENDANT SAY THOSE WORDS, WHAT HAPPENED NEXT?

15 A WE CAME OUT OF OUR OFFICE, SEVERAL OF THE
16 EMPLOYEES BECAUSE IT WAS HEARD THROUGHOUT THE ENTIRE
17 OFFICE.

18 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
19 SPECULATION. LACK OF FOUNDATION.

20 THE COURT: ALL RIGHT. THAT WILL BE STRICKEN.

21 MS. SARIS: THANK YOU.

22 Q BY MR. DIXON: BASED ON WHAT YOU HEARD AND
23 HOW IT WAS SAID, IN YOUR LENGTH OF TIME THERE WORKING IN
24 THE OFFICE, DID YOU BELIEVE THAT OTHERS MIGHT HAVE HEARD
25 IT?

26 MS. SARIS: OBJECTION. LEADING. RELEVANCE.

27 THE COURT: SUSTAINED ON LEADING GROUNDS.

28 Q BY MR. DIXON: WAS THE STATEMENT MADE IN

1 SUCH A LEVEL THAT OTHER PEOPLE REACTED TO IT? DID YOU
2 SEE OTHER PEOPLE REACT?

3 A WHEN THEY HEARD THE WORDS, THE INTENSITY,
4 THE LOUDNESS CAUSED EMPLOYEE TO WALK OUT OF THEIR OFFICE
5 AND TO SAY SEE WHAT WAS GOING ON. AND JEAN SLEEPER CAME
6 OUT OF HER OFFICE AND DIRECTED EVERYBODY TO GO BACK IN
7 THEIR OFFICE, AND SHE ENTERED MIKE GOODWIN'S OFFICE.

8 Q SO JEAN SLEEPER CAME OUT AND TALKED TO THE
9 PEOPLE, OR JUST MOTIONED?

10 A JUST MOTIONED FOR US TO GO BACK IN OUR
11 OFFICE.

12 Q THAT WAS THE SAME PERSON THAT SENT YOU
13 HOME THE NEXT DAY?

14 A YES.

15 Q NOW, AS YOU SAID, IT WAS SOME WEEKS AFTER
16 THAT THAT YOU CEASED EMPLOYMENT THERE --

17 A YES.

18 Q -- IS THAT CORRECT?

19 MR. DIXON: COULD I HAVE A MOMENT, PLEASE?

20 THE COURT: YES.

21 (DISCUSSION OFF THE RECORD.)

22 MR. DIXON: YOUR HONOR, THANK YOU. THANK YOU.
23 NOTHING FURTHER AT THIS TIME.

24 THE COURT: ALL RIGHT.

25 CROSS-EXAMINATION?

26 MS. SARIS: YES, THANK YOU.

27 MR. DIXON: OH, I'M SORRY. I DID HAVE ANOTHER
28 QUESTION. I'M SORRY. I APOLOGIZE, YOUR HONOR.

1 Q AT THE BEGINNING OF MY QUESTIONS TO YOU
2 TODAY, I ASKED YOU IF YOU SAW MIKE GOODWIN HERE IN COURT.

3 A YES.

4 Q AND YOU SAID YES?

5 A YES.

6 Q DOES HE LOOK ANY DIFFERENT THAN HE DID
7 WHEN YOU WORKED FOR HIM?

8 A I THINK WE'VE ALL AGED A LITTLE BIT.

9 Q COULD YOU CHARACTERIZE, IF YOU CAN, HOW
10 HE'S CHANGED, FACIAL APPEARANCE, HAIR?

11 A HAIR COLOR MIGHT BE DIFFERENT.

12 Q AND HOW WOULD THAT BE DIFFERENT?

13 A I BELIEVE HE HAD MORE OF A BLONDISH
14 REDDISH HAIR AT THE TIME.

15 Q OKAY.

16 MR. DIXON: THANK YOU. NOTHING FURTHER NOW, YOUR
17 HONOR. THANK YOU.

18 THE COURT: ALL RIGHT.

19 CROSS-EXAMINATION?

20 MS. SARIS: THANK YOU.

21

22 CROSS-EXAMINATION

23 BY MS. SARIS:

24 Q GOOD MORNING, MR. HERNANDEZ.

25 A GOOD MORNING.

26 Q DO YOU HAVE ANY IDEA WHY MR. DIXON JUST
27 ASKED YOU ABOUT HAIR COLOR?

28 A NO, I DON'T.

1 Q DID HE ASK YOU ABOUT IT IN THE HALLWAY
2 EARLIER TODAY?

3 A NO.

4 Q HAVE YOU EVER BEEN ASKED ABOUT HAIR COLOR?

5 A NO.

6 Q YOU DIDN'T COME FORWARD TO THE POLICE
7 UNTIL AFTER YOU SAW AN EPISODE OF "48 HOURS;" IS THAT
8 CORRECT?

9 A YES.

10 Q AND, IN FACT, YOU DIDN'T ACTUALLY CALL THE
11 POLICE, YOU CALLED THE PERSON THAT WAS SPONSORING THE
12 REWARD ON THE TELEVISION PROGRAM; CORRECT?

13 A THERE WAS NO REWARD POSTED THAT I RECALL.

14 Q YOU DON'T RECALL "48 HOURS" MENTIONING A
15 MILLION DOLLAR REWARD?

16 A NO.

17 Q SO YOU CALLED 911 AFTER WATCHING THE SHOW?

18 A NO.

19 Q YOU CALLED MICKEY THOMPSON'S SISTER?

20 A YES.

21 Q JUST COINCIDENCE YOU CALLED THE PERSON
22 WHO --

23 MR. DIXON: OBJECTION. THAT'S ARGUMENT.

24 THE COURT: YES, IT IS. SUSTAINED.

25 Q BY MS. SARIS: DID YOU TESTIFY IN AN
26 EARLIER PROCEEDING REGARDING THIS EVENT?

27 A YES, I DID.

28 Q AT THAT TIME, DO YOU RECALL SAYING YOU

1 WEREN'T SURE IF IT WAS ABOUT MICKEY THOMPSON, YOU JUST
2 MERELY ASSUMED THAT THIS TIRADE YOU HEARD WAS ABOUT
3 MICKEY THOMPSON?

4 A IT WASN'T AN ASSUMPTION, NO.

5 Q DO YOU RECALL BEING ASKED THE QUESTION --
6 COUNSEL, PAGE 63 OF HIS VOLUME, LINES 15 TO 17 -- "FROM
7 WHAT YOU HEARD, DID YOU REALIZE THIS WAS ABOUT MICKEY
8 THOMPSON?"

9 YOUR ANSWER, "I ASSUMED IT WAS ABOUT
10 MICKEY THOMPSON."

11 DO YOU RECALL THAT?

12 A YES, I DO.

13 Q AND YOU TESTIFIED IN THAT PROCEEDING, YOU
14 WERE ALSO UNDER OATH?

15 A YES, I DO.

16 Q AND YOU WERE IN THIS COURTROOM?

17 A YES, I DO.

18 Q IS THAT YES, YOU WERE?

19 A YES, I WAS.

20 Q AND AT THAT TIME YOU SAID YOU ASSUMED IT
21 WAS ABOUT MICKEY THOMPSON; IS THAT CORRECT?

22 A IT WAS -- IN THE TIME THAT I'VE HAD TO
23 REFLECT, I REMEMBER DISTINCTLY HEARING THE VOICES THROUGH
24 THE WALL OF THE ATTORNEYS AND THE CONVERSATIONS THROUGH
25 THE WALL.

26 Q OKAY. SO YOU THINK THAT MR. GOODWIN WAS
27 ON THE PHONE TO ATTORNEYS?

28 A I KNOW HE WAS, YES, I RECOGNIZE THE VOICES

1 AND --

2 Q I'M SORRY. I DIDN'T MEAN TO INTERRUPT.
3 WHAT WERE THE ATTORNEY'S NAMES?

4 A I DON'T KNOW THE NAMES. I DON'T RECALL
5 THE NAMES AT THIS TIME.

6 Q WERE THEY MICHAEL'S ATTORNEYS OR MICKEY'S
7 ATTORNEYS AS FAR AS YOU KNOW?

8 A THEY WERE MIKE GOODWIN'S ATTORNEY.

9 Q SO HE WAS TALKING TO HIS OWN ATTORNEYS
10 WHEN HE HAD --

11 A ON THE SPEAKER PHONE, YES.

12 Q I'M SORRY. YOU'RE JUST GOING TO HAVE TO
13 LET ME FINISH THE QUESTION OR THIS WOMAN HERE IS GOING TO
14 KILL US BOTH.

15 DO YOU RECALL SPEAKING TO A DETECTIVE WITH
16 THIS CASE IN 2002?

17 A YES, I DO.

18 Q AT THAT TIME DO YOU RECALL TELLING HIM
19 THAT THIS CONVERSATION THAT YOU OVERHEARD ACTUALLY
20 HAPPENED IN FEBRUARY OR MARCH OF 1987?

21 A YES.

22 Q SO NOT THREE MONTHS PRIOR TO THE DOOR
23 CLOSING, BUT NEARLY A YEAR?

24 A IT'S REALLY DIFFICULT TO REMEMBER THE
25 EXACT WEEKS AND DATES AND TIMES FROM THAT LONG AGO, BUT
26 IT WAS ROUGHLY AROUND THE PERIOD PRIOR TO THE OFFICE
27 CLOSING.

28 Q WELL, DO YOU THINK THAT WHEN YOU TALKED TO

1 THE DETECTIVE IN 2002 THAT YOU HAD A BETTER MEMORY MAYBE
2 FOUR YEARS AGO THAN YOU DO TODAY?

3 A I'VE HAD MORE TIME TO THINK ABOUT IT.

4 Q SO WHEN YOU TOLD HIM FEBRUARY OR MARCH OF
5 '87, AND YOU TOLD US NOW IT'S NOVEMBER, WHICH DO YOU
6 THINK?

7 MR. DIXON: OBJECTION. THAT MISSTATES THE
8 EVIDENCE.

9 THE COURT: SUSTAINED.

10 Q BY MS. SARIS: WHEN YOU TOLD US NOW IT WAS
11 THREE WEEKS PRIOR TO THE DOORS CLOSING AND YOU TOLD THE
12 DETECTIVE IT WAS FEBRUARY OR MARCH OF '87, WHICH DO YOU
13 THINK IS MORE ACCURATE?

14 A I MADE IT CLEAR THAT I DON'T -- IT COULD
15 HAVE BEEN THREE WEEKS, IT COULD HAVE BEEN FIVE WEEKS.
16 IT'S VERY DIFFICULT FOR ME TO TELL THE EXACT AMOUNT OF
17 WEEKS, DATES, TIMES AND HOURS.

18 Q MAYBE I'M CONFUSED. THE DOOR'S CLOSED IN
19 NOVEMBER OF '87?

20 A I'M ASSUMING -- IT COULD HAVE BEEN
21 OCTOBER. I REALLY DON'T KNOW THOSE EXACT DATES.

22 Q SO IT'S POSSIBLE THAT THIS OCCURRED IN
23 FEBRUARY OF '87?

24 A YES.

25 Q IS IT POSSIBLE THIS CONVERSATION OCCURRED
26 IN 1986?

27 A I DOUBT THAT, NO, NOT THAT EARLY.

28 Q DID THIS CONVERSATION OCCUR WHILE THIS

1 WOMAN KATHY JOHNSON WHO YOU'VE SAID YOU RECOGNIZED WAS
2 WORKING?

3 A NO. WHEN YOU SAY "THIS CONVERSATION,"
4 WHEN EXACTLY ARE YOU REFERRING TO?

5 Q THE CONVERSATION THAT YOU'VE JUST RELAYED
6 TO THIS JURY, "I'M GOING TO KILL THAT MOTHER FUCKER," DID
7 THAT CONVERSATION OCCUR WHILE KATHY JOHNSON WAS EMPLOYED?

8 A NO. THAT WAS AFTER. SHE WAS NOT EMPLOYED
9 AT THAT TIME.

10 Q OTHER THAN MS. SLEEPER, CAN YOU THINK OF
11 ANY OTHER PERSON THAT WAS EMPLOYED THERE AT THAT TIME?

12 A THERE WAS CHERYL IN MARKETING. BOY, I
13 DON'T REMEMBER ALL OF THE NAMES OF THE EMPLOYEES AT THAT
14 TIME.

15 Q DO YOU REMEMBER AN EMPLOYEE BY THE NAME OF
16 JOHN HIGGINS OR JACK HIGGINS?

17 A NO, I DON'T RECALL THAT NAME.

18 Q DO YOU REMEMBER THE NAME OF THE INDIVIDUAL
19 WHO DID YOUR PAYROLL?

20 A I DON'T.

21 Q YOU INDICATED JUST NOW THAT YOU WERE SO
22 UPSET BY THIS OUTBURST THAT YOU ACTUALLY WENT HOME.

23 WAS IT THAT DAY OR THE NEXT DAY?

24 A WELL, I PROCEEDED MY REGULAR WORKDAY AND
25 THEN WENT HOME, AND UPON RETURNING TO THE OFFICE THE NEXT
26 MORNING IS WHEN I WAS SENT HOME.

27 Q AND THEN WHAT ABOUT THE DAY AFTER?

28 A I RETURNED TO WORK.

1 Q AND WHEN YOU TESTIFIED ABOUT THIS IN A
2 PRIOR PROCEEDING, DID YOU MENTION THAT YOU WERE -- YOU
3 HAD TO GO HOME THE NEXT DAY?

4 A I DIDN'T RECALL. I WASN'T ASKED THAT AT
5 THE TIME.

6 MR. DIXON: WELL, HE SAID -- I WAS GOING TO
7 SAY -- MAY NOT HAVE BEEN ASKED THAT.

8 Q BY MS. SARIS: SIR, DO YOU RECALL THE
9 FOLLOWING EXCHANGE -- COUNSEL, PAGE 70 OF HIS TESTIMONY,
10 LINE 17 TO 23. "WHEN YOU HEARD THE" --

11 MR. DIXON: COULD I HAVE A MOMENT JUST TO GET
12 THERE?

13 THE COURT: YES.

14 MS. SARIS: I'M SORRY?

15 MR. DIXON: I JUST WANTED TO GET THERE. THANK
16 YOU.

17 THE COURT: COUNSEL WANTED TO LOCATE.

18 MS. SARIS: I'M SORRY. I THOUGHT YOU HAD IT.

19 MAY I?

20 MR. DIXON: YES. THANK YOU.

21 Q BY MS. SARIS: THE QUESTION WAS: "WHEN
22 YOU HEARD THE COMMENT, 'I'M GOING TO KILL THAT MOTHER
23 FUCKER,' YOU SAID IT UPSET YOU; IS THAT RIGHT?"

24 ANSWER, "YES."

25 QUESTION, "DID YOU GO TO WORK THE NEXT
26 DAY?"

27 ANSWER, "YES, I DID."

28 QUESTION, "AND THE DAY AFTER THAT?"

1 ANSWER, "YEAH."

2 QUESTION, "AND THE DAY AFTER THAT?"

3 ANSWER, "YES."

4 MR. DIXON: OBJECTION. THAT'S IMPROPER
5 IMPEACHMENT. THAT'S NOT INCONSISTENT WITH WHAT THE
6 WITNESS SAID ON THE STAND.

7 THE COURT: SUSTAINED.

8 Q BY MS. SARIS: SIR, DID YOU JUST NOT SAY
9 THAT YOU WERE NOT ASKED WHETHER OR NOT YOU --

10 MR. DIXON: OBJECTION. ARGUMENTATIVE.

11 THE COURT: SUSTAINED.

12 Q BY MS. SARIS: DID YOU, IN FACT, GO TO
13 WORK THE NEXT DAY AND THE DAY AFTER AND THE DAY AFTER
14 THAT AFTER YOU HEARD THIS COMMENT?

15 A YES, I DID.

16 Q DID YOU CALL THE POLICE?

17 A NO, I DID NOT.

18 Q YOU FIRST CONTACTED THE POLICE IN THE YEAR
19 2002; IS THAT CORRECT?

20 A MARK LILLIENFELD.

21 Q I'M SORRY. THE YEAR WAS 2002?

22 A I BELIEVE IT WAS 2002, YES.

23 Q WAS MICHAEL GOODWIN LOUD, IN GENERAL?

24 A YES.

25 Q WAS HE A SOMEWHAT INTIMIDATING PRESENCE?

26 A YES.

27 Q IN FACT, YOU HAD -- HE WOULD YELL AT YOU
28 FOR SILLY THINGS LIKE FORGETTING TO GO PUT COLA IN HIS

1 REFRIGERATOR, WOULDN'T HE?

2 A YES.

3 Q DID YOU EVER MEET MICKEY THOMPSON?

4 A NO, I HADN'T.

5 Q TO YOUR KNOWLEDGE, DID HE EVER ONE TIME
6 THAT YOU WERE WORKING THERE, PHONE YOUR OFFICE?

7 MR. DIXON: OBJECTION. THAT'S ASSUMES FACTS NOT
8 IN EVIDENCE AND THERE'S NO FOUNDATION.

9 THE COURT: ALL RIGHT. SUSTAINED.

10 Q BY MS. SARIS: DO YOU RECALL A SINGLE
11 INSTANCE WHERE MR. THOMPSON PHONED THE OFFICE OF MICHAEL
12 GOODWIN WHILE YOU WERE THERE?

13 MR. DIXON: OBJECTION. LACKS FOUNDATION.

14 THE COURT: YES, IT DOES. SUSTAINED.

15 Q BY MS. SARIS: YOU INDICATED THAT YOU
16 RECOGNIZED THE VOICES OF MICKEY THOMPSON'S ATTORNEYS --
17 I'M SORRY -- OF MICHAEL GOODWIN'S ATTORNEYS; IS THAT
18 CORRECT?

19 A YES.

20 Q WOULD YOU RECOGNIZE MICKEY THOMPSON'S
21 VOICE?

22 MR. DIXON: OBJECTION. NO FOUNDATION.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER THAT.

25 THE WITNESS: NO, I WOULD NOT.

26 Q BY MS. SARIS: DID YOU EVER ANSWER THE
27 PHONE AND SOMEBODY REPORTING TO BE -- SOMEONE SAY TO YOU,
28 THIS IS MICKEY THOMPSON, MAY I SPEAK TO MICHAEL GOODWIN?

1 A NO.

2 Q DO YOU REMEMBER TELLING THE DETECTIVE THAT
3 IN THIS CONVERSATION IT DIDN'T END WITH I'M GOING TO KILL
4 THAT MOTHER FUCKER, BUT HE ACTUALLY WENT ONTO TO SAY,
5 "HE'S GOING DOWN. I'M GOING TO BRING HIM DOWN."

6 DO YOU RECALL THAT?

7 A I HEARD THAT STATEMENT IN OUR EL TORO
8 OFFICE.

9 Q DID YOU TELL THE DETECTIVE THAT WAS ALL
10 PART OF THE SAME CONVERSATION?

11 A NO.

12 Q HAVE YOU HAD AN OPPORTUNITY AT ALL TO
13 REVIEW ANY STATEMENTS THAT YOU MIGHT HAVE GIVEN TO THE
14 POLICE BEFORE TESTIFYING TODAY?

15 A THE DOCUMENTS FROM MY PRELIMINARY TRIAL.

16 Q OKAY. HAVE YOU HAD A CHANCE ON LOOK AT
17 ANY STATEMENT THAT THE DETECTIVE MIGHT HAVE PREPARED
18 RELATING TO WHAT YOU TOLD HIM IN 2002?

19 A NO.

20 Q WOULD LOOKING AT THAT ASSIST YOU IN ANY
21 WAY IN REMEMBERING WHETHER OR NOT THE PHRASE "I'M GOING
22 TO BRING HIM DOWN" WAS USED IN THE SAME CONVERSATION AS
23 "I'LL KILL THAT MOTHER FUCKER"?

24 MR. DIXON: OBJECTION. THERE'S NO FOUNDATION.

25 THE COURT: SUSTAINED.

26 Q BY MS. SARIS: DO YOU HAVE A RECOLLECTION
27 OF SAYING TO THE DETECTIVE THAT IN THE SAME CONVERSATION
28 THAT YOU HEARD, "I'M GOING TO KILL THAT MOTHER FUCKER,"

1 WAS ALSO THE EXPRESSION, "I'M GOING TO BRING HIM DOWN"?

2 MR. DIXON: OBJECTION. ASKED AND ANSWERED. HE
3 ALREADY SAID THAT OCCURRED AT THE EL TORO OFFICE.

4 THE COURT: OVERRULED.

5 YOU CAN ANSWER THAT.

6 THE WITNESS: THAT "I'M GOING TO KILL THAT MOTHER
7 FUCKER" WAS A SEPARATE STATEMENT THAN "I'M GOING TO BRING
8 HIM DOWN."

9 Q BY MS. SARIS: AND YOU DID NOT TELL THE
10 DETECTIVE THEY WERE IN THE SAME CONVERSATION?

11 A NOT TO MY RECOLLECTION.

12 Q WOULD LOOKING AT ANY REPORT MADE BY THAT
13 DETECTIVE REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT
14 YOU TOLD HIM IT WAS MADE IN THE SAME CONVERSATION?

15 MR. DIXON: OBJECTION. NO FOUNDATION. HE HADN'T
16 INDICATED HE LACKS RECOLLECTION ON THE SUBJECT.

17 MS. SARIS: I THINK HE JUST SAID NOT TO MY
18 RECOLLECTION. PERHAPS I MISUNDERSTOOD.

19 THE COURT: ALL RIGHT. OVERRULED.

20 Q BY MS. SARIS: WOULD THAT HELP YOU, SIR?
21 IF IT DOESN'T REFRESH YOUR RECOLLECTION, YOU JUST TELL
22 ME.

23 A IT MAY.

24 MS. SARIS: MAY I APPROACH THE WITNESS?

25 THE COURT: YES.

26 Q BY MS. SARIS: I'M SHOWING A STATEMENT
27 MARKED -- REPORT OF JUNE 8, 2002 FROM A 5-21-2002, THREE
28 PAGES.

1 DO YOU SEE YOUR NAME ON THAT STATEMENT?

2 A DO YOU HAVE READING CLASSES, BY ANY
3 CHANCE?

4 WHERE ARE YOU POINTING TO?

5 Q I'M JUST ASKING FIRST, DO YOU RECOGNIZE
6 YOUR NAME?

7 A YES.

8 Q AND IF YOU CAN -- TAKE AS MUCH TIME AS YOU
9 NEED, BUT I'M GOING TO REFER YOU TO THE PARAGRAPH
10 RELATING TO THAT STATEMENT --

11 THE COURT: WHY DON'T WE TAKE OUR NOON RECESS AND
12 WE WILL GET HIM SOME GLASSES.

13 LADIES AND GENTLEMEN OF THE JURY,
14 PLEASE DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
15 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. WE WILL SEE
16 YOU BACK HERE AT 1:30. THANK YOU.

17 (THE JURY LEFT THE COURTROOM.)

18 THE COURT: ALL RIGHT. WE WILL RESUME AT 1:30.

19 MS. SARIS: YOUR HONOR, I DO HAVE A MATTER TO PUT
20 ON THE RECORD. IT WON'T TAKE LONG. I DON'T KNOW IF YOU
21 WANT TO DO IT NOW OR --

22 THE COURT: WHY DON'T WE HAVE THE WITNESS STEP
23 OUTSIDE. YOU CAN TAKE THE GLASSES WITH YOU. JUST BRING
24 THEM BACK.

25 MS. SARIS: IF YOU WANT TO TAKE THAT REPORT IN
26 THE HALLWAY, I'LL MEET YOU IN THE HALLWAY.

27 THE WITNESS: OKAY.

28 THE COURT: ALL RIGHT.

1 MS. SARIS: YOUR HONOR, YESTERDAY THIS OCCURRED
2 DURING THE 402, I TRIED TO BRING IT TO THE DISTRICT
3 ATTORNEY'S ATTENTION AND I THINK HE TRIED TO CORRECT IT.
4 IT'S HAPPENED AGAIN. THE LAW CLERK FOR THE DISTRICT
5 ATTORNEY'S OFFICE IS MAKING AUDIBLE NOISES, THE WOMAN
6 SITTING BEHIND ME WHEN I'M AT THE PODIUM, LAUGHING AND
7 CERTAINLY LOUD ENOUGH FOR ME TO HEAR, I'M SURE IT'S LOUD
8 ENOUGH FOR THE JURY TO HEAR.

9 IT'S A SNICKERING TYPE OF LAUGH WHEN AN
10 OBJECTION'S MADE AND SUSTAINED OR WHEN A WITNESS PURPORTS
11 TO DO SOMETHING. IT'S INAPPROPRIATE AND I WOULD ASK THE
12 COURT TO EITHER ADMONISH HER OR REMOVE HER FROM THE
13 COURTROOM.

14 THE COURT: I HAVEN'T HEARD ANYTHING AND I DON'T
15 DOUBT THAT YOU MAY HAVE.

16 MS. SARIS: NOT ONLY DID I, YOUR HONOR, IT WAS
17 ACTUALLY SAID TO ME BY A MEMBER OF THE AUDIENCE
18 YESTERDAY. I OVERLOOKED IT AND TRIED TO SPEAK TO THE
19 D.A.'S PRIVATELY BECAUSE IT WAS DURING A 402, BUT THIS
20 MORNING THE JURY WAS PRESENT.

21 MR. DIXON: YOUR HONOR, I HAVE TO SAY THAT THEY
22 ARE SITTING RIGHT BEHIND ME, I DIDN'T HEAR ANYTHING. BUT
23 NOTWITHSTANDING THAT, ALL THE PEOPLE THAT WE WORK WITH
24 WE WILL -- I MEAN, THEY'VE HEARD WHAT YOU'VE SAID AND
25 WE'LL CERTAINLY REPEAT THAT. WE ALL WANT TO HAVE POKER
26 FACES IN HERE AND WE'LL TRY TO CONTINUE TO DO THAT.

27 THE COURT: ALL RIGHT.

28 MR. JACKSON: AND I WILL TRY NOT TO LAUGH WHEN

1 COMMENTS ARE MADE ABOUT CHICKEN, TOO.

2 THE COURT: YES.

3 MR. JACKSON: BUT I DID LAUGH FOR THAT.

4 MS. SARIS: LAUGHING DURING AN APPROPRIATE JOKE
5 IS ONE THING. SNICKERING WHEN AN OBJECTION IS SUSTAINED
6 IS A COMPLETELY DIFFERENT MATTER.

7 MR. JACKSON: WE'LL DISCUSS IT, YOUR HONOR.

8 THE COURT: WELL, OKAY. SEE YOU AT 1:30.

9
10 (AT 12:00 P.M. A RECESS WAS TAKEN
11 UNTIL 1:30 P.M. OF THE SAME DAY.)

12 --OOO--
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, NOVEMBER 16, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION

8
9 (THE JURY ENTERED THE COURTROOM
10 AND THE FOLLOWING PROCEEDINGS WERE
11 HELD IN OPEN COURT.)
12

13 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
14 ALL OUR JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.
15 MR. HERNANDEZ IS STILL ON THE WITNESS STAND.

16 YOU'VE BEEN SWORN, SIR, SO I'LL REMIND YOU
17 THAT YOU'RE STILL UNDER OATH.

18 AND, MS. SARIS, YOU MAY CONTINUE YOUR
19 CROSS-EXAMINATION.

20 MS. SARIS: THANK YOU.
21

22 CROSS-EXAMINATION (RESUMED)

23 BY MS. SARIS:

24 Q GOOD AFTERNOON, MR. HERNANDEZ. DID YOU
25 HAVE AN OPPORTUNITY TO LOOK OVER SOME NOTES FROM A
26 STATEMENT THAT YOU MADE TO DETECTIVE LILLIENFELD IN 2002?

27 A YES, I DID.

28 Q AND DOES THAT HELP YOU TO RECALL AT ALL

1 WHETHER OR NOT THE PHRASE "I'LL TAKE HIM DOWN" WAS IN THE
2 SAME CONVERSATION AS "I'LL FUCKING KILL HIM"?

3 A YES, IT DOES.

4 Q AND WAS IT?

5 A IN MY EFFORTS TO RELAY ALL THE INFORMATION
6 IN THE PHONE CONVERSATION THAT DAY, I DIDN'T MAKE IT
7 CLEAR THAT THE STATEMENT "I'M GOING TO KILL THAT MOTHER
8 FUCKER" AND "I'M GOING TO BRING TO HIM DOWN" WERE MADE ON
9 TWO SEPARATE OCCASIONS.

10 Q DID YOU HAVE ANY CONVERSATIONS WITH
11 DETECTIVE LILLIENFELD TO CLARIFY THAT?

12 A NO, I DID NOT.

13 Q YOU WERE ASKED QUESTIONS ABOUT HAIR COLOR
14 THIS MORNING AND I HAD ASKED YOU IF MR. DIXON HAD ASKED
15 YOU THAT PREVIOUSLY.

16 JUST TO BE CLEAR, DID ANY PERSON FROM THE
17 DISTRICT ATTORNEY ASK YOU THAT QUESTION BEFORE TODAY?

18 A NO.

19 Q ANYONE FROM THE SHERIFF'S OFFICE?

20 A NO. I DON'T RECALL THAT.

21 Q DO YOU RECALL IF MR. GOODWIN HAD FACIAL
22 HAIR BACK WHEN YOU WORKED WITH HIM?

23 A NO.

24 Q YOU NEVER RECALL A MUSTACHE AT ALL?

25 A NO.

26 Q AND WHEN YOU SAY HAIR COLOR, REDDISH
27 BROWN, CAN YOU POINT TO SOMEONE OR DESCRIBE MORE IN
28 DETAIL WHAT COLOR WE'RE SPEAKING OF?

1 A BLONDISH REDDISH COLOR.

2 Q WELL, WHAT COLOR -- HOW WOULD YOU DESCRIBE
3 HIS HAIR COLOR NOW?

4 A SILVER. AND IT WAS PROBABLY A LITTLE MORE
5 CURLY AT THE TIME.

6 Q WHEN YOU SAY A BLONDISH RED --

7 A IT WASN'T LIKE A BRIGHT RED HEAD, BUT
8 BLOND WITH A RED TONE TO IT.

9 Q YOU HAD INDICATED ALSO THAT YOU RECOGNIZED
10 MR. GOODWIN'S ATTORNEYS VOICE; IS THAT RIGHT?

11 A YES.

12 Q WAS IT YOUR UNDERSTANDING THAT MR. GOODWIN
13 HAD ONLY ONE ATTORNEY?

14 A NO.

15 Q YOU RECOGNIZED MORE THAN ONE PERSON'S
16 VOICE?

17 A YES.

18 Q HOW MANY DIFFERENT ATTORNEYS DID HE HAVE,
19 AS FAR AS YOU KNOW?

20 A THERE WERE TWO VOICES THAT CALLED
21 FREQUENTLY.

22 Q WERE THEY BOTH MALE?

23 A YES.

24 Q DO YOU RECALL, WHEN YOU TESTIFIED IN AN
25 EARLIER PROCEEDING IN THIS MATTER, BEING ASKED IF YOU
26 PERSONALLY HAD ANY KNOWLEDGE OF WHO WAS ON THE PHONE?

27 A JUST THROUGH HEARING THROUGH THE WALL IN A
28 CONVERSATION, I KNEW HE WAS SPEAKING WITH HIS ATTORNEYS.

1 AND I WOULD HEAR MICKEY THOMPSON'S NAME COME UP
2 FREQUENTLY DURING THE CONVERSATIONS.

3 Q DO YOU RECALL BEING HERE TESTIFYING UNDER
4 OATH AND YOU WERE ASKED THE QUESTION -- PAGE 73, COUNSEL,
5 LINE 26, SPILLING OVER TO PAGE 74 -- "YOU PERSONALLY DID
6 NOT KNOW WHO WAS ON THE PHONE PREVIOUSLY; IS THAT FAIR TO
7 SAY?"

8 A AT THE TIME I DID TESTIFY TO THAT, BUT
9 OVER TIME OF THINKING BACK OVER TIME, I CAN ACTUALLY
10 DEFINITELY RECALL THE VOICES. IT WAS A -- ALWAYS SEVERAL
11 CONVERSATIONS THROUGHOUT THE DAY AND THROUGHOUT THE WEEK
12 WITH HIS ATTORNEYS.

13 Q OKAY. LET ME JUST FINISH THIS TO BE
14 CLEAR, THEN.

15 A OKAY.

16 Q THE ANSWER WAS AT THE TIME YOU SAID,
17 "OTHER THAN JUST TALKING TO THE RECEPTIONIST AND ASKING
18 HER WHO HE WAS JUST TALKING TO."

19 QUESTION, "YOU PERSONALLY, SIR, ON YOUR
20 OWN KNOWLEDGE?"

21 ANSWER, "NO, I DIDN'T, OTHER THAN WHAT I
22 WAS TOLD."

23 A I WENT TO THE RECEPTIONIST TO CONFIRM THAT
24 SHE WAS TALKING TO THE ATTORNEYS ON THE PHONE, ALTHOUGH
25 IN MY HEAD I KNEW THROUGH THE VOICE RECOGNITION THAT
26 THAT'S WHO HE WAS SPEAKING TO.

27 Q BUT DO YOU RECALL WHEN YOU TESTIFIED IN
28 THIS COURT UNDER OATH IN THE YEAR 2004, INDICATING THAT

1 YOU DID NOT HAVE PERSONAL KNOWLEDGE?

2 A YES, I DO.

3 Q AND JUST TO BE CLEAR FOR THESE JURORS, YOU
4 WERE TESTIFYING IN THIS MATTER IN THIS COURTROOM, IS THAT
5 CORRECT, AT THAT TIME?

6 A YES.

7 Q AND YOU KNEW THAT YOU WERE TESTIFYING IN
8 THE MATTER OF THE STATE OF CALIFORNIA VERSUS MICHAEL
9 GOODWIN?

10 A YES.

11 Q AND YOU KNEW THAT YOU WERE TESTIFYING
12 ABOUT THIS EXACT CONVERSATION THAT YOU'VE RELATED TO US
13 TODAY?

14 A YES.

15 Q AND YOU WERE ALSO UNDER OATH AT THAT TIME?

16 A YES.

17 Q AND DOES THAT COMPORT WITH YOUR
18 RECOLLECTION THAT THAT WAS IN OCTOBER OF 2004?

19 A YES.

20 Q I HAD ASKED YOU RELATING TO THE STATEMENTS
21 THAT YOU HEARD AND REFERRING TO THE CONVERSATION WHERE
22 YOU INDICATE BOOKS OR SOMETHING WERE THROWN IN THE ROOM.
23 I ASKED YOU IF KATHY JOHNSON WAS STILL WORKING THERE AND
24 YOU SAID YOU THINK IT WAS LATER.

25 DO YOU REMEMBER THAT?

26 A I BELIEVE KATHY JOHNSTON WORKED -- SHE
27 WORKED IN THE EL TORO OFFICE, SO SHE WAS NOT WORKING IN
28 OUR COMPANY AT THAT TIME.

1 Q MY QUESTION TO YOU IS: DO YOU REMEMBER
2 SAYING THAT THAT WAS AFTER SHE WORKED FOR YOU, OR SHE
3 WORKED IN YOUR OFFICE WHEN THIS CONVERSATION OCCURRED?

4 MR. DIXON: OBJECTION.

5 THE WITNESS: SHE DID NOT WORK IN THE OFFICE WHEN
6 THAT WRESTLING IN THE OFFICE HAPPENED.

7 Q BY MS. SARIS: I UNDERSTAND THAT. I'M
8 TRYING TO NARROW YOU DOWN TO TIME.

9 YOU SAID IT WAS AFTER SHE WORKED THERE,
10 NOT BEFORE; CORRECT?

11 A IT WAS AFTER, YES.

12 Q HOW LONG AFTER?

13 A BOY, THAT'S REALLY DIFFICULT. MAYBE EIGHT
14 MONTHS.

15 Q IN YOUR OPPORTUNITY TO REVIEW THE
16 STATEMENT THAT YOU'VE MADE TO DETECTIVE LILLIENFELD IN
17 2002, DO YOU RECALL TELLING HIM THAT THIS CONVERSATION
18 WHERE YOU HEARD MICHAEL USE THE F WORD WAS ACTUALLY IN
19 FEBRUARY OR MARCH OF 1987?

20 A THAT WAS MY APPROXIMATE GUESTIMATION.
21 LIKE I SAID, TIMES ARE VERY DIFFICULT FOR ME TO REMEMBER
22 THE EXACT MONTHS AND DATES.

23 Q YOU DO RECALL, HOWEVER, SEEING THIS
24 PROGRAM ON THE TELEVISION SHOW "48 HOURS"?

25 A YES.

26 Q AND DO YOU NOT HAVE A RECOLLECTION OF THAT
27 PROGRAM ENDING WITH THE ANNOUNCEMENT OF A-MILLION-DOLLAR
28 REWARD?

1 A NO, I DON'T. AND I COULD CARE LESS ABOUT
2 ANY REWARD TO THIS DAY.

3 Q BUT THE TIME THAT YOU CALLED THE POLICE
4 WAS THE DAY AFTER THAT SHOW AIRED?

5 A I DIDN'T CALL THE POLICE. I CALLED HIS
6 SISTER.

7 Q RIGHT.

8 A MICKEY THOMPSON'S SISTER IN SAN JUAN
9 CAPISTRANO.

10 Q AND DID YOU HAVE ANY UNDERSTANDING OF
11 WHETHER SHE HELD POLITICAL OFFICE IN THAT JURISDICTION?

12 MR. DIXON: OBJECTION. IRRELEVANT.

13 THE COURT: OVERRULED. YOU CAN ANSWER THAT.

14 THE WITNESS: I KNEW THAT SHE WAS EITHER MAYOR OR
15 HAD BEEN MAYOR AND I CALLED THE MAYOR'S OFFICE TO FIND
16 OUT WHO I WOULD SPEAK TO REGARDING INFORMATION I KNEW
17 REGARDING THIS CASE.

18 Q BY MS. SARIS: OKAY. AND THAT WAS THE DAY
19 AFTER THIS PROGRAM AIRED OR WITHIN A COUPLE DAYS?

20 A IT WAS WITHIN A COUPLE DAYS, A WEEK.

21 Q I HAD ASKED YOU ABOUT THE NAME JACK
22 HIGGINS AND YOU SAID YOU DIDN'T RECALL.

23 I DON'T KNOW IF I ASKED YOU: DO YOU KNOW
24 SOMEBODY NAMED JOHN HIGGINS?

25 A NO. THAT DOESN'T SOUND FAMILIAR.

26 Q DO YOU WHO WORKED AS CONTROLLER IN YOUR
27 OFFICE AT THAT TIME?

28 A NO. I DON'T BELIEVE THE CONTROLLER WAS IN

1 THAT OFFICE.

2 Q SPEAKING OF THAT, MR. GOODWIN DIDN'T COME
3 TO THE OFFICE EVERY DAY, DID HE?

4 A NOT EVERY DAY.

5 Q HE WORKED OUT OF HIS HOME IN LAGUNA?

6 A AT TIMES.

7 MR. SARIS: MAY I HAVE JUST A MOMENT?

8 (PAUSE IN PROCEEDINGS.)

9 MS. SARIS: NOTHING FURTHER. THANK YOU.

10 THE WITNESS: THANK YOU.

11 THE COURT: REDIRECT?

12 MR. DIXON: NO THANK YOU, YOUR HONOR. NOTHING
13 FURTHER.

14 THE COURT: THANK YOU, SIR.

15 THE WITNESS: THANK YOU.

16 MR. DIXON: YOUR HONOR, OUR NEXT WITNESS WOULD BE
17 CHERYL SARANTIS.

18 THE CLERK: MA'AM, PLEASE RAISE YOUR RIGHT HAND.

19

20 CHERYL SARANTIS,

21 CALLED BY THE PEOPLE AS A WITNESS, WAS

22 SWORN AND TESTIFIED AS FOLLOWS:

23

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

28 THE WITNESS: I DO.

1 THE CLERK: THANK YOU. PLEASE BE SEATED. WOULD
2 YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST NAME
3 FOR THE RECORD.

4 THE WITNESS: MY NAME IS CHERYL, C-H-E-R-Y-L,
5 SARANTIS, S-A-R-A-N-T-I-S.

6 THE CLERK: THANK YOU.

7 THE COURT: YOU MAY INQUIRE.

8 MR. DIXON: THANK YOU, YOUR HONOR.

9
10 DIRECT EXAMINATION

11 BY MR. DIXON:

12 Q GOOD AFTERNOON. THANKS FOR COMING.

13 A YOU'RE WELCOME.

14 Q WHAT DO YOU DO NOW FOR A LIVING?

15 A I'M A TEACHER AT A PUBLIC SCHOOL. FOURTH,
16 FIFTH AND SIXTH GRADE.

17 Q INVITING YOUR ATTENTION BACK TO 1986 AND
18 1987, DID YOU HAVE A DIFFERENT JOB THEN?

19 A YES.

20 Q WHAT KIND OF JOB DID YOU HAVE?

21 A I DID MARKETING ADVERTISING AND PROMOTIONS
22 FOR SUPER CROSS.

23 Q AND WHOSE COMPANY WAS SUPER CROSS?

24 A IT WAS MIKE GOODWIN'S.

25 Q DO YOU SEE HIM HERE IN COURT?

26 A UH-HUH.

27 Q IS THAT "YES"?

28 A YES.

1 Q AND COULD YOU POINT TO HIM AND TELL US
2 WHERE HE'S NOW SITTING.

3 A HE'S RIGHT THERE WITH THE GLASSES
4 (INDICATING).

5 THE COURT: IDENTIFYING MR. GOODWIN.

6 MR. DIXON: THANK YOU, YOUR HONOR.

7 Q HOW DID IT COME ABOUT THAT YOU GOT THAT
8 JOB?

9 A THERE WAS JUST AN AD IN THE PAPER THAT I
10 ANSWERED. IT SAID SOMETHING LIKE ENTERTAINMENT COMPANY
11 HAD AN ADVERTISING OR PROMOTION.

12 Q AND DID YOU HAVE SOME BACKGROUND IN THAT
13 AT THAT TIME?

14 A YES. ADVERTISING AND PUBLIC RELATIONS.

15 Q IN THE ENTERTAINMENT --

16 A WELL, IT SOUNDED EXCITING.

17 Q WAS IT AN EXCITING JOB?

18 A NO.

19 Q WERE THERE ASPECTS OF OFFICE LIFE THAT WAS
20 EXCITING?

21 A NO.

22 Q TENSE?

23 A YES.

24 Q WHY?

25 A BECAUSE OF THE -- BECAUSE OF MR. GOODWIN.
26 IT WAS VERY TENSE. WHEN HE WAS IN THE OFFICE, WE ALL
27 CLAMMED UP. I DON'T BELIEVE I WORKED THERE MORE THAN A
28 YEAR OR MADE ANY FRIENDS.

1 Q HOW DID YOUR EMPLOYMENT THERE COME TO AN
2 END?

3 A I BELIEVE WE WENT TO WORK ONE DAY AND IT
4 WAS CLOSED. OR WENT BANKRUPT OR SOMETHING.

5 Q NOW, YOU SAID IT WAS TENSE AT TIMES.
6 LET ME ASK YOU THIS: WHILE YOU WORKED
7 THERE, DID YOU EVER HEAR THE NAME MICKEY THOMPSON?

8 A UH-HUH, EVERY DAY.

9 Q HOW DID YOU HEAR IT EVERY DAY?

10 A FROM MR. GOODWIN.

11 Q THE DEFENDANT?

12 A YES.

13 Q YOU HEARD HIM TALKING ABOUT MICKEY
14 THOMPSON?

15 A RANTING AND RAVING.

16 Q AND WERE THERE ONE OR TWO -- WELL, LET ME
17 WITHDRAW THAT AND ASK THIS:

18 WAS THIS A DAILY, A WEEKLY, A MONTHLY
19 OCCURRENCE, RARE?

20 A UH-HUH. EVERY DAY THAT HE WAS THERE.

21 Q HE WOULD RANT AND RAVE?

22 A YES.

23 Q AND WERE THERE ONE OR TWO OR PERHAPS MORE
24 PARTICULAR INSTANCES OR STATEMENTS THAT YOU RECALL?

25 A STATEMENTS?

26 Q OR SITUATIONS?

27 A WELL, THERE WAS ONE -- EVERY DAY THERE WAS
28 YELLING AND THE F WORD WHEN IT CAME TO MICKEY'S NAME.

1 BUT I REMEMBER ONCE, I WASN'T INCLUDED IN THE MEETINGS
2 THAT WERE LIKE IN A CONFERENCE ROOM OR ANYTHING, BUT WE
3 SAT QUIETLY AND DID OUR WORK WHILE HE WAS IN THE OFFICE
4 AND WE HEARD SOMETHING CRASH LIKE IN THE CONFERENCE ROOM,
5 AND SO WE KIND OF TENSE UP LIKE, "WHAT'S GOING ON?"

6 MS. SARIS: OBJECTION, YOUR HONOR. NARRATIVE.
7 NO QUESTION PENDING.

8 THE WITNESS: I'M SORRY.

9 MS. SARIS: I'M SORRY FOR INTERRUPTING.

10 THE COURT: SUSTAINED.

11 Q BY MR. DIXON: SO AFTER YOU HEARD THE
12 CRASH --

13 A SOMEBODY CAME OUT AFTERWARDS AND WE SAID,
14 "WHAT HAPPENED? WHAT WENT ON IN THERE?"

15 MS. SARIS: OBJECTION, YOUR HONOR. SAME. NO
16 QUESTION PENDING. CALLS FOR HEARSAY.

17 THE COURT: ALL RIGHT. ASK ANOTHER QUESTION,
18 PLEASE.

19 Q BY MR. DIXON: SO YOU HEARD THE CRASHING?

20 A YES.

21 Q AND THEN WHAT DID YOU SEE OR HEAR?

22 A I HEARD THAT --

23 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
24 HEARSAY.

25 Q BY MR. DIXON: PERHAPS I COULD FOCUS THIS.
26 WE DON'T WANT YOU TO TELL US WHAT
27 SOMEONE ELSE SAID TO YOU.

28 A YES.

1 Q BUT WE WANT YOU TO TELL US WHAT YOU SAW OR
2 WHAT YOU HEARD.

3 A HEARD LAMPS CRASHING AGAINST THE WALL.

4 Q AND AT THAT TIME OR NEAR THAT TIME, DID
5 YOU HEAR ANY OF THIS RANTING OR RAVING ABOUT MICKEY
6 THOMPSON?

7 A UH-HUH. AFTERWARD.

8 Q FROM THE DEFENDANT OR SOMEONE ELSE?

9 A FROM THE DEFENDANT.

10 Q NOW, YOU TOLD US EARLIER, JUST A FEW
11 MOMENTS AGO THAT YOU KNEW THE NAME MICKEY THOMPSON;
12 CORRECT?

13 A (INAUDIBLE RESPONSE.)

14 Q IS THAT "YES"?

15 A YES.

16 Q DID YOU EVER KNOW WHETHER OR NOT HE
17 ACTUALLY CALLED THIS OFFICE WHERE MIKE GOODWIN WORKED?

18 A I BELIEVE HE DID.

19 MS. SARIS: OBJECTION. LACK OF FOUNDATION.
20 MOTION TO STRIKE.

21 THE COURT: SUSTAINED. THAT WILL BE STRICKEN.

22 Q BY MR. DIXON: DID YOU EVER PERSONALLY
23 TALK TO HIM, OR WAS THAT YOUR JOB?

24 A NO, I DIDN'T ANSWER THE PHONE.

25 Q WHAT WAS YOUR JOB AGAIN?

26 A ADVERTISING AND PROMOTION AND MARKETING.
27 PROMOTED SUPER CROSS.

28 Q AND YOU WERE THERE ABOUT A YEAR UNTIL --

1 A PROBABLY LESS THAN A YEAR.

2 Q WERE THERE -- LET ME START THIS WAY:

3 YOU SAID THAT THERE WAS A LOT OF RANTING
4 AND RAVING.

5 WERE THERE ANY SPECIFIC WORDS THAT YOU
6 RECALL THAT THE DEFENDANT SAID?

7 A UH-HUH. THAT HE WAS GOING TO DESTROY
8 MICKEY THOMPSON.

9 Q PARDON?

10 Q THAT HE WANTED TO DESTROY HIM.

11 Q DESTROY WHO?

12 A MICKEY THOMPSON.

13 Q OKAY. AND THAT'S WHAT THE DEFENDANT SAID?

14 A YES.

15 MR. DIXON: THANK YOU. NOTHING FURTHER.

16 THE COURT: CROSS-EXAMINATION?

17 MS. SARIS: THANK YOU.

18

19 CROSS-EXAMINATION

20 BY MS. SARIS:

21 Q GOOD AFTERNOON, MS. SARANTIS.

22 A HI.

23 Q SO MIKE GOODWIN WORKED MAINLY OUT OF HIS
24 HOME IN LAGUNA AND JUST CAME IN THE OFFICE SOMETIMES?

25 A RIGHT.

26 Q YOU ACTUALLY HEARD MIKE GOODWIN SAY
27 "DESTROY," OR IS THAT SOMETHING THAT YOU JUST GATHERED
28 BASED ON A LOT OF DIFFERENT THINGS YOU HEARD?

1 A HEARD.

2 Q YOU HEARD?

3 A CORRECT.

4 Q DO YOU RECALL HAVING A CONVERSATION WITH
5 DETECTIVE MARK LILLIENFELD ABOUT THIS CASE?

6 A YES.

7 Q DO YOU RECALL HIM ASKING YOU IF -- DO YOU
8 KNOW WHETHER OR NOT THAT WAS TAPED?

9 A I DON'T KNOW.

10 Q OKAY. DO YOU RECALL HIM ACTUALLY SAYING
11 THE WORDS TO YOU, WHEN YOU SAY THE WORD DESTROY, IS THAT
12 YOUR WORD OR HIS AND YOU RESPONDING, "WELL, THAT'S HOW I
13 LOOKED AT IT, I'M SORRY"?

14 A I DON'T RECALL.

15 Q OKAY.

16 MS. SARIS: YOUR HONOR, I HAVE A C.D. ROM OF A
17 CLIPPING OF THE TAPED STATEMENT BETWEEN DETECTIVE
18 LILLIENFELD AND THIS WITNESS. ASK THAT IT BE MARKED
19 DEFENSE NEXT IN ORDER.

20 THE COURT: DEFENSE X. AND IT'S C.D. ROM; RIGHT?

21 (DEFENSE EXHIBIT NO. X WAS MARKED FOR
22 IDENTIFICATION)

23 MS. SARIS: THAT'S CORRECT. I HAVE ENOUGH
24 TRANSCRIPTS, I DON'T KNOW IF THE COURT WOULD PREFER WE
25 FIRE THIS UP AND PUT IT OVER HEAD OR IF I HAND THEM OUT.
26 IT MIGHT BE DIFFICULT TO HEAR ON THE --

27 THE COURT: HOW MUCH OF THE C.D. ARE YOU PLAYING?

28 MS. SARIS: IT'S LESS THAN 20 SECONDS.

1 THE COURT: DO YOU HAVE A TRANSCRIPT YOU CAN PUT
2 UP ON THE BOARD?

3 MS. SARIS: YES.

4 THE COURT: AND DO YOU WANT TO STIPULATE THAT THE
5 COURT REPORTER DOESN'T HAVE TO TAKE DOWN THIS PORTION?

6 MR. DIXON: SO STIPULATED.

7 MS. SARIS: STIPULATED.

8 THE COURT: AND THEN GIVE ME A TRANSCRIPT THAT I
9 CAN MARK AS AN EXHIBIT, PLEASE. WE WILL MARK THE
10 TRANSCRIPT DEFENSE EXHIBIT Y.

11 (DEFENSE EXHIBIT NO. Y WAS MARKED FOR
12 IDENTIFICATION.)

13 Q BY MS. SARIS: MA'AM, I'M GOING TO ASK YOU
14 TO LISTEN TO A SMALL PORTION OF A TAPE. I'M GOING TO
15 HAND YOU A TRANSCRIPT AS WELL.

16 MR. SARIS: MAY I APPROACH?

17 THE WITNESS: OKAY.

18 THE COURT: YES.

19 Q BY MS. SARIS: AFTER IT PLAYS, I'M GOING
20 TO ASK YOU IF YOU RECOGNIZE THAT THAT'S THE CONVERSATION
21 BETWEEN YOU AND THE DETECTIVE --

22 A OKAY.

23 Q -- REGARDING THIS PARTICULAR TOPIC.

24 (C.D. BEING PLAYED.)

25 THE COURT: NOBODY IS GOING TO BE ABLE TO SEE
26 THAT. WHY DON'T YOU JUST HAND OUT COPIES.

27 LADIES AND GENTLEMEN, WE'RE JUST GOING TO
28 GIVE YOU A COPY OF THE PORTION OF THE C.D. THAT'S GOING

1 TO BE PLAYED. THIS WAS JUST GIVEN TO YOU TO HELP YOU
2 UNDERSTAND WHAT YOU'RE HEARING, BUT YOU SHOULD GUIDED BY
3 WHAT YOU HEAR ON THE C.D. AND NOT WHAT IS ON THIS
4 DOCUMENT.

5 (C.D. BEING PLAYED.)

6 Q BY MS. SARIS: DID YOU RECOGNIZE YOUR
7 VOICE ON THAT TAPE?

8 A YES.

9 Q AND WHEN YOU WERE ASKED IF THE WORD
10 DESTROY WAS SOMETHING THAT YOU SURMISED OR SOMETHING THAT
11 HE USED, DO YOU RECALL TELLING THE DETECTIVE THAT WAS
12 SORT OF YOUR WORD?

13 A I DON'T RECALL.

14 THE COURT: ALL RIGHT. LET'S GET THE
15 TRANSCRIPTS. ONE PAGE, PASS IT DOWN, LADIES AND
16 GENTLEMEN, TO THE END. WE WILL COLLECT THEM.

17 Q BY MS. SARIS: BUT THAT WAS INDEED YOUR
18 VOICE?

19 A YES.

20 Q AND DO YOU RECOGNIZE DETECTIVE LILLIENFELD
21 AS THE ANOTHER INDIVIDUAL? I KNOW IT'S A VERY POOR
22 QUALITY TAPE.

23 A YES.

24 Q AND THAT'S THE SUBJECT MATTER THAT YOU
25 WERE SPEAKING OF?

26 A YES.

27 Q AND YOU DID TELL HIM AT THAT TIME THAT THE
28 WORD DESTROY WAS YOURS?

1 A I BELIEVE SO.

2 Q MR. GOODWIN YELLED A LOT, IS THAT FAIR TO
3 SAY?

4 A YES.

5 Q DO YOU RECOGNIZE THE NAME JACK OR JOHN
6 HIGGINS AS SOMEONE WHO USED TO WORK THERE?

7 A NO.

8 Q DO YOU RECOGNIZE THE NAME KATHY WEESE OR
9 KATHY JOHNSON?

10 A NO.

11 Q DID YOU ACTUALLY HEAR THE LAMP OR DID YOU
12 HEAR ABOUT THE LAMP INCIDENT?

13 A WE HEARD THE CRASH.

14 Q WHEN YOU SAY "WE," I NEED TO KNOW WHAT YOU
15 PERSONALLY HEARD.

16 A I HEARD THE CRASH FROM OUTSIDE OF THE
17 CONFERENCE ROOM.

18 Q AND THE FACT THAT IT WAS A LAMP, WERE YOU
19 TOLD THAT LATER?

20 A YES.

21 Q SO ALL YOU HEARD WAS A CRASH?

22 A YES.

23 Q WERE YOU AWARE OF SOME SORT OF LITIGATION
24 OR LAWSUIT BETWEEN MR. THOMPSON AND MR. GOODWIN?

25 A YES.

26 Q DO YOU KNOW WHETHER OR NOT -- WELL, DID
27 YOU EVER MEET MR. THOMPSON?

28 A NO.

1 Q DID YOU EVER SEE SOMEONE THAT YOU THOUGHT,
2 OR WAS INTRODUCED TO YOU COMING INTO THE OFFICE, AS
3 MR. THOMPSON?

4 A NO.

5 Q AND YOU NEVER ANSWERED THE PHONE AND SPOKE
6 TO SOMEONE WHO INTRODUCED THEMSELVES AS MR. THOMPSON?

7 A YOU'RE RIGHT, NO.

8 Q AND TO THE BEST OF YOUR RECOLLECTION, DO
9 YOU KNOW WHEN THIS WAS?

10 A JUST -- NO.

11 Q JUST '86, '87?

12 A RIGHT.

13 Q COULD IT HAVE BEEN '85?

14 A I DON'T BELIEVE SO.

15 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE.

16 (PAUSE IN PROCEEDING.)

17 Q BY MR. SARIS: DID YOU -- WHEN YOU WERE
18 WORKING THERE, DID YOU USE THE SAME NAME, CHERYL?

19 A I WASN'T MARRIED YET.

20 Q WHAT WAS YOUR MAIDEN NAME?

21 A IT WAS KOPROSKE.

22 Q AND IS THAT HOW -- IS THAT THE NAME THAT
23 YOU USED WHEN YOU WORKED WITH MR. GOODWIN, CHERYL
24 KOPROSKE?

25 THE COURT: CAN YOU SPELL THAT?

26 THE WITNESS: K-O-P-R-O-S-K-E.

27 THE COURT: THANK YOU.

28 MS. SARIS: THANK YOU.

1 THE COURT: REDIRECT?

2 MR. DIXON: JUST A COUPLE QUESTIONS.

3

4 REDIRECT EXAMINATION

5 BY MR. DIXON:

6 Q AS YOU SIT HERE TODAY, THE RANTING AND
7 YELLING THAT YOU HEARD THE DEFENDANT ENGAGE IN WHILE YOU
8 WERE EMPLOYED THERE, TO THE BEST OF YOUR RECOLLECTION,
9 WHAT WAS SAID, CHARACTERIZE IT FOR US?

10 A WELL, EVERY -- HE WAS -- MR. GOODWIN WAS
11 ALWAYS CONSUMED WITH MICKEY THOMPSON.

12 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
13 SPECULATION. LACK OF FOUNDATION AS TO MR. GOODWIN'S MIND
14 SET. MOTION TO STRIKE.

15 THE COURT: ALL RIGHT. THAT WILL BE STRICKEN.

16 THE WITNESS: WELL, THE RANTING AND RAVING WAS
17 ABOUT MICKEY THOMPSON.

18 Q BY MR. DIXON: AND THIS WORD DESTROY, WAS
19 THAT SAID AS YOU RECALL IT HERE?

20 A AS I RECALL.

21 Q THAT WAS THE DEFENDANT'S WORD, HE WAS
22 GOING TO DESTROY MICKEY THOMPSON?

23 MS. SARIS: OBJECTION. LEADING. MOTION TO
24 STRIKE.

25 THE WITNESS: YES.

26 THE COURT: SUSTAINED. YES, IT WILL BE STRICKEN.

27 Q BY MR. DIXON: WHAT WAS SAID ABOUT MICKEY
28 THOMPSON AND DESTROY?

1 MS. SARIS: OBJECTION. ASKED AND ANSWERED.

2 THE COURT: OVERRULED.

3 YOU CAN ANSWER.

4 THE WITNESS: PARDON?

5 Q BY MR. DIXON: OKAY. DESTROYED AND MICKEY
6 THOMPSON, IS THAT WHAT --

7 A THAT'S WHAT MIKE WANTED TO DO.

8 MR. DIXON: THANK YOU. NOTHING FURTHER.

9 THE COURT: FURTHER CROSS?

10 MS. SARIS: YES.

11

12 RECROSS EXAMINATION

13 BY MS. SARIS:

14 Q JUST BRIEFLY, AGAIN, WHEN WE WERE
15 DISCUSSING WHAT YOU SAID TO DETECTIVE LILLIENFELD, IS IT
16 FAIR TO SAY THAT'S YOUR CHARACTERIZATION AND NOT A QUOTE
17 THAT YOU RECALL?

18 A YES.

19 MS. SARIS: THANK YOU. NOTHING FURTHER.

20 THE COURT: ANYTHING ELSE?

21 MR. DIXON: NO THANK YOU, YOUR HONOR.

22 THE COURT: THANK YOU. THANKS FOR COMING IN.

23 YOU'RE EXCUSED.

24 THE WITNESS: THANK YOU.

25 MR. DIXON: KATHY WEESE WOULD BE OUR NEXT
26 WITNESS.

27 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

28

1 KATHY WEESE,
2 CALLED BY THE PEOPLE AS A WITNESS, WAS
3 SWORN AND TESTIFIED AS FOLLOWS:
4

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

9 THE WITNESS: I DO.

10 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,
11 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
12 NAME FOR THE RECORD.

13 THE WITNESS: KATHY, K-A-T-H-Y, WEESE, W-E-E-S-E.

14 THE CLERK: THANK YOU.

15 THE COURT: YOU MAY INQUIRE.

16 MR. DIXON: THANK YOU, YOUR HONOR.
17

18 DIRECT EXAMINATION

19 MR. DIXON:

20 Q GOOD AFTERNOON. THANK YOU FOR COMING.

21 A THANK YOU.

22 Q YOU CAME FROM A LONG WAYS, TOO, DIDN'T
23 YOU?

24 A YES, SIR.

25 Q NOW, I WOULD LIKE YOU TO THINK BACK TO
26 1985 AND '86 AND YOU MIGHT WANT TO JUST SIT BACK THERE IN
27 YOUR CHAIR BECAUSE WE NEED TO KIND OF TALK INTO THE
28 MICROPHONE SO EVERYBODY CAN HEAR. OKAY?

1 A OKAY.

2 Q ALL RIGHT. DID YOU COME TO CALIFORNIA AT
3 SOME POINT DURING THAT TIME?

4 A YES, SIR.

5 Q WHERE DID YOU COME FROM?

6 A I CAME FROM COLORADO.

7 Q AT THAT TIME WHEN YOU CAME FROM COLORADO
8 TO CALIFORNIA, DID YOU USE THE NAME THAT YOU WERE KNOWN
9 BY, KATHY JOHNSON?

10 A YES, SIR.

11 Q AND WHEN YOU ARRIVED IN CALIFORNIA, DID
12 YOU EVENTUALLY APPLY FOR A JOB?

13 A YES, SIR.

14 MS. SARIS: OBJECTION. LEADING.

15 THE COURT: SUSTAINED.

16 Q BY MR. DIXON: DID YOU GET EMPLOYMENT WHEN
17 YOU CAME TO CALIFORNIA?

18 A YES, SIR.

19 Q HOW DID THAT COME ABOUT?

20 A THERE WAS AN ARTICLE IN THE NEWSPAPER
21 ASKING FOR A SECRETARY FOR THE SALES DEPARTMENT FOR
22 MICHAEL GOODWIN'S COMPANY.

23 Q OKAY. AND YOU SAID MICHAEL GOODWIN IN
24 THAT LAST ANSWER.

25 DO YOU SEE HIM HERE IN COURT?

26 A YES, SIR, SITTING RIGHT THERE
27 (INDICATING).

28 Q COULD YOU POINT TO HIM AND TELL JUDGE WHAT

1 HE'S WEARING NOW.

2 A WEARING KIND OF A GRAY SUIT WITH A
3 GREENISH LIKE TIE (INDICATING).

4 THE COURT: ALL RIGHT. IDENTIFYING MR. GOODWIN
5 FOR THE RECORD.

6 MR. DIXON: THANK YOU.

7 Q HOW LONG DID YOU WORK FOR MICHAEL GOODWIN
8 AFTER YOU GOT HIRED?

9 A SEVERAL MONTHS. SIX, EIGHT MONTHS,
10 SOMETHING.

11 Q OKAY. FINE. AND YOUR JOB THERE WAS WHAT
12 EXACTLY? WHAT WAS YOUR JOB?

13 A I WAS A SECRETARY FOR THE SALES
14 DEPARTMENT.

15 Q AND BECAUSE OF THAT, FROM TIME TO TIME,
16 DID YOU ANSWER THE PHONES?

17 A YES, SIR.

18 Q WAS THAT ONE OF YOUR PRIMARY
19 RESPONSIBILITIES?

20 A NO, SIR. IT WAS JUST ONE OF MY DUTIES.

21 Q AND YOUR OTHER DUTIES WERE?

22 A WE DID A LOT OF ASSEMBLY WORK FOR THE
23 PROGRAMS. WE DID A LOT OF WORK GETTING READY FOR THE
24 EVENTS THAT WERE GOING ON. WE DID A LOT OF SECRETARIAL
25 WORK. WHATEVER NEEDED TO BE DONE WE ALL DID.

26 Q AND DURING THE PERIOD OF TIME -- AT LEAST
27 THE FIRST FEW MONTHS THAT YOU WERE THERE, DID YOU HAVE
28 SOME INTERACTION WITH THE DEFENDANT, MICHAEL GOODWIN?

1 A EVERY DAY.

2 Q AND AT FIRST DID HE SEEM TO LIKE YOUR WORK
3 OR THINK YOU NEEDED A LOT OF IMPROVEMENT?

4 MS. SARIS: OBJECTION. LEADING.

5 THE COURT: OVERRULE.

6 YOU CAN ANSWER.

7 MR. DIXON: THANK YOU.

8 Q DO YOU REMEMBER THE QUESTION? LET ME
9 WITHDRAW IT AND ASK IT AGAIN.

10 DURING THE FIRST FEW MONTHS THAT YOU WERE
11 THERE, DID MR. GOODWIN APPARENTLY LIKE YOUR WORK OR THINK
12 THAT YOU NEEDED IMPROVEMENT IN YOUR WORK?

13 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
14 SPECULATION AS TO MR. GOODWIN'S MIND SET.

15 THE COURT: YOU'RE ASKING WHAT WAS COMMUNICATED
16 TO HER?

17 MR. DIXON: YES.

18 THE COURT: ALL RIGHT. OVERRULED.

19 THE WITNESS: NO. HE LIKED MY WORK VERY WELL.

20 Q BY MR. DIXON: WELL, AS A RESULT OF THAT,
21 AT SOME POINT DID YOU GO TO HIS HOME?

22 A YES. HE AND HIS WIFE ASKED ME TO HOUSE
23 SIT AND DOG SIT WHILE THEY WERE GOING ON A TRIP TO
24 MEXICO. SO I STAYED AT HIS HOUSE FOR TEN DAYS, CONTINUED
25 TO WORK THERE DURING THE DAY AND GOING TO HIS HOUSE AT
26 NIGHT AND EVEN DROVE THEIR CAR BECAUSE I DIDN'T HAVE A
27 CAR.

28 Q AND THIS WAS WITH HIS PERMISSION?

1 A OH, YES, SIR.

2 Q HOW LONG HAD YOU BEEN WORKING THERE WHEN
3 THAT HAPPENED?

4 A NOT VERY LONG. A SHORT PERIOD OF TIME.
5 MAYBE A MONTH AND A HALF, TWO MONTHS, AT THE VERY MOST.

6 Q NOW, IN AN EARLIER ANSWER YOU SAID THAT
7 YOU ANSWERED THE PHONES EVERY ONCE IN A WHILE OR THAT WAS
8 ONE OF YOUR DUTIES.

9 A YES, SIR.

10 Q DID YOU EVER HEAR THE NAME MICKEY
11 THOMPSON?

12 A EVERY DAY.

13 Q DID MICKEY THOMPSON OR A PERSON
14 IDENTIFYING THEMSELVES AS MICKEY THOMPSON EVER CALL --

15 A YES, SIR.

16 Q -- WHEN YOU'D ANSWER THE PHONE?

17 A YES, SIR.

18 Q DID THAT HAPPEN JUST ONCE OR A LOT OF
19 TIMES?

20 A A LOT OF TIMES.

21 Q AND AFTER THAT HAPPENED A COUPLE TIMES,
22 DID YOU EVER ENGAGE IN CONVERSATIONS WITH THIS MAN,
23 MICKEY THOMPSON?

24 A WE ALWAYS ANSWERED THE PHONE AND THEN
25 IDENTIFIED OURSELVES. I WOULD SAY -- YOU KNOW, THE NAME
26 OF THE COMPANY AND I WOULD SAY "HI. THIS IS KATHY." AND
27 HE WOULD SAID "HI, THIS IS MICKEY. HOW ARE YOU DOING
28 TODAY, KATHY?".

1 Q OVER THE PERIOD OF TIME THAT YOU WORKED
2 THERE, HOW MANY TIMES DO YOU THINK YOU TALKED TO MICKEY
3 THOMPSON?

4 A I REALLY COULDN'T TELL YOU. IT WAS A LOT
5 OF TIMES.

6 Q MORE THAN 20? MORE THAN 30?

7 A PROBABLY 20 TIMES, AT LEAST.

8 Q SO DID THERE COME A TIME WHEN YOU
9 RECOGNIZED HIS VOICE?

10 A YES, SIR.

11 Q FROM YOUR CONVERSATIONS AND ANSWERING THE
12 PHONE WITH MICKEY THOMPSON, DID IT APPEAR THAT HE
13 RECOGNIZED YOUR VOICE?

14 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

15 THE COURT: OVERRULE.

16 YOU CAN ANSWER.

17 THE WITNESS: OH, YES.

18 Q BY MR. DIXON: AND HOW COULD YOU TELL
19 THAT?

20 A OFTEN HE WOULD JUST SAY "HI, KATHY, IT'S
21 MICKEY."

22 Q AND WHEN HE CALLED, WHO DID HE USUALLY ASK
23 TO SPEAK WITH?

24 A ALWAYS MICHAEL GOODWIN.

25 Q ALWAYS?

26 A UH-HUH.

27 Q IS THAT "YES"?

28 A YES. SORRY.

1 Q NOW, WHEN YOU TALKED TO HIM, WAS HE EVER
2 -- WELL, LET ME WITHDRAW THAT. I WON'T LEAD HERE.

3 WAS HE UPSET OR ANGRY OR CALM AND
4 COLLECTED? WAS HE NICE TO YOU OR MEAN? HOW WAS HE ON
5 THE PHONE, MICKEY THOMPSON?

6 A OH, VERY NICE. VERY PROFESSIONAL. VERY
7 NICE. VERY NICE.

8 Q NOW, DO YOU REMEMBER A SITUATION WHERE
9 THERE WERE SOME LOUD COMMENTS ABOUT MICKEY THOMPSON AFTER
10 YOU TOOK A CALL AND GAVE IT TO MICHAEL GOODWIN?

11 A YES. ON THIS PARTICULAR OCCASION, MICHAEL
12 AND MICKEY HAD A CONVERSATION ON THE PHONE AND MICHAEL
13 BECAME VERY UPSET.

14 Q COULD YOU TELL US EVERYTHING THAT YOU
15 REMEMBER ABOUT THAT, WHAT HE SAID, WHAT WAS DONE, THE
16 DEFENDANT.

17 A WHAT HE SAID WAS, "I'M GOING TO TAKE YOU
18 OUT. I'M GOING TO TAKE YOU OUT." I BELIEVE HE REPEATED
19 THAT TWICE.

20 AND THEN THEY CONTINUED TO ARGUE ON THE
21 PHONE AND THEN HIS COMMENT WAS, "IT WOULD COST ME \$500
22 AND A MOTOR VEHICLE TO HAVE YOU TAKEN OUT AND I WILL TAKE
23 YOU OUT."

24 Q THAT'S WHAT THE DEFENDANT SAID?

25 A THAT'S WHAT MICHAEL SAID TO HIM.

26 Q NOW, WHERE WERE YOU WHEN YOU HEARD THIS
27 CONVERSATION?

28 A RIGHT OUTSIDE THE OFFICE.

1 Q AND WAS THIS JUST AFTER YOU HAD RECEIVED A
2 CALL FROM MICKEY THOMPSON AND FORWARDED IT TO THE
3 DEFENDANT OR A DIFFERENT TIME?

4 MS. SARIS: OBJECTION. LEADING.

5 THE COURT: OVERRULED.

6 YOU CAN ANSWER.

7 THE WITNESS: NO. THIS IS RIGHT WHEN I TOLD
8 MICHAEL THAT HE WAS ON THE PHONE. IT WAS JUST A FEW
9 MINUTES LATER.

10 Q BY MR. DIXON: NOW, HOW -- AND I KNOW THIS
11 WAS A LONG TIME AGO, BUT HOW FAR AWAY FROM -- WHERE YOUR
12 DESK WAS -- WAS THE DEFENDANT AT THAT TIME? HOW FAR WAS
13 HIS OFFICE?

14 A I WASN'T AT MY DESK AT THE TIME.

15 Q OKAY.

16 A LIKE YOUR DESK RIGHT THERE (INDICATING),
17 WE WERE DOING SOME ASSEMBLY WORK SO THERE WAS A BIG SPACE
18 RIGHT IN THE CENTER OF THE OFFICE. SO MY DESK WAS OVER A
19 WAYS, BUT I WAS RIGHT THERE. NO FURTHER THAN YOU AND I.

20 MR. DIXON: OKAY. AND THAT DISTANCE WOULD BE,
21 YOUR HONOR?

22 THE COURT: ABOUT 12 FEET, 15 FEET.

23 Q BY MR. DIXON: SO -- AND PLEASE CORRECT ME
24 IF I'M WRONG, BUT AS I UNDERSTAND IT, YOU GOT A CALL FROM
25 MICKEY THOMPSON, YOU GAVE IT TO THE DEFENDANT OR
26 FORWARDED TO HIM, AND THEN YOU WENT AND DID SOME OTHER
27 WORK?

28 A RIGHT. YES, SIR.

1 Q AND THIS WORK WAS AT A LARGE TABLE THAT
2 YOU DESCRIBED?

3 A YES.

4 Q WHAT KIND OF WORK, DO YOU RECALL?

5 A WE WERE DOING THIS ASSEMBLY WORK, ASSEMBLY
6 OF MATERIAL FOR THE UPCOMING EVENTS.

7 Q SO WOULD THAT BE PAPERS OR --

8 A PAPERS.

9 Q OH, IT'S FOLDING PAPERS TOGETHER?

10 A UH-HUH.

11 Q IS THAT "YES"?

12 A YES, SIR. I'M SORRY.

13 Q NOW, THESE STATEMENTS THAT YOU'VE TOLD US
14 ABOUT THE DEFENDANT TAKING OUT, AND THE MOTORCYCLE THING,
15 WHAT THAT SAID IN A LOW CALM VOICE OR WAS THAT YELLED
16 OUT?

17 A THAT WAS A STATEMENT OF FACT.

18 Q HOW WAS IT SAID? WAS IT SAID CALM AND
19 COLLECTED, ANGRY AND YELLING? CAN YOU TELL US HOW THOSE
20 STATEMENTS WERE MADE?

21 A CALM AND COLLECTED. JUST A STATEMENT OF
22 THE FACT.

23 Q THAT'S WHAT THE DEFENDANT SAID?

24 A UH-HUH. YES, SIR.

25 Q TO MICKEY THOMPSON; IS THAT CORRECT?

26 A YES, SIR.

27 Q NOW, WAS THIS AN ISOLATED EVENT -- TALK
28 ABOUT MICKEY THOMPSON OR DID IT HAPPEN OFTEN?

1 A OFTEN.

2 Q TELL US. ONCE A DAY? ONCE A WEEK?

3 A EVERY DAY. EVERY DAY.

4 MS. SARIS: OBJECTION, YOUR HONOR. ASKED AND
5 ANSWERED.

6 THE COURT: SUSTAINED.

7 Q BY MR. DIXON: NOW, WHEN YOU SAY "EVERY
8 DAY," HOW WERE -- HOW DID THESE STATEMENTS COME ABOUT
9 EVERY DAY?

10 A WELL, OFTEN I WOULD DO A SPREADSHEET WHICH
11 INVOLVED HOW MUCH MONEY WAS OWED TO MICKEY THOMPSON AND
12 THIS WOULD UPSET MR. MICHAEL. AND SO IT ALWAYS -- IT WAS
13 A DAILY -- DAILY ACTIVITY THAT WENT ON AT WORK. ANGER.

14 Q AS A RESULT OF THE MONEY?

15 A UH-HUH. YES, SIR.

16 MR. DIXON: COULD I HAVE JUST A MOMENT, PLEASE?

17 THE COURT: YES.

18 (PAUSE IN PROCEEDINGS.)

19 Q BY MR. DIXON: NOW, IN AN EARLIER ANSWER A
20 FEW MOMENTS AGO YOU TOLD US THAT A MONTH OR TWO INTO YOUR
21 EMPLOYMENT FOR THE DEFENDANT HE ASKED YOU TO HOUSE SIT;
22 IS THAT CORRECT?

23 A YES, SIR.

24 MR. DIXON: YOUR HONOR, I HAVE ANOTHER EXHIBIT I
25 WOULD LIKE TO MARK. I BELIEVE IT'S PEOPLE'S 31 FOR
26 IDENTIFICATION. I THINK THAT'S NEXT IN ORDER.

27 THE COURT: IT IS, YES.

28 MR. DIXON: THIS IS A COUPLE OF PHOTOGRAPHS OF

1 WHAT LOOKS LIKE A RULER AND MAYBE A STUN GUN.

2 THE COURT: SO THAT WILL BE MARKED 31 AND THAT'S
3 TWO PHOTOS IN PLASTIC; RIGHT?

4 MR. DIXON: YES. THANK YOU, YOUR HONOR.

5 (PEOPLE'S EXHIBIT NO. 31 WAS MARKED FOR
6 IDENTIFICATION.)

7 Q BY MR. DIXON: I'VE JUST PUT PEOPLE'S 31
8 UP ON THE BOARD AND WITH THE COURT'S PERMISSION, CAN I
9 APPROACH?

10 THE COURT: YES.

11 Q BY MR. DIXON: AND I'M GOING TO HAND THE
12 DOCUMENT ACTUALLY TO YOU.

13 I WOULD LIKE YOU TO LOOK AT THOSE TWO
14 PHOTOGRAPHS FOR A MOMENT, IF YOU COULD, AND THEN I WILL
15 HAVE ANOTHER QUESTION OR TWO FOR YOU.

16 HAVE YOU LOOKED AT THEM?

17 A YES, SIR.

18 BY MR. DIXON:

19 Q DO YOU RECOGNIZE THE ITEM THAT IS SHOWN IN
20 EACH OF THOSE PHOTOGRAPHS?

21 A YES, SIR.

22 Q NOW, THERE'S A RULER THERE; RIGHT?

23 A RIGHT.

24 Q I'M TALKING ABOUT THE OTHER ITEM.

25 A YES, SIR.

26 Q HOW DO YOU RECOGNIZE THAT?

27 A BECAUSE I SAW THAT AT MICHAEL GOODWIN'S
28 HOUSE.

1 Q YOU DID?

2 A WHEN I WAS STAYING THERE, YES, SIR.

3 Q IN THIS HOUSE SITTING SITUATION?

4 A YES, SIR.

5 Q TELL US -- AND, AGAIN, THAT WAS A LONG
6 TIME AGO, I UNDERSTAND, BUT TELL US HOW IT CAME ABOUT
7 THAT YOU SAW THIS ITEM, THIS STUN GUN, AT THE DEFENDANT'S
8 HOUSE.

9 A MY PRIMARY REASON FOR BEING AT HIS HOUSE
10 WAS TO BABY-SIT HIS DOGS. HE LOVED HIS DOGS VERY MUCH.
11 SO THAT WAS MY PRIMARY REASON FOR BEING THERE.

12 AT THIS PARTICULAR TIME I WAS LOOKING FOR
13 SOMETHING, A LEASH OR A BRUSH OR SOMETHING FOR THE DOG,
14 AND SO I WENT TO THE STORAGE AREA TO SEE IF I COULD FIND
15 IT. I'M NOT SURE WHAT IT WAS, A BRUSH OR A LEASH, I WAS
16 LOOKING FOR, AND IN A CARDBOARD BOX SAT THIS STUN GUN.

17 Q DID YOU TOUCH IT?

18 A I BELIEVE I DID. I'M NOT EXACTLY SURE,
19 BUT I BELIEVE I DID TOUCH IT.

20 Q YOU TOOK NOTICE OF IT, THOUGH?

21 A YES, SIR.

22 Q WHY? WHY DID YOU TAKE NOTICE OF IT?

23 A IT WAS JUST CURIOSITY, I BELIEVE. IT
24 JUST -- IT WAS SURPRISING TO SEE IT.

25 Q I THINK IN AN EARLIER ANSWER YOU JUST TOLD
26 US THAT YOU WEREN'T SURE WHETHER YOU TOUCHED IT OR NOT;
27 IS THAT RIGHT?

28 A RIGHT. I'M NOT SURE IF I TOUCHED IT. I

1 BELIEVE I TOUCHED IT.

2 Q DID YOU -- IF YOU DID TOUCH IT, DID YOU
3 MOVE ITS LOCATION?

4 A NO. I PUT IT RIGHT BACK IN THE BOX. PUT
5 IT RIGHT BACK IN THE BOX AND DIDN'T LOOK FOR THE BRUSH
6 ANYMORE.

7 Q NOW, HOW LONG WERE YOU THERE HOUSE
8 SITTING?

9 A TEN DAYS.

10 Q IS THAT THE ONLY TIME THAT YOU SAW THIS OR
11 TOUCHED IT OR --

12 A THAT WAS THE ONLY TIME.

13 Q -- THIS STUN GUN IN PEOPLE'S 31?

14 A YES, SIR.

15 Q AT THE TIME THIS HAPPENED, DID YOU HAVE A
16 BOYFRIEND?

17 A YES, SIR.

18 Q WAS HE WITH YOU?

19 A YES, SIR.

20 Q I MEAN NOT NECESSARILY -- I'M NOT ASKING
21 IF HE WAS WITH YOU AT THIS MOMENT WHEN YOU SAW
22 PEOPLE'S 31, BUT WAS HE HOUSE SITTING WITH YOU?

23 A YES, HE WAS HOUSE SITTING BUT, NO, HE
24 WASN'T WITH ME AT THAT MOMENT.

25 Q AND DID YOU TELL OR INFORM THE DEFENDANT
26 AT ANY POINT THAT YOUR BOYFRIEND WAS GOING TO BE THERE?

27 A OH, YES SIR, HE KNEW. HE KNEW.

28 Q JUST A FEW OTHER QUESTIONS ABOUT YOUR

1 EMPLOYMENT THERE.

2 WHILE YOU WERE THERE WORKING IN MICHAEL
3 GOODWIN'S COMPANY, DID YOU EVER SEE A CAR THAT CAUGHT
4 YOUR ATTENTION, A STATION WAGON?

5 A YES.

6 MS. SARIS: OBJECTION. LEADING, YOUR HONOR.

7 THE COURT: SUSTAINED.

8 Q BY MR. DIXON: DID YOU EVER SEE A CAR THAT
9 CAUGHT YOUR ATTENTION?

10 A YES. I WAS ALWAYS THE FIRST ONE THERE IN
11 THE MORNING AND THERE WAS A CAR -- A STATION WAGON THAT
12 WAS OUT IN THE PARKING LOT.

13 Q HAD YOU SEEN IT BEFORE?

14 A NO, NO, I DIDN'T.

15 Q COULD YOU DESCRIBE IT ROUGHLY IN ANY WAY.

16 A IT WAS AN OLDER STATION WAGON, HAD OUT OF
17 STATE PLATES ON IT, AND IT WAS SO OUT OF -- IT JUST
18 WAS -- IT JUST WASN'T SUPPOSED TO BE THERE. IT NEVER HAD
19 BEEN.

20 Q HOW MANY DAYS DID YOU SEE IT THERE, OR WAS
21 IT JUST ONE DAY?

22 A JUST THIS ONE TIME.

23 Q OKAY. OUT OF STATE PLATES, OLDER; IS THAT
24 RIGHT?

25 A STATION WAGON, RIGHT.

26 Q IS THAT ABOUT THE BEST --

27 A YES, SIR.

28 Q -- YOU CAN DESCRIBE IT?

1 A YES, SIR.

2 MR. DIXON: MAY I APPROACH? I'LL RETRIEVE THIS
3 EXHIBIT (INDICATING).

4 THE COURT: YES.

5 Q BY MR. DIXON: NOW, AS YOU LOOK AT THIS
6 EXHIBIT, PEOPLE'S 31, DOES THAT LOOK LIKE THE STUN GUN
7 THAT YOU SAW, OR YOU DON'T KNOW IF THAT'S EXACTLY THE
8 SAME ONE?

9 A IT LOOKS LIKE IT. IT LOOKS EXACTLY LIKE
10 IT. YES, SIR.

11 Q OKAY. THAT'S FINE. NOW, YOU TOLD US
12 EARLIER IN YOUR TESTIMONY THAT IN THE BEGINNING THE
13 DEFENDANT LIKED YOU; IN FACT, YOU WENT AND HOUSE SAT; IS
14 THAT RIGHT?

15 A YES, SIR.

16 Q DID THINGS CHANGE?

17 A YES.

18 Q WHAT HAPPENED?

19 A HE HAD ME ARRESTED AT THE JOB WHILE I WAS
20 AT MY DESK.

21 Q AND WHAT FOR?

22 A HE SAID I STOLE FROM HIM.

23 Q AND WHAT HAPPENED WITH THIS WHOLE
24 SITUATION?

25 A WHAT HAPPENED?

26 Q YES.

27 A I WAS TAKEN TO JAIL WHERE I STAYED FOR
28 APPROXIMATELY EIGHT MONTHS AND WENT TO COURT.

1 Q DID YOU GO TO COURT?

2 A YES, SIR.

3 Q AND WHAT HAPPENED IN COURT? WAS THERE A
4 TRIAL LIKE THIS WITH JURORS?

5 A YES, SIR, THERE WAS A JURY TRIAL AND I WAS
6 ACQUITTED.

7 Q YOU WERE FOUND NOT GUILTY?

8 A YES, SIR.

9 Q AND IT WAS A COURTROOM LIKE THIS WITH
10 JURORS?

11 A YES, SIR.

12 Q AND YOU WERE SITTING AS THE DEFENDANT?

13 A YES, SIR.

14 Q DID YOU HAVE A LAWYER?

15 A YES SIR. I HAD A PUBLIC DEFENDER.

16 Q AND AS A RESULT OF ALL OF THAT, YOU WERE
17 FOUND NOT GUILTY?

18 A YES, SIR.

19 Q I NEED TO ASK YOU A FEW OTHER QUESTIONS,
20 TOO.

21 A YES, SIR.

22 Q WERE YOU OR HAVE YOU BEEN KNOWN BY ANY
23 OTHER NAME?

24 A YES, SIR.

25 Q AND WHAT ARE THOSE?

26 A I WAS BORN UNDER THE NAME OF BROOKOVER. I
27 WAS ADOPTED UNDER THE NAME OF DOWNS. I WAS MARRIED AND
28 BECAME MRS. ENGLIS AND THEN I WAS DIVORCED SIX YEARS

1 LATER AND THEN MARRIED A WEESE, WHO HAS SINCE PASSED
2 AWAY. I ALSO MADE UP TWO OTHER NAMES. JOHNSON AND HORN.

3 THE COURT: WHAT WAS THE SECOND ONE?

4 THE WITNESS: HORN, H-O-R-N.

5 THE COURT: AND JOHNSON?

6 THE WITNESS: AND JOHNSON.

7 Q BY MR. DIXON: SO LET'S TALK ABOUT THE
8 JOHNSON.

9 SO AT ONE POINT YOU WERE KNOWN AS KATHY
10 JOHNSON?

11 A YES, SIR.

12 Q WHAT NAME DID YOU USE WHEN YOU APPLIED TO
13 WORK FOR THE DEFENDANT, MIKE GOODWIN?

14 A KATHY JOHNSON.

15 Q SO THAT WASN'T YOUR EXACT TRUE NAME AT THE
16 TIME?

17 A NO. I MADE IT UP.

18 Q AND YOU DIDN'T TELL HIM THAT?

19 A NOT AT THAT TIME, NO SIR.

20 Q DID THAT HAVE ANY PART OF THIS ARREST -- I
21 MEAN, THE JOHNSON THING?

22 MS. SARIS: OBJECTION. VAGUE.

23 THE WITNESS: I DON'T UNDERSTAND.

24 THE COURT: SUSTAINED.

25 MR. DIXON: ALL RIGHT. THAT'S PROBABLY MY FAULT
26 SO I'LL TRY AGAIN.

27 Q WHEN HE HAD YOU ARRESTED, AS FAR AS YOU
28 KNEW, DID IT HAVE ANYTHING TO DO WITH YOUR USING THE NAME

1 KATHY JOHNSON?

2 A NO. NO.

3 Q WHY DID YOU USE THAT NAME AT THAT TIME?

4 A BECAUSE I WAS -- I WAS A FUGITIVE ON
5 ESCAPE FROM COLORADO.

6 Q YOU HAD HAD SOME LEGAL PROBLEMS IN
7 COLORADO?

8 A YES, SIR.

9 Q WHO WERE THOSE? TELL US.

10 A I WAS CONVICTED OF A CRIME.

11 Q WHAT CRIME?

12 A THEFT BY RECEIVING.

13 Q OKAY.

14 A AND I DID MY TIME AND THEN I WAS SENT TO A
15 HALFWAY HOUSE TYPE SITUATION.

16 Q WELL, DESCRIBE IT. WHAT DO YOU MEAN BY
17 HALFWAY HOUSE? DID IT HAVE WALLS AND BARBWIRE?

18 A NO, SIR. NO. IT WAS JUST A REGULAR OLDER
19 HOME WHERE THEY SENT YOU GETTING READY TO BE COMPLETELY
20 RELEASED.

21 Q AND SO YOU WERE SUPPOSED TO STAY THERE?

22 A YES, SIR.

23 Q AND YOU DIDN'T?

24 A I WAS THERE FOR A LONG TIME, BUT, NO, I
25 DIDN'T STAY THERE.

26 Q AS LONG AS YOU WERE SUPPOSED TO?

27 A RIGHT, SIR.

28 Q SO YOU -- WHAT DID YOU DO? YOU WALKED

1 AWAY?

2 A I WALKED AWAY.

3 Q WHY?

4 A BECAUSE I WAS BEATEN AND MY DAUGHTER WAS
5 ATTACKED, SO I LEFT.

6 Q BUT THAT WAS THE BASIS OF A CHARGE AGAINST
7 YOU EVENTUALLY; IS THAT RIGHT OR WRONG?

8 A THEY CHARGED ME, BUT THEY DROPPED IT WHEN
9 THEY FOUND OUT THE CIRCUMSTANCES.

10 Q BUT IT WAS BECAUSE OF THAT THAT YOU USED
11 THE JOHNSON NAME?

12 A YES, SIR.

13 Q ANY OTHER TIME IN YOUR LIFE THAT YOU'VE
14 HAD SOME LEGAL PROBLEMS AND BEEN CONVICTED OF ANY CRIME?

15 A IN TEXAS.

16 Q OKAY. WHAT WAS THAT?

17 A TEXAS WAS FOR CHECKS. MY OWN CHECKS I
18 WROTE. I HAD CANCER AND I WROTE \$2300 WORTH OF CHECKS.

19 Q BAD CHECKS?

20 A YES, SIR.

21 Q AND YOU WERE CONVICTED OF THOSE?

22 A YES, SIR.

23 Q ABOUT WHEN?

24 A '93 -- '96. SOMETHING LIKE THAT. I'M NOT
25 SURE EXACTLY THE DATE. I DON'T REMEMBER THE EXACT DATE.

26 Q NOW, FOR WANT OF A BETTER TERM, DID ANY OF
27 THAT KIND OF COME BACK AND HAUNT YOU WHEN YOU ENDED UP IN
28 THE ORANGE COUNTY JAIL WAITING TRIAL ON THESE CHARGES

1 THAT YOU WERE ACQUITTED OF? DO YOU KNOW WHAT I MEAN?

2 A I HAD TO BE RETURNED TO COLORADO, YES SIR,
3 AND FINISH THE SENTENCE THERE.

4 Q OKAY. SO YOU WENT BACK TO COLORADO TO
5 FINISH THE SENTENCE FROM THE HALFWAY HOUSE?

6 A YES SIR.

7 Q BUT YOU SAID YOU WEREN'T CHARGED THERE,
8 TO YOUR KNOWLEDGE?

9 A NO. I JUST FINISHED MY TIME AND WAS
10 RELEASED. THEY DIDN'T CHARGE ME. THEY DROPPED IT.

11 Q DID YOU EVER MEET A MAN BY THE NAME OF
12 DETECTIVE MARK LILLIENFELD?

13 A YES, SIR.

14 Q WHERE WERE YOU WHEN YOU MET HIM?

15 A I WAS STARTING A NEW LIFE IN BLAIRSVILLE,
16 GEORGIA WHEN ABOUT THREE O'CLOCK IN THE MORNING THERE WAS
17 A KNOCK ON THE DOOR AND IT WAS A FUGITIVE -- WHAT DO THEY
18 CALL THOSE OFFICERS -- FUGITIVE OFFICERS.

19 Q SOME POLICE OFFICER ABOUT FUGITIVES?

20 A YES, SIR.

21 Q WHAT HAPPENED?

22 A THEY ARRESTED ME.

23 Q FOR WHAT?

24 A FOR PROBATION VIOLATION OUT OF TEXAS.

25 Q AND THEY TOOK YOU INTO CUSTODY?

26 A YES, SIR.

27 Q AND WHILE YOU WERE IN CUSTODY IN GEORGIA,
28 IS THAT WHERE YOU MET MARK LILLIENFELD?

1 A YES, SIR.

2 Q BY THE WAY, DO YOU SEE HIM HERE IN COURT?

3 A YES SIR, I DO.

4 Q DO YOU WANT TO POINT HIM OUT?

5 A THAT OFFICER RIGHT THERE (INDICATING).

6 MR. DIXON: PERHAPS HE CAN RAISE HIS HAND AND
7 IDENTIFY HIMSELF .

8 MR. LILLIENFELD: MARC LILLIENFELD.

9 THE COURT: THANK YOU.

10 Q BY MR. DIXON: THAT'S THE MAN YOU MET?

11 A YES, SIR. HE AND HIS PARTNER.

12 Q ALL RIGHT. AND SHORTLY AFTER YOU MET HIM,
13 DID YOU HAVE AT SOME POINT A CONVERSATION ABOUT THE
14 THINGS THAT YOU'VE TESTIFIED HERE TODAY?

15 A SHORTLY AFTER I MET OFFICER --

16 Q LILLIENFELD?

17 A YES, SIR.

18 Q AT SOME POINT DID YOU TALK TO HIM?

19 A YES, SIR. THEY TOOK ME OUT OF THE ROOM
20 AND TOOK -- THEY TOOK ME OUT OF THE CELL AND TOOK ME INTO
21 A ROOM, INTERVIEW ROOM, AND TALKED TO ME.

22 Q AND DID YOU TELL HIM AT THAT TIME SOME OF
23 THE THINGS YOU'VE TOLD US HERE TODAY?

24 A YES, SIR, I DID.

25 Q UP TILL THIS POINT, HAD YOU EVER
26 VOLUNTEERED ANY INFORMATION ABOUT THIS CASE?

27 A WHEN I WAS IN COLORADO FINISHING MY TIME,
28 I WAS CONTACTED BY THE L.A. SHERIFF'S DEPARTMENT WHO

1 ASKED ME A COUPLE OF QUESTIONS BUT THEY NEVER CALLED
2 AGAIN AND, NO, I NEVER RAISED MY HAND TO COME.

3 Q WHAT DO YOU MEAN BY RAISED YOUR HAND?

4 A I NEVER VOLUNTEERED TO COME FORWARD. I
5 NEVER DID.

6 Q DO YOU REMEMBER WHO CALLED YOU, WHAT
7 SHERIFF DETECTIVES CALLED YOU WHEN YOU WERE IN COLORADO
8 IN THAT HALFWAY HOUSE?

9 A I BELIEVE IT WAS A LOS ANGELES SHERIFFS.

10 Q DO YOU REMEMBER ANY NAMES?

11 A NO, SIR. IT WAS SO MANY YEARS AGO. THEY
12 ASKED ME A COUPLE OF QUESTIONS, I ANSWERED THEM AND THAT
13 WAS IT. BUT I NEVER VOLUNTEERED ANY INFORMATION.

14 Q LET'S GO BACK TO WHEN YOU MET DETECTIVE
15 LILLIENFELD.

16 YOU WERE IN GEORGIA; RIGHT?

17 A YES, SIR.

18 Q AND YOU WERE IN COLORADO -- EXCUSE ME.

19 AND YOU WERE IN CUSTODY; RIGHT?

20 A YES, SIR, I WAS.

21 Q DID HE, AT THE TIME WHEN YOU TALKED TO HIM
22 ABOUT THINGS THAT YOU'VE TOLD US HERE TODAY, DID HE EVER
23 SAY -- MAKE ANY PROMISES ONE WAY OR ANOTHER ABOUT WHAT
24 WAS GOING TO HAPPEN TO YOU?

25 A THIS WAS A HELL HOLE. THIS JAIL WAS AN
26 ABSOLUTE HELL HOLE.

27 Q IN GEORGIA?

28 A YES SIR.

1 Q OKAY.

2 A AND, REMEMBER, I HAD DONE TIME, BUT THIS
3 WAS A REAL -- EXCUSE ME, BUT IT WAS A VERY BAD PLACE.
4 THE ONLY PROMISE HE MADE TO ME WAS THAT HE WOULDN'T LET
5 ANYTHING HAPPEN TO ME. HE SAID, "I WILL TAKE CARE OF
6 YOU."

7 Q AS FAR AS PERSONAL --

8 A SAFETY.

9 Q SAFETY?

10 A AND HAVING TWO DETECTIVES COME FROM ACROSS
11 THE COUNTRY CERTAINLY WAS NOT GOING TO HELP ME WHILE I
12 WAS IN JAIL, YOU KNOW WHAT THEY DO TO PEOPLE WHO ARE
13 TALKING TO THE POLICE. SO THAT WAS THE ONLY PROMISE HE
14 MADE TO ME.

15 Q WHAT DO YOU MEAN BY THAT, WHAT YOU JUST
16 SAID?

17 A WELL, WE ALL --

18 MS. SARIS: OBJECTION, YOUR HONOR. RELEVANCE.
19 LACK OF FOUNDATION.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER.

22 Q BY MR. DIXON: YOU CAN ANSWER THE
23 QUESTION. GO AHEAD.

24 A WE'VE ALL HEARD THE TERM SNITCH OR
25 JAILHOUSE SNITCH OR RAT OR -- I MEAN, IT'S NOT A GOOD
26 PLACE TO BE. IT'S NOT A GOOD NAME TO HAVE.

27 Q SO WERE YOU WORRIED ABOUT THAT OR DID YOU
28 CARE?

1 A WELL, I WAS WORRIED ABOUT THAT. I MEAN,
2 THIS WAS NOT A NICE PLACE.

3 Q SO THE PROMISE DETECTIVE LILLIENFELD MADE
4 TO YOU WAS IN REGARD TO YOUR PERSONAL SAFETY?

5 A RIGHT, SIR. THAT WAS THE ONLY PROMISE HE
6 EVER MADE.

7 Q AT THAT TIME OR SOMETIME THEREAFTER THAT,
8 DID YOU EVER HEAR ABOUT A REWARD?

9 A YES.

10 Q WHEN?

11 A I BELIEVE IT WAS AT THE PRELIMINARY
12 HEARING.

13 Q NOW, AT THE PRELIMINARY HEARING, DO YOU
14 RECALL WHEN THAT WAS?

15 A SEVERAL YEARS AGO.

16 Q 2004, DOES THAT SOUND ABOUT RIGHT?

17 A IT SOUNDS ABOUT RIGHT, YES SIR.

18 Q AND YOU TESTIFIED AT THE PRELIMINARY
19 HEARING, DIDN'T YOU?

20 A YES, SIR, I DID.

21 Q RIGHT IN THAT SAME CHAIR?

22 A YES, SIR.

23 Q AND ARE YOU TELLING US THAT'S THE FIRST
24 TIME YOU EVER HEARD ABOUT A REWARD IN THIS CASE?

25 A YES, SIR, I BELIEVE SO.

26 Q HAVE YOU EVER DONE ANYTHING TO APPLY FOR A
27 REWARD?

28 A NO, I DON'T QUALIFY FOR IT. THIS ISN'T

1 ABOUT MONEY.

2 Q JUST LET ME LOOK AT MY PAPERS HERE AND SEE
3 IF I HAVE ANY MORE QUESTIONS. OKAY?

4 MR. DIXON: COULD I HAVE A MOMENT, PLEASE,
5 YOUR HONOR?

6 THE COURT: YES.

7 (PAUSE IN PROCEEDINGS.)

8 MR. DIXON: THANK YOU VERY MUCH, MS. WEESE.

9 THE WITNESS: YOU'RE WELCOME.

10 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
11 TIME.

12 THE COURT: CROSS-EXAMINATION?

13 MS. SARIS: THANK YOU.

14 CROSS-EXAMINATION

15 BY MS. SARIS:

16 Q GOOD AFTERNOON, MS. WEESE.

17 A GOOD AFTERNOON.

18 Q YOU ACTUALLY APPEARED ON THE PROGRAM
19 "48 HOURS", DID YOU NOT?

20 A YES.

21 Q YOU WEREN'T AWARE AT THE TIME THAT YOU
22 APPEARED ON THAT PROGRAM THAT THAT PROGRAM ANNOUNCED A
23 MILLION DOLLAR REWARD?

24 A I DON'T REMEMBER THAT. I DON'T REMEMBER.

25 Q DID YOU EVER SEE YOURSELF ON THE T.V.?

26 A NO, THEY DIDN'T PLAY IT.

27 Q YOU NEVER SAW IT SINCE IT'S BEEN AIRED?

28 A I SAW IT AFTER IT WAS AIRED, AFTER I GOT

1 OUT.

2 Q AND WHEN YOU SAW IT THEN, DO YOU RECALL
3 THEM ANNOUNCING THE REWARD AT THAT TIME?

4 A POSSIBLY. I'M NOT SURE.

5 Q SO THAT WOULD HAVE BEEN BEFORE THE
6 PRELIMINARY HEARING IN THIS MATTER?

7 A I DON'T REMEMBER. I DON'T REMEMBER
8 HEARING ABOUT IT BEFORE THAT.

9 Q YOU ONLY WORKED FOR MR. GOODWIN FROM
10 JANUARY UNTIL MAY 2ND OF 1986 WHEN YOU WERE ARRESTED; IS
11 THAT CORRECT?

12 A YES, THAT'S CORRECT.

13 Q SO THESE PHONE CALLS THAT MICKEY THOMPSON
14 WAS MAKING, WAS THAT ABOUT SOME UPCOMING EVENT THE TWO OF
15 THEM WERE DOING?

16 A I DON'T UNDERSTAND WHAT YOU MEAN.

17 Q YOU SAID THAT YOU ANSWERED THE PHONE
18 OFTEN, AND MICKEY THOMPSON IDENTIFIED HIMSELF AND SPOKE
19 TO YOU FREQUENTLY.

20 A YES, MA'AM.

21 Q WHAT WAS THAT REGARDING? DO YOU KNOW?

22 A ABOUT THE MONEY SITUATION. THEY WERE
23 ALWAYS TALKING ABOUT THE MONEY SITUATION OR EVENTS.

24 Q WELL, WHAT -- YOU SAID YOU WERE PUTTING
25 TOGETHER SOME SORT OF MATERIAL FOR A PROGRAM; IS THAT
26 RIGHT?

27 A YES, MA'AM.

28 Q WAS THAT FOR SOME SORT OF A MOTORCROSS

1 EVENT?

2 A YES, MA'AM.

3 Q WHERE WAS THAT SUPPOSED TO BE?

4 A AT -- LET'S SEE, MICKEY THOMPSON WAS DOING
5 ANAHEIM. I THINK WE WERE GETTING READY TO DO -- I'M NOT
6 SURE. IT'S BEEN A LONG TIME.

7 Q DO YOU RECALL SAYING THAT ONE OF THE
8 THINGS THAT THEY WERE -- THAT MICKEY THOMPSON -- I'M
9 SORRY -- ONE OF THE THINGS THAT THEY SPOKE ABOUT WAS
10 MONEY; IS THAT RIGHT?

11 A YES, MA'AM.

12 Q DO YOU RECALL MICHAEL GOODWIN ASKING
13 MICKEY THOMPSON FOR MONEY, OR WAS IT THE OTHER WAY
14 AROUND?

15 A MICKEY THOMPSON WAS ON THE PHONE AND
16 MICHAEL WAS ON THE PHONE, SO THE ONLY CONVERSATION I
17 HEARD WAS MICHAEL'S CONVERSATION.

18 Q AND WAS IT YOUR IMPRESSION THAT MICHAEL
19 WAS -- WANTED MONEY FROM MICKEY THOMPSON?

20 A YES.

21 Q AND DO YOU KNOW WHY HE FELT HE WAS OWED
22 MONEY FROM MICKEY THOMPSON?

23 MR. DIXON: OBJECTION. THAT'S CALLS FOR
24 SPECULATION.

25 THE COURT: SUSTAINED.

26 Q BY MS. SARIS: DID YOU EVER HEAR HIM SAY
27 WHY HE FELT HE WAS OWED THIS MONEY OR DID YOU HEAR HIM
28 JUST ASK FOR MONEY?

1 A NO. HE FELT THAT MICKEY THOMPSON HAD
2 CHEATED HIM AND THAT HE WANTED MONEY.

3 Q WAS IT YOUR UNDERSTANDING -- DO YOU KNOW
4 WHETHER OR NOT THERE HAD EVER BEEN A LAWSUIT FILED
5 BETWEEN THESE TWO MEN?

6 A OH, YES, HE MENTIONED IT SEVERAL TIMES.
7 MR. DIXON: OBJECTION. VAGUE. WHO IS "HE"?
8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: WHO IS "HE"? YOU SAID "HE
10 MENTIONED IT SEVERAL TIMES". WHO IS THAT?

11 A FORGIVE ME. MICHAEL GOODWIN MENTIONED IT
12 SEVERAL TIMES.

13 Q AND WAS IT YOUR UNDERSTANDING THAT THEY
14 WERE GOING TO COURT STILL, OR THAT MICKEY THOMPSON HAD
15 WON, OR THAT MICHAEL GOODWIN HAD WON? DO YOU KNOW WHERE
16 IT WAS?

17 A IT WAS MY UNDERSTANDING THAT MICKEY
18 THOMPSON HAD WON.

19 Q AND YOU WERE FIRED ON MAY 2ND OF 1986?

20 A I WASN'T FIRED. I WAS ARRESTED.

21 Q I'M SORRY. ARRESTED.

22 DID YOU EVER GO TO BACK TO WORK AFTER THE
23 ARREST?

24 A NO.

25 Q YOU HAD ALSO -- WAS THERE ANY OTHER
26 CONVERSATION -- DO YOU REMEMBER A CONVERSATION REGARDING
27 SPIES AT THESE MOTOR EVENTS?

28 A YES.

1 Q AND WHAT WAS YOUR UNDERSTANDING ABOUT
2 SPIES?

3 A MICHAEL WAS EXPLAINING TO MICKEY THAT HE
4 HADN'T SENT SPIES TO CHECK ON THE EVENT THAT MICKEY WAS
5 PUTTING ON.

6 Q MICHAEL WAS TELLING MICKEY HE HAD SENT
7 SPIES OR HE WAS GOING TO SEND SPIES?

8 A HE WAS DENYING THAT HE HAD SENT SPIES OVER
9 THERE.

10 Q AND TO WHAT EVENT WOULD THAT HAVE BEEN?

11 A THAT WOULD HAVE BEEN AN EVENT AT THE
12 ANAHIEM CENTER.

13 Q AN EVENT AT ANAHIEM THAT MICKEY THOMPSON
14 WOULD'VE RUN?

15 A YES, WAS PUTTING ON.

16 Q AND THAT MICHAEL GOODWIN WOULD HAVE SENT
17 SPIES TO THAT EVENT?

18 A YES.

19 Q AND WAS IT YOUR UNDERSTANDING THAT WAS A
20 MOTORCYCLE EVENT?

21 A YES, MA'AM.

22 Q HAVE YOU EVER MET MICKEY THOMPSON?

23 A NO.

24 Q YOU NEVER MET HIM AT ANY OF THESE EVENTS?

25 A NO, MA'AM.

26 Q DID YOU TESTIFY ALSO IN ORANGE COUNTY AT A
27 HEARING IN THIS MATTER?

28 A ORANGE COUNTY, ISN'T THAT WHERE THE -- I'M

1 NOT SURE.

2 Q FOR A GRAND JURY IN ORANGE COUNTY, DO YOU
3 RECALL TESTIFYING IN FRONT OF THEM IN 2001?

4 A YES, THAT'S --

5 Q AT THAT TIME, DO YOU RECALL BEING ASKED IF
6 YOU HAD MET MICKEY THOMPSON?

7 A I DON'T REMEMBER BEING ASKED. I'M SURE I
8 WAS ASKED THAT. I ALWAYS SAID I NEVER MET HIM. I ALWAYS
9 SAID I NEVER MET HIM.

10 Q REFERRING COURT AND COUNSEL TO THAT
11 TRANSCRIPT ON PAGE 31 LINE 20.

12 THE QUESTION BEING ASKED: "HAD YOU MET
13 MR. THOMPSON OTHER THAN HEARING A TELEPHONE
14 CONVERSATION?" ANSWER: "YES. THROUGH DIFFERENT EVENTS
15 WE -- WE -- YOU KNOW, HE WAS VERY PROFESSIONAL."

16 DO YOU RECALL INDICATING IN ORANGE COUNTY
17 THAT INDEED YOU HAD MET MICKEY THOMPSON?

18 MR. DIXON: OBJECTION, YOUR HONOR. I THINK
19 THAT'S VAGUE. I'M NOT SURE THAT'S IMPROPER IMPEACHMENT.

20 THE COURT: WELL, DO YOU WANT TO GO TO SIDE BAR?
21 BECAUSE I DON'T HAVE WHAT YOU'RE REFERRING TO. DO YOU
22 WANT TO GO TO SIDE BAR?

23 MR. DIXON: WELL, IF I CAN HAVE A MOMENT.

24 THE COURT: SURE.

25 (PAUSE IN PROCEEDINGS.)

26 MR. DIXON: THANK YOU, YOUR HONOR. WE'RE READY
27 TO PROCEED.

28 Q BY MS. SARIS: DID YOU EVER GO TO AN EVENT

1 THAT EITHER MEN PUT ON AT ANAHEIM STADIUM?

2 A NO.

3 Q AT ANY OF THE STADIUMS?

4 A YES, MA'AM.

5 Q WHICH ONE?

6 A THE ONE IN SAN DIEGO.

7 Q AND WHO PUT ON THAT EVENT?

8 A MICKEY -- EXCUSE ME. FORGIVE ME.

9 MICHAEL PUT THAT ON.

10 Q OKAY. LET'S JUST -- YES, IT MIGHT BE
11 EASIER TO EITHER USE MICHAEL GOODWIN OR MICKEY THOMPSON,
12 THE WHOLE NAME.

13 A I'M SORRY.

14 Q DO YOU REMEMBER WHEN THAT WAS?

15 A NO. I'M SORRY.

16 Q WAS IT WHILE YOU WERE EMPLOYED THERE?

17 A YES.

18 Q IT'S FAIR TO SAY THAT YOU DON'T LIKE
19 MICHAEL GOODWIN?

20 A I DON'T UNDERSTAND WHAT YOU MEAN "FAIR TO
21 SAY."

22 Q DO YOU LIKE MICHAEL GOODWIN?

23 A I DON'T LIKE OR DISLIKE MICHAEL GOODWIN.

24 Q DO YOU RECALL REFERRING TO HIM REPEATEDLY
25 IN CONVERSATIONS AS A SON OF A BITCH?

26 A YES, MA'AM.

27 Q DO YOU HAVE ANY STRONG FEELINGS ABOUT THE
28 FACT THAT HE ACCUSED YOU OF EMBEZZLING MONEY FROM HIS

1 COMPANY?

2 A NO. BECAUSE I WON.

3 Q AFTER HAVING TO SPEND EIGHT MONTHS IN
4 JAIL?

5 A I WAS FOUND NOT GUILTY, SO --

6 Q AS A RESULT OF HIM ACCUSING YOU, THOUGH,
7 YOU DID HAVE TO SPEND EIGHT MONTHS IN JAIL, DID YOU NOT?

8 A YES, MA'AM.

9 Q AND YOU DID GET CAUGHT BEING A FUGITIVE
10 FROM COLORADO?

11 A YES, MA'AM.

12 Q NOW, WHEN YOU MADE UP THESE OTHER NAMES
13 THAT YOU SPOKE OF, HORN AND JOHNSON, DID YOU ALSO MAKE UP
14 DATES OF BIRTH TO GO ALONG WITH THEM?

15 A YES, MA'AM.

16 Q SOCIAL SECURITY NUMBERS?

17 A YES, MA'AM.

18 Q AND WHEN YOU WERE WRITING THESE BAD
19 CHECKS, THIS WASN'T A SITUATION WHERE YOU JUST GOT
20 OVERDRAWN, YOU WERE ACTUALLY WRITING CHECKS WHEN YOU KNEW
21 THERE WAS NO MONEY TO COVER THEM; CORRECT?

22 A YES, MA'AM.

23 Q WHEN YOU WERE IN GEORGIA YOU INDICATED
24 THAT PLACE WAS A HELL HOLE; IS THAT RIGHT?

25 A YES, MA'AM.

26 Q SO YOU WOULD HAVE DONE ANYTHING TO GET
27 OUT?

28 A NO.

1 Q DO YOU RECALL DETECTIVE LILLIENFELD
2 OFFERING TO HELP YOU IN ANY WAY HE COULD?

3 A YES.

4 Q AND THAT'S THE TIME WHEN HE SHOWED YOU THE
5 PICTURE OF A STUN GUN AND ASKED YOU IF YOU HAD EVER SEEN
6 ONE IN MICHAEL'S HOME?

7 A THAT HAD NOTHING TO DO WITH IT.

8 Q WELL, IS THAT THE SAME CONVERSATION,
9 MA'AM?

10 A IT WAS IN THE SAME TIME FRAME. IT HAD
11 NOTHING TO DO WITH IT.

12 Q MY QUESTION IS: WHEN HE CAME TO YOU IN
13 GEORGIA AND YOU WERE IN THIS HELL HOLE, HE SHOWED YOU A
14 PICTURE OF A STUN GUN AND HE ASKED YOU IF MICHAEL GOODWIN
15 OWNED ONE; IS THAT CORRECT?

16 A NO, HE DIDN'T ASK ME THAT. HE JUST ASKED
17 ME IF I COULD IDENTIFY WHAT WAS ON THAT PICTURE AND
18 THAT'S WHAT I DID.

19 Q WHEN YOU SPOKE TO THE SHERIFF THAT CALLED
20 YOU WHEN YOU WERE AT THAT HALFWAY HOUSE, DID YOU MENTION
21 THAT MICHAEL GOODWIN HAD THIS DEVICE THAT LOOKED LIKE A
22 STUN GUN AT THAT TIME?

23 A NO.

24 Q WHEN YOU WERE SHOWN THIS PHOTOGRAPH BY
25 DETECTIVE LILLIENFELD WHEN YOU WERE IN THIS HELL HOLE OF
26 A JAIL, DID HE SAY -- HAD YOU ALREADY TOLD HIM YOU WERE
27 IN MICHAEL GOODWIN'S HOME, THAT YOU HAD BEEN IN THE HOME?

28 A YES, MA'AM.

1 Q AND THAT YOU WERE STAYING THERE TAKING
2 CARE OF THE DOGS?

3 A YES, MA'AM.

4 Q AND AT THAT POINT HE SHOWED YOU A PICTURE
5 AND ASKED YOU IF YOU HAD EVER SEEN THAT ITEM BEFORE; IS
6 THAT CORRECT?

7 A YES, MA'AM. BUT HE WAS POINTING TO THE
8 RULER, SO I TOLD HIM I DIDN'T KNOW WHAT HE WAS POINTING
9 TO.

10 Q SO WHEN HE SHOWED YOU THE PHOTO THAT WE'VE
11 PUT UP BEFORE AS PEOPLE'S -- DO WE HAVE 31? -- YOU
12 THOUGHT HE WAS ASKING YOU TO IDENTIFY THE RULER IN THE
13 MIDDLE OF THIS PICTURE?

14 A UH-HUH.

15 Q IS THAT "YES"?

16 A YES, MA'AM.

17 Q AND SO YOU TOLD HIM YOU DIDN'T RECOGNIZE
18 THIS?

19 A RIGHT.

20 Q AND THEN WHEN HE POINTED TO THE OTHER
21 DEVICE --

22 A YES, MA'AM.

23 Q -- THAT WAS AFTER YOU TOLD HIM THAT YOU
24 HAD HOUSE SAT FOR MICHAEL GOODWIN?

25 A YES, MA'AM.

26 Q YOU KNEW THAT THE DETECTIVE WAS THERE
27 ABOUT MICHAEL GOODWIN; CORRECT?

28 A YES, MA'AM.

1 Q IN FACT, YOU INDICATED THAT YOU WERE VERY
2 HAPPY TO SEE THE DETECTIVE AND DISCUSS THIS ABOUT MICHAEL
3 GOODWIN, DIDN'T YOU?

4 A YES, MA'AM.

5 Q DO YOU ALSO RECALL TELLING HIM THAT YOU
6 HAD SEEN HIM ON TELEVISION, THE PROGRAM -- OR HAD SEEN
7 THE CASE ON UNSOLVED MYSTERIES?

8 A NO, MA'AM. I NEVER SAW THE PROGRAM.

9 Q DO YOU RECALL TELLING THE DETECTIVE THAT
10 YOU HAD?

11 A YES, MA'AM. BUT I DIDN'T TELL HIM THAT I
12 HAD SEEN IT. I DIDN'T. I NEVER HAVE SEEN IT.

13 Q WHAT DID YOU TELL HIM ABOUT IT?

14 A I SAID ONE OF MY RELATIVES TOLD ME THAT
15 SHE HAD SEEN IT ON TELEVISION.

16 Q DO YOU RECALL SPECIFICALLY SAYING: "I'M
17 GLAD TO SEE YOU. YOU KNOW, YOU GUYS WERE ON -- WHAT WAS
18 THAT? -- "UNSOLVED MYSTERY" ONE TIME. OH, HE'S A SON OF
19 A BITCH."

20 DO YOU RECALL THAT?

21 A YES, MA'AM.

22 Q WHO IS THE "HE" IN THAT SENTENCE?

23 A MICHAEL GOODWIN.

24 Q AND WAS THAT AMONG THE VERY FIRST THINGS
25 THAT WAS EVER SAID TO YOU IN THE INTERVIEW WITH DETECTIVE
26 LILLIENFELD? IN OTHER WORDS, DO YOU RECALL STARTING THE
27 CONVERSATION WITH "HE'S A SON OF A BITCH"?

28 A I DON'T RECALL EXACTLY. I'M SORRY.

1 Q WHEN HE CAME TO THAT JAIL, DID HE ANNOUNCE
2 TO EVERYONE YOU WERE IN THE CELL WITH THAT HE NEEDED TO
3 TALK TO YOU AND THAT YOU WERE GOING TO BE A SNITCH?

4 MR. DIXON: OBJECTION. COMPOUND.

5 THE COURT: SUSTAIN.

6 REPHRASE IT.

7 Q BY MS. SARIS: DID HE INDICATE IN ANY WAY
8 OUT LOUD AND IN FRONT OF ANYONE ELSE THAT HE WANTED YOU
9 TO BE ANY SORT OF A SNITCH?

10 A NO.

11 Q IS IT FAIR TO SAY YOU THINK THAT HE TOOK
12 AN EFFORT TO TAKE YOU OUT OF ANY SORT OF GENERAL
13 POPULATION AND HAVE A PRIVATE CONVERSATION?

14 MR. DIXON: OBJECTION. CALLS FOR SPECULATION.

15 THE COURT: OVERRULED.

16 YOU CAN ANSWER.

17 THE WITNESS: HE DIDN'T COME TO THE CELL TO TAKE
18 ME OUT. ONE OF THE JAILERS CAME AND TOOK ME OUT.

19 Q BY MS. SARIS: SO THERE WAS NOTHING THAT
20 THE DETECTIVE DID THAT PUT YOU IN ANY PHYSICAL DANGER, OR
21 WAS THERE?

22 A NO. THE JAILOR TOLD EVERYBODY, THERE'S
23 TWO DETECTIVES FROM CALIFORNIA HERE TO TALK TO YOU.

24 Q AND WHO WAS IN THAT CELL WHEN THAT WAS
25 SAID? DO YOU RECALL? OR HOW MANY PEOPLE, LIKE ONE OR
26 TWO OR LIKE 50?

27 A PROBABLY FOUR.

28 Q OTHER WOMEN; CORRECT?

1 A YES, MA'AM.

2 Q WHEN YOU SPOKE TO DETECTIVE LILLIENFELD,
3 YOU WERE INCARCERATED IN GEORGIA; IS THAT RIGHT?

4 A HE HAD ME ARRESTED AND THEY TOOK ME TO
5 BLAIRSVILLE JAIL.

6 Q YOU'RE SAYING DETECTIVE LILLIENFELD HAD
7 YOU ARRESTED?

8 A YES, MA'AM.

9 Q YOU WERE WANTED OUT OF THE STATE OF TEXAS,
10 WERE YOU NOT?

11 A YES, MA'AM.

12 Q SO DETECTIVE LILLIENFELD, DID HE EXPLAIN
13 TO YOU THAT HE JUST PUT A WARRANT OR A HOLD FOR YOU IN
14 THE SYSTEM?

15 A YES, MA'AM.

16 Q BUT IF DETECTIVE LILLIENFELD HAD NEVER
17 EVEN EXISTED, YOU HAD A WARRANT PENDING FOR YOUR ARREST
18 OUT OF TEXAS?

19 MR. DIXON: OBJECTION. ARGUMENTATIVE.

20 THE COURT: SUSTAINED.

21 MR. DIXON: THANK YOU.

22 Q BY MS. SARIS: WELL, DO YOU KNOW WHETHER
23 OR NOT WHEN YOU WERE LIVING IN GEORGIA TRYING TO START
24 THIS NEW LIFE THAT YOU HAD A WARRANT IN TEXAS?

25 A OH, YES, MA'AM.

26 Q OKAY. SO THAT YOU WERE ARRESTED ON THE
27 TEXAS WARRANT? DETECTIVE LILLIENFELD DIDN'T ARREST YOU
28 FOR ANYTHING RELATING TO MICHAEL GOODWIN, DID HE?

1 A NO, HE JUST HAD ME ARRESTED.

2 Q HE HAD YOU PICKED UP ON THE WARRANT; IS
3 THAT FAIR?

4 A YES, MA'AM.

5 Q AND WHAT WAS IT IN TEXAS THAT -- HAD YOU
6 ALREADY DONE SOME TIME AND THEN YOU WERE ON PROBATION, OR
7 WHAT?

8 A YES, MA'AM.

9 Q AND WHAT WAS REQUIRED OF YOU THAT YOU
10 FAILED TO DO?

11 A TO COMPLETE THE PROBATION.

12 Q AND WHAT WOULD THAT HAVE ENTAILED?
13 SPECIFICALLY, HOW WERE YOU SUPPOSED TO COMPLETE THE
14 PROBATION? WHY DID A WARRANT ISSUE?

15 A I DON'T EXACTLY KNOW WHAT YOU MEAN.

16 Q OKAY. YOU GOT ARRESTED IN TEXAS AT SOME
17 POINT?

18 A YES, MA'AM.

19 Q AND THAT WAS FOR PASSING BAD CHECKS?

20 A YES, MA'AM.

21 Q AND DID YOU SHOW UP IN COURT AT ALL?

22 A YES, MA'AM.

23 Q AND WHEN YOU SHOWED UP IN COURT, DID YOU
24 PLEAD GUILTY OR DID YOU GO TO TRIAL?

25 A PLED GUILTY.

26 Q AND THEY PUT YOU ON PROBATION?

27 A YES, MA'AM.

28 Q DID THEY MAKE CERTAIN REQUIREMENTS OF YOU

1 WHILE YOU WERE ON --

2 A YES, MA'AM.

3 Q I'M SORRY. I HAVE TO FINISH THE QUESTION.

4 -- WHILE OUR PROBATION?

5 A YES, MA'AM.

6 Q AND WHAT REQUIREMENT WAS IT THAT YOU
7 FAILED TO DO THAT LED TO THIS WARRANT BEING PLACED?

8 A HAVE WEEKLY APPOINTMENTS.

9 Q SO YOU ACTUALLY HAD A PROBATION OFFICER
10 YOU WERE SUPPOSED TO REPORT TO?

11 A YES, MA'AM.

12 Q AND YOU JUST MOVED TO GEORGIA AND DIDN'T
13 DO IT?

14 A YES, MA'AM.

15 Q WHAT WAS THE -- THAT WAS A FELONY IN
16 TEXAS?

17 A YES, MA'AM.

18 Q IF YOU KNOW, WHAT WAS THE MAXIMUM
19 PUNISHMENT YOU WERE FACING BEFORE YOU PLED GUILTY?

20 MR. DIXON: OBJECTION. IRRELEVANT.

21 THE COURT: OVERRULE.

22 YOU CAN ANSWER.

23 THE WITNESS: TWO YEARS STATE JAIL.

24 Q BY MS. SARIS: AND YOU GOT SOME SORT OF A
25 BETTER DEAL THAN THAT WHEN YOU PLED GUILTY? DID YOU DO
26 ANY TIME WHEN YOU PLED GUILTY?

27 A NO. I HAD ALREADY BEEN IN JAIL AWAITING
28 GOING TO COURT.

1 Q AND WHEN YOU PLED GUILTY, THEY LET YOU
2 OUT?

3 A YES, MA'AM.

4 Q BUT YOU WERE ON PROBATION, SO THAT MEANT
5 IF YOU VIOLATED YOUR PROBATION, YOU COULD GO BACK TO
6 JAIL?

7 A YES, MA'AM. YES, MA'AM.

8 Q AND WAS IT YOUR UNDERSTANDING THAT YOU
9 COULD GO BACK FOR THE FULL TWO YEARS?

10 A IT WAS MY UNDERSTANDING I WOULD GO BACK.
11 THEY NEVER SAID EXACTLY HOW LONG I HAD TO GO BACK.

12 Q DID YOU EVER GET SENT BACK TO TEXAS?

13 A YES, MA'AM.

14 Q AND HOW MUCH TIME DID YOU WIND UP DOING?

15 A 116 DAYS AFTER I LEFT COURT. I DID OVER A
16 YEAR.

17 Q BUT 116 DAYS --

18 A IS WHAT I HAD TO DO WHEN I FIRST CAME TO
19 COURT FOR THE HEARING.

20 Q WHEN YOU WENT BACK TO TEXAS?

21 A YES, MA'AM, BUT I DID A YEAR.

22 Q A YEAR COUNTING THE TIME YOU DID
23 ORIGINALLY WHEN YOU PLED GUILTY?

24 A NO, THIS WAS A FRESH YEAR.

25 Q WHEN DID YOU DO THE YEAR?

26 A WHAT DO YOU MEAN?

27 Q I'M SORRY. I'M CONFUSED BETWEEN THE
28 DIFFERENCE OF 116 DAYS AND A YEAR. I'M NOT

1 UNDERSTANDING.

2 A OH. I WAS -- I WAS IN JAIL AT THE TIME
3 WHEN THEY CAME TO GET ME FOR THE FIRST COURT APPEARANCE,
4 SO I HAD TO GO BACK AFTER THAT AND COMPLETE 116 DAYS.

5 Q AND THEN YOU WENT TO GEORGIA, OR IS THAT
6 WHEN YOU WERE RETURNED FROM GEORGIA?

7 A NO, I WAS DONE. I WAS FINISHED.

8 Q I'M SORRY?

9 A ALL TIME DONE.

10 Q LET'S BACK UP BECAUSE I'M GETTING MYSELF
11 CONFUSED.

12 YOU GET ARRESTED IN TEXAS; CORRECT?

13 A YES, MA'AM.

14 Q YOU GET PLACED ON PROBATION; CORRECT?

15 A YES, MA'AM.

16 Q YOU WALK OUT THE DOOR AT SOME POINT OF A
17 COURTHOUSE OR A JAIL WITH INSTRUCTIONS TO SEE A PROBATION
18 OFFICER WEEKLY?

19 A YES, MA'AM.

20 Q AT THAT POINT, HOW MUCH TIME HAD YOU DONE
21 IN TEXAS?

22 A PROBABLY SIX MONTHS ON PROBATION.

23 Q HOW MUCH TIME HAD YOU DONE IN JAIL BEFORE
24 YOU PLED GUILTY?

25 A IT TAKES ABOUT FOUR MONTHS TO GET THROUGH
26 THE SYSTEM.

27 Q OKAY.

28 A IT DOESN'T MOVE REAL FAST.

1 Q THEN YOU WENT TO GEORGIA, YES?

2 A YES, MA'AM.

3 Q AND YOU GET ARRESTED ON THIS FUGITIVE
4 WARRANT?

5 A YES, MA'AM.

6 Q HOW LONG DID YOU SPEND IN CUSTODY IN
7 GEORGIA?

8 A I'M NOT SURE. NOT A LONG TIME. THEY WERE
9 JUST WAITING TO COME GET ME. I HAD NO CHARGES IN
10 GEORGIA.

11 Q RIGHT. YOU WERE JUST ARRESTED ON THE
12 TEXAS CASE?

13 A YES, MA'AM.

14 Q WHEN YOU WERE RETURNED TO TEXAS, FROM THE
15 MOMENT YOU WERE RETURNED TO TEXAS UNTIL YOU WALKED OUT
16 THE DOOR AGAIN, HOW LONG ARE WE TALKING?

17 A A YEAR.

18 Q OKAY. ON WHAT COULD HAVE BEEN A MAXIMUM
19 OF A TWO-YEAR CASE; IS THAT CORRECT?

20 A YES, MA'AM.

21 Q AND THAT WAS IN 2001 THAT YOU HAD THIS
22 CONVERSATION WITH DETECTIVE LILLIENFELD?

23 A YES, MA'AM.

24 Q WOULD YOU -- I'M GOING TO SAY A COUPLE OF
25 SHERIFFS' NAMES TO SEE IF YOU RECOGNIZE ANY OF THEM AS
26 THE PEOPLE THAT MAY HAVE CALLED YOU ORIGINALLY.

27 DO YOU THINK YOU MIGHT KNOW THE NAME IF
28 YOU HEARD IT?

1 A NO, MA'AM. I'M SORRY.

2 Q OKAY. DO YOU RECALL WHEN YOU SPOKE TO
3 DETECTIVE LILLIENFELD ON ANOTHER OCCASION INDICATING THAT
4 THE, QUOTE, "THREAT" YOU HEARD FROM MICHAEL GOODWIN TO
5 MICKEY THOMPSON WAS, "I'M GOING TO GET YOU BACK, I'M
6 GOING TO FIX YOU"? DO YOU RECALL THAT LANGUAGE?

7 MR. DIXON: OBJECTION. VAGUE AS TO TIME.

8 ANOTHER --

9 THE COURT: SUSTAINED.

10 MR. DIXON: THANK YOU.

11 Q BY MS. SARIS: DO YOU EVER RECALL THAT THE
12 LANGUAGE FROM MICHAEL GOODWIN AIMED AT MICKEY THOMPSON
13 IS, "I'M GOING TO GET YOU BACK. I'M GOING TO FIX YOU"?

14 A I DON'T QUITE UNDERSTAND. I'M SORRY.

15 Q THE PHRASES THAT YOU'VE INDICATED THAT YOU
16 OVERHEARD MICHAEL GOODWIN SAY TO MICKEY THOMPSON, AMONG
17 THE ONES YOU RECALL ARE, "FOR \$500 AND A MOTORCYCLE, I
18 CAN TAKE YOU OUT"?

19 A "I'M GOING TO TAKE YOU OUT," YES, MA'AM.

20 Q DO YOU EVER RECALL TELLING THEM ANOTHER
21 PHRASE OR A PHRASE YOU HEARD, "I'M GOING TO GET YOU
22 BACK"?

23 A YES, MA'AM.

24 Q DO YOU KNOW WHAT THAT REFERRED TO?

25 MR. DIXON: OBJECTION. SPECULATION.

26 THE COURT: SUSTAINED.

27 Q BY MS. SARIS: DID YOU HEAR AT ANY POINT
28 WHAT THAT MIGHT HAVE REFERRED TO?

1 A THEY WERE ALWAYS TALKING ABOUT MONEY.

2 Q THESE CALLS, DID THEY COME IN ON A REGULAR
3 PHONE LINE OR WAS THERE SOME SECRET LINE?

4 A JUST A REGULAR PHONE LINE.

5 Q AND YOU ANSWERED THE PHONE "MOTOR SPORTS"
6 OR THE NAME OF THE COMPANY AND "THIS IS KATHY"?

7 A YES.

8 Q THE EVENT THAT MICKEY THOMPSON WAS -- OR
9 THAT WE'VE TALKED ABOUT REGARDING THAT SPIES MAY BE SENT
10 TO, IN RELATION TO YOUR PHONE CALL, DO YOU KNOW WHEN THAT
11 EVENT WAS SUPPOSED TO BE?

12 A OH, I'M SORRY. I DON'T REMEMBER.

13 Q DO YOU REMEMBER TESTIFYING AT AN EARLIER
14 PROCEEDING THAT YOU THOUGHT THE EVENT WAS ABOUT A WEEK
15 AWAY FROM THE PHONE CALL THAT YOU HEARD?

16 A YES, MA'AM.

17 Q IS THAT POSSIBLE?

18 A VERY POSSIBLE.

19 Q DID YOU EVER GO -- MAYBE I ASKED YOU. LET
20 ME ASK YOU AGAIN, THOUGH.

21 DID YOU EVER GO TO AN EVENT WITH MICHAEL
22 GOODWIN AND MICKEY THOMPSON TOGETHER?

23 A NO, MA'AM.

24 Q DID YOU EVER HAVE A CONVERSATION WITH
25 MICKEY THOMPSON WHEREIN HE INDICATED THAT HE HAD GONE TO
26 ONE OF MICHAEL GOODWIN'S EVENTS?

27 A I DON'T REMEMBER. I'M SORRY. IT'S BEEN A
28 LONG TIME.

1 Q THESE NAMES THAT YOU HAVE TOLD US YOU MADE
2 UP, HORN AND JOHNSON, YOU JUST MADE THOSE UP OUT OF THIN
3 AIR?

4 A YES, MA'AM.

5 Q AND YOU FILLED OUT AN EMPLOYMENT
6 APPLICATION UNDER THE NAME OF JOHNSON WITH MR. GOODWIN;
7 IS THAT RIGHT?

8 A YES, MA'AM.

9 Q DID YOU FILL OUT ANY OTHER SORT OF
10 OFFICIAL DOCUMENTS WITH FAKE NAMES?

11 A JUST THE EMPLOYMENT APPLICATION.

12 Q WELL, THE NAME HORN, DID YOU EVER USE THAT
13 TO OPEN A BANK ACCOUNT OR --

14 A I DON'T RECALL.

15 Q WHAT WAS THE NAME THAT YOU WERE ARRESTED
16 IN TEXAS ON?

17 A WEESE.

18 Q THIS STUN GUN THAT YOU SAY YOU SAW IN
19 MICHAEL'S HOME, YOU SAY IT WAS IN A CARDBOARD BOX.

20 WAS IT IN THE ORIGINAL BOX THAT YOU
21 THOUGHT THE GUN CAME IN OR IN A BIG CARDBOARD BOX LIKE A
22 MOVING BOX?

23 A IT WAS JUST A REGULAR SIZE CARDBOARD BOX.
24 JUST A REGULAR SIZE.

25 Q SO IT WASN'T IN ITS ORIGINAL BOX LIKE YOU
26 WOULD BUY IN THE STORE, ONE OF THOSE KIND OF --

27 A NO, MA'AM.

28 Q WHAT COLOR WAS IT?

1 A BLACK.

2 MR. DIXON: OBJECTION. VAGUE. THE STUN GUN OR
3 THE BOX?

4 THE COURT: SUSTAINED.

5 Q BY MS. SARIS: WHAT COLOR WAS THE STUN
6 GUN?

7 A BLACK.

8 Q WHAT COLOR WAS THE BOX?

9 A CARDBOARD BROWN.

10 Q THANK YOU.

11 DO YOU RECALL WE HAD A LITTLE BIT OF A
12 CONVERSATION ABOUT THIS WHEN YOU INDICATED TO THE
13 DETECTIVE WHEN YOU WERE IN GEORGIA THAT YOU HAD BEEN IN
14 HIS HOME, THE DETECTIVE THEN SHOWED YOU THIS PHOTOGRAPH,
15 IS THAT CORRECT, OF THE STUN GUN?

16 A YES, MA'AM.

17 Q AND DO YOU RECALL SAYING TO HIM -- HIM
18 ASKING YOU: "HAVE YOU EVER SEEN IT?"

19 AND YOU ASKED HIM RIGHT AWAY, "OVER AT HIS
20 HOUSE?"

21 DO YOU RECALL THAT?

22 A YES, MA'AM.

23 Q DID YOU THINK THAT WHEN THE DETECTIVE WAS
24 COMING TO TALK TO YOU THAT HE WAS LOOKING FOR INFORMATION
25 THAT MIGHT IMPLICATE MICHAEL GOODWIN IN THE MURDER OF
26 MICKEY THOMPSON?

27 A WHEN I FIRST -- WHEN HE FIRST INTRODUCED
28 HIMSELF, HE SAID THAT HE WAS HERE FOR AN INVESTIGATION.

1 Q AND HE TOLD YOU HE WAS INVESTIGATING THE
2 MURDER OF MICKEY THOMPSON; CORRECT?

3 A YES.

4 Q YES?

5 A YES, MA'AM.

6 Q AND HE TOLD YOU HE WANTED TO ASK YOU
7 QUESTIONS SPECIFICALLY ABOUT MICHAEL GOODWIN; CORRECT?

8 A YES, MA'AM.

9 Q DO YOU KNOW, AS YOU SIT HERE NOW, HOW, IF
10 AT ALL, AN ITEM LIKE DEPICTED IN PEOPLE'S 31 WOULD RELATE
11 TO THIS CASE AT ALL?

12 MR. DIXON: OBJECTION. THIS IS ASKING HER TO
13 SPECULATE.

14 THE COURT: SUSTAINED.

15 YOU CAN REPHRASE IT.

16 Q BY MS. SARIS: HAVE YOU BEEN TOLD AT ALL
17 OF WHY AN ITEM LIKE A STUN GUN WOULD BE RELEVANT TO THIS
18 CASE OR TO THE PROSECUTION AT ALL?

19 A NO. I DON'T UNDERSTAND WHAT YOU MEAN.

20 Q WELL, DO YOU HAVE ANY IDEA THE ROLE A STUN
21 GUN MAY HAVE PLAYED IN THIS CRIME, IF ANY?

22 A YES, MA'AM.

23 Q OKAY. AND WHAT IS THAT, JUST TO YOUR
24 UNDERSTANDING?

25 A THAT IT WAS A BIG PART, BUT I DIDN'T KNOW
26 IT AT THE TIME.

27 Q AND HOW DID YOU GET THE INFORMATION THAT
28 YOU DO HAVE, WHATEVER IT IS, REGARDING THE STUN GUN AND

1 ITS BIG PART IN THE CRIME, HOW DID YOU GET THAT
2 INFORMATION?

3 A IT WAS DISCUSSED DURING SOME OF THE
4 PRELIMINARY -- OR SOME OF THE COURT PROCEEDINGS.

5 Q WELL, YOU'VE ALWAYS BEEN A WITNESS IN THE
6 PROCEEDINGS; CORRECT?

7 A YES, MA'AM.

8 Q SO YOU ARE NOT ALLOWED TO SIT AND HEAR THE
9 TESTIMONY OF OTHER WITNESSES?

10 A NO, MA'AM.

11 Q SO WHO DISCUSSED WITH YOU THAT A STUN GUN
12 MAY BE RELEVANT TO THIS CRIME?

13 A I'M NOT SURE. I'M NOT EVEN SURE OF IT,
14 BUT THE OFFICER DIDN'T. HE JUST ASKED ME ABOUT THE STUN
15 GUN AND I TOLD HIM I HAD SEEN IT AT MICHAEL'S HOUSE.

16 Q DO YOU THINK YOU GOT THAT OFF THE
17 TELEVISION?

18 A NO, MA'AM. BECAUSE I DIDN'T SEE IT ON
19 TELEVISION.

20 Q AND YOU WEREN'T THERE AT THE CRIME SCENE;
21 CORRECT?

22 A NO, MA'AM.

23 Q SO HOW DID YOU BECOME AWARE THAT THIS WAS
24 EVEN RELEVANT?

25 MR. DIXON: OBJECTION. ASKED AND ANSWERED AT
26 THIS POINT.

27 THE COURT: SUSTAINED.

28 THE WITNESS: I DON'T KNOW. I DON'T KNOW.

1 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

2 (PAUSE IN PROCEEDINGS.)

3 MS. SARIS: YOUR HONOR, WAS THE COURT PLANNING ON
4 AN AFTERNOON BREAK?

5 THE COURT: AS SOON AS YOU'RE DONE.

6 MS. SARIS: I JUST DON'T WANT TO WASTE THE JURY'S
7 TIME AND THERE IS ONE THING WE'RE LOOKING FOR.

8 THE COURT: HOW LONG IS IT GOING TO TAKE TO FIND
9 IT?

10 MS. SARIS: TEN MINUTES.

11 THE COURT: ALL RIGHT. WE WILL TAKE A 15-MINUTE
12 RECESS AT THIS TIME.

13 LADIES AND GENTLEMEN, PLEASE REMEMBER THE
14 ADMONITIONS. WE WILL SEE YOU BACK HERE IN 15 MINUTES.
15 IS.

16 (BRIEF RECESS.)

17 THE COURT: THE RECORD SHOULD REFLECT ALL OF OUR
18 JURORS AND ALTERNATES ARE PRESENT, PARTIES ARE PRESENT.

19 AND, MS. WEESE, YOU'RE STILL ON THE
20 WITNESS STAND. YOU HAVE BEEN PREVIOUSLY SWORN. YOU'RE
21 REMINDED THAT YOU'RE STILL UNDER OATH.

22 AND, MS. SARIS, YOU MAY CONTINUE
23 CROSS-EXAMINATION.

24 MS. SARIS: THANK YOU.

25 BY MS. SARIS:

26 Q MS. WEESE, I HAVE JUST A FEW MORE
27 QUESTIONS.

28 WHEN DETECTIVE LILLIENFELD CAME TO SEE YOU

1 IN GEORGIA, DO YOU RECALL TELLING HIM YOU WERE VERY GLAD
2 TO SEE HIM?

3 A YES, MA'AM.

4 Q AND PART OF WHY YOU WERE GLAD TO SEE HIM,
5 DO YOU RECALL, WAS THAT IF YOU COULD HELP GET THIS GUY --
6 MEANING MR. GOODWIN -- YOU WOULD DO ANYTHING?

7 A DEFINE "ANYTHING".

8 Q DID YOU SAY THAT TO HIM, IF YOU COULD HELP
9 GET THIS GUY, YOU WOULD DO ANYTHING?

10 A IF IT'S WRITTEN DOWN THAT I SAID THAT. I
11 DON'T REMEMBER SAYING IT IN THOSE WORDS.

12 Q DO YOU KNOW WHETHER OR NOT IT WAS TAPED?

13 A YES, MA'AM, IT WAS TAPED.

14 Q HAVE YOU EVER SEEN A TRANSCRIPT PREPARED
15 OF THAT TAPE RECORDING?

16 A YES, MA'AM.

17 Q HAS IT BEEN A WHILE SINCE YOU'VE SEEN IT?

18 A I THINK I REVIEWED IT A SHORT TIME AGO.

19 Q A SHORT TIME AGO? DO YOU RECALL IN THAT
20 TRANSCRIPT READING OR HEARING THE TAPE WHERE YOU SAID IF
21 I CAN DO ANYTHING --

22 A TO HELP.

23 Q -- IF I CAN HELP YOU GET THIS GUY, I'LL DO
24 ANYTHING?

25 A OKAY.

26 Q DO YOU RECALL THAT, OR WOULD YOU LIKE TO
27 LOOK AT A PAGE OF THE TRANSCRIPT?

28 A NO. I'M SURE THAT'S NOT EXACTLY WHAT I

1 MEANT. IT WAS TAKEN OUT OF CONTEXT.

2 BUT YES, MA'AM.

3 Q SO YOU DO RECALL SAYING THAT, YOU JUST
4 THINK IT MIGHT HAVE BEEN TAKEN OUT OF CONTEXT?

5 A YES, MA'AM.

6 Q DOES THE NAME WOLAVER, W-O-L-A-V-E-R, DOES
7 THAT MEAN ANYTHING TO YOU IN TERMS OF A NAME YOU MAY HAVE
8 USED IN THE PAST?

9 A YES, MA'AM, IT WAS A MADE UP NAME.

10 Q THAT WAS ANOTHER MADE UP NAME?

11 A YES.

12 Q PALOMBO, P-A-L-O-M-B-O, ANOTHER MADE UP
13 NAME?

14 A NO, MA'AM. THAT WAS SOMEBODY THAT I WAS
15 WITH.

16 Q THAT YOU -- BUT YOU TOOK AS YOUR LAST
17 NAME?

18 A YES, MA'AM.

19 Q SHERITON?

20 A NO, MA'AM, THAT WAS NOT MY NAME. NEVER
21 USED THAT.

22 Q NEVER ONE OF YOUR --

23 A NO, MA'AM.

24 Q AND WOLAVER, AGAIN, JUST MADE UP OUT OF
25 THE BLUE?

26 A YES, MA'AM.

27 Q WHEN YOU INDICATED THAT YOU HAD WALKED
28 AWAY FROM THIS COLORADO PRISON BECAUSE I THINK YOU

1 SAID --

2 MR. DIXON: MISSTATES THE EVIDENCE. IT WAS A
3 HALFWAY HOUSE.

4 MS. SARIS: I'M SORRY. I APOLOGIZE.

5 Q WHEN YOU WALKED AWAY FROM THE HALFWAY
6 HOUSE, THIS WAS AFTER YOU GOT RELEASED FROM SOME SORT OF
7 JAIL, YOU WERE IN A HALFWAY HOUSE?

8 A YES, MA'AM. IT'S AN HONOR CAMP, NOT A
9 HALFWAY HOUSE.

10 Q SO THIS ISN'T YOU THROWING SHEETS OVER A
11 BARBED WIRE AND SCALING DOWN A WALL?

12 A NO. GUNS WEREN'T BLASTING, DOGS WEREN'T
13 BARKING. IT WASN'T LIKE THAT.

14 Q OKAY. SO YOU WERE JUST SUPPOSED TO BE
15 SOMEWHERE AND YOU LEFT?

16 A YES, MA'AM.

17 Q AND YOU WERE SUPPOSED TO BE SOMEWHERE
18 LEGALLY BECAUSE YOU WERE SENTENCED THERE?

19 A YES, MA'AM.

20 Q AND YOU SAID THAT ONE OF THE REASONS THAT
21 YOU LEFT WAS BECAUSE YOU WERE BEATEN AND YOUR DAUGHTER
22 WAS ATTACKED?

23 A YES, MA'AM.

24 Q WAS YOUR DAUGHTER LIVING WITH YOU?

25 A OH, NO, MA'AM. THIS WAS A SEPARATE
26 INCIDENT.

27 Q DID YOU REPORT EITHER OF THOSE INCIDENTS
28 TO THE POLICE AT THE TIME?

1 A YES, MA'AM.

2 Q YOU DID? YOU CALLED THE POLICE?

3 A NO, I DIDN'T CALL THE POLICE. I TOLD
4 SOMEONE THERE. THERE WAS A SITUATION.

5 Q SOMEONE THERE AT THE FACILITY?

6 A YES, MA'AM.

7 Q AND THEN YOU STILL WALKED AWAY?

8 A YES, MA'AM.

9 Q WHAT MONTH WAS IT THAT YOU WALKED AWAY OR
10 WHAT YEAR? DO YOU REMEMBER?

11 A I'M SORRY. I DON'T REMEMBER. IT WAS
12 YEARS AGO.

13 Q OKAY. LET ME ASK IT THIS WAY: YOU CAME
14 TO WORK FOR MICHAEL IN JANUARY OF '86. WAS THAT -- AND
15 YOU WALKED AWAY FROM THE COLORADO HALFWAY HOUSE SOME TIME
16 BEFORE THEN?

17 A YES, MA'AM.

18 Q WEEKS? MONTHS? YEARS?

19 A JUST WEEKS. YES, MA'AM.

20 Q WHEN YOU TESTIFIED IN THE MATTER THAT WE
21 SPOKE ABOUT WHEN YOU WERE ORANGE COUNTY, DO YOU REMEMBER
22 US TALKING ABOUT THAT BEFORE THE BREAK?

23 A YES, MA'AM.

24 Q YOU WERE ACTUALLY IN CUSTODY THEN, WERE
25 YOU NOT?

26 A YES, MA'AM.

27 Q SO YOU DEFINITELY WEREN'T ALLOWED TO SIT
28 THROUGH THE OTHER PEOPLE GIVING THEIR TESTIMONY?

1 A NO, MA'AM.

2 Q AND YOU HAD SAID THAT YOU HAD BEEN
3 CONTACTED BY THE SHERIFF'S DEPARTMENT -- PERHAPS I HEARD
4 YOU WRONG YOU.

5 I THOUGHT YOU SAID YOU WERE CONTRACTED
6 WHEN YOU WERE SENT BACK TO THE COLORADO FACILITY.

7 IS THAT INCORRECT?

8 A NO. IT IS INCORRECT. I WAS CONTACTED
9 WHILE I WAS IN CUSTODY, BUT I WASN'T IN THE PRISON. I
10 WAS IN ANOTHER FACILITY WHEN I WAS CONTACTED.

11 Q OKAY. SO WHEN YOU GOT -- YOU HAD TO SPEND
12 THIS EIGHT MONTHS IN JAIL CLEARING YOUR NAME ON THIS
13 CHARGE THAT MICHAEL GOODWIN HAD PUT ON YOU, YES?

14 A YES, MA'AM.

15 Q THEN YOU GOT SENT BACK TO COLORADO. YOU
16 SAID YOU DIDN'T GET EXTRA TIME, BUT YOU HAD TO FINISH OUT
17 YOUR TIME?

18 A YES, MA'AM.

19 Q HOW LONG DID YOU HAVE TO FINISH?

20 A A VERY SHORT PERIOD OF TIME. AND THEN
21 THEY SENT ME BACK TO THE HONOR CAMP AND THAT'S WHERE I
22 WAS RELEASED FROM.

23 Q AND HOW LONG WERE YOU IN THE HONOR CAMP?

24 A A SHORT PERIOD OF TIME. NOT VERY LONG.

25 Q OKAY. WELL, IF YOU SPENT ABOUT EIGHT
26 MONTHS IN CALIFORNIA FIGHTING THIS EMBEZZLEMENT CHARGE
27 AND YOU GOT ARRESTED IN MAY OF '86, WE'RE TAKEN TO EARLY
28 '87 THAT YOU WOULD HAVE BEEN RETURNED TO COLORADO,

1 APPROXIMATELY.

2 A IT WOULD BE --

3 Q WELL, YOU SAID EIGHT MONTHS; RIGHT? IS
4 THAT "YES"?

5 A YES, MA'AM.

6 Q AND THESE MURDERS DIDN'T HAPPEN UNTIL
7 MARCH OF 1988.

8 SO WERE YOU STILL IN CUSTODY A FULL YEAR
9 LATER?

10 A YES, MA'AM. IT TAKES A WHILE TO GET
11 THROUGH THE SYSTEM.

12 Q AND THE SHERIFFS CONTACTED YOU WHILE YOU
13 WERE IN CUSTODY?

14 A I WAS AT AN HONOR CAMP, YES, MA'AM.

15 Q AND UNDER WHAT NAME WERE YOU IN THE HONOR
16 CAMP?

17 A UNDER WHAT NAME WAS I --

18 MR. DIXON: OBJECTION. VAGUE. WHERE?

19 THE COURT: SUSTAINED.

20 Q BY MS. SARIS: IN THE HONOR CAMP THAT
21 YOU -- YOU SAID YOU CAME BACK TO COLORADO, YES?

22 A YES, MA'AM.

23 Q AND YOU HAD TO DO SOME TIME STILL IN AN
24 HONOR CAMP --

25 A OKAY. NO --

26 Q -- TO FINISH OUT YOUR SENTENCE?

27 A -- YOU'RE AUTOMATICALLY RETURNED TO THE
28 CORRECTIONAL FACILITY.

1 Q OKAY. UNDER WHAT NAME?

2 A UNDER THE NAME THAT I WAS INCARCERATED.
3 AND I BELIEVE IT WAS ENGLIS AT THAT TIME.

4 Q AND THEN WHEN YOU WENT FROM THAT
5 FACILITY --

6 A THEN YOU HAVE TO GO BACK THROUGH COURT
7 AGAIN. YOU ARE STILL DETAINED. YOU GO BACK THROUGH
8 COURT. AND THAT TAKES A WHILE TO GET BACK THROUGH THE
9 SYSTEM. IT DOESN'T MOVE VERY FAST.

10 Q AND THE WHOLE TIME, THEN, THAT YOU WERE
11 FINISHING UP IN COLORADO, YOU WERE UNDER THE NAME INGLES?

12 A YES, MA'AM.

13 Q AND THAT'S I-N-G-L --

14 A -- I-S. YES, MA'AM.

15 Q YOU INDICATED THAT THERE WAS A GENTLEMAN
16 WITH YOU WHEN YOU HOUSE SAT BY THE NAME OF DONALD?

17 A YES, MA'AM.

18 Q WHAT KIND OF CAR DID HE HAVE?

19 A HE HAD A BLUE TOYOTA TRUCK, I BELIEVE.

20 Q AND WHAT OFFICE DID YOU WORK IN? DO YOU
21 RECALL THE ADDRESS OR THE LOCATION WHEN YOU WORKED FOR
22 MR. GOODWIN?

23 A I WAS IN THE LAGUNA AREA.

24 Q WE'VE HEARD TESTIMONY ABOUT EL TORO AND
25 NEWPORT BEACH.

26 A NO, IT WASN'T THERE. NO, MA'AM.

27 Q IT WAS LAGUNA?

28 A YES, MA'AM.

1 Q WAS IT AN ACTUAL OFFICE BUILDING OR A HOME
2 OFFICE THAT YOU WORKED IN EVERY DAY?

3 A HOME OFFICE.

4 Q YOU WORKED IN MICHAEL GOODWIN'S HOME
5 OFFICE?

6 A NO. NO. I THOUGHT YOU MEANT THE HOME
7 OFFICE LIKE THE MAJOR CORPORATION OFFICE.

8 Q NO. I MEAN LIKE AN OFFICE BUILDING?

9 A YES, MA'AM.

10 Q DO YOU HAPPEN TO KNOW THE ADDRESS OR THE
11 STREET?

12 A NO.

13 Q THERE WAS A GENTLEMAN WHO WAS IN THE
14 HALLWAY EARLIER BY THE NAME OF SCOTT HERNANDEZ.

15 DO YOU KNOW WHO THAT IS?

16 A YES, MA'AM.

17 Q DID YOU WORK WITH HIM?

18 A YES, MA'AM.

19 Q DID YOU EVER HEAR ANY OF THE CONVERSATIONS
20 THAT YOU PUT THROUGH TO MICHAEL WHEN MICKEY -- STRIKE
21 THAT.

22 WHEN MICKEY THOMPSON WOULD CALL AND ASK
23 FOR MICHAEL GOODWIN, DID MICHAEL GOODWIN EVER PUT ANY OF
24 THOSE CALLS ON A SPEAKER PHONE?

25 A YES, MA'AM, HE DID.

26 Q IN ANY OF THOSE SITUATIONS, DID YOU EVER
27 HEAR MICKEY THOMPSON ASK MICHAEL GOODWIN FOR MONEY?

28 A YES, MA'AM. THEY ALWAYS TALKED ABOUT

1 MONEY.

2 Q I'M NOT ASKING ABOUT WHETHER THEY TALKED
3 ABOUT MONEY. YOU HAD SAID PREVIOUSLY THAT MR. GOODWIN
4 ASKED MR. THOMPSON FOR MONEY OR FELT MR. THOMPSON OWED
5 HIM MONEY.

6 IS THAT FAIR?

7 A YES, MA'AM.

8 Q DID YOU EVER HEAR THE OPPOSITE WHERE
9 MR. THOMPSON FELT MR. GOODWIN OWED HIM MONEY?

10 A I THINK YOU JUST SAID THAT.

11 Q YOU INDICATED THAT MR. GOODWIN -- MICHAEL
12 GOODWIN WAS CONSTANTLY TELLING MICKEY THOMPSON YOU OWE ME
13 MONEY, YES?

14 A YES, MA'AM.

15 Q DID MICKEY THOMPSON EVER TELL MICHAEL
16 GOODWIN THAT YOU HEARD, MICHAEL GOODWIN YOU OWE ME MONEY?

17 A YES, MA'AM.

18 Q DID YOU EVER HEAR AN AMOUNT?

19 A NO, MA'AM. IT'S ALWAYS -- NO. NO, MA'AM.

20 MS. SARIS: MAY I HAVE JUST A MOMENT?

21 (PAUSE IN PROCEEDINGS.)

22 MS. SARIS: THANK YOU, YOUR HONOR. NOTHING
23 FURTHER.

24 THE COURT: REDIRECT?

25 MR. DIXON: JUST A COUPLE OF QUESTIONS.

26
27 REDIRECT EXAMINATION

28 BY MR. DIXON:

1 Q YOU SAID THAT -- YOU WERE ASKED SOME
2 QUESTIONS ABOUT THIS, ABOUT THE TEXAS CASE AND BAD
3 CHECKS.

4 A YES, MA'AM -- SIR. YES, SIR.

5 Q AND I THINK YOU TOLD THE DEFENSE ATTORNEY
6 THAT YEAH, YOU DIDN'T HAVE ANY MONEY AND YOU WROTE SOME
7 BAD CHECKS?

8 A YES, SIR. I HAD CANCER AND I HAD A
9 TWO-AND-A-HALF POUND TUMOR, AND SO I WROTE THE CHECKS,
10 \$2300 TO PAY FOR SOME MEDICAL TREATMENT, AND THAT'S WHY I
11 WROTE THE CHECKS.

12 Q OKAY.

13 A BUT IT WAS MY OWN CHECKS. IT WASN'T
14 ANYBODY ELSE'S. IT WAS MY OWN.

15 Q THANKS.

16 AND THEN YOU ALSO SAID THAT BEFORE
17 DETECTIVE LILLIENFELD SHOWED UP THAT YOU'D GONE TO
18 GEORGIA, I THINK, WHEN YOU SAID IT WAS TO START A NEW
19 LIFE?

20 A YES, SIR.

21 Q DID HE INTERRUPT THAT?

22 A YES, SIR, HE DID. YES, HE DID.

23 Q SINCE THEN HAVE YOU DONE THAT AND STARTED
24 A NEW LIFE?

25 A YES, SIR, I HAVE.

26 Q WHERE ARE YOU?

27 A I'VE BEEN ON THE SAME JOB FOR FOUR YEARS
28 AND 32 DAYS. I'VE NEVER MISSED A DAY'S WORK EXCEPT TODAY

1 I'M HERE.

2 THE COURT: WE WILL GIVE YOU A NOTE.

3 THE WITNESS: THANK YOU. THANK YOU.

4 Q BY MR. DIXON: THE JUDGE CAN GIVE YOU AN
5 EXCUSE.

6 A I BROUGHT A LITTLE TINY HOUSE, IT'S ANY
7 BIGGER THAN A MINUTE. I HAVE WONDERFUL FRIENDS, A GREAT
8 LIFE. WOULDN'T EVEN CONSIDER DOING ANYTHING WRONG. I
9 JUST WOULDN'T. I HAVE A GOOD LIFE.

10 Q THANK YOU SO MUCH.

11 A I HAVE A GOOD LIFE.

12 MR. DIXON: THANK YOU. NOTHING FURTHER, YOUR
13 HONOR.

14 THE COURT: ANYTHING ANY FURTHER CROSS?

15 MS. SARIS: JUST BRIEFLY.

16

17 RECROSS EXAMINATION

18 BY MR. SARIS:

19 Q WHEN YOU WENT TO GEORGIA TO START A NEW
20 LIFE, YOU HAD A WARRANT OUT FOR YOUR ARREST IN TEXAS,
21 YES?

22 A I KNEW THERE WOULD BE ONE COMING, YES,
23 MA'AM.

24 MS. SARIS: OKAY. NOTHING FURTHER.

25 THE COURT: ANYTHING ELSE?

26 MR. DIXON: NO. THANK YOU, YOUR HONOR. NOTHING
27 FURTHER.

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

1 MR. DIXON: MAY THIS WITNESS BE EXCUSED?

2 THE COURT: THANK YOU. YOU'RE EXCUSED.

3 THE WITNESS: OH, THANK YOU. THANK YOU.

4 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

5 MR. JACKSON: THANK YOU, YOUR HONOR, RONALD
6 STEVENS TO THE STAND, PLEASE.

7 THE CLERK: SIR, PLEASE STATE RAISE YOUR RIGHT
8 HAND.

9
10 RONALD STEVENS,
11 CALLED BY THE PEOPLE AS A WITNESS, WAS
12 SWORN AND TESTIFIED AS FOLLOWS:

13
14 THE CLERK: SIR, PLEASE STATE RAISE YOUR RIGHT
15 HAND.

16 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
17 YOU MAY 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 THE CLERK: THANK YOU PLEASE BE SEATED. SIR,
22 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
23 NAME FOR THE RECORD.

24 THE WITNESS: RONALD STEVENS, R-O-N-A-L-D,
25 S-T-E-V-E-N-S.

26 THE CLERK: THANK YOU.

27 THE COURT: YOU MAY INQUIRE.

28 MR. JACKSON: THANK YOU, YOUR HONOR.

1 DIRECT EXAMINATION

2 BY MR. JACKSON:

3 Q MR. STEVENS, HOW ARE YOU?

4 A I'M DOING FINE. THANK YOU.

5 Q GOOD. GOOD.

6 MR. STEVENS, DO ME A FAVOR, TELL THE
7 JURORS WHAT YOU DO FOR A LIVING CURRENTLY.

8 A I'M RETIRED RIGHT NOW.

9 Q WHAT DID YOU USED TO DO?

10 A I WAS A CONTRACTOR.

11 Q OKAY. I WANT TO DRAW YOUR ATTENTION --
12 FOCUS YOUR ATTENTION BACK TO THE 1980'S, SPECIFICALLY IN
13 1988.

14 WERE YOU A CONTRACTOR BACK THEN?

15 A YES, I WAS.

16 Q AND WHERE DID YOU LIVE? WHERE WAS YOUR
17 RESIDENCE?

18 A IN BRADBURY. DO YOU WANT THE ADDRESS?

19 Q YES, I DO, AS A MATTER OF FACT.

20 A 645 MT. OLIVE DRIVE.

21 Q ALL RIGHT. WHERE IS -- FOR THOSE OF US
22 WHO ARE UNINITIATED -- DON'T KNOW BRADBURY VERY WELL --
23 WHERE IS THE 600 BLOCK OF MT. OLIVE DRIVE? WHAT IS THE
24 CROSS STREET?25 A GARDI AVENUE. I THINK IT'S AVENUE. IT'S
26 GARDI.27 Q OKAY. DID YOU LIVE ON THE EXACT CORNER OF
28 MT. OLIVE AND GARDI?

1 A YES, I DID.

2 Q AND WHERE IS THAT IN RELATION TO ROYAL
3 OAKS DRIVE?

4 A IT'S A BLOCK NORTH OF ROYAL OAKS.

5 Q OKAY. I'M GOING TO -- I THOUGHT I WAS --
6 OH, HERE WE GO.

7 MR. JACKSON: YOUR HONOR, I WOULD LIKE TO MARK AS
8 PEOPLE'S NEXT IN ORDER WHAT APPEARS TO BE A GRAPHIC
9 REPRESENTATION INCLUDING FOUR PHOTOGRAPHS, THREE
10 RELATIVELY SMALL PHOTOGRAPHS AND ONE LARGER PHOTOGRAPH.
11 I'M GOING TO DIRECT THE WITNESS'S ATTENTION TO THE LARGER
12 PHOTOGRAPH.

13 THE COURT: ALL RIGHT. THAT WILL BE MARKED AS
14 PEOPLE'S 32 FOR IDENTIFICATION.

15 MR. JACKSON: THANK YOU, YOUR HONOR.

16 (People's Exhibit No. 32 was marked for
17 identification.)

18 MR. JACKSON: YOUR HONOR, MAY I APPROACH THE
19 WITNESS?

20 THE COURT: YES.

21 MR. JACKSON: THANK YOU.

22 Q I WANT TO DIRECT YOUR ATTENTION JUST TO
23 THE LARGER OF THE FOUR PHOTOGRAPHS, AND ASK YOU IF YOU
24 RECOGNIZE -- LET'S SEE IF I CAN FIND IT WITH THE POINTER.
25 THERE YOU GO.

26 IF YOU LOOK VERY CAREFULLY ON THAT
27 ENLARGEMENT, DO YOU SEE WHERE MY POINTER IS? WHERE IT
28 SAYS STEVENS' HOUSE?

1 A YES, I DO.

2 Q FOLLOW MY POINTER, IF YOU WILL, AND LET ME
3 ASK YOU A COUPLE OF FOUNDATIONAL QUESTIONS.

4 DO YOU SEE THE ROAD ALONG WHICH MY POINTER
5 IS TRAVELING RIGHT NOW (INDICATING)?

6 A YES.

7 Q WHAT ROAD IS THAT?

8 A GARDI.

9 Q AND DO YOU SEE THE HIGHLIGHTED PORTION
10 WHERE MY POINTER IS TRAVELING NORTH AND SOUTH -- LET'S
11 SAY, UP AND DOWN BECAUSE I'M NOT SURE IF THIS IS, IN
12 FACT, NORTH AND SOUTH (INDICATING).

13 DO YOU SEE THAT?

14 A YES.

15 Q WHAT IS THAT?

16 A MT. OLIVE DRIVE.

17 Q AND DO YOU SEE AN INDICATION ON THAT
18 REPRESENTATION IN FRONT OF YOU WHERE IT SAYS MT. OLIVE,
19 KIND OF AT AN ANGLE --

20 A YES.

21 Q -- IS THAT DIRECTLY ON THE ROAD MT. OLIVE
22 DRIVE?

23 A YES.

24 MS. SARIS: YOUR HONOR, I'M SORRY TO INTERRUPT.
25 WHEN HE POINTS THE POINTER, CAN WE HAVE THAT DESCRIBED
26 FOR THE RECORD?

27 THE COURT: YES, WE SHOULD.

28 MR. JACKSON: I'M IN THE PROCESS OF DOING THAT

1 RIGHT NOW.

2 Q THE SECOND ROAD THAT I POINTED TO THAT'S
3 UP AND DOWN, THAT'S ACTUALLY MARKED MT. OLIVE DRIVE.

4 IS THAT CONSISTENT WITH WHERE MT. OLIVE
5 DRIVE ACTUALLY EXISTS?

6 A YES.

7 Q THE FIRST ROAD THAT I INDICATED, LEFT AND
8 RIGHT, THAT WAS JUST BENEATH WHERE IT SAYS "STEVENS'
9 HOUSE", THERE IS A BIG RED ARROW THERE; CORRECT?

10 A YES.

11 Q WHAT STREET IS THAT?

12 A GARDI.

13 Q SO THE CORNER OF MT. OLIVE AND GARDI IS
14 WHERE MY POINTER WAS JUST A SECOND AGO AND WHERE IT'S
15 REPRESENTED AS "STEVENS' HOUSE"; CORRECT?

16 A YES.

17 Q CLEAR AS MUD.

18 HOW LONG DID YOU LIVE THERE?

19 A 29 YEARS.

20 Q DESCRIBE THE PROPERTY FOR ME, IF YOU
21 WOULD, MR. STEVENS. WHAT DOES THE PROPERTY LOOK LIKE?
22 IT'S VERY DIFFICULT FOR THE JURORS TO SEE IT HERE.

23 A IT'S A RECTANGLE LOT. ON THE LOWER
24 PORTION WHERE GARDI IS, IS A CORRAL. AND THEN ABOVE THE
25 CORRAL IS A DRIVEWAY THAT ENTERS THE GARAGE. AND THEN A
26 CIRCULAR DRIVEWAY ALONG WITH THAT THAT'S IN FRONT OF THE
27 HOUSE AND THEN THE HOUSE SITS THERE.

28 Q DOES THE HOUSE ACTUALLY SIT ON THE SAME

1 PROPERTY AS THE CORRAL?

2 A YES, IT DOES.

3 Q AND HOW BIG IS THIS CORRAL?

4 A IT'S PROBABLY 70 OR 80 FEET WIDE AND
5 100 SOME FEET LONG.

6 Q OKAY. AND WHAT WAS IT A CORRAL FOR?

7 A HORSES.

8 Q DID YOU ACTUALLY OWN HORSES?

9 A AT ONE TIME, YES.

10 Q AND THEY WOULD LINGER, IF YOU WILL, AT
11 THEIR LEISURE IN THE FRONT OF THE HOUSE?

12 A THAT'S THE SIDE OF THE HOUSE, YES.

13 Q IS THERE A BIG FENCE THERE?

14 A YES.

15 Q HOW TALL IS THAT FENCE?

16 A IT'S FIVE FOOT HIGH.

17 Q AND WHAT DOES THAT FENCE LOOK LIKE?

18 A IT'S TYPICAL WHITE RAIL FENCE USUALLY
19 AROUND CORRALS. IT'S PAINTED WHITE WITH A STEEL FENCE
20 POST.

21 Q SO IS IT A FENCE THAT YOU CAN ACTUALLY SEE
22 THROUGH?

23 A YES.

24 Q AND IF I WERE TO WALK UP TO IT, YOU SAID
25 IT'S ABOUT FIVE FEET HIGH --

26 A THERE IS THREE RAILS ON THE FENCE. IT'S
27 ABOUT FIVE FOOT HIGH. THE FIRST RAIL IS I THINK 18 OR 20
28 INCHES OFF THE GROUND AND THEN THE SECOND ONE IS BETWEEN

1 THAT AND THE THIRD ONE IS BETWEEN FOUR AND FIVE FEET
2 HIGH, DEPENDING ON WHERE YOU'RE AT.

3 IT RUNS LEVEL, AND WHERE THE GROUND
4 SLOPES, YOU MIGHT BE FIVE FEET, MAYBE FOUR FEET.

5 Q OKAY. SO AT ITS HEIGHT, AT THE TALLEST
6 RAIL OF THE FENCE, IT MIGHT BE CHEST LEVEL TO SOMEONE
7 ABOUT MY HEIGHT; CORRECT?

8 A YES.

9 Q AND I'M WHAT WOULD YOU GUESS? HOW TALL
10 WOULD YOU THINK I AM?

11 A PROBABLY SIX ONE.

12 Q BOY, THAT'S OUTSTANDING.

13 THE COURT: I THINK MS. SARIS WANTS TO MARK YOU
14 AS AN EXHIBIT.

15 MS. SARIS: I THINK SO. AT LEAST GET HIS ACTUAL
16 HEIGHT FOR THE RECORD.

17 MR. JACKSON: YOUR HONOR, I'M APPROXIMATELY FIVE
18 ELEVEN. PATHETIC, ISN'T IT?

19 Q ALL RIGHT. HOW TALL ARE YOU? THAT'S THE
20 MORE IMPORTANT QUESTION.

21 A FIVE ELEVEN.

22 Q SEE, LOOK AT YOU.

23 A WELL, I LOOK UP TO YOU.

24 Q ALL RIGHT. THERE YOU GO.

25 WHO DID YOU LIVE THERE WITH BACK IN THE
26 '80S?

27 A MY WIFE AND FAMILY.

28 Q OKAY. AND APPROXIMATELY HOW TALL IS YOUR

1 WIFE?

2 A SHE IS PROBABLY FIVE, FIVE.

3 Q OKAY. COULD BOTH OF YOU SEE OVER THAT
4 FENCE, MR. STEVENS?

5 A YES.

6 MS. SARIS: OBJECTION AS TO WHETHER OR NOT THEY
7 COULD SEE MOTION TO STRIKE.

8 THE COURT: ALL RIGHT. SUSTAINED.

9 Q BY MR. DIXON: IS SHE TALL ENOUGH TO WHERE
10 HER EYE LEVEL WOULD BE HIGHER THAN THE TOP RAIL OF THE
11 FENCE?

12 A YES.

13 Q AND YOU COULD SEE OVER THE FENCE; RIGHT?

14 A YES.

15 Q DO YOU REMEMBER -- YOU WERE A RESIDENT OF
16 BRADBURY IN THE '80S, YOU INDICATED?

17 A YES, I WAS.

18 Q WERE YOU A RESIDENT RIGHT THERE AT THE
19 CORNER OF GARDI AND MT. OLIVE IN MARCH OF 1988?

20 A YES, I WAS.

21 Q DO YOU REMEMBER WHEN MICKEY THOMPSON WAS
22 KILLED?

23 A YES, I DO.

24 Q WAS THAT MARCH 16, 1988?

25 A I'M NOT POSITIVE OF THE DATE, BUT THAT
26 SOUNDS --

27 Q WAS IT IN THE SPRING TIME OF 1988?

28 A UH-HUH.

1 Q IS THAT A "YES," BY THE WAY?

2 A YES.

3 Q USING THAT TIME, WHEN YOU LEARNED THAT
4 MICKEY THOMPSON HAD BEEN KILLED AS A REFERENCE --

5 MS. SARIS: I'M SORRY, OBJECTION, YOUR HONOR.
6 MISSTATES THE EVIDENCE AS TO WHEN HE LEARNED IT.

7 THE COURT: TRY TO REPHRASE THAT.

8 MR. JACKSON: SURE.

9 Q WHEN DID YOU -- LET ME ASK IT THIS WAY:
10 DID YOU LEARN THAT MICKEY THOMPSON HAD BEEN KILLED ON THE
11 DAY THAT THEY REPORTED THAT HE HAD ACTUALLY DIED?

12 A YES.

13 Q USING THAT DATE AS A REFERENCE DATE,
14 MR. STEVENS, AT SOME POINT PREVIOUS TO THAT DATE, DID
15 SOMETHING UNUSUAL HAPPEN IN YOUR NEIGHBORHOOD?

16 A YES, IT DID.

17 Q DESCRIBE -- FIRST OF ALL, LET'S GET THE
18 TIME FRAME DOWN.

19 HOW MANY DAYS, WEEKS OR MONTHS BEFORE
20 MICKEY THOMPSON WAS MURDERED DID THIS UNUSUAL EVENT
21 OCCUR?

22 A IT WAS WITHIN A WEEK, I THINK. I CAN'T BE
23 EXACTLY SURE, BUT YES.

24 Q COULD IT HAVE BEEN LONGER THAN A WEEK OR
25 SHORTER THAN A WEEK?

26 A NOT MUCH LONGER. AND IT COULD HAVE BEEN
27 SHORTER THAN THAT TIME PERIOD.

28 Q IS IT SAFE IS TO SAY THAT IT WAS WITHIN

1 DAYS?

2 MS. SARIS: OBJECTION. LEADING.

3 THE COURT: SUSTAINED.

4 Q BY MR. JACKSON: IF YOU HAD TO ESTIMATE
5 THE NUMBER OF DAYS PREVIOUS TO THE MICKEY THOMPSON AND
6 TRUDY THOMPSON MURDERS, HOW MANY DAYS WOULD YOU ESTIMATE
7 IT BEING?

8 A PROBABLY FOUR OR FIVE.

9 Q ALL RIGHT. DESCRIBE FOR THE JURORS, IF
10 YOU WILL, PLEASE, WHAT THE UNUSUAL OCCURRENCE WAS.

11 A DO YOU WANT ME TO EXPLAIN HOW IT HAPPENED?

12 Q THAT'S EXACTLY WHAT I WANT.

13 A I CAME HOME FROM WORK DURING THE DAY, IT
14 WAS ABOUT 11 O'CLOCK, I THINK, 11:00 OR 12:00. AND AS I
15 CAME OVER GOING INTO BRADBURY THERE IS A LITTLE KNOLL,
16 AND AS I CAME OVER THE LITTLE KNOLL, I SAW A CAR PARKED
17 ALONG MY CORRAL. IT WAS ON THE WRONG SIDE OF THE STREET
18 AND I SAW SOMEONE IN THERE WITH BINOCULARS.

19 AND I THOUGHT THEY WERE LOOKING AT A
20 GRAMMAR SCHOOL RIGHT AT THE END OF GARDI THE OTHER WAY.
21 ABOUT EIGHT OR NINE HOUSES DOWN THERE IS A GRAMMAR SCHOOL
22 AND I THOUGHT THAT SOMEONE WAS LOOKING TOWARDS THE
23 GRAMMAR SCHOOL WITH BINOCULARS.

24 I PULLED INTO MY DRIVEWAY --

25 Q I WANT TO INTERRUPT YOU FOR JUST A QUICK
26 SECOND SO THAT THE JURORS CAN KEEP UP WITH YOU AND I CAN
27 KEEP UP WITH YOU.

28 WHEN YOU SAY THAT THE PERSON WAS PARKED ON

1 THE WRONG SIDE OF THE STREET, COULD YOU DESCRIBE FOR
2 PURPOSES OF WHAT HAS BEEN MARKED AS PEOPLE'S 32, I
3 BELIEVE, WHERE ON GARDI WAS THE CAR ACTUALLY PARKED?

4 A RIGHT AT THE TIP OF THAT RED ARROW
5 (INDICATING). AND IT WAS POINTING EAST. IT WAS ON THE
6 LEFT-HAND SIDE OF THE STREET -- WELL, THE SIDE OF MY
7 CORRAL, BUT IT WAS POINTING TOWARDS THE SCHOOL WHICH IS
8 EAST.

9 Q ALL RIGHT. SO AS I'M STANDING HERE, I'VE
10 GOT MY POINTER AT THE TIP OF AN ARROW (INDICATING).

11 IS THAT CONSISTENT WITH WHERE YOU SAW THE
12 CAR?

13 A YES.

14 MR. JACKSON: YOUR HONOR, FOR THE RECORD, ON
15 PEOPLE'S 32 THERE IS AN ARROW THAT'S JUST BENEATH THE
16 WORDS "STEVENS' HOUSE," I HAD MY POINTER AT THE TIP OF
17 THAT ARROW.

18 THE COURT: YES, THE RECORD WILL REFLECT.

19 MS. SARIS: YOUR HONOR, I'M SORRY. CAN WE PULL
20 THE MIC DOWN JUST A LITTLE BIT TO THE WITNESS? WE'RE
21 HAVING TROUBLE HEARING.

22 THANK YOU.

23 Q BY MR. JACKSON: ALL RIGHT. MR. STEVENS,
24 I WILL BRING THAT BACK TO YOU IN JUST A SECOND. I WANT
25 TO HIGHLIGHT A COUPLE OTHER PHOTOGRAPHS ON THAT SAME
26 EXHIBIT, PEOPLE'S 32.

27 TAKING A LOOK, MR. STEVENS, AT PEOPLE'S
28 32, WHAT HAS BEEN MARKED SUBPHOTOGRAPH A AND

1 SUBPHOTOGRAPH B --

2 MR. JACKSON: AND FOR THE RECORD, YOUR HONOR,
3 THERE ARE TWO PHOTOGRAPHS THAT ARE MARKED A AND B ON THE
4 RIGHT SIDE OF THAT EXHIBIT.

5 THE COURT: YES.

6 Q BY MR. JACKSON: DIRECTING YOUR ATTENTION,
7 MR. STEVENS, TO PHOTOGRAPHS A AND B -- WELL, LET'S TAKE
8 A, FIRST OF ALL.

9 DO YOU SEE WHAT IS DEPICTED IN THAT
10 PHOTOGRAPH, SUB A?

11 A YES.

12 Q WHAT IS THAT? WHAT IS THAT A PICTURE OF?

13 A THAT'S A PICTURE OF A CAR PARKED ON GARDI
14 RIGHT NEAR MY CORRAL.

15 Q DO YOU SEE THE WHITE -- IT LOOKS LIKE
16 ALMOST A --

17 A IT IS A TORREY.

18 Q IT IS A TORREY?

19 A UH-HUH.

20 Q WHAT MAKES YOU THINK I WASN'T GOING TO SAY
21 A TORREY? I'M FROM TEXAS. COME ON.

22 SO THE TALL THING IS CALLED A TORREY;
23 RIGHT?

24 A UH-HUH.

25 Q IS THAT "YES"?

26 A YES.

27 Q AND DO YOU SEE THE FENCE TO THE RIGHT OF
28 THE TORREY?

1 A YES.

2 Q IS THAT THE FENCE THAT YOU WERE DESCRIBING
3 FOR THE JURORS JUST A SECOND AGO?

4 A YES.

5 Q TAKE A LOOK AT PHOTOGRAPH B. DO YOU SEE
6 THE WHITE FENCE BEHIND THE S.U.V. IN THAT PHOTOGRAPH?

7 A YES, I DO.

8 Q IS THAT CONSISTENT WITH HOW THE FENCE WAS
9 BUILT AND HOW IT EXISTED IN MARCH OF 1988?

10 A YES, IT IS.

11 Q DO YOU SEE THERE IS A PERSON STANDING ON
12 THE OTHER SIDE OF THAT FENCE RIGHT THERE (INDICATING)?

13 A YES.

14 Q THAT PERSON WOULD BE STANDING IN YOUR
15 PROPERTY IN THE CORRAL; IS THAT CORRECT?

16 A YES.

17 Q ALL RIGHT. DO YOU SEE THE S.U.V. THAT'S
18 PARKED ON PEOPLE'S B THAT APPEARS TO BE AT THE CURB LINE?

19 A YES, I DO.

20 Q IS THAT S.U.V. IN A POSITION CONSISTENT OR
21 INCONSISTENT WITH WHERE YOU SAW THIS CAR THE DAY THAT YOU
22 WERE DESCRIBING?

23 A IT'S FACING THE SAME DIRECTION. THE CAR
24 WAS PROBABLY SIX OR SEVEN FEET FORWARD OF THAT.

25 Q SO IF IT WAS ON THIS CURB LINE, THE NOSE
26 OF THE CAR THAT YOU ACTUALLY SAW MAY HAVE BEEN CLOSER TO
27 THE EDGE OF THE PHOTOGRAPH; CORRECT?

28 A YES.

1 Q HAVING THAT IN MIND, WAS THE CAR GOING THE
2 WRONG WAY ON THE LEFT-HAND SIDE OF THE STREET IF YOU'RE
3 HEADING -- WELL, LEFT-HAND SIDE OF THE STREET DOESN'T
4 MAKE SENSE. LET'S SEE IF I CAN FORM THIS QUESTION A
5 LITTLE BETTER.

6 WAS IT HEADING THE WRONG WAY AT THE CURB
7 LINE CLOSEST TO YOUR PROPERTY?

8 A YES, IT WAS.

9 Q IS THAT WHAT WAS SUSPICIOUS ABOUT IT?
10 MS. SARIS: OBJECTION. LEADING.

11 THE COURT: SUSTAINED.

12 Q BY MR. JACKSON: WHAT DREW YOUR ATTENTION
13 TO THIS PARTICULAR CAR WHEN YOU GOT HOME THAT DAY?

14 A I SAW SOMEONE IN THERE WITH BINOCULARS
15 LOOKING TOWARDS THE SCHOOL.

16 Q WAS THAT UNUSUAL?

17 A YES.

18 Q DID THAT ALERT YOU OR ALARM YOU?

19 A YES, IT DID.

20 Q WHERE WAS YOUR DRIVEWAY WHEN YOU PULLED UP
21 TO THE HOUSE THAT DAY?

22 A AT THE FAR END OF THE CORRAL.

23 Q MEANING THE FARTHEST END AWAY FROM WHERE
24 THE PHOTOGRAPHER IS STANDING IN PHOTOGRAPH B?

25 A YES.

26 Q WHAT DID YOU DO WHEN YOU DROVE BY -- BY
27 THE WAY, DID YOU TELL US WHAT TIME OF DAY IT WAS?

28 A I THINK IT WAS 11:00 OR 12:00. IT WAS

1 AROUND THAT TIME.

2 Q MIDDAY OR AT NIGHT?

3 A YES. MIDDAY.

4 Q WHAT WAS THE LIGHTING CONDITION LIKE THAT
5 DAY?

6 A IT WAS CLEAR AND BRIGHT.

7 Q SUNNY?

8 A YES.

9 Q WHEN YOU PULLED INTO YOUR DRIVEWAY, WHAT
10 DID YOU DO?

11 A MY WIFE AND DAUGHTER WERE STANDING THERE
12 AND I ASKED MY WIFE -- BECAUSE THEY WERE LOOKING AT THE
13 CAR AND I SAID, "HOW LONG HAVE THEY BEEN THERE?" AND I
14 THINK SHE SAID FIVE, TEN OR FIFTEEN MINUTES, SOMETHING
15 LIKE THAT.

16 Q AND WHAT DID YOU DO AFTER THAT?

17 A I SAID -- WELL, I ASKED HER TO CALL THE
18 POLICE. AND I SAID I'M GOING TO GO DOWN AND SEE WHAT
19 THEY'RE DOING THERE.

20 Q SO WHAT DID YOU DO?

21 A I WALKED THROUGH MY CORRAL AND DOWN
22 TOWARDS THE CAR.

23 Q WHAT PATH DID YOU TAKE THROUGH YOUR
24 CORRAL?

25 A I WAS -- IF YOU'RE LOOKING AT THE
26 PHOTOGRAPH, I WAS TO THE LEFT OF THE REAR OF THE CAR.

27 Q TAKE A LOOK AT PHOTOGRAPH B. WELL, LET'S
28 TAKE A LOOK AT PHOTOGRAPH A, ACTUALLY.

1 IS THERE SOME OBSTRUCTION TO THE LEFT OF
2 THE CORRAL AS WE'RE LOOKING AT THIS?

3 AND FOR PURPOSES OF MY QUESTIONS,
4 MR. STEVENS, LET'S MAKE THIS EASY, LET'S TALK ABOUT LEFT,
5 RIGHT, TOP AND BOTTOM ON THESE PHOTOGRAPHS, THE WAY THEY
6 ARE DEPICTED. OKAY?

7 A UH-HUH.

8 Q ON THE LEFT OF PHOTOGRAPH A, IS THERE SOME
9 OBSTRUCTION TOWARD THE BACK OF THE CORRAL, TOWARD THE
10 LEFT SIDE OF THE CORRAL?

11 A YES.

12 MS. SARIS: OBJECTION VAGUE.

13 THE COURT: OVERRULED.

14 Q BY MR. JACKSON: DO YOU UNDERSTAND MY
15 QUESTION?

16 A YES, I DO.

17 Q WHAT IS THAT? WHAT EXISTS THERE?

18 A THERE'S PLANTS AND TREES AND BUSHES ON
19 THAT SIDE OF THE CORRAL.

20 Q SHRUBBERY AND PLANT LIFE?

21 A YES, UH-HUH.

22 Q IS THAT "YES"?

23 A YES.

24 Q BY THE WAY, I'M GOING TO KEEP REPEATING
25 THAT. WHENEVER YOU SAY "UH-HUH," I'M GOING TO ASK YOU IF
26 IT IS A YES OR NO.

27 A SORRY.

28 Q WHICH PATH EXACTLY DID YOU TAKE TOWARD

1 THIS VEHICLE THAT YOU SAW?

2 A I WALKED THROUGH THE GATE AND STRAIGHT
3 TOWARDS THE BACK OF THE S.U.V.

4 Q WHEN YOU SAY "THROUGH THE GATE,"
5 MR. STEVENS, DO YOU MEAN THROUGH THE GATE CLOSEST TO THE
6 S.U.V. OR THE GATE BACK TOWARD THE BACK OF THE CORRAL
7 NEXT TO YOUR HOUSE?

8 A AT THE TIME -- IF YOU TAKE YOUR LASER AND
9 PUT IT RIGHT NEAR THE REAR OF THE S.U.V., THERE WAS A
10 GATE INTO THE CORRAL FROM MY HOUSE, BACK FURTHER TOWARDS
11 YOUR LEFT.

12 Q BACK THIS WAY (INDICATING)?

13 A YES. UP HIGHER. IN THE BACK THERE WAS A
14 GATE RIGHT THERE THAT LED FROM MY HOUSE INTO THE CORRAL.

15 MR. JACKSON: AND, YOUR HONOR, FOR THE RECORD, MY
16 POINTER IS ACTUALLY OFF OF PHOTOGRAPH B ABOVE AND BEHIND
17 WHAT WOULD BE THE BACK, THE VERY BACK END OF THE S.U.V.
18 DEPICTED IN PHOTOGRAPH B.

19 THE COURT: YES.

20 Q BY MR. JACKSON: IS THERE A REASON THAT
21 YOU CHOSE THAT PATH TO APPROACH THE CAR?

22 A I WANTED TO WALK UP TO FIND OUT WHAT WAS
23 GOING ON WITH THE PEOPLE WITHOUT BEING NOTICED.

24 Q AND DID YOU, IN FACT, WALK UP TOWARD THAT
25 VEHICLE?

26 A YES, I DID.

27 Q DESCRIBE THE VEHICLE FOR ME.

28 A IT WAS AN EARLY MODEL '70 CHEVY STATION

1 WAGON.

2 Q WHAT WAS THE CONDITION OF THE STATION
3 WAGON?

4 A THE PAINT WAS REAL OXIDIZED AND KIND OF A
5 DIRTY CAR.

6 Q IS THERE A COLOR THAT STICKS OUT IN YOUR
7 MIND?

8 A IT WAS A BLUE/GREEN TYPE CAR.

9 Q ALL RIGHT. DID IT LOOK LIKE IT WAS AN
10 OLDER MODEL STATION WAGON THAT WAS KEPT IN GOOD SHAPE?

11 A NO. IT WAS LIKE IT HAD BEEN SITTING OUT
12 IN THE SUN FOR A LONG TIME.

13 Q AS YOU APPROACHED THE CAR, WHAT DID YOU
14 SEE, SIR?

15 A I SAW TWO MEN SITTING IN THE CAR.

16 Q WHERE WERE THEY SEATED?

17 A IN THE FRONT SEAT.

18 Q WAS ONE IN THE DRIVER'S SEAT?

19 A YES, ONE IN THE DRIVER'S SEAT.

20 Q WHERE WAS THE OTHER ONE?

21 A THE OTHER ONE WAS IN THE FRONT PASSENGER
22 SEAT.

23 Q WHO WAS CLOSEST TO YOU?

24 A THE DRIVER.

25 Q HOW CLOSE DID YOU GET TO THAT VEHICLE AS
26 YOU WALKED TOWARD IT AT YOUR CLOSEST POINT?

27 A EIGHT FEET.

28 Q AS I'M STANDING IN THE COURTROOM, I'M

1 GOING TO APPROACH YOU. I'M GOING TO APPROACH YOU AT THE
2 WITNESS STAND. I WOULD LIKE YOU TO STOP ME, AS BEST YOU
3 CAN ESTIMATE, THE DISTANCE BETWEEN YOU AND THE DRIVER OF
4 THAT CAR AS I APPROACH YOU. OKAY?

5 A UH-HUH. BACK UP JUST A LITTLE BIT. RIGHT
6 ABOUT THAT THERE.

7 MR. JACKSON: YOUR HONOR?

8 THE COURT: ABOUT EIGHT FEET.

9 MR. JACKSON: THANK YOU.

10 Q SO AS YOU STOOD -- I APOLOGIZE ABOUT
11 HAVING MY BACK TOWARD ANYBODY. IF I COULD STAND BEHIND
12 LORI.

13 AS YOU STOOD APPROXIMATELY THIS DISTANCE
14 FROM THE DRIVER (INDICATING), WHERE WAS HE FACING?

15 A HE WAS FACING TOWARDS THE SCHOOL.

16 Q ALL RIGHT. WOULD HE HAVE BEEN FACING --
17 AS YOU WERE LOOKING AT HIM, WOULD HE HAVE BEEN FACING THE
18 WAY I'M FACING NOW (INDICATING)?

19 A YES.

20 Q AND WHAT WAS HE DOING AT THE TIME?

21 A I REALLY DON'T REMEMBER EXACTLY WHAT HE
22 WAS DOING. HE MIGHT HAVE BEEN TALKING OR HE MIGHT HAVE
23 BEEN LOOKING AT THE SCHOOL.

24 Q IF HE WAS LOOKING AT THE -- WELL, LET ME
25 ASK IT THIS WAY:

26 DID HE HAVE ANYTHING -- AT THE TIME THAT
27 YOU APPROACHED, DID HE HAVE ANYTHING IN HIS HANDS?

28 A YOU MEAN THE BINOCULARS?

1 Q YOU TELL ME.

2 A HE HAD BINOCULARS.

3 Q AND WHERE WERE THOSE BINOCULARS?

4 A I DON'T ACTUALLY REMEMBER EXACTLY WHERE
5 THEY WERE. I THINK HE WAS IN THE PROCESS OF TALKING TO
6 THE PERSON NEXT TO HIM ALSO.

7 Q AS YOU APPROACHED, WERE THE BINOCULARS TO
8 HIS EYES?

9 A YES. AS I STARTED THROUGH THE CORRAL,
10 YES, THEY WERE.

11 Q AT SOME POINT DID HE DROP THOSE
12 BINOCULARS?

13 A I DON'T KNOW IF HE DROPPED THEM, BUT HE
14 PULLED THEM DOWN.

15 Q THAT'S WHAT I MEANT. I'M SORRY. I'M
16 BEING INARTICULATE.

17 DID HE PULL THE BINOCULARS DOWN FROM HIS
18 FACE?

19 A UH-HUH.

20 Q IS THAT "YES"?

21 A YES.

22 Q DID HE HAVE ANY KIND OF HAT OR --

23 MS. SARIS: OBJECTION. LEADING.

24 MS. SARIS: SUSTAINED.

25 Q MR. JACKSON: DESCRIBE WHAT HE LOOKED
26 LIKE, WHAT HE WAS WEARING, AS YOU BEST YOU COULD SEE IT
27 THROUGH THE WINDOW.

28 A HE WAS A BIG MAN AND HE HAD ON A HAT.

1 Q COULD YOU SEE ANY KIND OF HAIR?

2 A YES.

3 Q DO YOU REMEMBER WHAT HIS HAIR LOOKED LIKE?

4 A YES.

5 Q DESCRIBE IT FOR ME.

6 A IT WAS A REDDISH COLORED HAIR.

7 Q LIGHT OR DARK?

8 A IT WAS MORE OF A LIGHT-ISH REDDISH HAIR
9 THAN THE REAL, REAL DARK.

10 Q IF HE WAS WEARING A CAP, HOW COULD YOU SEE
11 THAT HAIR?

12 A THE CAP WASN'T OVER HIS ENTIRE HEAD. IT
13 WAS JUST ON THE BACK PORTION OF IT.

14 Q ONCE YOU GOT TO WITHIN APPROXIMATELY EIGHT
15 FEET AS YOU DESCRIBED, DID YOU SAY ANYTHING OR DO
16 ANYTHING? WHAT DID YOU DO?

17 A AS I WALKED UP AND GOT CLOSE, THEY HEARD
18 ME.

19 Q WHAT MADE YOU BELIEVE THAT YOU WERE
20 NOTICED AT THAT POINT?

21 A BECAUSE THE DRIVER TURNED AND LOOKED AT
22 ME, STARTED THE CAR UP AND DROVE OFF.

23 Q AM I STANDING IN APPROXIMATELY THE RIGHT
24 DISTANCE FROM YOU (INDICATING)?

25 A YES, BASICALLY.

26 Q AS YOU APPROACHED, WAS THE DRIVER FACING
27 THE WAY THAT I'M FACING NOW?

28 A YES.

1 Q SO YOU COULD SEE HIM FROM HIS LEFT
2 PROFILE; IS THAT CORRECT?

3 A YES.

4 MS. SARIS: OBJECTION. LEADING, YOUR HONOR.

5 THE COURT: OVERRULED.

6 THE ANSWER CAN REMAIN.

7 Q BY MR. JACKSON: AT SOME POINT WHICH WAY
8 DID THE DRIVER'S HEAD TURN?

9 A TOWARDS ME.

10 Q DID HE LOOK AT YOU THE WAY THAT I'M
11 LOOKING AT YOU NOW (INDICATING)?

12 A YES.

13 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
14 THAT I'M STANDING AT A 90-DEGREE ANGLE FROM THE WITNESS
15 LOOKING OVER MY LEFT SHOULDER DIRECTLY AT THE WITNESS?

16 THE COURT: YES.

17 Q BY MR. JACKSON: DID YOU GET A LOOK AT HIM
18 FACE ON?

19 A YES, I DID.

20 Q NOW, HOW LONG WOULD YOU SAY YOU GOT A LOOK
21 AT THIS INDIVIDUAL, THIS DRIVER OF THE CAR, STARTING FROM
22 THE POINT AT WHICH YOU MADE YOUR WAY THROUGH THE CORRAL
23 UNTIL, AS YOU SAID, HE STARTED THE CAR AND BEGAN TO DRIVE
24 AWAY?

25 A PROBABLY A MINUTE.

26 Q WHY WERE YOU LOOKING AT HIM?

27 A BECAUSE I WANTED TO SEE WHO IT WAS.

28 Q WHY?

1 A BECAUSE THE PERSON DIDN'T BELONG THERE
2 LOOKING TOWARDS THE SCHOOL.

3 Q WERE YOU CONCERNED ABOUT ANYTHING?

4 A YES, I WAS. I DIDN'T KNOW IF HE WAS GOING
5 TO KIDNAP SOMEBODY OR DO SOMETHING TO SOMEBODY FROM THE
6 SCHOOL.

7 Q DID YOU MAKE NOTE OF HIS FACE IN YOUR
8 MIND?

9 A YES, I DID.

10 Q DID YOU ATTEMPT TO REMEMBER WHAT HE LOOKED
11 LIKE?

12 A YES, I DID.

13 Q WERE YOU SUCCESSFUL IN REMEMBERING WHAT HE
14 LOOKED LIKE?

15 A YES, I WAS.

16 MS. SARIS: OBJECTION. LEADING. CALLS FOR A
17 CONCLUSION.

18 THE COURT: SUSTAINED.

19 Q BY MR. JACKSON: YOU INDICATED THAT THIS
20 WAS FOUR, MAYBE FIVE DAYS BEFORE YOU HAD HEARD THAT
21 MICKEY THOMPSON HAD BEEN KILLED; CORRECT?

22 A YES.

23 Q AT THE TIME THAT YOU APPROACHED THAT
24 VEHICLE, IN ORDER TO IDENTIFY THE PERSON IN THE DRIVER'S
25 SEAT, HAD ANYTHING HAPPENED IN THE PREVIOUS DAYS OR WEEKS
26 OR MONTHS THAT GAVE YOU SOME CONCERN ABOUT ACTIVITIES IN
27 THE NEIGHBORHOOD?

28 A WE HAD A NEIGHBORHOOD WATCH MEETING.

1 Q AND WERE YOU AND YOUR WIFE A MEMBER OF THE
2 NEIGHBORHOOD WATCH?

3 A YES, WE WERE.

4 Q AND WAS ANYTHING DISCUSSED AT THAT
5 MEETING?

6 A YES. THERE WERE SOME PROBLEMS IN THE AREA
7 AND KEEP OUR EYES OUT -- EYES OPEN.

8 Q WHEN YOU MADE YOUR WAY THROUGH THE CORRAL,
9 MR. STEVENS, WHERE WAS YOUR WIFE?

10 A SHE WAS RIGHT BEHIND ME.

11 Q I THOUGHT YOU TOLD HER TO GO CALL THE
12 POLICE?

13 A I DID.

14 Q DID SHE NOT --

15 A NO, THEY FOLLOWED ME.

16 Q -- MIND YOU, AS IT WERE?

17 A YES.

18 Q YOUR BACK WAS TO YOUR WIFE; CORRECT?

19 A YES.

20 Q AT SOME POINT DID YOU TURN AROUND AND SEE
21 YOUR WIFE?

22 MS. SARIS: OBJECTION. LEADING.

23 THE COURT: SUSTAIN.

24 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

25 THE COURT: ON THIS ISSUE?

26 MS. SARIS: YES, PLEASE.

27 THE COURT: LET'S MOVE ON.

28 Q BY MR. JACKSON: AT SOME POINT DID YOU SEE

1 YOUR WIFE AT ALL?

2 A YES.

3 Q WHERE WAS SHE? THAT'S ALL I'M TRYING TO
4 GET TO.

5 A RIGHT BEHIND ME.

6 Q WHEN YOU SAY RIGHT BEHIND YOU, GIVE ME AN
7 IDEA. AS I APPROACH YOU, HOW FAR BEHIND YOU, IF YOU
8 REMEMBER?

9 A I DON'T REMEMBER EXACTLY, TWO OR THREE
10 FEET PROBABLY, AT THE MOST.

11 Q TWO OR THREE FEET.

12 SO (INDICATING) --

13 A LESS THAN THAT. A LITTLE CLOSER THAN
14 THAT. PROBABLY RIGHT ABOUT THERE.

15 MR. JACKSON: APPROXIMATELY TWO, TWO-AND-A-HALF
16 FEET, YOUR HONOR?

17 THE COURT: YES.

18 MR. JACKSON: THANK YOU.

19 FOR THE RECORD, BECAUSE IT WAS SILENT, I
20 APPROACHED THE WITNESS TWO, TWO-AND-A-HALF FEET.

21 THE COURT: YES. THANK YOU.

22 Q BY MR. JACKSON: DID YOU SAY ANYTHING TO
23 THE DRIVER OF THE CAR?

24 A NO, I DID NOT. I DON'T REMEMBER SAYING
25 ANYTHING TO HIM.

26 Q DID THE DRIVER OF THE CAR SAY ANYTHING TO
27 YOU?

28 A NO, HE DID NOT.

1 Q DID YOU GET A GOOD LOOK AT THE PASSENGER
2 OF THE VEHICLE?

3 A NO, I DID NOT.

4 Q WHO WERE YOU CONCENTRATING ON?

5 A THE DRIVER.

6 Q AS YOU SIT HERE TODAY, DO YOU RECALL WHAT
7 THAT DRIVER LOOKED LIKE?

8 A YES, I DO.

9 Q CAN LOOK AROUND THE COURTROOM AND TELL ME
10 IF YOU SEE THE PERSON THAT WAS IN THAT DRIVER SEAT IN
11 THIS COURTROOM --

12 A YES, I CAN.

13 Q WAIT UNTIL I FINISH THE QUESTION.

14 A OH, I'M SORRY.

15 Q DO YOU SEE THE PERSON WHO WAS IN THE
16 DRIVER SEAT IN THIS COURTROOM, SIR?

17 A YES.

18 Q WHERE IS HE SEATED AND WHAT HE IS WEARING?

19 A HE'S SITTING RIGHT THERE NEXT TO THE LADY
20 IN BLACK (INDICATING), AND HE'S WEARING A LIGHT GREEN
21 TIE.

22 THE COURT: IDENTIFYING MR. GOODWIN, FOR THE
23 RECORD.

24 MR. JACKSON: THANK YOU, YOUR HONOR.

25 Q AT SOME POINT, MR. STEVENS, WERE YOU
26 CONTACTED BY THE POLICE IN THIS CASE?

27 A NO.

28 Q EVER?

1 A NO.

2 Q DID YOU EVER TALK TO AN OFFICER YEARS
3 AFTER THIS EVENT?

4 A REGARDING -- YES, I DID.

5 Q AT THE TIME THAT YOU HEARD THAT MICKEY
6 THOMPSON AND TRUDY THOMPSON HAD BEEN KILLED, DID YOU CALL
7 ANYBODY?

8 A NO.

9 Q DO YOU KNOW -- ONLY IF YOU KNOW -- WHETHER
10 OR NOT YOUR WIFE CALLED ANYBODY?

11 A REGARDING THE PEOPLE ON THE CORNER?

12 Q REGARDING WHAT YOU HAD JUST SEEN, WHAT YOU
13 JUST DESCRIBED TO THIS JURY.

14 A SHE SAID SHE DID, YES.

15 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
16 HEARSAY. MOTION TO STRIKE.

17 THE COURT: ALL RIGHT. THAT WILL BE STRICKEN AS
18 HEARSAY.

19 Q BY MR. JACKSON: WERE YOU EVER PRESENT --
20 AND DON'T TELL ME ANYTHING THAT YOU THINK SHE SAID OR SHE
21 TOLD YOU OR ANYTHING LIKE THAT.

22 WERE YOU EVER PRESENT WHEN YOUR WIFE
23 CONTACTED THE POLICE OR CONTACTED ANY AUTHORITY ABOUT
24 THIS INCIDENT?

25 A NO.

26 Q OKAY. CONCERNING THE CAR, DID YOU MAKE
27 NOTE OF ANY SPECIFIC DESCRIPTION OF THAT VEHICLE?

28 A YES, I DID.

1 Q WHAT STOOD OUT IN YOUR MIND?

2 A IT HAD AN ARIZONA LICENSE PLATE ON IT.

3 Q HAD YOU EVER SEEN THAT CAR IN THE
4 NEIGHBORHOOD BEFORE?

5 A NO.

6 Q DID YOU EVER SEE THAT CAR IN THE
7 NEIGHBORHOOD AFTER?

8 A NO.

9 Q AT THE TIME OF MICKEY THOMPSON'S -- WHEN
10 YOU HEARD THAT MICKEY THOMPSON AND TRUDY THOMPSON HAD
11 BEEN KILLED, DID YOU RELATE THE TWO INCIDENTS TOGETHER?

12 A NO, I DID NOT.

13 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
14 HONOR?

15 (PAUSE IN PROCEEDINGS.)

16 MR. JACKSON: YOUR HONOR, I NEED TO PUT THIS UP,
17 BUT IF IT DOESN'T BOTHER THE COURT, MAYBE I CAN
18 ADDRESS A COUPLE OF OTHER ISSUES BEFORE I GET TO THIS
19 PARTICULAR ITEM.

20 THE COURT: ALL RIGHT.

21 Q BY MR. JACKSON: I MAY GO A LITTLE BIT OUT
22 OF ORDER, MR. STEVENS. I APOLOGIZE I'M NOT
23 CHRONOLOGICAL.

24 AT SOME POINT, WERE YOU SHOWN A SERIES OF
25 PHOTOGRAPHS OF INDIVIDUALS ON A BOARD?

26 A YES, I WAS.

27 Q WERE YOU ASKED TO DETERMINE WHETHER OR
28 NOT -- WHAT WERE YOU ASKED TO DO?

1 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

2 THE COURT: SUSTAINED.

3 Q BY MR. JACKSON: TELL ME APPROXIMATELY
4 WHEN THIS WAS.

5 A PROBABLY SIX OR SEVEN YEARS AGO.

6 Q OKAY. WOULD IT REFRESH YOUR RECOLLECTION
7 AS TO THE EXACT TIME FRAME IF I WERE TO SHOW YOU A
8 REPORT?

9 A YES.

10 MR. JACKSON: MAY I APPROACH THE WITNESS, YOUR
11 HONOR?

12 THE COURT: YES.

13 Q BY MR. JACKSON: I DON'T WANT YOU TO READ
14 ANYTHING OUT LOUD, MR. STEVENS, I WANT YOU TO TAKE A
15 LOOK, FIRST OF ALL, AT THE PARAGRAPH STARTING WITH THAT
16 DATE. AND THEN GLANCE OVER AND LOOK AT THIS PHOTOGRAPH
17 THERE. AND JUST GLANCE AT THAT AND READ IT TO YOURSELF.

18 LET ME KNOW WHEN YOU'VE HAD AN OPPORTUNITY
19 TO DO THAT.

20 YOU CAUGHT ME DRINKING WATER.

21 HAVE YOU HAD A CHANCE TO LOOK AT THAT?

22 A YES, I HAVE.

23 Q DID YOU SPEAK TO DETECTIVES CONCERNING
24 THIS PHOTOGRAPH?

25 A YES, I DID.

26 Q DOES THAT REFRESH YOUR RECOLLECTION AS TO
27 APPROXIMATELY --

28 A YES, IT DOES.

1 Q -- WHEN THAT WAS?

2 THINK ABOUT THIS -- THE EASIEST WAY TO
3 THINK ABOUT THAT IS TRY TO LISTEN FOR THE PERIOD AT THE
4 END OF MY SENTENCE. IT WILL KEEP US FROM TALKING OVER
5 EACH OTHER.

6 DOES THAT REFRESH YOUR RECOLLECTION AS TO
7 APPROXIMATELY WHEN YOU WERE SHOWN THIS SET OF
8 PHOTOGRAPHS?

9 A YES, IT DOES.

10 Q APPROXIMATELY WHEN WAS THAT, SIR?

11 A 2001.

12 Q ALL RIGHT. DO YOU REMEMBER THE MONTH?

13 A IT LOOKS LIKE MARCH.

14 Q ALL RIGHT. THE SPRING OF 2001, DOES THAT
15 SOUND --

16 A YES.

17 Q -- ABOUT RIGHT?

18 A YES, IT DOES.

19 Q WHEN YOU WERE SHOWN THIS SIX-PACK SET OF
20 PHOTOGRAPHS, WHAT WERE YOU ASKED TO DO?

21 A I WAS ASKED IF THE MAN THAT I SAW AT THE
22 END OF MY CORRAL WAS IN ANY ONE OF THOSE PICTURES.

23 Q DID YOU GIVE THE DETECTIVE WHO WAS ASKING
24 ABOUT THOSE PHOTOGRAPHS A DESCRIPTION OF THE PERSON, A
25 PHYSICAL DESCRIPTION OF THE PERSON?

26 A YES, I DID.

27 Q WHAT WAS THAT DESCRIPTION?

28 A I THINK I SAID HE WAS A BIG MAN WITH

1 REDDISH COLORED HAIR AND A RUDDY COMPLEXION.

2 Q DID YOU GIVE AN APPROXIMATE AGE?

3 A I THINK I SAID IN THE 40'S.

4 Q AT THE TIME THAT YOU LOOKED AT THAT
5 SIX-PACK SET OF PHOTOGRAPHS, DID YOU SEE THE PERSON --

6 A YES, I DID.

7 Q WAIT UNTIL YOU HEAR MY PERIOD.

8 A I'M SORRY.

9 Q -- DID YOU SEE THE PERSON THAT YOU SAW
10 SITTING IN THAT STATION WAGON WITH OUT OF STATE PLATES IN
11 FRONT OF YOUR HOUSE?

12 A YES, I DID.

13 Q AND WHICH PICTURE WAS THAT, IF YOU RECALL?

14 A I DON'T REMEMBER THE LOCATION OF IT.

15 Q OKAY. IF YOU WERE TO SEE THAT SET OF
16 PHOTOGRAPHS AGAIN, DO YOU BELIEVE THAT YOU COULD PICK OUT
17 THE PERSON THAT YOU CHOSE AT THAT TIME?

18 A YES, I CAN.

19 Q ALL RIGHT. WELL, IT'S ON MY COMPUTER AND
20 THAT'S WHY I TOLD YOU THIS IS GOING TO BE A LITTLE BIT
21 UNCOORDINATED. BUT LET ME MOVE ON FOR A SECOND AND SEE
22 IF WE CAN MOVE THROUGH A COUPLE OF OTHER THINGS AND WE
23 WILL GET TO THE PHOTOGRAPHS MAYBE TOMORROW.

24 AT SOME POINT AFTER YOU WERE SHOWN THIS
25 SIX-PACK SET OF PHOTOGRAPHS, DID YOU ATTEND ANY OTHER
26 POLICE FUNCTION CONCERNING IDENTIFICATION?

27 A THERE WAS A LINE UP.

28 Q DESCRIBE THE LINE UP FOR ME, PLEASE, THE

1 PROCEDURE. WHERE DID YOU GO? WHAT DID YOU DO?

2 A WE WENT -- I THINK IT WAS TO THE L.A.
3 COUNTY JAIL. I'M NOT SURE OF THE LOCATION.

4 Q OKAY.

5 A MY WIFE AND I WERE ASKED TO SHOW UP FOR A
6 LINE UP. AND WE WENT IN, THEY BROUGHT IN -- I DON'T
7 REMEMBER HOW MANY -- FIVE OR SIX, SEVEN MEN. AND WE WERE
8 ON THE OPPOSITE SIDE OF -- I'M ASSUMING IT WAS A TWO-WAY
9 MIRROR -- TWO WAY GLASS OR ONE WAY, AND THE MEN WERE
10 BROUGHT IN.

11 AND WE WERE -- MY WIFE AND I WERE
12 SEPARATED AND WE LOOKED AT THE MEN IN THE LINE UP.

13 Q AND WHAT WERE YOU ASKED TO DO WITH REGARD
14 TO LOOKING AT THE MEN IN THE LINE UP?

15 A WE WERE ASKED IF ANY OF THE MEN IN THE
16 LINE UP WAS THE ONE THAT WAS IN THE CAR AT THE END OF MY
17 CORRAL. COULD WE IDENTIFY ANYONE?

18 Q AT THAT POINT IN TIME, DID YOU SEE THE
19 PERSON WHO WAS IN THE CAR?

20 A YES, I DID.

21 MR. JACKSON: YOUR HONOR, IF I COULD HAVE MARKED
22 AS PEOPLE'S NEXT IN ORDER --

23 THE COURT: 33.

24 MR. JACKSON: THANK YOU. THANK YOU.

25 -- WHAT PURPORTS TO BE RON STEVENS' LINE
26 UP IDENTIFICATION. IT INCLUDES A SHERIFF'S DEPARTMENT
27 COUNTY OF LOS ANGELES WITNESS CARD AND ADMONITION AS WELL
28 AS FOUR PHOTOGRAPHS.

1 THE COURT: ALL RIGHT.

2 MR. JACKSON: I'M SORRY. YOUR HONOR, YOU
3 INDICATED 33, YES?

4 THE COURT: 33.

5 MR. JACKSON: THANK YOU.

6 (PEOPLE'S EXHIBIT NO. 33 WAS MARKED FOR
7 IDENTIFICATION.)

8 MR. JACKSON: I MIGHT AS WELL MARK FOR
9 IDENTIFICATION -- MR. DIXON IS GOING TO MARK THIS --
10 WELL, YEAH, MR. DIXON IS GOING TO MARK THIS FOR ME.

11 IT ALSO INDICATES 8-13-01, DEFENDANT IN
12 MEN'S CENTRAL JAIL. IF I COULD HAVE THAT MARK AS
13 PEOPLE'S 34.

14 THE COURT: ALL RIGHT.

15

16 (PEOPLE'S EXHIBIT NO. 34 WAS MARKED FOR
17 IDENTIFICATION.)

18 MR. JACKSON: MAY I APPROACH?

19 THE COURT: YES.

20 Q BY MR. JACKSON: DO YOU SEE WHAT'S
21 DEPICTED WHERE IT INDICATES "WITH WATCH CAP" AND I
22 BELIEVE THE WORDS UNDER THAT BOTTOM SET OF PHOTOGRAPHS
23 ARE "WITHOUT WATCH CAP"?

24 A YES.

25 Q IS THAT THE LINE THAT YOU WERE ASKED TO
26 LOOK AT?

27 A IT LOOKS LIKE IT, YES.

28 Q DID YOU SEE PERSON -- WELL, LET'S LOOK AT

1 PEOPLE'S 34 NOW. THAT'S A LITTLE LARGER PHOTOGRAPH.

2 DO YOU SEE THE PERSON DEPICTED IN THOSE
3 TWO PHOTOGRAPHS?

4 A YES.

5 Q DOES ONE HAVE A WATCH CAP ON AND ONE DOES
6 NOT?

7 A YES.

8 Q MEANING THE PHOTOGRAPHS?

9 A YES.

10 Q DID YOU SEE THE PERSON IN THE LIVE LINE UP
11 THAT WAS IN FRONT OF YOUR HOUSE DAYS BEFORE THE MICKEY
12 THOMPSON MURDERS?

13 A YES, I DID.

14 Q AND DID YOU IDENTIFY HIM?

15 A YES, I DID.

16 Q WHO DID YOU IDENTIFY?

17 A NO. 5.

18 Q MR. STEVENS, IS THAT THE SAME PERSON THAT
19 YOU EARLIER IDENTIFIED IN THIS COURTROOM AS THE DEFENDANT
20 IN THIS CASE, MICHAEL GOODWIN?

21 A YES, IT IS.

22 Q NOW, AT SOME POINT WERE YOU ASKED WHETHER
23 OR NOT YOU COULD IDENTIFY -- BY THE WAY, PEOPLE'S 34, DO
24 YOU SEE THAT ON THE ENLARGEMENT?

25 A YES, I DO.

26 Q IS THAT THE WAY MR. GOODWIN APPEARED -- OR
27 THE DEFENDANT APPEARED IN THAT LIVE LINE UP THAT DAY?

28 A YES, IT IS.

1 Q THANK YOU.

2 AT SOME POINT WERE YOU ASKED IF YOU COULD
3 RECOGNIZE THE PASSENGER IN THE CAR?

4 A YES.

5 Q WERE YOU ABLE TO?

6 A NO.

7 Q WHY NOT?

8 A BECAUSE I WASN'T PAYING ANY ATTENTION TO
9 THE PASSENGER.

10 Q AS YOU SIT HERE TODAY, DO YOU RECALL ANY
11 DESCRIPTION ABOUT THE PASSENGER WHATSOEVER?

12 A I COULDN'T BE POSITIVE, NO.

13 Q WERE YOU ASKED IF YOU COULD EVER IDENTIFY
14 THE RACE OF THE PASSENGER?

15 A YES.

16 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

17 THE COURT: SUSTAINED.

18 Q BY MR. JACKSON: WHEN YOU WERE SHOWN --
19 WELL, WHEN YOU WERE INTERVIEWED BY THE DETECTIVE THAT
20 SHOWED YOU THE SET OF PHOTOGRAPHS IN MARCH -- YOU BELIEVE
21 IT WAS MARCH OF 2001 -- WERE YOU ASKED IF YOU CAN
22 IDENTIFY THE RACE OF THE PASSENGER?

23 A I'M SURE THAT I WAS.

24 Q AND DO YOU RECALL WHAT YOUR ANSWER WAS?

25 A NO, I'M NOT SURE.

26 Q IS IT POSSIBLE THAT YOU SAID THAT HE WAS A
27 WHITE MALE?

28 A IT IS.

1 Q IS IT POSSIBLE THAT YOU IDENTIFIED HIM AS
2 POSSIBLY A BLACK MALE?

3 A YES.

4 Q AS YOU SIT HERE TODAY, MR. STEVENS, DO
5 YOU EVEN KNOW WHAT RACE THE PASSENGER OF THAT VEHICLE
6 WAS?

7 A I CAN'T BE POSITIVE, NO.

8 Q AS YOU SIT HERE TODAY, ARE YOU POSITIVE
9 ABOUT WHO YOU SAW IN THE DRIVER'S SEAT?

10 A YES, I AM.

11 Q AND WHO WAS THAT?

12 A IT WAS THE MAN SITTING RIGHT THERE
13 (INDICATING).

14 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
15 HONOR?

16 THE COURT: YES.

17 (PAUSE IN PROCEEDINGS.)

18 MR. DIXON: YOUR HONOR, COULD WE APPROACH?

19 YOUR HONOR, I THOUGHT --

20 THE COURT: ALL RIGHT. WE'RE AT THE SIDE BAR.

21 (PROCEEDINGS HELD AT SIDE BAR.)

22 MR. DIXON: YOUR HONOR, I THOUGHT WE SHOULD LET
23 YOU KNOW WHERE WE ARE AND IT IS -- I WILL ADMIT -- OUR
24 MISTAKE. WE -- THE NEXT EXHIBIT IS DOWNTOWN AND THAT
25 DOESN'T HELP US AT 4:10 IN THE AFTERNOON HERE.

26 THE COURT: OKAY.

27 MR. DIXON: BUT WE WILL HAVE IT BROUGHT OUT HERE
28 TOMORROW AND I APOLOGIZE THAT WE DIDN'T DISCOVER THIS

1 UNTIL TODAY.

2 THE COURT: ALL RIGHT.

3 MR. DIXON: WE COULD PROCEED BY WAY OF COMPUTER,
4 BUT THAT MIGHT TAKE TEN MINUTES TO GET SET UP.

5 THE COURT: THAT'S ALL RIGHT.

6 AND THEN, COUNSEL, YOU WANTED TO APPROACH
7 THE BENCH EARLIER, WHILE WE'RE HERE --

8 MS. SARIS: OH, YEAH. WHICH IS BACK TO THE OVER
9 ABUNDANCE OF LEADING QUESTIONS. I MEAN, I THINK IT IS --
10 WHEN HE'S TELLING A WITNESS TO WAIT FOR THE PERIOD AND
11 NOT THE QUESTION MARK, I THINK IT'S PRETTY OBVIOUS THAT
12 THERE'S AN ISSUE, THERE'S A PROBLEM WITH THE LEADING
13 QUESTIONS. AND AT SOME POINT -- AGAIN, IT DOESN'T NEED
14 TO BE WILLFUL, IT DOESN'T NEED TO BE WILLFUL AND ETHICAL,
15 BUT AT SOME POINT THE JURY TO BE ADMONISHED THAT THIS IS
16 IMPROPER AND WE'RE REQUESTING BASED ON OUR PRIOR MOTION
17 FOR THE ADMONISHMENT THAT WE REQUESTED AT THE PRETRIAL.

18 MR. DIXON: WELL, IF I MIGHT SPEAK IN
19 MR. JACKSON'S DEFENSE. THE PERIOD THING WAS CLEARLY
20 ABOUT THE TWO -- THE WITNESS AND THE LAWYER OVERLAPPING
21 IN THEIR ANSWERS. IT HAD NOTHING TO DO WITH LEADING
22 QUESTIONS.

23 MR. JACKSON: PLUS, I THOUGHT I REALLY DID, I
24 THOUGHT I WAS DOING GREAT.

25 MS. SARIS: I'M GOING TO OBJECT MR. JACKSON'S
26 OPINION.

27 THE COURT: ALL RIGHT. LET'S CALL IT A DAY.
28 WHAT TIME TOMORROW?

1 MS. SARIS: DOES THAT MEAN THE COURT IS DENYING
2 OUR REQUEST TO ADMONISH THE JURY JUST SO THE RECORD'S
3 CLEAR?

4 THE COURT: FOR RIGHT NOW, YES.

5 WHAT TIME TOMORROW?

6 MS. SARIS: 10:30 WORKS FOR ME.

7 MR. JACKSON: YOUR HONOR, WHATEVER IS --

8 MR. DIXON: WHATEVER IS FINE WITH THE COURT IS
9 FINE US WITH.

10 MR. JACKSON: 9:00, 8:30, 8:00.

11 MR. DIXON: BE HERE AT 6:00. FINISH MY PAPER
12 ROUTE.

13 (SIDE BAR CONCLUDED.)

14 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
15 ARE GOING TO TAKE OUR AFTERNOON RECESS AT THIS TIME. AND
16 IT'S A LITTLE BIT EARLY, BUT I HOPE YOU DON'T MIND
17 GETTING HOME A LITTLE BIT EARLIER. I KNOW. SORRY.

18 OKAY. MAYBE WE WILL DO BETTER TOMORROW.
19 LET'S TRY FOR I THINK 10:00 O'CLOCK.

20 MR. JACKSON: THAT'S FINE.

21 THE COURT: 10:00 O'CLOCK. WE SHOULD BE ABLE TO
22 GET STARTED AGAIN.

23 AND LET ME REMIND YOU OF THE ADMONITIONS.
24 PLEASE DO NOT DISCUSS THIS CASE. DO NOT FORM OR EXPRESS
25 ANY OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. DON'T
26 READ OR LISTEN TO ANYTHING ABOUT THE CASE. STAY AWAY
27 FROM THE LOCATIONS INVOLVED IN THE CASE. DON'T HAVE
28 CONTACT WITH ANYONE CONNECTED WITH THE CASE. HAVE A GOOD

1 EVENING. I'LL SEE YOU AT 10:00 A.M. TOMORROW MORNING.
2 THANK YOU.

3 (THE JURY LEFT THE COURTROOM.)

4 THE COURT: MR. STEVENS, WE WILL SEE YOU BACK
5 HERE TOMORROW MORNING AT 10:00 A.M. WE'RE ADJOURNED.

6

7 (THE MATTER WAS CONTINUED TO THURSDAY,
8 NOVEMBER 16, 2006 AT 10:00 A.M.)

9 (NEXT PAGE IS 4501.)

10 --OOO--

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COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF AND RESPONDENT,

VS.

01 - MICHAEL FRANK GOODWIN,

DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

NOVEMBER 16, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 1a OF 24
PAGES 4501 THRU 4718/4800

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, NOVEMBER 16, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
20 THE RECORD SHOULD REFLECT THAT ALL OF OUR JURORS AND
21 ALTERNATES ARE ONCE AGAIN PRESENT IN OUR TRIAL MATTER.
22 MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE ARE
23 REPRESENTED. MR. STEVENS IS STILL ON THE STAND. YOU
24 WERE PREVIOUSLY SWORN. YOU ARE REMINDED THAT YOU ARE
25 STILL UNDER OATH.

26 CAN YOU STATE YOUR NAME AGAIN FOR THE
27 RECORD.

28 THE WITNESS: RONALD STEVENS.

1 THE COURT: THANK YOU.

2 MR. JACKSON, YOU MAY CONTINUE.

3 MR. JACKSON: THANK YOU.

4

5 DIRECT EXAMINATION (CONT'D)

6 BY MR. JACKSON:

7 Q MR. STEVENS, YESTERDAY I HAD ASKED YOU
8 SEVERAL QUESTIONS ABOUT DETECTIVE LILLIENFELD APPROACHING
9 YOU WITH WHAT IS CALLED A SIX PACK, A SET OF PHOTOGRAPHS,
10 TO DETERMINE WHETHER OR NOT YOU COULD IDENTIFY THE MAN
11 THAT WAS SEATED IN THE CAR OUTSIDE OF YOUR HOUSE.

12 DO YOU RECALL THAT CONVERSATION?

13 A YES, I DO.

14 MR. JACKSON: I WOULD LIKE TO MARK, WITH THE
15 COURT'S PERMISSION, NEXT IN ORDER --

16 THE COURT: 35.

17

18 (MARKED FOR IDENTIFICATION PEOPLE'S
19 EXHIBIT NO. 35, PHOTOS.)

20

21 MR. JACKSON: THANK YOU. IT'S AN ENLARGED SET OF
22 PHOTOGRAPHS. I WILL MARK IN THE UPPER RIGHT-HAND CORNER
23 IN BLACK INK A "P35."

24 Q CAN YOU SEE THAT, MR. STEVENS?

25 A YES, I CAN.

26 MR. JACKSON: CAN EVERYBODY SEE THAT?

27 Q DO YOU RECOGNIZE WHAT HAS BEEN MARKED AS
28 PEOPLE'S 35?

1 A YES, I DO.

2 Q HOW DO YOU RECOGNIZE THAT DOCUMENT?

3 A DETECTIVE LILLIENFELD SHOWED IT TO ME.

4 Q NOW, IS THAT THE ACTUAL DOCUMENT THAT HE
5 SHOWED YOU? IN OTHER WORDS, IT WAS THAT SIZE, AN
6 ENLARGED BOARD LIKE THIS? OR DID HE SHOW YOU A SMALL --

7 A IT WAS SMALLER THAN THAT I THINK.

8 Q DO YOU RECALL BASED ON -- AS YOU SIT HERE
9 TODAY, BASED ON YOUR INDEPENDENT RECOLLECTION, DO YOU
10 RECALL WHAT YOU WERE ASKED TO DO WHEN YOU WERE SHOWN
11 THESE SETS OF PHOTOGRAPHS?

12 A I WAS ASKED IF I RECOGNIZED ANYONE IN THE
13 PICTURE AS BEING THE PERSON IN THAT CAR.

14 Q AND DID YOU?

15 A YES, I DID.

16 Q WHO DO YOU RECOGNIZE -- OR WHO DID YOU
17 RECOGNIZE OUT OF THAT SET OF PHOTOGRAPHS?

18 A NO. 3, THE TOP RIGHT CORNER.

19 Q MY FINGER IS ON PHOTOGRAPH NO. 3?

20 A YES.

21 Q DO YOU SEE THAT PERSON IN COURT?

22 A YES, I DO.

23 Q WHERE IS HE SEATED?

24 A HE IS SEATED RIGHT NEXT TO THE LADY IN THE
25 BROWN. HE HAS A LIGHT JACKET ON.

26 THE COURT: IDENTIFYING MR. GOODWIN.

27 Q BY MR. JACKSON: AND THAT'S THE SAME
28 PERSON THAT YOU IDENTIFIED YESTERDAY; CORRECT?

1 A YES, IT IS.

2 Q AND IS THAT ALSO THE SAME PERSON THAT YOU
3 IDENTIFIED OUT OF THE LINE-UP?

4 A YES, IT IS.

5 Q YOU DESCRIBED YESTERDAY TO THE JURORS THAT
6 THE DEFENDANT HAD A WHAT YOU RECOGNIZED AS WHAT YOU
7 CALLED A RUDDY COMPLEXION.

8 WHAT DID YOU MEAN BY THAT?

9 A YES, SIR.

10 MS. SARIS: OBJECTION, YOUR HONOR. MISSTATES THE
11 TESTIMONY REGARDING THE DEFENDANT HAVING A RUDDY
12 COMPLEXION.

13 THE COURT: ALL RIGHT. REPHRASE IT, PLEASE.

14 Q BY MR. JACKSON: YOU IDENTIFIED THE PERSON
15 SEATED OUTSIDE YOUR HOUSE HAS HAVING A RUDDY COMPLEXION;
16 CORRECT?

17 A YES.

18 Q YOU ALSO IDENTIFIED THE PERSON SEATED IN
19 COURT AS THE PERSON SEATED OUTSIDE YOUR HOUSE; CORRECT?

20 A YES.

21 Q SO WHO WAS IT THAT WAS AT YOUR HOUSE?

22 A THE PERSON SEATED --

23 Q WHERE? IS HE WITH US TODAY?

24 A YES, HE IS.

25 Q WHERE?

26 A HE IS RIGHT THERE NEXT TO THE LADY IN THE
27 BROWN.

28 Q OKAY. THE DEFENDANT; CORRECT?

1 A YES.

2 Q THE DEFENDANT HAD A RUDDY COMPLEX?

3 A YES.

4 Q DID YOU RECOGNIZE THAT RUDDY COMPLEX -- OR
5 LET ME REPHRASE THAT.

6 IS THAT SOMETHING THAT STUCK OUT IN YOUR
7 MIND?

8 A YES, IT WAS.

9 Q WHAT DID YOU MEAN WHEN YOU SAID HE HAD A
10 RUDDY COMPLEX?

11 A IT'S SOMEONE THAT HAS LIKE POCK MARKS OR
12 SOMETHING WHEN THEY WERE YOUNG AND AS THEY GOT OLDER IT
13 WAS JUST A RUDDY TYPE OF COMPLEXION.

14 Q WHEN YOU SAY "POCK MARKS," DO YOU SEE IN
15 THIS PHOTOGRAPH, PHOTOGRAPH NO. 3 ON PEOPLE'S 35, DO YOU
16 SEE THOSE POCK MARKS REPRESENTED IN THAT PHOTOGRAPH?

17 A YES, I DO.

18 Q AS YOU SIT HERE RIGHT NOW YOU CAN SEE THE
19 DEFENDANT'S COMPLEXION; CORRECT?

20 A YES.

21 Q WOULD YOU DESCRIBE HIS COMPLEXION AS RUDDY
22 AND POCK MARKED?

23 MS. SARIS: OBJECTION. LEADING.

24 THE COURT: SUSTAINED.

25 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE
26 THIS MAN'S COMPLEXION THAT I'M POINTING TO?

27 THE DEFENDANT, YOUR HONOR.

28 A AS RUDDY AND POCK MARKED.

1 Q AT ANY POINT, DID YOU -- WERE YOU
2 TAPE-RECORDED DURING YOUR CONVERSATION WITH DETECTIVE
3 LILLIENFELD?

4 A YES, I WAS.

5 Q DURING THAT CONVERSATION -- BY THE WAY,
6 WAS THAT THE SAME CONVERSATION OR A DIFFERENT
7 CONVERSATION WHEN YOU WERE SHOWN THESE SETS OF
8 PHOTOGRAPHS?

9 A I THINK IT WAS THE SAME CONVERSATION.

10 Q AT ANY POINT DID YOU DESCRIBE THE COLOR OF
11 THE MAN'S HAIR?

12 A YES, I DID.

13 Q HOW DID YOU DESCRIBE THE DEFENDANT'S HAIR?
14 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
15 HEARSAY. IMPROPER IMPEACHMENT.

16 THE COURT: SUSTAINED.

17 Q BY MR. JACKSON: HOW WOULD YOU, AS YOU SIT
18 HERE TODAY, DESCRIBE WHAT THE DEFENDANT'S HAIR LOOKED
19 LIKE IN MARCH OF 1988?

20 A IT WAS A REDDISH COLOR HAIR. AND IT
21 WASN'T THE REAL DARK, DARK, DARK RED HAIR. IT WAS MORE
22 LIGHT. SO I CALLED IT BLONDISH TYPE RED HAIR, BUT IT WAS
23 A REDDISH COLORED HAIR.

24 Q OKAY. WAS THE DEFENDANT'S HAIR IN 1988
25 THE SAME COLOR AS IT IS NOW?

26 A NO.

27 Q HOW WAS IT DIFFERENT?

28 A IT WAS LONGER AND IT WAS A LIGHTER COLOR

1 WITH MORE RED TINT TO IT.

2 Q HAVE YOU EVER SEEN SOMEONE WHO -- YOU SAID
3 YOU WERE IN THE CONTRACTING BUSINESS; CORRECT?

4 A YES.

5 Q HAVE YOU EVER SEEN SOMEONE WHO SPENT A LOT
6 OF TIME IN THE SUN?

7 A YES.

8 Q HAVE YOU EVER SEEN SOMEONE WITH SUN
9 BLEACHED HAIR?

10 A YES.

11 Q WOULD YOU -- HOW WOULD YOU DESCRIBE THE
12 DEFENDANT'S HAIR BACK IN 1998 -- I'M SORRY -- 1988 AS
13 COMPARED TO A SUN BLEACHED KIND OF LOOK? DO YOU
14 UNDERSTAND MY QUESTION?

15 A NO, I DON'T.

16 Q WOULD YOU DESCRIBE HIS HAIR AS LIGHTER IN
17 THE SUN?

18 A YES.

19 MS. SARIS: OBJECTION. LEADING. LACK OF
20 FOUNDATION. CALLS FOR SPECULATION.

21 THE COURT: SUSTAINED.

22 Q BY MR. JACKSON: DID YOU SEE THE -- YOU
23 SAID -- HOW WAS THE LIGHTING CONDITION ON THAT DAY?

24 A IT WAS A BRIGHT, SUNNY DAY.

25 Q ALL RIGHT. WHERE WAS THE DEFENDANT
26 SEATED?

27 A IN THE DRIVER'S SEAT OF THE STATION WAGON.

28 Q WAS THE SUN LIGHTING THE INTERIOR

1 COMPARTMENT OF THE --

2 A IT WAS VERY LIGHT.

3 Q DID YOU HAVE ANY TROUBLE SEEING THE PART
4 OF HIS HAIR THAT YOU DESCRIBED AS STICKNG OUT UNDER THE
5 CAP?

6 A NO, I DID NOT.

7 Q WOULD YOU DESCRIBE HIS HAIR ON THAT DAY AS
8 STRAIGHT OR OTHERWISE?

9 A NO, IT WAS CURLY.

10 Q WHEN YOU SAY IT WAS LONGER THAN IT IS
11 TODAY, HOW MUCH LONGER IF YOU CAN ESTIMATE?

12 A A COUPLE OF INCHES LONGER.

13 Q YOU INDICATED YESTERDAY I BELIEVE THAT YOU
14 DID NOT REPORT THIS INCIDENT TO THE POLICE ON THE DAY IT
15 HAPPENED; CORRECT?

16 A YES, I DID NOT.

17 Q AT ANY POINT AFTER THE INCIDENT -- NOT THE
18 DAY OF THE INCIDENT WHEN YOU SAW THE DEFENDANT OUTSIDE
19 YOUR HOUSE -- AT ANY POINT AFTER THAT DID YOU ATTEMPT TO
20 REPORT THIS TO THE POLICE?

21 A YES, I DID.

22 Q DESCRIBE THAT FOR US, PLEASE?

23 A IT WAS EITHER THREE OR FOUR TIMES, NOT
24 LONG AFTER THE MURDER. I HAD A FRIEND OVER AT THE HOUSE.
25 WE WERE TALKING ABOUT THE MURDER. AND I TOLD HIM WHAT I
26 SAW. AND HE SAID, YOU KNOW, I THINK YOU BETTER CALL THE
27 POLICE; THAT COULD BE INFORMATION THEY NEED. SO AFTER HE
28 LEFT, I CALLED THE DUARTE SHERIFF'S DEPARTMENT. AND I

1 THINK THIS WAS LIKE 9:00 O'CLOCK AT NIGHT IN THE EVENING.
2 AND LEFT -- ASKED -- TOLD THE PERSON THAT ANSWERED THE
3 PHONE, I THOUGHT I HAD SOME INFORMATION ON THE THOMPSON
4 MURDER.

5 Q AND WHAT WAS THE RESPONSE YOU GOT?

6 A HE SAID I'LL HAVE A DETECTIVE CALL YOU.

7 Q WERE YOU EVER CONTACTED BY A DETECTIVE?

8 A NO, I WASN'T. AND THEN A WHILE LATER --
9 AND I DON'T KNOW HOW LONG -- A COUPLE WEEKS, I THEN
10 CALLED THE TEMPLE CITY SHERIFF'S STATION AND LEFT ANOTHER
11 MESSAGE. THE SAME THING.

12 Q HOW CLOSE IS THE TEMPLE CITY STATION TO
13 YOUR HOUSE ON GARDI?

14 A I DON'T KNOW. THE DUARTE ONE IS PROBABLY
15 A MILE AWAY, A MILE AND A HALF. THE TEMPLE CITY IS
16 PROBABLY SEVEN OR EIGHT, TEN MILES. I'M NOT SURE.

17 Q DID YOU GET ANY RESPONSE FROM -- WELL,
18 WHAT WAS THE RESPONSE THAT YOU DID GET FROM TEMPLE
19 STATION?

20 A NO ONE EVER CALLED.

21 Q WERE THERE ANY OTHER ATTEMPTS ON YOUR PART
22 TO CONTACT POLICE?

23 A YES. I THINK THERE WAS ONE OR TWO OTHER
24 TIMES THAT I CALLED BECAUSE I JUST, YOU KNOW, TRIED TO
25 CALL SOMEONE. BUT I DON'T REMEMBER THE DATES OR TIMES.

26 Q BEFORE YOU WERE CONTACTED BY DETECTIVE
27 LILLIENFELD IN 2001, EXCLUDING THAT TIME, FROM THE TIME
28 OF THE MURDERS, WERE YOU EVER CONTACTED BY THE POLICE

1 ABOUT THIS INCIDENT?

2 A NO.

3 Q AND YOU INDICATE THAT YOU TRIED
4 APPROXIMATELY HOW MANY TIMES IN TOTAL?

5 A THREE OR FOUR.

6 MR. JACKSON: MAY I APPROACH, YOUR HONOR?

7 THE COURT: YES.

8 Q BY MR. JACKSON: I WANT YOU TO TAKE
9 ANOTHER LOOK AT PEOPLE'S 33 FOR IDENTIFICATION. YOU
10 IDENTIFIED THAT YESTERDAY AS THE LINE-UP OR A PHOTOGRAPH
11 OF THE LINE-UP THAT YOU SAW; CORRECT?

12 A YES.

13 Q THERE IS ALSO SOME KIND OF A COPY OF A
14 DOCUMENT ON THE RIGHT SIDE. DO YOU UNDERSTAND?

15 A YES, I DO.

16 Q DO YOU RECOGNIZE THAT DOCUMENT?

17 A YES, I DO.

18 Q HOW DO YOU RECOGNIZE IT?

19 A I FILLED IT OUT.

20 Q WHAT IS THE NAME THAT APPEARS AT THE
21 BOTTOM WHERE IT INDICATES "SIGNATURE OF WITNESS"?

22 A "R. JOHNS."

23 Q IS THAT YOUR NAME?

24 A NO, IT'S NOT.

25 Q WHY DID YOU USE THAT NAME?

26 A BECAUSE WE DIDN'T WANT ANYONE TO KNOW WHO
27 WE WERE, MY WIFE AND I.

28 Q DID YOU DO THAT WITH THE PERMISSION OF THE

1 POLICE?

2 A YES, I DID.

3 Q YOU INDICATED YESTERDAY THAT THE PERSON
4 THAT YOU SAW OUTSIDE YOUR DRIVEWAY -- I'M SORRY -- YOU
5 SAW ON THE STREET WAS POSITIONED IN NO. 5, CORRECT, ON
6 THE LINE-UP?

7 A YES, I DID.

8 Q DID YOU INDICATE THAT ON THE DOCUMENT AS
9 WELL?

10 A YES, I DID.

11 Q AND WHAT ELSE DID YOU SUGGEST ON THAT
12 DOCUMENT?

13 A I JUST PUT "HIS HAIR WAS LONGER."

14 Q LONGER THAN WHAT?

15 A THAN IT WAS IN THIS PHOTOGRAPH I HAVE
16 HERE.

17 Q LONGER THAN THE PHOTOGRAPH OR LONGER THAN
18 THE LINE-UP?

19 A LONGER THAN THE LINE-UP.

20 Q SO LET ME MAKE SURE THAT WE ARE CLEAR
21 HERE. I MAY BE A LITTLE BIT OBTUSE.

22 WHEN YOU FILLED OUT THIS PAPERWORK AND
23 WENT TO THE LINE-UP, WERE YOU LOOKING AT PHOTOGRAPHS OR
24 WERE YOU LOOKING AT HUMAN BEINGS?

25 A NO, I WAS LOOKING AT HUMAN BEINGS.

26 Q OKAY.

27 A I'M TALKING ABOUT --

28 Q I UNDERSTAND. AND THESE ARE SIMPLY

1 PHOTOGRAPHS OF THE HUMAN BEINGS THAT YOU SAW THAT DAY?

2 A RIGHT.

3 Q CORRECT.

4 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
5 HONOR?

6 THE COURT: YES.

7 (PAUSE IN PROCEEDINGS.)

8 Q BY MR. JACKSON: MR. STEVENS, AS YOU SIT
9 HERE TODAY, IS THERE ANY QUESTION IN YOUR MIND THAT THE
10 PERSON THAT YOU HAVE IDENTIFIED IN THIS COURTROOM IS THE
11 PERSON THAT YOU SAW SEATED IN THAT CAR OUTSIDE YOUR
12 HOUSE?

13 A NO, THERE IS NO DOUBT.

14 Q THANK YOU.

15 THAT'S ALL I HAVE FOR MR. STEVENS.

16 THE COURT: CROSS-EXAMINATION?

17 MS. SARIS: THANK YOU.

18
19
20 CROSS-EXAMINATION

21 BY MS. SARIS:

22 Q GOOD MORNING, MR. STEVENS.

23 A GOOD MORNING.

24 Q THIS IDEA OF RUDDY POCK MARKED COMPLEXION,
25 DID YOU TELL THAT TO THE DETECTIVE BEFORE YOU SAW
26 PHOTOGRAPHS?

27 A YES, I DID.

28 Q AND YET WHEN HE SHOWED YOU SIX

1 PHOTOGRAPHS, HE ONLY --

2 MAY I APPROACH?

3 THE COURT: YES.

4 Q BY MS. SARIS: -- HE ONLY PUT IN ONE MAN
5 THAT HAD ANY SORT OF POCK MARKS; IS THAT CORRECT?

6 A IT LOOKS LIKE THAT, YES.

7 Q DO YOU RECALL -- WELL, LET ME ASK YOU
8 THIS: WHEN WE WERE FIRST TALKING ABOUT YOUR APPROACH TO
9 THIS VEHICLE, IT SOUNDED LIKE YOU WERE SORT OF TRYING TO
10 SNEAK UP ON THE CAR; IS THAT FAIR?

11 A YES. I WANTED TO WALK UP AND SEE WHAT WAS
12 GOING ON.

13 Q SO IF YOU HAD JUST KEPT WALKING STRAIGHT
14 TOWARDS THAT CAR AND THAT CAR HAD STAYED, WHAT IS THE
15 FIRST PART OF THE VEHICLE THAT YOU WOULD HAVE TOUCHED?

16 A I DON'T UNDERSTAND THE QUESTION.

17 Q WERE YOU WALKING STRAIGHT TOWARDS THE
18 DRIVER -- THE PASSENGER SIDE OF THE CAR OR WERE YOU
19 WALKING TOWARDS AN ANGLE?

20 A I WAS WALKING STRAIGHT TOWARDS THE REAR OF
21 THE CAR.

22 Q SO IF YOU HAD PUT YOUR HAND OUT AS YOU
23 WERE WALKING AND YOU KEPT GOING, WHAT WOULD YOU HAVE
24 TOUCHED?

25 A THE REAR OF THE CAR.

26 Q THE REAR TOWARDS THE TAILLIGHT OR RIGHT IN
27 THE MIDDLE?

28 A TOWARDS THE TAILLIGHT.

1 Q AND WAS THAT TAILLIGHT BEHIND THE DRIVER?

2 A YES.

3 Q YOU DIDN'T GET A VIEW OF THIS MAN FACE ON,
4 DID YOU?

5 A YES, I DID.

6 Q DO YOU RECALL WHEN YOU SPOKE TO THE
7 DETECTIVE ON THE DAY THAT YOU WERE SHOWN THE PHOTOS
8 SAYING THAT YOU ONLY WERE ABLE TO VIEW HIM FROM THE SIDE?

9 A I MIGHT HAVE SAID THAT.

10 Q DO YOU RECALL WHEN YOU WERE SHOWN THESE
11 PHOTOS THAT YOU ACTUALLY WEREN'T REALLY ABLE TO DRAW IT
12 TO NO. 3, YOU ACTUALLY NARROWED IT DOWN TO THREE OUT OF
13 THE SIX?

14 A NO, I DON'T.

15 MS. SARIS: YOUR HONOR, I HAVE A CD ROM I WOULD
16 LIKE TO MARK DEFENSE NEXT IN ORDER.

17 THE COURT: DEFENSE X. I'M SORRY. Z.

18

19 (MARKED FOR IDENTIFICATION DEFENSE'S
20 EXHIBIT NOS. Z, CD ROM AND Z-1,
21 TRANSCRIPT.)

22

23 THE COURT: Z.

24 MS. SARIS: THANK YOU.

25 THE COURT: ARE WE GOING TO PLAY SOME OF THE
26 THIS?

27 MS. SARIS: YES. I HAVE A STIPULATION. I HAVE,
28 AGAIN, ENOUGH TRANSCRIPTS FOR EVERYONE. I THINK I MIGHT

1 BE ABLE TO GET THIS ONE A LITTLE BIT BIGGER.

2 THE COURT: SO YOU WANT DO PLAY JUST A PORTION OF
3 EXHIBIT Z?

4 MS. SARIS: YES, PLEASE.

5 THE COURT: AND THAT PORTION IS REFLECTED IN THE
6 IN A TRANSCRIPT THAT WE ARE GOING TO MARK AS Z-1. OKAY?
7 THAT'S Z-1 YOU HAVE ON THE BOARD?

8 MS. SARIS: YES. Z-1 ON THE TRANSCRIPT.

9 THE COURT: CAN EVERYBODY SEE THAT? NO? DO YOU
10 WANT TO HAND OUT --

11 MS. SARIS: YES, PLEASE.

12 THE COURT: -- COPIES OF Z-1.

13 MS. SARIS: YOUR HONOR, I'M HANDING THE WITNESS
14 AND COUNSEL A COPY OF THE PORTION OF THE TRANSCRIPT.

15 Q SIR, I'M GOING TO ASK YOU TO LISTEN TO THE
16 CD ROM AND SEE IF YOU RECOGNIZE YOUR VOICE ON THIS CD.

17
18 (DEFENSE'S Z, AN AUDIOTAPE,
19 WAS PLAYED IN OPEN COURT.)
20

21 Q BY MS. SARIS: SO, SIR, WHEN YOU WERE
22 SAYING "THIS TYPE OF NOSE" IN THAT CLIP AND "THAT TYPE OF
23 HAIR" AND "THIS TYPE OF COMPLEXION," YOU WERE ACTUALLY
24 POINTING TO THREE DIFFERENT INDIVIDUALS; CORRECT?

25 A YES.

26 MS. SARIS: AND, YOUR HONOR, I HAVE ANOTHER CD
27 ROM I WOULD LIKE TO MARK DEFENSE NEXT IN ORDER.

28 THE COURT: AA.

1 MS. SARIS: AND MAY I --

2 THE COURT: ALL RIGHT. SO THE CD ROM IS AA AND
3 THEN WE WILL DO THE TRANSCRIPT AS AA-1.

4

5 (MARKED FOR IDENTIFICATION DEFENSE'S
6 EXHIBIT NOS. AA, CD ROM AND AA-1,
7 TRANSCRIPT.)

8

9 MS. SARIS: AND MAY I PUBLISH THESE TO THE JURY,
10 YOUR HONOR?

11 THE COURT: YES.

12 MS. SARIS: AND MAY I APPROACH THE WITNESS?

13 THE COURT: YES.

14 Q BY MS. SARIS: AGAIN, MR. STEVENS, I'M
15 GOING TO ASK YOU IF YOU RECOGNIZE YOUR VOICE ON THIS --

16 THE COURT: HANG ON ONE SECOND. I HAVE TO TAKE A
17 QUICK PHONE CALL.

18 (PAUSE IN PROCEEDINGS.)

19 THE COURT: SORRY. YOU MAY CONTINUE.

20 MS. SARIS: THANK YOU.

21 Q MR. STEVENS, I'M GOING TO AGAIN ASK YOU IF
22 YOU RECOGNIZE YOUR VOICE.

23

24 (DEFENSE'S AA, AN AUDIOTAPE,
25 WAS PLAYED IN OPEN COURT.)

26

27 Q MR. STEVENS, DID YOU RECOGNIZE YOUR VOICE
28 ON THAT?

1 A YES, I DO.

2 Q I WOULD LIKE TO DRAW YOUR ATTENTION ALSO
3 TO A LINE THAT THE DETECTIVE ASKED OF YOU, "MR. JACKSON
4 JUST ASKED YOU IF THE DETECTIVE ASKED YOU TO IDENTIFY
5 FROM THE PHOTOS IF YOU RECOGNIZE THE MAN SITTING OUTSIDE
6 YOUR DRIVEWAY?" DO YOU RECALL THAT QUESTION?

7 A YES, I DO.

8 THE COURT: LET'S COLLECT THE TRANSCRIPTS.

9 MS. SARIS: OH, THANK YOU.

10 THE COURT: THANK YOU.

11 Q BY MS. SARIS: SO THE QUESTION, SIR, THAT
12 YOU WERE ACTUALLY ASKED BY THE DETECTIVE WAS: "THE GUY
13 IN THE WAGON THAT DAY THAT MOST RESEMBLES WHO IN THIS
14 PHOTO?" IS THAT MORE ACCURATE OF THE QUESTION THE
15 DETECTIVE ASKED YOU THAT WE JUST HEARD ON THIS TAPE?

16 A I THOUGHT YOU ASKED ME DID I RECOGNIZE THE
17 MAN IN THIS PICTURE.

18 Q WHEN YOU IDENTIFIED THESE PHOTO ARRAYS,
19 WAS YOUR WIFE WITH YOU?

20 A NO, SHE WASN'T.

21 Q BUT SHE DID COME WITH YOU TO THE COUNTY
22 JAIL TO SEE THE LIVE LINE-UP?

23 A YES, SHE DID.

24 Q HOW DID YOU GET THERE?

25 A WE DROVE.

26 Q TOGETHER?

27 A YES.

28 Q DID YOU TALK ABOUT WHAT YOU WERE GOING TO

1 DO ON THE WAY THERE?

2 A WE MIGHT HAVE. I DON'T REMEMBER. WE WERE
3 ASKED NOT TO DISCUSS IT BY THE DETECTIVE.

4 Q THIS WAS IN 2001 IN FEBRUARY; CORRECT?

5 A YES.

6 Q WERE YOU AWARE THAT THERE WERE NEWS
7 CONFERENCES BEING HELD IN THIS CASE AROUND THAT PERIOD ON
8 THE TELEVISION?

9 A YES, I WAS.

10 Q AND THERE WERE SOME PROCEEDINGS HAPPENING
11 IN ORANGE COUNTY THAT WERE GENERATING PUBLICITY?

12 A YES, I DID.

13 Q AND WHEN YOU -- AS WE SAW IN THIS
14 TRANSCRIPT, WHEN YOU NARROWED THIS DOWN BETWEEN THREE
15 PEOPLE, HE OFFERED TO SHOW YOU THESE PEOPLE IN PERSON; IS
16 THAT CORRECT?

17 A YES, HE DID. I THINK HE DID. I'M JUST
18 GOING OFF MEMORY.

19 Q WELL, YOU SAID IF I SAW THEM IN PERSON,
20 MAYBE --

21 A YES, I THINK I SAID THAT.

22 Q AND THEN HE AGREED. YES? YOU EVENTUALLY
23 WENT TO A LIVE LINE-UP?

24 A UH-HUH.

25 Q IS THAT A "YES"?

26 A YES.

27 MS. SARIS: MAY I APPROACH THE WITNESS?

28 THE COURT: YES.

1 MS. SARIS: IS THE PICTURE OF THE LIVE LINEUP --
2 I THOUGHT THAT WAS IT --

3 Q SIR, WHEN YOU WENT TO THE LIVE LINEUP,
4 WERE YOU EXPECTING TO SEE ONE OF THE INDIVIDUALS THAT WAS
5 IN THE PHOTOGRAPHS THERE IN PERSON SO THAT YOU COULD MAKE
6 A BETTER IDENTIFICATION?

7 A YES, I WAS.

8 Q AND HOW MANY PEOPLE DEPICTED IN THAT
9 PHOTOGRAPH WERE IN THE LIVE LINE-UP THAT YOU CAME TO SEE?
10 AND I WILL SHOW YOU --

11 A I DIDN'T RECOGNIZE ANY OF THEM.

12 Q SO THE ONLY PERSON THAT WAS IN THE LIVE
13 LINE-UP THAT WAS ALSO IN THE PHOTOSPREAD WAS MICHAEL
14 GOODWIN?

15 A I ASSUME SO, YES.

16 Q AND THE ONLY PERSON IN THE PHOTOSPREAD
17 WITH A POCK MARK OR RUDDY COMPLEXION WAS MICHAEL GOODWIN?

18 A YES.

19 Q YOU HAD TOLD THE DETECTIVE INITIALLY THAT
20 YOU HAD ONLY GOTTEN WITHIN 15 OR 20 FEET OF THIS
21 INDIVIDUAL. DO YOU RECALL THAT?

22 A NO, I DON'T.

23 Q IN FACT, YOU TOLD HIM THAT NOT ONLY WHEN
24 HE SPOKE TO YOU ON 2/26, BUT AGAIN WHEN HE SPOKE TO YOU
25 ON 3/23. DO YOU RECALL THAT?

26 A NO, I DON'T. I MEAN I RECALL TALKING TO
27 HIM, BUT I DON'T RECALL MENTIONING 15 OR 20 FEET.

28 Q SO IF HE PUT 15 OR 20 FEET IN TWO SEPARATE

1 REPORTS, THAT WOULD BE INCORRECT?

2 A NO, I DIDN'T SAY THAT. I SAID I DON'T
3 REMEMBER TALKING TO HIM ABOUT THAT DISTANCE.

4 Q WOULD LOOKING AT THE REPORTS REFRESH YOUR
5 RECOLLECTION?

6 A OF SAYING THAT?

7 Q YES.

8 A NO. BECAUSE IF IT'S THERE -- I DON'T
9 REMEMBER SAYING IT.

10 Q WHICH OF THE INDIVIDUALS HAD BINOCULARS?

11 A THE DRIVER.

12 Q DO YOU RECALL TELLING THE DETECTIVE YOU
13 WEREN'T SURE WHICH INDIVIDUAL HAD THE BINOCULARS?

14 A NO, I DON'T.

15 Q YOU SAID YESTERDAY THAT YOU CAN'T RECALL
16 THE RACE OF THE PASSENGER; IS THAT CORRECT?

17 A I CAN'T BE POSITIVE.

18 Q ON 2/26 WHEN YOU WERE INTERVIEWED BY
19 DETECTIVE LILLIENFELD, DID YOU TELL HIM THERE WERE TWO
20 WHITE MALE ADULTS IN THE FRONT SEAT?

21 A I READ THAT I SAID THAT, YES.

22 Q YOU DON'T RECALL SAYING THAT?

23 A NO.

24 Q WHEN YOU WERE INTERVIEWED BY HIM IN PERSON
25 ON TAPE, DO YOU RECALL CHANGING THAT TESTIMONY TO
26 INDICATE THE RACE WAS BLACK?

27 A YES, I DO. YES, I DO.

28 Q AND YOU DID THAT WHY?

1 A BECAUSE I TALKED TO MY BROTHER -- AS SOON
2 AS ALL OF THIS HAPPENED, I TALKED TO HIM. HE WAS AN
3 ATTORNEY. AND I TALKED TO HIM AND I TOLD HIM ABOUT
4 EVERYTHING THAT HAPPENED. AND HE SAID -- THE NEXT TIME I
5 TALKED TO HIM, HE SAID -- THIS WAS RIGHT AFTER IT
6 HAPPENED. HE SAID THAT I SAID IT WAS BLACK -- THERE WAS
7 A BLACK MAN IN THE CAR WITH HIM. BUT I CAN'T BE
8 POSITIVE. I MEAN, YOU KNOW, I'M JUST TELLING YOU WHAT I
9 TOLD HIM AT THAT TIME, BUT I WOULDN'T --

10 Q DID YOU TELL THE DETECTIVE THAT YOU
11 THOUGHT THEY WERE WHITE, BUT YOU HEARD SINCE THE KILLERS
12 WERE BLACK THAT THE GUY MUST HAVE BEEN BLACK?

13 A I DON'T UNDERSTAND THE QUESTION.

14 Q WELL, YOU INDICATE THAT YOU CHANGED YOUR
15 MIND ABOUT THE RACE OF THE PASSENGER THROUGH A
16 CONVERSATION WITH YOUR BROTHER. WAS IT NOT REALLY
17 BECAUSE YOU HAD ACTUALLY HEARD A NEWS REPORT SAYING THE
18 KILLERS WERE BLACK?

19 A WE HEARD THE KILLERS WERE BLACK A DAY OR
20 TWO AFTER THE MURDER. I KNEW THAT ALL ALONG. THAT'S WHY
21 I DIDN'T UNDERSTAND YOUR QUESTION.

22 Q SO YOU KNEW THAT ALL ALONG. YOU
23 ORIGINALLY THOUGHT THE INDIVIDUALS IN THE CAR WERE WHITE,
24 BUT THEN YOU CHANGED THAT WHEN YOU TALKED TO YOUR
25 BROTHER?

26 A I JUST DIDN'T PAY THAT MUCH ATTENTION.

27 MR. JACKSON: OBJECTION, YOUR HONOR. THAT
28 MISSTATES THE TESTIMONY. IT'S ARGUMENTATIVE.

1 THE COURT: SUSTAINED.

2 Q BY MS. SARIS: DID YOU TESTIFY IN THIS
3 CASE -- IN A PREVIOUS HEARING ON THIS CASE?

4 A HERE?

5 Q YES.

6 A YES, I DID.

7 Q AND THAT WAS REGARDING THE SAME INCIDENT?

8 A UH-HUH.

9 Q IS THAT A "YES"?

10 A YES.

11 Q AND YOU WERE ALSO UNDER OATH SITTING IN
12 THAT CHAIR?

13 A YES.

14 Q YES?

15 A YES.

16 Q AND AT THAT TIME DO YOU RECALL TESTIFYING
17 THAT THE PASSENGER WAS BLACK?

18 A YES, I DO.

19 Q DID YOU INDICATE AT THAT POINT THERE WAS
20 ANY CONFUSION ABOUT THAT AT ALL?

21 A I WASN'T ASKED IF THERE WAS ANY CONFUSION,
22 BUT THERE WAS. I WAS JUST NOT 100 PERCENT. I'M 99.9
23 PERCENT SURE, BUT I'M JUST NOT 100 PERCENT. AND I
24 WOULDN'T SAY THAT I WAS 100 PERCENT SURE, NOT BEING --

25 Q BUT WHEN YOU WERE ASKED IN THE PRELIMINARY
26 HEARING, YOU DIDN'T INDICATE THAT YOU WEREN'T SURE; IS
27 THAT FAIR TO SAY?

28 A THAT'S RIGHT.

1 Q AND WHEN YOU WERE ASKED IN THE INTERVIEW
2 WITH DETECTIVE LILLIENFELD, YOU TOLD HIM WITH NO
3 HESITATION IT WAS TWO WHITE ADULTS; CORRECT?

4 A YES, I DID. THAT'S WHAT IT SAYS.

5 Q HAVE YOU SEEN THIS CASE IN THE 18 OR 20
6 YEARS SINCE IT HAPPENED ANYWHERE IN THE NEWSPAPER?

7 MR. DIXON: THAT MISSTATES THE EVIDENCE. IT'S
8 NOT 20 YEARS.

9 MS. SARIS: 18 YEARS.

10 THE COURT: REPHRASE THE QUESTION.

11 MS. SARIS: SURE.

12 Q IN THE LAST 18 YEARS, HAVE YOU SEEN THIS
13 CASE REPORTED IN THE NEWS?

14 A YES, I HAVE.

15 Q BOTH IN PHOTO PRINT AND TELEVISION?

16 A I DON'T THINK --

17 Q I'M SORRY. NEWS PRINT AND TELEVISION?

18 A I DON'T THINK I'VE SEEN ANYTHING ON
19 TELEVISION. I'VE SEEN IT IN NEWS PRINT.

20 Q WELL, YOU HAD SEEN THE PROGRAM AMERICA'S
21 MOST WANTED, HAVEN'T YOU?

22 A YES, I HAVE.

23 Q AND YOU HAD ACTUALLY SEEN THE AMERICA'S
24 MOST WANTED ABOUT THIS EXACT CASE?

25 A NO, I HAVE NOT.

26 Q DID YOU TELL THE DETECTIVE THAT YOU MIGHT
27 HAVE?

28 A THE DETECTIVE ASKED ME IF I HAD EVER SEEN

1 AMERICA'S MOST WANTED. AND I SAID, YES, BUT IT WASN'T
2 ABOUT THIS CASE.

3 Q DID HE ACTUALLY ASK YOU IF YOU HAD SEEN
4 THE AMERICA'S MOST WANTED THAT ACTUALLY PROFILED THE
5 THOMPSON MURDERS?

6 A I DON'T REMEMBER HIM SAYING PROFILE THE
7 THOMPSON MURDERS. HE HAD ASKED IF I HAD EVER SEEN
8 AMERICA'S MOST WANTED. AND I SAID, YES, I HAD.

9 Q DID HE ASK YOU IF -- SO YOU DON'T REMEMBER
10 SPECIFICALLY TELLING HIM THAT YOU HAD SEEN THE EPISODE OF
11 AMERICA'S MOST WANTED ABOUT THE THOMPSON MURDERS?

12 A NO.

13 MS. SARIS: YOUR HONOR, I HAVE ANOTHER CD ROM I
14 WOULD LIKE TO MARK DEFENSE NEXT IN ORDER.

15 THE COURT: THAT'S BB.

16
17 (MARKED FOR IDENTIFICATION DEFENSE'S
18 EXHIBIT NOS. BB, CD ROM AND BB-1,
19 TRANSCRIPT.)
20

21 MS. SARIS: AND, AGAIN, YOUR HONOR, I HAVE THE
22 TRANSCRIPT OF THAT PORTION.

23 THE COURT: ALL RIGHT. THAT WILL BE BB-1.

24 MS. SARIS: AND MAY I PUBLISH THAT TO THE JURY?

25 THE COURT: YES.

26 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
27 HONOR, BEFORE IT'S PUBLISHED TO THE JURY?

28 THE COURT: YES.

1 MR. JACKSON: YOUR HONOR, I'M GOING TO ASK TO
2 APPROACH BEFORE THIS PARTICULAR CLIP IS PLAYED.

3 THE COURT: OKAY.

4
5 (SIDEBAR WERE HELD AS FOLLOWS:)

6 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

7 MR. JACKSON: THANK YOU, YOUR HONOR. THANK YOU
8 FOR YOUR TIME. IT APPEARS THAT COUNSEL WAS TAKING THIS
9 OUT OF CONTEXT. AND IT'S COMPLETELY MISLEADING. I
10 WANT THE COURT -- IF YOU WOULDN'T MIND -- TO TAKE A LOOK
11 AT THE ENTIRETY OF THAT CONVERSATION. NOTWITHSTANDING
12 THE TRANSCRIPT THAT WAS PROPOSED TO BE SUBMITTED THAT
13 STOPS AT, "OH, OKAY."

14 AND FOR THE RECORD, I'LL READ IT.

15 FROM THE DETECTIVE: "RON, HAVE YOU EVER
16 SEEN AMERICA'S MOST WANTED SHOW THAT
17 ACTUALLY PROFILED THE THOMPSON MURDERS?"

18 ANSWER: "I DON'T KNOW IF I DID OR NOT."

19 DETECTIVE: "YEAH. DO YOU WATCH THAT TV
20 SHOW?"

21 ANSWER: "EVERY ONCE IN A WHILE, YEAH."

22 DETECTIVE: "OH, OKAY. I WOULD THINK THAT
23 IF YOU DID YOU WOULD REMEMBER THAT BECAUSE
24 OF SOMETHING AS CLOSE" --

25 ANSWER: "WELL, I REMEMBER THEM
26 ADVERTISING IT ON TELE -- WAIT A MINUTE,
27 I -- WE DID WATCH IT WHEN IT FIRST CAME
28 OUT. IT CAME OUT ABOUT, I DON'T KNOW,

1 SEVEN OR EIGHT YEARS AGO RIGHT AFTER IT
2 HAPPENED."

3 DETECTIVE: "OH, OKAY."

4 THAT'S WHERE COUNSEL SUGGESTS ENDING THE
5 TRANSCRIPT.

6 THE COURT: AND FOR THE RECORD, YOU WERE JUST
7 READING OFF OF BB-1.

8 MR. JACKSON: YES, MA'AM. THE TRANSCRIPT GOES ON
9 TO INDICATE --

10 MS. SARIS: IT STOPS RIGHT HERE (INDICATING).
11 "RIGHT. RIGHT."

12 MR. JACKSON: OKAY. FIRST OF ALL, THAT'S
13 INCORRECT. BECAUSE IT APPEARS THAT, ACCORDING TO MY
14 TRANSCRIPT, INSTEAD OF SAYING "OH, OKAY." THE DETECTIVE
15 ANSWERS "OKAY. RIGHT. RIGHT." THEN THE CONVERSATION
16 GOES ON, "THE ORIGINAL" -- THE DETECTIVE SAYING -- "WITH
17 ROBERT STACK?" THE ANSWER: "YEAH."

18 AS THE COURT KNOWS, ROBERT STACK DID NOT
19 DO AMERICA'S MOST WANTED.

20 MS. SARIS: WHICH IS WHY THE DETECTIVE TRIED TO
21 LEAD HIM INTO THAT BECAUSE HE --

22 MR. JACKSON: EXCUSE ME. MAY I FINISH?

23 MS. SARIS: YES.

24 MR. JACKSON: ROBERT STACK DID UNSOLVED
25 MYSTERIES, THAT'S THE FIRST PROBLEM. AND I THINK IT'S
26 MISLEADING ON THAT NOTE. THE DETECTIVE GOES ON TO ASK
27 HIM ABOUT THE SHOWS THAT HE HAD WATCHED AND THE COURT CAN
28 READ THIS. IT ENDS WITH, "OKAY. BUT YOU NEVER SAW THE

1 STORY ON THAT PARTICULAR SHOW" -- MEANING THE MICKEY
2 THOMPSON MURDERS. "NO." THE ANSWER IS: "NO."

3 THIS IS COMPLETELY MISLEADING. AND
4 GRANTED I'VE GOT CROSS-EXAMINATION, BUT I WASN'T
5 PREPARED. I DIDN'T THINK THAT MS. SARIS WOULD DO THIS.
6 I DON'T HAVE THE -- I MEAN I COULD PLAY THE ENTIRETY OF
7 THE TAPE. I DON'T HAVE A SNIPPET.

8 MS. SARIS: HERE IS THE PROBLEM. THE DETECTIVE
9 KNEW FULL WELL THAT AMERICA'S MOST WANTED FEATURED
10 MICHAEL GOODWIN AND UNSOLVED MYSTERIES DID NOT. HE TRIED
11 TO LEAD THE WITNESS AWAY FROM UNSOLVED MYSTERIES. HE
12 VERY CLEARLY STATES IN THE THING "AMERICA'S MOST WANTED."
13 WHEN THE WITNESS SAYS, "YES," HE CHANGES IT TO UNSOLVED
14 MYSTERIES. THE TIMING EIGHT OR NINE YEARS AGO IS
15 AMERICA'S MOST WANTED. IT'S NOT UNSOLVED MYSTERIES.

16 AND IF YOU GO ON AND YOU WANT THE ENTIRETY
17 OF THE TRANSCRIPT, WE GET INTO THE NEPHEW AND THE
18 NEPHEW'S MURDER. AND THAT'S WHY I CUT THE TRANSCRIPT.
19 "OH, YEAH. I USED TO SEE THOSE PROGRAMS WHERE THE NEPHEW
20 GOT THROWN OUT OF A PLANE."

21 THE COURT: ALL RIGHT.

22 MS. SARIS: I'LL MOVE ON AND WE CAN JUST READ THE
23 PORTION OF AMERICA'S MOST WANTED IF THE COURT WOULD
24 RATHER, BUT TO ME --

25 THE COURT: NO. I THINK A FAIR REPRESENTATION
26 WOULD BE TO READ THE ENTIRE PORTION, IF THAT'S WHAT YOU
27 WANT TO DO.

28 MS. SARIS: THE ENTIRE PORTION HAS THE NEPHEW'S

1 MURDER. I'M HAPPY TO.

2 THE COURT: NO. THE ENTIRE PORTION WHICH ENDS A
3 PAGE OR TWO LATER THAT HASN'T BEEN MARKED.

4 MS. SARIS: WELL, THIS IS THE ONLY TRANSCRIPT
5 THAT I HAVE, THAT'S THE PROBLEM. I DON'T KNOW WHERE THIS
6 TRANSCRIPT CAME FROM.

7 THE COURT: JUST SO THE RECORD IS CLEAR, THERE IS
8 A BB-1 THAT IS PROVIDED BY DEFENSE COUNSEL. AND THEN THE
9 PEOPLE ARE PRESENTING ME WITH THREE PAGES OF A
10 TRANSCRIPT.

11 MS. SARIS: LET ME GET MINE.

12 MR. JACKSON: CORRECT, OF THE SAME CONVERSATION.

13 MS. SARIS: SEE, WE DON'T HAVE THE SAME
14 TRANSCRIPT IS THE OTHER PROBLEM.

15 MR. JACKSON: I DON'T THINK THAT'S A PROBLEM AS
16 LONG AS -- I MEAN I CAN QUICKLY --

17 THE COURT: JUST SOMEBODY IDENTIFY THE TRANSCRIPT
18 FOR THE RECORD. IT IS A TRANSCRIPT OF THE INTERVIEW
19 BETWEEN MR. STEVENS AND THE DETECTIVE ON WHAT DAY?

20 MS. SARIS: 3/23/01.

21 THE COURT: 3/23/01?

22 MR. JACKSON: THAT'S CORRECT.

23 MS. SARIS: YES.

24 THE COURT: WELL, THE OBJECTION, BASED ON WHAT
25 I'M LOOKING AT, IS SUSTAINED UNLESS COUNSEL WANTS TO READ
26 THE WHOLE THING.

27 MS. SARIS: SO THE FACT THAT IT'S THE DETECTIVE
28 THAT SAYS IT'S UNSOLVED MYSTERY AND NOT THE WITNESS IS

1 IRRELEVANT?

2 THE COURT: WELL, BUT HE DOES SAY THAT LATER ON.
3 IT'S NOT THAT IT'S IRRELEVANT. IT'S THAT IT'S MISLEADING
4 TO ONLY READ A PORTION.

5 MS. SARIS: WELL, WE'RE ONLY READING POTIONS OF
6 THIS ENTIRE TRANSCRIPT.

7 MR. JACKSON: WELL, PLUS I THINK IT'S ALSO
8 MISLEADING THAT MS. SARIS IS INTONING CERTAIN THINGS OR
9 ATTRIBUTING CERTAIN THINGS TO THE DETECTIVE. IT'S RIGHT
10 HERE IN BLACK AND WHITE. HE SAYS -- "HE" BEING THE
11 WITNESS -- SAYS IN RESPONSE TO THE QUESTION, "OH, YOU'RE
12 TALKING ABOUT" -- WHEN HE SAYS, "YES, I WATCH THE
13 UNTOUCHABLES." AND THEY'RE TALKING ABOUT ROBERT STACK.
14 "OH, YOU ARE TALKING ABOUT A SHOW CALLED UNSOLVED
15 MYSTERIES ON NBC?" "UH-HUH." "OH, YEAH. IT CAME OUT A
16 YEAR OR TWO AFTER THE MURDERS." THAT, AS COUNSEL KNOWS,
17 WAS UNSOLVED MYSTERIES. AND HE SAYS, "THAT'S THE ONE I
18 SAW." BUT HE NEVER SAW THE STORY ON THIS PARTICULAR
19 SHOW.

20 MS. SARIS: BUT RIGHT CLEAR AS DAY. IT'S NOT
21 LIKE I'M MAKING IT UP. HE ASKED DID YOU SEE --

22 THE COURT: YOU CAN -- I'M NOT SAYING YOU CAN'T
23 READ IT. I'M SAYING IF YOU READ IT, YOU SHOULD READ THE
24 ENTIRE PORTION.

25 MS. SARIS: OKAY.

26 THE COURT: OKAY.

27 MS. SARIS: THANK YOU.

28 MR. JACKSON: THANK YOU, YOUR HONOR.

1 (SIDEBAR PROCEEDINGS CONCLUDED.)

2

3 Q BY MS. SARIS: MR. STEVENS, LET ME JUST

4 ASK YOU WITHOUT PLAYING THE TAPE, DO YOU RECALL THE

5 FOLLOWING EXCHANGE OCCURRING DURING YOUR INTERVIEW WITH

6 DETECTIVE LILLIENFELD. HE ASKED YOU SPECIFICALLY: "HAVE

7 YOU EVER SEEN THE AMERICA'S MOST WANTED SHOW THAT

8 ACTUALLY PROFILED THE THOMPSONS' MURDERS?" YOU REPLIED

9 "I DON'T KNOW IF I DID OR NOT." HE SAID "YEAH, DO YOU

10 WATCH THAT TV SHOW?" YOU SAID "YEAH, EVERY ONCE IN A

11 WHILE." HE SAID, "OH OKAY. I WOULD THINK THAT IF YOU

12 DID YOU WOULD REMEMBER THAT BECAUSE IT'S SOMETHING CLOSE

13 TO" -- AND YOU SAID, "WELL, I REMEMBER THEM ADVERTISING

14 IT ON TELE" -- "WAIT A MINUTE. WE DID WATCH IT WHEN IT

15 FIRST CAME OUT. IT CAME OUT, I DON'T KNOW, ABOUT SEVEN

16 OR EIGHT YEARS AGO RIGHT AFTER IT HAPPENED." HE SAID "OH

17 OKAY." YOU SAID "THE FIRST, THE ORIGINAL." THEN HE SAID

18 "RIGHT WITH ROBERT STACK, REMEMBER THE GUY FROM

19 UNTOUCHABLES."

20 DO YOU RECALL THE PROGRAM AMERICA'S MOST

21 WANTED?

22 A YES, I DO.

23 Q DID THAT HAVE ROBERT STACK OR WAS THAT

24 UNSOLVED MYSTERIES?

25 A I'M NOT SURE.

26 Q SO WHEN YOU ANSWERED THE QUESTION

27 REGARDING AMERICA'S MOST WANTED, AND SAID, YES, THAT YOU

28 PROBABLY DID SEE IT, WERE YOU REFERRING TO UNSOLVED

1 MYSTERIES OR AMERICA'S MOST WANTED?

2 A I DON'T KNOW. WHICHEVER ONE THAT ROBERT
3 STACK WAS ON.

4 Q WELL, NOW HE SUGGESTED ROBERT STACK IN THE
5 INTERVIEW. YOU DID NOT. DO YOU RECALL --

6 A OKAY. I DON'T KNOW. I DON'T WATCH THAT
7 MUCH TELEVISION SO I --

8 Q HE WENT ON TO RELATE IT TO THE
9 UNTOUCHABLES. IS THAT WHERE YOU RELATED ROBERT STACK TO?

10 A YES.

11 Q AND SO JUST TO FINISH YOU SAID, "OH,
12 YOU'RE TALKING ABOUT A SHOW CALLED UNSOLVED MYSTERIES"
13 AFTER HE MENTIONED ROBERT STACK?

14 A IF I SAID IT, YES, I SAID IT. I JUST
15 DON'T REMEMBER.

16 Q AND HE SAID, "ON NBC?" AND YOU SAID,
17 "UH-HUH." AND HE SAID, "YEAH, THAT CAME OUT I THINK A
18 YEAR OR TWO AFTER THE MURDERS." YOU INDICATED "RIGHT. I
19 SAW THAT ONE." AND THEN THE DETECTIVE SAID, "MAYBE
20 AROUND 1989."

21 AND THEN YOU RESPONDED, "I DIDN'T SEE THAT
22 ONE THAT MEL'S BROTHER OR MEL SAW." THE DETECTIVE
23 REPLIED, "RIGHT. RIGHT. THAT'S A SHOW ON FOX. THERE IS
24 A TV SHOW CALLED AMERICA'S MOST WANTED. DO YOU WATCH
25 THAT SHOW?" YOU SAID, "UH-HUH." HE SAID, "OKAY. I KNOW
26 THAT." AND THEN, AGAIN, YOU RELATED THAT YOU DON'T WATCH
27 MUCH TELEVISION.

28 DOES THAT SOUND LIKE THE CONVERSATION?

1 A IT DOES.

2 Q THE UNSOLVED MYSTERY PROGRAM, THAT WAS THE
3 ONE THAT CAME OUT RIGHT AFTER THE MURDERS. DO YOU
4 REMEMBER THAT?

5 A NO, I DON'T.

6 Q WHEN YOU SAY A PROGRAM THAT CAME EIGHT OR
7 NINE YEARS PRIOR, WOULD THAT HAVE BEEN AMERICA'S MOST
8 WANTED?

9 A I DON'T KNOW. I DON'T KNOW. I HAVE NO
10 IDEA.

11 Q SO LET'S -- IS IT FAIR TO SAY, THEN, THAT
12 YOU MAY HAVE SEEN A PROGRAM ABOUT THE SHOW AND YOU'RE NOT
13 SURE WHICH?

14 MR. JACKSON: OBJECTION. THAT MISSTATES THE
15 TESTIMONY.

16 THE COURT: SUSTAINED.

17 Q BY MS. SARIS: WELL, I'M ASKING, SIR, HAVE
18 YOU SEEN A SHOW ABOUT THIS CASE?

19 A I REALLY DON'T REMEMBER.

20 Q WHEN YOU MADE YOUR OBSERVATIONS THAT
21 MORNING OF THIS CAR, THERE HAD NOT BEEN A MURDER YET; IS
22 THAT FAIR?

23 A THAT'S RIGHT.

24 Q YOU HAD ATTENDED A NEIGHBORHOOD WATCH
25 MEETING?

26 A YES.

27 Q HOW RECENT IN TIME TO THAT?

28 A OH, I DON'T KNOW.

1 Q WAS THAT THE FIRST NEIGHBORHOOD WATCH
2 MEETING YOU HAD EVER ATTENDED?

3 A YES, IT WAS.

4 Q HAD THERE BEEN ANY RECENT KIDNAP ATTEMPTS
5 AT THAT SCHOOL?

6 A KIDNAPS? NO.

7 Q ANY SORT OF PEEPING TOMS OR PEDOPHILES
8 THAT YOU KNEW OF?

9 A NOT THAT I KNOW OF.

10 Q WE HAD SOME DISCUSSION ABOUT THE HAIR
11 COLOR OF THE INDIVIDUAL THAT YOU --

12 A YES.

13 Q -- SAW. WHEN YOU WERE FIRST ASKED FOR A
14 DESCRIPTION BY THE DISTRICT ATTORNEY, DO YOU RECALL
15 DESCRIBING IT AS A REDDISH HAIR COLOR?

16 A YES, I DO.

17 Q AND, IN FACT, YOU TESTIFIED IN THIS
18 EARLIER PROCEEDING THAT THE HAIR WAS A RED COLOR?

19 A YES, I DO.

20 Q AND THAT IT WAS -- IN FACT, MORE THAN ONCE
21 YOU ALSO SAID IT WAS LONGER RED HAIR; IS THAT RIGHT?

22 A YES.

23 Q AND YOU KNOW THE MAN WAS A BIG MAN?

24 A YES, I DO.

25 Q AND THE HAIR WAS LONG ENOUGH TO HAVE STUCK
26 OUT OF SOME SORT OF A CAP; IS THAT RIGHT?

27 A THE CAP JUST COVERED THE BACK PART OF HIS
28 HEAD. IT WASN'T OVER THE ENTIRE HEAD LIKE A BASEBALL CAP

1 OR SOMETHING LIKE THAT. YES.

2 Q IS IT BIGGER THAN LIKE A YAMACA?

3 A A LITTLE LARGER THAN THAT, YES. ON THE
4 BACK OF HIS HEAD, YES.

5 Q YOU WERE ALSO SHOWN, AT THAT TIME,
6 PICTURES OF A CHEVY MALIBU?

7 A YES, I THINK SO.

8 Q ARE YOU -- AND I'M GOING TO PUT BACK ON
9 THE OVERHEAD PEOPLE'S NO. 32. IS THAT A CHEVY MALIBU IN
10 THAT PICTURE?

11 A NO, IT'S NOT.

12 Q A CHEVY MALIBU, IS THAT A SMALL STATION
13 WAGON?

14 A I THINK IT IS A MID SIZE.

15 Q AND I THINK YOU TRIED TO NARROW THE YEAR
16 DOWN FOR US; IS THAT RIGHT?

17 A IT WAS EARLY '70S, YES.

18 Q DO YOU KNOW ENOUGH ABOUT THE CHEVY SERIES
19 OF CARS TO KNOW IF MUCH CHANGED BETWEEN THE EARLY '70S
20 AND, SAY, A 1978 MALIBU?

21 A NO.

22 MS. SARIS: YOUR HONOR, I HAVE A BROCHURE FOR
23 CHEVY WAGONS FROM 1978 THAT I WOULD LIKE TO MARK DEFENSE
24 NEXT IN ORDER.

25 THE COURT: CC.

26

27 (MARKED FOR IDENTIFICATION DEFENSE'S
28 EXHIBIT NO. CC, BROCHURE.)

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MR. JACKSON: YOUR HONOR, DEPENDING ON -- WELL, I WILL LET COUNSEL ASK HER NEXT QUESTION. I MAY HAVE AN OBJECTION.

MS. SARIS: MY INTENT WAS TO SHOW THIS TO THE WITNESS AND SEE IF THERE IS ANYTHING DEPICTED THAT LOOKS SIMILAR TO THE VEHICLE THAT HE SAW.

THE COURT: ALL RIGHT.

MR. JACKSON: AND MY OBJECTION WOULD BE NO FOUNDATION. THE WITNESS HAS CLEARLY SAID IT'S NOT A '78 CHEVY MALIBU.

THE COURT: OVERRULED. YOU CAN SHOW HIM.

Q BY MS. SARIS: AND, SIR, IF THESE CARS DON'T LOOK LIKE IT, LET ME KNOW. THIS IS THE OLDEST BROCHURE I COULD FIND. I BELIEVE THE MALIBUS ARE IN THE MIDDLE.

A NO, IT WAS OLDER THAN THAT.

Q OLDER THAN THIS? OKAY. AND JUST FOR THE RECORD, YOU LOOKED THROUGH THE ONES MARKED "MALIBU"?

A YES.

Q AND WHEN YOU SAY "OLDER," WHAT DO YOU MEAN IN TERMS OF OLDER? IT JUST LOOKED MORE OLD OR THERE IS A FEATURE --

A THE BODY -- IT WAS A DIFFERENT BODY STYLE THAN THAT.

Q AND YOU KNOW A LITTLE BIT ABOUT CARS, YES?

A YES, A LITTLE BIT.

Q DID YOUR FAMILY OWN MALIBUS AT ONE POINT?

1 A NO. A FRIEND MINE OWNED A MALIBU SIMILAR
2 TO THAT.

3 Q DO YOU KNOW WHEN THE PHOTOGRAPHS IN
4 PEOPLE'S 32 WERE TAKEN?

5 A NO, I DON'T.

6 Q YOU WEREN'T PRESENT FOR THAT?

7 A NO.

8 Q I NOTICE IN A PORTION OF THE PHOTOGRAPH
9 THERE IS SOMETHING THAT IS MARKED -- I WENT OUT AND
10 BOUGHT ONE OF THESE FANCY POINTERS -- "BIKE PATH."

11 A YES.

12 Q NOW, IS THAT ALSO A TRAIL THAT HORSES CAN
13 RUN ON?

14 A BESIDE IT, YES, THERE IS A PORTION FOR
15 HORSES.

16 MS. SARIS: AND, YOUR HONOR, I'VE TAKEN THE
17 POINTER ASK POINTED TO THE BOTTOM OF THE PHOTOGRAPH WHERE
18 THE WORDS "BIKE PATH" APPEAR IN PEOPLE'S 32.

19 THE COURT: YES. THANK YOU.

20 Q BY MS. SARIS: YOU WERE A RESIDENT OF THAT
21 AREA FOR SOMETIME?

22 A YES, I WAS.

23 Q WAS THIS WHAT YOU WOULD CALL HORSE
24 COUNTRY?

25 A YES, IT IS.

26 Q AND WAS THIS A FEATURE THAT THE RESIDENTS
27 ENJOYED BEING ABLE TO USE THIS PATH FOR THEIR HORSES AND
28 BIKES?

1 A YES.

2 Q DID YOU NEED ANY SPECIAL KEY CARD OR
3 SOMETHING TO GET IN?

4 A NO.

5 Q SO IT WAS OPEN TO THE PUBLIC?

6 A YES.

7 Q AND MT. OLIVE, THE STREET THAT'S DEPICTED
8 ON THE DIAGRAM -- AND, AGAIN, I'M TAKING MY POINTER TO
9 THE WORD "MT. OLIVE," WHICH SEEMS TO BE IN THE MIDDLE OF
10 THE DIAGRAM. IT'S THE NORTH AND SOUTH RUNNING STREET.

11 DO YOU RECOGNIZE THAT?

12 A YES, I DO.

13 Q THAT'S A FAIRLY BUSY STREET, IS IT NOT?

14 A YES.

15 Q IN FACT, THERE IS A FREEWAY EXIT FROM THE
16 210 CALLED "MT. OLIVE"?

17 A YES.

18 Q THAT'S THE MAIN WAY TO GET INTO BRADBURY?

19 A YES.

20 Q AND DO YOU KNOW THE STREET WOODLYN LANE?

21 A YES, I DO.

22 Q DID YOU KNOW IT PRIOR TO THE INCIDENT?

23 A YES, I DID.

24 Q JUST FROM BEING A RESIDENT?

25 A YES.

26 Q DID YOU KNOW THAT MICKEY THOMPSON LIVED
27 THERE BEFORE?

28 A YES.

1 Q CAN YOU SEE ANY PART OF WOODLYN LANE FROM
2 THE FRONT OF YOUR HOUSE?

3 A NO.

4 Q WHAT ABOUT ROYAL OAKS, CAN YOU SEE THE
5 INTERSECTION OF ROYAL OAKS AND WOODLYN FROM YOUR HOUSE?

6 A NO.

7 Q AND ON THIS DIAGRAM IT LOOKS LIKE THERE IS
8 A -- MT. OLIVE IS A VERY CURVY KIND OF WINDY ROAD; IS
9 THAT FAIR?

10 A YES.

11 Q IT GOES UP INTO THE HILLS?

12 A YES.

13 Q AND WE CAN'T REALLY SEE WHAT HEIGHT OR
14 WHATEVER SIZE, BUT IS THIS A FAIRLY SIGNIFICANT -- WHAT
15 DO YOU CALL IT? -- AN UPHILL?

16 A GRADE.

17 Q INCLINE?

18 A YES.

19 Q SO EVEN WITH BINOCULARS SITTING IN FRONT
20 OF YOUR HOUSE, ONE CANNOT SEE THE THOMPSON RESIDENCE; IS
21 THAT FAIR?

22 A YES.

23 Q THAT'S FAIR?

24 A YES.

25 Q AND ONE CANNOT SEE THE INTERSECTION OF
26 MT. OLIVE AND WOODLYN LANE?

27 A NO.

28 Q AND ONE CANNOT SEE THE INTERSECTION OF

1 ROYAL OAKS AND WOODLYN LANE?

2 A NO.

3 Q EVEN WITH BINOCULARS?

4 A RIGHT.

5 Q AND HAVE YOU EVER DRIVEN -- OR DO YOU KNOW
6 THE DISTANCE BETWEEN YOUR HOME AND MICKEY THOMPSON'S HOME
7 BY CAR?

8 A I NEVER HAVE DRIVEN IT TO TEST THE
9 DISTANCE, PROBABLY TWO MINUTES, A MINUTE AND A HALF.

10 Q ABOUT A MILE, THREE QUARTERS OF A MILE?

11 A LESS THAN THAT.

12 Q AND TO THE BEST OF YOUR RECOLLECTION, THE
13 COLOR OF THE CAR THAT YOU SAW?

14 A IT WAS AN OXIDIZED BLUE/GREEN CHEVY.

15 Q THE POLICE SET UP ROADBLOCKS OUTSIDE YOUR
16 HOUSE RIGHT AFTER THE MURDER; DIDN'T THEY?

17 A YES, THEY DID.

18 Q DID YOU APPROACH ANY OF THE PEOPLE AT
19 THOSE ROADBLOCKS?

20 A NO, I DID NOT.

21 Q DID YOU KNOW AT THE TIME WHY THE POLICE
22 WERE OUTSIDE?

23 A YES.

24 Q HAD THIS CASE BEEN ALL OVER THE NEWS -- OR
25 THE MURDER?

26 A YES.

27 Q AND THEY STAYED THERE FOR SEVERAL WEEKS,
28 TOO, DIDN'T THEY, LOOKING FOR PEOPLE WHO MIGHT HAVE SEEN

1 SOMETHING?

2 A I NEVER WENT THROUGH THE ROADBLOCK. IT
3 WAS THERE DURING THE DAY. I LEFT BEFORE THE ROADBLOCKS
4 WERE UP AND CAME HOME AFTER THEY WERE DOWN. AND THEY
5 WERE QUESTIONING PEOPLE FOR INFORMATION.

6 Q YOU DIDN'T COME HOME FOR LUNCH DURING THE
7 DAY?

8 A NO.

9 Q DO YOU KNOW THE -- AND I'M GOING TO SAY
10 THE NAME AND THEN SPELL IT -- THE QUARMSTROMS --

11 A QUARMSTROMS, YES, I DID.

12 Q AND I'M GOING TO SAY IT'S QUARMSTROMS,
13 Q-U-A-R-M-S-T-R-O-M-S?

14 A THAT'S CLOSE.

15 Q AND WERE THEY YOUR ACROSS THE STREET
16 NEIGHBORS?

17 A ONE OF THE ACROSS THE STREET NEIGHBORS.

18 Q DO YOU REMEMBER EVER HAVING TO SHOW
19 IDENTIFICATION AT ALL AT ANY TIME AFTER -- IN THE WEEK OR
20 TWO AFTER THE MURDER TO GET INTO YOUR RESIDENCE?

21 A NO, I DON'T.

22 Q DO YOU RECALL EVER BEING SHOWN ANY TYPE OF
23 A SHEET OR PAPERWORK INDICATING THAT YOU HAD MADE SOME
24 CALL TO THE POLICE, THESE THREE OR FOUR ATTEMPTS THAT YOU
25 TOLD US ABOUT?

26 A A SHEET FROM WHO?

27 Q FROM THE -- LIKE A PHONE MESSAGE OR WHAT
28 THE SHERIFFS CALL "CLUE SHEETS" OR ANYTHING LIKE THAT?

1 A THEY NEVER RETURNED MY CALLS.

2 Q BUT YOU WOULD HAVE CALLED AND LEFT YOUR
3 NAME, YES?

4 A YES.

5 Q AND YOU WOULD HAVE TOLD THEM WHAT IT WAS
6 REGARDING?

7 A YES.

8 Q DID YOU DIAL 911 OR DIRECTLY TO THE
9 STATION?

10 A DIRECTLY TO THE STATION.

11 Q AND THEN 14 YEARS WENT BY BEFORE YOU
12 CONTACTED ANYONE ELSE?

13 A YES. I DIDN'T CONTACT ANYONE ELSE.
14 SOMEONE CONTACTED ME.

15 Q THE FRIEND THAT YOU SPOKE TO THAT TOLD YOU
16 YOU MIGHT WANT TO CALL THE POLICE, WAS THAT MEL REEVES?

17 A YES, IT WAS.

18 Q DO YOU KNOW IF HE EVER CONTACTED THE
19 POLICE TO YOUR KNOWLEDGE?

20 A NO, I DON'T.

21 Q THE NAMES THAT APPEAR ON THAT LINE-UP FORM
22 "JOHNS" --

23 A YES.

24 Q -- WAS THAT DETECTIVE LILLIENFELD'S IDEA?

25 A I DON'T REMEMBER AT THE TIME.

26 Q DO YOU RECALL PRIOR TO GOING TO THE
27 LINE-UP YOUR WIFE AND YOU BEING IN YOUR HOUSE WHEN THE
28 NEWS CAME ON ABOUT THIS CASE?

1 A YES, I DO.

2 Q DO YOU RECALL HER EVER INDICATING TO YOU
3 THAT THE PERSON INVOLVED IN THIS LINE-UP WAS ON THE
4 TELEVISION?

5 A YES.

6 Q YESTERDAY YOU HAD MADE AN ESTIMATE FOR US
7 ABOUT HOW LONG YOU WERE ABLE TO LOOK AT THIS INDIVIDUAL
8 AND YOU SAID A MINUTE.

9 HAVE YOU HAD A CHANCE TO THINK ABOUT THAT
10 AT ALL?

11 A NO. I DIDN'T THINK ANY MORE ABOUT IT THAN
12 WHAT I SAID.

13 Q DO YOU -- WELL, I'M LOOKING AT THE SECOND
14 HAND ON THE CLOCK NOW, COULD YOU INDICATE FOR US IN ANY
15 WAY EITHER BY LOOKING AT THE CLOCK OR TRYING TO REMEMBER?

16 A WELL, IT WAS THE LENGTH OF TIME THAT I
17 WALKED -- CAME THROUGH THE GATE AND WALKED FROM ONE END
18 OF MY CORRAL TO THE OTHER TO WHERE HE WAS, I WAS LOOKING
19 AT HIM AS I WALKED CLOSER AND CLOSER AND CLOSER I KEPT
20 LOOKING AT HIM TO SEE.

21 Q SO THE TIME IT TAKES YOU TO WALK
22 APPROXIMATELY 70 OR 80 FEET?

23 A IT WAS A LITTLE FURTHER THAN THAT, YES.

24 Q ABOUT HOW FAR?

25 A I THINK IT'S LIKE 100 FEET LONG AND 70
26 FEET WIDE, 120 FEET LONG, SO THAT DISTANCE.

27 Q AND THEN WHEN YOU GOT UP TO THE CAR, DID
28 YOU STAND THERE FOR A MINUTE? OR DID HE SEE YOU; APPEAR

1 STARTLED; AND DRIVE OFF?

2 A HE SEEMED STARTLED AND DROVE OFF. HE
3 TURNED AND LOOKED AT ME AND DROVE OFF.

4 Q AND CAN YOU PINPOINT FOR US WHAT DAY OF
5 THE WEEK THIS WAS?

6 A NO.

7 Q DO YOU KNOW THAT IT WAS A WEEKDAY AND NOT
8 A WEEKEND?

9 A YES.

10 Q YOU DO?

11 A YES.

12 Q AND IF MICKEY AND TRUDY THOMPSON WERE
13 MURDERED ON A WEDNESDAY, WHAT IS YOUR BEST RECOLLECTION?
14 WAS IT DO YOU THINK THE WEEK PRIOR OR SIMPLY TWO DAYS
15 PRIOR?

16 A I DON'T HAVE A GOOD ESTIMATE AT ALL. IT
17 WAS A FEW DAYS BEFORE. IT MIGHT HAVE BEEN THE WEEK
18 PRIOR. IT MIGHT HAVE BEEN THAT WEEK.

19 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

20 (PAUSE IN PROCEEDINGS.)

21 MS. SARIS: MAY I APPROACH THE WITNESS AGAIN FOR
22 AN EXHIBIT?

23 THE COURT: YES.

24 Q BY MS. SARIS: JUST A COUPLE MORE
25 QUESTIONS. WE TALKED ABOUT UNSOLVED MYSTERIES AND
26 AMERICA'S MOST WANTED. IT'S FAIR TO SAY THERE MAY HAVE
27 BEEN SOME CONFUSION WITH THE DETECTIVE AND THE TAPE?

28 A YES.

1 Q WAS THERE ANY OTHER SHOW, CNN; CBS NEWS;
2 48 HOURS; ANYTHING THAT YOU MIGHT HAVE SEEN THAT YOU
3 RECALL?

4 A NOT THAT I RECALL.

5 Q IS IT POSSIBLE?

6 A IT'S POSSIBLE.

7 MR. JACKSON: OBJECTION. ANYTHING IS POSSIBLE,
8 YOUR HONOR.

9 THE COURT: SUSTAINED.

10 Q BY MS. SARIS: SIR, DO YOU WATCH PROGRAMS
11 LIKE THAT? OR DID YOUR WIFE WATCH PROGRAMS AND HAVE
12 THOSE ON IN THE HOUSE WHILE YOU WERE THERE?

13 A I DIDN'T WATCH PROGRAMS LIKE THAT.

14 Q DID YOUR -- TO YOUR KNOWLEDGE, DID YOUR
15 WIFE WATCH THOSE SORT OF SHOWS?

16 A SHE MIGHT HAVE WATCHED THEM WHILE I WAS AT
17 WORK OR DURING THE DAY OR SOMETHING. BUT WE DIDN'T PAY
18 THAT MUCH ATTENTION TO THAT TYPE OF PROGRAMMING.

19 Q DO YOU RECALL AT ONE OF THE CONVERSATIONS
20 YOU HAD WITH THE DETECTIVE, HE WAS TRYING TO TELL YOU
21 THAT IT WOULD BE IMPORTANT FOR YOU NOT TO WATCH THESE
22 SHOWS?

23 A YES, I WAS TOLD NOT TO.

24 Q AND THAT WAS AFTER YOU SAW THE PHOTOS, BUT
25 BEFORE YOU WENT TO THE LIVE LINE-UP?

26 A YES.

27 Q OKAY. AND YOU TOLD HIM AT THAT TIME YOU
28 WERE AWARE BASED ON THE NEWS OF SOME PROCEEDING IN ORANGE

1 COUNTY?

2 A YES.

3 Q YOU ACTUALLY HAD A LITTLE BIT OF DETAIL.
4 YOU KNEW THAT SOMEONE -- A SPECIFIC PERSON WAS ACTUALLY
5 GOING TO TESTIFY, CORRECT, HIS WIFE?

6 MR. JACKSON: OBJECTION. VAGUE. I DON'T
7 UNDERSTAND.

8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: WELL, DID YOU TELL THE
10 DETECTIVE THAT YOU WERE FOLLOWING THE ORANGE COUNTY
11 PROCEEDINGS?

12 A I DON'T THINK I TOLD HIM I WAS FOLLOWING
13 THE ORANGE COUNTY PROCEEDINGS. MY BROTHER, AN ATTORNEY
14 IN ORANGE COUNTY, WAS KEEPING ME INFORMED OF WHAT WAS
15 GOING ON IN ORANGE COUNTY, BUT I WASN'T FOLLOWING IT.

16 Q DID YOU TELL HIM THAT YOU JUST HEARD THAT
17 MORNING THAT HE CALLED ABOUT HIS WIFE -- MEANING
18 GOODWIN'S WIFE -- WAS GOING TO TESTIFY OR SOMETHING TO
19 THAT EFFECT?

20 A NO.

21 Q YOU DON'T RECALL THAT?

22 A NO.

23 Q WHEN YOU GAVE YOUR INITIAL DESCRIPTION TO
24 THE POLICE -- AND I JUST ASKED YOU EARLIER IF YOU NOTED
25 THE MAN WAS BIG?

26 A YES.

27 Q DID YOU USE THE WORD "STOCKY"?

28 A I MIGHT HAVE. I DON'T KNOW. HE WAS IN A

1 CAR SITTING DOWN. SO WHEN I SAID "BIG," WHEN HE WAS
2 SITTING BEHIND THE WHEEL, HE LOOKED LIKE A BIG MAN. I
3 DON'T KNOW IF I KNEW HE WAS STOCKY OR NOT, BUT HE WAS
4 BIG.

5 Q AND DID YOU GIVE AN AGE APPROXIMATION?

6 A I THINK I SAID IN HIS 40'S.

7 Q AND YOU WOULD HAVE BEEN REFERRING TO A
8 PERIOD OF TIME 13 OR 14 YEARS IN THE PAST, YES?

9 A YES.

10 Q SO WHEN YOU WENT TO THE LIVE LINE-UP, IS
11 IT FAIR TO SAY THAT YOU WERE LOOKING FOR SOMEONE WHO
12 WOULD HAVE BEEN AT LEAST IN HIS 50'S?

13 A YES.

14 Q SO IF A 20-YEAR-OLD WAS THERE, YOU WOULD
15 HAVE BEEN ABLE TO ELIMINATE HIM BY PROCESS OF
16 ELIMINATION?

17 A YES.

18 Q WHEN YOU LOOK AT THE PHOTOGRAPHS IN
19 PEOPLE'S 33, DOES IT APPEAR TO YOU THAT THERE IS MORE
20 THAN MAYBE ONE OR TWO INDIVIDUALS OVER 40 OR 50 IN THAT
21 PICTURE?

22 A THERE IS A COUPLE IT LOOKS LIKE.

23 Q A COUPLE?

24 A UH-HUH.

25 Q BUT NOT ALL SIX, IS THAT FAIR?

26 A YES.

27 Q IS IT POSSIBLE, SIR, THAT YOU DID USE THE
28 WORD "STOCKY" ON THE TAPE?

1 A IT MIGHT HAVE BEEN.

2 Q OKAY.

3 MS. SARIS: I HAVE NOTHING FURTHER AT THIS TIME.

4 THE COURT: REDIRECT?

5

6 REDIRECT EXAMINATION

7 BY MR. JACKSON:

8 Q MR. STEVENS, I JUST HAVE A FEW QUESTIONS
9 FOR YOU. I WON'T BE ALL THAT LONG.

10 WHEN YOU WERE SHOWN THE SIX-PACK SET OF
11 PHOTOGRAPHS, DID YOU -- IN YOUR MIND, DID ALL SIX
12 INDIVIDUALS APPEAR SOMEWHAT SIMILAR?

13 MS. SARIS: OBJECTION, YOUR HONOR. LEADING.

14 THE COURT: SUSTAINED.

15 Q BY MR. JACKSON: WHAT WAS YOUR THOUGHT
16 WITH REGARD TO HOW THE PHOTOGRAPHS COMPARED WITH ONE
17 ANOTHER?

18 A IT LOOKED SIMILAR AND THAT'S WHY IT TOOK
19 ME A LONG TIME. I SPENT A LOT OF TIME LOOKING AT EACH
20 PERSON TRYING TO MAKE SURE THAT I -- THAT THE PERSON I
21 SAW WAS IN THE PHOTOGRAPHS.

22 Q WHO WAS THE FIRST PERSON THAT YOU PICKED
23 OUT?

24 A I DON'T REMEMBER AT THE TIME.

25 Q WOULD IT REFRESH YOUR RECOLLECTION IF YOU
26 WERE TO LOOK AT A COPY OF YOUR TRANSCRIPT OF THAT
27 CONVERSATION?

28 A UH-HUH.

1 Q IS THAT "YES"?

2 A YES.

3 MS. SARIS: I'M FINE. THANK YOU.

4 MR. JACKSON: OKAY. MAY I APPROACH THE WITNESS,
5 YOUR HONOR?

6 THE COURT: YES.

7 MR. JACKSON: THANK YOU.

8 Q TAKE A LOOK -- JUST READ TO YOURSELF, IF
9 YOU WOULDN'T MIND, MR. STEVENS, WHERE IT BEGINS WHERE MY
10 PEN IS AND THEN ON LINE 10.

11 (PAUSE IN PROCEEDINGS.)

12 Q BY MR. JACKSON: OKAY. HAVE YOU READ THAT
13 TO YOURSELF?

14 A YES, I DID.

15 Q DOES THAT REFRESH YOUR RECOLLECTION AS TO
16 WHICH PHOTOGRAPH YOU INITIALLY CHOSE WHEN ASKED TO
17 DETERMINE IF YOU RECOGNIZED THE PERSON?

18 A YES, I DO.

19 MS. SARIS: OBJECTION, YOUR HONOR. LACK OF
20 FOUNDATION AS TO WHETHER THAT WAS THE FIRST -- THIS
21 TRANSCRIPT DOESN'T NECESSARILY RELATE TO THE FIRST.

22 THE COURT: WELL, OVERRULED.

23 YOU MAY ANSWER.

24 Q BY MR. JACKSON: WHO WAS THE FIRST PICTURE
25 THAT YOU POINTED TO?

26 A NO. 3.

27 Q WHY IS THAT?

28 A BECAUSE THAT'S THE ONE THAT JUMPED OUT AT

1 ME FIRST.

2 Q DID YOU ATTEMPT TO DESCRIBE ANY OF THE
3 OTHER INDIVIDUALS AS RELATING TO THE PHOTOGRAPH IN NO. 3
4 AS WELL?

5 A I MIGHT HAVE. I DON'T REMEMBER THAT.

6 Q MS. SARIS ASKED YOU ABOUT NO. 1 AND NO. 5,
7 DO YOU REMEMBER?

8 A YES. THEY DIDN'T HAVE THE RUDDY
9 COMPLEXION THAT NO. 1 HAD -- I MEAN THAT NO. 3 HAD.

10 Q AND MORE IMPORTANTLY LET ME ASK YOU THIS:
11 IS NO. 1 THE PERSON WHO WAS SEATED IN THE CAR OUTSIDE
12 YOUR HOUSE?

13 A NO.

14 Q IS NO. 5 THE PERSON WHO WAS SEATED OUTSIDE
15 YOUR HOUSE?

16 A NO.

17 Q IS NO. 3?

18 A YES.

19 Q IS THERE ANY QUESTION IN YOUR MIND ABOUT
20 THAT?

21 A NO.

22 Q HAD YOU EVER SEEN THAT MAN BEFORE IN YOUR
23 LIFE BEFORE MARCH OF 1988?

24 A NO.

25 Q WHEN WAS THE SECOND TIME YOU EVER SAW
26 EITHER HIM OR AN IMAGE OF HIM?

27 A WHEN THE DETECTIVE SHOWED ME A PICTURE.

28 Q IN THAT PHOTOGRAPH RIGHT THERE?

1 A YES.

2 Q IS THAT RIGHT?

3 A YES.

4 Q MS. SARIS ASKED YOU ABOUT -- JUST
5 FOUNDATIONALLY, MS. SARIS ASKED YOU ABOUT YOUR
6 RECOLLECTION OF THE PERSON IN THE PASSENGER SEAT?

7 A YES.

8 Q WHEN YOU SAID I'M NOT 100 PERCENT SURE,
9 WHAT DID YOU MEAN BY THAT?

10 A I'M NOT POSITIVE.

11 Q OKAY.

12 A I WAS SPENDING MOST OF MY -- I WAS
13 CONCENTRATING ON THE DRIVER NOT THE PASSENGER.

14 Q IF YOU WERE NOT 100 PERCENT SURE ABOUT THE
15 IDENTIFICATION OF THE DRIVER, WHAT WOULD YOU DO?

16 A I WOULD SAY I WASN'T SURE.

17 Q IS IT EASIER IN YOUR MIND TO RECOGNIZE
18 SOMEONE FROM A PHOTOGRAPH OR IN PERSON?

19 MS. SARIS: OBJECTION. LEADING.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER THAT.

22 Q BY MR. JACKSON: GO AHEAD.

23 A IN PERSON.

24 Q AFTER MARCH OF 1988, WHEN WAS THE NEXT
25 TIME THAT YOU SAW THE DRIVER OF THAT CAR IN PERSON?

26 A THE LINE-UP.

27 Q AND DID YOU IDENTIFY HIM AT THAT TIME?

28 A YES, I DID.

1 Q IF YOU WERE NOT 100 PERCENT SURE AT THAT
2 TIME, WHAT WOULD YOU HAVE DONE?

3 A I WOULD SAY I CAN'T IDENTIFY HIM. I'M NOT
4 100 PERCENT SURE.

5 Q DID ANYONE TELL YOU THAT YOU MUST IDENTIFY
6 ANY PARTICULAR PERSON FROM THIS SIX-PACK SET OF
7 PHOTOGRAPHS?

8 A NO.

9 Q DID THE DETECTIVE TELL YOU ANYTHING ABOUT
10 THAT?

11 A HE SAID MAKE SURE BEFORE YOU TELL US;
12 DON'T JUST SELECT ANY PERSON.

13 Q DID HE SAY ANYTHING ABOUT YOU WOULD BE IN
14 TROUBLE IF YOU DIDN'T?

15 A NO.

16 Q DID HE SAY ANYTHING OPPOSITE OF THAT?

17 A NO.

18 Q WERE YOU TOLD THAT YOU MUST PICK SOMEONE
19 OUT OF THE LINE-UP, THE LIVE LINE-UP?

20 MS. SARIS: OBJECTION, YOUR HONOR. ASKED AND
21 ANSWERED.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER.

24 THE WITNESS: NO.

25 Q BY MR. JACKSON: WHAT DID THE DETECTIVE
26 TELL YOU IN THAT REGARD?

27 A HE JUST TOLD ME TO MAKE SURE THAT IF I SAW
28 SOMEONE THERE, THAT I SELECT THEM. IF I DIDN'T, SELECT

1 NO ONE.

2 Q AND DID YOU?

3 A I SELECTED THE PERSON THAT I SAW.

4 Q NOW, MS. SARIS ASKED YOU A COUPLE OF
5 QUESTIONS ABOUT SOME TV SHOWS. AND SHE READ YOU A
6 PORTION OF A CONVERSATION YOU HAD WITH DETECTIVE
7 LILLIENFELD ABOUT AMERICA'S MOST WANTED AND SOME OTHER TV
8 SHOWS.

9 DO YOU RECALL THAT JUST A FEW MINUTES AGO?

10 A YES, I DO.

11 Q MS. SARIS DIDN'T READ YOU THE ENTIRETY OF
12 YOUR CONVERSATION WITH DETECTIVE LILLIENFELD, DID SHE?

13 A NO.

14 MS. SARIS: OBJECTION. LEADING, YOUR HONOR. IT
15 WAS CLEAR WE WERE DOING SNIPPETS.

16 THE COURT: SUSTAINED.

17 Q BY MR. JACKSON: DID MS. SARIS FINISH THE
18 CONVERSATION IN THE TRANSCRIPT?

19 A NO.

20 MS. SARIS: OBJECTION, YOUR HONOR. LEADING.
21 FOUNDATION.

22 THE COURT: SUSTAINED.

23 Q BY MR. JACKSON: IS THERE MORE TO THE
24 CONVERSATION THAN MS. SARIS READ YOU?

25 MS. SARIS: OBJECTION, YOUR HONOR. LEADING.
26 FOUNDATION.

27 MR. JACKSON: HOW IS THAT LEADING, YOUR HONOR?

28 MS. SARIS: CALLS FOR SPECULATION.

1 MR. JACKSON: I'M JUST ASKING. IS THERE MORE TO
2 IT OR NOT. IF NOT, I'LL GET THE ANSWER.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER.

5 Q BY MR. JACKSON: GO AHEAD, SIR.

6 A YES, THERE WAS.

7 Q DO YOU REMEMBER TOWARD THE END OF THAT
8 CONVERSATION ON THAT SUBJECT THE DETECTIVE ASKING YOU,
9 "YOU NEVER SAW THE STORY ON THAT PARTICULAR SHOW?" AND
10 YOUR ANSWER, "NO."

11 DO YOU REMEMBER THAT?

12 A I THINK SO, YES.

13 Q WHAT WERE YOU RELATING TO THE DETECTIVE
14 WHEN HE ASKED YOU THAT QUESTION?

15 A DID I SEE AMERICA'S MOST WANTED.

16 Q AND DID YOU?

17 A NO.

18 Q DID YOU EVER SEE THE DEFENDANT DEPICTED ON
19 TELEVISION EVER?

20 A NO.

21 Q AFTER THE FIRST THREE OR FOUR TIMES THAT
22 YOU ATTEMPTED TO CONTACT THE POLICE BACK IN THE '80S, THE
23 LATE '80S, DID YOU EVER ATTEMPT TO CONTACT THEM AGAIN
24 AFTER THAT?

25 A I DON'T THINK SO.

26 Q MS. SARIS ASKED YOU WHEN YOU WERE
27 CONTACTED 14 YEARS LATER, WAS IT BECAUSE YOU CONTACTED
28 THEM OR THEY CONTACTED YOU; CORRECT?

1 A THEY CONTACTED ME.

2 Q UNLESS MY MATH IS WRONG MARCH OF '88 TO
3 MARCH OF 2001 IS NOT 14 YEARS, IT'S 13 YEARS; CORRECT?

4 A YES.

5 Q DID YOU PAY PARTICULAR ATTENTION TO THE
6 DRIVER OF THAT CAR?

7 MS. SARIS: OBJECTION. LEADING.

8 THE COURT: YES. SUSTAINED.

9 Q BY MR. JACKSON: DID YOU TAKE ANY ACTION,
10 SPECIFIC PHYSICAL ACTION AFTER YOU SAW THE PERSON IN THAT
11 CAR?

12 A YES, I DID.

13 Q WHAT DID YOU DO?

14 A WHEN THE CAR DROVE OFF, I TOOK DOWN THE
15 LICENSE NUMBER OF THE CAR.

16 Q WHERE DID YOU WRITE IT?

17 A I WROTE IT ON A BUSINESS CARD.

18 Q WHY DID YOU DO THAT?

19 A BECAUSE I WAS CONCERNED THAT SOMETHING WAS
20 GOING TO HAPPEN OR SOMETHING WAS GOING ON IN THE AREA.

21 Q DID YOU KEEP THE BUSINESS CARD?

22 A YES, I DID.

23 Q WHY DID YOU KEEP THAT BUSINESS CARD?

24 A BECAUSE I THOUGHT IF SOMETHING HAPPENED, I
25 WOULD HAVE THE LICENSE NUMBER OF THAT CAR.

26 Q WHERE IS THAT BUSINESS CARD TODAY?

27 A ABOUT SIX YEARS AGO I MOVED. AND WHEN I
28 WAS MOVING I FOUND THE CARD; AND THE POLICE STILL HADN'T

1 CONTACTED ME -- IT MIGHT HAVE BEEN SEVEN YEARS AGO. AND
2 I DON'T KNOW IF I THREW IT AWAY OR IT'S IN ONE OF MY
3 MOVING BOXES. I LOOKED THROUGH ALL THE BOXES AT HOME AND
4 CAN'T FIND IT. BUT I COULD STILL HAVE IT SOMEPLACE.

5 Q BUT AT THE TIME YOU FELT IT WAS IMPORTANT?

6 A YES, I DID.

7 Q MS. SARIS ASKED YOU A COUPLE OF QUESTIONS
8 ABOUT YOUR VIEW OF THE DRIVER. DO YOU RECALL THAT?

9 A YES.

10 Q AND YOU RECALL SAYING THAT YOU DIDN'T SEE
11 THEM FACE ON VERY GOOD; CORRECT?

12 A YES.

13 Q EXPLAIN THAT TO THE JURORS.

14 A WELL, THE ENTIRE TIME I WAS WALKING UP THE
15 MAN WAS LOOKING FORWARD AND I SAW HIS SIDE FACE. SO I
16 DIDN'T LOOK HIM STRAIGHT IN THE EYE THE ENTIRE TIME I WAS
17 WALKING UP. AND AT THE TIME THAT'S WHAT I SAID I DIDN'T
18 SEE HIS FACE VERY GOOD. BUT HE TURNED AND LOOKED
19 DIRECTLY AT ME JUST LIKE I'M LOOKING AT YOU.

20 Q IN FACT, AT THE LINE-UP, DID THE PEOPLE
21 WHO WERE CONDUCTING THE LINE-UP TAKE THAT SIDE VIEW INTO
22 CONSIDERATION?

23 MS. SARIS: OBJECTION, YOUR HONOR. LEADING.
24 CALLS FOR SPECULATION.

25 THE COURT: SUSTAINED.

26 MR. JACKSON: I'LL REPHRASE IT. I APOLOGIZE,
27 YOUR HONOR. THAT WAS A BAD QUESTION.

28 Q DID THE -- WERE THE PEOPLE AT THE LINE-UP,

1 THE PEOPLE WHO WERE ACTUALLY IN THE LINE-UP, ASKED TO DO
2 ANYTHING AT THE LINE-UP?

3 A YES.

4 Q WHAT?

5 A THEY WERE ASKED TO WALK OUT; FACE TO LEFT;
6 FACE TO THE RIGHT. I THINK THEY WERE ASKED TO TAKE THE
7 CAPS OFF AND PUT THEM BACK ON.

8 Q ALL RIGHT. I'LL GET TO THE CAP IN JUST A
9 SECOND.

10 DESCRIBE HOW THE PEOPLE WERE ASKED TO WALK
11 UP OR STEP OUT OF THE LINE? INDIVIDUALLY?

12 A I THINK EACH PERSON WAS ASKED TO STEP
13 FORWARD. I DON'T REMEMBER.

14 Q AND DID YOU TAKE YOUR TIME AND LOOK AT
15 EACH INDIVIDUAL?

16 A YES.

17 Q AND THEN WHAT HAPPENED WITH INSTRUCTIONS
18 AT THAT POINT AFTER THE PEOPLE STEPPED OUT OF THE LINE?

19 A I'M NOT EXACTLY SURE. BUT I THINK AFTER
20 THEY WERE THERE, WE WERE GIVEN A PIECE OF PAPER AND ASKED
21 IF WE SEEN THAT PERSON IN THE LINE-UP.

22 Q OKAY. THAT WAS ACTUALLY A BAD QUESTION ON
23 MY PART. I APOLOGIZE.

24 WHAT I'M TRYING TO ASK IS: DID THE PEOPLE
25 AFTER THEY STOOD UP AND STEPPED OUT OF THE LINE, WERE
26 THEY ASKED TO MOVE IN A PARTICULAR WAY?

27 A YES. THEY WERE ASKED TO TURN TO THE LEFT
28 AND TURN TO THE RIGHT.

1 Q SO THEY TURNED PERPENDICULAR TO YOU TO 90
2 DEGREES; CORRECT?

3 A YES.

4 Q AND THEN TURNED THE OTHER DIRECTION;
5 CORRECT?

6 A YES.

7 Q AND DID YOU GET A PROFILE VIEW OF EACH
8 INDIVIDUAL?

9 A YES, I DID.

10 Q DID THAT ASSIST YOU IN MAKING YOUR
11 IDENTIFICATION?

12 A YES, IT DID.

13 Q YOU INDICATED THAT THE PERSON YOU SAW ON
14 THE DAY OF THE INCIDENT, THE DEFENDANT, HAD A CAP ON;
15 CORRECT?

16 A YES.

17 Q HAVE YOU EVER HEARD THE TERM "WATCH CAP"?

18 A I'VE HEARD OF IT, BUT I DON'T KNOW WHAT IT
19 IS.

20 Q OKAY. INSTEAD OF GUESSING, LET ME JUST
21 ASK YOU IF YOU RECOGNIZE THE INDIVIDUALS IN THE LINE-UP
22 IN THE TOP TWO PHOTOGRAPHS WEARING SOMETHING ON THEIR
23 HEAD?

24 A YES.

25 Q WHAT IS THAT?

26 A THE TYPE OF CAP THAT THEY WERE WEARING,
27 THAT MAN WAS WEARING.

28 Q WHO WAS WEARING?

1 A THE PERSON IN THE CAR AT THE END OF MY
2 CORRAL.

3 Q ALL RIGHT. WERE THE PEOPLE IN THE LINE-UP
4 ALL ASKED TO PUT ON THE CAP?

5 A YES.

6 Q DID THEY ALL DO THAT?

7 A YES.

8 Q AND DID YOU GET A CHANCE TO LOOK AT EACH
9 ONE OF THEM WITH A CAP ON?

10 A YES, I DID.

11 Q DID THAT ASSIST YOU IN MAKING YOUR
12 IDENTIFICATION?

13 A YES.

14 Q AFTER ALL OF THAT WAS CONDUCTED, AFTER
15 YOUR COMPLETE VIEW OF THE LINE-UP, WERE YOU ABLE TO
16 POSITIVELY IDENTIFY THE PERSON WHO WAS SEATED IN THAT
17 CAR?

18 A YES.

19 MS. SARIS: OBJECTION. LEADING.

20 THE COURT: SUSTAINED.

21 Q BY MR. JACKSON: WHAT WAS THE ULTIMATE
22 CONCLUSION OF THAT DAY AT THE LINE-UP?

23 MS. SARIS: OBJECTION. VAGUE.

24 THE COURT: REPHRASE IT, PLEASE.

25 MS. SARIS: ASKED AND ANSWERED, YOUR HONOR.

26 THE COURT: OVERRULED.

27 Q BY MR. JACKSON: WHAT DID YOU DO, SIR?

28 A I PICKED OUT THE PERSON IN THE LINE-UP

1 THAT WAS AT THE END OF MY CORRAL IN THE CAR.

2 Q ARE YOU 100 PERCENT SURE AS YOU SIT HERE
3 TODAY THE DEFENDANT IS THAT PERSON?

4 MS. SARIS: OBJECTION. ASKED AND ANSWERED.

5 THE COURT: SUSTAINED.

6 MR. JACKSON: I HAVE NOTHING FURTHER.

7 THE COURT: ANYTHING ELSE?

8 MS. SARIS: YES, PLEASE.

9
10 RECROSS-EXAMINATION

11 BY MS. SARIS:

12 Q GETTING TO THE 100 PERCENT, MR. STEVENS,
13 YOU TOLD THE DETECTIVE THAT IT WAS TWO WHITE MALE ADULTS
14 IN THE CAR INITIALLY; IS THAT RIGHT?

15 A I THINK SO, YES.

16 Q AND THEN WHEN YOU SPOKE TO HIM AGAIN, YOU
17 REITERATED THAT IT WAS TWO WHITE MALE ADULTS IN THE CAR;
18 CORRECT?

19 A IF THAT'S WHAT IT SAYS, YES. I DON'T
20 REMEMBER THE SECOND TIME.

21 Q AND THEN WHEN YOU CAME IN TO COURT TO
22 TESTIFY, YOU INDICATED THE PASSENGER WAS BLACK; CORRECT?

23 A YES.

24 Q AT NO POINT IN ALL OF THAT, DID YOU SAY TO
25 US WHEN YOU WERE UNDER OATH IN THIS COURTROOM, "I'M NOT
26 SURE"?

27 A NO, I DID NOT.

28 Q DID YOU EVER TELL THE DETECTIVE IN EITHER

1 OF THE TWO INTERVIEWS IN 2001 THAT YOU TOOK THE LICENSE
2 PLATE NUMBER OF THIS CAR DOWN?

3 A YES, I DID.

4 Q HAVE YOU HAD A CHANCE TO REVIEW EITHER OF
5 THESE STATEMENTS? OR HAVE YOU EVER SEEN THAT IN WRITING
6 ANYWHERE FROM THE DETECTIVE?

7 A NO.

8 Q DID YOU GIVE THAT LICENSE PLATE NUMBER TO
9 THE PEOPLE THAT YOU CALLED WHEN YOU CALLED DUARTE OR
10 TEMPLE CITY?

11 A NO. I JUST TOLD THEM I THOUGHT I HAD SOME
12 INFORMATION ON THE MURDER. I WAS GOING TO GIVE THAT TO
13 THEM WHEN THEY --

14 Q AND IT'S FAIR TO SAY IN 2001 WHEN YOU SAW
15 THE DETECTIVE, YOU COULDN'T LOCATE THAT EITHER --

16 A NO.

17 Q -- THE BUSINESS CARD? DID YOU LOOK FOR
18 IT -- WHEN IS THE LAST TIME YOU LOOKED FOR IT?

19 A THE LAST TIME I LOOKED FOR IT WAS PROBABLY
20 A MONTH AGO, TWO MONTHS AGO.

21 Q WHEN THE DETECTIVE BROUGHT YOU IN TO LOOK
22 AT THE PHOTOGRAPHS, YOU HAD ALREADY SPOKEN TO HIM ON THE
23 PHONE; IS THAT RIGHT?

24 A YES.

25 Q AND WHEN YOU WENT TO INTERVIEW WITH HIM IN
26 PERSON, YOU ANTICIPATED HE WAS GOING TO SHOW YOU
27 PHOTOGRAPHS, YES?

28 A HE CAME TO MY OFFICE.

1 Q HE CAME TO YOU. AND WAS IT -- DID YOU
2 KNOW, THEN, BEFORE HE CAME THAT YOU WERE GOING TO BE
3 ASKED TO LOOK AT PHOTOGRAPHS?

4 A YES.

5 Q DID YOU UNDERSTAND AT THAT POINT THAT
6 THERE WAS SOMEONE THEY WERE THINKING ABOUT ARRESTING?

7 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
8 IT'S ALSO IRRELEVANT.

9 THE COURT: OVERRULED.

10 YOU CAN ANSWER.

11 THE WITNESS: NO.

12 Q BY MS. SARIS: WERE YOU AWARE OF THE
13 PROCEEDINGS THAT WERE OCCURRING IN ORANGE COUNTY RELATING
14 TO THIS CASE?

15 A I THINK I WAS TOLD THAT AT THE TIME THEY
16 CAME TO VISIT ME.

17 Q AND THAT'S ALL I'M ASKING IS WHAT YOU WERE
18 TOLD.

19 A YES.

20 Q OKAY. AND WHEN YOU WENT TO THE LIVE
21 LINE-UP, YOU SPECIFICALLY WENT WITH THE UNDERSTANDING
22 THAT ONE OF THE INDIVIDUALS THAT WAS IN THE PHOTOGRAPH
23 WAS GOING TO BE THERE IN PERSON FOR YOU TO IDENTIFY?

24 A YES.

25 MS. SARIS: THANK YOU. I HAVE NOTHING FURTHER.

26 THE COURT: ANYTHING ELSE?

27 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

28 THE COURT: THANK YOU, SIR.

1 THE WITNESS: THANK YOU.

2 MR. JACKSON: YOUR HONOR, TONI STEVENS, PLEASE.

3

4 TONYIA STEVENS,

5 CALLED BY THE PEOPLE AS A WITNESS, WAS

6 SWORN AND TESTIFIED AS FOLLOWS:

7

8 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

9 YOU DO SOLEMNLY STATE THAT THE TESTIMONY

10 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT

11 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE

12 TRUTH SO HELP YOU GOD.

13 THE WITNESS: YES.

14 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,

15 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST

16 NAME FOR THE RECORD.

17 THE WITNESS: TONYIA, T-O-N-Y-I-A. STEVENS,

18 S-T-E-V-E-N-S.

19 THE CLERK: THANK YOU.

20 THE COURT: YOU MAY INQUIRE.

21 MR. JACKSON: THANK YOU, YOUR HONOR.

22

23 DIRECT EXAMINATION

24 BY MR. JACKSON:

25 Q MISS STEVENS, I WANT TO DRAW YOUR

26 ATTENTION BACK TO THE '80S, IF I COULD.

27 BACK IN THE MID '80S, WHERE WERE YOU

28 LIVING?

1 A IN BRADBURY.

2 Q WHAT --

3 A 645 MT. OLIVE DRIVE.

4 Q IS THERE A CROSS STREET THERE,
5 MISS STEVENS?

6 A YES. GARDI.

7 Q AND WERE YOU MARRIED AT THE TIME?

8 A YES.

9 Q AND YOU'RE STILL MARRIED?

10 A YES.

11 Q WHO IS YOUR HUSBAND?

12 A RON STEVENS.

13 Q THE PERSON WHO JUST WALKED OUT OF THE
14 COURTROOM?

15 A YES.

16 Q BACK IN THE MID '80S, HOW LONG HAD YOU
17 TWO, YOU AND RON, BEEN LIVING AT THAT GARDI/MT. OLIVE
18 ADDRESS?

19 A WE MOVED THERE IN 1971. SO '71 TO THE
20 '80S.

21 Q OKAY. WAS THERE A -- WHAT WAS THE LAYOUT
22 OF THE PROPERTY?

23 A ON THE CORNER OF GARDI AND MT. OLIVE THERE
24 WAS A CORRAL AND THEN OUR HOUSE FACED MT. OLIVE.

25 Q DO YOU RECALL, MISS STEVENS, HEARING ABOUT
26 THE MICKEY THOMPSON MURDERS?

27 A YES.

28 Q DID YOU HEAR ABOUT THEM ON THE DAY THEY

1 OCCURRED?

2 A YES.

3 Q DID THAT DATE STICK OUT IN YOUR MIND?

4 A NOT NECESSARILY THE DATE, BUT --

5 Q THE DAY, THE INCIDENT?

6 A YES, THE INCIDENT.

7 Q USING THAT AS A TIME REFERENCE, I WANT TO
8 DRAW YOUR ATTENTION TO THE WEEK PRIOR TO THE MICKEY
9 THOMPSON MURDERS, DID ANYTHING UNUSUAL HAPPEN DURING THAT
10 WEEK?

11 A YES.

12 Q GIVE ME A TIME ESTIMATE, IF YOU COULD,
13 USING THE MICKEY THOMPSON MURDERS -- MICKEY AND TRUDY
14 THOMPSON MURDERS -- AS A DATE REFERENCE POINT.

15 HOW MUCH IN ADVANCE OF THAT DID THIS
16 UNUSUAL OCCURRENCE HAPPEN?

17 A IT WAS EITHER TWO OR THREE DAYS.

18 Q DESCRIBE WHAT YOU REMEMBER HAPPENING TWO
19 OR THREE DAYS BEFOREHAND.

20 A I HAD PICKED UP MY DAUGHTER -- MY TEENAGE
21 DAUGHTER FROM SCHOOL. SO IT HAD TO BE BEFORE 3:00 AND
22 PROBABLY AFTER 12:00. I'M NOT SURE ABOUT THE TIME, BUT I
23 PICKED HER UP. THERE USED TO BE RAILROAD TRACKS FROM
24 ROYAL OAKS. AND YOU HAD TO COME OVER IT, JUST A LITTLE
25 HILL WHERE THE RAILROAD TRACKS HAD BEEN, THE P.E. TRACKS.

26 AND SO WE WERE COMING OVER. AND OUR HOUSE
27 WAS RIGHT THERE, RIGHT AFTER GARDI. AND I WAS GOING TO
28 MAKE THE TURN INTO MY HOUSE. BUT I NOTICED AN OLD

1 CLUNKER STATION WAGON WITH ARIZONA LICENSE PLATES. AND I
2 SAW TWO MEN IN IT. AND I SAW ONE WITH BINOCULARS. AND
3 HE HAD PUT THEM DOWN WHEN I DROVE BY.

4 AND I WAS CONCERNED BECAUSE THAT TYPE OF
5 CAR WAS OUT OF PLACE IN OUR AREA. AND WE HAD A GRAMMAR
6 SCHOOL DOWN GARDI, THE OTHER SIDE OF GARDI WHERE THEY
7 WERE LOOKING. AND I WAS CONCERNED THAT SOMEBODY WAS
8 GOING TO ABDUCT A CHILD.

9 Q ALL RIGHT. WHEN YOU APPROACHED -- LET'S
10 USE THIS TABLE AS YOUR PROPERTY; THIS ALLEY REPRESENTS
11 GARDI; AND THIS WALKWAY WOULD REPRESENT MT. OLIVE.

12 DO YOU HAVE THAT IN MIND?

13 A UH-HUH.

14 Q IS THAT "YES"?

15 A YES.

16 Q ALL RIGHT. AM I CORRECT, GETTING THE
17 GEOGRAPHY RIGHT, THAT YOU WERE APPROACHING FROM THE
18 DIRECTION THAT I'M WALKING PAST GARDI AND THEN PULLED
19 LEFT INTO YOUR DRIVEWAY; IS THAT CORRECT?

20 A YES.

21 MR. JACKSON: YOUR HONOR, FOR THE RECORD, I'VE
22 SORT OF MADE A T-INTERSECTION OUT OF COUNSEL TABLE.
23 DIRECTLY TO MY LEFT, 90 DEGREES TO MY LEFT REPRESENTED
24 THE INTERSECTION OF GARDI. DIRECTLY IN FRONT OF ME WOULD
25 REPRESENT THE MT. OLIVE INTERSECTION. THE WITNESS HAS
26 INDICATED THAT SHE PASSED GARDI; WENT BEYOND THAT
27 INTERSECTION; AND TURNED LEFT INTO HER DRIVEWAY PARALLEL
28 TO GARDI.

1 THE COURT: THE RECORD WILL SO REFLECT.

2 MR. JACKSON: THANK YOU.

3 Q WHEN YOU PASSED THAT SUSPICIOUS LOOKING
4 CAR, DID YOU LOOK DIRECTLY AT THE OCCUPANTS OF THE
5 VEHICLE?

6 A YES.

7 Q HOW MANY OCCUPANTS DID YOU SEE IN TOTAL?

8 A TWO.

9 Q AT THAT TIME -- NOT AT ANY TIME
10 SUBSEQUENT -- AT THAT TIME, DID YOU GET A LOOK AT EITHER
11 OF THEIR FACES?

12 A YES.

13 Q WHO HAD THE BINOCULARS.

14 A THE DRIVER.

15 Q WERE THE BINOCULARS UP TO HIS FACE?

16 A YES. AND HE WAS JUST PUTTING THEM DOWN.

17 Q DID YOU GET A FACE-ON VIEW OF THAT DRIVER?

18 A YES.

19 Q WHO WERE YOU FOCUSING MOST OF YOUR
20 ATTENTION ON, IF EITHER PERSON, THE DRIVER OR THE
21 PASSENGER?

22 A THE DRIVER.

23 Q WHY?

24 A BECAUSE HE HAD THE BINOCULARS.

25 Q DID THAT SEEM UNUSUAL TO YOU?

26 A YES.

27 Q WHAT DID YOU DO ONCE YOU PULLED INTO YOUR
28 DRIVEWAY?

1 A AS I RECALL, MY DAUGHTER AND I WENT IN THE
2 HOUSE. AND WE WERE DISCUSSING SHOULD WE CALL THE POLICE.
3 AND JUST AS THAT HAPPENED, MY HUSBAND CAME HOME. AND WE
4 SAYS, "WHAT SHOULD WE DO?" AND HE SAYS, "WE WILL CALL
5 THE POLICE" -- OR I DON'T KNOW IF HE SAID IT RIGHT THEN.
6 BUT HE WALKED OUT RIGHT THEN AND THEN WE FOLLOWED HIM.

7 Q SO THAT WAS MY NEXT QUESTION. WHERE DID
8 THIS CONVERSATION TAKE PLACE?

9 A AS I RECALL IT WAS LIKE HAPPENING IN THE
10 HOUSE ON THE WAY OUT AS HE WAS WALKING OUT.

11 Q ALL RIGHT. DESCRIBE AS BEST YOU CAN THE
12 STATION WAGON.

13 A I JUST KNOW IT WAS LIGHT COLORED AND IT
14 WAS -- MY DESCRIPTION IS AN OLD CLUNKER.

15 Q SO NOT SOMETHING IN PRISTINE CONDITION?
16 MS. SARIS: OBJECTION. LEADING.

17 THE COURT: SUSTAINED.

18 THE WITNESS: THIS WAS NOT IN PRISTINE CONDITION.

19 Q BY MR. JACKSON: THERE YOU GO.

20 A YEAH.

21 Q WHAT DID YOU DO ONCE YOUR HUSBAND WALKED
22 OUTSIDE?

23 A FOLLOWED HIM.

24 Q PREVIOUS TO FOLLOWING -- BEFORE FOLLOWING
25 HIM, DID HE SAY ANYTHING TO YOU?

26 A I BELIEVE HE WAS TELLING ME TO CALL THE
27 POLICE, TOO.

28 Q AND DID YOU DO THAT AT THAT TIME?

1 A NOT EXACTLY AT THAT TIME BECAUSE I
2 FOLLOWED HIM -- MY DAUGHTER AND I BOTH FOLLOWED HIM DOWN
3 TO THE CORRAL; GOT A LOOK AT THE CAR. IT SPED AWAY. AND
4 THEN WHEN WE WALKED BACK -- OUR GARAGE WAS RIGHT THERE
5 AND WE HAD A PHONE IN THE GARAGE. AND SO I PICKED THE
6 PHONE UP AND I CALLED THE SHERIFF DEPARTMENT. I DID NOT
7 CALL 911. BECAUSE ON OUR PHONE AT THAT TIME THEY GAVE
8 TAGS FOR EMERGENCIES AND THEY PUT THE TEMPLE CITY
9 SHERIFF'S DEPARTMENT NUMBER RIGHT ON THERE.

10 SO I CALLED RIGHT THEN AND REPORTED A
11 SUSPICIOUS LOOKING CAR. AND THEY SAID, "DO YOU WANT US
12 TO SEND A SQUAD OUT?" AND I SAID, "NO. BUT I JUST WANT
13 YOU TO KNOW IN CASE ANYTHING HAPPENS THAT WE HAVE
14 INFORMATION."

15 Q ALL RIGHT. LET'S TAKE IT A LITTLE BIT
16 SLOWER AT THE POINT AT WHICH YOU EXIT THE HOUSE AND
17 FOLLOW YOUR HUSBAND.

18 WHERE DID YOU WATCH RON GO?

19 A THROUGH THE CORRAL.

20 Q TOWARD WHAT DIRECTION?

21 A SOUTH TO THE CAR.

22 Q HOW FAR BEHIND RON WERE YOU FOLLOWING?

23 A I WOULD SAY ABOUT 5 FEET.

24 Q AND HOW FAR DID YOU FOLLOW HIM INTO THE
25 CORRAL?

26 A ALL THE WAY.

27 Q ALL RIGHT. HOW CLOSE WOULD YOU ESTIMATE
28 YOU GOT TO THE CAR AT THE CLOSEST?

1 A TEN FEET.

2 Q IF I REPRESENT THE CAR OR THE DRIVER IN
3 THE CAR, CAN YOU PLACE ME SOMEWHERE IN THE COURTROOM THAT
4 WOULD APPROXIMATE YOUR DISTANCE FROM THE CAR WHEN YOU GOT
5 TO THE CLOSEST POINT?

6 A RIGHT ABOUT THERE.

7 Q OKAY.

8 MS. SARIS: 15, YOUR HONOR?

9 THE COURT: FROM THE WITNESS STAND TO WHERE
10 MR. JACKSON IS IS ABOUT 16, 15 FEET.

11 MR. JACKSON: THANK YOU, YOUR HONOR.

12 Q WHAT WAS THE LIGHTING CONDITION LIKE THAT
13 DAY?

14 A LIGHT, BRIGHT.

15 Q SUNNY?

16 A SUNNY.

17 Q COULD YOU SEE INSIDE THE CAR?

18 A YES.

19 Q AT THE POINT AT WHICH YOU GOT TO THE
20 CLOSEST -- THAT WAS A TERRIBLE WAY TO START A SENTENCE.

21 AT YOUR CLOSEST POINT TO THE CAR, WERE YOU
22 ABLE TO SEE THE DRIVER'S FACE?

23 A YES.

24 Q WERE YOU ABLE TO SEE THE PASSENGER'S FACE?

25 A YES, BUT NOT REAL WELL.

26 Q ALL RIGHT. DID THE DRIVER EVER LOOK IN
27 YOUR DIRECTION?

28 A YES.

1 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

2 THE COURT: SUSTAINED.

3 MS. SARIS: MOTION TO STRIKE.

4 THE COURT: THAT WILL BE STRICKEN.

5 Q BY MR. JACKSON: WHEN YOU WERE STANDING IN
6 THE CORRAL AT YOUR CLOSEST POINT, MRS. STEVENS, DID THE
7 DRIVER EVER LOOK IN YOUR DIRECTION?

8 A YES, HE DID.

9 Q DID YOU GET A LOOK AT HIS FACE FACE ON?

10 A YES, I DID.

11 Q I WANT YOU TO LOOK AROUND THE COURTROOM
12 TODAY AND TELL ME IF YOU SEE THE DRIVER OF THAT CAR IN
13 THIS COURTROOM SOMEWHERE?

14 A YES.

15 Q WHERE IS HE SEATED AND WHAT IS HE WEARING?

16 A HE'S WEARING A LIGHT COLORED JACKET WITH A
17 TIE WITH YELLOW IN IT.

18 THE COURT: SITTING WHERE?

19 THE WITNESS: NEXT TO THE LADY IN NAVY BLUE.

20 THE COURT: THANK YOU. FOR THE RECORD
21 IDENTIFYING MR. GOODWIN.

22 MR. JACKSON: THANK YOU, YOUR HONOR.

23 Q AT WHAT POINT DID THE DRIVER FINALLY TAKE
24 OFF? YOU SAID HE SPED AWAY.

25 A WHEN WE GOT TO THE END OF THE CORRAL.

26 Q HOW LONG WOULD YOU SAY YOU WERE AT THE END
27 OF THE CORRAL BEFORE THE DRIVER DROVE THE CAR AWAY?

28 MS. SARIS: OBJECTION. MISSTATES THE EVIDENCE.

1 THE COURT: OVERRULED.

2 YOU CAN ANSWER.

3 Q BY MR. JACKSON: GO AHEAD.

4 A SECONDS.

5 Q OKAY. WHAT WAS YOUR PURPOSE FOR WALKING
6 UP TO THE CAR, MRS. STEVENS?

7 A WELL, I WAS JUST FOLLOWING MY HUSBAND, BUT
8 CURIOSITY.

9 Q EXPLAIN THAT IN MORE DETAIL. WHY WALK UP
10 TO THAT CAR AND LOOK AT THAT DRIVER? WHY DID YOU DO
11 THAT?

12 A WELL, WE -- IN CASE SOMETHING HAPPENED, WE
13 WANTED TO BE ABLE TO IDENTIFY HIM. MY HUSBAND TOOK THE
14 LICENSE PLATE NUMBER.

15 Q SO YOUR PURPOSE IN WALKING UP WAS IN ORDER
16 TO IDENTIFY HIM?

17 MS. SARIS: OBJECTION. LEADING.

18 THE COURT: OVERRULED.

19 THE WITNESS: YES.

20 Q BY MR. JACKSON: AT THE POINT AT WHICH THE
21 DEFENDANT LOOKED IN YOUR DIRECTION, HAD HE PUT THE
22 BINOCULARS DOWN OR WERE THEY STILL TO HIS FACE?

23 A HE HAD PUT THEM DOWN. HE HAD PUT THEM
24 DOWN WHILE WE WERE DRIVING PAST.

25 Q AND YOU NEVER SAW THEM UP TO HIS FACE
26 AGAIN?

27 A I DON'T RECALL.

28 Q NOW, IMMEDIATELY AFTER THE MURDERS, DID

1 YOU ATTEMPT TO CONTACT ANY AUTHORITIES ABOUT WHAT YOU HAD
2 SEEN IN ADDITION TO THE ONE TIME THAT YOU TOLD US THAT
3 YOU TRIED TO CALL TEMPLE STATION?

4 A YOU KNOW, I'M PRETTY SURE I DID. BECAUSE
5 IT WAS LIKE, OH, YOU KNOW, WE PUT THE TWO TOGETHER. AND
6 I'M PRETTY SURE I CALLED AND TOLD THEM WE HAD
7 INFORMATION. AND THEY SAID, "OKAY. WE WILL TAKE IT DOWN
8 AND CONTACT YOU."

9 Q WERE YOU EVER CONTACTED?

10 A NO.

11 Q WHEN WAS THE FIRST TIME YOU WERE CONTACTED
12 ABOUT THIS INCIDENT?

13 A SIX YEARS AGO.

14 Q DOES 2001 SOUND RIGHT?

15 A YES.

16 Q WHO CONTACTED YOU?

17 A MR. LILLIENFELD.

18 Q A DETECTIVE WITH THE SHERIFF'S DEPARTMENT?

19 A DETECTIVE, YES.

20 Q WERE YOU EVER ASKED TO PARTICIPATE IN ANY
21 KIND OF A FORMAL LINE-UP PROCESS?

22 A NO.

23 Q YOU DIDN'T GO SEE A LINE-UP?

24 A YES. OH, I THOUGHT YOU MEANT WHEN HE
25 FIRST CONTACTED ME.

26 Q NO. AT ANY POINT.

27 A YES.

28 Q OKAY. WHEN WAS THAT, MRS. STEVENS?

1 A THAT WAS WHEN I WAS ACCOMPANYING MY
2 HUSBAND TO GO TO THE LINE-UP.

3 Q OKAY. APPROXIMATELY HOW LONG AFTER YOUR
4 FIRST -- YOUR INITIAL CONTACT WITH DETECTIVE LILLIENFELD
5 DID YOU GO TO THE LINE-UP?

6 A A LONG TIME. I DON'T KNOW MAYBE --

7 Q OKAY.

8 A MAYBE A YEAR. I DON'T KNOW.

9 Q TAKE A LOOK IF YOU WOULDN'T MIND --
10 YOUR HONOR, I WOULD LIKE TO MARK AS
11 PEOPLE'S NEXT IN ORDER --

12 THE COURT: 36.

13 MR. JACKSON: 36. I'M PLACING A P-36 IN THE
14 UPPER RIGHT-HAND CORNER OF THIS DOCUMENT. AND IT'S ALSO
15 BEING SHOWN ON THE OVERHEAD.

16
17 (MARKED FOR IDENTIFICATION PEOPLE'S
18 EXHIBIT NO. 36, DOCUMENT.)
19

20 MR. JACKSON: MAY I APPROACH THE WITNESS?

21 THE COURT: YES.

22 Q BY MR. JACKSON: TAKE A LOOK AT THE
23 DOCUMENT THAT I'M SHOWING YOU THAT'S BEEN MARKED PEOPLE'S
24 36 FOR IDENTIFICATION.

25 AND TELL ME IF YOU RECOGNIZE THAT
26 PARTICULAR DOCUMENT?

27 A YES.

28 Q HOW DO YOU RECOGNIZE IT?

1 A WELL, IT'S MY HANDWRITING. I WROTE THAT.

2 Q AND THE FIRST THING I WANT TO ASK YOU IS:
3 HOW DID YOU SIGN THIS DOCUMENT?

4 A "MRS. R JOHNS."

5 Q WHY DID YOU SIGN IT "MRS. R JOHNS" INSTEAD
6 OF "MRS. STEVENS"?

7 A BECAUSE WE DIDN'T WANT ANYBODY TO KNOW WHO
8 WE WERE. AND THAT WAS -- SOMEBODY JUST SUGGESTED THAT WE
9 USE THE NAME "JOHNS." AND SO I PUT "R. JOHNS" FOR
10 "MRS. RON JOHNS."

11 Q SO IT WAS A PSEUDONYM?

12 A YES.

13 Q FOR YOUR ANONYMITY?

14 A YES.

15 Q LET'S TALK ABOUT THAT LINE-UP FOR JUST A
16 SECOND. PRIOR TO VIEWING THE LINE-UP, HAD YOU EVER SEEN
17 THE DEFENDANT ON TELEVISION OR ON ANY PROGRAMMING,
18 ANYTHING LIKE THAT?

19 A YES.

20 Q I WANT YOU TO DESCRIBE THAT FOR THE
21 JURORS, PLEASE.

22 A MY HUSBAND WAS TOLD NOT TO --

23 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

24 THE COURT: OVERRULED.

25 YOU CAN ANSWER.

26 Q BY MR. JACKSON: GO AHEAD.

27 A MY HUSBAND WAS TOLD NOT TO WATCH ANY NEWS
28 CAST ON THE TRIAL OR ON THE MURDER. AND THERE WAS A

1 TEASER ON THE NEWS. WE JUST HAPPEN TO BE WATCHING. AND
2 IT SAID COMING UP THERE IS GOING TO BE SOME NEWS ON THE
3 MICKEY THOMPSON MURDER.

4 Q WHAT DID YOUR HUSBAND DO?

5 A I SAID, "YOU HAVE TO LEAVE THE ROOM."

6 Q DID HE?

7 A AND HE LEFT THE ROOM, YES.

8 Q AND WHAT DID YOU DO?

9 A I WATCHED IT. AND AS I WATCHED IT, I
10 DON'T EVEN REMEMBER WHAT THEY WERE SAYING. THEY DIDN'T
11 MENTION THE DEFENDANT'S NAME. BUT THERE WAS FOUR OR FIVE
12 MEN, MAYBE SIX MEN WALKING. AND OUT OF ALL SIX, THEY
13 WERE WALKING LIKE OUT OF A COURTROOM. AND I LOOKED AND
14 IT JUST BROUGHT IT ALL BACK. AND I THOUGHT OH, MY GOSH.
15 AND I TOLD RON I SAYS, "YOU'RE GOING TO REMEMBER HIM. I
16 HAVE NO PROBLEM REMEMBERING HIM."

17 Q DID RON EVER IN YOUR PRESENCE WATCH THAT
18 PARTICULAR NEWS SHOW?

19 A NO.

20 Q SO YOU WERE ALONE WHEN YOU WATCHED IT?

21 A YES.

22 Q YOU SAID FIVE OR SIX MEN WERE WALKING
23 TOWARD THE CAMERA; IS THAT CORRECT?

24 A YES.

25 Q DO YOU KNOW WHERE THEY WERE WALKING FROM
26 OR --

27 A IT LOOKED LIKE A COURTROOM. I DON'T KNOW.

28 Q OKAY. WERE THERE NAMES UNDERNEATH EACH

1 PERSON?

2 A NO. NO.

3 Q WAS THERE ANY IDENTIFYING INFORMATION --
4 LET ME FINISH MY QUESTION -- WAS THERE ANY IDENTIFYING
5 INFORMATION -- AND ALL I'M TALKING ABOUT IS THE CAMERA
6 VIEW OF SIX MEN WALKING OUT OF A COURTHOUSE -- WAS THERE
7 ANY IDENTIFYING INFORMATION ABOUT THE DEFENDANT IN THIS
8 CASE?

9 A NO.

10 Q DID YOU RECOGNIZE THE DEFENDANT AS BEING
11 THE PERSON THAT YOU SAW IN THAT CAR AT THAT POINT?

12 A YES.

13 MS. SARIS: OBJECTION. LEADING.

14 THE COURT: SUSTAINED.

15 Q BY MR. JACKSON: WAS THAT THE FIRST
16 TIME -- WELL, WHEN WAS THE NEXT TIME -- AFTER YOU SAW THE
17 DEFENDANT IN THE CAR IN 1988, WHEN WAS THE NEXT TIME THAT
18 YOU SAW HIM?

19 A ON THAT PROGRAM, ON THE NEWS.

20 Q DID YOU HAVE ANY TROUBLE IDENTIFYING HIM
21 AS THE SAME MAN AT THAT POINT?

22 MS. SARIS: OBJECTION. VAGUE.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER.

25 Q BY MR. JACKSON: GO AHEAD.

26 A ASK AGAIN.

27 Q DID YOU HAVE ANY TROUBLE IDENTIFYING HIM
28 AS BEING THE SAME PERSON AT THAT POINT?

1 A NO. AND --

2 Q GO AHEAD.

3 A BECAUSE I REMEMBERED THAT WHEN I LOOKED AT
4 HIM THE FIRST TIME, HE REMINDED ME OF SOMEBODY I HAD GONE
5 TO SCHOOL WITH, A BOY THAT I HAD GONE TO SCHOOL WITH.

6 Q AND DOES HE STILL?

7 A OH, YES.

8 Q IS THAT A FACE THAT STICKS IN YOUR MIND?

9 A YES.

10 Q AFTER YOU SAW THIS TELEVISION SHOW AND
11 RECOGNIZED THE DEFENDANT, WERE YOU ASKED TO PARTICIPATE
12 IN THAT LINE-UP THAT WE JUST TALKED ABOUT?

13 A YES.

14 Q DOES THE DATE -- HAVE YOU STILL GOT THE
15 DOCUMENT UP THERE? I THINK YOU DO.

16 A UH-HUH.

17 Q I ASKED YOU ABOUT THE DATE AND YOU SAID
18 THAT YOU COULDN'T QUITE RECALL THE DATE. DOES THAT
19 REFRESH YOUR RECOLLECTION AS TO WHAT DATE YOU VIEWED THAT
20 LINE-UP?

21 A UH-HUH, YES.

22 Q WHAT DATE WAS IT?

23 A 8/13/01.

24 Q SO IN AUGUST OF 2001?

25 A UH-HUH, YES.

26 Q IS THAT "YES"?

27 THE COURT: WHY DON'T WE TAKE OUR AFTERNOON
28 RECESS AT THIS TIME.

1 MR. JACKSON: CERTAINLY, YOUR HONOR.

2 THE COURT: LADIES AND GENTLEMEN, REMEMBER THE
3 ADMONITIONS. DON'T DISCUSS THE CASE. DON'T FORM OR
4 EXPRESS ANY OPINIONS. DON'T CONDUCT ANY DELIBERATIONS.
5 AND WE WILL SEE YOU BACK HERE AT 1:30. THANK YOU.

6 (AT 12:00 P.M. A RECESS WAS TAKEN
7 UNTIL 1:30 P.M. OF THE SAME DAY.)

8 --000--

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5
6 CASE NUMBER: GA052683
7 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
8 PASADENA, CALIFORNIA THURSDAY, NOVEMBER 16, 2006
9 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
10 APPEARANCES: (AS HERETOFORE NOTED.)
11 REPORTER: LORI D. CASILLAS, CSR NO. 9869
12 TIME: P.M. SESSION
13

14 (THE FOLLOWING PROCEEDINGS WERE
15 HELD IN OPEN COURT OUTSIDE THE
16 PRESENCE OF THE JURY.)
17

18 THE COURT: LET'S GO BACK ON THE RECORD IN THE
19 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL.
20 THE PEOPLE ARE REPRESENTED. THE JURORS AND ALTERNATES
21 ARE NOT YET PRESENT.

22 AND I'M TOLD, MS. SARIS, YOU WANT TO PUT
23 SOMETHING ON THE RECORD?

24 MS. SARIS: YES. I UNDERSTAND FROM THE PEOPLE'S
25 LIST THAT MISS WILKINSON MAY TESTIFY THIS AFTERNOON. AND
26 WE RENEW OUR OBJECTION TO THE ENTIRETY OF HER TESTIMONY
27 AS NON-SPONTANEOUS HEARSAY OFFERED FOR IMPROPER PURPOSE
28 AND IRRELEVANT.

1 THE COURT: AND IS THERE ANY FURTHER DISCUSSION
2 ON THAT?

3 MR. DIXON: NO.

4 MR. JACKSON: NO.

5 THE COURT: THE COURT WILL STAND BY ITS EARLIER
6 RULING AND THE OBJECTION IS NOTED AND OVERRULED.

7 MS. SARIS: THANK YOU.

8 THE COURT: ANYTHING ELSE THAT WE NEED TO PUT ON
9 THE RECORD?

10 MR. JACKSON: NO, YOUR HONOR.

11
12 (THE JURY ENTERED THE COURTROOM
13 AND THE FOLLOWING PROCEEDINGS WERE
14 HELD IN OPEN COURT.)

15
16 THE COURT: LET THE RECORD REFLECT THAT ALL OUR
17 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT. THE
18 PARTIES ARE PRESENT. MISS STEVENS IS STILL ON THE
19 WITNESS STAND.

20 YOU ARE REMINDED THAT YOU ARE STILL UNDER
21 OATH. CAN YOU JUST STATE YOUR NAME AGAIN FOR THE RECORD,
22 PLEASE.

23 THE WITNESS: TONYIA STEVENS.

24 THE COURT: AND, MR. JACKSON, YOU MAY CONTINUE.

25 MR. JACKSON: THANK YOU, YOUR HONOR.

26
27
28 DIRECT EXAMINATION (RESUMED)

1 BY MR. JACKSON:

2 Q MRS. STEVENS, AT LAST WE LEFT OFF I WAS
3 ASKING YOU ABOUT A LINE-UP THAT YOU ATTENDED OR
4 PARTICIPATED IN; CORRECT?

5 A YES.

6 Q ALL RIGHT. YOU INDICATED -- AND JUST
7 FOUNDATIONALLY BECAUSE WE'VE ALL HAD TIME TO EAT AND FALL
8 ASLEEP AFTER LUNCH -- YOU INDICATED THAT THAT WAS IN
9 AUGUST OF 2001; IS THAT RIGHT?

10 A YES.

11 Q AND IS THAT INDICATED ON THE DOCUMENT
12 THAT'S IN FRONT OF YOU THAT WAS PREVIOUSLY BEEN MARKED AS
13 PEOPLE'S 36?

14 A YES.

15 Q DO YOU SEE THAT DOCUMENT REPRESENTED ON
16 THE OVERHEAD PROJECTOR TO YOUR RIGHT?

17 A YES.

18 Q DURING THE COURSE OF THAT LINE-UP EXPLAIN
19 HOW -- KIND OF HOW IT HAPPENED?

20 A WELL, I JUST CAME IN WITH MY HUSBAND. AND
21 WE WERE TALKING TO THE DETECTIVE LILLIENFELD. AND I JUST
22 SAID, "OH, HE'S NOT GOING TO HAVE ANY TROUBLE IDENTIFYING
23 HIM BECAUSE I COULD IDENTIFY HIM."

24 Q WHO DID YOU SAY THAT TO?

25 A DETECTIVE LILLIENFELD.

26 Q DID YOU SAY THAT IN FRONT OF RON?

27 A YES.

28 Q DID YOU INDICATE AT THAT POINT WHO THE

1 PERSON WAS?

2 A NO.

3 Q HAD YOU SEEN THE LINE-UP AT THAT POINT?

4 A NO.

5 Q DID DETECTIVE LILLIENFELD ASK YOU IF YOU
6 WOULD ALSO TAKE A LOOK AT THE LINE-UP?

7 A YES.

8 Q DID YOU DO THAT IN RON'S PRESENCE OR
9 OUTSIDE OF HIS PRESENCE?

10 A THEY BROUGHT US IN AND SEPARATED US SO WE
11 HAD NOTHING TO DO WITH EACH OTHER DURING THE LINE-UP.

12 Q DID YOU KNOW ANYTHING ABOUT WHAT RON HAD
13 OR HADN'T DONE DURING THE COURSE OF HIS LINE-UP?

14 A NO.

15 Q WAS IT YOUR IMPRESSION THAT RON KNEW
16 ANYTHING ABOUT WHAT YOU WERE OR WERE NOT GOING TO DO
17 DURING YOUR LINE-UP?

18 A NO.

19 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

20 THE COURT: SUSTAINED.

21 Q BY MR. JACKSON: DID YOU TELL RON WHAT YOU
22 HAD DONE OR WHAT YOU WERE GOING TO DO?

23 A OH, NO.

24 Q AS YOU LOOKED AT THE LINE, WERE THE
25 INDIVIDUALS IN THE LINE ASKED TO DO ANYTHING IN
26 PARTICULAR?

27 A YES. THEY WERE JUST ASKED TO TURN AND
28 STAND.

1 Q OKAY. I WANT YOU TO DESCRIBE FOR THE
2 JURORS HOW THEY WERE ASKED TO TURN?

3 A OH, TO THE RIGHT AND TO THE LEFT.

4 Q OKAY. WHEN YOU -- AND I KNOW I'M TAKING
5 BABY STEPS HERE, BUT BEAR WITH ME.

6 WERE THE PEOPLE IN THE LINE ASKED TO FACE
7 YOU FACE ON FIRST?

8 A YES. OH, I DON'T REMEMBER IF THEY WERE
9 ASKED. BUT THEY DID WALK IN AND THEY WERE FACING US. SO
10 I GUESS THE ANSWER IS YES.

11 Q DID YOU GET AN OPPORTUNITY TO LOOK AT EACH
12 INDIVIDUAL?

13 A YES.

14 Q WERE YOU GIVEN A TIME LIMIT?

15 A NO.

16 Q WHEN THEY WERE ASKED TO TURN TO THE RIGHT,
17 DID EACH PERSON DO THAT?

18 A YES.

19 Q 90 DEGREES LIKE I'M STANDING TOWARD YOU
20 NOW?

21 A YES.

22 Q WERE THEY ASKED TO TURN ANY OTHER
23 DIRECTION?

24 A YES.

25 Q WHICH DIRECTION?

26 A TO THE LEFT.

27 Q THE WAY THAT I'M STANDING TOWARD YOU NOW?

28 A YES.

1 MR. JACKSON: MAY THE RECORD REFLECT THAT IN EACH
2 RESPECTIVE OCCASION I TURNED 90 DEGREES, FIRST WITH MY
3 RIGHT SHOULDER FACING MISS STEVENS; SECOND WITH MY LEFT
4 SHOULDER -- REVERSE THAT -- MY LEFT SHOULDER FACING
5 MISS STEVENS; SECOND WITH MY RIGHT SHOULDER FACING
6 MISS STEVENS PERPENDICULAR.

7 THE COURT: THE RECORD WILL SO REFLECT.

8 MR. JACKSON: THANK YOU.

9 Q DURING THE COURSE OF THAT LINE-UP, WERE
10 YOU ABLE TO RECOGNIZE THE MAN THAT YOU SAW SEATED IN THAT
11 CAR?

12 A YES.

13 Q WHICH POSITION WAS HE IN?

14 A WHEN I RECOGNIZED HIM?

15 Q WHICH POSITION IN THE LINE, PERSON ONE,
16 TWO, THREE, FOUR, FIVE OR SIX?

17 A OH, IT WAS NO. 5.

18 Q DO YOU SEE THAT PERSON IN THE PHOTOGRAPHS?

19 A UH-HUH.

20 Q IS THAT "YES"?

21 A YES.

22 Q IS THAT THE SAME PERSON THAT YOU'VE
23 IDENTIFIED HERE IN COURT?

24 A YES.

25 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
26 HONOR?

27 THE COURT: YES.

28 Q BY MR. JACKSON: HANDING YOU PEOPLE'S 34.

1 IS THAT THE SAME PHOTOGRAPH OR SET OF PHOTOGRAPHS THAT
2 ARE REPRESENTED ON THE OVERHEAD?

3 A YES.

4 Q IS THAT THE WAY THE PERSON IN POSITION
5 NO. 5 LOOKED ON THE DAY THAT YOU IDENTIFIED HIM?

6 A YES.

7 Q IS THAT, IN FACT, THE DEFENDANT IN THIS
8 CASE?

9 A YES.

10 Q IS THAT THE PERSON THAT YOU SAW SEATED IN
11 THE CAR OUTSIDE YOUR HOUSE?

12 A YES.

13 Q MRS. STEVENS, HAVE YOU HAD AN OPPORTUNITY
14 AT MY REQUEST TO LOOK AT ANY REPORTS CONCERNING YOUR
15 FIRST INTERVIEW WITH THE DETECTIVES IN THIS CASE?

16 A YES.

17 Q IS THERE ANYTHING INCONSISTENT IN THOSE
18 REPORTS OR THAT REPORT AS OPPOSED TO HOW YOU'VE TESTIFIED
19 TODAY?

20 A YES.

21 Q DESCRIBE THAT FOR US, PLEASE.

22 A IT SAID THAT I DIDN'T KNOW IF THE CAR WAS
23 OCCUPIED OR NOT.

24 Q AND LET'S TAKE THIS ONE STEP AT A TIME.
25 WHAT SAID THAT?

26 A THE REPORT.

27 Q OKAY. IS THAT REPORT ACCURATE?

28 A NO.

1 Q IN WHAT WAY IS IT INACCURATE?

2 A BECAUSE I NEVER WOULD HAVE SAID THAT I
3 DIDN'T KNOW IF THE CAR WAS OCCUPIED OR NOT BECAUSE I SAW
4 TWO PEOPLE IN THE CAR. I WALKED DOWN AND SAW TWO PEOPLE
5 IN THE CAR. SO I DON'T KNOW WHY IT SAYS THAT IN THE
6 REPORT, BUT I NEVER SAID THAT.

7 Q SO THAT WOULD BE AN INACCURACY IN THE
8 REPORT?

9 A YES.

10 Q MRS. STEVENS, AS YOU SIT HERE TODAY, IS
11 THERE ANY QUESTION IN YOUR MIND AS TO WHO THE PERSON WAS
12 THAT WAS SEATED IN THAT CAR IN MARCH OF 1988, THAT WEEK
13 PRIOR TO THE MURDERS?

14 A NO.

15 Q WHO IS THAT PERSON?

16 A THE GENTLEMAN THERE (INDICATING).

17 Q INDICATING THE DEFENDANT?

18 A YES.

19 Q THANK YOU.

20 THE COURT: CROSS-EXAMINATION?

21 MS. SARIS: THANK YOU.

22

23 CROSS-EXAMINATION

24 BY MS. SARIS:

25 Q GOOD AFTERNOON, MRS. STEVENS.

26 A GOOD AFTERNOON.

27 Q YOU SAID YOU HAD AN OPPORTUNITY TO SEE THE
28 REPORT THAT WAS PREPARED. WAS THAT BY A DETECTIVE

1 LILLIENFELD?

2 A YES.

3 Q HE TALKED TO YOU ON 2/26 OF 2001; IS THAT
4 RIGHT?

5 A YES, ON THE PHONE.

6 Q MA'AM, I'M GOING TO READ THAT TO YOU IN
7 ITS ENTIRETY. AND IF YOU WILL JUST TELL ME WHICH PART OF
8 IT IS INCORRECT. IT'S NOT VERY LONG.

9 MR. JACKSON: I WOULD OBJECT, YOUR HONOR. THE
10 REPORT IS HEARSAY.

11 THE COURT: SUSTAINED.

12 MS. SARIS: MAY WE APPROACH?

13 THE COURT: ALL RIGHT.

14

15 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

16 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.

17 MS. SARIS: YOUR HONOR, COUNSEL, HE OPENED THE
18 DOOR TO THIS LINE OF INTERROGATION. HE IS TRYING TO GET
19 INTO THE IDEA THAT THERE WAS A STATEMENT IN THAT REPORT
20 AND THAT SHE WAS MISQUOTED. I WOULD LIKE TO KNOW WHICH
21 OTHER PARTS OF THE STATEMENTS ARE MISQUOTES.

22 THE COURT: WELL, YOU CAN SHOW IT TO HER, BUT YOU
23 CAN'T READ IT.

24 MS. SARIS: WELL, HE WAS ABLE TO INQUIRE WHAT DID
25 IT SAY. SHE SAID I COULDN'T REMEMBER. SO WE HAVE
26 ALREADY OPENED THE DOOR TO WHAT IS INSIDE THIS REPORT.
27 THE I.D. OF THE REPORT HAS BECOME AN ISSUE NOW.

28 THE COURT: WELL, IT WAS ONLY ONE PORTION OF THE

1 REPORT.

2 MS. SARIS: MY WHOLE POINT IS THAT THE REPORT IS
3 ALL OF SEVEN LINES.

4 THE COURT: RIGHT. BUT THE REST OF IT IS
5 HEARSAY.

6 MS. SARIS: EXCEPT FOR THE PART THAT THE DISTRICT
7 ATTORNEY WANTED TO USE?

8 THE COURT: WELL, THAT WOULD BE WHAT WOULD --
9 WHAT I WOULD CHARACTERIZE AS ASKING HER ABOUT A PRIOR
10 INCONSISTENT STATEMENT, WHICH NOW SHE HAS DENIED. SO YOU
11 WANT TO READ THE WHOLE PARAGRAPH FOR WHAT PURPOSE?

12 MS. SARIS: TO TALK ABOUT ACCURACY OF THE REPORT.

13 THE COURT: AND IS IT YOUR POSITION THAT THE
14 REPORT IS ACCURATE OR INACCURATE?

15 MS. SARIS: APPARENTLY IT'S INACCURATE BASED ON
16 WHAT SHE SAID. SHE INDICATED THAT HE GOT IT WRONG; THAT
17 HE DIDN'T -- SHE DOESN'T KNOW WHERE HE GOT THAT.
18 EVERYTHING ELSE IN THE REPORT IS WHAT SHE SAID. SO THE
19 ONLY THING SHE GOT WRONG IS WHETHER THIS -- IT'S TO GIVE
20 CONTEXT TO THE QUESTION. IN OTHER WORDS, EVERYTHING THAT
21 SHE SAID SHE RELATED HE PUT IN THERE. AND THIS ONE THING
22 IS THE ONLY THING HE GOT WRONG.

23 THE COURT: WELL, I THINK YOU CAN ASK HER THAT.
24 THE PROBLEM IS IF IT'S CONSISTENT, IT'S HEARSAY. IF IT'S
25 INCONSISTENT, THEN THE HEARSAY EXCEPTION APPLIES. SO IF
26 IT'S INCONSISTENT AND A HEARSAY EXCEPTION APPLIES, TELL
27 ME WHAT IS INCONSISTENT ABOUT IT OTHER THAN THE PORTION
28 OF THE REPORT THAT WAS REFERENCED?

1 MS. SARIS: WELL, IN OTHER WORDS, THE
2 INCONSISTENT STATEMENT THAT WAS MADE THAT THE PEOPLE
3 BROUGHT UP -- THERE WAS NO INCONSISTENT STATEMENT. THEY
4 BROUGHT UP THE REPORT AS REAL EVIDENCE. THEY'VE ALREADY
5 IDENTIFIED THIS REPORT AND TRIED TO SORT OF PREVIEW THE
6 DAMAGE FROM THE REPORT.

7 THE COURT: YES. YES.

8 MS. SARIS: BY MAKING -- SHE DIDN'T ASK FOR HER
9 RECOLLECTION TO BE REFRESHED. SHE DIDN'T MAKE ANY -- THE
10 STATEMENT SHE MADE WAS CONSISTENT WITH WHAT THE DISTRICT
11 ATTORNEY WAS ASKING. SO THE FACT OF THE REPORT NOW AND
12 WHAT THE DETECTIVE SAID IS RELEVANT. IS HE JUST
13 INCOMPETENT AND HE COULDN'T GET ANY OF THIS CORRECT? OR
14 ARE THERE PARTS OF IT THAT HE GOT CORRECT AND PARTS OF IT
15 THAT HE DIDN'T GET CORRECT? I THINK WE'RE ENTITLED TO
16 GET IN THE ENTIRE THING.

17 THE COURT: WELL, YOU CAN. I DON'T HAVE ANY
18 PROBLEM WITH YOU GETTING INTO OTHER AREAS OF THE REPORT;
19 YOU JUST CAN'T READ IT.

20 MS. SARIS: IT IS NOT A MATTER OF --

21 THE COURT: YOU CAN'T READ IT. THAT'S -- I MEAN
22 I DON'T KNOW WHAT ELSE TO TELL YOU. IT'S -- THERE IS
23 NOTHING -- I'M LOOKING AT A PARAGRAPH --

24 MS. SARIS: SHE SAID THE REPORT WAS INACCURATE.
25 SO I WOULD LIKE TO GO LINE BY LINE AND SEE IF IT'S
26 ACCURATE.

27 THE COURT: YOU CAN DO THAT. BUT YOU CAN SHOW IT
28 TO HER AND NOT READ IT OUT LOUD.

1 MR. SUMMERS: WHAT ABOUT AS A PRIOR CONSISTENT
2 STATEMENT IF THEY'VE INTRODUCED A PRIOR INCONSISTENT
3 STATEMENT?

4 THE COURT: WHAT IS THE REQUEST?

5 MS. SARIS: AS A PRIOR CONSISTENT STATEMENT.

6 THE COURT: WITH REFERENCE TO WHAT?

7 MS. SARIS: THE OTHER STATEMENTS THAT ARE
8 CONSISTENT.

9 MR. SUMMERS: ONCE THEY HAVE INTRODUCED A PRIOR
10 INCONSISTENT STATEMENT --

11 MS. SARIS: WE'RE ENTITLED TO SHOW THAT THE OTHER
12 STATEMENTS AREN'T CONSISTENT.

13 THE COURT: I'VE NEVER HEARD OF THAT. I MEAN YOU
14 CAN USE PRIOR CONSISTENT STATEMENTS IF THEY'RE MADE PRIOR
15 TO THE INCONSISTENCY; RIGHT?

16 MR. JACKSON: CORRECT. AND IT HAS TO BE
17 CONSISTENT WITH WHAT SHE SAYS ON THE STAND.

18 THE COURT: YES.

19 MS. SARIS: THAT'S WHAT THESE ARE.

20 MR. JACKSON: NO, IT'S NOT. SHE SAID SHE DIDN'T
21 SAY IT WAS OCCUPIED.

22 MS. SARIS: THE OTHER PORTIONS THAT WE'RE TRYING
23 TO ADMIT.

24 THE COURT: WHY DON'T YOU START WITH SHOWING IT
25 TO HER AND ASKING HER IF THERE ARE ANY INACCURACIES AND
26 THEN TAKE IT FROM THERE.

27 MR. JACKSON: I WOULD HAVE NO OBJECTION TO THAT.

28 MS. SARIS: OKAY.

1 THE COURT: ALL RIGHT. WE'RE BACK ON THE RECORD,
2 THEN.

3 YOU MAY CONTINUE.

4 MS. SARIS: THANK YOU.

5 (SIDEBAR PROCEEDINGS CONCLUDED.)
6

7 Q BY MS. SARIS: MRS. STEVENS, DID YOU IN
8 THIS CONVERSATION WITH THE DETECTIVE TELL HIM ANYTHING
9 ABOUT THE VEHICLE?

10 A YES.

11 Q DID YOU TELL HIM THAT THE VEHICLE WAS
12 PARKED THE WRONG WAY ON THE PROPERTY -- ON THE STREET?

13 A NO.

14 Q WAS THE VEHICLE PARKED CORRECTLY OR WAS IT
15 PARKED ILLEGALLY?

16 A AS FAR AS I CAN REMEMBER IT WAS PARKED
17 CORRECTLY. AS FAR AS I CAN REMEMBER.

18 Q DID YOU TELL THE OFFICER THAT THE CAR WAS
19 FACING THE WRONG WAY FOR BEING PARKED ON THAT SIDE OF THE
20 STREET?

21 A NO.

22 Q SO IS THERE -- WELL, LET ME JUST ASK YOU
23 THIS: WHAT COLOR DO YOU THINK THE CAR IS?

24 A IT WAS LIGHT.

25 Q LIGHT?

26 A YES. I SAID IT WAS EITHER LIGHT GREEN OR
27 LIGHT YELLOW.

28 Q DO YOU REMEMBER TELLING THE DETECTIVE IT

1 WAS EITHER BLUE OR YELLOW?

2 A NO. BUT I JUST KNOW IT WAS LIGHT.

3 Q SO IS THERE BASICALLY ANYTHING THE
4 DETECTIVE GOT RIGHT IN THAT REPORT?

5 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE.

6 THE COURT: SUSTAINED.

7 Q BY MS. SARIS: DID YOU RECOGNIZE ANYTHING
8 IN THE REPORT AS ACCURATELY REFLECTING YOUR RECOLLECTION
9 OF THAT CONVERSATION?

10 A YES.

11 Q AND WHAT WAS THAT?

12 A WELL, I TOLD HIM THE COLOR OF THE CAR WAS
13 LIGHT.

14 Q YOU SAID THAT YOU TOLD HIM THE COLOR WAS
15 LIGHT?

16 A I TOLD HIM IT WAS AN OLD CLUNKER. I TOLD
17 HIM IT HAD ARIZONA LICENSE PLATES BECAUSE IT SPELLED IT
18 OUT IN BIG LETTERS, A-R-I-Z-O-N-A, UNMISTAKABLE.

19 Q WAS THERE ANYTHING ABOUT THE DETECTIVE'S
20 INTERACTION WITH YOU THAT LED YOU TO BELIEVE THAT HE WAS
21 INCAPABLE OF PERFORMING HIS JOB CORRECTLY?

22 A NO.

23 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
24 THAT'S ARGUMENTATIVE.

25 THE COURT: SUSTAINED.

26 Q BY MS. SARIS: EARLIER THIS MORNING DID
27 YOU HAVE A CONVERSATION WITH THIS DETECTIVE WHEREIN HE
28 SHOWED YOU THIS REPORT IN THE PRESENCE OF THE DISTRICT

1 ATTORNEY?

2 A I THINK SO, YES.

3 Q DID THEY TELL YOU THAT THERE MIGHT BE A
4 PROBLEM WITH YOU MAKING AN IDENTIFICATION NOW IN COURT
5 WHEN YOU RELATED TO THE DETECTIVE THAT YOU COULD NOT
6 RECALL IF THE CAR WAS OCCUPIED?

7 A NO.

8 MR. JACKSON: OBJECTION. THAT'S COMPOUND.
9 THAT'S VAGUE.

10 THE COURT: SUSTAINED.

11 MR. JACKSON: ALSO ASSUMES FACT NOT IN EVIDENCE.

12 Q BY MS. SARIS: DID THEY POINT OUT THAT THE
13 REPORT INDICATED THAT YOU COULD NOT RECALL WHETHER THE
14 CAR WAS OCCUPIED?

15 A THEY SHOWED ME THE REPORT.

16 Q AND DID IT, IN FACT, SAY THAT YOU COULD
17 NOT RECALL WHETHER THE CAR WAS OCCUPIED?

18 A YES.

19 Q AND THAT'S YOUR UNDERSTANDING WHAT THIS
20 REPORT SAYS?

21 A YES.

22 Q OKAY. ON MARCH 23RD WHEN YOUR HUSBAND --
23 WERE YOU AWARE YOUR HUSBAND WAS GOING TO BE ASKED TO LOOK
24 AT SOME PHOTOGRAPHS?

25 A I THINK THEY CAME TO HIS OFFICE.

26 Q WERE YOU AWARE THAT WAS GOING TO HAPPEN,
27 THOUGH, WAS THAT A PLANNED APPOINTMENT?

28 A YES.

1 Q WERE YOU INVITED TO THAT?

2 A NO.

3 Q IS THAT BECAUSE YOU SAID YOU COULDN'T
4 RECALL WHETHER THE CAR WAS OCCUPIED?

5 A I WOULDN'T KNOW. BUT I DIDN'T SAY THE CAR
6 WASN'T OCCUPIED.

7 Q THE DETECTIVE JUST WROTE THAT?

8 A I DON'T KNOW. I DIDN'T SAY IT SO --

9 Q AND JUST SO WE'RE CLEAR, WE'RE TALKING
10 ABOUT THE DETECTIVE WHO IS IN CHARGE OF THIS
11 INVESTIGATION; RIGHT?

12 A YES.

13 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
14 THE COURT: SUSTAINED.

15 Q BY MS. SARIS: DID THIS DETECTIVE PRESENT
16 HIMSELF AS BEING IN ANY WAY, SHAPE OR FORM INVOLVED IN
17 THE MICKEY THOMPSON MURDER INVESTIGATION?

18 A YES.

19 Q AND WHAT WAS YOUR UNDERSTANDING OF HIS
20 ROLE?

21 A HE WAS A DETECTIVE.

22 Q WAS HE THE MAIN DETECTIVE? ONE TINY PART
23 OF IT?

24 A I DON'T KNOW.

25 Q DO YOU KNOW NOW?

26 A NO.

27 Q DID YOU MENTION TO HIM THIS IDEA THAT THIS
28 INDIVIDUAL LOOKED LIKE A FRIEND OF YOURS?

1 A I DON'T KNOW.

2 Q HAVE YOU EVER MENTIONED THAT ANYWHERE
3 BEFORE TODAY?

4 A I HAVE. I TOLD SEVERAL PEOPLE. I DON'T
5 KNOW WHO, BUT I'VE TOLD PEOPLE.

6 Q HAVE YOU EVER TOLD -- I'M SORRY -- I'LL BE
7 MORE SPECIFIC -- ANYONE FROM LAW ENFORCEMENT OR THE
8 DISTRICT ATTORNEY'S OFFICE.

9 A I BELIEVE I DID.

10 Q DO YOU KNOW WHO?

11 A NO.

12 Q WAS THIS A WEEKDAY FOR SURE THAT YOU SAW
13 THIS?

14 A YES.

15 Q YOU HAD MENTIONED YOUR DAUGHTER, HAVING TO
16 PICK HER UP FROM SCHOOL?

17 A YES.

18 Q AND SO SHE ONLY WENT TO SCHOOL DURING THE
19 WEEK?

20 A YES, LIKE MOST CHILDREN.

21 Q JUST CHECKING. DO YOU REMEMBER
22 SPECIFICALLY WHETHER IT WAS A FRIDAY OR A MONDAY?

23 A NO. I THINK IT WAS LIKE A TUESDAY OR
24 WEDNESDAY.

25 Q IF I WERE TO TELL YOU THAT MICKEY AND
26 TRUDY THOMPSON WERE MURDERED ON A WEDNESDAY, WHAT WOULD
27 BE YOUR BEST GUESS AS TO WHEN YOU MADE THIS OBSERVATION?

28 A MONDAY.

1 Q THE MONDAY PRIOR?

2 A YES.

3 Q IS MT. OLIVE A FAIRLY BUSY STREET -- OR
4 WAS IT AT THE TIME THAT YOU WERE LIVING THERE?

5 A FAIRLY BUSY, NOT A MAJOR --

6 Q IS THERE A FREEWAY EXIT OFF THE 210 ON
7 MT. OLIVE?

8 A YES. BUT IF YOU GO UP THE HILL, IT IS A
9 DEAD END. I MEAN THERE IS HOUSES UP THERE, BUT THERE'S
10 NO ACCESS TO ANYTHING ELSE EXCEPT HOUSES.

11 Q SO IT IS A MAIN ROUTE, THOUGH, GETTING
12 INTO THE BRADBURY AREA?

13 A YES. AND THE DUARTE MESA.

14 Q YOU DID NOT ACCOMPANY YOUR HUSBAND -- OR
15 YOU DIDN'T MEET HIM AT WORK WHEN THE DETECTIVE CAME WITH
16 THE PHOTOGRAPHS?

17 A NO.

18 Q YOU SAW, THEN, MR. GOODWIN'S FACE ON A
19 TELEVISION NEWS REPORT RELATING TO THIS MURDER?

20 A YES.

21 Q AND THEY HAD ACTUALLY SAID SOMETHING IN
22 THE TEASER OR SHOWN A PHOTOGRAPH THAT LED YOU TO BELIEVE
23 THAT YOU HAD TO TELL YOUR HUSBAND TO GET OUT OF THE ROOM?

24 A JUST THE TEASER. I DIDN'T SEE ANYTHING.
25 THEY JUST SAID COMING UP WILL BE NEWS ON THE MICKEY
26 THOMPSON MURDER. SO HE LEFT THE ROOM AND I WATCHED.

27 Q AND WHEN YOU WATCHED, WAS -- YOU SAID IT
28 WAS CLEAR THAT THEY WERE COMING OUT OF A COURTROOM OR

1 COURTHOUSE?

2 A NO, IT WASN'T CLEAR. THEY WERE COMING OUT
3 OF SOME BUILDING, SO I DON'T KNOW.

4 Q WELL, DO YOU RECALL REFERRING TO IT AS A
5 COURTHOUSE?

6 A PROBABLY I SAID SOMETHING LIKE A
7 COURTHOUSE.

8 Q WAS ANYONE IN HANDCUFFS?

9 A NO. IT WAS FOUR OR FIVE OR SIX MEN
10 WALKING TOGETHER IN A ROW TALKING. AND THERE WAS NO
11 IDENTIFICATION AS TO WHOM WAS WHO.

12 Q AND AT WHAT POINT IN YOUR MIND HAD YOU
13 ASSOCIATED THAT PERHAPS THE VEHICLE YOU SAW ON STREET WAS
14 RELATED TO THE MICKEY THOMPSON MURDER?

15 A RIGHT AFTER THE MURDER.

16 Q AND THEN YOU SAW THIS -- I BELIEVE YOU
17 SAID YOU SAW THIS NEWS PROGRAM AND YOU REMEMBERED THE
18 FACE.

19 A THAT'S WHEN I REMEMBERED HE REMINDED ME OF
20 SOMEBODY I WENT TO SCHOOL WITH.

21 Q BUT THE NEWS PROGRAM WAS CLEAR THAT THIS
22 WAS A TEASER ABOUT THE MICKEY THOMPSON MURDER? THIS
23 WASN'T LIKE A RACING SHOW IN GENERAL?

24 A RIGHT.

25 Q DID YOU EVER GIVE A DESCRIPTION OF THAT
26 INDIVIDUAL?

27 A YES.

28 Q COULD YOU DESCRIBE THAT PERSON FOR US NOW

1 AS THEY LOOKED ON THAT MORNING?

2 A I SAID HE HAD A RUDDY COMPLEXION; HE HAD
3 KIND OF BROWNISH BLOND HAIR.

4 Q HEIGHT OR WEIGHT?

5 A WELL, IT'S HARD TO TELL HEIGHT OR WEIGHT
6 SITTING IN THE CAR. BUT HE WASN'T A SMALL PERSON.

7 Q HAD THERE BEEN ANY RECENT INCIDENTS AT
8 THAT SCHOOL, SUCH AS KIDNAP ATTEMPTS OR SOME SORT OF
9 PEDOPHILE ACTIVITY THAT YOU WERE PARTICULARLY ON THE LOOK
10 OUT FOR?

11 A NO. BUT WE HAD HAD ROBBERIES IN THE
12 NEIGHBORHOOD. BUT AS A MOTHER OF FOUR, I'M ALWAYS
13 CONCERNED WITH CHILDREN.

14 Q DID ANY OF YOUR CHILDREN ATTEND THAT GARDI
15 SCHOOL OR IS THAT JUST FOR SMALL CHILDREN?

16 A THEY WEREN'T ATTENDING THEN, NO, BUT THEY
17 HAD GONE TO THERE.

18 Q IS THAT AN ELEMENTARY SCHOOL?

19 A YES.

20 Q WHAT AGE WOULD YOU PUT THE INDIVIDUAL
21 OUTSIDE YOUR HOME AT APPROXIMATELY AT THE TIME?

22 A 40-ISH.

23 Q SO WHEN YOU GOT TO THE LINE-UP IN
24 PERSON -- WELL, LET ME ASK YOU THIS: HOW DID YOU
25 PHYSICALLY GET TO THE LINE-UP?

26 A IN A CAR.

27 Q AND WHO WERE YOU WITH?

28 A MY HUSBAND.

1 Q DID YOU TALK ABOUT WHAT YOU WERE GOING TO
2 GO DO?

3 A I DIDN'T KNOW I WAS DOING ANYTHING. I WAS
4 JUST ACCOMPANYING MY HUSBAND FOR MORAL SUPPORT. IT IS A
5 VERY SCARY THING.

6 Q SO AT THAT POINT YOU WEREN'T SUPPOSED TO
7 BE INVOLVED IN THIS AT ALL?

8 A RIGHT.

9 Q HOW LONG AFTER YOU SAW THAT NEWS PROGRAM
10 DID YOU ACCOMPANY YOUR HUSBAND TO THIS LINE-UP?

11 A I DON'T REMEMBER.

12 Q WERE YOU TOLD AT THE LINE-UP ABOUT SOME
13 SORT OF REWARD?

14 A IT MIGHT HAVE BEEN THEN.

15 Q IT MIGHT HAVE BEEN THEN? ARE YOU AWARE OF
16 ANY REWARD IN THIS CASE?

17 A YES, NOW. BUT I WASN'T AT THE TIME AT
18 ALL.

19 Q BUT THEN SOMETHING HAPPENED AT THE LINE-UP
20 THAT SOMEONE MENTIONED IT?

21 A YES.

22 Q DO YOU HAVE ANY SENSE AS YOU SIT THERE NOW
23 WHAT THE AMOUNT IS?

24 A NO, I HAVE NO IDEA. AND THAT'S NONE OF MY
25 CONCERN.

26 Q DID YOUR HUSBAND TELL YOU AFTER THE -- DID
27 HE TALK ABOUT THE FACT THAT THE POLICE HAD COME AND SHOWN
28 YOU THESE PHOTOGRAPHS ON THE DAY IT HAPPENED?

1 A YES.

2 Q DID HE TELL YOU HE WAS ABLE TO PICK
3 SOMEONE OUT?

4 A YES.

5 Q AND WHEN YOU ACCOMPANIED YOUR HUSBAND FOR
6 MORAL SUPPORT, YOU KNEW WHERE HE WAS GOING? YES?

7 A YES.

8 Q DID YOU KNOW YOU WERE GOING TO A JAIL
9 FACILITY AS OPPOSED TO, SAY, A CONFERENCE ROOM OR A
10 COURTHOUSE? DID YOU KNOW?

11 A PROBABLY, BUT I DON'T REMEMBER.

12 Q WAS IT APPARENT TO YOU WHEN YOU GOT THERE
13 THAT IT WAS A JAIL?

14 A YES.

15 Q AND FROM THE PICTURES THAT WE'VE SEEN, IT
16 LOOKS AS IF THE INDIVIDUALS ARE ALL SORT OF DRESSED
17 ALIKE?

18 A YES.

19 Q DID YOUR HUSBAND TELL YOU THAT HE THOUGHT
20 THE PERSON THAT HE SAW IN THE PICTURE WAS GOING TO BE
21 THERE LIVE IN PERSON?

22 A NO.

23 Q WHEN YOU TOLD THE DETECTIVE -- OR I'M
24 SORRY -- EARLIER YOU TOLD MR. JACKSON THAT YOU HAD SOME
25 KIND OF DISCUSSION WITH YOUR HUSBAND ABOUT YOU ARE GOING
26 TO HAVE NO PROBLEM BECAUSE I RECOGNIZED THE GUY?

27 A UH-HUH.

28 Q IS THAT A "YES"?

1 A YES.

2 Q SO IT'S FAIR TO SAY, THEN, WHEN YOU WALKED
3 IN YOU EXPECTED THAT GUY TO BE AT LEAST ONE OF THE SIX
4 PEOPLE?

5 A YES.

6 Q OKAY. AND DID YOU HAVE AN EXPECTATION IN
7 YOUR MIND AS YOU THINK BACK ON IT, AT LEAST A MINIMUM AGE
8 THAT PERSON WOULD HAVE HAD TO HAVE BEEN?

9 A WOULD YOU REPEAT THAT.

10 Q SURE. DID YOU HAVE AN EXPECTATION WHEN
11 YOU WENT TO THE LINE-UP THAT THIS PERSON HAD TO BE A
12 CERTAIN AGE?

13 A NO.

14 Q YOU WEREN'T LOOKING FOR A MAN THAT WAS
15 MORE THAN 18 OR MAYBE 60 OR SOME AGE CLOSE TO WHAT YOU
16 SAW IN THE CAR?

17 A NO. I WAS JUST LOOKING FOR A FACE.

18 Q THE MAN THAT YOU SAW IN THE CAR YOU
19 THOUGHT COULD HAVE BEEN IN HIS 40'S?

20 A YES. I MEAN THIS IS THE FIRST TIME
21 ANYBODY HAS ASKED ME THAT. SO, YES, I THINK SO.

22 Q WELL, IT WASN'T A TEENAGER, WAS HE?

23 A OH, NO. NO.

24 Q AND HE WASN'T A GRAY HAIRE D OLD GUY?

25 A NO.

26 Q SO WHEN YOU WENT TO THE LINE-UP -- AND
27 I'VE BEEN CORRECTED IN MY MATH -- THIS IS MAYBE 13 YEARS
28 AFTER THE CITING?

1 A PROBABLY.

2 Q SO IS IT FAIR TO SAY THAT YOU WERE LOOKING
3 FOR SOMEONE OLDER THAN 50?

4 A NO.

5 Q NO?

6 A NO. I WAS JUST LOOKING FOR A FACE.

7 Q AND WERE YOU LOOKING FOR THE FACE THAT YOU
8 HAD SEEN ON THE TELEVISION?

9 A YES. OH, NO.

10 Q NO?

11 A NO. THE FACE I SAW ON TV WAS THE FACE I
12 SAW IN THE CAR. SO IF THAT'S A YES, OKAY, YES.

13 Q THAT YOU HADN'T SEEN IN THE 13 YEARS
14 PRIOR?

15 A RIGHT. HE WAS A LITTLE OLDER AND HE HAD
16 CHANGED A LITTLE BIT. I THINK ON THE LINE-UP -- GOSH,
17 THE LINE-UP HAS BEEN SIX YEARS, SO HE'S CHANGED SINCE
18 THEN, TOO. BUT SO HAVE I.

19 Q HAD YOU EVER SEEN ANY NEWS STORIES OR
20 ANYTHING ABOUT THE MICKEY THOMPSON MURDERS IN THE 13
21 YEARS?

22 A NO.

23 Q NEVER IN ALL THE TIME THAT YOU WERE LIVING
24 IN BRADBURY, YOU DIDN'T SEE A SINGLE NEWSPAPER REPORT THE
25 MURDER OR ANYTHING?

26 A OH, YOU MEAN LIKE IN THE NEWS, JUST A CLIP
27 ON THE NEWS?

28 Q SURE.

1 A PROBABLY, YES.

2 Q HOW ABOUT THE FACT DID YOU KNOW THAT IN
3 2001 ORANGE COUNTY WAS CONDUCTING SOME HEARINGS ABOUT
4 THIS CASE?

5 A YES, BECAUSE THE DETECTIVE HAD NOTIFIED US
6 OF THAT.

7 Q DID YOU SEE THAT ON THE TELEVISION?

8 A NO.

9 Q THAT NEWS -- OR THE TEASER THAT YOU SAW
10 WHERE THE SIX MEN WALKED IN --

11 A UH-HUH.

12 Q "YES"? -- WAS THAT, AS FAR AS YOU KNOW,
13 RELATED TO THIS ORANGE COUNTY HEARING?

14 A I DON'T REMEMBER.

15 MS. SARIS: YOUR HONOR, I HAVE A PAGE WITH THREE
16 PHOTOS. IT'S A LITTLE BIT CLOSER OF THE LINE-UP. I
17 WOULD LIKE TO MARK THE DEFENSE NEXT IN ORDER.

18 THE COURT: DD.

19

20 (MARKED FOR IDENTIFICATION DEFENSE'S
21 EXHIBIT NO. DD, PHOTOS.)
22

23 MS. SARIS: MAY I APPROACH THE WITNESS?

24 THE COURT: YES.

25 Q BY MS. SARIS: MRS. STEVENS, I JUST WANT
26 TO MAKE SURE THIS IS CLEAR. IS THIS THE SAME -- AND I
27 WILL GET TO THE OTHER EXHIBIT -- THE SAME EXHIBIT JUST A
28 BETTER VIEW OF THE INDIVIDUALS' FACES THAT YOU SAW AT

1 THAT LINE-UP?

2 MAY I APPROACH AGAIN? COMPARING THAT TO
3 PEOPLE'S 36.

4 A WHAT IS THE QUESTION?

5 Q IS IT THE SAME -- A PICTURE OF THE SAME
6 DAY AND SAME SORT OF PICTURE JUST ONE IS A BETTER VIEW OF
7 THE FACES?

8 A YES.

9 Q AND IN THAT THAT'S WHERE YOU INDICATED YOU
10 CHOSE NO. 5?

11 A YES.

12 Q AS YOU LOOK AT THAT PHOTOGRAPH OR THAT --
13 WHAT IS ON THE ENLARGEMENT RIGHT NOW, HOW OLD DOES NO. 2
14 APPEAR TO BE TO YOU?

15 A HOW OLD?

16 Q YES.

17 A 30-ISH I GUESS.

18 Q AND LET ME GIVE YOU A CLOSER -- HOW OLD
19 DOES NO. 6 APPEAR TO BE TO YOU?

20 A DO YOU WANT ME TO LOOK AT IT FROM HERE OR
21 FROM THERE?

22 Q WHATEVER IS EASIEST FOR YOU TO SEE.

23 A LATE 30'S.

24 Q NO. 4?

25 A 40'S.

26 Q THANK YOU.

27 A ARE YOU GOING TO ASK ME ABOUT THE OTHER
28 ONES?

1 Q SURE. DO YOU WANT TO GUESS ON THE OTHER
2 ONES, THAT'S FINE. NO. 1, WE CAN START WITH 1.

3 A NO. 1 LOOKS 50-ISH, 50 TO 60.

4 Q AND NO. 3?

5 A AND NO. 3 LOOKS 50 TO 60.

6 Q AND NO. 5?

7 A HE LOOKS 50 TO 60.

8 Q DOES NO. 3 LOOK HISPANIC TO YOU?

9 A NO. 3? YES.

10 Q THANK YOU. DID YOU DESCRIBE THE
11 INDIVIDUAL THAT YOU SAW IN THE CAR THAT DAY AS HISPANIC?

12 A NO. ARE YOU GOING TO ASK ME IF NO. 1
13 LOOKS GERMAN?

14 Q I'M NOT. BUT IF YOU COULD SUGGEST THE
15 REST OF MY QUESTIONS FOR THIS TRIAL, THAT WOULD BE REALLY
16 APPRECIATED.

17 DO YOU KNOW A FAMILY CALLED THE
18 QUARMSTROMS?

19 A YES. THEY WERE OUR NEIGHBORS ACROSS THE
20 STREET.

21 Q Q-U-A-R-M-S-T-R-O-M-S?

22 A YES, I BELIEVE SO.

23 Q DID YOU NOTICE ANY -- WELL, YOU SAID YOU
24 BECAME AWARE OF THE MURDER THE DAY IT HAPPENED?

25 A UH-HUH.

26 Q IS THAT A "YES"?

27 A YES.

28 Q WAS THAT FROM THE NEWS OR DID YOU ACTUALLY

1 HEAR SIRENS AND SEE POLICE?

2 A WE PROBABLY HEARD SIRENS FIRST AND THEN
3 THE NEWS.

4 Q AND IN THE DAYS FOLLOWING THAT, DID YOU
5 NOTICE ANY POLICE PRESENCE?

6 A YES.

7 Q WERE THERE ROADBLOCKS SET UP?

8 A THERE WAS ABOUT TWO WEEKS LATER. I WAS
9 STOPPED AT THE ROADBLOCK. THE ROADBLOCK WAS ON MT. OLIVE
10 AND ROYAL OAKS. THEY STOPPED ME AND ASKED ME IF I KNEW
11 ANY INFORMATION. AND I SAID, "YES, I DO" AND I TOLD HIM.
12 HE SAYS, "HAVE YOU TOLD THE POLICE?" AND I SAID, "YES."
13 HE SAYS "OKAY, GO ON THEN."

14 Q WAS HE A POLICEMAN?

15 A YES.

16 Q WAS HE IN A UNIFORM?

17 A YES.

18 Q DID YOU HAVE TO SHOW -- WAS THAT A
19 ROADBLOCK AS FAR AS YOU KNEW WAS IT YOUR UNDERSTANDING
20 JUST TO GET THROUGH? OR DO YOU THINK THEY WERE ASKING
21 EVERYONE FOR INFORMATION?

22 A THEY WERE ASKING EVERYONE.

23 Q DID YOU EVER SEE A ROADBLOCK ON GARDI AND
24 MT. OLIVE?

25 A NO.

26 Q DO YOU REMEMBER WHAT TIME OF DAY THE ONE
27 THAT YOU NOTICED WAS?

28 A NO. IT MIGHT HAVE BEEN GOING HOME FROM

1 WORK. THAT WOULD BE A GUESS.

2 Q AND IF THAT WERE THE CASE, WHAT TIME IS
3 THAT?

4 A 4:00-ISH, 5:00.

5 Q YOU CAN'T SEE THE -- DO YOU KNOW WHERE
6 MICKEY THOMPSON LIVED?

7 A UH-HUH.

8 Q IS THAT A "YES"?

9 A YES. SORRY.

10 Q CAN YOU SEE THEIR HOME FROM YOUR HOME?

11 A NO.

12 Q EVEN WITH BINOCULARS?

13 A RIGHT.

14 Q DO YOU KNOW THE PART OF THE BRADBURY
15 COMMUNITY THAT'S GATED?

16 A YES.

17 Q ARE YOU FAMILIAR WITH THE FACT THAT THERE
18 ARE TWO GATES?

19 A YES.

20 Q ONE IS OFF OF MT. OLIVE AND ONE IS DOWN ON
21 ROYAL OAKS?

22 A YES.

23 Q CAN YOU SEE EITHER OF THOSE GATED
24 ENTRANCES FROM YOUR HOME?

25 A NO. BUT MICKEY HAD ALWAYS DROVE UP OUR
26 STREET TO GET TO HIS HOUSE.

27 Q RIGHT. AND I'M ASKING JUST ABOUT THE
28 GATES NOW. CAN YOU SEE EITHER OF THOSE GATES FROM YOUR

1 HOME?

2 A NO.

3 Q SO ONE COULD ACTUALLY ACCESS MICKEY
4 THOMPSON'S HOME DIRECTLY FROM MT. OLIVE? YES?

5 A YES.

6 Q YOU DIDN'T HAVE TO GO THROUGH ANY GATES TO
7 GET TO MICKEY'S HOME; RIGHT?

8 A NO. I THINK YOU DID HAVE TO GO THROUGH A
9 GATE.

10 Q SO THE TWO GATES THAT WE'RE SPEAKING OF
11 EVEN WITH BINOCULARS YOU CAN'T SEE THOSE FROM YOUR HOME;
12 IS THAT --

13 A NO.

14 Q IS THAT CORRECT?

15 A THAT'S CORRECT.

16 MS. SARIS: MAY I HAVE JUST A MOMENT?

17 (PAUSE IN PROCEEDINGS.)

18 Q BY MS. SARIS: YOU SAID YOUR HUSBAND CAME
19 HOME WHILE YOU AND YOUR DAUGHTER WERE DECIDING WHAT TO DO
20 ABOUT THIS VEHICLE? IS THAT A "YES"?

21 A YES.

22 Q DID HE PULL INTO ANY PARTICULAR DRIVEWAY
23 OR PARK ON THE STREET?

24 A HE PULLED IN THE DRIVEWAY.

25 Q THE SAME ONE THAT YOU HAD PULLED INTO?

26 A WE HAD TWO DRIVEWAYS, ONE WENT STRAIGHT TO
27 THE GARAGE; AND ONE COMES AROUND LIKE THIS (INDICATING).
28 SO I DON'T REMEMBER WHICH ONE.

1 MS. SARIS: YOUR HONOR, WHEN SHE SAID "LIKE
2 THIS," SHE TOOK HER RIGHT ARM AND MADE SORT OF A
3 SEMI-CIRCLE ARK.

4 THE COURT: YES.

5 Q BY MS. SARIS: AND IS THAT -- DO THEY BOTH
6 COME IN FROM THE SAME DRIVEWAY OFF THE STREET?

7 A UH-HUH.

8 Q IS THAT A "YES"?

9 A YES.

10 Q WERE YOU AWARE OF HIM PULLING UP OR DID
11 YOU JUST NOTICE HIM COMING IN THE HOUSE?

12 A I JUST REMEMBER HIM COMING INTO THE HOUSE.

13 Q YOU SAID YOU ORIGINALLY SAW THIS CAR THAT
14 WAS PARKED ON THE STREET AS YOU WERE DRIVING NORTH ON
15 MT. OLIVE; IS THAT RIGHT?

16 A YES.

17 Q AND YOU HAD TURNED WEST TO GET INTO YOUR
18 DRIVEWAY AT THAT TIME?

19 A YES.

20 Q AND WAS THE -- THE CAR WAS PARKED -- I
21 BELIEVE YOU SAID IT WAS PARKED LEGALLY; IS THAT RIGHT?

22 A TO THE BEST OF MY RECOLLECTION, YES.

23 Q THE SCHOOL THAT YOU WERE CONCERNED OF
24 INITIALLY IS EAST OF YOUR HOUSE; IS THAT RIGHT?

25 A CORRECT.

26 Q ABOUT A BLOCK?

27 A YES.

28 Q AND YOUR STREET GARDI DEAD ENDS INTO THAT

1 SCHOOL?

2 A YES.

3 Q AND IT'S YOUR INDICATION THAT THEN YOUR
4 HUSBAND WENT OUTSIDE AND STARTED WALKING TOWARDS WHERE
5 THE CAR WAS PARKED?

6 A YES.

7 Q SO THERE IS A CORRAL IN THE FRONT OF YOUR
8 HOME?

9 A YES.

10 Q WAS THE CAR PARKED ON THAT SIDE OF THE
11 STREET OR ACROSS THE STREET?

12 A WHICH CAR?

13 Q THE CAR THAT WE MADE THE -- THAT YOU'VE
14 MADE THE OBSERVATIONS ABOUT.

15 A WELL, AS I REMEMBERED IT WAS ON THE OTHER
16 SIDE OF THE STREET.

17 Q AND WHEN YOU SAID THAT YOU -- AS YOU WERE
18 WALKING, WHEN YOU GOT TO THE EDGE OF THE CORRAL, THE CAR
19 TOOK OFF?

20 A YES.

21 Q DO YOU KNOW AS YOU SIT HERE NOW WHETHER OR
22 NOT THE CAR WAS RUNNING? OR DO YOU REMEMBER THEM HAVING
23 TO ACTUALLY TURN IT OVER?

24 A I DON'T REMEMBER.

25 Q NOTHING FURTHER AT THIS TIME.

26 THE COURT: REDIRECT?

27 MR. JACKSON: NO FURTHER QUESTIONS, YOUR HONOR.
28 THANK YOU.

1 THE COURT: THANK YOU, MA'AM. THANKS FOR COMING
2 IN.

3 MR. DIXON: NANCY WILKINSON OR NANCY LUCIA WILL
4 BE THE NEXT WITNESS. SHE'LL BE IN IN A MOMENT.

5 THE COURT: THANK YOU.

6
7 NANCY LUCIA,
8 CALLED BY THE PEOPLE AS A WITNESS, WAS
9 SWORN AND TESTIFIED AS FOLLOWS:

10
11 THE CLERK: MA'AM, PLEASE RAISE YOUR RIGHT HAND.

12 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
13 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
14 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
15 TRUTH SO HELP YOU GOD.

16 THE WITNESS: I DO.

17 THE CLERK: THANK YOU. PLEASE BE SEATED. WOULD
18 YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST NAME
19 FOR THE RECORD.

20 THE WITNESS: NANCY LUCIA. N-A-N-C-Y.
21 L-U-C-I-A. FORMALLY WILKINSON.

22 THE CLERK: THANK YOU.

23 THE COURT: YOU MAY INQUIRE.

24 MR. DIXON: THANK YOU VERY MUCH.

25
26 DIRECT EXAMINATION

27 BY MR. DIXON:

28 Q WELL, YOU JUST ANSWERED MY FIRST QUESTION.

1 I WAS GOING TO ASK YOU IF YOU USED TO BE KNOWN AS NANCY
2 WILKINSON?

3 A YES.

4 Q THANK YOU FOR COMING. THANK YOU FOR
5 WAITING. I APPRECIATE YOUR PATIENTS.

6 I WOULD LIKE TO INVITE YOUR ATTENTION BACK
7 TO 1985, '86, '87, IF I COULD. DID YOU KNOW MICKEY
8 THOMPSON?

9 A I DID.

10 Q DID YOU KNOW TRUDY THOMPSON?

11 A I DID.

12 Q HOW DID YOU KNOW THEM?

13 A I WORKED FOR THEM ON THE WEEKENDS. I FLEW
14 INTO WORK THE REGISTRATION, DO THE RACES.

15 Q COULD YOU TELL US WHAT YEARS YOU WORKED
16 FOR THEM? MAYBE I DIDN'T GIVE YOU THE RIGHT --

17 A FULL TIME AND PART TIME?

18 Q PART TIME.

19 A OH, PROBABLY ABOUT THREE YEARS.

20 Q AND THAT WOULD HAVE INCLUDED 1987?

21 A UH-HUH.

22 Q IS THAT A "YES"?

23 A YES. I'M SORRY. YES.

24 Q WHAT EXACTLY WAS YOUR JOB WITH THEM?

25 A I WOULD REGISTER THE COMPETITORS WHEN WE
26 CHECKED IN TO COMPETE IN THE RACES.

27 Q SO YOU LIVED OUT OF STATE OR OUT OF THE
28 AREA; IS THAT RIGHT? AND YOU SAID YOU FLEW IN?

.1 A WELL, WE HAD RACES IN OTHER STATES. AND I
2 LIVED IN CALIFORNIA. AND THEY WOULD FLY ME TO DIFFERENT
3 STATES.

4 Q SO IF IT WAS IN SAN DIEGO YOU WOULD FLY
5 THERE. IF IT WAS IN OHIO, YOU WOULD FLY THERE?

6 A DRIVE TO SAN DIEGO; FLY TO OHIO, YES.

7 Q OKAY. DURING THE PERIOD OF TIME THAT YOU
8 WORKED WITH THEM, DID YOU HAVE NOT ONLY A PROFESSIONAL
9 BUT SOCIAL RELATIONSHIP?

10 A UH-HUH, YES, I DID.

11 Q WITH BOTH OF THEM?

12 A MORE TRUDY THAN MICKEY.

13 Q MICKEY WAS MORE BUSINESS; TRUDY MORE --

14 A BOTH BUSINESS AND PERSONAL.

15 Q LET ME ASK YOU ABOUT THAT JUST FOR A
16 MOMENT. DRAWING ON YOUR EXPERIENCE WHEN YOU WORKED FOR
17 THEM, WERE THEY BOTH INVOLVED IN THIS BUSINESS THAT YOU
18 FLEW TO TO PUT ON THE RACES?

19 A YES.

20 Q COULD YOU EXPLAIN THAT?

21 A MICKEY WAS IN CHARGE OF THE COMPETITOR END
22 OF IT AND TRUDY WAS IN CHARGE OF THE REGISTRATION AND
23 HOTELS AND THAT KIND OF THING.

24 Q KIND OF A LOGISTICS AND ADMINISTRATION?

25 A RIGHT. CORRECT.

26 Q NOW, WHAT I WOULD LIKE TO DO IS INVITE
27 YOUR ATTENTION TO A SPECIFIC TIME, PERHAPS OCTOBER,
28 SEPTEMBER, NOVEMBER OF 1987?

1 A OKAY.

2 Q DO YOU HAVE THAT IN MIND?

3 A I DO.

4 Q DID SOMETHING IMPORTANT HAPPEN IN YOUR
5 LIFE JUST PRIOR TO THAT?

6 A I DID. I WAS MARRIED IN MAY OF 1987.

7 Q AND DURING THE PERIOD OF TIME THAT I
8 SUGGESTED TO YOU, SEPTEMBER, OCTOBER 1987, DID YOU VISIT
9 MICKEY AND TRUDY THOMPSON?

10 A I DID.

11 Q JUST FOR THE RECORD, I'M GOING TO HAVE YOU
12 IDENTIFY A PHOTOGRAPH AND SEE HOW THIS COMES OUT. THIS
13 IS PEOPLE'S 1 FOR IDENTIFICATION. DO YOU SEE IT ON OUR
14 BOARD?

15 A I DO.

16 Q AND ARE THOSE THE PEOPLE WE'RE TALKING
17 ABOUT?

18 A YES. MICKEY AND TRUDY.

19 Q SO AT THE TIME I SUGGESTED, DID YOU GO TO
20 TRUDY AND MICKEY'S HOUSE?

21 A I DID.

22 Q WHY?

23 A TRUDY AND DEBORAH COLLINS HAD ATTENDED MY
24 WEDDING. AND I HAD A PICTURE OF TRUDY THAT I HAD TAKEN
25 AND SHE WANTED ONE. AND SHE WANTED TO SEE THE WEDDING
26 PICTURES. AND I JUST GOT THE WEDDING PICTURES AND SO SHE
27 INVITED ME UP TO SHOW HER.

28 Q SO THE WEDDING HAPPENED?

1 A IN MAY.

2 Q AND MAY OF 1987?

3 A RIGHT. RIGHT.

4 Q AND BY THE FALL YOU HAD GOTTEN YOUR
5 WEDDING PICTURES?

6 A CORRECT. AND SO AMONG OTHER REASONS, YOU
7 WENT UP TO HER HOUSE TO SHOW TRUDY THOMPSON THOSE
8 PHOTOGRAPHS?

9 MS. SARIS: OBJECTION. LEADING.

10 THE COURT: OVERRULED.

11 THE WITNESS: SURE.

12 Q BY MR. DIXON: WHEN YOU WERE -- TELL US
13 ABOUT HOW YOU SHARED THE PHOTOS?

14 A WE WENT INTO AN UPSTAIRS ROOM. AND WE --
15 DEBORAH AND I AND TRUDY SAT ON THE COUCH AND WE WERE
16 LOOKING AT THE PICTURES.

17 Q DO YOU REMEMBER WHAT TIME OF DAY THIS WAS?

18 A I DON'T RECALL.

19 Q DO YOU REMEMBER WHAT SPECIFIC DAY IT WAS?

20 A I CAN'T RECALL.

21 Q BUT DO YOU RECALL THE INSTANCE --

22 A I DO.

23 Q -- THAT WE'RE GOING TO TALK ABOUT?

24 A YES.

25 Q SO YOU WERE UPSTAIRS IN A ROOM WITH THESE
26 OTHER PEOPLE?

27 A CORRECT.

28 Q WITH THE PHOTOGRAPHS?

1 A CORRECT.

2 Q DO YOU RECALL WHETHER OR NOT THERE WAS A
3 WINDOW NEARBY?

4 A YES.

5 MS. SARIS: OBJECTION. LEADING, YOUR HONOR.

6 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.
7 BUT LET'S TRY TO PHRASE THE QUESTIONS IN A NON-LEADING
8 MANNER.

9 MR. DIXON: YES. THANK YOU, YOUR HONOR.

10 Q AS YOU SAT THERE, DID SOMETHING UNUSUAL OR
11 STARTLING HAPPEN?

12 A YES.

13 Q DESCRIBE IT.

14 A WE WERE LOOKING AT THE PICTURES AND MICKEY
15 CAME UPSTAIRS FRANTIC, ALMOST KIND OF YELLING, SAYING
16 "CLOSE THE WINDOW. CLOSE THE DRAPES. GOODWIN COULD HAVE
17 A SNIPER OUT THERE RIGHT NOW."

18 Q NOW, DESCRIBE TO US THE BEST YOU CAN HOW
19 MICKEY THOMPSON SAID THESE WORDS?

20 A HE WAS FRANTIC. HE WAS ALMOST YELLING. I
21 MEAN IT SOUNDED LIKE YELLING TO ME.

22 Q AND YOU SAID HE CAME UPSTAIRS?

23 A UPSTAIRS, YES.

24 Q HOW WAS HE COMING UPSTAIRS? JUST WALKING
25 CASUALLY? RUNNING? JUMPING? HOW?

26 A HE SEEMED A LITTLE OUT OF BREATH THAT I
27 CAN RECALL.

28 Q SO HE CAME UP THE STAIRS A LITTLE OUT OF

1 BREATH AND MADE THIS STATEMENT?

2 A YES. CORRECT.

3 Q NOW YOU SAID IN AN EARLIER ANSWER THERE
4 WAS A WINDOW NEARBY?

5 A YES. IT WAS OFF TO -- I'M SITTING ON THE
6 COUCH -- IT WAS OFF TO MY RIGHT.

7 Q WAS THE WINDOW OPEN OR CLOSED?

8 A I DON'T RECALL.

9 Q DO YOU RECALL WHETHER THERE WERE DRAPES
10 THERE OR NOT, OR CURTAINS?

11 A I REMEMBER THE CURTAINS AND THEY WERE
12 OPEN.

13 Q SO AFTER MICKEY THOMPSON RAN -- OR CAME UP
14 THE STAIRS AND MADE THIS STATEMENT IN KIND OF A FRANTIC
15 WAY, WHAT HAPPENED NEXT?

16 A I DON'T RECALL IT WAS SO LONG AGO. I JUST
17 REMEMBER THE STATEMENT. IT WAS JUST SO STARTLING IT JUST
18 STUCK IN MY MIND.

19 Q DID ANYBODY REACT TO THE STATEMENT?

20 A I THINK -- ALL I REMEMBER IS LOOKING UP.

21 Q AND SEEING?

22 A AND SEEING BECAUSE HE SAID "THE WINDOW."
23 AND I LOOKED OVER AT THE WINDOW AND THE DRAPES WERE OPEN.
24 THAT'S ALL I REMEMBER.

25 Q DO YOU RECALL WHETHER OR NOT ANYBODY
26 CLOSED THE DRAPES?

27 A I DON'T. I DON'T RECALL.

28 Q BUT -- AND IT WAS A WHILE AGO. DO YOU

1 RECALL THE STATEMENT?

2 A PARDON ME?

3 Q DO YOU RECALL WHAT WAS SAID?

4 A JUST WHAT MICKEY HAD SAID. IT WAS JUST
5 STARTLING.

6 Q DO YOU HAVE ANY DOUBT THAT THAT HAPPENED?

7 A THAT HE SAID THAT?

8 Q ARE YOU SURE ABOUT IT?

9 A OH, ABSOLUTELY. ABSOLUTELY.

10 Q IT STARTLED YOU?

11 A UH-HUH, YES, IT DID.

12 MR. DIXON: COULD I HAVE A MOMENT, PLEASE?

13 THE COURT: YES.

14 (PAUSE IN PROCEEDINGS.)

15 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
16 TIME.

17 THE COURT: CROSS-EXAMINATION?

18 MS. SARIS: YOUR HONOR, WE HAVE NO QUESTIONS FOR
19 THIS WITNESS.

20 THE COURT: THANK YOU, MA'AM.

21 THE WITNESS: OKAY. THANK YOU.

22 THE COURT: YOU ARE FREE TO GO.

23 MR. JACKSON: YOUR HONOR, WE'RE GOING TO ASK
24 ALLISON TRIARSI TO JOIN US, PLEASE.

25 THE COURT: OKAY.

26 MR. JACKSON: YOUR HONOR, MAY I JUST HAVE ONE
27 MOMENT?

28 THE COURT: YES.

1 (PAUSE IN PROCEEDINGS.)

2 MR. JACKSON: THANK YOU, YOUR HONOR.

3

4 ALLISON TRIARSI,
5 CALLED BY THE PEOPLE AS A WITNESS, WAS
6 SWORN AND TESTIFIED AS FOLLOWS:

7

8 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

9 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
10 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
11 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
12 TRUTH SO HELP YOU GOD.

13 THE WITNESS: I DO.

14 THE CLERK: THANK YOU. PLEASE BE SEATED. WOULD
15 YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST NAME
16 FOR THE RECORD.

17 THE WITNESS: ALLISON TRIARSI. A-L-L-I-S-O-N
18 TRIARSI, T-R-I-A-R-S-I.

19 THE CLERK: THANK YOU.

20 THE COURT: YOU MAY INQUIRE.

21 MR. JACKSON: THANK YOU, YOUR HONOR.

22

23 DIRECT EXAMINATION

24 BY MR. JACKSON:

25 Q THANK YOU FOR JOINING US, MISS TRIARSI.
26 WHAT DO YOU DO FOR A LIVING, MA'AM?

27 A I'M A NEWS ANCHOR FOR ABC NEWS IN
28 MINNEAPOLIS.

1 Q HOW LONG HAVE YOU BEEN DOING THAT?

2 A I'VE BEEN IN THE NEWS BUSINESS FOR 12
3 YEARS. I'VE BEEN WORKING IN MINNEAPOLIS FOR TWO AND A
4 HALF.

5 Q WHERE DID YOU GROW UP?

6 A I GREW UP IN LOS ANGELES COUNTY; SPENT
7 MANY YEARS GROWING UP AS A CHILD IN BRADBURY.

8 Q I WANT TO DRAW YOUR ATTENTION,
9 MISS TRIARSI TO THE EARLY PART OF 1988, SPECIFICALLY
10 MARCH OF 1988. WHERE WERE YOU LIVING AT THAT TIME?

11 A I WAS LIVING AT 48 WOODLYN LANE IN
12 BRADBURY.

13 Q TELL ME GENERALLY WHAT KIND OF
14 NEIGHBORHOOD BRADBURY IS?

15 A IT IS A QUIET NEIGHBORHOOD WITH HOMES THAT
16 ARE SPREAD OUT SEVERAL ACRES BETWEEN THE HOMES, VERY
17 QUIET GATED COMMUNITY.

18 Q OKAY. TREE FILLED?

19 A TREE FILLED.

20 Q WHAT WAS THE LAY OF THE LAND AT YOUR HOUSE
21 VERSUS WHERE YOUR NEIGHBORS WERE?

22 A WE WERE ON A HILL OVERLOOKING THE CITY ON
23 ONE SIDE AND ONE NEIGHBOR ON THE OTHER ON TOP OF A HILL
24 IN THE VALLEY. IT WAS VERY IDEALIC; VERY QUIET. YOU
25 COULD HEAR EVERYTHING.

26 Q THAT WAS SORT OF MY NEXT QUESTION. IF YOU
27 WOULD DESCRIBE FOR THE JURORS WHAT THE SOUND WAS LIKE,
28 FOR INSTANCE, EARLY MORNING HOURS; LATE EVENING HOURS.

1 A IT WAS VERY QUIET IN THE NEIGHBORHOOD. SO
2 QUIET THAT WE COULD HEAR OUR NEIGHBORS CONVERSING IF THEY
3 WERE OUTSIDE SIMPLY BECAUSE IT WOULD CARRY THROUGH THE
4 VALLEY.

5 Q TAKE A LOOK IF YOU WOULD, MISS TRIARSI, AT
6 WHAT I'VE JUST PLACED ON THE OVERHEAD PROJECTOR. AND I'M
7 HANDING YOU A PHOTOGRAPH OF WHAT HAS BEEN MARKED AS
8 PEOPLE'S 1 FOR IDENTIFICATION.

9 DO YOU RECOGNIZE THE FOLKS DEPICTED IN
10 THAT PHOTOGRAPH?

11 A OH, YES.

12 Q WHO ARE THEY?

13 A MICKEY AND TRUDY THOMPSON.

14 Q HOW DID YOU KNOW THEM?

15 A THEY WERE MY NEIGHBORS.

16 Q FOR HOW LONG?

17 A FOR SEVERAL YEARS SINCE WE MOVED THERE;
18 LIVED ACROSS THE STREET; GREW UP WITH THEM.

19 Q HOW OLD WERE YOU WHEN YOU MOVED TO THAT
20 AREA IN BRADBURY?

21 A I WAS SIX.

22 Q AND HOW OLD WERE YOU IN MARCH OF 1988?

23 A I WAS 14 AND A HALF.

24 Q HOW DOES A 14 YEAR OLD GET TO KNOW MICKEY
25 AND TRUDY THOMPSON, THE RACING LEGEND?

26 A WHEN YOU HAVE A RACE CAR DRIVER ACROSS THE
27 STREET FROM YOUR HOUSE, HE WILL KNOW YOU WHETHER HE WANTS
28 TO OR NOT. I WAS OVER THERE ALL THE TIME AND THEY WERE

1 ALWAYS WELCOMING.

2 Q DO YOU REMEMBER WHEN MICKEY THOMPSON WAS
3 KILLED?

4 A VERY WELL.

5 Q AND TRUDY THOMPSON?

6 A YES.

7 Q DO YOU REMEMBER THE SPECIFIC DATE?

8 A I KNOW IT WAS MARCH OF '88.

9 Q DOES MARCH 16 SOUND CORRECT?

10 A YES.

11 MR. JACKSON: YOUR HONOR, I HAVE AN ENLARGED
12 PHOTO BOARD I WOULD LIKE TO HAVE MARKED AS PEOPLE'S NEXT
13 IN ORDER.

14 THE COURT: 37.

15 MR. JACKSON: I'LL PLACE A "P37" ON THE UPPER
16 RIGHT-HAND CORNER IN BLACK INK.

17

18 (MARKED FOR IDENTIFICATION PEOPLE'S
19 EXHIBIT NO. 37, PHOTOS.)

20

21 Q BY MR. JACKSON: MISS TRIARSI, THIS IS
22 SORT OF A SEVERE ANGLE. CAN YOU SEE THAT OKAY?

23 A I CAN.

24 Q OKAY. DO ME A FAVOR AND TAKE JUST A
25 SECOND AND FAMILIARIZE YOURSELF WITH THAT PHOTOGRAPH AND
26 THE SUBPHOTOGRAPHS THERE AND LET ME KNOW WHEN YOU HAVE.

27 A OKAY.

28 Q OKAY.

1 YOUR HONOR, WITH THE COURT'S PERMISSION,
2 I'VE PLACED A "P37" ON THE ENLARGEMENT. ACTUALLY, WE
3 SHOULD PROBABLY DO IT THE WAY MR. DIXON SUGGESTED,
4 PEOPLE'S 37 IS THE ACTUAL EIGHT AND A HALF BY ELEVEN
5 PHOTOGRAPH. WITH THE COURT'S PERMISSION, I'LL MAKE THIS
6 "P37-A."

7 THE COURT: ALL RIGHT.

8
9 (MARKED FOR IDENTIFICATION PEOPLE'S
10 EXHIBIT NO. 37-A, PHOTOS.)

11
12 Q BY MR. JACKSON: YOU SEE THE ENLARGEMENT
13 TO YOUR RIGHT, MISS TRIARSI, UP ON THE BOARD?

14 A I DO.

15 Q OKAY. IS THAT ENLARGEMENT THE SAME AS THE
16 ENLARGEMENT THAT YOU'RE LOOKING AT TO YOUR LEFT?

17 A YES, IT IS.

18 Q TELL US IF YOU WILL -- I HAVE A POINTER.
19 SEE THAT RED BUTTON?

20 A UH-HUH.

21 Q JUST DON'T POINT IT IN MY EYES. IT IS A
22 LASER POINTER. IF YOU COULD UTILIZE THAT LASER POINTER
23 AND EXPLAIN TO THE JURORS WHAT IT IS THEY'RE LOOKING AT
24 IN THIS PHOTOGRAPH. FIRST OF ALL, JUST THE LOCATIONS.

25 A OKAY. THAT'S MY HOUSE. THIS IS WHERE MY
26 FAMILY LIVED (INDICATING).

27 Q AND DOES THAT SAY "TRIARSIS' HOUSE"?

28 A YES, IT DOES.

1 Q WHERE WAS MICKEY THOMPSON AND TRUDY
2 THOMPSON'S HOUSE IN RELATION TO YOUR HOUSE?

3 A RIGHT ACROSS THE STREET, JUST BELOW US BY
4 A LITTLE BIT.

5 Q ALL RIGHT. THERE APPEARS TO BE IN THE
6 MIDDLE OF THE PHOTOGRAPH SOMETHING MARKED "THOMPSONS'
7 HOUSE." AND IT LOOKS LIKE THERE IS A POOL BEHIND IT; IS
8 THAT CORRECT?

9 A THAT'S RIGHT.

10 Q IS THERE ANY OTHER HOME THAT'S DEPICTED IN
11 THAT PHOTOGRAPH, MAYBE BEHIND TREES OR OTHERWISE?

12 A MY OTHER NEIGHBOR, THE JOHNSONS' HOUSE
13 RIGHT HERE (INDICATING).

14 Q YOU'RE POINTING THE LASER POINTER TO THE
15 TOP OF PEOPLE'S 37-A WHERE IT SAYS "JOHNSON" -- I BELIEVE
16 IT SAYS "JOHNSON HOUSE."

17 A YES, IT DOES.

18 Q "DR. LANCE JOHNSON HOUSE"?

19 A YES.

20 Q OKAY. THAT PHOTOGRAPH IS TWO DIMENSIONAL.
21 CAN YOU EXPLAIN TO THE JURORS THE TOPOGRAPHY OF THAT
22 PARTICULAR NEIGHBORHOOD THAT WE ARE LOOKING AT.

23 A WELL, I CAN FIRST DESCRIBE THE FACT THAT
24 WE SIT HIGHER THAN THE THOMPSONS' HOUSE. SO WE NOT ONLY
25 WERE JUST ACROSS THE STREET, BUT HAD A VIEW DOWN. THAT'S
26 HOW HOUSES WERE LAID OUT, WE WERE A BIT HIGHER. AND
27 THEN, OF COURSE, THE JOHNSONS' HOME IS DOWN THE ROAD
28 QUITE A BIT COMPLETELY OBSTRUCTED BY TREES. YOU COULDN'T

1 SEE THE HOME FROM HERE (INDICATING). WE COULD NOT SEE
2 THE JOHNSON HOUSE AT ALL. IT WAS LOW. IT WAS IN A LOW
3 PART OF THE VALLEY, QUITE A BIT BELOW OURS. WE SAT ON A
4 HILL AND HAD A BEAUTIFUL VIEW AND THEY'RE MUCH FURTHER
5 DOWN.

6 Q IF YOU WERE AT THE THOMPSON RESIDENCE,
7 WOULD YOU HAVE TO LOOK UP OR STRAIGHT ACROSS THE STREET
8 TO SEE YOUR HOUSE?

9 A YOU WOULD HAVE TO LOOK STRAIGHT ACROSS THE
10 STREET, BUT OUR HOUSE WOULD SIT ABOVE THEIRS.

11 Q TAKE A LOOK, IF YOU WILL, AT ANOTHER
12 PHOTOGRAPH. AND WITH YOUR PERMISSION, I'M GOING TO
13 DIRECT YOUR ATTENTION TO THE SCREEN.

14 YOUR HONOR, PEOPLE'S NEXT IN ORDER APPEARS
15 TO BE A EIGHT AND A HALF BY ELEVEN DOCUMENT WITH FOUR
16 PHOTOGRAPHS. THE DEPICTION ON THE PHOTOGRAPHS -- OR THE
17 TITLE ON THE PHOTOGRAPHS IS "VIEW FROM TRIARSI HOUSE
18 LOOKING DOWN ON CRIME SCENE."

19 THE COURT: PEOPLE'S 38.

20
21 (MARKED FOR IDENTIFICATION PEOPLE'S
22 EXHIBIT NO. 38, PHOTOS.)

23
24 Q BY MR. JACKSON: TAKE A LOOK AT THAT
25 DOCUMENT AND TELL ME IF THE TOP TWO PHOTOGRAPHS,
26 PHOTOGRAPH A AND B ARE SUGGESTIVE OF THE VIEW FROM THE
27 THOMPSON RESIDENCE OR PROPERTY LOOKING UP TOWARD YOUR
28 HOUSE?

1 A THAT'S CORRECT.

2 Q AND THE BOTTOM TWO PHOTOGRAPHS, C AND D,
3 WHAT ARE THEY SUGGESTIVE OF?

4 A THEY'RE SUGGESTIVE OF THE VIEW FROM OUR
5 HOUSE, THE TRIARSI HOUSE, LOOKING DOWN AT THE THOMPSONS'
6 HOUSE.

7 Q SPECIFICALLY LOOKING AT PHOTOGRAPH D,
8 WHERE IS THAT PICTURE TAKEN FROM? WHERE WOULD THE
9 PHOTOGRAPHER BE STANDING?

10 A WOULD YOU LIKE ME TO SHOW YOU HERE?

11 Q SURE. THAT WOULD BE TERRIFIC.

12 A THEY WOULD BE STANDING HERE, RIGHT IN HERE
13 (INDICATING).

14 MR. JACKSON: MAY THE RECORD REFLECT THAT ON
15 PEOPLE'S 37-A, THE WITNESS HAS POINTED WITH A LASER
16 POINTER PROBABLY TWO AND A HALF, THREE INCHES TO THE
17 RIGHT OF THE WORD "TRIARSIS' HOUSE. "

18 THE COURT: YES.

19 MS. SARIS: I'M SORRY, YOUR HONOR. I SAW THAT
20 MORE IN THE TREES. CAN WE HAVE THE POINT AGAIN.

21 THE COURT: SURE.

22 THE WITNESS: WELL, YOU ARE LOOKING AT THE TOMS
23 OF THE TREES THERE. BUT OBVIOUSLY THERE IS CLEARINGS ALL
24 IN THIS AREA (INDICATING) THAT ARE NOT COVERED BY LEAVES
25 BY ANY MEANS. AND THERE IS A CLEAR OPEN TENNIS COURT
26 AREA RIGHT HERE (INDICATING). SO THERE IS QUITE A CLEAR
27 AREA THAT YOU CAN LOOK.

28 Q BY MR. JACKSON: IS MY FINGER KIND OF AT

1 THE APPROXIMATE LOCATION (INDICATING)?

2 A YES.

3 MR. JACKSON: YOUR HONOR, MAYBE TWO AND A HALF,
4 THREE INCHES TO THE RIGHT OF "TRIARSIS' HOUSE" AND A HALF
5 AN INCH BELOW.

6 THE COURT: THANK YOU.

7 MS. SARIS: THANK YOU.

8 MR. JACKSON: AND I'M TALKING ABOUT THE WORDS
9 "TRIARSI HOUSE."

10 Q MISS TRIARSI, YOU'VE GIVEN US AN OVERVIEW
11 OF THE LAY OF THE LAND. I WANT TO DRAW YOUR ATTENTION TO
12 THE EARLY MORNING HOURS OF MARCH 16, 1988.

13 WHAT WERE YOU DOING AT ABOUT 6:00 O'CLOCK
14 IN THE MORNING?

15 A I WAS UP TAKING A SHOWER GETTING READY FOR
16 SCHOOL.

17 Q AGAIN, HOW OLD WERE YOU?

18 A I WAS 14 AND A HALF.

19 Q DID ANYTHING UNUSUAL HAPPEN WHILE YOU WERE
20 IN THE SHOWER?

21 A YES.

22 Q DESCRIBE THAT FOR US, PLEASE.

23 A IN THE MIDDLE OF THE SHOWER THERE WAS
24 SUDDENLY HORRIBLE SHRIEKS AND A LOT OF SCREAMING THAT AT
25 FIRST WAS HARD TO IDENTIFY BECAUSE IT SOUNDED SO SHRILL
26 AND HIGH PITCHED -- IN A HIGH-PITCHED VOICE.

27 Q DID YOU IMMEDIATELY RECOGNIZE THE VOICE OR
28 NO?

1 A NOT IMMEDIATELY, NO. IT WAS SUCH A
2 FEARFUL VOICE, I DID NOT -- I COULDN'T UNDERSTAND WHO IT
3 WAS AT FIRST.

4 Q CAN YOU DESCRIBE WHERE THE SOUND SEEMED TO
5 BE EMANATING FROM?

6 A FROM MY NEIGHBORS' HOME.

7 Q WHICH NEIGHBOR?

8 A THE THOMPSONS.

9 Q WHAT DID YOU DO?

10 A BEFORE I COULD DO ANYTHING, MY MOTHER CAME
11 IN SCREAMING AND GRABBED ME OUT OF THE SHOWER AND PUT ME
12 DOWN ON THE FLOOR BY THE DINING ROOM.

13 Q DID YOU HEAR ANYTHING ELSE OTHER THAN THE
14 SCREAMS INITIALLY?

15 A YES. WE HEARD GUNSHOTS -- I HEARD
16 GUNSHOTS.

17 Q WHAT MADE YOU THINK THAT WHAT YOU WERE
18 HEARING WERE GUNSHOTS? DESCRIBE THEM FOR US.

19 A JUST A POW, POW, POW, A SERIES OF THEM AND
20 SCREAMS.

21 Q YOU JUST INDICATED THREE "POWS." WERE
22 THERE MULTIPLE GUNSHOTS?

23 A MULTIPLE GUNSHOTS WOULD BE A BETTER
24 DESCRIPTION.

25 Q WERE THEY IN QUICK SUCCESSION OR
26 OTHERWISE?

27 A QUICK SUCCESSION AT FIRST.

28 Q HOW MANY -- IF YOU WILL ALLOW ME THE WORD

1 "VOLLEY" -- IN THE FIRST VOLLEY THAT YOU HEARD, HOW MANY
2 GUNSHOTS WOULD YOU ESTIMATE YOU HEARD?

3 A IT WOULD BE TOO HARD TO TELL.

4 Q OKAY. WHAT DID YOU DO -- OR WHAT HAPPENED
5 AFTER YOU WERE TAKEN OUT OF THE SHOWER BY YOUR MOM AND
6 PUT ON THE FLOOR?

7 A I WAS PUT ON THE FLOOR IN A ROOM THAT HAD
8 FLOOR TO CEILING WINDOWS. SO AT THIS POINT I COULD SEE
9 EVERYTHING.

10 Q I'M GOING TO STEAL THIS BACK FOR JUST A
11 MOMENT. I WOULD LIKE YOU TO TAKE A LOOK AT PEOPLE'S 38
12 ONE MORE TIME.

13 DO YOU SEE THE VIEW IN PHOTOGRAPHS A AND B
14 ON PEOPLE'S 38?

15 A I DO.

16 Q DO YOU SEE THE ARROWS IN THOSE
17 PHOTOGRAPHS?

18 A YES.

19 Q DESCRIBE FOR THE JURORS, IF YOU WILL -- IF
20 IT'S DEPICTED IN PHOTOGRAPHS A AND B -- WHERE THAT FLOOR
21 TO CEILING WINDOW WAS IN THOSE PHOTOGRAPHS. DO YOU NEED
22 TO SEE IT UP CLOSE?

23 A IT WOULD BE MORE HELPFUL. I CAN POINT THE
24 GENERAL IDEA, BUT THAT MAY NOT BE --

25 Q SURE.

26 A IF YOU ARE LOOKING AT PHOTO B AND YOU SEE
27 A TALL TREE TOWARDS THE RIGHT THAT SORT OF HAS SPACED OUT
28 BRANCHES, THAT'S OUR HOME AND THOSE ARE SOME OF OUR

1 WINDOWS. IT WAS A TYPE OF A '60S HOUSE WITH LARGE, LARGE
2 WINDOWS.

3 Q DO YOU SEE WHERE THE LASER POINTER IS
4 RIGHT NOW?

5 A YES.

6 Q IS THAT THE TREE THAT YOU ARE TALKING
7 ABOUT?

8 A YES.

9 Q JUST BELOW THAT WHERE THE LASER POINTER IS
10 APPROXIMATELY?

11 A THAT'S RIGHT.

12 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
13 THAT I'VE POINTED AT THE OVERHEAD. THE IMAGE THAT IS
14 DEPICTED IN PHOTOGRAPH B OF PEOPLE'S 38, THE TALLEST TREE
15 TO THE RIGHT TOP QUADRANT JUST TO THE BASE OF THAT TREE
16 WHERE THE HOUSE APPEARS TO BEGIN IS WHERE THE WITNESS WAS
17 INDICATING.

18 THE COURT: YES.

19 THE WITNESS: THAT'S THE DOORWAY, THOUGH, JUST TO
20 BE CLEAR. THE DOORWAY IS THE IMMEDIATE SPACE YOU SEE
21 NEXT TO THAT TREE. AND NEXT TO THAT DOOR, THAT'S THE
22 FRONT DOOR. AND NEXT TO THE FRONT DOOR ARE THE LARGE
23 FLOOR TO CEILING WINDOWS.

24 Q BY MR. JACKSON: AS YOU WERE ON THE
25 GROUND, MISS TRIARSI, COULD YOU SEE OUT OF THOSE WINDOWS?

26 A YES.

27 Q AND WHAT DID YOU SEE HAPPENING?

28 A WELL, THE FIRST MEMORY IS TO SEE MICKEY

1 TOWARDS THE TOP OF THE DRIVEWAY AND THERE WAS A MAN THERE
2 WITH HIM. AND THE CAR WAS STOPPED IN THE DRIVEWAY --
3 THEIR CAR -- THEIR MINI VAN WAS STOPPED IN THE DRIVEWAY;
4 THE DOORS WERE OPEN AND TRUDY WAS TOWARDS THE BOTTOM OF
5 THE DRIVEWAY.

6 Q TAKING A LOOK AT WHAT HAS BEEN MARKED AS
7 PEOPLE'S 37-A. AND ONCE AGAIN, I'LL HAND YOU -- I'M
8 GOING TO WEAR THE CARPET OUT. I APOLOGIZE. I'M GOING TO
9 HAND YOU THE LASER POINTER AND ASK YOU TO DESCRIBE FOR
10 THE JURORS WHERE YOU SAW MICKEY THOMPSON AND WHERE YOU
11 SAW TRUDY THOMPSON RESPECTIVELY AS YOU LOOKED OUT THE
12 DOOR -- I'M SORRY -- OUT THE WINDOW.

13 A THIS IS THE DRIVEWAY AND IT'S COVERED IN
14 TREES, BUT THERE IS ACTUALLY -- THERE IS AN OPENING HERE.
15 THIS IS THE GATE WHERE TRUDY WAS (INDICATING).

16 MR. JACKSON: MAY THE RECORD REFLECT THAT THE
17 WITNESS IS INDICATING WITH THE LASER POINTER JUST ABOVE
18 THE ARROW THAT SHOWS THE SUBPHOTOGRAPH OF WHAT APPEARS TO
19 BE A BODY AT THE BASE OF THE DRIVEWAY. IT'S ABOUT AN
20 INCH AND A HALF TO THE RIGHT OF THE WORD "GATE."

21 THE COURT: YES. THANK YOU.

22 THE WITNESS: AND MICKEY WAS JUST UP THE DRIVEWAY
23 TOWARDS THIS LITTLE AREA WHERE THERE IS ALSO THE DRIVEWAY
24 WENT UP AND AROUND LIKE THAT. IT'S HARD TO SEE THOUGH.

25 Q BY MR. JACKSON: YOU ARE INDICATING WITH
26 THE LASER POINTER APPROXIMATELY WHERE MY FINGER IS;
27 CORRECT?

28 A THAT'S CORRECT.

1 MR. JACKSON: YOUR HONOR, THIS IS ABOUT AN INCH
2 AND A HALF BELOW AND TO THE RIGHT OF THE TIP OF THE ARROW
3 EMANATING FROM THE SUBPHOTOGRAPH OF MICKEY THOMPSON
4 THAT'S SURROUNDED IN YELLOW, BASICALLY SIX INCHES FROM
5 DEAD CENTER OF THE PHOTOGRAPH.

6 THE COURT: YES. THANK YOU.

7 Q BY MR. JACKSON: I'M GOING TO ASK YOU TO
8 TAKE A LOOK AT ONE MORE PHOTOGRAPH -- ACTUALLY, THERE MAY
9 BE A COUPLE MORE. BUT THE NEXT PHOTOGRAPH MAY SHOW THAT
10 SCENE A LITTLE BIT DIFFERENTLY. AND I WILL ASK YOU TO
11 EXPLAIN IT.

12 A YES. IT'S HARD WITH THE TREES.

13 MR. JACKSON: PEOPLE'S 39, YOUR HONOR?

14 THE COURT: YES.

15 MR. JACKSON: THANK YOU.

16
17 (MARKED FOR IDENTIFICATION PEOPLE'S
18 EXHIBIT NO. 39, PHOTOS.)
19

20 Q BY MR. JACKSON: TAKE A LOOK AT WHAT HAS
21 BEEN MARKED AS PEOPLE'S 39. THAT IS DEPICTED ON THE
22 OVERHEAD PROJECTOR AS WELL. AND THE CONTRAST IS NOT THE
23 GREATEST, BUT TELL ME IF YOU RECOGNIZE WHAT IS DEPICTED
24 IN THAT PHOTOGRAPH.

25 A ONCE AGAIN, THAT'S THE VIEW FROM OUR HOUSE
26 LOOKING AT THE THOMPSONS' HOME.

27 Q IS THAT THE APPROXIMATE VIEW THAT YOU HAD
28 THAT MORNING?

1 A MY VIEW WOULD HAVE BEEN OVER TO THE LEFT
2 OF THIS THROUGH THE WINDOW, WHICH WOULD HAVE BEEN TO THE
3 LEFT OF THIS (INDICATING).

4 Q OKAY. LOOKING DOWN FROM THE TRIARSI
5 PROPERTY, HOWEVER, IS THIS AN ACCURATE VIEW APPROXIMATELY
6 ON THE DAY OF THE INCIDENT?

7 A YES, IT IS AN ACCURATE VIEW. OF COURSE,
8 BACK THEN THERE WAS FAR LESS FOLIAGE.

9 Q DO YOU SEE TWO CIRCLES ONE AT THE BASE OF
10 THE DRIVEWAY AND ONE AT THE TOP OF THE DRIVEWAY?

11 A YES.

12 Q AT THE BASE OF THE DRIVEWAY, DO YOU SEE
13 WHAT APPEARS TO BE A SHEET OR SOMETHING WHITE?

14 A AT THE BASE OF THE DRIVEWAY, YES.

15 Q AND WHAT IS THAT?

16 A THAT'S TRUDY.

17 Q AND AT THE TOP OF THE DRIVEWAY, DO YOU SEE
18 ANOTHER CIRCLE WITH WHAT LOOKS LIKE SOMETHING WHITE IN
19 IT?

20 A YES, THAT'S MICKEY.

21 Q WHEN YOU FIRST LOOKED OUT OF THE WINDOW,
22 WHERE WAS TRUDY? YOU SAID THE VAN DOORS WERE OPEN.
23 WHERE WAS TRUDY AT THAT TIME?

24 A TRUDY WAS AT THE BOTTOM OF THE DRIVEWAY
25 NEAR THIS AREA DEPICTED, OF COURSE, WHERE SHE IS LAYING
26 NOW OR WAS LAYING IN THIS PICTURE.

27 Q DID YOU SEE HOW SHE GOT TO THE BOTTOM OF
28 THE DRIVEWAY?

1 A NO.

2 Q WHERE WAS MICKEY THOMPSON WHEN YOU LOOKED
3 THROUGH THAT WINDOW?

4 A MICKEY THOMPSON WAS BEING HELD TOWARDS THE
5 TOP OF THE DRIVEWAY BY THE GARAGE DOOR.

6 MS. SARIS: YOUR HONOR --

7 THE WITNESS: NEAR THE AREA WHERE HE WAS KILLED,
8 BUT IT IS A LARGE DRIVEWAY.

9 MS. SARIS: I DIDN'T MEAN TO INTERRUPT. I'M
10 GOING TO OBJECT AS SPECULATION; LACK OF FOUNDATION AS TO
11 "BEING HELD."

12 THE COURT: ALL RIGHT. LAY A FOUNDATION.

13 MR. JACKSON: CERTAINLY, YOUR HONOR.

14 Q YOU SAID MICKEY "BEING HELD." WHAT DO YOU
15 MEAN BY THAT?

16 A I MEAN THE MAN WHO WAS WITH HIM HAD A GUN
17 AND WAS DIRECTING HIM AND MAKING HIM GO IN CERTAIN
18 DIRECTIONS.

19 Q ALL RIGHT. WHEN YOU --

20 A NOT PHYSICALLY HOLDING HIM.

21 Q WHEN YOU JUST SUGGESTED THAT, YOU WERE --
22 YOU HAD YOUR HANDS IN FRONT OF YOU AND YOU WERE MOVING
23 YOUR NECK LEFT AND RIGHT. WHAT ARE YOU TRYING TO
24 DESCRIBE TO THE JURORS ABOUT WHAT WAS HAPPENING AT THE
25 TOP OF THE DRIVEWAY?

26 A MICKEY WAS TRYING TO GET TO HIS WIFE.

27 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
28 SPECULATION.

1 THE WITNESS: AND THE GUNMAN WAS NOT LETTING HIM.
2 THE COURT: ALL RIGHT. HANG ON. YOU BOTH CAN'T
3 SPEAK AT THE SAME TIME.
4 MS. SARIS: I APOLOGIZE. REGARDING MICKEY'S --
5 THE COURT: ALL RIGHT. THAT WILL BE STRICKEN.
6 AND I WILL ASK COUNSEL TO LAY A FOUNDATION.
7 MR. JACKSON: CERTAINLY.
8 Q DID YOU HEAR MICKEY THOMPSON SAYING
9 ANYTHING?
10 A I DID.
11 Q WHAT WAS HE SAYING?
12 A HE WAS SAYING, "PLEASE DON'T KILL MY
13 WIFE."
14 Q WHAT WAS -- AS PER YOUR VIEW OF WHAT YOU
15 WERE WITNESSING, WHERE WAS THAT COMMENT DIRECTED?
16 A THAT COMMENT WAS DIRECTED TO THE MAN AT
17 THE BOTTOM OF THE DRIVEWAY WHO HAD A GUN AND COMING
18 TOWARDS TRUDY.
19 Q THIS MAY NOT BE CRYSTAL CLEAR, SO I'M
20 GOING TO ASK YOU TO TRY TO CLEAR IT UP FOR US A LITTLE
21 BIT.
22 HOW MANY PEOPLE IN TOTAL DID YOU SEE ON
23 THE THOMPSON PROPERTY?
24 A FOUR.
25 Q WHO WERE THOSE FOUR PEOPLE?
26 A TWO GUNMEN AND MICKEY AND TRUDY THOMPSON.
27 Q MICKEY THOMPSON, YOU INDICATED JUST A
28 SECOND AGO, WAS BEING HELD. AND THAT'S WHAT I WANT YOU

1 TO TRY TO DESCRIBE RIGHT NOW. HOW WAS HE BEING, IN YOUR
2 WORDS, "HELD"? WHAT MAKES YOU BELIEVE HE WAS BEING HELD
3 AT THE TOP OF THE DRIVEWAY?

4 A HE WAS EXTREMELY AGITATED IN HIS ACTIONS.
5 HE WAS MOVING IN AN AGITATED WAY. HE WAS PLEADING FOR
6 TRUDY'S LIFE. HE WAS VERY UPSET. THE MAN WAS HOLDING
7 THE GUN DIRECTING THE GUN AT HIM.

8 Q HOW FAR WAS THAT MAN -- THE GUNMAN FROM
9 MICKEY THOMPSON?

10 A ONE TO TWO FEET.

11 Q AS I'M STANDING HERE IN THE COURTROOM,
12 COULD YOU PUT ME IN A POSITION OR A DISTANCE CONSISTENT
13 WITH HOW FAR THE GUNMAN WAS FROM MICKEY THOMPSON?

14 A WOULD YOU LIKE ME TO GET UP?

15 Q NO, YOU DIRECT ME.

16 A OKAY. THEN COME CLOSER. (INDICATING)
17 MR. JACKSON: YOUR HONOR, ABOUT A FOOT AND A
18 HALF?

19 THE COURT: YES.

20 Q BY MR. JACKSON: WHAT DID YOU SEE -- I'LL
21 STEP BACK. WHAT DID YOU SEE THE GUNMAN DOING AS MICKEY
22 THOMPSON WAS SAYING, "PLEASE DON'T KILL MY WIFE"?

23 A HE WAS USING THE GUN TO HOLD HIM BACK.

24 Q SHOW ME HOW.

25 A HE WAS POINTING IT AT MICKEY. MICKEY
26 WAS -- HE WAS -- AT SOME POINTS HE WOULD STAGGER; HE
27 WOULD LIMP. I BELIEVED THAT HE WAS HURT; THAT SOMETHING
28 HAD HAPPENED TO HIM.

1 Q WHAT MADE YOU BELIEVE THAT HE HAD BEEN
2 HURT?

3 A I HAD HEARD THE GUNSHOTS AND HE WAS
4 LIMPING AND HE WAS HOLDING HIS BODY IN DIFFERENT
5 LOCATIONS AT DIFFERENT TIMES. AND HE WAS TRYING TO
6 STAND, BUT HE WAS STRUGGLING TO DO THAT.

7 Q AT THE POINT AT WHICH YOU WITNESSED THIS,
8 HOW LONG HAD YOU KNOWN MICKEY THOMPSON?

9 A I HAD KNOWN HIM SINCE WE FIRST MOVED
10 THERE, WHEN I WAS ABOUT SIX YEARS OLD.

11 Q DID MICKEY --

12 A A COUPLE MONTHS BEFORE I WAS SIX.

13 Q DID MICKEY HAVE ANY PROBLEMS WALKING?

14 A NONE AT ALL.

15 Q DID MICKEY HAVE A NORMAL STAGGER IN HIS
16 GATE?

17 A NO.

18 Q STUMBLE?

19 A NO.

20 Q DID HE WALK NORMALLY AS FAR AS YOU KNEW?

21 A HE WALKED STRONG AND TALL.

22 Q WAS HE WALKING STRONG AND TALL AS THIS
23 GUNMAN WAS POINTING A GUN AT HIM?

24 A NO.

25 Q DID THE GUNMAN HAVE THE GUN OUTSTRETCHED
26 TOWARD MICKEY THOMPSON OR OTHERWISE?

27 A HE HAD IT OUTSTRETCHED TOWARDS MICKEY.

28 Q AND DID HE KEEP THE GUN TRAINED ON MICKEY

1 THOMPSON OR NOT?

2 A YES, HE DID.

3 MS. SARIS: OBJECTION, YOUR HONOR. LEADING.

4 THE COURT: SUSTAINED.

5 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE --
6 DURING THE COURSE OF THIS EVENT THAT YOU WERE WITNESSING,
7 HOW WOULD YOU DESCRIBE HOW THE GUNMAN WAS WIELDING THE
8 GUN?

9 A HE WAS HOLDING THE GUN OUTSTRETCHED
10 TOWARDS MICKEY, MOVING IT IN THE DIRECTION THAT MICKEY
11 WOULD GO TO PREVENT MICKEY FROM WALKING PAST HIM AND
12 GOING TOWARDS TRUDY, I BELIEVED.

13 Q WHERE DID IT APPEAR MICKEY THOMPSON WAS
14 TRYING TO GO?

15 A IT APPEARED HE WAS TRYING TO GO TO HIS
16 WIFE.

17 Q DID MICKEY THOMPSON MOVE ONE WAY TO HIS
18 LEFT? TO HIS RIGHT? ANYTHING LIKE THAT?

19 A YES.

20 Q IF MICKEY THOMPSON MOVED TO HIS LEFT, WHAT
21 DID YOU SEE THE GUNMAN DO?

22 A HE WOULD MOVE WITH HIM AND HOLD HIM AT BAY
23 WITH AN OUTSTRETCHED HAND WITH THE GUN IN HIS HAND.

24 Q IF HE MOVED TO HIS RIGHT, WHAT DID YOU SEE
25 THE GUNMAN DO?

26 A THE GUNMAN WOULD FOLLOW HIM AND CONTINUE
27 HOLDING A GUN ON HIM.

28 Q WHERE WAS THE GUNMAN IN RELATION TO MICKEY

1 THOMPSON AND THE BOTTOM OF THE DRIVEWAY?

2 A THE GUNMAN WAS IN BETWEEN MICKEY THOMPSON
3 AND THE BOTTOM OF THE DRIVEWAY.

4 Q YOU SAID YOU HEARD MICKEY THOMPSON UTTER
5 CERTAIN REMARKS; CORRECT?

6 A YES.

7 Q WHEN HE SAID, "PLEASE DON'T KILL MY WIFE,"
8 DESCRIBE HIS DEMEANOR; DESCRIBE HIS TONE OF VOICE, IF YOU
9 WOULD, PLEASE.

10 A HE PLEADED WITH THEM OVER AND OVER NOT
11 TO -- "PLEASE DON'T KILL MY WIFE."

12 Q DID HE SAY IT IN A CALM VOICE THE WAY I'M
13 SPEAKING NOW?

14 A NO.

15 Q HOW WAS HE SAYING IT?

16 A HE WAS SAYING IT PLEADINGLY, "PLEASE." HE
17 WAS BREAKING DOWN. HE WAS VERY UPSET.

18 Q AT THIS JUNCTURE, COULD YOU SEE WHAT WAS
19 GOING ON AT THE BOTTOM OF THE DRIVEWAY?

20 A I COULD SEE CERTAIN THINGS.

21 Q FROM YOUR VIEW, WHAT DID YOU SEE HAPPENING
22 AT THE BOTTOM OF THE DRIVEWAY WHILE MICKEY THOMPSON WAS
23 PLEADING, "PLEASE DON'T KILL MY WIFE"?

24 A TRUDY WAS ON HER KNEES. SHE HAD FALLEN AT
25 THE BOTTOM OF THE DRIVEWAY. SHE WAS ON HER KNEES AND HER
26 HANDS WERE OUTSTRETCHED TOWARDS THE GUNMAN.

27 Q WHEN YOU SAY "ON HER KNEES," I'M NOT GOING
28 TO ASK YOU TO RE-ENACT IT FOR US, BUT DESCRIBE AS BEST

1 YOU CAN THE POSITION OF HER BODY IN RELATION TO THE
2 GUNMAN THAT WAS STANDING CLOSE TO HER.

3 A SHE WAS FACING THE GUNMAN ON HER KNEES;
4 HER FACE AND HIS FACE, THEY WERE FACING EACH OTHER.

5 Q SIMILAR TO HOW I AM NOW?

6 A YES.

7 Q HOW WERE HER HANDS?

8 A HER HANDS WERE UP AND OUT TO TRY TO
9 PROTECT HERSELF.

10 Q LIKE I'M DOING NOW?

11 A CLOSER. YES.

12 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
13 THAT I WAS ON MY KNEES FACING THE WITNESS WITH BOTH PALMS
14 MAYBE TWO INCHES APART OUTSTRETCHED IN FRONT OF MY FACE.

15 THE COURT: YES.

16 Q BY MR. JACKSON: WHAT DID YOU HEAR TRUDY
17 DOING WHILE SHE WAS ON HER KNEES WITH HER HANDS IN FRONT
18 OF HER FACE?

19 A SHE SAID, "PLEASE, PLEASE DON'T KILL ME."

20 Q WHAT DID YOU SEE THE GUNMAN DOING THAT WAS
21 CLOSEST TO HER?

22 A I SAW HIM WALK RIGHT UP TO HER.

23 Q HOW CLOSE? I'M GOING TO ASK YOU TO DO THE
24 SAME THING, PUT ME IN A POSITION THAT'S CONSISTENT WITH
25 THE DISTANCE BETWEEN THE GUNMAN AND TRUDY.

26 A CLOSER. THAT'S MY RECOLLECTION.

27 MR. JACKSON: MAY THE RECORD REFLECT --

28 THE WITNESS: IT WOULD HAVE BEEN LIKE THIS

1 (INDICATING) .

2 MR. JACKSON: I UNDERSTAND.

3 MAY THE RECORD REFLECT WHEN THE WITNESS
4 JUST SAID "THAT'S MY RECOLLECTION" OUR TORSOS WERE
5 APPROXIMATELY TWO AND A HALF, THREE FEET AWAY; HER RIGHT
6 ARM WAS OUTSTRETCHED COMPLETELY; HER FOREFINGER WAS
7 EXTENDED; AND HER THUMB WAS UP IN THE SHAPE OF A GUN
8 POINTED DIRECTLY AT MY FACE.

9 THE COURT: THE RECORD WILL SO REFLECT.

10 Q BY MR. JACKSON: WHEN YOU SAID, MISS
11 TRIARSI, IT WAS MORE LIKE THIS, HOWEVER, YOU LOWERED YOUR
12 ARM; IS THAT CORRECT?

13 A THAT'S CORRECT.

14 Q WHY IS THAT?

15 A BECAUSE HE WAS STANDING OVER HER AND SHE
16 WAS DOWN ON HER KNEES.

17 Q AS THE GUNMAN STOOD OVER HER WITH THE GUN
18 OUTSTRETCHED TOWARD HER FACE, DID YOU HEAR HIM SAY
19 ANYTHING, THAT GUNMAN?

20 A NO.

21 Q DID EITHER GUNMAN RESPOND FIRST TO MICKEY
22 THOMPSON'S PLEAS?

23 A NO.

24 Q DID EITHER GUNMAN RESPOND VERBALLY TO
25 TRUDY THOMPSON'S PLEAS?

26 A NO.

27 Q WHAT HAPPENED AFTER YOU SAW THIS
28 OCCURRENCE?

1 A MICKEY GOT VERY AGITATED AND WANTED TO TRY
2 TO GET CLOSE TO HER.

3 MS. SARIS: OBJECTION --

4 THE WITNESS: AND WAS TRYING TO MOVE TOWARDS HER.

5 MS. SARIS: MOTION TO STRIKE AS TO WHAT MICKEY
6 WANTED TO DO.

7 THE COURT: "WANTED TO TRY TO GET CLOSE TO HER"
8 WILL BE STRICKEN. THE REST OF THE ANSWER CAN REMAIN.

9 MR. JACKSON: THANK YOU, YOUR HONOR.

10 Q WHAT WAS YOUR IMPRESSION FROM A PHYSICAL
11 STANDPOINT WHERE MICKEY THOMPSON WAS ATTEMPTING TO?

12 A MICKEY WAS MOVING AROUND AND HE WAS
13 PLEADING FOR THE MAN NOT TO KILL HIS WIFE.

14 Q AT THIS POINT, MISS TRIARSI, I WANT YOU TO
15 FREEZE TIME FOR JUST A SECOND. AT THIS POINT, HAD YOU
16 SEEN ANY SHOTS BEING FIRED?

17 A NO.

18 Q WERE YOU FAMILIAR WITH THE THOMPSON
19 PROPERTY, THAT DRIVEWAY THAT WE'VE DESCRIBED?

20 A I WAS VERY FAMILIAR WITH IT. I PLAYED
21 THERE AS A CHILD.

22 Q FROM YOUR PROSPECTIVE WHERE YOU -- FROM
23 YOUR VIEW, I SHOULD SAY, WAS IT YOUR IMPRESSION -- BEING
24 FAMILIAR WITH THAT DRIVEWAY -- THAT MICKEY THOMPSON WAS
25 IN A POSITION TO SEE TRUDY THOMPSON?

26 MS. SARIS: OBJECTION, YOUR HONOR. LEADING. MAY
27 WE APPROACH?

28 THE COURT: ALL RIGHT. LET'S TAKE OUR AFTERNOON

1 RECESS AT THIS TIME, LADIES AND GENTLEMEN. 15 MINUTE
2 BREAK. DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS
3 ANY OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. WE WILL
4 SEE YOU BACK HERE IN 15 MINUTES.

5 MISS TRIARSI, YOU MAY STEP DOWN AND WE
6 WILL SEE YOU BACK HERE IN 15 MINUTES.

7
8 (THE FOLLOWING PROCEEDINGS WERE
9 HELD IN OPEN COURT OUTSIDE THE
10 PRESENCE OF THE JURY.)

11
12 THE COURT: ALL THE JURORS AND ALTERNATES HAVE
13 LEFT THE COURTROOM.

14 WHAT WAS THE OBJECTION?

15 MS. SARIS: YOUR HONOR, THE LEADING QUESTIONS.
16 AGAIN, THE MOST IMPORTANT POINTS THAT COUNSEL IS TRYING
17 TO MAKE, HE'S GIVING THE WITNESSES THE LINES, FEEDING
18 THEM FIRST. AT THIS POINT, I KNOW THIS IS ABOUT THE
19 SIXTH TIME I'VE ASKED NOW FOR THE COURT TO ADMONISH THE
20 JURY. AND I'VE INDICATED IT IS MY BELIEF THAT IT'S NOT
21 WILLFUL. BUT NOW THE QUESTIONS ARE SO CLOSE TO THE
22 OPENING STATEMENT, THEY CAN ONLY BE WILLFUL. AND
23 THEREFORE, I'M ASKING THE COURT TO GIVE THE ADMONISHMENT
24 TO THE JURY THAT WE REQUESTED PRETRIAL.

25 THE COURT: WHAT KIND OF ADMONISHMENT?

26 MS. SARIS: ADVISING THEM THAT THESE ARE IMPROPER
27 QUESTIONS; THAT COUNSEL KNOWS BETTER. AND I BELIEVE THE
28 WORDING OF THE ADMONISHMENT WE REQUESTED WAS THAT IT

1 SHOWS A LACK OF CONFIDENCE IN THEIR CASE AND IT IS
2 IMPROPER.

3 AND IF THE COURT IS NOT WILLING TO GIVE
4 THAT ONE, AT LEAST SOME ADMONITION THAT LEADING QUESTIONS
5 ARE IMPROPER; THAT COUNSEL IS NOT SUPPOSED TO SUGGEST THE
6 ANSWER IN HIS QUESTION. AND THAT THE TESTIMONY IS TO
7 COME FROM THE WITNESSES AND NOT THE LAWYER.

8 MR. JACKSON: YOUR HONOR --

9 THE COURT: I'M NOT INCLINED TO GIVE THAT
10 ADMONISHMENT. I THINK THAT THE RULES REQUIRE THAT WHEN
11 AN OBJECTION IS MADE THAT THE COURT RULE ON THE
12 OBJECTION. THE COURT HAS DONE SO. THE JURORS KNOW THAT
13 WHEN I SUSTAIN THE OBJECTION, THAT I'M FINDING THAT THE
14 QUESTION IS IMPROPER. AND THEY WERE PREINSTRUCTED AS TO
15 NOT TO VIEW THE QUESTION AS EVIDENCE AND NOT TO SPECULATE
16 AS TO WHAT THE ANSWER MIGHT BE. I THINK THAT MESSAGE HAS
17 BEEN MADE QUITE LOUD AND CLEAR BECAUSE THE OBJECTIONS
18 HAVE BEEN CONTINUING THROUGHOUT THE TRIAL. AND THEY HAVE
19 ALL, JUST ABOUT, BEEN SUSTAINED.

20 MS. SARIS: BUT IT'S THE POSITION, AGAIN, WE
21 SHOULDN'T HAVE TO BE IN TO HAVE TO OBJECT. COUNSEL OUGHT
22 TO KNOW BETTER AT THIS STAGE IN LIFE AND HIS CAREER THAT
23 THESE ARE IMPROPER QUESTIONS. WE WANT TO CITE IT AS
24 PROSECUTORIAL MISCONDUCT.

25 THE COURT: I'M NOT GOING TO DO THAT.

26 MS. SARIS: WE'RE ASKING THE COURT TO ADMONISH
27 THE JURY.

28 THE COURT: I DON'T KNOW WHAT ELSE TO TELL THE

1 JURY OTHER THAN WHEN AN OBJECTION IS SUSTAINED, THEY ARE
2 NOT TO CONSIDER THE QUESTION. THAT MEANS THE QUESTION IS
3 LEGALLY OBJECTIONABLE. I DON'T KNOW WHAT ELSE I CAN SAY
4 ALONG THOSE LINES.

5 MR. JACKSON: AND, YOUR HONOR, IN MY DEFENSE --
6 IN OUR DEFENSE BECAUSE THESE OBJECTIONS HAVE -- IT'S
7 JUST -- I'VE NEVER SEEN ANYTHING LIKE IT. MOST OF THE
8 QUESTIONS ARE FOUNDATIONAL. BUT THE LAST QUESTION THAT
9 WAS OBJECTED TO -- TAKE A GLANCE AT IT -- IT WAS FROM
10 YOUR PROSPECTIVE, WAS IT YOUR IMPRESSION THAT MICKEY
11 COULD SEE TRUDY. I DON'T KNOW IF SHE COULD OR NOT. IF
12 SHE COULD LAY THAT FOUNDATION, THEN THAT'S A PERFECTLY
13 PROPER QUESTION.

14 I DIDN'T SAY: AND ISN'T IT TRUE, MADAM,
15 THAT MICKEY THOMPSON COULD SEE TRUDY? I'M SAYING FROM
16 WHERE YOU WERE, YOU KNOW THE LAY OF THE LAND, IS IT
17 CONCEIVABLE THAT ONE COULD SEE THE OTHER? I DON'T KNOW
18 HOW ELSE TO ASK THAT QUESTION. IF COUNSEL DOESN'T LIKE
19 IT, I THINK SHE'S BEGUN KIND OF A CAMPAIGN BECAUSE SHE'S
20 BEEN SOMEWHAT SUCCESSFUL IN GETTING SUSTAINED OBJECTIONS.
21 AND I TURN AROUND AND ASK THE QUESTION A DIFFERENT WAY.

22 BUT, YOUR HONOR, IN MY DEFENSE, I'M NOT
23 FEEDING LINES TO ANYBODY. I'M ASKING QUESTIONS THE SAME
24 WAY LAWYERS ASK QUESTIONS IN EVERY COURTROOM. AND
25 CERTAINLY THAT LAST QUESTION WAS NOT OBJECTIONABLE.
26 AND I DON'T UNDERSTAND COUNSEL'S POSITION THAT THE COURT
27 SHOULD ADMONISH THE JURORS THAT WE DON'T HAVE CONFIDENCE
28 IN OUR CASE. I DON'T KNOW WHERE THAT COMES FROM.

1 MS. SARIS: THE COURT HAS BEEN SUSTAINING
2 OBJECTION AFTER OBJECTION. SO CLEARLY, I'M NOT THE ONLY
3 ONE WHO FEELS THAT WAY.

4 THE COURT: I HAVE BEEN SUSTAINING MANY
5 OBJECTIONS ON BOTH SIDES. I HAVE BEEN PLAYING A VERY
6 ACTIVE ROLE. THANK YOU VERY MUCH. BUT THAT DOESN'T MEAN
7 ANYTHING --

8 MS. SARIS: BUT THE LEADING QUESTIONS --

9 THE COURT: -- OF SIGNIFICANCE IN THIS CASE.
10 THESE ARE LEGAL OBJECTIONS THAT YOU BOTH HAVE A RIGHT TO
11 MAKE AND THE COURT IS RULING ON THESE OBJECTIONS. YOU
12 CAN ARGUE, MS. SARIS, WHATEVER YOU WANT BASED ON WHAT HAS
13 TRANSPIRED DURING THE COURSE OF THE PROSECUTION'S DIRECT
14 EXAMINATION. AND I SUSPECT YOUR ARGUMENT WILL IN LARGE
15 PART REFLECT THAT THE QUESTIONS THAT WERE ASKED WERE
16 LEADING.

17 SO TO THE EXTENT THAT THIS MAYBE SOMEWHAT
18 DAMAGING OR EVEN CONSIDERED BY THE JURY, I THINK YOU ARE
19 GOING TO PROPERLY BRING THAT BEFORE THEM. I DON'T THINK
20 IT'S MY PLACE TO TELL THEM THAT AN INFERENCE CAN BE DRAWN
21 FROM THESE TYPES OF QUESTIONS.

22 MS. SARIS: WELL, FOR THE PURPOSES OF ANY RECORD
23 THAT NEED TO BE MADE, I AM JUST SIMPLY AT THIS POINT THEN
24 FOR THE RECORD CITING THIS AS MISCONDUCT AND ASKING THE
25 COURT TO ADMONISH THE JURY.

26 THE COURT: LET ME DO IT THIS WAY: I'M GOING TO
27 CONTINUE TO REQUIRE THAT ALL COUNSEL COMPLY WITH THE
28 REQUIREMENTS OF THE EVIDENCE CODE. AND THAT ALL COUNSEL

1 SIMPLY POSE LEGALLY PERMISSIBLE QUESTIONS TO THEIR
2 WITNESSES AND WE WILL SEE HOW FAR THAT GETS US.

3 MS. SARIS: THANK YOU.

4 MR. DIXON: AND WE'RE HAPPY TO DO THAT. WHAT IS
5 GOOD FOR THE GOOSE IS GOOD FOR THE GANDER HERE. I RECALL
6 LOTS OF ARGUMENTATIVE QUESTIONS THAT WERE SUSTAINED, TOO.
7 AND WE AREN'T ASKING FOR SOME DRACONIAN STATEMENT MADE TO
8 THE JURY. YOU KNOW, IT IS A TRIAL. AND THE JUDGE, YOUR
9 HONOR, IS GOING TO SUSTAIN AND OVERRULE OBJECTIONS AS YOU
10 DEEM APPROPRIATE. AND I'M COMFORTABLE WITH THAT AND
11 EVERYBODY SHOULD BE.

12 MS. SARIS: WELL, WE'RE OBVIOUSLY NOT, BUT WE'VE
13 MADE OUR RECORD. THANK YOU. THAT'S ALL WE CAN ASK.

14 THE COURT: YOU WILL HAVE A LOT TO ARGUE. THAT'S
15 ALL I CAN SAY, IF YOU CHOOSE TO. ALL RIGHT. WE WILL
16 TAKE A BREAK.

17 (BRIEF RECESS.)

18 THE COURT: LET'S GO ON THE RECORD IN THE TRIAL
19 MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE
20 PEOPLE ARE REPRESENTED. THE JURORS AND ALTERNATES ARE
21 NOT YET PRESENT.

22 MR. JACKSON?

23 MR. JACKSON: YOUR HONOR, JUST TO SPEED THINGS UP
24 FOR HOUSEKEEPING, I HAVE ONE, TWO, THREE, FOUR, FIVE
25 PHOTO BOARDS I WOULD LIKE TO HAVE MARKED AS PEOPLE'S NEXT
26 IN ORDER.

27 THE COURT: ALL RIGHT. 40, 41, 42, 43 AND 44 ARE
28 ALL POSTER BOARDS DEPICTING --

1 MR. JACKSON: DEPICTING -- VARIOUSLY DEPICTING
2 THE CRIME SCENE. TWO OF THE PHOTOS ON THE BOARDS DEPICT
3 THE VICTIMS.

4 THE COURT: OKAY. PHOTOGRAPHS; RIGHT?

5 MR. JACKSON: YES, YOUR HONOR.

6 MS. SARIS: IS 40 ALREADY SOMETHING WE HAVE?

7 MR. JACKSON: THEY'RE ALL ALREADY SOMETHING WE
8 HAVE. THE JURORS CAN'T SEE THEM. SO I'M JUST MARKING
9 THESE IN ADDITION TO STUFF THAT WE'VE ALREADY BASICALLY
10 MARKED AS AN EIGHT AND A HALF BY ELEVEN. EVERYTHING I
11 THINK EXCEPT TWO OR THREE ARE THINGS THAT WE'VE ALREADY
12 MARKED.

13 THE COURT: SO 40 IS ALREADY CONTAINED IN ANOTHER
14 EXHIBIT?

15 MR. DIXON: IT'S ONE OF THESE.

16 MS. SARIS: 42 AND 43 ARE NEW.

17 THE COURT: SO ANYWAY, THE POSTER BOARDS WILL ALL
18 BE MARKED 40, 41, 42, 43, 44.

19
20 (THE JURY ENTERED THE COURTROOM
21 AND THE FOLLOWING PROCEEDINGS WERE
22 HELD IN OPEN COURT.)

23
24 THE COURT: THE RECORD SHOULD REFLECT ALL OUR
25 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

26 MR. JACKSON, YOU MAY CONTINUE YOUR DIRECT
27 EXAMINATION.

28 MR. JACKSON: THANK YOU, YOUR HONOR.

1 Q WHEN WE LEFT OFF I WAS ASKING YOU ABOUT
2 THE LAYOUT OF THE THOMPSON RESIDENCE, SPECIFICALLY THE
3 DRIVEWAY OF THE THOMPSON RESIDENCE.

4 HOW CAN YOU DESCRIBE WHAT THE VIEW IS FROM
5 THE TOP OF THE DRIVEWAY WHERE YOU SAW MICKEY THOMPSON
6 BEING HELD BY A GUNMAN?

7 A WHAT MY VIEW WAS LIKE LOOKING DOWN?

8 Q NO. WHAT THE VIEW WOULD BE FROM A PERSON
9 STANDING WHERE MICKEY THOMPSON WAS?

10 A THE DRIVEWAY GOES UP AND THEN CURVES TO
11 THE LEFT. AND AS IT CURVES TO THE LEFT, THAT'S WHERE
12 MICKEY WAS BEING HELD. AND HE COULD EASILY LOOK DOWN
13 UNOBSTRUCTEDLY AND SEE TRUDY.

14 Q WHERE WAS TRUDY?

15 A SHE WAS AT THE BOTTOM OF THE DRIVEWAY.

16 Q HAD YOU WALKED ON THAT DRIVEWAY
17 PREVIOUSLY?

18 A I HAD WALKED IT. I HAD ROLLER SKATED ON
19 IT. I HAD RIDDEN MY BIKE ON IT.

20 Q WERE YOU FAMILIAR WITH THAT --

21 A VERY FAMILIAR.

22 Q OKAY. WHAT HAPPENED AFTER YOU SAW MICKEY
23 BEING HELD AT GUN POINT BY THE GUNMAN AT THE TOP OF THE
24 DRIVEWAY?

25 A THE OTHER GUNMAN DOWN WITH TRUDY CONTINUED
26 WALKING TOWARDS HER; POINTED HIS GUN AT HER; AND SHOT
27 HER.

28 Q WHERE DID HE SHOOT HER?

1 A HE SHOT HER IN THE HEAD.

2 Q DO YOU REMEMBER HOW MANY TIMES AS YOU SIT
3 HERE TODAY?

4 A I REMEMBER ONE SHOT.

5 MR. JACKSON: YOUR HONOR, I'VE PREMARKED SEVERAL
6 PHOTO BOARDS. I UNDERSTAND THE OVERHEAD PROJECTOR MAY
7 HAVE BEEN A LITTLE DIFFICULT TO SEE. SOME OF THESE
8 BOARDS ARE THE SAME AS PREVIOUS EXHIBITS THAT WE'VE SEEN
9 AND SOME OF THEM ARE NOT.

10 THE COURT: WHILE THE JURORS WERE ABSENT, WE DID
11 MARK 40 THROUGH 44. AND THEY ARE ALL POSTER BOARDS WITH
12 PHOTOGRAPHS ON THEM.

13 MR. JACKSON: THANK YOU, YOUR HONOR.

14 Q TAKING A LOOK AT WHAT HAS BEEN MARKED AS
15 PEOPLE'S 41. THIS IS A SAME VIEW OF A SMALLER PROJECTED
16 IMAGE THAT YOU SAW BEFORE. TELL ME WHAT IS LOCATED IN
17 THE LOWER RIGHT-HAND CIRCLE?

18 A THAT IS TRUDY THOMPSON'S BODY.

19 Q AND TELL ME WHAT IS LOCATED IN THE UPPER
20 LEFT-HAND CIRCLE?

21 A THAT'S MICKEY THOMPSON.

22 Q WHERE WAS MICKEY THOMPSON IN RELATION TO
23 THAT UPPER CIRCLE WHEN YOU SAID HE WAS BEING HELD?

24 A HE WAS BEING HELD ACTUALLY A LITTLE
25 CLOSER -- A LITTLE SOUTH, CLOSER TO TRUDY WHEN HE WAS
26 BEING HELD BY THE GUNMAN.

27 Q OKAY. LET ME ASK THIS, AFTER YOU SAW
28 TRUDY SHOT IN THE HEAD, WHAT DID YOU SEE HER -- WHAT DID

1 YOU SEE HAPPEN TO HER NEXT?

2 A SHE FELL TO THE GROUND.

3 Q DID SHE EVER MOVE?

4 A NO.

5 Q WHAT DID YOU SEE THAT GUNMAN BELOW DO?

6 A I DON'T REMEMBER BECAUSE THE NEXT THING I
7 REMEMBER MICKEY IS GETTING SHOT.

8 Q I'LL GET TO THAT IN JUST A SECOND. JUST
9 BEFORE TRUDY THOMPSON WAS SHOT, DID YOU SEE THE GUNMAN
10 THAT WAS STANDING CLOSEST TO HER DO ANYTHING?

11 A NO. HE DIDN'T STOP. HE DIDN'T FLINCH.
12 HE JUST KEPT RIGHT TOWARDS HER.

13 Q WAS TRUDY SAYING ANYTHING AT THE TIME?

14 A SHE WAS BEGGING HIM NOT TO KILL HER.

15 Q WAS MICKEY SAYING ANYTHING AT THE TIME?

16 A HE WAS BEGGING HIM NOT TO KILL HIS WIFE.

17 Q AFTER TRUDY WAS SHOT, WHAT DID YOU SEE
18 HAPPEN TOWARD THE TOP OF THE DRIVEWAY?

19 A MICKEY REACTED OBVIOUSLY TO WHAT HE HAD
20 JUST SEEN.

21 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
22 SPECULATION. MOTION TO STRIKE.

23 THE COURT: "TO WHAT HE HAD JUST SEEN" WILL BE
24 STRICKEN.

25 Q BY MR. JACKSON: HOW DID HE REACT?

26 A MICKEY MOVED IN A VERY AGITATED MANNER
27 TRYING TO MOVE TOWARDS HIS WIFE. THE GUNMAN STILL
28 STANDING THERE WITH HIM STOPPING HIM. HE WAS EXTREMELY

1 UPSET; SCREAMING; CRYING.

2 Q AND WHAT ENDED UP HAPPENING TO HIM?

3 A HE ENDED UP GETTING SHOT SEVERAL TIMES
4 NEXT.

5 Q DESCRIBE HOW MANY TIMES, IF YOU CAN
6 RECALL, MICKEY THOMPSON GOT SHOT AFTER TRUDY WAS SHOT?

7 A I CAN'T RECALL HOW MANY TIMES HE WAS SHOT.

8 Q DO YOU REMEMBER WHERE HE WAS SHOT?

9 A HE WAS SHOT IN THE DIRECTION OF HIS
10 TORSO/CHEST. I REMEMBER HIM GRABBING HIS LEG.

11 Q ULTIMATELY, WHAT DID YOU DO AFTER THAT
12 SECOND VOLLEY OF SHOTS TOWARD MICKEY THOMPSON RANG OUT?

13 A AFTER THOSE RANG OUT, I LEFT THE DINING
14 ROOM AND RAN OUTSIDE.

15 Q WAS THE DINING ROOM WHERE THIS FLOOR TO
16 CEILING WINDOW WAS?

17 A YES.

18 Q AND WHAT DID YOU DO WHEN YOU RAN OUTSIDE?

19 A I RAN DOWN THE DRIVEWAY BECAUSE I THOUGHT
20 SHE MIGHT STILL BE ALIVE.

21 Q HOW CLOSE DID YOU GET TO TRUDY THOMPSON?

22 A I WAS STANDING ABOVE HER NEXT TO HER.

23 Q I WANT TO DRAW YOUR ATTENTION TO PEOPLE'S
24 42. DO YOU RECOGNIZE WHAT IS DEPICTED IN THOSE PHOTOS?

25 A YES, I DO.

26 Q WHO IS THAT PERSON?

27 A IT'S TRUDY.

28 Q IS THAT THE CONDITION THAT YOU SAW HER IN

1 WHEN YOU RAN TO HER?

2 A YES.

3 Q DID SHE EVER MOVE FROM THAT POSITION?

4 A NO.

5 Q TAKE A LOOK AT PHOTOGRAPH E. DO YOU SEE
6 THAT PHOTOGRAPH?

7 A OH, YEAH.

8 Q WHAT DOES THAT DEPICT?

9 A A GUNSHOT TO THE HEAD; BLOOD ALL OVER BY
10 HER HEAD. THAT'S WHAT I REMEMBER SEEING.

11 Q DID YOU EVER RUN UP TO MICKEY THOMPSON?

12 A I WANTED TO MOVE IN THAT DIRECTION, BUT AT
13 THAT POINT I STARTED TO HEAR MORE GUNSHOTS.

14 Q DID YOU SEE -- WELL, LET ME ASK YOU
15 THIS. LET ME BACK UP FOR A SECOND.

16 DO YOU REMEMBER WHAT MICKEY THOMPSON WAS
17 WEARING THAT DAY?

18 A DARK COLORED CLOTHING.

19 MR. JACKSON: PREVIOUSLY MARKED, YOUR HONOR,
20 PEOPLE'S 43.

21 Q DO YOU RECOGNIZE WHO IS DEPICTED IN THOSE
22 PHOTOGRAPHS?

23 A YES, THAT'S MICKEY.

24 Q ARE THOSE PHOTOGRAPHS CONSISTENT OR
25 INCONSISTENT WITH THE WAY THAT MICKEY THOMPSON WAS
26 DRESSED AND LOOKED THAT DAY?

27 A VERY CONSISTENT.

28 Q WELL, LET ME ASK THIS, YOU SAID YOU ARE

1 FAMILIAR WITH THE THOMPSON PROPERTY; CORRECT?

2 A YES.

3 Q PHOTOGRAPH A, WHAT IS THAT A PHOTOGRAPH
4 OF, WHAT AREA OF THE THOMPSON PROPERTY?

5 A WELL, THAT'S THE DRIVEWAY -- PART OF THE
6 DRIVEWAY OUT THERE WHERE --

7 Q THE TOP OR THE BOTTOM?

8 A THE TOP.

9 Q AND GOING BACK, MISS TRIARSI, TO PHOTO
10 BOARD NO. 41, DO YOU SEE THIS UPPER LEFT-HAND CIRCLE?

11 A YES.

12 Q WHERE IS THAT IN RELATION TO THE
13 PHOTOGRAPH OF MICKEY THOMPSON THAT YOU JUST SAW?

14 A THE PICTURE I JUST SAW WAS TAKEN TOWARDS
15 THE HOUSE LOOKING TOWARDS MY HOUSE AND TOWARDS MICKEY
16 THOMPSON. BEHIND THERE THERE IS A WOODEN -- BROWN WOODEN
17 FENCE THERE (INDICATING).

18 Q THANK YOU. AFTER YOU RAN TO TRUDY, YOU
19 SAID YOU HEARD SOMETHING ELSE?

20 A THAT'S RIGHT. I HEARD SEVERAL GUNSHOTS.

21 Q AND WHAT DID YOU DO?

22 A I WAS VERY SCARED. I JUMPED AND TRIED TO
23 HIDE.

24 Q WHERE DID YOU TRY TO HIDE?

25 A I HOPPED OVER THE -- THERE IS A GATE
26 THERE. AND I HOPPED OVER THE GATE. THAT STONE WALL THAT
27 YOU HAVE SEEN IN THE PICTURES, I HOPPED BACK OVER THAT
28 AND DUCKED.

1 Q WHAT HAPPENED AFTER THAT?

2 A I WAITED THERE. AND MY MOM REALIZED THAT
3 I WAS DOWN THERE AND WAS HALFWAY DOWN THE DRIVEWAY WHEN
4 THE GUNSHOTS RANG OUT AND SHE RAN TOWARDS ME.

5 Q ULTIMATELY DID YOU EVER GO UP TO THE TOP
6 OF THE DRIVEWAY --

7 A NO.

8 Q -- WHERE MICKEY THOMPSON WAS?

9 A NO.

10 Q DID YOU ULTIMATELY GO BACK TO YOUR HOUSE
11 OR SOME OTHER PLACE OR WHAT HAPPENED?

12 A THE POLICE ARRIVED AND WE WERE STILL
13 HIDING.

14 Q HOW DID SEEING THIS INCIDENT AFFECT YOU?

15 A WELL, WHERE DO YOU BEGIN? WE WERE UNDER
16 HOUSE ARREST. I HAD NIGHTMARES EVERY NIGHT. I STOPPED
17 SLEEPING.

18 Q WHAT DO YOU MEAN YOU WERE UNDER HOUSE
19 ARREST?

20 A THERE WERE POLICE OFFICERS THE FIRST 48
21 HOURS OR SO. WE COULDN'T LEAVE OUR HOME. WE COULDN'T
22 TALK TO PEOPLE. WE COULDN'T TALK TO THE MEDIA. ANYONE.
23 YOU KNOW, OUR FAMILIES. AND THEN THEY HAD SECURITY --
24 THEY HAD GUARDS THERE EVERY NIGHT FROM WHAT I REMEMBER AS
25 BEING WEEKS, ALWAYS POSTED. AND AS A CHILD WHAT WAS TOLD
26 TO ME IS THAT SINCE WE SAW IT, PERHAPS THEY COULD COME
27 BACK AND KILL US.

28 Q WERE YOU FRIGHTENED?

1 A I WAS VERY FRIGHTENED.

2 Q WHAT GRADE WERE YOU IN?

3 A 9TH GRADE.

4 Q DID YOU EVER TALK TO ANYBODY ABOUT WHAT
5 YOU HAD SEEN?

6 A YEAH. EVENTUALLY I WAS SO UPSET, I GUESS,
7 I TALKED TO A TEACHER AFTER SCHOOL ONE DAY AND SAID I'M
8 REALLY STRUGGLING. I'VE NEVER -- THIS IS WHAT HAPPENED.
9 AND THIS IS WHAT I'M FEELING. AND I BROKE DOWN TO HIM.
10 AND HE ENDED UP HELPING ME AND GETTING A SCHOOL
11 PSYCHOLOGIST TO SIT DOWN AND TALK TO ME.

12 Q DID YOU SPEAK TO THE PSYCHOLOGIST?

13 A I DID.

14 MS. SARIS: OBJECTION. RELEVANCE.

15 THE COURT: DO YOU WANT TO GO TO THE SIDEBAR?

16 MR. JACKSON: CERTAINLY, YOUR HONOR.

17

18 (PROCEEDINGS AT SIDEBAR HELD AS FOLLOWS:)

19 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

20 MR. JACKSON: THANK YOU, YOUR HONOR. I
21 ANTICIPATE ELICITING TESTIMONY WITH THE COURT'S
22 PERMISSION THAT THIS PARTICULAR WITNESS NOT ONLY SOUGHT
23 OUT THE ADVICE OF -- OR THE HELP/THERAPY OF A SCHOOL
24 PSYCHOLOGIST, BUT ENGAGED IN THERAPY THEREAFTER FOR I
25 THINK A NUMBER OF YEARS.

26 I THINK IT GOES TO HER ABILITY TO
27 RECOLLECT THIS EVENT. HOW IMPORTANT THIS EVENT WAS TO
28 HER. HOW IMPORTANT IT REMAINS TO HER LIFE. AND HER

1 ABILITY TO SPECIFICALLY RECALL EVENTS THAT TOOK PLACE
2 18-ODD YEARS AGO. SHE IS A 33-YEAR-OLD WOMAN. THIS WAS
3 WHEN SHE WAS 14. AND I ANTICIPATE THAT MS. SARIS'
4 ARGUMENT IN NO SMALL PART AS IT WAS IN HER OPENING
5 STATEMENT WILL SUGGEST THAT MEMORIES FADE; THAT SHE COULD
6 BE WRONG ABOUT CERTAIN INCIDENTS, ET CETERA.

7 THE COURT: IS IT YOUR POSITION THAT SHE -- WELL,
8 LET ME ASK YOU THIS: DO YOU HAVE ANY RECORDS INDICATING
9 THE CONTENT OF ANY DISCUSSION WITH A THERAPIST?

10 MR. JACKSON: NO.

11 THE COURT: SO YOU ARE NOT PRIVY TO ANY
12 INFORMATION THAT WAS DISCUSSED?

13 MR. JACKSON: ABSOLUTELY NOT. AND I'M NOT
14 SEEKING TO GET INTO ANY PRIVILEGED INFORMATION. I SIMPLY
15 WANT THE IDEA THAT SHE SOUGHT THERAPY AND THEREFORE IT IS
16 AN ONGOING KIND OF STRUGGLE WITH HER. AND IT'S KIND OF
17 AN INTENSELY BURNED MEMORY IN HER MIND.

18 THE COURT: ALL RIGHT.

19 MS. SARIS: AND, YOUR HONOR, I THINK IT'S
20 IRRELEVANT AS TO WHETHER SHE SOUGHT THERAPY AS TO HER
21 MEMORY BEING IMPROVED OR UNIMPROVED. I MEAN SHE HAS
22 ALREADY SAID SHE'S TESTIFIED TO A PSYCHOLOGIST. IT HAS
23 NO BEARING ON WHETHER THAT HELPS HER REMEMBER ANY WITHOUT
24 THE RECORDS OF THE PSYCHOLOGIST. WE'VE NOT BEEN PROVIDED
25 ANY OF THOSE. AND WE CERTAINLY -- I THINK THOSE WOULD
26 BE, THEY WOULD BE SUBJECT TO DISCOVERY AT THAT POINT
27 THEN.

28 THE COURT: WELL, THE FACT -- I MEAN I SEE SOME

1 RELEVANCE HERE. THE FACT THAT SHE SOUGHT HELP GROWING UP
2 AFTER WITNESSING THIS INCIDENT TENDS TO INDICATE THAT
3 THIS IS LESS OF A FANTASY ON HER PART CREATED FROM
4 TELEVISION SHOWS. AS OPPOSED TO SOMETHING THAT WAS
5 REALLY AND TRULY PERCEIVED THE WAY SHE DESCRIBED IT. AND
6 I THINK --

7 MS. SARIS: WELL, OBVIOUSLY SHE WITNESSED THE
8 EVENT. I MEAN THAT DOESN'T CHANGE WHETHER OR NOT ANY --
9 I MEAN JUST SEEING A DEAD BODY IS TRAUMATIC ENOUGH. IT
10 DOESN'T SAY THAT DETAILS ARE SOMEWHAT MORE CLEAR BECAUSE
11 SHE SOUGHT THERAPY FOR THEM.

12 THE COURT: EXCEPT THAT --

13 MS. SARIS: THE OPENING ARGUMENT WASN'T THERE.

14 THE COURT: -- THE OPENING STATEMENT DEALT A
15 LOT -- YOUR OPENING STATEMENT DEALT A LOT WITH WHAT YOU
16 CLAIM TO BE THE WITNESSES WHO WOULD COME FORWARD AND
17 TESTIFY BASED ON A HOLLYWOOD NOTION OF WHAT OCCURRED
18 VERSUS WHAT ACTUALLY OCCURRED.

19 I THINK GIVEN THAT OPENING STATEMENT AND
20 THE ARGUMENTS I BELIEVE YOU ARE GOING TO BE MAKING, THIS
21 IS PRETTY IMPORTANT EVIDENCE TO INDICATE THAT WHAT THIS
22 WITNESS HAS RECOLLECTED AND HAS DISCUSSED HERE DID, IN
23 FACT, OCCUR VERSUS WHAT SHE SAW ON TELEVISION.

24 MS. SARIS: OH, WELL, I WOULD NEVER INDICATE THIS
25 WITNESS DIDN'T PERCEIVE. THE ISSUE IS THE DETAILS. AND
26 THAT'S NOT BEING ASSISTED BY THE PSYCHOLOGIST WITHOUT THE
27 RECORDS.

28 THE COURT: WELL, I DON'T THINK IT'S BEING

1 OFFERED FOR THE TRUTH OF WHAT WAS STATED IN THE SESSIONS,
2 SO I'M GOING TO OVERRULE THE OBJECTION.

3 (SIDEBAR PROCEEDINGS CONCLUDED.)

4
5 THE COURT: YOU MAY CONTINUE.

6 MR. JACKSON: THANK YOU, YOUR HONOR.

7 Q MISS TRIARSI, YOU WERE TELLING THE JURORS
8 THAT YOU HAD SOUGHT SOME ADVICE FROM A SCHOOL COUNSELOR;
9 CORRECT?

10 A I DID.

11 Q DID YOU EVER SEEK TO SPEAK TO ANYBODY ELSE
12 IN A PROFESSIONAL CAPACITY?

13 A NO, I DID NOT.

14 Q DID YOU EVER WRITE ANYTHING ABOUT YOUR
15 MEMORY OF THESE EVENTS?

16 A AT THE DOCTOR'S SUGGESTION, I KEPT A
17 NOTEBOOK OF THE NIGHTMARES WHEN I WOULD HAVE THEM AND
18 WRITE THEM DOWN.

19 Q WERE THESE NIGHTMARES ABOUT THIS EVENT
20 THAT YOU HAD WITNESSED?

21 A ALWAYS.

22 Q DID YOU WRITE THIS JOURNAL -- WHEN DID YOU
23 WRITE THE JOURNAL OR BEGIN WRITING THE JOURNAL?

24 A I WROTE IT AFTER OUR FIRST VISIT. AND
25 WHENEVER I WOULD HAVE A NIGHTMARE, I WOULD TRY AND
26 REMEMBER IT AND WRITE DOWN THE NIGHTMARE.

27 Q IT'S BEEN OVER 18 YEARS SINCE THIS EVENT.

28 A YES.

1 Q DO YOU STILL RECALL IT AS YOU SIT HERE
2 TODAY?

3 A YES, VERY VIVIDLY.

4 Q IS IT SOMETHING THAT YOU'LL EVER FORGET?

5 A NO.

6 Q DID YOU EVER REFERENCE THAT JOURNAL IN THE
7 YEARS AFTER YOU WROTE IT?

8 A I DID ACTUALLY, YES.

9 Q DESCRIBE THAT FOR US.

10 A IN COLLEGE -- OR IN GRAD SCHOOL I WENT
11 BACK AND LOOKED AT IT WHEN I CAME HOME.

12 Q DID IT ASSIST YOU IN ANY WAY IN
13 REMEMBERING OR RECALLING?

14 MS. SARIS: OBJECTION. VAGUE.

15 THE COURT: HANG ON. WHAT IS THE QUESTION?

16 MR. JACKSON: DID IT ASSIST YOU IN ANY WAY IN
17 RECALLING THE EVENTS?

18 MS. SARIS: WHEN IT'S FINISHED IT'S FINE.

19 THE COURT: OVERRULED.

20 Q BY MR. JACKSON: DID IT ASSIST YOU IN ANY
21 WAY IN RECALLING THESE EVENTS?

22 A I HAD NOTES THROUGHOUT IN THIS COMPOSITION
23 BOOK OF WHAT MY NIGHTMARES WERE, WHICH WOULD BE THIS
24 EVENT. AND THEN OTHER NIGHTMARES WITH IT. AND SO, YES,
25 IT BROUGHT IT BACK.

26 Q WHERE IS THIS NOTEBOOK?

27 A IT'S GONE. IT WAS AT MY PARENTS' HOME AND
28 IT REALLY WASN'T SOMETHING I WANTED TO KEEP FOREVER.

1 Q AFTER THE LAST VOLLEY OF GUNSHOTS RANG
2 OUT, DID YOU HEAR ANYTHING OF NOTE?

3 A NO, NOT THAT I CAN RECALL.

4 Q DID YOU SEE EITHER OF THE GUNMAN ESCAPE?

5 A NO, I DID NOT.

6 Q DID YOU HEAR ANYTHING THAT --

7 A I HEARD THE CLICKING OF THE BICYCLES.

8 Q DESCRIBE THE CLICKING OF THE BICYCLES.
9 WHAT DO YOU MEAN "CLICKING"?

10 A LIKE A TEN SPEED BIKE. TEN SPEED BIKE,
11 THIN WHEELS. CLICK. CLICK. CLICK. CLICK. CLICK.

12 Q OKAY. WHEN DID YOU HEAR THIS?

13 A I HEARD IT -- AS I GOT DOWN THERE AND I
14 CROUCHED DOWN, I HEARD IT IN THE BACKGROUND. IT'S,
15 AGAIN, A VERY QUIET NEIGHBORHOOD.

16 Q COULD YOU TELL THE APPROXIMATE DIRECTION
17 FROM WHICH THIS BICYCLE CLICKING NOISE WAS COMING?

18 A THE THOMPSONS' DRIVEWAY WENT UP AND
19 CONTINUED AND WENT DOWN. AND THERE IS -- AND THE
20 CLICKING NOISE I BELIEVE CAME IN THE DIRECTION ON THE
21 DRIVEWAY.

22 Q ALL RIGHT. YOU ARE INDICATING --

23 FOR THE RECORD, YOUR HONOR, IF I MAY, WHEN
24 THE WITNESS INDICATED THAT THE THOMPSON DRIVEWAY WENT UP
25 AND THEN WENT DOWN, SHE WAS FOLLOWING A BRIGHT RED LINE
26 ON PEOPLE'S 44 ENTITLED "BIKE ROUTE LEAVING CRIME SCENE."

27 MISS TRIARSI, AS A FOUNDATIONAL MATTER
28 LET'S BRING -- CATCH THE JURORS UP JUST A LITTLE BIT.

1 WHAT IS IT THAT THIS RED LINE OR THIS ORANGE LINE IN THIS
2 DIRECTION DEPICTS?

3 A IT DEPICTS THE DRIVEWAY COMING UP; COMING
4 BACK DOWN. AND THERE IS AN EXIT RIGHT HERE (INDICATING)
5 ON TO THE LANE WHICH IS OUR STREET. IT WAS CALLED A LANE
6 AND IT CONTINUED.

7 Q IS THAT ANOTHER WAY TO ACCESS THE THOMPSON
8 PROPERTY?

9 A YES, IT IS.

10 Q WHERE DID YOU HEAR THE BICYCLE CLICKING IN
11 RELATION TO THAT PATH THAT YOU HAVE JUST SHOWN US?

12 A WELL, I HEARD IT WHEN I WAS DOWN HERE BY
13 TRUDY. YEAH, IN THAT AREA (INDICATING).

14 Q ALL RIGHT. IF YOU WERE DOWN IN THIS AREA
15 THAT YOU HAVE JUST INDICATED -- AND LET'S CALL IT THE
16 MOUTH OF THE DRIVEWAY. OKAY?

17 YOUR HONOR, I'M POINTING TO PEOPLE'S --
18 I'M POINTING TO PEOPLE'S 44. THERE APPEAR TO BE TWO
19 LIGHT STANDARDS IS THE BEST WAY FOR ME TO DESCRIBE IT, IT
20 IS AN INCH AND A HALF, TWO INCHES UP AND TO THE RIGHT
21 FROM THE LETTER "W" IN WOODLYN LANE.

22 IS THAT THE MOUTH OF THE DRIVEWAY?

23 A YES, IT IS.

24 Q DID YOU SEE EITHER OF THE GUNMEN ESCAPE
25 THIS DIRECTION (INDICATING)?

26 A NO.

27 MR. JACKSON: AND I'M INDICATING DOWN WOODLYN
28 LANE, YOUR HONOR.

1 THE COURT: YES.

2 MR. JACKSON: THE BOTTOM RIGHT QUADRANT OF THE
3 EXHIBIT.

4 Q BASED ON YOUR FAMILIARITY WITH THE AREA,
5 HOW WOULD YOU DESCRIBE THE GUNMEN'S ESCAPE, WHICH WAY?

6 MS. SARIS: OBJECTION, YOUR HONOR. LACK OF
7 FOUNDATION. I BELIEVE SHE SAID SHE DIDN'T SEE ANYTHING.

8 THE COURT: SUSTAINED.

9 Q BY MR. JACKSON: BASED ON WHAT YOU HEARD
10 AND WHAT YOU DIDN'T SEE, CAN YOU ESTIMATE HOW THE GUNMAN
11 ESCAPED FROM THE SCENE?

12 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.
13 RELEVANCE.

14 THE COURT: YES. REPHRASE IT, PLEASE.

15 Q BY MR. JACKSON: DID YOU HEAR THE BICYCLES
16 CLEARLY OR BICYCLE, THE CLICKING SOUND?

17 A I HEARD THE BICYCLES. AND BECAUSE OUR
18 DRIVEWAY WAS SO LONG -- OUR DRIVEWAY IS WAY UP HERE AND
19 COMES ALL THE WAY DOWN, IT IS A LONG WAY TO GO. AND YOU
20 CAN SEE; YOU HAVE A VIEW. YOU HAVE A VIEW. YOU CAN SEE
21 THROUGH THE TREES HERE. SO I'M COMING DOWN ALL THIS WAY
22 (INDICATING).

23 Q AND DID YOU SEE THE GUNMAN ON WOODLYN
24 LANE?

25 A NO.

26 Q IF NOT ON WOODLYN LANE, BASED ON WHAT YOU
27 HEARD AND WHAT YOU DIDN'T SEE ON WOODLYN, CAN YOU
28 ESTIMATE WHICH DIRECTION YOU HEARD THE BICYCLES GOING?

1 A I HEARD THE BICYCLES IN THIS AREA
2 (INDICATING) AND IT GOT FAINTER AND FAINTER AND FAINTER.

3 Q OKAY. AND YOU ARE DESCRIBING ALONG THE
4 RED LINE MOVING THE BACK WAY OUT OF THE THOMPSON
5 PROPERTY?

6 A RIGHT. ANOTHER EXIT DRIVEWAY.

7 Q THANK YOU, MISS TRIARSI. THANK YOU FOR
8 YOUR TIME.

9 THAT'S ALL I HAVE, YOUR HONOR.

10 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

11 MS. SARIS: THANK YOU, YOUR HONOR.

12

13 CROSS-EXAMINATION

14 BY MS. SARIS:

15 Q GOOD AFTERNOON, MISS TRIARSI.

16 A HELLO.

17 Q THE NIGHTMARES THAT YOU HAD, DO YOU STILL
18 HAVE PICTURES OF THE BODIES IN YOUR HEAD?

19 A YES, I DO.

20 Q BOTH TRUDY AND MICKEY?

21 A YES.

22 Q AFTER THEY WERE SHOT?

23 A YES.

24 Q IS IT FAIR TO SAY -- OR LET ME JUST ASK IT
25 THIS WAY.

26 HAS ANY OF YOUR TESTIMONY BEEN INFLUENCED
27 BY THINGS THAT YOU MAY HAVE HEARD RATHER THAN WHAT YOU
28 REALLY SAW?

1 A NO.

2 Q DO YOU RECALL TESTIFYING IN A PRIOR
3 HEARING IN THIS MATTER?

4 A I DO.

5 Q AND YOU WERE IN THIS COURT AND THE LAWYERS
6 WERE THE SAME AND THE JUDGE WAS THE SAME?

7 A YES.

8 Q AT THAT TIME, DO YOU RECALL ME ASKING YOU
9 IF YOU THINK YOUR TESTIMONY MAY HAVE BEEN INFLUENCED OVER
10 THE YEARS?

11 A YES, I DO.

12 Q AND DO YOU RECALL WHAT YOU SAID THEN?

13 A I SAID -- WELL -- AND I'M NOT SAYING
14 ANYTHING DIFFERENT. I'M SAYING NOW FROM THEN THAT WHEN I
15 WAS A CHILD I THOUGHT PERHAPS MY MOTHER COULD HAVE
16 INFLUENCED SOME OF MY THOUGHTS. OBVIOUSLY, AS I GOT
17 OLDER; HAD A JOURNAL; READ IT IN MY GRADUATE SCHOOL
18 YEARS, THINGS BECAME A LOT MORE CLEAR.

19 Q WHAT YEAR -- HOW OLD WOULD YOU HAVE BEEN
20 IN GRADUATE SCHOOL?

21 A I WOULD HAVE BEEN 21.

22 Q AND YOU NEVER SPOKE TO THE POLICE THAT
23 MORNING, DID YOU?

24 A THE FIRST PERSON WHO FOUND ME WAS A POLICE
25 OFFICER, BUT HE DIDN'T QUESTION ME.

26 Q AND WHEN I SAY "SPOKE TO," I MEANT
27 REGARDING WHAT YOU HAD SEEN.

28 A RIGHT. NO. HE CONSOLED ME.

1 Q WERE YOU UNDERSTANDABLY PRETTY UPSET?

2 A YEAH.

3 Q WAS THIS THE FIRST TIME YOU HAD EVER SEEN
4 ANYTHING LIKE THIS?

5 A FIRST TIME EVER ANYTHING LIKE IT.

6 Q AND THIS IS NOT A COMMUNITY WHERE THINGS
7 LIKE THIS HAPPEN?

8 A NO. IT WAS AN IDEALIC COMMUNITY WHERE YOU
9 PLAYED ALL DAY AND HAD A WONDERFUL LIFE.

10 Q WOULD IT BE FAIR TO SAY THAT EVEN
11 GUNSHOTS, WITHOUT THEM EVEN HITTING ANYONE, WOULD HAVE
12 BEEN UNUSUAL IN THAT COMMUNITY?

13 A ABSOLUTELY.

14 Q AND WHEN YOU -- THE FIRST THING YOU
15 REMEMBER HAPPENING WAS WHEN YOU WERE IN THE SHOWER?

16 A YES.

17 Q AND COULD YOU TELL -- YOU SAID YOU HEARD
18 SCREAMING AND IT WAS HIGH PITCHED. DID YOU KNOW THAT IT
19 WAS A WOMAN VERSUS A MAN?

20 A AT FIRST IT ALMOST SOUNDED LIKE A CHILD
21 SCREAMING BECAUSE IT WAS SO HIGH PITCHED. AND THEN AS IT
22 CONTINUED, YOU COULD TELL IT WAS A WOMAN.

23 Q WAS THERE EVER ANY CONCERN ON YOUR PART,
24 EVEN FOR A MOMENT, THAT IT MIGHT BE YOUR MOTHER?

25 A NO.

26 Q AND IS THAT BECAUSE OF HOW IT SOUNDED
27 OR --

28 A IT WAS TOO FAR AWAY.

1 Q AND HOW LONG AFTER THAT DID YOU HEAR THE
2 POW, POW, POW?

3 A WELL, I HEARD THE POW, POW, POW AND THE
4 SCREAMING TOGETHER. AND THEN HEARD MORE POW, POW, POW.

5 Q THE DISTRICT ATTORNEY REFERRED TO THAT AS
6 A VOLLEY OF GUN FIRE. DOES THAT MEAN SOMETHING TO YOU?

7 A YES.

8 Q JUST A GROUP OF POW, POW, POWS?

9 A THAT'S RIGHT.

10 Q AND DO YOU HAVE ANY IDEA HOW MANY YOU
11 HEARD ORIGINALLY?

12 A IT -- JUST SEVERAL.

13 Q AND YOU HEARD SCREAMING --

14 A YES.

15 Q -- AT THAT SAME TIME?

16 A UH-HUH.

17 Q IS THAT A YES?

18 A THAT IS A YES.

19 Q AND YOUR MOTHER CAME IN AND GOT YOU?

20 A THAT'S RIGHT, GRABBED ME.

21 Q AND SHE TOOK YOU OUT OF THE SHOWER?

22 A UH-HUH, YES.

23 Q AND DID YOU HIT THE FLOOR?

24 A SHE GRAB ME OUT OF THE SHOWER; TOOK ME
25 INTO THE NEXT ROOM, WHICH WAS THE DINING ROOM; AND GOT ME
26 ON THE FLOOR.

27 Q DO YOU REMEMBER EVER TELLING US THAT YOU
28 ACTUALLY -- WELL, LET ME PUT IT THIS WAY. THE BATHROOM

1 THAT THE SHOWER WAS IN, WHAT KIND OF VIEW OR HOW DID THAT
2 LOOK OUT IN TERMS OF WINDOWS? WHAT COULD YOU SEE OUTSIDE
3 FROM THERE, IF ANYTHING?

4 A THERE WAS ONLY A SMALL WINDOW IN THAT
5 PARTICULAR BATHROOM.

6 Q AND WHEN YOUR MOTHER CAME AND GOT YOU, WAS
7 THERE SOME UNDERSTANDING ON YOUR PART OF WHERE THE SOUND,
8 THE SCREAMS AND THE POWS HAD COME FROM?

9 A YES.

10 Q AND WHAT WAS THAT UNDERSTANDING AT THAT
11 MOMENT?

12 A THE NEIGHBORS' HOUSE.

13 Q AND YOUR MOTHER TOOK YOU OUT OF THAT ROOM
14 AND BROUGHT YOU TO A ROOM THAT ACTUALLY HAD A WINDOW THAT
15 WAS OVERLOOKING THE NEIGHBORS' HOUSE?

16 A YES, UNFORTUNATELY.

17 Q DID YOU TALK TO A DETECTIVE MARK
18 LILLIENFELD EVER IN THIS CASE?

19 A YES, I DID.

20 Q AND WAS THAT IN 1997?

21 A I BELIEVE SO.

22 Q WOULD LOOKING AT ANY REPORT REFRESH YOUR
23 RECOLLECTION AS TO THE DATE OR DO YOU RECALL IT WAS --

24 A I RECALL IT WAS 1997.

25 Q HOW OLD WERE YOU IN 1997?

26 A 23.

27 Q AND AT THAT TIME, DO YOU REMEMBER TELLING
28 HIM THAT YOU DO NOT ACTUALLY RECALL TRUDY GETTING SHOT?

1 A NO.

2 Q DO YOU REMEMBER --

3 A THAT'S NOT WHAT I SAID.

4 Q YOU DON'T REMEMBER SAYING THAT?

5 A I DIDN'T, NO.

6 Q DO YOU REMEMBER SAYING TO HIM THAT YOU
7 DON'T HAVE A SPECIFIC RECOLLECTION OF WATCHING TRUDY
8 THOMPSON ACTUALLY GETTING SHOT; AND IT'S POSSIBLE THAT
9 SHE WAS SHOT WHILE YOU WERE RUNNING FROM THE DINING ROOM
10 OUTSIDE?

11 A NO. THAT'S NOT WHAT I SAID.

12 Q THE STEPS THAT YOU HAVE DESCRIBED IN
13 DETAIL ABOUT THE SHOTS AND THE SCREAMS AND WHERE YOU
14 WERE, DO YOU HAVE A SPECIFIC RECOLLECTION OF EACH OF
15 THOSE STEPS OR DID THIS ALL HAPPEN VERY QUICKLY? HOW DID
16 THAT WORK?

17 A IT CERTAINLY HAPPENED VERY QUICKLY. IT
18 ALL HAPPENS VERY QUICKLY. AND YOU GO BACK AND YOU THINK
19 ABOUT IT AND IT CLEARS UP AND SECONDS SEEM LIKE MINUTES.

20 Q DO YOU RECALL TELLING US AT THE PRIOR
21 HEARING THAT YOU CAN'T REALLY RECALL THE SEQUENCE OF THE
22 STEPS; THAT IT WAS ALL JUST VERY TRAUMATIC; AND YOU WERE
23 HAVING YOUR OWN REACTIONS AS WELL?

24 A THAT SOUNDS LIKE SOMETHING I COULD
25 CERTAINLY SAY, SURE. I MEAN IT'S TRUE.

26 Q WOULD THAT BE TRUE TODAY?

27 A I THINK AS I GET OLDER I RECALL BETTER AND
28 BETTER WHAT HAPPENED.

1 Q OVER THE YEARS HAVE -- YOU SAID THAT YOU
2 SPOKE TO A SCHOOL PSYCHOLOGIST OR --

3 A YES.

4 Q DID YOU SEE THAT PERSON ONGOING FOR
5 SEVERAL YEARS OR WAS THIS ONE OR TWO OR THREE
6 APPOINTMENTS?

7 A IT WAS -- I DON'T KNOW IF IT WAS THREE OR
8 IF THERE WERE MAYBE FOUR, BUT WE'RE TALKING A SMALL
9 NUMBER. IT REALLY HELPED.

10 Q AND THIS INDIVIDUAL TOLD YOU TO KEEP A
11 JOURNAL OF YOUR NIGHTMARES?

12 A YES. NOT SO MUCH A JOURNAL; IT WAS A
13 COMPOSITION NOTEBOOK AND JUST WRITE THEM DOWN. AND AS
14 YOU WRITE THEM DOWN, THEY GO AWAY.

15 Q DID YOU KNOW WHETHER OR NOT ANY OF YOUR
16 OTHER NEIGHBORS HAD SEEN ANY PART OF THIS INCIDENT?

17 A I HAD NO IDEA THEN.

18 Q NOW I'M SAYING.

19 A NOW I HAVE SOME KNOWLEDGE OF SOME.

20 Q I'M SORRY. HAVE YOU SPOKEN TO ANY OF THEM
21 SINCE THE INCIDENT?

22 A I HAVE.

23 Q CAN YOU TELL US ANY OF THE NAMES OF THE
24 NEIGHBORS THAT YOU MIGHT HAVE SPOKEN TO ABOUT THIS?

25 A LANCE JOHNSON AND CHANTELL JOHNSON.

26 Q ARE THEY RELATED?

27 A TO ME, NO.

28 Q TO EACH OTHER?

1 A YES.

2 Q SORRY.

3 A FATHER AND DAUGHTER. MY BEST FRIEND.

4 Q AND CHANTELL, WAS SHE THE DAUGHTER ABOUT
5 YOUR AGE?

6 A YES. BUT WE DIDN'T SPEAK ABOUT THIS VERY
7 MUCH. SHE DIDN'T REMEMBER ANYTHING. SHE DIDN'T SEE
8 ANYTHING.

9 Q WHAT ABOUT DOES MR. JOHNSON HAVE A SON
10 NAMED BEAR?

11 A UH-HUH. YES, HE DOES.

12 Q HAVE YOU SPOKEN TO HIM ABOUT THIS?

13 A NOT THAT I RECALL. IF I HAVE, IT'S VERY
14 LIMITED. AGAIN, HE WASN'T REALLY A PART OF IT OR
15 SOMETHING I WOULD TALK TO HIM ABOUT.

16 Q THAT MORNING THAT THIS HAPPENED AND THE
17 POLICE FOUND YOU WITH YOUR MOM, WERE THERE ANY OTHER
18 NEIGHBORS THAT CAME OUT IN TO THE STREET?

19 A NO, NOT THAT I RECALL.

20 Q YOU WERE HIDING BECAUSE YOU HEARD OTHER
21 GUNSHOTS?

22 A THAT'S RIGHT.

23 Q AND THAT WAS AFTER, AS FAR AS YOU KNEW,
24 MICKEY AND TRUDY HAD ALREADY BEEN SHOT?

25 A YES.

26 Q DID YOU COME TO LATER HAVE A BELIEF OF
27 WHERE THOSE SHOTS CAME FROM?

28 A YES.

1 Q WHAT IS YOUR BELIEF AS YOU SIT HERE NOW?

2 A THAT LANCE JOHNSON FIRED THOSE SHOTS.

3 Q AND JUST SO WE'RE CLEAR, THAT WOULD BE AT
4 THE BICYCLISTS; CORRECT?

5 A YES.

6 Q I MEAN AS FAR AS YOUR BELIEF?

7 A YES.

8 Q AND DO YOU KNOW HOW MANY YOU RECALL
9 HEARING NOW?

10 A NO.

11 Q DO YOU KNOW IF IT WAS MORE THAN ONE?

12 A YES, MORE THAN ONE.

13 Q MORE THAN THREE?

14 A NOT MUCH MORE THAN THREE.

15 Q LOOKING AT ONE OF THE POSTER BOARDS -- I
16 GUESS IT'S EASIER TO DO IT WITH THE BOARD. THIS IS
17 MARKED PEOPLE'S 40.

18 CAN YOU SEE THAT?

19 A I CAN.

20 Q IN THE PHOTOGRAPH DEPICTED C, WE'VE SEEN
21 THAT ENLARGED AS WELL IN ANOTHER DIAGRAM. HERE WE GO,
22 PEOPLE'S 41.

23 DOES PEOPLE'S 41 APPEAR, JUST FOR THE
24 RECORD, TO BE THE SAME AS PEOPLE'S 40-C?

25 A YES.

26 Q AND THAT'S THE ONE THAT HAS THE CIRCLES ON
27 IT WITH POTENTIALLY BODIES UNDER SHEETS?

28 A YES.

1 Q WERE YOU AWARE OF THIS PHOTOGRAPH WHEN IT
2 WAS BEING TAKEN?

3 A NO.

4 Q DO YOU HAVE A SENSE OF LOOKING AT IT FROM
5 WHAT ROOM OR --

6 A YES.

7 Q -- BALCONY OR SOMEWHERE IN YOUR HOME IT
8 WOULD HAVE BEEN FROM?

9 A YES.

10 Q AND WHERE WOULD THAT HAVE BEEN FROM?

11 A IT WOULD HAVE BEEN FROM OUTSIDE OF THE
12 HOME ON THE -- THERE IS A LITTLE WALKWAY; THE FRONT DOOR
13 IS OVER ON THE LEFT OF THIS PICTURE. THIS IS THE SIDE OF
14 THE HOUSE, HOW ABOUT I SAY IT LIKE THAT, THE SIDE OF THE
15 HOUSE.

16 Q OF YOUR HOUSE?

17 A OF OUR HOUSE WHERE IT MEETS THE TENNIS
18 COURT.

19 Q AND IS THAT SORT OF LIKE A TERRACE? OR IS
20 IT COVERED INSIDE OR IS IT JUST LIKE A PORCH AREA?

21 A IT'S LIKE A PORCH CONCRETE AREA AND THEN
22 THERE IS TREES AND FOLIAGE.

23 Q NOW, YOU SAID THERE WAS A VAN THAT HAD THE
24 DOORS OPEN. IS THAT DEPICTED ANYWHERE IN THIS PHOTO?

25 A WELL, IT'S HARD TO SEE BECAUSE OF THE --
26 NO, IT WAS PROBABLY NOT THERE ANYMORE. IF IT -- BEHIND
27 THOSE TREES THAT I CAN'T SEE DOWN BY THE THOMPSON
28 DRIVEWAY.

1 Q AND I'M PUTTING MY HAND OVER TREES. WOULD
2 IT BE THE ONE IN FAR CORNER? OR THE ONE SORT OF IN THE
3 MIDDLE ON THE RIGHT? OR ANOTHER SET OF TREES? AND YOU
4 CAN, WITH THE COURT'S PERMISSION, STEP OUT AND -- OR USE
5 YOUR POINTER IF YOU WOULD LIKE.

6 AND ARE YOU -- JUST SO WE KNOW FOR THE
7 RECORD WHAT YOU'RE REFERRING TO --

8 A OH, I'M LOOKING AT THE PICTURE, THE SAME
9 PICTURE.

10 Q AND WHAT IS THE --

11 A IT'S NO. 39.

12 Q 39?

13 A YEAH, I DON'T SEE -- THERE IS NO VAN THAT
14 YOU CAN SEE FROM THIS PICTURE ANYWAY.

15 Q DO YOU HAVE AN UNDERSTANDING IN YOUR MIND
16 OF WHERE YOU SAW THE PICTURE? OR DO YOU THINK IT WAS
17 VISIBLE HERE AND IT'S BEEN REMOVED? OR IS IT JUST
18 OBSCURED IN THE PHOTO?

19 MR. JACKSON: I'M SORRY. I THINK COUNSEL MEANT
20 SAW THE VAN.

21 THE COURT: RIGHT.

22 MS. SARIS: WHAT DID I SAY?

23 MR. JACKSON: "PICTURE."

24 MS. SARIS: THANK YOU.

25 Q OKAY. THE VAN. THE WORD I SAY FUNNY THAT
26 PEOPLE LAUGH --

27 A I CAN'T SEE THE VAN IN THIS PICTURE.

28 Q DO YOU HAVE A SENSE IN YOUR MEMORY OF

1 WHERE IT WOULD HAVE BEEN?

2 A WELL, I KNOW AT ONE POINT THAT IT WAS IN
3 THE DRIVEWAY, BUT HERE I DON'T SEE IT.

4 Q OKAY. AND WE'RE TALKING ABOUT THIS
5 DRIVEWAY -- THERE IS ANOTHER PHOTO I WANT TO SHOW YOU IF
6 I MAY QUICKLY, NO. 43, ON THE TOP WHAT HAS BEEN MARKED
7 "A."

8 YOU INDICATED THAT THAT WOULD HAVE BEEN
9 TAKEN SORT OF ALMOST TOWARDS YOUR HOME; IS THAT RIGHT?

10 A THAT'S RIGHT.

11 Q DO YOU SEE TRUDY IN THAT PHOTOGRAPH?

12 A WHICH ONE?

13 Q "A."

14 A "A"? NO.

15 Q IS IT FAIR TO SAY THAT THIS DRIVEWAY DROPS
16 OFF QUITE PRECIPITOUSLY AT ONE POINT?

17 A WELL, THIS ISN'T THE DRIVEWAY WHERE THIS
18 PICTURE WAS TAKEN. THIS IS A WALKWAY.

19 Q THAT'S CORRECT. I'M SORRY.

20 A THIS IS BEHIND THE HOME. THE DRIVEWAY IS
21 OUT THERE AND IS GRADUAL AND THEN COMES DOWN.

22 Q IS THE DRIVEWAY PICTURED AT ALL IN THIS
23 PHOTOGRAPH?

24 A YES, IT IS.

25 Q DO YOU SEE -- AND WHAT I'M ASKING IS CAN
26 YOU SEE THE WHOLE DRIVEWAY IN THIS PICTURE OR NOT?

27 A NO.

28 Q AND IS THAT BECAUSE OF THE SLOPE IN THE

1 DRIVEWAY?

2 A WELL, THE PICTURE IS NARROW. THE DRIVEWAY
3 GOES TO THE RIGHT AND TO THE LEFT.

4 Q SO IT BRANCHES OFF IN BOTH DIRECTIONS?

5 A YES.

6 Q AND MICKEY THOMPSON WAS NOT QUITE AT THE
7 TOP OF THE DRIVEWAY. HE WAS SORT OF OFF TO THE LEFT, IS
8 THAT WHAT YOU SAID?

9 MR. JACKSON: OBJECTION. VAGUE AS TO TIME.

10 THE COURT: SUSTAINED.

11 Q BY MS. SARIS: THE BODY.

12 A I'M SORRY. WHAT IS YOUR QUESTION?

13 Q WHEN YOU SAW MICKEY THOMPSON GET SHOT, WAS
14 THAT OFF TO THE LEFT OF THE DRIVEWAY, NOT DIRECTLY IN
15 FRONT OF THE GARAGE?

16 A IT WAS ACTUALLY TOWARDS THE LEFT SIDE OF
17 THE GARAGE WHERE THE DRIVEWAY COMES UP AND STARTS TO
18 CURVE TO THE LEFT OF IT.

19 Q DOES THAT DRIVEWAY CONTINUE DOWN THIS PATH
20 THAT YOU WERE DESCRIBING WHERE THE RED ARROW WENT THROUGH
21 THE TREES?

22 A THAT'S EXACTLY RIGHT.

23 Q AND THE PLACE WHERE YOU CAME TO THE MOUTH
24 OF THE DRIVEWAY WHERE TRUDY THOMPSON'S BODY WAS, IS THAT
25 A DRIVEWAY SOMEONE CAN ACCESS WITHOUT GOING THROUGH ANY
26 OF THE GATES OF THE GATED COMMUNITY?

27 A THAT IS CORRECT.

28 Q SO DID MICKEY THOMPSON'S HOME START THE

1 GATED COMMUNITY?

2 A WELL, THE TECHNICAL WOULD BE THAT IT ENDED
3 THE GATED COMMUNITY. BOTH OF OUR HOMES WERE THE LAST
4 HOMES IN THE GATED PORTION.

5 Q AND BOTH OF THOSE HOMES COULD BE ACCESSED
6 FROM WOODLYN WITHOUT GOING THROUGH THE GATE?

7 A OURS COULD NOT, NO.

8 Q BUT MICKEY'S COULD?

9 A YES.

10 Q YOUR PARENTS WERE HOME -- BOTH YOUR
11 PARENTS WERE HOME WHEN THIS HAPPENED?

12 A YES.

13 Q AND WHEN YOUR MOTHER CAME AND GOT YOU OUT
14 OF THE SHOWER AND BROUGHT YOU TO THE OTHER ROOM,
15 APPROXIMATELY HOW LONG WOULD YOU SAY YOU LAID DOWN THERE
16 IN THAT ROOM?

17 A A COUPLE OF MINUTES.

18 Q WHERE WAS YOUR MOTHER IN RELATION TO YOU
19 AT THAT TIME?

20 A WELL, I COULDN'T SEE WHERE SHE WENT, BUT I
21 COULD HEAR HER THROUGH THE HOUSE GETTING ON THE PHONE;
22 CALLING 911; SCREAMING.

23 Q SO WHEN SHE LAID YOU DOWN ON THE FLOOR SHE
24 DIDN'T GET ON TOP OF YOU?

25 A NO.

26 Q OKAY. AND WHERE WERE YOU IN THE ROOM
27 PHYSICALLY? WERE YOU IN THE MIDDLE OF THE ROOM? WERE
28 YOU --

1 A I WAS RIGHT NEXT TO THE WINDOWS.

2 Q AND AFTER A COUPLE OF MINUTES, WHAT DID
3 YOU DO? HOW -- DID YOU MOVE TO ANOTHER PLACE?

4 A AFTER A COUPLE OF MINUTES, I THEN MOVED
5 AND WENT OUTSIDE AND WENT DOWN TO THE BOTTOM OF THE
6 DRIVEWAY.

7 Q AT SOME POINT IN WHAT YOU DESCRIBED, DID
8 YOU PUT ANY CLOTHES ON?

9 A I HAD SOME CLOTHES IN THE BATHROOM THAT --
10 MOM GRABBED ME; GRABBED TOWEL; HAD SOME PANTS AND SHIRT;
11 AND IT WAS ALL KIND OF THROWN.

12 Q SO WERE YOU GETTING DRESSED WHEN YOU WERE
13 IN THE -- WAS IT THE DINING ROOM OR --

14 A I WISH I COULD REMEMBER IF I GOT DRESSED
15 OR NOT.

16 Q WOULD YOU REMEMBER WHEN THE POLICE --

17 A I HAD CLOTHING ON.

18 Q OKAY. AND WAS THIS A DINING ROOM OR A
19 LIVING ROOM? I'M SORRY.

20 A THIS WAS A DINING ROOM.

21 Q DID YOU HEAR YOUR FATHER OR SEE YOUR
22 FATHER AT ANY POINT AFTER YOU GOT OUT OF THE SHOWER?

23 A NOT AFTER I GOT OUT OF THE SHOWER. LATER
24 ON, BUT NOT DIRECTLY AFTER THE SHOWER. AFTER I GOT OUT
25 OF THE SHOWER, I WENT TO THE DINING ROOM. NO.

26 Q HOW MUCH LATER ON?

27 A SEVERAL MINUTES.

28 Q AND CAN YOU DESCRIBE THAT?

1 A IT'S REALLY HARD TO DESCRIBE. I WAS
2 REALLY SHAKEN UP WITH POLICE OFFICERS.

3 Q OH, THE POLICE HAD ALREADY ARRIVED?

4 A YEAH.

5 Q DO YOU KNOW IF YOUR FATHER EVER -- DID YOU
6 SEE HIM WHEN YOU WERE DOWN THERE IN THE -- HIDING WITH
7 YOUR MOM BY THE POLICE?

8 A YES. MY FATHER WAS OUTSIDE OF THE HOUSE.

9 Q DO YOU KNOW WHETHER OR NOT HE LEFT THE
10 HOUSE BEFORE YOU DID?

11 A HE DIDN'T.

12 Q ONLY IF YOU KNOW.

13 A NO, HE DID NOT LEAVE THE HOUSE.

14 Q YOU COULD SEE HIM IN THE HOUSE?

15 A I COULD SEE HIM OUTSIDE OF THE HOUSE AND
16 ALL AROUND. I MEAN HE WAS MOVING AROUND.

17 Q LET ME -- I DON'T THINK I'M BEING CLEAR.
18 WHEN YOUR MOTHER COMES TO GET YOU FROM THE SHOWER, DO YOU
19 HAVE ANY SENSE AT THAT POINT WHERE YOUR FATHER IS?

20 A NO.

21 Q WHEN YOU'RE LYING DOWN IN THE DINING ROOM,
22 DO YOU HAVE ANY SENSE OF WHERE YOUR FATHER IS?

23 A ONLY FROM SCREAMS I KNOW HE'S PRESENT
24 INSIDE AND OUTSIDE OF THE HOUSE.

25 Q OF YOUR OWN HOUSE?

26 A OF MY OWN HOUSE.

27 Q AND AT SOME POINT WHEN YOU GO DOWN TO THE
28 STONE WALL, DID YOU DESCRIBE IT AS?

1 A YES.

2 Q AND WAITED FOR THE POLICE, DID YOU KNOW AT
3 THAT POINT WHERE YOUR FATHER WAS?

4 A I COULD ASSUME WHERE HE WAS, BUT I WAS
5 REALLY SCARED AND NOT THINKING OF THAT.

6 Q WHEN YOU --

7 A HE WASN'T WITH US FOR SURE.

8 Q AND YOU RAN DOWN IN YOUR MIND BEFORE YOUR
9 MOTHER?

10 A I DID RUN DOWN.

11 Q DID YOU KNOW WHERE SHE WAS?

12 A NO.

13 Q DID SHE TRY AND STOP YOU FROM GOING
14 TOWARDS THIS AREA WHERE THE GUNSHOTS HAD BEEN?

15 A I DON'T THINK THEY KNEW THAT I HAD GONE
16 DOWN SO QUICKLY TO SEE IF THEY WERE ALL RIGHT.

17 Q SO YOU DON'T RECALL EITHER OF YOUR PARENTS
18 SHOUTING AT YOU TO STAY.

19 A THEY DIDN'T KNOW. THEY DIDN'T KNOW.

20 Q AND AT SOME POINT --

21 A THEY'RE SCREAMING, YOU KNOW.

22 Q I'M SORRY.

23 A IT'S OKAY. THEY'RE SCREAMING. IT'S
24 FRANTIC. THEY'RE SCREAMING. THEY'RE YELLING AT THE
25 GUNMAN. THEY'RE DOING EVERYTHING THEY CAN. THEY'RE
26 CALLING THE POLICE. I MEAN IT WAS NOT QUIET. THERE WAS
27 SCREAMING AND HAVOC. THEY WERE DOING EVERYTHING THAT
28 THEY COULD.

1 Q DID YOU SAY AT SOME POINT YOUR MOTHER MUST
2 HAVE BECOME AWARE THAT YOU HAD LEFT?

3 A YEAH.

4 Q AND HOW DO YOU KNOW THAT?

5 A I KNOW THAT BECAUSE SHE CAME RUNNING AFTER
6 ME FRANTIC.

7 Q AND DID YOU COME DOWN A REAL DRIVEWAY OR
8 DID YOU COME DOWN LIKE A HILLY AREA THAT DIDN'T HAVE ANY
9 WALKWAY?

10 A I CAME DOWN PARTS OF THE DRIVEWAY AND THEN
11 WOULD HOP DOWN THE HILLS TO GET QUICK -- I HAD ALL THESE
12 QUICK SHORTCUTS. IT WAS A GREAT PLACE.

13 Q DO YOU KNOW THE RACE OF THE GUNMEN?

14 A NO.

15 Q DO YOU REMEMBER EVER DESCRIBING THEIR RACE
16 AS WHITE?

17 A NO.

18 Q DO YOU REMEMBER IN TALKING TO DETECTIVE
19 LILLIENFELD IN 1997 INDICATING THAT YOU THOUGHT YOU SAW
20 SKIN ON THE OUTSTRETCHED HAND OF THE GUNMAN WITH MICKEY
21 THOMPSON AS POSSIBLY BEING WHITE?

22 A NO, I DIDN'T SAY THAT ACTUALLY.

23 Q YOU NEVER SAID THAT?

24 A NO.

25 Q SO YOU NEVER SAID THAT YOU THOUGHT THE
26 SKIN WAS WHITE IN COLOR AND THEREFORE THAT THE SUSPECT
27 WAS POSSIBLY CAUCASIAN?

28 A NO.

1 Q AND DO YOU THEN NOT RECALL TELLING HIM
2 THAT YOU THOUGHT THAT PARTICULAR MEMORY MIGHT HAVE BEEN
3 INFLUENCED BY YOUR MOTHER?

4 A NO. I THINK THIS IS INACCURATE. I THINK
5 HIS REPORT IS INACCURATE.

6 Q HAVE YOU -- WELL, SPEAKING OF HIS REPORT,
7 AS FAR AS YOU KNOW, IS THAT THE ONLY REPORT THAT YOU GAVE
8 OFFICIALLY TO ANY SORT OF LAW ENFORCEMENT?

9 A YES.

10 Q IN ALL THE TIMES SINCE THIS HAPPENED UP
11 UNTIL NOW OTHER THAN THE TESTIMONY?

12 A YES. BESIDES MAYBE THESE DIFFERENT SHOWS
13 THAT WILL CALL UP OR -- I DON'T GIVE THEM INFORMATION.

14 Q LET'S TALK ABOUT SOME OF THESE SHOWS. IN
15 MAY OF -- WELL, IN JULY OF '97, THAT'S WHEN THE DETECTIVE
16 CONTACTED YOU?

17 A YES.

18 Q AND HAD YOU EVER HEARD THE NAME CARL
19 BUEHL, B-U-E-H-L?

20 A NO.

21 Q DO YOU KNOW THAT NAME AS YOU SIT HERE NOW?

22 A NO.

23 Q WERE YOU EVER ASKED TO PARTICIPATE IN ANY
24 SHOWS BY DETECTIVE LILLIENFELD?

25 A NO.

26 Q HAVE YOU EVER -- DO YOU KNOW AS YOU SIT
27 HERE NOW WHETHER THIS CRIME HAS EVER BEEN PROFILED ON ANY
28 TELEVISION SHOW?

1 A YES.

2 MR. JACKSON: OBJECTION, RELEVANCE.

3 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

4 Q BY MS. SARIS: DID YOU, IN FACT,
5 PARTICIPATE IN THE FILMING OF ONE OF THESE PROGRAMS?

6 A YES, I DID.

7 Q AND WHAT PROGRAM WAS THAT?

8 A IT WAS FOR CBS.

9 Q WAS THAT 48 HOURS?

10 A NO.

11 Q HAVE YOU EVER SEEN AMERICA'S WANTED
12 EPISODE ABOUT THIS SHOW?

13 A YOU KNOW, I DON'T THINK I EVER DID, NO.

14 Q DO YOU REMEMBER EVER BEING CONTACTED BY
15 THEM?

16 A I DON'T RECALL SPECIFICALLY.

17 Q HOW ABOUT THE SHOW UNSOLVED MYSTERIES?

18 A I DON'T RECALL SPECIFICALLY. BUT I WASN'T
19 IN ANY OF THOSE SHOWS.

20 Q WHEN YOU SAY OTHER THAN THE SHOWS THAT
21 CALLED UP, WERE YOU REFERRING TO SOMETHING OTHER THAN THE
22 CBS? ARE THERE OTHER PROGRAMS THAT HAVE ASKED FOR YOUR
23 INPUT?

24 A NO, I BELIEVE IT'S JUST CBS. AND THEY
25 HAVE CONTACTED ME MORE THAN ONCE.

26 Q AND IN THE SHOW THAT YOU PARTICIPATED IN,
27 DO YOU KNOW FROM YOUR PERSONAL KNOWLEDGE WHETHER LANCE
28 JOHNSON ALSO PARTICIPATED IN THAT?

1 A YES, HE DID.

2 Q AND DID ANY OTHER MEMBER OF YOUR FAMILY?

3 A YES. MY PARENTS. IT WAS AT THE REQUEST
4 OF THE THOMPSONS THAT WE PARTICIPATE IN THOSE THINGS.

5 Q IS THAT BECAUSE THERE WAS -- WELL, DO YOU
6 KNOW WHETHER OR NOT AT THE END OF THE SHOW THEY ANNOUNCED
7 A REWARD FOR INFORMATION?

8 A I DON'T KNOW FOR SURE.

9 Q YOU INDICATED TO SEVERAL ANSWERS TO THE
10 QUESTIONS THE DISTRICT ATTORNEY ASKED THAT MICKEY
11 APPEARED AGITATED.

12 COULD YOU ACTUALLY SEE FROM YOUR VANTAGE
13 POINT HIS FACIAL EXPRESSION?

14 A I COULD SEE HIS BODY MOVEMENT AND I COULD
15 CERTAINLY SEE HIS FACE. BUT IT'S THE TOTAL PICTURE WHERE
16 YOU KNOW SOMEBODY IS IN PAIN. YOU KNOW THEY'RE GRASPING
17 AT THEIR BODY, WHICH LEADS YOU TO BELIEVE DIFFERENT
18 THINGS.

19 Q I'M SORRY. I KEEP THINKING YOUR FINISHED.
20 I DON'T MEAN TO INTERRUPT YOU.

21 A THAT'S OKAY.

22 Q WAS IT YOUR UNDERSTANDING THAT BY THE TIME
23 THAT YOU WERE MAKING YOUR OBSERVATIONS THAT MR. THOMPSON
24 HAD ALREADY BEEN SHOT?

25 A YES.

26 Q DO YOU RECALL AS YOU SIT HERE NOW WHETHER
27 THE GARAGE DOOR WAS OPEN OR CLOSED WHEN YOU WERE MAKING
28 YOUR OBSERVATIONS?

1 A I DON'T RECALL.

2 Q AND WHEN I SAY THE "GARAGE DOOR," DO YOU
3 UNDERSTAND THAT I'M REFERRING TO THE THOMPSONS' GARAGE
4 DOOR?

5 A YES.

6 Q HAVE YOU EVER, OTHER THAN IN COURT, BEEN
7 SHOWN ANY CRIME SCENE OR LIKE A VIDEOTAPE THAT APPEARED
8 TO DEPICT THE CRIME SCENE?

9 A NO.

10 Q AND I MEAN THIS BY LAW ENFORCEMENT. LET
11 ME SPECIFY, BY THE SHERIFF'S DEPARTMENT.

12 A NO, CERTAINLY NOT.

13 Q BY THE DISTRICT ATTORNEY'S OFFICE?

14 A NO.

15 Q OTHER THAN THE DIAGRAMS AND THE PICTURE
16 THAT WE'VE SHOWN IN COURT TODAY AND WHEN YOU'VE
17 TESTIFIED, HAVE YOU EVER BEEN SHOWN ANY CRIME SCENE
18 PHOTOS?

19 A NO.

20 Q HAVE YOU EVER BEEN ASKED TO ACCOMPANY
21 SHERIFF PERSONNEL TO THE SCENE TO TAKE ANY SORT OF
22 MEASUREMENTS?

23 A NO.

24 Q HAVE YOU EVER BEEN GIVEN ANY PHOTOGRAPHY
25 EQUIPMENT AND ASKED TO TAKE A PICTURE FROM THE VANTAGE
26 POINT THAT YOU STOOD AT THE TIME?

27 A NO, I DON'T THINK SO.

28 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

1 (PAUSE IN PROCEEDINGS.)

2 Q BY MS. SARIS: DO YOU HAVE ANY
3 RECOLLECTION ABOUT WHETHER OR NOT YOU SAW ANY BLOOD ON
4 MICKEY THOMPSON WHEN YOU SAW HIM AT THE TOP OF THE
5 DRIVEWAY?

6 A I WOULD NOT WANT TO MAKE THAT -- I
7 WOULDN'T HAVE ENOUGH INFORMATION TO MAKE THAT ANSWER.
8 IT'S BEEN SO LONG.

9 Q DID YOU EVER SEE TRUDY INSIDE THE VAN AT
10 ANY TIME?

11 A NO.

12 Q DID YOU EVER SEE THE VAN CRASH AT ANY
13 TIME?

14 A NO.

15 Q DID YOU EVER SEE ONE GUNMAN AT THE BASE OF
16 THE DRIVEWAY AND ONE GUNMAN WALKING DOWN TOWARDS HIM?

17 A TOWARDS HIM OR TOWARD --

18 Q ONE GUNMAN AT THE BASE OF THE DRIVEWAY --

19 A YES.

20 Q -- AND THE OTHER GUNMAN WALKING DOWN
21 TOWARDS THAT GUNMAN, DID YOU EVER SEE THAT?

22 A NO.

23 Q DID YOU EVER SEE TRUDY THOMPSON TURN OUT
24 OF THE DRIVEWAY AND RUN TOWARDS MT. OLIVE?

25 A NO, SHE FELL.

26 Q DO YOU KNOW IF -- WELL, DID YOU SEE HER
27 WHEN SHE FELL SPECIFICALLY OR DID YOU JUST SEE HER ON THE
28 GROUND?

1 A I SAW HER ON THE GROUND.

2 Q SO YOU DON'T KNOW IF SHE HAD TURNED
3 TOWARDS MT. OLIVE AND HAD COME BACK OR IF SHE HAD JUST
4 FALLEN --

5 A SHE WAS RUNNING. I CERTAINLY KNOW SHE WAS
6 RUNNING DOWN THE DRIVEWAY TOWARDS MT. OLIVE. THAT IS
7 MT. OLIVE RIGHT THERE AT THE BASE OF THAT DRIVEWAY,
8 WOODLYN LANE AND MT. OLIVE.

9 Q WOODLYN LANE AND MT. OLIVE YES. BUT WHEN
10 SHE'S AT THE BASE OF THE DRIVEWAY -- LET ME SEE IF I CAN
11 GET IT FROM A --

12 A MT. OLIVE IS A WAYS AWAY THERE.

13 Q MT. OLIVE IS A WAYS AWAY, YOU SAID? IT'S
14 SORT OF AT THE END OF THE OTHER -- THE THOMPSON DRIVEWAY
15 IS AT THE END OF A CULDESAC?

16 A SURE. THEY HAVE THEIR OWN LITTLE
17 COMPOUND.

18 Q THE THOMPSONS HAD SEVERAL DRIVEWAYS INTO
19 THEIR PROPERTY; IS THAT CORRECT?

20 A YES.

21 Q LET'S LOOK AT PEOPLE'S 40-D. THERE
22 APPEARS TO BE A CIRCLE --

23 JUROR NO. 1: I CAN'T SEE.

24 MS. SARIS: I'M SO SORRY. THANK YOU FOR LETTING
25 ME KNOW.

26 Q THERE APPEARS TO BE A CIRCLE AT THE BOTTOM
27 OF THAT?

28 A YES.

1 Q AND THERE IS A CURB LINE DEPICTED IN THE
2 PHOTOGRAPH.

3 AND, YOUR HONOR, IT'S ALMOST CUTTING THAT
4 PHOTOGRAPH IN HALF IN AN EAST/WEST DIRECTION.

5 DO YOU SEE THAT?

6 A I DO.

7 Q AND IS THAT STREET WOODLYN OR IS THAT
8 MT. OLIVE?

9 A DID IT CHANGE NAMES AFTER THE GATE? I
10 THINK IT'S STILL WOODLYN. WOODLYN LANE IS PART OF THE
11 GATED COMMUNITY. AND I DON'T KNOW IF TECHNICALLY THE
12 NAME CHANGED OUTSIDE OF THE GATE. I THINK IT'S STILL
13 WOODLYN. AND IT DOESN'T CHANGE TO MT. OLIVE UNTIL THE
14 ACTUAL PHYSICAL STREET, WHICH IS UP QUITE A HILL.

15 Q AND SO DID YOU EVER SEE TRUDY THOMPSON
16 COME TOWARDS THE FIRST PERSON THAT'S DEPICTED IN THAT
17 DIAGRAM COME TOWARDS THAT DIRECTION AS IF SHE WAS RUNNING
18 TO THE NORTH/SOUTH STREET?

19 A NO.

20 Q HOW OFTEN WOULD YOU SAY -- WELL, LET ME
21 ASK YOU IF AT ALL. DID YOU EVER TALK TO YOUR PARENTS
22 ABOUT WHAT THEY SAW AS WELL?

23 A WHEN I WAS YOUNG WE TALKED ABOUT IT.

24 Q WOULD YOU SAY ONCE OR TWICE OR QUITE A
25 BIT?

26 A IT'S NOT A FUN TOPIC TO TALK ABOUT, SO NOT
27 A TON. AND THAT -- SO A LITTLE BIT. IT WAS DIFFICULT TO
28 TALK ABOUT.

1 Q I UNDERSTAND THAT. DID YOUR PSYCHOLOGIST
2 RECOMMEND THAT YOU TALK TO THEM ABOUT IT?

3 A THAT'S WHY I WENT TO SEE HIM BECAUSE I
4 WASN'T TALKING TO THEM ABOUT IT.

5 Q WHAT WAS HIS NAME, IF YOU RECALL?

6 A DR. LAAMLE.

7 Q LIKE THE THEATER?

8 A L-A -- NO, IT'S A LITTLE DIFFERENT.
9 LAAMLE WAS LIKE L-A-A-M-L-E.

10 Q AND HAVE YOU EVER TRIED TO CONTACT HIM
11 SINCE ANY TIME YOU'VE BEEN CALLED TO TESTIFY?

12 A NO.

13 Q HAVE YOU EVER BEEN ASKED TO?

14 A NOT THAT I RECALL. I THINK I MIGHT HAVE
15 CALLED THE SCHOOL ONCE TO SEE WHAT HAD HAPPENED TO HIM.

16 Q HOW LONG AGO WOULD THAT HAVE BEEN?

17 A SEVERAL YEARS.

18 Q AND JUST SO -- WHEN YOU INDICATE AT THE
19 END WHEN YOU SAID YOU SAW MICKEY THOMPSON SHOT, HOW MANY
20 TIMES DID YOU SEE HIM SHOT?

21 A IT'S REALLY HARD TO SAY.

22 Q WAS IT A SITUATION WHERE HE WAS LYING ON
23 THE GROUND AND SHOT IN THE HEAD OR WAS HE STANDING AND
24 SHOT?

25 A HE WAS STANDING.

26 Q AND AT THE TIME THAT YOU ARE OBSERVING
27 THIS, ARE YOU STANDING AT YOUR WINDOW? ARE YOU LYING
28 DOWN ON YOUR WINDOW? HOW ARE YOU PHYSICALLY?

1 A I'M LYING DOWN. AND I HAD CRAWLED CLOSER
2 AND CLOSER TO THE WINDOW TO SEE WHAT WAS HAPPENING.

3 Q WAS THE SUN UP YET? DO YOU KNOW?

4 A YEAH.

5 Q YES, IT WAS UP?

6 A IT WAS UP.

7 Q IN 1997 YOU SAID YOU WERE 23 YEARS OLD?

8 A YES.

9 Q AND YOU WERE 21 --

10 A MAYBE -- WAS I OLDER IN -- LET'S SEE --
11 YEAH, I'M RIGHT. THAT'S IT.

12 Q YOU ARE ALLOWED. I'VE MESSED UP MATH
13 TODAY ONCE. YOU WERE 23?

14 A YES.

15 Q WHY DON'T WE JUST START WITH THIS, WHEN
16 WERE YOU BORN?

17 A I WAS BORN IN '73.

18 Q OKAY. AND WHEN YOU WERE LOOKING AT THIS
19 COMPOSITION BOOK THAT YOU SPOKE ABOUT IS WHEN YOU WERE IN
20 GRADUATE SCHOOL?

21 A YES.

22 Q AND YOU WERE 21 AT THAT POINT?

23 A YES.

24 MS. SARIS: ONE MORE MOMENT, PLEASE.

25 (PAUSE IN PROCEEDINGS.)

26 THE WITNESS: THAT'S WHAT I ENTERED GRADUATE
27 SCHOOL AT 21.

28 Q BY MS. SARIS: AND THE -- WHEN YOU WENT ON

1 THIS PROGRAM FOR CBS NEWS, DID THEY HAVE -- WAS THERE ANY
2 LAW ENFORCEMENT PERSONNEL THERE AS FAR AS YOU KNOW?

3 A FOR THE INTERVIEW?

4 Q YES.

5 A NOT THAT I RECALL. NO, THERE WAS NOT.

6 Q DO YOU REMEMBER WHAT YEAR THIS WAS?

7 A NO.

8 Q COULD IT HAVE BEEN 2001?

9 A WELL, IF YOU'RE TELLING ME THAT -- I DON'T
10 KNOW.

11 Q I'M ASKING DO YOU THINK IT WAS THAT
12 RECENT? OR DO YOU THINK IT WAS ALL THE WAY BACK IN 1997?

13 A NO. LET'S SEE. YES, IT'S DEFINITELY NOT
14 1997. LATER THAN THAT.

15 Q WERE YOU LIVING IN CALIFORNIA STILL?

16 A NO.

17 Q DID YOU FLY HERE SPECIFICALLY FOR THAT
18 INTERVIEW?

19 A I THINK SO.

20 Q DO YOU REMEMBER AT THAT TIME WHETHER ANY
21 LAW ENFORCEMENT PERSONNEL -- WELL, LET ME ASK IT THIS WAY
22 FIRST: DID THEY TAKE YOU TO THE THOMPSON HOME?

23 A I DON'T RECALL EVER BEING INVOLVED WITH
24 LAW ENFORCEMENT PERSONNEL.

25 Q DID THE INTERVIEW PEOPLE ASK YOU TO BE AT
26 THE THOMPSON HOME AND SHOW THEM THAT WALL THAT YOU WERE
27 HIDING BEHIND?

28 A YES.

1 Q DID THEY ASK YOU TO POINT TO SPECIFIC
2 THINGS THAT YOU HAD SEEN ON THE PROPERTY?

3 A YES.

4 Q SO THE ONLY TIME THAT YOU'VE BEEN BACK TO
5 THE PROPERTY TO POINT OUT THINGS OF RELEVANCE ARE WITH
6 TELEVISION PRODUCERS NOT LAW ENFORCEMENT, IS THAT FAIR TO
7 SAY?

8 A YES. BUT I'VE BEEN BACK THERE SEVERAL
9 TIMES ON MY OWN. I LIVED THERE, YOU KNOW.

10 Q ON YOUR OWN. OKAY. BUT I'M SAYING IN
11 TERMS OF LAW ENFORCEMENT HAS NEVER GONE OUT THERE WITH
12 YOU AND HAD YOU DO THAT, IS THAT FAIR, SINCE THERE
13 OCCURRED?

14 A THAT -- I BELIEVE SO.

15 Q THANK YOU.

16 I HAVE NOTHING FURTHER.

17 THE COURT: REDIRECT?

18 MR. JACKSON: THANK YOU, YOUR HONOR. YOUR HONOR,
19 DO YOU MIND IF I TRY TO CUT THESE LIGHTS ON THIS SIDE?

20

21 REDIRECT EXAMINATION

22 BY MR. JACKSON:

23 Q MISS TRIARSI --

24 FIRST OF ALL, YOUR HONOR, WITH THE COURT'S
25 PERMISSION, I WOULD LIKE TO MARK THIS EXHIBIT. IT BEARS
26 SIX PHOTOGRAPHS A THROUGH F AS PEOPLE'S 45. IT'S
27 ENTITLED "MICKEY AND TRUDY THOMPSON'S DRIVEWAY."

28 THE COURT: THAT WILL BE MARKED AS 45.

1
2 (MARKED FOR IDENTIFICATION PEOPLE'S
3 EXHIBIT NO. 45, PHOTOS.)
4

5 Q BY MR. JACKSON: MISS TRIARSI, I WOULD
6 LIKE TO DRAW YOUR ATTENTION TO PHOTOGRAPH A OF PEOPLE'S
7 45 AND ASK YOU A COUPLE OF QUESTIONS.

8 DO YOU RECOGNIZE WHAT IS DEPICTED IN THAT
9 PHOTOGRAPH?

10 A YES. THAT'S TRUDY THOMPSON AT THE BOTTOM
11 OF THE DRIVEWAY AND THAT'S THE THOMPSON HOME.

12 Q MISS TRIARSI, DO YOU STILL HAVE THE
13 POINTER WITH YOU?

14 A YES, I DO.

15 Q YOU'VE DESCRIBED IN SOME DETAIL FOR THESE
16 JURORS WHERE YOU SAW MICKEY THOMPSON AS HE WAS BEING HELD
17 IN ABEYANCE OR HELD BY THE GUNMAN THAT WAS CLOSEST TO
18 HIM.

19 IS THAT DEPICTED ANYWHERE IN THIS
20 PHOTOGRAPH?

21 A YES. YOU COULD SEE HIS VANTAGE POINT --
22 CAN YOU GUYS SEE THAT ALL THE WAY OVER THERE?

23 Q YOU KNOW WHAT, IT'S A LITTLE BIT WEAK, BUT
24 IF YOU HOLD IT -- LET'S TRY THIS ONE. THERE IS THE
25 BUTTON RIGHT THERE.

26 A IN THAT AREA IS WHERE MICKEY WAS BEING
27 HELD (INDICATING).

28 Q OKAY. IT'S A LITTLE SHAKY. AND I KNOW

1 IT'S NORMAL TO BE THAT FAR FROM IT.

2 A YES, IT DOESN'T -- I'M HOLDING IT STILL,
3 BUT IT WON'T --

4 Q YOU'RE INDICATING ON PHOTOGRAPH A -- WELL,
5 LET'S DO IT THIS WAY. HOW ABOUT RIGHT THERE
6 (INDICATING), CAN YOU SEE THAT?

7 A YES, I CAN.

8 Q I'M NOT GOING TO MAKE ANY HAND SHADOWS.
9 IS THAT ACCURATE --

10 A YES.

11 Q -- WHERE MY FINGER WAS JUST POINTING?

12 A YES.

13 MR. JACKSON: MAY THE RECORD REFLECT, YOUR HONOR,
14 THIS IS PHOTOGRAPH A, IT'S ENLARGED. IT'S ON THE
15 OVERHEAD PROJECTOR. THERE IS AN AREA TOWARD THE
16 CENTER -- ABOVE CENTER, PROBABLY HALFWAY UP TOWARD THE
17 TOP OF THE PICTURE. THERE IS A PROMINENT GARAGE DOOR
18 THAT'S BROWN TOWARD THE EDGE OF THE HOUSE, THE LEFT EDGE
19 OF THE HOUSE. AND THEN THERE IS TREES FURTHER AWAY FROM
20 THAT DOOR. AND THERE IS A GAP BETWEEN THE TREES AND THE
21 GARAGE DOOR.

22 MAY THE RECORD REFLECT THAT THE WITNESS
23 WAS INDICATING THE AREA OF THE DRIVEWAY IN THAT GAP
24 BETWEEN THE FOLIAGE AND THE GARAGE DOOR TOWARD THE LEFT.

25 THE COURT: YES.

26 MR. JACKSON: IS THAT SUFFICIENT?

27 THE COURT: YES. THAT IS 45-A.

28 MR. JACKSON: OKAY.

1 Q MISS TRIARSI, FROM THAT VANTAGE POINT,
2 HAVE YOU EVER STOOD AT THAT VANTAGE POINT WHERE YOU
3 INDICATED THAT MICKEY THOMPSON WAS BEING HELD BY THE
4 GUNMAN?

5 A YES. I'M VERY FAMILIAR WITH THIS WHOLE
6 AREA, OBVIOUSLY.

7 Q WHAT WOULD BE THE VIEW BE OF A PERSON
8 STANDING THERE AS PERTAINS TO THE BOTTOM OF THE DRIVEWAY
9 WHERE TRUDY THOMPSON IS LAYING?

10 A ARE YOU ASKING ME WHAT MICKEY'S VIEW WOULD
11 HAVE BEEN?

12 Q CORRECT.

13 A MICKEY'S VIEW WOULD HAVE BEEN TO SEE DOWN
14 AND BE ABLE TO SEE TRUDY. IT'S UNOBSTRUCTED. IT'S ALL A
15 PART OF THE DRIVEWAY.

16 Q IS THAT THE EXACT SAME POSITION AS MICKEY
17 THOMPSON ULTIMATELY LAY DEAD IN PHOTOGRAPH A OF PEOPLE'S
18 43?

19 A HE AT THE TIME, BEFORE HE WAS KILLED, HE
20 WAS ACTUALLY A COUPLE FEET CLOSER TO HER.

21 Q OKAY. THAT'S MY QUESTION. WHEN YOU'VE
22 INDICATED -- AND NONE OF US HAVE BEEN THERE, SO I
23 APOLOGIZE FOR BEING A LITTLE OBTUSE. WHAT YOU'VE JUST
24 INDICATED ON PEOPLE'S 45-A IS A DIFFERENT SPOT THAN WHERE
25 MICKEY THOMPSON ULTIMATELY LAY DEAD IN 43-A; IS THAT
26 CORRECT?

27 A THAT IS CORRECT.

28 Q THANK YOU, MISS TRIARSI.

1 THAT'S ALL I HAVE.

2 MS. SARIS: JUST A COUPLE, YES.

3

4 RE CROSS-EXAMINATION

5 BY MS. SARIS:

6 Q JUST SO WE'RE CLEAR AND WE'RE NOT MISSING
7 ANYTHING. DO YOU SEE MICKEY THOMPSON'S BODY IN THAT
8 PHOTOGRAPH 45-A?

9 A NO, I DO NOT.

10 Q AND IN THE DIAGRAM THAT THE DISTRICT
11 ATTORNEY JUST SHOWED US, 43, WHERE MICKEY THOMPSON LAY IN
12 43-A, WOULD THAT -- IF YOU WERE LYING IN THAT POSITION,
13 WOULD YOU HAVE A VIEW OF THE BOTTOM OF THE DRIVEWAY? DO
14 YOU UNDERSTAND THE QUESTION?

15 A WELL, HE WASN'T AT ANY POINT LAYING DOWN
16 UNTIL HE WAS KILLED.

17 Q WELL, I'M ASKING YOU JUST HYPOTHETICALLY.
18 YOU SAID YOU WERE VERY FAMILIAR WITH THE AREA?

19 A UH-HUH.

20 Q IS THAT A YES?

21 A YES.

22 Q SO IF YOU WERE LYING IN THE POSITION OF
23 THE BODY THAT'S IN PHOTOGRAPH A, WOULD YOU BE ABLE TO SEE
24 THE BODY THAT'S DEPICTED IN -- I'M SORRY, 43-A -- WOULD
25 YOU BE ABLE TO SEE THE BODY THAT'S DEPICTED IN 45 THAT'S
26 UP ON THE OVERHEAD?

27 A IT'S HARD TO TELL.

28 Q AND NOW THAT 45 IS UP ON THE OVERHEAD, DO

1 YOU SEE A TELEPHONE POLE IN THAT PICTURE?

2 A IN A I DO.

3 Q YES. AND THAT'S WHAT I WAS TRYING TO ASK
4 YOU ABOUT BEFORE THAT THE OTHER PICTURE DID NOT --

5 DO YOU HAVE A POINTER THAT'S A STRONGER
6 ONE. THANK YOU.

7 DID YOU EVER SEE TRUDY RUN TOWARDS THAT
8 TELEPHONE POLE?

9 A NO.

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

11 MR. JACKSON: NO FURTHER QUESTIONS, YOUR HONOR.
12 THANK YOU.

13 THE COURT: ALL RIGHT. THANK YOU. ANY OBJECTION
14 TO EXCUSING THE WITNESS?

15 MR. JACKSON: NO, YOUR HONOR.

16 MR. DIXON: NO OBJECTION, YOUR HONOR.

17 MS. SARIS: NO.

18 THE COURT: ALL RIGHT. YOU ARE EXCUSED. THANK
19 YOU.

20 THE WITNESS: THANK YOU.

21 THE COURT: I GUESS WE WILL CALL IT A DAY.

22 MR. DIXON: IF YOU WOULD LIKE. IF WE'RE GOING TO
23 CALL IT A DATE, COULD WE MEET AT SIDEBAR FOR SCHEDULING?

24 THE COURT: YES.

25

26 (PROCEEDINGS WERE HELD AT SIDEBAR AS FOLLOWS:)

27 THE COURT: I WANT TO PUT SOMETHING ON THE RECORD
28 BEFORE YOU TALK SCHEDULING. WHEN MISS WILKINSON

1 TESTIFIED -- I DON'T REMEMBER HER MARRIED NAME, LUCIA,
2 SOMETHING LIKE THAT -- I DID NOT ADMONISH THE JURY. AND
3 THAT WAS REQUESTED OF ME EARLIER.

4 DOES COUNSEL WISH ME TO ADMONISH THEM NOW
5 OR WOULD YOU JUST SIMPLY LIKE TO INCLUDE THE ADMONITION
6 IN A JURY INSTRUCTION?

7 MS. SARIS: WHAT WAS THE PROPOSED ADMONISHMENT,
8 THAT ANY STATEMENTS BY MISS WILKINSON --

9 THE COURT: IT WAS A LIMITING INSTRUCTION TO
10 SHOW -- OR TO INDICATE TO THE JURORS THAT THE STATEMENT
11 WAS ADMITTED TO SHOW THE LEVEL OF HOSTILITY THAT WAS
12 GENERATED BY THE LITIGATION. I DON'T KNOW IF YOU WANT ME
13 TO POINT THAT OUT AT THIS POINT OR NOT.

14 MS. SARIS: WHY -- WOULD THE COURT SAY IT WAS
15 ADMITTED TO SHOW THE LEVEL OF HOSTILITY AS OPPOSED TO
16 JUST --

17 MR. DIXON: THAT WAS THE RULING.

18 THE COURT: THAT WAS MY RULING. AND YOU ASKED --

19 MS. SARIS: THAT WAS YOUR RULING ABOUT WHY IT WAS
20 RELEVANT. WHY WOULD YOU TELL THE JURY THAT'S WHAT THEY
21 WERE TO ACCEPT IT FOR, SO MUCH AS JUST TO SAY IT'S NOT
22 OFFERED FOR THE TRUTH OF THE MATTER AND END IT AT THAT.

23 THE COURT: I CAN DO THAT. IT JUST WASN'T
24 OFFERED FOR THE TRUTH OF THE MATTER. I DIDN'T --

25 MR. DIXON: NO, BECAUSE THAT'S TELLING THEM TO
26 TOTALLY DIS --

27 MR. JACKSON: CORRECT. I'M SORRY TO INTERRUPT
28 YOU.

1 IF IT WAS BEING OFFERED BASED ON A COURT'S
2 LEGAL RULING FOR A PARTICULAR PURPOSE, THEN COUNSEL WANTS
3 THE JURORS LIMITED TO THAT PURPOSE. THEY SHOULD BE
4 INSTRUCTED AS TO WHAT THAT PURPOSE IS, NOT JUST TO IGNORE
5 IT ALTOGETHER.

6 THE COURT: RIGHT. WELL, I THINK THAT'S WHAT I
7 WAS --

8 MR. SUMMERS: IT'S NOT TO IGNORE IT.

9 MS. SARIS: NO. CALJIC IS INSTRUCTIVE. THERE IS
10 A LIMITING INSTRUCTION. AND YOU DON'T TELL THEM THE
11 PURPOSE, YOU JUST SAY IT'S LIMITED.

12 THE COURT: NO. WHEN WE FIRST DISCUSSED THIS
13 ISSUE, I WROTE DOWN AN ADMONITION AND I PUT IT ON THE
14 RECORD WHAT I WAS GOING TO SAY. AND THAT'S WHAT I WAS
15 GOING TO SAY INITIALLY. WE DIDN'T HAVE ANY FURTHER
16 DISCUSSION ON IT.

17 MS. SARIS: I THOUGHT THAT WAS YOUR RULING ABOUT
18 WHY IT WAS RELEVANT. I DIDN'T REALIZE THAT WAS YOUR
19 ADMONITION. WE DID NOT REQUEST THAT ADMONITION.

20 MR. DIXON: YES, YOU DID REQUEST THE ADMONITION.
21 YOU REQUESTED --

22 MS. SARIS: NO, WE -- WE WERE REQUESTING A
23 LIMITING INSTRUCTION TO SAY IT'S NOT OFFERED FOR THE
24 TRUTH.

25 THE COURT: NO, YOU --

26 MS. SARIS: WE DON'T WANT YOU TO TELL THEM HOW TO
27 USE AND WHAT TO --

28 THE COURT: I'M GLAD I FORGOT TO DO IT AND THAT'S

1 MY POINT. YOU HAD REQUESTED THAT I ADMONISH THE JURY.
2 AND I INDICATED TO YOU WHAT MY ADMONITION WOULD BE. WE
3 HAD NO FURTHER DISCUSSION ON IT.

4 MS. SARIS: WELL, I APOLOGIZE FOR NOT
5 UNDERSTANDING. I THOUGHT YOU WERE INDICATING THAT THE
6 REASON FOR YOUR RULING IT RELEVANT. I THOUGHT THE
7 ADMONITION WAS SIMPLY GOING TO BE IT'S NOT OFFERED FOR
8 THE TRUTH OF THE STATEMENT.

9 THE COURT: NO. THAT'S NOT WHAT I SAID, BUT I'M
10 HAPPY TO --

11 MS. SARIS: THAT'S THE ONLY ADMONITION WE HAVE.

12 THE COURT: -- CONSIDER FURTHER ARGUMENT ON IT
13 NOW.

14 MR. DIXON: WELL, IF YOU'RE GOING TO ADMONISH THE
15 JURY ON THAT STATEMENT -- WHICH KIND OF CAME AND WENT,
16 AND I DIDN'T REPEAT IT AS MUCH AS I WANTED TO, I DIDN'T
17 REPEAT IT A NUMBER OF TIMES -- I THINK WE SHOULD EITHER
18 NOT DO IT OR IF YOU'RE GOING TO DO IT, YOU SHOULD TELL
19 THEM WHY IT'S ADMITTED.

20 THE COURT: YES.

21 MR. DIXON: OTHERWISE IT LOOKS LIKE YOU'RE
22 TELLING THEM TO IGNORE IT.

23 THE COURT: EXACTLY. SO I'M PREPARED TO DO
24 EITHER ONE.

25 MS. SARIS: OUR REQUEST IS THAT THE ADMONITION BE
26 THAT IT'S OFFERED NOT FOR THE TRUTH OF THE STATEMENT, BUT
27 FOR THE STATE OF MIND OF THE DECLARANT. PERIOD. AND IF
28 THAT'S NOT THE ADMONITION, THEN WE ARE NOT REQUESTING

1 ONE.

2 THE COURT: OKAY. THAT WASN'T GOING TO BE MY
3 ADMONITION.

4 MR. SUMMERS: THE TRUTH OF THE MATTER ASSERTED
5 AND THE STATEMENT -- I THINK THEY GET UPSET WHEN THEY
6 THINK THE JURY HAS BEEN INSTRUCTED THAT THE STATEMENT DID
7 NOT HAPPEN; THAT BASICALLY IT'S THE MATTER ASSERTED IN
8 THE STATEMENT THAT WAS NOT OFFERED FOR THE TRUTH.

9 MS. SARIS: RIGHT.

10 THE COURT: EXACTLY.

11 MR. SUMMERS: THE COURT --

12 THE COURT: BUT I WASN'T OFFERING IT -- I MEAN I
13 WASN'T GOING TO ADMONISH THAT THE PEOPLE WERE OFFERING IT
14 SOLELY ON THE ISSUE OF THE STATE OF MIND, BECAUSE THAT
15 WOULD HAVE BEEN FOR THE TRUTH.

16 WHAT I HAD RULED, I BELIEVE, IS THAT IT
17 WAS CIRCUMSTANTIAL EVIDENCE CORROBORATING THE LEVEL OF
18 ANIMOSITY THAT EXISTED BETWEEN THE PARTIES IN THIS
19 LITIGATION. AND THAT THE VICTIM WAS AWARE OF THAT AND
20 FELT THAT AS MUCH AS THOSE ON THE OTHER SIDE DID THAT IF
21 THOSE WHO OVERHEARD --

22 MS. SARIS: AND WE'RE NOT REQUESTING THE
23 ADMONITION. AND WE WOULD JUST ASK THAT COUNSEL BE VERY
24 CAREFUL IN THEIR ARGUMENT SO AS NOT TO LEAD TO A MISTRIAL
25 IN CLOSING.

26 THE COURT: ALL RIGHT. I'M NOT GOING TO SAY
27 ANYTHING THEN. AND I STAND READY, WILLING AND ABLE TO DO
28 SO WHEN REQUESTED. OKAY. LET'S GO OFF THE RECORD AND

1 TALK SCHEDULING.

2 (SIDEBAR PROCEEDINGS WERE CONCLUDED.)

3
4 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
5 ARE GOING TO RECESS FOR THE DAY. AND AS YOU KNOW, WE HAD
6 SCHEDULED TO BE DARK UNTIL THE 27TH OF NOVEMBER, WHICH IS
7 NEXT MONDAY OR A WEEK FROM MONDAY. SO THAT MEANS WE ARE
8 NOT IN SESSION ON THIS CASE TOMORROW, THE 17TH OF
9 NOVEMBER. AND WE WILL NOT BE IN SESSION AT ALL NEXT
10 WEEK.

11 NOW WHEN I HAVE YOU RETURN ON MONDAY THE
12 27TH, I'M GOING TO ASK YOU TO COME BACK AT 1:45 BECAUSE I
13 DON'T WANT TO KEEP YOU WAITING. SO I'M TRYING TO
14 SCHEDULE YOU SO AS TO MINIMIZE ANY WAITING ON YOUR PART.
15 I'M TOLD BY THE LAWYERS IF YOU GET HERE AT 1:45, WE CAN
16 START RIGHT AT 1:45 AND WE WILL HAVE A FULL AFTERNOON ON
17 MONDAY THE 27TH.

18 IT'S ALSO IMPORTANT THAT YOU REMEMBER ALL
19 THE ADMONITIONS. YOU ARE NOT TO DISCUSS THIS CASE. YOU
20 ARE NOT TO FORM OR EXPRESS ANY OPINIONS ON THE CASE.
21 YOU ARE NOT TO CONDUCT ANY DELIBERATIONS. STAY AWAY FROM
22 ALL OF THE LOCATIONS THAT HAVE BEEN MENTIONED BY THE
23 TESTIMONY. YOU ARE TO HAVE NO CONTACT WITH ANYONE
24 CONNECTED WITH THIS CASE. AND DO NOT READ OR LISTEN TO
25 ANY REPORTS IN THE MEDIA ABOUT THIS CASE.

26 SO WITH ALL OF THAT, IF NO ONE HAS ANY
27 QUESTIONS ABOUT THE SCHEDULE, WE WILL RESUME MONDAY THE
28 27TH AT 1:45. HAVE A GOOD THANKSGIVING. SEE YOU THEN.

1 THANK YOU.

2
3 (THE FOLLOWING PROCEEDINGS WERE
4 HELD IN OPEN COURT OUTSIDE THE
5 PRESENCE OF THE JURY.)

6
7 THE COURT: ALL THE JURORS AND ALTERNATES HAVE
8 LEFT THE COURTROOM. I THINK WE HAVE A FEW THINGS TO
9 DISCUSS BEFORE WE RECESS. I'M TOLD THAT THERE WAS AN
10 ISSUE AS TO THE TESTIMONY OF DR. JOHNSON. AND WE HAVE
11 DISCUSSED PERHAPS DOING THAT MONDAY AFTERNOON AT 1:30.
12 IS THAT IT?

13 MR. DIXON: WELL, THAT WAS MY THOUGHT. ALTHOUGH
14 IF YOU WOULD LIKE TO TALK ABOUT IT IN A PRELIMINARY
15 FASHION NOW.

16 THE COURT: SURE.

17 MR. DIXON: THAT'S FINE. HE ACTUALLY MAY STILL
18 BE HERE. I'M NOT SURE WHETHER HE'S BEEN RELEASED OR NOT.
19 I SHOULD SAY AT THE OUTSET OF OUR DISCUSSION ON THIS
20 ISSUE, I'VE ASKED COLLENE CAMPBELL TO LEAVE THE ROOM
21 BECAUSE IT DOES INVOLVE HER. AND OUT OF AN ABUNDANCE OF
22 CAUTION I THOUGHT THAT WAS BEST.

23 THE COURT: AND YOUR OFFER OF PROOF IS?

24 MR. DIXON: WELL, THAT -- LET ME GET THE RIGHT
25 PAGE HERE. THAT SOMETIME IN THE -- AND I'M SURE I COULD
26 COME UP WITH THE EXACT DATE -- IN THE MID -- EARLY TO MID
27 '90S, COLLENE CAMPBELL WAS PRESENT AT A SENTENCING IN
28 U.S. DISTRICT COURT, A SENTENCING FOR MICHAEL GOODWIN.

1 SHE WENT TO THAT HEARING WITH A NUMBER OF PEOPLE,
2 INCLUDING DR. JOHNSON.

3 AND ACCORDING TO THE REPORT -- AND THERE
4 NEEDS -- I NEED TO TALK TO YOU A LITTLE BIT ABOUT THAT --
5 BUT ACCORDING TO THE REPORT, THE DEFENDANT WALKED THROUGH
6 THE COURTROOM. AND WHEN HE GOT CLOSE TO COLLENE CAMPBELL
7 HE SAID TO HER, "I'M GOING TO GET YOU, TOO. YOU'LL GET
8 IT, TOO." MR. JOHNSON WILL GO ON TO SAY THAT HE WAS
9 SURPRISED AT THE OPEN THREAT IN FRONT OF U.S. MARSHALS IN
10 THE U.S. DISTRICT COURT.

11 NOW MS. SARIS IN HER COMMENT OFF THE
12 RECORD IS RIGHT AND WRONG ABOUT THE STATEMENT. THE
13 STATEMENT IS CONTAINED IN DISCOVERY, PAGE 422. IT IS
14 INCORRECTLY ATTRIBUTED TO SANDRA JOHNSON INSTEAD OF LANCE
15 JOHNSON. AND IN PREPARING FOR THESE WITNESSES AND
16 REVIEWING THE STATEMENTS AGAIN AND ACTUALLY TALKING WITH
17 DR. JOHNSON, I DISCOVERED THE ERROR.

18 I DISCOVERED THAT I THINK DURING THE LUNCH
19 HOUR. AND IMMEDIATELY UPON RETURNING TO COURT TOLD
20 MS. SARIS THAT THE STATEMENT WAS FROM DR. JOHNSON NOT
21 SANDRA JOHNSON. AFTER TALKING TO DR. JOHNSON, HE RECALLS
22 IT SOMEWHAT DIFFERENTLY HEARING THE DEFENDANT SAY,
23 "YOU'LL DIE, BITCH" OR WORDS TO THAT EFFECT. AND THAT'S
24 REALLY WHERE I AM ON THAT.

25 THERE IS NO INTENTIONAL TRYING TO HIDE
26 THIS STATEMENT. IT WAS JUST -- UNFORTUNATELY, WE'VE
27 HEARD A COUPLES TIMES TODAY THAT -- IN A CASE THAT THIS
28 LARGE, IT'S NOT SURPRISING -- SOME TYPOGRAPHICAL ERRORS

1 OR WHATEVER IN THE REPORTS. AND THIS IS ONE THAT WAS
2 ATTRIBUTED TO THE WRONG JOHNSON.

3 THE COURT: AND YOUR OFFER WAS JUST TO PRESENT
4 DR. JOHNSON TO TESTIFY AS TO THAT STATEMENT? YOU HAD NO
5 INTENTION OF CALLING MRS. CAMPBELL?

6 MR. DIXON: NO, I HAVE NO INTENTION OF CALLING
7 MRS. CAMPBELL AT THIS TIME. IT WAS DR. JOHNSON AND HE
8 WILL TESTIFY, AS THE COURT RECALLS FROM THE PRELIMINARY
9 HEARING, TO A NUMBER OF OTHER MATTERS. I WAS PLANNING
10 THAT -- I THOUGHT HE WOULD TESTIFY TODAY. BUT I TOLD
11 MS. SARIS THAT WE WOULD HOLD THAT OFF UNTIL MONDAY
12 REGARDLESS OF WHAT HAPPENED TODAY.

13 THE COURT: OKAY.

14 MS. SARIS: IF THIS WAS A -- IF IT IS A
15 SENTENCING HEARING, IT'S 1996. SO IT'S -- YOU KNOW,
16 WE'VE ALREADY ESTABLISHED I DON'T DO MATH. BUT IT'S
17 SEVERAL YEARS AFTER THE MURDER. AND COUNSEL IS
18 ABSOLUTELY CORRECT, HE TOLD ME RIGHT ABOUT IT AT LUNCH.

19 IT'S MORE THAN JUST A TYPOGRAPHICAL ERROR;
20 A WRONG ATTRIBUTE. SANDRA JOHNSON ISN'T EVEN ON THE
21 WITNESS LIST, SO WE DIDN'T BRING IT WITH FOR THIS TRIAL.
22 SO WE DON'T -- AND MR. GOODWIN WAS REPRESENTED BY
23 COUNSEL. HE WAS IN CUSTODY. IT WOULD BE A MINI TRIAL.
24 HE DIDN'T SAY IT. HE WAS NOT EVEN AT THE -- IN THE SAME
25 HALLWAY.

26 IT WOULD REQUIRE US TO BRING IN WITNESSES
27 WE HAD NO INTENTION OF BRINGING IN. IT WOULD REQUIRE
28 SOME IDEA OF CONTEXT, WHICH IS THAT HE WAS BEING

1 SENTENCED ON A FEDERAL CASE. AND I DON'T KNOW IF THE
2 COURT WANTS TO HEAR THE TESTIMONY, BUT IT DOESN'T SEEM TO
3 HAVE ANY REAL RELEVANT VALUE TO THIS CASE, EVEN IF THE
4 STATEMENT WAS THE ORIGINAL, "I'LL GET YOU, TOO." I MEAN
5 IF IT IS A THREAT, IT COULD JUST BE TALKING.

6 THE COURT: IN TERMS OF HAVING TO HEAR TESTIMONY,
7 IN MY OPINION, IT MAKES NO DIFFERENCE WHAT THE STATEMENT
8 IS. IF IT'S THE FIRST THING SAID BY MR. DIXON OR THE
9 SECOND THING SAID. I MEAN IF IT IS A THREAT, IT MAKES NO
10 DIFFERENCE TO ME. THE QUESTION IS, NO. 1: DO WE NEED TO
11 HAVE A HEARING WITH DR. JOHNSON BEING ASKED THE QUESTION?

12 I FEEL THAT I CAN ACCEPT THE OFFER OF
13 PROOF THAT HE HEARD SOMETHING THAT HE WILL ATTRIBUTE TO
14 MR. GOODWIN. THE SECOND QUESTION IS: THE 352 ANALYSIS.
15 AND IT SEEMS TO CERTAINLY BE PROBATIVE.

16 MS. SARIS: YOUR HONOR, IT'S TO MRS. CAMPBELL.
17 AND THERE WAS A GREAT DEAL OF LITIGATION BETWEEN COLLENE
18 CAMPBELL AND MICHAEL GOODWIN AFTER THE MURDER THAT HAD
19 NOTHING TO DO WITH THIS CENTRAL -- NECESSARILY THE
20 CENTRAL LAWSUIT BETWEEN MICHAEL GOODWIN AND MICKEY
21 THOMPSON.

22 MICHAEL GOODWIN HAD GONE INTO COURT AND
23 ACCUSED HER OF STEALING PENSION MONEY; ACCUSED HER OF
24 DEFRAUDING SOME OF THE BANKRUPTCY. THE AMOUNT OF
25 LITIGATION REQUIRED TO PUT THIS STATEMENT IN CONTEXT
26 WOULD PUT OUR TRIAL INTO EASTER. ESPECIALLY WHEN WE
27 CONSIDER THAT WE HAVE TO GET INTO THE ENTIRE ISSUE OF:
28 HOW MANY OTHER PEOPLE WERE IN THE COURTROOM? WHY WERE WE

1 IN COURT? WHO ELSE HEARD THE STATEMENT? A STATEMENT
2 MADE SOME, WHAT, '88 TO '96 --

3 MR. SUMMERS: EIGHT YEARS.

4 MS. SARIS: -- SOME EIGHT YEARS LATER.

5 MR. DIXON: CAN I ADDRESS THAT JUST BRIEFLY?

6 THE COURT: YES.

7 MR. DIXON: THE DETECTIVE, AS I UNDERSTAND IT --
8 AND WE CAN CLARIFY THAT MORE AND I WILL BETWEEN NOW AND
9 MONDAY -- TOOK A STATEMENT THAT WAS FROM LANCE JOHNSON.
10 AND IN THE REPORT IT SAID THAT HE DEFENDANT SAID TO
11 COLLENE CAMPBELL, "I'M GOING TO GET YOU, TOO. YOU'LL GET
12 IT, TOO." EVERY ONE KNOWS THAT COLLENE CAMPBELL IS
13 MICKEY CAMPBELL'S SISTER --

14 MR. JACKSON: THOMPSON.

15 MR. DIXON: PARDON?

16 MR. JACKSON: MICKEY THOMPSON.

17 MR. DIXON: -- MICKEY THOMPSON'S SISTER. IN MY
18 MIND -- AND I WILL TELL THE COURT HOW I WOULD ARGUE
19 THIS -- THIS IS AN ADMISSION. I GOT MICKEY THOMPSON.
20 I'M GOING TO GET YOU, TOO.

21 THE COURT: THERE IS NO QUESTION ABOUT THAT.
22 IT'S CLEARLY AN ADMISSION. THE ONLY QUESTION IS WHETHER
23 OR NOT UNDER 352 ITS PROBATIVE VALUE IS OUTWEIGHED BY
24 PREJUDICIAL EFFECT. AND QUITE FRANKLY, THIS WHOLE CASE
25 HAS BEEN PRESENTED ON THE THEORY THAT MR. GOODWIN HAS
26 REPEATEDLY STATED HIS INTENTION TO GET MR. THOMPSON. THE
27 FACT OF THE MATTER --

28 MR. DIXON: BUT MY POINT --

1 THE COURT: -- IF DR. JOHNSON IS GOING TO TESTIFY
2 TO A STATEMENT MADE TO MRS. CAMPBELL, IT WOULD SIMPLY BE
3 ANOTHER ALLEGED THREAT.

4 MR. DIXON: BUT I THINK IT'S MORE THAN THAT, YOUR
5 HONOR, IF I COULD. IT'S MORE THAN THAT. THIS IS POST
6 MURDER. WHEN HE SAYS -- AT LEAST TO DETECTIVE
7 LILLIENFELD -- WHEN THE DEFENDANT SAYS, "I WILL GET YOU,
8 TOO. YOU WILL GET YOURS, TOO" THAT REFERS BACK TO HIM
9 KILLING MICKEY THOMPSON. AND SAYING I'M GOING TO DO THE
10 SAME THING TO YOU. THIS WAS AFTERWARDS. AND I THINK
11 THAT IT IS MAYBE -- WELL, A CONFESSION/ADMISSION WITH
12 RESPECT TO THE MURDERS THAT HE IS ON TRIAL FOR.

13 THE COURT: RIGHT.

14 MR. DIXON: IT'S DIFFERENT THAN THE OTHER
15 STATEMENTS.

16 MS. SARIS: OUR CONCERN, THOUGH, IS THE STATEMENT
17 NOW IS "YOU'LL DIE, BITCH." SO HE'S GOING TO SAY THAT?
18 THEN WE'RE GOING TO CALL DETECTIVE LILLIENFELD TO SAY, NO
19 HE SAID, "I'M GOING TO GET YOU, TOO"? THEN WE'RE GOING
20 TO USE THAT AS THE "TOO."

21 NOT TO MENTION, YOUR HONOR, THERE IS A
22 VERY IMPORTANT PIECE THAT COUNSEL IS FAILING TO MENTION,
23 WHICH IS COLLENE CAMPBELL HAS DOGGEDLY PURSUED MICHAEL
24 GOODWIN AS THE SUSPECT IN THIS CRIME. SO REGARDLESS OF
25 WHETHER OR NOT HE DID IT, IF INDEED IT WAS MEANT TO
26 THREATEN COLLENE CAMPBELL, THE "TOO" IS NOT NECESSARILY
27 AN ADMISSION SO MUCH AS THIS IS WHAT YOUR BELIEF IS AND
28 THIS IS HOW I CAN FRIGHTEN YOU THE MOST.

1 BUT, AGAIN, THIS "YOU'LL DIE, BITCH" DOES
2 NOT REFER TO A PRIOR INCIDENT LIKE THE "TOO" DOES. SO
3 ACCORDING TO COUNSEL'S OFFER OF PROOF, WE WOULD HAVE TO
4 CALL DETECTIVE LILLIENFELD TO CONTRADICT DR. JOHNSON.

5 THE COURT: IT MAKES NO DIFFERENCE IN MY MIND
6 WHETHER OR NOT THE STATEMENT IS WHAT WE STATED AT FIRST
7 OR WHAT WAS STATED "YOU'LL DIE, BITCH." EITHER ONE OF
8 THOSE STATEMENTS IS CLEARLY AN ADMISSION ON THE PART OF
9 THE DEFENDANT. AND IT TENDS TO SHOW EITHER HE IS, IN
10 FACT, THE ONE THAT IS RESPONSIBLE FOR THE DEATH OF
11 MR. THOMPSON AND HIS WIFE. OR BECAUSE OF BEING ACCUSED
12 OF THAT, HE FINDS MRS. CAMPBELL TO BE THE RESPONSIBLE
13 PARTY AND NOW HE WANTS TO THREATEN HER, WHICH IS
14 CONSCIOUSNESS OF GUILT.

15 SO IT MAKES NO DIFFERENCE TO ME WHAT
16 EXACTLY THE STATEMENT IS. THE FACT OF THE MATTER IS IT
17 IS A STATEMENT. IT'S PROBATIVE. THE PREJUDICIAL EFFECT
18 IS MINIMAL BECAUSE THIS WHOLE CASE HAS BEEN BASICALLY
19 STATEMENTS OF THE DEFENDANT. SO, YOU KNOW --

20 MS. SARIS: WELL, IF THE COURT IS CONSIDERING
21 LETTING IT IN, WE WOULD NEED AT LEAST A TWO-WEEK
22 CONTINUANCE THEN.

23 THE COURT: OKAY. WELL, WE CAN DISCUSS THAT ON
24 MONDAY. BUT, YES, MY INCLINATION IS TO LET IT IN AS AN
25 ADMISSION --

26 MS. SARIS: WELL, ACTUALLY, IF THE COURT IS GOING
27 TO LET IT IN AND IS GOING TO LET IT IN ON MONDAY, WE HAVE
28 A MINIMUM OF 15 PEOPLE THAT WE HAVE TO SUBPOENA. AND

1 THERE IS NO WAY WE'RE GOING TO DO THAT OVER THE
2 THANKSGIVING HOLIDAY.

3 THE COURT: WELL, DO THE BEST YOU CAN AND LET ME
4 KNOW ON THE 27TH WHAT MORE YOU NEED TO DO. WE HAVE OTHER
5 WITNESSES THAT WE WILL HEAR FROM, I'M SURE. AND IF WE
6 HAVE --

7 MS. SARIS: AND WHAT IS THE COURT GOING TO DO
8 ABOUT SANITIZING WHERE THEY WERE AND WHY THEY WERE THERE?

9 THE COURT: I HAVE NO INTENTION OF TELLING YOU
10 HOW TO HANDLE THAT. BUT IF YOU CAN AGREE ON A WAY TO
11 SANITIZE IT, I THINK THAT'S THE PROPER WAY TO DO IT.

12 MR. DIXON: I WILL DISCUSS THAT WITH MR. JACKSON
13 AND DISCUSS IT WITH COUNSEL. I THINK THERE IS A PRETTY
14 SIMPLE WAY TO DO THAT.

15 THE COURT: SO LET ME KNOW. WE HAVE OTHER ISSUES
16 TO DISCUSS; WE HAVE OTHER WITNESSES THAT ARE GOING TO BE
17 CALLED BEFORE WE DISCUSS THIS ISSUE FURTHER; RIGHT?

18 MR. DIXON: MR. JOHNSON IS THE NEXT WITNESS WE
19 PLAN TO CALL.

20 MS. SARIS: AND AFTER THAT, YOUR HONOR, MAY WE
21 KNOW WHO IS COMING OR AT LEAST ANTICIPATED FOR NEXT WEEK.

22 THE COURT: WELL, GIVEN THE FACT THAT COUNSEL FOR
23 MR. GOODWIN IS ASKING FOR SOME ADDITIONAL TIME, I'M GOING
24 TO ASK THE PEOPLE IF YOU HAVE OTHER WITNESSES THAT YOU
25 CAN START WITH ON THE 27TH UNTIL COUNSEL GIVES US AN
26 UPDATE AS TO WHERE WE ARE.

27 MR. DIXON: OR WE COULD -- I MEAN IF THAT'S THE
28 COURT'S RULING, THAT'S FINE. IF YOU DON'T WANT TO HEAR

1 THE STATEMENT, WE CAN -- MR. JOHNSON -- OR DR. JOHNSON
2 LIVES LOCALLY. WE WOULD LIKE TO PUT HIM ON IN OUR ORDER
3 OF PROOF. WE CAN HOLD IN ABEYANCE QUESTIONS WITH RESPECT
4 TO THIS STATEMENT BECAUSE IT IS A SEPARATE ISSUE AT A
5 SEPARATE TIME AND HAVE HIM RETURN AT SOME POINT IF YOU
6 WOULD LIKE. WE'RE HAPPY TO DO THAT.

7 MS. SARIS: AND, YOUR HONOR, THE OTHER PROBLEM IS
8 JUST THE PATTEN UNFAIRNESS OF THIS. WE HAVE A CERTAIN
9 NUMBER OF DAYS TO GET READY FOR THEIR NEXT STREAM OF
10 WITNESSES; OUR CLOSING ARGUMENT; AND NOW WE'RE SUPPOSED
11 TO RUN AROUND AGAIN WITH THE SOL SOLOMON ISSUE LIKE
12 CHICKENS WITH OUR HEAD CUT OFF AS THEY COME UP AT THE
13 VERY LAST MINUTE, WE HAVE TO RELITIGATE AND REINVESTIGATE
14 A WHOLE OTHER INCIDENT THAT WE'VE NEVER BEEN TOLD ABOUT?
15 THAT'S RIDICULOUS.

16 THE COURT: WELL, YOU STARTED OUT -- OR MR. DIXON
17 STARTED OUT THIS DISCUSSION BY REFERENCING A PAGE IN THE
18 DISCOVERY MATERIAL WHERE THE STATEMENT WAS MENTIONED.
19 I'M TOLD IT WAS FIRST RAISED BY THE WIFE OF MR. JOHNSON.

20 MR. DIXON: YES.

21 THE COURT: BUT MR. DIXON JUST READ SOMETHING
22 THAT --

23 MS. SARIS: NO. I DON'T THINK THAT'S CORRECT. I
24 THINK THE PARAGRAPH WAS JUST INTERPOSED IN THE WIFE'S
25 STATEMENT.

26 THE COURT: BUT THE STATEMENT ITSELF IS IN THE
27 DISCOVERY, I TAKE IT.

28 MR. DIXON: YES, IT IS, YOUR HONOR.

1 MS. SARIS: BUT SANDRA JOHNSON WAS NOT A LISTED
2 WITNESS IN THIS CASE. SO BY THAT TOKEN --

3 MR. JACKSON: THAT'S NOT TRUE.

4 MS. SARIS: IN OUR --

5 MR. JACKSON: ABSOLUTELY, SHE WAS ON THE WITNESS
6 LIST. ABSOLUTELY.

7 MS. SARIS: SANDRA JOHNSON IS?

8 MR. JACKSON: SANDRA JOHNSON.

9 MS. SARIS: FOR THIS STATEMENT?

10 MR. DIXON: SHE WAS LISTED AS A WITNESS.

11 THE COURT: WELL, IN ANY EVENT, I'M HAPPY TO
12 ENTERTAIN ANY REQUEST THAT THE DEFENSE HAS FOR SOME
13 ADDITIONAL TIME IF YOU ARE BEING CAUGHT BY SURPRISE HERE.
14 BUT I'M NOT PREPARED TO FIND THAT THIS IS A VIOLATION OF
15 THE DISCOVERY STATUTE AND YOU HAD NO NOTICE OF IT. BUT I
16 WILL CERTAINLY GIVE YOU TIME TO PREPARE.

17 SO WE CAN PROCEED WITH MR. JOHNSON MONDAY
18 AFTERNOON. AND WE WILL JUST LEAVE OUT THAT PORTION OF
19 HIS TESTIMONY UNTIL WE HEAR FROM THE DEFENSE COUNSEL. ON
20 THE ISSUE OF THE VIEW OF THE SCENE --

21 MR. DIXON: THAT'S FINE.

22 THE COURT: -- WHAT ARE WE DOING ABOUT THAT?
23 WHEN DO YOU ANTICIPATE THE --

24 MR. JACKSON: YOU KNOW WHAT, YOUR HONOR, THIS
25 GOES TO MS. SARIS'S REQUEST. I'LL BE HAPPY TO TELL HER I
26 THINK WHO THE NEXT -- I THINK I CAN PROBABLY TELL HER --
27 BECAUSE THIS WAS GOING TO FLOW CHRONOLOGICALLY WITH THE
28 NEXT PROBABLY SIX OR SEVEN WITNESSES. AND I THINK WHAT I

1 WOULD LIKE TO DO AND WHAT MAKES MOST SENSE -- AND
2 MS. SARIS AND I TALKED ABOUT THIS INFORMALLY LAST WEEK --
3 I NEED TO SORT OF FINISH THE CRIME SCENE, WHICH IS THE
4 PERCIPIENT WITNESSES; THE ALLISON TRIARSIS OF THE WORLD;
5 THE LANCE JOHNSONS; AS WELL AS SHERIFF'S CRIME LAB
6 PERSONNEL; AND DETECTIVES WHO WERE AT THE SCENE.

7 IT MAKE MOST SENSE AFTER THEY HAVE ALL
8 TESTIFIED TO TAKE THE JURORS OUT THERE. I THINK WE CAN
9 PROBABLY DO THAT BY -- I WOULD SAY BY WEDNESDAY.

10 MS. SARIS: THE ONLY PROBLEM IS THAT WE WOULD
11 NEED OUR EXPERT TO TESTIFY.

12 MR. JACKSON: RIGHT. AND I HADN'T GOTTEN TO
13 THAT. AND MS. SARIS DID INDICATE THAT SHE WOULD LIKE TO
14 HAVE HER EXPERT TESTIFY BEFORE THE JURY EITHER BEFORE WE
15 GO VISIT THE CRIME SCENE OR HAVE HIM AVAILABLE TO VIEW
16 THE CRIME SCENE WITH THE JURORS. AND I DON'T MIND
17 ACCOMMODATING HER. I MEAN IT IS WHAT IT IS. IF SHE CAN
18 MAKE AN OFFER OF PROOF AS TO THE REQUEST, I THINK WE
19 CAN --

20 MS. SARIS: I DON'T KNOW THAT COUNSEL HAS TO
21 ACCOMMODATE ME. THIS IS A REQUEST FOR A JURY VIEW THAT
22 THE COURT GRANTS. SO LOGICALLY, UNLESS THE COURT REALLY
23 WANTS TO HAVE THE EXPENSE OF DOING IT TWICE, AGAIN, IT
24 WOULD MAKE NO SENSE TO HAVE THE PEOPLE'S VERSION OF
25 EVENTS. THE QUESTION IS: WHAT ARE WE GOING TO DO WHEN
26 WE'RE OUT THERE? HOW ARE WE GOING TO POINT THINGS OUT?
27 ARE WE EACH GOING TO HAVE OUR EXPERTS DO THAT? IN WHICH
28 CASE, IT MAY NOT REQUIRE TESTIMONY OUT OF ORDER.

1 THE COURT: WELL, MY PREFERENCE OBVIOUSLY WOULD
2 BE IF WE CAN HAVE THE TESTIMONY FIRST IN THE COURTROOM
3 BEFORE WE GO OUT TO THE CRIME SCENE. AND I DON'T HAVE
4 ANY PROBLEM TAKING A WITNESS OUT OF ORDER FOR THE DEFENSE
5 BEFORE WE DO THAT. I DON'T KNOW WHAT COUNSELS' THOUGHTS
6 ARE ON THAT.

7 MR. DIXON: COULD I JUST SAY SOMETHING? MY
8 UNDERSTANDING OF A JURY VIEW -- AND I HAVE DONE THIS A
9 COUPLE TIMES BEFORE, A WHILE AGO, BUT A COUPLE TIMES
10 BEFORE -- IS THAT THIS IS MERELY A VIEW. THERE IS NO
11 TESTIMONY. AT THE MOST IN ONE CASE A DETECTIVE WAS SWORN
12 ON THE RECORD TO POINT TO WHERE THE MURDER -- WHERE HE
13 TESTIFIED THE MURDER HAPPENED AND THAT WAS IT.

14 I MEAN IT'S BEEN DESCRIBED -- IT WILL BE
15 DESCRIBED BY WITNESSES HERE IN THE COURTROOM. AND
16 THEY'VE SEEN PICTURES. SO THE JURORS ARE ALLOWED BY THE
17 COURT'S RULING TO GO TO THE SCENE, LOOK AND SEE WHATEVER
18 THEY WOULD LIKE TO SEE WITHIN THE PARAMETERS OF THE
19 COURT'S DECISION AND COME BACK. NO TESTIMONY IS TAKEN.

20 THE COURT: RIGHT.

21 MS. SARIS: MY CONCERN IS WE CAN DO IT AT THE END
22 OF ALL TESTIMONY. IN OTHER WORDS, IT WOULD BE WRONG TO
23 DO IT IN THE MIDDLE OF ALL -- I MEAN WE CAN DO IT NOW, IN
24 OTHER WORDS, BEFORE ANYONE TESTIFIES. AND THEN THEY CAN
25 USE THAT AS REFERENCE BACK. ALTHOUGH ALLISON TRIARSI HAS
26 ALREADY TESTIFIED.

27 OR IT COULD BE AT THE END OF THE DEFENSE
28 CASE. THERE IS NOTHING THAT SAYS IT HAS TO BE THE WEEK

1 AFTER THANKSGIVING. SO WE DON'T EVEN NEED TO TAKE A
2 WITNESS OUT OF ORDER NECESSARILY. WE JUST NEED TO PUT IT
3 OVER UNTIL THE DEFENSE CASE IS COMPLETED.

4 THE COURT: YOU KNOW, I'M CERTAINLY OPEN TO DOING
5 WHATEVER YOU ALL WANT TO DO. BUT IT SEEMS TO ME THAT IF
6 THE ISSUE IS THE CRIME SCENE, IT'S GOING TO BE HELPFUL TO
7 HEAR FROM THE PEOPLE'S CRIME SCENE WITNESSES; AND THE
8 DEFENSE CRIME SCENE WITNESSES BEFORE WE GO OUT THERE, SO
9 THAT THE JURY AT LEAST KNOWS WHAT WE'RE TALKING ABOUT;
10 WHAT WE'RE INTERESTED IN; WHAT WE'RE LOOKING FOR; AND
11 WHAT WE'RE LOOKING AT.

12 MY PREFERENCE WOULD BE TO NOT ELICIT ANY
13 TESTIMONY AT ALL FROM ANYONE. THAT THIS IS SIMPLY GOING
14 TO BE A VIEWING OF THE CRIME SCENE. AND BOTH SIDES CAN
15 LET ME KNOW HOW YOU WANT THAT TO PROCEED IN TERMS OF WHAT
16 AREAS YOU WANT TO HAVE SHOWN. AND THAT'S GOING TO BE IT.

17 MS. SARIS: DOES THE COURT WANT IT SPECIFICALLY
18 WITHIN A DAY OF BOTH EXPERTS TESTIFYING? OR COULD WE
19 MERELY FINISH THE PEOPLE'S CASE; WE WOULD PUT AS OUR
20 FIRST WITNESS UP -- OR ACTUALLY, ALL OF OUR WITNESSES MAY
21 RELATE TO THE CRIME SCENE IN ONE WAY OR THE OTHER QUITE
22 FRANKLY, BECAUSE WE HAVE --

23 THE COURT: I JUST NEED TO GIVE -- I NEED TO GIVE
24 SOME ADVANCE NOTICE AS MUCH AS POSSIBLE TO EVERYONE.

25 MS. SARIS: OUR PREFERENCE IS AT THE END OF OUR
26 CASE BECAUSE RON STEVENS HAS TESTIFIED ABOUT -- AND I
27 THOUGHT ORIGINALLY -- MAYBE I'M WRONG -- THAT WE WERE
28 GOING TO GO TO THE STEVENS'S HOUSE AS WELL. WE HAVE AN

1 EXPERT WITNESS REGARDING THAT TESTIMONY.

2 SO IT JUST MAKES MORE SENSE TO HAVE IT
3 DONE JUST BEFORE CLOSING ARGUMENT THEN IT DOES TO HAVE
4 JUST BEFORE THE DEFENSE CASE OR IN THE MIDDLE OF THE
5 DEFENSE CASE, IF WE ONLY WANT TO DO IT ONCE.

6 THE COURT: WELL, WE ONLY WANT TO DO IT ONCE
7 THAT'S FOR SURE.

8 MR. JACKSON: RIGHT.

9 MR. DIXON: WELL, MAYBE THIS COULD BE A SUBJECT
10 THAT BETWEEN NOW AND NEXT MONDAY, COUNSEL CAN MEET AND
11 CONFER AND SEE IF WE CAN'T HAMMER OUT SOME AGREEMENT.

12 MR. JACKSON: RIGHT. WE'RE SORT OF IN THE DARK
13 ABOUT WHAT MS. SARIS --

14 MS. SARIS: WELL, WE HAVE JACO SWANEPOEL AND
15 DR. -- THAT'S J-A-C-O. S-W-A-N-E-P-O-E-L. AND KATHY
16 PEZDEK, P-E-Z-D-E-K, THAT RELATE SPECIFICALLY TO THE
17 CRIME SCENE OR TO THE EYEWITNESS TESTIMONY.

18 MR. JACKSON: BUT KATHY PEZDEK IS AN I.D. EXPERT
19 AND THEY NEVER GO TO CRIMES SCENES.

20 MS. SARIS: NO. THEY NEVER GO TO THE CRIME
21 SCENES, BUT IT'S RELATED TO WHAT THE STEVENSES' TESTIMONY
22 WAS. IT RELATES TO WHAT THEIR VIEW AND WHAT THEY --

23 MR. JACKSON: THAT'S NOT GOING TO CHANGE. I MEAN
24 THEIR TESTIMONY IS THEIR TESTIMONY, THAT'S NOT GOING TO
25 CHANGE.

26 THE COURT: MY PREFERENCE WOULD BE TO DO IT
27 SOONER RATHER THAN LATER. BUT IF YOU ALL WANT TO WORK
28 SOMETHING OUT THAT YOU CAN ALL LIVE WITH, JUST GIVE ME AS

1 MUCH ADVANCE NOTICE AS POSSIBLE.

2 MR. DIXON: ALL RIGHT. WE WILL TRY TO MEET AND
3 CONFER BETWEEN NOW AND THEN. I DON'T KNOW WHAT MS.
4 SARIS'S AND MR. SUMMERS'S SCHEDULE IS. I WILL BE HERE
5 THROUGH THE THANKSGIVING HOLIDAYS AND BE HAPPY TO DISCUSS
6 IT.

7 THE COURT: ALL RIGHT. I'M GOING TO ASK COUNSEL
8 TO COME BACK ON THE 27TH AT 11:00 O'CLOCK IN THE MORNING.
9 AND WE WILL DISCUSS THESE MATTER FURTHER ON THAT DAY.
10 OKAY?

11 MR. DIXON: THANK YOU, YOUR HONOR.

12 MR. SUMMERS: ONE OTHER THING IS THE COURT MAY
13 WANT TO INQUIRE IN THE MEANTIME OF ANY PHYSICAL PROBLEMS
14 ON BEHALF OF THIS PARTICULAR JURY GROUP. BECAUSE IT IS
15 RATHER DIFFICULT -- OR COULD BE POTENTIALLY DIFFICULT
16 TERRAIN FOR SOME FOLKS TO WALK OVER AND CLIMB UP AND DOWN
17 AND SO FORTH.

18 THE COURT: THAT'S WHY I THINK IT WOULD BE
19 HELPFUL IF I KNOW AS MUCH IN ADVANCE AS POSSIBLE. AND I
20 THINK THAT'S A GOOD IDEA, WE WILL HAVE TO MAKE
21 ARRANGEMENTS.

22 MR. DIXON: AND I THOUGHT WE WERE GOING TO TALK
23 ABOUT IT. AND THAT'S WHY I ASKED SANDY GIBBONS FROM OUR
24 OFFICE AND THE COURT'S PERSON --

25 THE COURT: OKAY. WELL, WE DON'T HAVE TO TALK
26 ABOUT IT ON THE RECORD, DO WE?

27 MR. DIXON: NO.

28 THE COURT: LET'S CALL IT A DAY. COME ON UP AND

1 WE CAN TALK INFORMALLY ABOUT IT.

2

3 (THE MATTER WAS CONTINUED TO MONDAY,

4 NOVEMBER 27, 2006 AT 11:00 A.M.)

5 (NEXT PAGE IS 4801.)

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF AND RESPONDENT,

VS.

01 - MICHAEL FRANK GOODWIN,

DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237 (A) (2)

NOVEMBER 27, 2006

APPEARANCES :

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
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FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 13 OF 24
PAGES 4801 THRU 4959/5100

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, NOVEMBER 27, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14
15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)

18
19 THE COURT: ALL RIGHT. LET'S RESUME IN THE
20 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL.
21 THE PEOPLE ARE REPRESENTED.

22 BOTH COUNSEL HAVE FILED POINTS AND
23 AUTHORITIES ADDRESSING ESSENTIALLY DIFFERENT ISSUES.
24 WITH RESPECT TO THE PEOPLE'S REQUEST, LET ME JUST
25 INDICATE I THINK THE PEOPLE MISUNDERSTOOD THE COURT. I
26 NEVER SUGGESTED THAT COUNSEL CAN ARGUE OR SHOULD BE
27 PERMITTED TO ARGUE THAT THE JURY CAN CONSIDER QUESTIONS
28 TO WHICH OBJECTIONS WERE SUSTAINED.

1 MR. JACKSON: OKAY. THEN I DID MISUNDERSTOOD.

2 THE COURT: ANY COMMENTS WERE DIRECTED TOWARDS
3 THE FACT THAT THE DEFENSE HAS CONSISTENTLY MAINTAINED
4 THAT THE PEOPLE HAVE BEEN FEEDING ANSWERS TO THEIR
5 WITNESSES BY WAY OF LEADING QUESTIONS. AND THAT WAS THE
6 ONLY THING THAT I WAS COMMENTING ON WHEN ASKED TO IMPOSE
7 A SANCTION. THE COURT DENIED IT BECAUSE THE COURT FELT
8 THAT COUNSEL WOULD BE FREE TO ARGUE THAT FACT, BUT
9 NOTHING MORE.

10 SO IS THERE ANYTHING ELSE I NEED TO
11 ADDRESS IN THE PEOPLE'S MOTION?

12 MR. JACKSON: NO, YOUR HONOR. THAT WAS --
13 OBVIOUSLY, I DID MISUNDERSTAND THE COURT ON LAST WEEK'S
14 IN-COURT DISCUSSIONS. AND THAT WAS MY MAIN CONCERN THAT
15 THE COURT WAS INVITING COUNSEL TO STAND UP AND SAY, HEY,
16 FOLKS, YOU CAN TAKE FROM THIS WHATEVER YOU WANT TO, THE
17 FACT THAT WE OBJECTED AND THOSE OBJECTIONS WERE
18 SUSTAINED. IF THAT WASN'T THE COURT'S RULING, THEN WE
19 NEEDN'T ADDRESS THAT ANY FURTHER.

20 THE COURT: AND IT WASN'T A RULING AT ALL. IT
21 WAS JUST AN ASIDE ON HOW COUNSEL CAN ADDRESS THE
22 SITUATION AS OPPOSED TO HAVING THE COURT INTERVENE IN ANY
23 OTHER WAY OTHER THAN SUSTAINING OBJECTIONS, WHICH IS WHAT
24 I THINK I SHOULD BE DOING AND ONLY THAT.

25 MR. JACKSON: OF COURSE. AND, OBVIOUSLY,
26 CONSISTENT WITH THAT, WE SIMPLY PROVIDED THE COURT
27 WITH -- I THINK AT SIDEBAR WE HAD DISCUSSED THIS -- WHAT
28 MS. SARIS'S DEFINITION OF A LEADING QUESTION WAS; WHAT

1 OUR DEFINITION OF A LEADING QUESTION IS; AND THE COURT'S
2 DEFINITION WAS. AND WE SIMPLY LOOKED FOR SOME AUTHORITY
3 AS GUIDANCE FOR WHAT A LEADING QUESTION IS.

4 AND THERE HAS BEEN A HABITUAL OBJECTION TO
5 ANYTHING -- ALMOST ANYTHING WITH A YES OR NO QUESTION
6 FROM THE PROSECUTION. AND WE ARE SIMPLY SEEKING FURTHER
7 GUIDANCE THAT WE DON'T WANT TO STEP ON THE COURT'S TOES.
8 AND WE WILL ADAPT OUR QUESTION IN ANY WAY THE COURT SEES
9 FIT TO MAINTAIN CONSISTENCY WITH THE COURT'S RULINGS AND
10 UNDERSTANDING THE LEADING QUESTIONS.

11 BUT WE BELIEVE THAT WE HAD BEEN WELL
12 WITHIN THE CONFINES OF WHAT THE EVIDENCE CODE REQUIRES
13 AND WHAT THE CASE LAW REQUIRES AS FAR AS LEADING
14 QUESTIONS. AND THAT'S WHY WE SUBMITTED THE SECOND HALF
15 OF THAT MOTION AS FAR AS SORT OF GUIDANCE FOR US AS TO
16 WHAT WE BELIEVE THE DEFINITIONAL AUTHORITY WAS FOR LEGAL
17 QUESTIONS. THAT'S ALL.

18 THE COURT: AND I WOULD COMMENT THAT I AGREE TO
19 THE EXTENT THAT COUNSEL HAVE CONSTRUED MY RULING AS
20 SETTING FORTH A LINE THAT I HAVE DRAWN, WHICH WOULD LEAD
21 ME TO SUSTAIN ANY OBJECTION ON LEADING GROUNDS THAT CALLS
22 FOR A YES OR NO ANSWER. THAT REALLY ISN'T WHAT I HAVE
23 BEEN DOING.

24 THERE HAVE BEEN MANY QUESTIONS POSED THAT
25 CALLED FOR YES OR NO ANSWERS WHERE OBJECTIONS WERE
26 OVERRULED. BUT THERE HAVE BEEN MANY WHERE OBJECTIONS
27 WERE SUSTAINED. I APPRECIATE THE AUTHORITY. I AGREE
28 THAT IT'S NOT AS CLEAR CUT AS ONE MIGHT THINK. BUT I DO

1 AGREE THAT TO THE EXTENT THAT THE QUESTION SUGGESTS THE
2 ANSWER, THAT THE OBJECTION SHOULD BE SUSTAINED.

3 ALL RIGHT. THAT TAKES CARE OF THE
4 PEOPLE'S MOTION. YES?

5 MR. DIXON: YES. THANK YOU, YOUR HONOR.

6 MR. JACKSON: YES.

7 THE COURT: AND THEN ON THE DEFENSE SIDE POINTS
8 AND AUTHORITIES. YOU WANT TO REARGUE THE FACT THAT YOU
9 BELIEVE THE COURT IS BIASED IN ALLOWING THE PEOPLE TO
10 BRING IN ADMISSIONS OF THE DEFENDANT, BUT NOT THIRD-PARTY
11 CULPABILITY?

12 MS. SARIS: YES, YOUR HONOR. IN TERMS OF THE
13 FACT THAT THE REMOTENESS OF THESE ADMISSIONS THAT THE
14 COURT IS FINDING VERSUS THE DIRECT EVIDENCE THAT THE
15 DEFENSE SOUGHT TO INTRODUCE. I MEAN WE'RE TALKING ABOUT
16 LITIGATING AN ISSUE OF WHETHER EIGHT YEARS AFTER A MURDER
17 SOMEONE CAN BE CALLED TO TESTIFY FOR THE SOLE PURPOSE OF
18 IMPEACHING HIM ABOUT ANOTHER STATEMENT THAT HE MADE.

19 BECAUSE THE STATEMENT THAT THE -- AS FAR
20 AS I KNOW AND WE HAVEN'T TAKEN TESTIMONY. AND I WOULD
21 ASK THE COURT TO HEAR TESTIMONY NOT ONLY FROM LANCE
22 JOHNSON, BUT FROM COLLENE CAMPBELL ON THIS ISSUE.

23 THE STATEMENT THAT COUNSEL PURPORTS LANCE
24 JOHNSON WILL MAKE IS "YOU'LL DIE, BITCH," WHICH IS IN OUR
25 OPINION NOT AN ADMISSION. TO THE EXTENT THAT THE COURT
26 DISAGREES WITH THAT, COUNSEL HAS ALREADY SET FORTH THE
27 PROPOSITION THAT IF LANCE JOHNSON WERE TO TESTIFY, THEY
28 WOULD SEEK TO INTRODUCE MARK LILLIENFELD TO TESTIFY TO

1 IMPEACH HIM UNDER GREEN THAT THAT WAS NOT, IN FACT, THE
2 STATEMENT.

3 SO, AGAIN, WE'RE GOING TEN YEARS BACK IN
4 TIME FOR A STATEMENT MADE EIGHT YEARS AFTER THE MURDER
5 REGARDING SOMETHING MICHAEL GOODWIN SAID TO SOMEONE WHO
6 WAS NOT A VICTIM OF THIS CRIME DIRECTLY; WHO WE DON'T
7 EVEN KNOW ACTUALLY EVEN HEARD THIS COMMENT.

8 AND YET THE DEFENSE WAS DENIED THE
9 OPPORTUNITY TO SHOW THESE JURORS CONFESSIONS OF A THIRD
10 PARTY WHO WAS SEEN NEAR THE CRIME SCENE WITH FEWER
11 WITNESSES TO TESTIFY ABOUT SOMETHING THAT HAPPENED THAT
12 MORNING THAT DIRECTLY RELATES TO THIS CRIME.

13 WE'VE HAD 25 WITNESSES TESTIFY IN THIS
14 CASE. ONE HAS SPOKEN OF THE MURDER. ONE. AND THE FACT
15 THAT THE COURT WOULD DENY THE DEFENSE THE OPPORTUNITY TO
16 BRING IN THESE OTHER WITNESSES UNDER THE REASONING THAT
17 IT'S REMOTE OR SOMEHOW CONFUSING TO THE JURY, IT SORT OF
18 DEFIES LOGIC IN TERMS OF MR. GOODWIN'S RIGHTS TO A FAIR
19 TRIAL.

20 THE DEFENSE IS SEEKING TO SHOW THE JURORS
21 WHAT THE CIRCUMSTANCES WERE SURROUNDING THESE MURDERS.
22 WE HAVE NO DOUBT THAT THE DISTRICT ATTORNEY INTENDS TO
23 STAND UP AND SAY, LADIES AND GENTLEMEN, WHO ELSE COULD
24 HAVE DONE THIS? ALL THE CIRCUMSTANCES POINT TO MICHAEL
25 GOODWIN. HAVING MADE EVERY EFFORT TO PREVENT US FROM
26 TELLING THEM THAT THAT'S NOT ALL THE CIRCUMSTANCES AND
27 THERE WERE OTHER CIRCUMSTANCES INVOLVED. AND THEY OUGHT
28 TO BE BROUGHT FORTH IF THE COURT IS GOING TO ALLOW THEM

1 TO GET UP AND MAKE SUCH AN ARGUMENT. AND, YES, WE HAVE
2 INDICATED IN OUR MOVING PAPERS THAT THAT APPEARS ON ITS
3 FACE TO BE BIASED TOWARDS ONE SIDE.

4 THE COURT: I DON'T SEE THE CONNECTION, QUITE
5 FRANKLY. IT'S CERTAINLY AN INTERESTING ARGUMENT TO
6 EQUATE THE COURT'S RULING ON THIS ISSUE WITH YOUR
7 THIRD-PARTY CULPABILITY ISSUE, WHICH WAS LITIGATED FULLY
8 AND FAIRLY. I DON'T WANT TO REVISIT THIS ISSUE AGAIN.

9 SO TO THE EXTENT THAT YOU WANT TO ARGUE
10 THE ADMISSIBILITY OF THE STATEMENT THAT THE COURT
11 BELIEVES MAY BE RELEVANT AS CIRCUMSTANTIAL EVIDENCE ON
12 THE ISSUE OF MR. GOODWIN'S CONNECTION TO THE MURDERS, I'M
13 HAPPY TO LITIGATE THAT ISSUE.

14 I'M NOT GOING TO CONTINUE TO LISTEN TO
15 ARGUMENTS ASKING THE COURT TO LITIGATE OR RELITIGATE
16 THIRD-PARTY CULPABILITY. AND I THINK IT'S INAPPROPRIATE
17 TO BRING THAT ISSUE UP EVERY STEP OF THE WAY WHEN THE
18 COURT DOESN'T SEE THINGS THE WAY THE DEFENSE SEES THINGS.
19 I THINK WE'RE DEALING WITH TWO SEPARATE ISSUES.

20 MS. SARIS: I GUESS THE CONNECTION IS THE
21 CIRCUMSTANTIAL EVIDENCE. THAT'S THE ISSUE. THIS WHOLE
22 CASE IS CIRCUMSTANTIAL EVIDENCE.

23 THE COURT: EXACTLY.

24 MS. SARIS: AND EVERY REMOTE COMMENT MR. GOODWIN
25 HAS EVER MADE TO EITHER A BLIND DATE FROM 20 YEARS AGO OR
26 A FORMER EMPLOYEE OR A THIRD COUSIN OF A SECOND ONCE
27 REMOVED NEIGHBOR HAS COME IN. AND WHEN THE DEFENSE SEEKS
28 TO INTRODUCE EVIDENCE SHOWING OTHER CIRCUMSTANCES, THE

1 CIRCUMSTANTIAL EVIDENCE IS THE WHOLE ISSUE. SO THAT'S
2 HOW THEY'RE CONNECTED IN OUR MINDS.

3 IF YOU'RE SAYING IN MARCH OF '88 THESE
4 WERE THE CIRCUMSTANCES, THEN WE OUGHT TO BE ABLE TO BRING
5 IN ALL OF THE CIRCUMSTANCES. AND IN THIS PARTICULAR
6 INSTANCE OF THE HEARING THAT WE'RE ABOUT TO CONDUCT,
7 WE'RE GOING INTO JULY OF 1996. AND IF THAT'S NOT REMOTE
8 AND FAR REMOVED AND NOT IRRELEVANT TO WHAT HAPPENED IN
9 '88, THEN I DON'T KNOW HOW THE DEFENSE'S PROFFERED
10 EVIDENCE CAN BE SEEN AS REMOTE AND FAR REMOVED.

11 THE COURT: WELL, I BEG TO DIFFER, BUT THAT'S WHY
12 WE'RE HERE. SO ARE WE GOING TO HEAR FROM ANY WITNESSES
13 THIS MORNING?

14 MR. DIXON: YOUR HONOR, I THOUGHT THAT WE HAD ALL
15 DECIDED THAT WE DIDN'T NEED TO DO THAT.

16 MS. SARIS: WELL, WE WOULD ASK TO CALL COLLENE
17 CAMPBELL.

18 MR. DIXON: AND I'M NOT SURE HOW THAT'S RELEVANT
19 TO THIS DECISION. WE OFFERED TO HAVE LANCE JOHNSON HERE
20 AND I THOUGHT WE ALL DECIDED THAT THE OFFERS OF PROOF
21 THAT I MADE TO COUNSEL WERE SATISFACTORY.

22 THE COURT: THAT'S WHAT I THOUGHT.

23 MR. DIXON: AND WE OSTENSIBLY ARGUED THIS BEFORE
24 THE THANKSGIVING BREAK. AND THE COURT MADE A RULING.
25 AND I DIDN'T KNOW THAT WE WERE GOING TO REVISIT IT.
26 LANCE JOHNSON IS NOT HERE. THERE IS ONE OTHER ISSUE,
27 THOUGH, THAT I WOULD LIKE TO USE THIS TIME TO ADDRESS THE
28 COURT ON WHEN WE FINISH THIS.

1 MS. SARIS: WELL, I CERTAINLY DIDN'T HEAR A
2 RULING. I HEARD THAT WE WERE GOING TO POTENTIALLY HAVE A
3 DISCUSSION ON THE OFFER OF PROOF. AND IF WE NEEDED LANCE
4 JOHNSON, HE WOULD BE AVAILABLE AT 1:30.

5 IN THE INTERVENING TIME, I'VE HAD A CHANCE
6 TO RESEARCH THESE ISSUES. WE'VE MADE OUR POINTS AND
7 AUTHORITIES NOT SIMPLY ON THE FACT THAT IT IS BIASED ON
8 THE COURT'S PART, WHICH THIS COURT HAS ADDRESSED; BUT THE
9 FACT THAT THIS IS IMPROPER EVIDENCE REGARDLESS OF THE
10 PRIOR RULINGS THE COURT HAS MADE DENYING THE DEFENSE
11 EVIDENCE.

12 AND TO THAT EXTENT THIS COURT HAS ALLOWED
13 UNDER 352 TO LOOK AT THE CIRCUMSTANCES OF THE STATEMENT,
14 PART OF THAT IS: WHAT WAS THE STATEMENT? ARE WE CLEAR
15 ON THE CONTEXT? THIS COURT HAS THE AUTHORITY AND THE
16 RIGHT TO PREVENT THIS JURY FROM HEARING EVIDENCE THAT HAS
17 PROBATIVE VALUE, BUT IS SUBSTANTIALLY OUTWEIGHED BY THE
18 PREJUDICIAL EFFECT. PART OF THE DETERMINATION OF WHETHER
19 A STATEMENT HAS PROBATIVE VALUE IS THE CREDIBILITY OF THE
20 STATEMENT ITSELF; THE CONTENT; THE CIRCUMSTANCES IT WAS
21 MADE IN.

22 THIS COURT CAN MAKE THE DETERMINATION THAT
23 IT'S INHERENTLY UNRELIABLE. PART OF WHAT THEY'RE SAYING
24 IS THAT MY CLIENT THREATENED COLLENE CAMPBELL. IT IS
25 UNDISPUTED THAT MRS. CAMPBELL --

26 MR. DIXON: MAY I ASK FOR A QUICK TIME-OUT. IF
27 WE'RE GOING TO TALK ABOUT IT, PERHAPS I CAN ASK
28 MRS. CAMPBELL TO STEP OUTSIDE.

1 THE COURT: YES.

2 (PAUSE IN PROCEEDINGS.)

3 THE COURT: ALL RIGHT. MRS. CAMPBELL IS LEAVING.

4 YOU MAY CONTINUE.

5 MS. SARIS: YOUR HONOR, MRS. CAMPBELL HAS MADE NO
6 QUALMS -- AND I DON'T THINK EVEN THE DISTRICT ATTORNEY
7 WOULD DISAGREE WITH THE FACT -- THAT SHE BELIEVES HER
8 BROTHER TO BE RESPONSIBLE FOR THIS CRIME -- I MEAN
9 MR. GOODWIN TO BE RESPONSIBLE FOR THE MURDER OF HER
10 BROTHER. SHE CERTAINLY HAS INDICATED THAT SEVERAL TIMES
11 OVER THE YEARS.

12 IF THIS COMMENT WAS INDEED MADE, I WOULD
13 BE INTERESTED IF SHE DID HEAR IT, WHETHER IT WAS
14 REPORTED. AND THOSE WOULD BE FACTS THAT WOULD GO TO THE
15 RELIABILITY OF THIS COMMENT. IF THE COURT HAS DOUBTS
16 ABOUT THE RELIABILITY OF THE COMMENT, THIS COURT HAS THE
17 AUTHORITY TO PREVENT THE JURY FROM HEARING IT UNDER THE
18 THEORY THAT ITS PROBATIVE VALUE IS THEREFORE DIMINISHED
19 AND ITS PREJUDICIAL VALUE IS HIGH.

20 LANCE JOHNSON SUPPOSEDLY SAID ONE THING TO
21 MARK LILLIENFELD IN 1997. HE SAID ANOTHER THING TO
22 EITHER MR. JACKSON OR MR. DIXON IN THE HALLWAY. AND
23 APPARENTLY IS PREPARED TO TESTIFY TO A COMMENT THAT DOES
24 NOT INCLUDE A DIRECT ADMISSION TO THIS MURDER TO THE
25 EXTENT THAT THERE IS A DIFFERENCE BETWEEN THE COMMENTS
26 "YOU'LL DIE, BITCH" AND "I'LL GET YOU, TOO."

27 ONE SEEMS TO SUGGEST AN INVOLVEMENT
28 BECAUSE OF THE -- I DON'T KNOW WHAT THE GRAMMATICALLY --

1 T-O-O, WHICH IS INCLUDED IN ONE AND NOT THE OTHER. IF
2 MR. JOHNSON WERE TO SO TESTIFY NOW WAS THE COMMENT THAT
3 "YOU'LL DIE, BITCH," THEN THEY WOULD HAVE TO CALL MARK
4 LILLIENFELD IF HE WERE TO TESTIFY THAT THE COMMENT WAS
5 "I'LL GET YOU, TOO."

6 ONE OF THE DISTRICT ATTORNEYS WOULD MAKE
7 THEMSELVES A WITNESS IN THIS CASE BECAUSE OBVIOUSLY IT
8 WOULD BE RELEVANT TO THE DEFENSE TO INTRODUCE THE COMMENT
9 IN THE HALLWAY, "YOU'LL DIE, BITCH," WHICH IS IN OUR
10 OPINION FAR LESS PROBATIVE AND FAR LESS PREJUDICIAL.
11 ALTHOUGH, NO ONE IS SAYING IT'S RIGHT OR WRONG, WE'RE
12 DENYING THE COMMENT WAS MADE. BUT I THINK THE COURT HAS
13 A RIGHT TO TAKE TESTIMONY ON THE CONTEXT TO UNDERSTAND
14 THE PROBATIVE NATURE OF THE COMMENT.

15 MR. DIXON: WELL, IF I COULD CLARIFY A COUPLE OF
16 THINGS. MY RECOLLECTION IS WHEN I TALKED TO LANCE
17 JOHNSON ABOUT THIS, I WAS ACCOMPANIED BY MARK
18 LILLIENFELD. SO HE WOULD BE THE WITNESS TO THAT. AND I
19 IMMEDIATELY REPORTED THE DIFFERENCE IN THE STATEMENT -- I
20 MEAN IMMEDIATELY TO DEFENSE COUNSEL, WITHIN MINUTES.

21 MS. SARIS: AND WE APPRECIATE THAT.

22 MR. DIXON: JUST SO THAT EVERYBODY IS CLEAR, SO I
23 DON'T THINK I MADE MYSELF A WITNESS. NEXT, IT SEEMS TO
24 ME THAT, AS I RECALL THE COURT'S COMMENTS FROM LAST WEEK,
25 THE COURT FOUND THAT BOTH VERSIONS OF THE STATEMENT WERE
26 ADMISSABLE. AND IF WE CHOSE -- IF THE WITNESS TESTIFIED
27 TO THE MORE RECENT ONE, AND WE CHOSE TO IMPEACH HIM WITH
28 MARK LILLIENFELD, THAT WOULD BE WITH THE COURT'S

1 OBVIOUSLY APPROVAL. THAT WOULD BE OUR CHOICE.

2 WE HAVE ALL ALONG SAID THAT WE HAVE NO
3 PLANS TO CALL COLLENE CAMPBELL. IF DEFENSE COUNSEL WANTS
4 TO CALL COLLENE CAMPBELL IN THEIR CASE IN CHIEF TO
5 IMPEACH LANCE JOHNSON ON THE STATEMENTS, THEY'RE FREE TO
6 DO THAT. AND THEY'VE SAID THAT COLLENE CAMPBELL IS GOING
7 TO BE A WITNESS. WE HAVE NO PLANS TO DO THAT. AND
8 THEREFORE I DON'T THINK CALLING COLLENE CAMPBELL NOW AND
9 USING UP THE COURT'S TIME IS REALLY PRODUCTIVE.

10 MS. SARIS: YOUR HONOR, I HAVE TWO EXCEPTIONS.
11 ONE, IT'S A LITTLE DISCONCERTING FROM OUR PROSPECTIVE TO
12 HAVE A D.A. BRING UP AN ISSUE AT 3:30 ON A THURSDAY
13 BEFORE A WEEK VACATION; HAVE SOME PRELIMINARY DISCUSSION;
14 AND THEN COME BACK A WEEK LATER AND BE TOLD THAT THIS WAS
15 FULLY LITIGATED AND THERE WAS A RULING. THAT WAS NOT OUR
16 UNDERSTANDING.

17 THE COURT MADE COMMENTS THAT SHE THOUGHT
18 BOTH OF THESE WERE ADMISSIONS. I DON'T RECALL THE COURT
19 MAKING A FINAL RULING. MY RECOLLECTION IS WE LEFT IT
20 WHERE WE COULD LITIGATE IT THIS MORNING AND THAT'S WHY WE
21 CAME BACK EARLY. SO THIS IDEA THAT ASIDE COMMENTS ARE
22 NOW BEING TURNED INTO RULINGS, WE'RE GOING TO HAVE TO BE
23 A LOT MORE CLEAR ABOUT THAT. BECAUSE THAT WAS NOT OUR
24 UNDERSTANDING.

25 SECOND OFF, THE COURT DENIED OUR MOTION TO
26 EXCLUDE COLLENE CAMPBELL. SO OUR ABILITY TO CALL HER AS
27 A WITNESS HAS BEEN SEVERELY HAMPERED BY HER HAVING HEARD
28 ALL THESE THINGS. THERE IS ABSOLUTELY NO DETRIMENT OR

1 PREJUDICE TO HAVING THE COURT HEAR FROM HER NOW REGARDING
2 THIS COMMENT. AND IT WOULD BE IN CONTEXT TO THE
3 PROBATIVE NATURE OF THIS STATEMENT AND WOULD TAKE
4 PROBABLY FIVE MINUTES.

5 THE COURT: WELL, I DON'T HAVE ANY PROBLEM WITH
6 THAT, IF YOU WISH TO CALL HER. I MEAN I ACCEPTED THE
7 OFFER OF PROOF, BEFORE WE RECESSED, MADE BY THE PEOPLE.
8 AND I WAS OPERATING UNDER THE ASSUMPTION THAT ONE OR BOTH
9 OF THOSE STATEMENTS COULD BE THE TESTIMONY OF
10 MR. JOHNSON. AND, QUITE FRANKLY, I HAVE THEM BOTH
11 WRITTEN DOWN, BUT I DON'T RECALL WHICH ONE HE IS EXPECTED
12 TO TESTIFY TO WHEN HE WAS CALLED TODAY.

13 MS. SARIS: AND WE DON'T DISPUTE THAT THAT WAS
14 THE OFFER OF PROOF AND THAT HE COULD TESTIFY TO EITHER
15 ONE.

16 THE COURT: RIGHT.

17 MS. SARIS: THE QUESTION WAS WHETHER OR NOT THE
18 COURT RULED UNDER 352 AND WHETHER FURTHER TESTIMONY WOULD
19 BE HELPFUL IN TERMS OF THE PROBATIVE NATURE.

20 THE COURT: I THINK I DID RULE PRELIMINARILY,
21 SUBJECT TO FURTHER DISCUSSION TODAY AND ANYTHING FURTHER
22 THAT YOU WISHED TO PRESENT. BUT MY RECOLLECTION IS NOT
23 THAT CLEAR. SO IF YOU WISH TO PRESENT A WITNESS ON THE
24 ISSUE OF WHAT EXACTLY THE STATEMENT WAS AND YOU WANT ME
25 TO CONSIDER THAT, I THINK I'M REQUIRED TO DO SO.

26 I DO HAVE TO, AT LEAST INITIALLY, MAKE THE
27 DECISION -- OR REAFFIRM THE DECISION THAT THE STATEMENT,
28 IF ATTRIBUTED TO MR. GOODWIN, IS LEGALLY ADMISSIBLE. AND

1 IF IT'S LEGALLY ADMISSIBLE, THE COURT HAS TO UNDERTAKE
2 THE 352 ANALYSIS. SO IF MRS. CAMPBELL CAN ADD TO ONE
3 POINT OR THE OTHER, I'M HAPPY TO HEAR FROM HER IF THAT'S
4 WHAT YOU WISH TO PRESENT.

5 MS. SARIS: YES, PLEASE. AND WE WOULD ALSO JUST
6 SEEK TO LET THE COURT KNOW THAT JUST BECAUSE MARK
7 LILLIENFELD WAS STANDING IN THE HALLWAY DOES NOT MEAN
8 THAT WE WILL NOT SEEK TO CALL MR. DIXON AS A WITNESS TO
9 THAT COMMENT.

10 OBVIOUSLY, WE HAVE AN ISSUE WITH
11 MR. LILLIENFELD'S CREDIBILITY AND HIS BIAS. AND IF THE
12 COMMENT WERE TO CHANGE, WE WOULD BE SEEKING TO CALL
13 MR. DIXON NOT JUST MR. LILLIENFELD. BUT AT THIS TIME WE
14 WOULD ASK TO CALL COLLENE CAMPBELL.

15 THE COURT: ALL RIGHT. LET ME ASK THE PEOPLE IF
16 THEY WANT TO PRESENT ANYTHING ELSE ON THIS ISSUE?

17 MR. DIXON: NOT AT THIS TIME. I WOULD SAY,
18 AGAIN, THAT I THINK THAT'S THE REASON WE HAVE DETECTIVES.
19 AND THAT'S WHY I DID NOT MAKE MYSELF A WITNESS. COUNSEL
20 JUST SAID THAT THEY HAVE NO PROBLEM WITH THE OFFER OF
21 PROOF, SO THERE IS NO DISCREPANCY HERE.

22 IF THE -- WHATEVER SHE WOULD WANT ME TO
23 TESTIFY TO, WE WOULD BE HAPPY TO STIPULATE THAT IF CALLED
24 I WOULD TESTIFY TO THAT. BUT I THINK IT WOULD BE
25 IMPROPER TO MAKE ME A WITNESS HERE. AND THAT'S EXACTLY
26 WHY I HAD A DETECTIVE WITH ME IS TO TRY TO AVOID THAT
27 SITUATION.

28 MS. SARIS: WE WOULD LIKE TO ACCEPT A

1 STIPULATION. AND THAT'S ASSUMING MR. JOHNSON WERE TO
2 TESTIFY THAT "I'LL GET YOU, TOO" COMMENT INSTEAD OF THE
3 "YOU'LL DIE, BITCH" COMMENT.

4 THE COURT: ALL RIGHT. WELL, EITHER WAY WE ARE
5 NOT GOING TO SEE MR. DIXON TAKING THE WITNESS STAND, SO
6 WE DON'T HAVE TO SPEND ANY MORE TIME ON THIS RIGHT NOW.
7 BUT IF THE PEOPLE WANTED TO PRESENT ANYTHING ELSE ON THE
8 ISSUE OF WHETHER OR NOT EITHER WHAT THE STATEMENT IS OR
9 THE SURROUNDING CIRCUMSTANCES IN WHICH IT WAS MADE, I'M
10 HAPPY TO HEAR FURTHER FROM THE PEOPLE.

11 MR. DIXON: IF THE COURT NEEDS TO HEAR DIRECTLY
12 FROM LANCE JOHNSON OUTSIDE THE PRESENCE OF THE JURY,
13 HE'LL BE HERE AT 1:30.

14 THE COURT: I'M NOT SAYING I NEED TO.

15 MR. DIXON: OKAY. THEN WE ARE FINE WITH THIS. I
16 THINK THE COURT HAS THE CONTEXT OF THE CONVERSATION MADE
17 AT THIS COURT HEARING FROM THE LAST TIME WE WERE IN COURT
18 TOGETHER. SO WE HAVE NOTHING FURTHER AT THIS POINT.

19 THE COURT: ALL RIGHT. MS. SARIS?

20 MS. SARIS: WE WOULD ASK TO CALL COLLENE
21 CAMPBELL, YOUR HONOR.

22 MR. DIXON: CAN I GO OUT AND GET HER?

23 THE COURT: YES.

24 (PAUSE IN PROCEEDINGS.)

25
26 COLLENE CAMPBELL,
27 CALLED BY THE DEFENSE AS A WITNESS, WAS
28 SWORN AND TESTIFIED AS FOLLOWS:

1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

2 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
3 YOU MAY 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 THE CLERK: THANK YOU. PLEASE BE SEATED. WOULD
8 YOU PLEASE STATE AND SPELL YOUR FIRST AND LAST NAME.

9 THE WITNESS: I GO BY MY MIDDLE NAME, WHICH IS
10 COLLENE, C-O-L-L-E-N-E, LAST NAME CAMPBELL,
11 C-A-M-P-B-E-L-L.

12 THE CLERK: THANK YOU.

13 THE COURT: MS. SARIS, YOU MAY INQUIRE.

14 MS. SARIS: THANK YOU.

15

16 EXAMINATION

17 BY MS. SARIS:

18 Q GOOD MORNING, MRS. CAMPBELL.

19 A GOOD MORNING.

20 Q AS A PRELIMINARY MATTER, YOU'RE THE SISTER
21 OF MICKEY THOMPSON?

22 A THAT'S CORRECT.

23 Q WERE YOU PRESENT AT A COURT APPEARANCE
24 OF -- DO YOU KNOW WHO MICHAEL GOODWIN IS?

25 A YES, I DO.

26 Q AND DO YOU SEE HIM IN COURT SITTING NEXT
27 TO ME?

28 A HE'S TO YOUR LEFT.

1 Q WERE YOU PRESENT AT A COURT APPEARANCE FOR
2 HIM IN 1996 IN A FEDERAL COURT PROCEEDING?

3 A I WAS THERE FOR SENTENCING IN THE FEDERAL
4 COURT PROCEEDINGS.

5 Q AND DO YOU RECALL ANYTHING SPECIFIC ABOUT
6 WHERE THAT WAS?

7 A IT WAS AT THE OLD SANTA ANA FEDERAL COURT
8 BUILDING.

9 Q DO YOU REMEMBER THE JUDGE OR THE
10 DEPARTMENT?

11 A YOU KNOW, RIGHT OFF THE TOP OF MY HEAD --
12 I'M SORRY. I COULD LOOK IT UP, BUT I DON'T HAVE IT IN MY
13 HEAD.

14 Q AND I SAID, 1996, IS THAT YOUR
15 RECOLLECTION? OR IS IT DIFFERENT? OR ARE YOU JUST
16 AGREEING WITH ME? DO YOU KNOW?

17 A NO, I PROBABLY WOULDN'T JUST AGREE WITH
18 YOU. IT WOULD BE 1996.

19 Q DO YOU REMEMBER THE MONTH?

20 A IT WOULD BE JULY.

21 Q THANK YOU. AND --

22 A I REMEMBER BECAUSE IT WAS TWO DAYS BEFORE
23 MY BIRTHDAY.

24 Q AND SO THE DATE WOULD BE WHEN?

25 A THE DAY WOULD BE JULY 8.

26 Q OF THE HEARING?

27 A OF THE SENTENCING.

28 Q AND DO YOU KNOW WHO LANCE JOHNSON IS?

1 A YES, HE WAS A NEIGHBOR OF MICKEY'S.

2 Q AND YOU WOULD RECOGNIZE HIM BY FACE?

3 A I THINK I WOULD, YES.

4 Q IN 1996 WOULD YOU HAVE?

5 A OH, YES.

6 Q DO YOU RECALL WHETHER OR NOT HE WAS
7 PRESENT AT THAT HEARING ON JULY 8TH OF 1996?

8 A HE WAS.

9 Q AND WHERE WERE YOU SITTING AT THAT
10 PROCEEDING IF YOU RECALL?

11 A IT WOULD HAVE BEEN IN ABOUT THE SECOND
12 ROW. MY HUSBAND WAS SITTING, I THINK, ON MY RIGHT. AND
13 PETER BOFFA WAS SITTING ON MY LEFT.

14 Q I'M SORRY. WHO?

15 A PETER BOFFA.

16 Q SPELL HIS LAST NAME, PLEASE.

17 A B-O-F-F-A, I THINK. HE WAS MAYOR OF COSTA
18 MESA.

19 Q DID YOU SEE LANCE JOHNSON AT THAT HEARING?

20 A I DID.

21 Q AND WHERE WAS HE IN RELATION TO YOU?

22 A HE WAS SITTING BEHIND ME, I BELIEVE, JUST
23 TO A SEAT BEHIND -- BOY, THAT'S COMING RIGHT OFF THE TOP
24 OF MY HEAD.

25 Q AND THIS IS IN THE AUDIENCE SECTION OF THE
26 COURTROOM?

27 A IN THE AUDIENCE SECTION, YES.

28 Q ARE YOU AWARE OF HOW MR. GOODWIN -- WELL,

1 WAS HE PRESENT AT THAT HEARING?

2 A HE WAS. IT WAS HIS SENTENCING, OF COURSE,
3 HE WAS PRESENT.

4 Q AND ARE YOU AWARE OF HOW HE ARRIVED AT THE
5 COURT THAT DAY?

6 A HOW? I'M SORRY.

7 Q HOW HE ARRIVED AT THE COURT?

8 A NO, I'M NOT.

9 Q ARE YOU AWARE OF WHETHER OR NOT HE WAS IN
10 CUSTODY?

11 A HE WAS NOT IN CUSTODY.

12 Q DID YOU HAVE ANY DIRECT CONTACT WITH
13 MR. GOODWIN THAT DAY?

14 A ONLY PASSING.

15 Q AND COULD YOU DESCRIBE THAT, PLEASE?

16 A I WAS STANDING OUTSIDE TRYING TO REMEMBER
17 EXACTLY WHAT HAPPENED. I THINK I WAS GOING OUT --
18 PROBABLY GOING TO THE RESTROOM -- AND HE WAS COMING INTO
19 THE COURTROOM AND WE PASSED ONE ANOTHER.

20 Q WAS IT YOUR UNDERSTANDING THIS WAS THE
21 FIRST TIME HE WAS ARRIVING IN COURT THAT DAY?

22 A NO. HE HAD ALREADY BEEN THERE.

23 Q AND DID YOU HAVE ANY -- DID YOU SAY
24 ANYTHING TO HIM AT THAT TIME?

25 A NO.

26 Q DID HE SAY ANYTHING TO YOU?

27 A HE DID.

28 Q WHAT DID HE SAY?

1 A I'M GOING TO TRY TO GIVE IT MY BEST SHOT
2 OF EXACTLY WHAT HE SAID BECAUSE IT WAS JUST PASSING. AND
3 HE SAID SOMETHING TO THE EFFECT, "I'M GOING TO KILL YOU,
4 TOO, BITCH" OR "I'M GOING TO GET YOU, TOO, BITCH." I'M
5 NOT SURE WHICH IT IS. AND THAT'S ALL THAT WAS SAID.

6 Q AND WHO WAS WITH YOU?

7 A YOU KNOW, I DON'T KNOW WHO WAS WITH ME.
8 IT MAY HAVE BEEN LANCE JOHNSON THAT HEARD IT, TOO. TO
9 TELL YOU THE TRUTH, I KIND OF PASSED IT OFF AND WHOEVER
10 IT WAS ABOUT HAD A STROKE.

11 Q DO YOU RECALL IT BEING SPECIFICALLY IN THE
12 HALLWAY OR THE ANTI-ROOM LEAVING TO THE HALLWAY?

13 A I REMEMBER US PASSING EACH OTHER. AND I
14 BELIEVE IT WAS INSIDE THE COURTROOM AT A BREAK WHEN I WAS
15 GOING OUT AND HE WAS WALKING IN.

16 Q SO YOU WERE BOTH STANDING?

17 A YES, WE WERE WALKING.

18 Q WAS HE WALKING WITH HIS ATTORNEY OR ANYONE
19 ELSE?

20 A I DON'T KNOW.

21 Q DID HE SAY IT OUT LOUD OR UNDER HIS
22 BREATH?

23 A HE SAID IT IN A VERY MEAN, LOW TONE.

24 Q AND WHERE WAS LANCE JOHNSON, IF YOU
25 RECALL?

26 A I'M NOT SURE IT WAS LANCE JOHNSON THAT
27 HEARD IT. WHOEVER IT WAS THAT HEARD IT WAS COMING OR
28 GOING. I DON'T THINK WE WERE NECESSARILY TOGETHER.

1 Q AND HOW DO YOU KNOW THAT PERSON HEARD IT?

2 A THEY SAID SOMETHING TO ME ABOUT IT.

3 Q AND DID YOU TELL THE JUDGE?

4 A NO, I DID NOT.

5 Q DID YOU TELL THE DISTRICT ATTORNEY?

6 A NO, I DID NOT.

7 MR. DIXON: OBJECTION. THAT ASSUMES FACTS NOT IN
8 EVIDENCE.

9 THE COURT: SUSTAINED.

10 MS. SARIS: I'M SORRY.

11 Q DID YOU TELL ANY PROSECUTING ATTORNEY THAT
12 WAS THERE?

13 A THESE WERE NOT MY ATTORNEYS. I WAS
14 THERE LISTENING TO THE SENTENCING OF MIKE GOODWIN.

15 Q I'M SORRY. LET ME REPHRASE THEN. WAS THE
16 PROSECUTION, AS FAR AS YOU KNEW, THE FEDERAL GOVERNMENT
17 REPRESENTED BY LAWYERS THAT ?

18 A YES.

19 Q DID YOU TELL THEM ABOUT THIS THREAT?

20 A NO, I DID NOT.

21 Q HAD HE, MICHAEL GOODWIN, BEEN SENTENCED
22 YET AT THE TIME THAT YOU PASSED HIM?

23 A NO. BECAUSE THE SECOND THEY SENTENCED
24 HIM, THEY TOOK HIM INTO CUSTODY, AS I RECALL.

25 Q WERE THERE MARSHALS IN THIS COURTROOM,
26 POLICE OFFICERS OF ANY SORT?

27 A YOU KNOW, I WASN'T PAYING ATTENTION.

28 Q SO IT'S FAIR TO SAY THAT YOU DIDN'T REPORT

1 IT TO ANY LAW ENFORCEMENT?

2 A I DID NOT REPORT IT RIGHT THEN, NO.

3 Q DID YOU PERSONALLY REPORT IT LATER?

4 A WHEN I WAS ASKED ABOUT IT, YES.

5 Q AND WHEN WAS THAT?

6 A I DON'T RECALL.

7 Q DO YOU RECALL WHETHER OR NOT IT WAS WITHIN
8 A COUPLE MONTHS OR A COUPLE OF YEARS OF THE HEARING.

9 A IT WAS WITHIN DAYS I WOULD IMAGINE.

10 Q WITHIN DAYS OF THE HEARING?

11 A YEAH. ACTUALLY, WHOEVER IT WAS SAID THAT
12 THEY HAD BEEN TOLD THAT HE HAD SAID THIS. AND I SAID,
13 YEAH. AND I DON'T REMEMBER WHAT DETECTIVE IT WAS. I
14 JUST -- I'M SORRY, I DON'T.

15 Q SO A DETECTIVE SAID TO YOU THEY HAD HEARD
16 IT AND ASKED YOU TO CONFIRM. IS THAT FAIR?

17 A NO. THE DETECTIVE DID NOT HEAR IT, THE
18 PERSON THAT WAS WITH ME TOLD THEM.

19 Q I'M SORRY. THE DETECTIVE SAID THAT HE HAD
20 HEARD ABOUT IT AND ASKED YOU TO CONFIRM?

21 A CORRECT. CORRECT.

22 Q DID HE INDICATE TO YOU WHO HAD TOLD HIM?

23 A IF HE DID, I DON'T RECALL. I PROBABLY
24 HAVE NOTES ON THIS AT HOME, BUT I DIDN'T KNOW I WAS GOING
25 TO BE ASKED THESE QUESTIONS TODAY. SO --

26 THE COURT: DID YOU MAKE NOTES OF THE ACTUAL
27 STATEMENT?

28 THE WITNESS: YOU KNOW, I'M JUST NOT SURE.

1 Q BY MS. SARIS: YOU WERE PRESENT -- I'M NOT
2 SURE ACTUALLY -- WERE YOU IN COURT LAST WEEK WHEN WE WERE
3 DISCUSSING THIS INITIALLY?

4 MR. DIXON: YOUR HONOR, MY RECOLLECTION OF THE
5 RECORD IS THAT WE ASKED THE WITNESS TO --

6 MS. SARIS: THAT'S WHY I'M ASKING. I DON'T
7 REMEMBER. THAT'S WHY I'M ASKING.

8 THE WITNESS: I THINK THAT'S WHEN I LEFT THE
9 COURTROOM BECAUSE I DON'T RECALL IT AT ALL.

10 MS. SARIS: OKAY.

11 Q AND PARDON MY LANGUAGE, BUT COULD THE
12 COMMENT HAVE BEEN "YOU'LL DIE, BITCH"?

13 A IT COULD HAVE.

14 Q DO YOU KNOW WHY LANCE JOHNSON WAS THERE?

15 A YES. BECAUSE HE WAS A TERRIBLY GOOD
16 FRIEND OF MICKEY'S.

17 Q AND JUST SO THE RECORD IS CLEAR, THIS WAS
18 A SENTENCING HEARING REGARDING FINANCIAL ISSUES OF FALSE
19 LOAN DOCUMENTS; IS THAT RIGHT? THIS HAD NOTHING TO DO
20 WITH THE MURDER CASE?

21 A IT HAD NOTHING TO DO WITH THE ACTUAL
22 MURDER. OF COURSE, THE FINANCIAL STUFF HAD SOMETHING
23 GOING INTO IT.

24 Q DO YOU KNOW -- AND THIS IS JUST IF YOU
25 KNOW; I'M NOT ASKING A LEGAL OPINION -- ON WHAT CHARGES
26 MICHAEL GOODWIN WAS BEING SENTENCED ON THAT DAY?

27 A YEAH, FRAUD. BANKRUPTCY FRAUD.

28 Q HAD YOU PERSONALLY DONE ANYTHING TO INVITE

1 LANCE JOHNSON THERE THAT DAY OR HAD HE JUST SHOWN UP?

2 A I DON'T BELIEVE WE HAD ANY CONVERSATION AT
3 ALL.

4 Q DID YOU ATTEND ANY OTHER OF THE HEARINGS
5 REGARDING THE BANKRUPTCY?

6 A NONE. THIS WAS THE ONLY ONE I ATTENDED
7 WAS THE SENTENCING. I PURPOSELY STAYED AWAY FROM IT.

8 Q THERE WAS SOME ISSUE REGARDING A NEWS
9 ACCOUNT IN THE ORANGE COUNTY REGISTER REGARDING THIS
10 HEARING. DO YOU RECALL THAT?

11 A I RECALL -- I RECALL THAT I WROTE A LETTER
12 BECAUSE I WAS QUITE UPSET AT THE WAY I WAS DESCRIBED
13 HOLDING A PICTURE OF MY BROTHER AND MY SISTER-IN-LAW FOR
14 THREE HOURS, WHICH I DIDN'T DO. AND I SENT A LETTER TO
15 THE EDITOR WITH REGARD TO THAT. I THOUGHT IT WAS VERY
16 POOR REPORTING TO REPORT SOMETHING THAT WAS UNTRUE.

17 Q AND DID YOU SAY ANYTHING IN THAT LETTER TO
18 THE REGISTER AT THAT TIME REGARDING THIS THREAT THAT
19 SOMEONE OVERHEARD?

20 A I WOULDN'T -- I DON'T THINK I WOULD SAY
21 ANYTHING TO THE REGISTER, NO.

22 Q SO, AGAIN, JUST TO CLARIFY THE RECORD,
23 THERE WAS A REPORTER THERE AT THE HEARING WHO HAD WRITTEN
24 A STORY AND YOU DISAPPROVED OF HOW YOU CAME OFF IN THE
25 STORY AND WROTE --

26 A I DISAPPROVED THAT HE LIED ABOUT MY
27 SITTING THERE FOR THREE HOURS HOLDING A PHOTOGRAPH OF MY
28 BROTHER AND HIS WIFE. AND THAT BECAME VERY CLEAR WITH

1 ALL THE PEOPLE AROUND ME.

2 Q SO YOU TOOK EXCEPTION WITH WHAT THE
3 JOURNALIST WROTE AND YOU WROTE A LETTER TO THE EDITOR?

4 A THAT'S CORRECT.

5 Q DID YOU EVER INVITE ANYONE ON THAT PAPER
6 STAFF, AFTER YOUR LETTER, TO TALK TO ANY OF THE PEOPLE
7 THAT WERE THERE WITH YOU?

8 A NO.

9 Q DID YOU ASK LANCE JOHNSON -- YOU SAID THAT
10 WHEN YOU WERE GOING OUT, THAT YOU MAY HAVE BEEN OUT TO
11 USE THE RESTROOM.

12 DID YOU ASK SOMEONE TO ACCOMPANY YOU TO
13 THE RESTROOM?

14 A NO. IF I WOULD HAVE ASKED FOR SOMEONE TO
15 ACCOMPANY ME TO THE RESTROOM, IT WOULD HAVE BEEN MY
16 HUSBAND.

17 Q DID YOU HAVE AN AWARENESS OF WHERE YOUR
18 HUSBAND WAS DURING THIS STATEMENT?

19 A YES.

20 Q WHERE WAS THAT?

21 A HE WAS SITTING IN THE CHAIR INSIDE THE
22 COURTROOM.

23 Q I'M SORRY?

24 A SITTING IN HIS SEAT IN THE COURTROOM.

25 Q AND WHERE WAS THAT IN RELATION TO WHERE
26 YOU WERE LEAVING OR WALKING?

27 A IT WOULD HAVE BEEN -- WHEN I WALKED AWAY,
28 HE WOULD HAVE BEEN TO MY BACK AS I WAS WALKING OUT TO THE

1 HALL.

2 MS. SARIS: MAY I HAVE JUST A MOMENT?

3 (PAUSE IN PROCEEDINGS.)

4 Q BY MS. SARIS: DID YOU SUBMIT ANY LETTERS
5 OR RECOMMENDATIONS TO THE COURT REGARDING MR. GOODWIN'S
6 SENTENCING?

7 A NOT THAT I RECALL.

8 Q HAD YOU PERSONALLY MET MR. GOODWIN BEFORE
9 THAT DAY?

10 A I HAD ONLY MET HIM ONE TIME IN WALKING
11 PAST TO THE STADIUM WHEN MY BROTHER MICKEY INTRODUCED ME
12 TO HIM.

13 Q SO THAT WOULD HAVE BEEN ABOUT TEN YEARS
14 PRIOR TO THAT?

15 A IT WOULD HAVE BEEN, OF COURSE, BEFORE
16 MICKEY'S DEATH, SO IT WOULD HAVE BEEN PRIOR TO '88.

17 MS. SARIS: NOTHING FURTHER, YOUR HONOR.

18 MR. DIXON: A COUPLE OF QUESTIONS.

19 THE COURT: ALL RIGHT.

20

21 EXAMINATION

22 BY MR. DIXON:

23 Q GOOD MORNING.

24 A GOOD MORNING.

25 Q ALTHOUGH THIS WAS THE FEDERAL SENTENCING
26 IN A BANKRUPTCY FRAUD CASE THAT YOU ATTENDED, ISN'T IT
27 TRUE THAT THE REAL REASON YOU WERE THERE IS BECAUSE OF
28 WHAT HAPPENED TO YOUR BROTHER AND HIS WIFE?

1 A WELL, I THINK THERE WAS TWO REASONS; YES,
2 THAT WAS IT. AND I WAS ALSO THE EXECUTOR ON MY BROTHER'S
3 ESTATE THAT HAD BEEN THE MONEY NOT GIVEN OVER TO THIS.

4 Q SO YOU HAD --

5 A I HAD TWO REASONS. IT WAS THE LOVE FOR
6 MICKEY AND TRUDY.

7 Q AND NOW, AS I RECALL YOUR STATEMENT TO
8 DEFENSE COUNSEL HERE, YOUR BEST RECOLLECTION OF THE
9 STATEMENT MADE TO YOU BY THE DEFENDANT WAS "I'M GOING TO
10 KILL YOU, TOO, BITCH"? IS THAT WHAT YOU SAID?

11 A "I'M GOING TO KILL YOU, TOO, BITCH" OR
12 "I'M GOING TO GET YOU, TOO, BITCH." I THINK IT WAS "I'M
13 GOING TO KILL YOU, TOO, BITCH." IT WAS LIKE, "I'M GOING
14 TO KILL YOU, ALSO, YOU ROTTEN PERSON."

15 Q IN EACH OF THOSE STATEMENTS THAT YOU JUST
16 RELAYED TO US, YOU USED THE WORD "TOO" AND "ALSO." WAS
17 THAT A SIGNIFICANT THING THAT HE SAID TO YOU AT THE TIME?
18 DID THAT MEAN "I'LL KILL YOU, TOO"? "I'LL KILL YOU,
19 ALSO"?

20 A WELL, TO ME IT MEANT "I GOT YOUR BROTHER
21 AND NOW I'M GOING TO GET YOU."

22 Q IS THAT WHAT YOU RECALL?

23 A THAT'S WHAT I RECALL.

24 MR. DIXON: THANK YOU. NOTHING FURTHER.

25 THE COURT: MS. SARIS.

26 MS. SARIS: BRIEFLY.

27 ///

28 ///

EXAMINATION

BY MS. SARIS:

Q WAS IT YOUR BELIEF AT THAT POINT -- AND I'M JUST ASKING ABOUT YOUR BELIEF -- THAT MR. GOODWIN WAS INVOLVED IN YOUR BROTHER'S MURDER?

A ABSOLUTELY.

Q HAD YOU BEEN BEHIND THE ISSUANCE OF A REWARD FOR INFORMATION LEADING TO YOUR BROTHER'S MURDER?

A I WAS. MY HUSBAND AND I PUT UP THE REWARD.

Q AND YET WHEN THIS COMMENT WAS MADE, YOU NEVER REPORTED THAT TO LAW ENFORCEMENT?

MR. DIXON: OBJECTION. ARGUMENTATIVE.

THE COURT: SUSTAINED.

MR. DIXON: THANK YOU.

THE COURT: ANYTHING ELSE?

MS. SARIS: ONE MORE QUESTION OR A COUPLE.

Q DID YOU KNOW WHO THE PROSECUTING ATTORNEYS WERE? WERE YOU AWARE OF THEIR NAMES?

A YOU KNOW, AT THE TIME I WAS. AND I COULD TAKE A RUN AT IT. IT SEEMED LIKE IT MAY HAVE BEEN A RYAN. BUT DON'T HOLD ME TO THAT ONE. I'M JUST NOT SURE AT ALL.

Q WELL, REGARDLESS OF WHETHER YOU REMEMBER IT NOW, AT THE TIME IF YOU SAW THEM IN THE HALLWAY, YOU WOULD KNOW WHO THEY WERE?

A PROBABLY NOT.

MS. SARIS: NOTHING FURTHER.

1 MR. DIXON: THANK YOU. NOTHING FURTHER, YOUR
2 HONOR.

3 THE COURT: THANK YOU, MA'AM.

4 THE WITNESS: THANK YOU.

5 THE COURT: SHOULD WE HAVE MRS. CAMPBELL REMAIN
6 OUTSIDE OR --

7 MR. DIXON: JUST PERHAPS WHILE WE FINISH ARGUING
8 JUST TO BE CONSISTENT.

9 THE COURT: SURE.

10 (PAUSE IN PROCEEDINGS.)

11 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
12 THAT MRS. CAMPBELL HAS STEPPED OUTSIDE ONCE AGAIN.

13 DOES THE DEFENSE HAVE ANY OTHER EVIDENCE
14 TO PRESENT?

15 MS. SARIS: NO, YOUR HONOR, NOT FOR THIS HEARING.

16 THE COURT: ANYTHING FURTHER BY THE PEOPLE?

17 MR. DIXON: NO, THANK YOU, YOUR HONOR. WE WOULD
18 SUBMIT IT ON OUR EARLIER ARGUMENTS.

19 THE COURT: BY THE DEFENSE?

20 MS. SARIS: YOUR HONOR, WE WOULD ASK -- I DON'T
21 KNOW IF IT WOULD MATTER TO THE COURT, SO LET ME INQUIRE.
22 IT IS OUR UNDERSTANDING THAT MR. JOHNSON WOULD TESTIFY
23 BASED ON HIS STATEMENT -- WE MAY HAVE MISUNDERSTOOD
24 THIS -- THAT MR. GOODWIN WAS AT COUNSEL TABLE AND LEANED
25 OVER AND SAID THIS. I DON'T KNOW IF THAT WOULD CHANGE
26 THE COURT'S OPINION AS TO THE CREDIBILITY OF THIS
27 STATEMENT OR NOT.

28 IF THE COURT IS ACCEPTING THE STATEMENT,

1 THEN OUR CONCERN IS BASICALLY THREE-FOLD. FIRST, THAT IT
2 WOULD REQUIRE A MINI-TRIAL IN THAT, OBVIOUSLY,
3 MR. GOODWIN DENIES THIS. IT IS OUR UNDERSTANDING THAT
4 MR. GOODWIN WAS REPRESENTED BY COUNSEL AT THIS HEARING.
5 AND THAT HIS ATTORNEYS WOULD COME IN AND INDICATE THAT
6 THEY HAD BEEN MADE AN EFFORT TO AVOID HIM BEING ANYWHERE
7 NEAR ANY PERSON RELATED TO THE THOMPSON FAMILY DURING
8 THIS HEARING.

9 WE'VE ALSO SOUGHT TO SORT OF NARROW DOWN
10 WHOSE COURT THIS WAS IN AND WHO WAS WORKING. WE'VE BEEN
11 UNABLE TO DO THAT OVER THE HOLIDAY TO GET SOME LEEWAY
12 GOING IN TERMS OF WHO ELSE COULD HAVE BEEN IN THAT COURT
13 AND POSSIBLY OVERHEARD A DIFFERENT STATEMENT OR TESTIFIED
14 TO THE FACT THAT MR. GOODWIN DID NOT INTERACT AND WAS
15 PURPOSELY PREVENTED FROM INTERACTING WITH ANY MEMBER OF
16 THE THOMPSON FAMILY.

17 THE STATEMENT ITSELF AGAIN IS EIGHT YEARS
18 AFTER THE FACT. IT WOULD REQUIRE US TO ALSO GET INTO THE
19 ISSUES OF WHAT MRS. CAMPBELL WAS DOING IN RELATION TO THE
20 INVESTIGATION. SHE HAD HIRED A PRIVATE -- OUR OFFER OF
21 PROOF WAS THAT SHE HAD HIRED A PRIVATE DETECTIVE. THIS
22 INDIVIDUAL HAD ILLEGALLY OBTAINED MR. GOODWIN'S PHONE
23 RECORDS; HAD BEEN RESPONSIBLE FOR BREAKING INTO HIS
24 SISTER'S HOME IN FLORIDA.

25 THEREFORE, THE IDEA OF THREATENING HER
26 COULD HAVE BEEN UNRELATED TO THE MICKEY THOMPSON MURDER.
27 EVEN WITH THE COMMENT "TOO," IT COULD HAVE BEEN JUST MORE
28 OF A BLUSTERING TALK IN TERMS OF IF SHE BELIEVED THAT

1 MR. GOODWIN WAS RESPONSIBLE FOR THE MURDER OF HER
2 BROTHER. IT WOULD BE MORE OF A THREAT REGARDLESS OF
3 WHETHER MR. GOODWIN WAS ACTUALLY RESPONSIBLE. AND IT
4 WOULD REQUIRE US TO GET INTO THE STEPS THAT SHE TOOK TO
5 TRACK DOWN HIS FINANCIAL ASSETS; AND WHY HE WOULD BE
6 UPSET WITH HER INDEPENDENT OF THE LAWSUIT AND THE MURDER
7 OF MICKEY THOMPSON.

8 AND THEREFORE THAT WOULD REQUIRE US TO
9 OR -- AT LEAST THE COURT WOULD HAVE TO ALLOW US TO GET
10 INTO THE BIAS THAT WOULD BE INVOLVED AND THE SITUATION
11 THAT MR. GOODWIN WAS IN AT THE TIME TO SHOW THAT THE
12 STATEMENT WAS NOT NECESSARILY IN A VACUUM AND OUT OF
13 CONTEXT.

14 BUT SAYING SOMETHING UNTOWARD TO SOMEONE
15 WHO HAD TAKEN ILLEGAL STEPS TO MAKE HIS LIFE QUITE
16 MISERABLE FOR SEVERAL YEARS REGARDLESS OF HER BELIEF NOT
17 RIGHTEOUSNESS OF THAT CONDUCT; AND THEREFORE THE
18 STATEMENT IS REMOTE IN TIME. IT IS NOT PROBATIVE ENOUGH
19 FOR THE PREJUDICIAL VALUE THAT IT ON WOULD ENGENDER TO
20 THE JURY; AND REALLY GOES MORE TOWARDS ILLEGAL CHARACTER
21 EVIDENCE THAN IT DOES TOWARD ACTUAL POINT OF CONTENTION
22 IN THIS TRIAL.

23 MR. DIXON: WELL, YOUR HONOR, I DON'T WANT TO
24 TAKE UP THE COURT'S TIME. WE DID MAKE THIS ARGUMENT
25 BEFORE THE HOLIDAY. AND I WOULD JUST BE REPEATING
26 MYSELF. ALL THE ARGUMENTS WITH BIAS; WE'RE CALLING
27 COLLENE CAMPBELL.

28 NOW IF COUNSEL WANTS TO CALL HER AND SET

1 UP A STRAW MEN, SO TO SPEAK, AND TRY TO KNOCK IT DOWN IN
2 THEIR CASE IN CHIEF, I IMAGINE THEY CAN DO THAT IN THEIR
3 CASE IN CHIEF. BUT WE'RE NOT GOING TO CALL HER. WE'VE
4 SAID THAT FROM THE BEGINNING. AND NOTWITHSTANDING THE
5 STATEMENT THAT WE HEARD TODAY, WE'RE GOING TO STAND BY
6 THAT.

7 THE COURT: SO YOU'RE JUST GOING TO HAVE
8 MR. JOHNSON TESTIFY TO THE STATEMENT?

9 MR. DIXON: CORRECT. RIGHT. AND IF COUNSEL
10 WANTS TO CALL HER IN THEIR CASE AND BASICALLY SUPPORT
11 MR. JOHNSON'S STATEMENT OR THE STATEMENT TO
12 MR. LILLIENFELD AND THEN ATTACK HER ON THE BIAS ISSUE, I
13 GUESS THEY'RE FREE TO DO THAT. AND I DON'T KNOW HOW THE
14 JURY IS GOING TO WEIGH ALL THAT.

15 MS. SARIS: YOUR HONOR, WE WOULD BE SEEKING TO
16 INTRODUCE THE BIAS REGARDLESS OF MRS. CAMPBELL'S
17 TESTIMONY AS IT GOES TO THE COMMENT, REGARDLESS OF WHO
18 TESTIFIES TO IT.

19 THE COURT: RIGHT. BUT IT IS SOMETHING THAT YOU
20 CERTAINLY WILL HAVE AN OPPORTUNITY TO DO IN YOUR CASE IN
21 CHIEF.

22 IS THE MATTER SUBMITTED?

23 MR. DIXON: SUBMITTED.

24 MS. SARIS: SUBMITTED.

25 THE COURT: AGAIN, I VIEW THIS AS EITHER AN
26 ADMISSION BY THE DEFENDANT, SIMILAR TO THE BULK OF THE
27 EVIDENCE THAT HAS BEEN PRESENTED SO FAR, WHICH CONSISTS
28 OF STATEMENTS -- ALLEGED STATEMENTS OF THE DEFENDANT.

1 IT'S ALSO CIRCUMSTANTIAL EVIDENCE TENDING
2 TO SHOW MR. GOODWIN'S INVOLVEMENT IN THE MURDERS OF
3 MICKEY AND TRUDY THOMPSON. NO MATTER HOW I LOOK AT IT --
4 HOW I LOOK AT IT AND REGARDLESS OF THE ACTUAL WORDING
5 USED, IT SEEMS TO ME TO LEGALLY BE ADMISSIBLE UNDER THOSE
6 THEORIES.

7 AND GIVEN THE REQUIREMENT THAT I WEIGH AND
8 BALANCE UNDER 352 THE PROBATIVE VALUE VERSUS PREJUDICIAL
9 EFFECT AND UNDUE CONSUMPTION OF TIME, CONFUSION OF THE
10 ISSUES, I'M HAPPY TO GIVE THE DEFENSE THE OPPORTUNITY TO
11 SHOW THE JURY THE CONTEXT IN WHICH THE STATEMENT, IF IT
12 WAS MADE, WAS MADE. AND THE PERHAPS THE MOTIVE OR
13 INTEREST OR BIAS ON THE PART OF MRS. CAMPBELL.

14 BUT I THINK UNDER 352 IT HAS SIGNIFICANT
15 PROBATIVE VALUE. MY DISCUSSION BEFORE WE RECESSED THAT
16 IT WAS SIMILAR TO PREVIOUS STATEMENTS IS ONLY RELEVANT
17 INSOFAR AS I'M CONSIDERING THE FACT THAT GIVEN THE PRIOR
18 STATEMENTS THIS STATEMENT IS NO WORSE THAN WHAT WE'VE
19 HEARD.

20 SO PREJUDICIAL EFFECT IS NOTHING IN MY
21 MIND. I MEAN THE JURY HAS HEARD SO FAR NOTHING BUT
22 WITNESSES ATTRIBUTING DEATH THREATS TO MR. GOODWIN -- OF
23 MR. GOODWIN. THIS IS JUST ANOTHER ONE OF THOSE IN MY
24 MIND. AND IT IS RELEVANT IN DETERMINING THE PREJUDICIAL
25 EFFECT. SO I THINK IT HAS MINIMAL PREJUDICIAL EFFECT AND
26 TREMENDOUS PROBATIVE VALUE.

27 AND THE DEFENSE WILL BE CERTAINLY GIVEN
28 GREAT LEEWAY IN THIS MATTER TO REBUT THIS STATEMENT ANY

1 WAY THE DEFENSE WISHES TO AS LONG AS IT'S WITHIN THE
2 RULES OF THE EVIDENCE CODE. AND I DON'T KNOW WHAT ELSE I
3 CAN SAY ON THAT.

4 I THINK I HAVE MADE A RECORD.

5 MS. SARIS: THAT'S FINE. IN LIGHT OF THAT
6 RULING, WE WOULD ASK THAT MRS. CAMPBELL BE EXCLUDED FROM
7 THE REMAINDER OF THIS TRIAL.

8 THE COURT: LET ME HEAR FROM MR. JOHNSON THIS
9 AFTERNOON. I ASSUME HE'S THE NEXT WITNESS UP.

10 MR. DIXON: YES, HE IS. AND WE HAVE AGREED THAT
11 MRS. CAMPBELL WOULD NOT BE IN THE COURTROOM FOR THAT
12 WITNESS.

13 THE COURT: YES.

14 MR. DIXON: THERE IS ONE OTHER ISSUE. AND I
15 MENTIONED THIS BRIEFLY, BUT NOT COMPLETELY TO MS. SARIS
16 DURING THE BREAK. AND I JUST THOUGHT I WOULD PRESENT OUR
17 POSITION ON THIS. AND HOPEFULLY THE COURT CAN CONSIDER
18 IT OVER THE LUNCH HOUR AND LET US KNOW.

19 AS THE COURT KNOWS IN THE DEFENSE OPENING
20 STATEMENT, THEY MADE QUITE A DEAL OF SAYING THEY WERE
21 GOING TO ATTACK THE CRIME SCENE. AND, IN FACT, AT
22 SIDEBAR LAST WEEK BEFORE WE RECESSED, THE SAME COMMENT
23 WAS MADE THAT WE'RE GOING TO ATTACK THE CRIME SCENE AND
24 THE WAY IT WAS DONE AND WHETHER THIS IS A ROBBERY GONE
25 BAD OR AN EXECUTION.

26 AND CLEARLY THAT -- AND I UNDERSTAND WHY
27 THAT'S BEING DONE FOR A NUMBER OF REASONS, INCLUDING IF
28 IT IS A RANDOM ROBBERY INSTEAD OF AN EXECUTION, THEN

1 MR. GOODWIN IS NOT GUILTY BECAUSE HE DIDN'T ROB THEM.
2 AND THE DEFENSE HAS SAID THAT THEY'RE GOING TO PRESENT
3 EXPERTS ON THIS ISSUE.

4 WELL, IN LIGHT OF THAT, THE OPENING
5 STATEMENT, THE COMMENTS AT SIDEBAR AND THE DEFENSE
6 EXPERTS, WE HAVE CONTACTED AND WOULD ADD TO OUR WITNESS
7 LIST FOR REBUTTAL RICK JACKSON, WHO IS A LOS ANGELES
8 POLICE DEPARTMENT OFFICER OF ABOUT 30 YEARS ASSIGNED TO
9 THE ROBBERY/HOMICIDE DIVISION AS A POTENTIAL EXPERT TO
10 CALL IN OUR REBUTTAL CASE.

11 AND THE REASON I MENTION IT NOW IS THAT WE
12 WOULD LIKE WITH THE COURT'S PERMISSION TO HAVE DETECTIVE
13 JACKSON SIT IN FOR THE REMAINDER OF OUR CASE HAVING TO DO
14 WITH THE CRIME SCENE. AND THEN HAVE THE COURT'S OKAY
15 FOR HIM TO BE IN THE COURTROOM DURING THE DEFENSE EXPERTS
16 RELATING TO THE CRIME SCENE. SO THAT IF WE CHOOSE TO
17 CALL HIM IN OUR REBUTTAL CASE, HE HAS THAT BACKGROUND TO
18 TESTIFY AS AN EXPERT. AND SO THAT'S OUR REQUEST.

19 MS. SARIS: I'M CONFUSED. MR. JACKSON IS A
20 CURRENT ROBBERY/HOMICIDE DETECTIVE WHO HAS NO CONNECTION
21 WITH THIS CASE, JUST TO CLARIFY?

22 MR. DIXON: YES, HE HAS NO CONNECTION.

23 MS. SARIS: I'VE DEALT WITH MR. JACKSON. I DON'T
24 UNDERSTAND HIS EXPERTISE.

25 MR. DIXON: HE IS A HOMICIDE DETECTIVE WHO HAS
26 PROBABLY WORKED OVER 20 YEARS IN HOMICIDE; HAS
27 INVESTIGATED LITERALLY HUNDREDS OF HOMICIDE CASES. HE'S
28 CURRENTLY ASSIGNED TO THE COLD CASE DIVISION. HE IS, IN

1 MY VIEW -- AND I THINK IT WOULD BE EASY TO QUALIFY HIM AS
2 AN EXPERT HOMICIDE DETECTIVE -- TO TESTIFY ON SOME OF THE
3 AREAS IN WHICH DEFENSE IS GOING TO HAVE THEIR EXPERTS
4 TESTIFY AS REBUTTAL FOR THE PROSECUTION.

5 THE COURT: WELL, AT THIS POINT LET ME JUST SAY
6 THIS, THE PEOPLE CAN DESIGNATE ANYONE THEY WANT AS AN
7 EXPERT WITNESS. AND YOUR REQUEST TO HAVE HIM IN THE
8 COURTROOM FOR TESTIMONY REGARDING THE CRIME SCENE IS
9 GRANTED. THE ISSUE OF WHETHER HE WILL QUALIFY AS AN
10 EXPERT; WHETHER HIS TESTIMONY WILL BE ADMITTED, IS A
11 SEPARATE ISSUE THAT WE CAN DEAL WITH AT A LATER DATE.

12 MS. SARIS: THAT'S FINE.

13 MR. DIXON: THANK YOU. I JUST WANTED TO LET THE
14 COURT HAVE A HEADS UP ON THAT.

15 THE COURT: ANYTHING ELSE UNTIL 1:30?

16 MR. DIXON: NO. THANK YOU.

17 THE COURT: THANK YOU. WE WILL SEE YOU THEN.

18
19 (AT 12:00 P.M. A RECESS WAS TAKEN
20 UNTIL 1:30 P.M. OF THE SAME DAY.)

21 --000--
22
23
24
25
26
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28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, NOVEMBER 27, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: ALL RIGHT. WE'RE BACK ON THE RECORD.

14 MR. DIXON: YOUR HONOR, I GUESS SHE SHOULD
15 OBJECT, BUT I'LL JUST QUEUE THIS UP FOR YOU. WHENEVER I
16 INTERVIEW SOMEBODY, THERE IS ALWAYS SOMETHING NEW. SO
17 WHEN I FOUND THIS OUT, I TOLD MS. SARIS A FEW MOMENTS
18 AGO. MR. JOHNSON IS GOING TO TESTIFY THAT AMONG OTHER
19 THINGS, HE WAS GOOD FRIENDS WITH MICKEY THOMPSON.

20 HE TALKED -- AND THIS GOES BACK QUITE A
21 WAYS. MICKEY THOMPSON SAID WHEN THEY, GOODWIN AND
22 THOMPSON, FIRST GOT TOGETHER, BOY, I REALLY FEEL GOOD.
23 IT'S BEEN NICE TO TAKE THE PRESSURE OFF ME WITH THIS
24 RELATIONSHIP WITH MIKE GOODWIN.

25 MY WIFE IS HAVING A LOT OF PROBLEMS WITH
26 HER LEGS AND MOBILITY AND THAT'S WHY I FEEL GOOD ABOUT
27 IT. OBVIOUSLY, THAT RELATIONSHIP WENT DOWNHILL. I WAS
28 GOING TO ASK THOSE QUESTIONS TO SHOW MICKEY THOMPSON'S

1 STATE OF MIND AT THE BEGINNING OF THIS CONTRACT SINCE WE
2 BROUGHT IN THE DEFENDANT'S STATE OF MIND. I RELATED THAT
3 TO MS. SARIS IF SHE HAS A PROBLEM WITH IT. SHE INDICATED
4 SHE DID, BUT I THOUGHT --

5 DO YOU WANT --

6 MS. SARIS: IT'S A RELEVANCE OBJECTION TO MICKEY
7 THOMPSON'S STATE OF MIND AND WHAT HE THOUGHT ABOUT THE
8 PARTNERSHIP. AND HEARSAY, OBVIOUSLY.

9 THE COURT: WELL, AGAIN, IT GETS US BACK TO THE
10 STATE OF MIND EXCEPTION WHEN IT'S OFFERED FOR THE TRUTH.
11 IF IT'S OFFERED AS STATE OF MIND, THEN THE ISSUE HAS TO
12 BE STATE OF MIND.

13 MS. SARIS: BUT THE STATE OF MIND HAS TO BE
14 RELEVANT. AND IN THIS CASE MICKEY'S STATE OF MIND AS TO
15 WHY HE ENTERED IN PARTNERSHIP ISN'T RELEVANT.

16 THE COURT: I DIDN'T LET IN ANY PRIOR STATEMENTS
17 THAT WERE STATE OF MIND.

18 MR. DIXON: FOR THE DEFENDANT.

19 THE COURT: NO. THE STATE OF MIND OF THE VICTIM,
20 THE STATEMENTS THAT WERE -- I THINK IT WAS WILKINSON.

21 MR. DIXON: RIGHT. YOU DIDN'T LET ANY STATEMENTS
22 WHERE HE SAID I'M IN FEAR OF MY LIFE. BUT THIS IS
23 DIFFERENT. IT'S SAYING AT THE BEGINNING OF THE CONTRACT
24 ON THE ONE HAND WE HAVE THE TESTIMONY -- I BELIEVE IT WAS
25 STEWART LINKLETTER WHO SAID AT THE BEGINNING, THE DATE
26 THE CONTRACT IS GONE INTO, THE DEFENDANT TELLS HIM HOW
27 HE'S GOING TO SCREW MICKEY THOMPSON OUT OF ALL HIS MONEY.

28 HERE IS A RELATIVELY CONTEMPORANEOUS

1 STATEMENT. WE CAN TELL FROM THE CONTEXT OF THE STATEMENT
2 THAT MICKEY THOMPSON WAS LOOKING FORWARD TO IT AND WAS
3 KIND OF GOING INTO THIS WITH HOPING THAT THIS WOULD WORK
4 OUT.

5 MS. SARIS: AND, AGAIN, THERE IS THE RELEVANCE.
6 THE FIRST ONE IS MICHAEL'S STATE OF MIND, WHICH IS
7 POTENTIALLY RELEVANT. BUT MR. THOMPSON'S STATE OF MIND
8 IS NOT. AND IT'S REALLY TO PREJUDICE THE DEFENDANT AS IF
9 HE HAD EVIL INTENTIONS AND TOOK ADVANTAGE OF THIS MAN WHO
10 WAS WORRIED ABOUT HIS WIFE, AS OPPOSED TO IT WAS JUST A
11 BUSINESS DISPUTE.

12 MR. DIXON: WELL, IT'S ALREADY COME IN, THE
13 DEFENDANT'S STATEMENT; THAT WAS HIS INTENTION FROM THE
14 BEGINNING. I'M JUST TRYING TO SHOW BEFORE THERE WAS
15 LITIGATION AT THE OUTSET OF THE CONTRACT THIS WAS MICKEY
16 THOMPSON'S STATE OF MIND. I THINK THAT'S RELEVANT TO SET
17 THIS WHOLE THING IN PROSPECTIVE.

18 THE COURT: WELL, IF THE OBJECTION IS RELEVANCE,
19 THE OBJECTION IS OVERRULED.

20 MS. SARIS: THE OBJECTION IS HEARSAY AND
21 RELEVANCE.

22 THE COURT: ON THE ISSUE OF WHETHER OR NOT IT'S
23 HEARSAY, THE PEOPLE ARE OFFERING IT FOR STATE OF MIND?

24 MR. DIXON: CORRECT.

25 THE COURT: ALL RIGHT. UNDER 1250 OF THE
26 EVIDENCE CODE IT DOES SEEM TO QUALIFY AS ADMISSIBLE UNDER
27 THE STATE OF MIND EXCEPTION. STATE OF MIND OF THE
28 PARTNERS ENTERING INTO THE CONTRACT IS EXTREMELY RELEVANT

1 GIVEN THE NATURE OF THE DISPUTE THAT AROSE.

2 MS. SARIS: THEN WE WOULD ASK THE COURT TO NARROW
3 IT DOWN. THIS WAS A COMMENT THAT WAS MADE BY MICKEY
4 DIRECTLY AND VERBATIM AS OPPOSED TO MR. JOHNSON'S
5 UNDERSTANDING OF WHAT OCCURRED, WHICH IS LACK OF
6 FOUNDATION AND SPECULATION.

7 THE COURT: WELL, YOU'RE GOING TO HAVE TO LAY A
8 FOUNDATION AS TO WHAT MR. JOHNSON HEARD.

9 MR. DIXON: RIGHT.

10 THE COURT: AND I WILL ENTERTAIN ANY OBJECTIONS
11 FOR LACK OF FOUNDATION. BUT OTHER THAN THAT, THE
12 OBJECTION IS OVERRULED.

13 SO ANYTHING BEFORE WE BRING THE JURORS IN?

14 MR. DIXON: NO. THANK YOU.

15 THE COURT: JENNIFER.

16

17 (THE JURY ENTERED THE COURTROOM

18 AND THE FOLLOWING PROCEEDINGS WERE

19 HELD IN OPEN COURT.)

20

21 THE COURT: GOOD AFTERNOON, LADIES AND GENTLEMEN.

22 THE RECORD SHOULD REFLECT ALL OUR JURORS AND ALTERNATES

23 ARE ONCE AGAIN PRESENT. MR. GOODWIN IS PRESENT WITH HIS

24 COUNSEL. THE PEOPLE ARE REPRESENTED.

25 I HOPE YOU HAD A GOOD HOLIDAY AND EXCUSE

26 THE TEMPERATURE IN HERE. THEY ARE WORKING ON IT. WE

27 HAVE A LITTLE AIR CONDITIONER OVER HERE PUMPING IN SOME

28 COLD AIR, SO IT SHOULD COOL DOWN SHORTLY. IF YOU NEED TO

1 TAKE A BREAK OR SOMETHING TO GET SOME RELIEF, JUST RAISE
2 YOUR HAND AND WE WILL DO WHAT WE CAN TO ACCOMMODATE YOU.

3 THE PEOPLE MAY CALL THEIR NEXT WITNESS.

4 MR. DIXON: THANK YOU, YOUR HONOR. THE PEOPLE
5 WOULD CALL DR. LANCE JOHNSON.

6
7 LANCE JOHNSON,
8 CALLED BY THE PEOPLE AS A WITNESS, WAS
9 SWORN AND TESTIFIED AS FOLLOWS:

10
11 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

12 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
13 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
14 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
15 TRUTH SO HELP YOU GOD.

16 THE WITNESS: I DO.

17 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
18 WOULD YOU PLEASE STATE AND SPELL BOTH YOURSELF FIRST AND
19 LAST NAME FOR THE RECORD.

20 THE WITNESS: MY NAME IS LANCE JOHNSON.
21 L-A-N-C-E. J-O-H-N-S-O-N.

22 THE CLERK: THANK YOU.

23 MR. DIXON: MAY I INQUIRE?

24 THE COURT: YOU MAY INQUIRE.

25 MR. DIXON: THANK YOU, YOUR HONOR.

26 ///

27 //

28 ///

DIRECT EXAMINATION

BY MR. DIXON:

Q GOOD AFTERNOON, DR. JOHNSON. WHAT DO YOU
DO FOR A LIVING?

A I'M A CLINICAL PSYCHOLOGIST.

Q HERE LOCALLY?

A YES. AT PASADENA CITY COLLEGE.

Q HAVE YOU BEEN THERE FOR A LONG TIME?

A 37 YEARS.

Q AND HAVE YOU LIVED IN THIS AREA IN GENERAL
FOR A LONG TIME?

A YES, FOR ABOUT 40 YEARS.

Q I WOULD LIKE TO INVITE YOUR ATTENTION BACK
TO MARCH 16 OF 1988. WHERE DID YOU LIVE THEN?

A I LIVED IN BRADBURY, CALIFORNIA AT 47
WOODLYN LANE.

Q AS OF THAT DATE, HOW LONG HAD YOU LIVED
THERE?

A I HAD MOVED IN THERE IN 1977.

Q SO OVER TEN YEARS EVEN THEN?

A YES, SIR.

Q DID YOU KNOW YOUR NEIGHBORS?

A YES, I DID.

Q I WOULD LIKE TO INVITE YOUR ATTENTION TO
PEOPLE'S 1 THAT WE HAVE UP ON THE SCREEN. DO YOU
RECOGNIZE THOSE PEOPLE?

A I SURE DO.

Q AND WHO ARE THEY?

1 A THAT'S MICKEY AND TRUDY THOMPSON.

2 Q WHO MOVED THERE FIRST, YOU OR THE
3 THOMPSONS?

4 A I DID.

5 Q AND AT SOME POINT AFTER YOU HAD BEEN THERE
6 FOR A WHILE, THEY MOVED IN?

7 A THAT'S CORRECT.

8 Q HOW LONG HAD THEY LIVED THERE BEFORE THIS
9 TRAGEDY OCCURRED?

10 A SEVERAL YEARS.

11 Q AND DURING THOSE SEVERAL YEARS, DID YOU
12 GET TO KNOW THEM?

13 A VERY WELL.

14 Q WERE THEY FRIENDS?

15 A VERY GOOD FRIENDS.

16 Q HOW WOULD YOU CHARACTERIZE YOUR FRIENDSHIP
17 WITH MICKEY THOMPSON? DID YOU TALK TO HIM ONCE A WEEK?
18 ONCE A MONTH? WHAT WOULD YOU SAY?

19 A WELL, THEIR HOUSE WAS ADJACENT TO OURS, AS
20 WELL AS HIS BARN. AND AS YOU KNOW, HE WAS DOWN IN THE
21 BARN A LOT WITH HIS RACE CARS AND DOING WORK. AND I
22 COULD SEE OVER INTO HIS BARN. SO MANY TIMES I WOULD SEE
23 HIM TWO OR THREE, FOUR TIMES A WEEK TO SAY "HI" AND "HOW
24 ARE THINGS GOING?"

25 Q AND DURING THOSE DISCUSSIONS, WOULD YOU
26 TALK ABOUT YOUR RESPECTIVE OCCUPATIONS?

27 A YES.

28 Q DID THERE EVER COME A TIME EARLIER, SOME

1 YEARS BEFORE THIS TRAGEDY, IN MARCH OF 1988 WHEN YOU
2 TALKED WITH MICKEY THOMPSON REGARDING A CHANGE IN HIS
3 BUSINESS AND HIS WIFE'S CONDITION?

4 A YES, I DID.

5 Q APPROXIMATELY WHEN WAS THAT, IF YOU CAN
6 ROUGHLY TELL US?

7 A 1987/'88.

8 Q COULD IT HAVE BEEN EARLIER THAN THAT?

9 A I BELIEVE IT WAS AROUND '87/'88.

10 Q OKAY. AND WHAT DID HE TELL YOU?

11 MS. SARIS: OBJECTION. CALLS FOR HEARSAY. LACK
12 OF FOUNDATION. AND MAY WE APPROACH?

13 THE COURT: LAY A FOUNDATION.

14 Q BY MR. DIXON: DO YOU RECALL WHERE YOU
15 WERE WHEN YOU HAD THIS CONVERSATION?

16 A YES. WE WERE STANDING OUT ON HIS PROPERTY
17 NEXT TO EL CIELO LANE.

18 Q AND DID YOU AT THAT TIME OR AT SOME TIME
19 LATER LEARN THAT THERE WAS SOME BUSINESS PROBLEMS THAT HE
20 WAS HAVING?

21 MS. SARIS: OBJECTION. LEADING.

22 MR. DIXON: I DON'T KNOW THE ANSWER.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER.

25 THE WITNESS: YES.

26 Q BY MR. DIXON: DID THIS CONVERSATION
27 PRECEDE THAT OR WAS IT AFTER THAT -- AFTER YOU LEARNED
28 THERE WERE BUSINESS PROBLEMS?

1 A THAT INCIDENT?

2 Q LET ME TRY AGAIN.

3 A OKAY.

4 Q YOU JUST TOLD US THAT YOU HAD A
5 CONVERSATION ABOUT HIS BUSINESS AND HIS WIFE'S CONDITION;
6 CORRECT?

7 A YES.

8 Q AND THAT HAPPENED NEAR HIS HOUSE?

9 A THAT'S CORRECT.

10 Q AND CAN YOU GIVE US AN APPROXIMATE TIME?

11 A YES.

12 Q WHAT WAS THE CONVERSATION?

13 A THE CONVERSATION WAS THAT HE HAD GONE INTO
14 PARTNERSHIP AND HE WAS PLEASED THAT HE HAD GONE INTO A
15 PARTNERSHIP BECAUSE HE SAID THAT HE NEEDED TO HAVE SOME
16 TIME OFF BECAUSE HE WAS VERY, VERY BUSY WITH HIS
17 COMPANIES THAT HE OWNED. AND HE WAS GOING TO HAVE TO
18 TAKE SOME TIME OFF.

19 Q AND DID THIS INVOLVE HIS WIFE AT ALL?

20 A WELL, HE SAID THAT HIS WIFE HAD KNEE
21 PROBLEMS. AND AS A MATTER OF FACT THEY HAD AN ELEVATOR
22 PUT INTO THEIR HOUSE BECAUSE OF HER PHYSICAL PROBLEMS.

23 Q OKAY. NOW, IN MY EARLIER QUESTION I ASKED
24 YOU IF AT SOME POINT YOU LEARNED THAT MICKEY THOMPSON WAS
25 HAVING PROBLEMS OR ISSUES WITH THIS BUSINESS PROBLEM --
26 PARTNER?

27 A YES, THAT WAS AFTER THAT DATE.

28 Q OKAY. SO WAS THE CONVERSATION THAT I'M

1 LOOKING FORWARD TO GOING INTO BUSINESS AND THEN AFTER
2 THAT YOU LEARNED ABOUT THE PROBLEMS?

3 A THAT'S CORRECT.

4 Q OKAY. FINE. NOW I WOULD LIKE TO INVITE
5 YOUR ATTENTION TO THE MARCH 16TH, 1988 DATE?

6 A YES.

7 Q LET ME FIRST ASK YOU: DO YOU HAVE ANY
8 EXPERIENCE WITH FIREARMS?

9 A YES, I DO.

10 Q COULD YOU EXPAND ON THAT. TELL US WHAT
11 YOUR EXPERIENCE IS.

12 A I SPENT SEVERAL YEARS IN THE MILITARY AND
13 WAS VERY INVOLVED IN FIREARMS. AND AFTER THE MILITARY I
14 CONTINUED TO BE INVOLVED WITH FIREARMS.

15 Q HOW WERE YOU INVOLVED WITH FIREARMS AFTER
16 THE MILITARY?

17 A GOING TO THE SHOOTING RANGES.

18 Q AT THE TIME OF MICKEY AND TRUDY THOMPSON'S
19 MURDER ON MARCH 16, 1988, DID YOU OWN A FIREARM?

20 A YES, I DID.

21 Q WHAT TYPE OF FIREARM?

22 A 357 MAGNUM.

23 Q DID YOU HAVE AN OCCASION TO TALK TO MICKEY
24 THOMPSON THE DAY BEFORE OR NOT?

25 A NO, I DID NOT.

26 Q WAS THERE AN OPPORTUNITY -- WAS THERE A
27 REQUEST?

28 A HE HAD CALLED MY HOUSE.

1 MS. SARIS: OBJECTION. CALLS FOR HEARSAY. LACK
2 OF FOUNDATION.

3 MR. DIXON: IT'S NOT BEING OFFERED FOR THE TRUTH
4 OF THE MATTER.

5 MS. SARIS: OBJECTION. RELEVANCE.

6 THE COURT: OVERRULED.

7 YOU CAN ANSWER.

8 Q BY MR. DIXON: ANSWER BRIEFLY. THANK YOU.

9 A I HAD COME HOME FROM THE COLLEGE ABOUT
10 10:00 O'CLOCK THAT PREVIOUS EVENING. AND MY WIFE SAID
11 THAT MICKEY THOMPSON HAD CALLED AND WANTED TO TALK TO ME
12 AND WANTED ME TO CALL HIM BACK.

13 Q DID YOU RETURN THAT CALL?

14 A I DID NOT.

15 Q WHY?

16 A IT WAS ABOUT 10:00, 10:30 IN THE EVENING.
17 AND I KNOW THAT THEY, AS A RULE, WENT TO BED VERY EARLY.

18 Q DID YOU KNOW WHETHER OR NOT THEY GOT UP
19 EARLY?

20 A I BELIEVE THEY LEFT EARLY EVERY MORNING.
21 I DID NOT SEE THEM, BUT I UNDERSTAND THEY LEFT EARLY
22 EVERY MORNING.

23 MS. SARIS: OBJECTION. MOTION TO STRIKE. LACK
24 OF FOUNDATION. MAY WE APPROACH, YOUR HONOR?

25 THE COURT: THAT LAST PART WILL BE STRICKEN. IS
26 THERE SOMETHING ELSE WE NEED TO DISCUSS?

27 MS. SARIS: YES, PLEASE.
28

1 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

2 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.

3 MS. SARIS: WELL, MY CONCERN FIRST OFF, I DON'T
4 KNOW YOU'RE GOING.

5 MR. DIXON: I'M TELLING YOU MY NEXT QUESTION
6 IS --

7 THE COURT: ALL RIGHT. THIS DISCUSSION IS OFF
8 THE RECORD BECAUSE COUNSEL ARE SPEAKING TO EACH OTHER.

9 MS. SARIS: I WANT TO BE ON THE RECORD AND I WANT
10 TO MAKE AN OBJECTION.

11 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD
12 THEN. GO AHEAD.

13 MS. SARIS: REGARDLESS OF WHERE MR. DIXON IS
14 GOING, HE IS TESTIFYING TO THINGS THAT ARE OUTSIDE THE
15 SCOPE OF HIS KNOWLEDGE. AND I KNOW THAT HE HAS A
16 TENDENCY, AS WE'VE SHOWN IN THE OPENING STATEMENT, TO DO
17 THAT REGARDING THIS CRIME SCENE.

18 I DON'T KNOW IF MR. DIXON HAS TO PULL HIM
19 ASIDE OR THE COURT HAS TO ADMONISH HIM, BUT HE NEEDS TO
20 CONFINE HIS ANSWERS ONLY TO THINGS IN HIS PERSONAL
21 KNOWLEDGE. AND SO HE'S NOW GIVEN US THREE STATEMENTS
22 THAT WERE THINGS THAT HAVE BEEN TOLD TO HIM OR THINGS
23 THAT HE UNDERSTANDS.

24 MR. DIXON: I DON'T THINK HE WILL ANY MORE. I
25 MEAN I'VE TALKED TO HIM A NUMBER OF TIMES AND I'LL TRY TO
26 GUIDE HIM IN THAT DIRECTION.

27 THE COURT: ALL RIGHT. THE COURT STRUCK PORTIONS
28 OF THE LAST ANSWER AND THE COURT WILL ADMONISH HIM IF HE

1 DOES IT AGAIN. OKAY?

2 MS. SARIS: THANK YOU.

3 MR. JACKSON: ANOTHER POINT.

4 THE COURT: HANG ON. GO AHEAD, MR. JACKSON.

5 MR. JACKSON: THANK YOU. I'M SORRY. WHILE WE'RE
6 UP HERE, MS. SARIS HAS RAISED SOME CONCERNS ABOUT CERTAIN
7 EXHIBITS THAT ARE BEING SHOWN AND LEFT ON THE ELMO. AND
8 SHE'S TAKEN IT UPON HERSELF A COUPLE OF TIMES, AS HAS
9 MR. SUMMERS I THINK AT MS. SARIS'S DIRECTION, TO EITHER
10 TURN OFF THE ELMO OR TO COVER UP THE EXHIBIT.

11 THE PEOPLE'S POSITION IS VERY CLEAR, THESE
12 ARE EXHIBITS THAT ARE BEING SHOWN DURING THE COURSE OF
13 TESTIMONY. THIS IS NOT SOME INAPPROPRIATE ATTEMPT TO
14 PREJUDICE ANYBODY. THESE HAVE BEEN MARKED. THEY ARE
15 RELEVANT FOR IDENTIFICATION. THE WITNESS IS STILL UNDER
16 DIRECT EXAMINATION TO MR. DIXON. I THINK IT WOULD BE
17 TANTAMOUNT, IF WE WEREN'T USING THE ELMO, TO MS. SARIS IN
18 THE MIDDLE OF MR. DIXON'S QUESTIONS WALKING UP TO THE
19 BOARD AND LITERALLY PHYSICALLY TAKING DOWN THE EXHIBIT.

20 I THINK IT'S INAPPROPRIATE. AND I'M NOT
21 BEING TICKY-TACK. AND I DIDN'T SAY ANYTHING TO
22 MS. SARIS. BUT I THINK WE SHOULD ALL BE RESPECTFUL. IF
23 SHE HAS A PROBLEM WITH THE EXHIBIT, LET THE COURT KNOW.

24 MS. SARIS: I TRIED TO APPROACH. THE COURT
25 DIDN'T HEAR ME. I ASKED TO APPROACH FIVE MINUTES
26 EARLIER.

27 MR. JACKSON: BUT TO TURN IT OFF --

28 MS. SARIS: IT IS A SMILING CHRISTMAS PICTURE OF

1 THE TWO OF THEM. IT IS PURELY PREJUDICIAL. THERE IS NO
2 ISSUE THAT WE DON'T KNOW WHO WE'RE SPEAKING OF OR THAT
3 MICKEY THOMPSON NEEDS TO BE IDENTIFIED. ONCE HE'S
4 IDENTIFIED, THE PICTURE SHOULD COME DOWN. IT IS A
5 CHRISTMAS CARD PHOTO.

6 THE COURT: WELL, YOU'RE TALKING ABOUT WHICH
7 EXHIBIT?

8 MR. DIXON: PEOPLE'S 1.

9 THE COURT: ALL RIGHT.

10 MS. SARIS: AND I DID TURN OFF THE ELMO -- I
11 TURNED IT OFF BECAUSE THE IDENTIFICATION HAD BEEN MADE
12 AND IT'S SITTING THERE UP ON THE SCREEN WITH THE SMILING
13 PEOPLE. AND IT'S PREJUDICIAL AND IT'S IRRELEVANT.

14 THE COURT: LET ME JUST SAY THIS, IT IS A RATHER
15 LARGE SCREEN AND AS A RESULT OF THE SCREEN BEING HERE, WE
16 SHUT OFF A COUPLE OF OUR LIGHTS. I DON'T SEE ANY NEED TO
17 KEEP IT ON ONCE YOU ARE DONE WITH IT.

18 MR. DIXON: THAT'S FINE. IN FACT, WE HAVE BOARDS
19 WITH THE REST OF THIS WITNESS; RIGHT?

20 MR. JACKSON: BOTH BOARDS AND THE ELMO.

21 MR. DIXON: ALL RIGHT. THEN WE'RE FINE. I HAVE
22 NO PROBLEM.

23 MS. SARIS: AND THAT'S THE ONLY EXHIBIT I'VE EVER
24 TURNED OFF. AND COUNSEL KNOWS MY POSITION.

25 THE COURT: OKAY. WE'RE DONE. THANK YOU.

26 (SIDEBAR CONCLUDED.)

27

28 THE COURT: YOU MAY CONTINUE.

1 MR. DIXON: THANK YOU.

2 Q NOW, INVITING YOUR ATTENTION TO THE
3 MORNING OF MARCH 16TH, 1988, DID SOMETHING UNUSUAL WAKE
4 YOU UP?

5 A YES, I HEARD A SERIES OF GUNSHOTS.

6 Q BASED ON YOUR BACKGROUND AND EXPERIENCE,
7 WERE YOU ABLE TO IMMEDIATELY OR SOMETIME LATER IDENTIFY
8 THESE GUNSHOTS?

9 A WHEN I WOKE UP AND I HEARD THE GUNSHOTS, I
10 THOUGHT THEY WERE .9 MILLIMETER.

11 Q HOW MANY GUNSHOTS DID YOU HEAR?

12 A SEVERAL. FIVE, SIX GUNSHOTS.

13 Q LET ME --

14 MAY I APPROACH, YOUR HONOR?

15 THE COURT: YES.

16 Q BY MR. DIXON: I'M GOING TO SHOW YOU AN
17 EXHIBIT HERE THAT WE'VE PREVIOUSLY MARKED AND ASK YOU TO
18 LOOK AT WITH RESPECT TO YOUR TESTIMONY. THIS IS PEOPLE'S
19 37 FOR IDENTIFICATION.

20 DO YOU RECOGNIZE THAT AREA?

21 A YES, I DO.

22 MR. DIXON: DO WE HAVE A POINTER?

23 THE COURT: THERE IS ONE HANGING RIGHT THERE
24 (INDICATING).

25 MR. DIXON: THANK YOU VERY MUCH, YOUR HONOR.

26 Q I'M GIVING YOU A POINTER AND I WILL ASK
27 YOU BRIEFLY TO TELL US BY LOOKING AT PEOPLE'S 37, DO YOU
28 SEE WHERE YOU LIVED AT ON THE DAY THAT WE'RE TALKING

1 ABOUT?

2 A YES, I DO.

3 Q WHERE?

4 A THIS WAS MY HOUSE RIGHT HERE (INDICATING).

5 Q AND, IN FACT, IT'S LABELED AS SUCH; IS
6 THAT CORRECT?

7 A THAT'S CORRECT.

8 Q SO YOU'RE POINTING TO BASICALLY THE MIDDLE
9 UPPER PART OF THE PHOTOGRAPH IN PEOPLE'S 37; IS THAT
10 CORRECT?

11 A THAT'S CORRECT.

12 Q AND CAN YOU SEE ON THAT PHOTOGRAPH,
13 PEOPLE'S 37, THE THOMPSON HOUSE?

14 A YES. IT'S LOCATED RIGHT HERE WHERE IT
15 SAYS "THOMPSON HOME."

16 Q RIGHT. AND IT'S JUST MIDDLE OF THE SAME
17 EXHIBIT OFF CENTER JUST TO THE RIGHT AS WE LOOK AT IT?

18 A THAT'S CORRECT.

19 Q SO YOU HEARD THESE GUNSHOTS ON THE MORNING
20 OF MARCH 16, 1988. COULD YOU TELL EITHER AT THAT TIME OR
21 WITHIN A FEW SECONDS WHERE THEY SEEMED TO COME FROM?

22 A YES. THEY SEEMED TO COME FROM MICKEY
23 THOMPSON'S HOUSE.

24 Q WHEN DID YOU DO NEXT?

25 A I JUMPED OUT OF BED. I RAN TO THE EAST
26 WINDOW WHICH FACES TOWARDS THE THOMPSON RESIDENCE. AND I
27 WAS LISTENING TO SEE IF I COULD HEAR ANYTHING ELSE, BUT
28 THERE WAS JUST COMPLETE SILENCE. I TOLD MY WIFE TO CALL

1 911 AND SHE CALLED 911. AND I WAS BY THAT WINDOW.

2 Q WHAT DID YOU HEAR OR SEE NEXT?

3 A THERE WAS SILENCE FOR 15, 20 SECONDS. AND
4 ALL OF A SUDDEN I HEARD MICKEY THOMPSON SCREAMING,
5 "PLEASE DO NOT HURT MY WIFE. PLEASE DO NOT HURT MY
6 WIFE." SCREAMING VERY LOUD. SO I COULD HEAR IT VERY
7 CLEARLY.

8 Q NOW, FROM YOUR HOUSE COULD YOU SEE MICKEY
9 THOMPSON AS HE SCREAMED THIS --

10 A NO.

11 Q -- THESE WORDS?

12 A NO, I COULD NOT.

13 Q HOW MANY TIMES DID HE SCREAM THESE WORDS?

14 A SEVERAL TIMES.

15 Q YOU RECOGNIZED HIS VOICE, OBVIOUSLY?

16 A YES, I DID.

17 Q WHAT DID YOU SEE OR HEAR NEXT?

18 A THEN I HEARD A SERIES OF .9 MILLIMETER
19 SHOTS AGAIN.

20 Q COMING FROM THE SAME DIRECTION?

21 A YES, SIR.

22 Q COULD YOU TELL WHETHER OR NOT THERE WAS
23 ANYONE ELSE IN THAT AREA? DID YOU HEAR ANY OTHER VOICES?

24 A NO, I DID NOT.

25 Q SO YOU HEARD A SERIES OF SHOTS; MICKEY
26 THOMPSON SCREAMING; MORE SHOTS; CORRECT?

27 A THAT'S CORRECT.

28 Q WHAT HAPPENED NEXT?

1 A THEN THERE WAS SILENCE.

2 Q WHAT DID YOU DO OR SEE NEXT?

3 A NEXT THING I DID IS I WENT OVER AND GOT MY
4 GUN OUT OF MY DRAWER IN THE BEDROOM. AND I LEANED OUT MY
5 FRONT WINDOW WHICH FACED SOUTH. AND LOOKED OVER IN THE
6 DIRECTION OF MICKEY THOMPSON'S HOUSE.

7 Q FROM THAT VANTAGE POINT AS YOU'VE JUST
8 DESCRIBED WHAT, IF ANYTHING, COULD YOU SEE?

9 A AT FIRST I DIDN'T SEE ANYTHING. AND THEN
10 ALL OF A SUDDEN I SAW TWO MEN ON BICYCLES RIDING DOWN
11 MICKEY THOMPSON'S DRIVEWAY GOING TOWARDS WOODLYN LANE.

12 Q CAN YOU DESCRIBE WHAT THESE MEN LOOKED
13 LIKE ANY MORE THAN THAT?

14 A THEY WERE AFRICAN/AMERICAN. THEY WERE ON
15 BICYCLES. THEY WERE IN A DARKER SWEATSUIT TYPE OF
16 OUTFITS.

17 Q AND THE BICYCLES, DID YOU GET A LOOK AT
18 THOSE AT ALL?

19 A THEY WERE ENGLISH TYPE OF BICYCLES,
20 ENGLISH RACER BIKE.

21 Q WITH A CURVED HANDLE?

22 A JUST ENGLISH TYPE OF BIKE.

23 Q USING THE EXHIBIT THAT WE HAVE ON THE
24 BOARD, PEOPLE'S 37, DOES THAT HELP ILLUSTRATE WHERE YOU
25 FIRST SAW THESE MEN? CAN YOU POINT TO ANYTHING?

26 A THAT'S NOT A REAL GOOD PICTURE OF WHERE IT
27 IS.

28 Q WELL, I MIGHT HAVE ANOTHER ONE.

1 MAY I APPROACH AGAIN?

2 THE COURT: YES.

3 Q BY MR. DIXON: I'M NOW GOING TO PUT ON THE
4 BOARD PEOPLE'S 44 FOR IDENTIFICATION. AND I WILL ASK YOU
5 TO TAKE A LOOK AT IT AND TELL US IF YOU RECOGNIZE THE
6 SCENE SHOWN IN THAT PHOTOGRAPH?

7 A YES, I DO.

8 Q WHAT DO YOU RECOGNIZE IT TO BE?

9 A THE THOMPSONS' HOME THAT IS MARKED
10 THOMPSONS' HOME RIGHT THERE (INDICATING). AND THE
11 DRIVEWAY -- ONE OF THE DRIVEWAYS THAT LEFT HIS HOUSE THAT
12 WENT DOWN TO WOODLYN LANE THAT RUNS RIGHT IN FRONT OF MY
13 HOME RIGHT HERE. THIS IS RIGHT IN FRONT OF MY HOUSE IN
14 THE ORANGE COLOR (INDICATING).

15 Q FOR THE RECORD, LET ME ASK YOU A COUPLE
16 MORE QUESTIONS. YOU IDENTIFIED IN PEOPLE'S 44 MICKEY
17 THOMPSON'S HOUSE; CORRECT?

18 A THAT'S CORRECT.

19 Q IT'S LABELED AS SUCH ON THE EXHIBIT?

20 A YES, SIR.

21 Q IN THE CENTER LOWER RIGHT; IS THAT
22 CORRECT?

23 A THAT'S CORRECT.

24 Q AND THEN YOU'RE REFERRING TO SOME KIND OF
25 PATH THAT LEAVES MICKEY THOMPSON'S HOUSE AND GOES IN THE
26 DIRECTION OF YOUR HOUSE?

27 A THAT'S CORRECT.

28 Q AND THAT'S SHOWN IN RED?

1 A THAT'S SHOWN IN RED.

2 Q AND YOUR HOUSE IS SHOWN ON THAT
3 PHOTOGRAPH, IS IT NOT?

4 A YES, IT IS, WHERE IT SAYS "LANCE JOHNSON'S
5 HOUSE."

6 Q AGAIN, THE SAME EXHIBIT CENTER, UPPER,
7 MIDDLE; RIGHT?

8 A THAT'S CORRECT.

9 Q OKAY. SO DOES THAT PHOTOGRAPH HELP YOU
10 DESCRIBE TO THE JURORS EXACTLY WHAT YOU SAW FROM YOUR
11 HOUSE WHEN YOU FIRST NOTICED THE MEN ON BICYCLES?

12 A YES, IT DOES.

13 Q AND USING THAT EXHIBIT, CAN YOU DESCRIBE
14 WHAT YOU SAW AND HEARD?

15 A MY HOUSE IS LOCATED RIGHT HERE, IT FACES
16 SOUTH (INDICATING). I WAS UPSTAIRS. THERE ARE SIX LARGE
17 WINDOWS UPSTAIRS THAT FACE SOUTH. I WAS LITERALLY
18 HANGING OUT OF THE THIRD WINDOW LOOKING IN THIS
19 DIRECTION, WHICH IS EAST, TRYING TO SEE WHAT WAS GOING
20 ON.

21 Q AND WHAT COULD YOU SEE?

22 A WHAT I SAW WERE TWO MEN ON THESE BICYCLES
23 COMING DOWN THIS DRIVEWAY AND THEN GETTING ON TO WOODLYN
24 LANE. THIS IS WOODLYN LANE THAT COMES UP THROUGH HERE
25 (INDICATING). GETTING ONTO WOODLYN LANE; RIDING IN FRONT
26 OF MY HOUSE; GOING DOWN WOODLYN LANE.

27 Q AS THE MEN ON THE BICYCLES DROVE DOWN THE
28 LITTLE DRIVEWAY SHOWN IN RED ON PEOPLE'S 44 AND THEN

1 EMERGED DOWN ON WOODLYN LANE, DID YOU GET THE OPPORTUNITY
2 TO SEE THEM EVEN BETTER?

3 A YES. AS THEY GOT IN FRONT OF MY HOME VERY
4 WELL.

5 Q AND COULD YOU TELL US WHAT YOU SAID OR DID
6 AT THAT POINT IN TIME?

7 A AS THEY STARTED COMING DOWN WOODLYN LANE
8 IN FRONT OF MY HOME, I SCREAMED AT THEM. I YELLED
9 "STOP." BECAUSE OF THE TOPOGRAPHY OF THE LAND, YOU COULD
10 HEAR A DIME DROP UP THERE. AND WHEN I YELLED "STOP"
11 NOBODY DID ANYTHING. THEY DIDN'T LOOK IN MY DIRECTION,
12 WHICH I WAS VERY SURPRISED ABOUT. AND THEN AS THEY
13 CONTINUED ON, I TOOK A SHOT AT THEM WITH THE .357 MAGNUM.

14 Q FROM YOUR HOME?

15 A FROM MY HOME.

16 Q HOW MANY SHOTS ONE OR MORE?

17 A ONE SHOT.

18 Q PLEASE GO ON?

19 A AND WITH THAT GUN AT 6:00 O'CLOCK IN THE
20 MORNING, IT WAS EXTREMELY LOUD. AND NOBODY LOOKED UP AT
21 ALL.

22 Q WHAT KIND OF GUN WAS IT?

23 A .357 MAGNUM.

24 Q SO THAT'S A RATHER LARGE HANDGUN?

25 A YES, IT IS.

26 Q MADE A LOT OF NOISE?

27 A A LOT OF NOISE.

28 Q AND THERE WAS NO REACTION FROM THEM WHEN

1 YOU YELLED OR WHEN YOU FIRED A ROUND AT THEM?

2 A JUST PEDALING FASTER AS I FIRED AT THEM.

3 Q AGAIN, IF YOU CAN, USING PEOPLE'S 44 FOR
4 IDENTIFICATION DESCRIBE TO THE JURY WHAT THEY DID NEXT
5 AND WHERE THEY WENT NEXT?

6 A WELL, THEY WERE GOING DOWN WOODLYN LANE.
7 AND THEN THEY WENT OUT OF MY VIEW AS THEY CONTINUED DOWN
8 PAST THIS NEXT HOME WHICH IS MARKED "HACKMAN'S HOUSE."
9 THEN THEY WERE OUT OF MY VIEW.

10 Q NOW, EARLIER IN YOUR TESTIMONY YOU SAID
11 AFTER YOU FIRST HEARD THE INITIAL GUNSHOTS YOU ASKED YOUR
12 WIFE TO CALL 911?

13 A THAT'S CORRECT.

14 Q FROM ANYTHING YOU SAW OR HEARD, DO YOU
15 KNOW WHETHER OR NOT SHE DID THAT?

16 A YES, SHE DID.

17 Q WHAT DID YOU DO AFTER SHE CALLED 911 AND
18 YOU SAW THESE MEN PEDAL PAST YOUR HOUSE; YELLED; AND
19 FIRED A ROUND AT THEM? WHAT DID YOU DO NEXT?

20 A I WAS GOING TO GO AFTER THEM, BUT AS SHE
21 WAS ON THE PHONE WITH THE SHERIFF'S DEPARTMENT THEY ASKED
22 WHO FIRED -- "WHO IS FIRING A GUN?" AND MY WIFE SAID,
23 "MY HUSBAND FIRED AT THE TWO MEN." AND THEY SAID, "TELL
24 YOUR HUSBAND NOT TO LEAVE THE HOUSE. WE DON'T KNOW WHO
25 YOUR HUSBAND IS." AND SO MY WIFE SAID, "THEY SAID DON'T
26 LEAVE. STAY HERE."

27 Q AT THE TIME THAT YOU WERE EXPRESSING TO
28 YOUR WIFE THAT YOU WERE GOING TO LEAVE?

1 A I WAS GOING TO LEAVE. AND I SAID TO HER
2 AS I STOOD THERE, "THEY ARE GOING TO GET AWAY. WHERE ARE
3 THE POLICE?"

4 Q DID YOU, IN FACT, AT SOME POINT LEAVE YOUR
5 HOUSE?

6 A I SURE DID.

7 Q HOW LONG DID YOU WAIT UNTIL YOU LEFT YOUR
8 HOUSE?

9 A BETWEEN FIVE, TEN MINUTES.

10 Q WHY DID YOU EVENTUALLY LEAVE YOUR HOUSE?

11 A BECAUSE I FIGURED I COULD GET THE TWO GUYS
12 DOWN AT THE END OF THE ROAD SINCE THERE IS A GATE AND
13 THEY WOULD NOT BE ABLE TO GET OUT OF THE GATE AND I COULD
14 CATCH THEM.

15 Q WHEN YOU EVENTUALLY DID LEAVE YOUR HOME,
16 TO YOUR KNOWLEDGE HAD ANY POLICE OFFICERS ARRIVED AT THE
17 THOMPSON HOUSE?

18 A NOT THAT I KNOW OF.

19 Q LET ME ASK YOU A COUPLE QUESTIONS IF I
20 COULD ABOUT PEOPLE'S 44 AND YOUR GENERAL KNOWLEDGE THERE.
21 I THINK YOU SAID THAT YOU LIVED AT THIS HOUSE IN BRADBURY
22 SINCE 1976?

23 A '77.

24 Q '77. THANK YOU. WERE YOU FAMILIAR WITH
25 THE AREA; WITH YOUR SURROUNDINGS; WITH THAT PART OF
26 BRADBURY?

27 A YES, SIR.

28 Q COULD YOU DESCRIBE HOW AND WHY. DID YOU

1 GO FOR HIKES? DID YOU RIDE HORSES? JUST --

2 A WELL, WE WOULD WALK ON THE LANE EVERY DAY,
3 PROBABLY TWO OR THREE TIMES A DAY WITH THE DOGS TAKING
4 WALKS; WALKING WITH THE KIDS. I KNEW THE AREA VERY WELL.

5 Q AND IN AN EARLIER ANSWER YOU SAID BECAUSE
6 OF THE SURROUNDING AREA NEAR YOUR HOUSE, YOU COULD HEAR A
7 PIN DROP?

8 A THAT'S CORRECT.

9 Q WHY?

10 A JUST BECAUSE IT IS IN KIND OF A VALLEY AND
11 SURROUNDED BY HILLS. SO IF ANYBODY IS TALKING IN ANOTHER
12 HOUSE, EVEN THOUGH IT WAS FURTHER AWAY, YOU COULD HEAR
13 PEOPLE JUST TALKING IN A REGULAR VOICE.

14 Q SO KIND OF LIKE A LITTLE AMPHITHEATER?

15 A THAT'S CORRECT.

16 Q WITH RESPECT TO PEOPLE'S 44, YOU TOLD US
17 THAT -- YOU DESCRIBED THE RED ARROW AS A LANE OR
18 DRIVEWAY. COULD YOU REPEAT THAT, PLEASE?

19 A YES. THIS IS -- MICKEY HAD SEVERAL
20 DRIVEWAYS LEADING OUT OF THE HOUSE. AND THIS ONE
21 ACTUALLY WENT DOWN TOWARDS HIS BARN. AND IT WAS LARGE
22 ENOUGH TO DRIVE A CAR ON. AND YOU COULD GO DOWN THIS
23 ACCESS RODE DOWN TO WOODLYN LANE OR OVER TO HIS BARN.

24 Q AND THEN THE ORANGE PORTION OF THIS ROUTE,
25 WHAT IS THAT?

26 A THAT IS IN FRONT OF MY HOUSE, WHICH IS
27 APPROXIMATELY 200 FEET IN LENGTH.

28 Q AND THAT IS PART OF WOODLYN LANE?

1 A THAT'S PART OF WOODLYN LANE.

2 Q AND THEN THE YELLOW PORTION OF THE ROUTE
3 THAT WE HAVE ON THIS EXHIBIT, PEOPLE'S 44, WHAT IS THAT?

4 A THAT BASICALLY IS WHERE MY PROPERTY
5 STOPPED AND MR. HACKMAN'S HOUSE STARTED, HIS PROPERTY
6 STARTED THERE.

7 Q IS THAT STILL WOODLYN LANE?

8 A THAT'S STILL WOODLYN LANE.

9 Q NOW, IF YOU LOOK AT PEOPLE'S 44 DOWN HERE,
10 AS WE LOOK AT THE LOWER RIGHT-HAND CORNER, WE SEE AN
11 INTERSECTION OF WOODLYN LANE AND MT. OLIVE; CORRECT?

12 A YES.

13 Q AND BASED ON YOUR FAMILIARITY WITH THE
14 AREA, IF SOMEONE WAS COMING FROM OUTSIDE OF BRADBURY,
15 WOULD THEY COME FROM THAT DIRECTION OR A DIFFERENT
16 DIRECTION?

17 A PEOPLE EITHER CAN COME UP MT. OLIVE DRIVE
18 TO GET INTO THE BRADBURY AREA OR THEY COULD COME IN WHAT
19 WE CALL THE LOWER GATE ON WOODLYN LANE.

20 Q SO THEY WOULD BE COMING FROM WHAT
21 DIRECTION, THEN, USING PEOPLE'S 44?

22 A MT. OLIVE DRIVE STARTED DOWN BY THE
23 605/210 FREEWAY. MT. OLIVE DRIVE WENT ALL THE WAY UP
24 INTO BRADBURY IN WHAT THEY CALLED "DUARTE MESA."

25 Q SO AT THE TIME THAT YOU WERE LIVING THERE
26 AT THE TIME OF THIS INCIDENT, IF YOU WERE COMING FROM THE
27 210 FREEWAY UP TO BRADBURY, IS THAT HOW YOU WOULD ENTER?

28 A THAT WOULD BE ONE WAY, YES.

1 Q WHAT WOULD BE THE OTHER WAY?

2 A YOU COULD GO TO ROYAL OAKS AND TAKE ROYAL
3 OAKS UP TO WOODLYN LANE AND ENTER FROM THE BOTTOM OF
4 BRADBURY.

5 Q AND I THINK WE HAVE SOME OTHER MAPS, SO WE
6 WILL TALK ABOUT THAT IN A MOMENT. AND LOOKING BACK TO
7 PEOPLE'S 44 AND WHAT YOU DID, YOU SAID AT SOME POINT
8 AFTER FIVE OR TEN MINUTES NO POLICE HAD ARRIVED AND YOU
9 LEFT THE HOUSE?

10 A THAT'S CORRECT.

11 Q PLEASE DESCRIBE FOR US WHAT YOU DID NEXT?

12 A WELL, I LEFT MY HOME. I DROVE DOWN
13 WOODLYN LANE ALL THE WAY TO THE GATE, WHICH IS
14 APPROXIMATELY THREE-QUARTERS OF A MILE.

15 Q IN AN EARLIER ANSWER I THINK YOU SAID
16 SOMETHING ABOUT THAT GATE BEING LOCKED AND YOU WANTED TO
17 GO THAT WAY?

18 A THAT'S CORRECT.

19 Q WHY?

20 A THE GATE WAS LOCKED -- AND YOU HAVE TO
21 UNDERSTAND, THIS HAPPENED VERY QUICKLY, EVERYTHING. AND
22 IN MY MIND I THOUGHT THEY ARE GOING TO BE SURPRISED WHEN
23 THEY GOT TO THE GATE AND FIND OUT THERE IS A GATE. AND,
24 SECONDLY, THAT IT'S LOCKED. AND I THOUGHT I WILL BE ABLE
25 TO SEE THEM THERE.

26 MR. DIXON: YOUR HONOR, COULD I HAVE JUST A
27 MOMENT AND MARK ANOTHER EXHIBIT. WE HAVE ANOTHER CHART
28 HERE MOUNTED ON A POSTER BOARD. AND IT SHOWS THE

1 THOMPSON HOUSE; AND THE PATHWAY; WOODLYN LANE; AND
2 MT. OLIVE. IT'S A LITTLE CLEARER. MAY THAT BE MARKED AS
3 PEOPLE'S 46? I THINK THAT'S NEXT IN ORDER.

4 THE COURT: YES, IT IS. AND IT WILL BE SO
5 MARKED.

6 MR. DIXON: AND THERE IS AN OVERHEAD WE HAVE TO
7 PUT ON THE ELMO 46-A, JUST A SMALLER VERSION OF THE SAME.

8 THE COURT: YOU WANT TO MARK THE SMALLER VERSION
9 46-A? SO MARKED.

10 MR. DIXON: UNLESS YOU WOULD RATHER HAVE IT THE
11 OTHER WAY AROUND?

12 THE COURT: IT DOESN'T MATTER.

13
14 (MARKED FOR IDENTIFICATION PEOPLE'S
15 EXHIBIT NO. 46 AND 46-A, PHOTOS.)

16
17 MR. DIXON: OKAY. MAY I APPROACH?

18 THE COURT: YES.

19 Q BY MR. DIXON: DR. JOHNSON, NOW PUTTING UP
20 PEOPLE'S 46 -- 46-A IS AN EXACT COPY UP THERE -- BUT YOU
21 MAY BE ABLE TO SEE THIS ONE A LITTLE BIT BETTER. COULD
22 YOU TAKE A MOMENT AND LOOK AT THAT. AND THEN I WILL HAVE
23 A COUPLE OF QUESTIONS FOR YOU, PLEASE.

24 A YES.

25 Q DO YOU RECOGNIZE THAT AREA?

26 A YES, I DO.

27 Q AND WITH THE COURT'S PERMISSION, IF IT'S
28 EASIER FOR YOU TO ANSWER THE QUESTIONS BY STEPPING DOWN

1 WITH YOUR POINTER.

2 IS THAT OKAY?

3 THE COURT: THAT'S FINE WITH ME.

4 Q BY MR. DIXON: COULD YOU TELL US, DO YOU
5 RECOGNIZE THIS? WHAT DOES IT ACTUALLY SHOW? AND USE
6 YOUR POINTER TO DESCRIBE IT, PLEASE.

7 A THIS PICTURE ON THE BOTTOM LEFT SHOWS
8 MICKEY THOMPSON'S HOME. THE PICTURE ON THE LEFT SHOWS MY
9 HOME FROM WOODLYN LANE. THIS GENTLEMAN IS STANDING ON
10 WOODLYN LANE LOOKING UP TOWARDS MY HOUSE. AND I WAS IN
11 THE THIRD WINDOW OVER, WHICH IS THE SECOND STORY. IT IS
12 A TWO-STORY HOME.

13 Q IS THAT PHOTOGRAPH H IN PEOPLE'S 46, DOES
14 THAT SHOW WHERE YOU WERE LOOKING OUT WHEN YOU SAW THE MEN
15 IN BICYCLES AWAY?

16 A YES, SIR.

17 Q OR RIDE BY?

18 A YES, SIR.

19 Q IS THAT WHERE YOU FIRED YOUR WEAPON FROM?

20 A YES, IT IS.

21 Q ANYTHING ELSE THAT YOU RECOGNIZE ON THIS
22 DIAGRAM, PEOPLE'S 46?

23 A THIS IS THE AREA IN G WHERE THE DRIVEWAY
24 COMES DOWN WHERE THE TWO MEN ON BIKES RODE DOWN HERE TO
25 GET ON TO WOODLYN LANE. THEY CAME DOWN THE PATH ON TO
26 WOODLYN LANE.

27 Q WELL, YOU TOLD US A FEW MOMENTS AGO THAT
28 AFTER WAITING FOR THE POLICE, YOU LEFT YOUR HOUSE IN AN

1 EFFORT TO TRY TO CATCH UP TO THE BICYCLE MEN; CORRECT?

2 A YES, SIR.

3 Q PLEASE TELL US WHERE YOU WENT AND WHAT YOU
4 DID. AND IF YOU CAN USE THAT CHART PEOPLE'S 46.

5 A THIS IS MY HOUSE. THIS IS WOODLYN LANE.
6 AND I DROVE DOWN WOODLYN LANE ALL THE WAY TO THE VERY END
7 TO THE GATE (INDICATING).

8 Q THIS IS THE GATE THAT YOU THOUGHT WOULD BE
9 LOCKED?

10 A THAT'S CORRECT.

11 Q WHAT DID YOU FIND WHEN YOU GOT THERE?

12 A THAT THE GATE WAS LOCKED AND THERE WAS
13 NOBODY THERE.

14 Q YOU HAD GONE TO THAT GATE FOR -- BECAUSE
15 YOU THOUGHT IT MIGHT STOP THEM? WHAT REASON?

16 A I THOUGHT THAT THEY PROBABLY DIDN'T KNOW
17 HOW TO GET OUT OF THE GATE. I WOULD FIND THEM THERE WITH
18 THEIR TWO BICYCLES UNABLE TO GET OVER THE GATE.

19 Q BUT APPARENTLY THEY DID?

20 A EVIDENTLY.

21 MR. DIXON: ONE MORE EXHIBIT, PEOPLE'S 47, YOUR
22 HONOR. AGAIN, ANOTHER CHART. IT'S ENTITLED "LOCATIONS
23 IN BRADBURY." MAY THAT BE MARKED AS PEOPLE'S 47 AND WE
24 HAVE A SMALLER VERSION FOR THE OVERHEAD AS 47-A.

25 THE COURT: SO MARKED.

26

27 (MARKED FOR IDENTIFICATION PEOPLE'S

28 EXHIBIT NO. 47 AND 47-A, MAP DRAWING.)

1 Q BY MR. DIXON: I WILL PUT THIS UP FOR YOU
2 AND ASK YOU THE SAME OR SIMILAR QUESTIONS THAT I ASKED
3 BEFORE. PEOPLE'S 47, DO YOU RECOGNIZE THIS. AND, IF SO,
4 WHAT IS IT?

5 A THIS IS A PICTURE OF A MAP DRAWING OF THE
6 CITY OF BRADBURY AND PART OF IT IS IN DUARTE ALSO?

7 Q AND DO YOU SEE THE THOMPSON HOUSE THERE?

8 A YES, I DO.

9 Q COULD YOU POINT THAT OUT, PLEASE?

10 A THE THOMPSON HOUSE IS LOCATED RIGHT HERE
11 (INDICATING).

12 Q AND IT HAS AN ACCOMPANYING PHOTOGRAPH AND
13 IT'S LABELED ACCORDINGLY; IS THAT CORRECT?

14 A THAT'S CORRECT.

15 Q USING THIS MAP, CAN YOU TELL US WHERE YOU
16 WENT WHEN YOU GOT IN YOUR -- WHAT KIND OF VEHICLE DID YOU
17 USE TO --

18 A I HAD A TRUCK, A 1977 GM TRUCK.

19 Q DID YOU TAKE YOUR WEAPON WITH YOU?

20 A I SURE DID.

21 Q DOES THIS HELP YOU IN TELLING US WHERE
22 EXACTLY YOU WENT AND WHERE THE LOCKED GATE WAS?

23 A YES. MY HOUSE IS LOCATED RIGHT HERE.
24 THIS IS WOODLYN LANE. THE MEN ON THE BIKES CAME OUT HERE
25 ONTO WOODLYN LANE AND RODE ALL THE WAY DOWN TO THE GATE
26 RIGHT HERE AT WOODLYN LANE.

27 Q YOU ARE POINTING TO -- I'M TRYING TO THINK
28 HOW TO DESCRIBE IT. THERE IS A RED CIRCLE AND YOU ARE

1 POINTING RIGHT ABOVE THAT?

2 A THAT'S CORRECT. RIGHT DOWN WOODLYN LANE
3 TO THE GATE THAT SHOWS A PICTURE OF THE WEST EXIT.

4 Q WHEN YOU ARRIVED AT THE GATE THAT WAS
5 LOCKED AND THAT YOU THOUGHT MIGHT TRAP THE MEN ON THE
6 BICYCLES, WHAT DID YOU DO NEXT?

7 A I STARTED TO OPEN THE GATE. AND AT THE
8 SAME TIME I SAW FIVE OR SIX SHERIFF CARS COMING DOWN
9 ROYAL OAKS DRIVE AND STARTING TO PULL INTO WOODLYN LANE.

10 Q RIGHT WHERE YOU WERE?

11 A YES.

12 Q NOW, WHEN YOU SAID YOU COULD OPEN THE
13 GATE, HOW COULD YOU DO THAT?

14 A I HAD AN ELECTRONIC CLICKER IN MY TRUCK.

15 Q DESCRIBE THAT FOR US. WAS IT SOMETHING
16 SPECIAL FOR THE RESIDENCE OF BRADBURY?

17 A EVERYBODY WHO LIVED THERE HAD AN
18 ELECTRONIC CLICKER. OTHERWISE, YOU WOULD HAVE TO PUT A
19 CODE NUMBER INTO A CODE BOX INSIDE AND OUTSIDE OF THE
20 GATE.

21 Q SO THIS WOULD BE ONE OF THOSE LIKE A
22 LITTLE KEY PAD?

23 A YES, SIR.

24 Q ON EITHER SIDE OF THE GATE?

25 A THAT'S CORRECT.

26 Q AND IF I WASN'T A RESIDENT OF BRADBURY, I
27 WOULD HAVE TO KNOW THE CORRECT NUMBER AND PUNCH IT IN?

28 A YES, SIR.

1 OUT THIS WAY." HE SAID, "WE HAVE TO GO TO THE CRIME
2 SCENE." AND ALL FIVE OR SIX POLICE CARS WENT UP WOODLYN
3 LANE TO THE CRIME SCENE.

4 Q WHAT DID YOU DO THEN?

5 A I WAS A LITTLE DISMAYED. I THOUGHT, WHY
6 ARE THEY ALL GOING UP THERE WHEN I JUST TOLD THEM
7 SOMEBODY LEFT HERE. BUT I DROVE OUT OF THE GATE; TURNED
8 AROUND ON THE ROAD RIGHT HERE ON ROYAL OAKS DRIVE; AND I
9 WENT BACK UP WOODLYN LANE TO THE THOMPSONS' RESIDENCE.

10 Q I THINK AT THE OUTSET OF YOUR TESTIMONY,
11 YOU TOLD US THAT IT WAS ABOUT 6:00 A.M. WHEN YOU FIRST
12 HEARD THE SHOTS?

13 A THAT'S CORRECT.

14 Q DO YOU HAVE ANY IDEA HOW MUCH TIME HAD
15 ELAPSED BY THE TIME YOU GOT BACK TO THE THOMPSON
16 RESIDENCE AFTER GOING TO THE GATE?

17 A FROM THE TIME I WOKE UP TO THE TIME I WENT
18 TO THE THOMPSON RESIDENCE?

19 Q YES. YES.

20 A APPROXIMATELY 20, 25 MINUTES.

21 Q WHAT DID YOU FIND WHEN YOU ARRIVED AT THE
22 THOMPSON HOUSE?

23 A WELL, I PARKED MY TRUCK AND I WALKED OVER
24 TO THE DRIVEWAY, MICKEY AND TRUDY THOMPSON'S DRIVEWAY.
25 ALL THE POLICE WERE THERE. AND I COULDN'T BELIEVE WHAT I
26 SAW BECAUSE I SAW TRUDY THOMPSON LYING AT THE BOTTOM OF
27 THE DRIVEWAY WITH BLOOD COMING OUT OF HER HEAD WITH HER
28 EYES WIDE OPEN. SHE APPEARED TO BE DEAD.

1 Q AND DID YOU SEE MICKEY THOMPSON'S BODY.

2 A I DID, BUT NOT AT THAT MOMENT. BECAUSE I
3 WALKED UP A LITTLE BIT FURTHER. AND AS I WALKED UP AND I
4 LOOKED TOWARDS THE TOP OF THE DRIVEWAY, THEN I SAW MICKEY
5 LYING THERE AND HE APPEARED TO BE DEAD WITH BLOOD.

6 Q COULD YOU TELL WHETHER OR NOT HE HAD BEEN
7 SHOT AT THAT TIME?

8 A OH, YES.

9 Q ONCE OR MORE TIMES OR DID YOU KNOW?

10 A I DON'T KNOW.

11 Q NOW, AT THAT TIME THERE WERE SHERIFFS
12 DEPUTIES THERE?

13 A YES, SIR.

14 Q AT SOME POINT DID YOU TALK WITH THEM?

15 A I DID. I WAS VERY STUNNED AT THE WHOLE
16 SCENE. I HAD NOT EXPECTED TO SEE WHAT I SAW.

17 THE COURT: ALL RIGHT. LET ME ASK YOU THIS,
18 MR. JOHNSON, JUST LISTEN TO THE QUESTION CAREFULLY. AND
19 IF YOU COULD ANSWER JUST THE QUESTION.

20 THE WITNESS: YES, MA'AM.

21 THE COURT: AND THEN MR. DIXON WILL ASK YOU
22 ANOTHER QUESTION.

23 THE WITNESS: YES, MA'AM.

24 MR. DIXON: THANK YOU, YOUR HONOR.

25 Q AT SOME POINT, DID YOU TELL -- TALK TO A
26 MEMBER OF THE SHERIFF'S DEPARTMENT AND TELL THEM WHAT YOU
27 HAD SEEN AND HEARD?

28 A YES, I DID.

1 Q DID YOU DO THAT ONCE OR OVER A PERIOD OF
2 TIME? DID YOU GIVE THEM A NUMBER OF INTERVIEWS.

3 A A NUMBER OF INTERVIEWS.

4 Q AND, IN FACT, YOU'VE TALKED TO DEPUTY
5 SHERIFFS OR DETECTIVES NOT ONCE OR TWICE, BUT A NUMBER OF
6 TYPES OVER THE YEARS; ISN'T THAT CORRECT?

7 A THAT'S CORRECT.

8 Q DID THERE COME A TIME IN JULY OF 1996,
9 THAT YOU WENT TO THE FEDERAL COURTHOUSE IN SANTA ANA?

10 A YES, I DID.

11 Q WHY DID DO THAT?

12 A I WENT DOWN THERE --

13 MS. SARIS: OBJECTION, YOUR HONOR. MAY WE
14 APPROACH?

15 THE COURT: YES. LET'S GO TO THE SIDEBAR.

16

17 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

18 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR. I
19 THOUGHT WE WERE GOING TO AVOID REFERENCES TO THE FEDERAL
20 CASE.

21 MS. SARIS: ME, TOO.

22 MR. DIXON: I THOUGHT WE WERE AVOIDING THE FRAUD
23 STUFF, BUT NOT -- I THOUGHT IT WAS THE COURTHOUSE --

24 MS. SARIS: YOU SAID YOU WERE GOING TO SANITIZE
25 JUST "HEARD A COMMENT."

26 THE COURT: JUST SPEAK INTO THE --

27 MS. SARIS: YOU SAID YOU WERE GOING TO SANITIZE
28 IT AND JUST SAY HE "HEARD A COMMENT."

1 MR. DIXON: OH, I THOUGHT FROM ALL THE TESTIMONY
2 WE HAD TO AT LEAST SAY WHERE IT HAPPENED.

3 THE COURT: OKAY.

4 MR. DIXON: I WASN'T GOING TO ASK ANY MORE THAN
5 THAT. CAN I LEAD A LITTLE BIT MORE HERE?

6 THE COURT: OKAY. ANY PROBLEM WITH THAT?

7 MS. SARIS: LET'S HEAR THE ANTICIPATED QUESTION.

8 MR. DIXON: WE ALREADY HAVE.

9 MS. SARIS: WHAT IS THE NEXT QUESTION?

10 MR. DIXON: THE NEXT QUESTION IS: DID YOU SEE
11 COLLENE CAMPBELL THERE? DID YOU SEE GOODWIN THERE? DID
12 GOODWIN MAKE A STATEMENT THAT YOU HEARD?

13 THE COURT: ALL WE HAVE SO FAR IS FEDERAL COURT
14 AND WE HAVE NOTHING MORE. SO WHY DON'T WE MOVE ON WITH
15 SOME LEADING QUESTIONS.

16 MS. SARIS: DO WE NEED TO HAVE A MOMENT WITH HIM?

17 MR. DIXON: I DON'T THINK SO.

18 MS. SARIS: OKAY.

19 THE COURT: ALL RIGHT.

20 MS. SARIS: I HATE TO HAVE A MISTRIAL THIS FAR
21 INTO --

22 THE COURT: THAT WOULD BE A SHAME.

23 (SIDEBAR CONCLUDED.)

24

25 MR. DIXON: MAY I INQUIRE?

26 THE COURT: YES.

27 Q BY MR. DIXON: DID YOU GO TO THIS LOCATION
28 WITH COLLENE CAMPBELL?

1 A YES, I DID.

2 Q AND YOU KNEW COLLENE CAMPBELL TO BE MICKEY
3 THOMPSON'S SISTER?

4 A THAT'S CORRECT.

5 Q WHILE YOU WERE THERE, DID YOU SEE SOMEONE
6 THAT YOU SEE HERE IN THE COURTROOM TODAY?

7 A YES. MR. GOODWIN.

8 Q AND WHILE YOU WERE AT THE LOCATION, DID
9 YOU HEAR MR. GOODWIN, THE DEFENDANT, MAKE A STATEMENT TO
10 COLLENE CAMPBELL?

11 A YES, I DID.

12 Q AND PLEASE, IF YOU COULD, JUST TELL US THE
13 STATEMENT.

14 A "YOU'RE GOING TO GET YOURS, BITCH."

15 Q AND WERE YOU SITTING OR STANDING WHEN YOU
16 HEARD THIS?

17 A STANDING.

18 Q AND THE DEFENDANT WAS WALKING BY YOU; IS
19 THAT CORRECT?

20 A BEING WALKED --

21 Q YOU CAN JUST ANSWER THAT YES OR NO. WAS
22 HE WALKING BY YOU?

23 A YES, SIR.

24 Q OKAY. WAS THIS SAID IN A LOUD VOICE OR IN
25 A WHISPER?

26 A IN A WHISPER.

27 Q AND WHERE WERE YOU IN RELATIONSHIP TO
28 COLLENE CAMPBELL WHEN YOU HEARD THE VOICE?

1 A RIGHT NEXT TO HER.

2 Q DID YOU SAY -- WITHOUT TELLING US WHAT SHE
3 SAID, DID YOU SAY SOMETHING TO HER EITHER AT THE TIME OR
4 SHORTLY AFTER YOU HEARD THE DEFENDANT MAKE THIS STATEMENT
5 DIRECTED TOWARDS COLLENE CAMPBELL?

6 A YES, I DID.

7 Q WHAT DID YOU SAY?

8 MS. SARIS: OBJECTION. CALLS FOR HEARSAY.

9 THE COURT: SUSTAINED. LET ME SEE COUNSEL AT THE
10 SIDEBAR.

11
12 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

13 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.
14 WHERE ARE WE GOING WITH THIS PART?

15 MR. DIXON: WE DON'T HAVE TO GO ANYWHERE.

16 THE COURT: ALL RIGHT. AND JUST FOR THE RECORD,
17 I SEE MRS. CAMPBELL SITTING IN THE COURTROOM. I THOUGHT
18 WE WERE GOING TO EXCLUDE HER AND I DON'T THINK WE DID.

19 MS. SARIS: I THOUGHT WE AGREED ON THAT.

20 THE COURT: WE DID.

21 MR. DIXON: I DIDN'T LOOK EITHER. I THOUGHT WE
22 AGREED, TOO.

23 THE COURT: AND I JUST NOTICED WHEN --

24 MS. SARIS: THAT'S FINE.

25 THE COURT: I DON'T WANT TO MAKE A PRODUCTION OF
26 HER LEAVING. SO IF YOU INTEND TO CROSS, THEN WE WILL ASK
27 HER TO LEAVE IN CROSS. WE SHOULD JUST TAKE A BREAK AND
28 SHE WON'T BACK.

1 DO YOU HAVE MORE DIRECT?

2 MR. DIXON: YES.

3 THE COURT: LET'S DO THAT AND TAKE A BREAK.

4 MS. SARIS: SO THE RECORD IS CLEAR, I OBJECT TO
5 HER HAVING BEEN HERE, BUT NOW THAT SHE'S HERE --

6 (SIDEBAR CONCLUDED.)

7

8 MR. DIXON: MAY I INQUIRE?

9 THE COURT: YES.

10 Q BY MR. DIXON: SOMETIME AFTER YOU HEARD
11 THIS STATEMENT BY THE DEFENDANT DIRECTED AT COLLENE
12 CAMPBELL, DID YOU TALK WITH A DETECTIVE MARK LILLIENFELD?

13 A YES.

14 Q DID YOU GIVE HIM A REPORT ABOUT THE
15 STATEMENT THAT YOU HEARD?

16 A I CAN'T REMEMBER THAT AT THIS TIME.

17 Q YOU DON'T RECALL WHETHER YOU TALKED TO HIM
18 ABOUT THIS INCIDENT ABOUT --

19 A AT THAT TIME?

20 Q YES. SHORTLY AFTER YOU HEARD THE
21 STATEMENT FROM THE DEFENDANT DIRECTED AT COLLENE
22 CAMPBELL, AT SOME POINT AFTER THAT IN THE WEEKS OR MONTHS
23 OR MAYBE EVEN MORE THAN THAT, DID YOU TALK TO MARK
24 LILLIENFELD ABOUT THAT STATEMENT?

25 A YES, I DID, BUT NOT AT THAT TIME.

26 Q SOMETIME LATER?

27 A YES.

28 Q CAN YOU GIVE US APPROXIMATELY HOW MUCH

1 LATER IT WAS?

2 A I DON'T RECALL.

3 Q IT COULD HAVE BEEN SIX MONTHS? THREE
4 MONTHS? A YEAR?

5 A IT COULD HAVE BEEN.

6 Q DO YOU RECALL TELLING HIM -- TELLING
7 DETECTIVE LILLIENFELD THAT WHAT YOU HEARD THE DEFENDANT
8 SAY TO COLLENE CAMPBELL WAS, "I'M GOING TO GET YOU, TOO.
9 I'M GOING TO GET" -- "I'LL GET YOU, TOO."

10 DO YOU REMEMBER ANYTHING LIKE THAT?

11 A IT WAS A VERY THREATENING REMARK TO
12 COLLENE CAMPBELL.

13 Q SO ARE YOU TELLING US THAT WHAT I JUST
14 READ TO YOU MAY HAVE BEEN YOUR STATEMENT TO MARK
15 LILLIENFELD?

16 MS. SARIS: OBJECTION. LEADING.

17 THE COURT: SUSTAINED. REPHRASE IT.

18 Q BY MR. DIXON: DO YOU RECALL AT THIS TIME
19 MAKING THAT STATEMENT TO MARK LILLIENFELD WHEN HE
20 INTERVIEWED YOU ABOUT THIS ISSUE?

21 A YES.

22 Q AND DO YOU RECALL STATING THOSE WORDS TO
23 HIM?

24 A I DON'T RECALL.

25 MS. SARIS: OBJECTION --

26 Q BY MR. DIXON: THANK YOU.

27 I WOULD LIKE TO MARK A COUPLE MORE
28 EXHIBITS. WE HAVE TWO MORE EXHIBITS, YOUR HONOR.

1 PEOPLE'S 48.

2 THE COURT: 48 IS THE NEXT ONE. AND WHAT IS IT?

3 MR. DIXON: IT IS ANOTHER CHART WEST EXIT OF
4 THOMPSON PROPERTY, 48.

5 THE COURT: SO MARKED.

6 MR. DIXON: AND THEN 49 SAYS EXIT FROM BRADBURY
7 ON WOODLYN LANE NORTH OF ROYAL OAKS DRIVE, 49.

8 THE COURT: SO MARKED.

9
10 (MARKED FOR IDENTIFICATION PEOPLE'S
11 EXHIBIT NO. 48, 48-A, 49 AND 49-A,
12 CHARTS.)

13
14 MR. JACKSON: YOUR HONOR, FOR THE RECORD THERE
15 ARE SMALLER VERSIONS OF BOTH 48 AND 49 THAT I'VE MARKED
16 48-A AND 49-A, RESPECTIVELY.

17 THE COURT: ALL RIGHT. THOSE WILL BE FOR
18 IDENTIFICATION.

19 Q BY MR. DIXON: DR. JOHNSON, I PUT PEOPLE'S
20 48 UP HERE. COULD YOU TAKE A MOMENT AND LOOK AT THAT AND
21 TELL US IF YOU RECOGNIZE IT AT ALL?

22 A YES, I DO.

23 Q WHAT DO YOU RECOGNIZE IT TO BE?

24 A THIS IS THE DRIVEWAY -- ONE OF THE
25 DRIVEWAYS THAT EXITED MICKEY THOMPSON'S HOME AND IT GOES
26 DOWN TO WOODLYN LANE.

27 Q DO ANY OF THE PHOTOGRAPHS ON THIS
28 EXHIBIT -- AND THERE ARE A THROUGH H. SO THE AREA WHERE

1 EITHER YOU DROVE DOWN OR YOU SAW THE MEN ON THE BICYCLES
2 GO ON TO LEAVE THE THOMPSON RESIDENCE?

3 A YES. PHOTOGRAPH F SHOWS THE ROAD THAT
4 GOES DOWN AND EXITS ONTO WOODLYN LANE.

5 Q AND SO THAT WOULD HAVE BEEN FROM THE
6 THOMPSON HOUSE DOWN TO WOODLYN LANE?

7 A THAT'S CORRECT.

8 Q IN THE EARLIER EXHIBIT, I THINK IT WAS 46,
9 WE SAW THE ROUTE WITH RED ARROWS AND ORANGE ARROWS; IS
10 THAT CORRECT?

11 A THAT'S CORRECT.

12 Q AND THIS IS WHERE THEY INTERSECTED.

13 A THAT'S CORRECT.

14 Q BY THE WAY, WHEN YOU LEFT THE LOCKED TO
15 GATE AND RETURNED TO THE THOMPSON HOUSE AND SAW THE
16 TRAGEDY THAT YOU DESCRIBED FOR US THERE, WERE THERE
17 SHERIFFS DEPUTIES THERE THEN?

18 A YES.

19 Q HOW MANY? CAN YOU TELL US?

20 A ALL SIX CARS HAD -- I FOLLOWED UP WOODLYN
21 LANE FIVE OR SIX CARS.

22 Q SO THERE WOULD HAVE BEEN AT LEAST FIVE OR
23 SIX DEPUTIES?

24 A YES, SIR.

25 Q DID YOU STAY IN THAT AREA FOR THE NEXT
26 PERIOD OF HOURS?

27 A FOR THE NEXT 15, 20 MINUTES.

28 Q AND DURING THAT 15 OR 20 MINUTES, WHAT DID

1 YOU SEE? WHAT DID THE DEPUTIES DO?

2 A I SPOKE TO ONE OF THE DEPUTIES AND I ASKED
3 HIM I SAID, "WAS THIS A ROBBERY?"

4 Q WELL, YOU CAN'T TELL US WHAT THE HEARSAY
5 IS. OKAY? I'M JUST ASKING YOU WHAT YOU SAW THEM DO?

6 A I SAW THEM LOOKING AT MICKEY AND TRUDY'S
7 BODY.

8 Q AND DID YOU SEE THEM -- HAVE YOU EVER SEEN
9 THAT YELLOW TAPE?

10 A YES.

11 Q DID YOU SEE THEM AT SOME POINT THAT
12 MORNING PUT UP THE YELLOW TAPE AT THE CRIME SCENE?

13 A YES, SIR.

14 Q AND KEEP PEOPLE OUT OF THAT AREA?

15 A YES, SIR.

16 Q AFTER THE 15 OR 20 MINUTES THAT YOU SPENT
17 THERE AT THE THOMPSON HOUSE, WHERE DID YOU GO NEXT?

18 A WENT BACK TO MY HOME.

19 Q DID YOU SPEND THE REST OF THE DAY THERE OR
20 A GOOD PART OF THE DAY?

21 A PART OF THE DAY.

22 Q FROM TIME TO TIME WAS YOUR ATTENTION
23 DIRECTED TO THE THOMPSON HOUSE?

24 A THE POLICE HAD COME OVER TO MY HOUSE.

25 Q AND TALKED WITH YOU?

26 A YES.

27 Q WAS IT FAIR TO SAY THAT THERE WAS POLICE
28 ACTIVITY FOR THE REST OF THE DAY AT THE THOMPSON HOUSE?

1 A YES.

2 Q I WOULD LIKE YOU TO LOOK AT ANOTHER
3 EXHIBIT, PLEASE. PEOPLE'S 49 FOR IDENTIFICATION. PLEASE
4 TELL US IF YOU RECOGNIZE IT. AND I WILL HAVE A FEW MORE
5 QUESTIONS.

6 THIS EXHIBIT, YOUR HONOR, HAS A NUMBER OF
7 PHOTOGRAPHS AND THEY ARE MARKED A THROUGH H.

8 THE COURT: THANK YOU.

9 Q BY MR. DIXON: DO YOU RECOGNIZE THAT
10 EXHIBIT AND THE PHOTOGRAPHS ON IT?

11 A YES, SIR.

12 Q WHAT DO THEY SHOW?

13 A IT SHOWS COMING DOWN WOOD- -- A SHOWS
14 COMING TOWN WOODLYN LANE TO THE LOCKED GATE. B SHOWS THE
15 LOCKED GATE FROM THE OUTSIDE ON ROYAL OAKS BOULEVARD. C
16 SHOWS ROYAL OAKS BOULEVARD. D SHOWS ROYAL OAKS
17 BOULEVARD. E SHOWS A PICTURE DIRECTLY ACROSS FROM THIS
18 GATE. IF YOU WERE TO CROSS ROYAL OAKS, THERE WAS A FENCE
19 WITH AN OPENING AND A BIKE PATH DOWN BELOW. G SHOWS A
20 PICTURE OF THE BIKE PATH FROM THAT OPENING. AND H SHOWS
21 A GENERAL PICTURE OF THE BIKE PATH DOWN BELOW.

22 MR. DIXON: MAY I APPROACH, YOUR HONOR.

23 THE COURT: YES.

24 Q BY MR. DIXON: OKAY. LET ME ASK YOU A FEW
25 MORE QUESTIONS ABOUT IT IF I COULD DR. JOHNSON. A SHOWS
26 THE LOCKED GATE. AND THAT'S THE GATE THAT YOU DROVE DOWN
27 TO AND YOU THOUGHT THAT THE MEN ON THE BIKES WOULD BE
28 LOCKED IN ON OR STOPPED THERE --

1 A YES, SIR.

2 Q -- WITH THE KEY PAD AND EVERYTHING ELSE?

3 A YES, SIR.

4 Q ALL RIGHT. AND TELL US THE RELATIONSHIP
5 BETWEEN A, B AND C IN TERMS OF WHERE THEY ARE LOCATED?

6 A A IS GOING DOWN WOODLYN LANE TO THE
7 ELECTRONIC GATE. B IS LEAVING WOODLYN LANE OUT TO ROYAL
8 OAKS. C SHOWS THE WOODEN FENCE WITH AN OPENING IN IT.

9 Q FROM THE STREET OBVIOUSLY?

10 A YES.

11 Q AND THEN BASED ON YOUR EXPERIENCE OF
12 HAVING LIVED THERE, YOU KNOW WHAT IS ON THE OTHER SIDE OR
13 WAS ON THE OTHER SIDE?

14 A YES, SIR.

15 Q AND IS THAT SHOWN IN PHOTOGRAPH G?

16 A THAT IS CORRECT THE OPENING IS HERE
17 (INDICATING). AND THEN IT COMES DOWN A HILL TO WHAT WE
18 CALL THE BIKE PATH.

19 Q AND THEN I THINK YOU MENTIONED IN
20 PHOTOGRAPH H, THAT SHOWS ANOTHER VIEW OF THE BIKE PATH?

21 A THAT'S RIGHT. THAT'S CORRECT.

22 Q SO IF I WAS GOING DOWN THE STREET ON THE
23 RED ARROW, WOODLYN LANE; RIGHT?

24 A YES.

25 Q AND CROSSED THE STREET, I COULD TAKE A
26 WALK THROUGH OR TAKE A BIKE THROUGH THIS LITTLE GAP IN
27 THE FENCE (INDICATING)?

28 A THAT'S CORRECT.

1 Q AND THEN I GO DOWN THE LITTLE HILL OR THE
2 EMBANKMENT AND BE ON THE BIKE PATH?

3 A YES, SIR.

4 MR. DIXON: COULD I HAVE A MOMENT, PLEASE, YOUR
5 HONOR?

6 THE COURT: YES.

7 (PAUSE IN PROCEEDINGS.)

8 Q BY MR. DIXON: JUST A COUPLE MORE
9 QUESTIONS ABOUT WHEN YOU WERE WITH COLLENE CAMPBELL AND
10 THE STATEMENT BY THE DEFENDANT WAS MADE?

11 A YES.

12 Q YOU'VE TOLD US THAT YOU DON'T REALLY
13 RECALL WHEN YOU TALKED TO DETECTIVE LILLIENFELD ABOUT
14 THAT --

15 A THAT'S CORRECT.

16 Q -- WHETHER IT WAS SIX MONTHS OR A YEAR
17 LATER. WOULD YOU SAY THAT YOUR MEMORY ABOUT WHAT GOODWIN
18 SAID TO COLLENE CAMPBELL WAS FRESHER OR BETTER AT THAT
19 TIME OR NOW?

20 A AT THAT TIME.

21 MS. SARIS: OBJECTION, YOUR HONOR. VAGUE.

22 THE COURT: OVERRULED.

23 THE ANSWER CAN REMAIN.

24 Q BY MR. DIXON: AND THIS WAS AN IMPORTANT
25 EVENT TO YOU; IS THAT RIGHT?

26 MS. SARIS: OBJECTION. LEADING.

27 THE COURT: SUSTAINED.

28 Q BY MR. DIXON: THE THOMPSONS WERE YOUR

1 NEXT DOOR NEIGHBORS; CORRECT?

2 A YES.

3 Q IS IT FAIR TO SAY THAT THIS WHOLE THING
4 LEFT AN IMPRESSION IN YOUR MIND?

5 A YES, SIR.

6 MS. SARIS: OBJECTION. VAGUE.

7 THE COURT: SUSTAINED.

8 Q BY MR. DIXON: DID YOU DO THE BEST YOU
9 COULD AT THE TIME THAT YOU INTERVIEWED WITH MARK
10 LILLIENFELD TO RELATE TO HIM THE STATEMENT THAT THE
11 DEFENDANT MADE TO COLLENE CAMPBELL? DID YOU DO THE BEST
12 YOU COULD?

13 A YES.

14 Q DID YOU TELL HIM THE TRUTH AT THE TIME --

15 A YES. YES, I DID.

16 Q -- TO THE BEST YOU COULD?

17 THANK YOU VERY MUCH.

18 THE COURT: ALL RIGHT. WE'LL TAKE A 15-MINUTE
19 RECESS, LADIES AND GENTLEMEN. REMEMBER THE ADMONITIONS.
20 DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
21 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. DON'T TALK
22 TO ANYBODY CONNECTED WITH THE CASE. AND WE WILL SEE YOU
23 BACK HERE IN 15 MINUTES.

24 DR. JOHNSON, PLEASE COME BACK IN 15
25 MINUTES.

26

27 (BRIEF RECESS.)

28 (THE FOLLOWING PROCEEDINGS WERE

1 HELD IN OPEN COURT OUTSIDE THE
2 PRESENCE OF THE JURY.)

3
4 THE COURT: LET'S GO BACK ON THE RECORD.
5 MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE ARE
6 REPRESENTED. THE JURORS ARE NOT PRESENT.

7 MR. DIXON: I THINK MR. JACKSON IS THE OBJECTION
8 GUY ON THIS AND HE IS WALKING INTO THE COURTROOM. I WAS
9 JUST GOING TO ASK THE COURT FOR PERMISSION TO ASK A
10 COUPLE MORE QUESTIONS.

11 THE COURT: ALL RIGHT. WHAT IS THE OBJECTION,
12 MR. JACKSON, TO THE VIDEO?

13 MR. JACKSON: YOUR HONOR, I SIMPLY WANTED TO FIND
14 OUT WHAT MS. SARIS ANTICIPATED UTILIZING THE VIDEO FOR.
15 AND HER ANSWER TO ME WAS SOMETHING ALONG THE LINES OF --
16 HER ARGUMENT WOULD BE SUBSTANTIALLY THIS IS HOW IT ALL
17 GOT STARTED. THIS IS HOW THE FOLKLORE GOT STARTED.

18 IF, IN FACT, THAT'S HER ARGUMENT, IT SEEMS
19 LIKE THIS VIDEO IS IRRELEVANT. THIS IS A VIDEO OF LANCE
20 JOHNSON GIVING AN INTERVIEW TO 48 HOURS SOME YEARS LATER.
21 THIS CASE HAD BEEN INVESTIGATED FOR YEARS AND YEARS
22 BEFORE THAT VIDEO HAD EVER BEEN SHOT. SO I DON'T SEE THE
23 CONNECTION.

24 I MEAN I UNDERSTAND THAT MS. SARIS MAY
25 WANT TO USE IT TO SOMEHOW IMPEACH MR. JOHNSON, BUT THE
26 FACT OF THE MATTER IS MR. JOHNSON WILL NOT TESTIFY THAT
27 HE WAS GIVING A STATEMENT OF HIS OWN OBSERVATIONS. HE
28 WAS GIVING A STATEMENT OF SOMETHING THAT HE HAD HEARD

1 THROUGHOUT THE NEIGHBORHOOD. AND I THINK HE HAS BEEN
2 PRETTY CONSISTENT ABOUT THAT.

3 SO IF THAT IS THE OFFER OF PROOF, I THINK
4 IT WOULD BE INAPPROPRIATE FOR THE DEFENSE TO THEN STAND
5 UP; SHOW THIS VIDEO IN CLOSING ARGUMENT; AND SAY SEE,
6 FOLKS, HERE IS THE HOLLYWOODIZATION OF THIS CASE. WHEN,
7 IN FACT, THAT'S NOT REALLY WHAT THE VIDEO IS. I THINK IT
8 IS A LITTLE BIT MISLEADING.

9 THE COURT: ALL RIGHT. I DON'T KNOW WHAT THE
10 VIDEO IS --

11 MS. SARIS: I HAVEN'T MADE AN OFFER OF PROOF. I
12 THOUGHT YOU ASKED FOR THE OBJECTION. I DON'T KNOW WHAT
13 THE OBJECTION IS, SO I CAN'T RESPOND.

14 MR. JACKSON: WELL, COUNSEL DID TALK TO ME OFF
15 THE RECORD. SHE'S ACTING LIKE WE HAVEN'T HAD THIS
16 DISCUSSION.

17 MS. SARIS: THIS IS THE SAME VIDEO THAT I SHOWED
18 AT OPENING. THAT WAS NOT OBJECTED TO. THAT'S THE VIDEO
19 THAT IS IN QUESTION. I CAN PLAY IT. IT'S 20 SECONDS.

20 THE COURT: I DON'T NEED TO SEE 20 SECONDS OF IT.
21 JUST TELL ME WHAT YOU WANT TO DO WITH IT.

22 MS. SARIS: I WANT TO SHOW IT TO THE WITNESS. I
23 WANT TO HAVE HIM IDENTIFY HIMSELF AND SAY THAT THIS IS
24 THE INTERVIEW THAT HE GAVE. ADMIT TO THE JURY THAT HE
25 DIDN'T SEE WHAT HE TESTIFIED TO. IT GOES TO HIS BIAS.
26 HIS WILLINGNESS TO MAKE HIMSELF A BIGGER PART OF THIS
27 CASE. NOW HE HAS BROUGHT IN A THREAT THAT WAS PREVIOUSLY
28 UNREPORTED. HE TESTIFIED PREVIOUSLY; THE THREAT NEVER

1 CAME UP.

2 THE COURT: I DON'T REMEMBER THE 20 SECONDS.

3 MS. SARIS: HE STANDS THERE ON CAMERA AND HE SAYS
4 THEY SHOT HER AND THEN THEY HELD HER HEAD UP AND SHOT HIM
5 IN FRONT OF HER AND THEN THEY SHOT HIM.

6 THE COURT: AND SO WHAT ARE YOU USING THAT FOR?
7 PRIOR INCONSISTENT --

8 MS. SARIS: HE DIDN'T SEE ANY OF THIS. PRIOR
9 INCONSISTENCY. HE DIDN'T SEE ANY OF IT. IT GOES TO HIS
10 BIAS. HE IS TRYING TO MAKE --

11 THE COURT: YOU HAVE TO LAY A FOUNDATION.

12 MS. SARIS: I'M NOT SAYING I'M GOING TO OPEN WITH
13 IT. I'M ASKING -- ONCE IT'S PLAYED, I CAN'T UNPLAY IT.
14 I GAVE THE DISTRICT ATTORNEY THE OPPORTUNITY TO MAKE
15 THEIR OBJECTION. SO FAR ALL I'VE HEARD IS RELEVANCE.

16 MR. JACKSON: NO. ACTUALLY, I ASKED FOR AN OFFER
17 OF PROOF AND SHE'S NOW GIVEN IT THAT IT'S A PRIOR
18 INCONSISTENT STATEMENT. GIVEN THAT -- AND THAT'S WHAT I
19 SORT OF SUSPECTED -- IT'S NOT APPROPRIATE IF IT'S OFFERED
20 FOR A PRIOR INCONSISTENT STATEMENT. THERE HASN'T BEEN
21 ANY INCONSISTENCY. AND I DON'T THINK THERE WILL BE IN
22 CROSS-EXAMINATION.

23 THE COURT: RIGHT. I DON'T KNOW IF THERE WILL OR
24 THERE WON'T BE. YOU HAVE TO LAY A FOUNDATION. THAT'S
25 ALL.

26 MS. SARIS: AND IT'S NOT ONLY A PRIOR
27 INCONSISTENT STATEMENT. IT'S THE WILLINGNESS TO GO ON
28 CAMERA; THE DESIRE TO MAKE HIMSELF A BIGGER PART OF THE

1 CASE; CLAIM HE SAW THINGS HE DID NOT SEE. SUCH AS, NOW
2 THAT THIS THREAT HAS COME IN, MORE IMPORTANTLY THIS IS A
3 THREAT THAT ONLY HE HEARD. I MEAN AS FAR AS THE JURY
4 KNOWS SO FAR. AND THEREFORE HIS WILLINGNESS TO SORT OF
5 ADD THINGS AGAINST MR. GOODWIN THAT HAVE NO BIAS IN
6 REALITY.

7 MR. JACKSON: WELL, THAT'S SOMEWHAT DISINGENUOUS
8 GIVEN THE FACT THAT OUTSIDE THE PRESENCE OF THE JURY THIS
9 MORNING THE COURT HEARD TESTIMONY, SWORN UNDER OATH, THAT
10 HE'S NOT THE ONLY ONE WHO HEARD THAT THREAT BEING GIVEN.

11 AND COUNSEL STATES THAT IT WAS NEVER
12 REPORTED, ET CETERA, ET CETERA. SO HE'S MAKING HIMSELF A
13 BIGGER PART OF THE CASE. IT WAS ABSOLUTELY REPORTED AS
14 EARLY AS 1997. THE STATEMENT WAS 1996. SO I DON'T
15 BELIEVE THAT IS AN APPROPRIATE BASIS THAT HE'S TRYING TO
16 MAKE HIMSELF A BIGGER PART OF THE CASE AND HOLLYWOOD THIS
17 CASE.

18 MS. SARIS: WELL, THE COURT CAN ONLY BASE THIS ON
19 THE WHAT THE JURY KNOWS SO FAR.

20 THE COURT: NO. I CAN BASE IT ON WHAT YOU ARE
21 TELLING ME YOU ARE GOING TO OFFER IT FOR. AND YOU'RE
22 TELLING ME YOU'RE OFFERING IT FOR PRIOR INCONSISTENT
23 STATEMENTS. IF YOU ARE OFFERING IT TO SHOW THAT HE MADE
24 A PRIOR INCONSISTENT STATEMENT THAT YOU WANT TO BRING IN
25 TO ATTACK HIS CREDIBILITY, YOU HAVE TO LAY A FOUNDATION.

26 MS. SARIS: AND THAT'S NOT THE ONLY BASIS.
27 THAT'S THE BASIS THE PEOPLE POINTED OUT. AND, AGAIN, I
28 CANNOT TELL YOU HOW TIRING IT IS TO HAVE THE PEOPLE MAKE

1 MY ARGUMENT AND THEN TELL ME WHY MY ARGUMENT IS
2 INSUFFICIENT.

3 WE'RE OFFERING IT FOR BIAS. WE ARE
4 OFFERING IT FOR WILLINGNESS TO MAKE HIMSELF A BIGGER PART
5 OF THIS CASE. WE ARE OFFERING IT FOR OVERALL CREDIBILITY
6 OF THIS WITNESS. ALL OF THESE I'M ALLOWED TO GET INTO
7 UNDER EVIDENCE CODE AND CALJIC 220.

8 WE ARE OFFERING IT ALSO AS A PRIOR
9 INCONSISTENT STATEMENT. BUT SEPARATE AND APART FROM WHAT
10 HE TESTIFIES TO, HE WENT ON CAMERA; ACTED AS IF HE WAS A
11 WITNESS TO THIS CRIME; NARRATED THIS CRIME; AND DID NOT
12 SEE ANYTHING.

13 THE COURT: BUT YOU HAVE TO LAY A FOUNDATION. I
14 MEAN YOU JUST CAN'T BRING IT IN BECAUSE YOU THINK IT
15 TENDS TO SHOW WHAT YOU'RE ARGUING. THERE HAS TO BE SOME
16 FOUNDATION FOR IT.

17 MS. SARIS: I'M WILLING TO LAY THE FOUNDATION.

18 THE COURT: EITHER IT GOES TO A MOTIVE, INTEREST
19 OR BIAS; OR IT IS A PRIOR INCONSISTENT STATEMENT. I
20 DON'T KNOW WHAT IT IS -- YOU KNOW, WHAT YOUR THEORY OF
21 ADMISSIBILITY IS. YOU CAN'T JUST STAND UP AND SHOW A
22 WITNESS WHATEVER YOU FEEL LIKE SHOWING A WITNESS.

23 MS. SARIS: I HAVE NO INTENTION OF THAT. COUNSEL
24 ASKED THAT I BRING THIS UP BEFORE WE BRING OUT
25 MR. JOHNSON. I'M JUST ADVISING THEM THAT I INTEND AT
26 SOME POINT IN MY TESTIMONY TO PLAY THIS VIDEO. IF THE
27 COURT WANTS ME TO SAY WHEN, I WILL.

28 THE COURT: WELL, YOU ARE GOING TO HAVE TO LAY

1 THE APPROPRIATE FOUNDATION. AND IF THERE IS AN
2 OBJECTION, I'M GOING TO RULE ON THE OBJECTION. THUS FAR
3 BECAUSE YOU'RE TELLING ME THAT IT SUPPORTS YOUR ARGUMENT,
4 YOU KNOW IT'S NOT SUFFICIENT.

5 SO IF THERE IS SOME FOUNDATION FOR THIS TO
6 SHOW THAT MR. JOHNSON MADE A PRIOR INCONSISTENT
7 STATEMENT, I'M HAPPY TO LISTEN TO THE FOUNDATION. TO
8 SHOW THAT HE IS MAKING UP HIS ENTIRE TESTIMONY, NO, I'M
9 NOT GOING TO LET YOU PLAY 20 SECONDS OR TWO HOURS OF A
10 TAPE.

11 MS. SARIS: NOR DID I IMPLY THAT. I WAS MERELY
12 GIVING THE COURT AN OPPORTUNITY TO SEE IT BEFORE HE
13 TESTIFIED. THAT'S ALL.

14 THE COURT: IF YOU ARE ONLY OFFERING IT FOR PRIOR
15 INCONSISTENT STATEMENT AND YOU ARE TELLING ME THAT YOU'RE
16 GOING TO LAY A FOUNDATION, I WILL LET IT IN. I DON'T
17 KNOW WHY YOU SMILE AND LAUGH WHEN I'M MAKING A RULING.
18 YOU SAID THAT IT'S -- YOU WANT TO BRING IT IN FOR A
19 NUMBER OF REASONS.

20 MS. SARIS: A NUMBER OF REASONS.

21 THE COURT: I'M TELLING YOU THE ONLY LEGALLY
22 ADMISSIBLE REASON YOU CAN BRING IT IN IS FOR PRIOR
23 INCONSISTENT STATEMENT. YOU HAVEN'T TOLD ME ANYTHING
24 ELSE THAT WOULD LEAD ME TO BELIEVE THAT THIS IS OTHERWISE
25 ADMISSABLE.

26 IS THERE ANOTHER THEORY OF ADMISSIBILITY
27 THAT YOU WANT TO PRESENT TO THE COURT?

28 MS. SARIS: I WAS MERELY GIVING THE COURT AN

1 OPPORTUNITY TO SEE THIS IN ADVANCE BEFORE THE JURY CAME.
2 I WILL LAY THE FOUNDATION. COUNSEL CAN MAKE THE
3 ARGUMENT. THE ONLY REASON I BROUGHT IT UP WAS SO THAT --
4 IT'S GOING TO BE ON THE BIG -- THERE IS NO WAY FOR THE
5 COURT TO SEE IT ONCE THE JURY IS HERE. AND I WAS MERELY
6 GIVING THE COURT THE OPPORTUNITY IF YOU DIDN'T RECALL THE
7 VIDEO --

8 THE COURT: YOU'RE TELLING ME IT WAS HIS
9 INTERVIEW WHERE HE SAID HE DESCRIBED WHAT HE ALLEGEDLY
10 HEARD OR SAW?

11 MS. SARIS: THAT IS THE ONLY REASON I BROUGHT IT
12 UP BEFORE THIS WITNESS STARTED TESTIFYING.

13 THE COURT: WELL, I'M GLAD YOU DID BRING IT UP.

14 MS. SARIS: OKAY. I DON'T INTEND TO OPEN WITH
15 THIS VIDEO. OKAY. THAT'S ALL. I JUST WAS TRYING TO
16 GIVE THE COURT AN OPPORTUNITY TO SEE IT. I WASN'T SURE
17 IF YOU REMEMBERED IT FROM THE --

18 THE COURT: WELL, YOU REMINDED ME. AND WHEN YOU
19 REMINDED ME WHAT IT WAS, YES, I DO REMEMBER IT. BUT,
20 AGAIN, IT'S NOT VERY HELPFUL RIGHT NOW. I APPRECIATE YOU
21 THINKING ABOUT ME. BUT LET'S BRING THE JURY IN AND SEE
22 WHERE WE GET. WE WILL GO FROM HERE.

23 WHERE IS DR. JOHNSON?

24

25 (THE JURY ENTERED THE COURTROOM
26 AND THE FOLLOWING PROCEEDINGS WERE
27 HELD IN OPEN COURT.)
28

1 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
2 ALL OUR JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT IN
3 THE TRIAL MATTER. DR. JOHNSON IS STILL ON THE WITNESS
4 STAND.

5 MR. DIXON, YOU INDICATED THAT YOU HAVE A
6 FEW MORE QUESTIONS?

7 MR. DIXON: YES, YOUR HONOR. THANK YOU.

8 Q DR. JOHNSON, I SHOWED YOU A WHOLE LOT OF
9 PHOTOGRAPHS AND MAPS ABOUT BRADBURY. BASED ON THE TIME
10 THAT YOU LIVED THERE, WOULD YOU CHARACTERIZE BRADBURY AS
11 A PRETTY EASY WAY TO GET AROUND OR MORE DIFFICULT WAY?

12 MS. SARIS: OBJECTION. VAGUE.

13 THE COURT: SUSTAINED.

14 Q BY MR. DIXON: ARE THE STREETS LAID OUT IN
15 LOGICAL FASHION THERE? OR IS IT MUCH MORE DIFFICULT TO
16 GET AROUND? IT IS A RURAL AREA?

17 A IT'S VERY IRREGULAR, THE STREETS.

18 Q CAN YOU EXPAND ON THAT FOR US.

19 A THERE ARE PRIVATE ROADS; PRIVATE LANES
20 THAT WERE PUT IN IN BETWEEN THE HILLS AND VALLEYS. SO
21 THE ROADS MEANDER. THEY'RE NOT STRAIGHT ROADS AS MANY
22 ROADS ARE.

23 Q DID IT TAKE YOU A WHILE AFTER YOU MOVED
24 THERE TO FIGURE YOUR WAY AROUND?

25 MS. SARIS: OBJECTION. LEADING.

26 THE COURT: SUSTAINED.

27 Q BY MR. DIXON: WHEN YOU MOVED THERE, WAS
28 IT EASY TO FIND YOUR WAY AROUND OR WAS IT DIFFICULT?

1 A IT WAS RELATIVELY EASY BECAUSE THERE WERE
2 ONLY A FEW ROADS.

3 Q BUT IF YOU WERE NEW, WOULD IT BE MORE
4 DIFFICULT OR NOT?

5 A YES. PEOPLE GET LOST ALL THE TIME.

6 Q THANK YOU.

7 NOTHING FURTHER.

8 THE COURT: CROSS-EXAMINATION?

9

10 CROSS-EXAMINATION

11 BY MS. SARIS:

12 Q GOOD AFTERNOON, MR. JOHNSON.

13 A GOOD AFTERNOON.

14 Q ONCE YOU GET TO ROYAL OAKS, ISN'T THE CITY
15 PRETTY MUCH SET UP LIKE A GRID, THOUGH?

16 A THAT'S THE SOUTH MOST BOUNDARY OF THE
17 CITY.

18 MS. SARIS: AND IF I COULD MARK THE -- I HAVE A
19 BLACK AND WHITE MAP WITH SOME YELLOW HIGHLIGHTS OF THE
20 AREA, DEFENSE NEXT IN ORDER.

21 THE COURT: DEFENSE NEXT IN ORDER EE IS WHAT I
22 HAVE.

23 MS. SARIS: EE?

24 THE CLERK: YES.

25

26 (MARKED FOR IDENTIFICATION DEFENSE'S
27 EXHIBIT NO. EE, MAP.)

28

1 MS. SARIS: MAY I APPROACH THE WITNESS?

2 THE COURT: YES.

3 Q BY MS. SARIS: IT'S DIFFICULT TO SEE
4 BECAUSE IT'S IN BLACK AND WHITE. BUT LET ME SEE IF YOU
5 RECOGNIZE THAT AS THE SOUTHERN PORTION OF BRADBURY THAT
6 WE'VE BEEN SPEAKING OF WITH ROYAL OAKS AND HUNTINGTON AND
7 THE 210?

8 A NO.

9 Q NO, YOU DO NOT?

10 A THAT'S NOT BRADBURY.

11 Q OKAY. IS BRADBURY DEPICTED WHERE THE "A"
12 ON THE MAP IS DEPICTED?

13 A MOST OF IT. I BELIEVE SO. BUT NOT ALL OF
14 IT. BUT SOME OF IT IS, YES.

15 Q AND ONCE YOU GET TO ROYAL OAKS, IS IT FAIR
16 TO SAY THERE ARE CERTAIN STREETS THEN THAT JUST RUN
17 EAST/WEST CONNECTING THE TWO MAJOR ROYAL OAKS AND
18 HUNTINGTON? I'M SORRY.

19 CERTAIN STREETS THAT RUN NORTH/SOUTH
20 CONNECTING THE TWO MAJOR EAST/WEST STREETS, ROYAL OAKS
21 AND HUNTINGTON?

22 A THAT'S CORRECT.

23 Q AND THEN BELOW THAT IS THE 210 FREEWAY?

24 A THAT'S CORRECT.

25 Q AND ARE THOSE HIGHLIGHTED IN THIS EXHIBIT
26 IN YELLOW HIGHLIGHT?

27 A YES, MA'AM.

28 Q SO ONCE YOU GET OUT OF THE AREA THAT

1 YOU'VE BEEN DESCRIBING AND THAT WE'VE SEEN POINTED TO ON
2 PEOPLE'S 49, PAST THE GATE THAT YOU CALLED THE SOUTH
3 GATE, IS THAT THE AREA DEPICTED?

4 A BELOW IT, THIS AREA HERE (INDICATING)?

5 Q YES.

6 A YES. BUT THIS ISN'T BRADBURY. THIS IS
7 PART OF DUARTE.

8 Q AND AT THE TOP WHERE THERE IS THE "A" IS
9 THAT NEAR THE LOCATION OF THE MICKEY THOMPSON'S HOME?

10 A IT APPEARS TO BE.

11 Q OKAY. THANK YOU.

12 YOU WERE ACTUALLY ASLEEP WHEN YOU FIRST
13 NOTICED ANYTHING UNUSUAL HAPPENING?

14 A YES, MA'AM.

15 Q DO YOU RECALL THAT YOU -- WHEN YOU WERE
16 INTERVIEWED INITIALLY AN OFFICER BY THE NAME OF
17 RODRIGUEZ?

18 A I DO NOT REMEMBER THE NAME.

19 Q DO YOU REMEMBER ANY NAME? ESTRADA, DOES
20 THAT SOUND FAMILIAR?

21 A STALONE.

22 Q STALONE?

23 A DETECTIVE STALONE, I BELIEVE HER NAME WAS.

24 Q A FEMALE?

25 A YES.

26 Q WAS THAT THAT MORNING OR COULD IT HAVE
27 BEEN A YEAR LATER?

28 A I CAN'T RECALL.

1 Q DOES THE NAME DETECTIVE LYONS RING ANY
2 BELLS?

3 A I DON'T RECALL THAT.

4 Q DO YOU REMEMBER, THOUGH, WHEN YOU FIRST
5 SPOKE TO THOSE INDIVIDUALS THAT CAME TO YOUR -- THAT WERE
6 THE FIRST RESPONDING OFFICERS?

7 A YES.

8 Q DID YOU TELL THEM AT THAT TIME THAT YOU
9 HEARD SCREAMING AND YELLING ABOUT THE SAME TIME AS THE
10 SHOTS?

11 A WITHIN A 15, 20 SECOND PERIOD OF TIME,
12 YES.

13 Q HAVE YOU REVIEWED ANY OF THE STATEMENTS
14 THAT YOU GAVE TO THE ORIGINAL RESPONDING OFFICERS PRIOR
15 TO YOUR TESTIMONY?

16 A I HAVE REVIEWED SOME STATEMENTS. I DON'T
17 KNOW IF THEY WERE THE INITIAL ONES.

18 Q DO YOU RECALL TELLING OFFICER -- ANOTHER
19 OFFICER THAT YOU WERE AWAKENED BY, QUOTE, SHOTS AND/OR
20 YELLS?

21 A I WAS AWAKENED BY SHOTS, THE YELLS CAME
22 LATER. THEY MIGHT HAVE PUT THAT DOWN TOGETHER.

23 Q AND DO YOU RECALL TELLING THE SAME OFFICER
24 IN A DIFFERENT INTERVIEW THAT A POSSIBLE SERIES OF SHOTS
25 OCCURRED AFTER HEARING THE VICTIM YELL OUT FOR HELP?

26 A AFTER HEARING THE VICTIM MICKEY THOMPSON
27 YELL, "PLEASE DO NOT HEAR (SIC) MY WIFE," IS WHAT I
28 HEARD.

1 Q "PLEASE DO NOT HURT MY WIFE"?

2 A "PLEASE DO NOT HURT MY WIFE. PLEASE DO
3 NOT HURT MY WIFE," SCREAMING. AND THEN ANOTHER SERIES OF
4 SHOTS.

5 Q WOULD IT REFRESH YOUR RECOLLECTION
6 REGARDING WHETHER OR NOT YOU TOLD THE OFFICER THAT YOU
7 HEARD SHOTS AND YELLS AT THE SAME TIME TO REVIEW
8 STATEMENTS THAT YOU MADE THE MORNING OF THE MURDER?

9 A I DON'T KNOW IF THOSE STATEMENTS ARE --
10 WHO WROTE THOSE STATEMENTS UP.

11 Q WOULD IT REFRESH YOUR RECOLLECTION TO
12 REVIEW A STATEMENT BY AN OFFICER JOHN RODRIGUEZ OR A
13 STATEMENT BY OFFICER LAPORTE, L-A-P-O-R-T-E.

14 MR. DIXON: OBJECTION. NO FOUNDATION. THE
15 WITNESS HASN'T --

16 THE COURT: SUSTAINED.

17 MR. DIXON: THANK YOU.

18 Q BY MS. SARIS: HAVE YOU SEEN -- WOULD ANY
19 STATEMENT THAT YOU MIGHT HAVE MADE THAT MORNING REFRESH
20 YOUR RECOLLECTION AS TO THE EXACT PHRASES THAT YOU USED?

21 MR. DIXON: SAME OBJECTION.

22 THE COURT: YES. YOU HAVE TO LAY A FOUNDATION.

23 Q BY MS. SARIS: DID YOU, IN FACT, SEE THE
24 OFFICERS TAKING NOTES WHILE YOU WERE SPEAKING TO THEM?

25 A AT WHAT TIME PERIOD ARE WE TALKING ABOUT?

26 Q THE MORNING OF THE MURDER.

27 A THE MORNING OF THE MURDER, I DON'T RECALL.

28 Q SO IT WOULD NOT HELP YOU AT ALL? THERE IS

1 NOTHING THAT I CAN SHOW YOU THAT WOULD ASSIST YOU IN
2 REFRESHING YOUR RECOLLECTION ABOUT WHAT YOU SAID --

3 MR. DIXON: OBJECTION. ASSUMES FACTS NOT IN
4 EVIDENCE THAT THIS WITNESS NEEDS HIS MEMORY REFRESHED.

5 THE COURT: SUSTAINED.

6 Q BY MS. SARIS: DO YOU RECALL, NOW, WHETHER
7 OR NOT YOU TOLD THE OFFICERS THAT YOU WERE AWAKENED BY
8 SHOTS AND YELLS?

9 A YES, I DID.

10 Q THAT YOU DID SAY YOU WERE AWAKENED BY
11 SHOTS AND YELLS?

12 A YES. I DON'T KNOW IF IT WAS THOSE YEARS
13 OFFICERS. I DON'T KNOW WHOSE THOSE NAMES ARE.

14 Q I UNDERSTAND. THANK YOU.

15 SO YOU DO RECALL THEY WERE UNIFORMED
16 OFFICERS THAT YOU SPOKE TO THAT MORNING?

17 A I'M NOT SURE ALL OF THEM WERE UNIFORMED OR
18 NOT.

19 Q YOU UNDERSTOOD THEM TO BE POLICE OFFICERS?

20 A YES.

21 Q OKAY. THANK YOU.

22 YOU LOOKED OUT YOUR WINDOW WHEN THIS FIRST
23 OCCURRED?

24 A YES.

25 Q DID YOU IMMEDIATELY HAVE YOUR GUN WITH
26 YOU?

27 A NO.

28 Q YOU COULD NOT SEE INTO THE AREA WHERE YOU

1 EVENTUALLY SAW THE BODIES FROM YOUR HOME; IS THAT --

2 A THAT'S CORRECT.

3 Q OKAY. THE PEOPLE'S 48-A --

4 MAY I APPROACH THE WITNESS?

5 THE COURT: YES.

6 Q BY MS. SARIS: THERE IS A SERIES OF
7 PHOTOGRAPHS LABELED A THROUGH H ON THIS EXHIBIT. AND I
8 WOULD LIKE TO DRAW YOUR ATTENTION TO THE PHOTOGRAPH AT
9 THE BOTTOM OF THE RIGHT CORNER UNDER H. THERE APPEARS TO
10 BE AN ARROW POINTING UP A DRIVEWAY GOING UP ON THE LEFT
11 OF THIS PHOTOGRAPH.

12 DO YOU SEE THAT?

13 A IN H?

14 Q IN H IT'S ALSO ON THE BOARD WITH THE
15 POINTER.

16 A THAT'S THE DRIVEWAY COMING DOWN TO WOODLYN
17 LANE. IT'S POINTING DOWN, THE ARROW.

18 Q OKAY. AND IF YOU GO UP THAT DRIVEWAY,
19 WOULD YOU GET TO MICKEY THOMPSON'S HOME?

20 A YES, YOU DO.

21 Q AND DO YOU SEE THE CAR IN THAT PHOTOGRAPH?

22 A YES, I DO.

23 Q IF ONE WERE TO WALK PAST THAT CAR, WOULD
24 ONE EVENTUALLY COME TO THE SPOT -- WALK DOWN THE DRIVEWAY
25 THAT'S JUST OFF THE PHOTOGRAPH, WOULD ONE EVENTUALLY WALK
26 ON TO THE SPOT WITH TRUDY THOMPSON'S BODY FELL?

27 A IF YOU WALKED UP WOODLYN LANE?

28 Q YES.

1 A AFTER GOING THROUGH ANOTHER GATE, YES.

2 Q SO THAT IS THE CONTINUATION OF WOODLYN
3 LANE?

4 A THAT'S CORRECT.

5 Q MICKEY THOMPSON'S HOME WAS SORT OF ON A
6 CUL-DE-SAC, IS THAT RIGHT, AT WOODLYN LANE AND MT. OLIVE?

7 A I WOULDN'T CALL IT A CUL-DE-SAC.

8 Q DID IT END AT THE GATE?

9 A IT HAD ENTRANCES FROM THE PUBLIC ROADS AS
10 WELL AS FROM THE PRIVATE ROADS, SEVERAL ENTRANCES.

11 Q SO ONE COULD ACTUALLY DRIVE UP THE
12 DRIVEWAY TO MICKEY THOMPSON'S HOME WITHOUT GOING THROUGH
13 ANY OF THE GATES?

14 A THAT'S CORRECT.

15 Q AND ONE OF THOSE DRIVEWAYS WOULD HAVE
16 SPILLED OUT ON TO MT. OLIVE -- I'M SORRY -- OUT TO
17 WOODLYN LANE?

18 A THAT'S CORRECT.

19 Q AND WOODLYN LANE THEN MEETS UP WITH
20 MR. OLIVE?

21 A THAT'S CORRECT.

22 Q AND IF ONE GOES SOUTH ON MT. OLIVE, YOU'LL
23 HIT THE 210 FREEWAY?

24 A THAT'S CORRECT.

25 Q RIGHT AT THE POINT WHERE IT INTERSECTS THE
26 605?

27 A YES.

28 Q WHEN YOU SAW THESE INDIVIDUALS, COMING IN

1 FRONT OF YOUR PROPERTY HAD THE SUN COME UP YET?

2 A NO, IT WAS DAWN.

3 Q AND HOW WOULD YOU DESCRIBE IN TERMS OF THE
4 PHOTOGRAPH H, AGAIN, THAT DRIVEWAY WHERE YOU HAVE
5 INDICATED THAT THE ARROW IS COMING DOWN, IS THAT A STEEP
6 HILL UP OR IS THAT ALMOST FLAT?

7 A IT'S RELATIVELY STEEP.

8 Q DID THE BICYCLIST GO BY YOUR PROPERTY WITH
9 SOME SPEED?

10 A AS THEY CAME IN FRONT OF MY HOME, THEY
11 WERE PEDALING. BUT AFTER I SHOT AT THEM, THEY STARTED
12 PEDALING VERY QUICKLY.

13 Q AND YOU INDICATED THAT THESE WERE TWO
14 AFRICAN/AMERICAN MEN. COULD YOU TELL ANYTHING ABOUT
15 THEIR BUILD?

16 A THEY APPEARED TO BE WELL-BUILT.

17 Q HOW ABOUT THEIR HEIGHT?

18 A I WOULD SAY APPROXIMATELY SIX TWO.

19 Q DID THEY BOTH APPEAR TALL? OR DID ONE
20 APPEAR SHORTER THAN THE OTHER OR DO YOU NOT KNOW?

21 A THEY APPEARED ABOUT THE SAME TO ME.

22 Q AND THEY WERE, YOU SAID, WEARING DARK
23 CLOTHING. DID YOU NOTICE A BAG ON THEIR BACKS?

24 A YES, I DID.

25 Q CAN YOU DESCRIBE THAT FOR US.

26 A IT WAS A SMALL BAG THAT HAD A STRING
27 ATTACHED TO IT. AND IT WAS SLUNG OVER THE RIGHT SHOULDER
28 OF THE MAN -- THE FIRST PERSON I COULD SEE.

1 Q WHEN YOU SAY A STRING, IS THAT LIKE A
2 DRAWSTRING?

3 A LIKE A DRAWSTRING.

4 Q COULD YOU TELL THE COLOR OF THIS BAG?

5 A I CAN'T RECALL.

6 Q WHEN YOU SAY "SMALL," CAN YOU EITHER GIVE
7 US -- CAN YOU HOLD UP YOUR HANDS MAYBE AND SHOW THE JURY?

8 A I WOULD SAY THE BAG WAS APPROXIMATELY 12
9 INCHES LONG AND MAYBE FOUR INCHES WIDE. AND IT WENT UP
10 TO A DRAWSTRING, SO IT WAS MORE OR LESS PEAR SHAPED.

11 MS. SARIS: AND, YOUR HONOR, WHEN HE WAS GIVING A
12 DESCRIPTION, HE WAS HOLDING HIS HANDS APPROXIMATELY 12
13 INCHES FOUR INCHES AND SHOWING AN UPWARD MOTION.

14 THE WITNESS: A PEAR SHAPED MOTION -- WHERE THE
15 STRINGS WERE, IT WAS PULLED TOGETHER.

16 THE COURT: YES.

17 Q BY MS. SARIS: DID NEIGHBORS CONGREGATE AT
18 YOUR HOME THAT MORNING?

19 A NEIGHBORS WERE CONGREGATING ALL OVER IN
20 THE AREA.

21 Q IT WAS VERY APPARENT THAT SOMETHING HAD
22 HAPPENED?

23 A YES.

24 Q DO YOU KNOW IF YOU TOLD ANYONE THAT
25 MORNING ABOUT WHAT YOU SAW BEFORE THEY TOLD YOU? DO YOU
26 HAVE A RECOLLECTION OF THAT?

27 A IF I TOLD ANYBODY WHAT I SAW?

28 Q YES. AND OF THE PEOPLE THAT CONGREGATED,

1 WERE YOU ALL SHARING STORIES ABOUT WHAT OCCURRED OR WHAT
2 YOU SEEN?

3 A YES.

4 Q DO YOU KNOW WHETHER YOU TOLD YOUR STORY
5 FIRST OR SOMEONE TOLD YOU FIRST?

6 A I DON'T RECALL.

7 Q DO YOU RECALL TALKING TO THE NEIGHBORS IN
8 THE DAYS THAT FOLLOWED?

9 A OH, YES.

10 Q AND IS IT FAIR TO SAY -- WELL, WAS IT YOUR
11 UNDERSTANDING THAT YOU WEREN'T THE ONLY ONE WHO WITNESSED
12 PART OF THIS EVENT?

13 A THAT'S CORRECT.

14 Q YOU NEVER ACTUALLY SAW ANYONE GET SHOT?

15 A THAT'S CORRECT.

16 Q YOU HAVE BEEN ON TELEVISION SHOWS
17 REGARDING THIS CASE, HAVE YOU NOT?

18 A THAT'S CORRECT.

19 Q WHAT SHOWS HAVE YOU BEEN ON?

20 A 48 HOURS. AND THE OTHER SHOW, I CAN'T
21 RECALL THE NAME OF IT.

22 Q COULD IT HAVE BEEN UNSOLVED MYSTERIES?

23 A YES. UNSOLVED MYSTERIES.

24 Q WHAT ABOUT AMERICA'S MOST WANTED?

25 A I'M NOT SURE.

26 Q ARE YOU AWARE OF WHETHER OR NOT WHEN
27 UNSOLVED MYSTERIES GOT INVOLVED, THEY DID A RECREATION
28 WITH ACTORS?

1 MR. DIXON: OBJECTION. CALLS FOR SPECULATION.
2 RELEVANCY.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER.

5 THE WITNESS: YES.

6 Q BY MS. SARIS: YES, YOU ARE AWARE?

7 A YES, I AM.

8 Q AND DID THAT OCCUR?

9 A YES, IT DID.

10 Q DID YOU WITNESS THAT, THE FILMING OF THAT?

11 A YES.

12 Q DID YOU ASSIST IN THAT IN ANY WAY?

13 A ASSIST, MEANING WHAT?

14 Q TELL WHAT YOU HAD SEEN TO THE PRODUCERS SO
15 THAT THEY COULD HELP RECREATE THE CRIME?

16 A YES.

17 Q AND WHEN YOU WENT ON -- AND WERE YOU ON --
18 DO YOU KNOW IF YOU WERE ON CAMERA ON UNSOLVED MYSTERIES?

19 A I BELIEVE I WAS.

20 Q AND DID YOU NARRATE OR DID YOU TELL THEM
21 JUST THE PORTION THAT YOU SAW? OR DID YOU TELL THEM
22 SPECULATION BASED ON WHAT YOU HAD HEARD?

23 A WHAT PROGRAM ARE WE TALKING ABOUT?

24 Q EITHER ONE. LET'S START WITH UNSOLVED
25 MYSTERIES.

26 A I DON'T BELIEVE IN UNSOLVED MYSTERIES, NO.

27 Q AND WHAT ABOUT 48 HOURS?

28 A DID I DO WHAT NOW?

1 Q DID YOU NARRATE FOR THEM PARTS OF THE
2 CRIME THAT YOU DID NOT WITNESS?

3 A DID I NARRATE? I'M NOT SURE WHAT YOU MEAN
4 BY THAT.

5 Q DID YOU LOOK AT THE CAMERA AND TELL THE
6 PEOPLE THAT WERE INTERVIEWING YOU HOW THIS CRIME HAPPENED
7 AND WHO WAS SHOT FIRST?

8 A 48 HOURS DID APPROXIMATELY 40 MINUTES OF
9 FILMING WITH ME. THEY USED I BELIEVE TWO OR THREE
10 MINUTES OF THAT INTERVIEW. AND IT WAS EDITED BACK AND
11 FORTH BETWEEN MYSELF AND ALLISON TRIARSI. SO HOW THEY
12 EDIT IT AND WHAT WAS ON IS NOT NECESSARILY HOW IT WENT
13 DOWN THE 40 MINUTES OF INTERVIEW.

14 Q BUT AT SOME POINT, THEY CAN PUT TOGETHER
15 PARTS OF WHAT YOU SAID IN A WAY THAT YOU DIDN'T SAY IT.
16 BUT YOU MUST HAVE SAID AT SOME POINT THAT A CERTAIN
17 PERSON GOT SHOT --

18 MR. DIXON: OBJECTION. ARGUMENTATIVE. ASSUMES
19 FACTS NOT IN EVIDENCE.

20 THE COURT: SUSTAINED. REPHRASE IT.

21 MS. SARIS: SURE.

22 Q DID YOU SAY TO THEM AT ANY POINT, FIRST
23 TRUDY GOT SHOT AND HER HEAD WAS HELD UP SO THAT MICKEY
24 COULD SEE AND THEY PUT THE GUN IN HER HEAD AND SHOT HER
25 SO THAT MICKEY THOMPSON HAD TO WATCH?

26 A AT NO TIME DID I SAY I SAW THAT.

27 Q I UNDERSTAND. DID YOU TELL THEM THAT
28 THAT'S WHAT OCCURRED.

1 MR. DIXON: OBJECTION. THIS IS HEARSAY AND
2 IMPROPER IMPEACHMENT.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER THAT LAST QUESTION.

5 THE WITNESS: COULD YOU REPEAT THE QUESTION?

6 Q BY MS. SARIS: SURE. DID YOU TELL THEM
7 THAT THAT IS HOW THIS CRIME OCCURRED?

8 A YES.

9 Q AND DID YOU TELL THEM THAT AFTER THAT
10 OCCURRED, THE KILLERS THEN SHOT MICKEY THOMPSON?

11 A YES.

12 Q NOW, YOU DIDN'T WITNESS ANY OF THAT; IS
13 THAT CORRECT?

14 A THAT'S CORRECT.

15 Q WOULD IT BE FAIR TO SAY THAT WHEN MEDIA
16 GOT INVOLVED IN THIS CASE, YOU WERE WILLING TO EMBELLISH
17 YOUR ROLE AS TO WHAT YOU SAW?

18 A WHEN YOU HAVE TWO NEIGHBORS THAT ARE GOOD
19 FRIENDS OF YOURS LYING IN POOLS OF BLOOD, THERE IS NO
20 EMBELLISHING. THEY WERE MURDERED IN A VICIOUS WAY. NO
21 EMBELLISHMENT, NO FOLKLORE, FACT. AND I SAW THEM LYING
22 IN THEIR OWN BLOOD.

23 Q BUT DID YOU NOT, IN FACT, SEE THEM GET
24 SHOT; IS THAT FAIR?

25 A THAT IS CORRECT.

26 Q AND MY QUESTION THEN TO YOU WAS: WERE YOU
27 WILLING WHEN THE MEDIA WAS INVOLVED TO TAKE ON THE VOICE
28 OF THE NEIGHBORHOOD AND EXPLAIN THE CRIME AS YOU

1 SPECULATED IT OCCURRED?

2 A AS I HEARD THAT IT TOOK PLACE BY
3 EYEWITNESSES OF THE ACCOUNT.

4 Q OKAY. SO YOU WERE WILLING, THEN, TO
5 NARRATE THIS CRIME EVEN THOUGH YOU DID NOT WITNESS IT; IS
6 THAT FAIR TO SAY?

7 A I NEVER SAID I SAW THIS HAPPENING.

8 Q I UNDERSTAND THAT.

9 A I SAID THIS IS WHAT HAPPENED ACCORDING TO
10 PEOPLE WHO SAW IT.

11 Q HAVE YOU EVER HAD AN OPPORTUNITY FOR ANY
12 REASON TO SEE THE CORONER'S REPORTS IN THIS CASE?

13 A I HAVE NEVER SEEN IT.

14 Q IS IT YOUR UNDERSTANDING TO THIS DAY THAT
15 TRUDY WAS HELD UP BY HER HAIR AND SHOT --

16 MR. DIXON: OBJECTION. CALLS FOR HEARSAY. HE
17 SAID HE DIDN'T SEE IT. SHE IS ASKING HIM TO SPECULATE
18 AND TO RELY ON HEARSAY FROM A REPORT THAT HE DOESN'T
19 EVEN -- HE DIDN'T EVEN SEE.

20 MS. SARIS: I'M SORRY. THE QUESTION DOESN'T
21 RELATE TO THE REPORT.

22 THE COURT: I DIDN'T HEAR THE WHOLE QUESTION.
23 BUT MAYBE YOU CAN TRY TO PHRASE IT IN A WAY THAT DOESN'T
24 REFER TO ANYTHING THAT MIGHT BE HEARSAY.

25 Q BY MS. SARIS: AS YOU SIT HERE NOW, IS IT
26 YOUR UNDERSTANDING OF THIS CRIME THAT TRUDY WAS HELD UP
27 BY THE HAIR AND SHOT IN THE HEAD?

28 A THAT'S CORRECT.

1 Q THE FIRST TIME THAT YOU -- WELL, YOU
2 INDICATED THAT YOU HAD MET WITH DETECTIVE LILLIENFELD?

3 A YES.

4 Q AND OVER THE YEARS HAVE YOU SPOKEN TO HIM
5 ON MORE THAN ONE OCCASION?

6 A YES.

7 Q THE FIRST TIME THAT YOU SPOKE TO HIM, WAS
8 THAT ON THE DAY THAT AMERICA'S MOST WANTED -- I'M SORRY.
9 THE 48 HOURS -- OR ONE OF THESE SHOWS. I WON'T SPECIFY.
10 ONE OF THESE SHOWS CAME OUT TO YOUR HOME?

11 A I DON'T RECALL.

12 Q DO YOU RECALL THE DATE?

13 A NO.

14 Q WOULD LOOKING AT ANYTHING REFRESH YOUR
15 RECOLLECTION AS TO THE DATE?

16 A WELL, YOU SHOWED ME SOME PAPERS JUST A FEW
17 MINUTES AGO.

18 Q AND DID THAT HELP REFRESH YOUR
19 RECOLLECTION?

20 A NO. NO. I HAVE NO IDEA.

21 Q DO YOU KNOW THE YEAR?

22 A YOU SHOWED ME '96 OR '97, I BELIEVE IT
23 WAS.

24 Q NO. AND I'M ASKING -- I SHOWED YOU --
25 LET'S JUST GET THIS STRAIGHT. I ASKED YOU IF THAT HELPED
26 REFRESH YOUR RECOLLECTION AS TO THE DATE?

27 A YES. NO.

28 Q AND YOU SAID THAT IT DID NOT; IS THAT

1 FAIR?

2 A IT DID NOT.

3 Q AS YOU SIT HERE NOW, REGARDLESS OF WHAT
4 YOU'VE BEEN SHOWN, DO YOU HAVE AN INDEPENDENT
5 RECOLLECTION OF THE YEAR THAT DETECTIVE LILLIENFELD SPOKE
6 TO YOU?

7 A NO, I DO NOT.

8 Q DO YOU HAVE A RECOLLECTION AS TO HOW LONG
9 AFTER THE CRIME? WAS IT MORE THAN FIVE YEARS? LESS --

10 A I DO NOT KNOW.

11 Q DO YOU KNOW WHETHER OR NOT YOU SPOKE TO
12 DETECTIVE LILLIENFELD -- LET ME REPHRASE.

13 WAS THERE A TIME WHEN DETECTIVE
14 LILLIENFELD ACCOMPANIED AN AMERICA'S MOST WANTED CREW TO
15 THE CRIME SCENE?

16 A I CAN'T RECALL.

17 Q WHEN YOU INTERVIEWED WITH -- DID YOU
18 INTERVIEW WITH AMERICA'S MOST WANTED?

19 A IF THAT WAS ONE OF THE SHOWS, I DON'T
20 KNOW.

21 Q WOULD LOOKING AT A TRANSCRIPT OF THE
22 PROGRAM HELP REFRESH YOUR RECOLLECTION?

23 A WELL, IF YOU HAVE A TRANSCRIPT AND YOU
24 KNOW, THEN I GUESS THAT'S TRUE.

25 Q NO. I'M ASKING IF IT WILL HELP REFRESH
26 YOUR RECOLLECTION AS TO WHEN IT MIGHT HAVE BEEN?

27 A IF IT HAS A DATE ON IT.

28 MS. SARIS: YOUR HONOR, I'M APPROACHING THE

1 WITNESS WITH A TEN-PAGE DOCUMENT WITH A NUMBER ON THE
2 BOTTOM RIGHT 032654 NUMBERED CONSECUTIVELY TO 032663.

3 MAY I APPROACH THE WITNESS?

4 THE COURT: YES.

5 Q BY MS. SARIS: I'M JUST GOING TO ASK YOU
6 NOT TO READ ANY PORTION OF THIS OUT LOUD. BUT JUST TO
7 LOOK AT THIS TRANSCRIPT AND SEE IF YOU RECOGNIZE YOUR
8 NAME AND IF YOU SEE ANY DATE OR ANYTHING THAT MIGHT HELP
9 YOU RECALL WHEN YOU SPOKE TO AMERICA'S MOST WANTED.

10 MR. DIXON: YOUR HONOR, DOES THAT -- COULD I ASK
11 UNDER EVIDENCE CODE 771 TO MARK THAT AS PEOPLE'S 50 FOR
12 IDENTIFICATION, PLEASE.

13 THE COURT: PEOPLE'S 50 FOR IDENTIFICATION, SO
14 MARKED.

15
16 (MARKED FOR IDENTIFICATION PEOPLE'S
17 EXHIBIT NO. 50, DOCUMENTS.)

18
19 Q BY MS. SARIS: I'M JUST ASKING IF THAT
20 HELPS REFRESH YOUR RECOLLECTION AS TO THE DATE OF THAT
21 INTERVIEW?

22 A THE DATE SHOWS '96. I CAN'T REMEMBER THE
23 EXACT DATE. IS THAT THE DATE WE'RE LOOKING AT RIGHT
24 HERE?

25 Q NO. THE SHOOT DATE IS HERE (INDICATING).
26 IF IT DOESN'T HELP YOU, JUST SAY SO.

27 A NO, IT DOESN'T HELP ME AT ALL.

28 Q OKAY. THANK YOU.

1 DO YOU RECALL THIS -- THE THREAT THAT YOU
2 TOLD US ABOUT HEARING TO COLLENE CAMPBELL IN 1996, DO YOU
3 RECALL WHEN YOU FIRST REPORTED THAT THREAT?

4 A I SAID SOMETHING TO COLLENE AT THAT
5 MOMENT. I SAID, "DID YOU HEAR" --

6 Q I'M ASKING, SIR, WHEN YOU REPORTED THE
7 THREAT TO LAW ENFORCEMENT. I'M SORRY. LET ME CLARIFY.

8 A DO I REMEMBER THE DATE THAT I REPORTED IT?

9 Q YES.

10 A NO.

11 Q COULD IT HAVE BEEN THE DATE THAT DETECTIVE
12 LILLIENFELD CAME OUT TO YOUR HOME WITH CAMERA CREWS FROM
13 AMERICAS'S MOST WANTED?

14 A I DON'T RECALL.

15 Q IS THAT POSSIBLE?

16 MR. DIXON: OBJECTION. SPECULATION.

17 THE COURT: SUSTAINED.

18 MR. DIXON: THANK YOU.

19 Q BY MS. SARIS: YOU INDICATED THAT YOU ARE
20 A CLINICAL PSYCHOLOGIST?

21 A YES, MA'AM.

22 Q DO YOU ALSO HAVE A REAL ESTATE LICENSE?

23 A YES, I DO.

24 Q AND CAN YOU TELL ME FROM A REAL ESTATE
25 PROSPECTIVE, IS THE AREA OF BRADBURY KNOWN FOR SEVERAL
26 HOMES THAT HAVE THE ABILITY TO HOLD HORSES?

27 A THAT'S CORRECT.

28 Q AND THAT BIKE PATH THAT YOU'VE INDICATED

1 IS DISPLAYED ON PEOPLE'S 49-H, THE BOTTOM MOST PHOTOGRAPH
2 IS THAT OPEN TO VEHICLES, CAR VEHICLES?

3 A IT'S NOT SUPPOSED TO BE.

4 Q OKAY. AND WHAT ABOUT HORSES?

5 A YES.

6 Q SO HORSES AND BIKES CAN TRAVEL ON THAT?

7 A YES.

8 Q AND DOES ONE NEED A SPECIAL KEY OR PASS TO
9 GET TO THAT AREA?

10 A NO, YOU DO NOT.

11 Q AND THE KEY PAD GATE THAT YOU DESCRIBED,
12 DOES THAT HAVE ANY ACCESS TO THIS BIKE PATH OR IS THAT
13 SEPARATE?

14 A THAT'S COMPLETELY SEPARATE.

15 Q WHEN YOU WERE LIVING THERE, YOU SAID YOU
16 WERE VERY FAMILIAR WITH THIS AREA? YES?

17 A YES, SIR.

18 Q WOULD IT BE AN UNUSUAL OCCURRENCE IN AND
19 OF ITSELF TO SEE AN AFRICAN/AMERICAN MAN IN THAT
20 NEIGHBORHOOD IN 1988?

21 A NO. WE HAD NEIGHBORS WHO WERE
22 AFRICAN-AMERICAN.

23 Q DID YOU CALL THE POLICE REGARDING AN
24 INDIVIDUAL THAT YOU THOUGHT TO BE SUSPICIOUS IN THE DAYS
25 AFTER THE MURDER?

26 A I CAN'T RECALL.

27 Q YOU DON'T RECALL CALLING THE POLICE AND
28 TELLING THEM THAT THERE WAS A BLACK MAN IN THE AREA THAT

1 DIDN'T BELONG?

2 A I DON'T RECALL.

3 Q DID YOU USE THE BIKE PATH VERY OFTEN.

4 A VERY SELDOM.

5 Q SO WHAT WAS IT ABOUT THE PEOPLE THAT WENT
6 BY YOUR HOME THAT LED YOU TO SHOOT AT THEM IF YOU HADN'T
7 SEEN THIS CRIME?

8 A WELL, WHEN YOU HEAR SEVERAL SHOTS TAKING
9 PLACE AT 6:00 A.M. IN THE MORNING NEXT DOOR TO YOU; YOU
10 HEAR SOMEBODY SCREAMING, "PLEASE DON'T HURT MY WIFE.
11 PLEASE DON'T HURT MY WIFE"; YOU HEAR ANOTHER SERIES OF
12 SHOTS AND TOTAL SILENCE; AND ABOUT 30 SECONDS LATER YOU
13 SEE TWO PEOPLE RIDE FROM THAT LOCATION WITH WHAT APPEARED
14 TO ME TO BE GUNS IN A LITTLE SACK OVER THEIR BACK, IT
15 SEEMS THAT THERE WAS SOME SERIOUS TROUBLE THAT JUST TOOK
16 PLACE.

17 Q BUT YOU DIDN'T SEE THEM HAVE GUNS?

18 A I SAW THE LITTLE SACKS AND I FIGURED
19 THAT'S WHERE GUNS WERE.

20 Q YOU DON'T KNOW WHETHER OR NOT THESE
21 INDIVIDUALS WERE RUNNING AWAY FROM THE SHOOTING, THOUGH,
22 DO YOU?

23 A NO.

24 Q WHEN YOU SAID YOU WAITED ABOUT FIVE TO TEN
25 MINUTES BEFORE GOING DOWN TO THE GATE, WERE YOU LOOKING
26 OUT YOUR WINDOW THAT ENTIRE TIME?

27 A YES, I WAS.

28 Q AND WHICH WINDOW WAS THAT?

1 A THE THIRD WINDOW FROM THE TOP, SECOND
2 FLOOR.

3 Q AND WHEN YOU GOT -- YOU INDICATED THAT YOU
4 THOUGHT THEY MIGHT GET TO THE GATE AND BE STOPPED; IS
5 THAT CORRECT?

6 A THAT'S CORRECT.

7 Q THIS GATE IS -- IT APPEARS IN PEOPLE'S 49.
8 DO YOU KNOW WHEN THESE PHOTOGRAPHS WERE TAKEN?

9 A I HAVE NO IDEA.

10 Q WAS THE GATE REPLACED BETWEEN -- AT ANY
11 POINT THAT YOU RECALL?

12 A IT IS A DIFFERENT GATE NOW THAN IT USED TO
13 BE?

14 Q AND IS THE PICTURE IN 49 A PICTURE OF THE
15 OLD GATE OR THE NEW GATE?

16 A THAT'S THE OLD GATE.

17 Q THAT'S THE OLD GATE?

18 A YES.

19 Q AND THAT'S DEPICTED PROBABLY MOST CLEARLY
20 IN PEOPLE'S 49-A?

21 A THAT'S CORRECT.

22 Q AND WHEN I SAY 49-A, I'M TALKING ABOUT BIG
23 POSTER BOARD IN PHOTOGRAPH A?

24 A THAT'S CORRECT.

25 Q AND YOU THOUGHT THAT GATE MIGHT STOP THEM
26 AND THAT YOU WOULD BE ABLE TO CATCH UP TO THEM?

27 A THAT'S CORRECT.

28 Q BUT YOU HAVE NO PERSONAL KNOWLEDGE OF

1 WHETHER THEY ACTUALLY WENT IN THAT GATE OR INTO SOMEONE'S
2 BACKYARD?

3 A THAT'S CORRECT.

4 Q DID YOU GIVE A DESCRIPTION OF THESE
5 BICYCLISTS TO THE POLICE?

6 A YES, I DID.

7 Q DID YOU SEE ANYTHING STICKING OUT OF THAT
8 BAG? I'M SORRY?

9 A NO.

10 Q AND WHEN I SAY "THAT BAG," I'M REFERRING
11 TO THE ONE OVER THEIR SHOULDER?

12 A DID NOT SEE ANYTHING STICKING OUT.

13 Q WHEN YOU GAVE A DESCRIPTION TO THE POLICE,
14 DID THEY ASK YOU -- DO YOU KNOW WHAT AN IDENT-A-KIT IS?
15 I-D-E-N-T, DASH A --

16 A I'M NOT FAMILIAR WITH THE NAME.

17 Q OKAY. I'M GOING TO SPELL IT FOR THE
18 RECORD. KIT, K-I-T.

19 YOU'RE NOT FAMILIAR WITH THE NAME?

20 A NO.

21 Q LET ME ASK YOU THIS: DID THEY SHOW YOU A
22 SERIES OF HAIRSTYLES AND A SERIES OF EYES AND NOSES AND
23 ASK YOU TO PUT A FACE TOGETHER.

24 A ARE WE TALKING AT THE POLICE STATION?

25 Q AT ANY TIME AFTER --

26 A YES, AT THE POLICE STATION.

27 Q AND WHEN WAS THIS?

28 A THAT MORNING.

1 Q AND DID YOU PICK OUT, FOR INSTANCE, A
2 HAIRSTYLE?

3 A YES.

4 Q DID YOU PICK OUT EYES; NOSE; MOUTH?

5 A YES.

6 Q AT ANY TIME, AS YOU SIT HERE NOW, BETWEEN
7 THE TIME OF THE MURDER AND NOW, HAVE THE POLICE EVER COME
8 TO YOU WITH A PHOTOGRAPH OF AN AFRICAN/AMERICAN MAN AND
9 ASK YOU TO IDENTIFY HIM AS TO WHETHER OR NOT THAT WAS THE
10 INDIVIDUAL ON THE BIKE?

11 A I DON'T BELIEVE SO.

12 Q WOULD YOU HAVE DONE SO IF SO ASKED?

13 A IF I WOULD HAVE -- IF I RECOGNIZED THE
14 INDIVIDUAL?

15 Q WOULD YOU HAVE EVEN TRIED, I'M ASKING?

16 A POSSIBLY.

17 Q IS THERE ANYTHING THAT YOU CAN THINK OF
18 NOW THAT WOULD -- THAT YOU WOULD SAY, OH, I WOULD REFUSE
19 TO DO THAT FOR SOME REASON? OR WOULD THAT BE SOMETHING
20 THAT YOU WOULD AT LEAST ATTEMPT?

21 A WELL, WE STILL HAVE THE COMPOSITES THAT
22 WERE DONE THAT DAY. AND THEY WERE ON THE NEWS A HUNDRED
23 TIMES. AND THEY WERE ALL OVER. SO I MEAN I'M VERY
24 FAMILIAR IF YOU SHOWED ME THE PICTURES THAT WE DREW 18
25 YEARS AGO, I COULD RECOGNIZE THEM VERY EASILY.

26 Q I GUESS WHAT I'M ASKING IS: WAS THERE
27 EVER A TIME WHERE THE POLICE CAME AND ASKED YOU TO DO
28 THAT AND YOU SAID NO?

1 A I DON'T RECALL THAT.

2 Q OKAY. HOW LONG WOULD YOU SAY THESE
3 INDIVIDUALS WERE IN YOUR RANGE OF VIEW AS THEY WENT BY
4 YOUR HOME?

5 A 10, 15 SECONDS.

6 Q AND YOU SAID THAT YOU CAN SEE QUITE
7 OFTEN -- WHEN MR. THOMPSON WAS STILL ALIVE -- INTO HIS
8 BARN, YOU COULD SEE HIM WORKING ON CARS.

9 A THAT'S CORRECT.

10 Q HE HAD A FAIRLY EXTENSIVE AREA WHERE ONE
11 COULD WORK ON CARS?

12 A THAT'S CORRECT.

13 Q DID YOU EVER SEE ANYONE HELPING HIM?

14 A YES.

15 Q DID HE HAVE, AS FAR AS YOU KNEW, MECHANICS
16 IN HIS EMPLOY?

17 A YES.

18 Q HOW MANY WOULD YOU SAY?

19 A ONE TO TWO PEOPLE WOULD BE OVER THERE AT
20 VARIOUS TIMES.

21 Q DID YOU KNOW HIM EVER TO HAVE ANY WORK
22 DONE ON HIS HOME; WALLS BUILT OR THINGS PUT IN?

23 MR. DIXON: OBJECTION. RELEVANCY AND VAGUE AS TO
24 TIME HERE.

25 THE COURT: YES. NARROW IT DOWN, PLEASE.

26 MS. SARIS: CERTAINLY.

27 Q IN LATE '87 OR EARLY '88, DO YOU KNOW OF
28 ANY PROJECTS HE HAD TAKEN ON IN THE HOME?

1 A I BELIEVE HE WAS PUTTING IN AN ELEVATOR
2 FOR HIS WIFE.

3 Q WOULD IT BE UNCOMMON TO SEE PEOPLE, OTHER
4 THAN MICKEY THOMPSON, WORKING ON VEHICLES OR SOMETHING IN
5 THAT YARD?

6 A JUST HE AND THE TWO PEOPLE OR SO THAT
7 WOULD NORMALLY BE THERE.

8 Q DID YOU KNOW THEM BY NAME?

9 A NOT REALLY.

10 Q SO THE CLICKER THAT YOU HAD THAT COULD
11 OPEN THIS GATE, IT WAS ALSO POSSIBLE TO PUNCH IN A CODE
12 AND HAVE IT OPEN; RIGHT?

13 A THAT'S CORRECT.

14 Q DID YOU EVER GIVE ANYONE OTHER THAN YOUR
15 FAMILY MEMBERS THAT CODE NUMBER?

16 A OH, SURE.

17 Q WOULD IT BE FAIRLY COMMON TO GIVE IT TO
18 PEOPLE WHO MIGHT VISIT OR WERE WORKING?

19 A YES. BUT THE NUMBER WAS CHANGED ON A
20 REGULAR BASIS.

21 Q ON MARCH 16TH OF 1988, WHEN WAS THE NUMBER
22 CHANGED PRIOR EXACTLY?

23 A IT USUALLY IS CHANGED -- AS A RULE, IT WAS
24 CHANGED ONCE A MONTH.

25 Q WAS THERE EVER A SITUATION WHERE IT DID
26 NOT GET CHANGED ONCE A MONTH?

27 A I'M SURE THERE WAS.

28 Q DO YOU ALL PAY DUES TO LIVE IN THAT AREA?

1 A YES.

2 Q AND YOU DID BACK THEN?

3 A YES.

4 Q AND WHEN YOU WENT BACK TO MICKEY
5 THOMPSON'S HOME AFTER YOU HAD -- WELL, LET ME ASK YOU
6 THIS: WHEN YOU ARE COMING DOWN THE MORNING OF THE
7 MURDER; AND YOU'RE DRIVING TOWARDS THAT GATE, WERE YOU
8 EXPECTING TO CONFRONT THE BICYCLISTS?

9 A YES.

10 Q DID YOU HAVE TO GET OUT OF THE WAY FOR THE
11 POLICE CARS TO COME IN? OR WAS THERE ROOM FOR THEM TO
12 COME UP.

13 A THERE WAS ROOM FOR THEM TO COME UP.

14 Q DO YOU KNOW WHETHER YOU WERE THE ONE THAT,
15 IN FACT, OPENED THE GATE THAT ALLOWED THEM IN?

16 A I BELIEVE SO. I WAS THE ONE WHO PUSHED
17 THE CLICKER.

18 Q AND WHEN YOU WENT BACK AND PARKED, DID YOU
19 PARK AT YOUR HOME OR DID YOU JUST LEAVE THE CAR SOMEWHERE
20 ON WOODLYN?

21 A I LEFT IT NEAR MICKEY THOMPSON'S HOME.

22 Q AND NO ONE STOPPED YOU FROM WALKING UP TO
23 TRUDY?

24 A I DIDN'T WALK UP TO THE CRIME SCENE. I
25 WALKED NEAR THE CRIME SCENE BECAUSE THE POLICE HAD IT
26 CORDONED OFF.

27 Q IS IT FAIR TO SAY THAT WAS ONE OF THE
28 FIRST THINGS THEY DID WAS PUT OUT THE YELLOW TAPE?

1 A I IMAGINE. I DON'T KNOW.

2 Q DID YOU WALK UP TO WHERE MICKEY THOMPSON'S
3 BODY WAS?

4 A NO, I DID NOT.

5 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE.

6 (PAUSE IN PROCEEDINGS.)

7 Q BY MS. SARIS: I JUST WANT TO MAKE IT
8 CLEAR. IS THERE A SINGLE NAME OF AN OFFICER OTHER THAN
9 STALONE, IS THERE ANYONE ELSE THAT YOU RECALL SPEAKING TO
10 THAT MORNING?

11 A I REMEMBER ANOTHER OFFICER. I DON'T
12 RECALL HIS NAME.

13 Q ANYTHING ABOUT ANOTHER OFFICER OR
14 ANYTHING --

15 A KIND OF STOCKY AND HE HAD A BALD HEAD.

16 Q DOES THE NAME VERDUGO RING ANY BELLS?

17 A YES, IT DOES.

18 Q IS THAT THE GENTLEMAN THAT YOU SPOKE --

19 A I BELIEVE IT WAS.

20 Q DO YOU REMEMBER A GENTLEMAN BY THE NAME OF
21 MICHAEL GRIGGS?

22 A YES, I REMEMBER THE NAME.

23 Q DO YOU HAVE A RECOLLECTION OF SPEAKING TO
24 HIM THAT MORNING?

25 A I DON'T RECALL.

26 Q DO YOU HAVE A RECOLLECTION IN YOUR MIND OF
27 SPEAKING TO SOMEONE THAT YOU BELIEVED TO BE IN CHARGE OR
28 NO?

1 A NO.

2 Q DID YOU SPEAK TO -- OF THE FIRST FIVE OR
3 SIX POLICE CARS THAT CAME IN THAT YOU FOLLOWED, DO YOU
4 KNOW IF YOU SPOKE TO ONE OF THEM?

5 A YES, I DID.

6 Q AND CAN YOU REMEMBER ANYTHING ABOUT ANY OF
7 THOSE FIRST FIVE OR SIX PEOPLE THAT YOU SPOKE TO? WHITE?
8 BLACK? HISPANIC?

9 A IT WAS A BLACK GENTLEMAN.

10 Q HOW WOULD YOU CHARACTERIZE YOUR -- WELL,
11 YOU SAID YOU WERE VERY CLOSE FRIENDS WITH MICKEY
12 THOMPSON?

13 A YES.

14 Q WHAT ABOUT COLLENE CAMPBELL, WERE YOU
15 CLOSE FRIENDS WITH HER?

16 A NO, I WAS NOT.

17 Q HAVE YOU BECOME CLOSE FRIENDS SINCE THIS
18 INCIDENT?

19 A I'VE SEEN HER SEVERAL TIMES, YES.

20 Q DO YOU CONSIDER HER A FRIEND?

21 A YES, I DO.

22 Q DO YOU KNOW WHETHER OR NOT SHE IS
23 SPONSORING ANY REWARD IN THIS CASE?

24 A AT THIS TIME?

25 Q AT ANY TIME?

26 A YES, AT ONE TIME.

27 Q DO YOU KNOW THE NAME CARL BUEHL,
28 B-U-E-H-L?

1 A I DON'T BELIEVE SO.

2 Q WHEN YOU HAVE SPOKEN TO DETECTIVE
3 LILLIENFELD IN THE PAST, IS THAT GENERALLY ON THE PHONE?
4 OR DOES HE COME TO YOUR HOUSE? OR DO YOU GO SOMEWHERE?

5 A TYPICALLY ON THE PHONE.

6 Q DO YOU HAVE A SPECIFIC RECOLLECTION OF HIM
7 COMING TO YOUR HOUSE?

8 A NOT REALLY.

9 Q DO YOU HAVE A RECOLLECTION OF -- AND I'M
10 SPEAKING NOW OF LAW ENFORCEMENT -- OF EVER WALKING A
11 DETECTIVE THROUGH YOUR PROPERTY OR TAKING HIM TO YOUR
12 BEDROOM TO SHOW HIM WHAT YOU SAW?

13 A I DON'T RECALL THAT.

14 Q DID THAT OCCUR AT ALL THAT MORNING?

15 A I DON'T RECALL THAT.

16 Q AND YET HOW MANY, IF ANY, CAMERA CREWS DO
17 YOU THINK YOU MIGHT HAVE TAKEN ON THAT VIEW OF YOUR HOME
18 OR WHERE YOU SAW THESE INDIVIDUALS?

19 A MAYBE ONE OR TWO.

20 Q THANK YOU.

21 I HAVE NOTHING FURTHER.

22 THE COURT: REDIRECT?

23 MR. DIXON: YES. THANK YOU, YOUR HONOR.

24

25 REDIRECT EXAMINATION

26 BY MR. DIXON:

27 Q DR. JOHNSON, CAN YOU PLEASE TELL US ALL
28 THE FACTS, ALL THAT YOU HEARD AND SAW THAT LED YOU TO

1 TAKING THIS SHOT AT THE TWO MEN ON BICYCLES AS THEY
2 PEDALED PAST YOUR HOUSE AT 6:00 A.M. IN THE MORNING.

3 MS. SARIS: OBJECTION. ASKED AND ANSWERED.

4 MR. DIXON: WELL, THIS WAS COVERED IN CROSS.

5 THE COURT: WELL, I'M GOING TO SUSTAIN THE
6 OBJECTION. IT DOES CALL FOR A NARRATIVE. WHY DON'T YOU
7 BREAK IT DOWN.

8 MR. DIXON: I'LL TRY. OKAY.

9 Q DID YOU JUST RANDOMLY SHOOT AT PEOPLE THAT
10 WERE BICYCLING PAST YOUR HOUSE OR WAS THERE A REASON THAT
11 YOU SHOT AT THAT GUY?

12 A THERE WAS A REASON.

13 Q WHAT WERE THE REASONS?

14 A THE REASON IS WHEN YOU HEAR NUMEROUS
15 SHOTS; PEOPLE ARE SCREAMING; MORE SHOTS; SILENCE; AND YOU
16 SEE TWO PEOPLE RIDING OUT OF THEIR PROPERTY WITH WHAT
17 APPEARED TO BE GUNS OVER THEIR BACK, I KNEW SOMETHING BAD
18 HAPPENED.

19 Q AND WHO WAS SCREAMING? DID YOU RECOGNIZE
20 THE VOICE?

21 A YES. IT WAS MICKEY THOMPSON SCREAMING --

22 Q YOUR NEIGHBOR?

23 A -- AT THE TOP OF HIS LUNGS.

24 Q COULD YOU PLEASE TELL US THE BEST YOU CAN,
25 BECAUSE COUNSEL ASKED YOU SOME QUESTIONS ABOUT THIS, THE
26 SEQUENCE OF WHAT YOU HEARD THERE AT 6:00 O'CLOCK IN THE
27 MORNING. SHOUTS FROM MICKEY THOMPSON AND YELLING OR
28 GUNSHOTS FIRST? THAT WAS A LITTLE CONFUSING.

1 A I WAS SLEEPING. MY WIFE AND I BOTH WERE
2 SLEEPING. I WAS AWAKENED BY A SERIES OF GUNSHOTS. I SAT
3 STRAIGHT UP IN BED. YOU COULD HEAR VERY, VERY CLEARLY UP
4 IN THE AREA WE LIVE. AND IT IS RIGHT NEXT DOOR TO OUR
5 HOUSE. I WOKE UP AND RAN OVER TO THE WINDOW, WHICH IS
6 THE EAST WINDOW WHICH FACED MICKEY THOMPSON'S HOME. AND
7 I WAS LOOKING OUT THAT WINDOW TRYING TO FIGURE OUT WHAT
8 HAPPENED AS MICKEY THOMPSON STARTED TO SCREAM.

9 Q SO BASED ON WHAT YOU HAVE TOLD US, THERE
10 WAS GUNSHOTS; A PERIOD OF SECONDS; AND THEN MICKEY
11 THOMPSON SCREAMING?

12 A SCREAMING OVER AND OVER "PLEASE DO NOT
13 HURT MY WIFE, PLEASE DO NOT HURT MY WIFE" SCREAMING. AND
14 THEN ANOTHER SERIES OF FIVE OR SIX GUNSHOTS.

15 Q SO IT IS CLEAR IN YOUR MIND IT WAS NOT
16 YELLING AND SCREAMING AND GUNSHOTS ALL AT THE SAME TIME?

17 A NO.

18 MR. DIXON: MAY I APPROACH?

19 THE COURT: YES.

20 Q BY MR. DIXON: I'M GOING TO SHOW YOU WHAT
21 HAS NOW BEEN MARKED AS PEOPLE'S 50, BUT WHAT COUNSEL
22 SHOWED YOU TO ATTEMPT TO REFRESH YOUR RECOLLECTION. IS
23 THIS THE DOCUMENT?

24 A YES.

25 Q AND THIS WAS AN INTERVIEW OR A TRANSCRIPT
26 OF AN INTERVIEW THAT YOU GAVE SOME TV SHOW; IS THAT
27 RIGHT?

28 A I BELIEVE SO.

1 Q AND DO YOU RECALL TELLING THIS TV
2 INTERVIEWER --

3 MS. SARIS: OBJECTION, YOUR HONOR. MAY WE
4 APPROACH?

5 MR. DIXON: YES, I'M HAPPY TO.

6
7 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

8 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.

9 MR. DIXON: MY POSITION IS THIS IS A PRIOR
10 CONSISTENT STATEMENT, IT WAS MADE A LONG TIME AGO.
11 COUNSEL HAS TRIED TO IMPEACH HIM WITH THE SEQUENCE OF
12 EVENTS HERE. AND WHAT SHE IS TRYING TO GET HIM TO SAY
13 AND AGREE TO IS THAT THE SHOTS AND THE YELLING OCCURRED
14 ALL AT THE SAME TIME TO COINCIDE WITH HER THEORY THAT
15 THIS WAS A ROBBERY GONE BAD.

16 HE HAS BEEN VERY SPECIFIC ABOUT THIS THAT
17 THAT WASN'T THE CASE. AND THIS IS A PRIOR CONSISTENT
18 STATEMENT THAT WE LEARNED WHEN SHE ATTEMPTED TO REFRESH
19 HIS MEMORY WHERE HE LAYS OUT IN 1997 EXACTLY WHAT HE SAID
20 HERE ON THE STAND. I THINK THAT'S A PRIOR CONSISTENT
21 STATEMENT THAT I SHOULD BE ABLE TO ASK HIM ABOUT.

22 MS. SARIS: THE PROBLEM IS I HAVE SIX WITNESSES,
23 ALL OF THEM REPORTING OFFICERS THAT MORNING WHO SAY THAT
24 HE HAD NO IDEA WHAT THE ORDER WAS. BUT BEYOND THAT, THIS
25 IS INAPPROPRIATE PRIOR CONSISTENT STATEMENTS. THIS
26 DOCUMENT AND ANY REFERENCE TO IT IS INAPPROPRIATE. HE
27 SAID HE DIDN'T REMEMBER. SO WE CANNOT USE THIS DOCUMENT.
28 IF HE WANTS TO ASK IF HE TOLD A PRODUCER OR SOMETHING,

1 THAT'S DIFFERENT. BUT HIS REFERENCE TO THIS DOCUMENT IS
2 INAPPROPRIATE.

3 MR. DIXON: I'M GOING TO ASK HIM. THAT'S EXACTLY
4 WHAT I'M GOING TO ASK HIM. I'M GOING TO ASK HIM IF HE
5 TOLD THESE T.V. REPORTER --

6 THE COURT: HANG ON. ONE AT A TIME, PLEASE.

7 MR. DIXON: I'M GOING TO ASK HIM IF HE TOLD THIS
8 T.V. REPORTER THE STATEMENT, THAT'S A PRIOR CONSISTENT
9 STATEMENT.

10 THE COURT: ALL RIGHT. THE DEFENSE USED PEOPLE'S
11 50 TO TRY TO REFRESH THE WITNESS'S RECOLLECTION. HIS
12 RECOLLECTION WAS NOT REFRESHED. NOW, MR. DIXON, YOU WANT
13 TO USE IT AS A PRIOR CONSISTENT STATEMENT BECAUSE YOU
14 BELIEVE THAT THE DEFENSE HAS IMPEACHED HIM WITH PRIOR
15 INCONSISTENT STATEMENTS? I DON'T KNOW WHAT INCONSISTENT
16 STATEMENTS YOU'RE REFERRING TO.

17 MR. DIXON: SHE -- AND MY RECOLLECTION IS AND I
18 THINK MR. JACKSON'S, TOO -- AND THE TRANSCRIPT WILL BEAR
19 IT OUT -- AT SOME POINT SHE GOT HIM TO AGREE THAT THE
20 SHOUTS AND THE GUNSHOTS OCCURRED AT THE SAME TIME AND
21 THAT'S WHEN SHE LEFT THE SUBJECT ON CROSS-EXAMINATION --

22 THE COURT: SHE NEVER GOT THE WITNESS TO SAY --

23 MR. JACKSON: YES, JUDGE, SHE DID.

24 THE COURT: I DON'T RECALL THAT AT ALL. I
25 REMEMBER THAT MS. SARIS USED A -- WAS REFERRING TO A
26 POLICE REPORT. AND I BELIEVE THE WITNESS RESPONDED THAT
27 HE DID NOT SAY THAT. THAT IT MAY HAVE BEEN WRITTEN THAT
28 WAY, BUT HE DID NOT SAY THAT.

1 MR. JACKSON: NO, YOUR HONOR, THAT'S --

2 MS. SARIS: AND I INTEND TO CALL ULOTH AND
3 LAPORTE AND RODRIGUEZ AND ESTRADA. AND THEY ALL HAD
4 THAT. AND ONCE I DO, THEN HE CAN ASK ABOUT THIS
5 (INDICATING).

6 THE COURT: YES.

7 MR. JACKSON: WELL, THAT'S ONE THING. THE OTHER
8 THING IS I THINK WITH ALL DUE RESPECT, I THINK THE
9 COURT'S RECOLLECTION IS INACCURATE. AT FIRST THE WITNESS
10 DID SAY, NO, IT DOESN'T REFRESH MY RECOLLECTION. NO, I
11 DON'T REMEMBER SAYING THAT. AT ONE POINT COUNSEL DID
12 IMPEACH HIM WITH LILLIENFELD'S 1997 -- 6/6/97 REPORT, IF
13 I'M NOT MISTAKEN.

14 THE COURT: NO.

15 MS. SARIS: NO. I DON'T EVEN HAVE THAT.

16 THE COURT: THIS WITNESS WAS NOT IMPEACHED. THIS
17 WITNESS HAS NOT BEEN IMPEACHED AS FAR AS I'M CONCERNED.

18 MS. SARIS: I WOULD ASK FOR THERE TO BE NO
19 FURTHER REFERENCE TO THIS DOCUMENT.

20 THE COURT: WELL, THE REFERENCE TO THE DOCUMENT
21 IS NOT MY CONCERN. YOU CAN USE IT FOR ONE PURPOSE AND HE
22 CAN USE IT FOR ANOTHER PURPOSE. BUT THE WITNESS,
23 ACCORDING TO MY RECOLLECTION AND MY NOTES, HE WAS NOT
24 IMPEACHED WITH ANYTHING.

25 MR. JACKSON: SO HE DID NOT SAY AT SOME POINT,
26 YES, I TOLD THE POLICE THAT I HEARD SHOTS AND SCREAMING
27 AT THE SAME TIME?

28 THE COURT: NO. IF YOU HAVE A REFERENCE TO IT,

1 SHOW ME BECAUSE I VERY CLEARLY REMEMBER HE DID NOT
2 ACKNOWLEDGE IT. HE DID ACKNOWLEDGE, HOWEVER, THAT THE
3 POLICE MAY HAVE WRITTEN IT DOWN THAT WAY, BUT HE NEVER --
4 HE WAS VERY CLEAR HE DIDN'T SAY THAT.

5 MR. JACKSON: OKAY.

6 MR. DIXON: THAT'S WHY I WAS ASKING AS A PRIOR
7 CONSISTENT STATEMENT. IF THE COURT'S RECOLLECTION IS THE
8 RECORD DOESN'T BEAR THAT OUT --

9 THE COURT: LET ME CHECK MY NOTES.

10 MS. SARIS: MY CONCERN --

11 THE COURT: HANG ON.

12 MS. SARIS: MY OBJECTION IS TO THE FORM OF THE
13 QUESTION. YOU CAN'T READ OFF OF A DOCUMENT AND ACT AS IF
14 YOU'RE QUOTING A TRANSCRIPT WHEN THAT'S NOT SUBJECT TO
15 CROSS-EXAMINATION.

16 THE COURT: THE SPECIFIC REFERENCE HE TOLD --
17 MR. JOHNSON INDICATED ON CROSS-EXAMINATION HE TOLD THE
18 OFFICERS HE HEARD SHOTS AND YELLS. BUT I DID NOT NOTE
19 THAT HE ADMITTED TO THE SHOTS AND YELLS BEING AT THE SAME
20 TIME. HE WAS ADAMANT ABOUT HEARING THE SHOTS, THE YELLS,
21 THE SHOTS.

22 MR. JACKSON: MY MEMORY IS --

23 THE COURT: DIFFERENT?

24 MR. JACKSON: NO. MY MEMORY IS DIFFERENT, BUT
25 IT'S FALLIBLE.

26 THE COURT: SO IS MINE.

27 MR. DIXON: ANYWAY, IT IS A CLOSE CALL AND THAT'S
28 WHAT WE WERE CONCERNED ABOUT.

1 MS. SARIS: MY CONCERN IS STILL -- THE QUESTION
2 IS: DID YOU TELL A T.V. REPORTER? THE PROPER IS NOT TO
3 READ FROM A TRANSCRIPT.

4 THE COURT: WELL, AT THIS POINT THE OBJECTION IS
5 SUSTAINED. SO WE'RE NOT GOING TO REFERENCE IT, I ASSUME.

6 (SIDEBAR CONCLUDED.)

7
8 MR. DIXON: MAY I INQUIRE?

9 THE COURT: YES.

10 MR. DIXON: THANK YOU.

11 Q DR. JOHNSON, GOING BACK TO THE SEQUENCE OF
12 SHOTS AND THEN SCREAMS FROM MICKEY THOMPSON.

13 A YES.

14 Q DO YOU HAVE THAT IN MIND? OVER THE YEARS
15 HAVE YOU BEEN ASKED BY VARIOUS PEOPLE, WHETHER IT'S T.V.
16 PEOPLE OR POLICE OFFICERS, ABOUT THAT EVENT? WHAT YOU
17 FIRST HEARD WHEN YOU WERE AWOKEN THAT MORNING?

18 A YES, I HAVE BEEN.

19 Q HAS YOUR RECOLLECTION OF THAT ALWAYS BEEN
20 THE SAME?

21 A I BELIEVE IT HAS.

22 Q WHAT YOU'VE TOLD US HERE TODAY?

23 A YES, SIR.

24 Q NOW, YOU TOLD DEFENSE COUNSEL A NUMBER OF
25 TIMES, IN RESPONSE TO HER QUESTIONS THAT YOU WENT ON
26 VARIOUS TV SHOWS?

27 A THAT'S CORRECT.

28 Q WHY?

1 A I WAS ONE OF THE PEOPLE WHO SAW THE
2 INDIVIDUALS LEAVE MICKEY THOMPSON'S PROPERTY. AND PEOPLE
3 WERE INTERESTED IN THE CASE. AND I WAS ONE OF THE PEOPLE
4 WHO SAW IT. I WASN'T PAID FOR IT.

5 Q ONE OF THESE SHOWS WAS AMERICAS'S MOST
6 WANTED I THINK; IS THAT RIGHT?

7 A IT COULD BE.

8 Q WERE YOU INTERESTED IN TRYING TO FIND THE
9 PEOPLE THAT DID THIS?

10 A YES.

11 Q IS THAT ONE OF THE REASONS YOU
12 PARTICIPATED?

13 A I WOULD HOPE THEY WOULD FIND THE PEOPLE
14 WHO DID IT, YES.

15 Q NOW, WHEN YOU WERE ASKED QUESTIONS BY THE
16 TV PEOPLE, YOU WERE JUST ASKED WHAT YOU BELIEVE WHAT
17 HAPPENED; IS THAT RIGHT?

18 MS. SARIS: OBJECTION. LEADING.

19 THE COURT: OVERRULED.

20 Q BY MR. DIXON: YOU CAN ANSWER THE
21 QUESTION.

22 A YES.

23 Q YOU WEREN'T IN COURT?

24 A NO.

25 Q YOU WEREN'T UNDER OATH?

26 A NO.

27 Q YOU WEREN'T SUBJECT TO THE RULES OF
28 EVIDENCE, LIKE HEARSAY?

1 A THAT'S CORRECT.

2 Q HAVE YOU TOLD US HERE IN COURT WHAT YOU
3 ACTUALLY SAW AND HEARD?

4 A YES, SIR.

5 Q OF YOUR OWN EARS AND EYES OUT THERE THAT
6 DAY?

7 A THAT'S CORRECT.

8 Q THE TV REPORTS -- THE TV REPORTERS, THE TV
9 SHOWS WHEN YOU WERE ASKED WHAT HAPPENED, WHAT DID YOU
10 TELL THEM THEN?

11 A I TOLD THEM THAT --

12 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
13 HEARSAY.

14 THE COURT: SUSTAINED.

15 MR. DIXON: SHE ASKED --

16 THE COURT: YOUR QUESTION WAS CALLING FOR HEARSAY
17 AS TO THE SPECIFIC STATEMENTS.

18 Q BY MR. DIXON: DID YOU TELL THEM WHAT YOU
19 HEARD FROM ALL THE INFORMATION THAT YOU HAD, WHETHER IT
20 WAS HEARSAY; YOU SAW IT; SOMEBODY ELSE SAW IT; YOU JUST
21 TOLD THEM WHAT YOU KNEW?

22 A YES, SIR.

23 Q AND THAT'S DIFFERENT THAN TESTIFYING IN
24 COURT UNDER OATH AS TO WHAT YOU SAW AND HEARD?

25 MS. SARIS: OBJECTION. LEADING.

26 THE WITNESS: YES, SIR.

27 THE COURT: ALL RIGHT. THAT'S SUSTAINED. AND
28 THE ANSWER WILL BE STRICKEN.

1 Q BY MR. DIXON: HAVE YOU TOLD US HERE IN
2 COURT EVERYTHING THAT YOU RECALL ABOUT THIS EVENT?

3 A YES, SIR.

4 Q THANK YOU VERY MUCH.

5 NOTHING FURTHER.

6 THE COURT: FURTHER CROSS-EXAMINATION?

7 MS. SARIS: BRIEFLY.

8
9 RECROSS-EXAMINATION

10 BY MS. SARIS:

11 Q MR. JOHNSON, WHEN YOU SPOKE TO THOSE
12 OFFICERS THAT MORNING, IS IT FAIR TO SAY THAT THE EVENTS
13 WERE FRESH IN YOUR MIND?

14 A YES, MA'AM.

15 Q IT HAD JUST OCCURRED?

16 A YES, MA'AM.

17 Q SO WHAT YOU TOLD THEM THAT MORNING IS
18 LIKELY MORE ACCURATE THAN WHAT YOU RECALL NOW?

19 A YES.

20 MS. SARIS: THANK YOU.

21 THE COURT: ANYTHING ELSE?

22 MR. DIXON: YES. JUST A COUPLE, PLEASE. THANK
23 YOU, YOUR HONOR.

24
25 FURTHER REDIRECT EXAMINATION

26 BY MR. DIXON:

27 Q AND THAT SAME PRINCIPLE TALKING TO THE
28 POLICE CLOSER IN TIME TO THE EVENT, WOULD THAT APPLY TO

1 THE EVENT THAT HAPPENED WITH RESPECT TO WHAT YOU HEARD
2 GOODWIN SAY TO COLLENE CAMPBELL, WHAT YOU TOLD THE POLICE
3 CLOSER IN TIME WAS PROBABLY THE BEST --

4 A YES.

5 Q AND WHAT WAS THAT?

6 MS. SARIS: OBJECTION. BEYOND THE SCOPE.

7 THE COURT: SUSTAINED.

8 MR. DIXON: THANK YOU. NOTHING FURTHER.

9 THE COURT: ANYTHING ELSE?

10 MS. SARIS: NO. THANK YOU.

11 THE COURT: THANK YOU, SIR. YOU'RE FREE TO GO.

12 THANK YOU FOR COMING IN.

13 THE WITNESS: THANK YOU, YOUR HONOR.

14 THE COURT: DO YOU HAVE ANOTHER WITNESS HERE?

15 MR. DIXON: YES, WE DO. WILMA JOHNSON. NO
16 RELATION.

17
18 WILMA JOHNSON,
19 CALLED BY THE PEOPLE AS A WITNESS, WAS
20 SWORN AND TESTIFIED AS FOLLOWS:

21
22 THE CLERK: MA'AM, PLEASE RAISE YOUR RIGHT HAND.

23 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
24 YOU MAY 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 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,

1 WOULD YOU PLEASE STATE BOTH YOUR FIRST AND LAST NAME FOR
2 THE RECORD.

3 THE WITNESS: WILMA JOHNSON. W-I-L-M-A.
4 J-O-H-N-S-O-N.

5 THE COURT: YOU MAY INQUIRE.

6 MR. DIXON: THANK YOU, YOUR HONOR.

7
8 DIRECT EXAMINATION

9 BY MR. DIXON:

10 Q GOOD AFTERNOON, MISS JOHNSON. THANK YOU
11 FOR COMING AND BEING PATIENT AND WAITING SO LONG. I KNOW
12 YOU WERE ACTUALLY HERE LAST WEEK, SO THANK YOU.

13 I WOULD LIKE TO INVITE YOUR ATTENTION BACK
14 TO MARCH 16, 1988. DO YOU RECALL THAT DAY?

15 A YES, I DO.

16 Q DID SOMETHING UNUSUAL HAPPEN THAT MORNING?

17 A YES.

18 Q THAT'S WHAT WE'RE HERE TO TALK ABOUT
19 TODAY. BUT FIRST I WOULD LIKE TO ASK YOU JUST A COUPLE
20 OF GENERAL QUESTIONS.

21 AS OF MARCH OF 1988, HOW LONG HAD YOU
22 LIVED IN THE GENERAL SAN GABRIEL VALLEY?

23 A SINCE 1952.

24 Q IS IT FAIR TO SAY THAT YOU WERE FAMILIAR
25 WITH THAT AREA?

26 A YES.

27 Q HOW ABOUT THE AREA OF DUARTE; ARCADIA;
28 BRADBURY?

1 A YES.

2 Q THAT AREA. WE HAVE A CHART UP ON THE
3 BOARD HERE. AND IT'S BEEN MARKED PREVIOUSLY AS PEOPLE'S
4 47 FOR IDENTIFICATION. IF YOU COULD LOOK AT IT FOR A
5 MOMENT. I'M GOING TO HAND YOU THE POINTER.

6 AND CAN YOU TELL ME IF YOU RECOGNIZE THAT
7 GENERAL AREA?

8 A YES, I DO.

9 Q AND WHY DO YOU RECOGNIZE IT?

10 A I TRAVELED THAT ROAD EVERY MORNING ON MY
11 WAY TO A DOG TRAINER'S HOUSE.

12 Q BACK IN MARCH OF 1988?

13 A YES.

14 Q HOW LONG HAD YOU BEEN DOING THAT BEFORE
15 THE DATE THAT WE'RE TALKING ABOUT? MONTHS? YEARS?

16 A MONTHS.

17 Q MONTHS?

18 A UH-HUH.

19 Q IS THAT "YES"?

20 A YES.

21 Q YOU MENTIONED THE DOG TRAINER AT THE TIME.
22 AT THE TIME DID YOU HAVE SOMETHING TO DO WITH DOGS AND
23 DOG SHOWS?

24 A YES. MY HUSBAND AND MYSELF HAVE BRED
25 BLOOD HOUNDS FOR ABOUT 35 YEARS.

26 Q SO YOU ARE VERY INVOLVED IN THAT?

27 A YES.

28 Q AND ON THE MORNING THAT WE'RE TALKING

1 ABOUT DID YOU, IN FACT, HAVE A DOG WITH YOU?

2 A YES, I DID.

3 Q DO YOU REMEMBER HIM OR HER?

4 A VERY MUCH.

5 Q A NICE DOG OR MEAN DOG?

6 A A VERY SWEET DOG.

7 Q LET ME ASK YOU: WHAT HAPPENED? WHAT WAS
8 IT THAT CAUGHT YOUR ATTENTION THAT MORNING?

9 A TYPICALLY, THE ROAD THAT I TRAVEL IS
10 DESERTED BECAUSE THIS IS 6:00 O'CLOCK IN THE MORNING.
11 THERE IS NOT A LOT OF ACTIVITY. AND TWO MEN RAN IN FRONT
12 OF MY VAN. AND MY DOG REACTED TO THEM LIKE I'VE NEVER
13 SEEN HIM REACT BEFORE.

14 Q NOW, THE VAN, WHAT KIND OF VAN WAS THIS
15 BRIEFLY?

16 A IT WAS A FORD F-150, FULL SIZE VAN.

17 Q AND WHERE WERE YOU WHEN YOU SAW THESE
18 MEN -- AND YOU SAID THEY RAN?

19 A YES.

20 Q DID THEY HAVE ANYTHING WITH THEM?

21 A BICYCLES.

22 Q WHERE WERE YOU EXACTLY WHEN YOU SAW THESE
23 MEN RUN IN FRONT OF YOU?

24 A ON NORTH ROYAL OAKS.

25 Q AND --

26 A WHICH IS -- THERE IS TWO ROYAL OAKS
27 DRIVES. AND THIS IS THE SMALLER OF THE TWO.

28 Q AND WHAT HAPPENED? WHERE WERE THEY COMING

1 FROM?

2 A I WAS DRIVING TOWARDS THE EAST. THEY RAN
3 DIAGONALLY ACROSS THE STREET IN FRONT OF ME FROM THE
4 NORTH TO THE WEST.

5 Q NOW, YOU SAID THEY HAD BICYCLES, SO WERE
6 THEY -- THEY WEREN'T RIDING THEM?

7 A THEY WERE RUNNING THEIR BIKES.

8 Q SO THEY WERE HOLDING ON TO THEM AND
9 RUNNING ALONGSIDE OF THEM?

10 A THAT IS CORRECT.

11 Q WAS THERE A STOP SIGN THERE OR A SIGNAL,
12 SOMETHING FOR THEM TO STOP?

13 A NO. THEY JUST APPEARED OUT OF THE SIDE
14 STREET.

15 Q AND WHERE DID THEY GO? DID YOU SEE?

16 A THERE WAS A BREAK IN THE FENCE,
17 GRAPE-STAKE FENCING, AND THEY WENT THROUGH THE BREAK IN
18 THE FENCE.

19 Q DID YOU SEE WHAT HAPPENED TO THEM THEN?

20 A NO, I DID NOT.

21 Q THIS BREAK IN THE FENCE -- AND WE ACTUALLY
22 HAVE SOME PICTURES OF IT. I'M GOING TO SHOW YOU IN A FEW
23 MOMENTS.

24 WERE YOU FAMILIAR WITH THIS FENCE AND THE
25 BREAK AND WHAT WAS IN THE AREA?

26 A I WAS FAMILIAR WITH THE FENCE. I KNOW
27 THAT THERE IS A JOGGING/BICYCLE PATH ON THE OTHER SIDE OF
28 IT. I HAD NEVER NOTICED THE BREAK IN THE FENCE BEFORE.

1 Q UNTIL THESE TWO MEN RUNNING WITH THE
2 BICYCLES DISAPPEARED INTO IT?

3 A THAT'S CORRECT.

4 Q NOW I WOULD LIKE YOU, WITH THE COURT'S
5 PERMISSION, TO TURN TOWARDS PEOPLE'S 47, OUR CHART. AND
6 WITH YOUR POINTER, IS THERE SOMEPLACE THERE ON THE CHART
7 THAT WOULD TELL US WHERE YOU WERE WHEN YOU SAW THESE TWO
8 MEN RUNNING WITH BICYCLES COME RIGHT IN FRONT OF YOU AND
9 YOUR DOG?

10 A I'M TRYING TO -- WELL, I WAS WEST OF
11 WOODLYN, RIGHT PAST WINSTON. SO IT WOULD BE IN THIS AREA
12 HERE (INDICATING).

13 Q OKAY.

14 THE COURT: FOR THE RECORD, THAT -- I CAN'T READ
15 THAT. IS THAT WOODLYN YOU'RE POINTING TO?

16 THE WITNESS: UH-HUH.

17 Q BY MR. DIXON: WHAT WAS THE NEXT LARGE
18 STREET THAT YOU WERE ON? OR WHERE DID YOU GO AFTER YOU
19 SAW THEM? LET'S ASK YOU THAT.

20 A THE STREET CURVES AROUND AND DROPS ONTO
21 ROYAL OAKS, THE LARGE ROYAL OAKS.

22 Q OKAY. SO JUST POINT FOR US WHERE YOU WERE
23 WHEN YOU SAW THEM AND THEN WHERE YOU WENT NEXT.

24 A WELL, I WOULD HAVE JUST FOLLOWED IT ON
25 AROUND.

26 Q OKAY.

27 A AND I TRAVELED OUT TO GARDI.

28 Q ALL RIGHT. NOW, WERE YOU TRAVELING WHEN

1 YOU FIRST SAW THESE TWO MEN RUNNING THE BIKES RIGHT IN
2 FRONT OF YOUR CAR OR DID YOU STOP?

3 A I HAD TO STOP. THEY RAN IN FRONT OF ME.

4 Q SO YOU SLAMMED ON YOUR BRAKES?

5 A YES.

6 Q WHAT HAPPENED TO YOUR DOG?

7 A HE BECAME VERY AGITATED. ACTUALLY, IT
8 WASN'T BECAUSE OF THE BRAKING THAT HE WAS AGITATED. HE
9 SUDDENLY REARED UP FROM BETWEEN THE SEATS WITH A LOUD
10 RUMBLE AND A GROWL AND TRIED TO GO OUT THE WINDOW.

11 Q WHICH WINDOW?

12 A THE DRIVER'S WINDOW.

13 Q SO ACROSS YOU?

14 A CORRECT. AND THEN FOLLOWED THEM ACROSS
15 THE FRONT OF THE VAN AND OVER TO THE PASSENGER SIDE.

16 Q HOW FAR AWAY FROM YOU WERE THESE TWO MEN
17 AS THEY RAN THEIR BICYCLES IN FRONT OF YOU AS YOU STOPPED
18 THE CAR?

19 A VERY CLOSE. I ALMOST HIT THEM.

20 Q SO I'M GOING TO WALK TOWARDS YOU AND YOU
21 CAN TELL ME WHEN --

22 A RIGHT THERE (INDICATING).

23 MR. DIXON: SO THE DISTANCE BETWEEN US MAYBE FIVE
24 OR SIX FEET, YOUR HONOR.

25 THE COURT: YES.

26 MR. DIXON: ALL RIGHT. THANK YOU.

27 Q NOW, YOU SLAMMED ON YOUR BRAKES TO STOP
28 AND YOUR DOG WAS GROWLING, DID YOU GET A CHANCE TO LOOK

1 AT THESE PEOPLE?

2 A ONE OF THEM VERY CLEARLY; THE OTHER ONE
3 NOT AS CLEAR. BUT, YES, I DID.

4 Q CAN YOU DESCRIBE THAT A LITTLE BETTER.
5 DID THEY LOOK AT YOUR FACE? DID YOU LOOK AT THEIRS?
6 WHAT HAPPENED?

7 A ONE OF THEM LOOKED ME SQUARE IN THE FACE,
8 WAS VERY FIRST STARTLED AND THEN ANGRY; WAS A TALL-ISH
9 BLACK MAN WEARING A HOODED SWEATSHIRT.

10 Q AND AT SOME POINT LATER ON -- OH, LET ME
11 ASK YOU. HOW ABOUT THE BIKES? DID YOU NOTICE WHAT KIND
12 OF BIKES?

13 A THEY WERE LIKE TEN SPEEDS; REAL SHINY
14 SPOKES ON THEM. THERE WAS A REFLECTION -- I HAD MY
15 LIGHTS ON BECAUSE IT WAS A SOMEWHAT OVERCAST MORNING.
16 AND THERE WAS A REFLECTION OFF MY LIGHTS ON TO THE SPOKES
17 AS THEY CAME ACROSS IN FRONT OF ME.

18 Q SO BASED ON THAT, DID YOU CONCLUDE
19 SOMETHING?

20 A THEY WERE TEN SPEED-TYPE BIKES; LOOKED
21 NEW.

22 Q OKAY. ALL RIGHT.

23 YOUR HONOR, I HAVE A DOCUMENT I WOULD LIKE
24 TO -- IT'S ACTUALLY A COMPOSITE. IT SAYS "SHERIFF'S LOS
25 ANGELES COUNTY SPECIAL BULLETIN." AND IT IS APPARENTLY A
26 COMPOSITE OF TWO AFRICAN/AMERICAN MEN. MAY I MARK THAT
27 AS PEOPLE'S 51?

28 THE COURT: YES. SO MARKED.

1 MR. DIXON: THANK YOU.

2
3 (MARKED FOR IDENTIFICATION PEOPLE'S
4 EXHIBIT NO. 51, COMPOSITE.)
5

6 Q BY MR. DIXON: NOW AFTER THESE TWO MEN RAN
7 IN FRONT OF YOU AND DISAPPEARED INTO THE BREAK IN THE
8 FENCE, DID YOU CONTINUE ONTO WORK -- OR TO TAKE YOUR DOG?

9 A YES, I DID.

10 Q AT SOME TIME LATER THAT DAY, DID YOU LEARN
11 OF THE MICKEY THOMPSON MURDERS?

12 A YES.

13 Q HOW DID YOU LEARN THAT?

14 A MY HUSBAND TOLD ME THAT MICKEY THOMPSON
15 HAD BEEN MURDERED.

16 Q WAS THAT A NAME THAT YOU RECOGNIZED?

17 A I KNEW THE NAME BECAUSE I HAD GROWN UP IN
18 THE AREA. AND SO THE NAME WAS FAMILIAR TO ME, MICKEY
19 THOMPSON FUNNY CARS. BUT I AM NOT ACQUAINTED WITH MICKEY
20 THOMPSON. I JUST KNEW THE NAME.

21 Q YOU DIDN'T KNOW HIM PERSONALLY, BUT YOU
22 HEARD OF HIS NAME AND HIS BUSINESS OR ACCOMPLISHMENTS, IS
23 THAT FAIR TO SAY?

24 A CORRECT. I DIDN'T KNOW THAT HE LIVED IN
25 THE AREA.

26 Q BASED ON THAT, WHAT YOUR HUSBAND TOLD YOU
27 AND THAT YOU LEARNED ABOUT THESE MURDERS, DID YOU AT SOME
28 POINT CONTACT THE POLICE OR DID THEY CONTACT YOU?

1 A IN A ROUND ABOUT WAY THEY CONTACTED US.
2 WHAT HAPPENED WAS MY DOG WAS AT THE DOG TRAINERS -- THE
3 HANDLER'S HOUSE AT MT. OLIVE AND GARDI. AND WE WENT TO
4 PICK UP THE DOG, LIKE WE ALWAYS DID IN THE EVENING. AND
5 WE COULDN'T GET THROUGH BECAUSE THERE WAS A ROADBLOCK.
6 AND AT THAT TIME THEY TOLD US THAT A MURDER HAD OCCURRED.

7 Q AND THEN AS A RESULT OF THAT, DID YOU TALK
8 WITH THEM AT SOME TIME AND LET THEM WHAT YOU HAD SEEN?

9 A THEY QUESTIONED US FURTHER. I JUST WANTED
10 TO PICK UP MY DOG AND SAID I HAD DROPPED HIM OFF THAT
11 MORNING. THEY WANTED TO KNOW WHAT TIME. AND I TOLD
12 THEM. AND THEN THEY ASKED QUESTIONS AND DETERMINED THAT
13 I HAD SEEN SOMETHING.

14 Q AND IS IT FAIR -- CORRECT TO SAY THAT AT
15 SOME POINT THAT YOU GAVE THEM A STATEMENT ABOUT
16 EVERYTHING THAT YOU RECALLED?

17 A YES.

18 Q BASICALLY WHAT YOU'VE TOLD US HERE SO FAR?

19 A YES.

20 Q AFTER THAT, SOMETIME AFTER THAT, DID YOU
21 HAVE AN OPPORTUNITY TO SIT DOWN WITH ARTISTS AND DESCRIBE
22 THESE TWO MEN; AND AS A RESULT OF THAT SOMEONE RENDERED
23 AN ARTIST'S COMPOSITE OF WHAT THEY MIGHT HAVE LOOKED
24 LIKE?

25 A THAT IS CORRECT.

26 Q HOW MANY TIMES DID YOU DO THAT?

27 A TWICE.

28 Q TELL US ABOUT THE FIRST TIME AND THEN

1 WE'LL TALK ABOUT THE SECOND TIME.

2 A THE FIRST TIME IT WAS WITH A POLICE ARTIST
3 WHO CAME TO MY PLACE OF EMPLOYMENT AND DID A COMPOSITE
4 SKETCH.

5 Q AND THE SECOND TIME?

6 A IT WAS WITH THE CREW FROM AMERICAS'S MOST
7 WANTED. AND AN ARTIST BY THE NAME OF JENNY BROYLIN CAME
8 TO OUR HOME.

9 Q THEY CONTACTED YOU FIRST, THIS TV SHOW?

10 A THE SHERIFF'S DEPARTMENT CONTACTED ME
11 FIRST.

12 Q DID THEY ASK YOU TO COOPERATE?

13 A THEY ASKED IF I WOULD BE WILLING TO MEET
14 WITH A SKETCH ARTIST, YES.

15 Q AND YOU DECIDED TO DO THAT?

16 A YES.

17 Q SO YOU TALKED TO TWO DIFFERENT COMPOSITE
18 ARTISTS AND GAVE THEM TWO DESCRIPTIONS AT DIFFERENT
19 TIMES?

20 A YES.

21 Q LET ME WITHDRAW THAT.

22 YOU GAVE THEM DESCRIPTIONS AT TWO
23 DIFFERENT TIMES?

24 A THAT IS CORRECT.

25 Q NOW, YOU WERE THE ONE THAT WAS OUT THERE
26 AND SAW THESE MEN DRIVING BY RIGHT IN FRONT OF YOU.

27 WAS, IN YOUR OPINION, ONE OF THE TWO
28 SKETCHES CLOSER IN TERMS OF RESEMBLING THEM THAN THE

1 OTHER?

2 A YES.

3 Q WHICH ONE?

4 A THE TALLER ONE WITH THE HOOD.

5 Q AND NOW WE HAVE UP THERE ON THE SCREEN
6 PEOPLE'S 51. AND I'M GOING TO GIVE YOU A COPY OF THIS
7 RIGHT NOW.

8 I GUESS WHAT I WAS ASKING IS OF THE TWO
9 TIMES THAT YOU TALKED TO PEOPLE, THE AMERICAS'S MOST
10 WANTED AND THE SHERIFF'S DEPARTMENT, WHICH OF THOSE
11 COMPOSITES WAS THE BEST.

12 A AMERICAS'S MOST WANTED.

13 Q OKAY.

14 MAY I APPROACH?

15 THE COURT: YES.

16 Q BY MR. DIXON: HANDING YOU PEOPLE'S 51,
17 WHICH WE HAVE UP THERE ON THE BOARD, BUT THIS IS A LITTLE
18 BETTER FOR YOU TO SEE.

19 DO YOU RECOGNIZE THAT?

20 A YES, I DO.

21 Q AND WHAT IS THAT?

22 A THIS IS THE SKETCH THAT WE DID WITH
23 AMERICAS'S MOST WANTED.

24 Q OF EACH OF THE TWO PEOPLE?

25 A YES.

26 Q AND BASED ON WHAT YOU SAW ON THE MORNING
27 OF MARCH 16TH, 1988, DO THOSE SKETCHES RESEMBLE THE MEN
28 THAT YOU SAW ON THE BICYCLES?

1 A YES.

2 Q THANK YOU.

3 I WOULD LIKE TO INVITE YOUR ATTENTION TO A
4 COUPLE MORE OF THE DIAGRAMS IF YOU COULD. I'M GOING TO
5 PUT UP PEOPLE'S 49 HERE FOR IDENTIFICATION. AND, AGAIN,
6 WITH YOUR POINTER, FIRST TAKE A LOOK AT THAT AND THEN I'M
7 GOING TO HAVE A FEW MORE QUESTIONS FOR YOU. AND IF YOU
8 NEED TO, WITH THE COURT'S PERMISSION, YOU CAN STEP DOWN
9 FROM THE WITNESS STAND AND TAKE A CLOSER LOOK IF YOU
10 WOULD LIKE.

11 A OKAY.

12 Q ON PEOPLE'S 49, THERE IS A NUMBER OF
13 PHOTOGRAPHS A THROUGH H. AND DO YOU RECOGNIZE ANY OF
14 THOSE?

15 A YES, I DO.

16 Q WHICH ONES?

17 A E AND F.

18 Q AND?

19 A G AND H.

20 Q HOW ABOUT C?

21 A I'LL TAKE A CLOSER LOOK.

22 Q ALL RIGHT. GOOD.

23 A AND ALSO C. IT'S COMING FROM -- THE
24 PICTURE IS SHOT FROM THE OPPOSITE DIRECTION THAT I
25 TRAVELED.

26 Q WELL, LET'S TALK ABOUT C. CAN YOU TELL US
27 WHERE YOU WERE IN C?

28 A I WOULD HAVE BEEN DOWN HERE (INDICATING).

1 Q OKAY. NOW E --

2 THE COURT: POINTING TO JUST --

3 MR. DIXON: PHOTOGRAPH C.

4 THE COURT: RIGHT. IN THE MIDDLE.

5 THE WITNESS: I WOULD HAVE BEEN WEST OF WHERE THE
6 ARROW IS, FARTHER DOWN THE STREET.

7 THE COURT: THANK YOU.

8 Q BY MR. DIXON: OKAY. E, DO YOU RECOGNIZE
9 THAT PHOTOGRAPH IN PEOPLE'S 49?

10 A YES, I DO.

11 Q AND DESCRIBE WHAT YOU SAW THERE AND WHAT
12 YOU RECOGNIZE?

13 A MY VAN STOPPED OVER HERE (INDICATING.)
14 THEY RAN DIAGONALLY IN FRONT OF ME AND THROUGH THIS GATE,
15 TRAVELING SOUTH INTO THE GATE AT A WESTERLY ANGLE.

16 Q SO YOU WERE TRAVELING WHICH WAY --
17 IF I COULD APPROACH, YOUR HONOR?
18 -- IN E?

19 A FROM WEST TO EAST.

20 Q OKAY. AND YOU HAD TO SLAM ON YOUR BRAKES?

21 A YES.

22 Q AND THE TWO MEN WERE RUNNING ALONG WITH
23 THE BIKES?

24 A RIGHT.

25 Q AND WHERE DID THEY GO?

26 A FROM OVER HERE TO DOWN THROUGH THERE
27 (INDICATING).

28 THE COURT: DO ME A FAVOR BECAUSE THIS IS GETTING

1 PRETTY CONFUSING. YOU REFER TO EAST. CAN YOU TELL US
2 WHERE ON PHOTO E EAST IS?

3 THE WITNESS: EAST WOULD BE OVER HERE
4 (INDICATING). IT'S AN EAST/WEST STREET.

5 THE COURT: SO TO THE LEFT OF THE PHOTO?

6 THE WITNESS: RIGHT.

7 THE COURT: GO AHEAD. SORRY.

8 MR. DIXON: THANK YOU, YOUR HONOR.

9 Q AND SO THEY DISAPPEARED THROUGH THAT BREAK
10 IN THE GATE?

11 A CORRECT.

12 Q YOU SAID THAT YOU RECOGNIZED PHOTOGRAPH F;
13 IS THAT RIGHT?

14 A THAT'S THE BREAK IN THE GATE OR IN THE
15 FENCE.

16 Q FROM WHICH SIDE? DO YOU KNOW?

17 A WELL, THE FENCE IS RIGHT HERE
18 (INDICATING). SO IT WOULD BE FROM THIS SIDE.

19 Q IT'S JUST A CLOSE-UP OF IT?

20 A RIGHT.

21 Q HOW ABOUT G? YOU SAID YOU RECOGNIZED
22 THAT?

23 A THAT'S THE JOGGING PATH ON THE OTHER SIDE
24 OF THE FENCE.

25 Q AND YOU KNOW THAT FROM LIVING IN THE AREA?

26 A YES.

27 Q SO G SHOWS REALLY WHAT IS ON THE OTHER
28 SIDE OF THE FENCE SHOWN IN PHOTOGRAPH E OF 49; CORRECT?

1 A THAT'S CORRECT.

2 Q AND HOW ABOUT H, DID YOU SAY YOU
3 RECOGNIZED THAT?

4 A IT IS ANOTHER VIEW OF THE JOGGING PATH.

5 Q OKAY. AND THE BICYCLIST WENT DOWN TO
6 WHERE G WAS; CORRECT?

7 A CORRECT.

8 Q NOW, IF I COULD ASK YOU TO TAKE A LOOK AT
9 PEOPLE'S 47 AGAIN. YOU SAID YOU WERE ON WOODLYN; RIGHT?
10 AND YOU WERE GOING WHERE?

11 A I WAS ON ROYAL OAKS.

12 Q OKAY. YOU WERE ON ROYAL OAKS?

13 A UH-HUH.

14 Q SO THAT WOULD HAVE BEEN THE STREET I'M NOW
15 POINTING TO HERE (INDICATING)?

16 A CORRECT.

17 Q OKAY. AND THIS HAPPENED RIGHT NEAR
18 WOODLYN; IS THAT IT?

19 A YES. ONLY I WAS FARTHER THIS WAY
20 (INDICATING).

21 Q OKAY.

22 A OKAY.

23 Q SO LET'S SEE IF YOU WERE TRAVELING ALONG
24 ROYAL OAKS HERE ON THE STREET THAT I'M NOW POINTING AT
25 WHERE IT SAYS ROYAL OAKS NEAR THE RED CIRCLE; IS THAT
26 CORRECT?

27 A CORRECT.

28 Q AND THE MEN JUMPED OUT AND YOU WERE GOING

1 EAST?

2 A THAT IS CORRECT.

3 Q AND THE MEN JUMPED OUT NEAR WOODLYN?

4 A YES.

5 MR. DIXON: COULD I HAVE A MOMENT, PLEASE?

6 THE COURT: YES.

7 (PAUSE IN PROCEEDINGS.)

8 Q BY MR. DIXON: MA'AM, IF I CAN JUST INVITE
9 YOUR ATTENTION AGAIN ON PEOPLE'S 47. YOU SAID THAT YOU
10 WERE GOING OFF TO YOUR DOG TRAINERS; IS THAT RIGHT?

11 A THAT'S CORRECT.

12 Q COULD YOU USE THE MAP, PEOPLE'S 47, AND
13 TELL US EXACTLY WHERE YOU WENT AFTER YOU SAW THE TWO MEN.
14 AND YOU CAN STEP DOWN IF YOU LIKE.

15 A WELL, I CAN REACH IT. RIGHT HERE, THE
16 CORNER OF GARDI AND MT. OLIVE (INDICATING).

17 Q OKAY. SO THAT'S WHERE YOUR TRIP ENDED?

18 A YES.

19 Q AFTER SEEING THE MEN AND HAVING YOUR DOG
20 BARK?

21 A CORRECT.

22 Q NOW DID YOU SAY THERE ARE TWO ROYAL OAKS,
23 A BIG ONE AND A LITTLE ONE?

24 A YES.

25 Q AND WHEN YOU SAW THESE MEN, WERE YOU ON
26 THE BIG ROYAL OAKS OR THE LITTLE ROYAL OAKS?

27 A SMALL ROYAL OAKS.

28 Q DOES THE MAP SHOW THAT? MAYBE I GOT THAT

1 CONFUSED?

2 A IT REALLY DOESN'T. IT RUNS ADJACENT TO
3 THE REGULAR ROYAL OAKS.

4 Q WELL, LET'S SEE WE HAVE AN OAKS HERE. I
5 BET YOU IT SAYS ROYAL FARTHER OVER TO THE LEFT. WE HAVE
6 A BIG ROYAL OAKS AND ANOTHER ONE ABOVE IT.

7 A UH-HUH.

8 Q AND THEN THERE IS A GATE THERE.

9 A UH-HUH.

10 Q IS THAT "YES"?

11 A YES.

12 Q DO YOU RECALL THE GATE?

13 A I DIDN'T KNOW IT WAS A GATE.

14 Q OKAY.

15 A I THOUGHT IT WAS A DRIVEWAY.

16 Q THANK YOU.

17 NOTHING FURTHER AT THIS TIME.

18 THE COURT: CROSS-EXAMINATION?

19

20 CROSS-EXAMINATION

21 BY MS. SARIS:

22 Q GOOD AFTERNOON, MISS JOHNSON.

23 A GOOD AFTERNOON.

24 Q DO YOU KNOW WHAT THAT GATE THAT MR. DIXON
25 JUST POINTED TO LEADS TO?

26 A NO, I DON'T.

27 Q AND ON -- LET ME SHOW YOU 45-A,
28 SPECIFICALLY G.

1 MAY I APPROACH THE WITNESS?

2 IT'S ON THE BOARD. BUT LET ME GIVE YOU A
3 CLOSER VIEW. THE TOP OF THE ARROW IN G, DO YOU HAVE ANY
4 IDEA WHAT THE BASE OF THAT ARROW, WHAT THAT IS? IS THAT
5 SOME SORT OF ELECTRICAL SOMETHING? OR IF YOU DON'T
6 KNOW --

7 A I DON'T KNOW.

8 Q HAVE YOU BEEN DOWN THAT ROUTE AT ALL EVER?

9 A THROUGH THE FENCE AND DOWN WHERE EXACTLY
10 THE ARROW IS?

11 Q YES.

12 A NO. I'VE BEEN ON THE BOTTOM.

13 Q ON THE BIKE PATH?

14 A YES.

15 Q AND HOW LONG DID YOU -- IN 1988 HAD YOU --
16 WELL, DID YOU KNOW THE BRADBURY AREA?

17 A YES, I DO.

18 Q HOW LONG HAD YOU KNOWN IT THEN?

19 A FOR AS LONG AS I CAN REMEMBER. I WAS BORN
20 IN PASADENA AND MOVED TO THE ARCADIA AREA WHEN I WAS FIVE
21 OR SIX YEARS OLD. SO I'VE TRAVELED THAT ALL MY LIFE.

22 Q SO YOU ARE VERY FAMILIAR WITH THE AREA?

23 A WE HAVE FRIENDS THAT LIVE RIGHT THERE.

24 Q AND WHEN YOU WENT TO DROP -- OR TO PICK UP
25 YOUR DOG IN THE EVENING, WAS THIS A PERSON'S HOME THAT
26 YOU LEFT YOUR DOG AT?

27 A YES.

28 Q THE POLICE STOPPED YOU?

1 A YES.

2 Q TELL ME ABOUT THE ROADBLOCK. WAS IT JUST
3 ONE GUY IN THE MIDDLE OF THE STREET? WAS IT SEVERAL
4 CARS? DO YOU REMEMBER?

5 A THERE WAS A PATROL CAR PARKED AND AN
6 OFFICER STOPPING PEOPLE AS THEY WENT THROUGH.

7 Q AND ONE OF THE THINGS THEY ASKED YOU WAS
8 IF YOU WERE A REGULAR TRAVELER IN THE AREA?

9 A NO. THEY JUST SAID THAT THERE WAS NO
10 ADMITTANCE AT THAT TIME UNLESS YOU LIVED IN THE AREA.

11 Q AND DID THEY ASK FOR YOUR I.D.

12 A NO.

13 Q WELL, DID YOU TELL THEM THAT YOU HAD AN
14 APPOINTMENT?

15 A YES.

16 Q DID THEY ASK YOU IF YOU HAD BEEN THERE
17 EARLIER IN THE DAY?

18 A YES.

19 Q AND IS THAT WHEN IT CAME -- YOU HAD
20 PREVIOUSLY HEARD BEFORE GOING THERE ABOUT THIS MURDER OR
21 NO?

22 A I HAD HEARD ABOUT IT AND DID NOT MAKE A
23 CONNECTION.

24 Q AND WAS IT -- DO YOU REMEMBER THE NAME OF
25 THE DEPUTY?

26 A NO.

27 Q DOES A NAME ESTRADA SOUND FAMILIAR TO YOU
28 AT ALL?

1 A I COULDN'T TELL YOU.

2 Q OKAY. DID HE THEN TAKE A STATEMENT FROM
3 YOU RIGHT THERE OR DID HE ASK YOU TO CONTACT SOMEONE
4 LATER?

5 A HE TOOK MY NAME, ADDRESS AND PHONE NUMBER.

6 Q AND DID SOMEONE ELSE GET IN TOUCH WITH
7 YOU?

8 A YES.

9 Q AND WAS THAT IN PERSON OR ON THE PHONE?

10 A IN PERSON.

11 Q I KNOW IT HAS BEEN A LONG TIME. DO YOU
12 KNOW THAT PERSON?

13 A NO.

14 Q ONCE THESE INDIVIDUALS CROSSED YOUR PATH
15 AND WENT THROUGH THAT BREAK IN THE GATE, DID YOU SEE WHAT
16 DIRECTION THEY TRAVELED?

17 A THIS IS HARD TO EXPLAIN. THEY WERE HEADED
18 IN A WESTERLY ANGLE THROUGH THE GATE. I CROSSED THE PATH
19 A LITTLE FARTHER EAST AND THEY WERE NOT THERE.

20 Q DO YOU RECALL TELLING THE ORIGINAL OFFICER
21 THAT YOU BELIEVE THAT THEY HAD TRAVELED IN A WESTBOUND
22 DIRECTION TOWARDS MONROVIA?

23 A YES.

24 Q WHEN YOU CROSSED THE PATH AGAIN, YOU
25 REFERRED TO TWO ROYAL OAKS, A SMALL ONE AND A BIG ONE.

26 A CORRECT.

27 Q ARE THEY SEPARATED BY THIS BIKE PATH?

28 A YES.

1 Q AND AT SOME POINT THE SMALL ONE, WHICH IS
2 NORTH, JOINS IN WITH THE SOUTHERN ONE; IS THAT RIGHT?

3 A YES. IT CURVES AROUND AND DROPS ONTO THE
4 SOUTHERN ONE.

5 Q BUT THE BIKE PATH REMAINS NORTH OF YOU?

6 A SOUTH.

7 Q SOUTH? OKAY. AND AS YOU WENT THEN
8 FURTHER DOWN, YOU WERE ABLE TO PASS THE BIKE PATH AGAIN?

9 A YES.

10 Q AND IS THAT DEPICTED ANYWHERE ON PEOPLE'S
11 47 AT ANY POINT, IF YOU KNOW?

12 A NO, I DON'T SEE IT.

13 Q LET ME ASK YOU THIS: DO YOU CROSS IT
14 BEFORE GARDI?

15 A YES.

16 Q AND YOU DID NOT SEE THE CYCLISTS AGAIN?

17 A NO.

18 Q IS THAT, YES, YOU DID NOT SEE THEM AGAIN?

19 A NO, I DID NOT SEE THEM AGAIN.

20 Q THANK YOU.

21 YOU SAID THE BIKES LOOKED NEW AND SHINY;
22 IS THAT RIGHT?

23 A THAT'S CORRECT.

24 Q WAS THE -- YOU SAID YOU WERE STILL USING
25 YOUR LIGHTS THAT MORNING?

26 A YES.

27 Q SO THE SUN HADN'T COME UP ALL THE WAY YET?

28 A IT WAS OVERCAST, SO IT WAS DARK.

1 Q AND DID YOU SAY WHAT TIME THIS WAS?

2 A THIS WAS A LITTLE BEFORE 6:00.

3 Q AND WAS THAT PRETTY NORMAL, THEN, ABOUT
4 HOW EARLY YOU DROP OF YOUR DOG?

5 A YES.

6 Q DID YOU REGISTER IT AS UNUSUAL AT ALL THAT
7 THEY WERE AFRICAN/AMERICAN MEN IN THE NEIGHBORHOOD? WAS
8 THAT UNUSUAL?

9 A YES.

10 Q AND WHEN YOU LIVED THERE AT THE TIME,
11 WOULD IT HAVE BEEN UNUSUAL TO SEE THEM ON THE BIKE PATH?
12 I JUST MEAN ANYONE OF AFRICAN/AMERICAN DECENT AT THAT
13 TIME?

14 A YES.

15 Q WAS THAT ONE OF THE THINGS THAT STOOD OUT
16 FOR YOU OR WAS IT MORE JUST THE CONDUCT OR A COMBINATION
17 OF BOTH?

18 A A COMBINATION.

19 Q WHEN YOU WERE ASKED ORIGINALLY TO DO A
20 SKETCH -- YOU SAID THERE WERE TWO OCCASIONS WHERE YOU
21 WERE ASKED THIS?

22 A YES.

23 Q AND THE SECOND TIME YOU FELT THAT IT WAS A
24 BETTER DEPICTION OF WHO YOU SAW?

25 A YES.

26 Q WHAT WAS YOUR UNDERSTANDING OF WHO THAT
27 INDIVIDUAL WAS THAT WAS DRAWING IT? IN OTHER WORDS, DID
28 YOU EXPECT THIS PERSON TO BE A REAL ARTIST OR WAS SHE

1 JUST A POLICE EMPLOYEE AS FAR AS YOU KNEW?

2 A IT WAS AN ARTIST.

3 Q AND WERE YOU AWARE THAT THIS PERSON HAD
4 EXPERIENCE IN THE PAST?

5 A YES.

6 Q THE FIRST TIME THAT YOU DID IT, WAS IT AN
7 ARTIST? OR WAS IT JUST YOU PICK OUT A HAIRSTYLE AND A
8 NOSE AND A MOUTH?

9 A PICK OUT A HAIRSTYLE AND NOSE AND MOUTH.

10 Q AND WHEN THAT WAS DONE, TO THE EXTENT THAT
11 YOU HAD A FACE, WAS IT ANYWHERE NEAR WHAT THE INDIVIDUAL
12 LOOKED LIKE IN YOUR MIND? OR WAS IT JUST THAT YOU
13 STOPPED BECAUSE THERE WEREN'T ENOUGH DIFFERENT PIECES?
14 DO YOU UNDERSTAND THE QUESTION?

15 A YES. THE COMPONENTS WERE THERE, BUT THE
16 END RESULT WAS NOT THAT CLEAR.

17 Q AND WHEN YOU DID THE FIRST ONE WHERE YOU
18 WERE PUTTING THE COMPONENTS TOGETHER, WAS THAT RIGHT NEAR
19 IN TIME TO THIS ROADBLOCK?

20 A YES, IT WAS.

21 Q AND DO YOU REMEMBER WHEN THE SECOND
22 COMPOSITE WAS? COULD IT HAVE BEEN '97?

23 A I WAS GOING TO SAY '95, '-6 OR '-7,
24 SOMEWHERE IN THERE.

25 Q AND AS FAR AS YOU KNOW BETWEEN 1988 AND
26 WHEN YOU MADE THE SECOND COMPOSITE, HAD YOU SEEN THESE
27 INDIVIDUALS AGAIN?

28 A NO.

1 Q HAVE YOU EVER MET A DETECTIVE LILLIENFELD?

2 A YES. LILLIENFELD.

3 Q LILLIENFELD.

4 A YES.

5 Q WOULD YOU KNOW WHO HE IS TO LOOK AT HIM?

6 OR HAVE YOU ONLY SPOKEN TO HIM ON THE PHONE?

7 A I KNOW WHO HE IS.

8 Q LET ME BACK UP, AGAIN. YOU SAID ONE OF

9 THE BICYCLISTS WAS TALLER THAN THE OTHER?

10 A CORRECT.

11 Q WAS ONE ALSO STOCKIER THAN THE OTHER?

12 A CORRECT.

13 Q DID YOU HAVE AN IDEA OF THEIR AGE IN TERMS

14 OF A GENERAL RANGE?

15 A LATE TEENS, EARLY TWENTIES.

16 Q DID YOU MEET DETECTIVE LILLIENFELD FOR THE

17 FIRST TIME WHEN AMERICAS'S MOST WANTED WAS INVOLVED OR

18 PRIOR TO THAT?

19 A I'M REALLY NOT SURE.

20 Q HAVE YOU SEEN HIM SUBSEQUENT TO THAT?

21 A YES.

22 Q AND HAVE YOU SPOKEN TO HIM ON THE PHONE?

23 A YES.

24 Q WAS THERE EVER A TIME OF ALL THE POLICE

25 OFFICERS THAT YOU HAVE EVER DEALT WITH OR SPOKEN TO FROM

26 1988 UNTIL THE PRESENT WHERE SOMEONE CAME AND SHOWED YOU

27 A PHOTOGRAPH OF AN AFRICAN/AMERICAN MAN AND ASKED YOU IF

28 THAT WAS THE INDIVIDUAL THAT YOU SAW?

1 A NOT THAT I RECALL.

2 Q WOULD YOU HAVE LOOKED AT A PHOTOGRAPH IF
3 ASKED TO?

4 A YES.

5 Q AND THIS ROADBLOCK THAT YOU SAW THAT WAS
6 ON -- AS FAR AS YOU KNOW ON THE SAME DAY THAT THE MURDER
7 OCCURRED? YES?

8 A CORRECT.

9 MS. SARIS: MAY I HAVE JUST A MOMENT?

10 (DISCUSSION OFF THE RECORD.)

11 Q BY MS. SARIS: I'M BEING TOLD I DIDN'T
12 MAKE THIS CLEAR ENOUGH NOW. FROM THE NORTH ROYAL OAKS
13 WHEN -- I'M SORRY.

14 WHICH IS THE MOST NORTHERLY, THE SMALLER
15 ROYAL OAKS OR THE BIGGER ONE?

16 A SMALLER ROYAL OAKS.

17 Q THAT'S WHAT YOU WERE INITIALLY ON?

18 A CORRECT.

19 Q AND THEN THEY CROSSED IN FRONT OF YOU; IS
20 THAT CORRECT.

21 A CORRECT.

22 Q IS IT AFTER THAT THAT THIS LITTLE ROYAL
23 OAK TAKES A JOG AND BECOMES ONE STREET?

24 A IT CONTINUES ON AND MAKES A TURN TO THE
25 RIGHT AND DROPS OFF ONTO ROYAL OAKS.

26 Q SO YOU ACTUALLY CROSSED THAT PATH?

27 A YES.

28 Q AND THEN WHEN YOU GO EASTERLY AGAIN, THAT

1 PATH IS NORTH OF YOU?

2 A THAT'S CORRECT.

3 Q AND YOU'VE GOT TO TURN NORTH ON GARDI TO
4 GO WHERE YOU'RE GOING?

5 A THAT'S CORRECT.

6 Q SO YOU ACTUALLY CROSSED THIS PATH TWICE?

7 A RIGHT.

8 Q THANK YOU.

9 I HAVE NOTHING FURTHER. THANK YOU.

10 THE COURT: REDIRECT?

11 MR. DIXON: JUST ONE OR TWO QUESTIONS.

12

13 REDIRECT EXAMINATION

14 BY MR. DIXON:

15 Q DO YOU REMEMBER TESTIFYING AT THE
16 PRELIMINARY HEARING IN THIS CASE?

17 A YES.

18 Q DO YOU RECALL AT THAT TIME TELLING THE
19 JUDGE THIS WAS A LITTLE AFTER 6:00?

20 A I LEFT MY HOUSE A LITTLE BEFORE 6:00, SO
21 IT POSSIBLY WAS A LITTLE AFTER 6:00 WHEN IT OCCURRED.

22 Q OKAY. AND THEN WHEN THESE TWO MEN ON THE
23 BICYCLES CUT IN FRONT OF YOU WHEN YOU WERE ON THE LITTLE
24 ROYAL OAKS AND THEY WENT THROUGH THE FENCE, IS THAT THE
25 LAST TIME YOU SAW THEM?

26 A THAT IS CORRECT.

27 Q THANK YOU.

28 NOTHING FURTHER.

1 MS. SARIS: NOTHING FURTHER. THANK YOU.

2 THE COURT: THANK YOU, MA'AM. YOU'RE FREE TO GO.

3 ALL RIGHT. WE WILL TAKE OUR AFTERNOON
4 RECESS AT THIS TIME. LADIES AND GENTLEMEN, WE'RE GOING
5 TO RESUME TOMORROW AT 10:30. PLEASE REMEMBER ALL THE
6 ADMONITIONS. DON'T TALK ABOUT THIS CASE. DON'T FORM OR
7 EXPRESS ANY OPINIONS. DON'T CONDUCT ANY DELIBERATIONS.
8 DON'T READ ANYTHING OR LISTEN TO ANYTHING REPORTED IN THE
9 MEDIA ABOUT THIS CASE. STAY AWAY FROM THE LOCATIONS
10 INVOLVED. PLEASE DON'T SPEAK TO ANYBODY CONNECTED WITH
11 THIS CASE.

12 HAVE A GOOD EVENING. WE WILL SEE YOU AT
13 10:30 TOMORROW MORNING. THANK YOU.

14
15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)

18
19 THE COURT: ALL RIGHT. I ASSUME THAT THERE IS
20 NOTHING THAT WE NEED TO DISCUSS OUTSIDE THE PRESENCE.
21 AND IF THERE IS, I'LL SEE COUNSEL TOMORROW MORNING AT
22 10:00; RIGHT?

23 MR. DIXON: FINE, YOUR HONOR.

24 MS. SARIS: YES.

25 MR. JACKSON: YES, YOUR HONOR.

26 THE COURT: OKAY. THANK YOU.

27

28 (THE MATTER WAS CONTINUED TO TUESDAY,

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NOVEMBER 28, 2006 AT 10:00 A.M.)

(NEXT PAGE IS 5101.)

--OOO--

B197574

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

JUN 01 2007

SUPERIOR COURT
NO. GA052683

ORIGINAL

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

NOVEMBER 28, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME/4 OF 24
PAGES 5101 THRU 5278/5400

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, NOVEMBER 28, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

20 THE JURY: MORNING.

21 THE COURT: WE'RE BACK IN SESSION ON THE TRIAL
22 MATTER. MR. GOODWIN IS HERE WITH COUNSEL. THE PEOPLE
23 ARE REPRESENTED.

24 IT FEELS NICE IN HERE THIS MORNING, BUT I
25 CAN'T SAY IT'S FIXED, SO I DON'T KNOW WHAT TO EXPECT. SO
26 FAR JUST HANG IN THERE, BRING LAYERS OF CLOTHING AND
27 WE'LL JUST HAVE TO SEE HOW IT GOES FOR THE REST OF THE
28 DAY.

1 THE PEOPLE ARE IN THEIR CASE IN CHIEF AND
2 YOU MAY CALL YOUR NEXT WITNESS.

3 MR. JACKSON: THANK YOU, YOUR HONOR. CLAUDETTE
4 FREIDINGER.

5
6 CLAUDETTE FREIDINGER,
7 CALLED BY THE PEOPLE AS A WITNESS, WAS
8 SWORN AND TESTIFIED AS FOLLOWS:

9
10 THE CLERK: STOP RIGHT THERE. PLEASE RAISE YOUR
11 RIGHT HAND.

12 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
13 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
14 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
15 TRUTH SO HELP YOU GOD.

16 THE WITNESS: I DO.

17 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,
18 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
19 NAME FOR THE RECORD.

20 THE WITNESS: MY NAME IS CLAUDETTE FREIDINGER,
21 C-L-A-U-D-E-T-T-E. FREIDINGER IS F-R-E-I-D-I-N-G-E-R.

22 THE CLERK: THANK YOU.

23 THE COURT: MR. JACKSON, YOU MAY INQUIRE.

24 MR. JACKSON: THANK YOU, YOUR HONOR.

25
26 DIRECT EXAMINATION

27 BY MR. JACKSON:

28 Q MS. FREIDINGER, THANK YOU FOR JOINING US

1 THIS MORNING. I WANT TO DRAW YOUR ATTENTION -- I'M GOING
2 TO GET RIGHT TO THE POINT -- BACK TO MARCH 16, 1988.

3 DO YOU REMEMBER THAT DATE PARTICULARLY?

4 A YES, I DO.

5 Q DO YOU REMEMBER THE EVENT OF MICKEY
6 THOMPSON'S MURDER?

7 A YES, I DO.

8 Q DID ANYTHING -- WELL, LET ME ASK YOU THIS:
9 WHERE WERE YOU IN THE EARLY MORNING HOURS OF THAT DAY?

10 A I WAS ON MY WAY HOME FROM TAKING MY SON TO
11 WORK. I WAS ON THE ROAD.

12 Q ON YOUR WAY HOME, DID YOU HAPPEN TO BE IN
13 THE BRADBURY AREA, GENERALLY?

14 A YES.

15 Q COULD YOU DESCRIBE EXACTLY WHERE YOU WERE
16 IN THE EARLY MORNING HOURS OF MARCH 16, 1988.

17 A I WAS ON MY WAY HOME TO -- I LIVED IN
18 DUARTE AND I WAS AT A STOP SIGN ON HUNTINGTON -- I MEAN,
19 ON FAIR OAKS AND ROYAL OAKS -- MT. OLIVE AND ROYAL OAKS,
20 EXCUSE ME.

21 MR. JACKSON: YOUR HONOR, AS A MATTER OF
22 HOUSEKEEPING, I'VE MARKED TWO ITEMS AS PEOPLE'S NEXT IN
23 ORDER WITH THE COURT'S PERMISSION. PEOPLE'S 52 IS AN
24 ENLARGED PHOTOGRAPH. IT APPEARS TO BE AN AERIAL
25 PHOTOGRAPH OF AN INTERSECTION OF MT. OLIVE AND ROYAL
26 OAKS. PEOPLE'S 52-A IS A SMALL EIGHT BY TEN.

27 THE COURT: LET'S DO 52 IS THE LARGE ONE AND 52-A
28 IS THE SMALL ONE.

1 MR. JACKSON: AND I'VE TAKEN THE LIBERTY OF
2 PREMARKING THOSE.

3 THE COURT: THANK YOU.

4
5 (PEOPLE'S EXHIBIT NOS. 52 & 52-A WERE
6 MARKED FOR IDENTIFICATION.)

7
8 Q BY MR. JACKSON: MS. FREIDINGER, I'D LIKE
9 DRAW YOUR ATTENTION TO WHAT'S BEEN MARKED AS PEOPLE'S 52.
10 IT'S JUST THIS ENLARGED PHOTOGRAPH. IT'S MAYBE KIND OF A
11 SEVERE ANGLE FOR YOU TO SEE.

12 A THAT'S GOOD.

13 Q IS THAT OKAY? EVERYBODY CAN SEE THAT?
14 THERE'S A POINTER UP HERE. HERE WE GO.
15 IF YOU COULD UTILIZE THIS POINTER AND TELL
16 ME IF YOU RECOGNIZE THE INTERSECTION THAT YOU WERE AT IN
17 THE EARLY MORNING HOURS OF MARCH 16, 1988.

18 A RIGHT HERE (INDICATING).

19 MR. JACKSON: MAY THE RECORD REFLECT THE WITNESS
20 IS INDICATING THE LOWER RIGHT QUADRANT OF PEOPLE'S 52,
21 THERE APPEARS TO BE A RELATIVELY LARGE INTERSECTION.
22 IT'S MARKED NOTABLY BY A STOP LINE AND A CROSSWALK IN
23 WHITE. THAT INTERSECTION IS GOING -- FOR PURPOSES OF OUR
24 DISCUSSION -- UP AND DOWN AND LEFT AND RIGHT, ALMOST
25 EXACTLY HORIZONTALLY AND VERTICALLY.

26 THE COURT: YES.

27 MR. JACKSON: THE WITNESS HAS POINTED TO THE --
28 LET'S DO IT THIS WAY.

1 Q MS. FREIDINGER, FOR PURPOSES OF OUR
2 DISCUSSION, LET'S ASSUME THAT THE TOP OF PICTURE IS
3 NORTH, THE BOTTOM THE PICTURE IS SOUTH AND TO THE RIGHT
4 IS EAST AND TO THE LEFT IS WEST.

5 COULD YOU POINT ONCE AGAIN TO WHERE YOU
6 WERE STOPPED AT THE STOP SIGN DURING THOSE EARLY MORNING
7 HOURS.

8 A RIGHT HERE ON THE CORNER AT THE STOP SIGN
9 FACING NORTH (INDICATING).

10 MR. JACKSON: MAY THE RECORD REFLECT THAT THE
11 WITNESS HAS INDICATED THE PREVIOUSLY DENOTED
12 INTERSECTION, THE SOUTHEAST CORNER FACING NORTH?

13 THE COURT: YES.

14 MR. JACKSON: THANK YOU.

15 Q ABOUT WHAT TIME WAS THIS WHEN YOU WERE
16 STOPPED AT THAT INTERSECTION?

17 A IT WAS AROUND 6:00-ISH.

18 Q 6:00 IN THE MORNING?

19 A UH-HUH.

20 Q IS THAT "YES"?

21 A YES.

22 Q DID YOU SEE ANYTHING OF NOTE AS YOU WERE
23 STOPPED AT THAT INTERSECTION IN YOUR CAR OR TRUCK?

24 A YES. BEFORE I PROCEEDED, I NOTICED TWO
25 PEOPLE ON BICYCLES.

26 Q WHERE DID YOU SEE THESE TWO PEOPLE ON
27 BICYCLES EXACTLY?

28 A THEY WERE HEADED TOWARDS ME. THEIR BACK

1 WAS NORTH, THEY WERE HEADED SOUTH. AND THEY WERE REALLY,
2 REALLY BARRELING THROUGH THIS INTERSECTION HERE
3 (INDICATING) .

4 Q APPROXIMATELY -- YOU'RE INDICATING FOR THE
5 RECORD THE ROAD -- BY THE WAY, I FAILED TO ASK YOU THIS
6 WHEN I WAS STANDING UP HERE BEFORE:

7 YOU SAID YOU WERE AT THE INTERSECTION OF
8 MT. OLIVE AND ROYAL OAKS; CORRECT?

9 A CORRECT.

10 Q WHICH STREET IS MT. OLIVE? THE ONE GOING
11 NORTH AND SOUTH OR EAST AND EAST?

12 A MT. OLIVE IS GOING NORTH AND SOUTH.

13 Q WHEN DID YOU FIRST MAKE EYE CONTACT WITH
14 THESE BICYCLISTS?

15 A JUST AS THEY WERE ABOUT TO ENTER -- COME
16 UPON THE INTERSECTION (INDICATING) .

17 Q YOU'RE INDICATING WITH YOUR POINTER THE
18 NORTH SIDE OF MT. OLIVE HEADING SOUTH; CORRECT?

19 A CORRECT.

20 Q AND THERE APPEARS TO BE -- I'M SORRY TO
21 INTERRUPT YOU.

22 FOR THE RECORD SO THAT THE RECORD IS
23 RELATIVELY CLEAR, THERE APPEARS TO BE A LIGHT COLORED OR
24 REDDISH BAND GOING ACROSS MT. OLIVE; CORRECT?

25 A CORRECT.

26 Q IS THAT BRICK COBBLESTONE, OR DO YOU KNOW?

27 A I'M NOT SURE.

28 Q FOR THE RECORD, YOU'VE INDICATED WITH YOUR

1 POINTER ABOUT WHERE AT THAT REDDISH BAND IS COMING SOUTH
2 TOWARDS YOU; IS THAT RIGHT?

3 A CORRECT.

4 Q COULD YOU DESCRIBE WHAT THESE MEN LOOKED
5 LIKE?

6 A THEY WERE JUST ON BICYCLES. AS THEY
7 APPROACHED CLOSER, I COULD SEE THAT THEY WERE BLACK. ONE
8 HAD A HOOD ON, THE OTHER ONE DIDN'T. AND THEY JUST
9 ZOOMED RIGHT BY ME.

10 Q WHEN YOU SAY "ZOOMED," DESCRIBE HOW THEY
11 WERE RIDING THEIR BICYCLES.

12 A REALLY HURRIEDLY. RUSHED. VIGOROUS
13 CYCLING.

14 Q ALL RIGHT. DID YOU EVER ATTEMPT,
15 MS. FREIDINGER, TO DESCRIBE THESE INDIVIDUALS TO THE
16 AUTHORITIES?

17 A YES, I DID. I DID TRY.

18 Q HOW DID YOU DO THAT?

19 MS. SARIS: OBJECTION, YOUR HONOR, TO THE PRIOR
20 STATEMENT.

21 THE COURT: OVERRULED.

22 YOU CAN ANSWER THE QUESTION.

23 Q BY MR. JACKSON: HOW DID YOU TRY TO
24 DESCRIBE THESE FOLKS TO THE AUTHORITIES?

25 A TO THE POLICE DEPARTMENT BY A DRAWING.

26 Q ALL RIGHT. DID YOU PARTICIPATE IN ANY
27 KIND OF A SKETCH?

28 A YES, I DID.

1 Q AT SOME POINT, MS. FREIDINGER, WERE YOU
2 ASKED TO SIT DOWN WITH A SKETCH ARTIST?

3 A YES, I WAS.

4 Q TAKE A LOOK UP ON THE OVERHEAD AT WHAT HAS
5 BEEN MARKED AS PEOPLE'S 51 FOR IDENTIFICATION.

6 DO YOU RECOGNIZE EITHER OR BOTH OF THE
7 SKETCHES IN THAT DIAGRAM, OR THAT DRAWING?

8 A YES, I DO.

9 Q DID YOU HELP PARTICIPATE IN THE
10 PREPARATION OF THOSE SKETCHES?

11 A YES, I DID.

12 Q DO YOU REMEMBER WHAT THE WOMAN'S NAME WAS
13 WHO WAS THE SKETCH ARTIST?

14 A I DON'T KNOW HER LAST NAME. IT WAS JEAN
15 OR JEANNIE.

16 Q HOW WAS IT THAT YOU PARTICIPATED IN THIS
17 SKETCH, OR THE DRAWING OF THESE SKETCHES?

18 A TWO DETECTIVES LOOKED ME UP THROUGH MY SON
19 AND D.M.V. I WAS LIVING WITH MY PARENTS AT THE TIME IN
20 SIMI VALLEY AND THEY CAME AND TOLD ME WHAT IT WAS ALL
21 ABOUT AND IF I WAS WILLING TO SIT DOWN WITH A SKETCH
22 ARTIST, AND I SAID ABSOLUTELY.

23 Q DO ONE OR EITHER OF THESE SKETCHES FAIRLY
24 REPRESENT THE PEOPLE THAT YOU SAW ON BICYCLES THAT
25 MORNING PEDALING TOWARDS YOU?

26 A THE ONE ON THE RIGHT IS THE ONE THAT
27 JEANNIE DREW UP AFTER MY DESCRIPTION. THAT'S HIM.

28 Q YOU SAID ONE WAS WEARING A HOOD AND ONE

1 WAS NOT WEARING A HOOD; CORRECT?

2 A CORRECT.

3 Q IS THAT ACCURATELY DEPICTED ON THIS
4 SKETCH?

5 A CORRECT.

6 Q CAN YOU DESCRIBE THE BICYCLES THAT YOU SAW
7 THEM RIDING?

8 A NO, THEY WEREN'T JUNKIE. THEY WERE DECENT
9 GOOD BICYCLES AND THEY WERE JUST DARK.

10 Q DARK IN COLOR?

11 A DARK IN COLOR.

12 Q ALL RIGHT. HOW CLOSE WOULD YOU SAY THOSE
13 BICYCLISTS GOT TO YOU AS YOU SAT AT THAT INTERSECTION?

14 A I WOULD HAVE TO JUDGE AT LEAST MAYBE
15 20 FEET TO MY LEFT.

16 Q ALL RIGHT. I'M GOING TO STAND IN A
17 POSITION IN THE COURTROOM STARTING AT THE VERY BACK
18 (DEMONSTRATING).

19 AND I WANT YOU TO TELL ME AS YOU SAT IN
20 YOUR CAR, HOW CLOSE DID YOU GET TO THOSE TWO BICYCLISTS
21 AS THEY ROAD PAST YOU AT THEIR CLOSEST.

22 FURTHER OR CLOSER THAN I AM RIGHT NOW?

23 A CLOSER.

24 Q STOP ME WHEN I GET TO A POSITION THAT'S
25 (WALKING) --

26 A ABOUT THERE.

27 MR. JACKSON: MAY THE RECORD REFLECT THAT I'M
28 STANDING AT THE BAR --

1 THE COURT: THAT'S ABOUT 23 FEET.

2 MR. JACKSON: I'M SORRY, JUDGE?

3 THE COURT: 23.

4 MR. JACKSON: THANK YOU, YOUR HONOR.

5 Q DID EITHER THE BICYCLISTS LOOK IN YOUR
6 DIRECTION?

7 A YES. THE ONE THAT I DESCRIBED, HE DID
8 LOOK OVER HIS SHOULDER TO THE LEFT AND THAT'S WHAT I SAW.

9 Q GIVEN THE FACT THAT YOU GOT WITHIN
10 20 FEET OR SO FEET FROM THOSE BICYCLISTS, ANY QUESTION IN
11 YOUR MIND AS TO THOSE INDIVIDUAL'S RACE?

12 A YES. I COULD TELL THEY WERE BLACK.

13 Q THAT WAS A BAD QUESTION. I ASKED YOU IF
14 THERE'S ANY QUESTION IN YOUR MIND. LET ME JUST ASK IT A
15 LITTLE MORE STRAIGHTFORWARD.

16 A I'M SORRY.

17 Q ARE YOU SURE OF THEIR RACE?

18 A YES.

19 Q AND WHAT WAS THEIR RACE?

20 A BLACK.

21 Q HAD YOU EVER SEEN THOSE INDIVIDUALS
22 BEFORE?

23 A NO, SIR.

24 Q HAVE YOU EVER SEEN THEM SINCE?

25 A NO, SIR.

26 Q LET ME ASK YOU THIS: IF THIS PICTURE WERE
27 EXTENDED FURTHER SOUTH, MS. FREIDINGER, ALL THE WAY DOWN,
28 WHAT IS BEHIND -- WHAT WOULD BE WHERE YOU WERE SITTING?

1 IN OTHER WORDS, WHAT'S TO THE SOUTH OF YOU?

2 A HUNTINGTON IS DOWN HERE (INDICATING).
3 IT'S A BOULEVARD.

4 Q THAT'S AN EAST/WEST STREET?

5 A EAST/WEST.

6 Q AND WHAT'S BEYOND THAT?

7 A AND THEN I BELIEVE YOU JUST APPROACH THE
8 FREEWAYS.

9 Q WHICH FREEWAY?

10 A IT'S THE 210 AND 605.

11 Q WHICH DIRECTION WERE THE BICYCLISTS RIDING
12 TOWARD OR AWAY FROM THE FREEWAYS?

13 A TOWARD. GOING SOUTH TOWARD THE
14 FREEWAY.

15 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
16 HONOR?

17 (PAUSE IN PROCEEDINGS.)

18 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

19 THE COURT: ALL RIGHT. CROSS-EXAMINATION?

20 MS. SARIS: THANK YOU.

21

22 CROSS-EXAMINATION

23 BY MS. SARIS:

24 Q GOOD MORNING, MS. FREIDINGER.

25 A GOOD MORNING.

26 Q HOW DID IT FIRST COME ABOUT THAT YOU
27 REALIZED WHAT YOU SAW MIGHT BE RELATED TO THE MICKEY
28 THOMPSON EVENT?

1 A AFTER RETURNING HOME I STARTED MY
2 HOUSEWORK AND I TURNED ON CHANNEL 7, "GOOD MORNING
3 AMERICAS," JOAN LONDON.

4 Q AND DID YOU CONTACT THE AUTHORITIES?

5 A YES, I DID.

6 Q AND AT THAT TIME WHEN YOU FIRST CONTACTED
7 THE AUTHORITIES, DID YOU TELL THEM THAT YOU WERE TAKING
8 YOUR SON TO WORK THAT MORNING?

9 A YES.

10 Q HE WORKED AT SAMMY STEAMERS?

11 A CORRECT. IN GLENDALE.

12 Q IN GLENDALE.

13 AND WHAT TIME DID HE HAVE TO BE AT WORK IN
14 THE MORNING?

15 A 6:00.

16 Q DO YOU RECALL TELLING ANY DETECTIVE THAT
17 HE HAD TO BE AT WORK AT 7:00?

18 A NO, I DON'T.

19 Q DID YOU HAVE A CONVERSATION WITH A
20 DETECTIVE MARK LILLIENFELD ABOUT THIS CASE?

21 A YES.

22 Q WAS HE ONE OF THE PEOPLE THAT ARRANGED FOR
23 YOU TO SIT DOWN WITH THIS ARTIST?

24 A I BELIEVE SO.

25 Q AND WAS THAT IN CONNECTION WITH THE
26 "AMERICAS'S MOST WANTED" TELEVISION SHOW?

27 A CORRECT.

28 Q DID THEY COME TO YOU OR DID YOU GO TO

1 THEM?

2 A NO. THEY CAME TO ME.

3 Q AND PRIOR TO THAT HAPPENING, DID MR. --
4 I'M SORRY -- DID DETECTIVE LILLIENFELD CALL YOU ON THE
5 PHONE AND ASK YOU TO PARTICIPATE IN THIS, THE SKETCH?

6 A I BELIEVE IT WAS ARRANGED BECAUSE HE CAME
7 ONCE AND THEN --

8 Q DO YOU RECALL -- I'M SORRY.

9 A -- AND IT WAS LATER THAT WE DID THE
10 SKETCH.

11 Q DO YOU RECALL HAVING A CONVERSATION WITH
12 HIM ON THE PHONE ABOUT WHAT YOU SAW?

13 A YES.

14 Q AND DO YOU RECALL TELLING HIM AT THAT TIME
15 THAT YOUR SON HAD TO BE TO WORK AT 7:00 IN THE MORNING?

16 A NO, I DON'T RECALL.

17 Q WHAT IS IT THAT YOUR SON DID? DID HE WORK
18 IN SOME JOB THAT HE WENT AWAY OR WOULD HE DO BEHIND THE
19 COUNTER SALES?

20 A NO. HE WAS IN A TRUCK DOING CARPET
21 CLEANING AT HOMES.

22 Q DID YOU DRIVE HIM TO WORK EVERY MORNING?

23 A YES, I DID.

24 Q AND YOU WERE COMING FROM WHERE?

25 A DUARTE. WE LIVED IN DUARTE.

26 Q SO BASED ON THIS DIAGRAM, YOU WERE COMING
27 FROM THE RIGHT OR THE SOUTH, WHERE WOULD THAT BE?

28 A I WOULD MAKE A RIGHT, RIGHT HERE ON

1 MT. OLIVE (INDICATING). I WOULD MAKE A RIGHT AND WE WERE
2 LIKE A COUPLE OF BLOCKS DOWN AND THEN I MADE ANOTHER
3 RIGHT.

4 Q SHE'S POINTING TO THE BOTTOM RIGHT CORNER
5 OF THE DIAGRAM, PEOPLE'S 52.

6 SO YOU WOULD HEAD NORTH ON MT. OLIVE AND
7 TURN RIGHT ON ROYAL OAKS?

8 A YES.

9 Q YOU SAID THEY WERE PEDALING VIGOROUSLY AND
10 COMING VERY QUICKLY DOWN THE HILL; IS THAT CORRECT?

11 A YES. COMING RIGHT TOWARDS ME.

12 Q IF YOU COULD EITHER WITH THE POINTER OR IF
13 YOU WOULD PREFER ON THE OVERHEAD, CAN YOU TELL US WHERE
14 YOU FIRST SAW THEM SPECIFICALLY?

15 MS. SARIS: MAY I APPROACH?

16 THE COURT: YES.

17 Q BY MS. SARIS: DO YOU WANT TO TRY TO USE
18 THIS OR IS THAT EASIER FOR YOU (INDICATING)?

19 A NO.

20 RIGHT HERE (INDICATING).

21 MS. SARIS: AND SHE'S POINTING TO THE MIDDLE OF
22 THE NORTH/SOUTH STREET JUST ABOVE THE VERY FAINT RED
23 CROSS -- I BELIEVE WHAT COUNSEL HAS SORT OF DESCRIBED AS
24 PERHAPS BEING BRICKS.

25 THE COURT: ON PEOPLE'S 52, YES.

26 Q BY MS. SARIS: AND WERE THEY COMING AT
27 SOME RATE OF SPEED OR DID THEY APPEAR TO YOU THEY WERE
28 MANEUVERING THEIRS BIKES IN SOME SORT OF TURN?

1 A NO. THEY WERE GOING RIGHT.

2 Q WHEN YOU GO UP MT. OLIVE, IT'S HARD TO
3 TELL ON THIS PICTURE, ON 52, BUT IS THAT A PRETTY DECENT
4 SLOPE UPWARDS NORTH?

5 A I'M NOT SURE OF THE SLOPE.

6 Q ARE YOU FAMILIAR OR WERE YOU FAMILIAR IN
7 '88 WITH THAT AREA?

8 A A LITTLE BIT. NOT THAT MUCH.

9 Q ABOUT HOW FAR FROM THE INTERSECTION OF
10 MT. OLIVE AND ROYAL OAKS DID YOU LIVE?

11 A REPEAT THE QUESTION.

12 Q ABOUT HOW FAR FROM THE INTERSECTION OF
13 MT. OLIVE AND ROYAL OAKS DID YOU LIVE THEN?

14 A OKAY. I WOULD SAY IT WAS ABOUT A MILE
15 DOWN ROYAL OAKS AND THEN MADE A RIGHT, MAYBE A MILE AND A
16 HALF, TWO BLOCKS.

17 Q AND WHAT WAS IT ABOUT THOSE TWO MEN THAT
18 MORNING THAT -- AT THE TIME THAT YOU SAW THEM, YOU DID
19 NOT KNOW ABOUT THIS MURDER; CORRECT?

20 A NO, I DID NOT.

21 Q SO WHAT IS IT THAT DREW YOUR ATTENTION TO
22 THEM AT ALL?

23 A THEY WERE JUST GOING VERY FAST. I DIDN'T
24 KNOW IF THEY WERE GOING TO STOP AND THEN I JUST KIND OF
25 SAT THERE AND WATCHED.

26 Q DID THEY STOP?

27 A NO, THEY DIDN'T.

28 Q SO THEY BLEW THROUGH THAT INTERSECTION?

1 A THEY JUST BARRELLED THROUGH THE
2 INTERSECTION.

3 Q IS THERE A STOP ON THE NORTH/SOUTH?

4 A YES, THERE IS.

5 Q SO THAT'S A FOUR-WAY STOP AT THAT
6 INTERSECTION?

7 A YES. CORRECT.

8 Q WHEN YOU FIRST CONTACTED THE POLICE IN
9 1988, DID THEY ASK YOU TO DO ANY SORT OF A ROUGH SKETCH
10 OR DESCRIPTION OF THESE INDIVIDUALS?

11 A YES.

12 Q AND WAS THAT WITH AN ARTIST OR WAS THAT
13 WHERE YOU CHOOSE HAIRSTYLES?

14 A IT WAS JUST A KIT WHERE THEY TOOK OUT
15 PIECES AND WE JUST PIECED THINGS TOGETHER, EYES, NOSE,
16 MOUTH.

17 Q AND WHEN THAT WAS DONE, HOW DID YOU FEEL
18 ABOUT HOW THAT LOOKED?

19 A IT WAS REALLY -- IT WASN'T GOOD. I WASN'T
20 PLEASED WITH IT.

21 Q WAS IT A SITUATION WHERE YOU THOUGHT YOU
22 HAD THE PARTS RIGHT BUT WHEN IT ALL CAME TOGETHER, IT
23 DIDN'T LOOK SO MUCH LIKE THE GUY?

24 A IT DIDN'T FIT, NO.

25 Q AND HAVE YOU SEEN THAT SKETCH IN RELATION
26 TO THE ARTIST RENDITION THAT WERE PUT UP IN PEOPLE'S 51?
27 HAVE YOU EVER SEEN THEM SIDE-BY-SIDE AT ALL, THE ONE YOU
28 DID IN '98 VERSUS THIS ONE (INDICATING)?

1 A NO.

2 Q AND THIS WAS DONE IN -- AND I SAID '98.
3 I'M SORRY. '88.

4 THIS WAS DONE IN '97; IS THAT CORRECT?

5 A CORRECT. IN MY HOME.

6 THE COURT: "THIS" BEING 51.

7 MS. SARIS: THANK YOU, YOUR HONOR.

8 Q DID THERE COME A TIME WHEN YOU WERE
9 SPEAKING TO DETECTIVE LILLIENFELD WHERE YOU INDICATED
10 SOME DOUBT THAT PERHAPS THE PEOPLE THAT YOU SAW MIGHT
11 HAVE BEEN JUST BEEN BICYCLISTS AND NOT INVOLVED DUE TO
12 THE TIME DIFFERENCE?

13 MR. JACKSON: OBJECTION. CALLS FOR HEARSAY.

14 THE COURT: OVERRULED.

15 YOU CAN ANSWER.

16 THE WITNESS: I DON'T UNDERSTAND THE QUESTION.

17 Q BY MS. SARIS: WHEN DETECTIVE LILLIENFELD
18 CALLED YOU AND ASKED YOU TO PARTICIPATE IN THIS ARTIST
19 RENDITION, DID YOU EVER EXPRESS DOUBT TO HIM THAT THE
20 PEOPLE YOU SAW MAY NOT HAVE ACTUALLY BEEN INVOLVED?

21 MR. JACKSON: OBJECTION. THAT CALLS FOR
22 SPECULATION AS PHRASED.

23 THE COURT: ALL RIGHT. SUSTAINED ON THE
24 SPECULATION GROUND.

25 Q BY MS. SARIS: DID YOU EVER SAY TO HIM AT
26 ANY TIME, "IT WAS PROBABLY TOO LATE FOR ME TO SEE THEM?"
27 "THERE WAS SOMETHING ABOUT THE TIME I SAW THEM AND THE
28 TIME IT WAS COMMITTED THAT WAS OFF," DID YOU EVER SAY

1 ANYTHING LIKE THAT TO HIM?

2 A I DON'T RECALL SAYING THAT.

3 Q DO YOU RECALL HOW THESE INDIVIDUALS WERE
4 DRESSED THAT YOU SAW?

5 A NO. NOT IN FULL DETAIL, NO.

6 Q DO YOU RECALL DESCRIBING THEIR DRESS AS
7 SHINY SORT OF LYCRA MATERIAL THAT BICYCLISTS WEAR?

8 A ONE DID, THE HOOD STOOD OUT.

9 Q BETWEEN 1988 AND AS YOU SIT HERE NOW, HAS
10 ANY PERSON FROM LAW ENFORCEMENT EVER COME TO YOU AND
11 ASKED YOU TO IDENTIFY A PHOTOGRAPH OF A BLACK MAN?

12 A I BELIEVE AT THE TEMPLE CITY THERE WAS
13 SOME TYPE OF LINEUP OR PHOTOS.

14 Q AND THAT WAS IN 1988 OR ANOTHER TIME?

15 A I DON'T RECALL.

16 Q WAS THAT A SITUATION WHERE THEY ASKED YOU
17 TO LOOK THROUGH A MUG BOOK OR THEY ACTUALLY SAID WE HAVE
18 A SUSPECT AND THEY PUT SIX PHOTOGRAPHS IN FRONT OF YOU?

19 A THEY PUT PHOTOGRAPHS IN FRONT OF ME. I
20 DON'T REMEMBER HOW MANY.

21 Q AND WAS DETECTIVE LILLIENFELD INVOLVED IN
22 THAT OR WAS THAT BEFORE?

23 A I DON'T RECALL.

24 Q DO YOU HAVE ANY SPECIFIC RECOLLECTION AT
25 ALL OF DETECTIVE LILLIENFELD EVER SHOWING YOU PHOTOGRAPHS
26 AND ASKING YOU TO SEE IF YOU COULD IDENTIFY ONE OF THE
27 BLACK BICYCLISTS?

28 A I DON'T RECALL THAT IT WAS HIM ESPECIALLY.

1 Q AT ANY TIME DO YOU HAVE A RECOLLECTION OF
2 THE DETECTIVE DOING THAT, IN YOUR HOME, ANY TIME AT THE
3 STATION?

4 A WELL, HE WAS AT THE HOME WHEN I DID THIS
5 DRAWING HERE (INDICATING) .

6 Q BUT AT THAT TIME DID HE BRING ANY PHOTOS
7 TO YOU?

8 A NO, NOT AT THAT TIME.

9 Q AND JUST SO WE'RE CLEAR, THE DRAWING THAT
10 YOU HAVE UP ON -- THAT WE HAVE UP ON PEOPLE'S 50 --

11 MR. JACKSON: ONE.

12 MS. SARIS: THANK YOU.

13 Q -- WERE YOU BASING THAT ON WHAT YOU HAD
14 SEEN OF THE BICYCLISTS NINE YEARS PRIOR?

15 A YES.

16 Q AND AS FAR AS YOU KNOW, YOU DID NOT SEE
17 THOSE INDIVIDUALS BETWEEN 1988 AND 1997?

18 A NO.

19 Q IS THAT -- I'M SORRY. THAT WAS A BAD
20 QUESTION.

21 DID YOU SEE THOSE INDIVIDUALS BETWEEN 1988
22 AND 1997, AS FAR AS YOU KNOW?

23 A I DON'T UNDERSTAND THE QUESTION.

24 Q I ASKED YOU A DOUBLE NEGATIVE.

25 A OKAY.

26 Q AFTER YOU SAW THE BICYCLISTS, DID YOU EVER
27 SEE THEM AGAIN BEFORE YOU HELPED WITH THIS?

28 A NO.

1 Q AND HAVE YOU SEEN THEM SINCE, TO YOUR
2 KNOWLEDGE?

3 A NO.

4 Q WHEN YOU CONTACTED THE POLICE AFTER
5 WATCHING "GOOD MORNING AMERICAS," DID THEY SPECIFICALLY
6 MENTION BICYCLES? IS THAT WHY YOU CALLED, OR WAS IT
7 SIMPLY THAT YOU HAD BEEN IN THE AREA?

8 A I HEARD THAT THERE WAS A BREAK THROUGH IN
9 MICKEY THOMPSON BELIEVED TO BE BICYCLISTS.

10 Q DID THEY SAY ON THE NEWS OR ANY --

11 A AND THAT WAS IT.

12 Q -- THAT THEY WERE AFRICAN/AMERICAN?

13 A NO. I DON'T REMEMBER ANY OF THAT. I JUST
14 REMEMBER THE BICYCLISTS.

15 Q YOU REMEMBER THERE WAS SOMETHING ABOUT THE
16 NEWS THAT CAUSED YOU TO CALL?

17 A EXACTLY. I DROPPED EVERYTHING AND
18 LISTENED.

19 Q ARE YOU AWARE AT ALL OF A BIKE PATH IN
20 THAT NEIGHBORHOOD?

21 A NO, I'M NOT.

22 Q AT THAT TIME, YOU LIVED YOU SAID WITHIN
23 ABOUT TWO MILES OF THIS INTERSECTION?

24 A A MILE AND A HALF.

25 Q A MILE AND A HALF.

26 WOULD IT HAVE BEEN UNUSUAL TO SEE
27 AFRICAN/AMERICAN MEN IN THAT VICINITY AT THAT TIME?

28 A YES. YES.

1 Q NOT JUST ON BIKES, JUST IN GENERAL?

2 A IN GENERAL, YES.

3 MR. SARIS: MAY I HAVE JUST A MOMENT?

4 THE COURT: YES.

5 (PAUSE IN PROCEEDINGS.)

6 Q BY MS. SARIS: DO YOU REMEMBER
7 SPECIFICALLY WHERE IN GLENDALE YOUR SON WORKED OR WHAT
8 EXIT OFF THE FREEWAY?

9 MR. JACKSON: OBJECTION. RELEVANCE.

10 THE COURT: OVERRULED.

11 YOU CAN ANSWER.

12 THE WITNESS: HE WORKED IN GLENDALE AND WE WOULD
13 GET OFF ON SAN FERNANDO ROAD.

14 Q BY MS. SARIS: AND THAT -- WHEN YOU SAY
15 "OFF," IS THAT OFF THE 210, THE 134?

16 A THAT'S -- LET'S SEE, IT'S THE 134.

17 Q AND THEN YOU WOULD GET BACK ON THE 134 TO
18 THE 210 TO GET HOME?

19 A YES.

20 Q AND HE HAD TO BE AT WORK BY 6:00 IN THE
21 MORNING?

22 A YES.

23 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

24 THE COURT: REDIRECT?

25 MR. JACKSON: NOTHING, YOUR HONOR. THANK YOU.

26 THE COURT: THANK YOU FOR COMING IN. YOU'RE
27 EXCUSED.

28 THE WITNESS: MY PLEASURE.

1 MR. DIXON: YOUR HONOR, OUR NEXT WITNESS IS A
2 SHERIFF'S SERGEANT FROM THE -- WHO WORKS CURRENTLY IN THE
3 EL MONTE COURTHOUSE, AND CAN I JUST HAVE A MOMENT TO SEE
4 IF HE'S HERE? WE DIDN'T WANT TO PULL HIM OUT OF THERE
5 TOO SOON.

6 THE COURT: OKAY.

7 MR. DIXON: MAYBE FIVE MINUTES, DO YOU MIND?
8 THANK YOU VERY MUCH.

9 THE COURT: LADIES AND GENTLEMEN, YOU CAN TAKE A
10 FIVE-MINUTE BREAK IF YOU WISH WHILE WE'RE WAITING, OR
11 NOT.

12 (BRIEF RECESS.)

13 THE COURT: THE PEOPLE MAY CALL THEIR NEXT
14 WITNESS.

15 MR. DIXON: THANK YOU. RUBEN GRACIA.

16 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

17
18 RUBEN GRACIA,
19 CALLED BY THE PEOPLE AS A WITNESS, WAS
20 SWORN AND TESTIFIED AS FOLLOWS:

21
22 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
23 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
24 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
25 NOTHING BUT THE TRUTH SO HELP YOU GOD.

26 THE WITNESS: I DO.

27 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
28 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST

1 NAME FOR THE RECORD.

2 THE WITNESS: RUBEN GRACIA. LAST NAME SPELLED
3 G-R-A-C-I-A.

4 THE COURT: YOU MAY FOR INQUIRE.

5 MR. DIXON: THANK YOU.

6

7 DIRECT EXAMINATION

8 BY MR. DIXON:

9 Q GOOD MORNING, SERGEANT.

10 A MORNING.

11 Q WELL, FOR THE RECORD, I'LL ASK YOU WHAT
12 YOUR OCCUPATION AND ASSIGNMENT IS, BUT IT'S PRETTY
13 OBVIOUS.

14 WHAT DO YOU DO FOR A LIVING?

15 A I'M SERGEANT WITH THE LOS ANGELES COUNTY
16 SHERIFF DEPARTMENT.

17 Q HOW LONG HAVE YOU BEEN EMPLOYED WITH THE
18 SHERIFF'S DEPARTMENT?

19 A 24 AND A HALF YEARS.

20 Q AND I THINK TODAY WE ASKED TO YOU COME
21 FROM ANOTHER COURTHOUSE. YOU WORK IN ANOTHER COURTHOUSE
22 NOW?

23 A YES, I DO.

24 Q WHERE? IN EL MONTE?

25 A YES, EL MONTE SUPERIOR COURT.

26 Q I WOULD LIKE TO INVITE YOUR ATTENTION BACK
27 TO A LONG TIME AGO ON MARCH 16TH, 1988.

28 YOU WERE A DEPUTY SHERIFF THEN?

1 A YES, I WAS.

2 Q WHAT WAS YOUR ASSIGNMENT AT THAT TIME?

3 A I WAS ASSIGNED TO -- I WAS A DEPUTY
4 ASSIGNED TO ROUTINE PATROL DEPUTIES IN THE UNINCORPORATED
5 AREA OF MONROVIA.

6 Q DID YOUR RESPONSIBILITY AT ALL -- OR THE
7 RESPONSIBILITY FOR YOUR SUBSTATION ALSO INCLUDE THE CITY
8 OF BRADBURY?

9 A YES, IT DID.

10 Q AND, BY THE WAY, WHICH SUBSTATION DID YOU
11 WORK AT?

12 A TEMPLE SHERIFF'S STATION.

13 Q AND YOU SAID YOU WERE A PATROL DEPUTY.
14 WERE YOU WORKING AT ABOUT 6:00 O'CLOCK IN THE MORNING?

15 A YES, I WAS.

16 Q AND IN THE SHERIFF'S DEPARTMENT, DID
17 PATROL DEPUTIES GET SOME EXTRA SPECIAL TRAINING?

18 A WE HAVE LOTS OF TRAINING, SIR.

19 Q OKAY. SO YOU WERE TAKING PART IN ALL THE
20 PATROL TRAINING; IS THAT CORRECT?

21 A YES.

22 Q ON THAT DATE ABOUT 6:00 O'CLOCK IN THE
23 MORNING, DID YOU HEAR A CALL THAT SHOTS WERE FIRED AND A
24 REQUEST THAT YOU GO SOMEWHERE?

25 A YES.

26 Q WHAT WAS THE CALL, THE BEST YOU RECALL?

27 A THE BEST I COULD RECALL IS THE CALL
28 INITIALLY CAME OUT AS SHOTS BEING FIRED IN THE CITY OF

1 BRADBURY.

2 Q DID THEY GIVE YOU AN ADDRESS ON WOODLYN?

3 A IT WAS -- INITIALLY I BELIEVE IT CAME OUT
4 AT 90 WOODLYN, THEN THE ADDRESS CHANGED. IT SEEMED LIKE
5 IT WAS GETTING UPDATED, I'M ASSUMING AS FOLKS WERE
6 DIALING 911. THE NEXT CALL CAME OUT AT 47 WOODLYN LANE,
7 THEN THE FINAL CALL CAME OUT AT 53 WOODLYN LANE.

8 Q SO -- AND BASED ON YOUR EXPERIENCE, YOU
9 JUST THOUGHT THAT VARIOUS CALLS WERE COMING UP AND THEY
10 WERE CORRECTING THE LOCATION?

11 A YES, THEY WERE.

12 Q I HAVE PUT UP AN EXHIBIT HERE. IT'S
13 CALLED PEOPLE'S 47 FOR IDENTIFICATION.

14 WOULD YOU TAKE A MOMENT AND LOOK AT IT. I
15 THINK THERE'S A POINTER ON THE DESK.

16 A MAY I STEP DOWN?

17 Q PLEASE, WITH THE COURT'S PERMISSION.

18 THE COURT: YES.

19 THE WITNESS: IT'S EASIER TO SEE.

20 THE COURT: YES. THERE IT IS. THANK YOU.

21 MR. DIXON: THERE IT IS. THANK YOU.

22 Q HAVE YOU HAD A CHANCE TO LOOK AT THAT,
23 EXHIBIT PEOPLE'S 47?

24 A YES.

25 Q DO YOU RECOGNIZE IT AT ALL?

26 A YES, I DO.

27 Q DO YOU RECOGNIZE THE STREETS IN THE AREA
28 OF THE CITY OF BRADBURY?

1 A YES, I DO.

2 Q AFTER YOU GOT THE -- FIRST GOT THE CALL,
3 WHERE DID YOU GO? WHAT DO DID YOU DO?

4 A IF I REMEMBER CORRECTLY, WE CAME THROUGH
5 THE WEST EXIT OR NORTH ON ROYAL OAK DRIVE. I BELIEVE WE
6 APPROACHED FROM HIGHLAND, WESTBOUND ROYAL OAKS TO THE
7 NORTH EXIT ON WOODLYN LANE.

8 Q IN THAT LAST ANSWER YOU USED THE WORD
9 "WE." WERE YOU WITH OTHER DEPUTIES?

10 A YES, I HAD A PARTNER THAT MORNING.

11 Q OKAY. AND AT SOME POINT DID YOU SEE OTHER
12 SHERIFFS' PATROL CARS GOING IN THE SAME DIRECTION?

13 A YES. THERE WAS ONE DIRECTLY IN FRONT OF
14 US. WE WERE -- WE ARRIVED THERE TANDEMPLY AT THE
15 LOCATION.

16 Q SO YOU AND ANOTHER PATROL CAR BOTH WITH
17 PARTNERS WERE GOING UP IN RESPONSE TO THIS CALL?

18 A YES. THE VEHICLE IN FRONT OF US DID NOT
19 HAVE A PARTNER. HE WAS ALONE.

20 Q OKAY. NOW, AT SOME POINT AS YOU ENTERED
21 THE CITY OF BRADBURY, DID YOU STOP AND TALK TO SOMEONE?

22 A YES, WE DID.

23 Q AND DO YOU REMEMBER THAT PERSON'S NAME OR
24 ANYTHING ABOUT HIM?

25 A NO, I DON'T REMEMBER HIS NAME NOW. I JUST
26 KNOW BECAUSE I WAS TOLD LATER THAT HE WAS A DOCTOR AND
27 APPARENTLY HE HAD WITNESSED SOMETHING THERE.

28 Q SO APPROXIMATELY WHERE DID YOU AND YOUR

1 PATROL CAR STOP AND TALK TO THIS DOCTOR?

2 A IF I REMEMBER CORRECTLY -- LET ME STAND
3 OFF TO THE SIDE -- ONCE WE ENTERED THIS GATE
4 (INDICATING), THERE WAS MAYBE I GUESS -- IT'S BEEN
5 18 YEARS -- I WANT TO SAY 50 TO 100 YARDS RIGHT INSIDE
6 THE GATE.

7 Q YOU STOPPED AND TALKED TO THE MAN THAT YOU
8 LATER LEARNED TO BE A DOCTOR?

9 A CORRECT.

10 Q AND THEN WHAT DID YOU DO NEXT?

11 A WE DROVE ACCORDING TO THE MAP NORTH AND IT
12 WAS A REALLY WINDY ROAD, WOODLYN LANE, TO 53 WOODLYN
13 LANE.

14 WAS IT WOODLYN LANE? YES.

15 Q AT THAT TIME IN YOUR NORMAL DUTIES AT
16 TEMPLE CITY SHERIFF'S PATROL, DID YOU PATROL THE CITY OF
17 BRADBURY?

18 A NO, I DIDN'T.

19 Q SO IS IT CORRECT TO SAY THAT YOU WERE VERY
20 FAMILIAR WITH, OR SOMEWHAT UNFAMILIAR WITH, THE STREETS
21 IN THAT AREA?

22 A I WAS SOMEWHAT FAMILIAR. I HAD BEEN UP
23 THERE BEFORE. BUT WOODLYN LANE, AT THAT TIME I WAS
24 UNFAMILIAR, COMING THROUGH THE BACK WAY.

25 Q SO AFTER TALKING TO THE DOCTOR YOU
26 FOLLOWED WOODLYN LANE TO THE ADDRESS -- THE LAST ADDRESS
27 YOU HAD BEEN GIVEN BY THE DISPATCHER?

28 A CORRECT.

1 Q IF YOU WOULD LIKE, YOU CAN HAVE A SEAT.

2 MR. DIXON: AND, YOUR HONOR, FOR THE RECORD THE
3 WITNESS'S EARLIER ANSWERS HE WAS REFERRING TO PEOPLE'S
4 47.

5 THE COURT: YES.

6 MR. DIXON: AND SPECIFICALLY THE PHOTOGRAPH IN
7 THE BOTTOM LEFT-HAND CORNER AS WE LOOK AT IT.

8 Q ONCE YOU ARRIVED AT THE ADDRESS, WHAT DID
9 YOU DO, WHAT DID YOU SEE, WHAT HAPPENED NEXT?

10 A WELL, UNIT 58 THERE WAS A BLACK AND WHITE
11 DIRECTLY IN FRONT OF ME. I CAME UP DIRECTLY BEHIND HIM.

12 Q AND THEN WHAT HAPPENED?

13 A I HEARD ON THE RADIO AT THE TIME, DEPUTY
14 RODRIGUEZ SAY HE HAD A PERSON DOWN AT THE VERY TOP OF THE
15 HILL. THE DRIVEWAY, AS I CAN BEST DESCRIBE IT, WAS ON AN
16 INCLINE AND IT HAD A SLIGHT SUMMIT AT THE VERY TOP, AND
17 FROM HIS VANTAGE POINT HE WAS ABLE TO SEE A BODY.

18 AT WHICH POINT WE BOTH GOT OUT OF THE
19 VEHICLES, I TOLD HIM WAIT UNTIL WE GO UP THERE WITH YOU
20 BEFORE WE APPROACHED. SO IF I REMEMBER CORRECTLY, THREE
21 OF US APPROACHED AND I IMMEDIATELY SAW A DECEASED VICTIM,
22 A MALE, WHICH WAS LATER I.D.'D AS MICKEY THOMPSON.

23 WE SAW, AGAIN, A FEMALE THAT WAS DECEASED
24 AT THE -- TO OUR RIGHT WHICH I BELIEVE MIGHT BE AN
25 EASTERLY DIRECTION AT THE BOTTOM OF THE DRIVEWAY AND SHE
26 WAS OBVIOUSLY DECEASED.

27 Q WHEN YOU WENT UP TO THE MALE THAT YOU
28 LATER LEARNED TO BE MICKEY THOMPSON, WERE YOU ABLE TO

1 TELL WHAT CAUSED THE INJURIES?

2 A YES. HE HAD SEVERAL GUNSHOTS WOUNDS TO
3 THE BODY, AND IF I REMEMBER CORRECTLY, ONE TO THE HEAD.
4 I ACTUALLY SAW STEAM COMING OUT FROM BRAIN MATTER.

5 Q AND THE FEMALE, TRUDY THOMPSON, DO YOU
6 RECALL INJURIES?

7 A YES. SHE HAD SEVERAL GUNSHOT WOUNDS ON
8 HER BODY. AND I BELIEVE SHE HAD ONE IN HER HEAD, BUT I
9 DON'T REMEMBER EXACTLY WHERE.

10 Q THANK YOU.

11 MR. DIXON: MAY I APPROACH AGAIN?

12 THE COURT: YES.

13 Q BY MR. DIXON: I WOULD LIKE TO SHOW YOU
14 ANOTHER EXHIBIT OR TWO HERE, SERGEANT. THIS WAS
15 PREVIOUSLY BEEN MARKED AS PEOPLE'S 37 FOR IDENTIFICATION.
16 PLEASE TAKE A MOMENT AND LOOK AT IT. WE ALSO HAVE IT ON
17 THE OVERHEAD. AND --

18 A MAY I STEP DOWN?

19 Q TAKE YOUR TIME.

20 A OKAY.

21 Q DO YOU RECOGNIZE --

22 A YES, I DO.

23 Q AND WHY?

24 A WELL, I RECOGNIZE THE DECEASED. THAT WAS
25 A POSITION THAT I HAD FOUND HIM IN AND I REMEMBER THE
26 DECEASED FEMALE. AND LIKE I SAID, WHEN WE FIRST ARRIVED,
27 I BELIEVE OUR RADIO CARS WERE PULLED UP RIGHT IN HERE
28 (INDICATING). THAT PORTION OF THE DRIVEWAY HAS A

1 DECLINE ON THERE, SO WE ACTUALLY CAME ON AN INCLINE.

2 MS. SARIS: CAN WE HAVE THE "HERE" DESCRIBED FOR
3 THE RECORD, PLEASE.

4 THE COURT: PLEASE.

5 THE WITNESS: WHAT IS THAT, MA'AM?

6 THE COURT: MR. DIXON, IF YOU COULD.

7 MR. DIXON: YES. THAT WAS THE NEXT THING I WAS
8 GOING TO DO.

9 Q IN YOUR LAST COUPLE OF ANSWERS YOU POINTED
10 TO A NUMBER OF LOCATIONS IN PEOPLE'S 37 FOR
11 IDENTIFICATION, THE FIRST -- THE MALE VICTIM; IS THAT
12 CORRECT?

13 A YES.

14 Q AND THAT'S THE SMALL ENLARGED PHOTOGRAPH,
15 SO TO SPEAK, IN THE VERY CENTER OF THE PHOTOGRAPH 37;
16 CORRECT?

17 A CORRECT, YES.

18 Q AND THEN THE FEMALE VICTIM THAT YOU
19 POINTED OUT IS ALSO SHOWN IN A SMALL PHOTOGRAPH ON THE
20 DIAGRAM IN THE LOWER RIGHT-HAND CORNER AS WE LOOK AT THE
21 DIAGRAM; CORRECT?

22 A YES.

23 Q AND YOU DESCRIBED THE DRIVEWAY AS A STEEP
24 INCLINE?

25 A RIGHT. COMING UP RIGHT HERE (INDICATING).

26 Q AGAIN, POINTING TO THE PHOTOGRAPH IN THE
27 CENTER OF THE LARGER PHOTOGRAPH, SHOWING THE VICTIM
28 MICKEY THOMPSON; IS THAT RIGHT?

1 A YES.

2 Q LET ME SHOW YOU ONE MORE EXHIBIT AND ASK
3 YOU A COUPLE OF QUESTIONS. THIS HAS BEEN PREVIOUSLY
4 MARKED AS PEOPLE'S 46 FOR IDENTIFICATION. IT HAS A
5 NUMBER OF PHOTOGRAPHS ON IT, A THROUGH H, AND A DIAGRAM
6 IN THE MIDDLE.

7 AGAIN, PLEASE TAKE A MOMENT TO LOOK AT IT
8 AND TELL US IF YOU RECOGNIZE THE PHOTOGRAPHS AND THE
9 DIAGRAM.

10 A YES, I DO. THIS IS THE THOMPSON RESIDENCE
11 (INDICATING).

12 Q POINTING TO A AND B; CORRECT?

13 A YES, A, B.

14 Q IN YOUR EARLIER ANSWERS YOU HAVE
15 IDENTIFIED THE BODY OF MICKEY THOMPSON AS ONE OF THE TWO
16 VICTIMS AT THE SCENE; IS THAT CORRECT?

17 A YES, SIR.

18 Q AND IS THAT SHOWN IN ONE OF THE
19 PHOTOGRAPHS?

20 A IN F.

21 Q AND THERE IS AN ARROW FROM PHOTOGRAPH F IN
22 PEOPLE'S 46 TO THE DIAGRAM.

23 BASED ON YOUR RECOLLECTION OF ACTUALLY
24 BEING AT THE SCENE, DOES THAT PHOTOGRAPH AND ARROW
25 ACCURATELY DEPICT THE LOCATION THAT YOU FOUND MICKEY
26 THOMPSON'S BODY?

27 A YES, IT DOES.

28 Q DO YOU REMEMBER, FOR EXAMPLE, PEOPLE'S --

1 IN PEOPLE'S 46 PHOTOGRAPH D AND E, DO YOU REMEMBER CARS
2 THERE?

3 A YES, I DO.

4 MS. SARIS: I'M SORRY. I DIDN'T HEAR THE END OF
5 THAT ANSWER.

6 THE COURT: YOU MEAN THE QUESTION?

7 MS. SARIS: I MEAN THE QUESTION.

8 Q BY MR. DIXON: DO YOU REMEMBER THE TWO
9 VEHICLES SHOWN IN THAT PHOTOGRAPH?

10 A YES, I DO.

11 MS. SARIS: THANK YOU.

12 Q BY MR. DIXON: AND CAN YOU DESCRIBE THEM,
13 PLEASE.

14 A IT'S LIKE AN OLDER MODEL, MAYBE LATE
15 '60'S. I THINK IT WAS A MARK IV OR SOMETHING.

16 Q LINCOLN?

17 A LINCOLN CONTINENTAL.

18 AND I DISTINCTLY REMEMBER THE VAN BECAUSE
19 WHEN WE ARRIVED, THE ENGINE WAS RUNNING AND THE WHEELS
20 WERE -- IT LOOKED LIKE IT MIGHT HAVE BEEN IN REVERSE AND
21 THERE WAS A RETAINING WALL DIRECTLY BEHIND THE VAN AND,
22 AGAIN, THE ENGINE WAS RUNNING, IT MIGHT HAVE BEEN FLOORED
23 AND IT WAS MAKING A LOT OF NOISE (INDICATING).

24 Q IN YOUR LAST TWO ANSWERS YOU WERE
25 REFERRING TO PHOTOGRAPHS E AND D --

26 A E AND D, EXACTLY CORRECT.

27 Q -- ON 46.

28 ON THE DIAGRAM IN THE CHART THERE ARE

1 ARROWS FROM THE PHOTOGRAPHS A AND D TO THE CHART.

2 DO THOSE ARROWS ACTUAL ACCURATELY DEPICT
3 WHERE YOU RECALL THE AUTOMOBILES?

4 A YES.

5 Q THANK YOU. YOU COULD HAVE YOUR SEAT.

6 A OKAY.

7 Q NOW, AT THE TIME THAT THIS HAPPENED, HOW
8 LONG HAD YOU BEEN A DEPUTY SHERIFF?

9 A OH, AT THAT TIME I BELIEVE IT WAS SIX
10 YEARS.

11 Q I IMAGINE THAT THERE ARE POLICIES IN THE
12 SHERIFF'S DEPARTMENT FOR A SITUATION LIKE THIS WHEN YOU
13 GET A CALL AND IT TURNS OUT TO BE A HOMICIDE; IS THAT
14 RIGHT?

15 A YES, THERE IS.

16 Q AND YOU RECEIVED TRAINING IN THAT?

17 A YES, WE HAVE.

18 Q BASED ON WHAT YOU SAW THERE AND THE OTHER
19 DEPUTIES, WHAT DID YOU DO NEXT?

20 A WELL, WE INITIALLY CLEARED THE AREA TO
21 MAKE SURE THERE WERE NO SUSPECTS OR NO OTHER VICTIMS
22 AROUND.

23 Q WHAT DOES THAT MEAN, CLEAR? WHAT DO YOU
24 DO TO CLEAR THE AREA?

25 A WELL, MYSELF, ANOTHER DEPUTY AND AT THAT
26 TIME, IF I REMEMBER CORRECTLY, I THINK THERE WAS A FIELD
27 SERGEANT THAT ARRIVED ON SCENE AND WE JUST WALKED AROUND
28 THE OUTER PERIMETER OF THE HOUSE AND WE JUST WANTED TO

1 MAKE SURE THERE WERE NO OTHER VICTIMS, THE HOUSE WAS
2 SECURED, AND WE IMMEDIATELY SECURED THE CRIME SCENE.

3 Q TWO MORE QUESTIONS.

4 AS A RESULT OF YOUR ANSWER THERE, THE
5 SERGEANT, THE FIELD SUPERVISOR, IS THAT, IN FACT, WHAT
6 THAT PERSON IS, IS A SUPERVISOR THAT PATROL DEPUTIES?

7 A YES.

8 Q SO AT THAT POINT, WOULD THE FIELD SERGEANT
9 BE IN CHARGE OF WHAT WAS GOING ON AT THIS CRIME SCENE OR
10 NOT?

11 A WELL, WE WERE ACTUALLY IN CHARGE OF THE
12 CRIME SCENE. HE OVERSAW WHAT WE WERE DOING TO MAKE SURE
13 EVERYTHING WAS DONE CORRECTLY.

14 Q OKAY. AND THEN SECONDLY YOU SAID THAT YOU
15 CLEARED THE AREA, YOU -- WHAT, FOR YOUR SAFETY AND
16 OTHERS?

17 A FOR OUR SAFETY.

18 Q AND THEN ALSO IN THAT ANSWER YOU SAID THAT
19 YOU SECURED THE AREA. PLEASE DESCRIBE TO US WHAT THAT
20 MEANS.

21 A WELL, WHEN WE SECURE THE AREA, AGAIN --
22 YOU KNOW, IT WAS OBVIOUSLY A CRIME SCENE, WE OBSERVED
23 LOTS OF SHELL CASINGS AND TWO DEAD BODIES, SO WE STARTED
24 SETTING UP AN OUTER PERIMETER PUTTING UP YELLOW TAPE TO
25 MAKE SURE NO ONE CROSSED WITHIN THAT CRIME SCENE.

26 Q WHY? WHY IS THAT DONE?

27 A IT'S PRESERVATION OF EVIDENCE.

28 Q IN YOUR EARLIER ANSWER YOU SAID THAT YOU

1 SAW A NUMBER OF SHELL CASINGS AND OTHER PIECES OF
2 EVIDENCE; IS THAT CORRECT?

3 A YES.

4 Q SECURING THE AREA IS TO, WHAT, PRESERVE
5 THAT OR --

6 A PRESERVE THE BODIES, PRESERVE THE
7 EVIDENCE, MAKE SURE NOTHING'S TOUCHED. EVERYTHING IS
8 LEFT AS IS.

9 Q DID YOU OR DID YOU SEE ANY OTHER PATROL
10 DEPUTY AT THE TIME TOUCH ANY OF THAT EVIDENCE?

11 A NO.

12 Q WHY WOULDN'T YOU DO THAT?

13 A BECAUSE AT THAT TIME WE WERE IN CHARGE OF
14 THE CRIME SCENE AND IT'S NOT DONE. NOTHING IS BEING
15 TOUCHED AT THE TIME. AGAIN, TO LEAVE THINGS AS THEY
16 WERE.

17 Q FOR WHAT REASON? FOR WHO?

18 A FOR LATER ON FOR WHEN OUR HOMICIDE
19 DETECTIVES ARRIVE, WE CAN WALK THEM THROUGH IT AND LET
20 THEM KNOW EXACTLY WHAT WE SAW AND WHAT WE DID.

21 Q AS YOU FOUND IT?

22 A AS WE FOUND IT.

23 Q HOW LONG WERE YOU AT THIS ADDRESS ON
24 WOODLYN LANE AND BRADBURY THAT DAY?

25 A IF I REMEMBER CORRECTLY, AT LEAST EIGHT TO
26 TEN HOURS.

27 Q YOU SPENT THE REST OF YOUR SHIFT AND THEN
28 SOME THERE?

1 A YES.

2 Q AND WHAT DID YOU DO, FOR THE MOST PART?
3 WELL, LET ME WITHDRAW THAT AND ASK YOU THIS:

4 YOU SAID THAT YOU SECURED THE CRIME SCENE.
5 WAS THAT WHAT YOU BASICALLY DID THE REST OF THE DAY?

6 A YES.

7 Q AT SOME POINT WHILE YOU WERE THERE, DID
8 YOU SEE OTHER DEPUTIES, OTHER MEMBERS OF THE SHERIFF'S
9 DEPARTMENT ARRIVE?

10 A YES, I DID.

11 Q YOU SAID IN AN EARLIER ANSWER THAT ONE OF
12 THE REASONS YOU SECURED THE CRIME SCENE IS TO WAIT FOR
13 HOMICIDE DETECTIVES TO ARRIVE AND DO THEIR WORK?

14 A YES.

15 Q AT SOME POINT DID HOMICIDE DETECTIVES
16 ARRIVE?

17 A YES, SIR.

18 Q AFTER YOU HAD SECURED THE CRIME SCENE?

19 A YES, WE DID.

20 Q AND OTHER MEMBERS OF THE SHERIFF'S
21 DEPARTMENT, THE CRIME LAB, THAT SORT OF THING?

22 A YES.

23 MR. DIXON: COULD I HAVE A MOMENT, PLEASE, YOUR
24 HONOR?

25 THE COURT: YES.

26 (PAUSE IN PROCEEDINGS.)

27 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
28 TIME.

1 THE COURT: CROSS-EXAMINATION?

2 MS. SARIS: THANK YOU.

3

4 CROSS-EXAMINATION

5 BY MS. SARIS:

6 Q GOOD MORNING, SERGEANT GRACIA.

7 A GOOD MORNING.

8 Q DO YOU REMEMBER THE NAME OF THAT FIELD
9 SUPERVISING SERGEANT?

10 A YES. I BELIEVE IT WAS A SERGEANT GEORGE
11 POMARONOFF.

12 Q I'M SORRY. YOU'RE GOING TO HAVE TO SPELL
13 THAT OR SHE'S GOING TO KILL US BOTH.

14 A I'M NOT EXACTLY SURE HOW TO SPELL IT.
15 POMARONOFF. I KNOW IT'S P-O-M-O-N-O-F-R-A-F -- A-F-F, I
16 BELIEVE. THAT'S MY GUESS.

17 Q OKAY.

18 A BEST GUESS.

19 Q I'D RATHER YOU GUESS.

20 A OKAY.

21 Q YOU WERE WITH A PARTNER?

22 A YES.

23 Q AND HIS NAME?

24 A DEPUTY JOHN PERAIDA.

25 Q P-E-R-A-I-D-A?

26 A CORRECT.

27 Q AND THE PERSON THAT WAS IN UNIT 58 IN
28 FRONT OF YOU --

1 A YES.

2 Q -- WAS THAT JOHN RODRIGUEZ?

3 A JOHN RODRIGUEZ.

4 Q HOW DID YOU GET IN THE GATE WHEN YOU CAME
5 UP WOODLYN, OR DO YOU RECALL THERE BEING A GATE EVEN?

6 A I DON'T REMEMBER HOW WE GOT IN THE GATE.

7 Q DO YOU REMEMBER THE GATE IMPEDING YOU AT
8 ALL? DO YOU REMEMBER SITTING THERE FRUSTRATED FOR SOME
9 PERIOD, OR WAS IT FAIRLY EASY?

10 A YOU KNOW, I REALLY DON'T REMEMBER.

11 Q YOU SAID THAT WHEN YOU FIRST ARRIVED YOU
12 SECURED THE AREA FOR SUSPECTS AND OTHER VICTIMS.

13 A CORRECT.

14 Q SO IS IT FAIR TO SAY WHEN YOU CAME UP, YOU
15 DIDN'T KNOW IF THERE WERE STILL PEOPLE WITH GUNS ON THE
16 SCENE, YES?

17 A YES.

18 Q YOU DIDN'T KNOW THAT THERE WERE TWO
19 VICTIMS OR SIX VICTIMS, YES?

20 A NO, WE DID NOT KNOW.

21 Q AND SO YOU WOULD LOOK AROUND THE IMMEDIATE
22 AREA FOR PEOPLE?

23 A YES.

24 Q DID YOU IN THAT INITIAL OBSERVATION OF THE
25 IMMEDIATE AREA FIND A YOUNG GIRL HIDING ANYWHERE IN THAT
26 PROPERTY?

27 A NO, WE DID NOT.

28 Q DID YOU FIND A YOUNG GIRL HIDING AT THE

1 GATE NEAR WHERE TRUDY THOMPSON'S BODY WAS?

2 A NO, I DID NOT.

3 Q YOU WERE IN CHARGE OF THE CRIME SCENE
4 UNTIL THE HOMICIDE DETECTIVES GOT THERE?

5 A YES.

6 Q AND THEN DID THEY ASK YOU TO WRITE A
7 REPORT DETAILING YOUR INITIAL OBSERVATIONS?

8 A YES.

9 Q AND WOULD THAT REPORT INCLUDE SOME OF THE
10 THINGS YOU'RE TELLING US NOW, SUCH AS OF THE POSITION OF
11 THE BODIES AND THE FACT THAT THERE WERE SHELL CASINGS?

12 A YES.

13 Q NOW, YOU WEREN'T RESPONSIBLE FOR MEASURING
14 WHERE THE SHELL CASINGS WERE, WERE YOU?

15 A NO, I WAS NOT.

16 Q BUT YOU WERE RESPONSIBLE FOR MAKING SURE
17 NO ONE TOUCHED THEM?

18 A YES.

19 Q LET ME ASK YOU THIS: IS THAT ALWAYS DONE
20 EVEN IN CASES WHERE THERE MIGHT BE EYE WITNESSES?

21 MR. DIXON: OBJECTION. RELEVANCY.

22 THE COURT: SUSTAINED.

23 MR. DIXON: THANK YOU.

24 Q BY MS. SARIS: WELL, YOU SAID YOU HAD
25 POLICIES IN THE SHERIFF'S DEPARTMENT, YES?

26 A YES.

27 Q SO IS ONE OF THE POLICIES THAT ITEMS OF
28 EVIDENCE ARE -- YOU TRY NOT TO HAVE ANYONE TOUCH THEM OR

1 MOVE THEM UNTIL THEY'RE DOCUMENTED?

2 A YES.

3 Q AND THAT'S DONE NO MATTER WHAT THE CRIME,
4 IF YOU CAN DO THAT?

5 A IF IT IS AT ALL POSSIBLE, YES.

6 Q SO EVEN IF SOMEONE MIGHT HAVE SEEN THE
7 CRIME, IT'S A STILL IMPORTANT TO KNOW FROM YOUR
8 PERSPECTIVE INVESTIGATING THE CASE WHERE A SHELL CASING
9 MIGHT BE, WHERE A BULLET MIGHT BE?

10 A YES.

11 Q AND DID YOU PUT UP THAT YELLOW CRIME TAPE?

12 A YES.

13 Q AND IS PART OF THAT REASON TO KEEP PEOPLE
14 FROM COMING UP THE DRIVEWAY?

15 A YES.

16 Q WOULD IT HAVE BEEN A PRIORITY OF YOURS TO
17 PREVENT NEIGHBORS OR OTHER PEOPLE FROM WALKING ONTO THE
18 THOMPSON PROPERTY?

19 A YES.

20 Q AND THAT'S BECAUSE OF YOUR SAFETY OR
21 BECAUSE OF THE CRIME SCENE?

22 A BECAUSE OF THE CRIME SCENE AT THAT TIME.

23 Q OKAY. AND DID YOU, IN FACT, DO YOUR JOB
24 THAT MORNING?

25 A YES.

26 Q YOU KEPT PEOPLE AWAY?

27 A YES, AS FAR AS I KNOW.

28 Q YOU DIDN'T SEE ANY NEIGHBORS WALKING UP

1 THE DRIVEWAY?

2 A I DON'T RECALL ANY NEIGHBORS.

3 Q IF YOU HAD, WOULD YOU HAVE ALLOWED THAT?

4 A NO.

5 Q YOU ALSO NOTED -- I BELIEVE YOU SAID YOU
6 NOTED THERE WERE SEVERAL GUNSHOTS TO MR. THOMPSON?

7 A YES.

8 Q AND COULD YOU JUST TELL THAT FROM THE
9 HOLES IN THE CLOTHING AND THE AMOUNT OF THE BLOOD, OR DID
10 YOU ACTUALLY TOUCH HIM?

11 A THE ONLY PLACE I DID TOUCH, IF I REMEMBER
12 CORRECTLY, I DID CHECK HIS BODY FOR ANY HOLES. I
13 REMEMBER SEEING DIFFERENT TYPES OF HOLES IN HIS CLOTHING
14 AND SOME BLOOD EMANATING FROM HIS CLOTHING.

15 BUT I REMEMBER TOUCHING HIS NECK OR HIS
16 CAROTID BECAUSE I WANTED TO MAKE SURE WHETHER HE WAS
17 STILL ALIVE, WE COULD GET MEDICAL AID FOR HIM.

18 Q SO, AFTER THAT, THOUGH, YOU WOULDN'T BE
19 RESPONSIBLE FOR LIFTING UP HIS SHIRT AND COUNTING BULLET
20 HOLES OR ANYTHING?

21 A NO.

22 Q AND YOU HAD HAD EXPERIENCE SEEING GUNSHOT
23 VICTIMS BEFORE?

24 A YES.

25 Q SO DID IT APPEAR TO BE A GUNSHOT VICTIM?

26 A YES.

27 Q AND YOU DID YOU NOTE ANY BLOOD AROUND HIM?

28 A YES.

1 Q AND WOULD YOU HAVE ALSO DOCUMENTED WHERE
2 ANY BLOOD WAS AROUND HIM IN ANY REPORT THAT YOU WROTE
3 FROM THE HOMICIDE DETECTIVE?

4 A YES.

5 Q DO YOU RECALL THAT THE BLOOD FLOWED IN ANY
6 PARTICULAR DIRECTION?

7 A NO, I DON'T RECALL.

8 Q IF I COULD DRAW YOUR ATTENTION TO THE
9 DIAGRAM THAT'S ON THE BOARD.

10 MS. SARIS: MAY I APPROACH?

11 THE COURT: YES.

12 Q BY MS. SARIS: PEOPLE'S 46 ON -- THE
13 PHOTOGRAPH IN F, IF YOU COULD JUST LOOK AT THAT FOR ME.

14 DOES THAT APPEAR TO YOU TO BE HOW YOU SAW
15 MR. THOMPSON WHEN YOU FIRST ARRIVED?

16 A YES.

17 Q AND DID THE BLOOD SEEM TO BE FLOWING
18 DOWNHILL?

19 A IT'S HARD TO TELL FROM THIS PICTURE. AND
20 I DON'T HAVE ANY INDEPENDENT RECOLLECTION IF THE BLOOD
21 WAS FLOWING DOWNHILL OR NOT.

22 Q WOULD IT REFRESH YOUR RECOLLECTION TO READ
23 ANY REPORT REGARDING OBSERVATIONS YOU MAY HAVE MADE ABOUT
24 THE BLOOD?

25 A YES.

26 Q ACTUALLY, I'M SORRY, I DIDN'T EXPECT YOU
27 THIS MORNING. THIS IS NOT THE REPORT WHERE IT IS NOTED.

28 LET ME ASK YOU THIS: IS THERE ANYTHING

1 ABOUT THE PICTURE IN F THAT SEEMS DIFFERENT TO YOU NOW?

2 A MAY I APPROACH AGAIN?

3 Q PLEASE.

4 A NO, NOTHING SEEMS DIFFERENT. IT'S BEEN
5 18 YEARS. FROM WHAT I RECALL, THAT'S WHAT IT LOOKED
6 LIKE.

7 Q WOULD YOU HAVE MADE AN EFFORT TO AVOID ANY
8 BLOOD DROPS OR SPOTS THAT WERE IN THE DRIVEWAY?

9 A YES, I WOULD.

10 Q AND WHEN I SAY AVOID, I MEAN AVOID
11 STEPPING IN THEM?

12 A YES.

13 Q AND WOULD YOU HAVE POINTED THOSE OUT TO
14 YOUR FELLOW DEPUTIES AS WELL AS TO PREVENT THEM FROM
15 STEPPING IN THEM?

16 A YES.

17 Q WERE YOU IN UNIFORM?

18 A YES, I WAS.

19 Q AND IS IT THE SAME UNIFORM, NOT THE EXACT
20 THE SAME UNIFORM, BUT THE SAME TYPE OF UNIFORM THAT IT IS
21 NOW?

22 A YES.

23 Q AND WHAT KIND OF SHOES DO YOU WEAR WHEN
24 YOU'RE ON DUTY IN UNIFORM?

25 A USUALLY BOOTS. PROBABLY VERY SIMILAR TO
26 THE ONES THAT I'M WEARING NOW.

27 Q COULD YOU HOLD THOSE UP?

28 A (WITNESS COMPLIES.)

1 Q SO THEY'RE NOT TENNIS SHOES, THEY'RE BOOT
2 MATERIAL?

3 A YES. I'VE ALWAYS WORN BOOTS, BUT I DON'T
4 THINK THESE ARE THE SAME BOOTS.

5 Q I HOPE NOT.

6 YOU SAW THE VAN. DO YOU RECALL
7 SPECIFICALLY SEEING THE VAN?

8 A YES.

9 Q AND DID YOU -- IN THE PHOTOGRAPH D THAT'S
10 PEOPLE'S 46, IS THAT THE CONDITION YOU REMEMBER IT IN
11 WHEN -- YOU SAID THE ENGINE WAS RUNNING, BUT DO YOU
12 RECALL THE GLASS BEING SHATTERED AND THE DOOR BEING
13 OPENED?

14 A YES.

15 Q DID YOU NOTE MONEY, U.S. CURRENCY, ON THE
16 SEAT OF THE VAN AT ALL?

17 A I DON'T REMEMBER THAT. I REMEMBER THERE
18 WERE ITEMS IN THE VAN, BUT I DON'T REMEMBER EXACTLY WHAT
19 IT WAS AT THIS TIME.

20 Q AT SOME POINT DO YOU RECALL LEAVING THE
21 SCENE TO TAKE A NEIGHBOR TO GO VIEW SOMEONE WHO HAD BEEN
22 ARRESTED -- OR I'M SORRY, DETAINED?

23 A YES, I BELIEVE I DID.

24 Q AND DO YOU RECALL THAT NEIGHBOR'S NAME AS
25 BEING TRIARSI, T-R-I-A-R-S-I?

26 A I DON'T RECALL THE NAME.

27 Q DO YOU REMEMBER IT BEING AN ADULT MALE?

28 A I REMEMBER IT WAS A MALE, BUT I DON'T

1 REMEMBER IF IT WAS AN ADULT.

2 Q SO IT WASN'T A 14-YEAR-OLD GIRL?

3 A NO, IT WAS NOT.

4 Q AND YOU TOOK THIS -- YOU HAD GOTTEN A
5 RADIO CALL OF SOME SORT OR YOU HAD SOME ATTENTION DRAWN
6 THAT THERE WAS A BLACK MAN ON A BIKE NEARBY, DO YOU
7 RECALL THAT?

8 A AT THAT PARTICULAR TIME, MA'AM?

9 Q YES.

10 A I DON'T REMEMBER IF THE CALL SPECIFICALLY
11 SAID THERE WAS A BLACK MAN ON A BIKE NEARBY.

12 Q DO YOU REMEMBER THAT YOU GOT A CALL SAYING
13 THAT THERE MIGHT BE SOMEONE WHO COULD HAVE BEEN INVOLVED
14 IN THIS CRIME?

15 A YES.

16 Q AND YOU WERE -- YOUR DUTY WAS TO TRANSPORT
17 THAT INDIVIDUAL TO LOOK AT THIS PERSON?

18 A YES.

19 Q AND THAT'S CALLED A FIELD SHOW UP?

20 A YES.

21 Q SO YOU WOULD PUT THIS WITNESS IN YOUR CAR,
22 TAKE HIM TO THE PLACE WHERE THIS INDIVIDUAL WAS BEING
23 DETAINED, AND TELL THE WITNESS THIS MAY OR MAY NOT BE
24 SOMEONE INVOLVED, I'D LIKE TO YOU LOOK AT HIM?

25 A YES.

26 Q AND THAT OCCURRED?

27 A YES.

28 Q THE PERSON THAT WAS DETAINED, DO YOU

1 REMEMBER WHETHER OR NOT HE WAS AFRICAN/AMERICAN?

2 A NO, I DON'T REMEMBER.

3 Q DO YOU REMEMBER WHETHER OR NOT HE WAS
4 IDENTIFIED OR WAS HE ELIMINATED?

5 A I BELIEVE HE WAS ELIMINATED.

6 Q AND WOULD IT HELP YOU IN YOUR -- DO YOU
7 RECALL THAT SPECIFICALLY OR WOULD YOU LIKE TO LOOK AT
8 YOUR REPORT?

9 A I WOULD LIKE TO LOOK AT THE REPORT, IF
10 IT'S POSSIBLE.

11 MS. SARIS: MAY I HAVE APPROACH THE WITNESS?

12 THE COURT: YES.

13 Q BY MS. SARIS: AND MY QUESTION IS: WAS
14 THAT INDIVIDUAL ELIMINATED AND WOULD THIS REPORT REFRESH
15 YOUR RECOLLECTION TO THAT FACT?

16 A YES.

17 Q IF YOU COULD READ THIS TO YOURSELF. I'LL
18 POINT YOU TO THE AREA AND LET US KNOW AFTER YOU READ THAT
19 WHETHER OR NOT --

20 MR. DIXON: MAY I APPROACH, PLEASE?

21 THE COURT: AND FOR THE RECORD, WHAT IS IT THAT
22 YOU'RE SHOWING THE WITNESS?

23 MS. SARIS: THANK YOU. IT'S A TWO-PAGE REPORT
24 HANDWRITTEN WITH THE CIRCLED NUMBERS 27 AND 28 AT THE
25 BOTTOM.

26 THE COURT: THANK YOU.

27 THE WITNESS: YES, I REMEMBER.

28 Q BY MS. SARIS: OKAY. AND DID THAT

1 INDIVIDUAL -- DO YOU KNOW, WAS THAT INDIVIDUAL NAMED
2 LORENZO WATERS?

3 A YES.

4 Q AND WHEN I SAY "THAT INDIVIDUAL," THAT WAS
5 THE PERSON WHO SIMPLY WAS DETAINED?

6 A YES.

7 Q DO YOU RECALL NOW WHETHER MR. WATERS WAS
8 AFRICAN/AMERICAN?

9 A I DON'T RECALL WITHOUT READING, WHETHER I
10 WROTE IT DOWN ON HERE OR NOT.

11 Q OKAY. SO THIS DOESN'T HELP YOU IN THAT
12 REGARD? I DIDN'T SEE IT. IF THAT HELPS YOU, I'M JUST
13 ASKING IF YOU RECALL.

14 A NO, I DON'T RECALL. I DON'T HAVE ANY
15 INDEPENDENT RECOLLECTION.

16 Q BUT YOU DO NOW HAVE YOUR RECOLLECTION
17 REFRESHED THAT THAT INDIVIDUAL WAS ELIMINATED?

18 A RIGHT.

19 Q HE DID NOT MEET THE DESCRIPTION THAT
20 MR. TRIARSI HAD GIVEN?

21 A WELL, ACCORDING TO MY REPORT, IT SAID THAT
22 HE LOOKS SIMILAR, THE CLOTHING WAS SIMILAR, BUT HE DIDN'T
23 THINK THAT WAS THE SUSPECT.

24 Q AND DO YOU KNOW WHETHER OR NOT WHEN THAT
25 INDIVIDUAL WAS DETAINED, HE WAS ON A BICYCLE?

26 A YES. I BELIEVE HE WAS DETAINED ON A
27 BICYCLE BY OUR IRWINDALE POLICE DEPARTMENT.

28 Q AS ANOTHER PART OF YOUR DUTY THAT MORNING,

1 WERE YOU ASKED TO TRANSPORT A SEPARATE UNRELATED BICYCLE
2 FROM A BUS STOP?

3 A YES.

4 Q AND WAS THAT BUS STOP ON THE CORNER OF --
5 MR. DIXON: OBJECTION. CAN WE APPROACH, PLEASE,
6 ON THIS?

7 (PROCEEDINGS HELD AT SIDEBAR.)

8 THE COURT: WHERE ARE WE GOING WITH THIS?

9 MS. SARIS: REGARDING WHAT HE DID THAT MORNING
10 AND HIS INVESTIGATION, THERE WAS A BICYCLE, AND PART OF
11 OUR DEFENSE IS THAT NO SCIENTIFIC TESTS WERE PERFORMED ON
12 ANY OF THE ITEMS TAKEN INTO CUSTODY THAT DAY. AND THERE
13 WERE ADVANCED TECHNIQUES THAT COULD HAVE BEEN PERFORMED
14 OVER THE YEARS THAT WERE NOT.

15 ONE OF THE PIECES OF EVIDENCE THEY
16 COLLECTED THAT MORNING WAS A BIKE.

17 THE COURT: FROM WHERE?

18 MS. SARIS: THE CORNER OF IRWINDALE AND FOOTHILL
19 AT A BUS STOP. I WANT TO ESTABLISH THAT THEY GOT ONE IN
20 THERE. WHETHER OR NOT THEY KNEW IT TO BE RELATED, LATER
21 ON IN THE YEARS THEY DID NOTHING TO TEST IT.

22 THE COURT: WHAT IS THE OBJECTION?

23 MR. DIXON: MY OBJECTION IS RELEVANCY. THIS HAS
24 TO DO WITH THE JOEY HUNTER STUFF AND WE -- THE COURT MADE
25 A RULING THAT THAT WASN'T COMING IN UNLESS COUNSEL
26 CLEARED IT FIRST WITH THE COURT, AND THAT'S WHY I ASKED
27 TO APPROACH SIDE BAR.

28 MS. SARIS: AND I'M ENTITLED TO GET INTO THEIR

1 FAILURE TO INVESTIGATE. I'M NOT POINTING TO JOEY HUNTER.
2 I'M SAYING THERE WAS A BIKE, THEY DIDN'T DO ANYTHING
3 ABOUT IT. I'M NOT GOING TO ASK HIM ABOUT A STRINGY
4 HAIRED WHITE GUY. HE HAS NOTHING TO DO WITH JOE HUNTER.
5 HE DID RETRIEVE A BICYCLE.

6 THE COURT: THE PROBLEM IS I DON'T KNOW HOW YOU
7 CONNECT THE BICYCLE TO THE CASE. I'M AT A LOSS HERE.
8 WHAT WOULD BE THE RELEVANCE IF THIS BICYCLE WAS, IN FACT,
9 CONNECTED TO JOEY HUNTER AND NOT CONNECTED WITH THIS
10 CASE?

11 MS. SARIS: THE PROBLEM IS WE DON'T KNOW WHO IT
12 WAS CONNECTED TO. SO OUR THEORY IS ONE OF FAILURE TO
13 INVESTIGATE. AND THE IDEA THAT THEIR KILLERS COULD BE ON
14 BIKES, THEY FOUND A BIKE WITHIN A MILE OF THE MURDER
15 SCENE, REGARDLESS OF WHAT THEY KNEW OR WHO THEY KNEW,
16 THEY HAD SOME INFORMATION THAT THESE INDIVIDUALS FLEW
17 DOWN MT. OLIVE. WE'RE TALKING ABOUT THE NEXT COUPLE OF
18 INTERSECTIONS, AND THEY DIDN'T DO ANYTHING ABOUT TESTING
19 THIS BICYCLES BECAUSE THEY KNEW IT WOULDN'T LEAD TO
20 MICHAEL GOODWIN.

21 THE COURT: THEY DIDN'T DO ANYTHING BECAUSE?

22 MS. SARIS: TO TEST IT BECAUSE, IF IT DIDN'T HAVE
23 A POTENTIAL TO LEAD TO MR. GOODWIN, IT LAID THERE DORMANT
24 IN THE EVIDENCE LOCKER.

25 THE COURT: SO YOU JUST WANT TO ESTABLISH THAT
26 HE, THIS WITNESS, TOOK INTO EVIDENCE A BICYCLE?

27 MS. SARIS: THAT'S CORRECT.

28 THE COURT: WHY DON'T YOU JUST ASK HIM THAT AND

1 THEN THE OBJECTION WILL BE OVERRULED.

2 (SIDE BAR CONCLUDED.)

3 Q BY MS. SARIS: DID YOU, SERGEANT, WHEN YOU
4 FIRST ARRIVED, HAVE INFORMATION THAT THE SUSPECTS MAY BE
5 ON BICYCLES?

6 A YES.

7 Q AND THEN AT SOME POINT THAT MORNING WERE
8 YOU SENT OFF TO A LOCATION TO RETRIEVE A BICYCLE?

9 A YES, I WAS.

10 Q AND DID YOU DO THAT?

11 A YES.

12 Q AND DID YOU HANDLE THAT IN A MANNER THAT
13 WOULD HAVE PRESERVED ANY SORT OF THE FINGERPRINTS OR
14 WOULD HAVE ALLOWED FOR THE OPPORTUNITY OF SOME SCIENTIFIC
15 TESTING?

16 A YES.

17 Q SO YOU TREATED IT AS IF IT MAY BE
18 EVIDENCE?

19 A YES, I DID.

20 Q AND YOU FOLLOWED THE PROPER PROCEDURE
21 BOOKING THAT INTO EVIDENCE?

22 A I DID NOT BOOK IT INTO EVIDENCE. I TURNED
23 IT OVER TO OUR CRIME LAB AND THEY TOOK POSSESSION OF IT.

24 Q AND IS THERE ANYTHING THAT YOU LOOK BACK
25 NOW THAT YOU DID THAT WAS AGAINST PROCEDURE WITH THAT
26 BICYCLE; AS FAR YOU KNOW, YOU DID EVERYTHING PROPERLY?

27 A YES.

28 Q WHICH?

1 A WHICH I -- WHEN I RETRIEVED THE BICYCLE,
2 IRWINDALE P.D., THEY HAD FOUND IT, AND I REMEMBER PICKING
3 IT UP UNDERNEATH THE SEAT USING MY FINGERS AND I BELIEVE
4 I REMEMBER GRABBING THE BOTTOM OF THE SEAT AND I BELIEVE
5 THE NECK PORTION THE FRAME.

6 Q SO YOU WERE MAKING AN EFFORT?

7 A I WAS ATTEMPTING TO MAKE AN EFFORT,
8 CORRECT.

9 Q TO PRESERVE IT?

10 A CORRECT.

11 Q AND THEN YOU DROPPED IT OFF AT THE TIME AT
12 THE CRIME LAB AS PER INTRODUCTION?

13 A YES.

14 Q DID YOU HAVE ANYTHING TO DO WITH THE
15 PREPARATION OF THIS DIAGRAM AT ALL?

16 A NO, MA'AM.

17 Q WHEN YOU SAY THAT WHERE THE VEHICLES ARE
18 LOCATED IN THE DIAGRAM IS ACCURATE --

19 MS. SARIS: MAY I APPROACH? AND I'M
20 REFERRING TO PEOPLE'S 46.

21 Q IF I CAN SHOW YOU THE LINCOLN AND JUST ASK
22 YOU: IN THE ACTUAL PHOTOGRAPH, DO YOU RECALL THAT BEING
23 A PHOTOGRAPH OF THE CRIME SCENE ITSELF? IS THAT THE CAR
24 THAT YOU SAW ON THE THOMPSON PROPERTY?

25 A YES.

26 Q AND WAS IT, IN FACT, BLOCKING THE GARAGE
27 OR WAS IT OFF TO THE RIGHT OF THE GARAGE?

28 A IF I RECALL CORRECTLY, I DON'T THINK IT

1 WAS BLOCKING THEIR GARAGE. I THINK THAT'S WHERE IT WAS
2 AT, IF I REMEMBER CORRECTLY.

3 Q AND DO YOU RECALL A SECOND -- I'M SORRY --
4 A THIRD VEHICLE BEING BEHIND THIS VAN, A TOYOTA PICKUP
5 TRUCK BETWEEN THIS VAN AND THE WALL THAT'S IN THE
6 BACKGROUND OF THE PICTURE MARKED 46D?

7 A NO, I CAN'T REMEMBER NOW.

8 Q OKAY.

9 MS. SARIS: MAY I HAVE JUST A MOMENT,
10 PLEASE?

11 (PAUSE IN PROCEEDINGS.)

12 Q BY MS. SARIS: JUST TO CLARIFY, WHEN YOU
13 ARRIVED, YOU SAID YOU WERE IN TANDEM BEHIND THE CAR
14 CARRYING JOHN RODRIGUEZ?

15 A YES.

16 Q HE IS ALSO A DEPUTY SHERIFF?

17 A YES.

18 Q AND THAT'S A MARKED POLICE VEHICLE?

19 A YES.

20 Q AND WAS THERE ANY CARS, AS FAR AS YOU
21 KNOW, BEHIND YOU?

22 A NOT THAT I REMEMBER.

23 Q AND WERE YOU AND YOUR PARTNER AND DEPUTY
24 RODRIGUEZ, AS FAR AS YOU KNEW, THE FIRST THREE ON THE
25 SCENE?

26 A YES.

27 Q SO YOU DIDN'T SEE ANYBODY COMING FROM THE
28 WOODLYN DIRECTION -- I'M SORRY -- FROM MT. OLIVE AT THAT

1 TIME?

2 A NO, NOT THAT I REMEMBER OFF THE TOP OF MY
3 HEAD.

4 Q DID YOU -- WHEN YOU WERE MAKING YOUR
5 ORIGINAL SECURING OF THE SCENE, HOW FAR TOWARDS MT. OLIVE
6 DID YOU GET? IN OTHER WORDS, WOULD YOU HAVE BLOCKED OFF
7 THE ENTIRE THOMPSON ESTATE OR WOULD YOU HAVE STOPPED AT
8 THE GATE WHERE TRUDY'S BODY WAS?

9 WOULD A PICTURE HELP FOR REFERENCE?

10 A YES, PLEASE. MAY I LOOK?

11 Q LET'S TAKE PEOPLE'S 37. THERE SEEMS TO BE
12 A YELLOW BOX IN THE BOTTOM RIGHT-HAND CORNER.

13 THE COURT: I'M SORRY?

14 Q BY MS. SARIS: A YELLOW BOX IN THE BOTTOM
15 RIGHT-HAND CORNER OF THE DIAGRAM WITH AN ARROW.

16 WOULD THAT REPRESENT WHERE YOU FOUND TRUDY
17 THOMPSON'S BODY?

18 A YES.

19 Q NOW, WOULD YOU HAVE STOPPED YOUR CRIME
20 SCENE -- SECURING YOUR CRIME SCENE AT THAT LOCATION OR
21 WOULD YOU HAVE COME OUT TO THE CORNER, DO YOU THINK?

22 WHEN I SAY THE CORNER, I'M SPEAKING OF THE
23 CORNER OF MT. OLIVE AND WOODLYN LANE.

24 A RIGHT. I REMEMBER THAT.

25 IF I REMEMBER CORRECTLY -- AND, AGAIN,
26 IT'S BEEN A LONG TIME, SO EXCUSE ME -- I REMEMBER WE -- I
27 THINK WE HAD TWO -- AN INNER SCENE AND AN OUTER CRIME
28 SCENE.

1 AND WHAT I MEAN BY THAT, I REMEMBER WE HAD
2 YELLOW TAPE ACROSS THE DRIVEWAY. IT'S A LONG CIRCULAR
3 DRIVEWAY, AND THEN I BELIEVE LATER ON, WE ALSO PUT SOME
4 YELLOW TYPE ACROSS HERE (INDICATING), BECAUSE THERE WAS A
5 BLOCK WALL HERE AND THAT CREATED A NATURAL BARRIER FOR
6 US. IN OTHER WORDS, WE DIDN'T NEED TO START TAPING THIS
7 OFF BECAUSE IT HAD WALL THERE (INDICATING). SO IT
8 ASSISTED US IN PRESERVING THEIR ENTIRE STATE BECAUSE
9 THERE WAS A WALL ALONG MT. OLIVE DRIVE.

10 MS. SARIS: YOUR HONOR, WHEN HE WAS SAYING
11 "HERE" AND "THERE," HE WAS REFERRING TO THE CORNER OF THE
12 INTERSECTION OF MT. OLIVE DRIVE AND WOODLYN LANE,
13 POINTING TO THE EASTERN MOST AREA OF THE BLOCK IN THE
14 BOTTOM RIGHT-HAND CORNER OF THE DIAGRAM, PEOPLE'S 37.

15 THE COURT: YES.

16 Q BY MS. SARIS: SO YOU WOULD HAVE, FOR
17 INSTANCE, PREVENTED PEOPLE FROM ALSO WALKING FROM THE
18 CORNER INTO THE THOMPSON PROPERTY?

19 A CORRECT. CORRECT.

20 Q OKAY. WERE YOU PRESENT WHEN A VIDEO WAS
21 MADE -- OR DO YOU KNOW WHETHER OR NOT A VIDEO WAS MADE OF
22 THE CRIME SCENE THAT MORNING?

23 A NO.

24 Q YOU DON'T KNOW?

25 A NO.

26 Q AND WHEN YOU CALLED FOR A -- DID YOU CALL
27 FOR THAT SERGEANT SUPERVISOR OR DID HE JUST RESPOND LIKE
28 YOU DID?

1 A I BELIEVE HE JUST RESPONDED BECAUSE HE
2 HEARD THE CALL GO OUT.

3 Q DID YOU MAKE ANY CALLS FOR BACKUP OR FOR
4 MEDICAL ASSISTANCE?

5 A I -- NORMALLY SPEAKING WHEN WE HAVE A
6 PRIORITY CALL LIKE THAT IN REGARDS TO PERSONS SHOT, I'LL
7 TRY NOT TO USE POLICE CODES SO YOU'D UNDERSTAND IN PLAIN
8 ENGLISH, WE HAVE ASSAULT WITH A DEADLY WEAPON. OUR
9 DISPATCH NORMALLY SENDS THE FIRE DEPARTMENT ALONG WITH
10 US. BUT THE FIRE DEPARTMENT WON'T ENTER UNTIL WE GIVE
11 THEM THE OKAY TO.

12 Q UNTIL YOU SAY IT'S SAFE?

13 A UNTIL WE SAY IT'S SAFE.

14 Q AND JUST TO BE VERY CLEAR, YOU CAME UP THE
15 BACK DRIVEWAY, THEN, OF THE THOMPSON ESTATE WHERE YOU
16 POINTED TO THE YELLOW SQUARE THAT'S SORT OF OFF TO THE
17 LEFT OF CENTER --

18 A YES, I DID.

19 Q -- PEOPLE'S 37?

20 A YES, I DID.

21 Q OKAY. AND DID YOU LOOK AROUND AT THAT
22 TIME FOR SUSPECTS AS YOU WERE COMING UP THAT DRIVEWAY?

23 A YES.

24 Q AND SO WHEN YOU CAME ONTO THE SCENE, YOU
25 WOULD HAVE SEEN MICKEY THOMPSON FIRST BEFORE TRUDY?

26 A YES.

27 Q DID YOU NOTICE ANY EVIDENCE OR THINGS THAT
28 YOU THOUGHT TO BE RELATED TO THE CRIME SCENE AS YOU CAME

1 UP THAT BACK DRIVEWAY?

2 A NO, WE DID NOT.

3 Q SO THE -- BUT EVENTUALLY YOU DID PRESERVE
4 THAT, OR NO? THE BACK PORTION OF THE DRIVEWAY THAT YOU
5 WALKED UP, WAS THAT ALSO TAPED OFF AND CORDONED OFF AT
6 SOME POINT?

7 A AT SOME POINT IT WAS.

8 Q THE CASINGS THAT YOU DESCRIBED THAT YOU
9 SAW THAT YOU WERE MAKING AN EFFORT TO PRESERVE THEIR
10 LOCATION THAT WAS ON THE DRIVEWAY THAT WAS BETWEEN TRUDY
11 THOMPSON AND MICKEY THOMPSON'S BODY, IS THAT FAIR, THAT
12 DRIVEWAY?

13 A YES, THAT'S FAIR.

14 Q SO YOU DIDN'T SEE ANY CASINGS, THEN, AS
15 YOU WERE WALKING UP THE BACK DRIVEWAY BEFORE YOU GOT TO
16 MICKEY THOMPSON'S?

17 A NO, WE DID NOT -- I DID NOT.

18 Q AND WHEN YOU FINISHED WITH THAT EVIDENCE
19 THAT YOU COLLECTED, THE BICYCLE, AND WHEN YOU FINISHED
20 TAKING MR. TRIARSI OUT, YOU CAME BACK ALSO TO FINISH YOUR
21 SHIFT WORKING THIS CRIME SCENE?

22 A YES.

23 MS. SARIS: I HAVE NOTHING FURTHER AT THIS TIME.

24 THE COURT: REDIRECT?

25 MR. DIXON: JUST A COUPLE QUESTIONS.

26 MAY I APPROACH?

27 THE COURT: YES.

28 MR. DIXON: I NEED TO FIND AN EXHIBIT HERE.

REDIRECT EXAMINATION

BY MR. DIXON:

Q SO WHEN I WAS ASKING YOU ABOUT CLEARING THE CRIME SCENE, ONE OF MANY REASONS FOR THAT WOULD BE FOR THE SAFETY OF THE FIREMAN THAT WERE COMING UP?

A WELL, SPECIFICALLY WHEN WE FIRST CLEAR THE CRIME SCENE, IT'S FOR OUR OWN SAFETY. WE WANT TO MAKE SURE THERE ARE NO SUSPECTS IN THE AREA.

Q DEFENSE COUNSEL ASKED YOU SOME QUESTIONS -- WE HAVE UP ON THE OVERHEAD SCREEN AND PROBABLY A BETTER VERSION HERE, PEOPLE'S 46 -- ABOUT YELLOW TAPE AND WHERE YOU PUT IT TO SECURE THE CRIME SCENE.

A YES.

Q SHE ASKED YOU A COUPLE OF QUESTIONS AND YOU WERE TRYING TO RECALL WHERE.

COULD I ASK YOU TO REVISIT THAT ISSUE AND LOOK AT PEOPLE'S 46, PHOTOGRAPH B, AND WITH THE COURT'S PERMISSION, IF YOU COULD STEP DOWN.

PHOTOGRAPH B HERE ON 46, DO YOU SEE SOME CRIME SCENE TAPE THERE?

A YES, I DO.

Q AND THE ARROW FROM PHOTOGRAPH B IN 46 POINTS TO A LOCATION ON THE LARGER DIAGRAM.

DOES THAT SEEM TO BE ABOUT WHERE THE CRIME SCENE TAPE WAS PLACED?

A YES.

Q AND THAT WOULD HAVE BEEN TO SECURE THE

1 CRIME SCENE?

2 A YES.

3 Q SO IT WOULD HAVE BEEN TO THE BOTTOM OF THE
4 DRIVEWAY?

5 A YES.

6 Q NOW, THIS IDEA -- YOU CAN TAKE THE STAND
7 IF YOU LIKE.

8 A THANK YOU.

9 Q THIS IDEA OF AN INNER AND OUTER CRIME
10 SCENE AREA, IS THAT OFTEN DONE?

11 A YES, IT IS.

12 Q AND DO YOU RECALL -- DO YOU HAVE AN
13 INDEPENDENT RECOLLECTION, AS YOU SIT HERE, WHETHER THERE
14 WAS ANOTHER SET OF YELLOW TAPE FARTHER AWAY FROM THE
15 CRIME SCENE OR DID YOU JUST USE THE BARRIERS OF THE
16 NATURAL BARRIERS BY THE WALL?

17 A I BELIEVE WHAT WE DID, WE SET SOME YELLOW
18 TAPE -- IF I MAY APPROACH.

19 Q PLEASE.

20 A IF I REMEMBER CORRECTLY --

21 THE COURT: LET ME HOLD THAT ONE UP FOR YOU.
22 YOU'RE REFERRING TO PEOPLE'S 37. SO WE'LL SWITCH
23 DIAGRAMS.

24 THE WITNESS: OKAY.

25 Q BY MR. DIXON: PLACING PEOPLE'S 37 BACK UP
26 ON THE BOARD FOR YOU. PLEASE CONTINUE.

27 A I WANT TO SAY I'M NOT POSITIVE. AGAIN,
28 IT'S BEEN A LONG TIME.

1 WE HAD YELLOW TAPE ACROSS THE VERY TOP OF
2 WOODLYN LANE TO PREVENT ANY OF THE NEIGHBORS OR
3 LOOKY-LOO'S OR ANYONE ELSE FROM WALKING INTO THIS PORTION
4 OF IT, BECAUSE WE HAD LIKE A -- I THINK A COUPLE OF
5 POLICE CARS IN THIS AREA AND A CRIME SCENE VAN
6 (INDICATING).

7 Q SO IN YOUR LAST ANSWER YOU WERE OFF
8 POINTING TO THE CORNER OF MT. OLIVE AND WOODLYN LANE
9 WHICH IS AT THE BOTTOM RIGHT-HAND CORNER OF PEOPLE'S 37;
10 IS THAT CORRECT?

11 A YES.

12 JUROR: I CAN'T SEE.

13 MR. DIXON: SORRY.

14 THE WITNESS: YES.

15 MR. DIXON: NOTHING FURTHER, YOUR HONOR.

16 THE COURT: ANYTHING ELSE?

17 MS. SARIS: NO THANK YOU.

18 THE COURT: THANK YOU, SIR. YOU'RE EXCUSED.

19 THE WITNESS: OKAY.

20 THE COURT: LADIES AND GENTLEMEN, WE'LL TAKE OUR
21 AFTERNOON RECESS AT THIS TIME. REMEMBER THE ADMONITIONS.
22 DO NOT DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
23 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. AND WE WILL
24 SEE YOU BACK HERE AT 1:30. THANK YOU.

25
26 (AT 12:00 P.M. A RECESS WAS TAKEN
27 UNTIL 1:30 P.M. OF THE SAME DAY.)

28 --000--

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, NOVEMBER 28, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION

8
9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: LET'S GO ON THE RECORD IN THE GOODWIN
14 MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE
15 ARE REPRESENTED.

16 BEFORE WE BRING THE JURORS DOWN, I WAS
17 INFORMED LATE YESTERDAY OR EARLY THIS MORNING --

18 THE CLERK: LATE YESTERDAY.

19 THE COURT: -- LATE YESTERDAY THAT JUROR NO. 11
20 SPOKE WITH THE CLERK AND INDICATED THAT SHE KNEW WILMA
21 JOHNSON WHO WAS TESTIFYING LATE YESTERDAY AFTERNOON I
22 THINK BEFORE WE RECESSED.

23 AND THE INFORMATION THAT SHE GAVE TO THE
24 CLERK WAS THAT SHE HAS NOT SPOKEN TO HER AT ALL ABOUT
25 THIS CASE AND THAT HER DAUGHTER, THE JUROR'S DAUGHTER AND
26 THE WITNESS'S DAUGHTER, MAY KNOW EACH OTHER. I'M NOT
27 REAL SURE ABOUT THE CONNECTION.

28 BUT IN AN ABUNDANCE OF CAUTION, WE WILL

1 HAVE JUROR NO. 11 JOIN US AND PUT IT ON THE RECORD WHAT
2 EXACTLY IT IS THAT SHE WANTS TO BRING TO OUR ATTENTION.

3 MS. SARIS: AND THERE IS ONE OTHER ISSUE,
4 WHENEVER -- IS NOW GOOD?

5 THE COURT: YES.

6 MS. SARIS: APPARENTLY THE DISTRICT ATTORNEY IS
7 GOING TO CALL TWO INDIVIDUALS FROM THE CRIME SCENE AND
8 DURING ONE OF THE TESTIMONY WOULD LIKE TO SHOW THE CRIME
9 SCENE VIDEO, AND OUR OBJECTION IS THAT THEY'RE NOT
10 CALLING THE INDIVIDUAL WHO'S IN THE VIDEO. THE VIDEO IS
11 NARRATED BY MICHAEL GRIGGS. MICHAEL GRIGGS APPEARS IN
12 THE VIDEO. I DON'T BELIEVE MR. VERDUGO OR MS. DEVINE HAD
13 ANYTHING TO DO WITH THE MAKING OF THE VIDEO AND I THINK
14 THEY ARE INAPPROPRIATE WITNESSES WITH WHICH TO INTRODUCE
15 THIS, ESPECIALLY THE NARRATION OF MICHAEL GRIGGS UNLESS
16 THEY WERE THERE ACTUALLY HOLDING THE CAMERA OR DOING
17 SOMETHING THAT AT THIS POINT I'M UNAWARE OF.

18 THE COURT: WHAT IS ON THE VIDEO?

19 MR. JACKSON: YOUR HONOR, IT IS A -- LITERALLY A
20 WALK THROUGH OF THE CRIME SCENE. THERE'S A VIDEO
21 CAMERAMAN THAT IS SHOWING WHERE THE ITEMS OF EVIDENCE,
22 INCLUDING THE BODIES OF MICKEY AND TRUDY THOMPSON, ARE AS
23 THEY WALK THROUGH THE DRIVEWAY DENOTING CERTAIN ITEMS OF
24 EVIDENCE, A FINGERNAIL HERE, A SHELL CASING THERE, AN
25 EXPENDED BULLET OR LIVE CARTRIDGE CASE, AND DETECTIVE
26 GRIGGS HAS A MICROPHONE, THERE'RE AUDIBLE -- THERE'S
27 AUDIO ON THE VIDEO. BUT ALL HE'S DOING IS DESCRIBING
28 WHAT THE VIEWER IS LOOKING AT, I.E., I'M NOW STAND

1 STANDING OVER WHAT'S BEING MARKED --

2 THE COURT: CAN'T ONE OF THE WITNESSES DO THAT?

3 MR. JACKSON: I'M SORRY?

4 THE COURT: CAN'T ONE OF YOUR WITNESSES DO THAT?

5 MR. JACKSON: SURE. I EXPECT RAY VERDUGO IS
6 GOING TO, IN PART, DO THAT, BUT NOT WITH THE CLARITY THAT
7 THIS VIDEO SHOWS. THE VIDEO IS EXTREMELY CLEAR.

8 THE COURT: WELL, I DON'T HAVE A PROBLEM WITH THE
9 VIDEO, I HAVE A PROBLEM WITH THE NARRATION.

10 MR. JACKSON: YOUR HONOR, I DON'T KNOW EXACTLY
11 WHAT THE OBJECTION IS. RAY VERDUGO WILL TESTIFY THAT HE
12 WAS THERE WHEN THE VIDEO WAS BEING MADE. HE'S LOOKED AT
13 THE VIDEO TWO OR THREE TIMES, HE CAN VERIFY THE TRUE AND
14 CORRECT NATURE OF THE VIDEO. SO HE CAN ESTABLISH THE
15 FOUNDATION FOR THE VIDEO.

16 THIS IS NOTHING MORE THAN A
17 CONTEMPORANEOUS STATEMENT OF A NARRATOR SAYING THIS IS A
18 PIECE OF PAPER AND THEY MOVE ON AND SAY THIS IS AN ELMO,
19 THEY MOVE ON AND SAY THIS IS EVIDENCE ITEM SEVEN.

20 THE COURT: IF THE OBJECTION IS ON HEARSAY
21 GROUNDS, WHAT WAS THE EXCEPTION?

22 MR. JACKSON: THE EXCEPTION I THINK WOULD BE A
23 CONTEMPORANEOUS STATEMENT. IT'S NOT BEING -- IT'S BEING
24 OFFERED TO THE TRUTH OF THE MATTER ASSERTED INSOFAR AS
25 WHAT'S BEING SHOWN IS BEING NARRATED, BUT THERE IS -- AS
26 LONG AS IT'S CONTEMPORANEOUS TO WHAT'S BEING SHOWN, WHICH
27 IT IS, AND THERE IS NOTHING OF ANY OPINION VALUE BEING
28 RENDERED WHICH THERE'S NOT, IT'S JUST THIS IS THIS,

1 THAT'S THAT, I THINK IT FALLS INTO THE TRUSTWORTHINESS
2 EXCEPTION OF A CONTEMPORANEOUS STATEMENT. IT TENDS TO
3 NARRATE AN EVENT CLOSE OR AT THE TIME OF THE OBSERVATION.

4 IT ALSO ACTS AS SORT OF A MOVING CHART, IF
5 YOU WILL. NOTHING DIFFERENT THAN A CHART THAT WE MIGHT
6 PUT UP THAT SAYS -- FOR INSTANCE, THE CHART IN PEOPLE'S
7 37, IT SAYS AERIAL OF THOMPSON HOUSE, AND AS LONG AS
8 THERE IS A FOUNDATION LAID FOR THAT, I DON'T THINK IT'S
9 NECESSARILY SPECIFICALLY HEARSAY AS MUCH AS IT IS JUST
10 INFORMATIVE OF WHAT IS BEING VIEWED.

11 MS. SARIS: YOUR HONOR, I HAVE TO DISAGREE WITH
12 THE CONTENT OF THE AUDIO. WE'VE HEARD IT SEVERAL TIMES.
13 THIS IS AN ATTEMPT NOT TO CALL MR. GRIGGS -- OFFICER
14 GRIGGS AND, YET, GET HIS EXPERTISE ON THE FACT THAT HE
15 WAS IN CHARGE OF THE CRIME SCENE.

16 THERE'S MORE THAN JUST THIS IS THAT.
17 THERE ARE PEOPLE TALKING ABOUT WHAT OCCURS OUTSIDE OF THE
18 FRAME OF THE CAMERA, THERE ARE PEOPLE DESCRIBING THINGS
19 THAT ARE NOT IN THE FRAME OF THE CAMERA --

20 THE COURT: ALL RIGHT. LET ME STOP YOU.

21 1241 OF THE EVIDENCE CODE IS THE SECTION
22 THAT DEALS WITH CONTEMPORANEOUS STATEMENTS AND I DON'T
23 SEE HOW THIS QUALIFIES. IT'S NOT OFFERED TO EXPLAIN,
24 QUALIFY OR MAKE UNDERSTANDABLE CONDUCT OF THE DECLARANT
25 AND MADE WHILE THE DECLARANT WAS ENGAGED. THAT PART MAY
26 BE, BUT CERTAINLY NOT A, SUBSECTION A.

27 WHAT DO WE CARE WHAT CONDUCT OF DEPUTY
28 GRIGGS IS?

1 MR. DIXON: WELL, YOUR HONOR, BECAUSE IT'S
2 INDICATIVE OF -- THE DEFENSE -- THAT'S EXACTLY WHAT WE
3 CARE ABOUT. WHY ARE THERE PLACARDS PLACED IN FRONT OF A
4 PARTICULAR NAIL?

5 THE COURT: BUT THE DISTINCTION HERE IS OBVIOUS.
6 THAT YOU'VE HAD WITNESSES TESTIFY AND EXPLAIN THE
7 EXHIBITS, AS THEY'VE BEEN PRESENTED TO THE WITNESSES. I
8 CAN'T ALLOW A HEARSAY STATEMENT OF SOMEONE ELSE WHO'S NOT
9 IN COURT AND NOT SUBJECT TO CROSS-EXAMINATION. I CAN'T
10 HAVE THAT STATEMENT COME IN FOR THE TRUTH OF WHAT IS
11 ASSERTED UNLESS IT FALLS UNDER AN EXCEPTION TO THE
12 HEARSAY RULE AND YOU HAVE CITED THE CONTEMPORANEOUS
13 STATEMENT EXCEPTION.

14 THIS DOES NOT IN MY OPINION QUALIFY. IT
15 DOESN'T EXPLAIN THE CONDUCT OF DETECTIVE GRIGGS AND HE
16 IS, IN FACT, THE ONE WHO IS NARRATING THIS. AND IF YOU
17 ARE GOING TO HAVE TWO WITNESSES WHO ACTUALLY WERE THERE,
18 THEY CAN SIMPLY REFRESH THEIR MEMORY WITH THE AUDIO OR
19 THE VIDEO, HOWEVER YOU WANT TO DO IT, THEY CAN TESTIFY TO
20 THE SAME THING. I DON'T SEE THE NEED TO HAVE THE VOICE
21 OF DETECTIVE GRIGGS ON THERE PRESENTED TO THE JURY.

22 MR. JACKSON: THE ONLY -- AND I'M NOT ATTEMPTING
23 NOR WOULD I PURPORT TO ARGUE WITH THE COURT. I DON'T
24 WANT TO DO THAT. I SIMPLY WANT TO EXPLAIN OUR POSITION
25 WITH REGARD TO THAT SUBSECTION OF THE 1241.

26 WHY IS -- I THINK THE COURT MENTIONED WHY
27 IS DETECTIVE GRIGGS'S ACTIONS RELEVANT? WHY WOULD WE
28 TEND TO NEED THE VIDEO TO EXPLAIN HIS ACTIONS, HIS

1 CONDUCT? BECAUSE THE DEFENSE HAS PUT IN PLACE SOMETHING
2 THAT WE DID NOT EXPECT. WE DIDN'T EXPECT TO HAVE TO CALL
3 GRIGGS TO EXPLAIN WHERE CERTAIN BALLISTICS WERE FOUND,
4 BECAUSE WE BELIEVED -- WE, THE PROSECUTION, BELIEVED AND
5 JUSTIFIABLY SO THAT THE BATTLE GROUND WOULD BE IN
6 SOMEPLACE OTHER, IN THIS CASE, THAN THE CRIME SCENE.

7 MS. SARIS HAS CLEARLY MADE THE CRIME SCENE
8 ONE OF HER PRIMARY CONCERNS AND SHE'S CLEARLY INDICATED
9 TO THE JURORS THAT THIS WAS A, QUOTE, UNQUOTE -- USING
10 HER WORDS -- "BOTCHED CRIME SCENE." DETECTIVE GRIGGS
11 LIVES OUT OF THE STATE, NOW IS IN A POSITION THROUGH A
12 HEARSAY EXCEPTION THAT IS RELEVANT AND IS APPLICABLE TO
13 SIMPLY EXPLAIN WHERE HE NOTED CERTAIN ITEMS OF EVIDENCE
14 IN THE CRIME SCENE AND IT'S EXTREMELY ILLUSTRATIVE AS FAR
15 AS -- I THINK WE'LL ALL AGREE, A VERY DIFFICULT
16 CONVOLUTED ESTATE TO SHOW WHERE THINGS WERE, WHERE WERE
17 THE BLOOD STAINS, WHERE WAS MICKEY THOMPSON'S BODY AND
18 IT'S ALL RELEVANT THE SAME I THINK THAT THE JURY VIEWS
19 IT.

20 THE COURT: ALL RIGHT. FIRST OF ALL, I DON'T
21 MIND THAT SOMEONE DISAGREES OR ARGUES WITH ME. MY
22 PREFERENCE, THOUGH, WOULD BE TO DO STUFF LIKE THIS BEFORE
23 WE HAVE THE JURY WAITING.

24 I'M AT A DISADVANTAGE BECAUSE I HAVEN'T
25 HEARD THE TAPE.

26 MR. SARIS: I JUST FOUND OUT THAT THEY WANTED TO
27 PLAY IT.

28 MR. JACKSON: AND WE JUST DECIDED. THIS WAS NOT

1 SOMETHING THAT WE DECIDED MONTHS AGO.

2 MS. SARIS: AND GRIGGS IS NOT UNAVAILABLE. HE'S
3 OUT OF STATE, BUT NOT UNAVAILABLE.

4 THE COURT: HANG ON.

5 I THINK IF YOU'RE OFFERING THE STATEMENT
6 OF DETECTIVE GRIGGS TO REBUT THE CLAIM THAT THE
7 INVESTIGATION WAS BOTCHED, THEN IT'S NOT COMING IN FOR
8 THE TRUTH AND I WILL PERMIT IT BECAUSE YOU HAVE JUST
9 GIVEN ME A THEORY UPON WHICH THAT NARRATION CAN BE
10 PRESENTED.

11 MS. SARIS: I'M SORRY. I MISSED THAT. DID YOU
12 JUST CHANGE --

13 THE COURT: FOR A NON-HEARSAY PURPOSE TO EXPLAIN
14 OR REBUT THE CLAIM THAT THE INVESTIGATION WAS BOTCHED.

15 MS. SARIS: WELL, THAT WAS A MISQUOTE.

16 MY THEORY IS THAT THE INVESTIGATION INTO
17 WHO MURDERED THIS WAS BOTCHED AND TO WHO MURDERED MICKEY
18 THOMPSON. I HAVE NOT MADE ANY CLAIMS THAT THE CRIME
19 SCENE PEOPLE ACTED INAPPROPRIATELY. THAT'S SOMETHING
20 THAT COUNSEL JUST CAME UP WITH. A BOTCHED POLICE
21 INVESTIGATION WAS THE QUOTE, NOT A BOTCHED CRIME SCENE
22 INVESTIGATION.

23 THE COURT: THAT'S --

24 MS. SARIS: AGAIN, COUNSEL CANNOT MAKE MY
25 ARGUMENTS FOR ME AND THEN EASILY REBUT THEM. AND HE
26 CANNOT ANSWER SOMETHING THAT IS OTHERWISE HEARSAY BECAUSE
27 IT, QUOTE, "MATCHES HIS ARGUMENT" WHICH IS WHAT I WAS
28 ACCUSED OF DOING YESTERDAY.

1 THE VIDEO IS APPROPRIATE. IT'S NECESSARY.
2 IT OUGHT TO BE PLAYED IN FRONT OF THE JURY. THEY'RE
3 TRYING TO GET IT IN WITH DETECTIVE VERDUGO TO AVOID
4 CALLING DETECTIVE GRIGGS. THAT IS INAPPROPRIATE.

5 THE COURT: THAT'S NOT MY CONCERN. MY CONCERN
6 IS, IS THERE A THEORY OF ADMISSIBILITY? AND MR. JACKSON
7 ARGUED TWO DIFFERENT THEORIES. ONE IS CONTEMPORANEOUS
8 STATEMENT WHICH I FOUND IT WASN'T BECAUSE, QUITE FRANKLY,
9 THE CONDUCT OF DETECTIVE GRIGGS IN EXPLAINING WHAT HE
10 SEES OR WHAT IS BEING VIEWED ON THE TAPE ISN'T AS
11 IMPORTANT AS TO HOW THIS EVIDENCE WAS VIEWED BY THE LEAD
12 DETECTIVE ON THE CASE AT THE TIME, AND I ASSUME THIS IS
13 RIGHT AT THE TIME OF THESE MURDERS.

14 MR. JACKSON: THE BODIES ARE STILL IN THE VIDEO.

15 MS. SARIS: THEN WE WOULD REQUEST A TRANSCRIPT OF
16 ANYTHING THAT IS GOING TO BE SHOWN TODAY.

17 MR. DIXON: THEN --

18 MS. SARIS: THEN WE REQUEST A CONTINUANCE TO SEE
19 THAT THIS IS APPROPRIATE.

20 THE COURT: WHO'S YOUR NEXT WITNESS?

21 MR. JACKSON: LIZ DEVINE.

22 THE COURT: AND WE DON'T NEED TO HAVE THE TAPE
23 PLAYED FOR HER?

24 MR. JACKSON: NO.

25 THE COURT: SO WE CAN PROCEED WITH THAT.

26 AND WHY DON'T YOU GIVE ME A COPY OF THE
27 TRANSCRIPT AND THEN I CAN LOOK AT IT.

28 MR. JACKSON: SURE.

1 THE COURT: AND IF IT QUALIFIES UNDER ONE OF THE
2 TWO THEORIES THAT I MENTIONED, IT'S GOING TO COME IN. IF
3 IT DOESN'T QUALIFY, IT'S NOT GOING TO COME IN. AND,
4 FRANKLY, I DON'T CARE WHAT THE REASONS ARE. I'M JUST
5 LOOKING AT THE LEGAL ADMISSIBLE.

6 DO YOU WANT JUROR NO. 11, THEN, TO COME
7 DOWN FIRST?

8 MR. DIXON: THANK YOU, YOUR HONOR.

9 MR. JACKSON: YES, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 (JUROR NO. 11 ENTERED THE COURTROOM.)

12 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
13 THAT JUROR NO. 11 HAS JOINED US.

14 JUROR: 12. I'M 12. I'M NO. 12

15 THE CLERK: I THOUGHT SHE WAS 11.

16 THE COURT: THEN OUR MISTAKE.

17 THE CLERK: THAT'S MY MISTAKE.

18 THE COURT: OKAY. JUROR NO. 12 HAS JOINED US.

19 AND THE RECORD SHOULD REFLECT THAT JUROR
20 NO. 12, YOU SPOKE TO THE CLERK LATE YESTERDAY AFTERNOON
21 BEFORE WE RECESSED --

22 JUROR: YES.

23 THE COURT: -- OR AFTER WE RECESSED FOR THE DAY
24 AND THE LAST WITNESS THAT HAD TESTIFIED YESTERDAY
25 AFTERNOON WAS WILMA JOHNSON.

26 DID YOU INDICATE TO THE CLERK THAT YOU
27 KNEW MS. JOHNSON?

28 JUROR: YES.

1 THE COURT: CAN YOU TELL US HOW YOU KNOW
2 MS. JOHNSON.

3 JUROR: HER DAUGHTER AND MY DAUGHTER WENT TO
4 MIDDLE SCHOOL AND THE EARLY PART OF HIGH SCHOOL TOGETHER.
5 I'VE NOT SEEN HER FOR A NUMBER OF YEARS. I MEAN, WE WERE
6 MORE OF ACQUAINTANCES, BUT I DIDN'T -- AND I'M NOT
7 CERTAIN THAT SHE RECOGNIZED ME EVEN.

8 THE COURT: OKAY.

9 JUROR: SHE MADE EYE CONTACT WITH ME ONCE OR
10 TWICE, BUT I'VE NOT TALKED TO HER IN A NUMBER OF YEARS.

11 THE COURT: ALL RIGHT. AND WHEN YOU SAY SHE WAS
12 AN ACQUAINTANCE, IS THAT BECAUSE YOUR DAUGHTERS WENT TO
13 SCHOOL TOGETHER OR WERE YOU ACQUAINTED WITH HER OUTSIDE
14 OF THAT?

15 JUROR: PRIMARILY BECAUSE OUR DAUGHTERS WENT TO
16 SCHOOL TOGETHER. WE DID ONCE GO ON AN OUTING TOGETHER
17 SHOPPING BECAUSE OUR DAUGHTERS WERE FAIRLY GOOD FRIENDS,
18 BUT THAT'S ABOUT IT. WE DID NOT SOCIALIZE AT ALL BEYOND
19 THAT.

20 THE COURT: ALL RIGHT. EITHER SIDE WISH TO ASK
21 NO. 12 SOME QUESTIONS?

22 MS. SARIS: NO THANK YOU.

23 MR. DIXON: NO THANK YOU, YOUR HONOR.

24 THE COURT: OKAY. THEN WE CAN GET THE REST OF
25 THE JURORS. SO JUST STAY IN YOUR SEAT IF YOU WOULD.
26 THANK YOU.

27 (THE JURY ENTERED THE COURTROOM.)

28 THE COURT: ALL RIGHT. ALL OUR JURORS AND

1 ALTERNATES ARE ONCE AGAIN PRESENT AND THE PEOPLE ARE
2 CALLING THEIR NEXT WITNESS.

3 MR. JACKSON: LIZ DEVINE, YOUR HONOR.

4
5 ELIZABETH DEVINE,
6 CALLED BY THE PEOPLE AS A WITNESS, WAS
7 SWORN AND TESTIFIED AS FOLLOWS:

8
9 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
10 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
11 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
12 NOTHING BUT THE TRUTH SO HELP YOU GOD.

13 THE WITNESS: I DO.

14 THE CLERK: THANK YOU PLEASE BE SEATED. WOULD
15 YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST NAME
16 FOR THE RECORD?

17 THE WITNESS: MY NAME IS ELIZABETH DEVINE,
18 E-L-I-Z-A-B-E-T-H, D-E-V-I-N-E.

19 THE CLERK: THANK YOU.

20 THE COURT: YOU MAY INQUIRE.

21 MR. JACKSON: THANK YOU, YOUR HONOR.

22
23 DIRECT EXAMINATION

24 BY MR. JACKSON:

25 Q HELLO, MS. DEVINE.

26 A HELLO.

27 Q THANK YOU FOR JOINING US THIS AFTERNOON.

28 TELL US WHAT YOU DO FOR A LIVING.

1 A RIGHT NOW I'M THE CO-EXECUTIVE PRODUCER
2 FOR A TELEVISION SHOW CALLED "C.S.I. MIAMI."

3 Q DID YOU EVER WORK ON A PREVIOUS TELEVISION
4 SHOW BEFORE GOING TO "C.S.I. MIAMI" AS A CO-EXECUTIVE
5 PRODUCER?

6 A YES.

7 Q WHAT TELEVISION SHOW WAS THAT?

8 A "C.S.I., CRIME SCENE INVESTIGATION."

9 Q NOW, HOW DID YOU GET INVOLVED WITH THE
10 C.S.I. SERIES, IF YOU WILL?

11 A I BEGAN BY WORKING AS A TECHNICAL ADVISOR
12 FOR THEIR SHOW. WAS ASKED TO WORK ON MY DAY OFF WHICH
13 WAS FRIDAY. AND THEN THEY ASKED ME IF I WOULD LIKE TO
14 COME ON AND WORK PERMANENTLY FOR THE SHOW.

15 SO I THOUGHT ABOUT IT FOR ABOUT A MONTH
16 AND THEN SAID OKAY. AND ALL THIS GOOD STUFF HAS HAPPENED
17 SINCE THEN.

18 Q "GOOD STUFF" MEANING WHAT?

19 A WELL, CURRENTLY C.S.I. IS THE NO. 1 SHOW
20 IN THE WORLD AND IT'S SEEN IN ALL COUNTRIES EXCEPT THREE,
21 SO IT'S A GOOD THING.

22 Q WHAT EDUCATION, TRAINING AND BACKGROUND
23 QUALIFIES AMONG THE MILLIONS OF US THAT WOULD LOVE TO BE
24 IN YOUR POSITION TO ACTUALLY WORK ON THOSE SHOWS?

25 MS. SARIS: OBJECTION. RELEVANCE AS TO "WORK ON
26 THOSE SHOWS."

27 THE COURT: OVERRULED.

28 YOU CAN ANSWER.

1 THE WITNESS: I HAVE A BACHELORS OF SCIENCE
2 DEGREE FROM THE UNIVERSITY OF CALIFORNIA AT LOS ANGELES.
3 AND I HAVE A MASTERS OF SCIENCE DEGREE AND CRIMINALISTIC
4 WHICH IS FORENSIC SCIENCE FROM THE CAL STATE UNIVERSITY
5 LOS ANGELES.

6 I WORKED 15 YEARS AT THE SHERIFF'S
7 DEPARTMENT. MY JOBS RANGED FROM BEING IN THE NARCOTICS
8 SECTION TO TEN YEARS IN THE SEROLOGY AND CRIME SCENE
9 UNIT, AND THEN I BECAME A SUPERVISOR. AND WHEN I LEFT
10 THE DEPARTMENT I WAS A CO-SUPERVISOR OF OUR D.N.A. LAB
11 AND THE SUPERVISOR FOR OUR CRIME SCENE INVESTIGATION
12 UNIT.

13 Q WERE YOU AN ACTUAL -- AND I'M GOING TO USE
14 A LAY PHRASE IF YOU WILL -- WERE YOU AN ACTUAL C.S.I.
15 CRIME SCENE INVESTIGATOR BEFORE YOU BECAME A WRITER AND
16 PRODUCER FOR THE SHOW?

17 A WE DON'T ACTUALLY HAVE THAT TERM, BUT
18 YEAH. I WAS TRAINED AND EXPERIENCED IN GOING OUT TO
19 CRIME SCENES AND COLLECTING CERTAIN TYPES OF EVIDENCE FOR
20 15 YEARS. I DID THAT FOR THE DEPARTMENT.

21 Q ON MARCH 16TH, 1988, WHAT WAS YOUR JOB?

22 A I WAS A SENIOR CRIMINALIST ASSIGNED TO THE
23 SEROLOGY SECTION OF OUR SHERIFF'S DEPARTMENT IN
24 LOS ANGELES COUNTY SHERIFF'S DEPARTMENT CRIME LAB.

25 Q WHAT ARE THE DUTIES OF A SENIOR
26 CRIMINALIST ASSIGNED TO THE SEROLOGY DEPARTMENT?

27 A WELL, WE IN THE LABORATORY, OUR JOB IS TO
28 LOOK AT ITEMS OF EVIDENCE FOR BIOLOGICAL FLUIDS WHICH

1 INCLUDED BLOOD, SEMEN AND SALIVA PRIMARILY. THIS WAS
2 BEFORE D.N.A., SO WE LOOKED FOR POLYMORPHIC PROTEINS THAT
3 LOOK DIFFERENT BASED ON GENETICS. SO WE DID THAT SORT OF
4 WORK.

5 WE ALSO -- ONE OF OUR RESPONSIBILITIES WAS
6 TO RESPOND TO CRIME SCENES. WE HAD A DAY CALL WHICH
7 MEANS IF A CRIME SCENE OCCURRED DURING THE DAY FROM 7:00
8 A.M. TO 3:00 P.M., WE HAD A ROTATION IN THE SECTION AND
9 THEN WE ALSO HAD AN ON-CALL ASSIGNMENT THAT WE WOULD HAVE
10 FROM TIME TO TIME.

11 Q I WANT TO DRAW YOUR ATTENTION TO THE EARLY
12 MORNING HOURS OF MARCH 16, 1988.

13 DO YOU REMEMBER THAT DATE?

14 A YES.

15 Q HOW DO YOU REMEMBER THAT DATE IN
16 PARTICULAR?

17 A I REMEMBER THAT A DAY CALL CAME INTO THE
18 SEROLOGY SECTION AND IT WAS VERY SORT OF CRYPTIC. THEY
19 SAID THAT A SPORTS CELEBRITY HAD BEEN KILLED AND THERE
20 WAS A CRIME SCENE INVESTIGATION, THAT THEY WERE LOOKING
21 FOR SOMEONE TO RESPOND.

22 Q DID YOU IN FACT RESPOND?

23 A YES. I WASN'T THE ONE THAT WAS FIRST UP,
24 BUT THE ONE -- THE PERSON THAT WAS ASSIGNED OR WAS
25 SUPPOSED TO GO, HAD AN ANALYSIS THAT HE COULDN'T BREAK
26 AWAY FROM SO I WENT INSTEAD.

27 Q WHEN YOU SAY "FIRST UP," HOW DOES THAT
28 WORK? IS IT A ROTATIONAL BASIS OR WHAT?

1 A YES. BASICALLY ONCE YOU GO ON A CRIME
2 SCENE -- WE HAD -- IT'S VERY RUDIMENTARY, BUT WE HAD
3 MAGNETS THAT OUR HAD OUR INITIALS ON IT AND ONCE YOUR
4 MAGNET HIT THE TOP, YOU KNEW YOU WERE FIRST UP. AND THE
5 PERSON THAT WAS -- COULDN'T BREAK AWAY FROM WHAT HIS
6 ANALYTICAL DUTIES WERE, SO I THINK I WAS SECOND AND I
7 WENT.

8 Q DID YOU IN FACT PHYSICALLY RESPOND TO
9 53 WOODLYN LANE?

10 A YES.

11 Q AND WAS THAT THE RESIDENCE OF MICKEY
12 THOMPSON, AS YOU KNEW IT, AT THAT POINT?

13 A YES.

14 Q TELL ME WHAT YOU SAW AND HEARD WHEN YOU
15 FIRST ARRIVED AT THE SCENE.

16 A WELL, IT WAS VERY BUSY. THERE WERE A LOT
17 OF DEPUTIES THERE, RADIO CARS, THERE WERE A LOT OF MEDIA
18 THERE. AS I WALKED -- I ACTUALLY ROAD WITH ANOTHER
19 ANALYST, RON GEORGE, WHO WAS THE PHOTOGRAPHER, ONE OF THE
20 PHOTOGRAPHERS THERE, HE'S A DEPUTY.

21 AND AS SOON AS I GOT THERE, I SAW TRUDY
22 THOMPSON ON THE DRIVEWAY AT THE BASE OF THE DRIVEWAY.
23 AND I WAS GREETED BY DETECTIVE GRIGGS WHO WAS THE
24 HOMICIDE DETECTIVE AND WAS BRIEFED BY HIM, AND THEN HIS
25 PARTNER, SERGEANT OLBERHOLTZER ESCORTED ME INTO THE SCENE
26 AND WALKED ME THROUGH WHAT THEY HAD DISCOVERED THUS FAR.

27 I NOTICED A VAN, TOYOTA VAN THAT WAS --
28 THE WINDOW WAS BROKEN, BUSTED GLASS EVERYWHERE. IT WAS

1 BACKED UP AGAINST A WALL AT THE LOWER PART OF THE
2 DRIVEWAY. I NOTICED A COUPLE OF OTHER VEHICLES PARKED ON
3 THE DRIVEWAY. AND THEN AS WE GOT TO THE TOP OF THE RISE
4 OF THE DRIVEWAY, I SAW MICKEY THOMPSON THERE AS WELL.

5 Q ABOUT WHAT TIME, MS. DEVINE, DID YOU
6 ARRIVE AT THE LOCATION?

7 A ACCORDING TO MY NOTES, I ARRIVED SOMEWHERE
8 BETWEEN 9:00 AND 9:30 IN THE MORNING.

9 Q BY THE WAY, YOU'VE GIVEN US YOUR NAME LIZ
10 DEVINE OR ELIZABETH DEVINE, WAS THAT THE NAME THAT YOU
11 WENT BY BACK IN 1988?

12 A NO. I'VE SINCE BEEN MARRIED AND DIVORCED.
13 BUT AT THE TIME I WAS -- MY LAST NAME WAS KORNBLUM,
14 K-O-R-N-B-L-U-M.

15 Q THE REASON I ASK YOU THAT -- AND I DON'T
16 MEAN TO BE GET PERSONAL -- BUT AS YOU GO THROUGH A CRIME
17 SCENE AS AN INVESTIGATOR FOR THE SHERIFF'S CRIME LAB, IS
18 THERE EVER A TIME IN WHICH YOU UTILIZE YOUR INITIALS TO
19 DENOTE EITHER PHYSICAL EVIDENCE OR THINGS THAT YOU MIGHT
20 SEE OR WHAT TO COLLECT AT THE CRIME SCENE?

21 A YES. MY PROTOCOL THEN AND REMAINS THAT
22 PROTOCOL FOR 15 YEARS, WAS MY ITEMS OF EVIDENCE THAT I
23 DEEMED APPROPRIATE TO COLLECT WERE ALWAYS DESIGNATED WITH
24 MY INITIALS, E.M.K., UNTIL I GOT MARRIED, THEN IT WAS
25 E.M.D. E.M.K.1 THROUGH WHATEVER I WAS GOING TO COLLECT
26 AND THAT HELPED ME TRACK THAT I WAS COLLECTING EVERYTHING
27 THAT I HAD DESIGNATED. SO I STARTED WITH ONE AND ENDED
28 WITH WHATEVER NUMBER I ENDED WITH. AND THEN WHEN I WAS

1 READY TO LEAVE, I COULD GO THROUGH ALL MY NOTES AND MAKE
2 SURE THAT I HAD EVERYTHING THAT I THOUGHT I HAD.

3 SO -- THESE CRIME SCENES CAN GET LONG AND
4 VERY CONFUSING -- SO YOU HAVE TO MAKE SURE THAT YOU HAVE
5 EVERYTHING.

6 Q MS. DEVINE, WHILE THIS EXHIBIT IS ON THE
7 BOARD, I'LL TRY TO SNEAK AROUND TO THE SIDE SO I DON'T
8 GET IN THE WAY, CAN YOU TELL ME IF YOU RECOGNIZE WHAT IS
9 DEPICTED IN EXHIBIT NO. -- PEOPLE'S 37A FOR
10 IDENTIFICATION?

11 A THAT APPEARS TO BE THE THOMPSON HOUSE.

12 Q DO YOU SEE THE SUBPHOTOGRAPHS, THE ONE IN
13 THE LOWER RIGHT AND THEN THE ONE SORT OF IN THE DEAD
14 CENTER OF THE EXHIBIT?

15 A YES.

16 Q CAN YOU DECIPHER WHAT IS IN THOSE
17 PHOTOGRAPHS?

18 A YES. THE PHOTOGRAPH AT THE LOWER RIGHT
19 CORNER THAT'S IN THE BOX IS A PHOTOGRAPH OF TRUDY
20 THOMPSON'S BODY. AND THE BOX -- THE YELLOW BOX IN THE
21 CENTER OF THE DRAWING IS THAT OF MICKEY THOMPSON.

22 Q AS FAR AS YOUR MEMORY IS CONCERNED,
23 MS. DEVINE, DO THE BODIES OF TRUDY THOMPSON AND MICKEY
24 THOMPSON APPEAR TO BE IN THE SAME CONDITION AS WHEN YOU
25 SAW THEM?

26 A YES.

27 Q IS THAT ANGLE OKAY FOR EVERYBODY?

28 JUROR 11: NO.

1 MR. JACKSON: IF YOU NEED TO STEP OFF -- I'M
2 TRYING TO WORK BETWEEN TWO SETS OF EYES, IF YOU NEED TO
3 STEP OFF THE STAND, WITH THE COURT'S PERMISSION, I'M SURE
4 SHE WOULD ALLOW TO YOU DO THAT.

5 Q DO YOU RECOGNIZE WHAT'S BEEN MARKED AS
6 PEOPLE'S 46 AS A DIAGRAM OF THE CRIME SCENE?

7 A YES.

8 Q I WOULD LIKE YOU TO TAKE A LOOK AT SOME OF
9 THE PHOTOGRAPHS AND FAMILIARIZE YOURSELF. YOU MAY NOT
10 HAVE SEEN THESE PHOTOGRAPHS IN A WHILE. TELL ME IF YOU
11 RECOGNIZE THE PHOTOGRAPHS THAT ARE DEPICTED IN PEOPLE'S
12 37. AGAIN, IF YOU NEED TO STEP DOWN, PLEASE FEEL FREE TO
13 DO SO.

14 A I RECOGNIZE ALL OF THEM EXCEPT THE G.N.H.
15 WHICH ARE DESIGNATED REENACTMENT PHOTOS.

16 Q THE VAN THAT YOU MENTIONED, IS THE TOYOTA
17 VAN DEPICTED IN PHOTOGRAPH D, AS IN DOG?

18 A YES, AS I RECALL.

19 MS. SARIS: I'M SORRY TO INTERRUPT. WHAT DIAGRAM
20 IS THAT AGAIN?

21 MR. JACKSON: THIS IS 46, PEOPLE'S 46.

22 MS. SARIS: THANK YOU.

23 Q BY MR. JACKSON: AND, I'M SORRY, I DIDN'T
24 HEAR YOUR ANSWER.

25 A YES, D, AS I RECALL.

26 Q ALL RIGHT. AND YOU'VE INDICATED THAT
27 THERE WERE A COUPLE OF OTHER CARS ON THE PROPERTY AS
28 WELL; CORRECT?

1 A YES.

2 Q WAS ONE OF THOSE CARS A LINCOLN
3 CONTINENTAL?

4 A YES.

5 Q IS THAT DEPICTED IN THE PHOTOGRAPH?

6 A YES.

7 Q AND THAT'S PHOTOGRAPH E?

8 A YES.

9 Q THE MOUTH OF THE DRIVEWAY WHERE YOU SAW
10 TRUDY THOMPSON, IS THAT DEPICTED IN ANY OF THESE
11 PHOTOGRAPHS?

12 A YES, THAT'S IN PHOTOGRAPH B.

13 Q B AS IN BOY?

14 A B AS IN BOY.

15 Q THANK YOU.

16 AND, FINALLY, PHOTOGRAPH F AS IN FRANK, DO
17 YOU RECOGNIZE THAT PHOTOGRAPH?

18 A YES, I DO. THAT IS MICKEY THOMPSON.

19 Q AND WHERE WAS HE WHEN YOU SAW HIM? WHERE
20 WAS HIS BODY?

21 A IT WAS UP AT THE -- WHAT I WOULD SAY THE
22 TOP OF THE DRIVEWAY NEAR THE -- CLOSEST TO THE GARAGE.

23 Q ALL RIGHT. FINALLY, LET ME ASK YOU
24 THIS -- I'M GOING TO UTILIZE A POINTER IF I CAN.

25 DO YOU SEE ARROWS EMANATING FROM
26 PHOTOGRAPH F, PHOTOGRAPH E, PHOTOGRAPH D AND PHOTOGRAPHS
27 C AND B?

28 A YES, I DO.

1 Q DO THOSE ARROWS -- IF NOT TO SCALE
2 UNDERSTANDABLY, DO THOSE ARROWS RATIONALLY DEPICT WHERE
3 THE PHOTOGRAPHS WERE TAKEN OR WHAT THE PHOTOGRAPHS ARE
4 OF?

5 A THEY APPEAR TO, YES.

6 Q OKAY. WHILE YOU WERE AT THE CRIME SCENE,
7 MS. DEVINE, WERE YOU ASKED TO PERFORM ANY PARTICULAR
8 TASKS? IN OTHER WORDS, WHY WERE YOU THERE?

9 A YES. I -- MY JOB THERE WAS TO EVALUATE
10 THE CRIME SCENE FROM THE STANDPOINT OF SEROLOGICAL
11 EVIDENCE.

12 Q WHICH MEANS WHAT, BY THE WAY?

13 A BLOOD AND OTHER BODY FLUIDS.

14 Q OKAY.

15 A AND OTHER KINDS OF TRACE OR PHYSICAL
16 EVIDENCE WHICH COULD BE ANYTHING FROM HAIRS, FIBERS, SHOE
17 PRINTS, TIRE TRACKS, THAT SORT OF THING.

18 Q DID YOU FIND ANYTHING OF NOTE?

19 A YES.

20 Q COULD YOU DESCRIBE THAT FOR THE JURORS,
21 PLEASE.

22 A YES. I WAS ABLE TO IDENTIFY SEVERAL SHOE
23 PRINTS ON THE DRIVEWAY AREA AND A COUPLE OF OTHER SHOE
24 PRINTS NEAR THE HOUSE.

25 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
26 PERMISSION, I'M GOING TO MARK ANOTHER EXHIBIT. IT
27 APPEARS TO BE AN ENLARGED DIAGRAM OF THE CRIME SCENE.

28 THE COURT: WE WILL MARK THAT 53.

1 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
2 PERMISSION, THERE'RE ANOTHER EXHIBIT THAT I'VE PREMARKED
3 53. I EXPECT TO USE THAT IN JUST A SECOND BUT IF I COULD
4 OUT OF ORDER.

5 THE COURT: SURE.

6 MR. JACKSON: I THINK THIS WILL BE PEOPLE'S 54.

7 THE COURT: SO MARKED.

8 (PEOPLE EXHIBIT NO. 54 WAS MARKED FOR
9 IDENTIFICATION.)

10 MR. JACKSON: THANK YOU. I'VE PLACED A P54 ON
11 THE UPPER RIGHT-HAND CORNER IN ORANGE -- ON AN ORANGE
12 DOT, RATHER.

13 Q MS. DEVINE, I WANT THE -- WELL, TAKE AN
14 OPPORTUNITY IF YOU DON'T MIND TO FAMILIARIZE YOURSELF
15 WITH THAT DIAGRAM AND TELL ME IF YOU RECOGNIZE IT.

16 A YES. IT APPEARS TO BE A SCHEMATIC OF THE
17 BIRDS EYE VIEW OF THE CRIME SCENE WITH SOME OF THE
18 EVIDENCE DENOTED.

19 Q OKAY.

20 MR. JACKSON: PEOPLE'S -- WITH THE COURT'S
21 PERMISSION, I HAVE A SMALLER DIAGRAM THAT I WOULD LIKE TO
22 HAVE MARKED AS PEOPLE'S 53 WITH THE COURT'S PERMISSION.
23 I'VE PREVIOUSLY MARKED IT WITH A P53 IN THE UPPER
24 RIGHT-HAND CORNER.

25 THE COURT: YES.

26 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
27 HONOR? I MAY HAVE A LARGER ONE, I'M NOT SURE.

28 THE COURT: YES.

1 MR. JACKSON: VOILA. PEOPLE'S -- I'M GOING TO
2 READ THIS BACKWARDS. YOU KNOW WHAT, FOR CONSISTENT SAKE,
3 YOUR HONOR, AS A MATTER OF HOUSEKEEPING, WITH THE COURT'S
4 PERMISSION, CAN I MARK THE ENLARGED DIAGRAM OF PEOPLE'S
5 53 AS 53 AND THEN THE SMALLER ONE AS 53A? IS THAT GOING
6 TO BE TOO CONFUSING?

7 IS THAT OKAY, JEN?

8 THE COURT: NOT FOR ME.

9 THE CLERK: THAT'S FINE.

10 MR. JACKSON: THANK YOU, YOUR HONOR. I
11 APOLOGIZE.

12 Q I PLACED A P53 ON THE UPPER RIGHT-HAND
13 CORNER OF THE ENLARGED DIAGRAM.

14 MY QUESTION IS GOING TO BE RELATIVELY
15 SIMPLE AFTER ALL OF THAT HOUSEKEEPING.

16 DO YOU SEE THE SHOE PRINT THAT YOU SAW AT
17 THE CRIME SCENE DENOTED ON PEOPLE'S 54?

18 A NO.

19 Q SO LET'S GET RID OF THAT.

20 AND I WILL ASK YOU THE SAME THING ABOUT
21 PEOPLE'S 53.

22 DO YOU SEE SHOE PRINTS DENOTED ON THAT
23 DIAGRAM?

24 A YES.

25 Q FIRST OF ALL, IS THAT DIAGRAM TO SCALE?

26 A NO.

27 Q VERY OBVIOUSLY NOT; CORRECT?

28 A YES.

1 Q THERE IS A BODY THAT APPEARS TO REPRESENT
2 THAT OF MICKEY THOMPSON; CORRECT?

3 A YES.

4 Q AND THERE ARE SHOE PRINTS; CORRECT?

5 A YES.

6 Q AND THE SCALE OF THE SHOES ARE ALMOST AS
7 BIG AS THE BODY; CORRECT?

8 A YES.

9 Q ALL RIGHT. SO EVERYBODY IS CLEAR, THIS
10 DIAGRAM IS NOT SUPPOSED TO BE SOMETHING THAT IS TO SCALE
11 FOR THE JUROR'S EDIFICATION; CORRECT?

12 A CORRECT.

13 Q DESCRIBE WHAT YOU FOUND WITH REGARD TO THE
14 SHOE PRINTS THAT DAY.

15 A WELL, THERE WERE TWO SEPARATE AREAS WHERE
16 I WAS ABLE TO IDENTIFY SOME SHOE PRINTS THAT APPEARED TO
17 BE OF NOTE, AND ONE SET WAS TOWARD THE -- YOU DON'T HAVE
18 NORTH/SOUTH, BUT I THINK THAT'S THE SOUTH.

19 Q YOU KNOW WHAT, FOR OUR PURPOSES, LET'S
20 STAY CONSISTENT, WITH THE COURT'S PERMISSION, IF I COULD
21 ASK YOU FOR THE PURPOSES OF THESE QUESTIONS TO ASSUME
22 THAT THE TOP THE DIAGRAM IS NORTH, THAT THE BOTTOM IS
23 SOUTH, THE RIGHT IS EAST AND THE LEFT IS WEST, JUST TO
24 KEEP EVERYTHING CONSISTENT.

25 A SO THE FIRST SET THAT I NOTICED WERE TO
26 THE SOUTH PART THE DRIVEWAY. THEY WERE ALL VERY FAINT
27 SHOE PRINTS. THEY APPEARED TO BE DUSTY. THEY WERE NOT
28 VERY EASY TO SEE. EVEN THOUGH THE DRIVEWAY WAS BLACKTOP,

1 IT WAS DIFFICULT TO SEE THEM. BUT I WAS ABLE TO MAKE OUT
2 THAT THEY WERE APPROXIMATELY 11 -- 10 AND A HALF TO 11
3 INCHES LONG AND THAT THEY APPEARED TO BE FROM TENNIS
4 SHOES.

5 Q WHEN YOU SAY TEN AND A HALF TO ELEVEN
6 INCHES LONG, DOES THAT CORRESPOND TO, FOR INSTANCE, A MAN
7 OR A WOMAN'S SIZE TEN AND A HALF OR 11, OR IS THAT JUST
8 LITERALLY THE LENGTH ON A RULER THAT THE SHOE PRINT WAS?

9 A IT WAS LITERALLY THE LENGTH ON A RULER.

10 Q OKAY.

11 A BUT USUALLY THE SIZE IS ROUGHLY THAT.

12 Q OKAY. COULD YOU TELL A PARTICULAR
13 DIRECTION THAT ANY OF THESE SHOE PRINTS WERE GOING?

14 A WELL, I WAS -- OR I COULD ON E.M.K.1 AND 2
15 THEY APPEAR TO BE HEADING SOUTH.

16 Q IN OTHER WORDS, DOWN THE DRIVEWAY, IF YOU
17 WILL?

18 A YES, AS WAS DESIGNATED IN MY SKETCH. THE
19 E.M.K.3 I DID NOT MAKE A DESIGNATION NOR DO I RECALL.

20 Q ALL RIGHT. ONE OF THE QUESTIONS I HAVE
21 IS: YOU INDICATED IN YOUR PREVIOUS ANSWER THAT THEY
22 APPEAR TO BE CONSISTENT -- THE MARKINGS APPEAR TO BE
23 CONSISTENT WITH TENNIS SHOES; CORRECT?

24 A YES.

25 Q DID YOU SEEK TO DETERMINE WHETHER OR NOT
26 ANY OF THE LAW ENFORCEMENT PERSONNEL OR CRIME SCENE
27 PERSONNEL OR CORONER'S PERSONNEL WORE SHOES CONSISTENT
28 WITH ANY OF THOSE SHOE PRINTS?

1 A I DID. I DID MAKE A NOTE IN MY NOTES THAT
2 I CHECKED ALL THE DEPUTIES AND NONE OF THEM WORE TENNIS
3 SHOES TO THAT AT ALL.

4 Q ALL RIGHT. WHAT ABOUT TOWARD THE UPPER
5 PART OF -- THE NORTHERN PART THE CRIME SCENE, DID YOU
6 NOTICE ANYTHING WITH REGARD TO SHOE PRINTS THERE?

7 A YES. THERE ALSO APPEARED TO BE SHOE
8 PRINTS ON THE DRIVEWAY. AGAIN, ON THE BLACKTOP. THESE I
9 BELIEVE I DENOTED WERE MORE -- IF I MAY CHECK MY NOTES
10 JUST FOR ONE SECOND.

11 Q WOULD IT REFRESH YOUR RECOLLECTION TO DO
12 THAT?

13 A YES.

14 Q PLEASE. AND JUST TELL ME, MS. DEVINE,
15 WHEN YOU GET TO A PLACE THAT YOUR RECOLLECTION IS
16 REFRESHED, LET ME KNOW WHAT YOU'RE LOOKING AT AND I'LL
17 TELL COUNSEL.

18 A OKAY. I'M LOOKING AT MY ROUGH NOTES FROM
19 THE CRIME SCENE WHICH INCLUDE MY MEASUREMENTS.

20 Q OKAY. GIVE ME ONE QUICK SECOND.

21 MS. SARIS: THANK YOU. I HAVE IT. THANK YOU.

22 Q BY MR. JACKSON: THANK YOU, MS. DEVINE.

23 A SO AT THE TIME OF MY OBSERVATION, THOSE
24 WERE ALSO DUSTY AND DRY AND ALSO APPEARED TO BE FROM
25 TENNIS SHOES.

26 Q WERE YOU ABLE TO DETERMINE A ROUGH
27 DIRECTION THAT THOSE SHOE PRINTS WERE GOING?

28 A ACCORDING TO MY NOTES, I DESIGNATED ALL OF

1 THOSE SHOE PRINTS HEADING EAST AND THEN SOUTH.

2 Q MS. DEVINE, THERE'S A SET OF SHOE
3 PRINTS -- WE WILL TAKE THESE ONE AT A TIME -- ON DIAGRAM
4 PEOPLE'S 53 FOR IDENTIFICATION THAT ARE DESIGNATED IN
5 SORT OF THE BOTTOM CENTER OF THE DIAGRAM JUST TO THE LEFT
6 OF TWO VERY DISTINCTIVE LOOKING TREES, DIAGRAMS OF TREES.
7 THEY'RE DENOTED E.M.K.1, 2 AND 3.

8 ARE THOSE CONSISTENT IN LOCATION WITH THE
9 PLACE THAT YOU SAW THOSE FIRST THREE SHOE PRINTS?

10 A GENERALLY, YES.

11 Q OBVIOUSLY, AGAIN, NOT TO SCALE; CORRECT?

12 A CORRECT.

13 Q TAKE A LOOK AT THE MIDDLE OF THE -- SORT
14 OF MIDDLE TOP TO THE LEFT WHAT APPEARS TO BE A LARGE TAN
15 RECTANGLE THAT'S MEANT TO DEPICT THE ROOF LINE OF THE
16 HOUSE. THERE ARE FIVE OTHER -- WHAT APPEAR TO BE SHOE
17 PRINTS DENOTED E.M.K.4, 5, 6, 7, 8.

18 DO YOU RECOGNIZE THOSE?

19 A YES.

20 Q ARE THOSE CONSISTENT WITH THE LOCATION OF
21 WHERE YOU SAW THE OTHER SHOE PRINTS?

22 A GENERALLY, YES.

23 Q YOU INDICATED THAT THEY WERE GOING IN AN
24 EASTERLY DIRECTION, THE WAY THAT MY POINTER IS
25 (INDICATING); CORRECT?

26 A YES.

27 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
28 THAT I'VE PUT MY POINTER TO THE CENTER OF THE DIAGRAM

1 TOWARD THE RIGHT SIDE OF THE DIAGRAM.

2 THE COURT: YES.

3 Q BY MR. JACKSON: THERE APPEARS TO BE SOME
4 GREEN ALONG THE -- SORT OF SOUTHWEST PORTION OF THOSE
5 SHOE PRINTS.

6 WHAT DOES THAT DEPICT?

7 A THERE WAS SOME GREENERY, A HEDGE AREA, I
8 DON'T RECALL WHAT KIND. IT WAS A LOWER HEDGE, I THINK.

9 Q WHAT WAS BEHIND THE HEAD HEDGE, OR WHAT
10 WAS THE GROUND MADE OUT OF BEHIND THAT HEDGE?

11 A THERE WAS SOIL BEHIND THE HEDGE AND THERE
12 WERE MINIATURE ORANGE TREES PLANTED THERE THAT WERE NOT
13 VERY BIG. MAYBE TWO AND A HALF FEET.

14 Q DID THOSE ORANGE TREES -- DO YOU REMEMBER
15 IF YOU NOTED WHETHER OR NOT THOSE ORANGE TREES BORE
16 FRUIT?

17 A YES, THEY DID.

18 Q WHAT WAS THE FRUIT?

19 A ORANGES.

20 Q ALL RIGHT. GOOD.

21 WAS ANY OF THAT AREA BACK HERE PAVED
22 (INDICATING)?

23 A NOT THAT I RECALL.

24 MR. JACKSON: WHEN I SAID "BACK HERE,"
25 YOUR HONOR, MY POINTER WAS BASICALLY ON THE WORD "ORANGE
26 PEEL" IN PEOPLE'S 53.

27 THE COURT: YES.

28 Q BY MR. JACKSON: DID THE SHOE PRINTS, AS

1 FAR AS YOUR OBSERVATIONS OR CONCERNS WITH THE SHOE
2 PRINTS, WHERE DID THE SHOE PRINTS APPEAR TO COME FROM?

3 MS. SARIS: OBJECTION. LACK FOUNDATION AND VAGUE
4 AS TO --

5 THE COURT: YES, VAGUE.

6 MR. JACKSON: I'LL LAY A FOUNDATION, YOUR HONOR.

7 Q WAS THERE DIRT BACK IN THIS AREA WHERE
8 I'VE INDICATED ORANGE PEELS (INDICATING)?

9 A YES.

10 Q WHAT DID THE SHOE PRINTS -- WHAT WAS THE
11 NATURE THE DUSTY SHOE PRINTS THAT YOU SAW THAT APPEARED
12 TO BE PRINTS OF?

13 A THEY APPEARED TO BE OF DIRT.

14 Q OKAY. AND IN YOUR MIND, IN YOUR OPINION,
15 WAS THAT CONSISTENT OR INCONSISTENT WITH THE DIRT THAT
16 WAS BACK BEHIND THE SHRUBBERY?

17 A I REALLY DIDN'T LOOK AT IT FOR THAT. I
18 JUST DENOTED WHERE THEY WERE. AND IT DIDN'T APPEAR
19 INCONSISTENT WITH THAT, BUT I DIDN'T REALLY ANALYZE IT IN
20 THAT WAY.

21 Q BASED ON THE POSITIONING OF THE SHRUBS
22 THAT YOU DESCRIBE, THE DIRT BEHIND THE SHRUBS AND THE
23 LOCATION OF THE SHOE PRINTS, WERE YOU ABLE TO COME TO A
24 DECISION OR DETERMINATION, IN YOUR OPINION, AS TO WHERE
25 THOSE SHOE PRINTS WERE EMANATING FROM?

26 MS. SARIS: SAME OBJECTION. VAGUE.

27 THE COURT: OVERRULED.

28 THE WITNESS: IN MY OPINION, I FELT THAT THOSE

1 SHOES PRINTS CAME FROM THE AREA WHERE THE ORANGE --
2 MINIATURE ORANGE -- TREES WERE FROM.

3 Q BY MR. JACKSON: I'M SORRY?

4 A I FELT THAT THE SHOE PRINTS CAME FROM
5 WHERE THE MINIATURE ORANGE TREES WERE LOCATED.

6 Q ALL RIGHT. AND WERE THE SHOE PRINTS
7 HEADED TOWARD OR AWAY FROM THE THOMPSON RESIDENCE?

8 A TOWARD. WELL, I MEAN, TOWARD THE
9 DRIVEWAY.

10 Q WERE THEY HEADED TOWARD OR AWAY FROM WHERE
11 MICKEY THOMPSON'S BODY WAS ULTIMATELY FOUND?

12 A TOWARD.

13 Q WAS THERE ANYTHING ELSE TOWARD THAT
14 NORTHERN PART THE CRIME SCENE AROUND THAT SHRUB AREA,
15 THOSE NORTHERN SHOE PRINTS, WAS THERE ANYTHING ELSE OF
16 NOTE THAT YOU FOUND?

17 A YES.

18 Q DESCRIBE THAT FOR US, PLEASE.

19 A I FOUND SEVERAL ORANGE PEELS THAT I FELT
20 WERE CONSISTENT WITH THE MINIATURE ORANGES THAT WERE ON
21 THOSE TREES. THOSE ORANGE PEELS WERE CUT, THEY WERE
22 FRESH AND I DENOTED THEM IN MY NOTES.

23 Q WHEN YOU SAY THEY WERE CUT AND THEY WERE
24 FRESH, DESCRIBE EXACTLY WHAT YOUR OBSERVATIONS WERE AND
25 WHAT LED YOU TO THAT CONCLUSION, THOSE CONCLUSIONS.

26 A WELL, INITIALLY I WANTED TO SEE WHETHER OR
27 NOT THEY LOOKED LIKE THEY HAD BEEN HAND PEELED AND WE ALL
28 KNOW WHAT THAT LOOKS LIKE, THE EDGES WERE ROUGH AND THEY

1 APPEAR TO BE SEGMENTED. THESE WERE NOT IN THAT WAY.
2 THEY APPEARED TO BE CUT WITH A KNIFE. THE EDGES WERE
3 SHARP AND DISTINCT AND DEFINITELY CUT WITH A SHARP
4 OBJECT, AND I ASSUMED IT TO BE A KNIFE. THEY WERE NOT
5 SHRIVELED, THEY DIDN'T APPEAR DRY AT ALL, AND SO I, IN MY
6 MIND, FELT THAT IT WAS -- THEY WERE FRESH AND THEY WERE
7 CUT.

8 Q WHERE WERE THEY IN RELATION TO THE SHOE
9 PRINTS AND THE SHRUBBERY THAT YOU'VE EARLIER DESCRIBED
10 TOWARD THE NORTHERN PART OF THE CRIME SCENE?

11 A THEY WERE DIRECTLY ADJACENT TO THOSE.
12 THEY WERE JUST OFF THE DRIVEWAY. AS I RECALL, THEY WERE
13 OFF THE DRIVEWAY INTO THE DIRT AREA, BUT JUST RIGHT THERE
14 (INDICATING), VERY CLOSE, AS I RECALL.

15 Q YOU WERE LOOKING AT PEOPLE'S 53 WHEN YOU
16 SAID "JUST RIGHT THERE." IS THERE SOMETHING ON PEOPLE'S
17 53 THAT IS CONSISTENT IN POSITION WITH WHERE YOU SAW
18 THOSE ORANGE PEELS?

19 A YES. AGAIN, NOT TO SCALE, BUT THERE IS A
20 DRAWING THAT IS ORANGE AND SAYS ORANGE PEEL WITH AN ARROW
21 POINTED TO IT ON THE LEFT CENTER AREA OF THE DRAWING.

22 Q WHERE MY POINTER IS HERE (INDICATING)?

23 A YES.

24 MR. JACKSON: YOUR HONOR, FOR THE RECORD, I'VE
25 INDICATED WITH THE TIP OF MY POINTER THE ONLY ORANGE
26 CIRCLE ON THE DIAGRAM OF PEOPLE'S 53.

27 THE COURT: YES.

28 Q BY MR. JACKSON: MS. DEVINE, THERE APPEAR

1 TO BE SEVERAL PHOTOGRAPHS ADJACENT TO THE DIAGRAM OF THE
2 SHOE PRINT AND THE ORANGE PEELS ON PEOPLE'S 53.

3 COULD YOU DESCRIBE WHAT YOU'RE LOOKING AT
4 IN THOSE PHOTOGRAPHS.

5 A WELL, AS DIFFICULT AS IT IS TO SEE, THOSE
6 ARE PHOTOGRAPHS THAT I HAD TAKEN BY OUR PHOTOGRAPHY
7 EXPERTS OF THOSE SHOE PRINTS THAT I HAVE IDENTIFIED. AT
8 THE TIME THIS WAS THE ONLY WAY WE COULD PHYSICALLY
9 DOCUMENT SUCH PRINTS.

10 AS YOU CAN SEE -- IF I CAN STAND AND
11 POINT.

12 MR. JACKSON: WITH THE COURT'S PERMISSION?

13 THE COURT: YES.

14 THE WITNESS: IT'S VERY LIGHT, BUT THIS NUMBER
15 HERE THAT BEGINS WITH AN "H" IS WHAT WE CALL A LABORATORY
16 RECEIPT NUMBER (INDICATING). SO IT'S WHAT WE USE TO
17 TRACK AN ITEM OF EVIDENCE.

18 AND THEN IT SAYS E.M.K.1 WHICH IS MY
19 INITIALS ON THE FIRST ITEM AND THEN THE DATE 3-16-88. WE
20 USE AN "L" SHAPE SCALE WHICH HELPS US WITH THE DEPICTION
21 BOTH IN 90 DEGREES FOR MEASUREMENT PURPOSES AND TO BE
22 ABLE TO BLOW THE PICTURE UP TO SCALE IF THEY HAVE SHOES
23 TO MATCH THEM TO. AND THOSE WERE DONE WITH ALL EIGHT OF
24 THE PHOTOGRAPHS -- I MEAN, WITH THE SHOE PRINTS AS PER
25 OUR PROTOCOL AT THE TIME.

26 Q BY MR. JACKSON: AS YOU INDICATED,
27 MS. DEVINE, THOSE PHOTOGRAPHS ARE SOMEWHAT DIFFICULT --
28 IN SOME OF THOSE IT'S CERTAINLY DIFFICULT TO MAKE OUT THE

1 SHOE PRINT; CORRECT?

2 A YES.

3 Q IS IT SAFE TO SAY IT WAS EASIER FOR YOU TO
4 SEE THE SHOE PRINTS IN PERSON THAN IS DEPICTED IN THESE
5 PHOTOGRAPHS OR REPRESENTATIONS OR REPRODUCTIONS, I SHOULD
6 SAY?

7 A YES. BECAUSE I WAS ABLE TO KNEEL DOWN AND
8 USE MY FLASHLIGHT AND LOOK AT THEM. THEY WERE DIFFICULT
9 TO SEE BUT CERTAINLY EASIER ON THE DAY.

10 Q DID YOU NOTE ANY OTHER SHOE PRINTS AT OR
11 AROUND THE LOCATION?

12 A YES, I DID.

13 Q DESCRIBE WHERE.

14 A THE -- IF I CAN REFER TO --

15 Q YOU CAN USE THE POINTER.

16 A MAY I USE A DIFFERENT DRAWING? THIS ONE
17 DOESN'T HELP ME.

18 Q HOW ABOUT PEOPLE'S 47.

19 A OKAY. ACCORDING TO MY NOTES, I FOUND TWO
20 OTHER SHOE PRINTS. ONE IS -- AND I'M POINTING TO A
21 PICTURE THAT HAS THE LINCOLN CONTINENTAL IN FRONT OF IT,
22 BUT THERE IS A LITTLE ALCOVE HERE (INDICATING), THAT IN
23 MY NOTES SAYS THAT'S BEHIND A DOOR OF WHICH HAD THE
24 ELEVATOR MOTOR, THERE WAS A PRINT JUST OUTSIDE ON THE
25 OTHER SIDE OF THIS (INDICATING).

26 I ALSO NOTED A PRINT THAT WAS IN THE -- IT
27 LOOKS LIKE IT WAS IN THE DIRT ACCORDING TO MY NOTES ON
28 THE OTHER SIDE OF THIS ALCOVE HERE (INDICATING). SO TWO

1 HERE THAT APPEAR TO BE CONSISTENT (INDICATING) .

2 MR. JACKSON: LET THE RECORD REFLECT THAT WHEN
3 THE WITNESS WAS GIVING THE PRECEDING INFORMATION, SHE WAS
4 POINTING TO A LABEL THAT IS LABELED THOMPSON HOUSE, 53
5 WOODLYN LANE, IT'S GOT A VERY OBVIOUS PHOTOGRAPH OF A TAN
6 LINCOLN CONTINENTAL. THAT'S PEOPLE'S 47.

7 THE COURT: YES.

8 Q BY MR. JACKSON: I'M GOING TO DROP THIS
9 BACK DOWN, MS. DEVINE, LITERALLY DROP IT BACK DOWN WITH
10 YOUR PERMISSION AND ASK YOU TO TAKE A LOOK AT PEOPLE'S 53
11 ONCE AGAIN AND ASK YOU IF THAT ALCOVE -- AGAIN, NOTING
12 THAT THIS IS NOT TO SCALE -- MIGHT BE SOMEPLACE BEHIND
13 THE TAN CAR THAT'S DEPICTED IN THE CENTER OF THAT DIAGRAM
14 (INDICATING) ?

15 A YES. ON THIS DIAGRAM IT WOULD BE
16 CONSISTENT WITH THE PASSENGER REAR SIDE OF THE CAR.

17 MR. JACKSON: YOUR HONOR, WHEN SHE MENTIONED "THE
18 CAR," SHE'S --

19 Q I'VE GOT MY FINGER ON SOMETHING, DOES THAT
20 APPEAR TO BE WHAT'S --

21 A OF THE LINCOLN. THAT LOOKS LIKE A CAR.

22 MR. JACKSON: YOUR HONOR, I'VE POINTED ON
23 PEOPLE'S 53 TO WHAT APPEARS TO BE AT A BIRD'S EYE VIEW OF
24 A TAN CAR OR DIAGRAM OF A TAN CAR.

25 THE COURT: YES.

26 Q BY MR. JACKSON: DID YOU SEEK TO
27 DETERMINE, DURING THE COURSE OF INVESTIGATING THIS CRIME
28 SCENE, WHETHER OR NOT ANY OF THE SHOE PRINTS WERE

1 CONSISTENT WITH ONE ANOTHER OR CONSISTENT WITH OTHER SHOE
2 PRINTS ON THE CRIME SCENE?

3 A YES.

4 Q DESCRIBE -- THAT'S KIND OF A BAD QUESTION.
5 MAYBE YOU CAN EXPLAIN WHAT I'M GETTING AT.

6 A WELL, NOT BEING A SHOE PRINT EXPERT, MY
7 JOB IS TO DO ROUGH DOCUMENTATION AND IT'S REALLY PATTERN
8 RECOGNITION. SO WHAT I'M LOOKING AT ARE, DO THESE SHOE
9 PRINTS APPEAR TO BE FROM THE SAME SHOE? NOT IN EXCLUSION
10 OF ALL OTHER SHOES, BUT IN THE LIMITS OF MY CRIME SCENE,
11 ARE THESE SHOES SIMILAR OR ARE THEY DIFFERENT?

12 THESE SHOES ONE THROUGH EIGHT APPEARED
13 SIMILAR. THE TWO SHOE PRINTS NEAR THE LINCOLN
14 CONTINENTAL ON THE SIDE OF THE HOUSE WERE NOT THE SAME
15 SHOES. THEY WERE -- ACCORDING TO MY NOTES, A DOTTED
16 PATTERN THAT COVERED THE CONSISTENCY OF THE ENTIRE SOLE
17 OF THE SHOE WHICH WAS DRAMATICALLY DIFFERENT TO THE POINT
18 WHERE YOU COULD DEFINITELY SAY THEY WERE NOT FROM THE
19 SAME SHOES AS THE ONES ON THE DRIVEWAY.

20 Q AM I CORRECT IN ASSUMING FROM YOUR
21 PREVIOUS EXPLANATION THAT YOU INDICATED THAT THE SHOE
22 PRINTS MARKED E.M.K. 1 THROUGH 8 WERE ALL CONSISTENT IN
23 PATTERN?

24 A ACCORDING TO MY NOTES, YES.

25 Q AND THE TWO SHOE PRINTS THAT YOU INDICATED
26 WERE AT OR AROUND THE LINCOLN CONTINENTAL WERE
27 INCONSISTENT WITH THESE SHOE PRINTS ONE THROUGH EIGHT;
28 CORRECT?

1 A CORRECT.

2 Q ONE LAST QUESTION. THIS IS KIND OF A
3 DORKY WAY TO DO THIS.

4 BUT THESE SHOE PRINTS THAT APPEAR ON
5 PEOPLE'S 53, ARE THESE MEANT TO BE CONSISTENT IN PATTERN
6 IN WHAT YOU SAW OR ARE THEY JUST GENERIC SHOE PRINTS PUT
7 ON THERE TO SHOW LOCATION?

8 A OH, THE DEPICTION ON THE SKETCH?

9 Q CORRECT.

10 A THEY DON'T LOOK ANYTHING LIKE THE
11 DEPICTIONS IN THE SKETCH. THOSE ARE JUST A SCHEMATIC.

12 Q ALL RIGHT. THANK YOU.

13 MR. JACKSON: YOUR HONOR, THAT'S ALL I HAVE.
14 THANK YOU.

15 THE COURT: MS. SARIS?

16 MS. SARIS: THANK YOU.

17 YOUR HONOR, WE HAVE A SMALLER ONE OF 54.
18 THE PEOPLE HAVE SAID IT WAS ALL RIGHT TO MARK THIS 54A.

19 MR. JACKSON: THAT'S FINE WITH US.

20 MS. SARIS: IT'S THE SAME.

21 (PEOPLE'S EXHIBIT NO. 54A WAS MARKED FOR
22 IDENTIFICATION.)

23

24

25 CROSS-EXAMINATION

26 BY MR. SARIS:

27 Q GOOD AFTERNOON, MS. DEVINE.

28 A GOOD AFTERNOON.

1 Q DOES WHAT IS UP AHEAD ON THE OVERHEAD
2 APPEAR TO BE THE SAME AS THE DIAGRAM THAT'S IN THE CORNER
3 OF 54?

4 A WELL, IT'S SIMILAR. IT'S NOT THE SAME.

5 Q I'M SPEAKING OF THE ONE DOWN HERE ON THE
6 GROUND (INDICATING).

7 A OH, I'M SORRY. YES, THAT IS. I'M SORRY.

8 Q THAT'S OKAY.

9 DID YOU HELP IN THE PREPARATION OF ANY OF
10 THESE DIAGRAMS?

11 A NO.

12 Q WHEN WAS THE LAST TIME THAT YOU WERE AT
13 53 WOODLYN LANE?

14 A LAST NIGHT.

15 Q LAST NIGHT?

16 A YES.

17 Q AND PRIOR TO THAT?

18 A MARCH 16TH, 1988.

19 Q AND WITH WHOM DID YOU GO LAST NIGHT?

20 A DETECTIVE MARK LILLIENFELD AND SEVERAL
21 OTHER GENTLEMAN, AND MR. ALAN JACKSON AND MR. PAT DIXON.

22 Q AND PRIOR TO LAST NIGHT, SINCE MARCH 16 OF
23 1988, YOU'VE NEVER BEEN THERE WITH ANY LAW ENFORCEMENT
24 OFFICERS?

25 A NO.

26 Q YOU WERE ASKED THE QUESTION WHAT QUALIFIED
27 YOU TO WORK ON THAT TELEVISION SHOW.

28 LET ME ASK YOU: WHAT QUALIFIES YOU --

1 QUALIFIED YOU TO BE A CRIMINALIST WITH THE LOS ANGELES
2 SHERIFF'S DEPARTMENT AT THE TIME?

3 A AS I SAID BEFORE, I HAD A BACHELOR'S OF
4 SCIENCE DEGREE IN BIOLOGY WITH A FOCUS IN PHYSIOLOGY. I
5 HAVE A MASTER'S DEGREE IN CRIMINALISTICS FROM CAL STATE
6 L.A. I DID A THREE-YEAR INTERNSHIP WITH THE CORONER'S
7 OFFICE THAT DEALT WITH TOOL MARKS AND BONE AND TISSUE. I
8 DID A MASTER'S THESIS ON THAT AND WORKED FOR THE
9 SHERIFF'S DEPARTMENT COMMENCING NOVEMBER 1985 AND HAD
10 GONE THROUGH MY TRAINING AND WAS DEEMED SUFFICIENT
11 THROUGH UNKNOWNNS AND MOCK CRIME SCENES TO DO CRIME SCENE
12 INVESTIGATION FOR THE SHERIFF'S DEPARTMENT.

13 Q AND DID YOU ALSO GET ON-THE-JOB TRAINING
14 IN THE SHERIFF'S DEPARTMENT?

15 A ABSOLUTELY.

16 Q SO IT WAS NOT -- THERE WASN'T ANY SPECIAL
17 TRAINING YOU GOT TO BE A TELEVISION COORDINATOR, THAT
18 WAS --

19 A NO.

20 Q -- TRAINING YOU TOOK FROM THE SHERIFFS
21 THERE?

22 A CORRECT.

23 Q DID YOU SCORE THE HIGHEST ON SOME TEST OR
24 WHAT WAS IT THAT GOT YOU TO BE THE ONE CALLED ON YOUR
25 FRIDAY OFF, OR WAS THAT JUST SORT OF RANDOM?

26 A I HAD DONE SOME WORK ON FEATURE FILMS JUST
27 VERY SPORADICALLY AND THEY ASKED ME TO WORK. AND I DID A
28 LOT OF TRAINING FOR HOMICIDE DETECTIVES FOR BOTH

1 LOS ANGELES SHERIFFS AND L.A.P.D. AND THROUGHOUT THE
2 STATE, AND ACTUALLY THROUGHOUT THE COUNTRY, SO MY NAME
3 WOULD COME UP FROM TIME TO TIME AND I TOOK ADVANTAGE OF
4 THAT. I WAS -- I NEEDED THE MONEY.

5 Q WHAT YOU'RE DOING NOW PAYS A LITTLE BETTER
6 THAN THE SHERIFFS?

7 A YES, MA'AM.

8 Q ARE THERE ANY OPENINGS?

9 THE NAME OF THE PHOTOGRAPHER, GEORGE, DO
10 YOU REMEMBER HIS LAST NAME?

11 A HIS NAME IS IT RON GEORGE. GEORGE IS HIS
12 LAST NAME.

13 Q I'M SORRY. THANK YOU.

14 DO YOU KNOW WHETHER YOU WERE THE ONLY
15 CRIMINALIST ON THE SCENE THAT DAY?

16 A YES, I WAS.

17 Q AND DID YOU NOTE -- THESE SHOE PRINTS THAT
18 YOU'VE DESCRIBED FOR US, YOU NOTED THOSE IN SOME REPORT?

19 A YES.

20 Q DID YOU ALSO DRAW SORT OF A FREEHAND
21 SKETCH OF THE CRIME SCENE THAT MORNING?

22 A YES.

23 MR. SARIS: AND, YOUR HONOR, I HAVE A VERY ROUGH
24 DRAWING I WOULD LIKE TO MARK DEFENSE NEXT IN ORDER.

25 THE COURT: FF.

26 MS. SARIS: "F" LIKE FRANK?

27 THE COURT: YES.

28 MS. SARIS: I'M PUTTING THAT IN THE BOTTOM

1 RIGHT-HAND CORNER.

2 (DEFENDANT'S EXHIBIT NO. FF WAS MARKED FOR
3 IDENTIFICATION.)

4 Q BY MS. SARIS: DO YOU RECOGNIZE WHAT I'VE
5 PUT ON THE OVERHEAD?

6 A YES.

7 Q AND I'M GOING TO TAKE A POINTER AND POINT
8 TO THE LOCATION THAT HAS A RECTANGLE SHAPED FIGURE IN THE
9 RIGHT OF THAT DIAGRAM.

10 WHAT IS THAT?

11 A THAT'S THE TOYOTA VAN.

12 Q AND THEN TO THE LEFT OF THAT ACROSS THERE
13 AT THAT DIAGRAM (INDICATING), ARE THOSE THE SHOE PRINTS
14 THAT YOU'VE DESCRIBED?

15 A YES.

16 Q TO THE EXTENT THAT THEY HAVE ANY
17 DIRECTIONALITY, IS THAT INTENTIONAL?

18 A THERE ARE ARROWS -- IT'S VERY DIFFICULT TO
19 SEE, BUT THERE ARE ARROWS INSIDE THE ACTUAL PRINT THAT
20 DENOTE THE DIRECTIONALITY.

21 Q OKAY. SO IF YOU'VE DRAWN SOMETHING IN THE
22 SHAPE OF A SHOE PRINT AND WITHIN THAT THERE'S AN ARROW?

23 A CORRECT.

24 Q AND IT'S YOUR RECOLLECTION NOW, AND YOUR
25 NOTES BEAR, THAT THESE WERE HEADING DOWN THE DRIVEWAY?

26 A YES.

27 Q AND THEY -- WHILE IT'S NOT TO SCALE, WOULD
28 YOU HAVE MADE AN EFFORT TO SHOW THAT THEY WERE DIRECTLY

1 ACROSS FROM THE VAN?

2 A I ATTEMPTED TO MAKE THINGS AS ACCURATE AS
3 POSSIBLE.

4 Q SO THIS IS NOT NECESSARILY SOMETHING YOU
5 MEASURED, BUT YOU WOULD EYEBALL AND SAY THAT THEY WERE ON
6 THE SAME PARALLEL PLAIN AS TO THAT VAN; IS THAT FAIR?

7 A NO. I DID MY MEASUREMENTS FROM THE GATE
8 AND THE DRIVEWAY LINE, BUT THE TOYOTA ITSELF IS FREEHAND,
9 SO I DON'T KNOW WHAT THOSE TWO RELATIONSHIPS ARE.

10 Q SO ARE THESE -- THIS SKETCH THAT YOU'VE
11 MADE, IS THERE SOME MEASUREMENT THAT WENT INTO THIS
12 SKETCH?

13 A NO. I MEAN, WE MEASURE THE ACTUAL
14 EVIDENCE, BUT THE GRAPHIC ARTS UNIT WAS THERE DOING A
15 FOR-SCALE REPRESENTATION OF THE SKETCH. AND AS WAS
16 PROTOCOL AT THE TIME, SO THERE WOULD BE NO CONFUSION, THE
17 OTHER UNITS THAT WERE THERE MADE ROUGH SKETCHES. ONCE
18 GRAPHIC ARTS DID THEIR FOR-SCALE BEAUTIFUL SKETCHES, THEN
19 WE WOULD TAKE OUR MEASUREMENTS AND ADD OUR EVIDENCE TO
20 THAT.

21 SO ALTHOUGH THIS IS INCREDIBLY ROUGH, IT
22 WAS THE PROTOCOL AT THE TIME TO GET ONE MASTER DIAGRAM
23 THAT HAD EVERYTHING CORRECTLY LABELED. SO THIS WAS
24 REALLY JUST A ROUGH WHERE I COULD KIND OF SEE WHERE MY
25 STUFF WAS. I DID MEASUREMENTS IN MY NOTES, BUT THE
26 DETAILED SKETCH WAS BEING DONE BY THE EXPERTS THAT WERE
27 THERE FROM GRAPHIC ARTS.

28 Q OKAY. SO WHERE IS THAT SKETCH NOW?

1 A I -- APPARENTLY IT WAS NEVER MADE.

2 Q BUT THESE PRINTS THAT YOU NOTED YOU WOULD
3 HAVE DESIGNATED WITH A MARKER OF -- THAT HAD YOUR
4 INITIALS AND A NUMBER ON IT, YES?

5 A YES. I DID DO THAT, YES.

6 MS. SARIS: AND, YOUR HONOR, I HAVE A BLOW UP OF
7 WHAT APPEARS TO BE A PHOTOGRAPH WITH A LABEL E.M.K.9. I
8 WOULD LIKE TO MARK THAT NEXT IN ORDER.

9 THE COURT: GG.

10 MS. SARIS: G.

11 (DEFENDANT'S EXHIBIT NO. GG WAS MARKED FOR
12 IDENTIFICATION.)

13 Q BY MS. SARIS: DO YOU RECOGNIZE WHAT HAS
14 BEEN PUT ON THE OVERHEAD AS DEFENSE GG?

15 A YES. IT APPEARS TO BE A SHOE PRINT.

16 Q DOES THAT REPRESENT THE TYPE OF LABEL THAT
17 YOU WOULD USED, E.M.K.9?

18 A YES.

19 Q AND JUST FOR CLARIFICATION, THAT SEEMS TO
20 SAY 3-15-88.

21 THIS ALL HAPPENED ON 3-16?

22 A YES.

23 Q AND DO YOU RECALL MAKING A MARK NUMBER 9
24 THAT WOULD HAVE DESIGNATED A SHOE PRINT?

25 A I DON'T UNDERSTAND.

26 Q WAS EVIDENCE ITEM NUMBER 9 TO YOUR
27 RECOLLECTION A SHOE PRINT?

28 A YES.

1 Q AND IS THAT DEPICTING THAT DOTTED PATTERN
2 THAT YOU SPOKE OF?

3 A ACCORDING TO -- I MEAN, THAT SEEMS
4 CONSISTENT WITH WHAT I WROTE. I DON'T HAVE ANY
5 RECOLLECTION INDEPENDENTLY OF THAT.

6 Q BUT DO YOU HAVE A RECOLLECTION THERE WERE
7 TWO DISTINCT SETS?

8 A YES.

9 Q AND YOU HAD INDICATED THAT ONE OF THE --
10 MS. SARIS: YOUR HONOR, I HAVE A PHOTOGRAPH OF
11 THE THOMPSON RESIDENCE LOOKING IN A NORTHERLY DIRECTION.
12 I WOULD LIKE TO HAVE IT MARKED NEXT IN ORDER.

13 THE COURT: HH.

14 (DEFENDANT'S EXHIBIT NO. HH WAS MARKED FOR
15 IDENTIFICATION.)

16 Q BY MS. SARIS: DO YOU RECOGNIZE THAT
17 PHOTOGRAPH AS BEING THE THOMPSON HOUSE?

18 A IT APPEARS TO BE, YES.

19 Q AND WHEN YOU WERE DESCRIBING AN ALCOVE
20 AREA, IS THAT -- IS MY POINTER ON THAT, THAT WOULD BE
21 BEHIND THE LINCOLN CONTINENTAL IN THE PHOTOGRAPH
22 (INDICATING)?

23 A I BELIEVE SO, YES.

24 Q AND THERE IS, IN FACT, A DOOR IN THAT
25 ALCOVE AREA?

26 A YES.

27 Q BUT IT DOES NOT LEAD INTO THE GARAGE, DOES
28 IT?

1 A I HAVE SINCE LEARNED IT DOES NOT.
2 ACCORDING TO MY NOTES, IT JUST STAYS IT WAS A CLOSET THAT
3 CONTAINED THE ELEVATOR MOTOR.

4 Q DID YOU GO THERE LAST NIGHT AND LOOK?

5 A YEAH. BUT I'M TESTIFYING TO WHAT I KNEW
6 AT THE TIME.

7 Q RIGHT. SO I'M JUST ASKING IF YOU KNOW NOW
8 WHETHER IT LEADS TO THE GARAGE?

9 A IT DOES NOT LEAD TO THE GARAGE.

10 Q DOES THE LINCOLN BLOCK -- THAT MORNING --
11 JUST TO BE CLEAR, DID THE LINCOLN BLOCK THE GARAGE IN ANY
12 WAY OR DOES THAT APPEAR TO BE WHERE THE LINCOLN WAS?

13 A THAT APPEARS TO BE WHERE THE LINCOLN WAS.

14 MS. SARIS: AND I HAVE ANOTHER PHOTOGRAPH LOOKING
15 AT THE LINCOLN HEAD ON, YOUR HONOR, WITH A BLOW UP OF THE
16 ALCOVE, IF I CAN MARK THAT NEXT IN ORDER, PLEASE.

17 THE COURT: DOUBLE I.

18 (DEFENDANT'S EXHIBIT NO. II WAS MARKED FOR
19 IDENTIFICATION.)

20 Q BY MS. SARIS: JUST TO GIVE US ANOTHER
21 VIEW OF THAT, DOES THAT APPEAR TO BE THE LINCOLN THAT
22 WE'RE SPEAKING OF?

23 AND IF I MAY APPROACH, I CAN SHOW YOU THE
24 LICENSE PLATE NUMBER IF THAT WILL HELP.

25 A THAT APPEARS TO HAVE BEEN THE LINCOLN.

26 Q AND THERE SEEMS TO BE A CEMENT BAG IN THE
27 BOTTOM PORTION OF THE DIAGRAM, OR SOME SORT OF A BAG.

28 A YES.

1 Q AND THERE SEEMS TO BE WHITE TAPE. WOULD
2 THAT BE SOMETHING THAT YOU WOULD HAVE LAID DOWN IF YOU
3 HAD SEEN A PRINT THERE?

4 A THAT LOOKS LIKE A CARD, A NOTE CARD.

5 Q AND IS THAT SIMILAR TO THE NOTE CARD THAT
6 WE SAW IN GG WHERE YOU JUST WRITE YOUR INITIALS AND A
7 NUMBER?

8 A IT APPEARS TO LOOK SIMILAR, YES.

9 Q AND IS THAT CARD IN A POSITION IN
10 DEFENSE II IN A POSITION NEAR THE ALCOVE THAT WE'RE
11 SPEAKING OF?

12 A IT APPEARS TO BE, YES.

13 Q GETTING BACK TO DEFENSE FF, THE ROUGH
14 SKETCH THAT YOU MADE, THERE APPEARS TO BE A BODY IN THIS
15 SKETCH AND IT SAYS MICKEY THOMPSON AND IT HAS A "V."

16 WAS THAT SUPPOSED TO BE DEPICTING THE
17 GENERAL AREA OF MICKEY THOMPSON?

18 A YES.

19 Q AND WHAT IS THAT AROUND, SORT OF TO THE
20 RIGHT ON THIS DIAGRAM, IT LOOKS LIKE A LONG SORT OF SNAKE
21 LIKE OBJECT ON THE DIAGRAM, WHAT IS THAT SUPPOSED TO
22 DEPICT?

23 A THAT DEPICTS A BLOOD STAIN.

24 Q AND BETWEEN THE LINCOLN AND THE EDGE THAT
25 IS DRAWN HERE (INDICATING), DO YOU KNOW WHAT THAT EDGE
26 REPRESENTS? IS THAT A WALKWAY BEHIND THE GARAGE?

27 A I THINK SO.

28 Q BETWEEN THAT AND THE WALKWAY, WAS THERE

1 ANY BLOOD THAT YOU NOTED?

2 A NOT THAT I NOTED, NO.

3 Q AND HAD YOU NOTED IT, WOULD YOU HAVE PUT
4 IT IN SOME DIAGRAM, IF NOT THIS ONE?

5 A I WOULD THINK SO, YES.

6 Q YOU SAID THERE WAS SOME MEDIA OR PRESS
7 THERE?

8 A YES.

9 MS. SARIS: I HAVE ANOTHER PHOTOGRAPH, YOUR
10 HONOR, OF TWO INDIVIDUALS LOOKING AT A SHEETED BODY. J?

11 THE COURT: YES, JJ.

12 MS. SARIS: JJ.

13 (DEFENDANT'S EXHIBIT NO. JJ WAS MARKED FOR
14 IDENTIFICATION.)

15 Q BY MS. SARIS: I'M GOING TO ASK YOU IF YOU
16 RECOGNIZE THAT PHOTOGRAPH?

17 A YES.

18 Q IS THAT YOU? I DON'T KNOW, DO YOU KNOW?

19 A NO.

20 Q THAT'S NOT YOU?

21 A NO.

22 Q AND DOES THAT PHOTOGRAPH APPEAR TO BE
23 TAKEN THE MORNING OF THIS CRIME?

24 A SOMETIME DURING THERE, YES.

25 Q AND WE CAN TELL THAT BECAUSE THE BODY'S
26 STILL IN THE PICTURE?

27 A YES.

28 Q DO YOU SEE THE POOLS OF BLOOD EMANATING

1 FROM AT THAT BODY IN THIS PHOTOGRAPH?

2 A YES.

3 Q AND THE INDIVIDUALS SEEM TO BE STANDING
4 BETWEEN THE BODY AND THE HOUSE IN THIS PHOTOGRAPH?

5 A YES.

6 Q YOU SAID YOU ARRIVED AT THE SCENE AT
7 APPROXIMATELY BETWEEN 9:00 AND 9:30 IN THE MORNING; IS
8 THAT RIGHT?

9 A YES.

10 Q DO YOU KNOW INDEPENDENTLY OR FROM ANYTHING
11 THAT SERGEANT -- OR DETECTIVE OLBERHOLTZER TOLD YOU
12 APPROXIMATELY WHEN THE MURDER HAD OCCURRED?

13 A I'M SURE HE TOLD ME. I DON'T RECALL. I
14 KNOW IT WAS EARLY MORNING, ACCORDING TO WHAT HE TOLD ME.

15 Q SO DO YOU KNOW HOW MANY HOURS HAD GONE BY,
16 BY THE TIME YOU ARRIVED? AND IF THERE'S ANYTHING THAT
17 WOULD HELP REFRESH YOUR RECOLLECTION, I'M HAPPY TO --

18 A NO, I DON'T RECALL. I DID NOT NOTE WHAT
19 HE TOLD ME AT THE TIME AS FAR AS WHEN THE SHOOTING
20 OCCURRED.

21 Q HAVE YOU EVER MET A MAN BY THE NAME OF
22 MANNY MUNOZ?

23 A YES.

24 Q AND WAS THAT LAST NIGHT?

25 A NO. I'VE KNOWN MANNY SINCE GRADE SCHOOL.

26 Q AND DOES HE ALSO WORK AT THE SHERIFF'S
27 DEPARTMENT?

28 A YES, HE DOES.

1 Q HAVE YOU EVER HAD A CONVERSATION WITH HIM
2 IN AN OFFICIAL CAPACITY REGARDING THIS CASE?

3 A YES.

4 Q AND WHEN WAS THAT?

5 A TODAY.

6 Q AND THAT THE FIRST TIME?

7 A YES.

8 Q WHEN YOU ARRIVED AT THE CRIME SCENE, WERE
9 YOU ASKED TO COLLECT ANY ITEMS OF EVIDENCE?

10 A WELL, THAT WAS MY DUTY. SO IF I DEEMED
11 SOMETHING SUFFICIENT TO COLLECT, THEN WITH THE -- IN THE
12 AUSPICES OF MY JOB -- THAT WAS MY JOB.

13 Q AND WOULD YOU PHYSICALLY COLLECT IT OR
14 ORDER SOMEONE ELSE TO COLLECT IT? HOW DID THAT WORK?

15 A WELL, THERE WERE SEVERAL PEOPLE AT THE
16 SCENE WITH OTHER AREAS OF EXPERTISE. THERE WERE
17 DEPUTIES, BUT ONE OF THEM WAS A FIREARMS EXPERT. SO
18 BECAUSE A FIREARMS EXPERT WAS THERE, I WAS NOT GOING TO
19 BE RESPONSIBLE FOR THE CARTRIDGE CASINGS OR ANY OF THE
20 OTHER FIREARMS EVIDENCE THAT WAS THERE.

21 Q AND WHO WAS THAT?

22 A DWIGHT VAN HORN. DEPUTY DWIGHT VAN HORN.

23 THERE WAS ALSO PRINT AND PHOTO EXPERTS
24 THERE -- ALSO DEPUTIES. RON GEORGE BEING ONE, DEPUTY
25 LINDA ARTHUR BEING ANOTHER. SO I WOULD NOT BE DEEMED TO
26 TAKE PHOTOGRAPHS OR DO ANY PRINT WORK. THAT'S NOT MY
27 EXPERTISE. THAT'S THEIR EXPERTISE.

28 AND THEN THESE TWO INDIVIDUALS WERE

1 GRAPHIC ARTISTS. THEY WERE THE ONES DOING THE GRAPHIC
2 ARTS AND THE MEASUREMENTS, SO AS I EXPLAINED BEFORE, THEY
3 WERE DOING THE SKETCHES. SO IT WAS UP TO ME TO DETERMINE
4 WHAT OTHER ITEMS THERE NEEDED TO BE COLLECTED AND THEN I
5 WOULD TALK TO THE HOMICIDE DETECTIVE AND SEE WHAT HIS
6 THOUGHTS WERE ON THOSE ITEMS.

7 Q AND YOU ALSO CAUSED THE PHOTOGRAPHS TO BE
8 TAKEN WHEN YOU THOUGHT EVIDENCE WAS WORTH PRESERVING?

9 A YES.

10 Q IS THERE A PHOTOGRAPH OF THESE ORANGE
11 PEELS ANYWHERE, AS FAR AS YOU KNOW?

12 A NO, THERE IS NOT.

13 Q DID YOU ASK FOR ONE TO BE TAKEN AND WERE
14 DENIED, OR WAS IT JUST NEVER DONE?

15 A I BELIEVE I ASKED FOR A PHOTOGRAPH TO BE
16 TAKEN OF IT AND IT WASN'T DONE.

17 Q AND WHEN YOU SAY THAT THIS HAD BEEN CUT BY
18 A KNIFE, WAS THIS A CLOSE CALL, IT WAS PRETTY OBVIOUS
19 THAT IT WAS A KNIFE AND NOT FINGERS?

20 A ABSOLUTELY.

21 Q WHEN YOU SAY THEY WERE FRESH, COULD YOU
22 GIVE US A TIME PERIOD?

23 A NO.

24 Q DID YOU DO ANY EXPERIMENTS ON THE ORANGES
25 THAT WERE THERE, FOR INSTANCE, OPEN THEM UP AND SEE HOW
26 LONG BEFORE THEY SHRIVELED OR ANYTHING?

27 A NO.

28 Q DID YOU DO THAT SUBSEQUENT TO THAT DAY AT

1 ALL?

2 A NO.

3 Q CAN YOU GIVE US ANY IDEA IN TERMS OF
4 WITHIN A DAY, WITHIN 12 HOURS?

5 A NO.

6 Q DO YOU REMEMBER WHAT -- WELL, YOU DID SEE
7 A VAN THAT DAY?

8 A A VAN IN THE DRIVEWAY, YES.

9 Q YES. AND I THINK YOU NOTED THAT ON ONE OF
10 THE DIAGRAMS.

11 DID IT -- I WANT TO SAY 46 -- YES. JUST
12 SO WE'RE CLEAR ON THE SAME THING, 46D?

13 A YES.

14 Q AND IT APPEARS AS IF A WINDOW IS
15 SHATTERED.

16 IS THAT THE CONDITION THAT YOU REMEMBER IT
17 IN?

18 A YES.

19 Q DID YOU LOOK INSIDE THAT VAN?

20 A YES.

21 Q DID YOU SEE ANY U.S. CURRENCY MONEY IN
22 PLAIN VIEW LIKE ON A SEAT?

23 A YES.

24 Q YOU DID? IN PLAIN VIEW ON THE SEAT?

25 A YES.

26 Q WHAT DID YOU SEE?

27 A I SAW MONEY. I REMEMBER SEEING MONEY AND
28 I REMEMBER SEEING JEWELRY.

1 Q INSIDE THE VAN, NOT IN SOME -- LIKE A
2 PURSE OR CAMERA CASE, BUT ACTUALLY --

3 A OH. IT WAS SOME KIND OF CASE. I DON'T
4 RECALL WHAT.

5 Q WHEN YOU GOT THERE, WAS THE VAN RUNNING
6 STILL?

7 A I DON'T RECALL.

8 Q DID YOU DO ANY FORENSIC TESTING ON THE VAN
9 AT ALL?

10 A NO.

11 Q OF THE PEOPLE THAT WERE THERE THAT DAY --
12 WELL, LET ME ASK YOU THIS:

13 IN 1988, DID THEY HAVE LUMINAL?

14 A YES.

15 Q AND THAT'S L-U-M-I-N-O-L?

16 A YES.

17 Q AND CAN YOU TELL THE JURY WHAT THAT IS.

18 A LUMINAL IS A CHEMICAL WHICH WHEN IS USED
19 WITH A MIXTURE OF AN ALKALINE WILL CAUSE THE HEME, THE
20 IRON IN THE HEME GROUP OF BLOOD TO LUMINESCE IN COMPLETE
21 DARKNESS.

22 Q CAN I TRY AND SAY IT IN ENGLISH?

23 WHEN YOU SPRAY IT ON SOMETHING IT GLOWS?

24 A IN COMPLETE DARKNESS.

25 Q WAS ANY OF THAT TESTING DONE ON THE VAN AT
26 THE TIME THAT YOU'RE AWARE?

27 A NO.

28 Q WHAT ABOUT -- THERE'S SOME TEST THAT I

1 BELIEVE THAT YOU CAN RUB A SWAB ON SOME MATERIAL AND PUT
2 IT IN A SUBSTANCE AND THAT SUBSTANCE WILL TURN PINK, OR
3 WILL TURN A DIFFERENT COLOR.

4 A IT'S CALLED PHENOLPHTHALEIN.

5 Q CAN YOU SPELL THAT.

6 A P-H-E-N-O-L-P-H-T-H-A-L-E-I-N.

7 Q AND WAS THAT DONE ON THIS VAN?

8 A IT WAS NOT DONE ON THE VAN, NO.

9 Q WAS THAT TEST AVAILABLE IN 1988?

10 A YES, IT WAS.

11 Q AND THAT JUST INVOLVED SWABBING A SURFACE
12 LIKE THE SEAT OF A VAN WITH A Q-TIP AND PUTTING IT IN A
13 SOLUTION?

14 A NO. WE ACTUALLY -- YOU SWAB THE LOCATION
15 YOU THINK THAT MAY HAVE BLOOD ON IT AND THEN YOU ADD A
16 SERIES OF CHEMICALS TO THE SWAB AND THE SWAB WILL TURN
17 PINK. THAT'S HOW WE DO IT -- OR DID IT.

18 Q AND THAT WAS NOT DONE ON THE VAN, AS FAR
19 AS YOU KNOW?

20 A IT WAS NOT DONE ON THE VAN, NO.

21 Q DID YOU GET INTO THE GARAGE ITSELF?

22 A YES.

23 Q DID YOU NOTICE A SAFE ON THE WALL IN THE
24 OFFICE OF THE GARAGE?

25 A I DON'T RECALL IF I NOTED THAT AT THE
26 TIME.

27 Q DID YOU NOTICE ANY SAFES IN THE GARAGE?

28 A I DON'T RECALL.

1 Q SO IT'S FAIR TO SAY THAT YOU DID NOT DO
2 ANY FORENSIC TESTING ON ANY OF THE SAFES IN THE GARAGE
3 THAT DAY?

4 A CORRECT.

5 Q DO YOU REMEMBER A LATEX GLOVE BEING FOUND
6 AT THE SCENE?

7 A YES.

8 Q DO YOU REMEMBER WHETHER OR NOT THAT WAS
9 EVER TESTED FOR PRINTS?

10 A I DO REMEMBER, BUT THAT WASN'T MY AREA OF
11 EXPERTISE.

12 Q AND DID THOSE PRINTS EVENTUALLY COME BACK
13 TO A FIREFIGHTER?

14 A YES.

15 Q AND THAT WAS AN ITEM THAT ORIGINALLY WAS
16 MISTAKEN FOR EVIDENCE AT THE SCENE; CORRECT?

17 A THERE WAS QUITE A BIT OF DEBATE AS TO
18 WHETHER IT WOULD BE EVIDENCE. IT WAS DOUBLE GLOVED, I
19 WAS IMMEDIATELY SUSPICIOUS OF IT AS BEING FROM SOMETHING
20 IN THE CRIME SCENE AS OPPOSED TO SOMEONE WITH RESCUE
21 EXPERIENCE BECAUSE CIVILIANS DON'T DOUBLE GLOVE, SO I WAS
22 VERY SUSPICIOUS OF IT AND WAS NOT SURPRISED AT ALL THAT
23 IT CAME BACK TO A PARAMEDIC.

24 Q BUT IT WAS PICKED UP JUST IN CASE IT WAS
25 EVIDENCE?

26 A ABSOLUTELY.

27 Q AND THERE HAD BEEN PARAMEDICS THERE PRIOR
28 TO YOUR ARRIVAL?

1 A MY UNDERSTANDING, YES.

2 Q AND THERE HAD BEEN SEVERAL OTHER DEPUTIES
3 YOU SAID PRIOR TO YOUR ARRIVAL?

4 A YES.

5 Q SO FROM YOUR PROSPECTIVE, WOULD IT BE FAIR
6 TO SAY THAT YOU CANNOT PERSONALLY DETERMINE WHETHER THOSE
7 ORANGE PEELS WERE LEFT AT THE SCENE?

8 A CORRECT.

9 Q DID YOU NOTE ANY HOLES IN THE GARAGE DOOR?

10 A I BELIEVE I SAW THE HOLES IN THE GARAGE
11 DOOR, BUT THOSE WERE BEING NOTED BY FIREARMS, AS I
12 UNDERSTOOD.

13 Q SO THAT WAS SOMEONE ELSE'S AREA BECAUSE
14 THEY WERE OBVIOUSLY BULLETS?

15 A YES, THEY WERE PRETTY OBVIOUSLY BULLET
16 HOLES.

17 Q DID YOU EVER SEE WHILE YOU WERE THERE
18 ANYONE PUTTING SOME PROBE IN THE DOOR TO SEE THE ANGLE OF
19 ENTRY?

20 A I DON'T RECALL SEEING ANYTHING LIKE THAT,
21 NO.

22 Q DID YOU NOTICE ANY GUNSHOTS IN THE VAN
23 ITSELF -- OR I SHOULD SAY ANY HOLE IN THE VAN THAT YOU
24 THOUGHT MIGHT BE GUNSHOTS?

25 A THAT, I DON'T RECALL.

26 Q AGAIN, THAT WOULD PROBABLY FALL UNDER
27 DWIGHT VAN HORN'S JURISDICTION?

28 A WELL, WHETHER I SAW IT OR WHETHER I -- I

1 MEAN, I NOTED THINGS THAT WERE IN MY PURVIEW, BUT I MAY
2 HAVE SEEN ALL THAT. I JUST DIDN'T MAKE NOTE OF IT.

3 Q BUT WERE THEY ACTUALLY GUNSHOTS THAT WOULD
4 HAVE BEEN SOMEONE ELSE'S RESPONSIBILITY?

5 A YES.

6 Q DO YOU RECALL SEEING ANY BROKEN
7 FINGERNAILS --

8 A YES.

9 Q -- THAT MORNING ON THE DRIVEWAY?

10 A YES.

11 Q AND DO YOU KNOW WHAT ACRYLIC NAILS ARE?

12 A YES, I DO.

13 Q AND WERE THEY ACRYLIC NAILS?

14 A YES, THEY WERE.

15 Q WAS THAT SOMETHING -- ANY OF THOSE THAT
16 YOU COLLECTED?

17 A I WAS TOLD NOT TO COLLECT THEM.

18 Q BY WHOM?

19 A DETECTIVE GRIGGS.

20 Q DO YOU KNOW, AS YOU SIT HERE, WHETHER OR
21 NOT THEY WERE EVENTUALLY COLLECTED?

22 A THEY WERE COLLECTED THAT DAY. HE DIDN'T
23 WANT ME TO COLLECT THEM. HE WANTED A SEPARATE PROCESS
24 DONE BEFORE I DID THAT.

25 Q WHEN YOU SAY "A SEPARATE PROCESS," DO YOU
26 MEAN TESTING OR SOMETHING ELSE?

27 A WELL, MY UNDERSTANDING AT THE TIME WAS HE
28 WAS GOING TO CHECK IT FOR OTHER PRINTS BECAUSE THE PRINT

1 PERSON COLLECTED THEM, SO I HAVE TO ASSUME HE WAS GOING
2 TO DO THAT.

3 Q AND DID YOU ACTUALLY -- DO YOU HAVE AN
4 ACTUAL MEMORY OF SEEING A BROKEN NAIL ON THE DRIVEWAY
5 ITSELF THAT DAY?

6 A YES.

7 Q COULD YOU TELL BY LOOKING AT A NAIL HOW IT
8 BROKE OFF?

9 A PROBABLY NOT.

10 Q LET ME TRY TO NARROW IT DOWN A LITTLE.

11 WOULD THAT BE A WAY OF TELLING BY LOOKING
12 WHETHER A NAIL BROKE OFF THROUGH CONTACT WITH THE GROUND
13 OR CONTACT THROUGH AN ASSAILANT? WOULD THERE BE ANYTHING
14 IN YOUR MIND THAT YOU WOULD NOTE IMMEDIATELY WOULD BE
15 DIFFERENT?

16 A I THINK THAT WOULD BE DIFFICULT TO KNOW.

17 Q DID YOU SEE ANY -- YOU SAID THAT YOU HAD
18 INTERNED AT THE CORONER'S DEPARTMENT?

19 A YES.

20 Q AND THAT WAS PRIOR TO WORKING WITH THE L.A.
21 SHERIFFS?

22 A YES.

23 Q DID YOU DO ANY EVIDENCE COLLECTION FOR
24 THEM?

25 A NO. I OBSERVED A LOT OF IT, BUT I NEVER
26 TOUCHED ANYTHING.

27 Q WHEN YOU WERE AN INTERN I'M ASKING.

28 A WELL, I SHOULDN'T SAY THAT. I NEVER

1 COLLECTED ANYTHING OFFICIALLY. I OBSERVED A LOT OF THE
2 COLLECTION AND I WORKED WITH MY MENTOR IN HIS SPECIFIC
3 PURVIEW OF TOOL MARKS SO THAT I DID HANDLE EVIDENCE, BUT
4 UNDER HIS JURISDICTION.

5 Q AND WHEN YOU WERE A SHERIFF IN 1988, DID
6 YOU RECOGNIZE ANYONE TO BE FROM THE CORONER'S DEPARTMENT
7 AT THE SCENE THAT MORNING?

8 A I'M SURE THERE WAS PEOPLE THERE. I DON'T
9 RECALL WHO ACTUALLY WAS ASSIGNED THE CASE.

10 Q FROM YOUR TRAINING AND EXPERIENCE, WOULD A
11 CORONER'S REPRESENTATIVE, SOME SORT OF EVIDENCE
12 COLLECTION INDIVIDUAL HAVE RESPONDED TO A SCENE LIKE
13 THAT?

14 A ABSOLUTELY.

15 Q WHAT WOULD BE THEIR RESPONSIBILITY
16 DIFFERENT FROM THE SHERIFFS AT THAT SCENE?

17 A THE CORONER'S OFFICE RESPONSIBILITY IS TO
18 DOCUMENT INJURY AT THE SCENE. THEY MAY DO LIVE
19 TEMPERATURE TO TRY TO NARROW DOWN THE TIME OF DEATH.
20 THEY MAKE NOTE OF THE FACIAL FEATURES, BECAUSE ONE OF
21 THEIR NATURE JOBS IS IDENTITY OF THE VICTIM. THEY WILL
22 GET THE WALLET AND IDENTIFY THE DRIVER'S LICENSE IF
23 THERE'S ANY KIND OF IDENTIFICATION ON THEM, THEN THEY
24 WILL TRANSPORT THE BODY.

25 THEN THEY ALSO DO SORT OF A VISUAL AS FAR
26 AS THE INDIVIDUAL INJURIES AND THEY WILL RELAY THAT
27 INFORMATION TO THE HOMICIDE DETECTIVE SO THEY KNOW
28 BASICALLY WHAT THEY'RE LOOKING AT, IF IT'S A GUNSHOT

1 INJURY, A STABBING INJURY, BLUNT FORCE TRAUMA, THAT SORT
2 OF THING. AND THEN THEY TRANSPORT THE BODY TO THE
3 CORONER'S OFFICE IN PREPARATION FOR A POSTMORTEM AUTOPSY.

4 Q AND ARE THEY RESPONSIBLE, THEN -- AT SOME
5 POINT AT THE CRIME SCENE, THE BODIES OF THE VICTIMS
6 BECOME THEIR RESPONSIBILITY?

7 A CORRECT.

8 Q IN THIS CASE ARE YOU AWARE OF WHETHER OR
9 NOT A CORONER'S INDIVIDUAL DID FINGERNAIL CUTTINGS OR
10 SCRAPINGS AT THE SCENE?

11 A I'M NOT AWARE.

12 Q YOU DON'T KNOW ONE WAY OR ANOTHER?

13 A I DO NOT.

14 Q DO YOU RECALL SEEING ONE OF THE THESE
15 BROKEN ACRYLIC NAILS THAT WE'VE DISCUSSED ACTUALLY ON
16 WOODLYN LANE AND NOT IN THE DRIVEWAY?

17 A YES. I THINK IT WAS IN THE GUTTER.

18 Q LET ME SEE IF I CAN -- I'M GOING TO PUT UP
19 PEOPLE'S 46. IT SEEMS TO BE A PHOTOGRAPH B THAT DEPICTS
20 THE BASE OF THE DRIVEWAY.

21 DO YOU SEE THAT?

22 A YES.

23 Q IS THERE ANYTHING ON THAT PICTURE THAT
24 MIGHT DEPICT WHERE YOU HAVE A MEMORY OF THAT ACRYLIC
25 NAIL? IT'S A VERY SMALL PHOTO, I KNOW.

26 A I REALLY CAN'T TELL YOU WHERE.

27 Q IS THERE A GUTTER RUNNING TO THE EAST OF
28 THAT PHOTOGRAPH FROM TRUDY THOMPSON?

1 A YES.

2 Q AND IS IT FAIR TO SAY THAT SHE WAS SORT OF
3 FOUND AT THE VERY MOUTH OF THAT DRIVEWAY?

4 A YES.

5 Q AND THAT'S WOODLYN LANE?

6 A YES.

7 Q SO SOMEONE ACTUALLY WOULD COME INTO THIS
8 SCENE AND WOULD TAKE MEASUREMENTS, SAY, OH, SOMETHING WAS
9 FOUND ON THE DRIVEWAY THIS MANY FEET SOUTH OF THE GARAGE,
10 THIS MANY FEET EAST OF THE WEST CURB?

11 A YES.

12 Q AND IS THAT DONE EVEN IF THERE MIGHT BE
13 EYE WITNESSES TO THE CRIME?

14 A ABSOLUTELY.

15 Q AND THE BALLISTIC INDIVIDUAL YOU SPOKE OF,
16 MR. VAN HORN, HE WOULDN'T SIMPLY GO AND SEE A CASING AND
17 PICK UP ONE AND PUT IT IN A BAG AND PICK UP ANOTHER, HE
18 WOULD NOTE THE LOCATION OF EACH CASING?

19 A I REALLY DON'T KNOW WHAT HIS PROTOCOL WAS
20 AT THE TIME, BUT I BELIEVE THAT IS THE PROTOCOL, YES.

21 Q SO IT WOULD BE IMPORTANT TO KNOW WHERE
22 EVIDENCE LANDED IN A CRIME SCENE?

23 A YES.

24 Q AND DID YOU SEE YELLOW TAPE AROUND THE
25 CRIME SCENE WHEN YOU ARRIVED?

26 A YES.

27 Q WHEN YOU WERE TALKING ABOUT THE PRINTS
28 THAT YOU'VE MENTIONED -- AND LET'S START WITH THE FIRST

1 GROUP OF EIGHT THAT APPEARED TO BE CONSISTENT THAT ARE
2 SHOWN IN THIS DIAGRAM, PEOPLE'S 53.

3 WAS THIS A SITUATION WHERE THERE WAS DUST
4 ON A SHOE THAT DEPOSITED A PRINT OR WAS IT A SITUATION
5 WHERE THERE WAS DUST ON THE GROUND AND A SHOE WOULD HAVE
6 DISLOCATED THAT DUST AND LEFT A PRINT?

7 A NO. THE DUST WAS FROM THE SHOE.

8 Q AND IS IT YOUR EXPERIENCE THAT AS A PERSON
9 WHO HAS STEPPED IN DUST WALKS, THE MORE THEY WALK, THE
10 FAINTER THE PATTERN THEY LEAVE WILL GET?

11 A YES.

12 Q WHAT IS YOUR RECOLLECTION OF WHERE THE
13 ORANGE PEELS WERE IN RELATION TO MICKEY THOMPSON'S BODY?

14 A THEY WERE SEVERAL FEET AWAY.

15 Q AND WERE THEY FARTHER DOWN THE BACK
16 DRIVEWAY?

17 A YES.

18 Q DID YOU PARTICIPATE IN THE MAKING OF ANY
19 SORT OF A CRIME SCENE VIDEO?

20 A I DIDN'T PARTICIPATE IN MAKING IT, NO.
21 I'M IN IT, BUT I WAS DOING MY JOB AND THEY WERE VIDEOING.

22 Q ARE YOU IN IT PURPOSEFULLY?

23 A NO. I DID TRY TO GET OUT OF THE WAY, BUT
24 THEY CAUGHT ME A COUPLE OF TIMES.

25 Q SO YOU WEREN'T THE ONE THAT WAS NARRATING
26 GO OR SHOWING THE CAMERAMAN WHERE THINGS WERE?

27 A NO.

28 Q WERE YOU RESPONSIBLE AT THAT TIME FOR

1 DOING ANY EXPERIMENTS IN THE LAB WITH THINGS THAT HAD
2 BEEN COLLECTED IN THE CRIME SCENE?

3 A YES.

4 Q AND WHAT TYPES OF THINGS WOULD THAT BE?

5 A I WAS RESPONSIBLE FOR TESTING THE ACRYLIC
6 NAILS FOR THE PRESENCE OF BLOOD OR OTHER TISSUE, AND I
7 DID DO THAT AT THE LABORATORY WITH THE PHENOLPHTHALEIN
8 THAT I DESCRIBED TO YOU BEFORE.

9 Q AND THAT WAS WHEN IN RELATION TO THE
10 CRIME, OR THE CRIME THAT MORNING?

11 A I'D HAVE TO REFER TO MY NOTES FOR THE
12 EXACT DATE. IT WAS A FEW DAYS LATER.

13 Q OKAY. WITHIN A WEEK?

14 A YES.

15 Q IN 1988 WAS D.N.A. TESTING PREVALENT?

16 A NO.

17 Q WHEN DID YOU LEAVE THE SHERIFF'S
18 DEPARTMENT?

19 A IN DECEMBER OF 2000.

20 Q SO AS A SHERIFF, WHEN DO YOU FIRST RECALL
21 D.N.A. TESTING BECOMING AVAILABLE TO YOU?

22 A I ACTUALLY HAD THE VERY FIRST CASE THAT
23 THE SHERIFF'S DEPARTMENT DID. IT WAS A -- I BELIEVE IT
24 WAS IN 1988 OR '89 AND THE BLOOD STAIN WAS APPROXIMATELY
25 TWO INCHES BY TWO INCHES.

26 Q SO BACK IN THE OLD DAYS, YOU HAD TO HAVE A
27 LARGE AMOUNT OF BLOOD THAT YOU COULD VISUALLY SEE?

28 A YES.

1 Q NOW YOU CAN ALMOST TEST MICROSCOPIC
2 AMOUNTS; CORRECT?

3 A ABSOLUTELY. YOU DON'T HAVE TO SEE
4 ANYTHING.

5 Q WHEN WOULD YOU SAY THAT THE ABILITY TO
6 TEST SMALLER AMOUNTS CAME INTO -- LET'S SAY -- I DON'T
7 WANT TO SAY EVERY DAY USE, BY MORE COMMON USE IN THE
8 SHERIFF'S DEPARTMENT?

9 A WELL, THE WHOLE D.N.A. ANALYSIS HAS TAKEN
10 ON -- AS THE TECHNOLOGY IS BECOMING MORE ADVANCED, IT'S
11 TAKEN ON DIFFERENT FORM. SO IT STARTED OUT WITH ONE KIND
12 THAT USES WHAT WE CALL R.F.L.P., USED A LOT OF BLOOD AND
13 WAS REALLY GOOD AT NARROWING IT DOWN. THEN WE HAD A NEW
14 TECHNIQUE THAT COULD USE SMALL AMOUNTS OF BLOOD AND IT
15 WAS LIKE A LITTLE XEROX MACHINE OF THE D.N.A., SO IT
16 WOULD TAKE A LITTLE BIT OF THE D.N.A. AND MAKE A BUNCH OF
17 COPIES BUT IT DIDN'T DISCRIMINATE VERY WELL.

18 SO YOU COULD SAY, WELL, 1 IN 10,000 OR
19 1 IN 100,000 PEOPLE WHICH ISN'T AS GOOD AS WE WOULD HAVE
20 LIKED, SO NOW WE ARE DOING SOMETHING CALLED S.T.R.'S
21 WHICH IS MUCH BETTER AND IT KIND OF GIVES YOU A LITTLE
22 BIT OF BOTH. YOU USE A SMALL AMOUNT AND GIVES YOU A
23 REALLY BIG NUMBER.

24 SO THE S.T.R.'S WERE JUST GETTING KNOWN IN
25 MAYBE 1999 OR 2000. REALLY, WE WERE MAKING THE
26 SWITCHOVER AT THE SHERIFF'S DEPARTMENT AS I WAS LEAVING
27 THE D.N.A. UNIT.

28 Q AND WHEN WERE THE R.F.L.P.? WHEN WAS THAT

1 AVAILABLE?

2 A WELL, WE HAD TO SEND THAT -- ONE CASE THAT
3 WE DESCRIBED TO THE F.B.I. AND WAIT NINE MONTHS TO GET IT
4 WORKED AND THEN THEY WOULDN'T BE ABLE TO COME TO A
5 CONCLUSION EVEN WITH THAT MUCH BLOOD, SO IT WAS VERY
6 FRUSTRATING.

7 BUT OUR LABORATORY BEGAN TO DO RESEARCH TO
8 DO R.F.L.P. I BELIEVE IN '89 OR '90 AND WE DIDN'T BRING
9 CASES ONLINE PROBABLY UNTIL '95. IT WAS A VERY SLOW
10 PROCESS TO TAKE A NEW TECHNOLOGY AND ACTUALLY APPLY IT TO
11 FORENSIC SAMPLES. THERE'S A LOT THAT HAS TO OCCUR IN
12 BETWEEN.

13 Q BEFORE YOU LEFT -- I'M SORRY.

14 DID YOU SAY 2000?

15 A YES. I LEFT IN DECEMBER OF 2000, YES.

16 Q BEFORE YOU LEFT IN DECEMBER OF 2000, WERE
17 YOU ASKED TO REVISIT ANY OF THE ITEMS OF EVIDENCE THAT
18 WERE FOUND AT THE THOMPSON CRIME SCENE FOR FURTHER
19 TESTING?

20 A YES.

21 Q WHEN WAS THAT?

22 A IN 1998, I BELIEVE.

23 Q AND WHAT DID YOU TEST AT THAT POINT?

24 A I WAS GIVEN AN ENVELOPE THAT HAD PAPERS IN
25 IT THAT HAD BEEN PREVIOUSLY PROCESSED FOR NINHYDRIN WHICH
26 IS A CHEMICAL THAT'S SPRAYED ON PAPER --

27 Q I'M SORRY. I'M GOING TO INTERRUPT YOU FOR
28 JUST A SECOND. I'M TALKING ABOUT SPECIFIC ITEMS SELECTED

1 FROM THE CRIME SCENE.

2 A OH, FROM THE CRIME SCENE. I'M SORRY.

3 NO, I WAS NOT.

4 Q AND LET ME JUST REDO THAT SO THAT THERE'S
5 NO --

6 A OKAY.

7 Q BEFORE YOU LEFT IN 2000 AFTER YOUR INITIAL
8 ROUND OF TESTING IN '88, ANY OF THE EVIDENCE AT THE CRIME
9 SCENE THAT WE'RE SPEAKING OF, THE CASINGS OR THE
10 FINGERNAILS, WERE YOU ASKED TO DO ANY FORENSIC TESTING ON
11 THOSE?

12 A NO.

13 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

14 (PAUSE IN PROCEEDINGS.)

15 Q BY MS. SARIS: DID YOU NOTICE ANY DAMAGE
16 TO THE WINDSHIELD OF THE VAN THAT YOU RECALL?

17 A YES.

18 Q AND WHAT WAS THAT?

19 A THERE WAS A HOLE IN THE -- IT APPEARED TO
20 BE A BULLET HOLE IN THE WINDSHIELD IN THE UPPER RIGHT
21 SIDE -- DRIVER'S SIDE.

22 Q SO IF THE PERSON WERE SITTING IN THE
23 DRIVER'S SEAT, IT WOULD BE UP IN THIS CORNER
24 (INDICATING), OR ALL THE WAY OVER IN THE PASSENGER --
25 WHEN YOU SAY RIGHT, YOU'RE LOOKING AT THE CAR?

26 A OH, I'M SORRY. THE DRIVER'S SIDE ABOVE --
27 YEAH, IF YOU'RE DRIVING, IT WOULD BE OVER HERE
28 (INDICATING).

1 MS. SARIS: AND, YOUR HONOR, WHEN SHE SAYS "OVER
2 HERE," SHE HAS HER LEFT HAND EXTENDED UP TO THE CORNER.

3 THE COURT: YES.

4 Q BY MS. SARIS: DO YOU KNOW WHETHER OR NOT
5 THERE WAS A BULLET RECOVERED FROM THE VAN?

6 A I DO NOT KNOW.

7 Q AND WHEN YOU WERE SPEAKING OF THE SOMEWHAT
8 BASIC DRAWING, IT APPEARS AS IF THE PRINTS, THE SHOE
9 PRINTS THAT YOU'VE DRAWN AND LABELED ONE, TWO AND THREE
10 ARE VERY NEAR THE -- WHAT WOULD BE THE WEST END OF THIS
11 DRIVEWAY (INDICATING).

12 WAS THAT INTENTIONAL?

13 A I BELIEVE SO, YES. IN FACT, IF YOU LOOK
14 AT E.M.K.1, IT INDICATES FROM THE EDGE OF THE DRIVEWAY TO
15 THE SHOE PRINT IS TWO FEET.

16 Q OKAY. AND LET ME TRY TO BE MORE CLEAR.

17 THE COURT: AND YOU'RE REFERRING TO WHICH
18 EXHIBIT?

19 MS. SARIS: I'M SORRY?

20 THE COURT: WHICH EXHIBIT?

21 MS. SARIS: FF LIKE FRANK.

22 THE COURT: THANK YOU.

23 Q BY MS. SARIS: WHAT I'M TRYING TO
24 UNDERSTAND IS IN TERMS OF A -- THE PARALLEL LINE, IT
25 APPEARS AS IF THESE PRINTS ARE ACROSS FROM THIS VAN
26 (INDICATING).

27 A IT DOES APPEAR THAT WAY, YES.

28 Q AND IS THAT YOUR RECOLLECTION? OR LET ME

1 ASK YOU THIS:

2 WOULD YOU HAVE PUT THAT THERE ON PURPOSE
3 OR --

4 A WELL, EVERYTHING I PUT THERE WAS ON
5 PURPOSE. I DON'T RECALL THE PROXIMITY OF THOSE THREE
6 PRINTS AND THE VAN.

7 Q OKAY. THE WORDS "TOYOTA VAN," THAT WOULD
8 BE THE FRONT OF THAT VAN, YES?

9 A WELL, I BELIEVE IT SAYS TOYOTA AND THEN
10 HAS THE LICENSE NUMBER ON THERE, BUT I CAN'T READ IT.

11 Q ALL RIGHT. THE WORD TOYOTA, THAT'S THE
12 FRONT OF THE VAN?

13 A YES, IT IS.

14 Q AND THE LINE THAT'S SOMEWHAT CROOKED IS TO
15 DEPICT THE DOOR WAS OPEN, YES?

16 A YES.

17 THE COURT: ALL RIGHT. HOW MUCH MORE DO YOU HAVE
18 BECAUSE WE NEED TO TAKE A BREAK?

19 MS. SARIS: I THINK I'M JUST ABOUT DONE.

20 I AM. THANK YOU.

21 THE COURT: ALL RIGHT. LET'S TAKE A 15-MINUTE
22 RECESS AT THIS TIME.

23 LADIES AND GENTLEMEN, REMEMBER THE
24 ADMONITIONS. I'LL SEE YOU BACK HERE IN 15 MINUTES.
25 THANK YOU.

26 (THE JURORS EXITED THE COURTROOM.)

27 THE COURT: ALL RIGHT. WE'LL BE IN RECESS FOR 15
28 MINUTES.

1 (BRIEF RECESS.)

2 THE COURT: BACK ON THE RECORD. ALL OF THE
3 JURORS AND ALTERNATES ARE PRESENT.

4 AND MS. DEVINE IS STILL ON THE WITNESS
5 STAND. AND YOU HAVE BEEN PREVIOUSLY SWORN. YOU'RE
6 REMINDED YOU'RE STILL UNDER OATH AND THE PEOPLE ARE
7 READY.

8 MR. JACKSON: THANK YOU, YOUR HONOR.

9 THE COURT: THANK YOU. REDIRECT.

10

11 REDIRECT EXAMINATION

12 BY MR. JACKSON:

13 Q MS. DEVINE, THANKS FOR YOUR PATIENCE. I
14 JUST HAVE A FEW FOLLOW-UP QUESTIONS.

15 MS. SARIS ASKED YOU ABOUT THE LOCATION OF
16 THE ACTUAL PRINTS.

17 DO YOU RECALL THOSE QUESTIONS AND YOUR
18 TESTIMONY?

19 A THE SHOE PRINTS, YES.

20 Q CORRECT.

21 AT THE RISK OF BEATING PROBABLY A VERY
22 DEAD HORSE, THESE SHOE PRINTS ARE NOT NECESSARILY WHERE
23 THEY EXISTED AT THE -- IN OTHER WORDS, THIS IS NOT A
24 SCALE MODEL, WE COULDN'T MEASURE FROM THIS TREE TO
25 E.M.K.1 AND THEN BELOW THAT UP AND GET AN ACCURATE
26 DEPICTION OF EITHER WHERE THE TREE OR THE SHOE PRINT WAS;
27 CORRECT?

28 A CORRECT.

1 Q I THINK IT'S SUFFICIENTLY DEAD.

2 ON THAT SAME TRAIN OF THOUGHT, MS. DEVINE,
3 DID YOU SEEK TO ACTUALLY MEASURE FOR YOUR PURPOSES, FOR
4 PROFESSIONAL PURPOSES WHERE THOSE SHOE PRINTS LIE?

5 A YES.

6 Q ARE THOSE MEASUREMENTS INDICATED IN YOUR
7 NOTES?

8 A YES.

9 MR. JACKSON: YOUR HONOR, I'M HOLDING A TWO-PAGE
10 DOCUMENT. THIS NEED NOT BE MARKED UNLESS THE COURT
11 WISHES OTHERWISE. AT THIS TIME I'M NOT SEEKING ITS
12 INTRODUCTION. I JUST WANT TO ASK THE WITNESS A QUESTION.

13 THE COURT: THOSE ARE THE NOTES?

14 MR. JACKSON: THESE ARE THE NOTES, YOUR HONOR.

15 Q MS. SARIS ASKED YOU TO LOOK AT A COPY OF
16 THESE. I'M GOING TO ASK YOU TO LOOK AT A COPY AS WELL.

17 THESE ARE HANDWRITTEN NOTES; CORRECT?

18 A YES.

19 Q DO THESE INDICATE IN YOUR HANDWRITING
20 NOTES ABOUT THE SHOE PRINTS?

21 A YES.

22 Q AND ON EVERY ONE OF THOSE, IS THERE SOME
23 NOTATION ABOUT DISTANCES FROM STATIC OBJECTS?

24 A YES.

25 Q HOW DO YOU DO THAT? IF YOU WANTED TO SAY
26 YOU'RE A CRIME SCENE INVESTIGATOR AND YOU'RE OUT AT A
27 CRIME SCENE AND YOU WANT TO -- THIS IS OUR CRIME SCENE,
28 YOU WANT TO FIGURE OUT WHERE I'M STANDING RIGHT NOW, HOW

1 WOULD YOU NOTE WHERE MY SHOE PRINTS ARE ON THIS CARPET
2 (INDICATING)?

3 A WHAT YOU TRY TO DO IS DETERMINE A
4 PERMANENT LANDMARK. ONE GOING EAST/WEST AND ONE GOING
5 NORTH/SOUTH. AND THOSE ARE PRETTY ARBITRARY. I DECIDE
6 WHAT MY OWN LANDMARKS ARE. AND FOR MINE I USED THE
7 DRIVEWAY, THE EDGE OF THE DRIVEWAY FOR EAST/WEST, AT
8 LEAST FOR THE ONES AT THE BOTTOM, I WOULD HAVE TO LOOK AT
9 MY NOTES TO SEE THE TOP, AND THE GATE AS THE NORTH/SOUTH.

10 SO AT ANY TIME SUBSEQUENT TO THAT ACTUAL
11 SCENE, AS LONG AS THE LANDMARKS DON'T CHANGE -- THAT'S
12 THE BIG IF -- SO YOU WANT TO MAKE SURE YOU'RE NOT USING A
13 LANDMARK THAT BE CAN BE MOVED OR DRIVEN AWAY OR SOMETHING
14 LIKE THAT, THAT YOU CAN GO BACK AND REASONABLY LOCATE
15 WHERE THAT EVIDENCE WOULD BE. THAT'S WHY WE DO THAT.

16 SO THAT POSSIBILITY IS ALWAYS PRESENT,
17 GIVEN THAT THE LANDMARKS ARE STILL THERE.

18 Q SO IF YOU WERE TAKING THAT EXPLANATION,
19 FOR EXAMPLE, IF YOU WERE TO TRY TO DENOTE WHERE I'M
20 STANDING RIGHT NOW, WHAT MIGHT AN EXAMPLE OF A LANDMARK
21 IN THIS COURTROOM BE, TWO LANDMARKS?

22 A WELL, JUST TO MAKE IT EASY ON YOURSELF,
23 YOU WANT TO DO THEM SORT OF CLOSE TO YOUR OBJECT. SO I
24 WOULD PROBABLY USE OF THE EDGE OF THE JURY BOX THERE.

25 Q WHERE I'M TOUCHING RIGHT NOW (INDICATING)?

26 A AND PROBABLY THE EDGE OF THE WITNESS BOX
27 OR EVEN THE EDGE OF THE GALLEY THERE AS SOMETHING THAT I
28 WOULD THINK, YOU KNOW, WOULD REMAIN PERMANENT.

1 BUT IF YOU'VE GOT A HANKERING TO REMODEL,
2 YOU MIGHT NOT WANT TO DO THAT. SO THE BEST WAY WOULD
3 PROBABLY BE THE WALLS, THIS WALL AND THAT WALL
4 (INDICATING).

5 Q OKAY. AND THEN YOU WOULD MEASURE OUT --
6 I'M ASSUMING FROM YOUR EXPLANATION, MEASURE OUT FROM THE
7 WALL, THAT MAYBE EIGHT AND A HALF FEET --

8 A RIGHT.

9 Q -- AND THEN FROM THE BACK WALL ANOTHER
10 15 OR 16 FEET, AND WHERE THOSE LINES INTERSECT, THAT'S
11 WHERE I'M STANDING; CORRECT?

12 A RIGHT. AND IT'S IMPORTANT TO DETERMINE
13 WHERE'S NORTH, SOUTH, EAST AND WEST SO YOU CAN SAY IT'S
14 EAST OF THE WEST WALL AND NORTH THE SOUTH WALL OR
15 WHATEVER, AND THAT'S WHAT WE DO AT A CRIME SCENE.

16 Q OKAY. AND YOU DID THAT IN THIS REPORT;
17 CORRECT?

18 A YES.

19 Q FOR EACH ONE OF THE SHOE PRINTS?

20 A YES.

21 Q WERE YOU ASKED AT ANY POINT SUBSEQUENT TO
22 YOUR VISIT OF THE CRIME SCENE TO DO ANY FURTHER FORENSIC
23 INVESTIGATION SURROUNDING THOSE ACRYLIC NAILS?

24 A YES.

25 Q WHAT WERE YOU ASKED TO DO?

26 Q I WAS ASKED TO CHECK THE NAILS TO SEE IF
27 THERE WAS ANY BLOOD OR TISSUE OR ANYTHING ON THEM.

28 Q AND WHAT WAS YOUR FINDING -- WELL, LET ME

1 ASK YOU THIS FOUNDATIONALLY:

2 HOW DID YOU GO ABOUT DOING THAT?

3 A WELL, YOU LOOK AT THE INDIVIDUAL ITEMS
4 UNDER A STEREO MICROSCOPE, YOU TRY TO GET A LOOK AT WHAT
5 IT IS, YOU DOCUMENT WHAT YOU SEE AND THEN YOU WILL TEST
6 USING THE PHENOLPHTHALEIN REAGENT WHICH REACTS TO -- ALSO
7 TO THE HEME GROUP IN BLOOD AND TURNS THE SWAB PINK. AND
8 IT'S SENSITIVE TO 1 IN 18,000 DIVISION IN BLOOD.

9 Q ARE YOU SAYING HEME GROUP?

10 A YES. H-E-M-E.

11 Q IS THAT THE ROOT WORD FOR HEMOGLOBIN, FOR
12 INSTANCE, FOR BLOOD?

13 A THE HEME GROUP IS THE -- CONTAINS THE IRON
14 PART OF THE HEMOGLOBIN IN BLOOD, YES.

15 Q BASED ON YOUR ANALYSIS OF THOSE BROKEN
16 ACRYLIC NAILS, WHAT WAS YOUR FINDING?

17 A THERE WAS NO BLOOD DETECTED ON ANY OF THE
18 NAILS. THERE WAS NO APPARENT TISSUE. THERE WAS SOME
19 SOIL UNDER SOME OF THEM AND I CAN GIVE YOU THE EXACT
20 NAILS WHICH ONE HAD SOME DIRT AND SOME NOT. AND THAT WAS
21 BASICALLY THE CONCLUSIONS.

22 Q WAS THERE ANY FORENSIC EVIDENCE BASED ON
23 YOUR ANALYSIS AT ALL THAT TRUDY THOMPSON CAME INTO
24 CONTACT, PHYSICAL CONTACT WITH EITHER ONE OF THE KILLERS?

25 MS. SARIS: OBJECTION. LACK OF FOUNDATION.
26 VAGUE.

27 THE COURT: ALL RIGHT. I'M GOING TO SUSTAIN IT.

28 Q BY MR. JACKSON: BASED ON YOUR REVIEW OR

1 YOUR ANALYSIS OF THE FINGERNAILS, WAS THERE ANY FORENSIC
2 EVIDENCE WHATSOEVER THAT ANY ONE OF THOSE FINGERNAILS
3 CAME IN CONTACT WITH EITHER ONE OF THE KILLERS?

4 A NO.

5 Q MS. SARIS ASKED YOU ABOUT D.N.A. AND WHEN
6 THE CRIME LAB STARTED USING IT, ET CETERA.

7 IN YEARS AFTER THIS CRIME SCENE WAS
8 ALREADY CLOSED DOWN, SHUT DOWN, IT WAS BASICALLY GIVEN
9 BACK TO THE CIVILIAN POPULATION, WHOEVER BOUGHT THE
10 PROPERTY, WHATEVER.

11 YEARS AFTER THAT, WAS THERE ANY D.N.A. --
12 DID YOU PARTICIPATE IN ANY D.N.A. PROFILING OF ANYTHING
13 THAT WAS FOUND AT THE CRIME SCENE?

14 A ANYTHING -- NO.

15 Q OKAY. LET ME ASK YOU THIS: IF YOU WERE
16 TO FIND A PUDDLE OF BLOOD RIGHT THERE ON THE CORNER OF
17 THIS TABLE (INDICATING), BY TODAY'S STANDARDS, WOULD YOU
18 EXPECT THAT IF THAT PUDDLE OF BLOOD WAS AN INCH BY AN
19 INCH, THAT YOU MIGHT BE ABLE TO FIND AT A D.N.A. PROFILE
20 OF THAT BLOOD?

21 A IF THE BLOOD WAS FRESH, RELATIVELY FRESH
22 WITHIN A YEAR, YES, I WOULD THINK SO.

23 Q OKAY. DOES THAT PROFILE COME UP WITH A
24 NAME, JOHN SMITH?

25 A NO. YOU GET A PROFILE OF A VARIETY OF
26 TYPES THAT THE INDIVIDUAL WOULD HAVE AND THEN THAT'S WHAT
27 YOU BASICALLY HAVE, A PROFILE WITH A LOT OF NUMBERS AND
28 LOCATIONS ON A GENE WHERE PARTICULAR TYPES ARE LOCATED.

1 Q THOSE ARE CALLED L.O.C.I., CORRECT,
2 L-O-C-I?

3 A YES.

4 Q ALL RIGHT. DOES THAT SINGULAR DROP OF
5 BLOOD DO ANY GOOD WHATSOEVER FROM A FORENSIC STANDPOINT
6 IN DETERMINING WHO LEFT THE BLOOD JUST BY ITSELF?

7 A NO.

8 Q WHY NOT?

9 A BECAUSE YOU HAVE TO HAVE SOMEONE TO
10 COMPARE IT TO. YOU HAVE TO HAVE EITHER A NAME COME UP ON
11 A DATABASE AND THEN YOU GET THEIR BLOOD AND COMPARE IT OR
12 YOU HAVE TO HAVE INDIVIDUALS THAT ARE BROUGHT IN TO
13 CUSTODY OR TALKED TO THAT ALLOW THAT THEIR D.N.A. SAMPLES
14 BE TAKEN, THEN YOU CAN COMPARE THEIR SAMPLES TO WHAT YOU
15 FOUND, WHAT WE CALL A FORENSIC SAMPLE, A BLOOD STAIN,
16 SEPARATE FROM SOMEONE'S BODY, YOU TRY TO DETERMINE WHO'S
17 IT IS. YOU NEED TO HAVE SOMEBODY TO COMPARE IT TO.

18 Q IN LAY TERMS, SORT OF ENGLISH, IS IT FAIR
19 TO SAY BASED ON THAT EXPLANATION, THAT A D.N.A. PROFILE
20 BY ITSELF DOES ABSOLUTELY NO GOOD UNLESS YOU HAVE SOMEONE
21 AGAINST WHOM TO COMPARE IT?

22 MS. SARIS: OBJECTION. LEADING.

23 THE COURT: SUSTAINED.

24 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE
25 THE VALUE OF A D.N.A. PROFILE SITTING IN A VACUUM BY
26 ITSELF?

27 A IT'S NOT VERY VALUABLE.

28 Q THANK YOU.

1 I HAVE ONE OTHER QUESTION. DURING THE
2 COURSE OF YOUR ANALYSIS -- LET'S TAKE THEM ONE AT A TIME.

3 DURING THE COURSE OF YOUR ANALYSIS OF THE
4 SHOE PRINTS, DID YOU HAVE ANY TECH REVIEW, TECHNICAL
5 REVIEW DONE, PEER REVIEW?

6 A YES.

7 Q HOW WAS THAT DONE? WHAT'S THE PROTOCOL
8 FOR THE CRIME LAB, OR WHAT WAS IT BACK IN 1988?

9 A AFTER EACH CRIME SCENE, ONCE YOU'VE
10 GATHERED YOUR NOTES, WRITTEN YOUR REPORT, THAT REPORT HAS
11 TO GO THROUGH A PEER REVIEW WHICH IS A REVIEW BY AN
12 INDIVIDUAL THAT IS AT YOUR LEVEL, AND IT WAS REVIEWED BY
13 A SENIOR CRIMINALIST.

14 AND THEN THAT REPORT IS SENT TO A
15 SUPERVISOR WHO ALSO REVIEWS IT AS APPROPRIATELY
16 DOCUMENTED AND APPROPRIATELY -- THE REPORT APPROPRIATELY
17 REPRESENTS WHAT THE NOTES AND THE CONCLUSIONS ARE AND
18 THAT WAS PROTOCOL THEN.

19 Q DID YOU FOLLOW THAT PROTOCOL?

20 A YES.

21 Q WERE YOUR REPORTS, ALL OF THEM, INCLUDING
22 THE REPORTS ABOUT THE FOOTPRINTS -- OR THE SHOE PRINTS, I
23 SHOULD SAY, AND THE REPORTS ABOUT THE ACRYLIC NAILS AND
24 YOUR ANALYSIS THEREOF, WERE THOSE ALL PEER REVIEWED?

25 A YES.

26 Q AND THEY WERE ALL FOUND -- WHAT WERE THE
27 FINDINGS OF THE PEER REVIEW?

28 MS. SARIS: OBJECTION. CALLS FOR HEARSAY.

1 THE COURT: IT DOES. SUSTAINED.

2 MR. JACKSON: I HAVE NOTHING FURTHER, YOUR HONOR.

3 THE COURT: ANYTHING ELSE?

4 MR. JACKSON: WELL, LET ME ASK JUST ONE FOLLOW-UP
5 QUESTION.

6 Q WERE ANY OF YOUR REPORTS CHANGED OR
7 MODIFIED AFTER THE PEER REVIEW?

8 A NO.

9 Q THANK YOU.

10 MR. JACKSON: THAT'S ALL I HAVE.

11 THE COURT: MS. SARIS?

12 MS. SARIS: THANK YOU.

13

14 RE CROSS EXAMINATION

15 BY MS. SARIS:

16 Q WHAT IS A F.B.I. DATABASE WITH D.N.A.
17 PROFILES? HAVE YOU EVER HEARD OF THAT?

18 A THE CODIS.

19 Q CODIS, C-O-D-I-S?

20 A YES.

21 Q AND THIS IS A DATABASE THAT CONTAINS
22 PROFILES OF INDIVIDUALS WHO HAD BEEN ARRESTED FOR VIOLENT
23 OR SERIOUS FELONIES?

24 A YES.

25 Q SO IF YOU HAVE A D.N.A. PROFILE, YOU CAN
26 SEND IT TO THE F.B.I. AND SAY DOES IT MATCH ANY OF THE
27 FOLKS THAT YOU KNOW OF TO BE IN YOUR DATABASE?

28 A IT'S NOT JUST THE F.B.I., BUT THERE IS A

1 STATEWIDE DATABASE AND THEN THERE'S ALSO A NATIONAL
2 DATABASE.

3 Q SO MORE THAN THE F.B.I. HAS THIS DATA
4 BASE?

5 A YES. THE ACCESS IS TO PARTICULAR
6 LABORATORIES THAT ARE ACCREDITED AND THAT HAS THE
7 ABILITY TO DO D.N.A. TESTING.

8 Q HAVE YOU EVER IN YOUR CAREER WITH THE
9 SHERIFF'S DEPARTMENT HAD A D.N.A. PROFILE THAT YOU'VE
10 SENT OUT AND ASKED IF ANY OF THESE DATABASES, IF IT
11 MATCHED AN INDIVIDUAL?

12 MR. JACKSON: OBJECTION. IT'S IRRELEVANT.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER.

15 THE WITNESS: YES.

16 Q BY MS. SARIS: HAVE YOU EVER GOT A MATCH?

17 A THEY GOT MATCHES AFTER I LEFT.

18 Q OKAY.

19 A IT WAS STILL VERY NEW WHEN I WAS THERE.

20 Q AND IS IT FAIR TO SAY THAT AS THE
21 TECHNOLOGY GETS MORE ADVANCED AND MORE PEOPLE GET
22 ARRESTED, THAT DATABASE GROWS AND GROWS AND GROWS?

23 A WELL, THE DATABASE IS LIMITED IN THAT IT
24 HAS TO BE INDIVIDUALS THAT HAVE BEEN ARRESTED OF SERIOUS
25 CRIMES. SO IT DOESN'T AT ALL REFLECT THE ENTIRE
26 POPULATION, BUT IT CERTAINLY -- AS WE GET MORE PEOPLE IN
27 THE DATABASE, IT WILL REFLECT MORE AND MORE PEOPLE THAT
28 WE BRING HERE INTO COURT.

1 Q AND IF YOU WERE INVESTIGATING A CRIME AND
2 YOU HAD THIS PROFILE THAT WAS A SERIES OF NUMBERS OR
3 LETTERS AT THESE L.O.C.I. THAT YOU'VE SPOKEN OF AND THE
4 YEAR 2001, 2002, YOU WOULD HAVE PLACES TO SEND THAT TO
5 SEE IF THERE WERE MATCHES IN THOSE DATABASES?

6 A YES.

7 Q WHEN YOU SAID -- YOU REFERRED TO THE GATE
8 IN YOUR DISCUSSION OF WHERE WE DID THE MEASUREMENTS OF
9 THE SHOE PRINTS?

10 A YES.

11 Q WHAT GATE ARE YOU REFERRING TO?

12 A THAT GATE AT THE BASE OF THE DRIVEWAY.

13 Q AND LET ME ASK YOU -- I'M GOING TO SHOW
14 YOU THE FIRST PAGE OF WHAT THE DISTRICT ATTORNEY WAS
15 SHOWING YOU, YOUR NOTES.

16 IF YOU CAN TELL US -- DO YOU HAVE THAT
17 INDEPENDENTLY OR -- DOES THAT APPEAR TO BE THE NOTES THAT
18 YOU TOOK OF THE MEASUREMENTS YOU MADE OF THE SHOE PRINTS?

19 A YES.

20 Q AND LET ME ONLY DRAW YOUR ATTENTION TO THE
21 SHOE PRINTS THAT YOU'VE LABELED ONE THROUGH THREE.

22 A UH-HUH.

23 Q IS THERE -- ON PEOPLE'S 46, DOES THE GATE
24 APPEAR IN PHOTOGRAPH B AT ALL?

25 A I DON'T SEE A GATE. I MEAN, I CAN'T TELL.

26 Q DO YOU REMEMBER INDEPENDENTLY WHERE THE
27 GATE WAS IN RELATION TO THE DRIVEWAY OR TO TRUDY OR TO
28 MICKEY?

1 A NO.

2 Q WHAT IS THE DESIGNATION THAT YOU'VE
3 GIVEN -- YOU SAID YOU'VE PICKED AN OBJECT THAT YOU
4 THOUGHT MIGHT BE AROUND FOR A WHILE?

5 A WELL, IT APPEARS HERE THAT I DID USE AN
6 IRON POLE AND THEN I ALSO USED THE WEST GATE. SO PART OF
7 IT WAS THE WEST GATE AND THEN PART OF IT WAS AN IRON
8 POLE.

9 Q AND BASED ON -- YOU WENT TO THE SCENE LAST
10 NIGHT?

11 A YES.

12 Q IS THAT WEST GATE AND IRON POLE, ARE THEY
13 STILL THERE?

14 A I DIDN'T LOOK.

15 Q CAN YOU TELL FROM THE MEASUREMENTS -- LET
16 ME JUST PRESENT YOU WITH DEFENSE FF LIKE FRANK.

17 IS THERE ANYTHING ON THIS THAT YOU CAN
18 TELL BASED ON THE MEASUREMENTS WHERE YOU WOULD HAVE BEEN
19 MEASURING FROM?

20 A WELL, I BELIEVE THE WEST GATE WAS RIGHT
21 HERE (INDICATING).

22 MS. SARIS: AND, YOUR HONOR, SHE'S POINTING TO A
23 VERY SMALL RECTANGLE ON THE LEFT PORTION OF THIS DIAGRAM.
24 LET ME HOLD IT UP FOR THE JURY, PLEASE

25 Q IS THIS WHAT YOU JUST POINTED TO
26 (INDICATING)?

27 A YES. THAT'S WHAT I WOULD --

28 Q AND THAT WOULD BE THE GATE THAT WOULD --

1 IF IT WERE ACTUALLY ACROSS THE DRIVEWAY, WOULD BE NEAR
2 THE BODY OF TRUDY THOMPSON?

3 A YES.

4 Q AND SO YOU WOULD MEASURE NORTH FROM THAT
5 TO GET THESE PRINTS?

6 A WELL, I HAVE TO GO AND SEE THE CRIME
7 SCENE, BUT THAT'S WHAT I'M THINKING THAT THAT -- WELL,
8 LIKE I SAID, I WOULD HAVE TO GO OUT AND LOOK AT THE
9 ACTUAL CRIME SCENE, BUT WITH THESE ISSUES IN MIND, GIVEN
10 THAT I DID TRY TO LOCATE LANDMARKS THAT WOULD NOT BE
11 GONE.

12 Q BUT YOU DON'T REMEMBER SPECIFICALLY
13 LOOKING FOR THOSE WHEN YOU WENT TO THE CRIME SCENE LAST
14 EVENING?

15 A NO. THAT'S -- NOT WHAT THE INTENTION WAS.

16 Q CAN YOU SAY THAT TRUDY THOMPSON DID NOT
17 COME IN CONTACT WITH HER ASSAILANT?

18 A NO, I CANNOT SAY THAT SHE DID NOT.

19 Q ARE YOU AWARE THAT A D.N.A. PROFILE WAS
20 EVENTUALLY OBTAINED FROM THOSE FINGERNAILS?

21 MR. JACKSON: OBJECTION. HEARSAY.

22 THE COURT: SUSTAINED.

23 Q BY MS. SARIS: DID YOU WEAR GLOVES WHEN
24 YOU HANDLED THE ACYCLIC NAILS?

25 A OF COURSE.

26 Q AND WHY WOULD YOU DO THAT, JUST SO THE
27 JURY KNOWS?

28 A I DON'T HANDLE ANY EVIDENCE WITHOUT

1 WEARING GLOVES. IT'S NOT GOOD PRACTICE.

2 Q NOT ONLY FOR YOUR SAFETY, BUT ALSO NOT TO
3 CONTAMINATE THE SAMPLE, YES?

4 A ABSOLUTELY.

5 Q HAVE YOU -- YOU SAID SOMETHING ABOUT WHEN
6 YOU TRIED TO COMPARE SOME D.N.A. TO ONE ANOTHER,
7 INDIVIDUALS THAT ARE BROUGHT IN THAT MIGHT ALLOW IT TO BE
8 TAKEN.

9 SO THERE ARE SOME INDIVIDUALS THAT
10 ACTUALLY AGREE TO HAVE THEIR D.N.A. TESTED AND WILL
11 BECOME PART OF THIS DATABASE, OR NO?

12 MR. JACKSON: OBJECTION. SPECULATION.

13 THE COURT: SUSTAINED.

14 Q BY MS. SARIS: LET ME ASK YOU: CAN A
15 PERSON AGREE TO BE PART OF THAT DATABASE?

16 MR. JACKSON: OBJECTION. FOUNDATION

17 THE COURT: SUSTAINED.

18 Q BY MS. SARIS: DO YOU KNOW?

19 MR. JACKSON: OBJECTION. FOUNDATION.

20 THE COURT: SUSTAINED.

21 MR. JACKSON: THANK YOU.

22 Q BY MS. SARIS: IS IT POSSIBLE TO GET FROM
23 A PERSON WHO'S ARRESTED, THEIR D.N.A. WITHOUT THEIR
24 CONSENT?

25 MR. JACKSON: OBJECTION. SPECULATION.

26 THE COURT: YES. YOU NEED TO LAY A FOUNDATION.

27 Q BY MS. SARIS: HAVE YOU, AS A SHERIFF,
28 EVER SOUGHT TO OBTAIN A PERSON'S D.N.A.?

1 MR. JACKSON: OBJECTION. ASSUMES FACTS NOT IN
2 EVIDENCE.

3 Q BY MS. SARIS: WHEN YOU WORKED IN THE
4 SHERIFF'S DEPARTMENT, DID YOU EVER ATTEMPT TO GET D.N.A.
5 FROM SOMEONE WHO WAS UNWILLING TO GIVE IT TO YOU?

6 MR. JACKSON: OBJECTION. RELEVANCE.

7 THE COURT: OVERRULED.

8 YOU CAN ANSWER THAT.

9 THE WITNESS: YES.

10 Q BY MS. SARIS: DID YOU EVER HAVE TO GET
11 THE COURTS INVOLVED IN GETTING THAT?

12 A YES.

13 Q AND WERE YOU EVER SUCCESSFUL IN GETTING
14 D.N.A. FROM AN INDIVIDUAL WHO DID NOT WANT TO GIVE IT TO
15 YOU?

16 A YES.

17 Q WHAT DID YOU DO IN 1988 TO DETERMINE --
18 REGARDING THE FINGERNAILS, YOU SAID THAT YOU MADE A
19 DETERMINATION THERE WAS NO BLOOD FROM A TEST THAT YOU DID
20 WITH CHEMICALS.

21 WHAT DID YOU DO TO DETERMINE THERE WAS NO
22 TISSUE OR SKIN UNDERNEATH THOSE NAILS?

23 A THAT'S A VISUAL EXAMINATION.

24 Q I TAKE IT THAT'S UNDER A MICROSCOPE?

25 A YES.

26 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE.

27 (PAUSE IN PROCEEDINGS.)

28 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

1 THE COURT: IS THERE ANYTHING ELSE?

2 MR. JACKSON: NOTHING ELSE.

3 THE COURT: THANK YOU.

4 YOU ARE EXCUSED. THANKS FOR COMING IN.

5 PEOPLE MAY CALL THEIR NEXT WITNESS.

6 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

7

8 REYNOLD VERDUGO,

9 CALLED BY THE PEOPLE AS A WITNESS, WAS

10 SWORN AND TESTIFIED AS FOLLOWS:

11

12 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
13 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
14 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
15 NOTHING BUT THE TRUTH SO HELP YOU GOD.

16 THE WITNESS: I DO.

17 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
18 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
19 NAME FOR THE RECORD.

20 THE WITNESS: YES. FIRST NAME REYNOLD, R-E-Y-N
21 AS IN NORA, O-L-D AS IN DAVID. LAST NAME VERDUGO, V AS
22 IN VICTOR, E-R-D AS IN DAVID, U-G-O.

23 THE CLERK: THANK YOU.

24 THE COURT: YOU MAY INQUIRE.

25 MR. JACKSON: THANK YOU, YOUR HONOR.

26

27 DIRECT EXAMINATION

28 BY MR. JACKSON:

1 Q WHAT DO YOU DO FOR A LIVING, SIR?

2 A I'M RETIRED FROM THE LOS ANGELES COUNTY
3 SHERIFF.

4 Q HOW LONG HAVE YOU BEEN RETIRED?

5 A EXCUSE ME. ABOUT SIX -- GOING ON SEVEN
6 YEARS.

7 Q AND WHAT DID YOU DO BEFORE YOU RETIRED?

8 A I WAS A MEMBER OF THE SHERIFF'S DEPARTMENT
9 FOR ABOUT 34 YEARS. LAST ABOUT 25 YEARS, I WAS A
10 SERGEANT AT THE SHERIFF'S DEPARTMENT DETECTIVE DIVISION
11 HOMICIDE BUREAU.

12 MR. JACKSON: EXCUSE ME JUST A SECOND.

13 Q YOU INDICATED -- I WAS PLAYING WITH THE
14 ELECTRONICS.

15 YOU INDICATED THAT YOU WERE WITH THE
16 HOMICIDE BUREAU?

17 A THAT'S CORRECT, SIR.

18 Q AND HOW LONG WERE YOU WITH HOMICIDE?

19 A ABOUT 25 YEARS. A LITTLE UNDER 25 YEARS.

20 Q WHAT WAS YOUR DUTY ASSIGNMENT BEFORE GOING
21 TO HOMICIDE?

22 A BEFORE HOMICIDE I HAD SEVERAL ASSIGNMENTS.
23 DIRECTLY BEFORE HOMICIDE I WAS WORKING HEADQUARTERS
24 ROBBERY DETAIL, ASSIGNED WORKING SPECIALIZED ROBBERY
25 TEAMS.

26 Q AND WHAT WAS YOUR DUTY ASSIGNMENT BACK
27 THEN?

28 A I WAS A -- I WOULD WORK AS A BANK ROBBERY

1 INVESTIGATOR. ALSO SERIES AND PATTERN AND MAJOR
2 ROBBERIES.

3 Q WHAT ABOUT ONCE YOU GOT TO HOMICIDE
4 BUREAU, WHAT WAS YOUR DUTY ASSIGNMENT THEN?

5 A I WAS A HOMICIDE INVESTIGATOR. I
6 INVESTIGATED HOMICIDES OCCURRING WITHIN L.A COUNTY AND
7 ALSO OFFICER/DEPUTY INVOLVED SHOOTINGS.

8 Q AND WHAT DOES THAT ENTAIL, THE
9 INVESTIGATION OF THE HOMICIDES, IN GENERAL?

10 A IT ENTAILS RESPONDING TO THE SCENE,
11 INTERVIEWING INDIVIDUALS, AIDING OR DIRECTING THAT
12 EVIDENCE BE GATHERED, CAUSING REPORTS TO BE WRITTEN,
13 PRESENTING THEM FOR POSSIBLY FILINGS, AND THEN TESTIFYING
14 IN COURT.

15 Q AS OF TODAY, HOW MANY HOMICIDE
16 INVESTIGATIONS WOULD YOU ESTIMATE YOU'VE BEEN INVOLVED
17 WITH?

18 A IT'S FUNNY. WHEN I WAS WORKING, OUR
19 SECRETARIES AT THE BUREAU HAD ME PEGGED AS INVESTIGATING
20 OVER 600. MY OWN COUNT WAS -- I THINK IT'S A LITTLE OVER
21 500.

22 Q MORE THAN A HANDFUL?

23 A A FEW MORE, YES.

24 Q ALL RIGHT. WERE YOU ASKED TO RESPOND TO
25 THE LOCATION OF 53 WOODLYN LANE ON MARCH 16TH, 1988?

26 A YES, I WAS, SIR.

27 Q WHAT TIME DID YOU RESPOND TO THAT
28 LOCATION?

1 A I GOT THERE PROBABLY IN THE AREA OF
2 9:00 A.M.

3 Q WHY WERE YOU ASKED TO RESPOND TO THAT
4 PARTICULAR LOCATION?

5 A I RESPONDED, AT THE DIRECTION OF OUR
6 OFFICE, TO BE AN ASSIST TEAM IN THE INVESTIGATION --
7 SEVERAL OF THE HOMICIDE INVESTIGATIVE TEAMS WERE
8 DISPATCHED, AND I WAS ONE OF THEM.

9 Q DESCRIBE HOW AN ASSIST TEAM WORKS IN
10 RESPONSE TO, I ASSUME, THE LEAD TEAM.

11 A YES. AN INVESTIGATION WILL BE DETERMINED
12 AT JUST HOW MANY PEOPLE ARE GOING TO BE RESPONDING. WILL
13 BE BY THE SEVERITY OR THE NATURE OF THE INVESTIGATION.
14 MAYBE THE TERRAIN OR THE LENGTH OR THE NUMBER OF DEAD
15 INVOLVED.

16 WHAT WILL HAPPEN IS PRIMARY RESPONSIBILITY
17 IS ASSIGNED TO ONE TEAM, A TWO-PERSON TEAM. IF IT'S
18 LARGE, THEY WILL ASSIGN VARIOUS NUMBERS OF TWO-PERSON
19 TEAMS TO ALSO GO. I THINK ON THIS OCCASION RIGHT OUT OF
20 THE SHOOT THERE WAS ABOUT FOUR TWO-PERSON TEAMS ASSIGNED
21 AND ONE TWO-PERSON TEAM WAS THE LEAD TEAM.

22 THE LEAD TEAM WILL TAKE OVERALL CONTROL OR
23 SUPERVISION OF THE CASE ITSELF. THE OTHERS WILL ASSIST.

24 Q WAS THERE SOMETHING EXTRAORDINARY ABOUT
25 THIS PARTICULAR CRIME SCENE THAT CALLED FOR EIGHT
26 HOMICIDE DETECTIVES, FOUR TEAMS?

27 A THERE WERE SOME FACTORS, YES, SIR.

28 Q COULD YOU DESCRIBE THOSE FOR THE JURORS,

1 PLEASE.

2 A YES, IT WAS, NUMBER ONE, THE MULTIPLE
3 MURDER, MEANING A MAN AND A WOMAN. THE -- ACTUALLY, THE
4 NOTORIETY OF THE INDIVIDUALS, THE DEPTH AND WIDTH OF THE
5 CRIME SCENE ITSELF, THE NUMBER OF WITNESSES THAT WERE
6 INVOLVED, AND THE POTENTIAL FOR THE NEED OF A TASK FORCE
7 BEING FORMED TO FOLLOW UP ON INFORMATION.

8 Q WHEN YOU WERE DISPATCHED TO THE CRIME
9 SCENE UP ON WOODLYN LANE, WERE YOU AWARE OF THE -- AT THE
10 TIME THAT YOU WERE DISPATCHED OF WHO THE VICTIMS WERE OR
11 THOUGHT TO BE?

12 A YES.

13 Q ONCE YOU GOT TO THE CRIME SCENE, WHAT DID
14 YOU SEE?

15 A I OBSERVED THE CRIME SCENE IN A PRETTY
16 MUCH AS ORIGINALLY -- HOW CAN I PUT IT? -- PRESERVED
17 CONDITION. THERE WERE POLICE UNITS, MEANING UNIFORMED
18 PERSONNEL, BLACK AND WHITE CARS. THE LEAD INVESTIGATIVE
19 TEAM WAS THERE ALONG WITH A LIEUTENANT AND THE VICTIMS
20 WERE STILL IN THEIR ORIGINAL POSITION. AND MUCH OF THE
21 EVIDENCE WAS -- WELL, IN FACT, ALL OF THE EVIDENCE WAS
22 STILL IN PLACE.

23 Q WAS THERE CRIME SCENE TAPE PUT UP?

24 A YES.

25 Q WAS THERE AN EFFORT -- ACCORDING TO YOUR
26 VIEW OF THE CRIME SCENE, WAS THERE AN EFFORT TO KEEP THE
27 PUBLIC OUT?

28 A OH, YES.

1 Q WAS THERE MEDIA THERE?

2 A YES, BEHIND A DESIGNATED AREA OR SCENE. I
3 WOULD PUT THAT AT MT. OLIVE ABOVE WOODLYN. THEY WERE
4 BEING HELD BACK, ALTHOUGH THERE WERE OVERHEAD HELICOPTERS
5 AND I BELIEVE THERE WERE MEDIA HELICOPTERS FLYING.

6 Q WHAT'S THE REASON, DETECTIVE, FOR
7 CORDONING OFF A CRIME SCENE OR PRESERVING A CRIME SCENE?

8 A THE OPTIMUM OR THE IDEAL THING WOULD BE TO
9 HAVE A PRISTINE CRIME SCENE WHERE NOTHING WAS DISTURBED
10 OR MOVED. YOU TRY AND LIMIT THE INFLUENCE OR A PERSON'S
11 ENTERING OR LEAVING. IT DOESN'T ALWAYS WORK, BUT THAT IS
12 YOUR DESIRE, IS TO TRY TO KEEP IT IN AN ALMOST -- AN "AS
13 IT OCCURRED" TYPE OF SITUATION SO THAT THE PROCESSING CAN
14 BE AS PRISTINE AS POSSIBLE.

15 Q WERE YOU AWARE OF WHETHER OR NOT -- AND BY
16 THE WAY, I SHOULD ASK YOU THIS FOUNDATIONALLY:

17 WHO WAS INVOLVED IN THE LEAD TEAM?

18 A THE LEAD TEAM WAS DETECTIVE MICHAEL GRIGGS
19 AND SERGEANT OLBERHOLTZER.

20 Q ARE YOU AWARE OF WHETHER OR NOT THOSE TWO
21 FOLKS ARE RETIRED NOW?

22 A YES, THEY'RE BOTH RETIRED.

23 Q TAKE A LOOK AT THE DIAGRAM THAT'S BEEN
24 MARKED -- IT'S VERY, VERY SMALL. AS A MATTER OF FACT,
25 IT'S TOO SMALL FOR ME TO SEE IT FROM BACK HERE.

26 PEOPLE'S 54 IN THE UPPER RIGHT-HAND
27 CORNER. SO WHEN I REFER TO IT AS PEOPLE'S 54 FROM THIS
28 POINT FORWARD, TAKE A LOOK AT THIS DIAGRAM AND TELL ME IF

1 YOU RECOGNIZE WHAT'S DEPICTED ON THIS DIAGRAM.

2 A I'M GOING TO PUT ON SOME GLASSES THAT I
3 DON'T THINK I WAS USING AT THE TIME.

4 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
5 PERMISSION, IF THE DETECTIVE MAY STEP DOWN. MAY HE DO
6 SO?

7 THE COURT: YES.

8 MR. JACKSON: THANK YOU.

9 THE WITNESS: YES, I RECOGNIZE THIS.

10 Q BY MR. JACKSON: HOW DO YOU RECOGNIZE
11 THAT, DETECTIVE?

12 A THIS IS A DEPICTION OF THE CRIME SCENE
13 WHICH I ACTUALLY SAW AND TRAVERSED THERE ON WOODLYN LANE.
14 I SEE BY READING THE NUMBERS HERE, VARIOUS PIECES OF
15 EVIDENCE WHICH I PERSONALLY DID SEE.

16 Q ALL RIGHT. SPEAKING OF THAT, BEFORE YOU
17 SIT DOWN SO YOU CAN TAKE A LITTLE BIT CLOSER LOOK AT
18 THAT, EXPLAIN FOR THE JURORS -- LET ME ASK THIS FIRST:

19 IS EVERY PIECE OF EVIDENCE THAT'S FOUND AT
20 THE CRIME SCENE NOTED ON THIS PARTICULAR DIAGRAM?

21 A OH, NO.

22 Q THIS IS A SAMPLING OF CERTAIN OF THE
23 EVIDENCE THAT WAS AT THE CRIME SCENE?

24 A THAT'S CORRECT, SIR.

25 Q THE NUMBERS TO THE LEFT, 2, 3, 5, 6, 7, 8,
26 9, 10, 11, 12, 13, 14, 15, 18 AND 20, WHAT ARE THOSE
27 REFERRING TO?

28 A THOSE APPEAR TO BE MORE IN THE LINE OF OUR

1 FIREARMS PERSONNEL GATHERING. THOSE ARE NUMBERS OF
2 PIECES OF EVIDENCE WHICH WILL CORRESPOND WITH CIRCULAR
3 NUMBERED AREAS ON THE RIGHT AS I FACE THE -- THIS
4 DEPICTION, THEY WILL CORRESPOND. AND THESE ARE NUMBERS
5 THAT I THINK MORE CONCERNED BY THE FIREARM SPECIALISTS.

6 Q ALL RIGHT. THERE ARE SEVERAL NOTATIONS ON
7 THAT CRIME SCENE DIAGRAM, ARE THERE NOT, FOR INSTANCE,
8 NUMBER TWO --

9 A YES.

10 Q -- SPENT CASINGS?

11 A YES.

12 Q NUMBER FIVE, FINGERNAIL?

13 A YES.

14 Q ARE THOSE REFERENCING ITEMS THAT WERE
15 FOUND AT THE CRIME SCENE AND, THEREFORE, NOTED ON THAT
16 DIAGRAM SOMEPLACE ELSE?

17 A YES, THEY ARE, SIR. THEY WOULD BE -- AS
18 NUMBERED HERE, THESE NUMBERS ARE EXPLANATORY
19 (INDICATING). AND IF YOU LOOKED OVER HERE AND SAW LIKE
20 POSSIBLY FIVE HERE (INDICATING), YOU COULD GO BACK AND
21 SAY, OKAY, THAT IS WHERE A FINGERNAIL WAS FOUND. IT JUST
22 KIND OF EXPLAINS IT.

23 Q WHAT WAS THE METHOD -- GO AHEAD AND HAVE A
24 SEAT.

25 EXPLAIN FOR THOSE OF US WHO ARE
26 UNINITIATED AND HAVE NEVER BEEN TO A CRIME SCENE AT THE
27 TIME THAT IT'S PUT UP, EXPLAIN FOR US HOW EVIDENCE IS
28 COLLECTED. WHAT'S THE METHODOLOGY USED TO COLLECT

1 PHYSICAL PIECES OF EVIDENCE OR PHOTOGRAPH PIECES OF
2 EVIDENCE THAT CAN'T BE COLLECTED?

3 A THERE'S AN OLD RULE THAT'S OFTEN USED.
4 IT'S NOTHING WILL BE MOVED OR ALTERED IN ANY FASHION
5 UNTIL IT HAS BEEN IDENTIFIED, FINGERPRINTED OR
6 PHOTOGRAPHED. IDENTIFICATION CAN ALSO INCLUDE THE
7 NUMBERING.

8 WHAT WILL HAPPEN IS YOU MAY SEE A PIECE OF
9 EVIDENCE AND MARK IT NUMBER ONE. YOU MOVE IN ANOTHER A
10 DIRECTION AND MARK THE NEXT NUMBER TWO. IT'S AS YOU
11 ENCOUNTER IT. IN HOMICIDE, THAT'S A VERY NORMAL THING TO
12 DO.

13 THE MEASUREMENTS AND IDENTIFICATION IN
14 PRINTING WILL TAKE PLACE BY OTHER SECTIONS OF OUR
15 DEPARTMENT THAT ARE MORE EXPERT IN THAT AREA.

16 Q IS THERE ANY SIGNIFICANCE TO THE NUMBERS
17 2 THROUGH 20, FOR INSTANCE, ON THIS PARTICULAR DIAGRAM AS
18 TO THE LEVEL OF THEIR IMPORTANCE, FOR INSTANCE?

19 A OH, NO, NOTHING CAN BE ATTACHED. IT'S HOW
20 YOU ENCOUNTER IT. NUMBER TWO MAY HAVE BEEN ENCOUNTERED
21 SECOND, SO IT WAS NUMBERED NUMBER TWO. NUMBER THREE AND
22 THE SAME WAY THROUGH. THE TWENTIETH ARTICLE MAY HAVE
23 BEEN THE TWENTIETH ARTICLE THEY ENCOUNTERED, SO THEY PUT
24 NUMBER 20 DOWN.

25 Q DETECTIVE, WHEN YOU WENT INTO THE CRIME
26 SCENE, DID YOU EVER -- WERE YOU DIRECTED BY SOMEBODY ELSE
27 OR DID YOU SEE THESE ITEMS OF EVIDENCE LAYING AT THE
28 CRIME SCENE YOURSELF?

1 A I SAW THEM, SIR.

2 Q DID YOU TRY -- AS ASSISTING UNIT, DID YOU
3 ATTEMPT TO MAKE NOTE OF WHERE PHYSICAL ITEMS WERE AT THAT
4 CRIME SCENE?

5 A I DID, SIR.

6 Q ARE YOU AWARE OF WHETHER OR NOT THERE WAS
7 A VIDEO MADE OF THE COLLECTION OR AT LEAST OF THE MARKING
8 OF CERTAIN ITEMS OF EVIDENCE?

9 A YES, SIR.

10 Q WERE YOU INVOLVED IN THAT VIDEO MAKING?

11 A I OBSERVED IT BEING DONE, YES, SIR.

12 Q WHO WAS INVOLVED IN THAT VIDEO?

13 A THAT WAS AT THE REQUEST OF THE HANDLING
14 DEPUTIES AND I BELIEVE IT WAS -- IT MAY HAVE BEEN CHRIS
15 MILLER FROM OUR -- OR LET ME CORRECT MYSELF.

16 LET ME SAY IT WAS OUR MEDIA RESOURCE
17 SECTION, THE SECTION THAT DOES VIDEOS, TRAINING FILMS AND
18 THAT TYPE OF THING.

19 Q ALL RIGHT. WOULD THEY BE THE PEOPLE THAT
20 WERE INVOLVED OR RESPONSIBLE FOR THE ACTUAL CAMERA AND
21 TAKING OF THE VIDEO?

22 A THAT'S CORRECT, SIR.

23 Q WAS THERE ANYBODY DEPICTED IN THE VIDEO?

24 A YES.

25 Q WHO?

26 A THE LEAD DETECTIVE, DETECTIVE GRIGGS.

27 Q HAVE YOU HAD AN OPPORTUNITY TO REVIEW THAT
28 VIDEO?

1 A I HAVE, SIR.

2 Q HOW RECENTLY?

3 A THIS MORNING SOMETIME.

4 Q HAD YOU REVIEWED IT PREVIOUS TO THAT?

5 A YES, I HAD.

6 Q HOW MUCH RECENTLY?

7 A LAST WEEK SOMETIME I BELIEVE IT WAS.

8 Q IS THE VIDEO THAT YOU REVIEWED CONSISTENT
9 WITH THE CRIME SCENE THE WAY THAT YOU RECALL IT ON MARCH
10 16TH, 1988 WHEN YOU ARRIVED AT THE CRIME SCENE?

11 A OH, YES, IT IS, SIR.

12 Q DID IT REFRESH YOUR RECOLLECTION AS TO
13 WHERE CERTAIN ITEMS OF EVIDENCE WERE AND HOW THEY WERE
14 MARKED?

15 A YES.

16 MS. SARIS: OBJECTION. RELEVANCE.

17 THE COURT: OVERRULED.

18 THE WITNESS: YES, IT DID.

19 Q BY MR. JACKSON: WHEN YOU ARRIVED AT THE
20 CRIME SCENE, DO YOU KNOW WHETHER OR NOT THE CORONER'S
21 OFFICE HAD ARRIVED YET?

22 A THEY HAD NOT ARRIVED AS OF YET.

23 Q HOW DO YOU NOW?

24 A I GOT THERE AND I NOTICED WHEN THEY DID
25 ARRIVE.

26 Q AND IT WAS OBVIOUSLY AFTER YOU HAD ALREADY
27 BEEN THERE?

28 A THAT'S CORRECT, SIR.

1 Q SO THAT LEADS TO MY NEXT QUESTION:
2 DETECTIVE, WERE THE BODIES OF MICKEY THOMPSON AND TRUDY
3 THOMPSON STILL LYING IN STATE, IF YOU WILL, WHEN YOU GOT
4 TO THE LOCATION?

5 A YES, SIR, THEY WERE.

6 Q COULD YOU DESCRIBE FOR OF THE JURORS WHERE
7 YOU SAW MICKEY AND TRUDY THOMPSON LYING.

8 A YES. I CAN BEGIN WITH -- STARTING AT
9 THE -- LET'S SAY THE DRIVEWAY AND THE STREET OF WOODLYN
10 LANE.

11 AT THE BASE OF THE DRIVEWAY WHERE IT MEETS
12 WOODLYN LANE, I FIRST ENCOUNTERED TRUDY THOMPSON OR A
13 FEMALE WHO WAS LATER IDENTIFIED AS TRUDY THOMPSON.
14 PROCEEDING IN A KIND OF A NORTHWESTERLY DIRECTION OR UP
15 THE SLOPING, SLANTING DRIVEWAY, YOU COME TO AN AREA RIGHT
16 IN FRONT OF A TWO OR THREE-CAR GARAGE WHICH IS AT THE --
17 I GUESS YOU WOULD PUT IT AS THE SOUTHERN PART OF THE
18 HOUSE, AND TO THE WEST OF THIS GARAGE DOOR WAS A MALE WHO
19 WAS LATER IDENTIFIED AS MICKEY THOMPSON. HE WAS LYING ON
20 THE GROUND.

21 Q DID EITHER MICKEY THOMPSON OR TRUDY
22 THOMPSON APPEAR TO HAVE SIGNS OF LIFE?

23 A NO. BOTH APPEARED TO BE DEAD.

24 Q BEFORE I PUT THIS DIAGRAM DOWN, SINCE
25 WE'VE ALREADY BEEN TALKING ABOUT THIS ONE, PEOPLE'S 54,
26 ALLOW ME IF YOU WILL TO PUT MY FINGER ON A PORTION OF THE
27 DIAGRAM.

28 DO YOU SEE WHERE MY INDEX FINGER IS

1 POINTING (INDICATING)?

2 A YES, SIR.

3 Q IS THAT CONSISTENT OR INCONSISTENT
4 ACCORDING TO THE DIAGRAM OF WHERE YOU SAW TRUDY
5 THOMPSON'S BODY?

6 A THAT WOULD BE CONSISTENT, SIR.

7 Q PUTTING MY FINGER AT THE UPPER LEFT
8 PORTION JUST TO THE LEFT OF WHAT APPEARS TO BE A
9 TRIANGULAR SHAPED RED MARK, IS THAT CONSISTENT OR
10 INCONSISTENT WITH WHERE YOU SAW MICKEY THOMPSON'S BODY?

11 A THAT IS CONSISTENT WITH WHERE I SAW MICKEY
12 THOMPSON'S BODY.

13 Q WE WILL GET BACK TO THIS DIAGRAM IN JUST A
14 SECOND.

15 MR. JACKSON: I WOULD LIKE TO MARK AS PEOPLE'S
16 NEXT IN ORDER, YOUR HONOR, A PHOTOCOPY OF THE CHART
17 BEARING SIX PHOTOS, A THROUGH F.

18 THE COURT: IT WILL BE MARKED 55 FOR
19 IDENTIFICATION.

20 (PEOPLE'S EXHIBIT NO. 55 WAS MARKED FOR
21 IDENTIFICATION.)

22 MR. JACKSON: I'M PLACING A P55 IN BLACK IN THE
23 UPPER RIGHT-HAND CORNER.

24 Q TELL ME, DETECTIVE, DO YOU RECOGNIZE WHAT
25 IS DEPICTED IN THOSE PHOTOGRAPHS?

26 A YES, I DO, SIR.

27 Q HOW DO YOU RECOGNIZE THOSE PARTICULAR
28 PHOTOGRAPHS, TAKING THEM ONE AT A TIME, A THROUGH F?

1 A "A," I RECALL SEEING THIS EXACT SAME THING
2 AND I BELIEVE THAT IS A PHOTOGRAPH TAKEN ON THE DAY I
3 WITNESSED OUR PHOTOGRAPHERS TAKING THEM. THAT SHOWS A --
4 I WOULD PUT IT IN A NORTHERLY DIRECTION OR VIEWING. YOU
5 COULD SEE THE REAR OF TRUDY THOMPSON AS SHE LAY ON THE
6 DRIVEWAY STREET SECTION OF 53 WOODLYN LANE.

7 Q WHAT ABOUT "B"? WHAT IS THAT A PICTURE
8 OF?

9 A "B" -- LET ME GET A BETTER ANGLE ON THIS.
10 "B" APPEARS TO BE -- I HAVE A ROUGH TIME
11 MAKING THAT ONE OUT. THAT COULD BE IN A -- ALSO IN A
12 NORTHERLY DIRECTION. IT GIVES A KIND OF -- I'M TRYING TO
13 DESCRIBE IT BECAUSE I REALIZE WE'RE LOOKING IN A
14 NORTHERLY DIRECTION ABOUT FROM THE BASE OF THE DRIVEWAY
15 AND TO THE RIGHT WOULD BE AT A TOYOTA VAN WHICH WILL
16 LATER BE DISCUSSED, I'M SURE, BUT YOU CAN SEE IN THE
17 DIRECTION OF -- WHAT CAN YOU SAY? -- THE HOUSE OR THE
18 BACK AREA OF THE HOUSE.

19 Q OKAY. LET ME SEE IF I CAN HELP WITH THAT.
20 DO YOU SEE SOMETHING IN PHOTOGRAPH B THAT
21 APPEARS TO BE A TIRE TRACK?

22 A YES.

23 MR. JACKSON: YOUR HONOR, I'M POINTING TO THE FAR
24 LEFT, WHAT APPEARS TO BE A DARK TIRE TRACK IN
25 PHOTOGRAPH B.

26 THE COURT: YES.

27 Q BY MR. JACKSON: DO YOU SEE AN ASSOCIATED
28 ANGULAR, FAINTER TIRE TRACK TO THE RIGHT OF THAT DARK

1 TIRE TRACK?

2 A I DO, SIR.

3 Q TAKE A LOOK AT PHOTOGRAPH E AND TELL ME IF
4 YOU SEE A TIRE TRACK THAT APPEARS TO THE RIGHT OF THE
5 PHOTOGRAPH, AN ANGULAR TIRE TRACK THAT'S JUST TO THE
6 RIGHT OF THAT TIRE TRACK.

7 A I DO, SIR.

8 Q DO THESE APPEAR TO BE CONSISTENT TIRE
9 TRACKS IN THOSE TWO PHOTOS?

10 A OH, YES, THEY DO, SIR.

11 Q SO ARE THESE DEPICTING THE SAME GENERAL
12 PART THE DRIVEWAY, JUST ONE HAS A LONGER FOCAL LENGTH
13 THAN THE OTHER?

14 A THAT'S CORRECT.

15 MS. SARIS: CAN WE IDENTIFY "THESE" FOR THE
16 RECORD, PLEASE.

17 MR. JACKSON: THESE -- B AND E RESPECTIVELY ON
18 PEOPLE'S 55.

19 Q TAKE A LOOK AT PHOTOGRAPH C.
20 WHAT'S DEPICTED IN THAT PHOTOGRAPH?

21 A YES. THIS IS ACTUALLY FROM, AGAIN, THE --
22 I WOULD SAY WOODLYN LANE -- SHOOTING, OH, IN THE
23 DIRECTION THE HOUSE, IN A NORTHERLY DIRECTION, AGAIN,
24 FROM THE STREET IN FRONT THE DRIVEWAY.

25 IN THIS PICTURE YOU CAN ACTUALLY SEE -- I
26 BELIEVE IT WAS A LINCOLN CONTINENTAL WHICH WAS PARKED
27 THERE ON THE DAY OF THE SHOOTING.

28 Q PHOTOGRAPH D, WHAT DOES THAT APPEAR TO BE

1 A PHOTOGRAPH OF, JUST BRIEFLY?

2 A BRIEFLY, IT'S THE WESTERN PORTION OF THAT
3 DRIVEWAY I'VE SPOKEN OF, NORTH OF WOODLYN LANE AND IT
4 DEPICTS SEVERAL PIECES OF EVIDENCE WHICH WERE THERE.

5 Q PHOTOGRAPH E WE'VE ALREADY TALKED ABOUT A
6 LITTLE BIT; IS THAT CORRECT?

7 A THAT'S CORRECT, SIR.

8 Q AND YOU SEE THAT SAME LINCOLN CONTINENTAL
9 THAT YOU'VE EARLIER IDENTIFIED IN PHOTOGRAPH C?

10 A I DO, SIR.

11 Q TAKE A LOOK AT PHOTOGRAPH F. WHAT DOES
12 THAT APPEAR TO BE?

13 A THAT IS A PICTURE OF A PIECE OF EVIDENCE
14 THAT WAS LATER RETRIEVED, A TASER OR STUN GUN.

15 Q AND APPROXIMATELY -- THAT'S A RELATIVELY
16 CLOSE PHOTOGRAPH.

17 DESCRIBE FOR THE JURORS, IF YOU WOULDN'T
18 MIND, UTILIZING PEOPLE'S 54, APPROXIMATELY WHERE THAT
19 STUN GUN WAS RECOVERED ON THE DRIVEWAY.

20 A YES, IT WAS AROUND THIS AREA (INDICATING).
21 IT'S UP AND AWAY FROM WOODLYN LANE. I WOULD SAY I
22 BELIEVE THAT MAY BE THE NUMBER 12 RIGHT HERE
23 (INDICATING).

24 MR. JACKSON: MAY THE RECORD REFLECT THAT THE
25 WITNESS IS INDICATING -- ALTHOUGH, IT'S -- YOUR HONOR, A
26 CLOSER EXAMINATION WOULD REVEAL THESE ARE SOMEWHAT
27 PIXILATED NUMBERS, THE SMALL NUMBERS DID NOT ENLARGE VERY
28 WELL, BUT THERE APPEARS TO BE A CLUSTER OF THREE NUMBERS

1 VERY CLOSE TOGETHER. THE BEST I CAN DESCRIBE IT IS
2 ALMOST DEAD CENTER IN THE MIDDLE OF THE DIAGRAM.

3 THE WITNESS IS INDICATING THE UPPER
4 MOST --

5 Q OR WERE YOU INDICATING -- WHICH NUMBER OF
6 THOSE THREE IN THE CLUSTER?

7 A IT IS THE UPPERMOST AND IT'S ON THE
8 WESTERN APRON OF THIS DRIVEWAY LEADING UP FROM WOODLYN
9 LANE (INDICATING).

10 MR. JACKSON: DOES THAT SATISFY THE COURT WITH
11 REGARD TO DESCRIPTION?

12 THE COURT: YES. THANK YOU.

13 Q BY MR. JACKSON: THERE APPEARS IN THAT
14 DIAGRAM TO BE RED SPLOTCHES OR BLOTCHES OR WHATEVER YOU
15 WANT TO CALL THEM, SOME RED INK ON THE DIAGRAM CLOSE TO
16 WHERE YOU'VE EARLIER DESCRIBED MICKEY THOMPSON'S BODY.

17 A YES.

18 Q DESCRIBE WHAT THOSE REPRESENT.

19 A THESE WERE BLOOD FLOWS OR BLOOD CONTAINED
20 AREAS THAT WERE NEAR HIS BODY. SOME WERE SLIGHTLY EAST
21 OF HIS LOCATION AND THERE WAS A LARGER FLOW FLOWING IN
22 KIND OF A DOWNHILL SOUTHEASTERLY DIRECTION FROM BELOW THE
23 BODY.

24 Q DID IT APPEAR THAT THOSE BLOOD STAINS WERE
25 DISTURBED OR UNDISTURBED? AND DO YOU NOW WHAT I MEAN BY
26 THAT?

27 A YES. THEY APPEARED TO BE UNDISTURBED.
28 THEY WERE POOLING.

1 Q WERE THERE ANY FOOTPRINTS OR TRACKS
2 THROUGH THE BLOOD THAT WERE OBVIOUS TO YOU?

3 A NO.

4 Q DID YOU TAKE CAUTION WHEN YOU WERE
5 EXAMINING THOSE BLOOD STAINS OR BLOOD POOLS, TO USE YOUR
6 WORD, NOT TO STEP IN THEM OR NOT DISTURB THEM YOURSELF?

7 A YES.

8 Q YOU SAID YOU DID REVIEW THE VIDEO;
9 CORRECT?

10 A THAT'S CORRECT, SIR.

11 Q WERE THOSE BLOOD STAINS ULTIMATELY SHOWN
12 IN THE VIDEO, THE LIVE ACTION VIDEO, FOR LACK OF A BETTER
13 WORD?

14 A YES, THEY WERE, SIR.

15 Q ALL RIGHT. ARE THE POOLS CONSISTENT OR
16 INCONSISTENT IN THAT DIAGRAM WITH WHERE YOU SAW THEM?

17 A NO. THAT'S PRETTY ACCURATELY REPRESENTED,
18 YES.

19 Q ALL RIGHT. HOW WOULD YOU DESCRIBE THE
20 GRADE OF THE TERRAIN BETWEEN WHERE MICKEY THOMPSON'S BODY
21 WAS AND TRUDY THOMPSON'S BODY WAS?

22 A I WOULD DESCRIBE IT, IT'S A GRADE WHICH
23 BEGINS TO SLOPE AND ACTUALLY JUST BEFORE -- OH, I DON'T
24 KNOW, I WOULD PUT IT THE LOWER QUARTER OF THIS DRIVEWAY
25 (INDICATING), IT TAKES AN EVEN STEEPER DECLINE. IT'S
26 ACTUALLY SOME -- I WOULD IMAGINE IF YOU WERE WEARING --
27 I'VE NEVER WORN HIGH HEELS --BUT IF YOU WERE WEARING HIGH
28 HEELS, I WOULD IMAGINE IT WOULD BE VERY DIFFICULT TO

1 ACTUALLY TRAVERSE THIS DRIVEWAY DOWN TO WOODLYN LANE.
2 IT'S SLOPING. IT'S A GOOD SLOPE.

3 Q THAT'S ACTUALLY AN ANSWER I NEVER EVER
4 WOULD HAVE THOUGHT I WOULD GET OUT OF YOU IN DIRECT
5 EXAMINATION.

6 ALL RIGHT. GO AHEAD AND HAVE A SEAT.
7 MAKE YOURSELF COMFORTABLE, DETECTIVE.

8 A OKAY.

9 Q DURING YOUR EXPERIENCE AS A HOMICIDE
10 INVESTIGATOR INVESTIGATING SOME 500 PLUS HOMICIDES, HAVE
11 YOU COME ACROSS -- WHAT PERCENTAGE OF THOSE WOULD YOU SAY
12 INVOLVED GUNSHOT WOUNDS?

13 A OH, THE MAJORITY. YES, THE VAST MAJORITY.

14 Q SO MORE THAN 250?

15 A YES.

16 Q MORE THAN 300?

17 A IT WOULD BE A PRETTY GOOD NUMBER, YES.

18 Q DURING THE COURSE OF YOUR INVESTIGATIONS
19 OF THESE NUMEROUS HOMICIDES, HAVE YOU EVER BEEN ASKED --
20 OR DO YOUR DUTIES INCLUDE LOOKING AT THE BODIES OF
21 VICTIMS TO DETERMINE WHETHER OR NOT THEY HAVE SUFFERED A
22 GUNSHOT WOUND VERSUS A STAB WOUND VERSUS A STRANGULATION?

23 A YES.

24 Q DID YOU LOOK AT MICKEY THOMPSON'S BODY
25 WITH AN EYE TOWARD DETERMINING IN YOUR MIND HOW HE
26 SUFFERED HIS DEATH?

27 A YES.

28 Q AND WHAT WAS YOUR CONCLUSION?

1 A I SAW THAT HE HAD BEEN HIT ON MORE THAN
2 ONE OCCASION, BUT I SAW THAT THE OBVIOUS -- OR IN MY
3 EXPERIENCE, WHAT WOULD HAVE BEEN AN OBVIOUS FATAL WOUND
4 OCCURRED BY A GUNSHOT WOUND TO THE HEAD INVOLVING THE
5 BRAIN.

6 Q IN YOUR EXPERIENCE AS A HOMICIDE
7 INVESTIGATOR -- AND, BY THE WAY, HAVE YOU SPOKEN NOT ONLY
8 WITH OTHER INVESTIGATORS, BUT HAVE YOU EVER SPOKEN WITH
9 CORONERS, PEOPLE WHO PERFORM AUTOPSIES?

10 A OH, YES.

11 Q HAVE YOU EVER ATTENDED AN AUTOPSY?

12 A OH, YES.

13 Q HOW MANY?

14 A MORE THAN MY CASES. SO I WOULD SAY
15 PROBABLY A LITTLE UNDER A THOUSAND.

16 Q DURING THE COURSE OF ATTENDING SOME
17 THOUSAND AUTOPSIES, HAVE ANY OF THOSE INCLUDED GUNSHOT
18 WOUNDS?

19 A OH, YES.

20 Q HAVE ANY OF THEM INCLUDED DEATHS BY
21 GUNSHOTS TO THE HEAD?

22 A YES.

23 Q BASED ON YOUR EXPERIENCE, WHAT WAS YOUR
24 CONCLUSION AS TO THE IMMEDIACY OF MICKEY THOMPSON'S DEATH
25 WITH REGARD TO THE GUNSHOT WOUND THAT YOU SAW TO THE
26 HEAD?

27 MS. SARIS: OBJECTION. VAGUE. LACK OF
28 FOUNDATION.

1 THE COURT: I'M GOING TO SUSTAIN IT.

2 CAN YOU ASK FURTHER FOUNDATION ON THAT?

3 MR. JACKSON: OF COURSE, YOUR HONOR.

4 Q HAVE YOU SPOKEN WITH PARTICULAR EXPERTS IN
5 THE FIELD, MEDICAL EXPERTS, SPECIFICALLY MEDICAL
6 EXAMINERS OR CORONERS ABOUT THE EFFECT OF GUNSHOT WOUNDS
7 TO THE HEAD THROUGH THE BRAIN?

8 A YES.

9 Q WITH REGARD TO MICKEY THOMPSON'S WOUND,
10 DID YOU SEE A THROUGH AND THROUGH WOUND TO HIS HEAD?

11 A I DIDN'T SEE THE THROUGH AND THROUGH, NO.
12 I DID NOT LOOK ON THE OTHER SIDE OF THE HEAD OF WHICH WAS
13 ON THE GROUND.

14 Q DID IT APPEAR FROM THE WOUND THAT YOU SAW
15 THAT WAS VISIBLE TO YOU THAT THE BULLET TRAJECTORY WAS
16 TOWARD THE BRAIN? IN OTHER WORDS, AS OPPOSED TO A
17 BRAZING WOUND?

18 A YES. IT APPEARED TO HAVE ENTERED THE
19 CRANIUM.

20 Q WAS THE BLOOD FLOW CONSISTENT -- AND I
21 DON'T MEAN TO BE TOO GRAPHIC WITH YOU, BUT I'M TRYING TO
22 ESTABLISH A LITTLE BIT OF A FOUNDATION.

23 WAS THE BLOOD FLOW AND THE WOUND
24 CONSISTENT WITH BULLET ENTERING THE BRAIN?

25 A YES. FROM WHAT I SAW, YES.

26 Q DURING THE COURSE OF YOUR INVESTIGATIONS
27 AND SPEAKING WITH CORONERS PERSONAL AND MEDICAL
28 EXAMINERS, HAVE YOU EVER LEARNED HOW IMMEDIATE DEATH IS

1 TIMEWISE WITH REGARD TO SHOTS TO THE HEAD?

2 MS. SARIS: I'M SORRY TO INTERRUPT.

3 CALLS FOR HEARSAY. MAY WE APPROACH?

4 THE COURT: WE CAN GO TO THE SIDE BAR.

5 (PROCEEDINGS HELD AT SIDEBAR.)

6 THE COURT: OKAY. WE'RE AT THE SIDE BAR.

7 MS. SARIS: MY OBJECTION IS LACK OF FOUNDATION.
8 WE'VE HAVE A CORONER COMING IN. THIS GENTLEMAN'S
9 TESTIMONY REGARDING MEDICAL ISSUES SEEMS INAPPROPRIATE
10 WITHOUT A PROPER FOUNDATION.

11 THE COURT: YOU KNOW, I SUSTAINED THE OBJECTION
12 ORIGINALLY AND I THINK COUNSEL IS TRYING TO LAY THE
13 NECESSARY FOUNDATION, BUT I DIDN'T GET WHAT THE LAST
14 OBJECTION WAS.

15 MS. SARIS: IT WAS AN OVERALL OBJECTION TO
16 QUALIFYING THIS WITNESS AS AN EXPERT IN THE MEDICAL FIELD
17 REGARDING IMMEDIACY OF DEATH AND HOW LONG A PERSON COULD
18 SURVIVE WITHOUT INJURY.

19 MR. JACKSON: AND, YOUR HONOR, BOTH FOR COUNSEL
20 AND THE COURT'S EDIFICATION, I'M NOT ATTEMPTING TO EVEN
21 COME CLOSE TO QUALIFYING HIM AS AN EXPERT IN THE MEDICAL
22 FIELD. I ONLY WANT TO ESTABLISH THAT HE HAS ALREADY TOLD
23 ME, AND I BELIEVE HE WOULD OPINE TO THE JURY, THAT THE
24 POOLING OF THE BLOOD AND THE BLOOD PATTERN INDICATED THAT
25 HE WAS SHOT OR AT LEAST SUFFERED SOME TRAUMATIC WOUNDS
26 BEFORE THE HEAD WOUND. THE HEAD WOUND WOULD HAVE BEEN
27 IMMEDIATELY FATAL. OBVIOUSLY I CAN GET TO THAT THROUGH
28 THE CORONER, THEN I WOULD HAVE TO CALL HIM BACK, AND SAY

1 BASED ON THAT, DO YOU HAVE AN OPINION AS TO WHETHER OR
2 NOT MICKEY THOMPSON SUFFER ANY ADDITIONAL WOUNDS BEFORE
3 BEING SHOT IN THE HEAD? I CERTAINLY THINK HE CAN ANSWER
4 THAT QUESTION.

5 MS. SARIS: THAT LAST QUESTION I DON'T MIND.

6 THE COURT: BASED ON HIS EXPERIENCE AS A HOMICIDE
7 DETECTIVE, I THINK SO.

8 MS. SARIS: CAN I MAKE A NOTATION FOR THE RECORD
9 THAT'S UNRELATED THAT I ALSO AT SOME POINT WANTED TO
10 BRING TO THE COURT'S ATTENTION?

11 THE DISTRICT ATTORNEY HAS ASKED THAT A
12 PARTICULAR WITNESS STAY IN THE COURTROOM DURING THIS
13 TESTIMONY AS AN EXPERT AND I WOULD JUST LIKE TO NOTE FOR
14 THE RECORD THAT HE IS SLEEPING IN THE BACK ROW ON AND OFF
15 AND ASK THE COURT TO -- AND I'M TALKING ABOUT MR. JACKSON
16 WHO HAS A MUSTACHE AND GLASSES, HE'S AWAKE NOW SCRATCHING
17 HIS EAR, BUT --

18 THE COURT: I DON'T KNOW WHO YOU'RE TALKING
19 ABOUT.

20 MS. SARIS: HE'S IN THE BACK ROW BEHIND DARRIN.

21 THE COURT: IN THE RED?

22 MS. SARIS: HE'S SCRATCHING HIS EAR RIGHT NOW.

23 THE COURT: OKAY.

24 MS. SARIS: AND I WOULD JUST LIKE TO POINT THAT
25 OUT IN CASE HE'S ASKED ABOUT TESTIMONY OF OFFICER
26 VERDUGO.

27 THE COURT: WELL, I DIDN'T SEE HIM SLEEPING.

28 MS. SARIS: I DID. I'M INFORMING THE COURT THAT

1 I DID. AND DURING MR. JACKSON'S DISCUSSION AT THE SIDE
2 BAR HE WOKE UP.

3 THE COURT: OKAY.

4 MR. JACKSON: IF COUNSEL WANTS TO TESTIFY TO
5 THAT, I GUESS WE'LL ACROSS THAT BRIDGE WHEN WE GET TO IT.

6 MS. SARIS: I WOULD JUST LIKE THE COURT TO TAKE
7 NOTE OF WHO HE IS.

8 THE COURT: WELL, I DON'T KNOW WHO HE IS.

9 MR. DIXON: THAT'S TRUE. THAT IS RICK JACKSON AS
10 SHE POINTED OUT.

11 THE COURT: THANK YOU.

12 (SIDEBAR CONCLUDED.)

13 THE COURT: YOU MAY CONTINUE.

14 MR. JACKSON: THANK YOU, YOUR HONOR.

15 Q DETECTIVE, BASED ON YOUR EXPERIENCE BOTH
16 WITH ATTENDING AUTOPSIES, YOUR DISCUSSIONS WITH MEDICAL
17 PERSONNEL, AND YOUR EXTENSIVE INVESTIGATIVE EXPERIENCE AT
18 HOMICIDE SCENES, CAN YOU FORM AN OPINION OR HAVE YOU
19 FORMED AN OPINION AS TO HOW THE BLOOD -- THE POOLING
20 BLOOD VERSUS THE BLOOD TRAIL THAT WAS DRAINING FROM
21 MICKEY THOMPSON'S BODY ITSELF, HOW THAT CAME TO PASS?

22 MS. SARIS: SAME OBJECTION. LACK OF FOUNDATION.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER.

25 THE WITNESS: YES. THESE POOLS OF BLOOD WERE OF
26 A DEGREE THAT IT INDICATED TRAUMA OCCURRING RIGHT IN THAT
27 AREA WITH BLOOD LEAVING THE BODY AND DROPPING TO THE
28 GROUND. THERE WERE SEVERAL DISTINCT AND SEPARATE POOLS

1 OF BLOOD INDICATING SEEPAGE OR A LARGE PORTION OF BLOOD
2 HITTING THE GROUND. I FOUND NO TRACES OF PATHS OR IN
3 BETWEEN BY THE PATH, I MEAN A PERSON BLEEDING WALKING MAY
4 LEAVE DROPLETS WHICH CAN ACTUALLY GIVE YOU THE DIRECTION
5 AND TELL YOU HOW THEY WALKED. I FOUND NOTHING LIKE THAT,
6 SO IT INDICATED TO ME THAT PROBABLY -- AND I SAY PROBABLY
7 BECAUSE OF MY EXPERIENCE -- THIS BLOOD EMANATED FROM
8 VICTIM MICKEY THOMPSON, BUT AT ANY RATE, THERE WERE
9 SEPARATE PLACES OF TRAUMA BLOOD BEING DEPOSITED.

10 THE FINAL BLOOD FLOWING FROM MR. THOMPSON
11 IS INDICATIVE OF A PERSON BEING DOWN AND THE BODY SEEPING
12 OUT OR LETTING BLOOD LEAVE.

13 Q IN YOUR OPINION, DID MICKEY THOMPSON
14 SUFFER SOME TRAUMATIC INJURY BEFORE BEING SHOT IN THE
15 HEAD?

16 A YES. IN MY OPINION, HE DID.

17 Q IN YOUR OPINION -- LET ME ASK IT THIS WAY:
18 DID YOU EVER AT MY REQUEST VISIT THE CRIME
19 SCENE SOME TWO YEARS AGO?

20 A YES, I DID.

21 Q AND I WAS THERE; CORRECT?

22 A YOU WERE, SIR.

23 Q DO YOU RECALL STANDING IN THE SPOT
24 APPROXIMATELY WHERE THOSE POOLS OF BLOOD EXISTED?

25 A I DO, SIR.

26 Q DO YOU REMEMBER WHERE I WAS AT THE TIME?

27 A YES.

28 Q WHERE WAS I?

1 A YOU WERE AT THE BASE OF THE DRIVEWAY.

2 Q AND HOW CLOSE WAS I TO WHERE TRUDY
3 THOMPSON'S BODY WAS FOUND DEAD?

4 A RIGHT ABOUT THE SAME PLACE, SIR.

5 Q COULD YOU SEE ME?

6 A OH, YES.

7 Q DID YOU AND I HAVE A CONVERSATION FROM OUR
8 RESPECTIVE POSITIONS?

9 A YES, SIR.

10 Q YOU COULD HEAR ME?

11 A YES.

12 Q DID IT APPEAR WHEN YOU VISITED THE CRIME
13 SCENE -- LET ME REPHRASE THAT.

14 DID IT APPEAR WHEN YOU ARRIVED AT THE
15 ACTUAL CRIME SCENE ON MARCH 16TH THAT MICKEY THOMPSON'S
16 BODY HAD BEEN MOVED FROM THE PLACE WHERE HE SUFFERED HIS
17 FATAL WOUND?

18 A NO.

19 Q IN OTHER WORDS, WERE THERE ANY DRAG MARKS
20 OR ANYTHING LIKE THAT?

21 A NO.

22 Q DID IT APPEAR THAT TRUDY THOMPSON HAD BEEN
23 MOVED FROM HER PLACE OF REST?

24 A FROM WHERE SHE RECEIVED HER FINAL WOUND?

25 Q CORRECT.

26 A NO.

27 Q DID YOU NOTE THE WOUNDS THAT MICKEY
28 THOMPSON SUFFERED OTHER THAN THE HEAD WOUND?

1 A I OBSERVED ANOTHER ONE TO THE TORSO OR
2 ARM, I CAN'T RECALL RIGHT NOW, BUT THE ONE THAT I WAS
3 MOST -- FOR WANT OF A BETTER WORD -- IMPRESSED WITH WAS
4 THE ONE ENTERING HIS HEAD BECAUSE I REALIZED THAT WOULD
5 BE IMMEDIATELY INCAPACITATING.

6 Q WHAT ABOUT TRUDY, DID YOU NOTICE ANY
7 ADDITIONAL WOUNDS OR THE WOUNDS THEMSELVES ON TRUDY
8 THOMPSON?

9 A I NOTICED A SINGLE GUNSHOT WOUND TO THE
10 HEAD, SIR.

11 Q APPROXIMATELY WHERE WAS THAT GUNSHOT
12 WOUND, SIR?

13 A TOWARDS THE REAR -- IT WAS TOWARDS THE
14 BACK OF THE HEAD, AS I RECALL.

15 Q BASED ON YOUR EXPERIENCE, SAME EXPERIENCE
16 THAT YOU'VE JUST TOLD THE JURORS ABOUT WITH REGARD TO
17 MICKEY THOMPSON, WERE YOU ABLE TO FORM AN OPINION AS TO
18 WHETHER OR NOT THAT WOUND APPEARED TO YOU TO BE
19 IMMEDIATELY FATAL?

20 A YES, IT DID.

21 Q AND SHE DID NOT APPEAR TO HAVE BEEN DRUG
22 OR MOVED FROM AT THAT SPOT; CORRECT?

23 A THAT'S CORRECT, SIR.

24 Q AS YOU WENT THROUGH THE CRIME SCENE, DID
25 YOU NOTE ANY FINGERNAILS THAT WERE FOUND?

26 A YES, I DID, SIR.

27 Q APPROXIMATELY HOW MANY FINGERNAILS WERE
28 FOUND AT THE CRIME SCENE?

1 A I'M TRYING TO RECALL. I THINK IT WAS IN
2 THE VICINITY OF FOUR OR FIVE. I BELIEVE THEY WERE
3 ACRYLIC OR FAKE NAILS.

4 Q AS YOU SIT HERE TODAY, DO YOU REMEMBER
5 EXACTLY WHERE EACH OF THOSE WAS FOUND?

6 A YES, PRETTY MUCH.

7 Q COULD YOU SHOW THE JURORS BASED ON YOUR
8 RECOLLECTION TODAY USING -- I'M GOING TO HAVE TO START
9 WRITING THESE NUMBERS BIGGER -- PEOPLE'S 54, THAT'S THE
10 ONE I CAN NEVER REMEMBER -- UTILIZING PEOPLE'S 54 AND THE
11 POINTER, IF YOU CAN SHOW THE JURORS APPROXIMATELY WHERE
12 YOU RECALL THE FINGERNAILS BEING FOUND. TAKE A LOOK TO
13 YOUR RIGHT, DETECTIVE, JUST IN THAT CROOK OF THAT --
14 THERE YOU GO.

15 A THE INITIAL FINGERPRINT THAT WAS FOUND --
16 I BELIEVE WE MARKED EVIDENCE NUMBER --

17 Q DID YOU SAY FINGERPRINT OR FINGERNAIL?

18 A I'M SORRY -- I DID SAY FINGERPRINT --
19 FINGERNAIL WAS FOUND ACTUALLY A DISTANCE FROM HER
20 SLIGHTLY EAST ON THE ROADWAY OF WOODLYN LANE, AND I
21 BELIEVE WE MARKED THAT NUMBER ONE.

22 Q AND APPROXIMATELY HOW FAR EAST OF TRUDY
23 THOMPSON'S BODY WOULD YOU ESTIMATE THAT FINGERNAIL WAS
24 FOUND?

25 A SEVERAL FEET.

26 Q OKAY. WE'RE TALKING FEET OR YARDS?

27 A YOU KNOW, THINKING BACK ON IT, IT COULD
28 HAVE REACHED A COUPLE YARDS. IT WAS A DISTANCE.

1 Q WAS IT -- IF YOU RECALL -- AND IF YOU
2 DON'T, THAT'S OKAY.

3 IF YOU RECALL, WAS IT CLOSER THAN YOU AND
4 I ARE NOW OR FURTHER?

5 A RIGHT AROUND THE SAME. MAYBE A LITTLE
6 CLOSER. BUT IT WAS PRETTY -- IT DIDN'T MAKE SENSE TO ME.
7 I FELT IT MUST HAVE OBVIOUSLY BEEN ACTED UPON BY SOMEBODY
8 IN THE SCENE.

9 Q OKAY.

10 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
11 THAT WHEN HE SAID A LITTLE BIT CLOSER, I TOOK ONE STEP
12 CLOSER. I'M APPROXIMATELY 12 FEET OR SO FROM THE
13 WITNESS.

14 THE COURT: YES.

15 MR. JACKSON: THANK YOU.

16 Q WHEN YOU SAY ACTED UPON BY SOMEONE AT THE
17 SCENE, WHAT DOES THAT MEAN?

18 A OR I SHOULD SAY AN OUTWARD SOURCE. IT
19 COULD BE THERE'S A LOT OF PEOPLE AT THE SCENE AND
20 INITIALLY IT'S ALMOST HAVOC. IT'S CHAOS. SO IT COULD
21 HAVE BEEN FIREMEN, IT COULD HAVE BEEN WIND, IT COULD HAVE
22 UNIFORMED DEPUTIES, ANYBODY RESPONDING TO TRY TO SECURE
23 THE SCENE OR HELP, COULD INADVERTENTLY KICK IT OR --
24 WE'VE HAD OCCASIONS ON THE SOLES OF OFFICERS OR FIREMAN'S
25 BOOTS, SHELL CASINGS HAVE ACTUALLY BEEN PICKED UP AND
26 CARRIED A DISTANCE UNTIL THEY FALL OFF. IT'S
27 INADVERTENT, BUT IT HAPPENS.

28 Q DETECTIVE, DID YOU FIND ANY PHYSICAL

1 EVIDENCE OTHER THAN THE FINGERNAIL TO INDICATE THAT TRUDY
2 THOMPSON MADE IT ANY FURTHER OUT OF THE DRIVEWAY THAN
3 WHERE SHE LAY DEAD?

4 MS. SARIS: OBJECTION. VAGUE AS TO "PHYSICAL
5 EVIDENCE."

6 THE COURT: SUSTAINED.

7 Q BY MR. JACKSON: DID YOU FIND BLOOD TRAILS
8 FURTHER EAST OF TRUDY THOMPSON?

9 A NO.

10 Q DID YOU FIND SHELL CASINGS FURTHER EAST OF
11 TRUDY THOMPSON?

12 A NO.

13 Q DID YOU FIND EXPENDED BULLET FRAGMENTS
14 FURTHER EAST OF TRUDY THOMPSON'S BODY?

15 A NO.

16 Q OTHER THAN THE FINGERNAIL, DID YOU FIND
17 ANYTHING ELSE THAT YOU COULD ATTACH TO TRUDY THOMPSON
18 FURTHER EAST OF HER BODY?

19 A NO.

20 Q WHERE DID THE BLOOD STOP AND START?

21 A IT ACTUALLY STOPPED AND STARTED RIGHT IN
22 THE IMMEDIATE AREA OF HER BODY ITSELF AND ACTUALLY FLOWED
23 INTO THE GUTTER SECTION BETWEEN THE -- OH, BETWEEN THE
24 DRIVEWAY AND WOODLYN LANE.

25 Q WHERE WERE THE OTHER FINGERNAILS THAT YOU
26 INDICATED TO THE JURORS WERE FOUND AT THE SCENE?

27 A THERE WAS ANOTHER ONE FOUND ABOVE HER BODY
28 IN THE DRIVEWAY AND THERE WAS ALSO ONE FOUND --

1 Q WELL, LET ME STOP YOU THERE.

2 WAS THAT SECOND ONE THAT WAS FOUND, WAS --
3 AND I'M USING THE WORD SECOND FOR LAY PURPOSES, NOT BASED
4 ON THE DIAGRAM.

5 WAS THE NEXT ONE THAT WAS FOUND BETWEEN
6 TRUDY THOMPSON AND THE VAN?

7 A YES, IT WAS NORTH OF HER BODY. I'LL CALL
8 THIS NORTH, THE TOP OF THE PICTURE (INDICATING).

9 Q PLEASE DO. LET'S JUST USE THIS AS A
10 ALMOST PERFECT COORDINATES, NORTH, SOUTH, WEST AND EAST.

11 A YES, SIR.

12 MR. JACKSON: FOR PURPOSES OF DIAGRAM 54, YOUR
13 HONOR.

14 THE COURT: YES.

15 Q BY MR. JACKSON: WAS THE -- THAT NEXT
16 FINGERNAIL FOUND SOUTH OF THE VAN AND NORTH OF HER BODY?

17 A YES, SIR, THAT'S CORRECT.

18 Q WHAT ABOUT THE NEXT FINGERNAIL?

19 A THE NEXT FINGERNAIL WAS CLOSER TO THE
20 WESTERN PORTION OF THE APRON, NORTH OF HER BODY ONCE
21 AGAIN.

22 Q ALL RIGHT. AND DO YOU RECALL ANY OTHER
23 FINGERNAILS BEING FOUND AT THE SCENE?

24 A NOT OFFHAND, SIR.

25 Q OKAY. TALKING ABOUT BALLISTICS --

26 A YES.

27 Q -- EXPLAIN FOR THE JURORS -- AND WE'LL
28 HAVE A BALLISTICS EXPERT, I EXPECT, TESTIFY LATER. I'M

1 NOT GOING TO EXPECT YOU TO GET TOO DEEPLY INTO IT, BUT
2 TELL THE JURORS, IF YOU DON'T MIND, WHAT BALLISTICS MEAN
3 TO A LEAD INVESTIGATOR OR AN INVESTIGATOR INVESTIGATING A
4 HOMICIDE.

5 THE COURT: CAN HE RESUME HIS SEAT?

6 MR. JACKSON: ABSOLUTELY. PLEASE.

7 THE WITNESS: THANK YOU, YOUR HONOR.

8 MR. JACKSON: I'M SORRY ABOUT THAT.

9 THE WITNESS: BALLISTICS GENERALLY, IT HAS NOW
10 COME TO BE BROADENED BUT DEALING WITH FIREARMS, BULLETS,
11 TRAJECTORY, FOOT PER SECOND, POUNDS. THE TRUE -- IS
12 DEALING WITH, IN FACT, TRAJECTORIES AND BULLETS, BUT IT'S
13 NOW COME TO INCLUDE FIREARMS.

14 WHAT ONE MAKES REFERENCE TO BALLISTICS AND
15 I JUST WANT TO CLARIFY THAT BECAUSE YOU MAY HAVE SOMEBODY
16 SAYS BALLISTICS WAS CALLED TO LOOK AT THE PISTOL AND, YOU
17 KNOW, IT'S GOING TO BE INCLUSIVE OF FIREARMS, BASICALLY.

18 Q WAS THERE BALLISTICS EVIDENCE FOUND AT
19 THIS CRIME SCENE?

20 A YES, SIR.

21 Q DESCRIBE THAT FOR THE JURORS, PLEASE.

22 A THERE WERE VARIOUS PROJECTILES, AND WHEN I
23 SAY PROJECTILES, THAT'S THE BULLET PORTION OF THE -- OR
24 THE PART THAT COMES OUT OF THE BARREL. THERE WERE SORT
25 OF EXPENDED PROJECTILES FOUND AROUND THE SCENE. THERE
26 WERE EXPENDED SHELL CASINGS.

27 AND BY THAT I MEAN IT'S THE BOTTOM PART OF
28 THE BULLET THAT EITHER STAYS IN A REVOLVER OR IS EJECTED

1 BY A SEMIAUTOMATIC BUT IT HOLDS THE BULLET, IT'S THE
2 BOTTOM CASING.

3 THERE WERE SOME LIVE ROUNDS. AND BY LIVE
4 ROUNDS, I MEAN BULLETS THAT HAVE NOT BEEN FIRED. THEY'RE
5 JUST -- THEY HAVE THE BULLET AND THE CASING TOGETHER AND
6 THEY HAVE NOT BEEN FIRED OFF.

7 Q THOSE ARE CONSIDERED LIVE ROUNDS; CORRECT?

8 A THAT'S CORRECT, SIR.

9 Q DO YOU RECALL OFF THE TOP OF YOUR HEAD HOW
10 MANY EXPENDED ROUNDS WERE -- I'M GOING TO BREAK IT INTO
11 EXPENDED ROUNDS, CASINGS OR CARTRIDGE CASINGS AND LIVE
12 ROUNDS.

13 DO YOU REMEMBER HOW MANY EXPENDED ROUNDS
14 WERE COVERED AT THE SCENE?

15 A ROUGHLY FOUR, MAYBE FIVE. I KNOW SOME OF
16 THEM WERE FRAGMENTED OR THERE WAS A FRAGMENT, SO I WOULD
17 GUESSTIMATE AT AROUND FOUR.

18 Q WAS THERE AN EFFORT MADE TO NOTE EACH OF
19 THE EXPENDED ROUNDS THAT WERE FOUND AT THE CRIME SCENE,
20 IN OTHER WORDS, IN A REPORT?

21 A YES.

22 Q AND WAS THERE AN EFFORT -- AND I MAY HAVE
23 SURPRISED YOU WITH THIS QUESTION, AND I DON'T MEAN TO
24 MAKE YOU HAVE TO DO MATH.

25 WOULD YOU HAVE ALSO OR SOMEONE HAVE ALSO
26 REPORTED THE NUMBER OF LIVE ROUNDS THAT WERE FOUND AT THE
27 SCENE?

28 A YES.

1 Q AND WHAT ABOUT THE CARTRIDGE CASES?

2 A YES.

3 Q OKAY. WE'LL GET TO THAT STUFF IN JUST A
4 MINUTE. I DON'T WANT YOU TO HAVE TO SEARCH YOUR REPORT.

5 TAKING A LOOK AT DIAGRAM 54, THERE APPEARS
6 TO BE -- AS YOU KIND OF STARTED OUT WITH THE EXPLANATION
7 TO THE JURORS, THERE APPEARS TO BE SEVERAL NOTATIONS
8 ABOUT SPENT CASINGS ON THAT PARTICULAR DIAGRAM.

9 A YES, THERE ARE, SIR.

10 Q COULD YOU SHOW THE JURORS APPROXIMATELY,
11 BASED ON YOUR RECOLLECTION OF THE CRIME SCENE AS YOU SAW
12 IT, AS WELL AS THAT DIAGRAM, COULD YOU SHOW THE JURORS
13 APPROXIMATELY WHERE THOSE SPENT CASINGS WERE RECOVERED,
14 STARTING WITH SPENT CASING NUMBER TWO.

15 A YES. SPENT CASING NUMBER TWO WAS ACTUALLY
16 FOUND IN THE STREET ON WOODLYN LANE JUST SOUTH OF THE
17 VICTIM'S CADAVER -- OR HER BODY. LET ME FIND -- EIGHT
18 WAS FOUND I BELIEVE TOWARDS THE WESTERN -- I'LL CALL IT
19 THE WESTERN APRON, THE WESTERN PORTION OF THE DRIVEWAY.
20 THE DRIVEWAY NORTH OF -- ONCE AGAIN, NORTH OF WOODLYN
21 LANE.

22 LET'S SEE, 11 WAS FOUND NORTH OF NUMBER
23 EIGHT TOWARDS THE WEST SIDE AGAIN OF THE DRIVEWAY. LET'S
24 SEE. 13 IS A LITTLE CLOSER. I WILL CALL IT A LITTLE
25 CLOSER TO MICKEY THOMPSON'S BODY AND IN THE NORTHERN
26 REGION OF WHERE HE'S LYING. STILL IN THE DRIVEWAY AREA
27 OR -- WE MIGHT CALL THIS AN APRON AREA. I'LL DESCRIBE IT
28 AS AN APRON AREA BECAUSE IT SEEMED TO BE A COMBINATION

1 WHERE A COUPLE OF PATHWAYS JOIN IN FRONT THE GARAGE.

2 14 WAS RIGHT NEAR 13. JUST A LITTLE BIT
3 NORTH, A LITTLE BIT WEST, AGAIN ON THE WESTERN PORTION
4 THE APRON. 15 WAS NEARER. I'LL DESCRIBE IT AS NEARER
5 THE END OF THE BLOOD RUN EMANATING FROM VICTIM MICKEY
6 THOMPSON'S BODY.

7 18, I BELIEVE THAT WAS CLOSER TO THE VAN.
8 I CAN'T BE SURE. I CAN'T READ THESE NUMBERS WELL, I'M
9 SORRY.

10 Q DO YOU SEE A CIRCULAR MARK JUST TO THE
11 LEFT OF THAT TREE?

12 A I DO.

13 Q DOES THAT REFRESH --

14 A IT'S JUST SOUTH OF A TOYOTA VAN WHICH WAS
15 FOUND ABUTTING A -- KIND OF A WALL OR A -- NOT A PLANTER,
16 BUT A WALL. IT WAS ON THE GROUND, LYING ON THE GROUND.
17 IT IS NORTH THE VICTIM'S BODY ON THE EASTERN PORTION OF
18 THE APRON OF THAT DRIVEWAY.

19 Q DETECTIVE, I'M GOING TO ADMIT TO THIS
20 RIGHT OFF THE BAT. I'M GOING TO ASK YOU A REALLY STUPID
21 QUESTION.

22 A OH, GOOD.

23 Q A CARTRIDGE CASING, WHAT --

24 A YES

25 Q -- WHAT SHAPE IS IT?

26 A IT IS CYLINDRICAL BUT KIND OF OBLONG. AND
27 IT'S EMPTY OF A BULLET IN THE END. A LOT LIKE THE
28 TUBULAR ASPECT OF A PEN. AS A MATTER OF FACT, YOU'RE

1 HOLDING A PEN. YES.

2 Q DO CARTRIDGE CASES TEND TO ROLL?

3 A YES.

4 Q IF IN YOUR EXPERIENCE A CARTRIDGE IS
5 EXPENDED FROM A GUN AND LANDS ON A SURFACE, WILL IT STICK
6 EXACTLY WHERE IT LANDS OR DOES IT TEND TO MOVE?

7 MS. SARIS: OBJECTION. VAGUE AS TO WHEN. WHAT
8 SURFACE?

9 THE COURT: ALL RIGHT. SUSTAINED.

10 Q BY MR. JACKSON: HOW ABOUT ASPHALT?

11 A ASPHALT, IT WOULD BOUNCE. IT WOULD
12 BOUNCE.

13 Q ON A FLAT SURFACE, EVEN?

14 A YES. IF IT'S A HARSHER SURFACE. NOW,
15 THERE AGAIN, TO QUALIFY, IF IT WERE A SURFACE FULL OF
16 THICK GLUE, IT WOULD PROBABLY LAND AND SAY. BUT IF IT
17 HAS ANY TYPE OF SURFACE, IF IT'S FALLING FROM SOME
18 DISTANCE, YOU CANNOT GUARANTEE IN WHICH DIRECTION IT WILL
19 BOUNCE.

20 Q DID YOU NOTE ANY THICK GLUE COVERING THE
21 CRIME SCENE AT THE THOMPSONS?

22 A NEVER DID ENCOUNTER ANY, NO.

23 Q ALL RIGHT. GIVEN THE FACT THAT YOU'VE
24 INDICATED THAT THE DRIVEWAY WAS AT A STEEP GRADE --

25 A YES.

26 Q -- WHAT WOULD YOU EXPECT INSOFAR AS THE
27 SHELL CASINGS THAT WERE EXPENDED FROM THE GUNS THAT WERE
28 USED TO HAPPEN?

1 MS. SARIS: OBJECTION. LACK OF FOUNDATION.

2 THE COURT: ALL RIGHT. SUSTAINED.

3 HOW MUCH MORE DO YOU WANT TO GO TODAY?

4 MR. JACKSON: YOUR HONOR, WE'RE AT A GOOD
5 BREAKING POINT. THAT'S FINE.

6 THE COURT: ALL RIGHT. SINCE MR. VERDUGO IS STILL
7 STANDING.

8 MR. JACKSON: THAT'S MY FAULT. I APOLOGIZE.

9 THE COURT: ALL RIGHT. SO I THINK WE CAN GET
10 STARTED TOMORROW AT 10:30, AGAIN, LADIES AND GENTLEMEN.
11 SO I'LL HAVE YOU COME BACK THEN.

12 PLEASE REMEMBER ALL THE ADMONITIONS. AND
13 WE WILL SEE YOU TOMORROW MORNING AT 10:30. THANK YOU.

14 (THE JURY LEFT THE COURTROOM.)

15 THE COURT: WE WILL SEE YOU TOMORROW AT 10:30.

16 DO WE HAVE ANYTHING TO DISCUSS OUTSIDE OF
17 THE PRESENCE?

18 MR. JACKSON: YES, YOUR HONOR.

19 MS. SARIS: OH, NOW? NO, TOMORROW MORNING
20 BECAUSE I HAVE TO GO THROUGH IT WITH THE TRANSCRIPT.

21 MR. JACKSON: I THOUGHT YOU WERE ASKING ABOUT
22 TOMORROW MORNING. TOMORROW WE SHOULD PROBABLY SHOW UP
23 HALF AN HOUR --

24 THE COURT: 10:00 O'CLOCK.

25 MS. SARIS: 10:00 IS FINE. OH, ACTUALLY, UNLESS
26 THE COURT WANTS TO VIEW IT, IF THERE MIGHT BE AN ISSUE,
27 PERHAPS WE CAN JUST GIVE IT --

28 THE COURT: WELL, IS THERE AN ISSUE OTHER THAN

1 WHAT'S ALREADY BEEN RAISED?

2 MS. SARIS: I CAN TELL RIGHT FROM LOOKING AT THE
3 TRANSCRIPT, THAT WE HAVE AN ISSUE WITH THE TRANSCRIPT.
4 SO I DON'T KNOW IF THE COURT'S GOING TO HAVE TO DETERMINE
5 WHAT WAS ACTUALLY SAID OR IF THE COURT WANTS US BOTH TO
6 PUT IN A TRANSCRIPT. I'M NOT SURE HOW --

7 THE COURT: WELL, I'M GOING TO HAVE TO -- IF
8 THERE'S A DISPUTE, WHY DON'T YOU SEE IF YOU CAN WORK OUT
9 THE DISPUTE BEFORE 10:00 O'CLOCK. AND IF YOU CAN'T, I
10 WILL HAVE TO TAKE A LOOK AT THAT PORTION.

11 MR. DIXON: RIGHT. WE MIGHT INVITE MS. SARIS TO
12 CALL US WITH ANY CORRECTIONS AND WE CAN TRY TO GET
13 TOGETHER AND WORK THAT OUT BEFORE COURT.

14 MS. SARIS: I THINK I HAVE IT ON ELECTRONIC FORM,
15 I CAN SEND IT TO THEM WITH THE CHANGES.

16 THE COURT: SO WE WILL DISCUSS ALL OF THAT 10:00
17 O'CLOCK TOMORROW.

18 MR. DIXON: FINE.

19 THE COURT: ANYTHING ELSE?

20 MR. DIXON: ONE OTHER QUESTION, YOUR HONOR. THIS
21 FRIDAY WILL WE BE SESSION OR NOT?

22 THE COURT: I WAS PLANNING ON IT. IF THAT'S
23 EVERYONE'S PREFERENCE, I THINK THE JURY WAS BASICALLY
24 PLANNING ON IT AS WELL. BUT I'M FLEXIBLE. WE'RE
25 FLEXIBLE. I THINK WE'RE ON SCHEDULE. IF NOT --

26 MS. SARIS: I JUST HAVE TO TELL THE COURT, I HAVE
27 ONE OF MY WITNESSES THAT'S FLYING IN FROM IDAHO, HAS KNEE
28 SURGERY SCHEDULED ON THE 7TH, SO AS LONG AS WE CAN MAKE A

1 ACCOMMODATIONS TO TAKE HIM ON THE 5TH OR THE 4TH,
2 REGARDLESS OF WHERE WE'RE AT, HE'S THE BALLISTIC PERSON,
3 HE'S DWIGHT VAN HORN. SO I DON'T KNOW THAT IT WOULD BE
4 TOO DISRUPTIVE, BUT THAT'S MY ONLY CONCERN. HE'S NOT
5 AVAILABLE AFTER SURGERY ON THE 7TH.

6 MR. DIXON: THAT'S FINE.

7 THE COURT: I'M ASSUMING THE PEOPLE ARE GOING TO
8 REST BY THE END OF THE WEEK?

9 MR. DIXON: GETTING REAL CLOSE.

10 THE COURT: SO WHY DON'T YOU LET ME KNOW TOMORROW
11 IF YOU THINK IT WILL BE HELPFUL TO RECESS FOR FRIDAY, BUT
12 WE'RE CERTAINLY HERE AND AVAILABLE TO SPEND THE DAY.

13 MR. DIXON: THANK YOU.

14 THE COURT: ALL RIGHT.

15
16 (THE MATTER WAS CONTINUED TO WEDNESDAY,
17 NOVEMBER 29, 2006 AT 10:00 A.M.)

18 (NEXT PAGE IS 5401.)

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

JUN 01 2007

SUPERIOR COURT
NO. GA052683

ORIGINAL

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

NOVEMBER 29, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
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FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 15 OF 24
PAGES 5401 THRU 5560/5700

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, NOVEMBER 29, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
20 RECORD IN THE MICHAEL GOODWIN MATTER. HE IS PRESENT WITH
21 HIS COUNSEL, THE PEOPLE ARE REPRESENTED.

22 WE'RE GETTING A LATE START THIS MORNING.
23 WE HAVE JURORS THAT ARE WAITING AND WE NEEDED TO ADDRESS
24 SOME ISSUES THIS MORNING.

25 MR. DIXON: YES, YOUR HONOR. IF I COULD ADDRESS
26 THE ISSUE OF THE TRANSCRIPT AND WHAT WAS AGREED TO AND
27 WHAT WASN'T.

28 THE DEFENSE MADE A NUMBER OF SUGGESTIONS.

1 ALL BUT ONE ARE ACCEPTABLE. SO WE'VE COME DOWN TO THE
2 POINT WHERE WE JUST NEED THE COURT TO MAKE A DECISION
3 WITH RESPECT TO ONE ITEM.

4 WE HAVE THAT KEYED UP, SO TO SPEAK, ON THE
5 T.V. AND THE V.C.R. AND MY SUGGESTION WOULD BE BEFORE
6 YOU HEAR ANY ARGUMENT, JUST -- AND IT'S A TEN-MINUTE --
7 OR EXCUSE ME -- TEN-SECOND SNIPPET THAT YOU COULD PLAY
8 OVER A COUPLE OF TIMES AND WE COULD EITHER BRING IT OUT
9 OR ROLL IT INTO YOUR CHAMBERS AND HAVE YOU LISTEN TO THIS
10 WITHOUT US ARGUING OR WITHOUT A TRANSCRIPT OF WHAT IT
11 SAYS, BECAUSE THAT'S THE DEBATE. WHAT, IF ANYTHING, DOES
12 IT SAY.

13 I THINK IF I SAY THE MAGIC WORDS OF WHAT I
14 THINK IT MIGHT BE OR DEFENSE COUNSEL --

15 THE COURT: IT'S KEYED UP?

16 MS. SARIS: THIS IS AFTER ITEM FIVE?

17 MR. JACKSON: YES.

18 MS. SARIS: THE PROBLEM IS WE NEED TO GET THIS --
19 I'VE MADE THE CRAWFORD CHALLENGE. I THINK THE CASE LAW
20 IS PRETTY CLEAR THAT IT'S INADMISSIBLE, THE AUDIO PORTION
21 WOULD NOT BE ADMISSIBLE.

22 THE COURT: WELL, DO YOU WANT ME TO LISTEN TO IT
23 OR NOT?

24 MR. DIXON: WELL, THAT WOULD BE MY SUGGESTION. I
25 GUESS WHAT DEFENSE IS STAYING IS THAT --

26 THE COURT: IT'S MADE FOR FUTURE LITIGATION AND
27 IT WOULD VIOLATE THE RIGHT TO CONFRONT AND
28 CROSS-EXAMINATION.

1 MR. JACKSON: THAT'S CORRECT. CORRECT, THAT'S
2 THEIR ARGUMENT.

3 THE COURT: IT'S AN INTERESTING ARGUMENT.

4 MR. JACKSON: WE DISAGREE OBVIOUSLY, IF IT'S USED
5 FOR A HEARSAY PURPOSE.

6 THE COURT: THE PROBLEM IS IT'S NOT BEING OFFERED
7 FOR THE TRUTH.

8 MR. JACKSON: CORRECT.

9 THE COURT: WE'VE ALREADY HAD TESTIMONY FROM
10 MS. DEVINE AND DETECTIVE VERDUGO AS TO WHERE THIS
11 EVIDENCE CAME FROM.

12 MS. SARIS: ACTUALLY, WE HAVEN'T AS TO THE
13 SPECIFIC PIECES. THEY'VE POINTED TO A DIAGRAM THAT
14 THEY'VE ADMITTED A LITTLE BIT OFF AND NOT TO SCALE. NO
15 ONE HAS YET TO SAY THIS IS FOUND SIX INCHES FROM THE
16 NORTH CURB, 20 FEET FROM THE GARAGE, THAT HASN'T
17 HAPPENED. AND, QUITE FRANKLY, I THINK COUNSEL WILL
18 AGREE, OFFICER VERDUGO IS NOT ON THE TAPE AS FAR AS I CAN
19 TELL AT ALL. I CAN'T SEE HIM ANYWHERE.

20 THE COURT: WHO'S GOING TO TESTIFY TO ACTUALLY
21 PICKING UP THE EVIDENCE? YOU HAVE A BALLISTIC PERSON
22 COMING IN --

23 MR. JACKSON: WE DO, BUT NOT THE ACTUAL PERSON
24 WHO PICKED IT UP.

25 THE COURT: SO WHAT DO WE HAVE FOR THAT?

26 MR. JACKSON: DETECTIVE VERDUGO CAN TESTIFY THAT
27 HE WATCHED AS A BALLISTICS PERSON PICKED UP AND RECOVERED
28 THESE THINGS AFTER THEY WERE PHOTOGRAPHED.

1 THE COURT: SO WE WILL HAVE TESTIMONY AS TO EVERY
2 PIECE OF EVIDENCE THAT'S DEPICTED IN THE EXHIBITS AS WELL
3 AS THE TAPE?

4 MR. JACKSON: RIGHT. AND I EXPECT TO HAVE THE --
5 INSTEAD OF HAVING DETECTIVE VERDUGO GO THROUGH THE
6 BALLISTICS, I WOULD HAVE MANNY MUNOZ GO THROUGH THE
7 ACTUAL BALLISTICS. WE'VE GOT THE ENVELOPES. THEY'RE ALL
8 MARKED CONSISTENT WITH EVERYTHING THAT WAS DONE 18 YEARS
9 AGO AND WE WILL WALK THE COURT AND THE JURY THROUGH HIS
10 ANALYSIS OF THE BALLISTICS.

11 THE COURT: ALL RIGHT. MY ANALYSIS IS THE SAME.
12 IF IT'S NOT BEING OFFERED FOR THE TRUTH, THERE IS NO
13 REASON FOR THE COURT TO GET INTO A DISCUSSION OF HEARSAY.
14 AND CRAWFORD --

15 MS. SARIS: THEN THE QUESTION IS: WHAT IS THE
16 RELEVANCE IF IT'S NOT BEING OFFERED FOR THE TRUTH?

17 THE COURT: YES. I THINK WE'VE DISCUSSED THAT TO
18 THE EXTENT THAT THE DEFENSE IS PUTTING THE CONDUCT OF THE
19 POLICE OFFICER --

20 MS. SARIS: AND HOW HAVE I DONE THAT SO FAR?

21 THE COURT: YOUR OFFER HAS BEEN --

22 MS. SARIS: MY OFFER?

23 THE COURT: -- YOUR OFFER HAS BEEN -- YOUR
24 OPENING STATEMENT HAS BEEN THIS WAS A BOTCHED
25 INVESTIGATION.

26 MS. SARIS: MY OPENING STATEMENT IS NOT EVIDENCE.

27 THE COURT: I UNDERSTAND THAT.

28 MS. SARIS: SO I HAVE NOT CALLED A SINGLE

1 WITNESS.

2 THE COURT: SO YOU'RE SAYING THAT THAT'S NOT AN
3 ISSUE IN THIS CASE?

4 MS. SARIS: NOT YET. AND THIS WOULD BE
5 INAPPROPRIATE IN TERMS OF TIMING. I'M CERTAINLY NEVER
6 SAYING THAT DETECTIVE GRIGGS BOTCHED THIS CRIME SCENE. I
7 BELIEVE IT'S OFFICER VERDUGO WHO TESTIFIED THAT THERE WAS
8 CHAOS AND PEOPLE WERE RUNNING AROUND KICKING FINGERNAILS
9 ALL OVER. THAT'S NOT BEEN MY CONTENTION. I'M QUITE
10 HAPPY WITH THE WAY THE SCENE IS LAID OUT. I THINK IT
11 SUPPORTS MY OUR POSITION ENTIRELY. I HAVE NEVER ARGUED
12 THE CRIME SCENE WAS BOTCHED. THE INVESTIGATION WAS
13 BOTCHED.

14 THE COURT: EXACTLY. THAT'S MY POINT. SO IF
15 THAT'S YOUR ARGUMENT AND THE PEOPLE ARE OFFERING THIS TO
16 DEMONSTRATE THAT THE -- AT LEAST THE INITIAL
17 INVESTIGATING OFFICER CONDUCTED HIS PRELIMINARY
18 INVESTIGATION WITH RESPECT TO THIS VIDEOTAPE
19 APPROPRIATELY, WHY IS THAT A PROBLEM FOR THE DEFENSE
20 OTHER THAN THE FACT THAT YOU SAY THAT YOU HAVEN'T
21 PRESENTED ANY EVIDENCE YET?

22 MS. SARIS: IF THE COURT IS GOING TO ALLOW ME TO
23 GO INTO EXACTLY WHY THIS INVESTIGATION WASN'T CONDUCTED
24 APPROPRIATELY, I'M HAPPY TO HEAR THIS.

25 THE COURT: I NEVER THOUGHT THAT WAS GOING TO BE
26 AN ISSUE IN THIS CASE, THAT THE PEOPLE WERE GOING TO BE
27 ASKING ME TO PRECLUDE YOU FROM PRESENTING THAT
28 INFORMATION.

1 MS. SARIS: I CERTAINLY INTEND TO INQUIRE AS TO
2 WHY OTHER SUSPECTS WEREN'T INVESTIGATED. AND TO THE
3 EXTENT THAT WE NEED TO HAVE THAT LAID FOUNDATIONALLY FOR
4 THE JURORS AND HOW IMPORTANT THAT WOULD HAVE BEEN.
5 OBVIOUSLY THAT'S PART OF THE INVESTIGATION.

6 SO IF OFFICER GRIGGS -- WE'RE SUPPORTING
7 USING THIS VIDEO TO SHOW WHAT A THOROUGH DETECTIVE HE IS,
8 THEN CLEARLY THE FACT THAT HE HAD ANOTHER SUSPECT THAT HE
9 DIDN'T BOTHER TO SHOW ANY OF THE EYE WITNESSES OR TO
10 INVESTIGATE FULLY OR TO LOOK INTO, I THINK IT'S FAIR GAME
11 THEN. WITHOUT NECESSARILY BLAMING THAT INDIVIDUAL, BUT
12 TO SHOW THAT THE POLICE DID NOT DO A PROPER INVESTIGATION
13 OF THIS CRIME AND I'M JUST --

14 THE COURT: YOU'RE LOSING ME. YOU'RE LOSING ME.
15 WE'RE TALKING ABOUT A VIDEOTAPE. YOU'RE OBJECTING ON THE
16 GROUNDS OF RELEVANCE. YOU INDICATED THAT YOUR THEORY IN
17 THIS CASE IS -- WELL, ONE OF THE THEORIES IS THAT THE
18 INVESTIGATION OF THIS CASE WAS NOT DONE PROPERLY. THAT
19 WAS SUGGESTED IN THE OPENING STATEMENT.

20 AND AS FAR AS I'VE KNOWN, THE FACTS OF
21 THIS CASE FOR THE PAST TWO YEARS I ALWAYS BELIEVED THAT
22 WAS YOUR THEORY. THE COURT IS NOT ALLOWING YOU TO
23 PRESENT EVIDENCE OF THIRD PARTY CULPABILITY, BUT I DIDN'T
24 BELIEVE THAT YOU WERE GOING TO BE ABANDONING YOUR THEORY
25 THAT THE POLICE MESSED UP THIS INVESTIGATION.

26 MS. SARIS: I JUST WANTED THAT CLEAR FOR THE
27 RECORD. THAT'S FINE. I THINK MY ARGUMENTS ARE MADE.

28 MR. DIXON: YOUR HONOR, I UNDERSTAND THE LATE

1 HOUR AND THAT THE COURT WOULD LIKE TO GET TO THE JURY.

2 SO WE'VE JUST TALKED, THERE'S CERTAINLY A
3 LIKELIHOOD THAT -- OR A POSSIBILITY THAT MR. JACKSON'S
4 EXAMINATION OF DETECTIVE VERDUGO WILL GO AT LEAST TO
5 11:30 OR MAYBE A QUARTER TO 12:00.

6 THE COURT: ALL RIGHT.

7 MR. DIXON: AND THEN MAYBE YOU CAN LISTEN TO THIS
8 PORTION OF THE TAPE AT THAT POINT ,IF YOU PREFER TO DO
9 THAT.

10 THE COURT: LET'S DO THAT.

11 MS. SARIS: AND WHEN THE COURT DOES THAT, PERHAPS
12 THE COURT CAN NOTICE THAT IT'S OBVIOUSLY BEEN EDITED AND
13 IT'S NOT IN ORDER, AND I DON'T KNOW HOW MUCH VERDUGO CAN
14 AUTHENTICATE. WE MAY NEED HIM OUTSIDE THE PRESENCE OF
15 THE JURY.

16 THE COURT: ALL RIGHT. WELL, WE WILL DO AS MUCH
17 AS WE CAN DO WITH THEM AND THEN WE WILL BREAK.

18 (THE JURY ENTERED THE COURTROOM
19 AND THE FOLLOWING PROCEEDINGS WERE
20 HELD IN OPEN COURT.)

21 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
22 THAT ALL OUR JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT
23 IN THE TRIAL MATTER.

24 GOOD MORNING, LADIES AND GENTLEMEN. THE
25 PARTIES ARE PRESENT AND DETECTIVE VERDUGO IS STILL ON THE
26 WITNESS STAND.

27 SIR, YOU'VE BEEN PREVIOUSLY SWORN. YOU'RE
28 REMINDED YOU'RE STILL UNDER OATH. CAN YOU JUST SAY YOUR

1 NAME AGAIN FOR THE RECORD.

2 THE WITNESS: YES, YOUR HONOR. FIRST NAME
3 REYNOLD, R-E-Y-N-O-L-D, LAST NAME VERDUGO, V-E-R-D-U-G-O.

4 THE COURT: THANK YOU.

5 MR. JACKSON, YOU MAY CONTINUE WITH YOUR
6 DIRECT EXAMINATION.

7 MR. JACKSON: THANK YOU, YOUR HONOR.

8
9 DIRECT EXAMINATION (CONTINUED)

10 BY MR. JACKSON:

11 Q YESTERDAY WHEN WE LEFT OFF YOU HAD
12 EXPLAINED TO THE JURORS THAT THERE WAS, IN FACT, NOT A
13 THICK LAYER OF GLUE AT THE CRIME SCENE; CORRECT?

14 A THAT'S CORRECT, SIR.

15 Q IN ANTICIPATION OF THAT QUESTION, I ASKED
16 YOU OUTSIDE OF THE PRESENCE OF THE JURY THIS MORNING TO
17 MODIFY PEOPLE'S 54, BEST LAID PLANS, IT TURNED OUT IN THE
18 EXHIBIT THAT IT WAS ALMOST UNREADABLE; CORRECT?

19 A THAT'S CORRECT, SIR.

20 Q DID YOU AT MY INSISTENCE AND WITH THE
21 COURT'S PERMISSION GO OVER THAT DOCUMENT WITH A PEN AND
22 DEFINE WHAT THE ACTUAL EXHIBITS ARE THAT EXIST ON THAT
23 DIAGRAM?

24 A YES, SIR.

25 Q SO IT'S A LITTLE BIT MORE LEGIBLE;
26 CORRECT?

27 A YES. MUCH MORE, YES.

28 Q LET ME ASK YOU FOUNDATIONALLY SO THAT THE

1 JURORS KNOW WHAT THEY ARE LOOKING AT. AND I REALIZE -- I
2 GOT TO GET MY CONTACTS CHANGED, I CAN'T SEE ANYTHING ON
3 THAT THING AND I'M SURE THE JURORS DOWN HERE CAN'T
4 EITHER.

5 LET'S EXPLAIN IT FOR THEM IN WORDS.

6 DID YOU REDRAW THE NUMBER THAT'S
7 ASSOCIATED WITH THE PARTICULAR ITEM OF EVIDENCE?

8 A YES.

9 Q AND DID I ASK YOU TO DENOTE ON THAT
10 DIAGRAM WHETHER OR NOT YOU'RE TALKING ABOUT A FINGERNAIL,
11 A CASING, A BULLET IN AN EXPENDED ROUND, OR A LIVE ROUND?

12 A YES.

13 Q AND YOU DID THAT THROUGH WHAT INITIALS?
14 FINGERNAIL IS?

15 A FN.

16 Q "F" AS IN FRANK, "N" AS IN NANCY?

17 A CORRECT.

18 Q CASING IS?

19 A "C" AS IN CHARLIE.

20 Q A LIVE ROUND OR ROUND?

21 A "R" HAS IN ROBERT.

22 Q AND FINALLY THE BULLET OR EXPENDED
23 PROJECTILE IS DENOTED AS?

24 A "B" AS IN BOY.

25 Q SO IF THE JURORS WERE TO TAKE A CLOSE
26 LOOK, SOME OF THEM ARE AT A MARKED ADVANTAGE, THEY'RE
27 CLOSER. IF THEY WERE TO TAKE A CLOSE LOOK AT NUMBER ONE,
28 IT HAS AN FN, WHAT DOES THAT DENOTE?

1 A THAT DENOTES THE FINGERNAIL THERE AT THE
2 SCENE THAT WAS EAST OF THE VICTIMS.

3 Q THIS SHOULD MAKE IT EASIER. SO LET'S GO
4 THROUGH -- DO YOU HAVE YOUR REPORT IN FRONT OF YOU?

5 A I HAVE A REPORT HERE, YES, THAT LISTS THE
6 EVIDENCE.

7 Q AND IS THIS A REPORT, TO YOUR KNOWLEDGE,
8 THAT WAS PREPARED BY DETECTIVE GRIGGS?

9 A THAT'S CORRECT, SIR.

10 Q HAVE YOU REVIEWED THIS REPORT AT SOME
11 POINT PRIOR TO COMING IN HERE THIS MORNING?

12 A YES, SIR.

13 Q AND IS IT CONSISTENT WITH YOUR MEMORY OF
14 THE EVIDENCE THAT EXISTED AT THE CRIME SCENE THAT YOU SAW
15 WITH YOUR OWN TWO EYES?

16 A YES.

17 Q I'D LIKE YOU TO -- AND LET ME ASK YOU THIS
18 FOUNDATIONALLY SO WE CAN GET PAST THIS SO I HOPEFULLY
19 DON'T HAVE TO ASK THIS BEFORE EVERY QUESTION.

20 DO YOU HAVE IN YOUR MIND AN EXACT LOCATION
21 AND NUMBER OF EVIDENCE EVERY PIECE OF EVIDENCE THAT WAS
22 OUT THERE WITHOUT LOOKING AT ANYTHING TO REFRESH YOUR
23 RECOLLECTION?

24 A PRETTY CLOSE. BUT I THINK I WOULD PREFER
25 TO REFRESH MY RECOLLECTION.

26 Q WOULD THIS REPORT FROM GRIGGS THAT YOU
27 TALKED ABOUT HELP YOU OR ASSIST YOU IN EXPLAINING TO THE
28 JURORS WHAT EVIDENCE EXISTED OUT THERE?

1 A OH, YES, SIR.

2 Q LET'S TRY TO WALK THROUGH THIS A LITTLE
3 CLEANLY SO I DON'T PUT EVERYBODY TO SLEEP.

4 EVIDENCE ITEM NUMBER ONE, THAT APPEARS --
5 AND I'M GOING TO ASK YOU IF YOU WOULDN'T MIND FOR THIS
6 PORTION OF OUR TESTIMONY -- OF YOUR TESTIMONY, WOULD YOU
7 STEP DOWN FROM THE WITNESS STAND AND USE THE POINTER. I
8 THINK THE POINTER IS TO YOUR LEFT ON THE WALL. IT'S SORT
9 OF HIDING.

10 A OH, YES. I'VE GOT IT.

11 Q ALL RIGHT. EVIDENCE ITEM NUMBER ONE,
12 WHERE IS IT AND WHAT IT IS?

13 MS. SARIS: YOUR HONOR, I'M SORRY, CAN WE ASK HIM
14 TO GO TO THE SIDE SO HE DOESN'T BLOCK?

15 THE WITNESS: THE OTHER SIDE?

16 MS. SARIS: WHEN YOU STAND, I CAN'T SEE.

17 THE WITNESS: OH, I'M SORRY.

18 MS. SARIS: THANK YOU.

19 MR. JACKSON: CAN EVERYBODY SEE IT FROM THERE?

20 Q EVIDENCE ITEM NUMBER ONE, DETECTIVE, WHERE
21 IS IT AND WHAT IT IS?

22 A IT IS ON THE STREET ON WOODLYN LANE. IT
23 IS EAST OF VICTIM TRUDY'S REMAINS. IT'S DENOTED BY A
24 ROUND CIRCLE WITH ONE IN IT AND THE LETTERS F.N.

25 Q WHAT IS IT?

26 A IT'S A FINGERNAIL.

27 Q EVIDENCE ITEM NUMBER TWO?

28 A NUMBER TWO IS REMARKED AND IT HAS A TWO

1 AND A "C." THAT IS JUST BELOW -- IT'S IN THE STREET OF
2 WOODLYN LANE JUST BELOW VICTIM TRUDY'S REMAINS AND IT'S A
3 SHELL CASING, OR AN EXPENDED CASING.

4 Q EVIDENCE ITEM NUMBER THREE?

5 A NUMBER THREE IS JUST TO THE LEFT OF VICTIM
6 TRUDY'S BODY AND IT'S A LIVE ROUND, OR AN UNFIRED BULLET,
7 .9 MILLIMETER.

8 Q WHEN YOU SAY -- AND I'M GOING TO PAUSE FOR
9 JUST A SECOND.

10 WHEN YOU SAY "A LIVE ROUND," EXPLAIN THAT
11 IN VERY BRIEF DETAIL FOR US, PLEASE.

12 A YES, IT'S A BULLET BASICALLY THAT HAS NOT
13 BEEN FIRED. IF IT'S FIRED, POWDER IS IGNITED AND IT
14 FORCES THE PROJECTILE AND THE BULLET OUT THE BARREL OF
15 GUN OR SOME AREA. THIS HAS NOT BEEN FIRED.

16 Q IS THERE AN EXPLANATION IN YOUR MIND AS AN
17 EXPERIENCED INVESTIGATOR AS TO HOW A LIVE ROUND MIGHT END
18 UP AT A CRIME SCENE?

19 A YES. THERE'S A COUPLE OF WAYS. IT COULD
20 BE A MALFUNCTION OF THE WEAPON, UNFAMILIARITY OF THE
21 SUSPECT TO THE WEAPON, OR A THING THAT SOME OTHERS REFER
22 TO AS BUCK FEVER. AND THEY CALL IT BUCK FEVER, IF YOU
23 WERE HUGGING -- YOU HAD YOUR RIFLE AND SUDDENLY A LARGE
24 BUCK WITH BIG POINTS AND AN ANTLERS COMES OUT AND YOU GET
25 SO EXITED THAT RATHER THAN PULL THE TRIGGER, YOU CONTINUE
26 TO LOAD THE ARM SO THEY CALL IT BUCK FEVER AND IT JUST
27 KEEPS EJECTING SHELLS. NOW, THAT COULD BE -- THAT'S ONE
28 EXPLANATION AMONG THE OTHERS THAT I MENTIONED.

1 Q ALL RIGHT. THESE WERE -- DID YOU LOOK AT
2 THESE SHELL CASINGS THAT WERE RECOVERED AT THE SCENE?
3 AND I'LL GET TO THE REST OF IT IN JUST A SECOND.

4 A YES.

5 Q WHAT CALIBER WERE THEY?

6 A .9 MILLIMETERS.

7 Q WERE THEY CONSISTENT OR INCONSISTENT, IN
8 YOUR MIND, BASED ON ALL THE EVIDENCE THAT WAS THERE
9 INCLUDING THE LIVE ROUNDS, WITH A SEMIAUTOMATIC OR
10 REVOLVER TYPE WEAPON?

11 A THEY WERE ROUNDS FOR A SEMIAUTOMATIC.
12 .9 MILLIMETER ROUNDS OF THIS SORT CAN BE FIRED IN SOME
13 REVOLVERS WITH ALTERATIONS, BUT THERE'S INSERTS THAT YOU
14 WOULD PUT IN THE REVOLVER IN ORDER TO USE IT. BUT THEY
15 WERE BASICALLY DESIGNED FOR A SEMIAUTOMATIC.

16 Q ORDINARILY IF ONE WERE TO HANDLE A
17 SEMIAUTOMATIC WEAPON PISTOL, NOT A RIFLE, BUT A PISTOL
18 AND WORK THE ACTION OF THE PISTOL, IN OTHER WORDS, THE
19 SLIDE ACTION, WOULD THAT NORMALLY WITH A FULLY LOADED
20 PISTOL EJECT A LIVE ROUND?

21 A YES. IF YOU HAD NOT FIRED THE FIRST ROUND
22 AND YOU PULLED THE SLIDE TOWARDS THE REAR, IT WOULD EJECT
23 THE ROUND THAT IS PRESENTLY IN THE CHAMBER OUTWARD AND
24 THAT COULD BE A LIVE ROUND. IF IT WEREN'T A LIVE ROUND
25 AND FOR SOME REASON DIDN'T EJECT THE CASING, IT WOULD
26 EJECT THE CASING.

27 Q HAVE YOU EVER HEARD OF THE TERM STOVE
28 PIPE?

1 A YES.

2 Q WHAT IS A STOVE PIPED GUN?

3 A STOVE PIPE IS A MALFUNCTION WHICH CAN
4 OCCUR IN THE CHAMBERING OF A ROUND WHERE A ROUND MAYBE
5 OUT OF CONFIGURATION AND ACTUALLY MISALIGN WITHIN THE
6 ACTION CAUSING IT TO JAM. WHAT WE WOULD CALL JAM.

7 Q HOW DO YOU CLEAR A STOVE PIPE?

8 A BRING THE SLIDE TO THE REAR.

9 Q AND WHAT NORMALLY HAPPENS WHEN YOU BRING
10 THE SLIDE TO THE REAR OF A LOADED WEAPON THAT'S A
11 SEMIAUTOMATIC?

12 A IT WILL PICK UP ANOTHER ROUND, BUT YOU'RE
13 TRYING TO WORK THE ONE THAT IS MALFUNCTIONING, SAY,
14 GUMMING UP THE WORKS OF THE GUN. YOU'RE TRYING TO TIP
15 THAT OUT. MOST PORTS FOR SEMIAUTOMATIC PISTOLS ARE ON
16 THE RIGHT SIDE AND MOST EJECT RIGHT AND REAR. BUT WHAT
17 YOU DO IS YOU PULL IT BACK TO TRY AND LOOSEN IT AND GET
18 IT OUT OF THE GUN, AND WHEN YOU LET GO, IT WILL PICK UP A
19 ROUND AND REARM ITSELF.

20 Q AND IF, IN FACT, YOU HAVE TO WORK THAT
21 ACTION, THAT SLIDE ACTION MORE THAN ONCE TO CLEAR THAT
22 STOVE PIPE, OR DO IT QUICKLY TWICE, MIGHT THAT EJECT A
23 LIVE ROUND?

24 A YES.

25 Q EVIDENCE ITEM NUMBER -- I BELIEVE YOU HAD
26 ALREADY DISCUSSED ITEM THREE; CORRECT?

27 A YES.

28 Q EVIDENCE ITEM NUMBER FOUR, WHERE WAS IT

1 AND WHAT WAS IT?

2 A THAT IS A LEAD PROJECTILE OR THE BULLET
3 END OF A BULLET THAT COMES OUT OF THE BARREL, AND IT WAS
4 IN THE DRIVEWAY AREA SLIGHTLY ABOVE VICTIM TRUDY.

5 Q AND EVIDENCE ITEM NUMBER FIVE?

6 A NUMBER FIVE IS A FINGERNAIL WHICH IS
7 LOCATED NOT QUITE IN THE CENTER, MORE TOWARDS THE WEST
8 PORTION OF THE APRON OF THE SOUTH DRIVEWAY, OR THE MAJOR
9 DRIVEWAY.

10 Q IS THAT FINGERNAIL BETWEEN WHERE TRUDY
11 THOMPSON LIE AND THE VAN?

12 A YES, IT WAS.

13 Q EVIDENCE ITEM NUMBER SIX?

14 A EVIDENCE ITEM NUMBER SIX IS, AGAIN, AN
15 UNFIRED ROUND, OR A LIVE ROUND .9 MILLIMETER.

16 Q AND WHERE WAS IT?

17 A IT WAS ACTUALLY SOUTH OF THE VAN AND JUST
18 EAST AND A LITTLE NORTH OF THE FINGERNAIL I PREVIOUSLY
19 DESCRIBED.

20 Q FOR THOSE OF US THAT ARE THIS FAR AWAY AND
21 HAVE BAD EYES, PUT YOUR EVIDENCE POINTER ON EVIDENCE
22 NUMBER SIX.

23 A RIGHT HERE (INDICATING).

24 MR. JACKSON: MAY THE RECORD REFLECT THE WITNESS
25 IS INDICATING THE SIX THAT IS DENOTED ON PEOPLE'S 54.

26 THE COURT: YES.

27 Q BY MR. JACKSON: EVIDENCE ITEM NUMBER
28 SEVEN?

1 A EVIDENCE ITEM NUMBER SEVEN IS ANOTHER LIVE
2 ROUND AND IT IS LOCATED SOUTH OF THE VAN NEAR A LOT OF
3 THE BROKEN GLASS THAT WAS SHATTERED WINDOW THAT WE
4 BELIEVE TO BE THE DRIVER'S DOOR WINDOW (INDICATING).

5 THE JUROR: I CAN'T SAY SEE.

6 THE WITNESS: I'M SORRY.

7 IT IS CLOSE TO THE TIRE. LET'S SAY IN AT
8 VICINITY, BUT ON THE DRIVEWAY. AGAIN, THE MAJOR
9 DRIVEWAY.

10 Q BY MR. JACKSON: NUMBER EIGHT?

11 A NUMBER EIGHT IS LOCATED ON THE WESTERN
12 PORTION OF THE DRIVEWAY. IT'S A SHELL CASING, AN
13 EXPENDED SHELL CASING, .9 MILLIMETER.

14 Q NUMBER NINE?

15 A NUMBER NINE, WE HAVE AN ADDITIONAL
16 FINGERNAIL. IT IS NORTH OF NUMBER EIGHT ON THE WESTERN
17 PORTION OF THE DRIVEWAY RIGHT HERE (INDICATING).

18 Q NUMBER TEN?

19 A NUMBER TEN IS AN ADDITIONAL LIVE ROUND
20 WHICH IS JUST ABOVE NUMBER NINE. AGAIN, IN THE WESTERN
21 PORTION THE DRIVEWAY.

22 Q NO. 11. WHAT IS ITEM NO. 11?

23 A ITEM NO. 11 IS AN EXPENDED SHELL CASING
24 AND IT IS -- THERE IS A BATCHING OF THREE PIECES OF
25 EVIDENCE HERE -- IT IS NORTH OF THAT BATCHING AND IT IS
26 ON THE WESTERN APRON OR PORTION OF THE DRIVEWAY.

27 Q I THINK YOU'VE ALREADY TALKED ABOUT THIS
28 BRIEFLY YESTERDAY, WHAT WAS ITEM NUMBER 12?

1 A ITEM NUMBER 12 IS THE -- OH, THAT'S THE
2 STUN GUN OR TASER, HOWEVER YOU WOULD LIKE TO REFER TO IT.

3 Q TAKE A LOOK IF YOU WILL --

4 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
5 PERMISSION -- I'VE MISPLACED THE MAGIC MARKER, I'LL JUST
6 USE MY PEN -- WITH THE COURT'S PERMISSION I WOULD LIKE TO
7 MARK A PHOTO BOARD BEARING TWO PHOTOGRAPHS. ONE'S A
8 SIMPLE ENLARGEMENT OF THE OTHER. IT'S LABELED STUN GUN
9 FOUND ON DRIVE, PEOPLE'S NEXT IN ORDER.

10 THE COURT: 56 FOR IDENTIFICATION.

11 MR. JACKSON: I'M PLACING A P56 ON THE UPPER
12 RIGHT-HAND CORNER.

13 (People's Exhibit No. 56 was marked for
14 identification.)

15 Q BY MR. JACKSON: DO ME A FAVOR, PUT YOUR
16 HAND TO THAT AND TELL ME IF YOU -- WHETHER OR NOT YOU
17 RECOGNIZE WHAT'S DEPICTED IN THAT PHOTOGRAPH.

18 A YES, THIS IS THE STUN GUN THAT I SAW AT
19 THE SCENE AND IT'S DEPICTED WITH ITS POSITION ON THE
20 WESTERN PORTION THE SOUTH DRIVEWAY. IN THAT PICTURE IS
21 ALSO A NUMBER 12.

22 Q THIS BRINGS UP A POINT I'D LIKE YOU TO
23 CLEAR UP FOR THE JURORS RIGHT NOW WHILE WE'RE LOOKING AT
24 IT.

25 THERE APPEAR TO BE TWO PLACARD NUMBERS IN
26 THAT PHOTOGRAPH.

27 A THERE ARE, SIR.

28 Q A 12 AND ANOTHER NUMBER. IT LOOKS LIKE --

1 A EIGHT.

2 Q -- AN EIGHT.

3 WHY ARE THERE TWO NUMBERS?

4 A THE NUMBER EIGHT WAS PUT IN POSITION BY
5 OTHER SECTORS OF OUR DEPARTMENT. THAT COULD BE THE CRIME
6 LAB'S NUMBER OR THE FIREARM SECTION NUMBER. THEY MAY
7 NUMBER THEIRS DIFFERENTLY.

8 I'VE HEARD IT EXPLAINED BECAUSE THEY CAN
9 KEEP A LOGICAL ORDER. LET'S SAY THAT WAS THE ONLY ITEM
10 THAT A PERSON LOOKED UP AND YOU WROTE A REPORT, IT WOULD
11 SAY I SUBMITTED THE EVIDENCE AS NUMBER 12. WELL, THE
12 LOGICAL QUESTION WOULD BE WHERE IS 1 THROUGH 11? SO IN
13 ORDER TO CLARIFY THINGS, THEY MAY HAVE CALLED THIS
14 PIECE -- ALTHOUGH IT'S EIGHT HERE -- THEY COULD HAVE
15 CALLED IT -- IF IT WAS OF THE FIRST ONE THEY PICKED UP
16 AND THEY WERE FROM THE CRIME LAB, THEY COULD HAVE CALLED
17 IT NUMBER ONE AND IT WOULD BE IN CONTRAST TO OUR 12. BUT
18 OUR 12 IS WHAT WE WENT BY, OUR GATHERING OF THE EVIDENCE.

19 Q SO WHEN YOU'RE WALKING THROUGH THE
20 EVIDENCE AS YOU'RE EXPLAINING IT TO THE JURORS, EVEN IF
21 THE JURORS WERE TO SEE AN ITEM WITH, SAY, TWO PLACARD
22 NUMBERS ON IT BUT IT'S CONSISTENT WITH ONE PLACARD NUMBER
23 THAT'S ITEM NUMBER NINE OR SOMETHING, AN EXPENDED SHELL
24 CASING BUT IT MIGHT HAVE ANOTHER NUMBER AS WELL, THEY'RE
25 TO BE DIRECTED TO THE ITEM NUMBER NINE THAT'S CONSISTENT
26 WITH YOUR DEPARTMENT'S INVESTIGATION; CORRECT?

27 A YES. WITH WHAT I'VE STATED, YES, THAT'S
28 HOW WE NUMBERED THINGS.

1 Q AND THERE'S ALSO THE CORONER'S DEPARTMENT
2 AT THE CRIME SCENE; IS THAT RIGHT?

3 A CORONERS WERE THERE, YES.

4 Q AND THE CRIME LAB?

5 A AND THE CRIME LAB WILL BE.

6 Q SO IT'S CONCEIVABLE THAT THOSE THREE
7 DEPARTMENTS MIGHT NUMBER ITEMS THEIR OWN WAY AND THERE
8 MIGHT BE THREE PLACARDS FOR A PARTICULAR ITEM?

9 A OH, VERY EASILY, YES.

10 Q THAT HAVING BEEN SAID, YOU CAN GO AHEAD
11 AND PUT THAT PEOPLE'S 56 DOWN AND WE WILL CONTINUE
12 LOOKING AT PEOPLE'S 54.

13 ITEM NUMBER 13, WHERE WAS THAT AND WHAT IS
14 IT?

15 A NUMBER 13 IS AN EXPENDED SHELL --

16 THE JUROR: I CAN'T SEE.

17 THE WITNESS: I'M SORRY.

18 IS AN EXPENDED SHELL CASING, AGAIN, ON THE
19 WESTERN PORTION, JUST AS IT STARTS TO CURVE OF THAT
20 DRIVEWAY. AND IT'S A .9 MILLIMETER CASING.

21 Q ITEM NUMBER 14?

22 A 14 IS ALSO AN EXPENDED SHELL CASING ON THE
23 WESTERN APRON OF THIS SAME DRIVEWAY.

24 Q ITEM NUMBER 15?

25 A NUMBER 15 IS A SHELL CASING, HERE IT
26 DEPICTS IT NEAR THE BLOOD THAT WAS FLOWING FROM VICTIM
27 MICKEY. AND IT IS ON THE WESTERN PORTION, AGAIN, ON THAT
28 SAME DRIVEWAY.

1 Q AND ITEM 16?

2 A 16 IS -- IT'S A REFLECTION OF A BULLET OR
3 A PORTION OF A BULLET FRAGMENT WHICH ACTUALLY PASSED
4 THROUGH THE GARAGE DOOR, ENTERED AND STRUCK THE DOOR ON
5 THE ELEVATOR THAT WAS IN THE GARAGE, AN ELEVATOR THAT THE
6 THOMPSON'S HAD.

7 Q WAS THAT LODGED IN THE WALL?

8 A IT WAS IN THE DOORWAY, YES.

9 Q ASSUMING WE DISCUSSED THIS YESTERDAY,
10 WE'RE GOING TO USE NORTH, SOUTH AND EAST AND WEST, SORT
11 OF THE WAY THAT THAT DIAGRAM IS SET OUT.

12 IF THERE'S AN INSIDE OF THE GARAGE, IF
13 THERE'S A NORTH WALL, A SOUTH WALL, A WEST WALL AND AN
14 EAST, DESCRIBE FOR THE JURORS WHICH WALL THAT 16 WAS
15 FOUND IN.

16 A 16 WOULD HAVE BEEN FOUND IN THE -- ON THE
17 EAST WALL FROM THE INTERIOR OF THE GARAGE.

18 Q ITEM NUMBER 17?

19 A 17 IS ALSO A BULLET -- OR AN EXPENDED
20 PORTION OF THE BULLET WHICH WAS FOUND IN A STAIRWAY
21 INSIDE OF THE GARAGE LEADING TO AN OFFICE.

22 Q AND ITEM 17A?

23 A 17A IS A FRAGMENT OF A BULLET THAT
24 EVENTUALLY EMBEDDED ITSELF IN THE HANDLE OF THE GARAGE
25 DOOR. HOW THEY HAVE THE HANDLE IN THE MIDDLE, IF YOU
26 WERE TO LIFT IT, IT STRUCK THERE AND APPARENTLY SHEARED.

27 Q OKAY. ITEM 18, WHERE WAS THAT FOUND AND
28 WHAT IS IT?

1 A 18 -- WE ARE NOW NEAR -- COMING BACK DOWN
2 SOUTH OF THE AREA WE JUST WERE AND WE'RE GOING TO THE
3 EASTERN APRON OF THE DRIVEWAY. IT'S A SHELL CASING,
4 EXPENDED .9 MILLIMETER.

5 Q AND ITEM NUMBER 19?

6 A 19 WAS A BULLET OR A PROJECTILE WHICH
7 PASSED THROUGH THE INTERIOR OF THE VAN, THE TOYOTA VAN,
8 CAME TO REST EMBEDDING ITSELF ON THE DRIVER'S SIDE
9 DOORWAY OR DOOR FRAME.

10 Q ITEM NUMBER 20, PLEASE?

11 A ITEM NUMBER 20 -- GIVE ME A SECOND TO LOOK
12 REAL QUICK.

13 OH, ITEM NUMBER 20 IS AN EXPENDED SHELL
14 CASING. IT'S AT THE TOP OF THE HILL ACTUALLY EAST OF
15 VICTIM MICKEY'S LOCATION. ABOVE THE SOUTH DRIVEWAY IN
16 THAT KIND OF -- I THINK YESTERDAY I DESCRIBED IT AS A
17 MEETING OF A COMMON GROUND UP HERE WHICH THREE PLACES
18 MEET, BUT IT IS JUST EAST OF THE VICTIM'S REMAINS.

19 Q YOU JUST SAID EAST TWICE NOW.

20 A I'M SORRY. I MEAN WEST. I'M SORRY. I
21 DID SAY EAST.

22 Q SO AS WE'RE LOOKING AT THE MAP, IT'S TO
23 THE LEFT OF THE MICKEY THOMPSON'S BODY?

24 A YOU'RE CORRECT, SIR, YES.

25 Q ITEMS 21, 22 AND 23, THEY'RE NOT DENOTED
26 FOR THE MAP; IS THAT CORRECT?

27 A THAT'S CORRECT.

28 Q WHAT WERE THOSE?

1 A THOSE WERE GLOVES. I BELIEVE THEY WERE
2 LATEX GLOVES.

3 Q WERE THOSE GLOVES EVER RECOVERED?

4 A YES.

5 Q WERE THEY DETERMINED TO BELONG TO A
6 PARTICULAR PERSON OR AN ENTITY?

7 A YES.

8 Q WHO?

9 A THE FIRE DEPARTMENT.

10 Q ITEM NUMBER -- AT THE TIME THEY WERE
11 RECOVERED, THAT WAS NOT KNOWN I'M ASSUMING?

12 A NO.

13 Q ITEM NUMBER 24, WHAT WAS THAT AND WHERE
14 WAS IT?

15 A 24. OH, 24 IS -- MAKES REFERENCES TO THE
16 LEAD PROJECTILE OR EXPENDED BULLET THAT WAS UNDERNEATH
17 VICTIM MICKEY THOMPSON'S HEAD.

18 Q ITEM NUMBER 25?

19 A 25, AGAIN, I BELIEVE IS -- YES, IT IS AN
20 EXPENDED BULLET OR FRAGMENT OF LEAD WHICH IS ON THE
21 WALKWAY BUT WEST OF THE VICTIM'S REMAINS.

22 Q THERE WAS AN ITEM NUMBER 26 THAT'S ALSO
23 NOT DENOTED THAT WAS FOUND AT THE CRIME SCENE AND
24 RECOVERED. WHAT WAS THAT?

25 A I BELIEVE THAT WAS A BAG, PAPER BAG.

26 Q THAT WAS RECOVERED?

27 A YES.

28 Q ITEM NUMBER 27?

1 A OH, YES. I'M SORRY. THAT WAS A BULLET.
2 YES, A BULLET -- AN EXPENDED BULLET THAT WAS RECOVERED
3 FROM THE INTERIOR OF THE TOYOTA VAN IN THE DOOR FRAME OF
4 THE DRIVER'S DOOR TOWARDS THE REAR PORTION OF THE WINDOW.

5 Q OKAY. THERE WAS AN ITEM NUMBER 28;
6 CORRECT?

7 A YES.

8 Q WAS THAT A BICYCLE?

9 A YES.

10 Q OKAY. THAT'S NOT DENOTED ON THE DIAGRAM;
11 CORRECT?

12 A THAT'S CORRECT , SIR.

13 Q ITEM NUMBER 29, WHAT WAS THAT AND WHERE
14 WAS THAT -- SORRY -- WHERE IS THAT AND WHAT IS IT?

15 A 29.

16 Q ACTUALLY, IF YOU REFER TO -- IT MAY
17 REFRESH YOUR RECOLLECTION TO REFER TO YOUR REPORT.

18 A YES.

19 Q 29 AND 30 --

20 A YES.

21 Q -- SPECIFICALLY, IF YOU -- IF THEY ARE NOT
22 DENOTED ON THE DIAGRAM.

23 A YES. I AM REFERRING TO A REPORT THAT WAS
24 WRITTEN OR CAUSED TO BE WRITTEN BY DETECTIVE MICHAEL
25 GRIGGS AND IT LISTS THE EVIDENCE.

26 MS. SARIS: MAY I INQUIRE IF THAT'S DATED AND IF
27 IT TYPED OR HANDWRITTEN?

28 THE COURT: YES.

1 MR. JACKSON: YOUR HONOR, IT'S DATED JUNE 2ND,
2 1988 AND IT'S TYPEWRITTEN. IT'S THE MAIN EVIDENCE
3 REPORT.

4 PAGE 4, COUNSEL.

5 MS. SARIS: THANK YOU.

6 THE WITNESS: YES, 29 AND 30 ARE EACH
7 PROJECTILES AND -- OR WHAT DO YOU SAY -- JACKETING THAT
8 WERE RECOVERED FROM THE HEAD OF TRUDY THOMPSON DURING
9 AUTOPSY.

10 Q BY MR. JACKSON: AND FINALLY THERE'S
11 REFERENCE TO AN ITEM NUMBER 32 AS WELL.

12 DO YOU RECALL THAT?

13 A YES.

14 Q WHAT WAS ITEM 32?

15 A 32 -- I'M TRYING TO BE CERTAIN. THERE
16 WERE TWO ITEMS --

17 Q GO AHEAD AND HAVE A SEAT. MAKE YOURSELF
18 COMFORTABLE.

19 A YES.

20 THERE WERE TWO ITEMS RECOVERED AT A LATER
21 DATE BY DETECTIVE OBERHOLTZER. ONE WAS A FINGERNAIL AND
22 THE OTHER WAS A LOCK WHICH HAD BEEN CUT OFF.

23 Q WAS THE FINGERNAIL DESCRIBED AS HAVING
24 BEEN IN THE DRIVEWAY?

25 A YES.

26 Q THIS WAS FOUND APPROXIMATELY WHEN, OR DO
27 YOU KNOW?

28 MS. SARIS: OBJECTION. CALLS FOR HEARSAY.

1 THE COURT: SUSTAINED.

2 MS. SARIS: MOTION TO STRIKE THE PRIOR ANSWER.
3 LACK OF FOUNDATION.

4 THE COURT: SUSTAINED. LAY A FOUNDATION.

5 Q BY MR. JACKSON: WERE YOU PRESENT WHEN
6 ITEM 32 WAS RECOVERED AND BOOKED INTO EVIDENCE?

7 A NO, I WASN'T.

8 Q OKAY. FAIR ENOUGH.

9 THE ITEMS THAT APPEAR ON THIS DIAGRAM AS
10 YOU'VE EXPLAINED IT TO THE JURORS, WERE YOU PRESENT WHEN
11 ALL OF THESE ITEMS WERE FOUND (INDICATING)?

12 A YES.

13 Q WERE YOU PRESENT WHEN THEY WERE
14 PHOTOGRAPHED?

15 A YES.

16 Q WERE YOU PRESENT WHEN THEY WERE ULTIMATELY
17 RECOVERED?

18 A I DON'T THINK ALL OF THEM.

19 Q OKAY. WERE THE ITEMS CONSISTENT IN
20 PLACEMENT, IF NOT TO SCALE, CONSISTENT IN PLACEMENT OF
21 THE OVERALL DIAGRAM WITH WHERE THEY -- I'M SORRY -- OF
22 THE OVERALL CRIME SCENE WITH WHERE THEY APPEAR ON THE
23 DIAGRAM?

24 A YES.

25 MR. JACKSON: I WOULD LIKE TO MARK ANOTHER PHOTO
26 BOARD WITH THE COURT'S PERMISSION, PEOPLE'S 57.

27 THE COURT: 57 IS A PHOTO BOARD THAT WILL BE
28 MARKED FOR IDENTIFICATION.

1 MR. JACKSON: THANK YOU, YOUR HONOR. I'M PLACING
2 A P57 ON THE UPPER RIGHT-HAND CORNER.

3 (PEOPLE'S EXHIBIT NO. 57 WAS MARKED FOR
4 IDENTIFICATION.)

5 Q BY MR. JACKSON: DETECTIVE, DO YOU
6 RECOGNIZE WHAT IS DEPICTED IN PHOTOS A THROUGH H ON
7 PEOPLE'S 57?

8 A YES.

9 Q HOW DO YOU RECOGNIZE THOSE?

10 A I SAW THOSE AT THE CRIME SCENE THE DAY I
11 RESPONDED.

12 Q AND WHAT ARE THEY PICTURES OF?

13 A THEY WERE PICTURE OF A TOYOTA VAN THAT WAS
14 NORMALLY DRIVEN BY MICKEY AND TRUDY THOMPSON.

15 MS. SARIS: OBJECTION. TO THE FINAL PART OF THE
16 ANSWER. CALLS FOR SPECULATION. LACK OF FOUNDATION.

17 THE COURT: STARTING WITH "NORMALLY," THAT WILL
18 BE STRICKEN.

19 Q BY MR. JACKSON: WAS THIS A VAN THAT
20 WAS -- THAT YOU SAW PERSONALLY AT THE LOCATION?

21 A YES, SIR.

22 Q WAS THERE EVIDENCE THAT THE VAN HAD BEEN
23 DRIVEN?

24 A YES.

25 Q WHAT WAS THAT EVIDENCE?

26 A THE VAN, UPON THE ARRIVAL OF OFFICERS, WAS
27 RUNNING.

28 Q WAS THE DOOR OPEN OR AJAR LIKE IT IS IN

1 THESE PHOTOGRAPHS?

2 A YES.

3 MS. SARIS: YOUR HONOR, I'M SORRY. I'M GOING TO
4 OBJECT TO THIS WITNESS TESTIFYING OUTSIDE OF THE SCOPE OF
5 HIS KNOWLEDGE.

6 THE COURT: YOU'RE TALKING ABOUT THE LAST
7 QUESTION AND ANSWER?

8 MS. SARIS: YES.

9 THE COURT: SUSTAINED. THAT WILL BE STRICKEN.

10 Q BY MR. JACKSON: WERE THERE KEYS STILL IN
11 THE VAN?

12 A YES.

13 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

14 THE COURT: LAY A FOUNDATION.

15 MR. JACKSON: SURE.

16 Q WHEN YOU ARRIVED AND SAW THE VAN, WERE THE
17 KEYS STILL IN IT?

18 A YES.

19 Q WAS THE DOOR AJAR AS IT IS IN THESE
20 PHOTOGRAPHS?

21 A YES.

22 Q WAS THERE -- TAKE A LOOK AT PHOTO A.

23 WHAT IS THAT JUST BENEATH THE DRIVER'S
24 DOOR, THAT APPEARS TO BE AJAR, ON THE GROUND?

25 A THAT IS SHATTERED GLASS -- WINDOW GLASS
26 FROM THE DRIVER'S DOOR. AND THE DARKER SPOT IS ACTUALLY
27 TINTING OR THE MATERIAL THEY PUT OVER FROM TINTING.

28 Q ALL RIGHT. TAKE A LOOK -- AND I'M GOING

1 TO GET A LITTLE CLOSER IF YOU DON'T MIND.

2 YOU'VE EARLIER DESCRIBED EVIDENCE ITEM 19
3 AS BEING A BULLET THAT WAS RECOVERED FROM THE PASSENGER
4 SIDE OF THE VAN; CORRECT?

5 A YES, SIR.

6 Q DO YOU SEE PHOTOGRAPH D, AS IN DOG?

7 A I DO.

8 Q WHAT IS THAT A PICTURE OF, ESPECIALLY THE
9 CENTER PORTION OF THAT DOOR?

10 A THAT'S A PICTURE -- IT HAS THE NUMBER 19
11 ON IT, IT APPEARS. IT IS A PICTURE OF THE BULLET STILL
12 CONTAINED WITHIN THE CONFINES OF THE PASSENGER DOOR, BUT
13 YOU CAN SEE ITS ATTEMPT TO EXIT OR WHAT WOULD I CALL IT A
14 PROTRUSION, KIND OF A NIPPLING EFFECT. THE BULLET WAS
15 STILL THERE.

16 Q WAS IT ULTIMATELY DUG OUT?

17 A YES.

18 Q AND BOOKED INTO EVIDENCE?

19 A THAT'S CORRECT.

20 Q PARAGRAPH LETTER F ON ITEM -- LET'S TRY
21 THAT AGAIN.

22 PHOTOGRAPH F ON PEOPLE'S 57, WHAT DOES
23 THAT DEPICT?

24 A THAT DEPICTS THAT SAME DOOR FROM THE
25 INTERIOR SHOOTING OUTWARD -- FROM THE INSIDE OF THE CAR
26 OUT. AND IT SHOWS A SHATTERING OF THE GLASS OF THE
27 WINDOW. THAT'S KIND OF A DISSIPATION OF THE POWER OF
28 THE BULLET.

1 Q DETECTIVE, I WOULD LIKE TO ASK YOU ABOUT
2 THE CONDITION OF MICKEY AND TRUDY THOMPSON UPON YOUR
3 ARRIVAL. YOU TESTIFIED I THINK YESTERDAY IT APPEARED
4 THAT THEY HAD BEEN UNTOUCHED OR THEY WERE IN THE SAME
5 POSITION THAT THEY WERE WHEN THEY ULTIMATELY MET THEIR
6 DEMISE; CORRECT?

7 A THAT'S CORRECT, SIR.

8 Q CONCERNING MICKEY THOMPSON, WAS ANYTHING
9 RECOVERED FROM HIS PERSON OTHER THAN CLOTHING, WAS
10 ANYTHING RECOVERED FROM HIS PERSON?

11 A YES, A WALLET.

12 Q DO YOU RECALL, AS YOU SIT HERE TODAY --
13 MS. SARIS: YOUR HONOR, I'M GOING TO OBJECT TO
14 THE SAME. LACK OF FOUNDATION.

15 THE COURT: ALL RIGHT. LAY A FOUNDATION.
16 SUSTAINED.

17 Q BY MR. JACKSON: WERE YOU PRESENT WHEN THE
18 WALLET WAS RECOVERED?

19 A WHEN IT WAS REMOVED FROM HIM? NO, I
20 WASN'T, SIR.

21 Q DID YOU EVER SEE WHAT PURPORTED TO BE A
22 WALLET AT ANY POINT DURING YOUR INVESTIGATION?

23 A YES.

24 Q WHEN?

25 A THERE WAS -- IN HIS REAR POCKET -- RIGHT
26 REAR POCKET THERE WAS A BULGE IN THE SHAPE A WALLET. IT
27 WAS AN OBVIOUS A THICK WALLET.

28 LATER I BELIEVE THE CORONER'S HAD HIS

1 SIGNATURE FOR IT, BUT I SAW A WALLET AND SOMEBODY
2 MENTIONED TO ME, I THINK IT WAS GRIGGS TOLD ME THAT IT
3 WAS A WALLET, IT WAS MICKEY THOMPSON'S WALLET.

4 MS. SARIS: OBJECTION TO THE LAST PORTION, YOUR
5 HONOR. MOTION TO STRIKE AS TO WHAT HE WAS TOLD.

6 THE COURT: YES. ANYTHING AS TO MR. THOMPSON'S
7 WALLET WILL BE STRICKEN.

8 MS. SARIS: AND THE WITNESS BE ADMONISHED, YOUR
9 HONOR.

10 THE COURT: WELL, DO THE BEST YOU CAN TO JUST
11 ANSWER WHAT YOU SAW AND HEARD.

12 THE WITNESS: OKAY.

13 Q BY MR. JACKSON: WITHOUT TELLING ME WHAT
14 DETECTIVE GRIGGS TOLD YOU, DID YOU ULTIMATELY AT SOME
15 POINT DURING YOUR INVESTIGATION ACTUALLY SEE A WALLET?

16 A YES, I DID.

17 Q WHAT WAS YOUR BELIEF ABOUT THAT WALLET?

18 MS. SARIS: OBJECTION. RELEVANCE.

19 THE COURT: SUSTAINED.

20 Q BY MR. JACKSON: DID YOU EVER LOOK AT ANY
21 DOCUMENTS THAT WERE PREPARED AND KEPT IN THE ORDINARY
22 COURSE OF BUSINESS BY THE SHERIFF'S DEPARTMENT CONCERNING
23 AN ITEM OF EVIDENCE?

24 A YES.

25 Q ALL RIGHT. DETECTIVE, I WOULD LIKE YOU TO
26 TAKE A LOOK AT WHAT WAS PREVIOUSLY MARKED AS PEOPLE'S 43
27 FOR IDENTIFICATION AND TELL ME IF YOU RECOGNIZE WHO IS
28 DEPICTED IN THAT PHOTO.

1 A YES.

2 Q WHO IS THAT?

3 A THAT IS MICKEY THOMPSON.

4 Q DOES HE APPEAR TO BE IN THE SAME CONDITION
5 IN THOSE PHOTOGRAPHS AS YOU SAW HIM WHEN YOU FIRST
6 ARRIVED AT THE CRIME SCENE?

7 A YES, SIR.

8 Q I WOULD LIKE YOU TO TAKE A CLOSE LOOK AT
9 PHOTOGRAPH D, AS IN DOG, AND TELL ME IF YOU RECOGNIZE
10 ANYTHING CONSISTENT WITH WHAT YOU DESCRIBED TO BE IN HIS
11 BACK POCKET.

12 A YES. THERE IS A BULGE IN THE REAR
13 POCKET. THEY APPEAR TO BE LEVI'S OR DARK PANTS. I'LL
14 CALL THEM DARK PANTS.

15 Q IS THAT WHAT YOU DESCRIBE AS WHAT YOU
16 BELIEVED TO BE A WALLET AT THAT TIME?

17 A YES.

18 MR. JACKSON: YOUR HONOR, I INTEND TO MARK --
19 I'LL GO AHEAD AND MARK THESE FOR IDENTIFICATION. I THINK
20 COUNSEL WISHES TO APPROACH BEFORE I APPROACH THE WITNESS
21 WITH THEM.

22 I'M HOLDING WHAT APPEARS TO BE TWO
23 DOCUMENTS. THEY ARE -- I DON'T KNOW WHAT THEY ARE --
24 SEVEN BY FIVE LOOKING DOCUMENTS, SMALLER THAN A NORMAL
25 SHEET OF THE PAPER. THEY'RE ENTITLED "COUNTY OF
26 LOS ANGELES SHERIFF'S DEPARTMENT, RECEIPT OF PROPERTY."
27 BOTH OF THEM ARE TITLED THE SAME WAY. ONE IS DATED
28 RELEASE DATE 3-18-88, THE OTHER IS RELEASE DATE 3-25-88.

1 I'D LIKE TO HAVE THESE MARKED WITH 3-18
2 FIRST AS PEOPLE'S NEXT IN ORDER.

3 THE COURT: 58 AND 59 FOR IDENTIFICATION. AND
4 THEN COUNSEL WANT TO APPROACH?

5 MS. SARIS: THANK YOU.

6 MR. JACKSON: YES, YOUR HONOR.

7 (PEOPLE'S EXHIBIT NOS. 58 AND 59 WERE
8 MARKED FOR IDENTIFICATION.)

9 (PROCEEDINGS HELD AT SIDEBAR.)

10 THE COURT: ALL RIGHT. I'M LOOKING AT
11 PEOPLE'S 58 AND 59. WE'RE AT THE SIDE BAR.

12 MR. JACKSON: YES, YOUR HONOR. I EXPECT TO BE
13 ABLE TO LAY A FOUNDATION FOR BUSINESS RECORDS. I ASKED
14 THE WITNESS OUTSIDE THE PRESENCE OF THE JURY WHETHER OR
15 NOT HE WAS FAMILIAR WITH DOCUMENTS LIKE THESE. HE SAID
16 HE IS. THEY'RE KEPT IN THE ORDINARY COURSE OF BUSINESS.
17 THEY'RE FILLED OUT AT OR NEAR THE TIME OF THE EVENT,
18 I.E., THE COLLECTING AND/OR RELEASE OF PROPERTY.

19 THE PURPOSE OF THE DOCUMENTS ARE TO
20 MAINTAIN SOME RECORD OF ITEMS OF VALUE THAT ARE TAKEN
21 INTO CUSTODY WHEN VICTIMS LIKE THIS ARE TAKEN TO THE
22 CORONER'S HOSPITAL SO THE FAMILY MEMBERS, ET CETERA, CAN
23 GET THE PROPERTY BACK AND RELEASE THEM FROM LIABILITY. I
24 BELIEVE THEY QUALIFY AS BUSINESS RECORDS, SEPARATE AND
25 APART FROM, FOR INSTANCE, A POLICE REPORT.

26 MS. SARIS: THEY VERY WELL MAY, BUT NOT THROUGH
27 THIS WITNESS. HE CAN SHOW HIM A BLANK RECORD TO SHOW HIM
28 THAT SUCH RECORDS EXIST, BUT UNLESS HE WAS THERE WHEN

1 THESE WERE FILLED OUT, HE CAN'T QUALIFY THESE RECORDS.
2 HE CAN SAY THAT HE HAS SEEN RECEIPTS FOR PROPERTY FROM
3 THE SHERIFF'S DEPARTMENT, BUT THESE -- WHAT THEY'RE
4 TRYING TO GET IN HERE IS THE WRITINGS ON THESE DOCUMENTS
5 WHICH WOULD BE HEARSAY UNLESS THEY QUALIFY AS A BUSINESS
6 EXCEPTION WHICH WE WOULD NEED EITHER -- WHO'S EVER THESE
7 NAMES ARE -- WILLS, W-I-L-L-S, OR SOME INDIVIDUAL FROM
8 THE DEPARTMENT.

9 THE COURT: WELL, YOU'RE BOTH TALKING ABOUT
10 DIFFERENT EXCEPTIONS TO THE HEARSAY RULE. THE PAST
11 RECOLLECTION RECORDED EXCEPTION COULD APPLY, BUT I DON'T
12 KNOW WHAT THE WITNESS IS GOING TO TESTIFY TO ABOUT 58 AND
13 59. SO IF THE FOUNDATION IS LAID, THEN THE DOCUMENTS
14 WILL BE ADMITTED LATER ON. BUT THE CONTENT OF THE
15 DOCUMENTS IS NOT TO BE READ TO THE JURY AT THIS TIME.

16 MS. SARIS: I'M CONFUSED. I THOUGHT HE SAID HE
17 DIDN'T RECOVER THE WALLET, SO HOW COULD THIS BE RECORDING
18 HIS RECOLLECTION OF WHAT WAS INSIDE THE WALLET?

19 MR. JACKSON: BECAUSE HE LATER SAID HE SAW THE
20 WALLET. MY UNDERSTANDING IS HE SAID HE LATER SAW THE
21 ACTUAL \$500 THAT WAS IN THE WALLET. HE ALSO -- ALTHOUGH
22 HE DIDN'T PERSONALLY TAKE THE RINGS AND JEWELRY OFF OF
23 TRUDY, HE SAW THEM AFTER THEY WERE TAKEN OFF, OR AS THEY
24 WERE BEING TAKEN OFF, AND I THINK IT WOULD REFRESH HIS
25 RECOLLECTION.

26 THE COURT: THE PEOPLE CAN GO AHEAD AND TRY TO
27 LAY A FOUNDATION FOR THE ADMISSABILITY OF 58 AND 59
28 WITHOUT REFERENCE TO THE CONTENT OF EITHER OF THOSE

1 DOCUMENTS.

2 MR. JACKSON: SURE.

3 THE COURT: OKAY.

4 (SIDE BAR CONCLUDED.)

5 THE COURT: YOU MAY CONTINUE.

6 MR. JACKSON: THANK YOU, YOUR HONOR.

7 Q DURING THE COURSE OF AN INVESTIGATION LIKE
8 THIS, IF A VICTIM IS FOUND AT A CRIME SCENE, IS IT NORMAL
9 OR IS IT ORDINARY IN THE COURSE OF THE INVESTIGATION TO
10 MAINTAIN CERTAIN PROPERTY RECEIPTS FOR ITEMS OF VALUE
11 THAT MAY BE FOUND ON THE VICTIM?

12 A YES.

13 Q IS THERE A PARTICULAR FORM THAT IS KEPT IN
14 ORDER TO DO THAT?

15 A YES. IF IT'S FOUND DIRECTLY ON THE
16 VICTIM, THE CORONER'S OFFICE DOES AN INVENTORY.

17 Q IS THERE ALSO SOME KIND OF RECEIPT FOR
18 PROPERTY THAT THE SHERIFF'S DEPARTMENT MAINTAINS IN ORDER
19 TO RELEASE THEMSELVES FROM LIABILITY FOR ITEMS OF VALUE
20 THAT MAY BE FOUND ON A VICTIM?

21 A YES.

22 Q TAKE A LOOK AT -- AND I DON'T WANT YOU TO
23 READ ANYTHING THAT'S ON THE ITEM YET, I JUST WANT YOU TO
24 LOOK AT PEOPLE'S 58 AND 59 AND TELL ME IF YOU RECOGNIZE
25 THOSE DOCUMENTS OR THAT TYPE OF DOCUMENT.

26 A YES.

27 Q WHAT TYPE -- AGAIN, DON'T READ THE CONTENT
28 OF THE DOCUMENT AT THIS POINT, JUST EXPLAIN TO THE JURORS

1 WHAT TYPE OF DOCUMENT THOSE ARE THAT YOU'RE LOOKING AT.

2 A THESE ARE PROPERTY RECEIPTS OR RECEIPT FOR
3 PROPERTIES, HOW THEY'RE ARE ACTUALLY LABELED. BUT
4 THEY'RE FORMS, IT HAS A SHERIFF'S NUMBER, A SHERIFF'S
5 FORM, S.H.C.R.-19.

6 Q ARE THOSE FORMS FILLED OUT IN THE ORDINARY
7 COURSE OF AN INVESTIGATION?

8 A YES. WHEN PROPERTY IS RELEASED OR TAKEN
9 IN -- TAKEN BY SOMEBODY, YES.

10 Q AND IF, IN FACT, THERE WAS A VICTIM AT THE
11 CRIME SCENE, I'M NOT TALKING ABOUT A VICTIM BEING BEAT
12 UP, AN ASSAULT VICTIM, I'M TALKING ABOUT A HOMICIDE
13 VICTIM WHERE A BODY'S BEEN REMOVED AND IF THE VICTIM HAS
14 ITEMS OF VALUE ON THAT PERSON, IS THAT RECEIPT NORMALLY
15 FILLED OUT BY THE SHERIFF'S DEPARTMENT IN THE ORDINARY
16 COURSE OF BUSINESS?

17 A YES. IT CAN BE, YES.

18 Q IS IT DONE AT OR NEAR THE TIME OF THE
19 EVENT? IN OTHER WORDS, IS IT DONE YEARS LATER OR CLOSE
20 TO THE TIME --

21 A CLOSE TO THE TIME -- I'M SORRY.

22 YES, CLOSE TO THE TIME OF THE EVENT, YES,
23 SIR.

24 Q YOU SAID THAT AT SOME POINT DURING THE
25 COURSE OF YOUR INVESTIGATION YOU SAW A WALLET THAT
26 PURPORTED TO BE MICKEY THOMPSON'S WALLET; CORRECT?

27 A YES.

28 Q DID YOU SEE THE CONTENTS OF THAT WALLET?

1 A YES, I DID.

2 Q DO YOU REMEMBER IF THERE WAS CASH IN THAT
3 WALLET?

4 A I WAS JUST GOING TO REMARK, YES, CASH IS
5 ABOUT THE ONLY THING I NOTED. THERE WAS SOME CASH.

6 Q OKAY. DO YOU REMEMBER, AS YOU SIT HERE
7 TODAY, HOW MUCH CASH WAS IN THAT WALLET?

8 A NO, I DON'T

9 Q WOULD LOOKING AT PEOPLE'S 59 FOR
10 IDENTIFICATION REFRESH YOUR RECOLLECTION AS TO THE AMOUNT
11 OF THE CASH THAT WAS FOUND IN MICKEY THOMPSON'S WALLET?

12 MS. SARIS: OBJECTION. LACK OF FOUNDATION. THIS
13 IS AN IMPROPER DOCUMENT FOR THIS WITNESS.

14 THE COURT: TO REFRESH HIS RECOLLECTION?

15 MS. SARIS: REGARDING HOW MUCH HE REMEMBERS
16 SEEING OF A PROPERTY RECEIPT THAT HE HAS NOT ESTABLISHED
17 HE PARTICIPATED IN.

18 THE COURT: WELL, I'M GOING TO OVERRULE THE
19 OBJECTION BUT YOU DO HAVE TO LAY A FOUNDATION AS TO WHAT
20 THAT TESTIMONY PERTAINS TO.

21 Q BY MR. JACKSON: WHAT I'M TRYING TO GET TO
22 IS, DO YOU KNOW -- AS YOU SIT HERE TODAY, DO YOU RECALL
23 SEEING CASH?

24 A YES.

25 Q DO YOU REMEMBER THE AMOUNT OF CASH?

26 A NO, I DO NOT.

27 Q ALL RIGHT. WOULD ANYTHING REFRESH YOUR
28 RECOLLECTION AS TO THE AMOUNT OF CASH THAT YOU SAW IN

1 THERE? IN OTHER WORDS, IF YOU SAW SOME KIND OF A
2 DOCUMENT, WOULD THAT REFRESH YOUR RECOLLECTION AS TO THE
3 AMOUNT OF CASH THAT YOU SAW IN MICKEY THOMPSON'S WALLET?

4 A IT WOULD TELL ME AN AMOUNT, BUT I DO NOT
5 KNOW THE AMOUNT, NO, SO I CAN'T SAY THAT IT WOULD, SIR.

6 Q OKAY. DO YOU RECALL SEEING TRUDY THOMPSON
7 AT THE SCENE?

8 A I DO, SIR.

9 Q WELL, LET ME ASK YOU THIS. LET'S GET BACK
10 TO MICKEY THOMPSON AND THE WALLET.

11 DO YOU HAVE IN MIND A MEMORY OF THAT
12 AMOUNT OF CASH BEING LARGE OR SMALL OR SOMETHING IN
13 BETWEEN?

14 A TO ME IT WOULD BE LARGE, SIR.

15 Q WHY DO YOU SAY THAT?

16 A IT LOOKED LIKE A GOOD AMOUNT. AS I
17 RECALL, THERE WAS A HIGHER DENOMINATION BILLS. I MEAN,
18 IT WAS MORE THAN ONES, IT WASN'T ALL SINGLES.

19 Q WHEN YOU SAY HIGHER DENOMINATION BILLS, WE
20 DON'T ALL MAKE THE KIND OF MONEY YOU MAKE, SO WHAT'S
21 HIGHER DENOMINATION TO YOU MAY NOT BE TO ME.

22 A HIGHER DENOMINATION TO ME WOULD BE \$2.
23 ACTUALLY, I GUESS 20'S, 50'S, 100, THEY WERE HIGHER
24 DENOMINATION BILLS, SO WHAT I MEAN IS, IT WASN'T SINGLES,
25 IT WASN'T ONE OF THOSE FALSE ROLLS OR WHATEVER THEY CALL
26 THEM.

27 Q OKAY. GIVEN THAT, IS IT YOUR MEMORY THAT
28 THIS AMOUNT OF MONEY WAS A SIGNIFICANT AMOUNT OF MONEY?

1 A YES.

2 Q WAS IT IN THE HUNDREDS OF DOLLARS?

3 A YES.

4 Q WAS THIS IN THE THOUSANDS OF DOLLARS?

5 A I CAN'T SAY, SIR. I'M NOT SURE.

6 Q BUT YOU CAN SAY WITH SOME DEGREE OF
7 CERTAINTY THAT IT WAS IN THE HUNDREDS OF DOLLARS?

8 A YES.

9 Q DID YOU TAKE A LOOK AT TRUDY THOMPSON'S
10 BODY BEFORE SHE WAS TAKEN AWAY FROM THE SCENE?

11 A YES.

12 Q DID YOU NOTE ANYTHING ABOUT HER BODY, ANY
13 ADORNMENT ON HER BODY?

14 A YES.

15 Q DESCRIBE THAT FOR THE JURORS.

16 A SHE HAD SOME -- WHAT APPEARED TO ME TO BE
17 EXPENSIVE JEWELRY ON.

18 MS. SARIS: I OBJECTION. LACK OF FOUNDATION.
19 CALLS FOR SPECULATION.

20 THE COURT: WHY DON'T YOU LAY A FOUNDATION AS TO
21 WHAT HIS FAMILIARITY OF EXPENSIVE JEWELRY IS.

22 MR. JACKSON: SURE.

23 Q CHRISTMAS IS COMING UP. HAVE YOU EVER
24 BOUGHT YOUR WIFE ANYTHING NICE?

25 A YES, I HAVE.

26 Q HAVE YOU EVER BOUGHT DIAMONDS?

27 A YES.

28 Q GOLD?

1 A YES.

2 Q NECKLACES?

3 A YES.

4 Q WATCHES.

5 A YES.

6 Q RINGS?

7 A YES.

8 Q THAT'S WHY TWO BUCKS IS A LOT TO YOU;
9 RIGHT?

10 A YES.

11 Q WHAT DID IT APPEAR THAT TRUDY THOMPSON WAS
12 WEARING AT THE TIME THAT YOU SAW HER?

13 A I WOULD DESCRIBE IT AS HIGH VALUE JEWELRY.

14 Q WHY WOULD YOU SAY THAT? HOW DO YOU --
15 WHAT MAKES YOU BELIEVE THAT IT WAS HIGH VALUE JEWELRY?

16 A THERE WAS A LOT OF GOLD, DIAMONDS. THE
17 NECK -- LIKE ONE NECKLACE I RECALL SEEING ON HER, I'LL
18 CALL IT A MEDALLION ON A NECKLACE, HUGE, LARGE GOLD -- I
19 THINK IT WAS THE NUMBER ONE IN DIAMONDS. IT WAS -- IT
20 LOOKED PRETTY EXPENSIVE TO ME.

21 Q WAS THAT -- WERE THOSE ITEMS IN PLAIN VIEW
22 ON HER BODY?

23 A OH, YES, THEY WERE OBVIOUS.

24 Q WAS SHE WEARING THEM OR WERE THEY IN
25 POCKETS SECRETED ON HER BODY?

26 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

27 THE COURT: YES.

28 Q BY MR. JACKSON: WHEN YOU SAW HER BODY AT

1 THE CRIME LAYING IN THE GUTTER AT THE BOTTOM OF THE
2 DRIVEWAY, WERE THESE ITEMS IN PLAIN VIEW OR WERE THEY
3 SECRETED SOMEPLACE ON HER BODY?

4 A NO. SHE WAS WEARING LIKE RINGS ON
5 FINGERS, MEDALLION OR NECKLACES ON HER PERSON AROUND HER
6 NECK.

7 Q AT SOME POINT WERE THESE ITEMS OF VALUE
8 REMOVED FROM TRUDY THOMPSON'S BODY?

9 A YES.

10 Q WERE THEY PHOTOGRAPHED?

11 A YES.

12 Q WHERE WERE THEY PHOTOGRAPHED?

13 A THEY USED THE BACKGROUND OF THE FLOOR OF
14 THE VAN, THE TOYOTA VAN.

15 Q REFERRING YOU BACK TO PEOPLE'S 42, IS THIS
16 A DEPICTION -- ARE THESE DEPICTIONS OF TRUDY THOMPSON?

17 A YES.

18 Q ALL RIGHT. TAKING A LOOK BACK AT PEOPLE'S
19 57, TAKE A LOOK AT PHOTOGRAPH H, AS IN HENRY, DO YOU SEE
20 THAT PHOTOGRAPH?

21 A I DO.

22 Q WHAT IS THAT A PICTURE OF?

23 A A PICTURE OF THE JEWELRY THAT TRUDY
24 THOMPSON WAS WEARING. THE ONLY THING I CANNOT RECALL ARE
25 THE KIND OF TRIANGULAR SHAPED EARRINGS IN THE LOWER LEFT
26 PORTION OF THE PHOTOGRAPH. I DON'T RECALL SEEING THOSE
27 ON HER.

28 MS. SARIS: YOUR HONOR, MAY I APPROACH?

1 THE COURT: YES.

2 Q BY MR. JACKSON: WHEN YOU REFER TO THE
3 TRIANGULAR SHAPED ITEMS, YOU'RE TALKING ABOUT THESE TWO
4 BRONZE LOOKING OR GOLD LOOKING ITEMS (INDICATING)?

5 A YES, I AM.

6 Q YOU EARLIER DESCRIBED A PENDANT OR A
7 NECKLACE THAT HAD A VERY SIGNIFICANT NO. 1 IN DIAMONDS.

8 DO YOU SEE THAT HERE AT THE BOTTOM OF THE
9 PHOTOGRAPH?

10 A I --

11 MS. SARIS: OBJECTION. MISSTATES THE TESTIMONY
12 REGARDING NUMBER ONE. I BELIEVE HE JUST SAID MEDALLION.

13 THE COURT: OVERRULED.

14 Q BY MR. JACKSON: IS THAT THE NECKLESS?

15 A YES, IT IS.

16 Q DOES IT HAVE A NUMBER ONE IN DIAMONDS?

17 A YES.

18 Q DOES THAT APPEAR TO BE IN DIAMONDS?

19 A YES.

20 Q WHAT ABOUT THE OTHER NECKLACE THAT'S TO
21 THE RIGHT OF THAT, WHAT DOES IT LOOK LIKE?

22 A IT LOOKS LIKE IT'S KIND OF A HEART SHAPED
23 PENDANT.

24 Q DOES THAT APPEAR TO HAVE STONE IN IT?

25 A YES, IT DOES.

26 Q WHAT KIND?

27 A DIAMONDS.

28 Q DO YOU SEE A COUPLE OF RINGS -- AS A

1 MATTER OF FACT, ABOUT FIVE RINGS THERE?

2 A YES.

3 Q WERE THOSE THE RINGS THAT WERE ON HER
4 FINGERS AT THE TIME?

5 A YES.

6 Q JUST SO WE'RE CLEAR, WHO IS IT THAT IS
7 RESPONSIBLE FOR TAKING THAT JEWELRY OFF OR WHO TOOK THE
8 JEWELRY OFF TRUDY THOMPSON'S HANDS AND NECK?

9 A THAT WOULD BE THE CORONER'S OFFICE.

10 MS. SARIS: OBJECTION. LACK OF FOUNDATION, YOUR
11 HONOR.

12 THE COURT: ALL RIGHT. LAY A FOUNDATION.

13 Q BY MR. JACKSON: DID YOU WATCH THIS
14 HAPPEN?

15 A NO.

16 Q WHO DID YOU SEE -- WELL, WAS THERE A TIME
17 WHEN YOU SAW THE JEWELRY ON TRUDY THOMPSON?

18 A YES.

19 Q WAS THERE A TIME THAT YOU SAW THE JEWELRY
20 OFF OF TRUDY THOMPSON?

21 A YES.

22 Q ALL RIGHT. TAKING A LOOK AT, FOR
23 INSTANCE, PEOPLE'S 42, PHOTOGRAPH F, DO YOU SEE A HAND OF
24 WHAT APPEARS TO BE TRUDY THOMPSON IN THAT PHOTOGRAPH?

25 A YES.

26 Q THERE'S NO JEWELRY ON THAT HAND; CORRECT?

27 A CORRECT.

28 Q WAS THAT THE CONDITION OF HER HAND AFTER

1 THE JEWELRY WAS REMOVED?

2 A YES.

3 Q SO IT IS FAIR --

4 MS. SARIS: I'M SORRY, YOUR HONOR. I'M GOING TO
5 OBJECT TO THE LAST TWO QUESTIONS AS LACK OF FOUNDATION.
6 CALLS FOR SPECULATION.

7 THE COURT: LAY A FOUNDATION.

8 MS. SARIS: MOTION TO STRIKE THE PRIOR TWO
9 QUESTIONS AND ANSWERS.

10 THE COURT: THE ANSWERS WILL BE STRICKEN.

11 Q BY MR. JACKSON: DETECTIVE, YOU SAW HER AT
12 THE SCENE; CORRECT?

13 A YES, I DID.

14 Q AND YOU SAW HER -- I THINK YOU JUST
15 TESTIFIED THAT YOU SAW HER AT LEAST TWO TIMES. ONCE WITH
16 JEWELRY AND YOU SAW HER AGAIN AFTER SHE HAD THE JEWELRY
17 REMOVED. CORRECT?

18 A YES.

19 Q MY QUESTION IS VERY SIMPLE. IN
20 PHOTOGRAPH F, IS THAT A PICTURE OF HER HAND WITH THE
21 JEWELRY ON OR AFTER IT WAS REMOVED?

22 MS. SARIS: OBJECTION AS TO -- LACK OF FOUNDATION
23 AS TO WHETHER OR NOT HE ACTUALLY SAW JEWELRY ON THAT
24 SPECIFIC HAND AND WHETHER OR NOT IT WAS REMOVED.

25 THE COURT: OVERRULED.

26 Q BY MR. JACKSON: GO AHEAD AND ANSWER,
27 DETECTIVE.

28 A YES. THAT WAS AFTER. I SAW IT WITH

1 JEWELRY ON.

2 Q OKAY. I'M ASSUMING FROM YOUR TESTIMONY
3 THAT ALL OF THIS OCCURRED AT THE CRIME SCENE?

4 A THAT'S CORRECT, SIR.

5 Q DO YOU RECALL ANY CASH BEING RECOVERED
6 THAT WAS ASSOCIATED WITH TRUDY THOMPSON?

7 MS. SARIS: OBJECTION. LACK OF FOUNDATION.

8 THE COURT: YOU MADE NEED TO REPHRASE THE
9 QUESTION.

10 MR. JACKSON: SURE.

11 Q DO YOU RECALL ANY SIGNIFICANT AMOUNT OF
12 CASH OTHER THAN THE HUNDREDS OF DOLLARS THAT YOU EARLIER
13 REFERRED TO IN MICKEY THOMPSON'S WALLET?

14 A YES.

15 MS. SARIS: OBJECTION. VAGUE. LACK OF
16 FOUNDATION AS TO WHAT HE SPECIFICALLY SAW OR RECOVERED.

17 THE COURT: ALL RIGHT. I'LL SUSTAIN IT.

18 Q BY MR. JACKSON: WHAT DID YOU SEE WITH
19 REGARD TO OTHER CASH AT THE CRIME SCENE OTHER THAN THAT
20 OF MICKEY THOMPSON'S?

21 A A LITTLE UNDER \$4,000 WAS RECOVERED FROM
22 THE INTERIOR OF HER PURSE WHICH WAS LEFT IN THE TOYOTA
23 VAN BELONGING TO MS. TRUDY THOMPSON.

24 Q WHEN YOU SAY A LITTLE UNDER \$4,000, DO YOU
25 HAVE A SPECIFIC AMOUNT IN MIND?

26 A I RECALL 3,700, SIR.

27 Q OKAY. WAS THAT PURSE IN PLAIN VIEW WHEN
28 YOU GOT TO THE CRIME SCENE?

1 A YES.

2 Q YOU SAID THAT THE KEYS WERE IN THE VAN;
3 CORRECT?

4 A YES.

5 Q THE DOOR OF THE VAN WAS OPEN; CORRECT?

6 A YES.

7 Q WHERE WAS THE PURSE IN RELATION TO THAT
8 VAN, THE INTERIOR OF THE VAN?

9 A IT WOULD BE TOWARDS THE DRIVER'S SECTION
10 NEAR HER, NEAR WHERE HER POSITION WOULD HAVE BEEN.

11 Q COULD YOU, WHEN YOU APPROACHED THE VAN,
12 LOOK IN THE VAN AND MAKE EYE CONTACT -- MAKE EYE
13 CONTACT -- SEE THE PURSE?

14 A YES.

15 Q DETECTIVE, AT THE TIME -- LET ME MARK ONE
16 MORE ITEM. IT SHOULD JUST TAKE A QUICK SECOND. WHILE
17 THAT'S WARMING UP, I'LL SHOW YOU THE PHOTOGRAPHS IN JUST
18 A SECOND.

19 DO YOU RECALL THERE BEING, IN ADDITION TO
20 THE VAN, A CAR AT THE CRIME SCENE OR CARS AT THE CRIME
21 SCENE?

22 A YES.

23 Q I WANT TO DRAW YOUR ATTENTION SPECIFICALLY
24 TO A LINCOLN CONTINENTAL.

25 DO YOU REMEMBER THAT CAR?

26 A YES.

27 Q WAS THERE ANY EVIDENCE THAT YOU SAW AT THE
28 CRIME SCENE THAT THAT CAR HAD BEEN BROKEN INTO?

1 A NO.

2 Q OTHER THAN THE -- WELL, LET ME ASK YOU
3 THIS:

4 DID YOU ALSO SEEK TO DETERMINE WHETHER OR
5 NOT THE HOUSE HAD BEEN BROKEN INTO?

6 A YES.

7 Q WHAT WAS YOUR DETERMINATION?

8 A I SAW NO SIGNS OF ATTEMPTED FORCED ENTRY.

9 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
10 THAT MR. DIXON HAS KINDLY PLACED ON THE OVERHEAD A
11 DIAGRAM WITH TWO PHOTOGRAPHS ON IT. IT'S AN EIGHT AND
12 HALF BY ELEVEN DIAGRAM THAT'S BEING SHOWN ON THE
13 OVERHEAD.

14 CAN WE HAVE THAT MARK AS PEOPLE'S NEXT IN
15 ORDER?

16 THE COURT: THAT WILL BE MARKED PEOPLE'S 60.

17 MR. JACKSON: THANK YOU.

18 (People's Exhibit No. 60 was marked for
19 identification.)

20 Q BY MR. JACKSON: WHEN YOU SAY THERE WAS NO
21 SIGNS OF -- BY THE WAY, PEOPLE'S 60, LET'S GET THE
22 FOUNDATION OF THAT, WHAT IS THAT? WHAT'S IN THOSE THREE
23 PICTURES?

24 A THE PICTURES OF THE LINCOLN CONTINENTAL.
25 ONE IS FROM THE FRONT TO THE REAR, ONE HONES IN -- THE
26 LOWER LEFT -- HONES IN ON THE PERSONALIZED PLATE, AND THE
27 ONE NUMBER B, THE ONE THAT IS LABELED B, SHOWS A
28 BROADSIDE OR A PICTURE THE DRIVER'S SIDE OF THAT LINCOLN

1 CONTINENTAL I JUST MENTIONED.

2 Q WHAT IS THAT LICENSE PLATE?

3 A MTTT.

4 Q YOU INDICATED THAT YOU SAW NO SIGNS OF
5 FORCED ENTRY IN THE LINCOLN CONTINENTAL; CORRECT?

6 A THAT'S CORRECT.

7 Q WERE THERE ANY BROKEN WINDOWS?

8 A NO.

9 Q WERE THERE ANY JIMMIED DOOR LOCKS?

10 A NO.

11 Q WERE ANY DOORS LEFT OPEN OR UNLOCKED?

12 A NO.

13 Q WAS THE TRUNK JIMMIED OR OPEN?

14 A NO.

15 Q WITH REGARD TO THE HOUSE, DESCRIBE FOR THE
16 JURORS WHAT YOU MEAN WHEN YOU SAY DID SEEK TO DETERMINE
17 WHETHER OR NOT THERE WAS FORCED ENTRY.

18 A I ATTEMPTED TO WALK AROUND AND LOOK AT
19 DOORS AND DOOR FRAMES FOR ANY FORCING, ANY PRY MARKS,
20 MAYBE WINDOWS THAT WOULD SHOW FORCE. AND BY FORCE I MEAN
21 USE OF FORCE WHETHER WITH A TOOL OR A HAND BREAKING
22 SOMETHING IN, FOOT MARKS THAT WOULD KICK A DOOR IN. THEY
23 WERE ALL SECURED AND THERE WAS NO SIGNS OF ANY ATTEMPTS
24 OF FORCED ENTRY.

25 Q ULTIMATELY DID YOU MAKE ENTRY INTO THE
26 HOUSE?

27 A YES.

28 Q WAS THERE ANY KIND OF AN ALARM THAT WAS

1 SECURING THE HOUSE?

2 A YES.

3 Q WAS THAT ALARM SET OFF OR WAS IT ACTIVATED
4 WHEN YOU ARRIVED AT THE CRIME SCENE?

5 A IT WAS ACTIVATED, YES. BY THAT I MEAN IT
6 WAS IN ACTION, IT HAD BEEN SET.

7 Q OKAY. LET'S CLEAR THAT UP. LET'S USE THE
8 WORD "SET" FOR THIS. FOR MY QUESTION LET'S USE THE WORD
9 "SET," MEANING YOU SET IT AND CLOSE THE DOOR AND NOW IT'S
10 READY.

11 A ARMED, YES.

12 Q ARMED. THAT'S A GREAT WORD. EXACTLY.

13 AS OPPOSED TO ACTIVATED WHICH MEANS SIRENS
14 GOING OFF AND POLICE ARE COMING AND THAT STUFF.

15 WAS THIS ALARM ARMED?

16 A YES.

17 Q HAD IT BEEN SET OFF, ACTIVATED?

18 A I NEVER HEARD IT, NO.

19 Q IN FACT, DID YOU SEEK TO HAVE IT UNARMED
20 BEFORE YOU MADE ENTRY?

21 A YES.

22 Q HOW DID DO THAT?

23 A A HOUSEKEEPER WAS ASKED -- SHE KNEW THE
24 ALARM. SHE CAME IN TO CLEAN THE HOUSE AND SO SHE
25 DEACTIVATED --

26 Q UNARMED?

27 A -- UNARMED IT, YES.

28 Q SO IN OTHER WORDS, WHEN YOU GOT THERE,

1 THERE WERE NO SIRENS GOING OFF, THERE WERE NO WARNINGS
2 BEING SOUNDED ABOUT ANY ATTEMPTED BREAK OR A BREAK IN?

3 A NO.

4 Q DID YOU NOTICE WHETHER OR NOT THERE WERE
5 VALUABLES IN THE HOUSE?

6 A YES. WELL, THERE WERE ITEMS THAT APPEARED
7 TO BE VALUABLE, YES.

8 Q INTRINSICALLY VALUABLE?

9 A YES.

10 Q WERE THERE GUNS IN THE HOUSE?

11 A SURE, YES.

12 Q WAS THERE ANY EVIDENCE WHATSOEVER THAT ANY
13 PERPETRATOR HAD EITHER ATTEMPTED TO OR BEEN IN THAT
14 HOUSE?

15 A I SAW NO SIGNS OF ANYONE BREACHING THE
16 EXTERIOR OF THE HOUSE TO REMOVE ANYTHING, NO.

17 Q WAS THERE ANY EVIDENCE AT THAT CRIME
18 SCENE, DETECTIVE, THAT ANYONE HAD ATTEMPTED TO OR REMOVED
19 ITEMS FROM THE VAN, ITEMS OF VALUE?

20 A NO.

21 Q WAS THERE ANY EVIDENCE THAT ANY
22 PERPETRATOR HAD ATTEMPTED TO OR REMOVED ITEMS OF VALUE
23 FROM MICKEY THOMPSON'S BODY?

24 A NO.

25 Q WAS THAT WALLET AS IT PROTRUDED FROM HIS
26 BACK POCKET, IN PLAIN VIEW AS HE LAY THERE?

27 A YES.

28 Q WAS THERE ANY EVIDENCE THAT ANY

1 PERPETRATOR ATTEMPTED OR DID REMOVE ITEMS OF VALUE FROM
2 TRUDY THOMPSON'S BODY?

3 A NO.

4 Q WAS THE JEWELRY IN PLAIN VIEW HAS SHE LAY
5 THERE?

6 A YES.

7 Q DID YOU EVER MAKE YOUR WAY DOWN THE BACK
8 SIDE OF THE PROPERTY?

9 A I DID.

10 Q TAKE A LOOK AT WHAT HAS PREVIOUSLY BEEN
11 MARKED AS PEOPLE'S 48.

12 DO YOU RECOGNIZE WHAT IS DEPICTED IN THOSE
13 PHOTOGRAPHS?

14 A YES, SIR.

15 Q WHAT ARE THOSE PICTURES OF?

16 A THAT IS A PATHWAY WHICH LEADS FROM MICKEY
17 THOMPSON'S PROPERTY TO JOIN UP WITH WOODLYN LANE. A MAIN
18 THOROUGHFARE THROUGH BRADBURY ESTATES.

19 Q I'M GOING TO ASK YOU FOR A LITTLE
20 GEOGRAPHY LESSON IF YOU DON'T MIND. I'M GOING TO USE TWO
21 EXHIBITS TO HAVE YOU WALK US THROUGH THESE. EXHIBIT
22 48 -- OR PEOPLE'S 48 FOR IDENTIFICATION AND PEOPLE'S 44
23 FOR IDENTIFICATION.

24 A YES.

25 Q TAKE A LOOK AT PEOPLE'S 48.

26 A YES.

27 Q THERE WE GO.

28 THIS DIAGRAM SHOWING PICTURES A, B, C, D,

1 E, F, G AND H.

2 A YES.

3 Q KIND OF DIFFICULT TO TELL WHAT THAT IS.

4 IN CONJUNCTION WITH PEOPLE'S 44, SHOWING
5 THIS RED LINE COMING OFF OF THE VICTIM'S PROPERTY, COULD
6 YOU DESCRIBE WHAT THE JURORS ARE LOOKING AT IN EACH OF
7 THOSE PHOTOGRAPHS IN ORDER, A THROUGH H.

8 A YES.

9 Q "A" IS ACTUALLY A PHOTOGRAPH -- THESE
10 ARE -- EXCUSE ME.

11 NUMBER 48 ARE PHOTOGRAPHS ALL CONTAINED
12 WITHIN THE PROPERTY LINE OF THE MICKEY AND TRUDY THOMPSON
13 HOUSEHOLD OR ESTATE OR PROPERTY. THIS IS A ROAD -- I
14 WILL REFER TO IT AS A BACK ROAD FOR WANT OF A BETTER TERM
15 (INDICATING). THIS VIEW IS -- ACTUALLY, IT APPEARS TO BE
16 MORE OF AN EASTERLY VIEW. THAT'S "A."

17 "B," AGAIN -- AND THIS IS FROM THE BACK
18 ROAD LOOKING TOWARDS THE HOUSE OR GOING TOWARDS THE
19 HOUSE. "C" IS NOW LOOKING IN A SOUTHEASTERLY
20 DIRECTION -- SOUTHWESTERLY, I'M SORRY, SOUTHWESTERLY.
21 THERE'S A CURVING RED ARROW DEPICTING THE WAY THE ROAD
22 GOES. AT THE BOTTOM OF THAT ROAD, IT ACTUALLY JOINS UP
23 WITH WOODLYN LANE. WHICH -- WELL, IT T'S WITH IT. IT
24 BECOMES PERPENDICULAR.

25 "D, AGAIN, IS JUST A LARGER OVERVIEW OF
26 THIS BACK ROAD. YOU CAN, IN FACT, SEE THE SIDE OF THE
27 GARAGE AND THE UPPER PORTION OF THAT PICTURE. AGAIN,
28 IT'S AN ARROW. I THINK IT'S ATTEMPTING TO SHOW YOU KIND

1 OF A CURVING DEPARTURE. EXCUSE ME.

2 Q LET ME INTERRUPT YOU FOR TWO SECONDS.

3 SO IF ONE WERE TO BE AT THE POSITION OF
4 MICKEY THOMPSON'S BODY WHEN HE WAS KILLED AND LEAVE THAT
5 SCENE THROUGH THE BACK WAY, ONE WOULD BE STARTING AT THE
6 TOP OF THIS ARROW IN PHOTOGRAPH B ON PEOPLE'S 48 AND
7 HEADING IN THE DIRECTION OF THIS ARROW DOWN THIS CURVED
8 DRIVE; CORRECT (INDICATING)?

9 A THAT'S CORRECT, SIR.

10 Q AND THAT'S CONSISTENT -- SO WE CAN
11 UNDERSTAND THE GEOGRAPHY -- THAT'S CONSISTENT WITH
12 STARTING WHERE THIS RED LINE STARTS IN PEOPLE'S 44 AND
13 MOVING ALONG THAT CURVE DOWN TOWARD WHERE IT MEETS UP
14 WITH WOODLYN LANE; CORRECT?

15 A THAT'S CORRECT, SIR.

16 Q ALL RIGHT. GO AHEAD WITH YOUR
17 EXPLANATION.

18 A OKAY. "E" IS ANOTHER PHOTOGRAPH. AT THIS
19 TIME IT IS, AGAIN, IN THE EASTERLY DIRECTION,
20 NORTHEASTERLY MOSTLY. AGAIN, YOU CAN SEE THE GARAGE, THE
21 MICKEY THOMPSON HOUSEHOLD GARAGE OR THE SIDE OF THE
22 HOUSE. THAT WOULD BE THE WEST PORTION OF THE HOUSE.

23 "F" IS A SHOT MOSTLY A SOUTHWESTERLY
24 DIRECTION. THIS IS THE ENDING OF THAT LITTLE ROAD OR
25 THAT BACK ROAD. AND DOWN BELOW JUST OUT OF THE FRAME IS
26 WHERE IT JOINS UP WITH WOODLYN LANE. YOU CAN SEE BY THE
27 ARROW, IT'S DEPICTING KIND OF A RIGHT-HAND TURN, SO IT'S
28 A CURVING ROAD (INDICATING).

1 Q IS THAT CLOSE TO WHERE THIS RED ARROW ON
2 PEOPLE'S 44 IS STARTING TO CURVE TO THE RIGHT
3 (INDICATING)?

4 A YES.

5 Q SO IT JOINS UP WITH WOODLYN LANE RIGHT
6 AROUND THERE AND THERE'S SOME FENCING THAT FORCES ONE TO
7 TAKE A RIGHT; CORRECT?

8 A THAT'S CORRECT.

9 Q NOW, ARE WE OFF THE PROPERTY AT THIS
10 POINT?

11 A YOU'RE STILL ON THE PROPERTY IN "F."

12 Q WHAT ABOUT G AND H?

13 A G AND H. "H" YOU ARE LEAVING THE
14 PROPERTY, "G" YOU'RE STILL JUST -- IT'S JUST BEFORE
15 DEPARTURE OF THE PROPERTY. THAT'S KIND OF THE
16 SOUTHWESTERLY MOST BOUNDARY LINE.

17 Q AND ONCE YOU'RE ON "H" COMING DOWN TOWARD
18 THE BOTTOM OF THE PHOTOGRAPH, YOU ARE LEAVING THE
19 THOMPSON PROPERTY GETTING TO WOODLYN LANE; IS THAT
20 CORRECT?

21 A THAT'S CORRECT, SIR.

22 Q DID YOU TRAVEL THAT ROUTE, SIR?

23 A I DID.

24 Q WHAT, IF ANYTHING, DID YOU NOTE -- AS A
25 MATTER OF FACT DID YOU TRAVEL THAT ROUTE -- LET'S TAKE
26 ONE THING AT A TIME.

27 LOOK AT PEOPLE'S 44. DID YOU TRAVEL THE
28 ROUTE THAT'S DENOTED BY A RED ARROW TURNING INTO AN

1 ORANGE ARROW TURNING INTO A YELLOW ARROW ALL THE WAY OFF
2 THE PHOTOGRAPH?

3 A I DID, SIR.

4 Q AND WHERE DOES THAT ROUTE LEAVE ONE?

5 A AT THE END OF WOODLYN LANE, ON THE
6 BRADBURY ESTATES PROPERTY OR THE SECURED PROPERTY, IT
7 LEADS YOU TO A LARGE ELECTRONICALLY CONTROLLED GATE.
8 WHICH IF YOU CONTINUE PASSING THROUGH, WHICH WOULD BE IN
9 BASICALLY A SOUTHERLY DIRECTION, YOU WOULD COME TO ROYAL
10 OAKS.

11 Q IS THAT A SINGULAR ROAD THAT LEADS DOWN TO
12 ROYAL OAKS?

13 A YES.

14 Q DESCRIBE THE GRADE OF THAT ROAD. DO YOU
15 UNDERSTAND WHAT I MEAN BY THAT QUESTION?

16 A YES.

17 Q DESCRIBE THAT FOR US.

18 A IT'S DECLINING -- IT'S A VERY NARROW
19 DECLINING PAVED ROAD. RELATIVELY -- AND I HAVE TO SAY
20 RELATIVELY. TO ME IT WAS KIND OF STEP.

21 Q ALL RIGHT. WAS IT AN UNDULATING ROAD OR A
22 BIG STRAIGHT SHOT?

23 A NO. IT WAS UNDULATING. IT CURVED AND
24 KIND OF WOUND.

25 Q AND DOES THAT ROAD GO DOWNHILL ALL THE WAY
26 TO THE GATE TO ROYAL OAKS?

27 A FROM THE THOMPSON PROPERTY, YES.

28 Q DESCRIBE THE SIZE OF THE ROAD FOR US,

1 PLEASE.

2 A IT WAS NARROW. IT WAS A LITTLE OVER A
3 SINGLE CAR WIDTH. TWO CARS PASSING EACH OTHER WOULD HAVE
4 GREAT DIFFICULTY.

5 Q THAT WAS MY NEXT QUESTION.
6 IF TWO CARS MET HEAD ON, WHAT WOULD
7 HAPPEN?

8 A SOMEONE WOULD HAVE TO GIVE WAY.

9 Q IF ONE WAS ON A BICYCLE OR MOTORCYCLE,
10 WOULD THAT FACILITATE GETTING BY ONCOMING TRAFFIC EASIER
11 OR HARDER ON THAT ROAD?

12 A THAT'S THE PERFECT VEHICLE FOR THAT READ.

13 Q IF ONE WAS ON A BICYCLE, BASED ON YOUR
14 TRAVELING OF THAT ROAD FROM THE TOP TO THE BOTTOM, WOULD
15 IT BE EASY OR DIFFICULT TO PEDAL DOWN THAT ROAD?

16 A IT WOULD BE VERY SIMPLE.

17 Q AS A MATTER OF FACT, COULD ONE -- IF ONE
18 GOT -- HAVE YOU EVER RIDDEN BICYCLES BEFORE?

19 A YES.

20 Q IF ONE GOT SOME SPEED GOING, COULD ONE
21 PRETTY MUCH COAST ALL THE WAY DOWN THAT ROAD?

22 A OH, YES.

23 Q AT A PRETTY HIGH RATE OF SPEED?

24 A YES. HE WOULD BE GAINING SPEED MOST OF
25 THE WAY.

26 Q DETECTIVE, TAKE A LOOK AT WHAT'S BEEN
27 MARKED AS PEOPLE'S 49. TAKE AT LOOK AT WHAT'S BEEN
28 MARKED AS PEOPLE'S 49 IN REAL, REAL SMALL NUMBERS.

1 AND TELL ME IF YOU RECOGNIZE THOSE
2 PHOTOGRAPHS.

3 A YES, I DO.

4 Q HOW DO YOU RECOGNIZE THOSE?

5 A THAT IS THE -- I SAW THIS AREA, I HAVE
6 SEEN IT PERSONALLY.

7 Q IS THAT IN PHOTOGRAPH A, A PHOTOGRAPH OF
8 THE GATE AS YOU WOULD APPROACH IT COMING DOWN THAT
9 WOODLYN LANE FROM THE BACK SIDE OF THE THOMPSON PROPERTY?

10 A YES, IT IS.

11 Q ON THE DAY OF -- WELL, LET ME ASK YOU
12 THIS: AT ANY POINT AFTER YOU WERE AT THE CRIME SCENE ON
13 MARCH 16, 1988, DID YOU TRAVEL DOWN THAT ROAD AND GO TO
14 THAT GATE?

15 A YES.

16 Q WHAT DID YOU FIND, IF ANYTHING, OF NOTE
17 ABOUT THAT GATE?

18 A THAT GATE HAS A NUMBER PAD AND IS
19 ELECTRONICALLY CONTROLLED, BUT I LEARNED FROM THE
20 PRESIDENT OF THE HOMEOWNERS ASSOCIATION --

21 MS. SARIS: OBJECTION, YOUR HONOR.

22 Q BY MR. JACKSON: WITHOUT TELLING ME WHAT
23 HE SAID, YOU CAN'T TELL ME WHAT THE PRESIDENT TOLD YOU,
24 BUT BASED ON YOUR CONVERSATIONS WITH HIM OR ANYBODY ELSE,
25 WHAT DID YOU DO AND SEE CONCERNING THAT GATE?

26 A I WAS ABLE TO MANIPULATE THE GATE OR PULL
27 IT FROM THIS POSITION (INDICATING) AND THE ARMS THAT HELD
28 IT STRAIGHT OR SUPPORTED IT, IF YOU BROKE THAT ARM, AND I

1 DON'T MEAN RENDER IT USELESS, BUT I MEAN IF YOU BROKE IT
2 FROM ITS STRAIGHT POSITION, IT WOULD AUTOMATICALLY START
3 TO BACK UP. SO YOU DIDN'T NEED A CODE OR ELECTRONIC.

4 Q ALL RIGHT. HOW MUCH PRESSURE WOULD YOU
5 SAY -- YOU'RE A PRETTY STOCKY GUY, I'M SLIGHTLY SMALLER
6 THAN YOU. THAT WASN'T FUNNY -- COULD I HAVE BROKEN THAT
7 ARM?

8 A OH, YES.

9 Q THAT'S MY POINT.
10 HOW MUCH PRESSURE DID IT TAKE FOR SOMEONE
11 TO PULL ON THAT GATE TO ALLOW IT TO OPEN?

12 A NOT MUCH. IT COULD BE EASILY DONE. I
13 MEAN, YOU COULDN'T JUST TAP IT. I MEAN, YOU HAD TO PULL
14 IT, BUT IT WASN'T A STRAINING TYPE OF PULL. AS SOON AS
15 THAT ARM BROKE, YOU COULD HEAR IT AND IT WOULD START TO
16 COME BACK SLOWLY.

17 Q TAKING A LOOK AT PHOTOGRAPH C, WHAT DOES
18 THAT APPEAR TO BE?

19 A THAT IS A PICTURE IN A -- I'LL DESCRIBE IT
20 -- IN A WESTERLY DIRECTION ON ROYAL OAKS. THAT IS THE
21 LOWER PORTION BEYOND THE GATE. IT IS -- FROM WOODLYN
22 LANE THERE'S A DEPRESSED OR RECESSED -- I'M SORRY, NOT
23 DEPRESSED, A RECESSED SECTION OF WOODLYN LANE BEFORE YOU
24 GET TO THIS GATE.

25 SO THAT IS ALREADY PASSING THROUGH THAT
26 SECTION, ARRIVING AT ROYAL OAKS WHICH IS A TWO-WAY SMALL
27 ROAD.

28 Q SO IF I TRAVELED THROUGH THE GATE AS THE

1 ARROW IS INDICATING IN PHOTOGRAPH A, I WOULD POP OUT
2 WHERE THE ARROW IS INDICATING ON PHOTOGRAPH C; CORRECT?

3 A THAT'S CORRECT.

4 Q DO YOU SEE A FENCE LINE ALONG THE RIGHT
5 EDGE OF PHOTOGRAPH D?

6 A I DO.

7 Q DESCRIBE THAT FENCE FOR US, PLEASE.

8 A IT'S WOOD IN CONSTRUCTION, ALMOST -- I
9 GUESS YOU COULD CALL IT A GRAPE STAKE FENCE I THINK
10 PEOPLE CALL IT. IT IS -- OBSCURES VISION, BUT IT'S NOT A
11 REAL THICK FENCE.

12 Q WAS THERE A BREAK IN THAT FENCE NOTABLY AT
13 OR NEAR THE ENTRY OR EXIT OF ROYAL OAKS AND WOODLYN?

14 A YES, THERE WAS.

15 Q IS THAT DEPICTED IN ANY OF THESE PHOTOS?

16 A YES, IT IS.

17 Q DESCRIBE WHICH PHOTOS.

18 A D, E, F AND G.

19 Q ALL RIGHT. AND THAT APPEARS TO BE -- AND
20 IT HAS SOME METAL POLES -- IT APPEARS TO BE AN
21 INTENTIONAL BREAK IN THE FENCE; CORRECT?

22 A IT IS, SIR.

23 Q WAS THAT WIDE ENOUGH FOR A BICYCLE TO GET
24 THROUGH?

25 A YES, SIR.

26 Q WAS IT WIDE ENOUGH FOR A CAR TO GET
27 THROUGH?

28 A NO.

1 Q COULD A CAR MOVE FROM ROYAL OAKS DOWN TO
2 THE PATH THAT'S INDICATED ON PHOTOGRAPH G? AND I'M NOT
3 TALKING ABOUT THE "DUKES OF HAZARD," I'M TALKING ABOUT
4 LEGALLY COULD A CAR DRIVE DOWN THAT EMBANKMENT.

5 A IF YOU WERE THRILL SEEKING, BUT NOT
6 NORMALLY, NO. IT DOESN'T MAKE ALLOWANCES FOR IT.

7 Q AS A MATTER OF FACT, THAT ROAD DOWN IN --
8 THAT'S DEPICTED IN G AND H, THAT IS NOT A ROADWAY, A
9 THOROUGHFARE FOR VEHICLES, FOR CARS, AUTOMOTIVE VEHICLES;
10 CORRECT?

11 A NO. IT IS A RUNNING AND BIKE PATH.

12 Q ALL RIGHT. DID YOU FOLLOW ROYAL OAKS
13 PARALLEL TO THE BIKE PATH TO WHERE IT ULTIMATELY MET UP
14 TO MT. OLIVE AT ANY POINT?

15 A YES.

16 Q I MIGHT HAVE ONE MORE MAP I WANT TO SHOW
17 YOU.

18 TAKE A LOOK AT WHAT HAS BEEN MARKED AS
19 PEOPLE'S 52 FOR IDENTIFICATION AND TELL ME IF YOU
20 RECOGNIZE WHAT IS DEPICTED IN THAT AERIAL PHOTOGRAPH.

21 A YES.

22 Q WHAT IS THAT A PHOTOGRAPH OF?

23 A I CAN SEE THE BIKE PATH CLEARLY.

24 Q THAT'S WHAT I'M INTERESTED IN. WHY DON'T
25 YOU ORIENT THE JURORS FOR WHAT -- WITH REGARD TO WHAT
26 THEY'RE LOOKING AT, WHAT THE MAJOR CROSS STREETS ARE AND
27 THE BIKE PATH YOU JUST MENTIONED.

28 A YES. YOU WOULD -- THIS LIGHTER BROWN

1 COLORED AREA OF THIS PHOTOGRAPH IN THE LOWER PORTION IS
2 THE BIKE OR RUNNING PATH OR JOGGING PATH THAT IS UTILIZED
3 (INDICATING). OVER HERE IS -- OH, GOSH -- MT. OLIVE
4 (INDICATING).

5 THERE IS A BOULEVARD STOP ON SEVERAL OF
6 THESE STREETS. THIS I BELIEVE TURNS BACK INTO ROYAL
7 OAKS, THERE'S A LITTLE JOG THAT IT TAKES (INDICATING).

8 MS. SARIS: CAN WE HAVE "THIS" AND "HERE"
9 DESCRIBED FOR THE RECORD, PLEASE.

10 THE WITNESS: I'M SORRY.

11 Q BY MR. JACKSON: POINT TO THE BOULEVARD
12 STOP.

13 A WELL, THERE'S ONE HERE (INDICATING) --

14 Q POINT TO IT AND LEAVE YOUR MARKER THERE.

15 A OKAY. (WITNESS INDICATING.)

16 MR. JACKSON: YOUR HONOR, THE WITNESS IS POINTING
17 TO AN INTERSECTION. YESTERDAY WE REFERRED TO AN
18 INTERSECTION AT THE LOWER RIGHT-HAND CORNER OF THIS
19 AERIAL PHOTOGRAPH THAT'S MARKED BY VERY OBVIOUS
20 CROSSWALKS. IF ONE WERE TO FOLLOW THE MAJOR ROADWAY
21 TOWARD THE TOP OF THE PHOTOGRAPH, THE NEXT SMALLER
22 CROSSWALK IS WHERE THE WITNESS JUST HAD HIS POINTER.

23 THE COURT: YES.

24 Q BY MR. JACKSON: ALL RIGHT. YOU SAID
25 THERE WAS A BOULEVARD STOP THERE.

26 A YES.

27 Q WHERE IS THE INTERSECTION OF MT. OLIVE AND
28 ROYAL OAKS?

1 A RIGHT -- I BELIEVE THIS IS IT
2 (INDICATING). I'M REALLY NOT CERTAIN. I BELIEVE IT IS
3 HERE (INDICATING).

4 Q ALL RIGHT. THE LARGER INTERSECTION AT THE
5 LOWER QUADRANT, LOWER RIGHT-HAND QUADRANT OF THE EXHIBIT;
6 CORRECT?

7 A THAT'S CORRECT, SIR.

8 Q ALL RIGHT. WHERE DO YOU SEE THE BIKE
9 PATH?

10 A IT'S JUST ABOVE IT. IN THIS PHOTOGRAPH,
11 THE TANNISH COLORED AREA.

12 Q SO IF I DRAW MY FINGER RIGHT ACROSS
13 THIS -- IT LOOKS LIKE A SMALL PAVED AREA COMING OUT JUST
14 TO THE COBBLESTONE AREA (INDICATING), IS THAT CONSISTENT
15 WITH THE BIKE PATH?

16 A YES, IT IS.

17 Q OKAY.

18 MR. JACKSON: YOUR HONOR, FOR THE RECORD, I'VE
19 DRAWN MY FINGER FROM LEFT TO RIGHT JUST BELOW A OBVIOUS
20 TAN OR SANDY LOOKING OR DIRT LOOKING AREA. JUST BENEATH
21 THAT IS A VERY NARROW -- APPEARS TO BE A PAVED PATH WITH
22 STRIPES DOWN THE MIDDLE OF IT.

23 THE COURT: THANK YOU.

24 MR. JACKSON: IT LEADS TO THAT REDDISH BRICK
25 COBBLESTONE THAT WE TALKED ABOUT YESTERDAY.

26 Q THERE IS A -- ROYAL OAKS APPEARS ON THE
27 SOUTH -- WELL, LET ME ASK IT THIS WAY: I'LL MAKE IT
28 EASIER ON YOU.

1 I'M LOOKING FOR THE OVERVIEW OF THE THOMAS
2 GUIDE MAP. I'M SURE IT'S OVER HERE SOMEWHERE. HERE WE
3 GO.

4 OKAY. TAKING A LOOK AT WHERE MY FINGER IS
5 RIGHT NOW (INDICATING), THERE'S A CIRCLE TO THE LEFT OF
6 PEOPLE'S 47; CORRECT?

7 A THAT'S CORRECT, SIR.

8 Q AND IT'S THE FARTHEST LEFT CIRCLE.

9 A YES, SIR.

10 Q IS THAT THE INTERSECTION OF WOODLYN AND
11 LITTLE ROYAL OAKS?

12 A YES.

13 Q DO YOU SEE AS I'M TRYING DRAWING MY
14 POINTER ACROSS THIS STREET AND THEN DOWN AND THEN AGAIN
15 EAST (INDICATING). SO I WENT EAST, SOUTH, AND EAST? DO
16 YOU SEE THAT?

17 A YES.

18 Q IS THERE A JOG IN THE ROAD THAT FORCES ONE
19 ON LITTLE ROYAL OAKS TO GO ACROSS THE BIKE PATH AND NOW
20 ON ROYAL OAKS YOU'RE NOW SOUTH OF THE BIKE PATH?

21 A YES.

22 Q SO IT IS IT SAFE TO SAY THAT AT WOODLYN
23 AND ROYAL OAKS, YOU'RE JUST NORTH OF THE BIKE PATH
24 SEPARATED BY THAT GRAPE STAKE FENCE?

25 A YES.

26 Q AT SOME POINT DO YOU COME SOUTH OF THE
27 BIKE PATH, JOG PAST IT AND THEN END UP AT ROYAL OAKS AND
28 MT. OLIVE?

1 A YES.

2 Q AND AT THAT POINT THE BIKE PATH IS THEN
3 NORTH OF YOU; IS THAT CORRECT?

4 A THAT'S CORRECT, SIR.

5 Q IS THAT WHY WE SEE -- ALTHOUGH YOU EARLIER
6 DESCRIBED THE BIKE PATH AS BEING SOUTH OF US, SOUTH OF
7 ROYAL OAKS, IS THAT WHY WE SEE THE BIKE PATH NOW BEING
8 JUST NORTH OF ROYAL OAKS?

9 A YES.

10 Q IF ONE WERE TO TURN RIGHT COMING OUT OF
11 THE BIKE PATH --

12 A YES.

13 Q -- WHAT WOULD YOU BE CONFRONTED WITH AT
14 THE BOTTOM OF THAT PICTURE? AND I'M LOOKING AT PEOPLE'S
15 52.

16 A AT THE INTERSECTION OF THE BIKE PATH AND
17 MT. OLIVE?

18 Q CORRECT. IF YOU WERE TO TAKE A RIGHT,
19 WHERE WOULD MT. OLIVE TAKE YOU?

20 A IT WOULD -- SUBSEQUENTLY YOU WOULD LAND
21 UP -- OH, GOSH, I'M TRYING TO REMEMBER THE NAME OF THE
22 MAIN DRAG, BUT IT WOULD LEAD YOU RIGHT TO THE EXTENSION
23 OF THE 605 FREEWAY, THE ENDING OR BEGINNING OF THE 605
24 FREEWAY WHICH WOULD LEAD YOU TO THE 210 IN EITHER
25 DIRECTION OR DOWN TOWARDS THE 10.

26 Q SO THERE IS MAJOR FREEWAY ACCESS JUST TO
27 THE SOUTH OF WHERE THAT PHOTOGRAPH WAS TAKEN IN PEOPLE'S
28 52; CORRECT?

1 A YES. ABOUT A BLOCK OR TWO.

2 Q THANK YOU.

3 WHY DID YOU TRAVEL THIS ROAD ALL THE WAY
4 DOWN THE BACK SIDE OF THE THOMPSON PROPERTY OUT TO ROYAL
5 OAKS AND ALONG THAT BIKE PATH?

6 A TO ASCERTAIN THE ROUTE OF FLIGHT. WE
7 WANTED TO CHECK IT OUT, PLUS IT'S A MATTER OF KNOWING
8 YOUR CRIME SCENE. IT'S A TECHNIQUE DONE BY
9 INVESTIGATORS. YOU SHOULD KNOW YOUR CRIME SCENE.

10 Q BASE ON THAT CRIME SCENE, WERE YOU ABLE TO
11 MAKE A DETERMINATION IN YOUR OPINION AS TO THE MOST
12 LIKELY ROUTE OF EXIT BASED ON THE WITNESSES, THE CRIME
13 SCENE, THE PHYSICAL EVIDENCE, THINGS OF THAT NATURE?

14 A YES.

15 MS. SARIS: OBJECTION. CALLS FOR HEARSAY.

16 THE COURT: OVERRULED.

17 MR. JACKSON: THANK YOU.

18 THE WITNESS: YES.

19 Q BY MR. JACKSON: WHAT IS YOUR ESTIMATION
20 OF THE MOST LIKELY ROUTE OF ESCAPE?

21 A IT WAS ONTO -- FROM THE BRADBURY ESTATES
22 PROPERTY THROUGH THE GATE, THROUGH THAT OPENING DOWN TO
23 THE BIKE PATH TRAVERSING AT A DIRECTION OF EAST ON THE
24 BIKE PATH AND THEN SOUTHBOUND ONTO MT. OLIVE -- I'M
25 SORRY, FOR MT. OLIVE. FROM THERE I'M NOT SURE.

26 Q ARE YOU DESCRIBING THE ESCAPE ROUTE AS
27 COMING FROM THE THOMPSON PROPERTY DOWN WOODLYN LANE, DOWN
28 THE HILL ALL THE WAY OUT TO ROYAL OAKS, GETTING ON THE

1 BIKE PATH, PROCEEDING IN AN EASTERLY DIRECTION ON THE
2 BIKE PATH UNTIL COMING TO MT. OLIVE, TAKE A RIGHT ON
3 MT. OLIVE GOING SOUTHBOUND TO THE MOUTH OF THE FREEWAYS,
4 THE FREEWAY SYSTEM, THE 210 AND THE 605?

5 A YES. OR RETRIEVAL BEFORE OF SOME FORM.
6 THAT APPEARED TO BE THE ROUTE -- THE MOST LIKELY ROUTE.

7 Q IF ONE HAD A CAR WAITING, FOR INSTANCE,
8 SITTING ON THE CURB LINE OF MT. OLIVE, IS THERE PARKING
9 RIGHT ALONG THAT CURB LINE THAT YOU CAN LEAVE YOUR CAR
10 AT?

11 MS. SARIS: OBJECTION. VAGUE AS TO AREA AND
12 TIME.

13 THE COURT: SUSTAINED.

14 MR. JACKSON: I'M SORRY, YOUR HONOR. GO AHEAD.

15 THE COURT: SUSTAINED.

16 Q BY MR. JACKSON: BETWEEN ROYAL OAKS AND
17 THE FREEWAY, IS THERE A CURB LINE THERE?

18 A YES.

19 Q SO ONE COULD CONCEIVABLY LEAVE A CAR
20 THERE; CORRECT?

21 A OR SOME TYPE OF VEHICLE.

22 Q OR A TRUCK?

23 A SURE.

24 Q AND THROW BICYCLES INTO IT, FOR INSTANCE?

25 A SURE.

26 Q AND WITHIN SECONDS OF BEING AT THAT
27 INTERSECTION, ROYAL OAKS AND MT. OLIVE, COULD YOU BE ON
28 THE FREEWAY?

1 A OH, SURE.

2 Q COULD YOU BE ON SEVERAL DIFFERENT
3 FREEWAYS?

4 A YES. WITH A LITTLE TIME, SURE, EASILY.

5 Q ALL RIGHT. DETECTIVE, BASED ON YOUR
6 INVESTIGATION, THE TOTALITY OF YOUR INVESTIGATION, THE
7 CRIME SCENE, THE PHYSICAL EVIDENCE AT THE CRIME SCENE,
8 THE LACK OF CERTAIN EVIDENCE AT THE CRIME SCENE, FOR
9 INSTANCE, THE BREAK INS, YOUR INVESTIGATION SURROUNDING
10 WITNESS INTERVIEWS, YOUR REVIEW OF THE PHYSICAL
11 TOPOGRAPHY OF THE CRIME SCENE, AND THE PROBABLE ESCAPE
12 ROUTE, WERE YOU TABLE TO COME TO A CONCLUSION, A
13 DETERMINATION IN YOUR MIND AS TO WHAT KIND OF CRIME
14 OCCURRED AT APPROXIMATELY 6:05 IN THE MORNING ON MARCH
15 16TH, 1988?

16 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR
17 ULTIMATE CONCLUSION. MAY WE APPROACH?

18 THE COURT: ALL RIGHT. WE'RE GOING TO TAKE OUR
19 NOON RECESS AT THIS TIME.

20 LADIES AND GENTLEMEN, DON'T DISCUSS THE
21 CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T CONDUCT
22 ANY DELIBERATIONS. AND WE WILL RESUME AT 1:45 TO MAKE
23 SURE I HAVE ENOUGH TIME TO GO OVER THINGS WITH THE
24 LAWYERS. SO HAVE A GOOD LUNCH. WE WILL SEE YOU AT 1:45.
25 THANK YOU.

26 (THE JURY LEFT THE COURTROOM.)

27 THE COURT: ALL RIGHT. DETECTIVE VERDUGO, WE
28 WILL SEE YOU AT 1:45.

1 THE WITNESS: THANK YOU, YOUR HONOR.

2 THE COURT: UNLESS COUNSEL WANTS HIM AT 1:30 WHEN
3 WE DISCUSS OTHER MATTERS.

4 MR. DIXON: PARDON?

5 MS. SARIS: WE SHOULD.

6 THE COURT: WE'RE GOING TO DISCUSS OTHER MATTERS
7 AT 1:30.

8 MS. SARIS: PROBABLY, YES.

9 THE COURT: ALL RIGHT. 1:30, THEN. THANK YOU.

10 MR. DIXON: YOUR HONOR, AT THIS TIME WE WILL NOT
11 BE ASKING TO PLAY THE VIDEOTAPE.

12 THE COURT: OKAY.

13 MR. DIXON: SO THE NEED FOR THE COURT TO REVIEW
14 THAT I DON'T THINK AT THIS TIME IS REQUIRED.

15 MR. JACKSON: WE WERE ABLE TO GET WHAT WE NEEDED
16 THROUGH YOU LETTING US RE-MARK THE EXHIBIT.

17 THE COURT: WITH RESPECT TO THE LAST OBJECTION?

18 MS. SARIS: IT CALLS FOR THE ULTIMATE CONCLUSION
19 THAT IS IN THE HANDS OF THE JURY. I MEAN, THAT'S THE
20 ISSUE HERE.

21 MR. JACKSON: JUDGE, THE ULTIMATE CONCLUSION IS
22 WHETHER OR NOT MIKE GOODWIN IS RESPONSIBLE FOR MURDER.
23 THIS IS A QUESTION ABOUT MODE BASED ON HIS EXPERIENCE AND
24 EXPERTISE. THE MODE OF THE MURDER WAS A HIT OR EXECUTION
25 STYLE MURDER WHICH IS NOT THE ULTIMATE CONCLUSION AS A
26 LEGAL ISSUE IN THIS CASE.

27 MS. SARIS: IT'S HIS OPINION ABOUT WHAT WAS GOING
28 ON WHICH IS NOT RELEVANT --

1 MR. JACKSON: WELL --

2 MS. SARIS: -- TO THE ISSUE OF WHETHER IT -- THIS
3 GENTLEMAN CANNOT TESTIFY THAT IT WAS A MURDER GONE WRONG
4 OR A HIT OR ROBBERY.

5 THE COURT: WHY DON'T WE HAVE DETECTIVE VERDUGO
6 STEP OUTSIDE.

7 (THE WITNESS LEFT THE COURTROOM.)

8 THE COURT: ALL RIGHT. HE HAS LEFT THE
9 COURTROOM.

10 THE QUESTION IS WHETHER OR NOT THIS IS THE
11 PROPER SUBJECT OF AN EXPERT OPINION. AND --

12 MS. SARIS: IN WHICH CASE IT SHOULD BE A
13 HYPOTHETICAL.

14 THE COURT: WELL, IT DOESN'T HAVE TO BE A
15 HYPOTHETICAL.

16 IS IT A PROPER SUBJECT FOR AN EXPERT?
17 WHAT IS THE DEFENSE POSITION, THAT IT'S NOT?

18 MS. SARIS: THAT IT'S NOT THE PROPER -- FIRST, HE
19 HASN'T LAID THE FOUNDATION FOR ROBBERY/HOMICIDE,
20 ROBBERIES GONE WRONG --

21 THE COURT: WELL, OVER 500 HOMICIDE
22 INVESTIGATIONS.

23 MS. SARIS: YES.

24 THE COURT: OKAY.

25 MS. SARIS: SECOND, THE ULTIMATE OPINION OF AN
26 EXPERT WITNESS CANNOT BE THE -- WHAT WE'RE ASKING THE
27 JURY TO CONCLUDE. IN OTHER WORDS, IT IS THE SAME ISSUE.
28 THEY'RE ASKING --

1 THE COURT: SO YOU AGREE IT'S PROPER SUBJECT FOR
2 AN EXPERT.

3 MS. SARIS: NO, I DO NOT AGREE THAT IT'S A PROPER
4 SUBJECT.

5 THE COURT: YOU DO NOT?

6 MS. SARIS: NO. BASED ON THE WAY THAT QUESTION
7 WAS PHRASED, NO.

8 THE COURT: I THINK IT'S THE PROPER SUBJECT OF
9 INQUIRY AND I THINK THAT IF THE WITNESS IS FURTHER
10 QUALIFIED TO RENDER AN OPINION, HE CAN RENDER AN OPINION.
11 BUT, AGAIN, IT'S GOING TO DEPEND ON THE FOUNDATION THAT'S
12 LAID. I MEAN, SO FAR I'VE HEARD THAT HE'S A VERY
13 EXPERIENCED DETECTIVE HAVING PERSONALLY INVESTIGATED OVER
14 500, IF NOT OVER 600 HOMICIDES.

15 WHERE THAT GOES FROM THERE PERHAPS WE CAN
16 GET SOME FURTHER FOUNDATION.

17 MR. JACKSON: IF THE COURT REQUIRES FURTHER
18 FOUNDATION, I CAN CERTAINLY ASK. I MEAN, I WOULD ASK FOR
19 SOME GUIDANCE. I WOULD HAVE THOUGHT THAT 500 HOMICIDE
20 INVESTIGATIONS WOULD RENDER HIM AT LEAST ABLE TO SAY THIS
21 WAS A DOMESTIC VIOLENCE MURDER. WHY? BECAUSE IT TOOK
22 PLACE IN THE HOUSE. THE HUSBAND'S DEAD, THE WIFE'S
23 STANDING THERE WITH A KNIFE IN HER HAND, BLAH, BLAH,
24 BLAH. VICE VERSA, THIS WAS AN EXECUTION STYLE HIT,
25 NOTHING WAS TAKEN.

26 THE COURT: THE PROBLEM I'M HAVING IS AT WHAT
27 POINT DOES IT CROSS THE LINE OF BEING BEYOND WHAT AN
28 EXPERT CAN TESTIFY TO AND THERE'S A SPECIAL CIRCUMSTANCE

1 IN THIS CASE LYING IN WAIT, IS THERE NOT?

2 MR. JACKSON: THERE IS. AND I SPECIFICALLY
3 FORMULATED MY QUESTIONS TO AVOID TWO THINGS. I NEVER
4 MENTIONED HIM, THE DEFENDANT, AND I NEVER MENTIONED THE
5 LYING IN WAIT. I'M NOT INTERESTED IN -- BECAUSE I THINK
6 THAT WOULD PROBABLY CROSS THE LINE OR PUSH THE LINE IF I
7 ASKED "WAS THIS A LYING IN WAIT HOMICIDE?". THAT IS AN
8 ULTIMATE CONCLUSION THAT THE JURY SHOULD BE ABLE TO
9 RENDER.

10 HOWEVER, WHAT I ASKED HIM WAS, IN YOUR
11 OPINION, WHAT KIND OF CRIME TOOK PLACE? I BELIEVE --
12 AND I CAN INSTRUCT HIM TO SAY THIS AND STAY AWAY FROM THE
13 LYING IN WAIT OPINION, I BELIEVE HE'LL SAY "IN MY
14 OPINION, THIS WAS AN EXECUTION STYLE HIT, A PROFESSIONAL
15 HIT." WHY DO YOU SAY THAT? "BECAUSE OF THE HOUR, BECAUSE
16 OF THE LOCATION, BECAUSE OF THE THINGS THAT WEREN'T
17 TAKEN, BECAUSE OF THE WAY THE CRIME WAS SO WELL
18 COORDINATED AND CHOREOGRAPHED, THE USE OF BICYCLES, THE
19 USE OF A BIKE PATH", ET CETERA.

20 THE COURT: THE PROBLEM I HAVE WITH EXECUTION
21 STYLE HIT IS THAT IT MAY, IN FACT, INTERFERE OR PREVENT
22 AND OBTVIATE THE NEED FOR THE JURY TO MAKE A FINDING OF A
23 SPECIAL CIRCUMSTANCE AND I WANT TO AVOID THAT, IF AT ALL
24 POSSIBLE. EXECUTION STYLE HIT IN MY OPINION MEANS LYING
25 IN WAIT.

26 I WOULD ALLOW, HOWEVER, THE WITNESS TO
27 TESTIFY THAT IN HIS OPINION THE MOTIVE OF THESE MURDERS
28 WAS NOT ROBBERY OR BURGLARY ON THE TAKING OF ANY VALUABLE

1 PROPERTY. I MEAN, THAT WE HAVE. AND IF THE ISSUE OF
2 MOTIVE IS RELEVANT HERE AND IT'S ALSO SOMETHING THAT I
3 DON'T KNOW IF THE JURY WOULD NECESSARILY HAVE EXPERIENCE
4 IN, SHORT OF WATCHING T.V. SHOWS, BUT TO RULE OUT ROBBERY
5 AS A MOTIVE I THINK IS AN APPROPRIATE AREA OF INQUIRY.

6 MS. SARIS: IF A FOUNDATION IS LAID.

7 THE COURT: IF THE FOUNDATION IS LAID.

8 AND AS A HOMICIDE DETECTIVE WITH OVER 500
9 INVESTIGATIONS OF HIS --

10 MS. SARIS: THAT'S NOT WHAT I'M REFERRING TO.
11 I'M REFERRING TO THE FACT THAT NOTHING WAS TAKEN. WE
12 HAVE SEEN NO INVENTORY. WE HAVE NO INDICATION THIS MAN
13 HAS EVER BEEN IN THE HOME BEFORE TO KNOW WHAT WAS THERE
14 PRIOR.

15 THE COURT: WE HAVE QUITE A BIT SO FAR THAT WOULD
16 SUPPORT THE RENDERING OF AN SUCH AN OPINION AND I WOULD
17 ALLOW THE RENDERING OF SUCH AN OPINION. HE CAN BASE IT
18 ON HEARSAY, HE CAN BASE IT ON HIS OBSERVATIONS OF THE
19 CRIME SCENE, HE CAN BASE IT ON HIS REVIEW OF THE PROPERTY
20 REPORT, HE CAN BASE IT ON ANYTHING AND HE'S SUBJECT TO
21 CROSS-EXAMINATION ON THAT. HE IS CLEARLY QUALIFIED
22 INSOFAR AS AN EXPERT HOMICIDE INVESTIGATOR.

23 BUT I WANT TO STAY AWAY FROM THE TERM
24 EXECUTION STYLE HIT.

25 MR. JACKSON: YES, MA'AM.

26 MS. SARIS: AS LONG AS THE COURT ALLOWS ME TO
27 CROSS-EXAMINE EVERYTHING THAT WENT INTO HIS OPINION, I'M
28 FINE WITH THAT RULE.

1 THE COURT: INTO HIS OPINION? OF COURSE I WOULD
2 LET YOU CROSS-EXAMINE HIM AS TO EVERYTHING.

3 THE COURT: OKAY. SEE YOU AT 1:30.

4
5 (AT 12:00 P.M. A RECESS WAS TAKEN
6 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, NOVEMBER 29, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE FOLLOWING PROCEEDINGS WERE HELD
10 IN OPEN COURT OUTSIDE THE PRESENCE OF
11 THE JURY.)
12

13 THE COURT: LET'S GO ON THE RECORD.

14 MR. GOODWIN IS PRESENT WITH HIS COUNSEL.

15 MR. JACKSON: YOUR HONOR, GIVEN THE COURT'S
16 CONCERNS BEFORE WE BROKE, I WANTED TO SEEK SOME GUIDANCE
17 CONCERNING REY VERDUGO'S TESTIMONY.

18 THE COURT INDICATED -- PARDON ME. I'VE
19 GOT A FROG IN MY THROAT. I'M TRYING TO GET RID OF THIS.

20 THE COURT INDICATED THAT IT WISHES THAT
21 DETECTIVE VERDUGO STAY AWAY FROM THE PHASE "EXECUTION
22 STYLE HIT." I TALKED TO HIM OUTSIDE THE PRESENCE OF THE
23 JURY AND ASKED HIM WHAT HIS ULTIMATE OPINION IS ABOUT
24 THIS TYPE OF MURDER. HE DID SAY -- IN FACT, HIS WORDS
25 WERE, "THIS WAS A HIT. PLAIN AND SIMPLE IN MY OPINION,
26 THIS WAS CONSISTENT WITH A HIT OR A CONTRACT KILLING."
27 HE SAID HE'S INVESTIGATED ACCIDENTAL HOMICIDES, ROBBERY
28 HOMICIDES, GANG RELATED HOMICIDES, SEX ASSAULTS AND

1 HOMICIDES, YOU KNOW, A NUMBER OF DIFFERENT VARIETIES
2 INCLUDING CONTRACT KILLINGS AND THE EVIDENCE THAT HE SAW
3 AT THE CRIME SCENE IS INCONSISTENT WITH ANY OF THOSE AND
4 CONSISTENT WITH A CONTRACT KILLING.

5 I DIDN'T WANT TO SAY THAT OR SEEK THAT
6 QUESTION -- SEEK THAT ANSWER WITHOUT LETTING THE COURT
7 KNOW WHERE I WAS GOING WITH IT SINCE THE COURT WAS
8 CONCERNED ABOUT THE LYING IN WAIT THING.

9 I'M NOT SEEKING ANY INFORMATION ABOUT
10 LYING IN WAIT. AND CERTAINLY A CONTRACT KILLING CAN BE
11 DONE WITHOUT LYING IN WAIT AND HE'S BEEN INSTRUCTED DO
12 NOT -- WHEN I ASK FOR THE BASIS OF YOUR OPINION, DO NOT
13 USE THE PHRASE LYING IN WAIT EVEN WITH REGARD TO THE
14 ORANGE PEELS OR THE FOOTPRINTS.

15 SO THAT'S ALL. I JUST WANT TO MAKE SURE I
16 DON'T STEP ON ANY TOES AND OFFEND THE COURT'S SENSE OF
17 WHAT IS ALLOWABLE AND WHAT IS NOT.

18 MS. SARIS: AND WE WOULD OBVIOUSLY HAVE A
19 FOUNDATIONAL OBJECTION TO WHAT A CONTRACT KILLING LOOKS
20 LIKE.

21 THE COURT: ALL RIGHT. THIS IS MY CONCERN. THE
22 ISSUE OF WHETHER OR NOT DETECTIVE VERDUGO IS AN EXPERT IS
23 NOT A PROBLEM. BUT HIS ABILITY TO RENDER AN OPINION,
24 THERE IS NO QUESTION THAT THAT WOULD BE WITHIN THE REALM
25 OF HIS EXPERTISE.

26 THE QUESTION IS: IS THE SUBJECT MATTER
27 APPROPRIATE FOR HIM TO DISCUSS IN TERMS OF RENDERING AN
28 OPINION? IF THE OFFER OF PROOF IS THAT HE'S GOING TO SAY

1 IN HIS OPINION BASED ON HIS BACKGROUND, TRAINING AND
2 EXPERIENCE THIS IS A CONTRACT KILLING, TO ME, THAT SEEMS
3 TO GO BEYOND WHAT THE EVIDENCE CODE PERMITS, BECAUSE, IN
4 ESSENCE, THAT IS THE PEOPLE'S CASE. SHORT AND SIMPLE.
5 IF THIS IS A CONTRACT KILLING, IT SEEMS TO ME THE PEOPLE
6 WILL PREVAIL.

7 BASED ON WHAT I'VE HEARD SO FAR, IN ALL
8 LIKELIHOOD -- AND IT'S REASONABLE FOR THE JURY BASED ON
9 WHAT'S BEEN PRESENTED, ASSUMING THIS IS JUST THE STATE OF
10 THE EVIDENCE WHERE WE ARE NOW AND THAT'S CERTAINLY NOT
11 GOING TO BE THE CASE. BUT THE JURY CAN, FROM THE FACTS
12 AND CIRCUMSTANCES, DRAW AN INFERENCE THAT THIS WAS AN
13 EXECUTION A HIT, A CONTRACT KILLING. AND I DON'T THINK
14 THEY NEED THE OPINION OF AN EXPERT TO RENDER THAT OPINION
15 OR COME TO THAT CONCLUSION.

16 I WOULD PREFER TO APPROACH THIS BY HAVING
17 YOU INQUIRE AS TO WHAT THIS IS NOT AS OPPOSED TO WHAT IT
18 IS --

19 MR. JACKSON: I UNDERSTAND.

20 THE COURT: -- BECAUSE IT DOESN'T -- I MEAN, THE
21 ULTIMATE ISSUE TO ME IN THIS CASE IS, IS THIS A CONTRACT
22 KILLING? IS THIS A HIT?

23 MR. JACKSON: AND, OF COURSE, THE NEXT LOGICAL
24 EXTENSION IS, IS THE DEFENDANT GOODWIN RESPONSIBLE FOR
25 THAT CONTRACT KILLING?

26 THE COURT: CORRECT.

27 MR. JACKSON: WHICH I WOULD NOT SEEK TO --

28 THE COURT: I KNOW THAT.

1 BUT I JUST -- I THINK THAT GIVEN THE STATE
2 OF THE EVIDENCE, I DON'T KNOW THAT THE JURY NEEDS THAT
3 MUCH INFORMATION. BUT I DO THINK IF, IN FACT, DETECTIVE
4 VERDUGO WILL OPINE THAT BASED ON THE PRESENCE OF ALL OF
5 THE VALUABLES THAT WERE SEEN AT THE LOCATION AND ON THE
6 VICTIMS AND THE MONEY IN THE WALLET, I DON'T HAVE ANY
7 PROBLEM WITH HIM SAYING CLEARLY THIS WAS NOT A ROBBERY
8 MURDER OR A MURDER OR MURDERS COMMITTED DURING THE COURSE
9 OF ROBBERIES.

10 I THINK HE CAN ALSO TESTIFY TO THE FACT
11 THAT HE BELIEVES THAT THE MOTIVE IN THE CASE WAS NOT
12 ROBBERY.

13 MR. JACKSON: THAT WAS THE OTHER THING THAT HE
14 SAID. HE SAID TWO THINGS. AND I WOULD INVITE THE COURT
15 TO -- IF THE COURT WOULD ALLOW ME TO STEP OUTSIDE BEFORE
16 THE JURY COMES IN, I WANT TO MAKE SURE THAT I'M PLAYING
17 WITHIN THE CONFINES OF THE RULES SET OUT BY THE COURT.

18 HE DID SAY, IN MY OPINION, THE SOLE
19 PURPOSE FOR THIS CRIME WAS TO MURDER MICKEY THOMPSON AND
20 TRUDY THOMPSON, NOT A ROBBERY, NOT DOMESTIC VIOLENCE, NOT
21 A SEX ASSAULT, THOSE THINGS. IS THAT WITHIN THE SCOPE OF
22 WHAT THE COURT THINKS IS PERMISSIBLE?

23 THE COURT: I BELIEVE IT IS. BUT I HAVEN'T HEARD
24 FROM MS. SARIS ON THAT POINT. I BELIEVE IT IS. IF HE
25 CAN SAY WHAT IT ISN'T. HE CAN SAY THAT THE MOTIVE WAS AS
26 YOU STATED IT, MURDER. BUT I DON'T THINK HE CAN GO
27 BEYOND THAT, BECAUSE I THINK THAT WOULD THEN INVADE THE
28 PROVINCE OF THE JURY.

1 MR. JACKSON: OKAY.

2 THE COURT: BUT I CERTAINLY THINK THAT BASED ON
3 HIS EXPERTISE, HE CAN CATEGORIZE THIS TYPE OF MURDER, OR
4 THESE TYPES OF MURDERS BEING MOTIVATED SOLELY BY THE
5 DESIRE TO MURDER. BUT I HAVEN'T HEARD ANYTHING.

6 MS. SARIS: WELL, WE HAVE TWO OBJECTIONS
7 OBVIOUSLY.

8 THE COURT: OKAY.

9 MS. SARIS: ONE, WE TAKE EXCEPTION TO THE COURT
10 SAYING THAT THE PEOPLE WILL PREVAIL IF THEY CAN PROVE
11 THAT THIS WAS A HIT.

12 THE COURT: BASED ON WHAT I HEARD SO FAR --

13 MS. SARIS: I UNDERSTAND WHAT YOU'RE SAYING, BUT
14 THAT'S EXACTLY WHY WE WANTED TO OFFER EVIDENCE OF MICKEY
15 THOMPSON'S NEPHEW AND THE FACT THAT HE TESTIFIED AT
16 TRIAL -- THAT MICKEY THOMPSON TESTIFIED AT HIS NEPHEW'S
17 TRIAL WHERE HE TESTIFIED AGAINST KNOWN GANG MEMBERS
18 BECAUSE THE NEPHEW WAS A DRUG DEALER AND WAS MURDERED.
19 JUST BECAUSE IT WAS A HIT DOESN'T MEAN MICHAEL GOODWIN
20 DID IT. AND I THINK THE COURT HAS REALLY HIT THE NAIL ON
21 THE HEAD IN TERMS OF OUR FEAR GOING INTO THIS WITH THE
22 RULINGS THAT HAVE BEEN MADE REGARDING TYING OUR HANDS IN
23 TERMS OF PRESENTING A DEFENSE. THAT THERE ARE OTHER
24 PEOPLE OUT THERE THAT HAD THE MOTIVE THAT WE WOULD
25 LIKE -- OBVIOUSLY WE WILL SEE IF WE CAN GET INTO IN TERMS
26 OF FAILURE TO INVESTIGATE.

27 THE COURT: WELL, I THINK YOU CAN CROSS-EXAMINE
28 HIM ON CROSS-EXAMINATION AS TO THAT ISSUE.

1 MS. SARIS: AND THE ISSUE OF WHETHER OR NOT HE
2 SAYS WHAT THE MOTIVATION OF AN INDIVIDUAL IS, I THINK THE
3 PHRASING OF THE QUESTION BECOMES THE IMPORTANT ISSUE. HE
4 CAN SAY WHAT IT'S NOT BASED ON THE EVIDENCE THAT HE'S
5 SEEN, BUT TO ACTUALLY ASK HIM TO STEP INSIDE THE HEAD OF
6 THE KILLER AND ASK WHAT THEIR MENS REA WAS, THAT'S THE
7 ULTIMATE DECISION OF A JUROR.

8 THE COURT: AGAIN, IT MAY BE THE ULTIMATE
9 DECISION OF A JUROR, BUT IN TERMS OF INVESTIGATING
10 HOMICIDES AND SEEING DIFFERENT TYPES OF HOMICIDES THAT
11 OCCUR, IN HIS EXPERIENCE, I THINK IT WOULD BE HELPFUL TO
12 PERMIT HIM TO TESTIFY AS TO WHAT HE THINKS IT IS AS LONG
13 AS HE DOESN'T INVADE THE PROVINCE OF THE JURY. AND I
14 BELIEVE INVADING THE PROVINCE OF THE JURY WOULD BE
15 STATING THAT IN HIS OPINION THIS WAS A CONTRACT KILLING,
16 AN EXECUTION, A HIT.

17 I THINK IT WOULD BE HELPFUL TO THE JURY IF
18 THEY HEARD THAT THIS WAS NOT DONE WITH THE INTENTION OF
19 STEALING PROPERTY, VALUABLES OF THESE TWO PEOPLE. I
20 THINK HE CAN RENDER AN OPINION ON THAT, BUT HE CAN ALSO
21 BE EXTENSIVELY CROSS-EXAMINED ON A NUMBER OF ISSUES. AND
22 I'M NOT GOING TO LIMIT YOUR ABILITY, AS I SAID EARLIER,
23 TO CROSS-EXAMINE HIM.

24 NOW, I DID NOT PERMIT THIRD PARTY
25 CULPABILITY TO COME INTO THIS CASE FOR A VARIETY OF
26 REASONS. IF THE DOOR IS OPENED, YOU MAY STEP IN.
27 IF HE HAS AN OPINION, YOU CAN QUESTION HIM ABOUT OTHER
28 INFORMATION THAT HE MAY REASONABLY BE EXPECTED TO RELY ON

1 IN RENDERING AN OPINION IN THIS CASE. AND THAT IS ALL
2 THE EVIDENCE IN THE CASE, ALL THE INFORMATION IN THE
3 MURDER BOOK. SO BE IT. THAT'S HOW I SEE IT.

4 MR. JACKSON: MAY WE HAVE JUST A MOMENT, YOUR
5 HONOR?

6 THE COURT: SURE.

7 (PAUSE IN PROCEEDINGS.)

8 MR. JACKSON: YOUR HONOR, MAY I?

9 THE COURT: YES.

10 MR. JACKSON: THANK YOU. IF I'M HEARING THE
11 COURT CORRECTLY AND I WANT TO MAKE SURE THAT WE'RE ALL ON
12 THE SAME PAGE, IS THE COURT SUGGESTING THAT IF WE ASK AN
13 OPINION QUESTION OF THIS OFFICER AND HE RENDERS AN
14 OPINION ABOUT WHAT THIS WAS NOT, I.E., A ROBBERY, IS THE
15 COURT SAYING TO THE DEFENSE THAT THAT THEN OPENS THE DOOR
16 FOR THEM TO INQUIRE OF DEAN KENNEDY AND COWELL AND SCOTT
17 CAMPBELL AND JOEY HUNTER AND ALL THE THIRD PARTY
18 CULPABILITY STUFF THAT'S ALREADY BEEN LITIGATED AND
19 EXCLUDED?

20 THE COURT: FIRST OF ALL, QUESTIONS ARE NOT
21 EVIDENCE. SO THE FACT THAT I MAY PERMIT CERTAIN
22 QUESTIONS TO BE ASKED ON CROSS-EXAMINATION IS NOT THE
23 SAME AS THE COURT FINDING THAT THIRD PARTY CULPABILITY
24 EVIDENCE SHOULD BE NOW ADMITTED. BUT I THINK ANYTHING
25 THAT AN EXPERT CAN BE EXPECTED TO RELY ON, EITHER SHOULD
26 RELY ON OR HAS RELIED ON THAT IS EVIDENCE IN THE CASE, I
27 THINK THAT'S FAIR GAME.

28 NOW, THE EXTENT TO WHICH DETECTIVE VERDUGO

1 MAY BE FAMILIAR OR UNFAMILIAR WITH THESE OTHER EXTRANEIOUS
2 ISSUES THAT THE DEFENSE CALLS THIRD PARTY CULPABILITY, I
3 JUST DON'T KNOW THE ANSWER TO THAT.

4 MR. JACKSON: OKAY.

5 THE COURT: BUT I THINK IT IS PROPER FOR THE
6 DEFENSE TO POSE QUESTIONS THAT ARE BASED ON INFORMATION
7 THAT THEY HAVE THAT THEY BELIEVE AN EXPERT SHOULD HAVE
8 RELIED ON OR COULD RELY ON.

9 MR. JACKSON: I GUESS I WOULD SUGGEST THE
10 FOLLOWING, THEN, TWO THINGS. NUMBER ONE, IF THAT IS THE
11 CASE, IF THAT'S THE COURT'S TENTATIVE RULING AND
12 MS. SARIS IS I'M SURE CHOMPING AT THE BIT TO START ASKING
13 THOSE QUESTIONS, THEN WE WOULD WITHDRAW THE LAST
14 QUESTION, NOT ASK IT, NOT QUALIFY HIM AS AN EXPERT TO
15 RENDER THE OPINION ABOUT THE ROBBERY AND WE WOULD RELY ON
16 THE ABILITY OF THE JURORS TO INFER FROM THE CRIME SCENE
17 WHICH I THINK THEY'RE IN A POSITION TO BE ABLE TO DO AND
18 WE WOULD SIMPLY ARGUE THE EFFICACY OF THE ROBBERY VERSUS
19 THE MURDER -- OR OF THE CONTRACT KILLING OR THE
20 EXECUTION.

21 THE SECOND POINT IS IF THE COURT IS
22 INCLINED TO ALLOW MS. SARIS IN ANY EVENT TO ASK QUESTIONS
23 ABOUT THE DEAN KENNEDY, LARRY COWELL, JOHN YOUNG, THAT
24 EXTRANEIOUS THIRD PARTY CULPABILITY INFORMATION AND JOEY
25 HUNTER INFORMATION, THEN WE WOULD ASK SIMPLY THAT THAT BE
26 DONE INITIALLY OUTSIDE OF THE PRESENCE OF THE JURY.

27 THE COURT IS ABSOLUTELY CORRECT.
28 COUNSEL'S QUESTIONS WERE NOT EVIDENCE. HOWEVER, COUNSEL

1 WAS VERY AWARE AS IS THE COURT, AN EX-TRIAL LAWYER
2 HERSELF AND MR. DIXON AND MYSELF ARE AWARE, THAT YOU
3 CAN'T UNRING A BELL. AND I EXPECT THAT MS. SARIS WILL
4 RING LOUDLY AND VIGOROUSLY IF SHE GETS AN OPPORTUNITY.

5 SO IF MR. VERDUGO -- DETECTIVE VERDUGO
6 DOESN'T KNOW ANYTHING ABOUT DEAN KENNEDY OR LARRY COWELL,
7 THAT CERTAINLY SHOULDN'T BE SUGGESTED JUST TO GET A NO
8 ANSWER IN FRONT OF THE JURY THROUGH LEADING QUESTIONS.

9 THE COURT: I HAVE NO PROBLEM HANDLING IT THAT
10 WAY. IT'S JUST THAT AS YOU KNOW, AS ALL COUNSEL KNOW,
11 WHEN AN EXPERT TESTIFIES AND RENDERS AN OPINION, THE
12 INFORMATION THAT IS TAKEN INTO CONSIDERATION AND THE
13 PERMISSIBLE SCOPE OF INFORMATION RELIED ON IS OFTEN TIMES
14 INADMISSIBLE AND THE JURORS ARE INSTRUCTED THAT THE
15 INFORMATION HAS BEEN USED SOLELY FOR THE RENDERING OF
16 OPINION AND NOT FOR THE TRUTH.

17 AND SO I'M HAPPY TO HAVE A HEARING OUTSIDE
18 OF THE PRESENCE OF THE JURY IF YOU WISH TO DETERMINE
19 WHETHER OR NOT HIS OPINION IS SUPPORTED BY THE EVIDENCE.

20 MR. JACKSON: WELL, AT THIS POINT WE HAVEN'T
21 ASKED FOR AN OPINION AND I'LL WITHDRAW THAT QUESTION. I
22 WANT TO MAKE SURE THAT WE STAY AS FAR AS FROM THAT THIRD
23 PARTY CULPABILITY ISSUE AS WE POSSIBLY CAN. I'M NOT
24 HIDING THE BALL, I'M LAYING IT OUT THERE THAT I DO NOT
25 WANT -- I DON'T BELIEVE IT IS LEGALLY SOUND FOR MS. SARIS
26 TO TRY TO GET THAT IN THROUGH THE BACK DOOR WHAT SHE
27 CLEARLY COULD NOT GET INTO THE FRONT. SO I'LL TAKE THE
28 COURT'S ADVICE -- NOT ADVICE --

1 THE COURT: NO, I'M NOT GIVING YOU ADVICE.

2 MR. JACKSON: I UNDERSTAND. I WILL RETRACT THAT.
3 I DIDN'T MEAN ADVICE.

4 I WILL TAKE THE COURT'S CONCERNS AND
5 CHANGE MY TACTIC BASED ON THAT. I DON'T WANT TO EVEN
6 COME CLOSE TO A LINE OF ALLOWING MS. SARIS TO GET INTO
7 SOMETHING THAT ORDINARILY SHE WOULDN'T BE ABLE TO GET
8 INTO. I'LL WITHDRAW THE LAST QUESTION AND I'LL SIT DOWN.

9 MS. SARIS: I THINK HE'S ALREADY GIVEN THE
10 OPINION THAT IT WASN'T A ROBBERY. HE'S JUST DONE IT IN
11 NOT SO MANY WORDS.

12 THE COURT: WELL, I HAVEN'T HEARD THAT JUST YET.
13 BUT, AGAIN, I'M NOT SUGGESTING THAT COUNSEL IS GOING TO
14 BE PERMITTED TO BASICALLY BRING IN WHAT SHE OTHERWISE IS
15 NOT ABLE LEGALLY TO BRING IN. I AM SUGGESTING, HOWEVER,
16 THAT IF SHE HAS OTHER THEORIES WHICH SHE CERTAINLY HAS,
17 AND THOSE THEORIES ARE SUPPORTED BY THE INFORMATION
18 CONTAINED IN THE DISCOVERY, I THINK THAT IS FAIR GAME IN
19 TERMS OF POSING THE QUESTION, "DID YOU CONSIDER?", "ARE
20 YOU AWARE?". BUT NOT TO PROVE THE FACTS ASSERTED.

21 AND TO PHRASE THOSE QUESTIONS IN A WAY
22 WHERE THE JURY SHOULD NOT ASSUME THOSE FACTS TO BE, IN
23 FACT, FACTS OF THE CASE THAT HAVE BEEN SUPPORTED BY THE
24 EVIDENCE THUS FAR. BUT I DON'T KNOW HOW I COULD PREVENT
25 ONE ON CROSS-EXAMINATION FROM QUESTIONING REGARDING A
26 THEORY. BECAUSE IF --

27 MR. JACKSON: BECAUSE I THINK IT GOES TO THIRD
28 PARTY CULPABILITY, BECAUSE IF THE THEORY IS LEGALLY

1 INSUFFICIENT, THAT'S EXACTLY WHAT WE LITIGATED
2 PREVIOUSLY. WHETHER SHE DOES IT THROUGH
3 CROSS-EXAMINATION OR THROUGH HER CASE IN CHIEF, SHE'S
4 DOING THE SAME THING. IF SHE WAS TO ASK A QUESTION ABOUT
5 HUNTER, IF SHE WAS TO ASK A QUESTION ABOUT COWELL,
6 THERE'S ONLY ONE REASON FOR THAT QUESTION, BECAUSE SHE
7 WANTS TO SUGGEST IN THE JURY'S MIND THAT COWELL OR HUNTER
8 IS RESPONSIBLE. THE THIRD PARTY THAT IS NOT CONNECTED IN
9 ANY WAY TO THESE CRIMES.

10 THE COURT: NO. I UNDERSTAND THAT.

11 MS. SARIS: WELL, I THINK THERE IS A GENERAL
12 MISUNDERSTANDING. ANY TIME A DEFENDANT SAYS HE'S NOT
13 GUILTY, HE'S OBVIOUSLY BLAMING ANOTHER PERSON, IF NOT
14 INDIRECTLY, DIRECTLY. WE'RE SAYING THAT THIS POLICE
15 INVESTIGATION SHOULD HAVE -- WAS -- IT'S INAPPROPRIATE TO
16 RELY ON IT BECAUSE THEY ONLY INVESTIGATED WITH AN EYE
17 TOWARDS MR. GOODWIN.

18 SO JUST BECAUSE WE'RE ASKING ABOUT OTHER
19 PEOPLE DOES NOT MAKE IT BY DEFINITION THIRD PARTY
20 CULPABILITY EVIDENCE. IN OUR OPINION IT'S FIRST PARTY
21 CULPABILITY BECAUSE THEY'VE NEVER ACTUALLY CAUGHT THE
22 SHOOTER, AND SECONDLY, IT HAS NOTHING TO DO WITH JOEY
23 HUNTER OR DEAN KENNEDY BUT THIS DEPARTMENT'S FAILURE TO
24 INVESTIGATE EVEN THE MOST CURSORY OF LEAD THAT WOULD NOT
25 POINT TO MR. GOODWIN.

26 THE COURT: I THINK THE SUBJECT MATTER IS
27 APPROPRIATE FOR HIM TO ADDRESS ON THE ISSUE OF IT NOT
28 BEING A MURDER PURSUANT TO A ROBBERY OR AN INTENTION TO

1 STEAL PROPERTY. AND, YOU KNOW, I DON'T KNOW THE SPECIFIC
2 QUESTIONS THAT MS. SARIS IS PLANNING ON POSING, BUT I
3 WOULD NOT ALLOW A QUESTION THAT BROUGHT BEFORE THE JURY
4 OTHERWISE IRRELEVANT OR OTHER INADMISSIBLE INFORMATION.

5 BUT IT'S A REAL FINE LINE AND I WOULD HAVE
6 TO TAKE IT QUESTION BY QUESTION.

7 MR. JACKSON: MAY I HAVE JUST A MOMENT?

8 (PAUSE IN PROCEEDING.)

9 MR. JACKSON: THE ONLY THING I WOULD ASK YOUR
10 HONOR IS IF COUNSEL -- I DON'T INTEND TO ASK ANY FURTHER
11 QUESTIONS, SO I'M NOT GOING TO ASK FOR THAT -- THE
12 ULTIMATE OPINION THAT I WAS ASKING ABOUT PREVIOUSLY
13 BECAUSE I'M CONCERNED ABOUT THIS PROVERBIAL DOOR BEING
14 OPENED.

15 BASED ON THAT, IF COUNSEL DEEMS IT
16 APPROPRIATE TO ASK ANY QUESTIONS THAT DEAL WITH THIRD
17 PARTY CULPABILITY, AND I MEAN THAT IN OBVIOUSLY THE
18 BROADEST SENSE, NOT MS. SARIS'S DEFINITION OR MINE, BUT
19 ANYBODY DEALING WITH HUNTER OR COWELL OR KENNEDY OR JOHN
20 YOUNG OR KIT PAEPULE OR ANY OF THOSE FOLKS, THAT SHE
21 APPROACH BEFORE SHE ASKS THOSE QUESTIONS AND AT THAT
22 POINT MAYBE WE CAN GET FURTHER GUIDANCE FROM THE COURT AS
23 TO WHETHER OR NOT THAT'S AN APPROPRIATE QUESTION TO ASK
24 IN FRONT OF THE JURY OR NOT.

25 MS. SARIS: BEFORE I NAME THEM; IS THAT THE
26 QUESTION?

27 MR. JACKSON: CORRECT.

28 MS. SARIS: MY ENTIRE CROSS-EXAMINATION IS ABOUT

1 THE FAILURE -- OR PARTS OF THOSE. BUT BEFORE I NAME
2 THOSE INDIVIDUALS I WOULD BE HAPPY TO APPROACH.

3 THE COURT: AGAIN, I DON'T KNOW WHERE THIS IS
4 GOING. I THINK THE ENTIRE -- WELL, THE WHOLE MORNING
5 THAT DETECTIVE VERDUGO WAS -- OR THIS MORNING WHEN
6 DETECTIVE VERDUGO WAS DISCUSSING THE CRIME SCENE, THE
7 EVIDENCE, I JUST ASSUMED THAT'S WHERE WE WERE HEADED,
8 THAT THIS WAS NOT A ROBBERY. AND I'LL LEAVE IT AT THAT.

9 I TAKE EXCEPTION, HOWEVER, TO GOING
10 FURTHER THAN THAT AND I THINK YOU INDICATED YOU WANTED TO
11 GET INTO MOTIVE. AND, YOU KNOW, THAT DOES IN MY OPINION
12 OPEN THAT DOOR.

13 ON THE OTHER HAND, I THINK MS. SARIS KNOWS
14 QUESTIONS THAT ARE INAPPROPRIATE AND BASED ON INFORMATION
15 THAT THE COURT HAS DEEMED IRRELEVANT AND IMPROPER ARE NOT
16 GOING TO BE POSED. SO I DON'T KNOW HOW DETAILED COUNSEL
17 IS GOING TO BE.

18 ARE YOU PLANNING ON RAISING THE ISSUE OF
19 THIRD PARTY CULPABILITY IN YOUR CROSS-EXAMINATION BASED
20 ON THE INFORMATION THAT WAS LITIGATED EARLIER?

21 MS. SARIS: I DON'T -- OBVIOUSLY I HAVE A
22 DIFFERENT UNDERSTANDING. I INTEND TO INQUIRE REGARDING
23 WHAT HE INVESTIGATED AND THE THOROUGHNESS OF THAT. I
24 DON'T INTEND TO INQUIRE SPECIFICALLY REGARDING THE NAME
25 DEAN KENNEDY AND KIT AND JOHN YOUNG. THEY HAVEN'T ASKED
26 THE MOTIVE QUESTION, SO I'M --

27 THE COURT: YES. THE MOTIVE QUESTION IS WHAT
28 THIS IS ALL ABOUT HERE.

1 MS. SARIS: I MEAN, I THOUGHT I HEARD HIM SAY
2 THIS WASN'T A ROBBERY, IN WHICH CASE I THINK THAT DOES
3 GIVE ME SOME LEEWAY, BUT PERHAPS I DIDN'T HEAR HIM SAY
4 THAT.

5 THE COURT: I DON'T RECALL.

6 MS. SARIS: AND I DON'T EVEN MEAN THE LAST
7 QUESTION, I MEANT WHEN HE WAS TALKING ABOUT ENTERING TO
8 THE HOME AND VALUABLES NOT TAKEN.

9 THE COURT: MY RECOLLECTION IS HE STATED THAT
10 THERE WAS NO EVIDENCE OF AN ATTEMPT TO FORCE ENTRY INTO
11 THE HOME.

12 MR. JACKSON: AND TO REMOVE PROPERTY.

13 THE COURT: AND TO REMOVE PROPERTY.

14 MR. JACKSON: CORRECT.

15 THE COURT: I AGREE. HE DOESN'T KNOW WHAT OF
16 VALUE WAS IN THE HOME, BUT THERE WAS ENOUGH TESTIMONY OF
17 ITEMS OF VALUE AROUND THE CRIME SCENE THAT HE TESTIFIED
18 TO ALREADY.

19 MR. JACKSON: CORRECT. AND HE CERTAINLY DID NOT
20 ULTIMATELY GET TO THE OPINION THAT WAS OBJECTED TO
21 THAT -- WHAT THE MOTIVE WAS.

22 THE COURT: WELL, HE DIDN'T SAY -- I DON'T
23 BELIEVE HE SAID THIS WAS NOT A ROBBERY. BUT IF I'M
24 WRONG --

25 MR. JACKSON: NO, HE DIDN'T.

26 MS. SARIS: HE CERTAINLY DIDN'T SAY IT AT THE
27 END.

28 MR. JACKSON: I WENT THROUGH FOUR ITEMS. I SAID

1 THE HOUSE, THE CONTINENTAL, THE VAN AND THE BODIES, WAS
2 THERE EVIDENCE THAT ITEMS OF VALUE WERE TAKEN, AND HE
3 SAID NO ON EACH OF THOSE.

4 THE COURT: AND LET ME CORRECT SOMETHING. IF YOU
5 UNDERSTOOD ME TO SAY THAT THE PEOPLE WILL PROVE
6 MR. GOODWIN GUILTY IF THEY PROVE THIS IS A CONTRACT
7 KILLING, THAT'S NOT WHAT I WAS SUGGESTING. HOWEVER, THE
8 THEORIES WERE I THINK VERY SPECIFICALLY RELATED TO THE
9 JURY IN THE EXTENSIVE OPENING STATEMENTS THAT WE HAD IN
10 THIS CASE AND I THINK IT'S FAIRLY OBVIOUS THAT THE
11 PEOPLE'S THEORY IS THAT THIS IS A HIT AND THE DEFENSE
12 THEORY IS IT IS MOTIVATED BY SOMETHING OTHER THAN
13 PROBLEMS THAT OCCURRED BETWEEN MR. GOODWIN AND
14 MR. THOMPSON.

15 MS. SARIS: THAT DOESN'T MEAN IT WASN'T A HIT,
16 JUST THAT MR. GOODWIN WASN'T THE PERPETRATOR.

17 THE COURT: EXACTLY. EXACTLY. BUT I WAS MAKING
18 REFERENCE TO THE THEORIES OF THE CASE AND NOT THE GUILT
19 OR INNOCENCE OF THE DEFENDANT.

20 I THINK WE'RE ALL ON THE SAME PAGE NOW;
21 RIGHT?

22 MR. JACKSON: YES, YOUR HONOR.

23 (THE JURY ENTERED THE COURTROOM.)

24 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
25 THAT ALL HOUR JURORS AND ALTERNATES ARE ONCE AGAIN
26 PRESENT IN THE TRIAL MATTER. THE PARTIES ARE PRESENT.
27 MR. VERDUGO IS STILL TO THE WITNESS STAND.

28 MR. JACKSON?

1 MR. JACKSON: THANK YOU, YOUR HONOR. WE HAVE NO
2 FURTHER QUESTIONS AT THIS TIME. THANK YOU.

3 THE COURT: THANK YOU.

4 CROSS-EXAMINATION?

5 MS. SARIS: THANK YOU.

6
7 CROSS-EXAMINATION

8 BY MS. SARIS:

9 Q GOOD AFTERNOON, DETECTIVE. LET ME
10 APOLOGIZE FOR EARLIER THIS MORNING WITH OBJECTIONS. I'M
11 TRYING TO FIND OUT ONLY WHAT YOU PERSONALLY KNEW AND SAW.

12 A OH, I UNDERSTAND THAT.

13 Q OKAY. CAN WE DRAW OUR ATTENTION TO THE
14 DIAGRAM THAT'S UP ON THE OVERHEAD. I BELIEVE IT'S
15 PEOPLE'S 46.

16 THIS IS THE ONE THAT HAD ALL THE ITEMS OF
17 EVIDENCE?

18 A YES.

19 Q NOW, IS THAT THE SAME THING THAT'S ON THE
20 POSTER BOARD AS FAR AS YOU CAN TELL FROM WHAT'S ON THE
21 OVERHEAD.

22 A IT APPEARS TO BE, YES.

23 Q WHAT I WOULD LIKE TO DRAW YOUR ATTENTION
24 TO IS THE PORTION ABOVE THE BODY OF MICKEY THOMPSON.
25 THERE APPEARS TO BE DROPLETS OR POOLS IN A RED COLOR.

26 DO YOU SEE THOSE?

27 A YES, I DO.

28 Q AND I'M USING MY POINTER TO POINT TO THOSE

1 ON THE POSTER BORED AND THEN ON THE OVERHEAD OVER HERE
2 (INDICATING).

3 IS THERE ANY PHOTOGRAPH THAT EXISTS THAT
4 YOU KNOW OF, OF THOSE BLOOD POOLS?

5 A I DON'T KNOW. I KNOW THE VIDEO SHOWS
6 THEM, BUT I DON'T KNOW -- YOU MEAN STILLS; CORRECT?

7 Q YES. I'M REFERRING TO STILLS.

8 A I DON'T KNOW, MA'AM.

9 Q WHEN YOU SAY A VIDEO, LET'S TALK ABOUT
10 THAT.

11 WAS THERE A VIDEO MADE OF THIS CRIME
12 SCENE?

13 A YES.

14 Q AND WAS THAT PERSON WITH A CAMERAMAN
15 FOLLOWING DETECTIVE GRIGGS AROUND AS HE POINTED OUT THE
16 EVIDENCE?

17 A YES.

18 Q WAS THAT IN BLACK AND WHITE?

19 A IT WAS IN COLOR, BUT IT'S PRETTY POOR.

20 Q OKAY.

21 MS. SARIS: I HAVE, YOUR HONOR, A EIGHT BY ELEVEN
22 PHOTOGRAPH OF A GARAGE DOOR. IT APPEARS TO BE A
23 UNIFORMED OFFICER IN THE FOREGROUND. MAY I MARK THAT
24 NEXT -- DEFENSE NEXT IN ORDER.

25 THE COURT: AS SOON AS I FIGURE IT OUT.

26 THE CLERK: MY LAST ONE IS JJ.

27 THE COURT: YES.

28 MS. SARIS: "K."

1 THE COURT: OH, THE LAST ONE BEING JJ, THE NEXT
2 ONE BEING "K."

3 (DEFENDANT'S EXHIBIT NO. KK WAS MARKED FOR
4 IDENTIFICATION.)

5 Q BY MS. SARIS: OFFICER, DO YOU
6 INDEPENDENTLY RECOGNIZE THAT PHOTOGRAPH AS BEING THE
7 GARAGE DOOR OF THE THOMPSON HOME?

8 AND MAY I APPROACH? I CAN SHOW YOU THE
9 ACTUAL PHOTO UP CLOSE.

10 A IT APPEARS THAT IT COULD WELL BE, YES.

11 Q DO YOU SEE ANY OF THOSE BLOOD DROPS THAT'S
12 ON THE DIAGRAM PEOPLE'S 46 ON THE PHOTO?

13 A THERE APPEARS TO BE SOME POOLING OR A DARK
14 SPOT, I SHOULD SAY, ON THE LOWER PORTION OF THIS PICTURE.

15 Q DOES THAT APPEAR TO BE THE SHADOW OF THE
16 OFFICERS?

17 A I DON'T KNOW.

18 MS. SARIS: YOUR HONOR, I HAVE ANOTHER
19 PHOTOGRAPH, THIS ONE IS SMALLER, I WOULD LIKE TO MARK
20 DEFENSE LL.

21 THE COURT: DOUBLE L, PLEASE.

22 (DEFENDANT'S EXHIBIT NO. LL WAS MARKED FOR
23 IDENTIFICATION.)

24 Q BY MS. SARIS: DOES THAT APPEAR TO BE THE
25 SAME PHOTOGRAPH FROM A DIFFERENT ANGLE?

26 A I CAN'T TELL.

27 Q I'M SORRY. I WAS GOING TO BRING IT TO
28 YOU. I FROZE IT AND EVERYTHING.

1 A OH, IT COULD BE, YES.

2 Q DO YOU SEE WHAT APPEARS TO BE AN OBJECT
3 UNDER A SHEET?

4 A YES.

5 Q AND TWO UNIFORMED OFFICERS?

6 A YES.

7 Q AND BLOOD STAINS THAT APPEAR -- OR I'M
8 SORRY, DARK COLORED STAINS THAT APPEAR TO BE EMANATING
9 FROM THAT WHITE SHEET?

10 A YES.

11 Q DO YOU SEE SIMILARLY COLORED DARK SPOTS TO
12 THE RIGHT OF THOSE OFFICERS IN FRONT THE GARAGE?

13 A NO, I DON'T.

14 Q WHEN YOU WENT TO THE SCENE WITH
15 MR. JACKSON THAT YOU TESTIFIED TO YESTERDAY AND INDICATED
16 THAT YOU STOOD IN THE PLACE WHERE THOSE BLOOD SPOTS WERE
17 AND COULD SEE MR. JACKSON WHEN HE WAS DOWN AT THE END OF
18 THE DRIVEWAY, DO YOU RECALL THAT?

19 A YES.

20 Q WERE YOU SPEAKING OF WHERE THE BLOOD SPOTS
21 WERE ON THIS DIAGRAM OR WHERE THEY WERE AT THE CRIME
22 SCENE?

23 A RIGHT -- WAIT. I'M SORRY.

24 THAT REPRESENTS THE CRIME SCENE, RIGHT?

25 Q CORRECT. AND I'M ASKING YOU, AS YOU LOOK
26 AT THIS PHOTOGRAPH NOW, DOES THAT APPEAR TO BE AN
27 ACCURATE REPRESENTATION OF THE CRIME SCENE?

28 A OTHER THAN I CAN'T SEE BLOOD SPOTS, YES.

1 Q OKAY. WHEN YOU WENT TO STAND WHERE THE
2 BLOOD SPOTS WERE, I THOUGHT THAT WAS YOUR TESTIMONY,
3 CORRECT ME IF I'M WRONG, I BELIEVE YOU INDICATED YOU WENT
4 TO THE CRIME SCENE WITH MR. JACKSON; IS THAT RIGHT?

5 A YES. YES, MA'AM.

6 Q AND YOU STOOD WHERE THE BLOOD SPOTS WERE
7 AND WERE ABLE TO SEE MR. JACKSON AT THE BOTTOM THE
8 DRIVEWAY?

9 A YES.

10 Q SO MY QUESTION TO YOU IS: DID YOU STAND
11 WHERE THE BLOOD SPOTS ARE IN THIS PHOTOGRAPH OR DID YOU
12 STAND WHERE THE BLOOD SPOTS ARE ON THE PEOPLE'S
13 DIAGRAM?

14 MR. JACKSON: OBJECTION. VAGUE.

15 THE COURT: SUSTAINED.

16 Q BY MS. SARIS: DID YOU STAND IN FRONT OF
17 THE GARAGE OR DID YOU STAND TO A PORTION WEST OF THE
18 GARAGE NEAR WHERE MICKEY THOMPSON FELL?

19 A I STOOD MORE IN FRONT THE GARAGE DOOR.

20 Q DID YOU HAVE ANY RESPONSIBILITY FOR MAKING
21 THIS DIAGRAM?

22 THE COURT: AND FOR THE RECORD, YOU'RE REFERRING
23 TO?

24 MS. SARIS: I APOLOGIZE. 46, I BELIEVE. OH,
25 GEEZ. I'M OFF. 54. I APOLOGIZE.

26 THE COURT: ALL RIGHT. SO YOU'VE BEEN REFERRING
27 TO 54 NOT 47; CORRECT?

28 MS. SARIS: THAT'S CORRECT.

1 THE COURT: ALL RIGHT.

2 Q BY MS. SARIS: DID YOU HELP MAKE THIS
3 DIAGRAM?

4 A NO, MA'AM.

5 Q DID YOU -- WELL, LET ME ASK YOU SOME OTHER
6 QUESTIONS REGARDING THE DIAGRAM.

7 THE LINCOLN CONTINENTAL IN PEOPLE'S 60
8 THAT YOU REFERRED TO, DO YOU RECOGNIZE THAT FROM YOUR
9 EARLIER TESTIMONY?

10 A YES, I DO.

11 Q IS THAT BLOCKING THE GARAGE?

12 A NO.

13 Q IS THERE A DOOR BEHIND WHERE I'M PUTTING
14 MY POINTER ON JUST NORTH OF THE CAR IN THE PHOTOGRAPH
15 MARKED "B" LIKE BOY?

16 A YES, THERE IS.

17 Q AND WHAT DOES THAT DOOR LEAD TO?

18 A IT OPENS ONTO THE MOTOR AND I BELIEVE THE
19 CABLES -- IT'S KIND OF FOR SERVICING FOR THE EQUIPMENT
20 THAT RUNS THE ELEVATOR.

21 Q AND AS YOU STAND IN THE DRIVEWAY AND LOOK
22 UP TOWARDS THAT -- WELL, DID YOU SEE THAT AT THE CRIME
23 SCENE THAT MORNING?

24 A YES.

25 Q WHAT DID YOU THINK IT LED YOU TO WHEN YOU
26 FIRST SAW IT?

27 A I DIDN'T KNOW.

28 Q DO YOU KNOW WHETHER IT'S MARKED EQUIPMENT

1 OR SOME SORT OF A SIGN OR IS IT JUST A DOOR?

2 A I DON'T RECALL SEEING ANY MARKINGS ON IT,
3 NO.

4 Q AND THAT ELEVATOR IS -- THE BACK OF THE
5 ELEVATOR, THE FRONT OF WHICH IS IN THE GARAGE?

6 A YES.

7 Q I HAVE ANOTHER EIGHT AND A HALF BY ELEVEN
8 PHOTOGRAPH I WOULD LIKE TO MARK NEXT IN ORDER "M" LIKE
9 MARY. "M" LIKE MARY.

10 THE COURT: SO MARKED.

11 (DEFENDANT'S EXHIBIT NO. MM WAS MARKED FOR
12 IDENTIFICATION.)

13 Q BY MS. SARIS: DO YOU RECOGNIZE WHAT IS
14 DEPICTED IN THAT PHOTOGRAPH?

15 A YES.

16 Q AND WHAT IS THAT?

17 A THAT IS FROM A PATHWAY WHICH IS WEST OF
18 THE LOCATION WHERE VICTIM THOMPSON FELL, BUT IT'S THE
19 SIDE OF THE GARAGE AND THERE'S AN ENTRY DOOR WHICH ALLOWS
20 ENTRY INTO THE GARAGE, THE ATTACHED GARAGE.

21 Q AND THAT DOOR IS LOCATED IN THE BOTTOM
22 LEFT-HAND PORTION OF THE PHOTOGRAPH?

23 A YES.

24 Q THERE SEEMS TO BE A WHITE COLORED PATHWAY.
25 DOES THAT LEAD FROM THE GARAGE DOOR TO THE FRONT OF THE
26 GARAGE ON THE WEST PART OF THE THOMPSON HOME?

27 A YES.

28 Q AND IS THAT ALSO DEPICTED ON PEOPLE'S 54

1 WITH THAT WHITE COLORED MARK THAT SEEMS TO BE TO THE LEFT
2 OF THE HOUSE MARKED THOMPSON HOME?

3 A YES, MA'AM.

4 Q DID YOU GO BACK TO THE SCENE AFTER MARCH
5 16TH OF 1988?

6 A YES.

7 Q AND HOW MANY TIMES? AND I'M TALKING ABOUT
8 IN THE CAPACITY OF INVESTIGATING THIS CASE.

9 A PROBABLY AN ADDITIONAL THREE, MAYBE FOUR
10 TIMES.

11 Q AND IN WHAT TIME PERIOD IN RELATIONSHIP TO
12 THE MURDER?

13 A OH, WITHIN A WEEK I WOULD SAY.

14 Q DID YOU EVER WALK THE CRIME SCENE OR TAKE
15 ANY MEASUREMENTS OF CRIME SCENE WITH ANYONE WHO ALLEGED
16 TO HAVE WITNESSED THE EVENT?

17 A NO.

18 Q DID YOU VIEW THE CRIME SCENE VIDEO BEFORE
19 TESTIFYING TODAY?

20 A YES, I DID. OH, I'M SORRY. DID YOU MEAN
21 DID I VIEW IT TODAY?

22 Q NO. THE LAST DAY OR SO.

23 A YES, I DID.

24 Q AND YOU WERE ON THE STAND YESTERDAY JUST
25 SO WE'RE CLEAR FOR THE RECORD?

26 A YES, I WAS.

27 Q THERE WAS A SIGNIFICANT TRAIL OF BLOOD
28 LEADING FROM MR. THOMPSON DOWN THE DRIVEWAY; IS THAT

1 CORRECT?

2 A YES.

3 Q AND YOU INDICATED THAT THAT WAS DEPICTED
4 IN -- THAT THERE WAS AN ITEM MARKED NUMBER 15 THAT WAS
5 TOWARDS THE END OF THAT?

6 A YES.

7 Q THE PLACE WHERE MICKEY THOMPSON WAS IN
8 RELATION TO THE BODY -- I'M SORRY -- IN RELATION TO THE
9 HOME WAS WEST OF THE GARAGE; IS THAT A FAIR STATEMENT?

10 A YES, YES. SLIGHTLY.

11 Q WHERE WERE THOSE LATEX GLOVES FOUND IN
12 RELATION TO THAT?

13 A SOUTH -- ON THE DRIVEWAY SOUTH OF HIS
14 POSITION -- SOUTH AND EAST AROUND THE CURVE.

15 Q AROUND THE CURVE HEADING TOWARDS THE BACK
16 OR AROUND THE CURVE HEADING TOWARDS TRUDY THOMPSON?

17 A OH, I'M SORRY. HEADING TOWARDS TRUDY
18 THOMPSON, YES.

19 Q NOW, YOU ARRIVED AT THE CRIME SCENE AT
20 WHAT TIME?

21 A RIGHT ABOUT 9:00 A.M.

22 Q AND AS FAR AS YOU KNEW, THIS CRIME
23 OCCURRED WHEN?

24 A SHORTLY AFTER 6:00 A.M.

25 Q AND WERE YOU THE PRIMARY INVESTIGATOR?

26 A NO, I WASN'T.

27 Q AND WHO WAS THAT?

28 A THAT WAS DETECTIVE MICHAEL GRIGGS.

1 Q DID YOU NOTE THE PRESENCE OF -- OR DO YOU
2 KNOW WHO ELIZABETH CORNBLOOM WAS THEN?

3 A YES.

4 Q DO YOU KNOW HER NOW AS ELIZABETH DEVINE?

5 A I DO.

6 Q DID YOU SEE HER ON THE SCENE THAT DAY?

7 A I DID.

8 Q YOU WERE AWARE OF THE MEDIA PRESENCE THAT
9 DAY AS WELL?

10 A YES.

11 Q AND AT SOME POINT DO YOU RECALL THEM
12 ACTUALLY BEING IN HELICOPTERS AND TAKING PICTURES DOWN?

13 A I RECALL HELICOPTERS FLYING OVERHEAD AND I
14 BELIEVE THEY WERE NEWS HELICOPTERS.

15 MS. SARIS: YOUR HONOR, I WOULD LIKE TO PUT ON
16 THE DISPLAY DEFENSE JJ THAT'S BEEN PREVIOUSLY MARKED.

17 THE COURT: ALL RIGHT.

18 Q BY MS. SARIS: DO YOU RECOGNIZE THAT
19 PICTURE FROM THE MORNING OF THE CRIME SCENE?

20 A I RECALL THOSE TWO PEOPLE. SPECIFICALLY
21 STANDING THERE LIKE THAT, I COULDN'T TELL YOU.

22 Q DO YOU RECALL IT ENOUGH TO KNOW THAT THAT
23 IS THE PICTURE TAKEN THE MORNING OF THE CRIME SCENE?

24 A YES.

25 Q AND IS THAT ALSO REPRESENTED THERE AS A
26 DRAPED BODY AND WHAT LOOKS LIKE OFFICIAL PEOPLE STANDING
27 TO THE RIGHT OF THAT BODY?

28 A YES. THAT'S DETECTIVE GRIGGS AND A STAFF

1 ARTIST.

2 Q ARE YOU CERTAIN THAT'S GRIGGS? LET ME SEE
3 IF I CAN BRING THAT CLOSER TO YOU.

4 A YES. I SHOULD HOLD OFF ON THAT.

5 Q IT'S OKAY IF YOU DON'T KNOW. I'M NOT
6 GOING TO ASK TO IDENTIFY.

7 A I THOUGHT IT WAS GRIGGS. BUT YOU KNOW
8 WHAT, I THINK THAT MAY BE LIZ -- OR NO, YOU KNOW WHAT,
9 THEY'RE BOTH THE STAFF ARTISTS. YES, THAT'S WHAT IT IS.

10 Q AND DO YOU SEE THE RED MARKS EMANATING
11 FROM THAT COVERED BODY?

12 A I DO.

13 Q DO YOU SEE ANOTHER ALMOST DISTINCT SET
14 LEADING TOWARDS IT IN THE FOREGROUND?

15 A DO I SEE --

16 Q ONE DISTINCT POOL ON THIS DIAGRAM FARTHER
17 TOWARDS THE MIDDLE OF THE DIAGRAM AND ONE DISTINCT POOL A
18 LITTLE BIT LOWER CLOSER TO US?

19 A OH, I SEE. YES, I DO.

20 Q AND DOES THE MALE IN THE PHOTOGRAPH APPEAR
21 TO BE STANDING ON THE EDGE OF THE WALKWAY THAT WE'VE
22 DESCRIBED AS LEADING TO THE BACK DOOR OF THE GARAGE?

23 A IT APPEARS TO BE, YES.

24 Q AND THEY'RE OBVIOUSLY NOT STANDING IN
25 BLOOD; CORRECT?

26 A THAT'S CORRECT.

27 Q AND YOU WOULD MAKE AN EFFORT IF YOU WERE
28 AN INVESTIGATOR AT A CRIME SCENE TO MAKE SURE THAT NO ONE

1 TRAIPSED THROUGH THE BLOOD WITH THEIR BOOTS?

2 A YES.

3 Q IS THAT GOING TO BE SORT OF, SOMEHOW,
4 CORDONED OFF AND PHOTOGRAPHED LIKE ALL THE OTHER
5 EVIDENCE?

6 A THE BLOOD?

7 Q YES.

8 A IT SHOULD BE. IT SHOULD BE, YES.

9 Q WOULD THAT BE CONSIDERED EVIDENCE?

10 A THE BLOOD?

11 Q YES.

12 A IT CAN BE, YES.

13 Q HAVE YOU EVER SEEN A ROUGH SKETCH THAT WAS
14 PREPARED BY ELIZABETH CORNBLOOM REGARDING THIS HOME THAT
15 MORNING? AND I HAVE FF LIKE FRANK ON THE DISPLAY.

16 THE COURT: THANK YOU.

17 THE WITNESS: NO.

18 Q BY MS. SARIS: THIS IS THE FIRST TIME
19 YOU'VE SEEN THIS DIAGRAM?

20 A YES.

21 Q DOES IT APPEAR TO YOU AT LEAST IN TERMS OF
22 THE GENERALITIES TO REPRESENT A LINCOLN CONTINENTAL, A
23 TOYOTA VAN AND THE DRIVEWAY OF THE THOMPSON HOME?

24 A YES.

25 Q DO YOU NOTE ANYWHERE NEAR WHERE SHE HAS
26 THE BODY, A LARGE SORT OF POOL OF SOMETHING THAT LOOKS
27 LIKE SHE'S TRYING TO DRAW MAYBE A SNAKE OR SOMETHING ON
28 THIS DIAGRAM, DO YOU SEE WHERE I'M TRYING TO POINT MY

1 POINTER TO (INDICATING)?

2 A THERE?

3 Q YES.

4 Q LET ME FREEZE THIS AND GET IT CLOSER TO
5 YOU AS WELL. I'M SORRY.

6 A THANK YOU.

7 Q MY QUESTION TO YOU IS: DO YOU KNOW WHAT
8 THAT IS MEANT TO REPRESENT?

9 MR. JACKSON: OBJECTION. SPECULATION.

10 THE COURT: SUSTAINED.

11 YOU CAN REPHRASE IT.

12 Q BY MS. SARIS: BASED ON YOUR OBSERVATIONS
13 AT THE CRIME SCENE THAT MORNING, DOES THAT CORRESPOND TO
14 ANYTHING THAT YOU SAW NEAR MICKEY THOMPSON'S BODY?

15 A I HESITATE BECAUSE IT COULD BE THE BULLET.
16 I DON'T KNOW.

17 Q I'M SPEAKING OF THE VERY LONG --

18 A OH, IT LOOKS ALMOST LIKE A KNIFE YOU MEAN?

19 Q YES.

20 A I IMAGINE THAT WOULD -- I CAN ONLY
21 IMAGINE --

22 MR. JACKSON: OBJECTION. SPECULATION.

23 THE COURT: IT SOUNDS LIKE IT'S GOING TO BE.
24 YES.

25 Q BY MS. SARIS: OKAY. YOU DON'T HAVE A
26 SENSE FROM WHERE YOU SAW THE ITEMS OF EVIDENCE AT THE
27 CRIME THAT DAY WHAT THIS MIGHT REPRESENT?

28 A NO.

1 Q OKAY. IS DETECTIVE GRIGGS CURRENTLY
2 RETIRED, DO YOU KNOW?

3 A YES, HE IS.

4 Q IS HE STILL ALIVE?

5 A YES.

6 Q WERE YOU ACTUALLY THE ONE RESPONSIBLE FOR
7 PHYSICALLY COLLECTING THIS EVIDENCE?

8 A NO.

9 Q WHO WAS THAT?

10 A VARIOUS SECTIONS FROM OUR DEPARTMENT.
11 THAT WOULD HAVE BEEN FIREARMS SECTION, LATENT PRINTS,
12 SEROLOGY, OR OUR CRIME LAB.

13 Q WHAT WAS -- WERE YOU RESPONSIBLE FOR
14 DECIDING WHAT EVIDENCE WAS GOING TO BE COLLECTED?

15 A NO.

16 Q HAVE YOU -- WELL, IN YOUR DEPARTMENT,
17 WOULD YOU BE ONE OF THE PEOPLE TO DO BALLISTIC TESTING ON
18 ANY ITEMS OF EVIDENCE AT THE TIME?

19 A HOMICIDE INVESTIGATORS?

20 Q YOU PERSONALLY.

21 A OH, NO.

22 Q SO YOUR EXPERIENCE WITH FIREARMS COMES
23 FROM HAVING WORKED WITH FIREARMS AND FROM THE TRAINING
24 THAT YOU'VE HAD, BUT YOU DON'T ACTUALLY SIT THERE WITH A
25 MICROSCOPE AND COMPARE LANDS AND GROOVES?

26 A NO, I DO NOT.

27 Q DO YOU KNOW THE INDIVIDUAL THAT WAS
28 CHARGED WITH THAT DUTY THAT DAY?

1 A YES.

2 Q AND WHO IS THAT?

3 A THAT WAS -- AT THE TIME IT WAS DEPUTY
4 DWIGHT VAN HORN.

5 Q AND IS DEPUTY DWIGHT VAN HORN STILL ALIVE?

6 A I BELIEVE HE IS.

7 Q HE IS RETIRED AS WELL?

8 A I THINK SO.

9 Q AND YOU'RE RETIRED?

10 A YES, I AM.

11 Q FOR HOW LONG NOW?

12 A ALMOST SEVEN YEARS.

13 Q DID YOU DO ANY TESTING OF YOUR OWN EITHER
14 THAT DAY OR LATER WITH ANY FIREARM, SHOOTING BLANKS TO
15 SEE WHERE THE CARTRIDGES -- WHAT ACTION THE ASPHALT HAD
16 ON THE CARTRIDGES?

17 A NO.

18 Q WERE THESE ITEMS THAT YOU'VE MARKED IN
19 PEOPLE'S 54, THE ONES THAT YOU WENT THROUGH WITH US ONE
20 AT A TIME ON THE POSTER BOARD, WERE THEY ALL MEASURED
21 FROM PARTICULAR LOCATIONS AT THE CRIME SCENE?

22 A I BELIEVE SO. BUT I DID NOT DO THAT,
23 MA'AM.

24 Q WHEN YOU SAW THOSE TWO PEOPLE STANDING IN
25 THE PICTURE, YOU THOUGHT THEY MIGHT BE GRAPHIC ARTISTS;
26 IS THAT WHAT YOU SAID?

27 A YES.

28 Q WAS THERE EVER A GRAPHIC ILLUSTRATION MADE

1 BY THE SHERIFF'S DEPARTMENT OF THIS CRIME SCENE THAT YOU
2 KNOW OF?

3 A YES, I BELIEVE THERE WAS.

4 Q DO YOU KNOW WHERE THAT IS NOW?

5 A NO, I DON'T.

6 Q DO YOU KNOW WHAT DEPARTMENT WOULD HAVE
7 BEEN RESPONSIBLE FOR IT, OR WHAT SECTION THAT YOU LISTED?

8 A OH, GRAPHIC ARTS.

9 Q DO YOU RECALL EITHER BY THAT PHOTOGRAPH
10 THAT YOU SAW OR YOUR PERSONAL MEMORY THE NAMES OF ANY OF
11 THOSE PEOPLE?

12 A YOU KNOW, ONE I WANT TO SAY MELON. I
13 THINK THAT WAS HIS LAST NAME, MELON. IT WAS A STRANGE
14 ONE. I KNOW THEM BOTH, BUT I CAN'T RECALL THEIR NAMES.

15 Q AND WERE YOU ASKED BEFORE TESTIFYING TODAY
16 TO SEE IF THAT EXISTED OR TRY TO RETRIEVE THAT IN ANY
17 WAY?

18 A NO.

19 Q WHEN YOU WERE AT THE -- ORIGINALLY
20 RESPONDED TO THE CRIME SCENE, WAS THERE YELLOW POLICE
21 TAPE UP?

22 A YES.

23 Q DID THE ITEMS OF EVIDENCE THAT YOU'VE
24 DESCRIBED -- AND LET'S REFER TO NUMBER 56 BRIEFLY BECAUSE
25 IT HAS SOME YELLOW MARKINGS ON THE PAVEMENT.

26 DO YOU SEE THOSE?

27 A YES.

28 Q AND WHAT ARE THOSE?

1 A CHALK MARKS THAT ALMOST APPEAR TO BE A
2 MEASUREMENT OF SORTS.

3 Q SO THERE'S AN ARROW ON THE BOTTOM OF THE
4 PHOTOGRAPH MARKED A WITH -- APPEARING TO GO IN AN
5 EASTERLY DIRECTION WITH THE NUMBER SIX UNDERNEATH IT?

6 A SIX OR NINE, YES.

7 Q OKAY. AND YOU INDICATED THAT THERE ARE
8 TWO NUMBERS IN THAT PHOTOGRAPH. ONE IS YOUR DEPARTMENT?

9 A ONE IS OUR SECTION, HOMICIDE BUREAU.

10 Q AND THE OTHER NUMBER WHICH APPEARS TO BE A
11 BLUE EIGHT, CAN YOU SAY WHOSE THAT IS, AS YOU SIT HERE
12 NOW?

13 A NO, I CAN'T.

14 Q COULD IT BE THE CORONER'S?

15 A I DON'T THINK SO.

16 Q OKAY. SO WHAT IS YOUR BEST LIST OF WHO
17 THAT COULD BE?

18 A SOMEONE FROM OUR CRIME LAB.

19 Q SEROLOGY DEPARTMENT OR FINGERPRINT
20 DEPARTMENT, THOSE SORT OF PEOPLE?

21 MR. JACKSON: OBJECTION. THIS IS SPECULATION AT
22 THIS POINT.

23 THE COURT: SUSTAINED.

24 Q BY MS. SARIS: LET ME ASK YOU THIS: WHO
25 ELSE IN YOUR LAB WOULD HAVE LAID DOWN NUMBERS? WHEN YOU
26 SAY CRIME LAB, WOULD THAT ALL BE ONE NUMBER OR WOULD
27 SEROLOGY LEAVE A DIFFERENT NUMBER THAN FINGERPRINT VERSUS
28 FIREARMS?

1 A YES. THE LATTER. EACH ONE -- IT'S
2 POSSIBLE EACH ONE COULD HAVE PUT THEIR OWN SEPARATE
3 NUMBERS ON THERE.

4 Q IS IT COMMON PRACTICE IN CRIME SCENES TO
5 MARK THE LOCATION OF SPECIFIC ITEMS OF EVIDENCE?

6 A YES.

7 Q AND IS IT COMMON PRACTICE TO PHOTOGRAPH
8 THOSE?

9 A YES.

10 Q IS THAT DONE EVEN WHEN THERE ARE EYE
11 WITNESSES TO THE CRIME?

12 A YES.

13 Q AND WHEN WE'RE SAYING ITEMS OF EVIDENCE,
14 LET'S SPECIFICALLY TALK ABOUT SOME OF THE ITEMS THAT --
15 THE LATEX GLOVES THAT WERE FOUND --

16 A YES.

17 Q -- YOU WERE NOT ABLE TO DETERMINE AS YOU
18 LOOKED AT THEM WHETHER OR NOT THEY WERE RELEVANT TO THE
19 CRIME; IS THAT FAIR TO SAY?

20 A TRUE, YES.

21 Q THEY WERE IN FACT BOOKED?

22 A YES.

23 Q AND THEY WERE IN FACT TESTED AND
24 DETERMINED TO BE NOT RELATED BECAUSE THEY BELONGED TO A
25 FIREMAN?

26 A YES. FINGERPRINTS PROVED THAT.

27 Q OKAY. WAS THAT ITEM ON THE GROUND WHEN
28 YOU GOT THERE?

1 A I BELIEVE SO, YES. EXCUSE ME. YOU KNOW,
2 I'M REALLY HESITANT NOW BECAUSE I KEEP TRYING TO GO BACK
3 IN MY MIND. THEY MAY NOT HAVE BEEN. THEY MAY HAVE BEEN
4 RETRIEVED, BUT I HAVE A SEMI RECOLLECTION BUT I DON'T
5 WANT TO STATE DEFINITELY. SO POSSIBLY.

6 Q OKAY. THE ITEMS THAT YOU DESCRIBED FOR US
7 IN 54, WERE THEY ALL DEFINITELY DOWN ON THE GROUND WHEN
8 YOU GOT THERE?

9 A IS THIS 54 (INDICATING)?

10 Q YES, IT IS.

11 A YES.

12 Q AND YOU'RE CERTAIN ABOUT EACH AND EVERY
13 ONE OF THEM?

14 A YES.

15 Q OKAY. IF YOU WERE ASKED TO RECREATE OR TO
16 GO BACK OVER EVIDENCE AT A CRIME SCENE TO HELP DETERMINE
17 WHAT HAD HAPPENED, WOULD YOU ONLY RELY ON A CERTAIN TYPE
18 OF EVIDENCE SUCH AS BLOOD, OR IF YOU HAD BLOOD AND
19 CASINGS AND OTHER EVIDENCE, WOULD YOU TAKE ALL OF THAT
20 INTO ACCOUNT?

21 A THE TOTALITY MUST COME INTO PLAY.

22 Q DID YOU NOTICE THE GARAGE DOOR WHEN YOU
23 GOT TO THE CRIME SCENE?

24 A YES.

25 Q WAS IT OPEN OR CLOSED?

26 A CLOSED.

27 Q DID IT HAVE ANY EVIDENCE AS FAR AS YOU CAN
28 TELL BASED ON YOUR EXPERIENCE THAT IT HAD BEEN SHOT

1 THROUGH?

2 A YES.

3 Q WAS THERE ANY INDICATION OF THE TOYOTA VAN
4 HAVING BEEN IN THAT GARAGE PRIOR?

5 A I COULDN'T TELL YOU.

6 Q WAS THE CAR IN REVERSE WHEN YOU ARRIVED?

7 A IT HAD BEEN SHUT OFF BY THE TIME I
8 ARRIVED. I'M NOT SURE.

9 Q DID YOU MAKE ENTRY INTO THE GARAGE AT ALL
10 YOURSELF?

11 A YES.

12 Q DID YOU NOTICE ANY SAFES IN THE GARAGE?

13 A THERE WAS A SAFE.

14 Q ONLY ONE?

15 A ONLY ONE THAT I RECALL THAT WAS IN THE
16 OFFICE AREA.

17 Q AND WHEN YOU SAY THE OFFICE AREA, ARE YOU
18 SPEAKING OF WHEN YOU OPEN THE MAIN DOOR, THE MAIN DOOR OF
19 THE GARAGE --

20 A YES.

21 Q -- AND YOU WALK IN AND YOU TURN TO YOUR
22 RIGHT, THERE'S AN OFFICE; CORRECT?

23 A YES.

24 Q AND ON THE WALL IN THE RESTROOM OF THAT
25 OFFICE IS A SAFE?

26 A YES.

27 Q I HAVE ANOTHER PHOTOGRAPH, BLACK AND
28 WHITE, NN.

1 THE COURT: THAT WILL BE MARKED NN FOR
2 IDENTIFICATION.

3 (DEFENDANT'S EXHIBIT NO. NN WAS MARKED FOR
4 IDENTIFICATION.)

5 Q BY MS. SARIS: DOES THAT APPEAR TO YOU TO
6 BE A PICTURE FROM THE VIDEO DENOTING THE SAFE IN THE
7 WALL?

8 A YES, THAT COULD BE. YEAH, IT COULD BE.

9 Q WHAT FORENSIC TEST DID YOU ASK, IF ANY, TO
10 BE PERFORMED ON THAT SAFE?

11 A NONE.

12 Q DO YOU HAVE A PHOTOGRAPH INDEPENDENTLY OF
13 THAT SAFE?

14 A I DO NOT.

15 Q THE DOOR THAT WAS -- THAT'S REPRESENTED IN
16 DEFENSE M, LIKE MARY, WHEN YOU ARRIVED, WAS THAT DOOR
17 CLOSED OR OPEN?

18 A CLOSED, AS I RECALL.

19 Q LOCKED OR UNLOCKED?

20 A I DON'T RECALL.

21 Q THIS GARAGE HAS A -- DO YOU KNOW IF IT HAS
22 A BUTTON THAT YOU CAN PUSH TO OPEN THE GARAGE DOOR?

23 A I WAS TOLD THAT IT DID.

24 Q YOU DIDN'T SEE THAT?

25 A NO, I DID NOT.

26 Q IS IT ONE SOLID PIECE OF WOOD OR DOES IT
27 ROLL BACK LIKE A GARAGE?

28 A THE DOOR?

1 Q THE DOOR.

2 A IT'S A LARGE SINGLE TYPE DOOR THAT RAISES.
3 BUT YOU MEAN ROLL LIKE THOSE METAL ONES THEY HAVE
4 NOWADAYS? NO. IT WAS A PIECE OF WORD.

5 Q SO IT'S EITHER ALL THE WAY UP OR ALL THE
6 WAY DOWN?

7 A YES.

8 Q WHAT DID YOU -- IF ANY, WERE THERE ANY
9 FORENSIC TESTS THAT YOU HAD PERFORMED ON THE WEST DOOR
10 ENTERING INTO THE GARAGE FROM THE WALKWAY?

11 A I DID NOT, NO.

12 Q DO YOU HAVE ANY PICTURES OF THAT DOOR,
13 THAT YOU KNOW OF, OR WERE ANY TAKEN FROM A CLOSE UP
14 PROSPECTIVE?

15 A THAT SMALL DOOR THERE?

16 Q YES.

17 A I DON'T KNOW.

18 Q HAVE YOU EVER SEEN ANY PRIOR TO TESTIFYING
19 TODAY?

20 A NO.

21 Q I'M GOING TO PUT 54 BACK.

22 AND THAT'S ALSO ON THE WALL IF THAT'S
23 EASIER, THERE APPEARS TO BE STAIRS OR A PICTURE DENOTING
24 STAIRS IN THE UPPER MOST RIGHT CORNER OF THIS DIAGRAM.

25 A YES.

26 Q WHAT DOES THAT LEAD TO?

27 A WHAT WE WOULD REFER TO AS BASICALLY THE
28 FRONT DOOR OF THE HOUSE.

1 Q OKAY. SO THE PORTION THE DRIVEWAY THAT
2 WE'RE CONCERNED WITH IN THIS CASE, REALLY IS ENTERING
3 INTO THE GARAGE?

4 A YES. THAT'S KIND OF A MEETING PLACE -- I
5 CALLED IT AN APRON I THINK EARLIER -- MEETING PLACE OF
6 SEVERAL EGRESSES AND INGRESSES TOWARDS THE REAR, BY THE
7 GARAGE, YES.

8 Q AND YOU CAN ENTER THE HOUSE THROUGH THE
9 GARAGE, CAN YOU NOT, DO YOU RECALL?

10 A YES.

11 Q THERE'S A STAIRCASE THAT GOES FROM THE
12 GARAGE TO THE HOME AND AN ELEVATOR?

13 A YES.

14 Q DID YOU NOTICE A CLOSET UNDERNEATH THE
15 STAIRCASE IN THE GARAGE?

16 A I DON'T RECALL ONE, MA'AM.

17 Q SO YOU DON'T RECALL A SAFE BEING BEHIND
18 THAT DOOR INTO THE CLOSET?

19 A I --

20 Q DO YOU RECALL SEEING A SAFE ABOUT THE SIZE
21 OF THIS PODIUM AT ANY POINT IN THE GARAGE (INDICATING)?

22 A I DON'T RECALL SEEING THAT, MA'AM.

23 Q SO YOU, AS YOU SIT HERE NOW, YOU'RE NOT
24 EVEN SURE IF THERE'S A CLOSET UNDER THE STAIRCASE?

25 A THAT'S CORRECT, MA'AM.

26 Q WE TALKED ABOUT SOME OF THE LIVE ROUNDS
27 THAT WERE EJECTED. LET ME ASK YOU SOME QUESTIONS ABOUT
28 THOSE.

1 I BELIEVE YOU INDICATED THAT WHEN SOMEONE
2 FIRES A .9 MILLIMETER WEAPON, IN GENERAL TERMS, THE
3 CARTRIDGE IS EJECTED TO THE RIGHT AND BACK?

4 A RIGHT. AND REARWARD IS THE MAJORITY OF
5 SEMIAUTOMATIC HANDGUNS. AS FAR AS THE .9 MILLIMETER,
6 THAT WOULD BE REFERRING TO A SEMIAUTOMATIC, NOT SOME
7 OTHER TYPE.

8 BUT THAT'S A GENERAL TENDENCY, YES.

9 Q AND HAVE YOU -- AND I'M SORRY, I SAID
10 .9 MILLIMETER. THAT'S ACTUALLY THE CALIBER. THE
11 SEMIAUTOMATIC IS THE TYPE OF WEAPON?

12 A THAT'S CORRECT, MA'AM.

13 Q I ASSUME YOU'VE SEEN THESE FIRED?

14 A YES.

15 Q AT RANGES?

16 A YES.

17 Q AND HAVE YOU SEEN THESE CARTRIDGES EJECT
18 OUT?

19 A YES.

20 Q HAVE YOU EVER SEEN A LIVE ROUND BEING
21 EJECTED FROM A GUN?

22 A YES.

23 Q AND IS THAT SOMETHING THAT -- WOULD IT
24 TRAVEL AS FAR AS AN EJECTED CARTRIDGE? DOES IT HAVE THAT
25 MUCH FORCE OR DOES IT SIMPLY JUST SORT OF FALL TO THE
26 RIGHT SIDE?

27 A IT WOULDN'T TRAVEL NORMALLY AS FAR BECAUSE
28 OF THE WEIGHT, BUT IT STILL TRAVELS A DECENT DISTANCE.

1 WHEN THEY ARE EJECTED, THERE'S A FAIR AMOUNT OF FORCE.

2 Q AND IS THAT THE SAME NO MATTER HOW -- NO
3 MATTER THE REASON FOR THE EJECTION OF THE LIVE ROUND THAT
4 YOU'VE DISCUSSED? IN OTHER WORDS, IF SOMEONE IS TRYING
5 TO CLEAN SOMETHING, I BELIEVE YOU SAID, THEY CAN SLIDE
6 THE CHAMBER BACK?

7 A YES.

8 Q DOES HOW MUCH FORCE YOU USE IN SLIDING THE
9 CHAMBER BACK AFFECT HOW FAR THE LIVE ROUND WILL FLY?

10 A THAT'S INTERESTING. I CAN'T TELL YOU.

11 Q SO WHEN WE SEE ON THE T.V. ALL THESE
12 POLICE OFFICERS OR CLINT EASTWOOD TYPES GETTING OUT OF
13 THEIR CAR AND GOING AFTER SOMEONE, THEY ACTUALLY CHAMBER
14 A ROUND IF THERE'S ALREADY ONE IN THERE, SOMETHING WOULD
15 HAVE FLOWN OUT OF THEIR GUN?

16 A YES. AND THE REASON I CAN'T TELL YOU THE
17 DIRECTION, LET'S SAY THE SLIDE, I WORK IT BACK VERY
18 HARSHLY, THE EJECTION PROCESS WOULD TAKE PLACE BUT I
19 MIGHT BE YANKING MY ARM BACK AND THERE MIGHT BE EVEN MORE
20 FORCE TO THE EJECTION. THAT'S WHY I REALLY CAN'T TELL
21 YOU OR ANSWER THAT CORRECTLY.

22 Q AND A LIVE ROUND IS GOING TO WEIGH MORE
23 THAN A CASING?

24 A THAT'S CORRECT, MA'AM.

25 Q BECAUSE IT STILL HAS THE BULLET IN IT?

26 A YES.

27 Q NOW, A CASING, IS THAT SOMEWHAT BOTTOM
28 HEAVY?

1 A THE BASE WHERE THE FIRING PIN WOULD
2 STRIKE, YES, THAT WOULD BE A LITTLE HEAVIER END.

3 Q AND THEN THE REST OF IT, IT'S HOLLOW,
4 RIGHT, YOU COULD PUT LIKE A PENCIL IN THE TIP?

5 A YES. DEPENDING ON THE CALIBER, YES.

6 Q IN TERMS OF THE WIDTH?

7 A YES.

8 Q BUT THEY ALL HAVE A SPACE WHERE SOMETHING
9 WAS EJECTED FROM?

10 A GENERALLY, YES.

11 Q THE BUCK FEVER THAT YOU'VE DESCRIBED, DOES
12 THAT HAPPEN TO AN EXPERIENCED MARKSMAN?

13 A I WOULDN'T THINK SO. BUT I GUESS IT
14 COULD. IT'S AN EXCITEMENT THING.

15 Q HAS IT HAPPENED TO YOU?

16 A NO.

17 Q LET ME ASK YOU SOME QUESTIONS ABOUT THE
18 JEWELRY THAT WE TALKED ABOUT. FIRST I WOULD LIKE TO DRAW
19 YOUR ATTENTION TO PEOPLE'S 42, THE PHOTOGRAPHS OF TRUDY
20 THOMPSON.

21 IS THIS -- IN PHOTOGRAPH B,
22 SPECIFICALLY -- WELL, B OR A, THE PERSON -- THE VIEW
23 SOMEONE WOULD HAVE HAD OF HER BODY WALKING UP TOWARDS
24 FROM WOODLYN?

25 A FROM -- YES, AROUND THE CURVE WHICH WOULD
26 LEAD TO -- OH, GOSH, ABOUT --

27 Q MR. OLIVE?

28 A -- MT. OLIVE, YES.

1 IF YOU WERE COMING AROUND THE CURVE,
2 BECAUSE SHE WAS IN A WESTERLY DIRECTION AND THAT IS
3 PRETTY MUCH WHAT YOU WOULD SEE.

4 Q AND NUMBER C, DOES THAT PRETTY MUCH DEPICT
5 HOW YOU WOULD ENCOUNTER HER?

6 A YES.

7 Q AND DO YOU SEE ANY JEWELRY VISIBLE IN THAT
8 PHOTOGRAPH?

9 A NO, I DON'T.

10 Q DO YOU KNOW WHOSE HANDS ARE IN D, E AND F?
11 LET ME ASK YOU THIS: WOULD THAT -- FOR THE PURPOSE OF
12 THIS PHOTO, DO YOU THINK THE SHERIFF OR THE CORONER, IF
13 YOU KNOW?

14 A I THINK THAT WOULD BE THE CORONER'S.

15 Q NOW, THE CORONER'S INVESTIGATORS ARE
16 RESPONSIBLE FOR THE BODY AT A CRIME SCENE?

17 A YES.

18 Q PEOPLE'S 57, YOU INDICATED THAT THE
19 PHOTOGRAPH NUMBER H, THE JEWELRY THAT IS LAID OUT IN THE
20 VAN, THAT THAT WAS NOT THE WAY THAT IT WAS FOUND IN THE
21 VAN; IS THAT CORRECT?

22 MR. JACKSON: OBJECTION. THAT MISSTATES THE
23 TESTIMONY.

24 THE COURT: OVERRULED.

25 YOU CAN ANSWER.

26 Q BY MS. SARIS: IF YOU KNOW?

27 A IT WASN'T FOUND LIKE THAT, NO.

28 Q OKAY. SOMEONE LAID IT OUT THERE

1 SPECIFICALLY FOR THE PURPOSE OF THIS PHOTOGRAPH?

2 A YES.

3 Q WAS THE BLOOD CLEANED OFF OF THESE PIECES?

4 MR. JACKSON: OBJECTION. ASSUMES FACT NOT IN
5 EVIDENCE.

6 THE COURT: SUSTAINED.

7 Q BY MS. SARIS: DO YOU KNOW IF ANYONE
8 WASHED THESE ITEMS BEFORE POSING THEM FOR PHOTOGRAPH?

9 A NO.

10 Q WOULD THAT BE STANDARD PROCEDURE?

11 A IN ALL HONESTY, THE REMOVAL IN SETTING UP
12 OF JEWELRY LIKE THIS IS NOT PROCEDURE.

13 Q LET ME ASK YOU THIS: IS IT POSSIBLE THAT
14 THIS JEWELRY WAS ACTUALLY IN TRUDY'S PURSE AND NOT THE
15 JEWELRY SHE WAS WEARING WHEN SHE WAS KILLED?

16 MR. JACKSON: OBJECTION. SPECULATION.

17 THE COURT: SUSTAINED.

18 Q BY MS. SARIS: DO YOU KNOW THE TYPE OF
19 NECKLESS SHE WAS WEARING WHEN SHE WAS KILLED?

20 A YES, I SAW IT.

21 Q WAS IT A SQUARE MEDALLION WITH THE NUMBER
22 TEN IN IT?

23 A NO. THERE WAS ONE IN DIAMONDS.

24 Q HERE IN THIS PHOTOGRAPH H THERE IS A ONE
25 IN DIAMONDS IN A CIRCLE. IS THAT -- IF YOU NEED TO GET
26 OUT OF YOUR SEAT --

27 A MAY I?

28 Q AND I'M HOLDING A RED POINTER

1 (INDICATING) .

2 A YES. THAT APPEARS TO BE WHAT I SAW.

3 A AND YOU SAW THIS ON HER BODY?

4 A ON HER NECK, YES.

5 Q IS IT POSSIBLE AT ALL THAT YOU ARE
6 MISTAKEN AND IT WAS AT A SQUARE PENDENT THAT WAS ON HER
7 NECK?

8 A IS IT POSSIBLE?

9 Q I'M ASKING 18 YEARS LATER, ARE YOU MAKING
10 THIS CONNECTION BASED ON THIS PHOTOGRAPH OR FROM YOUR
11 MEMORY?

12 A FROM MY MEMORY.

13 Q OKAY. HAVE YOU SEEN THE CORONER'S REPORT
14 IN THIS CASE?

15 A NO.

16 Q YOU DID NOT PREPARE THIS JEWELRY FOR THIS
17 PHOTOGRAPH, DID YOU?

18 A NO, I DIDN'T.

19 Q AND YOU, AS YOU SIT HERE, THEN, HAVE NO
20 PERSONAL KNOWLEDGE OF WHERE IT WAS JUST PRIOR TO BEING
21 PHOTOGRAPHED?

22 A NO, I DON'T.

23 Q THE VAN ITSELF WAS FOUND WITH THE DRIVER'S
24 SIDE DOOR OPENED AND THE DRIVER'S SIDE WINDOW SMASHED
25 OUT; IS THAT FAIR?

26 A YES.

27 Q AND THERE WAS GLASS AS DEPICTED IN THE
28 FOREGROUND OF "E" ON PEOPLE'S 57?

1 A YES.

2 Q AND THAT WAS STILL THERE WHEN YOU ARRIVED?

3 A YES.

4 Q WOULD THE SHERIFF'S DEPARTMENT EVER REMOVE
5 A VERY -- ITEMS OF JEWELRY FROM THE BODY PRIOR TO THE
6 CORONER'S ARRIVING?

7 A PROCEDURALLY THAT IS NOT ALLOWED.

8 Q YOU INDICATED THERE WAS A PURSE IN THE
9 VAN. DO YOU SEE THAT IN ANY OF THESE PHOTOGRAPHS ON
10 PEOPLE'S 57?

11 A NO, I DON'T.

12 MAY I STAND?

13 Q YOU MAY.

14 A I JUST WANT TO TAKE ONE QUICK LOOK AT "B"
15 TO BE CERTAIN.

16 I CAN'T BE CERTAIN THAT IT'S NOT IN "B"
17 TOWARDS THE PASSENGER SEAT, BUT I'M NOT CERTAIN. I DON'T
18 THINK I DO.

19 Q WELL, CAN YOU DESCRIBE THE PURSE FOR US?

20 A WELL, THIS HERE (INDICATING) --

21 Q NO, I MEAN FROM YOUR MEMORY OF THE ONE
22 THAT YOU RECALL SEEING.

23 A NO. A LADY'S PURSE. I'M SORRY. I CAN'T,
24 NO.

25 Q AND DOES -- AND IF YOU NEED TO STAND UP,
26 AGAIN, DOES PHOTOGRAPH B APPEAR TO DEPICT THE DRIVER'S
27 SIDE OF THAT VAN AND --

28 A YES, IT'S A PHOTOGRAPH. I'M SORRY.

1 Q I'M SORRY. I WAS GOING TO SAY OF THE
2 DRIVER'S SEAT?

3 A YES.

4 Q AND CAN YOU SEE IF THERE IS A PURSE ON
5 THAT SEAT?

6 A I DON'T SEE ONE OBVIOUSLY.

7 Q DO YOU KNOW, WOULD IT BE NORMAL TO REMOVE
8 AN ITEM OF EVIDENCE FROM A VEHICLE BEFORE TAKING
9 PHOTOGRAPHS AT THE SCENE?

10 A NOT NORMALLY, NO.

11 Q YOU HAVE PHOTOS OF NOT JUST THE VAN HERE,
12 BUT WHERE IT WAS IN RELATION TO THE HOUSE; RIGHT? THE
13 VAN WASN'T MOVED BEFORE IT WAS PHOTOGRAPHED; CORRECT?

14 A NOT TO MY KNOWLEDGE, NO, IT WASN'T.

15 Q AND THE BODIES WERE STILL ON THE GROUND
16 WHEN THE PHOTOGRAPHERS WERE THERE?

17 A YES.

18 Q AND THE SHELL CASINGS WERE MARKED OFF AND
19 INDIVIDUALLY PHOTOGRAPHED?

20 A YES.

21 Q AND THE FINGERNAILS THAT HAD BEEN BROKEN
22 AT THE CRIME SCENE WERE NOTED AND INDIVIDUALLY
23 PHOTOGRAPHED?

24 A YES.

25 Q DO YOU HAVE A SINGLE PHOTOGRAPH OF THE
26 PURSE THAT YOU SAY WAS IN THE DRIVER'S SIDE OF THIS VAN?

27 A I DON'T KNOW.

28 Q DO YOU KNOW WHETHER OR NOT THE PURSE WAS

1 INSIDE THE OBJECT THAT APPEARS TO BE A WHITE OBJECT IN
2 FRONT THE PASSENGER SIDE OF THIS VAN? AND I'M REFERRING
3 YOUR ATTENTION TO PHOTOGRAPH B, THERE APPEARS TO BE
4 SOMETHING IN THE FRONT PASSENGER COMPARTMENT.

5 A I DON'T KNOW. I CAN'T TELL WHAT THAT IS,
6 MA'AM, NO.

7 Q DID YOU OBSERVE WHEN YOU LOOKED INTO THE
8 VAN, ANY U.S. CURRENCY JUST SITTING THERE ON THE SEAT?

9 A JUST SITTING THERE, NO, I DON'T REMEMBER
10 THAT.

11 Q IS IT POSSIBLE THAT THE CASH THAT YOU HAVE
12 DESCRIBED AS \$3700 WAS IN A CAMERA CASE AND NOT A PURSE?

13 A WOW. I WOULD THINK I COULD DISCERN THE
14 DIFFERENCE BETWEEN A CAMERA CASE AND A PURSE, BUT MAYBE
15 NOT.

16 Q DO YOU KNOW WHETHER A CAMERA CASE WAS
17 BOOKED INTO EVIDENCE IN THIS CASE?

18 A OH, I DON'T KNOW.

19 Q YOU WERE LOOKING AT SOME PROPERTY REPORTS
20 EARLIER, PEOPLE'S 58 AND 59.

21 DO YOU RECALL THOSE?

22 A YES, I DO.

23 Q DID YOU HAVE ANYTHING TO DO WITH THE
24 PREPARATION OF THOSE REPORTS?

25 A NO, I DIDN'T.

26 Q AND YOUR NAME DOES NOT APPEAR ANYWHERE ON
27 THOSE?

28 A NO.

1 Q DO YOU KNOW WHAT STIPPLING IS?

2 A YES.

3 Q CAN YOU DESCRIBE THAT FOR THE JURORS.

4 A STIPPLING IS A KIND OF -- WELL, IT'S ALSO
5 REFERRED TO ON OCCASION TATTOOING, BUT STIPPLING IS
6 ACTUALLY THE UNBURNED POWDER THAT IF A BULLET IS FIRED,
7 SOMETIMES THE POWDER ISN'T COMPLETELY BURNED. AND IF
8 IT'S CLOSE ENOUGH, IT'S DRIVEN EITHER INTO THE WOUND OR
9 ONTO THE SKIN. SOMETIMES LOOKING AT IT, IT LOOKS LIKE
10 LITTLE TATTOOED DOTS, BUT IT'S GENERALLY UNBURNT POWDER .

11 Q DID YOU OBSERVE ANY UNBURNT POWDER ON
12 MICKEY THOMPSON'S FACE?

13 A ON HIS FACE?

14 Q YES.

15 A NO.

16 Q ON HIS HAIR?

17 A NO.

18 Q WOULD IT BE PROPER PROCEDURE FOR A CORONER
19 TO LOOK FOR THOSE THINGS?

20 A YES.

21 Q AND YOU HAVE ATTENDED AUTOPSIES?

22 A OH, YES.

23 Q AND IN YOUR EXPERIENCE, HAVE YOU EVER SEEN
24 THEM -- NOT IN THIS CASE, BUT IN ANY CASE, DOCUMENT A
25 BODY AND NOTE THE PRESENCE OF WHAT YOU'VE DESCRIBED?

26 A YES.

27 Q WHEN MICKEY THOMPSON WAS DISCOVERED, HE
28 HAD HIS RIGHT FACE UP AND HIS LEFT FACE TO THE GROUND; IS

1 THAT ACCURATE?

2 A YES, I THINK THAT WOULD BE.

3 Q WAS HE SHOT IN THE EAR?

4 A IN HIS EAR?

5 Q YES.

6 A I DON'T RECALL IT AS BEING IN THE EAR, NO.

7 Q WAS THE GUN SCREWED INTO HIS EAR AND SHOT
8 A BULLET THROUGH HIS BRAIN?

9 A SCREWED IN. I SAW NO EVIDENCE OF THAT,
10 MA'AM, NO.

11 Q THANK YOU.

12 HOW MUCH ARE YOU ALLOWED TO DISTURB THE
13 BODY TO DETERMINE THE NATURE OF THE WOUND AT A CRIME
14 SCENE BEFORE THE CORONER COMES?

15 A IF THE PERSON IS DEAD, WE DON'T.

16 Q SO YOU COULD TELL BY LOOKING, HOWEVER,
17 THAT THERE WAS A BULLET WOUND?

18 A YES.

19 Q AND YOU'RE FAMILIAR WITH THE DIFFERENCE OF
20 WHAT A BULLET WOUND LOOKS LIKE FROM A STAB WOUND?

21 A GENERALLY, YES.

22 Q WHEN YOU -- DID YOU KNOW WHEN YOU WERE
23 RESPONDING THAT YOU WERE RESPONDING TO MICKEY THOMPSON'S
24 HOME?

25 A YES. WELL, I BELIEVE WE WERE TOLD IT WAS
26 A RACE CAR DRIVER OR A FAMOUS RACE CAR DRIVER, QUITE
27 POSSIBLY THEY SAID MICKEY THOMPSON.

28 Q WOULD THAT NAME HAVE REGISTERED TO YOU?

1 A OH, YES.

2 Q DID YOU KNOW HIM PERSONALLY, THOUGH?

3 A OH, NO.

4 Q SO WHEN YOU'RE IDENTIFYING HIM HERE,
5 YOU'RE BASING THAT ON SUBSEQUENT IDENTIFICATION? YOU
6 DIDN'T RECOGNIZE HIM OR TRUDY FROM LIKE PRIOR ENCOUNTERS
7 OR ANYTHING?

8 A I WOULD NEVER HAVE RECOGNIZED TRUDY. HE I
9 MIGHT HAVE RECOGNIZED BECAUSE I WAS A YOUNGSTER.

10 Q MAYBE FROM T.V.?

11 A HE WAS A HERO, YEAH.

12 Q BUT YOU DIDN'T HAVE A PERSONAL
13 RELATIONSHIP?

14 A OH, NO. NO.

15 Q OKAY. DOES THE TERM "CRITICAL MASS" MEAN
16 ANYTHING TO YOU AS A POLICEMAN?

17 A CRITICAL MASS? IT CAN MEAN DIFFERENT
18 THINGS.

19 Q WHEN SOMEONE IS CHARGING YOU WITH A WEAPON
20 AND YOU'RE TRYING TO SHOOT THEM, ARE YOU AIMING FOR
21 CRITICAL MASS?

22 A THAT'S THE TRAINING WE TAKE, YES. YES.
23 OKAY. I SEE WHAT YOU'RE SAYING. YES.

24 Q IS THAT TERM UNFAMILIAR OR IT CAN BE MEAN
25 DIFFERENT THINGS?

26 A I'M THINKING IN TERMS OF PLUTONIUM AND
27 THINGS LIKE THAT.

28 Q THAT'S WAY OVER MY HEAD.

1 A I MEAN, THEY HAVE -- OH, EVERYBODY WANTS
2 THESE NUCLEAR POWER PLANTS SHUT DOWN BECAUSE THEY REACH
3 CRITICAL MASS, CRITICAL STAGE, SO I WAS THINKING OF THAT,
4 BUT I SEE WHAT YOU'RE SAYING AND I KNOW WHAT THAT IS,
5 YES.

6 Q WHAT IS YOUR TRAINING IN REGARD TO THAT?

7 A CRITICAL MASS IS WHAT THEY REFER TO AS THE
8 LARGEST AREA OF THE BODY WHICH WOULD BE SHOULDER TO ABOUT
9 ABDOMINAL AREA, BECAUSE THAT'S KIND OF THE LARGEST
10 TARGET.

11 Q IN YOUR TRAINING -- AND I TAKE IT YOU'VE
12 HAD TRAINING WITH FIREARMS THROUGH THE DEPARTMENT?

13 A YES.

14 Q AND YOU'VE HAD TRAINING WITH SUBDUING
15 INDIVIDUALS WHO WERE COMING AT YOU?

16 A YES.

17 Q AND DEALING WITH INDIVIDUALS WHO WERE
18 ARMED AND POSING YOU A THREAT?

19 A YES.

20 Q ARE YOU TAUGHT TO SHOOT THEM IN THE ARM OR
21 THE LEG?

22 A NO.

23 Q AND WHY IS THAT?

24 A BECAUSE IT IS A VERY DIFFICULT MOVING
25 TARGET AND FIRING A PISTOL AT SOMETHING LIKE THAT IS VERY
26 TOUGH.

27 Q YOU HAD -- YOU SAID A HOUSEKEEPER CAME TO
28 HELP YOU WITH AN ALARM?

1 A YES.

2 Q DID THAT INDIVIDUAL SEEM TO KNOW A CODE,
3 IS THAT WHY YOU ASKED FOR HER? I'M --

4 A OH, I DIDN'T ASK FOR HER. SHE WAS THERE.
5 I WAS TOLD SHE WAS ASKED TO COME TO THE PLACE. I DIDN'T
6 SEE HER DO THE CODE, BUT I WAS TOLD SHE DID.

7 Q DID YOU OBSERVE SOMEONE YOU BELIEVED TO BE
8 THE HOUSEKEEPER?

9 A YES, I DID. I SAW HER PERSONALLY, A
10 FEMALE.

11 Q WHAT WAS HER ETHNICITY?

12 A GEE, I DON'T RECALL.

13 Q DID YOU -- PEOPLE'S NUMBER 56, DID YOU
14 KNOW WHAT THIS WAS AT THE CRIME SCENE, ITEM NUMBER 12,
15 WHEN YOU FIRST SAW IT?

16 A YES.

17 Q YOU HAD RECOGNIZED IT?

18 A YES.

19 Q AND IT SEEMS TO HAVE SOME SORT OF A WHITE
20 TAPE ON THE BOTTOM OF IT. IS THAT THE WAY THAT IT WAS
21 FOUND?

22 A YES.

23 Q DID YOU PERSONALLY RECOVER THIS ITEM?

24 A NO.

25 Q DID YOU PERSONALLY SEE IT IN THE LOCATION
26 THAT IT APPEARS TO BE DEPICTED IN THIS PHOTOGRAPH?

27 A YES.

28 Q WHEN I SAY "THIS PHOTOGRAPH," I'M

1 REFERRING TO 56.

2 THAT IS ANOTHER ONE OF THESE ITEMS THAT
3 WAS BOOKED INTO EVIDENCE IN THIS CASE?

4 A YES.

5 Q WHEN IT WAS LEFT -- REMOVED FROM THE CRIME
6 SCENE, WOULD THE TAPE HAVE BEEN TAKEN OFF AT THE CRIME
7 SCENE OR WOULD IT HAVE BEEN DELIVERED INTACT TO SOME LAB?

8 A THIS SHOULD HAVE BEEN DELIVERED INTACT.

9 Q AND WOULD -- WOULD IT BE PROPER PROCEDURE
10 WHEN SOMEONE WAS HANDLING THAT TO WEAR PROTECTIVE GLOVES
11 OF SOME SORT?

12 A I WOULD THINK.

13 Q SO DID YOU NOT -- DID YOU ASK FOR ANY TEST
14 TO BE PERFORMED ON ANY OF THESE ITEMS? WAS THAT ANY OF
15 YOUR RESPONSIBILITY?

16 A NO.

17 Q THERE WAS NO EVIDENCE ON THE CLOTHING THAT
18 YOU NOTED OF EITHER VICTIM THAT MADE IT APPEAR AS IF --
19 WELL, LET ME ASK YOU THIS FIRST:

20 HAVE YOU EVER SEEN SOMEONE STUNNED WITH
21 ONE OF THESE STUN GUNS?

22 A I'VE SEEN MARKS FROM SIMILAR TYPE OF
23 THINGS, YES.

24 Q WILL IT BURN CLOTHING AND TWO DOTS?

25 MR. JACKSON: OKAY. SPECULATION. NO FOUNDATION.

26 THE COURT: ALL RIGHT. LAY A FOUNDATION.

27 Q BY MS. SARIS: HAVE YOU EVER SEEN THIS
28 USED -- OR MARKS WHERE IT HAS BEEN USED ON CLOTHING?

1 A NO.

2 Q SO YOU'VE SEEN MARKS ON A BODY?

3 A YES.

4 Q AND DOES IT APPEAR TO BE TWO VERY CLOSE
5 TOGETHER BURNS?

6 A YES, THAT'S A GOOD DESCRIPTION.

7 Q AND HAVE YOU EVER BEEN INVOLVED IN AN
8 AUTOPSY IN YOUR EXPERIENCE WHERE SOMEONE WOULD SEARCH FOR
9 THOSE KINDS OF WOUNDS, A CORONER, I MEAN?

10 A OH, YES.

11 Q GETTING BACK TO THE PHOTOGRAPHS OF THE
12 VAN, PEOPLE'S 57, NUMBER 19 APPEARS TO BE AN EXPENDED
13 BULLET THAT LOOKS AS IF IT'S ABOUT TO PROTRUDE FROM THE
14 PASSENGER SIDE DOOR.

15 IS THAT FAIR?

16 A YES.

17 Q SO IT ALSO APPEARS TO BE IN THE MIDDLE OF
18 THE DOOR; IS THAT CORRECT?

19 A THAT'S A GOOD DESCRIPTION. IT'S ABOUT
20 MIDWAY, YES.

21 Q AND THERE'S A PHOTOGRAPH BENEATH IT, ITEM
22 NUMBER -- PHOTOGRAPH NUMBER F THAT HAS A LEATHER CONSOLE?

23 A YES.

24 Q AND WHEN WE'RE ABLE TO LOOK AT IT CLOSER,
25 WE SHOW THAT THERE'S AN ACTUAL HOLE IN THAT; IS THAT
26 CORRECT?

27 A YES.

28 Q AND IS THAT THE INSIDE OF WHAT MADE

1 NUMBER 19?

2 A IT QUITE PROBABLY IS, YES.

3 Q SO SOMEONE WOULD HAVE BEEN STANDING AT THE
4 DRIVER'S DOOR SHOOTING INTO THE VEHICLE IN ORDER TO MAKE
5 THAT?

6 A YOU MEAN COMING ACROSS, YES.

7 Q THAT DIDN'T COME THROUGH A WINDSHIELD,
8 THAT CAME ACROSS THE DRIVER'S DOOR; CORRECT?

9 A IT APPEARS TO, YES.

10 Q AND THERE IS A BULLET HOLE IN THAT VAN AS
11 WELL, IN THE WINDSHIELD?

12 A YES, THERE IS.

13 Q AND IN THE VERY -- AS YOU'RE LOOKING AT
14 IT, THE TOP RIGHT, AND AS YOU'RE THE DRIVER, WHERE YOUR
15 UPPER RIGHT HAND MIGHT REACH?

16 A THAT'S CORRECT.

17 Q AND THAT WAS RECOVERED FROM THE -- DO YOU
18 KNOW IF THAT'S THE BULLET HOLE THAT CORRESPONDS TO "G" IN
19 THE REAR DRIVER'S PANEL?

20 A YES. THAT APPEARS TO BE, YES, MA'AM.

21 Q I WOULD LIKE TO DRAW YOUR ATTENTION TO
22 PHOTOGRAPH C AND A. DO YOU SEE WHERE MY POINTER IS NOW
23 (INDICATING), ON SOME SORT OF THE SHRUBBERY?

24 A I DO.

25 Q AND WHAT IS THAT, THAT OBJECT?

26 A A BUSH.

27 Q IS THAT CORRESPONDING TO THE PLANTER
28 THAT'S ON PEOPLE'S 54A?

1 A IT DOESN'T SEEM TO BE.

2 Q DO YOU RECALL SORT OF A WALLED PLANTER
3 AREA IN SORT OF A HORSESHOE WHERE TREES AND BUSHES WERE
4 COMING OUT?

5 A YES.

6 Q AND DOES "A" NOT DEPICT -- WELL, YOU'RE
7 RIGHT, THAT IS KIND OF A -- LET ME SEE IF I CAN GET A
8 BETTER ONE FOR YOU.

9 I WILL LOOK FOR ONE ON THE BREAK.

10 Q DO YOU RECALL, THOUGH, A PLANTER BEING A
11 RATHER LARGE ENCLOSED BRICK STRUCTURE THAT HAD PLANTS IN
12 IT SOUTH OF THE DRIVEWAY?

13 A SOUTH OF THE DRIVEWAY.

14 Q I'M SORRY. SOUTH OF THE GARAGE.

15 A YES, THERE'S A PLANTER. I ALMOST SEE IT
16 AS A LINING OR EDGING TO THE DRIVEWAY ITSELF ALONG THE
17 SOUTHERN -- I MEAN, THE EASTERN BOUNDARY OF THE SOUTH
18 DRIVEWAY.

19 AS A PLANTER CONFIGURATION, I CAN'T RECALL
20 THAT IT WAS A PLANTER CONFIGURATION.

21 MS. SARIS: YOUR HONOR, IS THE COURT PLANNING ON
22 TAKING AN AFTERNOON BREAK? BECAUSE I WOULD LIKE TO
23 LOCATE THAT PHOTO WITHOUT MAKING THE JURORS WAIT.

24 THE COURT: OKAY. WE CAN TAKE OUR AFTERNOON
25 RECESS AT THIS TIME.

26 LADIES AND GENTLEMEN, DON'T DISCUSS THE
27 CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T CONDUCT
28 ANY DELIBERATIONS. WE WILL SEE YOU IN 15 MINUTES.

1 (THE JURY LEFT THE COURTROOM.)

2 (BRIEF RECESS.)

3 (THE JURY ENTERED THE COURTROOM.)

4 THE COURT: ALL JURORS AND ALTERNATES ARE AGAIN
5 PRESENT. AND DETECTIVE VERDUGO IS STILL ON THE WITNESS
6 STAND.

7 MS. SARIS, YOU MAY CONTINUE YOUR
8 CROSS-EXAMINATION.

9 MS. SARIS: THANK YOU.

10 Q DETECTIVE, WE ACTUALLY FOUND PEOPLE'S 55
11 THAT SEEMS TO SHOW --

12 MS. SARIS: MAY I APPROACH, YOUR HONOR?

13 THE COURT: YES.

14 Q BY MS. SARIS: IF YOU WOULD LIKE TO GET
15 CLOSE TO PHOTOGRAPH C, WHAT I'M REFERRING TO HERE, IS
16 THAT BRICK PROTRUSION THAT SEEMS TO DIVIDE THE THOMPSON
17 DRIVEWAY (INDICATING)?

18 A YES. IT IS BRICK OR ADOBE. ADOBE LIKE
19 BRICK, YES. DIVIDE, YOU MEAN --

20 Q IT LOOKS AS IF MAYBE THERE IS ENOUGH SPACE
21 TO HAVE A COUPLE OF CARS ON THE RIGHT-HAND SIDE OF IT AND
22 THEN THE LEFT-HAND SIDE IS THE PORTION THAT WE'VE BEEN
23 DISCUSSING TODAY.

24 A OH, I SEE WHAT YOU MEAN. YES.

25 Q IS THAT FAIR?

26 A YES, THAT WOULD BE FAIR.

27 Q THE VAN CRASHED JUST BEYOND THAT LOCATION?

28 A RIGHT BELOW. WHAT WE WOULD CALL BELOW TO

1 THE RIGHT AS WE FACE UP.

2 MS. SARIS: WHEN I SAY THAT, YOUR HONOR, I'M
3 REFERRING TO PHOTOGRAPH C IN PEOPLE'S 55.

4 THE COURT: YES.

5 Q BY MS. SARIS: I THINK IF YOU GET VERY
6 CLOSE, YOU CAN ACTUALLY SEE BROKEN GLASS. WILL YOU TRY
7 AND TELL ME IF YOU CAN SEE THAT IN THAT PHOTOGRAPH.

8 A THAT APPEARS TO BE THE POOL OF GLASS, YES,
9 THE BROKEN GLASS.

10 Q SO CAN WE REFER JUST FOR SIMPLICITY SAKE
11 THAT STRUCTURE AS A PLANTER?

12 A SURE.

13 Q AND I WOULD LIKE TO --

14 MS. SARIS: I HAVE ANOTHER DIAGRAM, YOUR HONOR, A
15 SCHEMATIC MARKED DEFENSE NEXT IN ORDER.

16 THE COURT: OO.

17 (DEFENDANT'S EXHIBIT NO. OO WAS MARKED FOR
18 IDENTIFICATION.)

19 Q BY MS. SARIS: DOES THAT SCHEMATIC THAT
20 I'VE MARKED DEFENSE OO APPEAR TO REPRESENT THE AREA THAT
21 WE'RE DISCUSSING TODAY AS WELL WITHOUT ANY OF THE ITEMS
22 OF EVIDENCE?

23 A YES. UH-HUH.

24 Q YOU RECOGNIZE TWO SILHOUETTES THAT APPEAR
25 TO BE BODIES AND TWO VEHICLES?

26 A THAT ONE SILHOUETTE, IS THAT A BODY ON THE
27 BOTTOM PORTION?

28 Q LET ME BRING IT UP TO YOU.

1 A YES. I SEE THAT BODY. THAT APPEARS TO BE
2 OUT OF POSITION.

3 Q AND WHAT APPEARS TO BE THE MATTER WITH IT?

4 A IT APPEARS THAT IT'S RIGHT OUT ON WOODLYN
5 LANE.

6 Q OKAY. IF YOU WERE TO TAKE THE DOTTED
7 PORTION OF THIS DIAGRAM AND ASSUME THAT WERE THE GATE AND
8 NOT THE STREET, DOES THAT HELP?

9 A OKAY. YES. IT'S JUST THAT I CAN'T SEE
10 THE ENDING OF THE DRIVEWAY AND THE START OF THE STREET.

11 Q OTHER THAN THAT, DOES THAT APPEAR TO BE
12 THE AREA THAT WE'RE SPEAKING OF?

13 A YES. UH-HUH.

14 Q OKAY. THANK YOU.

15 DID YOU -- WHEN ONE IS IN FRONT OF THE
16 GARAGE OF THE THOMPSON HOME, ONE CANNOT SEE THE -- BEYOND
17 THAT PLANTER TO WHERE THAT TOYOTA -- WELL, LET ME BACK
18 UP.

19 THE VAN HAD CRASHED; CORRECT?

20 A YES.

21 Q AND IT WAS FACING SOMEWHAT EAST/WEST?

22 A IT WAS -- THE FRONT END THE VEHICLE WAS
23 POINTED IN A WESTERLY DIRECTION, YES.

24 Q AND NOW THAT MAYBE WE CAN ORIENT OURSELVES
25 TO NUMBER 57, DOES THAT BRICK STRUCTURE APPEAR ANYWHERE
26 THAT WE'RE CALLING A PLANTER NOW IN 57A?

27 A YES. BOY, I DON'T KNOW WHY, THAT IS JUST
28 A STRANGE LOOKING ANGLE TO ME, BUT YES, I BELIEVE WHAT

1 YOU'RE REFERRING TO IS JUST TO THE LEFT ON THE PHOTOGRAPH
2 OF THE PLANTER I GUESS YOU WANT TO CALL IT.

3 Q OKAY. AND I'LL TELL YOU THE REASON I
4 REFER TO THAT, DO YOU KNOW THE NAME LINDA ARTHUR?

5 A YES.

6 Q AND WHO IS SHE?

7 A SHE -- AT THE TIME -- SHE'S A LIEUTENANT
8 IN OUR DEPARTMENT NOW I BELIEVE -- AT THE TIME SHE WAS
9 FROM LATENT PRINT AND WAS A PHOTOGRAPHER.

10 Q AND HAVE YOU EVER SEEN ANY DIAGRAMS THAT
11 SHE'S CREATED IN THIS CASE?

12 A NO.

13 Q AND I'LL JUST TELL YOU THE REASON IS SHE
14 REFERS TO IT AS A PLANTER.

15 A OKAY.

16 Q PHOTOGRAPH NUMBER E, DOES THAT APPEAR TO
17 BE THE VIEW FROM THE VAN UP TOWARDS THE HOME?

18 A THAT IS THE VIEW, YES.

19 Q AND THAT WOULD BE SOMEONE STANDING AT
20 APPROXIMATELY THE BACK OF THE VAN?

21 A YES. THE REAR PORTION THE VAN, YES.

22 Q AND PHOTOGRAPH C DEPICTS OF HOW THAT VAN
23 CRASHED AGAINST THE RIGHT RETAINING WALL?

24 A IT'S ABUTTED AGAINST THE WALL.

25 Q DID IT ACTUALLY CRASH OR -- I MEAN, DID IT
26 TOUCH?

27 A YES.

28 Q WHEN YOU DID THE EXPERIMENT OR THE -- WHAT

1 DO YOU CALL IT? -- WHEN YOU WENT TO THE CRIME SCENE WITH
2 MR. JACKSON AND YOU ATTEMPTED TO SEE HIM AT THE BASE OF
3 THE DRIVEWAY.

4 DO YOU RECALL THAT?

5 A YES.

6 Q DID YOU LIE DOWN ON THE PAVEMENT AT ANY
7 POINT?

8 A NO.

9 Q DID YOU SEE THE HOLES IN THE GARAGE DOOR?

10 A YES.

11 Q AND I THINK WE DISCUSSED THAT YOU
12 RECOGNIZED THOSE TO BELIEVE BULLET HOLES, OR DID YOU?

13 A YES. YES.

14 Q WAS ONE THE -- ONE OF HOLES ONLY ABOUT SIX
15 INCHES OFF THE GROUND?

16 A YES.

17 Q DO YOU KNOW THE NAME DOUG OBERHOLTZER?

18 A YES.

19 Q O-B-E-R-H-O-L-Z-E-R?

20 A T-Z-E-R.

21 Q T-Z. THANK YOU.

22 AND WHO IS HE?

23 A HE WAS DETECTIVE MICHAEL GRIGGS' PARTNER.
24 HE WAS A SERGEANT FROM HOMICIDE BUREAU.

25 Q SO WAS HE ALSO PART OF THE PRIMARY TEAM?

26 A YES, HE WOULD BE.

27 Q IS HE CURRENTLY RETIRED?

28 A YES, HE IS.

1 Q IS HE STILL ALIVE?

2 A I BELIEVE HE IS.

3 Q SO WHEN YOU ARRIVED AT THE CRIME SCENE,
4 YOU INDICATED THAT YOU SAW YELLOW TAPE UP?

5 A YES.

6 Q AND IT WAS ABOUT THREE HOURS HAD GONE BY
7 SINCE THE MURDER, AS FAR AS YOU KNEW?

8 A YES. ROUGHLY I WOULD SAY, YES.

9 Q DO YOU KNOW WHO THE FIRST OFFICER WAS ON
10 THE SCENE?

11 A YES. I KNOW HIS NAME, I CAN'T RECALL IT
12 RIGHT NOW.

13 Q WAS IT JOHN RODRIGUEZ?

14 A YES.

15 Q DID YOU SPEAK TO HIM THAT MORNING?

16 A NO, I DIDN'T.

17 Q DOES THE NAME RUBEN GRACIA, DO YOU RECALL
18 THAT INDIVIDUAL BEING AT THE SCENE?

19 A I KNOW HIM. SO RECALL HIM THERE, NO.

20 Q SO IS IT FAIR TO SAY THAT YOU DIDN'T MAKE
21 AN EFFORT WHEN YOU GOT THERE TO SEEK OUT THE FIRST
22 RESPONDERS?

23 A THE UNIFORMED PERSONNEL?

24 Q YES.

25 A NO.

26 Q LET ME ASK AGAIN BECAUSE I SCREWED THAT
27 UP.

28 DID YOU SEEK OUT THE FIRST RESPONDERS?

1 A UNIFORMED PERSONAL, NO. THE REASON I
2 HESITATE IS BECAUSE OF THE FIRST RESPONDERS FROM OURS
3 WERE GRIGGS AND OBERHOLTZER. SO, YES, I WOULD SEEK THEM
4 OUT, BUT THE UNIFORMED PERSONNEL, NO.

5 Q SO YOU'RE NOT AWARE OF WHAT ACTIONS THEY
6 TOOK TO SECURE THE CRIME SCENE TO MAKE SURE THAT NO ONE
7 CAME ONTO THE PROPERTY?

8 A NO, I'M NOT.

9 Q DID YOU OBSERVE ANYTHING THAT WAS
10 GLARINGLY A MISTAKE TO YOU IN THE PROCESSING OF THIS
11 CRIME SCENE?

12 MR. JACKSON: OBJECTION. THAT'S VAGUE.

13 THE COURT: SUSTAINED.

14 Q BY MS. SARIS: DID ANYTHING STAND OUT IN
15 YOUR MIND THAT YOU CAME ACROSS WHEN YOU WERE WALKING THE
16 CRIME SCENE AND THOUGHT THIS IS A MISTAKE, I HAVE TO
17 DOCUMENT IT?

18 A GLARING, NO.

19 Q DOES IT APPEAR AS IF THE PERSONNEL THAT
20 CAME TO THE CRIME SCENE HAD FOLLOWED THE PROCEDURE, THE
21 ORIGINAL UNIFORMED OFFICERS?

22 A YES. WHEN I GOT THERE, IT APPEARED TO BE.

23 Q THERE WAS YELLOW TAPE ON THE PERIMETERS?

24 A YES.

25 Q YOU DID NOT SEE NEIGHBORS WALKING UP AND
26 DOWN THE DRIVEWAY?

27 A NO, I DIDN'T.

28 Q THE MEDIA WAS BEING KEPT AT BAY?

1 A AS BEST WE COULD.

2 Q AS BEST YOU COULD?

3 A YES.

4 Q YOU DIDN'T LET THEM ON THE DRIVEWAY AT ANY
5 POINT?

6 A I DIDN'T, NO.

7 Q DID ANYONE?

8 A NOT THAT I KNOW OF, NO.

9 Q COUNSEL HAD ASKED YOU YESTERDAY REGARDING
10 ITEM NUMBER ONE WHICH WAS A FINGERNAIL THAT WAS FOUND
11 SOMEWHAT EAST OF THE DRIVEWAY.

12 DO YOU RECALL THAT?

13 A YES, I DO.

14 Q AND HE ALSO HAD ASKED YOU IF THERE WAS ANY
15 PHYSICAL EVIDENCE OTHER THAN THAT FINGERNAIL TO SHOW THAT
16 MS. THOMPSON HAD BEEN ON WOODLYN LANE EAST OF THE
17 DRIVEWAY.

18 DO YOU RECALL THAT QUESTION?

19 A YES, I DO.

20 Q AND YOU SAID NO?

21 A THAT'S CORRECT.

22 Q IS THERE ANY PHYSICAL EVIDENCE TO INDICATE
23 THAT MRS. THOMPSON HAD BEEN IN THE DRIVEWAY OF THE
24 THOMPSON HOME?

25 A OTHER THAN HER LAYING IN IT?

26 Q NORTH OF THAT, BETWEEN THERE AND THE
27 GARAGE?

28 A OH, OH, OH. YOU KNOW, HER NAILS WERE

1 DISCOVERED NORTH OF HER, EXPENDED SHELL CASINGS -- BUT
2 THEN AGAIN, IF WE GET THIS TO THAT ASPECT, THEY MAY HAVE
3 BEEN MOVED OR KICKED AROUND BY INDIVIDUALS. THERE'S
4 NOTHING CONCRETE THAT WOULD SAY SHE WAS ABOVE -- AT ONE
5 TIME ABOVE THE POSITION WHERE SHE WAS FOUND LAYING.

6 Q WELL, THERE WERE HER NAILS, THOUGH, THE
7 FINGERNAILS WERE FOUND --

8 A YES, THAT'S CORRECT.

9 Q -- AT VARIOUS POINTS ON THAT DRIVEWAY?

10 A YES.

11 Q CAN YOU TELL WHEN YOU SEE A BROKEN NAIL --
12 LET ME ASK YOU:

13 DID YOU SEE THE ACTUAL BROKEN NAIL AT THE
14 CRIME SCENE?

15 A OH, YES.

16 Q DO YOU REMEMBER EVIDENCE ITEM NUMBER FOUR
17 WHICH WAS PART OF A LEAD PROJECTILE WHICH WAS RECOVERED
18 NEAR HER BODY?

19 A YES.

20 Q IN TERMS OF SIZE, CAN YOU GIVE ME A
21 COMPARISON OF THE SIZE OF ITEM NUMBER FOUR VERSUS ONE OF
22 MS. THOMPSON'S BROKEN ACRYLIC NAILS?

23 A IT WOULD HAVE BEEN SMALLER IN
24 CIRCUMFERENCE.

25 Q WHICH WOULD HAVE BEEN, I'M SORRY?

26 A I'M SORRY. THE LEAD PROJECTILE OR THE
27 PROJECTILE WOULD HAVE BEEN SMALLER IN CIRCUMFERENCE
28 BECAUSE THESE WERE KIND OF FANCY ACRYLIC, I BELIEVE, AND

1 I DON'T WANT TO MISS CALL THEM, BUT NAILS THAT WERE A
2 LITTLE LONGER, AND THE PROJECTILE WAS .9 MILLIMETERS, NOT
3 THAT MUCH LARGER.

4 Q AND THIS POSSIBLY WAS FRAGMENTED; NUMBER
5 FOUR, CORRECT?

6 A IT'S POSSIBLE, YES.

7 Q AND YOU FOUND THAT ON THE DRIVEWAY?

8 A I SAW IT THERE, YES.

9 Q AND IT WAS GRAY, LIKE A METALLIC COLOR?

10 A YES. AS I RECALL IT WAS, YES.

11 Q MRS. THOMPSON'S NAILS WERE RED?

12 A YES. MORE A MAROON, I SHOULD SAY.

13 Q AND YOU INDICATED THAT IT WAS -- THESE
14 NUMBERS THAT APPEAR WITH SOME OF THE PHYSICAL EVIDENCE IN
15 THIS CASE, DID YOU PLACE THOSE NUMBERS?

16 A NO, NO.

17 Q WERE ALL OF THEM PLACED WHEN YOU ARRIVED?
18 LET ME REPHRASE THAT TO MAKE IT MORE CLEAR.

19 AS FAR AS YOU KNOW, WHEN YOU GOT THERE,
20 WERE THEY ALL NUMBERED?

21 A NO.

22 Q DO YOU REMEMBER WHICH ONES WERE NUMBERED
23 IN YOUR PRESENCE?

24 A I BELIEVE THE LATTER, AND I'M GOING TO SAY
25 MAYBE FROM NINE OR TEN ON.

26 Q YOU TOLD US THAT YOU HAD ACTUALLY TRAVELED
27 WHAT YOU DEEMED AN ESCAPE ROUTE.

28 DO YOU RECALL THAT TESTIMONY?

1 A YES, I DO.

2 Q WHEN DID YOU TRAVEL THAT?

3 A AFTER THE COMPLETION OF OUR TRAVERSING THE
4 IMMEDIATE CRIME SCENE. I THINK THE FIRST TIME WAS LATER
5 THAT DAY OR THE FOLLOWING DAY. I'M NOT QUITE SURE NOW.

6 Q WELL, YOU DIDN'T STAY AT THE CRIME SCENE
7 ALL DAY; CORRECT?

8 A NO, I DIDN'T.

9 Q YOU WENT OUT AT ABOUT WHEN, DO YOU
10 REMEMBER?

11 A WE WERE CONDUCTING INTERVIEWS WITH
12 NEIGHBORS, THEN EVENTUALLY LATER THAT DAY WE WENT TO THE
13 MICKEY THOMPSON ENTERTAINMENT OFFICE IN ANAHEIM.

14 Q MY QUESTION IS WHEN. I'M SORRY.
15 AROUND NOON OR 1:00 OR LIKE 7:00 OR 8:00
16 AT NIGHT?

17 A NOT 7:00 OR 8:00, BUT I WOULD SAY THE
18 AFTERNOON.

19 Q AND AS FAR AS YOU KNOW, DID DETECTIVE
20 GRIGGS STAY ON THE SCENE?

21 A WHEN WE LEFT HE WAS THERE.

22 Q WHEN YOU FORMED YOUR OPINION ABOUT THE
23 ROUTE THAT WAS POSSIBLY TRAVELED BY THESE CYCLISTS, DID
24 YOU TAKE INTO ACCOUNT WILMA JOHNSON'S STATEMENT TO DEPUTY
25 ESTRADA THAT THE BICYCLES HAD HEADED WESTBOUND TOWARDS
26 MONROVIA?

27 A HEADED WESTBOUND TOWARDS MONROVIA?

28 Q YES.

1 MR. JACKSON: OBJECTION. THAT MISSTATES THE
2 EVIDENCE.

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: DID YOU TAKE INTO
5 ACCOUNT -- DID -- YOU KNOW WHO DEPUTY ESTRADA IS?

6 A YES.

7 Q HAVE YOU REVIEWED HIS REPORT PRIOR TO
8 TESTIFYING TODAY?

9 A NO, I DIDN'T.

10 Q DID YOU REVIEW HIS REPORT PRIOR TO MAKING
11 THE DETERMINATION REGARDING THE ESCAPE ROUTE OR DID YOU
12 SPEAK TO HIM?

13 A YOU MEAN THEM GOING DOWN WOODLYN LANE?

14 Q BEYOND WOODLYN LANE. I THINK YOU
15 INDICATED THAT THEY WENT DOWN WOODLYN LANE TO ROYAL OAKS
16 TO MT. OLIVE; CORRECT?

17 A THAT WAS A SUPPOSITION ON MY PART.

18 Q I UNDERSTAND. THANK YOU.

19 SO WHEN YOU MADE THAT SUPPOSITION, DID YOU
20 SEE -- HAD YOU SEEN DEPUTY ESTRADA'S ORIGINAL REPORTS
21 FROM WILMA JOHNSON?

22 A NO, I HADN'T.

23 Q SPEAKING OF THE ROUTE, PEOPLE'S 47 I THINK
24 MIGHT STAND ON ITS OWN.

25 YOU INDICATED THAT WHEN ONE COMES DOWN
26 WOODLYN LANE WHICH IS DEPICTED IN THE MIDDLE OF THE
27 DIAGRAM, PEOPLE'S 47, TO THE LEFT OF THE RED CIRCLE -- DO
28 YOU SEE THAT?

1 A YES.

2 Q IS THAT SOMEWHAT OF A PRETTY SEVERE
3 DOWNHILL?

4 A IT IS A DECLINING. IT'S NOT SEVERE,
5 BUT -- WELL I WOULDN'T WANT TO RUN IT, BUT OF COURSE, I'M
6 AN OLD GUY. BUT IT IS A DECLINE LEAVING MICKEY
7 THOMPSON'S PROPERTY AND GOING DOWN AND REACHING ROYAL
8 OAKS.

9 Q AND ONE WOULD ON A BICYCLE ATTAIN SOME
10 SPEED WITH THAT KIND OF A GRADE?

11 A OH, YES. YES.

12 Q IS THAT ALSO TRUE OF MT. OLIVE?

13 A MT. OLIVE ACTUALLY BEGINS TO RISE AS YOU
14 GET NEARER TO MR. THOMPSON'S PROPERTY. SO COMING DOWN
15 FROM HIS HOUSE FOLLOWING THE CURVE OF MT. OLIVE, YES, YOU
16 WOULD COME TO A PRETTY STEEP DECLINE.

17 Q COMING OUT OF MR. THOMPSON'S PROPERTY DOWN
18 TO MT. OLIVE IT WOULD STILL BE A PRETTY STEEP DECLINE?

19 A YES.

20 Q AND YOUR SUPPOSITION WAS THAT THE
21 BICYCLIST TRAVELED ALONG WOODLYN LANE, GOT TO ROYAL OAKS
22 DRIVE AND WENT ALL THE WAY BACK TOWARDS MT. OLIVE; IS
23 THAT CORRECT?

24 A YES.

25 Q NOW, TO THE -- LET ME ASK YOU IF YOU KNOW,
26 BEFORE I LOOK FOR THIS DIAGRAM -- TO THE WEST OF THIS
27 LOCATION THERE ARE SEVERAL EAST/WEST STREETS THAT CONNECT
28 UP -- I'M SORRY -- NORTH/SOUTH STREETS THAT CONNECT TO

1 HUNTINGTON DRIVE?

2 A YES.

3 Q AND HUNTINGTON DRIVE, IS THAT THE STREET
4 THAT YOU WERE LOOKING FOR EARLIER?

5 A I BELIEVE IT WAS, YES. THANK YOU.

6 Q AND JUST BELOW HUNTINGTON DRIVE IS THE
7 FREEWAY, THE 210 FREEWAY?

8 A OFF OF MT. OLIVE, YES.

9 Q OFF OF MT. OLIVE. AND AS YOU GO FARTHER
10 WEST OFF OF MOUNTAIN, OFF OF BUENA VISTA?

11 A PRETTY FAIR DISTANCE. MT. OLIVE IS RIGHT
12 THERE.

13 Q AND TO THE WEST, WHAT'S THE NEAREST --

14 A I THINK BUENA VISTA IS THE NEAREST NEXT ON
15 RAMP.

16 Q WHAT AREA -- WHAT LAW ENFORCEMENT
17 DEPARTMENT WOULD BE RESPONSIBLE FOR THE AREA OF BRADBURY
18 PRIMARILY?

19 A THE L.A. COUNTY SHERIFF'S DEPARTMENT.

20 Q AND WHEN THE FIRST UNIFORMED OFFICERS
21 RESPONDED, DO YOU KNOW WHERE THEY WERE FROM?

22 A OUR TEMPLE CITY STATION, I BELIEVE.
23 L.A. COUNTY SHERIFF'S DEPARTMENT.

24 Q SO THEY WOULD BE SHERIFF'S DEPARTMENT JUST
25 AT A TEMPLE CITY STATION?

26 A THAT'S THEIR BASE, BUT THE CITY OF
27 BRADBURY CONTRACTED FOR POLICE SERVICES.

28 Q SO WERE YOU ALL EMPLOYED THE EXACT SAME

1 WAY, JUST STATIONED DIFFERENTLY?

2 A L.A SHERIFF'S HOMICIDE IS A CENTRALIZED
3 BUREAU OF SPECIALISTS, SO WE'RE DISPATCHED NOT
4 NECESSARILY WORKING OUT OF TEMPLE CITY, WE MAY WORK A
5 MURDER IN THE TEMPLE CITY AREA WHICH WOULD INCLUDE
6 BRADBURY, BUT WE DON'T STATION OURSELVES IN TEMPLE CITY.

7 Q RIGHT. YOU COULD GO ANYWHERE IS MY
8 QUESTION?

9 A OH, YES.

10 Q BUT IN TERMS OF BOTH OF YOU BEING SWORN
11 OFFICERS OF THE SAME DEPARTMENT?

12 A OH, YES. WE WERE SWORN MEMBERS OF THE
13 SAME DEPARTMENT.

14 Q ALSO, MONROVIA OFFICERS RESPONDED. WERE
15 YOU AWARE OF THAT?

16 A YES.

17 Q BOTH OF THOSE CITIES ARE TO THE WEST OF
18 MICKEY THOMPSON'S HOME; CORRECT?

19 A BOTH YOU MEAN?

20 Q TEMPLE CITY AND MONROVIA?

21 A OH, YES.

22 Q SO IF ONE IS -- IN FACT, IF YOU KNOW, DO
23 YOU KNOW WHERE THE FIRST RESPONDERS, WHEN THEY RESPONDED
24 TO THE CRIME SCENE WENT EASTBOUND ON ROYAL OAKS?

25 MR. JACKSON: OBJECTION. THAT CALLS FOR
26 SPECULATION AND HEARSAY.

27 THE COURT: SUSTAINED.

28 Q BY MS. SARIS: DO YOU KNOW FROM WHERE,

1 FROM ANYTHING YOU SAW, THE DIRECTION OF POLICE CARS WERE
2 FACING OR ANYTHING THAT YOU OBSERVED AT THE CRIME SCENE,
3 WHETHER INDIVIDUALS RESPONDED TO THIS CRIME SCENE THROUGH
4 THE GATE ON THE WEST SIDE OF BRADBURY?

5 A YES. FIRST RESPONDER DID COME THROUGH
6 THAT GATE.

7 Q AND AS YOU WERE TRAVELING EASTBOUND ON
8 ROYAL OAKS, THE FIRST GATE THAT YOU COME INTO TO GET TO
9 BRADBURY WOULD BE WOODLYN LANE; IS THAT CORRECT?

10 A YES.

11 Q AND IN ORDER TO GET TO THE GATE ON THE
12 EAST SIDE OF BRADBURY, ONE WOULD HAVE TO GO UP MT. OLIVE
13 JUST PAST MICKEY THOMPSON'S HOME -- I'M SORRY -- GO UP
14 MT. OLIVE AND THEN TURN LEFT ON WOODLYN AND THE GATE IS
15 JUST PAST HIS HOME?

16 A IT WASN'T A GATE. THERE'S A CHAIN, THERE
17 WAS LIKE A FIRE -- ALMOST LIKE A FIRE ROAD CHAIN THAT WAS
18 ACROSS PREVENTING ACCESS.

19 Q SO THERE WAS NO ACCESS AT ALL INTO THE
20 GATED COMMUNITY FROM WOODLYN LANE AT THAT TIME?

21 A YOU COULD WALK, YES.

22 Q DO YOU KNOW NOW IF THERE'S A GATE?

23 A TODAY? NO, I COULDN'T TELL YOU.

24 Q THE GATE THAT YOU SAW WAS AT WOODLYN LANE
25 AND ROYAL OAKS; IS THAT CORRECT?

26 A THAT'S CORRECT.

27 Q AND THAT WAS THE WESTERN PORTION OF
28 BRADBURY?

1 A YES.

2 Q AND THAT'S THE GATE THAT YOU MANIPULATED
3 TO OPEN WITHOUT ANY SORT OF DEVICE?

4 A THAT'S CORRECT.

5 Q WAS THERE SOMETHING VISIBLE THAT YOU COULD
6 SEE THAT WOULD LET YOU KNOW THAT YOU WERE ABLE TO DO
7 THAT, OR WAS IT SOMETHING YOU WERE TOLD TO TRY?

8 A I WAS TOLD.

9 Q THERE'S A KEY PAD?

10 A YES.

11 Q ONE COULD ENTER A NUMBER AND IT COULD
12 OPEN?

13 A YES.

14 Q WERE YOU AWARE THAT THE CITY HANDED OUT
15 CLICKERS THAT ALSO OPENED THAT GATE LIKE A GARAGE DOOR?

16 A I KNEW THAT FOR SOME REASON. I DON'T KNOW
17 HOW I WAS TOLD, BUT I KNEW THAT.

18 Q THE ALARM THAT YOU SAID WAS ACTIVATED, I'M
19 JUST CURIOUS HOW ONE KNEW IT WAS ACTIVATED IF IT WAS NOT
20 GOING OFF.

21 A I WAS -- ACTIVATED MEANING IT WAS ARMED?

22 Q ARMED.

23 A I WAS TOLD.

24 Q WAS IT SOMETHING THAT WAS VERY -- THAT YOU
25 COULD SEE YOURSELF, OR NO?

26 A SEE?

27 Q WAS THERE A BLINKING LIGHT, NO
28 TRESPASSING, OR ALARM?

1 A NO. THAT I COULD SEE, NO.

2 Q SO YOU'RE BASING THAT ON WHAT YOU WERE
3 TOLD IN TERMS OF WHETHER OR NOT IT WAS EVEN SET?

4 A YES.

5 Q THE NAILS THAT YOU OBSERVED THAT WERE
6 BROKEN OFF, IS THERE ANY WAY TO TELL FROM LOOKING WHETHER
7 THEY WERE BROKEN OFF -- I'M SPEAKING OF TRUDY THOMPSON'S
8 ACRYLIC NAILS -- AS A RESULT OF THE CONTACT WITH THE
9 GROUND VERSUS CONTACT WITH THE ASSAILANT?

10 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
11 NO FOUNDATION.

12 THE COURT: SUSTAINED.

13 Q BY MS. SARIS: WOULD YOU LOOK FOR ANYTHING
14 SPECIFIC IN LOOKING AT A BROKEN NAIL TO TRY TO DETERMINE
15 HOW IT WAS BROKEN OFF OR IS THAT IMPOSSIBLE?

16 A I WOULD AT THAT SCENE OR UNDER THOSE
17 SIMILAR CIRCUMSTANCES, NO, I WOULDN'T REALLY PERSONALLY
18 TOUCH IT BECAUSE THERE COULD BE PROCESSING TO IT. SO
19 WOULD I UNDER OTHER CIRCUMSTANCES THAT WEREN'T AS
20 INTENSE? MAYBE. BUT THIS TIME I DID NOT, NO.

21 Q DO YOU KNOW WHETHER OR NOT THE FINGERNAILS
22 WERE PROCESSED, BY ANY PERSONAL KNOWLEDGE?

23 A NO, I DON'T.

24 Q WERE YOU AWARE OF A SCREEN THAT WAS
25 PARTIALLY OFF IN ONE OF THE DOORS WITH FRESH PRY MARKS ON
26 IT?

27 A NO.

28 Q WERE YOU EVER TOLD ABOUT THAT AT THE CRIME

1 SCENE?

2 MR. JACKSON: OBJECTION. THAT CALLS FOR HEARSAY.

3 THE COURT: SUSTAINED.

4 MR. JACKSON: ALSO ASSUMES FACTS NOT IN EVIDENCE.

5 THE COURT: SUSTAINED.

6 Q BY MS. SARIS: DID YOU EVER SEE THE CRIME
7 SCENE VIDEO IN THIS CASE?

8 A YES.

9 Q IN THAT VIDEO CAN YOU HEAR SOMEONE
10 ADVISING OFFICER GRIGGS OF THIS?

11 MR. JACKSON: OBJECTION. HEARSAY.

12 THE COURT: SUSTAINED.

13 MS. SARIS: YOUR HONOR, THE MATTER'S NOT OFFERED
14 FOR THE TRUTH.

15 THE COURT: WHAT IS THE OFFER?

16 MR. JACKSON: THEN I THINK WE NEED TO APPROACH.

17 THE COURT: OKAY.

18 (PROCEEDINGS HELD AT SIDE BAR.)

19 THE COURT: WE ARE AT THE SIDE BAR.

20 MS. SARIS: IT'S OFFERED FOR HIS CONDUCT. IF
21 SOMEONE TOLD HIM ABOUT IT AND HE DIDN'T LOOK AT EVERY
22 WINDOW IN TRYING TO ESTABLISH IT, THAT IT'S VERY CLEAR ON
23 THE VIDEOTAPE THAT SOMEONE SAID IT. THAT'S WHY THE
24 PEOPLE DON'T WANT TO USE IT ANYMORE AND I WANT TO FIND
25 OUT IF HE REACTED IN ANY WAY TO THAT, OR IF HE LOOKED AT
26 EVERY SINGLE WINDOW.

27 IT'S GOING TO COME IN THROUGH GRIGGS, BUT
28 I WAS JUST ASKING IF HE INQUIRED.

1 THE COURT: WELL, YOU CAN CERTAINLY ASK THE
2 QUESTION WITHOUT ASKING FOR HEARSAY. I MEAN, IF YOU KNOW
3 WHICH WINDOW, DOOR OR WHATEVER IT WAS, YOU CAN ASK HIM
4 SPECIFICALLY.

5 MS. SARIS: I DON'T KNOW. I KNOW THERE WAS A
6 WINDOW AND A DOOR -- I MEAN, A WINDOW AND A PRY MARK.

7 MR. JACKSON: ACTUALLY, SHE DOESN'T KNOW THAT
8 THERE WAS A WINDOW. SHE KNOWS THAT SHE THINKS SHE HEARS
9 ONE OF THE DETECTIVES OFF CAMERA OFF OF MICROPHONE
10 SUGGESTING THAT THERE MAY BE A PRY MARK WHICH IS WHAT SHE
11 HEARS AND THAT'S NOT NECESSARILY WHAT OTHERS HEAR.

12 MR. DIXON: PRY MARK OR A TIRE MARK. IT'S HARD
13 TO TELL.

14 MR. JACKSON: WE'RE LISTENING TO THE SAME
15 STATEMENT.

16 MS. SARIS: WELL, I HAVE OTHER EVIDENCE --

17 THE REPORTER: COUNCIL, ONE AT A TIME, PLEASE.

18 MR. JACKSON: THANK YOU. I'M SORRY, LORI.

19 THE PROBLEM IS COUNSEL WAS THE ONE THAT
20 OBJECTED TO THE AUDIO OF THE VIDEO AND WE SUBMITTED TO
21 HER REQUEST AND NOW SHE TURNS AROUND AND BLURTS OUT
22 AUDIO. AND, BY THE WAY, SHE DID ASK THE QUESTION WHICH
23 MAY BE PROPER, ARE YOU AWARE OF A SCREEN THAT WAS OFF AND
24 A PRY MARK, HE SAID NO. SO THAT'S THE END OF THE
25 DISCUSSION.

26 THE COURT: I AGREE TO ASK HIM IF HE WAS TOLD
27 THAT IS HEARSAY. I DON'T KNOW WHY ELSE IT WOULD BE
28 OFFERED.

1 MS. SARIS: IF HE WAS TOLD IT AND DIDN'T ACT UPON
2 IT.

3 MR. JACKSON: HE JUST SAID HE WASN'T AWARE OF IT.

4 THE COURT: YES. HE WASN'T -- I THOUGHT HE
5 WASN'T ON THIS VIDEOTAPE.

6 MR. JACKSON: HE'S NOT.

7 THE COURT: ALL RIGHT. SO --

8 MS. SARIS: MY UNDERSTANDING IS HE WAS STANDING
9 THERE WHILE IT WAS BEING FILMED AND THAT WAS THE OFFER OF
10 PROOF FOR THE ORIGINAL --

11 MR. DIXON: THE STATEMENT IS MADE FROM ONE OF THE
12 TWO LEAD DETECTIVES TO THE OTHER AND IT'S SAID IN HUSHED
13 VOICES THAT'S LOWER THAN I'M TALKING NOW. IT'S VERY
14 DIFFICULT TO HEAR AND THE VIDEO SHOWS THAT THIS OFFICER
15 ISN'T CERTAINLY WITHIN REASONABLE EARSHOT OF THE
16 STATEMENT.

17 THE COURT: ALL RIGHT. THE OBJECTION SUSTAINED.

18 MR. JACKSON: THANK YOU.

19 (SIDE BAR CONCLUDED.)

20 THE COURT: YOU MAY CONTINUE.

21 MS. SARIS: THANK YOU.

22 Q DO YOU HAVE ANY PHOTOGRAPHS OF ANY OF THE
23 SCREEN DOORS OR SCREENS ON WINDOWS IN THE THOMPSON HOME?

24 A I DO NOT KNOW.

25 Q DID YOU CAUSE ANY TO BE TAKEN?

26 A NO, I DID NOT.

27 Q HAVE YOU SEEN ANY SINCE YOU WERE AT THE
28 CRIME SCENE?

1 A NO, I HAD NOT.

2 Q YOU INDICATED THAT -- OH, LET ME ASK YOU
3 ANOTHER QUESTION REGARDING THIS ROUTE QUICKLY.

4 THERE WAS A PORTION OF THIS GRAPE STAKE
5 FENCE THAT HAD TWO METAL POLES IN IT AND AN OPENING, DO
6 YOU RECALL THAT?

7 A YES, I DO.

8 Q WAS THAT NEARLY DIRECTLY ACROSS FROM THE
9 WOODLYN LANE GATE AT ROYAL OAKS?

10 A IT WAS ACTUALLY -- YOU MIGHT DESCRIBE
11 CATTY-CORNER OR IT WAS FARTHER EAST OF THE DRIVEWAY.
12 LETTING OUT FROM BRADBURY ESTATES ONTO ROYAL OAKS, YOU
13 WOULD HAVE TO GO A LITTLE TO YOUR LEFT IF YOU WERE
14 PROCEEDING TO ROYAL OAKS FROM WOODLYN.

15 Q YOU SAID THAT YOU WENT INTO MICKEY
16 THOMPSON'S HOME THAT MORNING.

17 DO YOU RECALL THAT TESTIMONY?

18 A YES.

19 Q AND THAT YOU HAD NOTICED I BELIEVE YOU
20 SAID ITEMS OF VALUE?

21 A YES. I WANT TO SAY VALUE, A T.V., YOU
22 KNOW, THINGS THAT MIGHT BE OF VALUE. I DON'T MEAN A PILE
23 OF GOLD OR RUBIES OR SOMETHING.

24 Q LET ME ASK YOU ABOUT GOLD.

25 DID YOU FIND ANY GOLD AT THE CRIME SCENE?

26 A AT A LATER DATE.

27 Q WHERE WAS THAT?

28 A IT WAS IN ANOTHER SAFE.

1 Q AND WHERE WAS THAT SAFE?

2 A WITHIN THE CONFINES OF THE HOUSE.

3 Q AND WHAT TYPE OF GOLD WAS THAT?

4 A IT WAS IN THE FORM OF A STATUE. I
5 BELIEVE IT WAS AN ELEPHANT, KIND OF ORNATE ELEPHANT. IT
6 WAS A FIGURINE.

7 Q DID YOU FIND ANY GOLD COINS OR GOLD BARS?

8 A I DIDN'T, NO.

9 Q DID YOU HAVE ANY REASON TO BELIEVE THAT
10 MICKEY THOMPSON HAD RECENTLY MADE A LARGE PURCHASE OF
11 GOLD COINS?

12 A I HAVE NO KNOWLEDGE OF THAT.

13 Q WOULD THAT FACT HAVE BEEN RELEVANT TO
14 YOU?

15 MR. JACKSON: OBJECTION. THAT CALLS FOR
16 SPECULATION.

17 THE COURT: SUSTAINED.

18 Q BY MS. SARIS: IN YOUR EXPERIENCE AS A
19 ROBBERY HOMICIDE DETECTIVE, IF AN INDIVIDUAL WHO'S
20 VICTIMIZED HAD RECENTLY MADE A LARGE PURCHASE, WOULD THAT
21 BE A FACT THAT WOULD BE IMPORTANT TO YOUR INVESTIGATION?

22 MR. JACKSON: OBJECTION. RELEVANCE. ASSUMES
23 FACTS NOT IN EVIDENCE.

24 THE COURT: SUSTAINED.

25 Q BY MS. SARIS: HAD YOU EVER BEEN INSIDE
26 MICKEY THOMPSON'S HOME PRIOR?

27 A NO.

28 Q HAD YOU EVER BEEN INSIDE MICKEY THOMPSON'S

1 GARAGE PRIOR TO THAT DAY?

2 A NO.

3 Q SO IT'S FAIR TO SAY THAT YOU HAVE NO
4 PERSONAL KNOWLEDGE WHETHER ITEMS WERE STOLEN?

5 A THAT'S TRUE.

6 Q ANY INDICATION AT ALL FROM ANYTHING THAT
7 YOU'VE LEARNED OR SAW AT THE SCENE THAT SILENCERS WERE
8 USED ON THESE WEAPONS?

9 A NO.

10 Q DOES A SILENCER EFFECT A BULLET THAT COMES
11 OUT OF IT?

12 A IT WILL LEAVE ADDITIONAL MARKINGS. I
13 UNDERSTAND THAT IT DISSIPATES SOME OF THE POWER, SO IT
14 LESSENS THE HITTING POWER OF THE PROJECTILE, BUT I'M NOT
15 CERTAIN.

16 MS. SARIS: JUST A MOMENT, PLEASE.

17 (DISCUSSION OFF THE RECORD.)

18 Q BY MS. SARIS: DID YOU TRAVEL THE BIKE
19 PATH THAT WE'RE SPEAKING OF IN A WESTERLY DIRECTION OR
20 ONLY EAST?

21 A OH, NO. BOTH WAYS, YES.

22 Q IS IT FAIR TO SAY, THEN -- LET ME ASK YOU
23 THIS:

24 IS IT ACCURATE THAT WHEN YOU'RE EASTBOUND
25 ON THAT BIKE PATH YOU'RE -- AFTER THE ROYAL OAKS JOG IN
26 THE ROADWAY YOU DESCRIBED -- YOU'RE PARALLEL WITH THE
27 STREET? THE BIKE PATH THAT CHANGES AND BECOMES NORTH?

28 A OH, I'M SORRY. FOR SOME REASON ON MY MIND

1 I HAD WOODLYN LANE TRAVERSAL. COULD YOU ASK THAT AGAIN?
2 I'M SORRY.

3 Q ABSOLUTELY.

4 YOU POINTED OUT A BIKE PATH.

5 A YES.

6 Q AND I THINK WE MIGHT BE ABLE TO SEE THE
7 TAIL END OF IT ON 47 AT THE BOTTOM PHOTOGRAPH. IT SAYS
8 INTERSECTION OF ROYAL OAK AND MT. OLIVE.

9 A YES.

10 Q IS THAT PARALLEL TO THE STREET?

11 A TO ROYAL OAKS?

12 Q IN OTHER WORDS, IS IT THE SAME HEIGHT AS
13 THE STREET?

14 A OH, YES. VERY CLOSE, YES.

15 Q BUT IF YOU GO WESTBOUND FROM WOODLYN, THAT
16 BIKE PATH ACTUALLY IS IN A DITCH AND WHEN ONE IS DRIVING
17 ON THE STREET, ONE CANNOT SEE INTO IT; IS THAT CORRECT?

18 A THAT'S CORRECT. IF YOU WERE RIGHT AT
19 WOODLYN AND ROYAL OAKS YOU MEAN AND GOING EITHER
20 DIRECTION, YOU CANNOT, NO, SEE. IT IS AT A LOWER LEVEL.

21 Q BUT EAST OF ROYAL OAKS AND WOODLYN IT
22 BECOMES AT THE SAME LEVEL AS THE STREET?

23 A YES. IT LEVELS OUT, YES. THEY BECOME ON
24 AN EQUAL LEVEL.

25 Q THE VAN THAT MORNING, YOU HAVE NO WAY OF
26 KNOWING PRIOR TO YOUR ARRIVAL WHAT WAS INSIDE OF THE VAN;
27 IS THAT CORRECT?

28 A PRIOR TO MY ARRIVAL?

1 Q YES.

2 A NO.

3 Q AND YOU DON'T KNOW WHAT WAS IN THE VAN
4 OVERNIGHT AT THE THOMPSON HOME?

5 A NO, I DON'T.

6 Q SO YOU CANNOT TELL US FOR CERTAIN THAT
7 NOTHING WAS TAKEN FROM THAT VAN BY THE INDIVIDUALS?

8 A THAT'S TRUE.

9 MS. SARIS: NOTHING FURTHER AT THIS TIME, YOUR
10 HONOR.

11 THE COURT: REDIRECT?

12 MR. JACKSON: THANK YOU, YOUR HONOR.

13 MAY I HAVE JUST A MOMENT?

14 (DISCUSSION OFF THE RECORD.)

15 MR. JACKSON: YOUR HONOR, MAY WE APPROACH BEFORE
16 I BEGIN MY CROSS-EXAMINATION?

17 (PROCEEDINGS HELD AT SIDEBAR.)

18 THE COURT: ONE AT A TIME.

19 MS. SARIS: YES. THIS IS EASY. I'M NOT FEELING
20 WELL.

21 THE COURT: OKAY. DO YOU WANT TO RECESS FOR THE
22 DAY?

23 MS. SARIS: WELL, WE HAVE A QUESTION ABOUT THE
24 VIDEO. I JUST WANT THE COURT TO KNOW, I THINK I HAVE A
25 FEVER NOW. I'VE BEEN A TROOPER ALL DAY.

26 THE COURT: WELL, WE CAN RECESS.

27 MS. SARIS: HE WANTS TO TALK ABOUT A VIDEO.

28 THE COURT: DO YOU WANT ME --

1 MS. SARIS: IT'S 4:00 O'CLOCK.

2 THE COURT: LET ME SEND THE JURY HOME AND DO YOU
3 THINK YOU'LL BE ABLE TO RESUME TOMORROW MORNING OR WHAT
4 DO YOU THINK?

5 MS. SARIS: MR. SUMMERS TOLD ME I'M SPACEY THIS
6 MORNING BECAUSE I WAS ON MY COLD MEDICATION, BUT I THINK
7 I'LL BE ALL RIGHT.

8 THE COURT: SHOULD I BRING THEM BACK AT 10:30?

9 MR. JACKSON: THEY'VE BEEN HERE ALL WEEK.

10 MS. SARIS: I KNOW.

11 THE COURT: OKAY.

12 (SIDE BAR CONCLUDED.)

13 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
14 SOME BAD NEWS. WE'RE GOING TO HAVE TO RECESS EARLY
15 TODAY. I'M SORRY. I'LL TRY TO MAKE SURE THAT DOESN'T
16 HAPPEN AGAIN. BUT TO MAKE UP FOR IT, WE'LL TRY TO GET
17 STARTED AT 10:30 TOMORROW MORNING.

18 PLEASE REMEMBER ALL THE ADMONITIONS.
19 DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
20 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. DON'T TALK
21 TO ANYBODY CONNECTED WITH THE CASE. STAY AWAY FROM THE
22 LOCATIONS INVOLVED. AND PLEASE DON'T READ OR LISTEN TO
23 ANY ACCOUNTS OF THE CASE REPORTED IN THE MEDIA.

24 WE WILL SEE YOU TOMORROW MORNING AT 10:30.
25 HAVE A GOOD EVENING.

26 (THE JURY LEFT THE COURTROOM.)

27 THE COURT: ALL RIGHT. ANY NEED TO HAVE
28 DETECTIVE VERDUGO REMAIN?

1 MR. JACKSON: NO, YOUR HONOR, NOT FOR OUR
2 DISCUSSION.

3 THE COURT: 10:30 TOMORROW, WE WILL SEE YOU THEN.

4 MS. SARIS: ACTUALLY I'M NOT SURE -- WE'RE GOING
5 TO TALK ABOUT THE VIDEO NOW?

6 MR. JACKSON: YES, WE'RE GOING TO TALK ABOUT THE
7 VIDEO.

8 MS. SARIS: BECAUSE THERE MAY BE SOMETHING ABOUT
9 HIS PERSONAL KNOWLEDGE OF WHETHER HE SAW THAT BEING
10 FILMED.

11 MR. JACKSON: LET ME SAY THIS. THE JUDGE DOESN'T
12 KNOW WHAT WE'RE TALKING ABOUT.

13 YOUR HONOR, THERE IS -- AS I COUNTED IT --
14 44 SECONDS OF THE CRIME SCENE VIDEO THAT NEED NO AUDIO
15 WHATSOEVER AND I WOULD STIPULATE TO TURN THAT COMPLETELY
16 DOWN, OR IF I CAN OVERNIGHT, HAVE MY OFFICE CUT IT WITH
17 NO AUDIO, WHATEVER THE COURT REQUESTS.

18 I HAVE PREVIOUSLY ASKED THE DETECTIVE AND
19 THE COURT COULD INQUIRE OR COUNSEL CAN INQUIRE AT THIS
20 JUNCTURE IF HE'S SEEN THE VIDEO AND THAT 44 SECONDS THAT
21 SHOWS OF THE BLOOD TRAIL THAT HAS BEEN AT ISSUE THAT
22 MS. SARIS MADE KIND OF POINTED REMARKS ABOUT NOT BEING
23 PHOTOGRAPHED OR VIDEOED, AND WHERE IT IS. HE WILL
24 ESTABLISH THE FOUNDATION, YES, THOSE ARE THE BLOOD TRAILS
25 I'VE TALKED ABOUT. THOSE ARE WHAT'S DESCRIBED, NOT TO
26 SCALE ON THE DIAGRAM. THAT'S IT. AND IT'S, LIKE I SAID,
27 44, 45 SECONDS.

28 THE COURT: DO WE NEED TO DISCUSS ANYTHING ELSE

1 ON THAT?

2 MS. SARIS: POTENTIALLY A 356 ISSUE. WE WERE
3 JUST TOLD ABOUT THIS, SO I DON'T KNOW.

4 THE COURT: ALL RIGHT.

5 MR. JACKSON: WELL, THEY WEREN'T JUST TOLD ABOUT
6 THE VIDEO. THEY'VE HAD THE VIDEO FOR TWO AND A HALF
7 YEARS. THE REASON I'M BRINGING THIS UP --

8 THE COURT: LET ME HAVE THE DETECTIVE STEP
9 OUTSIDE FOR JUST A MOMENT AND WE WILL TRY TO FIGURE OUT
10 WHAT WE NEED FROM HIM, IF ANYTHING.

11 MR. JACKSON: SURE.

12 THE COURT: ALL RIGHT. DETECTIVE VERDUGO HAS
13 LEFT OF THE COURTROOM.

14 I RECALL THAT THERE WAS REFERENCE TO IT,
15 THOUGH, ALREADY IN THE CROSS-EXAMINATION.

16 MS. SARIS: THERE IS. LET ME EXPLAIN TO THE
17 COURT WHAT OUR PROBLEM WITH THE VIDEO IS. WITHOUT
18 CONTEXT, IT ACTUALLY SAYS ON IT THERE'S BLOOD AROUND THE
19 BODY. WE DON'T DISPUTE THERE'S A TRAIL. WE JUST SAY
20 IT'S NOWHERE NEAR THE GARAGE, IT'S IN A DIFFERENT
21 LOCATION THAN WHERE IT'S BEEN PORTRAYED. AND THE
22 INDIVIDUAL IS STANDING AND HE GOES IN A CIRCLE, BUT
23 THERE'S NO CONTEXT TO WHERE HE'S STANDING. SO IT'S VERY
24 DECEPTIVE IF ONE DOESN'T KNOW WHERE HE'S STANDING.

25 AND WITHOUT DETECTIVE GRIGGS WHO'S MAKING
26 THE VIDEO, THIS INDIVIDUAL HAD NO WAY OF KNOWING WHERE HE
27 WAS.

28 THE COURT: YOU MEAN THIS BEING DETECTIVE

1 VERDUGO?

2 MS. SARIS: DETECTIVE VERDUGO. IN OTHER WORDS,
3 TO ORIENT US IN THE VIDEO. IT'S JUST A GUY GOING IN A
4 CIRCLE.

5 MR. JACKSON: YOUR HONOR, I HAVE TO TAKE ISSUE
6 WITH THAT. COUNSEL HAS SHOWN -- AT ANY TIME WE'RE USING
7 VIDEOS, COUNSEL HAS SHOWN THE DETECTIVE FOUR OR FIVE
8 INCREDIBLY -- AND I DON'T MEAN THAT MS. SARIS IS BEING
9 MISLEADING, SHE'S NOT AT ALL, BUT SHE'S A GOOD TRIAL
10 LAWYER -- SHE'S SHOWING HIM PICTURES THAT ARE INCREDIBLY
11 MISLEADING. THEY'RE TWO DIMENSIONAL PHOTOGRAPHS THAT
12 SUPPORT HER POSITION THAT THE BLOOD STAINS WEREN'T
13 PHOTOGRAPHED. THE VIDEO SPEAKS FOR ITSELF.

14 THE COURT: I THINK -- AGAIN, I THINK THAT WAS
15 TOUCHED ON IN CROSS-EXAMINATION IN A NUMBER OF WAYS. IT
16 MAY BE SOMEWHAT UNCLEAR AS TO THE CONTEXT, BUT I CAN'T
17 PRECLUDE THE PEOPLE FROM SHOWING IT TO DETECTIVE VERDUGO.
18 IT'S PROPER REDIRECT.

19 MS. SARIS: I HAVE NO ISSUE WITH ANY OF THOSE
20 THINGS AS THEORIES. I MEAN, I KNOW WE'RE RIGHT ABOUT
21 WHERE WE THINK IT IS. I THINK THE PROPER WITNESS TO CALL
22 FOR THIS IS GRIGGS AND THEY'RE JUST TRYING TO AVOID
23 CALLING HIM, YET, BRINGING IN SOME OF THE HIS SORT OF
24 TESTIMONIAL INFORMATION. MY PROBLEM WITH THIS DETECTIVE
25 DOING IT IS IN RELATION TO THE VIDEO, WITHOUT THE WHOLE
26 VIDEO, AND NOW WE'RE IN A POSITION WHERE WE HAVE TO, I
27 GUESS, THINK ABOUT WHETHER OR NOT WE HAVE A 356
28 OBJECTION, WHICH QUITE FRANKLY I CAN'T GET MY HEAD AROUND

1 RIGHT THIS MOMENT.

2 THE COURT: OKAY. BUT JUST SO I'M CLEAR, SOME OF
3 THE PHOTOS THAT WERE INTRODUCED WERE PHOTOS TAKEN FROM
4 THE VIDEO; RIGHT?

5 MS. SARIS: THEY WERE. AND THE PHOTOS ALSO WERE
6 TAKEN FROM HAROLD EXAMINER. YOU KNOW, THOSE PEOPLE THAT
7 ARE IN CONSPIRACY WITH ME TO MISLEAD THE JURY?

8 MR. JACKSON: NO, NO, THAT'S NOT WHAT I MEANT.
9 IF THAT WAS THE IMPRESSION, I DID NOT MEAN THAT AT ALL.

10 THE COURT: ALL RIGHT. MY FEELING IS THAT IF THE
11 SOUND IS OFF, THE PEOPLE SHOULD BE PERMITTED TO PLAY OR
12 SHOW SOME OF IT. IT'S PROPER REDIRECT IN RESPONSE TO THE
13 CROSS-EXAMINATION.

14 IF THERE'S ANYTHING ELSE WE NEED TO
15 DISCUSS ABOUT THAT OR ANY FURTHER OBJECTIONS, WE CAN DO
16 SO AT 10:00 O'CLOCK TOMORROW.

17 MR. JACKSON: OKAY. YOUR HONOR, I WILL TRY TO
18 HAVE THAT CUT SO THAT WE CAN JUST HAVE ONE VIDEO OF IT,
19 OR IF I CAN'T BY TOMORROW, THEN I'LL JUST PLAY THAT
20 PORTION AND PHYSICALLY STOP IT.

21 THE COURT: YOU CAN JUST PLAY IT TOMORROW AND
22 THEN JUST CUT BEFORE --

23 MR. DIXON: WE'RE GOING TO SEE IF WE CAN'T DO IT.

24 MR. JACKSON: OKAY.

25 THE COURT: OFF THE RECORD.

26

27 (THE MATTER WAS CONTINUED TO THURSDAY,
28 NOVEMBER 30, 2006 AT 10:30 A.M.)

(NEXT PAGE IS 5701.)

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B197574

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL
JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE TERI SCHWARTZ, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL
REDACTED = PURSUANT TO 237(A)(2)
NOVEMBER 30 AND DECEMBER 4, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 16 OF 24
PAGES 5701 THRU 5736/6000
6001 THRU 6109/6300

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, NOVEMBER 30, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ON THE RECORD IN THE GOODWIN CASE.
20 MR. GOODWIN IS NOT PRESENT YET. HIS COUNSEL ARE HERE,
21 THE PEOPLE ARE REPRESENTED AND THE JURORS ARE DOWN IN THE
22 JURY ROOM.

23 I'M TOLD THAT THERE IS A MATTER THAT WE
24 NEED TO DISCUSS OUTSIDE THE PRESENCE OF THE JURY, AND
25 MS. SARIS, DO YOU WISH ME TO DISCUSS THIS AT THIS TIME
26 WITHOUT MR. GOODWIN HERE?

27 MS. SARIS: THIS WAS AN ISSUE -- YES, I WILL
28 WAIVE HIS PRESENCE FOR THIS PORTION OF THIS HEARING.

1 WE HAD TALKED ABOUT A VIDEOTAPE OF A CRIME
2 SCENE YESTERDAY. MR. GOODWIN IS AWARE OF THIS ISSUE.
3 AND IT WOULD INVOLVE THE COURT HAVING TO WATCH IT, WHICH
4 MR. GOODWIN WOULD PROBABLY NOT BE PRESENT FOR ANYWAY.

5 SO IF WE COULD PUT THE PRELIMINARY REMARKS
6 ABOUT THIS ON THE RECORD AND THEN WHEN HE GETS HERE, THE
7 DECISION -- ESSENTIALLY, WE HAVE A 356 OBJECTION TO A
8 PORTION THE TAPE BEING SHOWN WITHOUT THE WHOLE. AND THE
9 REASON BEING, WHILE THE 44 SECONDS WE'VE SEEN THAT THE
10 DISTRICT ATTORNEY WANTS TO PRESENT ONLY SHOWS THE BLOOD
11 ON THE GROUND, IT LACKS CONTEXT IN TERMS OF WHERE THE
12 CAMERAMAN IS STANDING. AND THE WHOLE TAPE SHOWS THEM
13 WALKING THROUGH THE SCENE. AND ONE CAN GET A BETTER VIEW
14 OF WHERE THINGS ARE IN RELATION TO ONE ANOTHER.

15 AND THE GIST IS, I DON'T KNOW THAT THE
16 COURT CAN MAKE THAT DETERMINATION WITHOUT SEEING IT
17 BECAUSE YES, ON THE ONE HAND IT IS A VERY SHORT PART --
18 JUST OF BLOOD ON THE GROUND, BUT ON THE OTHER HAND, THE
19 ACTUAL GROUND NEEDS CONTEXT. AND WHERE THE BODY IS IN
20 RELATION TO THE GARAGE, AND ALL THAT NEEDS CONTEXT. AND
21 THAT'S WHAT THE WHOLE THE VIDEO IS.

22 THE COURT: BUT LET ME JUST SEE IF I UNDERSTAND
23 CORRECTLY. THERE WAS SOME MENTION YESTERDAY OF A --
24 WHAT, 40-SECOND SNIPPET OF A VIDEO THAT WOULD --

25 MR. JACKSON: THAT'S CORRECT.

26 THE COURT: -- BE PRESENTED WITHOUT ANY AUDIO.

27 MR. JACKSON: THAT'S CORRECT, YOUR HONOR.

28 THE COURT: AND THAT WAS SOLELY ON THE ISSUE OF

1 THE BLOOD STAINS OR THE BLOOD AND THE LOCATION WHERE THE
2 BLOOD WAS FOUND.

3 MR. JACKSON: CORRECT.

4 THE COURT: AND SO THE DEFENSE OBJECTION IS THAT,
5 YOU BELIEVE, MS. SARIS, THAT THE PEOPLE SHOULD BE
6 REQUIRED TO PLAY THE ENTIRE TAPE?

7 MS. SARIS: WITHOUT AUDIO. AND -- BECAUSE I
8 DON'T KNOW HOW TO DO IT WITHOUT SHOWING THE COURT, BUT
9 IT'S AN INDIVIDUAL STANDING IN A PARTICULAR PLACE APPEARS
10 TO GO IN A CIRCLE TO SHOW BLOOD ON THE GROUND AROUND HIM,
11 BUT WHEN YOU PAN OUT YOU CAN SEE THAT THAT'S SOME
12 DISTANCE FROM THE GARAGE AND THAT THERE ARE SEVERAL
13 PEOPLE WALKING IN FRONT OF THE GARAGE WHERE THE STAINS
14 SUPPOSEDLY ARE LAID OUT IN THE DIAGRAM.

15 AND IF YOU ONLY TAKE THE SNIPPET, IT
16 APPEARS AS IF THE PERSON IS RIGHT UP NEXT TO THE GARAGE
17 AND THAT THOSE BLOOD DROPLETS COULD BE RIGHT DIRECTLY
18 SOUTH OF THE GARAGE DOOR. BUT IF YOU BACK UP AND PAN, I
19 CAN -- MAYBE FROM ITEM -- EVIDENCE ITEM 12 ONWARD, IF THE
20 COURT THINKS IT'S TOO LONG, IT'S ONLY 26 MINUTES, BUT WE
21 WOULD AGREE TO AT LEAST EVIDENCE ITEM 12 ONWARD BECAUSE
22 THAT WILL SHOW -- THAT DOES GIVE CONTEXT.

23 THE COURT: BUT THIS IS THE THING, I MEAN,
24 PROCEDURALLY IT'S NOT THE PEOPLE THAT HAVE TO PLAY IT.
25 IT'S THE DEFENSE, ISN'T IT? I MEAN, 356 PERMITS INQUIRY
26 BY AN ADVERSE PARTY INTO THE WHOLE, SO IT'S NOT SOMETHING
27 THAT WOULD NECESSARILY HAVE TO BE ADDRESSED AT THIS TIME.

28 MS. SARIS: OUR OBJECTION IS THAT PLAYING ONLY A

1 PORTION WITHOUT HAVING THE JURY ORIGINALLY SEEN THE
2 ENTIRETY IS MISLEADING. AND WHEREAS IN MOST
3 CONVERSATIONS OR STATEMENTS ONE COULD GET UP AND GIVE THE
4 CONTEXT, IN A VIDEO IT'S INAPPROPRIATE TO DO THAT FIRST.

5 I UNDERSTAND THAT NORMALLY IF SOMEONE WERE
6 TO MAKE A QUOTE, WE WOULD BE ALLOWED TO READ THE ENTIRE
7 LETTER AFTER THE PEOPLE WENT. BUT IN THIS CONTEXT, I
8 THINK THE -- BECAUSE OF THE TESTIMONY SO FAR, THE PORTION
9 IS MISLEADING IN AND OF ITSELF OUT OF THE CONTEXT
10 ORIGINALLY.

11 OBVIOUSLY WE'LL PLAY THE WHOLE THING ON
12 RECROSS. WE'RE GOING TO SET UP THE WHOLE MACHINE ANYWAY.
13 IT'S GOING TO COME OUT, SO --

14 THE COURT: OKAY.

15 MS. SARIS: -- I GUESS THAT'S TRUE IN THAT SENSE,
16 I MEAN, IT'S GOING TO COME OUT EVENTUALLY, BUT --

17 THE COURT: WELL, I MEAN, DO I -- IS THERE AN
18 ISSUE AS TO WHETHER OR NOT THE DEFENSE CAN PRESENT THE
19 REST OF THE TAPE?

20 MR. JACKSON: YOUR HONOR, I DON'T HAVE -- MY
21 POSITION IS SIMPLY THIS -- AND TAKE THIS FOR WHAT IT'S
22 WORTH.

23 THE DEFENSE CROSS-EXAMINED REY VERDUGO
24 EXTENSIVELY ABOUT THE LOCATION OF THE BLOOD STAINS AND
25 THE INACCURACY OF THE DIAGRAM AND THE BLOOD STAINS IN
26 RELATION TO -- THE ACTUAL BLOOD STAINS IN THE DIAGRAM IN
27 RELATION TO ONE ANOTHER. I HAVE A VIDEO -- A LIVE VIDEO
28 SHOWING THOSE BLOOD STAINS. I SIMPLY WANT TO

1 REHABILITATE, IF YOU WILL, THE DIAGRAM AND THE ACCURACY,
2 IF NOT TO SCALE, OF THE DIAGRAM THAT WAS ATTACKED ON
3 CROSS-EXAMINATION. THAT'S THE PART I WANT TO SHOW. IT'S
4 PRETTY SIMPLE.

5 SO THE SUBJECT MATTER, I'M NARROWING IT TO
6 TRY TO ADDRESS A SINGULAR ISSUE THAT WAS ADDRESSED BY THE
7 DEFENSE.

8 THE COURT: RIGHT. BUT IF, IN FACT, THE DEFENSE
9 WISHES TO SHOW ANOTHER PORTION --

10 MR. JACKSON: I'M SORRY, JUDGE.

11 THE COURT: -- IF THE DEFENSE WISHES TO PRESENT
12 ANOTHER PORTION OF THAT TAPE --

13 MR. JACKSON: YES, YOUR HONOR.

14 THE COURT: -- IS IT YOUR POSITION THAT THEY
15 SHOULD BE PRECLUDED FROM DOING SO?

16 MR. JACKSON: THE ONLY PART THAT I WOULD HAVE ANY
17 HARD PART WITH -- AND IF SHE WANTS TO SHOW RELATIONAL
18 LANDMARKS, IF YOU WILL, I DON'T CARE. I MEAN, THE CRIME
19 SCENE IS THE CRIME SCENE. IT'S NOT LIKE THE VIDEO HAS
20 BEEN DOCTORED. IT IS WHAT IT IS.

21 THE ONLY HARD PART I WOULD HAVE IS IF THE
22 DEFENSE, THEN, SOUGHT TO PLAY THE AUDIO PORTION OF IT
23 WHICH WAS HER OBJECTION THAT KEPT US FROM PLAYING IT
24 YESTERDAY.

25 THE COURT: SO IT'S ONLY -- MS. SARIS, I WILL BE
26 HAPPY TO VIEW THE TAPE. I JUST WANT TO KNOW WHAT IT IS
27 YOU WANT TO PRESENT ON THE TAPE.

28 MS. SARIS: WELL, WE'VE NEVER BEEN PROVIDED A

1 COLOR COPY OF THE TAPE, SO WE WOULD LIKE A COPY PROVIDED
2 SO THAT WE COULD CUE THAT ONE UP. WE WOULD LIKE TO
3 PRESENT TWO PORTIONS AND THEN IT'S GOING TO BE A LITTLE
4 BIT DIFFICULT IN TERMS OF LOGISTICS TO STOP AND START AND
5 REWIND, BUT WE'RE TRYING TO SHOW CONTEXT TO WHAT THE
6 PEOPLE ARE PRESENTING. AND IF THE COURT WOULD GIVE US
7 SOME LEEWAY IN TERMS OF MAYBE TAKING A BREAK AFTER THE
8 FIRST PORTION, WE COULD SET UP THE SECOND PORTION WHICH
9 WILL ALSO SAVE SOME TIME, ACTUALLY, BUT IT'S OUR POSITION
10 THAT TAKING A SNIPPET OUT OF CONTEXT IS INAPPROPRIATE
11 UNDER ANY CIRCUMSTANCES.

12 THE COURT: WELL, AGAIN, I'M A STICKLER FOR THE
13 RULES. IT SEEMS TO ME 356 DOES NOT PRECLUDE YOU FROM
14 PRESENTING THE REST OF THE VIDEO IF, IN FACT, IT'S
15 NECESSARY OR RELEVANT ON AN ISSUE PRESENTED. AND YOUR
16 POSITION IS THAT IT GIVES CONTEXT AND I THINK THAT'S
17 CERTAINLY IMPORTANT.

18 SO I'M NOT GOING TO FORCE THE PEOPLE TO
19 PLAY THE WHOLE TAPE AND I'M NOT GOING TO PREVENT THEM
20 FROM PLAYING A PORTION, AS LONG AS THE AUDIO IS TURNED
21 OFF. THEN ON CROSS, OR YOUR CASE IN CHIEF, YOU WILL BE
22 FREE TO LIKEWISE PRESENT WHATEVER IT IS YOU WISH TO
23 PRESENT AND IT DOES APPEAR TO BE RELEVANT. SO I DON'T
24 SEE ANY PROBLEM HERE. IT'S JUST IN THE ORDER IN WHICH
25 IT'S PRESENTED.

26 MR. DIXON: YOUR HONOR, I WAS GOING TO MAKE
27 PERHAPS A SUGGESTION. I DON'T KNOW IF THE COURT IS
28 THINKING THIS, BUT FOR THE RECORD, IT'S A BACKUP TO THE

1 SMALL PORTION THAT WE'RE GOING TO PLAY WHICH IS ON A
2 SEPARATE CASSETTE, WE COULD MARK THE ORIGINAL AS A
3 COURT'S EXHIBIT SO THAT THE RECORD IS BACKED UP. AND
4 THEN COUNSEL COULD PLAY THAT PORTION IF SHE LIKES.

5 THE COURT: RIGHT.

6 MS. SARIS: THAT'S FINE.

7 MR. DIXON: OR EVEN MARK IT AS A PEOPLE'S
8 EXHIBIT.

9 THE COURT: AND I'M ASSUMING IT'S A REGULAR OLD
10 FASHIONED VIDEOTAPE AND I DON'T HAVE A PLAYER. I'M
11 ASSUMING THAT THE PLAYER --

12 MR. JACKSON: WE HAVE ONE.

13 THE COURT: -- THAT YOU HAVE HAS A NUMBER COUNT
14 ON IT SO THAT THE PORTIONS THAT ARE PLAYED CAN BE
15 REFERENCED BY THE TIME. YOU KNOW, THE TIME THAT'S
16 STAMPED ON THE VIDEO.

17 MR. JACKSON: IT DOES. IF YOU START IT, IF YOU
18 REWIND IT -- IT'S KIND OF A DUMB PLAYER, IF YOU REWIND IT
19 TO ITS VERY BEGINNING, THEN PUSH PLAY, YOU CAN SEE THE
20 NUMBERS THAT -- IT JUST STARTS COUNTING SECONDS AND
21 MINUTES.

22 THE COURT: SO WE WILL BE ABLE TO IDENTIFY FOR
23 THE RECORD THE PORTIONS THAT ARE BEING PLAYED. AND I'LL
24 TAKE AS COURT'S EXHIBIT OR PEOPLE'S OR DEFENSE'S EXHIBIT,
25 THE ENTIRETY.

26 MR. DIXON: I'M THINKING ABOUT THIS, MAYBE EVEN A
27 BETTER IDEA IS THAT WE PERHAPS DEFER THAT IN BETWEEN NOW
28 AND MONDAY. WE WILL MAKE A COPY OF THIS WITHOUT THE

1 AUDIO PORTION SO THAT THAT WAY IF SOMEHOW THE JURORS ASK
2 FOR IT OR IT GETS THERE, WE DON'T HAVE TO WORRY ABOUT THE
3 SOUND PORTION.

4 MR. JACKSON: OVERNIGHT WE WERE ABLE TO
5 FACILITATE MAKING OUR PORTION THAT I INTEND TO PLAY ON
6 REDIRECT WITH NO AUDIO AND JUST THOSE 44 OR 45 SECONDS.
7 BUT IT WOULD BE IMPORTANT IF THE JURY'S EVER GOING TO GET
8 THEIR HANDS ON THIS, THAT IT HAVE NO AUDIO TRACK
9 WHATSOEVER.

10 THE COURT: RIGHT. OKAY.

11 MS. SARIS: AND MAYBE IF -- WELL, IT'S ALMOST
12 11:00. I DON'T KNOW WHEN WE EXPECT MR. GOODWIN. I WAS
13 GOING TO SAY IF I GET A COLOR COPY, I MIGHT BE ABLE TO
14 MAKE AN EDITED VERSION OF OURS.

15 MR. JACKSON: THERE YOU GO.

16 THE COURT: LET ME JUST INDICATE WHAT HAPPENED
17 THIS MORNING AND WHY MR. GOODWIN ISN'T HERE.

18 I WAS INFORMED THAT MR. GOODWIN DID NOT
19 ARRIVE ON THE BUS THIS MORNING. AND WHEN INQUIRY WAS
20 MADE, IT WAS DISCOVERED THAT ONE OF THE COURT'S PREVIOUS
21 MEDICAL ORDERS WAS BEING COMPLIED WITH AND THAT
22 MR. GOODWIN WAS IN THE PROCESS OF HAVING AN M.R.I. I'M
23 ASSUMING IT IS PERTAINING TO HIS BACK, OR HIS LOWER BACK
24 PROBLEMS. I DON'T RECALL ANY OTHER ORDERS.

25 MS. SARIS: I DON'T KNOW IF THEY'LL DO AN M.R.I.
26 FOR HIS OCULAR. I DON'T KNOW IF THEY DO ONE OF HIS EYE.
27 CAN YOU DO ONE OF THOSE FOR YOUR BRAIN AND YOUR EYE? I
28 DON'T KNOW.

1 THE COURT: WELL, YOU CAN. I WAS ASSUMING IT WAS
2 FOR HIS BACK. DID I SIGN AN ORDER FOR AN M.R.I. FOR HIS
3 EYES?

4 MS. SARIS: WELL, YOU JUST SIGNED AN ORDER FOR
5 HIM TO SEE A UROLOGIST. I DON'T KNOW WHAT THEY
6 RECOMMENDED. I DON'T REMEMBER A SPECIFIC M.R.I. ORDER AT
7 ALL. I THINK THIS IS ALL BASED ON THE ORDER THAT YOU
8 SIGNED FOR THE DOCTORS AND THEY MUST HAVE RECOMMENDED
9 ONE.

10 THE COURT: I WAS UNDER THE ASSUMPTION THAT IT
11 WASN'T A LIFE THREATENING TYPE OF SITUATION AND I DID
12 ISSUE AN ORDER THAT HE BE IMMEDIATELY REMOVED FROM
13 L.C.M.C. AND THEN TO COURT. AND SO A DEPUTY IS DOWN
14 THERE ATTEMPTING TO COMPLY WITH THE COURT'S ORDER. IT'S
15 A QUARTER TO 11:00. I'M HOPEFUL THAT HE'LL BE HERE
16 BEFORE NOON. BUT THAT IS WHAT HAPPENED. I'M HAPPY TO
17 ISSUE ANOTHER ORDER FOR AN M.R.I. ON A DAY WHEN WE'RE NOT
18 IN SESSION. SO THE RECORD IS CLEAR.

19 ALL RIGHT. LET'S TAKE A BREAK AT THIS
20 POINT AND WE WILL WAIT AND SEE IF -- I ASSUME THAT -- DO
21 YOU WANT ME TO LOOK AT THE VIDEO NOW OR NOT?

22 MS. SARIS: ONLY IF YOU WANT TO -- NO, I'M FINE.
23 BECAUSE WHAT I'LL DO NOW IS WITH THE COLOR COPY, I'LL GO
24 GET THE PORTIONS THAT I WANT. THIS IS GOING TO COME IN,
25 IN ITS ENTIRETY WITH DEPUTY GRIGGS EVENTUALLY.

26 MR. JACKSON: WE WILL SEE.

27 THE COURT: ALL RIGHT. SO WE'LL JUST BE A
28 MINUTE.

1 (PAUSE IN PROCEEDINGS.)

2 (THE JURY ENTERED THE COURTROOM

3 AND THE FOLLOWING PROCEEDINGS WERE

4 HELD IN OPEN COURT.)

5 THE COURT: GOOD MORNING. LADIES AND GENTLEMEN
6 OF THE JURY, I GUESS I HAVE NO CREDIBILITY AT THIS POINT.
7 I LET YOU GO EARLY YESTERDAY, I TOLD YOU YOU WERE GOING
8 TO BE BACK EARLY TODAY. I APPRECIATE YOUR PATIENCE. I
9 THINK THE CLERK INDICATED TO YOU ALREADY THAT WE'RE
10 PROBABLY NOT GOING TO HAVE TO BE IN SESSION TOMORROW. SO
11 JUST SO YOU KNOW, THAT'S PART OF WHAT WE'RE TRYING TO DO
12 TODAY.

13 OKAY. SO THE RECORD SHOULD REFLECT THAT
14 THE JURORS AND ALTERNATES ARE PRESENT AND THE PARTIES ARE
15 PRESENT. DETECTIVE VERDUGO IS STILL ON THE WITNESS
16 STAND.

17 SIR, YOU'VE BEEN PREVIOUSLY SWORN. YOU'RE
18 REMINDED YOU'RE STILL UNDER OATH.

19 THE WITNESS: THANK YOU, YOUR HONOR.

20 THE COURT: CAN YOU JUST STATE YOUR NAME AGAIN
21 FOR THE RECORD.

22 THE WITNESS: REYNOLD VERDUGO.

23 THE COURT: THANK YOU.

24 MS. SARIS: I HAD A FEW QUESTIONS OF A FEW
25 PHOTOS.

26 ///

27 ///

28 ///

1 CROSS-EXAMINATION (RESUMED)

2 BY MS. SARIS:

3 Q GOOD MORNING, MR. VERDUGO.

4 A MORNING.

5 Q I KNEW YOU THOUGHT YOU WERE DONE, I JUST
6 HAVE A COUPLE OF PHOTOGRAPHS THAT I WOULD LIKE TO -- ONE
7 OF THEM IS ACTUALLY JUST A SMALLER PHOTOGRAPH AND I WOULD
8 LIKE TO MARK IT DEFENSE NEXT IN ORDER. IT HAS THE NUMBER
9 220 ON IT.

10 THE COURT: OKAY. PP.

11 MS. SARIS: PP.

12 (MARKED FOR IDENTIFICATION DEFENSE
13 EXHIBIT NO. PP, PHOTO.)

14 Q BY MS. SARIS: IT'S THE SAME AS PHOTOGRAPH
15 55A AND I'M GOING TO BRING IT UP TO YOU AND COULD YOU
16 TAKE A LOOK AT THAT AND IDENTIFY THAT FOR ME, PLEASE.

17 A YES. THIS APPEARS TO BE A COPY OF A PHOTO
18 AS DEPICTED IN "A."

19 Q AND 55A YOU CAN SEE THE BODY OF TRUDY
20 THOMPSON AT THE BASE OF THE DRIVEWAY?

21 A YES, I CAN.

22 Q AND CAN YOU SEE MICKEY THOMPSON'S BODY IN
23 THAT PHOTOGRAPH?

24 A NO.

25 MS. SARIS: AND I WOULD LIKE ANOTHER PHOTOGRAPH
26 MARKED, YOUR HONOR, QQ IS THE NEXT ONE. IT'S GOT A 193.

27 THE COURT: A PHOTOGRAPH?

28 MS. SARIS: YES.

1 THE COURT: THAT WILL BE MARKED QQ.

2 (MARKED FOR IDENTIFICATION DEFENSE

3 EXHIBIT NO. QQ, PHOTO.)

4 Q BY MS. SARIS: IT'S VERY DIFFICULT TO SEE
5 IN THE OVERHEAD, I'M GOING TO TRY TO FIX THE LAMP.

6 DOES THAT LOOK TO BE THE THOMPSON HOUSE TO
7 YOU?

8 A YES.

9 Q AND IN THE TOP LEFT PORTION OF THAT
10 PHOTOGRAPH -- I'M GOING TO ASK FOR IT BACK, I THINK I
11 NEED TO FIX THE LAMP UNDERNEATH.

12 DO YOU SEE THE SHEETED BODY OF MICKEY
13 THOMPSON?

14 A NO.

15 Q I'M GOING TO DRAW YOUR ATTENTION TO THE
16 MIDDLE OF THIS PHOTOGRAPH. THERE SEEMS TO BE AN OBJECT
17 IN WHITE TO THE LEFT-HAND SIDE OFF OF THE FENCE.

18 DOES THAT APPEAR TO BE A SHEET TO YOU, OR
19 NO?

20 A I'M SORRY?

21 Q IF IT DOESN'T, JUST SAY THAT.

22 A NO, IT DOESN'T.

23 Q OKAY.

24 MS. SARIS: I HAVE ANOTHER PHOTOGRAPH, YOUR
25 HONOR, I WOULD LIKE TO MARK RR.

26 THE COURT: ALL RIGHT.

27 (MARKED FOR IDENTIFICATION DEFENSE

28 EXHIBIT NO. RR, PHOTO.)

1 Q BY MS. SARIS: AND DO YOU RECOGNIZE THAT
2 PHOTOGRAPH THAT'S BEEN MARKED DEFENSE RR AS BEING FROM
3 THE CRIME SCENE THAT MORNING?

4 A IT APPEARS TO BE THAT, YES.

5 Q AND TELL ME WHAT APPEARS IN THE BACK OF
6 THAT PHOTOGRAPH?

7 A OH, IT APPEARS TO BE A DRAIN OR A -- I
8 DON'T KNOW -- A SPOUT OF SOME SORT, LIKE A FIRE HOSE
9 OPENING. I'M NOT SURE, BUT IT'S SOME TYPE OF OUTLET.

10 MS. SARIS: YOUR HONOR, I HAVE ANOTHER PHOTOGRAPH
11 I WOULD LIKE TO MARK SS.

12 THE COURT: SO MARKED.

13 (MARKED FOR IDENTIFICATION DEFENSE
14 EXHIBIT NO. SS, PHOTO.)

15 Q BY MS. SARIS: NOW, I RECOGNIZE THIS ISN'T
16 FROM THE DAY IN QUESTION, BUT DO YOU STILL RECOGNIZE THIS
17 AS THE GARAGE APRON PORTION OF WHERE THE DRIVEWAYS COME
18 TOGETHER IN THE THOMPSON HOME?

19 A YES, IT APPEARS TO BE.

20 Q AND DO YOU SEE IN THAT PHOTOGRAPH THAT
21 DRAIN THAT YOU'VE DESCRIBED IN BASICALLY THE UPPER
22 PORTION IN THE MIDDLE?

23 A YES. IT APPEARS TO BE, YES.

24 MS. SARIS: AND I HAVE ANOTHER PHOTOGRAPH, YOUR
25 HONOR, I WOULD LIKE TO MARK TT.

26 THE COURT: YES, SO MARKED.

27 (MARKED FOR IDENTIFICATION DEFENSE
28 EXHIBIT NO. TT, PHOTO.)

1 Q BY MS. SARIS: DOES THIS DEPICT THE DRIVE
2 THAT COMES DOWN THE BACK OF THE THOMPSON PROPERTY AND THE
3 SLOPE THAT YOU'VE DESCRIBED THAT ENTERS ONTO WOODLYN
4 LANE?

5 A YES, IT DOES.

6 Q IF YOU WERE TO WALK UP THIS DRIVEWAY IN
7 THE DIRECTION OF THE PICTURE THAT MORNING, WOULD YOU SEE
8 MICKEY THOMPSON'S BODY ON THE RIGHT IN THIS PHOTOGRAPH?

9 A IF I WERE TO CONTINUE WALKING UP --

10 Q TOWARDS THE HOUSE?

11 A EVENTUALLY, YES, IF HIS BODY WERE THERE,
12 YES.

13 Q AND DO YOU SEE THE FENCE THAT'S DEPICTED
14 IN THE MIDDLE OF THIS PHOTOGRAPH WHERE I HAVE MY POINTER
15 ON THE OVERHEAD (INDICATING)?

16 A YES, I DO.

17 Q AND IS IT THAT THE FENCE THAT ABUTS THE
18 WALKWAY THAT LEADS FROM THE SIDE OF THE GARAGE?

19 A YES.

20 MS. SARIS: AND I HAVE ANOTHER PHOTOGRAPH, YOUR
21 HONOR, IT'S MARKED NO. 156 AND IT APPEARS TO BE A
22 PHOTOGRAPH OF SOME TRASH AND A BEER CAN.

23 (MARKED FOR IDENTIFICATION DEFENSE
24 EXHIBIT NO. UU, PHOTO.)

25 Q BY MS. SARIS: DO YOU RECOGNIZE THAT
26 PHOTOGRAPH, SIR?

27 A NO.

28 MS. SARIS: FINALLY -- NOT QUITE FINALLY, ANOTHER

1 PHOTOGRAPH WITH THE EVIDENCE ITEM NO. 26 ON IT. IT
2 APPEARS TO BE OF A PICNIC TABLE.

3 THE COURT: THAT WILL BE VV.

4 (MARKED FOR IDENTIFICATION DEFENSE
5 EXHIBIT NO. VV, PHOTO.)

6 Q BY MS. SARIS: DO YOU RECOGNIZE THAT AS
7 ANYTHING THAT YOU SAW THE MORNING OF THE CRIME?

8 A YES.

9 Q AND WHAT IS THAT?

10 A THERE WAS A WHITE PAPER BAG THAT WAS TAKEN
11 INTO EVIDENCE.

12 Q AND IT WAS MARKED NUMBER 26?

13 A AS I RECALL IT WAS, YES.

14 Q AND THAT WAS A PICNIC TABLE THAT WAS
15 BEHIND MICKEY THOMPSON'S PROPERTY?

16 A BEHIND --

17 Q DOWN THE LAST DRIVEWAY SEEN PREVIOUSLY?

18 A YES.

19 Q AND YOU DID NOT KNOW WHEN THIS PHOTOGRAPH
20 WAS TAKEN WHETHER OR NOT THAT WAS GOING TO BE RELEVANT TO
21 THE CASE; IS THAT FAIR?

22 A THAT'S FAIR, YES.

23 Q AND YOU TOOK IT JUST BECAUSE IT MIGHT HAVE
24 BEEN?

25 A IT WAS TAKEN, YES.

26 Q I'M SORRY. SOMEONE TOOK IT BECAUSE IT
27 MIGHT HAVE BEEN RELEVANT?

28 A YES.

1 Q THE SAME WITH THE LATEX GLOVES THAT WERE
2 REMOVED FROM THE SCENE?

3 A THAT'S CORRECT.

4 Q NOW, HAVE YOU HAD AN OPPORTUNITY TO LOOK
5 THROUGH ANY PHOTOGRAPHS LAST NIGHT?

6 A NO.

7 Q HAVE YOU HAD AN OPPORTUNITY -- OR DO YOU
8 RECALL NOW JUST IN CASE IT WAS A FAILURE OF MEMORY OF
9 SOME SORT YESTERDAY, IF THERE'S ANY PHOTOGRAPHS OF THESE
10 BLOODSTAINS THAT YOU'VE DESCRIBED?

11 A I THOUGHT THERE WERE, BUT I DON'T RECALL.

12 Q IN YOUR RECOLLECTION, WERE THE BLOODSTAINS
13 IN A SEMICIRCLE PATTERN OR IN NO PATTERN AT ALL?

14 A I THINK IT COULD BE BEST DESCRIBED AS
15 SOMEWHAT SEMICIRCULAR PATTERN, BUT THEY WERE RANDOM.

16 Q AND WERE THEY NEAR THE BODY OF MICKEY
17 THOMPSON?

18 A NOT DIRECTLY NEXT TO HIM. THEY WERE A
19 SMALL DISTANCE, BUT A SHORT DISTANCE.

20 Q ARM'S LENGTH? BODY LENGTH?

21 A FEET.

22 Q FIVE FEET? TEN FEET?

23 MR. JACKSON: OBJECTION. VAGUE AS TO WHICH
24 STAIN.

25 THE COURT: HANG ON ONE SECOND.

26 I DIDN'T HEAR THE LAST --

27 MS. SARIS: I'LL REPEAT IT AND ACTUALLY REPHRASE
28 IT BASED ON THE OBJECTION.

1 Q IS THE FARTHEST STAIN AWAY -- WOULD YOU
2 SAY THAT IS BETWEEN -- HOW MANY FEET FROM MICKEY?

3 A PROBABLY FIVE TO SIX FEET, MAYBE.

4 MS. SARIS: AND I HAVE ONE FINAL PHOTOGRAPH TO
5 SHOW YOU. I'VE MARKED DEFENSE WW.

6 THE COURT: THAT WILL BE MARKED WW.

7 (MARKED FOR IDENTIFICATION DEFENSE
8 EXHIBIT NO. WW, PHOTO.)

9 Q BY MS. SARIS: I'M TRYING TO CLARIFY WHAT
10 WE WERE SPEAKING OF YESTERDAY.

11 THIS IS -- IN THE FOREGROUND OF THIS PHOTO
12 ON THE RIGHT-HAND SIDE WHERE THE BUSHES ARE --

13 A YES.

14 Q -- THAT'S WHAT WE'RE REFERRING TO AS A
15 PLANTER? YESTERDAY AS WE WERE TALKING ABOUT THE --

16 A YES. YES.

17 Q AND THERE SEEMS TO BE A LITTLE -- SOME
18 SPACE ON THE RIGHT-HAND SIDE.

19 IS THAT WHERE THE TOYOTA PICKUP TRUCK WAS
20 PARKED THAT MORNING?

21 A YES.

22 Q AND THEN THE TOYOTA VAN HAD CRASHED IN
23 FRONT OF THAT PICKUP?

24 A YES. DOWN BELOW OR MORE TOWARD THE BOTTOM
25 OF THE PICTURE, YES.

26 Q AND DO YOU KNOW THE DISTANCE BETWEEN --
27 WELL, IT LOOKS AS IF THE BRICK SORT OF GETS HIGHER AS THE
28 DRIVEWAY SLOPES DOWN.

1 IS THAT YOUR RECOLLECTION OF HOW IT WAS?

2 A YES. IT TENDS TO MAKE AN ALLOWANCE FOR
3 THE GRADE AND KEEP IT AT A LEVEL.

4 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

5 (PAUSE IN PROCEEDINGS.)

6 MS. SARIS: THANK YOU, NOTHING FURTHER.

7 THE COURT: REDIRECT?

8

9 REDIRECT EXAMINATION

10 BY MR. JACKSON:

11 Q GOOD MORNING.

12 A MORNING, SIR.

13 Q I WON'T KEEP YOU TOO AWFULLY LONG.

14 YESTERDAY MS. SARIS ASKED WHETHER OR NOT
15 YOU HAD ANY FORENSIC ANALYSIS DONE ON THE SAFE, OR IF ANY
16 OF THAT ANALYSIS WAS DONE AT YOUR DIRECTION.

17 DO YOU RECALL THAT TESTIMONY?

18 A YES.

19 Q WAS THERE ANY INDICATION TO YOU, VISUAL
20 INDICATION OR OTHERWISE, THAT THAT SAFE HAD BEEN BROKEN
21 INTO OR TEMPERED WITH?

22 A NO.

23 Q CONCERNING THAT WEST MOST DOOR, THE
24 DOOR -- LET'S CALL IT THE SIDE GARAGE DOOR.

25 A YES.

26 Q OKAY. THAT BROWN DOOR ON THE SIDE OF THE
27 HOUSE.

28 A YES.

1 Q WAS THERE ANY INDICATION THAT THAT DOOR
2 HAD BEEN JIMMIED OR TAMPERED WITH OR ANY FORCED ENTRY WAS
3 ATTEMPTED AT THAT DOOR?

4 A NO.

5 Q YESTERDAY THERE WAS SOME QUESTIONS POSED
6 ABOUT FIRING A WEAPON AT CRITICAL MASS.

7 DO YOU RECALL THAT?

8 A YES.

9 Q AND YOU MENTIONED SOME PLUTONIUM AND
10 URANIUM OR WHATEVER, SOME 'IUMS.

11 A YES.

12 Q DO YOU THINK THAT WAS MEANT TO BE CENTER
13 MASS?

14 A I'M SURE THAT'S WHAT THE MEANING WAS.

15 Q OKAY. WHEN YOU'RE AT A FIRING RANGE, YOU
16 SEE THAT BLACK SILHOUETTE, YOU'RE AIMING ACTUALLY AT
17 CENTER MASS; CORRECT?

18 A CENTER MASS, YES, THAT'S THE LARGEST
19 PORTION. AND, IN FACT, I KNEW WHAT SHE WAS MAKING
20 REFERENCE TO SO I WENT ALONG. IT'S A MISSTATEMENT
21 BECAUSE CRITICAL MASS -- RECEIVING A BULLET IN THIS
22 LARGER AREA DOESN'T GUARANTEE A CRITICAL HIT, BUT I KNEW
23 WHAT SHE MEANT.

24 Q OKAY. AND CENTER MASS WOULD BE SOMEWHERE
25 ABOUT WHERE I'M POINTING AT MY STERNUM (INDICATING);
26 CORRECT?

27 A YES. ON A SILHOUETTE, AS MATTER OF FACT,
28 THE HIGHEST SCORING POINT IS ABOUT CENTER.

1 Q OKAY. YOU INDICATED YESTERDAY, YOU
2 EXPLAINED TO THE JURORS THAT A MOVING TARGET, SOMEONE --
3 I THINK IF I CAN PARAPHRASE YOUR ANSWER WAS THAT IF
4 SOMEONE IS RUNNING AROUND OR MOVING, SHOOTING AT THE HIPS
5 OR LEGS WOULD NOT BE THE BEST PLACE TO TRY TO FIRE ON A
6 PERSON; CORRECT?

7 A THAT'S CORRECT. IT CREATES QUITE A DANGER
8 BECAUSE THE BULLET DOESN'T STOP IF IT MISSES. IT
9 CONTINUES FORWARD, SO PUBLIC SAFETY THEN COMES INTO PLAY.

10 Q IS THERE ANY DIFFERENCE IN YOUR OPINION AS
11 TO THE EFFECTIVENESS OF SHOOTING TOWARDS THE HIPS OR
12 ABDOMEN OR LEGS IF, FOR INSTANCE, YOU'RE THE ONLY PERSON
13 THAT'S ARMED AND THE PERSON THAT YOU'RE POINTING IT AT IS
14 WITHIN A COUPLE OF FEET OF YOU AND THEY'RE UNARMED?

15 A OH, YES.

16 Q WHY?

17 A BECAUSE NOW IT'S CLOSER. YOU CAN ACTUALLY
18 TAKE CONTROL OF THEM AND YOU CAN FIRE YOUR WEAPON AND
19 PROBABLY HIT WHAT YOU'RE LOOKING AT.

20 Q NOW, THERE WAS SOME QUESTION BY MS. SARIS,
21 AND I CAN'T REMEMBER EXACTLY WHAT IT WAS, SOMETHING ABOUT
22 THE CONTENTS OF A SAFE. AND YOU MENTIONED SOMETHING
23 ABOUT A FIGURINE.

24 DO YOU REMEMBER THAT?

25 A YES.

26 Q DESCRIBE THE -- ARE WE TALKING ABOUT A
27 GIGANTIC PIECE OF GOLD STATUE OR STATUETTE OR SOMETHING?

28 A OH, NO, NO.

1 Q WHAT ARE WE TALKING ABOUT?

2 A IT WAS A SMALL -- I WANT TO SAY AN
3 ELEPHANT, SMALL FIGURINE. IT WAS GOLD. IT HAD SOME
4 ORNATE DECORATION. IT MAY WELL HAVE BEEN JEWELS OF SOME
5 SORT. I DON'T RECALL EXACTLY. I DO RECALL IT WAS GOLD.
6 I'M MAKING IT VERY SMALL, A FIGURINE (INDICATING).

7 MR. JACKSON: MAY THE RECORD REFLECT THAT WHEN
8 THE WITNESS WAS REFERRING TO THE SMALL GOLD FIGURINE, HE
9 WAS HOLDING HIS HANDS APPROXIMATELY FROM TOP TO BOTTOM
10 THREE AND A HALF, FOUR INCHES APART, AND THEN FROM SIDE
11 TO SIDE MAYBE FIVE OR SIX INCHES WIDE.

12 THE COURT: YES.

13 THE WITNESS: IT WAS A SMALLER FIGURINE. IT WAS
14 NOT A HUGE THING.

15 MR. JACKSON: OKAY.

16 Q DO YOU HAVE SOME PHOTOGRAPHS UP THERE?

17 A OH, I DO, YES.

18 MR. JACKSON: MAY I, YOUR HONOR?

19 OH, HERE WE GO. THANK YOU, MS. SARIS.

20 Q I'M GOING TO SHOW YOU WHAT HAS BEEN --
21 THAT'S CORRECT, I'M GOING TO SHOW YOU WHAT HAS BEEN
22 MARKED AS DEFENSE P AS IN PAUL, P AS IN PAUL.

23 A YES.

24 Q AND I'VE PUT IT UP ON THE OVERHEAD AS WELL
25 FOR THE JUROR'S EDIFICATION.

26 MS. SARIS ASKED YOU IF YOU COULD SEE
27 MICKEY THOMPSON'S BODY WHERE IT WAS LYING IN THAT
28 PHOTOGRAPH.

1 A YES.

2 Q CAN YOU?

3 A NO, I CAN'T.

4 Q CAN YOU SEE AN AREA IN FRONT OF -- THAT'S
5 OKAY -- IN FRONT OF THE -- ACTUALLY, THAT'S NOT OKAY.
6 THANK YOU.

7 CAN YOU SEE AN AREA IN FRONT OF THE GARAGE
8 FROM WHERE THIS CAMERAMAN IS STANDING OR THIS CAMERA
9 ANGLE SHOWS?

10 A YES.

11 Q CAN YOU ACTUALLY SEE AN AREA TO THE WEST
12 OF THE GARAGE FROM THIS CAMERA ANGLE?

13 A OH, YES.

14 Q AND DOES IT APPEAR THAT THERE IS A
15 STRAIGHT LINE, AN UNOBSTRUCTED LINE BETWEEN TRUDY
16 THOMPSON'S BODY AND THE TOP LEFT PORTION OF THE TARMAC OR
17 DRIVEWAY IN FRONT OF AND TO THE LEFT OF THE GARAGE?

18 A YES.

19 Q OKAY.

20 THE COURT: AND, AGAIN, FOR THE RECORD, THE
21 EXHIBIT?

22 MR. JACKSON: THE EXHIBIT IS P AS IN PAUL, P AS
23 IN PAUL.

24 THE COURT: YES.

25 Q MR. JACKSON: NOW, MS. SARIS ASKED YOU
26 SEVERAL QUESTIONS ABOUT THE BLOOD STAINED PATTERN THAT
27 YOU RECOGNIZED THAT MORNING AT THE CRIME SCENE.

28 DO YOU RECALL THOSE?

1 A YES.

2 Q THERE IS A DIAGRAM THAT'S BEEN WIDELY
3 REFERRED TO, PEOPLE'S 54 SHOWING SOME BLOOD -- WHAT ARE
4 REPRESENTATIONS -- I APOLOGIZE, REPRESENTATIONS OF BLOOD
5 STAIN PATTERNS IN VERY BOLD RED IN FRONT OF WHAT IS
6 DEPICTED AS THE LINCOLN CONTINENTAL IN FRONT OF THE
7 GARAGE ON THAT DIAGRAM; CORRECT?

8 A YES.

9 Q DO THOSE APPEAR TO BE SOMEWHAT, ALTHOUGH
10 RANDOM IN SHAPE, SOMEWHAT SEMICIRCULAR IN PATTERN?

11 A YES, THEY DO.

12 Q AND ALTHOUGH THIS DIAGRAM IS NOT TO SCALE,
13 ARE THESE BLOOD STAINS OR BLOOD SPATTERS OR PATTERNS IN A
14 POSITION CONSISTENT WITH THAT WHICH YOU SAW AT THE ACTUAL
15 CRIME SCENE THAT MORNING?

16 A THAT WOULD BE AN ACCURATE REPRESENTATION,
17 YES.

18 Q ALL RIGHT. I'VE ENHANCED --

19 MR. JACKSON: I'VE GOT TWO PHOTO BOARDS, WITH
20 COURT'S PERMISSION, I WOULD LIKE TO HAVE THESE MARKED AS
21 PEOPLE'S NEXT IN ORDER.

22 THE COURT: THAT WILL BE PEOPLE'S 61.

23 MR. DIXON: 61.

24 MR. JACKSON: 61 AND 62?

25 THE COURT: 62.

26 MR. JACKSON: THEY'RE BOTH LABELED BLOOD STAINS
27 ON DRIVEWAY. ONE VERY CLEARLY SHOWS THE BODY OF MICKEY
28 THOMPSON. IF THAT CAN BE MARKED AS PEOPLE'S 61.

1 THE COURT: YES.

2 (MARKED FOR IDENTIFICATION PEOPLE'S
3 EXHIBIT NOS. 61 AND 62, PHOTO BOARDS.)

4 MR. JACKSON: I'VE LABELED THESE PEOPLE'S 61 AND
5 62 RESPECTIVELY.

6 Q YOU WERE ASKED BY MS. SARIS WHETHER OR NOT
7 THERE WERE ANY PHOTOGRAPHS OF THE BLOOD STAINS THAT YOU
8 SAW AT THE LOCATION.

9 DO YOU RECALL THAT?

10 A YES.

11 Q ALL RIGHT. I'M GOING TO SHOW YOU A COUPLE
12 OF ENLARGED PHOTOGRAPHS AND ASK YOU IF YOU RECOGNIZE
13 ANYTHING IN THESE PHOTOGRAPHS.

14 NOW, I GUESS I SHOULD ASK YOU THIS FIRST
15 OF ALL: THERE WAS A PICTURE THAT WAS SHOWN -- LET ME ASK
16 YOU THIS FOUNDATIONALLY.

17 OKAY. I WILL ASK YOU SOME FUNDAMENTAL
18 QUESTIONS.

19 DO YOU SEE THE PHOTOGRAPH THAT'S BEEN
20 PREVIOUSLY LABELED DEFENSE RR?

21 A YES, I DO.

22 Q OKAY. NOW, TAKE A LOOK AT THE OVERHEAD
23 DISPLAY OF THIS PHOTOGRAPH.

24 CAN YOU SEE --

25 MR. JACKSON: MS. SARIS, MAY I?

26 MS. SARIS: YES.

27 Q BY MR. JACKSON: CAN YOU SEE WHAT APPEARS
28 TO BE A STAINING OR A LIQUID PATTERN EMANATING FROM THE

1 BODY OF MICKEY THOMPSON?

2 A YES.

3 Q HERE IS THE FUNDAMENTAL PART. THE LEFT
4 PART OF IT IN THIS PHOTOGRAPH -- BY THE WAY, ARE YOU A
5 PHOTOGRAPHER?

6 A I'VE TAKEN PHOTOGRAPHS, BUT NO, NOT --

7 Q KIDS AND GRANDKIDS AND WIFE, STUFF LIKE
8 THAT?

9 A YEAH.

10 Q HAVEN'T WE ALL.

11 ALL RIGHT. TO THE LEFT THERE APPEARS TO
12 BE SOME RED -- I'M STANDING RIGHT IN THE JUROR'S WAY --
13 CORRECT?

14 A YES.

15 Q RIGHT IN THE MIDDLE -- AND I'M BEING VERY
16 LITERAL RIGHT NOW -- RIGHT IN THE MIDDLE OF THAT
17 PHOTOGRAPH APPEARS TO BE PURE WHITE, DOESN'T IT?

18 A YES.

19 Q WHY IS IT? WHY IS PART OF IT RED AND PART
20 OF IT WHITE?

21 A THAT RED IS IT ALMOST A FALSE RED. I
22 MEAN, IT'S GRAINY. THE OTHER PART I KNOW, BECAUSE I SAW,
23 IS BLOOD.

24 Q IS IT ALL BLOOD? IN OTHER WORDS, IS THAT
25 A PHOTOGRAPH OF THE BLOOD DRAINING FROM MICKEY THOMPSON?

26 A OH, YES.

27 Q OKAY. MY QUESTION IS: IS THE PART THAT'S
28 OVEREXPOSED, OR PHOTOGRAPHERS CALL IT A HOT SPOT, IS THAT

1 SIMPLY A REFLECTION OFF THE SKY OR SOMETHING?

2 A YES, IT COULD BE. BECAUSE THAT WAS BLOOD,
3 YES.

4 Q SO THAT -- BEARING THAT IN MIND, THE FACT
5 THAT THESE PHOTOGRAPHS ARE SOMEWHAT POOR IN QUALITY BUT
6 YOU CAN TELL ALL OF THAT IS LIQUID (INDICATING); CORRECT?

7 A YES.

8 MR. JACKSON: WHEN I'M SAYING THAT, YOUR HONOR,
9 I'M POINTING TO DEFENSE RR, WHAT APPEARS TO BE THE VERY
10 OBVIOUS LIQUID STAIN THAT'S EMANATING FROM PHOTOGRAPH
11 RIGHT TO PHOTOGRAPH LEFT GOING ALMOST HORIZONTAL IN
12 DIRECTION.

13 THE COURT: YES.

14 Q BY MR. JACKSON: UNDERSTANDING THAT THAT
15 IS A RELATIVELY POOR REPRESENTATION, IS THAT THE BLOOD
16 STAIN, THE LIQUID BLOOD STAIN?

17 A YES.

18 Q NOW, WITH THAT FOUNDATION, DO YOU SEE THAT
19 SAME BLOOD STAIN IN PEOPLE'S 61 --

20 A I DO.

21 Q -- RIGHT WHERE I'M POINTING (INDICATING)?

22 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
23 THAT I'M POINTING TO THE RIGHT AND JUST ABOVE IN THE
24 PHOTOGRAPH WHAT WOULD BE -- WHAT'S PREVIOUSLY BEEN
25 IDENTIFIED AS MICKEY THOMPSON, HIS RIGHT HIP.

26 THE COURT: YES.

27 Q BY MR. JACKSON: AND THAT'S AN ELONGATED
28 BLOOD STAIN THAT'S EMANATING FROM HIS BODY WHERE HE LAY;

1 CORRECT?

2 A THAT'S CORRECT.

3 Q AND PART OF THAT LOOKS LIKE IT'S A LITTLE
4 OVEREXPOSED AND A LITTLE BIT HOT AND PART OF IT IS BRIGHT
5 RED; CORRECT?

6 A YES.

7 Q WAS THE BLOOD RED WHEN YOU SAW IT?

8 A YES.

9 Q WERE THE BLOOD STAINS THAT YOU'VE
10 DESCRIBED RED WHEN YOU SAW THEM?

11 A YES, THEY WERE.

12 Q I WANT YOU TO TAKE A VERY CLOSE, CAREFUL
13 LOOK AT THIS PHOTOGRAPH AND TELL ME IF YOU RECOGNIZE THAT
14 AREA TO THE LEFT (INDICATING).

15 YOU KNOW WHAT I'M GOING TO DO, I WILL MAKE
16 THIS EASY. I'M POINTING WITH A BLACK ARROW UP ON THAT --
17 I'VE JUST MARKED WITH A BLANK ARROW, AN UP ARROW ON THAT
18 PHOTOGRAPH (INDICATING).

19 DO YOU RECOGNIZE WHAT THAT ARROW IS
20 POINTING TO?

21 A YES.

22 Q WHAT IS THAT?

23 A THAT IS SOME OF THE POOLING OF BLOOD THAT
24 I DESCRIBED BEFORE. IT'S DEPICTED ON THE ARTIST
25 RENDERING.

26 Q DO YOU SEE WHAT THE SECOND ARROW THAT I'M
27 POINTING AT IS POINTING TO (INDICATING)?

28 A YES.

1 Q WHAT IS THAT?

2 A THAT'S ANOTHER POOLING OF BLOOD THAT I
3 MARKED. IT WAS RANDOM.

4 Q I'VE PLACED A THIRD ARROW IN SEQUENCE ON
5 THAT PHOTOGRAPH (INDICATING).

6 WHAT IS THAT?

7 A ANOTHER POOLING OF BLOOD.

8 Q YOU HAVE TO GET PRETTY CLOSE TO LOOK AT
9 THIS; CORRECT?

10 A YES.

11 Q CAN YOU SEE THAT LIGHTER DISCOLORATION IN
12 THIS -- THE LIGHTER DISCOLORATION IN THIS PHOTOGRAPH?

13 A OH, YES.

14 Q CAN YOU SEE ANOTHER -- WHAT APPEARS TO BE
15 ANOTHER DISCOLORATION UP HERE (INDICATING)?

16 A YES.

17 Q I'M GOING TO PLACE A FOURTH ARROW
18 (INDICATING).

19 DOES THAT APPEAR TO BE PART OF THE BLOOD
20 STAINING PATTERN THAT YOU SAW?

21 A YES.

22 Q ALL RIGHT. STARTING AT THE BASE OF THE --
23 STARTING AT THE END OF THE BLOOD TRAIL THAT'S VERY
24 OBVIOUSLY EMANATING FROM MICKEY THOMPSON, IS THIS SORT OF
25 THE SEMICIRCULAR PATTERN OF BLOOD WHICH YOU SAW ON THE
26 DRIVEWAY THAT DAY?

27 A THAT'S CORRECT, SIR.

28 Q IS THAT ALL THE BLOOD OR DID THIS PICTURE

1 HAPPEN TO JUST CATCH SOME OF IT?

2 A I BELIEVE IT PICTURES SOME OF IT. THERE
3 MAY HAVE BEEN MORE.

4 Q TAKE A LOOK AT WHAT HAS BEEN MARKED AS
5 PEOPLE'S 62.

6 MR. JACKSON: YOUR HONOR, BEFORE I DO THAT,
7 PEOPLE'S 61 IS SUCH A POOR QUALITY PHOTOGRAPH, I WOULD
8 ASK TO TAKE THE EXCEPTIONAL LEAVE TO SHOW THIS MORE
9 CLOSELY TO THE JURORS SINCE THEY DON'T HAVE THE ADVANTAGE
10 OF BEING UP CLOSE.

11 THE COURT: ALL RIGHT. YOU KNOW WHAT, WE'RE
12 GOING TO TAKE OUR NOON RECESS. YOU KNOW, WE'VE BEEN
13 WORKING VERY HARD THIS MORNING. WE WILL RESUME AS CLOSE
14 TO 1:30 AS WE CAN. I'M NOT GOING TO MAKE ANY MORE
15 PROMISES. AND THEN AS YOU LEAVE, WHY DON'T YOU,
16 MR. JACKSON, HAVE --

17 MR. JACKSON: I WAS GOING TO SUGGEST EXACTLY
18 THAT. I'LL PLACE IT RIGHT AGAINST THE PODIUM.

19 THE COURT: AS YOU LEAVE, YOU MAY TAKE A CLOSER
20 LOOK AT 61.

21 AND REMEMBER ALL THE ADMONITIONS. DON'T
22 TALK ABOUT THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS.
23 DON'T CONDUCT ANY DELIBERATIONS. AND WE WILL SEE YOU
24 BACK HERE LET'S SAY 1:30-ISH. THANK YOU.

25 (RECESS TAKEN.)

26 THE COURT: ALL RIGHT. BACK ON THE RECORD IN THE
27 GOODWIN MATTER. PARTIES ARE PRESENT. JURORS WERE NOT
28 PRESENT EXCEPT FOR JUROR NUMBER 10?

1 JUROR: YES.

2 THE COURT: YOU LOOK HORRIBLE. ARE YOU --

3 JUROR: YES. I SAT DOWNSTAIRS AND I DON'T NOW.
4 I'M NOT FEELING WELL.

5 THE COURT: I TAKE IT YOU NEED TO LEAVE OR DO YOU
6 THINK YOU CAN STAY FOR A FEW MORE MINUTES?

7 JUROR: I DON'T THINK I CAN STAY. I HAD -- I
8 TOLD HER I HAD TO GO TO THE EMERGENCY ROOM LAST WEEK --
9 LAST TUESDAY.

10 THE COURT: OKAY.

11 JUROR: I'VE JUST BEEN HAVING PAINS IN MY SIDE
12 AND THROWING UP. THEY DID A FEW TESTS ON ME, BUT THEY
13 DIDN'T FIND ANYTHING YET ANYWAY. THEY DID AN ULTRASOUND.

14 THE COURT: BUT YOU WERE FEELING BETTER UP UNTIL
15 THIS AFTERNOON?

16 JUROR: YES.

17 THE COURT: IS THIS SOMETHING THAT YOU THINK THAT
18 YOU'LL BE ABLE TO RECOVER FROM?

19 JUROR: OH, YEAH. I HOPE SO.

20 THE COURT: OKAY. SO MAYBE BY MONDAY?

21 JUROR: I THINK IF I HAVE THE WEEKEND.

22 THE COURT: BY MONDAY MAYBE?

23 JUROR: YEAH, YEAH.

24 THE COURT: ANYONE WANT TO INQUIRE FURTHER JUST
25 FOR THE RECORD? THE JUROR DOES LOOK LIKE SHE IS --

26 MR. DIXON: WE'RE FINE, ABSOLUTELY.

27 THE COURT: IF YOU DON'T MIND, I SUSPECT THE
28 OTHER JURORS KNOW THAT YOU'RE NOT FEELING WELL.

1 JUROR: I DON'T KNOW.

2 THE COURT: YOU DON'T KNOW?

3 JUROR: I HAVEN'T TALKED TO THEM. I DON'T KNOW.
4 AS FAR AS I KNOW, THEY DON'T.

5 THE COURT: ALL RIGHT. THEN WHY DON'T WE BRING
6 EVERYBODY DOWN AND WE WILL SHOOT FOR MONDAY AT 10:30.

7 MR. JACKSON: THAT'S FINE.

8

9 (THE JURY ENTERED THE COURTROOM.)

10 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
11 ALL OUR JURORS AND ALTERNATES ARE PRESENT.

12 LADIES AND GENTLEMEN, WHETHER IT'S GOOD
13 NEWS OR BAD NEWS, I DON'T KNOW, BUT IT'S A BEAUTIFUL DAY
14 OUT, WE'RE GOING TO RECESS UNTIL MONDAY AT 10:30 IN THE
15 MORNING. SO SORRY TO DISAPPOINT YOU AND TO KEEP YOU
16 WAITING TODAY. SOMETIMES THESE THINGS HAPPEN. I HOPE
17 YOU'LL FIND SOMETHING TO DO FOR THE REST OF THE AFTERNOON
18 AND TOMORROW, I'M SURE YOU WILL.

19 SO PLEASE REMEMBER ALL OF THE ADMONITIONS.
20 IT'S IMPORTANT THAT YOU ABIDE BY THEM. DO NOT DISCUSS
21 THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DO NOT
22 CONDUCT ANY DELIBERATIONS. DON'T SPEAK WITH ANYBODY
23 CONNECTED WITH THE CASE. AND PLEASE DON'T READ OR LISTEN
24 TO ANY MEDIA REPORTS OF THIS CASE. AND HAVE A GOOD
25 WEEKEND. WE WILL SEE YOU MONDAY MORNING, DECEMBER 4TH AT
26 10:30. THANK YOU.

27 (THE JURY LEFT THE COURTROOM.)

28 THE COURT: BACK ON THE RECORD. ALL THE JURORS

1 AND ALTERNATES HAVE LEFT THE COURTROOM.

2 AND JUST SO THE RECORD IS CLEAR, THIS
3 JUROR NUMBER 10 LOOKED LIKE AT ANY MINUTE SHE COULD BE IN
4 PRETTY BAD SHAPE. SO I CERTAINLY THINK THERE IS GOOD
5 CAUSE TO GO OVER TO MONDAY AND I THINK EVERYBODY IS IN
6 AGREEMENT WITH THAT ASSESSMENT.

7 IS THAT CORRECT?

8 MS. SARIS: YES.

9 MR. DIXON: YES.

10 MR. JACKSON: YES, YOUR HONOR.

11 THE COURT: WE HAVE DETECTIVE VERDUGO STILL ON
12 THE STAND. DO WE NEED HIM FOR ANYTHING ELSE BEFORE
13 MONDAY?

14 MR. JACKSON: NOT FROM THE PEOPLE.

15 MS. SARIS: BEFORE MONDAY? NO.

16 THE COURT: I ASSUME YOU ARE AVAILABLE -- I'M
17 ASSUMING YOU ARE AVAILABLE. I DON'T KNOW. ARE YOU?

18 THE WITNESS: I CERTAINLY WILL BE.

19 THE COURT: OKAY. I APPRECIATE THAT.

20 SO MONDAY, DECEMBER 4TH, 10:30, DETECTIVE.

21 THE WITNESS: THANK YOU, YOUR HONOR.

22 THE COURT: THANK YOU.

23 MS. SARIS: AND I WOULD LIKE TO FLY MR. VAN HORN
24 HERE ON TUESDAY. BECAUSE OF HIS SURGERY, CAN WE AGREE
25 JUST TO TAKE HIM OUT OF ORDER?

26 MR. DIXON: YES.

27 MS. SARIS: I WOULD ALSO LIKE FOR HIM NOT TO
28 SPEND THE NIGHT ALSO. ACTUALLY, HE HAS ASKED ME TO TRY

1 VERY HARD TO HAVE HIM NOT SPEND THE NIGHT, JUST FLY IN IN
2 THE MORNING AND LEAVE IN THE AFTERNOON.

3 THE COURT: YES. I MEAN, AT THIS POINT I DON'T
4 SEE ANY PROBLEM DOING THAT. I JUST WANT TO OBSERVE, WE
5 DO HAVE SIX ALTERNATES. AND IF THIS JUROR IS NOT WELL,
6 MY PLAN IS NOT TO REALLY DELAY ANY FURTHER, SO I THINK HE
7 CAN COUNT ON TUESDAY AS THE DAY.

8 MS. SARIS: YES. I DON'T ANTICIPATE OUR CASE
9 WILL START THAT DAY, BUT AS LONG AS WE ALL AGREE TO TAKE
10 HIM OUT OF ORDER, IT DOESN'T --

11 MR. JACKSON: NO PROBLEM.

12 THE COURT: YOU MENTIONED 402'S, AND YOU KNOW,
13 I'D LIKE TO GET THAT OUT OF THE WAY BEFORE WE RESUME WITH
14 THE JURORS. OFF THE RECORD WE HAD A PREVIOUS INFORMAL
15 DISCUSSION ABOUT HOW MANY MORE WITNESSES THE PEOPLE HAD.
16 AND THERE WAS SOME ISSUE RAISED BY MS. SARIS ABOUT 402'S
17 ON SOME OF THE WITNESSES.

18 MS. SARIS: I'M SORRY. MY CONCERNS ARE THAT THE
19 WITNESS THAT TESTIFIED AT THE PRELIM, A WOMAN BY THE NAME
20 OF KAREN STEPHENS, S-T-E-P-H-E-N-S, AND AGAIN, BECAUSE IT
21 WAS A PRELIM, I DON'T THINK THAT WE WERE BEING AS
22 EXACTING AS WE MIGHT BE IF A JURY WERE HERE. AND THERE
23 ARE SEVERAL OBJECTIONS THAT WE HAVE TO A GREAT MAJORITY
24 OF HER TESTIMONY. I KNOW SOME OF THAT IS CURED BY THE
25 FACT THAT THE DISTRICT ATTORNEY INTENDS TO OFFER SOME
26 CUSTODIAN OF RECORDS. BUT WE BELIEVE THAT SOME OF THE
27 THINGS THAT THEY THINK ARE BUSINESS RECORDS ARE NOT, AND
28 THAT SOME OF CUSTODIANS THAT THEY HAVE WILL NOT BE ABLE

1 TO LAY THE PROPER FOUNDATION.

2 BUT WE MAY BE CONFUSED AS TO THEIR
3 WITNESSES BECAUSE WE'RE HEARING OF TWO TODAY THAT -- WE
4 KNEW WHO THEY WERE BUT THEY WEREN'T ON THE LIST, SO
5 PERHAPS THAT WILL RESOLVE SOME OF THE ISSUES. BUT I
6 THINK THERE WILL BE A TIME WHERE THE WITNESSES THAT
7 MR. SUMMERS IS DEALING WITH, WE WILL HAVE TO SOME
8 FOUNDATIONAL DISCUSSIONS REGARDING WHAT CHECKS AND SUCH
9 THEY'RE ALLOWED TO INTRODUCE AND WITH WHAT FOUNDATION.

10 MR. DIXON: YOUR HONOR, ON THE OTHER HAND, I'VE
11 TALKED WITH MS. SARIS AND ASKED HER TO REVIEW BETWEEN NOW
12 AND MONDAY, OR MAYBE EVEN FRIDAY, AND LET US KNOW IF
13 THERE'S ANY OF THOSE CUSTODIAN OF RECORDS DOCUMENTS --
14 BECAUSE THEY ARE JUST BUSINESS RECORDS FROM OUR
15 STANDPOINT -- BE WILLING TO STIPULATE TO. AND WE WOULD
16 CERTAINLY TRY TO WORK THAT OUT TO HELP MOVE THINGS ALONG.

17 I UNDERSTAND THAT SHE HAS TO DO HER JOB,
18 BUT I'LL JUST MAKE THAT OFFER. WE'RE HAPPY TO MEET AND
19 CONFER ON THAT.

20 THE COURT: MY RECOLLECTION AND MY NOTES FROM THE
21 PRELIMINARY HEARING INDICATE THAT SHE WOULD BE TESTIFYING
22 AS TO SOME CHECKS OR WIRE TRANSFER FOR THE PURCHASE OF
23 GOLD COINS, LIQUIDATION OF ASSETS, AND THINGS OF THAT
24 NATURE.

25 MR. JACKSON: WE HAVE BANK OFFICIALS -- WE HAVE
26 THE OWNER OF THE GOLDEN COINS ESTABLISHMENT, BANK
27 OFFICIALS FROM BOTH MITSUI BANK AS WELL AS BARCLAY'S
28 BANK, THE WELLINGTON BOAT FOLKS -- THOSE TYPE OF PEOPLE.

1 AND MS. SARIS IS AWARE OF THOSE FOLKS.

2 THE COURT: SO IT DOESN'T SOUND LIKE THAT'S GOING
3 TO BE A BIG PROBLEM, THEN, IF THE WITNESSES ARE AVAILABLE
4 TO LAY A FOUNDATION?

5 MS. SARIS: I GUESS THAT'S THE QUESTION. SOME OF
6 THEM I THINK WE MIGHT NEED 402'S ON SIMPLY BECAUSE
7 THEY --

8 (DISCUSSION OFF THE RECORD.)

9 MS. SARIS: CAN YOU EXPLAIN IT BETTER.

10 MR. SUMMERS: I'M NOT SURE.

11 MS. SARIS: THERE'S A DISCREPANCY ON OUR PART
12 ABOUT WHETHER THESE ARE THE RIGHT WITNESSES TO LAY THE
13 FOUNDATION.

14 THE COURT: I KNOW WE RECESSED FOR THE DAY UNTIL
15 MONDAY. WHY DON'T YOU ALL JUST GET TOGETHER FOR A FEW
16 MINUTES AND TALK ABOUT WHAT IS COMING UP, BECAUSE TO THE
17 EXTENT THAT I CAN HANDLE ANYTHING TODAY THAT WE WOULD
18 OTHERWISE HANDLE DURING THE JURY'S PRESENCE WHILE WE'RE
19 WAITING, I WOULD RATHER DO IT -- I MEAN, WE'RE DEFINITELY
20 NOT GOING TO BE IN SESSION TOMORROW AT ALL. SO -- AND
21 IT'S STILL A LITTLE EARLY. WHY DON'T YOU SEE IF WE CAN
22 IRON OUT SOME OF THE DIFFERENCES THAT MAY ARISE THIS
23 AFTERNOON.

24 MR. JACKSON: SURE. AND IS THE COURT -- I ASSUME
25 FROM THAT STATEMENT THE COURT IS AVAILABLE THIS AFTERNOON
26 FOR AN EX PARTE MATTER VERY QUICK, ABOUT 2:30 OR 3:00?

27 THE COURT: WELL, I'M HERE NOW. I'LL BE HERE
28 TOMORROW, TOO. I JUST DIDN'T THINK YOU ALL WANTED --

1 MR. JACKSON: I DON'T WANT TO BE HERE TOMORROW.

2 THE COURT: OKAY. LET ME KNOW WHEN YOU'RE READY.

3 MS. SARIS: OKAY.

4
5 (THE MATTER WAS CONTINUED TO MONDAY,
6 DECEMBER 4, 2006 AT 10:30 A.M.)

7 (NEXT PAGE IS 6001.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, DECEMBER 4, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: ALL RIGHT. RESUMING IN THE MICHAEL
20 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL,
21 THE PEOPLE ARE REPRESENTED, ALL OUR JURORS AND ALTERNATES
22 ARE ONCE AGAIN PRESENT.

23 GOOD MORNING, LADIES AND GENTLEMEN. I
24 HOPE YOU ENJOYED THE WEEKEND. AND DETECTIVE VERDUGO IS
25 STILL ON THE WITNESS STAND.

26 AND, SIR, YOU'RE REMINDED THAT YOU'VE BEEN
27 PREVIOUSLY SWORN. YOU'RE STILL UNDER OATH. WOULD YOU
28 PLEASE STATE YOUR NAME AGAIN FOR THE RECORD.

1 THE WITNESS: YES, YOUR HONOR. REYNOLD VERDUGO.

2 THE COURT: THANK YOU.

3 MR. JACKSON --

4 MR. JACKSON: THANK YOU, YOUR HONOR.

5 THE COURT: -- REDIRECT.

6
7 REDIRECT EXAMINATION

8 BY MR. JACKSON:

9 Q MORNING, DETECTIVE.

10 A MORNING, SIR.

11 Q WHEN WE LAST LEFT OFF I HAD ASKED YOU
12 ABOUT A PREVIOUS PHOTOGRAPH THAT WAS MARKED -- I THINK IT
13 WAS MARKED AS PEOPLE'S 61, JUST TO REFRESH YOUR
14 RECOLLECTION.

15 DO YOU RECALL ME SHOWING YOU THIS
16 PHOTOGRAPH, THIS ENLARGED PHOTOGRAPH, PEOPLE'S 61?

17 A YES, SIR, I DO.

18 Q AND THESE BLACK ARROWS REPRESENT WHAT?

19 A BLOOD POOLINGS OR BLOOD DEPOSITS.

20 Q NOT THE BEST PHOTOGRAPH IN THE WORLD;
21 CORRECT?

22 A YES. IT ISN'T.

23 Q BUT IF YOU LOOK CLOSELY, CAN YOU SEE
24 ACTUALLY THAT THOSE BLOOD DEPOSITS OR POOLINGS AT THE
25 POINT OF THE ARROWS?

26 A YES. YOU CAN SEE THE OUTLINE.

27 Q TAKE A LOOK IF YOU WOULD AT -- I'M GOING
28 TO DRAW YOUR ATTENTION BACK TO THE OVERHEAD. THERE'S A

1 PHOTOGRAPH ON THE OVERHEAD THAT'S BEEN PREVIOUSLY MARKED
2 AS DEFENSE P AS IN PAUL, P AS IN PAUL. DEFENSE PP.

3 DO YOU SEE THAT?

4 A YES, I DO.

5 Q I THINK MS. SARIS ASKED YOU ON
6 CROSS-EXAMINATION WHETHER OR NOT YOU CAN SEE MICKEY
7 THOMPSON'S BODY FROM THAT ANGLE IN THAT PHOTOGRAPH.

8 A YES.

9 Q AND YOUR ANSWER WAS?

10 A NO, YOU COULDN'T.

11 Q OKAY. CAN YOU SEE THE AREA IN FRONT OF
12 THE GARAGE AND JUST TO THE LEFT, SORT OF WHERE THE
13 WALKWAY AREA IS -- AND YOU SEE A FENCE TO THE LEFT OF
14 THAT GARAGE?

15 A YES.

16 Q IS THAT CLEARLY VISIBLE IN THAT
17 PHOTOGRAPH?

18 A YES, IT IS.

19 Q TAKE A LOOK AT WHAT'S BEEN PREVIOUSLY
20 MARKED AS PEOPLE'S 62 FOR IDENTIFICATION.

21 DO YOU RECOGNIZE THIS ENLARGED PHOTOGRAPH?

22 A YES, I DO.

23 Q ALL RIGHT. I WANT YOU TO TAKE SPECIAL
24 ATTENTION TO THE AREA WHERE MY FINGER IS (INDICATING),
25 AND TELL ME IF YOU RECOGNIZE ANYBODY -- ANYTHING IN AT
26 THAT SEMICIRCULAR PATTERN WHERE MY FINGER IS RUNNING, AND
27 I'LL DESCRIBE THAT FOR THE RECORD IN JUST A SECOND, YOUR
28 HONOR.

1 MR. JACKSON: YOUR HONOR, ONE OF THE JURORS IS
2 COMPLAINING THAT THERE'S A DISTRACTION IN THE --

3 THE COURT: THERE'S A LOT OF NOISE BACK THERE.
4 SINGING?

5 (BRIEF RECESS.)

6 MR. JACKSON: THE RECORD SHOULD REFLECT HE'S OFF
7 KEY.

8 THE COURT: LET ME KNOW WHEN THE SINGING STOPS.
9 THEY'RE SENDING SOMEONE TO TAKE CARE OF IT.

10 (BRIEF RECESS.)

11 THE COURT: ALL RIGHT. LET'S RESUME. THANK YOU.

12 MR. JACKSON: MAY I RESUME, YOUR HONOR?

13 THE COURT: YES.

14 MR. JACKSON: THANK YOU.

15 Q DETECTIVE, I WANT TO DRAW YOUR ATTENTION
16 TO THIS PARTICULAR AREA WHERE MY FINGER IS (INDICATING),
17 AND ASK YOU IF YOU RECOGNIZE ANYTHING FAINTLY AND
18 RELATIVELY SMALL, AND I'LL MOVE OUT OF THE WAY IN JUST A
19 SECOND, FOLKS.

20 FOR INSTANCE, RIGHT WHERE MY MIDDLE FINGER
21 IS RIGHT THERE (INDICATING)?

22 A YES.

23 Q OKAY. I'M GOING TO PLACE AN ARROW RIGHT
24 WHERE I HAD MY MIDDLE FINGER AND ASK YOU IF YOU CAN
25 DESCRIBE WHAT THAT IS (INDICATING).

26 A THAT'S ONE OF THE BLOOD POOLS OR BLOOD
27 DEPOSITS THAT I JUST MENTIONED.

28 Q OKAY. WHAT ABOUT JUST TO THE RIGHT OF

1 THAT, ANOTHER FAINT MARK, IF YOU WILL, ON THE ASPHALT?

2 A YES, ANOTHER BLOOD POOL, SIR.

3 Q I'LL PLACE ANOTHER ARROW -- IS THAT AN
4 ACCURATE ARROW WHERE THAT SECOND SPOT IS?

5 A YES.

6 Q WHAT ABOUT RIGHT WHERE MY FINGER IS NOW
7 (INDICATING)?

8 A ANOTHER DEPOSIT OF THE BLOOD, SIR.

9 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
10 PERMISSION, I'M PLACING A THIRD ARROW AT THE TIP OF THAT
11 THIRD BLOOD DEPOSIT.

12 Q WHAT ABOUT ALL THE WAY OVER HERE TO THE
13 RIGHT (INDICATING)?

14 A YES, ANOTHER BLOOD DEPOSIT, SIR.

15 THE COURT: FOR THE RECORD, THAT'S 62.

16 MR. JACKSON: PEOPLE'S 62, YOUR HONOR.

17 Q AND TURNING AROUND JUST TO THE RIGHT AND
18 ABOVE THAT FOURTH ARROW?

19 A YES, THERE'S A BLOOD DEPOSIT THERE ALSO,
20 SIR.

21 Q PLACING AN ARROW AT THAT LOCATION
22 (INDICATING).

23 AND, FINALLY, RIGHT AT THE TOP JUST BELOW
24 THAT LIGHT BROWN AREA, DO YOU SEE ANOTHER MARK ON THE
25 PAVEMENT?

26 A YES, SIR. THAT WAS ANOTHER BLOOD DEPOSIT.

27 Q ALL RIGHT. IS THAT IN A CONSISTENT
28 SEMICIRCULAR PATTERN UP AROUND THE FRONT OF THE GARAGE

1 THAT YOU EARLIER DESCRIBED EXISTING IN PEOPLE'S 61?

2 A YES.

3 Q YOU INDICATED THAT NOT ALL OF THE BLOOD
4 PATTERNS OR BLOOD POOLS ARE VISIBLE IN PEOPLE'S 61;
5 CORRECT?

6 A THAT'S CORRECT, SIR.

7 Q DO THEY KEEP GOING TO THE LEFT OFF THE
8 PHOTOGRAPH?

9 A YES, THERE ARE MORE, SIR.

10 Q THANK YOU.

11 I WANT YOU TO COMPARE IF YOU WILL,
12 DETECTIVE, THE AREA WHERE I'M LOOKING ON PEOPLE'S 62.

13 DO YOU SEE WHAT APPEARS TO BE AN OPEN
14 GARAGE?

15 A YES.

16 Q AND, BY THE WAY, MICKEY THOMPSON'S BODY IS
17 NOT APPARENT IN THIS PHOTOGRAPH; CORRECT?

18 A THAT'S CORRECT, SIR.

19 Q WHERE IS IT? WHERE IS HE?

20 A I BELIEVE HE WAS REMOVED BY THE CORONER'S
21 OFFICE, SIR.

22 Q AND YOU SEE -- WELL, JUST SO WE'RE ALL
23 FAMILIAR WITH WHAT WE'RE LOOKING AT, YOU SEE WHAT WE WILL
24 CALL A VERY LARGE POOL IN PEOPLE'S 61, CORRECT, EMANATING
25 FROM MICKEY THOMPSON'S BODY?

26 A YES.

27 Q DO YOU SEE THAT SAME POOL RIGHT WHERE MY
28 POINTER IS (INDICATING)?

1 A THAT IS IT, SIR, YES.

2 THE COURT: ON 62?

3 MR. JACKSON: ON PEOPLE'S 62, YOUR HONOR. I'VE
4 INDICATED WITH A LASER POINTER JUST TO THE LEFT OF THE --
5 THERE ARE SIX ARROWS GOING FROM LEFT TO RIGHT, THE LEFT
6 MOST ARROW I POINTED JUST TO THE LEFT OF THAT WHAT
7 APPEARS TO BE A RATHER LARGE POOLING OF LIQUID ON THE
8 ASPHALT.

9 THE COURT: YES.

10 Q BY MR. JACKSON: DO YOU SEE THE TAN FENCE
11 LINE RIGHT WHERE MY LASER POINTER IS (INDICATING)?

12 A I DO, SIR.

13 Q AND DO YOU SEE HOW THE SEMICIRCLE OF
14 POOLING OF BLOOD THAT YOU'VE DESCRIBED IS IN THE FRONT
15 AND TOWARD THE CAMERA ON PEOPLE'S 62?

16 A YES, SIR.

17 Q CAN YOU SEE THAT AREA IN DEFENSE PP?

18 A YES, RIGHT WHERE YOUR POINTER IS, SIR.

19 MR. JACKSON: MAY THE RECORD REFLECT IN
20 DEFENSE PP, I'M INDICATING THERE'S A VERY OBVIOUS GARAGE
21 DOOR THAT'S DARK BROWN IN COLOR. TO THE LEFT OF THAT IS
22 A WHITE WALL THAT'S RELATIVELY THIN, IT LOOKS LIKE A
23 PYLON, AND JUST TO THE LEFT OF THAT APPEARS TO BE A
24 NATURAL WOOD COLOR FENCE LINE THAT'S VERY NARROW AND
25 VERTICAL (INDICATING).

26 THE COURT: YES.

27 MR. JACKSON: THAT'S RIGHT WHERE MY POINTER WAS.

28 Q DETECTIVE, WAS THERE A CRIME SCENE VIDEO

1 TAKEN THE DAY OF THE MURDERS?

2 A YES, SIR.

3 Q HAVE YOU HAD AN OPPORTUNITY TO REVIEW THAT
4 CRIME SCENE VIDEO?

5 A I HAVE, SIR.

6 Q DOES A PORTION OF THAT CRIME SCENE VIDEO
7 REFLECT WHAT WE'VE BEEN TALKING ABOUT IN FRONT OF THE
8 JURY JUST A FEW MINUTES AGO, THE BLOOD POOLING PATTERN?

9 A YES, SIR.

10 Q ALL RIGHT. DID YOU SPECIFICALLY LOOK AT
11 THE CRIME SCENE VIDEO AT MY DIRECTION WITH AN EYE TOWARDS
12 DETERMINING WHETHER OR NOT THAT WAS A CONSISTENT VIDEO OR
13 A CONSISTENT COPY OF A VIDEO WITH REGARD TO WHAT YOU SAW
14 THAT DAY?

15 A YES.

16 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
17 PERMISSION, I'D LIKE TO MARK AS PEOPLE'S NEXT IN ORDER A
18 V.H.S. VIDEOTAPE, PEOPLE'S 63.

19 THE COURT: 63.

20 MR. JACKSON: THANK YOU.

21 (PEOPLE'S EXHIBIT NO. 63 WAS MARKED FOR
22 IDENTIFICATION.)

23 MR. JACKSON: I WILL PLACE A P63 ON THE ACTUAL
24 VIDEOTAPE.

25 MAY I PUBLISH THIS TO THE JURY? THERE'S
26 NO AUDIO ON THE TAPE, SO THE REPORTER WILL HAVE NOTHING
27 TO TAKE DOWN.

28 THE COURT: YES. AND CAN YOU FOR THE RECORD WHEN

1 YOU START PLAYING IT, JUST GIVE US THE NUMBER SO THE
2 RECORD CAN REFLECT THE PORTION THAT'S BEING PLAYED.

3 MR. JACKSON: ABSOLUTELY. I BELIEVE, YOUR HONOR,
4 WITH RESPECT TO THAT, I THINK THE WAY THAT THIS
5 TELEVISION WORKS, IS WHEN I START IT, IT WILL START AT
6 TIME ZERO AND THEN MOVE SEVERAL SECONDS BEYOND THAT. I
7 DON'T BELIEVE THAT THE VIDEO IS CAPTURED WITH -- FOR
8 INSTANCE, IN THE ENTIRETY OF THE VIDEO THAT IT STARTS AT
9 TIME 22 MINUTES AND 15 SECONDS.

10 THE COURT: ALL RIGHT. THIS IS WHAT WE'RE GOING
11 TO HAVE TO DO, THEN. GO AHEAD AND PLAY -- GO AHEAD AND
12 PLAY THE PORTION OF 63 AND THEN WE'LL JUST HAVE TO
13 COPY --

14 MR. JACKSON: THIS IS THE COPY, JUDGE. THIS HAS
15 ALREADY BEEN EDITED.

16 THE COURT: OH. GOT IT. THIS IS JUST THAT
17 PORTION?

18 MR. JACKSON: CORRECT. THIS HAS ALREADY BEEN
19 EDITED, THIS IS NOT THE ENTIRE CRIME SCENE VIDEO. THIS
20 IS AN EDITED PORTION OF THE CRIME SCENE VIDEO CLIPPING AT
21 POINT A AND POINT B. IT'S ABOUT 40, 45 SECONDS LONG.

22 THE COURT: OKAY. PERFECT. YOU CAN PLAY THE
23 VIDEO.

24 MR. JACKSON: I CAN PLAY IT TWICE, YOUR HONOR.
25 THE DEFENSE I UNDERSTAND MAY HAVE A LITTLE BIT OF AN
26 ISSUE SINCE THEY CAN'T SEE THE T.V. AT THE SAME TIME.

27 MS. SARIS: I'LL JUST STAND OVER THERE IF THAT'S
28 ALL RIGHT.

1 MR. JACKSON: AND I DON'T KNOW IF THE ALTERNATES
2 WHO ARE TO THE RIGHT OF THE TELEVISION WILL HAVE ENOUGH
3 OF AN ANGLE.

4 THE COURT: IF ANYBODY WANTS TO MOVE, FEEL FREE
5 TO MOVE. OKAY? IF YOU CAN'T SEE THE SCREEN JUST --

6 MR. JACKSON: I'LL PLAY IT ONCE THROUGH AND IF IT
7 CAN'T BE SCENE, I CAN ALWAYS PLAY IT AGAIN.

8 THE COURT: OKAY.

9 MR. JACKSON: MAY I, YOUR HONOR?

10 THE COURT: YES.

11 MR. JACKSON: CAN YOU SEE THAT, DETECTIVE?

12 THE WITNESS: I CAN.

13 MR. JACKSON: I'M GOING TO LET IT PLAY THROUGH
14 AND THEN I'M GOING TO ASK YOU SOME QUESTIONS.

15 (VIDEO PLAYED.)

16 Q BY MR. JACKSON: COULD YOU SEE WHAT WAS
17 DEPICTED IN THAT VIDEO?

18 A I COULD, SIR.

19 Q NOW THAT YOU'VE SEEN IT --

20 MR. JACKSON: AND, YOUR HONOR, MAY THE COURT
21 INQUIRE IF EVERYBODY COULD SEE WHAT WAS DEPICTED ON THAT,
22 IT WAS RELATIVELY SMALL.

23 THE COURT: COULD EVERYBODY SEE IT? DOES ANYBODY
24 NEED IT PLAYED AGAIN?

25 OKAY. EVERYBODY SAW IT AND NO ONE NEEDS
26 TO HAVE IT PLAYED.

27 MR. JACKSON: YOUR HONOR, WITH REGARD TO --

28 Q I'M SORRY, DETECTIVE, WITH REGARD TO THE

1 VERY BEGINNING OF THE VIDEO, WHAT WAS THAT -- I'M
2 REWINDING IT.

3 WITH REGARD TO THE BEGINNING OF THE VIDEO,
4 WHAT DID THAT DEPICT?

5 A THAT WAS THE CADAVER OR THE REMAINS OF
6 VICTIM MICKEY THOMPSON.

7 Q UTILIZING PEOPLE'S 62 AS A POINT OF
8 REFERENCE, COULD YOU TELL THE JURORS APPROXIMATELY WHERE
9 THE CAMERAMAN WAS AS HE WAS SHOOTING THE VIDEO CLIP, THE
10 PORTION THAT WE JUST SAW?

11 MS. SARIS: OBJECTION. LACK OF FOUNDATION.
12 CALLS FOR SPECULATION.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER.

15 THE WITNESS: HE WAS STANDING JUST A LITTLE NORTH
16 OF -- AND RIGHT ABOUT -- SLIGHTLY EAST OF THE HEAD OF
17 MR. THOMPSON.

18 Q BY MR. JACKSON: AND WHICH OF THESE SIX
19 BLOOD SPOTS THAT YOU'VE EARLIER DESCRIBED GOING FROM LEFT
20 AND CURVING UP TO THE RIGHT, WHICH SPOTS DID HE START THE
21 CAMERA ON AND WHICH DID HE END THE CAMERA WITH?

22 A HE STARTED ON THIS ONE HERE WHICH WOULD BE
23 MORE TOWARDS THE LEFT, OR THE LEFT PORTION OF THE ARROW
24 GROUPING, CLOSER TO THIS LARGE POOLING OF BLOOD
25 (INDICATING).

26 MR. JACKSON: MAY THE RECORD REFLECT THE WITNESS
27 HAS INDICATED THE LEFT MOST ARROW ON PEOPLE'S 62?

28 THE COURT: YES.

1 Q BY MR. JACKSON: DID HE FOLLOW THE BLOOD
2 TRAIL ALL THE WAY AROUND TO THE RIGHT AS WE'RE LOOKING AT
3 THE PHOTOGRAPH?

4 A YES, THAT'S CORRECT.

5 Q IT WOULD HAVE BEEN TO CAMERA LEFT;
6 CORRECT?

7 A THAT'S CORRECT, SIR.

8 Q AT THE VERY END I WANT TO DRAW YOUR
9 ATTENTION TO A COUPLE OF SECONDS AT THE VERY END OF THAT
10 VIDEO CLIP.

11 DID YOU SEE THE CAMERA GO FROM THE ASPHALT
12 AND RAISE UP?

13 A I DID, SIR.

14 Q AND WHAT WAS DEPICTED AT THE END OF THE
15 DRIVEWAY AS THE CAMERA ROSE UP?

16 A THAT WAS THE CADAVER OR REMAINS OF VICTIM
17 TRUDY THOMPSON.

18 Q AND WAS THAT IN CAMERA VIEW AS THE
19 CAMERAMAN BROUGHT THAT CAMERA UP?

20 A YES, IT WAS.

21 Q JUST BEFORE IT CUT OFF?

22 A THAT'S CORRECT.

23 Q WAS MS. THOMPSON COVERED WITH A SHEET OR
24 WAS SHE, AS THE PHOTOGRAPHS INDICATED EARLIER, IN REGULAR
25 DRESS?

26 A SHE WAS COVERED BY A SHEET AT THAT TIME.

27 Q WITH THAT FOUNDATION HAVING BEEN LAID, I'D
28 LIKE YOU TO LOOK ONE MORE TIME AT THE VIDEO AND POINT OUT

1 TO THE JURORS, SPECIFICALLY, WHEN YOU CAN SEE THE REMAINS
2 OF TRUDY THOMPSON.

3 (VIDEO PLAYING.)

4 Q BY MR. JACKSON: WHAT ARE WE LOOKING AT
5 NOW?

6 A THE CADAVER OR THE REMAINS OF VICTIM
7 MICKEY THOMPSON.

8 Q AND IS THE CAMERA MOVING LEFT OR RIGHT?

9 A IT IS MOVING LEFT, CAMERA LEFT.

10 Q WHAT IS IT THAT WE'RE LOOKING AT IN THIS
11 PORTION OF THE VIDEO?

12 A BLOOD POOLINGS OR BLOOD DEPOSITS.

13 Q AND THESE ARE THE POOLS THAT YOU'VE
14 EARLIER DESCRIBED?

15 A THAT'S CORRECT.

16 Q AND WHAT IS THE CAMERA LOOKING AT RIGHT
17 NOW?

18 A DOWN TOWARD THE BOTTOM OF THE DRIVEWAY.
19 AND AT THE LOWER CENTER PORTION, YOU CAN SEE THE REMAINS
20 OF TRUDY THOMPSON.

21 THE COURT: ALL RIGHT. FOR THE RECORD, YOU'VE
22 PLAYED HOW MUCH OF PEOPLE'S 63 AGAIN?

23 MR. JACKSON: I PLAYED THE ENTIRETY OF
24 PEOPLE'S 63 AND I BELIEVE IT'S -- I TIMED IT JUST KIND OF
25 UNSCIENTIFICALLY -- IT'S ABOUT 44, 45 SECONDS.

26 THE COURT: ALL RIGHT. THANK YOU.

27 Q BY MR. JACKSON: AND WHILE -- SO THE
28 RECORD IS CLEAR, DETECTIVE, WHILE YOU WERE DESCRIBING OR

1 NARRATING THAT, YOU DESCRIBED THE ENTIRETY OF THE VIDEO
2 FOR THE JURORS?

3 A THAT'S CORRECT, SIR.

4 Q AT THE VERY END AS THE CAMERAMAN RAISED
5 THE CAMERA TO LOOK DOWN TOWARD THE MOUTH OF THE DRIVEWAY,
6 COULD YOU SEE THE BRICK PYLON AT THE MOUTH OF THE
7 DRIVEWAY THAT REPRESENTS A GATE IN PEOPLE'S -- I'M
8 SORRY -- THAT'S DEFENSE PP?

9 A YES.

10 Q AND COULD YOU SEE THROUGH THE MOUTH OF
11 THAT OPENING THE BOTTOM OF TRUDY THOMPSON COVERED WITH A
12 SHEET?

13 A YES, YOU COULD.

14 Q AND APPROXIMATELY WHERE WAS THE
15 CAMERAMAN'S PROSPECTIVE -- LET ME ASK IT THIS WAY:

16 FROM YOUR REVIEW OF THE VIDEO AND BEING AT
17 THE CRIME SCENE, WHERE WOULD THE CAMERAMAN APPROXIMATELY
18 HAVE BEEN WHEN HE SHOT THAT LAST PORTION OF THE VIDEO AS
19 THE CAMERA RAISED UP AND YOU COULD SEE TRUDY THOMPSON'S
20 BODY?

21 A HE WOULD HAVE BEEN IN A POSITION THAT WAS
22 ONCE HELD BY MICKEY THOMPSON.

23 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.
24 MOTION TO STRIKE.

25 THE COURT: LET'S LAY A FOUNDATION FOR THAT,
26 PLEASE. THAT WILL BE STRICKEN.

27 MR. JACKSON: I'LL ASK IT A DIFFERENT WAY.

28 Q WAS THE CAMERAMAN CLOSE TO STANDING ABOVE

1 OR BESIDE, ADJACENT TO THE BLOOD SPATTER POOLS THAT
2 YOU'VE EARLIER DESCRIBED?

3 A YES.

4 Q ALL RIGHT. AND THOSE ARE POOLING PATTERNS
5 THAT ARE REPRESENTED IN PEOPLE'S 62; CORRECT?

6 A THAT'S CORRECT, SIR.

7 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
8 HONOR?

9 THE COURT: YES.

10 (DISCUSSION OFF THE RECORD.)

11 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.
12 WITH THE COURT'S PERMISSION --

13 MS. SARIS: YES, YOU CAN TAKE THIS AWAY.

14 MR. JACKSON: OKAY.

15 THE COURT: MS. SARIS, FURTHER CROSS-EXAMINATION?

16 MS. SARIS: THANK YOU.

17
18 RE-CROSS EXAMINATION

19 BY MS. SARIS:

20 Q GOOD MORNING, MR. VERDUGO.

21 A MORNING, MA'AM.

22 Q I WOULD LIKE TO SHOW YOU AGAIN DEFENSE JJ
23 AND JUST MAKE SURE BASED ON WHAT WE'VE SEEN IN THE VIDEO,
24 IT IS STILL YOUR TESTIMONY THAT THESE INDIVIDUALS ARE NOT
25 STEPPING IN BLOOD; IS THAT CORRECT?

26 A THAT'S CORRECT.

27 MS. SARIS: I ALSO HAVE ANOTHER PHOTOGRAPH I
28 WOULD LIKE TO MARK DEFENSE NEXT IN ORDER, YOUR HONOR.

1 THE COURT: ALL RIGHT. THAT WILL BE -- IT LOOKS
2 LIKE XX.

3 (PEOPLE'S EXHIBIT NO. XX WAS MARKED FOR
4 IDENTIFICATION.)

5 Q BY MS. SARIS: BEFORE I SHOW YOU THAT, LET
6 ME ASK YOU ANOTHER QUESTION.

7 DO ANY PHOTOS EXIST OF THESE ACTUAL STAINS
8 THAT ARE ON THE VIDEO?

9 A ARE THERE ANY PHOTOS OF IT?

10 Q DID SOMEBODY STAND OVER THEM AND TAKE A
11 PICTURE?

12 A I HAVEN'T SEEN THEM.

13 Q DID YOU ASK FOR ANY PHOTOS TO BE TAKEN?

14 A NO, MA'AM.

15 Q IS IT TRUE THAT SOMETIMES YOU CAN TELL A
16 PERSON'S MOVEMENT OR PATTERN BY THE WAY BLOOD SPATTERS TO
17 THE GROUND?

18 A THAT'S CORRECT.

19 Q AND SOMETIMES BLOOD SPATTER IS USED TO
20 RECREATE A CRIME SCENE?

21 A YES. IT CAN BE, YES.

22 Q WAS THIS BLOOD TESTED AT ALL EVEN FOR
23 TYPE?

24 A I DON'T KNOW, MA'AM.

25 Q SO YOU DIDN'T ASK IT TO BE TESTED?

26 A NO, MA'AM, I DIDN'T.

27 Q SO OF ALL THE STAINS THAT WE SAW, ONE OF
28 THOSE STAINS AT LEAST COULD HAVE BELONGED TO THE

1 PERPETRATOR?

2 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: DO YOU HAVE ANY WAY OF
5 KNOWING WHO THE BLOOD BELONGED TO?

6 A DO I? NO, MA'AM.

7 Q GETTING BACK TO XX, LET ME PUT THIS --
8 BRING THIS UP TO YOU (INDICATING).

9 DOES THIS APPEAR TO YOU TO BE A CLOSE UP
10 OF TRUDY THOMPSON AS SHE WAS SEEN THAT MORNING?

11 A OH, GOOD. THANK YOU.

12 YES, THAT COULD WELL BE.

13 Q DO YOU NOTICE ON HER, VERY LARGE PROMINENT
14 GOLD EARRINGS WITH A ZIGZAG THAT ARE ALL FULL OF BLOOD?
15 FOR WANT OF A BETTER DESCRIPTION OF THAT PATTERN, SORT OF
16 A --

17 A I GUESS IT COULD BE, YES. UH-HUH.

18 Q DO YOU NOTICE A SQUARE NECKLACE?

19 A NO, I'M SORRY, MA'AM.

20 Q YOU DON'T SEE A SQUARE NECKLACE ON THE
21 OVERHEAD OR IN THAT PHOTOGRAPH?

22 A OH, I'M SORRY. I CAUGHT IT. YES, I SEE
23 WHAT YOU MEAN.

24 Q IT'S DIFFICULT TO TELL, BUT CAN YOU SEE
25 THE NUMBER 10 IN THAT PHOTOGRAPH?

26 A NO, MA'AM, I CAN'T SEE IT.

27 Q OF PEOPLE'S 57, THE PHOTO NUMBER H THAT
28 YOU DESCRIBED WAS THE JEWELRY, WHICH OF THOSE PIECES DO

1 YOU BELIEVE TRUDY THOMPSON WAS ACTUALLY WEARING WHEN SHE
2 WAS KILLED?

3 A THERE'S ONE THERE THAT HAS A LARGE NUMBER
4 ONE IN DIAMONDS.

5 Q AND THAT'S WHAT MY POINTER IS ON RIGHT NOW
6 (INDICATING)?

7 A YES, IT APPEARS TO BE, MA'AM.

8 Q AND IT IS A CIRCULAR MEDALLION WITH A
9 NUMBER ONE?

10 A YES.

11 Q NOW THAT YOU SEE A SQUARE PENDENT AROUND
12 HER NECKLACE, DOES THAT CHANGE YOUR BELIEF ABOUT WHETHER
13 OR NOT SHE WAS WEARING THAT OR WHETHER OR NOT THAT WAS
14 FOUND IN THE CAR?

15 A NO. SHE MAY HAVE HAD THAT ONE ON. I
16 DIDN'T SEE IT.

17 Q YOU DIDN'T SEE THE SQUARE PENDENT OR THE
18 CIRCULAR ONE?

19 A THE CIRCULAR ONE I SAW, YES.

20 Q THE PURSE THAT YOU'VE DESCRIBED THAT WAS
21 FOUND IN THE VAN THAT WE SEE IN PEOPLE'S 57, DO YOU HAVE
22 A PHOTOGRAPH OF THAT PURSE AT ALL?

23 A I DON'T, NO, MA'AM.

24 Q HAVE YOU EVER SEEN A PHOTOGRAPH OF THE
25 CURRENCY AT ALL?

26 A NO, MA'AM, I HAVEN'T.

27 Q IS IT TRUE THAT THE CURRENCY WAS FOUND IN
28 LARGE BILLS IN AN ENVELOPE IN THE PURSE?

1 A I DON'T KNOW, MA'AM.

2 Q DID YOU EVER PERSONALLY SEE THE CURRENCY?

3 A YES.

4 Q DO YOU REMEMBER HOW IT WAS SHOWN TO YOU?

5 A NO. IT WAS DISPLAYED. BASICALLY A LOT OF
6 MONEY.

7 Q SO SOMEONE ELSE HAD RETRIEVED IT FROM THE
8 PURSE, AS FAR AS YOU KNOW?

9 A OH, YES.

10 Q THERE SEEMS TO BE IN PHOTOGRAPH B, IF YOU
11 LOOK CLOSELY, A WHITE BAG IN THE FRONT PORTION OF THE
12 PASSENGER SIDE OF THAT VEHICLE. AND IF YOU NEED TO STEP
13 OFF --

14 THE COURT: WHEN YOU SAY PHOTO B --

15 MS. SARIS: PHOTO B OF PEOPLE'S 57. THANK YOU.

16 THE COURT: THANK YOU.

17 Q BY MS. SARIS: DO YOU SEE THAT?

18 A A WHITE BAG YOU MEAN ON THE FLOOR, MA'AM?

19 Q YES.

20 A YES.

21 Q IS THAT WHAT THAT APPEARS TO BE TO YOU?

22 A YES, IT DOES.

23 Q WAS THERE ANY PHOTOGRAPH OF THAT BAG
24 INDEPENDENT OF THAT PICTURE?

25 A I DON'T KNOW, MA'AM.

26 Q WERE YOU -- DID YOU ASK FOR -- YOU MAY
27 HAVE YOUR SEAT.

28 DID YOU ASK FOR ANY PHOTOGRAPH TO BE TAKEN

1 OF THAT BAG?

2 A NO, MA'AM. I WASN'T THE LEAD
3 INVESTIGATOR.

4 Q WERE YOU NOT ABLE TO HAVE PHOTOGRAPHS
5 TAKEN AT YOUR DIRECTION?

6 A YES.

7 Q YOU COULD HAVE?

8 A YES.

9 Q WERE YOU AWARE THAT MORNING THAT
10 INDIVIDUALS HAD DESCRIBED THE CYCLISTS AS HAVING BAGS ON
11 THEIR BACK WHEN THEY RODE AWAY?

12 A YES.

13 Q AND THE BAGS WERE DESCRIBED AS WHITE AND
14 CANVAS?

15 A OH, WAIT A MINUTE. NO, I NEVER GOT THAT
16 INFORMATION.

17 Q IF YOU HAD THAT INFORMATION, WOULD YOU
18 HAVE PHOTOGRAPHED THE BAG OR AT LEAST EXAMINED MORE
19 CLOSELY THE BAG IN PEOPLE'S 67B?

20 MR. JACKSON: OBJECTION. THAT CALLS OR
21 SPECULATION.

22 THE COURT: SUSTAINED.

23 Q BY MS. SARIS: SO YOU NEVER TOOK ANY TYPE
24 OF A BAG TO ANY WITNESS AND ASKED THEM TO IDENTIFY IT, I
25 TAKE IT?

26 A NO.

27 Q YOU CORRECTED ME THE OTHER DAY WITH
28 CRITICAL MASS, CENTER MASS. I WAS CLOSE.

1 A YES.

2 Q DOES -- AS LONG AS WE UNDERSTAND, LET ME
3 JUST ASK IT THIS WAY:

4 ARE YOU TRAINED AS A PERSON WHO'S
5 EXPERIENCED WITH FIREARMS WHEN SOMEONE IS RUSHING TO YOU
6 TO AIM TO WOUND OR TO AIM TO KILL?

7 A YOU AIM FOR CENTER MASS AS WAS DESCRIBED.
8 YOU AIM TO STOP A PERSON. IF THEY DIE, IT'S AN OFF SHOOT
9 OF THE SHOOTING. BUT IT'S NOT A MATTER -- YOU AIM TO
10 STOP IS HOW WE WERE TRAINED.

11 Q SO THE BIGGEST TARGET?

12 A THE BIGGEST TARGET.

13 Q AND FINALLY, IF YOU RECALL, BULLET
14 FRAGMENT NUMBER 24, DO YOU RECALL WHERE THAT WAS FOUND?

15 A I BELIEVE THAT -- WAS THAT INSIDE OF THE
16 GARAGE? I CAN'T BE CERTAIN.

17 Q WELL, LET ME ASK YOU THIS:
18 HOW MANY FRAGMENTS DID YOU FIND BY THE
19 BODY OF MICKEY THOMPSON, IF YOU RECALL?

20 A ONE.

21 Q OKAY. OH, ONE MORE QUESTION.

22 THAT MORNING, IT SEEMS TO BE THAT THERE
23 WAS -- AND I THINK WE TALKED ABOUT THIS WHEN WE LOOKED AT
24 THE PHOTOGRAPH THAT HAD ITEM NUMBER 12 WHICH WAS THE STUN
25 GUN --

26 A OKAY.

27 Q -- WHICH IS PEOPLE'S 56.

28 WHAT IS THAT PORTION OF THE DRIVEWAY THAT

1 APPEARS MORE BLACK IN THAT PHOTOGRAPH THAN THE OTHER
2 PORTION?

3 A YOU MEAN BELOW THE STUN GUN?

4 Q THIS AREA HERE WHERE IT LOOKS LIKE MAYBE
5 -- IT LOOKS TO ME LIKE WATER (INDICATING), BUT DO YOU
6 KNOW WHAT THAT IS?

7 A IT LOOKS LIKE TAR TO ME, LIKE FILLING IN
8 CRACKS.

9 Q FILLING IN CRACKS IN THE DRIVEWAY?

10 A LIKE REPAIR.

11 Q OKAY. DID YOU NOTICE ANY WATER OR
12 PRECIPITATION ON THE DRIVEWAY THAT MORNING?

13 A NOT THAT I RECALL AT THIS TIME, NO.

14 MS. SARIS: MAY I HAVE JUST A MOMENT?

15 (DISCUSSION OFF THE RECORD.)

16 Q BY MS. SARIS: DID YOU ENTER THE GARAGE
17 ITSELF?

18 A YES.

19 Q AND DID YOU SEE ANOTHER -- WAS IT A
20 TWO-CAR GARAGE?

21 A YOU CAN DESCRIBE IT AS THAT. IT'S A
22 LARGER -- IT'S NOT A ONE CAR.

23 Q WELL, WAS THERE NOT A MITSUBISHI ALSO IN
24 THE GARAGE?

25 A YES.

26 Q AND THEN A SPACE WHERE THE VAN WAS PARKED
27 OR HAD BEEN PARKED?

28 A YES.

1 MS. SARIS: THANK YOU. NOTHING FURTHER.

2 THE COURT: ANYTHING ELSE?

3 MR. JACKSON: I THINK I JUST HAVE ONE QUESTION.

4 IF I MAY HAVE JUST A MOMENT, YOUR
5 HONOR.

6 (PAUSE IN THE PROCEEDINGS.)

7
8 REDIRECT EXAMINATION

9 BY MR. JACKSON:

10 Q I KNOW THIS IS REALLY HARD TO SEE.
11 DETECTIVE, LET ME DRAW YOUR ATTENTION BACK TO WHAT YOU
12 PREVIOUSLY TESTIFIED TO AS 24.

13 YOU PUT A SMALL "B" NEXT TO THAT TO
14 INDICATE THAT'S A BULLET; CORRECT?

15 A THAT'S CORRECT.

16 Q WAS THAT FOUND UNDER MICKEY THOMPSON'S
17 HEAD?

18 A THAT'S CORRECT.

19 Q THERE'S ALSO A 25 WHICH IS A "B" ALSO; IS
20 THAT CORRECT?

21 A YES.

22 Q AND THAT'S JUST TO THE LEFT OF MICKEY
23 THOMPSON'S BODY?

24 A THAT'S CORRECT.

25 Q WAS THAT ALSO A BULLET?

26 A YES.

27 Q AN EXPENDED BULLET?

28 A AN EXPENDED BULLET.

1 Q I JUST WANTED TO CLEAR THAT UP.

2 SO THERE WERE ACTUALLY TWO BULLETS FOUND
3 AT OR NEAR THE LOCATION OF THE MICKEY THOMPSON'S BODY?

4 A THAT'S CORRECT.

5 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

6 THE COURT: YES. ANY RECROSS?

7 MS. SARIS: YES. I DIDN'T KNOW WHICH DIAGRAM HAD
8 IT.

9
10 RECROSS EXAMINATION

11 BY MS. SARIS:

12 Q NOW THAT YOU'RE REFRESHED, 24 THOUGH WAS
13 FOUND BY HIS HEAD?

14 A UNDER HIS HEAD, YES.

15 MS. SARIS: UNDER HIS HEAD. THANK YOU.

16 THE COURT: ANYTHING ELSE?

17 MR. JACKSON: NO, YOUR HONOR.

18 THE COURT: THANK YOU SIR. I THINK YOU'RE
19 FINISHED AT THIS TIME. GOSH, HOW MANY DAYS, WAS IT?

20 AND ANY OBJECTION TO EXCUSING THE WITNESS?

21 MS. SARIS: NO, YOUR HONOR.

22 MR. JACKSON: NO, YOUR HONOR.

23 THE COURT: ALL RIGHT. THANK YOU.

24 PEOPLE'S NEXT WITNESS?

25 MR. JACKSON: MANUAL MUNOZ, YOUR HONOR.

26 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.
27
28

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MANUEL MUNOZ,

CALLED BY THE PEOPLE AS A WITNESS, WAS

SWORN AND TESTIFIED AS FOLLOWS:

THE CLERK: YOU DO SOLEMNLY STATE THAT THE
TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
NOTHING BUT THE TRUTH SO HELP YOU GOD.

THE WITNESS: I DO.

THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
NAME FOR THE RECORD.

THE WITNESS: MANUEL JOSE MUNOZ, M-A-N-U-E-L,
M-U-N-O-Z.

THE CLERK: THANK YOU.

THE COURT: YOU MAY INQUIRE.

MR. JACKSON: THANK YOU, YOUR HONOR.

WHILE I'M UP AT THE WITNESS STAND OR CLOSE
TO IT, I MIGHT AS WELL MARK TWO PHOTO BOARDS THAT I
EXPECT TO BE MARKED.

THE COURT: 64 AND 65.

MR. JACKSON: YES, YOUR HONOR. PEOPLE'S 64 BEARS
13 PHOTOGRAPHS AND IT'S ENTITLED TWO SEPARATE GUNS USED.
PEOPLE'S 60 -- I'M SORRY, THAT WAS 64; CORRECT?

THE COURT: YES, SO MARKED.

MR. JACKSON: AND PEOPLE'S 65 BEARS SIX
PHOTOGRAPHS AND TWO BLANKS TO -- I'LL GET TO THE REASON
FOR THE BLANKS IN JUST A SECOND -- TWO BLANK SQUARES THAT

1 ALSO INDICATE TWO SEPARATE GUNS USED.

2 THE COURT: THAT WILL BE 65.

3 MR. JACKSON: THANK YOU.

4 (DEFENDANT'S EXHIBIT NOS. 64 & 65 WERE
5 MARKED FOR IDENTIFICATION.)

6 BY MR. JACKSON:

7 Q MR. MUNOZ, THANK YOU FOR JOINING US. I
8 KNOW YOU'VE BEEN HERE SEVERAL DAYS AND I APOLOGIZE. IT'S
9 TAKEN A LITTLE WHILE TO GET TO YOU.

10 FIRST OF ALL, LET'S START OFF BY TELLING
11 THE JURORS WHAT YOU DO FOR A LIVING.

12 A I'M EMPLOYED BY THE COUNTY OF LOS ANGELES
13 AS A SENIOR CRIMINALIST STATIONED AT THE LOS ANGELES
14 COUNTY SHERIFF'S SCIENTIFIC BUREAU, ALSO KNOWN AS THE
15 CRIME LABORATORY.

16 Q WHAT DO YOU DO AS A SENIOR CRIMINALIST?

17 A PRESENTLY I'M ASSIGNED TO THE FIREARMS
18 SECTION. THAT SECTION DEALS WITH THE IDENTIFICATION OF
19 FIRE AMMUNITION, BE IT BULLETS, CARTRIDGE CASES TO A
20 SPECIFIC GUN. MY RESPONSIBILITIES ALSO INCLUDE CRIME
21 SCENE COLLECTION AS IT PERTAINS TO FIREARM EVIDENCE.
22 DISTANCE DETERMINATION. BULLET TRAJECTORIES. SERIAL
23 NUMBER RESTORATION. CRIME SCENE RECONSTRUCTION AS IT
24 DEALS WITH FIREARMS. BASICALLY EVERYTHING AND ANYTHING
25 THAT'S RELATED WITH FIREARMS I'M DEEMED THE COUNTY
26 EXPERT.

27 Q AND WHAT EDUCATION, TRAINING AND
28 BACKGROUND QUALIFIES YOU TO PERFORM THESE TYPES OF

1 DUTIES?

2 A I HAVE A BACHELORS IN SCIENCE IN FORENSIC
3 CHEMISTRY, ALSO KNOWN AS CRIMINALISTICS FROM CAL STATE
4 UNIVERSITY LONG BEACH. I HAVE A MASTERS IN SCIENCE IN
5 CRIMINALISTICS FROM CAL STATE UNIVERSITY LOS ANGELES. I
6 AM AN INSTRUCTOR FOR THE DEPARTMENT OF JUSTICE, U.S.
7 GOVERNMENT, AND -- WHERE I TEACH CRIMINALISTICS, MAINLY
8 BLOOD STAIN PATTERN INTERPRETATION, FIREARM CRIME SCENE
9 RECONSTRUCTION, PHYSICAL EVIDENCE COLLECTION, FIREARM
10 IDENTIFICATION TO COUNTRIES SUCH AS MEXICO, HONDURAS,
11 EL SALVADOR. I TEACH THEIR AGENTS, THEIR DETECTIVES,
12 THEIR CRIMINALIST ON HIS IT'S DONE IN THE UNITED STATES.

13 I'M ALSO A MEMBER OF THE AMERICAN ACADEMY
14 OF FORENSIC SCIENCE. I'M A FULL MEMBER OF THE CALIFORNIA
15 ASSOCIATION CRIMINALISTS. FULL MEMBER OF THE ASSOCIATION
16 FIREARMS TOOL MARK EXAMINER. I'VE BEEN IN THE FIELD OF
17 CRIMINALISTICS FOR 27 YEARS.

18 I'M ALSO THE LEAD PERSON IN THE FIREARMS
19 SECTION IN WHICH I MENTOR THE NEW EXAMINERS AS WELL AS
20 ASSIST IN THEIR TRAINING AND ASSIST IN PEERING THEIR
21 WORK.

22 I'M ALSO ON STAFF AT RIO HONDO COLLEGE
23 WHERE I'M ASKED TO TEACH CRIME SCENE CRIMINALISTIC
24 COURSES AS WELL.

25 Q MR. MUNOZ, YOU MENTIONED PEER REVIEWING
26 OTHERS WORK. DURING THE COURSE OF -- AND SCOPE OF YOUR
27 NORMAL DUTIES, WHEN YOU'RE ASKED TO MAKE A FIREARMS
28 ANALYSIS OF SOME KIND, WHATEVER IT MIGHT BE, EITHER

1 COMPARING BULLETS OR SHELL CASINGS OR TEST FIRING A
2 WEAPON OR WHATEVER, AFTER YOU REACH YOUR CONCLUSIONS, IS
3 THERE A SYSTEM IN PLACE AT THE CRIME LAB IN LOS ANGELES
4 FOR PEER REVIEW?

5 A YES, THERE IS.

6 Q DESCRIBE WHAT THAT SYSTEM OF PEER REVIEW
7 IS.

8 A I'M PROUD TO SAY THAT WE WERE ONE OF THE
9 FIRST LABS IN THE WEST COAST -- THE SHERIFF'S DEPARTMENT
10 -- TO ACTUALLY PASS THE A.S.C.L.D. ACCREDITATION.
11 A.S.C.L.D. STANDS FOR THE ASSOCIATION OF CRIME LABORATORY
12 DIRECTORS. AND THIS IS A GOVERNING BODY THAT ACTUALLY
13 DICTATES HOW FORENSIC LABORATORIES ARE BASICALLY --
14 MAINLY GOVERNMENT BUT AS WELL AS PRIVATE LABORATORIES --
15 HOW THEY SHOULD CONDUCT CERTAIN ANALYSIS.

16 AND THERE'S A LOT OF CRITERIA THAT NEEDS
17 TO BE MET, SUCH AS EXAMINER'S EXPERIENCE, THE WAY
18 EVIDENCE IS HANDLED IN THE LABORATORY, THE WAY IT'S
19 TRACKED, ALSO THE WAY REPORTS ARE WRITTEN. AND ONCE A
20 REPORT IS WRITTEN BY AN EXAMINER, IT HAS TO BE REVIEWED
21 IN ITS ENTIRETY BY A PEER OF EQUAL EXPERIENCE. AND BOTH
22 RESULTS HAVE TO CONCUR IN ORDER FOR A REPORT TO LEAVE THE
23 LABORATORY.

24 Q SO BEFORE YOUR CONCLUSIONS FIND THEIR WAY
25 IN A FINAL REPORT, THERE'S AT LEAST TWO SETS OF EYES OR
26 TWO SETS OF EXPERTS -- TWO EXPERTS THAT LOOK AT THE SAME
27 MATERIAL AND ANALYZE THE SAME MATERIAL; CORRECT?

28 A THAT IS CORRECT. HE HAS TO LOOK AT ALL

1 THE EVIDENCE, HE HAS TO WRITE HIS OWN NOTES AND HE HAS TO
2 GIVE HIS OPINION, AND THAT OPINION HAS TO CONCUR WITH THE
3 PRIMARY EXAMINER.

4 Q ALL RIGHT. WHEN YOU DO WORK AS AN
5 ANALYST, IS YOUR WORK PEER REVIEWED?

6 A YES, IT IS.

7 Q WHEN OTHER PEOPLE DO WORK IN THE LAB, DO
8 YOU ALSO ACT AS PEER REVIEWER FOR THEIR WORK?

9 A THAT IS CORRECT.

10 Q SO IT'S SORT OF A SYMBIOTIC RELATIONSHIP?

11 A YES.

12 Q WERE YOU ASKED TO LOOK AT THE BALLISTICS
13 EVIDENCE IN THIS PARTICULAR CASE?

14 A YES, I WAS.

15 Q WOULD YOU DESCRIBE FOR THE JURORS
16 BEFORE -- WELL, LET'S CROSS ONE BRIDGE BEFORE WE GET TO
17 THE NEXT, I SUPPOSE.

18 TELL US, FIRST OF ALL, WHAT BALLISTICS
19 EVIDENCE YOU WERE ASKED TO REVIEW IN THIS PARTICULAR
20 CASE.

21 A I WAS ASKED TO EXAMINE SEVERAL FIRED
22 CARTRIDGE CASES AS WELL AS SEVERAL FIRED BULLETS. AND
23 THREE CARTRIDGES. WHICH IS ALSO KNOWN AS A LIVE ROUND.

24 Q ALL RIGHT. FOR THOSE OF US WHO ARE NOT
25 EXPERTS IN THE FIELD, WE ALWAYS THINK OF A BULLET AS THAT
26 LITTLE GOLD THING THAT COWBOYS STICK IN THEIR REVOLVER
27 BEFORE THEY SHOOT; RIGHT? AND YOU'VE JUST MENTIONED
28 THREE DIFFERENT THINGS; CARTRIDGES, CARTRIDGE CASES AND

1 BULLETS.

2 WHAT'S THE DIFFERENCE BETWEEN THOSE
3 THINGS?

4 A IF I MAY HAVE AN ILLUSTRATION, THAT MIGHT
5 HELP EXPLAIN THIS A LITTLE EASIER FOR THE JURY.

6 Q PLEASE.

7 A I'M LOOKING AT AN ILLUSTRATION OF A
8 CARTRIDGE. A CARTRIDGE IS ONE UNIT OF AMMUNITION. IN
9 MILITARY TERMS IT'S CALLED A ROUND. THE COMPONENTS OF A
10 CARTRIDGE IS YOU HAVE A CARTRIDGE CASE. ON THE BASE OF
11 THE CARTRIDGE CASE, IF IT'S A CENTER FIRE, IT'S GOING TO
12 HAVE A PRIMER. AND INSIDE OF THE CARTRIDGE CASE THERE'S
13 POWDER, WHICH IS NITROUS ZAUROS AND THEN IT'S TOPPED OFF
14 WITH A BULLET.

15 AND WHEN A CARTRIDGE IS FIRED, THE FIRING
16 PIN HITS THE PRIMER -- PRIMER ALL IT DOES IS SPARK, SENDS
17 A SPARK TO THE POWDER. POWDER BURNS, CREATES TREMENDOUS
18 PRESSURE. AND THAT PRESSURE HAS TO BE ALLEVIATED ONE WAY
19 OR THE OTHER AND THE PATH OF THE LEAST RESISTANCE IS
20 GOING TO BE THE BARREL.

21 AND THAT PRESSURE BUILDS UP, THE CARTRIDGE
22 CASE SWELLS, FILL ITS CHAMBER, HITS, SLAMS AGAINST THE
23 FIREARM AND THE BULLET IS LODGED DOWN RANGE.

24 Q DO YOU KNOW THE DIFFERENCE BETWEEN A
25 SEMIAUTOMATIC AND A REVOLVER TYPE PISTOL?

26 A YES, I DO.

27 Q CAN YOU DESCRIBE FOR THE JURORS THE
28 DIFFERENCE BETWEEN A SEMIAUTOMATIC AND A RESOLVER AND HOW

1 THAT RELATES TO WHAT HAPPENS TO PHYSICAL EVIDENCE AT THE
2 SCENE OF A SHOOTING.

3 A SURE. I ALSO HAVE ANOTHER ILLUSTRATION
4 SHOWING A SEMIAUTOMATIC PISTOL, IF I MAY.

5 Q OKAY.

6 A HERE IS A DIAGRAM OF A SEMIAUTOMATIC
7 PISTOL (INDICATING). IT GETS THE NAME SEMIAUTO BECAUSE
8 IT'S SELF LOADING. THE FEATURE OF A SEMIAUTOMATIC PISTOL
9 IS THAT IT HAS A MAGAZINE. PEOPLE CALL IT -- USUALLY
10 REFER TO THIS AS A CLIP. IT'S NOT A CLIP, IT'S A
11 MAGAZINE.

12 YOUR CARTRIDGES ARE LOADED INTO THE
13 MAGAZINE AND THIS IS FED IN THE GRIP AREA OF THE PISTOL
14 CALLED THE MAGAZINE WELL. AND THE TOP PART THE FIREARM
15 IS CALLED A SLIDE, AND BASICALLY THAT'S ALL IT DOES, IS
16 SLIDE BACK AND FORTH. WHEN IT DOES THAT, WHEN IT SLIDES
17 REARWARD, IT COCKS THE HAMMER SO THE FIREARM IS GOING TO
18 BE READY TO FIRE, AND IT COMES FORWARD. IF THERE'S ANY
19 AMMUNITION IN THE MAGAZINE, IT'S GOING TO PUSH IT, IT'S
20 GOING TO FEED IT INTO THE CHAMBER. THE CHAMBER IS THE
21 FRONT PART OF THE BARREL, THIS IS THE MUZZLE, THE END
22 PART. IT FEEDS THE CARTRIDGE INTO THE CHAMBER. NOW YOU
23 HAVE THE FIREARM THAT'S LOADED AND THE HAMMER'S COCKED,
24 IT'S READY TO FIRE.

25 YOU SQUEEZE THE TRIGGER, HAMMER FALLS,
26 HITS THE FIRING PEN, HITS THE PRIMER, GETS THE EXPLOSION,
27 THOSE GASES PROPEL THE BULLET FORWARD DUE TO NEWTON'S
28 THIRD LAW, AN OPPOSITE REACTION. IT'S GOING TO PUSH THAT

1 SLIDE REARWARD, AND WHEN IT GOES REARWARD, THE SLIDE HAS
2 A CLAW THAT GRIPS THE CARTRIDGE, THE BASE OF IT, AND
3 PULLS IT OUT OF THE FIREARM, EJECTS IT OUT OF THE
4 FIREARM, COCKS THE HAMMER AND IT GOES FORWARD.

5 IT'S GOING TO LOAD ANOTHER CARTRIDGE IN
6 THE CHAMBER AND THE PROCESS IS REPEATED AGAIN EVERY TIME.
7 SO BASICALLY EVERYTIME YOU SQUEEZE THE TRIGGER, IT FIRES,
8 EJECTS, COCK, LOAD AND YOU'RE READY TO GO. IN THAT ORDER.

9 A REVOLVER IS A HANDGUN AS WELL, BUT IT
10 HAS A CYLINDER. AND ITS CYLINDER HAS TO BE MANUALLY
11 LOADED, IT HAS DIFFERENT CHAMBERS, IT'S LIKE A REVOLVING
12 DOOR. IT GOES AROUND IN CIRCLES. AND EACH CHAMBER YOU
13 LOAD THE AMMUNITION IN, YOU CLOSE YOUR REVOLVER, AND AS
14 YOU FIRE IT, THE HAMMER FALLS, HITS -- THE PRIMER GOES
15 OFF AND EVERY TIME YOU COCK IT, IT INDEXES TO THE NEXT
16 AVAILABLE CHAMBER. SO AS YOU FIRE IT, IT JUST KEEPS
17 GOING AROUND AND AROUND UNTIL YOU FIRE ALL OF YOUR
18 AMMUNITION. IN A REVOLVER, ALL OF THE CARTRIDGE CASES
19 ARE KEPT IN THE FIREARM UNTIL YOU MANUALLY EJECT THEM OUT
20 OF THE CYLINDER.

21 SO THOSE ARE THE TWO BIG DIFFERENCES.

22 ALSO, THE CALIBERS ARE DIFFERENT. HANDGUN
23 CALIBER IS MORE POWERFUL, LONGER, AND THE SEMIAUTOMATIC
24 PISTOL ONES ARE SHORTER BECAUSE THEY HAVE A RESTRICTION
25 OF HOW LONG THEY'RE GOING TO BE BECAUSE OF THEIR
26 MAGAZINE. THEY CANNOT BE REALLY LONG BECAUSE THEY WON'T
27 FIT THE MAGAZINE.

28 SO THOSE ARE THE TWO DIG DIFFERENCE.

1 Q LET'S TAKE SEMIAUTOMATIC WEAPONS --
2 SEMIAUTOMATIC PISTOLS SPECIFICALLY.

3 WHAT HAPPENS -- YOU'VE DESCRIBED ONCE THE
4 CARTRIDGE IS LOADED IN THE MAGAZINE, IF YOU FIRE THE
5 FIRST ROUND, YOU MENTIONED ABOUT FOUR THINGS HAPPEN; THE
6 SLIDE PULLS BACK, IT COCKS THE HAMMER FOR THE NEXT ROUND
7 TO BE FIRED, IT EJECTS A CARTRIDGE THROUGH A CLAW, AND
8 THEN IT GRABS A NEW CARTRIDGE AND LOADS IT UP INTO THE
9 CYLINDER, IF YOU WILL --

10 A THE CHAMBER.

11 Q -- THE CHAMBER, THAT'S THE WORD I WAS
12 LOOKING FOR --THE CHAMBER FOR THE NEXT ROUND TO BE FIRED;
13 CORRECT?

14 A CORRECT.

15 Q I'M INTERESTED IN THAT SECOND STEP.

16 WHAT HAPPENS WITH THE EXPENDED CARTRIDGE
17 CASE?

18 A IT'S ACTUALLY THE FIRST STEP BECAUSE IT
19 REMOVED IT BEFORE IT COCKED THE HAMMER. IT'S REJECTING
20 THE CARTRIDGE CASE. AND MOST FIREARMS EJECT THE
21 CARTRIDGE CASE TO THE RIGHT, SOMETIMES TO THE BACK OR
22 SOMETIMES AT 90 DEGREES. IT DEPENDS ON THAT SPECIFIC
23 MODEL OF PISTOL.

24 Q WHEN YOU SAY -- AND YOU'VE DONE A LOT OF
25 THE TEST FIRES, I ASSUME, IN YOUR LIFETIME?

26 A YES, I HAVE.

27 Q AS AN EXPERT?

28 A YES.

1 Q AND HAVE YOU EVER TEST FIRED A WEAPON -- A
2 SEMIAUTOMATIC WEAPON WITH AN EYE TOWARD DETERMINING HOW A
3 CARTRIDGE CASE IS EJECTED, EITHER TO THE RIGHT, 90
4 DEGREES, AND TO THE RIGHT AND BACK, OR FORWARD, OR TO THE
5 LEFT?

6 A YES, I HAVE. I HAVE DONE TESTS WHERE I'VE
7 TAKEN MEASUREMENTS OF EJECTION PATTERN WHERE A CARTRIDGE
8 CASE EJECTS.

9 Q IN ORDER TO DO THAT ACCURATELY, DO YOU
10 HAVE TO HAVE THE ACTUAL WEAPON THAT YOU'RE DETERMINING
11 THE EJECTION PATTERN FOR?

12 A OH, THERE'S SEVERAL PARAMETERS. FIRST OF
13 ALL, YOU HAVE TO USE THE SAME AMMUNITION YOU HAVE TO TRY
14 TO COMPARE AGAINST. IT HAS TO BE IDENTICAL. DIFFERENT
15 AMMUNITION IS GOING TO BE DIFFERENT LOADS, DIFFERENT
16 STRENGTHS, IT'S GOING TO EJECT IT DIFFERENTLY. YOU ALSO
17 HAVE TO HAVE THAT SPECIFIC FIREARM. AND YOU ALSO HAVE TO
18 HAVE MEASUREMENTS OF THE HEIGHT.

19 THE WAY THE HANDGUN IS FIRED, WE ASSUME
20 EVERYBODY FIRES STRAIGHT UP. IN MY EXPERIENCE, A LOT OF
21 THE PEOPLE FIRE THE HANDGUN GANGSTER STYLE AS IT'S
22 REFERRED TO. THAT HAS A BIG -- OBVIOUSLY IT'S A BIG
23 VARIABLE.

24 ALSO THE WAY THE CAST OF THE FIREARM, THE
25 WAY IT'S POSITIONED HAS A BIG VARIABLE. ALSO HOW FIRM
26 YOU'RE HOLDING THE FIREARM. IF YOU'RE HOLDING IT TIGHT
27 OR LIMP, IT'S GOING TO HAVE A BIG EFFECT ON THE CARTRIDGE
28 CASE BEING EJECTED FROM THE FIREARM. SO THERE'S A LOT OF

1 VARIABLES.

2 AND THEN THE LAST VARIABLE WHICH IS ONE OF
3 THE MOST IMPORTANT ONE IS YOUR SURFACE. ONCE IT HIT, IS
4 IT GOING TO HIT IN SAND AND DIG IN OR HIT CEMENT, ASPHALT
5 OR SOMETHING HARD WHERE IT'S JUST GOING TO ROLL AND CAROM
6 OFF.

7 ONCE YOU REALIZE THAT THE CARTRIDGE AS I
8 SHOWED EARLIER, IT HAS DIFFERENT -- MORE QUALITY, IF YOU
9 WILL. THERE'S DIFFERENT THICKNESSES OF THE CARTRIDGE
10 CASE. THE CASE -- IT'S THICKER, HEAVIER AS OPPOSED TO THE
11 MOUTH, IT'S THINNER. DEPENDING ON WHERE IT FALLS, WHAT
12 AREA HITS THE FLOOR, IS GOING TO DICTATE WHERE IT'S GOING
13 TO ROLL TO AND HOW FAR.

14 SO THERE'S A LOT OF VARIABLES IN
15 DETERMINING THAT. AND THOSE ARE THE PITFALLS.

16 Q LET'S TALK ABOUT THE ACTUAL WEAPONS THAT
17 YOU DETERMINED WERE USED AT THIS PARTICULAR CRIME SCENE.

18 FIRST OF ALL, LET'S JUST TALK ABOUT THE
19 CALIBER FIRST.

20 WHAT CALIBER BALLISTICS DID YOU EXAMINE?

21 A IN THIS CASE I WAS GIVEN .9 MILLIMETER
22 LUGER CALIBER FIRED CARTRIDGE CASES AS WELL AS BULLETS.

23 Q ALL RIGHT. AND YOUR UNDERSTANDING IS
24 THESE WERE BALLISTICS THAT WERE FOUND AND RECOVERED FROM
25 THE CRIME SCENE OF THE MICKEY THOMPSON, TRUDY THOMPSON
26 MURDERS; IS THAT CORRECT?

27 A THAT'S CORRECT.

28 Q WERE ALL OF THEM CONSISTENT IN CALIBER? IN

1 OTHER WORDS, EVERY SHELL CASING, EVERY BULLET, WAS THAT
2 CONSISTENT WITH A .9 MILLIMETER?

3 A YES, THEY WERE ALL .9 MILLIMETER LUGER
4 CALIBER.

5 Q ALL RIGHT. I'M GOING TO ASK YOU THIS JUST
6 RIGHT UP FRONT AND THEN WE'LL TALK ABOUT THE SPECIFICS IN
7 JUST A SECOND.

8 HOW MANY GUNS DID YOU DETERMINE WERE USED
9 GIVEN THE BALLISTICS THAT YOU WERE PROVIDED?

10 A TWO. TWO FIREARMS WERE USED.

11 Q ALL RIGHT. I WANT TO FOLLOW UP ON WHAT
12 YOU WERE JUST TALKING ABOUT AS FAR AS THE CARTRIDGE CASE
13 EJECTION SYSTEM, IF YOU WILL.

14 IF YOU'RE HOLDING A GUN, LET'S ASSUME MY
15 THUMB IS THE HAMMER OR THE FRONT SITE AND YOU'RE HOLDING
16 A GUN STRAIGHT UP. ARE YOU GOING TO GET ONE PARTICULAR
17 TYPE OF EJECTION OR I GUESS ARC OF EJECTION BASED ON
18 HOLDING A GUN STRAIGHT UP AS OPPOSED TO TURNING IT
19 SLIGHTLY (INDICATING)?

20 A ABSOLUTELY.

21 Q ALL RIGHT.

22 MR. JACKSON: MAY THE RECORD REFLECT THAT I WAS
23 INDICATING WITH MY RIGHT THUMB POINTED TOWARD THE CEILING
24 WHEN I SAID TURN IT SLIGHTLY, I TILTED IT MAYBE 20
25 DEGREES TO THE LEFT?

26 THE COURT: YES.

27 Q BY MR. JACKSON: HOW IS IT -- TILING MY
28 HAND JUST 20 DEGREES OR SO, HOW IS THAT GOING TO EFFECT

1 THE EJECTION ARC OF THE EXPENDED SHELL CASING?

2 A IF I MAY, IF MY HAND IS ACTUALLY THE
3 EJECTION PORT, THE EJECTION PORT IS THIS AREA HERE WHERE
4 THE OPENING IS CUTOUT WHERE THE CARTRIDGE CASE IS EJECTED
5 (INDICATING).

6 Q AND YOU'RE SHOWING -- BY THE WAY, I NEED
7 TO STATE THIS FOR THE RECORD.

8 YOU'RE SHOWING AN ILLUSTRATION THAT HAS
9 NOT BEEN MARKED AND I DON'T THINK WE NEED TO MARK IT AT
10 THIS POINT, IT APPEARS TO BE A DIAGRAM OF A .9
11 MILLIMETER -- STANDARD .9 MILLIMETER WEAPON AND YOU'VE
12 INDICATED THE TOP PORTION OF THE BARREL, THERE'S A CUTOUT
13 FOR WHAT YOU'VE DESCRIBED AS AN EJECTION PORT; CORRECT?

14 A CORRECT.

15 Q IS THAT NORMALLY -- AND I UNDERSTAND
16 THERE'S VARIABLES TO EVERYTHING -- BUT IS THAT NORMALLY
17 IN A .9 MILLIMETER WEAPON, ON THE RIGHT OR LEFT SIDE OF
18 THE WEAPON?

19 A ALMOST ALWAYS ON THE RIGHT.

20 Q SO CONTINUE WITH YOUR EXPLANATION.

21 A SO ASSUMING THAT MY HAND IS THE EJECTION
22 PORT, AS I TILT IT, THE ANGLE IS GOING TO BE -- IT'S
23 GOING TO DIFFER AND THE HEIGHT IS GOING TO BE A PARABOLIC
24 FLIGHT OF THE CARTRIDGE CASE (INDICATING). AND AS I MOVE
25 MY HAND (INDICATING), THE ANGLE IS GOING TO DIFFER. AND
26 THAT'S ALSO GOING TO DIFFER IN THE DISTANCE IT'S GOING TO
27 FALL.

28 Q OKAY. TAKING THAT SAME EXAMPLE, INSTEAD

1 MOVING MY FRONT SITE IN MY EXAMPLE 20 DEGREES TO THE
2 LEFT, LET'S SAY I HOLD IT 90 DEGREES TO THE LEFT, YOU
3 INDICATED THIS WAS A -- MAYBE POLITICALLY INCORRECT TO
4 SAY -- GANGSTER STYLE; CORRECT?

5 A THAT'S THE WAY THAT I REFER TO IT, YES.

6 Q IF SOMEONE WERE TO FIRE A WEAPON IN THAT
7 CONFIGURATION, WOULD THAT EFFECT THE EJECTION ARC?

8 A ABSOLUTELY. IT WILL GO -- IT WILL BE A
9 HIGHER ARC AND IT WON'T TRAVEL FAR.

10 Q SO WHAT IF I HAPPEN TO BE STANDING AT AN
11 INCLINE OR A DECLINE ON A DIFFERENT SURFACE THAN THE AREA
12 THAT I'M SHOOTING TOWARD OR THE AREA THAT THE BULLETS --
13 THE EXPENDED CASINGS END UP LANDING -- IN OTHER WORDS,
14 SAY I'M STANDING HERE (INDICATING), AND I FIRE A SINGLE
15 ROUND AND THE EJECTION ARC LEADS TO AN AREA LOWER IN
16 ELEVATION THAN WHERE I HAPPEN TO BE STANDING OR HIGHER,
17 WOULD THAT EFFECT WHERE YOU MIGHT FIND THAT EXPENDED
18 CASING?

19 A ABSOLUTELY. ESPECIALLY ON A SLOPE WHERE
20 IT'S LOWER, IT'S GOING TO ROLL DOWN BECAUSE OF GRAVITY.
21 IT'S GOING TO TAKE IT FURTHER DOWN.

22 Q OKAY. WE'VE BEEN TALKING ABOUT FIRING A
23 WEAPON STRAIGHT UP BASICALLY PARALLEL TO THE GROUND.

24 WHAT IF I'M FIRING UP OR DOWN, WOULD THAT
25 AFFECT THE EJECTION ARC?

26 A YES, IT DOES.

27 Q HOW SO?

28 A IF YOU HOLD IT DOWN, IT'S GOING TO BE A

1 DIFFERENT ANGLE, I GUESS, AS I HOLD IT UP. I MEAN, IT'S
2 GOING TO GO A LITTLE BIT BACKWARDS. I MEAN, JUST HOLDING
3 THE CAST OF THE FIREARM -- IT'S GOING TO BE A LOT OF
4 VARIABLES.

5 Q HAVE YOU EVER HEARD OF A TERM CALLED
6 MASTER GRIP?

7 A YES.

8 Q ALL RIGHT. A MASTER GRIP IS THE THEORY OR
9 THE PSYCHOLOGY OF HOLDING FIRMLY ON A WEAPON; CORRECT?

10 A CORRECT.

11 Q IN OTHER WORDS, WHEN YOU RETRIEVE YOUR
12 WEAPON, YOU COME UP WITH A FIRM TRIANGLE AND YOU'RE
13 HOLDING THE WEAPON RELATIVELY FIRM IN YOUR HAND; CORRECT?

14 A THAT'S CORRECT.

15 Q OKAY. WHAT HAPPENS -- WHAT'S THE
16 DIFFERENCE BETWEEN HOLDING A WEAPON WITH A MASTER GRIP
17 VERSUS MAYBE SINGLE HANDEDLY WITH A LOOSER LIMP WRIST?
18 HOW MIGHT THAT EFFECT OF THE EJECTION ARC?

19 A BEING THAT SEMIAUTOMATICS ARE DEPENDENT ON
20 THE GASES, THE PRESSURES THAT CREATED WHEN THE CARTRIDGE
21 IS FIRED, IF YOU HOLD IT FIRMLY, THE EJECTION MIGHT BE A
22 LITTLE BIT FURTHER AS OPPOSED TO LIMP WRIST OR HAVING IT
23 LOOSER, THE GASES -- THERE'S NOTHING RESTRICTING THE
24 MOVEMENT OF THE FIREARM SO IT'S GOING TO MOVE MORE WITH
25 THE RECOIL. SO YOUR EJECTION IS GOING TO DIFFER.

26 THE HARDER YOU HOLD IT, THE FURTHER IT'S
27 GOING TO GO JUST BECAUSE THERE'S MORE RESTRICTION ON THE
28 FIREARM. YOU'RE NOT LOSING ANY ENERGY. YOU HOLD IT

1 LOOSE, SOME OF THAT ENERGY MAY BE LOST AND THE LOOSENESS
2 OF THE GRIP OF THE FIREARM.

3 Q HAVE YOU ACTUALLY WORKED PHYSICAL CRIME
4 SCENES? IN OTHER WORDS, HAVE YOU EVER BEEN CALLED OUT IN
5 YOUR DUTIES AS A FIREARM EXPERT TO A CRIME SCENE TO
6 INVESTIGATE THE PHYSICAL SCENE WHERE BALLISTICS ARE
7 FOUND?

8 A YES, I HAVE.

9 Q IS IT YOUR EXPERIENCE THAT SHELL CASINGS
10 CAN GET MOVED FROM THEIR POINT OF REST ARTIFICIALLY
11 OUTSIDE WHERE THEY ACTUALLY CAME TO REST FROM THE GUN?

12 A YES.

13 Q HOW SO? WHAT ARE SOME OF THE VARIABLES
14 THAT YOU MIGHT EXPECT OUTDOORS AT A CRIME SCENE?

15 A DEPENDS ON FIRST YOUR CONTOUR AND YOUR
16 SURFACE. IF IT'S A SLOPED. DEPENDS IF THERE'S ANY --

17 Q TELL ME ABOUT THAT. WHAT DOES THAT MEAN,
18 IF THE CONTOUR IS SLOPED?

19 A IF IT'S A SLOPE OR THERE'S LIKE AN
20 INCLINE, OBVIOUSLY IT'S GOING TO FALL AND IT'S GOING TO
21 KEEP ON FALLING BECAUSE THERE'S GRAVITY PUSHING THAT
22 CARTRIDGE CASE. IT MIGHT TRAVEL FURTHER.

23 Q I ASKED THIS WITH ANOTHER WITNESS, IS A
24 CARTRIDGE CASE GENERALLY A CYLINDER AS IT COMES OUT OF
25 THE -- AS IT COMES OUT OF THE WEAPON? DOES IT GENERALLY
26 COME OUT IN A CYLINDER FORM OR IS IT SMUSHED AND SMASHED?

27 A NO. IT'S USUALLY IN CYLINDER FORM.

28 Q WOULD YOU EXPECT THAT A CARTRIDGE CASE ON

1 A FLAT SURFACE WOULD BE ABLE TO ROLL SOMEWHAT AS THAT PEN
2 IS ROLLING ACROSS THE TABLE (DEMONSTRATING)?

3 A ONCE IT HITS, IT BOUNCES. IT COULD HAVE A
4 MIND OF ITS OWN. IT CAN GO IN ANY DIRECTION BECAUSE IT
5 MIGHT HIT THE BASE, IT MIGHT HIT THE MOUTH, IT MIGHT HIT
6 A THIN WALL AREA OF THE CARTRIDGE CASE. THERE'S NO
7 PREDICTING WHERE IT'S GOING TO BOUNCE TO. AND ONCE IT
8 DOES ROLL ON ITS SIDE, IT'S GOING TO TRAVEL.

9 Q WHAT OTHER CRIME SCENE OUTDOOR VARIABLES
10 MIGHT EFFECT WHERE YOU'D FIND CARTRIDGE CASINGS AT
11 SCENES?

12 A ALSO YOUR SURFACE. IF YOUR SURFACE HAS
13 SOME LIKE DIVOTS OR IMPERFECTIONS IN A SURFACE, THEY
14 MIGHT GET LODGED IN THERE, PREVENT IT FROM TRAVELING. IF
15 IT'S LIKE A LITTLE EMBANKMENT, YOU CAN ACTUALLY BOUNCE IT
16 BACK OR BE DEFLECTED. ALSO OF THE WIND. THE CONDITIONS
17 OF -- THE WEATHER CONDITIONS. PERSONNEL WALKING THROUGH.
18 THERE'S A LOT OF THINGS THAT CAN HAPPEN WITH CARTRIDGE
19 CASES.

20 Q WHEN YOU SAY PERSONNEL WALKING THROUGH,
21 YOU'RE TALKING ABOUT EITHER THE PERPETRATORS OR MEDICAL
22 PERSONNEL OR POLICE PERSONNEL; CORRECT?

23 A THAT'S CORRECT.

24 Q OR OTHER VICTIMS THAT COULD KICK A
25 CARTRIDGE CASE; IS THAT CORRECT?

26 A THAT'S CORRECT.

27 Q MR. MUNOZ, IN YOUR EXPERTISE, YOU'VE JUST
28 DESCRIBED -- WHAT -- A DOZEN VARIABLES THAT MAY EFFECT A

1 CARTRIDGE CASE AND WHERE IT ULTIMATELY IS RECOVERED AT A
2 CRIME SCENE. CAN YOU DEFINITELY SAY IF YOU FIND A
3 CARTRIDGE CASE AT A PARTICULAR LOCATION AT A CRIME SCENE
4 CAN YOU SAY BASED ON MY EXPERTISE, I KNOW I CAN
5 EXTRAPOLATE THAT THE GUNMAN WAS STANDING EXACTLY HERE
6 (INDICATING). AND MEASURE EXACTLY WHERE A GUNMAN IS
7 STANDING BASED ON WHERE A CARTRIDGE CASE, ONLY A
8 CARTRIDGE CASE IS FOUND?

9 A ABSOLUTELY NOT.

10 Q IS THAT BECAUSE OF THOSE VARIABLES THAT
11 YOU'VE JUST DESCRIBED?

12 A YES. AND EACH AND EVERY TIME A CARTRIDGE
13 IS FIRED, THE EJECTION PATTERN -- THERE'S GOING TO BE
14 SOME VARIABLES. DEPENDING ALSO ON THE SPRING AND HOW
15 HARD IT HITS THE EJECTOR. SO THERE'S A LOT OF VARIABLES.
16 IT'S GOING TO GIVE YOU A RANGE, BUT THERE'S NO WAY TO
17 EXACTLY DETERMINE ITS EJECTION PATTERN.

18 Q THAT'S ACTUALLY A GOOD QUESTION AND MAYBE
19 A DECENT ILLUSTRATION FOR THE JURORS.

20 IF I'M STANDING HERE HOLDING AN H&K .40
21 CALIBER WEAPON AND YOU'RE MY MENTOR AND YOU TELL ME, ALL
22 RIGHT, HOLD IT WITH A MASTER GRIP, POINT DIRECTLY AT
23 CENTER MASS DOWN RANGE AND WE'RE GOING TO FIRE TEN SHOTS,
24 OKAY? AND I EMPTY MY MAGAZINE AND I DON'T MOVE FROM THE
25 POINT I'M STANDING RIGHT NOW (INDICATING), WILL MY
26 CARTRIDGE CASES LAND IN A NICE NEAT LITTLE PILE SOMEPLACE
27 OVER ON MY RIGHT?

28 A ABSOLUTELY NOT, NO.

1 Q YOU DIDN'T ACTUALLY GO TO THIS PARTICULAR
2 CRIME SCENE, DID YOU, BACK IN 1988?

3 A NO, I DID NOT.

4 Q YOU WERE ASKED TO REVIEW THESE BALLISTICS
5 AT SOME POINT LATER; CORRECT?

6 A CORRECT.

7 Q WHEN DID YOU REVIEW THIS SET OF
8 BALLISTICS?

9 A I'M LOOKING AT MY CARTRIDGE CASE
10 WORKSHEET. I'M LOOKING AT THE DATE ON THE BOTTOM WHERE I
11 EXAMINED THESE CARTRIDGE CASES AND IT WAS SEPTEMBER 8TH,
12 2006. AND THE REPORT WAS ISSUED SEPTEMBER 25TH, 2006.

13 Q IS IT YOUR UNDERSTANDING THAT YOURS WAS
14 THE FIRST TIME THESE -- A FIREARMS EXAMINATION HAD BEEN
15 CONDUCTED ON THESE BALLISTICS?

16 A NO. IT WAS PREVIOUSLY ANALYZED.

17 Q BACK IN 1988?

18 A CORRECT.

19 Q LET'S TALK ABOUT -- YOU'VE EXPLAINED TO
20 THE JURORS THE FOUNDATION OF WHAT IT WAS THAT YOU STARTED
21 TALKING ABOUT, AND YOU SAID THAT YOU LOOKED AT SEVERAL
22 EXPENDED ROUNDS -- BULLETS; CORRECT?

23 A YES. SOME FIRED BULLETS AND FIRED
24 CARTRIDGE CASES.

25 Q OKAY. YOU LOOKED AT LIVE ROUNDS, FIRED
26 BULLETS AND FIRED CARTRIDGE CASES; CORRECT?

27 A CORRECT.

28 Q I WANT TO GET MY TERMINOLOGY CORRECT.

1 ULTIMATELY WERE YOU ABLE TO MAKE A
2 DETERMINATION AS TO -- WELL, LET ME ASK IT THIS WAY:

3 DO YOU SEE WHAT'S BEEN PREVIOUSLY MARKED
4 AS PEOPLE'S 64 FOR IDENTIFICATION?

5 A YES.

6 Q DO YOU RECOGNIZE -- I KNOW THAT YOU
7 WEREN'T AT THE CRIME SCENE.

8 DO YOU RECOGNIZE THE NUMBERS THAT APPEAR
9 ON PLACARDS IN PEOPLE'S 64, FOR INSTANCE, ITEM 2,
10 ITEM 11, ITEM 18, AND ITEM 20?

11 A YES. EACH ITEM DESIGNATES A SPECIFIC ITEM
12 THAT I EXAMINED.

13 Q AND THEN ITEM 3, ITEM 10 DESIGNATES TWO
14 OTHER ITEMS; CORRECT?

15 A THAT'S CORRECT.

16 Q DOWN ON THE BOTTOM OF PEOPLE'S 64,
17 ITEM 3, 10 AND 7 ARE ALL -- YOU'VE OBVIOUSLY PREVIOUSLY
18 DESIGNATED 3 AND 10 -- YOU OBVIOUSLY LOOKED AT SEVEN AS
19 WELL; IS THAT CORRECT?

20 A THAT'S CORRECT.

21 Q DID YOU ALSO LOOK AT ITEM 8, 13, 14 AND
22 15?

23 A YES, I DID.

24 Q TAKING A LOOK AT PEOPLE'S 65 FOR
25 IDENTIFICATION, DID YOU LOOK AT THE CORONER'S BULLET ONE
26 OF TWO AND TWO OF TWO?

27 A YES, I DID.

28 Q AND THAT'S WHAT THE C.C. DESIGNATION IS?

1 A YES.

2 Q WHAT ABOUT ITEM 19 AND ITEM 24?

3 A YES, I DID.

4 Q AND YOU ALSO LOOKED AT ITEMS 16, 17, 25
5 AND 27; IS THAT CORRECT?

6 A THAT'S CORRECT.

7 Q ALL RIGHT. DO THESE DIAGRAMS -- AT LEAST
8 IF THEY DON'T LOOK EXACTLY LIKE YOUR REPORT -- DO THEY
9 CORRESPOND WITH YOUR REPORT?

10 A YES, THEY DO CORRESPOND WITH THE ITEMS
11 THAT I EXAMINED.

12 Q ALL RIGHT. I WANT TO BREAK DOWN -- WE'RE
13 GOING TO USE A LOT OF NUMBERS AND I KIND OF APOLOGIZE TO
14 THE JURORS IN ADVANCE.

15 WHEN YOU TALK ABOUT AN ITEM NUMBER, YOU'RE
16 RESTRICTED BASED ON YOUR EXPERTISE AND WHAT YOU'RE GIVEN
17 TO REFER TO AN ITEM NUMBER BECAUSE THAT'S THE DESIGNATION
18 THAT YOU WERE GIVEN WHEN YOU'RE SUPPLIED WITH ALL THE
19 EVIDENCE; CORRECT?

20 A THAT IS CORRECT.

21 Q IN OTHER WORDS, YOU'RE NOT GOING TO CALL
22 ITEM NUMBER TWO THE CASING THAT WAS FOUND BY THE FRONT
23 TIRE; CORRECT?

24 A THAT'S CORRECT.

25 Q THAT WOULD BE SOMEWHAT INARTFUL IN TERMS
26 OF AN EXPERT; CORRECT?

27 A YES. AND SOMETIMES I RECEIVE EVIDENCE
28 WITH JUST THE ITEM NUMBER WITHOUT A DESCRIPTION OR

1 LOCATION OF WHERE IT WAS COLLECTED.

2 Q SO WITH THAT PREFACE, LET'S WALK THROUGH
3 BRIEFLY YOUR EXAMINATION OF THE FIRED BULLETS THAT WERE
4 FOUND AT THE SCENE. AND I'M GOING TO NAME SOME NUMBERS
5 AND TELL ME IF THESE CORRESPOND WITH YOUR REPORT OF
6 THINGS THAT YOU LOOKED AT, AT THE SCENE.

7 MS. SARIS: I'M SORRY, YOUR HONOR. CAN HE STATE
8 FOR THE RECORD WHAT HE'S REFERRING TO -- THE WITNESS?

9 Q BY MR. JACKSON: IF YOU'RE REFERRING TO
10 SOMETHING TO REFRESH YOUR RECOLLECTION, NOBODY EXPECTS
11 YOU TO HAVE THIS MEMORIZED, TELL MS. SARIS WHAT YOU'RE
12 REFERRING TO.

13 A SURE.

14 I'M REFERRING TO THE FIREARM
15 IDENTIFICATION REPORT THAT I ISSUED ON 9-25-2006, FILE
16 NUMBER 08804387-0511-011.

17 MR. JACKSON: AND, MS. SARIS, YOU HAVE THIS
18 REPORT?

19 MS. SARIS: YES.

20 Q BY MR. JACKSON: OKAY. ITEMS 16, 17, 19,
21 24, 25 AND 27, THAT'S SIX ITEMS; CORRECT?

22 A THAT'S CORRECT.

23 Q WHAT WERE THOSE ITEMS?

24 A THOSE WERE SIX FIRED BULLETS/BULLET
25 FRAGMENTS.

26 Q OKAY. AND WHAT ABOUT NUMBER FOUR, ITEM
27 NUMBER FOUR?

28 A NUMBER FOUR WAS ONE LEAD FRAGMENT. A

1 MORPHEUS LEAD FRAGMENT.

2 Q AND THEN THERE WAS AN ITEM 29 AND AN
3 ITEM 30 THAT PURPORTED TO BE THE C.C. NUMBERS; CORRECT?

4 A YES. ALSO TWO CORONER'S ENVELOPES IN THE
5 NAME OF TRUDY THOMPSON AND EACH CONTAINS ONE FIRED
6 BULLET.

7 Q ALL RIGHT. NOW, WHAT CAN YOU DO WITH A
8 BULLET? WHAT ANALYSIS CAN YOU PERFORM ON AN EXPENDED
9 BULLET?

10 A YOU CAN ACTUALLY LOOK AT OTHER BULLETS
11 FROM THE SCENE AND MAKE A DETERMINATION HOW MANY FIREARMS
12 WERE USED.

13 Q WHAT IS THE DIFFERENCE BETWEEN A BULLET
14 AND A FRAGMENT OF A BULLET?

15 A A BULLET IS THE ENTIRE BULLET EVEN THOUGH
16 IT HAS BEEN DAMAGED BECAUSE IT HAS HIT A TARGET. IF IT'S
17 90 PERCENT INTACT OR SO, I CAN CALL IT A FIRED BULLET.
18 IF I GET A FRAGMENT WITH ONLY LIKE 10 PERCENT OR SO
19 PRESENT, I CALL THAT A FRAGMENT. AND THAT'S HOW I USE
20 BULLET VERSUS BULLET FRAGMENT.

21 Q HOW MANY FIRED BULLETS DID YOU FIND AT THE
22 SCENE? HOW MUCH EVIDENCE OF FIRED BULLETS?

23 A REFERRING TO MY REPORT, FIRED BULLETS,
24 THERE WERE SIX FIRED BULLETS AT THE SCENE.

25 Q AND WHAT ABOUT INCLUDING THE CORONER'S
26 BULLETS?

27 A THERE WAS EIGHT.

28 Q EIGHT TOTAL?

1 A CORRECT.

2 Q SO IN ALL OF THE EVIDENCE THAT YOU
3 RECOVERED -- SORRY.

4 IN ALL OF THE EVIDENCE THAT YOU WERE
5 GIVEN, THAT WAS RECOVERED EITHER AT THE SCENE OR FROM THE
6 BODIES OF THE VICTIMS, THERE WERE EIGHT BULLETS FIRED
7 THAT YOU KNOW OF; CORRECT?

8 A THAT'S CORRECT.

9 Q HOW MANY CASES -- AND THAT DOES NOT
10 INCLUDE THAT FRAGMENT; CORRECT?

11 A EXCLUDING ITEM NUMBER 4, YES.

12 Q AND I'LL GET TO THIS AND IT WILL ALL MAKE
13 SENSE IN A LITTLE WHILE.

14 ITEM NUMBER FOUR, HOW BIG WAS THAT?

15 A IT WAS A TINY FRAGMENT.

16 Q HOW DO YOU WEIGH BULLETS?

17 A WE USE AN ANALYTICAL SCALE. BASICALLY
18 JUST A REGULAR SCALE. AND THE WAY WE MEASURE A BULLET --
19 IT'S A DIFFERENT DESIGNATION AS WE KNOW -- IT'S NOT IN
20 OUNCES OR IN GRAMS. IT'S IN GRAINS. ONE GRAIN IS EQUAL
21 TO 7,000 -- I'M SORRY -- 7,000 GRAINS IS ONE POUND. IT'S
22 A REAL SMALL MEASUREMENT, THE WEIGHT OF MEASURING MASS.

23 Q WHAT WAS THE STANDARD DESIGNATION OF HOW
24 MANY GRAINS THESE BULLETS, THAT YOU DETERMINED WERE FIRED
25 AT THE SCENE SHOULD HAVE BEEN?

26 A THERE WAS A COUPLE OF .9 MILLIMETER FIRED
27 BULLETS AND THOSE WEIGHED AT 115 GRAINS WHICH IS PRETTY
28 MUCH THE NORM FOR THAT PARTICULAR CALIBER. AND THE SMALL

1 FRAGMENT WEIGHED -- AND I'LL REFER TO MY BULLET
2 WORKSHEET -- IT WEIGHED 6.7 GRAINS.

3 Q SO THAT IS -- IF MY MATH IS CORRECT --
4 THAT'S LESS THAN 1 PERCENT THE TOTAL VOLUME OF WHAT THE
5 BULLET SHOULD HAVE BEEN?

6 A THAT IS CORRECT.

7 Q AND IS THAT WHY YOU'RE EXPLAINING TO THE
8 JURORS THAT ITEM NUMBER FOUR WAS JUST A FRAGMENT, NOT A
9 FULL BULLET THAT WAS FIRED FROM A GUN?

10 A THAT IS CORRECT.

11 Q HOW MANY CASES WERE YOU SUPPLIED WITH?

12 A THERE WAS EIGHT FIRED .9 MILLIMETER
13 CALIBER CARTRIDGE CASES.

14 Q IS THAT CONSISTENT WITH THE NUMBER OF
15 BULLETS THAT WERE RECOVERED AT THE SCENE?

16 A YES, IT WAS.

17 Q AND THEN LIVE CARTRIDGES, HOW MANY LIVE
18 CARTRIDGES DID YOU FIND THAT WERE SUPPLIED TO YOU?

19 A I EXAMINED THREE .9 MILLIMETER CALIBER
20 CARTRIDGES.

21 Q ALL RIGHT. NOW LET'S TALK ABOUT THOSE FOR
22 JUST A SECOND.

23 THE LIVE CARTRIDGES WERE ITEMS NUMBER
24 THREE, SIX, SEVEN AND TEN; CORRECT?

25 A YES.

26 Q THAT WAS THE DESIGNATION THAT WAS SUPPLIED
27 TO YOU; CORRECT?

28 A THAT IS CORRECT.

1 Q WAS ONE OF THOSE ITEMS MISSING?

2 A YES. ITEM NUMBER SIX WAS MISSING.

3 Q IT WAS JUST AN EMPTY ENVELOPE?

4 A CORRECT.

5 Q YOU DIDN'T LOSE THAT ITEM; CORRECT?

6 A NO, I DID NOT.

7 Q WHEN THAT -- IN OTHER WORDS, WHEN THAT --
8 WHEN THOSE BALLISTICS WERE PROVIDED TO YOU, THAT ENVELOPE
9 WAS ALREADY MISSING?

10 A THAT IS CORRECT.

11 Q I'M SORRY. THAT ENVELOPE WAS ALREADY
12 EMPTY?

13 A THAT'S CORRECT.

14 Q TELL US THE ITEM NUMBERS -- AND WE WILL
15 HOPEFULLY GET THROUGH SOME OF THE THESE NUMBERS IN JUST A
16 SECOND. WE NEED TO DO IT FOUNDATIONALLY.

17 MR. MUNOZ, TELL US THE ITEM NUMBERS OF THE
18 CASES THAT YOU REVIEWED.

19 A THERE WERE ITEM NUMBER 2, 8, 11, 13, 14,
20 15, 18 AND 20.

21 Q ALL RIGHT. WERE YOU ABLE TO DETERMINE
22 WHETHER OR NOT THOSE CASES WERE FIRED FROM THE SAME OR
23 ALTERNATE FIREARMS?

24 A YES, I WAS.

25 Q HOW DO YOU MAKE THAT DETERMINATION?

26 A IF I MAY, I HAVE A ILLUSTRATION TO SHOW
27 THE JURY HOW --

28 Q SURE.

1 A -- HOW I EXAMINE OR IDENTIFY CARTRIDGE
2 CASES.

3 AS I MENTIONED EARLIER, ON THE BASE OF
4 EACH CARTRIDGE THERE WAS A PRIMER, A METALLIC DISK THAT
5 SPARKS AND IGNITES THE POWDER. BUT ONCE IT'S FIRED, THE
6 FIRE PIN HITS IT, LEAVES A FIRING PIN IMPRESSION ON THERE
7 AS WELL AS THE BREECH FACE. THE BREECH FACE IS THE PART
8 OF THE PISTOL THAT SUPPORTS THE CARTRIDGE, BECAUSE AS THE
9 GASES EXPAND, THE CARTRIDGE SLAMS AGAINST THE SLIDE AND
10 ON THE BREECH FACE. AND THOSE IMPRESSIONS WERE
11 INDIVIDUAL. NO TWO FIREARMS HAVE THE SAME UNIQUE BREECH
12 FACE AND FIRING PIN IMPRESSION.

13 AND THE WAY IT'S EXAMINED -- OR THE WAY I
14 EXAMINE IT -- OR THE WAY IT'S EXAMINED IN THE FIELD, WE
15 HAVE TWO LIGHT MICROSCOPES THAT ARE JOINED BY AN OPTICAL
16 BRIDGE WITH ONE EYE PIECE AND THIS INSTRUMENT IS CALLED A
17 COMPARISON MICROSCOPE. IT'S THE TOOL OF THE TRADE. AND
18 BASICALLY IT ALLOWS AN EXAMINER TO LOOK AT TWO ITEMS SIDE
19 BY SIDE WITH THE SAME MAGNIFICATION, SAME LIGHTING ON ONE
20 FIELD OF A PLAIN AND WE CAN ACTUALLY MANIPULATE THE IMAGE
21 BY THE SPLIT FIELD TO SEE IF THERE IS A CORRESPONDENCE.

22 AND THAT'S HOW IDENTIFICATIONS ARE MADE ON
23 CARTRIDGE CASES.

24 Q WHEN A CARTRIDGE CASE IS WORKED THROUGH
25 THE ACTION OF A GUN, IN OTHER WORDS, IT'S INSERTED INTO
26 THE MAGAZINE AND THEN IT'S WORKED UP INTO THE CHAMBER AND
27 THEN IT'S ULTIMATELY EJECTED, ARE THERE MARKINGS FROM THE
28 METAL THAT IT'S COMING IN CONTACT WITH, SCRATCHES AND

1 SCRAPES, MICROSCOPIC IN NATURE THAT DEFINE THAT
2 PARTICULAR GUN MATCHING WITH THAT PARTICULAR CARTRIDGE
3 CASE?

4 A YES, THERE IS.

5 Q IS IT SORT OF LIKE, IF YOU WILL, A
6 FINGERPRINT?

7 A ABSOLUTELY.

8 Q AND EVERY GUN HAS ITS OWN UNIQUE
9 FINGERPRINT, IF YOU WILL?

10 MS. SARIS: OBJECTION. LEADING.

11 THE COURT: SUSTAINED.

12 Q BY MR. JACKSON: COULD YOU DESCRIBE
13 WHETHER OR NOT TWO GUNS COMING OFF THE MANUFACTURER'S
14 LINE ONE RIGHT AFTER THE OTHER, WILL THEY HAVE SIMILAR OR
15 THE EXACT SAME CHARACTERISTICS AS FAR AS THE MARKINGS
16 THEY LEAVE?

17 A NO, THEY WILL NOT.

18 Q DESCRIBE THAT FOR US, PLEASE.

19 A AND THAT WAS ALSO PART OF MY TRAINING,
20 WHERE I LOOKED AT TEN CONSECUTIVELY MANUFACTURED BARRELS
21 AND I WAS ASKED TO IDENTIFY THESE SETS OF BULLETS, AND
22 IT'S OBVIOUSLY -- OR IT WAS OBVIOUS TO ME THAT IT WAS
23 PRETTY EASY TO DO.

24 THE REASON IS, WHEN METALS CUT, THERE'S A
25 LOT OF IMPERFECTIONS. METAL IS MADE OUT OF ATOMS,
26 CRYSTALIZED FORMATION, AND WHEN METAL IS CUT, IT'S NOT
27 CUT HOMOGENOUS. BUT TO THE NAKED EYE, IT LOOKS LIKE IT'S
28 SMOOTH, BUT THE SURFACE ITSELF HAS A LOT OF IMPERFECTIONS

1 BECAUSE OF THE WAY THE ATOMS ARE ARRANGED IN THIS METAL.

2 SO AS METAL IS CUT, IT'S ALWAYS GOING TO
3 BE UNIQUE. AND ESPECIALLY WITH THE TOOLS THAT ARE USED.
4 WHEN THESE TOOLS ARE USED, THERE'S SOME RESIDUE THAT
5 ATTACHES TO THE BLADE AND ADDS MORE UNIQUENESS TO IT.

6 SO EVEN THOUGH THESE FIREARMS COULD BE
7 CONSECUTIVELY MADE, SAME MODEL, THERE'S GOING TO BE
8 UNIQUENESS. THERE'S NO TWO FIREARMS THAT HAVE THE SAME
9 UNIQUE MARKINGS.

10 Q ALL RIGHT. NOW, WITH ALL THAT EDUCATION,
11 WE ALL KNOW MORE THAN WE EVER THOUGHT WE WANTED TO KNOW
12 ABOUT TOOL MARKINGS, LET'S GET TO THE BRASS TACKS.

13 ITEM NUMBER 2, 11 -- I'M SORRY, ITEMS
14 NUMBER 2, 11, 18 AND 20, WHAT WERE THOSE ITEMS? CASES OR
15 BULLETS?

16 A THOSE WERE FIRED CARTRIDGE CASES.

17 Q AND COULD YOU MAKE A DETERMINATION AS TO
18 ANY -- WHAT WAS YOUR EXAMINATION CONCLUSION WITH REGARD
19 TO THOSE FOUR ITEMS?

20 A THAT THOSE FOUR ITEMS WERE FIRED IN ONE
21 FIREARM.

22 Q ALL RIGHT. NOW, YOU WERE NEVER SUPPLIED
23 WITH A PARTICULAR FIREARM TO COMPARE ALL THESE TO;
24 CORRECT?

25 A I WAS ASKED TO LOOK AT ONE, THREE YEARS
26 PRIOR.

27 Q BUT FOR THE PURPOSES OF THIS EXAMINATION
28 AND WHAT YOU'RE TESTIFYING TO ABOUT TODAY, YOU WERE NOT

1 GIVEN A GUN TO COMPARE THESE TWO; CORRECT?

2 A NO, I WAS NOT.

3 Q YOU DON'T NEED OF THE GUN TO DETERMINE
4 THAT THESE WERE ALL FIRED FROM THE SAME WEAPON?

5 A NO, WE DO NOT.

6 Q WHY NOT?

7 A BECAUSE WHEN WE GET FIREARMS, WHEN WE
8 ACTUALLY DO THE COMPARISON WITH AN UNKNOWN CARTRIDGE
9 CASE, WE ACTUALLY HAVE TO FIRE THE GUN WITH AMMUNITION
10 AND THEN ONCE THAT'S FIRED, THEN WE DO THE SAME
11 COMPARISONS. SO IT DOESN'T MATTER IF IT ORIGINATED FROM
12 A GUN THAT WE DID THE TEST FIRES FROM OR FROM THE SCENE.
13 THERE'S STILL MARKINGS PRESENT EVEN THOUGH THERE'S NO
14 FIREARM AVAILABLE.

15 Q ALL FOUR OF THESE, ITEMS 2, 11, 18 AND 20
16 WERE FIRED FROM THE SAME WEAPON; CORRECT?

17 A YES, THAT'S CORRECT.

18 Q WHAT ABOUT ITEM 3 AND ITEM 10, WHAT ARE
19 THOSE ITEMS?

20 A THOSE ARE UNFIRED OR LIVE CARTRIDGES.

21 Q AND WHAT DID YOUR EXAMINATION REVEAL WITH
22 REGARD TO 3 AND 10?

23 A THAT THEY WERE WORKED THROUGH THE ACTION
24 OF THE SAME FIREARM THAT FIRED ITEMS 2, 11, 18 AND 20.

25 Q OKAY. THESE ITEMS, THREE AND TEN, WERE
26 NEVER FIRED; CORRECT?

27 A THAT IS CORRECT.

28 Q HOW WOULD YOU GET AN ITEM -- HOW WOULD YOU

1 GET A LIVE ROUND -- I'M GOING TO USE MILITARY
2 DESIGNATIONS BECAUSE I CAN'T REMEMBER WHAT YOU CALLED IT.

3 HOW WOULD YOU GET A LIVE ROUND THROUGH A
4 WEAPON WITHOUT FIRING IT?

5 A BASICALLY IT WAS ACTUALLY LOADED INTO THE
6 MAGAZINE. PUT IN THE GUN. AND FED INTO THE CHAMBER.
7 WHAT I'M LOOKING AT IS THERE'S -- AS IT GOES INTO THE
8 CHAMBER, THERE'S A RAMP -- FROM THE MAGAZINE TO THE
9 CHAMBER -- THERE'S A RAMP AND AS THAT CARTRIDGE MAKES IT
10 WAY THROUGH THE RAMP, IT'S THE HITTING METAL. AND AS IT
11 GOES INTO THE CHAMBER, IT ALSO HITS THE TOP OF THE
12 CHAMBER AS IT'S BEING SEEDED, AND THOSE MARKS WERE
13 PRESENT ON THESE TWO CARTRIDGES.

14 Q AND THERE'S DEFINITIVE DETERMINATION THAT
15 THESE TWO LIVE ROUNDS WENT THROUGH THE SAME WEAPON THAT
16 FIRED 2, 11, 18 AND 20; CORRECT?

17 MS. SARIS: OBJECTION. LEADING.

18 THE COURT: OVERRULED.

19 Q BY MR. JACKSON: IS THAT RIGHT?

20 A THAT'S CORRECT.

21 Q TELL ME ABOUT ITEM 3, 10 AND 7. DID YOU
22 DO ANOTHER ANALYSIS ON 3, 10 AND 7?

23 A YES, I DID.

24 Q DESCRIBE THAT FOR THE JURORS, PLEASE.

25 A THERE WERE SOME MARKS PRESENT ON THESE
26 CARTRIDGES THAT WERE -- A COUPLE OF THESE HAD FEED MARKS.
27 ONE OF THEM DID NOT HAVE FEED MARKS, BUT HAD MAGAZINE
28 SIGNATURES WHICH ARE MAGAZINE MARKS. AS I ILLUSTRATED

1 EARLIER, THERE'S A MAGAZINE THAT IS USED FOR PISTOLS AND
2 AS THESE CARTRIDGES SIT IN THE MAGAZINE, IT'S HELD IN
3 PLACE BY SOME LIPS, THEY'RE MAGAZINE LIPS, AND THEY
4 PREVENT THE CARTRIDGE FROM ACTUALLY COMING OFF THE
5 MAGAZINE. IT'S HELD IN THERE WITH THESE LIPS.

6 BUT AS THE CARTRIDGE IS EITHER STRIPPED IN
7 THE FIREARM OR STRIPPED MANUALLY, IT'S SCRATCHED ON THOSE
8 MAGAZINE LIPS AND I WAS ABLE TO IDENTIFY THESE THREE
9 CARTRIDGES AS BEING INSERTED IN THE SAME MAGAZINE.

10 Q ALL RIGHT. IS 7 ALSO AN UNFIRED ROUND?

11 A YES.

12 Q NOW, LET'S MOVE TO ITEMS 8, 13, 14 AND 15.
13 WHAT DID YOUR ANALYSIS REVEAL WITH REGARD TO THOSE ITEMS?

14 A THAT ALL FOUR OF THOSE FIRED .9 MILLIMETER
15 CARTRIDGE CASES WERE FIRED IN A SECOND GUN.

16 Q WHEN YOU SAY "A SECOND GUN," DID YOU
17 COMPARE THESE ITEMS 8, 13, 14 AND 15 AGAINST 2, 11, 18
18 AND 20?

19 A YES, I DID.

20 Q AND DID THEY APPEAR TO YOU TO BE FIRED
21 FROM THE SAME WEAPON?

22 A NO. THEY WERE DIFFERENT GUNS.

23 Q SO YOU CAN DEFINITELY SAY THAT ONE GUN
24 FIRED ALL OF THESE ROUNDS OR THE ROUNDS WERE INSERTED IN
25 THE GUN OR THE MAGAZINE AND A SEPARATE GUN FIRED THE ONES
26 ON THE RIGHT ON PEOPLE'S 64; IS THAT CORRECT?

27 A THAT IS CORRECT.

28 Q ALL RIGHT. DID YOU HAVE ANY EVIDENCE OF A

1 THIRD GUN BEINGN USED AT THE SCENE?

2 A NO, I DID NOT.

3 Q TAKE A LOOK AT PEOPLE'S 65, IF YOU WILL.
4 THERE ARE -- I LEFT TWO BLANK SQUARES UNDER CORONER'S
5 CASE ONE OF TWO AND CORONER'S CASE TWO OF TWO.

6 CAN YOU DESCRIBE WHAT THESE TWO ITEMS
7 WOULD BE IF THEY WERE PHOTOGRAPHS.

8 A THESE ITEMS WERE FIRED BULLETS RECOVERED
9 EITHER AT THE AUTOPSY OR DURING AN AUTOPSY.

10 Q ALL RIGHT. FROM THE BODY OF ONE OF THE
11 VICTIMS; CORRECT?

12 A THAT IS CORRECT.

13 Q TRUDY THOMPSON?

14 A CORRECT.

15 Q AND WHAT IS ITEM 19 AND ITEM 24?

16 A THOSE ARE BOTH FIRED BULLETS.

17 Q COULD YOU MAKE ANY DETERMINATION ABOUT THE
18 ITEMS, CORONER'S CASE NUMBER -- I'M SORRY, C.C. ONE OF
19 ONE -- LET'S TRY THAT AGAIN -- C.C. ONE OF TWO AND
20 C.C. TWO OF TWO AS COMPARED TO BULLET NO. 19 AND BULLET
21 NO. 24?

22 A YES. ALL FOUR BULLETS WERE FIRED FROM ONE
23 FIREARM.

24 Q ALL RIGHT. AND WHAT ABOUT BULLETS 16, 17,
25 25 AND 27?

26 A THOSE FOUR BULLETS WERE FIRED IN A SECOND
27 FIREARM.

28 THE COURT: WOULD THIS BE A GOOD TIME FOR A

1 BREAK?

2 MR. JACKSON: YES, YOUR HONOR, AS GOOD AS TIME AS
3 ANY.

4 THE COURT: LADIES AND GENTLEMEN, WE WILL TAKE
5 OUR LUNCH RECESS AT THIS TIME. PLEASE REMEMBER ALL THE
6 ADMONITIONS. DON'T TALK ABOUT THIS CASE. DON'T FORM OR
7 EXPRESS ANY OPINIONS. DO NOT CONDUCT ANY DELIBERATIONS.
8 AND WE'LL SEE YOU BACK HERE AT 1:30. THANK YOU.

9 (THE JURORS LEFT THE COURTROOM.)

10 THE COURT: 1:30, PLEASE.

11 THE WITNESS: THANK YOU.

12
13 (AT 12:00 P.M. A RECESS WAS TAKEN
14 UNTIL 1:30 P.M. OF THE SAME DAY.)

15 --000--
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, DECEMBER 4, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT IN THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: OKAY. THE JURORS AND ALTERNATES ARE
14 ONCE AGAIN PRESENT IN THE TRIAL MATTER. AND MR. MUNOZ IS
15 STILL ON THE WITNESS STAND.

16 SIR, YOU'VE BEEN PREVIOUSLY SWORN. YOU'RE
17 REMINDED YOU'RE STILL UNDER OATH.

18 MR. JACKSON, YOU MAY CONTINUE.

19 MR. JACKSON: THANK YOU, YOUR HONOR.

20 Q MR. MUNOZ, WOULD YOU SAY IT'S MORE
21 ACCURATE TO DO -- IF YOU'RE GOING TO ENGAGE IN ANY KIND
22 OF RECONSTRUCTIVE ANALYSIS IN A CRIME SCENE TO ENGAGE IN
23 AN ANALYSIS OF WHERE THE FIRED BULLETS CAME TO REST OR
24 THE CARTRIDGE CASES CAME TO REST?

25 A IT'S BEST WHEN DOING A RECONSTRUCTION TO
26 DETERMINE WHERE THE BULLETS -- WHERE THEY HIT. WHAT
27 TARGET. BECAUSE THAT GIVES YOU THE DIRECTION OF THE
28 PATH. AND THAT -- IF YOU ACTUALLY STICK A ROD OR STRING

1 IN IT, IT WOULD GIVE YOU THE ORIGIN OF WHERE THAT FIREARM
2 WAS -- THE POSITION WHEN IT WAS FIRED, AS OPPOSED TO
3 CARTRIDGE CASES THAT ARE JUST EJECTED FROM THE FIREARM.

4 THEY BOUNCE, THEY RICOCHET, THEY DO
5 STRANGE THINGS, SO IT'S NOT THAT SCIENTIFIC TO DO A
6 RECONSTRUCTION BASED ON CARTRIDGE CASES. IT'S BEST WHEN
7 IT'S A BULLET BECAUSE IT'S GOING TO HIT AN OBJECT AND YOU
8 KNOW WHAT DIRECTION IT CAME FROM.

9 Q AND THIS IS PROBABLY A LITTLE FUNDAMENTAL
10 FOR YOUR PURPOSES, BUT EXPLAIN TO US IF YOU'RE GOING TO
11 TRY TO DETERMINE A TRAJECTORY OF A BULLET, A LINEAR OF A
12 MOVING OBJECT, YOU NEED TO HAVE TWO POINTS OF REFERENCE,
13 DO YOU NOT? IN OTHER WORDS, IF A BULLET ENDED UP LAYING
14 OR COMING TO REST ON THIS WITNESS STAND (INDICATING),
15 THAT WOULDN'T DO YOU NEAR AS MUCH GOOD AS IF, SAY, FOR
16 INSTANCE, IT PASSED THROUGH A PLAIN HERE (INDICATING)?
17 AND I'M JUST HOLDING UP A VERTICAL CARDBOARD PLAIN, IF
18 YOU WILL (INDICATING).

19 ONCE YOU KNOW IF IT PASSED THROUGH HERE,
20 THEN CAME TO REST HERE (INDICATING), YOU COULD DO SOME
21 KIND OF A TRAJECTORY ANALYSIS; CORRECT?

22 A THAT'S CORRECT. IT'S BEST WHEN YOU HAVE
23 MORE POINTS, BECAUSE AS WE ALL KNOW, TWO POINTS MAKE A
24 STRAIGHT LINE. SO WE KNOW WHERE IT ENTERED, WHERE IT
25 EXIT. STICK A ROD THROUGH THERE OR A LASER LIGHT OR
26 STRING, IT GIVES THE PATH. IF YOU JUST HAVE ONE POINT OF
27 IMPACT, A BULLET IMPACT, SOMETIME IT'S A LITTLE DIFFICULT
28 BECAUSE ALL YOU HAVE IS JUST LIKE A DIVOT ON THE WALL AND

1 YOU REALLY DON'T KNOW FROM WHAT ANGLE. SO IT'S ALWAYS
2 MORE ACCURATE TO GIVE MORE POINTS OF REFERENCE AND,
3 THEREFORE, TWO POINTS OR GREATER, IT'S EASIER TO MAKE A
4 BULLET TRAJECTORY.

5 Q FINALLY, ON THAT SAME POINT, MR. MUNOZ,
6 WHEN A BULLET PASSES THROUGH A SOLID OBJECT, NOT A LIQUID
7 BUT A SOLID OBJECT -- MY VOICE SOUNDS TERRIBLE, DOESN'T
8 IT? -- WOULD YOU EXPECT THAT BULLET TO MAINTAIN ITS PATH,
9 ITS ORIGINAL PATH OR COULD IT -- COULD A SOLID OBJECT
10 ALTER THE PATH OF THE BULLET?

11 A THERE'S A LOT OF VARIABLES. IT MIGHT
12 CONTINUE ON, BUT ALSO IT MIGHT BE DEFLECTED. AND THERE'S
13 A LOT OF FACTORS. THE NOSE OF THE BULLET, ITS DESIGN, IF
14 IT'S A FULL METAL JACKET ROUND AS A OPPOSED TO A HOLLOW
15 POINT; THE SURFACE, THE HARDNESS OF THE SURFACE, SO
16 IT'S -- THERE'S A LOT OF VARIABLES. AND THE ANGLE WHERE
17 IT HIT THE SURFACE, THERE'S A LOT OF VARIABLES. IT'S
18 HARD TO DETERMINE THAT.

19 Q SO FOLLOWING UP ON THAT LAST POINT, IF
20 IT'S HARD TO DETERMINE THAT, CAN YOU TAKE A BULLET AT ITS
21 POSITION OF REST AND DEFINITELY SAY WHERE THAT BULLET
22 WAS FIRED FROM, AN EXACT SQUARE INCH OR SQUARE FOOT
23 LOCATION, JUST BASED ON THE FACT THAT THE BULLET CAME TO
24 REST AT A PARTICULAR SPOT?

25 A ABSOLUTELY NOT.

26 Q YOU INDICATED THAT THE EIGHT FIRED
27 BULLETS, YOU WERE ABLE TO DETERMINE THAT FOUR OF THEM
28 CAME FROM ONE GUN AND FOUR FROM ANOTHER; CORRECT?

1 A THAT IS CORRECT.

2 Q ALL RIGHT. FOR PURPOSES OF MY DISCUSSION
3 WITH YOU -- THOSE ARE GOING TO STAY.

4 FOR PURPOSES OF OUR DISCUSSION, LET'S
5 ASSUME TO MAKE EVERYTHING CLEAR, THERE'S BEEN A LOT OF
6 THE A'S AND B'S AND 1'S AND 2'S USED. LET'S CALL GUN ONE
7 JUST OUT OF THE BLUE, JUST OFF THE TOP OF MY HEAD,
8 GUN ONE X AND GUN TWO Y.

9 A OKAY.

10 Q TAKING A LOOK AT GUN ONE, IF THIS IS
11 GUN X, YOU INDICATED THAT TWO OF THE ROUNDS THAT WERE
12 FIRED FROM GUN X WERE RECOVERED FROM THE HEAD OF TRUDY
13 THOMPSON ACCORDING TO YOUR NOTES; CORRECT?

14 A THEY WERE SUBMITTED UNDER THE CORONER'S
15 CASE NUMBER -- LET ME REFER TO IT.

16 Q SURE.

17 A IT'S CORONER'S CASE NUMBER 188-2868 AND
18 THAT'S DECEDENT TRUDY THOMPSON.

19 Q OKAY. THAT WAS MY NEXT QUESTION.

20 SO THAT NUMBER DEFINITELY REFERS TO
21 TRUDY THOMPSON'S AUTOPSY; CORRECT?

22 A YES, IT DOES.

23 Q IN RED, WOULD IT BE ACCURATE, THEN, FOR ME
24 TO PLACE AN X AND AN X FOR THE TWO BULLETS THAT WERE
25 RECOVERED FROM THE BODY OF TRUDY THOMPSON DOWN AT THE
26 LOWER QUADRANT OF PEOPLE'S 54?

27 A YES, IT WOULD.

28 Q OKAY. SO IF I PLACE AN X AND AN X

1 INDICATING THAT THOSE ARE THE TWO BULLETS THAT WERE
2 RECOVERED FROM TRUDY THOMPSON'S BODY (INDICATING), WHERE
3 ON THIS DIAGRAM -- WELL, LET ME ASK YOU THIS WAY:

4 WHAT WAS THE NEXT BULLET THAT YOU ANALYZED
5 THAT MATCHES THOSE TWO BULLETS?

6 A 19.

7 Q AND YOU SEE A 19 FOR A FIRED BULLET ON THE
8 RIGHT-HAND SIDE OF THE VAN AS THE DRIVER'S SITTING IN THE
9 VAN, IN OTHER WORDS, ON THE PASSENGER DOOR; CORRECT?

10 A YES, I DO.

11 Q SO IF I PLACE AN X NEXT TO NO. 19, THAT
12 WOULD INDICATE THAT THAT BULLET MATCHES THE TWO THAT WERE
13 RECOVERED FROM MS. THOMPSON; CORRECT?

14 A THAT'S CORRECT.

15 Q WHAT WAS THE NEXT BULLET IN THE COURSE OF
16 YOUR ANALYSIS THAT MATCHED THOSE THREE BULLETS?

17 A 24.

18 Q THAT WAS THE BULLET, 24, THAT WAS
19 RECOVERED FROM JUST BENEATH MICKEY THOMPSON AT THE CRIME
20 SCENE; IS THAT YOUR UNDERSTANDING?

21 A THAT IS CORRECT.

22 Q ALL RIGHT. TAKING THE Y GUN NOW, AND SO
23 WE'RE CLEAR, NOT TO BEAT A DEAD HORSE, BUT THE SAME GUN
24 FIRED BOTH BULLETS THAT WERE RECOVERED FROM TRUDY
25 THOMPSON, THE BULLET IN THE VAN AND THE BULLET THAT WAS
26 FOUND BENEATH MICKEY THOMPSON'S HEAD; CORRECT?

27 A THAT IS CORRECT.

28 Q TAKING THE Y BULLETS, WHAT WAS THE FIRST

1 BULLET IN THAT LIST OF FOUR BULLETS THAT MATCHED ONE
2 ANOTHER?

3 A IT WOULD BE ITEM 16.

4 Q ITEM 16 IS -- IN THE UPPER QUADRANT OF THE
5 DIAGRAM ON PEOPLE'S 54, THAT APPEARS TO BE INSIDE THE
6 GARAGE AREA; CORRECT?

7 A THAT'S CORRECT.

8 Q WHAT ABOUT THE NEXT BULLET THAT MATCHED
9 ITEM 16?

10 A THE ITEM 17.

11 Q AND THAT ALSO WAS FOUND IN THE GARAGE DOOR
12 AREA; CORRECT?

13 A THAT IS CORRECT.

14 Q WHAT ABOUT ITEM -- WHAT ABOUT THE NEXT
15 ITEM THAT MATCHED?

16 A ITEM 25.

17 Q AND YOU SEE THAT LOCATED TO THE LEFT OF
18 MICKEY THOMPSON'S BODY; CORRECT?

19 A THAT'S CORRECT.

20 MR. JACKSON: DENOTING THAT ON PEOPLE'S 54 WITH A
21 BLUE Y (INDICATING).

22 Q AND, FINALLY, THE FOURTH BULLET THAT
23 MATCHED?

24 A ITEM 27.

25 Q AND THAT ONCE AGAIN WAS A BULLET THAT WAS
26 LODGED IN THE VAN ON THE DRIVER'S SIDE; CORRECT?

27 A THAT'S CORRECT.

28 MR. JACKSON: I'M DENOTING THAT Y27 WITH THE BLUE

1 Y AS WELL (INDICATING).

2 Q SO THE RED X'S WERE ALL FIRED FROM ONE GUN
3 AND THE BLUE Y'S WERE ALL FIRED FROM A SECOND GUN; IS
4 THAT CORRECT?

5 A THAT IS CORRECT.

6 Q DID YOU HAVE AN OPPORTUNITY -- WE TALKED
7 ABOUT -- WELL, I'VE GOT TWO QUESTIONS IN MY HEAD. I
8 GUESS I SHOULD SEPARATE THEM.

9 YOU INDICATED ON DIRECT EXAMINATION JUST A
10 FEW MINUTES AGO BEFORE LUNCH THAT YOU HAD BEEN SUBMITTED
11 A GUN TO ANALYZE AGAINST SOME OF THESE BULLETS OR ALL OF
12 THIS BALLISTIC EVIDENCE; CORRECT?

13 A THAT IS CORRECT.

14 Q DID THAT GUN MATCH, OR NO?

15 A NO.

16 Q IT WAS EXCLUDED AS A POSSIBLE WEAPON THAT
17 FIRED ANY OF THESE BALLISTIC ITEMS; CORRECT?

18 A THAT IS CORRECT.

19 Q ALL RIGHT. YOU ALSO INDICATED THAT YOU
20 WERE SUBMITTED AN ITEM NUMBER SIX THAT HAD AN EMPTY
21 ENVELOPE -- THAT LIVE ROUND HAS BEEN LOST APPARENTLY;
22 CORRECT?

23 A THAT IS CORRECT

24 Q DID YOU HAVE AN OPPORTUNITY, MR. MUNOZ, TO
25 REVIEW DWIGHT VAN HORN'S ORIGINAL REPORT?

26 A YES, I DID.

27 Q WHAT WAS -- WHO IS DWIGHT VAN HORN?

28 A DWIGHT VAN HORN WAS AN EXAMINER THAT USED

1 TO BE WITH THE SHERIFF'S DEPARTMENT AND HAS NOW RETIRED.

2 Q DID YOU KNOW HIM BEFORE HE RETIRED?

3 A YES.

4 Q AND WAS HE A BALLISTICS EXPERT LIKE YOU
5 ARE?

6 A YES, HE WAS.

7 Q DID YOU REVIEW HIS REPORT AND HIS NOTES
8 BEFORE YOU BEGAN YOUR ANALYSIS IN THIS CASE?

9 A YES, I DID.

10 Q DID YOU HAVE ANY PROBLEM WITH THE WAY THAT
11 HE ANALYZED -- BASED ON YOUR REVIEW OF HIS NOTES, THE WAY
12 THAT HE ANALYZED ANY OF THIS BALLISTIC EVIDENCE?

13 A SINCE WE'RE BOTH EXAMINERS, WE DO THINGS
14 DIFFERENTLY.

15 Q SURE.

16 A AND I DID THE CASE THE WAY I THOUGHT IT
17 SHOULD BE DONE.

18 Q RIGHT. DID YOU HAVE ANY DIFFERING
19 CONCLUSIONS?

20 A I IDENTIFIED ALL THE BULLETS --

21 Q OKAY.

22 A -- AND DEPUTY VAN HORN CLUMPED THEM ALL AS
23 BEING MAYBE FIRED FROM ONE OR MULTIPLE GUNS OR ANOTHER
24 GUN.

25 Q IN OTHER WORDS, YOU WENT AN EXTRA STEP
26 THAN DEPUTY VAN HORN DID BACK IN 1988 AND YOU ACTUALLY
27 DEFINITELY DETERMINED WHICH BULLETS MATCHED ONE ANOTHER
28 IN OUR X AND Y ANALOGY JUST A SECOND AGO?

1 A I DID A COMPLETE EXAMINATION.

2 Q NOW, YOU UNDERSTAND THAT HE EXAMINED ITEM
3 NUMBER SIX, YOU DIDN'T HAVE AN OPPORTUNITY BECAUSE THAT
4 ITEM'S BEEN LOST; IS THAT CORRECT?

5 A THAT'S CORRECT.

6 Q ITEM NUMBER SIX ACCORDING TO DWIGHT VAN
7 HORN, DID THAT MATCH ANY OF THE BALLISTIC EVIDENCE THAT
8 YOU'VE EARLIER TESTIFIED TO?

9 A YES, IT DID.

10 Q DESCRIBE WHICH IT MATCHED.

11 A I'M REFERRING TO THE FIREARM
12 IDENTIFICATION SECTION REPORT THAT WAS WRITTEN BY DWIGHT
13 VAN HORN MAY 23RD, 1988 ON FILE NUMBER
14 088-04387-0511-011.

15 Q NOW, THAT'S A CASE NUMBER, RIGHT, THAT
16 LONG NUMBER THAT YOU JUST READ?

17 A YES.

18 Q AND THAT -- BY THE WAY, I SHOULD ASK YOU
19 THIS FOR THOSE OF US WHO HAVE NEVER HEARD A CASE NUMBER
20 LIKE THAT: IS THAT A UNIQUE D.R. NUMBER THAT'S
21 ASSOCIATED WITH THIS CASE AND THIS CASE ONLY?

22 A YES, IT IS.

23 Q SO ALL ITEMS OF EVIDENCE AND ANALYTICAL
24 WORK THAT YOU DO IS UNDER THE UMBRELLA OF THAT PARTICULAR
25 CASE NUMBER?

26 A THAT IS CORRECT.

27 Q AS WELL AS MR. VAN HORN?

28 A THAT'S CORRECT.

1 Q WHAT DID MR. VAN HORN DETERMINE WITH
2 REGARD TO ITEM NUMBER SIX AND ANY OF THE OTHER BALLISTIC
3 ITEMS THAT YOU'VE EARLIER TESTIFIED TO?

4 A HE I.D.'D ITEM NUMBER SIX A CARTRIDGE
5 BEING WORKED FROM THE ACTION OF THE SAME GUN OF THE
6 FIREARM THAT FIRED ITEMS 8, 13, 14 AND 15.

7 Q ALL RIGHT. SO ITEM NUMBER SIX, HAD YOU
8 HAD IT TO ANALYZE, MORE THAN LIKELY WOULD HAVE FALLEN
9 INTO THE CATEGORY OF GUN NUMBER TWO AS WE'VE DESCRIBED IT
10 ON PEOPLE'S 64; CORRECT?

11 A YES, I THINK SO.

12 Q AND YOU HAVE -- OBVIOUSLY AS AN EXPERT WHO
13 KNOWS DWIGHT VAN HORN, YOU HAVE NO ISSUE WITH HIS
14 DETERMINATION THAT IT WOULD HAVE MATCHED THESE SHELL
15 CASINGS; CORRECT?

16 A THAT IS CORRECT.

17 Q OKAY.

18 MR. JACKSON: YOUR HONOR, THANK YOU VERY MUCH. I
19 HAVE NOTHING FURTHER FOR MR. MUNOZ.

20 THE COURT: CROSS-EXAMINATION?

21 MS. SARIS: THANK YOU.

22 YOUR HONOR, WE HAVE TWO DIAGRAMS BLOWN UP
23 I WOULD LIKE TO MARK DEFENSE AS NEXT IN ORDER.

24 THE COURT: YY AND ZZ.

25 MS. SARIS: WE WILL MARK THE ONE WITHOUT
26 PHOTOGRAPHS AS YY AND THE ONE WITH PHOTOGRAPHS AS ZZ.

27 THE COURT: SO MARKED.

28 (DEFENDANT'S EXHIBIT NOS. YY AND ZZ WERE

1 MARKED FOR IDENTIFICATION.)

2
3 CROSS-EXAMINATION

4 BY MS. SARIS:

5 Q GOOD AFTERNOON, MR. MUNOZ.

6 A GOOD AFTERNOON.

7 Q YOU SAID AS PART OF YOUR EXPERTISE YOU
8 WERE LISTING SOME OF THE THINGS THAT YOU WOULD DO AND ONE
9 OF THOSE WAS DETERMINING BOTH TRAJECTORIES?

10 A THAT IS CORRECT.

11 Q AND YOU SAID THAT YOU COULD DO THAT WITH A
12 ROD OR A STRING OR A LASER LIGHT?

13 A FOR THE MOST PART. YOU HAVE TO GET TWO
14 POINTS AND THOSE TWO POINTS CONNECT THEM AND THAT GIVES
15 YOU YOUR PATH OF THE BULLET.

16 Q AND IF YOU HAVE JUST ONE PATH -- ONE HOLE,
17 WOULD YOU LOOK AT THE ANGLE OF ENTRY AT ALL TO HELP
18 DETERMINE TRAJECTORY?

19 A YOU CAN, BUT IT'S A LITTLE MISLEADING. IT
20 DEPENDS ON THE SURFACE. IF IT'S SOMETHING THAT'S
21 RESILIENT OR SOMETHING THAT PERFORATES EASY, SO BY
22 LOOKING AT THE IMPACT DAMAGE, SOMETIMES IT'S MISLEADING
23 TO GIVE AN INTERPRETATION.

24 Q WELL, LET'S TALK ABOUT WOOD THAT'S
25 PAINTED. IF YOU WERE TO SEE PAINT TAKEN OFF IN A
26 DIRECTION -- AN EAST/WEST DIRECTION, YOU COULD ACTUALLY
27 SEE WHERE POINT WAS REMOVED AND WOOD WAS EXPOSED AND IT'S
28 A DIFFERENT COLOR, WOULD YOU ACTUALLY BE ABLE TO HELP

1 DETERMINE THE ANGLE BY THAT ANGLE OF ENTRY TO WOOD?

2 A YOU MIGHT.

3 Q YOU ALSO SAID THAT PART OF YOUR JOB
4 INVOLVES CRIME SCENE RECONSTRUCTION?

5 A THAT'S CORRECT.

6 Q AND HOW DO YOU GO ABOUT DOING THAT?

7 A BASICALLY YOU LOOK AT ALL THE EVIDENCE,
8 YOU LOOK AT AUTOPSY PHOTOS, YOU GET AS MUCH INFORMATION
9 THAT YOU CAN ABOUT THE SCENE, AND THEN HOPEFULLY YOU HAVE
10 SOME RESULTS, SOME LAB RESULTS. AND IT'S LIKE PUTTING
11 THE PUZZLE TOGETHER. YOU JUST START MATCHING THE PIECES
12 AND TRY TO SEE HOW THINGS FIT, HOW IT'S SUPPOSED TO FIT.

13 Q IS THAT WHY -- AND YOU'VE ALSO SAID YOU'VE
14 DONE EVIDENCE COLLECTION AT A SCENE; CORRECT?

15 A THAT'S CORRECT.

16 Q IS THAT WHY WHEN YOU'RE AT A SCENE YOU
17 TAKE PAINS TO NOTE THE MEASUREMENT OF WHERE CERTAIN ITEMS
18 OF EVIDENCE ARE LOCATED?

19 A THAT'S CORRECT.

20 Q TO HELP PEOPLE RECONSTRUCT IT LATER?

21 A YES.

22 Q SO ACTUALLY BULLET CASINGS ARE ONE OF THE
23 THINGS THAT YOU WOULD ACTUALLY DOCUMENT, NOTE, PHOTOGRAPH
24 AND MEASURE; CORRECT?

25 A YES. ANY ITEM THAT'S AT THE SCENE THAT'S
26 COLLECTED HAS TO BE DOCUMENTED, MEASURED, DESCRIBED.

27 Q SO YOU'RE NOT TELLING US THAT YOU WOULD
28 ABSOLUTELY IGNORE ALL THE EVIDENCE OF BULLETS CASINGS AT

1 A SCENE, WOULD YOU?

2 A OH, ABSOLUTELY NOT.

3 Q IN FACT, HAVE YOU OR YOUR COLLEAGUES EVER
4 TESTIFIED IN ANY CRIMINAL CASE ABOUT A ROUGH ESTIMATE OF
5 WHERE A SHOOTER MAY HAVE BEEN STANDING BASED ON BULLET
6 CASINGS?

7 A I HAVE.

8 Q I'VE PUT UP A DIAGRAM THAT WE'VE MARKED
9 DEFENSE ZZ.

10 DOES THAT -- DO YOU RECOGNIZE THOSE
11 PHOTOGRAPHS AS SOME OF THE PIECES OF EVIDENCE THAT YOU
12 TESTED?

13 A YES.

14 MS. SARIS: MAY I APPROACH, YOUR HONOR?

15 THE COURT: YES.

16 Q BY MS. SARIS: WHEN YOU LOOK AT THE
17 SPECIFIC DIAGRAMS, CAN YOU TELL FROM THE PHOTOGRAPH THAT
18 SOME OF THEM ARE CASINGS AND SOME OF THEM ARE ACTUALLY
19 LIVE ROUNDS?

20 A I CAN.

21 Q YOU CAN.

22 SO WOULD YOU GIVE US AN EXAMPLE, LIKE FIND
23 A LIVE ROUND SO THAT WE CAN COMPARE WHAT A CASING WOULD
24 LOOK LIKE.

25 A THIS IS A FIRED CARTRIDGE CASE
26 (INDICATING). THE BULLET IS ABSENT.

27 Q POINTING TO NO. 13?

28 A 13 ON PEOPLE'S ZZ.

1 Q DEFENSE ZZ.

2 A THIS IS A LIVE CARTRIDGE. I CAN SEE THE
3 BULLET.

4 Q AND THAT'S NUMBER SIX?

5 A SIX.

6 Q AND THEN --

7 A THREE, IT'S A LIVE CARTRIDGE OR CARTRIDGE.
8 THAT LOOKS LIKE A CARTRIDGE AS WELL.

9 Q TWO? COULD THAT BE --

10 A IT'S KIND OF HARD, BUT IT LOOKS LIKE IT.

11 Q IS IT DIFFICULT FROM THAT PHOTOGRAPH --
12 WOULD YOU KNOW WHAT NUMBER TWO IS FROM YOUR REPORT?

13 A SURE. I'M LOOKING AT NUMBER TWO. OH,
14 IT'S ACTUALLY A FIRED CARTRIDGE CASE.

15 Q A CASING?

16 A YES, CARTRIDGE CASING.

17 Q AND THE DISTRICT ATTORNEY CHOSE X AND Y,
18 I'VE CHOSEN GREEN AND RED, AND JUST TO MAKE SURE WE'RE ON
19 THE SAME PAGE, FROM THE ONE BULLET WE HAVE ITEM
20 NUMBER -- THE CASINGS WOULD BE NUMBER 18 -- I'M SORRY --
21 FROM THE ONE GUN, NUMBER 18, NUMBER 2, NUMBER 11 AND
22 NUMBER 20?

23 A THAT'S CORRECT.

24 Q AND THE OTHER GUN THE CASINGS WOULD BE
25 NUMBER 8, NUMBER 13, NUMBER 14 AND NUMBER 15?

26 A THAT IS CORRECT.

27 Q AND THE LIVE ROUND WHICH WE DESIGNATED
28 HERE TO LOOK MORE LIKE A BULLET SHAPE FROM THE ONE GUN

1 WOULD BE NUMBER SEVEN, NUMBER TEN AND NUMBER THREE?

2 A THAT'S CORRECT. THEY WORK IN THE SAME
3 MAGAZINE.

4 Q AND FROM THE OTHER GUN, THE ONLY LIVE
5 ROUND WAS NUMBER SIX?

6 A THAT'S CORRECT.

7 Q AND THEN THE TRIANGLES WOULD REPRESENT THE
8 ACTUAL EXPENDED BULLETS. AND FROM THE ONE GUN WE WOULD
9 HAVE NUMBER 25, 16, 17 AND 27?

10 A I'M SORRY. COULD YOU REPEAT THOSE ITEMS?

11 Q SURE. 25, 16, 17 AND 27.

12 A THAT'S CORRECT.

13 Q THAT'S ALL ONE GUN?

14 A THAT'S CORRECT.

15 Q AND THE OTHER GUN -- AND I'VE PUT 29 AND
16 30 HERE WHICH ARE ACTUALLY CORNERS ONE AND TWO
17 (INDICATING).

18 IS THAT REPRESENTATIVE OF HAVING BEEN
19 FOUND IN MS. THOMPSON'S HEAD?

20 A YES. CORONER'S BULLETS ARE FROM THE
21 VICTIM.

22 Q BULLET FRAGMENT NUMBER 4, NUMBER 24 AND
23 NUMBER 19 ARE ALSO FROM THE OTHER GUN?

24 A THAT IS CORRECT.

25 Q OKAY. NOW, YOU DID NOT MAKE IT TO THE
26 CRIME SCENE THAT MORNING AT ALL; IS THAT CORRECT?

27 A THAT'S CORRECT.

28 Q OTHER THAN THE POSITIONS OF WHERE THESE

1 ITEMS ARE, IS THE COLOR REPRESENTATIVE OF ONE GUN VERSUS
2 THE OTHER GUN BASED ON YOUR FINDINGS?

3 A YES, IT IS.

4 Q AND TO MAKE IT A LITTLE BIT MORE CLEAR,
5 DEFENSE YY HAS THE SAME THING WITHOUT THE PHOTOGRAPHS
6 BEING ATTACHED TO THEM.

7 DO YOU RECOGNIZE THAT?

8 A YES.

9 Q IS THERE ANY WAY TO TELL FROM A FIRED
10 CASING THAT IT HELD A PARTICULAR BULLET THAT WAS FOUND AT
11 THE SCENE?

12 A NO.

13 Q IS THERE BASED ON SOME LOGICAL CONCLUSIONS
14 YOU CAN MAKE BASED ON WHERE ITEMS WERE FOUND? LET ME
15 GIVE YOU AN EXAMPLE.

16 WOULD IT BE CONSISTENT WITH WHAT YOU'VE
17 TESTED AND WHAT YOU FOUND THAT ITEM NUMBER 24 WAS FIRED
18 FROM ITEM NUMBER 20?

19 A THAT'S VERY HARD TO SAY BECAUSE YOU HAVE
20 ALL THE FIRED CARTRIDGE CASES WERE THE SAME MAKE AND
21 MODEL. THEY'RE ALL SIMILAR. SO JUST BY LOOKING AT A
22 BULLET, YOU COULD NOT PIECE IT BACK TO A CARTRIDGE CASE.

23 Q LET ME ASK YOU THIS, THEN: IF YOU WERE TO
24 FINE FROM THE ONE GUN THAT YOU'VE DESCRIBED ONLY ONE
25 CARTRIDGE CASE AND ONE EXPENDED BULLET IN A PARTICULAR
26 AREA, AND THE NEXT CASING AND BULLET WERE A GOOD 50, 60
27 FEET AWAY, WOULD IT BE REASONABLE TO CONCLUDE THAT THOSE
28 TWO WERE RELATED?

1 A YES. BUT IT'S NOT SCIENTIFIC.

2 Q BUT IT'S REASONABLE?

3 A IT'S REASONABLE, I GUESS.

4 Q IT'S LOGICAL?

5 A IT'S REASONABLE. LOGICAL, I'VE BEEN TO
6 ENOUGH SCENES WHERE I'VE SEEN CARTRIDGE CASES KICKED,
7 MOVED, SO I DON'T REALLY PAY THAT MUCH ATTENTION TO THEIR
8 LOCATION WHEN I DO A RECONSTRUCTION.

9 Q BUT YOU DON'T LOOK AT THE CASING SIMPLY IN
10 A VACUUM, CORRECT, YOU LOOK AT THE BULLETS AND THE ANGLE
11 AND THE TRAJECTORY?

12 A YOU LOOK AT THE TOTALITY OF THE CASE.

13 Q SO IF YOU WERE TO SEE -- FOR INSTANCE, YOU
14 WALKED UP TO A CRIME SCENE FRESH AND YOU WERE TO SEE A
15 WALL THAT LOOKED AS IF IT HAD BEEN SHOT FROM A 90-DEGREE
16 ANGLE, SOMEONE WAS STANDING RIGHT IN FRONT OF THE WALL
17 AND SHOT AT THAT WALL, WHERE'S THE FIRST PLACE YOU WOULD
18 LOOK FOR THAT CASING?

19 A EITHER THE VICINITY OF 90 DEGREES, MAYBE A
20 LITTLE BIT TO THE RIGHT, DEPENDING ON THE SURFACE. IF
21 IT'S FLAT, IF IT'S SLOPED, DOWN THE HILL.

22 Q HAVE YOU BEEN TO THE SCENE AT ALL IN THIS
23 CASE?

24 A NO, I HAVE NOT.

25 Q WE WERE TALKING BEFORE THE DIFFERENCE
26 BETWEEN A SEMIAUTOMATIC AND A REVOLVER EARLIER.

27 DO YOU RECALL THAT?

28 A YES.

1 Q SO A REVOLVER DOES NOT LEAVE CASINGS
2 BEHIND AT A CRIME SCENE; IS THAT FAIR TO SAY?

3 A THAT IS CORRECT.

4 Q AND A CASING IS ONE OF THE WAYS THAT
5 YOU'RE ABLE TO DETERMINE, NUMBER ONE, HOW MANY WEAPONS
6 WERE USED; RIGHT?

7 A THAT IS CORRECT.

8 Q AND POTENTIALLY IF A GUN WERE EVER
9 RECOVERED, YOU COULD MATCH IT TO A CASING?

10 A THAT'S CORRECT.

11 Q SO IF YOU HAVE A REVOLVER, THEN THERE'S NO
12 CASINGS FOR YOU TO MAKE THOSE TESTS TO; CORRECT?

13 A THAT'S CORRECT.

14 Q AND, GENERALLY SPEAKING, I THINK YOU
15 SAID -- AND CORRECT ME IF THIS IS WRONG -- THAT SOMETIMES
16 THEY CAN CARRY BIGGER AMMUNITION?

17 A THE REVOLVER? HANDGUNS ARE DESIGNED FOR
18 THOSE HIGH POWERED -- A LITTLE BIT MORE POWERFUL CALIBER
19 THAN A SEMIAUTOMATIC. THEY'RE USUALLY LONGER.

20 Q SO A REVOLVER WOULD LEAVE LESS EVIDENCE
21 AND HAVE MORE FIRE POWER THAN A SEMIAUTOMATIC?

22 A YES.

23 Q AND HOLDS LESS ROUNDS OF AMMUNITION.

24 Q THE NUMBERS, JUST SO WE'RE CLEAR, THAT ARE
25 ASSIGNED TO THESE ITEMS OF EVIDENCE ARE NOT ASSIGNED BY
26 YOU?

27 A THAT'S CORRECT.

28 Q AND THEY ARE NOT ASSIGNED IN ANY

1 PARTICULAR ORDER, IS THAT FAIR, THEY'RE ARBITRARY
2 NUMBERS?

3 A TO THE BEST OF MY KNOWLEDGE, YES.

4 Q WHEN YOU GO TO A CRIME SCENE AND YOU PUT
5 AN ITEM NUMBER TWO AT A CRIME SCENE, ARE YOU SAYING
6 THAT'S THE SECOND BULLET FIRED?

7 A NO. I USUALLY PUT -- I HAVE SOME KIND OF
8 SYSTEM THAT I USE WHEN I PUT DOWN PLACARDS.

9 Q AS YOU WALK?

10 A IT DEPENDS. IT DEPENDS WHERE I FEEL THE
11 MAIN FOCUS ON THE SCENE IS AND THAT'S WHERE I START
12 PUTTING MY NUMBERS.

13 Q 16 AND 17, THE ONES THAT WERE FROM THE GUN
14 THAT WAS ASSOCIATED WITH 13, 14, 15 AND 8, WERE THEY
15 WHOLE BULLETS, DO YOU RECALL, OR WERE THEY FRAGMENTS?

16 A I HAVE TO LOOK AT MY NOTES.

17 Q THAT WILL REFRESH YOUR RECOLLECTION?

18 A YES, IT WOULD.

19 I'M LOOKING AT MY BULLET WORK SHEET, CASE
20 NUMBER 088-0487-0511-011 THAT I AUTHORED ON 9-8-06, AND
21 I'M LOOKING AT -- I'M SORRY, WHICH ITEM NUMBER AGAIN?

22 Q 16 AND 17.

23 A OKAY. ITEM NUMBER 16, A .9 MILLIMETER
24 LUGER CALIBER BULLET. THE WEIGHT IS 115.9. SO THAT'S
25 PRETTY MUCH A WHOLE BULLET. IT'S LOST -- I DON'T THINK
26 IT'S LOST ANY WEIGHT.

27 Q AND NUMBER 17?

28 A NUMBER 17, ALSO A .9 MILLIMETER LUGER

1 CALIBER BULLET AND THAT WEIGHS 115.2 GRAINS.

2 Q DID YOU REVIEW AS PART OF YOUR ANALYSIS IN
3 THE CASE, AN EVIDENCE LIST FROM THE ORIGINAL PERSON?

4 A I'M SORRY. ARE WE TALKING ABOUT DETECTIVE
5 VAN HORN -- OR DEPUTY VAN HORN?

6 Q NO. I'M TALKING ABOUT THE -- FROM THE
7 OFFICERS THAT CAME TO THE SCENE WHEN THEY LISTED THE
8 EVIDENCE THAT THEY RECOVERED, DID YOU REVIEW THAT?

9 A NO, I DID NOT.

10 Q SO ARE YOU AWARE OF ITEM 17A?

11 A NO.

12 Q SO WHEN YOU COUNTED EIGHT SHOTS THAT WERE
13 FIRED, YOU WERE NOT COUNTING AN ITEM MARKED 17A?

14 A THAT WAS NOT SUBMITTED WITH THE EVIDENCE.

15 Q SO DO YOU KNOW, AS YOU SIT HERE NOW,
16 WHETHER OR NOT THERE WAS A BULLET EMBEDDED IN THE GARAGE
17 THAT HAD TO BE DUG OUT OF A POST?

18 A I AM NOT AWARE.

19 Q IS DWIGHT VAN HORN STILL ALIVE?

20 A YES, HE IS.

21 Q ONE OF THE THINGS THAT YOU CAN DO AS A
22 RESULT OF CASINGS AND EXPENDED BULLETS WHEN YOU HAVE THEM
23 AT A CRIME SCENE, EVEN IF YOU DON'T HAVE A GUN TO COMPARE
24 THEM TO, IS TO ELIMINATE CERTAIN WEAPONS; IS THAT TRUE?

25 A THAT'S CORRECT.

26 Q HOW WOULD YOU DO THAT? WHAT WOULD MAKE A
27 GUN ELIMINATED?

28 A I HAVE AN ILLUSTRATION IF I MAY TO SHOW

1 YOU RIFLING CHARACTERISTICS.

2 Q PLEASE.

3 A EACH FIREARM WITH THE EXCEPTION OF A
4 SHOTGUN, THAT'S A SMOOTH BORE, HAS RIFLING. AND RIFLING
5 ALLOWS THE BULLET, ONCE IT'S FIRED FROM THE FIREARM TO
6 TRAVEL IN A GYROSCOPIC SPIN. BASICALLY IT JUST GIVES IT
7 A TWIST. AND THAT STABILIZES THE BULLET AND MAKES IT GO
8 FURTHER AND MORE ACCURATE.

9 SO EACH FIREARM HAS ITS OWN RIFLING AND
10 EVERY MANUFACTURER HAS THEIR OWN BLUEPRINT OF HOW THEY
11 WANT TO DESIGN THEIR FIREARMS. SOME MANUFACTURERS LIKE A
12 RIGHT TWIST, SOME LIKE A LEFT TWIST, SOME MANUFACTURERS
13 LIKE SIX RIGHT OR SIX LANDS AND GROOVES COMBINATION, SOME
14 LIKE FIVE, SOME LIKE TEN, SO EACH MANUFACTURER HAS THEIR
15 OWN G.R.C.'S, GENERAL RIFLING CHARACTERISTICS.

16 A HIGHLY FIRED BULLET IN EXAMINING IT,
17 LOOKING THE NUMBER OF LANDS AND GROOVES, THE TWISTS AND
18 THE WIDTH OF THE LANDS AND GROOVES AND LOOKING AT THOSE
19 SPECIFIC -- THOSE MEASUREMENTS AND COMPARING THOSE TO
20 WHAT -- WE HAVE A HANDBOOK CALLED THE G.R.C. HANDBOOK,
21 GENERAL RIFLING CHARACTERISTICS HANDBOOK THAT ORIGINATED
22 FROM THE F.B.I. AND THEY HAVE ALL OF THE DIFFERENT
23 G.R.C.'S OF ALL THE HANDGUNS AND SOME RIFLES.

24 JUST BY LOOKING AT THOSE DIMENSIONS, WE
25 CAN DETERMINE WHICH FIREARM COULD HAVE FIRED THAT FIRED
26 BULLET.

27 Q SO HOW LONG HAVE YOU HAD THAT HANDGUN
28 BOOK?

1 A IT'S BEEN AROUND -- MY PERSONAL ONE IS
2 FROM '98 -- 1998.

3 Q WHEN DID THEY START BEING PUBLISHED?

4 A A WHILE AGO. I WOULD SAY MAYBE IN THE
5 MID-'80S. BUT IT WAS ONLY FOR LAW ENFORCEMENT USE AT
6 THAT TIME.

7 Q OKAY. AND IT'S LIKE A DICTIONARY -- I
8 MEAN, IT'S LIKE A REFERENCE BOOK, YOU LOOK IT UP AND YOU
9 CAN SEE WHICH ONES HAVE THE SAME CHARACTERISTICS OF
10 WHICH?

11 A THAT'S CORRECT. THEY HAVE THOSE
12 MEASUREMENTS UNDER THE LAND AND GROOVES.

13 Q AND THE MANUFACTURER WILL KNOW THAT IN
14 ADVANCE, THEY'RE DOING THAT PURPOSELY, THEY'RE DESIGNING
15 THEIR BARRELS IN A PARTICULAR WAY?

16 A I DON'T THINK THEY TAKE INTO -- US INTO
17 ACCOUNT, THE FORENSIC SCIENCE COMMUNITY. I THINK THEY
18 JUST DO THEIR BLUEPRINTS TO WHATEVER TOOLS THEY HAVE
19 MACHINED. I DON'T THINK IT'S -- I DON'T THINK THEY HAVE
20 SOME KIND OF SYSTEM.

21 Q NO. MY QUESTION IS: THEY MAKE THE LANDS
22 AND GROOVES ON PURPOSE, THIS ISN'T AN ACCIDENT?

23 A YES. EACH FIREARM DOES HAVE LANDS AND
24 GROOVES.

25 Q AND SPECIFICALLY LET'S TALK ABOUT SMITH &
26 WESSON FIREARMS.

27 BACK IN THE '80S THEY HAD WHAT ARE CALLED
28 THREE DIGIT MODELS.

1 ARE YOU FAMILIAR WITH THAT?

2 A YES, I AM.

3 Q AND THAT JUST MEANS THERE'S THREE NUMBERS,
4 THREE DIGITS IN THE MODEL NUMBER?

5 A YES.

6 Q SO IT 569, SOMETHING LIKE THAT?

7 A YES.

8 Q AND THOSE HAD -- DO YOU KNOW, AS YOU SIT
9 HERE, THAT THOSE HAD A CERTAIN NUMBER OF LANDS AND
10 GROOVES AND TWISTS?

11 A YES.

12 Q AND DO YOU KNOW WHAT THOSE WERE?

13 A YES. SMITH & WESSON PISTOLS, THE MODELS
14 WITH THREE DIGITS, FOUR DIGITS, THEY ALL HAVE FIVE
15 RIGHTS.

16 Q AND WHAT WERE THESE -- IF YOU KNOW, WERE
17 BOTH GUNS FIRED FROM THE SAME TYPE OF WEAPON? I'M SORRY,
18 BOTH GROUPS OF BULLETS FIRED FROM THE SAME TYPE OF
19 WEAPON?

20 A BOTH FIREARMS HAD THE SAME GENERAL RIFLING
21 CHARACTERISTIC. THEY HAD THE SAME DIMENSIONS.

22 Q AND WHAT WERE THE NUMBER OF LANDS AND
23 GROOVES?

24 A SIX RIGHT.

25 Q BOTH?

26 A BOTH.

27 Q SO YOU WOULD BE ABLE TO TELL, FOR
28 INSTANCE, THAT A SMITH & WESSON THREE DIGIT WOULD NOT BE

1 THE MURDER WEAPON JUST FROM LOOKING AT THE CASINGS?

2 A YES. BUT THE EARLIER SMITH & WESSON
3 PISTOLS DID FALL WITHIN THIS G.R.C.

4 Q WHAT DO YOU MEAN "EARLIER"?

5 A THE TWO DIGIT MODELS. THE 59S AND 39S HAD
6 SIX RIGHT.

7 Q BUT THE THREE DIGIT HAD FIVE?

8 A YES.

9 Q AND YOU WOULD ALSO KNOW OTHER FIREARMS
10 THAT YOU EXCLUDE SUCH AS A GLOCK; CORRECT?

11 A THAT'S CORRECT.

12 Q AND THAT'S JUST BECAUSE THEY LOOK
13 DIFFERENT?

14 A YES. THEY DON'T HAVE CONVENTIONAL CUT
15 RIFLING. THEY HAVE SOMETHING CALLED POLYGONAL RIFLING
16 WHICH IS ACTUALLY THE LANDS AND GROOVES ARE SHOULDERED
17 AND IT'S REALLY FINE. IT LOOKS LIKE SCRATCHES MORE THAN
18 GOUGES.

19 Q OKAY. AND THIS IS A MATTER OF THEN YOU'RE
20 LOOKING IN A MICROSCOPE, YOU SEE THIS NUMBER OF LANDS AND
21 GROOVES, YOU SEE THE DIRECTION OF THE TWIST, YOU GO TO A
22 BOOK, YOU OPEN A BOOK, YOU NOTE WHICH FIREARMS ARE
23 POTENTIAL MATCHES FOR THAT AND YOU KNOW WHICH ONES COULD
24 BE EXCLUDED.

25 IS THAT A FAIR ANALYSIS?

26 A THAT IS FAIR, YES.

27 Q SO AS YOU SIT HERE NOW, YOU PERSONALLY
28 HAVE NO KNOWLEDGE OF WHERE ON THE CRIME SCENE THESE ITEMS

1 OF EVIDENCE COULD BE PLOTTED?

2 A I'M SORRY. CAN YOU REPHRASE THAT
3 QUESTION, PLEASE?

4 Q YES.

5 WHERE ON THE CRIME SCENE THESE EVIDENCE
6 ITEMS WERE PLOTTED, WERE FOUND, DO YOU HAVE ANY
7 KNOWLEDGE, AS YOU SIT HERE NOW?

8 A NO, NOT REALLY.

9 Q SO YOU BASICALLY RETESTED THE SAME BULLETS
10 AND CASINGS AND LIVE ROUNDS THAT WERE THE SUBMITTED IN
11 1988 FOR DWIGHT VAN HORN?

12 A THAT IS CORRECT.

13 Q AND I TAKE IT, THEN, THAT YOU'VE NEVER
14 CONDUCTED ANY SORT OF TESTS ON THE THOMPSON DRIVEWAY
15 REGARDING HOW CASINGS MIGHT FALL OR BOUNCE?

16 A THAT IS CORRECT.

17 Q WE WERE TALKING ABOUT EXACT MEASUREMENTS
18 OF TELLING WHERE A PERSON WAS EVEN IF YOU HAVE, LET'S
19 SAY, THREE POINTS OF REFERENCE, A BULLET GOING THROUGH
20 THREE SEPARATE THINGS, ARE YOU ABLE TO DETERMINE THEN
21 EXACTLY WHERE AN INDIVIDUAL IS STANDING OR CAN YOU STILL
22 JUST GIVE US A RANGE?

23 A IT DEPENDS ON THE BULLET HOLES. IF YOU
24 HAVE TWO GOOD POINTS AND THEY'RE REAL LINEAR, THAT'S
25 GOING TO GIVE YOU THE ORIGIN OF THE FIREARM, THE MUZZLE.
26 WHERE THE PERSON WAS BEHIND THE FIREARM, WE DON'T KNOW.
27 BUT I KNOW THAT GUN AT ONE POINT WAS ALIGNED THAT CAUSED
28 THAT BULLET HOLE.

1 Q BUT COULD YOU TELL WHERE ON THE LINE THE
2 PERSON WAS STANDING?

3 A NO. BUT IT GIVES YOU THE PATH. SOMEWHERE
4 ON THAT PATH, ON THAT LINE, ON THAT AXIS, THE GUN WAS
5 ACTUALLY IN THAT SAME ORIENTATION.

6 Q SO LITTLE OF WHAT YOU ARE ABLE TO DO
7 THROUGH THE BALLISTIC EVIDENCE THAT YOU RECOVER WILL
8 ACTUALLY GIVE US AN EXACT LOCATION OF AN INDIVIDUAL; IS
9 THAT FAIR?

10 A WOULD YOU REPHRASE THAT, PLEASE?

11 Q SURE. THE SCIENCE THAT YOU ARE ABLE TO DO
12 IN THE LAB WITH THE BALLISTICS IS INTENDED TO GIVE US
13 SOMEWHAT OF A RANGE OF WHERE A PERSON COULD HAVE BEEN
14 WHEN THEY ARE SHOOTING. YOU'RE NOT ABLE TO GIVE AN EXACT
15 SEVEN FEET FROM THIS TREE AND FOUR INCHES FROM THIS
16 SIDEWALK?

17 A THAT IS CORRECT.

18 Q DID YOU EVER EXAMINE A VEHICLE, A VAN IN
19 THIS CASE?

20 A NO, I DID NOT.

21 Q DID YOU EVER SEE THE PHOTOGRAPHS OF THE
22 SHOTS THAT WERE FIRED INTO THE VAN?

23 A I SAW A COUPLE, YES.

24 Q WERE YOU DOING THAT JUST TO -- IN ANY SORT
25 OF AN EXAMINATION SETTING?

26 A I JUST WANTED TO FAMILIARIZE MYSELF WITH
27 THE SCENE.

28 Q SO YOU DIDN'T TAKE ANY MEASUREMENTS AND

1 TRY TO GET ANGLES FROM PHOTOGRAPHS?

2 A OH, NO.

3 Q YOU WERE SAYING THAT YOU DON'T BELIEVE
4 ITEM NUMBER FOUR TO BE A WHOLE BULLET BUT A FRAGMENT?

5 A A SMALL FRAGMENT, LEAD FRAGMENT.

6 Q AND BASED ON THE WEIGHT OF THE OTHER
7 BULLETS, DO YOU HAVE A DETERMINATION AS TO WHAT BULLET
8 THAT FRAGMENTED FROM?

9 A NO. AND BEING THAT IT'S A LEAD FRAGMENT,
10 IT'S NOT IDENTIFIABLE AS COMING FROM A BULLET. I'M JUST
11 ASSUMING IT COULD BE FROM A BULLET. IT JUST LEFT A
12 MORPHEUS FRAGMENT.

13 Q DID IT HAVE A WEIGHT IN GRAINS?

14 A YES, IT DID.

15 Q AND IT EITHER 29 OR 30 HAVE A WEIGHT THAT
16 WAS LESS THAN -- WHAT DID YOU SAY? I'M SORRY -- THE
17 LUGER SHOULD WEIGH?

18 A THAT AMMUNITION MANUFACTURED BY P.M.C.
19 SHOULD WEIGH 115, PLUS OR MINUS A GRAIN.

20 Q AND WHAT DID NUMBER 29 -- OR CORONER'S
21 NUMBER ONE AND CORONER'S NUMBER TWO WEIGH?

22 A CAN I REFER TO MY NOTES?

23 Q IF THAT WILL REFRESH YOUR RECOLLECTION.

24 A YES, IT WOULD.

25 OKAY. REFERRING TO MY BULLET WORK SHEET,
26 CORONER'S BULLET ONE OF TWO, THAT WEIGHED 115.0 GRAINS.
27 CORONER'S BULLET TWO OF TWO WEIGHED 101.9 GRAINS.

28 Q AND WHAT WAS THE WEIGHT OF THE FRAGMENT OF

1 LEAD FRAGMENT NUMBER FOUR?

2 A 6.7 GRAINS.

3 Q SO IT WOULD BE CONSISTENT IN WEIGHT WITH
4 ITEM NUMBER FOUR FRAGMENTING OFF OF CORONER'S TWO OF TWO?

5 A IF I WAS TO HAVE THAT CHOICE BETWEEN THOSE
6 TWO CORONER'S BULLET, I WOULD SAY YES, IT WOULD BE CLOSER
7 TO CORONER'S TWO.

8 Q DID YOU RECEIVE AN ITEM MARKED NUMBER 25?

9 A YES, I DID.

10 Q AND WHAT WAS THAT?

11 A THAT WAS A FIRED BULLET.

12 Q AND FROM WHICH -- THAT WOULD BE CONSISTENT
13 WITH THE SHOOTER THAT I'VE MARKED WITH RED AND THE
14 DISTRICT ATTORNEY HAS MARKED AS A "Y"?

15 A YES.

16 Q AND WHEN I SAY THAT, I MEAN THAT IT WOULD
17 MATCH 13, 14, 15 AND 8?

18 A NO. IT'S A FIRED BULLET, SO IT'S GOING TO
19 MATCH FIRED BULLET 16, 17 AND 27.

20 Q AND 16, 17 AND 27 HAD THE SAME GENERAL
21 RIFLING CHARACTERISTIC AS 13, 14, 15 AND 8?

22 A I'M SORRY --

23 Q SURE.

24 25, 16 AND 17 ARE BULLETS THAT HAD BEEN
25 FIRED?

26 A THAT IS CORRECT.

27 Q AND THEY CAME FROM THE SAME WEAPON AS THE
28 BULLETS THAT EJECTED THE CASINGS 8, 13, 14 AND 15?

1 A YOU CANNOT DETERMINE IF A FIRED BULLET
2 ORIGINATED FROM A CARTRIDGE CASE. IT'S IMPOSSIBLE.

3 Q FROM THE SAME FIREARM I'M ASKING.

4 A I DON'T KNOW. I DON'T HAVE THE FIREARM.

5 Q FROM THE SAME FIREARM -- I THOUGHT YOU
6 SAID YOU COULD DETERMINE FROM THE SAME FIREARM THAT THE
7 CASING AND THE BULLETS ORIGINATED FROM THE SAME FIREARM.

8 A THOSE FOUR BULLETS WERE FIRED FROM THE
9 SAME FIREARM. THE CARTRIDGE CASES WERE FIRED IN ANOTHER
10 FIREARM. IT MIGHT BE THE SAME FIREARM, WE DON'T KNOW
11 UNLESS WE HAVE THE FIREARM BECAUSE THERE'S TWO DIFFERENT
12 EVIDENCE. I'M LOOKING AT FIRED BULLETS AS OPPOSED TO
13 CARTRIDGE CASINGS.

14 Q AND I THOUGHT YOU WERE SAYING THERE WERE
15 TWO WEAPONS ON THE SCENE.

16 A THERE IS.

17 Q OKAY. AND SO YOU WERE SAYING THERE'S SOME
18 CORRELATION BETWEEN SOME OF THE CARTRIDGE CASINGS AND
19 SOME OF THE BULLETS IN TERMS OF SIMILARITY OF WEAPON, NO?

20 A NO. I'M SAYING THESE CARTRIDGE CASES, ALL
21 EIGHT HAVE SAME MANUFACTURER, P.M.C., THEY HAVE THE SAME
22 DESIGN BULLETS, BUT FOUR OF THOSE WERE FIRED IN ONE GUN,
23 FOUR IN ANOTHER GUN. THE BULLETS, THE SAME GOES. FOUR
24 WERE FIRED IN ONE GUN AND FOUR IN ANOTHER.

25 BUT IT'S IMPOSSIBLE TO DETERMINE THOSE
26 FOUR CARTRIDGE CASES ARE LINKED TO THOSE BULLETS.
27 THERE'S NO SUCH IDENTIFICATION.

28 Q I UNDERSTAND. YOU CAN'T SAY THAT CASING

1 FIRED THAT EXACT BULLET.

2 MY QUESTION IS --

3 A ABSOLUTELY, YOU CAN'T.

4 Q SO MY QUESTION, THOUGH, IS: THE CASINGS,
5 THOUGH, CAME FROM THE SAME FIREARM THAT FIRED THOSE
6 BULLETS?

7 A YOU CAN'T SAY THAT.

8 Q YOU CAN'T SAY THAT EITHER.

9 SO HOW ARE WE ONLY MAKING AN X AND Y AND
10 NOT FOUR DIFFERENT NOTATIONS ON THIS?

11 A LET ME TRY TO EXPLAIN THIS. THERE'S EIGHT
12 FIRED BULLETS AND CARTRIDGE CASES AND THERE'S TWO GUNS
13 THAT FIRED BOTH SETS, BUT YOU CANNOT DETERMINE WHICH
14 CARTRIDGE CASES BELONGED TO WHICH FIRED BULLETS.

15 Q I UNDERSTAND THAT.

16 A THERE'S NO CORRELATION THERE.

17 Q LET ME BACK UP.

18 CAN YOU DETERMINE WHICH CARTRIDGE CASES
19 BELONGED TO WHICH GUN?

20 A YES, IF I HAD THE GUN.

21 Q AND YOU CAN DETERMINE WHICH FIRED BULLETS
22 BELONGED TO WHICH GUN?

23 A THAT'S CORRECT.

24 Q SO ALL I'M ASKING YOU IS: IS BASED ON THE
25 SIMILARITY OF THE WEAPON, THE WEAPON, THE Y'S THAT THE
26 DISTRICT ATTORNEY HAS PUT IN THEIR DIAGRAM, YOU INDICATED
27 THAT THEY WERE LIKELY FROM THE SAME GUN?

28 A ALL THE Y'S WERE FIRED --

1 MR. JACKSON: OBJECTION. THAT MISSTATES THE
2 TESTIMONY. HE DIDN'T SAY LIKELY.

3 MS. SARIS: I'LL REPHRASE.

4 THE COURT: ALL RIGHT.

5 Q BY MS. SARIS: ALL THE Y'S WERE FIRED FROM
6 THE SAME GUN?

7 A CORRECT.

8 Q ALL THE X'S WERE FIRED FROM THE SAME GUN?

9 A CORRECT.

10 Q AND THEY'RE THE ONES THAT I'VE PUT IN RED
11 AND GREEN THAT THEY PUT X'S AND Y'S?

12 A CORRECT.

13 Q OKAY. DID YOU NOTE ANY ERRORS IN DWIGHT
14 VAN HORN'S REPORT?

15 A I DON'T KNOW IF I CAN CALL THEM ERRORS,
16 BUT HE DIDN'T IDENTIFY SOME OF THE EVIDENCE THAT I
17 IDENTIFIED.

18 Q OKAY. SO YOU -- HE DIDN'T IDENTIFY IT AT
19 ALL OR HE IDENTIFIED IT DIFFERENTLY?

20 A IN REGARDS TO THE FIRED BULLETS, HE LUMPED
21 THEM ALTOGETHER BECAUSE THEY HAD THE SAME G.R.C.'S
22 THEY'RE ALL SIX RIGHT WITH THE SAME LAND AND WIDTH
23 DIMENSION. HE PUT THAT THEY ALL SHARED THE SAME G.R.C.'S
24 AND ONE OR MULTIPLE GUNS COULD HAVE FIRED, IN ESSENCE.

25 I WAS ABLE TO IDENTIFY EACH FIRED BULLET
26 TO ONE GROUP OR ANOTHER. AND THERE WAS THREE CARTRIDGES
27 THAT I WAS ABLE TO IDENTIFY AS EITHER BEING WORKED
28 THROUGH THE MAGAZINE OR BEING CYCLED THROUGH, AND HE

1 WASN'T TABLE TO DO THAT.

2 Q SO YOU WERE ABLE TO TAKE THE LIVE
3 ROUNDS -- THAT'S WHAT WE'RE CALLING THE CARTRIDGES?

4 A THAT'S CORRECT.

5 Q AND YOU WERE ABLE TO SAY THAT THEY CAME
6 FROM A PARTICULAR FIREARM?

7 A FROM THE FIREARM THAT FIRED THE CARTRIDGE
8 CASES.

9 Q AND SO YOU WERE ABLE TO ACTUALLY SEE MORE
10 THAN HE WAS ABLE TO SEE, OR YOU DID FURTHER TESTING?

11 A NO. I THINK WE HAD THE SAME TEST, I MEAN,
12 IT'S A COMPARISON MICROSCOPE. I THINK IT'S JUST BASED ON
13 EXPERIENCE OR THE CONFIDENCE LEVEL.

14 Q SO THIS IS ALL BASED ON WHAT YOU'RE
15 LOOKING AT? JUST SO WE'RE CLEAR, YOU'RE NOT DOING ANY
16 KIND OF CHEMICAL ANALYSIS OR ANYTHING LIKE THAT?

17 A THAT IS CORRECT.

18 Q YOU'RE JUST LOOKING AT IT THROUGH A VERY,
19 VERY POWERFUL MICROSCOPE?

20 A YES. I HAVE AN ILLUSTRATION HERE.

21 Q I BET YOU DO.

22 A A COMPARISON MICROSCOPE. IT'S TWO
23 COMPOUND MICROSCOPES THAT ARE LINKED TOGETHER WITH AN
24 OPTICAL BRIDGE AND THAT'S THE TOOL OF THE TRADE.

25 Q AND SO THERE ARE ACTUALLY TWO DIFFERENT
26 PICTURES AT THE SAME TIME YOU'RE SAYING?

27 A YES. BUT YOU HAVE A SPLIT FIELD, YOU CAN
28 ADJUST WHICH -- IF YOU WANT IT 50/50 OR TO THE SIDE, IT

1 DEPENDS ON HOW MUCH YOU WANT TO VIEW OF THE OTHER IMAGE,
2 BUT YOU'RE LOOKING AT TWO IMAGES SIMULTANEOUSLY IN THE
3 SAME MAGNIFICATION OF LIGHTING.

4 A LOT OF THIS IT DONE UNDER 40, 30 POWER,
5 30 TIMES IT'S ACTUAL IMAGE SO IT COULD BE -- I MEAN, YOU
6 HAVE TO BE REAL FULLY TRAINED AND KNOW WHAT YOU'RE
7 LOOKING FOR.

8 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

9 (PAUSE IN PROCEEDINGS.)

10 Q BY MS. SARIS: JUST TO BE CLEAR, WHEN
11 WE'RE TALKING ABOUT THE SMITH & WESSON, OR ANY GUN, LET'S
12 SAY, THAT WOULD HAVE THESE FIVE TWISTS, COULD THEY -- IS
13 THERE EVER A SITUATION WHERE YOU CAN PUT IN ANY
14 PARTICULAR BULLET AND IT WOULD LOOK LIKE SIX TWISTS, OR
15 IS THAT PART OF THE ACTION OF THE MACHINE ITSELF OF THE
16 GUN ITSELF AND THAT'S NOT GOING TO CHANGE NO MATTER WHAT
17 KIND OF BULLET YOU'RE PUTTING IN?

18 A ARE YOU ASKING IF THE G.R.C.'S CHANGE WITH
19 TIME?

20 A CHANGE WITH BRAND OF BULLET.

21 Q NO.

22 Q IT HAS NOTHING TO DO WITH THE BULLET;
23 CORRECT?

24 A NO. IT'S THE BARREL.

25 Q OKAY.

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

27 THE COURT: REDIRECT?

28 ///

REDIRECT EXAMINATION

BY MR. JACKSON:

Q LET ME SEE IF I CAN CLEAR SOMETHING UP.

OKAY. WHEN I ASKED YOU TO LABEL THE X'S
AND Y'S, TWO X'S HERE (INDICATING), AN X AND AN X,
TWO Y'S HERE (INDICATING), AND Y AND A Y --

YOUR HONOR, FOR THE RECORD, I'M LOOKING AT
PEOPLE'S 54 AND I'VE SIMPLY POINTED WITH MY INDEX FINGER
TO THE FOUR X'S AND THE FOUR Y'S IN RED AND BLUE
RESPECTIVELY ON PEOPLE'S 54.

Q WHEN I ASKED YOU TO REVIEW THE LOCATION OF
THE X'S AND Y'S, WE'RE LIMITING OUR DISCUSSION TO THE
BULLETS, NOT THE CARTRIDGE CASES; CORRECT?

A THAT IS CORRECT.

Q THERE'S A REASON FOR LIMITING THAT
DISCUSSION; CORRECT?

A THAT'S CORRECT.

Q OKAY. LET ME SEE IF I CAN ADDRESS THIS
VERBALLY AND THEN I WILL ASK YOU TO VISUALIZE IT WITH ME
OR WITH US.

CARTRIDGE CASES AND BULLETS ARE APPLES AND
ORANGES IN TERMS OF ANALYSIS; CORRECT?

A THAT IS CORRECT.

Q COULD YOU DEFINITELY SAY -- LET'S TAKE
THE APPLES FIRST, THE BULLETS, COULD YOU DEFINITELY SAY
THAT TWO GUNS FIRED THE BULLETS AT THE CRIME SCENE?

A YES.

Q TWO SEPARATE GUNS?

1 A YES, TWO FIREARMS.

2 Q OKAY. NOW, TAKING THE ORANGES, COULD YOU
3 DEFINITELY SAY THAT TWO SEPARATE WEAPONS FIRED THE --
4 I'M SORRY -- EJECTED THE CARTRIDGE CASES AT THE CRIME
5 SCENE?

6 A THAT IS CORRECT.

7 Q I WAS JUST JOTTING NOTES WHEN MS. SARIS
8 WAS DOING HER CROSS-EXAMINATION AND LET ME ASK YOU IF
9 THESE NOTES ARE -- NOT THE BEST HANDWRITING.

10 OKAY. SO AM I CORRECT THAT YOU INDICATED
11 THAT ITEMS 2, 11, 18, 20, 7, 10 AND 3, ALTHOUGH SOME OF
12 THEM ARE LIVE ROUNDS AND SOME OF THEM ARE EXPENDED CASES,
13 YOU DID AN ANALYSIS ON THE CARTRIDGE CASE OF THOSE
14 THINGS -- ITEMS; CORRECT?

15 A CORRECT.

16 Q THEY WERE ALL WORKED THROUGH A GUN -- AND
17 I'M NOT CALLING IT GUN A OR GUN B, I'M JUST SAYING THEY
18 WERE WORKED THROUGH A PARTICULAR GUN; CORRECT?

19 A THAT'S CORRECT.

20 Q THE SAME GUN?

21 A THE SAME GUN, CORRECT.

22 Q TAKING THE OTHER CASES THAT WERE FOUND AT
23 THE SCENE, ITEMS 8, 13, 14, 5 AND 6, THE VAN HORN PIECE
24 OF EVIDENCE THAT HE LOOKED AT, THEY WERE WORKED THROUGH
25 ANOTHER GUN; CORRECT?

26 A THAT IS CORRECT.

27 Q ALL THE SAME GUN; RIGHT?

28 A YES.

1 Q SO YOU COULD SEPARATE THE CASES BETWEEN
2 ONE GUN AND ANOTHER GUN; CORRECT?

3 A THAT'S CORRECT.

4 Q HENCE, TWO WEAPONS?

5 A THAT IS CORRECT.

6 Q NOW LET'S TALK ABOUT THE ORANGES OR
7 APPLES, OR WHATEVER IT WAS.

8 BULLETS -- CORONER'S BULLET ONE OF TWO,
9 TWO OF TWO, 19 AND 24 WERE FIRED THROUGH THE BARREL OF A
10 PARTICULAR GUN; RIGHT?

11 A ONE FIREARM, YES.

12 Q AND BULLETS 16, 17, 25 AND 27 WERE FIRED
13 THROUGH THE BARREL OF ANOTHER GUN; RIGHT?

14 A THAT IS CORRECT.

15 Q CAN YOU SAY THAT THIS GUN AND THIS GUN ARE
16 THE SAME?

17 A NO, YOU CANNOT.

18 Q OKAY. SO WHEN YOU SAID -- AND I THINK
19 THIS IS WHERE THE CONFUSION WAS.

20 WHEN YOU SAID GUN ONE AND GUN TWO --
21 BECAUSE YOU HAVE TO CALL THEM SOMETHING; RIGHT?

22 A THAT'S CORRECT.

23 Q YOU WEREN'T SAYING -- IF, FOR INSTANCE,
24 YOU CALL THIS GUN ONE -- OH, I'M SORRY. MY MISTAKE.
25 THAT'S A 15 NOT A FIVE. MY MISTAKE.

26 WHEN YOU CALL THE CASES -- OR YOU DENOTED
27 THAT THE CASES THAT CAME OUT OF GUN ONE WERE DIFFERENT
28 THAN GUN TWO, YOU WEREN'T SAYING THAT GUN ONE THAT FIRED

1 THE CASES IS THE SAME AS GUN ONE THAT FIRED THE BULLETS;
2 CORRECT?

3 A OH, ABSOLUTELY NOT.

4 Q AND YOU'RE NOT SAYING THAT GUN TWO THAT
5 FIRED THE CASES IS THE SAME AS GUN TWO THAT FIRED THOSE
6 BULLETS; RIGHT?

7 A THAT'S CORRECT.

8 Q SO IN MS. SARIS'S DIAGRAM, I VENTURE TO
9 SAY THAT THIS COULD BE A BIT MISLEADING GIVEN THE FACT
10 THAT ALL OF THESE FIRED CARTRIDGE CASES ARE IN RED, THEY
11 MIGHT WE WILL BE IN GREEN; CORRECT?

12 A THAT IS CORRECT.

13 MS. SARIS: OBJECTION. LEADING.

14 THE COURT: SUSTAINED.

15 Q BY MR. JACKSON: IS THIS DIAGRAM ACCURATE
16 WITH REGARD TO THE GREEN BULLETS AND THE GREEN CARTRIDGE
17 CASES AS MS. SARIS HAS DISPLAYED IN PEOPLE'S -- I'M
18 SORRY -- DEFENSE YY TO YOU?

19 A I THINK THERE'S AN ASSUMPTION HERE THAT
20 ALL GREENS GO TOGETHER, BULLETS AND CARTRIDGE CASES, AND
21 YOU CANNOT MAKE THAT DETERMINATION.

22 Q THAT'S WHAT I WANT TO MAKE SURE WE'RE
23 CLEAR ON.

24 WHY NOT?

25 A BECAUSE YOU CANNOT IDENTIFY A BULLET AS
26 BEING ORIGINATED FROM THAT CARTRIDGE CASE, ESPECIALLY IN
27 A CASE WHERE THE SAME TYPE OF AMMUNITION, WE HAVE THE
28 SAME TYPE OF BULLET. IF IT WAS DIFFERENT AMMUNITION,

1 DIFFERENT HEAD STAMPS, DIFFERENT TYPE OF BULLET LIKE A
2 SILVER TIP VERSUS A FULL METAL JACKET HOLLOW POINT, THEN
3 YOU CAN PROBABLY SURMISE WHERE IT CAME FROM. BUT WHEN
4 YOU HAVE THE SAME AMMUNITION, THE SAME CONFIGURATION OF
5 THE BULLETS, THERE'S NO WAY YOU CAN MAKE THAT
6 DETERMINATION.

7 Q OKAY. SO I'M NOT GOING TO GO THROUGH ALL
8 OF THESE, BY ANY MEANS, BUT AS AN EXAMPLE, MS. SARIS
9 HAS -- I BELIEVE -- LET ME LOOK -- I'M RIGHT. OKAY.

10 TRIANGLED MEAN BULLETS. KIND OF A NICE
11 DIAGRAM BECAUSE IT'S PRETTY CLEAR.

12 ITEM 25 ON YY INDICATES 25 IS A FIRED
13 BULLET; CORRECT?

14 A THAT'S CORRECT.

15 Q OKAY. THAT'S IN RED; AM I RIGHT?

16 A YES.

17 Q THEN LOOK AT ITEM NUMBER 15 WHICH IS A
18 CARTRIDGE CASE.

19 DO YOU SEE THAT?

20 A YES.

21 Q SHOULD THAT BE IN RED?

22 A IT SHOULD BE ANOTHER COLOR BECAUSE THAT IS
23 MISLEADING.

24 Q OKAY. THERE'S NO WAY THAT YOU CAN
25 ASSOCIATE ITEM 15 TO AT A DEGREE OF SCIENTIFIC CERTAINTY
26 BASED ON YOUR PHYSICAL ANALYSIS, YOU CANNOT ASSOCIATE
27 ITEM 15, THE CARTRIDGE CASE, WITH THE FIRED BULLET
28 ITEM 25; CORRECT?

1 A THAT IS CORRECT.

2 Q OKAY. AND THAT'S THE PART OF THIS THAT IS
3 MISLEADING; AM I RIGHT?

4 A YES.

5 Q AND THE SAME THING WITH ITEM 19, WHAT IS
6 THAT?

7 A THAT'S A FIRED BULLET.

8 Q AND THAT IS IN COLOR WHAT?

9 A GREEN.

10 Q ITEM 18 IS WHAT?

11 A THAT'S A FIRED CARTRIDGE CASE.

12 Q AND ON DEFENSE YY, WHAT COLOR IS THAT?

13 A GREEN.

14 Q CAN YOU ASSOCIATE THE FIRED BULLET 19 WITH
15 THE FIRED -- I'M SORRY -- THE EXPENDED SHELL CASING OR
16 CARTRIDGE CASE 18, TOGETHER?

17 A YOU CANNOT.

18 Q OKAY.

19 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
20 HONOR?

21 (PAUSE IN PROCEEDINGS.)

22 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
23 PERMISSION, SINCE I REFERRED TO THIS, IF COUNSEL DOESN'T
24 HAVE ANY OBJECTION, I MIGHT AS WELL GO AHEAD AND MARK IT
25 AS PEOPLE'S NEXT IN ORDER.

26 THE COURT: 66.

27 MR. JACKSON: I THINK THAT'S ALL I HAVE, JUDGE.

28 (PEOPLE'S EXHIBIT NO. 66 WAS MARKED FOR

1 IDENTIFICATION.)

2 THE COURT: ANY FURTHER CROSS?

3
4 RECROSS EXAMINATION

5 BY MS. SARIS:

6 Q LET ME ASK YOU THIS: AND IT'S DIFFICULT,
7 YOU'RE RIGHT, YOU CAN'T FORM A BASIS FOR DIAGRAM AT ALL,
8 CAN YOU?

9 A WHERE THE ITEMS WERE LOCATED AT THE SCENE,
10 I GUESS YOU CAN INFER TO THAT AND TO DESCRIBE WHERE THEY
11 ARE, BUT THE CORRELATION, NO, I CANNOT.

12 Q SO YOU'VE NEVER BEEN TO THE SCENE, YOU'VE
13 NEVER LOOKED AT WHERE ANY OF THE BULLETS ARE, SO IT'S --
14 FOR YOU TO SAY A DIAGRAM IS MISLEADING IS A LITTLE
15 UNFAIR, DON'T YOU THINK?

16 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE,
17 YOUR HONOR.

18 THE COURT: OVERRULED.

19 YOU CAN ANSWER.

20 THE WITNESS: WHEN YOU MAKE THE ASSUMPTION THAT
21 YOU CAN ASSOCIATE FIRED BULLETS WITH FIRED CARTRIDGE
22 CASES AS BEING ORIGINATED FROM THE SAME SOURCE OR BEING
23 FIRED FROM THE SAME GUN, THAT IS MISLEADING BECAUSE YOU
24 CAN'T.

25 Q BY MS. SARIS: AND THAT ASSUMPTION YOU
26 THINK WAS MADE BASED SIMPLY ON WHAT YOU WERE TALKING
27 ABOUT AND NOT MAYBE WHAT WITNESSES MIGHT HAVE SAID OR
28 ANYTHING, YOU'RE SAYING I'M MAKING ASSUMPTIONS?

1 MR. JACKSON: OBJECTION. THIS IS ARGUMENT AND
2 COUNSEL IS TESTIFYING.

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: LET ME ASK IT THIS WAY:
5 BASICALLY WHAT YOU'RE SAYING IS IN ORDER FOR THIS TO BE
6 CORRECT, CERTAIN ASSUMPTIONS HAVE TO BE MADE?

7 A THAT'S CORRECT.

8 Q OKAY. LET'S ASSUME THERE ARE ONLY TWO
9 FIREARMS.

10 A OKAY.

11 Q LET'S ASSUME THAT THE BULLETS WERE
12 RECOVERED FROM PARTICULAR LOCATIONS AT THE CRIME SCENE, A
13 CRIME SCENE YOU'VE NEVER VISITED; CORRECT?

14 A CORRECT.

15 Q OKAY. YOU'VE NEVER SEEN EVEN ALL OF THE
16 PHOTOGRAPHS RELATING TO THIS HOMICIDE, HAVE YOU?

17 A PROBABLY NOT.

18 Q YOU'VE NEVER TALKED TO ANY OF THE
19 INVESTIGATING OFFICERS?

20 A I TALKED TO DETECTIVE VERDUGO A LITTLE
21 BIT.

22 Q VERDUGO.

23 AND WHEN WAS THAT?

24 A AND MARK LILLIENFELD.

25 Q WHEN WAS THAT?

26 A LAST WEEK.

27 Q LAST WEEK?

28 A YES.

1 Q OKAY. SO PRIOR TO MAKING ANY OF YOUR
2 FINDINGS OR CONCLUSIONS, YOU'VE NEVER SPOKEN TO ANY OF
3 THE INVESTIGATING OFFICERS?

4 A THAT'S CORRECT.

5 Q SO WHAT ASSUMPTIONS WOULD WE HAVE TO MAKE
6 TO PUT THESE REDS TOGETHER AND GREENS TOGETHER?

7 MR. JACKSON: OBJECTION, YOUR HONOR. THIS CALLS
8 FOR SPECULATION. ASSUMES FACTS NOT IN EVIDENCE THAT WE
9 COULD EVER PUT THE REDS AND THE GREENS TOGETHER.

10 THE COURT: OVERRULED.

11 YOU CAN ANSWER.

12 THE WITNESS: I WOULD NEED THE FIREARMS TO
13 IDENTIFY THE CARTRIDGE CASES AND THE BULLETS.

14 Q BY MS. SARIS: YOU WOULD NEED THE ACTUAL
15 FIREARM ITSELF?

16 A THAT'S CORRECT.

17 Q IF YOU WERE -- OKAY.

18 SO THE FACT THAT THERE BEING TWO GUNS ONLY
19 AT THE CRIME SCENE DOES NOT ASSIST YOU IN ANY WAY, IS
20 THAT WHAT YOU'RE SAYING, IN DETERMINING WHETHER CERTAIN
21 CASINGS BELONG WITH CERTAIN FIRED BULLETS IN TERMS OF THE
22 MARKINGS ON THE CASINGS?

23 A THAT IS CORRECT. BUT IT'S ALL THE SAME
24 AMMUNITION.

25 Q SO AS FAR AS YOU KNOW, THERE COULD HAVE
26 BEEN FOUR GUNS AT THIS CRIME SCENE?

27 A NO. YOU MEAN -- I GUESS IF YOU LOOK AT IT
28 THAT WAY, IDENTIFY THE BULLETS FROM BEING FROM TWO

1 FIREARMS, CARTRIDGE CASINGS FROM TWO FIREARMS, IF YOU ADD
2 THEM TOGETHER IT COMES OUT TO FOUR, YEAH, I GUESS YOU
3 COULD SEE IT THAT WAY.

4 Q WELL, I'M JUST CURIOUS. YOU CALLED THE
5 DIAGRAM MISLEADING BECAUSE I ASSUMED TWO DIFFERENT GUNS
6 AND YOU'VE ASSUMED THAT ALL OF THE BULLETS WERE RECOVERED
7 IN ORDER TO DETERMINE THERE WERE TWO GUNS; CORRECT?

8 A RIGHT.

9 MR. JACKSON: OBJECTION. THIS IS ARGUMENTATIVE.

10 THE COURT: OVERRULED.

11 MR. JACKSON: IT'S ALSO COMPOUND.

12 THE COURT: SUSTAINED.

13 Q BY MS. SARIS: DID YOU ASSUME WHEN YOU
14 SAID THERE WERE TWO GUNS THAT ALL OF THE BULLETS WERE
15 RECOVERED AT THE CRIME SCENE?

16 A I DIDN'T ASSUME ANYTHING. I JUST
17 EXAMINED, IDENTIFIED THE EVIDENCE THAT WAS GIVEN TO ME.

18 Q SO ALL OF THESE CASINGS COULD HAVE MADE
19 BULLETS THAT HAD NEVER BEEN RECOVERED IS WHAT YOU'RE
20 SAYING?

21 A I'M SORRY?

22 Q ALL THE CASINGS COULD HAVE SHOT OUT
23 BULLETS THAT WERE NEVER RECOVERED?

24 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
25 ANYTHING IS POSSIBLE.

26 THE COURT: OVERRULED.

27 YOU CAN ANSWER.

28 THE WITNESS: THAT'S POSSIBLE.

1 Q BY MS. SARIS: SO IT'S POSSIBLE, THEN,
2 UNDER YOUR SCENARIO THERE COULD BE -- IN THAT SCENARIO
3 FOUR DIFFERENT FIREARMS?

4 A IF YOU WANT TO LOOK AT IT THAT WAY, YES.

5 Q WHEN YOU WERE RECONSTRUCTING A CRIME
6 SCENE, DO YOU TAKE INTO ACCOUNT ANGLE OF ENTRY OF WHERE
7 THINGS -- BULLETS WIND UP?

8 A ABSOLUTELY.

9 Q DO YOU TAKE INTO ACCOUNT EYE WITNESS
10 TESTIMONY?

11 A NO.

12 Q NOT AT ALL?

13 A NO.

14 Q WHEN YOU ARE RECONSTRUCTING A CRIME SCENE,
15 DO YOU LOOK AT MEASUREMENTS OF WHERE CASINGS FALL?

16 A YES.

17 Q DO YOU LOOK AT MEASUREMENTS OF WHERE
18 BULLETS LAND?

19 A YES.

20 Q LET ME ASK YOU A HYPOTHETICAL: LOOKING AT
21 THE DIAGRAM THAT HAS BEEN MARKED DEFENSE YY, IF YOU'LL
22 LOOK AT THE FIRED BULLET NUMBER 19 WHICH IS IN THE VAN,
23 AND I'M GOING TO ASK YOU FOR THE PURPOSE OF THIS
24 HYPOTHETICAL TO ASSUME THAT WHERE THESE ARE PLOTTED ON
25 THIS DIAGRAM IS ACCURATE, THE LOCATION 19 REFERS TO -- IF
26 YOU WILL LOOK BEHIND US AT ZZ, A BULLET FROM PROTRUDED
27 OUT OF THE PASSENGER SIDE OF THE VAN.

28 HAVE YOU SEEN THAT PHOTOGRAPH?

1 A YES, I HAVE.

2 Q ASSUMING THAT THAT IS WHAT IS DEPICTED IN
3 19, WOULD THE POSITIONING OF THE GREEN CASING 18 BE
4 CONSISTENT WITH SOMEBODY STANDING IN A NORTHEASTERLY
5 DIRECTION FIRING AT THAT VAN?

6 MR. JACKSON: OBJECTION. THAT IS AN INCOMPLETE
7 HYPOTHETICAL.

8 THE COURT: OVERRULED.

9 YOU CAN ANSWER.

10 THE WITNESS: IT DEPENDS ON SEVERAL FACTORS, ONE
11 OF THEM BEING THE VAN, IF IT WAS IN MOTION, IF IT WAS
12 STATIONARY, ALSO DEPENDS ON IF THE CAR WAS OPEN OR IT
13 WAS CLOSED. JUST A LOT OF VARIATIONS.

14 Q BY MS. SARIS: SO WOULD IT BE CONSISTENT
15 WITH IT, OR NOT?

16 A IF THE VAN WAS STATIONARY THE WAY IT'S IN
17 THE DIAGRAM?

18 Q YES.

19 A IT COULD BE.

20 Q AND LOOKING AT THE DIAGRAM, AGAIN, NO. 24,
21 THE FIRED BULLET, THAT'S UP BY THE SILHOUETTE OF THE
22 INDIVIDUAL, WOULD THAT BE CONSISTENT WITH HAVING BEEN
23 FIRED FROM GREEN NUMBER 20?

24 MR. JACKSON: OBJECTION. IT'S AN INCOMPLETE
25 HYPOTHETICAL. IT ALSO ASKS THE WITNESS TO SPECULATE
26 BASED ON HIS PREVIOUS TESTIMONY.

27 THE COURT: NO. THE OBJECTION IS OVERRULED.

28 YOU CAN ANSWER THAT IF THAT WOULD BE

1 CONSISTENT OR NOT.

2 THE WITNESS: I WOULD NEED TO KNOW A LITTLE BIT
3 MORE ABOUT THE BULLET WOUND ON THE VICTIM, THE ANGLE, THE
4 DIRECTION IT'S GOING, THE POSITIONING OF THE DECEDENT AT
5 THE SCENE BEFORE IT WAS MOVED, THE ENTRY TO THE EXIT IS
6 POSSIBLY IMPORTANT.

7 Q BY MS. SARIS: ASSUMING THAT THE BULLET
8 WAS FOUND UNDERNEATH THE DECEDENT THAT'S DEPICTED IN THE
9 SILHOUETTE UNDERNEATH THE BODY, COULD A PERSON HAVE BEEN
10 STANDING AT A LOCATION TO SHOOT AT THAT INDIVIDUAL SUCH
11 THAT THE CASING WOULD RESULT IN ITEM NUMBER 20?

12 A IS THERE AN EXIT WOUND NEXT TO THE FIRED
13 BULLET ON THE GROUND OR A BULLET INJURY OR WOUND?

14 Q THE BULLET WENT THROUGH THE INDIVIDUAL.

15 A IT WAS THROUGH AND THROUGH?

16 Q THAT'S MY HYPOTHETICAL, YES.

17 A OKAY. WHAT WAS YOUR QUESTION AGAIN? I'M
18 SORRY.

19 Q COULD THE INDIVIDUAL THAT HAVE FIRED THAT
20 WEAPON BEEN STANDING IN THE LOCATION SUCH THAT THEY WOULD
21 EJECT A CASING ANYBODY NEAR ITEM NUMBER 20?

22 A IT'S POSSIBLE.

23 Q AND I WOULD LIKE YOU TO LOOK AT ITEM
24 NUMBER 19 WHICH IS ALSO IN THE VAN. I THINK THERE'S A
25 PHOTOGRAPH BEHIND -- THIS ONE THAT WENT IN -- I'M
26 SORRY -- NUMBER 27 WHICH WAS FOUND HERE (INDICATING),
27 WHERE THE CORNER OF THIS DIAGRAM IS POINTING IN THE BACK
28 PANEL OF THE WINDSHIELD.

1 HAVE YOU SEEN THAT HOLE IN THE VAN BEHIND
2 THE DRIVER'S SIDE DOOR?

3 A NO, I HAVEN'T.

4 Q OKAY. ASSUMING NUMBER 27 WENT THROUGH THE
5 UPPER WEST WINDSHIELD OF THIS VEHICLE AND AN INDIVIDUAL
6 WAS STANDING ACROSS FROM THAT VAN FIRING AT A VAN THAT
7 WAS NOT MOVING, WOULD CARTRIDGE CASE NUMBER EIGHT BE
8 CONSISTENT WITH WHERE THAT INDIVIDUAL WOULD BE STANDING
9 IN ORDER TO MAKE A DIRECT SHOT INTO THE WINDSHIELD OF THE
10 VAN TO PRODUCE ITEM NUMBER 27?

11 A ASSUMING THAT THE VEHICLE IS STATIONARY,
12 IT'S POSSIBLE. IT'S NOT SCIENTIFIC, BUT IT'S
13 POSSIBLE.

14 THE COURT: WOULD THIS BE A GOOD TIME TO BREAK?

15 MS. SARIS: FINE.

16 THE COURT: UNLESS YOU HAVE A FEW MORE QUESTIONS.

17 MS. SARIS: LET ME SEE.

18 THE COURT: OKAY.

19 (DISCUSSION OFF THE RECORD.)

20 MS. SARIS: I JUST HAVE A COUPLE OF MORE
21 QUESTIONS AND THEN PROBABLY LET HIM GO.

22 Q IF YOU FIND A GROUP OF CASINGS AT A
23 PARTICULAR PLACE IN A CRIME SCENE, YOU ARE ABLE TO
24 DISTINGUISH, SAY, THESE CASINGS FROM ONE ANOTHER, YES?

25 A CORRECT.

26 Q SO YOU HAVE A GROUP OF FOUR CASINGS AND
27 ANOTHER GROUP OF FOUR CASINGS, IF YOU FIND THEM IN
28 DISTINCT LOCATIONS NEAR BULLETS THAT WERE EXPENDED, CAN

1 YOU EXTRAPOLATE FROM THAT EVEN THOUGH SCIENTIFICALLY
2 YOU'RE SAYING YOU CANNOT MAKE AT A DETERMINATION?

3 MR. JACKSON: OBJECTION. FOUNDATION IT SOUNDS
4 LIKE FROM THE -- WELL --

5 THE COURT: OVERRULED.

6 YOU CAN ANSWER.

7 THE WITNESS: DEPENDS ON THE SURFACE. IF IT'S A
8 FLAT SURFACE OR SLOPE.

9 Q BY MS. SARIS: OKAY. SO HAVING NOT BEEN
10 TO THE SURFACE, YOU REALLY CAN'T SPEAK TO THAT?

11 A WELL, IF IT'S A HILL, IT'S GOING TO ROLL
12 DOWN AND IT'S GOING TO GO TO THE LOWEST POINT OF GRAVITY.
13 IF THERE'S LIKE A LITTLE DITCH, THEY'RE ALL GOING TO
14 CONGREGATE THERE. IT DOESN'T MEAN THAT IT WAS FIRED NEAR
15 THE DITCH. OR IF THERE'S A CRACK AND THEY ALL FALL IN
16 THE CREVICE, YOU CAN'T DETERMINE ANYTHING.

17 Q WHAT IF SOME WERE FOUND AT THE VERY TOP
18 AND SOME WERE FOUND AT THE VERY BOTTOM?

19 A THE ONES ON TOP MIGHT BE POSSIBLE. THE
20 ONES ON THE BOTTOM, EVERYTHING GOES DOWN HILL.

21 Q WHEN YOU'VE DONE CRIME SCENE
22 RECONSTRUCTION, HAVE YOU EVER ATTEMPTED TO ASSOCIATE
23 CASINGS WITH BULLET HOLES BASED ON THEIR LOCATION AT THE
24 CRIME SCENE?

25 A ONLY IF I HAVE A GUN AND I CAN MAKE THAT
26 LINK CARTRIDGE CASE TO BULLET, THEN I CAN WORK BACKWARDS
27 AND, YES, I CAN DO RECONSTRUCTION. BUT WITHOUT HAVING
28 IDENTIFIED THE FIRED BULLET AND THE CARTRIDGE CASE, NO.

1 Q SO YOU'RE SAYING -- AND I JUST WANT TO
2 MAKE THIS CLEAR -- IN YOUR ENTIRE EXPERIENCE, YOU AND
3 MEMBERS OF YOUR DEPARTMENT WOULD NEVER SUGGEST THAT A
4 CASING WAS RELATED TO A PARTICULAR BULLET SIMPLY BASED ON
5 WHERE THEY WERE LOCATED AT A CRIME SCENE?

6 A UNLESS WE IDENTIFY IT FROM BEING FIRED
7 FROM A FIREARM.

8 Q I'M SAYING YOU DO NOT HAVE A FIREARM,
9 YOU'RE TELLING ME THAT YOU'VE NEVER TESTIFIED IN ANY CASE
10 OF A ROUGH RANGE OF WHERE A PERSON MIGHT BE STANDING AND
11 WHETHER THAT CASING COULD HAVE PRODUCED THAT BULLET?

12 A WE WON'T BE ABLE TO MAKE THE ASSOCIATION
13 BETWEEN THOSE FIRED CARTRIDGE CASES AND THE BULLET.
14 WE'RE ASSUMING THAT THEY WERE FIRED IN ONE GUN AND THAT'S
15 A TERRIBLE ASSUMPTION TO MAKE.

16 Q SO THE ANSWER IS NO, YOU'VE NEVER SO
17 TESTIFIED?

18 A ON THE BULLETS, YES. CARTRIDGE CASES,
19 YES. BUT NOT LINKED TOGETHER WITHOUT HAVING THE
20 FIREARM.

21 MS. SARIS: THANK YOU. I HAVE NOTHING FURTHER.

22 THE COURT: ANYTHING ELSE?

23 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

24 THE COURT: THANK YOU.

25 ANY OBJECTION TO EXCUSING THE WITNESS?

26 MR. JACKSON: NOT -- WE WOULD ASK THAT HE NOT BE
27 EXCUSED AT THIS JUNCTURE.

28 THE COURT: ALL RIGHT. YOU'RE FREE TO GO,

1 MR. MUNOZ.

2 THE WITNESS: THANK YOU, YOUR HONOR.

3 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
4 WE'RE GOING TO RECESS FOR THE DAY. I'M TOLD WE'RE STILL
5 ON SCHEDULE.

6 RIGHT?

7 MR. JACKSON: YES.

8 MR. DIXON: YES, YOUR HONOR, WE ARE.

9 THE COURT: AND, IN FACT, I WAS TOLD EARLIER THAT
10 THE LAWYERS WORKED OUT SOME STIPULATIONS THAT WILL
11 OBVIATE THE NEED FOR SOME WITNESSES TO COME IN, SO WE'RE
12 GOING TO BREAK EARLY TODAY BUT WE'RE STILL RIGHT ON
13 SCHEDULE. WE WILL RESUME AT 10:30 TOMORROW MORNING.

14 AND WITH THAT, PLEASE REMEMBER ALL THE
15 ADMONITIONS. DON'T DISCUSS THE CASE. DON'T FORM OR
16 EXPRESS ANY OPINIONS. DON'T CONDUCT ANY DELIBERATION.
17 DON'T TALK TO ANYBODY CONNECTED WITH THE CASE AND PLEASE
18 DON'T READ OR LISTEN TO ANY CONTEXT OF THE CASE REPORTED
19 BY THE MEDIA. WE WILL SEE YOU TOMORROW MORNING AT 10:30.
20 THANK YOU.

21 (THE JURY LEFT THE COURTROOM.)

22 THE COURT: ALL RIGHT. WELL, WE'LL BE IN RECESS
23 AND I WILL JUST ORDER WITNESSES BACK.

24 MR. DIXON: YOUR HONOR, WE HAVE RANDY GARELL AND
25 LIEUTENANT LINDA ARTHUR. THEY ARE HERE WITH -- THE
26 LIEUTENANT'S BEEN HERE A NUMBER OF DAYS AND STILL HASN'T
27 QUITE MADE IT IN HERE. AND I PROMISED HER AT LUNCH HOUR
28 THAT SHE WOULD GET ON. SO I APOLOGIZE, LIEUTENANT.

1 WE'RE GOING TO RETURN AT 10:30 TOMORROW?

2 THE COURT: YES. AGAIN, YOU KNOW, WELL, YOU BOTH
3 PROBABLY KNOW THAT THINGS HAPPEN THAT ARE OUT OF OUR
4 CONTROL. SO I APPRECIATE YOUR PATIENCE. IT'S IMPORTANT
5 THAT YOU RETURN TOMORROW MORNING AT 10:30. PLEASE ACCEPT
6 MY APOLOGIES AND WE WILL DO EVERYTHING WE CAN TO MAKE
7 TOMORROW THE LAST DAY YOU'LL NEED TO BE HERE. SO I WILL
8 ORDER YOU BOTH BACK 10:30 TOMORROW MORNING.

9 DO YOU EACH AGREE TO THAT?

10 THE WITNESS: YES.

11 THE COURT: YES, SIR?

12 THE WITNESS: YES.

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

14 MR. DIXON: THANK YOU, YOUR HONOR. I APOLOGIZE.

15

16 (THE MATTER WAS CONTINUED TO TUESDAY,
17 DECEMBER 5, 2006 AT 10:30 A.M.)

18 (NEXT PAGE IS 6301.)

19 --000--

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B-197874

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

DECEMBER 5, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 17 OF 24
PAGES 6301 THRU 6483/6600

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, DECEMBER 5, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
20 RECORD. MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE
21 ARE REPRESENTED.

22 ARE WE READY TO PROCEED THIS MORNING THEN
23 WITH WITNESSES?

24 MR. JACKSON: YES, YOUR HONOR, WE ARE. MISS
25 LINDA ARTHUR IS GOING TO BE OUR NEXT WITNESS.

26 MR. DIXON: RIGHT.

27 THE COURT: AND WHEN DO THE PEOPLE ANTICIPATE
28 RESTING?

1 MR. JACKSON: I DIDN'T HEAR YOU.

2 THE COURT: WHEN DO THE PEOPLE ANTICIPATE
3 RESTING?

4 MR. JACKSON: YOUR HONOR, WE HAVE A SERIES OF
5 STIPULATIONS THAT IS GOING TO SUBSTANTIALLY CUT DOWN, I
6 THINK, THE PEOPLE'S CASE. IT'S GOING TO KNOCK OUT FIVE
7 OR SIX WITNESSES. WE PROBABLY COULD REST, SUBJECT TO
8 CALLING ONE ADDITIONAL WITNESS OR REST WITH AN ASTERISK
9 BY TOMORROW.

10 WE HAVE ONE WITNESS WHO SAYS HE CANNOT BE
11 HERE UNTIL THURSDAY. HE IS OUT OF THE COUNTRY AND CAN'T
12 BE HERE TOMORROW. HE MAY BE HERE THURSDAY. BUT WE CAN
13 FINISH WITH THE BULK OF OUR WITNESSES TOMORROW.

14 AND IF THE DEFENSE WANTS TO BEGIN THEIR
15 CASE EITHER TOMORROW AFTERNOON OR THURSDAY MORNING WHEN
16 WE GET MR. MAGEE, WE WOULD SIMPLY ASK LEAVE OF THE COURT
17 TO INSERT HIM WHEN IT'S CONVENIENT FOR COUNSEL.

18 THE COURT: WHEN WILL YOU BE READY TO PRESENT THE
19 DEFENSE CASE?

20 MS. SARIS: THURSDAY.

21 THE COURT: OKAY. SO ASSUMING -- WELL, WHY DON'T
22 YOU TELL ME HOW LONG DO YOU ANTICIPATE?

23 MS. SARIS: PROBABLY A WEEK. WE ARE DARK ON THE
24 15TH?

25 THE CLERK: YES.

26 MS. SARIS: OKAY. WE WERE LOOKING -- THAT MIGHT
27 BE THE DAY WE COULD DO THE VIEW. WE HAVE ONE SCHEDULING
28 CONFLICT BETWEEN THE 14TH AND THE 15TH. BUT I THINK WE

1 COULD FINISH BY THAT WEEK OF THE 15TH.

2 THE COURT: WELL, WE'RE NOT HERE THE 15TH. SO DO
3 YOU THINK YOU COULD FINISH THE 14TH?

4 MS. SARIS: YES, I THINK. THE ONLY THING BEING A
5 SCHEDULING ISSUE. IN TERMS OF NUMBERS, WE HAVE ABOUT
6 BETWEEN 12 AND 15. BUT I KNOW FOR A FACT THAT THREE OF
7 THEM CAN BE DONE IN ONE HOUR. IT IS A COUPLE OF
8 QUESTIONS EACH. AND I THINK THE PEOPLE ARE ACTUALLY
9 TRYING TO HELP US LOCATE SOME OF THE CURRENT OFFICERS
10 THAT WE'RE TRYING TO FIND.

11 THE COURT: AND THEN WHAT IS THE SCHEDULING
12 PROBLEM?

13 MS. SARIS: I HAVE ONE WITNESS WHO IS GOING TO BE
14 OUT OF TOWN AFTER THE -- WHO HAS OTHER MATTERS TO TESTIFY
15 ON THE WEEK OF THE 10TH. BUT I THINK WE COULD HAVE HER
16 ON THE 13TH OR 14TH. THAT'S JUST MY ONLY CAVEAT. OUR
17 HOPE WOULD BE TO CLOSE ON THE 18TH AND GIVE THE JURY THE
18 REST OF THE TIME. MAYBE -- WE WERE TALKING THIS MORNING,
19 IF THE COURT COULD, IF WE'RE ON THAT SCHEDULE, PERHAPS
20 BRING US BACK THAT MONDAY QUITE EARLY, 8:30 --

21 THE COURT: OKAY.

22 MS. SARIS: -- AND HAVE JUST A DAY OF ARGUMENT,
23 AND THAT'S OUR HOPE.

24 THE COURT: WELL, WE'RE GOING TO HAVE TO ARRANGE
25 THE CRIME SCENE VISIT.

26 DO YOU WANT TO SEE IF THE JURORS ARE ALL
27 HERE?

28 THE CLERK: THEY'RE HERE.

1 THE COURT: LET'S BRING THEM ON DOWN. WE'RE
2 GOING TO HAVE TO SEE. I DO HAVE TO INFORM THE SHERIFF'S
3 DEPARTMENT. IT WOULD BE BETWEEN THE 13TH AND THE 21ST.

4 MS. SARIS: THAT'S DEFINITELY TRUE, YES.

5 MR. DIXON: I MISSED PART OF THAT. COUNSEL IS
6 SUGGESTING WE START CLOSING ARGUMENT ON THE 18TH?

7 MS. SARIS: WELL, I MEAN, IN TERMS OF
8 SCHEDULE-WISE, THAT'S WHAT IT LOOKS LIKE IT'S GOING TO
9 FALL ON.

10 THE COURT: BUT THAT'S ASSUMING WE DO THE CRIME
11 SCENE --

12 MS. SARIS: THE CRIME SCENE VIEW ON THE 14TH.

13 THE COURT: YOU WANT TO DO IT ON THE 14TH?

14 MS. SARIS: WELL, THE 15TH IS DARK.

15 THE COURT: RIGHT.

16 MS. SARIS: RIGHT. I MEAN, WE'RE GOING TO TRY
17 AND DO OURS AS QUICKLY AS WE CAN. WE WILL KNOW MORE THIS
18 AFTERNOON, JUST AS TO THE WITNESS'S SCHEDULES THAT WE
19 HAVE.

20 MR. DIXON: HOW LONG DO YOU THINK ARGUMENT WILL
21 LAST? TWO DAYS?

22 MR. JACKSON: NO. ONE DAY.

23 MS. SARIS: ONE DAY?

24 MR. JACKSON: I THINK SO. IF WE START ARGUMENT
25 AT, SAY, 9:00, AND THEN IF THE COURT COULD ACCOMMODATE US
26 AND MAYBE GET RID OF THE CALENDAR, AND I COULD START
27 RIGHT AT 9:00.

28 MR. DIXON: I MEAN, I COULD --

1 MR. JACKSON: I COULD WAIVE MY FIRST ARGUMENT.

2 MR. DIXON: BUT THEN IF YOU WAIVE, THERE WON'T BE
3 ANY ARGUMENT.

4
5 (THE JURY ENTERED THE COURTROOM
6 AND THE FOLLOWING PROCEEDINGS WERE
7 HELD IN OPEN COURT.)

8
9 THE COURT: ALL OUR JURORS AND ALTERNATES ARE
10 ONCE AGAIN PRESENT.

11 GOOD MORNING, LADIES AND GENTLEMEN. I DID
12 JUST SPEAK WITH THE ATTORNEYS, AND I WANTED TO CONFIRM
13 THAT WE WERE STILL ON SCHEDULE, AND WE ARE. AND WE STILL
14 FEEL CONFIDENT THAT WE WILL COMPLETE THIS CASE BY THE
15 21ST.

16 I KNOW WE'RE GOING TO BE DARK ON THE 15TH.
17 THAT WAS PART OF THE ORIGINAL SCHEDULE. SO IN TERMS OF
18 HOW WE'RE DOING, WE'RE REALLY RIGHT ON SCHEDULE, SO NO
19 NEED TO BE CONCERNED ABOUT ANYTHING. I KNOW WE'VE HAD A
20 NUMBER OF INTERRUPTIONS, BUT THAT SHOULDN'T AFFECT OUR
21 ABILITY TO PROCEED IN A TIMELY MANNER.

22 ALL RIGHT. I THINK WE LEFT OFF WITH THE
23 PEOPLE HAVE A NEW WITNESS TO CALL.

24 MR. DIXON: YES. THANK YOU, YOUR HONOR. THE
25 PEOPLE CALL LINDA ARTHUR.

26
27 LINDA ARTHUR,
28 CALLED BY THE PEOPLE AS A WITNESS, WAS

1 SWORN AND TESTIFIED AS FOLLOWS:

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

7 THE WITNESS: I DO.

8 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,
9 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
10 NAME FOR THE RECORD.

11 THE WITNESS: MY NAME IS LINDA ARTHUR-PARRA,
12 L-I-N-D-A, A-R-T-H-U-R, HYPHEN, P-A-R-R-A.

13 THE CLERK: THANK YOU.

14 THE WITNESS: YOU'RE WELCOME.

15 THE COURT: YOU MAY INQUIRE.

16 MR. DIXON: THANK YOU, YOUR HONOR.

17
18 DIRECT EXAMINATION

19 BY MR. DIXON:

20 Q GOOD MORNING. THANK YOU FOR COMING BACK
21 AGAIN AND AGAIN. I KNOW YOU'VE BEEN HERE A NUMBER OF
22 TIMES. THANK YOU FOR YOUR PATIENCE.

23 COULD YOU TELL US WHAT YOUR PRESENT
24 OCCUPATION AND YOUR ASSIGNMENT IS?

25 A PRESENTLY I'M A LIEUTENANT FOR THE LOS
26 ANGELES COUNTY SHERIFF'S DEPARTMENT. AND MY ASSIGNMENT
27 IS AT EAST L.A. STATION AS THE WATCH COMMANDER.

28 Q HOW LONG HAVE YOU BEEN A DEPUTY SHERIFF?

1 A TWENTY-NINE YEARS.

2 Q AND NOW YOU ARE A LIEUTENANT?

3 A CORRECT.

4 Q SOMEBODY TOLD ME THAT'S THE HIGHEST
5 RANKING CIVIL SERVICE POSITION IN THE SHERIFF'S
6 DEPARTMENT; IS THAT CORRECT?

7 A NO, SIR. IT'S THE SHERIFF.

8 Q OH, WELL, CIVIL SERVICE, AS FAR AS --

9 A YES.

10 Q OKAY. WELL, I WOULD LIKE TO TALK TO YOU
11 ABOUT SOME EVENTS THAT HAPPENED QUITE AWHILE AGO.

12 FROM YOUR LAST ANSWER, YOU WERE EMPLOYED
13 WITH THE SHERIFF'S DEPARTMENT ON MARCH 16TH, 1988;
14 CORRECT?

15 A CORRECT.

16 Q WHAT WAS YOUR ASSIGNMENT THEN?

17 A AT THAT TIME, I WAS ASSIGNED TO THE
18 SHERIFF'S CRIME LAB, THE LATENT PRINT UNIT.

19 Q AND WHAT EXACTLY WAS YOUR JOB AT THE CRIME
20 LAB AND THE LATENT PRINT UNIT AT THAT TIME?

21 A MY JOB WAS TO CONDUCT A LATENT PRINT
22 INVESTIGATION, CRIME SCENE INVESTIGATION, COMPARE
23 FINGERPRINTS, DEVELOP LATENT PRINTS OFF OF ITEMS, VARIOUS
24 ITEMS. I RESPONDED TO CRIME SCENES WHERE I COLLECTED
25 EVIDENCE, PHOTOGRAPHED THE CRIME SCENE, SUBMITTED
26 DIAGRAMS AND DID WHATEVER ELSE THE HOMICIDE INVESTIGATOR
27 NEEDED IN TERMS OF THE INVESTIGATION OF THAT SCENE.

28 Q I KNOW THAT ALL DEPUTY SHERIFFS HAVE

1 CERTAIN BASIC TRAINING, SO TO SPEAK. BUT DID YOU HAVE A
2 SPECIALIZED TRAINING IN THAT ASSIGNMENT?

3 A YES, I DID.

4 Q COULD YOU EXPLAIN THAT TO US?

5 A THE TRAINING THAT I HAD WAS ON-THE-JOB
6 TRAINING, VARIOUS CLASSES THAT I TOOK THROUGH THE
7 DEPARTMENT. I ALSO HAD PARTICIPATED IN CLASSES AT THE
8 FBI ACADEMY IN CRIME SCENE INVESTIGATION, LATENT PRINT
9 IDENTIFICATION AND PHOTOGRAPHY.

10 Q ON THE DAY THAT WE'RE TALKING ABOUT, MARCH
11 16, 1988 -- AND I'M ASKING THIS BECAUSE IN YOUR LAST
12 ANSWER YOU MENTIONED PHOTOGRAPHY -- DID YOU ALSO HAVE AN
13 ASSIGNMENT ABOUT TAKING PICTURES?

14 A YES.

15 Q AND DID YOU HAVE SOME SPECIAL TRAINING FOR
16 THAT?

17 A YES, IT WAS PART OF MY OVERALL TRAINING.

18 Q WITH RESPECT TO FINGERPRINTS AND LATENT
19 PRINTS, YOU MENTIONED THAT IN AN EARLIER ANSWER. WHAT IS
20 A LATENT PRINT?

21 A A LATENT PRINT IS A HIDDEN PRINT. IT'S A
22 PRINT THAT'S ON AN ITEM THAT YOU CAN'T SEE WITH YOUR EYE.
23 YOU MAY NOT BE ABLE TO SEE WITH YOUR EYE, BUT IT CAN BE
24 DEVELOPED MORE CLEARLY WITH POWDERS OR CHEMICALS.

25 Q HOW LONG HAD YOU BEEN WORKING WITH LATENT
26 PRINTS AT THE TIME THAT YOU WENT OUT TO THE THOMPSON
27 HOUSE?

28 A AT THAT TIME, IT WAS FIVE YEARS.

1 Q SO I'M GOING TO ASK YOU JUST A COUPLE MORE
2 QUESTIONS ABOUT LATENT PRINTS. WHAT CAUSES A LATENT
3 PRINT? IF I TOUCH THIS PODIUM, WILL I NECESSARILY LEAVE
4 BEHIND A LATENT PRINT THAT SOMEONE LIKE YOU AT THE TIME
5 WOULD BE ABLE TO FIND?

6 A NO, NOT NECESSARILY.

7 Q WHY?

8 A WELL, YOU MAY NOT BE PRODUCING ENOUGH OILS
9 OR PERSPIRATION TO LEAVE A PRINT. THERE MAY NOT BE
10 ENOUGH DIRT OR JUST SOOT FROM THE AIR, GREASE FROM THE
11 AIR THAT YOU SEE ON WINDOWS. IT JUST MAY NOT BE THERE.
12 YOU MAY NOT HAVE DISTURBED THAT DUST ENOUGH TO LEAVE A
13 FINGERPRINT.

14 Q SO IT DEPENDS ON THE SURFACE THAT I MIGHT
15 TOUCH, CORRECT?

16 A CORRECT.

17 Q ALSO, HOW ABOUT MY HANDS? THE CONDITIONS
18 OF MY HANDS, DOES THAT MAKE ANY DIFFERENCE IN THE
19 LIKELIHOOD THAT I MIGHT LEAVE A LATENT PRINT BEHIND WHEN
20 I TOUCH THE PODIUM?

21 A YES.

22 Q WHAT ABOUT MY HANDS?

23 A WELL, IF YOUR HANDS ARE VERY, VERY SWEATY,
24 YOU MAY NOT LEAVE A CLEAR PRINT, BUT YOU MAY LEAVE A
25 PRINT, BUT NOT A CLEAR FINGERPRINT. IF THEY'RE DIRTY,
26 YOU MAY NOT LEAVE A PRINT AT ALL BECAUSE OF THE
27 INTERFERENCE OF THE DIRT AND THE SURFACE.

28 Q IS THERE SUCH A THING AS SMUDGE PRINT IF I

1 RUB MY HAND ACROSS A SURFACE?

2 A YES.

3 Q SO THAT YOU MIGHT TELL THAT SOMEBODY
4 TOUCHED THE SURFACE, BUT THERE WOULD BE NO IDENTIFIABLE
5 FINGERPRINT?

6 A CORRECT.

7 Q HOW ABOUT THE SURFACE THAT I TOUCH, THE
8 DIFFERENCES IN SURFACES, GLASS, WOOD, ROCK, DOES THAT
9 MAKE A DIFFERENCE IN THE ABILITY FOR SOMEONE LIKE YOU AT
10 THE TIME TO RECOVER A LATENT FINGERPRINT?

11 A YES.

12 Q AND COULD YOU EXPLAIN THAT, PLEASE?

13 A IF IT IS A PORUS ITEM, LIKE PAPER, WE MAY
14 BE ABLE TO DEVELOP A PRINT WITH A CHEMICAL, BUT IF IT'S
15 TOO PORUS, IT MAY SOAK INTO THAT PAPER MORE SO AND
16 DISTORT THAT FINGERPRINT SO THAT WE CANNOT GET CLEAR
17 IDENTIFICATION POINTS ON THAT FINGERPRINT.

18 IN 1985, WE WERE NOT AS SOPHISTICATED AS WE ARE
19 TODAY, SO WE DID NOT HAVE CHEMICALS THAT WOULD DEVELOP
20 PRINTS AT THAT TIME. SO THINGS HAVE CHANGED FROM THEN
21 UNTIL NOW. BUT BACK IN THOSE DAYS, WE MAY OR MAY NOT
22 HAVE BEEN ABLE TO GET A PRINT OFF OF A BRICK, DEPENDING
23 ON HOW PORUS IT WAS AND HOW THICK THAT SURFACE WAS. ON A
24 ROCK, IT'S POSSIBLE TO GET A PRINT OFF OF A ROCK,
25 DEPENDING ON HOW PORUS IT IS. IF IT'S NICE AND SHINY AND
26 HAS A VERY CLOSE SURFACE, THEN WE MAY BE ABLE TO DEVELOP
27 A PRINT OFF OF THAT ROCK.

28 SO IT JUST DEPENDS ON THE ITEM ITSELF AND THE

1 AMOUNT OF OILS OR WHATEVER YOUR FINGERS ARE GOING TO PUT
2 ONTO THAT SURFACE OF THAT PARTICULAR ITEM.

3 Q SO HOPEFULLY THIS IS THE LAST COUPLE OF
4 QUESTIONS ON THIS GENERAL AREA. BUT IF I TOUCH THE
5 PODIUM, AND SOMEONE LIKE YOU WERE DOING YOUR JOB BACK IN
6 1988 AND COMES AND DOES WHATEVER THEY DO TO RECOVER THE
7 PRINT, WHICH WE'LL TALK ABOUT, AND YOU'RE ABLE TO RECOVER
8 A PRINT FROM THE PODIUM, IS THERE ANY WAY WHEN YOU DO
9 THAT TO TELL WHEN I TOUCHED THE PODIUM?

10 A NO, NOT UNLESS I ABSOLUTELY SAW YOU DO IT.
11 BUT OTHERWISE, NO.

12 Q AND WHY IS THAT?

13 A BECAUSE SOME PRINTS WILL STAY FOR YEARS.
14 LET'S SEE, THE LAST ONE I RECALL WAS A PRINT -- I BELIEVE
15 IT'S NOW 50 TO 60 YEARS OLD THAT WE'RE CERTAIN OF IN THE
16 LATENT PRINT UNIT. BUT OTHERWISE IT COULD STAY OR IT
17 COULD EVAPORATE. IT COULD BE WIPED AWAY. IT COULD BE
18 TOUCHED BY SOMEONE ELSE AFTER YOU TOUCHED IT. SO THERE
19 ARE A LOT OF REASONS THAT PRINT MAY NOT BE THERE.

20 Q NOW, AGAIN, INVITING YOUR ATTENTION TO
21 MARCH 16TH, 1988, DID THERE COME A TIME WHEN YOU WENT TO
22 53 WOODLYN LANE IN BRADBURY?

23 A YES.

24 Q WHY?

25 A I WENT FOR THE INVESTIGATION OF A MURDER.

26 Q ABOUT WHAT TIME DID YOU ARRIVE?

27 A I BELIEVE I WAS -- I ARRIVED AT ABOUT NINE
28 OR 9:30 IN THE MORNING.

1 Q AND AT THE TIME -- I'M GOING TO ASK YOU A
2 COUPLE NAMES AND SEE IF YOU RECALL THESE PEOPLE. AT THE
3 TIME, DID YOU KNOW RAY VERDUGO?

4 A YES, I DID.

5 Q WAS HE THERE ABOUT THE TIME YOU GOT THERE?

6 A YES.

7 Q IN FACT, YOU'VE SEEN HIM RECENTLY WHILE
8 YOU'VE BEEN WAITING TESTIFY, HAVEN'T YOU?

9 A YES, THAT'S CORRECT.

10 Q AND DID YOU KNOW WHAT HIS ROLE WAS AT THE
11 TIME THAT YOU ARRIVED?

12 A HE WAS ONE OF THE HOMICIDE INVESTIGATORS
13 THERE, BUT I DON'T RECALL IF HE WAS THE HANDLING
14 INVESTIGATOR.

15 Q HOW ABOUT A DETECTIVE GRIGGS?

16 A YES.

17 Q AND HE WAS ALSO IN HOMICIDE?

18 A YES, HE WAS.

19 Q ONE OF THE INVESTIGATORS?

20 A CORRECT.

21 Q AND A LIZ DEVINE OR A LIZ CORNBLUME, DID
22 YOU KNOW THAT PERSON AT THE TIME?

23 A YES.

24 Q AND WHAT WAS HER JOB, IF YOU KNOW?

25 A WELL, SHE, I BELIEVE, AT THAT TIME WAS A
26 CRIMINALIST. AND HER DUTIES WERE TO ALSO COLLECT
27 EVIDENCE AT THE CRIME SCENE.

28 Q AND DID YOU SEE HER AT THE ADDRESS ON

1 WOODLYN LANE IN BRADBURY?

2 A YES.

3 Q NOW, WHEN YOU ARRIVED THERE, WHAT WAS
4 EXACTLY YOUR JOB? WHAT WERE YOU ASSIGNED TO DO?

5 A I BELIEVE I WAS ASSIGNED TO PHOTOGRAPH THE
6 CRIME SCENE. I DREW A DIAGRAM OF THE SCENE AND COLLECTED
7 SOME EVIDENCE.

8 Q WERE YOU THE ONLY PHOTOGRAPHER THERE?

9 A NO, I WAS NOT.

10 Q DO YOU RECALL HOW MANY OTHER PHOTOGRAPHERS
11 FROM THE SHERIFF'S DEPARTMENT WERE THERE AT THE CRIME
12 SCENE, IF YOU KNOW?

13 A THERE MAY HAVE BEEN THREE OR FOUR OF US.

14 Q SO THERE WAS A NUMBER OF YOU?

15 A YES.

16 Q WOULD IT BE CORRECT TO SAY THAT IN YOUR
17 CAPACITY AS A DEPUTY SHERIFF AT THE THOMPSON HOUSE ON THE
18 MORNING OF THE 16TH OF 1988 (SIC), YOU WERE PART OF A
19 TEAM?

20 A CORRECT.

21 Q CAN YOU EXPAND ON THAT? WHAT PART THE
22 TEAM WERE YOU? DID YOU TAKE ORDERS FROM SOMEBODY ELSE?

23 A THE INVESTIGATING HOMICIDE DETECTIVE WHO
24 IS IN CHARGE OF THE CRIME SCENE WHO WAS ASSIGNED THAT
25 CRIME SCENE WILL DELEGATE WORK AND DECIDE WHAT KINDS OF
26 EVIDENCE THEY NEED FOR THAT PARTICULAR CRIME SCENE.
27 BECAUSE WE USUALLY WORK AS A TEAM, WE PRETTY MUCH KNOW
28 WHAT WE HAVE TO DO, AND THEN WE WOULD CHECK IN WITH THE

1 HOMICIDE INVESTIGATOR TO ASK THEM IF THEY NEEDED ANY MORE
2 INFORMATION OR WANTED US TO DO ANYTHING ELSE.

3 SO IT IS BASICALLY A TEAM, WORKING WITH THE
4 CRIMINALIST. I WOULD PHOTOGRAPH WHATEVER THAT
5 CRIMINALIST WOULD COLLECT OR BE READY TO COLLECT AND
6 PACKAGE. AND THE HOMICIDE INVESTIGATOR WOULD THEN --
7 AGAIN, BOTH OF US WOULD CHECK WITH THE HOMICIDE
8 INVESTIGATOR TO VERIFY THAT WE HAVE COMPLETED WHATEVER HE
9 WANTED DONE FOR THAT CRIME SCENE.

10 Q SO WITH RESPECT TO YOUR JOB AS A
11 PHOTOGRAPHER AT THE TIME, YOU TOOK PICTURES OF ITEMS THAT
12 SOMEBODY TOLD YOU TO TAKE PICTURES OF?

13 A CORRECT.

14 Q WHO WOULD THAT BE?

15 A THE HOMICIDE INVESTIGATOR.

16 Q SO THAT WAS ONE OF YOUR JOBS THERE. AND
17 THEN YOU EARLIER TOLD US THAT ONE OF THE OTHER THINGS YOU
18 DID AT THE SCENE WAS TO COLLECT SOME EVIDENCE.

19 A CORRECT.

20 Q AND DID YOU DO THAT INDEPENDENTLY, OR DID
21 YOU DO THAT AT THE DIRECTION OF ANOTHER PERSON, A DEPUTY
22 SHERIFF OR A DETECTIVE?

23 A THE EVIDENCE IS ASSIGNED A NUMBER OR A
24 LETTER FOR IDENTIFICATION PURPOSES. AND AT THE TIME THAT
25 WE HAVE COMPLETED LOCATING ALL OF THE EVIDENCE THAT WE
26 ARE GOING TO RECOVER, THEN WE WOULD START THE COLLECTION
27 PROCESS. SO AT THE DIRECTION OF HOMICIDE DETECTIVES WHEN
28 THEY DECIDED THAT WE'VE COMPLETED OUR CRIME SCENE

1 INVESTIGATION, THEN WE WOULD COLLECT THOSE PIECES OF
2 EVIDENCE.

3 Q AND YOU COLLECTED SOME ITEMS; IS THAT
4 CORRECT?

5 A THAT'S CORRECT.

6 Q AND I'M GOING TO SHOW YOU A COUPLE
7 PICTURES OF THINGS, AND THEN I'M GOING TO ASK YOU WHAT
8 YOU RECALL.

9 MR. DIXON: YOUR HONOR, I'M GOING TO PUT UP ON
10 THE SCREEN AN EXHIBIT THAT WAS EARLIER MARKED AND
11 IDENTIFIED AS DEFENDANT'S VV FOR IDENTIFICATION.

12 THE COURT: THANK YOU.

13 Q BY MR. DIXON: LIEUTENANT, I PUT UP WHAT
14 LOOKS LIKE A PAPER BAG OR WHITE SOMETHING, PERHAPS A
15 PAPER BAG, ITEM NO. 26 ON A -- MAYBE A PICNIC BENCH.
16 DOES THAT LOOK LIKE SOMETHING YOU RECOVERED FROM THE
17 SCENE?

18 A FROM -- YES, IT IS A WHITE PAPER BAG.

19 Q AND, IN FACT, YOU HAVE SOME -- LET ME
20 WITHDRAW THAT AND ASK YOU THIS. AT THE CONCLUSION OF
21 YOUR DUTIES, WOULD YOU DOCUMENT EXACTLY WHAT YOU
22 COLLECTED EVERY DAY?

23 A YES.

24 Q AND THAT WOULD BE PART OF THE PROPERTY
25 REPORT?

26 A YES.

27 Q AND HAVE YOU HAD THE -- THIS WAS AWHILE
28 AGO. HAVE YOU HAD AN OPPORTUNITY TO REVIEW THOSE REPORTS

1 BEFORE TAKING THE STAND?

2 A YES.

3 Q AND WAS ITEM 26, A WHITE PAPER BAG, ONE OF
4 THE ITEMS THAT YOU RECOVERED?

5 A YES.

6 MR. DIXON: MAY I APPROACH, PLEASE?

7 THE COURT: YES.

8 Q BY MR. DIXON: NOW I'M GOING TO PUT UP
9 HERE WHAT HAS PREVIOUSLY BEEN MARKED AS PEOPLE'S 56 FOR
10 IDENTIFICATION. IT HAS A SMALL -- ITEM NO. 12 IN THE
11 MIDDLE OF THE A PHOTOGRAPH, THERE IS TWO PHOTOS A AND B
12 ON 56. WOULD YOU TAKE A MOMENT AND LOOK AT THAT EXHIBIT
13 AND TELL US IF YOU RECOGNIZE THE ITEM IN THE PHOTOGRAPH?

14 A YES. THE ITEM IS A TAZER.

15 Q AND DID YOU RECOVER THAT AT THE CRIME
16 SCENE ON MARCH 16, 1988?

17 A YES, I DID.

18 Q DO YOU RECALL WHERE?

19 A IT WAS IN THE DRIVEWAY. AND I CAN REFER
20 TO MY NOTES TO GIVE YOU AN EXACT LOCATION.

21 Q WOULD THAT REFRESH YOUR RECOLLECTION?

22 A YES.

23 Q THANK YOU.

24 A IT WAS RECOVERED FROM THE DRIVEWAY WEST OF
25 THE PLANTER AND SOUTH OF THE HOUSE.

26 Q AND THE ITEM SHOWN IN PEOPLE'S 56, THAT
27 LOOKS JUST LIKE IT, RIGHT?

28 A YES.

1 Q IN FACT, WHEN DETECTIVES AND CRIMINALISTS
2 AND PEOPLE THAT HAD JOBS LIKE YOU DID AT THE TIME COLLECT
3 EVIDENCE, THEY PUT UP LITTLE NUMBERS NEXT TO THE EVIDENCE
4 TO IDENTIFY THEM FOR PHOTOGRAPHS, RIGHT?

5 A CORRECT.

6 Q AND THIS IS ITEM NO. 12?

7 A CORRECT.

8 Q AND, IN FACT, IN YOUR PROPERTY REPORT IT
9 SHOWS A TAZER OR STUN GUN AS ITEM NO. 12?

10 A ON MY DIAGRAM, IT DOES, YES.

11 Q OKAY. NOW, IS IT CORRECT TO SAY THAT YOU
12 RECOVERED A NUMBER OF OTHER ITEMS THAT DAY AT THE
13 DIRECTION OF THE DETECTIVES?

14 A YES.

15 Q AND THOSE WERE ITEMS THAT -- AND IF IT
16 HELPS, YOU CAN REFRESH YOUR RECOLLECTION AND LOOK AT THE
17 REPORT.

18 A ACCORDING TO MY REPORT, I COLLECTED A
19 FINGERNAIL, TWO SPENT CASINGS, THREE LIVE ROUNDS. NO. 5
20 WAS A FINGERNAIL. NO. 6 WAS A LIVE ROUND. NO. 7 WAS A
21 LIVE ROUND. NO. 8 WAS A SPENT CASING. NO. 9 WAS A
22 FINGERNAIL. NO. 10 WAS A LIVE ROUND. NO. 11 WAS A SPENT
23 CASING. NO. 12 WAS THE TAZER. NO. 13, A SPENT CASING.
24 NO. 14, A SPENT CASING. NO. 15, A SPENT CASING. NO. 18,
25 A SPENT CASING. AND NO. 20, A SPENT CASING.

26 MS. SARIS: I'M SORRY, YOUR HONOR, FOR THE
27 RECORD, CAN WE GET TO WHAT SHE'S REFERRING.

28 Q BY MR. DIXON: COULD YOU JUST TELL US WHAT

1 YOU WERE JUST REFERRING TO?

2 A THIS IS A REPORT THAT I WROTE ON MARCH
3 16TH REGARDING THE ITEMS THAT I COLLECTED AT THE CRIME
4 SCENE.

5 Q THANK YOU. AS I SUGGESTED EARLIER, THAT'S
6 PART OF YOUR JOB, IS TO DOCUMENT EVERYTHING YOU DO?

7 A CORRECT.

8 Q JUST FOR TIMES LIKE THIS, RIGHT?

9 A CORRECT.

10 Q NOW I WOULD LIKE TO ASK YOU ABOUT WHAT YOU
11 DID A COUPLE DAYS LATER ON MARCH 18, 1988. DID YOU DEAL
12 WITH SOME OF THESE ITEMS THAT WERE COLLECTED FROM THE
13 CRIME SCENE THERE ON WOODLYN LANE IN BRADBURY?

14 A YES.

15 Q WHERE WERE YOU WHEN YOU DEALT WITH THIS
16 AND WHAT WERE YOU DOING?

17 A AT THAT TIME, I WAS AT THE CRIME LAB. THE
18 EVIDENCE HAD ALREADY BEEN SUBMITTED TO THE CRIME LAB.
19 AND I RECOVERED THESE PIECES OF EVIDENCE FROM OUR
20 EVIDENCE LOCKER AND CHEMICALLY PROCESSED -- PROCESSED
21 THEM OR DUSTED FOR FINGERPRINTS TO TRY TO RECOVER
22 FINGERPRINTS OFF OF THEM.

23 Q I WAS GOING TO ASK YOU ABOUT THAT. YOUR
24 REPORT SAYS, CHEMICALLY PROCESSED. WHAT DOES THAT MEAN?

25 A THAT MEANS THAT I WOULD HAVE USED VARIOUS
26 TECHNIQUES TO TRY TO DEVELOP FINGERPRINT. AND AT THAT
27 TIME, WE WERE USING SUPER GLUE. WE STILL USE IT. BUT IT
28 WAS NEW THEN, BUT WE WERE DEVELOPING -- WHAT WOULD HAPPEN

1 IS THAT THE SUPER GLUE WOULD CREATE A KIND OF SMOKE. AND
2 IT WOULD HARDEN THE FINGERPRINT ON THE ITEM AND TURN IT
3 WHITE, MAKING IT EASIER TO SEE. AND THEN WE COULD USE
4 EITHER BLACK POWDER OR VARIOUS CHEMICALS, DYES, TO BRING
5 OUT AND ENHANCE THAT FINGERPRINT.

6 AND WHAT THE SUPER GLUE DID IS BECAUSE IT
7 HARDENED IT AND IT STUCK IT TO THAT PARTICULAR ITEM, IT
8 MADE IT EASIER TO WORK WITH, AND WE COULD USE VARIOUS
9 TYPES RATHER THAN JUST USING THE BLACK POWDER.

10 Q MAYBE WE DON'T NEED TO GO TOO FAR INTO
11 THIS, BUT JUST OUT OF -- JUST A COUPLE MORE QUESTIONS.
12 IS THIS THE KIND OF SUPER GLUE WE GO TO THE MARKET AND
13 BUY TO FIX THE CHINA DISH THAT WE BROKE?

14 A YES.

15 Q AND DID YOU JUST SQUIRT IT ON WHERE YOU
16 THOUGHT THERE WAS A FINGERPRINT?

17 A NO. IT'S PLACED IN A LITTLE ALUMINUM CUP,
18 AND THEN WE POUR THE SUPER GLUE IN THERE AND HEAT IT.
19 AND THAT HEATING ACTION CREATES A LITTLE WHITE SMOKE.
20 AND THEN IT COVERS THAT ITEM, AND IT, AGAIN, MAKES THAT
21 FINGERPRINT STICK TO THE ITEM.

22 Q SO THAT WAS ONE OF THE TECHNIQUES THAT YOU
23 USED TO TRY TO RECOVER LATENT PRINTS, PRINTS THAT WE
24 TALKED ABOUT EARLIER, CORRECT?

25 A CORRECT.

26 Q ARE THERE OTHER WAYS THAT WERE USED AT THE
27 TIME, LIKE POWDER?

28 A YES. WE COULD USE -- ON THAT ONE, I USED

1 POWDER. ON THOSE ITEMS, I USED POWDER. AND THE -- AND I
2 USED REGULAR BLACK POWDER AND METALLIC BLACK POWDER. AND
3 ON THE WHITE, I USED NINHYDRIN, WHICH IS A CHEMICAL THAT
4 MIXES WITH AMINO ACID, AND IT TURNS THE FINGERPRINT
5 PURPLE.

6 Q SO THOSE WERE ALL TECHNIQUES, THE POWDER,
7 BLACK POWDER, SUPER GLUE, ALL TECHNIQUES TO TRY TO
8 DISCOVER OR FIND LATENT PRINTS ON VARIOUS ITEMS OF
9 EVIDENCE?

10 A RIGHT.

11 Q WHAT ITEMS OF EVIDENCE DID YOU LOOK AT AND
12 PROCESS CHEMICALLY TO TRY TO FIND THE LATENT PRINT?

13 A THE ITEMS THAT I PROCESSED WERE FOUR
14 RUBBER GLOVES, ONE 10-SPEED BIKE, ONE TAZER, FOUR LIVE
15 ROUNDS, SEVEN CASINGS, AND ONE WHITE BAG.

16 Q WELL, LET'S TALK ABOUT THE TAZER, THE STUN
17 GUN, SINCE WE HAVE IT UP THERE IN PEOPLE'S 56. DO YOU
18 RECALL WHAT TECHNIQUES YOU USED TO TRY TO FIND A LATENT
19 PRINT, SOMEBODY'S FINGERPRINT ON THAT ITEM?

20 A BASED ON THE SURFACE OF THE ITEM, I USED
21 THE SUPER GLUE PROCESS, BLACK POWDER, THE MAGNA POWDER,
22 WHICH IS A MAGNETIC POWDER, AND I MAY HAVE USED THE
23 NINHYDRIN TECHNIQUE ON THE TAPE.

24 Q SO YOU USED ALL THOSE TECHNIQUES. AND
25 WHAT WAS THE RESULT? DID YOU FIND A LATENT PRINT?

26 A NO, I DID NOT.

27 Q SO FROM THE SCIENTIFIC TECHNIQUES THAT YOU
28 USED, THERE WERE NO LATENT PRINTS AT LEAST THAT YOU COULD

1 FIND ON THE STUN GUN; IS THAT CORRECT?

2 A CORRECT.

3 Q IN YOUR EARLIER ANSWER, YOU SAID THAT YOU
4 ALSO TESTED A NUMBER OF OTHER THINGS, INCLUDING FOUR LIVE
5 ROUNDS; IS THAT CORRECT?

6 A THAT'S CORRECT.

7 Q AND DO YOU KNOW MANNY MUNOZ?

8 A YES, I DO.

9 Q AND HE'S A CRIMINALIST?

10 A YES, HE IS.

11 Q HAVING TO DO WITH FIREARMS?

12 A YES.

13 Q WELL, HE WAS HERE TELLING US A LOT ABOUT
14 BALLISTICS AND ROUNDS AND CARTRIDGES AND STUFF. SO WHAT
15 IS A LIVE ROUND, AND WHAT DID YOU DO TO TRY TO RECOVER A
16 FINGERPRINT FROM IT?

17 A A LIVE ROUND IS A ROUND THAT HASN'T BEEN
18 FIRED, SO IT'S STILL CAPABLE OF BEING FIRED.

19 Q I THINK HE SAID -- ALSO USED A TERM
20 "CARTRIDGE" WITH THAT? MAYBE NOT.

21 A YES. AND THE TECHNIQUE THAT I WOULD HAVE
22 USED ON THAT, AGAIN, WOULD HAVE BEEN THE SUPER GLUE AND
23 THE BLACK POWDER.

24 Q WHY? WHY WOULD YOU LOOK FOR FINGERPRINTS
25 ON A ROUND, ON -- I GUESS IT'S ONLY PART BULLET, BUT ON A
26 ROUND IN A CARTRIDGE?

27 A BECAUSE THEY -- THE PERSON WHO LOADED THE
28 WEAPON WOULD HAVE HAD TO TOUCH IT AND MAY HAVE LEFT A

1 FINGERPRINT ON IT.

2 Q BUT IF THEY WERE WEARING GLOVES, THOUGH,
3 YOU MIGHT NOT HAVE FOUND ONE?

4 A CORRECT.

5 Q AND SO YOU USED WHAT TECHNIQUES ON THE
6 LIVE ROUNDS?

7 A SUPER GLUE AND BLACK POWDER.

8 Q AND THE RESULT WAS -- DID YOU FIND ANY
9 FINGERPRINTS?

10 A NO.

11 Q NOW, THE CASINGS, THERE WAS SEVEN CASINGS
12 THAT YOU ALSO TESTED; IS THAT CORRECT?

13 A CORRECT.

14 Q DID YOU USE THE SAME TECHNIQUES?

15 A YES.

16 Q AND AGAIN, WHY WOULD YOU TRY TO FIND A
17 LATENT PRINT ON A CASING?

18 A AGAIN, BECAUSE THAT WAS THE BULLET THAT
19 WAS PUT INTO THE WEAPON SO THAT IT HAD TO BE TOUCHED BY
20 THE PERSON. AND I WANTED TO TRY TO RECOVER THE PRINT
21 FROM THERE. AND ALSO ON A SPENT CASING, BECAUSE OF THE
22 HEAT, OFTENTIMES THE PRINT CAN BE BURNED ON OR SEARED ON
23 TO THAT. SO I WOULD TRY TO GET A PRINT OFF OF THAT.

24 Q THAT MIGHT MAKE IT EASIER TO LOCATE THE
25 PRINT?

26 A IT COULD.

27 Q ALL RIGHT. AND DID YOU USE THE SAME
28 TECHNIQUES ON THE SEVEN CASINGS THAT YOU DID ON THE FOUR

1 LIVE ROUNDS?

2 A YES.

3 Q AND WHAT WAS THE RESULT? DID YOU FIND ANY
4 LATENT PRINTS?

5 A THERE WERE NO IDENTIFIABLE LATENT PRINTS.

6 Q NOW, HOW ABOUT ITEM 26, WHICH WE HAVE UP
7 HERE ON THE SCREEN, THE WHITE PAPER BAG THAT WAS SHOWN
8 HERE IN DEFENSE VV, VICTOR VICTOR? DID YOU TEST THAT FOR
9 PRINTS?

10 A YES.

11 Q AND HOW DID YOU DO THAT? I MEAN, IT IS A
12 PAPER BAG.

13 A IT'S SPRAYED WITH A CHEMICAL, NINHYDRIN.
14 AND AGAIN, THAT CHEMICAL REACTS WITH AMINO ACIDS THAT YOU
15 PUT OUT THROUGH YOUR SWEAT AND PERSPIRATION AND OILS
16 THROUGH YOUR SKIN -- GO THROUGH YOUR SKIN. AND SO WHEN
17 THAT PAPER IS WET WITH THE NINHYDRIN, WE PUT A LITTLE BIT
18 OF HEAT ON IT, AND IT JUST STARTS TO DEVELOP. AND YOU
19 CAN SEE THE PRINTS START FROM A VERY, VERY LIGHT PINK,
20 AND IT GROWS TO A DARK PURPLE. AND THEN YOU CAN SEE THAT
21 PHOTOGRAPH -- OR YOU CAN SEE THAT FINGERPRINT. AND THEN
22 WE PHOTOGRAPH IT BECAUSE EVENTUALLY IT WILL DISAPPEAR
23 AGAIN. AND -- WHICH IT HAS TO BE RECREATED WITH
24 NINHYDRIN TO BRING IT BACK UP.

25 Q AND YOU DID ALL THAT ON THE PAPER BAG WE
26 SEE UP ON THE SCREEN?

27 A YES.

28 Q WHAT WAS THE RESULT? DID YOU FIND ANY

1 LATENT PRINTS?

2 A NO IDENTIFIABLE LATENT PRINTS, NO.

3 Q NOW, IN YOUR EARLIER ANSWER YOU SAID THAT
4 YOU FOUND -- OR YOU TESTED FOUR RUBBER GLOVES THAT WERE
5 TAKEN FROM THE CRIME SCENE; IS THAT CORRECT?

6 A YES.

7 Q WAS THIS THE FIRST HOMICIDE CRIME SCENE
8 YOU HAD EVER BEEN TO?

9 A NO.

10 Q HOW MANY HAD YOU BEEN TO, DOZENS?

11 A SEVERAL DOZENS, YES.

12 Q OKAY. ALL RIGHT. AND, OF COURSE,
13 TRAGICALLY, A HOMICIDE MEANS SOMEONE WAS SHOT AND
14 EVENTUALLY DIED, OBVIOUSLY, RIGHT?

15 A RIGHT. THEY DIED OF SOME KIND OF TRAUMA,
16 YES.

17 Q IT'S NOT SURPRISING THAT THE PARAMEDICS
18 WOULD ARRIVE AT A CRIME SCENE, IS IT?

19 MS. SARIS: OBJECTION, LEADING.

20 THE COURT: SUSTAINED.

21 Q BY MR. DIXON: HAVE YOU EVER SEEN A
22 PARAMEDIC OR A FIREMAN AT ANY OF THE CRIME SCENES THAT
23 YOU'VE BEEN TO?

24 A YES.

25 Q OFTEN?

26 A MOST OF THEM, YES.

27 Q AND IN YOUR EXPERIENCE, DO PARAMEDICS, THE
28 FIREMEN, WEAR GLOVES WHEN THEY TREAT YOU?

1 A YES.

2 Q FOR ALL KINDS OF REASONS, INCLUDING HEALTH
3 REASONS, CORRECT?

4 A CORRECT.

5 Q SO FOR WHATEVER REASON, YOU HAVE FOUR
6 RUBBER GLOVES THAT YOU TESTED; IS THAT RIGHT?

7 A YES.

8 Q FOR LATENT PRINTS?

9 A FOR LATENT PRINTS, YES.

10 Q AND WHAT DID YOU DO TO TRY TO ACCOMPLISH
11 THAT?

12 A WHAT I DID IS I SUPER GLUED THE GLOVES ONE
13 WAY WITH AIR IN THEM, MAKING THEM LOOK LIKE A BALLOON.
14 SUPER GLUED THAT SURFACE. TRIED TO GET A LATENT PRINT
15 OFF THERE. TURNED THEM INSIDE OUT. DID THE SAME THING,
16 ATTEMPTING TO GET A FINGERPRINT. AND ON ONE OF THE
17 GLOVES, I SAW A NICE PRINT IN ONE OF THE FINGERS. AND
18 WORKED ON THAT FOR ABOUT THREE DAYS TO DEVELOP THIS
19 PRINT, AND I DID DEVELOP A PRINT ON THAT.

20 Q THREE DAYS. WHAT DID YOU DO FOR THREE
21 DAYS?

22 A SOMETIMES IT IS A FINE ART OF JUST
23 BRUSHING THAT POWDER INTO THE RIDGES THAT I CAN SEE. AND
24 JUST -- THAT'S WHY IT'S CALLED DEVELOPING. JUST BRINGING
25 IT UP TO THE SURFACE TO BE ABLE TO SEE ENOUGH TO BE ABLE
26 TO IDENTIFY IT.

27 Q SO THIS IS NOT JUST A SITUATION WHERE YOU
28 TESTED ALL THESE ITEMS FOR LATENT PRINTS OF JUST A QUICK

1 SUPER GLUING OR THROWING SOME POWDER ON SOMETHING. AS
2 YOU JUST INDICATED, SOMETIMES IT TAKES DAYS TO TRY TO
3 DEVELOP A PRINT IF YOU SEE THE POSSIBILITY; IS THAT
4 CORRECT?

5 A YES.

6 Q AND YOU WOULD HAVE DONE THAT WITH ANY
7 PRINTS THAT YOU COULD HAVE UNCOVERED?

8 A YES.

9 Q SO YOU DEVELOPED THIS PRINT. WHAT DID YOU
10 DO WITH IT?

11 A I PHOTOGRAPHED IT AND THEN COMPARED IT TO
12 PEOPLE WHO WERE AT THE CRIME SCENE WHO MAY HAVE HAD SOME
13 KIND OF CONTACT WITH THE GLOVE. ALSO SUBMITTED THIS INTO
14 THE COMPUTER SYSTEM BECAUSE IT'S VERY CLEAR. AND WE GOT
15 A HIT ON IT, AND IT WAS IDENTIFIED AS A FIREMAN'S
16 FINGERPRINT.

17 Q A COUNTY FIREMAN?

18 A YES.

19 Q NOW, THOSE WERE ALL ITEMS THAT WERE FOUND
20 AT THE CRIME SCENE, THE 53 WOODLYN LANE IN BRADBURY,
21 CORRECT?

22 A CORRECT.

23 Q DID YOU ALSO CHEMICALLY PROCESS, I THINK
24 THAT WAS YOUR WORD, A 10-SPEED COLUMBIA BICYCLE?

25 A YES.

26 Q DID YOU SEE THAT AT THE CRIME SCENE?

27 A NO, I DON'T RECALL SEEING IT AT THE CRIME
28 SCENE.

1 Q HOW DID IT COME TO YOU?

2 A AGAIN, ANY EVIDENCE THAT'S BROUGHT IN
3 COMES THROUGH THE CRIME LAB EVIDENCE SO THAT WE MAINTAIN
4 THE CHAIN OF EVIDENCE. SO IT COMES THROUGH THE EVIDENCE
5 OFFICE. AND AT THE REQUEST OF HOMICIDE, I RECOVERED THE
6 BIKE FROM THE EVIDENCE LOCKER AND BROUGHT IT UP TO THE
7 LAB TO PROCESS FOR PRINTS.

8 Q AND YOU JUST MENTIONED IN THE LAST ANSWER,
9 CHAIN OF CUSTODY. AND NOT TO DWELL ON THIS TOO MUCH, BUT
10 EVERY CRIME HAS A FILE NUMBER, CORRECT?

11 A CORRECT.

12 Q FOR EXAMPLE, THIS FILE NUMBER WAS
13 088043870511011, I THINK WE'VE HEARD THAT BEFORE; IS THAT
14 CORRECT?

15 A CORRECT.

16 Q SO WOULD EVERY PIECE OF EVIDENCE CONNECTED
17 WITH THIS CRIME BEAR THAT NUMBER?

18 A YES.

19 Q AND SO IF YOU -- WHEN YOU SAW THE 10-SPEED
20 COLUMBIA BICYCLE, DID IT HAVE SOME TAG OR SOMETHING ON IT
21 THAT HAD THAT NUMBER ON IT OR NOT?

22 A YES, IT DID. IT WOULD HAVE AN EVIDENCE
23 RECEIPT. AND ON THAT EVIDENCE RECEIPT, IT WOULD HAVE THE
24 SPECIFIC FILE NUMBER FOR THIS PARTICULAR CASE. AND THE
25 NUMBERS THAT DO CHANGE THROUGHOUT THE HOMICIDE
26 INVESTIGATION ARE ON THOSE PIECES OF EVIDENCE. IT WOULD
27 BE THAT RECEIPT NUMBER. BUT THEY ARE CROSS-REFERENCED.
28 SO WE KNOW THAT THROUGH THAT FILE NUMBER THAT THAT'S THAT

1 PARTICULAR CASE THAT WE'RE WORKING ON.

2 Q BY THE WAY, DID YOU KNOW AT A DEPUTY
3 GRACIA AT THE TIME?

4 A YES.

5 Q AND DO YOU KNOW WHETHER OR NOT HE WAS
6 CONNECTED WITH THIS CRIME SCENE AT ALL? DID YOU SEE HIM
7 OUT THERE?

8 A YES. HE WAS ONE OF THE RESPONDING
9 DEPUTIES.

10 Q SO YOU TESTED THIS BICYCLE?

11 A YES.

12 Q WHAT TECHNIQUES DID YOU USE?

13 A I BELIEVE ON THE BICYCLE, IT WAS THE SUPER
14 GLUE AND THE BLACK POWDER.

15 Q AND DID YOU DETERMINE THAT THERE WERE ANY
16 LATENT PRINTS THAT YOU COULD IDENTIFY ON THAT BICYCLE?

17 A NO, THERE WERE NO LATENT PRINTS THAT WERE
18 IDENTIFIABLE.

19 Q NOW, AT THE TIME, YOU WERE PART OF A CRIME
20 LAB. YOU WERE A CRIMINALIST, TO SOME DEGREE, RIGHT?

21 A TO SOME DEGREE, BUT THAT WASN'T MY
22 OFFICIAL TITLE.

23 Q OKAY. BUT YOU WORKED IN THE CRIME LAB AND
24 WERE -- WERE FOCUSED ON EVIDENCE?

25 A CORRECT.

26 Q DID YOU SEE SOMETHING ON THE STUN GUN THAT
27 WASN'T A LATENT PRINT, BUT THAT YOU RECOVERED?

28 A YES.

1 Q WHAT DID YOU DO? TELL US.

2 A WHILE EXAMINING THE TAZER, I NOTICED THERE
3 WAS A HAIR STUCK IN THE TAPE, SO I RECOVERED THAT HAIR
4 FROM THE TAPE AND SUBMITTED IT TO THE PHYSICAL EVIDENCE
5 PORTION OF THE LABORATORY.

6 Q THE SAME PLACE, THE SAME LOCATION WHERE
7 YOU WERE?

8 A CORRECT.

9 Q AND DID YOU DOCUMENT THAT IN SOME WAY?

10 A YES, I DID.

11 Q IT APPEARED TO BE A HUMAN HAIR, OR DID YOU
12 KNOW?

13 A OH, I DON'T KNOW. I DON'T KNOW WHAT KIND
14 OF HAIR. IT WAS A HAIR.

15 Q THAT WAS BEYOND YOUR EXPERTISE?

16 A CORRECT.

17 Q BUT YOU THOUGHT IT MIGHT HAVE SOME
18 EVIDENTIARY VALUE, SO YOU DID WHAT YOU TOLD US?

19 A CORRECT.

20 MR. DIXON: COULD I HAVE JUST A MOMENT, PLEASE,
21 YOUR HONOR?

22 THE COURT: YES.

23 MR. DIXON: THANK YOU. NOTHING FURTHER AT THIS
24 TIME.

25 THE COURT: CROSS-EXAMINATION.

26 MS. SARIS: THANK YOU.

27 ///

28 ///

CROSS-EXAMINATION

BY MS. SARIS:

Q GOOD MORNING, LIEUTENANT ARTHUR.

A GOOD MORNING.

Q WHEN YOU WERE ON THE SCENE THAT MORNING,
DO YOU RECALL HOW LONG YOU STAYED?

A NO, I DON'T.

Q DO YOU KNOW IF IT WAS A MATTER OF MINUTES
OR HOURS?

A OH, IT WAS HOURS.

Q DO YOU REMEMBER IF YOU LEFT WHEN IT WAS
GETTING DARK AGAIN, OR WAS IT STILL IN THE AFTERNOON?

A I DON'T REMEMBER.

MS. SARIS: I HAVE A PHOTOGRAPH, YOUR
HONOR. I WOULD LIKE -- IT APPEARS TO BE OF A GLOVE.
DEFENSE NEXT IN ORDER.

THE COURT: AAA.

MS. SARIS: I'M BRINGING THIS UP SO YOU CAN SEE
IT.

Q BY MS. SARIS: IT APPEARS TO BE IN THESE
PHOTOGRAPHS SOME OF THE GLOVES WITH NOS. 21, 22 AND 23;
DO YOU RECOGNIZE AT THAT?

A YES.

Q AND IS THAT THE GLOVE THAT YOU WERE
SPEAKING OF THAT YOU WERE ABLE TO OBTAIN A PRINT FROM?

A I BELIEVE IT WAS.

Q AND DOES THAT APPEAR TO YOU TO BE A
PICTURE OF WHERE IT WAS FOUND AT THE CRIME SCENE THAT

1 MORNING?

2 A YES.

3 Q AND WOULD THAT BE THE WAY THAT YOU WOULD
4 PHOTOGRAPH IT WITH THE NUMBER VISIBLE EXACTLY WHERE IT
5 WAS?

6 A YES.

7 Q AND YOU WOULD HAVE ALSO MEASURED AND
8 DOCUMENTED WHERE THAT WAS IN RELATION TO OTHER THINGS?

9 A YES.

10 Q YOU SAID THAT WHEN YOU GOT THIS PRINT, IT
11 SEEMED TO BE SOMETHING THAT YOU WERE GOING TO BE ABLE TO
12 IDENTIFY, YES?

13 A YES.

14 Q AND YOU ENTERED IT INTO A COMPUTER SYSTEM?

15 A YES.

16 Q IS THAT AFIS, A-F-I-S?

17 A NO. IT'S THE CAL I.D. SYSTEM.

18 Q WHAT IS THAT?

19 A CALIFORNIA IDENTIFICATION SYSTEM. AND IT
20 IS A PROGRAM WHERE THE FINGERPRINTS OF PEOPLE WHO HAVE
21 BEEN ARRESTED AND FINGERPRINTED OR ARE APPLYING FOR
22 VARIOUS LICENSES, THEIR FINGERPRINTS ARE IN THAT SYSTEM.
23 AND SO A FIREMAN'S FINGERPRINT WOULD BE IN THERE. AND
24 THROUGH THAT SYSTEM IS WHERE WE RAN THAT FINGERPRINT.

25 Q SO YOU DIDN'T KNOW WHO THAT PRINT BELONGED
26 TO?

27 A NO, I DID NOT.

28 Q AND YOU WERE ATTEMPTING TO IDENTIFY THE

1 PERSON THAT MAY HAVE LEFT AT THAT PRINT?

2 A CORRECT.

3 Q AND YOU PUT IT INTO A COMPUTER SYSTEM THAT
4 INCLUDED PEOPLE THAT HAD PREVIOUSLY BEEN ARRESTED FOR
5 CRIMES?

6 A CORRECT.

7 Q DID YOU LOOK FOR ANY PRINTS ON ITEMS AT
8 THE SCENE THAT WERE THINGS THAT YOU COULDN'T TAKE BACK TO
9 YOUR LAB?

10 A NO, I DID NOT.

11 Q WAS THERE ANOTHER FINGERPRINT TECHNICIAN
12 THERE THAT DAY?

13 A I BELIEVE THERE WERE FOUR OF US.

14 Q DO YOU REMEMBER WHO?

15 A RON GEORGE WAS MY PARTNER, AND I DON'T
16 RECALL THE NAMES OF THE OTHER TWO, BUT I DID SEE THEIR
17 NAMES IN THE REPORT.

18 Q AND WOULD THEY BE SPECIFICALLY INDIVIDUALS
19 THAT WOULD HAVE BEEN RESPONSIBLE FOR FINGERPRINTING
20 EVIDENCE AT THE SCENE, OR WERE THEY GENERAL CRIMINALISTS?

21 A THEY WERE LATENT PRINT DEPUTIES THAT I WAS
22 WORKING WITH, AND THAT'S WHO I'M REFERRING TO. SO ONE OF
23 THEM MAY HAVE BEEN ASSIGNED TO FINGERPRINT THE VEHICLE.
24 I BELIEVE ONE OF THEM WAS ASSIGNED TO TAKE PHOTOGRAPHS
25 WHERE THE BICYCLE WAS RECOVERED, AND RECOVER THE BICYCLE.

26 Q HAVE YOU EVER SEEN ANY INDICATION
27 REGARDING A REPORT THAT THE VEHICLE WAS PRINTED?

28 A NO.

1 Q HOW ABOUT --

2 MR. DIXON: OBJECTION, VAGUE. WHICH VEHICLE?

3 THE COURT: SUSTAINED.

4 MS. SARIS: I'M SORRY. DID I SAY VEHICLE?

5 Q BY MS. SARIS: ARE YOU AWARE THAT THERE
6 WAS A TOYOTA VAN AT THE SCENE?

7 A YES.

8 Q DID YOU SEE THAT WITH YOUR OWN EYES?

9 A YES.

10 Q AND WAS THAT THE CAR THAT LOOKED AS IF THE
11 WINDOW THIS BEEN SMASHED OUT OF IT, AND IT WAS BROWN IN
12 COLOR?

13 A YES.

14 Q ARE YOU AWARE OF ANY -- DID YOU SEE ANYONE
15 TAKING PRINTS OFF OF THAT VAN?

16 A I REALLY DON'T REMEMBER.

17 Q HAVE YOU EVER SEEN A REPORT INDICATING --

18 MR. DIXON: WELL, I WOULD ASK FOR A HEARSAY
19 OBJECTION.

20 THE COURT: FINISH THE QUESTION.

21 MS. SARIS: SURE.

22 Q BY MS. SARIS: -- INDICATING THAT ANY
23 TESTS WERE DONE ON THAT VAN?

24 A I HAVE NOT SEEN A REPORT, NO.

25 Q DID YOU GO INTO THE GARAGE AT ALL? I'M
26 SORRY. LET ME MAKE THAT SPECIFIC. AT THE MICKEY
27 THOMPSON HOME THE MORNING OF THE MURDER?

28 A I REALLY DON'T RECALL.

1 Q DID ANYONE ASK YOU AT ANY TIME AT THE
2 CRIME SCENE TO DUST THE SAFE FOR FINGERPRINTS?

3 A I DON'T RECALL.

4 Q WELL, DID YOU MAKE A DOCUMENTATION OF
5 EVERYTHING THAT YOU PARTICULARLY WORKED ON THAT MORNING?

6 A YES.

7 Q AND IS THERE ANYTHING IN YOUR REPORT THAT
8 MIGHT REFRESH YOUR RECOLLECTION WHETHER YOU DUSTED A
9 SAFE, OR DO YOU JUST NOT RECALL DUSTING THE SAFE?

10 A I DON'T RECALL DUSTING THE SAFE. AND IN
11 THE REPORTS THAT I DID SUBMIT, IT DOES NOT INDICATE
12 ANYTHING ABOUT THAT DUSTING OF THE SAFE. AND I REALLY
13 DON'T RECALL IF I WENT INTO THE GARAGE.

14 Q OKAY. ARE YOU AWARE THAT -- OF A CRIME
15 SCENE VIDEO THAT WAS MADE THAT MORNING? DID YOU SEE THAT
16 HAPPENING, SOMEONE FOLLOWING ONE OF THE DETECTIVES AROUND
17 WITH A VIDEO CAMERA?

18 A I DON'T RECALL THAT.

19 Q WHEN YOU GOT TO THE SCENE, IS IT FAIR TO
20 SAY THAT THERE WERE SEVERAL OFFICERS AROUND?

21 A YES.

22 Q DID YOU SEE YELLOW TAPE UP?

23 A YES.

24 Q THE REASON THAT THE ITEM THAT IS DEPICTED
25 IN THE PHOTOGRAPH, DEFENSE AAA, WAS TAKEN FROM THE SCENE
26 IS BECAUSE IT HAD THE POTENTIAL TO BE EVIDENCE; IS THAT
27 FAIR?

28 A YES.

1 Q AND YOU DIDN'T KNOW THAT UNTIL LATER THAT
2 IT TURNED OUT TO BE SOMETHING THE OFFICERS LEFT BEHIND?

3 A CORRECT.

4 Q AND YOU WERE ONLY ABLE TO DETERMINE THAT
5 SPECIFICALLY BECAUSE THERE WAS ACTUALLY A PRINT THAT
6 MATCHED TO A FIREMAN, CORRECT?

7 A CORRECT.

8 Q DID YOU HAVE ANYTHING TO DO WITH ANY
9 ORANGE PEELS AT THE SCENE?

10 A YES. I SAW THE ORANGE PEELS, AND I
11 BELIEVE THAT THERE WAS A GLOVE OR A SET OF GLOVES RIGHT
12 NEXT TO THE ORANGE PEELS. IT WAS NEXT TO A PRETTY LITTLE
13 ORANGE TREE. AND THE PEELS WERE -- I BELIEVE IT WAS CUT.

14 Q CUT LIKE WITH A KNIFE?

15 A YES, CUT WITH A KNIFE AND PEELED OFF OF
16 THE ORANGE AND JUST DROPPED THERE BY THE TREE.

17 Q I'M SORRY TO INTERRUPT. AND THEY WERE
18 NEXT TO THE GLOVES THAT ARE DEPICTED IN 21, 22 AND 23?

19 A I BELIEVE SO.

20 Q COULD ONE GET PRINTS FROM PEELS?

21 A WELL, I WAS THINKING ABOUT IT. I DON'T
22 KNOW. I MEAN, IT'S POSSIBLE, BUT I -- BECAUSE THIS WAS
23 CUT, AND IT WAS KIND OF DAMP RIGHT AT THAT MOMENT, I
24 WASN'T SURE.

25 Q LET ME ASK YOU ABOUT DAMP. THE PHOTOGRAPH
26 THAT'S ON THE BOARD, PEOPLE'S 56, THERE SEEMS TO BE SOME
27 DARKER SECTIONS OF THE ASPHALT. DO YOU KNOW WHAT THAT IS
28 NEXT TO THE STUN GUN? DO YOU SEE THOSE SORT OF DARK

1 SQUIGGLIES ON THE RIGHT IN THAT PHOTOGRAPH?

2 A I DON'T KNOW WHAT IT IS BY THIS
3 PHOTOGRAPH. MAYBE A LARGER PHOTOGRAPH MIGHT BE ABLE TO
4 SHOW ME THAT. IT'S EITHER THE WATER FROM THE PLANTS OR
5 THE BLOOD FROM THE SCENE.

6 Q SO WAS THERE WATER ON THE GROUND THAT DAY,
7 SOME PRECIPITATION THAT SETTLED IN THE CRACKS?

8 A THERE MAY HAVE BEEN. I DON'T RECALL.

9 Q WELL, MAYBE THIS IS A GOOD DEPICTION OF
10 IT. PEOPLE'S 61, DO YOU SEE THE AREA IN THE FOREGROUND
11 ON THE BOTTOM RIGHT-HAND CORNER, DOES THAT APPEAR TO YOU
12 TO BE WATER?

13 A YES, MA'AM.

14 Q AND DO YOU RECALL THAT IT WAS -- WELL, DO
15 YOU KNOW WHEN THIS CRIME OCCURRED?

16 A EARLY IN THE MORNING. EARLY THAT MORNING.

17 Q DID YOU HAVE ANYTHING TO DO WITH ANY
18 JEWELRY THAT WAS REMOVED FROM THE CRIME SCENE?

19 A OTHER THAN PHOTOGRAPHING IT, NO, I DON'T
20 BELIEVE SO.

21 Q TELL ME ABOUT WHAT JEWELRY YOU
22 PHOTOGRAPHED.

23 A THERE WAS JEWELRY ON TRUDY. AND I
24 PHOTOGRAPHED, OF COURSE, HER. AND THEN WHEN THE CORONER
25 ARRIVED, I PHOTOGRAPHED AS TRUDY WAS BEING MOVED BY THE
26 CORONER, SO THERE WAS MORE OF HER JEWELRY EXPOSED.

27 Q AND DID YOU SEE HER THEN AS SHE LAY AT THE
28 BOTTOM THE DRIVEWAY WITH THE JEWELRY ON?

1 A YES.

2 Q DO YOU RECALL SPECIFICALLY IF THERE WAS
3 ANY PARTICULAR MEDALLION THAT SHE WAS WEARING?

4 A NO, I DON'T RECALL. I WOULD HAVE TO REFER
5 TO THE PHOTOGRAPHS.

6 Q DID YOU PHOTOGRAPH ANY JEWELRY INSIDE OF
7 THE VAN?

8 A I DON'T RECALL.

9 Q DO YOU RECALL WHETHER THE JEWELRY THAT
10 TRUDY THOMPSON WAS WEARING WAS REMOVED FROM HER PERSON
11 WHILE AT THE CRIME SCENE?

12 A THE JEWELRY WOULD HAVE BEEN REMOVED BY THE
13 CORONER.

14 Q SO THE BODY WOULD BE THE RESPONSIBILITY OF
15 THE CORONER?

16 A YES.

17 Q AND I'M GOING TO PUT UP NOW DEFENSE XX.
18 AND I'LL BRING THIS UP TO YOU. IT IS A CROPPED
19 PHOTOGRAPH. LET ME ASK YOU IF YOU RECOGNIZE, BASED ON
20 PERHAPS OF THE GREEN THAT SHE'S WEARING, THAT THAT IS A
21 PARTIAL PICTURE OF MS. THOMPSON?

22 A YES.

23 Q AND DO YOU RECALL SEEING HER THAT MORNING
24 THEN WITH THE SORT OF ZIGZAG GOLD EARRINGS?

25 A YES.

26 Q AND ALSO WITH A MEDALLION THE SHAPE OF A
27 SQUARE?

28 A OH, YES.

1 Q DO YOU RECALL THAT HAVING A NO. 10 IN THE
2 MIDDLE OF IT?

3 A NO, I REALLY DON'T RECALL THE DETAILS OF
4 HER JEWELRY.

5 Q DO YOU RECALL THAT IT WAS A SQUARE
6 MEDALLION?

7 A I CAN SEE IT HERE, YES.

8 Q OKAY. THANK YOU. SOMETIME -- WELL, HAVE
9 YOU HEARD OF VACUUM METAL DEPOSIT, OR VMD FOR FINGERPRINT
10 TESTING? AM I SAYING IT WRONG?

11 A NO, I BELIEVE YOU'RE SAYING IT RIGHT. AND
12 YES, I'VE HEARD OF IT. AND I CAN'T TELL YOU HOW IT
13 WORKS.

14 Q AND SO YOU DIDN'T DO ANY OF THAT ON ANY OF
15 THE ITEMS HERE?

16 A NO, I DID NOT.

17 Q DO YOU KNOW IT TO BE A MORE SOPHISTICATED
18 AND ADVANCED FINGERPRINTING TECHNIQUE ON METALS?

19 A YES.

20 Q DO YOU KNOW IF -- WHEN IT CAME IN TO BEING
21 USED?

22 A NO, I DON'T RECALL.

23 Q DO YOU KNOW IF YOUR CRIME LAB HAS ONE OF
24 THESE MACHINES?

25 A I DON'T KNOW, MA'AM. AT THAT TIME, I
26 DON'T REMEMBER IF WE DID.

27 Q SO, WHEN DID YOU LEAVE THE CRIME LAB?

28 A I LEFT OF THE CRIME LAB IN 1997.

1 Q BETWEEN 1988 AND 1997, HAD ANYONE ASKED
2 YOU TO REVISIT ANY OF THE ITEMS THAT YOU HAD ORIGINALLY
3 LOOKED FOR PRINTS ON WITH ANY NEW TECHNOLOGY?

4 A NO, I DON'T BELIEVE SO.

5 Q THE STUN GUN THAT APPEARS IN PEOPLE'S 56,
6 THAT APPEARS TO HAVE SOME SORT OF TAPE AT THE BOTTOM?

7 A YES.

8 Q IS THAT HOW YOU SAW IT?

9 A YES.

10 Q OKAY.

11 MS. SARIS: YOUR HONOR, I HAVE ANOTHER
12 PHOTOGRAPH. IT APPEARS TO BE A SLIDE OF A HAIR.

13 THE COURT: ALL RIGHT. WE WILL MARK IT BBB.

14 MS. SARIS: THANK YOU.

15

16 (MARKED FOR IDENTIFICATION
17 PEOPLE'S | DEFENSE'S EXHIBIT NO. BBB,
18 PHOTOS.)

19

20 Q BY MS. SARIS: WAS THAT HAIR THAT YOU
21 FOUND GIVEN AT A PARTICULAR NUMBER?

22 A IT WAS GIVEN --

23 Q AN H NUMBER, FOR INSTANCE?

24 A WHEN I SHIPPED IT FROM MY OFFICE TO THE
25 PHYSICAL EVIDENCE OFFICE, IT WOULD HAVE OBTAINED -- I
26 WOULD HAVE WRITTEN DOWN A NEW RECEIPT NUMBER, SO IT WOULD
27 IT MAY HAVE HAD A NEW RECEIPT NUMBER ON IT.

28 Q AND DO YOU RECALL THAT NUMBER, AS YOU SIT

1 HERE, OR IS THERE ANYTHING THAT YOU COULD USE TO REFRESH
2 YOUR RECOLLECTION?

3 A LET ME EXAMINE MY REPORT FOR A SECOND. I
4 BELIEVE I GAVE THAT REPORT TO COUNSEL.

5 MS. SARIS: MAY I APPROACH?

6 Q BY MS. SARIS: IS IT A MARCH 16TH REPORT?
7 TELL ME IF THIS DOCUMENT, WHICH APPEARS TO BE ONE YOUR
8 REPORTS, HELP REFRESH YOUR RECOLLECTION.

9 A RIGHT. OKAY. THIS ONE DOES HAVE A
10 RECEIPT NUMBER.

11 Q AND WHAT IS THAT NUMBER?

12 A HENRY 122120.

13 Q FOR THE HAIR ITSELF, THOUGH, SPECIFICALLY?

14 A THAT WAS -- I'M SORRY. THAT WAS A FIBER.

15 A HAIR REMOVED FROM THE MASKING TAPE WAS SUBMITTED TO
16 PHYSICAL -- THE PHYSICAL SECTION, RECEIPT NUMBER H121035.

17 Q AND DO YOU RECOGNIZE THIS AS A SLIDE WITH
18 A HAIR ON IT ON THE RIGHT -- IT'S DIFFICULT; I'LL SHOW
19 YOU THE CLOSE-UP -- WITH THE SAME H NUMBER, 121035?

20 A YES, IT DOES HAVE THE SAME H NUMBER.

21 Q AND SO A PARTICULAR ITEM OF EVIDENCE WILL
22 GET A NUMBER, BUT IF SOMETHING IS REMOVED FROM THAT ITEM,
23 IT WILL GET ITS OWN NUMBER?

24 A CORRECT.

25 Q AND THAT'S TO KEEP TRACK OF IT AND MAKE
26 SURE YOU'RE ALL TALKING ABOUT THE SAME PIECE OF EVIDENCE
27 THROUGHOUT?

28 A CORRECT.

1 Q WERE YOU RESPONSIBLE FOR ANY DNA TESTING?

2 A NO.

3 Q DID YOU SEE THE CORONERS RESPOND TO THE
4 SCENE?

5 A YES.

6 Q AND YOU ACTUALLY SAID YOU PHOTOGRAPHED
7 THEM ACTUALLY REMOVING THE BODIES?

8 A YES.

9 Q DID YOU ALSO SEE THEM TAKING ANY
10 FINGERNAIL SCRAPINGS FROM EITHER OF THE DECEDENTS?

11 A I DON'T RECALL, BUT THEY NORMALLY DO THAT.

12 Q HAVE YOU EVER HAD OCCASION TO DO THAT AS
13 AN EXPERT?

14 A NO.

15 Q IS THAT ALWAYS DONE THROUGH THE CORONER'S
16 OFFICE?

17 A YES. WE DON'T TOUCH THE BODIES.

18 Q THE FINGERNAILS THAT YOU REMOVED FROM THE
19 CRIME SCENE, THEY WERE ONES THAT WERE BROKEN OFF?

20 A CORRECT.

21 Q SO THEY WERE NOT ATTACHED TO TRUDY?

22 A CORRECT.

23 Q AND THEY WERE LYING IN THE DRIVEWAY?

24 A YES.

25 Q HAVE YOU EVER BEEN ASKED TO DO ANY TESTING
26 ON THOSE ITEMS?

27 A NO.

28 Q DO YOU ONLY DO FINGERPRINT TESTS? WAS

1 THAT THE ONLY TEST YOU WOULD HAVE BEEN ASKED TO CONDUCT?

2 A YES.

3 Q AND WHEN WAS THE LAST TIME YOU WERE ASKED
4 TO EXAMINE THE STUN GUN THAT APPEARS IN PEOPLE'S 56, OR
5 THE TAZER?

6 A I BELIEVE THAT WOULD HAVE BEEN MARCH 18TH.

7 Q SO TWO DAYS AFTERWARDS?

8 A CORRECT.

9 Q DID YOU SEE A PURSE AT THE CRIME SCENE?

10 A I DON'T RECALL. I WOULD HAVE TO LOOK AT
11 THE PHOTOGRAPHS.

12 Q IF YOU HAD SEEN A PURSE THAT WAS ALLEGED
13 TO HAVE BELONGED TO THE VICTIM, WOULD YOU HAVE
14 PHOTOGRAPHED IT?

15 A YES.

16 Q WERE YOU ASKED TO PHOTOGRAPH ANY BLOOD
17 STAINS OR BLOOD DROPS?

18 A MORE THAN LIKELY, YES.

19 Q HAVE YOU EVER SEEN THOSE PHOTOGRAPHS?

20 A IT'S BEEN YEARS SINCE I'VE SEEN THE
21 PHOTOGRAPHS.

22 Q THE BAG THAT WE SAW THAT WAS DEFENSE VV,
23 LIKE VICTOR, HOW LONG HAD THAT BEEN AT THE CRIME SCENE?

24 A I DON'T HAVE ANY IDEA HOW LONG IT HAD BEEN
25 THERE.

26 Q WOULD IT HAVE BEEN PLACED ON THAT TABLE TO
27 BE PHOTOGRAPHED OR WOULD YOU HAVE PHOTOGRAPHED IT WHERE
28 IT WAS FOUND?

1 A I PHOTOGRAPH IT WHERE IT'S FOUND.

2 Q AND IT'S EMPTY?

3 A I BELIEVE IT WAS EMPTY.

4 Q IS IT POSSIBLE TO ACTUALLY LOAD A FIREARM
5 WITHOUT WEARING GLOVES AND NOT LEAVE A PRINT?

6 MR. DIXON: OBJECTION, CALLS FOR SPECULATION,
7 POSSIBLE.

8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: HAVE YOU EVER HAD OCCASION
10 TO BE AWARE, OF YOUR OWN PERSONAL KNOWLEDGE, THAT SOMEONE
11 LOADED A GUN WITHOUT WEARING A GLOVE, AND YET BEEN UNABLE
12 TO FIND A CASING -- A PRINT ON THE CASING OR THE BULLET?

13 A YES.

14 Q DID -- YOU SAID THAT YOU KNEW WHO MANNY
15 MUNOZ WAS. HAD YOU SPOKEN TO HIM ABOUT THIS CASE IN THE
16 LAST YEAR?

17 A NO.

18 Q HAVE YOU ASSISTED IN THE CREATION OF ANY
19 DIAGRAMS THAT WERE -- THAT YOU WERE TOLD WERE GOING TO BE
20 USED IN THIS TRIAL?

21 A I DID MAKE DIAGRAMS, BUT I DON'T KNOW IF
22 THEY'VE BEEN USED.

23 Q DIAGRAMS THAT YOU MADE AT THE CRIME SCENE?

24 A CORRECT.

25 Q SUBSEQUENT TO THAT, HAS ANYONE ASKED FOR
26 YOUR ASSISTANCE, IN TERMS OF MAKING A DIAGRAM FOR
27 EXHIBITION IN COURT?

28 A NO.

1 Q AND THE DIAGRAM THAT YOU CREATED ACTUALLY
2 WOULD HAVE PLOTTED OUT WHERE EVIDENCE WAS FOUND?

3 A CORRECT.

4 Q AND YOU WOULD HAVE DONE THAT WITH EVERY
5 CASING?

6 A YES.

7 Q EVERY LIVE ROUND?

8 A YES.

9 Q AND YOU WOULD HAVE PHOTOGRAPHED THAT AND
10 MEASURED IT, CORRECT?

11 A YES.

12 Q WOULD YOU HAVE DONE THAT FROM AN OBJECT
13 THAT WAS PERMANENT?

14 A YES.

15 Q SO IN YOUR DIAGRAMS, THERE IS SOMETHING
16 THAT YOU REFER TO AS A PLANTER?

17 A YES.

18 Q WAS THAT A BIG SORT OF A BRICK STRUCTURE
19 THAT JUTTED OUT FROM -- IN A NORTH/SOUTH DIRECTION THAT
20 HELD PLANTS?

21 A YES.

22 Q DID YOU MAKE SOME OF YOUR MEASUREMENTS
23 FROM THE PLANTER? LET ME ASK IT THIS WAY. DID YOU KNOW
24 THE LOCATION OF THE PLANTER IN THE DIAGRAMS?

25 A YES.

26 Q DID YOU MAKE MEASUREMENTS FROM THE HOUSE?

27 A YES.

28 Q AND FROM THE EDGE OF THE DRIVEWAY?

1 A YES.

2 Q AND WHEN YOU LOCATED SOME ITEMS, YOU MADE
3 MEASUREMENTS OF THEM FROM THE BOTTOM OF THE DRIVEWAY UP
4 RATHER FROM THE TOP OF THE HOUSE DOWN; IS THAT RIGHT?

5 A CORRECT.

6 Q BECAUSE THEY WERE CLOSER TO THE BOTTOM?

7 A CORRECT.

8 Q AND NO. -- ITEM NO. 8, DO YOU RECALL THAT
9 BEING 23 FEET FROM THE MOUTH OF THE DRIVEWAY?

10 A YES.

11 Q AND THAT'S MEASURING FROM THE SOUTH GOING
12 NORTH, CORRECT?

13 A YES. IT'S MEASURING FROM THE BOTTOM OF
14 THE DRIVEWAY, UP TOWARD THE PLANTER.

15 Q AND ITEM NO. 18, WHICH WAS FOUND ON THE
16 VERY RIGHT SIDE OF THE DRIVEWAY SOUTH OF THE VAN, THAT
17 WAS APPROXIMATELY 16 AND A HALF FEET NORTH OF THAT
18 DRIVEWAY?

19 A 18, WAS THAT A SPENT CASING?

20 Q YES.

21 A THAT WAS 16 AND A HALF -- 16.5 FROM THE
22 BOTTOM OF THE DRIVEWAY OUT TOWARD THE PLANTER.

23 Q AND HOW CLOSE TO THE RIGHT WALL OF THAT
24 PROPERTY? RIGHT UP ON IT?

25 A RIGHT UP ON IT, IT APPEARS.

26 Q AND ITEM NO. 6, WHICH WAS A LIVE ROUND,
27 WAS FOUND EIGHT FEET NINE INCHES FROM THE SOUTH OF THE
28 DRIVEWAY?

1 A YES.

2 Q AND EIGHT FEET NINE INCHES FROM THE WALL
3 TO THE RIGHT?

4 A YES.

5 Q SO THERE WERE SEVERAL ITEMS OF EVIDENCE
6 FOUND SOUTH OF THE PLANTER, AND SEVERAL OTHER ONES FOUND
7 NORTH OF THE PLANTER; IS THAT FAIR?

8 A YES.

9 Q YOU ALSO FOUND ITEM NO. 1, WHICH WAS A
10 FINGERNAIL. DO YOU RECALL THAT BEING FOUND SOMEWHERE
11 EAST ON WOODLYN LANE ITSELF?

12 A YES.

13 Q AND IF YOU RECALL, HOW FAR EAST OF THAT --
14 OF THE DRIVEWAY WAS THAT FOUND, OR DID YOU USE ANOTHER
15 MEASUREMENT?

16 A I DON'T -- I DON'T HAVE THOSE MEASUREMENTS
17 ON MY DIAGRAMS. LET ME LOOK AT THIS. OKAY. HERE IT IS.
18 THERE WAS A POWER POLE THERE, WHICH I TOOK MEASUREMENTS
19 FROM BECAUSE IT IS A STATIONARY OBJECT.

20 Q AND HOW FAR EAST OF THE POWER POLE WAS IT?

21 A NINE-FIVE.

22 Q NINE FEET FIVE INCHES?

23 A YES.

24 Q AND YOU FOUND ITEM NO. 12, WHICH WAS THE
25 TAZER GUN, WITHIN INCHES OF ITEM NO. 10, WHICH WAS A LIVE
26 ROUND AND ITEM NO. 9, WHICH WAS A FINGERNAIL; IS THAT
27 CORRECT?

28 A YES, THAT'S CORRECT.

1 Q AND THEY WERE ON THE WEST SIDE OF THE
2 DRIVEWAY NEAR THE LEFT EDGE?

3 A YES.

4 Q AND IS THAT DEPICTED IN PEOPLE'S 56?

5 A YES.

6 Q THE SORT OF BUMP ON THE LEFT SIDE OF THE
7 TOP PHOTOGRAPH?

8 A YES.

9 Q THAT'S THE WEST EDGE OF THE THOMPSON
10 DRIVEWAY?

11 A CORRECT. THAT'S LIKE THE CURB ON THAT
12 SIDE.

13 Q AND AT THAT LOCATION, YOU FOUND A
14 FINGERNAIL AND A LIVE ROUND; IS THAT RIGHT, WITH THE ITEM
15 DEPICTED IN PEOPLE'S 56?

16 A YES.

17 Q AND NORTH OF THAT, APPROXIMATELY EIGHT
18 FEET, YOU FOUND ITEM NO. 11?

19 A YES.

20 Q AND THAT WAS A CASING OR A --

21 A YES.

22 Q THAT WAS A CASING?

23 A THAT WAS A SPENT CASING, YES.

24 Q SPENT CASING. SO YOU DID NOT HEAR FROM
25 MR. MUNOZ AT ALL IN RELATION TO WHERE -- WELL, DO YOU
26 KNOW WHAT HIS INVOLVEMENT IN THE CASE WAS?

27 A NO, I DON'T.

28 Q SO NO ONE HAS CALLED YOU IN THE LAST MONTH

1 AND ASKED YOU TO GO TO THE CRIME SCENE OR MAKE A NEW
2 DIAGRAM WITH THE RELATION -- WITH THE ITEMS OF EVIDENCE
3 IN RELATION TO ONE ANOTHER?

4 A NO.

5 Q HAVE YOU EVER WALKED THE CRIME SCENE AGAIN
6 WITH ANY PERSON FROM LAW ENFORCEMENT?

7 A NO.

8 MS. SARIS: MAY I HAVE JUST A MOMENT?

9 (DISCUSSION OFF THE RECORD.)

10 Q BY MS. SARIS: WE'RE USING THE PHRASES
11 "TAZER" AND "STUN GUN" INTERCHANGEABLY. DO YOU
12 PERSONALLY HAVE THE KNOWLEDGE OF THE DIFFERENCE, IF THERE
13 IS ONE?

14 A NO, I DON'T HAVE A KNOWLEDGE.

15 Q AND SO WHEN WE -- WHEN YOU'RE -- FOR THE
16 PURPOSES OF YOUR TESTIMONY, YOU'RE REFERRING TO THE
17 PICTURE IN ITEM NO. -- PEOPLE'S 56, ITEM 12?

18 A AS A TAZER.

19 Q AS A TAZER.

20 A AND THAT'S HOW I HAVE INDICATED THAT ON MY
21 REPORT.

22 Q I THINK YOU MAY HAVE ANSWER IT THAT YOU
23 NEVER DID GET IN THE GARAGE. DID YOU -- WERE YOU EVER
24 AWARE OF A CLOSET UNDERNEATH THE STAIRCASE IN THE GARAGE?

25 MR. DIXON: OBJECTION. THAT CALLS FOR HEARSAY IF
26 SHE WASN'T THERE.

27 THE COURT: SUSTAINED.

28 MS. SARIS: I'M SORRY?

1 THE COURT: SUSTAINED.

2 Q BY MS. SARIS: SO YOU NEVER GOT INTO IT AT
3 ALL, OR YOU JUST DON'T RECALL?

4 A I REALLY DON'T RECALL.

5 Q OKAY. DID YOU EVER PHOTOGRAPH THE JEWELRY
6 THAT WAS ON MS. THOMPSON AFTER IT HAD BEEN REMOVED FROM
7 HER BODY?

8 A NO.

9 MS. SARIS: NOTHING FURTHER. THANK YOU.

10 THE COURT: REDIRECT?

11 MR. DIXON: NO. THANK YOU, YOUR HONOR. NOTHING
12 FURTHER.

13 THE COURT: THANK YOU, MA'AM.

14 MR. DIXON: MAY THIS WITNESS BE EXCUSED?

15 THE COURT: ANY OBJECTION TO EXCUSING THE
16 WITNESS?

17 MS. SARIS: NO.

18 THE COURT: I'LL TAKE THAT AS A NO.

19 MS. SARIS: I SAID NO, I'M SORRY.

20 THE COURT: THANK YOU.

21 MR. DIXON: RANDY GARELL WOULD BE OUR NEXT
22 WITNESS.

23

24 RANDY GARELL,

25 CALLED BY THE PEOPLE AS A WITNESS, WAS

26 SWORN AND TESTIFIED AS FOLLOWS:

27

28 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

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

5 THE WITNESS: I DO.

6 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
7 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
8 NAME FOREVER THE RECORD?

9 THE WITNESS: MY NAME IS RANDY GARELL, R-A-N-D-Y,
10 G-A-R-E-L-L.

11 THE CLERK: THANK YOU.

12 THE COURT: YOU MAY INQUIRE.

13 MR. DIXON: THANK YOU, YOUR HONOR.

14

15 DIRECT EXAMINATION

16 BY MR. DIXON:

17 Q GOOD MORNING.

18 A MORNING.

19 Q THANK YOU FOR RETURNING. I KNOW YOU WERE
20 HERE YESTERDAY.

21 COULD YOU TELL US WHAT YOUR PRESENT OCCUPATION
22 IS?

23 A I'M PRESIDENT OF THE GRANT BOYS IN COSTA
24 MESA AND CO-OWNER WITH MY WIFE. IT IS A RETAIL OUTDOOR
25 STORE.

26 Q HOW LONG HAVE YOU BEEN WORKING WITH THEM,
27 GRANT BOYS?

28 A SINCE I WAS 15, A LONG TIME. ALMOST --

1 OVER 30 YEARS.

2 Q WHAT IS GRANT BOYS TODAY? WHAT DO THEY
3 SELL? YOU SAID OUTDOORS, BUT CAN YOU BE MORE SPECIFIC?

4 A WE SELL CAMPING, FISHING, OUTDOOR APPAREL
5 AND FIREARMS.

6 Q HOW LONG HAS IT BEEN IN EXISTENCE?

7 A SINCE 1949.

8 Q QUITE AWHILE. AND YOU SAID YOU'VE BEEN
9 THERE SINCE YOU WERE 15. HAS IT EVOLVED IN SOME WAY?
10 AND I'M ASKING THESE QUESTIONS BECAUSE WE ARE GOING TO
11 TALK ABOUT SOME EVENTS IN THE 1980S.

12 A SURE, IT EVOLVED, YES.

13 Q STARTED OUT AS, WHAT, A HARDWARE STORE?

14 A YES. STARTED OUT AS ORIGINALLY A HARDWARE
15 STORE AND WE SOLD MILITARY SURPLUS. AND THEN OVER THE
16 YEARS, THOSE GREW INTO OTHER ITEMS. WE SOLD CAMPING
17 GEAR. WE GOT INTO THE FIREARMS BUSINESS. I BECAME AN
18 ARMS BROKER IN COSTA MESA. THE OUTDOOR APPAREL BUSINESS
19 ACTUALLY GREW OUT OF SELLING LEVIS JEANS AND GEORGES
20 STEEL-TOED BOOTS TO THE GUYS WHO WERE ON THE CONSTRUCTION
21 SITE FOR DISNEYLAND AND THE SANTA ANA FREEWAY IN THE
22 EARLY '50S.

23 Q IS IT THEN FAIR TO SAY THAT NOW THAT THE
24 BULK OF YOUR BUSINESS IS FIREARMS, CAMPING AND OUTDOOR
25 EQUIPMENT?

26 A THE SPLIT IS ABOUT -- WE BREAK IT INTO
27 SOFT LINES AND HARD LINES. SOFT LINES IS QUALITY
28 APPAREL. ABOUT 30 PERCENT SOFT LINE, 70 PERCENT HARD

1 LINE SPLIT.

2 Q I'M GOING TO TALK TO YOU ABOUT A NUMBER OF
3 VARIOUS POINTS IN YOUR CAREER WITH GRANT BOYS. IS THE
4 MIX OF BUSINESS, WHAT YOU DID IN THE LATE 1970S, 1980S
5 ABOUT THE SAME OR IS IT DIFFERENT?

6 A ABOUT THE SAME.

7 Q AND IN THE LATE 1990S UP TO, SAY, 2001,
8 WAS IT ABOUT THE SAME AS NOW?

9 A YES.

10 Q OKAY. DURING YOUR EMPLOYMENT,
11 SPECIFICALLY DURING THE 1980S, AT GRANT BOYS, DO YOU KNOW
12 WHETHER OR NOT YOUR STORE SOLD STUN GUNS OR TAZERS?

13 A WE DID.

14 Q I WOULD LIKE TO INVITE YOUR ATTENTION TO
15 PEOPLE'S 56 ON THE BOARD. DOES THAT LOOK LIKE A STUN GUN
16 TO YOU?

17 A YES.

18 Q DOES THAT LOOK LIKE ONE THAT YOU PERHAPS
19 SOLD DURING THE 1980S?

20 A WE MAY HAVE.

21 Q I JUST USED THOSE TERMS INTERCHANGEABLY,
22 "STUN GUN" AND "TAZER." YOU'VE BEEN IN THIS BUSINESS A
23 LONG TIME. IS THERE A DIFFERENCE?

24 A THERE IS.

25 Q AND COULD YOU EXPLAIN THAT TO THE JURY?

26 A A TAZER IS A DEVICE THAT FIRES TWO
27 PROJECTILES. IT FIRES TWO DARTS THAT HAVE WIRES THAT ARE
28 ATTACHED TO THE UNIT ITSELF. AND IT IS AN ELECTRICAL

1 SHOCKING DEVICE. SO IF YOU WERE GOING TO USE IT ON AN
2 ASSAILANT, YOU WOULD HAVE TO HIT THEM WITH BOTH DARTS AND
3 THEN PULL THE TRIGGER, AND IT WOULD DELIVER THE SHOT;
4 WHEREAS, A STUN GUN IS AN HANDHELD DEVICE. YOU HAVE TO
5 TOUCH THE INDIVIDUAL WITH IT.

6 Q SO WITH A TAZER, IF I WAS STANDING
7 PERHAPS --

8 MR. DIXON: MAY I APPROACH YOUR HONOR?

9 THE COURT: YES.

10 Q BY MR. DIXON: -- PERHAPS THE DISTANCE
11 BETWEEN THE TWO OF US, AND YOU HAD THE TAZER. AND YOU
12 WERE WORRIED ABOUT MY APPROACH, YOU COULD USE IT AND STUN
13 ME BY HITTING ME WITH THE TWO PROJECTILES?

14 A YES.

15 Q BUT YOU COULDN'T GET ME WITH THE STUN GUN
16 UNLESS I WALKED UP WITHIN ARM'S REACH?

17 A I WOULD HAVE TO TOUCH YOU.

18 Q OKAY. ALL RIGHT. BACK IN THE 1980S WAS
19 THERE A DIFFERENCE IN HOW THESE TWO GUNS WERE REGULATED,
20 IF THERE WAS AT ALL, BECAUSE OF THAT DIFFERENCE THAT
21 YOU'VE JUST DESCRIBED?

22 A YES. NOT LONG AFTER THE TAZER WAS
23 INTRODUCED, ALCOHOL, TOBACCO AND FIREARMS, WHICH IS THE
24 FEDERAL AGENCY THAT REGULATES THE SALE OF FIREARMS,
25 CLASSIFIED THE TAZER AS A FIREARM BECAUSE IT ACTUALLY
26 USED A POWDER CHARGE TO PUSH OUT THE DARTS OR TO SHOOT
27 THE DARTS. AND BECAUSE OF THAT, IT WOULD HAVE TO BE
28 REGISTERED LIKE A HANDGUN. THE STUN GUN, HOWEVER, DIDN'T

1 FALL INTO ANY OF THOSE CATEGORIES. IT WAS NEVER
2 REGISTERED OR ANY WEIGHT IMPOSED OR BACKGROUND CHECK
3 IMPOSED ON THE SALE OF THEM. SO TAZER WITHDREW FROM THE
4 PUBLIC MARKET.

5 Q WHEN YOU SAY TAZER, IS THAT A COMPANY?

6 A YES, THAT IS A COMPANY. AND IT BECAME
7 REALLY A LAW ENFORCEMENT ITEM ONLY FOR MANY, MANY YEARS.

8 Q BECAUSE OF THE REQUIREMENTS --
9 REGISTRATION REQUIREMENTS BY ATF?

10 A YES. I SUPPOSE IT WAS A BUSINESS DECISION
11 ON THEIR PART. I REALLY DON'T KNOW FOR CERTAIN, BUT IT
12 WAS WITHDRAWN.

13 Q HAS THAT SITUATION RECENTLY CHANGED, NOT
14 THAT IT'S --

15 A YES, IT HAS. TAZER -- I THINK IT WAS LAST
16 YEAR OR THE YEAR BEFORE -- INTRODUCED WHAT THEY CALL THE
17 AIR TAZER, WHICH ACTUALLY USES A CO2 CARTRIDGE TO PUSH
18 THE PROJECTILE OUT. AND THEN IT DIDN'T FALL UNDER THE
19 ATF REGULATIONS. AND THAT TAZER IS AVAILABLE TO THE
20 PUBLIC.

21 Q BUT FOR THE PERIOD OF TIME THAT I'M GOING
22 TO INVITE YOUR ATTENTION TO TODAY AND ASK YOU SOME
23 QUESTIONS ABOUT FROM, SAY, LATE 70S, EARLY '80S UNTIL
24 2001, THE DIFFERENCE THAT YOU EARLIER TOLD US ABOUT THAT
25 THE TAZER USED WAS REGULATED BY ATF BECAUSE IT WAS KIND
26 OF LIKE A FIREARM, THOSE ARE ALL TRUE?

27 A TO THE BEST OF MY KNOWLEDGE, THAT IS TRUE.

28 Q OKAY. DO YOU KNOW MIKE GOODWIN?

1 A YES.

2 Q DO YOU SEE HIM HERE IN COURT?

3 A YES.

4 Q COULD YOU POINT TO HIM FOR THE RECORD AND
5 TELL US WHAT HE'S WEARING?

6 A HE'S WEARING A COAT AND TIE, WHITE SHIRT.

7 THE COURT: IDENTIFYING MR. GOODWIN.

8 Q BY MR. DIXON: DURING YOUR LONG --

9 MR. DIXON: THANK YOU, YOUR HONOR.

10 Q BY MR. DIXON: DURING YOUR LONG CAREER
11 WITH GRANT BOYS, DID THERE COME A TIME WITH YOU MET HIM?

12 A YES.

13 Q AND COULD YOU BRIEFLY TELL US HOW AT THAT
14 CAME ABOUT?

15 A I MET MIKE GOODWIN THROUGH A MUTUAL
16 BUSINESS PARTNER, LARRY HUFFMAN. AT THE TIME, I WAS IN
17 CHARGE OF THE ADVERTISING FOR THE GRANT BOYS. AND LARRY
18 INTRODUCED -- LARRY DID RADIO COMMERCIALS FOR US. HE
19 ALSO DID RADIO COMMERCIALS AND ANNOUNCING FOR STADIUM
20 MOTOR SPORTS, WHICH WAS MIKE GOODWIN'S COMPANY. HE
21 INTRODUCED US, AND WE ENTERED INTO SORT OF A CO-PROMOTION
22 TYPE AGREEMENT.

23 Q WHEN YOU SAY WE, YOU MEAN GRANT BOYS?

24 A GRANT BOYS, YES.

25 Q AND WHAT WAS YOUR JOB AT THAT TIME WHEN
26 YOU FIRST MET MIKE GOODWIN AND DEVELOPED THIS BUSINESS
27 RELATIONSHIP? WHAT WAS YOUR JOB AT GRANT BOYS?

28 A I WAS THE ADVERTISING MANAGER.

1 Q AS YOU WORKED YOUR WAY UP TO YOUR POSITION
2 NOW, THAT'S ONE OF THE POSITIONS YOU HELD?

3 A YES.

4 Q COULD YOU BRIEFLY TELL US ABOUT THAT
5 BUSINESS RELATIONSHIP? WHAT DID IT INVOLVE?

6 A WELL, MIKE GOODWIN PROMOTED STADIUM
7 MOTORCROSS EVENTS, AND WE WERE A VERY STRONG PRINT
8 ADVERTISER. WE USED TO ADVERTISE IN THE L.A. TIMES, FULL
9 RUN IN THOSE DAYS, WHICH MEANT THE ENTIRE PAPER. AND WE
10 CAME UP WITH AN IDEA. I DON'T WHETHER IT WAS MIKE OR
11 LARRY OR MYSELF OR HOW WE CAME UP WITH THE IDEA, BUT WE
12 CAME UP WITH THE IDEA OF DOING A TICKET GIVE AWAY IN THE
13 STORE. AND BASICALLY WHAT WE DID IS WE PROMOTED THE
14 DIFFERENT RACES INSIDE OUR PRINT ADVERTISING. AND WE
15 EXCHANGED THAT FOR VALUE AND TICKETS THAT WE GAVE AWAY TO
16 OUR CUSTOMERS.

17 Q SO THAT WAS A PERK TO YOUR CUSTOMERS, AND
18 IN EXCHANGE, YOU DID ADVERTISING?

19 A RIGHT. IT WAS A WAY FOR US TO BRING
20 PEOPLE INTO THE STORE, AND STADIUM MOTOR SPORTS GOT A LOT
21 OF PRINT ADVERTISING OUT OF IT.

22 Q IN THIS BUSINESS RELATIONSHIP THAT YOU
23 JUST DESCRIBED, WAS IT A BARTER SITUATION OR WAS THERE
24 MONEY EXCHANGED?

25 A IT WAS MORE OF A BARTER SITUATION. WE
26 HAVE VALUED THE ADVERTISING SPACE AT WHATEVER IT WAS
27 WORTH A COLUMN INCH, AND WE RECEIVED TICKETS FOR THAT
28 AMOUNT.

1 Q SO NO MONEY REALLY WAS EXCHANGED?

2 A NO, NOT IN THAT ARRANGEMENT.

3 Q DID THERE EVER COME A TIME IN THIS
4 RELATIONSHIP SHIP WITH MIKE GOODWIN AND HIS MOTOR SPORTS
5 COMPANY THAT YOU OWED HIM MORE THAN HE OWED YOU IN THIS
6 BARTER SITUATION, THAT YOU COMPENSATED FOR IT IN SOME
7 WAY?

8 A YES.

9 Q COULD YOU EXPLAIN THAT?

10 A WELL, THERE WERE TIMES WHEN THE -- WHEN HE
11 COULDN'T GIVE US ENOUGH TICKETS TO COVER WHAT THE
12 ADVERTISING SPACE MIGHT BE WORTH. SO IN EXCHANGE, WE
13 GAVE HIM MERCHANDISE.

14 Q FROM GRANT BOYS?

15 A RIGHT.

16 Q AND DID THAT INCLUDE CLOTHING OR FIREARMS
17 OR --

18 A IT WAS OPEN TO ANYTHING THAT WE SOLD.

19 Q COULD YOU GENERALLY, AND I KNOW THIS IS
20 AWHILE AGO, TELL US WHAT PERIOD OF TIME THIS COVERED?
21 WAS IT LATE '70S TO MID-'80S, LATE '80S? WHAT WOULD
22 YOU --

23 A I MET MIKE, I BELIEVE, IN THE '70S. WELL,
24 I'M NOT CLEAR ON THE DATES. SOMEWHERE DURING THAT TIME
25 FRAME, FROM THE MIDDLE '70S FORWARD.

26 Q OKAY. AND IT WAS DURING AT LEAST THE '80S
27 THAT YOU'VE TOLD US THAT YOU SOLD STUN GUNS, CORRECT?

28 A YES.

1 Q NOW, I WOULD LIKE TO KIND OF MOVE FORWARD
2 IN TIME. DID THERE COME A TIME IN 1999 THAT MIKE GOODWIN
3 CAME TO YOUR SHOP AND YOU HAD A CONVERSATION ABOUT
4 FIREARMS?

5 A YES.

6 Q AND DID YOU REMEMBER GENERALLY WHAT THAT
7 CONVERSATION WAS? DID HE ASK YOU QUESTIONS?

8 A YES, HE DID.

9 Q AND WHAT DID HE ASK YOU ABOUT?

10 MS. SARIS: OBJECTION, CALLS FOR HEARSAY. CAN WE
11 APPROACH?

12 MR. DIXON: IT'S 1220.

13 THE COURT: ALL RIGHT. LET'S TAKE OUR AFTERNOON
14 RECESS AT THIS TIME, LADIES AND GENTLEMEN. DON'T DISCUSS
15 THE CASE, DON'T FORM OR EXPRESS ANY OPINIONS, DON'T
16 CONDUCT ANY DELIBERATIONS. WE WILL SEE YOU BACK HERE AT
17 1:30. THANK YOU.

18 (THE JURY LEFT THE COURTROOM.)

19 THE COURT: ALL RIGHT. ALL OF THE JURORS AND
20 ALTERNATES HAVE LEFT THE COURTROOM. THE OBJECTION IS
21 THAT IT'S HEARSAY. THE PEOPLE ARE OFFERING IT AS --

22 MR. DIXON: WELL, 1220 OF THE EVIDENCE CODE SAYS
23 THAT ANY STATEMENT OF THE DEFENDANT THAT I OFFER BY A
24 PARTY COMES INTO EVIDENCE UNLESS THERE IS SOME OTHER
25 APPROPRIATE OBJECTION. BUT THE OBJECTION WAS HEARSAY.
26 1220 OF THE EVIDENCE CODE MEETS THAT.

27 THE COURT: MS. SARIS?

28 MS. SARIS: IT'S HEARSAY AND RELEVANCE, YOUR

1 HONOR. IT IS A STATEMENT I THINK HE IS ATTEMPTING TO
2 ELICIT FROM 1999.

3 THE COURT: I DON'T RECALL. WHAT WAS THE
4 STATEMENT AGAIN?

5 MS. SARIS: WE DIDN'T HEAR IT YET.

6 MR. DIXON: WELL, WE HAVEN'T HEARD IT YET.

7 THE COURT: YES, I KNOW, BUT I MEAN --

8 MR. DIXON: WHAT WE'RE GOING TO NEXT HEAR, YOUR
9 HONOR, ARE TWO DIFFERENT STATEMENTS, ONE FROM 1999 AND
10 ONE FROM 2001. IN THE 1999 STATEMENT, THE DEFENDANT
11 QUIZZES THE OWNER OF GRANT BOYS ABOUT THE REGISTRATION
12 REQUIREMENTS AND THE TRACEABILITY OF FIREARMS. IN THE
13 2001 CONVERSATION, HE ASKED HIM ABOUT THE REGISTRATION
14 REQUIREMENTS OR TRACEABILITY, I THINK THAT'S A BETTER WAY
15 TO SAY IT, OF STUN GUNS. IN LIGHT OF THE CRIME, I THINK
16 THEY'RE BOTH RELEVANT.

17 THE COURT: ALL RIGHT. WELL, AS TO THE HEARSAY
18 OBJECTION, IT CLEARLY IS AN ADMISSION. AND ON RELEVANCE
19 GROUNDS, IT APPEARS TO HAVE TREMENDOUS AMOUNT OF
20 RELEVANCE. ANYTHING ELSE?

21 MS. SARIS: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT. 1:30.

23
24 (AT 12:00 P.M. A RECESS WAS TAKEN
25 UNTIL 1:30 P.M. OF THE SAME DAY.)

26 --000--
27
28

1
2
3 CASE NUMBER: GA052683
4 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
5 PASADENA, CALIFORNIA TUESDAY, DECEMBER 5, 2006
6 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
7 APPEARANCES: (AS HERETOFORE MENTIONED.)
8 REPORTER: LORI D. CASILLAS, CSR NO. 9869
9 TIME: P.M. SESSION

10
11 (THE JURY ENTERED THE COURTROOM
12 AND THE FOLLOWING PROCEEDINGS WERE
13 HELD IN OPEN COURT.)
14

15 THE COURT: ALL RIGHT. ALL OUR JURORS AND
16 ALTERNATES ARE ONCE AGAIN PRESENT IN THE TRIAL MATTER.
17 THE PARTIES ARE PRESENT.

18 MR. GARELL IS STILL ON THE WITNESS STAND.
19 YOU HAVE BEEN PREVIOUSLY SWORN. YOU ARE REMINDED YOU'RE
20 STILL UNDER OATH. PLEASE STATE YOUR NAME AGAIN FOR THE
21 RECORD.

22 THE WITNESS: RANDY GARELL.

23 THE COURT: YOU MAY CONTINUE.

24 MR. DIXON: THANK YOU, YOUR HONOR.

25 Q GOOD AFTERNOON.

26 A GOOD AFTERNOON.

27 Q BEFORE THE LUNCH BREAK YOU WERE ANSWERING
28 SOME OF MY QUESTIONS ABOUT YOUR DEALINGS WITH THE

1 DEFENDANT, MIKE GOODWIN, AT THE GRANT BOYS STORE, WHERE
2 YOU ARE PRESENTLY THE PRESIDENT, CEO; IS THAT CORRECT?

3 A OWNER, YES.

4 Q AND I THINK RIGHT BEFORE WE STOPPED, I HAD
5 ASKED YOU, AND I WILL ASK IT AGAIN, DID YOU, IN
6 APPROXIMATELY 1999, HAVE A CONVERSATION WITH THE
7 DEFENDANT?

8 A YES.

9 Q WHERE WERE YOU WHEN YOU HAD THE
10 CONVERSATION?

11 A IN THE STORE.

12 Q DURING NORMAL WORKING HOURS?

13 A YES.

14 Q HAD YOU SEEN THE DEFENDANT IN AWHILE, OR
15 WAS THIS -- OR WERE YOU SURPRISED BY HIS APPEARANCE AT
16 YOUR STORE?

17 MS. SARIS: OBJECTION, RELEVANCE.

18 A I HADN'T SEEN HIM IN AWHILE.

19 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

20 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

21 THE COURT: OKAY.

22 (PROCEEDINGS HELD AT SIDEBAR.)

23 THE COURT: OKAY. WE'RE AT THE SIDEBAR.

24 MR. DIXON: WE AREN'T GOING THERE.

25 MS. SARIS: I KNOW THAT. MY CONCERN IS THE
26 REASON --

27 MR. DIXON: I'VE ALREADY TOLD HIM THAT WE AREN'T
28 GOING THERE.

1 MS. SARIS: I JUST WANT IT ON THE RECORD THE
2 REASON I'M CONCERNED IS THAT THE REASON HE HADN'T SEEN
3 THE DEFENDANT IN AWHILE IS BECAUSE HE WAS IN FEDERAL
4 CUSTODY. AND COUNSEL IS MAKING THE REPRESENTATION THAT
5 HE MENTIONED THIS TO THE WITNESS. THAT'S MY BASIS FOR
6 THE OBJECTION. AND HE'S NOT GOING TO MENTION IT ANYWAY?

7 MR. DIXON: I, IN FRONT OF THE WITNESSES,
8 REPEATEDLY TOLD THEM THAT WE AREN'T TALKING ABOUT THAT.

9 THE COURT: OKAY. I THINK LORI GOT THAT.

10 MS. SARIS: OKAY. THANK YOU.

11 THE COURT: THANK YOU.

12 (SIDEBAR CONCLUDED.)

13 THE COURT: YOU MAY CONTINUE.

14 MR. DIXON: THANK YOU.

15 Q BY MR. DIXON: WHAT WAS THE CONVERSATION
16 ABOUT? WHAT DID THE DEFENDANT SAY, TO THE BEST OF YOUR
17 RECOLLECTION AT THIS TIME, AND WHAT DID YOU SAY?

18 A HE WAS INTERESTED IN KNOWING ABOUT HOW
19 GUNS WERE TRACED. AND SO I --

20 MS. SARIS: OBJECTION, YOUR HONOR. CALLS FOR A
21 NARRATIVE. MOTION TO STRIKE, NON-RESPONSIVE.

22 THE COURT: ALL RIGHT. THAT'S NOT RESPONSIVE,
23 AND THAT WILL BE STRICKEN.

24 Q BY MR. DIXON: WHAT DID HE SAY TO YOU, TO
25 THE BEST OF YOUR RECOLLECTION?

26 A HE WANTED TO KNOW HOW GUNS WERE TRACED.

27 MS. SARIS: SAME OBJECTION, YOUR HONOR. IT'S
28 CALLING FOR A QUOTE.

1 THE COURT: I'M GOING TO OVERRULE. IF HE -- THE
2 ANSWER CAN REMAIN.

3 Q BY MR. DIXON: AND DID YOU RESPOND TO HIM?
4 DID YOU TELL HIM?

5 A YES.

6 Q YOU HAD SOME EXPERIENCE IN THAT?

7 A YES.

8 Q AND WAS THIS A SHORT CONVERSATION OR A
9 LENGTHY ONE, MODERATE?

10 A SHORT CONVERSATION.

11 Q A MINUTE, TWO MINUTES, 10 MINUTES?

12 A I WOULD SAY UNDER 10 MINUTES.

13 Q UNDER 10 MINUTES. SO HE ASKED YOU MORE
14 THAN ONE QUESTION CONCERNING THIS AREA?

15 A YES.

16 Q NOW, SUBSEQUENT TO THAT, AFTER THAT 1999
17 CONVERSATION ABOUT GUNS AND GUN REGISTRATION, DID THE
18 DEFENDANT COME TO YOUR STORE AGAIN?

19 A YES.

20 Q APPROXIMATELY WHEN?

21 A SOMETIME IN 2000.

22 Q 2000?

23 A YEAH, EARLY 2000, I BELIEVE.

24 Q AND AGAIN, THIS WAS DURING NORMAL WORKING
25 HOURS?

26 A YES.

27 Q AND DID YOU ENGAGE IN CONVERSATION WITH
28 HIM AT THAT TIME?

1 A YES.

2 Q WHAT WAS THAT CONVERSATION ABOUT?

3 A THAT CONVERSATION --

4 MS. SARIS: SAME OBJECTION, YOUR HONOR.

5 THE COURT: ALL RIGHT. THAT WILL BE SUSTAINED.
6 REPHRASE IT PLEASE.

7 Q BY MR. DIXON: WELL, TO THE BEST OF YOUR
8 RECOLLECTION, WHAT DID THE DEFENDANT SAY TO YOU OR ASK OF
9 YOU, AND WHAT DID YOU SAY IN RESPONSE?

10 A HE WANTED TO KNOW IF STUN GUNS WERE
11 TRACEABLE.

12 Q AND DID YOU TRY TO RESPOND TO THAT?

13 A YES.

14 Q WHAT DID YOU TELL HIM?

15 A I TOLD HIM THAT TO THE BEST OF MY
16 KNOWLEDGE, THEY WERE NOT TRACEABLE. THEY DIDN'T FALL
17 UNDER THE SAME RESTRICTIONS AS FIREARMS.

18 Q GOING BACK TO OUR EARLIER CONVERSATION
19 ABOUT THE DIFFERENCE BETWEEN STUN GUNS AND TAZERS?

20 A CORRECT.

21 Q THAT'S PART OF THE REASON?

22 A YES.

23 Q NOW, AGAIN, COULD YOU CHARACTERIZE THIS
24 CONVERSATION? WAS THIS LENGTHY, MODERATE OR VERY SHORT?

25 A IT WAS SHORT. IT WAS THE SAME LENGTH
26 CONVERSATION, 10, 15 MINUTES. IT WASN'T LONG.

27 Q TEN OR 15 MINUTES OF CONVERSATION BETWEEN
28 YOU AND THE DEFENDANT CONCERNING THIS SUBJECT MATTER, THE

1 REGISTRATION OR TRACEABILITY OF STUN GUNS?

2 MS. SARIS: OBJECTION, LEADING.

3 THE COURT: OVERRULED. YOU CAN ANSWER THAT.

4 A YES, WE MAY HAVE DISCUSSED THE WEATHER AS
5 WELL, BUT THE STUN GUNS WERE THE MAIN ISSUE.

6 MR. DIXON: ALL RIGHT. THANK YOU. COULD I HAVE
7 PAVE MOMENT, PLEASE?

8 THE COURT: YES.

9 (DISCUSSION OFF THE RECORD.)

10 MR. DIXON: THANK YOU. NOTHING FURTHER, YOUR
11 HONOR, AT THIS TIME.

12 THE COURT: ALL RIGHT. CROSS-EXAMINATION.

13 MS. SARIS: THANK YOU.

14

15 CROSS-EXAMINATION

16 BY MS. SARIS:

17 Q GOOD AFTERNOON, MR. GARELL.

18 A GOOD AFTERNOON.

19 Q AS YOU SIT HERE NOW, YOU HAVE NO -- YOU
20 DON'T KNOW ONE WAY OR THE OTHER WHETHER OR NOT
21 MR. GOODWIN EVER BOUGHT A STUN GUN FROM YOU; IS THAT
22 CORRECT?

23 A THAT'S CORRECT.

24 Q AND AS YOU ALSO SIT HERE NOW, YOU DON'T
25 EVEN KNOW WHETHER OR NOT YOU CARRY A MODEL STUN GUN
26 SIMILAR TO THE ONE IN PEOPLE'S 56?

27 A THAT IS CORRECT.

28 Q AND YOU HAVE NO CLEAR RECOLLECTION OF HIM

1 EVER BUYING SUCH A WEAPON FROM YOU; IS THAT RIGHT?

2 A THAT IS CORRECT.

3 Q YOU HAVE NO RECEIPT FOR THIS TRANSACTION
4 AT ALL, ANY TYPE OF TRANSACTION WITH A STUN GUN OR A
5 TAZER.

6 A NOT THAT I'M AWARE OF.

7 Q DO YOU HAVE ANY DOCUMENTATION INDICATING
8 YOU EVER CARRIED THE WEAPON AS PICTURED IN PEOPLE'S 56?

9 A NO.

10 Q NO INVENTORY LIST, NO CATALOG PICTURE?

11 A THAT WOULD -- I CAN'T UNEQUIVOCALLY SAY NO
12 TO THAT. WE MAY HAVE A CATALOG IN THE STORE THAT HAS A
13 STUN GUN SIMILAR TO THAT.

14 Q SIMILAR, BUT THIS MODEL; DO YOU KNOW?

15 A I DON'T KNOW.

16 Q WERE YOU ASKED TO CHECK FOR ANY RECEIPTS
17 REGARDING ANY OF THE TRANSACTIONS YOU HAD WITH
18 MR. GOODWIN?

19 A NO, I DON'T REMEMBER BEING ASKED TO LOOK
20 FOR RECEIPTS.

21 Q YOU KNEW HIM SINCE THE '70S?

22 A YES.

23 Q YOU KNEW HIM TO BE AN AVID SAILER?

24 A YES.

25 Q SCUBA DIVER?

26 A YES.

27 Q IT WAS NOT UNUSUAL FOR HIM TO FREQUENT
28 YOUR STORE IN GENERAL, RIGHT?

1 A NOT AT ALL.

2 Q MR. GOODWIN HAD MADE PURCHASES OF YOU
3 LEGALLY IN THE PAST?

4 A YES.

5 Q AND ALSO THIS BARTER SITUATION?

6 A YES, FOR THE PROMOTIONS ONLY.

7 Q NOW, WHEN YOU GAVE HIM EQUIPMENT --

8 A I'M SORRY, I DIDN'T HEAR.

9 Q I'LL REPEAT IT. WHEN YOU GAVE HIM
10 EQUIPMENT AS A RESULT OF THIS BARTER, YOU STILL HAVE
11 WOULD HAVE TO HAVE SOME SORT OF RECEIPT FOR THE
12 MERCHANDISE THAT LEFT YOUR STORE, RIGHT?

13 A YOU KNOW, I DON'T REMEMBER WHAT WE WERE
14 DOING IN THOSE DAYS, TO BE HONEST WITH YOU.

15 Q YOU COULD SIMPLY -- WERE YOU KIND OF THAT
16 MUCH IN CHARGE THAT YOU COULD TAKE PROPERTY OUT OF YOUR
17 STORE WITHOUT ACCOUNTING FOR IT?

18 A YES.

19 Q OKAY. WHEN THIS CONVERSATION THAT YOU
20 REFERRED TO IN 1997, THAT OCCURRED IN -- I'M SORRY, WAS
21 IT '97?

22 MR. DIXON: WELL, I WAS GOING TO MAKE AN
23 OBJECTION, MISSTATES THE EVIDENCE. THE WITNESS TESTIFIED
24 1999.

25 MS. SARIS: THANK YOU. 1999.

26 Q THAT WAS IN ORANGE COUNTY, RIGHT?

27 A ORANGE COUNTY, YES, IT WAS.

28 Q AND MR. GOODWIN WALKED INTO THE STORE?

1 A YES, HE DID.

2 Q AND DID HE HAVE ANY KIND OF MASK OR
3 DISGUISE ON OR DID YOU RECOGNIZE HIM RIGHT AWAY?

4 A WELL, I RECOGNIZED HIM.

5 Q AT THE TIME THAT HE WAS INQUIRING ABOUT
6 THE TRACEABILITY OF GUNS, DID HE ADVISE YOU THAT A
7 DETECTIVE WAS ATTEMPTING TO SAY --

8 MR. DIXON: OBJECTION, CALLS FOR HEARSAY.

9 THE COURT: I DIDN'T HEAR THE QUESTION. MAYBE
10 YOU CAN REPHRASE IT.

11 MS. SARIS: IT WOULD BE PART OF A 356, YOUR
12 HONOR, REGARDING THE CONVERSATION THAT HE HAS TESTIFIED
13 TO.

14 THE COURT: WELL, THE WAY IT WAS PHRASED, I'M
15 GOING TO SUSTAIN A HEARSAY OBJECTION.

16 Q BY MS. SARIS: IN THAT CONVERSATION WITH
17 MR. GOODWIN, DID IT COME UP THROUGH HIM THAT THE
18 DETECTIVE IN THIS CASE WAS ATTEMPTING TO SAY A
19 THREE-DIGIT MODEL SMITH AND WESSON GUN HE HAD REGISTERED
20 TO HIM COULD HAVE BEEN THE MURDER WEAPON?

21 A I DON'T REMEMBER, TO BE HONEST WITH YOU.

22 Q DO YOU REMEMBER HIM INDICATING TO YOU THAT
23 HE BELIEVED THE DETECTIVE WAS SAYING FALSE THINGS ABOUT
24 HIM?

25 MR. DIXON: OBJECTION. SAME OBJECTION, HEARSAY.
26 AND THIS IS NOT PART THE 356.

27 THE COURT: SUSTAINED.

28 MS. SARIS: ACTUALLY, YOUR HONOR, IT IS -- MAY WE

1 APPROACH?

2 THE COURT: ALL RIGHT.

3 (PROCEEDINGS HELD AT SIDEBAR.)

4 THE COURT: OKAY. WE ARE AT THE SIDEBAR.

5 MS. SARIS: THE PEOPLE ELICITED THE CONVERSATION
6 OF TRACEABILITY OF FIREARMS IN 1999. WE HAVE A SEPARATE
7 ACCOUNT OF THAT CONVERSATION, A GOOD FAITH BELIEF IN
8 ASKING WHAT WAS BEING SAID DURING THAT CONVERSATION.
9 THIS IS PART OF THE WHOLE. THEY'VE LEFT IT OUT THERE AS
10 IF HE'S JUST INQUIRING ABOUT TRACEABILITY, BUT PART OF
11 THE CONTEXT IS THE REASON HE'S INQUIRING ABOUT
12 TRACEABILITY IS BECAUSE THE DETECTIVE LIED IN AN
13 AFFIDAVIT.

14 MR. DIXON: WHY IS IT -- WHETHER OR NOT COUNSEL
15 BELIEVES THAT THE DETECTIVE LIED IN THE AFFIDAVIT PART OF
16 THIS CONVERSATION AND WHERE IS THE GOOD FAITH BELIEF
17 UNLESS WE'RE GOING TO HEAR FROM THE DEFENDANT. ARE YOU
18 MAKING THAT OFFER OF PROOF THAT THE DEFENDANT IS GOING TO
19 TESTIFY ON THIS GROUND?

20 MS. SARIS: I DON'T HAVE TO MAKE AN OFFER OF
21 PROOF THAT HE WILL TESTIFY. I'D LIKE TO ASK THE QUESTION
22 IN THE GOOD FAITH BELIEF IN THE VORACITY OF THE
23 CONVERSATION.

24 THE COURT: WHAT YOU WANT TO KNOW IS YOU WANT TO
25 KNOW IF THE DEFENDANT EXPLAINED TO THE WITNESS WHY HE WAS
26 MAKING AN INQUIRY?

27 MS. SARIS: YES.

28 THE COURT: OKAY. YOU CAN ASK HIM THAT QUESTION.

1 BUT TO -- THE WAY THAT THE QUESTION IS PHRASED, I HAVE A
2 PROBLEM WITH IT BECAUSE IT'S AS IF YOU ARE SEEKING TO
3 BRING IN SIMPLY A STATEMENT BY THE DEFENDANT, WHICH WOULD
4 NOT QUALIFY UNDER A HEARSAY EXCEPTION.

5 MS. SARIS: ACTUALLY, IT WOULD QUALIFY ON THE
6 BASIS OF 356 FORM AND CONTENT OF THE 1220 EXCEPTION.

7 THE COURT: THAT'S A STRETCH. SO YOU CAN PHRASE
8 IT A DIFFERENT WAY AND ELICIT THE SAME INFORMATION, BUT
9 THE WAY THE QUESTION IS PHRASED, I DO HAVE A PROBLEM WITH
10 THAT. IT'S NOT A FACT, WHAT THE DEFENDANT SAID, BUT YOU
11 CAN MAKE INQUIRY AS TO WHAT THE TOPICS OF CONVERSATION
12 WERE. I DON'T KNOW WHAT THIS CONVERSATION WAS ABOUT, BUT
13 THE PEOPLE ARE SUGGESTING THAT IF YOU HAVE INFORMATION
14 THAT THE CONVERSATION WAS ABOUT OTHER THINGS, THAT WOULD
15 BE HEARSAY BECAUSE THEY ARE STATEMENTS OF YOUR CLIENT.
16 AND I DON'T KNOW OF AN EXCEPTION THAT WOULD APPLY.

17 MS. SARIS: OUR POSITION IS 356 WOULD APPLY. IF
18 YOU ADMIT PART THE STATEMENT OF OUR CLIENT UNDER 1220,
19 YOU HAVE TO ADMIT THE WHOLE.

20 THE COURT: ONLY TO THE EXTENT THAT IT
21 PROVIDES --

22 MS. SARIS: CONTEXT.

23 THE COURT: -- CONTEXT OR MEANING. AND THERE IS
24 REALLY NOTHING HERE THAT WOULD LEAD ME TO CONCLUDE THAT
25 THAT'S WHAT THIS WOULD DO. BUT IT IS, I THINK, A FAIR
26 AREA OF INQUIRY.

27 MS. SARIS: SO THE CONTEXT -- WITHOUT THE
28 CONTEXT, IT SOUNDS LIKE HE'S ASKING ABOUT THE

1 TRACEABILITY OF FIREARMS BECAUSE HE'S WORRIED. WITH THE
2 CONTEXT, IT SOUNDS AS IF HE'S ASKING BECAUSE HE IS
3 WORRIED ABOUT THE DETECTIVE LYING.

4 THE COURT: BUT YOU'RE OFFERING A STATEMENT OF
5 THE DEFENDANT FOR THE TRUTH OF WHAT IS ASSERTED. AND I
6 THINK YOU CAN PHRASE THE QUESTION DIFFERENTLY WITHOUT
7 ASKING FOR HEARSAY.

8 (SIDEBAR CONCLUDED.)
9

10 Q BY MS. SARIS: GETTING BEING BACK TO THE
11 1999 CONVERSATION, DO YOU RECALL ONE OF THE TOPICS
12 BEING -- THAT YOU DISCUSSED WITH MR. GOODWIN HE -- HIS
13 TRYING TO INVESTIGATE THIS THOMPSON CASE BECAUSE HE HAD
14 BEEN NAMED AS A SUSPECT?

15 A YES.

16 Q DO YOU RECALL ONE OF THE TOPICS OF THAT
17 CONVERSATION ALSO BEING THAT THE DETECTIVE WAS SAYING
18 SOME THINGS THAT WERE NOT TRUE ABOUT WEAPONS HE MAY HAVE
19 OWNED.

20 MR. DIXON: OBJECTION, HEARSAY, YOUR HONOR.

21 THE COURT: OVERRULED. YOU CAN ANSWER THAT.

22 A HE MAY HAVE.

23 Q BY MS. SARIS: IN REGARD TO THE
24 CONVERSATION IN 2001, THAT CONVERSATION ALSO WAS ABOUT
25 INVESTMENT OPPORTUNITIES; DO YOU RECALL THAT?

26 A I THOUGHT IT WAS 2000.

27 Q I'M SORRY, 2000. THANK YOU. DO YOU
28 RECALL DISCUSSING ANY INVESTMENTS WITH MR. GOODWIN AT

1 THAT TIME?

2 A NOT AT THAT MEETING.

3 Q IN THE 1999 MEETING?

4 A NOT AT THAT MEETING.

5 Q SO YOU'VE TALKED TO HIM FAIRLY OFTEN?

6 MR. DIXON: OBJECTION, VAGUE AS TO TIME.

7 THE COURT: SUSTAINED.

8 Q BY MS. SARIS: BETWEEN 1999 AND 2001, DID
9 YOU TALK TO HIM MORE THAN TWICE?

10 A I DON'T THINK SO.

11 Q WHEN WAS THE INVESTMENT CONVERSATION, IF
12 YOU RECALL?

13 A MY RECOLLECTION IS THAT IT WAS PRIOR TO
14 '99.

15 Q THANK YOU. AND WOULD THAT HAVE ALSO BEEN
16 IN YOUR STORE?

17 A YES.

18 Q IN ORANGE COUNTY?

19 A YES.

20 Q AND HE, AT THAT TIME, WOULD HAVE WALKED IN
21 WITHOUT A MASK AND WITHOUT A DISGUISE?

22 A THAT'S CORRECT.

23 Q DO YOU REMEMBER WHAT YEAR THAT WAS, OR
24 JUST THAT IT WAS BEFORE '99?

25 A MY GUESS WOULD BE '97.

26 Q THE CONVERSATION THAT YOU HAD IN 2000
27 REGARDING THE STUN GUNS, DO YOU RECALL ONE OF THE TOPICS
28 OF THAT CONVERSATION BEING THAT IT WAS ERRONEOUSLY STATED

1 IN A REPORT THAT THESE STUN GUNS CAME WITH IDENTIFIABLE
2 SERIAL NUMBERS?

3 A I DON'T RECALL THAT.

4 Q DO YOU RECALL ANYONE ATTEMPTING TO
5 IDENTIFY A STUN GUN THROUGH A SERIAL NUMBER AND YOU
6 CORRECTING THEM?

7 A YES.

8 Q THESE ARE MASS-PRODUCED ITEMS?

9 A YES.

10 Q THEY WERE MADE IN ASIA AT THE TIME, IN THE
11 '80S?

12 A YES.

13 Q DETECTIVE MARK LILLIENFELD, DID YOU EVER
14 TALK SPEAK TO HIM ABOUT THIS CASE?

15 A YES.

16 Q WOULD IT BE CORRECT TO SAY YOU SPOKE TO
17 HIM IN '97?

18 A I BELIEVE SO.

19 Q IN '99?

20 A PROBABLY, YES.

21 Q IN 2000?

22 A YES.

23 Q 2002?

24 A I DON'T REMEMBER.

25 Q 2004, DO YOU REMEMBER HIM COMING WITH THE
26 DISTRICT ATTORNEY TO TALK TO YOU?

27 A I DO REMEMBER THEM COMING. I DON'T
28 REMEMBER IF IT WAS 2004 OR 2005.

1 Q SO IT'S A FAIR TO SAY YOU TALKED TO HIM AT
2 LEAST ON THREE OR FOUR OCCASIONS?

3 A YES.

4 Q OVER MAYBE AN EIGHT-YEAR PERIOD?

5 A YES.

6 Q DO YOU KNOW OTHER RETAILERS AT THE TIME IN
7 THE LATE '80S THAT CARRIED THIS MODEL STUN GUN?

8 A I DON'T KNOW OF A SPECIFIC RETAILER, BUT
9 THERE WERE PROBABLY MANY RETAILERS THAT CARRIED THAT STUN
10 GUN.

11 Q ONE COULD ACTUALLY BUY THE STUN GUN AT A
12 GAS STATION, CORRECT?

13 A THERE WERE STUN GUNS AT GAS STATIONS, YES.

14 Q DO YOU REMEMBER THE STORE AT ADRAYS
15 APPLIANCE, A-D-R-A-Y-S?

16 A YES.

17 Q DO YOU KNOW IF THEY SOLD THESE?

18 MR. DIXON: OBJECTION, TIME FRAME.

19 THE COURT: SUSTAINED.

20 Q BY MS. SARIS: DO YOU KNOW IF THEY SOLD
21 THESE IN THE LATE '80S OR EARLY '80S?

22 A I DON'T KNOW.

23 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

24 (DISCUSSION OFF THE RECORD.)

25 Q BY MS. SARIS: ONE FINAL QUESTION. IN THE
26 TIMES THAT THE DETECTIVE CAME TO INTERVIEW YOU REGARDING
27 THIS CASE, WAS IT ALWAYS PRETTY MUCH ON THE TOPIC OF THE
28 STUN GUN?

1 MR. DIXON: OBJECTION, THAT'S CALLING FOR A
2 CONCLUSION.

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: WAS THE STUN GUN BROUGHT UP
5 IN EACH OCCASION?

6 A IN EACH OR IN ONE?

7 Q IN EACH.

8 A I DON'T KNOW IF IT WAS BROUGHT UP IN EACH.

9 Q WAS IT BROUGHT UP MORE THAN ONCE?

10 A YES.

11 Q THE TOPIC OF THE CONVERSATION IN 2000, I'M
12 SORRY, IN 1999, DO YOU RECALL HAVING A CONVERSATION ABOUT
13 A BOAT TRIP MR. GOODWIN HAD TAKEN?

14 A WITH WHO?

15 Q HIS WIFE, HIS PRIOR WIFE.

16 A I'M SORRY, I DON'T UNDERSTAND THE
17 QUESTION.

18 Q DID YOU EVER HAVE A -- PART OF A
19 CONVERSATION IN '99 THAT YOU'VE DESCRIBED --

20 A YES.

21 Q -- WHERE YOU INDICATED THAT YOU HADN'T
22 SEEN MR. GOODWIN FOR A WHILE. DID HE EVER DISCUSS WITH
23 YOU THAT HE HAD BEEN ON A BOAT WITH HIS WIFE, DIANE?

24 A I DON'T REMEMBER.

25 Q DO YOU REMEMBER ANY OF THESE CONVERSATIONS
26 VERBATIM OR ARE YOU JUST GIVING US YOUR GENERAL GIST
27 AFTER 10 YEARS?

28 A I'M GIVING YOU THE BEST I CAN REMEMBER.

1 IT WAS A LONG TIME AGO.

2 MS. SARIS: THANK YOU. I HAVE NOTHING FURTHER.

3 THE COURT: REDIRECT.

4 MR. DIXON: JUST A COUPLE OF QUESTIONS, PLEASE,
5 YOUR HONOR. THANK YOU.

6

7 REDIRECT EXAMINATION

8 BY MR. DIXON:

9 Q SIR, YOU'VE TOLD COUNSEL THAT FROM YOUR
10 KNOWLEDGE OF THE DEFENDANT, HE'S SPORTSMAN.

11 A YES.

12 Q AND BECAUSE YOU HAD A SPORTING GOODS
13 STORE, IT WASN'T UNUSUAL FOR HIM TO COME IN AND SEE YOU?

14 A THAT'S CORRECT.

15 Q IN ADDITION TO THE BUSINESS REASONS; IS
16 THAT RIGHT?

17 A THAT'S CORRECT.

18 Q AND SO I'M SURE THAT YOU HAD FROM TIME TO
19 TIME VARIOUS CONVERSATIONS ABOUT SPORTS AND SPORTING
20 ACTIVITIES?

21 A WE MAY HAVE.

22 Q AND THOSE WOULDN'T HAVE BEEN UNUSUAL?

23 A NO.

24 Q WAS THE CONVERSATION, BASED ON YOUR
25 EXPERIENCE WITH THE DEFENDANT, ABOUT THE -- WHETHER OR
26 NOT STUN GUNS WERE REGISTERABLE OR TRACEABLE OR NOT, WAS
27 THAT UNUSUAL, IN YOUR MIND?

28 MS. SARIS: OBJECTION, VAGUE.

1 THE COURT: OVERRULED.

2 A YES.

3 Q BY MR. DIXON: DO YOU RECALL IT IN PART
4 BECAUSE OF THAT?

5 A YES.

6 MR. DIXON: THANK YOU. NOTHING FURTHER.

7 THE COURT: FURTHER CROSS.

8

9 RECROSS-EXAMINATION

10 BY MS. SARIS:

11 Q DO YOU ALSO RECALL IT, SIR, BECAUSE YOU'VE
12 BEEN ASKED ABOUT IT OVER 10 TIMES IN THE LAST FOUR YEARS?

13 MR. DIXON: OBJECTION. THAT MISSTATES THE
14 EVIDENCE. I DON'T THINK THERE IS EVIDENCE OF 10 TIMES.

15 THE COURT: SUSTAINED. REPHRASE.

16 Q BY MS. SARIS: DO YOU ALSO RECALL IT
17 BECAUSE YOU HAVE BEEN ASKED ABOUT IT SEVERAL TIMES OVER
18 OF THE LAST SEVERAL YEARS?

19 A YES.

20 MS. SARIS: THANK YOU.

21 THE COURT: ANY FURTHER QUESTIONS?

22 MR. DIXON: NO, THANK YOU, YOUR HONOR. NOTHING
23 FURTHER. MAY THIS WITNESS BE EXCUSED, PLEASE?

24 THE COURT: ANY OBJECTION?

25 MS. SARIS: NO OBJECTION.

26 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU'RE
27 FREE TO GO. YOU'RE EXCUSED.

28 MR. DIXON: YOUR HONOR, OUR NEXT WITNESS WOULD BE

1 DR. SCHEININ FROM THE CORONER'S OFFICE.

2

3

LISA SCHEININ,

4

CALLED BY THE PEOPLE AS A WITNESS, WAS

5

SWORN AND TESTIFIED AS FOLLOWS:

6

7

THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

8

DO YOU SOLEMNLY STATE THAT THE TESTIMONY YOU MAY GIVE IN

9

THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE

10

TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP

11

YOU GOD?

12

THE WITNESS: I DO.

13

THE CLERK: PLEASE BE SEATED IN THE WITNESS BOX.

14

PLEASE STATE AND SPELL YOUR FIRST AND LAST NAME FOR THE

15

RECORD.

16

THE WITNESS: LISA, L-I-S-A, SCHEININ,

17

S-C-H-E-I-N-I-N.

18

THE CLERK: THANK YOU.

19

THE COURT: YOU MAY INQUIRE.

20

MR. DIXON: THANK YOU, YOUR HONOR. BEFORE I DO

21

SO, THOUGH, COULD I MARK A NUMBER OF EXHIBITS THAT WE'RE

22

GOING TO BE USING WITH THIS WITNESS, IF I COULD?

23

THE COURT: YES.

24

MR. DIXON: FIRST IS PEOPLE'S 67. I BELIEVE

25

THAT'S NEXT IN ORDER.

26

THE COURT: YES, IT IS.

27

MR. DIXON: AN AUTOPSY REPORT FROM LOS ANGELES

28

COUNTY CHIEF MEDICAL EXAMINER CORONER WITH A CASE NUMBER

1 OF 88-02969 FOR MICKEY THOMPSON. PEOPLE'S 67, PLEASE.

2 THE COURT: SO MARKED.

3 (PEOPLE'S EXHIBIT NUMBER 67 MARKED.)

4 MR. DIXON: AS PEOPLE'S EXHIBIT 68, THAT WILL BE
5 DESCRIBED -- AND I SHOULD SAY THAT 67 IS A CERTIFIED
6 COPY. AND I BELIEVE THE EVIDENCE WILL BE THAT IT WAS
7 BROUGHT BY THIS WITNESS.

8 THE COURT: ALL RIGHT.

9 MR. DIXON: PEOPLE'S 68 WOULD BE DESCRIBED IN THE
10 SAME MANNER. IT IS AN AUTOPSY REPORT FOR CASE NUMBER
11 88-026 -- EXCUSE ME -- 88-02868 FOR TRUDY THOMPSON. IT
12 IS ALSO CERTIFIED.

13 THE COURT: SO MARKED, 68.

14 MR. DIXON: MAY THAT BE SO MARKED?

15 (PEOPLE'S EXHIBIT NUMBER 68 MARKED.)

16 MR. DIXON: WE ALSO HAVE A NUMBER OF CHARTS THAT
17 WE'RE GOING TO BE USING AND ACCOMPANYING SMALLER DIAGRAMS
18 FOR THE OVERHEAD. AND IF I COULD MARK THOSE, AS WE HAVE
19 BEEN, THE LARGER CHARTS WITH OUR NUMBER AND THE SMALLER
20 DIAGRAMS AS A, SO THAT -- WE HAVE A LARGE CHART WITH --
21 PAGE 20 DIAGRAM FROM THE CORONER'S REPORT AND FIVE
22 PHOTOGRAPHS MARKED A THROUGH E. MAY THAT BE MARKED AS
23 PEOPLE'S 69 FOR IDENTIFICATION?

24 THE COURT: SO MARKED.

25 MR. DIXON: AND THE SMALLER VERSION OF THAT FOR
26 OF THE OVERHEAD 69-A.

27 THE COURT: YES.

28 MR. DIXON: NEXT IS PEOPLE'S 70 FOR

1 IDENTIFICATION AGAIN, A LARGE CHART WITH ANOTHER PAGE 20
2 THE CORONER'S DIAGRAM WITH TWO PHOTOGRAPHS MARKED A AND B
3 AS PEOPLE'S 70 FOR IDENTIFICATION.

4 THE COURT: SO MARKED.

5 MR. DIXON: AND THE SMALLER VERSION IS 70-A.

6 THE COURT: YES.

7 MR. DIXON: NEXT IS PEOPLE'S 71. YOUR HONOR,
8 THIS IS PAGE 20 FROM THE CORONER'S REPORT DIAGRAM, AND
9 TWO PHOTOGRAPHS, A AND B, FROM THE TRUDY THOMPSON AUTOPSY
10 REPORT. MAY THAT BE MARKED AS PEOPLE'S 71?

11 THE COURT: SO MARKED.

12 MR. DIXON: AND THE SMALLER VERSION AS 71-A. AND
13 LASTLY ON THE CHARTS IS 72 FOR IDENTIFICATION, AGAIN, A
14 CHART FROM THE TRUDY THOMPSON AUTOPSY REPORT CHART, AND
15 ONE PHOTOGRAPH MARKED A AS 72.

16 THE COURT: 72 AND 72-A.

17 MR. DIXON: AND THE SMALLER VERSION AS 72-A. AND
18 LASTLY, WE HAVE A NUMBER OF PHOTOGRAPHS THAT I WOULD LIKE
19 TO BE MARKED THAT WE DON'T HAVE BLOWUPS ON. WE'LL BE
20 USING THE OVERHEAD. IT'S 73 FOR IDENTIFICATION. THIS
21 WOULD BE FROM THE MICKEY THOMPSON AUTOPSY. IT IS A
22 PHOTOGRAPH OF A HAND AND A BULLET WOUND AS 70 --

23 THE COURT: 3.

24 MR. DIXON: -- 3. THANK YOU, YOUR HONOR, FOR
25 IDENTIFICATION. THE NEXT THREE PHOTOGRAPHS ARE FROM THE
26 TRUDY THOMPSON AUTOPSY, 74, SHOWING INJURIES TO THE FACE,
27 PEOPLE'S 74, PLEASE.

28 THE COURT: SO MARKED.

1 MR. DIXON: 75 WOULD BE A SECOND PHOTOGRAPH
2 SHOWING FACIAL INJURIES FROM A DIFFERENT ANGLE.

3 THE COURT: SO MARKED.

4 MR. DIXON: AND LASTLY, 76 FROM THE TRUDY
5 THOMPSON AUTOPSY, PHOTOGRAPHS SHOWING THE BACK WOUND.
6 76, PLEASE.

7 THE COURT: SO MARKED.

8 MR. DIXON: THANK YOU, YOUR HONOR.

9 (PEOPLE'S EXHIBIT NUMBERS 69 THROUGH 76 MARKED.)

10 MR. DIXON: WE ARE GOING TO DO JUST A COUPLE
11 MORE. LASTLY, AS 77 FOR IDENTIFICATION.

12 THE COURT: YES.

13 MR. DIXON: THIS IS THE STATE OF CALIFORNIA DEATH
14 CERTIFICATE FROM THE COUNTY OF LOS ANGELES FOR MICKEY
15 THOMPSON AS 77.

16 THE COURT: SO MARKED.

17 MR. DIXON: AND AS PEOPLE'S 78 FOR
18 IDENTIFICATION, THE SAME DOCUMENT FOR TRUDY THOMPSON.

19 THE COURT: SO MARKED.

20 MR. DIXON: THANK YOU, YOUR HONOR.

21 (PEOPLE'S EXHIBIT NUMBERS 77 AND 78 MARKED.)

22 MR. DIXON: IF I COULD APPROACH.

23 THE COURT: YES.

24

25 DIRECT EXAMINATION

26 BY MR. DIXON:

27 Q I'M GOING TO HAND YOU PEOPLE'S 76 --
28 EXCUSE ME -- 67 AND 68 FOR IDENTIFICATION. AND 77 AND

1 78, WE WILL TALK ABOUT THOSE IN A MOMENT.

2 FIRST, GOOD AFTERNOON, DOCTOR. THANK YOU
3 FOR COMING.

4 A AFTERNOON.

5 Q COULD YOU TELL US WHAT YOUR CURRENT
6 OCCUPATION IS AND YOUR ASSIGNMENT?

7 A I'M A DEPUTY MEDICAL EXAMINER AT THE L.A
8 COUNTY CORONER'S OFFICE.

9 Q HOW LONG HAVE YOU BEEN EMPLOYED THERE?

10 A ABOUT 15 YEARS.

11 Q AND WHAT BACKGROUND TRAINING, EDUCATIONAL
12 BACKGROUND AND LICENSING DO YOU HAVE FOR THAT POSITION?

13 A WELL, I WENT TO COLLEGE AND MEDICAL
14 SCHOOL. AND AFTER MEDICAL SCHOOL, I DID A RESIDENCY IN
15 PATHOLOGY. THAT'S FIVE YEARS OF BASIC TRAINING IN TWO
16 MAJOR DISCIPLINES. ONE IS ANATOMIC PATHOLOGY, WHICH
17 DEALS WITH AUTOPSIES, SURGICAL SPECIMENS, PAP SMEARS AND
18 SIMILAR THINGS. AND THE OTHER IS CLINICAL PATHOLOGY
19 WHICH DEALS WITH LABORATORY MEDICINE. IT'S TRAINING IN
20 BOTH DISCIPLINES.

21 AND AT THE END OF THE FIVE YEARS OF TRAINING, I
22 TOOK THE BOARD CERTIFYING EXAMS FOR BOTH ANATOMIC AND
23 CLINICAL PATHOLOGY, AND I PASSED THOSE. I THEN DID A
24 FELLOWSHIP IN FORENSIC PATHOLOGY, WHICH IS AN ADDITIONAL
25 YEAR OF SUBSPECIALTY TRAINING. FORENSIC PATHOLOGY IS A
26 SUBSPECIALTY OF ANATOMIC PATHOLOGY THAT DEALS WITH
27 PERFORMING AUTOPSIES IN CASES WHERE THE CAUSE OF DEATH IS
28 EITHER NOT NATURAL OR UNKNOWN. AND I DID THAT AT THE L.A

1 COUNTY CORONER'S OFFICE.

2 AFTER THE COMPLETION OF THE YEAR, I TOOK ANOTHER
3 BOARD CERTIFYING EXAM FOR SPECIAL COMPETENCE IN FORENSIC
4 PATHOLOGY, AND I PASSED THAT AS WELL. SO I'M BOARD
5 CERTIFIED IN ANATOMIC CLINICAL AND FORENSIC PATHOLOGY.
6 I'M LICENSED TO PRACTICE MEDICINE IN CALIFORNIA.

7 AND SINCE I DID MY FELLOWSHIP IN FORENSIC
8 PATHOLOGY AT THE CORONER'S OFFICE, I JUST STAYED ON AS A
9 REGULAR EMPLOYEE. SO I HAVE BEEN THERE A LITTLE MORE
10 THAN 15 YEARS NOW, OF WHICH ONE YEAR WAS MY TRAINING
11 YEAR.

12 Q I MAY HAVE A FEW PRELIMINARY QUESTIONS.
13 WHAT DOES IT MEAN TO BE BOARD CERTIFIED? WHAT IS THAT?

14 A IT MEANS THAT YOU'VE -- WELL, FIRST OF
15 ALL, YOU HAVE TO QUALIFY FOR THE BOARDS, MEANING YOU HAVE
16 TO SHOW THEM THAT YOU'VE HAD ENOUGH EDUCATION TO SIT FOR
17 THE EXAM. AND ONCE YOU PASS THE EXAM, IT'S BASICALLY A
18 QUALIFYING EXAM THAT CERTIFIES THAT YOU KNOW ENOUGH TO
19 PRACTICE YOUR SPECIALTY.

20 Q AND THAT'S DONE BY PEERS, OTHER DOCTORS;
21 IS THAT CORRECT?

22 A YES, IT'S THE AMERICAN BOARD OF PATHOLOGY,
23 WHICH IS MADE UP OF OTHER PATHOLOGISTS.

24 Q NEXT LET'S TALK A LITTLE BIT ABOUT THE
25 OFFICE THAT YOU WORK FOR. THE OFFICIAL NAME IS?

26 A THE LOS ANGELES COUNTY DEPARTMENT OF
27 CORONER.

28 Q AND CHIEF MEDICAL EXAMINER IS IN THERE,

1 TOO, ISN'T IT?

2 A YES.

3 Q IS THERE A DIFFERENCE BETWEEN A CORONER
4 AND A CHIEF MEDICAL EXAMINER?

5 A HISTORICALLY, YES. A CORONER COULD BE --
6 WELL, IN THE OLD DAYS, A CORONER WAS JUST AN APPOINTED OR
7 ELECTED OFFICIAL. HE DIDN'T EVEN HAVE TO BE A DOCTOR.
8 BUT IN THE MORE MODERN TIMES, MOST CORONER SYSTEMS, THE
9 CORONERS ARE DOCTORS. THEY DON'T NECESSARILY HAVE TO BE
10 PATHOLOGISTS OR EVEN FORENSIC PATHOLOGISTS. REALLY A
11 MEDICAL EXAMINER IS SPECIFICALLY A FORENSIC PATHOLOGIST.
12 AND A MEDICAL EXAMINER SYSTEM IS CONSIDERED MUCH MORE
13 MODERN THAN THE OLD FASHION CORONER SYSTEM. THE LOS
14 ANGELES DEPARTMENT OF THE CORONER KEEPS OF THE NAME FOR
15 HISTORICAL PURPOSES, BUT IT IS EFFECTIVELY A MEDICAL
16 EXAMINER SYSTEM.

17 Q AND A FORENSIC PATHOLOGIST, WHAT IS THAT?
18 WHAT DOES THAT MEAN?

19 A WELL, THAT'S SYNONOMOUS WITH BEING A
20 MEDICAL EXAMINER. A FORENSIC PATHOLOGIST IS SOMEBODY
21 WHOSE AREA OF EXPERTISE IS DETERMINING A CAUSE AND MANNER
22 OF DEATH IN CASES WHERE THE CAUSES WERE NOT NATURAL OR
23 THE CAUSE IS UNKNOWN.

24 Q THIS IS A BASIC QUESTION. YOUR
25 DEPARTMENT, THE DEPARTMENT OF THE CORONER AND CHIEF
26 MEDICAL EXAMINER, THAT'S A SEPARATE, INDEPENDENT
27 DEPARTMENT IN THE COUNTY OF LOS ANGELES, CORRECT?

28 A YES, IT IS.

1 Q AND YOU ARE NOT ALIGNED WITH THE SHERIFF'S
2 DEPARTMENT?

3 A NO, WE ARE NOT.

4 Q FOR EXAMPLE, SOME COUNTIES ARE LIKE THAT.
5 ORANGE COUNTY IS THE SHERIFF/CORONER, CORRECT?

6 A YES.

7 Q BUT YOU ARE AN INDEPENDENT, STAND-ALONE
8 DEPARTMENT?

9 A YES, WE ARE.

10 Q YOU DON'T WORK FOR THE DISTRICT ATTORNEY,
11 YOU DON'T WORK FOR OF THE SHERIFF'S DEPARTMENT?

12 A THAT'S RIGHT.

13 Q OKAY. AND WHAT IS THE BASIC JOB -- WHAT
14 IS THE MISSION OF THE CORONER'S DEPARTMENT?

15 A BASICALLY TO EVALUATE DEATHS THAT ARE
16 UNNATURAL, TO DETERMINE THE CAUSE AND MANNER, WHEN
17 INJURIES ARE PRESENT, ENUMERATE THE INJURIES AND GIVE AN
18 OPINION AS TO WHETHER OR NOT THEY ARE FATAL OR NOT.
19 ALSO, WHEN THE CAUSE OF DEATH IS UNKNOWN, IT'S OUR JOB TO
20 TRY TO ESTABLISH A CAUSE OF DEATH.

21 Q AND IT DOESN'T ALWAYS HAVE TO BE
22 ASSOCIATED WITH CRIMES; IS THAT CORRECT?

23 A THAT'S ABSOLUTELY TRUE, YES.

24 Q IN AN EARLIER ANSWER, YOU SAID ONE OF THE
25 JOBS WAS TO DETERMINE THE CAUSE AND MANNER OF DEATH. YOU
26 MAY BE ASKED TO DO THAT AND TRY TO DETERMINE WHETHER OR
27 NOT SOMETHING IS A CRIME?

28 A CERTAINLY. IF A PERSON, FOR EXAMPLE,

1 PASSED AWAY AT HOME, LET'S SAY THEY HAVE A HEART ATTACK,
2 BUT THEY HAVEN'T BEEN TO A DOCTOR IN YEARS, AND THEN
3 SOMEONE JUST FINDS THEM DEAD AT HOME, THAT'S EASILY A
4 NATURAL DEATH. BUT BECAUSE NO ONE SAW IT HAPPEN AND NO
5 ONE KNOWS THEIR HISTORY, IT COMES TO THE CORONER'S
6 OFFICE, AND WE HAVE TO MAKE THE DETERMINATION THAT THAT'S
7 A NATURAL DEATH.

8 Q AND WHEN A DEPUTY CORONER SUCH AS YOURSELF
9 CONDUCTS AN AUTOPSY AND MAKES A DETERMINATION OF CAUSE OF
10 DEATH, DO YOU HAVE A NUMBER OF, FOR WANT OF A BETTER
11 TERM, STANDARD OPINIONS THAT YOU RENDER?

12 A YES.

13 Q AND WHAT ARE THOSE? WHAT IS THE RANGE?

14 A WELL, IN TERMS OF THE CAUSE OF DEATH, WE
15 CAN PHRASE IT ANY WAY WE WANT. BUT IN THE MANNER OF
16 DEATH, WE REALLY ONLY HAVE FIVE CHOICES.

17 Q AND THAT'S WHAT I MEANT, MANNER, EXCUSE
18 ME. PLEASE GO ON.

19 A WELL, THERE'S REALLY ONLY FIVE CHOICES.
20 ONE IS NATURAL CAUSES. AND THAT COULD BE ANYTHING FROM,
21 LET'S SAY, A HEART ATTACK, A PNEUMONIA OR ANY INFECTIOUS
22 DISEASES, CANCER. ANYTHING LIKE THAT IS AN EXAMPLE OF A
23 NATURAL CAUSE OF DEATH.

24 HOMICIDE, WHICH IS DEATH AT THE HANDS OF ANOTHER.
25 SUICIDE, WHICH IS INTENTIONAL KILLING OF ONES SELF.
26 ACCIDENT, WHICH IS A RATHER BROAD CATEGORY. IT
27 ENCOMPASSES MOST MOTOR VEHICLE DEATHS, OVERDOSES, FALLS,
28 THINGS LIKE THAT. AND THEN WE ALSO HAVE -- THE FIFTH

1 CATEGORY IS UNDETERMINED FOR CASES WHERE FOR VARIOUS
2 REASONS IT'S JUST NOT POSSIBLE TO ASSIGN IT TO ONE OF THE
3 OTHER FOUR.

4 Q AND THAT DETERMINATION IS MADE AFTER AN
5 AUTOPSY?

6 A IN MOST CASES, YES. THERE ARE SOME CASES
7 THAT ARE NOT AUTOPSIED, BUT A VERY LIMITED NUMBER.

8 Q DOES THE CORONER'S OFFICE -- DID IT -- AND
9 WE'RE GOING TO BE TALKING ABOUT SOME AUTOPSIES AND
10 INVESTIGATIONS THAT OCCURRED IN MARCH OF 1988, AS YOU
11 KNOW. BUT THE CORONER'S OFFICE THEN AND DOES IT NOW
12 EMPLOY INVESTIGATORS?

13 A YES.

14 Q AND COULD YOU TELL US, BASED ON YOUR
15 LENGTHY EXPERIENCE THERE, WHAT EXACTLY A CORONER'S
16 INVESTIGATOR DOES AND WHAT THEY DON'T DO WITH RESPECT TO
17 THE OPERATIONS OF THE CORONER'S OFFICE?

18 A THEY ARE THE ONES FROM OUR OFFICE THAT
19 ACTUALLY GO TO THE SCENE IF THERE IS AN ACCIDENT OR A
20 HOMICIDE OR SOMETHING LIKE THAT. THEY GO THERE. THEY
21 EVALUATE IT. THEY DESCRIBE IT. THEY LOOK AT THE BODY AT
22 THE SCENE. SOMETIMES THEY WILL TAKE A BODY TEMPERATURE;
23 SOMETIMES THEY DON'T. IT DEPENDS ON VARIOUS
24 CIRCUMSTANCES. THEY WILL SPEAK TO THE POLICE OR ANY
25 OTHER WITNESSED TO GET AN IDEA OF WHAT HAPPENS. AND THEN
26 THEY WRITE UP A REPORT FOR US REGARDING WHAT THEY KNOW SO
27 FAR. SOMETIMES THE INFORMATION IS INCOMPLETE. BUT WE
28 BASICALLY GET A REPORT SO WE HAVE A CONTEXT IN WHICH TO

1 EVALUATE THE CASE.

2 Q OKAY. NOW, AN EARLIER ANSWER YOU
3 MENTIONED AN AUTOPSY REPORT OR AN AUTOPSY. CAN YOU
4 DESCRIBE TO US BRIEFLY WHAT AN AUTOPSY IS?

5 A WELL, AN AUTOPSY IS A DISSECTION OF THE
6 BODY. WE, IN MOST CASES AND IN ALL HOMICIDES, DO A
7 COMPLETE AUTOPSY. AND THAT IS EXAMINATION OF THE BRAIN,
8 THE NECK ORGANS AND THE ORGANS OF THE CHEST AND ABDOMEN.
9 SOMETIMES IT'S NECESSARY TO DO SOME ADDITIONAL
10 DISSECTIONS, BUT THAT'S ON A CASE BY CASE BASIS.

11 Q IN YOUR CAREER AT THE CORONER'S OFFICE,
12 I'M SURE YOU'VE DONE MANY AUTOPSIES. DO YOU HAVE ANY
13 ESTIMATE AS TO HOW MANY FOR US?

14 A I WOULD SAY AN EDUCATED GUESS, AT THIS
15 TIME, IS SOMEWHERE BETWEEN 2,500 AND 3,000.

16 Q NOW, EARLIER, WHEN YOU FIRST TOOK THE
17 STAND I PLACED TWO DOCUMENTS -- WELL, A NUMBER OF
18 DOCUMENTS IN FRONT OF YOU, BUT TWO THAT WE'RE GOING FOR
19 TALK ABOUT RIGHT NOW. PEOPLE'S 67 AND PEOPLE'S 68. DO
20 YOU HAVE THOSE BEFORE YOU?

21 A YES, I DO.

22 Q OKAY. LET'S FIRST FOCUS ON PEOPLE'S 67.
23 DO YOU RECOGNIZE THAT?

24 A YES.

25 Q WHAT IS IT?

26 A THIS IS A COPY OF AN AUTOPSY REPORT FROM
27 OUR OFFICE.

28 Q AND WITH RESPECT TO AUTOPSIES DONE AT YOUR

1 OFFICE, ARE THEY -- DO THEY HAVE SOME KIND OF NUMBER?

2 A YES.

3 Q AND DOES THIS HAVE A NUMBER?

4 A YES.

5 Q PEOPLE'S 67?

6 A YES, IT DOES.

7 Q AND WHAT IS THAT NUMBER?

8 A 88-02869.

9 Q AND IT ALSO HAS A NAME?

10 A YES.

11 Q AND THAT IS?

12 A MICKEY THOMPSON.

13 Q WITH RESPECT TO THE NUMBER, IS THAT
14 IMPORTANT IN HOW YOUR OFFICE RUNS, AND COULD YOU EXPLAIN
15 IT TO US?

16 A YES. EACH CASE IS GIVEN ITS OWN UNIQUE
17 IDENTIFYING NUMBER. AND THAT CARRIES OVER THROUGH
18 EVERYTHING, EVERY TEST THAT IS DONE WITH THE PERSON OR --
19 AND ANY BODY FLUIDS OR WHATEVER, ANY TEST THAT WE DO.
20 EVERYTHING CONTAINS THAT NUMBER. THE FIRST PART OF THE
21 NUMBER TO THE LEFT OF THE DASH IS THE YEAR. SO 88
22 INDICATES 1988. THE VERY FIRST CASE THAT COMES IN ON
23 JANUARY 1ST, 1988 GETS THE NO. 1, AND THEN EVERY CASE
24 THAT COMES IN AFTER THAT JUST GETS THE NEXT SEQUENTIAL
25 NUMBER. SO THAT'S HOW WE GENERATE THE NUMBERS. AND THEN
26 AS I SAID, EVERYTHING TO DO WITH THIS CASE WILL HAVE THE
27 SAME NUMBER. SO IF THERE ARE X-RAYS, LAB TESTS, PHOTOS,
28 ANYTHING, THEY WILL ALL HAVE THE SAME CASE NUMBER.

1 Q FOR EXAMPLE, AND WE MAY TALK ABOUT THIS
2 MORE SPECIFICALLY LATER ON, BUT LET'S SAY THAT DURING AN
3 AUTOPSY, A BULLET FRAGMENT IS FOUND INSIDE THE DECEASED.
4 WOULD THAT BE LABELED WITH THIS NUMBER?

5 A YES. THE STANDARD PROCEDURE FOR WHEN WE
6 RECOVER BULLETS OR FRAGMENT OF BULLETS IS WE HAVE A
7 SPECIAL PROJECTILE ENVELOPE THAT WE PUT IT IN. AND THERE
8 IS INFORMATION THAT WE WILL PUT ON IT, INCLUDING THE CASE
9 NUMBER, BUT ALSO THE DATE AND TIME OF RECOVERY AND THE
10 NAME OF THE PERSON RECOVERING IT, THE APPROXIMATE
11 LOCATION, ET CETERA, ET CETERA.

12 Q SO, ANY EVIDENCE THAT'S FOUND,
13 PHOTOGRAPHS, THE AUTOPSY REPORT, THEY ALL HAVE THE SAME
14 NUMBER?

15 A YES.

16 Q SO YOU CAN TRACK THE -- ALL THE
17 INFORMATION WITH RESPECT TO A CERTAIN DECEDENT?

18 A YES.

19 Q LET'S RETURN TO PEOPLE'S 67 FOR
20 IDENTIFICATION. YOU TOLD US IT WAS AN AUTOPSY REPORT,
21 CORRECT?

22 A YES.

23 Q AND HAVE YOU HAD AN OPPORTUNITY TO REVIEW
24 IT THOROUGHLY?

25 A YES, I HAVE.

26 Q IS THE DOCUMENT BEFORE YOU, PEOPLE'S 67,
27 CERTIFIED IN SOME FASHION?

28 A YES, IT IS.

1 Q COULD YOU EXPLAIN THAT, WHAT IS IT?

2 A IT BASICALLY MEANS THAT THIS IS A TRUE
3 COPY OF THE RECORDS. THERE ARE PEOPLE IN OUR OFFICE WHO
4 ARE ALLOWED TO CERTIFY THAT THIS DOES REFLECT THE ACTUAL
5 ORIGINAL DOCUMENT.

6 Q AND THIS IS AN OFFICIAL DOCUMENT, OFFICIAL
7 RECORD OF THE COUNTY CORONER'S DEPARTMENT, CORRECT?

8 A YES, IT IS.

9 Q YOU BROUGHT IT HERE TODAY?

10 A YES.

11 Q AND DOES IT REFLECT AN AUTOPSY
12 INVESTIGATION DONE ON A MICKEY THOMPSON IN 1988?

13 A YES.

14 Q WHAT DATE?

15 A MARCH 17TH.

16 Q 1988 AT 9:00 IN THE MORNING?

17 A YES.

18 Q NOW, WERE YOU THE DOCTOR THAT PERFORMED
19 THIS AUTOPSY?

20 A NO.

21 Q WHO WAS IT?

22 A IT WAS A DR. WEGNER, W-E-G-N-E-R.

23 Q ON MICKEY THOMPSON?

24 A OH, I'M SORRY. I'M SORRY. THAT WAS THE
25 OTHER CASE. THIS IS DR. WILLIAM SHERRY, MY APOLOGIES,
26 S-H-E-R-R-Y.

27 Q AND DO YOU KNOW DR. SHERRY?

28 A YES, I DO.

1 Q IS HE HERE NOW? IS HE IN LOS ANGELES NOW?

2 A NO, HE IS NOT.

3 Q HE'S VACATION?

4 A YES, HE IS.

5 Q AND SO YOU HAVE COME IN AND REVIEWED ALL

6 THE REPORTS. AND ARE YOU PREPARED TO, BASED ON HIS

7 REPORT, GIVE US YOUR OWN OPINIONS AS TO THIS AUTOPSY?

8 A YES.

9 Q LET'S TALK A MINUTE ABOUT DR. SHERRY. DO

10 YOU KNOW HIS EDUCATIONAL BACKGROUND, BRIEFLY?

11 A ONLY IN A VERY GENERAL WAY.

12 Q IT IS A MEDICAL DOCTOR, BOARD CERTIFIED?

13 A YES, HE IS.

14 Q WHEN YOU JOINED THE CORONER'S OFFICE, WAS

15 HE A MEMBER OF THE CORONER'S OFFICE?

16 A YES, HE WAS.

17 Q AND HE STILL IS TODAY?

18 A YES, HE IS.

19 Q NOW, AS LONG AS WE'VE TALK ABOUT THAT,

20 LET'S ALSO TALK ABOUT PEOPLE'S 68 FOR IDENTIFICATION. DO

21 YOU HAVE THAT IN FRONT OF YOU?

22 A YES.

23 Q LIKE PEOPLE'S 67, IS THAT ALSO L.A COUNTY

24 CORONER'S AUTOPSY REPORT THAT IS OFFICIALLY CERTIFIED?

25 A YES.

26 Q IT IS AN OFFICIAL RECORD OF THE DEPARTMENT

27 OF THE CORONER, CORRECT?

28 A YES, IT IS.

1 Q AND THAT REFLECTS THE AUTOPSY
2 INVESTIGATION AND CONCLUSIONS ON A SECOND INDIVIDUAL; IS
3 THAT RIGHT?

4 A YES.

5 Q WHO IS THAT?

6 A THAT IS TRUDY THOMPSON.

7 Q AND DOES THAT REPORT, THE REPORT FOR TRUDY
8 THOMPSON, PEOPLE'S 68, HAVE A DIFFERENT CORONER'S CASE
9 NUMBER?

10 A YES.

11 Q AND IT IS?

12 A 88-02868.

13 Q NOW, HAVE YOU, LIKE PEOPLE'S 67, REVIEWED
14 THAT DOCUMENT EXTENSIVELY?

15 A YES.

16 Q AND ARE YOU FAMILIAR WITH IT?

17 A YES.

18 Q AND PREPARED TO TELL US THE CONCLUSIONS OF
19 THE DOCUMENT AND YOUR OWN PERSONAL OPINIONS WITH RESPECT
20 TO THAT AUTOPSY TODAY?

21 A YES.

22 Q WHO PERFORMED THE AUTOPSY ON TRUDY
23 THOMPSON?

24 A THAT WAS DR. WEGNER, W-E-G-N-E-R.

25 Q IS DR. WEGNER STILL ALIVE?

26 A NO, HE IS NOT.

27 Q HE PASSED SOME TIME AGO?

28 A YES, HE DID.

1 Q DID YOU EVER WORK IN THE CORONER'S OFFICE
2 WITH HIM, THOUGH?

3 A YES.

4 Q WHEN WAS THAT?

5 A THE FIRST YEAR, MAYBE TWO YEARS I WAS
6 THERE.

7 Q AND LIKE DR. SHERRY, DID YOU INTERACT WITH
8 HIM?

9 A YES.

10 Q AND AT THE TIME, OF COURSE, HE WAS A
11 MEDICAL DOCTOR, LICENSED AND BOARD CERTIFIED?

12 A YES.

13 Q ALL RIGHT. IF WE COULD, LET'S FOCUS ON
14 PEOPLE'S 67, THE AUTOPSY OF MICKEY THOMPSON. ALL RIGHT?

15 MR. DIXON: AND WITH THE COURT'S PERMISSION, MAY
16 I APPROACH, PLEASE?

17 THE COURT: YES.

18 MR. DIXON: I'M GOING TO PLACE PEOPLE'S 69 ON THE
19 BOARD HERE, AND WE'RE GOING TO PUT IT ALSO ON THE
20 OVERHEAD.

21 Q BY MR. DIXON: NOW, AFTER YOUR REVIEW OF
22 THE AUTOPSY REPORT FOR MICKEY THOMPSON, PEOPLE'S 67, DID
23 YOU DO ANYTHING ELSE TO PREPARE FOR YOUR TESTIMONY TODAY
24 AND TO GIVE THE JURY AND THE COURT YOUR OPINIONS WITH
25 RESPECT TO THE DEATH OF MICKEY THOMPSON? WHAT ALL DID
26 YOU DO?

27 A YES. I REVIEWED THE PHOTOGRAPHS OF THE
28 CASE.

1 Q WE PUT UP PEOPLE'S 69 FOR IDENTIFICATION.
2 AS YOU CAN SEE, IT IS A CHART IN THE MIDDLE, WHICH I'M
3 GOING TO ASK YOU A FEW QUESTIONS ABOUT, AND SURROUNDED BY
4 FIVE PHOTOGRAPHS MARKED A THROUGH E; DO YOU SEE THAT?

5 A YES.

6 Q THE PHOTOGRAPHS A THROUGH E, YOU JUST
7 MENTIONED THAT YOU LOOKED AT THE CORONER'S PHOTOGRAPHS IN
8 THIS CASE. AS YOU LOOK AT PEOPLE'S 69, THE PHOTOGRAPHS A
9 THROUGH E, DO THOSE APPEAR TO BE CORONER'S PHOTOGRAPHS?

10 A YES.

11 Q WHY DO YOU SAY THAT?

12 A THEY HAVE THE BLUE IDENTIFYING TAG. THIS
13 IS A FULL -- IT IS A SCALE THAT HAS INCHES ON IT SO YOU
14 CAN GET A PROSPECTIVE OF SIZE. IT ALSO HAS THE CORONER'S
15 OFFICE SEAL, AND IT HAS THE CASE NUMBER IT.

16 Q THE SAME CASE NUMBER WE'VE TALKED ABOUT
17 FOR THE MICKEY THOMPSON AUTOPSY 88-02869, CORRECT?

18 A YES.

19 Q AND SO BECAUSE OF THAT, YOU KNOW THOSE ARE
20 CORONER'S PHOTOGRAPHS?

21 A YES.

22 Q THE FIVE CORONER'S PHOTOGRAPHS THAT WE SEE
23 ON PEOPLE'S 69, ARE THOSE THE ONLY PHOTOGRAPHS, OR WERE
24 THERE MANY MORE TAKEN?

25 A THERE WERE MORE TAKEN.

26 Q AND YOU REVIEWED ALL OF THEM --

27 A YES, I DID.

28 Q -- IN CONNECTION WITH DR. SHERRY'S REPORT?

1 A YES.

2 Q THE CHART THAT WE SEE IN THE MIDDLE OF THE
3 EXHIBIT, PEOPLE'S 69, DO YOU RECOGNIZE THAT?

4 A YES.

5 Q WHAT IS IT?

6 A THIS IS A FORM -- THE FORM NUMBER GOES IN
7 THE UPPER CORNER. IT IS CALLED A FORM 20, AND IT IS A
8 FRONT AND BACK BODY DIAGRAM.

9 Q IS THAT STANDARD TO USE THIS FORM AT THE
10 CORONER'S OFFICE?

11 A YES, IT IS.

12 Q AND THE PURPOSE FOR IT IS?

13 A I WAS USED FOR MANY PURPOSES, PRIMARILY TO
14 REPORT ANATOMIC FINDINGS. WE WILL PUT THE APPROXIMATE
15 LOCATION OF ANY INJURIES, AS WELL AS OCCASIONALLY WE WILL
16 USE IT TO RECORD SCARS AND TATOOS AND OTHER IDENTIFYING
17 FEATURES.

18 Q AND THE PHOTOGRAPHS THAT WE'VE TALKED
19 ABOUT, FOR EXAMPLE, THESE IN EXHIBIT 69, ARE THEY TAKEN
20 AT OR NEAR THE TIME OF THE AUTOPSY?

21 A YES, THEY ARE EITHER TAKEN THE MORNING OF
22 THE AUTOPSY OR THE DAY BEFORE THE AUTOPSY.

23 Q AT THE DOCTOR'S DIRECTION?

24 A YES.

25 Q NOW I'M GOING TO ASK YOU SOME QUESTIONS
26 ABOUT THIS AUTOPSY AND YOUR OPINION. WITH THE COURT'S
27 PERMISSION, IF YOU FEEL IT WOULD BE HELPFUL TO STEP DOWN
28 FROM THE WITNESS STAND AND USE THE POINTER HERE, I'M NOT

1 SURE WE'RE QUITE THERE YET, BUT WE MAY GET THERE, AND
2 I'LL JUST REMIND YOU THAT THE POINTER IS RIGHT HERE.

3 YOU SAID EARLIER ONE OF THE JOBS OF THE
4 CORONER'S OFFICE IN CONDUCTING AN AUTOPSY WAS TO
5 DETERMINE THE CAUSE OF DEATH; IS THAT CORRECT?

6 A YES.

7 Q AND BASED ON YOUR REVIEW OF DR. SHERRY'S
8 REPORT, PEOPLE'S 67, AND YOUR OWN REVIEW OF ALL
9 INFORMATION THAT YOU HAVE BEFORE YOU, WHAT WAS THE CAUSE
10 OF DEATH OF MICKEY THOMPSON?

11 A MULTIPLE GUNSHOT WOUNDS.

12 Q AND DID, IN REVIEWING THIS INFORMATION,
13 FIND MORE THAN ONE GUNSHOT WOUND?

14 A YES.

15 Q HOW MANY?

16 A SEVEN.

17 Q AND DOES PEOPLE'S 69 FOR IDENTIFICATION,
18 THE DOCUMENT WE HAVE BEFORE YOU, MEMORIALIZE ALL BUT ONE
19 OF THOSE?

20 A YES, IT DOES. IT MEMORIALIZED 1 THROUGH
21 7.

22 Q AND LET'S START TALKING ABOUT THOSE THEN.
23 THE CORONER'S OFFICE -- AND YOU TELL ME -- WELL, LET ME
24 WITHDRAW THAT AND ASK YOU THIS: THE GUNSHOT WOUNDS ARE
25 NUMBERED; IS THAT RIGHT?

26 A YES.

27 Q AND IN THIS CASE, HOW MANY GUNSHOT WOUNDS
28 DID DR. SHERRY FIND IN MICKEY THOMPSON'S BODY?

1 A A TOTAL OF SEVEN.

2 Q NOW, THERE ARE NUMBERED 1 THROUGH 7. DOES
3 THAT -- DO THE NUMBERS MEAN ANYTHING, IN TERMS OF WHICH
4 GUNSHOT WOUND HE RECEIVED FIRST OR SECOND OR LAST?

5 A NO, ABSOLUTELY NOT. THE NUMBERS ARE
6 STRICTLY FOR OUR CONVENIENCE.

7 Q HAVING SAID THAT, LET'S FOLLOW THE NUMBERS
8 AND FIRST TALK ABOUT GUNSHOT WOUND NO. 2, WHICH IS THE
9 ONE THAT IS SHOWN -- THE FIRST ONE SHOWN ON THIS EXHIBIT,
10 PEOPLE'S 69. AND AGAIN, IF YOU WOULD LIKE TO USE THE
11 POINTER OR STEP DOWN, FEEL FREE TO. COULD YOU DESCRIBE
12 THE WOUND FOR US, PLEASE?

13 A THE ENTRANCE WOUND WAS ON THE RIGHT SIDE
14 OF THE UPPER ABDOMEN. ON -- THE DIAGRAM 20 CORRESPONDS
15 TO THIS LITTLE BLACK DOT RIGHT HERE. AND IN THE
16 PHOTOGRAPHS, IT IS THE ONE THAT'S FURTHEST TO YOUR LEFT
17 AS YOU LOOK AT THE PHOTO. IF YOU LOOK AT PHOTO A, THIS
18 IS HIS NAVEL RIGHT HERE. AND IS THERE A CLUSTER OF THREE
19 GUNSHOT WOUNDS RIGHT HERE. THE ONE THAT'S FURTHEST TO
20 THE LEFT OF THE PICTURE, FURTHEST TO THE RIGHT OF HIS
21 ABDOMEN IS NO. 2.

22 Q THAT'S THE ENTRY?

23 A YES.

24 Q AND DID DR. SHERRY FIND AN EXIT?

25 A YES, HE DID.

26 Q AND COULD YOU, USING PEOPLE'S 69, TELL US
27 WHERE THAT'S LOCATED AND DESCRIBE IT, PLEASE?

28 A THE EXIT WOUND WAS ON THE RIGHT LOWER

1 RIGHT SIDE OF THE BACK. IT'S THIS SMALL CIRCLE HERE ON
2 THE DIAGRAM. AND IN PHOTO E, IT CORRESPONDS TO THIS
3 WOUND RIGHT HERE. IT'S A LITTLE HARD TO GET A
4 PROSPECTIVE FROM THIS, BUT IF YOU LOOK RIGHT DOWN HERE,
5 THIS IS THE MIDDLE LINE BETWEEN THE BUTTOCKS. SO YOU CAN
6 SEE THIS IS A LITTLE ABOVE THE BUTTOCKS ON THE RIGHT SIDE
7 OF THE BACK.

8 Q SO WITH GUNSHOT WOUND NO. 2, HE WAS SHOT
9 JUST SLIGHTLY TO THE LEFT SIDE ABOVE HIS NAVEL, CORRECT?

10 A IT'S TO HIS RIGHT.

11 Q OKAY. TO HIS RIGHT, AND THEN CAME OUT IN
12 HIS BACK JUST ABOVE THE WAISTLINE; IS THAT FAIR TO SAY?

13 A ABOVE OR MAYBE SLIGHTLY AT THE WAISTLINE.

14 Q AND WITH RESPECT TO YOUR LAST COUPLE
15 ANSWERS, YOU ARE REFERRING TO CERTAIN PHOTOGRAPHS IN
16 PEOPLE'S 69. COULD YOU TELL US WHICH ONES THOSE WERE? I
17 THINK IT WAS A AND D.

18 A A AND E.

19 Q THANK YOU.

20 A A SHOWS THE ENTRANCE WOUND, AND E SHOWS
21 THE EXIT WOUND.

22 Q DOES THE CORONER'S OFFICE OR DOES A DOCTOR
23 LIKE YOURSELF WORKING FOR THE CORONER'S OFFICE SOMETIMES
24 OR OFTEN CHARACTERIZE A WOUND AS FATAL OR NOT FATAL?

25 A YES, OR POTENTIALLY FATAL ALSO. THOSE ARE
26 THE THREE THAT I USE. MOST OF US USE THE SAME SYSTEM.

27 Q AND IF YOU WOULD LIKE TO SIT DOWN AT ANY
28 TIME WHILE WE'RE DISCUSSING THIS, PLEASE FEEL FREE TO DO

1 SO. CAN YOU EXPAND ON THAT OR EXPLAIN IT, PLEASE?

2 A WELL, A FATAL WOUND IS ANY WOUND THAT
3 COULD BE EXPECTED TO CAUSE A PERSON'S DEATH. A NONFATAL
4 WOUND WOULD NOT. THERE ARE SOME INJURIES THAT CAN BE
5 LOCALLY DEVASTATING, BUT MAY NOT KILL THE PERSON, SUCH AS
6 A WOUND TO THE ARM OR THE LEG.

7 AND THEN THERE ARE POTENTIALLY FATAL WOUNDS THAT
8 COULD POSSIBLY KILL SOMEBODY, BUT NOT RIGHT AWAY, BUT
9 THERE COULD BE CONSEQUENCES FURTHER DOWN THE ROAD IF HE
10 SURVIVES THE INITIAL INJURY. FOR EXAMPLE, ANY WOUND THAT
11 GOES THROUGH A BODY CAVITY CAN AN INFECTION. SO IF YOU
12 HAVE A WOUND THAT GOES INTO A BODY CAVITY AND HITS A
13 NON-VITAL ORGAN SUCH AS THE STOMACH OR THE INTESTINE OR
14 SOMETHING, AND THE PERSON SURVIVES THAT, THEY CAN STILL
15 GET AN INFECTION BECAUSE YOU HAVE A FOREIGN BODY THAT'S
16 NOT STERILE GOING THROUGH THE PERSON'S BODY. THEY CAN
17 GET A PERITONITIS OR IF IT GOES THROUGH A LUNG OR
18 SOMETHING, THEY MIGHT GET PNEUMONIA. BUT THAT CAN
19 ULTIMATELY BE FATAL FROM THE CONSEQUENCES OF THE
20 INFECTION.

21 SO WHENEVER WE SEE SOMETHING THAT CAN CAUSE
22 SOMETHING FATAL FURTHER DOWN THE LINE, IT CAN BE A
23 POTENTIALLY FATAL WOUND.

24 Q AND THEN THE LAST CATEGORY IS NONFATAL?

25 A YES.

26 Q AND I THINK WE HAVE -- NOT TO JUMP IN TO
27 TOO MUCH, BUT WE'LL COME BACK. WE HAVE TWO OTHER WOUNDS
28 HERE, 6 AND 7, CORRECT?

1 A YES.

2 Q AND WE WILL TALK ABOUT THEM IN DETAIL, BUT
3 BASICALLY THEY WENT THROUGH MR. THOMPSON'S HAND; IS THAT
4 RIGHT?

5 A YES.

6 Q THOSE WOULD BE NONFATAL?

7 A THAT'S CORRECT.

8 Q WHEN YOU CHARACTERIZE A WOUND AS FATAL,
9 ARE YOU SUGGESTING HOW QUICKLY SOMEONE WOULD DIE FROM AT
10 THAT WOUND, IMMEDIATELY OR WITHIN AN HOUR FROM BLEEDING
11 OUT? IS THERE ANY SUGGESTION IN YOUR LABELING A WOUND AS
12 FATAL AS TO HOW LONG IT MIGHT TAKE?

13 A NO. YOU CAN HAVE A WOUND THAT CAN BE VERY
14 RAPIDLY FATAL, BUT YOU CAN ALSO HAVE ONE THAT WILL CAUSE
15 DEATH OVER A PERIOD OF TIME. SO THERE IS NO IMPLICATION
16 AS TO SPEED.

17 Q WITH RESPECT TO GUNSHOT WOUND NO. 2, WHICH
18 YOU'VE DESCRIBED THE ENTRANCE AND EXIT WOUNDS, COULD YOU
19 BRIEFLY TELL US THE PATH THROUGH THE BODY AND WHAT DAMAGE
20 TO MR. THOMPSON'S BODY THAT DID?

21 A WELL, ESSENTIALLY, ACCORDING TO THE
22 REPORT, IT ENTERED THE ABDOMEN AND WENT THROUGH THE
23 ABDOMEN AND EXITED THE BACK. WITHIN THE ABDOMEN, THERE
24 WERE THREE PERFORATIONS OF THE SMALL BOWEL. DR. SHERRY
25 NOTE THAT HAD NO. 4, WHICH WE WILL GET TO, ALSO GOES
26 THROUGH A SIMILAR AREA. AND HE FOUND IT DIFFICULT TO SAY
27 EXACTLY WHICH THREE WOUNDS WERE CAUSED BY -- SORRY --
28 WHICH THREE WOUNDS OF THE SMALL BOWEL WERE CAUSED BY THE

1 GUNSHOTS 2 OR 4. IT COULD BE ANY COMBINATION. ALL THREE
2 COULD HAVE BEEN CAUSED BY NO. 2; ALL THREE WOUNDS COULD
3 HAVE BEEN CAUSED BY NO. 4; OR THEY COULD HAVE EACH CAUSED
4 SOME OF THE WOUNDS. SO HE FOUND THAT DIFFICULT TO
5 DETERMINE. BUT THOSE WERE THE ONLY WOUNDS THAT HE
6 DESCRIBED INTERNALLY IN ASSOCIATION WITH GUNSHOT WOUND
7 NO. 2.

8 Q DID DR. SHERRY, OR DID YOU IN YOUR REVIEW
9 OF THIS, DETERMINE WHETHER OR NOT IN YOUR OPINION THIS
10 WAS A FATAL WOUND?

11 MS. SARIS: OBJECTION, COMPOUND.

12 MR. DIXON: OKAY. I'LL WITHDRAW AND ASK --

13 Q BY MR. DIXON: DID YOU -- DID DR. SHERRY,
14 IN HIS REPORT THAT YOU REVIEWED, DETERMINE OR STATE
15 WHETHER OR NOT THIS WAS A FATAL WOUND?

16 A HE MADE NO DETERMINATION AS TO FATALITY OR
17 NON-FATALITY.

18 Q YOUR OPINION?

19 A IN MY OPINION, I WOULD CALL THIS
20 POTENTIALLY FATAL BECAUSE OF THE LONG-TERM POSSIBILITY OF
21 PERITONITIS, BUT IT CERTAINLY WOULD NOT HAVE BEEN
22 IMMEDIATELY FATAL. IT WOULD HAVE TAKEN AWHILE IF THIS
23 WAS THE ONLY WOUND THAT HE HAD SUFFERED.

24 Q AND YOU USED A MEDICAL TERM THERE, PER --

25 A PERITONITIS. INFECTION OF THE ABDOMEN
26 CAST.

27 Q ALL RIGHT. THANK YOU. IN READING
28 DR. SHERRY'S REPORT, I WANTED TO ASK YOU ABOUT A COUPLE

1 MORE ITEMS. HE NOTES THAT NO PROJECTILE WAS RECOVERED AT
2 THE AUTOPSY.

3 A THAT IS CORRECT.

4 Q AND WHAT DOES THAT MEAN? CAN YOU EXPAND
5 ON THAT?

6 A THAT MEANS THAT THERE WERE NO BULLETS IN
7 THE BODY AT ALL OR IN THE CLOTHING. SOMETIMES WE WILL
8 FIND BULLETS STUCK IN THE CLOTHING. BUT IN THIS
9 PARTICULAR CASE, THERE WAS NO BULLET, NO FRAGMENT OF A
10 BULLET OR ANY OTHER TYPE OF PROJECTILE, WHICH IS ANYTHING
11 THAT IS FIRED OUT OF A GUN OR RIFLE, IN THE BODY.

12 Q AND JUST SO I DON'T HAVE TO ASK THAT OVER
13 AND OVER AGAIN, WITH RESPECT TO EACH OF THE SEVEN WOUNDS
14 WE'RE GOING TO TALK ABOUT, WITH RESPECT TO THE AUTOPSY
15 CONDUCTED ON MICKEY THOMPSON, NO PROJECTILES WERE
16 RECOVERED IN ANY WAY; IS THAT CORRECT?

17 A THAT IS CORRECT.

18 Q I ALSO NOTE, IN REVIEWING DR. SHERRY'S
19 REPORT, WITH RESPECT TO THIS GUNSHOT WOUND, YOU SAID NO
20 SOOT OR STIPPLING ARE PRESENT. WHAT DOES THAT MEAN?

21 A SOOT AND STIPPLING ARE CHARACTERISTICS OF
22 ENTRANCE WOUNDS THAT, WHEN PRESENT, WE CAN USE TO HELP
23 ESTABLISH A RANGE OF FIRE.

24 Q CAN YOU -- AND WE WON'T DO THIS WITH EVERY
25 WOUND, BUT CAN YOU EXPAND ON THAT NOW AND TELL US A
26 LITTLE BIT MORE ABOUT -- BASED ON YOUR BACKGROUND AND
27 EXPERIENCE? WE'RE TALKING ABOUT RANGE THAT THE GUN -- OR
28 THE DISTANCE THE GUN WAS FROM THE BODY AT THE TIME THAT

1 IT WAS FIRED; IS THAT CORRECT?

2 A YES.

3 Q COULD YOU EXPAND ON THAT, PLEASE, AND WHAT
4 SOOT AND STIPPLING TELLS YOU ABOUT THAT?

5 A WELL, SOOT IS BASICALLY CARBON MATERIAL.
6 AND IT'S PRODUCED BY ANY KIND OF EXPLOSION OR FIRE. IF
7 YOU HAVE A FIREPLACE, THE BLACK STUFF THAT ACCUMULATES IN
8 THE BACK OF THE FIREPLACE IS CALLED SOOT. SO WHEN A GUN
9 IS FIRED, YOU GET SOOT BECAUSE OF THE COMBUSTION OF THE
10 PROPELLENT THAT FIRES THE BULLET. AND WHEN YOU HAVE SOOT
11 ON AN ENTRY WOUND, SOOT AND SOOT ALONE, THAT INDICATES
12 THAT YOU'RE DEALING WITH A CONTACT OR NEAR CONTACT WOUND,
13 WHICH MEANS THAT THE MUZZLE THE GUN IS EITHER RIGHT UP
14 AGAINST THE SKIN OR A VERY, VERY SHORT DISTANCE FROM THE
15 SKIN. TEXTBOOKS SAY THAT THE DISTANCE IS NO MORE THAN 10
16 MILLIMETERS, WHICH IS ABOUT A HALF AN INCH.

17 OKAY. THE SECOND COMPONENT THAT WE LOOK FOR IS
18 WHETHER THERE IS STIPPLING. NOW, STIPPLING REFERS TO
19 LITTLE TINY PINPOINT ABRASIONS THAT ARE PRODUCED WHEN
20 UNBURNED GUN POWDER STRIKES THE SKIN. WHEN A BULLET IS
21 FIRED, THERE IS PIECES OF GUN POWDER THAT ARE NOT
22 IGNITED, AND THEY EXIT WITH THE BULLET. AND WHEN THEY
23 STRIKE THE SKIN, THEY MAKE A PHYSICAL WOUND. IT IS A
24 LITTLE TINY ABRASION. IT'S A SCRAPING OF THE SKIN. IT
25 LOOKS LIKE SMALL RED FRECKLES.

26 AND WHEN WE SEE THAT, THAT DEFINES THE
27 INTERMEDIATE RANGE OF FIRE. AND THAT STARTS AT THAT
28 APPROXIMATELY ONE-HALF INCH RANGE WHERE THE CLOSE RANGE

1 WOUND LEAVES OFF, AND GOES OUT TO A MAXIMUM OF
2 APPROXIMATELY TWO FEET.

3 SO WHEN YOU HAVE SOOT, AND SOOT ALONE, YOU ARE
4 DEALING WITH A CONTACT OR NEAR CONTACT WOUND. WHEN YOU
5 HAVE STIPPLING, YOU'RE DEALING WITH AN INTERMEDIATE RANGE
6 WOUND, WHICH IS DEFINED AS UP TO APPROXIMATELY TWO FEET.

7 WHEN YOU HAVE NEITHER SOOT OR STIPPLING, YOU HAVE
8 TWO POSSIBILITIES. NUMBER ONE IS THAT YOU'RE DEALING
9 WITH A DISTANT WOUND, WHICH IS ANYTHING BEYOND TWO FEET.
10 BEYOND TWO FEET, THEY ALL LOOK SIMILAR. SO A WOUND
11 THAT'S AT FIVE FEET WILL LOOK THE SAME AS A WOUND THAT'S
12 AT 55 OR 105 FEET. SO IT MIGHT BE A TRULY DISTANT WOUND.
13 BUT THE ANOTHER POSSIBILITY IS THAT YOU CAN'T TELL, AND
14 THE RANGE OF FIRE IS IT INDETERMINATE.

15 AND THE REASON WE HAVE THAT CATEGORY IS THAT
16 SOMETIMES -- SOMETIMES THE BULLET PASSES THROUGH A PART
17 OF THE BODY THAT'S COVERED UP EITHER BY CLOTHING OR BY
18 HAIR. AND THE SOOT OR THE GUN POWDER, WHICH WOULD CAUSE
19 THE STIPPLING, CAN BE STOPPED ESSENTIALLY BY THE CLOTHING
20 OR BY THE HAIR.

21 SO WHEN YOU ARE DEALING WITH A PART OF THE BODY
22 THAT IS NORMALLY COVERED BY CLOTHES OR HAIR, AND YOU
23 DON'T HAVE AN OPPORTUNITY TO EXAMINE THOSE WELL, YOU MAY
24 NOT BE ABLE TO DETERMINE OF THE RANGE OF FIRE BECAUSE YOU
25 JUST DON'T KNOW IF THE SOOT OR THE POWDER IS DEPOSITED ON
26 THE CLOTHING OR THE HAIR. AND THAT'S WHEN WE USE THE
27 INDETERMINATE RANGE OF FIRE.

28 Q AND AGAIN, SO I DON'T HAVE TO ASK YOU THE

1 SAME QUESTION WITH ALL SEVEN OF THE WOUNDS WITH RESPECT
2 TO MICKEY THOMPSON, YOUR REVIEW OF DR. SHERRY'S AUTOPSY
3 REPORT, DOES THAT INDICATE THERE WAS NO SOOT OR STIPPLING
4 WITH RESPECT TO ANY OF THESE INJURIES, ANY OF THESE
5 WOUNDS?

6 A THAT'S CORRECT. HE DIDN'T SEE SOOT OR
7 STIPPLING IN ANY OF THE ENTRIES.

8 Q AND BASED ON YOUR REVIEW OF THE REPORT AND
9 THE PHOTOGRAPH, DO YOU AGREE OR DISAGREE WITH THAT?

10 A IN MY REVIEW OF THE PHOTOGRAPHS, I DIDN'T
11 SEE SOOT OR STIPPLING EITHER.

12 MR. DIXON: MAY I APPROACH?

13 THE COURT: YES.

14 MR. DIXON: THANK YOU.

15 Q BY MR. DIXON: NOW, WITH RESPECT TO THE
16 TERMINOLOGY THAT THE CORONER'S OFFICE USES, WHAT WERE THE
17 THREE CATEGORIES?

18 A OF RANGE OF FIRE?

19 Q RIGHT. EXACTLY.

20 A WELL, THERE WAS ACTUALLY FOUR.

21 Q OKAY.

22 A THERE IS CONTACT AND NEAR CONTACT,
23 INTERMEDIATE, DISTANT OR INDETERMINATE.

24 Q RIGHT. AND THE DISTANCE IS ANY -- A
25 DISTANT WOUND WOULD BE ANYTHING TWO FEET OR FARTHER?

26 A RIGHT.

27 Q AND I COULD BE TWO FEET FROM YOU NOW --

28 MR. DIXON: I DON'T KNOW IF YOU AGREE, YOUR

1 HONOR. IS THAT CLOSE?

2 THE COURT: IT'S CLOSE.

3 MR. DIXON: OKAY.

4 Q BY MR. DIXON: I COULD BE AS FAR AS WE ARE
5 FROM EACH OTHER AND FIRE A WEAPON, AT LEAST THE WEAPON
6 COULD BE TWO FEET FROM YOU, AND YOU WOULD CHARACTERIZE
7 THAT -- OR THE CORONER'S OFFICE WOULD CHARACTERIZE THAT
8 AS A DISTANT WOUND; IS THAT RIGHT?

9 A CORRECT.

10 Q ALL RIGHT. LET'S NOW TURN TO GUNSHOT
11 WOUND NO. 3, PLEASE. USING PEOPLE'S 69 FOR
12 IDENTIFICATION AND THE ACCOMPANYING PHOTOGRAPHS, COULD
13 YOU DESCRIBE THE ENTRANCE WOUND AND IF THERE WAS AN EXIT
14 WOUND, AND THEN I'LL HAVE MORE QUESTIONS FOR YOU?

15 A YES. OKAY. THE ENTRANCE WOUND IS ONE OF
16 THE THREE WOUNDS THAT IS ON HIS UPPER ABDOMEN. IT'S THE
17 ONE THAT'S ESSENTIALLY IN THE CENTER OF THE THREE WOUNDS.
18 IT'S THIS MIDDLE DOT ON THE PHOTOGRAPH -- I'M SORRY, ON
19 THE DIAGRAM. AND ON PHOTOGRAPH A, IT IS THIS ONE RIGHT
20 HERE, THE ONE THAT IS MORE OR LESS IN THE CENTER OF THE
21 OTHER TWO. SO THIS IS YOUR ENTRANCE WOUND HERE.

22 Q AND DID YOU -- DID DR. SHERRY FIND AN EXIT
23 WOUND?

24 A YES. THE EXIT WOUND WAS ALSO ON THE
25 ABDOMEN, BUT LOWER DOWN AND MORE TO HIS RIGHT. IN THE
26 DIAGRAM, IT IS THIS WOUND RIGHT HERE IN THE LOWER RIGHT
27 ABDOMEN. AND IN THE PHOTOGRAPHS IT CORRESPONDS TO THIS
28 WOUND RIGHT HERE IN PHOTOGRAPH B.

1 Q AND COULD YOU DESCRIBE WHAT INJURIES, WHAT
2 DAMAGE THAT DID TO MR. THOMPSON'S BODY AS IT WENT THROUGH
3 HIS BODY?

4 A WELL, THIS DID VERY LITTLE DAMAGE. IT
5 ESSENTIALLY WENT FROM THE UPPER ABDOMEN TO THE LOWER
6 ABDOMEN, BUT IT ONLY PASSED THROUGH THE FAT AND SOFT
7 TISSUE OF THE ABDOMINAL WALL. IT DID NOT ACTUALLY ENTER
8 THE ABDOMINAL CAVITY, WHICH IS THE AREA WHERE THE ORGANS
9 ARE. SO IT IS -- CERTAINLY WOULD HAVE HURT, BUT IT
10 DIDN'T REALLY CAUSE ANY SIGNIFICANT DAMAGE.

11 Q NONFATAL?

12 A YES.

13 Q NEXT, WOUND NO. 4, GUNSHOT WOUND NO. 4,
14 PLEASE?

15 A WOUND NO. 4 IS THE THIRD OF THESE LITTLE
16 CLUSTERED GUNSHOT WOUNDS. THIS IS THE ONE THAT IS MOSTLY
17 TO HIS LEFT. IT'S THIS LITTLE DOT ON THE DRAWING. AND
18 IT IS THIS ENTRANCE WOUND IN PHOTO A. SO IT'S THE ONE
19 THAT'S MOSTLY TO THE RIGHT OF THE PHOTO. IT'S THE ONE
20 THAT'S MORE TO HIS LEFT.

21 Q THE EXIT WOUND?

22 A THE EXIT WOUND WAS IN THE RIGHT BUTTOCK.
23 IN THE DIAGRAM IT'S THIS DOT HERE. AND IN PHOTOGRAPH E,
24 IT IS THIS DOT RIGHT DOWN HERE THE TOWARD THE LOWER EDGE
25 OF THE PHOTOGRAPH.

26 Q AND WAS THAT FATAL OR NONFATAL, OR CAN YOU
27 DESCRIBE FOR US?

28 A THIS WAS FELT TO BE A FATAL WOUND. THE

1 BULLET WAS GOING DOWNWARD AND TO HIS RIGHT. AND IN SO
2 DOING, IT WENT THROUGH THE ABDOMINAL CAVITY. NOW, AS
3 I'VE ALREADY MENTIONED THAT THERE ARE THREE PERFORATIONS
4 OF THE SMALL BOWEL THAT THEY COULDN'T PRECISELY ATTRIBUTE
5 TO GUNSHOT WOUND 4 VERSUS 2. BUT SPECIFICALLY ASSOCIATED
6 WITH GUNSHOT WOUND NO. 4 IN THE PELVIC AREA, AS IT'S
7 EXITING THE ABDOMEN, IT WENT THROUGH ONE OF THE ILIAC
8 VEINS. AND THIS IS A MAJOR VEIN COMING UP FROM THE LEG
9 INTO THE ABDOMEN, AND THERE WAS BLEEDING ASSOCIATED WITH
10 THAT. I WOULD HAVE TO CHECK THE REPORT TO BE SURE, BUT I
11 BELIEVE HE HAD APPROXIMATELY TWO LITERS OF BLOOD IN HIS
12 ABDOMEN, AND THAT'S A LOT OF BLOOD. THAT'S THE ONLY
13 WOUND DESCRIBED THAT HE HAD IN THE ABDOMEN THAT WOULD
14 HAVE CAUSED THIS AMOUNT OF BLOOD LOSS WITHIN THE ABDOMEN.
15 SO THAT'S WHAT MAKES IT A FATAL WOUND.

16 Q AND YOUR RECOLLECTION IS, OR WOULD YOU
17 LIKE TO TAKE A MOMENT AND CHECK YOUR REPORT?

18 A LET ME JUST DOUBLE-CHECK. I'LL GIVE YOU
19 THE PRECISE AMOUNT. HE SAYS APPROXIMATELY TWO LITERS,
20 AND SPECIFICALLY, THE VESSEL IS THE RIGHT EXTERNAL ILIAC
21 VEIN.

22 Q NOW, YOU SAID THAT THERE WAS -- DR. SHERRY
23 FOUND A GREAT DEAL OF BLOOD, AND YOU TOLD US HOW MUCH, IN
24 HIS BODY; IS THAT CORRECT?

25 A YES.

26 Q THIS WOUND WOULD HAVE BLED A LOT?

27 A WELL, TWO LITERS OF BLOOD IN THE ABDOMEN
28 IS CERTAINLY A LOT OF BLOOD.

1 Q AND WOULD YOU HAVE BEEN -- WOULD YOU, IN
2 YOUR OPINION, THINK THAT IT WOULD BLEED A LOT EXTERNALLY?

3 A IT CERTAINLY COULD, YES.

4 Q AND WE WILL REVISIT THAT IN A LITTLE BIT.
5 YOU'VE TOLD US THIS WAS A FATAL WOUND, IN YOUR OPINION.

6 A YES.

7 Q WOULD THIS BE IMMEDIATELY FATAL?

8 A I DON'T THINK IT WOULD BE IMMEDIATELY
9 FATAL. HE WOULD BE LOSING BLOOD. IF IT WERE THE ONLY
10 WOUND THAT HE HAD, HE WOULD HAVE DIED FROM IT, BUT IT
11 TAKES AWHILE TO LOSE ENOUGH BLOOD VOLUME TO SEND A PERSON
12 INTO SHOCK. SO IT DOES TAKE SOME TIME. IT MAY NOT TAKE
13 THAT LONG. IT MAY ONLY TAKE A FEW MINUTES, BUT IT DOES
14 TAKE A CERTAIN AMOUNT OF TIME.

15 Q YOU MENTIONED THAT THERE WAS A VEIN, AN
16 IMPORTANT VEIN, THAT WAS INJURED AS A RESULT OF THIS
17 GUNSHOT; IS THAT CORRECT?

18 A YES.

19 Q THE FACT THAT IT WAS A VEIN AND NOT AN
20 ARTERY, DOES THAT AFFECT YOUR OPINION AT ALL? WHAT IS
21 THE DIFFERENCE?

22 A ARTERIES ARE UNDER MUCH MORE PRESSURE THAN
23 VEINS, SO BLOOD LOSS THROUGH AN ARTERIAL INJURY WILL
24 CAUSE A MORE RAPID LOSS OF BLOOD. SO IF IT HAD BEEN THE
25 ILIAC ARTERY INSTEAD OF THE ILIAC VEIN, HE WOULD HAVE
26 LOST BLOOD MORE QUICKLY. THE FACT THAT IT'S A VEIN, IT'S
27 UNDER LESS PRESSURE, IT DOESN'T MAKE IT ANY LESS FATAL,
28 BUT IT SUGGESTS THAT IT WOULD NOT BE QUITE AS RAPIDLY

1 FATAL AS AN ARTERIAL INJURY.

2 Q NEXT, GUNSHOT WOUND NO. 5, COULD YOU
3 DESCRIBE THAT, PLEASE?

4 A OKAY. GUNSHOT WOUND NO. 5 IS IN THE RIGHT
5 HIP AREA. THE ENTRANCE WOUND IS REALLY ON THE SIDE OF
6 HIS RIGHT HIP. IT'S THIS LITTLE DOT IN THE DIAGRAM
7 THAT'S RIGHT ON THE EDGE OF THE HIP AREA. AND IN PHOTO C
8 IT'S THIS SMALL CIRCLE RIGHT HERE. THE EXIT WOUND IS IN
9 THE FRONT OF THE HIP AREA, VERY CLOSE TO THE GROIN. THIS
10 IS THE EXIT WOUND ON THE DIAGRAM HERE. AND THIS IS IT IN
11 THE PHOTOGRAPH. SO YOU CAN VERY CLEARLY SEE ENTRANCE AND
12 EXIT WOUNDS FAIRLY CLOSE TO EACH OTHER IN THE RIGHT HIP
13 AREA.

14 Q I WOULD LIKE TO ASK YOU A COUPLE OF
15 QUESTIONS ABOUT THE WOUNDS THAT WE'VE TALKED ABOUT
16 BRIEFLY HERE. WITH RESPECT TO -- WE TALKS ABOUT 2, 3, 4,
17 AND 5, CORRECT?

18 A YES.

19 Q AND WE CAN SEE THOSE IN PHOTOGRAPHS A, B,
20 C AND THE ONE EXIT WOUND IN E, CORRECT?

21 A YES.

22 Q THERE WAS A WORD, AND I'M GOING TO CONFESS
23 THAT I CAN'T -- I REALLY TRIED TO REMEMBER HOW TO SAY IT,
24 DOCTOR, BUT IT HAD TO DO WITH TISSUE REACTION. WHAT WAS
25 THE WORD?

26 A ECCHYMOSIS, E-C-C-H-Y-M-O-S-I-S.

27 Q WHAT DOES ECCHYMOSIS MEAN, AND DID YOU, IN
28 YOUR REVIEW OF THIS, FIND ANY EVIDENCE OF THAT?

1 A IT MEANS BLEEDING. SOME PEOPLE WILL USE
2 IT AS AN ALTERNATE TERM FOR CONTUSION, WHICH IS THE
3 MEDICAL TERM FOR A BRUISE. SO IS REFERS TO BLEEDING INTO
4 THE TISSUES. DR. SHERRY DESCRIBED FOR ALL GUNSHOT WOUNDS
5 EXCEPT NO. 1 THAT THE WOUNDS HAD EVIDENCE OF WHAT HE
6 REFERRED TO EITHER AS ECCHYMOSIS OR TISSUE REACTION
7 ASSOCIATED WITH THEM.

8 Q AND WHAT DOES THAT MEAN TO YOU?

9 A THAT MEANS THAT THE BODY HAD SOME TIME TO
10 REACT TO THE INJURY. BLEEDING INTO A WOUND, WHICH WOULD
11 CAUSE OF THE ECCHYMOSIS OR THE BRUISING, INDICATES THAT
12 THERE HAS BEEN SOME TIME BETWEEN THE INFLECTION OF THE
13 INJURY AND THE DEATH, WHERE THE ACT OF BLEEDING WOULD
14 STOP BECAUSE YOU'VE LOST YOUR PULSE AND YOUR BLOOD
15 PRESSURE. SO IT INDICATES THAT THERE HAS BEEN SOME TIME,
16 MAYBE NOT MUCH, BUT SOME TIME EVOLVED BETWEEN THE
17 INFLECTION OF THE INJURY AND THE DEATH.

18 Q LET ME SEE IF I CAN ASK ANOTHER MAYBE
19 HYPOTHETICAL QUESTION SO THAT I MAKE SURE THAT I'VE GOT
20 THIS STRAIGHT. TAKE A HYPOTHETICAL ME. I HOPE THIS
21 DOESN'T HAPPEN. TWO DIFFERENT SITUATIONS. ONE, I'M SHOT
22 IN THE HEAD, AND IT'S IMMEDIATELY FATAL -- IMMEDIATELY
23 FATALLY SHOT, AND I COLLAPSE AND I DIE. AND THEN
24 AFTERWARDS, SOMEONE COMES AND KICKS MY LEG VERY, VERY
25 HARD SO THAT IF I WAS ALIVE, I WOULD HAVE A BRUISE. BUT
26 IF I'M DEAD, WOULD YOU EXPECT TO SEE A BRUISE THERE?

27 A I WOULD SAY NO BECAUSE EVEN THOUGH THERE
28 MIGHT BE A PHYSICAL INJURY TO THE TISSUES, YOU'RE NOT

1 GOING TO BE BLEEDING INTO THE AREA. YOU KNOW, YOU'RE NOT
2 GOING TO HAVE A PULSE, YOU ARE NOT GOING TO HAVE A BLOOD
3 PRESSURE, SO YOU'RE NOT GOING TO GET A BRUISE BECAUSE YOU
4 NEED TO HAVE A PULSE AND BLOOD PRESSURE TO GET THAT.

5 Q BECAUSE I WAS DEAD, MY HEART WASN'T
6 PUMPING, THERE IS NO BRUISING; IS THAT CORRECT?

7 A THAT'S RIGHT.

8 Q HOW ABOUT IF WE REVERSE THE SITUATION THAT
9 I'M SHOT IN THE HEAD, BUT I'M ON THE GROUND AND BEFORE
10 I'M SHOT IN THE HEAD, FIVE MINUTES BEFORE, SOMEBODY
11 DELIVERS THE SAME SWIFT, HARD KICK TO MY THIGH, AND I'M
12 THERE FOR FIVE MINUTES, AND THEN I'M SHOT IN THE HEAD,
13 AND THAT KILLS ME IMMEDIATELY. WOULD YOU EXPECT TO SEE A
14 BRUISE?

15 A IF YOU ARE A BRUISED BEFORE YOU GET SHOT.

16 Q YES.

17 A IF YOU ARE KICKED BEFORE YOU GET SHOT.

18 Q YES.

19 A YES, THEN I WOULD EXPECT THAT YOU WOULD
20 HAVE SOME SORT OF EVIDENCE. IF YOU'RE KICKED HARD
21 ENOUGH, YOU WILL HAVE A BRUISE. YOU WILL HAVE SOMETHING
22 UNDER OF THE SKIN BECAUSE YOU WOULD STILL BE -- YOUR
23 HEART WOULD BE BEATING; YOU WOULD HAVE A PULSE AND BLOOD
24 PRESSURE. SO THE NATURAL THING WHEN YOU HAVE SOME SORT
25 OF A BLUNT INJURY, LIKE A KICK, IT'S GOING TO BREAK SOME
26 BLOOD VESSELS, AND THAT'S GOING TO LET THE BLOOD BLEED
27 FREELY INTO THE SURROUNDING TISSUES.

28 Q SO DOES THAT SAME PRINCIPLE THAT I

1 PROBABLY INARTFULLY TRIED TO DESCRIBE WITH A SHOT AND THE
2 BRUISE APPLY TO ECCHYMOSIS AND THE TISSUE REACTION THAT
3 YOU HAVE DESCRIBED HERE?

4 A YES. I MEAN, WHEN WHENEVER YOU'VE GOT A
5 GUNSHOT WOUND, IT'S GOING THROUGH TISSUE, IT'S BREAKING
6 BLOOD VESSELS, EVEN FLOWING THROUGH FAT OR SOMETHING LIKE
7 THAT. THERE IS BLOOD VESSELS IN IT. SO WHENEVER YOU
8 BREAK A BLOOD VESSEL, YOU HAVE THE POTENTIAL FOR
9 BLEEDING.

10 Q SO WITH RESPECT TO PEOPLE'S 69 IN OUR
11 PHOTOGRAPHS, IN GUNSHOT WOUNDS 2, 3, 4, AND 5, DO ANY OF
12 THESE SHOW EVIDENCE OF ECCHYMOSIS?

13 A NOW, THESE ARE NOT THE BEST PHOTOGRAPHS.
14 IT'S DESCRIBED IN DR. SHERRY'S REPORT THAT ALL OF THESE
15 HAVE ECCHYMOSIS ASSOCIATED WITH THEM. IT'S NOT THE
16 EASIEST TO SEE IN MOST OF THE PHOTOS. AND YOU WOULD
17 PROBABLY HAVE TO COME UP AND LOOK VERY CLOSELY. BUT IN
18 THIS AREA, PARTICULARLY SURROUNDING IT, YOU MIGHT SEE A
19 LITTLE BIT OF A PINK HALO. THAT'S AN ECCHYMOSIS.

20 Q AND YOU WERE JUST POINTING TO PEOPLE'S 69,
21 PHOTOGRAPH A AND NO. -- GUNSHOT WOUNDS NO. 1 AND 2 -- OR
22 3 AND 4, CORRECT?

23 A RIGHT. THEY'RE ALL IN A VERY SMALL AREA,
24 AND THERE IS DEFINITELY ECCHYMOSIS, PARTICULARLY AROUND 3
25 AND 4. DOWN HERE, I REMEMBER IT WAS EASIER TO SEE IN THE
26 ORIGINAL PHOTO. THERE WAS A SMALL PINK HALO AROUND THIS
27 EXIT WOUND.

28 Q AND THAT'S IN PHOTOGRAPH C ON PEOPLE'S 69?

1 A YES. AND ALSO A SMALL ONE AROUND THE
2 ENTRANCE WOUND. IT'S MUCH EASIER TO SEE IN THE ORIGINAL
3 PHOTO IN THE ORIGINAL PHOTO, BUT IF YOU GET CLOSER, YOU
4 MIGHT BE ABLE TO SEE A SUGGESTION OF IT IN THIS PHOTO.

5 ALSO, IN THE ORIGINAL PHOTO B, WHICH SHOWS THE
6 EXIT WOUND OF NO. 3, THERE WAS SOME ECCHYMOSIS AROUND
7 THAT, TOO; AGAIN, NOT THE EASIEST TO SEE IN THIS
8 REPRODUCTION.

9 Q AND BASED ON YOUR BACKGROUND AND TRAINING,
10 IN YOUR REVIEW OF THESE DOCUMENTS AND THIS AUTOPSY, WHAT
11 DOES THAT TELL YOU?

12 A WELL, AGAIN, WE'RE DEALING WITH WHAT
13 DR. SHERRY SAYS, ECCHYMOSIS OR TISSUE REACTION. IT
14 INDICATES THAT THE PERSON WAS ALIVE AT LEAST FOR A SHORT
15 TIME BEFORE HIS FATAL VITAL PROCESSES CEASED.

16 Q THANK YOU. LET'S NEXT TURN OUR -- OR
17 WOULD YOU LIKE TO TAKE A BREAK?

18 THE COURT: WHY DON'T WE TAKE OUR AFTERNOON
19 RECESS, LADIES AND GENTLEMEN. PLEASE DON'T DISCUSS THE
20 CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T CONDUCT
21 ANY DELIBERATIONS. WE WILL RESUME IN 15 MINUTES. THANK
22 YOU.

23

24 (BRIEF RECESS.)

25 (THE JURY ENTERED THE COURTROOM

26 AND THE FOLLOWING PROCEEDINGS WERE

27 HELD IN OPEN COURT.)

28

1 THE COURT: ALL OUR JURORS AND ALTERNATES ARE
2 ONCE AGAIN PRESENT.

3 AND MY UNDERSTANDING IS THE PEOPLE WISH TO
4 TAKE A WITNESS OUT OF ORDER.

5 MR. DIXON: YES, YOUR HONOR. WE WITH THE COURT'S
6 PERMISSION -- AND WE'VE TALKED WITH DEFENSE COUNSEL. WE
7 HAVE A WITNESS THAT'S BEEN HERE TWO DAYS. WE ANTICIPATE
8 THE TESTIMONY TO BE VERY SHORT, IN TERMS OF TIME, AND WE
9 WOULD LIKE TO CALL HIM AT THIS TIME. MR. JACKSON WILL DO
10 THAT.

11 THE COURT: ALL RIGHT.

12 MR. JACKSON: THANK YOU, YOUR HONOR. BOB WIBORG,
13 ROBERT WIBORG.

14 THE COURT: THANK YOU.

15
16 ROBERT WIBORG,
17 CALLED BY THE PEOPLE AS A WITNESS, WAS
18 SWORN AND TESTIFIED AS FOLLOWS:

19
20 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.
21 DO YOU SOLEMNLY STATE THAT THE TESTIMONY YOU MAY GIVE IN
22 THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
23 TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP
24 YOU GOD?

25 THE WITNESS: YES.

26 THE CLERK: PLEASE BE SEATED IN THE WITNESS BOX.

27 PLEASE STATE AND SPELL YOUR FIRST AND LAST NAME
28 FOR THE RECORD.

1 THE WITNESS: ROBERT WIBORG, R-O-B-E-R-T,
2 W-I-B-O-R-G.

3 THE CLERK: THANK YOU.

4 THE COURT: YOU MAY INQUIRE.

5 MR. JACKSON: THANK YOU, YOUR HONOR.

6
7 DIRECT EXAMINATION

8 BY MR. JACKSON:

9 Q MR. WIBORG, WHAT DO YOU DO FOR A LIVING,
10 SIR?

11 A I'M A COIN DEALER.

12 Q AND HOW LONG HAVE YOU BEEN A COIN DEALER?

13 A TWENTY-FIVE YEARS.

14 Q WHERE IS YOUR PLACE OF BUSINESS?

15 A LA HABRA, CALIFORNIA.

16 Q IS THERE A PARTICULAR ADDRESS IN LA HABRA?

17 A 535 WEST WHITTIER BOULEVARD.

18 Q AND IS THERE AN ESTABLISHMENT NAME FOR
19 YOUR --

20 A YES, GOLD 'N COINS.

21 Q HOW DO YOU SPELL THAT?

22 A GOLD APOSTROPHE N COINS.

23 Q A LITTLE PLAY ON WORDS?

24 A YOU GOT IT.

25 Q GOLD AND COINS OR GOLDEN COINS?

26 A RIGHT.

27 Q THERE YOU GO. WERE YOU IN BUSINESS -- WAS
28 GOLD 'N COINS A GOING CONCERN BACK IN MAY OF 1988?

1 A YES.

2 Q BACK IN MAY OF 1988, HOW LONG HAD YOU BEEN
3 IN BUSINESS?

4 A ABOUT FOUR YEARS.

5 Q AT THAT POINT, UP UNTIL, LET'S SAY, MAY
6 1ST, 1988, WHAT WAS THE BIGGEST SINGLE SALE THAT YOU HAD?

7 A PROBABLY ABOUT 75,000.

8 Q OKAY. AFTER MAY 1ST, SOMETIME IN THE
9 MIDDLE OF MAY, 1988, DID YOU MAKE A SALE SUBSTANTIALLY
10 LARGER THAN THAT?

11 A YES.

12 Q DID THAT STICK OUT IN YOUR MIND?

13 A WELL, IT WAS THE LARGEST SALE THAT WE HAD
14 AT THAT TIME, YES.

15 Q ALL RIGHT. AND BECAUSE OF THAT, DID THAT
16 HAVE SOME IMPRESSION ON YOU?

17 A YES.

18 Q IN OTHER WORDS, DID THAT TRANSACTION OR
19 THOSE TRANSACTIONS STAY WITH YOU?

20 A YES.

21 Q AND DO YOU RECALL THEM, AS YOU SIT HERE
22 TODAY?

23 A YES.

24 Q WITH WHOM DID YOU MAKE THE TRANSACTION,
25 WE'LL START THAT WAY, BACK IN MAY OF 1988? YOU KNOW
26 WHAT, LET ME ASK YOU THIS FIRST, MR. WIBORG. WAS IT ONE
27 OR MORE THAN ONE TRANSACTION WITH THE SAME PERSON?

28 A I BELIEVE THERE WERE TWO TRANSACTIONS.

1 Q ALL RIGHT. AND DO YOU REMEMBER -- AND
2 I'VE GOT SOME DOCUMENTS THAT CAN REFRESH YOUR
3 RECOLLECTION IF YOU DON'T RECALL THE EXACT AMOUNTS. DO
4 YOU REMEMBER APPROXIMATELY THE TWO AMOUNTS FOR THE TWO
5 TRANSACTIONS?

6 A I THINK ONE WAS OVER A QUARTER OF A
7 MILLION DOLLARS AND ONE WAS ABOUT 75,000 OR SOMETHING
8 LIKE THAT.

9 Q NOW, WITH THAT FOUNDATION, DO YOU REMEMBER
10 WITH WHOM YOU MADE THESE TRANSACTIONS?

11 A YES.

12 Q WHO WAS THAT?

13 A MR. GOODWIN.

14 Q DO YOU HAVE A FIRST NAME FOR MR. GOODWIN?

15 A MIKE.

16 Q MIKE GOODWIN?

17 A YES.

18 Q DID YOU MEET MIKE GOODWIN FACE-TO-FACE OR
19 TELEPHONICALLY OR BOTH OR WHAT?

20 A I BELIEVE INITIALLY IT WAS ON THE PHONE,
21 AND THEN -- YOU KNOW, THIS IS 18 YEARS AGO.

22 Q I UNDERSTAND.

23 A SO, FRANKLY, I'M NOT SURE IF --

24 Q OKAY. AND YOU MAY HAVE JUST ANSWERED MY
25 NEXT QUESTION. IF YOU LOOK AROUND THE COURTROOM, DO YOU
26 SEE ANYBODY IN THE COURTROOM THAT YOU RECOGNIZE AS BEING
27 MIKE GOODWIN?

28 A I'M NOT SURE.

1 Q OKAY. SO YOU DON'T RECOGNIZE THE FACE?

2 A NO.

3 Q BUT YOU REMEMBER THE TRANSACTION?

4 A YES.

5 Q AND DO YOU REMEMBER THE NAME SPECIFICALLY,
6 MIKE GOODWIN?

7 A YES.

8 Q DO YOU REMEMBER WHETHER OR NOT MIKE
9 GOODWIN HAD ANY SIGNIFICANT OTHER WITH WHOM YOU DEALT?
10 DO YOU UNDERSTAND MY QUESTION?

11 A I BELIEVE THE SECOND TRANSACTION WAS WITH
12 HIS WIFE.

13 Q DO YOU REMEMBER HER NAME?

14 A NO, I REALLY DON'T.

15 Q DOES THE NAME DIANE SOUND --

16 A OH, OKAY.

17 Q IS THAT CORRECT?

18 A YES.

19 Q I DON'T MEAN TO TAX YOUR MEMORY, BUT WE
20 WANT TO START OFF THAT WAY BEFORE I START SHOWING YOU
21 DOCUMENTS. DURING THE COURSE OF -- WELL, LET'S ASK THIS
22 FIRST. WHEN YOU SAY YOU ARE A COIN DEALER, IS THERE A
23 NAME FOR COIN DEALERS?

24 A A NUMISMATIST.

25 Q JUST ROLLS OFF THE TONGUE, DOESN'T IT?

26 A RIGHT.

27 Q ALL RIGHT. FOR A NUMISMATIST --

28 A RIGHT.

1 Q TRY TO SAY THAT THREE TIMES FAST. IS
2 THAT -- DO YOU SELL ONLY -- WHEN I THINK OF COLLECTING
3 COINS, I THINK OF LIKE REALLY OLD COINS, SOMETHING BACK
4 IN, YOU KNOW, THE REVOLUTIONARY WAR DAYS, THE FIRST MINT
5 OF COINS. IS THAT ONLY KIND OF COINS THAT YOU SELL?

6 A NO. WE DO SEVERAL THINGS. WE SELL OLD
7 COINS, COINS THAT HAVE COLLECTOR VALUE. WE ALSO SELL
8 MODERN BOUILLON-RELATED COINS. AND WE ALSO -- ANOTHER
9 PART OF OUR BUSINESS, WE DO JEWELRY.

10 Q ALL RIGHT. YOU JUST USED A WORD THAT
11 REMINDED OF JOHNNY DEPP IN PIRATES OF THE CARIBBEAN,
12 BOUILLON. I THINK OF A TREASURE CHEST AND BIG BARS OF
13 GOLD. IS THAT WHAT BOUILLON IS?

14 A WELL, THAT'S ONE WAY TO LOOK AT BOUILLON.
15 WE TREAT COMMON BOUILLON COINS -- WE CALL THEM COMMON
16 BOUILLON COINS, LIKE PANDAS, CRUDERANS, EAGLES, NUGGETS,
17 THINGS LIKE THAT. WE TREAT THEM AS BOUILLON BECAUSE
18 THEY'RE TRADED BASED ON THE VALUE OF GOLD.

19 Q OKAY. YOU JUST USED A COUPLE OF OTHER
20 TERMS OF ART. I'M SURE THEY WERE TERMS OF ART. AND I'M
21 GOING TO GUESS AT THIS. A PANDA MIGHT BE A CHINESE
22 MINTED --

23 A YES.

24 Q -- BOUILLON COIN?

25 A YES.

26 Q A CRUDERAN MIGHT BE SOUTH AFRICAN?

27 A THAT'S CORRECT.

28 Q I'M TWO FOR TWO. AN EAGLE?

1 A THAT'S THE U.S.

2 Q THERE YOU GO. IN YOUR EXPERIENCE AS A
3 BOUILLON DEALER OR A COIN DEALER, IS GOLD SOMETHING THAT
4 IS A COMMON CURRENCY IN DIFFERENT COUNTRIES?

5 A YES.

6 Q IS THERE SOMETHING CALLED A GLOBAL GOLD
7 STANDARD?

8 A WELL, THERE IS A -- I HAVEN'T HEARD THE
9 TERM "GOLDEN GLOBE STANDARD," BUT THERE IS A 24-HOUR
10 MARKET IN GOLD EVERY DAY.

11 Q GLOBALLY?

12 A GLOBALLY.

13 Q IN OTHER WORDS, THE PRICE OF GOLD IN CHINA
14 IS THE SAME AS THE PRICE OF GOLD IN GRENICH, ENGLAND?

15 A BASICALLY, THAT'S CORRECT.

16 Q AND IT'S TRADED ON AN INTERNATIONAL
17 MARKET, CORRECT?

18 A YES.

19 Q ALL RIGHT. SO IF I HELD A PIECE OF PURE
20 GOLD BOUILLON IN THE FORM OF, SAY, FOR INSTANCE, A PANDA
21 OR AN EAGLE, I COULD TRADE THAT IN CUBA JUST AS EASILY --
22 WELL, MAYBE NOT CUBA. I COULD TRADE THAT IN ENGLAND JUST
23 AS QUICKLY AS I COULD TRADE IT IN NEW YORK, CORRECT --

24 A THAT'S CORRECT.

25 Q -- AT A BANKING INSTITUTION?

26 A OR AT A COIN DEALER.

27 Q OKAY. LET'S GET BACK TO THE
28 TRANSACTIONS -- WELL, LOOK WHAT I HAVE.

1 MR. JACKSON: YOUR HONOR, I'M HOLDING WHAT
2 APPEARS TO BE APPEARS TO BE A REALLY HEAVY SUCCULENT GOLD
3 COIN. THIS HAS BEEN SHOWN TO DEFENSE COUNSEL. MAY I
4 APPROACH?

5 THE COURT: YES.

6 Q MR. JACKSON: WHAT'S THAT?

7 A THAT'S A ONE-OUNCE GOLD AMERICAN EAGLE.

8 MR. JACKSON: MAY I HAVE THIS MARK AS ALAN
9 JACKSON'S NEXT IN ORDER? YOUR HONOR, I'M NOT GOING TO
10 ASK THIS BE MARKED, BUT IF I COULD, WITH THE COURT'S
11 LEAVE AND WITH COUNSEL'S PERMISSION, PUBLISH THIS TO THE
12 JURORS.

13 THE COURT: ALL RIGHT.

14 Q BY MR. JACKSON: WHAT IS THIS -- IS THIS
15 CONSISTENT WITH THE TYPE OF TRANSACTION THAT YOU HAD WITH
16 MICHAEL AND DIANE GOODWIN?

17 A YES, IT IS.

18 Q THIS IS WHAT YOU SOLD THEM?

19 A YES.

20 MS. SARIS: YOUR HONOR, FOR THE RECORD, CAN WE
21 JUST SAY IT'S IN A CASE, AND IT'S BEING HANDED TO THE
22 JURORS?

23 THE COURT: YES, IT IS.

24 MR. JACKSON: I SHOULD HAVE DESCRIBED IT IN MORE
25 DETAIL, YOUR HONOR.

26 Q BY MR. JACKSON: IT DOES APPEAR TO BE A --
27 IS IT ONE OUNCE?

28 A YES.

1 Q A ONE-OUNCE PIECE OF GOLD BOUILLON IN THE
2 FORM OF A COIN THAT PURPORTS TO BE AN EAGLE OR AMERICAN
3 EAGLE, YES?

4 A YES.

5 THE COURT: AND IT'S SEALED IN A CASE.

6 MR. JACKSON: THAT'S CORRECT.

7 Q BY MR. JACKSON: YOU'RE GOING TO WANT THAT
8 BACK AT THE END OF YOUR TESTIMONY, I ASSUME?

9 A YES.

10 Q ALL RIGHT. FAIR ENOUGH.

11 MR. JACKSON: I HAVE FOUR DOCUMENTS, YOUR HONOR,
12 I WOULD LIKE TO HAVE MARKED AS PEOPLE'S NEXT IN ORDER.

13 THE COURT: 79 WOULD BE THE NEXT ONE.

14 MR. JACKSON: I'LL PLACE SEQUENTIAL NUMBERS ON
15 EACH OF THESE DOCUMENTS.

16 THE COURT: SO YOU HAVE FOUR OF THEM, 79, 80, 81,
17 AND 82.

18 MR. JACKSON: THANK YOU, YOUR HONOR. I'VE MARKED
19 AS PEOPLE'S NEXT IN ORDER 79 THROUGH 82, AND I'LL
20 DESCRIBE THEM VERY BRIEFLY FOR THE RECORD. 79 APPEARS TO
21 BE A GOLD 'N COINS RECEIPT. 79 APPEARS TO BE A GOLD 'N
22 COINS RECEIPT.

23 THE COURT: SO MARKED.

24 MR. JACKSON: IT'S NOTABLE IN THAT IT WAS DATED
25 5/11/88, AND IT'S FOR AN AMOUNT CLOSE TO \$275,000. I'LL
26 FOREGO THE ACTUAL AMOUNT UNTIL I GET TO THE WITNESS.

27 THE SECOND DOCUMENT, 80, IS A CASHIER'S CHECK
28 MADE OUT TO GOLD 'N COINS THAT APPEARS TO BE OR PURPORTS

1 TO BE SIGNED BY DIANE SEIDEL GOODWIN IN THE AMOUNT OF THE
2 \$275,000 -- \$275,000, MADE OUT ON A BARCLAY'S BANK
3 ACCOUNT.

4 THE COURT: IT WILL BE 80 FOR IDENTIFICATION.

5 MR. JACKSON: 81 IS A GOLD 'N COINS RECEIPT DATED
6 5/17/88 FOR AN AMOUNT, \$74,655.

7 THE COURT: THAT WILL BE 81.

8 MR. JACKSON: AND 82 APPEARS TO BE BOTH THE
9 RECEIPT AND AN ACTUAL COPY OF A CASHIER'S CHECK FOR THE
10 SAME CASHIER'S CHECK IN THE AMOUNT OF THE \$75,000 MADE
11 OUT TO GOLD 'N COINS, PURPORTED TO BE SIGN BY DIANE
12 SEIDEL GOODWIN.

13 THE COURT: 82 SO MARKED.

14 MR. JACKSON: THANK YOU, YOUR HONOR.

15 (PEOPLE'S EXHIBIT NOS. 79 THROUGH 82 MARKED.)

16 Q BY MR. JACKSON: TAKE A LOOK FIRST OF ALL
17 AT THE -- YOU KNOW WHAT, LET ME DO SOMETHING REAL QUICK,
18 MR. WIBORG. LET ME PLACE THIS ON OVERHEAD SO FOLKS CAN
19 SEE WHAT WE ARE TALKING ABOUT.

20 LET'S TAKE THEM ONE AT A TIME AND I WILL JUST
21 WALK THEM UP TO YOU, IF THAT'S OKAY. TELL ME IF YOU
22 RECOGNIZE THAT DOCUMENT.

23 A YES.

24 Q AND I'M REFERRING TO PEOPLE'S 79. HOW DO
25 YOU RECOGNIZE IT?

26 A IT'S ONE OF OUR INVOICES.

27 Q OKAY. IT IS A PRETTY RATTY COPY, OR AT
28 LEAST OF THE OVERHEAD IS DIFFICULT TO READ. CAN YOU

1 DESCRIBE FOR THE JURORS WHAT IT IS THAT THEY'RE LOOKING
2 AT?

3 A I'M NOT SURE IF HE'S TALKING ABOUT RATTY
4 WITH MY PENMANSHIP OR NOT, BUT --

5 Q THAT IS NO DISPARAGEMENT ON YOUR BUSINESS
6 PRACTICES, SIR.

7 A BASICALLY IT'S AN INVOICE. IT'S MADE OUT
8 TO MAKE FOR 589 ONE-OUNCE GOLD EAGLES.

9 Q WHAT IS THE PRICE THAT MIKE GOODWIN PAID
10 FOR THESE GOLD EAGLES.

11 A \$466.50 APIECE.

12 Q FOR A TOTAL TRANSACTION PRICE OF?

13 A 274 -- IT LOOKS LIKE 274,768.50.

14 Q SO JUST UNDER \$275,000?

15 A THAT'S CORRECT.

16 Q HOW WAS DELIVERY MADE OF THE GOLD COINS TO
17 MIKE GOODWIN, IF YOU KNOW?

18 A FRANKLY, I DON'T REMEMBER.

19 Q WHAT WOULD NORMAL BUSINESS PRACTICES BEEN?

20 A NORMALLY, FOR SMALL AMOUNTS, PEOPLE JUST
21 PICK THEM UP. BUT HERE, I NOTICE THERE IS A DELIVERY
22 CHARGE. FRANKLY, I DON'T KNOW IF -- IF THE DELIVERY
23 CHARGE WAS BECAUSE WE HAD THEM DELIVERED BY BRINKS OR --
24 I MEAN, I JUST DON'T REMEMBER.

25 Q OKAY. BUT THAT WOULDN'T BE UNUSUAL TO
26 HAVE, FOR INSTANCE, A SECURITY COMPANY LIKE BRINKS
27 DELIVER THIS VAST AMOUNT OF THE GOLD BOUILLON TO
28 SOMEBODY?

1 A NO.

2 Q ALL RIGHT. I'M GOING TO HAVE YOU TAKE A
3 LOOK AT ANOTHER DOCUMENT AND TELL ME IF YOU -- BY THE
4 WAY, ON THAT DOCUMENT THAT YOU'RE LOOKING AT, EVEN THOUGH
5 IT'S NOT ON THE OVERHEAD ANYMORE, DOES THAT REFERENCE A
6 CASHIER'S CHECK NUMBER THAT WAS USED TO PAY FOR THAT?

7 A YES.

8 Q WHAT IS THAT NUMBER?

9 A CASHIER'S CHECK FROM BARCLAY'S BANK. IT
10 LOOKS LIKE NO. 2667539.

11 Q TAKE A LOOK AT WHAT HAS BEEN MARKED AS
12 PEOPLE'S 80 FOR IDENTIFICATION, WHICH IS A CASHIER'S
13 CHECK. IT LOOKS LIKE IT'S DRAWN TO BARCLAY'S BANK IN THE
14 AMOUNT OF \$275,000. AND TELL ME IF YOU SEE A CASHIER'S
15 CHECK NUMBER ON THE UPPER RIGHT-HAND CORNER.

16 A I DO.

17 Q WHAT IS THAT CHECK NUMBER, SIR?

18 A 2667539.

19 Q IS THAT THE SAME NUMBER?

20 A YES.

21 Q IS THE CHECK NUMBER -- IS THE CHECK THAT
22 YOU'RE HOLDING IN YOUR HAND IN PEOPLE'S 80 THE LEGAL
23 TENDER THAT WAS USED TO PAY FOR THE GOLD BOUILLON THAT
24 YOU SOLD TO MIKE GOODWIN?

25 A YES.

26 MS. SARIS: I OBJECT, YOUR HONOR, AS TO THE
27 FOUNDATION.

28 THE COURT: ALL RIGHT. SUSTAINED. LAY A

1 FOUNDATION.

2 Q BY MR. JACKSON: WOULD YOU, IN YOUR NORMAL
3 COURSE OF BUSINESS -- WELL, LET ME ASK YOU THIS, WHO IS
4 THE CHECK MADE OUT TO?

5 A THE CHECK IS MADE OUT TO GOLD 'N COINS.

6 Q DO YOU KNOW OF ANY OTHER ESTABLISHMENT IN
7 CALIFORNIA NAMED GOLD 'N COINS?

8 A NOT THAT I KNOW OF, NO.

9 Q AND IS WHAT THE DATE ON THE CHECK?

10 A 5/11/88.

11 Q IS THAT THE SAME DATE AS THE RECEIPT ON
12 THE TRANSACTION, YOUR TRANSACTION RECEIPT FROM GOLD 'N
13 COINS?

14 A YES, IT IS.

15 Q YOU SAID THE CHECK NUMBER IS THE SAME,
16 CORRECT?

17 A YES.

18 Q THE DATE IS THE SAME?

19 A YES.

20 Q IS THE AMOUNT CONSISTENT WITH THAT
21 TRANSACTION?

22 A YES.

23 Q DO YOU KNOW WHETHER OR NOT THAT CHECK WAS
24 USED AS LEGAL TENDER TO PAY FOR THE TRANSACTION THAT
25 YOU'VE -- OR THE GOLD BOUILLON THAT YOU'VE JUST DESCRIBED
26 AND THE TRANSACTION ON MAY 11, 1988?

27 A I BELIEVE IT WAS, YES.

28 Q OKAY. AND THIS IS SIGNED BY DIANE

1 GOODWIN, WHERE MY INDEX FINGER IS?

2 A HER WRITING IS WORSE THAN MINE. IF
3 THAT'S --

4 Q WELL, LET ME ASK YOU THIS: DOES IT APPEAR
5 TO HAVE A SIGNATURE?

6 A YES, IT DOES.

7 Q IS THERE AN ADDRESS UNDER THE SIGNATURE?

8 A THERE IS AN ADDRESS.

9 Q WHAT IS THE ADDRESS?

10 A 667 ALTA VISTA WAY. IT LOOKS LIKE LAGUNA.

11 Q THAT'S THE 5/11 TRANSACTION. I'M GOING TO
12 HAVE YOU LOOK AT THE NEXT TRANSACTION, IF YOU WOULD.
13 SHOWING YOU WHAT HAS BEEN MARKED AS PEOPLE'S 81 FOR
14 IDENTIFICATION, CAN YOU TELL THE JURORS WHAT THAT
15 DOCUMENT IS, PLEASE?

16 A OKAY. THAT'S ALSO AN INVOICE. THIS ONE
17 IS DATED 5/17/88.

18 Q IS THAT SIX DAYS AFTER THE FIRST INVOICE?

19 A YES.

20 Q AND WHAT DOES THAT INVOICE REFLECT INsofar
21 AS A TRANSACTION IS CONCERNED?

22 A ONE HUNDRED 58 ONE-OUNCE GOLD EAGLES AT
23 472.50 FOR 74,655.

24 Q OKAY. SO JUST UNDER \$75,000?

25 A THAT'S CORRECT.

26 Q AS A MATTER OF FACT, YOUR NAME APPEARS ON
27 BOTH THESE INVOICES, DOES IT NOT?

28 A THAT'S CORRECT.

1 Q B-O-B, BOB?

2 A THAT'S B-O-B FOR -- THAT'S ME.

3 Q IS -- WHILE MR. DIXON IS PUTTING THAT
4 SECOND SET OF CHECKS UP, IS THIS INVOICE REFLECTIVE OF
5 THE SECOND TRANSACTION THAT YOU HAD WITH THE GOODWINS
6 THAT MONTH?

7 A I BELIEVE SO, YES.

8 MS. SARIS: OBJECTION, YOU HONOR, AS TO
9 FOUNDATION, THE GOODWINS. MOTION TO STRIKE.

10 MR. JACKSON: I'M SORRY, I'LL REPHRASE AT THAT.

11 Q BY MR. JACKSON: IS THAT INVOICE
12 REFLECTIVE OF THE SECOND TRANSACTION THAT YOU HAD THAT
13 WAS PAID FOR BY DIANE GOODWIN OR IN DIANE GOODWIN'S NAME?

14 A THAT'S CORRECT.

15 Q OKAY. TAKE A LOOK AT WHAT HAS BEEN MARKED
16 AS PEOPLE'S 82 FOR IDENTIFICATION TELL ME IF YOU
17 RECOGNIZE ONE OR EITHER OF THOSE DOCUMENTS.

18 A FRANKLY, I DON'T REMEMBER.

19 Q OKAY. WELL, LET'S TRY IT THIS WAY: ON
20 YOUR INVOICE, DO YOU MAKE IT A PRACTICE TO WRITE DOWN THE
21 CHECK NUMBER THAT'S USED TO PAY FOR THE GOLD BOUILLON?

22 A YES.

23 Q TAKE BACK PEOPLE'S 81 IN YOUR HAND AND
24 TELL ME IF YOU SEE A CHECK NUMBER OR A CASHIER'S CHECK
25 NUMBER THAT REFLECTS WHAT CHECK NUMBER WAS USED TO PAY
26 FOR THAT 75 -- JUST AROUND \$75,000 TRANSACTION?

27 A YES.

28 Q WHAT WAS THAT CHECK NUMBER?

1 A 78440.

2 Q NOW, TAKE A LOOK AT PEOPLE'S 82. THE
3 UPPER RIGHT-HAND CORNER OF THE TOP CHECK AND THE
4 BOTTOM -- YOU KNOW WHAT, QUITE FRANKLY, I'M NOT A BANKER.
5 I DON'T KNOW IF THE TOP ONE IS THE CHECK AND THE BOTTOM
6 ONE IS THE RECEIPT OR VICE VERSA, BUT LET'S ASSUME THAT
7 THE TOP ONE IS THE CHECK BECAUSE THAT'S SIGNED. WHAT IS
8 THAT CHECK NUMBER?

9 A I WOULD GUESS THAT THE BOTTOM ONE IS THE
10 CHECK AND THE TOP ONE IS THE RECEIPT, BUT --

11 Q OKAY. YOUR GUESS IS PROBABLY BETTER THAN
12 MINE.

13 A WELL, ONE SAYS IT'S NOT NEGOTIABLE.

14 Q WELL, THERE IS COMEDIANS BORN EVERY DAY,
15 AREN'T THERE? ALL RIGHT. FAIR ENOUGH. ON THE ONE THAT
16 SAYS NEGOTIABLE OR THE ONE THAT DOESN'T SAY
17 NON-NEGOTIABLE, WHAT IS THAT CHECK NUMBER?

18 A 78440.

19 Q IS THAT THE SAME NUMBER THAT APPEARS ON
20 YOUR TRANSACTION RECEIPT?

21 A YES.

22 Q IS IT YOUR BELIEF THEN, BASED ON THE
23 DATES, THE AMOUNT AND THE CHECK NUMBER THAT THIS CHECK
24 WAS USED TO PAY FOR THE TRANSACTION IN PEOPLE'S 81?

25 A YES.

26 Q DID YOU DELIVER THE \$75,000 WORTH OF GOLD
27 COINS THE SAME WAY THAT YOU DID THE \$275,000 WORTH OF
28 GOLD COINS?

1 A I BELIEVE THOSE WERE PICKED UP.

2 Q OKAY. DO YOU REMEMBER IF MIKE GOODWIN
3 PICKED THEM UP OR DIANE GOODWIN OR SOMEONE ELSE?

4 A NO, I DON'T REMEMBER.

5 Q OKAY.

6 MR. JACKSON: I THINK THAT'S IT. THANK YOU.

7 THE COURT: CROSS.

8 MS. SARIS: THANK YOU.

9

10 CROSS-EXAMINATION

11 BY MS. SARIS:

12 Q GOOD AFTERNOON, MR. WIBORG.

13 A HI.

14 Q THESE CHECKS ALL BEAR THE NAME OF DIANE
15 GOODWIN; IS THAT RIGHT?

16 A YES, MA'AM.

17 Q NONE OF THEM BEAR THE NAME MICHAEL
18 GOODWIN; IS THAT RIGHT?

19 A NO. THAT'S CORRECT.

20 Q SO THE MIKE THAT IS ON THE RECEIPT, IS IT
21 POSSIBLE THAT HE HELPED WITH THE SALE, BUT DIANE PAID FOR
22 THESE?

23 MR. JACKSON: OBJECTION. THAT CALLS FOR
24 SPECULATION, I BELIEVE.

25 THE COURT: THE WAY IT'S PHRASED, SUSTAINED.

26 MS. SARIS: OKAY.

27 Q BY MS. SARIS: HOW COME MIKE IS WRITTEN ON
28 THE RECEIPT? WOULD THAT BE THE PERSON YOU WERE DEALING

1 WITH?

2 A THAT'S THE PERSON THAT I TALKED TO ON THE
3 PHONE.

4 Q HAVE YOU EVER HAD SOMEONE ASSIST SOMEONE
5 ELSE IN THE PURCHASE OF GOLD?

6 A YES.

7 Q AND THE PERSON WHO IS DOING THE
8 NEGOTIATING ISN'T ALWAYS THE PERSON WHO IS PAYING; IS
9 THAT FAIR?

10 A THAT'S UNUSUAL.

11 Q OKAY. WHEN PEOPLE ASSIST OTHERS IN THE
12 SALE OF GOLD COINS, DO THEY GENERALLY BUY IT TOGETHER, OR
13 DOES ONLY ONE PARTY ACTUALLY PAY FOR IT?

14 A WE DO A LOT OF DIFFERENT THINGS IN OUR
15 BUSINESS. WE DO BUSINESS WITH OTHER DEALERS. OTHER
16 DEALERS MAY SEND CUSTOMERS TO US. I MEAN, WE HAVE
17 FINANCIAL ADVISORS THAT WILL SEND THEIR CLIENTS IN TO US
18 TO PURCHASE GOLD COINS. AND WE MAY NEGOTIATE WITH A
19 FINANCIAL ADVISOR, AND THEN THEY MAY SEND A CUSTOMER IN
20 TO PAY FOR IT.

21 Q OKAY. LET'S A TALK ABOUT FINANCIAL
22 ADVISORS. ONE OF THE REASONS PEOPLE BUY GOLD COINS IS
23 ALSO FOR AN INVESTMENT, CORRECT?

24 A ABSOLUTELY.

25 Q NOW, IN MAY -- THESE TRANSACTIONS THAT
26 YOU'RE DESCRIBING ARE IN MAY '88?

27 A YES, MA'AM.

28 Q HAD SOMETHING HAPPENED THE YEAR PRIOR THAT

1 MADE GOLD A MORE SIGNIFICANT INVESTMENT THAN IN OTHER
2 YEARS?

3 A GOSH, I REALLY DON'T REMEMBER.

4 Q DO YOU REMEMBER THE STOCK MARKET CRASHING?

5 A WELL, THAT CAN HAPPEN FREQUENTLY. BUT
6 YES, THE MARKET GOES UP AND DOWN. I MEAN, RIGHT NOW GOLD
7 IS GETTING A PUSH BECAUSE THE DOLLAR IS SO WEAK. I MEAN,
8 THERE IS LOT OF THINGS THAT AFFECT OF THE VALUE OF GOLD.

9 Q IS IT FAIR TO SAY THAT THE WORSE THE STOCK
10 MARKET DOES, THE BETTER GOLD WILL DO?

11 A NOT NECESSARILY.

12 Q IN OCTOBER OF '87, DID YOU SEE ANY UPSWING
13 IN YOUR BUSINESS?

14 A WE STARTED IN BUSINESS IN 1984, AND WE'VE
15 SEEN AN UPSWING IN OUR BUSINESS EVER SINCE.

16 Q HAVE YOU EVER ATTEMPTED TO SORT OF MARK
17 THE PEAKS AND VALLEYS?

18 A NO, WE DON'T REALLY DO THAT.

19 Q DO YOU RECALL IN MAY OF 1988 IF THE PRICE
20 OF GOLD HAD JUST RECENTLY COME DOWN FROM A VERY, VERY BIG
21 HIGH?

22 A I DON'T RECALL.

23 Q WHAT IS GOLD WORTH NOW AN OUNCE,
24 APPROXIMATELY?

25 A TODAY, 642.50.

26 Q WOULD YOU HAVE REMEMBERED THE NAME ON THIS
27 TRANSACTION, FOR INSTANCE, IF I HAD WALKED IN TO YOU AND
28 SAID, DO YOU RECALL YOUR FIRST QUARTER MILLION DOLLARS

1 TRANSACTION? WOULD YOU HAVE BEEN ABLE TO COME UP WITH A
2 NAME OR JUST THE FACT OF IT BEING A QUARTER MILLION
3 DOLLARS?

4 A I REALLY DON'T KNOW.

5 Q WOULD YOU HAVE ACCEPTED A -- WOULD YOU
6 HAVE DONE ANYTHING TO VERIFY A CASHIER'S CHECK IN THE
7 AMOUNT NEAR \$275,000 BACK IN 1988?

8 A NO.

9 Q YOU WOULD HAVE JUST ACCEPTED IT AND LET
10 THEM WALK OUT THE DOOR WITH GOLD?

11 A NO, NO, NO. WE DON'T DELIVER GOLD ON
12 PAPER. WE WOULD NOT DELIVER THE GOLD UNTIL THE CHECK
13 CLEARED.

14 Q I SEE. SO AS FAR AS YOU KNOW, THIS WAS A
15 LEGITIMATE CHECK?

16 A ABSOLUTELY.

17 Q AND THE ADDRESS THAT WAS GIVEN WAS A
18 LEGITIMATE ADDRESS?

19 A YES.

20 Q AND YOU WOULD ACTUALLY HOLD ONTO WHAT YOU
21 WERE DELIVERING FOR SOME NUMBER OF DAYS UNTIL THE
22 CASHIER'S CHECK WENT INTO YOUR ACCOUNT?

23 A THAT'S CORRECT.

24 Q YOU INDICATED THAT YOU DEAL WITH THE
25 BRINKS SECURITY COMPANY SOMETIMES. DO YOU HAVE ANY
26 EXPERIENCE WITH WHITE CANVAS BAGS?

27 A SURE.

28 Q TELL ME ABOUT THOSE.

1 A WELL, MANY TIMES WHEN WE BUY THINGS FROM
2 BRINKS, OR EXCUSE ME, WHEN WE BUY THINGS FROM OTHER
3 DEALERS AND THEY'RE SHIPPED VIA BRINKS, THEY'LL COME IN
4 SEALED CANVAS BAGS.

5 Q CAN YOU DESCRIBE THOSE BAGS FOR US?

6 A THEY'RE JUST CLOTH BAGS. THEY LOOK LIKE A
7 REGULAR BANK BAG. AND THEY USUALLY HAVE A METAL SEAL ON
8 THE TOP OF THEM.

9 Q ABOUT HOW HIGH DO THEY SIT?

10 A IT DEPENDS ON HOW MUCH MATERIAL IS INSIDE
11 OF THEM. THERE IS ALL DIFFERENT SIZED BAGS. THERE IS
12 CURRENCY BAGS, WHICH ARE A LOT LARGER THAN COIN BAGS.
13 AND USUALLY THE COIN BAGS ARE FOR THOUSAND DOLLAR
14 QUANTITIES OF FACE VALUE COINS OR \$500 QUANTITIES OF FACE
15 VALUE COINS, SO --

16 Q SO DEPENDING ON HOW MUCH YOU HAVE, THE BAG
17 WILL GET BIGGER OR SMALLER?

18 A YES, THAT'S CORRECT.

19 Q AND THEY'RE GENERALLY WHITE AND THEY'RE
20 GENERALLY CLOTH?

21 A YES.

22 Q AND BRINKS MAY DELIVER THAT TO AN
23 INDIVIDUAL AS WELL?

24 A YES.

25 Q DO YOU HAVE TO DO ANYTHING WHEN SOMEONE
26 BUYS THIS AMOUNT OF GOLD FROM YOU, IN TERMS OF
27 REGISTERING OR FOR TAX PURPOSES?

28 A NO. I SHOULDN'T SAY THAT. NO, WHEN YOU

1 BUY IT WITH A CHECK. IF THEY BOUGHT IT WITH CASH, THEN
2 WE WOULD TO HAVE TO FILE WHAT IS CALLED AN 8300 FORM.

3 Q AND THAT'S WITH -- WHO DO YOU FILE THAT
4 WITH, THE GOVERNMENT?

5 A THE I.R.S, YES.

6 MS. SARIS: JUST A MOMENT, PLEASE.

7 Q BY MS. SARIS: WHEN YOU WERE TALKING ABOUT
8 FINANCIAL ADVISORS SOMETIMES SEND PEOPLE TO YOU, IS THAT
9 PEOPLE THAT WOULD SEND TO YOU TO BUY GOLD USUALLY FOR AN
10 INVESTMENT?

11 A THAT'S CORRECT.

12 Q AND WHEN PEOPLE BUY LARGE AMOUNTS OF GOLD
13 LIKE WE'RE TALKING ABOUT WITH MORE THAN 100 COINS, WOULD
14 THEY ALL BE SEALED LIKE IN THAT NICE PLASTIC THING THAT
15 YOU HAD, OR WOULD THEY ALL JUST BE TOGETHER?

16 A NO, THEY -- TYPICALLY THAT KIND OF
17 QUANTITY, WHETHER THEY'RE EAGLES OR CRUGARANS OR
18 WHATEVER, WOULD COME IN PLASTIC TUBES.

19 Q SO THE ONE THAT YOU SHOWED US IS JUST FOR
20 LIKE A DISPLAY CASE?

21 A YEAH. I THOUGHT THAT THEY MIGHT LIKE TO
22 SEE WHAT THE COIN LOOKED LIKE. AND I WOULD PUT IT IN THE
23 CASE SO IT WOULDN'T GET HANDLED.

24 Q OR SWAPPED FOR A QUARTER?

25 A BY THE WAY, I DON'T HAVE IT BACK YET.

26 MS. SARIS: DOES A JUROR HAVE IT? MAY I, YOUR
27 HONOR? LET THE RECORD REFLECT I'M RETURNING IT TO
28 MR. WIBORG.

1 THE COURT: YES.

2 THE WITNESS: I GOT IT.

3 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

4 THE COURT: REDIRECT.

5

6 REDIRECT EXAMINATION

7 BY MR. JACKSON:

8 Q MR. WIBORG, YOU INDICATED THAT IF SOMEONE
9 PAYS WITH A CHECK RATHER THAN CASH, YOU DON'T HAVE TO
10 REPORT ANYTHING TO THE GOVERNMENT, CORRECT?

11 A THAT'S CORRECT.

12 Q SO IT WOULD BE -- AS FAR AS YOU GOVERNMENT
13 IS CONCERNED, IT WOULD LEAVE NO TRAIL, FROM YOUR
14 PROSPECTIVE? I MEAN, IF THE PERSON --

15 MS. SARIS: OBJECTION, LEADING.

16 THE COURT: REPHRASE IT, PLEASE.

17 Q BY MR. JACKSON: FROM YOUR PROSPECTIVE,
18 REPORTING-WISE, YOU DIDN'T HAVE TO REPORT ANYTHING TO THE
19 GOVERNMENT BASED ON THIS TRANSACTION?

20 A I DID NOT HAVE TO REPORT ANYTHING TO THE
21 GOVERNMENT.

22 MR. JACKSON: OKAY. THAT'S ALL.

23 THE COURT: ANYTHING ELSE?

24 MS. SARIS: NO. THANK YOU.

25 THE COURT: THANK YOU. THANK YOU, SIR. THANKS
26 FOR COMING IN. YOU'RE FREE TO GO.

27 THE WITNESS: THANK YOU.

28 MR. DIXON: WE WILL RECALL DR. SCHEININ, PLEASE.

1 THE COURT: DR. SCHEININ, YOU'VE BEEN PREVIOUSLY
2 SWORN. YOU'RE REMINDED YOU'RE STILL UNDER OATH. YOU CAN
3 RESUME YOUR SEAT.

4 THE WITNESS: THANK YOU, YOUR HONOR.

5 THE COURT: AND MR. DIXON, YOU MAY CONTINUE.

6 MR. DIXON: THANK YOU, YOUR HONOR.

7
8 DIRECT EXAMINATION (RESUMED)

9 BY MR. DIXON:

10 Q THANK YOU, DR. SCHEININ. BEFORE A BRIEF
11 RECESS -- AND THANK YOU FOR OUR GOLD DEALER.

12 A NO PROBLEM.

13 Q WE WERE TALKING ABOUT THE AUTOPSY
14 CONDUCTED ON MICKEY THOMPSON ON MARCH 17TH, 1988 BY
15 DR. SHERRY, CORRECT?

16 A YES.

17 Q AND I THINK WE -- YOU TOLD US THAT THERE
18 WERE SEVEN GUNSHOT WOUNDS, AND WE'VE TALKED ABOUT 2, 3,
19 4, AND 5, CORRECT?

20 A YES.

21 Q LET'S TALK ABOUT 6 AND 7.

22 MR. DIXON: AGAIN, WITH THE COURT'S PERMISSION,
23 IF THE DOCTOR CAN STEP DOWN IF NEEDS BE.

24 Q BY MR. DIXON: AND WE HAVE A POINTER UP
25 THERE SOMEWHERE FOR YOU. RIGHT. THANKS.

26 USING PEOPLE'S 67 FOR IDENTIFICATION, COULD YOU
27 DISCUSS THE ENTRY AND EXIT WOUNDS, IF THERE WERE, FOR
28 BULLET WOUNDS 6 AND 7, PLEASE?

1 A OKAY. WELL, BOTH OF THOSE WERE ON THE
2 BACK OF HIS LEFT HAND. THE ENTRY WOUNDS FOR 6 AND 7 ARE
3 BOTH SHOWN IN PHOTO D. YOU CAN SEE THAT THERE IS TWO
4 FAIRLY CLOSE TOGETHER GUNSHOT WOUNDS. THIS IS JUST A
5 LITTLE BIT PAST THE WRIST ON THE HAND. THIS IS THE THUMB
6 HERE, JUST TO GIVE YOU AN ORIENTATION. SO NO. 6 IS THIS
7 ONE, WHICH IS A LITTLE CLOSER TO THE THUMB SIDE OF THE
8 HAND. AND THIS ONE OVER HERE IS NO. 7.

9 THE EXIT WOUNDS ARE ON THE PALM OF THE HAND, BUT
10 THAT IS NOT IN ANY OF THE PHOTOS. IT'S MORE OR LESS
11 DRAWN UP HERE ON THE DIAGRAM, BUT I THINK THE PHOTO SHOWS
12 THEM A LITTLE BETTER.

13 Q LET'S TALK ABOUT -- WHICH ONE IS 6 AND
14 WHICH ONE IS 7 AS WE LOOK AT PHOTOGRAPH D ON PEOPLE'S 67?

15 A OKAY. SIX IS THE ONE THAT'S TO YOUR LEFT
16 AS YOU LOOK AT THE PHOTO. AND IT'S MORE TO THE THUMB
17 SIDE OF THIS HAND; WHEREAS 7 IS THE ONE THAT'S MORE TO
18 THE PINKY SIDE OF THE HAND.

19 Q AND AS YOU TOLD US, THE EXIT WOUNDS ARE ON
20 THE PALM OF THE HAND?

21 A YES.

22 Q IN GENERAL AND SPECIFICALLY WITH THESE
23 WOUNDS, CAN YOU, A CORONER DURING AN AUTOPSY OR REVIEWING
24 DOCUMENTS LIKE THIS WITH YOUR BACKGROUND AND TRAINING
25 LOOK AT EXIT -- ENTRY AND EXIT WOUNDS AND BE ABLE TO TELL
26 THE DIRECTION OF A GUNSHOT IN ANY WAY?

27 A YES.

28 Q COULD YOU EXPLAIN THAT? HOW IS THAT DONE?

1 HOW CAN YOU TELL?

2 A WELL, FIRST THING WE DO IS IDENTIFY THE
3 EXIT WOUND AND THE ENTRANCE WOUND. AND EACH WOUND HAS
4 CERTAIN CHARACTERISTICS THAT WE ARE TAUGHT TO BE ABLE TO
5 RECOGNIZE SO WE CAN TELL WHAT'S THE ENTRANCE, WHAT'S THE
6 EXIT. NOW, WHEN YOU KNOW WHAT WOUND IS WHAT, THEN YOU
7 LOOK AT WHERE THEY ARE IN REFERENCE TO FIXED REFERENCE
8 POINTS ON THE BODY. NOW, WHEN WE'RE DEALING WITH THE
9 HEAD OR THE TORSO, WE GENERALLY WILL MEASURE THEM AS A
10 DISTANCE FROM THE MIDLINE THE BODY AND FROM THE TOP OF
11 THE HEAD BECAUSE THAT'S A FIXED REFERENCE POINT.
12 IT'S A LITTLE MORE DIFFICULT WHEN YOU'RE DEALING WITH THE
13 EXTREMITIES, SO MANY TIMES WHEN PEOPLE ARE DEALING WITH
14 GUNSHOT WOUNDS ON THE HANDS, THEY WILL MEASURE THE
15 DISTANCE FROM THE WRIST, USUALLY USING THIS BONE HERE AS
16 THE FRAME OF REFERENCE. THIS IS THE END OF THE ULNA, ONE
17 OF THE BONES OF THE FOREARM, AND THAT'S A GOOD REFERENCE
18 POINT BECAUSE IT'S VERY EASY TO SEE.

19 SO IF YOU KNOW THAT YOUR ENTRANCE WOUND IS IN A
20 CERTAIN POINT AND YOUR EXIT WOUND IS IN ANOTHER POINT,
21 YOU CAN BASICALLY JUST ESSENTIALLY CONNECT THE DOTS. AND
22 SO YOU KNOW WHAT THE PATH OF THE BULLET WAS BETWEEN ENTRY
23 AND EXIT.

24 Q FINE. LET ME ASK YOU A QUESTION BASED ON
25 YOUR LAST SET OF ANSWERS THERE. YOU SAID THAT YOU WERE
26 TAUGHT IN YOUR TRAINING TO BE ABLE TO DETERMINE AND
27 DISTINGUISH BETWEEN AN ENTRY WOUND AND AN EXIT WOUND,
28 CORRECT?

1 A YES.

2 Q BRIEFLY, AND FOR US, WHAT DO YOU LOOK FOR,
3 AND DO ANY OF THE PHOTOGRAPHS IN EXHIBIT 67, DO THEY HELP
4 YOU EXPLAIN THAT TO US?

5 A OKAY. ENTRANCE WOUNDS ARE GENERALLY ROUND
6 TO OVAL, AND THERE IS REALLY A HOLE IN THE CENTER, FOR
7 WANT OF A BETTER EXPRESSION. THEY HAVE A KIND OF COOKIE
8 CUTTER LOOK. AND THERE IS A DEFECT THAT IS IN THE CENTER
9 OF THE WOUND. THESE ARE PRETTY CLASSIC ENTRANCE WOUNDS.
10 I'M REFERRING TO 6 AND 7 ON THE HAND. AND ALSO, ALTHOUGH
11 IT'S NOT THAT EASY TO SEE IN THE PHOTO, ENTRANCE OF 5 IS
12 ALSO PRETTY CLASSIC. NO. 2, AS WELL, THEY'RE BOTH ROUND
13 TO OVAL. THEY ARE -- VERY TYPICALLY, THEY HAVE A CENTRAL
14 DEFECT THAT YOU CAN'T CLOSE UP. IN OTHER WORDS, THE ENDS
15 OF THE DEFECT WON'T COME BACK TOGETHER OVER THE DEFECT.
16 IT WILL STAY THERE.

17 MR. DIXON: FOR THE RECORD, LET ME JUST SAY THAT
18 IN THAT LAST ANSWER, YOUR HONOR, THE DOCTOR WAS REFERRING
19 TO FIRST PHOTOGRAPH D, THEN C, AND THEN A IN 67.

20 THE COURT: YES.

21 MR. DIXON: THANK YOU.

22 Q BY MR. DIXON: PLEASE CONTINUE.

23 A ENTRANCE WOUNDS ALSO TEND TO HAVE A RIM OF
24 ABRASION. ABRASION IS THE SCRAPING OF THE SKIN, AND IT
25 CAN EITHER BE COMPLETELY AROUND THE PERIMETER OF THE
26 DEFECT OR IT CAN BE ON ONE SIDE. GENERALLY, IF A BULLET
27 STRIKES THE SKIN AT A 90-DEGREE ANGLE OR CLOSE TO IT, YOU
28 WILL GET ABRASIONS AROUND THE WHOLE EDGE OF THE WOUND

1 BECAUSE WHAT HAPPENS IS THE SKIN WILL STRETCH BEFORE IT
2 BREAKS TO LET THE BULLET IN. AND IT IS STRETCHED AGAINST
3 THE BULLET ITSELF, AND THAT CAUSES THE SCRAPING.

4 IF THE BULLET COMES IN ON AN ANGLE, DEPENDING ON
5 HOW LARGE THE ANGLE IS, YOU MAY GET A LARGER ABRASION ON
6 ONE SIDE OR YOU MAY HAVE GET AN ABRASION ONLY ON ONE
7 SIDE. I DO NOT REALLY SEE A GOOD EXAMPLE OF THAT. BUT
8 THE BOTTOM LINE IS THAT ENTRY ROUNDS THAT -- ARE A WHOLE.
9 THEY ARE ROUND TO OVAL, PUNCHED OUT LOOKING DEFECT, AND
10 THEY HAVE A COLLAR OF ABRASION AROUND THEM. THAT IS IN
11 GENERAL. AND THEN IF THERE IS SOOT OR STIPPLING, YOU
12 WILL SEE THAT AT THE ENTRANCE. YOU WILL GENERALLY NOT
13 EVER SEE THAT AS AT AN EXIT.

14 EXIT WOUNDS IN GENERAL ARE LARGER AND MORE
15 IRREGULAR. THEY CAN BEING SLIT LIKE. THEY CAN LOOK LIKE
16 A T OR A Y OR A LITTLE STAR. ONE IMPORTANT
17 CHARACTERISTIC IS THAT THE EDGES ARE APPOSABLE, MEANING
18 THEY CAN FOLD BACK TOGETHER AND ESSENTIALLY CLOSE THE
19 DEFECT UP. THAT IS CHARACTERISTIC OF EXITS RATHER THAN
20 ENTRIES. AND ANOTHER THING IS THE EDGES ARE NOT ABRADED
21 BECAUSE SINCE THE BULLET IS COMING UP FROM UNDERNEATH,
22 IT'S STRETCHING THE SKIN FROM UNDERNEATH. IT'S NOT
23 REALLY CONTACTING THE SKIN. SO WHEN IT BREAKS THROUGH,
24 IT'S NOT REALLY TOUCHING THE SKIN. SO YOU HAVE NO
25 ABRASION AND YOU HAVE OPPOSABLE EDGES.

26 Q IN PHOTOGRAPH C ON PEOPLE'S 67, DOES THAT
27 SHOW BOTH AN ENTRY AND AN EXIT WOUND?

28 A YES. PHOTOGRAPH C SHOWS THE ENTRY AND

1 EXIT OF NO. 5. THE ENTRY IS ROUND. YOU HAVE TO GET VERY
2 CLOSE TO IT. THERE IS AN AREA OF ABRASION AROUND THE
3 CENTER, BUT THEY'RE BOTH VERY DARK, AND IT'S VERY HARD TO
4 TELL ONE FROM THE OTHER UNTIL YOU'RE RIGHT UP AGAINST IT.
5 BUT YOU CAN TELL FROM LOOKING THAT THE EXIT WOUND IS
6 DEFINITELY LARGER. THE EDGES ARE A BIT DRY. AND
7 SOMETIMES DRYING CAN MAKE IT LOOK ABRADED, BUT THEY'RE
8 NOT ABRADED. IN DR. SHERRY'S REPORT, HE VERY
9 SPECIFICALLY SAYS -- HE DOESN'T DESCRIBE ANY ABRASION
10 AROUND THIS. BUT THERE DEFINITELY IS ABRASION AROUND THE
11 ENTRANCE.

12 Q IN AN EARLIER ANSWER, YOU SAID THAT THE
13 TWO ENTRY WOUNDS ON MR. THOMPSON'S HAND, SHOWN IN
14 PHOTOGRAPH D WERE -- I DON'T THINK YOU USED THE WORD
15 "CLASSIC," BUT THEY WERE GOOD EXAMPLES OF ENTRY WOUNDS;
16 THAT IS CORRECT?

17 A YES.

18 Q NOW, YOU'VE TOLD ALSO TOLD US THAT IN
19 PHOTOGRAPH A ON THE SAME EXHIBIT, THOSE THREE WOUNDS ARE
20 ENTRY WOUNDS.

21 A YES, THEY ARE.

22 Q BUT THE ENTRY WOUND FOR NO. 2, AS WE LOOK
23 IN PHOTOGRAPH A, DOESN'T QUITE -- AND I COULD BE WRONG --
24 IT DOESN'T QUITE LOOK LIKE THE OTHERS; IS THAT CORRECT?

25 A THIS ONE, YOU MEAN?

26 Q YES.

27 A THAT'S GUNSHOT WOUND NO. 3.

28 Q RIGHT.

1 A YES, THAT ONE IS A LITTLE MORE IRREGULAR,
2 WHICH MAKES IT ATYPICAL. IT IS ABRADED, WHICH IS
3 DEFINITELY TYPICAL OF AN ENTRY. AND IT IS A GAPING
4 DEFECT. BUT WHAT IS UNUSUAL ABOUT IT IS THAT IT'S
5 DESCRIBED AS HAVING RAGGED EDGES. AND WHEN YOU SEE IT,
6 YOU CAN SEE THAT IT'S RATHER IRREGULAR. AND HERE, IF YOU
7 LOOK AT THIS LITTLE AREA OF REDDENING, THERE IS A LITTLE
8 MORE OF A PROMINENT ABRASION AT THE ENTRANCE OF IT. IT'S
9 STILL AN ENTRANCE WOUND, BUT IT'S SOMEWHAT ATYPICAL
10 BECAUSE OF THESE CHARACTERISTICS.

11 MS. SARIS: I'M SORRY. CAN WE HAVE THE WITNESS
12 STAND ON THE OTHER SIDE OF THE DIAGRAM?

13 THE WITNESS: OH, I'M SORRY.

14 MS. SARIS: THANK YOU.

15 MR. DIXON: WE HAVE TO MAKE SURE THAT DOESN'T
16 BLACK A JUROR, TOO.

17 THE WITNESS: I CAN STAND OVER HERE, TOO.

18 MR. DIXON: THANK YOU.

19 Q BY MR. DIXON: IN YOUR CAREER, IN YOUR
20 PRACTICE, HAVE YOU EVER SEEN BULLET ENTRY WOUNDS WHERE
21 YOU KNOW THAT THE BULLET HAD PASSED THROUGH EITHER
22 ANOTHER PART THE BODY OR ANOTHER OBJECT BEFORE HITTING
23 THE BODY?

24 A YES.

25 Q AND DOES THAT CHANGE THE CHARACTERISTICS
26 OF THE ENTRY WOUND IN ANY WAY, IN YOUR OPINION?

27 A YES, IT VERY OFTEN DOES, FOR SEVERAL
28 REASONS. IT'S CALLED WHAT WE CALL THE INTERMEDIATE

1 TARGET EFFECT. IF A BULLET PASSES THROUGH SOMETHING
2 BEFORE IT STRIKES THE BODY -- IT CAN BE ANYTHING. IT CAN
3 BE A WINDOW, IT CAN ANOTHER PART THE BODY, WHATEVER. IT
4 CAN CAUSE THE BULLET TO START WOBBLING BECAUSE GENERALLY
5 A BULLET GOES STRAIGHT. BUT ONCE IT'S PASSED THROUGH
6 SOMETHING, IT'S GOING TO BE A LITTLE MORE UNSTABLE, SO IT
7 MIGHT START WOBBLING. IT MIGHT START WHAT THEY CALL
8 YAWING, WHICH IS GOING A LITTLE SIDE TO SIDE AS IT'S
9 GOING FORWARD. IT MAY START TUMBLING. AND WHEN THAT
10 HAPPENS, IT CAN STRIKE THE BODY AT AN ANGLE. INSTEAD OF
11 GOING NOSE ON, IT CAN STRIKE SIDEWAYS, IT CAN STRIKE
12 BACKWARDS. ANYTHING LIKE THAT CAN HAPPEN. ALSO IN SOME
13 CASES, IF IT GOES THROUGH SOMETHING THAT'S RELATIVELY
14 HARD, DEPENDING ON THE TYPE OF BULLET, THE BULLET CAN
15 START TO BREAK UP, AND THEN YOU WILL HAVE ENTRIES MADE BY
16 FRAGMENTS, WHICH ARE GOING TO BE A LITTLE MORE IRREGULAR.

17 ANOTHER THING THAT CAN ALSO HAPPEN IS THAT IF
18 THERE IS SOMETHING ON TOP OF THE BODY. FOR EXAMPLE, IF A
19 BULLET GOES THROUGH A WALLET IN SOMEONE'S HIP POCKET
20 BEFORE IT STRIKES THE HIP, OR IF SOMEBODY IS TRYING TO
21 DEFEND THEMSELVES AND THEY PUT THEIR HAND OVER THEIR FACE
22 OR WHATEVER, AND THE BULLET GOES THROUGH THE HAND BEFORE
23 IT STRIKES THE SKIN, THE -- AS IT EXITS, NOT OF THE
24 BULLET GOING INTO THE SKIN BUT THAT PART THE BODY OR THE
25 WALLET OR WHATEVER IT IS, IS ALSO GOING TO BE SLAPPED
26 AGAINST THE SKIN A BIT. AND THAT CAN CAUSE SOME
27 DISTORTION OF THE ENTRANCE WOUND.

28 Q IS BULLET WOUND NUMBER -- ENTRY WOUND NO.

1 3, SHOWN IN PHOTOGRAPH A IN PEOPLE'S 67, IS THAT WOUND AS
2 YOU LOOK AT IT IN YOUR OPINION CONSISTENT WITH WHAT YOU
3 JUST DESCRIBED WHERE A BULLET MAY HAVE PASSED THROUGH
4 SOME OTHER BODY PART OR SOME OTHER SUBSTANCE BEFORE
5 STRIKING THE BODY?

6 A I THINK IT DEFINITELY COULD HAVE. IT'S
7 DESCRIBED AS BEING RAGGED AND HAS AN IRREGULAR AREA OF
8 ABRASION. AND JUST LOOKING AT IT, IT DOESN'T HAVE THE
9 CLASSIC NICE EVEN ROUND LOOK. SO IT COULD VERY EASILY
10 HAVE BEEN A BULLET THAT HAS GONE THROUGH SOMETHING ELSE.

11 Q OKAY. FINE. WHY DON'T YOU TAKE YOUR SEAT
12 FOR A MOMENT. LET'S LOOK AT ANOTHER EXHIBIT AND THEN WE
13 WILL RETURN TO THIS.

14 MR. DIXON: YOUR HONOR, I'M NOW PLACING ON THE
15 CHART HERE, PEOPLE'S 70 FOR IDENTIFICATION. AGAIN, IT IS
16 A CORONER'S PAGE 20 CHART AND TWO PHOTOGRAPHS MARKED A
17 AND B. AND BOTH THE PHOTOGRAPHS HAVE CORONER'S BLUE TAGS
18 ON THEM.

19 Q BY MR. DIXON: DOCTOR, WOULD YOU LOOK AT
20 PEOPLE'S 70 FOR A MOMENT AND TELL US IF YOU RECOGNIZE
21 THAT CHART AND THE TWO PHOTOGRAPHS IN ANY WAY?

22 A YES.

23 Q HOW DO YOU RECOGNIZE THAT?

24 A THIS IS A REPRODUCTION OF ONE OF THE
25 DIAGRAMS IN THE AUTOPSY REPORT ON MICKEY THOMPSON. AND
26 THESE ARE BOTH PHOTOS OF HIM. AND THEY ALL HAVE THE
27 CORONER'S CASE NUMBER ON THEM, ALTHOUGH THIS PHOTO A IS A
28 LITTLE BLURRED AND IT'S HARD TO READ, BUT THE ORIGINAL

1 PHOTO IS CLEAR.

2 Q AND YOU REVIEWED THOSE, OF COURSE?

3 A YES.

4 Q NOW, WE TALKED EARLIER THAT YOU CAN'T --
5 GENERALLY SPEAKING, YOU CAN'T REALLY LABEL WHICH GUNSHOT
6 OCCURRED FIRST OR LAST, AND THAT THE NUMBERS ARE TOTALLY
7 ARBITRARY; IS THAT CORRECT?

8 A THAT'S CORRECT.

9 Q BUT WE'LL TALK ABOUT THAT IN A MOMENT.
10 FIRST LET ME ASK YOU TO DESCRIBE THIS WOUND USING THE
11 CHART, PEOPLE'S 70, AND THE PHOTOGRAPHS A AND B. TELL US
12 WHEN THE ENTRY WOUND IS, WHERE THE EXIT WOUND IS, IF
13 THERE IS ONE, AND WHAT INJURIES MR. THOMPSON SUSTAINED AS
14 A RESULT OF THIS GUNSHOT.

15 A OKAY. WELL, THE ENTRANCE WOUND IN THE
16 HEAD, JUST BEHIND THE RIGHT EAR. IN THE DIAGRAM IT'S
17 THIS LITTLE BLACK DOT HERE, AND IT CORRESPONDS TO THIS
18 DEFECT HERE IN PHOTO A. THIS IS A REARVIEW OF HIS HEAD
19 AND THE HAIR THAT'S BEEN SHAVED AWAY SO THAT YOU CAN GET
20 A GOOD VIEW OF THE DEFECT. THIS IS THE BACK OF HIS RIGHT
21 EAR HERE. THIS IS THE EAR CANAL. SO YOU CAN SEE VERY
22 CLEARLY THAT THIS A GUNSHOT DEFECT. AND THIS IS A VERY
23 TYPICAL ENTRANCE WOUND. IT'S ROUND. IT'S GOT A BIG
24 CENTRAL DEFECT. IT DOES HAVE AN ABRASION EDGE. ALTHOUGH
25 IT'S NOT THAT CLEAR IN THE PHOTO, IT IS DESCRIBED IN THE
26 REPORT. AND THE BULLET GOES ESSENTIALLY THROUGH IN
27 THOMPSON'S HEAD, INJURING THE BRAIN, MAKING IT A FATAL
28 WOUND, AND IT EXITS THROUGH THE TOP OF HIS LEFT EAR.

1 THE SMALL DOT IN THE DIAGRAM HERE IS THE EXIT
2 WOUND. AND ON THE PHOTO, IT'S IN THIS AREA RIGHT HERE.
3 THIS IS PHOTO B. IT'S IN THE AREA RIGHT UNDER THE EDGE
4 OF THE RED TAPE. IT'S BASICALLY GOING THROUGH ON ME THE
5 VERY TOP OF THE EAR.

6 Q NOW, AGAIN, AS WE MENTIONED EARLIER, THERE
7 IS NO SOOTING OR STIPPLING FOUND HERE IN THIS WOUND,
8 CORRECT?

9 A YES.

10 Q SO THE WEAPON WAS AT LEAST TWO FEET AWAY;
11 IS THAT CORRECT, OR CORRECT ME IF I'M WRONG?

12 A WELL, IN THIS PARTICULAR CASE, DR. SHERRY
13 MAKES NO MENTION OF ANY RANGE OF FIRE IN HIS REPORT. SO
14 IN MY OPINION, I THINK YOU WOULD HAVE TO CALL IT
15 INDETERMINATE BECAUSE IT'S GOING THROUGH HAIR. HAIR HAS
16 BEEN SHAVED AWAY, BUT YOU CAN SEE THAT THAT'S BEHIND HERE
17 IN AN AREA WHERE THERE NORMALLY WOULD BE HAIR. SO I
18 THINK YOU WOULD PROBABLY HAVE TO SAY THAT THIS RANGE OF
19 FIRE IS INDETERMINATE, THAT THERE IS NO SOOT OR STIPPLING
20 IN THE PHOTO, BUT BECAUSE IT WENT THROUGH AN AREA THAT
21 HAS HAIR, I CAN'T REALLY BE SURE OF THE RANGE OF FIRE.

22 Q IT COULD HAVE BEEN, BUT YOU CAN'T TELL?

23 A EXACTLY.

24 Q IS THAT RIGHT?

25 A YES.

26 Q NOW, YOU EARLIER -- IS THIS AT A FATAL
27 WOUND, OBVIOUSLY?

28 A DEFINITELY FATAL BECAUSE OF THE INJURY TO

1 THE BRAIN. THIS WOULD BE A RAPIDLY FATAL.

2 Q AND THAT WAS MY NEXT QUESTION.

3 A SORRY.

4 Q THAT'S FINE. THERE ARE FATAL WOUNDS, AS
5 YOU DESCRIBED. I THINK YOU TOLD US THAT GUNSHOT WOUND
6 NO. 3 WAS FATAL?

7 A FOUR.

8 Q FOUR. THANK YOU. FOUR WAS FATAL, BUT
9 THAT MIGHT HAVE TAKEN SOME TIME. AND YOU CHARACTERIZE IN
10 YOUR MEDICAL OPINION WHAT WOULD HAVE HAPPENED TO
11 MR. THOMPSON, ASSUMING THAT HE WAS STANDING AT THE TIME
12 THAT HE RECEIVED THIS GUNSHOT, GUNSHOT NO. 1? WHAT WOULD
13 HAVE HAPPENED TO HIM?

14 A THIS WOUND WENT ACROSS THE BRAIN FROM ONE
15 SIDE TO THE OTHER. AND THIS IS A DEVASTATING INJURY, SO
16 IT WOULD HAVE INCAPACITATED HIM RAPIDLY. HE PROBABLY
17 WOULD HAVE DROPPED IMMEDIATELY WHERE HE WAS STANDING.

18 Q HE WOULD HAVE COLLAPSED IMMEDIATELY?

19 A YES.

20 Q NOW, WHY DON'T YOU TAKE YOUR SEAT FOR A
21 MOMENT, AND THEN WE'RE GOING TO TALK A LITTLE BIT MORE.
22 NOW, AS I'VE SAID A COUPLE OF TIMES, YOU'VE TOLD US YOU
23 CAN'T REALLY TELL GENERALLY SPEAKING IN WHAT ORDER THE
24 GUNSHOT WOUNDS ARE INFLICTED ON A VICTIM. IN THIS CASE,
25 AFTER REVIEWING ALL THE EVIDENCE FROM YOUR OFFICE AND
26 DR. SHERRY'S REPORTS AND THE PHOTOGRAPHS, CAN YOU TELL US
27 WHETHER OR NOT THIS WAS THE LAST INJURY, THE LAST
28 GUNSHOT, THAT MR. THOMPSON SUSTAINED?

1 A I THINK IT MAKES SENSE THAT THIS WAS MOST
2 LIKELY THE LAST INJURY. SIMPLY BECAUSE AS I HAD
3 DISCUSSED BEFORE, ALL OF THE OTHER SIX WOUNDS SHOWED
4 EVIDENCE OF WHAT DR. SHERRY CALLED ECCHYMOSIS OR A VITAL
5 TYPE OF REACTION, INDICATING THAT THE PERSON HAD ENOUGH
6 TIME TO REACT TO THE INJURIES, MEANING THE BLEED UNDER
7 THE SKIN. BUT IN THIS CASE, HE DOES NOT DESCRIBE
8 ANYTHING LIKE THAT. SO I THINK THIS IS PROBABLY
9 BASICALLY A RAPIDLY FATAL WOUND. THE BODY DIDN'T HAVE
10 TIME TO SHOW ANY KIND OF REACTION TO IT.

11 Q NOW, THE OTHER FATAL WOUND THAT YOU HAVE
12 TOLD US ABOUT WAS GUNSHOT WOUND NO. 4, CORRECT?

13 A YES.

14 Q DID YOU, IN REVIEWING ALL THE DOCUMENTS IN
15 THE AUTOPSY REPORT, FIND ANY EVIDENCE OF LARGE QUANTITY
16 OF BLOOD ASSOCIATED WITH THAT WOUND?

17 A YES. AS I SAID, THERE WAS ABOUT TWO
18 LITERS OF BLOOD IN HIS ABDOMEN.

19 Q AND WOULD THAT BE CONSISTENT WITH YOUR
20 OPINION THAT THIS GUNSHOT WOUND NO. 1 WAS THE LAST WOUND
21 THAT MR. THOMPSON SUFFERED?

22 A IT WOULD CERTAINLY BE CONSISTENT WITH
23 NO. 1 OCCURRING AFTER NO. 4. IT COULD EASILY HAVE BEEN
24 THE LAST ONE BECAUSE IF HE HAD BEEN SHOT WITH WOUND NO. 1
25 FIRST, AND THEN THE WOUND TO THE ABDOMEN OCCURRED LATER,
26 HE WOULD HAVE ALREADY LOST ALMOST ALL OF HIS PULSE AND
27 BLOOD PRESSURE FROM THIS WOUND, SO HE WOULD NOT EXPECT
28 HIM TO HAVE BLED THAT MUCH INTO HIS ABDOMEN. HE MIGHT

1 HAVE LOST SOME BLOOD, BUT NOT TWO LITERS.

2 Q NOW, RETURNING JUST FOR A MOMENT TO THE
3 DISTANCE FROM THE GUN MR. THOMPSON WAS WHEN HE RECEIVED
4 GUNSHOT NO. 1, IN YOUR OPINION, IT'S INDETERMINATE; IS
5 THAT CORRECT?

6 A YES.

7 Q DOES THAT MEAN IT COULD BE ANYWHERE FROM
8 INCHES TO FEET AWAY? IT COULD HAVE BEEN VERY CLOSE OR IT
9 COULD HAVE BEEN 10 FEET AWAY? IS THERE ANY WAY FOR YOU
10 TO DETERMINE THAT?

11 A WELL, I'M AGREEING WITH WHAT YOU'RE
12 SAYING. I CANNOT DETERMINE IF IT COULD HAVE BEEN
13 ANYTHING FROM A FEW INCHES TO A FEW FEET TO MANY FEET.

14 Q BASED ON YOUR REVIEW, IT COULD HAVE BEEN
15 WITHIN INCHES POSSIBLY?

16 A YES, POSSIBLY.

17 MR. DIXON: MAY I APPROACH?

18 THE COURT: YES.

19 Q BY MR. DIXON: JUST A FEW MORE QUESTIONS
20 ABOUT THIS AUTOPSY, AND THEN I WOULD LIKE TO RETURN TO
21 PEOPLE'S 69. I THINK I'VE BEEN CALLING IT 67. BUT
22 ANYWAY, 69, THIS IS WITH FIVE PHOTOGRAPHS, A THROUGH E.
23 LET'S TALK ABOUT GUNSHOT WOUND NO. 5, PLEASE, SHOWN IN
24 PHOTOGRAPH C, IF YOU COULD. AND IF YOU COULD, WOULD YOU
25 MIND, WITH THE COURT'S PERMISSION, STEPPING DOWN INTO
26 THIS AREA NEAR THE COURT REPORTER?

27 NOW, IN AN EARLIER ANSWER YOU TOLD US THAT BASED
28 ON ENTRY WOUNDS AND EXIT WOUNDS, YOU CAN TELL THE

1 DIRECTION OF GUNSHOTS AT TIMES; IS THAT CORRECT?

2 A YES.

3 Q CAN YOU WITH GUNSHOT WOUND NO. 5?

4 A YES, VERY DEFINITELY. SINCE THIS WOUND
5 WAS ON THIS -- THIS WOUND WAS ON HIS SIDE, IT'S ON THE
6 SIDE OF HIS HIP, AND THIS IS ON THE FRONT NEAR THE GROIN,
7 IT'S VERY CLEARLY GOING BACK TO FRONT.

8 Q ALL RIGHT. LET ME ASK YOU TO DO THIS: IF
9 YOU WOULD STEP RIGHT BEHIND THE COURT REPORTER, PLEASE,
10 AND FACE THE JURY. AND LET'S ASSUME THAT FOR THESE
11 QUESTIONS, YOU ARE THE VICTIM IN THIS AUTOPSY. YOU ARE
12 MR. THOMPSON. AND I'M THE GUNMAN. SINCE THERE'S NO
13 SOOTING OR STIPPLING, YOU CAN'T TELL HOW FAR AWAY I WAS,
14 BUT AT LEAST TWO FEET, CORRECT?

15 A RIGHT.

16 Q BUT WHERE CAN YOU TELL FROM ALL THE --

17 A I SHOULD SAY THAT BECAUSE THE BULLET WENT
18 THROUGH CLOTHING -- AGAIN, THIS WOULD PROBABLY BE AN
19 INDETERMINATE RANGE OF FIRE BECAUSE I DON'T KNOW IF THE
20 CLOTHING HAD THE SOOT OR THE POWDER ON IT.

21 Q SO IT COULD BE VERY CLOSE OR IT COULD BE
22 SOME DISTANCE AWAY; YOU'RE UNABLE TO TELL?

23 A THAT'S CORRECT.

24 Q ALL RIGHT. WITH THAT IN MIND, AND BASED
25 ON YOUR REVIEW OF ALL THE DOCUMENTS IN THIS CASE, COULD
26 YOU TELL ME WHERE TO STAND FOR THE JURORS TO VIEW WHERE
27 THE GUNMAN MUST HAVE BEEN WHEN MR. THOMPSON RECEIVED
28 GUNSHOT WOUND NO. 5?

1 MS. SARIS: OBJECTION, LACK OF FOUNDATION. CALLS
2 FOR SPECULATION.

3 THE COURT: OVERRULED. YOU CAN ANSWER.

4 A I CAN GIVE YOU A GOOD RANGE WHERE HE WOULD
5 HAVE BEEN. LET ME TAKE MY JACKET OFF FIRST. THANK YOU.
6 WELL, ON ME, THE APPROXIMATE LOCATION OF THE ENTRANCE
7 WOUND WOULD BE ABOUT HERE. IT WAS TO THE SIDE OF HIS
8 HIP. AND THE EXIT WOULD HAVE BEEN ON THE FRONT, VERY
9 CLOSE TO THE GROIN, SO IT'S GOING BACK TO FRONT. SO IF I
10 ESSENTIALLY USE THIS TO CONNECT. IT'S PROBABLY GOING A
11 LITTLE HIGHER THAN WHERE THE ACTUAL WOUND WAS. BUT THE
12 WOUND IS HERE AND HERE. AND I'M JUST A LITTLE ABOVE IT,
13 BUT AT A PARALLEL ANGLE, IT WOULD BE SOMETHING LIKE THIS.
14 SO IF YOU FOLLOW THIS ALONG THIS WAY, SINCE WE KNOW IT'S
15 GOING BACK TO FRONT, THE PERSON WHO FIRED IT WOULD BE AT
16 THE OTHER END OF THIS TRAJECTORY HERE. SO HE'S GOING TO
17 BE BEHIND ME AND PROBABLY A LITTLE TO MY RIGHT.

18 MR. DIXON: APPROXIMATELY WHERE I AM NOW OR
19 ANYWHERE ON THAT AXIS TO THE BACK OF THE COURTROOM?

20 A EXTENDING THAT LINE TO THE BACK OF THE
21 COURTROOM, YOU CAN BEING ANYWHERE ON THAT.

22 THE COURT: CAN YOU DESCRIBE THAT, MR. DIXON?

23 MR. DIXON: THAT'S A TOUGH ONE. YOU'RE THE
24 JUDGE. DESCRIBE WHAT?

25 THE COURT: WELL, THE WITNESS WAS POINTING TO A
26 NUMBER OF DIFFERENT PLACES. AND IT CORRESPONDS TO ONE OF
27 THE PHOTOS ON 69, CORRECT? SO WHY DON'T WE START WITH
28 THAT. THE PHOTO THAT WAS REFERRED TO IS PHOTO --

1 THE WITNESS: C.

2 Q BY MR. DIXON: DOCTOR, YOU'VE BEEN, IN
3 YOUR LAST DISCUSSION, REFERRING TO GUNSHOT WOUND NO. 5
4 SHOWN IN PEOPLE'S 69, PHOTOGRAPH C, CORRECT?

5 A YES.

6 Q AND YOU'VE BEEN DESCRIBING WHAT YOU
7 BELIEVE THE TRAJECTORY OF THAT GUNSHOT WOUND MIGHT HAVE
8 BEEN?

9 A YES. IT WAS ALSO DESCRIBED IN
10 DR. SHERRY'S REPORT AS BACK TO FRONT, SO I'M ALSO RELYING
11 ON MY OWN REVIEW, BUT ALSO WHAT HE SAYS. SO GIVEN THAT
12 IT'S BACK TO FRONT, AND I KNOW THAT THE ENTRANCE WOUND IS
13 APPROXIMATELY ON THE MIDDLE OF THE RIGHT SIDE OF MY HIP
14 AND THE EXIT IS NEAR THE GROIN AREA, I'M BASICALLY ON ME
15 DRAWING A LINE BETWEEN THE TWO AND USING THIS POINTER TO
16 REPRESENT THE LINE. AND SINCE I CAN'T ACTUALLY PUT IT
17 THROUGH ANY DEFECTS ON MY BODY, I'M JUST HOLDING IT UP A
18 LITTLE HIGH ON MY HIP, BUT IN A PARALLEL AREA.

19 SO THEN IF YOU EXTEND THE LINE THAT THIS POINTER
20 FORMS BACKWARDS, IT INDICATES THAT THE SHOT CAME FROM
21 BEHIND AND SOMEWHAT TO THE RIGHT. BUT HOW FAR BEHIND AND
22 TO THE RIGHT, I CAN'T SAY. IT COULD HAVE BEEN RIGHT UP
23 AGAINST THE BACK MY HIP, OR IT COULD HAVE BEEN, IF YOU
24 PROJECT THIS LINE UP, THE BUILDING COULD HAVE BEEN AT THE
25 OTHER END OF THAT ALSO.

26 Q SO THE GUNMAN, IN YOUR OPINION AND BASED
27 ON WHAT YOU READ FROM DR. SHERRY, WOULD HAVE BEEN
28 STANDING BEHIND MR. THOMPSON TO THE RIGHT AT ABOUT A

1 45-DEGREE ANGLE; IS THAT ABOUT RIGHT?

2 A WELL, I DON'T WANT TO GIVE ACTUAL NUMBERS.
3 HE'S NOT DIRECTLY BEHIND HIM. HE'S SOMEWHAT OVER TO THE
4 RIGHT. AND THAT'S ABOUT THE BEST I CAN DO FOR THAT ONE.

5 Q OKAY. THANK YOU. BUT THE DISTANCE FROM
6 MR. THOMPSON, YOU JUST DON'T KNOW?

7 A THAT'S CORRECT.

8 Q ALL RIGHT. THANK YOU. YOU CAN TAKE THE
9 STAND. THANK YOU.

10 NOW I WOULD LIKE, IF WE COULD, TO TALK ABOUT --
11 OR REVISIT GUNSHOT WOUNDS, PARTICULARLY IN 4. IS THERE
12 ANYTHING IN YOUR REVIEW OF DR. SHERRY'S MATERIALS OR YOUR
13 OWN REVIEW OF THESE MATERIALS THAT TELL YOU WHETHER OR
14 NOT THOSE GUNSHOT WOUNDS WERE CONSISTENT WITH
15 MR. THOMPSON STANDING STRAIGHT RIGHT UP OR BEING BENT
16 OVER AT THE TIME HE RECEIVED THEM?

17 A WELL, THERE IS NOTHING SPECIFICALLY IN
18 DR. SHERRY'S REPORT, BUT HE DOES DESCRIBE THAT THE
19 TRAJECTORIES OF ALL OF THOSE ARE DOWNWARD, FRONT TO BACK,
20 DOWNWARD, AND FROM THE PERSON'S LEFT TO THE PERSON'S
21 RIGHT. AND THAT IS EASILY CONSISTENT WITH SOMEBODY
22 STANDING UP OR MAYBE BEING A LITTLE BENT OVER. I MEAN,
23 EVERYTHING IS RELATIVE. BUT A PERSON COULD BE STANDING
24 AND BENT OVER AND HAVE THAT TRAJECTORY.

25 Q AND LASTLY, AT LEAST WITH THIS SERIES OF
26 QUESTIONS, LET'S TURN TO GUNSHOT WOUNDS 6 AND 7 SHOWN IN
27 PHOTOGRAPH D ON PEOPLE'S 69 AND GUNSHOT WOUND NO. 3 SHOWN
28 IN A. YOU TOLD US EARLIER THAT IN YOUR OPINION,

1 GUNSHOT -- THE ENTRY WOUND TO GUNSHOT WOUND NO. 3 WAS
2 CONSISTENT WITH A BULLET THAT MAY HAVE GONE THROUGH SOME
3 OTHER SUBSTANCE, EITHER BODY OR CLOTHING OR SOMETHING
4 BEFORE MR. THOMPSON RECEIVED THAT WOUND; IS THAT CORRECT?

5 A YES.

6 Q IN YOUR REVIEW OF ALL THESE MATERIALS, ARE
7 EITHER OF THE GUNSHOTS, 6 OR 7, CONSISTENT WITH
8 MR. THOMPSON HOLDING HIS HAND OVER HIS STOMACH AT THE
9 TIME THAT HE RECEIVED EITHER 6 OR 7 AND THEN 3?

10 A YES, I THINK SO.

11 Q AND COULD YOU DESCRIBE THAT FOR THE JURY,
12 PLEASE?

13 A OKAY. AS I MENTIONED BEFORE, THE ENTRANCE
14 WOUND TO NO. 3, WHILE DEFINITELY AN ENTRANCE, HAS SOME
15 IRREGULAR ASPECTS ABOUT IT THAT SUGGESTS THAT THERE WAS
16 WHAT WE CALL AN INTERMEDIATE TARGET. NOW, THE WOUND
17 TO -- WELL THERE ARE TWO WOUNDS TO MR. THOMPSON'S HAND.
18 THIS IS 6, THE ONE CLOSEST TO THE THUMB, AND THIS IS 7.
19 AND THE EXIT WOUNDS ARE BOTH ON THE -- YOU CAN'T SEE
20 BECAUSE WE HAVEN'T SEEN ANY PHOTOS YET, BUT THE EXIT
21 WOUNDS ON THIS PART OF THE HAND, TECHNICALLY IT'S CALLED
22 THE HYPOTHENAR, BUT IT'S THE PAD UNDER THE PINKY FINGER.
23 THEY'RE BOTH IN THIS AREA.

24 THIS ONE, NO. 7, ACCORDING TO DR. SHERRY, GOES TO
25 THE PALM OR SIDE, AND IT'S -- OKAY. I'M NOT SAYING THIS
26 TOO WELL. HE MEASURED THE ENTRANCE AND THE EXIT FROM THE
27 WRIST, AND THEY WERE THE SAME DISTANCE, MEANING IN THIS
28 CASE, ONE AND A QUARTER INCH FROM THE WRIST. SO THE

1 ENTRANCE WOUND AND THE EXIT ARE ABOUT THE SAME LEVEL, SO
2 IT'S GOING ALMOST STRAIGHT THROUGH THE HAND, MAYBE
3 SLIGHTLY TOWARDS THE -- WHAT HE CALLED THE ULNAR EDGE.
4 THAT'S OF THE PINKY SIDE OF THE FINGER, WHICH IS MORE
5 OBVIOUS IN THE PHOTOS.

6 THIS ONE, NO. 6, I THINK THIS ONE IS THE MORE
7 LIKELY CANDIDATE OF THE TWO TO BE ASSOCIATED WITH GUNSHOT
8 WOUND NO. 3. IF YOU LOOK AT WHERE IT IS, OKAY, THIS IS
9 HIS HAND. AND AGAIN, YOU CAN JUST SEE A LITTLE BIT OF
10 HIS THUMB RIGHT HERE DOWN AT THE END OF THE PHOTO. THE
11 KNUCKLE OF THE FIRST FINGER IS APPROXIMATELY HERE. NOT
12 EASY TO SEE. AND THE LABEL IS PROBABLY RIGHT ON TOP OF
13 IT. BUT WHEN YOU FOLLOW THE BONE OF THE HAND BACK TO THE
14 WRIST, IT'S IN THE AREA OF WHAT WE CALL -- IT'S THE
15 SECOND OR THIRD METACARPAL BONE. ALL OF THESE LONG BONES
16 IN THE HAND COMING BACK FROM THE KNUCKLE TO THE WRIST ARE
17 METACARPAL BONES. THE INDEX FINGER ONE IS THE SECOND
18 ONE. THE ONE IN THE THUMB IS THE FIRST ONE.

19 AND JUST EYEBALLING IT, THIS LOOKS LIKE IT'S IN
20 THE AREA OF THE SECOND OR THIRD METACARPAL BONE, SO IT'S
21 ABOUT HERE ON MY HAND (INDICATING), BUT THE EXIT IS OVER
22 HERE. SO IT IS DEFINITELY GOING TOWARDS THE ULNAR OR
23 PINKY EDGE OF THE HAND. AND ALSO, ACCORDING TO
24 DR. SHERRY'S MEASUREMENTS, IT'S GOING IN WHAT WE CALL
25 DISTAL, WHICH MEANS TOWARDS THE FAR END OF THE HAND.

26 HE MEASURED THIS AT A PARTICULAR DISTANCE, WHICH
27 I BELIEVE -- I WILL CHECK IN A SECOND, BUT I BELIEVE IT
28 WAS 7/8THS OF AN INCH FROM THE END OF THE WRIST; WHEREAS

1 THE EXIT WOUND ON THE OTHER SIDE WAS ONE AND A QUARTER
2 INCHES FROM THE SAME REFERENCE POINT. SO IT'S ABOUT A
3 3/8THS INCH DISTANCE. IT WAS A DIFFERENCE OF 3/8THS
4 INCHES BETWEEN THE ENTRANCE AND THE EXIT IN THIS
5 DIRECTION.

6 SO YOU HAVE A WOUND THAT'S GOING FROM THE BACK OF
7 THE HAND TO THE PALM OF THE HAND, TOWARDS THE PINKY EDGE
8 OF THE HAND, AND ALSO TOWARDS THE END OF THE HAND RATHER
9 THAN GOING BACK UP TOWARDS OF THE WRIST. AND IF YOU PUT
10 YOUR HAND OVER YOUR STOMACH AND VISUALIZE THAT
11 TRAJECTORY, IT WOULD BE VERY, VERY SIMILAR TO THE
12 TRAJECTORY OF -- WELL, ACTUALLY ALL OF THESE WOUNDS
13 BECAUSE THEY ARE ALL GOING FROM HIS LEFT TO HIS RIGHT AND
14 DOWN. SO -- EXCUSE ME A SECOND. I'M GOING TO BORROW A
15 PENCIL.

16 SO IF THE ABDOMINAL WOUND IS SOMETHING LIKE THIS
17 (INDICATING). AND THEN YOU HAVE A WOUND TO THE HAND THAT
18 IS LIKE THIS, YOU CAN KIND OF SEE HOW THEY CAN OVERLAP.
19 IF YOU PUT YOUR HAND TO YOUR STOMACH, THEY COULD VERY
20 EASILY OVERLAP. SO IT'S VERY POSSIBLE. I CAN'T BE SURE,
21 BUT IT'S VERY POSSIBLE THAT A WOUND WENT THROUGH HIS HAND
22 AND THEN INTO THE BODY HERE.

23 AND IT'S ALSO POSSIBLE THAT BOTH OF THEM DID.
24 THIS IS NO. 4 IN A, WHICH IS ALSO SLIGHTLY IRREGULAR
25 HERE. LOOKING AT THE PHOTO, IT LOOKS A LITTLE IRREGULAR,
26 ALTHOUGH IT'S NOT REALLY DESCRIBED IN HIS REPORT. IF YOU
27 LOOK AT HOW CLOSE TOGETHER THEY ARE AND HOW CLOSE
28 TOGETHER THESE ARE, IT'S VERY POSSIBLE THAT BOTH WOUNDS

1 WENT THROUGH HIS HAND AND THEN INTO HIS ABDOMEN.

2 THE COURT: THE WITNESS IS REFERRING TO PHOTO D
3 AND PHOTO A.

4 THE WITNESS: YES.

5 MS. SARIS: AND YOUR HONOR, SHE WAS DEMONSTRATING
6 ON HER OWN HAND AS WELL.

7 THE WITNESS: I WAS TRYING TO USE PENCILS, YOUR
8 HONOR, TO USE THE TRAJECTORY THROUGH THE BODY AND THE
9 TRAJECTORY THROUGH THE HAND AND JUST SUPERIMPOSE THEM.

10 THE COURT: I'M GOING TO HAVE TO DEPEND ON
11 MR. DIXON FOR THE DESCRIPTION.

12 MR. DIXON: ALL RIGHT.

13 Q BY MR. DIXON: AND YOU WERE USING THOSE
14 PENCILS TO DESCRIBE WHAT YOU BELIEVE THE TRAJECTORY WOULD
15 BE OF WOUNDS 6 OR 7 OR PERHAPS BOTH THROUGH THE HAND AND
16 INTO THE BODY, AND YOU WERE PLACING YOUR HAND BASICALLY
17 OVER YOUR WAIST AREA IN AN AREA THAT WOULD BE CONSISTENT
18 WITH WOUND -- ENTRY WOUNDS 2, 3, AND 4 IN OUR EXHIBIT 69;
19 IS THAT CORRECT?

20 A YES.

21 Q THANK YOU. SO WHAT YOU'VE TOLD US IS
22 THAT -- LET ME SEE IF I UNDERSTAND THIS. THAT AT LEAST
23 WOUND 6, BECAUSE IT IS A TRAJECTORY, WOULD BE CONSISTENT
24 WHEN MR. THOMPSON RECEIVING THAT WOUND. AND THEN THAT
25 WOUND, THAT BULLET THAT CAUSED WOUND NO. 6 ENTERING HIS
26 BODY AND CAUSING WOUND -- ENTRY WOUND NO. 3 OR PERHAPS
27 NO. 4?

28 A YES.

1 Q THANK YOU VERY MUCH.

2 MR. DIXON: YOUR HONOR, AT THIS TIME WE'RE GOING
3 TO MOVE ON TO THE NEXT AUTOPSY. I DON'T KNOW IF YOU WANT
4 TO BREAK NOW OR KEY KEEP GOING.

5 THE COURT: WELL, WHEN IS THE DOCTOR AVAILABLE TO
6 COME BACK?

7 MR. DIXON: SHE WILL BE HERE TOMORROW MORNING.

8 THE COURT: TOMORROW MORNING?

9 MR. DIXON: YES.

10 THE COURT: ALL RIGHT. WELL, WHY DON'T WE GO A
11 FEW MORE MINUTES, AND THEN WE CAN PICK IT UP TOMORROW
12 MORNING.

13 MR. DIXON: FINE. OKAY.

14 Q BY MR. DIXON: LET ME JUST ASK YOU ONE OR
15 TWO MORE QUESTIONS WITH THAT. AS YOU TOLD US, IT WOULD
16 BE CONSISTENT WITH YOUR FINDING, DR. SHERRY, (SIC) TO
17 HAVE MR. THOMPSON RECEIVING A WOUND AND HOLDING HIS HAND
18 OVER HIS STOMACH WHEN HE RECEIVED 6 AND 4, RIGHT?

19 A YES.

20 Q AND YOU ALSO TOLD US THAT GUNSHOT WOUND
21 NO. 4, THE FATAL WOUND, WOULD HAVE CAUSED A LOT OF
22 BLEEDING?

23 A YES.

24 Q IN FACT, YOU FOUND TWO LITERS OF -- OR
25 DR. SHERRY FOUND AT LEAST TWO LITERS OF BLOOD IN
26 MR. THOMPSON'S BODY?

27 A YES.

28 Q WHAT, IN YOUR MEDICAL OPINION, WOULD HAVE

1 HAPPENED IF MR. THOMPSON, HOLDING HIS HAND OVER GUNSHOT
2 WOUNDS 3 OR 4 WOULD HAVE MOVED HIS HAND WHILE HE WAS
3 BENDING OVER? WHAT WOULD HAVE HAPPENED?

4 A WELL, THE HAND COULD HAVE ESSENTIALLY
5 PLUGGED UP THE GUNSHOT WOUND. AND HE'S BENDING OVER, AND
6 THEN HE REMOVES THE HAND, THEN THE BLOOD COULD EASILY
7 FLOW OUT OF ANY OF THE -- 2 OR 4 ARE THE ONES THAT GO
8 INTO THE ABDOMEN. SO YOU BASICALLY HAVE TWO WOUNDS TO
9 THE ABDOMEN THAT WOULD ALLOW THE BLOOD TO FLOW OUT OF,
10 PARTICULARLY WHEN HE'S BENDING OVER BECAUSE THEN YOU HAVE
11 OF THE EFFECTS OF GRAVITY.

12 Q AND AS YOU TOLD US, GUNSHOT WOUND NO. 4
13 SEVERED OR INJURED A VEIN, A LARGE VEIN. THAT WOULD HAVE
14 CAUSED A LOT OF BLEEDING?

15 A YES.

16 Q SO WOULD YOU EXPECT IT, IN YOUR MEDICAL
17 OPINION, TO -- IF MR. THOMPSON BENT OVER, AND THE EFFECTS
18 OF GRAVITY IN THAT WOUND, TO SEE SPILLING OF HIS BLOOD ON
19 THE GROUND NEAR HIM?

20 A CERTAINLY COULD HAPPEN, YES.

21 Q JUST ONE OR TWO MORE QUESTIONS. SO
22 MANY -- I THINK ALL OF THE WOUNDS THAT WE'VE TALKED ABOUT
23 WITH RESPECT TO MR. THOMPSON WERE THROUGH AND THROUGH
24 WOUNDS.

25 A THEY ALL WERE, YES.

26 Q DOES THAT -- WELL, LET'S TALK ABOUT
27 GUNSHOT WOUND NO. 1, FOR EXAMPLE. DOES THAT IN AND OF
28 ITSELF, THE FACT THAT A GUNSHOT WOUND IS A THROUGH AND

1 THROUGH, CAN THAT HELP YOU OR TELL YOU ANYTHING ABOUT THE
2 DISTANCE THAT THE GUN WAS HELD FROM THE VICTIM?

3 A NO, IT REALLY CAN'T.

4 Q OKAY. NOW I WOULD LIKE YOU TO TURN TO
5 PEOPLE'S 68 FOR IDENTIFICATION. WE PUT IT IN PLASTIC, SO
6 YOU MIGHT HAVE TO TAKE IT OUT. DO YOU RECOGNIZE THAT,
7 PEOPLE'S 68?

8 A OH, YES, I DO.

9 Q AND WHAT IS IT?

10 A THIS IS A COPY OF THE AUTOPSY REPORT ON
11 TRUDY THOMPSON.

12 Q AND YOU HAD AN OPPORTUNITY TO STUDY THAT
13 BEFORE TODAY?

14 A YES.

15 Q AND DID YOU, IN FACT, BRING THAT EXHIBIT,
16 PEOPLE'S 68, TO COURT TODAY?

17 A YES, I DID.

18 Q IS IT A CERTIFIED COPY FROM YOUR OFFICE?

19 A YES, IT IS.

20 Q AND LIKE PEOPLE'S 67, IS IT AN OFFICIAL
21 DOCUMENT MADE IN THE COURSE OF BUSINESS AT THE CORONER'S
22 OFFICE?

23 A YES.

24 Q NOW, WITH RESPECT TO MICKEY THOMPSON,
25 DR. SHERRY PERFORMED THE AUTOPSY. HOW ABOUT WITH RESPECT
26 TO THIS AUTOPSY?

27 A THE AUTOPSY ON TRUDY THOMPSON WAS
28 PERFORMED BY DR. WEGNER.

1 Q AND LIKE WITH MICKEY THOMPSON, THIS HAS
2 BEEN ASSIGNED A CORONER'S CASE NUMBER?

3 A YES.

4 Q AND THAT IS?

5 A 88-02868.

6 Q AND LIKE WE TALKED ABOUT BEFORE, ANY
7 EVIDENCE OR DOCUMENTS ASSOCIATED WITH THE TRUDY THOMPSON
8 AUTOPSY WOULD BEAR THAT NUMBER; IS THAT RIGHT?

9 A YES.

10 Q NOW, UNLIKE THE MICKEY THOMPSON AUTOPSY,
11 IN THIS AUTOPSY, DID DR. WEGNER RECOVER ANY PROJECTILES?

12 A YES, HE DID.

13 Q AND HOW MANY?

14 A THERE WERE TWO.

15 Q AND WOULD THOSE HAVE BEEN LABELED WITH THE
16 NUMBER, THE CORONER'S CASE NUMBER?

17 A THE ENVELOPE THAT HE PUT THEM IN WOULD
18 HAVE HAD THE CORONER'S CASE NUMBER. HE WOULDN'T HAVE
19 WRITTEN THE NUMBER ALL OVER THE BULLET.

20 Q THANK YOU. THAT'S WHAT I MEANT. AND IN
21 YOUR EXPERIENCE IN THE CORONER'S OFFICE, WOULD IT
22 SURPRISE YOU THAT THE SHERIFF'S DEPARTMENT AT SOME POINT
23 WOULD HAVE OBTAINED THOSE PROJECTILES FOR THEIR OWN
24 TESTING?

25 A OH, IT WOULDN'T SURPRISE ME AT ALL.

26 Q IS THAT OFTEN DONE?

27 A YES.

28 Q NOW, LET'S TURN TO THE AUTOPSY OF TRUDY

1 THOMPSON. LIKE THE MICKEY THOMPSON AUTOPSY, HAVE YOU HAD
2 AN OPPORTUNITY TO REVIEW ALL THE MATERIALS THAT WERE
3 PREPARED BY DR. WEGNER IN GETTING READY TO COME TO COURT
4 HERE TODAY?

5 A YES.

6 Q INCLUDING THE PHOTOGRAPHS?

7 A YES.

8 Q AND YOU REVIEWED HIS OPINION WITH RESPECT
9 TO THE CAUSE OF DEATH AND GUNSHOT WOUNDS?

10 A YES.

11 Q AND YOU'VE ALSO FORMED YOUR OWN OPINION?

12 A YES.

13 Q WELL, THEN, COULD YOU TELL US, BASED ON
14 EVERYTHING THAT YOU HAVE READ AND CONSIDERED IN THIS
15 MATTER, WHAT WAS THE CAUSE OF DEATH FOR TRUDY THOMPSON?

16 A HE CALLS IT GUNSHOT WOUNDS OF HEAD AND
17 BODY.

18 Q HOW MANY GUNSHOT WOUNDS DID DR. WEGNER
19 FIND DURING HIS AUTOPSY?

20 A TWO.

21 Q AND YOU AGREE WITH THAT?

22 A YES.

23 Q AND FOR THE RECORD, I SHOULD ASK YOU WHEN
24 THIS OCCURRED. WHEN WAS THE AUTOPSY DONE?

25 A ALSO ON MARCH 17TH, 1988. BEGUN AT 9:00.

26 Q LET'S TALK ABOUT THE GUNSHOT WOUNDS.

27 THERE IS TWO, BUT I HAVE UP HERE ON THE BOARD PEOPLE'S --
28 AS I SAID, PEOPLE'S 70. NO, THAT'S 71, 71 WITH A AND B.

1 AND YOU RECOGNIZE THAT, OF COURSE?

2 A YES, I DO.

3 Q WHICH GUNSHOT WOUND DOES THIS SHOW?

4 A THIS SHOWS THE ONE THAT IS ARBITRARILY
5 NUMBERED AS GUNSHOT WOUND NO. 2.

6 Q AND COULD YOU DESCRIBE THE ENTRY AND EXIT
7 WOUNDS, PLEASE? AND USE YOUR POINTER AND THE DIAGRAM 71,
8 IF YOU WOULD LIKE.

9 A THE ENTRANCE WOUND IS IN THE LOWER LEFT
10 PART OF THE ABDOMEN. IT IS THIS LITTLE DOT HERE ON THE
11 DIAGRAM 20, AND IT CORRESPONDS TO THIS WOUND RIGHT HERE
12 IN PHOTOGRAPH B. THE ACTUAL ENTRY WOUND IS AT THE TOP OF
13 THIS AREA OF INJURY. AND IF YOU LOOK CLOSELY, YOU CAN
14 SEE A RED HOLE. THE DARK AREA ON THE ENDS OF IT IS
15 ABRASION. YOU CAN SEE THAT THERE IS A LONGER AREA OF
16 ABRASION ON THE LOWER EDGE OF THIS WOUND.

17 Q AND THE EXIT WOUND? YOU'VE JUST BEEN
18 POINTING TO PHOTOGRAPH B IN 71, FOR THE RECORD.

19 A YES, I HAVE. THIS GUNSHOT WOUND GOES FROM
20 HER LEFT TO HER RIGHT, UPWARD THROUGH THE BODY. AND I
21 WILL TALK ABOUT THE INTERNAL INJURIES IN A SECOND. BUT
22 IT EXITS THE BODY IN THE -- I WILL CALL IT THE RIGHT
23 POSTERIOR ARM PIT AREA. HE DIDN'T REALLY DRAW IT IN
24 BECAUSE IT'S NOT VERY EASY TO SEE ON THIS DIAGRAM. IT'S
25 RIGHT AT THE EDGE OF THE BACK. HE HAS JUST A VERY, VERY
26 SMALL DOT AT THE END OF THE ARROW RIGHT HERE ON THE
27 DIAGRAM. BUT THE ACTUAL EXIT WOUND IS RIGHT HERE. THIS
28 IS NOT A GREAT PHOTO FOR ORIENTATION. IT'S VERY HARD TO

1 SEE EXACTLY WHAT PART OF THE BODY THIS IS. BUT THIS LINE
2 HERE IS THE EDGE OF THE BACK OF THE RIGHT ARM. SO THIS
3 IS NEAR THE ARM PIT AREA KIND OF ON THE EDGE OF THE RIGHT
4 SIDE OF THE BACK.

5 Q DOCTOR, WE'RE GOING TO PUT UP ANOTHER
6 PHOTOGRAPH THAT MAY ASSIST YOU. THIS IS PEOPLE'S 72 FOR
7 IDENTIFICATION.

8 MR. JACKSON: 76.

9 MR. DIXON: EXCUSE ME, 76. THERE IT IS.

10 Q BY MR. DIXON: AND IF I COULD APPROACH,
11 I'LL HAND THIS TO YOU SO YOU CAN SEE IT A LITTLE BETTER,
12 PEOPLE'S 76 FOR IDENTIFICATION. YOU WERE JUST TELLING US
13 THAT PHOTOGRAPH A IN OUR DIAGRAM 71 ISN'T THE BEST. DOES
14 THAT HELP YOU ANY MORE?

15 A YES, THIS IS A BETTER PICTURE BECAUSE IT'S
16 NOT QUITE SUCH A CLOSE-UP. SO YOU CAN GET A LITTLE
17 BETTER PROSPECTIVE. HER HEAD IS AT THE TOP OF THE PHOTO.
18 YOU CAN SEE A LITTLE BIT OF HAIR HERE. BUT HERE IS THE
19 RIGHT ARM GOING OFF THE EDGE OF THE PHOTO. YOU CAN VERY
20 CLEARLY SEE THIS IS THE ARM PIT AREA HERE. AND HERE IS
21 THE EXIT WOUND RIGHT HERE.

22 MS. SARIS: YOUR HONOR, WHEN SHE SAYS HERE --

23 MR. DIXON: WE'RE TALKING ABOUT --

24 Q BY MR. DIXON: YOU'RE POINTING TO A
25 LOCATION THAT'S BASICALLY IN THE CENTER OF THE
26 PHOTOGRAPH, PEOPLE'S 76 FOR IDENTIFICATION; IS THAT
27 CORRECT, DOCTOR?

28 A YES. I SHOULD JUST POINT OUT, I GUESS,

1 FOR THE RECORD THAT IN THE PHOTO SHE IS LYING ON THE
2 FRONT OF HER BODY ON THE GURNEY. THE BOTTOM OF THE
3 GURNEY IS RIGHT HERE. SO HER RIGHT ARM IS ACTUALLY
4 DANGLING DOWN THE SIDE OF THE GURNEY. AND THIS IS HER
5 BREAST RIGHT HERE. SO THE ORIENTATION WHEN THE PHOTO WAS
6 TAKEN WAS MORE LIKE THIS IN A HORIZONTAL POSITION.

7 Q THANK YOU, DOCTOR.

8 MS. SARIS: AGAIN, CAN WE HAVE THAT DESCRIBED FOR
9 THE RECORD, PLEASE?

10 THE COURT: IT'S PHOTO 76 AT THE BOTTOM OF THE
11 PHOTO, CORRECT?

12 THE WITNESS: YES.

13 Q BY MR. DIXON: IF YOU WOULD LIKE, YOU CAN
14 TAKE YOUR SEAT. AND CAN YOU PLEASE DESCRIBE WHAT
15 INJURIES TRUDY THOMPSON SUFFERED AS A RESULT OF THE
16 GUNSHOT WOUND NO. 2?

17 A THE BULLET WENT THROUGH THE ABDOMEN AND
18 THE RIGHT CHEST CAVITY. IN THE ABDOMEN, IT GRAZED LOOPS
19 OF BOTH OF THE SMALL BOWEL AND THE COLON, GRAZING IS JUST
20 TANGENTIAL KIND OF A SCRAPING INJURY. IT'S NOT A FULL
21 FITNESS DEFECT. IT JUST SCRAPES THE SURFACE. IT ALSO
22 LACERATED THE STOMACH. AND PROBABLY MOST IMPORTANTLY, IT
23 WENT THROUGH THE LIVER. AND THE LIVER IS AN ORGAN THAT
24 HAS A VERY LARGE BLOOD SUPPLY. THERE WAS A CLUSTER OF
25 BLOOD VESSELS THAT ENTER THE UNDER SIDE OF THE LIVER.
26 IT'S CALLED THE PORTA, P-O-R-T-A, HEPATIS, H-E-P-A-T-I-S.
27 THERE IS AN ARTERY AND VEIN THAT GO IN THERE. AND
28 DR. WEGNER DESCRIBES LACERATIONS TO THE BLOOD VESSELS,

1 BRANCHES OF THE PORTAL VEIN IN THAT AREA. SO THAT IS
2 MAJOR INJURY WHERE SHE COULD LOSE A LOT OF BLOOD FROM
3 THAT.

4 AFTER THE BULLET GOES THROUGH THE LIVER, IT GOES
5 THROUGH THE DIAPHRAGM, WHICH IS THE MUSCLE THAT SEPARATES
6 THE ABDOMEN FROM THE CHEST. THE LIVER IS RIGHT UNDER IT.
7 AND THEN IT ENTERS THE RIGHT CHEST CAVITY. IT GOES
8 THROUGH THE LOWER LOBE OF THE RIGHT LUNG, COLLAPSING THE
9 LUNG. ON HER SIDE, IT FRACTURES HER SIXTH RIB. AND THEN
10 IT GOES THROUGH THE SOFT TISSUES OF THE BACK AND EXITS
11 THE BACK IN THE AREA I SHOWED YOU.

12 Q THANK YOU, DOCTOR. YOU EARLIER -- WE'VE
13 EARLIER TALKED ABOUT WHAT WOUNDS WERE FATAL AND NONFATAL
14 AND THE LIKE. IN YOUR OPINION AND THEN IN DR. WEGNER'S
15 OPINION FROM WHAT YOU'VE READ AND CONSIDERED, WAS THIS A
16 FATAL WOUND?

17 A YES.

18 Q WE ALSO TALKED ABOUT WOUNDS THAT WERE
19 RAPIDLY FATAL, LIKE WOUND NO. 1, GUNSHOT WOUND NO. 1 TO
20 MICKEY THOMPSON THAT YOU SAID WOULD MAKE HIM COLLAPSE IF
21 HE WERE STANDING, RIGHT?

22 A YES.

23 Q HOW WOULD YOU CHARACTERIZE THIS? IS THIS
24 A RAPIDLY FATAL? CAN YOU GIVE US HOW LONG -- IF THIS
25 WERE THE ONLY WOUND THAT SHE HAD SUFFERED, HOW LONG TRUDY
26 THOMPSON MIGHT HAVE LIVED?

27 A THIS WOUND WOULD HAVE BEEN FATAL BECAUSE
28 OF THE BLOOD LOSS FROM THE INJURY TO THE LIVER AND THE

1 BLOOD VESSELS SUPPLYING IT. AND IN A SIMILAR MANNER TO
2 THE WAY I DESCRIBED THE INJURIES TO MR. THOMPSON, IT'S
3 MOSTLY INJURIES TO VEINS. SO WHILE THEY ARE MAJOR
4 INJURIES AND SHE DEFINITELY LOST BLOOD, IT WOULD NOT HAVE
5 BEEN AN EXTREMELY RAPID DEATH. IN OTHER WORDS, IT
6 WOULDN'T HAVE BEEN JUST A COUPLE OF SECONDS IF THIS HAD
7 BEEN THE ONLY WOUND. IT DOES TAKE AWHILE TO LOSE ENOUGH
8 BLOOD VOLUME TO SEND YOU INTO SHOCK. IT MAY BE A MINUTE
9 OR TWO. IT CAN BE EVEN MORE THAN THAT. BUT IT WOULD NOT
10 BE INSTANTANEOUS.

11 Q IN YOUR MEDICAL OPINION, AS A RESULT OF
12 THE GUNSHOT WOUND NO. 2 TO TRUDY THOMPSON, WOULD THERE
13 HAVE BEEN ANYTHING THAT WOULD HAVE PREVENTED HER FROM
14 MOVING, FROM WALKING, FROM TRYING TO EVEN RUN IF SHE
15 COULD?

16 A NO, NOTHING AT ALL.

17 Q AT LEAST FOR SOME PERIOD OF TIME THAT YOU
18 HAVE DESCRIBED?

19 A RIGHT. THERE WAS NO INJURY TO THE SPINAL
20 CORD OR ANYTHING LIKE THAT, SO SHE WOULD NOT BE
21 PHYSICALLY INCAPABLE OF MOVEMENT.

22 Q NOW, LET ME ASK YOU THIS: WITH RESPECT TO
23 THIS WOUND ON TRUDY THOMPSON, GUNSHOT WOUND NO. 2, DID
24 YOU OR DID DR. WEGNER FIND ANY EVIDENCE OF SOOTING OR
25 STIPPLING?

26 A NO.

27 Q IN REVIEWING ALL THE DOCUMENTS IN
28 PREPARATION FOR YOUR TESTIMONY, DID YOU LEARN WHAT

1 CLOTHING THAT TRUDY THOMPSON WAS WEARING?

2 A IT WAS BRIEFLY DESCRIBED, AND I DID SEE IT
3 IN THE PHOTOS, YES.

4 Q WOULD THAT COME INTO PLAY IN YOUR OPINION
5 WITH RESPECT TO SOOTING OR STIPPLING?

6 A WELL, YES, IT CERTAINLY COULD, BECAUSE
7 AGAIN, AS I DESCRIBED PREVIOUSLY, IF A PART OF THE BODY
8 IS COVERED BY CLOTHING, THEN SOOT OR THE GUN POWDER THAT
9 CAUSES STIPPLING CAN GET STOPPED BY THE CLOTHING. AND
10 THE MORE LAYERS OF CLOTHING A PERSON IS WEARING, THEN THE
11 MORE LIKELY IT IS THAT THIS TYPE OF THING WILL HAPPEN.
12 AND SHE HAD A SHIRT, SHE HAD AT A BLOUSE UNDER IT. SHE
13 HAD PANTY HOSE. SHE HAD A SKIRT. SO THERE IS A LOT OF
14 CLOTHING IN THAT PART OF THE BODY THAT THE BULLET COULD
15 HAVE GONE THROUGH.

16 Q DID YOU REVIEW DR. WEGNER'S FINDINGS WITH
17 RESPECT TO THE CLOTHING NEAR OF THE BULLET ENTRY WOUND ON
18 TRUDY THOMPSON?

19 A YES.

20 Q AND COULD YOU -- WHAT WAS THAT? COULD YOU
21 DESCRIBE THAT FOR US?

22 A HE DESCRIBED -- NOW BEAR IN MIND, THIS IS
23 A SINGLE WOUND IN THIS AREA. HE DESCRIBED THAT THERE
24 WERE MULTIPLE, VERY CLOSE DEFECTS IN THE CLOTHING IN THIS
25 AREA, UP TO SEVEN DEFECTS. AND HIS OPINION WAS THAT
26 INDICATED THAT THE CLOTHING WAS BUNCHED UP WHEN THE
27 BULLET WAS GOING THROUGH IT.

28 Q WHEN YOU SAY DEFECTS, IS THAT LIKE HOLES

1 TO US?

2 A YES.

3 Q OKAY. SO IN THE CLOTHING THAT TRUDY
4 THOMPSON WAS WEARING, DR. WEGNER FOUND A NUMBER OF HOLES
5 THROUGH IT?

6 A YES.

7 Q WOULD THAT BE CONSISTENT IN YOUR OPINION
8 WITH HER SITTING AT THE TIME OF RECEIVING GUNSHOT WOUND
9 NO. 2?

10 A YES.

11 MS. SARIS: OBJECTION, LACK OF FOUNDATION. CALLS
12 FOR SPECULATION.

13 THE COURT: OVERRULED. YOU CAN ANSWER.

14 A YES, I THINK IT CERTAINLY COULD BE
15 CONSISTENT WITH SITTING.

16 Q BY MR. DIXON: AND COULD YOU COMPLAIN
17 THAT? WHY?

18 A WELL, WHEN YOU'RE SITTING -- BEAR IN MIND
19 THIS IS AT THE LEVEL OF THE HIP. AND WHEN YOU ARE
20 SITTING, YOU'RE BENT AT THE HIP. I MEAN, YOU CAN SEE ME
21 SITTING NOW AND MY CLOTHING ALL KIND OF BUNCHED UP AROUND
22 HERE. SO IF SHE'S SITTING AND THE BULLET IS GOING
23 THROUGH AN AREA WHERE THE CLOTHING IS FOLDED UP ON
24 ITSELF, IT CAN VERY EASILY CAUSE THE PATTERN THAT HE SAW.

25 Q IS THERE ANYTHING ELSE THAT YOU SAW IN
26 DR. WEGNER'S REPORT OR YOUR OWN REVIEW OF THESE MATERIALS
27 THAT LED YOU TO BELIEVE THAT GUNSHOT WOUND NO. 2 TO TRUDY
28 THOMPSON WAS INFLICTED WHILE SHE WAS SITTING?

1 A I THINK THE ANGLE OF IT COULD EASILY
2 HAVE --

3 MS. SARIS: I'M SORRY, YOUR HONOR. I'M GOING TO
4 OBJECT TO THAT QUESTION. IT MISSTATES THE TESTIMONY. I
5 BELIEVE THE TESTIMONY IS IT COULD BE CONSISTENT, NOT THAT
6 IT WOULD HAVE BEEN CAUSED --

7 THE COURT: ALL RIGHT. LET'S TAKE OUR AFTERNOON
8 RECESS AT THIS TIME, LADIES AND GENTLEMEN. DON'T DISCUSS
9 THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T
10 CONDUCT ANY DELIBERATIONS. DON'T READ OR LISTEN TO
11 ANYTHING REPORTED IN THE MEDIA. STAY AWAY FROM THE
12 LOCATIONS INVOLVED. SEE YOU TOMORROW MORNING AT 10:30.
13 THANK YOU. HAVE A GOOD EVENING.

14 (THE JURY LEFT THE COURTROOM.)

15 THE COURT: ALL RIGHT. THE ALL THE JURORS AND
16 ALTERNATES HAVE LEFT OF THE COURTROOM. AND THE OBJECTION
17 TO THE LAST QUESTION?

18 MS. SARIS: WAS HOW IT WAS PHRASED. I BELIEVE
19 THAT THE WITNESS TESTIFIED IT WOULD BE CONSISTENT WITH
20 SITTING. AND I BELIEVE THE PHRASING OF THE QUESTION WAS
21 THAT SHE HAD SAID THAT THE WOUND WAS INFLECTED WHILE
22 SITTING.

23 MR. DIXON: I'LL TRY TO CLEAN IT UP.

24 THE COURT: YEAH. OKAY.

25 MS. SARIS: WE HAVE A COUPLE OF 402 ISSUES TO
26 TELL THE COURT ABOUT. WE DON'T WANT TO DEAL WITH THEM
27 RIGHT AT THIS MOMENT.

28 THE COURT: ALL RIGHT. SO THEN YOU'RE GOING TO

1 HAVE THE DOCTOR BACK TOMORROW MORNING AT 10:00?

2 MR. DIXON: WELL, SHE'S GOING TO COME AT 10:00
3 JUST TO TALK WITH ME IN CASE I THINK OF ANYTHING ELSE,
4 AND WE'LL CERTAINLY BE AVAILABLE AT 10:30.

5 THE COURT: THAT'S PERFECT. THANK YOU, DOCTOR.

6 THE WITNESS: THANK YOU, YOUR HONOR.

7 THE COURT: AND THEN WHAT ARE THE 402 ISSUES?

8 THE WITNESS: MAY I LEAVE YOUR HONOR? EXCUSE ME.

9 THE COURT: YES. THANK YOU.

10 MS. SARIS: APPARENTLY THE PEOPLE INTEND TO CALL
11 JOEL WEISSLER, W-E-I-S-S-L-E-R. AND WE HAVE A 402 AS TO
12 HIS TESTIMONY REGARDING RELEVANCY, FOUNDATION AND
13 HEARSAY.

14 THE COURT: OKAY. WHAT IS THE OFFER OF PROOF ON
15 WEISSLER?

16 MR. JACKSON: JOEL WEISSLER IS THE INDIVIDUAL,
17 YOUR HONOR, THAT WE DISCUSSED EARLIER ON IN THE TRIAL.
18 HE WAS SEVERAL WEEKS BEFORE THE MURDERS AT MICKEY AND
19 TRUDY THOMPSON'S HOUSE. HE OVERHEARD ONE OR MORE
20 CONVERSATIONS -- AND I'M GOING OFF THE TOP OF MY HEAD,
21 BUT ONE OR MORE CONVERSATIONS WHILE MICKEY THOMPSON WAS
22 ON THE TELEPHONE SPEAKING TO MIKE GOODWIN. HE HAD MET
23 MIKE GOODWIN IN THE PAST, HAD RECOGNIZED HIS VOICE.
24 THROUGH THE CONTEXT OF THE CONVERSATION, MICKEY THOMPSON
25 MENTIONED MIKE GOODWIN'S NAME SEVERAL TIMES. AND MIKE
26 GOODWIN LEVELED SEVERAL THREATS AGAINST MICKEY THOMPSON
27 WITHIN EARSHOT OF JOEL WEISSLER WHILE HE WAS LISTENING
28 KIND OF IN THE SAME ROOM WHILE MICKEY THOMPSON WAS ON THE

1 PHONE. HE SAID VARIOUSLY EITHER IT WAS A SPEAKER PHONE
2 KIND OF SYSTEM OR HE WAS HOLDING THE PHONE OUT SO THAT
3 JOEL COULD ACTUALLY HEAR MIKE GOODWIN'S VOICE.

4 THE COURT: ALL RIGHT. WHAT IS THE ISSUE ON THE
5 402? FOUNDATION?

6 MS. SARIS: FOUNDATION, RELEVANCY, DEPENDING ON
7 THE STATEMENT, AND HEARSAY. AND WE, I THINK, AGREED THIS
8 WAS ONE OF THE WITNESSES WE TALKED ABOUT AT THE BEGINNING
9 THAT WE WERE GOING TO TAKE HIS TESTIMONY AND ACTUALLY
10 HEAR WHAT HE HAD TO SAY.

11 THE COURT: ALL RIGHT. SO WHY DON'T WE HAVE HIM
12 ARRIVE AT 10:00 ALSO?

13 MR. JACKSON: YOUR HONOR, WE ATTEMPTED -- I THINK
14 MS. KASABIAN CAN PROBABLY VERIFY THIS. WE ATTEMPTED TO
15 HAVE HIM HERE THIS AFTERNOON TO TRY TO -- WE THOUGHT WE
16 WERE GOING TO BE SHORT ON WITNESSES. WE WANTED TO HAVE
17 HIM HERE SO WE CAN SATISFY MS. SARIS' CONCERNS. HE'S
18 VERY, VERY ILL. I THINK MS. KASABIAN WILL PROBABLY MAKE
19 CONTACT WITH MR. WEISSLER LATER THIS AFTERNOON AND TRY TO
20 GET HIM IN TOMORROW MORNING FIRST THING.

21 MS. SARIS: CLOSE TO DYING?

22 MR. JACKSON: NO, NO. LIKE A COLD. WHEN I SAY
23 VERY ILL, I DON'T MEAN CANCER. I MEAN HE'S SICK LIKE THE
24 REST OF US ARE.

25 THE COURT: ALL RIGHT. SO WE WILL TRY FOR 10:00.
26 AND THEN WHAT ARE THE OTHER ISSUES YOU HAVE TO DISCUSS AT
27 10:00? ANYTHING ELSE?

28 MR. JACKSON: YOU KNOW WHAT, I WILL GIVE THE

1 COURT A COPY OF THIS. WE, THE DEFENSE TEAM AND THE
2 PROSECUTION HAVE BOTH KIND OF HAMMERED OUT WHAT WE
3 BELIEVE ARE ABOUT 17 OR 18 STIPULATIONS, MAYBE 19
4 STIPULATIONS. IT WILL SAVE US ACCUMULATIVELY PROBABLY
5 SIX OR EIGHT WITNESSES. I HAVE A COPY FOR THE COURT.
6 PROCEDURALLY, I THINK MS. SARIS AND I BOTH AND MR. DIXON
7 AND MR. SUMMERS WOULD APPRECIATE IF THE COURT WOULD READ
8 IN THE STIPULATIONS. THEY DEAL WITH VARIOUS DOCUMENTS.

9 THE COURT: OKAY.

10 MS. SARIS: WE HAVE TO FILL IN THE EXHIBIT
11 NUMBERS.

12 MR. JACKSON: RIGHT. AND WHAT I THOUGHT WE'D DO
13 IS THE COURT CAN GLANCE AT THEM AND SEE WE HAVE EXHIBIT
14 BLANK. AND WHAT WE'LL DO IS SIMPLY PUT ON THE OVERHEAD
15 WHILE YOU'RE READING THE PARAGRAPH ABOUT THE EXHIBIT,
16 NUMBER THEM AS THE COURT WANTS TO SEQUENTIALLY. I THINK
17 17 OR 15 ARE PEOPLE'S EXHIBITS, AND TWO OR THREE ARE
18 DEFENSE EXHIBITS.

19 THE COURT: WHY DON'T YOU GIVE ME A COPY WITH THE
20 NUMBERS FILLED IN THAT YOU AGREE ON?

21 MR. JACKSON: OKAY. THAT'S FINE.

22 THE COURT: AND THEN I WON'T HAVE TO GO THROUGH
23 THE EXHIBIT LIST. AND THEN IS THAT IT?

24 MR. SUMMERS: NO. ALSO, YOUR HONOR --

25 MS. SARIS: NO.

26 MR. SUMMERS: ALSO, YOUR HONOR, I BELIEVE KAREN
27 STEPHENS-KINGDON IS GOING TO TESTIFY TOMORROW?

28 MR. JACKSON: THAT'S RIGHT.

1 MR. SUMMERS: AND AT LEAST AT THE PRELIMINARY
2 HEARING, ONE OF THE THINGS SHE PHRASED -- IT WAS PUT TO
3 HER, AND SHE PHRASED HER ANSWERS IN TERMS OF IF SHE WAS
4 INVESTIGATING BANKRUPTCY FRAUD AND SO FORTH, AND WORKED
5 FOR THE -- I THINK THE FRAUD THE SPECIAL FRAUDS UNIT OF
6 THE ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE. AND WE
7 WOULD OBJECT TO HER OBVIOUSLY SAYING ANYTHING LIKE THAT
8 IN FRONT OF THE JURY. SHE CAN TESTIFY TO AS TO WHERE SHE
9 WAS -- I GUESS THAT SHE WAS EMPLOYED BY THE ORANGE COUNTY
10 DISTRICT ATTORNEY'S OFFICE AND WAS REVIEWING THESE
11 DOCUMENTS, AND THEN WHATEVER OPINION THEY HAVE ULTIMATELY
12 SEEK TO ELICIT. BUT IN TERMS OF INVESTIGATION OF
13 BANKRUPTCY OR FRAUD, THOSE TYPES OF TERMS.

14 MS. SARIS: AND IN THAT SAME VEIN, YOUR HONOR, IF
15 MR. GOODWIN WERE TO TESTIFY, WE NEED TO HAVE A 402
16 REGARDING THE WITNESS -- THE PEOPLE'S ABILITY TO GET INTO
17 PRIOR CONVICTIONS AND THE NATURE OF THE PRIOR CONVICTION.

18 THE COURT: ALL RIGHT. WELL, JUST DEALING WITH
19 THE LAST THE WITNESS THAT YOU JUST MENTIONED FROM ORANGE
20 COUNTY, IS THAT GOING TO BE A PROBLEM?

21 MR. JACKSON: NO, YOUR HONOR. I HAD ALREADY MADE
22 A NOTE, ACTUALLY WROTE OUT A NOTE TO MYSELF. THERE IT
23 IS. NO MENTION BANK FRAUD, BK FRAUD. I'M GOING TO ASK
24 HER WHETHER OR NOT SHE WAS EMPLOYED BY THE ORANGE COUNTY
25 DISTRICT ATTORNEY'S OFFICE AS A FORENSIC ACCOUNTANT AND
26 WHETHER OR NOT SHE ENGAGED IN AN INVESTIGATION CONCERNING
27 CERTAIN FINANCIAL TRANSACTIONS OF MR. GOODWIN AND HIS
28 WIFE DIANE. AND I THINK THAT IS AS INNOCUOUS AS I CAN

1 MAKE IT. WOULD THAT SATISFY THE COURT?

2 THE COURT: THAT SOUNDS LIKE IT WOULD BE
3 APPROPRIATE.

4 MS. SARIS: THAT'S FINE.

5 THE COURT: ALL RIGHT. AND THEN WHAT ELSE ARE WE
6 GOING TO HAVE TO DISCUSS?

7 MR. JACKSON: MR. GOODWIN, IF HE TESTIFIES.

8 MS. SARIS: THE FEDERAL CASE AND WHETHER THAT'S
9 HAS BEEN SANITIZED AND HOW SO.

10 THE COURT: UH-HUH. SO THE PEOPLE ARE PLANNING
11 ON ELICITING OR PRESENTING SOME INFORMATION REGARDING A
12 PRIOR FELONY CONVICTION INVOLVING BANK FRAUD?

13 MR. JACKSON: ALL OF HIS CONVICTIONS.

14 MS. SARIS: HE HAS NO CONVICTION FOR BANK FRAUD.
15 HE HAS A CONVICTION FOR LOAN FRAUD.

16 THE COURT: LOAN FRAUD?

17 MR. JACKSON: CORRECT.

18 THE COURT: AND WHAT ELSE?

19 MR. JACKSON: WELL, HE HAS A -- IT IS A
20 MULTI-COUNT CONVICTION, IF YOU WILL, OR TECHNICALLY
21 MULTIPLE CONVICTIONS FOR --

22 MS. SARIS: FILING FALSE LOAN DOCUMENTS.

23 MR. JACKSON: RIGHT.

24 THE COURT: ONE CASE, THOUGH?

25 MS. SARIS: YES, CORRECT.

26 MR. JACKSON: ONE CASE. THERE WERE EIGHT OR NINE
27 CONVICTIONS, OR 12.

28 MS. SARIS: HAVING TO DO WITH EACH SIGNATURE ON

1 THE PAPER THAT TYPE OF A DEAL.

2 MR. JACKSON: RIGHT. AND I INTEND TO ASK HIM
3 ABOUT EACH AND EVERY ONE OF THEM.

4 THE COURT: OKAY. AND THAT'S GOING TO BE A 352
5 OBJECTION ABOUT HOW TO SANITIZE IT, IF AT ALL; IS THAT
6 WHAT YOU'RE --

7 MS. SARIS: 352 IMPROPER IMPEACHMENT, IMPROPER
8 UNDER 1101 (B).

9 THE COURT: WELL, IT'S NOT AN 1101 (B). I'M
10 HEARING THAT THE PEOPLE WANT TO USE IT FOR IMPEACHMENT.

11 MR. JACKSON: IT'S A FELONY CONVICTION.

12 MS. SARIS: AND MORAL TURPITUDE.

13 MR. JACKSON: CORRECT.

14 MS. SARIS: THE FACT OF THE CONVICTION IS ONE
15 THING, BUT THE FACTS BEHIND IT AND HOW MUCH LEEWAY WE
16 HAVE IN THAT AND HOW MUCH IT'S GOING TO BE SANITIZED,
17 YES, THAT WOULD BE THE ISSUE OF THE 402.

18 MR. JACKSON: INITIALLY MY IMPRESSION IS I'M
19 GOING TO DO WHAT I ALWAYS DO, AS ANY OTHER WITNESS. HE'S
20 NO DIFFERENT THAN ANYBODY ELSE. IF HE TAKES THE STAND,
21 I'M GOING TO ASK HIM WHETHER OR NOT HE SUFFERED A
22 CONVICTION FOR FILING -- A FEDERAL CONVICTION FOR FILING
23 FALSE LOAN DOCUMENTS, 13 COUNTS OR 12 COUNTS OR WHATEVER.

24 THE COURT: I THINK THAT THE LAW IS PRETTY CLEAR.
25 THE PEOPLE ARE NOT LIMITED TO JUST A FELONY CONVICTION
26 ANYMORE. THE PEOPLE CAN INQUIRE INTO THE CONDUCT BEHIND
27 THE FELONY CONVICTION AND IT'S MORAL TURPITUDE CONDUCT.
28 SO UNLESS THERE IS SOME REASON UNDER 352 TO KEEP IT OUT

1 OR SANITIZE IT, I DON'T KNOW WHY THE PEOPLE SHOULD BE
2 LIMITED IN THAT REGARD.

3 MS. SARIS: WELL, THE ISSUE UNDER 352 IS SIMPLY
4 THE AMOUNT OF -- THE POTENTIAL FOR THE MINI-TRIAL THAT WE
5 DEVELOPED, IN TERMS OF THE FACT THAT THIS CONVICTION WAS
6 ONLY SOUGHT, THE CHARGES WERE ONLY SOUGHT THROUGH THE
7 RELATIONSHIP OF THE VICTIM'S FAMILY WITH THE ORANGE
8 COUNTY DISTRICT ATTORNEY'S OFFICE.

9 THE COURT: BUT HOW DID HE END UP GETTING
10 CONVICTED? WAS IT BY JURY TRIAL?

11 MS. SARIS: BY JURY TRIAL. HE WAS CHARGED
12 INITIALLY WITH SEVERAL -- I THINK OVER 30 AT ONE POINT
13 COUNTS OF BANKRUPTCY FRAUD, ALL WHICH WERE FOUND TO BE
14 UNSUBSTANTIATED. AND THE ONLY ONES THAT WERE SUSTAINED
15 WERE ONES REGARDING FALSELY LOAN DOCUMENTS. AND I JUST
16 WOULD LIKE SOME IDEA OF IS IT ONE QUESTION THAT WE'RE
17 GOING TO ASK FOR 13 COUNTS, IS THE COURT GOING TO ALLOW
18 EVERY SINGLE COUNT TO BE LISTED? HOW IS THAT GOING TO
19 WORK? AND WHAT KIND OF DETAIL ARE WE GOING TO ALLOW THEM
20 TO GET INTO?

21 THE COURT: I THINK THE PEOPLE CAN INQUIRE AS TO
22 EVERY SINGLE FELONY CONVICTION, MULTIPLE COUNTS. THEY
23 CAN INQUIRE AS TO EACH COUNT. IT'S MORAL TURPITUDE
24 CONDUCT THAT CLEARLY IS MORAL TURPITUDE CONDUCT.

25 MS. SARIS: JUST OF THE FACT OF THE CONVICTION,
26 HOWEVER.

27 THE COURT: NO. THE UNDERLYING CONDUCT. CONDUCT
28 ANY PRIOR CRIMINAL CONDUCT INVOLVING MORAL TURPITUDE,

1 WHETHER FELONY OR MISDEMEANOR CONDUCT IS ADMISSIBLE.

2 MS. SARIS: UNDER?

3 THE COURT: UNDER THE CASE LAW.

4 MS. SARIS: MY UNDERSTANDING OF THE CASE LAW WAS
5 ONLY THE MISDEMEANOR CONDUCT IS ADMISSIBLE, AND A FELONY
6 FACT OF A CONVICTION IS ADMISSIBLE.

7 THE COURT: NO. THE FELONY FACT OF THE
8 CONVICTION IS NOT THE ONLY THING THAT'S ADMISSIBLE. IT'S
9 THE CONDUCT AS WELL AS THE FACT. THE MISDEMEANOR
10 CONVICTION; HOWEVER, IS NOT ADMISSIBLE, BUT THE CONDUCT
11 BEHIND THE MISDEMEANOR CONDUCT OR WHATEVER IT IS, CHARGED
12 OR UNCHARGED, IT'S ALL ADMISSIBLE. IT'S BEEN THE LAW, I
13 THINK, FOR QUITE SOME TIME.

14 MS. SARIS: IS THERE A CASE SUBSEQUENT TO
15 WHEELER? I CERTAINLY WILL BRIEF THAT IN THE MORNING.

16 THE COURT: I MEAN, WHEELER ONLY DEALT WITH THE
17 MISDEMEANOR CONVICTION.

18 MS. SARIS: CORRECT.

19 THE COURT: BUT THE EVIDENCE CODE DEALING WITH
20 FELONY CONVICTIONS, I THINK, WAS AGGREGATED AT SOME POINT
21 BY -- WHAT PROPOSITION WAS THAT? I CAN'T EVEN REMEMBER.

22 MS. SARIS: EIGHT.

23 THE COURT: BUT YEAH, IT'S CONDUCT AND CONVICTION
24 IF IT'S A FELONY, AND IT'S CONDUCT IF IT'S A MISDEMEANOR.

25 ALL RIGHT. LET'S TALK ABOUT ALL THIS TOMORROW
26 MORNING AT 10:00.

27 AND THEN THE PEOPLE ARE RESTING TOMORROW?

28 MR. JACKSON: YES, YOUR HONOR. THERE WAS -- MAY

1 I HAVE JUST A MOMENT? ONE OF OUR WITNESSES IN A STORM IN
2 THE BAHAMAS APPARENTLY.

3 MR. DIXON: KIND OF LATE FOR HURRICANE SEASON.

4 MR. JACKSON: FRANK MICHAEL MAGEE REPOSSESSED THE
5 BOAT IN -- WHENEVER IT WAS. I DON'T REMEMBER THE DATE.

6 THE COURT: SO THAT'S THE WITNESS THAT'S NOT
7 AVAILABLE UNTIL WHEN?

8 MR. JACKSON: PROBABLY THURSDAY, JUDGE.

9 THE COURT: OKAY. SO CAN THE DEFENSE START WITH
10 THEIR CASE BEFORE HE TESTIFIES?

11 MR. JACKSON: I HAVE NO PROBLEM WITH THAT.

12 MS. SARIS: WE PREFER NOT TO, FRANKLY, ESPECIALLY
13 IF MR. MAGEE IS TESTIFYING AS TO STATEMENTS THAT HE HEARD
14 OR IS HE JUST TESTIFYING AS TO THE FACT OF THE
15 REPOSSESSION? IF IT'S JUST THE FACT OF THE REPOSSESSION,
16 WE MAY BE ABLE TO WORK OUT A STIPULATION. IF HE'S GOING
17 TO TRY AND ENTER IN A STATEMENT, THAT'S GOING TO TAKE
18 QUITE SOME TIME BECAUSE HE HAS TWO CALLS THAT HE MADE TO
19 THE L.A. COUNTY SHERIFF'S OFFICE WHERE HE WAS SEVERELY
20 INTOXICATED.

21 THE COURT: LET ME KNOW AT 10:00 TOMORROW.

22 MR. DIXON: WE'LL TALK ABOUT IT.

23 THE COURT: AND WHO ELSE IS COMING UP TOMORROW?
24 IS THAT THIS?

25 MR. JACKSON: NO. WELL, KAREN STEPHENS AND JOEL
26 WEISSLER AND FRANK MAGEE AND THE CORONER.

27 MS. SARIS: MS. STEPHENS SHOULD TAKE SOME TIME.
28 WE HAVE NO WITNESSES FOR TOMORROW. WE'RE TRYING TO GET

1 WITNESSES FOR THURSDAY. WE HAD -- AFTER THE --

2 THE COURT: LET'S GO OFF THE RECORD AND JUST DO
3 SCHEDULING.

4
5 (THE MATTER WAS CONTINUED TO WEDNESDAY,
6 DECEMBER 6, 2006 AT 10:00 A.M.)

7 (NEXT PAGE IS 6601.)

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL
JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE TERI SCHWARTZ, JUDGE PRESIDING
REPORTER'S TRANSCRIPT ON APPEAL
REDACTED = PURSUANT TO 237(A)(2)
DECEMBER 6, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 18 OF 24
PAGES 6601 THRU 6794/6900

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, DECEMBER 6, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: OKAY. LET'S GO ON THE RECORD.
20 MR. GOODWIN IS PRESENT WITH COUNSEL OUTSIDE OF THE
21 PRESENCE. THE JURORS AND THE ALTERNATES ARE NOT YET
22 PRESENT. AND WE HAVE SOME MATTERS TO DISCUSS OUTSIDE THE
23 PRESENCE OF THE JURY.

24 MS. SARIS: YES. INITIALLY I WANT TO POINT OUT
25 TO THE COURT THAT MR. GOODWIN DID NOT GET HIS
26 TRANSPORTATION YESTERDAY AND THEREFORE HE DID NOT GET HIS
27 MEDICATION. HE IS AGAIN IN A VERY -- NOT UNTIL VERY LATE
28 IN THE EVENING WHICH AFFECTED HIS ABILITY TO SLEEP AND HE

1 HAS TO BE UP VERY EARLY TO BE IN COURT.

2 I'M WONDERING IF WE COULD PERHAPS ORDER
3 SOME SPECIAL TRANSPORT FOR HIM TODAY. WE ANTICIPATE
4 STARTING OUR CASE TOMORROW. WE HAVE THREE WITNESSES
5 READY TO GO. THIS AFTERNOON THERE'S A WITNESS THAT
6 ACTUALLY MR. GOODWIN IS PROBABLY THE MOST -- OFFERS THE
7 MOST ASSISTANCE TO US ON, SO IT COULDN'T HAVE COME ON A
8 WORSE DAY.

9 THE COURT: DEPUTY, WHAT CAN BE DONE?

10 THE BAILIFF: I DON'T PERCEIVE THEM HAVING THE
11 SAME PROBLEM. IT'S NOT MY UNDERSTANDING THAT HE DIDN'T
12 GET HIS MEDICATION, IT'S JUST THAT HE GOT IT LATE. YOU
13 CAN ORDER SPECIAL TRANSPORT, BUT BESIDES THAT THEY'RE NOT
14 GOING TO SPECIALLY TRANSPORT HIM.

15 THE COURT: SO HE GOT THE MEDICATION LATE OR HE
16 DIDN'T GET IT AT ALL?

17 MS. SARIS: NEARLY MIDNIGHT. AND HE HAD TO WAIT
18 IN THE IRC FACILITY THAT THE COURT HAD ORDERED HE WAS NOT
19 SUPPOSED TO HAVE TO BEEN IN.

20 THE COURT: I'LL JUST ASK MY BAILIFF TO MAKE A
21 PHONE CALL AND SEE.

22 THE BAILIFF: YES, MA'AM.

23 MS. SARIS: I'D APPRECIATE THAT. THANK YOU.

24 THE COURT: OKAY.

25 MS. SARIS: ALSO, THERE WAS A MATTER PERHAPS WE
26 COULD ADDRESS AT SIDEBAR?

27 THE COURT: ALL RIGHT. BUT WE ALSO HAD --

28 MS. SARIS: MR. WEISSLER, I BELIEVE.

1 THE COURT: WHAT?

2 MS. SARIS: MR. WEISSLER, THE 402 I THINK HE'S
3 ILL.

4 THE COURT: THAT WAS ONE OF THE ISSUES WE WERE
5 GOING TO DISCUSS THIS MORNING, RIGHT, BUT HE'S NOT
6 AVAILABLE. SO --

7 MS. SARIS: IS THAT RIGHT?

8 MR. JACKSON: HE'S -- HE CAN BE AVAILABLE RIGHT
9 AFTER LUNCH.

10 THE COURT: OH, OKAY.

11 MR. JACKSON: SO HE CAN COME IN IF WE WERE TO
12 TAKE A LITTLE BREAK OR SOMETHING OR HAVE THE JURORS COME
13 BACK AT 1:45 OR 2:00 OR SOMETHING LIKE THAT, I COULD HAVE
14 HIM HERE AT 1:30 AND WE CAN PUT HIM ON THE STAND IF
15 THAT'S WHAT THE COURT WANTS TO DO.

16 THE COURT: I THINK THAT'S WHAT WE WERE PLANNING
17 ON DOING ANY WAY.

18 MR. JACKSON: OKAY. THAT WILL WORK.

19 MS. SARIS: THAT'S FINE.

20 THE COURT: OKAY.

21 MS. SARIS: WE HAVE DECIDED THAT WE WOULD RATHER
22 NOT INTERRUPT OUR CASE FOR THE PEOPLE'S WITNESS SO WE
23 WOULD WAIT FOR THEM. I UNDERSTAND THAT INDIVIDUAL CAN
24 COME TOMORROW. I HAVE THREE WITNESSES READY TO GO
25 TOMORROW. I CAN CALL THEM AT 11:00 OR 1:30 DEPENDING ON
26 ANY SIGNAL I GET FROM THE D.A.'S REGARDING WHEN THEY
27 MIGHT BE DONE. AND I HAVE WITNESSES FOR FRIDAY AS WELL.

28 THE COURT: OKAY. GOOD. SO WE'LL GO TODAY AS

1 MUCH AS WE CAN AND THEN RECESS UNTIL TOMORROW MORNING AND
2 THEN THE PEOPLE'S LAST WITNESS WILL BE HERE.

3 MR. DIXON: YES.

4 MS. SARIS: EXCELLENT. AND DO WE THINK THAT THAT
5 MIGHT BE AN ALL MORNING THING OR SHOULD I HAVE MY FIRST
6 WITNESS AT 11:00 OR 1:30?

7 MR. JACKSON: MAGEE? NO, HE WILL NOT BE ALL
8 MORNING.

9 MS. SARIS: OKAY. I'LL AIM FOR 11:00.

10 MAY WE APPROACH ON SOMETHING ELSE?

11 THE COURT: AT THE SIDEBAR?

12 MS. SARIS: PLEASE.

13

14 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

15 THE COURT: OKAY. WE'RE AT THE SIDEBAR.

16 MS. SARIS: I KNOW THERE'S NO JURY AND I ASKED TO
17 APPROACH JUST BECAUSE IT'S A POTENTIALLY EMBARRASSING
18 TOPIC FOR THE AUDIENCE.

19 MR. SUMMERS: WHAT HAPPENED IS, YOUR HONOR, I WAS
20 WAITING FOR AN ELEVATOR DOWNSTAIRS, WAS DRAWN INTO A
21 CONVERSATION RELATING TO DETECTIVE GRIGGS BY A MEMBER OF
22 THE MEDIA.

23 I DID NOT SEE -- I GOT ON THE ELEVATOR.
24 THE CONVERSATION CONTINUED. AT A CERTAIN POINT ON THE
25 ELEVATOR, I OBSERVED I THINK IT'S JUROR NO. 6 WAS IN THE
26 ELEVATOR. AND I DON'T KNOW HOW MUCH SHE HEARD, IF SHE
27 HEARD, AND WHETHER IT MAKES ANY DIFFERENCE.

28 MS. SARIS: TELL HER THE CONVERSATION.

1 MR. SUMMERS: THE CONVERSATION ESSENTIALLY HAD TO
2 DO WITH DETECTIVE GRIGGS'S UNWILLINGNESS OR DESIRE NOT TO
3 BE BROUGHT INTO COURT. AND EITHER SIDE'S ATTEMPTS TO
4 BRING THEM INTO COURT.

5 THE COURT: DO WE HAVE THAT LETTER WE RECEIVED?

6 MR. DIXON: YES, I'LL GO GET IT, YOUR HONOR.

7 MS. SARIS: I WASN'T PRESENT FOR THIS
8 CONVERSATION, I DON'T THINK. THERE WAS JUST ONE JUROR?

9 MR. SUMMERS: YES.

10 MR. JACKSON: REMIND ME WHAT JUROR NO. 6 LOOKS
11 LIKE.

12 THE COURT: OFF THE RECORD.

13 (DISCUSSION OFF THE RECORD.)

14 MR. DIXON: CAN WE HAVE JUST A MOMENT FOR
15 MR. JACKSON TO LOOK AT THAT?

16 MS. SARIS: WE'VE HAD CONTACT WITH --

17 THE COURT: ALL RIGHT. BACK ON.

18 MS. SARIS: WE'VE HAD CONTACT WITH MR. GRIGGS
19 SINCE RECEIVING THIS. HE SENT US A COPY IN RESPONSE. HE
20 HAD ASKED US TO BE IN TOUCH WITH HIM VIA E-MAIL BECAUSE
21 WE HAD PLACED HIM ON CALL. HIS WIFE WAS GOING INTO
22 SURGERY. WE HAD TRIED TO ACCOMMODATE HER SCHEDULE
23 THINKING THAT THIS CASE WAS GOING TO START FOR US ON
24 MONDAY.

25 HE SEEMED OKAY WITH THAT. WE'VE BEEN IN
26 E-MAIL CONTACT WITH HIM. SUBSEQUENT TO THIS LETTER, HE
27 ADVISED US HE WAS WILLING, NOT HAPPY, BUT WILLING TO COME
28 IN SO LONG AS WE COULD PROVIDE HIM TRANSPORTATION TO THE

1 AIRPORT, WHICH IS 90 MILES AWAY, AND A RIDE HOME FROM THE
2 AIRPORT BECAUSE HE DOES NOT DRIVE, WHICH WE ARE WORKING
3 ON.

4 MR. SUMMERS: I SHOULD ADD FOR EVERYONE'S
5 INFORMATION THAT THE CONVERSATION INCLUDED REFERENCES TO
6 DETECTIVE LILLIENFELD INQUIRING OF THE MEDIA MEMBER ABOUT
7 DETECTIVE GRIGGS'S WHEREABOUTS, AT WHICH POINT --

8 MR. DIXON: I'M NOT CLEAR. SO DETECTIVE
9 LILLIENFELD WAS A PARTY TO THIS CONVERSATION?

10 MR. SUMMERS: NO. NO.

11 MR. DIXON: THIS WAS YOU REPEATING WHAT YOU
12 THOUGHT DETECTIVE LILLIENFELD WOULD FEEL ABOUT THIS?

13 MR. SUMMERS: THIS PERSON SAID THAT DETECTIVE
14 LILLIENFELD HAD ASKED HER HOW TO REACH DETECTIVE GRIGGS.

15 THE COURT: WHO IS THE PERSON THAT YOU WERE
16 SPEAKING TO?

17 MR. SUMMERS: WHAT IS HER LAST NAME?

18 MS. SARIS: TORI RICHARDS, I BELIEVE.

19 THE COURT: WHAT IS THE NAME?

20 MS. SARIS: I THINK IT'S TORI IS HER FIRST NAME,
21 RICHARDS. THE BLOND WOMAN IN THE FRONT ROW.

22 MR. DIXON: WELL --

23 MS. SARIS: I THINK IT WOULD BECOME CLEAR, I WILL
24 STATE FOR THE RECORD, WHEN MR. GRIGGS TESTIFIES THAT HE'S
25 HERE UNWILLINGLY. I THINK SHE MAY HAVE GOT A LITTLE BIT
26 OF INFORMATION SOONER THAN THE OTHERS, BUT IT'S -- HE'S
27 NOT GOING TO MAKE A SECRET OF THE FACT THAT HE DOES NOT
28 LIKE US, ME, YOU, ANYBODY AND HE DOESN'T WANT TO BE HERE.

1 THE COURT: LET ME JUST ASK YOU THIS: WHY ARE WE
2 AT THE SIDEBAR?

3 MS. SARIS: I THOUGHT IT WOULD BE EMBARRASSING TO
4 THE MEDIA PERSONNEL.

5 THE COURT: WELL, I DON'T REALLY CARE. SO LET'S
6 GO BACK IN OPEN COURT.

7 (SIDEBAR CONCLUDED.)
8

9 THE COURT: ALL RIGHT. WE ARE BACK ON THE RECORD
10 IN OPEN COURT. AT THE SIDEBAR THE COURT WAS NOTIFIED
11 THAT THERE WAS A CONVERSATION BETWEEN A MEDIA
12 REPRESENTATIVE AND MR. SUMMERS. AND THE MEDIA
13 REPRESENTATIVE IS NAMED TORI RICHARDS.

14 WHERE IS MISS RICHARDS? COME FORWARD,
15 PLEASE. CAN YOU STATE YOUR FIRST AND LAST NAME, SPELLING
16 BOTH FOR THE RECORD.

17 THE WITNESS: TORI RICHARDS. T-O-R-I.
18 R-I-C-H-A-R-D-S.

19 THE COURT: AND WHAT MEDIA OUTLET ARE YOU FROM?

20 THE WITNESS: COURT TV.

21 THE COURT: DID YOU HAVE A CONVERSATION WITH
22 MR. SUMMERS? IS THAT EARLIER TODAY OR YESTERDAY?

23 MR. SUMMERS: YES, IT WAS THIS MORNING.

24 THE WITNESS: THIS MORNING.

25 THE COURT: WHERE DID THAT CONVERSATION TAKE
26 PLACE?

27 THE WITNESS: IT WAS IN THE ELEVATOR.

28 THE COURT: WHAT WAS THE CONVERSATION?

1 THE WITNESS: BASICALLY I WAS JOKING BECAUSE I
2 ASKED IF MR. GRIGGS WAS GOING TO COME.

3 THE COURT: YOU WERE JOKING?

4 THE WITNESS: WELL, NO, I MEAN I JUST KIND OF
5 LAUGHED THAT IF MR. GRIGGS WAS GOING TO COME.

6 THE COURT: WHERE WERE YOU WHEN YOU ASKED THIS
7 QUESTION?

8 THE WITNESS: I WAS IN THE ELEVATOR ON THE FAR --
9 IF YOU'RE LOOKING AT THE ELEVATOR, THE FAR LEFT SIDE.

10 THE COURT: OKAY. WERE THERE ANY OTHER PEOPLE IN
11 THE ELEVATOR?

12 THE WITNESS: THERE WERE, I THINK THREE OTHERS.

13 THE COURT: DID YOU NOTICE ANY JURORS?

14 THE WITNESS: NO.

15 THE COURT: OKAY.

16 THE WITNESS: BECAUSE HE WAS STANDING NEXT TO ME
17 AND SHE WAS IN THE FAR OTHER CORNER. AND I DIDN'T SAY IT
18 LOUD, I JUST WHISPERED IT TO HIM.

19 THE COURT: OKAY. AND THEN, MR. SUMMERS, I DON'T
20 KNOW WHAT ELSE WAS SAID. YOU DIDN'T REALLY -- YOU
21 WEREN'T VERY SPECIFIC AT THE SIDEBAR.

22 THE WITNESS: OH, YOUR HONOR, I THINK I SAID -- I
23 SAID IS HE GOING TO COME BECAUSE I TALKED TO HIM EARLIER.

24 THE COURT: OKAY.

25 THE WITNESS: BEFORE THE TRIAL STARTED. AND
26 MR. SUMMERS SAID I DON'T KNOW, I BELIEVE.

27 THE COURT: WAS THAT THE EXTENT OF THE
28 CONVERSATION? BECAUSE AT THE SIDEBAR WE DIDN'T GET THE

1 SPECIFICS. SO --

2 MR. SUMMERS: SPECIFICALLY IN TERMS OF -- I
3 BELIEVE THAT MISS RICHARDS INDICATED THAT DETECTIVE
4 LILLIENFELD HAD ASKED HER SOMETHING ABOUT HER CONTACT
5 WITH DETECTIVE GRIGGS.

6 THE WITNESS: OH.

7 MR. SUMMERS: AND -- AT WHICH POINT -- AND AT
8 WHICH POINT I INDICATED THAT ONE DETECTIVE WAS HIDING AND
9 THE OTHER ONE COULDN'T FIND HIM.

10 THE WITNESS: I'M SORRY. CAN I ADD ONE MORE
11 THING?

12 THE COURT: YES.

13 THE WITNESS: SO I SAID I LOCATED HIM. I TALKED
14 TO HIM. AND I DON'T KNOW IF ANYONE COULD FIND HIM, BUT I
15 TOLD DETECTIVE LILLIENFELD WHERE HE WAS.

16 THE COURT: OKAY. THANK YOU.

17 THE WITNESS: BUT, YOUR HONOR, I WAS ON THAT
18 CORNER AND HE WAS ON THAT END. AND I WASN'T SPEAKING IN
19 A NORMAL VOICE.

20 THE COURT: I'M NOT ACCUSING YOU OF DOING
21 ANYTHING WRONG. I'M JUST TRYING TO PUT ON THE RECORD
22 EXACTLY WHAT WAS DISCUSSED. THAT'S ALL.

23 THE WITNESS: BUT THAT WAS THE EXTENT OF IT.

24 THE COURT: OKAY. THANK YOU VERY MUCH.

25 I GUESS IF THERE WAS A JUROR ON THE
26 ELEVATOR, MR. SUMMERS, YOU INDICATED IT WAS JUROR NO. 6
27 YOU BELIEVE?

28 MR. SUMMERS: YES.

1 THE COURT: OKAY. I DON'T KNOW IF THIS IS
2 SOMETHING THAT WE NEED TO INQUIRE FURTHER ON, BUT I'LL
3 LEAVE IT TO COUNSEL. IF YOU WISH ME TO INQUIRE FURTHER
4 WITH JUROR NO. 6.

5 MR. DIXON: CAN WE HAVE A MOMENT?

6 (PAUSE IN PROCEEDINGS.)

7 MR. DIXON: WELL, YOUR HONOR, I'M RELUCTANT TO
8 TAKE UP MORE OF THE COURT'S TIME OUTSIDE THE PRESENCE OF
9 THE JURY. HAVING SAID THAT, IT'S BEEN CLEAR FROM THE
10 OUTSET OF THIS TRIAL THAT THE DEFENSE WAS ATTACKING THE
11 HANDLING OF THE CRIME SCENE AND THE INVESTIGATION; AND
12 THAT DETECTIVE GRIGGS WAS ONE OF THE MAIN WITNESSES FOR
13 THEM ON THAT SUBJECT. HERE THIS ONE JUROR MAY HAVE
14 RECEIVED INFORMATION -- AND I UNDERLINE "MAY" -- MAY HAVE
15 RECEIVED INFORMATION OUTSIDE THE COURTROOM AND OUTSIDE OF
16 THE REQUIRED CHANNELS FOR WHICH SHE SHOULD RECEIVE
17 INFORMATION.

18 SO I WOULD THINK -- WE WOULD ASK TWO
19 THINGS AND HOPEFULLY IT CAN BE DONE QUICKLY. ONE FOR, IF
20 IT HASN'T BEEN DONE, FOR MR. SUMMERS TO MAKE A COMPLETE
21 RECORD OF WHAT HE RECALLS SAYING ABOUT DETECTIVE GRIGGS
22 AND DETECTIVE LILLIENFELD. AND THEN JUST TO FIND OUT IF
23 JUROR NO. 6 HEARD ANY OF THIS.

24 HOPEFULLY SHE DIDN'T AND THAT'S THE END OF
25 THE STORY. IF SHE DID, THEN THERE MAY BE AN ADMONITION
26 MIGHT BE REQUIRED. AND WE DON'T NEED TO CROSS THAT
27 BRIDGE UNTIL WE HEAR WHETHER OR NOT SHE HEARD THIS
28 CONVERSATION. AND AGAIN, I HOPE THAT SHE DIDN'T. AND

1 I'M SURE THAT WE ALL DO.

2 THE COURT: OKAY. THANK YOU.

3 MR. SUMMERS, CAN YOU ADD ANYTHING ELSE FOR
4 THE RECORD?

5 MR. SUMMERS: YES. IN THE DISCUSSION MISS
6 RICHARDS WAS SAYING THAT MR. GRIGGS WAS VERY UPSET THAT
7 HE HAD BEEN ABLE TO REACH HER. AND I SAID SOMETHING
8 ABOUT -- I SAID WORDS TO THE EFFECT OF WELCOME TO THE
9 INTERNET. AT WHICH POINT MISS RICHARDS INDICATED, NO, WE
10 HIRED AN INVESTIGATOR WHO HAD FOUND HIM.

11 AND -- AND I THINK THAT WITH WHAT WE'VE
12 ALREADY STATED WOULD BE COMPLETE. AND AT THAT POINT I
13 LOOKED TO THE LEFT AND NOTICED THE OTHER JUROR. WHEN THE
14 CONVERSATION STARTED, WE WERE ACTUALLY WAITING FOR THE
15 ELEVATOR, JUST THE TWO OF US. AND SHE WAS NOT
16 DIRECTLY -- I DID NOT SEE HER APPROACH OR ENTER THE
17 ELEVATOR. AND ONCE I DID SEE HER, WE CEASED
18 CONVERSATION. BUT I APOLOGIZE.

19 THE COURT: OKAY.

20 THE WITNESS: YOUR HONOR, WHEN WE FIRST HAD THAT
21 CONVERSATION THERE WAS NO ONE STANDING THERE. IT WAS
22 JUST US. AND THEN WE ENTERED THE ELEVATOR AND THAT'S
23 WHEN I SAID I FOUND HIM AND I TOLD DETECTIVE LILLIENFELD.
24 AND THEN THAT WAS WHEN THAT WAS IN THE ELEVATOR. BUT
25 BEFORE THAT WE WERE JUST STANDING THERE AND THEN WHEN
26 PEOPLE CAME AND WE ALL WENT IN THE ELEVATOR, WE DIDN'T
27 SAY ANYTHING TO EACH OTHER.

28 THE COURT: OKAY.

1 MS. SARIS: AND, YOUR HONOR, MAY I STATE FOR THE
2 RECORD THAT WE ANTICIPATE CALLING DETECTIVE GRIGGS ON
3 MONDAY. AND WE DO ANTICIPATE ELICITING FROM HIM HIS
4 RELUCTANCE. SO I DO BELIEVE THAT IS A MATTER THAT WILL
5 BE BEFORE THE JURORS.

6 THE COURT: ALL RIGHT. AND I DON'T HAVE ANY
7 PROBLEM IN MAKING --

8 MR. DIXON: WELL --

9 THE COURT: -- AN INQUIRY WITH JUROR NO. 6. I
10 ASSUME THE DEFENSE --

11 MS. SARIS: OUT OF AN ABUNDANCE OF CAUTION I
12 THINK THAT'S APPROPRIATE.

13 THE COURT: AND WE DID RECEIVE A LETTER.

14 MR. DIXON: YES. AND I WANTED TO SPEAK TO THAT,
15 YOUR HONOR, AS LONG AS WE'RE ON THE SUBJECT OF DETECTIVE
16 GRIGGS. IN PART, BECAUSE OF THAT LETTER AND OTHER
17 INFORMATION THAT'S COME -- BECOME CLEAR THROUGHOUT THIS
18 TRIAL, I WANT THE DEFENSE AND THE COURT TO KNOW THAT WE
19 WOULD ASK FOR A HEARING OUTSIDE THE PRESENCE OF THE JURY
20 WITH RESPECT TO DETECTIVE GRIGGS ON WHETHER OR NOT HE'S
21 EVEN COMPETENT TO TESTIFY. I MEAN FROM THAT LETTER AND
22 OTHER INFORMATION THAT BOTH SIDES KNOW, THAT MAY BE AN
23 ISSUE HERE.

24 JUST SO THAT THE COURT KNOWS WITH
25 SCHEDULING AND EVERYTHING ELSE. AND I THINK THIS IS ONE
26 WHERE HE WOULD HAVE TO APPEAR.

27 THE COURT: ALL RIGHT. AND JUST SO THE RECORD IS
28 CLEAR, THERE WAS A LETTER THAT WAS RECEIVED BY THE COURT

1 ACTUALLY YESTERDAY AFTERNOON, THE COURT ASSISTANT BROUGHT
2 IT UP AFTER WE RECESSED, I BELIEVE. AND IT WAS A FED EX
3 THAT WAS SENT TO THE COURT. IN THAT ENVELOPE IS A LETTER
4 FROM DETECTIVE GRIGGS WRITTEN TO THE COURT DATED
5 SEPTEMBER 3RD, 2006.

6 THE LETTER WILL SPEAK FOR ITSELF. I'M
7 GOING TO MARK THAT AS COURT'S EXHIBIT 1 FOR TODAY'S
8 PROCEEDING. AND I GUESS AT THE APPROPRIATE TIME, WE CAN
9 HAVE DETECTIVE GRIGGS APPEAR OUTSIDE THE PRESENCE OF THE
10 JURY. I THINK THE LETTER DOES PROVIDE ENOUGH INFORMATION
11 FOR THE COURT TO INQUIRE OUTSIDE THE PRESENCE OF THE
12 JURY. AND COUNSEL CAN INQUIRE OUTSIDE OF THE PRESENCE OF
13 THE JURY.

14
15 (MARKED FOR IDENTIFICATION COURT'S
16 EXHIBIT NO. 1, LETTER.)

17
18 MR. DIXON: THANK YOU, YOUR HONOR.

19 THE COURT: ALL RIGHT. LET'S SEE IF JUROR NO. 6
20 IS AVAILABLE AND I'LL SPEAK WITH HER. AND DO YOU WANT TO
21 TAKE COURT'S 1?

22 MR. JACKSON: YOUR HONOR, WHILE THE CLERK IS
23 LOOKING FOR JUROR NO. 6, MAYBE I COULD APPROACH THE COURT
24 AND GIVE THE COURT -- I'VE SUPPLIED MS. SARIS WITH A COPY
25 OF THE STIPULATIONS.

26 SHE HASN'T HAD A CHANCE TO LOOK THROUGH
27 THEM. I JUST FIGURED I'D HAND THEM TO YOU AND LET YOU
28 HAVE A CHANCE TO LOOK AT THEM AS WELL.

1 THE COURT: ALL RIGHT.

2 MR. JACKSON: WHAT WE DID IS I'VE GOT TWO COPIES.
3 ONE CAN BE AN OFFICIAL COPY THAT WE CAN MARK AS EITHER A
4 COURT'S EXHIBIT. MAYBE WE CAN AGREE THAT THE JURORS
5 COULD GET THOSE STIPULATIONS IN WRITING SINCE THEY ARE
6 PART OF THE RECORD. AND THEN ONE COPY FOR THE COURT TO
7 MARK ON OR READ FROM, WHATEVER.

8 AND WHAT I DID IS THESE ARE THE EXACT
9 COPIES WITH -- I GUESS THE ONLY NOTABLE EXCEPTION IS
10 YESTERDAY WHEN WE ORIGINALLY KIND OF HAMMERED OUT THE
11 STIPULATIONS, I HAD INACCURATELY ASSUMED THAT WE WOULD
12 GET A STIPULATION FOR THE GOLD 'N COINS STUFF. AND SINCE
13 WE DIDN'T AND I PUT THE WITNESS ON, I'VE PULLED,
14 OBVIOUSLY, THOSE DOCUMENTS OUT. THEY'VE ALREADY BEEN
15 MARKED.

16 SO WE'VE RENUMBERED THESE AND ADDED THE
17 NEXT EXHIBIT ORDER, ASSUMING THAT WE WOULD START WITH 83
18 AND MR. DIXON IS NOT GOING TO MARK ANYTHING ELSE.

19 MR. DIXON: WELL, I AM, BUT NOTHING THAT WILL
20 CAUSE A PROBLEM.

21 MR. JACKSON: OKAY.

22 MS. SARIS: WOULD IT BE TOO CONFUSING TO MAKE
23 THIS A COURT EXHIBIT?

24 MR. JACKSON: I GAVE HER ONE TO MAKE A COURT
25 EXHIBIT.

26 MR. SARIS: OH, OH. THESE ARE YOUR OTHERS?

27 MR. JACKSON: I'VE GOT MY OTHERS.

28 THE COURT: ALL RIGHT. JUST SO THE RECORD IS

1 CLEAR THE COURT WAS HANDED A NUMBER OF TYPEWRITTEN
2 STIPULATIONS. AND HERE IS JUROR NO. 6. SO WE WILL
3 DISCUSS THIS IN A MINUTE.

4
5 (JURY NO. 6 ENTERED THE COURTROOM
6 AND THE FOLLOWING PROCEEDINGS WERE
7 HELD IN OPEN COURT.)

8
9 THE COURT: GOOD MORNING.

10 JUROR NO. 6: GOOD MORNING.

11 THE COURT: IT'S COME TO MY ATTENTION THAT YOU
12 WERE RIDING IN THE ELEVATOR. AND DURING YOUR RIDE IN THE
13 ELEVATOR MR. SUMMERS, DEFENSE COUNSEL, WAS SPEAKING TO A
14 MEMBER -- ANOTHER PERSON AND MAY HAVE SAID SOMETHING THAT
15 YOU MAY HAVE OVERHEARD WITH RESPECT TO THIS CASE.

16 JUROR NO. 6: NOT WITH RESPECT TO THE CASE.

17 THE COURT: OKAY. OKAY.

18 JUROR NO. 6: I JUST HEARD SOMETHING ABOUT LIVING
19 IN L.A. I HAVE A TENDENCY TO TUNE PEOPLE OUT, ESPECIALLY
20 WITH RESPECT TO THE CASE.

21 THE COURT: OKAY. SO YOU TUNED MR. SUMMERS OUT?

22 JUROR NO. 6: I DIDN'T HEAR ANYTHING ELSE.

23 THE COURT: ANYBODY HAVE ANY FOLLOW-UP QUESTIONS
24 ON THAT?

25 MR. DIXON: NO. THANK YOU, YOUR HONOR.

26 MS. SARIS: THANK YOU.

27 THE COURT: THANK YOU.

28 JUROR NO. 6: OKAY.

1 THE COURT: WHY DON'T WE HAVE HER JUST GO BACK
2 AND THEN WE'LL BRING ALL THE JURORS DOWN IN A MOMENT.

3 JUROR NO. 6: SURE.

4 THE COURT: THANK YOU VERY MUCH.

5 JUROR NO. 6: YES. HAPPY TO.

6 MR. SUMMERS: YOUR HONOR, I WOULD JUST ADD THAT I
7 THINK AFTER THE COMMENTS THAT WE'VE ALREADY RELATED, IN
8 AN ATTEMPT I BELIEVE TO CHANGE THE CONVERSATION WHEN WE
9 REALIZED THAT THE JUROR WAS THERE, THAT MISS RICHARDS
10 THEN ASKED ME IF I LIVED NEARBY OR WHERE I LIVED. SO
11 THAT'S WHAT THE JUROR IS REFERRING TO THAT SHE HEARD.

12 THE COURT: ALL RIGHT. WELL, LUCKILY JUROR NO. 6
13 HAS THE ABILITY TO TUNE YOU OUT.

14 MR. SUMMERS: IT WON'T BE THE LAST TIME.

15 THE COURT: WHAT?

16 MR. SUMMERS: IT WON'T BE THE LAST TIME.

17 THE COURT: I'M SURE. ALL RIGHT.

18 SO BACK ON THE STIPULATIONS. THE COURT
19 HAS RECEIVED 17 PAGES OF TYPEWRITTEN STIPULATIONS THAT
20 I'M TOLD COUNSEL HAVE AGREED TO, BUT I KNOW MS. SARIS IS
21 GOING TO GO THROUGH THEM BEFORE ANYTHING IS DONE
22 FORMALLY. I CAN TAKE THE COURT'S COPY AND MARK THAT AS A
23 COURT'S EXHIBIT. AND LET ME JUST ASK WHEN IT IS THAT YOU
24 WISH THE COURT TO READ THESE STIPULATIONS?

25 MR. JACKSON: AFTER THE CORONER TESTIFIES AND
26 BEFORE MISS STEPHENS TESTIFIES. SO PROBABLY A LITTLE BIT
27 LATER THIS MORNING.

28 MS. SARIS: ALL OF THEM?

1 MR. JACKSON: ALL OF THEM.

2 MS. SARIS: OKAY. MAYBE WE SHOULD -- THE DNA ONE
3 DOESN'T MAKE SENSE AND THE --

4 MR. JACKSON: RIGHT. THOSE ARE -- THOSE ARE
5 MS. SARIS'S STIPULATIONS. I DIDN'T MEAN THOSE. SORRY.
6 THE 15 OR SO PEOPLE'S.

7 MS. SARIS: AND THE OTHERS -- I'M SORRY.

8 THE COURT: WHAT NUMBERS?

9 MR. JACKSON: 1 THROUGH 16.

10 MS. SARIS: THE DNA ONE ISN'T IN THERE. SO JUST
11 THE LAST ONE AND THE ONE THAT YOU'RE GOING TO GET WHICH
12 IS A STIPULATION FOR THE DNA. WE WOULD ASK THAT IT BE
13 READ TOMORROW BEFORE OUR CASE BEGINS.

14 THE COURT: ALL RIGHT. JUST REMIND ME --

15 MS. SARIS: I'LL TRY.

16 THE COURT: -- WHEN YOU WANT ME TO READ THESE.

17 MS. SARIS: THEY WANT YOU TO READ THOSE RIGHT
18 AFTER THIS CORONER TESTIFIES.

19 THE COURT: OKAY. AND YOU NEED TIME TO GO
20 THROUGH IT?

21 MS. SARIS: NO. JUST FOR -- TO MAKE SURE IT'S
22 THE SAME AS WE WHAT HAD YESTERDAY AND THERE'S NOTHING, NO
23 NUMBERS SUPERIMPOSED OR ANYTHING ON ACCIDENT.

24 THE COURT: AND THE REASON YOU WANT ME TO READ
25 THESE STIPULATIONS?

26 MR. DIXON: IT APPEARS MORE NEUTRAL I THINK.

27 THE COURT: IT DOES?

28 MR. JACKSON: I DON'T MIND READING IT. MS. SARIS

1 SUGGESTED THAT YOU DO IT. NORMALLY I WOULD DO IT.

2 THE COURT: YES. NORMALLY THE PARTY OFFERING THE
3 STIPULATION WOULD READ THE STIPULATION, BUT IF SOMEBODY
4 IS REQUESTING THE COURT READ IT, THAT'S FINE.

5 MS. SARIS: I'D ASK THE COURT TO READ ALL OF THEM
6 FOR THE DEFENSE AND THE PEOPLE.

7 MR. JACKSON: I DON'T HAVE ANY HEART BURN WITH
8 THAT.

9 THE COURT: OKAY. THEN ANYTHING ELSE BEFORE WE
10 BRING THE JURORS IN?

11 MY FEELING IS IF I READ THESE STIPULATIONS
12 THEY SHOULD NOT BE MARKED AS EXHIBITS FOR THE JURORS.

13 MR. JACKSON: THE STIPULATIONS THEMSELVES SHOULD
14 NOT BE MARKED?

15 THE COURT: CORRECT.

16 MR. JACKSON: THAT'S FINE.

17 MS. SARIS: BECAUSE THEY REFER TO DOCUMENTS --

18 THE COURT: I'M SORRY?

19 MS. SARIS: THEY REFER TO DOCUMENTS THAT WILL BE
20 MARKED.

21 MR. JACKSON: CORRECT. AND WHAT WE'LL DO -- WHAT
22 I WAS GOING TO SUGGEST WE DO IS, I CAN TRY TO PLAY VANNA
23 WHITE AND AS THE COURT IS READING, FOR INSTANCE,
24 STIPULATION NO. 1 THAT DEALS WITH NO. 83, IT DOESN'T MAKE
25 A WHOLE LOT OF SENSE IF THEY CAN'T SEE WHAT IT IS THAT'S
26 BEING STIPULATED TO. SO I'LL JUST PUT THE LETTER, FOR
27 INSTANCE, ON THE OVERHEAD.

28 THE COURT: OKAY.

1 MR. JACKSON: THEN WHEN YOU MOVE ON TO THE NEXT
2 STIPULATION, I'LL PUT THE NEXT DOCUMENT ON.

3 THE COURT: ALL RIGHT.

4 MS. SARIS: WE MAY ASK FOR THE DNA ONE TO BE IN
5 BECAUSE THE REPORTS THAT THEY REFLECT ARE SO COMPLICATED.
6 WE DON'T HAVE -- YOU DON'T HAVE IT YET.

7 THE COURT: OKAY. BUT I'M NOT GOING TO READ 17.

8 MS. SARIS: CORRECT.

9 THE COURT: CORRECT.

10 SO WE CAN BRING OUR JURY IN.

11
12 (THE JURY ENTERED THE COURTROOM
13 AND THE FOLLOWING PROCEEDINGS WERE
14 HELD IN OPEN COURT.)

15
16 THE COURT: GOOD MORNING. ALL OUR JURORS AND
17 ALTERNATES ARE ONCE AGAIN PRESENT IN THE TRIAL MATTER.
18 THE PARTIES ARE PRESENT. AND WE LEFT OFF YESTERDAY WITH
19 DR. SCHEININ.

20 PLEASE COME ON UP, MA'AM. AND YOU MAY
21 RESUME THE WITNESS STAND.

22 DOCTOR, LET ME REMIND YOU THAT YOU HAVE
23 BEEN PREVIOUSLY SWORN. YOU'RE REMINDED THAT YOU'RE STILL
24 UNDER OATH. WOULD YOU PLEASE STATE YOUR NAME AGAIN FOR
25 THE RECORD.

26 THE WITNESS: LISA SCHEININ.

27 THE COURT: THANK YOU.

28 MR. DIXON, YOU MAY CONTINUE.

1 MR. DIXON: THANK YOU, YOUR HONOR. BEFORE DOING
2 SO I WOULD LIKE TO MARK TWO ADDITIONAL EXHIBITS. THESE
3 ARE TOXICOLOGICAL REPORTS THAT SHOULD ACCOMPANY THE
4 CERTIFIED AUTOPSY REPORTS FOR BOTH VICTIMS. THEY WERE
5 SEPARATED, BUT THEY ARE CERTIFIED. AND SO WITH THE
6 COURT'S PERMISSION WITH RESPECT TO THE MICKEY THOMPSON
7 AUTOPSY AND REPORT, I'D ASK TO MARK THAT AS PEOPLE'S
8 EXHIBIT 67-A WHICH WOULD ACCOMPANY THE AUTOPSY REPORT 67.

9 THE COURT: IS THAT OKAY?

10 THE CLERK: SURE.

11 THE COURT: I HAD TO CHECK WITH THE BOSS.

12 MR. DIXON: OKAY. I SHOULD HAVE DONE THAT. I
13 APOLOGIZE.

14 THE CLERK: THAT'S OKAY.

15 THE COURT: ALL RIGHT. SO 67-A IS THE TOXICOLOGY
16 REPORT ON MR. THOMPSON.

17 MR. DIXON: AND LIKEWISE -- OR IN A SIMILAR
18 FASHION 68-A WOULD BE THE AUTOPSY REPORT FOR THE TRUDY
19 THOMPSON AUTOPSY. MAY THAT BE SO MARKED?

20 THE COURT: SO MARKED.

21
22 (MARKED FOR IDENTIFICATION PEOPLE'S

23 EXHIBIT NO. 67-A AND 68-A, DOCUMENTS.)
24

25 MR. DIXON: THANK YOU.

26 ///

27 ///

28 ///

1 DIRECT EXAMINATION (RESUMED)

2 BY MR. DIXON:

3 Q GOOD MORNING, DOCTOR. THANK YOU FOR
4 COMING BACK.

5 A MORNING.

6 Q YESTERDAY -- AND I'M GOING TO GO BACK JUST
7 A LITTLE BIT.

8 YESTERDAY WHEN WE WERE TALKING ABOUT YOUR
9 REVIEW OF THE MICKEY THOMPSON AUTOPSY REPORT, YOU WERE
10 TALKING TO US ABOUT A GUNSHOT WOUND I BELIEVE NO. 6. AND
11 WERE SUGGESTING ON THE STAND --

12 MAY I APPROACH?

13 THE COURT: YES.

14 Q BY MR. DIXON: THAT YOU WISH YOU HAD A
15 PICTURE TO SHOW US OF THE EXIT WOUND I BELIEVE IT WAS FOR
16 GUNSHOT WOUND NO. 6.

17 DO YOU RECALL THAT?

18 A YES.

19 Q I THINK IT WAS 6 NOT 7?

20 A I THINK I DISCUSSED BOTH, BUT SPECIFICALLY
21 6.

22 Q OKAY.

23 YOUR HONOR, THIS HAS BEEN PREVIOUSLY
24 MARKED AS PEOPLE'S 73 FOR IDENTIFICATION. AND I PUT
25 PEOPLE'S 73 ON THE OVERHEAD. AND WITH THE COURT'S
26 PERMISSION I'LL APPROACH YOU AND HAND IT TO YOU.

27 Q FIRST, DO YOU RECOGNIZE THAT EXHIBIT?

28 A YES.

1 Q WHY?

2 A IT HAS THE SAME CORONER'S CASE NUMBER AS
3 THE OTHER DOCUMENTS REFERRING TO MR. THOMPSON.

4 Q AND DOES THAT PHOTOGRAPH, THAT CORONER'S
5 PHOTOGRAPH THAT WAS TAKEN AT OR NEAR THE TIME OF
6 MR. THOMPSON'S AUTOPSY, ILLUSTRATE THE EXIT WOUND FOR
7 GUNSHOT NO. 6 THAT YOU WERE DISCUSSING YESTERDAY?

8 A YES, IT DOES.

9 Q AND HOW DOES THAT HELP IN DESCRIBING THAT?

10 A WELL, YOU CAN SEE THERE IS ACTUALLY TWO
11 GUNSHOT EXIT WOUNDS ON THE PALM OF THE HAND AND THE PAD
12 UNDER THE FIFTH FINGER. NO. 6 IS THE ONE THAT LOOKS A
13 LITTLE REDDER IN THE PHOTO. NO. 7 IS THE ONE THAT'S MORE
14 TOWARDS THE EDGE OF THE HAND. AND THAT JUST ILLUSTRATES
15 THE FACT THAT AS THE BULLET IS GOING THROUGH THE HAND,
16 IT'S GOING TOWARDS THE PINKY SIDE OF THE HAND.

17 AS I MENTIONED YESTERDAY THE ENTRANCE IS
18 ABOUT HERE (INDICATING) WHICH WOULD BE AT THE BASE OF THE
19 AREA BETWEEN THE INDEX AND MIDDLE FINGERS BUT WHEN YOU
20 KNOW THAT THE EXIT IS MORE OVER TOWARDS THE PINKY SIDE
21 THEN YOU KNOW THAT THE BULLET IS GOING THROUGH THE HAND
22 TOWARDS THE PINKY SIDE. AND IF THE HAND IS HELD
23 HORIZONTALLY THEN IT IS A DOWNWARD MOTION.

24 Q AND I BELIEVE THAT'S WHAT YOU WERE SEEKING
25 THAT PHOTOGRAPH TO USE IN YOUR TESTIMONY IN DISCUSSING
26 HOW THAT GUNSHOT WOUND 6 WAS CONSISTENT PERHAPS WITH
27 MR. THOMPSON HOLDING HIS HAND OVER HIS STOMACH AND THAT
28 THE GUNSHOT WOUND 6 MAY HAVE ALSO, THAT BULLET MAY HAVE

1 ALSO CAUSED GUNSHOT WOUND 3; IS THAT CORRECT?

2 A YES.

3 MR. DIXON: MAY I APPROACH AGAIN?

4 THE COURT: YES.

5 Q BY MR. DIXON: BEFORE WE RECESSED FOR THE
6 DAY YESTERDAY, YOU WERE DISCUSSING, DR. WEGNER'S AUTOPSY
7 REPORT WITH RESPECT TO TRUDY THOMPSON, CORRECT?

8 A YES.

9 Q AND I BELIEVE THAT WE LEFT OFF WHERE WE
10 WERE TALKING OF GUNSHOT WOUND NO. 2.

11 IS THAT RIGHT?

12 A YES.

13 Q YOU TOLD US THAT THAT WAS A FATAL BUT NOT
14 NECESSARILY IMMEDIATELY FATAL WOUND?

15 A YES.

16 Q AND YOU JUST TOLD US THAT YOU HAD REVIEWED
17 OR LOOKED AT PHOTOGRAPHS OF CLOTHING AND REPORTS OF
18 CLOTHING IN DR. WEGNER'S REPORT AND THAT YOU BELIEVE THAT
19 THAT GUNSHOT AT LEAST OF CLOTHING WAS CONSISTENT WITH
20 MS. THOMPSON SITTING WHEN SHE RECEIVED THAT?

21 A YES, BECAUSE IT WAS BUNCHED UP.

22 Q AND I BELIEVE WHERE WE LEFT OFF WAS I
23 ASKED YOU WAS THERE ANYTHING ELSE THAT YOU REVIEWED IN
24 THE AUTOPSY REPORT AND THE OTHER MATERIALS THAT YOU
25 REVIEWED IN PREPARING FOR YOUR TESTIMONY TODAY THAT WOULD
26 BE CONSISTENT WITH THAT OPINION THAT SHE WAS SITTING AT
27 THE TIME OF THE GUNSHOT WOUND NO. 2?

28 A YES.

1 Q WHAT WAS THAT?

2 A WELL, THE TRAJECTORY OF THE WOUND THROUGH
3 THE BODY COULD HAVE BEEN MADE WHILE SHE WAS SITTING. NOW
4 I DID SEE SOME SCENE PHOTOS AND ACCORDING TO YOU SHE WAS
5 SITTING IN THE DRIVER'S SIDE OF A VAN. AND THE LOCATION
6 OF THE WOUND AND THE TRAJECTORY WOULD BE CONSISTENT WITH
7 HER SITTING IN THE VAN AND BEING SHOT BY SOMEBODY OUTSIDE
8 THE VAN.

9 Q AND IN THOSE SAME PHOTOGRAPHS THAT YOU
10 REVIEWED IN PREPARATION FOR YOUR TESTIMONY TODAY AND
11 YESTERDAY, DID YOU SEE BROKEN GLASS SURROUNDING THAT VAN?

12 A YES.

13 Q I'D LIKE YOU TO LOOK AT TWO OTHER EXHIBITS
14 THAT WE'RE GOING TO PUT UP. I PUT PEOPLE'S 74 AND 75 ON
15 THE OVERHEAD. AND WITH THE COURT'S PERMISSION I'LL
16 APPROACH AND HAND THESE TO YOU, ASK YOU TO REVIEW THEM
17 FOR A MOMENT AND THEN TELL US WHETHER OR NOT YOU
18 RECOGNIZE THOSE?

19 A YES.

20 Q YOU RECOGNIZE THOSE BECAUSE THEY HAVE THE
21 SAME CORONER'S CASE NUMBER FOR TRUDY THOMPSON AS THE
22 OTHER DOCUMENTS THAT YOU REVIEWED?

23 A YES.

24 Q DO YOU SEE SOME INJURIES IN THESE TWO
25 PHOTOGRAPHS, PEOPLE'S 74 AND 75 THAT HAVE SOME
26 SIGNIFICANCE TO YOU IN LIGHT OF THE MATERIALS THAT YOU'VE
27 REVIEWED IN THIS MATTER?

28 A YES, I DO.

1 Q AND COULD YOU EXPLAIN THAT PLEASE?

2 A WELL, IN THE AREA AROUND HER LEFT EYEBROW
3 THERE ARE SOME VERY SMALL INJURIES, SPECIFICALLY THERE
4 ARE A FEW SMALL ABRASIONS BELOW THE EYEBROW AND THEN AT
5 THE OUTSIDE EDGE OF THE EYEBROW THERE'S A BRUISE THAT
6 ALSO CONTAINS A SMALL ABRASION IN IT. I DON'T KNOW HOW
7 EASILY YOU CAN SEE IT FROM THOSE PHOTOS. BUT IF YOU LOOK
8 AT HER LEFT EYEBROW IN THE PHOTO ON THE LEFT AS IT'S
9 BEING PROJECTED, YOU MIGHT SEE A LITTLE RED AREA SLIGHTLY
10 BELOW THERE AND AT THE EDGE OF THE EYEBROW. THAT'S WHAT
11 I'M REFERRING TO.

12 Q DOCTOR, WHAT I'M GOING TO DO IS --
13 SOMEONE'S HANDED ME THIS -- I HAVEN'T USED ONE OF THESE
14 BEFORE -- IT LOOKS LIKE A LASER POINTER. YOU POINT HERE.
15 I'M GOING TO HAND THAT TO YOU AND IF YOU CAN PUT -- POINT
16 UP ON THE SCREEN AND THEN DESCRIBE WHAT YOU'VE BEEN
17 TALKING ABOUT?

18 A OKAY. THIS IS THE AREA THAT I WAS
19 REFERRING TO WHERE THERE'S THREE SMALL ABRASIONS AND NOW
20 HERE THERE'S A SMALL PINKISH CONTUSION. I DON'T THINK IT
21 PROJECTS TREMENDOUSLY WELL. IT'S BETTER IN THE ORIGINAL
22 PHOTO BUT THERE IS A CONTUSION. THAT IS A FANCY WORD FOR
23 BRUISE WITH ABRASION IN IT. ON THIS PHOTO --

24 THE COURT: HANG ON. FOR THE RECORD THAT WAS
25 PHOTO --

26 MR. DIXON: 74, YOUR HONOR.

27 THE COURT: 74, THE LEFT EYEBROW AREA.

28 Q BY MR. DIXON: AND NOW YOU'RE GOING TO

1 POINT TO PHOTOGRAPH PEOPLE'S 75, CORRECT?

2 A YES. AND YOU CAN SEE THE AREA UNDER THE
3 EYEBROW WITH THE SMALL ABRASIONS RIGHT HERE. THE ONE
4 THAT'S OUT TO THE SIDE IS A LITTLE HARD TO SEE.

5 Q NOW --

6 A I'M SORRY. SHE ALSO -- EXCUSE ME.

7 Q PLEASE.

8 A SHE ALSO HAS A SMALL ABRASION RIGHT DOWN
9 HERE ON THE LEFT SIDE OF HER CHIN.

10 Q AND IN THAT ANSWER YOU POINTED TO PEOPLE'S
11 74, THE PHOTOGRAPH, CORRECT?

12 A YES.

13 Q NOW, THE INJURIES THAT YOU JUST POINTED
14 OUT TO US IN PEOPLE'S 74 AND 75 FOR IDENTIFICATION, ARE
15 THOSE CONSISTENT WITH THE VICTIM SITTING IN AN AUTOMOBILE
16 AT THE TIME OF THE SHOTS FIRED IF THEY WERE FIRED THROUGH
17 GLASS IN LIGHT OF WHAT YOU SAW IN PREPARATION HERE?

18 A I THINK THEY ARE CONSISTENT WITH HER
19 SITTING IN THE DRIVER'S SIDE OF THE VEHICLE AND THE GLASS
20 IS BEING SHATTERED BECAUSE THESE INJURIES ARE VERY
21 CONSISTENT WITH WHAT YOU SEE WHEN THE GLASS SHATTERS.
22 BECAUSE WHEN WINDOW GLASS IN AN AUTOMOBILE SHATTERS IT IS
23 MADE TO FORM LITTLE TINY KIND OF DISCOID OR WHATEVER,
24 VERY SMALL PIECES, AND THEN THOSE PIECES CAN STRIKE YOU.
25 AND THEY CAUSE THIS TYPE OF INJURY. WE SEE IT FAIRLY
26 FREQUENTLY IN MOTOR VEHICLE ACCIDENTS AND IT IS CALLED A
27 DICING TYPE OF INJURY.

28 IT'S ALSO NOTED ON A LEFT SIDE OF HER FACE

1 WHICH WOULD BE THE SIDE CLOSEST TO THE WINDOW IF SHE'S IN
2 THE DRIVER'S SEAT.

3 Q THANK YOU, DOCTOR. AND AGAIN IN THAT
4 ANSWER YOU WERE REFERRING TO THE PHOTOGRAPH'S PEOPLE'S 74
5 AND 75?

6 A YES.

7 Q THANK YOU. NOW I'D LIKE TO INVITE YOUR
8 ATTENTION TO THE DIAGRAM THAT WE HAVE ON THE BOARD,
9 PEOPLE'S 72 FOR IDENTIFICATION. WOULD YOU AGAIN TAKE
10 JUST A MOMENT, LOOK AT IT, IT'S A CHART AND A PHOTOGRAPH
11 AND TELL US WHETHER OR NOT YOU RECOGNIZE THAT. AND I'LL
12 NOTE AS YOU DO THAT THAT WE HAVE 72-A ON THE OVERHEAD
13 PROJECTOR.

14 A OKAY. YES, I RECOGNIZE THAT. THAT IS A
15 DIAGRAM FROM THE AUTOPSY REPORT ON TRUDY THOMPSON. IT
16 HAS THE CASE NUMBER ON THE TOP AND THE PHOTO IS ALSO FROM
17 THE AUTOPSY OR RIGHT PRIOR TO THE AUTOPSY AND HAS THE
18 LITTLE BLUE IDENTIFYING TAG THAT HAS THE CASE NUMBER ON
19 IT.

20 Q NOW, IN PEOPLE'S 72 THE CHART AND THE
21 PHOTOGRAPH, DO THEY DESCRIBE ONE OF THE TWO GUNSHOT
22 WOUNDS THAT MS. THOMPSON SUFFERED?

23 A YES. THIS DESCRIBES GUNSHOT WOUND NO. 1
24 WHICH AGAIN IS AN ARBITRARY NUMBER.

25 Q COULD YOU PLEASE DESCRIBE THE WOUND, THE
26 ENTRY WOUND, THE EXIT WOUND AND THE INJURIES THAT
27 MS. THOMPSON SUFFERED AS A RESULT OF THOSE WOUNDS?

28 A WELL, THE ENTRANCE WOUND IS RIGHT HERE.

1 THIS IS A SMALL HOLE ON THE BACK OF THE HEAD IN WHAT WE
2 CALL THE LEFT OCCIPITAL SCALP. IT IS SHOWN HERE IN PHOTO
3 A. IT'S VERY TYPICAL ENTRANCE WOUND. NOW THERE IS NO
4 EXIT WOUND FOR THIS CASE.

5 THERE IS A LACERATION ON THE RIGHT SIDE OF
6 THE SCALP THAT IS SHOWN HERE BUT AS THE AUTOPSY WAS
7 PERFORMED, IT WAS SHOWN THAT THIS IS NOT AN EXIT OF THE
8 PROJECTILE. THERE IS A SKULL FRACTURE UNDERNEATH AND
9 THERE WERE BONE FRAGMENTS PROJECTING IN TO IT, SO THE
10 OUTER PROJECTING PORTIONS OF THE FRACTURED BONE AND I
11 BELIEVE THERE WAS ALSO MAYBE A SMALL PROJECTILE FRAGMENT
12 AS WELL IS WHAT CAUSED IT.

13 THIS IS NOT AN EXIT WOUND. THIS IS JUST A
14 SECONDARY INJURY RELATING TO THE ENTRANCE WOUND.

15 Q AND FROM THE FACT THAT THERE WAS NOT AN
16 EXIT WOUND BUT THE DAMAGE TO MS. THOMPSON THAT YOU JUST
17 DESCRIBED, CAN WE ASSUME THAT A PROJECTILE WAS RECOVERED?

18 A YES. A PROJECTILE WAS RECOVERED FROM
19 WITHIN THE BRAIN ON THE RIGHT SIDE. IT WAS A FRAGMENT.
20 THERE WERE SEVERAL PIECES OF IT, TWO LARGE PIECES WERE
21 DESCRIBED AS BEING RECOVERED FROM THE BRAIN ITSELF WHERE
22 AS SOME SMALL FRAGMENTS WERE RECOVERED IN THE AREA OF THE
23 ENTRANCE WOUND.

24 Q AND WHAT WOULD HAVE BEEN DONE, WHAT IN
25 YOUR REVIEW OF THE AUTOPSY REPORT AND THE ACCOMPANYING
26 DOCUMENTS, WHAT WAS DONE WITH THAT FRAGMENT?

27 A WELL, ALL OF THE PIECES THAT DR. WEGNER
28 RECOVERED WERE SAVED AND SUBMITTED TO EVIDENCE IN A

1 SINGLE ENVELOPE.

2 Q AND WERE THEY MARKED IN SOME WAY AT LEAST
3 THE ENVELOPE?

4 A THE ENVELOPE WAS MARKED WITH THE LETTER B.

5 Q AND BY THE WAY, THIS WAS NOT THE ONLY
6 PROJECTILE THAT WAS RECOVERED DURING THE TRUDY THOMPSON
7 AUTOPSY; IS THAT CORRECT?

8 A THAT'S RIGHT.

9 Q PLEASE EXPLAIN.

10 A I SPOKE YESTERDAY ABOUT GUNSHOT WOUND THAT
11 WAS ARBITRARILY CALLED 2 WHICH GOES THROUGH THE TORSO AND
12 AS YOU MIGHT REMEMBER, IT ENTERED ON THE LEFT LOWER
13 ABDOMEN AND EXITED HER BACK NEAR HER RIGHT ARM PIT. WHEN
14 THE BODY WAS BEING UNDRESSED IN PREPARATION FOR THE
15 AUTOPSY, WHEN HER SHIRT WAS BEING REMOVED, THE BULLET WAS
16 FOUND INSIDE THE SHIRT. SO IT HAD EXITED THE BODY BUT IT
17 WAS STOPPED BY CLOTHING AND IT WAS RECOVERED DURING THE
18 UNDRESSING PROCESS.

19 Q AND WAS THAT ACCORDING TO THE DOCUMENT
20 THAT YOU REVIEWED LABELED OR MARKED IN SOME WAY?

21 A THE BASE OF IT WAS MARKED WITH THE LETTER
22 A.

23 Q IT WOULD HAVE BEEN PLACED IN AN ENVELOPE?

24 A YES. AGAIN A SPECIFIC PROJECTILE EVIDENCE
25 ENVELOPE.

26 Q AND MARKED WITH ANY IDENTIFICATION NUMBER?

27 A YES. THE CASE IDENTIFICATION NUMBER
28 SHOULD HAVE BEEN ON THE ENVELOPE AS WELL AS ADDITIONAL

1 INFORMATION AS TO THE APPROXIMATE TIME AND LOCATION OF
2 THE RECOVERY.

3 Q SO AS A RESULT OF THE AUTOPSY ON
4 MRS. THOMPSON, THE TWO BULLETS, A BULLET AND BULLET
5 FRAGMENT WERE RECOVERED, OR BULLET FRAGMENTS, CORRECT?

6 A YES.

7 Q AND THEY WERE ARBITRARILY MARKED AS A AND
8 B?

9 A YES. I BELIEVE THE ONE FROM THE CLOTHING
10 WAS RECOVERED FIRST SO IT GOT THE LETTER A AND THEN THE
11 ONE FROM THE HEAD WAS RECOVERED SECOND SO THAT WAS
12 RECOVERED TO AS B.

13 Q SO WITH RESPECT TO GUNSHOT WOUND NO. 2,
14 THE PROJECTILE COVERED OR RECOVERED AND ASSOCIATED WITH
15 THAT WOUND WAS LABELED A?

16 A YES.

17 Q AND WITH RESPECT TO GUNSHOT WOUND NO. 1,
18 THE FRAGMENTS RECOVERED, THEY WERE LABELED AS B?

19 A WELL, THEY WEREN'T LABELED ON THE
20 FRAGMENTS BUT THE ENVELOPE WAS LABELED --

21 Q OKAY.

22 A -- B.

23 Q AND AS YOU MENTIONED I THINK YESTERDAY,
24 THOSE ENVELOPES AND THE RESPECTIVE PROJECTILES AND
25 FRAGMENTS WOULD HAVE BEEN AVAILABLE FOR EXAMPLE TO THE
26 SHERIFF'S DEPARTMENT FOR THEIR TESTING?

27 A YES.

28 Q OFTEN DONE?

1 A OH, YES.

2 Q LET'S NOW RETURN TO PEOPLE'S 72 FOR
3 IDENTIFICATION AND DISCUSS A LITTLE BIT MORE THIS GUNSHOT
4 WOUND. WITH RESPECT TO SOOTING OR STIPPLING WAS THERE
5 ANY EVIDENCE OF THAT?

6 A NO.

7 Q AS A RESULT OF YOUR REVIEW OF DR. WEGNER'S
8 AUTOPSY AND YOUR OWN OPINION ARE YOU ABLE TO COME TO
9 ANY -- WAS HE ABLE TO COME TO ANY OPINION WITH RESPECT TO
10 THE DISTANCE FROM MRS. THOMPSON THAT THE GUN WAS HELD AT
11 THE TIME OF THE SHOT?

12 A NO. HE VERY SPECIFICALLY SAYS THAT THE
13 RANGE OF FIRE WAS INDETERMINATE BECAUSE OF THE PRESENCE
14 OF HAIR IN THE AREA.

15 Q AND IN FACT WE SEE WHERE MRS. THOMPSON'S
16 HAIR WAS CUT AWAY IN PHOTOGRAPH A OF 72, CORRECT?

17 A YES.

18 Q AND BASED ON YOUR REVIEW OF THESE
19 DOCUMENTS WHAT WAS YOUR OPINION?

20 A I AGREE WITH DR. WEGNER.

21 Q SO IS THAT -- DOES THAT MEAN THAT THE GUN
22 COULD HAVE BEEN HELD ANYWHERE FROM INCHES AWAY TO
23 MULTIPLE FEET AWAY FROM MRS. THOMPSON AT THE TIME THAT
24 SHE SUFFERED GUNSHOT WOUND NO. 1?

25 A YES.

26 Q WAS THIS A FATAL WOUND OR NOT?

27 A DEFINITELY FATAL.

28 Q AND WE HAVE TALKED YESTERDAY AND A LITTLE

1 BIT TODAY, MOSTLY YESTERDAY ABOUT WOUNDS THAT WERE
2 IMMEDIATELY FATAL OR THAT MIGHT TAKE A LITTLE BIT OF TIME
3 BEFORE THE PERSON DIES, CORRECT?

4 A YES.

5 Q COULD YOU CHARACTERIZE GUNSHOT WOUND NO. 1
6 TO TRUDY THOMPSON IN THAT WAY? WHICH WAS IT?

7 A I WOULD SAY IT WOULD BE RAPIDLY FATAL AND
8 I BELIEVE ALSO IN THE AUTOPSY REPORT, DR. WEGNER NOTES
9 THAT IT WOULD BE INSTANTANEOUSLY INCAPACITATING, MEANING
10 AFTER SHE WAS SHOT SHE WOULD IMMEDIATELY HAVE LOST ANY
11 ABILITY TO MOVE OR SPEAK OR HAVE ANY KIND OF PURPOSEFUL
12 MOVEMENT.

13 Q SHE WOULD HAVE IF STANDING COLLAPSED?

14 A YES.

15 Q UNLIKE GUNSHOT WOUND NO. 2 THAT YOU ALSO
16 TOLD US WAS FATAL BUT NOT NECESSARILY IMMEDIATELY SO?

17 A THAT'S CORRECT.

18 Q I BELIEVE YESTERDAY AND PLEASE CORRECT ME
19 IF I'M WRONG, YOU SAID THAT SHE AFTER RECEIVING GUNSHOT
20 WOUND NO. 2, THAT MRS. THOMPSON MAY HAVE BEEN ABLE TO
21 WALK A LITTLE OR EVEN RUN IF SHE COULD A SHORT WAYS?

22 A YES, THERE WAS NOTHING ABOUT THE INJURIES
23 CAUSED BY GUNSHOT WOUND NO. 2 THAT WOULD HAVE PREVENTED
24 IT.

25 Q AS WE TALKED ABOUT YESTERDAY AND AS YOU'VE
26 SAID A NUMBER OF TIMES, THERE IS -- THE LABELING OF THE
27 GUNSHOT WOUNDS, FOR EXAMPLE WITH THE MICKEY THOMPSON
28 AUTOPSY ARE ARBITRARY 1 THROUGH 7, HOWEVER THE DOCTOR

1 DECIDES TO START LABELING, CORRECT?

2 A YES.

3 Q THEY WERE NOT INTENDED TO SUGGEST AN
4 ORDER?

5 A THAT IS CORRECT.

6 Q AND IS THAT THE SAME GENERAL PRINCIPLE
7 TRUE WITH RESPECT TO THIS AUTOPSY FOR MRS. THOMPSON?

8 A YES.

9 Q HAVING SAID THAT, BASED ON YOUR REVIEW OF
10 ALL OF THE DOCUMENTS, CAN YOU TELL US IN YOUR MEDICAL
11 OPINION WHICH GUNSHOT WAS FIRST AND WHICH WAS SECOND AND,
12 IF SO, WHY?

13 A IN MY OPINION GUNSHOT NO. 2 HAPPENED
14 FIRST. AND IT'S VERY SIMILAR TO THE REASONS THAT I
15 EXPLAINED YESTERDAY FOR MR. THOMPSON. SHE HAD A LOT OF
16 BLOOD ACCUMULATING INSIDE HER BODY CAVITY THAT WAS
17 DESCRIBED AS, HE SAID I THINK, A QUART AND A HALF IN THE
18 CHEST CAVITY AND ABOUT A PINT IN THE ABDOMEN. THAT --
19 THAT COMES TOGETHER TO ABOUT TWO QUARTS WHICH IS ABOUT
20 TWO LITERS OF BLOOD. SO IT'S ABOUT THE SAME BLOOD VOLUME
21 THAT SHE HAD IN HER BODY AS HE HAD IN HIS.

22 AND THE INJURY THAT SHE DESCRIBED WERE
23 ONES THAT WOULD BE MOSTLY THE ONES TO THE LIVER AND SOME
24 VEINS THAT SUPPLIED THE LIVER, SO IT TAKES SOME TIME TO
25 ACCUMULATE TWO LITERS OF BLOOD IN THE BODY CAVITIES AND
26 SINCE IT WAS PRIMARILY A VEIN INJURY, THE BLOOD IS NOT
27 UNDER AS MUCH PRESSURE AS AN ARTERIAL INJURY, SO IT WOULD
28 NOT ACCUMULATE AS FAST AS AN INJURY LET'S SAY TO THE

1 AORTA OR SOMETHING LIKE THAT.

2 Q SO BECAUSE GUNSHOT WOUND NO. 2 WASN'T
3 IMMEDIATELY FATAL BUT GUNSHOT WOUND NO. 1 WAS ABSOLUTELY
4 IMMEDIATELY FATAL, THAT WAS THE LAST SHOT?

5 A YES. I THINK THAT IT HAPPENED THE OTHER
6 WAY. IF SHE HAD BEEN SHOT IN THE HEAD FIRST SHE WOULD
7 ALMOST IMMEDIATELY HAVE LOST ALL OF HER VITAL SIGNS WHICH
8 MEANS SHE WOULDN'T HAVE A PULSE, SHE WOULDN'T HAVE A
9 BLOOD PRESSURE AND IF SHE WERE SHOT IN THE ABDOMEN SECOND
10 WHILE SHE WOULD HAVE MAYBE A LITTLE BIT OF PASSIVE BLOOD
11 LOSS BECAUSE YOU ARE SEVERING OR LACERATING BLOOD
12 VESSELS, YOU'RE NOT GOING TO ACCUMULATE TWO LITERS OF IT.

13 Q WITH RESPECT TO GUNSHOT WOUND NO. 1 I
14 THINK I ASKED A MOMENT AGO, I JUST WANT TO CLARIFY IT.
15 IF SHE WAS STANDING WHEN SHE RECEIVED THAT WOUND, WOULD
16 SHE HAVE COLLAPSED?

17 A NO. 1?

18 Q YES.

19 A YES, IMMEDIATELY.

20 Q HOW ABOUT IF SHE WAS SITTING OR KNEELING?

21 A SHE WOULD HAVE COLLAPSED FROM WHATEVER
22 POSITION SHE WAS IN.

23 Q THANK YOU.

24 MR. DIXON: COULD I JUST HAVE A MOMENT?

25 YOUR HONOR, MAY I APPROACH?

26 THE COURT: YES.

27 Q BY MR. DIXON: DOCTOR, I'M GOING TO HAND
28 YOU TWO CERTIFIED COPIES OF THESE AUTOPSY REPORTS.

1 FIRST, PEOPLE'S 67, MICKEY THOMPSON AUTOPSY REPORT AND
2 WE'VE ADDED PEOPLE'S 67-A SO IF I COULD ASK YOU TO LOOK
3 AT THAT BRIEFLY AND TELL US WHAT IT IS AND I'LL ASK YOU A
4 QUESTION OR TWO.

5 A THIS IS A TOXICOLOGY REPORT DONE BY OUR
6 TOXICOLOGY LAB ON THE BLOOD AND URINE OF MR. THOMPSON.

7 Q IT'S CERTIFIED?

8 A YES, IT IS.

9 Q AN OFFICIAL RECORD OF THE LOS ANGELES
10 COUNTY CORONER'S DEPARTMENT; IS THAT RIGHT?

11 A YES.

12 Q IS THIS UNUSUAL OR IS THIS DONE IN JUST
13 ABOUT EVERY AUTOPSY CASE THAT YOUR OFFICE HANDLES?

14 A IT'S DONE IN ALMOST EVERY HOMICIDE, YES.

15 Q SO THERE'S NOTHING UNUSUAL ABOUT IT BEING
16 DONE HERE?

17 A NONE AT ALL.

18 Q AND THE RESULTS?

19 A HIS BLOOD WAS TESTED FOR COCAINE,
20 NARCOTICS, PCP AND ALCOHOL. ALL RESULTS WERE NEGATIVE
21 AND THE URINE WAS SCREENED. IT JUST SAYS DRUG SCREEN
22 WHICH IS A GENERAL SCREEN FOR ESSENTIALLY THE SAME
23 COMPOUNDS, MAYBE A FEW MORE. I DON'T KNOW THE SPECIFICS.
24 BUT IT CAME OUT AS N/D WHICH IS NONE DETECTED.

25 Q AND AGAIN THAT'S NORMAL TO DO IN EVERY
26 CASE?

27 A YES.

28 Q NOW, I WOULD LIKE TO INVITE YOUR ATTENTION

1 TO PEOPLE'S 67 FOR IDENTIFICATION, AND ASK YOU TO LOOK
2 AT -- IT'S GOT A BIG 2 AT THE TOP AND A PURPLE CORONER'S
3 OFFICE STAMP. COULD YOU TELL US IF YOU RECOGNIZE THAT,
4 PLEASE?

5 A YES.

6 Q WHAT IS IT?

7 A THIS IS THE PERSONAL EFFECTS FORM,
8 PERSONAL EFFECTS INVENTORY IS THE ACTUAL TITLE.

9 Q AND WHAT -- IS THAT AN OFFICIAL RECORD?

10 A YES, IT IS.

11 Q AND IT'S CERTIFIED?

12 A YES, IT IS.

13 Q AND COULD YOU TELL US HOW IT'S PREPARED?

14 A WHEN A PERSONAL PROPERTY IS REMOVED FROM
15 SOMEBODY, THIS IS THE WAY WE HAVE OF DOCUMENTING IT
16 BECAUSE THIS CAN BE RETURNED TO THE PERSON'S NEXT OF KIN.
17 THIS IS DONE FOR THINGS LIKE WATCHES, JEWELRY, WALLET,
18 CELL PHONES, ANY KIND OF MONEY, CREDIT CARDS, ANYTHING
19 LIKE THAT WOULD BE CONSIDERED A PERSONAL EFFECT. SO IT'S
20 ANYTHING THAT IS TAKEN FROM THE BODY USUALLY AT THE SCENE
21 BY THE INVESTIGATOR IS RECORDED AND THE MATERIAL IS KEPT
22 AND IS AVAILABLE TO BE RECOVERED AT OUR OFFICE.

23 Q DOES THAT DOCUMENT PAGE 2 OF -- THAT'S NOT
24 THE ONE I'M PUTTING UP ON THE BOARD SO I DON'T WANT TO
25 CONFUSE YOU.

26 A OKAY.

27 Q DOES THAT REFLECT ANY PERSONAL ITEMS THAT
28 THE CORONER'S OFFICE OR THE REPRESENTATIVE RECOVERED FROM

1 THE BODY OF MICKEY THOMPSON?

2 A YES, IT DOES.

3 MS. SARIS: I'M SORRY, WAS THAT QUESTION MICKEY
4 THOMPSON OR TRUDY?

5 MR. DIXON: NO, IT'S MICKEY.

6 THE COURT: RIGHT. I'M LOOKING AT MICKEY BUT YOU
7 HAVE TRUDY.

8 MR. DIXON: THAT'S WHAT I SAID. WE'RE JUST
9 GETTING READY HERE, SO FOR THE NEXT ONE.

10 MS. SARIS: I'M SORRY, I WAS CONFUSED.

11 Q BY MR. DIXON: WE'RE TALKING ABOUT THE
12 DOCUMENTS THAT YOU HAVE IN FRONT OF YOU, MICKEY THOMPSON.

13 A YES.

14 Q DOES THAT REFLECT ANYTHING?

15 A YES, IT DOES.

16 Q WHAT?

17 A WHAT IS LISTED THAT THEY'RE USING SOME
18 ABBREVIATIONS, SO I'M GOING TO IGNORE THE ABBREVIATIONS.
19 WHITE METAL RING, YELLOW METAL RING WITH SEVEN CLEAR
20 STONES, BLACK WATCH AND IN PARENTHESIS TIMEX AND TWO
21 MISCELLANEOUS PAPERS.

22 Q NOW, LET'S TURN TO PEOPLE'S 68 A THE
23 TOXICOLOGY REPORT FOR TRUDY THOMPSON.

24 DO YOU RECOGNIZE THAT AS SUCH?

25 A YES.

26 Q AND IT'S CERTIFIED?

27 A YES, IT IS.

28 Q AND LIKE WITH MICKEY THOMPSON IT SHOWS

1 THAT THERE WERE NO DRUGS, ALCOHOL WHATEVER IN HER --
2 NO -- I BETTER LET YOU SAY IT. THEY DIDN'T FIND ANYTHING
3 IN HER BODY; IS THAT CORRECT?

4 A RIGHT. THEY DID THE EXACT SAME PANEL OF
5 TESTS AND ALL OF THE RESULTS WERE NEGATIVE.

6 Q THAT'S WHAT I MEANT TO SAY.

7 NOW I WOULD LIKE YOU TO LOOK AT PEOPLE'S
8 68 FOR IDENTIFICATION. DO YOU RECOGNIZE THAT?

9 A YES.

10 Q AND AGAIN WHAT IS THAT?

11 A THIS IS A PERSONAL EFFECTS INVENTORY FORM
12 FOR TRUDY THOMPSON.

13 Q AND I'VE PUT PART OF THAT PAGE UP ON THE
14 SCREEN THERE SO MAYBE WE CAN ALL SEE IT.

15 A OKAY.

16 Q IT IS AN OFFICIAL DOCUMENT, CERTIFIED,
17 CORRECT?

18 A YES.

19 Q BY YOUR OFFICE?

20 A YES.

21 Q AND IT REFLECTS WHAT THE CORONER'S
22 REPRESENTATIVES RECOVERED FROM THE BODY OF TRUDY THOMPSON
23 AT THE TIME THAT THEY REMOVED HER BODY FROM 53 WOODLYN
24 LANE IN BRADBURY?

25 A YES.

26 Q COULD YOU TELL US WHAT WAS RECOVERED?

27 A OKAY. THE FIRST ITEM YOU CAN'T REALLY SEE
28 BECAUSE THEY WROTE ACROSS THE LINE THAT ALREADY HAD PRINT

1 ON IT, BUT IT'S ONE YELLOW METAL ROPE CHAIN. THE NEXT
2 LINE IS PENDANT. THERE IS AN SQ WHICH I THINK STANDS FOR
3 SQUARE.

4 THEN THERE'S, IT LOOKS LIKE THE NUMBER 10
5 IN A BOX. I DON'T KNOW WHAT THAT MEANS BUT FOLLOWING
6 THAT WITH 34 RED STONES, 18 CLEAR STONES.

7 NEXT ITEM IS ONE WHITE METAL RING WITH ONE
8 LARGE STONE AND TWO CLEAR STONES.

9 NEXT ITEM IS ONE DUAL RING GUARD, YELLOW
10 METAL WITH 24 CLEAR STONES.

11 THE NEXT ONE IS ONE PAIR OF YELLOW METAL
12 EARRINGS WITH ONE CLEAR STONE IN EACH.

13 AND THE LAST ITEM IS ONE PAIR, FREE FORM
14 EARRING, YELLOW METAL.

15 Q AND THAT WOULD HAVE BEEN RECOVERED BY THE
16 CORONER'S OFFICE AND RETAINED UNTIL WHEN?

17 A IT'S RETAINED UNTIL THE NEXT OF KIN PICK
18 IT UP.

19 Q THANK YOU, DOCTOR. COULD I JUST HAVE A
20 MOMENT, YOUR HONOR, AND I MAY HAVE CONCLUDED.

21 THE COURT: YES.

22 (DISCUSSION OFF THE RECORD.)

23 MR. DIXON: THANK YOU, YOUR HONOR. NOTHING ELSE
24 AT THIS TIME.

25 THE COURT: THANK YOU. CROSS-EXAMINATION.

26 MS. SARIS: THANK YOU.

27 ///

28 ///

CROSS-EXAMINATION

BY MS. SARIS:

Q GOOD MORNING, DR. SCHEININ.

A GOOD MORNING.

Q DRAWING YOUR ATTENTION TO PEOPLE'S DIAGRAM NO. 69, SPECIFICALLY TO PHOTOS D AND A, DO YOU SEE THOSE REPRESENTED IN MORE OF A CLOSE UP ON THE OVERHEAD?

A YES.

Q AND DO THEY APPEAR TO BE THE SAME PHOTOS AND HAVE THE SAME CORONER'S NUMBER?

A YES, THEY DO.

Q WHEN WE WERE TALKING ABOUT WOUND 67 WHICH APPEAR ON THE RIGHT SIDE OF THIS DESCRIPTION, ONE OF THE WAYS YOU CAN TELL WHETHER OR NOT THE WOUNDS WOULD BE SIMILAR IS TO JUST TO LOOK AT THEM THROUGH THE MEASUREMENTS.

IS THAT FAIR TO SAY?

A YES.

Q AND YOU COULD ACTUALLY MEASURE THEM DOWN TO WHAT MILLIMETERS OR?

A YOU COULD, YES.

Q OKAY. I'D JUST LIKE TO TAKE OUT PART OF THE WOUND ON THE RIGHT SIDE OF 6 AND 7 AND ASK YOU IF THIS WOULD BE CONSISTENT IF WE MOVED THOSE WOUNDS OVER THAT THEY WOULD MATCH THE WOUNDS ON THE TORSO, DOES THAT SEEM LIKE THAT COULD HAVE BEEN ONE EXPLANATION FOR HOW THOSE WOUNDS HAPPENED?

A IT COULD BE, YES.

1 Q AND THE DISTANCE BETWEEN THE TWO WOUNDS ON
2 THE HAND CORRELATE WITH THE TWO WOUNDS ON THE TORSO?

3 A YES.

4 Q AND WE'RE REFERRING TO 6 AND 7 AND 3 AND
5 4? AND YOUR HONOR, WHAT I'VE DONE IS JUST TAKE A PORTION
6 OF THE PHOTOGRAPH LIKE A TRANSPARENCY AND MOVED IT OVER.

7 THE COURT: YES.

8 Q BY MS. SARIS: WOULD THAT BE THEN
9 CONSISTENT WITH THE INDIVIDUAL PUTTING HIS HAND ON HIS --
10 IN HIS STOMACH BUT A SOMEWHAT DOWNWARD MOTION?

11 A IT COULD BE, YES.

12 Q DID YOU -- YOU DIDN'T HAVE ANYTHING TO DO
13 WITH THIS CASE INITIALLY; IS THAT RIGHT?

14 A THAT'S RIGHT.

15 Q SO YOU BECAME INVOLVED WHEN -- WHEN?

16 A I WAS ASKED TO REPRESENT THE MEDICAL
17 EXAMINER, DR. LAKSHMANAN. HE CALLED ME ON FRIDAY AND
18 ASKED ME IF I WOULD BE WILLING TO SO THAT'S LAST FRIDAY.

19 A L-A-K-S-H-M-A-N-A-N.

20 Q DID YOU HAVE ANY DISCUSSIONS WITH
21 DR. SHERRY PERSONALLY REGARDING THE AUTOPSY THAT HE
22 PERFORMED?

23 A NO.

24 Q DO YOU KNOW WHEN HE RETURNS FROM HIS
25 VACATION?

26 A NO.

27 Q YOU INDICATED THAT YOUR OFFICES IS
28 SEPARATE AND DISTINCT FROM THE SHERIFF'S DEPARTMENT?

1 A YES.

2 Q BUT YOU ALSO WILL -- YOU'LL SHARE YOUR
3 INFORMATION WITH THE SHERIFF'S, YES?

4 A YES.

5 Q AND OFTEN TIMES INVITE SHERIFF PERSONNEL
6 TO YOUR AUTOPSIES?

7 A YES. WE ROUTINELY NOTIFY ALL POLICE
8 PERSONNEL ABOUT HOMICIDE AUTOPSIES AND USUALLY THEY
9 ATTEND.

10 Q AND THE REPORTS THAT ARE GENERATED FROM
11 YOUR AUTOPSIES THAT WASN'T GENERATED IN THIS CASE SIMPLY
12 BECAUSE IT'S A HOMICIDE, THAT'S GENERATED IN ALL YOUR
13 AUTOPSIES, CORRECT?

14 A YES.

15 Q AND THOSE ARE SHARED WITH THE DISTRICT
16 ATTORNEY AS WELL AS THE SHERIFF?

17 A YES.

18 Q AND IF DEFENSE COUNSEL AS WELL IF THEY
19 MAKE A SHOWING?

20 A YES.

21 Q AND IN THE COURSE OF YOUR EXPERIENCE WITH
22 THE CORONER'S DEPARTMENT HAVE YOU EVER SEEN FINGERNAIL
23 CLIPPINGS TAKEN FROM VICTIMS?

24 A I KNOW IT HAS BEEN DONE BUT IT'S USUALLY
25 DONE BEFORE I GET TO THE BODY SO I DON'T SEE THEM
26 ACTUALLY DOING IT.

27 Q DOES IT EVER HAPPEN THAT YOU SEE THE
28 SCRAPINGS DONE?

1 A I DON'T SEE THAT, NO. IT'S USUALLY ALWAYS
2 COMPLETED BEFORE I GET TO THE CASE.

3 Q OKAY. AND WHEN THOSE THINGS ARE DONE,
4 WOULD THEY BE PART OF THE CHIEF MEDICAL EXAMINER'S
5 EVIDENCE?

6 A IT'S PART OF THE EVIDENCE IN THE CASE,
7 YES.

8 Q AND WOULD THEY ALSO RECEIVE THE SAME
9 NUMBER THAT WAS GIVEN TO THE BODY DURING THE AUTOPSY?

10 A IT SHOULD, YES.

11 Q AND THE NUMBER IN THIS CASE FOR TRUDY
12 THOMPSON?

13 A IS 88-02868.

14 MS. SARIS: 88-02868. AND YOUR HONOR, I'M
15 SHOWING A PHOTOGRAPH OF FINGERNAIL CLIPPINGS AND AN
16 ENVELOPE THAT BEARS THE NUMBER 88-02868 ASK TO MARK THAT
17 DEFENSE NEXT IN ORDER.

18 THE COURT: WE ARE UP TO CC -- CCC RATHER.

19
20 (MARKED FOR IDENTIFICATION DEFENSE'S
21 EXHIBIT NO. CCC, DOCUEMNTS.)

22
23 Q BY MS. SARIS: SO DOES THAT APPEAR TO YOU
24 IF YOU WERE TO SEE THIS ENVELOPE TO BE RELATED TO THE
25 AUTOPSY THAT YOU'VE BEEN DISCUSSING? LET ME BRING IT
26 CLOSER TO YOU.

27 A I CAN SEE IT AND YES, IT WOULD.

28 Q I'M PUTTING ANOTHER PHOTOGRAPH, YOUR

1 HONOR, ON THE SCREEN OF WHAT APPEARS TO BE A WOOD STICK
2 ON THE LEFT SIDE AND AN ENVELOPE ON THE RIGHT BEARING THE
3 NUMBER 88-02868.

4 DO YOU KNOW WHAT THAT WOOD STICK IS?

5 A THAT'S WHAT THEY USE TO TAKE THE ACTUAL
6 SCRAPINGS OF WHATEVER IS UNDER SOMEONE'S FINGERNAIL.

7 Q AND THEY'LL INCLUDE THAT IN THE ENVELOPE?

8 A I BELIEVE THEY DO, YES.

9 THE COURT: WE'LL MARK THAT DDD.

10 MS. SARIS: THANK YOU.

11
12 (MARKED FOR IDENTIFICATION DEFENSE'S
13 EXHIBIT NO. DDD, DOCUMENTS.)
14

15 Q BY MS. SARIS: AND BASED ON THE NUMBERS ON
16 THAT ENVELOPE, DO YOU BELIEVE THAT TO BE ASSOCIATED WITH
17 THE TRUDY THOMPSON AUTOPSY THAT YOU HAVE BEEN REVIEWING?

18 A YES.

19 Q AND IT WOULD BE STANDARD PRACTICE I THINK
20 YOU SAID TO TAKE EVERY PIECE OF EVIDENCE THAT WAS FOUND
21 AS A RESULT OF YOUR EXAMINATION THERE AT THE MEDICAL
22 EXAMINER'S OFFICE AND GIVE IT THE SAME NUMBER THROUGHOUT?

23 A YES.

24 Q AND WHEN -- I SHOULD HAVE STARTED WITH
25 THIS BECAUSE IT WAS UP ALREADY. BUT WE WERE DISCUSSING
26 THE PERSONAL EFFECTS INVENTORY. I BELIEVE YOU SAID YOU
27 RECOGNIZED ON TRUDY THOMPSON CASE ENDING 868.

28 IN THE TOP OF THAT LIST OF ITEMS, DO YOU

1 SEE WHERE IT SAYS A PENDANT WITH A SQUARE TEN?

2 A YES.

3 Q AND ANYWHERE ON THAT DESCRIPTION IF I MAY
4 BRING THIS UP TO YOU, DO YOU SEE THAT SHE WAS WEARING AT
5 ANY TIME THE MEDICAL EXAMINER CAME IN TO THE CASE A
6 CIRCLE WITH THE NO. 1?

7 A I DON'T SEE THAT LISTED.

8 Q WHAT HAPPENS IF -- WELL, IN THE COURSE OF
9 WHAT YOU DESCRIBED FOR US, THE PROCEDURE OF AN AUTOPSY,
10 WHEN YOU GET TO THE POINT WHERE YOU'RE ABOUT TO DO AN
11 AUTOPSY, IN WHAT CONDITION IS THE BODY? IS IT STILL
12 CLOTHED?

13 A USUALLY THE BODY HAS BEEN WASHED AND
14 PHOTOGRAPHED BEFORE I GET TO IT, SO IT IS ESSENTIALLY ALL
15 READY TO GO NOW. NOW, IN SOME CASES WE HAVE VIEWED THE
16 BODY WHILE IT WAS STILL FULLY CLOTHED. IT DEPENDS ON THE
17 CASE.

18 Q AND THE CLOTHES ARE THERE FOR YOU TO LOOK
19 AT AS WELL IF YOU HAVE ANY QUESTIONS REGARDING THAT, THE
20 CLOTHES MIGHT HELP YOU WITH DURING YOUR AUTOPSY?

21 A YES.

22 Q AND IN BOTH OF THESE AUTOPSIES, THE
23 CLOTHES WERE PRESERVED AS EVIDENCE, CORRECT?

24 A YES.

25 Q AND BOTH EXAMINERS HAD AN OPPORTUNITY TO
26 REVIEW THOSE CLOTHING?

27 A YES.

28 Q SPECIFICALLY WITH TRUDY THOMPSON,

1 DR. WEGNER ACTUALLY TOOK A BRIEF LOOK AT THE CLOTHING.
2 DO YOU RECALL THAT?

3 A YES.

4 Q AND HE INDICATED THAT HE SAW NO SOOT OR
5 STIPPLING IN TRUDY'S CLOTHING?

6 A RIGHT. HE DID QUALIFY THAT SAYING IT WAS
7 DARK AND IT WAS JUST AN EYEBALL EXAM.

8 Q I THINK HE USED THE WORD BRIEF?

9 A YES, I THINK HE DID, TOO.

10 Q EXCUSE ME, I'VE HAD A COLD ALL WEEK. I
11 APOLOGIZE.

12 A NO PROBLEM.

13 Q GETTING TO THE PHOTOS OR THE AUTOPSY OF
14 MICKEY THOMPSON AND I'M NOT GOING TO TAKE YOU THROUGH
15 EVERYTHING AGAIN, BUT WOULD IT -- IF WE WERE TO ASSUME
16 FOR THE PURPOSE OF THIS QUESTION THAT THE HAND WAS PLACED
17 OVER THE TORSO AND THAT THOSE ARE NOT TWO SEPARATE AND
18 DISTINCT WOUNDS, THEN MR. THOMPSON WAS SHOT FOUR TIMES IN
19 THE TORSO AND ONCE IN THE HEAD?

20 A YES.

21 Q WITH THAT ASSUMPTION IN PLACE?

22 A YES.

23 Q YOU INDICATED WHEN YOU WERE POINTING TO
24 THE WOUNDS IN PHOTOGRAPH A OF PEOPLE'S 69 -- CAN I BORROW
25 YOUR POINTER -- YOU WERE POINTING TO THE 3 AND INDICATED
26 THAT THOSE WOULD BE, I THINK YOU USED THE WORD CLUSTER?

27 A YES.

28 Q AND WHAT DOES THAT MEAN?

1 A IT JUST MEANS THAT THEY'RE GROUPED CLOSELY
2 TOGETHER.

3 MS. SARIS: YOUR HONOR, I HAVE ANOTHER DIAGRAM I
4 WOULD LIKE TO MARK DEFENSE NEXT IN ORDER. I BELIEVE
5 THAT'S EEE.

6 THE COURT: YES.

(MARKED FOR IDENTIFICATION DEFENSE'S
EXHIBIT NO. EEE, DOCUMENT.)

10

11 Q BY MS. SARIS: JUST TO TRY AND MAKE IT A

12 LITTLE CLEARER, I'VE ACTUALLY PLACED NUMBERS ON THE

13 WOUNDS. WOULD YOU AGREE JUST LET'S FIRST TAKE JUST THE

14 NUMBERS, THAT THE NUMBERS IN BLACK ON THAT PICTURE ON THE

15 LEFT OF DEFENSE EEE CORRESPOND TO THE NUMBERS THAT WERE

16 GIVEN TO THOSE WOUNDS DURING THE AUTOPSY?

17 A YES.

18 Q AND THE ARROW IS MEANT SIMPLY FOR
19 DIRECTIONALITY. WOULD YOU AGREE THAT THAT'S THE CORRECT
20 DIRECTION OF NO. 3?

21 A YES.

22 | 0 IS THE ANGLE NECESSARILY ACCURATE?

23 | A I THINK IT'S A GOOD ESTIMATION, YES.

24 Q AND AS TO -- YOUR HONOR, I HAVE ANOTHER
25 PHOTOGRAPH FROM THE SAME INDIVIDUAL, THE REAR VIEW.

26 THE COURT: TRIPLE F.

27

28 (MARKED FOR IDENTIFICATION DEFENSE'S

1 EXHIBIT NO. FFF, DOCUMENTS.)

2
3 Q BY MS. SARIS: SHOWING YOU HAVE DEFENSE
4 FFF DOES THAT APPEAR TO YOU TO SHOW THE EXIT WOUND OF
5 NO. 2 AND THE EXIT WOUND OF NO. 4?

6 A YES.

7 Q AND THOSE NUMBERS CORRESPOND TO THE
8 NUMBERS THAT WERE ARBITRARILY ASSIGNED DURING THE
9 AUTOPSY?

10 A YES.

11 Q AND FINALLY I HAVE ONE OF THE -- PICTURE
12 OF THE NO. 5, YOUR HONOR, THE G PLEASE.

13 THE COURT: YES, GGG.

14
15 (MARKED FOR IDENTIFICATION DEFENSE'S
16 EXHIBIT NO. GGG, DOCUMNTS.)

17
18 Q BY MS. SARIS: AND FINALLY SHOWING YOU
19 WOUND THAT HAS BEEN MARKED NO. 5, DOES THE 5 ON THE
20 PHOTOGRAPH ON THE LEFT CORRESPOND TO THE NUMBER GIVEN
21 WOUND 5 DURING THE AUTOPSY?

22 A YES.

23 Q AND DOES THAT ARROW ALSO SHOW
24 DIRECTIONALITY?

25 A YES.

26 THE COURT: AND FOR THE RECORD THAT'S?

27 MS. SARIS: DEFENSE GGG.

28 THE COURT: THANK YOU.

1 MS. SARIS: THANK YOU.

2 Q SO I ALSO BELIEVE YOU SAID SOMETHING ABOUT
3 THE WOUND. THE BOWEL WAS PERFORATED AT SOME POINT IN
4 SUCH A WAY AND TWO OF THE WOUNDS WERE SO CLOSE TOGETHER
5 THAT ONE COULD NOT DETERMINE WHICH BULLET ACTUALLY CAUSED
6 THAT PERFORATION?

7 A YES, FOR WOUNDS 2 AND 4.

8 Q SO WHEN WOUNDS ARE CLOSE TOGETHER LIKE
9 THIS, WOULD THAT BE CONSISTENT WITH SOMEONE STANDING IN
10 THE SAME PLACE SHOOTING AT SOMEONE STANDING AT THE SAME
11 PLACE?

12 A WELL, THE PERSON -- YES, IT COULD BE. IT
13 COULD BE THREE SHOTS FIRED IN RAPID SUCCESSION.

14 Q OKAY. AND LET'S ASSUME THEN FOR THE
15 PURPOSE OF THIS QUESTION, IF AN INDIVIDUAL IS STANDING
16 SQUARE IN FRONT OF THE INDIVIDUAL WHO IS SHOOTING HIM AND
17 THREE SHOTS COME IN RAPID SUCCESSION AND THE HAND IS PUT
18 OVER, AFTER THE FIRST SHOT, WOULD THAT BE ONE EXPLANATION
19 FOR WHY WOUNDS 3 AND 4 LOOK DIFFERENT THAN WOUND 2 IN
20 PHOTOGRAPH A OF PEOPLE'S 50 -- 69?

21 A YES.

22 Q OKAY. NOW, WOUND NO. 3, ASSUMING ALL FOUR
23 WOUNDS, ALL FOUR SHOTS WERE IN RAPID SUCCESSION, WOULD A
24 CONSISTENT EXPLANATION --

25 A OKAY. WE'RE TALKING ABOUT THREE SHOTS, 2,
26 3 AND 4, RIGHT?

27 Q TWO, 3, 4 AND WE'LL GET TO 5 AS WELL. ALL
28 OF THE SHOTS THAT WE'VE DISCUSSED THAT HAVE HAD BLACK

1 NUMBERS ON THE BOARD SO FAR, ASSUMING THEY ALL ARE SHOT
2 IN RAPID SUCCESSION, WOULD A CONSISTENT EXPLANATION FOR
3 THAT BE THAT THE INDIVIDUAL WAS SHOT ONCE CLEAN THROUGH,
4 A HAND CAME OVER, SHOT TWICE THROUGH THE HAND, FALLING
5 FORWARD TO CREATE WOUND 3 GOING THROUGH JUST THE FLABBY
6 PART OF THE ABDOMEN, TURNING AS THEY FELL TO GET WOUND 5?

7 A THAT IS ONE EXPLANATION, YES. THAT COULD
8 BE CONSISTENT WITH.

9 Q SO SOMETIMES THE BULLET ENTRY HOLES WILL
10 MOVE BECAUSE THE SHOOTER MOVES AND SOMETIME IT WILL BE
11 BECAUSE THE VICTIM MOVES, YES?

12 A YES. EVERYTHING IS RELATIVE.

13 Q HAVE YOU DONE ANY -- HAVE YOU BEEN ASKED
14 OR HAVE YOU DONE ANY MEASUREMENTS OR CAN YOU TELL FROM
15 THE PHOTOGRAPHS IF THERE IS ANY WAY TO SAY THAT THE
16 SCENARIO THAT I'VE JUST EXPLAINED FOR YOU IS UNREASONABLE
17 OR INACCURATE?

18 A THERE'S NO WAY I COULD EVALUATE THAT.

19 Q YOU COULDN'T SAY IT'S THE ONLY WAY BUT IT
20 IS ONE POSSIBLE WAY?

21 A IT'S ONE POSSIBLE WAY.

22 Q NOW IF SOMEONE WERE SHOT AND LET'S JUST
23 LEAVE NO. 5 UP HERE FOR A MOMENT, ASSUMING THIS
24 INDIVIDUAL STANDS AT 5 FEET 9 INCHES TALL. THIS PERSON
25 IS SHOT IN THE -- ALMOST THE REAR RIGHT HIP, YES?

26 A YES.

27 Q IF THAT PERSON WERE STANDING AGAINST THE
28 WALL, BASED ON THE TRAJECTORY OF THAT -- THOSE TWO BULLET

1 HOLES, WHERE WOULD YOU EXPECT TO FIND THE HOLE IN THE
2 WALL?

3 A IF HE WOULD BE FACING THE WALL?

4 MR. DIXON: OBJECTION. I THINK THIS IS CALLING
5 FOR SPECULATION.

6 THE COURT: SUSTAINED.

7 MR. DIXON: THANK YOU.

8 Q BY MS. SARIS: WOULD YOU EXPECT THIS WOUND
9 TO BE TRAVELING IN THE DIRECTION THAT IT WAS GOING AS IT
10 WAS GOING THROUGH THE BODY?

11 A YES.

12 Q SO YESTERDAY WHEN YOU DID THE
13 DEMONSTRATION FOR US, I BELIEVE YOU STOOD HERE AND HAD A
14 POINTER THAT WAS FACING SOMEWHERE OFF TO THE CORNER OF
15 THE COURTROOM?

16 A YES.

17 Q WOULD YOU EXPECT THEN IF THE INDIVIDUAL
18 WERE STANDING BEHIND YOU, WHICH IS I THINK WHERE YOU SAID
19 THE SHOOTER COULD HAVE BEEN?

20 A BEHIND AND SOMEWHAT TO THE RIGHT.

21 Q SOMEWHAT TO THE RIGHT THAT YOU WOULD
22 EXPECT THAT BULLET TO BE -- IF IT HIT A WALL IN FRONT, IT
23 WOULD HIT THE JURY BOX. WOULD YOU EXPECT IT TO GO WAY
24 DOWN TO THE GROUND, A 6 INCH HEIGHT OR WOULD YOU EXPECT
25 IT TO BE WITHIN THE RANGE OF A PERSON'S TORSO?

26 A IF HE WAS STANDING AND THIS IS A ROUGHLY
27 HORIZONTAL WOUND SO IT SHOULD KEEP GOING AT ABOUT THE
28 SAME TRAJECTORY AS IT WENT THROUGH THE BODY.

1 Q SO IT DIDN'T HIT LIKE THE HIPBONE THAT'S
2 GOING TO MAKE IT GO SOMEWHERE CRAZY. IT WENT RIGHT
3 THROUGH THE BODY?

4 A RIGHT.

5 Q IF A PERSON WERE TO HAVE SUFFERED THE
6 WOUNDS, ALL FOUR OF THE WOUNDS IN QUICK SUCCESSION, AS I
7 DEMONSTRATED EARLIER, ONE CLEAN THROUGH, TWO WITH THE
8 HAND WITH THE ONE COMING FORWARD TO EXPLAIN NO. 3, AND
9 THEN TURNING TO FALL TO EXPLAIN NO. 5, DO YOU THINK
10 MEDICALLY THAT INDIVIDUAL WOULD BE ABLE TO STAND UP AGAIN
11 IF INDEED NO. 5 KNOCKED HIM TO THE GROUND?

12 MR. DIXON: OBJECTION. THAT ASSUMES FACTS --
13 THAT'S IMPROPER HYPOTHETICAL AND IT'S ASKING FOR
14 SPECULATION.

15 THE COURT: SUSTAINED.

16 Q BY MS. SARIS: LET ME ASK YOU THIS.
17 ASSUME THE FOLLOWING ORDER OF SHOTS. NO. 2 CAME FIRST,
18 THEN NO. 3. I'M SORRY. THEN NO. 4, THEN NO. 3, THEN
19 NO. 5.

20 MR. DIXON: OBJECTION. SAME OBJECTION. THAT'S
21 IMPROPER HYPOTHETICAL. SHE HAS SAID AMONG THOSE SHOTS
22 SHE COULD NOT SAY WHICH CAME FIRST.

23 THE COURT: SUSTAINED.

24 MS. SARIS: I'M ASKING HER TO ASSUME THIS FOR THE
25 PURPOSE OF A HYPOTHETICAL.

26 MR. DIXON: THEN IT'S IMPROPER HYPOTHETICAL.
27 THERE'S NOTHING IN THE EVIDENCE.

28 THE COURT: SUSTAINED.

1 Q BY MS. SARIS: CAN YOU TELL THAT THAT
2 ORDER DID NOT OCCUR?

3 A NO.

4 Q OKAY. ASSUMING ALL OF THESE BULLETS
5 KNOCKED THIS INDIVIDUAL TO THE GROUND AND THEY ALL CAME
6 AT ONE TIME, COULD THAT INDIVIDUAL FROM A MEDICAL
7 STANDPOINT BE ABLE TO STAND UP?

8 MR. DIXON: OBJECTION. THAT'S IMPROPER
9 HYPOTHETICAL.

10 MS. SARIS: MAY WE APPROACH, YOUR HONOR?

11 THE COURT: YES. LET'S GO TO SIDEBAR.

12
13 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

14 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

15 MR. DIXON: "THEY ALL CAME AT ONE TIME." I DON'T
16 KNOW WHAT THAT MEANS. AND I DON'T THINK THE JURORS KNOW
17 WHAT THAT MEANS.

18 THE COURT: WELL, I THINK IT CAN BE REPHRASED.

19 MS. SARIS: FOUR SHOTS IN RAPID SUCCESSION AND
20 THEY KNOCKED THE PERSON TO THE GROUND, COULD THE PERSON
21 GET UP. I DON'T KNOW HOW THAT'S AN IMPROPER
22 HYPOTHETICAL. AN IMPROPER HYPOTHETICAL IS WHEN THE FACTS
23 COULDN'T POSSIBLY SUPPORT IT. IN THIS CASE SHE SAID THEY
24 COULD. IT'S ONE EXPLANATION.

25 THE COURT: YEAH. I DON'T HAVE ANY PROBLEM WITH
26 THE WAY THAT WAS JUST PHRASED. BUT THE WAY IT WAS
27 PHRASED EARLIER I THINK WAS.

28 IS THERE ANY OBJECTION TO THIS LATTER

1 HYPOTHETICAL? I THINK THAT'S A FAIR ONE.

2 MR. DIXON: THERE'S NO EVIDENCE AND WE HAVE AN
3 EYEWITNESS THAT HE WAS KNOCKED TO THE GROUND BEFORE WHAT
4 WE CONTEND WAS THE FATAL AND LAST SHOT WHICH IS GUNSHOT
5 WOUND NO. 1.

6 MS. SARIS: THERE'S NO EVIDENCE THAT TRUDY WAS IN
7 THE VAN, BUT SHE GAVE A HYPOTHETICAL ANSWER THAT THAT
8 WOULD BE CONSISTENT.

9 MR. DIXON: YES, THERE IS EVIDENCE THAT SHE WAS
10 IN THE VAN.

11 THE COURT: I'M SORRY, WHAT? MAYBE I
12 MISUNDERSTOOD, MR. DIXON. WHAT IS THE COMPLAINT ABOUT
13 THE HYPOTHETICAL, ABOUT THE FOUR SHOTS AND THEN HIM BEING
14 ON THE GROUND?

15 MR. DIXON: THERE'S NO EVIDENCE THAT HE WAS
16 KNOCKED TO THE GROUND BEFORE THE LAST SHOT. THAT HE WAS
17 STANDING. THERE'S NO EVIDENCE THAT HE WAS KNOCKED TO THE
18 GROUND.

19 MS. SARIS: ACTUALLY, THERE IS. THERE'S BLOOD ON
20 THE GROUND. HE WAS FOUND ON THE GROUND.

21 THE COURT: I DON'T HAVE A PROBLEM WITH THE
22 LATTER.

23 MR. DIXON: ALL RIGHT.

24 (SIDEBAR CONCLUDED.)

25

26 Q BY MS. SARIS: DOCTOR, LET ME ASK YOU A
27 HYPOTHETICAL QUESTION. ASSUMING THAT THE SHOTS THAT
28 WE'VE BEEN DISCUSSING ALL FOUR CAME IN RAPID SUCCESSION

1 AND THAT KNOCKED AN INDIVIDUAL TO THE GROUND, FROM A
2 MEDICAL PERSPECTIVE WOULD THAT INDIVIDUAL HAVE THE
3 PHYSICAL STRENGTH TO STAND UP AGAIN?

4 A HE COULD.

5 Q WOULD HE BE ABLE TO RUN OR WALK?

6 A POSSIBLY, YES.

7 Q AND YOU SAY THAT BECAUSE NOTHING LIKE THE
8 SPINE OR THE CENTRAL NERVOUS SYSTEM WAS HURT?

9 A CORRECT.

10 Q IS THERE ANY WAY TO TELL FROM THE WOUND
11 NO. 1, THE HEAD WOUND, WHETHER THE INDIVIDUAL WAS
12 STANDING OR LYING DOWN?

13 A NO.

14 Q SO YOU WOULD HAVE TO LOOK AT OTHER
15 FACTORS? YOU COULDN'T MAKE THIS DETERMINATION SIMPLY
16 FROM THE AUTOPSY?

17 A NO, I COULDN'T. I MEAN I COULD SAY
18 THAT -- IF HE WERE STANDING IT WOULD BE A LITTLE
19 DIFFICULT TO SHOOT SOMEBODY IF THEY ARE FACE-TO-FACE WITH
20 SOMETHING BECAUSE IT IS RELATIVELY HIGH ON THE HEAD.

21 Q OKAY. LET'S TALK ABOUT THAT WOUND
22 SPECIFICALLY AND I THINK THAT'S DEPICTED IN ONE OF THE
23 PHOTOGRAPHS. PHOTOGRAPH 70-A, DOES THAT DEPICT THE
24 ENTRANCE WOUND?

25 A YES, IT DOES.

26 Q AND THAT'S NO. 1 TO MICKEY THOMPSON?

27 A YES.

28 Q AND PHOTOGRAPH B DEPICTS THE EXIT WOUND.

1 A YES.

2 Q IS THERE ANY EVIDENCE BASED ON ALL THE
3 REPORTS THAT YOU'VE READ THAT AN INDIVIDUAL WALKED UP TO
4 MICKEY, TO MICKEY THOMPSON, SCREWED A GUN IN TO HIS EAR
5 AND FIRED A BULLET?

6 A ABSOLUTELY NOT.

7 Q IS THERE ANYTHING IN THE REPORT THAT
8 SUGGESTS THAT?

9 A NO.

10 Q AND AGAIN THIS IS A REPORT THAT YOU HAD
11 SHARED WITH THE L.A. COUNTY SHERIFFS AND THE DISTRICT
12 ATTORNEYS?

13 A YES.

14 Q SHOT NO. 3 WOULD THAT -- WAS THAT SEPARATE
15 AND APART FROM ANY OTHER HYPOTHETICAL, LET'S TAKE SHOT
16 NO. 3. THAT IS THE SHOT THAT ONLY WENT THROUGH -- EXCUSE
17 ME -- DEFENSE EEE, THAT'S CONSISTENT WITH A PERSON BEING
18 SHOT WHILE LEANING FORWARD?

19 A YES.

20 Q IS IT ALSO CONSISTENT WITH A PERSON BEING
21 SHOT WHILE IN CLOSE COMBAT?

22 A DEPENDING ON THE SCENARIO IT COULD BE
23 POSSIBLE.

24 MR. DIXON: OBJECTION. VAGUE AND MOTION TO
25 STRIKE "COMBAT."

26 THE COURT: YES. SUSTAINED. THAT WILL BE
27 STRICKEN.

28 MR. DIXON: THANK YOU.

1 Q BY MS. SARIS: IF AN INDIVIDUAL RECEIVING
2 SHOT NO. 3 WERE BEING -- WERE STRUGGLING WITH A GUN WITH
3 AN INDIVIDUAL WHO WAS MUCH TALLER THAN HE, SAY SIX FOOT
4 TWO COULD THAT INDIVIDUAL POINT THE GUN ON MR. THOMPSON'S
5 BODY UP CLOSE AND CREATE THAT KIND OF A WOUND?

6 MR. DIXON: OBJECTION. IMPROPER HYPOTHETICAL.

7 THE COURT: SUSTAINED.

8 MR. DIXON: THANK YOU.

9 Q BY MS. SARIS: WHAT WOULD IT TAKE FOR AN
10 INDIVIDUAL TO HAVE THAT SORT OF A WOUND CREATED? WHAT
11 OTHER SCENARIOS ARE POSSIBLE?

12 A I MEAN THERE'S ANY NUMBER --

13 MR. DIXON: OBJECTION. CALLS FOR SPECULATION AT
14 THIS POINT.

15 THE WITNESS: SORRY.

16 THE COURT: SUSTAINED.

17 MS. SARIS: MAY WE APPROACH, YOUR HONOR? WE DO
18 HAVE EVIDENCE OF THE SIX FOOT TWO.

19 THE COURT: OKAY.

20

21 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

22 THE COURT: OKAY. WE'RE AT THE SIDEBAR.

23 MS. SARIS: I'VE NEVER HAD OBJECTIONS TO
24 HYPOTHETICALS ON POSSIBLE SCENARIOS. WE HAVE BICYCLISTS
25 THAT WERE DESCRIBED AS OVER SIX FEET TALL. WE HAVE NO
26 IDEA WHAT HAPPENED AT THE TOP OF THE GARAGE.
27 MISS TRIARSI HAS BEEN DISCREDITED IN CERTAIN RESPECTS.
28 THE JURY INSTRUCTION SAYS IF YOU DISCREDIT A WITNESS IN

1 CERTAIN RESPECTS, THEY ARE FREE TO DISREGARD THE
2 TESTIMONY.

3 THERE'S NOTHING WRITTEN IN STONE ABOUT HOW
4 THIS WENT DOWN. THE ONLY EVIDENCE THAT WE HAVE IS BASED
5 ON WHAT THE AUTOPSY WAS AND THE BALLISTICS. IT IS
6 POSSIBLE THERE WAS A CONFRONTATION. THE DISTRICT
7 ATTORNEY TOOK GREAT PAINS TO SHOW US INDEPENDENT BLOOD
8 POOLS OUTSIDE THE GARAGE. SO THERE'S NOTHING THAT WOULD
9 MAKE MY SCENARIO IMPOSSIBLE, WHICH IS THE ONLY TRUE
10 OBJECTION TO A HYPOTHETICAL.

11 MR. DIXON: THERE IS --

12 THE COURT: WELL, BUT THE LAST QUESTION WASN'T A
13 HYPOTHETICAL. THAT WAS THE QUESTION BEFORE THE LAST
14 QUESTION WAS ASKING THE WITNESS TO SPECULATE AS TO A
15 NUMBER OF POSSIBLE SCENARIOS.

16 THE HYPOTHETICAL THAT WAS POSED EARLIER
17 DEALT WITH A COMBAT, A STRUGGLE BETWEEN THE TWO.

18 MS. SARIS: AND IN BETWEEN THERE WAS A SIX FOOT
19 TWO PERSON POINTING A GUN DOWNWARD A FIVE FOOT NINE MAN
20 OR I CAN SAY OVER SIX FEET.

21 THE COURT: THAT'S NOT -- I DIDN'T HAVE ANY
22 PROBLEM WITH THAT PART.

23 MS. SARIS: THAT OBJECTION WAS SUSTAINED.

24 THE COURT: THAT WASN'T THE ENTIRE QUESTION.

25 MS. SARIS: WOULD THAT RESULT IN THAT INJURY?
26 THAT'S THE QUESTION.

27 THE COURT: OKAY. YOU CAN PHRASE IT WITHOUT THE
28 COMBAT LANGUAGE OR CONFRONTATION OR STRUGGLE OR WHATEVER

1 IT IS.

2 MS. SARIS: I WOULD JUST LIKE SOME GUIDANCE HERE
3 AS TO WHY THE OBJECTIONS ARE COMING FOR POSSIBLE
4 SCENARIOS IN A HYPOTHETICAL THAT'S LEGAL OF AN EXPERT
5 WITNESS.

6 THE COURT: WELL, THE POSSIBLE SCENARIO QUESTION
7 IS CALLING FOR SPECULATION.

8 MS. SARIS: I UNDERSTAND THAT. BUT I MEAN I'M
9 SUGGESTING SPECIFIC ONES THAT ARE POSSIBLE THROUGH THE
10 FACTS. AS LONG AS IT'S NOT IMPOSSIBLE BASED ON ANYTHING
11 THAT WE HEARD.

12 THE COURT: THERE ARE NO FACTS TO SUPPORT THE
13 SUGGESTION THAT THERE WAS A STRUGGLE.

14 MS. SARIS: THERE ARE NO FACTS DISPROVING IT AND
15 WE'RE NOT DONE WITH THIS CASE YET.

16 THE COURT: WELL, AT THIS POINT I'M GOING TO
17 SUSTAIN ANY OBJECTION TO THAT HYPOTHETICAL. AND IF
18 THINGS CHANGE, WE CAN DEAL WITH IT AT A LATER DATE.

19 IS THERE ANYTHING ELSE?

20 MS. SARIS: YOU'RE SAYING THAT I WOULD NEED TO
21 PROVE THERE WAS A STRUGGLE IN ORDER TO TALK ABOUT THE
22 FORENSIC EVIDENCE, IF ANY?

23 THE COURT: THERE'S NO -- THERE'S ZERO EVIDENCE.
24 THERE'S NOTHING IN THE RECORD THUS FAR THAT WOULD SUPPORT
25 THAT HYPOTHETICAL.

26 MS. SARIS: THERE WAS A PERSON THAT WAS
27 SUPPOSEDLY HOLDING MICKEY THOMPSON AT BAY.

28 THE COURT: WE DON'T KNOW --

1 MS. SARIS: WELL, WE DON'T KNOW WHEN SHE SAW WHAT
2 SHE SAW.

3 THE COURT: OKAY. THE OBJECTION AS TO THE
4 STRUGGLE IS SUSTAINED.

5 (SIDEBAR CONCLUDED.)

6
7 Q BY MS. SARIS: WOULD THE WOUND IN NO. 3 BE
8 CONSISTENT WITH A TALLER MAN OVER SIX FEET STANDING NEAR
9 TO THE VICTIM MICKEY THOMPSON AT FIVE-NINE SHOOTING
10 DOWNWARD?

11 A YOU WOULD HAVE TO HAVE THE GUN SHARPLY
12 ANGLED DOWNWARD, BUT IT COULD HAPPEN.

13 Q IF THE PERSON WERE TO HAVE BEEN SHOT --
14 MICKEY THOMPSON WERE SHOT IN NO. 3 WHILE LEANING FORWARD,
15 WHAT WOULD YOU EXPECT TO HAVE HAPPEN TO THAT PROJECTILE?
16 WOULD IT NECESSARILY GO IN TO THE LEG?

17 A NO, NOT NECESSARILY.

18 Q AND WHY IS THAT?

19 A IT DEPENDS ON WHAT POSITION HE WAS IN.
20 ALSO IT COULD BOUNCE OFF THE CLOTHING OR SOMETHING LIKE
21 THAT.

22 Q YOU NOTICED A CONTUSION OR BRUISE ON
23 MR. THOMPSON'S FACE?

24 A THERE'S AN ABRASION THERE.

25 Q ABRASION. PLEASE TELL ME THE DIFFERENCE.

26 A CONTUSION IS A BRUISE. IT'S A BLEEDING
27 UNDER THE SKIN. ABRASION IS A PHYSICAL SCRAPING OF THE
28 SUPERFICIAL LAYER OF THE SKIN SUCH AS WHEN YOU SKIN YOUR

1 KNEE IS AN ABRASION.

2 Q AND I'M POINTING TO A RED MARK ON
3 PHOTOGRAPH B UNDER MICKEY THOMPSON'S LEFT EYE.

4 THE COURT: WHAT EXHIBIT?

5 MS. SARIS: PEOPLE'S 7. THANK YOU.

6 THE COURT: THANK YOU.

7 Q BY MS. SARIS: IS THAT WHAT YOU'RE
8 REFERRING TO?

9 A YES.

10 Q DID YOU ALSO NOTICE IN THE REPORT ANY
11 MARKS ON MR. THOMPSON'S KNEES?

12 A THERE WERE SMALL ABRASIONS DESCRIBED ON
13 BOTH KNEES.

14 Q WOULD THOSE BE CONSISTENT WITH AN
15 INDIVIDUAL FALLING TO HIS KNEES FIRST AND THEN ON HIS
16 FACE NOT USING HIS ARMS TO PREVENT HIS FALL?

17 A COULD BE.

18 Q WE'RE TALKING ABOUT WOUND NO. 4. EARLIER
19 YOU SAID IT CUT THE ILIAC VEIN?

20 A YES.

21 Q DOES THE ILIAC VEIN LEAD AT SOME POINT TO
22 THE VENA CAVA?

23 A YES, IT DOES.

24 Q V-E-N-A C-A-V-A?

25 A YES.

26 Q AND DOES THE VENA CAVA RUN PARALLEL TO THE
27 SPINE?

28 A YES, IT DOES.

1 Q WHAT HAPPENS WHEN THE VENA CAVA IS
2 COMPROMISED?

3 A ESSENTIALLY THE SAME TYPE OF THING. YOU
4 CAN HAVE BLOOD LOSS FROM IT BECAUSE IT'S A MAJOR VEIN.

5 Q AND THE BLOOD LOSS WILL BE INTERNAL?

6 A YES.

7 Q NOW, IF AN INDIVIDUAL IS SHOT IN THE TORSO
8 COULD THEY BE SHOT IN THE VENA CAVA?

9 A CERTAINLY.

10 Q SO IS IT -- IT RUNS THE ENTIRE LENGTH OF
11 THE SPINE?

12 A ALMOST THE ENTIRE LENGTH. FROM -- IT
13 COMES BACK TO THE HEART, SO IT STARTS IN ABOUT THE MID
14 THORACIC LEVEL AND GOES DOWN RIGHT IN FRONT OF THE SPINAL
15 CORD SLIGHTLY TO THE RIGHT, ALMOST TO THE LEVEL OF THE
16 PELVIS AND THEN IT STARTS TO BRANCH.

17 Q AND WHEN IT BRANCHES IS THAT WHEN IT
18 BECOMES THE ILIAC VEIN?

19 A IT BECOMES COMMON ILIAC VEIN AND THEN THAT
20 BRANCH IS AGAIN TO BECOME EXTERNAL AND INTERNAL ILIAC
21 VEIN. ALL OF THAT IS IN THE PELVIS.

22 Q SO THE THREE SHOTS THAT ARE NOTED IN 69-A,
23 THAT ARE ALL SORT OF CLUSTERED TOGETHER, WHAT ORGANS IF
24 YOU JUST WERE LOOKING AT THE BODY, WHAT ORGANS COULD HAVE
25 BEEN COMPROMISED FROM THAT? WHAT IS BEHIND THOSE WOUNDS?

26 A WELL, DEPENDING ON THE ANGLE THAT THE
27 BULLET TAKES THROUGH THE ABDOMEN WHICH YOU CAN'T TELL
28 FROM JUST LOOKING AT THE ENTRIES. ALMOST ANYWHERE BEING

1 IN THE ABDOMEN COULD HAVE BEEN HIT.

2 Q AND THAT MAJOR VEIN THAT WE DISCUSSED
3 COULD HAVE BEEN HIT?

4 A POSSIBLY. AND THIS IS IN THEORY ONLY.

5 Q I'M JUST TALKING ABOUT FROM THE RANGE OF
6 THE CLUSTER?

7 A YES.

8 Q YOU CAN'T TELL FROM THE WOUND WHERE A
9 PERSON AIMED, CAN YOU?

10 A NO.

11 Q DID MICKEY THOMPSON SUFFER ANY GUNSHOT
12 WOUNDS TO HIS LEGS, ARMS, OR KNEES?

13 A NO. NOT COUNTING THE HAND WOUNDS THAT WE
14 DISCUSSED.

15 Q OKAY. AND THOSE ARE THE ONES THAT ARE
16 DESCRIBED IN 69-D?

17 A THAT'S CORRECT.

18 Q IS THERE ANYTHING ABOUT WOUNDS 2, 3, 4 AND
19 5 THAT COULD GIVE YOU SOME INDICATION OF THEIR TIMING?

20 A YOU MEAN WITHIN THAT GROUP OF FOUR WHICH
21 OCCURRED FIRST?

22 Q RIGHT.

23 A NO.

24 Q SO THE LACK OF TISSUE REACTION THAT YOU'RE
25 SPEAKING OF WAS NOT PRESENT IN THOSE WOUNDS?

26 A THAT'S A DOUBLE NEGATIVE.

27 Q IT IS.

28 A ALL FOUR OF THEM HAD TISSUE REACTION.

1 Q THANK YOU. AND ONE OF THE WAYS YOU'RE
2 ABLE TO MAKE SOME ASSESSMENT OF PERHAPS THE HEAD WOUND
3 BEING LAST IS THAT IT DID NOT HAVE THIS TISSUE REACTION?

4 A RIGHT.

5 Q DID IT HAVE NONE?

6 A NONE WAS DESCRIBED. BUT FOR ALL OF THE
7 OTHERS, IT WAS SPECIFICALLY MENTIONED.

8 Q WHAT TYPE OF TIME ARE WE TALKING ABOUT
9 THAT THAT TAKES TO HAPPEN?

10 A IT CAN BE JUST A FEW MINUTES.

11 Q SO WHAT IF AN INDIVIDUAL WERE SHOT AND
12 JUST FOR THIS SCENARIO HAVING NOTHING TO DO WITH ANY
13 FACTS, YOU JUST SHOT SOMEBODY FIVE TIMES IN THE TORSO AND
14 THEN THE BRAIN -- SIX TIMES IN A ROW AS FAST AS YOU COULD
15 PULL THE TRIGGER --

16 MR. DIXON: OBJECTION.

17 Q BY MS. SARIS: -- WOULD YOU EXPECT --

18 MR. DIXON: OBJECTION. IMPROPER HYPOTHETICAL
19 THAT HAS TO DO WITH THE FACT OF THIS.

20 THE COURT: OVERRULED. YOU CAN ANSWER.

21 Q BY MS. SARIS: I'M ASKING A MEDICAL
22 QUESTION. WOULD YOU EXPECT THE TISSUE REACTION TO BE
23 AFFECTED?

24 A IF THEY WERE VERY, VERY CLOSELY SPACED IN
25 TIME IN A MATTER OF A VERY FEW SECONDS, THEN THERE WAS
26 PROBABLY NOT ENOUGH TIME TO DEVELOP A TISSUE REACTION.

27 Q IS IT POSSIBLE, ONE POSSIBLE EXPLANATION
28 FOR THE LACK OF TISSUE REACTION THAT THE INDIVIDUAL'S

1 ALREADY DEAD?

2 MR. DIXON: OBJECTION. CALLING FOR SPECULATION.

3 THE COURT: YES. SUSTAINED.

4 MS. SARIS: WELL, I'M ASKING FROM A MEDICAL
5 PERSPECTIVE.

6 Q IF YOU SHOT A DEAD BODY WOULD THAT WOUND
7 CREATE TISSUE REACTION?

8 A IN THEORY, NO, IT WOULD NOT.

9 Q WHEN HAIR IS COVERING AN AREA THAT YOU'RE
10 TRYING TO DETERMINE HAS SOOT OR -- SOOTING OR STIPPLING
11 PRESENT, YOU CAN ACTUALLY SHAVE THAT HAIR AND EXAMINE IT
12 SEPARATELY, CAN YOU NOT?

13 A THE HAIR CAN BE EXAMINED. WE AS MEDICAL
14 EXAMINERS DON'T DO IT BUT OTHER PEOPLE CAN.

15 Q BUT YOU DO SAVE IT AND IN FACT IN THE
16 TRUDY THOMPSON CASE IT WAS SAVED AND GIVEN TO THE
17 SHERIFFS OFFICE FOR EXAMINATION?

18 A IT WAS PRESERVED IN EVIDENCE. I DON'T
19 KNOW IF THE SHERIFFS TOOK IT FROM THERE BUT WE DID SAVE
20 IT SO IT WAS AVAILABLE TO THEM.

21 Q WHAT ABOUT WITH MICKEY THOMPSON?

22 A I DON'T KNOW. DR. SHERRY DIDN'T REALLY
23 ADDRESS THAT IN HIS REPORT. THE USUAL PROCEDURE IS TO
24 SAVE THE HAIR BUT HE JUST DIDN'T SPECIFICALLY STATE THAT
25 IT WAS DONE OR NOT DONE.

26 Q AND IS THAT BECAUSE IT CAN BE IMPORTANT IN
27 SOME CASES WHETHER OR NOT THERE IS SOOTING OR STIPPLING
28 AND THE HAIR GIVES YOU SOME MORE EVIDENCE?

1 A YES.

2 Q AND THIS CASE ALSO THE CLOTHING WAS SAVED
3 FOR EVIDENTIARY VALUE AS WELL?

4 A YES.

5 Q AND AS FAR AS YOU KNOW IS THAT STILL
6 AROUND?

7 A I HAVE NO IDEA.

8 Q HOW LONG WOULD, IF YOU KNOW, EVIDENCE OF
9 SOOTING OR STIPPLING STAY ON CLOTHING?

10 A WELL, PROBABLY FOREVER UNTIL THE CLOTHING
11 IS MANIPULATED IN SOME WAY. YOU COULD POSSIBLY SHAKE THE
12 CLOTHING AND HAVE THE POWDER FALL OFF OF IT. THAT'S WHAT
13 CAUSES THE STIPPLING BUT IF THE CLOTHING IS MAINTAINED
14 WITHOUT A LOT OF HANDLING IT COULD CONCEIVABLY REMAIN
15 THERE.

16 Q DOES IT ACTUALLY SINGE THE CLOTHING, LIKE
17 A LITTLE BURN?

18 A THE POWDER WOULD NOT BUT THE SOOT MIGHT
19 BECAUSE THE SOOT IS -- THE SOOT IS FORMED WHEN YOU HAVE
20 THE BULLET WHICH CAN BE HOT GOING THROUGH THE CLOTHING.
21 SO YOU MAY OR MAY NOT HAVE SOME SINGEING.

22 Q AND YOU'VE SEEN CLOTHING THAT ACTUALLY HAD
23 SOOT OR STIPPLING ON IT IN OTHER CASES?

24 A IN SOME CASES, YES.

25 Q YOU KNOW WHAT IT LOOKS LIKE?

26 A YES. IT'S NOT REALLY STIPPLING WITH THE
27 CLOTHING. YOU HAVE TO BE A LITTLE CAREFUL WITH
28 TERMINOLOGY. STIPPLING REFERS TO THE INJURIES TO THE

1 SKIN.

2 Q I SEE.

3 A BUT THE POWDER THAT CAUSES THE STIPPLING
4 CAN BE FOUND ON CLOTHING THAT I HAVE SEEN IT.

5 Q OKAY. THANK YOU.

6 DID -- WHEN WE'RE TALKING ABOUT WHETHER OR
7 NOT A WOUND IS FATAL, THIS IS SORT OF A SILLY EXAMPLE,
8 BUT LET ME ASK YOU. DOES THE AVAILABILITY OF MEDICAL
9 CARE COME IN TO THIS? IN OTHER WORDS, THE EXACT SAME
10 WOUND AND A PERSON IS SHOT IN THE MIDDLE OF A RURAL FARM
11 VERSUS A PERSON SHOT IN THE OR, DOES THAT COME IN TO YOUR
12 DETERMINATION OF WHETHER OR NOT THAT WOUND IS FATAL OR IS
13 IT SIMPLY LOOKING AT THE WOUND?

14 A JUST LOOKING AT THE WOUND.

15 Q SO YOU DON'T TAKE IN TO ACCOUNT ANY KIND
16 OF MEDICAL CARE?

17 A RIGHT.

18 Q HOW LONG DOES A PERSON HAVE TO BE ABLE TO
19 SURVIVE TO GET THE DESIGNATION POTENTIALLY FATAL VERSUS
20 FATAL?

21 A I DON'T THINK THERE HAS EVER BEEN A SET
22 LIMIT. IT'S USUALLY SOMETHING THAT CAN HAPPEN LATER ON
23 NOT IMMEDIATELY, NOT WITHIN THE FIRST COUPLE OF MINUTES.
24 THERE ARE SOME COMPLICATIONS THAT WE CONSIDER WHEN WE
25 DEAL WITH POTENTIALLY FATAL WOUNDS THAT CAN HAPPEN WITHIN
26 A DAY OR TWO, BUT THEY CAN ALSO HAPPEN YEARS LATER. SO
27 IT'S A VERY BROAD CATEGORY.

28 Q IF YOU COULD BLEED TO DEATH FROM A WOUND,

1 IS IT AUTOMATICALLY FATAL?

2 A I WOULD -- YES. IF YOU HAVE A POTENTIAL
3 FOR SEVERE BLOOD LOSS, THEN I AUTOMATICALLY CHARACTERIZE
4 THAT AS A FATAL WOUND.

5 Q AND I THINK I ASKED YOU BUT I'M WONDERING
6 IF YOU COULD GIVE US A TIME DESIGNATION OF HOW LONG THE
7 ECCHYMOSIS OR TISSUE REACTION WOULD BE PRESENT? WOULD
8 YOU EXPECT TO BE PRESENT OR TO SAY THAT SOMEONE IS NOT
9 HAVING THAT REACTION? HOW LONG WOULD THEY HAVE TO BE
10 ALIVE?

11 A IT'S A LITTLE DIFFICULT TO STATE. I THINK
12 THE FACT WHEN YOU SEE IT THERE YOU KNOW THE PERSON HAS
13 BEEN ALIVE FOR AT LEAST A FEW MINUTES.

14 Q AND WHEN YOU DON'T SEE IT?

15 A THEN IT WILL MEAN THAT THEY PROBABLY DIED
16 VERY QUICKLY RIGHT AFTER THAT INCIDENT.

17 Q WOULD ECCHYMOSIS BE PRESENT IN A BRAIN
18 WOUND OR IS THAT JUST DEFINITIONALLY NOT POSSIBLE?

19 A ECCHYMOSIS IS BLEEDING UNDER THE SKIN.
20 YOU CAN HAVE IT WITH A BRAIN WOUND BUT YOU CAN ALSO HAVE
21 OTHER TYPES OF HEMORRHAGE WITH WOUNDS TO THE BRAIN.

22 Q THAT GIVE YOU THE SAME ISSUE IDEA ABOUT
23 THIS TISSUE REACTION?

24 A NO. WELL, OKAY. HOW DO I EXPLAIN THIS?
25 WHEN YOU HAVE HEAD WOUNDS, YOU CAN HAVE WHAT ACTUALLY IN
26 THIS CASE IS DESCRIBED AS A HEMORRHAGIC TRACK TO THE
27 WOUND MEANING THERE WAS SOME BLEEDING BUT THAT CAN HAPPEN
28 BECAUSE THE PERSON IS STILL ALIVE AND THEY'RE GETTING THE

1 INJURY. FOR ANY REALLY SIGNIFICANT TISSUE REACTION THAT
2 IS A SLIGHTLY DIFFERENT THING.

3 Q SO THE FACT THAT THERE'S HEMORRHAGIC
4 BLEEDING FROM THAT WOUND DOES THAT -- IN THE HEAD IN
5 NO. 1 OF MICKEY THOMPSON, DOES THAT STATE DEFINITELY
6 THAT HE WAS ALIVE WHEN THAT SHOT CAME?

7 A YES.

8 Q AND CAN YOU RELATE IT IN TIME AT ALL TO
9 THE OTHER FOUR SHOTS?

10 A AS I SAID, I THINK IT WAS OF THE LAST ONE
11 BECAUSE THERE IS NO TISSUE REACTION DESCRIBED FOR IT
12 WHILE THERE IS FOR THE OTHERS. AND ALSO, I THINK THAT
13 THIS WOULD HAVE REALLY ENDED ANY PHYSICAL ACTIVITY THAT
14 HE HAD AND IT WOULD HAVE LIMITED HIS ABILITY TO BLEED
15 PROFUSELY BECAUSE IT WOULD HAVE ELIMINATED A PULSE AND
16 BLOOD PRESSURE SO I WOULDN'T EXPECT THE AMOUNT OF BLOOD
17 THAT WAS IN HIS ABDOMEN IF HE HAD BEEN SHOT IN THE HEAD
18 FIRST.

19 Q OKAY. SO YOU'RE FAIRLY COM -- YOU'RE
20 COMFORTABLE IT SOUNDS LIKE SAYING THAT WAS LAST?

21 A YES.

22 Q OKAY. MY QUESTION IS HOW, HOW MUCH SOONER
23 AFTER THE FINAL TORSO SHOT?

24 A I CAN'T REALLY BE SPECIFIC ABOUT THAT. IT
25 COULD BE A MINUTE OR TWO. IT COULD BE LONGER.

26 Q COULD IT BE LESS?

27 A I WOULD SAY PROBABLY NOT LESS THAN A
28 MINUTE.

1 Q DID YOU DO ANY GUNSHOT RESIDUE TESTS ON
2 EITHER OF THE INDIVIDUALS HANDS -- OR I'M SORRY, DID THE
3 DOCTORS THAT PERFORMED THIS THAT YOU REVIEWED?

4 A I BELIEVE GUNSHOT RESIDUE TESTS WERE TAKEN
5 MEANING THEY DO THE SWABS. I DON'T KNOW IF THEY WERE
6 ACTUALLY PROCESSED.

7 Q AND THAT'S WHERE THEY JUST SWAB THE HANDS
8 AND THEN LATER ON THEY CAN DETERMINE IF THAT HAND HAS
9 BEEN FIRED OR NEAR CONTACT OF A WEAPON THAT'S FIRED?

10 A YES.

11 Q IS THERE ANY INDICATION IN THE REPORTS
12 THAT THEY WERE ACTUALLY DONE OR YOU'RE JUST THINKING THAT
13 THEY WERE BECAUSE THAT WOULD HAVE BEEN HABIT AND CUSTOM?

14 A IT'S HABIT AND CUSTOM TO TAKE THE SPECIMEN
15 BUT WHETHER THEY WERE ACTUALLY PROCESSED SO YOU HAVE A
16 RESULT, I DON'T KNOW. IT'S USUALLY NOT IN THE AUTOPSY
17 REPORT IF THAT IS DONE.

18 Q WOULD IT BE IN THE REPORT IF THE SWAB WAS
19 TAKEN?

20 A THERE SHOULD BE SOME NOTATION TO THAT
21 EFFECT. IT'S USUALLY IN SOMETHING THAT THE INVESTIGATOR
22 PREPARES.

23 Q OKAY. AND THAT'S ALSO THE INDIVIDUAL THAT
24 WOULD HAVE GONE OUT TO THE SCENE?

25 A YES.

26 Q TRUDY WAS ESSENTIALLY SHOT FROM THE HIP TO
27 ARMPIT?

28 A YES.

1 Q AND YOU INDICATED THAT THAT'S CONSISTENT
2 WITH AN INDIVIDUAL SITTING DOWN?

3 A YES, IT IS.

4 Q WOULD THAT BE A SOMEWHAT AWKWARD SHOT THAT
5 WOULD AFFECT HER HIP BUT NOT HER LEGS IF SHE WAS IN A
6 SEATING POSITION?

7 A I'M NOT SURE EXACTLY WHAT YOU MEAN BY
8 THAT.

9 Q WOULD YOU EXPECT SOMEONE WHO WAS SITTING
10 IN THE DRIVER'S SIDE OF A CAR BEING SHOT TO NOT HAVE ANY
11 INJURIES TO THE LEG?

12 A YES. WELL, IN THEORY YOU CAN SHOOT
13 ANYBODY ANYWHERE.

14 Q IS THERE ANYTHING SPECIAL OR UNUSUAL ABOUT
15 THE ANGLE THAT THIS PERSON WOULD HAVE HAD TO HAVE BEEN
16 STANDING IN ORDER TO CREATE THIS INJURY WITHOUT AFFECTING
17 THE LEGS?

18 A NO, NOT REALLY.

19 Q DID YOU CONSULT DR. SHERRY REGARDING THIS
20 WOUND AT ALL?

21 A NO.

22 Q WOULD THIS ALSO WOUND, WOULD IT BE
23 CONSISTENT -- LET ME ASK YOU FOR THE PURPOSE OF THIS
24 QUESTION TO ASSUME THE FOLLOWING. YOU HAVE A VERY STEEP
25 SLOPED DRIVEWAY. YOU HAVE AN INDIVIDUAL WHO IS SHOOTING
26 AT A VICTIM WHO IS DOWN THE DRIVEWAY. THE VICTIM IS
27 RUNNING AWAY AND HAS FALLEN WITH HER LEGS POINTING
28 TOWARDS THE SHOOTER. THAT INDIVIDUAL SHOOTS DOWN AT THE

1 VICTIM. COULD THAT BULLET ENTER THE HIP AND COME OUT THE
2 ARMPIT LIKE YOU'VE DESCRIBED IF THEY WERE FACING FACE
3 DOWN WITH THEIR LEGS TOWARDS THE SHOOTER AT A VERY STEEP
4 ANGLE?

5 A FACE DOWN THEN THEIR BACK WOULD BE TO THE
6 SHOOTER, THEN THEY WOULD NOT BE ABLE TO HAVE THIS TYPE OF
7 WOUND.

8 Q WHAT IF THEIR HIP, THEIR HIP WAS OUT THERE
9 ON THEIR RIGHT SIDE?

10 A IF THE PERSON WAS FACE UP, THEY WOULD HAVE
11 TO BE FACE UP BECAUSE THE BULLET IS GOING FRONT TO BACK.

12 Q OKAY.

13 A AND IF THEY'RE LYING AT JUST THE RIGHT
14 ANGLE AND IT'S A STEEP ENOUGH DRIVEWAY, YES, THEN IT'S
15 POSSIBLE. BUT YES, THEIR FEET WOULD HAVE TO BE TOWARDS
16 THE SHOOTER BUT THEY DEFINITELY WOULD BE FACE UP.

17 Q AND THE SHOOTER WOULD DEFINITELY HAVE TO
18 BE ELEVATED IN RELATION TO THE VICTIM, HIGHER UP?

19 A IN SOME WAY, YES.

20 Q DOES THE FACT THAT THE BULLET WAS TRAPPED
21 IN THE RUFFLES OF THESE CLOTHES GIVE YOU ANY INDICATION
22 OF HOW CLOSE THE SHOOTER WAS STANDING?

23 A NO.

24 Q SO A PERSON CAN STAND RIGHT UP ON AN
25 INDIVIDUAL OR A BULLET WOULD HAVE SOOT OR STIPPLING ON IT
26 LET'S SAY AND STILL BE TRAPPED IN CLOTHING?

27 A YES.

28 Q ONE OF THE FACTORS THAT YOU SAID HELPED

1 YOU DETERMINE THAT IT WOULD BE CONSISTENT WITH
2 MS. THOMPSON SITTING DOWN WAS THAT THE CLOTHES WERE
3 RUFFLED?

4 A BUNCHED UP.

5 Q BUNCHED UP. LET'S SAY SOMEONE IS WEARING
6 A SWEAT SHIRT THAT'S TWO SIZES TOO BIG AND IT'S JUST
7 BUNCHED UP ANYWAY, COULD THAT ALSO ACCOUNT FOR THE
8 INJURIES OR THE DAMAGE TO THE CLOTHING THAT YOU SEE?

9 MR. DIXON: ASSUMES FACTS THAT ARE NOT IN
10 EVIDENCE. MISSTATES THE EVIDENCE.

11 THE COURT: SUSTAINED.

12 Q BY MS. SARIS: HAVE YOU SEEN THE PICTURES
13 OF MS. THOMPSON'S CLOTHING IN THIS CASE?

14 A YES.

15 Q WHAT WAS SHE WEARING?

16 A A GREEN OUTFIT. IT WAS A SKIRT AND A TOP
17 THAT WAS RATHER ORNATE, A LOT OF DESIGNS ON IT AND I
18 THINK THERE WAS A BLOUSE UNDER IT BUT I DON'T REMEMBER
19 THAT SPECIFICALLY.

20 Q AND DID YOU SEE THE PICTURE OF HER WHEN
21 SHE FELL?

22 A YES.

23 Q AND DID YOU SEE THE SCRUNCHING THAT YOU'VE
24 DESCRIBED IN THAT PHOTO?

25 A WELL, SHE WAS CURLED UP A LITTLE BIT SO,
26 YES, THERE WAS SOME BUNCHING UP OF THE CLOTHES THEN.

27 Q YOU INDICATED THAT THE MARKS ON HER FACE
28 COULD HAVE BEEN FROM FLYING GLASS. WAS THAT SOMETHING

1 THAT YOU ADVISED THE DISTRICT ATTORNEY'S OF OR DID THEY
2 AND YOU IF IT WAS CONSISTENT WITH GLASS? IN OTHER WORDS,
3 DID YOU RECOGNIZE THAT RIGHT AWAY AS BROKEN GLASS?

4 A I SAW THE INJURIES AND IT WASN'T UNTIL
5 THEY SHOWED ME THE PHOTO WHERE THERE WAS A VAN WITH A
6 BROKEN WINDOW THAT I SAID, OH, WAIT A MINUTE, THOSE
7 INJURIES COULD HAVE BEEN DUE TO THE GLASS, BUT I DID
8 BRING IT UP FIRST.

9 Q OKAY. AND YOU SAW INJURIES OF A BROWN VAN
10 WITH A WINDOW SHOT OUT?

11 A YES.

12 Q AND THAT WOULD BE CONSISTENT ALSO BECAUSE
13 IT'S ON HER LEFT SIDE?

14 A YES.

15 Q ASSUMING SHE'S THE DRIVER?

16 A YES.

17 Q AND THOSE LOOK DIFFERENT TO YOU THAN A
18 WOUND THAT WOULD OCCUR IF SOMEONE WERE TO FALL LIKE
19 MICKEY THOMPSON FACE DOWN ON A PAVEMENT?

20 A YES. THESE ARE A LITTLE TOO SMALL AND
21 LIKE, THEY CAN SAY PUNCTATE, YOU KNOW, LITTLE TINY
22 PINPOINT THINGS. AND WHEN A PERSON FALLS ON THE PAVEMENT
23 YOU WOULD EXPECT A MORE BROAD THING.

24 Q AND YOU WOULDN'T EXPECT MORE INJURIES FROM
25 THE PICTURES THAT YOU'VE SEEN WHERE THE WHOLE WINDOW WAS
26 BLOWN OUT?

27 A IT DEPENDS ON HOW CLOSE SHE WAS TO THE
28 WINDOW. SHE COULD HAVE BEEN SHYING AWAY FROM IT.

1 Q AND YOU HAVE SEEN THESE TYPE OF INJURIES
2 IN MOTOR VEHICLE AUTOPSIES?

3 A YES.

4 Q IS THERE ANY WAY TO TELL FROM THE INJURY
5 ITSELF IF TRUDY THOMPSON WAS STANDING WHEN SHE WAS SHOT
6 FOR THAT INJURY?

7 MR. DIXON: OBJECTION. VAGUE. WHICH INJURY?

8 MS. SARIS: THE INJURY TO THE TORSO.

9 THE COURT: SUSTAINED.

10 THE WITNESS: IN THEORY ANYTHING IS POSSIBLE,
11 YES. SHE COULD HAVE BEEN STANDING BUT THEN THE PERSON
12 WHO WAS HOLDING THE GUN WOULD HAVE BEEN SHOOTING UP FROM
13 SOMEWHERE UNDERNEATH.

14 Q BY MS. SARIS: SO IT'S THE DIRECTION OF
15 THE WOUND THAT CAUSES YOU TO THINK THAT'S LESS LIKELY?

16 A YES. AND ALSO AGAIN, THE CLOTHING WOULD
17 COME IN TO PLAY BECAUSE IF A PERSON IS STANDING, THE
18 CLOTHING WOULD TEND TO -- WELL, IT WOULD NOT BE AS
19 BUNCHED OR BUNCHED AT ALL BECAUSE IT WOULD JUST FALL
20 NATURALLY ON THE BODY.

21 Q SO IT'S FAIR TO SAY THAT YOU'RE TAKING IN
22 TO ACCOUNT YOUR REVIEW OF AS MANY OF THE FACTS AS YOU
23 COULD HAVE GATHERED, THE PHOTOS, THE AUTOPSY AND PERHAPS
24 STATEMENTS REGARDING THE THEORY OF THE CASE?

25 A YES.

26 Q OKAY.

27 THE COURT: HOW MUCH MORE DO YOU HAVE?

28 MS. SARIS: VERY LITTLE.

1 THE COURT: CAN WE FINISH WITH THE DOCTOR THIS
2 MORNING?

3 MS. SARIS: YES.

4 MR. DIXON: I MIGHT NEED FIVE TO TEN MINUTES.

5 THE COURT: I'D LIKE TO IF AT ALL POSSIBLE.

6 MS. SARIS: I REALLY HAVE MAYBE FIVE MINUTES.

7 THE COURT: I DON'T HEAR ANY LOUD OBJECTIONS FROM
8 ANYBODY. LET'S SEE IF WE CAN FINISH IT.

9 Q BY MS. SARIS: THIS WOUND TO MS. THOMPSON,
10 THE BULLET WOUND TO THE HIP AND THE ARMPIT, SHE COULD
11 HAVE RUN AFTER THIS?

12 A YES, SHE COULD HAVE.

13 Q SOME DISTANCE? BETWEEN 20, 50 FEET?

14 A IT'S POSSIBLE, YES.

15 Q HALF A BLOCK?

16 A COULD BE.

17 Q WOULD YOU EXPECT BLOOD GIVEN THE SCENARIO
18 THAT YOU'VE BEEN WORKING WITH THIS MORNING IF THE
19 INDIVIDUAL WERE SHOT IN THE VAN, WOULD YOU EXPECT THERE
20 TO BE EVEN SOME TRACE EVIDENCE OF BLOOD AT THE LOCATION
21 WHERE SHE WAS SHOT IN THE DRIVER'S SEAT OR THE PASSENGER
22 SEAT?

23 A POSSIBLY. IT COULD BE THAT IT MOSTLY
24 INVOLVED THE CLOTHING BUT THERE COULD BE SOME BLOOD IN
25 THE VAN.

26 Q SO THE CLOTHING COULD ABSORB SOME OF IT?

27 A YES.

28 Q AND A LOT OF THIS WOULD BE INTERNAL,

1 CORRECT, THE BLEEDING?

2 A YES.

3 Q WOULD AN INDIVIDUAL -- YOU HEARD SOME TALK
4 OF ADRENALINE KICKING IN WHEN PEOPLE ARE AFRAID OR
5 FRIGHTENED. DO ANY OF THE INJURIES YOU'VE DESCRIBED
6 AFFECT ADRENALINE?

7 A WELL, I'M NOT SURE WHAT YOU MEAN BY
8 AFFECT. CERTAINLY BEING SHOT COULD CAUSE AN ADRENALINE
9 SURGE IF SOMEBODY WAS TRYING TO GET AWAY.

10 Q I MEAN IS THERE ANY -- WHATEVER CREATES
11 ADRENALINE IN OUR BODY, IS THERE ANYTHING THAT WAS
12 DISTURBED AS A RESULT OF THE SHOTS? I DON'T KNOW WHERE
13 THAT COMES FROM, ADRENALINE.

14 A WELL, IT'S MADE IN THE ADRENAL GLANDS AND
15 THE ADRENAL GLANDS WERE NOT INJURED. SO THERE'S NO
16 PHYSICAL INJURY THAT WOULD HAVE PREVENTED HER FROM
17 GENERATING ADRENALINE.

18 Q WHERE ARE THEY APPROXIMATELY?

19 A THE TOP OF THE KIDNEYS.

20 Q OKAY. SO SOMEWHERE --

21 A THEY ARE VERY CLOSE TO THE BACK.
22 TECHNICALLY FROM A MEDICAL STANDPOINT THEY'RE NOT IN THE
23 ABDOMEN. THEY ARE BEHIND IT BUT THAT'S JUST COMPLICATED
24 MEDICAL STUFF. THEY'RE BEHIND THE INTESTINES AND VERY
25 CLOSE TO THE BACK.

26 Q DID YOU NOTICE ANY MARKS TO TRUDY
27 THOMPSON'S KNEES?

28 A NO.

1 Q THERE HAD BEEN MARKS, KNOWING DR. WEGNER
2 AND HIS LEVEL OF EXPERIENCE WITH AUTOPSIES DO YOU THINK
3 THOSE WOULD HAVE BEEN NOTED?

4 A YES.

5 Q IF AN INDIVIDUAL WAS IN THE SCENARIO THAT
6 YOU DESCRIBED, HAD SUFFERED THE WOUND MARKED NO. 2, AND
7 WAS ON HER KNEES CRAWLING DOWN A PAVED DRIVEWAY, WOULD
8 YOU EXPECT SOME MARKS ON KNEES?

9 A THERE MIGHT BE.

10 Q DID YOU PERSONALLY REMOVE ANY PERSONAL
11 PROPERTY FROM MS. THOMPSON?

12 A NO, I WASN'T EVEN WORKING AT THE
13 DEPARTMENT IN 1988.

14 Q I'M SORRY. THAT'S RIGHT. DID DR. SHERRY
15 OR DR. WEGNER?

16 A NOT THAT I KNOW OF. I BELIEVE IT WAS ALL
17 TAKEN BY THE INVESTIGATOR.

18 Q DO YOU KNOW BASED ON TRAINING THAT YOU'VE
19 HAD AND YOUR EXPERIENCE WITH THE CORONER'S OFFICE IF IT
20 WOULD BE PROPER PROTOCOL FOR A CORONER'S INVESTIGATOR TO
21 REMOVE ITEMS OF PROPERTY OF THE DECEDENT AT THE CRIME
22 SCENE AND GIVE THEM TO THE SHERIFF?

23 A I REALLY DON'T KNOW THE ANSWER TO THAT
24 SINCE I AM NOT A SCENE INVESTIGATOR. I DON'T KNOW WHAT
25 THE PROPER PROCEDURE IS FOR THAT.

26 Q IS IT FAIR TO SAY THAT YOU TAKE GREAT
27 PAINS AT YOUR DEPARTMENT ONCE THE BODY IS THERE TO
28 DOCUMENT THE ITEMS THAT YOU REMOVED?

1 A YES.

2 Q THANK YOU.

3 MAY I HAVE JUST A MOMENT, PLEASE?

4 THE COURT: YES.

5 (DISCUSSION OFF THE RECORD.)

6 MS. SARIS: WE HAVE NOTHING FURTHER. THANK YOU.

7 THE COURT: THANK YOU. REDIRECT?

8 MR. DIXON: JUST A COUPLE OF QUESTIONS. THANK
9 YOU.

10

11 REDIRECT EXAMINATION

12 BY MR. DIXON:

13 Q DOCTOR, JUST A COUPLE OF QUESTIONS.
14 DEFENSE COUNSEL HAS ASKED YOU A NUMBER OF HYPOTHETICALS
15 ABOUT HOW -- LET'S START OFF WITH HOW MRS. THOMPSON'S
16 GUNSHOT WOUND NO. 2 WAS RECEIVED, OR HOW IT COULD HAVE
17 HAPPENED, CORRECT?

18 A YES.

19 Q I THINK SHE HAD WITH THE GUNMAN ON A STEEP
20 DRIVEWAY AND MRS. THOMPSON LYING DOWN BELOW HIM; IS THAT
21 RIGHT?

22 A YES.

23 Q AND AT SOME POINT YOU SAID, WELL, THAT'S
24 POSSIBLE, RIGHT?

25 A ONLY UNDER CERTAIN CONDITIONS. SHE WOULD
26 HAVE TO BE FACE UP.

27 Q AND WOULD DEFENSE COUNSEL'S HYPOTHETICAL
28 OF THAT BE CONSISTENT WITH THE CLOTHING THAT YOU FOUND,

1 THE DRESS THAT WAS BUNCHED UP AND HAD SEVEN HOLES THROUGH
2 IT OR THE PANTS?

3 A I THINK IT WOULD PROBABLY BE MORE
4 INCONSISTENT BECAUSE I WOULD NOT EXPECT THE CLOTHES TO BE
5 AS BUNCHED UP.

6 Q AND HOW MANY HOMES WERE THERE THROUGH THE
7 PIECE OF CLOTHING?

8 A I THINK HE SAID SEVEN.

9 Q SO THAT THE PROJECTILE PASSED THROUGH THE
10 CLOTHING, IT MUST HAVE BEEN ALL BUNCHED UP AND MADE SEVEN
11 HOLES?

12 A YES.

13 Q AND THAT DOESN'T SOUND CONSISTENT WITH
14 SOMEONE LYING FACE UP ON A DRIVEWAY?

15 MS. SARIS: OBJECTION. LEADING.

16 THE COURT: SUSTAINED.

17 Q BY MR. DIXON: DOES THAT SOUND CONSISTENT
18 OR INCONSISTENT WITH A HYPOTHETICAL THAT DEFENSE COUNSEL
19 PRESENTED TO YOU?

20 A IT SOUNDS MORE INCONSISTENT.

21 Q WE HAVE UP ON THE SCREEN HERE DEFENSE EEE.
22 AND IF I COULD PRESENT IT TO YOU SO YOU COULD TAKE A
23 CLOSER LOOK. I'M GOING TO TRY NOT TO BLOCK YOUR VIEW
24 HERE.

25 BUT EARLIER DEFENSE COUNSEL WAS ASKING YOU
26 ABOUT GUNSHOT WOUNDS TO MICKEY THOMPSON 67, CORRECT?

27 A YES.

28 Q AND THEN COMPARING THEM OR SUGGESTING THAT

1 THEY MAY HAVE HAPPENED AT THE SAME TIME AS 2, 3 OR 4 AND
2 I'M NOW POINTING TO PEOPLE'S 69, PHOTOGRAPH D AND A,
3 RIGHT?

4 A YES.

5 Q AND I THINK DURING MY DIRECT EXAMINATION
6 OF YOU YOU SUGGESTED THAT GUNSHOT WOUND NO. 6 MAY BE
7 CONSISTENT WITH MICKEY THOMPSON HOLDING HIS HAND OVER HIS
8 STOMACH AND A PROJECTILE PASSING THROUGH HIS WRIST AND
9 THEN CREATING ENTRY WOUND ON GUNSHOT WOUND NO. 3; IS THAT
10 WHAT YOU SAID?

11 A YES.

12 Q AND THAT WAS IN PART BECAUSE OF THE
13 IRREGULAR ENTRANCE WOUND?

14 A YES.

15 Q NOW, AS WE LOOK AT DEFENSE EEE AND WE HAVE
16 IT UP THERE ON THE SCREEN, WE CAN SEE MR. THOMPSON'S HAND
17 WITH THE TWO GUNSHOT WOUNDS ON ENTRY WOUNDS OF 6 AND 7,
18 RIGHT?

19 A YES.

20 Q AND THEN --

21 THE COURT: EEE IS THAT WHAT YOU JUST REFERRED
22 TO? I'M SORRY.

23 MR. DIXON: EEE IS UP ON THE SCREEN.

24 THE COURT: THANK YOU.

25 Q BY MR. DIXON: AND THEN THE PHOTOGRAPH
26 SHOWS PHOTOGRAPH 2, 3 AND 4; IS THAT RIGHT?

27 A YES.

28 Q LET ME ASK YOU MEDICALLY IF ONE WERE AT

1 THE TIME TO MOVE MR. THOMPSON'S HAND OVER SO THAT GUNSHOT
2 WOUND NO. 5 WAS ON TOP OF ENTRY WOUND NO. 3, THAT MIGHT
3 BE CONSISTENT WITH WHAT YOU'VE TESTIFIED TO; IS THAT
4 CORRECT?

5 MS. SARIS: OBJECTION. MISSTATES THE TESTIMONY
6 AS TO NO. 5.

7 Q BY MR. DIXON: I'M SORRY, NOT NO. 5.
8 NO. 6. I APOLOGIZE.

9 A I'M SORRY, COULD YOU SAY THAT AGAIN
10 BECAUSE YOU'VE LOST ME A LITTLE.

11 Q ALL RIGHT. IF WE IN TRIPLE DDD MOVE
12 MR. THOMPSON'S HAND OVER SO THAT HIS HAND COVERED THE
13 ENTRY WOUNDS 2, 3, AND 4. WOULD GUNSHOT WOUND NO. 6 BE
14 CONSISTENT WITH ANY OF THOSE ENTRY WOUNDS?

15 A YES.

16 Q BUT WOULD IT BE CONSISTENT WITH BOTH OF
17 THEM AT THE SAME TIME?

18 MS. SARIS: OBJECTION. VAGUE AS TO SAME TIME.

19 Q BY MR. DIXON: WELL, DEFENSE COUNSEL
20 SUGGESTED TO YOU IN A HYPOTHETICAL THAT HE WAS HOLDING
21 HIS HAND OVER HIS STOMACH AND RECEIVED TWO GUNSHOT WOUNDS
22 AT THE SAME TIME OVER HIS HAND THAT RESULTED IN EITHER
23 POSSIBLY 2, 3 OR 4; IS THAT CORRECT?

24 MS. SARIS: SAME OBJECTION AS TO THE SAME TIME.

25 Q BY MR. DIXON: IN RAPID SUCCESSION, I
26 BELIEVE THAT'S WHAT WE AGREED TO?

27 MS. SARIS: THANK YOU.

28 THE WITNESS: IT'S POSSIBLE IT COULD HAVE

1 OCCURRED THAT 6 AND 7 RESULTED IN WOUNDS 3 AND 4 BECAUSE
2 THEY ARE CLOSE TOGETHER AND THEY ARE SOMEWHAT IRREGULAR.

3 Q BY MR. DIXON: BUT WOULDN'T MR. THOMPSON'S
4 HAND, IF THAT WERE TO HAPPEN TO HAVE TO BE IN A VERY
5 DIFFICULT POSITION?

6 A IT WOULD BE A LITTLE DOWNWARD. IT
7 WOULDN'T BE IMPOSSIBLE. IT'S MORE NATURAL TO PUT YOUR
8 HAND IN HORIZONTALLY BUT I DON'T THINK IT'S IMPOSSIBLE TO
9 DO IT THIS WAY BUT IT'S A LITTLE MORE AWKWARD.

10 Q IT WOULD BE VERY AWKWARD, WOULDN'T IT?

11 MS. SARIS: OBJECTION. LEADING.

12 THE COURT: SUSTAINED.

13 Q BY MR. DIXON: WOULD IT BE -- YOU STATED
14 IT WOULD BE AWKWARD?

15 A I THINK IT WOULD BE A LITTLE MORE AWKWARD
16 THAN JUST THE NATURAL THING TO DO IS PUT YOUR HAND
17 HORIZONTALLY.

18 Q AND PUTTING YOUR HAND HORIZONTALLY WOULD
19 BE CONSISTENT WITH GUNSHOT WOUND NO. 6 AND GUNSHOT WOUND
20 NO. 3, ENTRANCE WOUND NO. 3; IS THAT RIGHT?

21 A YES.

22 Q SHE ALSO ASKED YOU ABOUT GUNSHOT WOUND NO.
23 1 TO MICKEY THOMPSON, RIGHT?

24 A YES.

25 Q AND ABOUT SOMETHING ABOUT SCREWING IT INTO
26 HIS EAR?

27 A OH, SCREWING THE GUN INTO HIS EAR AND
28 FIRING, YES.

1 Q BUT WOULD GUNSHOT WOUND NO. 1 BE
2 CONSISTENT WITH SOMEONE PUTTING A WEAPON CLOSE WITHIN
3 INCHES BEHIND MR. THOMPSON'S EAR AND FIRING IT?

4 A YES.

5 MR. DIXON: THANK YOU. NOTHING FURTHER.

6 THE COURT: ANYTHING ELSE?

7 MS. SARIS: VERY BRIEFLY.

8

9 RECROSS-EXAMINATION

10 BY MS. SARIS:

11 Q IT SOUNDS LIKE YOU'RE VERY COMFORTABLE
12 SAYING MRS. THOMPSON WAS SITTING DOWN IN A VEHICLE WHEN
13 SHE WAS SHOT; IS THAT FAIR?

14 A YES.

15 Q AND ANY OTHER SCENARIOS THAT HAVE BEEN
16 PRESENTED TO YOU THEY DON'T SEEM TO RING AS TRUE TO YOU
17 OR TO BE AS CONSISTENT WITH THE PHYSICAL EVIDENCE?

18 A YES, I AGREE.

19 Q HAVE YOU ATTEMPTED TO SIT DOWN AND COME UP
20 WITH ALL THE DIFFERENT WAYS THIS INDIVIDUAL COULD BE
21 SHOT?

22 A NO, I MEAN --

23 Q BUT YOU'RE ADDING IN TO IT, THE SITTING,
24 THE CLOTHING, THE GLASS?

25 A IT'S MOST CONSISTENT WITH EVERYTHING I
26 KNOW. IN THEORY THERE COULD ALWAYS BE SOME OTHER THING
27 BECAUSE EVERYTHING IS RELATIVE.

28 Q AND IT'S IMPORTANT AS A SCIENTIST WHEN

1 BEING ASKED TO MAKE THESE DETERMINATIONS TO INCLUDE
2 EVERYTHING?

3 A YES.

4 Q OKAY. WE TALKED ABOUT THE AWKWARD ANGLE
5 ABOUT MR. MICKEY THOMPSON'S HAND, WHAT IF HE'S LEANING
6 FORWARD? DOES THAT CHANGE YOUR ASSERTION?

7 A I THINK IT'S STILL A LITTLE MORE AWKWARD
8 BUT I'M NOT SAYING IT'S IMPOSSIBLE.

9 Q AND DO YOU HAVE ANY -- DID YOU DO ANY
10 MEASUREMENTS REGARDING HIS ARM LENGTH VERSUS WHERE IT
11 WOULD LAND NATURALLY ON HIS BODY?

12 A NO, BUT YOU CAN SEE FROM THE PHOTO THAT
13 HIS -- NOT THAT PHOTO, THE ONE YOU HAD UP THERE, THAT HIS
14 ARM IS RATHER CLOSE TO THE ABDOMEN.

15 Q HAND I SHOULD SAY.

16 THANK YOU. I HAVE NOTHING FURTHER.

17 MR. DIXON: THANK YOU. NOTHING FURTHER, YOUR
18 HONOR.

19 THE COURT: THANK YOU, DOCTOR.

20 THE WITNESS: THANK YOU.

21 THE COURT: THANKS FOR COMING IN. YOU'RE
22 EXCUSED.

23 THE WITNESS: THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
25 WE'LL TAKE OUR LUNCH RECESS AT THIS TIME. WE'RE GOING TO
26 RESUME AT 2:00 O'CLOCK. I HAVE SOME MATTERS ACTUALLY I
27 HAVE TO HANDLE AT 1:30. SO 2:00 O'CLOCK THIS AFTERNOON.
28 PLEASE REMEMBER ALL THE ADMONITIONS. I'LL SEE YOU THEN.

1 THANK YOU.

2
3 (AT 12:00 P.M. A RECESS WAS TAKEN
4 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, DECEMBER 6, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION

8
9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: ALL RIGHT. BACK ON THE RECORD IN THE
14 GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL.
15 THE PEOPLE ARE REPRESENTED. THE JURORS OR ALTERNATES ARE
16 NOT YET PRESENT. AND I JUST WANT THE RECORD TO REFLECT
17 THAT THE EXHIBIT WE REFERRED TO A COUPLE OF TIMES AS DDD
18 IS ACTUALLY EEE.

19 SO STIPULATED?

20 MR. DIXON: THANK YOU, YOUR HONOR. I HAVE A HARD
21 TIME WITH NUMBERS AND LETTERS. SO STIPULATED. YES.

22 THE COURT: SO STIPULATED, MS. SARIS?

23 MS. SARIS: YES.
24

25 JOEL WEISSLER,
26 CALLED BY THE PEOPLE AS A WITNESS, WAS
27 SWORN AND TESTIFIED AS FOLLOWS:
28

1 THE CLERK: SIR, CAN I ASK YOU TO STAND AGAIN,
2 PLEASE, AND RAISE YOUR RIGHT HAND.

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

7 THE WITNESS: I SO AFFIRM.

8 THE CLERK: SIR, CAN YOU PLEASE STATE AND SPELL
9 YOUR FIRST AND LAST NAME FOR THE RECORD.

10 THE WITNESS: JOEL, J-O-E-L. WEISSLER,
11 W-E-I-S-S-L-E-R.

12 THE CLERK: THANK YOU.

13 MR. DIXON: THANK YOU. YOUR HONOR, SINCE THIS IS
14 A HEARING WITHOUT THE JURY. CAN I HAVE LEAVE TO BE ABLE
15 TO GET THE WITNESS TO WHAT WE'RE REALLY CONCERNED WITH?

16 THE COURT: OKAY.

17

18 EXAMINATION

19 BY MR. DIXON:

20 Q THANK YOU FOR COMING TODAY. I KNOW YOU'RE
21 UNDER THE WEATHER. I APPRECIATE IT. I WOULD LIKE YOU TO
22 THINK BACK TO 1987/1988, REALLY BEFORE THAT EVEN.

23 DID YOU KNOW MICKEY AND TRUDY THOMPSON?

24 A YES, I DID.

25 Q HOW DID YOU KNOW THEM?

26 A THEY WERE MY AUNT AND UNCLE.

27 Q AT SOME POINT PRIOR TO 1988, DID YOU EVER
28 MEET FACE-TO-FACE THE DEFENDANT MICHAEL GOODWIN?

1 A YES, I DID.

2 Q COULD YOU PLEASE BRIEFLY TELL US UNDER
3 WHAT CIRCUMSTANCES?

4 A I WAS LIVING IN MINNESOTA AT THE TIME AND
5 I WENT DOWN TO AN EVENT IN INDIANAPOLIS, WHICH MICKEY AND
6 TRUDY WERE PUTTING ON. AND I'M NOT SURE WHETHER MICHAEL
7 WAS HELPING PUT IT ON. IT WAS AT THE BEGINNING OF THE
8 PARTNERSHIP PHASE WITH TRUDY WANTING TO NOT BE TRAVEL AS
9 MUCH.

10 AND I WAS UP IN THE CONTROL BOOTH AREA AND
11 I WAS INTRODUCED TO THE DEFENDANT, TO MICHAEL AT THAT
12 TIME. AND WE SPOKE FOR ABOUT FIVE MINUTES. AND THEN HE
13 WAS UP THERE MEETING AND GREETING OTHER PEOPLE. AND I
14 KIND OF WAS HANGING AROUND AND EAVESDROPPING AT THAT
15 TIME.

16 Q TO THE BEST OF YOUR RECOLLECTION, WAS THIS
17 DURING THE PERIOD WHEN MICKEY THOMPSON AND MICHAEL
18 GOODWIN WERE IN PARTNERSHIP, ACTUALLY WORKING TOGETHER?

19 A I'M NOT SURE WHETHER THEY WERE YET
20 FORMERLY IN PARTNERSHIP.

21 Q BUT YOU WERE AT THIS EVENT AND -- WHAT
22 WOULD YOU CHARACTERIZE -- HOW MUCH TIME IN THE SAME ROOM
23 SEEING MR. GOODWIN AND LISTENING TO HIM SPEAK?

24 A CERTAINLY OVER AN HOUR, PROBABLY THREE OR
25 FOUR.

26 Q AND YOU SPOKE WITH HIM DIRECTLY AND HAD
27 CONVERSATION FOR HOW LONG?

28 A ABOUT FIVE MINUTES INITIALLY. AND THEN A

1 COUPLE OF COMMENTS OVER THE COURSE OF THE TIME AFTER
2 THAT. I BELIEVE HE LEFT AND CAME BACK AT ONE TIME DURING
3 THE EVENT.

4 Q NOW, OTHER THAN THAT EVENT THAT YOU JUST
5 DESCRIBED, DID YOU EVER MEET MR. GOODWIN FACE-TO-FACE
6 AGAIN?

7 A I HAVE A VAGUE RECOLLECTION THAT I HAD,
8 BUT I CAN'T REMEMBER THE DETAILS.

9 Q WE'RE GOING TO TALK ABOUT TWO DIFFERENT
10 PHONE CALLS HERE.

11 A IF I COULD FINISH.

12 Q PLEASE.

13 A I'M SORRY.

14 Q PLEASE GO AHEAD.

15 A I'M NOT SURE WHETHER IT WAS AT AN ANAHEIM
16 EVENT, BUT THAT'S WHAT MY RECOLLECTION IS, IS THAT IT WAS
17 AT AN EVENT IN ANAHEIM.

18 Q NOW, FOR THE PURPOSE OF THIS HEARING WE'RE
19 GOING TO TALK ABOUT TWO DIFFERENT PHONE CONVERSATIONS.
20 OKAY?

21 FIRST PHONE CONVERSATION, DO YOU HAVE THAT
22 IN MIND? WERE YOU IN SAN DIEGO?

23 A YES, I WAS.

24 Q AND DURING THIS CONVERSATION, DID YOU HEAR
25 A VOICE THAT YOU BELIEVED TO BE MR. GOODWIN'S?

26 A I DID.

27 Q PLEASE DESCRIBE TO THE COURT HOW THIS CAME
28 ABOUT.

1 A I WAS ON THE PHONE WITH TRUDY AND SHE --
2 THEN I CAN HEAR MICKEY TALKING ON THE PHONE.

3 Q ON THE SAME PHONE THAT YOU WERE TALKING?

4 A ON A DIFFERENT PHONE LINE. I BELIEVED,
5 FROM THE FACT THAT I COULD HEAR HIM, THAT THEY WERE BOTH
6 IN WHAT THEY USED AS THEIR OFFICE HOME WITHIN THEIR HOME.

7 Q HAD YOU BEEN TO THEIR HOME PRIOR TO THIS?

8 A YES.

9 Q HAD YOU SEEN THE OFFICE?

10 A YES, I HAD.

11 Q DID IT HAVE JUST A SINGLE PHONE LINE OR
12 MULTIPLE LINES?

13 A THEY HAD MULTIPLE LINES.

14 Q SO BASED ON EVERYTHING THAT YOU CAN RECALL
15 NOW, YOU'RE TELLING US THAT YOU WERE TALKING TO TRUDY
16 THOMPSON ON ONE LINE, BUT YOU COULD HEAR MICKEY THOMPSON
17 IN THE BACKGROUND?

18 A CORRECT. AND MICKEY THEN SAID, "LISTEN TO
19 THIS." AND THE CONVERSATION THAT HE WAS ON HE PUT ON THE
20 SPEAKER PHONE. AND I'M NOT SURE WHETHER OR NOT HE
21 INTENDED JUST TRUDY TO HEAR IT, OR ME TO BE HEARING IT
22 ALSO. I DO KNOW THAT AFTER THE CONVERSATION, I WAS
23 ASKED, "DID YOU HEAR THAT?" FROM TRUDY.

24 Q AND DURING THIS CONVERSATION FROM WHAT
25 YOU'RE TELLING US, YOU WERE LISTENING TO A SPEAKER PHONE
26 CONVERSATION THAT MICKEY THOMPSON WAS ON THROUGH ANOTHER
27 PHONE LINE THAT TRUDY THOMPSON WAS SPEAKING TO YOU ON; IS
28 THAT CORRECT?

1 A THAT'S CORRECT.

2 Q DID YOU RECOGNIZE THE VOICE ON THE SPEAKER
3 PHONE, THE OTHER VOICE OTHER THAN TRUDY THOMPSON OR
4 MICKEY THOMPSON?

5 A I DID.

6 Q AND WHOSE VOICE DID YOU RECOGNIZE IT TO
7 BE?

8 A MICHAEL GOODWIN'S.

9 Q DID YOU RECOGNIZE IT FROM THESE EARLIER
10 ENCOUNTERS THAT YOU TOLD US ABOUT?

11 A I DID.

12 Q TO THE BEST OF YOUR KNOWLEDGE OR
13 RECOLLECTION, TELL US WHAT YOU HEARD MIKE GOODWIN SAY AND
14 MICKEY THOMPSON SAY IN RESPONSE?

15 A "YOU WILL NEVER PROFIT FROM THIS. YOU'LL
16 NEVER SEE ANY OF THE MONEY. I'M GOING TO HURT YOU. HURT
17 YOURS." MICKEY COMMENTED "YOU LEAVE MY FAMILY OUT OF
18 THIS." HE MADE A COMMENT "YOU DON'T HAVE THE" -- AND I
19 CAN'T REMEMBER WHETHER HE USED THE WORD "BALLS" OR
20 "STONES," I RECALLED "STONES," BUT I'M NOT CERTAIN OF
21 THAT -- "TO DO ANYTHING." AND MIKE WAS SAYING THAT HE
22 WAS GOING TO HURT THEM.

23 Q IS THAT THE BEST OF YOUR RECOLLECTION THAT
24 HE USED THE WORD "HURT"?

25 A YES.

26 Q MR. GOODWIN DID?

27 A THAT'S CORRECT.

28 Q AS YOU LISTENED TO THIS CONVERSATION OVER

1 THE PHONE -- AND YOU WERE WHERE IN SAN DIEGO AT THE TIME?

2 A CORRECT.

3 Q WAS THE CONVERSATION THAT YOU HEARD OR THE
4 WORDS THAT YOU HEARD THAT YOU BELIEVED TO BE MIKE
5 GOODWIN, WERE THOSE CLEAR TO YOU OR NOT CLEAR OR MUFFLED?

6 A THEY WERE PRETTY CLEAR.

7 Q NOW, LET'S TURN -- DID THAT CONCLUDE THE
8 CONVERSATION THAT YOU HEARD FROM MIKE GOODWIN?

9 A MICKEY SLAMMED DOWN THE PHONE AND THAT
10 CONCLUDED THE CONVERSATION THAT THEY WERE HAVING. AND
11 THEN I SPOKE FOR A TIME AFTER THAT WITH TRUDY.

12 Q AND THAT CONCLUDED YOUR PHONE CONVERSATION
13 WITH TRUDY THOMPSON?

14 A YES.

15 Q SOMETIME AFTER THAT -- WELL, FIRST LET ME
16 WITHDRAW THAT AND ASK YOU THIS.

17 COULD YOU GIVE US YOUR BEST TIME ESTIMATE
18 AS TO WHEN THAT CONVERSATION THAT YOU JUST DESCRIBED
19 OCCURRED?

20 A APPROXIMATELY THREE MONTHS BEFORE THEY
21 WERE KILLED.

22 Q AND, OF COURSE, YOU ARE AWARE WHEN THEY
23 WERE KILLED IN MARCH?

24 A MARCH 16. MY BROTHER'S BIRTHDAY.

25 Q A SIGNIFICANT EVENT IN YOUR LIFE?

26 A VERY.

27 Q WAS THERE A SECOND CONVERSATION SUBSEQUENT
28 TO THE ONE THAT YOU'VE JUST DESCRIBED?

1 A IT WAS ABOUT TWO MONTHS BEFORE THEY DIED.
2 AND I WAS IN THE HOME AND --

3 Q YOU WERE IN WHOSE HOME?

4 A IN MICKEY AND TRUDY'S HOME.

5 Q IN BRADBURY?

6 A IN BRADBURY, YES.

7 Q AND WAS THIS DAY OR NIGHT OR DO YOU
8 RECALL?

9 A I THINK IT WAS LATE AFTERNOON.

10 Q WAS THIS A TELEPHONE CONVERSATION?

11 A MICKEY WAS SPEAKING WITH MICHAEL GOODWIN
12 ON THE PHONE.

13 MS. SARIS: OBJECTION. LACK OF FOUNDATION.
14 CALLS FOR SPECULATION.

15 THE COURT: LAY A FOUNDATION.

16 MS. SARIS: MOTION TO STRIKE.

17 THE COURT: WELL, THAT WILL BE DENIED. GO AHEAD
18 AND LAY A FOUNDATION.

19 Q BY MR. DIXON: WHERE WERE YOU IN THE HOME?

20 A I WAS STANDING JUST OUTSIDE THE DOOR.
21 MICKEY WAS ON THE SPEAKER PHONE VERY LOUDLY SPEAKING TO
22 SOMEONE WHOSE VOICE I RECOGNIZED AS BEING MICHAEL
23 GOODWIN'S.

24 Q FROM THE EARLIER CONVERSATION YOU HEARD A
25 MONTH OR SO EARLIER?

26 A NO. FROM HAVING REMEMBERED HIS VOICE FROM
27 WHEN I MET HIM.

28 Q AND WHAT DID YOU HEAR MR. GOODWIN SAY OVER

1 THE PHONE ON THE SPEAKER PHONE AND WHAT DID MICKEY
2 THOMPSON SAY, IF ANYTHING, IN RESPONSE?

3 A HE SAID, "I'M GOING TO MAKE YOU PAY. I'M
4 GOING TO HURT YOU."

5 MICKEY SAID, "LEAVE ME ALONE. LEAVE ME
6 ALONE. GET AWAY FROM US."

7 PARDON ME, "STAY AWAY FROM US" -- YEAH.

8 Q IF YOU RECALL, WERE THE WORDS SPOKEN BY
9 MICHAEL GOODWIN, "I'M GOING TO HURT YOU" OR ESSENTIALLY
10 WHAT YOU JUST SAID, WERE THOSE SAID IN A SOFT CALM MANNER
11 OR LOUD AGITATED MANNER OR DO YOU RECALL?

12 A IT WAS LIKE HE WAS SCREAMING AT THE PHONE.

13 Q AND MICKEY'S RESPONSE, CALM, ANGRY, LOUD?

14 A IN THE FIRST CONVERSATION MICKEY WAS NOT
15 AS AGITATED AND CERTAINLY MUCH MORE AGITATED IN THE
16 SECOND AND ANGRY IN RETURN.

17 Q NOW, IN THE SECOND CONVERSATION, THE ONE
18 WE'RE TALKING ABOUT NOW, YOU WERE ACTUALLY IN THE SAME
19 ROOM WITH MICKEY THOMPSON?

20 A I WAS IN THE DOORWAY.

21 Q HOW FAR AWAY FROM THE PHONE AND MICKEY
22 THOMPSON WERE YOU AT THE TIME OF THE CONVERSATION?

23 A 8 TO 10 FEET.

24 Q OKAY. ABOUT THE DISTANCE BETWEEN US NOW?
25 CLOSER? FARTHER?

26 A MAYBE ONE MORE FOOTSTEP BACK.

27 MR. DIXON: ALL RIGHT. TEN FEET OR SO, YOUR
28 HONOR.

1 THE COURT: YES.

2 MR. DIXON: ONE MOMENT, PLEASE.

3 (PAUSE IN PROCEEDINGS.)

4 MR. DIXON: THANK YOU. FOR THE PURPOSE OF THIS
5 HEARING, YOUR HONOR, THAT'S ALL I HAVE AT THIS TIME.

6 THE COURT: CROSS-EXAMINATION?

7 MS. SARIS: THANK YOU.

8

9 CROSS - EXAMINATION

10 BY MS. SARIS:

11 Q MR. WEISSLER, DID YOU SPEAK TO A DETECTIVE
12 ABOUT THESE CONVERSATIONS?

13 A I DID.

14 Q AND WAS THAT IN 2006?

15 A YES. I JUST SPOKE TO THE DETECTIVE ABOUT
16 IT IN 2006.

17 Q IS THAT THE FIRST TIME YOU SPOKE TO LAW
18 ENFORCEMENT ABOUT THESE EXACT CONVERSATIONS I MEAN?

19 A I BELIEVE THAT I HAD TOLD THE ORIGINAL
20 DETECTIVE ON THE CASE THAT I HAD OVERHEARD THREATS. BUT
21 I WAS QUITE THE EMOTIONAL MESS AT THE TIME OF THEIR
22 DEATH. AND THE TIME RIGHT AROUND THEIR FUNERAL IS
23 SOMEWHAT OF A BLUR.

24 Q DO YOU REMEMBER THE NAME OF THE INDIVIDUAL
25 YOU MIGHT HAVE TOLD?

26 A I THINK IT BEGAN WITH A "G," BUT I'M NOT
27 CERTAIN.

28 Q DOES GRIGGS SOUND FAMILIAR?

1 A YES. YES.

2 Q AND THIS CONVERSATION THAT YOU REFERRED TO
3 THAT WHERE YOU MET MICHAEL GOODWIN, THIS WAS
4 APPROXIMATELY WHEN? '84? '85?

5 A THAT WAS APPROXIMATELY '85, I THINK.

6 Q DID YOU TELL DETECTIVE LILLIENFELD THAT
7 YOU ONLY SPENT 20 MINUTES WITH MR. GOODWIN AND THEN JUST
8 MET HIM A SECOND TIME THAT EVENING?

9 A I DID NOT. I WAS ENGAGED IN THE CIRCLE OF
10 THIS CONVERSATION FOR ABOUT 20 MINUTES, BUT HE WAS IN THE
11 SAME ROOM. WE WATCHED THE RACE -- THE RACES THAT WERE
12 GOING ON.

13 Q NOW BASICALLY YOU HAD A FACE-TO-FACE
14 CONVERSATION WITH HIM FOR FIVE MINUTES?

15 A ABOUT FIVE MINUTES, MAYBE A LITTLE MORE.
16 A LITTLE LESS, PROBABLY A LITTLE MORE.

17 Q WHEN DO YOU THINK THE ANAHEIM EVENT WAS
18 THAT YOU REFERRED TO?

19 A THAT WOULD HAVE BEEN EITHER AT THE VERY
20 END OF '86 OR BEGINNING OF '87.

21 Q AND WHOSE EVENT WAS IT TO YOUR
22 UNDERSTANDING?

23 A I HAVE NO -- I DON'T KNOW WHETHER IT WAS
24 MICKEY'S OR TRUDY'S OR WHOSE IT WAS.

25 Q AND IT'S YOUR CONTENTION THAT MICHAEL
26 GOODWIN WAS THERE?

27 A I THINK THAT WAS THE SECOND TIME THAT I
28 MET HIM. I KNOW I HAVE IMAGES OF MEETING HIM A SECOND

1 TIME AND I'M NOT SURE AT WHAT LOCATION IT WAS AT. I WENT
2 TO SEVERAL OF THEIR EVENTS AND, YOU KNOW, IT MAY HAVE
3 BEEN ANAHEIM, IT MAY HAVE BEEN ONE OF THE OTHER
4 LOCATIONS.

5 Q WHAT WAS THE DATE OF THE FIRST
6 CONVERSATION THAT YOU REPORTED TODAY?

7 A THAT WAS EITHER THE END OF DECEMBER OR
8 BEGINNING OF JANUARY. I KNOW THAT WE HAD TALKED ABOUT
9 THANKSGIVING DURING THE CONVERSATION. WE HAD DONE
10 THANKSGIVING TOGETHER.

11 Q YOU HAD DONE THANKSGIVING?

12 A AND THAT WAS BEFORE.

13 Q SORRY. YOU HAD DONE THANKSGIVING IN THE
14 PRIOR --

15 A THE PRIOR THANKSGIVING, NOT WITH MICHAEL
16 GOODWIN, BUT WITH MICKEY AND TRUDY AT HIS SISTER'S HOUSE.

17 Q AND WHY WERE YOU IN SAN DIEGO?

18 A I WAS GOING TO LAW SCHOOL.

19 Q AND WHAT YEAR DID YOU GRADUATE LAW SCHOOL?

20 A DECEMBER '88, OFFICIAL GRADUATION JANUARY
21 '89.

22 Q AND DO YOU RECALL WHAT YEAR YOU WERE IN
23 SCHOOL WHEN YOU HAD THE CONVERSATION WITH TRUDY THAT YOU
24 DESCRIBED?

25 A WHAT DO YOU MEAN BY THAT?

26 Q DO YOU RECALL WAS IT YOUR FIRST YEAR OF
27 LAW SCHOOL? YOUR SECOND YEAR? YOUR THIRD YEAR?
28 HOW MANY THANKSGIVINGS DID YOU SPEND WITH HER WHEN YOU

1 WENT TO LAW SCHOOL?

2 A GIVE ME A MOMENT. THAT WOULD HAVE BEEN
3 THE BEGINNING OF MY THIRD SEMESTER OF LAW SCHOOL. I DID
4 THE THREE YEARS OF LAW SCHOOL IN TWO YEARS STRAIGHT
5 THROUGH.

6 Q AND THAT WAS THE ONLY THANKSGIVING YOU
7 SPENT WITH THE THOMPSONS, THAT WAS NOVEMBER OF '87?

8 A YES.

9 Q AND AT THAT TIME YOU WERE ON THE PHONE
10 TALKING TO TRUDY THOMPSON; IS THAT CORRECT?

11 A YES.

12 Q AND MR. THOMPSON WAS TALKING TO A MALE, A
13 PERSON THAT WAS A MAN?

14 A YES.

15 Q AND BASED ON A FIVE-MINUTE CONVERSATION
16 THREE YEARS PRIOR YOU IDENTIFIED THAT VOICE AS MICHAEL
17 GOODWIN'S?

18 A MICHAEL'S VOICE IS SOMEWHAT DISTINCTIVE.

19 Q IN WHAT WAY?

20 A JUST IN TERMS OF AT THAT TIME THE TENOR --
21 I WANT TO SAY I KNOW ENOUGH ABOUT VOICES TO TELL YOU
22 THAT. WHEN MY VOICE ISN'T HOARSE MY VOICE IS PRETTY
23 DISTINCTIVE. PEOPLE RECOGNIZE IT RIGHT AWAY. HIS VOICE
24 WAS ALSO VERY DISTINCTIVE, NOT NASAL BUT ALMOST
25 SPORTSCASTER BUT WITH A LITTLE VIBRATION TO IT.

26 Q YOU WERE NOT FRIENDS WITH MICHAEL GOODWIN,
27 WERE YOU?

28 A NO.

1 Q YOU MET SEVERAL PEOPLE, I ASSUME, BETWEEN
2 1985 AND 1988 IN GENERAL IN YOUR LIFE?

3 A YES.

4 Q MANY OF THEM MEN?

5 A YES.

6 Q AND YOU WERE LISTENING TO THIS
7 CONVERSATION THROUGH YOUR PHONE THROUGH WHAT YOU BELIEVED
8 TO BE THE SPEAKER PHONE; IS THAT TRUE? YOU DON'T KNOW
9 WHETHER IT WAS A SPEAKER PHONE OR MICKEY THOMPSON WAS
10 HOLDING HIS RECEIVER UP, DO YOU?

11 A NO, IT WAS PRETTY CLEARLY A SPEAKER PHONE.

12 Q BASED ON WHAT YOU HEARD OR WHAT SOMEONE
13 SAID?

14 A BASED ON WHAT I HEARD AND WHAT TRUDY
15 REPEATED TO ME AFTERWARDS. AND THE CHANGE FROM -- I WAS
16 OBVIOUSLY IN THE MIDDLE OF -- IT WAS NOT THE BEGINNING OF
17 THE CONVERSATION. BUT NOW I COULD HEAR HIM WHEREAS
18 PREVIOUSLY I COULD NOT HEAR HIM. AND THEY WERE NOT AT
19 THE BEGINNING OF THE CONVERSATION.

20 Q IN THE SECOND CONVERSATION YOU WERE IN THE
21 DOORWAY. WELL, DID YOU CALL THE POLICE AT THAT TIME?

22 A NO. THE SECOND CONVERSATION.

23 Q THE SECOND CONVERSATION YOU WERE IN THE
24 DOORWAY OF MICKEY THOMPSON'S OFFICE; IS THAT RIGHT?

25 A YES.

26 Q AT HIS HOME?

27 A AT HIS HOME.

28 Q AND YOU WERE NOT A PARTY OF THE

1 CONVERSATION AT THAT TIME EITHER, WERE YOU?

2 A NO, I WAS NOT.

3 Q WERE YOU THERE WHEN THE CONVERSATION WAS
4 PUT ON SPEAKER? DID YOU WALK IN AND HEAR VOICES?

5 A I WAS ACTUALLY -- I HAD BEEN IN THE
6 KITCHEN WITH TRUDY WHO WAS MAKING GUACAMOLE.

7 Q SO DID YOU WALK IN ON VOICES?

8 A AND THEN WENT BACK AND THEY WERE HAVING A
9 CONVERSATION. AND I WALKED OVER AND WAS HEARING IT AND
10 WAS NOSEY AND LISTENED AND I MOVED CLOSER SO I COULD
11 LISTEN.

12 Q WERE YOU AWARE OF ANY LITIGATION BETWEEN
13 THESE TWO INDIVIDUALS, MICKEY THOMPSON AND MICHAEL
14 GOODWIN?

15 A I WAS AWARE OF THE PROBLEMS WITH THEIR
16 PARTNERSHIP, YES.

17 Q DO YOU RECALL THE EXACT PHRASE THAT YOU
18 HEARD THIS INDIVIDUAL ON THE PHONE STATE IN EITHER
19 CONVERSATION?

20 MR. DIXON: WELL, THAT'S COMPOUND.

21 Q BY MS. SARIS: WELL, LET'S START WITH THE
22 FIRST ONE, THE EXACT PHRASE.

23 A THERE WERE A NUMBER OF SPECIFIC PHRASES
24 THAT I RECALL, YES.

25 Q DO YOU RECALL TELLING THE DETECTIVE THAT
26 WHAT YOU RECALL HEARING IS YOU RECALL "YOU ARE SO WRONG.
27 YOU STAY AWAY FROM US. YOU LEAVE MY FAMILY OUT OF THIS.
28 YOU LEAVE MY FAMILY ALONE"?

1 A THE LATTER HALF OF THAT, ABSOLUTELY. THE
2 FIRST PORTION OF THAT, YOU ARE WRONG. AND I'M NOT SURE
3 WHETHER HE SAID "SO WRONG" OR "WAY WRONG." AND I'M NOT
4 SURE WHICH THE WORDING WAS AT THIS TIME.

5 Q DID YOU TELL THE DETECTIVE ABOUT THE PART
6 OF THE CONVERSATION WHERE YOU SAID "I'M GOING TO HURT
7 YOU"?

8 THE COURT: LET ME INTERRUPT FOR A SECOND. IT'S
9 TEN AFTER 2:00. THIS IS A 402. I HAVE HEARD ENOUGH. SO
10 WHY DON'T YOU STEP DOWN, SIR, AND STEP OUTSIDE, PLEASE.

11 (PAUSE IN PROCEEDINGS.)

12 THE COURT: ALL RIGHT. THE WITNESS HAS LEFT THE
13 COURTROOM. I CUT YOU OFF BECAUSE ALTHOUGH THESE
14 QUESTIONS GO WELL BEYOND WHAT I WOULD DEEM TO BE THE
15 ISSUES BEFORE THE COURT WHICH IS THE FOUNDATION.

16 IS THERE ANY FURTHER ARGUMENT?

17 MS. SARIS: FROM OUR PERSPECTIVE, YOUR HONOR,
18 IT'S THE SAME ISSUE AS WITH THE ANONYMOUS LETTERS. THE
19 COURT UNANIMOUSLY -- THE CALIFORNIA SUPREME COURT SAYS
20 WHEN THIS IS BROUGHT IN, IT IS TO BROUGHT IN WITH EXTREME
21 CAUTION. AND THAT THERE HAS TO BE A DIRECT CONNECTION
22 BETWEEN THE DEFENDANT, THESE WORDS. NO LITIGATION WAS
23 MENTIONED. NO NAMES WERE MENTIONED. AND IT WOULD BE
24 AGAINST MR. GOODWIN'S DUE PROCESS RIGHT TO ALLOW THIS MAN
25 TO SAY AFTER THREE YEARS HE RECOGNIZED THIS VOICE WITHOUT
26 FURTHER FOUNDATION.

27 IT COULD HAVE BEEN MIKE GOODWIN. IT COULD
28 HAVE BEEN ANYONE. AS THE ANONYMOUS LETTERS COULD HAVE

1 BEEN ANYONE. AND EVEN IF THE COURT FINDS THAT IT CAN BE,
2 THEN THE COURT HAS TO WEIGH UNDER 352. AND ONE OF THE
3 FACTORS THAT WEIGHS UNDER 352 IS THE FOUNDATION AND HOW
4 MUCH CREDENCE TO GIVE IT. AND THIS COMMENT BY THE JURY
5 IS GOING TO BE MISUSED.

6 THE COURT: WELL, I DON'T HAVE ANY PROBLEM
7 FINDING THAT THERE IS AN ADEQUATE FOUNDATION LAID. THE
8 WITNESS TESTIFIED THAT HE WAS FAMILIAR WITH MR. GOODWIN'S
9 VOICE. HE TESTIFIED THAT HE HAD MET HIM, SPENT A NUMBER
10 OF HOURS IN THE ROOM WHEN HE WAS SPEAKING. AND THEN HE
11 OVERHEARD THIS SAME VOICE ON THE PHONE OR SPEAKER PHONE
12 IN THE TWO CONVERSATIONS THAT HE RELATED BETWEEN
13 MR. GOODWIN AND MR. THOMPSON. SO IN TERMS OF THE
14 FOUNDATION, THAT'S BEEN MET.

15 THE QUESTION AS TO THE WEIGHT OF THIS
16 INFORMATION WILL BE FOR THE JURY TO DECIDE BASED ON THE
17 CROSS-EXAMINATION, I SUPPOSE WHICH YOU WERE IN THE
18 PROCESS OF COMPLETING BEFORE I CUT YOU OFF. BUT I DEEM
19 THOSE QUESTIONS GOING TO WEIGHT, NOT ADMISSIBILITY.

20 IS THERE ANYTHING FURTHER?

21 MS. SARIS: I THINK THE COURT HAS THE POWER TO
22 MAKE A DETERMINATION ABOUT CREDIBILITY. AND I WAS JUST
23 TRYING TO BRING UP THAT THIS IS COMPLETELY DIFFERENT THAN
24 THE CONVERSATION REPORTED TO THE DETECTIVE.

25 THE COURT: WELL, WHETHER IT IS OR IT ISN'T, THIS
26 IS UNLIKE THE ANONYMOUS LETTERS. THIS IS A WITNESS WHO
27 HAS IDENTIFIED THE VOICE OF MR. GOODWIN. HIS ABILITY TO
28 RECOLLECT THE DETAILS OF THAT CONVERSATION IS I THINK

1 RELEVANT TO THE WEIGHT, NOT TO THE ADMISSIBILITY.

2 SO I WILL PERMIT THE TESTIMONY. LET'S
3 BRING THE JURY DOWN. AND DO YOU WANT ME TO READ THE
4 STIPULATIONS WHEN THEY COME DOWN OR DO YOU WANT TO TAKE
5 THIS WITNESS?

6 MS. SARIS: MAY I HAVE JUST A MOMENT?

7 MR. JACKSON: YOUR HONOR, WITH THE COURT'S
8 PERMISSION, AS THE COURT KNOWS WE'RE STILL TRYING TO KIND
9 OF MOVE THE PIECES ON THE CHESS BOARD AS FAR AS GETTING
10 FRANK MAGEE HERE. I KNOW IT CAN'T HAPPEN BEFORE
11 TOMORROW. I EXPECT MRS. STEPHENS' TESTIMONY WILL
12 PROBABLY TAKE, BETWEEN MYSELF AND MR. SUMMERS, THE BULK
13 OF THE AFTERNOON. SO IF WE CAN START WITH THE
14 STIPULATIONS AND THEN WE WILL ASK MR. WEISSLER TO JOIN US
15 FIRST THING TOMORROW MORNING.

16 MR. DIXON: OR IF WE FINISH MISS STEPHENS, HE CAN
17 TESTIFY TODAY.

18 MR. JACKSON: HE'S HERE. WE COULD.

19 THE COURT: SO YOU WANT THE STIPULATIONS NEXT?

20 MR. JACKSON: RIGHT.

21 THE COURT: IS THERE ANY ISSUE REGARDING THE
22 STIPULATIONS THAT THE COURT HAS BEEN ASKED TO READ?

23 MS. SARIS: YOUR HONOR, WE WANT TO MAKE A RECORD
24 THAT WE'VE DISCUSSED THESE STIPULATIONS WITH MR. GOODWIN
25 AND THAT HE HAS REVIEWED THESE STIPULATIONS. AND THAT HE
26 HAS AGREED WITH THE STIPULATIONS AND WE'VE DISCUSSED THE
27 ALTERNATIVE OF THESE INDIVIDUALS TESTIFYING AND THE
28 RAMIFICATIONS OF THE STIPULATIONS AND THE LEGALITY OF

1 THEM. WE ONLY LOOKED AT THEM FOR TYPOS AND WE DIDN'T
2 FIND ANYTHING UNUSUAL.

3 THE COURT: SO MR. GOODWIN UNDERSTANDS THAT THESE
4 ARE GOING TO BE IN LIEU OF CALLING OF WITNESSES AND HE
5 AGREES TO THAT PROCEDURE? IS THAT WHAT YOU'RE SAYING?

6 MS. SARIS: THAT IS WHAT I'M SAYING. AND THAT
7 WE'VE EXPLICITLY INFORMED HIM OF THAT.

8 THE COURT: IS THAT CORRECT, MR. GOODWIN?

9 THE DEFENDANT: YES, YOUR HONOR.

10 THE COURT: SO BRING THE JURORS DOWN. I WILL
11 READ THE 16 STIPULATIONS.

12 MR. JACKSON: THERE IS ALSO AN OUTSTANDING MOTION
13 CONCERNING KAREN STEPHENS. WE PROBABLY OUGHT TO LITIGATE
14 THAT BEFORE WE START THE STIPULATIONS, SO WE DON'T HAVE
15 TO TAKE ANOTHER BREAK.

16 MS. SARIS: IT ACTUALLY CAN BE AN OBJECTION
17 DURING THE TESTIMONY. I THINK MR. SUMMERS IS JUST TRYING
18 TO GET A HEADS UP REGARDING CASE LAW IS WHAT IT COMES TO.

19 THE COURT: REGARDING THE OPINION?

20 MR. SUMMERS: CORRECT.

21 THE COURT: OKAY. THEN I'LL TAKE THIS AS A HEADS
22 UP.

23 MR. JACKSON: SO WE DON'T NEED TO LITIGATE THIS
24 NOW?

25 THE COURT: I ASSUME THERE IS GOING TO BE A
26 OBJECTION OR TWO MADE AND WE CAN DEAL WITH IT THEN.

27

28 (THE JURY ENTERED THE COURTROOM

1 AND THE FOLLOWING PROCEEDINGS WERE
2 HELD IN OPEN COURT.)
3

4 THE COURT: THE RECORD SHOULD REFLECT THAT ALL
5 OUR JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT. THE
6 PARTIES ARE PRESENT.

7 LADIES AND GENTLEMEN, I WAS ASKED TO READ
8 SOME STIPULATIONS TO YOU AT THIS TIME. I WANT TO REMIND
9 YOU THAT STIPULATIONS ARE AGREEMENTS BETWEEN THE
10 ATTORNEYS REGARDING THE FACTS. AND THERE ARE 16
11 STIPULATIONS THAT I HAVE BEEN ASKED TO READ TO YOU
12 REGARDING THE FACTS.

13 MR. JACKSON: YOUR HONOR, AS THE COURT READS THE
14 STIPULATION I'M GOING TO PUT THE CORRESPONDING DOCUMENT
15 ON THE OVERHEAD PROJECTOR. I THINK IT'S WARMING UP. IT
16 SHOULD BE READY IN JUST A SECOND. I THINK IT WOULD MAKE
17 MORE SENSE IF WE CAN DO IT THAT WAY.

18 THE COURT: YES. QUESTION?

19 JUROR NO. 12: 12.

20 THE COURT: OKAY. GOOD. THANK YOU.

21 JUROR NO. 12: WILL WE HAVE THESE OR SHOULD WE
22 TAKE NOTES?

23 THE COURT: YOU KNOW WHAT, MY THINKING IS THAT
24 YOU WILL NOT HAVE THESE, BUT THE COURT REPORTER IS TAKING
25 THEM DOWN. SO THIS WILL BE THE SAME AS IF THE WITNESSES
26 WERE COMING IN AND TESTIFYING TO THESE THINGS. SO YOU
27 MAY TAKE NOTES. YOU DON'T HAVE TO TAKE NOTES BUT THIS
28 WILL BE PART OF THE RECORD. OKAY?

1 MR. JACKSON: YOUR HONOR --

2 MS. SARIS: THEY WILL HAVE THE DOCUMENTS.

3 MR. JACKSON: -- WE'RE EXPECTING TO REQUEST AT
4 SOME POINT AT THE END OF OUR PRESENTATION THAT THE
5 DOCUMENTS THEMSELVES BE ENTERED INTO EVIDENCE AND
6 SUPPLIED TO THE JURORS.

7 THE COURT: THE EXHIBITS YOU MEAN?

8 MR. JACKSON: CORRECT.

9 THE COURT: NOT THE STIPULATIONS?

10 MS. SARIS: THE STIPULATIONS REFER TO THE
11 EXHIBITS.

12 THE COURT: YES.

13 MR. JACKSON: CORRECT.

14 THE COURT: OKAY.

15 MR. JACKSON: AND I GUESS WE CAN ADDRESS THAT
16 LATER. I JUST WANTED TO MAKE SURE THAT THE QUESTION WAS
17 DULY ADDRESSED, THAT THE DOCUMENTS WE'RE EXPECTING TO BE
18 ENTERED INTO EVIDENCE.

19 THE COURT: THE STIPULATIONS ARE BASICALLY
20 INSTEAD OF CALLING THE WITNESSES TO COME IN AND TESTIFY.
21 AND SO AS WITH ANY WITNESS, WHEN A WITNESS TESTIFIES,
22 THEY REFER TO EXHIBITS. AND THOSE EXHIBITS ARE MARKED
23 AND YOU'RE GOING TO HAVE THEM LATER.

24 SO WHAT I'M READING TO YOU REFERENCES
25 CERTAIN EXHIBITS, BUT WHAT I'M READING IS SIMPLY IN LIEU
26 OF THE TESTIMONY. AND SO YOU WON'T HAVE THESE WRITINGS,
27 THESE STIPULATIONS, BUT YOU WILL HAVE THE EXHIBITS.

28 OKAY. ARE WE ALL SET?

1 MR. JACKSON: YES, YOUR HONOR.

2 THE COURT: STIPULATION NO. 1, COUNSEL STIPULATES
3 THAT IF SANDRA WOFFORD, AN EMPLOYEE OF MARYLAND NATIONAL
4 BANK WERE CALLED AS A WITNESS AND DULY SWORN, SHE WOULD
5 TESTIFY THAT PEOPLE'S EXHIBIT 83 IS A LETTER SHE RECEIVED
6 FROM DIANE SIEDEL GOODWIN THAT WAS COMPOSED ON
7 SUPERCROSS, INC. LETTERHEAD AND DATED DECEMBER 24TH,
8 1987.

9 MISS WOFFORD WOULD FURTHER TESTIFY THAT
10 THE LETTER INDICATED THAT DIANE GOODWIN WAS IN THE
11 PROCESS OF DECIDING WHICH BOAT OR YACHT SHE WAS
12 INTERESTED IN PURCHASING.

13 STIPULATION 2. COUNSEL STIPULATES THAT IF
14 VINCENT KRIVANEK, AN EMPLOYEE OF FRASER YACHTS WERE
15 CALLED AS A WITNESS AND DULY SWORN, HE WOULD TESTIFY THAT
16 PEOPLE'S EXHIBIT 84 IS A CHECK FRASER YACHTS RECEIVED
17 FROM DIANE SIEDEL GOODWIN THAT WAS WRITTEN ON A BANK OF
18 AMERICA CHECK, NO. 1369 IN THE AMOUNT OF \$40,000.00,
19 DATED JANUARY 20, 1988 AND SIGNED BY DIANE GOODWIN.

20 MR. KRIVANEK WOULD FURTHER TESTIFY THAT
21 THE CHECK SERVED AS AN EARNEST MONEY DEPOSIT FOR THE
22 PURCHASE OF THE YACHT REBEL VENTURE III.

23 STIPULATION 3. COUNSEL STIPULATES THAT IF
24 VINCENT KRIVANEK, AN EMPLOYEE OF FRASER YACHTS WERE
25 CALLED AS A WITNESS AND DULY SWORN, HE WOULD TESTIFY THAT
26 PEOPLE'S EXHIBIT 85 IS A FRASER YACHTS PURCHASE AGREEMENT
27 BETWEEN BUYER, DIANE GOODWIN, OCEAN SALVORS, INC. AND
28 SELLER REBEL VENTURE, INC. SIGNED BY DIANE GOODWIN AND

1 DATED JANUARY 22, 1988.

2 MR. KRIVANEK WOULD FURTHER TESTIFY THE
3 PURCHASE AGREEMENT INDICATED THE PURCHASE PRICE OF THE
4 YACHT, REBEL VENTURE III WAS \$400,000.00 WITH A
5 \$40,000.00 DEPOSIT RECEIVED ON JANUARY 22, 1988 WHICH
6 WOULD BE HELD IN TRUST ESCROW.

7 LASTLY, MR. KRIVANEK WOULD TESTIFY THIS
8 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
9 IS A TRUE AND CORRECT COPY THEREOF.

10 NO. 4. COUNSEL STIPULATES THAT IF VINCENT
11 KRIVANEK, AN EMPLOYEE OF FRASER YACHTS WERE CALLED AS A
12 WITNESS AND DULY SWORN, HE WOULD TESTIFY THAT PEOPLE'S
13 EXHIBIT 86 IS A SELLER'S CLOSING STATEMENT FOR THE YACHT
14 REBEL VENTURE III DRAWN ON FRASER YACHT'S LETTERHEAD,
15 DATED APRIL 28, 1988.

16 MR. KRIVANEK WOULD FURTHER TESTIFY THAT
17 THE STATEMENT INDICATED THE SELLER OF REBEL VENTURE III
18 TO BE REBEL VENTURE, INC. AND THAT THE SELLING PRICE WAS
19 \$331,000.00.

20 ADDITIONALLY MR. KRIVANEK WOULD TESTIFY
21 THAT PEOPLE'S EXHIBIT --

22 MR. JACKSON: SAME EXHIBIT, YOUR HONOR.

23 THE COURT: -- 86?

24 MR. JACKSON: 86.

25 THE COURT: THANK YOU.

26 -- INCLUDES A CERTIFICATE OF OWNERSHIP OF
27 VESSEL FOR THE VESSEL NAMED "BELIEVE," DATED MAY 3RD,
28 1988. MR. KRIVANEK WOULD FURTHER TESTIFY THE CERTIFICATE

1 INDICATED THE OWNER TO BE DIANE S. GOODWIN AND THAT A
2 MORTGAGE ENCUMBERED THE VESSEL IN FAVOR OF MARYLAND
3 NATIONAL BANK IN THE AMOUNT OF \$200,000.00.

4 LASTLY, MR. KRIVANEK WOULD TESTIFY THESE
5 DOCUMENTS WERE KEPT IN THE ORDINARY COURSE OF BUSINESS
6 AND ARE TRUE AND CORRECT COPIES THEREOF.

7 STIPULATION 5. COUNSEL STIPULATES THAT IF
8 CHARLES WELLINGTON, OWNER OF WELLINGTON YACHTS WERE
9 CALLED AS A WITNESS AND DULY SWORN, HE WOULD TESTIFY THAT
10 PEOPLE'S EXHIBIT 87 IS A BILL OF SALE FOR THE YACHT REBEL
11 VENTURE III BETWEEN SELLER REBEL VENTURE, INC., AND
12 BUYER, DIANE S. GOODWIN, DATED APRIL 14, 1988 AND SIGNED
13 BY REBEL VENTURE INC./CHARLES W. WELLINGTON, PRESIDENT.

14 MR. WELLINGTON WOULD FURTHER TESTIFY THAT
15 THE BILL OF SALE INDICATED THE INTEREST IN THE YACHT,
16 REBEL VENTURE III WAS TRANSFERRED TO DIANE S. GOODWIN AS
17 SOLE OWNER.

18 LASTLY, MR. WELLINGTON WOULD TESTIFY THIS
19 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
20 WAS A TRUE AND CORRECT COPY THEREOF.

21 STIPULATION 6. COUNSEL STIPULATES THAT IF
22 ANN BROOKS FORMERLY ANNE BOMAN, AN EMPLOYEE OF MARYLAND
23 NATIONAL BANK WERE CALLED AS A WITNESS AND DULY SWORN,
24 SHE WOULD TESTIFY THAT THE PEOPLE'S EXHIBIT 88 IS A
25 LETTER SHE WROTE ON MARYLAND NATIONAL BANK LETTERHEAD
26 DATED MARCH 10, 1988 AND ADDRESSED TO BILL REDFIELD OF
27 FRASER YACHTS.

28 MISS BOMAN WOULD FURTHER TESTIFY THE

1 LETTER SERVED AS CONFIRMATION TO BILL REDFIELD OF FRASER
2 YACHTS, THAT MARYLAND NATIONAL BANK HAD APPROVED DIANE
3 GOODWIN'S BOAT LOAN ON MARCH 9TH, 1988. IT WAS
4 MRS. BOMAN'S UNDERSTANDING THAT BILL REDFIELD WAS A BOAT
5 BROKER FOR DIANE GOODWIN.

6 LASTLY, MISS BOMAN WOULD TESTIFY THIS
7 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
8 IS A TRUE AND CORRECT COPY THEREOF.

9 NO. 7. COUNSEL STIPULATES THAT IF ANN
10 BROOKS, FORMERLY ANN BOMAN, AN EMPLOYEE OF MARYLAND
11 NATIONAL BANK WERE CALLED AS A WITNESS AND DULY SWORN,
12 SHE WOULD TESTIFY PEOPLE'S EXHIBIT 89 IS A MARYLAND
13 NATIONAL BANK MARINE SECURITY AGREEMENT AND PROMISSORY
14 NOTE FOR THE VESSEL "BELIEVE," FORMERLY REBEL VENTURE
15 III, DATED APRIL 13, 1988 AND SIGNED BY DIANE S. GOODWIN.

16 MRS. BROOKS WOULD FURTHER TESTIFY THE
17 AGREEMENT GAVE MARYLAND NATIONAL BANK A SECURITY INTEREST
18 IN THE YACHT "BELIEVE" AND THE PROMISSORY NOTE INDICATED
19 MRS. GOODWIN PROMISED TO MAKE MONTHLY PAYMENTS ON THE
20 \$200,000 YACHT LOAN OVER THE FOLLOWING TEN YEARS.

21 LASTLY, MRS. BROOKS WOULD TESTIFY THIS
22 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
23 IS A TRUE AND CORRECT COPY THEREOF.

24 NO. 8. COUNSEL STIPULATES THAT IF SYLVIA
25 MARTINEZ, AN EMPLOYEE OF MITSUI BANK WERE CALLED AS A
26 WITNESS AND DULY SWORN, SHE WOULD TESTIFY THAT PEOPLE'S
27 EXHIBIT 90 IS A CHECK THAT WAS WRITTEN ON A MITSUI
28 MANUFACTURERS BANK CHECK NO. 13 IN THE AMOUNT OF

1 \$365,000.00 PAYABLE TO DIANE GOODWIN FROM J.G.A. GROUP
2 DATED MAY 6, 1988.

3 MISS MARTINEZ WOULD FURTHER TESTIFY THAT
4 THE "FOR" SECTION INDICATED "DISTRIBUTION FROM WHITEHAWK
5 CASHIER'S CHECK."

6 LASTLY, MRS. MARTINEZ WOULD TESTIFY THIS
7 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
8 IS A TRUE AND CORRECT COPY THEREOF.

9 STIPULATION 9. COUNSEL STIPULATES THAT IF
10 SYLVIA MARTINEZ, AN EMPLOYEE OF MITSUI BANK WERE CALLED
11 AS A WITNESS AND DULY SWORN, SHE WOULD TESTIFY THAT
12 PEOPLE'S EXHIBIT 91 IS A MITSUI MANUFACTURERS BANK
13 CASHIER'S CHECK 78353 IN THE AMOUNT OF \$365,000.00
14 PAYABLE TO DIANE GOODWIN, AND ENDORSED ON THE BACK BY
15 DIANE GOODWIN ON MAY 6, 1988. MRS. MARTINEZ WOULD
16 FURTHER TESTIFY THAT MRS. GOODWIN'S ENDORSING SIGNATURE
17 ON THE BACK OF THE CHECK INDICATED PAYMENT MADE TO
18 MRS. GOODWIN.

19 LASTLY, MRS. MARTINEZ WOULD TESTIFY THIS
20 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
21 IS A TRUE AND CORRECT COPY THEREOF.

22 STIPULATION 10. COUNSEL STIPULATES THAT
23 IF SYLVIA MARTINEZ, AN EMPLOYEE OF MITSUI BANK WERE
24 CALLED AS A WITNESS AND DULY SWORN, SHE WOULD TESTIFY
25 THAT PEOPLE'S EXHIBIT 92 IS THREE MITSUI MANUFACTURERS
26 BANK GENERAL LEDGER RECEIPTS DATED MAY 9, 1988 FOR AN
27 OUTGOING WIRE OF \$300,000 FROM DIANE GOODWIN'S MITSUI
28 ACCOUNT, NO. 20-169-884 TO BARCLAY'S BANK IN CALIFORNIA.

1 MRS. MARTINEZ WOULD FURTHER TESTIFY THE
2 RECEIPTS INDICATED DIANE GOODWIN INITIATED A WIRE
3 TRANSFER OF \$300,000 FROM HER ACCOUNT TO BARCLAY'S BANK
4 AND PAID AN \$18 WIRE FEE.

5 LASTLY, MRS. MARTINEZ WOULD TESTIFY THIS
6 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
7 IS A TRUE AND CORRECT COPY THEREOF.

8 NO. 11. COUNSEL STIPULATES THAT IF SYLVIA
9 MARTINEZ, AN EMPLOYEE OF MITSUI BANK, WERE CALLED AS A
10 WITNESS AND DULY SWORN, SHE WOULD TESTIFY THAT PEOPLE'S
11 EXHIBIT 82 IS A MITSUI MANUFACTURERS BANK CASHIER CHECK
12 78440, PURCHASED BY DIANE GOODWIN FOR \$75,000 AND MADE
13 PAYABLE TO GOLD 'N COINS.

14 LASTLY, MISS MARTINEZ WOULD TESTIFY THIS
15 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
16 IS A TRUE AND CORRECT COPY THEREOF.

17 NO. 12. COUNSEL STIPULATES THAT IF SYLVIA
18 MARTINEZ, AN EMPLOYEE OF MITSUI BANK, WERE CALLED AS A
19 WITNESS AND DULY SWORN, SHE WOULD TESTIFY THAT PEOPLE'S
20 EXHIBIT 93 A MITSUI MANUFACTURERS BANK CASHIER'S CHECK
21 78441 PURCHASED BY DIANE GOODWIN FOR \$140,000 AND MADE
22 PAYABLE TO DIANE GOODWIN.

23 LASTLY, MISS MARTINEZ WOULD TESTIFY THIS
24 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
25 IS A TRUE AND CORRECT COPY THEREOF.

26 STIPULATION 13. COUNSEL STIPULATES THAT
27 IF SYLVIA MARTINEZ, AN EMPLOYEE OF MITSUI BANK, WERE
28 CALLED AS A WITNESS AND DULY SWORN, SHE WOULD TESTIFY

1 THAT PEOPLE'S EXHIBIT 94 IS ONE, A MITSUI BANK RECEIPT
2 FOR PURCHASE OF TWO CASHIER'S CHECKS TOTALING \$215,000
3 AND TWO, THE BACK OF THE MITSUI CASHIER'S CHECK ENDORSED
4 FOR DEPOSIT ONLY BY DIANE GOODWIN DATED MAY 13, 1988 IN
5 THE AMOUNT OF \$140,000.

6 LASTLY, MRS. MARTINEZ WOULD TESTIFY THESE
7 DOCUMENTS WERE KEPT IN THE ORDINARY COURSE OF BUSINESS
8 AND ARE TRUE AND CORRECT COPIES THEREOF.

9 MR. JACKSON: YOUR HONOR, MAY THE RECORD REFLECT
10 MY MISTAKE. I THINK I GOT AHEAD BY ONE DOCUMENT. THE
11 DOCUMENT THAT'S ON THE OVERHEAD NOW IS, IN FACT, DOCUMENT
12 94 ABOUT WHICH THE COURT JUST SPOKE. I HAD INADVERTENTLY
13 PLACED DOCUMENT 95 THERE, WHICH I'LL DO NOW AS YOU GET TO
14 THE NEXT STIPULATION.

15 THE COURT: OKAY. THANK YOU.

16 NO. 14. COUNSEL STIPULATES THAT IF CHERYL
17 KLEIN, CUSTODIAN OF RECORDS FOR BARCLAY BANK OF
18 CALIFORNIA, WERE CALLED AS A WITNESS AND DULY SWORN, SHE
19 WOULD TESTIFY THAT PEOPLE'S EXHIBIT 95 IS A SERIES OF
20 BARCLAY'S BANK DOCUMENTS INCLUDING ONE, A NEW BANK
21 ACCOUNT CARD IN THE NAME OF DIANE GOODWIN,
22 NO. 5427-13098, TWO, NEW ACCOUNT DEPOSIT SLIPS FROM DIANE
23 GOODWIN, THREE, A WIRE FUNDS TRANSFER REQUEST AND A
24 SETTLEMENT AUTHORIZED BY DIANE GOODWIN FOR THE AMOUNT OF
25 \$300,000 TO BE TRANSFERRED TO BARCLAY'S BANK ACCOUNT
26 NO. 5427-13098, AND NUMBER FOUR, MAY, JULY -- MAY TO JULY
27 1988 BANK STATEMENTS FOR DIANE GOODWIN'S ACCOUNT
28 5427-13098.

1 LASTLY, MISS KLEIN WOULD TESTIFY THIS
2 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
3 IS A TRUE AND CORRECT COPY THEREOF.

4 STIPULATION 15. COUNSEL STIPULATES THAT
5 IF CHERYL KLEIN, THE CUSTODIAN OF RECORDS FOR BARCLAY'S
6 BANK OF CALIFORNIA WERE CALLED AS A WITNESS AND DULY
7 SWORN, SHE WOULD TESTIFY THAT PEOPLE'S EXHIBIT 96 IS A
8 BARCLAY'S BANK OF CALIFORNIA CHECK, DATED MAY 11, 1998 --
9 STRIKE THAT -- MAY 11, 1988 SIGNED BY DIANE GOODWIN FOR
10 THE AMOUNT OF \$275,000 AND PAYABLE TO "CASH" AND PEOPLE'S
11 EXHIBIT NO. 80 IS A BARCLAY'S BANK OF CALIFORNIA
12 CASHIER'S CHECK NO. 2667539 DATED MAY 11TH, 1988
13 PURCHASED BY DIANE GOODWIN FOR \$275,000 AND MADE PAYABLE
14 TO GOLD 'N COINS.

15 LASTLY, MISS KLEIN WOULD TESTIFY THIS
16 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
17 IS A TRUE AND CORRECT COPY THEREOF.

18 STIPULATION NO. 16. COUNSEL STIPULATES
19 THAT IF CHERYL KLEIN CUSTODIAN OF RECORDS FOR BARCLAY'S
20 BANK OF CALIFORNIA WERE CALLED AS A WITNESS AND DULY
21 SWORN, SHE WOULD TESTIFY THAT PEOPLE'S EXHIBIT NO. 97 IS
22 A BARCLAY'S BANK OF CALIFORNIA REQUEST FOR TELEGRAM DATED
23 MAY 17 AND SIGNED BY DIANE GOODWIN FOR THE AMOUNT OF
24 \$140,000. MISS KLEIN WOULD FURTHER TESTIFY THE REQUEST
25 INDICATED \$140,000 WAS TRANSFERRED FROM DIANE GOODWIN'S
26 BARCLAY'S BANK ACCOUNT IN CALIFORNIA, NO. 5427-13098 TO
27 DIANE GOODWIN'S BARCLAY'S BANK ACCOUNT IN THE TURKS AND
28 CAICOS ISLAND.

1 LASTLY, MISS KLEIN WOULD TESTIFY THIS
2 DOCUMENT WAS KEPT IN THE ORDINARY COURSE OF BUSINESS AND
3 IS A TRUE AND CORRECT COPY THEREOF.

4 AND COUNSEL SO STIPULATE?

5 MR. JACKSON: I DO, YOUR HONOR.

6 MS. SARIS: SO STIPULATED.

7 THE COURT: THE COURT WILL ACCEPT THOSE
8 STIPULATIONS. AND YOU ARE, LADIES AND GENTLEMEN, TO
9 REGARD THOSE FACTS AS HAVING BEEN PROVED.

10 I GUESS WE NEED TO MARK THESE EXHIBITS
11 THEN, MR. JACKSON?

12 MR. JACKSON: THE EXHIBITS THEMSELVES?

13 THE COURT: YES.

14 MR. JACKSON: I PREMARKED THEM.

15 THE COURT: THEY'VE ALREADY BEEN PREMARKED.

16 MR. JACKSON: EVERY ONE OF THEM. YES

17 THE COURT: OKAY. ALL RIGHT. THEN THE PEOPLE
18 MAY CALL THEIR NEXT WITNESS.

19 MR. JACKSON: THANK YOU, YOUR HONOR. BEFORE I
20 CALL THE NEXT WITNESS AS A MATTER OF HOUSEKEEPING WHILE
21 WE'RE -- EVERYBODY'S GOT THEIR PENS OUT. THERE ARE TWO
22 OTHER DOCUMENTS WHICH WERE NOT MENTIONED IN THE
23 STIPULATIONS, BUT I EXPECT TO HAVE SOME TESTIMONY ABOUT
24 IT. I'D LIKE TO HAVE THOSE MARKED AS PEOPLE'S NEXT IN
25 ORDER.

26 ONE PURPORTS TO BE A SET OF ESCROW
27 INSTRUCTIONS DATED MARCH 18, 1988.

28 THE COURT: YOU KNOW WHAT, LET ME DO THIS BECAUSE

1 MY EXHIBIT SHEET ENDS AT -- I DON'T HAVE --

2 MR. JACKSON: 97?

3 THE CLERK: I HAVE AN 84.

4 THE COURT: OKAY.

5 THE CLERK: ONLY BECAUSE WE STARTED -- NO, 83, WE
6 STARTED WITH THE STIPULATIONS. I HAVEN'T BEEN WRITING
7 THEM DOWN.

8 THE COURT: SO I'M STARTING AT 83. SO FOR THE
9 RECORD WHY DON'T WE INDICATE WHAT WE ARE THEN MARKING FOR
10 IDENTIFICATION.

11 MR. SUMMERS: YOUR HONOR, MAY WE APPROACH ON
12 THAT. I THINK WE'VE ALREADY --

13 THE COURT: OKAY.

14

15 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

16 THE COURT: ALL RIGHT. WE'RE OUTSIDE OF THE
17 PRESENCE OF THE JURY AT THE SIDEBAR. I JUST WANTED TO
18 MARK FOR IDENTIFICATION THE EXHIBITS THAT WERE JUST READ.

19 AND, MR. SUMMERS, WHAT DID YOU WANT TO
20 DISCUSS?

21 MR. SUMMERS: BASICALLY THAT DEPENDING ON THE
22 IDENTIFICATION WHAT WE'RE STARTING TO DO IS GET INTO
23 BASICALLY INADMISSIBLE HEARSAY. IF SHE'S GOING TO RELY
24 ON THESE DOCUMENTS OR SAY THAT SHE RELIED ON THESE
25 DOCUMENTS, THAT'S ONE THING. THE DOCUMENTS THEMSELVES
26 AND THE DETAILS REVEALED THEREIN ARE NOT NECESSARILY
27 ADMISSIBLE AND ARE, IN FACT, HEARSAY.

28 THE COURT: WHICH DOCUMENTS ARE YOU REFERRING TO?

1 MR. JACKSON: THESE TWO (INDICATING) .

2 THE COURT: WHAT ARE THOSE TWO?

3 MR. SUMMERS: THESE TWO ARE ESCROW --

4 THE COURT: OKAY.

5 MR. SUMMERS: DO YOU WANT --

6 THE COURT: NO. WHAT I WANT TO DO IN FRONT OF
7 THE JURY AND ON THE RECORD EVEN THOUGH I READ THE
8 STIPULATIONS, I WANT TO PUT ON THE RECORD WHAT EACH
9 EXHIBIT THAT WAS REFERENCED IS.

10 MR. JACKSON: I'LL BE HAPPY TO DO THAT.

11 THE COURT: AND WE WILL MARK THEM FOR
12 IDENTIFICATION SO THAT THE JURORS CAN KEEP UP AND I CAN
13 KEEP UP.

14 MR. JACKSON: SURE.

15 THE COURT: AND THEN I DON'T KNOW WHAT THESE TWO
16 DOCUMENTS ARE. THOSE WILL BE YOUR NEXT IN ORDER?

17 MR. JACKSON: CORRECT.

18 THE COURT: COMING FROM -- WHERE DID YOU END OFF?

19 THE CLERK: THE NEXT ONE WILL BE 98.

20 THE COURT: OKAY. SO 98 AND 99. SO LET'S START
21 WITH 83 AND IN FRONT OF THE JURY AND LET'S GO AHEAD AND
22 MARK ALL THESE EXHIBITS. OKAY?

23 MS. SARIS: BUT WE HAVE A CONCERN ABOUT HOW
24 THEY'RE NAMING THEM BEFORE THEY'RE MARKING THEM.

25 MR. JACKSON: THEN I WON'T NAME THESE THEN.
26 THESE TWO, I WON'T NAME THESE. I MEAN I WAS GOING TO
27 CALL THIS A SET OF ESCROW INSTRUCTIONS WITH A DATE AND A
28 SETTLEMENT STATEMENT WITH A DATE.

1 MS. SARIS: AND THAT'S MORE INFORMATION THAN THE
2 JURY WOULD BE ENTITLED TO QUITE FRANKLY. THAT'S HEARSAY.

3 THE COURT: I DON'T CARE ABOUT 98 AND 99. MY
4 CONCERN IS WITH 83 TO 97. SO LET'S DO THAT AND THEN --

5 MS. SARIS: WE CAN JUST SAY FOR NOW THESE ARE TWO
6 DOCUMENTS MARKED 98 AND 99.

7 THE COURT: YES.

8 MS. SARIS: OKAY.

9 (SIDEBAR CONCLUDED.)

10
11 THE COURT: OKAY. I THINK WE HAVE ALL THIS
12 WORKED OUT.

13 FOR THE RECORD, MR. JACKSON, STARTING WITH
14 EXHIBIT NUMBER 83, COULD YOU TELL US WHAT YOU PREMARKED
15 FOR IDENTIFICATION?

16 MR. JACKSON: ABSOLUTELY. I'LL TRY TO GO IN THE
17 ORDER THAT I THINK WE JUST WENT IN, I THINK I'VE GOT IT
18 PRETTY MUCH DOWN.

19 PEOPLE'S 83 PURPORTS TO BE A LETTER ON
20 SUPERCROSS, INC. LETTERHEAD DATED DECEMBER 24, 1987 FROM
21 DIANE GOODWIN. IT BEGINS "DEAR, SIR."

22 THE COURT: 83 FOR IDENTIFICATION.

23 MR. JACKSON: PEOPLE'S 84 PURPORTS TO BE A CHECK
24 DRAWN ON AN ACCOUNT FROM DIANE SIEDEL GOODWIN, CHECK
25 NO. 1369 FOR \$40,000 TO DAVID FRASER YACHTS.

26 THE COURT: AND THAT'S 84 FOR IDENTIFICATION.

27 MR. JACKSON: YES, YOUR HONOR. THANK YOU.

28 PEOPLE'S 85 FOR IDENTIFICATION PURPORTS TO

1 BE A FRASER YACHTS PURCHASE AGREEMENT. THAT PURCHASE
2 AGREEMENT IS DATED 22ND DAY OF JANUARY 1988.

3 THE COURT: 85.

4 MR. JACKSON: PEOPLE'S --

5 THE COURT: THAT'S EXHIBIT 85.

6 MR. JACKSON: CORRECT.

7 PEOPLE'S 86 FOR IDENTIFICATION IS A FRASER
8 YACHTS SELLER'S CLOSING STATEMENT DATED APRIL 28, 1988.

9 THE COURT: AND THAT WILL BE MARKED 86.

10 MR. JACKSON: THANK YOU.

11 PEOPLE'S 87 FOR IDENTIFICATION PURPORTS TO
12 BE A BILL OF SALE VESSEL NAMED REBEL VENTURE III,
13 INDICATES STATE OF FLORIDA AND THE DATE APRIL 14, 1988.

14 THE COURT: THAT WILL BE MARKED 87.

15 MR. JACKSON: PEOPLE'S 88 FOR IDENTIFICATION, A
16 MARYLAND NATIONAL -- LET ME REPHRASE THAT. A LETTER
17 DRAWN ON -- DRAFTED ON MARYLAND NATIONAL BANK LETTERHEAD
18 FROM ANN BOMAN TO BILL REDFIELD DATED MARCH 10, 1988.

19 THE COURT: THAT WILL BE MARKED PEOPLE'S EXHIBIT
20 88.

21 MR. JACKSON: PEOPLE'S 89 FOR IDENTIFICATION, A
22 MARYLAND NATIONAL BANK MARINE SECURITY AGREEMENT PURPORTS
23 TO BE A BOAT LOAN DATED 4/13/88.

24 THE COURT: THAT WILL BE MARKED PEOPLE'S 89.

25 MR. JACKSON: PEOPLE'S 90 FOR IDENTIFICATION,
26 PURPORTS TO BE A CASHIER'S CHECK -- THAT'S INCORRECT.
27 IT'S A PERSONAL CHECK FROM THE JGA GROUP, PAYMENT TO
28 DIANE GOODWIN IN THE AMOUNT \$365,000 DATED MAY 6, 1988.

1 THE COURT: THAT WILL BE MARKED PEOPLE'S 90.

2 MR. JACKSON: 91 FOR IDENTIFICATION PURPORTS TO
3 BE A CASHIER'S CHECK DRAWN ON MITSUI MANUFACTURER'S BANK
4 FOR THE AMOUNT OF \$365,000 TO DIANE GOODWIN, CHECK
5 NO. 78353.

6 THE COURT: SO MARKED 91.

7 MR. JACKSON: 92 FOR IDENTIFICATION IS A GENERAL
8 LEDGER FROM MITSUI MANUFACTURER'S BANK. THERE'S ACTUALLY
9 THREE GENERAL LEDGERS ON THE SAME PAGE. THEY ARE DATED
10 5/9/88 PURPORTING TO BE A \$300,000 WIRE TRANSFER TO
11 BARCLAY'S BANK FROM DIANE GOODWIN.

12 THE COURT: 92.

13 MR. JACKSON: PEOPLE'S 93 FOR IDENTIFICATION, A
14 COPY OF A CASHIER'S CHECK AND A RECEIPT. ONE OF THEM
15 SAYS "NON-NEGOTIABLE" ON IT. CHECK NO. 78441, IN THE
16 AMOUNT OF \$140,000 MADE PAYABLE TO DIANE GOODWIN DATED
17 MAY 13, 1988.

18 THE COURT: SO MARKED PEOPLE'S 93.

19 MR. JACKSON: PEOPLE'S 94 FOR IDENTIFICATION,
20 PURPORTS TO BE THE BACK SIDE OF TWO CASHIER'S CHECKS, ONE
21 IN THE AMOUNT OF \$140,000, THE OTHER IN THE AMOUNT OF
22 \$215,000. THEY BOTH APPEAR TO BE MITSUI MANUFACTURERS
23 BANK DOCUMENTS.

24 THE COURT: THOSE WILL BE MARKED PEOPLE'S 94 FOR
25 IDENTIFICATION.

26 MR. JACKSON: WE'VE ALREADY MARKED NUMBER 82. WE
27 STARTED WITH 83, CORRECT, YOUR HONOR?

28 THE COURT: YES.

1 MR. JACKSON: PEOPLE'S 95 FOR IDENTIFICATION
2 PURPORTS TO BE A BARCLAY'S BANK DOCUMENT FOR LACK OF A
3 BETTER WORD, IT'S IN THE NAME OF -- FOR LACK OF A BETTER
4 DESCRIPTION, IT'S IN THE NAME DIANE S. GOODWIN AND
5 APPEARS TO BE AN ACCOUNT OPENING CARD FOR ACCOUNT
6 NO. 5427-13098. IT IS A -- IT APPEARS TO BE THE OPENING
7 ACCOUNT CARD FOR BARCLAY'S BANK, THE OPENING DEPOSIT
8 \$300,000.

9 THE COURT: PEOPLE'S 95.

10 MR. JACKSON: PEOPLE'S 96 FOR IDENTIFICATION IS
11 SIMPLY A CHECK FROM DIANE GOODWIN WRITTEN OUT TO CASH IN
12 THE AMOUNT OF \$275,000 -- SORRY -- \$275,003, DATED MAY
13 11, 1988.

14 THE COURT: SO MARKED 96.

15 MR. JACKSON: PEOPLE'S 97 FOR IDENTIFICATION
16 FINALLY IS A REQUEST FOR TELEGRAM. THE MESSAGE COLUMN
17 INDICATES A \$140,000 TRANSFER FROM BARCLAY'S BANK -- I'M
18 SORRY -- TO BARCLAY'S BANK IN THE PROVIDENCIALES,
19 P-R-O-V-I-D-E-N-C-I-A-L-E-S AT THE TURKS AND CAICOS
20 ISLANDS, TELEX NUMBER 8418 IN THE AMOUNT OF THE \$140,000.
21 IN OTHER WORDS, IT'S A WIRE TRANSFER, TELEX.

22 THE COURT: PEOPLE'S 97 FOR IDENTIFICATION.

23 MR. JACKSON: AND, FINALLY, THERE'S TWO DOCUMENTS
24 THAT DON'T NEED DESCRIBING AT THIS POINT, PEOPLE'S 98, A
25 MULTI-PAGE DOCUMENT AND PEOPLE'S 99 IS A MULTI-PAGE
26 DOCUMENT AS WELL.

27
28 (MARKED FOR IDENTIFICATION PEOPLE'S

1 EXHIBIT NOS. 83 THRU 99, DOCUMENTS.)

2

3 THE COURT: OKAY. AND YOU MAY CALL YOUR NEXT
4 WITNESS.

5 MR. JACKSON: THANK YOU. WE WOULD ASK KAREN
6 STEPHENS TO JOIN US. IF I MAY HAVE JUST A MOMENT, YOUR
7 HONOR?

8 THE COURT: YES.

9

10 KAREN STEPHENS-KINGDON,
11 CALLED BY THE PEOPLE AS A WITNESS, WAS
12 SWORN AND TESTIFIED AS FOLLOWS:

13

14 THE CLERK: MA'AM, PLEASE RAISE YOUR RIGHT HAND.

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

19 THE WITNESS: I DO.

20 THE CLERK: THANK YOU. PLEASE BE SEATED.

21 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR
22 FIRST AND LAST NAME FOR THE RECORD.

23 THE WITNESS: IT'S KAREN, K-A-R-E-N. LAST NAME
24 IS TWO NAMES STEPHENS, S-T-E-P-H-E-N-S, KINGDON,
25 K-I-N-G-D-O-N.

26 THE CLERK: THANK YOU.

27 THE COURT: YOU MAY INQUIRE.

28 MR. JACKSON: THANK YOU, YOUR HONOR.

1 AS I APPROACH, MAYBE I SHOULD MARK TWO
2 OTHER -- GET THE HOUSEKEEPING OUT OF THE WAY, TWO OTHER
3 DOCUMENTS. THEY'VE BEEN SHOWN TO DEFENSE COUNSEL. ONE
4 IS AN ENLARGEMENT THAT HAS COPIES OF MULTIPLE DOCUMENTS
5 ON IT. IT'S LABELED "GOODWIN'S YACHT PURCHASE."
6 PEOPLE'S NEXT IN ORDER, YOUR HONOR.

7 THE COURT: 99.

8 MS. SARIS: IT IS 100.

9 THE COURT: YES, I HAVE 98 AND 99. IT'S 100.

10 MR. JACKSON: OH, THE OTHER TWO DOCUMENTS. MY
11 MISTAKE.

12 THE COURT: SO PEOPLE'S 100.

13 MR. JACKSON: THANK YOU. AND PEOPLE'S 101 IS A
14 FLOW CHART.

15 THE COURT: ALL RIGHT. THOSE WILL BE MARKED.
16 THANK YOU.

17
18 (MARKED FOR IDENTIFICATION PEOPLE'S
19 EXHIBIT NO. 100 AND 101, DOCUMENTS.)
20

21 DIRECT EXAMINATION

22 BY MR. JACKSON:

23 Q IF YOU WILL EXCUSE ME, I HAVE WRITER'S
24 CRAMP.

25 MRS. STEPHENS, THANK YOU FOR JOINING US.
26 WHAT DO YOU DO FOR A LIVING, MA'AM?

27 A CURRENTLY?

28 Q YEAH. WHAT DO YOU DO FOR A LIVING NOW?

1 A I CARE FOR A DISABLED CHILD.

2 Q WHEN DID YOU USED TO DO FOR A LIVING?

3 A I WAS A CPA FOR THE DISTRICT ATTORNEY'S
4 OFFICE, INVESTIGATIVE AUDITOR.

5 Q AND AS AN INVESTIGATIVE AUDITOR FOR -- BY
6 THE WAY WHICH DISTRICT ATTORNEY'S OFFICE?

7 A ORANGE COUNTY.

8 Q SO NOT MY OFFICE?

9 A NOT YOUR OFFICE.

10 Q IN FACT, HAVE YOU AND I EVER MET OUTSIDE
11 THE PURVIEW OF THIS CASE?

12 A NO.

13 Q OKAY. HAVE WE EVER WORKED TOGETHER
14 PREVIOUS TO THIS CASE?

15 A NO.

16 Q HAVE YOU WORKED WITH MR. DIXON PREVIOUS TO
17 THIS CASE?

18 A NO.

19 Q OKAY. WHAT DOES AN INVESTIGATIVE AUDITOR
20 DO?

21 A TYPICALLY I'M ASSIGNED TO CASES WHERE I
22 DETERMINE THE SOURCE OF FUNDS OR ASSETS AND THEN WHAT
23 HAPPENS TO THOSE ASSETS.

24 Q YOU DO THIS AS A -- ARE YOU -- WERE YOU
25 PART OF THE INVESTIGATIVE ARM OF THE DISTRICT ATTORNEY'S
26 OFFICE IN ORANGE COUNTY?

27 A YES.

28 Q OKAY. WHAT EDUCATION, TRAINING AND

1 BACKGROUND QUALIFIED YOU TO PERFORM THESE DUTIES FOR THE
2 ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE AS AN
3 INVESTIGATIVE AUDITOR?

4 A I HAD A -- HAVE A BACHELOR'S DEGREE IN
5 BUSINESS WITH A MAJOR IN ACCOUNTING. AND A MASTER'S
6 DEGREE IN SYSTEMS MANAGEMENT WITH A MAJOR IN INFORMATION
7 SYSTEMS. AND THEN I WAS A CERTIFIED PUBLIC ACCOUNTANT AS
8 WELL AS A CERTIFIED FRAUD EXAMINER AND A CERTIFIED
9 INTERNAL AUDITOR.

10 Q DURING THE COURSE -- BY THE WAY, WHEN WERE
11 YOU EMPLOYED BY THE ORANGE COUNTY DISTRICT ATTORNEY'S
12 OFFICE? WHAT WERE THE EFFECTIVE DATES?

13 A ABOUT 1990 THROUGH 1995 FULL TIME AND FOR
14 A SMALL PORTION, A VERY SMALL PORTION OF 1996.

15 Q DURING THE COURSE OF YOUR EMPLOYMENT AS AN
16 INVESTIGATIVE AUDITOR, WERE YOU EVER ASKED TO REVIEW THE
17 FINANCIAL DEALINGS OF MICHAEL GOODWIN AND HIS WIFE DIANE
18 GOODWIN?

19 A YES.

20 Q WHEN WERE YOU ASKED TO REVIEW THOSE FINAL
21 FINANCIAL DEALINGS?

22 A IT WAS IN EARLY 1992. IT MAY HAVE BEEN
23 EARLIER, BUT THAT DATE I'M FAIRLY CERTAIN OF.

24 Q ALL RIGHT. AND WHAT WAS THE GLOBAL DUTY
25 ASSIGNMENT THAT YOU WERE GIVEN? WHAT WERE YOU ASKED TO
26 DO WITH REGARD TO YOUR INVESTIGATION?

27 A I WAS ASKED TO LOOK AT FINANCIAL RECORDS
28 TO DETERMINE, AGAIN THE SOURCE OF ASSETS AND FUNDS AND

1 THE ULTIMATE DISPOSITION OF THOSE ASSETS AND FUNDS.

2 Q DOES THAT TAKE SOME LEVEL OF EXPERTISE TO
3 DO?

4 A SOME LEVEL, YES.

5 Q ALL RIGHT. AND DID YOUR TRAINING AND
6 EDUCATION QUALIFY YOU TO PERFORM SUCH INVESTIGATIVE
7 TASKS?

8 A YES.

9 Q HAVE YOU EVER TESTIFIED IN ANY CASE AS AN
10 EXPERT, AN EXPERT FORENSIC, ACCOUNTANT OR INVESTIGATIVE
11 AUDITOR IN THE PAST?

12 A YES.

13 Q HOW MANY TIMES HAVE YOU TESTIFIED IN THE
14 PAST?

15 A SEVEN.

16 Q AND EACH OF THOSE TIMES WERE YOU QUALIFIED
17 AS AN EXPERT IN THAT FIELD?

18 A YES.

19 Q AS AN EXPERT FORENSIC ACCOUNTANT OR
20 INVESTIGATIVE AUDITOR, DID YOU LOOK WITH SOME PARTICULAR
21 EYE TOWARD DURING THE INVESTIGATION OF THE GOODWINS'
22 FINANCIAL DEALINGS WITH A SPECIFIC EYE TOWARD FINDING OUT
23 WHAT HAD BEEN HAPPENING IN YEARS PAST WITH HIS FINANCIAL
24 DEALINGS OR THEIR FINANCIAL DEALINGS?

25 A YES.

26 Q ALL RIGHT. HOW FAR BACK DID YOU GO?

27 A VERY EARLY 1986.

28 Q IN 1986 -- WELL, WERE YOU ABLE TO UNCOVER

1 DOCUMENTS THAT HELPED SUPPORT YOUR INVESTIGATION OF
2 MICHAEL GOODWIN'S AND DIANE GOODWIN'S FINANCIAL DEALINGS
3 DATING ALL THE WAY BACK TO 1986?

4 A YES, MANY DOCUMENTS.

5 Q WERE YOU ABLE TO FIND DOCUMENTS FROM 1987?

6 A YES.

7 Q WERE YOU TABLE TO FIND DOCUMENTS FROM
8 1988?

9 A YES.

10 Q WHAT IS THE PROCEDURE OR THE PROCESS BY
11 WHICH YOU ARE ABLE TO GATHER DOCUMENTS AS A FORENSIC
12 ACCOUNTANT WORKING IN AN INVESTIGATIVE ARM FOR THE D.A.'S
13 OFFICE? DO YOU UNDERSTAND MY QUESTION?

14 A I BELIEVE SO. I'LL ANSWER IT AND THEN YOU
15 CAN TELL ME.

16 Q I'LL CORRECT YOU IF IT'S NOT.

17 A I'M ASSIGNED TO LOOK AT CERTAIN RECORDS,
18 FINANCIAL RECORDS AND FROM THAT I DETERMINE WHETHER OR
19 NOT ADDITIONAL RECORDS ARE REQUIRED AND I TELL THE D.A.
20 WHAT I'VE -- WHAT'S LISTED IN THE FINANCIAL RECORDS AND
21 THEN THEY MAKE THE DETERMINATION WHETHER OR NOT THEY NEED
22 ADDITIONAL RECORDS AND SEND OUT A SUBPOENA BASED ON WHAT
23 WAS IN THE ORIGINAL RECORDS.

24 Q OKAY. SO THAT'S MY QUESTION, DO YOU HAVE
25 OR DID YOU HAVE AVAILABLE TO YOU THE POWER OF SERVICE AND
26 PROCESS? IN OTHER WORDS, SUBPOENAS?

27 A I WOULD TELL THE D.A. AND THEN THEY WOULD
28 SEND OUT A SUBPOENA TO WHICHEVER INSTITUTION.

1 Q OKAY. AND IF THOSE SUBPOENAS WERE
2 COMPLIED WITH AND YOU WOULD GET EITHER CERTIFIED OR
3 OTHERWISE FINANCIAL DOCUMENTS RESPONSIVE TO THOSE
4 SUBPOENAS, CORRECT?

5 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

6 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

7 Q BY MR. JACKSON: OKAY. DID YOU GATHER
8 EITHER THROUGH THE SUBPOENA PROCESS OR SOME OTHER
9 PROCESS, DID YOU GATHER A SUBSTANTIAL NUMBER OF DOCUMENTS
10 THAT YOU HAVE LOOKED AT WITH REGARD TO MICHAEL GOODWIN'S
11 FINANCIAL DEALINGS AND DIANE GOODWIN'S FINANCIAL DEALINGS
12 FROM 1986, '87, '88?

13 A YES.

14 Q AND HOW MANY DOCUMENTS IN TOTAL WOULD YOU
15 SAY YOU REVIEWED?

16 A OH, MANY THOUSANDS. PROBABLY TENS OF
17 THOUSANDS.

18 Q OKAY. LET'S IDENTITY, START WITH NO. 1.
19 NO, I'M KIDDING. I'M GOING TO NARROW YOUR ATTENTION IF
20 YOU WOULDN'T MIND. THE REASON I SAY THAT IS BECAUSE
21 WE'VE ALL SUFFERED THROUGH ABOUT 16 OR 17 DOCUMENTS THAT
22 WE'VE HAD TO DISCUSS.

23 I'M GOING TO ASK YOU TO NARROW YOUR VIEW
24 IF YOU WILL FOR A FEW MINUTES TO THOSE 16 OR 18 DOCUMENTS
25 THAT I SHOW YOU. I HAVE A BOOK, A THREE-RING BINDER.
26 PROBABLY THE EASIEST WAY FOR ME TO DO THIS IS TO PUT
27 SOMETHING ON THE OVERHEAD AND ASK YOU IF YOU'VE REVIEWED
28 IT OR LOOKED AT IT DURING THE COURSE OF YOUR

1 INVESTIGATION.

2 LET'S JUST START WITH THE FIRST ONE AND
3 JUST WALK THROUGH THEM. MR. DIXON, IF YOU WOULDN'T MIND
4 JUST PUT THE FIRST ONE UP THERE AND THEN I'LL ASK ABOUT
5 IT.

6 SOME OF THESE ARE IN CHRONOLOGICAL ORDER
7 AND SOME ARE OTHERWISE, BUT I FIRST WANT TO ESTABLISH
8 WHETHER OR NOT YOU'VE SEEN THESE DOCUMENTS BEFORE.

9 BEFORE COMING TO COURT AND TESTIFYING
10 RIGHT NOW HAVE YOU EVER SEEN THE DOCUMENT THAT'S BEEN
11 MARKED AS PEOPLE'S 83, A WHAT PURPORTS TO BE A LETTER?

12 A I BELIEVE SO. AND I HAVE TO APOLOGIZE, I
13 MIGHT NEED TO SEE THAT UP CLOSE.

14 Q ABSOLUTELY. THIS IS PEOPLE'S 83. HAVE A
15 SEAT.

16 A YES.

17 Q ALL RIGHT. WHAT IS THE SUBJECT MATTER
18 THAT THAT LETTER DEALS WITH?

19 A THIS IS A LETTER FROM SUPERCROSS, INC.

20 Q WHO'S THE SIGNATURE ON THE LETTER?

21 A DIANE SIEDEL GOODWIN.

22 Q AND WHO DO YOU KNOW THAT TO BE?

23 A MR. GOODWIN'S WIFE.

24 Q AND BY THE WAY, HAD YOU EVER MET
25 MR. GOODWIN BEFORE?

26 A NO.

27 Q SO IF YOU -- IF I WERE TO ASK YOU JUST OFF
28 THE TOP OF MY HEAD TO LOOK AROUND THE COURTROOM AND TELL

1 ME IF YOU RECOGNIZE HIM, WOULD YOU BE ABLE TO RECOGNIZE
2 THE MAN?

3 A YES.

4 Q SO YOU WOULD?

5 A YES.

6 Q WHERE IS HE?

7 A RIGHT THERE.

8 Q HOW DO YOU KNOW THAT'S MR. GOODWIN?

9 A I'VE SEEN HIM ON TV.

10 Q OKAY. OTHER THAN THAT DID YOU EVER HAVE
11 ANY INTERPERSONAL RELATIONSHIP WITH MR. GOODWIN?

12 A NO.

13 Q OR DIANE GOODWIN?

14 A NO.

15 Q SO YOUR INVESTIGATION, HOW WOULD YOU
16 DESCRIBE THAT, PURELY PAPER OR A PERSONAL RELATIONSHIP
17 WITH THE INDIVIDUALS?

18 A PURELY PAPER.

19 Q ALL RIGHT. WHAT IS THE SUBJECT MATTER FOR
20 LACK OF A BETTER WORD OF THAT PARTICULAR LETTER?

21 A DIANE GOODWIN IS LOOKING FOR A BOAT TO
22 PURCHASE.

23 Q ALL RIGHT. DID YOU -- THAT BRINGS ME KIND
24 OF TO MY NEXT POINT AND I'M GOING TO TRY TO MAKE THIS AS
25 GLOBAL AS POSSIBLE IF YOU ALLOW ME.

26 DID YOU LOOK AT THE FINANCIAL DEALINGS, AT
27 THE GOODWINS' FINANCIAL DEALINGS SURROUNDING THE PURCHASE
28 OF A BOAT?

1 A YES.

2 MR. SUMMERS: OBJECTION, YOUR HONOR. ASSUMES
3 FACTS NOT IN EVIDENCE AS TO GOODWINS.

4 THE COURT: ALL RIGHT. REPHRASE IT PLEASE.

5 MR. JACKSON: SURE.

6 Q BY MR. JACKSON: DID YOU LOOK AT CERTAIN
7 FINANCIAL DEALINGS OF DIANE GOODWIN AS THE SIGNATORY ON
8 THE PURCHASE OF A BOAT?

9 A YES.

10 Q OKAY. AND ULTIMATELY, DID YOU MAKE A
11 DETERMINATION -- I'M NOT ASKING FOR YOUR OPINION YET --
12 BUT ULTIMATELY, DID YOU MAKE A DETERMINATION AS TO
13 WHETHER OR NOT MICHAEL GOODWIN AND DIANE GOODWIN WERE
14 ACTING TOGETHER IN LARGE PURCHASES AT THAT TIME, FOR
15 INSTANCE, IN THE PURCHASE OF A BOAT?

16 MR. SUMMERS: OBJECTION. VAGUE, YOUR HONOR, AND
17 NO FOUNDATION.

18 THE COURT: ALL RIGHT. LAY A FOUNDATION, PLEASE.

19 Q BY MR. JACKSON: DURING THE COURSE OF YOUR
20 REVIEW OF THOUSANDS OF DOCUMENTS, DID YOU LOOK AT
21 DOCUMENTS THAT WERE IN BOTH DIANE GOODWIN'S NAME AND
22 MICHAEL GOODWIN'S NAME?

23 A YES.

24 Q DID YOU FIND ACCOUNTS THAT WERE HELD IN
25 MICHAEL GOODWIN'S NAME?

26 A YES.

27 Q WERE YOU ABLE TO FOLLOW THOSE FUNDS TO
28 THEIR ULTIMATE CONCLUSION?

1 A YES.

2 Q WERE YOU ABLE TO LOOK AT OR DID YOU FIND
3 ACCOUNTS THAT WERE HELD IN DIANE GOODWIN'S NAME?

4 A YES.

5 Q WERE YOU ABLE TO FOLLOW THOSE FUNDS
6 THROUGH FORENSIC ACCOUNTING TO THEIR ULTIMATE CONCLUSION?
7 AND WHEN I SAY ULTIMATE CONCLUSION, I MEAN THE FUNDS ARE
8 SPENT OR THEY'RE USED FOR SOMETHING OR THEY END UP IN A
9 BANK SOMEWHERE?

10 A YES.

11 Q DID YOU REACH ANY DETERMINATION, MRS.
12 STEPHENS, AS TO WHETHER OR NOT SOME OR ALL OF THOSE FUNDS
13 WERE BEING USED BY ONE OR BOTH PARTIES, OR IF YOU WILL
14 ALLOW ME TO FINISH THE QUESTION, THAT ALL OF DIANE
15 GOODWIN'S FINANCIAL DEALINGS WERE SEPARATE AND APART FROM
16 MIKE GOODWIN'S DEALINGS?

17 A YES, I WAS ABLE TO MAKE A DETERMINATION.

18 Q AND WAS YOUR DETERMINATION THAT THEY WERE
19 SEPARATE OR THAT THEY WERE COMMINGLED?

20 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE AND
21 LEADING.

22 THE COURT: SUSTAINED.

23 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE
24 AND I'M TALKING GLOBALLY AND WE'LL GET TO THE DETAILS IN
25 A MINUTE, BUT GLOBALLY HOW WOULD YOU DESCRIBE MANY OF THE
26 FINANCIAL DEALINGS BETWEEN DIANE GOODWIN AND MICHAEL
27 GOODWIN INSOFAR AS THEIR FUNDS WERE CONCERNED?

28 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE.

1 CALLS FOR SPECULATION.

2 THE COURT: SEE IF YOU CAN NARROW IT DOWN.
3 SUSTAINED.

4 Q BY MR. JACKSON: IN 1986 THROUGH 1988,
5 WERE YOU ABLE TO MAKE A DETERMINATION AS TO WHETHER OR
6 NOT SOME OR ALL OF DIANE GOODWIN'S FUNDS, FUNDS IN HER
7 NAME VERSUS MICHAEL GOODWIN'S FUNDS OR FUNDS IN HIS NAME
8 WERE COMMINGLED OR WERE THEY COMPLETELY SEPARATE?

9 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE.
10 QUESTION AS TO COMMINGLING AND NO FOUNDATION.

11 THE COURT: WELL, AS TO THE VAGUENESS ASPECT
12 MAYBE YOU CAN CLARIFY THAT, MR. JACKSON.

13 Q BY MR. JACKSON: WE'LL, I'VE ASKED YOU TO
14 NARROW YOUR DETERMINATION TO THREE YEARS, 1986, 1987,
15 1988. DID YOU FIND ANY EVIDENCE WHATSOEVER THAT FUNDS
16 THAT HAD BEEN IN MICHAEL GOODWIN'S NAME ENDED UP IN DIANE
17 GOODWIN'S NAME?

18 A YES.

19 Q DID YOU FIND ANY EVIDENCE THAT DIANE
20 GOODWIN UTILIZED FUNDS FOR LARGE PURCHASES FOR INSTANCE
21 THE BOAT THAT HAD PREVIOUSLY BEEN IN MICHAEL GOODWIN'S
22 NAME OR HE HAD BEEN A SIGNATORY ON CERTAIN INVESTMENTS?

23 A YES.

24 MR. SUMMERS: OBJECTION, YOUR HONOR. FOUNDATION
25 AND IT ASSUMES FACTS NOT IN EVIDENCE.

26 THE COURT: SUSTAINED.

27 MR. SUMMERS: MOTION TO STRIKE IF THE ANSWER WAS
28 REFLECTED ON THE RECORD.

1 THE COURT: YES, THE ANSWER IS STRICKEN.

2 Q BY MR. JACKSON: WE'RE GOING TO BE HERE A
3 LITTLE WHILE. LET'S DO THIS SLOWLY. ALL RIGHT. LET'S
4 TAKE THE BOAT FIRST. OKAY.

5 WERE YOU ABLE TO ESTABLISH THROUGH YOUR
6 FORENSIC ACCOUNTING OR FORENSIC INVESTIGATION WHETHER OR
7 NOT A BOAT WAS PURCHASED BY DIANE GOODWIN?

8 A YES.

9 Q SHE WAS THE SIGNATORY ON THE LOAN
10 DOCUMENTS?

11 A YES.

12 Q LET'S TAKE THE NEXT POINT OF REFERENCE.
13 WERE YOU ABLE TO DETERMINE WHETHER OR NOT THE GOODWINS,
14 BOTH DIANE AND MIKE GOODWIN EVER SOLD A HOUSE OR
15 LIQUIDATED AN ASSET IN TERMS OF REAL ESTATE?

16 A YES.

17 Q WERE YOU EVER ABLE TO DETERMINE WHETHER OR
18 NOT CASH OR FUNDS WERE DISTRIBUTED IN THE NAME OF DIANE
19 GOODWIN FROM CERTAIN INVESTMENT PROPERTIES, SPECIFICALLY,
20 WHITEHAWK?

21 A YES.

22 Q WERE YOU ABLE TO DETERMINE WHETHER OR NOT
23 FUNDS WERE DISTRIBUTED IN DIANE GOODWIN'S NAME FROM A
24 REAL ESTATE INVESTMENT KNOWN AS DESERT INVESTORS?

25 A YES.

26 Q DID YOU EVER SEE ANY DOCUMENTATION THAT
27 INDICATED THAT MICHAEL GOODWIN WAS INVOLVED IN THE
28 WHITEHAWK OR DESERT INVESTORS TRANSACTIONS?

1 MR. SUMMERS: OBJECTION, YOUR HONOR. FOUNDATION.
2 CALLS FOR HEARSAY AND IS VAGUE.

3 MR. JACKSON: THIS IS THE FOUNDATION. I'M ASKING
4 THE FOUNDATIONAL QUESTION.

5 THE COURT: YOU CAN ANSWER IT YES OR NO, SO THE
6 OBJECTION IS OVERRULED.

7 THE WITNESS: YES.

8 Q BY MR. JACKSON: OKAY. WHAT FORM DID
9 THOSE DOCUMENTS COME IN, THE DOCUMENTS THAT INDICATED AS
10 YOU JUST STATED THAT MICHAEL GOODWIN MAY HAVE BEEN
11 INVOLVED OR WAS INVOLVED IN THOSE TRANSACTIONS?

12 A WELL, INITIALLY IN THE BANK RECORDS.

13 Q OKAY.

14 A OVER THAT TIME PERIOD OF ABOUT THREE YEARS
15 WHERE FUNDS HAD BEEN IN BOTH MR. AND MRS. GOODWIN'S NAME
16 AND THEN AT SOME POINT FUNDS MOVED OVER IN TO SOLELY
17 DIANE GOODWIN'S NAME.

18 Q OKAY.

19 A ARE YOU ASKING WHAT OTHER TYPES OF
20 RECORDS?

21 Q DID YOU EVER SEE ANY LETTERS?

22 A I SAW LETTERS, YES.

23 Q WHAT, IF ANYTHING, DID THOSE LETTERS TELL
24 YOU AS A FORENSIC INVESTIGATOR OR FORENSIC ACCOUNTANT
25 ABOUT MICHAEL GOODWIN'S INTERESTS OR HIS ACTIVITY
26 REGARDING, FOR INSTANCE, WHITEHAWK?

27 MR. SUMMERS: OBJECTION, YOUR HONOR. CALLS FOR
28 HEARSAY AND IS SPECULATION. THERE IS NO FOUNDATION.

1 THE COURT: WELL, I'M GOING TO SUSTAIN THE
2 OBJECTION AND ASK YOU TO TAKE IT STEP-BY-STEP. I THINK
3 THE --

4 MR. JACKSON: I THOUGHT I WAS.

5 THE COURT: YOU KNOW, INSTEAD OF GOING TO THE
6 OPINION OR CONCLUSION, MAYBE YOU CAN BACK UP AND --

7 MR. JACKSON: YOUR HONOR, I'VE BEEN ATTEMPTING
8 THAT AS BEST I COULD. I'M TRYING TO --

9 THE COURT: KEEP TRYING.

10 MR. JACKSON: ALL RIGHT. I'M GONNA. OH, I'M
11 GONNA. WE'LL BE HERE TWO WEEKS IF I HAVE TO.

12 Q ALL RIGHT. WHAT I'M TRYING TO GET AT
13 OVERALL, MRS. STEPHENS IS WHETHER OR NOT YOUR
14 INVESTIGATION REVEALED AS A FOUNDATIONAL MATTER THAT
15 BOTH -- THAT IN OTHER WORDS THE GOODWINS COULD BE USED IN
16 YOUR INVESTIGATION THAT DIANE GOODWIN AND MICHAEL GOODWIN
17 WERE BOTH INVOLVED IN CERTAIN TRANSACTIONS LIQUIDATING OF
18 ASSETS AND MOVING OF FUNDS?

19 MR. SUMMERS: OBJECTION, YOUR HONOR. LEADING,
20 VAGUE AND NO FOUNDATION.

21 THE COURT: IT IS LEADING.

22 MR. JACKSON: AND SHE'S AN EXPERT, YOUR HONOR.

23 THE COURT: I UNDERSTAND THAT.

24 Q BY MR. JACKSON: DID YOU DETERMINE,
25 MRS. STEPHENS, WE'LL GET THERE, DID YOU DETERMINE WHETHER
26 OR NOT DIANE GOODWIN WAS INVOLVED IN THE MOVING OF ASSETS
27 FROM THE PERIOD OF 1986 TO 1988?

28 A MOVING OF ASSETS FROM?

1 Q FROM ONE POINT TO ANOTHER, EITHER FROM AN
2 INVESTMENT TO CASH, FROM CASH TO GOLD, FROM CASH TO
3 OVERSEAS, SOMETHING LIKE THAT?

4 A YES.

5 Q DID YOU DETERMINE WHETHER OR NOT MICHAEL
6 GOODWIN HAD EVER BEEN INVOLVED IN ANY OF THOSE ASSETS
7 FROM THEIR INCEPTION?

8 MR. SUMMERS: OBJECTION TO THE TERM INVOLVEMENT,
9 YOUR HONOR.

10 THE COURT: OVERRULED. YOU CAN ANSWER THAT.

11 THE WITNESS: YES.

12 Q BY MR. JACKSON: OKAY. SO JUST A SECOND
13 AGO WHEN YOU SAID AT FIRST THAT THE GOODWINS WERE
14 INVOLVED, IS THAT WHAT YOU'RE REFERRING TO?

15 A YES.

16 Q THERE WE GO. WE'RE OFF TO A GOOD START.

17 LET'S TAKE THE SALE OF THE BOAT, FIRST OF
18 ALL. NO, I CHANGED MY MIND. LET'S TAKE THE LIQUIDATION
19 OF REAL ESTATE.

20 DID YOUR INVESTIGATION REVEAL ANYTHING
21 ABOUT THE LIQUIDATION OF A HOUSE?

22 A YES.

23 Q DESCRIBE THAT FOR ME, PLEASE.

24 MR. SUMMERS: OBJECTION, YOUR HONOR. NO
25 FOUNDATION. CALLING FOR HEARSAY.

26 THE COURT: OVERRULED. YOU CAN ANSWER.

27 THE WITNESS: I WAS ASKED TO LOOK AT ESCROW
28 DOCUMENTS REGARDING THE SALE OF MR. AND MRS. GOODWINS'

1 HOME.

2 Q BY MR. JACKSON: AND WHAT DID THOSE ESCROW
3 DOCUMENTS REVEAL TO YOU AS AN EXPERT FORENSIC ACCOUNTANT?

4 MR. SUMMERS: SAME OBJECTION, YOUR HONOR.

5 THE COURT: ALL RIGHT. WE'RE GOING TO HAVE TO
6 TAKE A BREAK AT THIS TIME. AND LET ME SPEND SOME TIME
7 WITH THE LAWYERS, LADIES AND GENTLEMEN, AND TRY TO IRON
8 THESE THINGS OUT. SO WE'LL TAKE A 15-MINUTE RECESS.
9 PLEASE DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
10 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. WE'LL SEE
11 YOU IN ABOUT 15 MINUTES, I HOPE.

12
13 (THE FOLLOWING PROCEEDINGS WERE
14 HELD IN OPEN COURT OUTSIDE THE
15 PRESENCE OF THE JURY.)

16
17 THE COURT: ALL RIGHT. ALL THE JURORS AND
18 ALTERNATES HAVE LEFT THE COURTROOM. WE STILL HAVE THE
19 WITNESS ON THE STAND AND THERE HAVE BEEN NUMEROUS
20 OBJECTIONS. I APPRECIATE THE HEADS UP SO I KNOW WHAT
21 THIS IS ABOUT. BUT LET ME START BY ASKING MR. JACKSON,
22 NO. 1, WHAT IS IT THAT YOU'RE TRYING TO GET FROM THIS
23 WITNESS IN TERMS OF AN EXPERT OPINION?

24 MR. JACKSON: YOUR HONOR, THE ULTIMATE OPINION
25 THAT I SEEK TO ELICIT IS WHETHER OR NOT IN HER EXPERT
26 OPINION AS A FORENSIC ACCOUNTANT, AS AN INVESTIGATIVE
27 AUDITOR SHE WAS ABLE TO COME TO AN OPINION AS TO WHAT
28 MICHAEL GOODWIN AND DIANE GOODWIN WERE DOING FINANCIALLY

1 FROM THE PERIOD OF 1986 TO THE SPRING OF 1988.

2 IT'S ALMOST VERBATIM THE QUESTION THAT I
3 ASKED AT THE PRELIMINARY HEARING. THERE WAS AN
4 OBJECTION. IT WAS OVERRULED. THAT'S HER ULTIMATE
5 OPINION. IT GOES TO THE WEIGHT, NOT THE ADMISSIBILITY.
6 AND IN ORDER TO RENDER THAT OPINION, I DON'T WANT TO
7 JUST -- I COULD JUST ASK HER THAT OUTRIGHT, DOES THE
8 JURORS NO GOOD. I MEAN WE'VE GOT ALL THESE DOCUMENTS
9 THAT ARE COMING INTO EVIDENCE. SHE IS CERTAINLY AN
10 EXPERT UNDER 760 -- 711 OF THE EVIDENCE CODE.

11 THIS DEALS -- I MEAN THAT WAS ONE OF THE
12 FIRST QUESTIONS I ASKED. IS THIS SOMETHING THAT THE
13 AVERAGE PERSON COULD DO, FOLLOW THESE FUNDS, SHE SAID NO.
14 SO I'M TRYING TO GET TO THAT POINT AND EVERY ONE OF THESE
15 DOCUMENTS WAS TALKED ABOUT AND DISCUSSED AT THE
16 PRELIMINARY HEARING.

17 NOW, COUNSEL, DID GIVE ME --

18 MS. SARIS: AND EXTENSIVELY OBJECTED TO.

19 MR. JACKSON: HANG ON, EXCUSE ME, COUNSEL DID
20 GIVE ME A HEADS UP AND SHE JUST -- SHE, MS. SARIS EVEN
21 THOUGH MR. SUMMERS IS LODGING THE OBJECTIONS, MS. SARIS
22 HAS SAID REPEATEDLY FOR ABOUT THE LAST YEAR, I'M GOING TO
23 OBJECT TO EVERY SINGLE QUESTION THAT COMES OUT OF YOUR
24 MOUTH WHEN KAREN STEPHENS GETS ON THE STAND.

25 AND IF THAT'S THE WAY THEY WANT TO PLAY
26 IT, THEY CAN ABSOLUTELY DO IT. BUT I'M NOT GOING TO STOP
27 ASKING THE QUESTIONS. AND I THINK THEY ARE -- I THINK
28 ALL OF THESE THINGS, THESE DOCUMENTS WHICH WERE USED BY

1 THIS WITNESS TO COME TO THE -- TO FORM THE BASIS OF HER
2 OPINION ARE ADMISSIBLE FOR THAT PURPOSE.

3 THE COURT: OKAY. SO FAR, LET ME JUST SAY THIS.
4 I'VE BEEN TROUBLED BY THE LEADING QUESTIONS. I'M NOT
5 SAYING THAT THE LEADING QUESTIONS ARE NECESSARILY
6 IMPROPER. BUT IT'S DIFFICULT FOR ME TO UNDERSTAND
7 EXACTLY WHAT YOU'RE ASKING FOR IF YOU'RE SUPPLYING THE
8 INFORMATION.

9 I MEAN I WOULD RATHER HEAR FROM THE
10 WITNESS. THE WITNESS IS CLEARLY AN EXPERT. THE WITNESS
11 CAN TESTIFY TO CERTAIN OPINIONS THAT WERE FORMED BASED ON
12 HER REVIEW OF THE THOUSANDS, TENS OF THOUSANDS OF
13 DOCUMENTS.

14 I KNOW I WOULD FEEL MORE COMFORTABLE AND I
15 THINK IT WOULD BE MORE HELPFUL IF THE QUESTIONS WERE NOT
16 SO SUGGESTIVE AND SO LEADING.

17 NOW THE OBJECTIONS THAT HAVE BEEN MADE ON
18 FOUNDATION GROUNDS UNLESS THERE'S ANY FURTHER ARGUMENT,
19 THERE IS A FOUNDATION LAID HERE. THIS IS AN EXPERT AND
20 THIS IS A PROPER SUBJECT MATTER.

21 MS. SARIS: WE'LL, MR. SUMMERS CAN ADDRESS THE
22 DIRECTION, BUT I JUST WANT TO SAY THIS ISN'T A TACTICAL
23 DECISION. THESE QUESTIONS ARE IMPROPER AND EVEN THOUGH
24 THEY WERE OVERRULED AT THE PRELIM, I BELIEVE THERE WAS A
25 LOT OF LEEWAY BEING TAKEN BECAUSE THERE WAS NO JURY.

26 THE COURT: WELL, IT DOESN'T MATTER TO ME WHETHER
27 THEY WERE MADE AND SUSTAINED OR OVERRULED. I'M NOT
28 CONCERNED WITH THAT. BUT --

1 MR. SUMMERS: WHAT MIGHT -- TO ADDRESS WHAT THE
2 COURT IS SAYING IS IN TERMS OF FOUNDATION, THE COURT HAD
3 INDICATED IN AN EARLIER PRELIM PROCEEDING THAT THE
4 FOUNDATION OBJECTION SHOULD PRECEDE A HEARSAY OBJECTION.
5 IF SHE WANTS TO SAY THAT IDENTIFY RECORDS SHE RELIED ON
6 AND THEN I BELIEVE SHE IS ALLOWED TO SAY THAT. SHE CAN
7 SAY I LOOKED AT THIS TYPE OF DOCUMENT.

8 I LOOKED AT THAT TYPE OF DOCUMENT. SHE IS
9 NOT ALLOWED WHETHER EXPERT OR ANYONE IS NOT ALLOWED TO
10 SAY HERE'S WHAT THIS DOCUMENT WHICH WE'VE NEVER BEEN
11 ALLOWED TO EXAMINE OR CROSS-EXAMINE OR KNOW WHO PREPARED
12 IT OR ANYTHING LIKE THAT, HERE'S WHAT IT SAYS AND HERE'S
13 ALL THE FACTS THAT I'M RELYING ON. THAT CLEARLY -- NO
14 WITNESS CAN DO, LET ALONE AN EXPERT.

15 SHE CAN SAY WHAT SHE RELIED ON. IF IT'S
16 PERTINENT, IF IT'S RELEVANT, SHE CAN EXPRESS AN OPINION.
17 SHE SAID THAT IT REQUIRED SOME EXPERTISE TO DO -- TO TALK
18 ABOUT WHAT SHE'S TALKING ABOUT, BUT I DON'T THINK THAT
19 NECESSARILY MEANS IT REQUIRED AN EXPERT.

20 IF THEY CAN PROVE THAT CERTAIN ASSETS WERE
21 MOVED, THEN THEY CAN PROVE THAT. AND THEY COULD -- AND
22 THEN THEY CAN ASK HER A HYPOTHETICAL ABOUT HER OPINION
23 ABOUT THE MOVEMENT OF THOSE ASSETS, BUT THEY CAN'T BACK
24 DOOR IT BY JUST SAYING, WELL, WHAT DID ALL THESE
25 DOCUMENTS SAY AND THEN WHAT'S YOUR OPINION ON IT, BECAUSE
26 IF THEY COULD PROVE IT, THEN THE JURY COULD MAKE UP ITS
27 OWN MIND ABOUT WHAT THOSE ASSETS TRANSFERS MEAN.

28 THE COURT: WELL, I'M ASSUMING THAT YOU ALL ARE

1 TALKING ABOUT DOCUMENTS THAT I DON'T HAVE. WHEN YOU'RE
2 TALKING ABOUT TENS OF THOUSANDS OF DOCUMENTS I'M ASSUMING
3 THAT THE DEFENSE HAS HAD ACCESS TO THIS INFORMATION.

4 MS. SARIS: TAKE THE REAL ESTATE ESCROW
5 INSTRUCTION, DID YOU LOOK AT, AND THE WORD LIQUIDATE IN
6 AND OF ITSELF IS ARGUMENTATIVE AND LEADING, BUT DID YOU
7 LOOK AT DOCUMENTS REGARDING THE SALE OF THE HOME. DID
8 YOU MAKE AN OPINION ABOUT THAT? THAT'S PROPER. DID YOU
9 LOOK AT AN ESCROW INSTRUCTION DATED MARCH BLANK BETWEEN
10 SO AND SO AND SO AND SO SHOWING THE FAIR MARKET VALUE OF
11 X, THAT'S INAPPROPRIATE HEARSAY BEING BACK-DOORED.

12 THE COURT: ALL RIGHT. I THINK --

13 MS. SARIS: AND IT'S A CRAWFORD VIOLATION AS
14 WELL.

15 THE COURT: I DON'T KNOW ABOUT THAT.

16 MR. JACKSON: THAT'S ABSOLUTELY NOT TRUE, JUDGE.

17 THE COURT: I THINK, AGAIN, I'LL GO BACK TO MY
18 EARLIER STATEMENT, I THINK IF YOU PHRASE THE QUESTIONS IN
19 A NONLEADING MANNER, WE'RE GOING TO GET TO A LOT OF THIS
20 INFORMATION. IT IS DIFFICULT FOR ME TO RULE ON THE
21 OBJECTION WHEN THE QUESTION IS POSED IS OBJECTIONABLE.
22 BUT I'M NOT GETTING TO THE MEAT OF THE OBJECTION OF
23 GETTING TO THE FORM OF THE QUESTION.

24 MR. JACKSON: RIGHT.

25 THE COURT: I HAVE NO PROBLEM WITH THE WITNESS
26 AND SHE'S HERE AND I'M SAYING THIS FOR HER BENEFIT AS
27 WELL. I HAVE NO PROBLEM HAVING THIS WITNESS WHO HAS
28 QUALIFIED AS AN EXPERT RENDERING OPINIONS BASED ON HER

1 REVIEW OF TENS OF THOUSANDS OF PAGES OF FINANCIAL
2 DOCUMENTS. THAT I BELIEVE IS AN APPROPRIATE AREA FOR
3 EXPERT OPINION.

4 BUT I AGREE, I THINK THE QUESTION SHOULD
5 BE PHRASED DIFFERENTLY WITHOUT CALLING FOR HEARSAY. IF
6 YOU WANT TO BRING IN SOME DOCUMENTS, TO LET THE DOCUMENTS
7 SPEAK FOR THEMSELVES, THAT'S FINE, TOO. BUT, YOU KNOW,
8 I'M HAVING TROUBLE BECAUSE THE QUESTIONS ARE SO
9 SUGGESTIVE IT'S HARD TO BREAK IT DOWN.

10 MR. JACKSON: WELL, YOUR HONOR, IN MY OWN DEFENSE
11 HOWEVER, HISTORY IS KIND OF ISN'T BEARING THAT OUT. I
12 HAVE ASKED THE OPEN-ENDED QUESTION, WHAT DID YOU CONCLUDE
13 ABOUT THE GOODWINS' FINANCIAL DEALINGS CONCERNING THE
14 BOAT. AND 93 OBJECTIONS THAT COME OUT OF TOM'S MOUTH AND
15 THAT'S FINE. HE'S ALLOWED TO OBJECT. THAT'S FINE, BUT
16 THEN WHEN THE COURT INSTRUCTS ME IN FRONT OF THE JURY,
17 MR. JACKSON, LAY A FOUNDATION. THAT'S WHEN I START
18 LEADING AND SAY, OKAY, I WANT TO DRAW YOUR ATTENTION TO
19 CHECK NO. 1365, WHATEVER, THEN I GET THE OBJECTION THAT
20 I'M LEADING, SO I'M SORT OF BETWEEN A ROCK AND A --

21 MS. SARIS: I HAVE SORT OF A SUGGESTION THAT IF
22 THE TRANSACTIONS THEY'RE SAYING BELONG TO DIANE, LET HER
23 TALK ABOUT THE TRANSACTIONS OF DIANE. IF AT THE END OF
24 ALL THAT SHE WANTS TO GIVE AN OPINION ABOUT WHETHER THESE
25 THINGS WERE WHATEVER, SHE CAN DO THAT. WE WILL CONTINUE
26 TO OBJECT SO LONG AS THE GOODWINS ARE MADE AS ONE ENTITY
27 BECAUSE THIS IS HER OPINION. THAT'S HER ULTIMATE OPINION
28 AND SHE MAY WELL HAVE A FOUNDATION FOR THAT.

1 BUT IT'S CERTAINLY NOT SOMETHING THAT YOU
2 CAN ADDRESS TALKING ABOUT EVERY SINGLE CHECK. IF YOU
3 WANT TO TALK ABOUT EVERY SINGLE CHECK, LAY IT AS DIANE
4 INITIALLY AND THEN GIVE AN OPINION ABOUT WHETHER OR NOT
5 YOU THINK THEY WERE MIXING.

6 THE COURT: THE WAY ONE OF THE QUESTIONS
7 ACCORDING TO MY NOTES WAS PHRASED HAD TO DO WITH THE
8 LIQUIDATION OF A HOUSE AND THE ESCROW INSTRUCTIONS.

9 MR. JACKSON: CORRECT.

10 THE COURT: OKAY. YOU KNOW, WHEN I SUSTAIN AN
11 OBJECTION ON FOUNDATION GROUNDS, IT'S NOT JUST BECAUSE
12 LEGALLY I THINK IT'S AN APPROPRIATE OBJECTION, BUT ALSO
13 THIS IS OF NO VALUE TO THE JURY. I MEAN UNLESS IT'S
14 CLEAR WHAT IT IS THAT'S BEING RELIED ON AND WHAT IT IS
15 THAT'S BEING INQUIRED ABOUT, IT REALLY DOESN'T HAVE MUCH
16 OF A MEANING. SO MAYBE I'M ON A DIFFERENT OR IN A
17 DIFFERENT PLACE FROM BOTH SIDES HERE.

18 I DON'T HAVE A PROBLEM WITH THE SUBJECT
19 MATTER. I DON'T HAVE A PROBLEM WITH THE EXPERTISE. BUT
20 I DO BELIEVE THAT WE NEED TO BREAK IT DOWN WITH RESPECT
21 TO WHAT DOCUMENTS OR WHAT TRANSACTIONS YOU ARE REFERRING
22 TO SPECIFICALLY AND JUST TO REFER TO THE LIQUIDATION OF A
23 HOUSE, YOU KNOW, I DON'T THINK IT'S ALL THAT CLEAR.

24 NOW I THAT AGREE THIS IS THE FASTER WAY TO
25 GO AND WE COULD BE HERE FOR MANY, MANY DAYS. BUT IN ALL
26 HONESTY --

27 MR. JACKSON: YOUR --

28 THE COURT: -- WITHOUT HAVING THE DOCUMENT AND I

1 DON'T KNOW WHAT YOU'RE REFERRING TO, I DON'T KNOW HOW
2 THIS JURY IS GOING TO BE ASSISTED BY THIS EXPERT UNLESS
3 THEY KNOW EXACTLY WHAT WE'RE TALKING ABOUT. SO I THINK
4 IF WE GO STEP-BY-STEP THAT WAY, WE WILL PERHAPS HAVE
5 FEWER OBJECTIONS. BUT AGAIN, A WITNESS CAN RELY ON
6 HEARSAY.

7 MS. SARIS: ABSOLUTELY.

8 MR. SUMMERS: CAN RELY ON IT.

9 MS. SARIS: BUT CAN'T TESTIFY TO IT.

10 THE COURT: NO, I THINK --

11 MR. JACKSON: THAT'S NOT TRUE.

12 THE COURT: I THINK THE WITNESS CAN TESTIFY TO
13 WHAT SHE REVIEWED, WHAT THE DOCUMENT WAS AND WHAT THE
14 DOCUMENT PURPORTS TO BE.

15 MR. JACKSON: AND WHAT IT MEANS TO HER.

16 THE COURT: AND WHAT HER OPINION IS WITH RESPECT
17 TO THAT DOCUMENT INSOFAR AS THE TRANSACTION REFLECTED IN
18 THE DOCUMENT IS CONCERNED.

19 MS. SARIS: THEN WE WOULD ASK BEFORE THE COURT
20 CONTINUES IN THIS VEIN OF INSTRUCTION TO THE JURY THAT
21 ANYTHING SHE SAYS REGARDING ANY DOCUMENT IS NOT TO BE
22 ESTABLISHED THE TRUTH. IN OTHER WORDS, IF HE SHOWS AN
23 ESCROW INSTRUCTIONS THAT DOESN'T ESTABLISH THAT THE HOUSE
24 WAS SOLD. IT SHOWS THAT THIS WITNESS LOOKED AT THE
25 ESCROW INSTRUCTION.

26 IF THEY WANTED TO CALL THE INDIVIDUAL THAT
27 DEALT WITH THE ESCROW, THEY COULD AND THAT WOULD LAY A
28 FOUNDATION SUCH THAT THE JURY WOULD BE PRIVY TO IT. THIS

1 WAY THEY'RE BACK-DOORING IT. THE JURY IS GETTING PRIVIED
2 INFORMATION THAT IS HEARSAY THROUGH AN EXPERT WHICH IS
3 ILLEGAL.

4 THE COURT: WELL, I'M NOT SURE THAT'S WHERE WE'RE
5 HEADED BUT I FEEL MORE COMFORTABLE MAYBE IF THE WITNESS
6 STEPPED OUTSIDE FOR A MOMENT.

7 THE WITNESS: CERTAINLY.

8 THE COURT: AND MAYBE I CAN DISCUSS THIS WITH THE
9 LAWYERS A LITTLE MORE CLEARLY BECAUSE I'M NOT REALLY
10 CLEAR.

11 THE COURT: ALL RIGHT. THE WITNESS HAS LEFT THE
12 COURTROOM. LET ME ASK THIS. THE EXHIBITS THAT WE'VE
13 MARKED SO FAR, ARE YOU PRESENTING THESE OR ARE THESE
14 EXHIBITS THAT THIS WITNESS RELIED ON, OR ARE WE TALKING
15 ABOUT DOCUMENTS THAT THE WITNESS REVIEWED THAT WE DON'T
16 HAVE HERE?

17 MR. JACKSON: NO. THESE ARE THE DOCUMENTS --
18 THAT'S WHY I SAID, I DON'T CARE ABOUT THE 7,000. I WANT
19 TO NARROW IT DOWN TO ABOUT 18 OR 20 DOCUMENTS.

20 THE COURT: OKAY.

21 MR. JACKSON: THESE, THAT'S WHY I WENT TO THE
22 PAINS OF ESTABLISHING THE FOUNDATION FOR THESE.

23 THE COURT: WELL, YOU'VE MARKED THEM AND I DON'T
24 KNOW HOW MUCH FOUNDATION WE HAVE SO FAR OTHER THAN
25 STIPULATIONS AND I WAS READING THEM. SO TO BE HONEST
26 WITH YOU, I DON'T -- I DIDN'T HAVE THE EXHIBITS IN FRONT
27 OF ME WHEN I WAS READING THESE THINGS, SO I DON'T KNOW.

28 MS. SARIS: AND WE CAN CLEAR THESE UP. THOSE ARE

1 DIANE'S CHECKS AND DIANE'S BANK AND BANK TRANSFERS AND
2 WIRES AND WE STIPULATED TO THAT AND IT'S AS IF THOSE
3 WITNESSES ARE CALLED AND LAID A FOUNDATION. WE DON'T
4 HAVE A PROBLEM WITH THOSE.

5 MR. JACKSON: CORRECT.

6 MS. SARIS: THE ESCROW INSTRUCTIONS NOW ARE
7 COMING OUT. THERE HAS BEEN NO STIPULATION. THERE'S BEEN
8 NO FOUNDATION LAID.

9 THE COURT: SHE CAN TESTIFY AS TO WHAT IT IS,
10 WHAT SHE REVIEWED. I HAVEN'T SEEN THOSE LAST TWO
11 EXHIBITS, WHAT WERE THEY? 90 --

12 MR. JACKSON: 98 AND 99.

13 THE COURT: 98 AND 99. SHE CAN CERTAINLY TESTIFY
14 TO IT. THESE ARE ESCROW INSTRUCTIONS THAT HAVE BEEN
15 OBTAINED FROM --

16 MR. JACKSON: FROM THE SALE OF THE GOODWINS'
17 HOUSE IN MARCH OF 19 -- FROM -- ACTUALLY THE ESCROW WAS
18 ENTERED IN TO IN MARCH OF 1988. THE ULTIMATE SETTLEMENT
19 STATEMENT FOR THE ALTA VISTA HOUSE WAS NOVEMBER OF 1988.

20 MS. SARIS: AND THIS HOUSE HAD BEEN ON THE MARKET
21 FOR SOME TIME. THIS ESCROW, THE IMPLICATION IS THAT HE
22 SOLD THE HOUSE IN MARCH OF '88 LICKETY SPLIT RIGHT THEN
23 AND THE PROBLEM IS THIS WITNESS HAS NO FOUNDATION FOR
24 THESE DOCUMENTS.

25 IT'S -- WHEN THE DEFENSE TRIES TO DO THIS
26 THROUGH AN EXPERT, WE'RE SHUT DOWN FASTER THAN WE CAN GET
27 THE QUESTION OUT OF OUR MOUTH. SHE CAN SAY I RELIED ON
28 DOCUMENTS REGARDING THE SALE OF A HOUSE. TO INTRODUCE

1 THE SPECIFICS OF THAT DOCUMENT IS HEARSAY.

2 THE COURT: LET ME SEE 98 AND 99, PLEASE.

3 OKAY. THESE ARE CERTIFIED DOCUMENTS.

4 MS. SARIS: I DON'T BELIEVE SO.

5 MR. JACKSON: YOU KNOW, JUDGE, I WOULD HAVE TO
6 LOOK AT THE BACK OF THEM AND SEE. FRANKLY I CAN'T
7 REMEMBER.

8 THE COURT: ALL RIGHT. I MEAN IF THESE ARE
9 CERTIFIED DOCUMENTS THAT WERE LAWFULLY OBTAINED PURSUANT
10 TO THE EVIDENCE CODE, YOU KNOW, I DON'T HAVE A PROBLEM
11 WITH THE DOCUMENT. THE WITNESS CAN TESTIFY AS TO WHAT IT
12 IS. SHE CAN RENDER AN OPINION AS TO WHAT IT PURPORTS TO
13 BE AND THE DOCUMENT ITSELF WILL SPEAK FOR ITSELF.

14 MR. SUMMERS: SHE IS NOT THE CUSTODIAN OF RECORD
15 OF THE ESCROW COMPANY. I MEAN THAT --

16 THE COURT: BUT SHE'S A QUALIFIED EXPERT WHO
17 REVIEWED THESE DOCUMENTS PURSUANT TO AN INVESTIGATION.
18 THESE DOCUMENTS THEMSELVES ARE INDEPENDENTLY, I BELIEVE,
19 COULD BE INDEPENDENTLY ADMISSIBLE AS CERTIFIED DOCUMENTS,
20 OFFICIAL DOCUMENTS AND IF THEY ARE --

21 MR. SUMMERS: THEY'RE NOT OFFICIAL DOCUMENTS.
22 THERE'S NO -- THERE'S NOTHING IN THE EVIDENCE CODE THAT
23 PROVIDES FOR CERTIFICATION OR BEING SELF-AUTHENTICATING
24 FOR DOCUMENTS FROM A PRIVATE COMPANY WHICH IS WHAT THIS
25 IS. THIS IS NOT A DEED THAT'S BEEN REGISTERED OR FILED.
26 IT'S JUST INSTRUCTIONS OF ESCROW.

27 THE COURT: SO YOU'RE DISPUTING THE AUTHENTICITY
28 OF 98 AND 99?

1 MS. SARIS: YES.

2 MR. JACKSON: AND THE CERTIFICATIONS THAT APPEAR
3 ON THE STAMPS.

4 MR. SUMMERS: AT THE VERY LEAST, I MEAN I COULD
5 WRITE A CONFESSION OUT FOR JOEY HUNTER AND SAY I CERTIFY
6 THAT THIS IS A TRUE COPY OF JOEY HUNTER'S CONFESSION AND
7 I DON'T THINK IT WOULD BE ADMISSIBLE.

8 THE COURT: WHERE WERE THESE DOCUMENTS OBTAINED?

9 MR. JACKSON: MY UNDERSTANDING IS THEY WERE
10 OBTAINED DURING THE COURSE OF THE ORIGINAL INVESTIGATION
11 FROM ORANGE COUNTY.

12 THE COURT: AND THESE WOULD BE FINANCIAL
13 INSTITUTION RECORDS, I WOULD ASSUME.

14 MS. SARIS: NO, THEY WERE FROM THE COMPANY,
15 ESCROW COMPANY, NOT THE BANK.

16 THE COURT: BUT ISN'T THE ESCROW COMPANY --

17 MR. JACKSON: THE ESCROW COMPANY IS A FINANCIAL
18 INSTITUTION.

19 THE COURT: -- A FINANCIAL INSTITUTION?

20 MS. SARIS: BUT IT'S A PRIVATE COMPANY. IT'S NOT
21 REGISTERED AS A DEED OR SOME SORT OF LAND.

22 THE COURT: WE'RE TALKING APPLES AND ORANGES
23 HERE. THE WITNESS CAN TESTIFY -- I DON'T HAVE A PROBLEM
24 WITH THE WITNESS LOOKING AT THE DOCUMENTS THAT HAVE BEEN
25 MARKED AS EXHIBITS, STATING WHAT THE DOCUMENT PURPORTS TO
26 BE. SHE'S NOT READING THE DOCUMENT AND WE CAN HAVE HER
27 RENDER AN OPINION OR STATE WHAT SHE BELIEVES THE DOCUMENT
28 REFLECTS AND THAT'S ABOUT THE EXTENT OF IT.

WHETHER OR NOT THESE DOCUMENTS COME IN AS EXHIBITS FOR THE JURY WILL BE LITIGATED LATER. BUT FOR RIGHT NOW, AS LONG AS MR. JACKSON HAS CERTAIN DOCUMENTS THAT HE IS INQUIRING ABOUT, I DON'T HAVE ANY PROBLEM WITH THAT.

MR. SUMMERS: I MEAN OBVIOUSLY HE CAN INQUIRE ABOUT ANY DOCUMENT HE WANTS, BUT -- AND THEY CAN BE MARKED. HOWEVER, WHEN SHE -- THE COURT THEN SHOULD IF, TO THAT EVENT, THE COURT SHOULD INSTRUCT THE JURY THAT IT'S NOT BEING OFFERED FOR THE TRUTH OF WHATEVER SHE STATES THE DOCUMENT PURPORTS TO BE.

WHEN THE COURT USES THE PHRASE PURPORTS, I
MEAN THAT'S IMPLIED IN THAT IS THAT, THIS IS WHAT SHE
RELIED ON AND THERE'S BEEN NO OTHER INDEPENDENT EVIDENCE
OF IT.

THE COURT: I MEAN THE OFFER OF PROOF HERE AS I UNDERSTAND IT IS THAT -- AND WE'RE DEALING WITH A BANKRUPTCY, A LAWSUIT AND AN ALLEGATION HERE THAT THE GOODWINS, MR. GOODWIN WAS ENGAGED IN IN TRANSFERRING OF ASSETS TO AVOID, I THINK THE ARGUMENT IS, TO AVOID HAVING TO PAY A SUBSTANTIAL JUDGMENT, AND THIS WITNESS IS COMPETENT TO TESTIFY TO WHETHER OR NOT SHE BELIEVES BASED ON HER REVIEW OF THESE DOCUMENTS, WHETHER OR NOT THAT IS WHAT OCCURRED.

AND YOU CAN CHALLENGE THAT OPINION OR NOT
CHALLENGE THE OPINION. THE DOCUMENTS WILL SPEAK FOR
THEMSELVES. BUT I THINK IT'S A PROPER AREA OF INQUIRY
AND PROPER SUBJECT MATTER FOR AN EXPERT.

1 MR. SUMMERS: I AGREE WITH EVERYTHING YOU SAID
2 UNTIL YOU SAID THE DOCUMENT SPEAKS FOR THEMSELVES. I
3 THINK SHE CAN SAY WHAT SHE RELIED ON AND IDENTIFY IT BUT
4 SHE CAN'T -- AND THE JURY CAN'T BE LEFT WITH THE
5 IMPRESSION THAT THESE ARE ESTABLISHED AS COMPETENT
6 EVIDENCE BECAUSE THEY'RE NOT.

7 I MEAN THEY'RE JUST -- THEY'RE NOT
8 SELF-AUTHENTICATING. THEY'RE NOT BROUGHT IN THROUGH AS
9 BUSINESS RECORDS. THEY'RE NOT EVEN -- WE DON'T EVEN HAVE
10 ANY AFFIDAVIT. IF THEY WERE SUBPOENAED, WE HAVE NOTHING
11 FROM THE INSTITUTION.

12 THE COURT: BUT THAT, THAT GOES TO THE ISSUE OF
13 WHETHER OR NOT THESE ARE ADMISSIBLE, NOT WHETHER OR NOT
14 SHE CAN TESTIFY TO THEM. SHE CAN CERTAINLY TESTIFY TO
15 THEM. SHE CAN LOOK AT THEM. SHE CAN IDENTIFY THEM. SHE
16 CAN STATE WHETHER OR NOT SHE'S SEEN THEM BEFORE.

17 MR. JACKSON: RIGHT.

18 THE COURT: AND SHE CAN RENDER AN OPINION AS TO
19 WHAT THEY PURPORTS TO BE. AND THAT'S IT. THE DOCUMENTS
20 WHETHER THEY COME IN OR DON'T COME IN IS A SEPARATE ISSUE
21 THAT WE WILL DEAL WITH AT A LATER TIME. SHE'S NOT
22 READING THE DOCUMENT TO THE JURORS. SO --

23 MS. SARIS: WELL, THAT IS OUR CONCERN, THE
24 CONTENTS OF THESE DOCUMENTS NOT BEING OFFERED FOR THE
25 TRUTH THROUGH THE BACK DOOR.

26 THE COURT: WELL, I DON'T HAVE A PROBLEM WITH THE
27 DOCUMENTS BEING DESCRIBED BY THE WITNESS.

28 MR. SUMMERS: IN WHAT --

1 THE COURT: ALL RIGHT. LET'S TAKE A BRIEF BREAK.

2 (BRIEF RECESS.)

3 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
4 RECORD. MR. GOODWIN IS HERE WITH COUNSEL, THE PEOPLE
5 WERE REPRESENTED AND BEFORE WE BRING THE JURORS IN. YES.

6 MR. JACKSON: YOUR HONOR, THERE'S TWO LETTERS,
7 ONE IS DATED NOVEMBER OF 1986. IT PURPORTS TO BE A
8 LETTER FROM MICHAEL GOODWIN. IT BEARS WHAT APPEARS TO BE
9 HIS SIGNATURE.

10 NEITHER OF THESE LETTERS ARE OFFERED FOR
11 THE TRUTH OF THE MATTER ASSERTED, BUT AS TO THE -- AS TO
12 THE BASIS OF THE EXPERT'S OPINION SHE REVIEWED BOTH OF
13 THESE LETTERS IN DETERMINING THAT THERE WAS A KIND OF A
14 SYSTEMATIC APPROACH TO COMMINGLING FUNDS. ONE OF THE
15 LETTERS STATES BECAUSE OF THOMPSON, IT'S ABOUT A LOAN.
16 IT HAS NOTHING TO DO WITH WHAT WE'RE TALKING ABOUT HERE
17 BUT ABOUT ANOTHER LOAN.

18 BECAUSE OF THOMPSON YOU SHOULD OFFICIALLY
19 LOAN IT TO DIANE, BUT I'LL COSIGN. THAT QUOTE IS
20 SOMETHING THAT THE EXPERT TOOK IN TO CONSIDERATION
21 IN FORMING HER OPINION.

22 THE SECOND IS A LETTER DATED APRIL OF 1988
23 TO RICHARD KROTZ. RICHARD KROTZ WAS THE PALM DESERT OR
24 DESERT INVESTORS KIND OF HEAD HONCHO. AND IT'S A
25 DETAILED LETTER FROM MICHAEL -- SIGNED BY MICHAEL GOODWIN
26 AND DIANE GOODWIN AND IT STARTS OUT: DEAR DICK. OUR
27 FINANCIAL SITUATION CONTINUES TO DETERIORATE. WE NEED
28 GET OUT. BASICALLY WE NEED TO GET OUT OF DESERT

1 INVESTORS. I WANT MY \$215,000 AND THAT'S ALL THERE IS TO
2 IT.

3 AND THE LAST PARAGRAPH SAYS, DIANE IS
4 AWARE THAT WE WANT TO SELL HER INTEREST BUT PLEASE DO NOT
5 DISCUSS THE DETAILS WITH HER AS I AM HANDLING THIS.
6 THAT'S MIKE GOODWIN TALKING ABOUT WHAT WAS THE DESERT
7 INVESTORS INVESTMENT THAT'S IN DIANE GOODWIN'S NAME BUT
8 MICHAEL GOODWIN IS SAYING I'M DEALING WITH IT. I'M
9 HANDLING IT. DON'T EVEN DISCUSS IT WITH HER AND AGAIN,
10 THE EXPERT TOOK THAT LETTER INTO CONSIDERATION IN FORMING
11 HER OPINION.

12 MS. SARIS: AND THE PROPER BASIS FOR THAT WOULD
13 BE: DID YOU LOOK AT A LETTER BETWEEN AL ARMISTON AND
14 MICHAEL GOODWIN, YES. DID THAT HELP FORM YOUR OPINION?
15 YES. WHAT DID THE LETTER SAY? THAT'S OFFERED FOR THE
16 TRUTH. PLAIN AND SIMPLE, INADMISSIBLE.

17 THE COURT: ALL RIGHT.

18 MS. SARIS: THE LETTER -- THE DATE ON THE LETTER
19 TO WHO IT WAS, FINE, BUT THESE QUOTES THAT HE'S READING
20 PURE INADMISSIBLE HEARSAY.

21 MR. JACKSON: YOUR HONOR, THAT IS ABSOLUTELY 100
22 PERCENT INCORRECT. I MEAN THERE'S NO OTHER WAY TO PUT
23 IT.

24 THE COURT: LET ME JUST SAY THIS. RIGHT NOW,
25 THERE HAS BEEN NO EVIDENCE ADMITTED, RIGHT? YOU COULD GO
26 AHEAD AND MARK WHATEVER YOU WANT AS AN EXHIBIT AND YOU
27 CAN REFER TO IT AND THE ADMISSIBILITY OF THAT EXHIBIT
28 WILL BE DETERMINED LATER.

1 MS. SARIS: BUT ONCE IT'S READ TO THE JURY WE
2 CAN'T TAKE THAT BACK.

3 THE COURT: IT SHOULD NOT BE READ TO THE JURY.

4 MR. JACKSON: WELL, THE --

5 THE COURT: THE DOCUMENT CAN BE IDENTIFIED AND
6 MARKED AS AN EXHIBIT, SHOWN TO THE WITNESS, BUT SHE CAN'T
7 READ THE DOCUMENT TO THE JURY.

8 MR. JACKSON: SHE CAN ABSOLUTELY READ REITERATE
9 TO THE JURY WHAT IT IS THAT'S HELPING HER FORM THE BASIS
10 OF HER OPINION. THERE'S A STATEMENT THAT PURPORTS TO BE
11 FROM MICHAEL GOODWIN THAT'S SAYING, DON'T TALK TO DIANE
12 ABOUT THIS, DEAL ONLY WITH ME.

13 THE COURT: YES.

14 MR. JACKSON: I MEAN OTHERWISE --

15 THE COURT: IF THE QUESTION IS WHAT IS YOUR
16 OPINION AND WHAT IS YOUR OPINION BASED ON, YES, SHE CAN
17 SAY THAT. AND AT THAT POINT IF SHE'S QUOTING FROM A
18 DOCUMENT, I CAN TELL HER THAT THIS IS BEING USED TO
19 SUPPORT HER OPINION OR TO EXPLAIN HER OPINION. IT'S NOT
20 COMING IN FOR THE TRUTH.

21 MR. JACKSON: ABSOLUTELY.

22 THE COURT: WHETHER OR NOT THE LETTER COMES IN
23 LATER FOR THE TRUTH OF WHAT'S IN IT, I'M NOT GETTING TO
24 TODAY. SO --

25 MR. JACKSON: JUDGE, I HAVE --

26 MS. SARIS: WELL, THIS IS IMPORTANT ENOUGH AND I
27 KNOW THIS TO BE THE CORRECT LAW BECAUSE I TRIED TO DO
28 THIS IN MY LAST TRIAL WITH AN EXPERT AND THE DISTRICT

1 ATTORNEY'S WENT CRAZY HAVING THEM READ THE CONTENT OF A
2 PARTICULAR REPORT AND WE WERE ACCUSED OF BEING -- OF
3 TRYING TO GET HEARSAY THROUGH THE BACK DOOR.

4 THIS IS HEARSAY. THERE'S NO RELEVANCE OF
5 IT IF IT'S NOT OFFERED FOR THE TRUTH. THERE'S NO
6 EXCEPTION. THERE'S NO FOUNDATION FOR THE LETTER.
7 THERE'S NO AUTHENTICATION OF THE LETTER. HER OPINION IS
8 BASED ON I READ A LETTER BETWEEN MICHAEL AND THE BANK AND
9 I FORMED THIS CONCLUSION.

10 QUOTING THE LETTER IS INAPPROPRIATE EVEN
11 IF THERE'S A LIMITING INSTRUCTION. AND IF THE COURT
12 DISAGREES, I'D ASK US TO TAKE A BREAK UNTIL MORNING
13 BECAUSE THIS IS THE ONE AREA WHERE I'M CERTAIN THE CASE
14 LAW AGREES, YOU SIMPLY CANNOT GET IN HEARSAY THROUGH THE
15 BACK DOOR, AND IN THIS PARTICULAR CASE THE STATEMENT THAT
16 HE'S MAKING ARE SO DAMAGING AS TO THE JURY COULD
17 MISINTERPRET WHY THESE STATEMENTS ARE BEING MADE BECAUSE
18 IT HAS NO RELEVANCE IF IT'S NOT FOR THE TRUTH.

19 THE COURT: WELL, YOU'RE TALKING ABOUT TWO
20 DIFFERENT THINGS HERE. BECAUSE THE STATEMENTS MAY BE
21 ADMISSIBLE AS ADMISSIONS ON THE PART OF YOUR CLIENT. SO
22 TO SAY THAT --

23 MS. SARIS: IF IT'S AUTHENTICATED AND THERE'S
24 FOUNDATION.

25 THE COURT: AND TO SAY THAT THEY'RE INADMISSIBLE
26 HEARSAY AT THIS POINT IS GETTING AHEAD OF OURSELVES. I'M
27 NOT PREPARED TO MAKE THAT DETERMINATION RIGHT NOW.
28 THAT'S WHY I SAID THAT COUNSEL CAN HAVE THE WITNESS REFER

1 TO EXHIBITS, HE CAN MARK WHATEVER EXHIBITS HE WANTS AND
2 THE ADMISSIBILITY OF THOSE EXHIBITS WILL BE DETERMINED
3 LATER. WE'RE NOT GOING TO MAKE THOSE DETERMINATIONS
4 TODAY.

5 IF THE WITNESS IS GOING TO READ FROM ANY
6 PORTION OF THE DOCUMENT AND THE PORTION IS READ BECAUSE
7 IT EXPLAINS WHAT HER OPINION IS BASED ON, I WOULD
8 ADMONISH THE JURY IF YOU SO REQUEST THAT THIS IS NOT
9 COMING IN FOR THE TRUTH. IT'S COMING IN SIMPLY TO SHOW
10 WHAT IT IS THAT THE WITNESS OR THE EXPERT RELIED ON IN
11 RENDERING HER OPINION.

12 THAT'S THE WAY WE'RE GOING TO HANDLE IT
13 AND I'M NOT GOING TO INTERRUPT THESE PROCEEDINGS AND GET
14 INTO A DISCUSSION ABOUT THE ADMISSIBILITY OF THE
15 DOCUMENTS.

16 SO LET'S PROCEED. YOU CAN MAKE YOUR
17 OBJECTIONS. THE PEOPLE CAN MARK THEIR EXHIBITS AND WHEN
18 WE'RE NOT WORKING ON THE JURY'S TIME, WE'LL DEAL WITH THE
19 ADMISSIBILITY OF THOSE EXHIBITS.

20 MS. SARIS: WELL, AGAIN, OUR MAIN CONCERN --
21 WHILE WE'RE APPRECIATIVE OF THE JURY'S TIME -- IS
22 MR. GOODWIN'S DUE PROCESS RIGHT. AND IF THE COURT IS
23 GOING TO ALLOW THIS WITNESS TO READ FROM THESE LETTERS
24 WHICH ARE UNAUTHENTICATED, LACKING FOUNDATION, PURE
25 HEARSAY, THEN WE WOULD ASK TO TAKE A BREAK TODAY.

26 THE COURT: YOU'RE MISUNDERSTANDING WHAT I'M
27 SAYING. I DON'T THINK THE WITNESS IS GOING TO BE
28 PRESENTED WITH A LETTER AND ASKED TO READ IT TO THE JURY.

1 MS. SARIS: I DO. AND I BELIEVE THAT TO BE THE
2 CASE.

3 THE COURT: WELL, THAT'S NOT WHAT I'VE HEARD.
4 WHAT MR. JACKSON HAS INDICATED TO ME IS THAT THIS IS A
5 DOCUMENT THAT SHE LOOKED AT AND SHE RENDERED AN OPINION
6 BASED ON HER REVIEW OF ALL THE DOCUMENTS.

7 AND WHEN THE QUESTION IS POSED AND WHAT IS
8 YOUR OPINION AND THEN WHAT IS YOUR OPINION BASED ON, SHE
9 CAN RELATE TO THE JURY INFORMATION THAT SHE RECEIVED
10 WHETHER IT'S ADMISSIBLE OR INADMISSIBLE. IF IT'S
11 INADMISSIBLE, IT'S HEARSAY. AT THIS POINT, I WILL
12 ADMONISH THE JURY. THAT'S THE WAY WE'RE GOING TO HANDLE
13 IT.

14 MR. JACKSON: THAT'S FINE. AND I DON'T
15 NECESSARILY HAVE ANY INTENT ON INTRODUCING THESE INTO
16 EVIDENCE. I'LL MARK THEM FOR IDENTIFICATION, ASK HER IF
17 SHE RELIED ON THEM WITHOUT ASKING HER TO QUOTE FROM THEM
18 AND THEN ULTIMATELY WHEN SHE GETS TO THE BASIS OF HER
19 OPINION, I MAY ASK HER DID YOU ALSO RELY ON THESE TWO
20 LETTERS? AND IF SHE SAYS, YES, I'LL ASK HER IN WHAT WAY?
21 HOW DID THAT HELP YOU AND THAT'S AS FAR AS I WANT TO GO.

22 THE COURT: AND THEN ON CROSS-EXAMINATION, THE
23 QUESTIONS CAN BE POSED TO TEST THE AUTHENTICITY OF THE
24 DOCUMENT RELIED ON.

25 MR. SUMMERS: YOUR HONOR, WE'RE NOT CONTESTING
26 THAT SHE DIDN'T LOOK AT ENOUGH RECORDS.

27 THE COURT: I KNOW.

28 MR. SUMMERS: SO TO BRING OUT THESE TWO

1 PARTICULAR LETTERS THAT DON'T CALL FOR ANY EXPERTISE TO
2 TRY AND INTERPRET ANYTHING FROM THEM.

3 THE COURT: THAT'S NOT WHAT THEY'RE BEING OFFERED
4 FOR THOUGH. WHAT I'VE BEEN TOLD HERE IS THAT SHE'S GOING
5 TO BE ASKED TO EXPLAIN WHAT SHE RELIED ON. AND WHAT HER
6 OPINION IS BASED ON. SHE CAN TESTIFY TO THAT WHETHER
7 IT'S ADMISSIBLE OR INADMISSIBLE.

8 MR. SUMMERS: SHE CAN RELY ON IT, SHE CAN'T
9 TESTIFY TO THE DETAILS. THAT'S EXACTLY WHAT THE CASE
10 THAT I CITED TO THE COURT SAYS.

11 THE COURT: SHE CAN CERTAINLY TESTIFY AS TO ANY
12 MATTER UPON WHICH SHE RELIED AND SHE CAN EXPLAIN WHAT SHE
13 BASED HER OPINION ON. THE COURT WILL ADMONISH THE JURY
14 IF THAT'S WHAT YOU'RE ASKING AND I WILL ADMONISH THEM.

15 MR. SUMMERS: WELL, WE'RE CERTAINLY ASKING FOR
16 THAT. IF THE COURT IS GOING TO ALLOW ANY PORTION OF
17 ANY -- ANY OF THE LETTER OR ANY OF THE DOCUMENT TO BE
18 READ INTO EVIDENCE.

19 THE COURT: OKAY. LET'S GET THE JURY IN.

20
21 (THE JURY ENTERED THE COURTROOM
22 AND THE FOLLOWING PROCEEDINGS WERE
23 HELD IN OPEN COURT.)
24

25 THE COURT: ALL THE JURORS AND ALTERNATES ARE
26 ONCE AGAIN PRESENT. THE PARTIES ARE PRESENT, THE WITNESS
27 IS MISS KINGDON IS STILL ON THE WITNESS STAND. YOU'RE
28 REMINDED THAT YOU'RE STILL UNDER OATH. PLEASE STATE YOUR

1 NAME FOR THE RECORD AGAIN.

2 THE WITNESS: KAREN-STEPHENS KINGDON.

3 THE COURT: THANK YOU.

4 YOU MAY CONTINUE, MR. JACKSON.

5 MR. JACKSON: THANK YOU, YOUR HONOR.

6 Q MRS. STEPHENS, HOW MANY OVER THE COURSE OF
7 THE TIME THAT YOU WERE INVESTIGATING THIS FINANCIAL --
8 THESE FINANCIAL DEALINGS, HOW MANY DOCUMENTS WOULD YOU
9 SAY IN TOTAL YOU LOOKED AT OR REVIEWED?

10 A I LOOKED AT ABOUT 7,000 CHECKS AND MANY
11 OTHER -- PROBABLY IN THE THOUSANDS OF OTHER FINANCIAL
12 RECORDS.

13 Q DESCRIBE SOME OF THOSE OTHER FINANCIAL
14 RECORDS THAT YOU MIGHT HAVE LOOKED AT.

15 A CASHIER'S CHECKS, FINANCIAL STATEMENTS,
16 TAX RETURNS, BANKRUPTCY COURT LIST.

17 Q DID YOU EVER LOOK AT ANY LETTERS?

18 A LETTERS, LOTS OF LETTERS.

19 Q CORRESPONDENCE?

20 A CORRESPONDENCE, YES.

21 Q ANYTHING ELSE?

22 A PROBABLY MANY THINGS. SPECIFICALLY I
23 CAN'T THINK OFF THE TOP OF MY HEAD.

24 Q OKAY. BASED ON YOUR REVIEW OF ALL OF
25 THOSE DOCUMENTS OVER THE COURSE OF YOUR INVESTIGATION,
26 DID YOU COME TO ANY CONCLUSIONS ABOUT THE CHARACTER OR
27 NATURE OF THE FUNDS BETWEEN MICHAEL GOODWIN AND DIANE
28 GOODWIN?

1 A YES.

2 Q WHAT WERE THOSE CONCLUSIONS?

3 A IN LOOKING AT THE FINANCIAL RECORDS, IT
4 APPEARED THAT IN ABOUT 1986, EARLY 1986 FUNDS AND ASSETS
5 WERE IN BOTH MR. AND MRS. GOODWINS' NAME AND THEN ABOUT
6 THE FIRST QUARTER OF 1986 FUNDS STARTED TO -- AND ASSETS
7 BEGAN TO GO STRICTLY INTO MRS. GOODWIN'S NAME ALONE.

8 Q AND WHAT DID THAT TELL YOU?

9 MR. SUMMERS: OBJECTION. VAGUE, YOUR HONOR.

10 THE COURT: ALL RIGHT. SUSTAINED.

11 Q BY MR. JACKSON: DID THAT -- DID THAT
12 OPINION ASSIST YOU IN FURTHER INVESTIGATING WHAT WAS
13 GOING ON IN SAY LATER YEARS? YOU MENTIONED EARLY 1986.
14 I'M TALKING ABOUT MAYBE 1987 OR '88 DID THAT ASSIST YOU
15 IN ANY WAY?

16 A YES.

17 Q AND DID YOU LOOK AT OTHER TRANSACTIONS
18 THAT WENT ON IN 1987 AND 1988?

19 A YES, I DID.

20 Q SPECIFICALLY CONCERNING 1988, I WANT TO
21 TRY AND PUSH THE TIME WHEEL FORWARD JUST A LITTLE BIT.
22 DID YOU REVIEW TRANSACTIONS CONCERNING A BOAT?

23 A YES, I DID.

24 Q TAKE A LOOK AT WHAT'S BEEN MARKED AS
25 PEOPLE'S 100. YOU SEE THE P-100 ON THE UPPER RIGHT-HAND
26 CORNER?

27 A UH-HUH.

28 Q TAKE JUST A SECOND, IF YOU WILL, AT YOUR

1 LEISURE AND TAKE A LOOK -- I'M MORE INTERESTED IN THE
2 ACTUAL DOCUMENTS, NOT OF THE PHOTOGRAPHS OF THE ACTUAL
3 DOCUMENTS ON THIS PAGE AND TELL ME IF YOU RECOGNIZE THOSE
4 DOCUMENTS AS SOMETHING YOU'VE SEEN BEFORE?

5 A YES, I'VE SEEN THESE.

6 Q HOW DO YOU RECOGNIZE THOSE DOCUMENTS?

7 A THESE DOCUMENTS WERE PART OF A BANK LOAN
8 FILE FOR A BOAT.

9 Q AND HOW DID THEY RELATE TO YOUR
10 INVESTIGATION, THOSE DOCUMENTS?

11 A IN LOOKING AT THE FINANCIAL TRANSACTIONS,
12 MRS. GOODWIN HAD FUNDS IN HER NAME THAT WERE USED TO
13 PURCHASE THE YACHT.

14 Q AT THE TIME, MRS. STEPHENS, THAT -- WHAT
15 IS -- WHAT'S THE TIME FRAME SURROUNDING THE PURCHASE OF
16 THE YACHT ACCORDING TO YOUR REVIEW OF THE DOCUMENTS?

17 A IN ABOUT JANUARY 1988 THERE'S -- HERE FOR
18 INSTANCE A CHECK FOR A DEPOSIT ON THE BOAT. AND THEN IN
19 APRIL 28TH, 1988 IT LOOKS LIKE DIANE GOODWIN TOOK
20 POSSESSION OF THE BOAT.

21 Q ALL RIGHT. IS THERE A -- DO YOU SEE A
22 CHECK FOR A DEPOSIT OR A DOWN PAYMENT IF YOU WILL?

23 A YES, I DO.

24 Q WHAT'S THE DATE ON THAT CHECK?

25 A JANUARY 20TH, 1988.

26 Q ALL RIGHT. IS THAT WHAT YOU'RE TALKING
27 ABOUT WHEN YOU SAY BEGINNING ABOUT JANUARY 1988?

28 A YES.

1 Q OKAY. AND ULTIMATELY THE BOAT LOAN WAS
2 CULMINATED OR THE BOAT TRANSFER WAS CULMINATED WHEN
3 ACCORDING TO YOUR INVESTIGATION?

4 A I BELIEVE IT'S APRIL 28, 1988.

5 Q IS -- ARE ANY OF THESE DOCUMENTS IN
6 MICHAEL GOODWIN'S NAME?

7 A NO.

8 Q AT THE TIME DURING THE TIME FRAME OF THIS
9 TRANSACTION FROM SAY JANUARY UNTIL APRIL OF 1988, WHAT
10 WAS THE NATURE AND CHARACTER OF THE FUNDS BETWEEN MICHAEL
11 GOODWIN AND DIANE GOODWIN?

12 A BY THAT POINT, ALMOST ALL OF THEIR FUNDS
13 HAD BEEN MOVED INTO MRS. GOODWIN'S NAME.

14 Q ALL RIGHT. HAVE YOU EVER HEARD THE TERM
15 AS A FORENSIC ACCOUNTANT COMMINGLING?

16 A YES.

17 Q WHAT DOES COMMINGLING MEAN?

18 A PUTTING IT TOGETHER IN A BIG POT.

19 Q IS THAT A TERM OF ART FOR FORENSIC
20 ACCOUNTANTS OR ACCOUNTANTS IN GENERAL?

21 A IT CAN BE.

22 Q NOT THE POT PART BUT THE COMMINGLING PART?

23 A YES.

24 Q ALL RIGHT. DESCRIBE AS BEST YOU CAN WHAT
25 IT MEANS TO COMMINGLE FUNDS IN GENERAL?

26 A WELL, FOR INSTANCE WITH A MARRIED COUPLE,
27 IT'S PUTTING EARNINGS AND INCOME INTO A JOINT BANK
28 ACCOUNT, SHARING EXPENSES, COMBINING INCOME.

1 Q IS IT YOUR EXPERT OPINION -- WHAT IS YOUR
2 EXPERT OPINION WITH REGARD TO WHETHER OR NOT MICHAEL AND
3 DIANE GOODWIN AS OF SAY JANUARY OF 1988 WERE COMMINGLING
4 THEIR FUNDS?

5 A YES.

6 Q TELL ME WHAT THAT OPINION IS, THAT THEY
7 WERE.

8 A OH, YES.

9 Q AND WHAT DO YOU BASE THAT OPINION ON?

10 A WHEN I FIRST LOOKED AT THE RECORDS, I SAW
11 TAX RETURNS FILED JOINT TAX RETURNS FOR SEVERAL YEARS,
12 ALL THE BANKING DOCUMENTS HAD BOTH MR. GOODWIN AND
13 MRS. GOODWIN'S NAME ON THEM. AND AS I SAID BEFORE, THEY
14 ALL THEN EVENTUALLY WENT INTO DIANE GOODWIN'S NAME BASED
15 ON LETTERS, FINANCIAL RECORDS.

16 Q I HAVE TWO DOCUMENTS THAT I'D LIKE TO HAVE
17 MARKED AS PEOPLE'S NEXT IN ORDER, YOUR HONOR, PEOPLE'S
18 102 AND 103.

19 THE COURT: SO MARKED.

20 MR. JACKSON: THANK YOU. THESE HAVE BEEN SHOWN
21 TO DEFENSE COUNSEL. MAY I APPROACH?

22 THE COURT: YES.

23 Q BY MR. JACKSON: YOU SAID THAT YOU LOOKED
24 AT LETTERS. I WANT YOU TO TAKE A LOOK AT TWO LETTERS AND
25 I WANT YOU TO READ TO YOURSELF THE HIGHLIGHTED PORTION OF
26 THESE LETTERS STARTING WITH 102 AND 103, THE SECOND.

27 A I'VE READ THEM.

28 Q OKAY. DO YOU REMEMBER -- HAVE YOU EVER

1 SEEN THESE LETTERS BEFORE?

2 A YES, I HAVE.

3 Q DID THESE IN ANY WAY ASSIST YOU IN FORMING
4 THE BASIS OF YOUR OPINION THAT FUNDS WERE BEING
5 COMMINGLED BETWEEN MICHAEL GOODWIN AND DIANE GOODWIN?

6 A YES.

7 Q ALL RIGHT. IF FUNDS WERE COMMINGLED,
8 ACCORDING TO YOUR TESTIMONY, AS OF JANUARY OF 1988, WHAT
9 DOES THAT TELL YOU, IF ANYTHING, ABOUT MICHAEL GOODWIN'S
10 INTEREST IN THE BOAT TRANSACTION IF YOU WILL?

11 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE.

12 THE COURT: OVERRULED.

13 Q BY MR. JACKSON: GO AHEAD.

14 A WHAT I SAW WAS THAT EVEN THOUGH THIS BOAT
15 WAS IN DIANE GOODWIN'S NAME, THAT IT HAD BEEN PURCHASED
16 WITH FUNDS THAT HAD BEEN COMMINGLED FOR SO MANY YEARS
17 THAT THIS BOAT PURCHASE WAS FOR BOTH MR. AND MRS.
18 GOODWIN.

19 Q ALL RIGHT. TAKE A LOOK AND I'M GOING TO
20 BE REAL BRIEF ABOUT THIS. TAKE A LOOK AT WHAT'S BEEN
21 MARKED AS PEOPLE'S 98 AND 99 AND TELL ME IF YOU RECOGNIZE
22 THOSE TWO DOCUMENTS.

23 A YES, I DO.

24 Q WITHOUT READING VERBATIM FROM THE
25 DOCUMENTS, WHAT DOES 19 -- I'M SORRY, 1998 -- WHAT DOES
26 PEOPLE'S 98 PURPORT TO BE?

27 A THIS IS AN ESCROW, ESCROW INSTRUCTIONS
28 FROM SOUTH COAST ESCROW REGARDING THE SALE OF A HOME AT

1 667 ALTA VISTA WAY IN LAGUNA BEACH.

2 Q DURING THE COURSE OF YOUR INVESTIGATION
3 DID YOU EVER SEE THOSE ESCROW INSTRUCTIONS?

4 A YES.

5 Q ALL RIGHT. DID THEY PLAY ANY PART IN YOUR
6 DETERMINATION CONCERNING THE COMMINGLING OF FUNDS?

7 A YES.

8 Q TAKE A LOOK AT PEOPLE'S 99, TELL ME IF YOU
9 RECOGNIZE THAT DOCUMENT.

10 A YES, I DO.

11 Q WHAT IS THAT?

12 A THIS IS A SETTLEMENT STATEMENT ON THE SALE
13 OF A HOME THAT WAS SOLD BY MICHAEL GOODWIN AND DIANE
14 GOODWIN.

15 Q AND DID THAT PLAY ANY PART IN YOUR
16 ULTIMATE OPINION CONCERNING THE COMMINGLING OF FUNDS
17 BETWEEN MICHAEL AND DIANE GOODWIN?

18 A YES.

19 Q HOW DID THOSE TWO DOCUMENTS PLAY INTO YOUR
20 OPINION?

21 A MR. AND MRS. GOODWIN PURCHASED THIS HOME
22 TOGETHER, LIVED IN THE HOME TOGETHER, REPORTED IT ON
23 THEIR INCOME TAX RETURNS FOR THE YEARS THAT I SAW AND IT
24 APPEARED TO BE PURCHASED WITH COMMINGLED ASSETS.

25 Q OKAY. WHEN YOU SELL A HOME, IS THERE A
26 PARTICULAR TERM OF ART THAT GOES ALONG WITH OR WHEN YOU
27 SELL A PIECE OF REAL ESTATE OR AN INVESTMENT AND TURN IT
28 INTO CASH, IS THERE A TERM OF ART THAT GOES ALONG WITH

1 THAT?

2 A PROBABLY SEVERAL.

3 Q OKAY.

4 A AS IN LIQUIDATING.

5 Q THAT'S MY QUESTION. I USED THAT WORD A
6 LITTLE BIT EARLIER AND I PROBABLY USED IT OUT OF TURN AND
7 I WASN'T A -- I'M NOT AS GOOD AT THE ACCOUNTING STUFF AS
8 YOU ARE.

9 WHAT DOES LIQUIDATING MEAN? WHAT DOES
10 THAT TERM OF ART MEAN?

11 A IN GENERAL, TO TAKE A HARD PHYSICAL ASSET
12 IN THIS CASE AND CONVERT IT INTO CASH.

13 Q OKAY. WHAT ABOUT INVESTMENTS, DOES THE
14 TERM LIQUIDATE HAVE ANYTHING TO DO WITH INVESTMENTS?

15 A YES, ALONG THE SAME LINES, TAKING AN
16 INVESTMENT AND SELLING IT, LIQUIDATING IT FOR CASH OR
17 OTHER LIQUID ASSETS.

18 Q OKAY. LET ME ASK YOU A HYPOTHETICAL
19 QUESTION ABOUT THAT TERM OF ART. IF I HELD A SIX MONTH
20 CD, I GO OUT AND BUY A \$50,000 SIX MONTH CD, A
21 CERTIFICATE OF DEPOSIT AT MY LOCAL BANK BRANCH, AT THE
22 END OF THE SIX MONTHS INSTEAD OF RENEWING THAT
23 CERTIFICATE OF DEPOSIT, I DECIDE TO GO AHEAD AND GET MY
24 CASH AND ANY DIVIDENDS THAT IT PAID OUT OF THAT, IS THAT
25 AN EXAMPLE OF LIQUIDATING AN ASSET?

26 A YES.

27 Q WHAT ABOUT OTHER INVESTMENTS? LIKE IF I
28 HAVE MONEY IN THE STOCK MARKET, FOR INSTANCE, AND I

1 DECIDE TO GO AHEAD AND SELL MY APPLE STOCK AND TURN THAT
2 INTO CASH AND GET THE DIVIDENDS THAT -- IF I -- KNOCK ON
3 WOOD, IF I GOT ANY DIVIDENDS FROM IT, IS THAT OCCURRED
4 LIQUIDATING?

5 A YES.

6 Q OKAY. HOW WOULD YOU DESCRIBE -- JUST FROM
7 A TERMINOLOGY STANDPOINT, HOW WOULD YOU DESCRIBE YOUR
8 REVIEW BASED ON YOUR REVIEW OF THE SALE OF THE HOME WHAT
9 HAPPENED WITH GOODWIN HOME IN 1988? WAS IT LIQUIDATED OR
10 NOT?

11 A IT WAS LIQUIDATED, YES.

12 Q ALL RIGHT. LET'S TALK ABOUT OTHER
13 INVESTMENTS. YOU JUST DESCRIBED CERTAIN INVESTMENTS.
14 DID YOUR INVESTIGATION REVEAL ANY
15 INVESTMENTS IN THE NAME OF DIANE GOODWIN AT OR AROUND
16 1988?

17 A YES.

18 Q WHAT ARE THOSE -- I'M INTERESTED IN TWO IN
19 PARTICULAR. WHAT ARE THE INVESTMENTS THAT YOU REVIEWED?

20 A THE JGA WHITEHAWK INVESTMENT.

21 Q OKAY.

22 A AND THE DESERT INVESTORS INVESTMENT.

23 Q OKAY. CAN YOU DESCRIBE FOR US WHAT YOUR
24 INVESTIGATION REVEALED? LET'S TAKE THEM ONE AT A TIME
25 BRIEFLY AND TELL US WHAT YOUR INVESTIGATION REVEALED
26 CONCERNING THE WHITEHAWK INVESTMENT FIRST?

27 A IN THE WHITEHAWK INVESTMENT, DIANE GOODWIN
28 INVESTED WHAT I CONSIDER TO BE COMMINGLED FUNDS OF

1 MR. AND MRS. GOODWIN INTO THE WHITEHAWK INVESTMENT IN HER
2 OWN NAME.

3 Q I'M GOING TO HAND YOU A SERIES OF
4 DOCUMENTS, YOUR HONOR, FOR THE RECORD, I'M APPROACHING
5 WITH WHAT'S PREVIOUSLY BEEN MARKED AS 90, 91, 92, 93, 94,
6 96 AND A LITTLE BIT OUT OF ORDER 80, 79, 82, AND 81.
7 TAKE A LOOK AT THOSE DOCUMENTS AND I'M NOT GOING TO ASK
8 YOU TO READ EXACTLY WHAT EVERY ONE OF THEM ARE. WE'VE
9 ALREADY GONE THROUGH THAT.

10 TELL ME WHAT THE TOP DOCUMENT IS 90 -- AND
11 I'M GOING TO ASK YOU TO DO ME THE FAVOR ON THE LITTLE
12 ORANGE DOT THERE'S A NUMBER, LET THE JURORS KNOW WHAT IT
13 IS THAT YOU'RE LOOKING AT AND TALKING ABOUT AS YOU TALK
14 ABOUT IT.

15 A I'M LOOKING AT EXHIBIT NUMBER 90.

16 Q AND WHAT IS THAT?

17 A THIS IS A MAY 6, 1998 FROM MITSUI
18 MANUFACTURER'S BANK, NEWPORT BEACH AND IT IS CHECK MADE
19 PAYABLE TO DIANE GOODWIN FOR \$365,000 FROM THE JGA GROUP.

20 Q ALL RIGHT. NOW I'M GOING TO ASK YOU TO
21 TURN YOUR ATTENTION TO PEOPLE'S 101. THIS IS PEOPLE'S
22 101. TAKE A LOOK AT THE TOP LEFT OF THE DOCUMENT WHERE
23 IT INDICATES WHITEHAWK PARTNERSHIP AND THEN THERE'S SOME
24 WORDING UNDERNEATH AND IT APPEARS THAT THERE'S A LARGE
25 YELLOW ARROW GOING TO THE RIGHT. BENEATH IT THERE'S
26 SOMETHING THAT SAYS, MONEY FROM SALE OF DESERT INVESTORS,
27 \$215,000 AND AN ARROW GOING TOWARD THE RIGHT.

28 I WANT TO DRAW YOUR ATTENTION TO THE TOP

1 OF THE CHART, OKAY? CAN YOU EXPLAIN TO THE JURORS WHAT
2 THIS CHART IS, WHAT ARE THEY LOOKING AT WHEN THEY'RE
3 LOOKING AT THIS CHART, THIS FLOW CHART? I'M GOING TO
4 HAND YOU THE POINTER.

5 A THIS FLOW CHART, AS IT SAYS IS THE FLOW OF
6 FUNDS FROM THE SALE OF TWO PROPERTIES AND IT STARTS HERE
7 WITH THE DISTRIBUTION FROM WHITEHAWK TO DIANE GOODWIN FOR
8 \$365,000 AND IT SHOWS WHAT HAPPENED TO THE MONEY.

9 Q OKAY. WITH REGARD TO THE FIRST CHECK THAT
10 YOU'VE GOT IN YOUR HAND, PEOPLE'S 90 I BELIEVE THAT IS,
11 CORRECT?

12 A YES.

13 Q ALL RIGHT. WHAT IS THAT -- HOW DOES THAT
14 DOCUMENT FIT IN TO THAT CHART?

15 A THIS DOCUMENT WHICH IS LISTED RIGHT HERE
16 IS A DISTRIBUTION THAT WAS FROM JGA'S ACCOUNT AT MITSUI
17 MANUFACTURER'S BANK IN NEWPORT BEACH PAYABLE TO DIANE
18 GOODWIN FOR \$365,000 ON MAY 6, 1988.

19 Q OKAY. NOW I'M GOING TO ASK YOU TO --
20 WE'RE GOING TO DO THIS A LITTLE BIT ODD, BUT I THINK IT
21 WILL GO A LOT SMOOTHER. I'M GOING TO ASK YOU JUST TO
22 LOOK AT THE DOCUMENTS THAT I'VE HANDED YOU, PEOPLE'S 90
23 THROUGH ABOUT 97 WITH 80, 82, 81 AND 79 IN THERE AS WELL.
24 TAKE A LOOK AT THOSE DOCUMENTS JUST ONE BY ONE AND THEN
25 I'LL ASK YOU A FEW QUESTIONS ABOUT THEM.

26 A OKAY. I'VE LOOKED AT THEM.

27 Q OKAY. SINCE WE'VE ALL HEARD OUTSIDE YOUR
28 PRESENCE, WE'VE ALL HEARD ABOUT THESE DOCUMENTS, INSTEAD

1 OF GOING THROUGH THOSE ONE BY ONE, CAN YOU EXPLAIN
2 WHETHER OR NOT THOSE DOCUMENTS THAT YOU'VE JUST REVIEWED
3 FIT IN TO THIS CHART SOMEHOW?

4 A YES, THEY DO.

5 WOULD YOU LIKE ME TO EXPLAIN?

6 Q I WOULD AND I WANT YOU TO EXPLAIN STARTING
7 AT THE TOP OF THE CHART AND THEN WE'LL GET TO THE BOTTOM
8 IN JUST A SECOND, STARTING FROM THE TOP LEFT WHERE YOU
9 INDICATE THAT \$365,000 DISTRIBUTION FROM JGA WHITEHAWK,
10 WHAT IS THE CHART TELLING US -- LET ME REPHRASE THAT.

11 WHAT ARE YOU TELLING US HAPPENED TO THE
12 MONEY AND DOES THE CHART FOLLOW THAT?

13 A THE CHART SHOWS HOW WHEN THE CHECK WAS
14 FIRST WRITTEN TO DIANE GOODWIN FROM MITSUI MANUFACTURER'S
15 BANK, MRS. GOODWIN THEN WROTE ONE CHECK FOR \$55,000 ON
16 THE SAME DATE TO AN ALLEN TROLLEY. MRS. GOODWIN THEN
17 WROTE A CHECK FOR \$10,000 ON MAY 8TH TO HERSELF, DIANE
18 GOODWIN, TRAVELERS CHECKS. THE REMAINING \$300,000 55
19 PLUS TEN IS 65, THE REMAINING \$300,000 GOES DOWN THE
20 STREET TO DIANE GOODWIN'S BARCLAY'S BANK ACCOUNT IN
21 NEWPORT BEACH.

22 Q I'M GOING TO BREAK RIGHT THERE REAL QUICK
23 AND ASK YOU THIS THICK ARROW FROM LEFT TO RIGHT GOING
24 FROM ON THE TOP OF THE CHART FROM MITSUI MANUFACTURER'S
25 BANK TO BARCLAY'S BANK, YOU SAID THAT WAS A \$300,000
26 TRANSFER, CORRECT?

27 A YES.

28 Q WOULD IT BE ACCURATE IF I WROTE \$300,000

1 UNDER THIS ARROW?

2 A YES.

3 Q ALL RIGHT. AND I'M GOING TO ASK YOU THIS
4 KIND OF ONE TIME THAT WAY I WON'T HAVE TO ASK YOU EVERY
5 SINGLE TIME. HOW DO YOU KNOW FOR INSTANCE THAT \$300,000
6 WENT FROM MITSUI MANUFACTURER'S OVER TO BARCLAY'S BANK IN
7 NEWPORT BEACH? WHAT DOCUMENT SUPPORTS THAT?

8 A THE BANK RECORDS FROM MITSUI
9 MANUFACTURER'S BANK, CASHIER'S CHECK. OR SPECIFICALLY?

10 Q ABSOLUTELY. IF YOU'VE GOT IT HERE, THAT
11 WAY THE JURORS CAN KIND OF FIGURE OUT FROM YOUR
12 PERSPECTIVE WHAT IT IS THAT YOU'RE TALKING ABOUT.

13 A OH.

14 Q WHAT DOCUMENTS SUPPORTS THE IDEA THAT THE
15 \$300,000 FOR INSTANCE MOVED BANKS.

16 A EXHIBIT NUMBER 92 IS A GENERAL LEDGER
17 CREDIT. THIS IS THE BANK'S OWN INTERNAL PAPERWORK
18 SHOWING THAT \$300,000 WAS WIRED FROM MITSUI IN NEWPORT
19 BEACH FROM DIANE GOODWIN TO HER BANK ACCOUNT AT BARCLAY'S
20 BANK AS A WIRE TRANSFER.

21 Q OKAY. IS IT THIS SORT OF DOCUMENT,
22 PEOPLE'S 92, THAT HAPPENS TO BE A BANK LEDGER, IS IT THAT
23 SORT OF DOCUMENT THAT YOU REVIEWED IN COMING UP WITH YOUR
24 OPINION ABOUT THE FLOW OF MONEY FROM MICHAEL GOODWIN AND
25 DIANE GOODWIN?

26 A YES.

27 Q ALL RIGHT. GO AHEAD AND I INTERRUPTED YOU
28 AT THE \$300,000 TRANSFER. WHAT HAPPENED TO THAT \$300,000

1 AFTER IT WAS TRANSFERRED BASED ON YOUR INVESTIGATION?

2 A WELL, THE FINANCIAL RECORDS SHOW THAT ON
3 MAY 11TH, 1988 BARCLAY'S BANK, A CASHIER'S CHECK WAS
4 DRAWN PURCHASED BY DIANE GOODWIN AND IT WAS MADE PAYABLE
5 TO GOLD 'N COINS FOR \$275,000 AND FOLLOWING THE ARROW,
6 THAT CASHIER'S CHECK WAS USED TO PURCHASE GOLD COINS FOR
7 ALMOST THE \$275,000.

8 Q ALL RIGHT. AND DID YOU ALSO MENTION THE
9 \$10,000 TRANSACTION?

10 A I'M GETTING THERE.

11 Q OKAY. SORRY.

12 A OF THE 300,000 WHERE YOU CAN SEE THAT 275
13 WENT TO COINS, \$10,000 ON MAY 11TH WAS USED TO PURCHASE
14 100 \$100 BILLS IN CASH, GIVEN TO DIANE GOODMAN --
15 GOODWIN.

16 Q AND DOES THAT ACCOUNT FOR -- HOW MUCH OF
17 THE \$365,000 DOES THAT ACCOUNT FOR, THE GOLD COINS AND
18 THE TRANSFER OFFSHORE AND THE CASH?

19 A I HAVEN'T GOTTEN THERE YET.

20 Q OKAY.

21 A FROM THE 300,000 275 GOES TO GOLD COINS
22 AND THEN \$10,000 ON MAY 11TH WAS WIRED TO OCEAN SALVORS
23 ACCOUNT AT BARCLAY'S BANK FOR OFFSHORE. SO YOU'RE
24 LOOKING FOR THE TOTAL ADDING IT UP?

25 Q CORRECT.

26 A OKAY. 300 IS BROKEN DOWN HERE IN 275 IN
27 GOLD COINS, \$10,000 OFFSHORE, THAT'S \$285,000. \$10,000
28 IN CASH, LEAVES \$295,000 AND THE REMAINING 5,000 WAS

1 IMMATERIAL.

2 Q OKAY. UNACCOUNTED FOR?

3 A I DON'T RECALL.

4 Q OKAY. ALL RIGHT. SO FORENSICALLY AND I
5 USE THAT WORD AS KIND OF A TERM OF ART FOR US, AS A
6 FORENSIC ACCOUNTANT, WERE YOU ABLE TO FOLLOW THE FLOW OF
7 MONEY BEGINNING WITH THE WHITEHAWK DISTRIBUTION ALL THE
8 WAY TO GOLD COINS AND MONEY OFFSHORE?

9 A YES. THIS IS STRAIGHT FROM THE FINANCIAL
10 RECORDS.

11 Q OKAY. NOW LET'S CHANGE GEARS AND GO DOWN
12 TO THE BOTTOM OF THE CHART, FROM THE BOTTOM THE CHART,
13 STARTING WITH THE \$215,000 SALE OF DESERT INVESTORS AND
14 I'M GOING TO HAND YOU PEOPLE'S 97 AND 95 AND I'M GOING TO
15 TAKE BACK THE OTHER DOCUMENTS REAL QUICK.

16 Q TELL ME WHETHER OR NOT YOU RECOGNIZE THOSE
17 DOCUMENTS, 97 AND 95.

18 A I RECOGNIZE 95 AND I RECOGNIZE 97.

19 Q AND I'M GOING TO ASK YOU TO TAKE A LOOK AT
20 PEOPLE'S 94 ONE MORE TIME. I KNOW THIS IS A BAD COPY.
21 AS A MATTER OF FACT YOU KNOW WHAT, I'M GOING TO PUT THAT
22 ON THE OVERHEAD REAL QUICK. THIS IS PEOPLE'S 94 THAT'S
23 ON OVERHEAD. I WANT TO ASK YOU A QUICK QUESTION ABOUT IT
24 BEFORE WE GET TO THE CHART.

25 DO YOU SEE WHAT IS DISPLAYED ON THE TOP
26 AND YOU CAN LOOK AT THIS, AT THE SMALLER COPY IF IT'S
27 EASIER FOR YOU. CAN YOU SEE AT THE TOP WHERE A NUMBER
28 TOWARD THE TOP OF THE DOCUMENT THAT I'M POINTING TO RIGHT

1 NOW WITH THE LASER POINTER?

2 A YES.

3 Q WHAT DOES THAT -- WHAT IS THAT A PHOTOCOPY
4 OF OR WHAT DOES IT PURPORT TO BE?

5 A IT'S THE BACK OF A CHECK. I BELIEVE IT
6 SHOWS THE PURCHASE OF A CASHIER'S CHECK FOR \$215,000.

7 Q OKAY. THAT WAS MY NEXT QUESTION. THAT'S
8 215 RIGHT THERE, CORRECT?

9 A YES.

10 Q AND I DON'T WANT TO HAVE TO TURN THIS OVER
11 BUT YOU CAN FLIP YOURS UPSIDE DOWN. DOES THERE APPEAR TO
12 BE ANOTHER CASHIER'S CHECK ON THE BOTTOM HALF OF THAT
13 SAME DOCUMENT?

14 A YES.

15 Q AND DOES THAT SHOW -- IT'S UPSIDE DOWN.
16 LET ME GET OUT OF EVERYBODY'S WAY.

17 DO YOU SEE AN UPSIDE DOWN -- IT'S PROBABLY NOT
18 UPSIDE DOWN TO YOU. \$140,000 NUMBER?

19 A YES.

20 Q OKAY. WHAT IS THAT? IS THAT ALSO THE
21 BACK OF A CASHIER'S CHECK?

22 A YES. WITH DIANE GOODWIN'S SIGNATURE AT
23 THE TOP.

24 Q TAKING A LOOK AT THE OTHER DOCUMENTS THAT
25 I'VE HANDED YOU, AS WELL AS ANOTHER DOCUMENT, I'M NOT
26 EVEN GOING TO MARK THIS. I JUST WANT YOU TO LOOK AT IT,
27 ESPECIALLY WHERE THE ARROW IS.

28 HAVE YOU EVER SEEN THOSE DOCUMENTS BEFORE?

1 A YES, I HAVE.

2 Q OKAY. THE UNMARKED DOCUMENT, WITHOUT
3 TELLING ME ANY SPECIFICS ABOUT WHAT'S ON IT, WHAT IS IT
4 JUST GENERALLY? WHAT IS THAT A PHOTOCOPY OF?

5 A A BANK STATEMENT.

6 Q HAVE YOU SEEN THAT BANK STATEMENT BEFORE?

7 A YES.

8 Q ALL RIGHT. BASED ON YOUR REVIEW OF ALL
9 THESE DOCUMENTS, WERE YOU ABLE TO COME UP WITH A
10 CONCLUSION OR OPINION AS TO THAT \$215,000 DISTRIBUTION?

11 A YES. IT WAS A DISTRIBUTION FROM DESERT
12 INVESTORS TO DIANE GOODWIN.

13 Q OKAY. IN HER NAME SOLELY?

14 A IN HER NAME SOLELY.

15 Q WHAT PERIOD OF TIME WAS THIS OR WHAT DATE?

16 A THIS WAS MAY 13, 1988.

17 Q OKAY. BY MAY OF 1988, MRS. STEPHENS, WAS
18 IN YOUR EXPERT OPINION BASED ON YOUR REVIEW OF ALL THE
19 DOCUMENTS, WERE MICHAEL GOODWIN AND DIANE GOODWINS' FUNDS
20 AT THAT TIME BEING COMMINGLED AS YOU EARLIER EXPLAINED?

21 A YES.

22 Q WHAT HAPPENED TO THAT \$215,000
23 DISTRIBUTION BASED ON YOUR REVIEW OF ALL THE RECORDS?

24 A SHALL I DEMONSTRATE HERE?

25 Q PLEASE.

26 A THE \$215,000 FOR MAY 13TH WAS PAID TO
27 DIANE GOODWIN AND THIS IS THE SAME BANK, MITSUI'S BANK IN
28 NEWPORT BEACH. YOU FOLLOW THIS ARROW. SHE TRANSFERRED

1 \$140,000 TO HER BARCLAY'S BANK IN NEWPORT BEACH AND THAT
2 GOES INTO AN ACCOUNT OFFSHORE, \$140,000 WIRE TRANSFER.
3 THE REST OF THE MONEY IS \$75,000 AND ON MAY 13,
4 MRS. GOODWIN PURCHASED A CASHIER'S CHECK AND HAD IT MADE
5 PAYABLE TO GOLD 'N COINS FOR \$75,000, THE COIN DEALER.

6 Q DO YOU SEE -- I'M GOING TO ASK YOU TO TAKE
7 A QUICK LOOK AT PEOPLE'S 79 AND PEOPLE'S 81 AND ASK YOU
8 IF YOU'VE SEEN THESE DOCUMENTS BEFORE, 79 AND 81?

9 A YES, I HAVE.

10 Q LET ME PUT 79 ON THE OVERHEAD. TAKING A
11 LOOK AT THOSE DOCUMENTS WHAT DO YOU BELIEVE THEY ARE?

12 A THIS IS A RECEIPT FOR GOLD 'N COINS.
13 THEIR DOCUMENT THAT SHOWS ON MAY -- IS THAT THE 11TH?

14 Q I'M GOING TO TEST YOUR EYESIGHT.

15 A MAY 11TH, IT'S FROM GOLD 'N COINS. THE
16 NAME ON IT IS MIKE. IT WAS SOLD BY BOB AND IT'S FOR 589
17 ONE-OUNCE GOLD EAGLE COINS.

18 Q FOR A TOTAL AMOUNT OF HOW MUCH?

19 A \$274,768.50.

20 Q IS THAT A RECEIPT THAT COMPORTS WITH THE
21 BOTTOM ARROW ON YOUR CHART ON PEOPLE'S 101?

22 A WELL, --

23 Q I'M SORRY. DID YOU SAY 274,000?

24 A YES. THIS ONE.

25 Q OKAY. MY MISTAKE. THE TOP -- THE TOP
26 PURCHASE OF GOLD I SHOULD SAY?

27 A YES.

28 Q ALL RIGHT. IT COMPORTS WITH THAT

1 TRANSACTION?

2 A YES.

3 Q AND YOU SAID THE NAME ON THE TOP WHERE MY
4 LASER POINTER IS, IS WHAT?

5 A MIKE.

6 Q DID YOU TAKE THAT IN TO CONSIDERATION IN
7 COMING UP WITH YOUR OPINION AS TO THE COMMINGLING OF
8 FUNDS BETWEEN MICHAEL AND DIANE GOODWIN?

9 A YES.

10 Q WHO PAID FOR THE GOLD? MICHAEL OR DIANE
11 ACCORDING TO YOUR REVIEW OF THE DOCUMENTS?

12 A I BELIEVE IT WAS PAID FOR WITH COMMINGLED
13 FUNDS.

14 Q AND WHO WAS THE SIGNATORY ON THE CHECK?

15 A DIANE GOODWIN.

16 Q BASED ON YOUR REVIEW OF EVERYTHING THAT
17 YOU'VE EXPLAINED TO THE JURORS TODAY, AS WELL AS YOUR
18 REVIEW OF SOME SEVERAL THOUSAND OTHER DOCUMENTS IN TOTAL,
19 WHAT IS YOUR OPINION, MRS. STEPHENS, ABOUT WHETHER OR NOT
20 MICHAEL GOODWIN AND/OR DIANE GOODWIN WERE COMMINGLING
21 FUNDS AND WHETHER OR NOT THEY WERE LIQUIDATING ASSETS IN
22 ORDER TO MOVE THEM OFFSHORE?

23 A THE FINANCIAL RECORDS SHOW THAT THEY WERE
24 COMMINGLING FUNDS IN 1986. THE FUNDS STARTED TO GO
25 STRICTLY INTO MRS. GOODWIN'S NAME AND BY 1988, THE
26 RECORDS SHOW THAT THE FUNDS -- THE FUNDS THAT WERE
27 ORIGINALLY COMMINGLED AND INVESTED END UP GOING OFFSHORE
28 OR TO PURCHASE GOLD COINS, CASH OR TRAVELER'S CHECKS.

1 Q WHAT DO YOU BASE THAT OPINION ON OTHER
2 THAN WHAT YOU'VE ALREADY TOLD US?

3 A OTHER THAN WHAT I'VE ALREADY TOLD YOU?

4 Q OTHER THAN WHAT YOU'VE JUST DESCRIBED AS
5 FAR AS LOOKING AT THE FINANCIAL RECORDS. I MEAN ANYTHING
6 IN PARTICULAR THAT YOU LOOKED AT THAT LEADS YOU TO THAT
7 OPINION OR CONCLUSION?

8 A WELL, STARTING AGAIN WITH THE EARLY TAX
9 RETURNS, THE HOME THAT WAS HELD, THE TAX RETURNS WERE
10 FILED JOINTLY. THE HOME THAT WAS IN BOTH MR. AND MRS.
11 GOODWIN'S NAME, ALL OF THE FINANCIAL RECORDS, BANKING
12 RECORDS THAT WERE IN BOTH OF THEIR NAMES AND THEN THE
13 RECORDS SHOW THAT IT ALL FUNNELS INTO DIANE GOODWIN'S
14 NAME AND THEN BASED ON THESE RECORDS, THE FUNDS GO
15 OFFSHORE.

16 Q DURING THE COURSE OF YOUR INVESTIGATION --
17 I'M SORRY TO INTERRUPT YOU -- DURING THE COURSE OF YOUR
18 INVESTIGATION DID YOU EVER LOOK AT ANY CORRESPONDENCE
19 BETWEEN ANY OF THE PRINCIPALS AT THAT WHITEHAWK OR DESERT
20 INVESTORS CONCERNING THE VALUE OF THOSE INVESTMENTS?

21 A YES.

22 Q AND DID THAT PLAY INTO YOUR OPINION AT
23 ALL?

24 A YES.

25 Q DESCRIBE HOW SO.

26 A ONE OF THE LETTERS, I BELIEVE IT IS DESERT
27 INVESTORS WAS WRITTEN BY MR. GOODWIN ASKING TO --

28 MR. SUMMERS: OBJECTION, YOUR HONOR, AS BRIEFLY

1 PREVIOUSLY STATED.

2 THE COURT: YES. LADIES AND GENTLEMEN, LET ME
3 JUST INTERRUPT FOR A SECOND. THE INFORMATION REFERRED TO
4 NOW BY THE WITNESS IS BEING OFFERED NOT FOR THE TRUTH OF
5 WHAT IT SAYS BUT JUST TO SHOW WHAT THE WITNESS BASED HER
6 OPINION ON.

7 MR. JACKSON: THANK YOU, YOUR HONOR.

8 Q GO AHEAD. AND BASED ON YOUR REVIEW OF
9 THAT PARTICULAR LETTER THAT PURPORTED TO BE, YOU SAID IT
10 WAS FROM MIKE GOODWIN?

11 A YES.

12 Q ALL RIGHT. AT LEAST THAT WAS YOUR
13 UNDERSTANDING?

14 A YES.

15 Q ALL RIGHT. WHAT WAS THE SUM AND SUBSTANCE
16 OF THE LETTER WITHOUT QUOTING STRAIGHT FROM IT, WHAT WAS
17 THE SUM AND SUBSTANCE OF THE LETTER THAT GAVE YOU SOME
18 HELP IN RENDERING YOUR OPINION?

19 A THE LETTER STATED THAT MR. GOODWIN WAS
20 HANDLING THE ENTIRE TRANSACTION AND NOT TO DISCUSS IT
21 WITH DIANE BECAUSE HE WAS HANDLING IT.

22 Q ALL RIGHT. AND THAT WAS DEALING WITH
23 DESERT INVESTORS?

24 A YES.

25 Q EVEN THOUGH ALL OF YOUR DOCUMENTS INDICATE
26 THAT THE ENTIRETY OF THE DESERT INVESTORS ACCOUNT WAS IN
27 DIANE'S NAME?

28 A YES.

1 MR. SUMMERS: OBJECTION. LEADING, YOUR HONOR.

2 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

3 Q BY MR. JACKSON: WAS THERE ANY OTHER
4 LETTER THAT YOU REVIEWED CONCERNING MR. GOODWIN AND DIANE
5 GOODWIN'S RELATIVE POSITION WITH REGARD TO THEIR FUNDS?
6 DO YOU UNDERSTAND MY QUESTION? I'M TRYING TO LEAVE IT AS
7 OPEN AS POSSIBLE.

8 A REGARDING WHITEHAWK OR --

9 Q NO. JUST IN GENERAL. AS A MATTER OF
10 FACT, IF I MAY APPROACH WITH PEOPLE'S 103?

11 THE COURT: YES.

12 Q BY MR. JACKSON: TELL ME IF THAT REFRESHES
13 YOUR RECOLLECTION AS TO ANY OTHER LETTERS THAT YOU MAY
14 HAVE LOOKED AT?

15 A YES.

16 Q OKAY. HAVE YOU SEEN THIS LETTER BEFORE?

17 A YES.

18 Q DID THIS LETTER PLAY IN TO YOUR OPINION
19 THAT YOU'VE JUST RENDERED FOR THE JURY?

20 A YES.

21 Q WITHOUT -- AGAIN WITHOUT QUOTING DIRECTLY
22 FROM THE LETTER WHAT WAS THE SUM AND SUBSTANCE OF THE
23 LETTER THAT ASSISTED YOU IN RENDERING YOUR OPINION?

24 MR. SUMMERS: SAME OBJECTION, YOUR HONOR. THIS
25 IS ALSO CUMULATIVE. SHE'S ESTABLISHED HER OPINION AND
26 THE BASIS FOR IT.

27 THE COURT: ALL RIGHT. WELL, LET ME MAKE IT
28 CLEAR THAT THE EXHIBITS THAT ARE REFERRED TO 102 AND 103

1 THOSE ITEMS ARE BEING PRESENTED TO THE WITNESS AND SHE IS
2 RENDERING AN OPINION AND SHE'S EXPLAINING WHAT HER
3 OPINION IS BASED ON, BUT YOU ARE NOT TO ASSUME THAT THE
4 LETTERS STATE WHAT SHE SAYS THEY STATE FOR THE TRUTH OF
5 THE MATTER. I DON'T KNOW IF THAT'S CLEAR OR NOT. BUT WE
6 WILL LEAVE IT AT THAT.

7 Q BY MR. JACKSON: SO YOU'RE ABOUT TO TELL
8 US WHAT YOU BASED YOUR OPINION ON, NOT NECESSARILY ABOUT
9 THE SPECIFIC CONTENTS OF THE REST OF THE LETTER OR
10 ANYTHING LIKE THAT. JUST WHETHER OR NOT YOU LOOKED AT
11 THE LETTER, CORRECT?

12 A YES.

13 Q BASED ON YOUR REVIEW OF THAT LETTER DID
14 THAT ASSIST YOU IN COMING UP WITH THE CONCLUSION THAT YOU
15 JUST RENDERED FOR THE JURY THAT THERE WERE COMMINGLED
16 FUNDS?

17 A YES.

18 Q HOW SO?

19 A AGAIN, MR. GOODWIN IS WRITING THE LETTER
20 AND STATING THAT IT'S IN ESSENCE COMMINGLED FUNDS THAT
21 THEY BOTH ARE GOING TO USE.

22 Q IS THERE SOME SPECIFIC REFERENCE TO WHOSE
23 NAME CERTAIN THINGS SHOULD BE PUT IN?

24 A OH, DIANE GOODWIN'S NAME BECAUSE OF THE
25 THOMPSON ISSUE.

26 Q ALL RIGHT. MAY I HAVE JUST A MOMENT, YOUR
27 HONOR?

28 THE COURT: YES.

1 MR. JACKSON: YOUR HONOR, I HAVE NOTHING FURTHER
2 AT THIS TIME.

3 THE COURT: CROSS-EXAMINATION?

4
5 CROSS-EXAMINATION

6 BY MR. SUMMERS:

7 Q GOOD AFTERNOON. IS IT STEPHENS OR KINGDON
8 OR --

9 A EITHER ONE.

10 Q OKAY. WHEN YOU JUST REFERRED TO THE
11 THOMPSON ISSUE, WHAT WAS THE DATE OF THAT LETTER?

12 A I BELIEVE IT'S IN 1987.

13 Q DO YOU NEED TO -- DO YOU STILL HAVE THE
14 LETTER THERE?

15 A I WOULD LIKE TO SEE THE LETTER AND I CAN
16 TELL YOU EXACTLY.

17 Q IT WOULD HELP REFRESH YOUR RECOLLECTION?
18 I'M SHOWING THE WITNESS WHAT HAS BEEN
19 MARKED AS PEOPLE'S 103.

20 A IT'S NOVEMBER 25TH, 1986.

21 Q OKAY. AND WE TALKED EARLIER ABOUT THAT
22 YOU WORKED WITH THE DISTRICT ATTORNEY'S OFFICE AND THAT
23 ONE OF THE TOOLS THAT YOU USED WAS SOMETHING CALLED A
24 SUBPOENA; CORRECT?

25 A THE OFFICE USED IT, YES.

26 Q AND WHEN YOU -- AND I BELIEVE YOU SAID
27 THAT YOU WOULD TELL THEM BASICALLY WHAT OTHER RECORDS YOU
28 NEEDED OR WHAT RECORDS THEY SHOULD LOOK FOR WHEN THEY

1 ISSUED A SUBPOENA?

2 A WELL, I WOULD SHOW THEM WHAT THE RECORDS
3 INDICATED. IF THEY THOUGHT IT WARRANTED FURTHER
4 INVESTIGATION, THEY WOULD ISSUE AN ADDITIONAL SUBPOENA.

5 Q THE -- AND I WOULD GUESS INITIALLY SOME
6 SUBPOENAS WERE ISSUED THAT YOU DIDN'T DIRECT THEM TO?

7 A CORRECT.

8 Q AND ARE YOU FAMILIAR WITH THE SUBPOENA AND
9 THE MECHANISM THAT'S USED TO ISSUE A SUBPOENA?

10 LET ME CLEAR THAT UP.

11 LET ME JUST SAY, ARE YOU FAMILIAR WITH
12 WHAT A SUBPOENA IS?

13 A I HAVE A BASIC UNDERSTANDING OF A
14 SUBPOENA.

15 Q OKAY. AND WHEN YOU'RE TALKING ABOUT
16 FINANCIAL INSTITUTIONS AND YOU WANT TO SUBPOENA THE
17 RECORDS FROM THEM, YOU HAVE TO INDICATE IN THE SUBPOENA
18 THE NAME OF THAT FINANCIAL INSTITUTION?

19 A YES.

20 Q AND IT WOULD HAVE THE -- NOT ONLY THE
21 INSTITUTION'S TITLE, BUT TYPICALLY IT WOULD HAVE ITS
22 ADDRESS?

23 A YES.

24 Q AND THE SUBPOENA ALSO HAS TO SPECIFY WHAT
25 IT IS YOU'RE SEEKING. IN OTHER WORDS, IF IT'S BANK
26 ACCOUNT RECORDS, YOU WOULD HAVE TO INDICATE THAT ON THE
27 SUBPOENA?

28 A YES.

1 Q YOU COULDN'T JUST SAY WE WANT TO SEE EVERY
2 DOCUMENT YOU'VE GOT WITH REGARD TO ANY ACCOUNTS? YOU
3 WOULD HAVE TO SPECIFY INDIVIDUAL ACCOUNTS?

4 A I'M NOT CERTAIN. I -- I DIDN'T ISSUE
5 THEM.

6 Q OKAY. SPECIFICALLY IN THIS CASE, THOUGH,
7 THE SUBPOENAS THAT YOU'RE AWARE OF, YOU WOULD HAVE NAMES
8 AND/OR ACCOUNT NUMBERS TO USE WHEN YOU ISSUED THOSE
9 SUBPOENAS?

10 A YES.

11 Q AND SO THE OFFICE SOUGHT AND YOU REVIEWED
12 BANK RECORDS THAT WERE IN THE NAME OF MICHAEL GOODWIN?

13 A YES.

14 Q AND THEY ALSO SOUGHT AND YOU REVIEWED
15 RECORDS THAT WERE IN THE NAME OF DIANE GOODWIN?

16 A YES.

17 Q AND CREDITS CARDS, I DON'T KNOW IF YOU
18 TESTIFIED ABOUT THAT. DID YOU ALSO LOOK AT CREDIT CARD
19 RECORDS?

20 A SOME.

21 Q AND DID THE OFFICE SEEK AND DID YOU REVIEW
22 CREDIT CARD RECORDS IN THE NAME OF DIANE GOODWIN?

23 A I BELIEVE SO, YES.

24 Q WHAT ABOUT IN THE NAME OF MICHAEL GOODWIN?

25 A I'M NOT CERTAIN IF I LOOKED AT CREDIT CARD
26 RECEIPTS FOR MICHAEL GOODWIN.

27 Q DO YOU RECALL IF THERE WERE ANY CREDIT
28 CARD RECORD THAT YOU LOOKED AT THAT WERE JOINTLY HELD IN

1 BOTH NAMES?

2 A I DON'T RECALL SPECIFICALLY.

3 Q DO YOU KNOW THE NAME -- OR DO YOU RECALL
4 THE NAME OF MR. GOODWIN'S COMPANY UP THROUGH 1986 -- OR
5 UP THROUGH THE SUMMER OF 1986? WAS IT STADIUM MOTOR
6 SPORTS?

7 A I BELIEVE STADIUM MOTOR SPORTS WAS THE
8 NAME.

9 Q AND SMC, DO YOU RECALL THAT ACRONYM BEING
10 USED?

11 A YES.

12 Q DID YOU LOOK AT AND DID THE OFFICE SEEK
13 RECORDS THAT WERE IN THE NAME OF THAT PARTICULAR
14 CORPORATION, SMC?

15 A I BELIEVE THEY DID, YES.

16 Q AND WHAT ABOUT THE NAME ENTERTAINMENT
17 SPECIALTIES, THAT COMPANY NAME, DOES THAT RING A BELL?

18 A YES.

19 Q AND, AGAIN, DID THE OFFICE SEEK AND DID
20 YOU REVIEW RECORDS IN THAT NAME, THE NAME UNDER
21 ENTERTAINMENT, I BELIEVE IT'S, SPECIALTIES?

22 A YES.

23 Q AND, ALSO, THE NAME -- THE COMPANY NAMED
24 SUPERCROSS INCORPORATED, DO YOU RECALL THE COMPANY
25 SEEKING WITH A SUBPOENA AND YOU REVIEWING RECORDS UNDER
26 THAT TITLE?

27 A YES.

28 Q DO BANKS, DO THEY KEEP RECORDS -- WELL,

1 LET ME WITHDRAW THAT.

2 WHAT IS THE DIFFERENCE BETWEEN A CASHIER'S
3 CHECK AND A PERSONAL CHECK?

4 A A PERSONAL CHECK, AS MOST OF US KNOW,
5 COMES DIRECTLY FROM YOUR OWN CHECKING ACCOUNT. AND YOU
6 FILL IT OUT; YOU WRITE THE CHECK. A CASHIER'S CHECK IS
7 WHEN YOU GO TO A BANK AND ASK TO HAVE THE BANK FILL OUT
8 THEIR OWN CASHIER'S CHECK AND YOU SUPPLY THE INFORMATION
9 TO THEM.

10 Q OKAY. IS IT IN -- IN TERMS OF ITS
11 NEGOTIABILITY, IS THERE ANY DIFFERENCE BETWEEN A PERSONAL
12 CHECK AND A CASHIER'S CHECK?

13 A A CASHIER'S CHECK IS GENERALLY CONSIDERED
14 TO BE A SAFER FORM OF CHECK; THAT IT MIGHT BE ABLE TO BE
15 NEGOTIATED IMMEDIATELY OR ALMOST IMMEDIATELY.

16 Q OKAY. A CASHIER'S CHECK IS SORT OF
17 ALREADY SAYING THAT THE PERSON HAS ALREADY PUT UP THAT
18 AMOUNT OF MONEY, THAT THAT AMOUNT OF MONEY WILL BE
19 HONORED BY THE BANK?

20 A YES.

21 Q AND ARE RECORDS KEPT BY BANKS AND OTHER
22 FINANCIAL INSTITUTIONS THAT ISSUE CASHIER'S CHECKS?

23 A YES.

24 Q IS IT -- IF YOU KNOW, IS IT POSSIBLE TO
25 GET A CASHIER'S CHECK, TO PURCHASE ONE WHERE IT IS LEFT
26 BLANK WHO IT'S PAYABLE TO?

27 A I DON'T KNOW ALL BANKS' POLICIES, BUT IT'S
28 MY UNDERSTANDING THAT MOST BANKS REQUIRE A NAME FILLED IN

1 ON A CASHIER'S CHECK.

2 Q OKAY. AND BY THE SAME TOKEN WE'VE TALKED
3 ABOUT WIRE TRANSFERS. I ASSUME THAT THEY KEEP TRACK OF
4 WIRE TRANSFERS AS WELL, THE BANKS?

5 A THEY'RE SUPPOSED TO, YES.

6 Q AND ALL THESE ITEMS THAT YOU'VE TALKED
7 ABOUT, I MEAN THESE WERE RECORDS THAT YOU SOUGHT; THAT
8 YOU IDENTIFIED; AND THAT YOU REVIEWED IN ORDER TO FORM
9 YOUR OPINION; CORRECT?

10 A YES.

11 Q THESE WERE ESSENTIALLY FINANCIAL AND
12 WRITTEN RECORDS OF TRANSACTIONS THAT YOU'RE TALKING
13 ABOUT?

14 A YES.

15 Q THAT YOU, IF YOU WOULD DO THIS, WOULD YOU
16 IDENTIFY YOURSELF WHEN YOU WERE WORKING FOR THE ORANGE
17 COUNTY D.A.'S OFFICE AS A MEMBER OF LAW ENFORCEMENT?

18 A NO. I'M THE ANALYST INSIDE THE OFFICE.
19 IT WAS THE INVESTIGATORS WHO MAILED THESE OUT AFTER THE
20 DISTRICT ATTORNEY HAD REVIEWED THEM.

21 Q WOULD YOU AGREE THAT THE ORANGE COUNTY
22 DISTRICT ATTORNEY'S OFFICE IS A LAW ENFORCEMENT AGENCY?

23 A YES.

24 Q DID YOU ALSO GET INFORMATION FROM SOMEONE
25 NAMED DELORES CORDELL?

26 A I BELIEVE, I CALLED MRS. CORDELL ONE TIME
27 DURING THE INVESTIGATION TO OBTAIN INFORMATION.

28 Q AND WHO DO YOU KNOW THAT PERSON TO BE?

1 A MRS. CORDELL?

2 Q YES. IS SHE --

3 A A BUSINESS OWNER, THAT IS MICKEY
4 THOMPSON'S SISTER.

5 Q ARE YOU THINKING OF COLLENE CAMPBELL?

6 A OH, YES. SORRY.

7 Q YOU GOT AHEAD OF ME.

8 A I'M SORRY.

9 Q DELORES CORDELL, DOES THE LAW FIRM NAMED
10 CLARK AND TREVITHICK SOUND FAMILIAR?

11 A YES.

12 Q AND MISS CORDELL, IN YOUR CONTACT WITH
13 HER, SHE WOULD HAVE AN ASSOCIATION WITH THAT LAW FIRM?

14 A YES.

15 Q SO -- WELL, LET ME BACK ALL THE WAY UP.

16 DID YOU EVER RELY OR USE ANY INFORMATION
17 FROM DELORES CORDELL IN TERMS OF YOUR REVIEW OF THE
18 FINANCIAL DEALINGS OF MIKE AND/OR DIANE GOODWIN?

19 A I SAW RECORDS FROM THAT LAW FIRM, CLARK
20 AND TREVITHICK. I DON'T KNOW IF ANY RECORDS WERE EVER
21 RELIED UPON.

22 Q THEY WERE AT LEAST REVIEWED?

23 A I SAW SOME OF THEM. I DON'T KNOW WHO ELSE
24 IN THE OFFICE, THE DISTRICT ATTORNEY OR THE INVESTIGATOR,
25 REVIEWED ANY OF THEM.

26 Q WHEN YOU SAY THAT YOU SAW SOME OF THEM,
27 SHE PROVIDED YOU SOME DOCUMENTS OR OTHER FORMS OF
28 INFORMATION THAT YOU TOOK INTO ACCOUNT AS IT RELATED TO

1 YOUR INVESTIGATION AS TO MICHAEL GOODWIN?

2 A WELL, I DON'T KNOW IF SHE PROVIDED THOSE.
3 THEY WERE IN THE OFFICE WHEN I WAS ASSIGNED THE CASE.

4 Q OKAY. DID THEY SEEM TO BE DOCUMENTS THAT
5 WOULD HAVE IN SOME WAY BEEN ASSOCIATED WITH THAT LAW
6 FIRM, CLARK AND TREVITHICK?

7 A YES.

8 Q AND DID THAT -- DO YOU RECALL WHETHER OR
9 NOT YOU REVIEWED DEPOSITION TRANSCRIPTS?

10 A I BELIEVE I LOOKED AT A PORTION OF
11 DEPOSITION TRANSCRIPTS.

12 Q DO YOU RECALL LOOKING AT A TRANSCRIPT OF A
13 DEPOSITION GIVEN BY DIANE GOODWIN?

14 A I REMEMBER SEEING IT. I DON'T KNOW IF I
15 READ IT IN ITS ENTIRETY.

16 Q COULD SOMEONE ELSE HAVE READ IT AND
17 SUMMARIZED IT FOR YOU?

18 A THEY COULD HAVE.

19 Q DO YOU RECALL IN THAT SAME VEIN REVIEWING
20 ANY DEPOSITION WHERE IT WAS GIVEN BY MICHAEL GOODWIN?

21 A AGAIN, I'VE SEEN IT. I DON'T KNOW IF I
22 REVIEWED THE ENTIRE DEPOSITION.

23 Q YOU'VE INDICATED THAT AMONG THE RECORDS
24 THAT YOU SOUGHT AND REVIEWED WERE INCOME TAX RETURNS?

25 A YES.

26 Q DID YOU ALSO SEEK AND REVIEW INSURANCE
27 INFORMATION FROM INSURANCE POLICIES?

28 A I BELIEVE THAT THE DISTRICT ATTORNEY'S

1 OFFICE PROBABLY ISSUED A SUBPOENA FOR INSURANCE RECORDS.

2 Q OKAY. AND THEN APART FROM THEM ISSUING
3 IT, MY QUESTION IS: DO YOU RECALL ACTUALLY LOOKING AT
4 ANY OF THOSE TYPES OF RECORDS?

5 A I SEEM TO RECALL LOOKING AT SOME INSURANCE
6 RECORDS, YES.

7 Q THE TYPE OF REVIEW AND THE RECORDS THAT
8 YOU'VE TALKED ABOUT THAT YOU DID FOR MICHAEL GOODWIN AND
9 DIANE GOODWIN, WERE YOU EVER ASKED TO REVIEW THE SAME
10 TYPES OF RECORDS FOR MICKEY THOMPSON?

11 A NO.

12 Q YOU WERE ASKED BEFORE ABOUT A BOAT LOAN.
13 AND I JUST WANT TO CLEAR A COUPLE THINGS UP ABOUT THAT.

14 YOU INDICATED THAT YOU BELIEVED COMMINGLED
15 FUNDS WERE USED TO PURCHASE THAT BOAT --

16 A YES.

17 Q -- AT LEAST IN PART?

18 A YES.

19 Q PARTLY OBVIOUSLY IT WAS ALSO THROUGH A
20 LOAN?

21 A YES.

22 Q THAT THE DOCUMENTS THAT YOU'VE TALKED
23 ABOUT INDICATE THAT THAT SALE OF THE BOAT FINALLY SETTLED
24 AROUND -- I'M NOT SURE IF ANY OF THEM ARE UP THERE -- BUT
25 SETTLED AROUND APRIL 28TH, IN THAT RANGE?

26 A YES, ABOUT THAT DATE.

27 Q SO BASED ON THE RECORDS THAT YOU TESTIFIED
28 ABOUT, THE DISTRIBUTIONS FROM -- OR THE LIQUIDATIONS FROM

1 JGA, THE \$365,000 PAYMENT; AND THE OTHER ONE FOR
2 \$210,000, THOSE WERE NOT USED TO PURCHASE THE BOAT?

3 A NO.

4 Q THAT PURCHASE WOULD HAVE PRECEDED THOSE
5 DISTRIBUTIONS ACCORDING TO YOUR RECORDS; CORRECT?

6 A YES.

7 Q AND IN YOUR REVIEW OF THE LOAN DOCUMENTS,
8 YOU SAID YOU REVIEWED AN ACTUAL -- I THINK YOU CALLED IT
9 A PACKET OR A PACKAGE?

10 A LOAN FILE.

11 Q A LOAN FILE? THERE YOU GO.

12 WERE THERE OTHER RECORDS IN THERE
13 INDICATING OTHER CONTINGENCIES THAT WERE INVOLVED WITH
14 THAT TRANSACTIONS? AND BY THAT, LET ME JUST ASK, WAS IT
15 SIMILAR TO A HOUSE ESCROW WHERE THERE'S INSPECTIONS THAT
16 HAVE TO BE GONE THROUGH?

17 A I DON'T RECALL IF A THIRD-PARTY ESCROW
18 SERVICE WAS USED. THERE WERE CERTAIN REQUIREMENTS THAT
19 THE BANK WANTED TO INSURE THAT THEIR COLLATERAL WAS WORTH
20 THE VALUE OF THE LOAN.

21 Q AND SOME OF THOSE THINGS THEN WERE
22 DOCUMENTS INDICATING THAT CERTAIN TYPES OF INSPECTIONS
23 HAD BEEN DONE ON THE BOAT?

24 A YES, A SURVEY.

25 THE COURT: HOW MUCH MORE DO YOU HAVE,
26 MR. SUMMERS?

27 MR. SUMMERS: WELL, ABOUT SIX PAGES OUT OF NINE,
28 YOUR HONOR.

1 THE COURT: ALL RIGHT. WE'LL TAKE OUR AFTERNOON
2 RECESS AT THIS TIME, LADIES AND GENTLEMEN. PLEASE DON'T
3 DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS.
4 DON'T CONDUCT ANY DELIBERATIONS. DON'T READ ANYTHING
5 ABOUT THE CASE IN THE MEDIA. DON'T TALK TO ANYBODY
6 CONNECTED. STAY AWAY FROM THE LOCATIONS. WE'RE GOING TO
7 RESUME AT 10:00 O'CLOCK TOMORROW OR WE'RE GOING TO TRY TO
8 RESUME AT 10:00 TOMORROW.

9
10 (THE FOLLOWING PROCEEDINGS WERE
11 HELD IN OPEN COURT OUTSIDE THE
12 PRESENCE OF THE JURY.)
13

14 THE COURT: LET'S COME BACK 10:00 O'CLOCK
15 TOMORROW. ANYTHING ELSE BEFORE WE --

16 MS. SARIS: YES.

17 THE COURT: -- CALL IT A DAY?

18 MS. SARIS: JUST VERY BRIEFLY. TOMORROW ONE OF
19 THE FIRST WITNESSES WE HAVE IS SANDRA JOHNSON. I EXPECT
20 HER TO BE ON THE STAND ON DIRECT A TOTAL OF FIVE MINUTES.
21 SHE CAN'T BE HERE UNTIL 3:30. AND SHE CAN'T BE HERE
22 AGAIN AFTER TOMORROW. SO I WOULD JUST LET THE COURT KNOW
23 THAT I TOLD HER THAT WHATEVER IS GOING ON, WE WOULD TRY
24 TO ACCOMMODATE HER. SHE'S HAVING SURGERY ON MONDAY AND I
25 THINK SHE'S A PROFESSOR AS WELL AND FINALS BEGIN NEXT
26 WEEK.

27 THE COURT: THAT SHOULDN'T BE A PROBLEM.

28 ANYTHING ELSE?

1 MS. SARIS: NO. I JUST WANTED TO LET THE COURT
2 KNOW THAT.

3 THE COURT: OKAY. THANK YOU.

4
5 (THE MATTER WAS CONTINUED TO THURSDAY,
6 DECEMBER 7, 2006 AT 10:00 A.M.)

7 (NEXT PAGE IS 6901.)

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COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

 THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF AND RESPONDENT,

VS.

01 - MICHAEL FRANK GOODWIN,

 DEFENDANT AND APPELLANTS.

JUN 01 2007

SUPERIOR COURT
NO. GA052683**ORIGINAL**

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

DECEMBER 7 AND 8, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 19 OF 24
PAGES 6901 THRU 7047/7200
7201 THRU 7229/7500

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 7, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: RESUMING IN THE GOODWIN MATTER. HE
20 IS PRESENT WITH COUNSEL. THE PEOPLE ARE REPRESENTED.

21 BEFORE WE BRING THE JURORS DOWN, WHAT DO
22 WE NEED TO DISCUSS?

23 MS. SARIS: YOUR HONOR, THERE IS A WITNESS THAT
24 THE PEOPLE ARE ATTEMPTING TO CALL OR HAVE TAKEN CARE OF
25 THROUGH STIPULATION NAMED FRANK MAGEE. WE HAVE AN
26 OBJECTION TO THE RELEVANCE OF THIS WITNESS IN GENERAL AND
27 A RULING ON THAT MAY HELP US DECIDE WHETHER OR NOT WE
28 HAVE TO PUT THIS CASE OVER TO MONDAY.

1 THE COURT: PUT THE CASE OVER TO MONDAY?

2 MS. SARIS: MR. MAGEE APPARENTLY ISN'T AVAILABLE.

3 MR. DIXON: WELL, THAT'S NOT THE ONLY
4 ALTERNATIVE, YOUR HONOR.

5 THE COURT: I'M NOT INCLINED TO PUT THIS CASE
6 OVER ANY MORE. SO WHAT IS GOING ON?

7 MR. DIXON: WELL, WE'VE OFFERED A STIPULATION.
8 THERE HAS BEEN DISCUSSION ABOUT A STIPULATION TO
9 MR. MAGEE'S TESTIMONY. BOTH SIDES HAVE THE REPORTS. THE
10 STIPULATION, IN MY VIEW, IS FAIR. THERE'S A QUOTE IN THE
11 STIPULATION FROM THE DEFENDANT THAT APPEARS IN THE
12 REPORT. AND, IN FACT, DETECTIVE LILLIENFELD AND DEPUTY
13 D.A. JACKSON WERE THERE WHEN THE QUOTE WAS GIVEN. AND
14 THAT'S WHAT IS ON THE TABLE.

15 THERE IS NOTHING THAT WOULD SUGGEST THAT
16 COUNSEL HAS TO STIPULATE TO HIM. WE WOULD LIKE HIM TO
17 COME IN, WE WOULD LIKE HIM TO TESTIFY. I UNDERSTAND THAT
18 THE COURT WOULDN'T WANT TO PUT THIS CASE OVER. AND WE
19 AREN'T ASKING THE COURT TO PUT THIS CASE OVER.

20 I ALSO UNDERSTAND THAT DEFENSE COUNSEL
21 WOULD LIKE TO SEE US REST SO THEY CAN HAVE AN 1118
22 MOTION.

23 HERE'S MY PROPOSED SOLUTION TO THIS IF WE
24 CAN'T REACH A STIPULATION, IS THAT WE REST, WE'RE
25 COMFORTABLE WITH THE COURT HEARING THE 1118 MOTION
26 WITHOUT MR. MAGEE'S TESTIMONY. THE DEFENSE PUTS ON THEIR
27 CASE. AND THE ONLY THING WE WOULD ASK IS LEAVE OF THE
28 COURT TO PUT MR. MAGEE ON AFTER THE DEFENSE CASE AS A

1 REBUTTAL WITNESS, EVEN THOUGH HE MAY NOT TECHNICALLY BE A
2 REBUTTAL WITNESS.

3 THAT WAY THE COURT COULD CONTINUE TO USE
4 COURT DAYS. THERE WOULD BE NO DELAY. WE WOULD GET OUR
5 EVIDENCE IN. THEY WOULD BE ABLE TO BEGIN WHEN THEY WANT
6 AND HAVE THEIR 1118 MOTION HEARD AT THE END OF OUR CASE
7 WHEN WE REST. THAT WOULD BE MY PROPOSAL.

8 THE COURT: WHAT IS THE OFFER OF PROOF AS TO
9 MR. MAGEE? WHAT WOULD HE TESTIFY TO?

10 MR. DIXON: WELL, ACTUALLY, WE HAVE -- I DON'T
11 KNOW. DO WE HAVE THE STIPULATION OUT HERE? THAT WOULD
12 PROBABLY BE THE EASIEST WAY IS TO READ THE STIPULATION.

13 THE COURT: BUT I MEAN, COUNSEL --

14 MR. DIXON: BUT BASICALLY I CAN REPEAT IT TO YOU.

15 THE COURT: YES.

16 MR. DIXON: MR. MAGEE IS A BOAT SURVEYOR AND HAS
17 BEEN FOR ABOUT 20 YEARS. AS KIND OF A SIDE BUSINESS TO
18 THAT, HE REPOSSESSES BOATS FROM TIME TO TIME. IN 1991, I
19 BELIEVE, HE WAS RETAINED BY MARYLAND NATIONAL BANK TO
20 REPOSSESS THE DEFENDANT'S BOAT. HE MADE LOTS OF CALLS
21 AND DID LOTS OF INVESTIGATION IN AN EFFORT TO ACCOMPLISH
22 THAT.

23 ALL OF THAT LED HIM TO GUATEMALA WHERE HE,
24 AFTER GOING THROUGH THE BARS AND TALKING TO PEOPLE AND
25 TALKING TO DIVERS, FOUND THE DEFENDANT'S BOAT AND
26 REPOSSESSED IT. ALONG THE WAY, HE HAD A TELEPHONE
27 CONVERSATION WITH MIKE GOODWIN WHERE MIKE GOODWIN SAID --
28 AND I WILL GIVE YOU THE CLEANED UP VERSION OF IT, BUT

1 BASICALLY, "YOU STAY AWAY FROM ME AND STAY AWAY FROM MY
2 BOAT. YOU'LL NEVER FIND IT." WORDS TO THAT EFFECT.
3 AND, AGAIN, THE EXACT QUOTE IS IN OUR STIPULATION.
4 THAT WOULD BE OUR PRESENTATION.

5 MS. SARIS: OUR ISSUES ARE BOTH WITH RELEVANCE.
6 THIS IS THREE YEARS AFTER THE MURDER.

7 SECOND, IF THE STIPULATION WOULD INCLUDE
8 THE REST OF THE REPORT OR THE EARLIER REPORT WHERE
9 DETECTIVE LILLIENFELD WRITES AND I QUOTE, "INFORMANT IS A
10 B.S. ARTIST, ONLY INTERESTED IN THE REWARD," PERHAPS THE
11 JURY MIGHT HAVE A BETTER FLAVOR OF HOW TO INTERPRET THIS
12 WITNESS.

13 HE HAS ALSO CALLED THE L.A. SHERIFF'S
14 OFFICE TWICE DRUNK OFF HIS BUTT OFFERING INFORMATION THAT
15 IS COMPLETELY INACCURATE, TOTALLY UNTRUE, HYPING HIMSELF
16 UP AS THE PERSON WHO FOUND THE KILLER OF MICKEY THOMPSON.
17 SAYING THAT IN ONE OF THE REWARD POSTERS, ONE OF THE
18 BLACK MEN IS MICHAEL GOODWIN'S BROTHER. AND THAT, IN
19 FACT, MICHAEL GOODWIN PULLED A GUN ON HIM. THEY'VE NEVER
20 MET FACE-TO-FACE AND HE'S WILLING TO COME UP WITH ALL OF
21 THESE JUST CRAZY STORIES OVER THE PHONE.

22 SO ASKING US TO STIPULATE TO A WITNESS --
23 IT'S ALMOST LIKE ASKING US TO STIPULATE TO GALE HUNTER.
24 IT'S TOTALLY UNBELIEVABLE TESTIMONY.

25 BUT LET'S ASSUME FOR THE PURPOSE OF THIS
26 DISCUSSION THE COURT WERE TO BELIEVE THAT HE WOULD COME
27 IN AND SAY HE REPOSSESSED THE BOAT IN 1991, THE RELEVANCE
28 OF THAT TO THIS PROCEEDING IS NIL. THAT'S THREE YEARS

1 AFTER THE FACT. THEY'VE ALREADY DETERMINED WHERE THE
2 MONEY GOES, THE MONEY'S GONE, MIKE WAS ON THE BOAT. THE
3 FACT THAT HE LOST THE BOAT THREE YEARS LATER, THAT WOULD
4 PRESUPPOSE THAT HE KNEW IN ADVANCE HE WAS GOING TO LOSE A
5 BOAT AND THEREFORE WAS AT MICKEY THOMPSON EIGHT YEARS
6 BEFORE HE EVEN THOUGHT ABOUT BUYING IT MAKES NO SENSE.

7 MR. DIXON: OUR VIEW, AND I THINK IT'S CLEAR FROM
8 THE EVIDENCE, YOUR HONOR, IS THAT THE DEFENDANT GOT OUT
9 OF TOWN AS SOON AS HE COULD; PUT HIMSELF IN A FINANCIAL
10 POSITION TO DO THAT. AND DO THAT AND MAINTAIN THE
11 LIFESTYLE THAT HE HAD BEEN USED TO, THAT'S THE REASON FOR
12 MOVING THE MONEY OFFSHORE AND THE GOLD BOUILLON AND THE
13 LIKE.

14 AND HE ESCAPED. HE USED AN OCEAN-GOING
15 YACHT TO DO SO THAT COULD LITERALLY TAKE HIM ANYWHERE IN
16 THE WORLD. AND HE WENT TO THE CARIBBEAN AND THE COAST OF
17 SOUTH AMERICA WHERE IT WOULD BE VERY DIFFICULT TO FIND
18 ANYONE, AND THIS WAS HIS ESCAPE.

19 THE COURT: ALL RIGHT.

20 MS. SARIS: BUT THAT'S BEEN ESTABLISHED.

21 MR. MAGEE OFFERS NOTHING TO THAT.

22 MR. DIXON: AND JUST TO ADDRESS COUNSEL'S POINT
23 WITH RESPECT TO THE CROSS-EXAMINATION. WE CAN PUT THE
24 STIPULATION IN AND SHE CALL DETECTIVE LILLIENFELD AND
25 IMPEACH HIM IF SHE LIKES IN HER CASE IN CHIEF. I DON'T
26 HAVE A PROBLEM WITH THAT.

27 THE COURT: THE RELEVANCE IS OBVIOUS. IT TENDS
28 TO SHOW CONSCIOUSNESS OF GUILT BASED ON WHAT THE PEOPLE

1 ARE OFFERING IS THEIR THEORY. AND I DON'T CARE IF YOU
2 GUYS STIPULATE TO IT OR IF THE PEOPLE REST SUBJECT TO HIM
3 COMING IN.

4 THIS IS THE WITNESS THAT WASN'T AVAILABLE
5 UNTIL TODAY?

6 MR. JACKSON: THAT'S CORRECT, YOUR HONOR.

7 THE COURT: AND NOW NOT AVAILABLE UNTIL MONDAY?

8 MR. JACKSON: IT APPEARS MS. KASABIAN HAS BEEN IN
9 CONTACT WITH HIM. THEY'VE TRADED PHONE MESSAGES. IT
10 APPEARS THAT THE WITNESS IS IN THE PROCESS OF BRINGING A
11 BOAT BACK. I DON'T KNOW THE EXACT NATURE OF IT, BUT HE'S
12 BRINGING ANOTHER BOAT BACK FROM THE BAHAMAS. AND RAN
13 INTO SOME WEATHER PROBLEMS THAT DID NOT ALLOW HIM TO GET
14 BACK TO FLORIDA SO WE COULD FLY HIM OUT. HE SAID HE
15 WOULDN'T BE BACK AS OF YESTERDAY, HE SAID IT WOULD BE A
16 DAY AND A HALF. SO I DON'T KNOW WHAT THAT MEANS EXACTLY,
17 BUT HE'S NOT HERE TODAY.

18 MS. SARIS: AND WE'D ASK FOR SOME FURTHER
19 SHOWING. I MEAN --

20 THE COURT: SOME FURTHER SHOWING ON WHAT?

21 MS. SARIS: WAS HE SUBPOENAED? IS THERE REALLY A
22 WEATHER SITUATION? WE HAVE CHECKED THE HURRICANE REPORTS
23 ONLINE, WE HAVEN'T SEEN ANY BAD WEATHER IN THE BAHAMAS.
24 IF THIS INDIVIDUAL IS JUST FINISHING UP A PLEASURE CRUISE
25 OR WORKING INSTEAD OF COMING TO COURT AFTER A DULY SWORN
26 SUBPOENA, THEN OUR CASE SHOULD BE NOT INTERRUPTED FOR HIS
27 PRESENCE.

28 MR. DIXON: AND I'M NOT ASKING IT TO BE

1 INTERRUPTED. I THINK I'VE SUGGESTED A VERY REASONABLE
2 WAY FOR US TO HANDLE THIS AND ACCOMMODATE THE DEFENSE AND
3 THE COURT.

4 THE COURT: OKAY.

5 MR. DIXON: WE THINK THAT WE'VE PRETTY MUCH
6 PRESENTED A SEAMLESS CASE AND HAVEN'T WASTED ANY OF THE
7 COURT'S TIME HERE. AND I'M NOT SUGGESTING THAT WE WILL
8 WITH THIS SITUATION.

9 THE COURT: ALL RIGHT. I WANT TO BRING THE JURY
10 IN SO WE CAN DISCUSS THIS LATER.

11 WE HAVE OUR WITNESS HERE?

12 MR. JACKSON: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. LET'S HAVE HER RESUME THE
14 STAND.

15 MR. SUMMERS: YOUR HONOR, MAY WE APPROACH BEFORE
16 WE BRING THE JURY IN OR BEFORE THE JURY GETS HERE OFF THE
17 RECORD FOR A MOMENT?

18
19 (DISCUSSION OFF THE RECORD.)

20 (THE JURY ENTERED THE COURTROOM

21 AND THE FOLLOWING PROCEEDINGS WERE

22 HELD IN OPEN COURT.)

23
24 THE COURT: BACK ON THE RECORD IN THE GOODWIN
25 MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL, THE PEOPLE
26 ARE REPRESENTED. OUR JURORS AND ALTERNATES ARE PRESENT.

27 MS. STEPHENS IS STILL ON THE WITNESS STAND
28 AND SHE HAS BEEN PREVIOUSLY SWORN.

1 YOU ARE REMINDED YOU ARE STILL UNDER OATH.
2 PLEASE JUST STATE YOUR NAME AGAIN FOR THE RECORD.

3 THE WITNESS: KAREN STEPHENS.

4 THE COURT: THANK YOU.

5 MR. SUMMERS, YOU MAY CONTINUE WITH YOUR
6 CROSS-EXAMINATION.

7 MR. SUMMERS: THANK YOU.

8
9 CROSS-EXAMINATION

10 BY MR. SUMMERS:

11 Q GOOD MORNING, MRS. STEPHENS.

12 A GOOD MORNING.

13 Q I WANTED TO TRY AND TALK ABOUT A COUPLE
14 TERMS THAT YOU USED YESTERDAY AND SEE IF WE CAN DEFINE
15 THOSE, AT LEAST FOR ME, IF NOT THE JURY.

16 ONE OF THOSE TERMS WAS WE TALKED ABOUT
17 LIQUIDATION. AND IF I UNDERSTAND IT CORRECTLY, YOU'RE
18 SAYING THAT'S BASICALLY WHEN YOU EXCHANGE -- OR DISPOSE
19 OF AN ASSET IN EXCHANGE FOR CASH?

20 A CASH OR LIQUID ASSETS.

21 Q WHAT ARE -- OR HOW DO YOU DEFINE LIQUID
22 ASSETS?

23 A SOMETHING THAT COULD BE USED QUICKLY TO
24 PURCHASE OTHER GOODS OR SERVICES SUCH AS GOLD, TRAVELERS
25 CHECKS.

26 Q WHEN YOU TALK ABOUT A -- THEN IN THAT CASE
27 WHEN YOU TALK ABOUT A HOUSE BEING SOLD, WHAT IS THE
28 ALTERNATIVE TO -- I MEAN, DON'T MOST PEOPLE SELL A HOUSE

1 FOR CASH OR SOME EQUIVALENT?

2 A WELL, YOU COULD BECOME THE MORTGAGE HOLDER
3 YOURSELF WHERE YOU RECEIVED MONTHLY PAYMENTS. BUT, YES,
4 GENERALLY SOLD FOR CASH.

5 Q THE ALTERNATIVE WOULD BE TO TRADE IT FOR
6 ANOTHER HOUSE OR SOMETHING ALONG THOSE LINES, THAT WOULD
7 BE ONE ALTERNATIVE?

8 A YES.

9 Q BUT THE MOST COMMON, IN YOUR EXPERIENCE,
10 IS SELLING IT FOR CASH?

11 A YES.

12 Q AND WHEN YOU TALK ABOUT -- ALSO WHEN YOU
13 TALK ABOUT LIQUIDATING, ARE YOU PUTTING A TIME LIMIT ON
14 THAT? THAT IS, IF SOMEBODY SELLS SOMETHING ONE DAY FOR
15 \$5,000, IS THAT -- IS IT IN YOUR OPINION THAT'S BEEN
16 LIQUIDATED AS OF DAY ONE REGARDLESS OF WHAT THEY DO WITH
17 IT THEREAFTER?

18 A WELL, IT WOULD DEPEND ON THE CIRCUMSTANCE.

19 Q WELL, I MEAN, JUST TO TAKE MY EXAMPLE,
20 LET'S SAY I SELL SOMETHING FOR \$5,000. 30 DAYS LATER
21 I'VE STILL GOT THAT \$5,000 IN CASH IN MY POCKET.

22 IS IT LIQUIDATED?

23 A YES, I WOULD SAY IT'S LIQUIDATED,
24 CONVERTED TO CASH.

25 Q WHAT IF I'M -- DURING THAT TIME PERIOD I'M
26 LOOKING AROUND FOR ANOTHER INVESTMENT OR SOME OTHER WAY
27 TO USE THAT MONEY?

28 A YOU STILL WOULD HAVE LIQUIDATED IT.

1 Q OKAY. SO WHEN YOU TALK ABOUT LIQUIDATING,
2 IS THAT JUST STRICTLY IN SORT OF AN ACCOUNTING SENSE?
3 YOU'RE NOT -- I MEAN, BECAUSE THERE IS TAX IMPLICATIONS,
4 THERE IS ALL KINDS OF --

5 A I'M USING IT AS A VERY GENERAL TERM.

6 Q OKAY. YOU ALSO TALKED ABOUT -- I THINK
7 YOU TALKED ABOUT FOLLOWING FUNDS OR ASSETS GOING TO THEIR
8 ULTIMATE DISPOSITION OR WORDS TO THAT EFFECT.

9 DO YOU RECALL USING THAT KIND OF PHRASE?

10 A NOT SPECIFICALLY, BUT I DID FOLLOW ASSETS
11 FOR A CERTAIN TIME FRAME.

12 Q OKAY. AND WHEN YOU IMPOSE A TIME FRAME ON
13 IT, THEN THAT IS ALSO -- IN A SENSE, THAT'S SORT OF
14 FORCING A CONCLUSION ON THOSE ASSETS BECAUSE OF THAT TIME
15 PERIOD.

16 DO YOU UNDERSTAND WHAT I'M SAYING?

17 LET ME JUST ASK YOU: LET'S SAY -- I MEAN,
18 IN OUR ECONOMY, THERE'S NO REAL -- THEORETICALLY NO
19 ULTIMATE DISPOSITION OF ANY ASSETS; CORRECT? I MEAN, YOU
20 CAN ALWAYS -- IT IS A MARKET ECONOMY, YOU'RE SUPPOSED TO
21 BE ABLE TO EXCHANGE THINGS FOR OTHER THINGS; RIGHT?

22 A YES.

23 Q OKAY. SO WHEN YOU TALK ABOUT -- WHEN YOU
24 JUST FOLLOW FUNDS TO A CERTAIN POINT IN TIME, WHAT YOU'RE
25 SAYING IS THAT YOU DON'T HAVE ANY IDEA HOW THOSE FUNDS
26 WERE USED OR WHAT BECAME OF THOSE FUNDS AFTER THAT POINT
27 IN TIME?

28 A CORRECT.

1 Q AND GOLD CAN ALSO BE AN INVESTMENT, CAN IT
2 NOT?

3 A YES.

4 Q GOLD COINS SPECIFICALLY?

5 A YES.

6 Q IN FACT, IT'S NOT VERY COMMON FOR PEOPLE
7 TO GO AROUND PAYING FOR THEIR SLURPEE AT 7-ELEVEN WITH
8 THEIR GOLD OR GOLD COINS; RIGHT?

9 A I THINK I'VE SEEN IT ONCE.

10 Q LET ME ASK YOU ABOUT BARCLAY'S BANK.
11 THAT WAS FORMED BY THE BARCLAY BROTHERS,
12 SNAKE AND LEFTY IN EARLY 1988?

13 MR. JACKSON: OBJECTION. I THINK COUNSEL IS
14 ACTUALLY DOING SOME STAND-UP COMEDY.

15 MR. SUMMERS: IS THAT TRUE?

16 THE COURT: SUSTAINED.

17 MR. SUMMERS: IT WASN'T?

18 MR. JACKSON: OBJECTION. I THOUGHT THAT WAS JUST
19 SUSTAINED.

20 THE COURT: SUSTAINED. THE WITNESS IS STILL
21 LAUGHING. THAT'S WHY WE DIDN'T GET AN ANSWER ALSO.

22 NEXT QUESTION.

23 Q BY MR. SUMMERS: DID SNAKE AND LEFTY THEN
24 DISBAND THEIR BARCLAY BROTHERS BANK IN LATE --

25 MR. JACKSON: OBJECTION, YOUR HONOR. AT SOME
26 POINT THIS IS BECOMING RIDICULOUS. SNAKE AND LEFTY, I
27 DON'T WANT TO START --

28 THE COURT: I'M SUSTAINING THOSE OBJECTIONS. SO

1 LET'S MOVE ON.

2 MR. JACKSON: THANK YOU.

3 Q BY MR. SUMMERS: WHAT IS BARCLAY'S
4 BANK?

5 A TO THE BEST OF MY KNOWLEDGE, BARCLAYS
6 BANK, P.L.C. -- WHICH IS GENERALLY A BRITISH TERM FOR --
7 I BELIEVE IT'S A PUBLIC LIABILITY COMPANY, WAS A BANK
8 THAT WAS WORLDWIDE AND HAD BRANCHES AROUND THE WORLD.

9 Q BEEN AROUND OVER 100 YEARS?

10 A I BELIEVE THEY HAD BEEN AROUND FOR QUITE
11 SOME TIME.

12 Q STILL AROUND?

13 A I DON'T KNOW.

14 Q IN TERMS OF BEING A WORLDWIDE BANK IN
15 TERMS OF HAVING -- IT WOULD HAVE BRANCHES IN THE UNITED
16 STATES, AT LEAST IN 1988?

17 A YES.

18 Q AND THOSE BRANCHES WOULD BE REGISTERED AND
19 REGULATED, INSURED AND SO FORTH?

20 A YES.

21 Q YOU'VE TALKED ABOUT ASSETS GOING FROM
22 MICHAEL GOODWIN TO -- OR FROM BEING JOINTLY HELD TO GOING
23 SOLELY IN DIANE GOODWIN'S NAME. YOU SAID, I THINK, THAT
24 MOST OF THE ASSETS THAT YOU HAD OBSERVED OR VIEWED THAT
25 THAT WAS WHAT HAPPENED; CORRECT?

26 A YES.

27 Q WERE THERE ANY ASSETS THAT WENT FROM BEING
28 IN DIANE'S NAME TO BEING IN MICHAEL'S NAME ALONE?

1 A I DON'T RECALL ANY MAJOR ASSETS.

2 Q DO YOU RECALL AN INTEREST IN THE STOCK OF
3 THE S.M.C. CORPORATION, THE ONE-SIXTH INTEREST THAT WAS
4 TRANSFERRED FROM -- THAT WAS IN DIANE'S NAME AND WAS
5 TRANSFERRED TO MICHAEL'S NAME?

6 MR. JACKSON: OBJECTION. VAGUE AS TO TIME.

7 THE COURT: SUSTAINED.

8 Q BY MR. SUMMERS: AT ANY POINT IN WHICH YOU
9 WERE REVIEWING THE DOCUMENTS AND THE TRANSACTIONS THAT
10 YOU'VE TESTIFIED ABOUT, DO YOU RECALL ANY RECORD OF THAT
11 TRANSACTION TAKING PLACE?

12 A YES.

13 Q AND WAS THAT, IN FACT, THE TRANSACTION,
14 THAT ONE-SIXTH SHARE WAS TRANSFERRED FROM DIANE'S NAME
15 INTO MICHAEL NAME?

16 MR. JACKSON: OBJECTION. ONCE AGAIN, VAGUE AS TO
17 TIME.

18 THE COURT: SUSTAINED.

19 Q BY MR. SUMMERS: DURING THE TIME THAT YOU
20 WERE REVIEWING THOSE RECORDS?

21 MR. JACKSON: ONCE AGAIN, YOUR HONOR, VAGUE AS TO
22 TIME. THAT'S NOT THE TIME THAT'S VAGUE, WHEN SHE VIEWED
23 IT. IT'S THE TIME OF THE TRANSACTION THAT'S VAGUE.

24 THE COURT: ALL RIGHT. IF YOU CAN REPHRASE THE
25 QUESTION.

26 Q BY MR. SUMMERS: YOU REVIEWED RECORDS
27 PERTAINING TO THE TIME PERIOD, I THINK YOU SAID, FROM
28 EARLY 1986 UNTIL SOMETIME IN 1988?

1 A YES.

2 Q AND WHEN YOU WERE REVIEWING, DID YOU
3 REVIEW ANY RECORDS FROM EARLIER THAN 1986?

4 A YES.

5 Q DO YOU RECALL APPROXIMATELY WHEN THAT
6 TRANSACTION TOOK PLACE IN WHICH A ONE-SIXTH SHARE WAS
7 TRANSFERRED FROM DIANE'S NAME INTO MICHAEL'S NAME?

8 A I DON'T RECALL THE DATE.

9 Q DO YOU REMEMBER THAT THAT TRANSACTION MADE
10 THE STOCK OF S.M.C. SOLELY IN MICHAEL'S NAME AT THAT
11 POINT?

12 A I RECALL THERE BEING A TRANSFER. AND I
13 ALSO RECALL THERE BEING SOME QUESTION AS TO THE VALIDITY
14 OF THAT TRANSFER.

15 Q THAT'S NOT MY QUESTION.

16 MY QUESTION IS: DO YOU RECALL THAT THAT
17 TRANSACTION MADE 100 PERCENT OF THE STOCK IN MICHAEL
18 GOODWIN'S NAME?

19 A WELL, IF IT WAS AN INVALID TRANSACTION,
20 THEN THERE IS NO VALID TRANSACTION. SO I REMEMBER SEEING
21 SOME SORT OF A WRITTEN DOCUMENT THAT TRANSFERRED
22 ONE-SIXTH INTEREST TO DIANE GOODWIN.

23 Q AND ANOTHER TERM THAT YOU USED WAS
24 COMMINGLING. AND, AGAIN, ARE YOU USING THAT IN A GENERAL
25 SENSE? ARE YOU USING THAT AS SOME TERM OF ART IN
26 ACCOUNTING? ARE YOU USING IT IN THE FAMILY LAW ARENA?
27 FOR INSTANCE, COMMUNITY PROPERTY TALKS ABOUT COMMINGLING.

28 A WELL, NOT BEING AN ATTORNEY, I USE IT AS A

1 GENERAL TERM THAT I ASSUME MOST PEOPLE HAVE SOME
2 UNDERSTANDING OF THE TERM COMMINGLING.

3 Q SO YOU'RE USING IT IN A GENERAL WAY.

4 SO LET ME GIVE YOU AN EXAMPLE. LET'S SAY
5 I HAVE \$500 TO MY NAME. I MARRY A WOMAN WITH 4 MILLION
6 DOLLARS TO HER NAME. WE PUT OUR -- MY 500 AND HER
7 \$4 MILLION IN A CHECKING ACCOUNT IN BOTH OUR NAMES. AT
8 SOME POINT SHE BUYS SOMETHING FOR 3.5 MILLION DOLLARS AND
9 THEN PUTS IT IN HER NAME. IT'S A BEAUTIFUL PIECE OF ART.

10 IS SHE BUYING THAT WITH COMMINGLED FUNDS?

11 Q YOUR 500 COMMINGLED FUNDS, IS THAT THE
12 QUESTION?

13 Q COMMINGLED FUNDS.

14 A IN A VERY GENERAL SENSE, YES.

15 Q ARE YOU FAMILIAR WITH THE TERM
16 TRANSMUTATION? IT'S FINE IF YOU'RE NOT.

17 A I'VE HEARD THE TERM. I WOULD NOT CARE TO
18 GIVE A DEFINITION.

19 Q IN THE COURSE OF YOUR REVIEW OF RECORDS
20 AND INTERVIEWING FOLKS IN THIS PARTICULAR INVESTIGATION,
21 DO YOU RECALL COMING ACROSS ANY LAWYER OR ANYBODY USING
22 THAT TERM?

23 A I DON'T RECALL.

24 Q DO YOU RECALL ANY TRANSACTION WHEREIN
25 MICHAEL GOODWIN AND DIANA AGREED TO DESIGNATE CERTAIN
26 PROPERTY HER SEPARATE PROPERTY AS OPPOSED TO THEIR
27 COMMUNITY PROPERTY?

28 A I RECALL -- ARE YOU ASKING ME ABOUT A

1 DOCUMENT?

2 Q WE CAN START WITH A DOCUMENT, IF YOU
3 RECALL SOMETHING ALONG THOSE LINES.

4 A COULD YOU ASK ME THE QUESTION ONE MORE
5 TIME, PLEASE?

6 Q SURE.

7 DO YOU RECALL A TRANSACTION WHEREBY
8 MICHAEL AND DIANE GOODWIN HAD AN AGREEMENT IN WHICH THEY
9 DESIGNATED CERTAIN PROPERTY TO BE HER SEPARATE PROPERTY?

10 A I DON'T KNOW IF YOU WOULD CONSIDER IT A
11 TRANSACTION. BUT THE INVESTIGATOR AND I INTERVIEWED A
12 C.P.A. THAT MR. AND MRS. GOODWIN HAD GONE TO TALK TO AND
13 THEY HAD SPECIFICALLY ASKED HIM HOW TO PUT ALL OF -- PUT
14 EVERYTHING INTO DIANE'S NAME TO ACT AS A SURETY.

15 Q MY QUESTION IS: DID YOU SEE -- LET'S
16 START WITH A WRITTEN DOCUMENT, A DOCUMENT WHEREBY --
17 WITHOUT CALLING IT A TRANSACTION -- THERE WAS AN
18 AGREEMENT BETWEEN THOSE TWO PEOPLE?

19 A I DON'T BELIEVE I SAW AN AGREEMENT.

20 Q OKAY. DO YOU RECALL OR DID YOU COME
21 ACROSS AND REVIEW -- SEEK AND REVIEW RECORDS IN YOUR
22 INVESTIGATION FROM LATE 1988?

23 A IT'S POSSIBLE BASED ON THE RECORDS THAT
24 WERE BEING REVIEWED AT THAT TIME TO DETERMINE THE
25 DISPOSITION OF ASSETS. THERE MAY HAVE BEEN SUBPOENAS
26 THAT LATE.

27 Q DO YOU RECALL SPECIFICALLY BANK ACCOUNTS
28 IN EITHER MICHAEL GOODWIN'S NAME OR DIANE GOODWIN'S NAME

1 THAT WERE OPENED IN LATE 1988 OR DURING 19- -- LET'S SAY
2 AFTER JUNE 1ST OF 1988 OR THEREABOUTS?

3 A JUNE 1ST?

4 Q MAKE IT MAY 1ST.

5 A MAY 1ST? THERE MAY HAVE BEEN. I KNOW
6 THERE WAS AT LEAST ONE IN EARLY 1988.

7 Q DO YOU RECALL REVIEWING BANK RECORDS FROM
8 A BANK IN THE STATE OF FLORIDA?

9 A I BELIEVE I SPOKE TO SOMEONE AT A BANK IN
10 FLORIDA, A BANK MANAGER.

11 Q BUT YOU DON'T RECALL LOOKING AT BANK
12 STATEMENTS OR DOCUMENTS?

13 A I HAVE MUST HAVE HAD THEM IF I WAS
14 SPEAKING WITH HER.

15 Q AND DO YOU RECALL ANY OF THE DETAILS OF
16 THAT ACCOUNT? WHOSE NAME IT WAS IN? WHEN IT WAS OPENED?

17 A IT SEEMS TO ME THERE WAS ONE ACCOUNT
18 PROBABLY IN FLORIDA IN DIANE GOODWIN'S NAME.

19 Q AND DO YOU RECALL OBSERVING TRANSACTIONS
20 ON THAT ACCOUNT FROM THE PERIOD OF, AGAIN, MAY 1ST ON OF
21 1988?

22 A I DON'T RECALL THE EXACT DATE. IT MAY
23 HAVE BEEN AFTER MAY OF 1988.

24 Q TO YOUR KNOWLEDGE, IN AND OF ITSELF IN
25 1988, WAS THERE ANYTHING ILLEGAL ABOUT A U.S. CITIZEN
26 OPENING AN ACCOUNT OUTSIDE OF THE UNITED STATES?

27 A NOT TO MY KNOWLEDGE, NO.

28 Q OR TODAY?

1 A NOT TO MY KNOWLEDGE.

2 Q IF GEORGE CLOONEY WANTS TO WRITE A CHECK
3 FOR HIS BOAT REPAIRS ON LAKE COMO, HE CAN GO AHEAD AND
4 OPEN AN ITALIAN ACCOUNT AND WRITE THAT LOCAL CHECK --

5 A I ASSUME HE CAN.

6 Q -- WITHOUT GETTING BUSTED BY THE FEDS WHEN
7 HE REENTERS THE COUNTRY?

8 A WELL, I DON'T KNOW.

9 Q WITH REGARD TO THE J.G.A. OR THE WHITEHAWK
10 INVESTMENT THAT YOU'VE TALKED ABOUT AND THE MONEY COMING
11 FROM THAT INVESTMENT, DO YOU RECALL ANY OF THE -- HOW
12 THAT INVESTMENT WAS STRUCTURED OR ANY OF THE DETAILS OF
13 THAT INVESTMENT?

14 A I DON'T RECALL THE SPECIFIC DETAILS
15 WITHOUT LOOKING AT THE DOCUMENTS. I DO KNOW THAT IT WAS
16 A -- I DON'T WANT TO SAY "COMPLEX," BUT DIANE GOODWIN
17 OWNED A PORTION OF J.G.A.

18 Q AND LET ME ASK YOU JUST A LITTLE BIT MORE
19 GENERALLY ABOUT SOME OF THE THINGS THAT YOU WERE TALKING
20 ABOUT YESTERDAY AND THEN GO BACK TO J.G.A.

21 YOU TALKED ABOUT THE DIFFERENCE, I THINK
22 IS WHAT THE POINT WAS, BETWEEN LIQUIDATING AN INVESTMENT
23 VERSUS JUST RECEIVING INTEREST OR DIVIDENDS FROM THAT
24 INVESTMENT.

25 DOES THAT --

26 A I DON'T RECALL, ACTUALLY. MAYBE YOU CAN
27 REFRESH MY MEMORY. I DON'T RECALL DISCUSSING THAT
28 DIFFERENCE.

1 Q LET'S SAY I'VE INVESTED IN A STOCK AND
2 THAT STOCK STARTS PAYING DIVIDENDS PERIODICALLY AND I
3 RECEIVE THOSE IN THE FORM OF CASH.

4 AM I LIQUIDATING THAT INVESTMENT?

5 A RATHER THAN REINVESTING IT? YES.

6 Q I AM JUST BY RECEIVING THE DIVIDENDS?

7 A IF YOU'RE NOT AUTOMATICALLY REINVESTING
8 IT.

9 Q OKAY. I THINK THE QUESTION THAT WAS PUT
10 TO YOU YESTERDAY WAS ABOUT INTEREST ON AN ACCOUNT. IF
11 YOU HAVE AN ACCOUNT -- AN INTEREST-BEARING ACCOUNT AND
12 YOU ACCEPT THAT INTEREST AND YOU ARE -- IT WOULD BE YOUR
13 OPINION THAT YOU WERE THEN LIQUIDATING THAT MONEY?

14 A WELL, IT DEPENDS WHAT YOU DO WITH THE
15 MONEY. IF YOU'RE TAKING IT IN GOLD OR CASH, THAT COULD
16 BE CONSIDERED LIQUIDATING IT.

17 Q EVEN THOUGH THE AMOUNT IN THE ACCOUNT IS
18 STILL THERE, IT STILL REMAINS THE SAME AS IT WAS; YOU
19 HAVEN'T REMOVED ANY OF THE INITIAL INVESTMENT, YOU WOULD
20 STILL CONSIDER THAT LIQUIDATING THE INVESTMENT?

21 A NOT THE ENTIRE INVESTMENT, JUST THE
22 DIVIDENDS.

23 Q AND THE SAME THING WITH A STOCK DIVIDEND.
24 IF I GET YOU -- RIGHT, YOU WOULD SAY THAT WHEN YOU GET
25 THAT DIVIDEND CHECK IN THE MAIL AND YOU DEPOSIT IT, THAT,
26 IN YOUR OPINION, YOU WOULD BE LIQUIDATING THAT
27 INVESTMENT?

28 A IF IT'S COMING TO YOU IN THE FORM OF A

1 SMALL PORTION OF THE STOCK OR ARE YOU SAYING IT'S COMING
2 TO YOU AS CASH, IN \$3.27 IN CASH?

3 Q IT'S A CHECK FOR THE DIVIDENDS OF
4 \$3.28.

5 A I'M NOT SURE I WOULD SAY LIQUIDATING IT.
6 YOU'RE NOT REINVESTING IT IN THE SAME INVESTMENT.

7 Q CORRECT. IN FACT, THE CHECK IS JUST
8 SITTING THERE ON YOUR -- SITTING THERE ON YOUR DRESSER
9 FOR A COUPLE OF MONTHS.

10 A YOU'RE ASKING ME IF THAT'S A LIQUIDATION?

11 Q YES.

12 A I SUPPOSE IT COULD BE.

13 Q WHAT ABOUT -- SPECIFICALLY IN J.G.A., DO
14 YOU RECALL THAT WAS BASICALLY A SITUATION WHERE MONEY WAS
15 INVESTED IN A REAL ESTATE DEVELOPMENT?

16 A (WITNESS NODDING.)

17 Q YOU WERE NODDING.

18 A YES.

19 Q AND AT A CERTAIN POINT IT WAS DETERMINED
20 THAT THE DEVELOPMENT WAS GOING WELL.

21 DO YOU RECALL THAT?

22 A YES.

23 Q AND THERE WAS A CERTAIN POINT AT WHICH IT
24 WAS DETERMINED THAT THAT INITIAL INVESTMENT THAT THE
25 INVESTORS HAD PUT FORTH WAS GOING TO BE RETURNED?

26 A YES.

27 Q AND THAT WAS -- I BELIEVE IT WAS CALLED A
28 CAPITAL RETURN?

1 A THEY MIGHT HAVE USED THAT TERM.

2 Q AND DO YOU RECALL ALSO SEEING THAT THERE
3 WAS A -- WHAT WE CALL THE DISTRIBUTION, THAT THERE WAS A
4 SCHEDULE OF DISTRIBUTIONS FROM THAT J.G.A. WHITEHAWK
5 INVESTMENT?

6 A I RECALL SEEING A SCHEDULE OF
7 DISTRIBUTIONS, YES.

8 Q AND THE NATURE OF THAT WAS BASICALLY THE
9 DEVELOPERS COULD TELL WELL ENOUGH BY THE LOTS THEY SOLD
10 AND THE LOTS THAT THEY HAD COMMITMENTS TO SELL, THAT THEY
11 WERE GOING TO NOT JUST BE ABLE TO RETURN THE INITIAL
12 INVESTMENT, BUT THERE WAS GOING TO BE A SUBSTANTIAL
13 PROFIT THAT WOULD BE PAID OUT PERIODICALLY.

14 IS THAT --

15 A YES. THEY WERE PREDICTING A PROFIT.

16 Q AND DO YOU RECALL THAT THE PREDICTION WAS
17 SUCH THAT THE PROFITS WOULD BE PAID OUT ON SORT OF A
18 PERIODIC BASIS AS THE LOTS CONTINUED TO BE SOLD?

19 A YES. I HAVE A GENERAL RECOLLECTION OF
20 THAT.

21 Q WHEN YOU WERE SORT OF SHOWING US YESTERDAY
22 THE FLOW OF THE MONEY AND THE FUNDS OVER THERE ON THE
23 DIAGRAM, I THINK YOU SAID IT REQUIRED SOME EXPERTISE.

24 LET ME JUST ASK YOU -- AND I DON'T MEAN TO
25 BE FACETIOUS -- WAS IT PRETTY SIMPLE AS FAR AS ONCE YOU
26 WERE LOOKING AT THAT BARCLAY'S BANK ACCOUNT TO FIGURE OUT
27 WHAT HAPPENED?

28 A WHICH BARCLAY'S BANK ACCOUNT?

1 Q THE BARCLAY'S BANK ACCOUNT IN ORANGE
2 COUNTY.

3 A IT WAS FAIRLY STRAIGHTFORWARD.

4 Q I MEAN, THOSE TRANSACTIONS THAT ARE
5 REPRESENTED, ARE THOSE PRETTY MUCH ALL THE TRANSACTIONS
6 THAT WERE IN THAT ACCOUNT?

7 A I BELIEVE THOSE WERE THE MATERIAL
8 TRANSACTIONS. THERE WERE A FEW IMMATERIAL AMOUNTS.

9 THE COURT: FOR THE RECORD, YOU ARE REFERRING TO
10 PEOPLE'S 101?

11 MR. SUMMERS: COULD BE.

12 THE WITNESS: YES.

13 MR. SUMMERS: OKAY. THANK YOU.

14 Q AND WHEN YOU SAY "IMMATERIAL AMOUNTS,"
15 BASICALLY YOU TOOK THE 365 AND 210 THAT WERE GOING IN AND
16 YOU WERE ABLE TO PRETTY MUCH FIGURE OUT THROUGH THREE OR
17 FOUR TRANSACTIONS WHERE THAT MONEY ENDED UP?

18 A WELL, YES, WHERE IT ENDED AT THAT POINT IN
19 TIME.

20 Q RIGHT. AND THOSE THREE OR FOUR
21 TRANSACTIONS BASICALLY ADDED UP TO THE SUM OF 365 PLUS
22 210?

23 A YES.

24 MR. SUMMERS: MAY I HAVE JUST A MOMENT, YOUR
25 HONOR?

26 (PAUSE IN PROCEEDINGS.)

27 MR. SUMMERS: YOUR HONOR, SUBJECT TO THE
28 RESERVATIONS I EXPRESSED EARLIER, I HAVE NO OTHER

1 QUESTIONS.

2 THE COURT: OKAY. REDIRECT?

3 MR. JACKSON: I DON'T THINK I'M GOING TO BE LONG.
4 MAY I HAVE JUST A MOMENT WITH MR. SUMMERS?

5 (DISCUSSION OFF THE RECORD.)

6 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
7 HONOR, I'M TRYING TO FIND A PARTICULAR EXHIBIT?

8 (PAUSE IN PROCEEDINGS.)

9 MR. JACKSON: I FOUND IT, YOUR HONOR.

10
11 REDIRECT EXAMINATION

12 BY MR. JACKSON:

13 Q MS. STEPHENS, YOU WERE ASKED BY
14 MR. SUMMERS ON CROSS-EXAMINATION ABOUT S.M.C. AND WHETHER
15 YOU WERE AWARE OF A ONE-SIXTH INTEREST IN S.M.C. OR
16 STADIUM MOTOR SPORTS CORPORATION HAD BEEN TRANSFERRED
17 KIND OF THE OTHER DIRECTION FROM DIANE GOODWIN OVER TO
18 MICHAEL GOODWIN; CORRECT?

19 A YES.

20 Q ARE YOU AWARE THAT -- ARE YOU AWARE OF
21 WHEN S.M.C. STOPPED DOING BUSINESS AS S.M.C. AS A GOING
22 CONCERN? DO YOU UNDERSTAND MY QUESTION?

23 A YES. I BELIEVE IT WAS ABOUT THE TIME THAT
24 THE BUSINESS FILED BANKRUPTCY.

25 Q OKAY. BINGO. LOOK, I HAVE PEOPLE'S 14 IN
26 MY HAND. IT APPEARS TO BE A BANKRUPTCY DOCUMENT.

27 ON THE UPPER RIGHT-HAND CORNER ARE SOME
28 HANDWRITTEN INK -- HANDWRITTEN NOTES IN INK.

1 WHAT DATE DOES THAT INDICATE?

2 A SEPTEMBER 19TH, 1986.

3 Q SO AS OF SEPTEMBER 19TH, 1986 THE COMPANY
4 THAT WENT INTO BANKRUPTCY WAS CALLED WHAT?

5 A STADIUM MOTOR SPORTS. ALTHOUGH ON --

6 Q TAKE A LOOK RIGHT HERE (INDICATING), WHAT
7 IS THAT NAME RIGHT THERE (INDICATING)?

8 A OH, THAT NAME. ENTERTAINMENT SPECIALTIES,
9 INC.

10 Q SO BY 1986 IT WAS E.S.I.; CORRECT?

11 A YES.

12 Q SO BASED ON YOUR REVIEW OF THESE DOCUMENTS
13 AND YOUR REVIEW OF OTHER NOTES, CAN YOU TELL ME WHETHER
14 OR NOT ANY TRANSFER OF INTEREST BETWEEN DIANE GOODWIN AND
15 MIKE GOODWIN IN S.M.C. HAD TO HAVE TAKEN PLACE BEFORE
16 SEPTEMBER OF 1986?

17 A YES.

18 Q SO I'M JUST TRYING TO NARROW THE TIME
19 FRAME DOWN BASED ON THE DOCUMENTS.

20 SO IN OTHER WORDS, THE ANSWER TO
21 MR. SUMMERS' QUESTIONS WOULD BE IF THERE WAS A TRANSFER
22 OF ASSETS, IT WOULD HAVE BEEN BEFORE 1986; CORRECT?

23 A YES.

24 Q OR IN THE EARLY PARTS OF 1986?

25 A YES.

26 THE COURT: GIVE ME ONE SECOND.

27 (DISCUSSION OFF THE RECORD.)

28 THE COURT: ALL RIGHT. THANK YOU.

1 MR. JACKSON: THANK YOU, YOUR HONOR.

2 MAY I APPROACH THE WITNESS ONE MORE TIME?

3 THE COURT: YES.

4 Q BY MR. JACKSON: TAKE A LOOK AT WHAT HAS
5 BEEN PREVIOUSLY MARKED AS PEOPLE'S 102. AND I'M GOING TO
6 ASK YOU TO DO ME A FAVOR, YESTERDAY I ASKED YOU TO LOOK
7 AT A HIGHLIGHTED PORTION. TODAY I'M GOING TO ASK YOU,
8 MS. STEPHENS, IF YOU WILL READ THE ENTIRE LETTER TO
9 YOURSELF, PLEASE, AND THEN TELL ME WHEN YOU'RE FINISHED.

10 A I'VE QUICKLY READ THIS LETTER.

11 Q I KNOW IT SEEMS LIKE THERE IS A SPOTLIGHT
12 ON YOU, DOESN'T THERE?

13 A YES.

14 Q NOBODY IS LOOKING AT YOU. DON'T WORRY.

15 DID YOU SEE THIS LETTER DURING THE COURSE
16 OF YOUR INVESTIGATION?

17 A YES, I DID.

18 MR. SUMMERS: OBJECTION, YOUR HONOR. ASKED AND
19 ANSWERED AND BEYOND THE SCOPE. I DIDN'T ASK ABOUT THE
20 LETTER.

21 THE COURT: OVERRULED.

22 THE ANSWER CAN REMAIN.

23 Q BY MR. JACKSON: AND MR. SUMMERS ASKED YOU
24 SPECIFICALLY ABOUT THE PROFITABILITY OF CERTAIN OF THE
25 ASSETS, INCLUDING J.G.A. AND/OR WHITEHAWK; CORRECT?

26 A YES.

27 Q MY QUESTION IS SPECIFICALLY ABOUT
28 WHITEHAWK.

1 DURING THE COURSE OF YOUR INVESTIGATION --
2 THIS IS RIVETTING DIRECT EXAMINATION RIGHT HERE.

3 DURING THE COURSE OF YOUR EXAMINATION,
4 MS. STEPHENS, DID YOU BECOME AWARE OF WHETHER OR NOT
5 MICHAEL GOODWIN THROUGH HIS CORRESPONDENCE APPEARED
6 DISINTERESTED IN THE PROFITABILITY OF THE CERTAIN
7 INVESTMENTS?

8 MR. SUMMERS: OBJECTION, YOUR HONOR. IT'S
9 LEADING.

10 THE COURT: ALL RIGHT. REPHRASE IT, PLEASE.

11 MR. JACKSON: SURE.

12 Q MR. SUMMERS WAS ASKING YOU ABOUT -- I
13 BELIEVE HE ASKED WHETHER OR NOT THERE WAS PROFIT IN SOME
14 OR ALL OF THE ASSETS AND WHETHER THAT PROFIT WAS TO BE
15 PAID OUT ON A PERIODIC SCHEDULE.

16 DO YOU RECALL THAT QUESTION BY
17 MR. SUMMERS?

18 A YES, I DO.

19 Q MY QUESTION TO YOU IS SPECIFICALLY
20 CONCERNING THE WHITEHAWK INVESTMENT.

21 WERE YOU ABLE TO FORM ANY OPINION BASED ON
22 THAT LETTER AND THE REST OF YOUR INVESTIGATION AS TO WHAT
23 MICHAEL GOODWIN'S CONCERN WAS ABOUT THE PROFITABILITY,
24 SPECIFICALLY, OF WHITEHAWK?

25 MR. SUMMERS: I'M GOING TO OBJECT AS VAGUE, YOUR
26 HONOR, AND BEYOND THE SCOPE.

27 THE COURT: OVERRULED.

28 YOU CAN ANSWER.

1 THE WITNESS: BASED ON THE RECORDS THAT I LOOKED
2 AT, IT APPEARED THAT MR. GOODWIN WAS VERY MUCH INTERESTED
3 IN THE PROFITABILITY OF THEIR INVESTMENTS AND WAS VERY
4 ANXIOUS TO SELL THAT PORTION OF THE INVESTMENT AND TAKE
5 THE CASH OUT OF THE INVESTMENT.

6 Q BY MR. JACKSON: DURING THE COURSE OF YOUR
7 INVESTIGATION, DID YOUR INVESTIGATION REVEAL WHETHER OR
8 NOT MR. GOODWIN, IN YOUR OPINION, HAD BEEN GIVEN ADVICE
9 ABOUT THE PROFITABILITY OF WHITEHAWK?

10 A YES. THERE APPEARED TO BE LETTERS WHICH
11 INDICATED THAT WHITEHAWK WOULD BE QUITE VALUABLE IF
12 INVESTORS WERE TO REMAIN IN THE INVESTMENT AND NOT TO
13 LIQUIDATE IT.

14 Q AND WHAT ABOUT DESERT INVESTORS?

15 A THE SAME.

16 Q OKAY.

17 A THAT KEEPING THE INVESTMENT INVESTED WOULD
18 PRODUCE EXCELLENT PROFITS.

19 Q AND WHAT DID YOUR INVESTIGATION REVEAL
20 ABOUT -- NOTWITHSTANDING THOSE CORRESPONDENCE -- WHETHER
21 OR NOT DIANE GOODWIN MAINTAINED HER INVESTMENT IN
22 WHITEHAWK?

23 A NO --

24 MR. SUMMERS: YOUR HONOR, THIS HAS BEEN ASKED AND
25 ANSWERED. THIS IS BEYOND THE SCOPE.

26 THE COURT: OVERRULED.

27 YOU CAN ANSWER.

28 Q BY MR. JACKSON: GO AHEAD, MS. STEPHENS.

1 I'M ASKING YOU ABOUT WHITEHAWK.

2 DID SHE MAINTAIN HER INVESTMENT -- AS OF
3 MAY OF 1988, DID SHE MAINTAIN HER INVESTMENT IN
4 WHITEHAWK?

5 A NO. SHE TOOK CASH OUT OF THE INVESTMENT,
6 LIQUIDATED AND CONVERTED THAT PORTION OF THE INVESTMENT
7 AND SENT IT OFFSHORE AND PURCHASED GOLD COINS.

8 Q THE SAME THING WITH THE DESERT INVESTORS
9 INVESTMENT, THE \$215,000?

10 MR. SUMMERS: THIS IS BEYOND THE SCOPE, YOUR
11 HONOR. OBJECTION.

12 THE COURT: SUSTAINED.

13 Q BY MR. JACKSON: I BELIEVE MR. SUMMERS
14 ASKED YOU ABOUT CERTAIN OF THE ASSETS THAT MAY OR MAY NOT
15 HAVE BEEN, QUOTE, UNQUOTE, LIQUIDATED BY MICHAEL GOODWIN
16 AND/OR DIANE GOODWIN.

17 DO YOU REMEMBER THAT --

18 A YES.

19 Q -- CONVERSATION?

20 DURING THE COURSE AND SCOPE OF YOUR
21 INVESTIGATION, DID YOU REVIEW MANY, MANY CHECKS FROM
22 MANY, MANY BANK ACCOUNTS FROM DIANE GOODWIN AND MICHAEL
23 GOODWIN?

24 A YES, I DID.

25 Q DURING THE COURSE AND SCOPE OF YOUR
26 INVESTIGATION, DID YOU NOTICE ANY UNUSUAL -- AND I'M
27 GOING TO USE THE TERM -- IT MAY NOT BE THE CORRECT TERM
28 AND YOU'LL CORRECT ME IF I'M WRONG -- DID YOU UNCOVER OR

1 REVEAL ANY UNUSUAL EITHER LIQUIDATION OF ASSETS OR
2 WITHDRAWAL OF FUNDS ON OR AROUND THE DATE OF MARCH 16TH,
3 1988?

4 MR. SUMMERS: OBJECTION, YOUR HONOR. LEADING.
5 CALLS FOR SPECULATION. NO FOUNDATION. AND IT'S BEYOND
6 THE SCOPE.

7 THE COURT: I'M GOING TO SUSTAIN IT ON FOUNDATION
8 GROUNDS.

9 YOU CAN REPHRASE IT.

10 MR. JACKSON: SURE.

11 Q DID YOU REVIEW BANK RECORDS IN THE NAME OF
12 DIANE GOODWIN?

13 A YES.

14 Q DID ANY OF THOSE BANK RECORDS DEAL WITH
15 SOUTHWEST BANK?

16 A YES.

17 Q DID YOU LOOK AT THOSE BANK RECORDS WITH AN
18 EYE TOWARD DETERMINING WHETHER OR NOT ANY UNUSUAL
19 FINANCIAL ACTIVITY HAD BEEN ENGAGED UPON OR ENGAGED IN BY
20 DIANE GOODWIN?

21 A YES.

22 MR. SUMMERS: I'M GOING TO OBJECT, YOUR HONOR, AS
23 VAGUE.

24 THE COURT: ALL RIGHT. SUSTAINED.

25 Q BY MR. JACKSON: DID YOU LOOK AT ANY OR
26 ALL OF THE TRANSACTIONS SURROUNDING THE MONTH OF 1988 FOR
27 DIANE GOODWIN?

28 A IN THE SOUTHWEST ACCOUNT? YES.

1 Q AND WHAT, IF ANYTHING, DID YOU FIND ON OR
2 ABOUT THE DATE OF MARCH 16TH, 1988?

3 A ON OR ABOUT MARCH 16 OF 1988, THE BANK
4 STATEMENT LISTS A \$20,000 WITHDRAWAL FROM DIANE GOODWIN'S
5 ACCOUNT.

6 Q WERE YOU ABLE TO TRACE THAT MONEY?

7 A THE BANK WAS UNABLE TO COME UP WITH THE
8 OFFSET, WHICH IS THEIR TERM FOR IF YOU WRITE A CASHIER'S
9 CHECK, THE BANK WILL HAVE THEIR OWN INTERNAL DOCUMENT.
10 IF IT'S CASH, THEY WILL HAVE SOME SORT OF RECORD OF THAT.
11 THERE WAS NO PERSONAL CHECK LISTED, SO IT HAD TO BE
12 SOMETHING OTHER THAN THAT.

13 Q AS AN EXPERT FORENSIC ACCOUNTANT, WHAT
14 DOES THAT TELL YOU THAT -- THE LACK OF PERSONAL CHECK
15 INFORMATION, I GUESS, TELL YOU ABOUT WHAT KIND OF
16 TRANSACTION THIS MUST HAVE BEEN?

17 A IT WAS LIKELY EITHER A CASHIER'S CHECK OR
18 CASH.

19 Q WERE YOU ABLE TO TRACE THAT MONEY?

20 A AGAIN, NO. THE BANK HAD NO SUPPORTING
21 DOCUMENTS FOR THEIR RECORD.

22 Q SO THAT \$20,000 IS UNACCOUNTED FOR AS OF
23 TODAY IN YOUR MIND?

24 A YES. I HAVE NEVER SEEN ANYTHING ELSE.

25 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

26 THE COURT: FURTHER CROSS?

27 MR. SUMMERS: YES, YOUR HONOR.
28

RE CROSS-EXAMINATION

BY MR. SUMMERS:

Q I HAVE IN MY HAND A ONE-PAGE DOCUMENT
DATED MARCH 22ND, 1988 ON DAVID FRASER YACHTS,
INCORPORATED LETTERHEAD ADDRESSED TO MS. DIANE GOODWIN.
IT IS A COPY SUCH THAT IT HAS A LETTER ON ONE PART OF IT
AND WHAT PURPORTS TO BE A CHECK FROM SOUTHWEST BANK ON
THE OTHER PORTION.

THE COURT: DO YOU WANT TO MARK THAT?

MR. SUMMERS: YES, PLEASE.

THE COURT: HHH.

(MARKED FOR IDENTIFICATION DEFENSE'S
EXHIBIT NO. HHH, DOCUMENTS.)

Q BY MR. SUMMERS: MA'AM, I WOULD ASK YOU TO
TAKE A LOOK AT WHAT HAS BEEN MARKED AS DEFENSE HHH AND
TELL ME IF YOU RECOGNIZE THAT DOCUMENT.

A I DON'T HAVE A SPECIFIC RECOLLECTION OF
THIS CHECK.

Q YOU DON'T RECALL THAT BEING IN THE FILE
FOR THE FRASER YACHT LOAN?

A IT PROBABLY WAS. IT APPEARS THAT'S WHERE
IT CAME FROM.

Q AND IF YOU READ THAT LETTER -- HAVE YOU
HAD A CHANCE TO READ THAT LETTER?

A ONE MOMENT.

YES.

1 Q AND DOES THAT INDICATE THAT A
2 20,000-DOLLAR CHECK THAT WAS DATED MARCH 15TH WAS
3 RETURNED TO MRS. GOODWIN IN THE LETTER ON MARCH 22ND
4 BECAUSE IT WAS OFFERED AS A DEPOSIT ON THE YACHT?

5 A IT HAS BEEN RETURNED TO MRS. GOODWIN.
6 DOES THAT ANSWER YOUR QUESTION? OR WAS THERE A SECOND
7 PART?

8 Q WELL, IS THAT -- DOES IT CONTAIN A COPY OF
9 A CHECK WRITTEN ON A SOUTHWEST BANK ACCOUNT?

10 A IT DOES.

11 Q IN DIANE GOODWIN'S NAME?

12 A IT DOESN'T LIST DIANE GOODWIN'S NAME. IT
13 LOOKS LIKE ONE OF THOSE TEMPORARY CHECKS. AND I CAN'T
14 MAKE OUT THE ACCOUNT NUMBER AT THE BOTTOM, BUT DIANE
15 GOODWIN HAS WRITTEN THIS CHECK TO FRASER YACHTS.

16 Q AND YOU CAN'T READ ENOUGH OF THE -- WELL,
17 WOULD YOU EVEN REMEMBER THE SOUTHWEST ACCOUNT NUMBER THAT
18 YOU ARE REFERRING TO?

19 A I DON'T REMEMBER THE ENTIRE NUMBER. I
20 BELIEVE IT DID START WITH 320, WHICH LOOKS LIKE THAT
21 MIGHT BE A 32 -- THAT'S HALF OF A 320.

22 MR. SUMMERS: YOUR HONOR, IF YOU WANTED TO TAKE A
23 BREAK, WE CAN GET ANOTHER COPY WITHIN A FEW MINUTES.

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
25 WILL TAKE A BRIEF RECESS AT THIS TIME. DON'T DISCUSS THE
26 CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T CONDUCT
27 ANY DELIBERATIONS. PLEASE COME BACK IN ABOUT -- OR GO
28 BACK TO THE JURY ROOM FOR ABOUT 15 MINUTES. THANK YOU.

1 (BRIEF RECESS.)

2 THE COURT: ALL OF OUR JURORS AND ALTERNATES ARE
3 ONCE PRESENT AND MRS. STEPHENS IS STILL ON THE WITNESS
4 STAND.

5 MR. SUMMERS, YOU MAY CONTINUE.

6 MR. SUMMERS: THANK YOU, YOUR HONOR. I HAVE AN
7 ITEM THAT I WOULD LIKE MARKED FOR IDENTIFICATION AS
8 DEFENSE III.

9 THE COURT: SO MARKED. WHAT IS IT?

10
11 (MARKED FOR IDENTIFICATION DEFENSE'S
12 EXHIBIT NO. III, DOCUMENT.)
13

14 MR. SUMMERS: IT IS BASICALLY ONE SHEET OF PAPER
15 WITH A SOMEWHAT BETTER COPY OF THE CHECK THAT'S IN THE
16 MARGIN OF HHH. IF I COULD, IF I MAY APPROACH.

17 Q MA'AM, IF YOU WOULD TAKE A LOOK AT III AND
18 SEE IF THAT WOULD GIVE YOU A BETTER LOOK AT THE ACCOUNT.

19 A I'M GOING TO ASSUME THAT'S DIANE GOODWIN'S
20 ACCOUNT. THAT'S HER HANDWRITING ON THE CHECK, IN MY
21 OPINION.

22 Q AND YOU RECALLED SOME OF THE NUMBERS OF
23 THE ACCOUNT?

24 A THE FIRST TWO NUMBERS WERE 320, PROBABLY
25 THE 8, AS I RECALL.

26 MR. SUMMERS: YOUR HONOR, I DON'T THINK WE NEED
27 TO MARK THIS, BUT I HAVE A DOCUMENT THAT I COULD SHOW
28 HER.

1 Q DO YOU THINK IF YOU SAW ANY OTHER
2 DOCUMENTS IT MIGHT REFRESH YOUR RECOLLECTION ABOUT THE
3 ACCOUNT NUMBER?

4 A I WOULD LIKE TO SEE THEM, CERTAINLY.

5 Q TAKE A LOOK AT THAT AND SEE IF THAT
6 REFRESHES YOUR RECOLLECTION.

7 A YES. THAT APPEARS TO BE DIANE GOODWIN'S
8 ACCOUNT NUMBER, YES.

9 Q THE SOUTHWEST BANK ACCOUNT NUMBER THAT YOU
10 WERE JUST REFERRING TO --

11 A YES.

12 Q -- WHEN MR. JACKSON WAS ASKING YOU
13 QUESTIONS?

14 A YES.

15 Q AND DO YOU RECALL THAT IN THE FRASER YACHT
16 PURCHASE THERE WAS A DEPOSIT MADE OF \$31,000?

17 A YES.

18 Q AND THAT WAS IN TWO CASHIER'S CHECKS, ONE
19 FOR \$20,000 AND ONE FOR \$11,000?

20 A IN THE LETTER THAT YOU HAVE JUST HANDED
21 ME, IF I COULD REFRESH MY MEMORY WITH THAT AGAIN, I THINK
22 IT SAYS THAT THERE WAS AN 11,000-DOLLAR CHECK --

23 Q I'M HANDING THE WITNESS BACK WHAT HAS BEEN
24 MARKED HHH.

25 A -- DEPOSIT, \$11,000.

26 IT DOESN'T SAY "CHECK" OR "CASHIER'S
27 CHECK," AND A \$20,000 CASHIER'S CHECK.

28 Q AND I THINK YOUR TESTIMONY WAS THAT THERE

1 WAS \$20,000 THAT COULD HAVE BEEN CONVERTED TO CASH OR A
2 CASHIER'S CHECK THAT YOU HAD HAD SOME QUESTIONS ABOUT?

3 A YES.

4 Q AND THESE DOCUMENTS HAVE TO DO WITH THE
5 PURCHASE OF THE YACHT ALL SORT OF AROUND MARCH 16TH AND
6 STARTED BEFORE AND ENDING AFTER; CORRECT?

7 A YES.

8 Q ARE YOU SATISFIED, THEN, WITH WHAT
9 HAPPENED TO THAT \$20,000 THAT YOU WERE REFERRING TO?

10 A WELL, IT'S -- DO YOU HAVE THE CASHIER'S
11 CHECK?

12 MR. SUMMERS: WELL, I HAVE IN MY HAND WHAT I
13 WOULD ASK TO BE MARKED FOR IDENTIFICATION AS DEFENSE JJJ.
14 IT IS A XEROX COPY ON WHICH IT LOOKS LIKE TWO CASHIER'S
15 CHECKS HAVE BEEN COPIED.

16 MAY I APPROACH?

17 THE COURT: YES. AND THAT WILL BE TRIPLE J.

18
19 (MARKED FOR IDENTIFICATION DEFENSE'S
20 EXHIBIT NO. JJJ, CASHIER'S CHECKS.)
21

22 THE WITNESS: OKAY. THANK YOU. I HAVE A
23 QUESTION ON THIS CASHIER'S CHECK. THIS IS --

24 Q BY MR. SUMMERS: UNFORTUNATELY, I HAVE TO
25 ASK THE QUESTIONS.

26 A REPHRASE IT, PLEASE.

27 Q ALL RIGHT. DO YOU RECOGNIZE THE DOCUMENT
28 THAT YOU HAVE IN YOUR HAND?

1 A I RECOGNIZE THE 11,000-DOLLAR CASHIER'S
2 CHECK MADE PAYABLE TO FRASER YACHTS. AND THE SECOND
3 CASHIER'S CHECK IS PAYABLE TO DIANE GOODWIN.

4 Q DO YOU RECOGNIZE THAT DOCUMENT FROM YOUR
5 REVIEW OF THE FRASER YACHT FILE?

6 A I DON'T RECOGNIZE THIS CASHIER'S CHECK
7 DATED MARCH 21ST FROM MITSUI MANUFACTURER'S BANK FROM A
8 DIFFERENT BANK.

9 Q OKAY. IF YOU DON'T RECOGNIZE IT, YOU
10 DON'T RECOGNIZE IT.

11 A I DON'T RECOGNIZE IT, BUT --

12 Q WE ONLY WANT TO KNOW WHAT YOU RECOGNIZE
13 AND/OR RELIED ON. JUST A FEW MORE QUESTIONS.

14 IN YOUR -- WE'VE TALKED A GREAT DEAL ABOUT
15 WHAT YOU RELIED ON IN FORMING YOUR CONCLUSIONS.

16 IN THOSE DOCUMENTS, DID YOU ACTUALLY DO
17 INTERVIEWS YOURSELF?

18 A I WENT ALONG WITH THE INVESTIGATOR ON
19 INTERVIEWS. I WAS ASKED TO ATTEND SOME OF THE
20 INTERVIEWS.

21 Q DID YOU TAKE NOTES THAT YOU COULD REFER TO
22 AND RELY ON LATER?

23 A YES.

24 Q DID YOU ALSO -- IN THE COURSE OF YOUR
25 INVESTIGATION, DID YOU GENERATE DATABASES?

26 A THERE WERE -- WE GENERATED A DATABASE OF
27 CHECKS AND DEPOSITS. THE BANK INFORMATION WAS INPUT INTO
28 A COMPUTER DATABASE, YES.

1 Q AND -- WELL, DID YOU HAVE A HAND IN
2 FORMING THE DATABASE?

3 A YES, I DID.

4 Q AND PROVIDING THE INFORMATION THAT WAS
5 ENTERED INTO THE DATABASES?

6 A PROVIDING? IT WAS RECORDS THAT HAD BEEN
7 SUBPOENAED BY THE OFFICE.

8 Q WERE THERE MORE THAN ONE DATABASE?

9 A AT THAT TIME THE OFFICE WAS USING LOTUS
10 1-2-3. SO THAT WAS MY DATABASE. THERE MIGHT HAVE
11 BEEN -- THE ATTORNEYS MIGHT HAVE KEPT THEIR OWN DATABASE
12 OF INFORMATION.

13 Q WOULD THE DATABASES THAT YOU WERE FORMING
14 OR USING, WOULD THOSE HAVE FILE NAME D SLASH GOODWIN
15 SLASH WHATEVER THE DATABASE WAS? DOES THAT RING A BELL?

16 A IT COULD HAVE, CERTAINLY.

17 MR. SUMMERS: I HAVE IN MY HAND WHAT I WOULD LIKE
18 TO ASK THE COURT AND I WILL MARK WITH THE UNFORTUNATE
19 MONIKER OF KKK, A ONE-PAGE DOCUMENT ENTITLED GOODWIN CAST
20 AT THE TOP.

21 THE COURT: SO MARKED.

22
23 (MARKED FOR IDENTIFICATION DEFENSE'S
24 EXHIBIT NO. KKK, DOCUMENT.)

25
26 Q BY MR. SUMMERS: IF YOU WOULD JUST TAKE A
27 LOOK AT WHAT HAS BEEN MARKED AS DEFENSE KKK AND TELL ME
28 IF YOU RECOGNIZE THAT DOCUMENT WITHOUT STATING

1 NECESSARILY WHAT IT IS.

2 A WITHOUT STATING WHAT --

3 Q DO YOU RECOGNIZE IT?

4 A YES, I RECOGNIZE IT.

5 Q DID YOU -- IS IT SOMETHING THAT YOU HAD A
6 HAND IN GENERATING?

7 A MAY I REVIEW THIS FOR A MOMENT?

8 Q SURE.

9 A YES. I HAD A HAND IN GENERATING THIS.

10 Q OKAY. NOW, IF YOU COULD JUST SAY WHAT
11 THAT IS. IT'S BASICALLY A LIST OF DIFFERENT INDIVIDUALS
12 AND ENTITIES AND SOME SORT OF DESCRIPTION OF THEM?

13 A YES.

14 Q OKAY. AND DO YOU SEE -- ON THE LEFT-HAND
15 COLUMN, DO YOU SEE THE NAME CLARK AND TREVITHICK?

16 A YES.

17 Q AND ARE YOU RESPONSIBLE FOR THE COMMENTS
18 THAT FOLLOW THAT ENTRY?

19 A YES, I WROTE THAT COMMENT.

20 Q IF I MAY JUST TAKE A LOOK AT THAT FOR A
21 SECOND AND WE CAN LOOK TOGETHER. IT SAYS --

22 MR. JACKSON: OBJECTION. CALLS FOR HEARSAY.

23 THE COURT: SUSTAINED.

24 Q BY MR. SUMMERS: WELL, YOU TESTIFIED
25 PREVIOUSLY, I THINK, THAT YOU THOUGHT THAT PERHAPS YOU
26 HAD REVIEWED SOME DOCUMENTS FROM CLARK AND TREVITHICK;
27 CORRECT?

28 A YES.

1 Q AND I ASKED YOU SPECIFICALLY ABOUT DELORES
2 CORDELL AND WHAT INFORMATION YOU RECEIVED FROM HER.

3 DO YOU RECALL WHAT, IF ANY, INFORMATION
4 YOU RECEIVED FROM HER?

5 A WHEN I WAS ASSIGNED THE CASE THERE WAS --
6 THE INVESTIGATOR HAD BLACK BINDERS IN HIS OFFICE THAT HE
7 SAID WERE FROM THE LAW FIRM CLARK AND TREVITHICK. I
8 DON'T KNOW HOW THEY -- I DON'T KNOW HOW THEY OBTAINED
9 THEM.

10 Q SO DID YOU WRITE THEN -- DID YOU WRITE,
11 QUOTE, "NUMBER ONE SOURCE FOR INFO SLASH COLLENE
12 CAMPBELL'S ATTORNEY" AFTER THE PHRASE "DELORES CORDELL
13 WORKS THERE"?

14 A YES, I DID.

15 Q IS THAT BECAUSE SHE WAS YOUR NUMBER ONE
16 SOURCE FOR INFO?

17 A NO. THAT'S -- WELL, IN A SENSE, YES.
18 THAT'S REFERRING TO DELORES CORDELL, IN THEIR DEALINGS
19 BACK AND FORTH, HAD SPELLED OUT QUITE CLEARLY WHAT SHE
20 FELT THE -- WHERE MONEY AND ASSETS HAD GONE AND WHERE
21 THEY HAD COME FROM. SO FROM A FINANCIAL POINT OF VIEW,
22 THAT HAD BEEN SPELLED OUT VERY CLEARLY.

23 Q OKAY. I WANT TO GO BACK TO THE FRASER
24 YACHTS PURCHASE AGAIN.

25 WAS IT YOUR UNDERSTANDING FROM REVIEWING
26 THE FILE THAT A 20,000-DOLLAR PERSONAL CHECK HAD BEEN
27 SUBMITTED TO FRASER YACHTS BY DIANE GOODWIN AS SORT OF
28 ERNEST MONEY OR GOOD FAITH -- A GOOD FAITH DEPOSIT AT A

1 CERTAIN POINT?

2 A YES, THERE IS -- WELL, THERE IS A CHECK
3 WRITTEN FOR \$20,000.

4 Q AND THERE IS A LETTER INDICATING THAT THAT
5 CHECK IS BEING RETURNED --

6 MR. JACKSON: OBJECTION. THAT CALLS FOR HEARSAY.

7 THE COURT: FINISH THE QUESTION, PLEASE.

8 MR. JACKSON: WELL, YOUR HONOR, I WOULD ASK TO
9 APPROACH.

10 THE COURT: I HAVEN'T HEARD THE QUESTION.

11 MR. JACKSON: I THINK THE QUESTION IS HE WAS
12 ABOUT TO PARAPHRASE THE LETTER. AND I THINK THE COURT'S
13 RULING IS THE LETTER IS NOT IN AND OF ITSELF ADMISSIBLE.
14 I'M ASSUMING.

15 MR. SUMMERS: I CAN START A DIFFERENT QUESTION.

16 THE COURT: ALL RIGHT. JUST COMPLETE A QUESTION
17 FOR ME TO RULE ON THE OBJECTION, PLEASE.

18 Q BY MR. SUMMERS: WAS IT YOUR UNDERSTANDING
19 THAT IN THE COURSE OF THE PURCHASE OF THE YACHT, THAT A
20 20,000-DOLLAR PERSONAL CHECK HAD BEEN SUBMITTED TO FRASER
21 YACHTS THAT WAS LATER ON RETURNED BECAUSE ADDITIONAL
22 CASHIER'S CHECKS WERE PROVIDED AS A DEPOSIT?

23 A YES. ONE ADDITIONAL CASHIER'S CHECK IN
24 ADDITION TO THE 20,000, YES. OR THE OTHER WAY AROUND,
25 TWO TOTAL CASHIER'S CHECKS WERE SUBMITTED.

26 Q FOR A TOTAL OF \$31,000?

27 A YES.

28 Q AND THAT WAS THE DEPOSIT ON THE FINAL

1 PURCHASE?

2 A I BELIEVE SO, YES.

3 MR. SUMMERS: I HAVE NO FURTHER QUESTIONS.

4 THE COURT: ANYTHING FURTHER?

5 MR. JACKSON: VERY BRIEFLY, YOUR HONOR.

6
7 FURTHER REDIRECT EXAMINATION

8 BY MR. JACKSON

9 Q FIRST OF ALL, COUNSEL ASKED YOU SOME
10 QUESTIONS ABOUT THE 20,000-DOLLAR CHECK THAT APPEARS ON
11 THE OVERHEAD.

12 DO YOU REMEMBER ANSWERING THOSE QUESTIONS?

13 A I HOPE SO, YES.

14 Q ALL RIGHT. JUST TO GIVE US A FOUNDATION,
15 DOES THAT CHECK APPEAR TO YOU TO HAVE EVER BEEN
16 DEPOSITED?

17 A NO, IT DOES NOT.

18 Q YOU CAN'T SEE THE BACK OF IT; CORRECT?

19 A CORRECT.

20 Q IF IT HAD BEEN DEPOSITED, WOULD YOU EXPECT
21 IT TO HAVE SOMETHING ON THE BACK OR THE FRONT?

22 A YES.

23 Q MAYBE COMPUTER GENERATED TYPE OR
24 SOMETHING?

25 A YES.

26 Q AND DO YOU SEE THE WORDS TO THE LEFT OF
27 IT?

28 A "NEVER" -- YES, I SEE THEM.

1 Q OKAY.

2 THE COURT: I'M SORRY. YOU'RE REFERRING TO?

3 MR. JACKSON: THIS IS HHH, YOUR HONOR.

4 THE COURT: THANK YOU.

5 MR. JACKSON: SORRY.

6 Q SO IN YOUR EXPERT OPINION, IS THAT CHECK
7 THE SAME AS THE \$20,000 THAT YOU SAID YOU COULD NOT
8 FOLLOW TO ITS ULTIMATE DISPOSITION?

9 A WELL, NO, THAT CHECK WAS NEVER -- THAT'S
10 BASICALLY A VOIDED CHECK. IT'S NEVER BEEN NEGOTIATED.

11 Q OKAY. THAT WOULD BE NO DIFFERENT THAN IF
12 I HANDED YOU A CHECK RIGHT NOW AND WE JUST TORE IT UP?
13 IN OTHER WORDS, THE BANK WOULD HAVE NO RECORD OF THAT?

14 A CORRECT.

15 Q AND THE 20,000-DOLLAR CASHIER'S CHECK THAT
16 COUNSEL SHOWED YOU IN -- WELL, LET ME -- SO EVERYBODY CAN
17 SEE -- IN DEFENSE JJJ AND IT'S CHECK NUMBER 77658, DATED
18 3/21/88, IS THAT A CASHIER'S CHECK THAT IS MADE OUT TO
19 DIANE GOODWIN?

20 A YES, IT IS.

21 Q THE LETTER THAT DAVID FRASER -- SORRY --
22 THAT COUNSEL REFERRED TO THAT WAS WRITTEN TO DAVID FRASER
23 YACHTS LETTERHEAD THAT REFERS TO AN ADDITIONAL
24 20,000-DOLLAR CASHIER'S CHECK IS THAT -- WHAT DATE IS
25 THAT?

26 A MARCH 22ND, 1988.

27 Q THE DAY AFTER THE DIANE GOODWIN CASHIER'S
28 CHECK 77658?

1 A YES.

2 Q OKAY. IS THIS CASHIER'S CHECK 77658 --

3 THE COURT: OKAY. WHAT ARE YOU REFERRING TO?

4 MR. JACKSON: THIS IS JJJ, YOUR HONOR.

5 THE COURT: THANK YOU.

6 Q BY MR. JACKSON: IS THIS CHECK THAT
7 APPEARS IN JJJ, 77658, THE \$20,000 THAT YOU SAID YOU
8 COULD NOT FOLLOW TO ITS ULTIMATE DISPOSITION?

9 MR. SUMMERS: OBJECTION, YOUR HONOR. CALLS FOR
10 SPECULATION.

11 THE COURT: OVERRULED.

12 YOU CAN ANSWER.

13 THE WITNESS: WELL, THIS CASHIER'S CHECK IS DRAWN
14 ON A COMPLETELY DIFFERENT BANK.

15 Q BY MR. JACKSON: OKAY. SO THAT'S NOT THE
16 MONEY?

17 MR. SUMMERS: OBJECTION. LEADING.

18 THE COURT: SUSTAINED.

19 Q BY MR. JACKSON: IS THAT THE MONEY THAT WE
20 WERE TALKING ABOUT, THE \$20,000 THAT WE WERE TALKING
21 ABOUT?

22 A I CAN'T SAY. IT'S A DIFFERENT BANK. IT'S
23 GOING DIRECTLY TO DIANE GOODWIN, NOT FRASER YACHTS. THAT
24 OTHER CHECK WAS NEVER CASHED, SO I CAN'T SAY IT'S THE
25 SAME MONEY.

26 Q OKAY. YOU MAY HAVE MISUNDERSTOOD MY
27 QUESTION.

28 YOU SAID THAT THERE WAS MONEY DRAWN ON A

1 SOUTHWEST BANK ACCOUNT; CORRECT?

2 A YES.

3 Q AND IT WAS \$20,000 ON 3/16/88; CORRECT?

4 A YES.

5 Q OKAY. IS THAT -- OH, I TOOK IT OFF.

6 IS THAT THE SAME \$20,000?

7 MR. SUMMERS: OBJECTION, YOUR HONOR. FOUNDATION.
8 CALLS FOR SPECULATION.

9 THE COURT: ALL RIGHT. SEE IF YOU CAN REPHRASE
10 IT, PLEASE. AND JUST FOR THE RECORD, THAT'S JJJ.

11 MR. JACKSON: YES. I'M STILL REFERRING TO JJJ.

12 Q ALL I'M ASKING IS: IS THAT CASHIER'S
13 CHECK DRAWN ON THE SAME BANK ACCOUNT NUMBER?

14 A NO. IT'S A DIFFERENT BANK.

15 Q OKAY. NOW, HAVING THAT IN MIND, ASSUMING
16 THAT \$31,000 WAS DEPOSITED BY DIANE GOODWIN FOR THE
17 PURCHASE OF THE YACHT, \$20,000 AND \$11,000, WHAT DOES
18 THAT TELL YOU? OR DOES THAT TELL YOU ANYTHING ABOUT THE
19 FUNDS THAT WERE USED TO ULTIMATELY PURCHASE THE YACHT?

20 MR. SUMMERS: OBJECTION, YOUR HONOR. VAGUE.

21 THE COURT: OVERRULED.

22 YOU CAN ANSWER.

23 THE WITNESS: IT TELLS ME THAT ON MARCH 16TH, AN
24 ADDITIONAL \$20,000 WAS TAKEN OUT OF THE BANK. AND ON
25 MARCH 22ND THERE IS A LETTER STATING THIS \$20,000 WAS A
26 CASHIER'S CHECK -- WHICH I DON'T HAVE EVIDENCE OF -- BUT
27 A CASHIER'S CHECK WAS USED AS A DEPOSIT ON THE YACHT.

28 Q BY MR. JACKSON: AND WOULD THAT HAVE BEEN

1 BY USE OF COMMINGLED FUNDS, OR NOT?

2 A YES, COMMINGLED.

3 MR. JACKSON: THAT'S ALL I HAVE.

4 THE COURT: ANYTHING ELSE, MR. SUMMERS?

5 MR. SUMMERS: YES.

6
7 FURTHER RECROSS-EXAMINATION

8 BY MR. SUMMERS:

9 Q DO YOU HAVE ANY EVIDENCE THAT \$20,000 WAS
10 WITHDRAWN FROM THAT SOUTHWEST BANK ACCOUNT?

11 A THE BANK STATEMENT.

12 Q DID YOU BRING THAT WITH YOU TO COURT?

13 A YOU JUST SHOWED IT TO ME.

14 Q DID YOU BRING IT WITH YOU TO COURT?

15 A I DON'T HAVE THE BANK STATEMENT.

16 Q DID YOU BRING ANY DOCUMENTS FROM YOUR
17 INVESTIGATION AT ALL?

18 A I HAVE SOME NOTES.

19 MR. JACKSON: OBJECTION. RELEVANCE.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER.

22 THE WITNESS: I HANDWROTE SOME NOTES.

23 Q BY MR. SUMMERS: DID ANYBODY ASK YOU TO
24 BRING ANY OF THE DOCUMENTS THAT YOU HAVE BEEN TESTIFYING
25 ABOUT OR ANY OF THE DOCUMENTS THAT YOU REVIEWED IN YOUR
26 INVESTIGATION?

27 A NO.

28 Q DID YOU MAKE THAT FLOW CHART, PEOPLE'S

1 102 -- 101, I GUESS?

2 THE COURT: 101?

3 MR. SUMMERS: 101.

4 THE WITNESS: I GAVE THE INFORMATION TO THE
5 DISTRICT ATTORNEY'S OFFICE. THIS IS THEIR FLOW CHART.

6 Q BY MR. SUMMERS: IT WAS WAITING FOR YOU
7 WHEN YOU GOT HERE?

8 A IT WAS.

9 Q IS IT POSSIBLE TO WITHDRAW -- I MEAN, THIS
10 \$20,000 THAT YOU TALKED ABOUT, IS IT POSSIBLE TO WITHDRAW
11 \$20,000, GO TO ANOTHER BANK AND GET A CASHIER'S CHECK?

12 MR. JACKSON: OBJECTION. ANYTHING IS POSSIBLE.

13 THE COURT: SUSTAINED THE WAY IT'S PHRASED.

14 Q BY MR. SUMMERS: MA'AM, IS IT POSSIBLE
15 THAT YOU A DROVE A 18-WHEEL TRUCK HERE TO COURT TODAY?

16 MR. JACKSON: YOUR HONOR, AGAIN, COUNSEL'S
17 ATTEMPTS TO STAND-UP COMEDY SEEM TO BE MOCKING THE
18 WITNESS.

19 THE COURT: SUSTAINED.

20 Q BY MR. SUMMERS: MA'AM, DO YOU UNDERSTAND
21 I'M NOT TALKING ABOUT ANY METAPHYSICAL SENSE? CAN ONE
22 WITHDRAW -- I BELIEVE YOUR TESTIMONY WAS THAT THERE WAS
23 \$20,000 THAT YOU HADN'T ACCOUNTED FOR IN YOUR OWN MIND
24 THAT YOU BELIEVE HAD EITHER GONE TO CASH OR GONE TO A
25 CASHIER'S CHECK; CORRECT?

26 A YES.

27 Q SO COULD SOMEONE WITHDRAW \$20,000 -- WHICH
28 IS WHAT YOU SAID HAPPENED -- AND GO AND PURCHASE A

1 CASHIER'S CHECK FOR \$20,000 FROM A DIFFERENT BANK?

2 A PAYABLE TO THEMSELVES, THEY CERTAINLY
3 COULD.

4 MR. SUMMERS: I HAVE NOTHING ELSE.

5 THE COURT: IS THERE ANYTHING ELSE?

6 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

7 THE COURT: MAY THE WITNESS BE EXCUSED?

8 MR. JACKSON: YES, YOUR HONOR. NO OBJECTION.

9 MR. SUMMERS: YES.

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

11 WELL, WE WILL TAKE OUR AFTERNOON RECESS AT
12 THIS TIME.

13 LADIES AND GENTLEMEN, DON'T DISCUSS THE
14 CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T CONDUCT
15 ANY DELIBERATIONS. AND WE WILL RESUME AT 1:30 THIS
16 AFTERNOON. THANK YOU.

17
18 (THE FOLLOWING PROCEEDINGS WERE
19 HELD IN OPEN COURT OUTSIDE THE
20 PRESENCE OF THE JURY.)

21
22 THE COURT: ALL RIGHT. WE'LL BE IN RECESS UNTIL
23 1:30.

24
25 (AT 12:00 P.M. A RECESS WAS TAKEN
26 UNTIL 1:30 P.M. OF THE SAME DAY.)

27 --000--

28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 7, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE JURY ENTERED THE COURTROOM
10 AND THE FOLLOWING PROCEEDINGS WERE
11 HELD IN OPEN COURT.)
12

13 THE COURT: ALL JURORS AND ALTERNATES ARE ONCE
14 AGAIN PRESENT AND THE PEOPLE MAY CALL THEIR NEXT WITNESS.

15 MR. DIXON: THANK YOU. JOEL WEISSLER.
16

17 JOEL WEISSLER,
18 CALLED BY THE PEOPLE AS A WITNESS, WAS
19 SWORN AND TESTIFIED AS FOLLOWS:
20

21 THE CLERK: SIR, WOULD YOU PREFER TO AFFIRM?

22 THE WITNESS: YES.

23 THE CLERK: DO YOU SOLEMNLY STATE UNDER FOR THE
24 PEOPLE THAT THE TESTIMONY YOU MAY GIVE UNDER THE CAUSE
25 NOW PENDING SHALL BE THE TRUTH, THE WHOLE TRUTH AND
26 NOTHING BUT THE TRUTH.

27 THE WITNESS: I DO.

28 THE COURT: THANK YOU. PLEASE BE SEATED.

1 THE CLERK: SIR, WOULD YOU STATE AND SPELL BOTH
2 YOUR FIRST AND LAST NAME FOR THE RECORD.

3 THE WITNESS: JOEL WEISSLER, J-O-E-L,
4 W-E-I-S-S-L-E-R.

5 THE CLERK: THANK YOU.

6 THE COURT: YOU MAY INQUIRE.

7 MR. DIXON: THANK YOU, YOUR HONOR.

8
9 DIRECT EXAMINATION

10 BY MR. DIXON:

11 Q GOOD AFTERNOON. THANK YOU FOR COMING. I
12 UNDERSTAND YOU AREN'T FEELING THAT GREAT SO WE REALLY
13 APPRECIATE THAT.

14 WE HAVE PEOPLE'S 1 ON THE SCREEN. I WOULD
15 ASK YOU TO INVITE YOUR ATTENTION TO THE SCREEN.

16 DO YOU KNOW THOSE PEOPLE?

17 A YES.

18 Q HOW DO YOU KNOW THEM?

19 A MY AUNT AND UNCLE AND PUNKY, THE DOG.

20 Q I WOULD LIKE TO ASK YOU INITIALLY A FEW
21 QUESTIONS ABOUT MICKEY AND TRUDY THOMPSON AND YOUR
22 RELATIONSHIP.

23 DURING THE EARLY TO MID 1980'S, LET'S SAY
24 IN THE TIME FRAME OF 1984 TO '85, DID YOU VISIT THEM FROM
25 TIME TO TIME?

26 A I DID.

27 Q DID YOU EVER GO TO THEIR HOME?

28 A '84, '85?

1 Q OR SUBSEQUENT TO THAT?

2 A SUBSEQUENT TO THAT, YES, '84 TO '85 THEY
3 HAD VISITED ME. AND I HAD VISITED THEM AT ONE OF THEIR
4 RACE SITES, BUT I HADN'T BEEN TO THEIR HOME RIGHT THEN.

5 Q AT SOME POINT YOU WENT TO THEIR HOME; IS
6 THAT CORRECT?

7 A YES.

8 Q IN WHAT CITY?

9 A IN BRADBURY.

10 Q IN AN EARLIER ANSWER THERE YOU SAID THAT
11 YOU HAD GONE TO THE RACE SITES; IS THAT CORRECT?

12 A YES.

13 Q DURING THE PERIOD OF TIME OF '84 TO '85?

14 A YES.

15 Q WHERE DID YOU GO?

16 A ONE IN PARTICULAR WAS THE INDIANAPOLIS
17 RACE SITE.

18 Q DID YOU EVER GO TO A RACE SITE WHERE YOU
19 SAW ANOTHER PERSON WHO IS HERE IN COURT TODAY?

20 A YES, I DID.

21 Q WHO IS THAT PERSON?

22 A MICHAEL GOODWIN.

23 Q DO YOU SEE HIM HERE?

24 A YES, I DO.

25 Q AND FOR THE RECORD, WOULD YOU POINT TO HIM
26 AND TELL THE JUDGE WHAT HE'S NOW WEARING.

27 A HE IS WEARING A LIGHT BROWN JACKET, WHITE
28 SHIRT, RED AND BLUE PATTERNED TIE WITH A LITTLE BIT OF

1 THE GRAY IN IT (INDICATING).

2 THE COURT: IDENTIFYING MR. GOODWIN.

3 MR. DIXON: THANK YOU, YOUR HONOR.

4 Q WHERE EXACTLY DID YOU GO WHEN YOU MET
5 MICHAEL GOODWIN?

6 A I WAS AT THE INDIANAPOLIS MOTOR SPEEDWAY
7 AT AN OFFROAD EVENT THERE.

8 Q AND APPROXIMATELY WHEN WAS THAT?

9 A THAT WAS '85, '86.

10 Q AND WAS THAT AN EVENT WHERE MICKEY
11 THOMPSON WAS ALSO PRESENT?

12 A YES.

13 Q DID SOMEONE INTRODUCE YOU TO MIKE GOODWIN?

14 A YES.

15 Q WHO WAS THAT?

16 A I BELIEVE TRUDY INTRODUCED ME AT THAT
17 TIME.

18 Q TRUDY THOMPSON?

19 A YES.

20 Q SO AT THIS EVENT YOU MET MICHAEL GOODWIN;
21 CORRECT?

22 A YES.

23 Q AND MICKEY AND TRUDY THOMPSON WERE ALSO
24 PRESENT?

25 A YES.

26 Q DO YOU KNOW WHETHER OR NOT MICHAEL GOODWIN
27 AND THE THOMPSONS WERE WORKING TOGETHER TO PUT ON THIS
28 EVENT, OR IT WAS JUST COINCIDENCE THAT THEY WERE ALL

1 THERE?

2 A THEY INTRODUCED HIM AS THEIR NEW PARTNER,
3 BUT I DON'T -- I DIDN'T KNOW WHETHER IT WAS YET A JOINT
4 EVENT OR A SEPARATE EVENT.

5 Q NOW, AT THAT EVENT, AFTER THE INTRODUCTION
6 TO MICHAEL GOODWIN, DID THERE COME A TIME WHEN YOU TALKED
7 WITH HIM?

8 A YES.

9 Q WHERE WAS THAT?

10 A IT WAS UP IN THE CONTROL ROOM LOUNGE BOOTH
11 AREA WHERE THERE WAS V.I.P.'S IN ONE SECTION OF THE
12 PEOPLE THAT WERE INVOLVED, SPONSORS AND STUFF LIKE THAT
13 WERE ABLE TO COME UP THERE. AND ADJACENT TO THAT THEY
14 HAD THE CONTROL COMPUTER WHICH WAS CONTROLLING THE TIMING
15 ON THE RACES AND THAT SORT OF THING.

16 Q COULD YOU CHARACTERIZE THIS CONVERSATION
17 THAT YOU HAD WITH MICHAEL GOODWIN AT THE TIME, NOT
18 NECESSARILY WHAT WAS SAID BUT IN TERMS OF HOW LONG IT
19 WAS.

20 DID YOU ENGAGE HIM FACE-TO-FACE IN A
21 CONVERSATION OR NOT?

22 A WE TALKED FOR ABOUT FIVE MINUTES A LITTLE
23 BIT. HE ASKED ME IF I RECALL ABOUT MY SCHOOLING AND WHAT
24 I WAS GOING TO BE DOING. AND SMALL TALK, A LITTLE BIT
25 ABOUT THE EVENT, A LITTLE BIT ABOUT BIKES, MOTORCYCLES.

26 Q SO YOUR CONVERSATION WAS FOR APPROXIMATELY
27 HOW LONG?

28 A ABOUT FIVE MINUTES OF DIRECTLY HIM TALKING

1 TO MYSELF AND MY THEN GIRLFRIEND WHO WAS WITH ME. AND
2 THEN HE WAS IN THE BOOTH FOR QUITE A PERIOD OF TIME AFTER
3 THAT AND, YOU KNOW, TALKING TO OTHER PEOPLE AND I WAS
4 SOMEWHAT LISTENING TO SOME OF THE CONVERSATIONS AND THEN
5 HE LEFT AND THEN HE CAME BACK.

6 THE COURT: ALL RIGHT. GIVE ME A MINUTE, PLEASE.

7 (DISCUSSION OFF THE RECORD.)

8 THE COURT: THANK YOU.

9 MR. DIXON: THANK YOU, YOUR HONOR.

10 Q IN YOUR LAST ANSWER YOU SAID THAT YOU
11 REMAINED IN AN AREA WHERE MR. GOODWIN WAS; IS THAT
12 CORRECT?

13 A YES.

14 Q HOW LONG WERE YOU THERE?

15 A AT LEAST FOUR HOURS. I WATCHED THE EVENT
16 FROM UP THERE.

17 Q AND DURING THAT FOUR-HOUR PERIOD, WAS
18 MR. GOODWIN FOR THE MOST PART IN THE SAME ROOM WITH YOU
19 OR THE SAME AREA?

20 A YES, HE WAS.

21 Q DID YOU HEAR HIM ENGAGING OTHER PEOPLE?

22 A YES. AND GREETING AND MEETING THE
23 SPONSORS AND THE DIFFERENT PEOPLE THERE. I THINK THERE
24 WERE ALSO A COUPLE OF REPORTERS THERE, BUT I'M NOT SURE.

25 Q AT THIS EVENT IN INDIANAPOLIS?

26 A YES.

27 Q YOU HAD AN OPPORTUNITY TO HEAR HIS VOICE
28 OVER A PERIOD OF TIME?

1 A YES.

2 MS. SARIS: OBJECTION. LEADING.

3 THE COURT: SUSTAINED.

4 Q BY MR. DIXON: DID THERE EVER COME ANOTHER
5 TIME WHEN YOU EITHER MET OR FACE TO FACE TALKED WITH
6 MR. GOODWIN?

7 A OTHER THAN THE INDIANAPOLIS EVENT THERE
8 WAS ONE OTHER EVENT THAT I WAS AT THAT I DID MEET HIM
9 AGAIN AND I'M NOT SURE WHICH LOCATION IT WAS. I TRIED
10 TO, WHENEVER I COULD, GO OUT TO EVENTS THAT MICKEY AND
11 TRUDY HAD.

12 Q AT THAT SECOND EVENT DID YOU SPEAK WITH
13 MR. GOODWIN AT ALL?

14 A VERY BRIEFLY, BUT YES.

15 Q AND WHEN YOU DID, DID YOU RECOGNIZE HIS
16 VOICE FROM THE EARLIER INDIANAPOLIS EVENT, OR NOT?

17 A I RECOGNIZE --

18 MS. SARIS: OBJECTION. VAGUE, YOUR HONOR. I
19 THINK THEY WERE FACE TO FACE.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER.

22 THE WITNESS: I RECOGNIZED HIS VOICE AND HIS
23 PERSON.

24 Q BY MR. DIXON: NOW I'D LIKE TO ASK YOU
25 ABOUT SOME EVENTS IN LATE 1987 OR EARLY 1988.

26 DO YOU HAVE THAT PERIOD OF TIME IN MIND?

27 A YES, I DO.

28 Q DURING THAT TIME FRAME, DID YOU EVER --

1 WERE YOU ARE IN A SITUATION WHERE YOU HEARD A VOICE OVER
2 THE TELEPHONE THAT YOU BELIEVED TO BE MICHAEL GOODWIN?

3 A YES.

4 Q HOW MANY TIMES?

5 A ON TWO OCCASIONS.

6 Q LET'S TALK ABOUT THE FIRST OCCASION.

7 WHERE WERE YOU WHEN YOU HEARD A VOICE THAT
8 YOU BELIEVED TO BE MICHAEL GOODWIN?

9 A I WAS IN MY HOME IN SAN DIEGO.

10 Q YOU WERE ATTENDING SCHOOL AT THE TIME?

11 A I WAS GOING TO LAW SCHOOL.

12 Q AND BECAUSE OF YOUR RELATIONSHIP WITH THE
13 THOMPSONS, DID YOU COMMUNICATE WITH THEM FROM TIME TO
14 TIME WHEN YOU WERE IN SAN DIEGO?

15 A I DID.

16 Q WAS THIS ONE OF THOSE TIMES?

17 A YES.

18 Q TELL US TO THE BEST OF YOUR RECOLLECTION,
19 HOW THIS CAME ABOUT, WHAT YOU WERE DOING WHEN YOU HEARD
20 MICHAEL GOODWIN'S VOICE OVER THE TELEPHONE.

21 MS. SARIS: OBJECTION. ASSUMES FACTS NOT IN
22 EVIDENCE.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER.

25 THE WITNESS: I WAS TALKING TO TRUDY AND I THINK
26 I HAD GIVEN THEM -- I HAD CALLED HER, I DON'T THINK IT
27 WAS HER CALLING ME, I THINK I HAD CALLED HER. AND I
28 COULD HEAR MICKEY IN THE BACKGROUND FIRST JUST TALKING.

1 AND FROM THAT, I HAD A PRETTY GOOD IDEA WHERE IN THE
2 HOUSE THEY PROBABLY WERE.

3 Q BY MR. DIXON: LET ME ASK YOU ABOUT THAT.

4 AT THAT TIME WHEN YOU WERE IN SAN DIEGO ON
5 THE PHONE AND HEARD MR. GOODWIN'S VOICE OVER THE PHONE,
6 HAD YOU BEEN TO THE THOMPSON HOME AT BRADBURY?

7 A YES, I HAD.

8 MS. SARIS: SAME OBJECTION, YOUR HONOR, AS TO
9 MR. GOODWIN'S VOICE AS TO A VOICE HE BELIEVED TO BE
10 MR. GOODWIN'S.

11 THE COURT: ALL RIGHT. SUSTAINED.

12 Q BY MR. DIXON: IN THIS CONVERSATION DID
13 YOU HEAR A VOICE THAT YOU THOUGHT WAS MR. GOODWIN'S?

14 A YES.

15 Q BASED ON WHAT?

16 A BOTH THE TONE, THE SOUND OF IT, I
17 RECOGNIZED THE VOICE. AND ALSO DURING THE CONVERSATION
18 FOR WHAT I HEARD --

19 MS. SARIS: OBJECTION, YOUR HONOR. MAY WE
20 APPROACH?

21

22 (PROCEEDINGS HELD AT SIDEBAR.)

23 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

24 MS. SARIS: THIS WITNESS YESTERDAY WAS TESTIFYING
25 AS TO STATEMENTS OF MICHAEL GOODWIN, WHICH MY
26 UNDERSTANDING THE EXCEPTION WAS AN ADMISSION. THERE'S NO
27 EXCEPTION FOR MICKEY'S STATEMENTS. AND I WOULD ASK HIM
28 TO BE ADMONISHED NOT TO TELL US WHAT MICKEY MAY HAVE

1 SAID.

2 MR. DIXON: WELL, THE OFFER OF PROOF HE WOULD
3 STATE THAT DURING THE CONVERSATION MICKEY BECAME UP AND
4 SAID "MICHAEL GOODWIN, YOU CAN'T DO THIS," OR, "MIKE, YOU
5 CAN'T DO THAT." IT GOES TO HIS STATE OF MIND AS TO WHO
6 MICKEY THOMPSON WAS SPEAKING WITH. AND IT'S ALSO A
7 SPONTANEOUS CONTEMPORARY STATEMENT.

8 THE COURT: WELL, HOW COME WE DIDN'T GO OVER THIS
9 YESTERDAY?

10 MS. SARIS: BECAUSE HE'S JUST MAKING IT UP AS HE
11 GOES ALONG.

12 THE COURT: NO. BUT I MEAN, WE SHOULD HAVE --

13 MR. DIXON: WELL, PERHAPS HE --

14 MS. SARIS: HE DIDN'T BRING THIS UP YESTERDAY.

15 THE COURT: OKAY. LET'S KEEP AWAY FROM
16 MR. THOMPSON'S STATEMENTS FOR NOW.

17 MR. DIXON: OKAY.

18 THE COURT: THANK YOU.

19 (SIDEBAR CONCLUDED.)

20
21 Q BY MR. DIXON: RIGHT NOW I'M JUST GOING TO
22 ASK YOU WHAT YOU HEARD MICHAEL GOODWIN SAY, THE VOICE YOU
23 BELIEVED TO BE MICHAEL GOODWIN. OKAY?

24 SO WHERE WE WERE BEFORE WE WENT UP TO THE
25 SIDEBAR IS I WAS GOING TO ASK YOU, YOU'VE BEEN TO THE
26 BRADBURY HOME; CORRECT?

27 A YES.

28 Q HAD YOU EVER BEEN TO A ROOM THAT APPEARED

1 TO BE AN OFFICE?

2 A THEY HAD A ROOM, DEN, OFFICE AREA WHICH
3 HAD KIND OF DESKS AROUND ON THE OUTSIDE OR COUNTER AROUND
4 THE OUTSIDE AND PHONES ON BOTH SIDES OF THE ROOM.

5 Q WAS THERE JUST ONE PHONE LINE INTO THE
6 OFFICE, TO YOUR KNOWLEDGE, OR MULTIPLE LINES?

7 A THERE WERE SEVERAL LINES.

8 Q SO IN THIS FIRST TELEPHONE CONVERSATION,
9 CAN YOU TELL US ABOUT WHEN IT WAS?

10 A THAT WOULD HAVE BEEN ABOUT THREE MONTHS
11 BEFORE THEY WERE KILLED.

12 Q AND THAT WOULD BE A DAY -- THE DATE THAT
13 THEY WERE MURDERED, WOULD BE A DATE THAT YOU WOULD
14 RECALL?

15 A YES. MARCH 16TH.

16 Q SO YOU WERE ON THE PHONE, YOU CALL TRUDY
17 THOMPSON AND YOU HEARD MICKEY THOMPSON ON THE OTHER LINE?

18 A I INITIALLY HEARD MICKEY TALKING. AND
19 FROM THE FACT THAT I WAS ONLY INITIALLY HEARING PART OF
20 THE CONVERSATION, I KNEW HE WAS ON THE PHONE. HE THEN
21 MADE A COMMENT DIRECTED TO, I BELIEVE, TRUDY, "LISTEN TO
22 THIS." I MEAN, IT COULD HAVE BEEN DIRECTED ME, BUT I
23 THINK IT WAS DIRECTED TO TRUDY. HE THEN --

24 MS. SARIS: OBJECTION, YOUR HONOR. NO QUESTION
25 PENDING.

26 THE COURT: ALL RIGHT. SUSTAINED. NO QUESTION.
27 ANOTHER QUESTION.

28 MR. DIXON: ALL RIGHT.

1 Q AFTER MICKEY THOMPSON SAID "LISTEN TO
2 THIS," WHAT DID YOU HEAR THROUGH THE PHONE LINE?

3 MS. SARIS: SAME OBJECTION REGARDING STATEMENTS
4 OTHER THAN THOSE HE BELIEVE TO BE OF MICHAEL GOODWIN.

5 THE COURT: I ASSUME THAT WAS THE QUESTION.

6 MR. DIXON: YES.

7 THE WITNESS: I HEARD WHAT I IDENTIFIED AS
8 MICHAEL'S VOICE AS IF HE WAS SHOUTING AT A PHONE, HE HAD
9 THAT EXTRA TONE TO IT, THREATENING THEM -- WHAT SOUNDED
10 TO ME AS IF IT WAS THREATENING THEM SAYING, "YOU WILL
11 NEVER SEE A CENT OF IT. I'M GOING TO HURT YOU AND YOUR
12 FAMILY."

13 IT'S HARD TO DETAIL WHAT HE SAID WITHOUT
14 WHAT WAS IN BETWEEN BECAUSE IT DOESN'T NECESSARILY MAKE
15 MUCH SENSE.

16 Q BY MR. DIXON: WELL, WE WILL REVISIT THAT
17 IN A MOMENT.

18 THE VOICE YOU HEARD, DID YOU HAVE ANY
19 DOUBT BASED ON YOUR PAST EXPERIENCE THAT THIS WAS MIKE
20 GOODWIN?

21 A I DID NOT.

22 Q THEN YOU TOLD US THERE WAS A SECOND
23 CONVERSATION?

24 A YES.

25 Q AND WHERE WERE YOU WHEN THAT SECOND
26 CONVERSATION OCCURRED?

27 A I WAS IN THE BRADBURY RESIDENCE AND WAS
28 STANDING AT THE ENTRANCE TO THE ROOM WHICH WAS THEIR

1 OFFICE ROOM.

2 Q AND CAN YOU TELL US APPROXIMATELY WHEN
3 THIS SECOND CONVERSATION THAT YOU OVERHEARD OCCURRED?
4 AND IF YOU NEED TO IN TERMS OF HOW LONG BEFORE THE
5 THOMPSONS WERE MURDERED.

6 A ABOUT TWO MONTHS BEFORE.

7 Q SO THIS WOULD HAVE BEEN AFTER THE FIRST
8 CONVERSATION THAT YOU JUST RELATED TO US?

9 A THAT'S CORRECT.

10 Q SO YOU WERE IN THE BRADBURY RESIDENCE,
11 WHAT HAPPENED?

12 A I HAD INITIALLY BEEN IN THE KITCHEN WITH
13 TRUDY, SHE HAD BEEN MAKING SOME GUACAMOLE. AND WHILE SHE
14 WAS DOING THAT, I WANDERED A LITTLE BIT OUT. I HEARD
15 MICKEY ON THE PHONE, WANDERED A LITTLE BIT CLOSER TO THE
16 OFFICE AND OVERHEARD A SIMILAR CONVERSATION TO THE FIRST
17 ONE, BUT THERE IN PERSON.

18 Q WHERE EXACTLY WERE YOU IN PERSON AND WHO
19 WAS ON THE PHONE?

20 A MICKEY WAS ON THE PHONE. HE HAD IT ON
21 SPEAKER PHONE AND THE VOICE I RECOGNIZED ON THE OTHER
22 SIDE WAS MICHAEL GOODWIN'S. AND --

23 Q WAS TRUDY THOMPSON IN THE ROOM OR NOT?

24 A SHE WAS INITIALLY IN THE KITCHEN AREA,
25 THEN SHE CAME OVER BEFORE THE CONVERSATION CONCLUDED.

26 Q SO MICKEY THOMPSON WAS ON THE PHONE AND AT
27 SOME POINT PUT THE CONVERSATION ON SPEAKER PHONE?

28 A HE WAS ON SPEAKER PHONE FOR MOST OF THE

1 CONVERSATION.

2 Q WHO WAS?

3 A MICKEY HAD IT ON SPEAKER PHONE AND I COULD
4 HEAR MICHAEL GOODWIN ON THE SPEAKER.

5 Q THE VOICE THAT YOU BELIEVE BASED ON YOUR
6 PAST EXPERIENCE WAS MICHAEL GOODWIN?

7 A THAT'S CORRECT.

8 Q DID IT SOUND LIKE THE SAME VOICE THAT YOU
9 HEARD IN THE PHONE CONVERSATION A MONTH OR SO BEFORE?

10 A YES.

11 Q WHAT DID YOU HEAR MICHAEL GOODWIN SAY IN
12 THAT CONVERSATION?

13 A VERY SIMILAR SORT OF THREATS. "YOU AND
14 YOUR FAMILY WON'T SEE A PENNY OF THIS. I'LL GET YOU.
15 I'M GOING TO HURT YOU."

16 Q HE SAID "I'M GOING TO HURT YOU," MICHAEL
17 GOODWIN DID?

18 A YES.

19 Q DID HE SAY THAT JUST ONCE OR REPEATEDLY,
20 OR DO YOU RECALL?

21 A I THINK -- IN LOOKING BACK, I THINK HE
22 SAID, "I'M GOING TO HURT YOU. I'M GOING TO HURT YOUR
23 FAMILY."

24 Q NOW, WITHOUT TELLING US AT THIS TIME WHAT
25 MICKEY THOMPSON SAID, DID YOU SEE ANY PHYSICAL REACTION
26 FROM HIM? DID HE RAISE HIS VOICE? DID HE RESPOND TO
27 THESE STATEMENTS FROM MICHAEL GOODWIN WHO WAS GOING TO
28 HURT HIS FAMILY?

1 A HE WAS VERY AGITATED. HE WAS VERY UPSET
2 AND HE WAS SHOUTING BACK AT THE PHONE.

3 Q AND AT SOME POINT THE CONVERSATION
4 CONCLUDED?

5 A YES.

6 Q HOW LONG WAS THE SECOND CONVERSATION THAT
7 YOU OVERHEARD?

8 A WELL, IN RETROSPECT IT SEEMED LIKE A LONG
9 TIME, BUT PROBABLY WAS MAYBE SIX MINUTES, EIGHT MINUTES,
10 SOMETHING LIKE THAT.

11 MR. DIXON: THANK YOU.

12 YOUR HONOR, BEFORE I CONCLUDE, COULD I ASK
13 TO APPROACH JUST FOR SOME GUIDANCE FROM THE COURT?

14
15 (PROCEEDINGS HELD AT SIDEBAR.)

16 THE COURT: WE'RE AT THE SIDEBAR.

17 MR. DIXON: I'M PROBABLY GETTING TOO OLD TO BE
18 DOING THIS, BUT AS I WALK BACK I RECALL THAT IN OUR
19 HEARING YESTERDAY THAT THIS WITNESS DID TESTIFY TO QUITE
20 A BIT OF WHAT MICKEY THOMPSON SAID IN TERMS OF
21 SPONTANEOUS STATEMENTS.

22 MY RECOLLECTION IS AND MR. JACKSON'S IS
23 THAT THE WITNESS SAID, "YOU LEAVE MY FAMILY OUT OF THIS.
24 YOU LEAVE MY FAMILY ALONE." AND THAT'S WHAT THE WITNESS
25 IS TALKING ABOUT IN TERMS OF PUTTING IT INTO CONTEXT.
26 THAT CAME OUT YESTERDAY. AND I THINK THAT THAT WOULD BE
27 ADMISSIBLE AS A SPONTANEOUS OR CONTEMPORARY STATEMENT BY
28 THE WITNESS REGARDING MICKEY THOMPSON'S STATEMENT.

1 MS. SARIS: IT'S NOT CONTEMPORANEOUS. IT'S
2 POTENTIALLY SPONTANEOUS, BUT IT CAME OUT YESTERDAY
3 BECAUSE WE HAD A 402 HEARING. AND WE WERE TRYING TO --
4 OBVIOUSLY WE GET MORE INFORMATION AT A 402 HEARING THAN
5 WE ALLOW IN FRONT OF A JURY AND OUR OBJECTIONS ARE
6 DIFFERENT. THE OBJECTION HAS BEEN MADE. IT IS HEARSAY.
7 IT IS NOT OFFERED FOR THE TRUTH. AND IT IS NOT NEEDED TO
8 PROVIDE ANY CONTEXT. IT MAKES PERFECT SENSE HE'S TALKING
9 TO A MAN ON THE PHONE, HE'S NOT SHOUTING TO A CROWD.

10 THE COURT: ALL RIGHT. LET ME SAY THIS. LET ME
11 SAY THIS, IT MAY HAVE BEEN ELICITED YESTERDAY, BUT IT
12 WASN'T THE FOCUS OF THE 402. AND I DID CUT COUNSEL OFF
13 IN HER CROSS-EXAMINATION BECAUSE WE WEREN'T REALLY DOING
14 ANYTHING PRODUCTIVE AT THAT POINT. SO THE COURT DIDN'T
15 SPEND A WHOLE LOT OF TIME ON THE ISSUE. BUT THE OFFER OF
16 PROOF DOES SEEM TO INDICATE THAT.

17 MS. SARIS: I'M SORRY. THAT'S NOT WHAT HE'S
18 GOING TO SAY. HE'S GOING TO SAY MICKEY THOMPSON USED
19 MICHAEL GOODWIN'S --

20 MR. DIXON: OH, NO. THERE'S TWO DIFFERENT --
21 COUNSEL'S RIGHT ABOUT THAT, BUT THAT'S NOT WHAT -- AND IF
22 YOU'D LIKE, I CAN INSTRUCT HIM.

23 ONE, I THINK THAT THAT'S FAIR TO COME IN
24 AT THIS POINT IF HE SAYS, "MIKE, YOU LEAVE MY FAMILY OUT
25 OF THIS." I THINK THAT'S PART OF THE WHOLE STATEMENT.
26 NOW, THAT PART DID NOT COME IN YESTERDAY, BUT WHAT I JUST
27 RELATED TO THE COURT DID. AND I ASKED TO APPROACH
28 BECAUSE WHEN WE WERE HERE EARLIER, THE COURT SAID, WELL,

1 I DIDN'T HEAR THIS YESTERDAY AND I THINK WE AT LEAST
2 HEARD ALL OF IT.

3 BUT "MIKE," I'M -- I THINK THE "MIKE"
4 SHOULD COME IN. IF YOU'D LIKE ME TO INSTRUCT THE WITNESS
5 THAT IT SHOULDN'T, THEN THAT'S THE COURT'S RULING. BUT
6 THE REST OF IT HAS ALREADY BEEN PREVIEWED FOR THE COURT
7 AND I BELIEVE IS A SPONTANEOUS STATEMENT AND SHOULD BE
8 ADMISSIBLE.

9 MS. SARIS: THEN YOU CAN ASK A LEADING QUESTION.
10 AND I MEAN IF THE COURT IS OVERRULING MY OBJECTION, THE
11 LEADING QUESTION IS JUST: DID MICKEY SAY TO LEAVE HIM
12 ALONE? YES. THEN IT DOESN'T COME IN.

13 THE COURT: WELL, I DIDN'T MAKE A RULING YET.
14 BUT, YES, I WOULD OVERRULE THE OBJECTION. IT IS A
15 SPONTANEOUS STATEMENT BASED ON THE OFFER OF PROOF AND YOU
16 CAN LEAD HIM AND KEEP AWAY FROM THE NAME.

17 MR. DIXON: OKAY.

18 (SIDEBAR CONCLUDED.)
19

20 Q BY MR. DIXON: JUST A FEW MORE QUESTIONS.
21 PLEASE LISTEN TO MY QUESTION CLOSELY. I KNOW YOU KNOW
22 SOMETHING ABOUT THIS AREA, SO LET'S FIRST TALK ABOUT THE
23 SECOND CONVERSATION WHEN YOU WERE AT BRADBURY, AT THE
24 BRADBURY HOME. OKAY?

25 WHEN YOU HEARD A VOICE THAT YOU BELIEVED
26 TO BE MICHAEL GOODWIN SAYING, "YOU'LL NEVER GET A CENT OF
27 THIS. I'M GOING TO HURT YOU. I'LL HURT YOUR FAMILY,"
28 WORDS TO THAT EFFECT, DID YOU HEAR MICKEY THOMPSON SAY

1 WORDS TO THE EFFECT, "YOU STAY AWAY FROM ME. YOU STAY
2 AWAY FROM MY FAMILY"?

3 A I DID.

4 Q ANY DOUBT THAT MICKEY THOMPSON WAS SAYING
5 THAT INTO THE PHONE IN RESPONSE TO THESE COMMENTS FROM
6 GOODWIN?

7 A NO DOUBT AT ALL.

8 Q DID MICKEY THOMPSON MAKE THOSE STATEMENTS
9 SIMILAR TO WHAT I JUST ASKED YOU JUST ONCE OR REPEATEDLY
10 TO MICHAEL GOODWIN ON THE PHONE?

11 A REPEATEDLY.

12 Q NOW, GOING BACK TO THE FIRST CONVERSATION
13 WHERE YOU WERE IN SAN DIEGO ON THE PHONE, DID YOU HEAR
14 MICKEY THOMPSON MAKE SIMILAR STATEMENTS TO WHAT I'VE JUST
15 ASKED YOU?

16 A HE DID SAY, "LEAVE MY FAMILY OUT OF IT."

17 Q IS THAT YOUR BEST RECOLLECTION AT THIS
18 POINT?

19 A YES. BUT --

20 Q THAT'S FINE.

21 WELL, BUT WHAT?

22 WELL, I'M NOT SURE THAT THAT'S ACTUALLY A
23 QUESTION, SO WE'LL LEAVE IT UP TO CROSS-EXAMINATION.

24 BUT IS IT CORRECT TO SAY THAT WHEN YOU
25 WERE IN THE ROOM DURING THE SECOND CONVERSATION, YOU
26 HEARD MICKEY THOMPSON MAKE THE STATEMENTS THAT I ASKED
27 YOU?

28 A ABSOLUTELY.

1 Q AND IN AN EARLIER ANSWER BEFORE WE WENT TO
2 THE SIDEBAR, IN RESPONSE TO MY QUESTION, YOU SAID THAT HE
3 WAS UPSET AND AGITATED, MICKEY THOMPSON WAS?

4 A YES.

5 Q WAS HE UPSET AND AGITATED AS HE SAID THOSE
6 WORDS TO MICHAEL GOODWIN?

7 A ABSOLUTELY.

8 Q "YOU LEAVE MY FAMILY OUT OF THIS"?

9 A YES.

10 Q THANK YOU.

11 MR. DIXON: NOTHING FURTHER AT THIS TIME.

12 THE COURT: CROSS-EXAMINATION?

13 MS. SARIS: THANK YOU.

14

15 CROSS-EXAMINATION

16 BY MS. SARIS:

17 Q GOOD AFTERNOON, MR. WEISSLER.

18 DO YOU THINK THE EVENT THAT YOU MET
19 MICHAEL GOODWIN AT WAS IN 1984, '85?

20 A YES.

21 Q SO IT WAS AT LEAST THREE YEARS AND MAYBE
22 FOUR YEARS BEFORE THESE PHONE CONVERSATIONS THAT YOU HAD
23 HEARD?

24 A YES.

25 Q IN THE SUBSEQUENT EVENTS THAT YOU WENT TO
26 AFTER INDIANAPOLIS, WOULD YOU HAVE GONE TO AN EVENT THAT
27 WAS JUST SPONSORED BY MICHAEL GOODWIN OR DID YOU MAINLY
28 GO TO MICKEY THOMPSON EVENTS?

1 A I WENT BECAUSE MICKEY AND TRUDY WERE GOING
2 TO BE THERE AND IT WASN'T A BAD DRIVE FROM MINNESOTA.
3 AND IF THEY WERE THERE TO GO TO A CONVENTION, I WOULD
4 HAVE GONE TO SEE THEM.

5 Q I'M TALKING ABOUT ANY MOTOR RACES THAT YOU
6 WENT TO ON YOUR OWN.

7 DID YOU GO BECAUSE MICKEY THOMPSON WAS
8 INVOLVED?

9 A I WENT TO SEE MICKEY AND TRUDY.

10 Q AND THE TIME THAT YOU SPENT IN THE PRESS
11 BOX IN 1984, '85 IN INDIANAPOLIS, WAS MR. GOODWIN COMING
12 IN AND OUT OF THE ROOM?

13 A HE LEFT AND THEN HE CAME BACK.

14 Q JUST ONCE?

15 A THAT'S MY RECOLLECTION, YES.

16 Q AND THE CONVERSATION THAT YOU TOLD US
17 ABOUT, YOU WERE ON THE PHONE IN SAN DIEGO, YES?

18 A CORRECT.

19 Q YOU'RE TALKING TO SOMEONE ON THE PHONE IN
20 BRADBURY?

21 A YES.

22 Q AND NEXT TO THAT PERSON IS SOMEONE ELSE ON
23 THE PHONE; CORRECT?

24 A YES.

25 Q AND YOU'RE REPORTING WHAT THE PERSON TOLD
26 THE PERSON ON THE PHONE THAT YOU OVERHEARD ON YOUR END OF
27 THE PHONE IN SAN DIEGO?

28 A I AM REPORTING WHAT I HEARD ON BOTH SIDES

1 OF THE CONVERSATION THAT I WAS NOT A DIRECT PART OF
2 BECAUSE IT WAS ON SPEAKER PHONE AND I COULD HEAR IT.

3 Q AND WHEN WAS THE CONVERSATION WHEN YOU
4 WERE IN SAN DIEGO?

5 A ABOUT THREE MONTHS BEFORE MICKEY AND TRUDY
6 WERE KILLED.

7 Q AND WHAT WERE YOU DOING IN SAN DIEGO?

8 A GOING TO LAW SCHOOL.

9 Q AND WHAT IN TERMS OF SEMESTER OR QUARTER,
10 WHERE WERE YOU IN THE SCHEME OF THINGS WHEN YOU RECALL
11 THESE CONVERSATIONS?

12 A THAT WOULD HAVE BEEN EITHER AT THE VERY --
13 LET'S SEE, THAT WOULD HAVE BEEN EITHER THE VERY END OF MY
14 THIRD SEMESTER OR BEGINNING OF MY FOURTH SEMESTER, END OF
15 DECEMBER AND JANUARY.

16 Q WHAT CAME FIRST, WHEN YOU VISITED THE
17 HOUSE OR THE CONVERSATION IN SAN DIEGO?

18 A THE CONVERSATION WHEN I WAS IN SAN DIEGO.

19 Q SO THE CONVERSATION WERE YOU WERE ON THE
20 PHONE IN SAN DIEGO AND YOU OVERHEARD THE SPEAKER, THIS
21 CAME PRIOR TO YOU VISITING BRADBURY?

22 A I HAD BEEN TO BRADBURY BEFORE THAT PRIOR
23 TO THE PARTICULAR EVENT IN BRADBURY.

24 Q THANKS FOR CLARIFYING.

25 PRIOR TO THE SECOND CONVERSATION YOU'VE
26 TOLD US ABOUT?

27 A YES.

28 Q NOW, THE SECOND CONVERSATION YOU TOLD US

1 ABOUT YOU WERE THERE VISITING BEFORE THANKSGIVING;
2 CORRECT?

3 A NO.

4 Q YOU WERE NOT?

5 A NO.

6 Q DID YOU TESTIFY IN A HEARING YESTERDAY
7 THAT YOU DID VISIT YOUR FAMILY IN YOUR LAST YEAR OF LAW
8 SCHOOL AT THANKSGIVING?

9 A NOT MY LAST YEAR. PRIOR TO MY -- MY LAST
10 YEAR WAS AFTER THEY WERE KILLED AND THANKSGIVING DINNER
11 WAS NOT AT THEIR HOUSE, IT WAS AT MICKEY'S SISTER'S HOUSE
12 WHICH IS CLOSER TO SAN DIEGO.

13 DURING MY VISIT THERE, THE SECOND
14 CONVERSATION TOOK PLACE, WE TALKED ABOUT THANKSGIVING, IT
15 HAD BEEN THE THANKSGIVING JUST BEFORE THAT.

16 Q YOU GRADUATED LAW SCHOOL IN 1989?

17 A DECEMBER OF '88 WAS MY GRADUATION. I DID
18 THREE YEARS OF LAW SCHOOL IN TWO YEARS.

19 Q SO WHEN YOU LEFT -- WHEN YOU HUNG UP THE
20 PHONE FROM THE FIRST CONVERSATION THAT YOU HAD IN
21 SAN DIEGO, DID YOU CALL THE POLICE?

22 A NO.

23 Q WHEN YOU LEFT THE BRADBURY HOME FROM THE
24 SECOND CONVERSATION THAT YOU HEARD DID YOU CALL THE
25 POLICE?

26 A NO.

27 Q WHEN MICKEY AND TRUDY WERE MURDERED IN
28 MARCH OF 1988, DID YOU CALL THE POLICE?

1 A NO.

2 Q IN FACT, YOU DIDN'T COME FORWARD TO TALK
3 ABOUT THESE THREATS UNTIL MARCH OF 2006; IS THAT CORRECT?

4 A THAT'S NOT CORRECT.

5 Q WHO DID YOU SPEAK TO FROM LAW ENFORCEMENT
6 BEFORE MARCH OF 2006?

7 A ABOUT THE TIME OF THE FUNERAL AND IT'S
8 VERY MUCH A BLUR, IT WAS VERY CRAZY AND LOTS OF PRESS AND
9 JUST SO MUCH SO QUICKLY --

10 Q I'M SORRY, SIR. THE QUESTION WAS: WHO
11 DID YOU SPEAK TO?

12 A THERE WAS A DETECTIVE FROM THE L.A.
13 POLICE DEPARTMENT WHO I SPOKE TO AT THAT TIME.

14 Q AND DID YOU MENTION THESE THREATS
15 VERBATIM?

16 A I BELIEVE THAT I MENTIONED THAT I HEARD
17 THREATS AND I DON'T THINK I WAS ASKED QUESTIONS ABOUT
18 DETAILS.

19 Q SO YOU TOLD A POLICE OFFICER THAT YOU HAD
20 HEARD THREATS TO INDIVIDUALS WHO HAD JUST BEEN KILLED AND
21 YOU WERE NOT ASKED ANY DETAILS ABOUT THOSE THREATS?

22 A THAT'S CORRECT.

23 Q IN FACT, IN AUGUST OF 1991, YOU WENT TO
24 THE POLICE STATION WITH YOUR UNCLE HOWARD FELLER, DIDN'T
25 YOU?

26 A I THINK I DID. I'M NOT CERTAIN.

27 Q YOU GAVE THEM YOUR BUSINESS CARD AT THE
28 TIME AND ASKED THEM TO CALL YOU?

1 A TO KEEP ME UP TO DATE WITH THE PROGRESS OF
2 THE CASE, YES.

3 Q AND ON THAT BUSINESS CARD IN YOUR OWN
4 HANDWRITING, OR AT LEAST YOU DICTATED YOUR HOME PHONE
5 NUMBER IN SAN DIEGO AS WELL?

6 A I DON'T RECALL.

7 MS. SARIS: YOUR HONOR, I HAVE A DOCUMENT, BATES
8 PAGE 36958 I'D LIKE TO MARK DEFENSE NEXT IN ORDER.

9 THE COURT: LLL.

10 MS. SARIS: MAY I APPROACH THE WITNESS?

11 THE COURT: YES.

12

13 (MARKED FOR IDENTIFICATION DEFENSE'S
14 EXHIBIT NO. LLL, BUSINESS CARD.)

15

16 Q BY MS. SARIS: I'LL SHOW YOU A DOCUMENT.
17 IF YOU COULD PAY ATTENTION TO THE TOP LEFT CORNER AND
18 TELL ME IF THAT APPEARS TO BE WHAT WOULD HAVE BEEN YOUR
19 BUSINESS CARD IN 1991?

20 A YES, IT IS.

21 Q AND DOES THERE APPEAR TO BE A HANDWRITTEN
22 PHONE NUMBER ACROSS THAT WITH THE WORD "HOME"?

23 A YES.

24 Q DO YOU RECOGNIZE THAT NUMBER AT ALL?

25 A YES.

26 Q WAS THAT YOUR HOME NUMBER?

27 A IT WAS.

28 Q AND YOU WENT TO THE POLICE STATION IN

1 1991 -- HOWARD FELLER?

2 A MY UNCLE. TRUDY'S BROTHER.

3 Q AND YOU WENT THERE SPECIFICALLY BECAUSE
4 YOU DID NOT THINK THEY WERE INVESTIGATING THIS CASE
5 PROPERLY; CORRECT?

6 A NO.

7 Q WHAT WAS YOUR RECOLLECTION OF THE REASON
8 FOR THAT INTERVIEW?

9 A WE WANTED TO FIND OUT WHAT WAS GOING ON.

10 Q AND DO YOU RECALL HAVING COMPLAINED TO
11 THEM AT THAT MEETING THAT YOU FELT THE INVESTIGATION WAS
12 BEING NEGLECTED?

13 A WE CERTAINLY WERE IMPATIENT FOR SOMETHING
14 TO HAPPEN.

15 Q AND AT THAT TIME IN AUGUST OF 1991, YOU
16 ACTUALLY DROVE TO, WHAT, SOME SORT OF A POLICE STATION,
17 DO YOU RECALL?

18 A ACTUALLY, I DON'T RECALL.

19 Q WELL, YOU MET THEM IN PERSON.

20 A AND I -- YOU KNOW, I THINK IT MUST HAVE
21 BEEN THE POLICE STATION IN L.A.

22 Q AND YOU WERE WITH YOUR UNCLE HOWARD.
23 DO YOU RECALL THAT?

24 A YES.

25 Q SO THE TWO OF YOU WENT TO THE POLICE
26 STATION IN L.A. WAS THIS A PLANNED MEETING? HAD YOU
27 ASKED FOR AN APPOINTMENT TO SIT DOWN WITH THEM?

28 A I THINK THAT HOWIE HAD CALLED AHEAD OF

1 TIME, BUT I DON'T RECALL THE DETAILS OF IT.

2 Q AND THE PEOPLE THAT YOU WERE THERE WITH,
3 IT WAS YOUR UNDERSTANDING HAD SOMETHING TO DO WITH THE
4 INVESTIGATION OF THIS CASE? YOU DIDN'T JUST TALK TO THE
5 GUY AT THE DESK?

6 A YES. YES. YES.

7 Q AND YOU KNEW WHEN YOU WENT THERE YOU WERE
8 GOING TO BE TALKING ABOUT THIS CASE?

9 A YES.

10 Q AND THIS IS THE ONLY CASE THAT YOU REALLY
11 HAD ANY INTEREST IN IN LOS ANGELES AT THE TIME; IS THAT
12 FAIR?

13 A THE ONLY CRIMINAL CASE, THAT'S CORRECT.

14 Q AND AT THAT TIME, YOU DIDN'T SAY ANYTHING
15 ABOUT EITHER OF THESE CONVERSATIONS, DID YOU?

16 A I THOUGHT WHAT I HAD TO SAY WAS VERY
17 REDUNDANT.

18 Q SO LET ME ASK YOU: YOU DIDN'T SAY
19 ANYTHING IN 1991 WHILE YOU'RE SITTING WITH THESE TWO
20 OFFICERS COMPLAINING ABOUT THIS CASE BEING NEGLECTED, YOU
21 NEVER MENTIONED THESE PHONE CONVERSATIONS; IS THAT
22 CORRECT?

23 A I WAS NOT COMPLAINING ABOUT THE CASE BEING
24 NEGLECTED. WE WERE EXPRESSING WANTING TO KNOW WHAT WAS
25 GOING ON. AND, OF COURSE, WE WERE IMPATIENT THAT
26 SOMETHING HAPPENED THAT WOULD BE A RESOLUTION.

27 Q LET ME ASK YOU AGAIN. AT THAT TIME WHEN
28 YOU WERE HAVING THIS MEETING, YOU DID NOT MENTION

1 ANYTHING ABOUT THESE PHONE CONVERSATIONS, DID YOU?

2 A I DON'T RECALL.

3 Q YOU DID NOT MENTION THESE PHONE
4 CONVERSATIONS UNTIL THIS CASE APPEARED IN THE PRESS IN
5 MARCH OF 2006?

6 MR. DIXON: OBJECTION. THAT ASSUMES FACTS NOT IN
7 EVIDENCE THAT THE WITNESS SAW THAT INFORMATION.

8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: DID YOU SEE THIS CASE IN
10 THE PAPER IN MARCH OF THIS YEAR?

11 A I DID. AND I SAW IT ON THE COURT
12 CALENDAR.

13 Q AND YOU'RE AN ATTORNEY?

14 A YES.

15 Q AND YOU KNEW THAT THIS CASE WAS
16 PROCEEDING?

17 A YES.

18 Q HAVE YOU BEEN FOLLOWING THIS CASE IN THE
19 PRESS?

20 A I HAVE.

21 Q AND SO YOU'RE AWARE THAT THERE WAS SOME
22 20 PEOPLE WHO CAME IN A COUPLE OF WEEKS AGO TO TESTIFY IN
23 THIS CASE THAT'S BEEN GOING ON FOR SOME TIME?

24 A FROM MY BRIEF CONVERSATION WITH THE
25 DISTRICT ATTORNEY, I KNEW THAT THERE WERE A LOT OF
26 WITNESSES. AND THE WAY I'VE KEPT TRACK OF IT IS WITH A
27 GOOGLE ALERT AND THAT ONLY SHOWED A FEW LITTLE BITS AND
28 PIECES OF THINGS.

1 Q AND WHEN YOU MADE CONTACT WITH ANYONE IN
2 2006 AFTER SEEING THIS CASE, EITHER ON GOOGLE ALERT OR IN
3 THE COURT DOCUMENTS, YOU DIDN'T CALL THE POLICE, YOU
4 CALLED THE DISTRICT ATTORNEY; CORRECT?

5 A I CALLED THE PUBLIC AFFAIRS OFFICER TO
6 FIND OUT WHEN IT WAS CALENDARED BECAUSE I WANTED TO COME
7 AND WATCH THE TRIAL.

8 Q YOU WERE GOING TO SAY "BE." YOU WERE
9 ABOUT TO SAY BE A PART OF IT?

10 A NO. BE HERE.

11 MS. SARIS: MAY HAVE I HAVE JUST A MOMENT,
12 PLEASE?

13 (DISCUSSION OFF THE RECORD.)

14 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

15 THE COURT: REDIRECT?

16 MR. DIXON: JUST A COUPLE OF QUESTIONS. THANK
17 YOU, YOUR HONOR.

18

19 REDIRECT EXAMINATION

20 BY MR. DIXON:

21 Q WE HAD A COUPLE DIFFERENT GEOGRAPHICAL
22 SPOTS IN THE COUNTRY.

23 YOU MENTIONED MINNESOTA. AT SOME POINT
24 DID YOU LIVE IN MINNESOTA?

25 A I DID. I DID MY UNDERGRAD THERE AND THEN
26 LIVED THERE FOR A FEW YEARS AFTERWARDS.

27 Q AND SO THAT MADE IT CONVENIENT FOR YOU TO
28 GO TO INDIANAPOLIS TO SEE THAT RACE?

1 A THAT'S CORRECT.

2 Q NOW, WHEN YOU CALLED THE DISTRICT
3 ATTORNEY'S OFFICE, YOUR PURPOSE WAS TO DO WHAT?

4 A TO FIND OUT WHEN THE TRIAL WAS GOING TO
5 BE.

6 Q AND WHAT DID YOU WANT TO DO?

7 A I WANTED TO SIT AND WATCH THINGS GET DONE.
8 I ALSO WANTED TO FIND OUT THOSE DETAILS BECAUSE OTHER
9 MEMBERS OF THE FAMILY WANTED TO KNOW AND HAD HOPED TO BE
10 ABLE TO COME OUT.

11 Q TRUDY AND MICKEY THOMPSON WERE RELATED TO
12 YOU, FAMILY MEMBERS?

13 A YES.

14 Q AND WAS THAT YOUR INTEREST IN THIS CASE OR
15 DID YOU HAVE SOME OTHER INTEREST?

16 MS. SARIS: OBJECTION. LEADING.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER.

19 THE WITNESS: TRUDY AND I WERE VERY, VERY CLOSE.
20 AND SHE -- FROM THE TIME I WAS A LITTLE KID, SHE WAS THE
21 ONE WHO GOT ME HOOKED ON READING.

22 MS. SARIS: OBJECTION, YOUR HONOR.
23 NON-RESPONSIVE.

24 THE COURT: SUSTAINED.

25 ASK ANOTHER QUESTION.

26 Q BY MR. DIXON: TRUDY THOMPSON WAS
27 IMPORTANT IN YOUR LIFE?

28 A YES.

1 Q AND SHE HELPED YOU AND INSPIRED YOU
2 THROUGH YOUR LIFE?

3 MS. SARIS: OBJECTION. RELEVANCE. BEYOND THE
4 SCOPE.

5 THE COURT: OVERRULED.

6 THE WITNESS: YES.

7 Q BY MR. DIXON: ON MARCH 16, 1988 WHEN YOU
8 FOUND OUT THAT TRUDY THOMPSON AND HER HUSBAND MICKEY WERE
9 MURDERED, DID THAT HAVE AN AFFECT ON YOU?

10 MS. SARIS: OBJECTION. RELEVANCE. BEYOND THE
11 SCOPE.

12 THE COURT: OVERRULED.

13 YOU CAN ANSWER.

14 THE WITNESS: I WAS COMPLETELY BLOWN AWAY AND HAD
15 AN ENORMOUS SENSE OF LOSS.

16 Q BY MR. DIXON: SO AS A LAWYER, WHEN YOU
17 KNEW HOW TO CHECK COURT DOCUMENTS AND YOU FOUND THAT THIS
18 CASE WAS COMING TO TRIAL, YOU TOLD THE DEFENSE COUNSEL
19 THAT YOU CALLED THE LOS ANGELES D.A.'S OFFICE TO FIND OUT
20 WHEN IT WAS GOING TO COME TO TRIAL AND WHERE IT WOULD BE;
21 IS THAT RIGHT?

22 MS. SARIS: OBJECTION. LEADING.

23 THE COURT: SUSTAINED.

24 Q BY MR. DIXON: WHY DID YOU CALL THE L.A.
25 D.A.'S OFFICE PUBLIC AFFAIRS PEOPLE?

26 MS. SARIS: OBJECTION. ASKED AND ANSWERED.

27 THE COURT: OVERRULED.

28 THE WITNESS: TO FIND OUT WHEN THE TRIAL WAS

1 GOING TO BE.

2 Q BY MR. DIXON: AND YOUR PURPOSE WAS?

3 A SO I COULD COME AND BE AT THE TRIAL.

4 Q AND SUBSEQUENT TO THAT SOME PEOPLE TALKED
5 TO YOU. DID ANYONE EVER TELL YOU, WELL, NOW YOU ARE A
6 WITNESS, YOU CAN'T COME TO SIT IN THE TRIAL?

7 A THAT'S CORRECT.

8 Q WOULD YOU PREFER TO HAVE COME AND WATCH?

9 MS. SARIS: OBJECTION. RELEVANCE. LEADING.

10 THE COURT: OVERRULED.

11 YOU CAN ANSWER.

12 THE WITNESS: COULD YOU RESTATE THE QUESTION,
13 PLEASE?

14 Q BY MR. DIXON: WOULD YOU HAVE PREFERRED --
15 WAS YOUR DESIRE TO COME AND WATCH THIS TRIAL?

16 A THAT'S CORRECT.

17 Q TO FIND OUT WHAT HAPPENED TO TRUDY
18 THOMPSON?

19 A TO SEE THINGS DONE.

20 MR. DIXON: THANK YOU. NOTHING FURTHER.

21 THE COURT: FURTHER CROSS?

22 MS. SARIS: THANK YOU.

23

24 RECROSS-EXAMINATION

25 BY MS. SARIS:

26 Q WHEN YOU SAY TO SEE THINGS DONE, DO YOU
27 MEAN TO SEE MICHAEL GOODWIN PUNISHED?

28 A TO SEE HIM PUT ON TRIAL.

1 Q IN THE LAST 16 YEARS THAT THIS CASE HAS
2 BEEN GOING ON, HAVE YOU ATTENDED ANY OTHER COURT
3 PROCEEDING IN THIS MATTER, IN THE CRIMINAL MATTER?

4 A IN THE 18 YEARS SINCE THEY WERE KILLED I
5 HAVE NOT, NO.

6 MS. SARIS: THANK YOU. NOTHING FURTHER.

7 THE COURT: ANYTHING ELSE?

8 MR. DIXON: NOTHING FURTHER. THANK YOU, YOUR
9 HONOR.

10 THE COURT: THANK YOU, SIR. YOU'RE FREE TO GO.
11 THANKS FOR COMING IN.

12 MR. DIXON: WE'RE JUST TALKING. WE MAY HAVE TO
13 APPROACH.

14 THE COURT: OKAY. DO YOU WANT TO THE SIDEBAR,
15 THEN?

16 MR. DIXON: YES, PLEASE, YOUR HONOR.

17 THE COURT: OKAY.

18

19 (PROCEEDINGS HELD AT SIDEBAR.)

20 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

21 MR. JACKSON: SO THE REPORT INDICATES -- AND
22 WE'LL BRING YOU INTO THIS.

23 MS. SARIS: SHE DOESN'T CARE. I MEAN, SERIOUSLY,
24 ARE WE GOING TO SAY THREE OR FOUR WEEKS? FOUR WEEKS?

25 MR. DIXON: SEVERAL WEEKS.

26 THE COURT: WHAT IS IT THAT YOU'RE PLANNING?

27 MR. JACKSON: A STIPULATION.

28 MS. SARIS: A STIPULATION FROM MAGEE.

1 MR. DIXON: YES. OUR PLAN IS THAT WE HAVE A
2 STIPULATION THAT'S SUBJECT TO THE ADMISSION OF EXHIBITS.
3 WE'RE PREPARED TO REST WITH THE COURT'S EARLIER STATEMENT
4 THAT WE'LL BE ABLE TO PUT ON -- NO, THAT DOESN'T APPLY --
5 YES, WE'RE READY TO REST.

6 MS. SARIS: AND THEN BEFORE WE START, WE'RE GOING
7 TO ASK YOU TO READ STIPULATION ABOUT THE TOW AND THE
8 STIPULATION ABOUT THE D.N.A.

9 THE COURT: WHY DON'T WE TAKE A BREAK.

10 MS. SARIS: OKAY.

11 MR. JACKSON: THIS IS DONE. IT'S READY. IF YOU
12 DON'T WANT TO TAKE A BREAK, THIS IS READY.

13 THE COURT: BUT YOU WANT ME TO --

14 MR. JACKSON: THAT'S ON THAT BOARD RIGHT THERE
15 (INDICATING). IT'S THE SIX DIGIT DOC NUMBER.

16 MR. DIXON: WOULD YOU LIKE TO TAKE A BREAK?
17 WE'RE FINE WITH THAT WHILE WE WORK THIS OUT.

18 MR. JACKSON: OKAY. LET ME REVISE MY --

19 MR. DIXON: MAYBE WE SHOULD TAKE A BREAK.

20 THE COURT: OKAY. WE'LL TAKE A BREAK.

21 (SIDEBAR CONCLUDED.)

22

23 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, AS
24 YOU CAN SEE WE ARE COMING UP TO A POINT WHERE I HAVE TO
25 SPEND A FEW MINUTES WITH THE LAWYERS. SO WHY DON'T WE
26 TAKE OUR AFTERNOON RECESS A LITTLE EARLY.

27 AND REMEMBER THE ADMONITIONS. WE WILL
28 RESUME IN ABOUT 15, 20 MINUTES. OKAY? THANK YOU.

1 (THE FOLLOWING PROCEEDINGS WERE
2 HELD IN OPEN COURT OUTSIDE THE
3 PRESENCE OF THE JURY.)
4

5 THE COURT: ALL RIGHT. ALL JURORS AND ALTERNATES
6 HAVE LEFT THE COURTROOM.

7 MY UNDERSTANDING IS THE PEOPLE AND THE
8 DEFENSE WANT THE COURT TO READ A COUPLE OF STIPULATIONS
9 AND YOU'RE WORKING ON THOSE AT THIS TIME?

10 MR. JACKSON: THERE IS JUST ONE STIPULATION, YOUR
11 HONOR.

12 THE COURT: JUST ONE?

13 MS. SARIS: ONE THAT'S NEW AND THEN THE ONES FROM
14 YESTERDAY THAT WE DIDN'T READ YET AND THEN WE'RE GOING TO
15 ASK FOR SOMETHING RATHER UNUSUAL. THE STIPULATION WE
16 HAVE ON THE D.N.A., WE'RE GOING TO ASK THAT THE ACTUAL
17 STIPULATION BE MARKED AS A DEFENSE EXHIBIT.

18 THE COURT: OKAY. LET ME JUST BACK UP A SECOND.

19 YESTERDAY I READ 16 STIPULATIONS. I WAS
20 GIVEN 17 STIPULATIONS. IS IT AT THIS TIME, THEN, THAT
21 BOTH SIDES WANT ME TO READ STIPULATION NUMBER 17 AND
22 STIPULATION NUMBER 18?

23 MS. SARIS: ACTUALLY, 18 FIRST. THE PEOPLE ARE
24 GOING TO REST. AND THEN 17 AND AN UNNUMBERED.

25 MR. JACKSON: THE EASIEST WAY BECAUSE I THINK THE
26 NUMBERS ARE SCREWED UP, THERE'S A FRANK MICHAEL MAGEE
27 STIPULATION THAT WE WOULD ASK TO HAVE READ NOW. THE
28 D.N.A. STIPULATION --

1 THE COURT: IF YOU DON'T MIND, LET ME JUST FOR
2 CONSISTENCY MARK IT STIPULATION 17.

3 MR. JACKSON: THAT'S FINE. AND THAT'S SITTING IN
4 FRONT OF THE COURT.

5 MS. SARIS: THE LARRY HUNT WILL BE THE FIRST ONE
6 READ WHEN THE PEOPLE -- WHEN THE DEFENSE STARTS.

7 THE COURT: SO THE LARRY HUNT STIPULATION, I'M
8 GOING TO CALL IT STIPULATION 18.

9 MS. SARIS: AND MAY I APPROACH? THIS IS THE
10 D.N.A. STIPULATION, HOWEVER, WE WANT TO ENTER THIS ACTUAL
11 DOCUMENT (INDICATING). WE WERE GOING TO ASK TO HAVE THAT
12 ACTUALLY INTRODUCED. REASON BEING, IT REFERS TO TWO VERY
13 LENGTHY AND COMPLICATED D.N.A. REPORTS AND THAT IS THE
14 ALTERNATIVE. AND WE BELIEVE THE JURORS WOULD BE
15 THOROUGHLY CONFUSED AND TOTALLY MISUSE THOSE. AND
16 THEREFORE, THIS STATES WHAT WE NEED TO HAVE STATED AND IT
17 WILL BE AVAILABLE TO THEM.

18 THE COURT: ALL RIGHT. SO WHEN THE JURY RETURNS,
19 THE COURT IS GOING TO READ TWO STIPULATIONS, NUMBER 17
20 AND NUMBER 18. THE ONLY QUESTION I HAVE IS NUMBER 18
21 TALKS ABOUT THE RECEIPT LABELED.

22 MS. SARIS: DEFENSE T LIKE TOM. AND THE COURT IS
23 NOT GOING TO READ THAT UNTIL AFTER THE PEOPLE REST.
24 UNLESS I'M CONFUSED.

25 MR. JACKSON: NO, YOU'RE NOT CONFUSED. 18 AND
26 D.N.A. ARE THE DEFENSE IN THE DEFENSE CASE.

27 THE COURT: SO I'M GOING TO READ 17. AND THEN
28 AFTER THE PEOPLE REST AND THE DEFENSE STARTS, THIS IS

1 GOING TO BE THE FIRST THING PRESENTED BY THE DEFENSE.
2 THE COURT IS GOING TO READ 18 AND I'M GOING TO CALL THE
3 D.N.A. STIPULATION 19.

4 IS THAT IT?

5 MR. JACKSON: THAT'S RIGHT.

6 MS. SARIS: ACTUALLY, YOU KNOW WHAT, WHY DON'T WE
7 WAIT ON OURS AND WE WILL ASK YOU TO READ OUR D.N.A.
8 STIPULATION BEFORE OUR FIRST WITNESS AND BEFORE MARC
9 TAYLOR.

10 MR. JACKSON: THAT'S FINE. AND THEN WE CAN TALK
11 ABOUT WHETHER OR NOT THERE'S ANYTHING -- WE DON'T HAVE TO
12 ADDRESS THE ADMISSIBILITY AT THIS POINT. I DON'T HAVE
13 ANY PROBLEM WITH IT NECESSARILY, BUT WE'VE GOT THROUGHOUT
14 THE WHOLE CASE TO DEAL WITH THAT.

15 MS. SARIS: WE'RE GOING TO CALL JOHN RODRIGUEZ
16 AND THEN WE HAVE MARC TAYLOR. SO PRIOR TO TAYLOR
17 STARTING, I'LL ASK THE COURT TO READ THE STIPULATION.

18 THE COURT: JUST SO IT'S CLEAR, I'M HOLDING OFF
19 ON STIPULATION 18 AND STIPULATION 19 UNTIL COUNSEL HAS
20 SOMETHING FURTHER FOR ME, EITHER A REQUEST OR SOMETHING
21 ELSE AT THAT POINT.

22 MR. JACKSON: THAT'S CORRECT.

23 THE COURT: THE PEOPLE ARE RESTING AT THIS TIME?

24 MR. JACKSON: YES, YOUR HONOR. SUBJECT TO THE
25 ADMISSION OF PEOPLE'S 1 THROUGH 103 I BELIEVE IS OUR
26 TOTAL.

27 THE COURT: ALL RIGHT. ARE YOU PREPARED TO ARGUE
28 THE ADMISSIBILITY OR SHOULD WE TAKE A BREAK?

1 MS. SARIS: ADMISSIBILITY OF THE --

2 MR. JACKSON: OF 1 THROUGH 103.

3 MS. SARIS: NO, WE ARE NOT.

4 MR. JACKSON: OKAY. THEN THE ONLY THING I WOULD
5 ASK, YOUR HONOR, IS WHEN THE JURY COMES BACK, IF I'M
6 ALLOWED TO REST IN FRONT OF THE JURORS. AND I'LL SAY IT
7 THE SAME WAY, SUBJECT TO THE ADMISSION OF PEOPLE'S 1
8 THROUGH 103, THE PEOPLE REST.

9 THE COURT: ALL RIGHT. AND THEN -- OKAY.

10 LET'S TAKE A BRIEF BREAK AND THEN WE'RE
11 GOING TO HOLD OFF ON THE EXHIBITS. AND LET ME KNOW WHAT
12 YOU WANT TO DO DEFENSE WISE WHEN THE PEOPLE REST.

13 MS. SARIS: WELL, WE DO HAVE AN 1118. HOWEVER,
14 WE'RE NOT AT THIS POINT, BASED ON THE LARGE VOLUME OF
15 EXHIBITS, READY TO DISCUSS THEIR ADMISSIBILITY. I DON'T
16 KNOW IF THE TWO ARE MUTUALLY EXCLUSIVE. WE ASSUME
17 ADMISSIBILITY FOR THE PURPOSE OF 1118.

18 THE COURT: YOU CAN DISCUSS WITH THE COURT THE
19 1118 AT ANY TIME. SO YOU TELL ME.

20 MS. SARIS: OUR PREFERENCE IS SINCE WE HAVE
21 WITNESSES WAITING, THAT WE DISCUSS THE 1118 AND THE
22 ADMISSIBILITY OF THE PEOPLE'S EXHIBIT IN THE MORNING.

23 THE COURT: OKAY.

24 MS. SARIS: IS THAT FAIR? DOES THAT WORK?

25 MR. JACKSON: I DIDN'T HEAR A WORD YOU SAID.

26 MS. SARIS: WHY DON'T YOU PAY ATTENTION.

27 MR. JACKSON: SORRY.

28 THE COURT: WE'RE GOING TO TAKE A BRIEF BREAK AND

1 THAT WILL BE THE GAME PLAN.

2 MR. JACKSON: ALL RIGHT.

3 (BRIEF RECESS.)

4 THE COURT: OKAY. LET'S GO BACK ON THE RECORD,
5 THEN.

6 MR. GOODWIN IS PRESENT WITH COUNSEL. THE
7 PEOPLE ARE REPRESENTED.

8 AND BEFORE WE BRING THE JURORS IN, IS
9 THERE SOMETHING WE NEEDED TO DISCUSS?

10 MR. DIXON: YES, JUST BRIEFLY, YOUR HONOR. I
11 APOLOGIZE FOR TAKING UP THE COURT'S TIME. AND I HOPE
12 THIS ISN'T GOING TO BE A CONTINUING PROBLEM.

13 ONE OF THE WITNESSES TODAY IS MARC SCOTT
14 TAYLOR AND HE'S SOME KIND OF PRIVATE CRIMINALIST. AND I
15 DON'T WANT TO BE PRICKLY ABOUT DISCOVERY, BUT I JUST
16 MENTIONED -- OR MR. JACKSON MENTIONED, WELL, DO WE HAVE A
17 REPORT? AND THERE'S NO REPORT. WHICH IS REALLY
18 SURPRISING BECAUSE I KNOW THIS WITNESS. I TRIED A
19 CAPITAL CASE EARLIER THIS YEAR IN JUDGE JOHNSON'S COURT
20 IN DEPARTMENT 108 WHERE THIS WITNESS TESTIFIED.

21 AND IT WAS A 987 CASE. AND SO HE WAS PAID
22 BY SUPERIOR COURT FUNDS. AND HE WROTE A REPORT AND I'M
23 SURE HE WAS WELL COMPENSATED IN THAT CASE. AND I'M SURE
24 HE'S PAID AND COMPENSATED IN THE SAME FASHION IN THE
25 CASE. AND YET, THERE'S NO REPORT. THIS MAN IS GOING TO
26 COME AND TESTIFY AS AN EXPERT? THERE'S NO REPORT.

27 WE HAVEN'T EVEN BEEN GIVEN A C.V. ON HIM.
28 I DO KNOW A LITTLE BIT ABOUT HIM BECAUSE I'VE

1 CROSS-EXAMINED HIM EARLIER THIS YEAR. BUT OTHER THAN
2 THAT, I WOULDN'T KNOW THIS GUY FROM ANYBODY AND I JUST
3 THINK THAT'S INAPPROPRIATE.

4 AND AS WE START THE DEFENSE CASE, I DON'T
5 WANT TO DO THIS ALL THE TIME, BUT WE HAVE NOTHING ON THIS
6 GUY. AND THE THOUGHT THAT SOMEBODY'S GOING TO COME IN
7 AND TESTIFY AS AN EXPERT WITHOUT A C.V., WITHOUT A REPORT
8 IS SURPRISING TO ME. I'LL LEAVE IT AT THAT.

9 THE COURT: ALL RIGHT.

10 MS. SARIS: JUDGE, WHAT'S SURPRISING IS THAT I'VE
11 HAD MR. TAYLOR'S NAME ON THE WITNESS LIST FOR MONTH.
12 I'VE NEVER BEEN ASKED FOR A C.V. THERE IS NO REPORT
13 BECAUSE WE STIPULATED. THIS IS A D.N.A. STIPULATION.
14 MR. TAYLOR IS SIMPLY HERE TO EXPLAIN WHAT D.N.A. IS, WHAT
15 THE DATABASES ARE, VERY GENERAL QUESTIONS REGARDING
16 D.N.A. I EXPECT HIS DIRECT TO LAST TEN MINUTES.

17 HE DID NOT PREPARE A REPORT. LORI
18 MISHIKOWA, AS THE COURT KNOWS, AS MR. DIXON PERHAPS
19 MISSED SEVERAL COURT APPEARANCES OVER THE PAST SEVERAL
20 MONTHS, THAT THIS WAS AN ONGOING ISSUE WHERE WE TALKED
21 ABOUT: DO WE DO THE TESTING? DO WE LET THEM DO THE
22 TESTING? CAN THEY MONITOR THE TESTING? AND THEN WE ALL
23 AGREED TO A STIPULATION SO ANY REPORT WOULD BE ABOUT THE
24 LAB WORK THAT WAS DONE. AND I ASKED THEM SPECIFICALLY
25 NOT TO PREPARE ONE BECAUSE WE HAVE A STIPULATION.

26 MR. DIXON: SO THE TESTIMONY OF MR. TAYLOR IS
27 CUMULATIVE?

28 MR. JACKSON: THAT'S A GOOD POINT.

1 MS. SARIS: OKAY. HAS HE HAD HIS FIVE MINUTES?
2 CAN WE MOVE ON?

3 THE COURT: SO WHAT YOU'RE TELLING ME, THEN, IS
4 STIPULATION NUMBER 19 WHICH YOU WANT ME TO READ AFTER I
5 READ STIPULATION 18 --

6 MS. SARIS: 19 COMES FIRST. 18 WE THINK IS
7 PROBABLY GOING TO BE TOWARDS THE END.

8 THE COURT: OKAY. 19 COMES FIRST. BUT THEN HIS
9 TESTIMONY -- MR. TAYLOR'S TESTIMONY IS JUST TO EXPLAIN
10 19?

11 MS. SARIS: YES. AND IN VERY GENERAL TERMS AND
12 TO EXPLAIN PROCEDURE OF WHY YOU HAVE TO TEST HAIR FOR
13 MITOCHONDRIAL, WHEN D.N.A. TESTS WERE AVAILABLE. I
14 LITERALLY HAD AN ENTIRE CONVERSATION WITH MR. JACKSON
15 WHEN I ALL BUT READ HIM EVERY QUESTION LAST NIGHT THAT I
16 INTEND TO ELICIT FROM THIS WITNESS.

17 THE COURT: I MEAN, IS THERE ANY REASON WHY WE
18 CAN'T PROCEED? OR DID COUNSEL FEEL THAT WE NEED PERHAPS
19 TO TAKE A DIFFERENT WITNESS AT THIS TIME?

20 MR. DIXON: NO. I'M NOT TRYING TO MAKE THE TRAIN
21 RUN OFF OF THE TRACKS HERE. I'M ONLY POINTING OUT THAT
22 IT SEEMS TO ME -- AND I HOPE THAT WE DON'T SEE THIS AGAIN
23 IN THE DEFENSE CASE -- THAT WE HAVE WITNESSES WITHOUT
24 REPORTS. I THINK EXPERT WITNESSES PAID BY THE SUPERIOR
25 COURT SHOULD GENERATE SOME KIND OF REPORT ABOUT WHAT
26 THEY'RE GOING TO TESTIFY. IT JUST SEEMS BASIC TO ME.

27 MS. SARIS: AND I HAVE --

28 MR. DIXON: AND IF I'M WRONG ABOUT THAT --

1 MS. SARIS: -- A FINITE AMOUNT OF FUNDS. WHEN
2 THERE'S A STIPULATION, I'VE CHOSEN TO USE THOSE FUNDS TO
3 HAVE HIM COME AND TESTIFY.

4 THE COURT: ALL RIGHT. WELL, THEN, IT SOUNDS
5 LIKE WE'RE ALL IN AGREEMENT THAT WE WILL PROCEED.

6 MS. SARIS: HE'S NOT EVEN OUR NEXT WITNESS. OUR
7 NEXT WITNESS IS IN THE BACK OF THE COURTROOM, BUT I THINK
8 THE PEOPLE HAVE TO REST.

9 THE COURT: YES.

10
11 (THE JURY ENTERED THE COURTROOM
12 AND THE FOLLOWING PROCEEDINGS WERE
13 HELD IN OPEN COURT.)
14

15 THE COURT: ALL RIGHT. ALL OF OUR JURORS AND
16 ALTERNATES ARE ONCE AGAIN PRESENT. THE PARTIES ARE
17 PRESENT.

18 AND MY UNDERSTANDING IS THE PEOPLE AND THE
19 DEFENSE ARE ASKING THE COURT TO READ ONE MORE STIPULATION
20 AT THIS TIME?

21 MR. JACKSON: WITH THE COURT'S PERMISSION, YOUR
22 HONOR.

23 THE COURT: YES.

24 ALL RIGHT. LADIES AND GENTLEMEN, I'M
25 GOING TO READ YOU ANOTHER STIPULATION. THIS IS
26 STIPULATION NUMBER 17. AND YOU'LL RECALL WHAT A
27 STIPULATION IS. AND IT READS AS FOLLOWS:

28 COUNSEL STIPULATES THAT IF FRANK MICHAEL

1 MAGEE WERE CALLED AS A WITNESS AND DULY SWORN, HE WOULD
2 TESTIFY THAT HE IS EMPLOYED AS A BOAT SURVEYOR AND HAS
3 BEEN SO EMPLOYED FOR THE PAST TWO DECADES. MR. MAGEE
4 WILL FURTHER TESTIFY THAT IN OR AROUND MAY OF 1991 HE WAS
5 RETAINED BY MARYLAND NATIONAL BANK TO REPOSSESS MICHAEL
6 GOODWIN'S YACHT REFERRED TO IN PEOPLE'S EXHIBIT 100 WITH
7 COAST GUARD DOCUMENTATION NUMBER 675188. WE WERE GOING
8 TO PUT AN EXHIBIT -- THERE IT IS. OKAY. THAT'S PEOPLE'S
9 100.

10 ADDITIONALLY, MR. MAGEE WOULD TESTIFY THAT
11 HE SPENT APPROXIMATELY THREE TO FOUR WEEKS IN GUATEMALA
12 ATTEMPTING TO LOCATE AND REPOSSESS THE YACHT, DURING
13 WHICH TIME HE HAD A PHONE CONVERSATION WITH MICHAEL
14 GOODWIN WHEREIN MR. GOODWIN TOLD MR. MAGEE THAT HE WOULD
15 NEVER FIND HIS BOAT.

16 LASTLY, MR. MAGEE WOULD TESTIFY THAT AFTER
17 APPROXIMATELY THREE TO FOUR WEEKS OF SEARCHING, HE
18 LOCATED THE YACHT AND MICHAEL GOODWIN ON THE RIO DULCE
19 RIVER IN GUATEMALA, AT WHICH TIME HE REPOSSESSED THE
20 YACHT IN THE NAME OF MARYLAND NATIONAL BANK.

21 SO STIPULATED BY THE PEOPLE?

22 MR. JACKSON: YES, YOUR HONOR.

23 THE COURT: AND THE DEFENSE?

24 MS. SARIS: YES, YOUR HONOR.

25 THE COURT: ALL RIGHT. DO THE PEOPLE HAVE ANY
26 ADDITIONAL WITNESSES AT THIS TIME?

27 MR. JACKSON: WE DO NOT, YOUR HONOR. SUBJECT TO
28 THE ADMISSION OF THE PEOPLE'S 1 THROUGH 103, THE PEOPLE

1 REST AT THIS TIME.

2 THE COURT: ALL RIGHT. THANK YOU.

3 AND MS. SARIS?

4 MS. SARIS: THANK YOU, YOUR HONOR.

5 THE DEFENSE WOULD CALL SERGEANT JOHN
6 RODRIGUEZ.

7
8 JOHN RODRIGUEZ,
9 CALLED BY THE DEFENSE AS A WITNESS, WAS
10 SWORN AND TESTIFIED AS FOLLOWS:

11
12 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
13 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
14 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
15 NOTHING BUT THE TRUTH SO HELP YOU GOD.

16 THE WITNESS: I DO.

17 THE CLERK: THANK YOU. PLEASE BE SEATED.

18 SIR, WOULD YOU PLEASE STATE AND SPELL BOTH
19 YOUR FIRST AND LAST NAME FOR THE RECORD.

20 THE WITNESS: JOHN RODRIGUEZ, J-O-H-N,
21 R-O-D-R-I-G-U-E-Z.

22 THE CLERK: THANK YOU.

23 THE COURT: YOU MAY INQUIRE.

24 MS. SARIS: THANK YOU.

25

26 DIRECT EXAMINATION

27 BY MS. SARIS:

28 Q GOOD AFTERNOON, SERGEANT RODRIGUEZ.

1 A GOOD AFTERNOON.

2 Q HOW ARE YOU CURRENTLY EMPLOYED?

3 A I'M A SERGEANT WITH THE LOS ANGELES COUNTY
4 SHERIFF'S DEPARTMENT.

5 Q AND HOW DID YOU COME TO BE HERE TODAY?

6 A I RECEIVED A SUBPOENA FROM YOUR OFFICE.

7 Q AND WERE YOU EMPLOYED AS A SHERIFF IN
8 1988?

9 A YES, I WAS.

10 Q ON MARCH 16TH OF 1988, DID YOU RESPOND TO
11 THE HOME OF MICKEY AND TRUDY THOMPSON?

12 A YES.

13 Q DO YOU REMEMBER THE NATURE OF THE CALL
14 THAT GOT YOU THERE?

15 A YES.

16 Q WHAT WAS THAT?

17 A IT WAS A SHOTS FIRED CALL.

18 Q DO YOU KNOW IF YOU WERE THE FIRST OFFICER
19 ON THE SCENE OR THE 10TH OR 12TH?

20 A I WAS THE FIRST OFFICER ON THE SCENE.

21 Q ARE YOU ACQUAINTED WITH A MAN BY THE NAME
22 OF RUBEN GRACIA?

23 A YES, I AM.

24 Q AND WHERE WAS HE, IF ANYWHERE, THAT DAY
25 THAT YOU RECALL?

26 A WHERE WAS HE WHEN?

27 Q DID HE RESPOND BRIEFLY AFTER YOU DID?

28 A YES.

1 Q AND WERE YOU WITH A PARTNER THAT DAY?

2 A NO.

3 Q WERE YOU IN A MARKED VEHICLE?

4 A YES, I WAS.

5 Q WHEN YOU FIRST ARRIVED AT THE SCENE, DO
6 YOU REMEMBER THE ROUTE THAT YOU GOT TO GET TO THE HOUSE?

7 A YES, I DO.

8 Q WHAT WAS THAT?

9 A I WAS -- WHEN I FIRST RECEIVED THE CALL I
10 WAS AT LOS LOMAS AND HUNTINGTON AT THE 7-ELEVEN THERE ON
11 THE CORNER. AND I RESPONDED NORTH ON LOS LOMAS TO WEST
12 ON ROYAL OAKS TO WOODLYN LANE.

13 Q AND WHEN YOU CAME UPON THE THOMPSON HOME,
14 WERE YOU ON THE MT. OLIVE SIDE OF THE BRADBURY OR WERE
15 YOU ON THE ROYAL OAKS SIDE OF WESTGATE, IF YOU KNOW?

16 A I WAS ON THE ROYAL OAKS SIDE.

17 Q NOW, HOW LONG IN 1988 HAD YOU BEEN A
18 SHERIFF?

19 A ABOUT 14 YEARS.

20 Q I KNOW IT IS CALLED A POLICE ACADEMY FOR
21 THE L.A.P.D.

22 DO YOU HAVE A SIMILAR BASIC TRAINING FOR
23 THE SHERIFFS?

24 A YES. IT'S CALLED THE SHERIFF'S ACADEMY.

25 Q THAT WOULD MAKE SENSE.

26 AT THAT TIME WERE YOU TAUGHT ANYTHING
27 ABOUT IF YOU ARE AN OFFICER -- THE FIRST OFFICER ON THE
28 SCENE, ABOUT SECURING THE CRIME SCENE?

1 A YES.

2 Q WHAT DOES THAT PHRASE MEAN TO YOU?

3 A WHAT DOES THE PHRASE SECURING A CRIME
4 SCENE MEAN TO ME?

5 Q DOES IT HAVE A SPECIAL TERM OF ART IN THE
6 SHERIFF'S DEPARTMENT?

7 A YES.

8 Q AND WHAT DOES THAT INVOLVE?

9 A SECURING THE CRIME SCENE.

10 Q AND SPECIFICALLY?

11 A OKAY. PUTTING UP YELLOW TAPE, NOT LETTING
12 ANYBODY IN AND OUT OF THE CRIME SCENE.

13 Q WHEN YOU ARRIVED, WERE YOU AWARE AT THE
14 TIME OF WHETHER OR NOT THERE WERE ANY SUSPECTS STILL ON
15 THE SCENE?

16 A WHEN I ARRIVED, IN MY MIND, THINKING BACK,
17 I WAS -- IN MY MIND I KNEW THERE WASN'T ANY SUSPECTS ON
18 THE SCENE.

19 Q DID YOU EVENTUALLY SEE TWO DIFFERENT
20 VICTIMS THAT DAY?

21 A YES.

22 Q AND HOW DID YOU APPROACH THE HOUSE? FROM
23 THE MAIN DRIVEWAY OR THE BACK DRIVEWAY, IF YOU KNOW?

24 A WELL, THE MAIN DRIVEWAY COMES OFF
25 MT. OLIVE, I BELIEVE; RIGHT?

26 Q THAT'S CORRECT.

27 A NO. I CAME UP FROM THE BACK DRIVEWAY OFF
28 OF WOODLYN LANE.

1 Q SO THE FIRST PERSON THAT YOU WOULD HAVE
2 SEEN IS MICKEY, NOT TRUDY?

3 A THAT'S CORRECT.

4 Q AND WHEN YOU WERE WALKING UP THAT PATHWAY,
5 WERE YOU DOING IT IN SUCH A WAY THAT YOUR GUN WAS OUT AND
6 YOU WERE LOOKING FOR PEOPLE, OR WERE YOU JUST RUNNING UP
7 TRYING TO FIND VICTIMS?

8 A I WAS -- I WOULD SAY I WAS RUNNING UP TO
9 FIND VICTIMS.

10 Q WAS IT QUITE OBVIOUS TO YOU WHEN YOU SAW
11 THE VICTIMS THAT THEY WERE DEAD?

12 A YES.

13 Q DID YOU NOTE ON ANY PART OF THE DRIVEWAY
14 ANY CASINGS OR EXPENDED BULLETS OR EVEN LIVE BULLETS?

15 A I'M SORRY. WHAT WAS THE QUESTION AGAIN?

16 Q THAT DAY WHEN YOU WERE AT THE CRIME SCENE,
17 WHEN YOU FIRST ARRIVED, DID YOU NOTICE ANYWHERE ON THE
18 PROPERTY CASINGS OR BULLETS OR LIVE ROUNDS THAT WERE ON
19 THE GROUND?

20 A YES.

21 Q AND IN YOUR TRAINING, WHAT ARE YOU TAUGHT
22 TO DO WHEN YOU SEE THOSE, IF ANYTHING?

23 A AFTER A MURDER, YOU DON'T DO ANYTHING WITH
24 THEM. JUST CONTAIN THE CRIME SCENE AND DON'T TOUCH
25 ANYTHING PENDING ARRIVAL OF HOMICIDE DETECTIVES.

26 Q AS PART OF YOUR TRAINING, IF YOU WERE TO
27 HAVE KNOWINGLY KICKED A CASING OR STEPPED ON SOMETHING
28 THAT YOU THOUGHT MIGHT BE EVIDENCE, DO YOU HAVE A DUTY TO

1 REPORT THAT TO SOME INDIVIDUAL?

2 A YES.

3 Q AND WHAT WOULD BE THE PROCEDURE FOR THAT?

4 A I WOULD REPORT IT TO THE HOMICIDE
5 DETECTIVES WHEN THEY ARRIVED.

6 Q IN THIS CASE, DID YOU CHANGE ANY OF THE
7 RELATIVE POSITIONS OF ANY OF THE ITEMS THAT YOU NOTICED
8 THAT WE DISCUSSED? IN OTHER WORDS, DID YOU KICK ANYTHING
9 THAT YOU'RE AWARE OF?

10 A NO.

11 Q DID YOU MAKE A SPECIAL EFFORT NOT TO?

12 A YES.

13 Q DID YOU STEP IN ANY BLOOD THAT YOU KNOW
14 OF?

15 A NOT THAT I RECALL.

16 Q SO IS IT FAIR TO SAY THAT YOU RECOGNIZED
17 IT WAS EVIDENCE AND YOU TOOK THE STEPS IN YOUR TRAINING
18 TO PRESERVE WHERE THAT EVIDENCE WAS?

19 A YES.

20 Q YOU ACTUALLY SPOKE TO SEVERAL NEIGHBORS
21 THAT MORNING, DID YOU NOT?

22 A YES.

23 Q AND AS A RESULT OF THAT, YOU GENERATED A
24 HANDWRITTEN REPORT?

25 A YES.

26 Q DID YOU SPEAK TO A MAN BY THE NAME OF
27 LANCE JOHNSON?

28 A YES.

1 Q AND FROM YOUR UNDERSTANDING, WHO WAS HE IN
2 RELATION TO MR. THOMPSON?

3 A I WOULD SAY NEXT DOOR NEIGHBOR.

4 Q AND DID HE RELATE TO YOU THAT HE HAD
5 WITNESSED OR HEARD --

6 MR. DIXON: OBJECTION. LEADING.

7 Q BY MS. SARIS: -- SOME OR PART OF THIS?

8 MR. DIXON: LEADING.

9 THE COURT: SUSTAINED.

10 Q BY MS. SARIS: DID YOU ASK HIM WHETHER OR
11 NOT HE HEARD OR HAD SEEN ANYTHING THAT DAY?

12 A YES.

13 Q AND HAD HE HEARD OR SEEN ANYTHING?

14 A YES.

15 Q WHAT DID HE TELL YOU REGARDING WHAT DREW
16 HIS ATTENTION TO ANYTHING THAT MORNING?

17 MR. DIXON: OBJECTION. HEARSAY. UNLESS -- I
18 DON'T THINK THERE'S A FOUNDATION FOR IMPEACHMENT HERE.

19 THE COURT: I DON'T KNOW.

20 WHAT'S THE EXCEPTION?

21 MS. SARIS: PRIOR INCONSISTENT STATEMENT, YOUR
22 HONOR.

23 THE COURT: ALL RIGHT. OVERRULED.

24 MR. DIXON: I THINK WE SHOULD APPROACH.

25 THE COURT: DO YOU WANT TO APPROACH?

26

27 (PROCEEDINGS HELD AT SIDEBAR.)

28 THE COURT: OKAY. WE'RE AT THE SIDEBAR.

1 WHAT IS THE OFFER OF PROOF?

2 MS. SARIS: YOUR HONOR, THE REPORT INDICATES AND
3 WE ASKED MR. JOHNSON ABOUT THIS EXTENSIVELY THAT
4 MR. JOHNSON HEARD SIX TO EIGHT SHOTS FOLLOWED BY
5 SCREAMING AND THEN ANOTHER BURST. AND IN THE END HE
6 COULDN'T TELL IF THE SCREAMING OR THE BULLETS CAME
7 TOGETHER.

8 WHEN HE WAS ASKED, HE WAS ASKED
9 SPECIFICALLY, HE SAID HE HEARD THE SCREAMING FIRST. AND
10 IT GOES TO OUR THEORY OF HOW THE CRIME WENT DOWN AND WHAT
11 ACTUALLY AWAKENED HIM. AND WE ACTUALLY CAME UP TO
12 SIDEBAR BECAUSE YOU HAD ASKED IF I HAD IMPEACHED HIM AND
13 WE HAD ALL DECIDED I HAD NOT AND HE HAD SAID THAT
14 SPECIFIC THING.

15 THE COURT: RIGHT.

16 MR. DIXON: YOUR HONOR, IF WE LISTEN TO WHAT
17 COUNSEL JUST SAID, SHE SAID WE INTERVIEWED HIM AND HE
18 SAID HE HEARD SIX TO EIGHT SHOTS FOLLOWED BY SCREAMING.
19 THAT IS CONSISTENT WITH WHAT LANCE JOHNSON SAID ON THE
20 STAND. THAT'S WHAT SHE JUST SAID. YOU COULD HAVE HER --

21 THE COURT: KEEP READING.

22 MR. DIXON: NO. I'M LISTENING TO WHAT YOU JUST
23 SAID.

24 THE COURT: WHAT ELSE IS THERE?

25 MR. DIXON: YOU JUST SAID SIX TO EIGHT SHOTS
26 FOLLOWED BY SCREAMING. THAT IS CONSISTENT WITH WHAT
27 LANCE JOHNSON SAID ON THE WITNESS STAND.

28 MS. SARIS: ANOTHER BURST, SILENCE, AND THEN HE

1 COULDN'T DETERMINE WHETHER THE SHOTS CAME BEFORE OR
2 SCREAMING OR CONCURRENT. THAT'S WHAT THE STATEMENT IS
3 FROM MR. RODRIGUEZ.

4 THE COURT: ALL RIGHT. GO AHEAD.

5 MR. DIXON: MY VIEW IS THAT THAT'S NOT
6 INCONSISTENT WITH HIS TESTIMONY. THAT'S CONTRADICTORY
7 WITH WHAT COUNSEL JUST TOLD YOU. IT'S NOT INCONSISTENT
8 WITH WHAT LANCE JOHNSON SAID.

9 THE COURT: WELL, I THINK A PORTION OF IT IS AND
10 SO TO THAT EXTENT I'M GOING TO OVERRULE THE OBJECTION.

11 (SIDEBAR CONCLUDED.)

12
13 Q BY MS. SARIS: OFFICER, I'M GOING TO ASK
14 YOU THE BEST YOU CAN -- I'M SORRY, SERGEANT, I'M GOING TO
15 ASK YOU THE BEST YOU CAN TO RECALL WHAT MR. JOHNSON SAID.
16 IF YOU NEED ANYTHING TO REFRESH YOUR RECOLLECTION, PLEASE
17 LET ME KNOW.

18 WHAT DID MR. JOHNSON TELL YOU HE HEARD OR
19 SAW?

20 A AS I RECALL, MR. JOHNSON TOLD ME THAT HE
21 WAS AWAKENED BY GUNSHOTS, SEVERAL GUNSHOTS, POSSIBLY SIX
22 TO EIGHT, AND THEN SIMULTANEOUSLY HE HEARD SCREAMING AND
23 YELLING WHICH HE THOUGHT WAS HIS NEIGHBOR.

24 Q AND WHEN YOU SAY "HIS NEIGHBOR," YOU MEAN?

25 A MICKEY.

26 Q MICKEY?

27 A MICKEY, RIGHT.

28 AND HE ALSO SAID THAT HE HEARD MICKEY

1 SCREAMING AND YELLING ABOUT SOMETHING TO THE EFFECT,
2 "DON'T HURT HIS WIFE," OR "HELP," SCREAMING FOR HELP.

3 Q DID HE TELL YOU HE HEARD THE SCREAMING AND
4 YELLING ABOUT THE SAME TIME AS HE HEARD THE SHOTS?

5 A YEAH, THAT'S WHAT HE SAID.

6 AND HE SAID THERE WAS A LULL -- THE
7 SHOOTING STOPPED FOR A MOMENT AND THEN A FEW MOMENTS
8 LATER THERE WAS SOME MORE SHOOTING, SEVERAL MORE SHOTS.
9 AND THEN HE ALSO SAID THAT HE WENT OUTSIDE AFTER THE
10 GUNSHOTS STOPPED AND HE SAW TWO INDIVIDUALS PEDALING
11 EXTREMELY FAST DOWN WOODLYN LANE.

12 Q AND THAT WOULD HAVE BEEN WHERE IN RELATION
13 TO HIS HOUSE WHEN YOU SAY "DOWN WOODLYN LANE"?

14 A IT WOULD BE RIGHT IN FRONT OF HIS HOUSE.

15 Q THANK YOU.

16 MS. SARIS: YOUR HONOR, I HAVE A PHOTOGRAPH
17 THAT --

18 Q WELL, DID YOU NOTICE A GARAGE AT THE HOUSE
19 THAT DAY?

20 A WHOSE GARAGE?

21 Q MICKEY THOMPSON'S?

22 A YES.

23 Q DID YOU EVER GO INSIDE?

24 A DID I GO IN THE GARAGE?

25 Q YES.

26 OR DID YOU SEE THE INSIDE OF IT AT ALL?

27 A WHICH GARAGE? THERE WERE SEVERAL GARAGES,
28 AS I RECALL.

1 Q THE MAIN ONE THAT FACES WOODLYN LANE, THE
2 ONE THAT FACES WHERE THE BODIES WERE FOUND?

3 A DID I GO IN THE -- AS I RECALL, I DID GO
4 IN THE GARAGE EVENTUALLY DURING THAT DAY.

5 MS. SARIS: YOUR HONOR, I HAVE A PHOTOGRAPH THAT
6 LOOKS TO BE THE INTERIOR OF A GARAGE THAT I WOULD LIKE TO
7 MARK AS DEFENSE NEXT IN ORDER.

8 THE COURT: MMM.

9 MS. SARIS: M LIKE MARY?

10 THE COURT: YES.

11
12 (MARKED FOR IDENTIFICATION DEFENSE'S
13 EXHIBIT NO. MMM, PHOTO.)
14

15 Q BY MS. SARIS: OFFICER, I'M SHOWING YOU A
16 PICTURE THAT LOOKS TO BE AN INTERIOR OF A GARAGE.

17 DO YOU RECOGNIZE THAT?

18 A I MEAN, IT LOOKS LIKE A GARAGE. DO YOU
19 WANT ME TO SAY IT'S MICKEY'S GARAGE OR THE MAIN GARAGE?

20 Q DO YOU NOT KNOW?

21 A I MEAN, I WAS IN THAT GARAGE LATER ON THAT
22 DAY. I MEAN, I WAS AT THAT RESIDENCE FOR SEVERAL HOURS,
23 AND I DID GO IN THAT GARAGE. BUT TO SAY THAT'S THE SAME
24 GARAGE, I COULDN'T TESTIFY TO THAT.

25 Q OKAY. THAT'S FAIR. THANK YOU.

26 WHEN YOU WERE IN THE GARAGE, DID YOU
27 NOTICE ANY SAFES IN THE GARAGE?

28 A I DON'T RECALL.

1 Q DID YOU NOTICE ANY CLOSET -- WELL, DID YOU
2 NOTICE A STAIRWAY IN THE GARAGE?

3 A A STAIRWAY?

4 Q YES.

5 A I DON'T RECALL A STAIRWAY.

6 Q WAS IT FAIR TO SAY YOUR RESPONSIBILITY WAS
7 SECURING THE SCENE AND YOU WEREN'T THERE TO INVESTIGATE
8 THE HOMICIDE?

9 A YES.

10 Q DID YOU EVENTUALLY REPORT WHAT YOU HAD
11 SEEN INITIALLY TO THE HOMICIDE DETECTIVES?

12 A YES.

13 Q IN YOUR UNDERSTANDING, WHO WAS IN CHARGE
14 OF THAT SCENE?

15 A AS I RECALL, IT WAS HOMICIDE INVESTIGATOR
16 GRIGGS.

17 Q IS THAT MICHAEL GRIGGS?

18 A YES.

19 MS. SARIS: YOUR HONOR, ON PEOPLE'S 68, I'M
20 PUTTING ONE OF THE PAGES ON THE OVERHEAD REGARDING THE --

21 THE COURT: ARE YOU TALKING ABOUT PEOPLE'S 68 OR
22 PEOPLE'S 68-A?

23 MS. SARIS: 68.

24 MR. DIXON: PERHAPS WE COULD IDENTIFY IT.

25 MS. SARIS: YES. THE TRUDY THOMPSON AUTOPSY
26 REPORT AND THE PAGE IS -- IF I MAY APPROACH THE WITNESS.

27 Q THE COPY I HAVE DOES NOT HAVE A
28 CERTIFICATION COVERING THE NAME.

1 CAN YOU TELL ME IF YOU RECOGNIZE THAT
2 DOCUMENT?

3 A YES, I DO.

4 Q AND WHAT IS THAT DOCUMENT, IN GENERAL?

5 A IT'S THE PERSONAL EFFECTS INVENTORY ISSUED
6 BY THE CORONER.

7 Q AND HAVE YOU SEEN ONE OF THOSE BEFORE?

8 A YES.

9 Q AND HAD YOU SEEN ONE BEFORE THE MORNING OF
10 MARCH 16TH?

11 A YES.

12 Q AND TO YOUR UNDERSTANDING, WHAT DOES
13 THAT -- WHAT'S THE PURPOSE OF THAT DOCUMENT?

14 A IT JUST INVENTORIES THE PERSONAL EFFECTS
15 OF THE DECEASED.

16 Q AND WAS THAT DONE IN THIS CASE?

17 A YES, IT WAS.

18 Q AND DO YOU RECALL, DID YOU SEE THE BODY OF
19 TRUDY THOMPSON AT THE SCENE?

20 A YES, I DID.

21 Q DO YOU RECALL A SQUARE MEDALLION THAT SHE
22 WAS WEARING WITH A NUMBER 10 ON IT AROUND THE NECK?

23 A I REMEMBER A MEDALLION, BUT I DON'T
24 REMEMBER IF IT HAD A NUMBER ON IT.

25 Q DOES THAT REPORT IN ANY WAY REFLECT YOUR
26 SIGNATURE?

27 A YES, IT DOES.

28 Q WERE YOU A WITNESS TO THE COLLECTION OF

1 HER PERSONAL EFFECTS?

2 A YES.

3 Q AND CAN YOU READ THE TOP -- THE FIRST LINE
4 THAT'S VISIBLE ON THE PERSONAL EFFECTS STARTING WITH
5 "PENDANT."

6 A IT LOOKS LIKE ONE YELLOW PENDANT, SQUARE.
7 IT APPEARS TEN WITH A WIDTH SLASH 35 RED.

8 Q AND WOULD IT BE SOMETHING THAT YOU WOULD
9 DO IN THE NORMAL COURSE OF BUSINESS -- WELL, LET ME ASK
10 YOU THIS: WHO WOULD BE REMOVING THIS THAT YOU WOULD BE
11 WITNESSING?

12 A THE CORONER.

13 Q AND --

14 A DEPUTY CORONER.

15 Q WOULD THAT BE A CORONER INVESTIGATOR OR
16 THE ACTUAL PERSON THAT DOES THE AUTOPSIES?

17 A NO, IT'S THE INVESTIGATOR. NO, IT'S -- I
18 WOULD SAY INVESTIGATOR.

19 Q AND DOES THIS APPEAR TO BE TO YOU THE FORM
20 THAT YOU SIGNED THAT MORNING REGARDING THE PROPERTY OF
21 TRUDY THOMPSON?

22 A YES.

23 Q DID YOU EVER SEE A PHOTOGRAPH OF -- OR I'M
24 SORRY, NOT A PHOTOGRAPH.

25 DID YOU EVER SEE A VAN AT THE CRIME SCENE?

26 A YES.

27 Q AND DID THAT VAN APPEAR TO HAVE CRASHED?

28 A YES.

1 Q DID YOU SEE THAT MORNING ANY JEWELRY
2 DISPLAYED IN THAT VAN ON THE FLOORBOARD?

3 A NO.

4 Q DID YOU SEE -- WELL, TELL ME WHAT
5 OPPORTUNITY YOU HAD TO LOOK AT THIS VAN. WAS IT JUST
6 THAT YOU SAW IT THERE OR DID YOU EXAMINE IT?

7 A AS I RECALL, WHEN I FIRST ARRIVED AT THE
8 SCENE, THE VAN WAS AT THE BOTTOM OF THE DRIVEWAY, ENGINE
9 STILL RUNNING, DRIVER'S DOOR OPEN, WINDOW SHATTERED AND A
10 BULLET HOLE IN THE WINDSHIELD, SO THAT --

11 Q I'M SORRY?

12 A I'M JUST SAYING THAT I REMEMBER SEEING
13 THAT VAN AT THE BOTTOM CRASHED INTO THE HALF CEMENT WALL
14 AND HALF WROUGHT IRON FENCE.

15 Q DO YOU REMEMBER IF IT WAS IN GEAR?

16 A NO, I DON'T REMEMBER IF IT WAS IN GEAR.

17 Q DID YOU SEE ANY MONEY IN PLAIN SIGHT IN
18 THE VAN?

19 A NO.

20 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

21 (PAUSE IN PROCEEDINGS.)

22 Q BY MS. SARIS: WHEN YOU FIRST ARRIVED AT
23 THE CRIME SCENE, DID YOU SEE ANY CHILDREN OR TEENAGERS IN
24 THE AREA OF TRUDY THOMPSON'S BODY?

25 A NO.

26 Q THANK YOU.

27 MS. SARIS: NOTHING FURTHER.

28 THE COURT: CROSS-EXAMINATION?

1 MR. DIXON: THANK YOU, YOUR HONOR.

2
3 CROSS-EXAMINATION

4 BY MR. DIXON:

5 Q GOOD AFTERNOON, SERGEANT.

6 A GOOD AFTERNOON.

7 Q YOU TALKED ABOUT A COUPLE OF THINGS HERE
8 ON YOUR EXAMINATION.

9 ONE WAS SECURING THE CRIME SCENE; CORRECT?

10 A YES, SIR.

11 Q AND WHEN YOU AS A DEPUTY SHERIFF GO TO A
12 CRIME SCENE WHERE SHOTS ARE FIRED, THERE ARE A COUPLE
13 DIFFERENT THINGS THAT YOU'VE GOT TO BE CONCERNED ABOUT;
14 ISN'T THAT RIGHT?

15 A YES.

16 Q ONE INITIALLY WOULD BE IF THERE ARE OTHER
17 SUSPECTS THERE WITH GUNS, WOULDN'T YOU AGREE WITH THAT?

18 A YES.

19 Q GENERALLY SPEAKING?

20 A CORRECT.

21 Q AND THE REASON FOR THAT, IS IT BECAUSE OF
22 YOUR OWN PERSONAL SAFETY AND THE SAFETY OF OTHER OFFICERS
23 THAT MIGHT BE RESPONDING?

24 A YES, SIR.

25 Q AND IN THIS SITUATION ON MARCH 16, 1988
26 WHEN YOU WENT TO 53 WOODLYN LANE IN BRADBURY, THERE WERE
27 A NUMBER OF OFFICERS THAT ARRIVED THAT DAY; ISN'T THAT
28 CORRECT?

1 A YES, SIR.

2 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

3 THE COURT: OVERRULED.

4 Q BY MR. DIXON: 6:00 O'CLOCK IN THE MORNING
5 WHEN YOU GOT THERE, THERE WERE A LOT OF OFFICERS
6 RESPONDING UP TO THAT SCENE; ISN'T THAT TRUE?

7 A YES, SIR.

8 Q IN FACT, THERE WERE SOME NOT FAR BEHIND
9 YOU ON THE WAY UP THERE; ISN'T THAT RIGHT?

10 A YES, SIR.

11 Q SO, GENERALLY SPEAKING, THE FIRST THING
12 YOU DO TO A SHOTS FIRED CRIME SCENE IS TO MAKE SURE THAT
13 THERE'S NOBODY ELSE -- NO OTHER SUBJECTS RUNNING AROUND
14 WITH GUNS; RIGHT?

15 A YES, SIR.

16 Q IN THIS SITUATION, THOUGH, YOU TESTIFIED
17 THAT WHEN YOU ARRIVED AT THE CRIME SCENE, YOU DIDN'T
18 THINK THERE WERE ANY SUSPECTS THERE; ISN'T THAT WHAT YOU
19 TOLD DEFENSE COUNSEL?

20 A (NO AUDIBLE RESPONSE.)

21 Q AND PLEASE CORRECT ME IF I'M WRONG, I
22 THOUGHT YOU SAID WHEN YOU ARRIVED THERE YOU DIDN'T
23 BELIEVE THERE WERE SUSPECTS STILL AT THE CRIME SCENE?

24 A WELL, I HAD GOOD REASON TO BELIEVE THAT.

25 Q AND THE REASON IS BECAUSE AS YOU DROVE UP
26 TO THE THOMPSON'S RESIDENCE, AT SOME POINT YOU MET LANCE
27 JOHNSON?

28 A THAT'S CORRECT.

1 Q YOU MET LANCE JOHNSON AS YOU WERE GOING UP
2 TO THE CRIME SCENE AND HE WAS COMING DOWN?

3 A THAT'S CORRECT, SIR.

4 Q AT THE GATE, THERE'S A GATE THERE; RIGHT?

5 A YES, AT THE BOTTOM THE GATE OF WOODLYN
6 LANE YOU ENTER FROM ROYAL OAKS DRIVE.

7 Q LANCE JOHNSON WAS VERY -- I DON'T KNOW IF
8 "HAPPY" WAS THE RIGHT WORD TO SAY -- BUT HE APPEARED TO
9 BE RELIEVED TO SEE YOU; ISN'T THAT CORRECT?

10 A YES, SIR.

11 Q AND AT THAT TIME HE TOLD YOU WHERE THE
12 SUSPECTS WENT, DIDN'T HE?

13 A YES, SIR.

14 Q HE SAID THERE WERE TWO AFRICAN/AMERICAN OR
15 BLACK MEN ON BICYCLES THAT JUST WENT THAT WAY
16 (INDICATING), RIGHT, IN THE OPPOSITE DIRECTION YOU WERE
17 GOING?

18 A THAT'S TRUE.

19 Q SO THAT'S WHY YOU DIDN'T THINK THERE WERE
20 ANY CRIME -- ANY CRIME PARTNERS AT THE SCENE WHEN YOU
21 ARRIVED?

22 A THAT'S CORRECT.

23 Q AND AFTER LANCE JOHNSON TOLD YOU THAT, YOU
24 PROCEEDED UP TO THE CRIME SCENE?

25 A YES, SIR.

26 Q NOW, ANOTHER THING THAT YOU WOULD DO IN
27 SECURING A CRIME SCENE AS WE'VE ALL SEEN THE YELLOW TAPE;
28 CORRECT?

1 A THAT'S TRUE.

2 Q AND YOU PUT THE YELLOW TAPE UP AND YOU TRY
3 TO MAKE SURE NO ONE DISTURBED THE CRIME SCENE; IS THAT
4 CORRECT?

5 A YES, SIR.

6 Q WERE YOU IN CHARGE OF SECURING THE CRIME
7 SCENE THERE?

8 A YES.

9 Q AND DOES THE SHERIFF'S DEPARTMENT HAVE A
10 CRIME SCENE LOG OR SOME OTHER DEVICE TO KEEP TRACK OF WHO
11 COMES IN AND OUT OF THE CRIME SCENE?

12 A YES, WE DO. IT'S CALLED A MAJOR INCIDENT
13 LOG.

14 Q AND THAT LOG WOULD RECORD EVERYONE WHO
15 ENTERS THE CRIME SCENE AND THEN LEAVES THE CRIME SCENE;
16 IS THAT CORRECT?

17 A YES, SIR.

18 Q NOT ONLY WOULD RECORD THE NAME, RANK AND
19 DEPARTMENT THAT EACH PERSON WHO ENTERED OR LEFT THE CRIME
20 SCENE WAS ATTACHED TO, BUT IT WOULD ALSO INDICATE THE
21 TIME?

22 A THAT'S CORRECT.

23 Q WERE YOU IN CHARGE OF MAINTAINING THAT?

24 A I'M SURE I WAS AT ONE TIME UNTIL I
25 DESIGNATED SOMEONE ELSE TO TAKE CHARGE OF IT.

26 Q IT'S A DUTY THAT CAN BE HANDED OFF IN A
27 HOMICIDE CRIME SCENE; CORRECT?

28 A YES.

1 Q AS LONG AS THERE'S SOMEBODY IN CHARGE?

2 A CORRECT.

3 Q ISN'T IT CORRECT TO SAY THAT AT THIS CRIME
4 SCENE STARTING IN THE EARLY MORNING HOURS OF MARCH 16TH
5 OF 1988, THERE WERE A LOT OF PEOPLE THAT ENTERED AND
6 EXITED THAT CRIME SCENE?

7 A YES.

8 Q INCLUDING MEMBERS OF YOUR DEPARTMENT,
9 DEPUTIES; RIGHT?

10 A YES, SIR.

11 Q DETECTIVES, HOMICIDE DETECTIVES?

12 A YES, SIR.

13 Q SUPERVISORS?

14 A YES, SIR.

15 Q I DON'T KNOW, BUT I'LL ASK YOU: DID THE
16 CAPTAIN FROM SHERIFF'S HOMICIDE ARRIVE?

17 A I DON'T RECALL THAT, SIR.

18 Q BUT IT WOULDN'T SURPRISE YOU?

19 A NO, IT WOULDN'T SURPRISE ME, BUT I DON'T
20 RECALL.

21 Q THAT'S OFTEN ONE OF THEIR DUTIES; RIGHT?

22 A YES, SIR.

23 Q PARAMEDICS?

24 A YES, SIR.

25 Q IN FACT, THERE WERE PARAMEDICS THAT
26 RESPONDED AT LEAST TO THE SCENE; ISN'T THAT CORRECT?

27 A THAT'S CORRECT.

28 Q MEMBERS OF THE CORONER'S OFFICE?

1 A YES, SIR.

2 Q SO OVER A PERIOD OF TIME THERE WERE MANY
3 PEOPLE THAT WERE IN THAT CRIME SCENE?

4 A YES, SIR.

5 Q THE DEFENSE COUNSEL ASKED YOU ABOUT,
6 WELL, AND IT'S IMPORTANT TO TRY TO KEEP ALL THE EVIDENCE
7 RIGHT WHERE YOU FOUND IT; ISN'T THAT RIGHT?

8 A YES, SIR.

9 Q BUT YOU DON'T KNOW WHAT HAPPENED BEFORE
10 YOU GOT THERE, DO YOU?

11 A NO.

12 Q WHETHER THE SUSPECTS MIGHT HAVE KICKED OR
13 MOVED OR WHATEVER HAPPENED; IS THAT RIGHT?

14 A THAT'S CORRECT.

15 Q SO YOUR FIRST CONTACT WITH LANCE JOHNSON
16 WAS AT THE GATE BEFORE YOU GOT TO THE THOMPSON'S HOUSE;
17 IS THAT RIGHT?

18 A YES, SIR.

19 Q AND THEN LATER ON YOU INTERVIEWED HIM?

20 A YES, SIR.

21 Q AND IN THAT INTERVIEW HE TOLD YOU THAT HE
22 WOKE UP TO SIX TO EIGHT GUNSHOTS; CORRECT?

23 A CORRECT.

24 Q AND THAT HE HEARD SCREAMING?

25 A CORRECT.

26 Q AND, IN FACT, HE TOLD YOU HE HEARD A MAN
27 WHO HE BELIEVED HE RECOGNIZED THE VOICE BEING MICKEY
28 THOMPSON SCREAMING, "DON'T HURT MY WIFE," OR "HELP MY

1 WIFE," WORDS TO THAT EFFECT; IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q AND THEN HE HEARD MORE GUNSHOTS?

4 A THAT'S CORRECT.

5 Q YOU SAID I THINK IN YOUR ANSWER TO
6 MS. SARIS THAT HE SAID, WELL, AT THE SAME TIME OR
7 SIMULTANEOUSLY WITH THE GUNSHOTS HE HEARD THE SCREAMING;
8 IS THAT WHAT YOU SAID?

9 A I BELIEVE SO.

10 Q BUT IN YOUR REPORT IT SAYS ABOUT THE SAME
11 TIME?

12 MS. SARIS: OBJECTION. IMPROPER IMPEACHMENT.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER.

15 THE WITNESS: THAT'S CORRECT. HE SAID IT WAS
16 ABOUT THE SAME TIME.

17 Q BY MR. DIXON: SO HE DIDN'T SAY EXACTLY AT
18 THE SAME TIME?

19 A NO.

20 Q HE SAID ABOUT THE SAME TIME?

21 A CORRECT.

22 Q AND WHEN EXACTLY DID YOU TALK TO HIM? WAS
23 THIS WITHIN MINUTES AFTER YOU ARRIVED, WITHIN 15 MINUTES,
24 HALF AN HOUR, TWO HOURS LATER? DO YOU HAVE ANY IDEA?

25 A I WOULD SAY WITHIN AN HOUR. WITHIN THE
26 FIRST HOUR, 30, 45 MINUTES -- WITHIN AN HOUR I TALKED TO
27 HIM.

28 Q OKAY. WHEN YOU TALKED TO LANCE JOHNSON,

1 HE TOLD YOU THAT HE RECOGNIZED MICKEY THOMPSON'S VOICE;
2 IS THAT RIGHT?

3 A THAT'S CORRECT.

4 Q DID HE TELL YOU THAT HE WAS A FRIEND? HE
5 WAS CLEARLY A NEIGHBOR, DID HE TELL YOU THAT HE WAS A
6 FRIEND?

7 A YES.

8 Q WAS LANCE JOHNSON STILL, AT LEAST APPEARED
9 TO YOU, TO BE UPSET; SHAKEN BY THIS EVENT?

10 A EXTREMELY.

11 Q AND THAT'S WHEN YOU INTERVIEWED HIM?

12 A YES.

13 Q JUST THE LAST COUPLE OF QUESTIONS.

14 DEFENSE COUNSEL SHOWED YOU THE CORONER'S
15 DOCUMENT, THE INVENTORY OF PERSONAL PROPERTY FROM TRUDY
16 THOMPSON.

17 DO YOU RECALL THAT?

18 A YES.

19 Q SHE PUT IT UP THERE ON THE SCREEN AND
20 SHOWED YOU A COPY -- MAYBE IT'S STILL IN FRONT OF YOU.

21 YOU WERE PRESENT WHEN THE CORONER'S
22 REPRESENTATIVE -- THE CORONER'S INVESTIGATOR RECOVERED
23 THAT JEWELRY FROM TRUDY THOMPSON; ISN'T THAT RIGHT?

24 A YES.

25 Q AND YOU READ THE LIST TO US?

26 A CORRECT.

27 Q THERE WAS A SIGNIFICANT AMOUNT OF JEWELRY
28 THAT WAS THERE?

1 A YES, SIR.

2 Q APPEARED TO BE GOLD AND PRECIOUS STONES?

3 A YES, SIR.

4 MR. DIXON: CAN I HAVE A MOMENT, PLEASE?

5 (PAUSE IN PROCEEDINGS.)

6 MR. DIXON: THANK YOU. NOTHING FURTHER, YOUR
7 HONOR.

8 THE COURT: ANYTHING ELSE?

9 MS. SARIS: JUST BRIEFLY.

10

11 REDIRECT EXAMINATION

12 BY MS. SARIS:

13 Q DID SOME OF THE JEWELRY APPEAR TO HAVE
14 BLOOD ON IT?

15 A I DON'T RECALL.

16 Q THE PEOPLE THAT YOU TALKED ABOUT, THE
17 CORONER, THE PARAMEDICS, SHERIFF'S HOMICIDE, WHILE YOU
18 WERE THERE, WOULD YOU HAVE LET THEM STEP IN A BLOOD POOL
19 OR KICK EVIDENCE?

20 A NO.

21 Q THANK YOU.

22 NOTHING FURTHER.

23 THE COURT: FURTHER CROSS?

24 MR. DIXON: NO, THANK YOU, YOUR HONOR.

25 THE COURT: THANK YOU.

26 THE WITNESS: THANK YOU, YOUR HONOR.

27 THE COURT: MAY THE WITNESS BE EXCUSED?

28 MS. SARIS: YES. THANK YOU.

1 THE COURT: THANK YOU, SIR.

2 THE WITNESS: THANK YOU VERY MUCH.

3 MS. SARIS: YOUR HONOR, OUR NEXT WITNESS -- THE
4 DEFENSE WOULD CALL MARC TAYLOR. WE HAVE A STIPULATION
5 THAT WE WOULD ASK THE COURT TO READ PRIOR TO HIS
6 TESTIMONY AFTER HE'S SWORN IN.

7

8 MARC TAYLOR,
9 CALLED BY THE PEOPLE AS A WITNESS, WAS
10 SWORN AND TESTIFIED AS FOLLOWS:

11

12 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
13 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
14 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
15 NOTHING BUT THE TRUTH SO HELP YOU GOD.

16 THE WITNESS: I DO.

17 THE CLERK: THANK YOU. PLEASE BE SEATED.

18 SIR, WOULD YOU PLEASE STATE AND SPELL BOTH
19 YOUR FIRST AND LAST NAME FOR THE RECORD.

20 THE WITNESS: MY NAME IS MARC, M-A-R-C, SCOTT,
21 TAYLOR, T-A-Y-L-O-R.

22 THE CLERK: THANK YOU.

23 THE COURT: ALL RIGHT. BEFORE WE ELICIT ANY
24 TESTIMONY, I'VE BEEN ASKED TO READ ANOTHER STIPULATION.

25 LADIES AND GENTLEMEN, IT'S PROPOSED
26 STIPULATION NUMBER 19 AND IT READS AS FOLLOWS:

27 IN SEPTEMBER OF 2006 THE LAB SERI,
28 S-E-R-I, PERFORMED A MITOCHONDRIAL D.N.A. ANALYSIS OF A

1 HAIR FOUND ON THE MASKING TAPE OF THE STUN GUN WHICH IS
2 EVIDENCE ITEM NUMBER 12. THE TEST GENERATES A PROFILE
3 BASED ON D.N.A. THAT IS PASSED DOWN GENETICALLY ON THE
4 MATERNAL SIDE. THIS IS THE ONLY WAY TO TEST HAIR WITHOUT
5 A ROOT FOR D.N.A.

6 THE TEST RESULTED IN A MITOCHONDRIAL
7 D.N.A. SEQUENCE. THE SEQUENCE WAS COMPARED TO A SAMPLE
8 TAKEN FROM MICKEY THOMPSON AND FROM TRUDY THOMPSON. THE
9 SEQUENCE FROM THE HAIR ON THE STUN GUN DID NOT MATCH
10 MICKEY OR TRUDY THOMPSON, THEY ARE EXCLUDED AS THE DONORS
11 OF THIS HAIR.

12 IN OCTOBER 2006, THE LAB, MITOTYPING
13 PERFORMED A SEPARATE ANALYSIS ON A HAIR SAMPLE TAKEN FROM
14 MICHAEL GOODWIN. THIS SEQUENCE WAS COMPARED TO THE
15 SEQUENCE OBTAINED FROM THE HAIR TESTED AT SERI LABS. THE
16 SEQUENCE FROM THE HAIR ON THE STUN GUN DID NOT MATCH
17 MICHAEL GOODWIN. HE IS EXCLUDED AS THE DONOR OF THIS
18 HAIR.

19 SERI LAB WAS ALSO ASKED TO PERFORM TESTS
20 ON THE FINGERNAILS AND FINGERNAIL SCRAPINGS THAT WERE
21 COLLECTED BY LOS ANGELES COUNTY CORONER OFFICIALS. THESE
22 TESTS RESULTED IN ONE PROFILE SUITABLE FOR COMPARISON
23 FROM A NAIL SWAB AND ONE OTHER PARTIAL PROFILE FROM A
24 NAIL CLIPPING. THESE PROFILES BOTH BELONGED TO A FEMALE
25 PERSON. TRUDY THOMPSON IS EXCLUDED AS THE DONOR OF THE
26 D.N.A. ON THOSE ITEMS. MICKEY THOMPSON AND MICHAEL
27 GOODWIN ARE EXCLUDED AS DONORS OF THIS D.N.A. AS ARE ALL
28 MALE PERSONS.

1 SO STIPULATED BY COUNSEL?

2 MR. JACKSON: YES, YOUR HONOR.

3 MS. SARIS: YES.

4 THE COURT: THANK YOU.

5 YOU MAY INQUIRE.

6 MS. SARIS: THANK YOU.

7

8 DIRECT EXAMINATION

9 BY MS. SARIS:

10 Q GOOD AFTERNOON, MR. TAYLOR.

11 A GOOD AFTERNOON.

12 Q WHAT DID YOU DO FOR A LIVING?

13 A I'M FORENSIC SCIENTIST. I RUN A
14 LABORATORY BY THE NAME OF TECHNICAL ASSOCIATES IN VENTURA
15 COUNTY. WE SPECIALIZE IN D.N.A. ANALYSIS.

16 Q AND DO YOU HAVE OTHER SCIENTISTS WORKING
17 FOR YOU THERE?

18 A YES.

19 Q WHAT TRAINING OR EDUCATION DO YOU HAVE OR
20 BACKGROUND THAT QUALIFIES YOU TO PERFORM THE TYPES OF
21 THINGS YOU DO AT FORENSIC ANALYSTS?

22 A TECHNICAL ASSOCIATES.

23 Q TECHNICAL ASSOCIATES.

24 A I HAVE A BACHELORS OF SCIENCE DEGREE IN
25 THE FIELD OF ZOOLOGY. I COMPLETED THE COURSE WORK FOR A
26 MASTER OF SCIENCE IN CELLULAR BIOLOGY. I DID NOT
27 COMPLETE THE MASTER'S DEGREE BECAUSE I DIDN'T WRITE UP A
28 THESIS. AFTER MY COLLEGE EDUCATION I WENT TO WORK WITH

1 L.A. COUNTY CORONER'S OFFICE.

2 WHILE AT THE CORONER'S OFFICE I BECAME
3 INTRODUCED TO THE FIELD OF FORENSIC SCIENCE. I TOOK
4 COURSES IN FORENSIC MEDICINE, IN CRIME SCENE --
5 CRIMINALISTICS AND CRIME SCENE PHOTOGRAPHY AT THE F.B.I.
6 ACADEMY IN QUANTICO, VIRGINIA.

7 SUBSEQUENT TO THAT I TOOK ADDITIONAL
8 COURSES IN SEROLOGICAL TESTING. I ALSO HAD ON-THE-JOB
9 TRAINING IN THAT AREA. SEROLOGICAL TESTING WAS THE
10 PRECURSOR, LOCATING GENETIC MARKERS BEFORE WE COULD DO
11 D.N.A. ANALYSIS. WITH THE ADVENT OF D.N.A. ANALYSIS IN
12 THE MIDDLE '80'S, I HAD MY LABORATORY, TECHNICAL
13 ASSOCIATES, AND I BECAME VERY INTERESTED IN THAT BECAUSE
14 SOME OF THE GRADUATE WORK I'VE DONE DEALT WITH
15 IDENTIFICATION OF D.N.A. IN CERTAIN MICROORGANISMS.

16 IN REVIEWING THE RESEARCH THAT HAD BEEN
17 DONE IN THAT AREA, IT LOOKED LIKE THIS WAS VERY PROMISING
18 FOR THE FIELD OF FORENSIC SCIENCE. I STARTED TAKING A
19 SERIES OF CLASSES, CLASSES IN MOLECULAR BIOLOGY AND
20 STATISTICS, AND SPECIFICALLY CLASSES THAT WERE OFFERED BY
21 THE COMPANIES THAT HAD INVENTED SOME OF THESE PROCEDURES.

22 THE INITIAL PROCEDURE THAT WAS UTILIZED
23 WAS KNOWN AS R.F.L.P. ANALYSIS. THAT STANDS FOR
24 RESTRICTION FRAGMENT LENGTH POLYMORPHISM, AND WHAT IS
25 KNOWN AS THE D.N.A. FINGERPRINTING.

26 ANOTHER PROCEDURE THAT WAS BEING DEVELOPED
27 AT APPROXIMATELY THE SAME TIME WAS THE PROCEDURE THAT'S
28 BASED ON A TECHNIQUE KNOWN AS P.C.R., PRELIMINARY CHAIN

1 REACTION. THIS IS A TECHNIQUE THAT THE INVENTOR CARY
2 MULAS WON THE NOBEL PRIZE FOR IN 1984. IT'S A VERY
3 POWERFUL TECHNOLOGY THAT'S USED IN MANY, MANY AREAS OF
4 SCIENCE.

5 THE COMPANY HE WORKED FOR HAD DEVELOPED A
6 TECHNIQUE FOR UTILIZING P.C.R. ANALYSIS IN FORENSIC
7 SCIENCE. SO I HAD TOOK THE COURSES THAT THEY HAD OFFERED
8 DEALING WITH THIS INITIAL ANALYSIS WHICH WAS KNOWN AS THE
9 D.Q. ALPHA SYSTEM. THAT LATER EXPANDED TO USE ADDITIONAL
10 GENETIC LODSI, D.Q. ALPHA, IT'S LOCATION IN THE D.N.A.,
11 AND SO I TOOK ADDITIONAL COURSES THAT DEALT WITH THE
12 D.N.S.-80 SYSTEM, ANOTHER LOCATION IN THE D.N.A., THE
13 C.T.T. SYSTEM AND A NUMBER OF OTHER ONES AS THIS PROCESS
14 HAS DEVELOPED. SO I HAVE BEEN FROM THE BEGINNING OF THE
15 D.N.A. ANALYSIS, INVOLVED IN THE AREA OF D.N.A. ANALYSIS.

16 IN ADDITION TO THAT, I'M A MEMBER OF THE
17 AMERICAN ACADEMY OF FORENSIC SCIENCES AND THE CALIFORNIA
18 ASSOCIATE OF CRIMINALISTS. AND AS D.N.A. ANALYSIS CAME
19 ONLINE, THAT WAS A HOT TOPIC FOR MANY, MANY OF THE
20 PRESENTATIONS THAT WERE AT THOSE MEETINGS AND I REGULARLY
21 ATTENDED THOSE MEETINGS AND THE PRESENTATIONS. AND THAT
22 DEVELOPED MY SORT OF BACKGROUND FOR D.N.A. ANALYSIS.

23 DURING THE SAME PERIOD OF TIME THEN, I WAS
24 SETTING UP MY LABORATORY TO PERFORM D.N.A. ANALYSIS AND
25 WE STARTED DOING A SERIES OF RESEARCH PROJECTS THAT WERE
26 AIMED AT IMPROVING SOME OF THE TECHNIQUES THAT WERE
27 AVAILABLE, SETTING UP OUR LABORATORY SO THAT WE DIDN'T
28 HAVE ANY THE PROBLEMS WITH CONTAMINATION THAT HAD PLAGUED

1 MANY LABORATORIES THAT WERE OUT THERE SUCH AS THIS.

2 AS WE DEVELOPED THESE TECHNIQUES, WE SET
3 UP A SERIES OF PROTOCOLS AND THEN WENT ONLINE WITH D.N.A.
4 TESTING AND CRIMINAL CASES IN 1990, AND I BELIEVE WE WERE
5 THE FIRST LABORATORY IN SOUTHERN CALIFORNIA GOING ONLINE
6 USING P.C.R. BASED D.N.A. ANALYSIS.

7 Q AND IS YOUR LAB HIRED BY VARIOUS PARTIES
8 TO PERFORM D.N.A. ANALYSIS IN SOME CASES?

9 A THAT'S CORRECT.

10 Q HAVE YOU EVER BEEN HIRED BY THE
11 PROSECUTION TO PERFORM THESE TYPES OF AN ANALYSIS?

12 A YES, IN SOME CASES.

13 Q HAVE YOU EVER BEEN HIRED BY THE DEFENSE?

14 A YES.

15 Q DO YOU GET PAID FOR A LIVING?

16 A YES.

17 Q ARE YOU GETTING PAID TO BE HERE NOW?

18 A YES, I AM. I HOPE.

19 Q IS IT CUSTOMARY FOR YOU TO BE PAID WHEN
20 YOU CONSULT ON A CASE?

21 A IS THERE IS A CONSULTING FEE THAT IS
22 CHARGED. AND IN A CASE LIKE THIS I'M APPOINTED BY THE
23 COURT AND THE COURT THEN APPROVES THE CONSULTING FEE. I
24 THEN RECEIVE A SALARY FROM MY COMPANY.

25 Q AND WITH THAT CONSULTING FEE, DO YOU GET
26 PAID WHETHER OR NOT YOU TESTIFY WITH THE CONSULTING FEE?

27 A WELL, I'M PAID FOR MY TIME. AND SO I MAY
28 BE REVIEWING DOCUMENTS, WE MAY OR MAY NOT TESTIFY, IT

1 DEPENDS ON WHAT WE FIND IN THE CASE.

2 Q NOW, YOU WERE JUST LISTENING TO THE JUDGE
3 READ A STIPULATION.

4 DID YOU HEAR THAT?

5 A YES, I DID.

6 Q AND HAD YOU BEEN PROVIDED THAT TO REVIEW
7 PRIOR TO YOUR TESTIMONY?

8 A YES, I WAS.

9 Q WERE YOU INVOLVED IN ANY WAY IN THE
10 TESTING THAT FORMED THE BASIS OF THIS STIPULATION?

11 A ONE OF MY EMPLOYEES MONITORED THAT TESTING
12 THAT SEROLOGICAL RESEARCH INSTITUTE DID, OR SERI.

13 Q AND WHAT IS MONITORING?

14 A MONITORING IS A PROCESS IN WHICH WE GO IN
15 OR SOMEBODY CAN COME IN AND WATCH US ALSO, BUT BASICALLY
16 IT IS AN INDIVIDUAL GOES IN AND BASICALLY IN THE SAME
17 POSITION AS THE ANALYST THAT IS DOING THE ACTUAL ANALYSIS
18 ON THE ITEMS OF EVIDENCE SO THAT THEY GET TO LOOK THROUGH
19 THE MICROSCOPE AND TAKE A LOOK AT WHAT THE EVIDENCE IS,
20 THEY GET TO WATCH THE CUTTING THAT'S PERFORMED, THE
21 CHEMICALS THAT ARE ADDED TO THIS, HOW CONTROLS ARE SET UP
22 TO ENSURE THAT THE TESTING IS DONE IN A RELIABLE MANNER.
23 WE MONITOR ALL OF THOSE STEPS THAT ARE TAKEN TO BE SURE
24 THAT THE D.N.A. ANALYSIS IS DONE IN A RELIABLE MANNER.

25 Q IN THIS CASE, THERE WERE -- THE
26 STIPULATIONS SPOKE TO A NAIL SWAB AND NAIL CLIPPINGS AND
27 SEPARATELY TO A HAIR?

28 A THAT'S CORRECT.

1 Q DID YOU HAVE THE CAPACITY AT YOUR LAB TO
2 PERFORM ANY TEST ON EITHER OF THOSE?

3 A YES, WE DO.

4 Q WHICH?

5 A WE COULD TEST EITHER ONE OF THOSE FOR
6 D.N.A. ANALYSIS. THE MITOCHONDRIAL D.N.A. ANALYSIS THAT
7 WAS PERFORMED, WE HAVE ACTUALLY REFER OUT TO THE LAB THAT
8 WAS REFERENCED IN THAT STIPULATION BY A OUR TYPING
9 LABORATORIES BECAUSE THEY'RE A VERY RELIABLE LABORATORY.

10 Q DO LAW ENFORCEMENT AGENCIES ALSO, IF YOU
11 KNOW, REFER SOME OF THEIR MITOCHONDRIAL TESTING OUT TO
12 OUTSIDE AGENCIES?

13 A YES.

14 Q IS MITOCHONDRIAL TESTING MUCH LESS
15 FREQUENT THAN THE S.D.R. TESTING YOU'RE SPEAKING OF?

16 A YES.

17 Q WHY DIDN'T YOU TEST THESE ITEMS?

18 A BECAUSE THE TESTING APPEARED TO BE
19 SOMETHING THAT WOULD BE WHAT WE CALLED CONSUMPTIVE. IN
20 OTHER WORDS, IT'S GOING TO USE UP THE SAMPLE. WHENEVER
21 WE SEE ITEMS OF EVIDENCE LIKE THAT, WE HAVE TO NOTIFY
22 INDIVIDUALS THAT ARE INVOLVED IN THE CASE THAT THIS WOULD
23 BE CONSUMPTIVE. WE THEN MAKE AN OFFER THAT EITHER WE CAN
24 DO THE TESTING AND SOMEBODY CAN MONITOR US OR THEY CAN DO
25 THE TESTING AND WE'LL MONITOR THEM. AND WE GIVE THEM A
26 CHOICE ON THAT.

27 THE ISSUE BEING THAT IF IT'S NOT GOING TO
28 BE CONSUMED, THEY COULD DO THE TESTING, THEN WE COULD

1 TAKE ANOTHER HALF AND WE COULD DO IT AND VERIFY WHAT THEY
2 GOT. BUT IT'S GOING TO BE ALL USED UP. WE NEED TO GET
3 TWO PEOPLE LOOKING AT IT.

4 Q I WOULD LIKE TO ASK YOU NOW SOME VERY
5 BASIC QUESTIONS ABOUT D.N.A., NOT FOR A SCIENCE CLASS,
6 BUT IF YOU COULD JUST TELL US IN GENERAL, THE CRIME THAT
7 WE'RE TALKING ABOUT IN THIS TRIAL OCCURRED IN 1988, WHAT
8 TYPES OF TEST, IF ANY, WOULD HAVE BEEN AVAILABLE THEN
9 REGARDING D.N.A.?

10 A THAT WAS IN THE VERY EARLIEST PERIOD OF
11 TIME WHEN D.N.A. ANALYSIS WAS INVOLVED. THERE WAS
12 EXPERIMENTATION BEING DONE WITH THE P.C.R. TECHNIQUE THAT
13 WOULD GIVE VERY LIMITED TESTING AT THAT PERIOD OF TIME ON
14 SAMPLES SUCH AS THE HAIRS THAT WERE INVOLVED BECAUSE THE
15 P.C.R. TECHNIQUE IS MUCH MORE SENSITIVE THAN R.F.L.P.
16 TECHNIQUE.

17 THE R.F.L.P. TECHNIQUE WAS BEING UTILIZED,
18 ALTHOUGH NOT A LOT. THERE WEREN'T VERY MANY COMPANIES
19 THAT WERE DOING IT AT THAT POINT. AND I DON'T THINK THAT
20 ANY GOVERNMENT LABORATORIES WERE AT THAT POINT.

21 Q R.F.L.P., DOES THAT REQUIRE A CERTAIN
22 AMOUNT OF THE EVIDENCE TO TEST?

23 A YES. AND THAT'S ONE OF THE ISSUES WITH A
24 CASE LIKE THIS. THE SAMPLES THAT WE'RE REFERRING TO
25 HERE, THE HAIR AND THE FINGERNAIL, THESE SAMPLES, NONE OF
26 THEM HAD ENOUGH TO DO R.F.L.P. ANALYSIS. THEY ACTUALLY
27 BARELY HAD ENOUGH TO DO P.C.R. BASED ANALYSIS. SO AT
28 THAT TIME YOU WOULD NOT HAVE BEEN ABLE TO TEST THESE

1 ITEMS OF EVIDENCE.

2 Q WHEN -- SINCE 1988, WHEN WOULD THE TESTING
3 THAT YOU'RE TALKING ABOUT ON SMALL ITEMS SUCH AS THESE US
4 HAVE BEEN AVAILABLE?

5 A UH --

6 Q AND I'M TALKING ABOUT WIDELY, NOT TO BE
7 CUTTING EDGE, TO BE WIDELY AVAILABLE.

8 A CERTAINLY. IN THE MID '90'S IT BECAME
9 WIDELY AVAILABLE. THE TECHNOLOGY, PARTICULARLY THE
10 P.C.R. BASED TECHNOLOGY, GREW AND WE ADDED ON ADDITIONAL
11 SYSTEMS SO THAT WE COULD GET MORE INFORMATION OUT OF
12 HAIR. INITIALLY WE WOULD TEST SOMETHING AND WE COULD
13 EXCLUDE MAYBE 1 PERCENT TO -- EXCLUDE 99 PERCENT DOWN TO
14 MAYBE 25 -- 75 PERCENT OF THE POPULATION. SO IT'S NOT
15 VERY UNIQUE IN THAT FORM. IT DOESN'T LOOK LIKE A RARE
16 PROFILE.

17 AS WE ADD ON INITIAL ADDITIONAL GENETIC
18 LODSI, THIS MADE THE PROFILE WE DEVELOPED RARER AND
19 RARER. UNTIL CURRENT TIMES WE DO TESTING ON MANY, MANY
20 GENETIC LODSI ALL ON ONE REACTION AND WE CAN GET PROFILES
21 THAT ARE RARE TO THE POINT OF ONE INDIVIDUAL IN A
22 QUADRILLION WOULD BE EXPECTED TO HAVE THAT. SO IT'S MUCH
23 MORE POWERFUL TECHNOLOGY FROM THE STANDPOINT OF OUR
24 ABILITY TO EXCLUDE INDIVIDUALS.

25 AS THIS DEVELOPED, INITIALLY THE D.Q.
26 ALPHA SYSTEM WAS VERY LIMITED, WE ADDED ADDITIONAL
27 MARKERS TO THAT. BY THE MID '90'S WE HAD A FAIRLY ROBUST
28 SYSTEM THAT WOULD ALLOW TESTING THAT WOULD GIVE

1 FREQUENTLY TYPICALLY ONE IN A MILLION AND THEN FOLLOWING
2 THAT IT'S EXPANDED SO THAT IT'S EVEN RARER.

3 Q AND WITH A HAIR, IS THERE A DIFFERENCE
4 BETWEEN TESTING THAT CAN BE DONE ON A HAIR THAT STILL HAS
5 A ROOT AND HAIR THAT ONLY IS THE SHAFT?

6 A YES. WHEN YOU'RE LOOKING AT A HAIR WITH A
7 ROOT, THE ROOT WILL OFTEN HAVE CELLULAR MATERIAL ON IT.
8 WHEN YOU HAVE FULL CELLS ON IT, YOU HAVE NUCLEI AND WHAT
9 WE CALL WITHIN THE NUCLEI, THE GENOMIC D.N.A. THAT'S THE
10 D.N.A. WHEN YOU GET HALF FROM YOUR MOTHER AND HALF FROM
11 YOUR FATHER. AND THAT'S WHAT GIVES US THESE VERY
12 POWERFUL STATISTICS, THE ONE IN A QUADRILLION, AND WE
13 LOOK AT THAT. BECAUSE WE EACH ARE GIVEN A DIFFERENT
14 COMPLIMENT OF D.N.A. UNLESS YOU'VE GOT IDENTICAL TWINS.

15 NOW, WITH THE SHAFT OF THE HAIR, WE'RE
16 TALKING ABOUT SOMETHING DIFFERENT. WE DON'T HAVE
17 CELLULAR MATERIAL TYPICALLY IN THE SHAFT OF THE HAIR, BUT
18 ANOTHER, WHAT WE HAVE CALL AN ORGANELLE THAT HAS D.N.A.
19 IN IT KNOWN AS A MITOCHONDRIA GETS ACTUALLY SECRETED INTO
20 THAT HAIR SHAFT AS IT GROWS. NOW, MITOCHONDRIA ARE
21 DIFFERENT THAN THE D.N.A. AND NUCLEI. THEY'RE PASSED ON
22 IN THE EGG FROM THE MOTHER TO THE CHILD. AND THE FATHER
23 DOESN'T CONTRIBUTE TO THE MITOCHONDRIAL D.N.A.

24 SO WHEN WE LOOK AT THE HAIR SHAFT, WE CAN
25 EXTRACT THE MITOCHONDRIAL D.N.A. AND GET A SEQUENCE.
26 BECAUSE IT'S PASSED ON FROM MOTHER TO ALL OF HER CHILDREN
27 AND LIKEWISE HER MOTHER PASSED IT ONTO ALL OF HER
28 CHILDREN, IT'S NOT AS RARE AS THE MIXING WE GET WHEN

1 SPERM AND THE EGG COME TOGETHER.

2 SO IT'S VERY POWERFUL TECHNOLOGY BECAUSE
3 THERE WERE MANY, MANY MITOCHONDRIA IN IT AND IT'S VERY,
4 VERY SENSITIVE, BUT IT DOESN'T GIVE US THE ABILITY TO
5 EXCLUDE PEOPLE AS WELL. YOU CAN GET EXCLUSIONS OF
6 1 IN 1,000, 1 IN 100, 200 TO 1 AND MAYBE 10,000, BUT NOT
7 ONE AND QUADRILLION.

8 Q WHEN YOU SAID "EXCLUDE," DID YOU MEAN
9 INCLUSION?

10 A YOU CAN EXCLUDE ALL BUT.

11 Q ALL BUT.

12 SO IF THE STIPULATION THAT WE READ SAID
13 THAT THESE INDIVIDUALS THAT WERE LISTED WERE EXCLUDED,
14 EVEN THOUGH AN INCLUSION WOULD BE ONE IN A QUADRILLION,
15 IS AN EXCLUSION 100 PERCENT?

16 A YES. AND EXCLUSION MEANS THAT THEY COULD
17 NOT BE THE SOURCE. AND THE DIFFICULTY WITH ANY OF THE
18 D.N.A. TESTING IS THAT WHEN WE LOOK AT IT, WE GET A
19 SERIES OF PROFILES AND THIS PROFILE THAT WE DEVELOP IS
20 WHAT MARKERS ARE THERE. IF IT DOESN'T MATCH AN
21 INDIVIDUAL, THAT INDIVIDUAL CANNOT BE THE SOURCE OF THAT
22 SAMPLE. IF IT DOES MATCH, THAT INDIVIDUAL CAN BE THE
23 SOURCE BUT IT'S POSSIBLE THAT OTHER INDIVIDUALS ARE THE
24 SOURCE AND THAT'S WHY WE GIVE THE STATISTICS.

25 THE STATISTICS GIVE US AN IDEA OF WHAT THE
26 LIKELIHOOD THAT SOME OTHER INDIVIDUAL PULLED OFF THE
27 STREET CAN COINCIDENTALLY MATCH THAT SAMPLE. SO ONE IN A
28 QUADRILLION, IT'S A LOT LESS LIKELY THAT SOMEBODY'S GOING

1 TO BE THEN, SAY, 1 IN 400, SOMETHING LIKE THAT.

2 Q I'M GOING TO SHOW YOU WHAT HAS BEEN
3 PREVIOUSLY MARKED DEFENSE BBB LIKE BOY.

4 IS THERE A WAY TO TELL JUST FROM LOOKING
5 AT THIS -- AND I'LL BRING THIS UP CLOSER TO YOU --
6 WITHOUT A MICROSCOPE OR ANYTHING, WHETHER THIS HAIR HAD A
7 ROOT ON IT?

8 A NOT FOR SURE WITHOUT A MICROSCOPE. MY
9 EMPLOYEE THAT EXAMINED THIS EVIDENCE EXAMINED IT UNDER A
10 MICROSCOPE, BUT JUST LOOKING AT THIS AND I EVEN BLEW UP
11 THE DIGITAL PHOTOGRAPH A LITTLE MORE, YOU CAN GET AN
12 INDICATION THAT THERE PROBABLY IS A ROOT ON IT, BUT YOU
13 CAN'T STAY FOR SURE WITHOUT A MICROSCOPIC EXAMINATION.

14 Q SO WOULD YOU -- IF THIS ITEM WERE SENT TO
15 YOU JUST HYPOTHETICALLY, AS IT LOOKS LIKE THERE, WOULD
16 YOU MAKE A DETERMINATION JUST FROM LOOKING THE ITEM WITH
17 YOUR NAKED EYE WHETHER OR NOT IT HAD A ROOT?

18 A NO. I WOULD EXAMINE IT UNDER A
19 MICROSCOPE.

20 Q WHAT -- IS THERE ANY SCIENTIFIC OR
21 CHEMICAL OR GENETIC TEST THAT CAN BE DONE TO DETERMINE
22 THE RACE OF AN INDIVIDUAL BASED ON JUST A HAIR THAT YOU
23 FIND?

24 A YOU CAN DO WHAT WE CALL A MICROSCOPIC CAN
25 HAIR COMPARISON. IT'S A RATHER SUBJECTIVE TESTING. IT
26 CAN SOMETIMES GIVE YOU AN INDICATION OF WHAT RACIAL GROUP
27 A HAIR MAY HAVE COME FROM.

28 Q BUT THERE IS NOTHING GENETIC?

1 A IT'S NOT A GENETIC TEST.

2 Q AND THERE'S NO CHEMICAL YOU CAN APPLY?

3 A NO.

4 Q SO WHAT DO YOU LOOK FOR IF YOU'RE TRYING
5 TO MAKE THAT DETERMINATION?

6 A IF YOU'RE LOOKING IN A MICROSCOPE, YOU'RE
7 LOOKING FOR CHARACTERISTICS SUCH AS THE SHAPE OF THE
8 HAIR, THE CURLINESS OF THE HAIR, WHAT KIND OF
9 PIGMENTATION IS SEEN IN THE HAIR SHAFT, THINGS LIKE THAT.

10 Q IS THERE ANYTHING THAT YOU CAN TELL FROM
11 THE PHOTO THAT YOU HOLD NOW?

12 A I CAN TELL THIS LOOKS LIKE A FAIRLY LIGHT
13 COLORED HAIR RELATIVE TO MANY THAT I'VE SEEN, BUT THAT'S
14 PRETTY MUCH IT.

15 Q SO THAT'S NOT ANYTHING THAT ANY OF THE
16 MOST SOPHISTICATED D.N.A. TESTING WILL BE ABLE TO TELL US
17 ABOUT RACE OR ETHNICITY?

18 A YOU POTENTIALLY COULD GET SOME
19 STATISTICAL INDICATIONS, AT BEST.

20 Q OKAY. HAVE YOU EVER -- IN YOUR CAPACITY
21 AS WORKING WITH THE PROSECUTION, HAVE YOU EVER HAD A
22 SITUATION WHERE THERE WAS AN ITEM OF EVIDENCE IN A CASE
23 THAT WAS BEING INVESTIGATED BUT THE INVESTIGATOR DIDN'T
24 HAVE A SUSPECT?

25 A CERTAINLY.

26 Q AND WHAT KINDS OF THINGS CAN BE DONE IN AT
27 THAT SITUATION FROM A FORENSIC SCIENCE BACKGROUND?

28 A WELL, WHAT --

1 MR. DIXON: OBJECTION. VAGUE AS TO TIME. WE'VE
2 DEALT WITH A LONG PERIOD OF TIME.

3 MS. SARIS: SURE. ABSOLUTELY.

4 Q LET'S SAY FROM 1997 -- OR 1995 UNTIL NOW,
5 WAS THERE EVER -- IF THERE WAS A ITEM OF EVIDENCE THAT
6 HAD THE POTENTIAL FOR GIVING YOU A GENETIC PROFILE, WOULD
7 THERE BE ANY RELEVANCE TO TESTING THAT IF YOU DIDN'T HAVE
8 A SUSPECT TO MATCH IT TO?

9 A CERTAINLY.

10 Q AND WHAT WOULD THAT BE?

11 A THERE ARE SEVERAL THINGS. ONE, WITH THE
12 TYPES OF TESTING THAT ARE AVAILABLE, WE COULD DETERMINE
13 THE SEX OF THE INDIVIDUAL THE HAIR CAME FROM. THAT COULD
14 BE VERY INFORMATIVE IN A CASE.

15 FURTHER, YOU CAN DEVELOP THE -- ONCE
16 YOU'VE DEVELOPED THE PROFILE, IT CAN BE COMPARED TO ANY
17 NUMBER OF POTENTIAL SOURCES OF THAT HAIR, WHETHER THEY'RE
18 POTENTIALLY A PARTICIPANT IN A CRIME OR NOT. THAT
19 COMPARISON CAN BE VERY USEFUL IN ELIMINATING PEOPLE OR
20 POSSIBLY INDIVIDUALS.

21 MANY OF THE LABORATORIES THAT WERE
22 PERFORMING TESTING AND STUFF IN THE EARLY '90'S
23 MAINTAINED WITHIN THEIR LABORATORY A DATABASE. THAT
24 DATABASE THEN HAD A NUMBER OF INDIVIDUALS IN IT. THOSE
25 COMPARISONS COULD BE MADE TO THOSE INDIVIDUALS. THAT
26 DATABASE NOW HAS NOW EXPANDED INTO A NATIONWIDE DATABASE
27 THAT COMBINED D.N.A. SYSTEM KNOWN AS CODIS AND THIS
28 DATABASE CAN, THEN, BE UTILIZED TO TAKE A PROFILE AND RUN

1 IT THROUGH MANY, MANY PEOPLE FROM ALL OVER THE UNITED
2 STATES. AND YOU'RE LOOKING BOTH AT PEOPLE AND AT OTHER
3 ITEMS OF EVIDENCE.

4 IN MANY CASES THEY'VE BEEN ABLE TO
5 CORRELATE A D.N.A. PROFILE FROM ONE CASE TO AN EVIDENCE
6 ITEM IN ANOTHER CASE. THAT GIVES AN INDICATION THAT
7 THESE TWO CASES ARE TIED TOGETHER AND ONE INDIVIDUAL MAY
8 BE PARTICIPATING IN BOTH OF THESE THINGS SUCH AS THAT.

9 Q SO YOU COULD ACTUALLY DO IT IF THERE'S AN
10 ITEM OF EVIDENCE IN, SAY, MONTANA, THAT COULD POTENTIALLY
11 BE ENTERED INTO CODIS DATABASE?

12 A CERTAINLY.

13 Q HAVE YOU EVER BEEN INVOLVED IN A SITUATION
14 WHERE A SUSPECT WAS COMPELLED TO GIVE A D.N.A. TEST?

15 A YES.

16 Q AND WHAT DOES THAT MEAN?

17 A THERE'S A COURT ORDER ISSUED THAT SOMEBODY
18 WILL COMPLY WITH A SAMPLING. GENERALLY NOW THIS
19 ENTAILED -- IT'S NOT TERRIBLY INVASIVE, IT'S A SWAB
20 THAT'S RUBBED ON THE INSIDE OF YOUR CHEEK. IT'S A VERY
21 RELIABLE SAMPLE.

22 Q HAVE YOU EVER HEARD OF SOMETHING THAT'S
23 CALLED A COLD CASE HIT?

24 A YES, A COLD HIT CASE.

25 Q A COLD HIT CASE.

26 WHAT IS THAT?

27 A THAT'S A CASE WHERE AN ITEM OF EVIDENCE
28 HAS DEVELOPED A PROFILE. IT'S BEEN SCREENED THROUGH ONE

1 OF THESE DATABASES AND A HIT WAS MADE ON SOMEBODY WHO
2 WASN'T PREVIOUSLY A SUSPECT IN THE CASE, AND SO WE CALL
3 IT AT A COLD HIT BECAUSE OF THAT.

4 Q AND IF AN INDIVIDUAL WERE -- IN TERMS OF
5 THE TECHNOLOGY THAT'S DEVELOPED, LET'S SAY AN INDIVIDUAL
6 LOOKED AT IN A CASE HYPOTHETICALLY IN THE EARLY '80'S BUT
7 D.N.A. TESTING WASN'T AVAILABLE, COULD YOU POTENTIALLY IN
8 THE LATE '90'S, IF YOU WERE ABLE TO HAVE A SAMPLE THAT
9 CREATED A GENETIC PROFILE, GO BACK AND FIND THAT
10 INDIVIDUAL AND GET A SWAB AND COMPARE IT?

11 A CERTAINLY YOU CAN DO IT THAT WAY. AND
12 ALSO BACK IN THE '80'S IF THE SOMEBODY WAS A SUSPECT IN A
13 CASE, THEY WOULD TAKE BIOLOGICAL MATERIAL FROM THEM AT
14 THAT TIME. MAYBE IN THE FORM OF HAIR. HAIR WAS OFTEN
15 TAKEN FOR THE MICROSCOPIC HAIR COMPARISON I'VE TALKED
16 ABOUT. WE AT MY LAB WOULD USE THAT HAIR IN MANY CASES TO
17 DEVELOP A PROFILE TO AN INDIVIDUAL TO COMPARE WITH A
18 PIECE OF EVIDENCE. ALSO BLOOD AND SALIVA SAMPLES WERE
19 OFTEN ALSO TAKEN IN CASES. SO THAT MAY BE AVAILABLE.

20 IF AN INDIVIDUAL WAS STILL ALIVE, YOU
21 COULD GO GET ANOTHER SAMPLE FROM THEM BECAUSE YOUR D.N.A.
22 IS VERY STABLE, IT DOESN'T CHANGE. IT'S ALSO POSSIBLE
23 EVEN WITH INDIVIDUALS THAT ARE DEAD, I'VE BEEN INVOLVED
24 IN EXHUMING A BODY AND HAVING A BONE SAMPLE OR OTHER
25 SAMPLE TAKEN AND TESTED.

26 Q ARE YOU AWARE OF ANY REQUIREMENT IN ANY
27 STATE THAT IF SOMEONE IS CONVICTED OF CERTAIN FELONIES
28 THAT THEY'RE REQUIRED TO GIVE THESE SAMPLES?

1 MR. DIXON: OBJECTION. VAGUE AS TO TIME AND WHAT
2 STATE.

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: ARE YOU AWARE OF ANY STATE
5 THAT REQUIRES FELONS, PEOPLE CHARGED WITH A CRIME SINCE
6 19- -- WELL, LET ME ASK YOU:

7 DO YOU KNOW OF ANY STATE LAW THAT REQUIRES
8 FELONS TO PROVIDE BLOOD OR SOME SORT OF A SAMPLE?

9 A YES, I HAVE.

10 Q AND DO YOU KNOW WHEN THOSE LAWS CAME
11 ABOUT, IF YOU KNOW?

12 A THE EARLIEST LAWS THAT I AM AWARE OF CAME
13 ABOUT IN THE '90'S. I DON'T REMEMBER EXACTLY WHEN IN THE
14 '90'S, BUT IT WAS IN THE '90'S. MOST OF THEM INITIALLY
15 WERE INVOLVING SEXUAL ASSAULT CASES, THAT THEN EXPANDED
16 ALL FELONS, AND THEN A NUMBER OF STATES NOW HAVE LAWS
17 THAT WILL TAKE ALL ARRESTEES, AND THEN INDIVIDUALS WHO
18 ARE SUSPECTS ON CASES OR WHEN THERE'S EVIDENCE -- AS I
19 SAID EVIDENCE, THAT'S INVOLVED IN A CASE, THAT ALSO CAN
20 GO INTO THESE DATABASES.

21 Q THAT'S WHAT I WAS GOING TO ASK YOU.

22 AND THEN THIS IS ENTERED INTO SOME OF
23 THESE DATABASES?

24 A THAT'S CORRECT.

25 Q SO IF YOU HAD A PIECE OF EVIDENCE SITTING
26 IN THE SHERIFF'S -- OR EVIDENCE LOCKER AND YOU DIDN'T
27 HAVE A PERSON IN MIND TO MATCH IT TO, YOU COULD ACTUALLY
28 TAKE THAT EVIDENCE, TEST IT, GET SOME SORT OF A PROFILE

1 FROM IT, AND THEN WHAT DOES IT MEAN TO COMPARE IT TO A
2 DATABASE?

3 A WHEN YOU DEVELOP THESE PROFILES AND
4 THERE'S ACTUALLY BEEN FEDERAL GRANTS THAT HAVE BEEN GIVEN
5 TO GOVERNMENT LABORATORIES TO LOOK AT SPECIFIC COLD CASES
6 AND DEVELOP PROFILES FROM OLD EVIDENCE WITHOUT SUSPECTS,
7 ONCE THEY DEVELOP A PROFILE, THEY'VE SIMPLY PUT IT INTO
8 THE -- A COMPUTER.

9 THAT COMPUTER COMPARES THAT PROFILE
10 AGAINST ALL THE PROFILES THAT ARE IN THE COMPUTER. THEY
11 HAVE DIFFERENT WAYS OF DOING THAT COMPARISON BASED ON THE
12 QUALITY OF THE PROFILE THAT YOU GET. IF IT'S A PARTIAL
13 PROFILE OR COMPLETE PROFILE, THINGS SUCH AS THAT --

14 Q I'M SORRY TO INTERRUPT YOU. LET ME JUST
15 CLARIFY HERE.

16 WHEN WE'RE SPEAKING OF THE DATABASES,
17 WE'RE NOT TALKING ABOUT MITOCHONDRIAL, ARE WE?

18 A NO, WE'RE NOT.

19 Q PLEASE CONTINUE.

20 A WE'RE LOOKING AT THE -- CURRENTLY THE
21 DATABASE IS BEING USED. IT'S A P.C.R. BASED SYSTEM.
22 IT'S ADDRESSING A TYPE OF POLYMORPHISM KNOWN AS S.T.R. AS
23 IN SHORTHAND REPEATS. THIS IS WHAT'S BEING USED ALL
24 AROUND THE WORLD FOR THESE TYPE OF HUMAN IDENTIFICATION
25 CASES.

26 EARLIER THERE WERE SOME OTHER P.C.R. BASED
27 SYSTEMS THAT SOMETIMES WERE ENTERED INTO A DATABASE AND
28 EARLIER THAN THAT ALSO SOME R.F.L.P., BUT EVERYBODY HAS

1 SORT OF GONE IN THE DIRECTION THE P.C.R. S.T.R. TESTING
2 BECAUSE IT'S SO POWERFUL AND SO SENSITIVE.

3 SO ONCE THAT'S PUT INTO THE COMPUTER, THAT
4 CAN THEN BE COMPARED TO ALL THE INDIVIDUALS THAT ARE IN
5 THE COMPUTER LOCALLY, STATEWIDE AND THEN NATIONALLY ALSO.

6 Q OKAY. SO THE FINGERNAIL SCRAPINGS THAT
7 WE'VE DESCRIBED, DO YOU KNOW WHAT WE'RE REFERRING TO WHEN
8 WE SAY FINGERNAIL SCRAPINGS?

9 A YES.

10 Q AND WHAT IS THAT?

11 A WHEN YOU END UP AS IN THIS CASE, YOU HAVE
12 VICTIMS WHERE THERE MAY HAVE BEEN A STRUGGLE INVOLVED,
13 WHAT OFTEN ENDS UP HAPPENING IS THE -- TYPICALLY
14 CORONER'S OFFICE, NOT ALWAYS, SOMETIMES CRIME SCENE
15 INVESTIGATOR WILL TAKE AND COLLECT SAMPLES FROM THE
16 FINGERNAILS. THEY'LL COLLECT THEM BOTH BY SCRAPING UNDER
17 THE FINGERNAILS TO SEE IF MATERIAL HAS BEEN TRANSFERRED
18 AND ALSO DONE BY CLIPPING OF THE FINGERNAILS. THOSE
19 SAMPLES, THEN, CAN BE TESTED AND WE CAN LOOK AT WHAT
20 BIOLOGICAL MATERIAL MIGHT BE ON THEM.

21 Q IF YOU HAVE A BROKEN FINGERNAIL AT A CRIME
22 SCENE, DO YOU KNOW OF ANY SCIENTIFIC WAY TO DETERMINE
23 WHETHER OR NOT THE NAIL WOULD BE BROKEN FROM CONTACT WITH
24 AN ASSAILANT VERSUS THE GROUND?

25 A NOT RELIABLE. I MEAN, THERE MIGHT BE TOOL
26 MARKS ON THIS THAT WOULD INDICATE SOMETHING THAT IT HIT
27 AGAINST, BUT NOT NECESSARILY. THOSE ALSO COULD BE
28 IMPARTED, EVEN IF IT WAS BROKEN OFF IN A STRUGGLE WITH

1 SOMEBODY, THEY COULD BE IMPARTED ONTO IT AFTERWARDS. SO
2 IT'S NOT A RELIABLE WAY TO DO IT.

3 Q WOULD BROKEN FINGERNAILS BE SOMETHING OF
4 SIGNIFICANCE TO YOU IN TERMS OF AN ITEM THAT COULD
5 POTENTIALLY HOLD GENETIC MATERIAL?

6 A CERTAINLY. IN CASES WHERE THERE'S A
7 STRUGGLE, FINGERNAILS ARE OFTEN USED FOR SCRATCHING AND
8 THEY OFTEN BREAK OFF IN THAT PROCESS AND THAT INDICATES
9 SOMETHING THAT MAY HAVE COME IN CONTACT WITH AN
10 ASSAILANT. THAT CAN BE VERY USEFUL TO LOOK AT.

11 Q BEFORE THE SERI LAB TESTED THESE
12 FINGERNAILS IN THIS CASE, WAS THERE ANY WAY TO TELL
13 WHETHER OR NOT A PROFILE COULD HAVE BEEN GENERATED?

14 A NO. IF IN A CASE WHEN YOU EXAMINE THE
15 FINGERNAILS, YOU SEE WHAT IS CLEARLY A FOREIGN PIECE OF
16 FLESH OR SOMETHING UNDER THE FINGERNAIL, YOU SAY, OH, I
17 OUGHT TO TEST THAT. BUT OFTEN WHAT WE'RE DEALING IT WITH
18 IS WE'RE DEALING WITH SUCH LOW LEVELS OF MATERIAL OR
19 WE'RE DEALING WITH THINGS THAT ARE NOT VISIBLE BY LOOKING
20 AT IT EVEN UNDER A MICROSCOPE SUCH AS DRIED SALIVA, DRIED
21 NASAL MUCOUS, MAYBE CONTENT WITH THE EYES AS SOMEBODY'S
22 STRUGGLING AND GRABBING AT SOMEBODY'S FACE. SO WE
23 TYPICALLY DON'T SEE SOMETHING UNDER THE FINGERNAILS, AND
24 OFTEN WHEN WE DO SEE SOMETHING, IT'S THE BLOOD OF THE
25 VICTIM SO WE ACTUALLY AVOID THAT AND TRY TO FIND OTHER
26 MATERIAL MAY BE UNDER THE FINGERNAIL.

27 Q SO YOU COULD ACTUALLY GET A GENETIC
28 PROFILE FROM SOMETHING YOU CAN'T SEE WITH YOUR EYE?

1 A ABSOLUTELY, YES.

2 Q WHAT ABOUT -- I JUST LOST MY TRAIN OF
3 THOUGHT -- THE DETERIORATION, IS IT POSSIBLE IF AN ITEM
4 IS NOT PRESERVED PROPERLY, THAT GENETIC MATERIAL COULD
5 HAVE BEEN ON A PIECE OF EVIDENCE AND IT DETERIORATED?

6 A IT'S POSSIBLE. IT DEPENDS ON THE STORAGE
7 CONDITIONS. D.N.A. TENDS TO BE VERY LONG LIVED, IN
8 GENERAL. BUT CERTAINLY THERE ARE CONDITIONS THAT DESTROY
9 IT.

10 Q AS FOR THE HAIR, WE SAID THERE WASN'T A
11 MITOCHONDRIAL DATABASE, WHAT KIND OF WAYS WOULD THAT BE
12 USED IN AN INVESTIGATION TO HAVE A PROFILE, A SEQUENCE
13 FROM THAT?

14 A THE SEQUENCE THAT WE DEVELOP FROM A HAIR
15 CAN BE USED JUST LIKE THE PROFILES WE DEVELOP WITH THE
16 S.T.R. TESTING IN THAT IT CAN BE COMPARED TO OTHER
17 INDIVIDUALS. AND SO ANY TIME YOU DEVELOP A SEQUENCE, YOU
18 CAN DO A COMPARISON AND TAKE A LOOK.

19 ONE MUST BEAR IN MIND THAT ANY MATERNAL
20 RELATIVES OF THAT INDIVIDUAL WOULD ALSO COME UP AS A
21 POSSIBLE MATCH TO THAT. THAT'S PART OF THE LIMITATION.
22 BUT IT CERTAINLY CAN BE VERY INFORMATIVE, PARTICULARLY IF
23 IT EXCLUDES.

24 Q SO IF THERE WAS GENETIC MATERIAL FROM A
25 CASE IN 1988, THERE'S NO WAY TO KNOW WHAT'S GOING TO
26 HAPPEN TO IT IN TERMS OF S.T.R., THE AVAILABILITY TO GET
27 A PROFILE UNTIL YOU TEST IT; IS THAT CORRECT?

28 A THAT'S RIGHT.

1 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

2 (PAUSE IN PROCEEDINGS.)

3 MS. SARIS: I HAVE NOTHING FURTHER. THANK YOU.

4 THE COURT: CROSS-EXAMINATION?

5 MR. DIXON: CAN WE JUST HAVE A MOMENT?

6 (DISCUSSION OFF THE RECORD.)

7 MR. DIXON: THANK YOU. NO FURTHER QUESTIONS.

8 THE COURT: ALL RIGHT. THANK YOU, SIR.

9 THE WITNESS: THANK YOU.

10 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

11 MS. SARIS: THANK YOU, YOUR HONOR. WE CALL
12 SANDRA JOHNSON TO THE STAND, PLEASE.

13 THE CLERK: MA'AM, PLEASE RAISE YOUR RIGHT HAND.

14

15 SANDRA JOHNSON,

16 CALLED BY THE PEOPLE AS A WITNESS, WAS

17 SWORN AND TESTIFIED AS FOLLOWS:

18

19 THE CLERK: YOU DO SOLEMNLY STATE THAT THE
20 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
21 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
22 NOTHING BUT THE TRUTH SO HELP YOU GOD.

23 THE WITNESS: I DO.

24 THE CLERK: THANK YOU. PLEASE BE SEATED.

25 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR
26 FIRST AND LAST NAME FOR THE RECORD.

27 THE WITNESS: SANDRA JOHNSON, S-A-N-D-R-A,
28 J-O-H-N-S-O-N.

1 THE CLERK: THANK YOU.

2 THE COURT: THANK YOU.

3 YOU MAY INQUIRE.

4

5 DIRECT EXAMINATION

6 BY MS. SARIS:

7 Q THANK YOU FOR COMING.

8 HAVE WE EVER MET?

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

10 Q I'M ELENA SARIS. WE SPOKE ON THE PHONE.

11 A OH, RIGHT. OKAY.

12 Q DO -- ARE YOU MARRIED TO DR. LANCE

13 JOHNSON?

14 A YES, I AM.

15 Q ARE YOU AWARE THAT HE PREVIOUSLY TESTIFIED

16 IN THIS CASE?

17 A YES, I AM.

18 Q LET ME DRAW YOUR ATTENTION TO THE MORNING
19 OF MARCH 16TH, 1988.

20 DO YOU RECALL THAT DAY?

21 A YES.

22 Q CAN YOU DESCRIBE FOR THE JURORS AT 6:00

23 A.M. WHAT YOU WERE DOING?

24 A I WAS IN BED ASLEEP -- OR, YOU KNOW, IN
25 BED ANYWAY.

26 Q AND DO YOU RECALL, WAS THERE ANYTHING THAT
27 WOKE YOU UP?

28 A GUNSHOTS WOKE ME UP.

1 Q AND DO YOU RECALL HOW MANY YOU HEARD?

2 A I THINK IT WAS SOMEWHERE BETWEEN LIKE
3 FOUR, SIX. I DON'T RECALL EXACTLY.

4 Q DID YOU HEAR ANYONE YELLING AT ANY TIME?

5 A YES, I DID.

6 Q AND DO YOU KNOW WHO THAT WAS?

7 A IT WAS MICKEY THOMPSON.

8 Q DO YOU RECALL WHEN YOU HEARD HIM YELLING
9 IN RELATION TO THE GUNSHOTS?

10 A THIS WAS SHORTLY AFTER, A FEW SECONDS
11 AFTERWARDS.

12 Q DID YOU HEAR ANYTHING AFTER THAT?

13 A MORE GUNSHOTS.

14 Q COULD YOU ESTIMATE AT ALL HOW MANY YOU
15 HEARD TOTAL?

16 A PROBABLY -- IT WAS MORE THAN A COUPLE.
17 PROBABLY TWO, FOUR SIX OF THE SAME THING. IT WAS JUST
18 LIKE A VOLLEY.

19 Q SO WHEN YOU SAY "THE SAME THING," TWO
20 BURSTS?

21 A YES.

22 Q DID YOU NOTICE ANY SILENCE OR TIME PERIOD
23 IN BETWEEN?

24 A YES. THERE WAS THE FIRST SHOTS, THEN
25 MICKEY YELLING AND THEN THE SECOND ROUND OF SHOTS.

26 Q WAS THERE A SILENCE BETWEEN MICKEY YELLING
27 AND THE SECOND ROUND?

28 A A LITTLE. A FEW SECONDS.

1 Q DID YOU CALL 9-1-1 THAT MORNING?

2 A YES, I DID.

3 Q AND THAT WAS AS A RESULT OF WHAT YOU WERE
4 HEARING?

5 A YES.

6 Q DID YOU AT THE TIME HAVE CHILDREN LIVING
7 IN THE HOME?

8 A I CALLED 9-1-1 TWICE, AS I RECALL. THE
9 FIRST TIME I THINK IT EITHER HUNG UP OR DISCONNECTED OR
10 WHATEVER AND I CALLED IT BACK IMMEDIATELY.

11 Q AT SOME POINT DID YOU RELATE WHAT WAS
12 GOING ON TO THE EMERGENCY PEOPLE?

13 A YES.

14 Q DID YOU HAVE CHILDREN LIVING IN YOUR HOME
15 THEN?

16 A YES, I DID.

17 Q AND HOW OLD WERE THEY, DO YOU RECALL, IN
18 1988?

19 A IT WAS ALMOST 19 YEARS AGO IN MARCH, MY
20 DAUGHTER IS NOW 35 AND MY SON IS 31, SO --

21 Q WE'RE ALL GOING TO TRY TO DO MATH.

22 A I THINK HE WAS LIKE --

23 Q 12?

24 A -- PROBABLY 11. HIS BIRTHDAY'S IN APRIL.

25 Q AND MAYBE 16?

26 A MY DAUGHTER, SHE WAS PROBABLY 15 BECAUSE
27 HER BIRTHDAY IS IN MAY.

28 Q DID YOU RECOGNIZE THESE AS GUNSHOTS AT THE

1 TIME?

2 A YES.

3 Q AND WAS THAT SOMETHING THAT YOU HAD HEARD
4 BEFORE EVER IN YOUR EXPERIENCE OR DID YOU JUST KNOW IT
5 WAS GUNSHOTS?

6 A I'VE HEARD GUNSHOTS BEFORE.

7 Q DID YOU DO ANYTHING TO ASCERTAIN WHERE
8 YOUR CHILDREN WERE?

9 A WELL, MY SON CAME INTO OUR ROOM. MY
10 DAUGHTER DIDN'T WAKE UP. MY SON'S ROOM WAS ON THE SIDE
11 OF THE HOUSE THAT FACES MICKEY'S WITH HIS WINDOW OPEN AND
12 MY DAUGHTER'S ON THE OTHER SIDE. SHE DIDN'T COME IN. MY
13 SON DID COME IN.

14 Q AND WHEN YOU -- DID YOU DO ANY -- DID YOU
15 GO TO THE WINDOW OR DID YOU TRY TO SEE WHAT WAS GOING ON?

16 A I WENT TO THE WINDOW ON THE SIDE, FIRST OF
17 ALL.

18 Q WHEN YOU SAY "SIDE" --

19 A WELL, OUR HOUSE FACES THE STREET, THERE
20 WAS A WINDOW ON THE SIDE THAT FACED MICKEY'S BARN AND
21 DRIVE. ONLY THEIR HOUSE IS UP ON THE HILL AND SO I FIRST
22 WENT TO THAT WINDOW WHICH IS NEAREST TO THEIR HOUSE AND
23 THEN I WENT OVER TO THE PHONE AND CALLED 9-1-1 AND I WAS
24 FACING OF THE FRONT THE HOUSE -- THE FRONT WINDOWS WHEN I
25 WAS ON THE PHONE.

26 Q AND THE FRONT WINDOWS GIVE YOU A VIEW OF
27 WHAT?

28 A YOU CAN SEE THERE ARE THREE LARGE WINDOWS,

1 YOU CAN SEE THE FRONT OF OUR PROPERTY, THE ROAD, AND YOU
2 CAN SEE MICKEY'S DRIVEWAY THAT GOES UP TO THEIR HOUSE.

3 Q CAN YOU SEE -- WHAT'S THE NAME OF THAT
4 RODE?

5 A WOODLYN LANE. THE ONE ON THE SIDE IS
6 OAK VIEW, THE ONE IN THE FRONT IS WOODLYN LANE.

7 Q AND COULD YOU SEE ALL THE WAY UP MICKEY'S
8 DRIVEWAY OR JUST --

9 A NO.

10 Q -- JUST THE MOUTH WHERE MICKEY'S DRIVEWAY
11 HIT WOODLYN LANE?

12 A YOU CAN SEE THE PART THAT COMES DOWN TO
13 WOODLYN LANE.

14 Q AND DID YOU SEE ANYTHING WHEN YOU LOOKED
15 OUT THAT WINDOW?

16 A WHEN I WAS ON THE PHONE WITH 9-1-1, I SAW
17 THE TWO GUYS ON BICYCLES.

18 Q AND CAN YOU DESCRIBE WHAT YOU SAW, WHAT
19 SPECIFICALLY?

20 A TWO GUYS ON BICYCLES COMING IN FRONT OF
21 OUR HOUSE. MY HUSBAND FIRED A SHOT WHILE I WAS ON THE
22 PHONE WITH 9-1-1. THEY TOLD HIM TO STOP FIRST AND THEN
23 HE FIRED A SHOT AND THE PEOPLE THAT I WAS TALKING TO ON
24 9-1-1 SAID SOMETHING LIKE, "WHAT WAS THAT?" I SAID, "MY
25 HUSBAND FIRED A SHOT." AND I SAID, "NOW HE'S GOING OFF
26 AFTER THEM." AND HE SAID, "TELL HIM NOT TO DO THAT. WE
27 DON'T KNOW WHO HE IS."

28 Q YOU MEAN THE POLICE WOULDN'T KNOW WHETHER

1 OR NOT HE WAS A SUSPECT OR --

2 A RIGHT.

3 Q THE PEOPLE THAT YOU SAW ON BIKES, DO YOU
4 NOW KNOW THEIR RACE?

5 A THEY WERE I BELIEVE BLACK. THEY WERE VERY
6 DARK.

7 Q DID YOU SEE WHAT TYPES OF BIKES THEY WERE
8 ON?

9 A THEY WERE ON LIKE RACING BIKES, THE THIN
10 TIRED BIKES. THIN, NOT BALLOON TIRES, BUT THIN TIRED
11 BIKES.

12 Q ARE YOU FAMILIAR WITH A TEN-SPEED BIKE,
13 THE LOOK OF ONE?

14 A YEAH. MY FATHER HAD AN ENGLISH RACER AND
15 I THOUGHT IT LOOKED LIKE ONE THAT MY DAD HAD. SO RACING
16 BIKE INSTEAD A BALLOON TIRED BIKE.

17 Q WHEN YOU SAY A BALLOON TIRE, LIKE NOT A
18 CRUISER?

19 A I'M NOT FAMILIAR WITH A CRUISER. A FAT
20 TIRED BACK THAT WE USED TO RIDE WHEN WE WERE KIDS.

21 Q DID YOU SEE WHAT THEY WERE WEARING?

22 A LIKE SWEAT SUITS.

23 Q AND DID EITHER OF THEM HAVE ANYTHING ON
24 THEIR BACKS?

25 A THEY HAD LIKE A BAG.

26 Q AND CAN YOU DESCRIBE THAT BAG FOR ME,
27 PLEASE.

28 A A SMALL LIKE DRAWSTRING BAG (INDICATING).

1 Q AND YOU'RE HOLDING YOUR HANDS UP. CAN YOU
2 GIVE US AN INDICATION WITH YOUR HANDS.

3 A SOMETHING LIKE THAT (INDICATING). IT
4 WASN'T LIKE A BIG BACKPACK LIKE KIDS WEAR TODAY, BUT IT
5 WAS LIKE A BAG (INDICATING).

6 Q IF YOU CAN HOLD YOUR HANDS UP SO THE JUDGE
7 CAN SEE.

8 A (WITNESS COMPLIES.)

9 Q 10, 12 INCHES?

10 A YES.

11 THE COURT: YES.

12 THE WITNESS: NOT A GREAT BIG BACKPACK, BUT
13 SOMETHING SMALLER.

14 Q BY MS. SARIS: AND IT HAD A DRAW STRING?

15 A I BELIEVE SO. I BELIEVE SO.

16 Q AND DO YOU REMEMBER WHAT COLOR IT WAS?

17 A DARK.

18 Q DO YOU REMEMBER TALKING THAT DAY TO POLICE
19 OFFICERS?

20 A I TALKED TO POLICE OFFICERS THAT DAY, YES.

21 Q DID YOU TELL ANY OF THEM AT THAT TIME THAT
22 IT WAS A WHITE CANVAS BAG? AND IF IT WOULD REFRESH YOUR
23 MEMORY --

24 A I DON'T REMEMBER. I DON'T REMEMBER.

25 Q WOULD LOOKING AT A REPORT OF THAT
26 CONVERSATION HELP REFRESH YOUR RECOLLECTION?

27 A NO.

28 Q NO?

1 A I DON'T REMEMBER. IT WAS ALMOST 19 YEARS
2 AGO. I DON'T REMEMBER EXACTLY. I REMEMBER IT WAS A BAG,
3 IT WAS A DARK SUIT, I DON'T REMEMBER WHAT THE COLOR OF
4 THE BAG WAS. BUT I NOTICED IT WAS A BAG, SO IT HAD TO BE
5 SEPARATE FROM THEIR CLOTHING SO YOU COULD DEFINITELY SEE
6 THAT THERE WAS A BAG THAT THEY WERE WEARING.

7 Q AND WAS IT AT A BAG THAT WAS SEE THROUGH
8 OR NOT?

9 A NO.

10 Q NOT SEE THROUGH?

11 A NO.

12 Q AND COULD YOU SEE ANYTHING STICKING OUT OF
13 IT?

14 A NO.

15 MS. SARIS: JUST A MOMENT, PLEASE.

16 (PAUSE IN PROCEEDINGS.)

17 MS. SARIS: THANK YOU. NOTHING FURTHER.

18 THE COURT: CROSS-EXAMINATION?

19 MR. JACKSON: VERY BRIEFLY.

20

21 CROSS-EXAMINATION

22 BY MR. JACKSON:

23 Q MS. JOHNSON, THANK YOU FOR JOINING US. I
24 WON'T BE VERY LONG.

25 WITH REGARD TO THE BAG, DID YOU SEE ANY
26 MARKINGS PARTICULARLY ON THAT BAG THAT YOU SAW?

27 A NOT TO MY RECOLLECTION.

28 Q OKAY. NOTHING STOOD OUT TO YOU?

1 A JUST THAT THERE WAS A BAG ON THEIR BACKS.

2 Q OKAY.

3 A OKAY.

4 Q AND IT APPEARED TO YOU TO BE A DRAW STRING
5 BAG?

6 A YES.

7 Q WOULD YOU DESCRIBE IT AS SORT OF A SMALL
8 FLIMSY DRAW STRING BAG?

9 A FLIMSY, BUT I COULDN'T SEE THROUGH IT.
10 YOU KNOW, IT WAS LIKE YOU COULD NOTICE THAT THERE WAS A
11 BAG ON THEIR BACK, BUT I COULDN'T TELL YOU EXACTLY WHAT
12 IT LOOKS LIKE.

13 Q I DON'T MEAN OPAQUE NECESSARILY THAT YOU
14 CAN SEE THROUGH IT --

15 A NO.

16 Q -- I MEAN, LIKE A SMALL BAG AS OPPOSED TO
17 A BIG --

18 A YES.

19 Q -- HEAVY NAP SACK?

20 A YES, SMALL BAG.

21 Q AND YOU DIDN'T SEE ANY PARTICULARIZED
22 MARKINGS ON IT?

23 A NO.

24 Q WORDS, LETTERING?

25 A NO.

26 Q OKAY. YOU DIDN'T SEE ANYTHING OTHER THAN
27 JUST OF THE BAG AND THE DRAW STRING; CORRECT?

28 A YES.

1 Q NOTHING STOOD OUT IN YOUR MIND?

2 A NO, NOT THAT I --

3 Q AND AS YOU SIT HERE TODAY, IS IT YOUR
4 RECOLLECTION THAT IT WAS DARKER IN COLOR?

5 A YES.

6 Q ONE OTHER QUESTION. YOU SAID THAT YOU
7 HEARD A VOLLEY OF SHOTS; CORRECT?

8 A YES.

9 Q THEN YOU HEARD MICKEY THOMPSON SCREAMING?

10 A YES.

11 Q AND THEN YOU HEARD ANOTHER VOLLEY OF SHOTS
12 WHICH YOU BELIEVE TO BE ANOTHER VOLLEY OF SHOTS; CORRECT?

13 A YES.

14 Q WHAT DID YOU HEAR MICKEY THOMPSON
15 SCREAMING?

16 A "DON'T HURT MY WIFE. PLEASE DON'T HURT MY
17 WIFE."

18 Q THANK YOU.

19 MR. JACKSON: THAT'S ALL I HAVE.

20 MS. SARIS: NOTHING FURTHER. THANK YOU FOR YOUR
21 TIME.

22 THE COURT: THANK YOU.

23 THE WITNESS: OKAY. THANK YOU.

24 MS. SARIS: THAT'S ALL THE WITNESSES WE HAVE
25 TODAY, YOUR HONOR.

26 THE COURT: LADIES AND GENTLEMEN, WE'LL TAKE OUR
27 AFTERNOON RECESS AT THIS TIME. PLEASE DON'T DISCUSS THE
28 CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T CONDUCT

1 ANY DELIBERATIONS. WE WILL RESUME TOMORROW MORNING.
2 10:30.

3 MS. SARIS: YES, PLEASE.

4 THE COURT: OKAY. SO WE WILL RESUME TOMORROW
5 MORNING AT 10:30. HAVE A GOOD EVENING. SEE YOU THEN.
6 THANKS.

7 (THE JURY LEFT THE COURTROOM.)

8 THE COURT: ALL RIGHT. OFF OF THE RECORD.

9
10 (THE MATTER WAS CONTINUED TO FRIDAY,
11 DECEMBER 8, 2006 AT 10:00 A.M.)

12 (NEXT PAGE IS 7201.)

13 --000--

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA FRIDAY, DECEMBER 8, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ON THE RECORD, THEN, ON THE GOODWIN
20 MATTER, HE IS PRESENT WITH COUNSEL. THE PEOPLE ARE
21 REPRESENTED. THE JUROR AND ALTERNATES YOU WERE NOT YET
22 PRESENT. WE RECEIVED A PHONE CALL -- A COUPLE OF PHONE
23 CALLS THIS MORNING FROM --

24 NO. 7?

25 THE CLERK: 8.

26 THE COURT: 8? SHE IS ILL AND WANTED TO KNOW
27 BASICALLY WHAT TO DO. AND AFTER SEVERAL PHONE CALLS, SHE
28 JUST CALLED WITHIN THE LAST 15 MINUTES AND SAID SHE WAS

1 ON HER WAY IN. SO I DIDN'T HAVE A CHANCE TO DISCUSS IT
2 WITH COUNSEL. BUT THAT'S THE STATUS. I GUESS SHE IS ON
3 HER WAY IN, BUT SHE'S I WILL.

4 SO HOW MANY WITNESSES DO YOU HAVE TODAY?

5 MS. SARIS: I HAVE TWO. ONE GENTLEMAN IS WAITING
6 IN COURT AND THE OTHER ONE IS IN THE OFFICE. AND HE'S
7 FLOWN DOWN FROM OAKLAND OR SAN JOSE.

8 THE COURT: ALL RIGHT.

9 MR. DIXON: AND WE NEED TO HAVE A 402 WITH
10 RESPECT TO AT LEAST ONE OF THOSE WITNESSES, SHORT THOUGH.

11 (WHEREUPON UNRELATED MATTERS WERE HEARD.)

12 THE COURT: BACK ON THE GOODWIN MATTER THEN.
13 WE'RE OUTSIDE THE PRESENCE OF THE JURY. AND THERE WAS
14 DISCUSSION THAT WE HAD TO TAKE UP THIS MORNING REGARDING
15 THE EXHIBITS.

16 IS THAT RIGHT?

17 MR. JACKSON: THAT'S CORRECT, YOUR HONOR.

18 THE COURT: OKAY. THE PEOPLE MOVED INTO EVIDENCE
19 ALL THEIR EXHIBITS.

20 WHAT IS THE DEFENSE --

21 MR. JACKSON: YOUR HONOR, ACTUALLY THE PEOPLE HAD
22 A CHANCE -- WE'VE HAD A CHANCE THIS MORNING TO GO OVER
23 THE EXHIBITS IN DETAIL. WE WOULD BE WITHDRAWING PEOPLE'S
24 32, 50, 77 AND 78. WITH THOSE EXCEPTIONS, THE PEOPLE
25 WOULD MOVE FOR THE ADMISSION OF PEOPLE'S 1 THROUGH 103.

26 MS. SARIS: DO YOU WANT TO START AT THE END OR
27 THE START?

28 THE COURT: IT DOESN'T MATTER. JUST TELL ME WHAT

1 THE DEFENSE IS OBJECTING TO.

2 MS. SARIS: 102 AND 103 ARE THE LETTERS FROM
3 MICHAEL GOODWIN TO KAREN STEPHENS DISCUSSED BUT SHE WAS
4 NOT ALLOWED TO READ. THEY'RE PURE HEARSAY THEY SIMPLY
5 REFRESHED HER RECOLLECTION AS TO WHAT SHE REVIEWED.

6 THE COURT: WHAT IS THE PEOPLE'S POSITION ON 102
7 AND 103?

8 MR. JACKSON: BOTH LETTERS -- LET ME HAVE JUST A
9 MOMENT. BOTH LETTERS APPEAR TO BE FROM MICHAEL GOODWIN
10 THEY WERE DRAFTED ON SUPERCROSS LETTERHEAD OR STADIUM
11 MOTOR SPORTS CORP LETTERHEAD. THEY BOTH BEAR THE SAME
12 SIGNATURE -- SIMILAR SIGNATURE THAT APPEARED TO BE OF
13 MICHAEL GOODWIN. THEY'RE BOTH TYPEWRITTEN. BOTH
14 INDICATE IN TYPEWRITTEN LETTERS UNDER THE SIGNATURE
15 MICHAEL F. GOODWIN -- ONE SAYS MICHAEL F. GOODWIN --
16 MICHAEL FRANK GOODWIN; THE OTHER ONE SAYS MICHAEL
17 GOODWIN. BASED ON THE DRAFTING OF THE LETTERS, THEY
18 APPEAR TO BE ADMISSIONS.

19 THE COURT: ASSUMING THAT HE WROTE THEM.

20 MR. JACKSON: RIGHT. I THINK THAT'S AN
21 ASSUMPTION THAT -- IT'S NOT AN ASSUMPTION, IT'S AN
22 INFERENCE THAT CAN BE LEGALLY DRAWN GIVEN THE TOTALITY OF
23 THE CIRCUMSTANCES, SUPERCROSS INC. LETTERHEAD, STADIUM
24 MOTOR SPORTS CORP LETTERHEAD. THERE IS UNCONTROVERTIBLE
25 EVIDENCE THAT HE WAS THE EXECUTIVE OFFICER AND OWNER OF
26 SUPERCROSS INC. AND STADIUM MOTOR SPORTS. HIS NAME IS
27 SPELLED THE SAME WAY BOTH TIMES. HIS SIGNATURE APPEARS
28 THE SAME ON BOTH DOCUMENTS.

1 SO I THINK THEY WOULD -- I CERTAINLY THINK
2 THAT ANY FOUNDATIONAL ARGUMENT WOULD GO TO THE WEIGHT NOT
3 THE ADMISSIBILITY. IF WE ARE TALKING ABOUT THE
4 ADMISSIBILITY AND THEY'RE ADMISSIBLE I BELIEVE UNDER 1220
5 OF THE EVIDENCE CODE UNDER ADMISSIONS.

6 THE COURT: BUT YOU BASICALLY CHANGED THEORIES ON
7 ME. I ADMONISHED THE JURY THAT THOSE DOCUMENTS WERE
8 BEING MARKED AND REFERRED TO TO DEMONSTRATE THE BASIS OF
9 THE EXPERT'S OPINION --

10 MR. JACKSON: FOR THAT PURPOSE --

11 THE COURT: -- AND NOT FOR THE TRUTH. NOW YOU'RE
12 OFFERING THEM AS ADMISSIONS, WHICH WOULD CLEARLY BE FOR
13 THE TRUTH.

14 MR. JACKSON: CORRECT.

15 THE COURT: SO IT'S A DIFFERENT THEORY.

16 MR. JACKSON: CORRECT. BUT, YOUR HONOR, I THINK
17 IT WOULD HAVE BEEN ILL ADVISED HAD I ASKED THAT WITNESS
18 FOR PURPOSES OF WHAT SHE USED IT FOR.

19 THE COURT: OKAY.

20 MR. JACKSON: I WASN'T BEING SNEAKY. I MEAN THAT
21 IS -- I DIDN'T THINK I COULD ASK IT FOR THE TRUTH OF WHAT
22 SHE WAS BEING ASKED FOR.

23 THE COURT: NO, THAT'S FINE.

24 MR. JACKSON: BUT IF THE COURT IS ASKING FOR AN
25 ALTERNATIVE THEORY AS TO THEIR ADMISSION, I'M GIVING THE
26 COURT THE ALTERNATIVE THEORY.

27 THE COURT: THAT'S THE FIRST TIME I'VE HEARD IT,
28 SO IT'S A LITTLE BIT OF A SURPRISE. SO I'LL HAVE TO SEE

1 THE DOCUMENTS.

2 MS. SARIS: THERE HAS BEEN NO TESTIMONY ABOUT
3 THIS AT ALL.

4 THE COURT: I DON'T KNOW. COUNSEL SAYS I CAN
5 DRAW OR WE CAN DRAW AN INFERENCE FROM THE LETTERS. I
6 HAVEN'T SEEN THE LETTERS.

7 MR. JACKSON: AND THE CONTENT OF THE LETTERS AS
8 WELL.

9 MS. SARIS: AND IT'S MORE THAN FOUNDATION, IT'S
10 AUTHENTICATION. THERE IS ABSOLUTELY NOTHING TO
11 INDICATE -- EVEN IF HE SIGNED THEM AND YOU FOUND THAT HE
12 SIGNED THEM -- THAT HE WROTE THEM.

13 THE COURT: LET ME JUST TAKE A MOMENT.

14 (PAUSE IN PROCEEDINGS.)

15 THE COURT: WELL, I'M JUST LOOKING AT PEOPLE'S
16 102 AND I CAN CLEARLY STATE THAT AT LEAST WITH REFERENCE
17 TO THE SIGNATURES, DIANE GOODWIN'S SIGNATURE HAS ALREADY
18 BEEN MENTIONED. AND I THINK WE EVEN HAVE THE OPINION OF
19 MISS STEPHENS THAT THAT WAS DIANE GOODWIN'S SIGNATURE ON
20 A NUMBER OF OTHER DOCUMENTS. BUT --

21 MR. JACKSON: YOUR HONOR --

22 THE COURT: MICHAEL GOODWIN'S SIGNATURE -- WHAT
23 ELSE?

24 MR. JACKSON: I JUST HANDED THE COURT THE
25 AGREEMENT -- THE PARTNERSHIP AGREEMENT WHICH WAS
26 ESTABLISHED TO BEAR BOTH MICKEY THOMPSON AND MICHAEL
27 GOODWIN'S SIGNATURE. THE COURT CAN TAKE A GLANCE AT
28 MICHAEL GOODWIN'S SIGNATURE FROM 1984 AND SEE THAT IT

1 APPEARS TO BE THE SAME. THERE IS ALSO IN THE E.S.I.
2 BANKRUPTCY DOCUMENTS, BOTH PERSONAL AND CORPORATE. THERE
3 ARE SIGNATURES ON THE BACK.

4 MS. SARIS: WELL, YOUR HONOR, IT'S NOT UP TO THE
5 COURT TO MAKE A HANDWRITING DETERMINATION. COUNSEL
6 OFFERED THIS SPECIFICALLY FOR THE PURPOSE OF ITS
7 NON-HEARSAY PURPOSE AT TRIAL. AND NOW HE'S TRYING TO
8 SNEAK IN THE BACK DOOR WHAT HE COULDN'T SNEAK IN --
9 BECAUSE IT WAS PURE HEARSAY -- AN ADMISSION THAT WE'RE
10 NOT ABLE TO COUNTER.

11 IF HE WANTED TO INTRODUCE THE LETTER, HE
12 SHOULD HAVE BROUGHT IN THE INDIVIDUAL WHO THE LETTER WAS
13 WRITTEN TO; TALKED ABOUT WHEN IT WAS WRITTEN. WAS IT
14 WRITTEN IN THE COURSE OF BUSINESS? DID YOU RECEIVE IT?
15 ASKING THE COURT TO PLAY DOCUMENT EXAMINER WITHOUT GIVING
16 THE DEFENSE AN OPPORTUNITY TO CONFRONT AND CROSS-EXAMINE
17 IS IMPROPER. THE PURPOSE OF THE LETTER WAS FOR THIS
18 WOMAN TO REVIEW IT AND HAVE REVIEWED IT. SHE TESTIFIED
19 TO THAT. THE LETTER ITSELF WAS RULED HEARSAY. COUNSEL
20 MADE NO INDICATION --

21 MR. JACKSON: THE PERSON THAT WOULD NEED TO BE
22 CONFRONTED AND CROSS-EXAMINED WOULD BE THE DEFENDANT. IF
23 HE WANTS TO TAKE THE STAND AND SAY IT'S NOT HIS LETTER,
24 THEN HE'S ENTITLED TO DO THAT. THAT'S WHY 1220 OF THE
25 EVIDENCE CODE EXISTS. THE COURT CAN CERTAINLY TAKE NOTE
26 FROM AN EVIDENTIARY OR GATE KEEPERS STANDPOINT THAT THE
27 SIGNATURES ALL MATCH.

28 AGAIN, THAT GOES TO THE WEIGHT, NOT THE

1 ADMISSABILITY. AND I'M SIMPLY ASKING THE COURT TO ALLOW
2 THE JURORS TO GIVE IT WHATEVER WEIGHT THEY THINK IS
3 NECESSARY.

4 MS. SARIS: HE'S ASKING -- IT'S AN ABSOLUTE
5 DENIAL OF THE RIGHT TO CONFRONT. THAT LETTER WAS NEVER
6 INTRODUCED DURING TESTIMONY. WE'VE NEVER TALKED ABOUT
7 ITS CONTENTS. THE WITNESS WAS NOT ALLOWED TO DISCUSS ITS
8 CONTENTS BECAUSE IT WAS HEARSAY. WE HAVE HAD NO
9 OPPORTUNITY WHATSOEVER TO CONFRONT AND CROSS-EXAMINE.
10 MR. GOODWIN SHOULD NOT HAVE TO WAIVE HIS FIFTH AMENDMENT
11 RIGHT TO REMAIN SILENT IN ORDER TO OBTAIN HIS SIXTH
12 AMENDMENT RIGHT TO CONFRONTATION. THAT'S LUDICROUS.

13 MR. JACKSON: WHO WOULD -- I DON'T UNDERSTAND
14 THAT ARGUMENT. WHO WOULD HE NOT BE ABLE TO CONFRONT?
15 HIMSELF.

16 THE COURT: ALL RIGHT. WELL, THAT'S ALL
17 INTERESTING, BUT LET'S GET BACK TO THE ISSUE. ORIGINALLY
18 THE COURT INDICATED THAT THE COURT WOULD ALLOW COUNSEL
19 FOR THE PEOPLE TO MARK AS EXHIBITS 102 AND 103. AND
20 BECAUSE OF THE HEARSAY OBJECTION, THE COURT DEFERRED ANY
21 FURTHER DISCUSSION ON THEIR ADMISSABILITY.

22 THE COURT WAS ASKED TO ADMONISH THE JURY
23 BASED ON THE PEOPLE'S THEORY AT THAT TIME WHICH WAS THAT
24 THE LETTERS WERE BEING SHOWN TO MRS. STEPHENS TO EXPLAIN
25 THE BASIS OF HER OPINION. NOW THE PEOPLE HAVE SOUGHT THE
26 ADMISSION OF THOSE EXHIBITS WHEN ORIGINALLY THEY WERE NOT
27 GOING TO.

28 I THINK ORIGINALLY I WAS TOLD THAT THEY

1 WEREN'T EVEN GOING TO BE REFERRED TO, BUT SO BE IT.
2 THEY'VE BEEN PROPERLY MARKED AS EXHIBITS AND THE PEOPLE
3 ARE NOW MOVING TO HAVE THEM INTRODUCED INTO EVIDENCE.
4 THE OBJECTION IS HEARSAY. AND THE HEARSAY EXCEPTION IS
5 ADMISSION.

6 MS. SARIS: THE OBJECTION IS AUTHENTICATION. THE
7 OBJECTION IS LACK OF CONFRONTATION. THE PEOPLE COULD NOT
8 AT THIS POINT IN THEIR CASE INTRODUCE 75 LETTERS THAT
9 MICHAEL WROTE OVER THE LAST FIVE YEARS AND JUST GIVE THEM
10 TO THE COURT AND ASK THEM TO SHOW THEM TO THE JURY. THAT
11 WOULD BE COMPLETELY IMPROPER AND THAT'S EXACTLY WHAT
12 THEY'RE ASKING YOU TO DO.

13 THE REASON THIS WASN'T A FULL BLOWN
14 HEARING IS BECAUSE WE -- PERHAPS RIDICULOUSLY -- RELIED
15 ON WHAT THE PEOPLE SAID IS TRUE THAT THEY WERE NOT
16 OFFERING THEM FOR THE TRUTH OF THE MATTER. THAT'S THE
17 ONLY REASON THEY WERE EVEN ALLOWED TO BE MARKED. SO THAT
18 DOESN'T --

19 THE COURT: THEY WERE MARKED BECAUSE THEY WERE
20 REFERRED TO AND THEY WERE POTENTIAL EXHIBITS. THERE WAS
21 NOTHING WRONG WITH THE COURT MARKING THE EXHIBIT.

22 MS. SARIS: I AGREE. BUT THAT DOESN'T GIVE ANY
23 MORE WEIGHT TO WHETHER OR NOT IT'S ADMISSABLE.

24 THE COURT: RIGHT. NOW WE'RE DISCUSSING THE
25 ADMISSIBILITY. AND NOW YOUR ARGUMENT IS THAT THERE IS NO
26 AUTHENTICATION. THE PEOPLE SUGGEST THAT THE COURT CAN
27 DETERMINE THE AUTHENTICATION BY LOOKING AT THE DOCUMENTS,
28 WHICH I AM LOOKING AT. THEY ARE WRITTEN, 103 AND 102, ON

1 SUPERCROSS INC. LETTERHEAD AND STADIUM MOTOR SPORTS
2 LETTERHEAD. THE SIGNATURE OF DIANE GOODWIN, I HAVE
3 ALREADY DISCUSSED. THE WITNESS HERSELF IDENTIFIED DIANE
4 GOODWIN'S SIGNATURE ON SOME OTHER DOCUMENTS AND IT DOES
5 APPEAR TO BE THE SAME SIGNATURE.

6 SO THE ONLY ISSUE IS THE SIGNATURE OF
7 MR. GOODWIN. I WAS GIVEN PEOPLE'S EXHIBIT 10, WHICH WAS
8 AUTHENTICATED AND DOES HAVE MR. GOODWIN'S SIGNATURE. AND
9 IN ALL HONESTY THE SIGNATURE LOOKS THE SAME TO ME. I
10 DON'T KNOW THAT IT TAKES AN EXPERT.

11 MR. JACKSON: YOUR HONOR, WE ALSO SUBMITTED --
12 THEY'RE KIND OF HANGING OFF THE COURT'S BENCH -- TWO
13 DOCUMENTS THAT THE COURT CAN TAKE JUDICIAL NOTICE OF. I
14 THINK WE HAVE ALREADY ASKED COURT TO TAKE JUDICIAL NOTICE
15 OF THE BANKRUPTCY DOCUMENTS. BOTH BEAR MICHAEL GOODWIN'S
16 SIGNATURE AND THEY APPEAR TO BE THE SAME SIGNATURE.

17 THE COURT: OTHER THAN THE FACT THAT THE DEFENSE
18 MAY BE CAUGHT OFF GUARD --

19 MS. SARIS: WELL, IT'S NOT BEING CAUGHT OFF
20 GUARD. IT'S BEING ABSOLUTELY -- THIS IS A BACK DOOR
21 ADMISSION OF AN INADMISSABLE HEARSAY. AND THE IDEA --

22 THE COURT: IF IT'S AN ADMISSION --

23 MS. SARIS: IF IT'S AN ADMISSION, JUST BECAUSE
24 IT'S ON THE LETTERHEAD -- NOW, THE FACT THAT -- WE'VE HAD
25 NO TESTIMONY WHATSOEVER. MR. GOODWIN WAS A BUSINESS MAN
26 WITH A STAMP WITH HIS SIGNATURE ON IT. I DON'T KNOW --
27 ARE WE GOING TO HAVE TO BRING -- HOW DO WE FIGHT AGAINST
28 THAT WHEN IT HASN'T EVEN BROUGHT UP IN TESTIMONY.

1 THE TIME TO BRING THIS UP IS DURING THE
2 COURSE OF THE TRIAL. THE PEOPLE HAVE RESTED. THEY CAN
3 ASK FOR THE ADMISSION OF EVIDENCE THAT WAS SPOKEN OF.
4 THIS EVIDENCE WAS NOT SPOKEN OF. THIS EVIDENCE WAS NOT
5 CONFRONTED. THIS EVIDENCE WAS NOT -- NO TESTIMONY WAS
6 TAKEN REGARDING THE CONTENTS OF THIS EVIDENCE. THERE WAS
7 NO OPPORTUNITY FOR US TO ARGUE ABOUT ITS AUTHENTICITY.

8 SO IT'S THE SAME -- IT IS THE EXACT SAME
9 AS COUNSEL WALKING IN WITH 70 PAPERS SAYING THESE ARE
10 LETTERS MR. GOODWIN HAS WRITTEN OVER THE LAST SEVEN YEARS
11 AND WE WANT THEM GIVEN TO THIS JURY.

12 THE COURT: IF THOSE 70 LETTERS HAD BEEN MARKED
13 AS EXHIBITS, THIS WOULD BE THE APPROPRIATE TIME TO
14 LITIGATE THEIR ADMISSIBILITY.

15 MS. SARIS: HAD THEY BEEN TESTIFIED TO. SIMPLY
16 MARKING AN EXHIBIT DOES NOT GIVE SOMETHING MORE ADMISSION
17 THAN NOT MARKING IT AS AN EXHIBIT. THERE WAS NO
18 TESTIMONY TAKEN AS TO THE CONTENT OF THESE LETTERS.

19 THE COURT: WELL, AGAIN, THE OBJECTION WAS THAT
20 THE CONTENT WAS NOT TO BE READ TO THE JURY AS PART OF OUR
21 DISCUSSION THAT THE LETTERS WERE BEING OFFERED FOR A
22 LIMITED PURPOSE.

23 WE ALL WENT ALONG WITH THAT. AND I
24 INDICATED AT THE SIDEBAR THAT I WOULDN'T PERMIT
25 MRS. STEPHENS TO READ ANY PORTION OF THESE LETTERS. I
26 AGREE WITH YOU, WE HANDLED IT THAT WAY. BUT NOW THE
27 PEOPLE ARE ASKING TO ADMIT THE EXHIBITS ON A DIFFERENT
28 THEORY.

1 MS. SARIS: AND IT'S TOO LATE. NOW THERE IS NO
2 OPPORTUNITY FOR US TO CONFRONT THE PERSON WHO RECEIVED
3 THIS LETTER; ANY INDICATION ABOUT THIS LETTER; WHEN IT
4 WAS WRITTEN; WHETHER IT WAS SENT; WHERE IT WAS FOUND; HOW
5 DID MRS. STEPHENS GET IT? WAS IT IN COMPLIANCE WITH SOME
6 SUBPOENA?

7 WAS IT PART OF WHAT THEY TOOK WHEN THEY
8 WENT IN ON THE SEARCH WARRANT? WAS IT INCLUDED IN AN
9 ATTORNEY/CLIENT PACKAGE? WE HAVE NO IDEA. THE REASON WE
10 HAVE NO IDEA IS BECAUSE WE'VE HAD ABSOLUTELY NO TESTIMONY
11 ABOUT IT. YOU CANNOT SIMPLY INTRODUCE SOMETHING AFTER
12 YOU RESTED WITHOUT ANY TESTIMONY WHATSOEVER AND TAKE AWAY
13 THE DEFENSE'S OPPORTUNITY TO EXAMINE WHERE THIS CAME
14 FROM; WHEN IT WAS WRITTEN; WHO IT WAS WRITTEN BY. AND
15 THEN SAY, WELL, WE JUST CHANGED OUR MIND. SORRY.

16 THE COURT: MR. JACKSON, DO YOU WANT TO RESPOND
17 TO THAT?

18 MR. JACKSON: YOUR HONOR, AS THE COURT NOTED THIS
19 WAS THE APPROPRIATE TIME FOR US TO SEEK THE ADMISSION OF
20 THESE TWO DOCUMENTS. I WOULD SIMPLY NOTE FOR THE RECORD
21 THAT THE COURT GAVE US GUIDANCE ON WHAT THIS COURT WOULD
22 AND WOULD NOT ALLOW INSOFAR AS MISS STEPHEN'S TESTIMONY
23 ABOUT THE CONTENT OF THIS LETTER AND ON
24 CROSS-EXAMINATION, THE CONTENT OF CERTAIN OTHER ITEMS OF
25 EVIDENCE THAT MR. SUMMERS MARKED, BUT DID NOT HAVE HER --
26 OR DIDN'T PURPORT TO HAVE HER READ. AND THAT'S FINE.
27 SO WE HAD FOLLOWED THE COURT'S ADVICE.

28 AND EVEN HAD I AT SIDEBAR AT THAT TIME

1 SAID, WELL, YOUR HONOR, THERE IS ANOTHER THEORY OF
2 ADMISSIBILITY AND THAT'S 1220 OF THE EVIDENCE CODE, THE
3 COURT LIKELY WOULD HAVE SAID -- I'M PUTTING WORDS IN THE
4 COURT'S MOUTH -- BUT I'M SURE THE COURT WOULD HAVE SAID,
5 THAT'S FINE, MR. JACKSON, YOU CAN ARGUE ABOUT THAT LATER.
6 BUT THIS WITNESS STILL CAN'T READ THE LETTER INTO THE
7 JURY. SO IT WOULD HAVE MADE NO DIFFERENCE.

8 THIS IS NOT TRYING TO GET IN THROUGH THE
9 BACK DOOR ANYTHING THAT I COULDN'T GET IN THROUGH THE
10 FRONT. I'M NOT SNEAKING. THERE IS NO SNEAKING GOING ON.
11 THIS WAS DULY MARKED. THE COURT ASKED ME FOR AN
12 EXPLANATION LEGALLY AS TO HOW THESE DOCUMENTS MIGHT BE
13 ADMISSIBLE. AND I'M SIMPLY SUPPLYING THAT TO THE COURT.
14 THAT'S IT.

15 THE COURT: IS MISS STEPHENS STILL AVAILABLE?

16 MR. JACKSON: NO, SHE IS NOT.

17 THE COURT: YOU KNOW, THE QUESTION OF THE LEGAL
18 ADMISSIBILITY IS NOT DIFFICULT FOR ME. I BELIEVE THAT
19 THEY ARE ADMISSIONS. BUT THE PROBLEM THAT I'M HAVING IS
20 COUNSEL RELIED ON YOUR REPRESENTATIONS THAT THESE WERE
21 NOT GOING TO BE ADMITTED FOR THE TRUTH. AND THERE REALLY
22 WAS NO CROSS-EXAMINATION REGARDING FOUNDATION AS TO WHERE
23 THESE DOCUMENTS CAME FROM.

24 I HAVE NO PROBLEM ADMITTING THESE
25 DOCUMENTS AS ADMISSIONS, BUT I THINK FAIRNESS DICTATES
26 GIVEN THE PEOPLE'S THEORY AND THEN THE CHANGE IN THEORY
27 THAT COUNSEL BE GIVEN AN OPPORTUNITY TO EXAMINE THE
28 WITNESSES ON THESE DOCUMENTS. I THINK THAT'S A FAIR

1 REQUEST.

2 MR. JACKSON: MAY I HAVE JUST A SECOND?

3 (DISCUSSION OFF THE RECORD.)

4 MR. JACKSON: OKAY. YOUR HONOR, MR. DIXON,
5 BRINGS UP A VERY GOOD POINT. WE'RE NOT SEEKING TO WASTE
6 THE COURT'S TIME. WE CERTAINLY DON'T WANT TO BRING
7 MRS. STEPHENS BACK. FROM A LEGAL PROSPECTIVE, I DON'T
8 THINK SHE WOULD BE THE PROPER PERSON TO CROSS-EXAMINE
9 ABOUT THESE.

10 THE COURT: YOU MAY BE RIGHT.

11 MR. JACKSON: BUT THAT HAVING BEEN SAID. I DON'T
12 THINK THAT IT CALLS FOR SUCH A KIND OF A VITRIOLIC FIGHT
13 ABOUT THIS. I THINK IF MR. GOODWIN IS GOING TO TESTIFY,
14 HE CAN AUTHENTICATE IT. I WILL ASK HIM ABOUT IT. SO
15 MAYBE WE WILL JUST LEAVE THIS FOR ANOTHER TIME.

16 THE COURT: ALL RIGHT. THEN I WILL HOLD OFF ON
17 102 AND 103. BUT, AGAIN, THE CONTENT APPEARS TO
18 CONSTITUTE A HEARSAY EXCEPTION, WHICH IS HEARSAY -- WHICH
19 IS AN ADMISSION, RATHER, WHICH WOULD OTHERWISE BE
20 ADMISSIBLE.

21 THE ONLY PROBLEM I'M HAVING IS THE ABILITY
22 OF THE DEFENSE, IF THESE DOCUMENTS ARE REFERRED TO AGAIN
23 AND THERE IS FURTHER DISCUSSION OF THE FOUNDATION OR THE
24 AUTHENTICATION OF WHERE THE DOCUMENTS CAME FROM, I'M
25 GOING TO LET THEM IN.

26 MR. JACKSON: OKAY.

27 THE COURT: ALL RIGHT. WHAT ELSE?

28 MS. SARIS: 58 AND 59 ARE THE CASH RECEIPTS OF

1 THE CORONER. WE DON'T BELIEVE A PROPER FOUNDATION HAS
2 BEEN LAID FOR THOSE OR AUTHENTICATION.

3 MR. JACKSON: GIVE ME THOSE NUMBERS AGAIN.

4 MS. SARIS: 58 AND 59.

5 MS. SARIS: I BELIEVE VERDUGO TESTIFIED THAT HE
6 RECOGNIZED THE TYPE OF DOCUMENT. BUT HE WAS NOT THE ONE
7 THAT BOOKED THIS AND DIDN'T HAVE ANY INDEPENDENT
8 KNOWLEDGE OF IT.

9 THE COURT: CAN I SEE THOSE EXHIBITS, PLEASE.

10 MR. JACKSON: SURE.

11 THE COURT: ALL RIGHT. NUMBER 58 IS THE RECEIPT
12 FOR PROPERTY. AND 59 IS THE SAME KIND OF DOCUMENT, A
13 RECEIPT FOR PROPERTY. AND THE OBJECTION IS --

14 MS. SARIS: THERE WAS NO FOUNDATION AS TO IT
15 BEING A BUSINESS RECORD AND THERE WAS NO PERSONAL
16 KNOWLEDGE LAID BY THE WITNESS WHO REFERRED TO IT. IN
17 OTHER WORDS, THEY DIDN'T HAVE THE PERSON WHO EITHER
18 FILLED IT OUT OR WHO FILLS THEM OUT ALL THE TIME.

19 THE COURT: I RECALL THERE WAS SOME TESTIMONY AS
20 TO --

21 MS. SARIS: HE REFRESHED HIS RECOLLECTION AS TO
22 THE AMOUNT WITH THESE DOCUMENTS.

23 THE COURT: WHAT IS THE PEOPLE'S --

24 MR. DIXON: AND I WAS LISTENING TO IT, I WASN'T
25 ASKING THE QUESTIONS, MR. JACKSON WAS. BUT MY
26 RECOLLECTION, YOUR HONOR, IS THAT HE WAS ASKED ABOUT
27 THESE; ASKED WHAT KIND OF DOCUMENT THEY ARE. DO THEY
28 APPEAR TO BE OFFICIAL RECORDS OF THE SHERIFF'S

1 DEPARTMENT? THAT'S MY BEST RECOLLECTION. AND AS A
2 HOMICIDE DETECTIVE FOR OVER 25 YEARS, I THINK IT'S JUST
3 COMMON SENSE THAT HE WOULD ANSWER THOSE QUESTIONS IN THE
4 AFFIRMATIVE.

5 THE COURT: YES, I AGREE. I THINK THERE IS
6 SUFFICIENT FOUNDATION LAID FOR THESE DOCUMENTS. SO 58
7 AND 59 WILL BE ADMITTED. THE OBJECTIONS WILL BE
8 OVERRULED.

9 WHAT ELSE?

10 MS. SARIS: 30.

11 MR. DIXON: MAY I HAVE A MOMENT TO PULL --

12 MS. SARIS: A LETTER THAT MICKEY THOMPSON WROTE
13 TO HIS FANS.

14 THE COURT: DOES ANYBODY HAVE THAT?

15 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
16 HONOR?

17 (PAUSE IN PROCEEDINGS.)

18 MR. DIXON: I RECALL THIS. THIS IS I BELIEVE
19 DURING GREG SMITH'S TESTIMONY. THERE WAS ONE OF A NUMBER
20 OF DOCUMENTS THAT WERE NOT ONLY SHOWN TO HIM, BUT WERE
21 PUT ON THE OVERHEAD. IT'S NOT BEING OFFERED FOR THE
22 TRUTH OF THE MATTER.

23 BUT IT IS BEING OFFERED TO SHOW -- GIVE A
24 BACKGROUND TO THE STATE OF COMPETITION BETWEEN THE
25 DEFENDANT AND MICKEY THOMPSON AT THE TIME OF THE LAWSUIT
26 OR SUBSEQUENT -- WELL, THE TIME OF THE LAWSUIT AND WHILE
27 THE LAWSUIT WAS GOING ON, THEIR COMPETITION FOR THE ALL
28 IMPORTANT ANAHEIM VENUE. AND I THINK IT JUST GIVES

1 CONTEXT TO THAT. IT'S NOT BEING OFFERED FOR THE TRUTH OF
2 THE MATTER, BUT FOR THOSE REASONS.

3 MS. SARIS: IF IT'S NOT OFFERED FOR THE TRUTH,
4 THEN THE TESTIMONY SHOULD SUFFICE. THE LETTER ITSELF IS
5 HEARSAY.

6 THE COURT: WHO HAS IT?

7 MS. SARIS: AND I THINK THAT MR. SMITH DID REFER
8 TO IT AND EXPLAIN IT. BUT THERE IS NO FOUNDATION FOR THE
9 PHYSICAL LETTER.

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

12 WHAT ELSE?

13 MS. SARIS: THE NEWSPAPER ADVERTISING ON THE
14 EVENT 29. I'M UNDERSTANDING THAT 27 AND 28 ARE
15 NEWSPAPERS CLIPPINGS THAT THEY ARE ONLY INTENDING TO GET
16 THE HEADLINE IN ON.

17 MR. DIXON: LET'S ADDRESS THOSE PERHAPS ONE AT A
18 TIME, YOUR HONOR. AGAIN, THIS WAS DURING THE GREG SMITH
19 TESTIMONY. AND COUNSEL IS RIGHT WE SUGGESTED WITH THE
20 COURT'S PERMISSION, OF COURSE, FOR THE EXHIBITS THAT ARE
21 GIVEN TO THE JURORS AT THE TIME OF DELIBERATION TO REDACT
22 THESE IN A FASHION SO THAT WE JUST HAVE THE HEADLINES.

23 AGAIN, THE REASONS FOR THAT ARE THEY ARE
24 NOT BEING OFFERED FOR THE TRUTH OF THE MATTER, BUT --

25 THE COURT: OKAY. LET ME DO THIS, BECAUSE I'M
26 NOT IN POSSESSION OF THESE EXHIBITS AND IT'S REALLY HARD.

27 MR. JACKSON: I WAS JUST THINKING THAT INSTEAD OF
28 US DOING THIS, WE SHOULD HAVE THIS PILE ON THE --

1 MR. DIXON: WELL, EITHER THAT, YOUR HONOR --

2 THE COURT: OR ON THE OVERHEAD.

3 MR. DIXON: LET'S PUT IT ON THE ELMO.

4 THE COURT: LET'S DO THAT. WHY DON'T YOU PUT IT
5 ON THE OVERHEAD.

6 MS. SARIS: AND ONE OF THE OVERALL PROBLEMS, YOUR
7 HONOR, IS THESE WERE PUT IN PLASTIC WRAP AND THE NUMBER
8 OF THE EXHIBIT IS PUT ON THE OUTSIDE OF THE PLASTIC WRAP.
9 AND THERE IS ALSO A LABEL. AND SOMETIMES THE LABEL IS
10 NOT JUST DESCRIPTIVE, IT SAYS THINGS LIKE "FORGED
11 SIGNATURE HERE."

12 THE COURT: NO, THE LABEL HAS TO GO.

13 THE CLERK: I HAVE THE EXHIBIT TAG ON THE ACTUAL
14 EXHIBIT. THE PLASTIC IS NOT THE ACTUAL EXHIBIT.

15 MR. JACKSON: RIGHT.

16 THE COURT: OKAY. GOOD. THEN WE ARE TALKING
17 ABOUT 29, WHICH IS THE MULTIPLE-PAGE ADS, I BELIEVE.

18 MR. DIXON: YOUR HONOR, SO I'M NOT REDUNDANT AND
19 TAKE UP THE COURT'S TIME. MY JUSTIFICATION FOR THESE
20 EXHIBITS WOULD BE THE SAME AS WITH THE PREVIOUS EXHIBIT
21 30.

22 MS. SARIS: SAME OBJECTION. THEY'RE HEARSAY.
23 THEY'RE NO FOUNDATION. NO AUTHENTICATION. THE GIST WAS
24 TESTIFIED TO. THE ACTUAL ARTICLES ARE HEARSAY.

25 THE COURT: OKAY. WHILE I'M WAITING FOR THE
26 MACHINE TO WARM UP --

27 MR. DIXON: THERE YOU ARE.

28 THE COURT: ALL RIGHT. SO THE COURT IS LOOKING

1 AT PEOPLE'S 29.

2 MR. JACKSON: THAT'S 29.

3 THE COURT: AND THE PEOPLE WANT TO ADMIT THE --
4 OKAY. YOU JUST MOVED SOMETHING.

5 MR. JACKSON: SORRY.

6 THE COURT: -- THAT TOP PAGE. IT LOOKS LIKE
7 THERE ARE THREE -- WHAT ARE THOSE? ADVERTISEMENTS?

8 MR. JACKSON: CORRECT. THESE ARE THREE WHAT
9 APPEARS TO BE FLIERS, FOR LACK OF A BETTER WORD, OR
10 ADVERTISEMENTS FOR THE ANAHEIM EVENT. AGAIN, JUST
11 SHOWING -- NOT OFFERED FOR THE TRUTH OF WHAT IS RELATED
12 IN THE ADVERTISEMENT, BUT TO SHOW THE IMPORTANCE AND THE
13 IMPORT OF THE ANAHEIM EVENT, WHICH WE BELIEVE WAS
14 FOUNDATIONALLY RELEVANT FOR THE MURDERS.

15 THE COURT: RIGHT. OBJECTION IS OVERRULED. AND
16 WHAT ELSE?

17 MR. JACKSON: DID THE COURT ALREADY RULE ON THE
18 HEADLINES?

19 THE COURT: I'M JUST RULING ON 29. AND WHAT IS
20 THE OTHER ONE?

21 MR. JACKSON: 27 AND 28 RESPECTIVELY. ARE THE
22 TWO HEADLINES. AND WE'RE NOT INTERESTED IN ANY OF THE
23 BODY OF THE TEXT. THAT WASN'T TESTIFIED TO. WE DON'T
24 CARE ABOUT THAT. THE ONLY THING WE WOULD BE INTERESTED
25 IN AND MAYBE JUST CUTTING -- PHYSICALLY CUTTING THE BODY
26 AWAY AND LEAVING THE FACT AND THE DATE OF THE NEWSPAPERS
27 AND THEN THE HEADLINE ITSELF. AGAIN, NOT OFFERED FOR THE
28 TRUTH, BUT TO ESTABLISH THE IMPORTANCE OF THE ANAHEIM

EVENT. AND THE FACT THAT IT WAS SUCH A BIG EVENT THAT THE MEDIA ACTUALLY GAVE HEADLINE FRONT PAGE COLUMN SPACE TO THIS EVENT.

MS. SARIS: WHICH IS THE TRUTH AND IS HEARSAY.

MR. JACKSON: AND THAT WOULD HAVE BEEN IMPORTANT FOR MR. GOODWIN IN TERMS OF HIS COMPETITION WITH MR. THOMPSON.

MS. SARIS: NO, IT DOESN'T SHOW THAT IT'S FRONT PAGE. IT SHOWS THAT IT'S A HEADLINE. THE HEADLINE IS HEARSAY. NO FOUNDATION WAS LAID. MR. CARR OR CHAVLIK WERE NOT CALLED. I BELIEVE THE WITNESS SAID HEADLINES WERE MADE. HE COULDN'T IDENTIFY THESE SPECIFICALLY. AND IT'S HEARSAY. IT'S OBVIOUSLY OFFERED FOR THE TRUTH. THE FACT THAT MEDIA ATTENTION WAS DRAWN, THAT WAS TESTIFIED TO. THAT'S IN THE RECORD.

THE COURT: I DON'T HAVE ANY PROBLEM WITH THE HEADLINES, I'LL BE HONEST WITH YOU. IT WAS TESTIFIED TO ALREADY. THIS IS NOT ANY NEW INFORMATION. THIS WAS A GOOD PART OF THE TESTIMONY THAT WAS PRESENTED. SO I DON'T HAVE ANY PROBLEM WITH THE HEADLINE. WE WILL REDACT THE BODY OF THE ARTICLES.

MR. DIXON: THAT'S FINE, YOUR HONOR. THANK YOU.

MS. SARIS: NO. 21 IS I GUESS AN OLD PICTURE OF
MICKEY THOMPSON. THIS IS A PRECURSOR TO OUR COMING
OBJECTION TO THE MINI-BIOGRAPHY THAT HAS NO BASIS IN THIS
TRIAL THAT WE LET THE PEOPLE GET AWAY WITH AT THE OPENING
STATEMENT REGARDING MICKEY THOMPSON.

THERE IS A PICTURE OF HIM. HE'S BEEN

1 IDENTIFIED. THIS IS SORT OF IRRELEVANT. AND, AGAIN,
2 IT'S ALSO TO GIVE THE COURT A HEADS UP THAT WE WILL BE
3 OBJECTING IN THE CLOSING ARGUMENT TO ANY OF THIS SAME
4 TYPE OF GREAT AMERICAN HERO BIO-PICK THAT WE LISTENED TO
5 IN THE OPENING STATEMENT.

6 THE COURT: WHAT IS THE --

7 MR. DIXON: ACTUALLY, IT'S A LITTLE BIT MORE
8 INVOLVED THAN THAT, YOUR HONOR. AGAIN, GREG SMITH FROM
9 ANAHEIM STADIUM NOT ONLY IDENTIFIED, OF COURSE, MICKEY
10 THOMPSON IN THIS PHOTOGRAPH, BUT ALSO THE AUTOMOBILE.
11 AND SAID THAT IN THE CONTEXT OF THIS JANUARY MOTOR SPORTS
12 MONTH AND MICKEY THOMPSON TAKING -- DOING ONE WEEKEND AND
13 THEN TAKING OVER ANOTHER WEEKEND AS PART OF THAT
14 PROMOTION TO SHOW HOW IMPORTANT IT WAS, AGAIN, IN THE
15 CONTEXT OF THIS COMPETITION.

16 THE AUTOMOBILE "CHALLENGER ONE" WAS SHOWN
17 WITH MICKEY THOMPSON AT ANAHEIM STADIUM. AND SO THIS
18 SPECIFIC AUTOMOBILE WAS IDENTIFIED BY GREG SMITH DURING
19 HIS TESTIMONY IN CONNECTION WITH MICKEY THOMPSON.

20 THE COURT: ALL RIGHT. THE OBJECTION IS
21 OVERRULED.

22 MS. SARIS: NUMBER -- I'M TRYING TO GO IN SOME
23 ORDER HERE. 25, THE ANAHEIM PRESS RELEASE.

24 MR. DIXON: AGAIN, YOUR HONOR, JUST SO WE DON'T
25 TAKE TOO MUCH OF THE COURT'S TIME, THIS WOULD BE -- THIS
26 WAS TESTIFIED TO BY GREG SMITH WITH RESPECT TO MICKEY
27 THOMPSON WINNING THE CONTRACT. OUR REASONS WOULD BE IT'S
28 NOT OFFERED FOR THE TRUTH OF THE MATTER, IT'S OFFERED

1 FOR -- ITS RELEVANCE WOULD BE TO SHOW THE ONGOING
2 COMPETITION AND THE IMPORTANCE OF WINNING THIS CONTRACT.
3 I'LL SUBMIT IT AT THAT.

4 THE COURT: ALL RIGHT. THE OBJECTION IS
5 OVERRULED.

6 MS. SARIS: YOUR HONOR, THE FACT OF THE PRESS
7 RELEASE DOESN'T SAY THAT. SO THE ONLY WAY THAT THAT'S
8 RELEVANT IS IF ONE READS THE PRESS RELEASE, IN WHICH CASE
9 IT'S OFFERED FOR THE TRUTH AND IT'S HEARSAY. AND
10 MR. SMITH DID NOT WRITE IT. IT WAS SIGNED BY SOMEONE
11 NAMED TURNER. IT HAS NOT BEEN AUTHENTICATED. THERE IS
12 NO FOUNDATION. AND IT IS HEARSAY OFFERED FOR THE TRUTH.

13 MR. DIXON: WELL, IF I RECALL MR. SMITH'S
14 TESTIMONY, HE HAD A RATHER IMPORTANT JOB AT THIS TIME IN
15 THAT I THINK HE WAS MR. TURNER'S EXECUTIVE OFFICER, SO TO
16 SPEAK, SECOND IN COMMAND. HE AUTHENTICATED THE DOCUMENT.
17 AND THIS WAS ANAHEIM STADIUM LETTERHEAD. AND IT WAS A
18 BUSINESS DOCUMENT, A BUSINESS RECORD, SO TO SPEAK, AT THE
19 TIME.

20 THE COURT: RIGHT.

21 MR. DIXON: SO I MEAN WE CAN APPROACH IT THAT
22 WAY, TOO. BUT HE DID AUTHENTICATE THE SIGNATURE AND THE
23 NAME ON THE DOCUMENT AND THE LETTERHEAD AND WHAT IT WAS
24 ABOUT.

25 THE COURT: I DON'T BELIEVE IT'S OFFERED FOR THE
26 TRUTH. I THINK THE DOCUMENT ITSELF HAS RELEVANCE TO SHOW
27 THE IMPORTANCE OF WHAT WAS TAKING PLACE BETWEEN THE
28 PRINCIPALS AT THE TIME. SO OBJECTION IS OVERRULED.

1 MS. SARIS: 7, 8, AND 9. AGAIN, THESE ARE THE
2 ROSE BOWL -- ONE OF THEM PURPORTS TO BE THE MINUTES OF A
3 MEETING IN PASADENA AT THE ROSE BOWL, WHICH HAS SEVERAL
4 PAGES OF IRRELEVANT THINGS UNRELATED TO THIS PARTICULAR
5 EVENT. NO. 7.

6 THE COURT: ALL RIGHT. CAN I SEE THAT UP CLOSE.
7 MAYBE YOU CAN JUST GIVE THAT TO ME, PLEASE.

8 MR. JACKSON: SURE. 7 AND 8.

9 THE COURT: IT'S 11 PAGES, MINUTES OF A MEETING.
10 NO. 7. RIGHT?

11 MR. JACKSON: CORRECT. THAT'S 7.

12 THE COURT: THANK YOU. AND THE OFFER IS WHAT?

13 MR. JACKSON: YOUR HONOR, THE WITNESS INDICATED
14 THAT THESE -- AND WE ACTUALLY CALLED A WITNESS
15 SPECIFICALLY TO ESTABLISH THE FOUNDATION FOR THESE
16 DOCUMENTS IN EACH CASE TO ESTABLISH THAT MICKEY THOMPSON
17 DID, IN FACT, WIN CONTROL OF THE ROSE BOWL AND/OR ANAHEIM
18 STADIUM EVENTS. I'M NOT -- QUITE FRANKLY IF THE
19 OBJECTION IS IT'S GOT SUPERFLUOUS INFORMATION ABOUT OTHER
20 MINUTES STUFF, I DON'T CARE. WE CAN REDACT ALL THAT
21 STUFF. WE CAN TAKE IT OFF.

22 I HAD HIM AUTHENTICATE THE ENTIRE
23 DOCUMENT. AND I BELIEVE IT ACTUALLY BEARS A
24 CERTIFICATION FROM THE ROSE BOWL AS WELL TO ESTABLISH
25 THAT IT IS A BUSINESS RECORD KEPT IN THE ORDINARY COURSE
26 OF BUSINESS. AND I THINK THAT DOCUMENT DOES COME IN
27 UNDER THAT BUSINESS RECORD EXCEPTION. IT IS OFFERED FOR
28 THE TRUTH, BUT THERE WAS A HEARSAY EXCEPTION FOR IT

1 SPECIFICALLY. REGARDING THE SUPERFLUOUS STUFF, IF THE
2 COURT WANTS TO GIVE ME SOME GUIDANCE AND WE TAKE
3 EVERYTHING ELSE OFF AND IT TURNS INTO A ONE-PAGE
4 DOCUMENT, THAT'S FINE.

5 THE COURT: TELL ME WHAT PAGE DEALS WITH THE --

6 MR. JACKSON: YOU KNOW WHAT, YOUR HONOR, I DIDN'T
7 MARK ON THAT DOCUMENT. I THINK IT'S PAGE 3 OR 4.

8 MR. SUMMERS: 4. BUT ACTUALLY IF THE COURT IS
9 GOING TO OVERRULE THE OBJECTION, I THINK WE WOULD PREFER
10 THE WHOLE DOCUMENT TO COME IN.

11 MS. SARIS: THAT'S TRUE.

12 THE COURT: ALL RIGHT. THEN I'LL OVERRULE THE
13 OBJECTION. AND I'M LOOKING AT PAGE 4 AND IT DOES APPEAR
14 TO BE RELEVANT FOR THE ISSUES AS STATED AND ADMISSIBLE AS
15 A BUSINESS RECORD. BUT IF COUNSEL WANTS THE ENTIRE
16 DOCUMENT, THAT'S FINE. SO THE OBJECTION IS OVERRULED.
17 NO. 8, WHAT IS THE OBJECTION TO NO. 8?

18 MS. SARIS: SAME OBJECTIONS TO 8 AND 9. THEY'RE
19 HEARSAY. THEY'RE OFFERED FOR THE TRUTH.

20 THE COURT: PEOPLE.

21 MR. JACKSON: YOUR HONOR, I DON'T HAVE IT IN
22 FRONT OF ME. COULD THE COURT TELL ME WHAT 8 IS?

23 MR. SUMMERS: THE CONTRACT, CITY OF PASADENA
24 CONTRACT.

25 MR. JACKSON: OH, ONCE AGAIN SAME THING. THAT'S
26 THE ACTUAL CONTRACT THAT GAVE MICKEY THOMPSON CONTROL
27 OVER THE EVENT. I BELIEVE THAT WAS ESTABLISHED AS A
28 FORMAL BUSINESS RECORD KEPT IN THE ORDINARY COURSE OF

1 BUSINESS FILLED OUT AND COMPLETED AT OR NEAR THE TIME OF
2 THE EVENT. IT WOULD COME IN UNDER THAT EXCEPTION.

3 THE COURT: ALL RIGHT. THE OBJECTION IS
4 OVERRULED.

5 MS. SARIS: NUMBER 66.

6 THE COURT: HANG ON. I'M JUST LOOKING AT 9.
7 THAT WAS JUST 8. AND THEN NO. 9, THE CITY OF PASADENA
8 MINUTES, I ASSUME THE PEOPLE ARE OFFERING THAT.

9 MR. JACKSON: THE SAME THEORY, YOUR HONOR.

10 MS. SARIS: SAME OBJECTIONS.

11 THE COURT: YOU KNOW, I'M LOOKING AT THESE
12 DOCUMENTS PROBABLY DIFFERENTLY. I DON'T THINK THAT THEY
13 ARE BEING OFFERED FOR THE TRUTH. BUT IF THE PEOPLE ARE
14 SAYING THEY ARE, THAT'S FINE. I MEAN THE NATURE OF THE
15 LAWSUIT IN THIS CASE IS AT THE FOREFRONT OF THE PEOPLE'S
16 THEORY. AND BUILDING UP TO THAT LAWSUIT, IT SEEMS TO ME
17 ARE A NUMBER OF THESE DOCUMENTS. AND WE HEARD A LOT OF
18 EVIDENCE IN SUPPORT OF THE ACRIMONY AND THE HOSTILITY
19 GENERATED BY BASICALLY MR. THOMPSON GETTING BUSINESS THAT
20 WAS PREVIOUSLY GIVEN TO MR. GOODWIN.

21 I MEAN ALL OF THIS SEEMS TO BE ADMISSIBLE
22 NOT SO MUCH FOR THE TRUTH, BUT TO SHOW AND EXPLAIN THE
23 LEVEL OF ACRIMONY THAT WAS GENERATED BY THESE BUSINESS
24 DEALINGS, WHICH ULTIMATELY CULMINATED IN A PRETTY LARGE
25 JUDGMENT RENDERED AGAINST MR. GOODWIN BY MR. THOMPSON.

26 HOWEVER, IF THE PEOPLE WANT IT INTRODUCED
27 FOR THE TRUTH, SO BE IT. I THINK IT DOES QUALIFY AS A
28 BUSINESS RECORD. BUT IN ALL HONESTY, I DON'T SEE THAT

1 IT'S BEING OFFERED FOR THE TRUTH. BUT IF THAT'S WHAT YOU
2 ARE GOING TO ARGUE --

3 MR. JACKSON: WELL, AS THE COURT KNOWS THERE CAN
4 BE MULTIPLE THEORIES FOR ADMISSIBILITY OF THE SAME ITEM
5 OF EVIDENCE. AND THE REASON THAT MR. DIXON AND I
6 SPECIFICALLY TOOK THE COURT'S TIME AND TOOK THE JURY'S
7 TIME BY BRINGING IN THE CUSTODIANS OF RECORD FOR THESE
8 DOCUMENTS IS BECAUSE WE, IN FACT, DO WANT TO ARGUE THE
9 TRUTH OF THE MATTER THAT MICKEY THOMPSON ACTUALLY GOT THE
10 EVENT ON SUCH AND SUCH DAY; AND MIKE GOODWIN LOST THE
11 EVENT.

12 I DIDN'T WANT TO BE HANDCUFFED WITH THE
13 THEORY THAT I COULD PRESENT TO THE JURY. I WANT TO BE
14 ABLE TO SAY, FOLKS, THERE IS EVIDENCE IN FRONT OF YOU
15 THAT MICKEY THOMPSON GOT THE CONTRACT ON SUCH AND SUCH
16 DATE. SO THAT'S WHY WE'RE SEEKING IT UNDER THIS THEORY.

17 THE COURT: ALL RIGHT.

18 MR. SUMMERS: JUST FOR CLARIFICATION SAKE, YOUR
19 HONOR, THESE DOCUMENTS ACTUALLY ALL POSTDATE THE DATE OF
20 THE JUDGMENT THAT MICKEY THOMPSON HAD OBTAINED AGAINST
21 MICHAEL GOODWIN.

22 MS. SARIS: THEY'RE NOT LEADING UP TO THE
23 LAWSUIT.

24 MR. JACKSON: LEADING UP TO THE DEATH, TO THE
25 MURDER.

26 THE COURT: YES. ALL RIGHT. THOSE WILL BE
27 ADMITTED.

28 WHAT ELSE?

1 MS. SARIS: NUMBER 66 ARE SORT OF SILLY. THEY'RE
2 NOTES THAT ALAN JACKSON TOOK WHILE WE WERE TALKING.

3 MR. JACKSON: I DON'T THINK THOSE ARE SILLY. I
4 TAKE ISSUE WITH THAT.

5 YOUR HONOR, THESE ARE THE MANNY MUNOZ
6 NOTES.

7 MS. SARIS: I THINK IT'S INAPPROPRIATE. I DON'T
8 KNOW WHAT THE OBJECTION WOULD BE. IT'S -- I GUESS WE
9 WILL WITHDRAW IT. I MEAN IT'S JUST NOTES THAT HE WAS
10 TAKING THAT HE SHOWED TO THE JURY.

11 MR. JACKSON: YES. AND I MARKED IT BECAUSE THOSE
12 WERE NOTES THAT I WAS TAKING THAT I SHOWED TO THE JURY.

13 THE COURT: CAN I SEE THEM?

14 MS. SARIS: THEY'RE ON THE OVERHEAD.

15 MR. JACKSON: THEY'RE ON THE OVERHEAD.

16 (DISCUSSION OFF THE RECORD.)

17 THE COURT: I'VE JUST BEEN TOLD THAT OUR ILL
18 JUROR IS REALLY NOT FEELING WELL. SO WHY DON'T WE
19 PROCEED WITH THE JURY AND DO WHATEVER WE CAN DO UNTIL SHE
20 HAS TO BAIL OUT OF HERE.

21 MS. SARIS: I HAVE A WITNESS I WOULD LIKE TO HAVE
22 EXCUSED. IF THE COURT COULD ORDER HIM BACK, PLEASE.

23 THE COURT: ALL RIGHT. LET'S BRING THE JURY
24 DOWN. ON NUMBER, WHAT IS THIS, 66?

25 MR. JACKSON: 66, YOUR HONOR.

26 MS. SARIS: IT'S AN OBJECTION FOR THE RECORD.

27 THE COURT: OVERRULED.

28 MS. SARIS: AND WE HAVE ONE OTHER ONE LEFT.

1 THE COURT: ALL RIGHT.

2 MR. DIXON: YOUR HONOR, BEFORE COUNSEL EXCUSES
3 THIS JUROR, IS IT MR. MILLER? -- I'M SORRY, WITNESS --

4 MS. SARIS: I'M GOING TO ASK FOR HIM TO BE
5 ORDERED BACK.

6 MR. DIXON: AFTER WE FINISH TODAY, WE HAVE A 402
7 HEARING THAT THAT WITNESS MAY WANT TO -- OR THE COURT MAY
8 WANT THAT WITNESS TO PARTICIPATE IN OR NOT. I DON'T
9 KNOW, BUT WE DO HAVE AN OBJECTION TO THE TESTIMONY.

10 THE COURT: ALL RIGHT. LET'S TRY TO DO THAT
11 TODAY.

12 MS. SARIS: THAT'S FINE. THAT'S FINE.

13 THE CLERK: AND ALSO ON THE REDACTED WHATEVER
14 WE'RE GOING TO REDACT, IF THEY COULD SUBMIT ONE TO BE
15 MARKED. AND I WILL LEAVE THE OTHER ONE I.D. ONLY.

16 THE COURT: OKAY.

17 MR. DIXON: OKAY.

18

19 (THE JURY ENTERED THE COURTROOM

20 AND THE FOLLOWING PROCEEDINGS WERE

21 HELD IN OPEN COURT.)

22

23 THE COURT: YOU KNOW, I THINK WE ARE GOING TO
24 HAVE TO MAKE THIS A PRETTY SHORT DAY. SO JUST --

25

26 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

27 THE COURT: WE'RE AT THE SIDEBAR. THIS

28 PARTICULAR JUROR LOOKS HORRIBLE. AND I DON'T WANT TO GO

1 FORWARD WITH THE JURORS THIS MORNING.

2 SO WHAT IS THE PROBLEM?

3 MS. SARIS: THAT WE WILL RUN INTO THEN -- NO
4 PROBLEM. THE ONLY ISSUE IS I HAVE TO GET EXTRA FUNDS. I
5 HAVE TO FLY A GUY BACK AND FORTH.

6 THE COURT: OKAY. LET ME EXCUSE THEM.

7 (SIDEBAR CONCLUDED.)

8

9 THE COURT: ALL RIGHT. BACK ON THE RECORD.

10 ALL OUR JURORS AND ALTERNATES ARE PRESENT.
11 YOU KNOW, I APOLOGIZE FOR BRINGING YOU ALL IN. I THINK
12 WE'RE GOING TO HAVE TO RECESS TODAY FOR A NUMBER OF
13 REASONS AND I DON'T WANT TO GO INTO THEM RIGHT NOW. BUT
14 I APOLOGIZE. WE'RE STILL ON SCHEDULE. AND I DON'T THINK
15 THAT THIS IS GOING TO AFFECT OUR ABILITY TO COMPLETE THIS
16 CASE ON TIME.

17 BUT I THINK THAT THERE ARE A NUMBER OF
18 REASONS THAT WOULD BE SERVED BY RECESSING UNTIL MONDAY
19 MORNING AT 10:00 A.M. SO WHY DON'T WE TRY FOR THAT.
20 THANKS FOR ALL OF YOU COMING IN. REMEMBER ALL OF THE
21 ADMONITIONS. PLEASE DON'T DISCUSS THE CASE. DON'T FORM
22 OR EXPRESS ANY OPINIONS. DON'T CONDUCT ANY
23 DELIBERATIONS. STAY AWAY FROM THE LOCATIONS INVOLVED.

24 PLEASE DON'T READ OR LISTEN TO ANY
25 ACCOUNTS REPORTED IN THE NEWS MEDIA. AND IF ALL OF YOU
26 COULD STAY HEALTHY FOR THE NEXT FEW DAYS, THAT WOULD BE
27 GREAT. AND SO WE WILL TRY TO ALSO. I KNOW SOMETHING HAS
28 BEEN GOING AROUND. SO WE WILL SEE YOU MONDAY AT 10:00

1 O'CLOCK.

2 (THE JURY LEFT THE COURTROOM.)

3 (THE MATTER WAS CONTINUED TO MONDAY,

4 DECEMBER 11, 2006 AT 10:00 A.M.)

5 (NEXT PAGE IS 7501.)

6 --000--

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A)(2)

DECEMBER 11, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 20 OF 24
PAGES 7501 THRU 7700/7800

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, DECEMBER 11, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ALL RIGHT. RESUMING ON THE GOODWIN
20 MATTER. MR. GOODWIN IS PRESENT WITH HIS COUNSEL, THE
21 PEOPLE ARE REPRESENTED. AND I WAS INFORMED THIS MORNING
22 THAT THERE IS AN ISSUE THAT NEEDS TO BE RESOLVED OUTSIDE
23 THE PRESENCE OF THE JURY. AND MR. DIXON, I THINK IT WAS
24 YOUR REQUEST TO EXCLUDE TESTIMONY.

25 MR. DIXON: WELL, WE TRY TO DO EVERYTHING JOINTLY
26 HERE.

27 THE COURT: OKAY. MR. DIXON.

28 MR. DIXON: NOT ALWAYS, BUT MOST OF THE TIME.

1 THERE IS JUST A COUPLE OF ISSUES WITH THIS NEXT WITNESS.
2 ONE IS: I THINK WE SHOULD HAVE A BRIEF 402 -- AND WE'RE
3 IN OPEN COURT HERE, AND I DON'T REALLY WANT TO REPEAT IT
4 ALL, BUT THE COURT IS AWARE FROM THE DISCOVERY THE
5 BACKGROUND HERE, AND I JUST THINK THERE IS AN ISSUE WITH
6 RESPECT TO COMPETENCY. THOSE SAME STATEMENTS BY THIS
7 NEXT WITNESS SIMILAR TO WHAT THE COURT IS AWARE OF
8 THROUGH THE DISCOVERY HAVE BEEN MADE TO VARIOUS PEOPLE --
9 WHILE THIS CASE HAS BEEN PENDING AND WHILE IT'S BEEN IN
10 TRIAL HERE.

11 AND I THINK THAT THE COURT SHOULD INQUIRE
12 AS TO COMPETENCY WHETHER THE WITNESS IS COMPETENT. I
13 WOULD NEVER ASK THAT, EXCEPT FOR WE HAVE THIS BACKGROUND
14 HERE. AND I JUST THINK BEFORE WE START IN FRONT OF THE
15 JURY, REALLY FOR BOTH SIDES, WE SHOULD FIND OUT EXACTLY
16 WHAT THE STATUS OF THIS WITNESS IS.

17 MS. SARIS: YOUR HONOR, IT'S OUR POSITION THIS IS
18 NOT FOR BOTH SIDES. MR. GRIGGS MADE SOME COMMENTS IN
19 ANGER AS A RESULT OF SOMETHING I WOULD LIKE TO PUT ON THE
20 RECORD WHICH IS, WE SOUGHT MR. GRIGGS PSYCHIATRIC RECORDS
21 BASED ON REPORTS IN THE FILE INDICATING THERE WAS TENSION
22 BETWEEN HE AND COLLENE CAMPBELL. ONE OF THE ALLEGATIONS
23 THAT WE THOUGHT WE WOULD FIND IN THOSE PSYCHIATRIC
24 RECORDS BASED ON STATEMENTS FROM DETECTIVE MARK
25 LILLIENFELD WAS THAT MR. GRIGGS HAD AN ALCOHOL PROBLEM.
26 AND THAT'S SOMETHING THAT DETECTIVE LILLIENFELD TOLD BOTH
27 ME AND MR. SUMMERS SEVERAL TIMES.

28 THAT WAS COMPLETELY UNTRUE. HE NEVER DID

1 HAVE ANY PROBLEM WITH ALCOHOL. THE RECORDS BORE THAT
2 OUT. MR. GRIGGS WAS UPSET THAT THAT MADE THE NEWSPAPER
3 AND MADE SOME STATEMENTS ABOUT -- IF WE WERE SEEKING HIS
4 PSYCHIATRIC RECORDS THAT PERHAPS HE SHOULD PLAY CRAZY IF
5 THAT'S THE CASE. NOW I KNOW THOSE WERE BASED ON HIM
6 BEING VERY UPSET ABOUT THE LIES THAT WERE BEING TOLD. WE
7 HAD TO, FROM OUR PROSPECTIVE, INVESTIGATE THAT. IF THAT
8 WAS A TRUE ALLEGATION, THAT WOULD OBVIOUSLY HAVE
9 RELEVANCE ON THE INVESTIGATION OF THIS CASE.

10 AFTER MONTHS OF LITIGATION WE WERE ABLE TO
11 LOOK INTO THE PSYCHIATRIC RECORDS AND TO MEDICAL RECORDS,
12 AND THAT WAS NOT BORNE OUT. I INTERVIEWED MR. GRIGGS
13 LAST NIGHT WITH MY INVESTIGATOR, WHILE HE HAS LITTLE
14 RECOLLECTION OF WHAT HAPPENED, HE CERTAINLY IS COMPETENT.
15 HE IS NOT UNDER THE INFLUENCE OF ANYTHING THAT WOULD MAKE
16 HIM UNABLE TO TESTIFY. HE'S NOT HAD ANY BRAIN DISORDER,
17 HE'S OVER 14, THERE IS NO ISSUE LEGALLY THAT WOULD BEAR
18 ON HIS COMPETENCE. SO THIS IS NOT A REQUEST THAT'S FOR
19 BOTH SIDES.

20 THE COURT: DO YOU HAVE THE LETTER THAT'S THE
21 EXHIBIT THAT WE MARKED LAST WEEK?

22 WELL, THE COURT IS REVIEWING THE LETTER
23 THAT WAS PREVIOUSLY MARKED COURT'S EXHIBIT 1 BACK ON
24 DECEMBER 6. AND IT'S A LETTER DATED DECEMBER 3RD THAT
25 WAS WRITTEN BY MR. GRIGGS TO THE COURT. I THINK BASED ON
26 THAT LETTER ALONE, THE REQUEST IS APPROPRIATE. SO I WILL
27 CONDUCT THAT HEARING AT THIS TIME. MS. SARIS, THERE ARE
28 A NUMBER OF ISSUES THAT ARE RAISED IN THIS LETTER.

1 MS. SARIS: HE INDICATES --

2 THE COURT: THAT I THINK SHOULD BE ADDRESSED.

3 MS. SARIS: HE INDICATES AN UNWILLINGNESS TO COME
4 AND A LOT OF THAT HAS TO DO WITH HIS UNWILLINGNESS -- HE
5 DOESN'T DRIVE, AND AT GREAT EXPENSE WE GOT HIM TO THE
6 AIRPORT. HE LIVES 90 MILES FROM THE NEAREST AIRPORT AND
7 HAD HIM FLOWN OUT LAST EVENING. HE IS IN THE HALLWAY.
8 I'LL BRING HIM IN.

9 THE COURT: OKAY.

10 MR. DIXON: AND YOUR HONOR, COULD I LOOK AT THAT
11 LETTER? THANK YOU. MAY I APPROACH?

12 (PAUSE IN PROCEEDINGS.)

13 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.
14 YOU DO SOLEMNLY STATE THAT THE TESTIMONY YOU MAY GIVE IN
15 THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE THE
16 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH SO HELP
17 YOU GOD?

18 THE WITNESS: I DO.

19 THE CLERK: THANK YOU, PLEASE BE SEATED.

20 SIR, WOULD YOU PLEASE STATE AND SPELL BOTH YOUR
21 FIRST AND LAST NAME FOR THE RECORD.

22 THE WITNESS: MICHAEL WAYNE GRIGGS G-R-I-G-G-S.

23 THE CLERK: THANK YOU.

24 THE COURT: MR. DIXON.

25 MR. DIXON: THANK YOU.

26 ///

27 ///

28 ///

DIRECT EXAMINATION

BY MR. DIXON:

Q GOOD MORNING.

A MORNING.

Q I UNDERSTAND YOU CAME QUITE A WAYS TO COME
AND TESTIFY TODAY?

A YES, SIR.

Q I WOULD LIKE TO INVITE YOUR ATTENTION BACK
TO MARCH OF 1988. WERE YOU AN INVESTIGATOR WITH THE
SHERIFF'S DEPARTMENT, A DETECTIVE?

A YES, I WAS.

Q WERE YOU ASSIGNED TO THE MURDERS OF MICKEY
AND TRUDY THOMPSON?

A YES, I WAS.

Q AND YOU'VE BEEN CONTACTED BY BOTH SIDES,
THE PROSECUTION AND THE DEFENSE, TO COME HERE AND TESTIFY
IN THIS CASE?

A YES, I WAS.

Q AND YOU WERE AWARE THAT -- I THINK SINCE
OCTOBER 6 WHEN WE STARTED JURY SELECTION -- THAT THE
TRIAL OF MICHAEL GOODWIN FOR THOSE MURDERS, IN A CASE IN
WHICH YOU WERE ONE OF THE DETECTIVES, HAD BEEN IN TRIAL?

A ONLY THROUGH NEWSPAPER. OFF THE INTERNET.

Q AND DID YOU SEND A LETTER TO THE JUDGE?

A YES, I DID.

Q AND THAT WAS ON DECEMBER 3RD OF 2006?

A YES, IT WAS.

Q DO YOU RECALL THAT LETTER, OR, I HAVE IT

1 HERE IF YOU WOULD LIKE?

2 A I RECALL IT.

3 Q AND IN THAT LETTER YOU EXPRESS
4 RESERVATIONS ABOUT COMING TO COURT AND TESTIFYING?

5 A YES, I DID.

6 Q AND AMONG THE REASONS FOR YOUR
7 RESERVATIONS WERE YOUR PSYCHIC CONDITION THAT HAS
8 CONTINUED TO WORSEN.

9 A I DON'T THINK I CLASSIFIED IT AS WORSEN.
10 I WAS INFORMING THE COURT THAT THERE WAS STILL PROBLEMS
11 EVEN AFTER MY RETIREMENT.

12 Q WELL, AND I DIDN'T WRITE THE LETTER, SO
13 I'LL LET YOU CHARACTERIZE IT. BUT MY READING OF THE
14 LETTER SEEMED TO SUGGEST THAT BECAUSE YOU KNEW THAT YOU
15 WERE SUBPOENAED AND MIGHT BE A WITNESS IN THIS CASE, YOUR
16 CONDITION HAD WORSENERED.

17 A I WAS ACTUALLY SUBPOENAED AT THAT TIME,
18 YES.

19 Q AND DID YOUR CONDITION, YOUR PSYCHOLOGICAL
20 CONDITION WORSEN BECAUSE OF THAT?

21 A I'VE HAD SOME MORE ANXIETIES AND SLEEP
22 PROBLEMS, BUT THEY'RE MANAGEABLE THROUGH ADDITIONAL DRUGS
23 I'VE BEEN TAKING.

24 Q ASK WHAT -- WELL, I HATE TO INQUIRE ON
25 THAT IN OPEN COURT UNLESS THE COURT WANTS TO. I MEAN I
26 WOULD LIKE TO.

27 A I HAVE NO REASON NOT TO TELL YOU I'LL TELL
28 YOU.

1 Q ALL RIGHT, FINE. WHAT MEDICATIONS ARE YOU
2 TAKEN TAKING NOW?

3 A I TAKE AMBIEN CR FOR SLEEP DISORDER. AND
4 I TAKE XANAX FOR ANXIETY. AND I'VE NOW BEEN PRESCRIBED
5 BY THE DOCTOR TO TAKE TWO ADDITIONAL, INSTEAD OF ONE,
6 DURING THE DAY.

7 Q IS IT CORRECT OR FAIR TO SAY THAT BECAUSE
8 OF YOUR ANXIETY AND RELUCTANCE TO COME TO COURT HERE
9 THAT YOU, FOR WANT OF A BETTER TERM, HAD WORDS WITH SOME
10 OF THE DETECTIVES THAT ARE CURRENTLY ASSIGNED TO THIS
11 CASE?

12 A YES. I HAD A CONVERSATION WITH MARK
13 LILLIENFELD ON THE PHONE. AND I WAS ANGRY ABOUT BEING
14 SUBPOENAED.

15 Q WELL YOU UNDERSTAND THAT THE PROSECUTION
16 DIDN'T SUBPOENA YOU, IT WAS THE DEFENSE?

17 A YES.

18 Q AND NOTWITHSTANDING THAT YOUR WORDS --

19 A I GUESS HE'S JUST WHO I WAS TABLE TO PICK
20 ON AT THE TIME.

21 Q AND IS THAT YOUR STATE OF THE MIND NOW
22 THAT WHOEVER YOU CAN PICK ON, YOU'RE GOING TO PICK ON?

23 A NO. I'M HERE TO TESTIFY.

24 Q DO YOU RECALL MUCH OR ANYTHING ABOUT THIS?

25 A MY RECALL IS LIMITED, YES.

26 Q AND IS -- IN YOUR OPINION -- YOUR RECALL
27 LIMITED BECAUSE OF THE MEDICATIONS THAT YOU'VE TAKEN
28 SINCE YOUR RETIREMENT FROM THE SHERIFF'S DEPARTMENT?

1 A NO. THE 15 YEARS SINCE I'VE RETIRED AND A
2 TOTAL OF 18 YEARS SINCE OF THE OCCURRENCE ITSELF.

3 Q DURING YOUR CONVERSATIONS WITH DETECTIVE
4 LILLIENFELD, DID YOU EXPRESS -- AND PLEASE CORRECT ME IF
5 I'M WRONG, BUT DID YOU EXPRESS A WILLINGNESS TO SAY
6 WHATEVER IT TOOK TO PREVENT YOU FROM HAVING TO COME TO
7 COURT TO TESTIFY?

8 A NO.

9 Q DID YOU --

10 A I DON'T RECALL DOING THAT.

11 Q DID YOU SUGGEST THAT YOU MIGHT NOT
12 REMEMBER THINGS THAT YOU MIGHT OTHERWISE REMEMBER OR
13 TESTIFY THAT YOU DON'T RECALL THINGS THAT YOU DO IN AN
14 EFFORT TO AVOID COMING TO COURT?

15 A I THINK I SAID THAT I WOULD COME TO COURT
16 WITH AN 18-YEAR-OLD MEMORY OF THE FACTS OF THE CASE.

17 Q DO YOU AS YOU SIT HERE NOW HARBOR
18 RESENTMENT AGAINST DETECTIVE LILLIENFELD OR THE
19 PROSECUTION BECAUSE YOU WERE SUBPOENAED TO COME TO COURT
20 HERE BY THE DEFENSE?

21 A NO.

22 Q OKAY. DID YOU EXPRESS THOSE VIEWS TO HIM
23 DURING THE CONVERSATION?

24 A YES, I DID. I WAS ANGRY. THERE HAD BEEN
25 POLICEMAN -- MY NEIGHBORS CAME TO ME AND SAID THERE HAD
26 BEEN POLICEMEN LOOKING FOR ME THE DAY BEFORE. AND --

27 Q THE DAY BEFORE WHAT?

28 A THE DAY I WAS GONE FOR AN OVERNIGHT TRIP.

1 AND I CAME BACK AND MY NEIGHBORS CAME TO MY DOOR AND SAID
2 POLICEMAN WERE LOOKING FOR ME, AND THAT UPSET ME.

3 Q HOW LONG WERE YOU A MEMBER OF THE
4 SHERIFF'S DEPARTMENT?

5 A 22, 23 YEARS.

6 Q AND POLICEMEN AT YOUR DOOR WOULD UPSET
7 YOU?

8 A IT JUST UPSET ME.

9 Q DIDN'T YOU WORK WITH POLICEMEN, A LOT OF
10 POLICEMEN, FOR A REALLY LONG TIME?

11 A WELL, THEY DIDN'T COME -- THEY DIDN'T COME
12 TO MY HOUSE IT WAS MY NEIGHBORS THAT TOLD ME ABOUT IT.
13 IT UPSET ME. AND WHEN I TALKED TO MARK, I GOT MAD AT
14 HIM. I HAVE SINCE APOLOGIZED WE JUST TALKED OUT IN THE
15 HALLWAY.

16 MR. DIXON: COULD I HAVE PAY MOMENT PLEASE?

17 (DISCUSSION OFF THE RECORD.)

18 MR. DIXON: THANK YOU, YOUR HONOR. NOTHING
19 FURTHER.

20 THE COURT: MS. SARIS.

21 MS. SARIS: JUST BRIEFLY.

22

23 CROSS-EXAMINATION

24 BY MS. SARIS

25 Q GOOD MORNING.

26 A GOOD MORNING.

27 Q DO YOU PREFER DETECTIVE GRIGGS OR
28 MR. GRIGGS?

1 A NO. YOU CAN JUST CALL ME MIKE IF YOU
2 WANT.

3 Q IS IT FAIR TO SAY THAT SOME OF THE THINGS
4 THAT YOU SAID REGARDING YOUR WILLINGNESS TO COME TO
5 TESTIFY WERE TO TRY TO AVOID BEING SUBPOENAED?

6 A WELL, IF YOU ARE A TALKING ABOUT THE
7 CONVERSATION I HAD WITH MARK ON THE PHONE, I WAS ALREADY
8 SUBPOENAED.

9 Q AND OVER THE YEARS HAVE YOU SAID THINGS TO
10 ME THAT -- IN AN EFFORT TO TRY TO GET ME TO NOT BRING YOU
11 TO COURT?

12 A I HAVE ONLY HAD ONE CONVERSATION WITH YOU,
13 AND I WOULDN'T ALLOW YOU TO COME TO MY HOUSE IN HAVASU
14 THREE OR FOUR YEARS AGO. AND IT HAD NOTHING TO DO WITH
15 TRYING TO GET OUT OF THE SUBPOENA, I JUST SAID I WOULDN'T
16 TALK TO YOU.

17 Q WERE YOU UPSET ABOUT THINGS THAT WERE
18 BEING SAID ABOUT YOU IN THE PAPERS ABOUT THIS CASE?

19 A YES, I WAS.

20 Q AND JUST SO WE'RE CLEAR ON THE RECORD,
21 YOUR RETIREMENT HAD NOTHING TO DO WITH ALCOHOLISM, DID
22 IT?

23 A NOT THAT I KNOW OF.

24 MS. SARIS: OKAY. THANK YOU.

25 THE COURT: ANY REDIRECT?

26 MR. DIXON: NO, THANK YOU, YOUR HONOR.

27 THE COURT: THANK YOU, SIR. COULD YOU PLEASE
28 STEP OUTSIDE?

1 (PAUSE IN PROCEEDINGS.)

2 THE COURT: ALL RIGHT. MR. GRIGGS HAS LEFT THE
3 COURTROOM. IS THERE ANY ARGUMENT?

4 MR. DIXON: NO, YOUR HONOR, I APPRECIATE THE
5 COURT'S OPPORTUNITY. I TRIED TO KEEP MY EXAMINATION
6 BRIEF IN LIGHT OF WHEN THE JURORS ARE COMING IN. IN
7 LIGHT OF THE QUESTIONS AND ANSWERS, I HAVE NO FURTHER
8 ARGUMENT.

9 THE COURT: ALL RIGHT.

10 MR. DIXON: WE DO BELIEVE WE HAVE TWO OTHER BRIEF
11 ISSUES WITH RESPECT TO THIS WITNESS IN TERMS OF 402. I
12 DON'T THINK IT REQUIRES HIM ON THE STAND, AND MR. JACKSON
13 WOULD BE HAPPY TO ADDRESS THE COURT ON THOSE ISSUES.

14 THE COURT: ALL RIGHT.

15 MR. JACKSON: YOUR HONOR -- WELL, I GUESS WE
16 SHOULD FINISH ONE ISSUE BEFORE WE FINISH WITH THE NEXT.

17 THE COURT: I HAVE NO PROBLEM WITH MR. GRIGGS
18 TESTIFYING. HE APPEARS TO BE COMPETENT.

19 MR. JACKSON: OKAY.

20 THE COURT: IF THAT WAS THE ISSUE.

21 MR. JACKSON: THAT HAVING BEEN SAID, YOUR HONOR,
22 THERE IS TWO ISSUES THAT I WOULD ASK THE COURT TO MAKE
23 NOTE OF.

24 ONE; I THINK -- MS. SARIS AND I SPOKE
25 INFORMALLY OFF THE RECORD -- AND I THINK IT PROBABLY
26 RESOLVES ITSELF, BUT IN AN ABUNDANCE OF CAUTION,
27 MS. SARIS WAS KIND ENOUGH TO GIVE ME A COPY OF NOTES THAT
28 SHE TOOK LAST NIGHT. AND ONE OF THE AREAS THAT WAS

1 COVERED BY HER -- AND IT DOESN'T SOUND LIKE IT'S GOING TO
2 BE COVERED IN OPEN COURT, I JUST WANTED TO MAKE SURE --
3 THAT IS DEALING WITH GRIGG'S MEMORY OF THE JOEY HUNTER
4 PORTION OF THE INVESTIGATION. OBVIOUSLY, THAT IS NOT TO
5 BE BASED ON PREVIOUS RULINGS. THAT'S NOT A SUBJECT OF
6 INQUIRY, AND I THINK MS. SARIS GENUINELY SAID SHE DIDN'T
7 INTEND TO GO INTO THAT BECAUSE GRIGGS REALLY HAD NO
8 MEMORY OF IT ANYWAY. SO I JUST WANT TO MAKE SURE THAT'S
9 WHERE WE ARE WITH THAT.

10 MS. SARIS: THAT'S MY INTENTION. THERE IS A MEMO
11 THAT MR. GRIGGS WROTE, AND I DO BELIEVE THAT SOME OF THE
12 TESTIMONY THAT WE'RE GOING TO GET IN WITH MR. GRIGGS IS
13 GOING TO BE THROUGH 1237, WHICH IS PAST RECOLLECTION
14 RECORDED NOT ABOUT JOEY HUNTER.

15 HOWEVER, IF THE PEOPLE INTEND TO USE A
16 PORTION OF THAT MEMO, WE CERTAINLY WOULD BE ASKING FOR --
17 DEPENDING ON WHAT IT IS IN TERMS OF WHAT HE DID IN THE
18 INVESTIGATION, THERE IS QUITE A SUBSTANTIAL AMOUNT ABOUT
19 JOEY HUNTER IN THAT MEMO. WE HAVE NO INTENTION OF
20 BRINGING IT UP ON DIRECT. HE DOESN'T SEEM TO HAVE A
21 RECOLLECTION OF IT. THERE IS WRITING IN HIS --
22 CONTEMPORANEOUS -- WITH HIS INVESTIGATION IN THIS CASE.

23 SO I WOULD JUST SAY THAT THAT'S -- MAKE
24 THE COURT AWARE THAT'S PART OF HIS WRITINGS. THAT IS NOT
25 OUR INTENTION ON DIRECT.

26 THE COURT: ALL RIGHT.

27 MR. JACKSON: OKAY. AS LONG AS THAT, AND I
28 OBVIOUSLY -- THE PREVIOUS RULING IS IF BEFORE ANY

1 QUESTIONS ARE TENDERED CONCERNING JOEY HUNTER, OR ANY
2 OTHER THIRD-PARTY CULPABILITY, THOSE QUESTIONS SHOULD BE
3 PROPERLY ADDRESSED TO THE COURT BEFORE THEY'RE ADDRESSED
4 IN OPEN COURT I SUPPOSE.

5 THE COURT: YES.

6 MR. JACKSON: THE OTHER ISSUE, YOUR HONOR, DEALS
7 WITH SOMETHING THAT MR. GRIGGS WAS AWARE OF, BROADLY I
8 WOULD DEFINE IT AS POTENTIAL DOYLE INFERENCE. THERE WAS
9 MUCH MADE BY THE DEFENSE IN THE OPENING STATEMENT, AND I
10 EXPECT THROUGHOUT THE CLOSING ARGUMENT AND THROUGHOUT THE
11 COURSE OF HER CASE, THAT MR. GOODWIN WAS AVAILABLE FOR
12 CONTACT BY THE POLICE FROM MOMENT ONE, THAT HE WAS NEVER
13 HIDING, HE WAS NEVER RUNNING, HE WAS ALWAYS AVAILABLE TO
14 THE POLICE.

15 MR. GRIGGS IS AWARE OF A PHONE CALL THAT
16 HE RECEIVED -- INVESTIGATORS RECEIVED WITHIN THREE HOURS
17 OF MICKEY AND TRUDY THOMPSON BEING SHOT TO DEATH. A
18 PHONE CALL FROM A MAN BY THE NAME OF AL STOKKE,
19 S-T-O-K-K-E, WHO PURPORTED TO BE MR. GOODWIN'S LAWYER AT
20 THE TIME, WHO SPECIFICALLY INDICATED THAT MR. GOODWIN WAS
21 INDEED NOT AVAILABLE FOR COMMENT. WOULD NOT SUBJECT
22 HIMSELF TO INTERVIEW.

23 A SUBSEQUENT MEETING WAS THEN SET UP
24 THROUGH MR. STOKKE WITH MR. GOODWIN, DURING THE LATTER
25 PORTION OF MARCH, WHICH WOULD -- I COULD THINK WE COULD
26 SAFELY SAY 14 OR 20 DAYS LATER, 15 OR 20 DAYS LATER --
27 WHEREIN DETECTIVE GRIGGS, MR. STOKKE AND MR. GOODWIN WERE
28 PRESENT. MR. GOODWIN WAS ADVISED, IN MR. STOKKE'S

1 PRESENCE, THAT HE WAS BEING CONSIDERED A WITNESS IN THE
2 CASE AND WAS ASKED FOR A STATEMENT. MR. STOKKE THEN
3 SPOKE FOR MR. GOODWIN AND SAID HE WOULD BE NOT
4 FORTHCOMING WITH ANY STATEMENT.

5 I BELIEVE THAT FLIES DIRECTLY IN THE FACE
6 OF THE DEFENSE CONTENTION THAT MR. GOODWIN WAS, IN FACT,
7 AVAILABLE FOR ALL CONTACT WITH THE POLICE. I DON'T
8 BELIEVE IT RISES TO THE LEVEL OF DOYLE ERROR. HE WAS NOT
9 BEING TREATED AS A SUSPECT AT THE TIME. HE WAS NOT GIVEN
10 HIS MIRANDA RIGHTS.

11 INDEED, THE FIRST SALVO WAS LAUNCHED BY
12 THE DEFENDANT HIMSELF THROUGH HIS REPRESENTATIVE
13 MR. STOKKE. IN OTHER WORDS, THE POLICE DIDN'T GO TO,
14 ACCORDING TO THESE RECORDS AND WHAT I THINK MR. GRIGGS
15 WILL TESTIFY TO IS, THE POLICE DIDN'T GO TO THE DEFENDANT
16 BEFORE THE DEFENDANT HAD ALREADY INDICATED THROUGH HIS
17 REPRESENTATIVE, "I'M NOT GOING TO TALK."

18 SO HAVING SAID THAT, I DIDN'T EVEN WANT TO
19 APPROACH THAT AREA WITHOUT ADDRESSING TO THE COURT FIRST.
20 THAT IS AN AREA THAT HAS BEEN DEEMED INAPPROPRIATE IF THE
21 DEFENDANT IS A SUSPECT AND HE'S SIMPLY ENJOYING HIS
22 MIRANDA RIGHTS OR HIS RIGHT NOT TO SPEAK.

23 MS. SARIS: YOUR HONOR, WE INTEND TO GET INTO THE
24 EVIDENCE THE LETTER FROM AL STOKKE IN OCTOBER.
25 MR. GOODWIN INVOKED HIS RIGHTS THAT WERE READ TO HIM AT
26 THAT MEETING. AN ATTORNEY BY THE NAME OF BILL LOBEL HAD
27 BEEN CONTACTED. THAT WAS NOT MR. GOODWIN'S CRIMINAL
28 ATTORNEY. AND HE HAD REFERRED THE MATTER TO AL STOKKE.

1 WHAT WE INTEND TO SHOW THIS WITNESS IS THAT THE PEOPLE
2 HAVE MADE A CONTENTION THAT MR. GOODWIN FLED.

3 I HAVE NEVER SAID THAT HE WAS AVAILABLE.
4 I SAID THAT THEY WERE NEVER LOOKING FOR HIM AND THEY
5 NEVER ACTUALLY CALLED HIM UP AND SAID "COME". THEY'VE
6 SAID HE FLED THE COUNTRY. WE HAVE A LETTER FROM AL
7 STOKKE TO MR. GRIGGS WHERE MR. GRIGGS HAS WRITTEN ON IT,
8 AN ACKNOWLEDGEMENT OF THE LETTER AND THE FACT THAT HE
9 RETURNED AL STOKKE'S CALL, INDICATING THAT HE IS NOT
10 HIDING FROM HIM. THAT DOES NOT WAIVE OUR RIGHTS UNDER
11 DOYLE AND UNDER MR. GOODWIN'S FIFTH AND SIXTH AMENDMENT.

12 THE ISSUE IS NOT WOULD HE HAVE SPOKEN.
13 THE ISSUE IS THEY'RE MAKING THE CLAIM THAT HE FLED THE
14 COUNTRY. THEY'RE ACTUALLY ASKING FOR THE JURY INSTRUCTION
15 THAT HE FLIGHT AFTER CRIME.

16 IT'S NOT FLIGHT AFTER CRIME IF YOUR
17 ATTORNEY WRITES A LETTER SAYING COME GET US -- LET ME
18 KNOW IF YOU NEED HIM. NOW THE LAW ALLOWS A DEFENDANT TO
19 PRESENT HIMSELF PHYSICALLY AND INVOKE HIS RIGHT TO REMAIN
20 SILENT WITHOUT THAT BEING USED TO HIS DETRIMENT.

21 IN THIS CASE, WE'RE SIMPLY INTENDING TO
22 SHOW THAT MR. STOKKE MADE THE OFFER TO HAVE HIM BROUGHT
23 IN. NOW IF MR. GRIGGS DIDN'T THINK IT WOULD BE RELEVANT,
24 THAT'S ONE THING. WE INTEND MR. GRIGGS TO SAY HE NEVER
25 ISSUED A WARRANT FOR MR. GOODWIN'S ARREST, HE NEVER ASKED
26 FOR CHARGES TO BE FILED, AND HE NEVER TOOK MR. STOKKE UP
27 ON THE OFFER. JUST AN ACKNOWLEDGEMENT THAT MR. STOKKE
28 WAS HIS ATTORNEY AND THAT MR. STOKKE WAS IN CONTACT WITH

1 HIM TO REBUT THIS INFERENCE THAT HE HAS SOMEHOW FLED OR
2 LEFT THE COUNTRY, WHICH IS RIDICULOUS.

3 MR. JACKSON: YOUR HONOR, THAT WOULD BE -- THAT
4 EVIDENCE, IF I'M HEARING MS. SARIS CORRECTLY, THAT
5 EVIDENCE WOULD BE MISLEADING TO THE JURY. FOR THE
6 FOLLOWING REASONS: THAT WOULD ALLOW, ACCORDING TO
7 MS. SARIS' ARGUMENT, THAT WOULD ALLOW HER TO SAY, "HEY
8 LOOK, MR. GOODWIN'S LAWYERS SAID, 'I'M AVAILABLE ANY TIME
9 YOU WANT, JUST COME GET US. COME ON OUT. COME ON OUT.
10 COME DOWN TO OUR OFFICE. WE WILL MEET WITH YOU'". AND
11 SOON AS THEY GET THERE, WE INVOKE THE FIFTH. BUT WE
12 CAN'T GET THE SECOND HALF OF THAT IN. SO IT'S THE "COME
13 ON OUT WE WILL MEET WITH YOU" INFERENCE TO THE JURY
14 WITHOUT THE "I HAVE ABSOLUTELY NO INTENTION OF LETTING MY
15 CLIENT TALK TO YOU" PART THAT IS MISLEADING.

16 AND I DON'T BELIEVE THE OCTOBER LETTER IS
17 ANY WAY DISPOSITIVE OF THE ISSUE OF THE CONTACT THAT
18 MR. GRIGGS GOT AT 9:30 IN THE MORNING ON MARCH 16TH,
19 1988. LITERALLY THREE HOURS AND 24 MINUTES AFTER MICKEY
20 AND TRUDY THOMPSON WERE SHOT TO DEATH SAYING, "BY THE
21 WAY, DON'T TRY TO CONTACT MY CLIENT, TALK TO ME."

22 THEN LATER IN MARCH, WHEN THEY
23 SPECIFICALLY TELL HIM AS A MATTER OF FACT THE --
24 ACCORDING TO THE REPORTS, IN THE PRESENCE OF MR. GOODWIN,
25 I'M SORRY, IN THE PRESENCE OF HIS ATTORNEY, MR. GOODWIN
26 WAS ADVISED BY INVESTIGATORS THAT HE WAS CONSIDERED A
27 WITNESS. AT WHICH POINT, MR. STOKKE SPOKE FOR HIS CLIENT
28 AND SAID MR. GOODWIN WILL NOT IN FACT BE MAKING A

1 STATEMENT. AND THREE OR FOUR MORE REQUESTS WERE MADE AND
2 HIS STANCE REMAINED THE SAME.

3 I THINK THAT THAT IS A -- THAT'S SOMETHING
4 THAT THE JURY COULD AND SHOULD CONSIDER, ESPECIALLY IN
5 LIGHT OF THE FACT THAT I THINK MS. SARIS HAS JUST
6 ACCURATELY FORESHADOWED HER ARGUMENT, HEY LOOK HE WAS
7 AVAILABLE FOR CONTACT AND YOU GUYS WERE WRONG.

8 MS. SARIS: ACTUALLY YOUR HONOR, THAT'S EXACTLY
9 WHAT THE LAW ALLOWS. THE LAW ALLOWS FOR THE DEFENDANT TO
10 MAKE HIMSELF AVAILABLE AND STILL AVAIL HIMSELF OF THE
11 FIFTH AND SIXTH AMENDMENT. AND DOYLE SPECIFICALLY STATES
12 THAT IN ADVISING THE JURY OF A DEFENDANT'S INVOCATION
13 VITIATES THE ENTIRE PRIVILEGE OF THE FIFTH AND SIXTH
14 AMENDMENT RIGHT TO REMAIN SILENT. REGARDLESS OF WHAT THE
15 POLICE DEEM THAT ENCOUNTER. HE WAS ADVISED BY AN
16 ATTORNEY TO REMAIN SILENT. HE AVAILED HIMSELF OF THAT
17 OPPORTUNITY. WE HAVE NEVER SAID THAT MR. GOODWIN WOULD
18 SIT DOWN AND TALK. THE ISSUE IS THAT HE WAS SOMEHOW IN
19 HIDING, WHICH IS SIMPLY NOT THE CASE.

20 THAT'S THE MISLEADING TESTIMONY THAT
21 THEY'VE PRESENTED TO THE JURY. THIS LETTER REBUTS THAT.
22 AND THIS WITNESS CAN'T SPEAK TO -- HE GOT A PHONE CALL
23 FROM MR. STOKKE MAYBE THAT MORNING. BUT HE CERTAINLY
24 WOULDN'T BE ABLE TO SAY THAT'S THE FIRST CONTACT BECAUSE
25 HIS PEOPLE HAD CONTACTED THE WRONG LAWYER PRIOR TO THAT.

26 SO THE IDEA THAT WE CANNOT AT LEAST REBUT
27 THE PRESUMPTION THAT HE'S FLED THE COUNTRY WITHOUT
28 TOTALLY VITIATING HIS FIFTH AND SIXTH AMENDMENT RIGHTS,

1 THAT DOESN'T MAKE SENSE AND DOYLE SPECIFICALLY COVERS
2 THAT.

3 THE COURT: WHAT IS THE CITATION?

4 MS. SARIS: OF DOYLE?

5 MR. JACKSON: I DON'T HAVE IT. I WOULD HAVE TO
6 GO DOWNSTAIRS AND GRAB IT. I'M SORRY.

7 MR. DIXON: WE WILL HAVE IT FOR THE COURT IN JUST
8 ANOTHER FEW MINUTES.

9 THE COURT: LET'S SEE IF THE JURORS ARE ALL HERE.
10 I WOULD IMAGINE WE CAN DO SOME DIRECT EXAMINATION.

11 MS. SARIS: WE CAN DO SOME. THAT'S A LARGE
12 PORTION OF OUR QUESTIONS FOR MR. GRIGGS.

13 MR. SUMMERS: THE CITE FOR DOYLE YOUR HONOR, IS
14 426 U.S. 610.

15 THE COURT: OKAY.

16 MR. SUMMERS: DOYLE VERSUS OJAI.

17 MR. JACKSON: SAY IT ONE MORE TIME.

18 MR. SUMMERS: 426 U.S. 610. DOYLE VERSUS OJAI.

19 (PAUSE IN PROCEEDINGS.)

20 THE COURT: ALL RIGHT. LET'S RESUME DISCUSSION
21 HERE. THE DEFENSE NEEDS A RULING ON THIS NOW BEFORE
22 COMPLETING THE DIRECT TESTIMONY.

23 MS. SARIS: AS TO THE STOKKE LETTER? YES.

24 THE COURT: WELL, I'M NOT HEARING THAT THE PEOPLE
25 ARE OBJECTING TO THE USE OF THE STOKKE LETTER.

26 MS. SARIS: WE DON'T WANT TO WAIVE ANY DOYLE
27 ISSUE BY BRINGING IN STOKKE. AND WE DON'T THINK, UNDER
28 DOYLE, THAT WE HAVE TO.

1 MR. JACKSON: WELL, I WAS NOT AWARE THAT COUNSEL
2 WAS INTENDING TO USE A QUOTE, UNQUOTE, "STOKKE" LETTER.
3 AND BASED ON THAT THE REPRESENTATIONS, I THINK THERE
4 WOULD BE A HEARSAY OBJECTION IF THAT'S WHAT COUNSEL IS
5 INTENDING TO USE IT FOR. AND SHE'S JUST HANDED ME THE
6 LETTER.

7 THE COURT: ALL RIGHT.

8 MS. SARIS: NO. IT WOULD NOT BE FOR THE -- IT
9 WOULD BE FOR THE IDEA THAT MR. STOKKE WAS MR. GOODWIN'S
10 LAWYER. THAT HE WAS SENT A LETTER. AND THAT HE WROTE ON
11 THE LETTER, WHICH IS NOT HEARSAY. THIS IS HIS PAST
12 RECOLLECTION RECORDED -- JUST HIS WRITING WHICH IS, "LEFT
13 MESSAGE FOR AL STOKKE,".

14 IN OTHER WORDS, THEY WERE IN CONTACT. AND
15 THAT'S THE ONLY THING THAT WE'RE TRYING TO ESTABLISH.
16 MR. GRIGG'S NOTE ON THE LETTER ACKNOWLEDGES RECEIPT OF A
17 LETTER FROM AL STOKKE AND THE DATE.

18 MR. JACKSON: I HAVE NO PROBLEM WITH THAT. THE
19 LAST PARAGRAPH OF THIS LETTER INDICATES, AS I HAVE TOLD
20 YOU BEFORE, I'M IN REGULAR COMMUNICATION WITH MY CLIENT.
21 HE'S NOT RUNNING OR HIDING FROM YOU.

22 IF YOU WANT HIM PRESENT IN CALIFORNIA FOR
23 ANY LAWFUL REASON, I'LL PRODUCE HIM. I ASSUME THAT'S
24 WHAT COUNSEL WAS REFERRING TO BECAUSE SHE ACTUALLY PUT
25 THAT IN HER OPENING STATEMENT.

26 MS. SARIS: AND WE'RE INTENDING ON BRINGING
27 MR. STOKKE STILL IF HE'S AVAILABLE STILL. AND WHAT WE
28 WOULD SOLICIT FROM MR. GRIGGS IS THAT, AS A RESULT OF

1 THIS LETTER, HE HAD AN AWARENESS OF MR. GOODWIN'S
2 PRESENCE AND DID NOT ATTEMPT TO BRING HIM IN. THE
3 IMPLICATION IS THAT, SOMEHOW, MR. GOODWIN WAS IN SOME
4 SORT OF SADDAM HUSSEIN HOLE HIDING FROM THESE COPS WHO
5 WERE TRYING TO ARREST HIM IMMINENTLY FOR THIS MURDER.
6 AND THAT NEVER OCCURRED.

7 THE COURT: WELL, I THINK YOU CAN ASK HIM ABOUT
8 THE LETTER.

9 MR. JACKSON: WITHOUT PUBLISHING IT TO THE
10 JURORS.

11 THE COURT: RIGHT.

12 MS. SARIS: I WASN'T INTENDING ON PUBLISHING TO
13 THE JURORS. HOWEVER, I WAS INTENDING TO SHOW HIM HIS OWN
14 HANDWRITING ON THE LETTER WHICH HE ACKNOWLEDGES.
15 INDICATING THAT HE DID RECEIVE A LETTER FROM AL STOKKE,
16 OBVIOUSLY NOT ONLY TO REFRESH HIS RECOLLECTION, BUT IT
17 WOULD BE A PAST RECOLLECTION RECORDED THAT HE LEFT A
18 MESSAGE IN OCTOBER OF '88 IN AL STOKKE'S OFFICE.
19 INDICATING THAT THEY WERE IN CONTACT.

20 MR. JACKSON: AND THE ONLY -- ONCE AGAIN, THE
21 ONLY PROBLEM THAT I WOULDN'T HAVE -- I WOULD HAVE NO
22 OBJECTION UP TO THAT POINT IF COUNSEL THEN SAID, "AND
23 ISN'T IT TRUE THAT MR. STOKKE TOLD YOU THAT HE COULD
24 PRODUCE HIS CLIENT". THAT'S THE HEARSAY OBJECTION, AND
25 THAT WOULD BE OBJECTIONABLE.

26 THE COURT: RIGHT.

27 MR. JACKSON: BUT IF WE DON'T GO THAT FAR THEN I
28 DON'T KNOW THAT IT'S RELEVANT.

1 THE COURT: ALL RIGHT.

2 MS. SARIS: I MEAN, HE CERTAINLY HAD AN
3 UNDERSTANDING BASED ON THE LETTER. I'M NOT GOING TO ASK
4 HIM FOR THE CONTENT THE LETTER. BUT I WILL ASK, "DID YOU
5 ASK YOU AL STOKKE TO PRODUCE MR. GOODWIN?"

6 THE COURT: I'M SORRY.

7 MS. SARIS: DID YOU ASK AL STOKKE TO BRING
8 MR. GOODWIN BACK TO CALIFORNIA AT ANY POINT, OR DID YOU
9 AND MR. STOKKE IN OCTOBER OF '88 TO TELL YOU WHERE --
10 NONE OF THIS OCCURRED. IN OTHER WORDS, THERE WAS NO
11 WARRANT, THERE WAS NO FILING, AND HE NEVER ASKED FOR
12 MR. GOODWIN TO COME IN.

13 THE COURT: WELL, BUT YOU KNOW, THE PROBLEM IS IF
14 YOU TAKE IT TO THAT NEXT STEP, THEN IT DOES RAISE THE
15 ISSUE OF WHETHER OR NOT THE PEOPLE CAN USE THE
16 INVOCATION.

17 MS. SARIS: ONLY IF HE --

18 THE COURT: BECAUSE IT IS MISLEADING.

19 MS. SARIS: ONLY IF THE INVOCATION IS USED TO
20 INCRIMINATE MR. GOODWIN. AND THAT'S EXACTLY WHAT DOYLE
21 REFUSES TO DO. IN OTHER WORDS, THE FACT THAT A DEFENDANT
22 IS WILLING TO MAKE HIMSELF AVAILABLE IS THE ONLY ISSUE,
23 AND THAT'S NOT MISLEADING.

24 THE COURT: WELL --

25 MS. SARIS: TO THEN TURN AND SAY HE INVOKED AND
26 THEREFORE HE IS HIDING OR CHEATING OR LYING, THAT'S WHAT
27 DOYLE PREVENTS. THERE IS NO POINT, THERE IS NO PURPOSE
28 OF THE RIGHT TO REMAIN SILENT IF, ONCE YOU USE IT, IT'S

1 HELD AGAINST YOU.

2 THE COURT: OKAY. YOU WANT TO PRESENT
3 INFORMATION THROUGH DETECTIVE GRIGGS THAT DETECTIVE
4 GRIGGS NEVER CONTACTED MR. STOKKE TO BRING IN
5 MR. GOODWIN; IS THAT WHAT YOU'RE SAYING?

6 MS. SARIS: AFTER HE FOUND OUT THAT MR. GOODWIN
7 WAS IN FLORIDA, YES.

8 THE COURT: AFTER THE MURDERS, AFTER THE FIRST
9 CONTACT HE HAD WITH MR. GOODWIN AND MR. STOKKE WHERE
10 THERE WAS GOING TO BE NO DISCUSSION BASICALLY BETWEEN
11 MR. GOODWIN AND MR. GRIGGS. YOU NOW WANT TO PRESENT THE
12 FACT THAT GRIGGS NEVER CONTACTED STOKKE TO BRING IN
13 GOODWIN; RIGHT?

14 MS. SARIS: HE WAS NEVER LOOKING FOR MR. GOODWIN
15 TO COME BACK TO CALIFORNIA, YES. HE HAD THE OFFER ON THE
16 TABLE.

17 THE COURT: HE HAD WHAT OFFER?

18 MS. SARIS: TO BRING IN MR. GOODWIN.

19 THE COURT: WELL, BUT I'M NOT HEARING THAT HE HAD
20 AN OFFER TO HAVE MR. GOODWIN SPEAK TO HIM.

21 MS. SARIS: THE LAW DOESN'T REQUIRE THAT. THE
22 LAW REQUIRES THAT IF THE DETECTIVE ASKS FOR HIM TO COME
23 BACK TO THE JURISDICTION THAT HE COULD HAVE ASKED THAT
24 LAWYER TO DO THAT.

25 THE COURT: WHAT WOULD BE -- I DON'T KNOW WHERE
26 WE'RE GOING WITH THIS.

27 MS. SARIS: WELL, THE IMPLICATION IS THAT HE WAS
28 HIDING FROM THAT REQUEST, AND THAT'S NOT THE CASE. THE

1 LAW ALLOWS MR. GOODWIN TO COME BACK AND REMAIN SILENT.

2 NOW, THE FACT THAT MR. GRIGGS CHOSE NOT TO
3 DO THAT BECAUSE HE DIDN'T THINK IT WOULD GET ANY HIM
4 ANYWHERE, THAT'S WHAT DOYLE COVERS. WHAT THE PEOPLE'S
5 THRUSTS HAVE BEEN, REGARDING ALL THIS EVIDENCE ABOUT
6 FLORIDA, IS THAT MR. GOODWIN WAS SOMEHOW HIDING.

7 MR. GOODWIN'S INVOCATION OF HIS RIGHT TO
8 REMAIN SILENT CAN'T BE HELD AGAINST HIM. SO THE ONLY
9 THING THAT THEY'RE HOLDING AGAINST HIM IS THE FACT THAT
10 HE DIDN'T SIT DOWN IN THE OFFICE WITH THEM.

11 THE COURT: BUT I THINK I THINK YOU ARE MISSING
12 SOMETHING HERE. THE PEOPLE ARE NOT SEEKING TO USE THIS
13 INFORMATION TO IMPEACH MR. GOODWIN. THE PROBLEM IS YOU
14 ARE SEEKING TO USE A LETTER THAT WAS WRITTEN ON
15 MR. GOODWIN'S BEHALF TO ASK THEN THE JURY TO INFER FROM
16 THAT THAT MR. GOODWIN WAS COOPERATING WITH LAW
17 ENFORCEMENT.

18 MS. SARIS: NOT AT ALL. TO INFER FROM THAT THAT
19 MR. GOODWIN WOULD HAVE COME TO CALIFORNIA TO FACE ANY
20 WARRANT, ANY ARREST, ANY CHARGES.

21 THE COURT: YOU CAN ASK ABOUT; WAS THERE A
22 WARRANT ISSUED; WAS THERE A COMPLAINT FILED; WAS THERE
23 ANY BELIEF AT THAT POINT THAT GRIGGS HAD PROBABLE CAUSE
24 TO ARREST. I MEAN YOU CAN GO IN TO THAT, BUT THE LETTER
25 DOES SEEM TO SUGGEST THAT MR. STOKKE IS BASICALLY TELLING
26 MR. GRIGGS THAT MR. GOODWIN IS AVAILABLE WHEN MR. GRIGGS
27 KNOWS THAT. SO WHAT? WHAT IS THE RELEVANCE OF THAT TO
28 GRIGGS AT THAT POINT?

1 MS. SARIS: SO UNLESS A SUSPECT IS COMING IN TO
2 CONFESS? THAT'S EXACTLY WHAT DOYLE COVERS.

3 THE COURT: NO.

4 MS. SARIS: THAT WHAT DOYLE SAYS THOUGH, THAT YOU
5 ARE ALLOWED TO COME TO THE STATION, YOU ARE ALLOWED TO
6 DISCUSS THAT YOU CAME TO THE STATION WITHOUT IT BEING
7 TURNED AGAINST YOU THAT YOU INVOKED YOUR RIGHT.

8 THE COURT: BUT THE PROBLEM IS YOU ARE ASKING THE
9 JURY TO DRAW AN INFERENCE BECAUSE OF THE FAILURE OF
10 GRIGGS TO CONTACT STOKKE TO BRING IN GOODWIN.

11 MS. SARIS: IT'S THE INFERENCE THE PEOPLE ARE
12 ASKING TO DRAW THAT SOMEHOW MR. GOODWIN WIN WAS THEREFORE
13 IN HIDING.

14 THE COURT: NO. I HAVEN'T HEARD ANYTHING ABOUT
15 ANY CONTACT WITH MR. GOODWIN.

16 MS. SARIS: IS THE COURT INTENDING TO GIVE THE
17 FLIGHT AFTER CRIME INSTRUCTION?

18 THE COURT: BASED ON THE EVIDENCE I'VE HEARD SO
19 FAR?

20 MS. SARIS: YES.

21 THE COURT: YES.

22 MS. SARIS: THEN THIS IS RELEVANT.

23 THE COURT: IT MAY BE RELEVANT, BUT I DON'T KNOW
24 HOW I PRECLUDE THE PEOPLE FROM ASKING THAT QUESTION.

25 MS. SARIS: HOW IS IT FLIGHT AFTER CRIME IF YOUR
26 LAWYER OFFERS TO MAKE YOU AVAILABLE? THAT'S THE ISSUE.
27 AND IF YOUR LAWYER OFFERS TO MAKE YOU AVAILABLE AND
28 INVOKE, THAT'S WHAT DOYLE PROTECTS.

1 THE COURT: WELL, I'M NOT SO SURE THAT THAT'S A
2 CORRECT INTERPRETATION OF DOYLE. THAT'S WHY I WANTED TO
3 READ IT.

4 MR. JACKSON: AND THE ONLY THING THAT I WOULD
5 SUGGEST TO THE COURT YOUR HONOR, IS THAT WE'VE
6 SEMANTICALLY I THINK WE SHOULD BE ACCURATE. COUNSEL HAS
7 USED THE TERM "INVOKE" SEVERAL TIMES. I'VE REFERRED TO A
8 MARCH -- COUPLE OF MEETINGS. THERE IS NO SUCH THING AN
9 INVOCATION WHEN THERE IS NO CUSTODIAL INTERROGATION.
10 MIRANDA IS STILL MIRANDA.

11 AND DOYLE DEALS WITH AN INVOCATION BEING
12 USED AGAINST SOMEONE WHO WAS SUBJECT TO MIRANDA. THERE
13 WAS NO CUSTODY. AND THEREFORE, ANY ATTEMPTED
14 INTERROGATION OF MR. GOODWIN WOULD NOT HAVE BEEN SUBJECT
15 TO MIRANDA WARNINGS. THEREFORE, DOYLE DOES NOT APPLY.

16 SO I JUST WANT TO MAKE SURE WE'RE TALKING
17 ABOUT THE SAME THING. I'M NOT TALKING ABOUT THE OCTOBER
18 LETTER, JUST THE MARCH INCIDENT WHERE HE SAYS --

19 THE COURT: IT'S AS IF MR. STOKKE WAS CALLED AS A
20 WITNESS. LET'S JUST ASSUME, FOR SAKE OF ARGUMENT HE'S
21 CALLED AS A WITNESS, AND YOU WANT TO INQUIRE MS. SARIS AS
22 TO WHETHER OR NOT HE MADE HIS CLIENT AVAILABLE IN THE
23 OCTOBER LETTER, AND THAT'S BASICALLY WHAT YOU'RE TRYING
24 TO DO. ARE YOU THEN SAYING THAT THE PEOPLE SHOULD NOT BE
25 PERMITTED TO BRING OUT MR. STOKKE'S PRIOR INCONSISTENT
26 STATEMENT?

27 MS. SARIS: NO, BECAUSE HE WAS PHYSICALLY -- IT'S
28 NOT INCONSISTENT. HE WAS PHYSICALLY AVAILABLE. WHICH IS

1 ALL THE LAW REQUIRES THAT HE DO WITH HIS CLIENT AND ALL
2 THE LAWS REQUIRES A DEFENDANT DO IN ANY SITUATION.

3 THE COURT: HE WAS FULLY AVAILABLE TO COME IN AND
4 TALK TO SOMEONE BUT WITHOUT TALKING; IS THAT WHAT YOU ARE
5 A SAYING?

6 MS. SARIS: YES. IF THEY WANTED TO COMPEL SOME
7 SORT OF THE BLOOD TEST, IF THEY WANTED TO COMPEL SOME
8 SORT OF HAIR TEST, IF THEY WANTED TO PUT HIM UNDER
9 ARREST, HE WAS MAKING HIM AVAILABLE.

10 THE COURT: I THINK, YOU KNOW, IF YOU INQUIRE AND
11 ASK THE JURY TO DRAW THAT INFERENCE, THAT THE PEOPLE WILL
12 BE PERMITTED TO BRING OUT MR. STOKKE'S PRIOR INCONSISTENT
13 STATEMENT. NOT MR. GOODWIN'S INVOCATION, BECAUSE THERE'S
14 NO INVOCATION, BUT MR. STOKKE'S PRIOR INCONSISTENT
15 STATEMENT THAT HE INSTRUCTED DETECTIVE GRIGGS THAT HIS
16 CLIENT WOULD NOT BE SPEAKING.

17 I THINK THAT'S PROPER CROSS-EXAMINATION IF
18 THAT'S WHAT YOU'RE GOING TO DO ON DIRECT. AND IT DOESN'T
19 FALL UNDER DOYLE BECAUSE THERE IS NO INVOCATION. I VIEW
20 IT AS A PRIOR INCONSISTENT STATEMENT BY MR. STOKKE.
21 SO ARE WE READY?

22 MS. SARIS: "IF YOU WANT HIM PRESENT, I WILL
23 PRODUCE HIM". HOW IS THAT AN INCONSISTENT STATEMENT? HE
24 WOULD HAVE PRODUCED HIM.

25 THE COURT: AGAIN, THAT STATEMENT IS INCONSISTENT
26 WITH MR. STOKKE BASICALLY SAYING, "HERE HE IS BUT HE'S
27 NOT GOING TO SAY ANYTHING."

28 MS. SARIS: OUR POSITION IS THAT THE PRODUCTION

1 IS ALL THAT MATTERS.

2 THE COURT: NO, IT'S NOT THE PRODUCTION BECAUSE
3 YOU'RE TRYING TO SHOW THAT GRIGGS DIDN'T DO SOMETHING
4 GIVEN THE FACT THAT HE WAS OFFERED UP MR. GOODWIN. WELL,
5 THE REALITY IS HE WAS OFFERED THE PRESENCE. HE WAS NOT
6 OFFERED THE COOPERATION. SO IF YOU WANT THEM TO DRAW AN
7 INFERENCE FROM THAT LETTER, I THINK THE PEOPLE CAN ALSO
8 BRING OUT THE FACT THAT MR. STOKKE DREW SOME LIMITATION
9 ON --

10 MS. SARIS: THAT'S FINE.

11 THE COURT: -- ON THE CONTENT.

12 MS. SARIS: AND I GUESS THAT WHEN WE HAVE THE
13 FLIGHT AFTER CRIME, WE WOULD ASK FOR THAT INSTRUCTION TO
14 BE MODIFIED BECAUSE HE WAS WILLING TO PRODUCE HIS BODY
15 JUST NOT HIS DISCUSSION.

16 THE COURT: YOU KNOW, I'M NOT HEARING ANYTHING TO
17 CONTRADICT FLIGHT AFTER CRIME SO FAR, BUT YOU CAN ARGUE
18 WHATEVER YOU WANT. AND YOU CAN REQUEST WHATEVER SPECIAL
19 INSTRUCTION YOU WANT IN THAT REGARD.

20 SO I MEAN, I ASSUME YOU'VE INDICATED ALL
21 ALONG YOUR CLIENT IS GOING TO TESTIFY. I ASSUME THIS IS
22 GOING TO COME OUT AT SOME POINT ON DIRECT EXAMINATION.
23 AND YOU CAN CERTAINLY ARGUE THAT THE INFERENCE IN THE
24 FLIGHT INSTRUCTION THAT THE PEOPLE ARE ASKING THE JURY TO
25 DRAW IS UNREASONABLE.

26 MS. SARIS: SO IF MR. GOODWIN TESTIFIES, IS THE
27 COURT GOING TO ALLOW THE INVOCATION TO BE USED AGAINST
28 HIM?

1 THE COURT: IF MR. GOODWIN TESTIFIES THAT HE
2 BASICALLY MADE HIMSELF AVAILABLE TO LAW ENFORCEMENT, THAT
3 WOULD CONTRADICT, OR AT LEAST WEIGH AGAINST, THE
4 INFERENCE ON THE FLIGHT INSTRUCTION THAT THE PEOPLE WANT
5 THE JURY TO DRAW. I'M NOT SAYING WHETHER OR NOT THE
6 PEOPLE WILL BE PERMITTED TO QUESTION HIM ANY FURTHER ON
7 THAT. I DON'T NEED TO ADDRESS THAT TODAY. BUT YOU WERE
8 ADDRESSING THE USE OF THE FLIGHT INSTRUCTION.

9 ALL RIGHT. LET'S BRING THE JURY IN. AND
10 I ASSUME GRIGGS IS YOUR NEXT WITNESS?

11 MS. SARIS: YES.

12 THE COURT: OFF THE RECORD.

13 (DISCUSSION OFF THE RECORD.)

14 MR. JACKSON: SO THE RECORD IS CLEAR, YOUR HONOR,
15 MAY THE RECORD REFLECT THAT MRS. CAMPBELL IS STEPPING OUT
16 OF THE COURTROOM?

17 THE COURT: YES. SHE'S LEAVING THE COURTROOM.

18
19 (THE JURY ENTERED THE COURTROOM

20 AND THE FOLLOWING PROCEEDINGS WERE
21 HELD IN OPEN COURT.)

22
23 THE COURT: IS EVERYBODY FEELING WELL THIS
24 MORNING?

25 JURORS: YES, YOUR HONOR.

26 THE COURT: ALL RIGHT. RESUMING ON THE RECORD
27 THEN ON THE GOODWIN MATTER. HE IS PRESENT WITH COUNSEL.
28 THE PEOPLE ARE REPRESENTED. OUR JURORS AND ALTERNATES

1 ARE ONCE AGAIN PRESENT. GOOD MORNING, LADIES AND
2 GENTLEMEN.

3 BEFORE WE GET FOR THE DEFENSE'S NEXT
4 WITNESS, I WANT TO TELL YOU WHAT WE DID WITH RESPECT TO
5 THE EXHIBITS IN THIS CASE. THE COURT IS ADMITTING ALL OF
6 THE PEOPLE'S EXHIBITS WITH THE EXCEPTION OF THE
7 FOLLOWING. NO. 2, NO. 32, NO. 50, NO. 77, 78, 102, AND
8 103. SO ALL OF THE OTHER EXHIBITS THAT WERE MARKED WILL
9 BE ADMITTED INTO EVIDENCE AND YOU WILL HAVE THOSE
10 AVAILABLE DURING YOUR DELIBERATIONS.

11
12 (PEOPLE'S EXHIBITS RECEIVED
13 INTO EVIDENCE.)
14

15 THE COURT: MS. SARIS, YOU MAY CALL YOUR NEXT
16 WITNESS.

17 MS. SARIS: THANK YOU, YOUR HONOR. DEFENSE CALLS
18 MICHAEL GRIGGS.

19
20 MICHAEL GRIGGS,
21 CALLED BY THE DEFENSE AS A WITNESS, WAS
22 SWORN AND TESTIFIED AS FOLLOWS:
23

24 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

25 DO YOU SOLEMNLY STATE THAT THE TESTIMONY
26 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
27 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
28 TRUTH SO HELP YOU GOD.

1 THE WITNESS: I DO.

2 THE CLERK: THANK YOU. PLEASE BE SEATED.

3 SIR, WOULD YOU PLEASE STATE AND SPELL BOTH
4 YOUR FIRST AND LAST NAME FOR THE RECORD.

5 THE WITNESS: MICHAEL W. GRIGGS G-R-I-G-G-S.

6 THE CLERK: THANK YOU.

7 THE COURT: BEFORE WE START.

8 (DISCUSSION OFF THE RECORD.)

9 ALL RIGHT. YOU MAY INQUIRE.

10 MS. SARIS: THANK YOU.

11

12 DIRECT EXAMINATION

13 BY MS. SARIS:

14 Q GOOD MORNING, MR. GRIGGS.

15 A MORNING.

16 Q ARE YOU CURRENTLY EMPLOYED?

17 A NO, I AM NOT.

18 Q ARE YOU RETIRED?

19 A 15 YEARS AGO.

20 Q AND FROM WHAT DID YOU RETIRE?

21 A LOS ANGELES COUNTY SHERIFF'S DEPARTMENT.

22 Q AND WERE YOU ONE OF THE DETECTIVES ON THE
23 CASE OF THE MURDER OF MICKEY AND TRUDY THOMPSON?

24 A YES.

25 Q WERE YOU THE LEAD INVESTIGATOR AT THAT
26 TIME?

27 A YES, I WAS.

28 Q AS SUCH, DID YOU RESPOND TO THE CRIME

1 SCENE ITSELF?

2 A YES, I DID.

3 Q DO YOU HAVE A SPECIFIC RECOLLECTION AS YOU
4 SIT HERE NOW OF MANY THE DETAILS OF THAT EVENT?

5 A NO.

6 Q DID YOU TAKE NOTES AT THE TIME OF YOUR
7 EVENT REGARDING YOUR OBSERVATIONS?

8 A YES.

9 Q HOW WAS IT THAT, IF YOU RECALL -- WAS
10 THERE MORE THAN ONE DETECTIVE THAT RESPONDED THAT
11 MORNING?

12 A I THINK THERE EVENTUALLY WERE SIX TO TEN
13 CALLED TO THE SCENE FROM THE HOMICIDE BUREAU ITSELF.
14 THERE WERE NUMEROUS CRIMINALISTS AND SUCH ALSO.

15 Q AND WHO WAS IN CHARGE OF ALL THOSE
16 DETECTIVES AND CRIMINALISTS?

17 A WELL, I WAS AS FAR AS THE HOMICIDE
18 INVESTIGATORS. THE CRIMINALIST AND SUCH HAVE THEIR OWN
19 SUPERVISION LINE, BUT THEY ARE DIRECTED BY THE HOMICIDE
20 INVESTIGATORS AT THE SCENE.

21 Q AND DID YOU -- WERE YOU THE ONE THAT
22 DELEGATED WHAT DUTIES EACH OF THE DETECTIVES HAD TO
23 PERFORM?

24 A I ASSIGNED THEM TO INTERVIEW WITNESSES OR
25 TAKE SCENE NOTES OR WHATEVER ELSE NEEDED TO BE DONE AT
26 THE TIME.

27 Q WAS THERE A VIDEO MADE THAT MORNING?

28 A I DID NOT REMEMBER IT UNTIL A CONVERSATION

1 WITH YOU LAST NIGHT. YOU SAID THERE WAS. I DID NOT
2 RECALL THAT THERE HAD BEEN ONE.

3 Q OKAY. YOU DON'T RECALL SOMEONE FOLLOWING
4 YOU AROUND WITH A CAMERA AS YOU POINTED OUT THE VARIOUS
5 ITEMS?

6 A NO, I DON'T.

7 Q I TAKE IT YOU WORKED ON MORE THAN ONE
8 HOMICIDE WHEN YOU WERE EMPLOYED AS A SHERIFF?

9 A I WAS AT THE HOMICIDE BUREAU FROM 1978 TO
10 1992.

11 Q DRAWING YOUR ATTENTION TO THIS PARTICULAR
12 CASE, I'M GOING TO ASK YOU SOME QUESTIONS ABOUT THE CRIME
13 SCENE ITSELF. AND IF YOU NEED TO REFER TO ANY OF YOUR
14 ORIGINAL NOTES, TO REFRESH YOUR RECOLLECTION, PLEASE LET
15 ME KNOW.

16 DO YOU RECALL A VAN BEING CRASHED AT THAT
17 CRIME SCENE?

18 A A VAN?

19 Q A VAN, YES.

20 A I KNOW THERE WAS A BROWN VAN. I THINK IT
21 WAS A TOYOTA IN THE DRIVEWAY. I DON'T REMEMBER IT
22 CRASHED.

23 Q AND DO YOU RECALL RECOVERING ITEMS FROM
24 THAT VAN?

25 A NO. NOT UNTIL YOU BROUGHT IT TO MY
26 ATTENTION LAST NIGHT, NO.

27 Q AND DID YOU AND I MEET FOR THE FIRST TIME
28 LAST EVENING?

1 A YES, WE DID. WELL, NOT EXACTLY THE FIRST
2 TIME, BUT THE FIRST TIME WE HAD A CONVERSATION.

3 Q REGARDING THIS CASE?

4 A YES.

5 Q DO YOU RECALL THAT -- SEEING IN YOUR
6 NOTES -- THAT THERE WAS A PURSE RECOVERED INSIDE THE VAN?

7 MR. JACKSON: OBJECTION. THIS IS LEADING.

8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: WOULD LOOKING AT YOUR NOTES
10 REFRESH YOUR RECOLLECTION AS TO WHAT MIGHT HAVE BEEN
11 RECOVERED?

12 A IT WOULD HELP, PROBABLY.

13 Q OKAY.

14 MS. SARIS: MAY I APPROACH?

15 THE COURT: YES.

16 Q BY MS. SARIS: DOES THIS APPEAR TO BE YOUR
17 HANDWRITING IN THESE NOTES?

18 A MY HANDWRITING IS PRETTY DISTINCTIVE. IT
19 IS MINE.

20 Q AND IF YOU COULD FOR US, CAN YOU TELL US
21 WHAT IT SAYS REGARDING WHETHER OR NOT THERE WAS A TOYOTA
22 DARK BROWN VAN?

23 MR. JACKSON: OBJECTION. THAT CALLS FOR HEARSAY.

24 MS. SARIS: 1237, YOUR HONOR.

25 MR. JACKSON: NO FOUNDATION.

26 THE COURT: YES. I THINK YOU NEED TO LAY A
27 FOUNDATION.

28 Q BY MS. SARIS: WERE THESE NOTES TAKEN AT

1 THE TIME THAT YOU WERE ON THE CRIME SCENE?

2 A THEY APPEAR TO BE, YES.

3 Q AND WOULD THEY HAVE BEEN TAKEN AS YOU MADE
4 YOUR PERSONAL OBSERVATIONS?

5 A YES.

6 Q AND DOES THAT APPEAR TO BE YOUR
7 HANDWRITING?

8 A OH, YES.

9 Q AND IS THERE ANY REASON FOR YOU TO DOUBT
10 THAT THOSE NOTES REFLECT WHAT YOU SAW THAT MORNING AT THE
11 CRIME SCENE?

12 A THAT WAS PROBABLY WHAT I SAW, YES.

13 Q AND DOES IT REFLECT IN THOSE NOTES THAT
14 YOU SAW A TOYOTA DARK BROWN VAN?

15 A YES, IT DOES.

16 Q AND IN THAT VAN, IF YOU COULD FLIP THROUGH
17 THE NEXT COUPLE OF PAGES AND LET ME KNOW IF YOU NOTED ANY
18 ITEMS THAT WERE RECOVERED FROM A PURSE OR A CAMERA CASE
19 IN AT THAT VEHICLE?

20 A THERE IS A NOTATION IN HERE, IT SAYS
21 "PASSENGER SIDE FRONT WINDOW SHATTERED, NO GARAGE DOOR",
22 I CAN'T EVEN READ IT. "PURSE IN VEHICLE AND CAMERA
23 CASE". AND THEN THERE IS A SECOND ITEMIZATION OF THE
24 PURSE. AND --

25 Q AND LET ME ASK YOU THIS; WAS THERE ANY
26 MONEY RECOVERED?

27 A THERE IS A FIGURE OF \$386 IN U.S. CURRENCY
28 AND A NIKON TYPE CAMERA I GUESS.

1 Q AND WAS THERE ANY OTHER ITEM OF U.S.
2 CURRENCY RECOVERED?

3 A THERE IS A NOTATION IT SAYS 2,750 WITH THE
4 WORDS -- THE ABBREVIATION FOR ENVELOPE UNDER IT.

5 Q SO BASE ON YOUR NOTES, THERE WAS ONLY \$386
6 WAS IN THE WALLET BUT \$2,750 WAS IN AN ENVELOPE SEPARATE
7 FROM THE WALLET?

8 A I DON'T KNOW WHETHER IT WAS SEPARATE.
9 IT'S IN THE SAME SECTION AS THE NOTES, BUT I HAVE NO
10 RECALL AS TO WHETHER OR NOT I FOUND IT IN THE PURSE OR
11 SOMEWHERE ELSE IN THE CAR.

12 Q BUT DOES IT SAY IT WAS IN AN ENVELOPE?

13 A THAT INDICATES TO ME THAT I WAS USING THE
14 ABBREVIATION FOR ENVELOPE, YES.

15 Q AND IF YOU'LL CONTINUE, IF YOU COULD TELL
16 US, WAS THERE ANY JEWELRY RECOVERED FROM INSIDE THE VAN?

17 A THERE IS A NOTATION HERE THAT READS "FIVE
18 GOLD-COLORED RINGS WITH STONE SETTINGS, TWO NECKLACES",
19 SPELLED WRONG, "WITH STONES SETTINGS. ONE GOLD CHAIN
20 WITH GOLD METAL. ONE BRACELET. GOLD AND STONE SETTING".
21 THAT'S ALL I SEE LISTED ON THAT PAGE.

22 MS. SARIS: AND, YOUR HONOR, I HAVE A PHOTOGRAPH,
23 IT'S TWO PHOTOGRAPHS, ONE OF THE VAN AND ONE OF JEWELRY,
24 THEY'VE BEEN ON OTHER BOARDS BUT I HAVE PUT THEM TOGETHER
25 FOR THIS DEFENSE NEXT IN ORDER.

26 THE COURT: NNN.

27 MS SARIS: N LIKE NANCY?

28 THE COURT: YES.

1 (WHEREUPON DEFENDANT'S EXHIBIT
2 NO. NNN WAS MARKED FOR IDENTIFICATION.)
3

4 Q BY MS. SARIS: I'M GOING TO SHOW YOU A
5 PHOTOGRAPH THAT THE JURORS HAVE SEEN BEFORE. LET ME ASK
6 YOU, JUST IN TERMS OF PROCEDURE, DO YOU REMEMBER HAVING
7 ITEMS OF JEWELRY PHOTOGRAPHED INSIDE THE VAN?

8 A NO, I DO NOT.

9 Q DO YOU REMEMBER -- DO YOU KNOW BASED ON
10 YOUR YEARS OF EXPERIENCE AS A HOMICIDE DETECTIVE, WOULD
11 YOU HAVE ALLOWED ITEMS OF JEWELRY TO BE REMOVED FROM A
12 VICTIM'S BODY AND LAID OUT IN A CAR FOUND AT THE CRIME
13 SCENE FOR THE PURPOSES OF PHOTOGRAPHING?

14 MR. JACKSON: I'M SORRY. OBJECTION. THAT CALLS
15 FOR SPECULATION. IT'S ALSO IRRELEVANT WHAT HE WOULD HAVE
16 DONE IN OTHER CIRCUMSTANCES.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER.

19 THE WITNESS: IT WOULD NOT BE A NORMAL PROTOCOL
20 FOR THE CORONER TO REMOVE THE JEWELRY FOR A PHOTO DISPLAY
21 AT THE SCENE. NOW, I DON'T KNOW WHERE THIS JEWELRY
22 THAT'S DEPICTED IN THIS PHOTOGRAPH CAME FROM, BUT I WOULD
23 HAVE TO SAY DUE TO PROTOCOL WE WOULDN'T HAVE TAKEN IT OFF
24 THE DECEASED.

25 Q BY MS. SARIS: DO YOU RECALL THE DECEASED
26 IN THIS CASE, SPECIFICALLY THE FEMALE VICTIM, WEARING ANY
27 PARTICULAR JEWELRY?

28 A YES.

1 Q AND DO YOU RECALL SPECIFICALLY A SQUARE OR
2 RECTANGLE MEDALLION WITH THE NUMBER 10?

3 A NO.

4 Q DO YOU RECALL SPECIFICALLY ANY OF THE
5 JEWELRY?

6 A SHE HAD SOME VERY LARGE RINGS ON HER
7 FINGERS I THINK.

8 Q THAT MORNING THAT YOU WERE AT THE CRIME
9 SCENE, DID YOU NOTE THE PRESENCE OF ANY SORT OF EVIDENCE
10 THAT WORKERS HAD RECENTLY BEEN AT THE SCENE?

11 A I DON'T RECALL ANYTHING UNTIL I WAS SHOWN
12 SOME NOTES LAST NIGHT BY YOU.

13 Q AND WOULD THOSE NOTES HAVE BEEN TAKEN AT
14 THE TIME THAT YOU MADE YOUR OBSERVATIONS?

15 A COULD I SEE THEM PLEASE?

16 Q YES. BUT I'M ASKING YOU IN GENERAL.
17 WOULD THESE HAVE BEEN THE SAME NOTES THAT WOULD HAVE BEEN
18 TAKEN THAT MORNING?

19 A YES.

20 Q AND DO THESE APPEAR TO BE A COPY OF THOSE
21 NOTES IN YOUR HANDWRITING?

22 A IT IS MY HANDWRITING.

23 Q AND PART OF YOUR DUTY THAT MORNING WAS TO
24 DESCRIBE THE SCENE?

25 A YES.

26 Q AND COULD YOU PLEASE TELL US WHAT YOU
27 NOTED IN YOUR NOTES REGARDING THE OUTSIDE?

28 MR. JACKSON: OBJECTION. YOUR HONOR, MAY I HAVE

1 JUST A MOMENT?

2 THE COURT: YES.

3 (PAUSE IN PROCEEDINGS.)

4 MR. JACKSON: THANK YOU, YOUR HONOR.

5 Q BY MS. SARIS: AND WOULD YOU PLEASE LET US
6 KNOW WHAT YOU NOTED REGARDING AN AREA NEAR THE FENCE?

7 A THE FENCE CONTINUES ON THE NORTH SIDE OF
8 THE YARD. THE YARD SHOWS EVIDENCE OF FRESH DIGGING FOR A
9 SPRINKLER OR LIGHT SYSTEM.

10 Q THANK YOU. DO YOU RECALL GETTING A LIST
11 OF EMPLOYEES AT THE THOMPSON HOME THAT MORNING?

12 A NO, I DO NOT.

13 Q DO YOU RECALL ANY TIME IN YOUR
14 INVESTIGATION GETTING A LIST OF EITHER DOMESTIC WORKERS,
15 MECHANICS OR ANYONE THAT MAY HAVE BEEN DIGGING AT THE
16 SCENE?

17 A NO, I HAVE NOT.

18 Q DID YOU TRAVEL ANYWHERE AS PART -- LET ME
19 ASK YOU THIS. DO YOU RECALL THE -- WHILE YOU MAY NOT
20 RECALL THE DETAILS, DO YOU RECALL THIS WAS A GUNSHOT WAS
21 OF THE MANNER OF THE DEATH?

22 A FOR BOTH VICTIMS?

23 Q YES.

24 A YES.

25 Q AT ANY TIME THAT MORNING, OR IN YOUR
26 SUBSEQUENT INVESTIGATION, DID YOU HAVE ANY EVIDENCE THAT
27 MICKEY THOMPSON WAS FORCED TO WATCH TRUDY THOMPSON DIE?
28 DID THAT THEORY EVER OCCUR?

1 MR. JACKSON: OBJECTION. IT'S LEADING. IT ALSO,
2 AS IT'S PHRASED, CALLS FOR HEARSAY IT APPEARS.

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: DID YOU EVER INVESTIGATE
5 THIS CRIME WITH THE EYE TOWARDS PROVING OR DISPROVING
6 THAT MICKEY THOMPSON HAD TO WATCH TRUDY THOMPSON DIE?

7 MR. JACKSON: OBJECTION. THAT'S LEADING.

8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: DID YOU INVESTIGATE THIS
10 CASE WITH AN EYE TOWARDS DETERMINING WHO DIED FIRST?

11 A NO, I DID NOT.

12 Q DID YOU MAKE ANY DETERMINATION WHEN YOU
13 WERE AT THE SCENE, OR DID YOU TRY TO DETERMINE, IF ONE
14 COULD SEE THE OTHER FROM THE PLACES THAT THEY LANDED ON
15 THE DRIVEWAY?

16 A I KNOW THE MALE VICTIM WAS FOUND UP TOWARD
17 THE TOP THE DRIVEWAY AND THE FEMALE VICTIM WAS FOUND DOWN
18 AT THE END OF THE DRIVEWAY MOSTLY IN THE STREET. I CAN'T
19 REMEMBER THE ELEVATION. THE DRIVEWAY WAS ELEVATED, BUT I
20 DON'T KNOW THAT IT WAS SUCH A MANNER OF STEEPNESS THAT HE
21 COULD NOT HAVE SEEN HER OR VICE VERSA.

22 Q BUT DO YOU REMEMBER MAKING IT A POINT TO
23 DETERMINE THAT THAT MORNING?

24 A NO, I DIDN'T. I DON'T REMEMBER DOING IT.

25 Q DO YOU RECALL ANY EVIDENCE OF WHETHER OR
26 NOT TRUDY THOMPSON'S HEAD WAS HELD UP BEFORE IT WAS SHOT?

27 A NOT TO MY KNOWLEDGE.

28 Q AS PART OF YOUR INVESTIGATION AT ALL, DID

1 YOU MAKE ANY EFFORTS TO DETERMINE WHETHER OR NOT -- WELL
2 LET ME ASK YOU THIS: DID YOU TAKE PICTURES OF THE -- OR
3 HAVE TAKEN PICTURES -- EVIDENCE THAT YOU SAW LYING ON THE
4 DRIVEWAY?

5 A THAT WOULD HAVE BEEN DONE BY A
6 PHOTOGRAPHER, YES.

7 Q WOULD THAT HAVE BEEN AT YOUR DIRECTION?

8 A I WOULDN'T HAVE STOOD IT OVER THEM AND
9 TOLD THEM WHAT PICTURES TO TAKE. I WOULD HAVE LET THEM
10 PRETTY MUCH WORK ON THEIR OWN. BUT IF THERE'S SOME HARD
11 TO FIND EVIDENCE OR WHATEVER ELSE, I WOULD HAVE SURELY
12 POINTED THAT OUT.

13 Q DO YOU RECALL MEDIA BEING THERE?

14 A YES.

15 Q AND WERE THEY IN A PARTICULAR AREA OR WERE
16 YOU THEY ALLOWED TO WALK THROUGH CRIME SCENE?

17 A THERE WAS A BLOCK WALL FENCE ON -- I THINK
18 THE NORTH SIDE OF THE RESIDENCE. AND WHEN I GOT TO THE
19 SCENE, THE MAJORITY OF THE MEDIA I SAW WERE BEHIND THAT
20 BLOCK WALL.

21 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

22

23 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

24 THE COURT: WE'RE AT THE SIDEBAR.

25 MS. SARIS: YOUR HONOR, REGARDING THE QUESTIONS
26 WHETHER OR NOT HE INVESTIGATED WHETHER OR NOT
27 MR. THOMPSON HAD TO WATCH TRUDY THOMPSON DIE, IT'S OUR
28 CONTENTION THAT THIS DIDN'T DOESN'T COME ABOUT UNTIL

1 MUCH, MUCH LATER AND HE'S NEVER HEARD OF THIS AT ALL.
2 HE'S NEVER HEARD OF THIS THEORY, OR A POSSIBILITY.

3 I DON'T SEE HOW IT'S LEADING TO ASK
4 WHETHER OR NOT IT CAME UP OR WHETHER HE INVESTIGATED IT.
5 I CAN CERTAINLY UNDERSTAND WHY I CAN'T ASK, "DID YOU HEAR
6 THAT". BUT CERTAINLY WHETHER HE INVESTIGATED THAT AS A
7 POSSIBILITY FROM ANGLES AND TRAJECTORIES, I DON'T
8 UNDERSTAND HOW THAT'S LEADING.

9 THE COURT: MR. JACKSON.

10 MR. JACKSON: IT'S LEADING BECAUSE SHE SUGGESTED
11 THE ANSWER -- THAT THE ANSWER TO THAT QUESTION -- THE
12 NEXT QUESTION IS HOW IS IT RELEVANT WHETHER OR NOT HE
13 THINKS THAT THAT'S A CONSISTENT THEORY. THAT MAY BE A
14 THEORY THAT OTHER INVESTIGATORS OR OTHER LAW ENFORCEMENT
15 PERSONNEL HAVE HARBORED FROM DAY ONE. WHAT HIS THEORY
16 THE CASE IS, AS THE LEAD INVESTIGATOR, IS NOT REALLY
17 RELEVANT FOR THIS JURY. HE CAN'T SAY -- I DON'T THINK
18 SHE IS GOING TO WANT HIM TO SAY, "WELL ONE THEORY I HAD
19 WAS THAT THIS WAS A HIT-STYLE EXECUTION," WHICH IS, IN
20 FACT, IN HIS NOTES AS WELL, BUT SHE WOULDN'T WANT THAT
21 THEORY BECAUSE SHE WILL SAY IT'S IRRELEVANT WHAT HE
22 THINKS, IT'S RELEVANT WHAT THE JURORS THINK.

23 MS. SARIS: I'M NOT ASKING FOR HIS THEORY. I'M
24 ASKING WHAT THEY INVESTIGATED THAT MORNING. BECAUSE I'M
25 NOT ASKING FOR HIS THEORY AT ALL. DID YOU INVESTIGATE
26 THIS, DID YOU TAKE MEASUREMENTS FOR THIS, DID YOU TAKE
27 ANGLES AND TRAJECTORIES FOR THIS. IT'S NOT WHAT HE
28 THINKS ABOUT WHAT OCCURRED IT'S WHETHER OR NOT THAT WAS

1 INVESTIGATED THAT MORNING.

2 THE COURT: WELL, BUT THE WHOLE THRUST OF THIS
3 EXAMINATION IS TO DEMONSTRATE THAT HE DIDN'T INVESTIGATE
4 WHETHER OR NOT MICKEY COULD SEE TRUDY BEING SHOT. RIGHT?

5 MS. SARIS: NO, NOT AT ALL. HE DIDN'T DO IT. HE
6 DIDN'T -- HE JUST INVESTIGATED THIS CRIME SCENE. HIS
7 THEORIES ARE SUPERIMPOSED ON IT LATER.

8 THE COURT: RIGHT. YOU CAN ASK HIM WHAT HIS
9 THEORY WAS.

10 MS. SARIS: I DON'T WANT TO KNOW HIS THEORY, AND
11 I DON'T THINK HIS THEORY IS RELEVANT. THE QUESTION IS
12 WHAT DID HE INVESTIGATE.

13 THE COURT: THEN IF HIS THEORY ISN'T RELEVANT,
14 THE OBJECTION IS SUSTAINED. BUT YOU CAN ASK HIM HIS
15 THEORY. THE OBJECTION ON THE PART OF MR. JACKSON EARLIER
16 WAS LEADING, AND I SUSTAINED IT ON THOSE GROUNDS, BUT THE
17 KNEW OBJECTION OF RELEVANCE IS I THINK A GOOD OBJECTION
18 HOW IS IT RELEVANT, WHAT HIS THEORY IS.

19 MS. SARIS: I'M NOT INQUIRING ABOUT HIS THEORY.
20 I'M ASKING WHEN HE WAS OUT ON THE SCENE TAKING
21 MEASUREMENTS WAS HE LOOKING AT A SPECIFIC EYE TOWARDS
22 SOMETIMES YOU DECIDE WHERE THE PERSON STANDS -- I MEAN --
23 I'LL BREAK IT DOWN THAT WAY.

24 THE COURT: OKAY.

25 MR. JACKSON: YOUR HONOR, HE, UNLESS I MISHEARD
26 THE QUESTION, I THINK MS. SARIS ASKED HIM THAT EXACT
27 QUESTION. HE SAID "NO". I THINK HER QUESTION WAS, AND I
28 DIDN'T OBJECT, WAS "DID YOU INVESTIGATE THIS WITH AN EYE

1 TOWARD FINDING OUT WHO WAS SHOT FIRST?".

2 THE COURT: RIGHT. THAT WAS ASKED.

3 MR. JACKSON: AND HE SAID "NO". HE SHRUGGED AND
4 SAID "NO". HE SHRUGGED AND SAID "NO". SO I THINK THAT'S
5 IN EVIDENCE.

6 THE COURT: OKAY.

7 (SIDE BAR DISCUSSION CONCLUDED.)

8
9 Q BY MS. SARIS: DO YOU REMEMBER A GARAGE
10 DOOR BEING PART OF THIS HOUSE -- OR A GARAGE BEING PART
11 OF THIS CRIME SCENE?

12 A YES.

13 Q AND DO YOU REMEMBER WHETHER OR NOT THE
14 GARAGE DOOR HAD BULLET HOLES IN IT?

15 A NO, I DO NOT, NOT INDEPENDENTLY. YOU
16 SHOWED ME SOME PICTURES LAST NIGHT THAT THAT DEPICTED
17 THAT.

18 Q AND DID YOU SAY YOU COULDN'T TELL WHICH
19 GARAGE THAT WAS?

20 A I JUST SAW THAT IT WAS A GARAGE DOOR
21 HANDLE AND THERE WAS SOME WOOD FRAGMENTS DISTURBED, BUT I
22 DIDN'T REMEMBER THAT AS THE GARAGE FROM THAT RESIDENCE,
23 NO.

24 Q DO YOU KNOW WHAT A CLUE SHEET IS?

25 A YES, I DO.

26 Q AND.

27 MS. SARIS: YOUR HONOR, I HAVE A CLUE SHEET I
28 WOULD LIKE TO HAVE MARKED DEFENSE NEXT IN ORDER. I'VE

1 SHOWN IT TO COUNSEL. O.

2 THE COURT: OOO.

3

4 (WHEREUPON DEFENDANT'S EXHIBIT NO.
5 OOO WAS MARKED FOR IDENTIFICATION.)

6

7 Q BY MS. SARIS: LET ME SHOW YOU AN EXAMPLE
8 OF A CLUE SHEET. DOES THAT LOOK LIKE A CLUE SHEET?

9 A YES. THE FIRST TIME I SAW THIS FORM WAS
10 DURING THE NIGHT STALKER INVESTIGATION. I THINK THAT'S
11 WHEN WE FIRST INITIATED THE USAGE OF THEM.

12 Q AND WITHOUT TALKING ABOUT INFORMATION YOU
13 PUT ON IT, CAN YOU TELL US IN GENERAL TERMS WHAT KIND OF
14 INFORMATION A SHEET LIKE THAT WOULD CALL FOR AND WHAT
15 IT'S PURPOSE IN THE INVESTIGATION IS?

16 A WELL, OF COURSE YOU WOULD WANT TO KNOW WHO
17 CALLED IN, WHO THE INFORMATION WAS ABOUT IF IT WAS ABOUT
18 A SPECIFIC PERSON. ANY ADDITIONAL INFORMATION THAT WOULD
19 TELL YOU HOW TO FIND, CONTACT THIS PERSON, AND GET BACK
20 TO THE INFORMANT.

21 Q WERE SEVERAL OF THESE GENERATED AFTER
22 TELEVISION SHOWS?

23 A YES. I USUALLY LEFT A BOX OF THEM UP AT
24 THE FRONT DESK FOR PEOPLE TO FILL OUT AFTER THE
25 TELEVISION SHOW WAS ON.

26 Q AND WHO WOULD GENERALLY -- WHO COULD BE
27 SOMEONE WHO WOULD FILL THIS OUT?

28 A WE HAD HOMICIDE INVESTIGATORS ASSIGNED 24

1 HOURS A DAY TO ANSWER PHONES. DURING THE 9:00 TO 5:00
2 HOURS A WEEK, DURING THE WEEK, WE HAD CIVILIAN EMPLOYEES
3 WHO ANSWERED THE PHONE ALONG WITH AN OFFICER ALWAYS THERE
4 AVAILABLE.

5 Q AND WERE THOSE SAVED REGARDLESS OF WHETHER
6 OR NOT THEY LEAD ANYWHERE?

7 A YES. TO MY KNOWLEDGE.

8 Q EVEN SOME OF THE ONES THAT WERE BIZARRE?

9 A YES.

10 Q THE ONE THAT I PUT IN FRONT OF YOU
11 INDICATES THAT A CALLER BELIEVES THE KILLER IS --

12 MR. JACKSON: OBJECTION, YOUR HONOR, THIS IS
13 LEADING. IT APPEARS TO BE IRRELEVANT.

14 THE COURT: SUSTAINED.

15 MS. SARIS: WELL, IT'S NOT OFFERED FOR THE TRUTH,
16 YOUR HONOR. IT'S JUST FOR THE PURPOSE OF THE SHEETS AND
17 THE FACT THAT THEY'RE SAVED.

18 MR. JACKSON: I THINK THAT'S BEEN ESTABLISHED. I
19 WOULD RENEW MY RELEVANCY OBJECTION BASED ON THE
20 INFORMATION ON THAT PARTICULAR CLUE SHEET.

21 THE COURT: I THINK IT'S ALSO HEARSAY. I DON'T
22 KNOW THAT THAT CAN BE INQUIRED INTO IF IT'S ON THAT
23 DOCUMENT.

24 MS. SARIS: IT'S NOT OFFERED FOR THE TRUTH
25 OBVIOUSLY. IT'S A RIDICULOUS SHEET IF THE COURT WANTS TO
26 SEE IT.

27 THE COURT: IT'S RIDICULOUS?

28 MS. SARIS: THE SHEET, YES. I SPECIFICALLY

1 PICKED ONE THAT WAS.

2 THE COURT: OKAY. WELL --

3 MS. SARIS: MAY I APPROACH AND SHOW IT TO THE
4 COURT?

5 THE COURT: OKAY.

6 (PAUSE IN PROCEEDINGS.)

7 THE COURT: I'LL OVERRULE THE OBJECTION. AND THE
8 COURT DID LOOK AT OOO.

9 Q BY MS. SARIS: AND WHAT IS THE NATURE OF
10 THE CALLER'S INFORMATION ON THE DEFENSE OOO?

11 A IT'S AN ANONYMOUS CALLER AND THEY'RE
12 NAMING THE SUSPECT AS BRYANT GUMBLE.

13 Q SO MY QUESTION TO YOU THEN IS HOW ARE
14 THESE MADE A PART OF THE FILE?

15 A WELL, ONCE I HAD RECEIVED THE CLUE, I
16 WOULD MAKE THREE COPIES OF IT. ONE WOULD STAY IN THE
17 FILE. EXCUSE ME, TWO WOULD STAY IN THE FILE AND ONE
18 WOULD GO OUT TO WHOEVER THE INVESTIGATOR WAS THAT WAS
19 ASSIGNED TO INVESTIGATE IT.

20 Q INVESTIGATE THAT PARTICULAR CLUE?

21 A YES.

22 Q AND THIS WAS NOT SPECIFICALLY FOR THE --
23 WAS THIS SPECIFICALLY FOR THE THOMPSON CASE?

24 A THAT'S THE WAY IT HAD BEEN DONE TO MY
25 KNOWLEDGE DURING THE NIGHT STALKER, AND I JUST CONTINUED
26 ON WITH THE FORMAT.

27 Q AND FOR PEOPLE UNFAMILIAR WITH THAT, THE
28 NIGHT STALKER WAS '85?

1 A YES.

2 Q DID YOU OBTAIN ANY OF MR. GOODWIN'S -- DO
3 YOU KNOW WHO MICHAEL GOODWIN IS?

4 A I THINK HE'S SEATED THERE NEXT TO YOUR
5 CO-DEFENDANT -- CO-COUNSEL. EXCUSE ME.

6 Q AND DID YOU OBTAIN AS A RESULT OF YOUR
7 INVESTIGATION ANY OF HIS PHONE RECORDS?

8 A YES.

9 Q AND FROM THOSE RECORDS DID YOU MAKE ANY
10 SORT OF A DATABASE OR DID YOU TRY TO MAKE ANY FURTHER
11 DETERMINATIONS?

12 A YEAH. OUR COMPUTER SYSTEM AT THE TIME WAS
13 KIND OF PRIMITIVE. AND THE ONLY WAY YOU COULD RUN THINGS
14 WAS BY INFORMANT OR SUSPECT. SO I SET UP THE PHONE
15 NUMBERS TO WHERE HIS NUMBER WAS THE -- I CAN'T REMEMBER
16 NOW, BUT ONE WAS ONE, AND ONE WAS THE OTHER. AND IT
17 ENABLED ME TO ALSO PUT IN THE DAYS THAT THE CALLS WERE
18 MADE. I COULD RUN A PHONE NUMBER AND IT WOULD COME BACK
19 AND SAY ON JUNE 9TH, THIS CALL WAS MADE OR JUNE 10TH THIS
20 CALL WAS MADE.

21 Q DID YOU DO THE SAME THING FOR MICKEY
22 THOMPSON'S PHONES?

23 A I DIDN'T RUN ANY KIND OF WARRANTS ON HIS
24 PHONES.

25 Q DID YOU FIND EVIDENCE OF A SINGLE PHONE
26 CALL THAT MR. GOODWIN MADE TO MICKEY THOMPSON DURING THE
27 TIME THAT YOU HAD THE RECORDS FOR?

28 MR. JACKSON: OBJECTION. FOUNDATION. CALLS FOR

1 HEARSAY.

2 THE COURT: SUSTAINED.

3 Q BY MS. SARIS: DID YOU REVIEW THOSE
4 RECORDS?

5 A COULD YOU ASK ME THAT QUESTION AGAIN,
6 PLEASE?

7 Q APPARENTLY NOT. LET ME BACK UP AND ASK
8 YOU A COUPLE OF OTHERS.

9 A OKAY.

10 Q DID YOU KNOW MICKEY THOMPSON HAD A PHONE
11 EITHER AT HIS HOUSE OR BUSINESS DURING THIS
12 INVESTIGATION?

13 A I THINK I CALLED THE BUSINESS SO I KNOW HE
14 HAD ONE THERE. AND I WOULD ASSUME HE HAD ONE AT THE
15 HOUSE.

16 Q AND DURING THE TIME OF YOUR INVESTIGATION,
17 DID YOU HAVE THE NUMBERS AVAILABLE?

18 A FOR HIS BUSINESS. I DON'T KNOW THAT I
19 EVER HAD THE HOME PHONE NUMBER.

20 Q DID YOU TRAVEL ANYWHERE IN LATE 1988 AS
21 PART OF THIS INVESTIGATION?

22 A TO FLORIDA. I DON'T THINK IT WAS LATE, I
23 THINK IT WAS AROUND JULY OR AUGUST, SOMETHING LIKE THAT.

24 Q OKAY. OF '88?

25 A YES.

26 Q DID YOU EVER TAKE ANY LEGAL ACTION TO --
27 WELL, LET ME ASK YOU THIS: WAS IT YOUR UNDERSTANDING --
28 WHY FLORIDA? WAS IT YOUR UNDERSTANDING MR. GOODWIN WAS

1 IN FLORIDA?

2 MR. JACKSON: OBJECTION. THIS IS LEADING, YOUR
3 HONOR.

4 THE COURT: SUSTAINED.

5 Q BY MS. SARIS: WERE YOU AWARE AT ANY TIME
6 DURING YOUR INVESTIGATION OF MR. GOODWIN'S CONTACT WITH
7 FLORIDA AT ALL?

8 A HIS FAMILY WAS FROM THERE.

9 Q DO YOU RECALL GOING INSIDE THE HOME OF
10 MICKEY THOMPSON THAT MORNING?

11 A NO, I DON'T.

12 Q DO YOU RECALL GOING INSIDE THE GARAGE?

13 A NO, I DON'T.

14 Q DO YOU RECALL, AS YOU SIT HERE NOW,
15 WHETHER OR NOT THERE WERE ANY SAFES IN THE HOME?

16 A NO.

17 Q YOU DON'T RECALL?

18 A NO, I DON'T RECALL. I KNOW THAT YOU
19 MENTIONED IT TO ME LAST NIGHT.

20 MR. JACKSON: OBJECTION. IT'S HEARSAY. IT'S NOT
21 RELEVANT WHAT COUNSEL MENTIONS.

22 THE COURT: ALL RIGHT. ASK ANOTHER QUESTION.

23 Q BY MS. SARIS: IF I WERE TO SHOW YOU
24 PICTURES NOW, DO YOU THINK THAT WOULD REFRESH YOUR
25 RECOLLECTION OR NOT?

26 A I DON'T KNOW. I DOUBT IT.

27 Q OKAY. DID YOU CAUSE ANY TYPE OF FINANCIAL
28 INVESTIGATION AS TO MICHAEL GOODWIN?

1 A NO.

2 Q DID YOU DO ANY SORT OF FINANCIAL
3 INVESTIGATION INTO MICKEY THOMPSON?

4 A NO, I DID NOT.

5 Q DID YOU DO ANY INVESTIGATION INTO ANY OF
6 HIS FAMILY MEMBERS OR EMPLOYEES?

7 MR. JACKSON: OBJECTION. VAGUE AS TO WHOM.

8 THE COURT: ALL RIGHT. SUSTAINED.

9 Q BY MS. SARIS: DID YOU DO THAT ABOUT ANY
10 FAMILY MEMBER OF MICKEY THOMPSON?

11 A NO.

12 Q ANY EMPLOYEE OF MICKEY THOMPSON?

13 A NO.

14 Q WERE YOU AWARE OF WHETHER OR NOT, AT THE
15 TIME OF YOUR INVESTIGATION, MR. GOODWIN WAS IN
16 BANKRUPTCY?

17 MR. JACKSON: OBJECTION. THIS IS LEADING.

18 THE COURT: SUSTAINED.

19 Q BY MS. SARIS: DO YOU KNOW WHETHER OR NOT
20 HE WAS?

21 MR. JACKSON: OBJECTION. IT'S ALSO LEADING.
22 IT'S BASED ON THE QUESTION BEFORE THAT WAS SUSTAINED.

23 THE COURT: WELL, OVERRULED.

24 YOU CAN ANSWER.

25 THE WITNESS: YES.

26 Q BY MS. SARIS: YES, YOU KNOW?

27 A I DID KNOW THAT THERE WAS BANKRUPTCY
28 PROCEEDINGS AND LAWSUITS INVOLVED.

1 Q DO YOU RECALL BEING IN TOUCH WITH ANY
2 ATTORNEYS IN THE BANKRUPTCY?

3 A I HAD CONTACT WITH A DORIS CARDELL. I
4 THINK SHE WAS PART OF THE BANKRUPTCY THING.

5 Q COULD THAT BE DOLORES?

6 A IT COULD BE.

7 Q YOU WERE ON THE CASE UNTIL WHEN?

8 A MY LAST WEEK AT WORK WAS IN THE FIRST WEEK
9 OF JANUARY OF '92.

10 Q AND YOU WERE ON THE CASE UNTIL YOU LEFT
11 THE OFFICE?

12 A YES.

13 Q THE DEPARTMENT. DURING THAT PERIOD OF
14 TIME, DID YOU EVER CAUSE FOR A CASE TO BE FILED AGAINST
15 MICHAEL GOODWIN?

16 A NO, I DID NOT.

17 Q DID YOU EVER ASK FOR A WARRANT TO BE
18 ISSUED FOR --

19 MR. JACKSON: OBJECTION. RELEVANCE.

20 THE COURT: I'M GOING TO OVERRULE THE OBJECTION.

21 YOU CAN ANSWER THAT.

22 MR. JACKSON: YOUR HONOR, MAY WE APPROACH?

23 THE COURT: OKAY.

24

25 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

26 MR. JACKSON: YOUR HONOR, THIS IS EXACTLY THE
27 TYPE OF AREA THAT CAN NEVER BE GOTTEN INTO BY THE DEFENSE
28 OR THE PROSECUTION. IF THERE WAS A FILING, OR A REQUEST

1 FOR FILING, OR THE DISTRICT ATTORNEY'S OFFICE DECIDED,
2 NO, I WANT FURTHER INVESTIGATION DONE. IF THERE WAS A
3 REJECTION; IF ORANGE COUNTY REJECTED IT; IF L.A. COUNTY
4 REJECT IT; IF NEITHER ONE OF THEM REJECTED IT; IF HE
5 ASKED FOR WARRANTS; IF HE DIDN'T ASK FOR WARRANTS. THESE
6 ARE DETERMINATIONS THAT ARE COMPLETELY PROCEDURAL AND
7 COMPLETELY IRRELEVANT FOR PURPOSES OF DECIDING WHETHER OR
8 NOT HE IS GUILTY OR INNOCENT OF THE CRIMES CHARGE.

9 MS. SARIS: IT GOES TO WHETHER HE FLED.

10 THE COURT: YES.

11 MR. JACKSON: I'M SORRY, I MISSED THAT.

12 THE COURT: THE OFFER OF PROOF IS THAT IT'S
13 RELEVANT ON THE THEORY THAT IT GOES TO WHETHER OR NOT
14 MR. GOODWIN FLED THE JURISDICTION.

15 MS. SARIS: I'M NOT GOING TO ASK IF HE PRESENTED
16 IT TO L.A. AND L.A. REJECTED IT.

17 MR. JACKSON: SHE JUST ASKED IF HE EVER SAW A
18 WARRANT FOR HIS ARREST. WHAT DOES THAT HAVE TO DO WITH
19 WHETHER OR NOT HE GOT ON A BOAT AND SAILED OUT OF THE
20 COUNTRY? OUT OF THE JURISDICTION? WHETHER THERE WAS --

21 THE PROPER QUESTION WOULD BE:

22 MR. GOODWIN, WERE YOU AWARE OF WHETHER OR NOT THERE WAS
23 ANY WARRANT FOR YOUR ARREST? NOT WHETHER OR NOT MIKE
24 GRIGGS EVER SOUGHT A WARRANT. BECAUSE MIKE GRIGGS
25 SEEKING A WARRANT WOULD NOT NECESSARILY COME INTO THE
26 POSSESSION OR THE KNOWLEDGE OF MICHAEL GOODWIN.

27 WE SEEK WARRANTS AND INDICTMENTS ALL THE
28 TIME FOR THE DEFENDANT WHERE THE DEFENDANT DOESN'T KNOW

1 ANYTHING ABOUT IT. IF THE OFFER OF PROOF IS TO SHOW WHY
2 MICHAEL GOODWIN DID WHAT HE DID, THEN THE PROPER PERSON
3 TO ASK THESE QUESTIONS OF WOULD BE MICHAEL GOODWIN, NOT
4 WHETHER OR NOT HE THOUGHT THERE WAS ENOUGH FOR A WARRANT.

5 THE COURT: WELL, I DIDN'T THINK THAT'S WHAT THE
6 QUESTION WAS DESIGNED TO ELICIT. AND, FRANKLY, I'M A
7 LITTLE CONFUSED AS TO WHAT THE QUESTION IS DESIGNED TO
8 ELICIT.

9 MS. SARIS: THAT THERE WAS NO WARRANT OUT FOR HIS
10 ARREST.

11 THE COURT: AND THE RELEVANCE THEN ON THAT WOULD
12 BE --

13 MS. SARIS: THAT HE WAS NOT -- MR. GOODWIN WAS
14 NOT FLEEING. THAT THEY WERE NOT ACTIVELY SEEKING HIM,
15 WHICH IS THEIR IMPLICATION. THEY CAN'T HAVE IT BOTH
16 WAYS. THEY CAN'T IMPLY THAT.

17 THE COURT: WELL, I THINK YOU CAN ASK IF HE WAS
18 LOOKING FOR MR. GOODWIN. I THINK THAT'S RELEVANT.

19 MS. SARIS: IT'S ONE THING TO LOOK FOR HIM. IT'S
20 ANOTHER TO LOOK FOR HIM WHEN THERE IS A WARRANT OUT.
21 THAT IMPLIES THAT HE'S EVADING A LAWFUL OR THE COURT
22 VERSUS IS THIS OFFICER LOOKING FOR HIM. THIS ISN'T AN
23 ISSUE OF WHETHER OR NOT THE L.A. D.A'S OFFICE REJECTED
24 THE CHARGES. IT'S AN ISSUE OF WHETHER HE, WHEN HE WENT
25 TO FLORIDA, WAS LOOKING FOR MR. GOODWIN; AND WHETHER OR
26 NOT, BASED ON THEIR IMPLICATION, HE WAS HIDING.

27 THE COURT: WELL, THIS IS THE THING. A
28 DEFENDANT'S COOPERATION OR LACK OF COOPERATION, AS LONG

1 AS IT DOESN'T CROSS THE LINE, IS RELEVANT. HOWEVER, I
2 AGREE, THE WARRANT QUESTION MAY NOT BE. BUT I THINK YOU
3 CAN INQUIRE INTO WHETHER OR NOT HE SOUGHT OUT MR. GOODWIN
4 AND ASKED MR. GOODWIN TO COME IN. I GUESS, BUT THAT
5 TAKES US BACK TO WHERE WE WERE BEFORE.

6 MS. SARIS: THAT'S WHY I'M TRYING TO AVOID IT.
7 AND I THINK I HAVE THE RIGHT TO INQUIRE AS TO WHETHER OR
8 NOT HE WAS LOOKING FOR HIM.

9 THE COURT: YOU DO --

10 MS. SARIS: WITHOUT GETTING INTO DOYLE.

11 THE COURT: YOU DO, BUT -- WELL, I'VE ALREADY
12 RULED ON THAT, BUT I DON'T KNOW THAT THE WARRANT ASPECT
13 OF IT SUGGESTS THAT --

14 MS. SARIS: I CAN ASK HIM IF HE WAS SEEKING TO
15 ENFORCE A WARRANT.

16 THE COURT: WELL, HOW ABOUT JUST SEEKING THE
17 DEFENDANT AS A SUSPECT AND IF HE CONTACTED HIM AND ASKED
18 HIM TO COME IN?

19 MR. JACKSON: THAT'S THE RELEVANT ISSUE. I THINK
20 THE COURT HIT THE NAIL ON THE HEAD. THAT WOULD BE A
21 RELEVANT INQUIRY.

22 THE COURT: WELL, IT OPENS THE DOOR THEN. I
23 THOUGHT WE WERE TRYING TO AVOID THIS.

24 MS. SARIS: WE'RE NOT. WE'RE TRYING TO SHOW, AND
25 I SHOULD NOT BE PRECLUDED FROM ARGUING, THAT MR. GOODWIN
26 WENT TO FLORIDA. HE WAS A PRIVATE U.S. CITIZEN. HE HAD
27 THE RIGHT TO TRAVEL, LEGALLY. THERE WAS NO WARRANT OUT
28 FOR HIS ARREST. THIS OFFICER WAS NOT SEEKING HIM.

1 WITHOUT GETTING INTO WHETHER OR NOT HE INVOKED HIS
2 RIGHTS. THEY ARE MAKING THE IMPLICATION -- THAT THEY
3 KNOW BY THE WAY, TO BE FALSE -- THAT HE SOMEHOW WAS OUT
4 OF THE COUNTRY UNABLE TO BE CONTACTED SIMPLY BECAUSE HE
5 REFUSED TO COOPERATE. THAT IS A FALSE ALLEGATION.

6 THE COURT: ANYTHING THAT GOES TOWARDS
7 MR. GOODWIN'S WILLINGNESS TO COOPERATE OR FAILURE TO
8 COOPERATE, I DON'T HAVE A PROBLEM ON RELEVANCE GROUNDS.
9 BUT I DON'T THINK WHETHER OR NOT THERE IS A WARRANT
10 NECESSARILY LEADS TO THAT INFORMATION OR THAT INFERENCE.

11 MS. SARIS: THE PROBLEM IS THE COURT IS GOING TO
12 INSTRUCT THAT THERE IS FLIGHT AFTER CRIME. IF THERE IS
13 NO WARRANT, HE'S NOT FLEEING.

14 THE COURT: NO. ONE CAN FLEE FROM A CRIME
15 WITHOUT THERE BEING ANY WARRANT. IT'S THE COMMISSION OF
16 THE CRIME THAT'S THE ACT ONE FLEES FROM, ISN'T IT?

17 MS. SARIS: ONE IS FLEEING FROM THE POLICE. ONE
18 IS FLEEING FROM BEING CAUGHT. ONE IS FLEEING FROM THE
19 LEGAL PROCESS.

20 THE COURT: AGAIN, I DON'T HAVE ANY PROBLEM, AS I
21 SAID, WITH SOME OF THESE QUESTIONS. BUT I DO AGREE THAT
22 THE WARRANT ISSUE IS NOT PARTICULARLY RELEVANT. BUT YOU
23 CAN GET INTO THE OTHER ISSUES THAT WE DISCUSSED. IT'S
24 JUST I DON'T UNDERSTAND WHY YOU WOULD BASED ON OUR
25 EARLIER HEARING.

26 MS. SARIS: BEFORE WE CAME TO SIDEBAR THE COURT
27 HAD ALLOWED THE QUESTION.

28 THE COURT: RIGHT. AND I AGREE WITH MR. JACKSON

1 THAT THE FACT OF THE WARRANT DOESN'T NECESSARILY MEAN
2 THAT THE DEFENDANT KNEW ABOUT THE WARRANT.

3 MS. SARIS: SO IF I ASK THIS WITNESS WAS HE
4 SEEKING TO BRING MR. GOODWIN BACK TO CALIFORNIA, ARE YOU
5 THEN SAYING THAT I'M OPENING THE DOOR TO DOYLE?

6 THE COURT: WELL, I THINK, YOU KNOW, I THINK THIS
7 WHOLE AREA IS FRAUGHT WITH DANGER BECAUSE I THINK THAT
8 THE PROPER QUESTION ON CROSS-EXAMINATION WOULD, IN FACT,
9 BE "WHY NOT?" AND IF ONE ASKS "WHY NOT?" IN THE FACE OF
10 WHAT WE KNOW WHAT HAPPENED HERE, YOU'RE GOING TO GET AN
11 ANSWER YOU DON'T -- THE PEOPLE ARE GOING TO GET AN ANSWER
12 THAT YOU DON'T LIKE.

13 MS. SARIS: SO I'M NOT ALLOWED TO DEFEND
14 MR. GOODWIN AGAINST THE CHARGES OF --

15 THE COURT: YES, YOU ARE.

16 MS. SARIS: -- WITHOUT GIVING UP HIS FIFTH AND
17 SIXTH AMENDMENT RIGHT TO REMAIN SILENT?

18 THE COURT: WE'RE NOT GOING TO LITIGATE THAT
19 ISSUE AGAIN HERE, WITH THE JURY HERE. I MEAN, WE
20 LITIGATED IT EARLIER. YOU CAN ASK WHATEVER YOU WANT TO
21 ASK AS LONG AS IT'S RELEVANT. I SUSTAINED THE OBJECTION
22 ONLY AS TO THE FACT OF THE WARRANT. BUT YOU CAN ASK
23 WHATEVER YOU WANT TO ASK ABOUT WHETHER OR NOT THIS
24 INVESTIGATING OFFICER SOUGHT OUT MR. GOODWIN AS A SUSPECT
25 OR A WITNESS.

26 (SIDEBAR DISCUSSION CONCLUDED.)

27
28 Q BY MS. SARIS: MR. GRIGGS, WAS THERE EVER

1 A TIME WHEN YOU ARRESTED MICHAEL GOODWIN?

2 A NO.

3 Q WAS THERE EVER A TIME THAT YOU SOUGHT TO
4 ARREST HIM AND COULD NOT FIND HIM?

5 A NO.

6 Q DID YOU GO TO FLORIDA WITH THE SPECIFIC
7 INTENTION OF BRINGING MR. GOODWIN BACK TO CALIFORNIA?

8 A TO MY KNOWLEDGE, HE WASN'T EVEN IN FLORIDA
9 AT THAT TIME.

10 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE?

11 THE COURT: YES.

12 MS. SARIS: I HAVE NOTHING FURTHER AT THIS TIME.
13 THANK YOU.

14 THE COURT: CROSS-EXAMINATION?

15 MR. JACKSON: THANK YOU, YOUR HONOR. MAY I HAVE
16 JUST A MOMENT, YOUR HONOR?

17 (PAUSE IN PROCEEDINGS.)

18 MR. JACKSON: THANK YOU, YOUR HONOR.

19

20 CROSS-EXAMINATION

21 BY MR. JACKSON:

22 Q SORRY, MR. GRIGGS. WHEN YOU BEGAN THIS
23 INVESTIGATION AS THE LEAD INVESTIGATOR ON THE THOMPSON
24 CASE, WHO WAS YOUR PARTNER AT THE TIME?

25 A DOUG OLBERHOLTZER.

26 Q I DON'T HAVE A LOT OF QUESTIONS FOR YOU
27 MR. GRIGGS. WITH REGARD TO THE CRIME SCENE, YOU
28 RECALLED -- LET ME ASK YOU THIS WAY: DO YOU RECALL AS

1 YOU SIT HERE -- YOU INDICATED DURING CROSS-EXAMINATION,
2 THERE WERE A LOT OF QUESTIONS ABOUT WHICH YOU HAD NO
3 INDEPENDENT RECOLLECTION, BUT MS. SARIS HAD SHOWN YOU
4 THINGS EITHER LAST NIGHT OR TODAY?

5 A THAT'S CORRECT.

6 Q DO YOU RECALL AS YOU SIT HERE, THE ITEMS
7 OF JEWELRY THAT WERE FOUND ON TRUDY THOMPSON'S BODY AT
8 THE CRIME SCENE?

9 A THE ONLY THING RIGHT NOW I CAN RECALL IS I
10 THOUGHT SHE HAD RINGS ON HER FINGERS.

11 Q OKAY. IS IT NORMALLY DURING THE COURSE OF
12 YOUR INVESTIGATIONS -- AND THIS WASN'T YOUR FIRST
13 INVESTIGATION AS LEAD INVESTIGATOR; CORRECT?

14 A NO.

15 Q FAR FROM IT AS A MATTER OF FACT. YOU WERE
16 AN EXPERIENCED INVESTIGATOR AT THE TIME?

17 A YES.

18 Q ALL RIGHT. MR. GRIGGS, THERE IS A
19 PERSONAL EFFECTS INVENTORY THAT IS ATTACHED TO A
20 CORONER'S REPORT; CORRECT?

21 A YES.

22 Q AND THAT'S NORMAL PROTOCOL. IT WASN'T
23 ANYTHING EXCEPTIONAL FOR THIS CASE; CORRECT?

24 A NOT THAT I REMEMBER.

25 Q AND NORMALLY A CORONER'S INVESTIGATOR,
26 ESPECIALLY ON A HIGH-PROFILE CASE LIKE THIS, WILL
27 ACTUALLY COME OUT TO THE CRIME SCENE; CORRECT?

28 A YES.

1 Q AND THEY'RE THE REPRESENTATIVE OF THE
2 COUNTY CORONER?

3 A THEY COME TO ALL CRIME SCENES.

4 Q AS A REPRESENTATIVE OF THE MEDICAL
5 EXAMINER?

6 A YES.

7 Q AND IS IT NORMAL COURSE AND CONDUCT FOR
8 THAT CORONER'S INVESTIGATOR TO MAKE NOTES OF THE PERSONAL
9 EFFECTS THAT ARE ACTUALLY ON THE VICTIM IF IT IS A
10 HOMICIDE?

11 A ON THE VICTIM IS THEIR RESPONSIBILITY.
12 SO, YES, THEY WOULD MAKE SOME NOTATIONS.

13 Q OKAY. TAKE A LOOK -- LET ME MAKE A --
14 MAY I APPROACH THE WITNESS?

15 THE COURT: YES.

16 Q BY MR. JACKSON: I PUT THIS ON THE
17 OVERHEAD, BUT IT'S EASIER TO SEE RIGHT IN FRONT OF YOU.
18 DO YOU SEE THAT?

19 A NO. THAT ISN'T EASIER FOR ME TO SEE IN
20 FRONT OF ME.

21 Q IF IT'S EASIER FOR YOU TO LOOK UP THERE.

22 A IF I CAN STRETCH MY ARMS LONGER.

23 Q ALL RIGHT. IT MAY BE A LITTLE DIFFICULT
24 TO READ. LET ME ASK YOU A COUPLE OF FOUNDATIONAL
25 QUESTIONS.

26 DOES THAT LOOK LIKE THE PERSONAL EFFECTS
27 HISTORY, OR INVENTORY RATHER, FOR TRUDY THOMPSON?

28 A IT'S GOT HER NAME ON IT AND THERE IS

1 SEVERAL ITEMS OF JEWELRY MENTIONED IN THE LIST, YES.

2 Q AND --

3 THE COURT: FOR THE RECORD, WHAT EXHIBIT DID YOU
4 SHOW HIM?

5 MR. JACKSON: YOUR HONOR, THIS IS PEOPLE'S 68.
6 THE SECOND TO THE LAST PAGE OF PEOPLE'S 68.

7 THE COURT: THANK YOU.

8 Q BY MR. JACKSON: LET ME READ YOU A COUPLE
9 OF THINGS AND ASK YOU A COUPLE OF QUESTIONS ABOUT THEM.
10 YOU SAID THERE WERE -- YOU RECALL SPECIFIC RINGS ON HER
11 FINGER; CORRECT?

12 A I THOUGHT SHE HAD MULTIPLE RINGS, MORE
13 THAN ONE, MORE THAN TWO I WOULD SAY.

14 Q OKAY. DO YOU RECALL A YELLOW METAL --
15 EVERYBODY CALLS IT YELLOW METAL, USUALLY IT'S DESCRIBED
16 BY LAY PEOPLE AS GOLD.

17 DO YOU RECALL A GOLD-COLORED PENDANT ON A
18 CHAIN AROUND HER NECK?

19 A DO I REMEMBER?

20 Q CORRECT.

21 A NO, I DO NOT.

22 Q DO YOU SEE THAT ON THE PERSONAL EFFECTS
23 INVENTORY, THE FIRST LINE INDICATING ONE YELLOW METAL
24 ROPE, IT LOOKS LIKE ROPE CHAIN, PENDANT SQUARE 10 OR SQ
25 10, DO YOU SEE THAT?

26 A WITH 35 RED STONES?

27 Q EXACTLY.

28 A YES, I SEE IT.

1 Q WOULD THAT HAVE BEEN A CONSISTENT, AS
2 YOU'VE READ REPORTS IN THE PAST, A CONSISTENT DESCRIPTION
3 WITH, FOR INSTANCE, THE VICTIM WEARING A CHAIN WITH A
4 PENDANT ON IT?

5 A IT SOUNDS VERY DESCRIPTIVE OF THAT TYPE OF
6 ITEM, YES.

7 Q AND THEN UNDERNEATH THAT IT INDICATES 18
8 CLEAR STONES. ONE WHITE METAL RING WITH ONE ARC --
9 SORRY, ONE LARGE STONE AND TWO CLEAR STONES; DO YOU SEE
10 THAT?

11 A I ALSO SEE THAT, YES.

12 Q AND YOU ALSO SEE WHERE IT SAYS ONE DUAL
13 RING GUARD YELLOW METAL WITH 24 CLEAR STONES, SOMETHING I
14 CAN'T READ, OF ONE YELLOW METAL EARRING WITH ONE CLEAR
15 STONE IN EACH FREE FORM EARRING, YELLOW METAL?

16 A I SEE WHAT YOU'RE REFERRING TO, YES.

17 Q ALL I'M GETTING AT DETECTIVE IS, IS THAT
18 GENERAL DESCRIPTION OF THOSE RINGS AND THE PENDANT AND
19 THE EARRINGS AND STUFF CONSISTENT, I KNOW YOU DIDN'T
20 MEMORIZE HER JEWELRY, BUT IS IT CONSISTENT WITH WHAT YOU
21 RECALL TRUDY THOMPSON WEARING AT THE TIME?

22 A YES, IT WOULD SEEM TO.

23 Q AND THERE WAS ADDITIONAL JEWELRY ACCORDING
24 YOUR MEMORY IN THE VAN; IS THAT RIGHT?

25 A I DIDN'T REMEMBER IT EXCLUSIVE OF THE
26 PHOTOS I'VE SEEN OF IT THE PAST DAY.

27 Q ALL RIGHT THEN. LET ME ASK YOU THIS --
28 AND ALL WE'RE INTERESTED IN IS WHAT YOUR ACTUAL MEMORY

1 IS, NOT WHAT PHOTOGRAPHS SHOW OR WHAT OTHER PEOPLE'S
2 REPORTS OR WHATEVER, BUT WHAT YOUR MEMORY IS.

3 A I DON'T REMEMBER SEEING ANY JEWELRY IN THE
4 VEHICLE.

5 Q OKAY. FAIR ENOUGH. DO YOU RECALL A
6 SUBSTANTIAL AMOUNT -- I'M NOT ASKING FOR THE NUMBER, BUT
7 A SUBSTANTIAL AMOUNT OF CASH BEING ON, OR BEING IN THE
8 POSSESSION OF, EITHER VICTIM?

9 A YES.

10 Q OKAY. DO YOU RECALL MICKEY THOMPSON
11 HAVING A WALLET?

12 A I DON'T RECALL.

13 Q DO YOU RECALL THERE BEING SOME CASH
14 ASSOCIATED WITH HIM?

15 A INDEPENDENT OF WHAT I'VE LEARNED IN THE
16 LAST COUPLE OF DAYS, NO, I DON'T.

17 Q DO YOU REMEMBER A SUBSTANTIAL AMOUNT OF
18 THE CASH BEING FOUND IN A PURSE -- AND I THINK MS. SARIS
19 REFERRED TO THIS -- IN A PURSE IN THE VAN?

20 A NOT INDEPENDENTLY.

21 Q OKAY. MS. SARIS ASKED YOU A FEW QUESTIONS
22 ABOUT SEVERAL THOUSAND DOLLARS THAT WERE FOUND IN AN
23 ENVELOPE. AND ACCORDING TO YOUR NOTES YOU WERE
24 INVENTORYING A PURSE AT THE TIME THAT YOU WERE WRITING
25 THOSE NOTES; IS THAT RIGHT?

26 A BY THE PLACEMENT OF THE NOTES AND THE
27 ENVELOPE, YES, I WOULD SAY THAT WAS PROBABLY TRUE.

28 Q OKAY. IN OTHER WORDS, EVEN THOUGH YOU

1 DON'T HAVE AN INDEPENDENT RECOLLECTION OF IT, SIR, WOULD
2 YOU SAY THAT KNOWING YOUR CUSTOM AND HABIT AND YOUR
3 PRACTICE THE WAY THAT YOU WERE WRITING OUT THE NOTES AND
4 THE REFERENCE TO THE PURSE AND THEN THE INVENTORY BENEATH
5 IT, WOULD YOU SAY THAT WAS MOST CONSISTENT WITH THE MONEY
6 BEING IN THE PURSE?

7 A IT WOULD SEEM TO BE THAT WAY. BUT I DON'T
8 HAVE THE NOTES IN FRONT OF ME ANYMORE, SO I CAN'T TELL
9 THE PLACEMENT RIGHT NOW. I CAN'T REMEMBER PLACEMENT --

10 MR. JACKSON: OKAY. MS. SARIS MAYBE HAS THESE
11 RIGHT AT HER FINGERTIPS. MAYBE I CAN SHOW YOU THESE.

12 I'M REFERRING, YOUR HONOR, TO THE -- I
13 DON'T BELIEVE THESE HAVE BEEN MARKED. I'M REFERRING TO
14 THE SAME NOTES TO WHICH MS. SARIS ASKED THE WITNESS TO
15 REFER EARLIER.

16 THE COURT: OKAY.

17 Q BY MR. JACKSON: REVIEWING THOSE NOTES,
18 WOULD YOU SAY THAT THE JEWELRY AND/OR -- WELL, LET ME
19 REPHRASE THAT, THE MONEY WAS CONSISTENT WITH BEING IN THE
20 PURSE, THE ENVELOPE OF SOME KIND?

21 A IT APPEARS TO BE A LIST OF CONTENTS. IT
22 SAYS, "PURSE, GRAY WALLET, 386, ENVELOPE 2,750."

23 Q SO THERE WAS ALMOST \$3,000 IN CASH IN AN
24 ENVELOPE AND SEPARATE AND APART FROM THAT THERE WAS
25 ALMOST IN \$400 IN CASH IN THE PURSE AS WELL; CORRECT?

26 A READING THOSE NOTES, THAT'S WHAT IT TELLS
27 ME.

28 Q OKAY. NOW YOU INDICATED THAT IT WAS NOT

1 NORMAL TO REMOVE JEWELRY AT THE SCENE, AT A NORMAL CRIME
2 SCENE; CORRECT?

3 A FROM THE DECEASED?

4 Q CORRECT.

5 A YES.

6 Q YES, IT IS NOT NORMAL?

7 A IT'S NOT NORMAL PROTOCOL TO REMOVE THE
8 JEWELRY.

9 Q OKAY. DO YOU REMEMBER MAKING NOTE THAT
10 THIS WAS AN ABNORMAL CRIME SCENE BECAUSE OF THE MEDIA
11 INTEREST IN THE CRIME SCENE?

12 A OH, YEAH.

13 Q SO THIS WAS NOT A NORMAL CRIME SCENE?

14 A NOT BY ANY MEANS.

15 Q AS A MATTER OF FACT, THERE WERE
16 HELICOPTERS THAT WERE FLYING OVERHEAD?

17 A THERE WAS EVERYTHING.

18 Q AND THERE WERE MEDIA STANDING RIGHT
19 OUTSIDE THAT BRICK WALL FENCE AND LOOKING OVER AND TRYING
20 TO TAKE PICTURES; CORRECT?

21 A YES, THERE WAS A LOT OF THEM.

22 Q OKAY. DID YOU BELIEVE AT THAT TIME THAT
23 THAT COULD AFFECT THE INVESTIGATION RIGHT FROM ITS
24 INFANCY JUST HOURS AFTER THE MURDER?

25 MS. SARIS: OBJECTION. VAGUE AND RELEVANCE.

26 THE COURT: SUSTAINED.

27 Q BY MR. JACKSON: DID YOU BELIEVE IN ANY
28 WAY THAT THE MEDIA ATTENTION, THE FILM CREWS OVERHEAD,

1 THE NEWS HELICOPTERS AND THE MEDIA THERE LOOKING OVER THE
2 WALL, COULD AFFECT THE INVESTIGATION IN SOME NEGATIVE WAY
3 IF A BUNCH OF PHOTOGRAPHS WERE TAKEN OF THE CRIME SCENE?

4 A WELL, IT WOULD HAVE GIVEN INFORMATION THAT
5 WE REALLY DIDN'T WANT OUT.

6 Q OKAY.

7 A AND SOMETHING THAT SOMEBODY LATER CAN
8 FALSELY CONFESS SAY.

9 Q AND DID YOU, IN FACT, SEEK TO -- WOULD YOU
10 HAVE SOUGHT TO, FOR INSTANCE, COVER SOME OF THE SOME OF
11 THE JEWELRY THAT WAS BEING LAID OUT AND PHOTOGRAPHED
12 INSIDE THE VAN IN ORDER TO KEEP SOME OF THE MEDIA FROM
13 BEING ABLE TO PHOTOGRAPH WHAT YOU WERE DOING?

14 MS. SARIS: OBJECTION AS TO HIS PERSONAL
15 RECOLLECTION, YOUR HONOR.

16 THE WITNESS: I MEAN I DON'T --

17 THE COURT: OVERRULED.

18 GO AHEAD.

19 MR. JACKSON: GO AHEAD.

20 THE WITNESS: I DON'T REALLY RECALL MY THOUGHT
21 PROCESS AT THE TIME IN REFERENCE TO THE MEDIA AND JEWELRY
22 AND WHAT WOULD BE GIVEN AWAY. MY COMMENT ABOUT FALSE
23 CONFESSIONS OR GETTING THEM -- OR HAVING THE INFORMATION
24 FILMED THAT I WOULDN'T WANT OUT, I'M SAYING THAT JUST DUE
25 TO EXPERIENCE. I DON'T KNOW WHETHER I WAS THINKING ALL
26 THESE THINGS WHILE HE WAS AT THE CRIME SCENE.

27 Q BY MR. JACKSON: OKAY. FAIR ENOUGH.

28 THERE WERE -- MS. SARIS ASKED YOU ABOUT

1 SOME CLUE SHEETS AND ASKED WHETHER OR NOT CLUE SHEETS WAS
2 THE NORMAL COURSE OF CONDUCT. AS A MATTER OF FACT, WE
3 HAVE ONE RIGHT UP HERE. IT'S NOT BEEN MARKED, BUT YOU
4 REVIEWED THAT CLUE SHEET; CORRECT?

5 A YES.

6 Q OKAY. DOES THIS -- I'LL GIVE THIS BACK TO
7 MS. SARIS.

8 IS THIS CLUE SHEET --

9 MS. SARIS: I THINK I MARKED IT.

10 MR. JACKSON: OH, SHE DID MARK IT. MY MISTAKE,
11 YOUR HONOR. IT'S MARKED OOO.

12 THE COURT: THANK YOU.

13 Q BY MR. JACKSON: IS THAT CLUE SHEET
14 CONSISTENT WITH HUNDREDS OF OTHERS THAT YOU RECEIVED IN
15 THIS CASE?

16 A YES.

17 Q AND I JUST MEAN IN FORM. I DON'T MEAN IN
18 SUBSTANCE.

19 A THE SAME FORMAT WAS USED IN THE CLUES THAT
20 WERE RECORDED.

21 Q DID YOU EVER CHECK WHETHER OR NOT BRYANT
22 GUMBLE OWNED A TEN-SPEED BIKE?

23 A I NEVER WATCH HIM ON TV, SO --

24 Q I'M USING A LITTLE LEVITY HERE, BUT ON A
25 SERIOUS NOTE, WERE THERE A LOT OF CLUE SHEETS THAT WERE
26 CALLED IN -- WAS THERE LOT OF INFORMATION THAT WAS CALLED
27 IN FROM WHAT YOU WOULD CONSIDER -- AND I THINK THE LEGAL
28 TERM IS "NUT BALLS"?

1 A YEAH, THERE WERE SOME.

2 Q I.E. BRYANT GUMBLE LOOKS LIKE ONE OF THE
3 GUYS IN THE COMPOSITE.

4 A WELL, I MEAN I HATE CALL TO THAT GUY A
5 "NUT BALL." MAYBE HE IS A WELL-MEANING CITIZEN AND
6 THAT'S -- HE DIDN'T MEAN BRYANT GUMBLE WAS A SUSPECT,
7 THAT HE JUST LOOKED SOMETHING LIKE BRYANT GUMBLE.

8 Q FAIR ENOUGH. FAIR ENOUGH. VERY
9 DIPLOMATICALLY PUT. MS. SARIS ASKED YOU WHETHER OR NOT
10 YOU HAD SOUGHT TO ARREST MICHAEL GOODWIN AT ANY TIME AND
11 COULD NOT FIND HIM.

12 DO YOU REMEMBER THAT QUESTION?

13 A YES, I DO.

14 Q AND YOU SAID, NO; CORRECT?

15 A NO.

16 Q WERE YOU AWARE AT ANY TIME THAT MICHAEL
17 GOODWIN HAD ACTUALLY LEFT THE JURISDICTION OF THE UNITED
18 STATES?

19 A YES.

20 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

21 THE COURT: REDIRECT?

22

23 REDIRECT EXAMINATION

24 BY MS. SARIS:

25 Q WHEN YOU BECAME AWARE THAT MR. GOODWIN HAD
26 LEFT THE JURISDICTION, WERE YOU SEEKING TO ARREST HIM AT
27 THAT POINT?

28 A NO.

1 MS. SARIS: NOTHING FURTHER. THANK YOU.

2 THE COURT: ANYTHING ELSE?

3 MR. JACKSON: NO, YOUR HONOR.

4 THE COURT: ANY OBJECTION TO EXCUSING THE
5 WITNESS?

6 MS. SARIS: NO, YOUR HONOR.

7 MAY I HAVE A MOMENT? PERHAPS WE COULD
8 TAKE A BREAK SO I CAN DEAL WITH THE TRANSPORTATION.

9 THE COURT: YOU JUST NEED A FEW MINUTES, IS THAT
10 IT?

11 MS. SARIS: YES, THREE TO FIVE.

12 THE COURT: THREE TO FIVE MINUTES. OKAY.

13 THANK YOU, MR. GRIGGS. YOU ARE EXCUSED.

14 THE WITNESS: THANK YOU.

15 THE COURT: AND, LADIES AND GENTLEMEN, I THINK WE
16 CAN ALL JUST KIND OF HANG AROUND FOR THREE MINUTES.
17 OKAY?

18 MR. JACKSON: THANK YOU, MR. GRIGGS.

19 THE WITNESS: THANK YOU.

20 (BRIEF RECESS.)

21 THE COURT: ALL RIGHT. RESUMING IN THE GOODWIN
22 MATTER. EVERYONE IS ONCE AGAIN PRESENT.

23 AND, MS. SARIS, YOU MAY CALL YOUR NEXT
24 WITNESS.

25 MS. SARIS: THANK YOU, YOUR HONOR. THE DEFENSE
26 CALLS MARK LILLIENFELD.

27
28 MARK LILLIENFELD,

1 CALLED BY THE DEFENSE AS A WITNESS, WAS
2 SWORN AND TESTIFIED AS FOLLOWS:
3

4 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

5 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
6 YOU MAY 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: YES, I DO.

10 THE CLERK: THANK YOU, PLEASE BE SEATED.

11 SIR, WOULD YOU PLEASE STATE AND SPELL BOTH
12 YOUR FIRST AND LAST NAME FOR THE RECORD.

13 THE WITNESS: MARK LILLIENFELD. M-A-R-K
14 L-I-L-L-I-E-N-F-E-L-D.

15 THE CLERK: THANK YOU.

16 THE COURT: YOU MAY INQUIRE.

17 MS. SARIS: THANK YOU.
18

19 DIRECT EXAMINATION

20 BY MS. SARIS:

21 Q GOOD MORNING, DETECTIVE.

22 A MORNING.

23 Q WHEN WERE YOU -- HOW ARE YOU CURRENTLY
24 EMPLOYED?

25 A I'M DEPUTY SHERIFF FOR THE LOS ANGELES
26 COUNTY SHERIFF'S DEPARTMENT. I'M ASSIGNED AS A HOMICIDE
27 DETECTIVE.

28 Q AND HOW LONG HAVE YOU BEEN A HOMICIDE

1 DETECTIVE?

2 A 15 YEARS.

3 Q AND WERE YOU EVER ASSIGNED TO THE
4 INVESTIGATION OF THE MURDERS OF MICKEY AND TRUDY
5 THOMPSON?

6 A YES, MA'AM.

7 Q WHEN WAS THAT?

8 A I WAS OFFICIALLY ASSIGNED IN 1995.

9 Q AND HAD YOU HAD SOME DEALINGS WITH IT
10 PRIOR TO THAT?

11 A YES, MA'AM.

12 Q HOW SO?

13 A I WOULD ACCOMPANY THE DETECTIVE FROM THE
14 UNSOLVED UNIT THAT HAD THE LEAD ON THE INVESTIGATION
15 AFTER DETECTIVE GRIGGS RETIRED.

16 Q AND WHO WAS THAT?

17 A SERGEANT JOHN YARBOROUGH.

18 Q Y-A-R-B-O-R-O-U-G-H?

19 A I BELIEVE SO, YES.

20 Q AND IN '95 WAS IT YOUR CASE ALONE?

21 A I HAD A PARTNER AT THAT TIME, SERGEANT
22 PATRICK ROBINSON.

23 Q AS PART OF YOUR INVESTIGATION IN THIS
24 CASE, DID YOU CONDUCT INTERVIEWS WITH WITNESSES?

25 A YES, MA'AM.

26 Q DID YOU EVER HAVE OCCASION TO MEET A
27 WITNESS BY THE NAME OF ALLISON TRIARSI?

28 A YES, MA'AM.

1 Q AND WERE YOU HERE IN COURT WHEN SHE
2 TESTIFIED?

3 A I WAS.

4 Q WHEN YOU FIRST SPOKE TO HER, DO YOU RECALL
5 WHEN THAT WAS?

6 A I BELIEVE IN 1997.

7 Q AT THAT TIME, DO YOU RECALL HER TELLING
8 YOU THAT SHE THOUGHT THE SHOOTER COULD HAVE BEEN A WHITE
9 MAN?

10 A YES, MA'AM.

11 Q DID SHE ALSO TELL YOU THAT SHE WAS UNDER
12 THE IMPRESSION THAT SHE COULD SEE THEIR FACES, THE
13 SHOOTERS' FACES?

14 A NO, THAT I DON'T RECALL.

15 Q DID SHE TELL YOU WHETHER OR NOT SHE
16 BELIEVED HER RECOLLECTION WAS INFLUENCED BY ANYONE?

17 A YES, MA'AM.

18 Q AND WHO WAS THAT?

19 A BY HER MOTHER.

20 Q DID YOU HAVE OCCASION TO INTERVIEW HER
21 MOTHER?

22 A I'VE SPOKEN TO HER MOTHER, YES, MA'AM.

23 Q DID SHE TELL YOU WHEN YOU INTERVIEWED HER
24 THAT SHE DID NOT HAVE A SPECIFIC RECOLLECTION OF TRUDY
25 THOMPSON ACTUALLY BEING SHOT?

26 MR. JACKSON: OBJECTION. THIS IS LEADING, YOUR
27 HONOR.

28 MS. SARIS: YOUR HONOR, IT'S IMPEACHMENT.

1 THE COURT: YES. FOR THIS KIND OF QUESTION, I'M
2 GOING TO OVERRULE THE OBJECTION.

3 THE WITNESS: THE ANSWER IS YES.

4 Q BY MS. SARIS: SHE TOLD YOU THAT?

5 A YES.

6 Q SHE TOLD YOU IT WAS POSSIBLE THAT TRUDY
7 WAS SHOT WHILE SHE, ALLISON, WAS RUNNING DOWN HER
8 DRIVEWAY?

9 A YES, MA'AM.

10 Q DID SHE INDICATE TO YOU WHETHER SHE HAD
11 SPOKEN TO ANYONE ELSE INCLUDING HER NEIGHBORS ABOUT THIS
12 INCIDENT?

13 A YES.

14 Q AND WHO WAS THAT?

15 A A SCHOOL PSYCHOLOGIST AT LA
16 CANADA/FLINTRIDGE PREPARATORY SCHOOL.

17 Q REGARDING HER NEIGHBORS, DO YOU RECALL
18 SPECIFICALLY IF SHE MENTIONED TALKING TO THEM?

19 A I DON'T RECALL SPECIFICALLY, ALTHOUGH SHE
20 WAS BEST FRIENDS WITH DR. LANCE JOHNSON'S DAUGHTER,
21 CHANTAL, C-H-A-N-T-A-L, JOHNSON.

22 Q DID YOU ALSO HAVE OCCASION IN THIS CASE TO
23 INTERVIEW BARON WEHINGER?

24 A YES, MA'AM.

25 Q I MIGHT BE SAYING HIS NAME WRONG.
26 WEHINGER?

27 A I BELIEVE IT'S WEHINGER.

28 Q W-E-H-I-N-G-E-R?

1 A YES, MA'AM.

2 Q AND DID YOU HAVE A CONVERSATION WITH HIM
3 SPECIFICALLY ABOUT THINGS THAT HE HEARD MR. GOODWIN SAY?

4 A YES, MA'AM.

5 Q AND WHEN I SAY "MR. GOODWIN," YOU KNOW WHO
6 MR. GOODWIN IS?

7 A YES, MA'AM.

8 Q YOU SEE HIM IN COURT?

9 A I DO.

10 Q WHAT COLOR SUIT IS HE WEARING?

11 A GREEN WITH A WHITE SHIRT AND GREEN TIE.

12 THE COURT: IDENTIFYING MR. GOODWIN.

13 Q BY MS. SARIS: AND THE PURPOSE OF TALKING
14 TO MR. WEHINGER, WAS THAT SPECIFICALLY ABOUT THIS CASE?

15 A YES, MA'AM.

16 Q AND WHEN DID YOU TALK TO HIM?

17 A I BELIEVE IN THE YEAR 2001, BUT I COULD BE
18 OFF.

19 Q WOULD LOOKING AT YOUR REPORTS HELP REFRESH
20 YOUR RECOLLECTION?

21 A ABSOLUTELY.

22 MS. SARIS: MAY I APPROACH?

23 THE COURT: YES.

24 Q BY MS. SARIS: I'M SHOWING THE DETECTIVE
25 TWO REPORTS ASKING IF THAT REFRESHES HIS RECOLLECTION AS
26 TO THE DATES.

27 A IT DOES.

28 Q AND WHEN DO YOU RECALL TALKING HIM?

1 A 2003 AND THEN THE FOLLOWING YEAR.

2 Q THE FOLLOWING YEAR 2004?

3 A YES, MA'AM.

4 Q DID ANYONE ACCOMPANY YOU TO THAT INTERVIEW
5 IN 2004 BESIDES MR. WEHINGER?

6 A MR. JACKSON I BELIEVE.

7 Q THE GENTLEMAN SITTING HERE TO MY LEFT?

8 A YES, MA'AM.

9 Q WHEN YOU FIRST SPOKE TO MR. WEHINGER, DID
10 HE TELL YOU THAT THIS CONVERSATION ACTUALLY OCCURRED IN
11 19 -- THE STATEMENTS HE HEARD MR. GOODWIN MAKE OCCURRED
12 IN '87?

13 A I'M SORRY, MS. SARIS, I DON'T RECALL IF HE
14 TOLD ME THAT WAS THE TIME FRAME OR NOT. I BELIEVE -- MY
15 MEMORY IS THAT HE TOLD ME IT OCCURRED PERHAPS 60 OR 90
16 DAYS BEFORE THE MURDERS. AND ASK SINCE THEY WERE IN
17 MARCH, IT'S POSSIBLE THAT WAS IN LATE '87, BUT I JUST
18 DON'T RECALL.

19 Q WERE YOU IN COURT HERE WHEN HE TESTIFIED?

20 A I WAS.

21 Q DID YOU HEAR HIM SAY HE THOUGHT THE
22 CONVERSATION WAS IN '84?

23 A I DID HEAR THAT, YES.

24 Q DID YOU ADVISE HIM AT ALL IN THE INTERIM
25 THAT YOU WERE AWARE OF MR. GOODWIN'S PRESENCE --
26 PRESENT -- MR. GOODWIN'S LOCATION IN 1987?

27 A I DID NOT.

28 Q AT ANY TIME IN THE CONVERSATION THAT YOU

1 HAD WITH MR. WEHINGER, EITHER BY YOURSELF OR WITH THE
2 DISTRICT ATTORNEY, DID HE INDICATE TO YOU THIS BIDDING
3 WAR THAT HE EXPLAINED IN COURT REGARDING HE COULD --
4 MICHAEL COULD GET A HIT MAN FOR "X" AMOUNT, BUT HIS
5 STEPFATHER COULD GET ONE CHEAPER?

6 A HE DID NOT.

7 Q DID HE MENTION ANYTHING ABOUT A HIT MAN IN
8 EITHER OF THE TWO PRIOR CONVERSATIONS THAT YOU HAD WITH
9 HIM?

10 A HE DID NOT.

11 Q AND PRIOR TO 2003, YOU DID NOT HAVE ANY
12 DISCUSSIONS WITH THIS GENTLEMAN; IS THAT CORRECT?

13 A NO, MA'AM.

14 Q I'M SORRY. IS THAT CORRECT?

15 A I'M SORRY. YES, THAT'S CORRECT.

16 Q MY FAULT. DID YOU ALSO HAVE A DISCUSSION
17 WITH KATHY WEESE?

18 A YES.

19 Q WAS THAT DISCUSSION IN 2001?

20 A YES.

21 Q DURING THAT DISCUSSION WITH YOU, DID SHE
22 EVER MENTION THE STATEMENT \$500 -- "FOR \$500 AND A
23 MOTORCYCLE, I COULD HAVE HIM TAKEN OUT"?

24 A YES, MA'AM.

25 Q SHE MENTIONED IT IN THAT STATEMENT?

26 A I BELIEVE SO. YES, MA'AM.

27 Q YOU REALIZE THAT STATEMENT WAS TAPED?

28 A IS THAT THE STATEMENT TAKEN IN GEORGIA?

1 Q YES.

2 A OH. MY RECOLLECTION WAS THAT SHE HAD
3 MENTIONED IT IN THAT STATEMENT. BUT JUDGING BY YOUR
4 QUESTION, THAT'S PROBABLY AN INCORRECT RECOLLECTION.

5 Q WELL, LET ME ASK THIS: WOULD YOU BE
6 WILLING TO REVIEW A TRANSCRIPT OF THAT STATEMENT OVER THE
7 LUNCH HOUR?

8 A SURE.

9 Q IF SHE HAD MENTIONED A STATEMENT LIKE
10 THAT, WOULD THAT HAVE BEEN SOMETHING THAT YOU WOULD HAVE
11 PUT IN A REPORT?

12 A YES, MA'AM.

13 Q AND THAT WOULD HAVE BEEN IMPORTANT BECAUSE
14 IT WOULD HAVE BEEN ABOUT THIS CASE AND SPECIFICALLY
15 SOMETHING MR. GOODWIN SAID?

16 A YES.

17 Q AS PART OF YOUR INVESTIGATION IN THIS
18 CASE, DID YOU HAVE OCCASION TO REVIEW WHAT HAD BEEN DONE
19 ON THIS CASE PRIOR TO YOUR BEING ASSIGNED?

20 A YES, MA'AM.

21 Q DID THAT INCLUDE OTHER POLICE REPORTS?

22 A IT DID.

23 Q DID IT INCLUDE -- WELL, WERE YOU JUST
24 LISTENING TO THE TESTIMONY OF MR. GRIGGS?

25 A I WAS.

26 Q HE INDICATED THAT THERE WERE SOME PHONE
27 RECORDS TO OBTAINED FROM MR. GOODWIN. DID YOU SEE THOSE?

28 A YES.

1 Q DID YOU OBTAIN ANY FURTHER RECORDS?

2 A I DID NOT.

3 Q DID YOU HAVE OCCASION TO REVIEW THOSE
4 PHONE RECORDS?

5 A YES.

6 Q AND DID YOU REVIEW ANY, I GUESS YOU WOULD
7 CALL IT A DATABASE, ABOUT HOW OFTEN NUMBERS WERE CALLED
8 AND WHO THE SUBSCRIBERS WERE?

9 A NO, I DID NOT.

10 Q DID YOU ATTEMPT TO GET MICKEY THOMPSON'S
11 PHONE RECORDS?

12 A I DID NOT.

13 Q DID YOU NOTICE IN ANY OF YOUR REVIEW OF
14 THE FILE THAT MR. THOMPSON'S RECORDS HAD BEEN OBTAINED BY
15 ANOTHER DETECTIVE ANYWHERE ALONG THE LINE?

16 A I DID NOT.

17 Q DID YOU HAVE ANY DOCUMENTATION AT ALL THAT
18 WOULD INDICATE A PHONE CALL WAS MADE BETWEEN THESE TWO
19 MEN AT ANY TIME BETWEEN 1986 AND 1988?

20 A BY DOCUMENTATION YOU MEAN BILLING RECORDS
21 FROM A PHONE COMPANY?

22 Q YES.

23 A NO.

24 Q WERE YOU AWARE OF MR. THOMPSON'S NUMBERS,
25 HIS PHONE NUMBERS GOING INTO HIS HOUSE?

26 A YES, MA'AM.

27 Q AND HIS BUSINESS?

28 A YES, MA'AM.

1 Q DID YOU REVIEW -- WE'VE HEARD TESTIMONY
2 ABOUT A CIVIL LAWSUIT AS PART OF THIS LITIGATION?

3 A YES.

4 Q DID YOU REVIEW THE CIVIL FILE REGARDING
5 THE LAWSUIT BETWEEN MICKEY THOMPSON AND MICHAEL GOODWIN?

6 A THE ACTUAL CIVIL FILE IN COURT?

7 Q YES.

8 A NO, MA'AM.

9 Q WHAT DID YOU REVIEW IN REGARDS TO THAT, IF
10 ANYTHING?

11 A THE LITIGATION DOCUMENTS THAT I HAD
12 REGARDING THE FILING OF THE CIVIL ACTION BY MR. THOMPSON;
13 AND DEPOSITIONS; AND CORRESPONDENCE FROM MR. THOMPSON'S
14 ATTORNEYS IN BETWEEN MR. THOMPSON'S ATTORNEYS AND
15 MR. GOODWIN'S ATTORNEYS; AND DOCUMENTS PERTAINING TO THAT
16 NATURE OF THE CIVIL ACTION.

17 Q AND DID YOU RECEIVE THOSE -- WHERE DID YOU
18 GET THOSE?

19 A MANY OF THEM WERE ALREADY IN THE CASE
20 FILE. MANY OF THEM WERE SUPPLIED TO ME BY A
21 MR. BARTINETTI OR MISS CORDELL. AND THEN AT CLARK AND
22 TREVITHICK, THE LAW FIRM THAT REPRESENTED MR. THOMPSON, I
23 REVIEWED THEIR RECORDS THERE.

24 Q DID YOU SEE ANY DOCUMENTATION INDICATING
25 IN ANY OF YOUR REVIEWS THAT A WRIT WAS ISSUED FOR THE
26 SEIZURE OF MR. GOODWIN'S MERCEDES IN JANUARY OR FEBRUARY
27 OF 1988?

28 A I DID NOT.

1 Q WERE YOU AWARE OF WHETHER OR NOT -- WELL,
2 DID YOU INTERVIEW PHIL BARTINETTI AS PART OF YOUR
3 INVESTIGATION?

4 A YES, MA'AM.

5 Q AND YOU KNEW HIM TO BE WHO?

6 A MR. BARTINETTI WAS THE ATTORNEY
7 REPRESENTING MR. THOMPSON IN THE CIVIL ACTION AGAINST
8 MR. GOODWIN.

9 Q DO YOU KNOW WHETHER OR NOT -- OR DID YOU
10 SEE ANY DOCUMENTS REGARDING WHETHER OR NOT MR. GOODWIN
11 WAS IN BANKRUPTCY IN ANY PART OF BETWEEN 1986 AND 1988?

12 A THE ANSWER TO THAT IS YES.

13 Q DID YOU INTERVIEW A MAN BY THE NAME OF
14 JOHN WILLIAMS?

15 A YES, MA'AM.

16 Q DID YOU EVER -- WELL, DID HE ADVISE YOU OF
17 THE TOW THAT HE ALLEGEDLY WAS INVOLVED IN AT
18 MR. GOODWIN'S HOME?

19 A YES, MA'AM.

20 Q DID YOU EVER CONFRONT HIM WITH THE FACT
21 THAT MR. GOODWIN MIGHT HAVE BEEN IN BANKRUPTCY OR EVER
22 INQUIRE AS TO THE POSSIBILITY OF THIS HAPPENING
23 CONSIDERING MR. GOODWIN'S BANKRUPTCY STATUS?

24 MR. JACKSON: OBJECTION, THAT'S IRRELEVANT WHAT
25 INQUIRIES WERE MADE OF MR. WILLIAMS.

26 THE COURT: SUSTAINED.

27 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

28 THE COURT: ALL RIGHT.

1
2 (PROCEEDINGS HELD AT SIDEBAR.)

3 THE COURT: WE'RE AT THE SIDEBAR.

4 MR. JACKSON: THANK YOU, YOUR HONOR. MY ONLY
5 PROBLEM WITH THE QUESTION -- AND I DON'T HAVE ANY PROBLEM
6 WITH THE SUBJECT MATTER. IT SOUNDS LIKE THE WAY IT'S
7 PHRASED, SHE'S ASKING WHETHER THIS WITNESS INQUIRED OF
8 MR. WILLIAMS WHETHER WILLIAMS WAS AWARE OF THE
9 BANKRUPTCY.

10 IT IS IRRELEVANT BECAUSE WILLIAMS'
11 TESTIMONY IS HIS TESTIMONY. SHE ASKED MR. WILLIAMS 14
12 TIMES WHETHER HE WAS AWARE OF THE BANKRUPTCY AND WHETHER
13 OR NOT HE COULD LEGALLY LEVY UNDER BANKRUPTCY. AND
14 WILLIAMS SAID, "NO, I WASN'T AWARE. AND I COULDN'T DO IT
15 IF THERE WAS A BANKRUPTCY." SO I DON'T KNOW HOW THIS
16 WITNESS' DISCUSSIONS -- HEARSAY DISCUSSIONS DEAL WITH
17 THAT.

18 MS. SARIS: THE QUESTION IS REGARDING WHETHER OR
19 NOT THIS WITNESS SIMPLY TOOK AT FACE VALUE WHAT WAS SAID
20 TO HIM OR WHETHER HE ATTEMPTED TO ASCERTAIN THE TRUTH OF
21 THE STATEMENT. SO THE QUESTION IS NOT WHETHER
22 MR. WILLIAMS KNEW. IT'S WHETHER THERE WAS THIS
23 CONVERSATION WHETHER HE EVEN CONFRONTED HIM OR IF SOMEONE
24 WAS WILLING TO SAY SOMETHING BAD ABOUT --

25 THE COURT: ALL RIGHT, OBJECTION IS OVERRULED.

26 (SIDEBAR CONCLUDED.)

27
28 Q BY MS. SARIS: DID YOU EVER CONFRONT

1 MR. WILLIAMS WITH THE NOTION OR THE PAPERWORK OR EVEN THE
2 IDEA THAT MR. GOODWIN WAS IN BANKRUPTCY AT THE TIME HE
3 CLAIMS THIS TOW OCCURRED?

4 A NO.

5 Q DID YOU EVER ATTEMPT TO -- I ASKED YOU IF
6 YOU HAD SEEN A WRIT OR A DOCUMENT INDICATING A TOW IN
7 JANUARY OR FEBRUARY OF '88. DID YOU EVER ATTEMPT TO GET
8 SUCH A DOCUMENT FROM EITHER MR. BARTINETTI OR HIS FIRM?

9 A YES.

10 Q WERE YOU -- DID YOU EVER GET ONE SHOWING
11 AN ATTEMPTED SEIZURE IN '86?

12 A I DID NOT.

13 Q LET ME ASK YOU BASICALLY A QUESTION JUST
14 SIMPLY ON VIRTUE OF YOUR EXPERIENCE. IN ORDER TO GET A
15 WARRANT TO ARREST SOMEONE, DOES THAT PERSON HAVE TO BE
16 PRESENT IN COURT WITH YOU?

17 A THE PERSON YOU INTEND TO ARREST?

18 Q YES.

19 A NO, MA'AM.

20 Q SO THAT'S JUST PAPERWORK THAT YOU WOULD
21 TRY AND GET?

22 WHEN YOU SAY "A WARRANT," IS THAT JUST A
23 PIECE OF PAPER IS MY QUESTION?

24 A A WARRANT IS A PIECE OF PAPER, YES.

25 Q AND THAT AUTHORIZES YOU TO GO OUT AND
26 ARREST AN INDIVIDUAL?

27 A YES, MA'AM.

28 Q WHEN DID YOU HAVE IN YOUR HAND A WARRANT

1 FOR THE ARREST OF MR. GOODWIN?

2 A THE FIRST TIME WAS --

3 MR. JACKSON: OBJECTION, THAT'S IRRELEVANT.

4 THE COURT: SUSTAINED.

5 Q BY MS. SARIS: WELL, LET ME ASK YOU THIS,
6 WERE YOU AWARE OF ANY OCCASION WHERE A WARRANT WAS OUT
7 FOR MR. GOODWIN'S ARREST AND YOU WEREN'T ABLE TO LOCATE
8 HIM?

9 A ME PERSONALLY?

10 Q YOU PERSONALLY.

11 A I'M UNAWARE OF AN OCCASION LIKE THAT.

12 Q DO YOU KNOW WHEN -- OR DO YOU KNOW IF A
13 SHOW CALLED "UNSOLVED MYSTERIES" WAS MADE ABOUT THIS
14 CASE?

15 A I AM AWARE OF THAT, YES, MA'AM.

16 Q HAVE YOU EVER SEEN IT?

17 A I HAVE.

18 Q I'M SORRY?

19 A I HAVE, YES.

20 Q DO YOU KNOW WHEN IT AIRED SINCE IT WAS
21 MADE? DO YOU KNOW WHEN IT FIRST AIRED?

22 A I BELIEVE IT FIRST AIRED THE YEAR OF THE
23 MURDERS, WHICH WAS 1988.

24 Q DO YOU KNOW IF IT HAS BEEN RERUN SEVERAL
25 TIMES?

26 A I DO KNOW.

27 Q AND HAS IT?

28 A IT HAS.

1 Q ARE YOU AWARE OF THE SHOW "AMERICA'S MOST
2 WANTED"?

3 A I AM.

4 Q WAS THERE ANY INVOLVEMENT OF THAT SHOW IN
5 THIS CASE?

6 A YES.

7 Q AND WHEN DID THAT OCCUR?

8 A I BELIEVE IN 1997 WAS THE FIRST AIRING ON
9 AMERICA'S MOST WANTED.

10 Q AND WERE YOU INVOLVED IN THAT?

11 A I WAS.

12 Q HOW SO?

13 A I INITIATED CONTACT WITH THE PRODUCERS OF
14 AMERICA'S MOST WANTED AND MADE THE INITIAL INQUIRY TO SEE
15 IF THEY HAD AN INTEREST IN AIRING THE SHOW TO SEE IF WE
16 COULD POSSIBLY IDENTIFY THE TWO ACTUAL SUSPECTS THAT DID
17 THE MURDER.

18 Q AND AS A RESULT OF THAT, OR IN CONJUNCTION
19 WITH THAT, DID YOU TAKE THE PRODUCERS TO THE SCENE OF THE
20 CRIME?

21 A YES, MA'AM.

22 Q AND WAS THAT ON JUNE 6 OF 1997?

23 A I DON'T RECALL THE DATE THAT I TOOK THEM
24 OUT THERE. THAT SOUNDS ACCURATE.

25 Q WAS THAT THE FIRST TIME THAT YOU MET LANCE
26 JOHNSON IN PERSON?

27 A I DON'T BELIEVE SO.

28 Q DO YOU HAVE A NOTE OF AN INTERVIEW OR ANY

1 NOTATION OF AN INTERVIEW WITH LANCE JOHNSON PRIOR TO JUNE
2 6, 1997?

3 A I DON'T KNOW.

4 Q DID YOU EVER GO TO THE CRIME SCENE -- OH,
5 DO YOU KNOW WHO LIZ DEVINE IS?

6 A YES.

7 Q DID YOU EVER GO TO THE CRIME SCENE WITH
8 HER?

9 A THE NIGHT BEFORE SHE TESTIFIED IN THIS
10 COURTROOM I DID.

11 Q DO YOU KNOW WHO DWIGHT VAN HORN IS?

12 A I DO.

13 Q AND WHO IS HE?

14 A DWIGHT VAN HORN IS A RETIRED DEPUTY
15 SHERIFF FROM THE L.A. SHERIFF'S DEPARTMENT.

16 Q AND WHAT WAS HIS INVOLVEMENT IN THE CASE,
17 AS FAR AS YOU KNOW, AT THE BEGINNING?

18 A DWIGHT WAS AT THE SCENE. AND HE ALSO WAS
19 ASSIGNED AT THAT TIME AS A FIREARMS AND TOOL MARK
20 EXAMINER.

21 Q AND DID YOU EVER ACCOMPANY HIM TO THE
22 SCENE?

23 A I DID NOT.

24 Q DO YOU KNOW WHO MANNY MUNOZ IS?

25 A I DO.

26 Q AND WERE YOU HERE WHEN HE TESTIFIED?

27 A I WAS.

28 Q HAVE YOU EVER BEEN TO THE SCENE WITH HIM?

1 A I HAVE NOT.

2 Q DID YOU REVIEW A REPORT FROM MR. VAN HORN
3 REGARDING THE TYPE OF FIREARM THAT COULD HAVE BEEN USED
4 IN THIS CASE?

5 A I DID.

6 MR. JACKSON: OBJECTION. RELEVANCE.

7 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

8 Q BY MS. SARIS: DID YOU MAKE ANY
9 INDEPENDENT DETERMINATION AS TO WHAT TYPE OF FIREARM
10 COULD HAVE BEEN USED?

11 MR. JACKSON: OBJECTION. RELEVANCE. FOUNDATION.
12 CALLS FOR HEARSAY.

13 THE COURT: ALL RIGHT. LAY A FOUNDATION.

14 MR. JACKSON: YOUR HONOR, MAY WE APPROACH ON
15 THIS?

16 THE COURT: LET'S TAKE OUR NOON RECESS AT THIS
17 TIME, LADIES AND GENTLEMEN, A LITTLE BIT EARLY. WE WILL
18 RESUME AT 1:30. PLEASE REMEMBER ALL THE ADMONITIONS.
19 DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
20 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. WE WILL SEE
21 YOU BACK HERE AT 1:30. THANK YOU.

22
23 (THE FOLLOWING PROCEEDINGS WERE
24 HELD IN OPEN COURT OUTSIDE THE
25 PRESENCE OF THE JURY.)

26
27 THE COURT: ALL RIGHT. ALL THE JURORS AND
28 ALTERNATES HAVE LEFT THE COURTROOM. AND WE ARE ASKING

1 DETECTIVE LILLIENFELD TO STEP OUTSIDE. AND HE IS ON HIS
2 WAY.

3 MR. JACKSON: YOUR HONOR, MY OBJECTION IS WHERE I
4 THINK THE DEFENSE IS GOING TO GO. IT APPEARS THAT
5 MS. SARIS IS GOING TO, I THINK, INQUIRE AS TO THE
6 DETECTIVE'S REVIEW OF CERTAIN BALLISTICS REPORTS. THERE
7 WAS A MISTAKE MADE ABOUT A BALLISTICS REPORT EARLY ON.
8 DWIGHT VAN HORN HAD WRITTEN A REPORT INDICATING THAT
9 CERTAIN GUNS WERE SPECIFICALLY NOT INCLUDED IN THE
10 UNIVERSE OF POSSIBLE GUNS THAT COULD HAVE BEEN USED AS
11 THE MURDER WEAPONS.

12 I THINK THE TESTIMONY WOULD BE THAT
13 DETECTIVE LILLIENFELD MISINTERPRETED THAT REPORT. HE
14 ENDED UP BEING SWORN AS A WITNESS IN ORANGE COUNTY EARLY
15 ON AND TESTIFIED UNDER OATH TO THE EXACT OPPOSITE; THAT
16 HE READ THE REPORT, MEANING THE GUNS LISTED WERE INCLUDED
17 IN THE POSSIBLE UNIVERSE OF GUNS THAT COULD HAVE BEEN
18 USED AS THE MURDER WEAPON.

19 I THINK THAT MS. SARIS IS GOING TO ATTEMPT
20 TO BUILD HIM UP AS A STRAW MAN AND HAVE HIM KNOCKED DOWN;
21 AND BASICALLY ACCUSE HIM OF TESTIFYING UNDER OATH AND
22 PURGERING HIMSELF CONCERNING THAT PARTICULAR TESTIMONY.

23 IT'S IRRELEVANT WHAT DETECTIVE LILLIENFELD
24 INTERPRETED ANY REPORT TO BE. IT'S IRRELEVANT WHAT TYPE
25 OF GUN WAS USED IN THIS CASE, QUITE FRANKLY. IT COULD
26 HAVE BEEN AN AK 47; IT COULD HAVE BEEN A .9 MILLIMETER.

27 AND INsofar AS OUR NOT HAVING FOUND THE
28 MURDER WEAPONS, OTHER THAN THE GENERAL CHARACTERISTICS OF

1 THE CRIME SCENE, IT'S IRRELEVANT.

2 SO I WANT TO MAKE SURE THAT I GET A 402 --
3 OR AN OFFER OF PROOF RATHER THAN A 402 MOTION AS TO WHAT
4 INQUIRY THIS IS; AND WHETHER OR NOT MS. SARIS IS
5 ATTEMPTING TO DO WHAT I JUST DESCRIBED.

6 THE COURT: WHAT IS THE OFFER OF PROOF?

7 MS. SARIS: IT HAS NOTHING TO DO WITH BUILDING
8 HIM UP AS A STRAW MAN. THIS INDIVIDUAL LIED UNDER OATH.
9 HE --

10 MR. JACKSON: WELL, THAT'S ONE INTERPRETATION.

11 MS. SARIS: WELL, HE HAD A BALLISTICS REPORT
12 INDICATING THAT A THREE-DIGIT SMITH & WESSON --

13 THE COURT: DO ME A FAVOR.

14 MS. SARIS: OKAY. SORRY.

15 HE HAD A BALLISTIC REPORT INDICATING A
16 THREE-DIGIT SMITH & WESSON COULD NOT HAVE BEEN --

17 THE COURT: HE?

18 MS. SARIS: DETECTIVE LILLIENFELD.

19 THE COURT: THANK YOU.

20 MS. SARIS: MANNY MUNOZ HAS TESTIFIED ALL IT
21 TAKES IS LOOKING IT UP IN, LIKE, AN ENCYCLOPEDIA. HE
22 KNEW THAT MR. GOODWIN HAD LEGALLY PURCHASED A THREE-DIGIT
23 MODEL SMITH & WESSON. HE PUT IN AFFIDAVIT, SWORN UNDER
24 OATH; AFTER AFFIDAVIT, SWORN UNDER OATH, THAT THE GUN
25 LEGALLY REGISTERED TO MR. GOODWIN COULD HAVE BEEN THE
26 MURDER WEAPON.

27 HE TESTIFIED UNDER OATH IN ORANGE COUNTY
28 THAT THE THREE-DIGIT MODEL SMITH & WESSON COULD HAVE BEEN

1 THE MURDER WEAPON. THIS WAS, IN FACT, A LIE. THEY CAN
2 CHALK IT UP TO A COMPLAINT, BUT THIS IS A 15-YEAR
3 HOMICIDE DETECTIVE WHO WAS TOLD ORALLY; HAD A REPORT; AND
4 COULD HAVE LOOKED UP THAT THERE IS NO WAY THIS COULD HAVE
5 BEEN THE MURDER WEAPON. AS A RESULT OF THAT, MR. GOODWIN
6 WAS ARRESTED IN ORANGE COUNTY. THAT'S WHAT PROMPTED HIS
7 ARREST.

8 WHEN HE CHALLENGED JURISDICTION IN ORANGE
9 COUNTY, THE ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE WAS
10 FORCED TO WRITE A LETTER SAYING, "NEVERMIND. PLEASE
11 IGNORE THE IDEA OF THE BALLISTICS," WHICH WAS ONE OF THE
12 MAIN REASONS MR. GOODWIN WAS ARRESTED.

13 I WOULD LIKE TO SHOW THAT WHEN THIS
14 WITNESS, MUCH AS HE DID WITH MR. WILLIAMS, HE JUST TAKES
15 AT FACE VALUE WHATEVER -- WITHOUT ANY SORT OF LOOKING
16 INTO THIS REPORT OR LOOKING UP ON HIS OWN; WRITES DOWN
17 JUST HURRIEDLY IF THAT'S HIS EXPLANATION FOR IT AND IT'S
18 NOT AN OUTRIGHT LIE, THEN THE BEST THAT WE CAN SAY IS
19 HE'S NEGLIGENT. AND AS A RESULT OF THIS, HE WOUND UP
20 GIVING FALSE TESTIMONY IN THIS CASE UNDER OATH TO A GRAND
21 JURY.

22 AND I THINK THAT'S RELEVANT BECAUSE HE'S
23 THE ONE THAT INVESTIGATED THIS CASE.

24 THE COURT: WELL, SO YOU ARE SEEKING TO ELICIT
25 FROM HIM THE FACT THAT HE PREVIOUSLY COMMITTED AN ACT
26 INVOLVING MORAL TURPITUDE FOR IMPEACHMENT IS WHAT I'M
27 HEARING?

28 MS. SARIS: YES.

1 MR. JACKSON: THEN, WE'RE GOING TO NEED AN EXTRA
2 COUPLE OF DAYS, BECAUSE THAT'S SIMPLY NOT THE FACT.
3 MS. SARIS USES WORDS LIKE "LIE" AND "PERJURY" AND THOSE
4 JUST SEEM TO ROLE OFF HER TONGUE. THE REALITY IS I'VE
5 SPOKEN WITH DWIGHT VAN HORN. HE SAID, "BOY, THAT SURE
6 WAS A CRAPPY WAY I WROTE THAT REPORT. YOU COULD
7 INTERPRET IT EITHER WAY."

8 I'VE SPOKEN WITH MANNY MUNOZ. MANNY MUNOZ
9 WAS HANDED DWIGHT VAN HORN'S REPORT IN AN EFFORT TO BEGIN
10 HIS BALLISTICS INVESTIGATION IN THIS CASE. MANNY MUNOZ,
11 A 20-ODD YEAR EXPERIENCED VETERAN OF THE BALLISTICS
12 SECTION OF THE CRIME LAB, MISREAD THE REPORT WHEN HE
13 FIRST READ IT.

14 THE COURT: WELL, IT SOUNDS LIKE WE ARE GOING TO
15 NEED TO DO A 402 BECAUSE THE AREA OF INQUIRY IS CERTAINLY
16 RELEVANT. HE -- I MEAN HE CERTAINLY -- ANY WITNESS CAN
17 BE IMPEACHED.

18 MR. JACKSON: SURE. IF HE LIED UNDER OATH,
19 ABSOLUTELY, I HAVE NO PROBLEM WITH THAT. THE PROBLEM
20 IS --

21 THE COURT: THE FOUNDATION.

22 MR. JACKSON: -- THERE IS NO EVIDENCE THAT HE
23 LIED UNDER OATH. HE MADE A MISTAKE ON A BALLISTICS
24 REPORT.

25 THE COURT: WELL, I THINK WE LEFT OFF WITH I
26 SUSTAINED THE OBJECTION AS TO THE FOUNDATION. SO THAT'S
27 PRETTY MUCH WHERE WE ARE NOW.

28 I DON'T KNOW, MS. SARIS, HOW YOU ARE GOING

1 TO BE ABLE TO ESTABLISH, THOUGH, THAT IT WAS LIE VERSUS A
2 MISTAKE.

3 MS. SARIS: EITHER WAY IT'S RELEVANT.

4 THE COURT: WELL, NO, IT WOULDN'T BE RELEVANT IF
5 IT WAS A MISTAKE BECAUSE THEN IT WOULDN'T BE USED FOR
6 IMPEACHMENT. IT WOULDN'T BE AN ACT OF MORAL TURPITUDE.

7 MS. SARIS: IMPEACHMENT WOULD BE MORAL TURPITUDE
8 IF HE LIED. BUT HIS SLOPPINESS ON THE INVESTIGATION IS
9 CERTAINLY RELEVANT TO MR. GOODWIN'S DEFENSE.

10 SECOND --

11 THE COURT: WELL, HOW IS --

12 MS. SARIS: IN OTHER WORDS, IF YOU SEE THIS
13 REPORT IT SAYS THESE GUNS ARE TO BE ELIMINATED. AND IN
14 THE LIST OF GUNS TO BE ELIMINATED IS THE SMITH & WESSON
15 THREE DIGIT. HE SAYS HE MISUNDERSTOOD THAT. HE THOUGHT
16 THAT MEANT I'M SUPPOSED TO GO OUT AND FIND THESE GUNS AND
17 ELIMINATE THEM.

18 THE PROBLEM IS IN THAT SAME LIST ARE UZIS,
19 HIGH-POWERED RIFLES AND GLOCKS, WHICH ANY BALLISTIC
20 INDIVIDUAL LOOKING AT WOULD TELL YOU COULD NOT HAVE
21 POSSIBLY BEEN THE MURDER WEAPON. SO IT IS A CLAIM THAT
22 DOESN'T HOLD A LOT OF WEIGHT THAT IT'S SIMPLY A MISTAKE.
23 BUT EVEN IF IT IS A MISTAKE, IT SHOWS THE SLOPPINESS IN
24 THE INVESTIGATION ESPECIALLY WHEN IT'S GOING TO HARM
25 MR. GOODWIN.

26 MR. DIXON: YOUR HONOR, IF I COULD CORRECT JUST
27 ONE THING. MR. LILLIENFELD DID NOT TESTIFY TO THIS
28 INFORMATION IN THIS CASE. IT WAS IN ORANGE COUNTY UNDER

1 A DIFFERENT CASE NUMBER; THE DISTRICT ATTORNEY WAS
2 DIFFERENT; IT'S NOT IN THIS CASE. HE'S NEVER TESTIFIED
3 ON THIS SUBJECT WITH RESPECT TO WHAT MS. SARIS IS SAYING
4 ON THIS CASE NUMBER.

5 MS. SARIS: OKAY. BUT IT'S FOR THE MURDER OF
6 MICKEY AND TRUDY THOMPSON.

7 THE COURT: I GUESS I'M AT A LOSS TO UNDERSTAND
8 THE RELEVANCE. IF IT'S -- IF YOU ARE SAYING IT DOESN'T
9 MATTER WHETHER IT IS A MISTAKE OR A LIE; THAT IT TENDS TO
10 SHOW THAT HE WAS INCOMPETENT OR NEGLIGENT IN HIS
11 INVESTIGATION, WHERE DOES THAT GET US AND HOW IS THAT
12 RELEVANT AT THIS TIME?

13 MS. SARIS: IT'S UP TO THE JURY TO DECIDE WHETHER
14 IT IS A MISTAKE OR A LIE. JUST SIMPLY BECAUSE THE
15 DISTRICT ATTORNEY --

16 THE COURT: WHY WOULD THE JURY -- WHY WOULD THIS
17 BE SOMETHING THAT THE JURY SHOULD LOOK AT? IF IT IS A
18 MISTAKE, AND NOT AN ACT OF MORAL TURPITUDE, HOW IS IT
19 RELEVANT?

20 MS. SARIS: IF IT IS A MISTAKE THAT HE'S PUT
21 UNDER OATH IN AFFIDAVITS AND TESTIFIED TO UNDER OATH AND
22 IT TENDS TO IMPLICATE MR. GOODWIN, IT SHOWS THAT AS LONG
23 AS SOMEONE IS WILLING TO SAY SOMETHING BAD ABOUT
24 MR. GOODWIN; AS LONG AS -- ANY WAY HE COULD INTERPRET
25 EVIDENCE TO IMPLICATE MR. GOODWIN, HE DOES. WHETHER OR
26 NOT THE FACTS ARE THERE. THIS IS THE LEAD DETECTIVE ON
27 THE CASE WHO HAD AT A PRIOR OCCASION TESTIFIED THAT
28 MR. GOODWIN OWNED THE MURDER WEAPON.

1 THE COURT: YOU CAN LAY A FOUNDATION FOR CERTAIN
2 ASSERTIONS. BUT I JUST DON'T KNOW HOW YOU ARE GOING TO
3 GET TO THIS ONE BECAUSE IF IT'S -- WELL, FIRST OF ALL, I
4 DON'T KNOW IF IT IS A LIE OR MISTAKE. AND I GUESS I
5 WON'T KNOW UNLESS THE DETECTIVE TESTIFIES OUTSIDE THE
6 PRESENCE OF THE JURY; RIGHT?

7 MR. JACKSON: CORRECT. AT THE VERY LEAST.

8 MR. DIXON: SO WOULD YOU LIKE ME TO GO GET HIM?

9 THE COURT: WELL --

10 MS. SARIS: WE CAN SAY THAT HE DID HIS OWN --
11 LET'S ASSUME FOR THE PURPOSE OF ARGUMENT THAT DWIGHT VAN
12 HORN, HE MISUNDERSTOOD THIS REPORT. THE L.A. SHERIFF'S
13 OFFICE RETESTED IT IN JULY OF 2001, JULY 26. MR. GOODWIN
14 WASN'T ARRESTED UNTIL DECEMBER. SO EVEN IF HE CLAIMS HE
15 MISUNDERSTOOD DWIGHT VAN HORN'S 1988 REPORT, THEY
16 THEMSELVES DID A BALLISTIC TEST IN JULY OF 2001 SHOWING
17 THAT THIS COULD NOT HAVE BEEN THE MURDER WEAPON.

18 IN DECEMBER OF 2001 HE STILL TESTIFIED
19 THAT THIS COULD HAVE BEEN THE MURDER WEAPON -- I'M SORRY.
20 HE STILL PUT IN THE AFFIDAVIT THAT THIS COULD HAVE BEEN
21 THE MURDER WEAPON, THE AFFIDAVIT THAT LED TO
22 MR. GOODWIN'S ARREST.

23 THE COURT: WELL, I STAND BY MY RULING. IF YOU
24 HAVE INFORMATION THAT INDICATES THE WITNESS COMMITTED A
25 PRIOR ACT INVOLVING MORAL TURPITUDE, THEN PERHAPS IT'S
26 RELEVANT ON THE ISSUE OF CREDIBILITY.

27 MS. SARIS: WELL, THEN I WOULD ASK THAT WE AT
28 LEAST TAKE THE MATTER OUTSIDE THE JURY AND LET HIM

1 TESTIFY TO THE COURT, SO THE COURT CAN MAKE THE
2 DETERMINATION. IF THAT'S WHAT THE COURT IS SAYING IS
3 THAT YOU HAVE TO DETERMINE WHETHER IT IS A LIE OR A
4 MISTAKE FIRST.

5 THE COURT: THAT WOULD BE THE ONLY WAY IT WOULD
6 BE RELEVANT, ATTACKING CREDIBILITY. I DON'T THINK THAT
7 THE GENERAL ASSERTION THAT THIS DETECTIVE, SINCE 1997,
8 DID OR DIDN'T DO CERTAIN THINGS ON THE ISSUE OF WHETHER
9 OR NOT HE WAS COMPETENT OR NEGLIGENT, I DON'T KNOW HOW
10 THAT'S RELEVANT TO ANYTHING.

11 MS. SARIS: BECAUSE THE MAJORITY OF THE WITNESSES
12 DIDN'T COME FORWARD UNTIL AFTER THAT. AND IF HE'S
13 WILLING TO -- IT'S NOT JUST A RANDOM MISTAKE. IT'S A
14 RANDOM MISTAKE THAT IMPLICATES MR. GOODWIN. IF HE'S
15 WILLING TO DO THAT, THEN EVERY SINGLE WITNESS THAT
16 TESTIFIED TO THESE THREATS CAME FORWARD SINCE
17 DETECTIVE -- EXCEPT FOR BILL WILSON -- SINCE DETECTIVE
18 LILLIENFELD AS BEEN ON THE CASE.

19 THE COURT: AND THE RELEVANCE OF THAT IS WHAT?

20 MS. SARIS: IF HE'S SLOPPY IN HIS INVESTIGATION,
21 THEN THESE WITNESSES ARE NOT TO BE TRUSTED. HIS RECORD
22 OF THE WITNESSES ARE NOT TO BE TRUSTED. HIS DISCUSSIONS
23 WITH THE WITNESSES ARE NOT TO BE TRUSTED.

24 MR. JACKSON: WELL, ALL THE WITNESSES TESTIFIED.
25 WE DIDN'T ASK HIM -- THIS ISN'T A PROP 115 TRIAL.

26 THE COURT: EXACTLY. I JUST -- I'M HAVING A HARD
27 TIME SEEING THE RELEVANCE OF HOW THIS DETECTIVE CONDUCTED
28 HIS INVESTIGATION. I THINK SPECIFICALLY IF MR. GOODWIN'S

1 GUN WAS BELIEVED TO HAVE BEEN THE MURDER WEAPON OR A
2 MURDER WEAPON OR A WEAPON USED; AND YOU HAVE EVIDENCE TO
3 SHOW IT MUST BE EXCLUDED FROM THE REALM OF POSSIBILITY,
4 THEN I GUESS TECHNICALLY ON THE ISSUE OF WHETHER OR NOT
5 MR. GOODWIN WAS INVOLVED IN THIS CASE, IT WOULD HAVE
6 RELEVANCE. BUT THESE OTHER THINGS, I JUST DON'T KNOW. I
7 DON'T SEE IT.

8 MS. SARIS: THEN WHAT TIME SHOULD WE HAVE HIM
9 TESTIFY AS TO WHETHER OR NOT HE LIED OR MADE A MISTAKE?

10 THE COURT: WELL, I THINK TO IMPEACH A WITNESS
11 YOU HAVE TO MAKE SOME GOOD FAITH SHOWING THAT YOU BELIEVE
12 THAT HIS TESTIMONY IN ORANGE COUNTY BEFORE A GRAND JURY
13 WAS AN ACT OF MORAL TURPITUDE, THAT HE LIED UNDER OATH.

14 MS. SARIS: AND I -- DOES THE COURT NEED THE
15 DWIGHT VAN HORN -- I'VE ADVISED THE COURT THERE WAS A
16 TEST DONE BY THE L.A. SHERIFF IN JULY OF 2001. THEY WERE
17 IN POSSESSION OF DWIGHT VAN HORN'S REPORT.

18 THE COURT: AT THIS POINT YOU NEED TO LAY A
19 FOUNDATION IN FRONT OF THE JURY BEFORE I'M GOING TO EVEN
20 LET YOU ASK THE QUESTION. BUT I GUESS AFTER THAT, IF
21 THERE'S A SUFFICIENT FOUNDATION, THEN YOU CAN ASK THE
22 QUESTION. AND, OF COURSE, YOU KNOW WHAT THE ANSWER IS
23 GOING TO BE. BUT IT IS A RELEVANT AREA OF INQUIRY AS
24 LONG AS THERE IS A GOOD FAITH BELIEF THAT THAT'S WHAT
25 HAPPENED.

26 I MEAN, I SUSTAINED THE LAST OBJECTION ON
27 THE FOUNDATION GROUNDS AND I THINK THAT'S WHERE WE LEFT
28 OFF.

1 MS. SARIS: OKAY. WHILE WE'RE OUTSIDE THE
2 PRESENCE OF THE JURY, I ALSO WOULD ASK THE COURT THEN
3 PERMISSION TO INQUIRE OF THIS WITNESS REGARDING JOEY
4 HUNTER FOR THE FOLLOWING REASON: NOT AS A THIRD-PARTY
5 SUSPECT, BUT THERE HAS BEEN A SHOWING BY RON AND TONYIA
6 STEVENS WHO INDICATED -- AND THE PEOPLE HAVE MADE MUCH
7 HAY OUT OF THE FACT THAT THERE WAS SOMEONE OUTSIDE THEIR
8 HOME IN A STATION WAGON THAT 20 YEARS -- OR SORRY, 13
9 YEARS LATER WAS IDENTIFIED AS MICHAEL GOODWIN.

10 THIS STATION WAGON HAD ARIZONA PLATES.
11 JOEY HUNTER WAS KEPT UNDER SURVEILLANCE FOR A PERIOD OF
12 THREE TO FIVE DAYS AFTER HE WAS ARRESTED FOR THIS CRIME
13 AT TWO LOCATIONS. ONE LOCATION WAS HIS HOME. THE OTHER
14 LOCATION WAS HIS BEST FRIEND'S HOME, WHO WAS A REPUTED
15 DRUG DEALER ALONG WITH HIS AUNT. AT THAT LOCATION IN
16 1988 WAS A CAR WITH ARIZONA PLATES. AND THAT LOCATION IS
17 WITHIN SEVEN MILES OF MICKEY THOMPSON'S HOUSE.

18 THEY HAD INFORMATION THAT JOEY HUNTER
19 COULD HAVE BEEN INVOLVED IN THIS CASE. THEY HAD
20 INFORMATION THAT THIS INDIVIDUAL WAS INVOLVED IN CRIMINAL
21 ACTIVITY. THEY DID NOT -- SINCE DETECTIVE LILLIENFELD
22 CAME ON THE CASE AND WAS AWARE -- HE WOULD HAVE BEEN THE
23 ONLY DETECTIVE AWARE BECAUSE THE STEVENSES DID NOT COME
24 FORWARD UNTIL 2001 -- OF THE ARIZONA PLATES.

25 HE DID NOT MAKE ANY FOLLOW-UP TO TRY AND
26 DETERMINE THE MAKE, MODEL OR TYPE OF THAT VEHICLE. THIS
27 DETECTIVE, 13 YEARS AFTER THE FACT, PUT MR. GOODWIN'S
28 FACE -- PICTURE IN A LINE-UP FOR THESE INDIVIDUALS. BUT

1 DID NOT RUN A LICENSE PLATE BASED ON INFORMATION OF
2 ANOTHER SUSPECT THAT HAD A SOMEWHAT UNUSUAL OCCURRENCE,
3 THE ARIZONA LICENSE PLATE WITHIN MILES OF THE HOME FOR A
4 SUSPECT THAT THEY HAD UNDER SURVEILLANCE. HE WAS ABLE TO
5 LOCATE MR. GOODWIN'S MERCEDES 20 YEARS LATER IN A JUNK
6 STORE.

7 THE COURT: I'M LOSING YOU BECAUSE --

8 MR. SARIS: I WANT TO ASK HIM ABOUT JOEY HUNTER.
9 THE RELEVANCE IS HE FAILED TO FOLLOW-UP ON THE ARIZONA
10 LICENSE PLATE. THERE IS NO --

11 THE COURT: YOU CAN ASK HIM ABOUT THE CAR. YOU
12 CAN ASK HIM ABOUT THE IDENTIFICATION, THE PRIOR
13 IDENTIFICATION OR LACK THEREOF.

14 MS. SARIS: THE PROBLEM IS THE JURY WON'T
15 UNDERSTAND THE FAILURE TO INVESTIGATE AND THE DEPTH OF
16 THAT WITHOUT UNDERSTANDING WHO JOEY HUNTER WAS AND WHY IT
17 WAS IMPORTANT FOR THEM TO TRACE THIS ARIZONA PLATE.

18 THE COURT: BUT YOU ARE OPERATING UNDER THE
19 ASSUMPTION THAT I'M ALLOWING YOU TO PRESENT THIRD-PARTY
20 CULPABILITY EVIDENCE THAT YOU BELIEVE JOEY HUNTER WAS
21 INVOLVED IN THE MURDERS.

22 MS. SARIS: NOT AT ALL. I'M SAYING THAT THIS
23 DETECTIVE INDICATED HE REVIEWED THE RECORDS OF EVERYBODY
24 THAT HAD PREVIOUSLY INVESTIGATED THIS CASE. THE TWO
25 THINGS THAT ONE WOULD EXPECT WHEN ONE PERSON GETS ON THE
26 CASE IS THAT YOU REVIEW ALL THE OTHER REPORTS.

27 THE COURT: YOU CAN ASK HIM THESE QUESTIONS.

28 MS. SARIS: THE PROBLEM IS HE GETS THE

1 INFORMATION IN 2001 FROM THE STEVENSES. THEY TELL HIM
2 THERE IS AN ARIZONA LICENSE PLATE INVOLVED. THERE IS NO
3 WAY TO UNDERSTAND THE IMPORT OF HIS FAILURE TO
4 INVESTIGATE THAT WITHOUT EXPLAINING WHO JOEY HUNTER IS.
5 DID YOU RUN AN ARIZONA PLATE --

6 THE COURT: I DISAGREE. I THINK YOU HAVE A VERY
7 STRONG ARGUMENT THAT HIS FAILURE TO FOLLOW-UP ON AN
8 INVESTIGATION REGARDING A VEHICLE IN WHICH YOUR CLIENT
9 WAS SEEN, ALLEGEDLY, THAT'S RELEVANT. YOU CAN MAKE THOSE
10 INQUIRIES WITHOUT REFERRING TO JOEY HUNTER.

11 MS. SARIS: WELL, IF HE DOESN'T FOLLOW-UP ON A
12 VEHICLE VERSUS -- IN GENERAL, VERSUS HE DOESN'T FOLLOW-UP
13 ON A VEHICLE THAT WAS ALLEGED TO BE AT THE HOME THAT THEY
14 WERE SURVEILLING OF THE MAN WHO WAS A SUSPECT IN THE
15 CASE, THAT'S A HUGE DIFFERENT AREA OF INQUIRY THAT THIS
16 JURY SHOULD KNOW. THIS WASN'T A RANDOM ARIZONA PLATE
17 CAR.

18 THE COURT: I'M LOSING YOU WHEN YOU TALK ABOUT
19 JOEY HUNTER.

20 MS. SARIS: OKAY.

21 THE COURT: BECAUSE I DON'T KNOW THAT JOEY
22 HUNTER, AGAIN -- AND THERE IS NO EVIDENCE THAT JOEY
23 HUNTER HAS ANY CONNECTION WITH THIS CASE.

24 MS. SARIS: NO. HE HAS A CONNECTION WITH A CAR
25 WITH ARIZONA LICENSE PLATES THAT WAS SEEN WITHIN --

26 THE COURT: WELL, THAT IS COVERED BY THE QUESTION
27 THAT YOU WANT TO POSE TO THE DETECTIVE, WHICH IS: DID
28 YOU DO ANY FOLLOW-UP ON THE VEHICLE IN WHICH THE

1 DEFENDANT WAS IDENTIFIED?

2 MS. SARIS: BUT THE PLATE CAME FROM THE JOEY
3 HUNTER INVESTIGATION. THE STEVENSES DID NOT GIVE HIM A
4 PLATE. IN OTHER WORDS, ONCE HE GOT THE STEVENSES
5 INFORMATION --

6 THE COURT: YOU CAN ASK HIM ABOUT INFORMATION
7 THAT HE RECEIVED FROM ANOTHER SOURCE WITHOUT GOING INTO
8 JOEY HUNTER.

9 MS. SARIS: I THINK THAT VITIATES THE IMPACT OF
10 IT. I MEAN IT'S ONE THING TO NOT --

11 THE COURT: THE IMPACT -- YOU KNOW, YOU CAN'T --
12 IN MY OPINION, A LOT OF WHAT YOU ARE SEEKING TO ELICIT
13 FROM THESE WITNESSES IS ARGUMENT. AND YOU CERTAINLY HAVE
14 A FOUNDATION AND A BASIS FOR MAKING THESE ARGUMENTS. BUT
15 I DON'T KNOW THAT YOU CAN ELICIT ALL OF THIS FROM THESE
16 WITNESSES.

17 THERE HAS TO BE SOME THRESHOLD SHOWING OF
18 RELEVANCE. AND I JUST DON'T SEE THE RELEVANCE ON A LOT
19 OF THESE ISSUES. I THINK YOU CAN CERTAINLY LAY A
20 FOUNDATION WITH THIS DETECTIVE REGARDING HIS PRIOR --
21 ALLEGED PRIOR ACT OF MORAL TURPITUDE. AND THAT'S WHERE
22 WE LEFT OFF. SO --

23 MS. SARIS: WELL, THE COURT HAD ASKED ME TO GIVE
24 THEM A HEADS UP IF I WAS GOING TO BRING UP JOEY HUNTER OR
25 JOHN YOUNG.

26 THE COURT: ALL RIGHT.

27 MS. SARIS: I WOULD ALSO INQUIRE OF THIS
28 DETECTIVE WHY HE DIDN'T SHOW JOHN YOUNG'S PICTURE TO

1 CLAUDETTE FREIDINGER, LANCE JOHNSON AND WILMA JOHNSON.

2 THE COURT: BUT THEN WE ARE GETTING INTO A
3 REVISITING OF THE THIRD-PARTY CULPABILITY ISSUE, AND I
4 REALLY DON'T WANT TO DO THAT. BUT LET'S RESUME AT 1:30,
5 AND WE WILL TAKE IT FROM THERE. OKAY?

6
7 (AT 12:00 P.M. A RECESS WAS TAKEN
8 UNTIL 1:30 P.M. OF THE SAME DAY.)

9 --000--
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, DECEMBER 11, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION

8
9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: BACK ON THE RECORD IN THE GOODWIN
14 MATTER. HE IS PRESENT WITH COUNSEL. THE PEOPLE ARE
15 REPRESENTED. THE JURY AND ALTERNATES ARE NOT HERE.

16 WE LEFT OFF EARLIER DISCUSSING QUESTIONS
17 THAT MS. SARIS WAS ABOUT TO POSE TO THE WITNESS. SO,
18 DETECTIVE LILLIENFELD, PLEASE COME FORWARD. AND WE WILL
19 DO THIS OUTSIDE THE PRESENCE OF THE JURY. AND YOU HAVE
20 BEEN PREVIOUSLY SWORN. YOU REMEMBER YOU ARE STILL UNDER
21 OATH. STATE YOUR NAME AGAIN FOR THE RECORD, PLEASE.

22 THE WITNESS: MARK LILLIENFELD.

23 THE COURT: MS. SARIS.

24 MS. SARIS: THANK YOU.
25

26 DIRECT EXAMINATION (RESUMED)

27 BY MS. SARIS:

28 Q DETECTIVE, WERE YOU IN POSSESSION OF A

1 BALLISTICS REPORT FROM DWIGHT VAN HORN THAT WAS MADE
2 CLOSE IN TIME TO THE CRIME IN THIS CASE?

3 A YES, MA'AM.

4 Q AND DID THAT REPORT INDICATE TO YOU THAT
5 ONE OF THE GUNS THAT SHOULD HAVE BEEN ELIMINATED AS A
6 POTENTIAL MURDER WEAPON WAS A THREE-DIGIT SMITH & WESSON
7 FIREARM?

8 A YES.

9 Q AND DID YOU AT A LATER TIME TESTIFY IN AN
10 ORANGE COUNTY PRELIMINARY HEARING INDICATING THAT
11 MR. GOODWIN OWNED A THREE-DIGIT SMITH & WESSON FIREARM?

12 A YES, MA'AM.

13 Q AND DID YOU INDICATE AT THAT TIME UNDER
14 OATH THAT THAT WEAPON COULD HAVE BEEN THE MURDER WEAPON?

15 A YES.

16 Q DID YOU CONDUCT ANY FURTHER TESTING, OR
17 DID YOUR DEPARTMENT, IN 2001 IN JULY ON A PARTICULAR
18 SMITH & WESSON THREE-DIGIT MODEL FIREARM?

19 A YES, MA'AM.

20 Q AND AT THAT TIME, DID THE GENERAL RIFLING
21 CHARACTERISTIC REPORT COME BACK INDICATING FIVE LANDS AND
22 GROOVES WITH A TWIST TO THE RIGHT?

23 A I BELIEVE SO, YES.

24 Q WOULD LOOKING AT THAT REPORT HELP REFRESH
25 YOUR RECOLLECTION?

26 A SURE.

27 Q I'M SHOWING A JULY 26, 2001 --
28 MR. JACKSON: I'VE SEEN IT.

1 Q BY MS. SARIS: -- REPORT.

2 A OKAY.

3 Q AND DID THAT INDICATE FIVE LANDS AND
4 GROOVES WITH A RIGHT TWIST?

5 A YES.

6 Q AND WAS THAT REPORT PREPARED, IN PART, BY
7 MR. MUNOZ WHO TESTIFIED IN THIS CASE?

8 A YES.

9 Q AND DID MR. VAN HORN, AT ANY POINT,
10 INDICATE TO YOU THAT THE MURDER WEAPON IN THIS CASE HAD
11 SIX LANDS AND GROOVES?

12 A NO.

13 Q YOU WERE OF THE IMPRESSION THAT THE MURDER
14 WEAPON HAD FIVE?

15 A NO.

16 Q WHAT WAS YOUR IMPRESSION BASED ON
17 CONSULTATION OR READING THE REPORT OF DWIGHT VAN HORN
18 REGARDING THE MURDER WEAPON?

19 A ON READING A MEMO BY DWIGHT VAN HORN AND
20 ON TALKING TO DWIGHT VAN HORN, IT WAS MY IMPRESSION THAT
21 A SMITH & WESSON .9 MILLIMETER PISTOL WITH A THREE
22 CHARACTER MODEL NUMBER WAS A POTENTIAL MURDER WEAPON IN
23 THIS CASE.

24 Q AND DID YOU YOURSELF LOOK INTO ANY SORT OF
25 FBI DATABASE TO DETERMINE WHETHER OR NOT A SMITH & WESSON
26 THREE-DIGIT MODEL NUMBER PRODUCED FIVE OR SIX LANDS AND
27 GROOVES?

28 A NO MA'AM.

1 Q AND IS THIS THE REPORT THAT YOU ARE
2 REFERRING TO?

3 YOUR HONOR, I HAVE A REPORT DATED
4 12/16/1988.

5 A YES, MA'AM, IT IS.

6 Q AND IN THIS REPORT WHERE IT LISTS "PISTOLS
7 TO ELIMINATE AS SUSPECT GUNS," DOES IT ALSO LIST A GLOCK?

8 A YES.

9 Q DID YOU -- WERE YOU AWARE THAT WEAPONS --
10 THAT BULLETS FIRED FROM A GLOCK LOOK COMPLETELY
11 DISTINGUISHABLE FROM OTHER FIREARMS?

12 A NO.

13 Q YOU DIDN'T KNOW THAT?

14 A NO, MA'AM.

15 Q DID IT ALSO LIST WEAPONS THAT COULD HAVE
16 BEEN ELIMINATED JUST BY VIRTUE OF SIGHT, FOR INSTANCE,
17 MACHINE-TYPE GUNS, MACHINE-GUN TYPE UZIS, AND MACK TENS?

18 A YES.

19 Q AND YET YOU STILL THOUGHT THIS WAS
20 INCLUSIVE OF A MODEL -- THREE-DIGIT MODEL SMITH & WESSON?

21 A YES.

22 MS. SARIS: YOUR HONOR, MAY I MARK THIS FOR THE
23 RECORD? SHOULD I MAKE IT NEXT IN ORDER, OR SHOULD IT BE
24 A COURT EXHIBIT?

25 THE COURT: WELL, ARE YOU GOING TO USE IT? I
26 GUESS WE DON'T KNOW.

27 MS. SARIS: CORRECT.

28 THE COURT: LET'S MARK IT NOW AS COURT'S

1 EXHIBIT 1 FOR TODAY'S PROCEEDING. AND WE WILL GO FROM
2 THERE.

3 MS. SARIS: TODAY IS THE 11TH?

4 THE COURT: YES. WE ARE MARKING COURT'S EXHIBIT
5 1 FOR THESE PROCEEDINGS.

6 THE CLERK: OKAY.

7
8 (MARKED FOR IDENTIFICATION COURT'S
9 EXHIBIT NO. 1, DOCUMENT.)
10

11 Q BY MS. SARIS: DID YOU DISCUSS WITH DWIGHT
12 VAN HORN WHETHER OR NOT -- DID YOU ASK HIM ABOUT THIS --
13 WHAT HE MEANT BY "TO BE ELIMINATED"?

14 A YES, MA'AM.

15 Q AND DID HE ADVISE YOU THAT THE SMITH &
16 WESSON COULD BE AN ACTUAL MURDER WEAPON?

17 A WHEN I SPOKE TO DEPUTY VAN HORN, I ASKED
18 HIM SPECIFICALLY ABOUT THAT MEMO YOU'RE HOLDING AND ASKED
19 HIM IF THOSE WERE ALL POSSIBLE GUNS. AND THE RESPONSE I
20 GOT WAS, YES, THOSE ARE ALL POSSIBLE GUNS THAT WERE USED
21 IN THIS CRIME.

22 Q AT SOME POINT DID YOU MAKE A DETERMINATION
23 THAT THE MURDER WEAPON -- OR DID ANYONE ADVISE YOU PRIOR
24 TO YOUR TESTIMONY AT THE GRAND JURY THAT THE MURDER
25 WEAPON WAS NOT A FIVE LAND AND GROOVE?

26 A PRIOR TO, NO. THE ANSWER IS NO.

27 Q SO THE REPORT OF JULY 26 OF 2001, WHEREIN
28 IT INDICATED A SMITH & WESSON THREE-DIGIT MODEL HAD BEEN

1 TESTED, DID YOU NOT -- WERE YOU NOT AWARE THAT THIS
2 WOULD -- FIVE LANDS WITH GROOVES WOULD APPLY TO ALL
3 THREE-DIGIT SMITH & WESSON MODELS?

4 A THAT'S CORRECT.

5 Q YOU DID NOT KNOW THAT?

6 A THAT'S CORRECT.

7 Q AND AT THAT POINT YOU HAD BEEN A HOMICIDE
8 DETECTIVE FOR HOW LONG?

9 A AT THAT POINT, ABOUT 11 YEARS, 12 YEARS.

10 Q SO, IN FACT, YOU TESTIFIED UNDER OATH THAT
11 THE THREE-DIGIT MODEL SMITH & WESSON THAT WAS LEGALLY
12 REGISTERED TO MR. GOODWIN COULD HAVE BEEN A MURDER
13 WEAPON?

14 A AT THAT HEARING, ABSOLUTELY, YES.

15 Q AND YOU PUT THAT IN SUBSEQUENT AFFIDAVITS?

16 A I DID.

17 Q AND THAT WAS INCORRECT?

18 A THAT IS CORRECT THAT THAT WAS INCORRECT,
19 YES.

20 Q DID YOU ATTEMPT TO VERIFY THIS BEFORE
21 TESTIFYING UNDER OATH WITH DWIGHT VAN HORN?

22 A NO.

23 Q WITH MANNY MUNOZ?

24 A NO.

25 Q DID YOU ATTEMPT TO DO ANY CHECKING OF
26 YOURSELF INTO THE FBI DATABASE OR AN ATF DATABASE
27 REGARDING THE GENERAL RIFLING CHARACTERISTICS OF THESE
28 GUNS?

1 MR. JACKSON: ASKED AND ANSWERED, YOUR HONOR.

2 THE WITNESS: NO, MA'AM.

3 THE COURT: THE ANSWER CAN REMAIN.

4 Q BY MS. SARIS: IN THE REPORT OF DWIGHT VAN
5 HORN HE LISTS SEVERAL MODELS UNDER THE TOPIC "SUSPECT
6 GUNS TO BE ELIMINATED"; IS THAT CORRECT?

7 A IF YOU COULD, THAT'S NOT A REPORT. IT IS
8 A MEMO.

9 Q A MEMO?

10 A THERE'S A DIFFERENCE. AND, I'M SORRY, IF
11 YOU COULD PLEASE ASK THE QUESTION AGAIN.

12 Q SURE. DOES HE LIST CERTAIN MODELS OF GUNS
13 ON YOUR SUSPECT GUNS TO BE ELIMINATED?

14 A YES, MA'AM.

15 THE COURT: THAT'S COURT'S 1?

16 MS. SARIS: COURT'S 1.

17 Q AND THERE SEEMS TO BE ANOTHER LIST ON THE
18 OTHER SIDE SEPARATE AND APART FROM THAT LIST?

19 A YES, MA'AM.

20 Q WHAT IS THAT A LIST OF?

21 A IT IS A LIST OF OTHER FIREARMS THAT COULD
22 ALSO POTENTIALLY BE ELIMINATED THROUGH SHOWING THE
23 WITNESSES A PHOTO LINE-UP OF THOSE FIREARMS.

24 Q SO IN OTHER WORDS, IS IT YOUR
25 UNDERSTANDING THEN THAT THESE FIREARMS WOULD LOOK SO
26 DIFFERENT THAN A HAND-HELD PISTOL THAT THROUGH EYEWITNESS
27 IDENTIFICATION THEY COULD BE ELIMINATED?

28 A THAT'S THE WAY I WOULD INTERPRET THAT,

1 YES.

2 Q AND YET YOU INTERPRETED THE ONES ON THE
3 RIGHT TO BE INCLUDED?

4 A YES, MA'AM.

5 Q WHEN DID YOU BECOME AWARE YOU HAD MADE
6 THIS MISTAKE?

7 A I BELIEVE SOME TIME IN 2001.

8 Q AND HOW DID THAT COME ABOUT?

9 A THE APPELLATE ATTORNEY, I BELIEVE, OF
10 MR. GOODWIN WAS ABLE TO POINT IT OUT.

11 Q POINT IT OUT FROM A PAGE IN THE ATF
12 MANUAL?

13 A THROUGH A SERIES OF LITIGATION IN COURT HE
14 WAS ABLE TO IDENTIFY THAT MISTAKE.

15 Q AND DID YOU EVER SEE A PAGE OF A MANUAL,
16 EITHER FROM THE FBI OR THE ATF, INDICATING THAT A
17 THREE-DIGIT SMITH & WESSON HAD FIVE LANDS AND GROOVES AND
18 A RIGHT TWIST?

19 A I'VE NEVER SEEN SUCH A DOCUMENT LIKE THAT.

20 Q THE TEST THAT WAS CONDUCTED ON JULY 26 OF
21 2001, WAS THAT A TEST ON A WEAPON THAT YOU BELIEVED TO
22 HAVE BEEN REGISTERED, SPECIFICALLY THAT WEAPON, TO BE
23 REGISTERED TO MR. GOODWIN?

24 A YES.

25 Q AND THAT CAME OUT TO -- TURNED OUT TO BE
26 NOT MATCHED AS THE MURDER WEAPON IN THIS CASE; CORRECT?

27 A THAT'S CORRECT.

28 Q AND DID YOU INCLUDE THAT IN YOUR TESTIMONY

1 OR IN ANY OF YOUR AFFIDAVITS THAT THE ONE THREE-DIGIT
2 THAT YOU DID TEST WAS NOT A MATCH?

3 MR. JACKSON: OBJECTION. VAGUE AS TO TIME.
4 WHICH TESTIMONY?

5 THE COURT: ALL RIGHT. SUSTAINED.

6 Q BY MS. SARIS: THE TESTIMONY THAT YOU'VE
7 BEEN REFERRING TO AT THE ORANGE COUNTY PRELIMINARY
8 HEARING, DID YOU INCLUDE THAT TESTIMONY THAT THE ONE
9 THREE-DIGIT FIREARM FROM SMITH & WESSON THAT YOU DID TEST
10 WAS NOT A MATCH?

11 A NO.

12 MR. JACKSON: OBJECTION. THAT ASSUMES FACTS NOT
13 IN EVIDENCE THAT HE KNEW THAT BEFOREHAND. I THINK THE
14 TESTIMONY IS THAT HE DIDN'T KNOW THAT WHEN HE TESTIFIED.

15 THE COURT: SUSTAINED.

16 Q BY MS. SARIS: ACTUALLY, YOU KNEW THIS IN
17 JULY OF 2001; CORRECT?

18 MR. JACKSON: KNEW WHAT? I'M SORRY.

19 Q BY MS. SARIS: YOU KNEW THAT THE GUN THAT
20 YOU BELIEVED TO BE REGISTERED TO MR. GOODWIN, THAT WAS A
21 THREE-DIGIT SMITH & WESSON, HAD BEEN TESTED? YES?

22 A YES, MA'AM.

23 Q AND THAT WAS JULY OF 2001?

24 A YES, MA'AM.

25 Q YOU DID NOT TESTIFY IN THE ORANGE COUNTY
26 PRELIMINARY HEARING UNTIL 2002; CORRECT?

27 A YES, MA'AM.

28 Q SO YOU KNEW BEFORE YOU TESTIFIED THAT THE

1 ONE -- AT LEAST THE ONE GUN THAT YOU TOOK FROM
2 MR. GOODWIN THAT WAS A THREE-DIGIT MODEL SMITH & WESSON
3 WAS NOT THE MURDER WEAPON?

4 A THAT'S CORRECT.

5 Q AND DID YOU SO STATE IN YOUR TESTIMONY AT
6 THE ORANGE COUNTY PRELIMINARY HEARING?

7 A NO, MA'AM.

8 MS. SARIS: I HAVE NOTHING FURTHER, YOUR HONOR.

9 THE COURT: CROSS?

10

11 CROSS-EXAMINATION

12 BY MR. JACKSON:

13 Q WERE YOU ASKED THAT SPECIFIC QUESTION AT
14 THE ORANGE COUNTY PRELIM?

15 A NO.

16 Q HOW LONG HAVE YOU BEEN A COURT QUALIFIED
17 BALLISTICS EXPERT?

18 A NEVER.

19 Q YOU'RE NOT A COURT QUALIFIED BALLISTICS
20 EXPERT, ARE YOU?

21 A NO.

22 MR. JACKSON: YOUR HONOR, COURT'S EXHIBIT, MAYBE
23 1-A, IF YOU WILL, IT'S JUST AN ENLARGEMENT OF WHAT
24 COUNSEL HAS BEEN REFERRING TO.

25 THE COURT: ALL RIGHT. WE WILL MARK THAT COURT'S
26 EXHIBIT 1-A.

27

28 (MARKED FOR IDENTIFICATION COURT'S

EXHIBIT NO. 1-A, DOCUMENT.)

MR. JACKSON: THIS IS A -- IT APPEARS TO BE A
MEMORANDUM FROM THE COUNTY OF LOS ANGELES SHERIFF'S
DEPARTMENT DATED 12/16/1988.

Q DO YOU SEE UNDER THE MEMO UNDER THE
SUBJECT LINE WHAT IS WRITTEN IN THAT MEMO?

A I DO.

Q IS THIS A COPY OR AN ENLARGED COPY OF THE
MEMO TO WHICH YOU'VE BEEN REFERRING IN COUNSEL'S
QUESTIONING OF YOU?

A YES.

Q THIS IS THE ONE FROM DWIGHT VAN HORN?

A YES.

Q TELL ME EXACTLY WHEN IT SAYS UNDER THE
SUBJECT LINE?

A ".9 MILLIMETER PISTOLS TO BE ELIMINATED AS
SUSPECT GUNS." PERIOD.

Q HOW DID YOU READ THAT?

A I READ THAT TO MEAN THAT THE BELOW LIST OF
GUNS SHOULD BE BROUGHT TO ME I CAN -- "ME," MEANING
DWIGHT VAN HORN, THE BALLISTICS EXPERT. I CAN CONDUCT
BALLISTICS EXAM ON THEM AND ELIMINATE THEM AS BEING
POTENTIALLY THE MURDER WEAPON.

Q OKAY. IN OTHER WORDS, THE LIST OF GUNS
HERE ON THE LEFT BARRETA, TORRES, SMITH & WESSON, H & K,
GLOCK, STAR, TANFOGLIO, AND SIGSAUER, YOU READ THIS TO
MEAN THESE ARE THE GUNS THAT YOU NEED TO BRING TO ME --

1 DWIGHT VAN HORN -- SO THAT WE CAN ELIMINATE THEM AS
2 POSSIBLE SUSPECT GUNS; CORRECT?

3 A YES, SIR.

4 Q UNDER THE SUBJECT ".9 MILLIMETER PISTOLS
5 TO ELIMINATE AS SUSPECT GUNS," NOT THE CLEAREST IN YOUR
6 MIND DEFINITION OF WHAT WAS BEING SAID ON THIS MEMO?

7 MS. SARIS: OBJECTION. LEADING.

8 MR. JACKSON: YOUR HONOR, THIS IS A 402.

9 THE COURT: OVERRULED.

10 YOU CAN ANSWER.

11 THE WITNESS: NOT CLEAR AT ALL.

12 Q BY MR. JACKSON: AS A MATTER OF FACT, DOWN
13 HERE ON THE LOWER RIGHT-HAND CORNER IT INDICATES ALSO
14 BASED ON WITNESSES, UZI, INTERTEL, A.K.A. INTERDYNAMICS,
15 MACK TEN, COBRAY, SWD, INGRAHAM ARE PROBABLY ELIMINATED
16 DUE TO THEIR SIZE. AND THEN THERE IS A POSTSCRIPT;
17 CORRECT?

18 A YES, SIR.

19 Q THIS IS ALL WRITTEN BY DWIGHT VAN HORN TO
20 YOUR UNDERSTANDING?

21 A YES, SIR.

22 Q AND THE POSTSCRIPT SAYS MAYBE WE CAN
23 ELIMINATE THESE WITH A PHOTO LINE-UP; CORRECT?

24 A YES, SIR.

25 Q SO DOES IT SOUND LIKE MR. VAN HORN WAS
26 SAYING WE CAN ELIMINATE THESE GUNS BASED ON A PHOTO
27 LINE-UP; WE CAN ELIMINATE THESE GUNS BASED ON BALLISTICS?

28 A THAT'S CORRECT.

1 Q IS THAT HOW YOU WERE TESTIFYING WHEN YOU
2 TESTIFIED THAT IT APPEARED THAT THESE GUNS WERE IN THE
3 POSSIBLE UNIVERSE OF GUNS THAT NEEDED TO BE ELIMINATED AS
4 SUSPECT WEAPONS?

5 A ABSOLUTELY.

6 Q WERE YOU AT ANY TIME LYING ABOUT THE
7 POSSIBILITY OF A THREE-DIGIT SMITH & WESSON MATCHING THE
8 BALLISTICS FOUND AT THE CRIME SCENE?

9 A NO.

10 Q DETECTIVE, HOW LONG HAD YOU BEEN A
11 HOMICIDE DETECTIVE, A SHERIFF'S HOMICIDE AT THE TIME OF
12 THIS TESTIMONY?

13 A ABOUT 13 YEARS.

14 Q ALL RIGHT. WOULD YOU AGREE WITH ME THAT
15 ANY IDIOT COULD FIGURE OUT PRETTY EASILY BY SUBMITTING
16 THE BULLETS AND A THREE-DIGIT SMITH & WESSON GUN THAT
17 THOSE THINGS DON'T MATCH UP, IF IN FACT THAT WERE TRUE?

18 A YES.

19 Q OKAY. BALLISTICS EXPERT COULD DO THAT?

20 A YES.

21 Q SO THAT WOULD BE PRETTY STUPID ON YOUR
22 PART TO TRY TO LIE ABOUT SOMETHING AS EASILY VERIFIABLE
23 AS THAT, YES?

24 A YES.

25 Q WHEN YOU WERE -- AFTER YOU LEARNED THAT
26 THESE THREE-DIGIT MODEL NUMBERS -- BY THE WAY, LET ME ASK
27 YOU THIS OTHER QUESTION, TOO.

28 COUNSEL REFERRED TO A SUBSEQUENT REPORT, A

1 BALLISTICS ANALYSIS, THAT WAS GENERATED BY THE SHERIFF'S
2 CRIME LAB SPECIFICALLY ELIMINATING A PHYSICAL WEAPON THAT
3 HAD PREVIOUSLY BEEN IN THE DEFENDANT'S POSSESSION AS A
4 POSSIBLE SUSPECT MURDER WEAPON; CORRECT?

5 A YES.

6 Q WHEN YOU WERE ASKED THAT AT THE ORANGE
7 COUNTY PRELIM, WHETHER OR NOT THAT GUN HAD BEEN
8 ELIMINATED, WHAT WAS YOUR ANSWER?

9 A THAT IT HAD BEEN ELIMINATED.

10 Q OR WERE YOU -- I GUESS I SHOULD ASK YOU:
11 WERE YOU EVER ASKED THAT QUESTION?

12 A I WAS NOT.

13 Q OKAY. IF YOU HAD BEEN ASKED THAT
14 QUESTION, OBVIOUSLY, WHAT WOULD YOUR TESTIMONY HAVE BEEN?

15 A THAT GUN DIDN'T MATCH BALLISTICALLY WITH
16 THE BULLETS AND CASINGS FROM THE CRIME SCENE.

17 Q WAS IT STILL YOUR UNDERSTANDING THAT OTHER
18 THREE-DIGIT MODELS -- BASED YOUR READING OF THIS REPORT,
19 OR THIS MEMO RATHER -- THAT OTHER THREE-DIGIT MODEL
20 NUMBERS COULD BE IN THE UNIVERSE OF POSSIBLE SUSPECT
21 GUNS?

22 A YES.

23 Q IS THAT WHAT YOU WERE TESTIFYING TO?

24 A YES.

25 Q IS THAT WHY YOU PUT THAT IN SUBSEQUENT
26 AFFIDAVITS?

27 A IT IS.

28 Q ALL RIGHT.

1 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

2 THE COURT: ANYTHING ELSE?

3 MS. SARIS: YES.

4

5 REDIRECT EXAMINATION

6 BY MS. SARIS:

7 Q THE IDEA THAT ANY IDIOT COULD HAVE BROUGHT
8 IN A THREE-DIGIT GUN AND WEAPON TO TEST, DID YOU DO THAT?

9 MR. JACKSON: OBJECTION. THAT'S NOT WHAT I SAID.
10 THAT'S NOT WHAT THE TESTIMONY WAS.

11 Q BY MS. SARIS: DID YOU ATTEMPT TO VERIFY
12 THIS INFORMATION AT ALL?

13 MR. JACKSON: WHICH INFORMATION, YOUR HONOR?

14 THE COURT: SUSTAINED. REPHRASE IT.

15 Q BY MS. SARIS: THE INFORMATION WHERE YOU
16 INDICATED THAT YOU MISUNDERSTOOD THIS MEMO, DID YOU EVER
17 ATTEMPT TO VERIFY YOUR UNDERSTANDING OF THE MEMO?

18 A NO.

19 Q AND AS YOU SIT HERE, YOU ARE TELLING US
20 THAT AFTER 15 YEARS OF EXPERIENCE AS A HOMICIDE DETECTIVE
21 YOU DO NOT KNOW THAT THE BULLETS FIRED FROM A GLOCK LOOK
22 COMPLETELY DIFFERENT THAN MOST .9 MILLIMETER GUNS?

23 A WELL, CLEARLY TODAY --

24 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE,
25 YOUR HONOR. I'VE BEEN DOING THIS FOR A LONG TIME, TOO.
26 I DON'T KNOW THAT.

27 THE COURT: OVERRULED.

28 YOU CAN FINISH YOUR ANSWER.

1 THE WITNESS: CLEARLY TODAY AS I SIT HERE WITH
2 YOUR QUESTIONS, I DO KNOW THE DIFFERENCE. I'M NOT A
3 BALLISTICS EXPERT.

4 Q BY MS. SARIS: AND SO OF ALL THE TYPES OF
5 .9 MILLIMETERS WEAPONS THAT WERE OUT THERE, YOU BELIEVED
6 THAT DETECTIVE -- THAT DWIGHT VAN HORN WAS ONLY GIVING
7 YOU EIGHT OPTIONS OF POSSIBLE WEAPONS BY THIS MEMO?

8 A NO.

9 Q SO WHAT ABOUT ALL THE OTHER TYPES OF .9
10 MILLIMETER WEAPONS THAT COULD HAVE BEEN OUT THERE?

11 A I KNEW THAT THOSE THAT DIDN'T FALL WITHIN
12 THE SAME GENERAL RIFLING CHARACTERISTICS WERE
13 AUTOMATICALLY ELIMINATED. BUT THAT'S NOT A DETERMINATION
14 FOR ME TO MAKE. THAT'S WHY WE HAVE THE CRIME LAB
15 FIREARMS EXPERT TO DO THAT.

16 Q SO WHEN YOU PUT UNDER OATH THAT
17 MR. GOODWIN HAD A FIREARM REGISTERED TO HIM THAT COULD
18 HAVE BEEN THE MURDER WEAPON, YOU DID SO WITHOUT VERIFYING
19 THAT INFORMATION?

20 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE
21 AND MISSTATES THE TESTIMONY? HE VERIFIED IT WITH DWIGHT
22 VAN HORN.

23 THE COURT: SUSTAINED.

24 Q BY MS. SARIS: DID YOU IN FACT VERIFY --
25 DID YOU ACTUALLY GO TO DWIGHT VAN HORN AND SAY TO HIM,
26 MR. GOODWIN HAS A THREE-DIGIT MODEL SMITH & WESSON GUN
27 REGISTERED TO HIM, COULD THAT HAVE BEEN THE MURDER
28 WEAPON?

1 A NO.

2 Q BUT YOU PUT THAT IN YOUR AFFIDAVIT UNDER
3 OATH?

4 MR. JACKSON: OBJECTION. PUT WHAT IN THE
5 AFFIDAVIT UNDER OATH? IT'S VAGUE.

6 THE COURT: SUSTAINED.

7 Q BY MS. SARIS: YOU PUT THAT INFORMATION
8 ABOUT MR. GOODWIN OWNING A WEAPON THAT COULD HAVE BEEN
9 THE MURDER WEAPON IN YOUR AFFIDAVIT UNDER OATH?

10 THE COURT: WHAT ARE YOU TALKING ABOUT? WHAT
11 AFFIDAVIT UNDER OATH?

12 MS. SARIS: SEVERAL AFFIDAVITS UNDER OATH. HE
13 TESTIFIED EARLIER THAT HE WROTE THIS INFORMATION IN THE
14 AFFIDAVITS.

15 THE COURT: CLARIFY.

16 Q BY MS. SARIS: WELL, LET ME ASK YOU THIS:
17 YOU TESTIFIED THIS WAY IN THE PRELIMINARY HEARING IN
18 ORANGE COUNTY?

19 A YES, MA'AM.

20 Q DID YOU ASK DWIGHT VAN HORN SPECIFICALLY
21 WHETHER MR. GOODWIN -- A GUN REGISTERED TO MR. GOODWIN
22 THAT WAS A THREE-DIGIT SMITH & WESSON MODEL GUN COULD
23 HAVE BEEN THE MURDER WEAPON?

24 A NO.

25 Q DID YOU EVER ASK DWIGHT VAN HORN IF ONE
26 THREE-DIGIT SMITH & WESSON IS ELIMINATED, DOES THAT
27 ELIMINATE ALL OF THEM?

28 A NO.

1 Q AND YOUR TESTIMONY IS YOU DID NOT KNOW
2 THAT THAT IS -- THAT THAT WOULD BE TRUE PRIOR TO THIS
3 HEARING?

4 A THIS HEARING TODAY YOU MEAN?

5 Q OR PRIOR TO ANY SUBSEQUENT -- WHEN DID YOU
6 FIND OUT IF THAT -- DO YOU KNOW THAT BE TRUE NOW?

7 A YES.

8 Q WHEN DID YOU FIND THAT OUT?

9 A ACTUALLY, I HAVE TO CLARIFY THAT. SMITH &
10 WESSON CORPORATION EVIDENTLY CHANGED THE GENERAL RIFLING
11 CHARACTERISTICS OF THEIR THREE-DIGIT MODEL NUMBER .9
12 MILLIMETER PISTOLS IN THE RECENT PAST. SO SOME OF THEM
13 FROM THAT ERA EVIDENTLY ARE A CERTAIN NUMBER OF LANDS AND
14 GROOVES AND A CERTAIN TWIST AND SOME ARE NOT. IT SIMPLY
15 DEPENDS ON THE YEAR AND TIME OF MANUFACTURE.

16 Q ARE YOU AWARE AS YOU SIT HERE THAT
17 FOUR-DIGIT MODELS COULD BE FIVE LANDS AND GROOVES, SOME
18 OF THEM BEFORE THE BARRELS WERE CHANGED, BUT THE
19 THREE-DIGIT MODELS COULD NEVER BE SIX LANDS AND GROOVES?

20 A I AM ABSOLUTELY NOT AWARE OF THAT.

21 MS. SARIS: NOTHING FURTHER, YOUR HONOR.

22 THE COURT: ANYTHING ELSE?

23 MR. JACKSON: NO, YOUR HONOR.

24 THE COURT: THANK YOU, SIR. COULD YOU STEP
25 OUTSIDE FOR A MOMENT.

26 (PAUSE IN PROCEEDINGS.)

27 THE COURT: ALL RIGHT. THE DETECTIVE HAS LEFT
28 THE COURTROOM. IS THERE ANY FURTHER ARGUMENT?

1 MS. SARIS: YOUR HONOR, IT'S OUR POSITION THAT
2 THIS DOCUMENT SPEAKS FOR ITSELF IN THAT IT PERHAPS
3 PULLING A PERSON IN OFF THE STREET WOULD BE REASON TO
4 MISUNDERSTAND IT, BUT NOT BEING A HOMICIDE DETECTIVE FOR
5 THAT MANY YEARS. AND WILLFUL IGNORANCE CERTAINLY IS --
6 IT'S UP TO THE JURY IS TO DECIDE WHETHER OR NOT THAT WAS
7 A LIE OR JUST NEGLIGENCE.

8 THE COURT: YOU KNOW, I READ COURT'S 1 THE SAME
9 WAY THAT THE DETECTIVE DID. I MEAN IT REALLY -- ".9
10 MILLIMETER PISTOLS TO ELIMINATE AS SUSPECT GUNS." AND
11 THEN ON THE LEFT THERE IS A LIST OF PISTOLS, INCLUDING
12 THE SMITH & WESSON, I WOULD INTERPRET THAT THE SAME WAY.

13 MS. SARIS: WELL, THIS COURT IS NOT A BALLISTICS
14 EXPERT.

15 THE COURT: WELL, NEITHER IS HE.

16 MS. SARIS: BUT ANYONE WITH ANY EXPERIENCE WITH
17 GUNS WOULD KNOW. AND MANNY MUNOZ TESTIFIED TO AS MUCH ON
18 THE STAND THAT A GLOCK IS COMPLETELY DIFFERENT. SO IF
19 THE GLOCK IS LISTED IN THERE, THE CHANCES OF THAT BEING
20 THE CORRECT INTERPRETATION IS RIDICULOUS FOR ANYONE WITH
21 ANY EXPERIENCE WHATSOEVER WITH FIREARMS. MR. MUNOZ SAID
22 DIRECTLY ON HIS EXAMINATION, NO, A GLOCK LOOKS COMPLETELY
23 DIFFERENT.

24 THE COURT: YOU KNOW, I'M LOOKING AT COURT'S 1 --

25 MR. JACKSON: COURT'S 1-A.

26 THE COURT: I'M SORRY. COURT'S 1-A, WHICH IS THE
27 BLOW UP OF COURT'S 1. I WOULD HAVE READ THIS THE SAME
28 WAY. NOW, I DON'T HAVE THE EXPERIENCE THE DETECTIVE

1 DOES, BUT I CERTAINLY CAN READ ENGLISH. SO I DON'T KNOW
2 THAT WE ARE GOING TO GET TO WHERE, MS. SARIS, YOU WANT TO
3 BE ON THIS ISSUE.

4 ANYTHING ELSE?

5 MR. JACKSON: NOT FROM THE PEOPLE, YOUR HONOR.

6 THE COURT: AND JUST SO IT'S CLEAR, I MEAN THERE
7 IS REALLY NOTHING IN THE RECORD TO INDICATE THAT THIS
8 WITNESS COMMITTED AN ACT OF MORAL TURPITUDE WHICH WOULD
9 BEAR ON HIS CREDIBILITY BASED ON WHAT I HEARD.

10 WHAT ELSE DO WE NEED TO DISCUSS BEFORE WE
11 BRING THE JURORS IN?

12 MS. SARIS: JUST THAT WE WANT TO TAKE MR. ULOTH
13 OUT OF ORDER.

14 MR. JACKSON: WE HAVE NO OBJECTION IF COUNSEL
15 WANTS TO TAKE HIM OUT OF ORDER.

16 THE COURT: ALL RIGHT.

17 (PAUSE IN PROCEEDINGS.)

18 THE COURT: WHILE WE ARE WAITING JUST SO THE
19 RECORD CAN BE CLEAR, THE TESTIMONY BEFORE THE GRAND JURY
20 WAS JULY 2001?

21 MS. SARIS: NO. THE BALLISTICS REPORT WAS JULY
22 2001. THE TESTIMONY BEFORE THE PRELIMINARY HEARING WAS
23 ALL HE HAD STATED ON THE RECORD WAS IT WAS IN 2002.

24 THE COURT: OKAY.

25 MS. SARIS: IT'S A PRELIMINARY HEARING, NOT A
26 GRAND JURY.

27 THE COURT: I THOUGHT "GRAND JURY" WAS REFERENCED
28 A NUMBER OF TIMES.

1 MS. SARIS: IT MAY HAVE BEEN REFERENCED BEFORE
2 LUNCH, BUT WE WERE SPEAKING IN THIS HEARING OF THE
3 PRELIMINARY HEARING. AND I THINK WE SO STATED.

4 THE COURT: ALL RIGHT. SO THE EARLIER REFERENCES
5 TO "GRAND JURY" REALLY SHOULD BE "PRELIMINARY HEARING"?

6 MS. SARIS: THAT'S CORRECT.

7 MR. JACKSON: I'M SORRY. I MISSED THE LAST --

8 THE COURT: WELL, THERE WERE REFERENCES EARLIER
9 TO "GRAND JURY."

10 MR. JACKSON: YES.

11 THE COURT: AND THEN THERE WERE REFERENCES THIS
12 AFTERNOON TO "PRELIMINARY HEARING." SO I WAS JUST
13 INQUIRING WHEN THESE PROCEEDINGS WERE CONDUCTED, ASSUMING
14 SOMEHOW ORANGE COUNTY DOES THINGS DIFFERENTLY AND THEY DO
15 BOTH GRAND JURY AND --

16 MS. SARIS: THEY DID BOTH GRAND JURY AND
17 PRELIMINARY HEARING IN THIS CASE.

18 MR. JACKSON: THEY DID.

19 THE COURT: SO WHICH --

20 BY MS. SARIS: WE WERE REFERRING TO THE
21 PRELIMINARY HEARING BECAUSE THAT CAME POST-JULY 2001.

22 MR. JACKSON: THAT'S RIGHT.

23 MS. SARIS: AND ALL THE TESTIMONY WAS THAT IT WAS
24 IN 2002, THIS WITNESS DID NOT SPECIFY THE MONTH.

25 MR. JACKSON: THERE WAS AN INVESTIGATIVE GRAND
26 JURY THAT WAS HELD. AND AT THAT GRAND JURY, MR. GOODWIN
27 WAS ORDERED TO RELINQUISH CONTROL OF THAT PISTOL THAT
28 ULTIMATELY GOT TEST FIRED. AND THEN LATER THERE WAS A

1 PRELIMINARY HEARING AT WHICH MR. LILLIENFELD TESTIFIED.

2 THE COURT: SO THIS OFFER OF PROOF IS BASED ON
3 THE TESTIMONY AT THE PRELIMINARY HEARING IN 2002?

4 MS. SARIS: THAT'S CORRECT. AND THAT'S SORT OF A
5 MISSTATEMENT ABOUT WHAT HAPPENED WITH THE PISTOL. BUT
6 FOR THE PURPOSES OF THIS, YEAH.

7 THE COURT: I JUST WANTED THE RECORD TO BE CLEAR.

8
9 (THE JURY ENTERED THE COURTROOM
10 AND THE FOLLOWING PROCEEDINGS WERE
11 HELD IN OPEN COURT.)
12

13 THE COURT: ALL OF OUR JURORS AND ALTERNATES ARE
14 ONCE AGAIN PRESENT.

15 AND, LADIES AND GENTLEMEN, I BELIEVE
16 MS. SARIS WISHES TO CALL A WITNESS OUT OF ORDER AT THIS
17 TIME.

18 MS. SARIS: IF WE MAY, YES, YOUR HONOR. THE
19 DEFENSE CALLS RUSSELL ULOTH.

20
21 RUSSELL ULOTH,
22 CALLED BY THE DEFENSE AS A WITNESS, WAS
23 SWORN AND TESTIFIED AS FOLLOWS:
24

25 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

26 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
27 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
28 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE

1 TRUTH SO HELP YOU GOD.

2 THE WITNESS: I DO.

3 THE CLERK: THANK YOU. PLEASE BE SEATED.

4 SIR, WOULD YOU PLEASE STATE AND SPELL BOTH
5 YOUR FIRST AND LAST NAME FOR THE RECORD?

6 THE WITNESS: RUSSELL ULOTH. R-U-S-S-E-L-L.
7 U-L-O-T-H.

8 THE CLERK: THANK YOU.

9 THE COURT: YOU MAY INQUIRE.

10

11 DIRECT EXAMINATION

12 BY MS. SARIS:

13 Q GOOD AFTERNOON, MR. ULOTH.

14 A GOOD AFTERNOON.

15 Q ARE YOU RETIRED FROM THE LOS ANGELES
16 COUNTY SHERIFF'S DEPARTMENT?

17 A YES, I AM.

18 Q DID YOU HAVE OCCASION IN MARCH OF 1988 TO
19 RESPOND TO A CRIME SCENE?

20 A YES, I DID.

21 Q DO YOU RECALL THE NAMES OF THE VICTIMS IN
22 THAT CASE?

23 A YES. IT WAS MICKEY THOMPSON AND HIS WIFE
24 TRUDY.

25 Q AT THAT TIME, DID YOU CONDUCT AN INTERVIEW
26 WITH ANY OF THE NEIGHBORS?

27 A SEVERAL OF THE NEIGHBORS, AS I RECALL.

28 Q DO YOU RECALL SPECIFICALLY TALKING TO A

1 WOMAN BY THE NAME OF SANDRA JOHNSON?

2 A ONLY SINCE YOU'VE SHOWN ME MY NOTES.

3 Q OKAY. LET ME ASK YOU THIS: WHEN YOU
4 SPOKE TO THE WITNESSES THAT MORNING, WERE YOU TAKING
5 NOTES?

6 A YES.

7 Q AND IS IT YOUR CUSTOM AND HABIT TO TAKE
8 NOTES WHILE YOU INTERVIEW WITNESSES?

9 A YES.

10 Q AND WOULD YOU HAVE BEEN WRITING DOWN WHAT
11 THEY SAID TO THE BEST OF YOUR ABILITY AS THEY WERE
12 SPEAKING?

13 A YES.

14 MS. SARIS: AND, YOUR HONOR, MAY I APPROACH?

15 THE COURT: YES.

16 Q BY MS. SARIS: DO THESE APPEAR TO BE THE
17 NOTES THAT YOU TOOK REGARDING YOUR INTERVIEW WITH MISS
18 JOHNSON THAT MORNING?

19 A YES, THIS IS MY WRITING.

20 Q OKAY. AND OTHER THAN THE WRITING, IS
21 THERE ANYTHING ON IT THAT INDICATES THAT IT WAS AN
22 INTERVIEW WITH MISS JOHNSON?

23 LET ME REPHRASE. DOES IT INDICATE THE
24 DATE OF MARCH 16 AND THE NAME SANDRA JOHNSON?

25 A YES.

26 Q AND THAT IS YOUR HANDWRITING?

27 A YES.

28 Q DID MISS JOHNSON HAVE OCCASION TO TELL YOU

1 THAT SHE SAW A BICYCLIST LEAVING THE CRIME SCENE?

2 A YES, SHE DID.

3 Q WHAT DID SHE TELL YOU REGARDING WHETHER OR
4 NOT THEY HAD ANYTHING WITH THEM?

5 A MAY I REFER TO THESE NOTES HERE?

6 Q PLEASE, IF THAT WILL REFRESH YOUR
7 RECOLLECTION. AND IF IT DOES NOT, IF YOU WOULD JUST READ
8 FOR US THE PORTION OF YOUR NOTES THAT YOU WOULD HAVE
9 TAKEN CONTEMPORANEOUSLY WITH THE STATEMENT.

10 A I REMEMBER TAKING THESE NOTES AND HER
11 SAYING THAT SHE SAW TWO MEN RIDE DOWN THE DRIVEWAY AWAY
12 FROM THE THOMPSONS' RESIDENCE.

13 Q AND WHAT WERE THEY CARRYING?

14 A ONE OF MALES WAS CARRYING A WHITE CANVAS
15 BAG, SHOPPING BAG SIZE.

16 Q THANK YOU.

17 I HAVE NOTHING FURTHER, YOUR HONOR.

18 THE COURT: CROSS-EXAMINATION?

19 MR. DIXON: YOUR HONOR, WE PROBABLY DON'T HAVE
20 ANY QUESTIONS, BUT WE WOULD LIKE TO APPROACH ON THE ISSUE
21 OF EXCUSING THIS WITNESS. AND I'LL EXPLAIN IT. I THINK
22 IT WILL MAKE SENSE.

23

24 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

25 THE COURT: OKAY. WE'RE OUTSIDE THE PRESENCE.

26 MR. DIXON: WE WOULD LIKE TO ASK THIS WITNESS
27 SOME QUESTIONS ABOUT HIS INTERVIEW REGARDING WILMA
28 JOHNSON TOMORROW. HE WAS SCHEDULED FOR YESTERDAY AND

1 THEN TODAY. DEFENSE IS CALLING DEPUTY ESTRADA TO IMPEACH
2 WILMA JOHNSON ON WHICH WAY THE GUYS WENT.

3 THE COURT: OKAY.

4 MR. DIXON: AND THIS WITNESS HAS RECORDS THAT --
5 OR NOTES THAT WOULD BE USED IN THE SAME FASHION THAT
6 WOULD INDICATE THAT MISS JOHNSON JUST ASSUMED THEY WENT
7 ONE WAY OR THE OTHER.

8 THE COURT: ALL RIGHT. SO I WON'T EXCUSE THE
9 WITNESS.

10 MR. DIXON: EITHER THAT OR WE COULD DO IT NOW,
11 AND WE'RE KIND OF PUTTING THE CART BEFORE THE HORSE.

12 MS. SARIS: IT'S MY UNDERSTANDING AND THE REASON
13 I DIDN'T ASK HIM WAS THAT HE DIDN'T TALK TO WILMA
14 JOHNSON, HE TALKED TO MR. ESTRADA. AND IT WAS A DOUBLE.
15 SO WE'RE GETTING MR. ESTRADA, WHO WE THOUGHT WAS GOING TO
16 BE HERE TODAY.

17 THE COURT: ALL RIGHT. SO THE WITNESS IS GOING
18 TO NEED TO COME BACK. IT DOESN'T SOUND LIKE THERE IS
19 AGREEMENT ON --

20 MR. DIXON: EITHER THAT, OR WE COULD DO IT NOW.

21 THE COURT: WHY DON'T WE JUST DO IT IN ORDER.

22 MR. DIXON: OKAY. THAT'S FINE.

23 THE COURT: BECAUSE I ASSUME THE DEFENSE WISHES
24 TO DO IT THAT WAY.

25 MS. SARIS: YES. CAN I INQUIRE IF ANYONE KNOWS
26 WHO THE GENTLEMAN OUTSIDE THE DOOR IS? COULD THAT
27 POSSIBLY BE MR. ESTRADA OR DOES SOMEONE RECOGNIZE HIM?

28 MR. JACKSON: NO. THAT'S JOHN TYRE.

1 MS. SARIS: OKAY.

2 MR. JACKSON: A DEFENSE ATTORNEY.

3 MS. SARIS: I DON'T KNOW.

4 MR. SUMMERS: IS HE WILLING TO BE DEPUTY ESTRADA?

5 THE COURT: OKAY. GOODBYE.

6 (SIDEBAR CONCLUDED.)

7

8 THE COURT: SO THERE ARE NO FURTHER QUESTIONS AT
9 THIS TIME?

10 MR. DIXON: YES, THAT'S CORRECT. THANK YOU, YOUR
11 HONOR.

12 THE COURT: ALL RIGHT. MR. ULOTH.

13 THE WITNESS: YES.

14 THE COURT: YOU ARE FREE TO GO. THANK YOU.

15 THE WITNESS: THANK YOU.

16 THE COURT: SUBJECT TO BEING RECALLED.

17 MR. DIXON: AND IF I COULD, I'LL GO OUTSIDE AND
18 EXPLAIN THAT TO HIM, YOUR HONOR.

19 THE COURT: SURE.

20 MR. DIXON: THANK YOU.

21 THE COURT: MS. SARIS, DO YOU WANT TO RESUME THEN
22 WITH DETECTIVE LILLIENFELD?

23 MS. SARIS: YES.

24 THE COURT: ALL RIGHT. DETECTIVE, YOU HAVE BEEN
25 PREVIOUSLY SWORN. YOU ARE REMINDED YOU ARE STILL UNDER
26 OATH.

27 YOU MAY CONTINUE.

28 MS. SARIS: THANK YOU.

DIRECT EXAMINATION (RESUMED)

BY MS. SARIS:

Q GOOD AFTERNOON, AGAIN, DETECTIVE
LILLIENFELD.

A GOOD AFTERNOON.

Q DID YOU HAVE AN OPPORTUNITY OVER THE LUNCH
HOUR TO REVIEW YOUR TRANSCRIPT OF YOUR CONVERSATION --
YOUR INITIAL CONVERSATION WITH KATHY WEESE?

A YES.

Q AND DID THAT REFRESH YOUR RECOLLECTION AS
TO WHETHER OR NOT SHE TOLD YOU IN THAT CONVERSATION ABOUT
THE "I COULD HIRE SOME HIT MAN FOR \$500 AND A MOTORCYCLE"
ATTRIBUTED TO MR. GOODWIN?

A IT DID REFRESH MY RECOLLECTION, YES.

Q AND DID SHE MENTION THAT TO YOU IN THE
INITIAL CONVERSATION?

A NO, MA'AM.

Q DID YOU ALSO HAVE AN OPPORTUNITY TO REFER
TO YOUR NOTES REGARDING INTERVIEWS WITH AN INDIVIDUAL BY
THE NAME OF LANCE JOHNSON?

A I DID.

Q AND CAN YOU TELL US NOW, WAS YOUR
RECOLLECTION REFRESHED AS TO WHEN YOU HAD YOUR FIRST
CONVERSATION WITH HIM?

A YES, MA'AM.

Q AND WHEN WAS THAT?

A JUNE OF 1997.

Q AND WAS THAT ON JUNE 6TH?

1 A I BELIEVE SO, YES.

2 Q AND WAS THAT THE DAY THAT YOU WENT WITH
3 AMERICA'S MOST WANTED TO THE THOMPSON HOME?

4 A THAT I DON'T HAVE A RECOLLECTION OF IT
5 BEING THAT PARTICULAR DATE. AND I DID NOT SEE THAT IN
6 THE REPORT OR THE NOTES. BUT IT VERY WELL MAY HAVE BEEN.

7 Q WERE YOU AWARE, BASED ON YOUR
8 INVESTIGATION, OF WHETHER MR. THOMPSON AT ONE POINT
9 WORKED OUT OF HIS HOME?

10 A I WAS.

11 Q AND DID HE?

12 A YES.

13 Q HAVE YOU EVER SEEN ANY STATIONERY RELATING
14 TO HIS BUSINESS THAT REFLECTED HIS HOME ADDRESS?

15 MR. JACKSON: OBJECTION. RELEVANCE.

16 THE COURT: OVERRULED.

17 YOU CAN ANSWER.

18 THE WITNESS: I BELIEVE I HAVE, YES.

19 Q BY MS. SARIS: DID YOU -- WERE YOU PRIVY
20 TO THE OFFICERS' ORIGINAL NOTES, SOME OF WHICH WE'VE BEEN
21 REFERRING TO IN THIS COURT, WHERE THEY WERE TAKING
22 CONTEMPORANEOUS NOTES WITH WHAT WAS GOING ON ON THE
23 MORNING OF MARCH 16TH?

24 A YES, MA'AM.

25 Q AS A RESULT OF THOSE, DID YOU ATTEMPT TO
26 FIND ANY INDIVIDUAL THAT MAY HAVE BEEN WORKING AT THE
27 THOMPSON HOME THAT MORNING?

28 A NOT AS A RESULT OF THOSE NOTES. BUT I DID

1 ATTEMPT TO LOCATE FORMER EMPLOYEES.

2 Q WHEN YOU SAY "FORMER EMPLOYEES," WHAT TYPE
3 OF EMPLOYEES?

4 A BOTH EMPLOYEES OF THE CORPORATION THAT
5 MR. THOMPSON RAN, MICKEY THOMPSON ENTERTAINMENT GROUP;
6 AND THEN PERSONAL EMPLOYEES OF THE HOUSEHOLD, LIKE THE
7 HOUSEKEEPER AND PEOPLE LIKE THAT.

8 Q DID YOU EVER MEET THE HOUSEKEEPER?

9 A I DID.

10 Q WHAT WAS HER ETHNICITY, IF YOU RECALL?

11 MR. JACKSON: OBJECTION. RELEVANCE.

12 THE COURT: YES. WHAT IS THE RELEVANCE OF THIS?

13 MS. SARIS: MAY WE APPROACH?

14 THE COURT: ALL RIGHT.

15
16 (SIDEBAR DISCUSSION.)

17 THE COURT: WE'RE AT THE SIDEBAR ONCE AGAIN.

18 ALL RIGHT. WHAT IS THE RELEVANCE OF HER
19 ETHNICITY?

20 MS. SARIS: THIS IS AN INDIVIDUAL I'M -- I'VE
21 ONLY HEARD A STATEMENT OF HER SPEAKING. I HONESTLY DON'T
22 KNOW WHAT HER ETHNICITY IS, BUT SHE HAS SINCE DECEASED.
23 AND SHE'S ONE OF THE BASIS OF OUR SPEEDY TRIAL MOTION,
24 THE FACT THAT WE BELIEVE SHE HAD TESTIMONY THAT WOULD BE
25 DIFFERENT AND WOULD IMPEACH CERTAIN WITNESSES.

26 BASED ON THE FACT THAT I DON'T HAVE
27 INFORMATION ABOUT HER, IF SHE IS BLACK, I HAVE
28 INFORMATION THAT SHE HAD TWO ADULT SONS. AND I'M

1 INQUIRING WHETHER OR NOT THEY WERE LOOKED INTO. BUT
2 AGAIN, I DON'T KNOW THE ANSWER TO THE QUESTION, SO IT'S
3 FOUNDATIONAL. AND I KNOW THAT THE DISTRICT -- I MEAN I
4 KNOW THAT THE SHERIFF'S DEPARTMENT HAD INFORMATION TO
5 FOLLOW-UP ON THESE INDIVIDUALS.

6 THE COURT: ALL RIGHT. WELL, IF THE ONLY
7 RELEVANCE IS INsofar AS IT MAY HAVE SOME BEARING ON THE
8 MOTION TO DISMISS FOR DENIAL OF A SPEEDY TRIAL, THEN WE
9 CAN DO THAT ANOTHER TIME.

10 MS. SARIS: THAT'S NOT THE ONLY RELEVANCE.

11 THE COURT: WHAT WOULD BE THE RELEVANCE?

12 MS. SARIS: THE FAILURE TO INVESTIGATE IF SHE
13 HAPPENS TO BE AFRICAN/AMERICAN, THE FACT THAT SHE HAD TWO
14 GROWN SONS. WE HAVE INTERVIEWED AN INDIVIDUAL WHO SAID
15 THAT THEY GAVE THAT INFORMATION TO THE SHERIFF'S
16 DEPARTMENT. HE COULD NOT RECALL HER ETHNICITY, BUT --

17 THE COURT: BUT YOU ARE TELLING ME THAT YOU DON'T
18 KNOW HER ETHNICITY?

19 MS. SARIS: I KNOW WHAT I HEARD ON THE TAPE, AND
20 I HAVE A GUESS, BUT I DON'T KNOW. I ASSUME THESE
21 GENTLEMEN KNOW.

22 MR. JACKSON: WELL, SHE'S WRONG, I DON'T KNOW.

23 MR. DIXON: WHAT I WOULD SUGGEST IS THAT WE WILL
24 INQUIRE OF DETECTIVE LILLIENFELD AND INFORM COUNSEL
25 OUTSIDE OF THE PRESENCE OF THE JURY IF THAT FULFILLS HER
26 REQUIREMENT, IF HE KNOWS.

27 THE COURT: ALL RIGHT. SO THE OBJECTION IS
28 SUSTAINED.

1 (SIDE BAR CONCLUDED.)

2
3 Q BY MS. SARIS: DETECTIVE, DID YOU RUN ANY
4 FINANCIAL RECORDS OF ANY OF THE INDIVIDUALS THAT WERE
5 EMPLOYED IN THE HOME OF MR. THOMPSON?

6 A I DID NOT.

7 Q DID YOU ATTEMPT TO GET THEIR TELEPHONE
8 RECORDS?

9 A I DID NOT.

10 Q YOU HAD OCCASION TO INTERVIEW AN
11 INDIVIDUAL BY THE NAME OF GREG KEAY OR KEAY?

12 A YES, MA'AM.

13 Q AND WERE YOU PRESENT IN THIS COURTROOM
14 WHEN HE TESTIFIED?

15 A YES, MA'AM.

16 Q AND DO YOU RECALL SPEAKING TO HIM
17 INITIALLY IN 1997?

18 A YES, MA'AM.

19 Q AT THAT TIME, DID HE SAY TO YOU
20 ANYTHING -- DID HE MAKE THE STATEMENT TO YOU ATTRIBUTED
21 TO MR. GOODWIN THAT MR. THOMPSON WAS AFTER GOODWIN'S
22 MONEY AND QUOTE "BEFORE THAT HAPPENS I'LL HAVE HIM
23 WASTED" IN 1997, DID HE SAY THAT TO YOU?

24 A NO, MA'AM.

25 Q IN 1997 DIDN'T HE SAY THE STATEMENT WAS,
26 "THAT PARTNER OF MINE IS RUBBING ME THE WRONG WAY, HE
27 WON'T BE RUBBING ME MUCH LONGER"?

28 A YES, MA'AM.

1 Q SO HE SAID NOTHING TO YOU IN '97 REGARDING
2 MR. GOODWIN SAYING BEFORE MR. THOMPSON GETS ANY OF THE
3 MONEY HE WOULD HAVE HIM WASTED?

4 A THAT'S CORRECT.

5 Q IN YOUR INVESTIGATION OF THIS CASE, DID
6 YOU HAVE OCCASION TO GET A WARRANT TO SEIZE COMPUTERS
7 BELONGING TO MICHAEL GOODWIN?

8 A YES, MA'AM.

9 Q AND IN YOUR ANALYSIS OF THAT, DID YOU ASK
10 FOR HELP FROM THE SECRET SERVICE?

11 A YES, MA'AM.

12 Q DO YOU KNOW OTHER AGENCIES -- LAW
13 ENFORCEMENT AGENCIES THAT YOU ASKED FOR ASSISTANCE IN
14 THIS CASE REGARDING THE INVESTIGATION OF MR. GOODWIN
15 SPECIFICALLY?

16 MR. JACKSON: OBJECTION. RELEVANCE.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER.

19 Q BY MS. SARIS: LET ME JUST -- DID YOU ASK
20 FOR THE HELP OF THE DEA?

21 A YES, MA'AM.

22 Q FBI?

23 A YES, MA'AM.

24 Q CUSTOMS?

25 A YES, MA'AM.

26 Q DID YOU AT ANY TIME OBTAIN PERMISSION FROM
27 THE COURT TO TAP OR HAVE A WIRE TAP ON MR. GOODWIN'S
28 PHONES?

1 A YES, MA'AM.

2 Q AND DID YOU INDEED DO THAT?

3 A YES, MA'AM.

4 Q DID YOU ALSO AT SOME POINT PUT MR. GOODWIN
5 UNDER PHYSICAL SURVEILLANCE?

6 A YES, MA'AM.

7 Q DID YOU -- AND WE'VE HEARD TESTIMONY
8 REGARDING RON AND TONYIA STEVENS. DO YOU KNOW WHO THEY
9 ARE?

10 A YES, MA'AM.

11 Q AND TONYIA GOES BY THE NAME TONI?

12 A YES, MA'AM.

13 Q DID YOU INTERVIEW HER IN 2001?

14 A YES.

15 Q AT THAT TIME, DID MRS. STEVENS TELL YOU
16 THAT SHE COULD NOT RECALL WHETHER OR NOT THE CAR SHE SAW
17 IN FRONT OF HER PROPERTY WAS EVEN OCCUPIED?

18 A YES.

19 Q AND DID YOU WRITE THAT IN YOUR REPORT?

20 A I DID.

21 Q AND WERE YOU TAKING HANDWRITTEN NOTES
22 CONCURRENTLY WITH TALKING TO HER?

23 A I BELIEVE SO, YES.

24 Q AND HAVE YOU HAD AN OPPORTUNITY TO REVIEW
25 THOSE NOTES RECENTLY?

26 A NO.

27 Q IF SHE HAD SAID SHE HAD RECALLED THIS
28 INDIVIDUAL, WOULD YOU HAVE PUT THOSE IN YOUR NOTES? I'M

1 SORRY.

2 WOULD YOU HAVE PUT THAT STATEMENT IN YOUR
3 NOTES?

4 A MY NOTES WOULD REFLECT AS BEST AS POSSIBLE
5 WHATEVER STATEMENT SHE GAVE ME.

6 Q AND DO YOU RECALL SPECIFICALLY THE
7 STATEMENT THAT SHE GAVE YOU? AND WOULD IT HELP TO LOOK
8 AT YOUR NOTES AT ALL?

9 A PERHAPS IF I COULD LOOK AT MY NOTES.

10 Q DO THOSE APPEAR TO BE YOUR NOTES FROM YOUR
11 INTERVIEW WITH MRS. STEVENS?

12 A YES.

13 Q AND DO YOU RECOGNIZE YOUR HANDWRITING?

14 A YES.

15 Q DOES THAT REFRESH YOUR RECOLLECTION AS TO
16 EXACTLY WHAT SHE SAID REGARDING THE PERSON OUTSIDE HER
17 HOUSE IN THE CAR?

18 A EXCUSE ME, JUST GIVE ME ONE SECOND. THE
19 ANSWER IS, YES, IT REFRESHES MY RECOLLECTION OF WHAT SHE
20 SAID.

21 Q AND WHAT DO YOU RECALL HER SAYING TO YOU
22 AT THE TIME THAT YOU FIRST INTERVIEWED HER REGARDING THIS
23 INDIVIDUAL?

24 A THAT SHE WAS NOT SURE IF THE CAR WAS
25 OCCUPIED.

26 Q DID YOU AT SOME POINT TAKE A SERIES OF
27 PHOTOGRAPHS TO HER HUSBAND'S PLACE OF WORK?

28 A YES, MA'AM.

1 Q DID YOU ASK HER TO JOIN YOU?

2 A NO.

3 Q DID SHE SAY AT ANY POINT IN THE INTERVIEW
4 WITH YOU A STATEMENT REFLECTING THAT AN INDIVIDUAL SHE
5 SAW IN THE CAR REMINDED HER OF A CHILDHOOD FRIEND?

6 A NO.

7 Q IN ANY OF YOUR INTERVIEWS WITH HER, HAD
8 YOU EVER HEARD THAT PRIOR TO WHEN SHE TESTIFIED IN COURT?

9 A NO.

10 Q YOUR WHOLE INTERVIEW OF HER, IN TERMS OF
11 THE REPORT, TOOK UP LESS THAN A PARAGRAPH, OF YOUR --
12 MAYBE TWO PARAGRAPHS OF A REPORT; IS THAT FAIR TO SAY?

13 A YES.

14 Q DID SHE INDICATE TO YOU WHETHER OR NOT SHE
15 GOT A LOOK AT THE CAR ITSELF?

16 A YES.

17 Q AND DID EITHER OF THE STEVENSES INDICATE
18 TO YOU THERE WAS ANYTHING UNUSUAL ABOUT THE LICENSE
19 PLATE?

20 A YES.

21 Q AND WHAT WAS THAT?

22 A THAT IT WAS AN ARIZONA TAG.

23 Q AND PRIOR TO YOU INTERVIEWING THE
24 STEVENSES, YOU HAD REVIEWED ALL OF THE REPORTS IN THIS
25 CASE?

26 A YES.

27 Q AND THE STEVENSES CAME FORWARD, AS FAR AS
28 YOU KNOW, IN 2001?

1 A "COMING FORWARD" IS A BAD
2 CHARACTERIZATION.

3 Q I'M SORRY. LET ME SAY YOU FIRST HAD
4 CONTACT WITH RON AND TONYIA STEVENS IN 2001?

5 A YES, MA'AM.

6 Q REGARDING AN ARIZONA PLATE, IN YOUR REVIEW
7 OF THE PAST REPORTS THAT HAD BEEN FILED SINCE 1988, DID
8 YOU COME ACROSS AN ARIZONA LICENSE PLATE THAT WAS THE
9 BASIS -- OR THAT WAS WRITTEN INTO REPORTS REGARDING
10 ANOTHER SUSPECT IN THIS CASE?

11 A NOT THAT I RECALL.

12 Q DID YOU SEE THE INTERVIEW NOTES REGARDING
13 ANY PRIOR SURVEILLANCE OF ANY SUSPECTS OTHER THAN MICHAEL
14 GOODWIN?

15 A SURVEILLANCE NOTES? NO, I DID NOT.

16 Q DID YOU REVIEW -- WELL, DO YOU KNOW WHAT A
17 "BATES PAGE STAMP" IS?

18 A YES.

19 Q AND CAN YOU EXPLAIN THAT FOR US BRIEFLY?

20 A IT IS A NUMBERING SYSTEM USED MOSTLY BY
21 ATTORNEYS TO KEEP TRACK OF VOLUMINOUS DOCUMENTS. AND IT
22 LOOKS LIKE A TYPICAL INK PADDED STAMP DEVICE. AND IT
23 STARTS AT THE NUMBER ONE; IT'S USUALLY FIVE OR SIX
24 CHARACTERS LIKE 00001 UP THROUGH 999999.

25 Q AND EACH TIME YOU HIT IT DOWN IT GOES TO
26 THE NEXT NUMBER?

27 A CORRECT.

28 Q SO DID YOU REVIEW ALL THE BATES PAGED

1 STAMPED REPORTS THAT WERE IN THIS CASE?

2 A NO.

3 Q YOU DID NOT?

4 A THE BATES STAMPS APPLIED TO THE REPORTS
5 WERE DONE BY THE ORANGE COUNTY D.A.'S OFFICE. I SUPPLIED
6 THOSE REPORTS TO THEM. SO IN A MANNER OF SPEAKING THE
7 ANSWER WOULD BE, YES, IN THAT I'VE REVIEWED THOSE
8 REPORTS, BUT NOT WHEN THEY HAD THE BATES STAMP ON THEM.

9 Q I SEE. SO YOU VIEWED THEM FIRST AND THEN
10 THEY RECEIVED A BATES STAMP?

11 A THAT'S CORRECT.

12 Q I HAVE A REPORT THAT I WOULD LIKE TO SHOW
13 YOU AND ASK YOU IF IT REFRESHES YOUR RECOLLECTION AS TO
14 WHETHER OR NOT YOU MAY HAVE SEEN EVIDENCE OF AN ARIZONA
15 PLATE IN A PRIOR INVESTIGATION.

16 AND, YOUR HONOR, I'LL MARK THIS FOR THE
17 RECORD BECAUSE I'M SHOWING IT TO THE WITNESS. IT'S GOT
18 THE NUMBER 033237. I BELIEVE WE'RE AT P.

19 THE COURT: YES. PPP.

20

21 (MARKED FOR IDENTIFICATION DEFENSE'S
22 EXHIBIT NO. PPP, DOCUMENTS.)

23

24 Q BY MS. SARIS: IF YOU COULD JUST LOOK AT
25 THE HIGHLIGHTED YELLOW PORTION OF THAT DOCUMENT. AND
26 TELL ME IF YOU RECOGNIZE IT FROM ANYTHING YOU MAY HAVE
27 REVIEWED IN RELATION TO THIS CASE.

28 A I DO NOT.

1 Q YOU DO NOT RECOGNIZE IT AT ALL?

2 A NO, MA'AM.

3 Q THE NAME, NOTHING ON IT LOOKS FAMILIAR?

4 A THE PARAGRAPHS ARE NUMBERED. IN PARAGRAPH
5 NO. 3 ABOVE WHAT IS HIGHLIGHTED, I RECOGNIZE A NAME AND
6 AN ADDRESS. BUT THIS SPECIFIC DOCUMENT I DO NOT
7 RECOGNIZE.

8 Q OKAY. DID YOU INTERVIEW -- DID YOU REVIEW
9 THE OFFICERS' ORIGINAL NOTEBOOKS IN THIS CASE?

10 A I DID.

11 Q DID YOU FIND IN ANY OF YOUR REVIEW OF
12 PRIOR DOCUMENTS AN INDICATION THAT A CAR WITH ARIZONA
13 PLATES WAS MENTIONED AS A POTENTIAL SUSPECT VEHICLE?

14 A I DID NOT.

15 MS. SARIS: YOUR HONOR, I HAVE ANOTHER DOCUMENT
16 THAT I WOULD LIKE TO SHOW THE WITNESS TO SEE IF IT
17 REFRESHES HIS RECOLLECTION.

18 THE COURT: DO YOU WANT TO MARK IT AS AN EXHIBIT?

19 MS. SARIS: YES, PLEASE.

20 THE COURT: OKAY. QQQ.

21 MS. SARIS: THANK YOU. AND IT HAS A 33196.

22

23 (MARKED FOR IDENTIFICATION DEFENSE'S
24 EXHIBIT NO. QQQ, DOCUMENTS.)

25

26 Q BY MS. SARIS: FIRST, LET ME ASK YOU IF
27 YOU RECOGNIZE WHAT -- IF THAT APPEARS TO BE A XEROX OF A
28 STENO PAD?

1 A ABSOLUTELY.

2 Q AND IS THAT THE TYPICAL WAY THAT OFFICERS
3 WOULD KEEP THEIR NOTES IN THIS CASE?

4 A YES.

5 Q DOES THAT DOCUMENT LOOK LIKE ANYTHING YOU
6 MAY HAVE REVIEWED IN YOUR PRIOR REVIEW OF FILES IN THIS
7 CASE?

8 A YES.

9 Q AND DO YOU SEE AN ARIZONA PLATE REFLECTED
10 IN THAT DOCUMENT?

11 A I DO NOW. YES, I DO.

12 Q AFTER THE STEVENSES TOLD YOU ABOUT AN
13 ARIZONA PLATE, DID YOU MAKE ANY EFFORT TO RUN A PLATE
14 THAT YOU HAD SEEN THAT WAS AN ARIZONA PLATE IN A PRIOR
15 OFFICER'S NOTES IN THIS CASE?

16 A NO.

17 Q AND THAT OFFICER'S NOTES HAS NOTHING TO DO
18 WITH MICHAEL GOODWIN; IS THAT CORRECT?

19 MR. JACKSON: OBJECTION. CALLS FOR HEARSAY.
20 ASSUMES FACT NOT IN EVIDENCE. THERE IS NO FOUNDATION FOR
21 IT EITHER.

22 THE COURT: SUSTAINED.

23 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

24 THE COURT: TRY TO LAY A FOUNDATION, PLEASE.

25 MS. SARIS: IT WOULD BE INVOLVING A PRIOR COURT
26 RULING IS MY CONCERN.

27 THE COURT: ALL RIGHT.

28

1 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

2 THE COURT: ALL RIGHT. WE ARE AT THE SIDEBAR.

3 MS. SARIS: I'M HAPPY TO LAY A FOUNDATION. THIS
4 WAS A DRUG DEALER THAT WAS ASSOCIATED WITH JOEY HUNTER,
5 AND THIS WAS THE CAR PARKED IN HER DRIVEWAY.

6 THE NOTES ARE VERY CLEAR THAT THIS WAS AN
7 ARIZONA PLATE. AND IF COUNSEL WANTS ME TO INQUIRE, I
8 THINK IT'S RELEVANT TO SHOW THAT IT WAS -- TO SHOW THE
9 JURY THE CONTEXT OF WHAT A GRAVE ERROR THIS WAS OF
10 MISSING THIS INVESTIGATION. THIS IS AN INDIVIDUAL THAT
11 WAS A DRUG DEALER, LOCAL, AND TIED TO A POTENTIAL SUSPECT
12 AND THEY IGNORED IT.

13 THE COURT: WELL, I THINK THE TESTIMONY HAS COME
14 IN ALREADY, THOUGH, THAT HE DIDN'T RUN THE -- RUN ANY
15 PLATES THAT WERE REFERENCED IN THE REPORTS.

16 MS. SARIS: THE PROBLEM IS WITHOUT EXPLAINING
17 WHAT IT IS, THIS COULD HAVE BEEN ONE OF MICHAEL'S PLATES.
18 AND THE FACT IS WITHOUT GIVING CONTEXT TO THIS BEING
19 ANOTHER SUSPECT, IT DOESN'T LET THE JURY UNDERSTAND THE
20 DEPTH OF THE LACK OF INVESTIGATION.

21 THE COURT: WELL, I DON'T KNOW. WHY ARE THE
22 PEOPLE OBJECTING TO THIS? BECAUSE FRANKLY, I MEAN
23 IT'S --

24 MR. JACKSON: I DON'T NECESSARILY HAVE ANY
25 PROBLEM WITH THE QUESTION THAT THIS IS AN ARIZONA PLATE
26 THAT WAS GATHERED DURING THE COURSE OF THE INVESTIGATION.
27 IT'S ALREADY BEEN ESTABLISHED THAT THE STATION WAGON WITH
28 ARIZONA PLATES, THE ACTUAL PLATE NUMBER WAS NEVER

1 RETAINED BY THE LAW ENFORCEMENT. SO I DON'T HAVE ANY
2 PROBLEM WITH THAT. I JUST DIDN'T WANT -- AND I WAS KIND
3 OF AS A PRECURSOR OBJECTION I DIDN'T WANT THE NEXT FEW
4 QUESTIONS TO BE: AND DID THIS PLATE HAVE ANYTHING TO DO
5 WITH J.H. OR WHATEVER?

6 MS. SARIS: I CAN ASK: IS IT A SUSPECT OTHER
7 THAN MICHAEL GOODWIN? AND WE CAN JUST LEAVE IT. THAT'S
8 WHAT I TRIED TO DO WITHOUT GETTING INTO JOEY HUNTER.

9 THE COURT: WELL, HOW ABOUT THAT: ISN'T IT TRUE
10 THAT THE INFORMATION HAS -- I DON'T KNOW. WILL THE
11 PEOPLE AGREE IT HAS NO CONNECTION WITH MR. GOODWIN? I
12 DON'T KNOW.

13 MR. JACKSON: YEAH.

14 THE COURT: THEN PHRASE IT THAT WAY.

15 MS. SARIS: OKAY.

16 (SIDE BAR CONCLUDED.)

17
18 Q BY MS. SARIS: DETECTIVE, THE PLATE THAT
19 I'M REFERRING TO THAT I HAVE SHOWED YOU ON DEFENSE QQQ,
20 THAT WAS IN RELATION TO A SUSPECT OTHER THAN MICHAEL
21 GOODWIN; CORRECT?

22 A YES, MA'AM.

23 Q AND DID YOU MAKE -- I GUESS THE QUESTION
24 WOULD BE: DID YOU ATTEMPT TO GO THROUGH THE FILE AND
25 LOOK AT ANY ARIZONA PLATES TO SEE IF THEY CAME BACK TO
26 STATION WAGONS?

27 A SPECIFICALLY, NO, I DID NOT.

28 Q YOU HAVE THE POWER THROUGH A COMPUTER

1 SYSTEM TO RUN DOWN LICENSE PLATES AND DETERMINE WHO
2 REGISTERED OWNERS OF VEHICLES ARE?

3 A YES.

4 Q EVEN YEARS PAST?

5 A WITH LIMITATIONS, YES.

6 Q WHEN YOU -- ARE YOU THE ONE THAT PUT
7 TOGETHER THE PHOTO LINE-UP YOU THAT THIS JURY HAS SEEN?

8 A NO.

9 Q WHO DID THAT?

10 A THE CHIEF PHOTOGRAPHER FROM THE SHERIFF'S
11 CRIME LAB. I BELIEVE HIS NAME IS JOHN SHAW, S-H-A-W.

12 Q WHO CHOSE WHICH PHOTOS TO GO IN? HE DID?

13 A HE DID.

14 Q DID YOU GIVE HIM ANY GUIDELINES?

15 A YES.

16 Q AND WHAT WERE THOSE GUIDELINES?

17 A I GAVE HIM THE PHOTOGRAPH OF MR. GOODWIN
18 AND TOLD HIM TO ASSEMBLE FIVE LOOK-ALIKES AS BEST HE
19 COULD. AND THEN TO SHOW THEM TO ME FOR MY APPROVAL. AND
20 THEN TO ENLARGE THEM AND AFFIX THEM TO THE POSTER BOARD
21 THAT I BELIEVE IS AN EXHIBIT.

22 Q AND YOU KNEW THE INDIVIDUAL THAT THE
23 STEVENSES WERE -- OR AT LEAST MR. STEVENS AT THAT POINT
24 HAD REFERRED TO YOU HAD TO BE A PARTICULAR AGE?

25 A YES.

26 Q NOW IN REVIEWING THE REPORTS AND IN THE
27 INTERVIEWS THAT YOU MADE, YOU WERE AWARE THAT THERE WERE
28 A COUPLE OF PEOPLE THAT ACTUALLY SAW PEOPLE ON BICYCLES

1 LEAVING THE SCENE OF THIS CRIME?

2 A YES, MA'AM.

3 Q WAS ONE OF THOSE INDIVIDUALS CLAUDETTE
4 FREIDINGER?

5 A YES, MA'AM.

6 Q DO YOU RECALL HAVING A CONVERSATION WITH
7 HER PRIOR TO ASKING HER -- BACK UP.

8 DID YOU ASK HER AT SOME POINT TO HELP OUT
9 WITH A COMPOSITE?

10 A YES, MA'AM.

11 Q DO YOU RECALL HAVING A CONVERSATION WITH
12 HER PRIOR TO THAT WHERE SHE INDICATED HER SON DID NOT
13 START WORK UNTIL 7:00?

14 A YES, MA'AM.

15 Q DID SHE ALSO, IN THAT CONVERSATION,
16 EXPRESS DOUBT TO YOU THAT THE INDIVIDUAL SHE SAW MAY NOT
17 HAVE BEEN INVOLVED BASED ON THE TIMING?

18 A YES, MA'AM.

19 Q DID YOU EVER ATTEMPT TO SEE HOW LONG IT
20 WOULD TAKE --

21 MR. JACKSON: YOUR HONOR, I'M SORRY. I WAS
22 THINKING. I APOLOGIZE FOR INTERRUPTING.

23 THAT LAST QUESTION I WOULD OBJECT TO AND
24 ASK TO MOVE TO STRIKE THE ANSWER AS SPECULATIVE.

25 THE COURT: OVERRULED. WE CAN LEAVE THE ANSWER
26 IN.

27 Q BY MS. SARIS: DID YOU -- SHE TOLD YOU
28 THAT HER SON WORKED AT A PARTICULAR LOCATION?

1 A YES.

2 Q AND THAT SHE HAD TO DROP HIM OFF BY A
3 PARTICULAR TIME?

4 A YES, MA'AM.

5 Q DID YOU EVER ATTEMPT TO SEE HOW LONG IT
6 WOULD TAKE TO GET FROM THAT LOCATION TO THE THOMPSON
7 HOME?

8 A NO.

9 Q OVER THE YEARS, YOU HAVE BEEN PRIVY TO
10 CLUES INVOLVING BLACK MEN AS SUSPECTED SHOOTERS IN THIS
11 CASE?

12 A YES, MA'AM.

13 Q DID YOU TAKE ANY PHOTOGRAPHS OF THOSE
14 INDIVIDUALS -- AND I'M SPEAKING OF THE BLACK MEN WHO WERE
15 POTENTIAL SUSPECTS -- AND SHOW THEM TO CLAUDETTE
16 FREIDINGER?

17 A NEVER.

18 Q DID YOU TAKE ANY OF THOSE PHOTOGRAPHS OF
19 THOSE INDIVIDUALS AND SHOW THEM TO WILMA JOHNSON?

20 A NO, MA'AM, NEVER.

21 Q WERE YOU AWARE THAT WILMA JOHNSON HAD ALSO
22 DESCRIBED TWO AFRICAN/AMERICAN MEN ON BICYCLES?

23 A YES.

24 Q DID YOU EVER TAKE PHOTOGRAPHS OF ANY
25 AFRICAN/AMERICAN MEN SUSPECTED TO BE THE SHOOTERS -- I'M
26 SORRY -- WHO HAVE EVER BEEN LISTED OR LOOKED AT AS
27 POSSIBLE SUSPECTS IN THIS CASE AND SHOWN THEM TO LANCE
28 JOHNSON?

1 A I HAVE NEVER SHOWN ANY PHOTOGRAPHS OF
2 AFRICAN/AMERICAN MEN TO ANY WITNESS IN THIS CASE EVER.

3 Q SO THE ONLY PHOTOGRAPH OF ANY PERSON
4 YOU'VE EVER SHOWN TO ANY WITNESS IN THIS CASE IS MICHAEL
5 GOODWIN?

6 A ALONG WITH THE SIX-PACK OR PHOTO FOLDER,
7 YES, THAT'S CORRECT.

8 Q AND IT'S FAIR TO SAY THAT THERE WERE
9 INDEED AT LEAST SUSPECTS OR POTENTIAL SUSPECTS OF
10 AFRICAN/AMERICAN MEN OVER THE YEARS?

11 A YES, MA'AM.

12 Q DID YOU REVIEW THE LAB REPORTS, ANY LAB
13 REPORTS, THAT WERE INVOLVED IN THIS CASE WHEN YOU CAME ON
14 BOARD?

15 A YES.

16 Q WERE YOU AWARE THAT SOMEONE HAD FOUND A
17 HAIR ON THE MASKING TAPE OF THE STUN -- OR I DON'T WANT
18 TO CALL IT MASKING TAPE, BUT TAPE ON THE STUN GUN?

19 A I WAS NOT, NOT UNTIL RECENTLY.

20 Q WHEN YOU SAY "RECENTLY," HOW RECENT?

21 A THE PAST SIX MONTHS OR SO.

22 Q HOW DID YOU BECOME AWARE OF THAT?

23 A THROUGH YOU.

24 Q YOU HAD NEVER SEEN THE REPORT GENERATED ON
25 MARCH 16 OF 1988 INDICATING THAT THE CRIMINALIST HAD
26 REMOVED THAT HAIR FROM THE STUN GUN?

27 A I DON'T HAVE A RECOLLECTION IF I HAD SEEN
28 THAT PRIOR OR NOT.

1 Q SO IT WOULD BE FAIR TO SAY THAT YOU DIDN'T
2 ASK FOR ANY TEST TO BE DONE ON THAT?

3 A THAT WOULD BE FAIR TO SAY.

4 Q DO YOU KNOW WHO ASKED FOR A TEST TO BE
5 DONE ON THAT HAIR?

6 A YOU DID.

7 MR. JACKSON: OBJECTION. CALLS FOR HEARSAY.

8 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

9 Q BY MS. SARIS: WERE YOU AWARE THAT IN 1988
10 THAT A CRIMINALIST HAD COLLECTED THE FINGERNAIL CLIPPINGS
11 AND SCRAPINGS OF THE TWO VICTIMS?

12 A YES, MA'AM.

13 Q AND WERE YOU AWARE OF THAT SPECIFICALLY IN
14 THIS CASE OR BECAUSE THAT'S DONE IN ALL HOMICIDES?

15 A SPECIFICALLY IN THIS CASE.

16 Q FROM THE TIME THAT YOU BECAME INVOLVED IN
17 THIS CASE, DID YOU ASK FOR ANY TESTING TO BE DONE ON
18 THOSE ITEMS?

19 A NO.

20 Q WERE YOU AWARE THAT TESTING WAS EVENTUALLY
21 DONE?

22 A YES.

23 Q AND DO YOU KNOW AT WHOSE REQUEST THAT WAS?

24 A YES.

25 Q WHOSE WAS THAT?

26 A AT YOURS.

27 Q WERE THOSE -- WAS THERE EVER A TIME
28 BETWEEN 1988 AND NOW THAT YOU KNOW OF WHERE THOSE WERE

1 NOT AVAILABLE TO YOU FOR WHATEVER REASON?

2 A NO, MA'AM.

3 Q SO THEY HAVE ALWAYS JUST BEEN SITTING IN
4 THE EVIDENCE LOCKER?

5 A CORRECT.

6 MS. SARIS: MAY HAVE I JUST A MOMENT, PLEASE.

7 (DISCUSSION OFF THE RECORD.)

8 MS. SARIS: YOUR HONOR, I HAVE NOTHING FURTHER AT
9 THIS TIME.

10 THE COURT: ALL RIGHT. CROSS-EXAMINATION?

11 MR. JACKSON: THANK YOU, YOUR HONOR.

12

13 CROSS-EXAMINATION

14 BY MR. JACKSON:

15 Q DETECTIVE, I ONLY HAVE A FEW QUESTIONS FOR
16 YOU. FAMOUS LAST WORDS.

17 WITH REGARD TO ALLISON TRIARSI, YOU TALKED
18 TO HER IN 1997; CORRECT?

19 A YES, SIR.

20 Q AT THAT TIME YOU INDICATED THAT SHE
21 SUGGESTED TO YOU THAT HER MOTHER HAD -- WELL, LET ME
22 REPHRASE THAT.

23 SHE SUGGESTED TO YOU THAT ONE OR THE OTHER
24 OF THE KILLERS COULD HAVE BEEN WHITE; CORRECT?

25 A THAT'S CORRECT.

26 Q AT ANY POINT SUBSEQUENT TO THAT, DID YOU
27 HEAR MISS TRIARSI INDICATE THAT SHE HAD REREAD A JOURNAL
28 THAT SHE HAD KEPT ABOUT THIS INCIDENT?

1 MS. SARIS: OBJECTION. LEADING.

2 THE COURT: SUSTAINED.

3 Q BY MR. JACKSON: DID SHE INDICATE -- DID
4 YOU HEAR HER TESTIFY AT THE PRELIMINARY HEARING?

5 A YES, SIR.

6 Q WAS SHE UNDER OATH?

7 A YES, SIR.

8 Q DID YOU HEAR ANY OF HER TESTIMONY
9 CONCERNING HER RECOLLECTION AT THE PRELIMINARY HEARING IN
10 THIS MATTER?

11 A I DID.

12 Q WHAT SPECIFICALLY DID SHE SAY REGARDING
13 HER RECOLLECTION?

14 MS. SARIS: OBJECTION, YOUR HONOR. IMPROPER
15 IMPEACHMENT.

16 THE COURT: OVERRULED.

17 YOU CAN ANSWER.

18 THE WITNESS: SHE SAID THAT AFTER MY FIRST
19 INTERVIEW WITH HER, BUT PRIOR TO THAT PARTICULAR
20 TESTIMONY, SHE HAD RETRIEVED AND READ A DIARY THAT SHE
21 HAD KEPT OF HER THOUGHTS AT THAT TIME AT THE TIME OF THE
22 MURDERS.

23 Q BY MR. JACKSON: DID SHE SAY ANYTHING
24 ABOUT HER RECOLLECTION CONCERNING -- OR HER INDICATION TO
25 YOU ABOUT ONE OR THE OTHER OF THE KILLERS BEING A WHITE
26 MALE?

27 A YES.

28 Q WHAT DID SHE SAY IN THAT REGARD?

1 A THAT SHE FELT SHE WAS HEAVILY INFLUENCED
2 BY HER MOTHER WHO WAS A POWERFUL PERSONALITY.

3 Q ON THAT ISSUE?

4 A YES, SIR.

5 Q DID SHE SAY, AT THE PRELIMINARY HEARING
6 THAT YOU HEARD HER TESTIFY TO, WHETHER OR NOT AT THAT
7 TIME SHE KNEW DEFINITELY THE RACE OF EITHER OF THE
8 KILLERS?

9 A SHE DID NOT.

10 Q DID YOU HEAR HER TESTIFY AT THIS TRIAL
11 MATTER?

12 A I DID.

13 Q DID YOU HEAR HER TAKE AN OATH?

14 A I DID.

15 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

16 THE COURT: OKAY.

17

18 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

19 MS. SARIS: THIS IS ALL IMPROPER HEARSAY. A
20 PRIOR CONSISTENT STATEMENT HAS TO BE MADE BEFORE THE
21 INCONSISTENCY. THE FIRST STATEMENT WAS '97. THAT WAS
22 THE INCONSISTENCY. EVERYTHING ELSE IS SUBSEQUENT. IT'S
23 PURE HEARSAY AND THERE IS NO EXCEPTION.

24 THE COURT: WHAT IS YOUR POSITION, MR. JACKSON?

25 MR. JACKSON: SHE OPENED THE DOOR. SHE INDICATED
26 THAT THERE WAS A PRIOR INCONSISTENT STATEMENT BACK IN
27 1997 FOR WHICH THERE IS AN ANSWER. AND SHE HAS TESTIFIED
28 TWO TIMES UNDER OATH ABOUT WHY THAT PREVIOUS STATEMENT

1 WAS INACCURATE.

2 I THINK IT WOULD BE MISLEADING NOT TO
3 ALLOW THIS WITNESS WHO WAS ASKED THE QUESTIONS OF THIS
4 PARTICULAR -- THIS WITNESS, THE DETECTIVE, WHO WAS ASKED
5 THESE QUESTIONS ABOUT THE PREVIOUS WITNESS ALLISON
6 TRIARSI FOR IMPEACHMENT NOT TO ALLOW THE JURORS TO HEAR
7 THAT SHE HAS TESTIFIED CONSISTENTLY SINCE THEN BASED UPON
8 A SUBSEQUENT REVIEW OF HER JOURNAL.

9 MS. SARIS: AND THERE IS NO HEARSAY EXCEPTION.
10 IT HAS TO BE A PRIOR CONSISTENT STATEMENT. HER
11 TESTIMONY -- SHE HAS ALREADY TESTIFIED. I GAVE HER THE
12 OPPORTUNITY TO REFUTE THE STATEMENT SHE MADE IN '97. I
13 PRESENTED IT PROPERLY. THERE IS NO SUCH THING TO OPENING
14 THE DOOR TO INADMISSIBLE HEARSAY. IT'S NOT PRIOR
15 CONSISTENT. IT'S SUBSEQUENT CONSISTENT AND THEREFORE,
16 IT'S NOT ALLOWED.

17 MR. JACKSON: IT'S PRIOR CONSISTENT TO HER
18 TESTIMONY IN THIS CASE. AT LEAST THE PRELIMINARY HEARING
19 IS. IT'S PRIOR CONSISTENT --

20 THE COURT: ALL RIGHT. LET ME CHANGE THE SUBJECT
21 FOR A SECOND. HOW MANY -- YOU HAVE NO OTHER WITNESSES
22 LEFT?

23 MS. SARIS: UNLESS DEPUTY ESTRADA IS IN THE
24 HALLWAY. THE CODE IS CLEAR IT HAS TO BE INCONSISTENT.

25 THE COURT: ALL RIGHT.

26 MS. SARIS: I MEAN CONSISTENT PRIOR TO THE
27 INCONSISTENT STATEMENT.

28 MR. DIXON: I DISAGREE. I THINK --

1 MR. SUMMERS: I AGREE.

2 THE COURT: OKAY. HANG ON.

3 MR. DIXON: THE CHALLENGED STATEMENT IS THE
4 STATEMENT MADE HERE IN COURT. ANY PRIOR STATEMENT THAT
5 IS INCONSISTENT --

6 MS. SARIS: PRIOR TO THE INCONSISTENT
7 STATEMENT --

8 THE COURT: HANG ON. HANG ON. HANG ON. WHAT IS
9 THE EXCEPTION?

10 MS. SARIS: 1240?

11 THE COURT: THAT'S SPONTANEOUS.

12 MR. DIXON: 1238.

13 MR. JACKSON: SOMETHING LIKE 1230, 1231,
14 SOMETHING LIKE THAT.

15 THE COURT: I SHOULD KNOW THIS. OKAY. HERE IT
16 IS, 1236.

17 MS. SARIS: YOU WERE CLOSEST, IS THAT WHAT YOU
18 JUST SAID?

19 THE COURT: OKAY. GUYS, YOU ARE DRIVING LORI
20 CRAZY.

21 WELL, YOU KNOW, 791 IS REFERRED TO IN
22 1236. AND IT PERMITS A PRIOR CONSISTENT STATEMENT UNDER
23 TWO SEPARATE THEORIES. ONE OF THEM IS THAT THE STATEMENT
24 IS MADE BEFORE THE INCONSISTENT STATEMENT AND IT'S
25 CONSISTENT WITH THE LATER STATEMENT. OR AN EXPRESS OR
26 IMPLIED CHARGE HAS BEEN MADE THAT THE TESTIMONY AT THE
27 HEARING IS RECENTLY FABRICATED OR INFLUENCED BY BIAS OR
28 OTHER IMPROPER MOTIVE. AND THE STATEMENT WAS MADE BEFORE

1 THE BIAS, MOTIVE FOR FABRICATION, OR OTHER IMPROPER
2 MOTIVE IS ALLEGED TO HAVE ARISEN.

3 SO IT WOULD SEEM THAT IT COULD POSSIBLY
4 FALL UNDER 791 (B), COULDN'T IT?

5 MS. SARIS: NO. BECAUSE --

6 MR. DIXON: THAT WAS MY POSITION.

7 MS. SARIS: THE POSITION IS SHE DIDN'T HAVE A
8 CONVERSATION PRIOR TO '97. OUR IMPLICATION IS THE MOTIVE
9 AROSE IN '97 AT THE SAME TIME. SO THERE IS NO STATEMENT
10 PRIOR TO THE MOTIVE. THE CAMERAS CAME IN '97, THAT'S
11 WHEN THE MOTIVE HAPPENED. THERE IS NO EVIDENCE OF A
12 STATEMENT PRIOR TO THAT. THEY WOULD BE ALLOWED TO GET IN
13 ANY STATEMENT PRIOR TO '97, BUT THERE IS NOTHING.

14 THE COURT: WELL, IF IT'S SUBSEQUENT TO '97 AND
15 SHE IS STATING THAT -- WELL, YOU IMPEACHED HER WITH A
16 PRIOR INCONSISTENT STATEMENT; RIGHT?

17 MS. SARIS: SO THE CONSISTENCY WOULD HAVE TO BE
18 PRIOR TO THAT, YES.

19 THE COURT: I DON'T KNOW ABOUT THAT.

20 MR. DIXON: NO. BECAUSE THE CHARGED FABRICATION
21 IS HER TESTIMONY AT TRIAL AND ANY PRIOR CONSISTENT
22 STATEMENT WOULD COME IN UNDER THE --

23 MS. SARIS: THE CHARGE FOR FABRICATION IS THE
24 STATEMENT IN '97.

25 MR. DIXON: NO. SHE WASN'T CONFRONTED WITH THAT.

26 MS. SARIS: OF COURSE, SHE WAS.

27 THE COURT: NO. THE -- WHAT I'M HEARING IS THAT
28 YOU ARE CLAIMING THAT HER TESTIMONY HERE AT THE TRIAL HAS

1 BEEN SOMEHOW INFLUENCED BY SOMETHING ELSE.

2 MS. SARIS: NO. I'VE ALWAYS CLAIMED THAT HER
3 TESTIMONY TO DETECTIVE LILLIENFELD WAS INFLUENCED. SHE
4 MADE -- AND I HAVE SUBSEQUENTLY SHOWN AN INCONSISTENT
5 STATEMENT IN '97. THERE IS NOTHING CONSISTENT PRIOR TO
6 THAT WITH HER TESTIMONY --

7 THE COURT: WAIT, HANG ON. YOU ARE ALLEGING THAT
8 HER TESTIMONY AT THE TRIAL HAS BEEN FABRICATED OR
9 INFLUENCED BY IMPROPER CIRCUMSTANCES; CORRECT?

10 MR. DIXON: YES.

11 MS. SARIS: NO. BUT THE TESTIMONY IN '97 WAS
12 INFLUENCED.

13 THE COURT: SHE DIDN'T TESTIFY IN '97.

14 MS. SARIS: NO. THAT'S THE STATEMENT THAT SHE
15 MADE. THAT'S WHEN THE MOTIVE OR BIAS AROSE.

16 MR. DIXON: BUT THAT'S NOT TESTIMONY.

17 THE COURT: THE STATEMENT THAT SHE MADE IN '97
18 WAS THAT SHE MAY HAVE BEEN INFLUENCED BY HER MOTHER?

19 MR. JACKSON: NO. THAT'S THE POINT COUNSEL IS
20 MAKING. IN 1997 SHE SAID SHE WAS IMPEACHED WITH A
21 STATEMENT, "HEY, I THINK ONE OR THE OTHER OF THEM MIGHT
22 HAVE BEEN WHITE."

23 THE COURT: CORRECT.

24 MR. JACKSON: THEN HER TESTIMONY AT THE
25 PRELIMINARY HEARING IS, "I DIDN'T SEE THE RACE." SO THEN
26 COUNSEL THEN IMPEACHED HER WITH THAT PRIOR STATEMENT. SO
27 COUNSEL'S ARGUMENT OTHERWISE IS COMPLETELY IRRELEVANT.
28 HER ARGUMENT BEFORE THIS JURY IS GOING TO BE: YOU CAN'T

1 BELIEVE HER TESTIMONY HERE.

2 THE COURT: RIGHT.

3 MR. JACKSON: THEREFORE, THE PREVIOUS STATEMENT
4 AT THE PRELIMINARY HEARING IS CERTAINLY RIPE FOR A PRIOR
5 CONSISTENT STATEMENT.

6 MS. SARIS: THE STATEMENT WAS THAT THEY WERE
7 WHITE WAS '97. THE STATEMENT CONSISTENT WITH THAT WOULD
8 HAVE TO BE PRIOR BECAUSE THAT IS THE INCONSISTENT
9 STATEMENT.

10 THE COURT: SEE, I VIEW IT DIFFERENTLY. I'M
11 LOOKING AT IT AS IF YOU ARE CHALLENGING HER TESTIMONY
12 HERE. BECAUSE YOU CHALLENGED HER TESTIMONY HERE WITH AN
13 INCONSISTENT STATEMENT.

14 MS. SARIS: RIGHT. AND THE ONLY WAY TO
15 REHABILITATE THAT IS TO COME UP WITH A PRIOR CONSISTENT
16 STATEMENT, AND THAT CANNOT HAPPEN.

17 THE COURT: BUT THAT'S ASSUMING THAT THE MOTIVE
18 TO FABRICATE DIDN'T OCCUR DURING THE COURSE OF THIS
19 TRIAL. BUT YOUR POSITION IS INCONSISTENT WITH THAT.

20 MS. SARIS: NO. MY POSITION IS THERE IS NO
21 MOTIVE -- I HAVEN'T SHOWN A MOTIVE TO FABRICATE OTHER
22 THAN WHEN THE CAMERAS WERE THERE, WHICH WAS '97 WHICH WAS
23 EXACTLY WHEN THE INCONSISTENT STATEMENT WAS MADE.

24 MY POINT IS SHE DOESN'T KNOW WHAT
25 HAPPENED. I'VE NOT SAID THAT SHE'S MOTIVATED TO CHANGE
26 WHAT SHE SAID IN '97. IT'S THAT WHAT SHE SAID IN '97 WAS
27 THAT SHE DIDN'T SEE ANYTHING. AND WHAT SHE DID SEE WAS
28 IMPOSSIBLE TO ACTUALLY HAVE SEEN.

1 SO UNLESS THERE IS SOMETHING CONSISTENT
2 PRIOR TO THAT, THERE IS NO WAY TO REHABILITATE HER
3 POST-'97. THAT DOESN'T MAKE ANY SENSE. THEY WOULD HAVE
4 TO REHABILITATE PRIOR TO THE INCONSISTENCY.

5 THE COURT: OVERRULED.

6 (SIDE BAR DISCUSSION CONCLUDED.)

7
8 MR. JACKSON: MAY I CONTINUE, YOUR HONOR?

9 THE COURT: YES.

10 MR. JACKSON: THANK YOU.

11 Q WITH REGARD TO MISS TRIARSI'S -- YOUR
12 LISTENING TO MISS TRIARSI'S TESTIMONY, DID SHE INDICATE
13 AT THE PRELIMINARY HEARING THAT YOU HEARD ANYTHING ABOUT
14 HER MOTHER'S POSSIBLE INFLUENCE OVER HER MEMORY AT THE
15 TIME?

16 A YES.

17 Q OKAY. WHAT DID SHE SAY IN THAT REGARD?

18 A AS I TESTIFIED EARLIER, JUST THAT HER
19 MOTHER HAD A STRONG PERSONALITY. AND THAT FOR YEARS
20 GROWING UP FROM THE TIME OF THE INCIDENT WHEN SHE WAS AN
21 ADOLESCENT UP UNTIL ADULthood, HER MOTHER HAD SOMEWHAT
22 CONTINUALLY INFLUENCED HER AS FAR AS HER PERCEPTION OF
23 THE EVENT.

24 Q DID MISS TRIARSI SAY ULTIMATELY AT THE
25 PRELIMINARY HEARING UNDER OATH WHETHER OR NOT SHE
26 RECALLED AS SHE SAT THERE THE ACTUAL RACE OF EITHER OF
27 THE KILLERS?

28 A SHE WAS INDETERMINATE AT THE PRELIMINARY

1 HEARING AS TO THEIR RACE.

2 Q CONSISTENT WITH HOW SHE TESTIFIED IN THIS
3 TRIAL?

4 A YES, SIR.

5 Q BARRON WEHINGER, DID MR. WEHINGER INDICATE
6 TO YOU THAT HIS MOTHER WAS EVER MARRIED TO TOM VILLELLI?

7 A YES.

8 Q AT THE TIME THAT YOU INTERVIEWED
9 MR. WEHINGER, WAS IT YOUR UNDERSTANDING -- WELL, WHAT WAS
10 YOUR UNDERSTANDING CONCERNING WHETHER OR NOT HIS MOTHER
11 WAS STILL ALIVE?

12 A THAT SHE WAS.

13 Q WHAT IS YOUR UNDERSTANDING ABOUT
14 MR. WEHINGER'S -- THE HEALTH OF MR. WEHINGER'S MOTHER
15 SUBSEQUENT TO THE PRELIMINARY HEARING IN THIS MATTER?

16 A SHE CONTRACTED CANCER AND ULTIMATELY DIED.

17 Q AT THE TIME -- IS YOUR UNDERSTANDING THAT
18 SHE WAS ACTUALLY DECEASED AT THE TIME THAT HE TESTIFIED
19 IN THIS COURT?

20 A YES.

21 Q WITH REGARD TO KATHY WEESE, YOU REVIEWED A
22 1997 INTERVIEW WITH MISS WEESE; CORRECT?

23 A YES.

24 Q AND DURING THE COURSE OF THAT INTERVIEW,
25 DID YOU SEE ANY REFERENCE TO THE STATEMENT \$500 AND A
26 MOTORCYCLE?

27 A I DID NOT.

28 Q DID YOU HEAR MISS WEESE TESTIFY AT ANOTHER

1 PRELIMINARY HEARING IN A DIFFERENT COUNTY IN THIS MATTER?

2 A I DID.

3 Q IN ORANGE COUNTY SPECIFICALLY?

4 A YES.

5 Q DURING THE COURSE OF THAT PRELIMINARY
6 HEARING, DID YOU HEAR MISS WEESE MENTION ANYTHING ABOUT
7 THAT \$500 AND A MOTORCYCLE STATEMENT?

8 MS. SARIS: SAME OBJECTION, YOUR HONOR, UNDER 791
9 AND 1236.

10 MR. JACKSON: I THINK WE'RE IN THE SAME POSITION,
11 YOUR HONOR.

12 THE COURT: I THINK SO, TOO. OVERRULED.

13 MS. SARIS: THE OBJECTION IS AS TO THE FORM.

14 THE COURT: ALL RIGHT. THEN REPHRASE IT.

15 MR. JACKSON: SURE.

16 Q WHAT, IF ANYTHING, DID YOU HEAR -- AND I
17 WANT TO -- OBVIOUSLY, THERE WAS SOME VOLUMINOUS TESTIMONY
18 IN THAT PRELIMINARY HEARING; CORRECT?

19 A YES.

20 Q I WANT TO NARROW YOUR FOCUS A LITTLE BIT
21 SO WE'RE NOT HERE ALL DAY.

22 WHAT DID YOU HEAR WITH REGARD TO ANYTHING
23 THAT MS. SARIS MAY HAVE ASKED YOU ON DIRECT EXAMINATION
24 AT THE PRELIMINARY HEARING IN ORANGE COUNTY?

25 MS. SARIS: OBJECTION. VAGUE AS TO TIME.

26 THE COURT: ALL RIGHT. SEE IF YOU CAN LAY THE
27 FOUNDATION.

28 MR. JACKSON: SURE.

1 MS. SARIS: YOUR HONOR, MAY WE APPROACH?

2

3 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

4 THE COURT: OKAY. GO AHEAD.

5 MS. SARIS: AT A PRELIMINARY HEARING, IF THEY
6 WANT TO BRING MS. WEESE BACK, AS TO WHAT SHE TESTIFIED,
7 IF THEY WANT TO INTRODUCE HER TRANSCRIPT, THAT WOULD BE
8 STILL IMPROPER. THIS IS A PRIOR CONSISTENT STATEMENT.
9 IT DID NOT ARISE BEFORE THE CONSISTENCY. HAVING THIS
10 WITNESS TESTIFY TO WHAT HE HEARD SOMEONE STATE UNDER OATH
11 IS JUST IMPROPER. IT'S IMPROPER IN TERMS OF THE FORM.
12 IT'S IMPROPER HEARSAY. IT'S IMPROPER REHABILITATION. IT
13 WOULD BE IMPROPER IMPEACHMENT. THE WAY TO DO IT IS TO
14 BRING THE WITNESS IN AND ASK HER.

15 THE COURT: AGAIN, THE WITNESS TESTIFIED TO ONE
16 SET OF FACTS. YOU IMPEACHED HER WITH A PRIOR STATEMENT
17 THAT WAS INCONSISTENT. THEREFORE, MY BELIEF IS THAT YOU
18 ARE SUGGESTING THAT SHE HAS FABRICATED HER TESTIMONY.

19 MS. SARIS: SUBSEQUENT TO HIS INTERVIEW, THAT IS
20 CORRECT. SO THE ONLY REHABILITATION WOULD BE HER
21 TESTIMONY PRIOR TO HIS INTERVIEW.

22 MR. DIXON: YOUR HONOR, IF I COULD INJECT THIS,
23 I THINK THE (B) SECTION EVEN APPLIES MORE CLEARLY HERE.
24 BECAUSE ON THE STAND COUNSEL IMPEACHED KATHY WEESE AND
25 SUGGESTED THAT SHE WAS LYING OUT OF HATRED FOR MICHAEL
26 GOODWIN AND WHAT HE DID TO HER. THESE ARE PRIOR
27 CONSISTENT STATEMENTS TO HER TESTIMONY; IT WOULD BE
28 IMPEACHMENT ON THOSE GROUNDS HERE IN COURT.

1 MS. SARIS: THE BIAS THEN WOULD BE WHEN
2 MR. GOODWIN HAD HER ARRESTED, WHICH WAS IN 1986.

3 THE COURT: BUT I DON'T THINK YOU CAN LIMIT IT
4 THAT WAY --

5 MS. SARIS: I'M NOT --

6 THE COURT: -- AND THAT'S WHY I KEEP OVERRULING
7 THE OBJECTION.

8 MS. SARIS: THE CODE SECTION --

9 THE COURT: NO. IT SAYS THAT IT HAS TO ARISE
10 BEFORE THE MOTIVE, INTEREST OR BIAS.

11 MS. SARIS: RIGHT. SHE HATED MR. GOODWIN IN
12 1986. NONE OF THESE STATEMENTS AROSE PRIOR TO THAT.

13 THE COURT: BUT ATTACK IS -- THE ATTACK -- I
14 MEAN, THERE MAY BE MULTIPLE CLAIMS HERE. BUT INsofar AS
15 THIS JURY IS CONCERNED, YOU HAVE BEEN SUGGESTING THAT
16 THESE WITNESSES HAVE FABRICATED THEIR TESTIMONY BASED ON
17 A NUMBER OF IMPROPER MOTIVES OR CIRCUMSTANCES.
18 THEREFORE, ANYTHING PRIOR THAT'S CONSISTENT, I BELIEVE
19 FALLS UNDER 791 (B).

20 MS. SARIS: PRIOR TO TODAY?

21 THE COURT: PRIOR TO THEIR TESTIMONY AT THE
22 TRIAL.

23 MS. SARIS: IN THIS TRIAL?

24 THE COURT: WELL, THAT'S THE ONLY ONE THE JURY
25 HAS HEARD. SO IT DOESN'T HAVE TO BE BEFORE. THE
26 STATEMENT UNDER (A) IT CAN BE BEFORE THE MOTIVE, WHICH I
27 BELIEVE YOUR ARGUMENT IS TO THIS JURY THAT THESE
28 WITNESSES HAVE TESTIFIED A CERTAIN WAY BECAUSE OF

1 IMPROPER MOTIVES TESTIFIED HERE AT TRIAL.

2 MS. SARIS: THE MOTIVE OCCURRED IN '86.

3 THE COURT: IT MAY HAVE, IT MAY HAVE. BUT YOUR
4 ALLEGATION IS THAT IT ALSO EXISTS HERE; AM I CORRECT?

5 MS. SARIS: WE ARE ABSOLUTELY DISAGREEING ABOUT
6 HOW TO READ THE CODE SECTION.

7 THE COURT: OKAY.

8 MS. SARIS: I THINK THAT'S THE ISSUE. AND IF THE
9 COURT IS GOING TO RULE THAT WAY, I CAN'T CHANGE THAT.
10 THIS IS NOT THE WITNESS TO GET IN THE CONSISTENT
11 STATEMENT. IT WOULD BE MISS WEESE, OR IT WOULD BE THE
12 PRELIMINARY HEARING TRANSCRIPT.

13 THE COURT: I THINK YOU CAN BRING IN A CONSISTENT
14 STATEMENT ANY WAY YOU WANT. AS LONG AS THERE IS A
15 FOUNDATION. IF HE HEARD THE STATEMENT, HE CAN TESTIFY TO
16 THE STATEMENT. IT'S NOT COMING IN AS PRIOR TESTIMONY.
17 IT'S COMING IN AS A PRIOR STATEMENT. IS THAT --

18 MR. JACKSON: THAT'S CORRECT.

19 THE COURT: -- YOUR THEORY?

20 ALL RIGHT. WE ARE GOING TO FINISH WITH
21 THIS DETECTIVE IN THE NEXT FEW MINUTES.

22 MR. JACKSON: YOUR HONOR, ABSOLUTELY. I ONLY
23 HAVE ABOUT FIVE POINTS. AND THAT WAS ANOTHER THING I WAS
24 GOING TO ASK LEAVE OF THE COURT. THE COURT'S
25 INSTRUCTIONS WERE VERY, VERY CLEAR WITH REGARD TO
26 DETECTIVE LILLIENFELD. NEITHER COUNSEL, THE DEFENSE NOR
27 THE PROSECUTION, WAS ENTITLED TO LEAD THE WITNESS.

28 MS. SARIS LED THE WITNESS THE ENTIRE TIME AND IT WAS OVER

1 MY FIRST TWO OBJECTIONS. AND I DECIDED IT WAS BETTER IF
2 I JUST STAY QUITE.

3 I'M NOT GOING TO JUST COMPLETELY ANSWER
4 EVERY QUESTION FOR THE MAN. BUT I WOULD LIKE A LITTLE
5 LEAVE ON ESTABLISHING SOME FOUNDATION FOR THE PRIOR
6 CONSISTENT STATEMENTS. I ONLY HAVE ABOUT FOUR OR FIVE
7 STATEMENTS TO DO, AND I'LL SIT DOWN.

8 THE COURT: AND WHO ARE THE PRIOR CONSISTENT
9 STATEMENTS OF?

10 MR. JACKSON: MY NOTES ARE ON MY PODIUM. IT'S --

11 MR. DIXON: KATHY WEESE.

12 MR. JACKSON: RIGHT. I'M JUST ABOUT FINISHED
13 WITH KATHY WEESE.

14 MR. DIXON: I'LL GO GET IT.

15 MR. JACKSON: YES, PLEASE GET THE NOTES. I WANT
16 TO SAY KATHY WEESE, LANCE JOHNSON, GREG KEAY.

17 MS. SARIS: I DIDN'T IMPEACH ON LANCE JOHNSON. I
18 JUST ASKED HIM THE DATE OF THE INTERVIEW.

19 MR. JACKSON: YES, YOU MAY BE RIGHT.

20 (PAUSE IN PROCEEDINGS.)

21 MR. JACKSON: NO, MY NOTES, PAT.

22 MR. DIXON: JOHN WILLIAMS, WE HAVE KATHY WEESE.

23 MR. JACKSON: JOHN WILLIAMS, KATHY WEESE, GREG
24 KEAY, TONI STEVENS.

25 THE COURT: ALL RIGHT. I'M NOT INCLINED --

26 MR. JACKSON: AND CLAUDETTE FREIDINGER, THAT'S
27 IT.

28 MS. SARIS: AND I DIDN'T IMPEACH ANY OF JOHN

1 WILLIAMS.

2 THE COURT: WE ARE GOING TO HAVE TO DISCUSS THIS
3 OUTSIDE THE PRESENCE OF THE JURY. I WANT TO BE ABLE TO
4 TELL THIS JURY WHEN WE ARE GOING TO FINISH THIS CASE. SO
5 TELL ME WHEN WE ARE GOING FINISH.

6 MS. SARIS: I'LL BE DONE WELL BEFORE THE VIEW. I
7 MEAN, IF OFFICERS SHOW UP.

8 THE COURT: I MEAN WE HAVE TWO HOURS TODAY AND WE
9 ARE NOT UTILIZING IT. I MEAN, IF THE DEFENDANT WAS GOING
10 TO TESTIFY, WHEN DO YOU PLAN ON CALLING HIM THEN?

11 MS. SARIS: IF HE'S GOING TO TESTIFY, IT'S GOING
12 TO BE AT THE END.

13 THE COURT: OKAY.

14 MS. SARIS: BUT I DON'T UNDERSTAND WHAT THAT HAS
15 TO DO WITH OUR OBJECTIONS TO LILLIENFELD.

16 THE COURT: IT DOESN'T.

17 MS. SARIS: OH.

18 THE COURT: I'M SAYING THAT WE ARE GOING TO
19 RECESS AND WE ARE GOING TO LITIGATE THESE ISSUES.
20 BECAUSE, OBVIOUSLY, THERE IS MORE HERE THAT NEEDS TO BE
21 LITIGATED. AND I DON'T WANT TO KEEP THE JURORS WAITING.

22 MR. JACKSON: THERE IS NOT A LOT WITH
23 LILLIENFELD. I MEAN, I SHOULD BE ABLE TO FINISH
24 LILLIENFELD BEFORE WE RECESS.

25 THE COURT: BUT MS. SARIS IS INDICATING THAT SHE
26 IS OBJECTING TO ALL THE PRIOR STATEMENTS THAT YOU ARE
27 ATTEMPTING TO BRING IN.

28 MR. JACKSON: WELL, I'M NOT GOING TO GET --

1 THE COURT: I DON'T WANT TO KEEP JUMPING DOWN,
2 YOU KNOW --

3 MR. JACKSON: ONCE THE COURT MAKES A RULING,
4 THAT'S THE RULING. I MEAN, IF THE COURT DEEMS THAT A
5 PRIOR CONSISTENT STATEMENT, THEN ALLOW ME TO JUST GET
6 THROUGH AND WE CAN GET DONE.

7 THE COURT: BUT I HAVEN'T RULED ON ANY OF THE
8 OTHER WITNESSES. THE ONLY THING I WANT TO SUGGEST IS
9 THAT YOU NOT READ. I MEAN I WOULD PREFER THAT YOU NOT
10 READ. I THINK THAT'S APPROPRIATE.

11 MR. JACKSON: AND IT WAS APPROPRIATE FOR
12 MS. SARIS, TOO, BUT THE COURT ALLOWED --

13 THE COURT: HAD YOU OBJECTED TO LEADING, AS I
14 INDICATED ON FRIDAY, I PROBABLY WOULD HAVE SUSTAINED IT.

15 MR. JACKSON: I DID TWICE AND IT WAS OVERRULED.
16 SO I DIDN'T WANT TO LOOK LIKE A FOOL.

17 IT'S OKAY, JUDGE. I CAN GET THROUGH IT
18 WITHOUT LEADING. THAT'S FINE.

19 THE COURT: ALL RIGHT.

20 (SIDE BAR DISCUSSION CONCLUDED.)

21
22 MR. JACKSON: MAY I INQUIRE, YOUR HONOR?

23 THE COURT: YES.

24 MR. JACKSON: THANK YOU.

25 Q YOU ATTENDED THE ORANGE COUNTY PRELIMINARY
26 HEARING?

27 A YES, SIR.

28 Q AT THAT PRIOR HEARING, DID MISS WEESE SAY

1 ANYTHING ABOUT THE THREATS? DID SHE DESCRIBE THE THREATS
2 THAT SHE HEARD?

3 A YES.

4 Q WHAT DID SHE SAY IN THAT REGARD?

5 A SHE SAID THAT SHE HEARD MR. GOODWIN STATE
6 TO MR. THOMPSON, "FOR \$500 AND A MOTORCYCLE I CAN HAVE
7 YOU KILLED," OR "I COULD HAVE YOU FIXED," WORDS TO THAT
8 EFFECT.

9 Q ALL RIGHT. WITH REGARD TO PHONE RECORDS,
10 MS. SARIS ASKED YOU ABOUT SOME PHONE RECORDS THAT HAD
11 BEEN GATHERED IN THIS CASE DURING THE INVESTIGATION; DO
12 YOU RECALL THAT?

13 A YES.

14 Q WHAT IS YOUR UNDERSTANDING OF CALLS FROM
15 INCOMING NUMBERS ON PHONE RECORDS FOR A PARTICULAR
16 NUMBER? I'M TRYING NOT TO PUT WORDS IN YOUR MOUTH. DO
17 YOU UNDERSTAND MY QUESTION?

18 A I DO.

19 Q EXPLAIN THAT FOR THE JURORS.

20 A BILLING RECORDS, ESPECIALLY BACK IN 1988,
21 INDICATED A PERSON PLACING A PHONE CALL WAS BILLED FOR
22 THAT CALL. YET THE INCOMING CALL WAS NOT REFLECTED ON
23 ANYBODY'S BILL. SO IF THERE WERE CALLS FROM MYSELF TO
24 YOU, THAT WOULD BE REFLECTED ON MY PHONE BILL, NOT
25 MR. JACKSON'S BILL. AND THERE IS TWO PARTS TO THAT
26 QUESTION TO ANSWER.

27 Q AND THE SECOND PART OF THE ANSWER?

28 A IS THAT IN CALIFORNIA, THE PUBLIC

1 UTILITIES COMMISSION REGULATES PHONE COMPANIES AND HOW
2 THEY CONDUCT BUSINESS. AND THEY DETERMINE HOW LONG PHONE
3 COMPANIES MAINTAIN RECORDS. AND BY THE TIME I GOT THIS
4 INVESTIGATION, THE RECORDS HAD BEEN DESTROYED CONCERNING
5 ANY OF THE PARTIES INVOLVED IN THIS CASE.

6 Q SO IF HYPOTHETICALLY A CALL WERE MADE TO
7 MICKEY THOMPSON'S HOUSE FROM, I DON'T KNOW, A PAY PHONE
8 OR SOME OTHER PLACE FOR WHICH YOU HAD NO BILLING RECORDS,
9 WOULD YOU EXPECT TO BE ABLE TO TRACE THAT CALL?

10 A NO.

11 Q YOU INDICATED THAT IN 1997 YOU INTERVIEWED
12 GREG KEAY; CORRECT?

13 A YES, SIR.

14 Q AND WHAT WAS MR. KEAY'S REFERENCE TO ANY
15 THREATS THAT HE MAY OR MAY NOT HAVE HEARD FROM MICHAEL
16 GOODWIN ABOUT MICKEY THOMPSON BACK IN 1997?

17 A HE HEARD MR. GOODWIN COMPLAINING ABOUT
18 MR. THOMPSON AND STATING, "HE'S BEEN RUBBING ME THE WRONG
19 WAY, AND PRETTY SOON HE'S NOT GOING TO BE RUBBING ME
20 ANYMORE," OR WORDS TO THAT EFFECT.

21 Q WHEN WAS THE FIRST TIME -- DID YOU EVER
22 HEAR MR. KEAY MAKE ANY STATEMENT ABOUT BEFORE HE SEES A
23 DIME -- I THINK MS. SARIS ASKED YOU THAT BEFORE HE SEES A
24 DIME, I'LL HAVE HIM WASTED?

25 A YES.

26 Q WHEN WAS THAT?

27 A THAT STATEMENT WAS OBTAINED AT THE SAME
28 SOCIAL GATHERING THAT MR. KEAY WAS AT IF THAT'S WHAT YOU

1 MEAN.

2 Q NO, YOU MISUNDERSTOOD ME. IT WAS SOMEWHAT
3 OF IN ARTFUL QUESTION.

4 WHEN WAS THE FIRST TIME YOU HEARD MR. KEAY
5 REITERATE THAT STATEMENT TO YOUR EARS?

6 A HERE IN COURT.

7 Q WAS THAT AT THE PRELIMINARY HEARING IN
8 THIS COURTROOM?

9 A I BELIEVE SO, YES.

10 Q CONCERNING THE STATEMENT BY MRS. STEVENS
11 THAT MS. SARIS ASKED YOU ABOUT NOT KNOWING IF THE CAR WAS
12 OCCUPIED, DO YOU REMEMBER EXACTLY WHAT HER STATEMENT WAS
13 CONCERNING THAT?

14 A NOT VERBATIM WORD FOR WORD.

15 Q WAS IT YOUR UNDERSTANDING THAT SHE WAS
16 SAYING SHE DIDN'T KNOW WHETHER THE CAR WAS OCCUPIED WHEN
17 SHE FIRST PASSED THE CAR OR ONCE SHE APPROACHED?

18 MS. SARIS: OBJECTION. LEADING.

19 THE COURT: SUSTAINED.

20 Q BY MR. JACKSON: HOW WOULD YOU DESCRIBE
21 YOUR UNDERSTANDING OF WHAT SHE MEANT BY WHETHER THE CAR
22 WAS UNOCCUPIED?

23 A SHE WAS UNSURE AND SOMEWHAT INARTICULATE
24 AS TO THE TIME FRAME.

25 Q OKAY. DID SHE TELL YOU WHETHER OR NOT SHE
26 PASSED THE CAR GOING TO HER DRIVEWAY?

27 A UPON MY FIRST INTERVIEW WITH HER, NO, SHE
28 DID NOT.

1 Q AT SOME POINT SUBSEQUENT, DID SHE DESCRIBE
2 WHEN SHE FIRST LAID EYES ON THE CAR?

3 A YES.

4 Q AND WHEN WAS THAT?

5 A WHEN SHE TESTIFIED IN THE PRELIMINARY
6 HEARING IN THIS COURTROOM.

7 Q AND WHEN -- IN HER WORDS, WHEN DID SHE SAY
8 THAT SHE HAD FIRST LAID EYES ON THE CAR?

9 A AS SHE WAS NORTHBOUND ON MT. OLIVE DRIVING
10 TO HER HOME AND HER DRIVEWAY.

11 Q OKAY. WHEN WAS THE NEXT TIME -- OR WHEN
12 DID SHE SEE THE CAR SUBSEQUENT TO THAT?

13 MS. SARIS: OBJECTION AS TO THE QUESTION. VAGUE
14 AS TO TIME.

15 THE COURT: SUSTAINED.

16 Q BY MR. JACKSON: DID SHE TELL YOU OR DID
17 YOU HEAR HER TESTIFY WHETHER OR NOT SHE SAW THE CAR AFTER
18 THAT INITIAL PASS BY AS SHE PASSED THE GARDI LOCATION
19 GOING TO HER DRIVEWAY?

20 A YES.

21 Q WHEN WAS THAT SUBSEQUENT TIME?

22 A WITHIN SEVERAL MINUTES.

23 Q CONCERNING THE ARIZONA PLATES, DID YOU
24 EVER INVESTIGATE THROUGH ANY AGENCY, ANY LAW ENFORCEMENT
25 AGENCY, ANY ARIZONA PLATES?

26 A I DID.

27 Q COULD YOU DESCRIBE THAT FOR THE JURORS
28 WHAT YOU DID?

1 A I MADE AN INQUIRY WITH THE ARIZONA
2 DEPARTMENT OF MOTOR VEHICLES AFTER I HAD MET THE
3 STEVENSES AND LEARNED ABOUT THE ARIZONA PLATE. AND I HAD
4 THEM IDENTIFY AND TRACE FOR ME EVERY VEHICLE THAT WAS
5 REGISTERED IN THE STATE OF ARIZONA AT THAT TIME THAT
6 WOULD HAVE BEEN OCCUPIED IN ARIZONA IN 1988. AND THEN I
7 BACKTRACKED AND TRIED TO LOCATE AND IDENTIFY ALL OF THOSE
8 VEHICLES.

9 Q WERE YOU ABLE TO, IN FACT, LOCATE AND
10 IDENTIFY EVERY SINGLE ONE OF THOSE?

11 A I WAS.

12 Q AND WHAT WAS THE RESULT OF YOUR
13 INVESTIGATION?

14 A NOTHING WAS GAINED. I COULD NEVER FIND A
15 VEHICLE THAT MATCHED IN DESCRIPTION BOTH IN COLOR; OR
16 THAT HAD PERHAPS SPENT TIME IN CALIFORNIA; OR THAT HAD
17 ANY FACTOR THAT MATCHED A POSSIBLE VEHICLE THAT THE
18 STEVENSES HAD SEEN.

19 Q ALL RIGHT. IS IT POSSIBLE THAT YOUR
20 INVESTIGATION COVERED YEARS OR MAKES OR MODELS THAT WERE
21 NOT, IN FACT -- I'M SORRY. LET ME REPHRASE THAT.

22 DID YOU COVER EVERY SINGLE YEAR, MAKE AND
23 MODEL OF AMERICAN STATION WAGONS FROM ARIZONA IN YOUR
24 INVESTIGATION?

25 A NO.

26 Q IS IT POSSIBLE THAT SOME OF THOSE VEHICLES
27 WERE LEFT OUT OF YOUR INVESTIGATION?

28 A YES.

1 Q AND WHAT WAS THE BEST DESCRIPTION THAT YOU
2 HAD OF THE YEAR, MAKE AND MODEL OF THE STATION WAGON?

3 A 1973 CHEVROLET MALIBU NINE PASSENGER
4 STATION WAGON.

5 Q WITH REGARD TO THE HAIR AND THE NAILS THAT
6 MS. SARIS ASKED YOU ABOUT, DURING THE COURSE OF YOUR
7 INVESTIGATION AS THE LEAD INVESTIGATOR, DID YOU EVER
8 BELIEVE -- WAS THERE EVER EVIDENCE TO SUGGEST THAT MIKE
9 GOODWIN HIMSELF WAS ACTUALLY AT THE CRIME SCENE ON MARCH
10 16TH, 1988?

11 A NO.

12 MR. JACKSON: MAY I HAVE JUST A MOMENT, YOUR
13 HONOR?

14 (PAUSE IN PROCEEDINGS.)

15 MR. JACKSON: YOUR HONOR, THAT'S ALL I HAVE.
16 NOTHING FURTHER AT THIS TIME.

17 THE COURT: REDIRECT?

18 MS. SARIS: THANK YOU.

19

20 REDIRECT EXAMINATION

21 BY MS. SARIS:

22 Q SO I TAKE IT FROM YOUR LAST ANSWER THAT
23 THERE WAS NO POINT IN LOOKING AT EVIDENCE THAT WASN'T
24 GOING TO LEAD TO MICHAEL?

25 MR. JACKSON: OBJECTION. LEADING. IT'S ALSO
26 ARGUMENTATIVE.

27 THE COURT: SUSTAINED.

28 Q BY MS. SARIS: DID YOU KNOW WHO HAD KILLED

1 THE THOMPSONS?

2 A I'M SORRY?

3 Q DID YOU KNOW WHO HAD KILLED THE THOMPSONS?

4 A NO, MA'AM.

5 Q DID THAT FACT INTEREST YOU AT ALL DURING
6 THIS INVESTIGATION?

7 MR. JACKSON: OBJECTION. ARGUMENTATIVE.

8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: WAS THAT ONE OF THE FOCUSES
10 OF YOUR INVESTIGATION?

11 A AND STILL IS TO THIS DAY.

12 Q ALLISON TRIARSI CALLED IT A "JOURNAL." DO
13 YOU RECALL HER REFERRING TO IT AS A "DIARY OF HER
14 NIGHTMARES"?

15 A I RECALL THE WORD "DIARY" PERHAPS. BUT
16 NOT OF -- I DON'T RECALL IT BEING CALLED THAT "OF
17 NIGHTMARES."

18 Q IN THIS COURTROOM DID YOU HEAR HER
19 TESTIFY?

20 A I DID.

21 Q DID SHE TELL YOU SHE KEPT A COMPOSITION
22 BOOK FOR HER THERAPY ON -- DID SHE TELL US HER THERAPIST
23 TOLD HER TO WRITE DOWN HER NIGHTMARES?

24 A YES.

25 Q I THINK YOU PROBABLY MISSPOKE. YOU SAID
26 YOU HAD THE TRANSCRIPT OF A CONVERSATION THAT YOU HAD
27 WITH MISS WEESE FROM '97. WAS IT, IN FACT, FROM 2001?

28 A YES, MA'AM. IN BLAIRSVILLE, GEORGIA, THAT

1 ONE.

2 Q IS THAT THE ONE THAT YOU REVIEWED OVER
3 LUNCH?

4 A YES.

5 Q SO THAT WAS IN '97?

6 A NO.

7 Q LIKE I SAID, I THINK IT WAS JUST
8 MISSPOKEN. DID YOU SPEAK TO HER PRIOR TO BLAIRSVILLE,
9 GEORGIA?

10 A NO, MA'AM.

11 Q SO IT'S FAIR TO SAY THAT ALL THE WITNESSES
12 THAT YOU TALKED TO CHANGED THEIR STORY WHEN THEY CAME TO
13 THE PRELIMINARY HEARING?

14 MR. JACKSON: OBJECTION.

15 THE COURT: SUSTAINED.

16 Q BY MS. SARIS: LET ME ASK YOU, MR. KEAY
17 DIDN'T MENTION ABOUT NOT SEEING -- "I'LL HAVE YOU WASTED
18 BEFORE YOU SEE A CENT" BEFORE HE TESTIFIED; RIGHT?

19 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.

20 THE COURT: SUSTAINED.

21 Q BY MS. SARIS: IN YOUR INTERVIEWS WITH
22 THESE INDIVIDUALS, THE STATEMENT THAT YOU HEARD AT THE
23 PRELIMINARY HEARING VERSUS YOUR INTERVIEWS, WAS THERE A
24 DIFFERENCE?

25 MR. JACKSON: OBJECTION. VAGUE AS TO WHO SHE IS
26 TALKING ABOUT.

27 THE COURT: SUSTAINED.

28 Q BY MS. SARIS: REGARDING MR. KEAY, WAS

1 THERE A DIFFERENCE IN THE STATEMENT, "MY PARTNER IS
2 RUBBING ME THE WRONG WAY. HE WON'T BE RUBBING ME MUCH
3 LONGER," IS THAT DIFFERENT THAN THE STATEMENT THAT HE
4 TESTIFIED TO IN THE PRELIMINARY HEARING THAT YOU SAID YOU
5 HEARD?

6 A YES.

7 Q AND THE STATEMENT FROM MISS WEESE IN YOUR
8 INTERVIEW REGARDING THE \$500 AND A MOTORCYCLE AND THAT
9 THAT WAS GIVEN WHEN SHE TESTIFIED AT THE PRELIMINARY
10 HEARING VERSUS YOUR INTERVIEW OF HER?

11 A YES, MA'AM.

12 Q AND TONYIA STEVENS, SHE NEVER INDICATED TO
13 YOU THAT SHE SAW THIS PERSON IN THE CAR MORE THAN ONCE,
14 DID SHE?

15 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.

16 THE COURT: SUSTAINED.

17 Q BY MS. SARIS: DID SHE SAY TO YOU IN YOUR
18 STATEMENT TO HER SHE COULD NOT RECALL IF THE CAR WAS
19 OCCUPIED OR NOT WHEN SHE SAW IT?

20 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.

21 THE COURT: SUSTAINED.

22 MS. SARIS: YOUR HONOR, IMPROPER IMPEACHMENT.

23 THE COURT: TRY IT AGAIN.

24 Q BY MS. SARIS: DID YOU WRITE A REPORT
25 BASED ON MISS STEVENS' STATEMENT?

26 A YES, MA'AM.

27 Q DID YOU WRITE IN THAT REPORT THAT SHE
28 COULD NOT RECALL IF THE CAR WAS OCCUPIED OR NOT WHEN SHE

1 SAW IT?

2 A YES, MA'AM.

3 Q DID THAT INDICATE THAT THERE WAS MORE THAN
4 ONE OCCASION THAT MRS. STEVENS SAW THE CAR?

5 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.
6 ASKING FOR SPECULATION.

7 THE COURT: YES. SUSTAINED.

8 Q BY MS. SARIS: DID YOU REFLECT ANYWHERE IN
9 YOUR REPORT THE NOTION THAT MISS STEVENS MAY HAVE SEEN
10 THE CAR TWICE?

11 A NO, MA'AM.

12 Q DID YOU CALL THE OFFICER WHO TOOK THE
13 NOTES THAT WE'VE REFERRED TO IN DEFENSE QQQ REGARDING THE
14 ARIZONA PLATE AND ASK HIM WHAT KIND OF CAR WERE THESE
15 PLATES ON?

16 A NO, MA'AM.

17 Q AND YOU'RE CERTAIN THAT THE STEVENSES TOLD
18 YOU ABOUT A STATION WAGON AND NOT AN SUV?

19 A I'M CERTAIN.

20 Q WOULD YOU CHARACTERIZE THE STATEMENTS THAT
21 WERE MADE IN THE PRELIMINARY HEARING THAT YOU HAVE
22 DESCRIBED AS DIFFERENT FROM THE STATEMENTS I'M REFERRING
23 TO, KEAY AND WEESE, REFERRING THE COMMENTS OF
24 MR. GOODWIN, DID THOSE STATEMENTS BECOME BETTER OR WORSE
25 AT THE PRELIMINARY HEARING VERSUS YOUR INTERVIEW?

26 MR. JACKSON: OBJECTION, YOUR HONOR. ISN'T THAT
27 A DECISION FOR THE JURORS?

28 THE COURT: SUSTAINED.

1 Q BY MS. SARIS: DO YOU KNOW IF THERE WAS A
2 TRANSCRIPT MADE OF THESE HEARINGS THAT YOU HAVE REFERRED
3 TO, THE ORANGE COUNTY PRELIMINARY HEARING?

4 A ABSOLUTELY.

5 Q HAVE YOU SEEN THOSE TRANSCRIPTS?

6 A NOT IN A LONG TIME.

7 Q SO YOU ARE BASING THE STATEMENTS THAT
8 MR. JACKSON IS ASKING YOU TO RECALL BASED ON JUST BEING
9 AN AUDIENCE MEMBER, NOT A REVIEW OF THE RECORD?

10 A CORRECT.

11 Q IN 1997, DID MISS TRIARSI TELL YOU WHETHER
12 OR NOT SHE DOUBTED HER OWN MEMORY?

13 A I RECALL HER SAYING SOMETHING TO THAT
14 EFFECT, JUST THAT IT WAS A HORRIBLE MEMORY FOR HER AND IT
15 WAS -- EVEN IN '97 IT WAS A LONG TIME IN THE PAST.

16 Q DID SHE TELL YOU THAT SHE DOUBTED SOME OF
17 THE SPECIFICS?

18 MR. JACKSON: OBJECTION. ONCE AGAIN COUNSEL IS
19 LEADING.

20 Q BY MS. SARIS: DID SHE TELL YOU WHETHER OR
21 NOT --

22 THE COURT: WELL, HEY, YOU'VE SUSTAINED YOUR OWN
23 OBJECTION, SO GO AHEAD.

24 Q BY MS. SARIS: DID SHE TELL YOU WHETHER OR
25 NOT SHE DOUBTED ANY OF THE SPECIFICS OF HER STATEMENT --
26 I'M SORRY -- OF HER RECOLLECTION?

27 A YES.

28 Q AND WHAT WAS THAT?

1 A SHE IN '97 TOLD ME THAT PARTS OF HER
2 RECOLLECTION WERE CLOUDED BY TIME; PARTS OF IT BY THE
3 TRAUMATIC EVENT; AND PARTS OF IT BY HER MOTHER'S
4 INFLUENCE.

5 MS. SARIS: THANK YOU. MAY I HAVE JUST A MOMENT,
6 PLEASE?

7 (DISCUSSION OFF THE RECORD.)

8 Q BY MS. SARIS: YOU INDICATED THAT THE
9 PHONE RECORDS WERE DESTROYED OR NOT AVAILABLE. IS THERE
10 ANY NOTE ANYWHERE IN YOUR FILE INDICATING, OR ANY OF YOUR
11 REPORTS, AN ATTEMPT TO GET THOSE RECORDS AND THE FACT
12 THAT THEY WERE SOMEHOW NOT MAINTAINED?

13 A NO, NOT THAT I AM AWARE OF.

14 Q WERE YOU ABLE -- DO YOU KNOW WHAT
15 SUBSCRIBER INFORMATION IS?

16 A I DO.

17 Q WHAT IS THAT?

18 A IT'S THE INFORMATION MAINTAINED BY THE
19 PHONE COMPANY, IF YOU'RE SPEAKING IN THOSE TERMS, OF WHO
20 THE REGISTERED OWNER, FOR LACK OF A BETTER TERM, IS OF
21 THE PHONE, THEIR NAME, THEIR ADDRESS, THEIR DATE OF
22 BIRTH, THEIR HOME ADDRESS, THINGS OF THOSE --

23 Q SO IF YOU GOT THE BILLING RECORDS FOR
24 SOMEONE AND THAT REFLECTED A NUMBER GOING OUT, LIKE I
25 CALLED THIS NUMBER, WOULD YOU BE ABLE TO SEE WHO OWNED
26 THAT NUMBER?

27 A YES.

28 Q AND WAS THAT DONE, DO YOU KNOW, ON ANY OF

1 THE NUMBERS OF MR. GOODWIN'S RECORDS?

2 A I BELIEVE SO, YES.

3 Q ON ONE OR SEVERAL?

4 A SEVERAL.

5 Q SEVERAL HUNDRED?

6 A I DON'T BELIEVE THAT NUMBER IS ACCURATE.

7 Q HOW MANY WOULD YOU SAY?

8 A SEVERAL DOZEN THAT COME TO MIND.

9 Q AND FOR WHAT PERIOD WAS THIS IF YOU
10 RECALL?

11 A I BELIEVE THE TIME FRAME IS JUST BEFORE
12 AND JUST AFTER THE MURDERS.

13 Q AND TO BE CLEAR, DID YOU ATTEMPT TO GET
14 THE BILLING RECORDS OF MICKEY THOMPSON NOT THE SUBSCRIBER
15 OR THE INCOMING?

16 A NO.

17 MS. SARIS: I HAVE NOTHING FURTHER.

18 THE COURT: ANYTHING ELSE?

19 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

20 THE COURT: ALL RIGHT. THANK YOU, DETECTIVE, YOU
21 ARE FREE TO GO. ALL RIGHT. YOU ARE FREE TO GO.

22 MS. SARIS: BEFORE YOU EXCUSE THE JURORS, COULD
23 WE HAVE JUST HAVE A MOMENT AT SIDEBAR, PLEASE? IT WILL
24 ONLY TAKE A MOMENT.

25 THE COURT: OFF THE RECORD AT THE SIDEBAR?

26 MR. DIXON: YES.

27

28 (PROCEEDINGS HELD AT SIDEBAR.)

1 MR. DIXON: YOUR HONOR, THANK YOU FOR ALLOWING US
2 TO COME TO SIDEBAR. I WOULD NOTE THAT IT'S SEVEN AFTER
3 3:00. AND ALTHOUGH IT IS TRADITIONAL FOR A DEFENDANT TO
4 TESTIFY AT THE END OF THE CASE, WE HAVE ALMOST AN HOUR
5 AND A HALF LEFT OF COURT TIME TODAY. I'M CONCERNED THAT
6 WE ARE ON A TIGHT SCHEDULE HERE AND THAT WE WILL GET
7 JAMMED IN OUR EFFORTS TO CROSS-EXAMINE THIS DEFENDANT IF
8 WE DON'T GET TO IT.

9 NORMALLY I WOULD NEVER SUGGEST THAT
10 COUNSEL SHOULD BE DICTATED TO THE ORDER OF THEIR PROOF IN
11 THEIR CASE, BUT SINCE WE'VE RUN OUT OF WITNESSES AND WE
12 HAVE HALF A DAY HERE TODAY, I THINK THAT IF THE DEFENDANT
13 IS GOING TO TESTIFY, HE SHOULD START.

14 I ALSO NOTE THAT KATHY PEZDEK IS ON THEIR
15 WITNESS LIST, AN I.D. EXPERT WHO I HAVE CROSS-EXAMINED
16 BEFORE, AND THAT IS NOT SOMETHING THAT'S DONE QUICKLY.
17 SO KATHY PEZDEK ISN'T HERE, THERE ARE NO OTHER WITNESSES.
18 IF THE DEFENDANT IS GOING TO TESTIFY, I WOULD ASK THE
19 COURT TO SUGGEST TO COUNSEL THAT HE START NOW.

20 MS. SARIS: WELL, I'M NOT GOING TO BE DICTATED TO
21 AS TO WHEN MY WITNESSES ARE CALLED. IF THE COURT IS
22 ORDERING IT, THAT'S ONE THING. MISS PEZDEK IS ONLY
23 AVAILABLE WEDNESDAY. I'VE MADE IT VERY CLEAR, I
24 ANTICIPATE WE'LL BE DONE WEDNESDAY BEFORE THE VIEW.

25 THE COURT: WELL, IF SHE IS NOT GOING TO TESTIFY
26 UNTIL WEDNESDAY, IF THE DEFENDANT DOES CHOOSE TO TESTIFY,
27 WHEN ARE WE GOING TO PUT HIM ON?

28 MS. SARIS: IT IS A DECISION WE HAVE YET -- WE

1 HAVE STILL TO MAKE. WE HAVE MR. SWANEPOEL COMING IN
2 TOMORROW MORNING. IT'S NOT HALF A DAY, WE HAVE 45
3 MINUTES. WE HAVE -- THERE IS A MEETING AT 4:00 O'CLOCK
4 TODAY WITH THE SHERIFFS.

5 THE COURT: NO, I WASN'T GOING TO RECESS AT 4:00
6 O'CLOCK TODAY.

7 MS. SARIS: OKAY. WE HAVE AN HOUR AND A HALF
8 TOPS. BUT WE HAD A POLICE OFFICER WHO DID NOT SHOW UP,
9 THAT'S THE BASIS OF OUR PROBLEMS.

10 MR. DIXON: THAT WITNESS WOULD HAVE BEEN TEN OR
11 15 MINUTES.

12 MS. SARIS: VERY SHORT. AND TOMORROW WE
13 ANTICIPATE JACO SWANEPOEL COMING.

14 THE COURT: ALL RIGHT. WE ARE GOING TO GO OFF
15 THE RECORD BECAUSE LORI DOESN'T HAVE TO BE A PART OF
16 THIS.

17 (DISCUSSION OFF THE RECORD.)

18 (SIDEBAR CONCLUDED.)

19
20 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, I
21 KEPT YOU THIS LONG WITHOUT AN AFTERNOON BREAK BECAUSE WE
22 ARE GOING TO BREAK FOR THE DAY. I WAS JUST ASKING
23 COUNSEL HOW THIS IS GOING TO AFFECT OUR COMPLETION TIME.
24 BECAUSE I KNOW I HAVE KEPT YOU WAITING ON A NUMBER OF
25 OCCASIONS AND WE HAVE HAD NUMEROUS DELAYS. THEY HAVE
26 ASSURED ME THAT WE ARE STILL ON SCHEDULE.

27 WE ANTICIPATE GOING TO THE SCENE THURSDAY.
28 AND I'M TOLD THAT WE SHOULD BE DONE WITH THE DEFENSE CASE

1 BY THEN, IF NOT THE PEOPLE'S REBUTTAL, IF ANY.

2 IS THAT RIGHT, COUNSEL?

3 MS. SARIS: THAT'S OUR UNDERSTANDING.

4 MR. JACKSON: THAT'S CORRECT.

5 THE COURT: SO GIVEN THAT, I CAN'T BEAT THEM UP
6 TOO MUCH ABOUT THIS BECAUSE I HAVE A NUMBER OF LEGAL
7 ISSUES STILL TO LITIGATE THAT WE WILL DO FOR THE REST OF
8 THE DAY, BUT THAT DOESN'T REQUIRE YOUR PRESENCE. BUT WE
9 ARE STILL ON SCHEDULE. SO I'M SORRY THAT WE ARE NOT
10 MAXIMIZING THE TIME WHILE YOU ARE HERE, BUT THESE THINGS
11 ARE UNAVOIDABLE.

12 AND TO THE EXTENT THAT THEY ARE, I
13 APOLOGIZE. TO THE EXTENT THAT I HAVE KEPT YOU WAITING, I
14 APOLOGIZE. BUT AT THE END, I THINK WE WILL STILL BE
15 FINISHED WITHIN THE TIME THAT WE HAVE ESTIMATED. AND WE
16 WILL GET THIS CASE TO YOU, I BELIEVE, NEXT WEEK TO START
17 YOUR DELIBERATIONS. SO WE ARE STILL ON TRACK. DON'T
18 LOSE HOPE.

19 WE ARE GOING TO RESUME AT 10:00 A.M.
20 TOMORROW, SO PLEASE REMEMBER ALL OF THE ADMONITIONS. WE
21 WILL SEE YOU THEN.

22
23 (THE FOLLOWING PROCEEDINGS WERE
24 HELD IN OPEN COURT OUTSIDE THE
25 PRESENCE OF THE JURY.)

26
27 THE COURT: WE ARE GOING TO TAKE A 15-MINUTE
28 RECESS AND THEN WE'RE GOING TO RESUME WITH SOME OTHER

1 ISSUES THAT NEED TO BE ADDRESSED.

2 DOES THE DEFENSE HAVE THE JURY
3 INSTRUCTIONS?

4 MS. SARIS: WE JUST HAVE THE PEOPLE'S PACKET,
5 YOUR HONOR.

6 THE COURT: OKAY. WELL, WE'RE GOING TO TALK
7 ABOUT THEM AT 3:30. OKAY?

8 MS. SARIS: OKAY.

9 (BRIEF RECESS.)

10 THE COURT: ALL RIGHT. WE'RE OUTSIDE THE
11 PRESENCE OF THE JURORS. I WANTED TO TRY TO WRAP UP ALL
12 THE OUTSTANDING ISSUES SO THAT WE DON'T HAVE TO INTERRUPT
13 AND KEEP THE JURORS WAITING. I NOTE THAT THERE WAS
14 ANOTHER MOTION FILED TODAY OR A REQUEST FOR
15 RECONSIDERATION.

16 MS. SARIS: BOTH FOR RECONSIDERATION AND AS TO
17 OTHER WITNESSES THAT ARE COMING. WE MADE THE DISTINCTION
18 BETWEEN MR. MILLER WHO WAS READY, WILLING AND ABLE TO
19 TESTIFY THAT MICKEY THOMPSON HAD JUST PURCHASED GOLD.
20 AND THE COURT -- WE'RE NOT OFFERING THAT NECESSARILY FOR
21 THE TRUTH. HOWEVER, WE ANTICIPATE DETECTIVE LAPORTE
22 TESTIFYING THAT HE HEARD THIS FROM OTHER WITNESSES.

23 AND, ALSO, WE HAVE OTHER WITNESSES WHO
24 WILL SAY THAT MICKEY THOMPSON WAS GOING TO BUY GOLD. AND
25 UNDER 1250 THAT WOULD BE A STATEMENT OF INTENT. IN WHICH
26 CASE MR. MILLER'S TESTIMONY WOULD COME IN AS
27 CIRCUMSTANTIAL EVIDENCE OF HIM CARRYING OUT THAT INTENT.

28 MR. DIXON: THE NIGHT BEFORE?

1 MS. SARIS: NO.

2 THE COURT: WELL, YOU KNOW, I WAS -- ALL RIGHT.

3 MS. SARIS: JUST SO WE'RE CLEAR, THE OTHER
4 WITNESSES WOULD SAY THAT IN THE WEEKS AND MONTHS BEFORE
5 THE MURDER MICKEY THOMPSON WAS TALKING ABOUT BUYING GOLD.
6 AND --

7 THE COURT: ALL RIGHT.

8 MS. SARIS: AND THEN MR. MILLER'S STATEMENT WOULD
9 BECOME CIRCUMSTANTIAL EVIDENCE THAT HE HAD JUST PURCHASED
10 IT.

11 THE COURT: SO THE RECORD SHOULD BE CLEAR THEN.
12 AND I THINK THERE WAS SOME CONFUSION LAST WEEK. YOU ARE
13 OFFERING THIS AS CIRCUMSTANTIAL EVIDENCE THAT THE VICTIM,
14 MR. THOMPSON, WAS ANNOUNCING TO OTHERS HIS INTENTION TO
15 BUY GOLD FOR THE PURPOSE OF SHOWING THAT THE MOTIVE IN
16 THIS CASE WAS ROBBERY AS OPPOSED TO THE PEOPLE'S THEORY
17 THAT THIS WAS AN EXECUTION, A HIT; RIGHT?

18 MS. SARIS: THAT WOULD BE THE RELEVANCE OF
19 MR. MILLER'S STATEMENT ON ITS OWN. WE WERE ALLOWED TO
20 CALL BEFORE MR. MILLER, MR. HASLAM AND OFFICER LAPORTE
21 TESTIFIED ABOUT MR. THOMPSON'S STATED INTENTION TO BUY
22 GOLD.

23 THAT BEING ADMISSIBLE UNDER 1250, STATE OF
24 MIND, INTENT -- AN ACT IN CONFORMITY WITH THE STATE OF
25 INTENT, THEN MR. MILLER'S TESTIMONY WOULD BE FURTHER
26 CIRCUMSTANTIAL EVIDENCE OF THE FACT THAT MR. GOODWIN --
27 I'M SORRY -- THOMPSON DID, IN FACT, BUY THE GOLD.

28 THE COURT: WELL, I DON'T KNOW THAT IT WOULD

1 NECESSARILY BE ADMISSIBLE UNDER 1250 BECAUSE I DON'T KNOW
2 THAT HIS INTENT IS REALLY AN ISSUE. BUT THAT IS CALLING
3 FOR A RULING ON A HEARSAY OBJECTION.

4 MS. SARIS: THAT'S CORRECT. AND --

5 THE COURT: AS OPPOSED TO WHAT YOU ARE REALLY
6 SUGGESTING TO THE COURT IS THAT YOU WANT TO BRING IT IN
7 AS CIRCUMSTANTIAL EVIDENCE TO NEGATE THE CLAIM OF THE
8 PEOPLE THAT THIS WAS A HIT.

9 MS. SARIS: THERE IS TWO DIFFERENT WITNESSES.
10 AND I APOLOGIZE FOR NOT MAKING THAT CLEAR. YES. AS TO
11 MR. MILLER'S STATEMENT, IT WOULD BE CIRCUMSTANTIAL
12 EVIDENCE. AS TO THE OTHER STATEMENTS -- INDIVIDUALS
13 LISTED IN THE MOTION, IT WOULD BE 1250 AND HIS INTENT.

14 THE COURT: BUT THE OTHER WITNESSES -- I THOUGHT
15 THE OTHER WITNESSES WOULD TESTIFY TO THE SAME THING.

16 MS. SARIS: NO. MR. MILLER IS THE ONLY ONE THAT
17 SAYS HE ACTUALLY BOUGHT IT. MR. HASLAM SAYS HE WAS GOING
18 TO.

19 THE COURT: RIGHT. BUT I MEAN IT ALL SEEMS TO ME
20 TO BE IN THE SAME CATEGORY.

21 MS. SARIS: THE ONLY DIFFERENCE BEING 1250 MAKES
22 AN EXCEPTION FOR STATED INTENT PRIOR TO THE ACT.

23 THE COURT: EXCEPT THAT HIS INTENT REALLY ISN'T
24 SO MUCH AN ISSUE.

25 MS. SARIS: WELL --

26 THE COURT: 1250 IS THE HEARSAY EXCEPTION.

27 MS. SARIS: THAT'S THE COURT'S RULING AS TO THE
28 RELEVANCY. BUT IF THE RELEVANCY WERE MET, THE STATED

1 INTENT "TO BUY" FALLS WITHIN THE HEARSAY EXCEPTION. THE
2 STATEMENT THAT "I JUST BOUGHT," I CAN SEE THE ARGUMENT
3 MAY NOT UNDER 1250.

4 THE COURT: I THINK YOU HAVE A STRONGER ARGUMENT
5 WHEN YOU ARGUE THAT IT'S CIRCUMSTANTIAL EVIDENCE.

6 MS. SARIS: AS TO MR. MILLER THAT IS OUR --

7 THE COURT: AS TO ALL THESE WITNESSES. BECAUSE
8 FRANKLY WHETHER OR NOT MR. THOMPSON ACTUALLY BOUGHT GOLD
9 OR WAS GOING TO BUY GOLD IS REALLY NOT THE ISSUE HERE.
10 WHAT YOU ARE SUGGESTING IS THAT YOU WANT TO BRING THIS IN
11 TO SHOW THAT BASICALLY MR. THOMPSON WAS ANNOUNCING TO
12 OTHERS HIS PLAN TO ACQUIRE A LARGE AMOUNT OF GOLD.

13 MS. SARIS: YES.

14 THE COURT: WHICH WOULD THEN, ACCORDING TO THE
15 DEFENSE THEORY, PROVIDE A, I GUESS A LARGER CIRCLE OF
16 POSSIBLE SUSPECTS WHO MIGHT HAVE BEEN INTERESTED IN
17 ROBBING THE THOMPSONS.

18 I DON'T KNOW HOW, THEN, THAT ARGUMENT
19 LEADS TO THE ULTIMATE MURDERS HERE. BUT LET'S JUST
20 ASSUME FOR SAKE OF ARGUMENT THAT THE DEFENSE WANTS TO
21 SHOW THAT MR. THOMPSON WAS THE TYPE OF PERSON THAT WOULD
22 DISPLAY HIS WEALTH. LET'S JUST SAY HYPOTHETICALLY, WHAT
23 IS THE PEOPLE'S POSITION ON THAT?

24 WE'RE NOT DEALING WITH A HEARSAY
25 EXCEPTION, WE'RE DEALING WITH CIRCUMSTANTIAL EVIDENCE TO
26 SHOW THAT OTHERS MAY HAVE HAD A MOTIVE.

27 MR. JACKSON: I THINK IT WOULD BE MORE
28 RELEVANT -- AND, OF COURSE, WE HAVE TO CROSS THE

1 RELEVANCE THRESHOLD BEFORE THE CIRCUMSTANTIAL EVIDENCE OF
2 HIS INTENT OR THE CIRCUMSTANTIAL EVIDENCE SURROUNDING HIS
3 DISPLAY OF WEALTH COMES IN. IT HAS TO BE RELEVANT FIRST.
4 AND IT WOULD ONLY BE RELEVANT, YOUR HONOR, IT SEEMS TO
5 ME, IF COUNSEL COULD THEN CONNECT IN SOME WAY, EVEN A
6 REMOTE WAY, THE TWO KILLERS TO MICKEY THOMPSON'S
7 STATEMENTS.

8 IN OTHER WORDS, SO THAT HE SAID TO --
9 LET'S TAKE THE ERIC MILLER STATEMENT. HE SAID TO ERIC
10 MILLER, I JUST BOUGHT SOME GOLD, OR I'M INTENDING TO BUY
11 SOME GOLD, WHATEVER, UNLESS COUNSEL IS GOING TO SAY AND
12 THEREFORE ERIC MILLER HIRED TWO KILLERS TO KILL HIM OR
13 HE'S ONE OF THEM, IT DOESN'T SEEM LIKE IT'S RELEVANT.

14 THERE IS ALSO NO INDICATION -- THE
15 IMPLICATION IS TOO BROAD A BRUSH STROKE. IT'S MORE LIKE
16 A FISHING EXPEDITION TO SAY HE BOUGHT GOLD, WHEN THERE IS
17 NO EVIDENCE. I MEAN COUNSEL HAD PLENTY OF OPPORTUNITY,
18 AMPLE OPPORTUNITY TO DISCUSS THE CRIME SCENE AND PRESENT
19 EVIDENCE OF THE CRIME SCENE AND WHETHER OR NOT THE SAFES
20 WERE BROKEN INTO, WHETHER OR NOT THE SAFES WERE JIMMIED
21 OR TAPPED OR ANYTHING ELSE.

22 THERE IS NO EVIDENCE THAT HAPPENED. THERE
23 IS NO EVIDENCE THAT THE KILLERS EVER GOT IN THE HOUSE.
24 ALL THE WITNESSES INDICATE THAT THEY KNEW EXACTLY WHEN
25 THE FIRST SHOT WAS FIRED AND WHEN THE LAST SHOT WAS
26 FIRED. THERE WAS NO OPPORTUNITY FOR THE KILLERS TO SACK
27 UP A QUARTER MILLION DOLLARS WORTH OF GOLD AND ESCAPE.
28 THAT'S NOT CONSISTENT WITH ALLISON TRIARSI, LANCE

1 JOHNSON, SANDRA JOHNSON ANY OF THE WITNESSES, WILMA
2 JOHNSON, CLAUDETTE FREIDINGER. THERE IS JUST NOTHING TO
3 SUGGEST THAT.

4 SO MY POSITION WOULD BE UNLESS THAT WERE A
5 REASONABLE LEAP THAT THE DEFENSE COULD ASK THE JURORS TO
6 MAKE, IT'S NOT RELEVANT AT THIS POINT. AND IT'S
7 OBVIOUSLY BEING OFFERED FOR ITS TRUTH. ALTHOUGH IT'S
8 UNDER THE GUISE OF -- NOW THAT COUNSEL HAS HAD SOME
9 GUIDANCE FROM THE COURT, IT'S UNDER THE GUISE OF A
10 CIRCUMSTANTIAL EVIDENCE ARGUMENT. IF IT'S OFFERED FOR
11 CIRCUMSTANTIAL EVIDENCE, IT'S JUST NOT RELEVANT. IF IT'S
12 OFFERED FOR ITS TRUTH, IT'S JUST TO THROW OUT ANOTHER
13 THEORY THAT HAS NO BASIS IT SEEMS TO ME.

14 THE COURT: YOU KNOW, THE THING THAT TROUBLES ME
15 IS THE STATEMENT THAT HE MAKES TO MILLER IS THAT HE JUST
16 TOOK POSSESSION OF --- WHAT IS THE ACTUAL STATEMENT, THAT
17 HE JUST --

18 MS. SARIS: JUST TOOK POSSESSION OF A QUARTER
19 MILLION DOLLARS WORTH OF GOLD.

20 THE COURT: OKAY.

21 MS. SARIS: AND THE FACT --

22 THE COURT: AND WHEN IS THIS STATEMENT MADE IN
23 RELATION TO THE MURDERS?

24 MR. DIXON: THE NIGHT BEFORE.

25 MS. SARIS: IT WAS MADE THE NIGHT BEFORE. THAT
26 HE HAD JUST TAKEN POSSESSION.

27 THE COURT: WITH THE STUN GUN STATEMENT?

28 MS. SARIS: NO. WELL, THE STUN GUN STATEMENT WAS

1 MADE IN NOVEMBER.

2 THE COURT: OKAY.

3 MS. SARIS: THE POINT OF GOLD VERSUS JUST BEING
4 AFFLUENT, GOLD IS VERY EASY TO TAKE AND RUN AWAY WITH.
5 YOU'RE NOT TAKING A VCR OR A TELEVISION SET OR A WORK OF
6 ART. WE'RE TALKING ABOUT SOMETHING THAT ONE CAN GRAB.

7 SECOND, THE TESTIMONY IS THAT THE
8 NEIGHBORS AND ALL OF THE WITNESSES ONLY HEARD WHAT
9 HAPPENED AFTER THE SHOOTINGS. SO THERE IS NO INDICATION
10 OF WHAT HAPPENED PRIOR.

11 SECOND, WE'RE NOT DONE WITH THE CRIME
12 SCENE. THERE CERTAINLY IS WITNESSES COMING FORWARD TO
13 SAY THAT THE -- I MEAN WE'VE HAD EVIDENCE THAT THE DOOR
14 WAS -- THAT THE -- THERE IS A SAFE IN THE GARAGE. AND
15 POLICE OFFICERS HAVE YET TO TESTIFY THAT WERE FIRST
16 RESPONDERS.

17 SO TO SAY THAT WE CAN'T SHOW THAT THERE
18 WERE PRY MARKS OR ANYTHING, I DON'T KNOW THAT THAT'S
19 NECESSARILY THE CASE. WE DON'T KNOW WHAT OCCURRED PRIOR
20 TO THE SHOOTING HAPPENING. WE DO KNOW THAT THE KILLERS
21 FLED WITH CANVAS BAGS. AND WE DO KNOW THAT THAT'S THE
22 WAY THAT GOLD IS DELIVERED. SO IF MR. MILLER IS RIGHT
23 AND MICKEY THOMPSON HAD JUST RECEIVED ON 3/14 BAGS OF
24 GOLD, THEN CERTAINLY THAT WOULD BE CONSISTENT WITH WHAT
25 THE WITNESSES HAVE TESTIFIED TO.

26 THERE IS -- WE CAN'T SPECULATE WHAT
27 HAPPENED BEFORE EVERYONE'S ATTENTION WAS DRAWN. I MEAN
28 THE WHOLE DEFINITION OF A ROBBERY GONE BAD IS THAT IT

1 DIDN'T GET TO FRUITION BECAUSE OF SOMETHING. AND WHETHER
2 THAT WAS MICKEY THOMPSON'S INTERVENTION; THE KILLERS
3 BEING WALKED IN ON. THERE IS CERTAINLY TESTIMONY THAT
4 THERE WAS FOOTPRINTS BY THE OTHER SIDE OF THE DOOR AS IF
5 SOMEONE WERE ATTEMPTING TO GET IN THE GARAGE.

6 THE COURT: WELL, YOU KNOW, I DON'T KNOW WHAT
7 ELSE WAS FOUND AT THE CRIME SCENE. WAS THERE ANY
8 EVIDENCE OF OTHER VALUABLES THAT WEREN'T DISTURBED?

9 MR. JACKSON: IN THE GARAGE?

10 THE COURT: ANYWHERE AT THE CRIME SCENE. BECAUSE
11 WE HAD SOME TESTIMONY ABOUT THE HOUSE.

12 MR. JACKSON: WELL, DETECTIVE VERDUGO TESTIFIED
13 THAT THERE WERE OTHER -- HE DIDN'T LIST THEM
14 INDEPENDENTLY. HE SAID THE HOUSE WAS FULL OF VALUABLES,
15 TELEVISIONS, VCRS, TVS, VALUABLES ALL OVER THE HOUSE.
16 THEY LIVED A RELATIVELY AFFLUENT LIFESTYLE. WE'VE GOT --
17 PICK THE GARAGE. THERE IS ALL KINDS OF STUFF IN THE
18 GARAGE.

19 THE COURT: WAS THERE ANYTHING FOUND IN THE SAFE?

20 MS. SARIS: NO, THE SAFE WAS EMPTY.

21 MR. JACKSON: THAT'S NOT TRUE. THAT IS
22 ABSOLUTELY NOT TRUE. THERE WAS A GOLD FIGURINE.

23 MS. SARIS: NO. THAT'S THE BEDROOM CLOSET SAFE.
24 IN THE GARAGE THE SAFE WAS EMPTY. AND THERE'S AN AREA
25 NOTING PRY MARKS ON THE SAFE. SO DEPENDING ON WHAT THE
26 OFFICER TESTIFIES, CERTAINLY THERE IS THAT.

27 SECOND, THERE WAS NOTHING --

28 THE COURT: ARE YOU CALLING THAT OFFICER?

1 MS. SARIS: WE'RE ATTEMPTING TO GET THAT OFFICER.

2 THE COURT: AND SO THAT OFFICER WOULD TESTIFY TO
3 PRY MARKS ON THE SAFE?

4 MS. SARIS: "BOLT BAR BENT; PRY MARKS ON THE
5 SAFE" IS THE REPORT. NOW I DON'T KNOW WHAT THIS OFFICER
6 IS GOING TO TESTIFY TO. OBVIOUSLY, THERE WAS A LOT OF
7 NOTES THAT MICHAEL GRIGGS MADE THAT HE WAS NOT WILLING TO
8 TESTIFY TO BASED ON HIS RECOLLECTION. BUT CERTAINLY
9 WE'RE GOING TO ATTEMPT TO ASK HIM REGARDING THAT.

10 THE COURT: WELL, YOU KNOW, MY CONCERN IS THIS,
11 THE PROSECUTION'S THEORY IS OBVIOUSLY ONE THAT PRECLUDES
12 THE NOTION THAT THIS WAS A ROBBERY. AND THE PROSECUTION
13 HAS GONE THROUGH A LOT OF TESTIMONY EMPHASIZING THE FACT
14 THAT THERE WAS A LOT OF JEWELRY AND MONEY THAT WAS LEFT
15 BEHIND.

16 IT SEEMS TO ME IF THE DEFENSE IS ABLE TO
17 SHOW THAT THE SAFE WAS EMPTY AND THERE ARE PRY MARKS ON
18 THAT SAFE, PRY MARKS ON THAT SAFE POTENTIALLY THAT COULD
19 CONTROVERT THE THEORY THAT THIS WAS NOT A ROBBERY. SO TO
20 THAT EXTENT IT MAY HAVE RELEVANCE. IT MAY HAVE A GREAT
21 DEAL OF RELEVANCE.

22 MR. DIXON: YOUR HONOR, SHOULDN'T THEY HAVE TO
23 PROVE UP THAT AT LEAST THAT FOUNDATION ABOUT THE SAFE AND
24 THE PRY MARKS IF THAT'S --

25 THE COURT: I MEAN THAT'S WHAT I'M THINKING IF
26 THERE IS SOME RATIONAL CONNECTION HERE BETWEEN THE
27 STATEMENT OF MR. THOMPSON AND WHAT ACTUALLY OCCURRED, I
28 THINK THE DEFENSE SHOULD BE PERMITTED TO PRESENT THAT.

1 BUT RIGHT NOW, WE HAVE NO EVIDENCE OF ANYTHING HAVING TO
2 DO WITH THE SAFE OTHER THAN THE FACT THAT THERE WAS A
3 SAFE.

4 MS. SARIS: AND WE'RE NOT -- WE DON'T EVEN KNOW
5 THAT THE GOLD WAS IN THE SAFE OR IF MICKEY THOMPSON WAS
6 MOVING THAT DAY. WHAT WE DO KNOW IS THAT GOLD IS
7 DELIVERED IN WHITE CANVAS BAGS, AND THE KILLERS WERE SEEN
8 WITH WHITE CANVAS BAGS. WE KNOW THAT. WE KNOW THAT THE
9 DOOR OF THE GARAGE WAS OPEN, BUT THE HOUSE WAS LOCKED.

10 SO UNLESS THEY CAN SHOW A PILE OF JEWELRY
11 AND ITEMS IN THE GARAGE THAT WERE LEFT UNTOUCHED,
12 CERTAINLY THE IMPLICATION COULD BE THERE IS -- THEY'VE
13 MADE A GREAT SHOWING OF THE MONEY AND ALL OF THAT. THERE
14 IS CERTAINLY THE ARGUMENT TO BE MADE THAT THIS WAS BEING
15 TRANSPORTED, ALL OF THESE ITEMS WERE BEING TRANSPORTED.

16 SO YOU WOULDN'T EVEN NEED TO NECESSARILY
17 GO TO THE SAFE. IF WE'RE TALKING ABOUT THINGS TAKEN THE
18 NIGHT BEFORE, THAT CERTAINLY NEGATES THIS IDEA THAT THE
19 ONLY PERSON IN THE WORLD THAT WOULD HAVE WANTED ANYTHING
20 TO HAPPEN TO MICKEY AND TRUDY THOMPSON WAS MICHAEL
21 GOODWIN.

22 IF WE CAN SHOW IN MARCH OF '88, MICKEY
23 THOMPSON WAS BRAGGING ABOUT GETTING A GREAT DEAL OF
24 VALUABLES, WHETHER OR NOT IT WAS IN THE SAFE, I THINK
25 WE'VE MADE A GOOD ENOUGH SHOWING RIGHT NOW THAT THEY'VE
26 IGNORED THE SAFE. I THINK VERDUGO SAID HE DIDN'T EVEN
27 KNOW IF THERE WAS A CLOSET IN THE GARAGE.

28 SO IT'S NOT AS IF THEY COMBED THE AREA

1 WITH A FINE-TOOTH COMB AND MADE THIS STATEMENT OF MAYBE
2 NON-FACT BASED ON THE REVIEW OF ALL OF THIS, OF THE
3 FACTS. THEY SIMPLY DIDN'T EVEN LOOK.

4 MR. DIXON: YOUR HONOR, FIRST OF ALL, I HAVE A
5 PROBLEM WITH THE TERM "BRAGGING." MR. MILLER TESTIFIED
6 AND HE NEVER USED THAT WORD. THERE IS NO INDICATION THAT
7 MICKEY THOMPSON WAS BRAGGING ABOUT THIS AT ALL. HE WAS
8 ENGAGED IN A FINANCIAL DISCUSSION WITH A BUSINESS
9 ASSOCIATE. THIS IS ALTOGETHER PROPER, IT WAS NOT IN THE
10 CONTEXT OF BRAGGING.

11 SECONDLY, THE ONLY WAY MS. SARIS'S
12 ARGUMENT REALLY WORKS HERE IS IF MICKEY THOMPSON TOOK
13 DELIVERY OF THE GOLD; AND MR. MILLER TOLD THE KILLERS
14 ABOUT IT; AND MICKEY THOMPSON SOMEHOW SAID, "OH, IT'S
15 JUST TOO HEAVY. I'M GOING TO LEAVE IT IN THE CAR
16 OVERNIGHT." I MEAN REALLY, HOW RIDICULOUS IS THIS?

17 MS. SARIS: ACTUALLY, MR. MILLER IS THE ONLY
18 PERSON STATING THAT MIGHT BE TRUE. BUT OFFICER LAPORTE,
19 WHO IS COMING IN TOMORROW, HE HAD HEARD THIS STATEMENT
20 FROM SEVERAL DIFFERENT WITNESS. IN OTHER WORDS, IT
21 WASN'T JUST MR. MILLER, LEE HASLAM TOLD HIM THIS; DOUG
22 STOKES TOLD HIM THIS. ERIC MILLER TOLD HIM THAT.

23 MR. DIXON: THAT'S MULTIPLE LAYERS OF HEARSAY.
24 HE CAN TESTIFY TO THAT. AND EVEN IF THE COURT'S
25 TENTATIVE RULING WOULD APPLY, THE DETECTIVE CAN'T TESTIFY
26 TO THAT BECAUSE HE'S TELLING WHAT OTHER PEOPLE TOLD HIM.

27 MS. SARIS: THE POINT WOULD BE THAT IT WAS TOLD
28 TO THE POLICE OFFICER IN PERSON AFTER THOSE WITNESSES

1 TESTIFIED WOULD SAY THAT HE GOT THIS INFORMATION. SO
2 THIRD, THIS WAS A FAILURE ON THEIR PART TO INVESTIGATE.
3 A LARGE AMOUNT OF GOLD LIKE THAT COULD HAVE POTENTIALLY
4 BEEN TRACED IF THEY DIDN'T BELIEVE IT.

5 THE COURT: THE ONLY CONCERN I HAVE IS THAT WE
6 DON'T KNOW WHETHER THE KILLERS GOT AWAY WITH ANY
7 PROPERTY. THE PEOPLE'S CASE, IN LARGE PART, HAS BEEN
8 FOCUSED ON THE FACT THAT THERE WERE A LOT OF VALUABLES
9 THAT WERE THERE AND VISIBLE AND OBVIOUS TO ANYONE THAT
10 CAME UPON THESE PEOPLE.

11 I MEAN, THE ARGUMENT IS ALL THE VALUABLES,
12 ALL THE JEWELRY THAT MRS. THOMPSON WAS WEARING WAS LEFT
13 BEHIND. THERE IS FURTHER EVIDENCE THAT THERE WAS A LARGE
14 AMOUNT OF CASH FOUND EITHER IN THE VAN OR IN HER PURSE,
15 WHICH WAS IN THE VAN. WE HAVE MR. THOMPSON'S WALLET WITH
16 I THINK SOME MONEY IN IT. WE HAVE A LOT OF INFORMATION
17 SO FAR THAT THE PEOPLE HAVE PRESENTED, WHICH WOULD
18 SUPPORT THE THEORY THAT THIS WAS NOT A MURDER -- OR TWO
19 MURDERS MOTIVATED BY A DESIRE TO STEAL ANYTHING OF VALUE.
20 I THINK IF THE SAFE IN THE GARAGE CONTAINED VALUABLES, WE
21 WOULD HAVE HEARD ABOUT IT; AM I RIGHT?

22 MR. JACKSON: CORRECT.

23 MR. DIXON: YES.

24 MS. SARIS: HOW WOULD WE HAVE HEARD ABOUT THIS
25 FROM VERDUGO WHO DIDN'T LOOK AT IT?

26 THE COURT: I'M CERTAIN THE PEOPLE WOULD HAVE
27 SOUGHT TO INTRODUCE A SAFE WITH VALUABLES.

28 MS. SARIS: AFTER THE MURDER YOU MEAN?

1 THE COURT: YES.

2 MR. JACKSON: YES.

3 THE COURT: AS PART OF THEIR THEORY TO BOLSTER
4 THAT THIS WAS NOT A MURDER -- OR THESE WERE NOT MURDERS
5 MOTIVATED BY AN INTENT TO ROB THE VICTIMS OF THEIR
6 VALUABLES.

7 SO I BELIEVE -- I THINK THAT IF YOU HAVE
8 EVIDENCE THAT THE SAFE WAS EMPTY AND THERE WERE PRY MARKS
9 ON THE SAFE; AND YOU HAVE EVIDENCE THAT THE KILLERS -- OR
10 AT LEAST ONE OF THEM, WAS CARRYING A CANVAS BAG, I THINK
11 POTENTIALLY WE'RE DEALING WITH SOME RELEVANT EVIDENCE
12 HERE. I JUST DON'T KNOW THAT I WILL ALLOW MUCH MORE THAN
13 THE STATEMENT MADE TO MR. MILLER.

14 MR. JACKSON: AND JUST SO THE COURT KNOWS TO
15 FOLLOW-UP ON THAT LAST THOUGHT, THE SAFE WAS CLOSED AND
16 LOCKED; PRY MARK OR NO PRY MARKS. THERE MAY BE A NOTE
17 ABOUT PRY MARKS BECAUSE THE FIRST THING ANYBODY IS GOING
18 TO DO AT A WEALTHY HOME WITH TWO DEAD VICTIMS LAYING IN
19 THEIR DRIVEWAY IS LOOK AROUND FOR ANYTHING THEY COULD
20 POSSIBLY SEE. COULD A PRY MARK -- OR COULD THE FACT THAT
21 SOMEBODY AT SOME POINT NICKED THAT SAFE YEARS EARLIER
22 HAVE BEEN CONSIDERED A PRY MARK, ET CETERA? MAYBE. I
23 JUST DON'T KNOW.

24 BUT THE REALITY IS IF THE DEFENSE THEORY
25 IS CORRECT, IF WHAT THEY WANT TO PROFFER IS CORRECT, THEN
26 WE WOULD HAVE TO BELIEVE THAT THE KILLERS GOT INTO THE
27 GARAGE WITHOUT MICKEY AND TRUDY THOMPSON KNOWING IT.
28 THEY PRIED A SAFE OPEN, PRIED IT OPEN. IT IS A SAFE

1 DESIGNED NOT TO BE PRIED OPEN. THEN CLOSED THE SAFE
2 AFTER EMPTYING IT OUT AND LOCKED IT BACK UP -- BECAUSE WE
3 HAVE EVIDENCE THAT THE ONLY WAY THE VICTIMS' FAMILY COULD
4 GET IN THAT SAFE OR ANY EQUIPMENT IN THE HOUSE WAS WITH A
5 LOCKSMITH.

6 MS. SARIS: WAS I -- I DON'T RECALL THE EVIDENCE.

7 MR. JACKSON: I'M TELLING THE COURT -- I'M NOT
8 MAKING A REPRESENTATION OF WHAT THE EVIDENCE IS. I'M
9 MAKING A -- OR WHAT THE EVIDENCE HAS BEEN PRESENTED SO
10 FAR. I'M MAKING REPRESENTATION OF WHAT THE OFFER OF
11 PROOF WOULD BE AND WHAT THE FACTS ARE KNOWN TO BOTH SIDES
12 TO BELIEVE.

13 MS. SARIS: I DON'T HAVE ANY AWARENESS OF THAT AT
14 ALL.

15 MR. JACKSON: THAT THE SAFE WAS CLOSED?

16 MS. SARIS: ABSOLUTELY. "EMPTY" IS WHAT MY NOTES
17 SAY. AND IF THEY WANT TO PRESENT --

18 MR. JACKSON: ALTHOUGH SHE HAS A PICTURE OF IT
19 BEING CLOSED. SHE PRODUCED A PICTURE OF IT BEING CLOSED,
20 BECAUSE IT WAS CLOSED.

21 MS. SARIS: "CLOSED" AND "LOCKED," I MEAN THAT'S
22 A DIFFERENT TERM.

23 THE COURT: THIS IS THE THING, THIS CONCERNS ME
24 BECAUSE I'M TRYING TO WORK BACKWARDS. I KNOW IF THE SAFE
25 WAS FILLED WITH GOLD OR VALUABLES, JEWELRY, MONEY,
26 WHATEVER, THE PEOPLE WOULD HAVE PRESENTED IT BECAUSE IT'S
27 RELEVANT ON THE ISSUE THAT THESE ARE VALUABLES LEFT
28 BEHIND.

1 BUT BY THE SAME TOKEN, I THINK IF THE
2 DEFENSE CAN DEMONSTRATE THAT THE SAFE WAS EMPTY AND THAT
3 POSSIBLY ONE OF THE MURDERERS GOT AWAY WITH SOME PROPERTY
4 AND THERE ARE PRY MARKS AROUND THE SAFE, I THINK THE
5 DEFENSE HAS A PRETTY GOOD ARGUMENT THERE.

6 SO I MEAN, I WOULD LIKE TO HEAR THE
7 FOUNDATION THAT THE SAFE WAS EMPTY AND THERE WERE PRY
8 MARKS. AND IF THE DEFENSE CAN PRESENT THAT TESTIMONY, I
9 DON'T HAVE ANY PROBLEM WITH THE STATEMENT TO MR. MILLER.
10 IT IS RELEVANT AS OPPOSED TO CIRCUMSTANTIAL EVIDENCE AS
11 TO THE MOTIVE.

12 IT ALSO MAY BE NON-HEARSAY. SO WE DON'T
13 HAVE TO DEAL WITH THE 1250 EXCEPTION. IF IT IS OFFERED
14 FOR THE TRUTH, THEN UNDER 1250 IT MAY BE ADMISSIBLE AS AN
15 EXCEPTION TO THE HEARSAY RULE. SO I'M CERTAINLY HAPPY TO
16 RECONSIDER BASED ON WHAT THE DEFENSE HAS YET TO PRESENT.
17 AND IF THAT IS ESTABLISHED, I THINK WE MAY HAVE A VALID
18 ARGUMENT, MS. SARIS, ON JUST THAT ONE STATEMENT.

19 MS. SARIS: OKAY. WELL, WE WILL KNOW THE
20 AVAILABILITY OF THESE WITNESSES BY TOMORROW. LIKE I
21 SAID, THEY'VE ALL BEEN DUAL SUBPOENAED AND WERE ON CALL
22 AND WE ARE JUST TRYING TO GET THEM IN.

23 THE COURT: ALL RIGHT. I AM GOING TO ASSUME THAT
24 YOU ARE GOING TO HAVE ALL YOUR WITNESSES IN TOMORROW.

25 MS. SARIS: YES, EXCEPT FOR MISS PEZDEK. I'M
26 SORRY.

27 THE COURT: AND WHEN IS SHE AVAILABLE?

28 MS. SARIS: WEDNESDAY MORNING. AND I'LL BE VERY

1 BLUNT WITH THE COURT, I RECEIVED HER REPORT; I HAVE NOT
2 HAD A CHANCE TO -- SHE'S BEEN AWAY AND TALKING ON
3 OTHER -- I MEAN THERE EXISTS THE POSSIBILITY I DON'T CALL
4 HER. I DON'T THINK THAT'S TRUE. I ANTICIPATE CALLING
5 HER AND THAT'S HER ONLY DAY OF AVAILABILITY.

6 THE COURT: WELL, MY CONCERN IS THAT WE ARE NOT
7 GOING TO BE DONE WITH THE TESTIMONY BY THE TIME --

8 MS. SARIS: I BELIEVE WE WILL.

9 THE COURT: -- BY THE TIME WE GO TO THE SCENE ON
10 THURSDAY.

11 MS. SARIS: YES. I WILL KNOW MORE TONIGHT. I
12 HAVE A SCHEDULED APPOINTMENT WITH HER BY PHONE THIS
13 EVENING.

14 THE COURT: ALL RIGHT.

15 MR. DIXON: WELL, THEN TOMORROW WE CAN EXPECT THE
16 DEFENSE TO LAY THE FOUNDATION FOR THE SAFE AND THE PRY
17 MARKS. WE WOULD BE CURIOUS, SINCE IT IS THE DAY BEFORE,
18 WHICH WITNESSES ARE COMING. WE'VE NOT SEEN A REPORT THAT
19 SAYS PRY MARKS -- THAT A WITNESS WILL HAVE THAT THERE
20 WERE PRY MARKS ON THE SAFE.

21 MS. SARIS: ACTUALLY, IT'S IN THE ORIGINAL --
22 OFFICER'S ORIGINAL NOTES. DETECTIVE LILLIENFELD HAS HAD
23 THEM FOR YEARS. THAT'S HOW WE GOT THEM. THEY WERE
24 PROVIDED TO US.

25 THE COURT: I WOULD LIKE TO HAVE THE DEFENSE
26 BRING IN ALL OF THE WITNESSES THAT ARE GOING TO TESTIFY
27 IN THIS CASE TOMORROW WITH THE EXCEPTION OF THE ONE
28 WITNESS, MISS PEZDEK, IF YOU CHOOSE TO CALL HER, WHO

1 WOULD BE AVAILABLE ON WEDNESDAY MORNING. I WANT TO WRAP
2 UP THE DEFENSE CASE BY WEDNESDAY MORNING.

3 MS. SARIS: YOUR HONOR, WE HAVE THESE WITNESS ON
4 CALL, I MEAN THEY SAY THEY'RE COMING. OFFICER ESTRADA
5 SAYS THEY ARE COMING. THESE ARE LAW ENFORCEMENT
6 INDIVIDUALS. I HAVE TAKEN THEM AT THEIR WORD. I TRIED
7 TO BE SOMEWHAT DIPLOMATIC WITH THEIR SCHEDULES BECAUSE
8 SOME OF THEM ARE STILL, IN FACT, EMPLOYED AS LAW
9 ENFORCEMENT OFFICERS.

10 THE COURT: WELL, IF YOU HAVE PROPERLY SUBPOENAED
11 WITNESSES WHO HAVEN'T APPEARED --

12 MS. SARIS: THEN I WILL LET THE COURT KNOW.

13 THE COURT: I'LL BE HAPPY TO ISSUE BODY
14 ATTACHMENTS FOR THOSE WITNESSES. BUT I WANT TO GET THE
15 DEFENSE CASE, THE BULK OF IT TOMORROW. I REALLY DON'T
16 WANT TO HAVE TO RECESS AGAIN WITH THE JURY AND SEND THEM
17 HOME BECAUSE THAT'S TWO DAYS NOW THAT WE'VE DONE THAT.

18 MS. SARIS: I ADVISED THE COURT WHEN WE STARTED
19 THAT TUESDAY WOULD BE QUITE A GAP. AND ACTUALLY FRIDAY
20 WAS NOT MY FAULT. WE HAD WITNESSES READY AND WILLING AND
21 WE FLEW THEM IN.

22 THE COURT: ALL RIGHT. WE WILL DO THE BEST WE
23 CAN TO GET EVERYBODY ON TOMORROW WITH THE EXCEPTION OF
24 MISS PEZDEK.

25 MR. DIXON: COULD WE HAVE THOSE NAMES OF WHOSE
26 COMING TOMORROW?

27 (DISCUSSION OFF THE RECORD.)

28 THE COURT: ALL RIGHT. SO WE HAVE THAT RESOLVED.

1 AND BEFORE WE DISCUSS THE CRIME SCENE, I WANT TO KNOW
2 WHERE YOU'RE HEADED ON THE INSTRUCTIONS, MS. SARIS.

3 MS. SARIS: WELL, YOUR HONOR, JUST SO THE COURT
4 KNOWS, I MAKE IT A POINT TO MAKE INSTRUCTIONS PRIOR TO A
5 CASE STARTING. I DID THAT IN THIS CASE WITH CALCRIM, SO
6 I APOLOGIZE. AND I HAVE NO OBJECTION WITH CALJIC BEING
7 USED, BUT THAT'S WHY WE ARE DELAYED. WE HAVE A FEW
8 OBJECTIONS TO WHAT THE PEOPLE HAVE. OBVIOUSLY, SOME OF
9 IT WE ARE GOING TO HAVE TO WAIT TO SEE WHAT HAPPENS. I
10 KNOW THEIR PACKET 2.01 IS NOT COMPLETE. THAT'S JUST A
11 TYPO.

12 MR. DIXON: IT IS A COMPUTER GLITCH IT SEEMS WITH
13 THAT PROGRAM. I APOLOGIZE.

14 MS. SARIS: IF YOU WANT TO GO IN ORDER.

15 THE COURT: JUST TELL ME WHAT YOU HAVE OBJECTIONS
16 TO.

17 MS. SARIS: 2.03. IS CONSCIOUSNESS OF GUILT
18 FALSEHOOD. 2.04, EFFORTS BY THE DEFENDANT TO FABRICATE.
19 2.06 EFFORTS TO SUPPRESS. 2.12 THE TRANSCRIPT WHICH HAS
20 NOT BEEN --

21 MR. DIXON: THAT WAS JUST IN AN ABUNDANCE OF
22 CAUTION.

23 MS. SARIS: I UNDERSTAND. 2.08.

24 MR. JACKSON: 2.08.

25 MS. SARIS: 2.28.

26 MR. DIXON: WAIT. WAIT. WAIT.

27 MS. SARIS: FAILURE TO PRODUCE EVIDENCE.

28 THE COURT: ALL RIGHT. WHAT ELSE?

1 MS. SARIS: 2.50.1 AND .2. 2.50.1 AND 2.50.2.
2 2.50.2, WHICH I IMAGINE THERE WILL BE THIS DISCUSSION
3 OF -- ALTHOUGH IF THE COURT HAS -- 2.61 I THINK IS NO
4 LONGER GOING TO BE REQUESTED. THAT'S WHERE WE DON'T CALL
5 ANY WITNESSES, WE'RE RELYING ON THE STATE OF THE
6 TESTIMONY.

7 MR. JACKSON: YOU KNOW WHAT, A LOT OF DEFENSE
8 ATTORNEYS LIKE THAT EVEN IF THEY DO PUT ON A DEFENSE. I
9 HAVE NO PROBLEM WITH IT. THAT'S WHY WE PUT IT.

10 MS. SARIS: 2.70. CONFESSION AND ADMISSION.

11 THE COURT: WELL, WE CERTAINLY HAVE ADMISSIONS.

12 MS. SARIS: RIGHT, WHICH WAS COVERED BY 2.71.
13 2.71.5.

14 THE COURT: SO YOU OBJECT TO 2.70 AND 2.71.5?

15 MS. SARIS: YES. THAT'S ADOPTIVE ADMISSION. AND
16 2.71.7, I'LL BE HONEST WITH THE COURT, WE NEED TO LOOK
17 INTO. I'M NOT SURE IF THAT'S ANY STATEMENT BY THE
18 DEFENDANT OR IF THAT'S REFERRING TO AN ADMISSION.

19 THE COURT: ALL RIGHT. ARE THERE ANY OTHERS THAT
20 YOU ARE OBJECTING TO?

21 MS. SARIS: AIDING AND ABETTING, 3.1.

22 THE COURT: WELL, THAT WOULD BE OBVIOUS. THOUGH,
23 DO THE PEOPLE WANT THAT?

24 MR. JACKSON: WHICH ONE? I'M SORRY.

25 THE COURT: 3.1.

26 MS. SARIS: OH, I SEE.

27 MR. JACKSON: AIDING AND ABETTING?

28 MS. SARIS: YES.

1 THE COURT: ALL RIGHT. JUST GIVE ME A HEADS UP
2 WHEN YOU ARE REQUESTING ANYTHING SPECIAL THAT I NEED TO
3 CONSIDER.

4 MS. SARIS: ANYTHING SPECIAL? NO.

5 THE COURT: NO SPECIALS AND NO LESSERS?

6 MS. SARIS: AND NO LESSERS.

7 THE COURT: OKAY.

8 MS. SARIS: WE DID WANT TO CHECK ON THE
9 APPLICABILITY OF THESE RELATING TO 1988 RELATING TO THE
10 SPECIAL. I'LL TELL THE COURT WE HAVE NOT HAD A CHANCE TO
11 DO THAT IN TERMS OF WHETHER OR NOT THERE IS A DIFFERENCE.

12 MR. JACKSON: THERE IS. AND WE PULLED -- WE
13 TRIED TO PULL THE PRE-JUNE 1990 SPECIAL CIRCUMSTANCES,
14 BUT MULTIPLE MURDER AND LYING IN WEIGHT ARE BOTH THE
15 SAME.

16 THE COURT: THEY NEVER CHANGED.

17 MS. SARIS: WE HAVEN'T HAD A CHANCE TO DO THAT
18 YET.

19 THE COURT: AIDING AND ABETTING MAY HAVE.

20 MR. JACKSON: AIDING AND ABETTING MAY HAVE.

21 THE COURT: ALL RIGHT.

22 MR. JACKSON: I'LL LOOK AT THAT.

23 THE COURT: ALL RIGHT. SO WE'RE ON TRACK. AND I
24 GUESS WE WILL TAKE A RECESS AND DISCUSS THE CRIME SCENE
25 VIEW AT THIS TIME. SO --

26 MR. JACKSON: DIDN'T WE HAVE SOME PEOPLE COMING
27 FROM THE SHERIFF'S DEPARTMENT?

28 THE COURT: I THINK WE HAVE THEM; RIGHT?

1 MR. JACKSON: OH, HERE THEY ARE.

2 THE COURT: ALL RIGHT. SO WE ARE GOING TO CLEAR
3 THE COURTROOM, WE ARE GOING TO CLOSE FOR THE DAY. AND WE
4 ARE GOING TO DISCUSS THIS INFORMALLY THE LOGISTICS FOR
5 THURSDAY SO WE WILL RECESS UNTIL 10:00 A.M.

6 MS. SARIS: THIS IS GOING TO BE INFORMAL OFF THE
7 RECORD, THEN? MR. GOODWIN CAN BE EXCUSED?

8 THE COURT: YES.

9 MS. SARIS: THANK YOU.

10

11 (THE MATTER WAS CONTINUED TO TUESDAY,
12 DECEMBER 12, 2006 AT 10:00 A.M.)

13 (NEXT PAGE IS 7801.)

14 --000--

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF AND RESPONDENT,)
)
VS.)
)
01 - MICHAEL FRANK GOODWIN,)
)
DEFENDANT AND APPELLANTS.)

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A) (2)

DECEMBER 12, 2006

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 21 OF 24
PAGES 7801 THRU 7996/8100

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, DECEMBER 12, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14
15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)

18
19 THE COURT: ON THE GOODWIN MATTER. MR. GOODWIN
20 IS PRESENT WITH COUNSEL. THE PEOPLE ARE REPRESENTED.
21 THE JURORS AND ALTERNATES ARE NOT PRESENT.

22 WHAT DO WE NEED TO DISCUSS OUTSIDE THE
23 PRESENCE OF THE JURY?

24 MR. DIXON: WELL, YOUR HONOR, THE COURT HAS BEEN
25 KIND ENOUGH TO BOTH SIDES DURING THIS TRIAL FROM TIME TO
26 TIME TO REVISIT AN EARLIER RULING. AND I THINK I CAN DO
27 IT WITHIN THE TIME FRAME THAT WE HAVE HERE OR CLOSE TO
28 IT. I WOULD ASK YOU RELIEF TO MAKE A REPRESENTATION

1 BRIEFLY ON A RULING YESTERDAY.

2 THE COURT: ALL RIGHT.

3 MR. DIXON: IT'S GOT A COUPLE PARTS TO IT. AND I
4 THINK THE ULTIMATE DECISION THE COURT MADE YESTERDAY IS
5 THAT THIS HEARSAY FROM A WITNESS WHO SAID HE HEARD MICKEY
6 THOMPSON SAY HE BOUGHT GOLD WOULD COME IN; AND IN MAKING
7 THAT -- AND I WOULD LIKE TO TALK ABOUT THAT IN A MOMENT.

8 BUT IN MAKING THAT RULING, AS I RECALLED
9 IT -- AND I'M SURE THE COURT WILL CORRECT ME IF I GOT
10 THIS WRONG -- PART OF THE COURT'S CONSIDERATION WAS THAT
11 THAT MIGHT BE SOME CIRCUMSTANTIAL EVIDENCE AND MIGHT BE
12 RELEVANT BECAUSE MS. SARIS MADE AN OFFER OF PROOF THAT
13 SHE WOULD PROVE WITH A WITNESS TODAY -- AND I THINK THEY
14 ARE HERE -- AN OFFICER, THAT THE SAFE IN THE GARAGE WAS
15 TAMPERED WITH ON THE DAY OF THE MURDERS.

16 OUR REVIEW OF THE OFFICER'S NOTES WOULD
17 INDICATE THAT THAT'S JUST NOT THE CASE. AND THESE ARE
18 THE HANDWRITTEN NOTES FROM THEIR SHERIFF'S BUREAU
19 HOMICIDE NOTEBOOK. AND I HAVE THE ORIGINAL HERE IF
20 THAT'S DIFFICULT TO SEE.

21 THIS IS THE THIRD PAGE OF THE NOTES. AND
22 WE WILL GO BACK IN A MOMENT AND LOOK AT THE FIRST PAGE
23 THAT MAKES IT CLEAR. BUT IT SAYS "MT'S HOUSE SAFE IN
24 OFFICE OF GARAGE" --

25 WELL, YOU JUST SWITCHED.

26 MR. JACKSON: THAT'S FOR THE DATE --

27 THE COURT: AGAIN, IT IS A THREE-PART NOTE. AND
28 ON ONE SIDE WE HAVE THE TIME 11:15; THE OTHER THE DATE

1 4/6 OF '88. AND IT GOES THROUGH A NUMBER OF
2 OBSERVATIONS. AND THEN ON THE LAST PAGE -- ON THE LAST
3 PAGE --

4 MR. JACKSON: THAT IS THE LAST PAGE.

5 MR. DIXON: WE GOT IT UP THERE? GREAT. THANK
6 YOU.

7 ON THE LAST PAGE WE SEE MICKEY THOMPSON'S
8 HOUSE AND THE NOTES ABOUT THE SAFE, SAME DATE. AND IF
9 THE COURT WOULD LIKE TO LOOK AT MY NOTES IT'S EVEN MORE
10 CLEAR. THIS IS 4/6 OF '88, 1500 HOURS. THE FIRST PAGE
11 WAS DATED 1100 HOURS. THIS IS THREE WEEKS OR MORE AFTER
12 THE MURDERS. THIS IS NOT THE DATE.

13 AND AS AN OFFER OF PROOF, I CAN TELL YOU
14 THAT THE FAMILY MEMBERS, THE EXECUTOR OF THE ESTATE WENT
15 THROUGH THE HOUSE ON THAT DAY OR BEFORE AND WENT THROUGH
16 THE SAFES. AND, IN FACT, WE TALKED TO -- THE DETECTIVE
17 TELLS ME THAT WE TALKED TO A WITNESS YESTERDAY OR LAST
18 NIGHT THAT WAS THERE AT THAT TIME WHEN THE EXECUTOR WENT
19 THROUGH THE HOUSE.

20 AND THEY BROUGHT IN SOME LOCKSMITH TO DO
21 THAT DAMAGE TO THE SAFE. THEY WANTED TO SEE -- THAT'S
22 THE JOB OF AN EXECUTOR IS TO TRY TO GATHER ALL THE ASSETS
23 OF THE ESTATE TOGETHER. AND THAT'S WHAT THEY DID.

24 SO WHEN MS. SARIS YESTERDAY SAID THAT THE
25 NOTES --

26 MS. SARIS: ACTUALLY, YESTERDAY I SAID 4/6/88.

27 MR. DIXON: IF I COULD JUST FINISH MY THOUGHTS
28 HERE, THEN I'M HAPPY TO GO ON. WHEN SHE SAID THAT ON THE

1 DATE OF THE MURDERS, THIS WAS THE CONDITION OF THE SAFE,
2 THERE IS NO EVIDENCE OF THAT. IN FACT, THE EVIDENCE
3 WOULD BE TO THE CONTRARY.

4 DETECTIVE GRIGGS, WHO I'M SURE WOULDN'T BE
5 HAPPY TO COME BACK, BUT COULD BE BROUGHT BACK BY THE
6 PROCESSES OF THE COURT, ON A REPORT WHICH HAS A BATE
7 STAMP -- OR A DATE OF -- EXCUSE ME -- A NUMBER OF 68 ON
8 IT, JUNE 2ND, 1988. THE LAST PARAGRAPH SAYS IN TALKING
9 ABOUT THE OFFICE AREA, HE SAYS OBSERVED WALL SAFE THAT
10 DID NOT APPEAR TO HAVE BEEN TAMPERED WITH PRIOR TO THE
11 INVESTIGATOR'S ARRIVAL.

12 AND THAT WOULD BE CONSISTENT WITH THE
13 INFORMATION WE HAVE FROM THE FAMILY. AND ALSO WITH WHAT
14 MAY BE ON THE BOARD WITH RESPECT TO THESE OFFICER'S NOTES
15 FROM APRIL 6.

16 HAVING SAID THAT, I WANTED TO BRING THAT
17 TO THE COURT'S ATTENTION BECAUSE IT SEEMS TO ME -- AND I
18 MAY BE WRONG -- THAT THIS WAS PART OF THE COURT'S
19 CONSIDERATION IN COMING TO A DECISION ON THE WITNESS'S
20 TESTIMONY THAT SEEMED TO ME TO BE HEARSAY OF WHAT MICKEY
21 THOMPSON SAID ON MARCH 15TH WITH RESPECT TO BUYING SOME
22 GOLD AND HAVING A DISCUSSION ABOUT THE FINANCIAL
23 IMPLICATIONS OF THAT.

24 AND THAT'S THE SECOND PART OF WHAT I WOULD
25 LIKE TO ADDRESS JUST FOR A MOMENT. IT SEEMS TO ME IN
26 THINKING ABOUT THIS THAT THIS STATEMENT IS CLEARLY
27 HEARSAY. MICKEY THOMPSON IS NOT HERE. AND THE COURT
28 SUGGESTED, WELL, IT'S -- AND I THINK THE COURT IS RIGHT

1 THAT IT COULD BE CIRCUMSTANTIAL EVIDENCE THAT THERE WAS
2 GOLD IN THE HOUSE.

3 BUT WE'RE TALKING ABOUT HEARSAY AND
4 NON-HEARSAY AND DIRECT EVIDENCE AND CIRCUMSTANTIAL
5 EVIDENCE. AND AS WE ALL KNOW WITH CIRCUMSTANTIAL
6 EVIDENCE, THERE HAS TO BE A PROVEN FACT AND THEN AN
7 INFERENCE WE DRAW FROM THAT. AND THE PROVEN FACT THAT
8 THE DEFENSE WOULD LIKE TO DO HERE IS THAT MICKEY THOMPSON
9 BOUGHT GOLD. THE INFERENCE TO BE DRAWN IS THAT IT WAS IN
10 THE HOUSE.

11 BUT THAT STATEMENT IS JUST HEARSAY.
12 MICKEY THOMPSON UNFORTUNATELY IS NOT WITH US. AND
13 CIRCUMSTANTIAL EVIDENCE ALWAYS HAS A COUPLE DIFFERENT
14 INTERPRETATIONS PERHAPS. AND IT SEEMS TO ME THAT THERE
15 IS NO NON-HEARSAY PURPOSE FOR THAT OTHER THAN HE BOUGHT
16 GOLD AND THEN WE WANT TO DRAW AN INFERENCE FROM THAT.

17 AND THAT THAT STATEMENT SHOULDN'T COME
18 INTO EVIDENCE. AND IT'S KIND OF -- IT SEEMS TO MAKE
19 SENSE FOR THE RULE AND ESPECIALLY IN THIS SITUATION OUT
20 OF FAIRNESS. THERE ARE OTHER INFERENCES THAT WE COULD
21 DRAW FROM THAT. AND IF MICKEY THOMPSON HAD LIVED, IF
22 THIS WAS AN ATTEMPTED MURDER OR AN ATTEMPTED ROBBERY, HE
23 COULD TESTIFY, YES, THAT YESTERDAY, THE DAY BEFORE THE
24 ROBBERY, I BOUGHT GOLD.

25 BUT I STORED IT IN MY BANK VAULT; IN MY
26 SAFETY DEPOSIT BOX; OR I PUT IT UPSTAIRS IN THE UPSTAIRS
27 SAFE; OR I PUT IT IN THE DOWNSTAIRS SAFE; OR I RENTED
28 SPACE FROM THE COIN DEALER THAT I DEALT WITH AND IT WAS

1 IN A LOCKED, SECURE POSITION THERE. I THINK THOSE KIND
2 OF QUESTIONS WOULD BE FAIR.

3 BUT WITH A HEARSAY STATEMENT LIKE THIS,
4 OBVIOUSLY, WE CAN'T CROSS-EXAMINE IT. AND THAT'S WHY IT
5 SHOULDN'T COME IN. BECAUSE THERE ARE MANY INFERENCES
6 THAT COULD BE DRAWN HERE THAT MIGHT BE FAIR. AND WITHOUT
7 A CROSS-EXAMINATION, WE REALLY CAN'T.

8 BUT THE STATEMENT THAT -- THE FACT THAT
9 THE DEFENSE WANTS TO HAVE PROVED HERE TO DRAW THIS
10 INFERENCE FROM FOR CIRCUMSTANTIAL EVIDENCE IS THAT THE
11 GOLD WAS BOUGHT. BECAUSE WHAT THEY WANT TO ARGUE IS THAT
12 MICKEY THOMPSON BOUGHT THE GOLD. IT WAS IN THE SAFE THAT
13 WE NOW I THINK AT LEAST HAVE REASON TO BELIEVE WASN'T
14 TAMPERED WITH. AND THAT THE ROBBERS CAME AND BROKE INTO
15 THE SAFE AND WERE PEDALING AWAY WITH IT IN THE BAGS.

16 SO THEY WANT THE TRUTH OF THAT MATTER.
17 THEY WANT THIS JURY TO BELIEVE THAT MICKEY THOMPSON
18 BOUGHT GOLD; IT WAS IN THE HOUSE; AND THE KILLERS RODE
19 AWAY WITH IT. I THINK IT'S HEARSAY AND SHOULDN'T COME
20 IN.

21 COULD I HAVE JUST HAVE A MOMENT?

22 (DISCUSSION OFF THE RECORD.)

23 MR. DIXON: THANK YOU.

24 MS. SARIS: JUDGE, FIRST OFF, YESTERDAY I MADE
25 VERY CLEAR THIS WAS AN APRIL 6, '88, IF COUNSEL WAS
26 PAYING ATTENTION. IT WAS JANSEN. AND IF THE COURT WILL
27 LOOK ON THE BOARD, THE INTERESTING THING IS IN THE FIRST
28 PAGE, THE INTERVIEW ON APRIL 6, WAS WITH MR. KENT HACKMAN

1 WHO IS ONE OF THE NEIGHBORS.

2 SO THE POLICE WERE SENT THERE TO INTERVIEW
3 THE NEIGHBOR. WHILE THEY WERE THERE, THEY WENT TO MICKEY
4 THOMPSON'S HOUSE. THE EVIDENCE SO FAR HAS BEEN NO ONE
5 LOOKED AT THE SAFE. NO ONE TESTED THE SAFE. GRIGGS SAID
6 HE DIDN'T REMEMBER THE SAFE. IF COUNSEL WANTED TO ASK
7 HIM ANYTHING HE WROTE IN A REPORT, THEN HE SHOULD HAVE
8 DONE THAT WHILE HE WAS ON THE STAND.

9 THE CRIME SCENE VIDEO MAKES VERY CLEAR --
10 AND I HAVE THAT FOR THE COURT AS WELL -- THAT IT WAS A
11 VERY CURSORY LOOK AT THE SAFE. LOOK A LITTLE FARTHER
12 DOWN, "SAFE IN THE BEDROOM CLOSET. TWO ENVELOPES OF
13 MONEY. MISCELLANEOUS ENVELOPES, PICTURES AND JEWELRY."
14 IF THEY WANT TO ARGUE THAT FAMILY MEMBERS CAME AND
15 CLEANED EVERYTHING OUT, THEY DID A PRETTY POOR JOB OF IT
16 BECAUSE THERE IS PLENTY OF VALUABLES IN THE OTHER SAFE.

17 OBVIOUSLY, MR. JANSEN WHEN HE WENT THERE
18 WAS MAKING NOTES ABOUT WHAT HE THOUGHT WAS RELEVANT TO
19 THIS CRIME, OTHERWISE HE WOULDN'T HAVE WRITTEN IT DOWN.
20 IF THEY WANT TO COME BACK AND ARGUE THAT THE FAMILY CAME
21 IN, THEY'RE ENTITLED TO DO THAT ON REBUTTAL.

22 BUT WHEN OFFICER JANSEN WENT THERE HE WENT
23 THERE SPECIFICALLY TO LOOK AT THESE SAFES. AND
24 SPECIFICALLY HE SAW BOLT BARS BENT. THEY ARE NOT SO
25 INTIMATELY RELATED. A PERSON CAN ATTEMPT TO GET IN A
26 SAFE AND STILL STEAL GOLD FROM SOMEONE ELSE. THERE IS
27 CIRCUMSTANTIAL EVIDENCE THAT MICKEY THOMPSON BOUGHT GOLD,
28 SEPARATE AND APART FROM WHETHER HE STORED IT IN HIS SAFE.

1 WE HAVE THE INDIVIDUALS WITH THE BAGS THAT
2 ARE THE TYPES OF BAGS THAT GOLD IS DELIVERED IN. WE
3 DON'T HAVE TO PROVE THAT THEY GOT IT OUT OF THE SAFE.
4 THEY HAVE MADE THE CLAIM THAT THERE IS NO EVIDENCE --
5 THERE IS NO VALUABLES IN THE GARAGE. WE HAVE
6 CIRCUMSTANTIAL EVIDENCE THAT THAT'S WRONG.

7 THE COURT: WELL, THE THING THAT'S TROUBLING,
8 THOUGH, IS THAT THE PEOPLE ARE NOW INDICATING AS AN OFFER
9 OF PROOF THAT THE FAMILY MEMBERS HAD THE SAFE BROKEN
10 INTO?

11 MR. JACKSON: CORRECT.

12 MS. SARIS: NOWHERE IN THE NOTES AND THEY CAN
13 ARGUE THAT IN REBUTTAL. IT DOESN'T OCCUR ANYWHERE -- AND
14 WHY WOULD OFFICER JANSEN GO TO THE CRIME SCENE, WHICH
15 APPARENTLY MUST STILL BE TAPED OFF AT THIS POINT, AND
16 MAKE NOTES ABOUT THIS IF A FAMILY MEMBER HAD DONE THIS IN
17 A SANCTIONED FASHION?

18 THE COURT: WELL, LET'S PUT EVERYTHING IN CONTEXT
19 BECAUSE ORIGINALLY THIS WAS RAISED AS AN ISSUE. I FOUND
20 THAT IT WAS HEARSAY -- INADMISSIBLE HEARSAY AND I WASN'T
21 GOING TO ALLOW IT. AND YOU BROUGHT TO MY ATTENTION SOME
22 FURTHER ARGUMENTS YESTERDAY IN WRITING. AND I
23 RECONSIDERED THE ISSUE AND INDICATED THAT ASSUMING YOU
24 COULD LAY THE APPROPRIATE FOUNDATION, I WOULD ALLOW THE
25 STATEMENT IN.

26 BUT THE FOUNDATION THAT I INDICATED NEEDED
27 TO BE PRESENTED, WAS JUST THAT, THAT THE SAFE APPEARED TO
28 HAVE PRY MARKS ON THE DATE IN QUESTION. NOW I ASSUMED IT

1 WAS THE DATE OF THE MURDERS. BUT REGARDLESS, IF I'M
2 HEARING AN OFFER OF PROOF HERE THAT NO ONE WILL BE ABLE
3 TO TESTIFY TO THE FACT THAT THE SAFE HAD PRY MARKS ON THE
4 DATE OF THE MURDERS, THEN YOU ARE NOT GOING TO BE ABLE TO
5 MEET THAT REQUIREMENT.

6 MS. SARIS: WELL, THERE IS TWO THINGS TO THAT, IF
7 THE COURT WILL LOOK UP AGAIN AT THE SCREEN, THIS IS THE
8 ENTIRETY OF THE EVIDENCE ABOUT THE SAFE THAT DAY, THE
9 WHOLE OF IT. IT'S PART OF THE CRIME SCENE VIDEO. THIS
10 IS ALL THEY TOOK. AND IT TAKES A LOT OF LOOKING TO SEE
11 THIS. THEY ARE IN THE OFFICE AND THEY ARE SHINING A
12 FLASHLIGHT.

13 FOR THE RECORD, I'M PLAYING 20 SECONDS OF
14 THE CRIME SCENE VIDEO. THIS IS THE WALL WHERE THE SAFE
15 IS LOCATED. AND THAT'S IT AND THEN THEY LEAVE THE ROOM.
16 SO THE FACT THAT WE DON'T HAVE EVIDENCE REGARDING THE
17 TYPE OF DAMAGE DONE TO THE SAFE IS A RESULT OF THE POLICE
18 OFFICERS NOT INVESTIGATING THE SAFE, WHICH HAS BEEN OUR
19 CONCERN ALL ALONG. THAT ONCE THEY DECIDED THIS WASN'T A
20 ROBBERY, THEY DIDN'T INVESTIGATE THE SAFE. NO PHYSICAL
21 TESTS WERE DONE ON THIS SAFE.

22 SO ON APRIL 6 THE FIRST TIME SOMEONE LOOKS
23 AT THE SAFE, THEY NOTICE PRY MARKS. NOW I THINK IT'S
24 CERTAINLY UP TO THE JURY TO DECIDE: WERE THOSE PRY MARKS
25 THERE AS A RESULT OF THE FAMILY TAMPERING? MAYBE TO
26 AVOID PROBATE; MAYBE JUST TO SEE WHAT WAS INSIDE OF IT.
27 I DON'T KNOW. I KNOW THAT WE HAVE THE CIRCUMSTANTIAL
28 EVIDENCE OF GOLD. WE SHOULDN'T HAVE TO PROVE THAT IT WAS

1 INSIDE THE SAFE TO PROOF THAT THIS COULD HAVE BEEN A
2 ROBBERY.

3 THE COURT: BUT THE ARGUMENT YESTERDAY WAS
4 PREMISED ON THE ASSUMPTION THAT THERE WERE PRY MARKS --
5 OR THERE WAS PHYSICAL EVIDENCE INDICATING THAT SOMEONE
6 HAD ATTEMPTED TO BREAK INTO THE SAFE; NOT THAT THERE WAS
7 GOLD IN THE SAFE, BUT THAT SOMEONE ATTEMPTED TO BREAK
8 INTO THE SAFE.

9 MS. SARIS: AND THAT HAS NOT BEEN DISPROVEN.

10 THE COURT: WHAT I'M HEARING NOW IS THAT THAT IS
11 NOT THE CASE.

12 MR. DIXON: AND ALSO I WOULD JUST LIKE TO ADD,
13 YOUR HONOR, COUNSEL JUST SAID, WELL, THIS IS ALL THEY DID
14 WITH RESPECT TO THIS SAFE IS THEY TOOK A VIDEO OF IT.
15 WELL, THEY DID TAKE A VIDEO OF IT. AND AS YOU LOOK AT
16 IT, THERE APPEARS TO BE NOTHING WRONG IT. AND REY
17 VERDUGO SAID HE LOOKED AT THE SAFE IN THE GARAGE AND
18 THERE APPEARED TO BE NOTHING WRONG WITH IT. THAT'S MY
19 RECOLLECTION.

20 SO THAT'S THE STATE OF THE EVIDENCE. AND
21 NOW WE HAVE AN OFFER OF PROOF THAT THREE WEEKS LATER --
22 OR I GUESS THAT'S ABOUT RIGHT, ABOUT THREE WEEKS LATER,
23 THERE IS EVIDENCE OF SOME DAMAGE TO IT. BUT THAT'S A
24 LONG PERIOD OF TIME. AND THERE IS NO INDICATION -- I
25 HAVE ALREADY STATED WHAT I HAVE ABOUT THE FAMILY MEMBERS
26 AND THE ESTATE. BUT THERE IS NO INDICATION THAT THIS WAS
27 MAINTAINED AS A CRIME SCENE DURING THAT PERIOD OF TIME.
28 IT'S JUST OUT THERE. I DON'T KNOW WHAT HAPPENED.

1 MS. SARIS: VERDUGO SAID --

2 MR. DIXON: BUT YESTERDAY'S ARGUMENT WAS BASED
3 ON -- AND AS I HEARD THE COURT -- THAT THERE WAS AN OFFER
4 OF PROOF THAT THE SAFE WAS TAMPERED WITH ON THE DAY OF
5 THE MURDER. THAT'S JUST NOT THE CASE.

6 MS. SARIS: ACTUALLY, JUDGE, VERDUGO SAID HE
7 DIDN'T RECALL THE SAFE. SO THAT'S NOT AN ACCURATE
8 RECOLLECTION OF VERDUGO'S TESTIMONY. AND ALL THE
9 TESTIMONY SUGGESTED NOTHING WAS TESTED ON THE SAFE.

10 THE COURT: RIGHT. BUT --

11 MS. SARIS: YESTERDAY'S ARGUMENT --

12 THE COURT: I LEFT IT UP TO THE DEFENSE
13 YESTERDAY --

14 MS. SARIS: AND WE HAVE OFFICER JANSEN HERE. THE
15 COURT PREDICATED THE ARGUMENT ON THE FACT THAT WE HAD TO
16 PROVE THAT THERE WAS DAMAGE TO THE SAFE.

17 THE COURT: WELL, YOUR OFFER OF PROOF -- LET ME
18 JUST RECAP FOR A SECOND.

19 MS. SARIS: OKAY.

20 THE COURT: YOUR OFFER OF PROOF WAS, WE DON'T
21 KNOW WHAT HAPPENED PRIOR TO THE SHOTS BEING FIRED. THAT
22 THE FACT THAT MR. THOMPSON MADE A STATEMENT TO ONE OF
23 WITNESSES WHOSE NAME ESCAPES ME.

24 MS. SARIS: RICK MILLER.

25 THE COURT: MILLER, ABOUT THE PURCHASE OF I THINK
26 \$250,000 WORTH OF GOLD, THAT THAT SUPPORTED THE THEORY
27 THAT PERHAPS THERE WERE VALUABLES IN THE SAFE THAT
28 APPEARED TO HAVE BEEN TAMPERED WITH.

1 MS. SARIS: THAT SUPPORTED THE THEORY THAT THIS
2 COULD HAVE BEEN A ROBBERY. WE DON'T KNOW WHERE MICKEY
3 THOMPSON KEPT THE GOLD. ALL WE KNOW IS IN A VERY SHORT
4 TIME PERIOD FROM WHEN MICKEY THOMPSON TOLD SOMEONE HE
5 PURCHASED GOLD, HE'S KILLED.

6 THAT'S RELEVANT EVIDENCE THAT THE JURY
7 SHOULD HEAR. THE FACT THAT THE PEOPLE ARE EVEN BRINGING
8 UP FAIRNESS IS MIND BOGGLING CONSIDERING HOW MUCH
9 EVIDENCE THE JURY IS NOT HEARING ABOUT THE CIRCUMSTANCES
10 IN THIS CASE. WHAT WE HAVE IS MICKEY THOMPSON TOLD
11 SOMEONE HE IS ABOUT TO MAKE A LARGE PURCHASE OF
12 VALUABLES. WE HAVE THEM BEING ABLE TO TESTIFY THAT
13 NOTHING OF VALUE WAS MISSING. THAT'S THE STATE OF THE
14 EVIDENCE.

15 WE NOW HAVE CIRCUMSTANTIAL EVIDENCE THAT
16 POTENTIALLY THERE WAS SOMETHING OF VALUE MISSING. WHAT
17 ELSE DO WE HAVE? WE HAVE MONEY IN AN ENVELOPE AND
18 JEWELRY IN A CAR. SO, OBVIOUSLY, THESE ARE INDIVIDUALS
19 WHO ARE EITHER TRANSPORTING VALUABLES THAT DAY; MAYBE HAD
20 TAKEN VALUABLES OUT. I KNOW COUNSEL MENTIONED A SAFETY
21 DEPOSIT BOX.

22 THE POINT IS WE DON'T KNOW IF IT WAS IN
23 THE SAFE, BUT WE DO KNOW THAT IT SHOULD HAVE BEEN
24 SOMEWHERE IN THE HOME. UNLESS MICKEY THOMPSON WAS
25 COMPLETELY LYING AND IT WAS NEVER FOUND. AND WHAT WE DO
26 HAVE IS EVIDENCE THAT PEOPLE LEFT THE CRIME SCENE WITH
27 BAGS.

28 MR. DIXON: WELL, THAT GOES TO MY POINT ABOUT

1 HEARSAY AND THE INABILITY TO CROSS-EXAMINE SOMEONE. I
2 DON'T KNOW WHO WOULD -- MICKEY THOMPSON WAS A PRETTY GOOD
3 BUSINESSMAN. I DON'T KNOW WHO WOULD PUT A QUARTER
4 MILLION DOLLARS IN A SAFE IN THEIR HOME THAT WASN'T
5 PROTECTED, FROM THE EVIDENCE, BY THE HOME SECURITY
6 SYSTEM. BECAUSE THE HOME SECURITY SYSTEM DIDN'T BLOCK
7 THE -- OR PROTECT THE GARAGE.

8 SOMEBODY WHO PURCHASED THAT IS GOING TO
9 PUT IT A BANK IN A SAFETY DEPOSIT BOX. AND WE JUST DON'T
10 KNOW. THAT'S TOTAL SPECULATION. SO WHEN COUNSEL SAYS
11 THE CIRCUMSTANTIAL EVIDENCE IS THAT THE QUARTER MILLION
12 DOLLARS WORTH OF GOLD -- IF THERE WAS SUCH A THING -- WAS
13 IN THE HOUSE, THERE IS JUST NO EVIDENCE TO THAT.

14 NOW I KNOW THAT SHE IS GOING TO SAY, WELL,
15 WE JUST TRIED TO PROVE THAT HER CLIENT TOOK OFF ALMOST
16 THAT MUCH OR MORE IN GOLD, BUT IT WAS A DIFFERENT
17 SITUATION. OUR VIEW IS THAT HE WAS TAKING THAT IN HIS
18 OCEAN-GOING YACHT TO TRAVEL THE WORLD. AND THAT WAS A
19 LIQUID ASSET THAT HE COULD USE TO LIVE ON. THAT'S TWO
20 DIFFERENT THINGS.

21 THE COURT: I REALLY DON'T UNDERSTAND WHAT ALL
22 THIS FUSS IS ABOUT. I THINK I MADE IT CLEAR YESTERDAY
23 THAT THERE HAS TO BE A FOUNDATION LAID.

24 MS. SARIS: BUT WHY DOES THE COURT MAKE --

25 THE COURT: AND BASED ON THE OFFER OF PROOF, IT
26 DOESN'T SOUND LIKE THE DEFENSE IS GOING TO BE ABLE TO LAY
27 THAT FOUNDATION.

28 MS. SARIS: WHAT IF WE WERE TO SHOW, FOR

1 INSTANCE, IF COUNSEL SAYS THAT SOMEONE WOULDN'T HAVE KEPT
2 THIS IN THEIR GARAGE. WE HAVE THE PROBATE RECORDS. A
3 QUARTER MILLION DOLLARS WORTH OF GOLD COINS DID NOT GO
4 THROUGH PROBATE. WE CAN ESTABLISH THAT IF THAT WOULD BE
5 ENOUGH OF AN OFFER OF PROOF.

6 THE COURT: THE ONLY RELEVANCE THAT THIS HAS -- I
7 MEAN BASED ON WHAT I WAS TOLD YESTERDAY THE OFFER OF
8 PROOF WOULD BE WAS THAT I THOUGHT WHAT YOU WERE SAYING,
9 MS. SARIS, IS THAT THERE WOULD BE AN INDICATION THAT THE
10 SAFE OR SOMEONE HAD TRIED TO BREAK INTO THE SAFE.

11 MS. SARIS: AND THAT'S WHAT THIS SHOWS. THEY
12 HAVE A COUNTER ARGUMENT TO THAT, BUT THAT'S WHAT THIS
13 SHOWS.

14 THE COURT: NO. WHAT THAT SHOWS IS A DATE OF
15 APRIL 6. AND WHAT THEY ARE TELLING ME IS THAT THEY HAVE
16 EVIDENCE TO INDICATE THAT THAT WAS DONE BY THE FAMILY.

17 MS. SARIS: THEN LET THE FAMILY TESTIFY TO THE
18 JURY.

19 THE COURT: OKAY. BUT FOR YOUR OFFER OF PROOF TO
20 BE RELEVANT, IT DEPENDS ON CERTAIN FOUNDATIONAL MATTERS
21 BEING PRESENTED. AND YOU'RE NOT GOING TO BE ABLE TO
22 PRESENT THOSE FOUNDATIONAL MATTERS, NAMELY THAT ON THE
23 DAY OF THE MURDERS THE SAFE APPEARED TO HAVE BEEN
24 TAMPERED WITH.

25 I MEAN I WAS OPERATING UNDER THE
26 ASSUMPTION YESTERDAY THAT YOUR OFFER OF PROOF WAS THAT
27 SINCE WE DON'T KNOW WHAT OCCURRED PRIOR TO THE SHOTS
28 BEING FIRED, THAT THERE WAS A REASONABLE INFERENCE GIVEN

1 THAT THE SAFE HAD BEEN TAMPERED WITH THAT THESE MURDERERS
2 HAD TRIED TO GET INTO THE SAFE. IF YOU CAN'T LAY THE
3 NECESSARY FOUNDATION, THIS ISN'T RELEVANT.

4 MS. SARIS: WELL, I'M --

5 THE COURT: SECONDLY, WE DID TALK ABOUT THIS
6 BEING HEARSAY. AND IT DOESN'T QUALIFY UNDER ANY
7 EXCEPTION AS WE DISCUSSED YESTERDAY. THIS IS NOT 1250.
8 THIS IS NOT SOMETHING THAT WOULD FALL UNDER THE CATEGORY
9 OF STATE OF MIND EXCEPTION TO THE HEARSAY RULE.
10 MR. THOMPSON'S STATE OF MIND WITH RESPECT TO WHATEVER
11 PURCHASE HE WAS GOING TO MAKE IS NOT AN ISSUE IN THIS
12 CASE.

13 ORIGINALLY, WHEN YOU ARGUED THIS, I VIEWED
14 YOUR OFFER OF PROOF AS CIRCUMSTANTIAL EVIDENCE TENDING TO
15 SHOW THAT MR. THOMPSON WAS ANNOUNCING TO EVERYONE THE
16 FACT THAT HE WAS GOING TO PURCHASE GOLD, WHICH PERHAPS
17 COULD SUPPORT THE INFERENCE YOU WANTED ME TO DRAW, BUT
18 THAT WASN'T THE THEORY YESTERDAY.

19 MS. SARIS: I HAVE THOSE --

20 THE COURT: YESTERDAY'S THEORY WAS REALLY CLEAR
21 CUT AND IT WAS PRESENTED TO ME IN A CERTAIN WAY. AND IF
22 YOU CAN'T MEET THE FOUNDATIONAL REQUIREMENTS --

23 MS. SARIS: I CAN.

24 THE COURT: -- WE'RE BACK TO SQUARE ONE.

25 MS. SARIS: I CAN MAKE THE FOUNDATIONAL
26 REQUIREMENTS. THE COURT IS ACCEPTING AS AN OFFER OF
27 PROOF WITHOUT TESTIMONY A REFUTING OF THE FOUNDATIONAL
28 REQUIREMENTS. THERE IS NOTHING IN THE RECORD TO SUGGEST

1 THAT THE FAMILY TAMPERED --

2 THE COURT: YOUR FOUNDATIONAL REQUIREMENT RESTED
3 UPON THE FINDING OR THE TESTIMONY THAT THE SAFE HAD BEEN
4 TAMPERED WITH ON THE DAY OF THE MURDERS. AND IF THESE
5 NOTES ARE AN INDICATION OF WHAT YOUR TESTIMONY IS GOING
6 TO BE, YOU ARE NOT GOING TO BE ABLE TO MEET THAT
7 FOUNDATION.

8 MS. SARIS: WE HAVE SEVERAL OTHER WITNESSES THAT
9 WILL TESTIFY UNDER 1250. LEE HASLAM WILL SAY --

10 THE COURT: WELL, 1250 -- BUT, AGAIN, YOU'RE
11 SWITCHING THEORIES.

12 MS. SARIS: NO, I'M NOT. I'M SWITCHING
13 WITNESSES. IF THE COURT IS GOING TO DENY ME ERIC
14 MILLER --

15 THE COURT: I'M NOT DENYING ANYTHING. I'M JUST
16 SAYING I RULED YESTERDAY THAT YOU CAN PRESENT THIS
17 INFORMATION -- THIS STATEMENT OF MR. THOMPSON IF YOU CAN
18 LAY THE FOUNDATION. I'M NOT HEARING ANY FOUNDATION HERE.
19 I'M HEARING THAT ON APRIL 6 THERE WAS AN INDICATION THAT
20 THE SAFE HAD BEEN TAMPERED WITH. BUT WHAT I'M HEARING
21 FROM THE PEOPLE IS THAT THAT WAS DONE SUBSEQUENT TO THE
22 MURDERS.

23 MS. SARIS: WELL, THE PEOPLE AREN'T TESTIFYING IN
24 THIS CASE AND THEY HAVE OFFERED NO EVIDENCE OF THAT.

25 THE COURT: YOU KNOW, I OPERATE UNDER THE
26 ASSUMPTION THAT WHAT COUNSEL TELLS ME ON AN OFFER OF
27 PROOF IS, IN FACT, WHAT THE OFFER OF PROOF IS GOING TO
28 BE.

1 MS. SARIS: BUT ISN'T THAT A DETERMINATION FOR
2 THE JURY AND NOT THE COURT?

3 THE COURT: NO, IT'S NOT A DETERMINATION FOR THE
4 JURY WHEN THE COURT HAS TO DETERMINE WHETHER OR NOT
5 EVIDENCE IS ADMISSIBLE. SO THAT'S WHERE WE LEFT OFF
6 YESTERDAY AND THAT'S WHERE WE ARE THIS MORNING.

7 MS. SARIS: WELL, THE MOTION ALSO COVERS THEN
8 SEPARATE WITNESSES -- SEPARATE WITNESSES IN THE FORM OF
9 LEE HASLAM AND OTHERS WHO WILL SAY THAT MICKEY INTENDED
10 TO BUY GOLD, WHICH IS A DIFFERENT STATEMENT. AND IT IS
11 COVERED UNDER 1250 AND WE ARE ASKING TO BE ABLE TO --

12 THE COURT: HOW IS IT COVERED UNDER 1250?

13 MS. SARIS: STATEMENT OF INTENT IS A STATE OF
14 MIND THAT ONE CARRIED THROUGH ON THEIR INTENT UNDER
15 ALCOLADE (SIC), WHICH IS CITED IN THE MOVING PAPERS. IF
16 I STATE I'M GOING TO DO SOMETHING IT'S CIRCUMSTANTIAL
17 EVIDENCE THAT I DID THAT THING, AS LONG AS IT'S IN THE
18 FUTURE.

19 THE COURT: BUT 1250 IS REALLY SPECIFIC WHEN IT'S
20 AN ISSUE IN THE ACTION.

21 MS. SARIS: AND WHETHER --

22 THE COURT: MR. THOMPSON'S STATE OF MIND IS NOT
23 AN ISSUE IN THIS ACTION.

24 MS. SARIS: MR. THOMPSON'S POTENTIAL PURCHASE OF
25 GOLD IS AN ISSUE IN THIS ACTION.

26 THE COURT: NO, IT'S NOT. I DON'T SEE THAT. HOW
27 IS HIS STATE OF MIND WITH RESPECT TO PURCHASE OF GOLD AN
28 ISSUE IN THIS ACTION?

1 MS. SARIS: BECAUSE IF HE HAD JUST PURCHASED
2 GOLD, THEN WE WOULD HAVE AN EXPLANATION FOR WHY
3 BICYCLISTS WHO SUPPOSEDLY WERE THERE FOR A HIT RAN OFF
4 WITH WHITE DRAWSTRING BAGS THAT SOMEONE HAS ALREADY
5 TESTIFIED TO WOULD BE HOW GOLD WAS DELIVERED.

6 MS. SARIS: THERE IS CIRCUMSTANTIAL EVIDENCE
7 SEPARATE AND APART FROM ANY PRY MARK ON THE SAFE THAT
8 THIS WAS A ROBBERY. THERE IS. IT'S THERE.

9 THE COURT: BASED ON THE BAG?

10 MS. SARIS: BASED ON THE BAGS. BASED ON NOT ONLY
11 JUST THE BAGS, BUT THE SPECIFIC TYPE OF BAGS. THEY
12 DIDN'T WALK AWAY WITH GYM BAGS. THEY DIDN'T WALK AWAY
13 WITH BACKPACKS. THEY DIDN'T WALK AWAY WITH LUNCH SACKS.
14 THESE ARE WHITE CANVAS DRAWSTRING BAGS. AND IT WAS THE
15 PEOPLE'S OWN WITNESS THAT SAYS THIS IS HOW GOLD IS
16 DELIVERED. SO WE HAVE THAT SEPARATE AND APART FROM ANY
17 PRY MARK ON THE SAFE OR WHERE THAT CAME FROM. THERE IS
18 EVIDENCE THAT SOMETHING WAS STOLEN FROM THIS HOUSE
19 WITH -- AND IT WAS TAKEN AWAY IN WHITE CANVAS BAGS.

20 THE COURT: IF YOU HAVE EVIDENCE THAT SOMETHING
21 WAS STOLEN FROM THE HOUSE, YOU CAN PRESENT THAT EVIDENCE.
22 HOWEVER, WHAT I'M HEARING IS NOT EVIDENCE THAT SOMETHING
23 WAS STOLEN FROM THE HOUSE. YOU ARE TRYING TO GET IN A
24 STATEMENT MADE BY THE VICTIM WHICH WOULD BE HEARSAY
25 UNLESS IT QUALIFIES UNDER AN EXCEPTION. THE EXCEPTION I
26 DON'T BELIEVE IS APPLICABLE BECAUSE IT IS NOT AN ISSUE IN
27 THIS CASE.

28 IF THERE IS EVIDENCE THAT, IN FACT, THERE

1 WAS GOLD IN THE HOUSE AND THERE WAS GOLD TAKEN, YOU CAN
2 PRESENT IT. BUT SO FAR I DON'T HAVE ANY OF THAT. YOUR
3 OFFER OF PROOF AS TO THE STATEMENT, EVEN ASSUMING IT
4 COMES IN AS A STATE OF MIND EXCEPTION, WHICH I DON'T
5 THINK IT DOES, THE RELEVANCE OF THAT IS SPECULATIVE AT
6 BEST. SO I THINK WE'RE BACK TO SQUARE ONE.

7 MS. SARIS: WE WOULD THEN I WOULD ASK TO BE ABLE
8 TO AT LEAST ASK OFFICER LAPORTE ABOUT ERIC MILLER'S
9 STATEMENT. BECAUSE THEY WERE ALLOWED TO TESTIFY THAT
10 NOTHING OF VALUE WAS TAKEN FROM THIS HOUSE. AND OFFICER
11 LAPORTE HAD ERIC MILLER'S STATEMENT AND DID NOTHING WITH
12 IT. IF WOULD NOT BE OFFERED FOR THE TRUTH, BUT FOR THE
13 ABSOLUTE FAILURE TO INVESTIGATE WHETHER OR NOT THERE WERE
14 VALUABLES IN THIS GARAGE. AND THEY WERE ALLOWED TO GET
15 INTO THAT; THEY OPENED THE DOOR AS TO --

16 THE COURT: YOU CAN PRESENT ALL YOU WANT ABOUT
17 THE FAILURE TO INVESTIGATE. I DON'T THINK I'VE EVER
18 PREVENTED YOU FROM DOING THAT. BUT A STATEMENT MADE BY
19 MR. THOMPSON PRIOR TO THE MURDERS THAT HE WAS GOING TO
20 BUY GOLD DOESN'T LEAD US ANYWHERE.

21 MS. SARIS: WELL, OFFICER LAPORTE SPOKE TO ERIC
22 MILLER. AND ERIC MILLER ADVISED HIM ABOUT THIS
23 STATEMENT. AND YET THEY COME INTO -- THE POLICE COME
24 INTO THE COURT -- LAPORTE IS ONE OF THE INVESTIGATING
25 OFFICERS. AND THEY'VE SAID WE HAVE NO EVIDENCE OF ANY
26 VALUABLES TAKEN FROM THE HOME.

27 SO I THINK THAT HAS OPENED THE DOOR FOR US
28 TO BE ABLE TO SAY: DID YOU LOOK INTO THIS BASED ON

1 ANYTHING ERIC MILLER TOLD YOU? DID YOU ATTEMPT TO FIND
2 OUT WHETHER MICKEY THOMPSON HAD MADE A RECENT PURCHASE OF
3 GOLD?

4 THE COURT: I THINK IN ALL HONESTY, YOU CAN ASK
5 THE QUESTION AS TO WHAT THEY DID OR WHAT THEY DIDN'T DO
6 WITHOUT ASSUMING FACTS THAT AREN'T IN EVIDENCE YOU CAN
7 CERTAINLY ASK THOSE QUESTIONS.

8 SO DO WE HAVE ALL OFFER JURORS HERE?

9 THE CLERK: YES, THEY'RE ALL HERE.

10 THE COURT: ALL RIGHT. I DON'T THINK ANYTHING
11 HAS CHANGED FROM YESTERDAY AFTERNOON, QUITE FRANKLY.

12 MR. DIXON: THANK YOU, YOUR HONOR, FOR HEARING
13 THE ARGUMENT.

14 THE COURT: AND WHILE WE'RE WAITING, THE DEFENSE
15 HAS PROVIDED A RETURN ON A SUBPOENA THAT WAS SERVED ON A
16 DEPUTY R. ESTRADA REQUIRING HIS APPEARANCE ON DECEMBER --
17 WAS THAT DECEMBER --

18 MS. SARIS: I WANT TO SAY THAT WAS FOR THE 8TH.
19 AND WE SPOKE AND HE AGREED TO COME IN MONDAY MORNING. HE
20 SAID THE 8TH WAS HIS DAY OFF AND HE DID NOT APPEAR. WE
21 CALLED HIS SUBPOENA CONTROL THIS MORNING. AND NOW
22 THEY'RE ADVISING US THAT HE DIDN'T RECEIVE IT, WHICH I
23 KNOW NOT TO BE TRUE BECAUSE I SPOKE TO HIM. OUR
24 INVESTIGATOR IS OUT IN THE HALLWAY.

25 THE COURT: WHERE IS DEPUTY ESTRADA?

26 MS. SARIS: HE WORKS AT -- I WANT TO SAY COMPTON.
27 IS THE ADDRESS IN COMPTON ON THAT? HE WAS SERVED THROUGH
28 HIS SUBPOENA -- HE IS CURRENTLY EMPLOYED AS A POLICE

1 OFFICER. MAY I HAVE JUST A MOMENT. I CAN ASK MR. FOX.

2 THE COURT: YES, IT LOOKS LIKE IT'S COMPTON.

3 MS. SARIS: I BELIEVE IT IS THE COMPTON STATION.

4 THE COURT: WELL, CAN ANYONE ASSIST IN BRINGING
5 HIM IN OR DO I HAVE TO ISSUE A WARRANT FOR HIS ARREST?

6 MS. SARIS: HOW ABOUT -- WE HAVE A COUPLE CALLS
7 INTO HIM. PERHAPS AT THE LUNCH HOUR WE CAN MAKE THAT
8 DETERMINATION WHETHER WE NEED TO PROVIDE HIM
9 TRANSPORTATION VIA THE SHERIFF'S DEPARTMENT.

10 THE COURT: WELL, THE COURT DOESN'T HAVE THE
11 ABILITY TO PROVIDE TRANSPORTATION. I CAN ONLY ISSUE A
12 WARRANT FOR HIS ARREST. AND I'M HOPING THAT THERE IS AN
13 ALTERNATIVE.

14 MS. SARIS: MR. FOX IS TRYING TO REACH HIM AND SO
15 IS SUBPOENA CONTROL.

16 THE COURT: ALL RIGHT.

17
18 (THE JURY ENTERED THE COURTROOM
19 AND THE FOLLOWING PROCEEDINGS WERE
20 HELD IN OPEN COURT.)

21
22 THE COURT: ALL RIGHT. ALL OUR JURORS AND
23 ALTERNATES ARE ONCE AGAIN PRESENT IN THE TRIAL MATTER.
24 THE PARTIES ARE PRESENT.

25 GOOD MORNING, LADIES AND GENTLEMEN. I
26 THINK EVERYBODY HAS PAPER AND PENCILS. AND THE DEFENSE
27 MAY CALL THEIR NEXT WITNESS.

28 MR. SUMMERS: THANK YOU, YOUR HONOR. DEFENSE

1 CALLS JACKIE SOUTHERN TO THE STAND.

2

3

JACKIE SOUTHERN,

4

CALLED BY THE DEFENSE AS A WITNESS, WAS

5

SWORN AND TESTIFIED AS FOLLOWS:

6

7

THE CLERK: MA'AM, RIGHT THERE IS FINE. PLEASE

8

RAISE YOUR RIGHT HAND.

9

YOU DO SOLEMNLY STATE THAT THE TESTIMONY

10

YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT

11

SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE

12

TRUTH SO HELP YOU GOD.

13

THE WITNESS: I DO.

14

THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,

15

WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST

16

NAME FOR THE RECORD.

17

THE WITNESS: FIRST NAME JACKIE, J-A-C-K-I-E,

18

LAST NAME SOUTHERN, S-O-U-T-H-E-R-N.

19

THE CLERK: THANK YOU.

20

THE COURT: YOU MAY INQUIRE.

21

MR. SUMMERS: THANK YOU.

22

23

DIRECT EXAMINATION

24

BY MR. SUMMERS:

25

Q GOOD MORNING, MISS SOUTHERN.

26

A GOOD MORNING.

27

Q MA'AM, IN JANUARY OF 1988, HOW WERE YOU

28

EMPLOYED?

1 A I WAS EMPLOYED AT REPUBLIC RECORDS STORAGE
2 FOR ONE. AND EMPLOYED BY VARIOUS TRUSTEES THROUGHOUT
3 L.A. AND ORANGE COUNTY FOR THE BANKRUPTCY COURTS.

4 Q THAT WAS MY NEXT QUESTION IS IF YOU WORKED
5 IN CONJUNCTION WITH THE BANKRUPTCY COURTS IN SOUTHERN
6 CALIFORNIA --

7 A YES.

8 Q AND IF YOU COULD JUST LET ME FINISH, EVEN
9 THOUGH YOU KNOW MAYBE WHAT I'M GOING TO SAY BEFORE YOU
10 ANSWER. IT WOULD HELP THE COURT REPORTER.

11 YOU INDICATED THAT YOU WORKED WITH CERTAIN
12 BANKRUPTCY TRUSTEES. DOES THE NAME JEFFREY COYNE RING A
13 BELL?

14 A YES.

15 Q HOW SO?

16 A HE WAS A TRUSTEE IN ORANGE COUNTY THAT WE
17 DID VARIOUS CASES FOR.

18 Q AND AT SOME POINT, AROUND THAT TIME PERIOD
19 THAT I MENTIONED, JANUARY OF 1988, DID YOU COME TO TAKE
20 POSSESSION OF A MERCEDES VEHICLE?

21 A YES, SIR. I CAN'T GIVE THE EXACT DATE.

22 Q NOW, LET ME ASK YOU A LITTLE BIT ABOUT HOW
23 EXACTLY IT WORKED. WHEN YOU WERE CALLED UPON TO TAKE
24 POSSESSION, FOR EXAMPLE, WHEN YOU WERE CALLED UPON BY A
25 BANKRUPTCY TRUSTEE TO DO THAT, IS THAT -- HOW WOULD THAT
26 TAKE PLACE? WAS THAT AN INVOLUNTARY OR FORCIBLE TAKING
27 ON YOUR PART OR BY SOME SORT OF AGREEMENT?

28 A THE TRUSTEE WOULD USUALLY MAKE THE

1 AGREEMENT WITH THE BANKRUPT. AND THEN CONTACT US AND A
2 TIME WAS SET UP WITH THE BANKRUPT THEMSELVES. AND WE
3 WOULD MEET AND THEY WOULD TURN OVER WHATEVER ITEMS THAT
4 WAS REQUESTED BY THE COURTS.

5 Q OKAY. SO IF THERE WAS A VEHICLE INVOLVED,
6 FOR EXAMPLE, WERE YOU -- YOU WERE NOT IN THE BUSINESS OF
7 REPOSSESSING OR DOING REPO WORK?

8 A NO.

9 Q IF WHEN YOU WENT OUT TO ONE OF THESE
10 APPOINTMENTS TO TAKE POSSESSION OF PROPERTY, IF THERE WAS
11 ANY HOSTILITY OR RESISTANCE, WHAT WAS IT YOUR PRACTICE TO
12 DO IF THAT PRESENTED ITSELF?

13 A WE WOULD JUST LEAVE AND CONTACT THE
14 TRUSTEE AND EXPLAIN THE SITUATION AND THEY WOULD TAKE
15 OVER FROM THERE.

16 MR. SUMMERS: YOUR HONOR, I HAVE A ONE-PAGE
17 DOCUMENT IN MY HAND. I WOULD ASK THAT BE MARKED NEXT IN
18 ORDER. I THINK IT --

19 THE COURT: RRR.

20
21 (MARKED FOR IDENTIFICATION DEFENSE'S
22 EXHIBIT NO. RRR, DOCUMENTS.)

23
24 MR. SUMMERS: MAY I APPROACH, YOUR HONOR?

25 THE COURT: YES.

26 MR. SUMMERS: THANK YOU.

27 Q MA'AM, I'M HANDING YOU WHAT HAS BEEN
28 MARKED AS DEFENSE RRR. FIRST OF ALL, DO YOU RECOGNIZE

1 THAT DOCUMENT? HAVE YOU SEEN THAT DOCUMENT BEFORE?

2 A WHEN IT WAS FAXED TO ME.

3 Q OKAY. DO YOU RECOGNIZE ANYTHING IN
4 PARTICULAR THAT'S ASSOCIATED WITH YOURSELF IN THAT
5 DOCUMENT?

6 A MY SIGNATURE.

7 Q OKAY. AND DURING THE TIMES WHERE YOU
8 WOULD TAKE POSSESSION OF PROPERTY AS PART OF YOUR WORKING
9 WITH THE TRUSTEES AND WORKING WITH THE STORAGE COMPANY,
10 WOULD YOU HAVE OCCASION TO SIGN RECEIPTS FOR PROPERTY
11 THAT YOU TOOK POSSESSION OF?

12 A YES.

13 Q AND THAT'S BECAUSE YOU WOULD BE -- ONCE
14 YOU TOOK POSSESSION, YOU WERE LIABLE FOR THE PROPERTY
15 THAT YOU TOOK?

16 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.

17 THE COURT: SUSTAINED.

18 Q BY MR. SUMMERS: WHAT IS THE SIGNIFICANCE
19 OF SIGNING A RECEIPT IN THE JOB THAT YOU WERE WORKING AT
20 THAT TIME?

21 A THAT WE HAD TAKEN POSSESSION OF THE ASSETS
22 FROM THE BANKRUPT THEMSELVES IN ORDER TO -- FOR STORAGE.

23 Q THIS PARTICULAR MERCEDES THAT WE HAVE BEEN
24 DISCUSSING, DO YOU RECALL WHERE YOU WENT TO TAKE
25 POSSESSION OF THAT VEHICLE?

26 A I DON'T REMEMBER THE EXACT TOWN.

27 Q DO YOU HAVE IN MIND A PARTICULAR
28 GEOGRAPHIC AREA THAT IT WOULD HAVE BEEN?

1 A I WANT TO SAY THE LAGUNA AREA.

2 Q AND WAS ANYBODY WITH YOU WHEN YOU TOOK
3 POSSESSION OF THE MERCEDES?

4 A MY HUSBAND.

5 Q DO YOU RECALL HOW IT ACTUALLY CAME ABOUT
6 THAT, ON THAT PARTICULAR OCCASION, YOU TOOK POSSESSION OF
7 THAT MERCEDES?

8 A YES.

9 Q HOW?

10 A MY HUSBAND DROVE TO THE LOCATION. I GOT
11 OUT OF THE VEHICLE. I STAYED IN THE DRIVEWAY BY THE
12 VEHICLE. MY HUSBAND APPROACHED THE FRONT GATE. I
13 BELIEVE THERE WAS AN INTERCOM SYSTEM. AND HE WENT TO THE
14 GATE. SOMEONE CAME TO THE GATE. I DIDN'T HEAR ANYTHING.
15 I DIDN'T SEE ANYONE. AND BASICALLY FROM WHAT I REMEMBER
16 HE WAS HANDED THE KEYS AND BROUGHT THE KEYS OVER TO ME.

17 Q THE DOCUMENT THAT I BELIEVE YOU STILL HAVE
18 IN FRONT OF YOU, WOULD IT HAVE BEEN YOUR HABIT OR CUSTOM
19 TO SIGN RECEIPTS THAT WERE INACCURATE, THAT INCLUDED
20 INACCURATE INFORMATION?

21 A NO. I JUST DO NOT REMEMBER SIGNING THIS
22 PARTICULAR RECEIPT.

23 Q DOES THE RECEIPT INDICATE A PARTICULAR
24 TIME OF DAY?

25 A YES.

26 MR. JACKSON: OBJECTION. THE RECEIPT IS HEARSAY,
27 YOUR HONOR.

28 THE COURT: WELL, OVERRULED. THE ANSWER CAN

1 REMAIN.

2 Q BY MR. SUMMERS: AND IS THE TIME OF DAY
3 THAT'S REFLECTED --

4 MR. JACKSON: OBJECTION. COUNSEL IS LEADING AND
5 THAT QUESTION IS GOING TO CALL FOR HEARSAY.

6 THE COURT: IT MAY OR MAY NOT. GO AHEAD AND ASK
7 THE QUESTION, PLEASE.

8 MR. SUMMERS: IT'S FOUNDATIONAL, YOUR HONOR.

9 Q IS THE TIME OF DAY THAT'S REFLECTED IN
10 THERE, IS THAT CONSISTENT WITH YOUR RECOLLECTION OF
11 TAKING POSSESSION OF THE MERCEDES?

12 MR. JACKSON: I APOLOGIZE. MY MISTAKE.

13 THE WITNESS: YES.

14 Q BY MR. SUMMERS: AND THERE ARE SOME
15 BUSINESS CARDS AFFIXED -- OR IN THAT DOCUMENT THEY ARE
16 ACTUALLY XEROXED. THAT'S A COPY; CORRECT?

17 A CORRECT.

18 Q AND THERE ARE SOME BUSINESS CARDS THAT
19 APPEAR TO HAVE BEEN COPIED WITH THE DOCUMENT?

20 A CORRECT.

21 Q DO YOU RECOGNIZE THOSE BUSINESS CARDS?

22 A YES, I DO.

23 Q AND WHAT DO YOU RECOGNIZE ABOUT THEM?

24 MR. JACKSON: OBJECTION. HEARSAY.

25 THE COURT: OVERRULED.

26 YOU CAN ANSWER.

27 THE WITNESS: THE BUSINESS CARDS ARE OF PAUL
28 WURSTER AND DONNA NEEDLE, WHO WERE CO-OWNERS IN THE

1 REPUBLIC RECORDS STORAGE COMPANY. W-U-R-S-T-E-R.

2 Q BY MR. SUMMERS: DOES THE RECEIPT INDICATE
3 THAT THERE WAS ANYTHING ELSE THAT WAS RECOVERED WITH THE
4 VEHICLE OR INSIDE THE VEHICLE?

5 MR. JACKSON: OBJECTION. THE RECEIPT IS HEARSAY.

6 THE COURT: IT MAY BE, BUT THAT CALLS FOR A YES
7 OR NO ANSWER. SO OVERRULED.

8 THE WITNESS: YES.

9 Q BY MS. SARIS: AND IS THAT -- IS WHAT IS
10 REFLECTED THERE CONSISTENT WITH YOUR MEMORY OF THE
11 MERCEDES THAT YOU TOOK POSSESSION OF?

12 A THERE WAS SOMETHING IN THE BACK SEAT, YES,
13 I CAN'T SAY EXACTLY WHAT.

14 Q WAS IT A -- CAN YOU REMEMBER --

15 A SOME TYPE OF OFFICE EQUIPMENT, A PRINTER
16 SOMETHING ON THAT ASPECT; A COMPUTER. I'M NOT SURE.

17 Q THE MERCEDES THEN THAT I BELIEVE -- IS IT
18 YOUR TESTIMONY THAT YOU DROVE BACK TO REPUBLIC STORAGE?

19 A YES, SIR.

20 Q AND DO YOU RECALL HOW LONG IT REMAINED IN
21 STORAGE?

22 A NO, I DON'T.

23 Q DO YOU RECALL ULTIMATELY WHAT HAPPENED TO
24 THE MERCEDES?

25 A EVENTUALLY IT WAS AUCTIONED.

26 Q AND WHEN THE MERCEDES WAS RETURNED BACK TO
27 THE STORAGE FACILITY, WAS IT STORED WITH OTHER PROPERTY
28 HAVING TO DO WITH THAT BANKRUPT?

1 A YES, BUT SEPARATELY.

2 Q OKAY. THERE IS -- YOU KEPT RECORDS AT
3 THIS FACILITY?

4 A YES, SIR.

5 Q AND THAT'S HOW YOU KNOW THAT EVEN THOUGH
6 IT WAS KEPT SEPARATELY, IT WAS ASSOCIATED WITH THE SAME
7 BANKRUPT?

8 A YES.

9 Q I WOULD LIKE TO SHOW WHAT YOU HAS
10 PREVIOUSLY BEEN MARKED AS DEFENSE W. IT'S BEEN
11 IDENTIFIED BY MR. COYNE AS A TRUSTEE AS INVENTORY DATED
12 APRIL 15 OF '88.

13 MA'AM, DO YOU RECALL THAT I SHOWED YOU A
14 COPY OF THIS DOCUMENT EARLIER THIS MORNING?

15 A YES, SIR.

16 Q AND BEFORE YOU TAKE A LOOK AT THAT IF I
17 CAN JUST ASK YOU: DO YOU REMEMBER THE OTHER ITEMS OF
18 PROPERTY THAT THE MERCEDES WAS STORED WITH?

19 A NOT ALL OF THEM, NO.

20 Q WOULD IT -- DID I ASK YOU IF LOOKING AT
21 THAT DOCUMENT WOULD REFRESH YOUR RECOLLECTION ABOUT OTHER
22 ITEMS THAT MIGHT HAVE BEEN STORED WITH THE MERCEDES?

23 A YES, SIR.

24 Q AND DID IT?

25 A YES.

26 Q WHAT PARTICULAR ITEM DO YOU RECALL AFTER
27 LOOKING AT THAT DOCUMENT?

28 A A TRAILER STORED WITH VARIOUS THINGS

1 INSIDE.

2 Q NOW DO YOU RECALL THE NAME OF ANY
3 PARTICULAR AUCTIONEERS THAT YOU WORKED WITH AT THAT TIME?

4 A I WORKED WITH HARRY INGLESON. I WORKED
5 WITH OSTRIN AND OSTRIN. AND JUST SOME VARIOUS DIFFERENT
6 AUCTIONEERS.

7 Q DID SOMETHING HAPPEN WITH THIS MERCEDES
8 AFTER YOU SEIZED IT THAT CAUSED IT TO STAND OUT IN YOUR
9 MIND?

10 A YES, SIR.

11 Q WHAT WAS THAT?

12 A THERE WAS INTEREST IN IT THROUGH SOME LAW
13 ENFORCEMENT AGENCY -- I'M NOT SURE WHICH -- THAT CAME IN
14 TWICE TO MY KNOWLEDGE THAT I CAN REMEMBER THAT TORE THE
15 CAR APART.

16 Q NOW HAVE YOU BEEN CONTACTED BY ANYONE
17 ABOUT THIS PARTICULAR MERCEDES OR THIS INCIDENT IN THE
18 LAST 18 YEARS?

19 A JUST YOURSELF.

20 Q AND HOW LONG AGO DID I FIRST COME
21 WANDERING INTO YOUR LIFE?

22 A A COUPLE THREE MONTHS POSSIBLY.

23 Q AND I SENT YOU A -- FAXED YOU A COPY OF
24 THAT DOCUMENT THAT YOU HAVE, DEFENSE RRR?

25 A YES, SIR.

26 Q AND WE DISCUSSED IT?

27 A YES, SIR.

28 Q AND WE DISCUSSED OTHER DETAILS THAT YOU

1 WERE ABLE TO REMEMBER ABOUT A PARTICULAR MERCEDES?

2 A YES, SIR.

3 Q HAVE YOU HAD ANY CONTACT WITH MICHAEL
4 GOODWIN?

5 A NO, SIR.

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

7 THE COURT: CROSS-EXAMINATION?

8 MR. JACKSON: THANK YOU, YOUR HONOR.

9

10 CROSS-EXAMINATION

11 BY MR. JACKSON:

12 Q DO YOU KNOW WHAT THE HISTORY OF THAT CAR
13 WAS BEFORE YOU SEIZED IT, MA'AM?

14 A NO, SIR.

15 MR. JACKSON: NOTHING FURTHER.

16 THE COURT: ANYTHING ELSE?

17 MR. SUMMERS: NO. THANK YOU.

18 THE COURT: THANK YOU. THANK YOU, MA'AM.

19 DEFENSE MY CALL THEIR NEXT WITNESS.

20 MS. SARIS: THANK YOU, YOUR HONOR. DEFENSE CALLS
21 RENE LAPORTE.

22

23 RENE LAPORTE,

24 CALLED BY THE DEFENSE AS A WITNESS, WAS

25 SWORN AND TESTIFIED AS FOLLOWS:

26

27 THE CLERK: YOU DO SOLEMNLY STATE THAT THE

28 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE

1 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH AND
2 NOTHING BUT THE TRUTH SO HELP YOU GOD.

3 THE WITNESS: I DO.

4 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
5 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
6 NAME FOR THE RECORD.

7 THE WITNESS: YES. RENE, R-E-N-E. LAPORTE,
8 L-A-P-O-R-T-E.

9 THE CLERK: THANK YOU.

10 THE COURT: YOU MAY INQUIRE.

11 MS. SARIS: THANK YOU.

12

13 DIRECT EXAMINATION

14 BY MS. SARIS:

15 Q GOOD MORNING, MR. LAPORTE.

16 A GOOD MORNING.

17 Q ARE YOU CURRENTLY RETIRED?

18 A PARDON?

19 Q ARE YOU CURRENTLY RETIRED?

20 A YES, I AM.

21 Q WHAT DID YOU USED TO DO?

22 A I WORKED FOR THE LOS ANGELES COUNTY

23 SHERIFF'S DEPARTMENT.

24 MS. SARIS: YOUR HONOR, IS THAT MIC ON?

25 THE COURT: YES.

26 THE WITNESS: HERE, I'LL SCOOT OVER A BIT. DO I
27 NEED TO REPEAT THAT?

28 Q BY MS. SARIS: NO. NO. I JUST WANT TO

1 MAKE SURE EVERYBODY CAN HEAR.

2 HOW LONG DID YOU WORK AS A LOS ANGELES
3 COUNTY SHERIFF.

4 A 35 YEARS.

5 Q AND WERE YOU WORKING IN 1988?

6 A YES, I WAS.

7 Q AND IN 1988, DID YOU -- WHAT WAS YOUR
8 ASSIGNMENT? WHAT WERE YOU --

9 A I WORKED FOR HOMICIDE BUREAU AS A HOMICIDE
10 INVESTIGATOR.

11 Q WERE YOU A DETECTIVE?

12 A YES.

13 Q DID YOU RESPOND TO THE CRIME SCENE OF THE
14 HOME OF MICKEY AND TRUDY THOMPSON ON MARCH 16, 1988?

15 A YES, I DID.

16 Q AND WHEN YOU WERE THERE, DID YOU HAVE
17 OCCASION TO INTERVIEW A NEIGHBOR BY THE NAME OF LANCE
18 JOHNSON?

19 A YES.

20 Q AS YOU SIT HERE NOW, DO YOU RECALL
21 SPECIFICALLY INTERVIEWING HIM?

22 A YES, I DO.

23 Q DO YOU RECALL THE SPECIFICS OF THE
24 INTERVIEW?

25 A SOME.

26 Q DID YOU HAVE AN OPPORTUNITY TO REVIEW YOUR
27 NOTES REGARDING THIS INTERVIEW?

28 A YES, I DID.

1 Q IF YOU COULD, COULD YOU TELL US -- AND IF
2 YOU NEED TO REFRESH YOUR RECOLLECTION WITH YOUR NOTES OR
3 LOOK AT THOSE, LET ME KNOW -- WHAT IT IS MR. JOHNSON TOLD
4 YOU ABOUT WHAT HE HEARD THAT MORNING?

5 A WELL, HE SAID THAT HE HAD HEARD -- I WOULD
6 LIKE TO LOOK AT MY NOTES AGAIN. I'M TRYING TO REMEMBER
7 THE TIME.

8 MS. SARIS: MAY I APPROACH?

9 THE COURT: YES.

10 Q BY MS. SARIS: LET ME ASK YOU FIRST OFF,
11 DOES THAT APPEAR TO BE YOUR HANDWRITING?

12 A YES, IT IS.

13 Q AND WOULD IT HAVE BEEN YOUR HABIT AND
14 PRACTICE TO TAKE NOTES IN YOUR OWN HANDWRITING IN A
15 NOTEBOOK AS YOU WERE INTERVIEWING THE WITNESSES?

16 A YES.

17 Q AND WOULD YOU HAVE WRITTEN DOWN TO THE
18 BEST OF YOUR ABILITY WHAT THEY SAID TO YOU?

19 A CORRECT.

20 Q SO COULD YOU TELL US, PLEASE, WHAT
21 MR. JOHNSON SAID TO YOU ABOUT WHAT HE HEARD SPECIFICALLY?

22 MR. DIXON: OBJECTION. MAY WE APPROACH?

23

24 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

25 THE COURT: OKAY. WHAT IS THE OBJECTION?

26 MR. DIXON: WELL, THE OBJECTION IS -- IT MIGHT
27 GET A LITTLE COMPLICATED, SO I DIDN'T WANT TO SAY IT FROM
28 OUT THERE. IT DOESN'T APPEAR THAT HE IS REFRESHING HIS

1 MEMORY BECAUSE MS. SARIS ASKED HIM TO READ HIS NOTES.
2 AND IF THAT'S THE CASE, THEN I DON'T BELIEVE THIS IS -- A
3 PROPER FOUNDATION HAS BEEN LAID UNDER 1237, PAST
4 RECOLLECTION RECORDED.

5 THE COURT: RIGHT.

6 MR. DIXON: AND, IN FACT, I DON'T BELIEVE THAT HE
7 CAN TESTIFY AS TO SOMEBODY ELSE'S STATEMENT AS TO PAST
8 RECOLLECTION RECORDED. MY READING OF THAT SECTION
9 SUGGESTS THAT ONLY THE PERSON WHO MADE THE STATEMENT CAN
10 TESTIFY. AND I BROUGHT THE EVIDENCE CODE UP HERE. AND I
11 THINK IT'S SUPPORTED NOT ONLY BY -- IF I COULD FINISH,
12 PLEASE -- BY THE LANGUAGE OF THE SECTION, BUT ALSO BY THE
13 COMMENTS FROM THE ASSEMBLY JUDICIARY COMMITTEE IN IT. HE
14 CAN'T DO THIS.

15 MS. SARIS: THE PROBLEM -- IT'S IMPEACHMENT, SO
16 IT'S -- WHATEVER HEARSAY EXCEPTION IS BASED ON THE FACT
17 THAT HE'S SAYING SOMEONE ELSE'S STATEMENT. THIS IS
18 DIRECT IMPEACHMENT. RIGHT NOW I HAVEN'T ASKED HIM TO
19 READ IT FOR THE PURPOSE OF PAST RECOLLECTION, ALTHOUGH IT
20 WOULD FALL UNDER IT. I THINK HE'S GOING TO SAY THIS
21 REFRESHES HIS RECOLLECTION.

22 THE COURT: WELL, THAT'S WHAT WE NEED TO
23 ESTABLISH.

24 MR. DIXON: RIGHT. AND THE REASON I MADE THE
25 OBJECTION AND ASKED TO COME UP HERE IS BECAUSE SHE, I
26 THOUGHT -- AND I MAY HAVE BEEN PREMATURE -- ASKED HIM TO
27 READ IT AND HE WAS ABOUT TO READ HIS NOTES OUT LOUD.

28 THE COURT: WELL, IT LOOKED LIKE HE WAS GOING TO

1 READ HIS NOTES, BUT WE HAVEN'T GOTTEN THERE YET. SO
2 LET'S SEE. IF THE NOTES DO NOT REFRESH HIS MEMORY, THEN
3 YOU ARE GOING TO PROCEED UNDER PAST RECOLLECTION
4 RECORDED?

5 MS. SARIS: YES. AND THE OTHER LEVEL OF HEARSAY
6 IS BASED ON THE INCONSISTENT STATEMENT OF MR. JOHNSON.

7 THE COURT: WHAT IS THE OFFER OF PROOF AS TO
8 MR. JOHNSON'S STATEMENT?

9 MS. SARIS: MR. JOHNSON SAID THAT HE HEARD THE
10 SCREAMING AND THEN THE SHOTS. AND HE'S TOLD THIS OFFICER
11 LIKE HE TOLD THE OTHER THAT HE COULDN'T TELL THE
12 DIFFERENCE BETWEEN WHICH CAME FIRST. AND IT HAS TO DO
13 WITH OUR CRIME SCENE RECONSTRUCTION EVIDENCE.

14 THE COURT: OKAY. WELL, WE WILL SEE WHICH
15 FOUNDATION IS LAID. BUT I THINK SHE'S RIGHT; IF SHE CAN
16 LAY A FOUNDATION UNDER PAST RECOLLECTION RECORDED, I
17 THINK HE CAN TESTIFY TO WHAT HE WROTE DOWN EVEN IF IT
18 INCLUDES A PRIOR INCONSISTENT STATEMENT. BUT IT MAY BE
19 MOOT BECAUSE HE MAY HAVE HIS MEMORY REFRESHED BY NOW.

20 MR. DIXON: OKAY. ALL RIGHT.

21 (SIDEBAR CONCLUDED.)
22

23 Q BY MS. SARIS: MR. JOHNSON, IS YOUR -- I'M
24 SORRY. MR. JOHNSON.

25 MR. LAPORTE, HAS YOUR RECOLLECTION BEEN
26 REFRESHED AS TO WHAT MR. JOHNSON TOLD YOU?

27 A AS TO WHAT JOHNSON SAID, YES.

28 Q AND WHAT DO YOU NOW RECALL HIM SAYING

1 REGARDING WHAT HE HEARD?

2 A WELL, HE SAID THAT IN THE EARLY MORNING
3 HOURS HE WAS AWAKENED BY GUNSHOTS. HE SEEMED TO --
4 AND/OR SOME YELLING. HE THOUGHT -- HE RECALLED -- OR I
5 RECALL HIM TELLING ME THAT HE WAS FAMILIAR WITH HANDGUNS.
6 AND HE THOUGHT IT WAS AN AUTOMATIC THAT HE HEARD. HE
7 TOLD HIS WIFE TO CALL 911. AND HE WENT TO THE BEDROOM
8 WINDOW AFTER HE HAD ARMED HIMSELF WITH A HANDGUN.

9 Q NOW, SPECIFICALLY RELATING TO THE
10 SHOUTS -- OR THE YELLING AND THE GUNSHOTS, COULD HE
11 DISTINGUISHED FOR YOU WHICH CAME FIRST --

12 MR. DIXON: OBJECTION. LEADING.

13 THE COURT: OVERRULED. GO AHEAD AND FINISH THE
14 QUESTION.

15 MS. SARIS: SURE.

16 Q SPECIFICALLY AS TO THAT PORTION OF WHAT HE
17 HEARD, THE SHOTS -- OR THE YELLING AND THE GUNSHOTS, DID
18 HE INDICATE TO YOU IN WHAT ORDER HE HEARD THEM?

19 A I DON'T HAVE A SPECIFIC RECOLLECTION OF
20 THAT, OTHER THAN WHAT IS IN MY NOTES.

21 Q AND WHAT DO YOUR NOTES -- AND LET ME ASK
22 YOU THIS: THE NOTES YOU RECOGNIZE YOUR HANDWRITING IN
23 THOSE NOTES?

24 A YES.

25 Q AND THOSE ARE THE NOTES THAT YOU WERE
26 TAKING WHILE TALKING TO HIM?

27 A YES.

28 Q WITH REGARD TO THAT SPECIFIC ISSUE, CAN

1 YOU TELL US WHAT YOU PUT IN YOUR NOTES REGARDING THAT?

2 A HE SAID HE WASN'T SURE WHETHER HE HEARD
3 THE GUNSHOTS FIRST OR THE YELLING FIRST.

4 Q WERE YOUR ASSIGNMENTS OR DUTIES REGARDING
5 THAT INVESTIGATION OVER THAT DAY? OR DID YOU HAVE
6 OCCASION TO INTERVIEW OTHER WITNESSES IN REGARD TO THIS
7 CASE?

8 A YES. MY PARTNER AND I WERE AN ASSISTING
9 UNIT IN THIS INVESTIGATION. SO WE WERE DIRECTED AS THE
10 WEEKS WENT BY TO INTERVIEW OTHER WITNESSES.

11 Q AND WHO WAS YOUR PARTNER?

12 A RUSSEL ULOTH.

13 Q AND IN TERMS OF OTHER WITNESSES, DID YOU
14 HAVE OCCASION TO INTERVIEW A GENTLEMAN BY THE NAME OF
15 ERIC OR RICK MILLER ON APRIL 15TH OF 1988?

16 A MY NOTES INDICATE THAT I DID.

17 Q AND, AGAIN, ARE THESE NOTES THAT YOU WOULD
18 HAVE TAKEN CONTEMPORANEOUS WITH YOUR INTERVIEW WITH
19 MR. MILLER?

20 A CORRECT.

21 Q DID MR. MILLER --

22 MR. DIXON: OBJECTION. HEARSAY, YOUR HONOR.
23 AND, AGAIN, I WOULD MAKE AN OBJECTION UNDER 1237. WE
24 DEALT WITH THIS. AND I DON'T THINK THIS QUALIFIES AS
25 ANYTHING OTHER THAN HEARSAY.

26 THE COURT: LET'S GO ON THE SIDEBAR.

27

28 (PROCEEDINGS HELD AT SIDEBAR.)

1 THE COURT: ALL RIGHT. WE'RE AT THE SIDEBAR.

2 WHICH STATEMENT ARE YOU SEEKING TO ELICIT
3 AT THIS TIME?

4 MS. SARIS: THAT MR. MILLER TOLD HIM THAT
5 MR. THOMPSON HAD MADE A LARGE PURCHASE RECENTLY OF GOLD.
6 AND IT'S NOT OFFERED FOR THE TRUTH, BUT OFFERED TO SEE
7 WHAT HE DID AS A RESULT OF THAT INFORMATION; AND TO WHOM
8 HE PASSED THAT INFORMATION ALONG TO; AND WHAT HE DID TO
9 INVESTIGATE THAT.

10 THE COURT: ALL RIGHT. OBJECTION. SUSTAINED.

11 (PROCEEDINGS HELD AT SIDEBAR CONCLUDED.)

12

13 Q BY MS. SARIS: DID YOU ALSO SPEAK TO A
14 GENTLEMAN BY THE NAME OF LEE HASLAM?

15 A I DON'T HAVE A SPECIFIC RECOLLECTION OTHER
16 THAN MY NOTES INDICATE THAT I DID.

17 Q JUST SO WE'RE CLEAR YOUR NOTES INDICATE
18 THAT YOU SPOKE TO BOTH OF THESE GENTLEMEN?

19 A THAT'S CORRECT.

20 Q AND THAT WOULD HAVE BEEN IN APRIL OF '88?

21 A I DIDN'T LOOK AT THE DATE. I KNOW IT WAS
22 SOMETIME AFTER THE SHOOTING.

23 Q WOULD IT BE REFLECTED THE DATE OF YOUR
24 INTERVIEW WITH THEM?

25 A IT WOULD BE IN MY NOTES; CORRECT.

26 Q AND DO YOU HAVE THAT WITH YOU? IS THAT
27 PART OF WHAT YOU HAVE IN FRONT OF YOU? YOU KNOW WHAT, IT
28 MIGHT NOT BE?

1 A NO, IT ISN'T.

2 Q DO YOU RECOGNIZE THIS PORTION OF YOUR
3 NOTES AS ALSO IN YOUR HANDWRITING?

4 A YES, I DO.

5 Q AND WOULD THESE BE PART OF THE NOTES THAT
6 YOU TOOK IN CONNECTION WITH THIS CASE?

7 A THAT'S CORRECT.

8 Q AND DOES THAT INDICATE THE DATE THAT YOU
9 SPOKE TO MR. MILLER?

10 A YES. APRIL 14TH, 1988.

11 Q AND THE DATE THAT YOU SPOKE ON MR. HASLAM?

12 A APRIL 15TH, 1988.

13 Q THANK YOU. AND THAT WOULD HAVE BEEN IN
14 CONNECTION WITH THE MURDERS OF MICKEY AND TRUDY THOMPSON?

15 A THAT'S CORRECT.

16 Q AS A RESULT OF THOSE CONVERSATIONS --
17 WELL, LET ME ASK YOU THIS.

18 YOU SAID THAT YOU WERE ASSIGNED SPECIFIC
19 DUTIES IN THIS INVESTIGATION; IS THAT RIGHT?

20 A THAT'S CORRECT.

21 Q SO WHO ASSIGNED YOU? WHO WAS IN CHARGE AS
22 FAR AS YOU KNEW?

23 A SERGEANT -- OR DEPUTY GRIGGS.

24 Q DO YOU KNOW WHO DEPUTY GRIGGS WAS WORKING
25 WITH.

26 A SERGEANT OLBERHOLTZER.

27 Q AND WHAT WOULD HAVE BEEN YOUR ROLE AFTER
28 YOU INTERVIEWED THESE INDIVIDUALS, WHAT WOULD HAVE YOU

1 HAVE DONE WITH THE INFORMATION THAT YOU OBTAINED FROM
2 ANYONE?

3 A I WOULD HAVE WRITTEN -- OR DICTATED
4 REPORTS. AND THEY WOULD HAVE EVENTUALLY BEEN HANDED OVER
5 TO THEM.

6 Q DID YOU HAVE MEETINGS TOGETHER AS A GROUP
7 OF DETECTIVES?

8 A I'M SURE WE DID.

9 Q WOULD THAT HAVE BEEN NORMAL IN THE COURSE
10 AND HABIT?

11 A THAT'S CORRECT.

12 Q AS A RESULT OF ANY OF THE CONVERSATIONS
13 THAT YOU HAD WITH ANY OF THESE INDIVIDUALS -- WELL, LET
14 ME ASK YOU THIS: DO YOU KNOW -- WHO DO YOU KNOW RICK
15 MILLER TO HAVE BEEN?

16 MR. DIXON: THAT CALLS FOR HEARSAY, TOO.

17 THE WITNESS: I DON'T RECALL.

18 MR. DIXON: THANK YOU.

19 Q BY MS. SARIS: AS A RESULT OF ANY OF THESE
20 CONVERSATIONS, DID YOU INITIATE ANY INVESTIGATION ON YOUR
21 OWN?

22 A I DON'T BELIEVE SO, NO.

23 Q WAS IT YOUR DUTY SIMPLY TO INTERVIEW
24 PEOPLE OR DID YOU ALSO HAVE SOME INVESTIGATIVE DUTIES?

25 A WELL, MY DUTIES WOULD HAVE BEEN AS THOSE
26 DIRECTED BY GRIGGS AND OLBERHOLTZER. AND I ASSUME ON
27 THAT PARTICULAR INSTANCE THEY ASKED US TO INTERVIEW THESE
28 INDIVIDUALS AND THAT'S WHAT WE DID. NOW IF THEY HAD

1 ASKED US TO DO SOMETHING ELSE AFTER, WE WOULD HAVE. BUT
2 IT WOULD HAVE BEEN IN MY NOTES.

3 Q DO YOU HAVE A SPECIFIC RECOLLECTION OF
4 FOLLOWING UP ON THOSE SPECIFIC INTERVIEWS?

5 A NO, I DON'T HAVE A SPECIFIC RECOLLECTION
6 OF THE INTERVIEWS, LET ALONE DOING ANY FOLLOW-UP ON IT.

7 Q DID YOU PERSONALLY TRY TO OBTAIN ANY
8 FINANCIAL RECORDS OR PHONE RECORDS AS A RESULT OF THIS
9 INVESTIGATION?

10 A I DON'T BELIEVE SO. I DON'T THINK I WAS
11 DIRECTED TO DO THAT.

12 Q IS THERE ANY REASON FOR YOU TO BELIEVE, AS
13 YOU SIT HERE NOW, THAT ANY INFORMATION YOU LEARNED FROM
14 YOUR INTERVIEWS WOULD NOT HAVE BEEN PASSED ALONG TO LEAD
15 DETECTIVES?

16 A NO. EVERYTHING WOULD HAVE BEEN IN OUR
17 NOTEBOOKS WHICH WOULD HAVE BEEN GIVEN TO THEM.

18 MS. SARIS: THANK YOU, YOUR HONOR. AT THIS TIME,
19 I HAVE NOTHING FURTHER.

20 THE COURT: CROSS-EXAMINATION?

21 MR. DIXON: THANK YOU. NO QUESTIONS, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU, SIR. THANKS
23 FOR COMING IN.

24 THE WITNESS: THANK YOU, YOUR HONOR.

25 THE COURT: NEXT WITNESS.

26 MS. SARIS: NEXT WITNESS IS JACO SWANEPOEL.

27 J-A-C-O. I GUESS HE WILL SPELL IT IN A MOMENT, BUT
28 S-W-A-N-E-P-O-E-L.

1 THE COURT: THANK YOU.

2 MS. SARIS: I LOOKED IN THE HALLWAY. HE MIGHT
3 HAVE BEEN IN MY OFFICE. YOUR HONOR, MAY WE ORDER
4 MR. LAPORTE ON CALL FOR TOMORROW?

5 THE COURT: ALL RIGHT. I'M GOING TO HAVE YOU
6 REMAIN ON CALL, SIR. DO YOU AGREE TO THAT?

7 THE WITNESS: SURE.

8 THE COURT: THANK YOU.

9 MS. SARIS: THANK YOU.

10

11 JACO SWANEPOEL,
12 CALLED BY THE PEOPLE AS A WITNESS, WAS
13 SWORN AND TESTIFIED AS FOLLOWS:

14

15 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

16 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
17 YOU MAY 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: SO HELP ME GOD.

21 THE CLERK: THANK YOU. PLEASE BE SEATED.

22 THE WITNESS: THANK YOU.

23 THE CLERK: SIR, WOULD YOU PLEASE STATE AND SPELL
24 BOTH YOUR FIRST AND LAST NAME FOR THE RECORD.

25 THE WITNESS: JACOBUS SWANEPOEL. I WILL SPELL MY
26 FIRST NAME, IT'S J-A-C-O-B-U-S. MY LAST NAME IS
27 SWANEPOEL, S-W-A-N-E-P, AS IN PETER, O-E-L.

28 THE CLERK: THANK YOU.

1 THE COURT: YOU MAY INQUIRE.

2
3 DIRECT EXAMINATION

4 BY MS. SARIS:

5 Q THANK YOU. GOOD MORNING, MR. SWANEPOEL.

6 A GOOD MORNING.

7 Q CAN YOU TELL THIS JURY WHAT IT IS YOU DO
8 FOR A LIVING?

9 A I'M A FIREARMS EXAMINER. AND I'M WORKING
10 FOR A COMPANY CALLED FORENSIC ANALYTICAL IN HAYWARD,
11 CALIFORNIA.

12 Q AND WHAT KIND OF TRAINING OR EDUCATION OR
13 EXPERIENCE DO YOU HAVE THAT QUALIFIES YOU FOR THAT?

14 A I GRADUATED FROM SOUTH AFRICAN POLICE
15 SERVICES POLICE COLLEGE BACK IN 1989. AND I ALSO HOLD A
16 SENIOR CERTIFICATE IN POLICE ADMINISTRATION. THIS WAS
17 OBTAINED FROM THE UNIVERSITY OF SOUTH AFRICA. WHEN I WAS
18 DISCHARGED FROM THE SOUTH AFRICAN POLICE SERVICES, I HELD
19 THE RANK OF SUPERINTENDENT. AND I WAS IN COMMAND OF THE
20 FORENSIC PHOTOGRAPHY UNIT OF THE NATIONAL FORENSIC
21 SCIENCE LABORATORY IN SOUTH AFRICA.

22 IN MY 17-ODD YEARS IN THE POLICE, I'VE
23 TESTIFIED OR I'VE EXAMINED IN EXCESS OF 5,000 CRIME
24 SCENES OF WHICH 2,300 WAS FIREARMS RELATED. I HAVE
25 QUALIFIED AS AN EXPERT WITNESS IN BOTH THE REGIONAL AND
26 THE SUPREME COURTS OF SOUTH AFRICA.

27 I'VE ALSO COMPLETED SEVERAL COURSES
28 RELATED TO FIREARMS. ONE IS A THREE-YEAR THEORETICAL AND

1 PRACTICAL APPLICATION OF FIREARMS AND FORENSIC
2 BALLISTICS. I'VE ALSO DONE THREE SCHOOLS WITH THE
3 FEDERAL BUREAU OF INVESTIGATION. AND THESE SCHOOLS WERE
4 IN BULLET RECONSTRUCTION OR BULLET TRAJECTORY
5 RECONSTRUCTION; GUNSHOT AND GUNSHOT RESIDUE
6 RECONSTRUCTION; AS WELL AS TECHNIQUES IN FIREARMS
7 IDENTIFICATION.

8 I HAVE ALSO DONE A CLASS WITH THE
9 CALIFORNIA ASSOCIATION OF CRIMINALISTS SPONSORED BY THE
10 CCI IN WOUND PATHOLOGY. AND I AM AFFILIATED TO THE
11 AMERICAN ASSOCIATION OF FIREARMS AND TOOL MARKS
12 EXAMINERS. I'M ALSO ASSOCIATED TO THE CAC OR THE
13 CALIFORNIA ASSOCIATION OF CRIMINALISTS.

14 I'VE ALSO PASSED SUCCESSFULLY SEVERAL
15 PROFICIENCY TESTINGS -- OFFICIAL PROFICIENCY TESTS
16 COMPILED BY THE COLLABORATIVE TESTING SERVICES IN
17 VIRGINIA. THESE TESTS WERE IN FINGERPRINTS; FIREARMS; AS
18 WELL AS SHOE PRINT IDENTIFICATION.

19 Q SO YOU'VE HAD TRAINING IN THIS COUNTRY BY
20 THE FBI?

21 A THAT IS CORRECT.

22 Q AND WHAT FURTHER AREAS OF EXPERTISE DO YOU
23 HAVE REGARDING -- OR TRAINING REGARDING ACTUAL CRIME
24 SCENE RECONSTRUCTION ITSELF?

25 A I'VE ALSO RECEIVED TRAINING IN THE
26 GATHERING OF FORENSIC EVIDENCE ON CRIME SCENES. AND I'VE
27 RECEIVED TRAINING IN THE RECONSTRUCTION AND THE ATTENDING
28 OF THE INVESTIGATION OF CRIME SCENES.

1 Q SO ARE YOU BEING PAID RIGHT NOW TO CONSULT
2 ON THIS CASE?

3 A YES, I AM.

4 Q AND DO YOU GET PAID FOR CONSULTING ON
5 CASES REGARDLESS OF WHETHER YOU TESTIFY?

6 A YES, I DO.

7 Q AND HOW DO YOU GET PAID?

8 A WELL, ACTUALLY THE COMPANY WHICH I WORK
9 FOR GETS PAID. I ONLY EARN A SALARY FROM THAT COMPANY.

10 Q AND DO YOU KNOW WHO IS PAYING FOR YOUR
11 APPOINTMENT HERE TODAY?

12 A IT'S MY UNDERSTANDING THAT THE COURT PAYS
13 FOR MY APPOINTMENT HERE TODAY.

14 Q NOW, IN THIS CASE WE'RE DEALING WITH A
15 CRIME THAT OCCURRED IN 1988. DID YOU HAVE ANYTHING TO DO
16 WITH THE INITIAL CRIME IN 1988 OR LOOKING AT THE SCENE?

17 A NO, I DID NOT.

18 Q SO WHAT HAVE YOU HAD AN OPPORTUNITY TO
19 EXAMINE TO LET YOU BE ABLE TO SPEAK ABOUT WHAT MIGHT HAVE
20 OCCURRED THAT MORNING?

21 A I'VE HAD THE OPPORTUNITY TO EXAMINE THE
22 ACTUAL EVIDENCE. I RECEIVED EIGHT FIRED CARTRIDGE CASES;
23 I RECEIVED NINE FIRED BULLETS. AND I RECEIVED UNFIRED
24 CARTRIDGES. I'VE ALSO HAD THE OPPORTUNITY TO REVIEW
25 CRIME SCENE REPORTS; EVIDENCE LOCKER REPORTS; FIREARMS
26 REPORTS; AUTOPSY REPORTS FROM MICKEY THOMPSON AND TRUDY
27 THOMPSON.

28 I'VE ALSO HAD THE OPPORTUNITY TO REVIEW

1 CRIME SCENE PHOTOGRAPHS AND A CRIME SCENE VIDEO AND
2 SKETCHES AND DIAGRAMS OF THE CRIME SCENE.

3 Q AND DID YOU EVER PERSONALLY GO TO THE
4 SCENE WHERE THIS OCCURRED?

5 A YES, I DID. IT WAS BACK IN SEPTEMBER WHEN
6 I ATTENDED THE CRIME SCENE FOR A WALK-THROUGH.

7 Q AND WHAT DID YOU DO WHEN YOU SAY
8 "WALK-THROUGH"? WHAT DID YOU SPECIFICALLY DO?

9 A WELL, I JUST FELT THAT IT WAS IMPORTANT
10 THAT I GET A LOOK AT THE SCENE TO SEE -- TO GET THE
11 LAYOUT OF THE SCENE. I WANTED TO RELATE WHAT I'VE SEEN
12 IN THE PHOTOGRAPHS AND WHAT I'VE SEEN IN THE VIDEO AND
13 WHAT I'VE READ IN THE REPORTS BACK TO WHAT IS ACTUALLY ON
14 THE CRIME SCENE.

15 IN OTHER WORDS, WE'RE TALKING ABOUT THE
16 GARAGE DOOR. WHERE IS IT SITUATED? WE ARE TALKING ABOUT
17 THE POSITION OF EXHIBITS. CAN I RELATE BACK WHAT I'VE
18 SEEN IN THE PHOTOGRAPHS TO WHAT I SEE NOW ON THE CRIME
19 SCENE? ALSO, CAN I RELATE BACK THE AREA WHERE THE BODIES
20 WAS FOUND TO WHAT I SEE NOW AT THE CRIME SCENE? AND SO
21 ON.

22 Q SPEAKING OF THE BODIES, WERE THERE ANY
23 PHOTOGRAPHS THAT YOU EXAMINED -- DO YOU RECALL SEEING A
24 PHOTOGRAPH OF THE BODY OF MICKEY THOMPSON LYING ON THE
25 DRIVEWAY?

26 A YES, I DO.

27 Q WAS THERE ANYTHING IN ANY OF THE
28 PHOTOGRAPHS THAT YOU SAW THAT WAS A PERMANENT FIXTURE

1 THAT YOU NOTICED WHEN YOU WENT OUT TO THE CRIME SCENE IN
2 SEPTEMBER?

3 A YES, THERE WAS. THERE WAS A WATER PIPE ON
4 THE SOUTHERN END OF THE DRIVEWAY OPPOSITE THE GARAGE.

5 Q OKAY. AND IS THAT STILL THERE TO THIS
6 DAY?

7 A THAT IS STILL THERE TO THIS DAY.

8 MS. SARIS: IF I CAN HAVE JUST A MOMENT, YOUR
9 HONOR.

10 THE COURT: YES.

11 (PAUSE IN PROCEEDINGS.)

12 Q BY MS. SARIS: I'M GOING TO SHOW YOU WHAT
13 HAS BEEN PREVIOUSLY MARKED AS PEOPLE'S 43 AND DRAW YOUR
14 ATTENTION TO THE PHOTOGRAPH MARKED C IN THE UPPER
15 RIGHT-HAND CORNER. I'LL GIVE YOU THIS POINTER HERE.

16 COULD YOU POINT THAT OUT FOR THE JURORS IF
17 YOU SEE THAT IN THIS PHOTOGRAPH?

18 A YES. THAT IS THE WATER PIPE THAT I'M
19 REFERRING TO (INDICATING).

20 MS. SARIS: YOUR HONOR, HE'S REFERRING TO THE
21 METAL FAUCET BEHIND -- AT THE FEET OF THE BODY OF MICKEY
22 THOMPSON IN PHOTOGRAPH C OF PEOPLE'S 43.

23 THE COURT: YES. THE UPPER LEFT CORNER OF THAT
24 PHOTO.

25 Q BY MS. SARIS: THERE SEEMS TO BE A LIGHT
26 STANDARD ALSO IN THAT PHOTOGRAPH.

27 IS THAT STILL THERE?

28 A YES, THAT IS STILL THERE.

1 Q IN THE EXACT SAME LOCATION?

2 A NO, IT IS NOT. IT APPEARS THAT IT'S BEEN
3 CHANGED. IT'S NOW MOVED MORE TOWARDS THE LEFT OF THE
4 PICTURE.

5 Q BUT THE SO -- SO IF -- IN ORDER TO ORIENT
6 YOU WHEN YOU WENT IN SEPTEMBER, YOU USED THE WATER
7 FAUCET?

8 A YES, I DID.

9 Q OKAY. WHEN YOU SAID YOU EXAMINED THE
10 ACTUAL EVIDENCE, PHYSICALLY YOU ACTUALLY SAW THE BULLETS
11 AND THE CASINGS AND THE LIVE ROUNDS?

12 A YES, I DID.

13 Q AND HOW DID THAT HAPPEN?

14 A IT WAS SENT TO OUR LABORATORY FROM L.A.
15 COUNTY SHERIFF'S OFFICE.

16 Q DID EVERYTHING THAT WAS PROMISED TO YOU
17 ACTUALLY ARRIVE?

18 A NO. I RECEIVED AN EMPTY ENVELOPE MARKED
19 ITEM NO. 6 AND I DID NOT FIND ITEM NO. 6, WHICH I BELIEVE
20 WAS TO BE A LIVE ROUND. THAT WAS NOT IN THE ENVELOPE.

21 Q WAS THERE AN ENVELOPE THAT SAID 6 SHOULD
22 BE INSIDE?

23 A IT WAS JUST AN ENVELOPE MARKED NO. 6. SO
24 I WAS ASSUMING THAT ITEM NO. 6 SHOULD BE INSIDE, YES.

25 Q OTHER THAN NO. 6, WERE YOU ABLE TO EXAM
26 ALL THE OTHER CARTRIDGES, LIVE ROUNDS, AND EXPENDED
27 CASINGS?

28 A YES. I EXAMINED THE CARTRIDGE CASES. AND

1 I EXAMINED THE LIVE -- EXCUSE ME -- THE FIRED BULLETS.
2 ITEM NO. 6 WASN'T RECEIVED, SO I DID NOT EXAMINE THAT.
3 AND I DID NOT PHYSICALLY OR MICROSCOPICALLY LOOK AT THE
4 LIVE ROUNDS.

5 Q NOW, WERE YOU ABLE TO MAKE ANY
6 DISTINCTIONS AT ALL IN TERMS OF YOUR LABORATORY WORK
7 REGARDING THE BULLETS OR THE CASINGS?

8 A YES. I WAS ABLE TO -- AFTER
9 MICROSCOPICALLY EXAMINING THE FIRED CARTRIDGE CASES, I
10 PUT THEM INTO TWO SEPARATE GROUPS. WHAT I MEAN BY THAT
11 IS THAT ONE GROUP WAS FIRED BY ONE FIREARM, WHILE FOUR
12 OTHER CARTRIDGES WAS FIRED BY A DIFFERENT FIREARM.

13 Q I WANT TO SHOW YOU A DEFENSE EXHIBIT
14 THAT'S BEEN PREVIOUSLY REFERRED TO -- WELL, ACTUALLY,
15 IT'S BEEN PREVIOUSLY REFERRED TO AS MISLEADING, BUT IT'S
16 BEEN MARKED DEFENSE YY.

17 DO YOU RECOGNIZE THIS DIAGRAM?

18 A YES, I DO.

19 Q AND THERE IS A LEGEND IN THE LEFT CORNER.
20 DO YOU RECOGNIZE THAT LEGEND?

21 A YES, I DO.

22 Q AND IN THIS DIAGRAM IF YOU WILL JUST
23 QUICKLY GO THROUGH THE LEGEND FOR US AS YOU RECOGNIZE IT
24 TO REPRESENT IN THIS DIAGRAM?

25 A ALL RIGHT. FIRST OF ALL, WE HAVE LITTLE
26 CIRCLES WHICH REPRESENTS THE FIRED CARTRIDGE CASINGS. IF
27 WE START AT THE BOTTOM OF THE CRIME SCENE, YOU WILL SEE
28 THAT WE HAVE ITEM NO. 2; AND WE HAVE ITEM NO. 8; ITEM

1 NO. 18; ITEM NO. 11; ITEM NO. 13, 14, 15, AND ITEM
2 NO. 20.

3 Q AND THE TRIANGLES?

4 A OH, I'M SORRY. THE TRIANGLES REPRESENT
5 THE FIRED BULLETS. AGAIN, IF WE START AT THE BOTTOM
6 YOU'LL SEE THAT WE HAVE TWO FIRED BULLETS, NUMBER ITEMS
7 29 AND 30 RIGHT NEXT TO EACH OTHER. NO. 4 IS A FRAGMENT
8 OF A FIRED BULLET. THEN WE HAVE ITEM NO. 19 AND ITEM 27.
9 AND WE ALSO HAVE ITEM NO. 24; NO. 25; NO. 16 AND NO. 17.

10 Q NOW, LET ME STOP YOU THERE. WE'VE PUT
11 ITEM NO. 28 AND 29 AT THE BOTTOM NEAR THE SILHOUETTE OF A
12 FIGURE. WHERE WERE THOSE ACTUALLY FOUND BASED ON YOUR
13 REVIEW OF THE REPORTS?

14 A YOU MEAN ITEM NO. 29 AND 30?

15 Q 29 AND 30. I'M SORRY.

16 A ITEMS 29 AND 30 WAS NOT RECOVERED AT THE
17 CRIME SCENE. IT WAS RECOVERED DURING THE AUTOPSY OF
18 TRUDY THOMPSON. ITEM 29 WAS FOUND IN THE BLOUSE OF TRUDY
19 THOMPSON WHILE SHE WAS BEING UNDRESSED; WHILE ITEM
20 NO. 30 WAS FOUND INSIDE THE SKULL OF TRUDY THOMPSON.

21 Q AND YOU HAVE JUST REPRESENTED THOSE IN THE
22 DIAGRAM NEAR THE BODY?

23 A THAT'S CORRECT.

24 Q AND THE ITEMS THAT ARE BULLET SHAPED, WHAT
25 ARE THOSE?

26 A THOSE ARE THE LIVE ROUNDS THAT WE REFERRED
27 TO EARLIER. THESE LIVE ROUNDS WERE NOT FIRED BY ANY OF
28 THE FIREARMS IN THE SCENE OR ON THE VIEWS. YOU CAN FIND

1 ITEM NO. 3 IN THE VICINITY OF TRUDY THOMPSON'S BODY.
2 THEN ITEM NO. 6, ITEM NO. 7 CLOSE TO THE VEHICLE. AND
3 ITEM NO. 10 ON THE OPPOSITE SIDE OF THE DRIVEWAY ACROSS
4 FROM THE --

5 MS. SARIS: AND, YOUR HONOR, FOR THE RECORD, HE'S
6 BEEN THE POINTING TO THE ITEMS THAT ARE NUMBERED IN
7 DEFENSE YY. AND HE'S BEEN POINTING TO THE CORRESPONDING
8 NUMBERS ON THE DIAGRAM. AND WHEN HE REFERS TO TRUDY
9 THOMPSON'S BODY, HE'S REFERRING TO THE SILHOUETTE AT THE
10 BOTTOM PORTION OF DEFENSE YY.

11 THE COURT: YES.

12 Q BY MS. SARIS: AND, FINALLY -- WELL, THIS
13 IS THE EVIDENCE OF FIREARMS THAT WAS AT THE SCENE?

14 A THAT'S CORRECT.

15 Q AND NOW I NOTICE THAT THEY ARE IN TWO
16 COLORS.

17 A THAT IS CORRECT.

18 Q OKAY. LET'S TALK ABOUT HOW WE GOT -- HOW
19 YOU GOT TO SEPARATING THESE BETWEEN RED AND GREEN. YOU
20 SAID THAT YOU WERE ABLE TO SEPARATE THE CASINGS INTO TWO
21 GROUPS.

22 A THAT IS CORRECT.

23 Q WHAT ABOUT THE FIRED BULLETS?

24 A I MICROSCOPICALLY COMPARED THE FIRED
25 BULLETS WITH ONE ANOTHER. BUT CAME TO THE CONCLUSION
26 THAT I DID NOT SEE SUFFICIENT INDIVIDUALIZING
27 CHARACTERISTICS TO CONCLUSIVELY PUT THESE TWO FIRED
28 BULLETS -- OR THESE EIGHT FIRED BULLETS -- YEAH, EIGHT

1 FIRED BULLETS THAT I RECEIVED INTO TWO DIFFERENT GROUPS.

2 Q NOW, DID THAT FINDING CORRESPOND TO ANY OF
3 THE REPORTS THAT YOU HAD?

4 A YES, IT DID.

5 Q AND WHOSE WAS THAT REPORT?

6 A THAT WAS A REPORT BY DEPUTY VAN HORN.

7 Q NOW, DID YOU ALSO REVIEW A REPORT BY A
8 DEPUTY NAMED MANNY MUNOZ?

9 A YES, I DID.

10 Q DOES THAT FINDING DISAGREE WITH HIS
11 REPORT? OR DOES HIS REPORT GO A STEP FURTHER?

12 A I BELIEVE THAT MANNY MUNOZ'S REPORT GOES A
13 STEP FURTHER. WHERE I MICROSCOPICALLY COMPARED THESE
14 EXHIBITS. HE'S DONE EXACTLY THE SAME. HE'S JUST MADE A
15 CONCLUSIVE RESULT SEPARATING THOSE EIGHT FIRED BULLETS
16 INTO TWO DIFFERENT GROUPS.

17 Q AS YOU SIT HERE NOW, DO YOU HAVE DISPUTES
18 WITH HOW HE SEPARATED THOSE BULLETS?

19 A NO, I DON'T.

20 Q SO YOU WOULD AGREE WITH MR. MUNOZ'S
21 CONCLUSION THAT THE FIRED BULLETS ALSO CAME FROM TWO
22 DIFFERENT FIREARMS?

23 A YES, I WOULD AGREE WITH THAT.

24 Q LET'S ARBITRARILY LABEL THE FIREARMS.

25 YOUR HONOR, I HAVE AN EXHIBIT THAT HAS A
26 RED GUN AND GREEN GUN WITH SOME NUMBERS UNDERNEATH. I
27 WOULD LIKE TO MARK THAT DEFENSE NEXT IN ORDER.

28 THE COURT: SSS.

1
2 (MARKED FOR IDENTIFICATION DEFENSE'S
3 EXHIBIT NO. SSS, DOCUMENT.)
4

5 Q BY MS. SARIS: THIS EXHIBIT APPEARS TO
6 HAVE NUMBERS UNDERNEATH TWO DIFFERENT COLORED GUNS.
7 WE'VE LABELED ONE RED AND ONE GREEN.

8 A THAT IS CORRECT.

9 Q NOW, BASED ON MANNY MUNOZ'S REPORT, WHICH
10 YOU INDICATED THAT YOU AGREE WITH, WHAT DO THE NUMBERS
11 UNDERNEATH THE RED AND THE GREEN GUN REPRESENT?

12 A THE NUMBERS UNDER THE RED GUN REPRESENTS
13 ITEMS NO. 16, 17, 25, AND 27, ALL FIRED FROM ONE FIREARM.
14 AND UNDER THE GREEN FIREARM, WE HAVE ITEMS NO. 19, 24, 29
15 AND 30. AND THEN YOU'LL NOTICE THAT IN BRACKETS RIGHT
16 OFF THE NO. 30 IS ITEM NO. 4. AND THAT'S THE ITEM THAT
17 I'VE PREVIOUSLY MENTIONED TO YOU AS JUST BEING A FRAGMENT
18 OF A FIRED BULLET.

19 Q OUT OF ALL OF THE BULLETS ON THE SCENE,
20 WHY WOULD YOU ASSOCIATE NO. 4 WITH NO. 30?

21 A ONCE AGAIN, WE HAVE TO GO BACK TO THE BODY
22 OF TRUDY THOMPSON AND LOOK AT THE AUTOPSY REPORT. SHE
23 WAS SHOT TWICE. ONE BULLET WAS RECOVERED IN THE BLOUSE
24 AND THAT WAS A COMPLETE BULLET. IN OTHER WORDS, THIS
25 BULLET DID NOT BREAK UP OR THE CORD DID NOT SEPARATE FROM
26 THE JACKET DURING IMPACT.

27 THE OTHER BULLETS WAS RECOVERED INSIDE THE
28 HEAD OF TRUDY THOMPSON. AND THIS BULLET HAS FRAGMENTED

1 TO A GREAT EXTENT. AND THAT'S WHY I'M ASSOCIATING THAT
2 BULLET FRAGMENT NO. 4 WITH THE BULLET -- WITH THE
3 FRAGMENTS ASSOCIATED WITH ITEM NO. 30.

4 Q DID 30 WEIGH LESS THAN THE OTHER BULLETS?

5 A IT WEIGHED CONSIDERABLY LESS AS A RESULT
6 OF THE FRAGMENTATION.

7 Q OKAY. SO HOW MANY -- WHAT EVIDENCE DID
8 YOU FIND -- HOW MANY GUNS DID YOU FIND EVIDENCE OF?

9 A WHEN REVIEWING I ONLY FOUND EVIDENCE OF
10 TWO FIREARMS.

11 Q SO IN THE LAB, THEN, YOU WERE ABLE TO
12 SEPARATE TWO GROUPS OF CASINGS AND FROM MANNY MUNOZ'S
13 REPORT TWO GROUPS OF FIRED BULLETS; IS THAT CORRECT?

14 A THAT IS CORRECT.

15 Q SO WHAT ABOUT THE LIVE ROUNDS?

16 A AGAIN, I NEEDED TO REFER TO THE MANNY
17 MUNOZ'S REPORT. AND WHAT MANNY MUNOZ HAS DONE HE'S
18 LOOKED AT MAGAZINE MARKS; HE'S LOOKED AT EJECTOR MARKS.
19 AND WHAT HAPPENS WHEN YOU CYCLE A LIVE ROUND THROUGH A
20 FIREARM STARTING WITH A MAGAZINE -- IN OTHER WORDS, YOU
21 RACK THE SLIDE BACK; THE BULLETS GET FED -- OR THE
22 CARTRIDGE GETS FED INTO THE CHAMBER AND THEN EJECTED FOR
23 SOME REASON WITHOUT FIRING, CERTAIN MARKS WILL BE LEFT ON
24 THE FIRED -- OR ON THE CARTRIDGE CASING.

25 AND WHAT IS EVIDENT FROM MANNY MUNOZ'S
26 REPORT IS THAT ITEM NO. 6 IS A LIVE ROUND. IT WAS
27 ASSOCIATED -- NO. I'M SORRY. ITEM NO. 6 WAS DONE BY
28 DEPUTY VAN HORN.

1 Q THAT'S THE ITEM THAT NEITHER YOU OR
2 MR. MUNOZ WAS ABLE TO FIND?

3 A THAT'S CORRECT.

4 Q AND WHAT WAS THAT ASSOCIATED WITH, IF
5 ANYTHING?

6 A THAT IS ASSOCIATED WITH ITEMS NO. 8, 13,
7 14 AND 15.

8 Q AND YOU COULD DO THAT IN JUST FROM THE
9 LAB?

10 A IT CAN BE DONE, YES.

11 Q OKAY.

12 YOUR HONOR, I'M GOING TO MAKE A CIRCLE
13 AROUND NO. 6 AND ASSOCIATE IT WITH THE CASINGS 8, 13, 14
14 AND 15 ON DEFENSE SSS.

15 THE COURT: ALL RIGHT.

16 Q BY MS. SARIS: WHAT ABOUT 3, 7 AND 10?

17 A 3, 7 AND 10 WAS EXAMINED BY MANNY MUNOZ
18 AND ASSOCIATED WITH CARTRIDGE CASINGS 2, 11, 18 AND 20.
19 I BELIEVE THAT 3 AND 10 WAS -- YES, 3, 7 AND 10 HAD
20 SUFFICIENT MARKINGS ON THEM TO BE ASSOCIATED WITH 2, 11,
21 18 AND 20.

22 MS. SARIS: AND, YOUR HONOR, I'LL MAKE A CIRCLE
23 AROUND 3, 7, AND 10 AND ASSOCIATE THEM WITH 2, 11, 18 AND
24 20.

25 THE COURT: YES.

26 Q BY MS. SARIS: SO YOU CAN ASSOCIATE LIVE
27 ROUNDS WITH CASINGS, BUT NOT WITH FIRED BULLETS; IS THAT
28 CORRECT?

1 A YES.

2 Q OKAY. SO IF YOU WERE TO STOP YOUR
3 ANALYSIS HERE, COULD YOU TELL WHICH CASINGS AND WHICH
4 GUNS MATCHED UP, ASSUMING THERE IS ONLY TWO FIREARMS?

5 A NO, YOU CAN'T DETERMINE THAT.

6 Q YOU CAN'T DETERMINE THAT IN THE LAB?

7 A NO, YOU CAN'T DETERMINE IT IN THE LAB.
8 YOU HAVE TO LOOK AT OTHER EVIDENCE AS, FOR INSTANCE,
9 RECONSTRUCTION TO TRY AND DETERMINE THAT.

10 MS. SARIS: YOUR HONOR, I HAVE ANOTHER DIAGRAM I
11 WOULD LIKE TO MARK DEFENSE NEXT IN ORDER.

12 THE COURT: TTT.

13 Q BY MS. SARIS: SO BASED ON THESE
14 ASSOCIATIONS, WE WILL ASSIGN THE CASINGS 8, 3, 15, 14,
15 AND THE LIVE ROUND SIX ARE WHAT COLOR ON THIS DIAGRAM?

16 A IT IS THE YELLOW.

17 Q AND THE CASINGS 2, 11, 18 AND 20, WITH A
18 LIVE ROUND 3, 7, AND 10, WHAT COLOR DID WE GIVE THEM?

19 A THE ORANGE.

20 Q NOW, HOW DO WE GET, IF YOU WILL, FROM
21 HAVING FOUR COLORS ON THIS DIAGRAM TO HAVING ONLY TWO
22 COLORS ON THIS DIAGRAM?

23 A WELL, WHAT I'VE DONE IS I'VE BASICALLY
24 RECONSTRUCTED THE SCENE. WHAT YOU SEE IN FRONT OF YOU IS
25 JUST THE RELATIVE POSITION OF ALL THE EXHIBITS. AND TO
26 TRY AND MAKE SENSE OF POSSIBLY WHICH FIREARM CAN GO WITH
27 WHICH FIRED BULLET, WE HAD TO GO DOWN TO THE AREA WHERE
28 TRUDY THOMPSON'S BODY WAS FOUND ONCE AGAIN. AND IF YOU

1 LOOK AT THE SCENE THERE IS ONLY ONE FIRED CARTRIDGE CASE
2 RECOVERED IN THAT WHOLE AREA. AND WE'VE GOT ONE EJECTED
3 LIVE ROUND, WHICH HAS PREVIOUSLY BEEN ASSOCIATED WITH
4 EACH OTHER.

5 Q LET ME STOP YOU THERE. AND THAT WAS
6 PREVIOUSLY ASSOCIATED WITH EACH OTHER WHERE?

7 A THAT WAS DONE BY MANUEL MUNOZ.

8 Q IN THE LAB?

9 A IN THE LAB.

10 Q OKAY.

11 A SO AGAIN APPLYING THIS, WE -- OR I ASKED
12 MYSELF DO I ASSOCIATE ITEM NO. 2 WITH ANY OF THESE TWO
13 FIRED BULLETS THAT WAS RECOVERED IN TRUDY THOMPSON? I
14 DON'T SEE ANY OTHER EVIDENCE OF ANY OTHER FIRED CARTRIDGE
15 CASES IN THIS AREA. AND THEREFORE, I ASSOCIATE FIRED
16 ITEM NO. 2 WITH A FIRED BULLET ITEM NO. 30, WHICH WAS
17 RECOVERED INSIDE TRUDY THOMPSON.

18 Q SO BASED ON THE AUTOPSY REPORT, COULD YOU
19 TELL WHERE -- WELL, PHYSICALLY WHERE IN HER BODY WAS
20 TRUDY THOMPSON SHOT?

21 A TRUDY THOMPSON WAS SHOT IN THE BACK OF THE
22 HEAD. AND THE BULLET FRAGMENT WAS RECOVERED INSIDE. IN
23 OTHER WORDS, IT WAS A PENETRATING GUNSHOT WOUND AND NOT
24 NECESSARILY PERFORATING GUNSHOT WOUND; MEANING THAT IT
25 CAME OUT ON THE FRONT AS WELL. SO IT WAS ONLY -- IT ONLY
26 WENT IN AT THE BACK AND MOST OF THE EXHIBITS WAS
27 RECOVERED -- OR THE FRAGMENT WAS RECOVERED INSIDE.

28 Q WAS THERE ANY EVIDENCE THAT SHE WAS SHOT

1 WHERE HER BODY WAS FOUND THEN FOR THAT FIREARM?

2 A YES. IF I LOOK AT THE SCENE AND I DO MY
3 RECONSTRUCTION, I BELIEVE THAT SHE WAS SHOT AT LEAST WITH
4 A SHOT BEHIND THE HEAD RIGHT THERE WHERE SHE WAS LAYING
5 DOWN.

6 Q NOW, IF YOU ASSOCIATE NO. 2, WHICH IS
7 ORANGE WITH NUMBER 30, WHICH IS GREEN, HOW DOES THAT
8 NECESSARILY RELATE TO ALL OF THESE BEING ASSOCIATED WITH
9 GREEN?

10 THE COURT: WHEN YOU REFERRING TO "ALL OF
11 THESE" --

12 MS. SARIS: I'M SORRY. TO THE CIRCLE INCLUDING
13 2, 11, 18, 20, 3, 7 AND 10.

14 THE WITNESS: WELL, ITEMS NO. 2, 11, 18 AND 20
15 WAS ALREADY PREVIOUSLY MADE ONE FIREARM BY MEANS OF A
16 MICROSCOPICAL COMPARISON. SO ALL THAT WE NEED TO DO NOW
17 IS CHANGE THE COLORS FROM ORANGE FOR NO. 2, 18, 11 AND 20
18 AND CHANGE IT TO GREEN.

19 Q BY MS. SARIS: DOES THAT AUTOMATICALLY
20 CHANGE THE YELLOW TO RED?

21 A THAT AUTOMATICALLY CHANGES THE YELLOW TO
22 RED BECAUSE WE KNOW THAT FROM THE LABORATORY WORK THAT
23 WE'VE DONE THAT WE HAVE TWO FIREARMS. AND THAT 15 -- I'M
24 SORRY. ITEMS 15, 14, 13 AND ITEM NO. 8 WAS FIRED IN A
25 DIFFERENT FIREARM.

26 Q SO WHEN YOU ARE TAKING ON PEOPLE'S -- ON
27 DEFENSE SSS, YOU ARE TAKING THE TWO GROUPINGS, IS IT FAIR
28 TO SAY THAT YOU WOULD HAVE TO TAKE ONE GROUPING TO ONE

1 GUN? YOU COULDN'T BE ALLOWED TO MIX AND MATCH?

2 A WELL, I DID -- I STARTED OFF BY APPLYING
3 OR MOVING ITEMS 2, 11, 18 AND 20 TO THE GREEN FIREARMS;
4 AND THEN ITEMS 8, 13, 14 AND 15 TO THE RED FIREARM. I
5 DID TRY AND ASSIGN THEM THE OPPOSITE WAY. BUT THEN IF I
6 LOOK AT THE ANGLES AND IF I LOOK AT THE RECONSTRUCTION,
7 IT JUST DOESN'T MAKE TOO MUCH SENSE TO ME. THE ANGLES
8 OBTAINED ARE JUST TOO DIFFICULT.

9 Q BUT THE QUESTION WAS: DID YOU HAVE TO
10 ASSIGN THEM IN GROUPS IS WHAT I'M ASKING?

11 A YES, YOU HAVE TO ASSIGN THEM IN GROUPS.

12 Q AND WHY DID YOU HAVE TO DO THAT? BASED ON
13 THINGS YOU SAW IN THE LAB?

14 A IT'S BASED ON THE LABORATORY WORK, THE
15 MICROSCOPICAL COMPARISONS THAT WERE DONE.

16 Q OKAY. SO LET'S LOOK THEN AT WHAT WOULD
17 HAPPEN IF YOU CHANGED ALL OF THE ORANGE TO GREEN AND ALL
18 OF THE YELLOW TO RED, DOES THAT GET US TO DEFENSE YYY?

19 A THAT'S CORRECT.

20 Q AND CAN YOU EXPLAIN FOR US THEN HOW, IF AT
21 ALL, THIS IS BASED ON ANY OTHER LOGIC AT THE CRIME SCENE?

22 A WELL, OBVIOUSLY WE NEED TO LOOK FOR
23 SOMETHING ELSE THAT INDICATES OR THAT SUBSTANTIATES WHAT
24 WE'RE SEEING DOWN IN THE VICINITY OF TRUDY THOMPSON'S
25 BODY. IS IT ALL RIGHT IF I STAND UP?

26 Q YES. PLEASE GO ON THAT OTHER SIDE SO THAT
27 YOU DON'T BLOCK THE JURORS.

28 THE COURT: YOU JUST REFERRED TO YYY.

1 MS. SARIS: I'M SORRY. YY, DOUBLE Y.

2 THE WITNESS: NOW WE NEED SOME SORT OF AN
3 INDICATION THAT BACKS IT UP. IF WE GO TO FIRED ITEM
4 NO. 19, WHICH WAS RECOVERED IN THE RIGHT-HAND DOOR OF THE
5 VAN, WHICH WAS ON THE SEAT AND WE PROBE IT BACK IN THE
6 DIRECTION OF FIRE, NOW WHAT WOULD HAPPEN IS WE WOULD LOOK
7 FOR A CARTRIDGE CASE IN THAT VICINITY THAT MAKES SENSE TO
8 US. AND WE FIND CARTRIDGE CASE NO. 18. SO IT CONFIRMS
9 WHAT WE WERE SAYING THAT ITEM NO. 2 AND ITEM NO. 20 ARE
10 RELATED BY LOOKING AT WHAT WE SEE WITH NO. 19 AND 18.

11 IF WE THEN GO TO WHERE MICKEY THOMPSON'S
12 BODY WAS FOUND. WE ONLY HAVE ONE FIRED BULLET RECOVERED.
13 AND WE ONLY HAVE ONE FIRED BULLET RECOVERED -- ONE FIRED
14 CARTRIDGE CASE RECOVERED -- I'M SORRY. SO IT MAKES SENSE
15 TO GROUP THOSE TWO TOGETHER. AND IT FITS WITH WHAT WE
16 WERE SAYING THAT THE FOUR CARTRIDGE CASES NOW, WE CAN
17 THEN HAVE TO THE FOUR FIRED BULLETS. IF WE LOOK AT THE
18 RATE, WE SEE A SIMILAR CORRESPONDENCE.

19 IF WE START DOWN AGAIN AT THE BROWN VAN
20 AND WE LOOK AT ITEM NO. 27, AND WE PROBE ITS DIRECTION OF
21 FIRE BACK, AGAIN WE FIND A CARTRIDGE CASE THAT IS
22 CONSISTENT WITH WHAT WE WOULD EXPECT OR WHERE WE WOULD
23 LOOK WHEN WE WERE LOOKING FOR RECOVERED CARTRIDGE CASES.

24 Q BY MS. SARIS: LET ME ASK YOU TO STOP
25 THERE FOR A SECOND. WHEN YOU SAY CONSISTENT WITH WHERE
26 WE LOOK, WHAT ARE THE PARAMETERS INITIALLY FOR WHERE YOU
27 WOULD LOOK FOR A CASING WHEN YOU WOULD MAKE A TRAJECTORY
28 OF WHERE A BULLET LANDS?

1 A WELL, WHEN WE RECOVER THESE EXHIBITS ON A
2 CRIME SCENE OR WHEN WE GET THEM INTO THE LAB, WE SAY TO
3 OURSELVES IS THIS A REVOLVER? IS THIS A PISTOL THAT
4 WE'RE DEALING WITH? IF IT'S A REVOLVER, IT DOESN'T EJECT
5 ANY CARTRIDGE CASES. BUT WE WOULD BE -- WE CAN MAKE A
6 DETERMINATION AS TO WHETHER IT WAS.

7 LOOKING AT THESE EXHIBITS, I BELIEVE THEY
8 WERE FIRED FROM A SEMI-AUTOMATIC PISTOL. AND IN GENERAL,
9 SEMI-AUTOMATIC PISTOLS WILL EJECT THE CARTRIDGE CASE TO
10 THE RIGHT. IF I CAN JUST DEMONSTRATE, IF I'M FIRING IN
11 THIS DIRECTION, THE CARTRIDGE CASE IS GOING TO COME OUT;
12 GET EJECTED OUT OF THE SLIDE AND IS GOING TO FALL
13 SOMEWHERE TO THE RIGHT.

14 MS. SARIS: AND, YOUR HONOR, FOR THE RECORD, HE'S
15 EXTENDING HIS RIGHT ARM FORWARD POINTING IN THE DIRECTION
16 OF THE COURT BAILIFF. AND WHEN HE SAID "TO THE RIGHT,"
17 HE WOULD HAVE THE CARTRIDGE CASINGS GOING TO THE WALL
18 THAT BEING BEHIND YOUR HONOR.

19 THE COURT: TO THE RIGHT, YES. THANK YOU.

20 Q BY MS. SARIS: SO CAN YOU THEN JUST TELL
21 WHERE SOMEONE WAS STANDING WHEN THEY FIRED SIMPLY BASED
22 ON WHERE A CARTRIDGE CASE WAS FOUND?

23 A I WOULDN'T SAY THEY CAN PINPOINT THE EXACT
24 POSITION OF THE SHOOTER, BUT WE CAN DRAW CERTAIN
25 CONCLUSION AS TO THE GENERAL VICINITY WHERE HE WAS
26 STANDING.

27 Q CAN A CARTRIDGE CASE BEING FOUND IN A
28 PARTICULAR CASE CONFIRM OTHER FINDINGS THAT YOU HAVE

1 MADE? IN OTHER WORDS, WERE THE PLACEMENTS OF THE
2 CARTRIDGE CASINGS -- LET'S TALK ABOUT THE RED GUN --
3 CONSISTENT WITH WHERE YOU FOUND THE RED FIRED BULLETS?

4 A YES, THEY WERE.

5 Q AND CAN YOU EXPLAIN THAT AT THE TOP OF THE
6 DIAGRAM ON DEFENSE YY?

7 A WELL, BASICALLY WHAT WE HAVE IS ITEMS
8 NO. 25, WHICH IS A FIRED BULLET, WE HAVE ITEMS NO. 16 AND
9 ITEM NO. 17. AND WE HAVE CORRESPONDING FIRED CARTRIDGE
10 CASES 13, 14 AND 15.

11 Q AND SO DID THEY AGREE IN NUMBER WHEN YOU
12 CORRELATED THEM BETWEEN -- WHEN YOU MADE THE ORANGE GREEN
13 AND WHEN YOU MADE THE YELLOW RED? DID THOSE AGREE IN
14 NUMBER?

15 A YES.

16 Q I NOTICED ONE OF THE CIRCLES UP BY THE
17 BODY OF MICKEY THOMPSON HAS A QUESTION MARK IN IT. DO
18 YOU RECOGNIZE WHAT I'M PUTTING ON THE BOARD -- ON THE
19 OVERHEAD NOW, IF I CAN GET IT?

20 YOUR HONOR, MAY I PUBLISH THIS TO THE JURY
21 AS I WALK BY?

22 THE COURT: YES.

23 MS. SARIS: LET'S MARK THIS DEFENSE NEXT IN
24 ORDER.

25 THE COURT: UUU.

26 MS. SARIS: THANK YOU.

27

28 (MARKED FOR IDENTIFICATION DEFENSE'S

EXHIBIT NO. UUU, DOCUMENT.)

Q BY MS. SARIS: WHAT DO YOU RECOGNIZE THAT
TO BE BASED ON YOUR REVIEW OF THE EVIDENCE?

A THAT IS THE OUTSIDE OF THE GARAGE DOOR OF
THE RESIDENCE.

Q AND WHAT IS THE BOTTOM THAT YOU CAN HARDLY
SEE? YOU HAVE IT IN FRONT OF YOU.

A THE BOTTOM REPRESENTS THE ASPHALT OR THE
DRIVEWAY LEADING UP. AND THEN WE SEE A THIN LAYER OR A
STRIP OF CONCRETE, WHICH WOULD REPRESENT THE GARAGE
FLOOR. AND THEN WE ACTUALLY SEE THE DOOR ITSELF WITH THE
DOOR HANDLE SORT OF IN THE MIDDLE OF THE PICTURE.

Q AND WHAT IS ON THE BOTTOM PHOTOGRAPH ON
THE PAGE THAT YOU HAVE THERE?

A THE BOTTOM PHOTOGRAPH REPRESENTS THE
INSIDE OF THE GARAGE DOOR. AND -- WELL, WE CAN SIMPLY
TELL THIS BY LOOKING AT THE POSITION OF THE SUPPORT
BEAMS, WHICH I WOULD SAY WAS NORMALLY ON THE INSIDE OF A
GARAGE DOOR.

Q AND DID THIS CORRESPOND TO ANY FIRED
BULLETS THAT YOU READ ABOUT OR SAW?

A YES, IT DID. IN MY REVIEW OF THE EVIDENCE
REPORTS ADMITTED BY THE L.A. COUNTY SHERIFF'S OFFICE,
THERE WAS MENTION OF AN ITEM 17-A WHICH WAS RECOVERED IN
THE SUPPORT BEAM TO THE LEFT OF THE DOOR HANDLE, WHICH I
DID NOT RECEIVE.

Q AND SO WOULD THIS DEFENSE UUU DEPICT THE

1 SHOT THAT WENT INTO THE SUPPORT BEAM?

2 A YES, IT DID.

3 Q AND DID WE REPRESENT THAT ON THE DIAGRAM
4 IN ANY WAY?

5 A AGAIN, YOU SEE A RED CIRCLE ON THERE. AND
6 IF WE LOOK AT THE EVIDENCE IN TOTALITY WE SEE THAT THERE
7 WAS NINE FIRED BULLETS RECOVERED, BUT ONLY EIGHT FIRED
8 CARTRIDGE CASES RECOVERED. SO, IN FACT, WE DON'T HAVE
9 ONE OF THE CARTRIDGE CASES. BUT LOOKING AT WHERE THE
10 FIRED BULLETS ARE, HERE, HERE, HERE, AND THEN THE ONE
11 THAT WE JUST TALKED ABOUT IN THE GARAGE DOOR WOULD BE
12 SOMEWHERE IN THIS VICINITY, I WOULD START LOOKING FOR
13 ANOTHER EXHIBIT IN THIS AREA OVER HERE (INDICATING).

14 Q NOW YOU'VE ASSOCIATED THE YELLOW THAT'S IN
15 THE TOP OF THE DIAGRAM OF DEFENSE TTT WITH THE RED FIRED
16 BULLETS. LET'S TALK ABOUT NO. 11, WHICH IS IN ORANGE ON
17 DEFENSE TTT AND IN GREEN ON DEFENSE YY. HOW WAS THAT
18 ACCOUNTED FOR IN TERMS OF A FIRED BULLET? IS THERE
19 ANOTHER FIRED BULLET THAT WE HAVEN'T DISCUSSED?

20 A YES. NO. 11 IS ACTUALLY THE ONLY
21 CARTRIDGE CASE THAT UP TO THIS POINT THAT I HAVE TROUBLE
22 ASSIGNING TO A FIRED BULLET. BUT BY A SIMPLE MEANS OF
23 PROCESS OF USING THE PROCESS OF ELIMINATION, THE ONLY
24 FIRED BULLET THAT I CAN ASSOCIATE IS FIRED CARTRIDGE CASE
25 11 WOULD BE FIRED BULLET ITEM NO. 29.

26 Q AND, AGAIN, 29 IS DEPICTED AT THE BOTTOM
27 OF DEFENSE YY. BUT WHERE WAS 29 ACTUALLY RECOVERED?

28 A 29 WAS RECOVERED ON THE RIGHT POSTERIOR ON

1 TRUDY THOMPSON -- OR THE EXIT WOUND OF 29 IS ON THE RIGHT
2 POSTERIOR. BUT THE BULLET ITSELF WAS RECOVERED INSIDE
3 THE BLOUSE WHILE SHE WAS UNDRESSED.

4 Q SO CAN YOU TELL ON THE DIAGRAM AT WHAT
5 POINT SHE RECEIVED THAT WOUND BASED ON ANYTHING? OR
6 WOULD IT JUST BE SPECULATION?

7 A IT IS A VERY SHALLOW ENTRANCE WOUND. YOU
8 CAN -- BY LOOKING AT THE WOUND ITSELF, YOU CAN SEE A
9 BULLET LEADING AREA, AN AREA OF ABRASIONS CAUSED BY THE
10 BULLET. AND THIS INDICATES TO ME A SHALLOW INJURY. BUT
11 FROM WHAT I HAVE ON THE CRIME SCENE AND FROM THE
12 RECONSTRUCTION THAT I HAVE DONE, I CANNOT TELL YOU WHERE
13 SHE SUSTAINED THAT SPECIFIC BULLET.

14 Q AND THE CARTRIDGE CASE NO. 11, THE
15 POSITION OF THAT IN AND OF ITSELF DOESN'T LEAD YOU TO
16 MAKE ANY SPECIFIC CONCLUSIONS?

17 A NO, IT DOESN'T.

18 Q AND WHY IS THAT, ESPECIALLY IN LIGHT OF
19 THE FACT THAT THE OTHER CARTRIDGE CASINGS HELPED YOU MAKE
20 SPECIFIC CONCLUSIONS, WHY DOES THAT ONE NOT?

21 A WELL, WHAT -- I'LL USE ITEMS NO. 18 AND
22 ITEMS NO. 19 AS AN EXAMPLE. WHAT WE HAVE IS WE HAVE A
23 BULLET IMPACT SITE OVER HERE (INDICATING). AND WE HAVE A
24 TRAJECTORY WHERE WE CAN DRAW BACK TO. AND WE HAVE THE
25 ASSOCIATED CARTRIDGE CASING.

26 Q AND LET ME EXPLAIN THAT FOR THE RECORD
27 BEFORE YOU MOVE ON.

28 YOUR HONOR, HE'S TAKEN ITEM NO. 19 AND

1 DRAWN A LINE TOWARDS THE BOTTOM OF DEFENSE YY.

2 THE COURT: THANK YOU.

3 THE WITNESS: BUT WHAT WE HAVE WITH ITEM NO. 11
4 IS WE DON'T HAVE A CLEAR INDICATION OF EXACTLY WHERE THE
5 IMPACT SITE IS. IF WE LOOK AT NO. 29 AND THE WAY THAT
6 TRUDY THOMPSON WAS FOUND, I CAN'T ASSOCIATE THE TWO SHOTS
7 WITH EACH OTHER APART FROM THAT'S THE ONLY BULLET THAT I
8 HAVEN'T ASSOCIATED WITH A CARTRIDGE CASE THAT'S BEING
9 FIRED.

10 Q BY MS. SARIS: NOW, DID YOU HAVE AN
11 OPPORTUNITY TO REVIEW THE AUTOPSY REPORT?

12 A YES, I DID.

13 Q AND DID THAT GIVE YOU SOME INDICATION OF
14 THE TRAJECTORY OF THE WOUND TO TRUDY THOMPSON?

15 A YES. THE AUTOPSY REPORT INDICATES A VERY
16 SHALLOW ANGLE ENTRY AT THE LEFT HIP GOING THROUGH THE
17 BODY AND EXITING AT THE RIGHT POSTERIOR ARM PIT.

18 Q COULD THIS WOUND HAVE BEEN SUSTAINED,
19 BASED ON YOUR REVIEW OF THE REPORTS AND YOUR EXPERIENCE,
20 WHILE TRUDY THOMPSON WAS SITTING IN A VEHICLE?

21 A NO, I WOULD NOT --

22 MR. JACKSON: OBJECTION, YOUR HONOR. NO
23 FOUNDATION.

24 THE COURT: SUSTAINED.

25 Q BY MS. SARIS: LET ME ASK YOU THIS: DID
26 YOU NOTICE ANY EVIDENCE IN -- DID YOU LOOK AT NOT ONLY
27 THE AUTOPSY REPORTS, BUT THE CORONER'S PHOTOS?

28 A YES, I DID.

1 Q DID YOU NOTICE ANY EVIDENCE ON HER -- ON
2 THE FACE OF TRUDY THOMPSON AS BEING INDICATIVE OF ANY
3 KIND OF A GLASS-TYPE SHATTERING WOUND?

4 MR. JACKSON: OBJECTION. FOUNDATION.

5 THE COURT: SUSTAINED.

6 Q BY MS. SARIS: HAVE YOU EVER SEEN PICTURES
7 IN AN AUTOPSY OR LIVE OF AN INDIVIDUAL THAT HAS BEEN IN A
8 VEHICLE WHEN GLASS FROM THE WINDSHIELD OR THE SIDE WINDOW
9 IS SHATTERED?

10 A YES, I HAVE.

11 Q AND WHAT TYPES OF THINGS DO YOU LOOK FOR
12 IN THAT TYPE OF INJURY TO DETERMINE THAT'S WHAT CAUSED
13 IT?

14 A WELL, THIS IS TYPICALLY WHAT WE WOULD DO,
15 WHEN YOU LOOK AT THE FACE OF OR ANY PART OF THE BODY
16 THAT'S EXPOSED -- THE SKIN IS EXPOSED, YOU WOULD SEE
17 SMALLER WOUNDS. IT CAN BE CALLED PSEUDO-TATTOOING OR IT
18 CAN JUST REPRESENT SMALL LITTLE CUTS REPRESENTING THESE
19 FRAGMENTS. AS A BULLET PASS THROUGH GLASS SOME OF THESE
20 BROKEN GLASS IS GOING TO TRAVEL IN A DIRECTION OF FIRE
21 AND IT MIGHT CAUSE AND IT CAN CAUSE SECONDARY INJURIES ON
22 A PERSON.

23 Q DOES A PERSON HAVE TO BE SHOT IN A VEHICLE
24 TO GET THOSE INJURIES OR JUST SITTING IN A VEHICLE?

25 A WELL, YOU CAN BE JUST SITTING IN A
26 VEHICLE. I GUESS THE KEY FACTOR IS THAT THERE HAS TO BE
27 AN INTERVENING OBJECT TO CREATE THE SECONDARY.

28 Q DID YOU HAVE AN OPPORTUNITY TO REVIEW

1 PHOTOS OF THE VAN IN THIS CASE?

2 A YES, I DID.

3 Q AND DID YOU NOTICE ANY WOUNDS --

4 YOUR HONOR, I'M GETTING PEOPLE'S 57. I'M
5 SORRY.

6 -- ANY DAMAGE TO THE VAN THAT WOULD
7 INDICATE THAT THE GLASS OF THE VAN SUFFERED ANY GUNSHOT
8 WOUNDS?

9 A YES. ACTUALLY WE HAVE TWO DIFFERENT
10 INDICATIONS OF BULLETS PERFORATING OR PENETRATING GLASS.
11 THE ONE IS THE PASSENGER RIGHT DOOR WINDOW WAS SHOT OUT.
12 AND WE ALSO HAVE A SHOT IN THE FRONT WINDSHIELD.

13 Q AND IS THAT DEPICTED ON NUMBER A IN THE
14 VERY TOP RIGHT CORNER OF THE VAN THAT'S FACING FORWARD?

15 A YES.

16 Q NOW, WHAT IS NO. 19 IN D? IS THAT WHAT
17 WE'VE BEEN REFERRING TO AS THE TRIANGLE 19 IN DEFENSE YY?

18 A YES, THAT IS CORRECT. THE FIRED BULLET
19 ITEM 19 TRAVELED FROM THE VEHICLE'S LEFT TO THE RIGHT.
20 IT IMBEDDED ITSELF IN THE RIGHT DOOR, BUT DIDN'T HAVE
21 SUFFICIENT ENERGY TO ACTUALLY GO THROUGH THE DOOR,
22 PERFORATE.

23 Q AND IS F THE PASSENGER DOOR THAT SHOWS THE
24 HOLE WHERE THAT ORIGINATED ON THE INSIDE?

25 A THAT SHOWS THE INSIDE.

26 Q SO COULD -- THE WOUNDS THAT YOU SAW ON
27 MS. THOMPSON'S FACE THAT LOOKED TO YOU TO BE FROM SOME
28 SORT OF SHATTERING GLASSES HAVE COME FROM EITHER THE SIDE

1 WINDOW OR THE WINDSHIELD? OR IS THERE A WAY TO
2 DISTINGUISH?

3 A I WOULDN'T BE ABLE TO DISTINGUISH. I
4 WOULD JUST SAY THAT IT CAN BE FROM EITHER WINDOW.

5 Q DOES THAT LEAD YOU TO DRAW ANY CONCLUSIONS
6 AS TO WHERE SHE WAS WHEN ONE OF THOSE SHOTS WAS FIRED
7 INTO THE VAN?

8 A I WOULD JUST SAY THAT SHE WAS INSIDE THE
9 VEHICLE IN THE VICINITY OF THE SHATTERED WINDOWS OF BOTH
10 THE SHATTERED WINDOW ON THE LEFT-HAND SIDE AND THE
11 LEFT-HAND CORNER OF THE BROWN VAN'S WINDSHIELD.

12 Q NOW, YOU WERE SAYING THAT -- DOES THE
13 NATURE AND THE TRAJECTORY OF THE WOUND THAT YOU NOTICED
14 ON MS. THOMPSON, IT WENT FROM BASICALLY HIP TO ARM PIT,
15 IS IT POSSIBLE BASED ON THE REVIEW THAT YOU'VE DONE OF
16 THE VAN, DO YOU THINK FOR THAT BULLET TO HAVE PERFORATED
17 THE GLASS FIRST?

18 MR. JACKSON: OBJECTION. FOUNDATION.

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER THAT.

21 Q BY MS. SARIS: AND LET ME REPHRASE
22 "GLASS," MEANING THE SIDE WINDOW OF HER -- THE DRIVER'S
23 WINDOW.

24 A NO, NOT REALLY.

25 Q AND WHY DO YOU SAY THAT?

26 A I SAY THAT FOR THE SIMPLE FACT THAT IF YOU
27 LOOK AT THE VEHICLE AND YOU LOOK AT THE LEFT-HAND DOOR,
28 IF A PERSON IS SITTING AS YOU WOULD NORMALLY SIT BEHIND A

1 STEERING WHEEL, WE WOULD HAVE A -- THE MIDDLE PART OF THE
2 DOOR COMING UP TO ABOUT WAIST LEVEL. SO I DON'T SEE THE
3 BULLET GOING ONLY THROUGH THE GLASS THEN TRAVELING DOWN
4 ENTERING AND EXITING AT THE BACK.

5 Q WHAT IF THE DRIVER WHO WAS BEING SHOT AT
6 LAY ALL THE WAY DOWN TO HER RIGHT IN ORDER TO ATTEMPT TO
7 FEND OFF THE SHOT?

8 A IT CAN BE CONSISTENT, BUT STILL BECAUSE WE
9 WERE LOOKING AT THIS DISTANCE WHERE THE METAL PART COMES
10 AND WHERE SHE MIGHT HAVE BEEN LAYING, IT MIGHT STILL BE
11 DIFFICULT TO ATTAIN SUCH AN ANGLE. I WOULD SAY IF THE
12 DOOR WAS OPEN, THAT MIGHT BE A POSSIBILITY THAT WE COULD
13 CONSIDER.

14 Q SO WOULD IT BE CONSISTENT BASED ON YOUR
15 REVIEW FOR TRUDY THOMPSON TO HAVE BEEN SHOT INSIDE THE
16 VAN IF THE DOOR WERE ALL THE WAY OPEN AND THAT PARTICULAR
17 SHOT DID NOT PENETRATE THE GLASS?

18 A YES, IT WOULD BE.

19 Q AND WOULD THAT ALSO REQUIRE, IN ORDER TO
20 BE CONSISTENT, FOR HER TO BE LYING ALMOST ALL THE WAY ON
21 HER RIGHT?

22 A YES.

23 Q IS THERE ANY OTHER WAY THAT YOU COULD
24 ACCOUNT FOR THAT TYPE OF INJURY BASED ON WHAT YOU SAW AT
25 THE CRIME SCENE OR THE REVIEW THAT YOU HAVE DONE OF THE
26 REPORTS?

27 A THE ONLY OTHER POSSIBLE HYPOTHESIS THAT I
28 CAN COME UP WITH IS IF WE LOOK AT WHERE ITEM NO. 11 WAS

1 RECOVERED -- SORRY, I'M USING THE WRONG END OF THE
2 STICK -- SOMEWHERE IN THE MIDDLE OF THE DRIVEWAY.

3 TO ATTAIN SUCH A SHALLOW ANGLE, IT IS
4 POSSIBLE THAT IF THE SHOOTER IS IN AN ELEVATED POSITION
5 TRUDY THOMPSON IS AGAIN LYING ON HER BACK WITH HER FEET
6 FACING THE SHOOTER, IT IS POSSIBLE TO ATTAIN SUCH AN
7 ANGLE.

8 Q NOW IS THERE ANYTHING ON THE CRIME SCENE,
9 OTHER THAN THE BALLISTIC EVIDENCE THAT YOU SAW, THAT
10 WOULD INDICATE THAT PERHAPS MS. THOMPSON FELL OR HAD
11 CONTACT WITH THE GROUND?

12 A THERE ARE INDICATIONS -- IF WE AGAIN REFER
13 TO THE LEGEND, YOU'LL SEE THAT ON THE LEGEND YOU WILL SEE
14 A DIAMOND SHAPE. AND WE HAVE MARKED OUT THREE LITTLE
15 DIAMOND SHAPES ON THE SCENE ITSELF. AND THAT REPRESENTS
16 FINGERNAILS FROM TRUDY THOMPSON.

17 MS. SARIS: AND THAT'S ON DEFENSE TTT. AND HE'S
18 POINTING TO THE BLUE DIAMONDS.

19 THE COURT: YES.

20 Q BY MS. SARIS: NOW CAN YOU TELL -- DID YOU
21 SEE EVIDENCE THAT THERE WERE BROKEN FINGERNAILS AT THE
22 SCENE?

23 A I'VE SEEN PHOTOGRAPHS OF THE BROKEN
24 FINGERNAILS, YES.

25 Q IS THERE ANY WAY TO TELL FROM LOOKING AT
26 THE PHOTOS IF THEY BROKE AS A RESULT OF CONTACT WITH THE
27 GROUND OR CONTACT WITH A PERSON?

28 A NO, I COULD NOT ATTAIN THAT.

1 Q WERE THE -- I NOTICE ONE OF THE DIAMONDS
2 IS NEAR ONE OF THE -- I THINK IT'S NO. 10 IN ORANGE ON
3 DEFENSE TTT AND A STAR. WHAT DID YOU SEE IN TERMS OF THE
4 PHOTOGRAPHS ABOUT THAT CLUSTER OF EVIDENCE?

5 A WHAT WE SEE WITH THIS CLUSTER OF EVIDENCE
6 IS WE SEE AGAIN A CARTRIDGE -- A LIVE CARTRIDGE; AND WE
7 SEE A STUN GUN, WHICH IS REPRESENTED BY A STAR ON THE
8 LEGEND. AND THEN WE SEE THE BROKEN FINGERNAIL, WHICH IS
9 REPRESENTED BY THE DIAMOND.

10 Q AND FROM YOUR REVIEW OF THE EVIDENCE AND
11 THE DIAGRAMS AND THE PHOTOGRAPHS, WERE THEY NEAR ONE
12 ANOTHER?

13 A I WOULD SAY THAT THIS IS AN ACCURATE
14 DEPICTION. THEY WERE SUFFICIENTLY CLOSE TO ARRANGE IT IN
15 SUCH A MANNER, YES.

16 Q LET'S TALK ABOUT THE DIAGRAM IN GENERAL.
17 IS THAT DRAWN TO SCALE?

18 A NO, IT'S NOT.

19 Q HOW DID IT COME ABOUT?

20 A IT CAME ABOUT FROM THE REVIEWS THAT I HAVE
21 DONE PERSONALLY ON THE PHOTOGRAPHS; OF THE SKETCHES THAT
22 I RECEIVED; AND FROM VISITING THE CRIME SCENE.

23 Q LET ME ASK YOU ABOUT SOME PHOTOGRAPHS
24 THAT --

25 YOUR HONOR, I HAVE A PICTURE OF THE
26 THOMPSON HOME. I WOULD LIKE TO HAVE DEFENSE NEXT IN
27 ORDER. V.

28 THE COURT: VVV.

1
2 (MARKED FOR IDENTIFICATION DEFENSE'S
3 EXHIBIT NO. VVV, PHOTO.)
4

5 Q BY MS. SARIS: DO YOU RECOGNIZE THIS
6 PHOTOGRAPH?

7 A YES, I DO.

8 Q AND IN THE PHOTOGRAPH THERE IS A WROUGHT
9 IRON GATE ALMOST SMACK IN THE MIDDLE OF THIS PHOTOGRAPH.
10 IS THAT REPRESENTED ON YOUR DIAGRAM?

11 A YES, IT IS.

12 Q AND HOW IS THAT REPRESENTED?

13 A IT IS REPRESENTED ON THE DIAGRAM MARKED YY
14 DOWN AT THE BOTTOM -- IF I CAN JUST MOVE TO THIS SIDE
15 AGAIN. THIS IS THE WROUGHT IRON GATE. THIS IS THE
16 WESTERN PILLAR OF THE DRIVEWAY. THIS IS THE EASTERN
17 PILLAR OF THE DRIVEWAY. AND THE CENTER LINE INDICATES
18 THE RAILING ON WHICH THIS GATE MOVES BACK AND FORTH.

19 MS. SARIS: YOUR HONOR, HE IS A REFERRING TO THE
20 BOTTOM OF DEFENSE YY, POINTING TO A SQUARE ON THE LEFT
21 AND TWO SMALL RECTANGLES INDICATING THE GATE AND THE POST
22 AND A DOTTED LINE INDICATING THE GATE.

23 THE COURT: THANK YOU.

24 MS. SARIS: I HAVE ANOTHER PHOTOGRAPH, YOUR
25 HONOR, THAT APPEARS TO BE THE INTERIOR OF THE GARAGE.

26 THE COURT: IT WILL BE WWW.

27 MS. SARIS: THANK YOU.
28

1 (MARKED FOR IDENTIFICATION DEFENSE'S
2 EXHIBIT NO. WWW, PHOTOS.)
3

4 Q BY MS. SARIS: DO YOU RECOGNIZE WHAT IS
5 DEPICTED IN DEFENSE WWW?

6 A YES. THAT IS THE INSIDE OF THE GARAGE.

7 Q AND ON THE BOTTOM PHOTOGRAPH IT APPEARS TO
8 BE SOME SORT OF DAMAGE TO THE WOOD. AND WHAT IS THAT?

9 A THAT REPRESENTS -- THERE WAS THREE BULLET
10 HOLES OR THREE BULLETS FIRED INTO THE GARAGE DOOR. THIS
11 IS MARKED BY -- MARKED AS NO. 1. AND I WOULD SAY
12 REPRESENTS THE NO. 1 THAT WE PREVIOUSLY SAW MARKED ON THE
13 OUTSIDE. SO THIS WOULD JUST BE THE INSIDE OF THAT.

14 MS. SARIS: AND I HAVE ANOTHER PHOTOGRAPH, YOUR
15 HONOR, I'VE MARKED XXX.

16 THE COURT: YES.
17

18 (MARKED FOR IDENTIFICATION DEFENSE'S
19 EXHIBIT NO. XXX, PHOTOS.)
20

21 Q BY MS. SARIS: DO YOU RECOGNIZE WHAT THAT
22 PHOTOGRAPH DEPICTS?

23 A YES. THIS PHOTOGRAPH DEPICTS IF YOU EXIT
24 THE GARAGE THROUGH A DOOR ON THE WESTERN SIDE, THIS PATH
25 WOULD LEAD YOU BACK TO THE DRIVEWAY AREA.

26 Q AND IF YOU LOOK VERY CLOSELY IN THAT
27 PHOTOGRAPH -- LET ME SEE IF I CAN PUT IT BACK AND
28 HIGHLIGHT IT. I'M GOING TO CIRCLE -- MAKE A CIRCLE IN

1 THE MIDDLE OF THAT PHOTOGRAPH. CAN YOU TELL ME --

2 A YES. WHEN I'M LOOKING AT THAT PHOTOGRAPH
3 I CAN AGAIN SEE THE WATER PIPE THAT WE MENTIONED EARLIER.

4 Q AND WHERE DOES THIS -- I'M SORRY. WHERE
5 DOES THIS PATH LEAD TO? IN OTHER WORDS, THE PERSON
6 STANDING -- TAKING THE PICTURE?

7 A IF YOU FOLLOW THE PATH TOWARDS ME ON THE
8 PHOTO AS IT IS AND IF YOU GO TO THE LEFT-HAND SIDE, THERE
9 IS A DOOR THAT LEADS INTO THE GARAGE.

10 Q AND HOW DO YOU KNOW IT LEADS INTO THE
11 GARAGE?

12 A I'VE SEEN IT AT THE CRIME SCENE.

13 Q AND DID YOU SEE ANY INDICATION THAT THAT
14 DOOR WAS THERE THAT MORNING BASED ON ANY NOTES OR ANY
15 REVIEW YOU'VE DONE OF THE EVIDENCE?

16 A YES. I'VE SEEN AN INDICATION OF IT. AN
17 OFFICER MENTIONED THAT HE FOUND THE DOOR TO BE CLOSED,
18 BUT NOT LOCKED.

19 Q AND THAT DOOR LEADS INTO THE GARAGE?

20 A THAT IS CORRECT.

21 Q NOW, LET ME SHOW YOU A PICTURE OF ANOTHER
22 DOOR, DEFENSE YYY.

23 WITH THE COURT'S PERMISSION.

24 THE COURT: SO MARKED.

25

26 (MARKED FOR IDENTIFICATION DEFENSE'S
27 EXHIBIT NO. YYY, PHOTOS.)

28

1 Q BY MS. SARIS: DO YOU RECOGNIZE THAT DOOR?

2 A YES, I DO. THAT IS THE ELEVATOR DOOR ON
3 THE SIDE OF THE GARAGE.

4 Q AND IT APPEARS TO BE A VERY SMALL SQUARE
5 THAT MY PEN IS POINTING TO ON THAT DOOR. WHAT IS THAT?

6 A THAT IS THE AREA WHERE ITEM NO. 16 WAS
7 RECOVERED FROM.

8 Q DID YOU TAKE THIS PICTURE?

9 A YES, I DID.

10 Q SO THAT'S STILL EVIDENCE OF THAT GUNSHOT
11 THERE TO THIS DAY?

12 A TO THIS DAY IT IS STILL THERE, YES.

13 Q AND THAT IS DEPICTED -- IF YOU COULD POINT
14 TO THAT ON THE DIAGRAM FOR THE JURORS ON TTT OR YY.

15 YOUR HONOR, HE'S POINTING TO THE RED
16 TRIANGLE 16?

17 A THAT'S CORRECT, ITEM NO. 16.

18 THE COURT: ON YY.

19 THE WITNESS: YES.

20 Q BY MS. SARIS: LET ME SHOW YOU ONE OTHER
21 GROUP OF PHOTOGRAPHS. YOU MENTIONED A GARAGE DOOR. AND
22 THESE ARE THREE PHOTOGRAPHS I'VE JUST TAPED TOGETHER
23 OF -- THAT'S PROBABLY THE BEST I'M GOING TO --

24 DOES THAT APPEAR TO YOU TO REPRESENT THE
25 HOLES IN THE GARAGE DOOR BASED ON YOUR REVIEW OF THE
26 CRIME SCENE PHOTOGRAPHS?

27 A YES, IT DOES.

28 THE COURT: THAT'S ZZZ.

1 MS. SARIS: THANK YOU. I'M SORRY.

2
3 (MARKED FOR IDENTIFICATION DEFENSE'S
4 EXHIBIT NO. ZZZ, PHOTOS.)
5

6 Q BY MS. SARIS: DID YOU MAKE MENTION OF
7 THAT IN YOUR REPORT?

8 A YES, I DID.

9 Q AND WAS THERE ANY CONFUSION ABOUT WHERE
10 THOSE BULLETS WERE LOCATED IN YOUR REPORT?

11 A YES. WHAT I INITIALLY HAD WAS PHOTOGRAPHS
12 VERY SIMILAR TO WHAT YOU SEE. SO I DID NOT HAVE A
13 STAND-BACK VIEW OF THE GARAGE SHOWING THE WHOLE GARAGE
14 DOOR AS A SINGLE UNIT WITH THE BULLETS. ALL I HAD WAS
15 SORT OF A CLOSE-UP PHOTOGRAPH. AND WHAT I INITIALLY DID
16 WAS, I TOOK THE DOOR HANDLE AND I WORKED TOWARDS THE
17 LEFT.

18 AND I WAS UNDER THE IMPRESSION THAT ITEM
19 NO. 2 WAS TO THE RIGHT OF THAT DOOR HANDLE. BUT UPON
20 FURTHER REVIEW I FOUND IT WAS ACTUALLY ON THE LEFT-HAND
21 SIDE OF THAT DOOR HANDLE.

22 Q IGNORING FOR A FACT HOW THEY ARE NUMBERED,
23 TELL US HOW THEY WERE LOCATED ON THE GARAGE DOOR?

24 A SO IF YOU WORK -- IF YOU STAND IN FRONT OF
25 THE GARAGE DOOR AND YOU LOOK FROM THE OUTSIDE AND YOU
26 WORK FROM LEFT TO RIGHT. YOU WOULD HAVE ITEM NO. 2 ON
27 THE LEFT-HAND SIDE. YOU WOULD HAVE ITEM NO. 3 IN THE
28 MIDDLE RIGHT NEXT TO THE HANDLE. AND THEN YOU WOULD HAVE

1 ITEM NO. 1 ON THE RIGHT-HAND SIDE OF THE GARAGE.

2 Q AND WE'VE HEARD EVIDENCE THAT ITEMS AT
3 CRIME SCENES SOMETIMES EVIDENCE NUMBERS ARE ARBITRARY.
4 IS THAT YOUR EXPERIENCE?

5 A YES.

6 Q WHEN YOU WENT TO THE CRIME SCENE, DID YOU
7 NOTICE ANY SAFES IN ANY PORTION OF THE GARAGE?

8 A YES. WHEN YOU ENTER THE GARAGE, AND YOU
9 MOVE SORT OF TO THE RIGHT OF THE GARAGE, THERE IS A DOOR
10 LEADING INTO AN OFFICE. AND ADJACENT TO THIS OFFICE
11 THERE IS A SMALL BATHROOM WHICH HAD A SAFE INSIDE.

12 MS. SARIS: AND, YOUR HONOR, I HAVE ANOTHER
13 PHOTOGRAPH THAT I WOULD LIKE TO MARK DEFENSE NEXT IN
14 ORDER. AND FRANKLY, I DON'T KNOW WHAT COMES NEXT?

15 THE COURT: I THINK, LET'S DO 4-A.

16 MS. SARIS: FOUR A'S?

17 THE CLERK: JUST 4-A?

18 THE COURT: 4-A.

19 MS. SARIS: DOES THAT MEAN I WRITE FOUR A'S OR
20 THE NO. 4 AND A?

21 THE CLERK: JUST 4 DASH A.

22 THE COURT: NO. NUMBER 4 A.

23

24 (MARKED FOR IDENTIFICATION DEFENSE'S
25 EXHIBIT NO. 4-A, PHOTO.)

26

27 Q BY MS. SARIS: DO YOU RECOGNIZE THIS
28 PHOTO?

1 A YES, I DO.

2 Q AND DID YOU TAKE THAT?

3 A I DID.

4 Q AND DOES THAT DEPICT THE DOOR IN THE
5 GARAGE THAT LEADS TO THE OFFICE THAT YOU'VE TALKED ABOUT?

6 A THAT DOES, YES.

7 Q AND WHEN YOU WENT TO THE -- DID YOU ALSO
8 VIEW A CRIME SCENE VIDEO?

9 A YES, I DID.

10 Q AND WHAT IS THAT TO YOUR KNOWLEDGE?
11 WHAT DID THAT DEPICT?

12 A THE VIDEO IN TOTALITY? I'M NOT SURE I'M
13 FOLLOWING YOU EXACTLY.

14 Q YES. WHAT WAS IT A VIDEO OF? WAS THERE
15 SOMEONE WALKING AROUND TALKING?

16 A YES. I'M SORRY. THE VIDEO DEPICTS THE
17 CRIME SCENE. AND WHAT HAPPENS IS YOU WOULD HAVE A CAMERA
18 MAN AND THEN THERE IS A DETECTIVE WITH A MICROPHONE
19 STARTING, FOR INSTANCE, AT EXHIBIT NO. 1. AND THEN
20 FOLLOWING THE EXHIBITS AS YOU WALK THROUGH THE CRIME
21 SCENE AND GIVING A SHORT VERBAL DESCRIPTION OF THOSE
22 EXHIBITS BEING A FIRED CARTRIDGE CASE; FIRED BULLETS; THE
23 POSITION OF TRUDY THOMPSON'S BODY, ET CETERA, ET CETERA.

24 Q AND I'M GOING TO ASK --

25 I HAVE SOME PHOTOGRAPHS, YOUR HONOR, I
26 WOULD LIKE TO MARK DEFENSE 4-B AND 4-C.

27 THE COURT: ALL RIGHT.

28

(MARKED FOR IDENTIFICATION DEFENSE'S
EXHIBIT NO. 4-B AND 4-C, PHOTOS.)

Q BY MS. SARIS: DO YOU RECOGNIZE WHAT IS
DEPICTED IN DEFENSE 4-B?

A YES. THAT APPEARS TO BE A PHOTO OF A SAFE
IN THE WALL.

Q AND DO YOU RECOGNIZE THAT TO BE A STILL
FROM THE CRIME SCENE VIDEO?

A YES. THAT'S WHAT I'VE SEEN FROM THE CRIME
SCENE VIDEO.

Q AND I'LL JUST PUT ANOTHER VIEW OF THAT.
THESE ARE HORRIBLE.

DOES THAT ALSO APPEAR TO DEPICT THE SAFE
THAT'S IN THE WALL?

A YES.

Q NOW, IS THERE ANOTHER -- DID YOU VIEW THAT
IN SEPTEMBER OF THIS YEAR?

A YES, I DID.

Q IS THERE A DIFFERENT SAFE IN THERE NOW?

A IT APPEARS TO ME BY LOOKING AT THE SAFE
AND THE WAY THAT IT'S CONSTRUCTED AND WHAT WE SEE ON THE
OUTSIDE DOOR OF THE SAFE, IT APPEARS TO BE A DIFFERENT
SAFE.

MS. SARIS: YOUR HONOR, I HAVE A COLOR PHOTOGRAPH
OF THE SAFE. I WOULD LIKE TO MARK THAT AS 4-D.

THE COURT: SO MARKED.

(MARKED FOR IDENTIFICATION DEFENSE'S
EXHIBIT NO. 4-D, PHOTO.)\

Q BY MS. SARIS: AND DO YOU RECOGNIZE THAT
PHOTOGRAPH?

A YES. THAT'S A PHOTOGRAPH THAT I TOOK.

Q OF WHAT?

A OF THE SAFE BEHIND THE DOOR IN THE SMALL
BATHROOM AREA.

Q NOW DOES THAT LOCATION APPEAR TO YOU TO BE
THE SAME AS THE LOCATION OF THE SAFE THAT YOU SAW IN THE
CRIME SCENE VIDEO?

A YES, IT DOES.

MS. SARIS: YOUR HONOR, WITH THE COURT'S
PERMISSION, I WOULD LIKE TO PLAY A 20-SNIPPET SECTION OF
THAT. I HAVE IT ON CD.

THE COURT: HOW WE GOING TO IDENTIFY THE PORTION?

MS. SARIS: IT'S ONLY THAT PORTION ON THE CD.

THE COURT: THE PORTION OF THE SAFE?

MS. SARIS: THE PORTION OF THE CRIME SCENE VIDEO
THAT DEPICTS THE SAFE.

THE COURT: RIGHT. THANK YOU.

MS. SARIS: AND IT HAS NO SOUND.

Q I WOULD LIKE TO ASK YOU TO DRAW YOUR
ATTENTION TO THE OVERHEAD AND TELL ME IF YOU RECOGNIZE
THIS PORTION OF THE -- LET ME ASK YOU FIRST OFF: WAS
THIS A HIGH QUALITY VIDEO?

A NO, IT WAS NOT A VERY GOOD VIDEO.

1 Q AND THE PORTION THAT SHOWED THE OFFICE
2 WITH THE SAFE IN IT, DO YOU REMEMBER HOW IT WAS LIT?

3 A IT WAS POORLY LIT AND IT ONLY SHOWED
4 FLEETING GLIMPSES, A VERY SHORT TIME SPAN OF THE SAFE
5 AREA.

6 Q I'M GOING TO ASK YOU TO LOOK AT THIS VIDEO
7 AND SEE IF YOU RECOGNIZE A PORTION OF THAT.

8 (VIDEO PLAYED.)

9 Q BY MS. SARIS: DID YOU RECOGNIZE THAT AS A
10 PORTION OF THE CRIME SCENE VIDEO THAT YOU SAW?

11 A YES. IT APPEARS TO BE THE AREA BEHIND
12 THIS DOOR INSIDE THIS BATHROOM WHERE THE WALL WAS, WHERE
13 THE SAFE WAS INSTALLED.

14 Q AND DO YOU RECOGNIZE THAT WALL TO BE THE
15 SAME AS THE WALL DEPICTED IN 4-D?

16 A IT SHOULD BE CONSISTENT, YES.

17 MS. SARIS: THIS WOULD BE 4-E, THE CD. THE ONLY
18 PORTION IT CONTAINS.

19 THE COURT: YES. 4-E.

20

21 (MARKED FOR IDENTIFICATION DEFENSE'S

22 EXHIBIT NO. 4-E, CD.)

23

24 Q BY MS. SARIS: DID YOU SEE ANY PHOTOGRAPHS
25 IN YOUR REVIEW THAT WERE TAKEN OF THIS SAFE THAT MORNING,
26 THAT APPEARED TO YOU TO BE TAKEN THAT MORNING?

27 A I'M NOT SURE. CAN I REFRESH MY MEMORY?

28 Q SURE.

1 A FROM THE PHOTOGRAPHS THAT I HAVE. NO. AT
2 THE MOMENT I CAN'T FIND A PHOTOGRAPH IN MY NOTES SHOWING
3 THAT SAFE.

4 Q DID YOU SEE ANY EVIDENCE THAT ANY PHYSICAL
5 TESTS WERE DONE ON THE SAFE SUCH AS ANY LAB REPORTS OR
6 FINGERPRINT ANALYSIS OR ANYTHING LIKE THAT?

7 A NO, I DIDN'T.

8 MS. SARIS: I HAVE ANOTHER PHOTOGRAPH, YOUR
9 HONOR, DEPICTING THE INTERIOR OF THE GARAGE.

10 THE COURT: 4-F.

11
12 (MARKED FOR IDENTIFICATION DEFENSE'S
13 EXHIBIT NO. 4-F, PHOTO.)

14
15 Q BY MS. SARIS: DO YOU RECOGNIZE THAT
16 PHOTOGRAPH?

17 A YES, I DO.

18 Q AND IN THAT PHOTOGRAPH, WHAT DOOR IS
19 DEPICTED?

20 A YOU CAN SEE THE GARAGE DOOR ON THE
21 LEFT-HAND SIDE.

22 Q AND DO YOU SEE THE DOOR THAT'S -- THAT MY
23 PEN IS POINTING TO HERE (INDICATING)?

24 A YOU CAN ALSO SEE THE ELEVATOR DOOR.

25 Q AND DO YOU SEE THAT VERY TINY LITTLE
26 SQUARE THAT WE'VE INDICATED IS A BULLET HOLE IN THAT
27 DOOR?

28 A YES, I DO.

1 Q AND WHY WAS THE PHOTOGRAPH TAKEN FROM THAT
2 POSITION, IF YOU KNOW?

3 A WELL, I LOOKED AT IT WHEN I ATTENDED THE
4 CRIME SCENE I WAS STANDING MORE OR LESS IN THE VICINITY
5 OF MICKEY THOMPSON'S BODY. AND I WANTED TO JUST TAKE A
6 PICTURE FOR MYSELF THAT I CAN USE IN RECONSTRUCTION
7 SHOWING A VIEW TOWARDS THE GARAGE FROM THAT GENERAL AREA.

8 Q WHEN YOU WENT THERE, DID YOU EXPECT THAT
9 THE GARAGE DOOR WOULD STILL BE THERE AVAILABLE TO HAVE
10 HOLES IN IT FOR PROBING?

11 A I WAS UNDER THE IMPRESSION THAT IT WAS
12 STILL THERE, YES.

13 Q AND WAS IT?

14 A IT WASN'T, UNFORTUNATELY.

15 Q DID -- WHEN YOU LOOKED AT THE CRIME SCENE
16 VIDEO THAT WE'VE DISCUSSED, DID YOU NOTICE ANY -- DID YOU
17 SEE IN THE VIDEO WHERE MICKEY THOMPSON'S BODY FELL?

18 A YES, I DID.

19 Q AND WAS THAT CONSISTENT WITH THE
20 PHOTOGRAPH THAT YOU'VE SEEN?

21 A YES, IT WAS.

22 Q DID YOU NOTICE ANY POOLING OR DROPS OF
23 BLOOD AROUND HIS BODY?

24 A I SAW WHERE MICKEY THOMPSON WAS LYING.
25 THERE WAS A STREAM OF BLOOD COMING FROM HIS HEAD, RUNNING
26 ALONGSIDE HIS BODY, AND THEN RUNNING DOWN TOWARDS THE
27 BOTTOM PART OF THE DRIVEWAY. THERE IS A SEPARATE AREA OF
28 BLOOD, IF I CAN DESCRIBE IT, BETWEEN MICKEY THOMPSON'S

1 BODY AND THE GARAGE THAT CAN BE SEEN ON THE VIDEOS.

2 Q WAS THERE BLOOD RIGHT IN THE FRONT OF THE
3 GARAGE? LIKE, IF I'M REFERRING TO THIS DIAGRAM HERE, DID
4 YOU NOTICE ANY INDICATION OF BLOOD UP IN HERE AT THE
5 POINT WHERE THE GARAGE AND THE ASPHALT MET?

6 MR. JACKSON: OBJECTION, YOUR HONOR. THIS LACKS
7 FOUNDATION. SHE IS REFERRING TO A PICTURE THAT DOESN'T
8 HAVE THE POOLING OF BLOOD IN IT.

9 THE COURT: SUSTAINED. YOU'RE REFERRING TO 4-F?

10 MS. SARIS: I'M REFERRING TO 4-F.

11 Q LET ME ASK YOU THIS: REGARDING THIS
12 LOCATION, IF I CAN ORIENT YOU TO THIS LOCATION ON 4-F,
13 WHICH APPEARS TO BE RIGHT IN FRONT OF WHERE THE GARAGE
14 MEETS THE ASPHALT.

15 DID YOU SEE THAT LOCATION AT ALL IN THE
16 CRIME SCENE VIDEO?

17 A YES, I DID.

18 Q DID THERE APPEAR TO BE BLOOD THERE OR IN
19 OTHER ANOTHER LOCATION?

20 MR. JACKSON: OBJECTION. THE VIDEO SPEAKS FOR
21 ITSELF, YOUR HONOR.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER.

24 THE WITNESS: I LOOKED AT THE BLOOD. AND TO ME
25 IT LOOKED A LOT CLOSER TO MICKEY THOMPSON'S BODY, AWAY
26 FROM THE GARAGE AREA. AS OPPOSED TO AWAY FROM MICKEY
27 THOMPSON'S BODY AND CLOSER TO THE GARAGE.

28 Q BY MS. SARIS: DID IT APPEAR TO YOU TO BE

1 SEPARATE, HOWEVER, FROM THE STREAM THAT YOU NOTED?

2 A YES. WHEN I LOOKED AT IT FROM MY
3 OBSERVATIONS, I WOULD SAY THAT IT'S TWO SEPARATE BLOOD
4 AREAS, YES.

5 Q AND WAS THERE ANY TYPE OF PATTERN TO THE
6 BLOOD AREA THAT WAS NOT THE BLOOD AREA THAT APPEARED TO
7 BE A STREAM FROM HIS BODY?

8 A I COULD NOT DISTINGUISH IT.

9 Q I DON'T MEAN PATTERN IN TERMS OF BLOOD
10 SPATTER, BUT I MEAN DID THE BLOOD FALL IN A PARTICULAR
11 LOCATION?

12 A I WOULD GO -- I CAN ONLY SAY THAT THE
13 BLOOD APART FROM THAT WHAT WE SEE RUNNING FROM MICKEY
14 THOMPSON'S HEAD INDICATES TO ME A SECOND POSITION, IF I
15 CAN PUT IT THAT WAY.

16 Q OKAY. DO YOU HAVE ANY PHOTOGRAPHS OF THE
17 BLOOD FROM WHICH YOU CAN MAKE A DETERMINATION ABOUT
18 DIRECTIONALITY?

19 A NO, THERE IS NO PHOTOGRAPHS.

20 Q DO THE BLOODS APPEAR TO YOU TO BE ONE
21 STAIN AFTER ANOTHER IN A LINE AS IF SOMEONE IS OF MOVING
22 SOMEWHERE? OR DO THEY APPEAR TO BE IN A SEMI-CIRCLE? OR
23 DO THEY APPEAR TO BE COMPLETELY RANDOM?

24 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.

25 THE COURT: SUSTAINED. ASK ANOTHER QUESTION.

26 Q BY MS. SARIS: WAS THERE ANY TYPE OF
27 EVIDENCE THAT YOU COULD DRAW ABOUT HOW THE INDIVIDUAL
28 MOVED BASED ON WHAT YOU SAW IN THE CRIME SCENE VIDEO?

1 A NO, I THINK NOT. ALL I CAN SAY IS THAT
2 ASSUMING THAT THIS IS THE VICTIM'S BLOOD, HE SPENT SOME
3 TIME THERE; ENOUGH FOR HIM TO BLEED OUT OR TO GET ON TO
4 THE GROUND.

5 Q AND WHEN YOU SAY "SOME TIME THERE," IN THE
6 SPACE OTHER THAN WHERE HE FELL?

7 A YES.

8 Q AND CAN YOU GIVE US ANY RELATIONAL
9 RELATIONSHIP BETWEEN WHERE THAT BLOOD POOLED FOR A MOMENT
10 OR TWO VERSUS WHERE HE LANDED?

11 A CAN YOU JUST CLARIFY? I'M NOT SURE WHAT
12 YOU MEAN.

13 Q SURE. YOU INDICATED THERE WAS A SEPARATE
14 STREAM COMING OFF OF MR. THOMPSON'S BODY AND THEN THERE
15 WAS A SEPARATE AREA WHERE BLOOD HAD POOLED?

16 A YES.

17 Q WHAT WAS THE RELATIONSHIP, YOU KNOW,
18 NORTH? SOUTH? EAST? WEST? TEN FEET? FIVE FEET? HOW
19 FAR?

20 A IT IS DIFFICULT TO DETERMINE THE EXACT
21 AMOUNT OF FEET. MAYBE I SHOULD JUST GO BACK TO WHAT I
22 HAVE PREVIOUSLY SAID. IT APPEARS TO ME FROM VIEWING THE
23 PHOTOGRAPHS AND THE VIDEO THAT THE BLOOD IS CLOSER TO
24 MICKEY THOMPSON'S BODY THAN IT IS TO THE GARAGE. AND I
25 WOULD NOT ASSOCIATE IT BEING THE OTHER WAY AROUND. IN
26 OTHER WORDS, IN FRONT OF THE GARAGE AWAY FROM MICKEY
27 THOMPSON'S BODY.

28 Q AND WAS MR. THOMPSON'S BODY FOUND MORE

1 TOWARDS THE BASE OF THE DRIVEWAY DEPICTED IN TT IN
2 RELATION TO THAT BLOOD OR WAS IT FOUND MORE TOWARD THE
3 BACK DRIVEWAY IN RELATION TO THAT BLOOD?

4 A CAN YOU JUST REPEAT IS THAT.

5 Q SURE. WAS MR. THOMPSON'S BODY IN RELATION
6 TO THE BLOOD POOLS THAT WERE SEPARATE FROM THE STREAM,
7 WAS HIS BODY FOUND MORE TOWARDS THE BASE OF THE DRIVEWAY
8 THAT WE SEE ON TTT? OR WAS IT FOUND MORE TOWARDS THE
9 BACK DRIVEWAY WHICH WOULD BE DEPICTED OFF THE LEFT OF
10 TTT?

11 A MICKEY THOMPSON'S BODY WAS FOUND MORE OR
12 LESS TOWARD THE EDGE OF THE SOUTHERN EDGE OF THE DRIVEWAY
13 OVER HERE (INDICATING).

14 MS. SARIS: AND HE'S, YOUR HONOR, POINTING TO THE
15 SILHOUETTE AT THE TOP OF TTT IN WHAT WE'VE REFERRED TO AS
16 THE WEST SIDE OF THE HOME PREVIOUSLY.

17 THE COURT: THANK YOU.

18 Q BY MS. SARIS: GETTING BACK TO SHOT NO.
19 29, ASSUMING THAT TRUDY THOMPSON WAS SITTING IN THE
20 VEHICLE AND THE VAN DOOR WAS ALL THE WAY OPEN SUCH THAT
21 SHE COULD HAVE BEEN SHOT WHILE SITTING IN THE VEHICLE, IS
22 THERE ANY BALLISTIC EVIDENCE TO DETERMINE WHERE THE
23 VEHICLE WAS IN WHEN SHE WAS SHOT?

24 A NO. WHAT -- THE ONLY EVIDENCE THAT YOU
25 CAN REALLY USE IS THE POSITION OF THE CARTRIDGE CASE
26 WHICH IS NO. 11 OVER HERE (INDICATING).

27 MS. SARIS: HE IS POINTING TO A GREEN CIRCLED 11
28 ON DEFENSE YY.

1 THE COURT: YES.

2 Q BY MS. SARIS: SO ASSUMING THAT THE VAN
3 WAS IN THE SPACE THAT WE SEE IS EMPTY -- DO YOU HAVE THE
4 SHOT IN FRONT OF YOU, THE INTERIOR OF THE GARAGE? THANK
5 YOU.

6 A YES.

7 Q ON DEFENSE WWW, IF WE ASSUME THAT THE VAN
8 OCCUPIED THAT SPACE PRIOR TO THE GARAGE DOOR BEING
9 OPENED, MADE AN ARCING DOWNWARD WHERE IT LANDS IN DEFENSE
10 TTT, IS THERE ANY WAY TO TELL ON THIS ARC IF TRUDY
11 THOMPSON WAS SHOT WHILE IN THE VAN, WHERE THAT SHOT WOULD
12 HAVE OCCURRED?

13 A NO, THERE ISN'T.

14 Q IS THERE ANY EVIDENCE TO SUGGEST BASED ON
15 YOUR REVIEW OF ALL OF THE EVIDENCE, THAT BOTH SHOOTERS
16 SHOT AT BOTH VICTIMS?

17 A YES, THERE IS EVIDENCE OF THAT.

18 Q NOW, LET ME JUST SAY THAT FOR THAT
19 QUESTION, ARE YOU ASSUMING THAT EACH SHOOTER HAD HIS OWN
20 GUN?

21 A YES, I DID. AND ONCE AGAIN WE ONLY HAVE
22 TO LOOK AT THE FIRED BULLETS AND THE FIRED CARTRIDGE
23 CASES. IF WE GO TO THE AREA WHERE MICKEY THOMPSON'S BODY
24 IS LYING, WE CAN SEE CLEAR EVIDENCE OF TWO FIREARMS IN
25 THE IMMEDIATE VICINITY OF HIS BODY. IF WE GO DOWN TO THE
26 BROWN VAN, WE CAN SEE EVIDENCE OF TWO DIFFERENT FIREARMS
27 BEING USED IN THAT VICINITY. AS WE STATED WHEN WE
28 STARTED OFF AROUND TRUDY THOMPSON'S BODY, THERE IS ONLY

1 INDICATION OF ONE FIREARM USED.

2 Q NOW, DID YOU REVIEW ANY EVIDENCE --

3 THE COURT: HANG ON. WOULD THIS BE A GOOD PLACE
4 TO TAKE OUR NOON RECESS?

5 MS. SARIS: THAT'S FINE. THANK YOU.

6 THE COURT: LET'S TAKE OUR NOON RECESS, LADIES
7 AND GENTLEMEN. DON'T DISCUSS THE CASE. DON'T FORM OR
8 EXPRESS ANY OPINIONS. DON'T CONDUCT ANY DELIBERATIONS.
9 DON'T READ OR LISTEN TO ANYTHING ABOUT THE CASE IN THE
10 MEDIA. WE WILL SEE YOU BACK HERE AT 1:30. THANK YOU.

11
12 (AT 12:00 P.M. A RECESS WAS TAKEN

13 UNTIL 1:30 P.M. OF THE SAME DAY.)

14 --000--
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, DECEMBER 12, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 (PROCEEDINGS HELD AT SIDEBAR.)

14 THE COURT: WE'RE AT THE SIDEBAR WITH NO. 10.
15 AND YOU INDICATED THAT YOU HAD A DOCTOR'S APPOINTMENT AT
16 3:30?

17 JUROR NO. 10: RIGHT.

18 THE COURT: IS IT SOMETHING THAT YOU CAN CHANGE
19 OR DELAY OR SOMETHING LIKE THAT OR WHAT? BECAUSE WE'RE
20 VERY CLOSE.

21 JUROR NO. 10: I CAN TRY. BUT I KNOW THAT I
22 CALLED OVER THERE AND HE DOESN'T HAVE ANY OTHER
23 APPOINTMENTS BECAUSE HE'S GOING TO BE GONE, YOU KNOW, FOR
24 THE HOLIDAYS AND STUFF. SO HE'S KIND OF JAMMED UP. I
25 CAN JUST, YOU KNOW --

26 THE COURT: I DON'T WANT YOU TO HAVE SOME MISS IT
27 IF IT'S SOMETHING IMPORTANT. BUT JENNIFER SAID IT MIGHT
28 BE SOMETHING YOU CAN MOVE AROUND A BIT.

1 JUROR NO. 10: ONLY BECAUSE I'M ALMOST OUT OF --
2 I HAVE TO TAKE MEDICATION EVERY DAY. AND I HAVE TO GO
3 SEE HIM. I GET IT FROM HIM.

4 THE COURT: OKAY.

5 JUROR NO. 10: I MEAN IF IT'S GOING TO SCREW UP
6 SCHEDULES HERE, I'LL JUST --

7 THE COURT: BUT YOU HAVE TO GO FOR THE 3:30
8 APPOINTMENT AND THEY CAN'T GIVE YOU A LATER TIME OR
9 ANYTHING? WHAT IF WE CALL?

10 JUROR NO. 10: I DON'T KNOW. I KNOW HE'S BOOKED.
11 ARE WE GOING TO TAKE A BREAK ABOUT 2:30? I CAN TRY
12 CALLING AND SEE.

13 THE COURT: WHY DON'T WE DO THAT? WE CAN TAKE A
14 BREAK ABOUT 2:30.

15 JUROR NO. 10: WHAT IF I CAN'T --

16 THE COURT: THEN WE WILL RECESS.

17 MS. SARIS: HOW LONG -- IF WE NEED TO RECESS, HOW
18 LONG DOES IT TAKE TO GET THERE?

19 THE COURT: WELL, 3:00. BUT I'M GOING TO LET HER
20 MAKE THE PHONE CALL AT 2:30.

21 JUROR NO. 10: THANK YOU.

22 (PROCEEDINGS HELD AT SIDEBAR CONCLUDED.)

23

24 (THE JURY ENTERED THE COURTROOM
25 AND THE FOLLOWING PROCEEDINGS WERE
26 HELD IN OPEN COURT.)

27

28 THE COURT: WE'RE RESUMING IN THE TRIAL MATTER.

1 ALL JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT. THE
2 PARTIES ARE PRESENT. MR. SWANEPOEL IS STILL ON THE
3 WITNESS STAND.

4 SIR, YOU'RE STILL UNDER OATH. PLEASE
5 STATE YOUR NAME AGAIN FOR THE RECORD.

6 THE WITNESS: JACOBUS SWANEPOEL.

7 THE COURT: THANK YOU.

8 YOU MAY CONTINUE.

9 MS. SARIS: THANK YOU.

10

11 DIRECT EXAMINATION (RESUMED)

12 BY MS. SARIS:

13 Q GOOD AFTERNOON. LET ME ASK YOU TO DRAW
14 YOUR ATTENTION TO PEOPLE'S DIAGRAM NO. 46. SPECIFICALLY
15 PHOTOGRAPH E IN THE TOP RIGHT-HAND CORNER OF THAT
16 PHOTOGRAPH.

17 DO YOU RECOGNIZE THAT?

18 A YES, I DO.

19 Q AND WHAT IS THAT?

20 A IT'S A PHOTOGRAPH OF THE CRIME SCENE
21 INDICATING WHERE A VEHICLE WAS STANDING IN FRONT OF THE
22 HOUSE.

23 Q IN THAT ALCOVE, DID YOU NOTICE ANYTHING
24 BEHIND THE VEHICLE THAT'S DEPICTED IN PHOTOGRAPH E?

25 A THERE IS A DOOR.

26 Q DID YOU SEE THAT DOOR WHEN YOU WENT TO DO
27 THE REVIEW OF THE CRIME SCENE THAT YOU DISCUSSED IN
28 SEPTEMBER?

1 A YES, I DID.

2 Q WHEN YOU FIRST SAW THE DOOR, WHERE DID YOU
3 BELIEVE IT LED?

4 A I BELIEVE IT COULD EITHER LEAD BACK IN THE
5 HOUSE OR IN THE GARAGE.

6 Q AND WHERE DID IT, IN FACT, LEAD?

7 A IT LED TO THE BACK OF THE ELEVATOR.

8 Q AND THAT WAS THE WHITE DOOR THAT WE SAW
9 WITH THE LITTLE SQUARE HOLE IN THE BOTTOM?

10 A YES.

11 Q AND COULD YOU GET FROM THAT DOOR INTO THE
12 GARAGE?

13 A NO.

14 Q WE HAD TALKED BEFORE THE BREAK ABOUT THE
15 FACT THAT ONE OF THE EXPENDED BULLETS WAS RECOVERED
16 UNDERNEATH -- WAS RECOVERED IN THE AUTOPSY FROM TRUDY
17 THOMPSON?

18 A THAT'S CORRECT.

19 Q AND THAT YOU FOUND A CASING IN THAT
20 LOCATION AND THAT YOU SAID YOU MADE ONE CONCLUSION
21 REGARDING THAT?

22 A YES, I DID.

23 Q AND WHAT WAS THAT?

24 A THAT THE CARTRIDGE CASE, BASED ON ITS
25 LOCATION AND THE VICINITY OF THE BODY AND THE BULLET
26 RECOVERED FROM THE HEAD OF TRUDY THOMPSON, IS IN FACT
27 FROM THE FIRED FROM THE SAME FIREARM.

28 Q DID YOU MAKE A DETERMINATION BASED ON

1 WHERE THAT WAS RECOVERED WHETHER OR NOT -- OR BASED ON
2 THE WOUND ITSELF WHETHER OR NOT WHERE SHE WAS FOUND IS
3 WHERE SHE WAS SHOT IN THE HEAD?

4 A YES. BASED ON THE LOCATION, AGAIN, OF THE
5 CARTRIDGE CASE IF I CAN PUT IT THIS WAY, THE SERIOUSNESS
6 OF THE WOUND, I WOULD EXPECT TO FIND TRUDY THOMPSON RIGHT
7 THERE WHERE SHE WAS SHOT, YES.

8 Q NOW, GETTING UP TO THE TOP OF THE DIAGRAM
9 THAT WE DISCUSSED AND THE BODY OF MICKEY THOMPSON, DID
10 YOU NOTICE IN ANY OF THE REPORTS OR PICTURES A HEAD WOUND
11 THAT HE SUFFERED?

12 A YES. MICKEY THOMPSON ALSO SUFFERED A HEAD
13 WOUND, PERFORATING GUNSHOT WOUND TO THE BACK OF THE
14 HEAD -- OR JUST BEHIND THE RIGHT EAR. AND THE BULLET WAS
15 RECOVERED UNDERNEATH THE LEFT EAR AS HE WAS LYING ON THE
16 ASPHALT.

17 Q DID THE RECOVERY OF THAT BULLET IN ANY OF
18 THE OTHER REVIEWS THAT YOU DID LEAD YOU TO ANY
19 CONCLUSIONS ABOUT WHERE MICKEY THOMPSON WAS WHEN HE
20 RECEIVED THAT HEAD WOUND?

21 A I WOULD COME TO THE SAME CONCLUSION AS I
22 DID WITH TRUDY THOMPSON RECEIVING THE HEAD WOUND, I
23 BELIEVE THAT MICKEY THOMPSON WAS RIGHT THERE WHEN HE WAS
24 SHOT TO THE HEAD AT LEAST.

25 Q IS THERE ANY WAY TO TELL FROM THE NATURE
26 OF THE INJURY OR FROM ANYTHING YOU REVIEWED WHETHER OR
27 NOT MICKEY THOMPSON WAS LYING DOWN OR STANDING UP WHEN HE
28 RECEIVED THE HEAD WOUND?

1 A FROM MY REVIEW THAT I'VE DONE, I SEE
2 MICKEY THOMPSON LYING DOWN. IF HE WAS STANDING UP, FOR
3 INSTANCE, THAT BULLET WOULD HAVE PERFORATED THE HEAD AND
4 THEN ENDED UP IN SOME OTHER POSITION OTHER THAN RIGHT
5 UNDER HIS EAR.

6 Q WOULD THE BULLET THAT WOUND UP IN HIS EAR
7 BE CONSISTENT WITH ANY OF THE WOUNDS THAT HE SUFFERED TO
8 HIS TORSO IN TERMS OF THE LOCATION?

9 A NO.

10 Q CAN YOU MATCH UP ON THE GARAGE OR ANY
11 OTHER PLACE THE WOUNDS TO THE TORSO OF MICKEY THOMPSON?

12 A YES. BY LOOKING AT THE WOUNDS ON MICKEY
13 THOMPSON, YOU CAN SEE THAT THE WOUNDS PERFORATE HIS BODY
14 FROM THE FRONT TO THE BACK. AND IF I LINE THAT UP WITH
15 WHAT I SEE IN THE GARAGE DOOR BEHIND THERE, I WANT TO
16 ALIGN THOSE SHOTS, AT LEAST THE THREE SHOTS THAT
17 PERFORATED THE BODY WITH THE SHOTS THAT ENDED UP IN THE
18 GARAGE DOOR.

19 Q SO THEY WENT THROUGH HIM INTO THE GARAGE?

20 A THAT'S WHAT I AM SEEING FROM THE EVIDENCE,
21 YES.

22 Q AND THERE IS THERE WAS ANOTHER -- A WOUND
23 THAT WAS LABELED NO. 3, DID YOU NOTICE THAT WOUND?

24 A YES, I DID.

25 Q AND THAT HAD AN ENTRANCE ON THE TOP OF THE
26 ABDOMEN AND AN EXIT ON THE BOTTOM?

27 A YES, THAT'S CORRECT.

28 Q WOULD THAT BE CONSISTENT WITH AN

1 INDIVIDUAL FACING THE SHOOTER LEANING FORWARD AND BEING
2 SHOT?

3 A YES, IT CAN BE. I JUST WANT TO QUALIFY
4 THAT IT IS REALLY DIFFICULT. IT IS AN ODD ANGLE. AND IF
5 YOU LOOK AT MICKEY THOMPSON, HE DOES HAVE SLIGHT STOMACH
6 ON HIM. SO IT IS A REALLY SHALLOW ANGLE. SO MAYBE IF HE
7 WAS FORWARD, BENDING FORWARD, WE CAN ATTAIN THAT SHALLOW
8 ANGLE. BUT THERE IS NO WAY FOR ME TO ABSOLUTELY SAY IT
9 CONCLUSIVE.

10 Q AND DID YOU NOTICE ANY WOUNDS ON MICKEY
11 THOMPSON'S HAND?

12 A YES, I DID.

13 Q AND DID YOU MAKE ANY CONCLUSIONS REGARDING
14 THE WOUNDS ON HIS HAND AND THE WOUNDS ON HIS TORSO?

15 A I LOOKED AGAIN AT THE WOUNDS, FIRST OF
16 ALL, ON THE STOMACH OF MICKEY THOMPSON. AND WHEN YOU
17 RELATE THEM BACK TO WHAT YOU SEE ON THE OUTSIDE OF THE
18 HAND, THERE IS CONSISTENCY IN SPACING AT LEAST. AND
19 AGAIN EXAMINING WHAT WE SEE AROUND THE ENTRANCE WOUNDS ON
20 THE STOMACH, I SEE MARKS THAT SHOWS ME THAT THE PALM OF
21 THE HAND AND THE STOMACH WAS SHORED UP AGAINST ONE
22 ANOTHER AS THE BULLET PASSED THROUGH. AND WE SEE THESE
23 SHORED UP MARKS ABOVE BULLET NO. 3 AND AGAIN BELOW BULLET
24 NO. 4.

25 Q SO RELATING TO PEOPLE'S DIAGRAM 69
26 REFERRING TO THE PHOTOGRAPH THAT'S BEEN MARKED A, THE
27 THREE WOUNDS THAT YOU'RE TALKING ABOUT, ARE THEY
28 DIFFERENT FROM EACH OTHER IN ANY WAY?

1 A YES. WELL, THESE ARE THE WOUNDS -- THIS
2 IS WOUND NO. 2; THIS IS WOUND NO. 3; AND THIS IS WOUND
3 NO. 4.

4 MS. SARIS: AND, YOUR HONOR, HE'S POINTING TO THE
5 RED CIRCLES ON PEOPLE'S 69 A IN A LEFT TO RIGHT ORDER.

6 THE COURT: THANK YOU.

7 THE WITNESS: WHEN WE ARE TALKING ABOUT WHAT HE
8 SEE ON THE PALM OF THE HAND AND ALIGNING IT TO WHAT WE
9 SEE ON THE STOMACH, THESE ARE THE MARKS THAT I'M
10 REFERRING TO THAT TELLS ME -- OR INDICATES TO ME THERE IS
11 A VERY GOOD POSSIBILITY OF THESE TWO WOUNDS BEING THE
12 HAND BEING SHORED UP AGAINST THE -- YOU CAN ALSO LOOK AT
13 THE ENTRANCE WOUNDS. IT'S SLIGHTLY IRREGULAR IN SHAPE.
14 IF YOU COMPARE IT TO WOUND NO. 2, WHICH IS NICE
15 CONCENTRIC, IT HAS A RING ABRASION AND THAT'S WHY I'M
16 SAYING THESE TWO ARE ALIGNED. BUT NO. 2 NOT NECESSARILY
17 GONE THROUGH THE HAND.

18 Q BY MS. SARIS: AND DID YOU LINE THOSE UP
19 WITH THE PHOTOGRAPH IN D, LIKE DAVID, OF PEOPLE'S 69?

20 A THAT IS CORRECT.

21 Q OKAY. NOW WOULD THAT BE CONSISTENT WITH
22 SOMEONE PUTTING THEIR HAND OVER THE WOUND AFTER THE FIRST
23 SHOT NO. 2, AND THEN GETTING SHOT WITH 3 AND 4 THROUGH
24 THE HAND?

25 A IT CAN BE, YES.

26 Q CAN YOU TELL US WHETHER THOSE THREE WOUNDS
27 WERE CONSISTENT WITH RAPID FIRE?

28 MR. JACKSON: OBJECTION. FOUNDATION.

1 THE COURT: SUSTAINED.

2 Q BY MS. SARIS: WHAT DOES RAPID FIRE MEAN
3 TO YOU?

4 A RAPID FIRE MEANS TO ME SEVERAL SHOTS FIRED
5 IN CLOSE SUCCESSION TO ONE ANOTHER.

6 Q IS THERE ANY EVIDENCE AT ALL THAT THESE
7 WOUNDS WERE CAUSED BY SEVERAL SHOTS BEING FIRED IN CLOSE
8 SUCCESSION TO ONE ANOTHER?

9 MR. JACKSON: ONCE AGAIN, I WOULD OBJECTION ON
10 FOUNDATIONAL GROUNDS.

11 THE COURT: YOU NEED TO LAY A FOUNDATION.
12 SUSTAINED.

13 Q BY MS. SARIS: HAVE YOU EVER SEEN AN
14 INDIVIDUAL THAT HAS SUFFERED GUNSHOT WOUNDS OR PICTURES
15 OF AN INDIVIDUAL WHERE THEY'RE CLOSE AND CLUSTERED?

16 A NO, NOT FROM RECOLLECTION RIGHT AWAY.

17 Q OKAY. WHAT DID YOU NOTICE ABOUT THESE
18 WOUNDS? LET'S ASK YOU THAT.

19 A I JUST NOTICED BY LOOKING AT THE WOUNDS IF
20 WE'RE TALKING ABOUT NO. 2, NO. 3 AND NO. 4, THEY ARE
21 GROUPED VERY CLOSE TOGETHER IN THIS AREA OF THE STOMACH,
22 (INDICATING) OF THE TORSO.

23 Q IF THEY WERE NOT SHOT ONE AFTER THE OTHER
24 IN QUICK SUCCESSION, WHAT WOULD HAVE HAD TO HAPPEN TO
25 CAUSE THOSE WOUNDS THAT CLOSE TOGETHER?

26 A IF THEY WERE FIRED WITH SOME SORT OF A
27 TIME INTERVAL -- AND WE'RE TALKING ABOUT A PERSON BEING
28 SHOT AND HE'S MOVING -- I WOULD EXPECT THE GROUPING TO

1 GROW LARGER AND LARGER. YOU KNOW, JUST FROM MY
2 EXPERIENCE IT TAKES A VERY GOOD SHOT TO ALIGN THREE SHOTS
3 THROUGH THE CENTER OF THE STOMACH WHILE A PERSON IS
4 MOVING AND DUCKING AND DIVING.

5 AND I DON'T -- AND THAT'S WHY I SAY THAT
6 THESE THREE SHOTS AT LEAST WERE FIRED IN CLOSE SUCCESSION
7 BECAUSE OF THE GROUPING. AND THEN THROUGH WHAT WE SEE
8 WITH THE HAND BEING SHORED UP. BECAUSE IF THERE IS A TOO
9 LONG OF A DELAY MY HAND IS GOING TO GO AWAY. SO THE HAND
10 HAS TO STAY THERE. AND THE ONLY WAY TO REALLY DO THAT IS
11 TO GET THE SHOTS IN CLOSE SUCCESSION.

12 Q LET ME PUT 69 BACK UP QUICKLY TO SHOW YOU
13 THE WOUND THAT HAS BEEN MARKED NO. 5 DEPICTED IN DIAGRAM
14 PEOPLE'S 69 C.

15 DO YOU RECOGNIZE THAT AS WOUND NO. 5?

16 A YES, I RECOGNIZE WOUND NO. 5.

17 Q AND COULD YOU TELL US JUST IN THAT PHOTO
18 WHICH IS THE ENTRANCE AND WHICH IS THE EXIT?

19 A THE ENTRANCE IS SITUATED ON THE SIDE OF
20 THE RIGHT HIP --

21 MR. JACKSON: OBJECTION. FOUNDATION.

22 THE COURT: SUSTAINED.

23 Q BY MS. SARIS: DO THEY APPEAR TO SHOW YOU
24 TO BE ENTRANCE AND EXIT WOUNDS?

25 MR. JACKSON: OBJECTION. FOUNDATION.

26 THE WITNESS: YES. I'VE ALSO REVIEWED THE
27 AUTOPSY REPORT --

28 THE COURT: SUSTAINED. SUSTAINED.

1 Q BY MS. SARIS: LET ME ASK YOU THIS: HAVE
2 YOU REVIEWED THE AUTOPSY REPORT IN CONNECTION WITH MICKEY
3 THOMPSON?

4 A YES, I HAVE.

5 Q AND DID YOU SEE WHERE THE DOCTOR IN THAT
6 HAD LABELED CERTAIN WOUNDS EXIT AND ENTRANCE WOUNDS?

7 A YES, I HAVE.

8 Q AND DOES ANYTHING IN PHOTOGRAPH C APPEAR
9 TO YOU TO BE CONSISTENT WITH THE WOUND THAT SHE LABELED
10 NO. 5?

11 A YES. THAT IS WHAT THE DOCTOR DESCRIBES.

12 Q AND BASED ON THE WOUND THAT IS DEPICTED IN
13 PHOTOGRAPH C, DOES THERE APPEAR TO YOU TO BE AN ENTRANCE
14 AND EXIT WOUND?

15 A YES, IT DOES.

16 Q AND CAN YOU TELL US WHICH IS WHICH AND WHY
17 YOU BELIEVE THAT.

18 MR. JACKSON: OBJECTION. FOUNDATION.

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER THAT.

21 THE WITNESS: FIRST OF ALL, JUST BY LOOKING AT
22 WHAT WE SEE IN THE PHOTOGRAPHS, YOU WILL REMEMBER THAT I
23 EXPLAINED TO YOU WE SEE A NICE CONCENTRIC WOUND ON THE
24 TOP WITH A NICE RING ABRASION. AND WE SEE A SIMILAR
25 PATTERN OVER HERE. YOU REMEMBER THAT I DESCRIBE THESE
26 WOUNDS AS SLIGHTLY IRREGULAR IN SHAPE AND SIZE. AND WE
27 SEE EXACTLY THE SAME OVER HERE. SO THAT IS WHY I'M
28 COMING TO THE CONCLUSION -- AND APART FROM WHAT I'VE READ

1 THAT THE DOCTOR SEEN -- THAT IS THE ENTRANCE AND THAT IS
2 THE EXIT.

3 Q BY MS. SARIS: AND SO WOULD THAT BE
4 CONSISTENT -- I'M NOT ASKING YOU THE ONLY EXPLANATION --
5 BUT WOULD THAT BE CONSISTENT WITH AN INDIVIDUAL WHO WAS
6 AT ONE POINT FACING THE PERSON SHOOTING AND THEN HAVING
7 TURNED AWAY FROM THEM?

8 MR. JACKSON: OBJECTION. CALLS FOR A CONCLUSION.
9 NO FOUNDATION.

10 THE COURT: SUSTAINED.

11 Q BY MS. SARIS: DID YOU SAY AS PART OF YOUR
12 EXPERIENCE AND TRAINING THAT YOU STUDIED TRAJECTORIES OF
13 GUNSHOTS?

14 A YES, I HAVE.

15 Q DID YOU HAVE ANY EXPERIENCE IN THAT
16 LOOKING AT ACTUAL WOUNDS TO THE HUMAN BODY?

17 A YES, I HAVE.

18 Q AND HAVE YOU SEEN, THEN, WOUNDS AND
19 FOLLOWED THEIR TRAJECTORY THROUGH THE BODY IN PARTS OF
20 YOUR EDUCATION AND STUDY?

21 A YES, I HAVE.

22 Q THE WOUND THAT WE'VE DESCRIBED IN NO. 5
23 WAS THAT FROM THE HIP? WAS THAT BACK BODY TO THE FRONT?
24 FRONT TO SIDE? HOW DID THAT WORK?

25 A I WOULD DESCRIBE IT AS FROM THE RIGHT SIDE
26 TOWARDS THE FRONT OF THE BODY.

27 Q LET ME ASK YOU A HYPOTHETICAL THEN.
28 ASSUMING THAT ALL OF THE TORSO SHOTS THAT YOU REVIEWED ON

1 MICKEY THOMPSON WERE RECEIVED AT THE SAME POINT, WOULD
2 THE VICTIM MOVING ACCOUNT FOR THE DIFFERENCE OF WHERE THE
3 SHOTS LANDED?

4 A IT IS POSSIBLE.

5 Q CAN YOU TELL US AT ALL WHAT THE ORDER OF
6 THE GUNSHOTS TO MICKEY THOMPSON WERE?

7 A NO. THE EVIDENCE DOESN'T REALLY
8 INDICATE -- I CAN'T DETERMINE FROM WHAT WE'VE DONE SO FAR
9 THE EXACT SEQUENCE OF THE SHOTS. THE ONLY CONCLUSION
10 THAT I CAN REACH IS THAT IF I WAS SHOT IN THE HEAD FIRST,
11 I'M GOING TO GO DOWN. AND IF YOU SHOT ME SECOND IN THE
12 TORSO, WE WOULD HAVE EVIDENCE BACKING UP THOSE
13 TRAJECTORIES, WHICH I DON'T SEE. I SEE JUST THE OPPOSITE
14 WHERE WE HAVE SHOTS INTO THE TORSO AND THEN THE SHOT TO
15 THE BACK OF THE HEAD.

16 Q SO IF A PERSON WERE TO RECEIVE THOSE TORSO
17 WOUNDS ON THE GROUND, YOU WOULD EXPECT TO FIND EVIDENCE A
18 FIRED BULLET UNDERNEATH THEM?

19 A THAT IS CORRECT.

20 Q SO CAN YOU TELL US BASED ON THE REVIEW OF
21 THE HEAD WOUND THAT YOU MADE, WAS THAT A FATAL WOUND?

22 MR. JACKSON: OBJECTION. FOUNDATION.

23 THE COURT: SUSTAINED.

24 Q BY MS. SARIS: DID YOU -- HAVE YOU HAD ANY
25 TRAINING IN DETERMINING -- REVIEWING OF POST-MORTEM OR
26 AUTOPSY REPORTS?

27 A YES, I HAVE.

28 Q AND HAVE YOU HAD ANY TRAINING IN TERMS OF

1 MEDICALLY WHAT CAN OCCUR FROM A SPECIFIC WOUND?

2 A NO, I DON'T. I WOULD -- THE TRAINING THAT
3 WE RECEIVED AND THE INTERPRETATION OF POST-MORTEM REPORTS
4 IS TO FURTHER OUR OWN INVESTIGATION.

5 Q OF WHERE PEOPLE MAY HAVE BEEN STANDING OR
6 SHOT DO YOU MEAN?

7 A NO. WE LOOK AT THE POST-MORTEM AS JUST
8 MORE TO DO WITH WHAT THE WOUNDS ARE DOING, IS IT GOING
9 FROM FRONT TO BACK? IS IT FROM BACK TO FRONT; UP OR
10 DOWN; LEFT TO RIGHT. THAT'S WHAT WE'RE LOOKING FOR IN A
11 POST-MORTEM REPORT.

12 Q AND DID YOU FIND -- I'M SORRY. WHEN YOU
13 SAID YOU FOUND EVIDENCE OF A BULLET UNDERNEATH, BASED ON
14 YOUR REVIEW OF THE REPORTS, UNDERNEATH THE HEAD OF MICKEY
15 THOMPSON, DID YOU FIND A CORRESPONDING CASING THAT YOU
16 BELIEVED WOULD HAVE BEEN GROUPED WITH THAT EXPENDED
17 BULLET?

18 A YES. WHAT WE'VE FOUND IS WE'VE GOT THESE
19 TWO GROUPS OF CASINGS. AND AS FAR AS WHAT WE SEE WITH
20 THE GREEN FIREARM, WE ONLY HAVE ITEM NO. 24 AT THE TOP.
21 AND THEN WE HAVE THREE BULLETS THAT'S LINKED TO THE OTHER
22 FIREARM. AND WE'VE GOT THREE CARTRIDGE CASES LINKED TO A
23 FIREARM. BUT WE'VE ONLY GOT ONE CARTRIDGE CASE, WHICH
24 WE'VE PREVIOUSLY LINKED TO BE ONE FIREARM. SO, YES,
25 THAT'S WHY I'M SAYING THAT ITEM NO. 20 IS RELATED TO ITEM
26 NO. 24.

27 Q SO DID IT APPEAR TO YOU THAT ONE GUN WAS
28 RESPONSIBLE FOR BOTH HEAD WOUNDS OF BOTH VICTIMS?

1 A IT APPEARS THAT WAY, YES.

2 Q YOU TOLD US A LITTLE BIT ABOUT LIVE ROUNDS
3 OR BULLETS THAT HADN'T BEEN FIRED. DO YOU HAVE ANY
4 EXPLANATION FOR WHY A GUN WOULD EJECT A LIVE ROUND?

5 A WELL, THE TWO MOST OBVIOUS REASONS THAT I
6 CAN IMMEDIATELY THINK OF IS THE ONE THAT'S POSSIBLY THE
7 SHOOTER IS INEXPERIENCED WITH FIREARMS OR VERY NERVOUS.
8 AND INSTEAD OF JUST PULLING THE TRIGGER TO ACTUATE THE
9 SHOT, HE ACTUALLY RACKS IT AGAIN, THEREBY EJECTING ONE
10 CARTRIDGE. OR THERE MIGHT BE SOME MECHANICAL FAULT WITH
11 THE FIREARM PREVENTING THE SHOT BEING FIRED. THEN THE
12 SHOOTER OPENING UP THE ACTION TO TRY AND RECTIFY THAT
13 FAULT. AND THEN CARRY ON.

14 Q IN THIS CASE, DID BOTH FIREARMS EJECT AN
15 UNFIRED ROUND?

16 A YES, THEY DID.

17 Q AND ARE YOU BASING THAT, IN PART, ON WHAT
18 YOU REVIEWED AND NOT WHAT YOU WERE ABLE TO SEE YOURSELF?

19 A I'M BASING THAT ON THE VAN HORN REPORT
20 WHICH LINKED NO. 6; AND TO THE MUNOZ REPORT WHICH LINKED
21 3, 7 AND 8.

22 Q AND IN YOUR REPORT, WHERE YOU -- YOU
23 WEREN'T ABLE TO -- NO. 6 WAS THE ONE THAT WAS MISSING; IS
24 THAT CORRECT?

25 A THAT'S CORRECT.

26 Q WHEN YOU LINKED OR TALKED ABOUT WHAT VAN
27 HORN HAD LINKED, DID YOU MAKE A TYPO IN YOUR REPORT?

28 A YES, I DID. UNFORTUNATELY I DID.

1 Q AND WAS THAT BASED ON SOMETHING YOU
2 REVIEWED OR WERE YOU JUST COPYING THE NOTES OF DWIGHT VAN
3 HORN?

4 A I WAS COPYING FROM THE NOTES OF VAN HORN.
5 AND I MADE A MISTAKE AND INSTEAD OF ASSIGNING ITEM NO. 6
6 TO 14 AND 15, TO THOSE BATCHED CARTRIDGE CASES. I
7 ACCIDENTALLY ASSIGNED IT TO THE OPPOSITE ONES BEING
8 NO. 2, NO. 11, NO. 20 AND NO. 18.

9 Q SO NOW THAT THE DIAGRAM IS DONE, DEFENSE
10 YY, IS NO. 6 SUPPOSED TO BE RED?

11 A YES, THAT'S CORRECT.

12 Q SO IT'S BEEN CORRECTED IN THE DIAGRAMS?

13 A YES, IT HAS.

14 Q AND, AGAIN, NO. 6 YOU PERSONALLY DIDN'T
15 TEST; YOU ARE JUST RELYING ON HIS REPORT?

16 A I JUST RELIED ON HIS REPORT.

17 Q WHEN YOU REVIEWED THE CRIME SCENE VIDEO
18 THAT WE'VE DISCUSSED, YOU SAID THAT IT LOOKED LIKE A
19 CAMERA WAS FOLLOWING A DETECTIVE AROUND THE SCENE?

20 A THAT'S THE IMPRESSION THAT I GOT, YES.

21 Q AND WAS HE POINTING ANYTHING OUT, THE
22 DETECTIVE?

23 A THE DETECTIVE, YES, HE WAS POINTING TO
24 DIFFERENT LOCATIONS OF DIFFERENT EXHIBITS AND GENERAL
25 POSITIONS OF THE BODIES OF THE TWO VICTIMS AND SO FORTH.

26 Q DID IT APPEAR TO YOU THAT THOSE HAD BEEN
27 PHOTOGRAPHED AND MEASURED IN ANY WAY BASED ON OTHER
28 REVIEW THAT YOU'VE HAD?

1 A IT APPEARS TO ME THAT THE CARTRIDGE CASES
2 AND THE FIRED BULLETS HAD THEIR POSITIONS MEASURED FROM
3 THE SIDE OF THE DRIVEWAY AND FROM THE TOP AT LEAST I
4 ASSUME FROM THE HOUSE. THE BLOOD I DON'T SEE IT MEASURED
5 FROM ANY REVIEW THAT I'VE DONE.

6 Q AND DID YOU HAVE AN OPPORTUNITY OVER THE
7 LUNCH HOUR TO REVIEW ALL THE PHOTOGRAPHS AGAIN?

8 A YES. I REVIEWED THE PHOTOGRAPHS AGAIN.

9 Q DID YOU SEE ANY EVIDENCE OF ANY PICTURES
10 OF EITHER -- LET'S START WITH THE BLOOD, INDEPENDENTLY,
11 OTHER THAN THE BLOOD THAT'S EMANATING FROM MR. THOMPSON'S
12 BODY?

13 A NO, I DID NOT.

14 Q DID YOU SEE ANY EVIDENCE OF THE
15 PHOTOGRAPHS -- AND I'M TALKING ABOUT SPECIFIC PHOTOGRAPHS
16 OF THESE ITEMS, NOT IF YOU COULD PICK IT UP IN ANOTHER
17 PHOTO, A SPECIFIC PHOTOGRAPH OF THE STAIN?

18 A NO. I DON'T HAVE A SPECIFIC PHOTOGRAPH OF
19 THE BLOOD.

20 Q WAS THERE ANY EVIDENCE IN ANY REPORT OR IN
21 THE VIDEO THAT YOU SAW TO SUGGEST THAT SOMEONE WAS --
22 THAT SOMEONE HAD KICKED OR MOVED AN ITEM OF EVIDENCE?

23 MR. JACKSON: OBJECTION. FOUNDATION.

24 THE COURT: SUSTAINED.

25 MR. JACKSON: CALLS FOR SPECULATION.

26 Q BY MS. SARIS: DID ANY REPORT INDICATE TO
27 YOU A PERSON TAKING RESPONSIBILITY -- IN OTHER WORDS,
28 SAYING ITEM 11 OR ITEM SUCH AND SUCH MAY HAVE BEEN KICKED

1 OR MOVED?

2 MR. JACKSON: OBJECTION. ASSUMES FACTS NOT IN
3 EVIDENCE. NO FOUNDATION. CALLS FOR SPECULATION.

4 THE COURT: SUSTAINED.

5 Q BY MS. SARIS: HAVE YOU EVER RESPONDED TO
6 A CRIME SCENE YOURSELF?

7 A I HAVE.

8 Q IN TERMS OF YOUR TRAINING AND EXPERIENCE,
9 WHAT WOULD BE THE PROCEDURE IF YOU ACCIDENTALLY KICKED OR
10 MOVED A PIECE OF EVIDENCE?

11 MR. JACKSON: OBJECTION. RELEVANCE.

12 THE COURT: SUSTAINED.

13 MS. SARIS: MAY WE APPROACH?

14

15 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

16 MS. SARIS: I DON'T UNDERSTAND THE RELEVANCY
17 OBJECTION. COUNSEL HAS ASKED THE WITNESSES WHETHER OR
18 NOT THESE TYPES OF EVIDENCE OF ITEMS ARE CAPABLE OF BEING
19 KICKED OR MOVED. I'M TRYING TO ESTABLISH THAT HE HAS
20 CRIME SCENE BACKGROUND. AND IT WOULD BE PROPER PROTOCOL
21 TO MENTION THAT. NOTHING HE REVIEWED INDICATE THAT THAT
22 OCCURRED.

23 MR. JACKSON: HE IS A SOUTH AFRICAN POLICE
24 OFFICER. HE DOESN'T KNOW WHAT AMERICAN PROTOCOL IS OR
25 ISN'T.

26 THE COURT: YES. IT'S IRRELEVANT AS TO WHAT HE
27 WOULD DO UPON ARRIVING AT A CRIME SCENE.

28 MS. SARIS: I WAS TRYING TO LAY A FOUNDATION

1 BECAUSE THAT'S ONE OF THE OBJECTIONS THAT WAS SUSTAINED.
2 IT'S RELEVANT AS TO WHETHER OR NOT AN INDIVIDUAL MADE A
3 NOTE. IN THESE REPORTS THAT WOULD INDICATE HIS DIAGRAM
4 IS SOMEHOW OFF BECAUSE THEY KICKED OR MOVED SOMETHING,
5 WHICH COUNSEL IS TRYING TO IMPLY.

6 THE COURT: BUT HE CAN'T TESTIFY AS TO WHETHER OR
7 NOT AN ITEM WAS KICKED OR MOVED.

8 MS. SARIS: NO. HE CAN TESTIFY THAT THERE WAS NO
9 SUCH NOTE WAS MADE. AND THAT THAT WOULD BE SOMETHING
10 THAT HE WOULD EXPECT TO FIND. AND HE HAS SEEN IT ON
11 PRIOR OCCASIONS.

12 THE COURT: PRIOR OCCASIONS WHERE?

13 MS. SARIS: SO YOU'RE SAYING BECAUSE HE'S FROM A
14 DIFFERENT COUNTRY THAT --

15 THE COURT: WELL, YES, THAT'S A START. HOW IS IT
16 RELEVANT? I MEAN HOW MANY CRIME SCENES IN LOS ANGELES
17 COUNTY WITH THE L.A. COUNTY SHERIFF'S DEPARTMENT HAS HE
18 VISITED?

19 MS. SARIS: SO I WOULD HAVE TO CALL -- ACCORDING
20 TO THE COURT'S INTERPRETATION -- AN L.A. COUNTY SHERIFF?

21 THE COURT: YOU WOULD HAVE TO CALL SOMEONE THAT
22 WOULD MAKE IT RELEVANT AS TO WHAT THAT PERSON'S
23 EXPERIENCE IS.

24 MS. SARIS: I'M ASKING SPECIFICALLY IN TERMS OF
25 THIS CRIME SCENE RECREATION IF THERE IS ANY INDICATION ON
26 ANY OF THE REPORTS THAT HE REVIEWED, SIMPLY BASED ON WHAT
27 HE REVIEWED, THAT ANYONE TOOK RESPONSIBILITY FOR KICKING
28 OR MOVING ANYTHING.

1 THE COURT: YOU CAN -- ALL RIGHT. YOU WANT TO
2 ASK HIM IF THERE IS ANY NOTATION IN ANY OF THE REPORTS HE
3 VIEWED?

4 MS. SARIS: THAT'S CORRECT.

5 THE COURT: AND WHAT WOULD BE THE OBJECTION TO
6 THAT?

7 MR. JACKSON: WELL, IT ASSUMES FACTS NOT IN
8 EVIDENCE THAT ANY OF THE REPORTS WOULD INDICATE NEGATIVE
9 EVIDENCE. COUNSEL'S ARGUMENT IS VERY WELL TAKEN. I
10 UNDERSTAND THAT. BUT IT'S EXACTLY THAT, IT'S ARGUMENT.
11 SHE CAN SAY THERE IS ABSOLUTELY NO EVIDENCE IN THE RECORD
12 THAT ANYTHING WAS KICKED.

13 THE PROBLEM IS I'VE SEEN TONS OF CRIME
14 SCENES AND SO HAS MS. SARIS. IF SOMEONE IN ADVERTENTLY
15 KICKS A SHELL CASING, THEY ARE NOT GOING TO WRITE A
16 REPORT ABOUT IT. FOR ONE THING IT'S INADVERTANT. FOR
17 ANOTHER THING, THEY MIGHT NOT KNOW THEY DID IT.

18 MS. SARIS: THAT'S THE OTHER ARGUMENT.

19 THE COURT: I THOUGHT WE HAD TESTIMONY ALREADY,
20 THOUGH, THAT IT WOULD HAVE BEEN NOTED HAD IT BEEN DONE
21 ACCORDING TO A COUPLE OF THE OFFICERS THAT ARRIVED ON THE
22 SCENE.

23 MS. SARIS: I DON'T KNOW WHY ALL OF A SUDDEN I'M
24 NOT BEING ALLOWED TO ASK ABOUT THE FOUNDATION OF WHAT IS
25 IN THE REPORTS ON THIS PARTICULAR ISSUE. THAT'S ALL
26 WE'VE BEEN TALKING ABOUT WITH HIM IS WHAT HE REVIEWED. I
27 DON'T WANT SOMEONE TO STAND UP AND SAY EVERYTHING HE SAID
28 DOESN'T MAKE SENSE BECAUSE SOMEBODY COULD HAVE KICKED OR

1 THE WIND COULD HAVE BLOWN, WHICH IS ANOTHER OBSCURE
2 REFERENCE THAT COUNSEL --

3 THE COURT: WELL, I DON'T SEE HOW THE LAST
4 QUESTION CALLS FOR ANYTHING RELEVANT. SO IF YOU WANT TO
5 ASK THE QUESTION, YOU ARE GOING TO HAVE TO DO IT IN A
6 LEGALLY PERMISSIBLE WAY.

7 MS. SARIS: THE OBJECTION IS RELEVANCE WHETHER OR
8 NOT SOMEONE --

9 THE COURT: RIGHT.

10 MS. SARIS: -- IF HE REVIEWED ANY REPORT
11 INDICATING THAT ANY OF THE ITEMS OF EVIDENCE HAD BEEN
12 MOVED PRIOR TO BEING PHOTOGRAPHED.

13 THE COURT: IF THERE WAS ANY NOTATION IN THE
14 REPORTS -- YOU WANT TO ASK HIM IF HE SAW ANY NOTATION?

15 MS. SARIS: THAT'S CORRECT.

16 THE COURT: I DON'T HAVE ANY PROBLEM WITH THAT.

17 MR. JACKSON: OKAY.

18 (SIDEBAR CONCLUDED.)

19

20 MS. SARIS: THANK YOU.

21 Q IN YOUR REVIEW OF THE REPORTS, DID YOU SEE
22 ANY NOTATION ANYWHERE THAT INDICATED THAT AN ITEM OF
23 EVIDENCE HAD BEEN MOVED OR KICKED?

24 A NO, I DID NOT.

25 Q WHEN YOU -- WE TALKED ABOUT THE FACT THAT
26 IN THE LAB YOU WERE ABLE TO MAKE CERTAIN GROUPINGS BASED
27 ON MICROSCOPIC FINDINGS?

28 A YES.

1 Q AND THAT YOU ALSO RELIED ON A REPORT BY
2 TWO OTHER BALLISTIC EXPERTS?

3 A THAT IS CORRECT.

4 Q WHEN YOU WENT TO THE CRIME SCENE, DID YOU
5 EXPAND ON WHAT YOU LEARNED IN THE LAB?

6 A YES. IT DOES HELP TO GO TO THE CRIME
7 SCENE. YOU CERTAINLY SEE THINGS THAT IS NOT VIEWABLE,
8 FOR INSTANCE, IN THE PHOTOGRAPHS OR IN THE CAMERA. SO --
9 BUT I DON'T WANT TO SAY THAT I DRAMATICALLY CHANGED WHAT
10 I SEE ON THE CRIME SCENE TO WHAT I HAVE RELATED BACK TO
11 THE PHOTOGRAPHS.

12 Q WERE YOU ABLE TO RELATE THE PHOTOGRAPHS TO
13 WHAT YOU SAW AT THE CRIME SCENE?

14 A YES.

15 Q AND DID YOU TAKE ANY MEASUREMENTS THAT
16 HELPED YOU ESTABLISH DEFENSE YY IN TERMS OF RELATIONAL
17 POSITIONS?

18 A YES, I DID TAKE MEASUREMENTS.

19 Q OKAY. AND THEN JUST SO WE'RE CLEAR, HOW
20 DO WE GET FROM BEING ABLE TO MAKE THE CONCLUSIONS THAT
21 YOU MADE IN DEFENSE YY JUST FROM THE GROUPINGS THAT YOU
22 MADE IN THE LAB? IF YOU COULD LET US KNOW EVERYTHING YOU
23 RELIED ON TO GET TO THAT.

24 A SORRY. CAN YOU JUST --

25 Q SURE. WHAT DID YOU RELY ON, IS WHAT I'M
26 ASKING, TO GET FROM THE POINT WHERE YOU WERE ABLE TO
27 GROUP THE FIREARMS AND CASINGS TO BEING ABLE TO MAKE THE
28 COLOR DIAGRAM IN DEFENSE YY?

1 A I RELIED ON, FIRST OF ALL, THE
2 MICROSCOPICAL WORK THAT I HAVE DONE. THEN I RELIED ON
3 THE MICROSCOPICAL WORK IN THE REPORTS DONE BY MUNOZ AND
4 DONE BY VAN HORN. I ALSO RELIED ON THE AUTOPSY REPORTS
5 ON BOTH TRUDY THOMPSON AND MICKEY THOMPSON. AND I'VE
6 RELIED ON THE CRIME SCENE PHOTOGRAPHS. AND I ALSO RELIED
7 ON THE CRIME SCENE.

8 Q PERSONALLY GOING OUT TO THE SCENE?

9 A PERSONALLY GOING OUT TO THE CRIME SCENE.

10 MS. SARIS: MAY I JUST HAVE A MOMENT, PLEASE?

11 (PAUSE IN PROCEEDINGS.)

12 MS. SARIS: THANK YOU, YOUR HONOR. WE HAVE
13 NOTHING FURTHER.

14 THE COURT: CROSS-EXAMINATION?

15 MR. JACKSON: THANK YOU, YOUR HONOR.

16
17 CROSS-EXAMINATION

18 BY MR. JACKSON:

19 Q MR. SWANEPOEL, THERE WERE A TOTAL OF 24.
20 HOW MANY MISTAKES WERE THERE IN YOUR REPORT?

21 A I BELIEVE THAT I MADE A MISTAKE AS FAR AS
22 ASSIGNING THE WRONG CARTRIDGE CASE TO THE WRONG GROUPING.
23 AND I ALSO MADE A MISTAKE AS FAR AS ASSIGNING THE
24 POSITION OF THE THREE BULLET HOLES IN THE GARAGE.

25 Q AND HOW MANY PAGES WAS YOUR REPORT?

26 A IT WAS SEVEN PAGES, I BELIEVE.

27 Q WHEN DID YOU COMPLETE THAT REPORT, SIR?

28 A I STARTED WITH THE REPORT ON THE 2ND OF

1 OCTOBER, 006. I DID NOT TAKE A NOTE OF WHEN I FINISHED
2 WITH THE REPORT.

3 Q OKAY. AND IN THAT REPORT, YOU BEGAN THAT
4 REPORT -- AND I ASSUME YOU BEGAN YOUR RECONSTRUCTION OF
5 THE CRIME SCENE AS SOON AS YOU BEGAN DRAFTING THE REPORT
6 AND GATHERING EVIDENCE, FOR INSTANCE, THE PHOTOGRAPHS OF
7 THE DIAGRAMS, THE CRIME SCENE VIDEO, ET CETERA; CORRECT?

8 A YES. I JUST WANT TO POINT OUT THAT IT'S
9 NOT A LABORATORY REPORT. IT IS A PRELIMINARY REPORT THAT
10 I ISSUED TO ELENA SARIS.

11 Q WHAT IS THE DIFFERENCE?

12 A WELL, IF I WAS TO WRITE A LABORATORY
13 REPORT, THAT WOULD BE MY ULTIMATE FINAL REPORT. AND I
14 WOULD NOT NECESSARILY -- I WOULDN'T HAVE CHANGED ANY OF
15 MY CONCLUSIONS. BUT IF I PREPARE A PRELIMINARY REPORT
16 FOR ATTORNEY SARIS, THERE MIGHT BE NEW EVIDENCE THAT
17 COMES TO LIGHT AFTER I WRITE THIS REPORT AND I MIGHT
18 INCLUDE IT OR I MIGHT NOT INCLUDE IT.

19 Q YOU WERE HIRED BY THE DEFENSE AS A
20 BALLISTICS EXPERT, FIREARMS EXPERT, IF YOU WILL; CORRECT?

21 A THAT IS CORRECT.

22 Q YOU WERE TOLD THAT YOU WERE GOING TO BE
23 REQUESTED TO DO SOME CONSULTATION FOR THE PURPOSES OF
24 THIS TRIAL; CORRECT?

25 A THAT IS CORRECT.

26 Q YOU WERE GIVEN INFORMATION THAT THIS WAS A
27 DOUBLE HOMICIDE SPECIAL CIRCUMSTANCES CASE; CORRECT?

28 A THAT IS CORRECT.

1 Q AND YOU KNOW WHAT SPECIAL CIRCUMSTANCES
2 MEANS HERE IN THE UNITED STATES?

3 A WILL YOU EXPLAIN IT TO ME?

4 Q THERE ARE ADDITIONAL ALLEGATIONS IN
5 ADDITION TO THE HOMICIDE. ARE YOU AWARE OF THAT?

6 MS. SARIS: OBJECTION. RELEVANCE.

7 THE COURT: OVERRULED.

8 YOU CAN ANSWER THAT YES OR NO.

9 Q BY MR. JACKSON: ALL I'M ASKING IS: WERE
10 YOU INFORMED OF THAT?

11 A WELL, I WAS INFORMED OF BASICALLY WHAT WAS
12 HAPPENING IN THE CASE. AND SO I WOULDN'T SAY THAT I WAS
13 SPECIFICALLY INFORMED AS TO THE SPECIAL CIRCUMSTANCES.
14 I'M NOT SURE THAT I'M FOLLOWING EXACTLY WHAT YOU'RE
15 SAYING WITH THE SPECIAL CIRCUMSTANCES.

16 Q LET ME ASK IT THIS WAY: YOU KNEW THIS WAS
17 A REALLY SERIOUS CASE; CORRECT?

18 A TWO PEOPLE WERE SHOT, I ASSUMED IT WAS.

19 Q AS A MATTER OF FACT IT WAS MORE THAN TWO
20 PEOPLE WERE SHOT. TWO PEOPLE WERE SHOT TO DEATH; IS THAT
21 CORRECT?

22 A THAT IS CORRECT.

23 Q AND YOU WERE TOLD THAT YOU WOULD PROBABLY
24 BE ASKED TO COME TO COURT AND RENDER AN ULTIMATE OPINION
25 ABOUT YOUR CRIME SCENE RECONSTRUCTION; CORRECT?

26 A THAT IS CORRECT.

27 Q AND YOU WOULD BE DOING THAT IN FRONT OF A
28 JURY, 12 FOLKS SELECTED TO TRY THE CASE BEFORE THE COURT;

1 CORRECT?

2 A THAT IS CORRECT.

3 Q ALL RIGHT. YET YOU DIDN'T IN ALL OF THAT
4 TIME HAVING ALL OF THAT INFORMATION, YOU DIDN'T EVEN
5 ISSUE A FINAL REPORT, IS THAT WHAT YOU'RE SAYING?

6 A THAT IS WHAT I'M SAYING. I WASN'T ASKED
7 TO ISSUE A FINAL REPORT ON THIS. AND I LEFT IT AT THE
8 PRELIMINARY REPORT.

9 Q DID YOU TAKE YOUR JOB IN THIS CASE
10 SERIOUSLY?

11 A I ALWAYS DO.

12 Q OKAY. DID YOU NOT THINK IT MIGHT BE
13 HELPFUL FOR THE JURORS AND FOR YOUR TESTIMONY BEFORE THIS
14 COURT TO ISSUE A FINAL REPORT IN A CASE OF THIS NATURE?

15 MS. SARIS: OBJECTION, YOUR HONOR. HIS REPORT
16 WOULDN'T BE ADMISSIBLE. MAY WE APPROACH?

17 MR. JACKSON: I'M NOT ASKING ABOUT THE
18 ADMISSIBILITY.

19 THE COURT: SUSTAINED. GO AHEAD AND REPHRASE IT.

20 MR. JACKSON: SURE. I WILL MOVE ON, YOUR HONOR.

21 Q I ASSUME FROM YOUR PREVIOUS ANSWERS,
22 MR. SWANEPOEL -- IS IT SWANEPOEL?

23 A SWANEPOEL.

24 Q SWANEPOEL. IF I OBLITERATE THAT
25 PRONUNCIATION --

26 A NO PROBLEM.

27 Q -- FORGIVE ME.

28 I ASSUME FROM YOUR EARLIER TESTIMONY THAT

1 THERE ARE SEVERAL -- AT LEAST TWO MISTAKES IN THIS REPORT
2 THAT HAD YOU PREPARED A FINAL REPORT, YOU WOULD HAVE
3 SOUGHT TO CLEAR UP THOSE MISTAKE BEFORE A FINAL REPORT
4 WAS ISSUED?

5 A THAT IS CORRECT.

6 MR. JACKSON: YOUR HONOR, MAY I APPROACH VERY
7 BRIEFLY?

8 THE COURT: YES.

9 MR. JACKSON: THANK YOU.

10 COUNSEL, THIS IS THE REPORT THAT I WAS
11 REFERRING TO.

12 Q DO ME A FAVOR, I WANT TO MAKE SURE WE'RE
13 LOOKING AT THE SAME THING. I DON'T NECESSARILY WANT YOU
14 TO READ THIS WHOLE THING, JUST FLIP THROUGH IT AND TELL
15 ME IF THAT IS A REPRESENTATION -- A PHOTOSTATIC COPY OF
16 THE REPORT THAT YOU'VE GOT IN FRONT OF YOU AND YOU
17 PROVIDED TO MS. SARIS.

18 A THAT LOOKS LIKE MY REPORT.

19 Q OKAY. GO AHEAD AND LOOK THROUGH EVERY
20 PAGE IF YOU WOULDN'T MIND, JUST A QUICK GLANCE.

21 THAT'S YOUR REPORT?

22 A THAT IS MY REPORT.

23 Q THIS THE REPORT THAT STILL CONTAINS THE
24 MISTAKES; CORRECT?

25 A YES.

26 Q CONCERNING YOUR BACKGROUND, MR. SWANEPOEL,
27 LET ME ASK YOU A COUPLE OF QUESTIONS. YOU INDICATED THAT
28 YOU HAD ATTENDED THE SOUTH AFRICAN POLICE SERVICES

1 COLLEGE; IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q ISN'T IT TRUE THAT THAT COLLEGE IS THE
4 NATIONAL POLICE ACADEMY FOR SOUTH AFRICA?

5 A THAT'S CORRECT. WE ONLY HAVE ONE POLICE
6 AGENCY.

7 Q AND THAT IS IN PRETORIA?

8 A YES, THAT IS IN PRETORIA, SOUTH AFRICA.

9 Q HOW LONG IS THAT ACADEMY?

10 A IT'S A SIX-MONTH TRAINING ACADEMY.

11 Q HOW OLD WERE YOU WHEN YOU ENTERED THE
12 ACADEMY?

13 A I JUST TURNED 19.

14 Q AND AS A MATTER OF FACT, YOU CAN ENTER
15 THAT ACADEMY IN SOUTH AFRICA ODDLY ENOUGH AT 16; CORRECT?

16 MS. SARIS: OBJECTION. RELEVANCE.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER.

19 THE WITNESS: IT HAS TO BE -- YOU USED TO BE ABLE
20 TO ATTEND OR GO TO THE POLICE ACADEMY WHEN YOU WERE 16
21 YEARS OLD. BUT I BELIEVE THAT THEY HAVE ACTUALLY CHANGED
22 THAT POLICE REGULATION. AND YOU HAVE TO BE 18 YEARS OLD.
23 BECAUSE THEY HAD SEVERAL DIFFERENT REQUIREMENTS, ONE
24 WHICH WAS THAT YOU WOULD BE ABLE TO GET A DRIVER'S
25 LICENSE. AND YOU CAN'T GET A DRIVER'S LICENSE AT 16
26 YEARS OF AGE IN SOUTH AFRICA. SO I BELIEVE THEY'VE
27 CHANGED THAT.

28 Q BY MR. JACKSON: BUT IN 1988, A

1 16-YEAR-OLD COULD HAVE ATTENDED THE ACADEMY?

2 A NO, I BELIEVE IT'S INCORRECT.

3 Q OH, EVEN IN 1988?

4 A EVEN IN 1988 YOU HAD TO BE 18, IF I'M
5 RIGHT.

6 Q OKAY. YOU ALSO INDICATED THAT YOU
7 ATTENDED THE UNIVERSITY OF SOUTH AFRICA AND GOT A DEGREE
8 IN POLICE ADMINISTRATION; IS THAT CORRECT?

9 A I ATTENDED THE UNIVERSITY OF SOUTH AFRICA.
10 BUT I NEVER SAID THAT I GOT A DEGREE. I'VE GOT A
11 NATIONAL CERTIFICATE OR A SENIOR CERTIFICATE IN POLICE
12 ADMINISTRATION.

13 Q WHAT IS THE DIFFERENCE BETWEEN A NATIONAL
14 CERTIFICATE AND A DEGREE? OR DOES THE UNIVERSITY EVEN
15 OFFER DEGREES?

16 A THEY OFFER A THREE-YEAR -- THE UNIVERSITY
17 OF SOUTH AFRICA OFFERS A THREE-YEAR DIPLOMA IN POLICE
18 ADMINISTRATION. ONCE YOU'VE PASSED YOUR FIRST YEAR, IT
19 IS CALLED A SENIOR CERTIFICATE OR A SENIOR (INAUDIBLE)
20 CERTIFICATE. THEN YOU CAN GET PROMOTED TO YOUR NEXT
21 ROUND, FOR INSTANCE A SERGEANT.

22 ONCE YOU HAVE ATTAINED YOUR SECOND YEAR,
23 YOU COULD GET PROMOTED -- OR ONCE YOU'VE ATTAINED YOUR
24 NATIONAL SENIOR CERTIFICATE, YOU CAN GET PROMOTED TO THE
25 RANK, FOR INSTANCE, OF WARRANT OFFICER.

26 Q OKAY. HOW MANY YEARS DID YOU COMPLETE?

27 A I COMPLETED TWO YEARS.

28 Q OUT OF A TOTAL OF THREE POSSIBLE; CORRECT?

1 A THAT IS CORRECT.

2 Q DID YOU ATTEND ANY OTHER COLLEGES IN SOUTH
3 AFRICA?

4 A NO, I DID NOT.

5 Q DID YOU ATTEND ANY COLLEGES HERE IN THE
6 UNITED STATES?

7 A NO.

8 Q AS A MATTER OF FACT, HOW LONG HAVE YOU
9 BEEN IN THIS COUNTRY?

10 A I'VE BEEN IN THIS COUNTRY FOR A LITTLE
11 OVER A YEAR NOW.

12 Q I ASSUME WHEN YOU MOVED HERE, THIS WAS THE
13 FIRST TIME THAT YOU HAD EVER BEEN HERE FOR ANY LENGTH?
14 IN OTHER WORDS, YOU DIDN'T COME ON A --

15 A IT'S --

16 Q I'M SORRY TO INTERRUPT YOU. YOU DIDN'T
17 COME ON A STUDENT VISA AND GO TO COLLEGE HERE OR ANYTHING
18 LIKE THAT?

19 A NOT AT ALL.

20 Q YOU INDICATED THAT DURING THE COURSE -- BY
21 THE WAY, YOUR FORMAL EDUCATION, THE POLICE ACADEMY --
22 SOUTH AFRICAN POLICE ACADEMY -- I GUESS IT'S CALLED SOUTH
23 AFRICAN POLICE SERVICES COLLEGE --

24 A NATIONAL POLICE SERVICES COLLEGES.

25 Q OKAY. MY MISTAKE.

26 A IT'S CALLED SOUTH AFRICAN POLICE SERVICES
27 COLLEGE.

28 Q OKAY.

1 A BUT IT IS A NATIONAL COLLEGE SEEING THAT
2 THEY HAVE A NATIONAL POLICE FORCE.

3 Q DURING YOUR TENURE AT THE SOUTH AFRICAN
4 POLICE SERVICES COLLEGE AND THE UNIVERSITY OF SOUTH
5 AFRICA, I ASSUME THAT YOUR DEGREE DID NOT -- OR YOUR
6 CERTIFICATE DID NOT INCLUDE A CERTIFICATION IN CHEMISTRY?

7 A NO, WE DID NOT.

8 Q BIOLOGY?

9 A NO, WE DID NOT.

10 Q BIOPHYSICS?

11 A NO.

12 Q KINETICS?

13 A NO.

14 Q BIOCHEMISTRY? DID I SAY THAT ONE? NO?

15 A NO.

16 Q IN OTHER WORDS, THE HARD SCIENCES. YOU
17 DID NOT GET ANY KIND OF CERTIFICATION; DIPLOMA; DEGREE OR
18 OTHERWISE IN ANY OF THE HARD SCIENCES?

19 A NO.

20 Q YOU INDICATED THAT YOU'VE QUALIFIED AS AN
21 EXPERT IN SOUTH AFRICA. AND I THINK ON YOUR CV,
22 CURRICULUM VITAE, YOU INDICATED THAT YOU HAVE ALSO
23 QUALIFIED IN SWAZILAND?

24 A THAT IS CORRECT.

25 Q AND IT'S CALLED THE SUPREME COURT IN
26 SWAZILAND?

27 A YES.

28 Q IS THAT LIKE OUR SUPREME COURT, THE BIG

1 SUPREME COURT? OR IS THAT THE TRIAL COURT LEVEL?

2 A WELL, WE HAVE WHAT WE CALL THE REGIONAL
3 COURT WHERE THEY WOULD DO THE CRIMES OF A LESSER EXTENT,
4 BASICALLY, I WANT TO PUT IT THAT WAY. AND THEN IF WE
5 HAVE MURDERS, DOUBLE MURDERS, OR CASH AND DROP THAT
6 INVOLVED A LARGE SUM OF MONEY, THAT CAN GO TO THE SUPREME
7 COURT.

8 Q SO IT'S KIND OF A FATHER COURT TO A SON
9 COURT, WHAT WE MIGHT CALL SUPERIOR COURT VERSUS
10 MISDEMEANOR COURT?

11 A SOMETHING LIKE THAT, YES.

12 Q HOW MANY TIMES HAVE YOU QUALIFIED AS AN
13 EXPERT IN EITHER CRIME SCENE RECONSTRUCTION OR BALLISTICS
14 OR FIREARMS ANALYSIS HERE IN THE UNITED STATES?

15 A I'VE NOT QUALIFIED BEFORE. THIS IS MY
16 FIRST.

17 Q THIS IS YOUR FIRST TIME?

18 A THAT IS CORRECT.

19 Q AS A MATTER OF FACT, AS YOU'VE QUALIFIED
20 IN SOUTH AFRICA, DO THEY EVEN HAVE A JURY SYSTEM?

21 A THEY DON'T HAVE A JURY SYSTEM, NO.

22 Q OKAY. SO YOU'VE QUALIFIED IN FRONT OF A
23 BENCH, IN OTHER WORDS A COURT NOT A JURY?

24 A THAT IS CORRECT.

25 Q THIS IS THE FIRST TIME YOU'RE TESTIFYING
26 IN FRONT OF A JURY?

27 A THAT IS MY FIRST TIME, YES.

28 Q YOU INDICATED THAT YOU HAD A -- YOU'VE

1 TESTIFIED AT SOME LENGTH ABOUT YOUR OPINIONS CONCERNING
2 THE AUTOPSY REPORTS OF THE DOCTORS THAT --

3 MS. SARIS: OBJECTION. MISSTATES THE TESTIMONY.

4 THE COURT: GO AHEAD AND FINISH THE QUESTION.

5 MR. JACKSON: SURE.

6 Q AND IF I'M MISTAKEN, MR. SWANEPOEL, I WANT
7 YOU TO CORRECT ME.

8 DID YOU TESTIFY DURING DIRECT EXAMINATION
9 OF YOUR REVIEW OF THE AUTOPSY REPORTS OF THE MEDICAL
10 EXAMINERS WHO PERFORMED THE AUTOPSIES FOR MICKEY THOMPSON
11 AND TRUDY THOMPSON?

12 A YES, I DID REVIEW THOSE REPORTS.

13 Q AND YOU HAVE RENDERED YOUR OPINIONS ABOUT
14 YOUR REVIEW OF THOSE THINGS; CORRECT?

15 A CORRECT.

16 MS. SARIS: OBJECTION. VAGUE AS TO OPINION
17 REGARDING THE REPORT.

18 THE COURT: OVERRULED.

19 Q BY MR. JACKSON: DO YOU UNDERSTAND THE
20 QUESTION?

21 A YES, I DID REVIEW THOSE REPORTS.

22 Q AND YOU HAVE RENDERED CERTAIN OPINIONS
23 HERE TODAY BASED ON YOUR REVIEW OF THOSE REPORTS;
24 CORRECT?

25 A YES.

26 Q YOU INDICATED WHEN YOU WERE GIVING
27 MS. SARIS YOUR QUALIFICATIONS THAT YOU HAD ONE CLASS IN
28 WOUND PATHOLOGY; IS THAT CORRECT?

1 A THAT IS CORRECT. THAT IS WHAT I HAVE DONE
2 IN THE U.S.

3 Q OKAY. IS THAT WHAT YOU ARE PREDICATING
4 YOUR EXPERTISE ON? IS THAT WHAT YOU'RE BASING YOUR
5 EXPERTISE ON TO RENDER YOUR OPINIONS CONCERNING SOME OF
6 THE WOUNDS THAT WE'VE TALKED ABOUT; THE TRAJECTORIES; ET
7 CETERA?

8 A NOT ALL OF IT, YOUR HONOR -- OR, LADIES
9 AND GENTLEMEN. I RENDERED MY -- OR MY OPINION ON MY
10 TRAINING BASED IN SOUTH AFRICA AS WELL.

11 Q AND YOU DON'T HAVE A MEDICAL DEGREE, I'M
12 ASSUMING?

13 A NO.

14 Q YOU DON'T HAVE A DEGREE IN PATHOLOGY?

15 A NO.

16 Q OR FORENSIC PATHOLOGY?

17 A NO.

18 Q YOU INDICATED THAT YOU HAVE BEEN AT -- AND
19 I WILL ASK YOU TO CORRECT ME IF I'M INCORRECT -- YOU'VE
20 REVIEWED OR BEEN A PART OF 5,000 CRIME SCENES; CORRECT?

21 A THAT IS CORRECT, YOUR HONOR. IT'S IN
22 EXCESS OF 5,000.

23 Q IN EXCESS OF 5,000?

24 A THAT IS CORRECT.

25 Q IN HOW MUCH TIME?

26 A IN ALL MY YEARS IN THE SOUTH AFRICAN
27 POLICE, 17 YEARS, MORE OR LESS FROM 1988 TO 2006 -- OR
28 2005 RATHER.

1 Q ALL RIGHT. SO I DID A LITTLE MATH. AND I
2 DID IT BASED ON 18 YEARS, ALL RIGHT, FROM 1988 TO 2006.
3 IF THAT'S OFF A LITTLE BIT, I'LL ASK YOU TO FORGIVE ME.

4 WOULD YOU AGREE WITH ME THAT IN 18 YEARS
5 AT 365 DAYS A YEAR THAT WOULD BE SOME 6,570 TOTAL DAYS IN
6 18 YEARS; CORRECT?

7 MS. SARIS: OBJECTION. RELEVANCE.

8 Q BY MR. JACKSON: DO YOU HAVE ANY PROBLEM
9 WITH THAT?

10 THE COURT: OKAY. THE OBJECTION IS OVERRULED.

11 Q BY MR. JACKSON: DID YOU HAVE ANY PROBLEM
12 WITH THAT FIGURE? I KNOW YOU DON'T HAVE A --

13 A IF YOU MULTIPLY THE YEARS AND DAYS TO GET
14 TO THE SUM, IS THAT WHAT YOU'RE SAYING?

15 Q RIGHT. WOULD YOU AGREE WITH ME? LET'S
16 JUST DO IT THIS WAY, SO I DON'T HAVE TO HAND YOU A
17 CALCULATOR.

18 WOULD YOU AGREE WITH ME IN 18 YEARS AT 365
19 DAYS A YEAR, THERE IS ABOUT 6,570 DAYS?

20 A YES.

21 Q OKAY. IF YOU WERE TO TAKE OUT ALL THE
22 WEEKENDS, ALL THE SATURDAYS AND SUNDAYS, YOU WOULD BE
23 TAKING OUT ABOUT 104 DAYS A YEAR, CORRECT, 52 WEEKS A
24 YEAR TIMES TWO?

25 A CORRECT.

26 Q OKAY. THAT WOULD COME OUT TO A TOTAL OF
27 4,698 WORKING DAYS MONDAY THROUGH FRIDAY IN 18 YEARS?

28 A THAT IS CORRECT.

1 MS. SARIS: OBJECTION. IS COUNSEL TESTIFYING?
2 OR IS HE ASKING THE WITNESS TO DO MATH? I DON'T
3 UNDERSTAND.

4 THE COURT: OVERRULED. I THINK THIS IS ALL
5 PRELIMINARY, SO GO AHEAD.

6 MR. JACKSON: THANK YOU.

7 Q DO YOU UNDERSTAND WHERE I'M GOING WITH
8 THAT? THERE IS ABOUT 4,698 WORKING DAYS IN APPROXIMATELY
9 18 YEARS.

10 DO YOU UNDERSTAND THAT?

11 A YES.

12 Q THAT WOULD HAVE MEANT THAT YOU HAVE BEEN
13 AT A CRIME SCENE EVERY SINGLE DAY WITHOUT EXCEPTION WITH
14 NO HOLIDAY, NO VACATION, NO SICK TIME, NO PERSONAL DAYS,
15 EVERY SINGLE DAY FOR 18 YEARS.

16 MS. SARIS: I'M GOING TO OBJECT, YOUR HONOR, AS
17 TO THE ARGUMENTATIVE. AND COUNSEL'S DEFINITION OF
18 "WORKING DAYS."

19 THE COURT: ALL RIGHT. REPHRASE IT, PLEASE.
20 SUSTAINED.

21 MR. JACKSON: SURE.

22 Q IF YOU JUST DO SOME SIMPLE MATH, IF YOU
23 YOU'VE GONE TO MORE THAN 5,000 CRIME SCENES IN ABOUT 18
24 YEARS OR YOU SAID 17 YEARS, YOU WOULD BE AT MORE THAN ONE
25 CRIME SCENE A DAY, MORE THAN ONE A DAY FOR 18 YEARS.

26 A THAT IS CORRECT.

27 Q BASICALLY; CORRECT?

28 A AM I ALLOWED TO EXPLAIN HOW THE SYSTEM

1 WORKS IN SOUTH AFRICA?

2 Q ABSOLUTELY. I WISH YOU WOULD.

3 A WE WOULD BE PLACED ON STANDBY FOR AT LEAST
4 TWO WEEKS PER MONTH. AND FOR A STATION LIKE PRETORIA, WE
5 WERE A STATION, WE WOULD PUT ABOUT EIGHT VEHICLES ON THE
6 ROAD EVERY TIME THAT YOU ARE ON STANDBY. AND FOR THAT
7 DAY YOU CAN DO ON AVERAGE BETWEEN EIGHT AND 12 CASES PER
8 DAY. SO THAT IS A LOT OF CASES.

9 AND SINCE I'VE DONE -- STARTED WITH THE --
10 AT THE BALLISTICS UNIT, I -- DEPENDING ON THE LEVEL OF
11 THE CASE THAT YOU DO, YOU CAN DO ANYTHING FROM TWO TO
12 FIVE CASES PER DAY.

13 Q WHEN YOU TALK ABOUT BEING INVOLVED WITH
14 MORE THAN 5,000 CRIME SCENES AS A PART OF YOUR
15 QUALIFICATIONS FOR YOUR EXPERTISE, WHAT DO YOU CALL BEING
16 INVOLVED WITH A CRIME SCENE? WHAT CAN THAT MEAN?

17 MS. SARIS: OBJECTION AS TO FOUNDATION IN TERMS
18 OF THE CLAIM OF BEING INVOLVED?

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER.

21 THE WITNESS: IT MEANS THAT IF I SAY I'VE BEEN
22 INVOLVED IN OVER 5,000 CASES, THAT I'VE ACTUALLY ATTENDED
23 EACH AND EVERY SINGLE CASE.

24 Q BY MR. JACKSON: AS A MATTER OF FACT, ON
25 YOUR CV IT SAYS TO DATE, HAS ATTENDED AND INVESTIGATED IN
26 EXCESS OF 5,000 CRIME SCENES.

27 A YES.

28 Q WHAT IS YOUR DEFINITION OF INVESTIGATING A

1 CRIME SCENE?

2 A THAT IS TYPICALLY WHAT I WOULD DO AS A
3 FIREARMS EXAMINER OR A FINGERPRINT EXAMINER IN THE COURSE
4 OF MY DUTIES IN THE SOUTH AFRICAN POLICE.

5 Q AND YOU COULD FULLY AND COMPETENTLY
6 INVESTIGATE EIGHT TO TEN CRIME SCENES IN A SINGLE WORK
7 DAY, IS THAT WHAT YOU'RE TELLING US?

8 A IT DEPENDS ON THE TYPE OF SCENE. IF IT'S
9 A THEFT OUT OF A VEHICLE, WE HAVE TO DUST FOR
10 FINGERPRINTS, WE CAN DO SEVERAL OF THOSE A DAY. IF IT IS
11 A DOUBLE MURDER, WE HAVE MIGHT ACTUALLY END UP SPENDING
12 FOUR DAYS ON A CRIME SCENE.

13 Q OKAY. A CRIME SCENE LIKE THIS,
14 MR. SWANEPOEL, THAT LOOKS LIKE THE CRIME SCENE THAT
15 YOU'VE REVIEWED IN THE MICKEY THOMPSON, TRUDY THOMPSON
16 DEATHS --

17 A YES.

18 Q -- COULD YOU DO THIS ONE IN AN HOUR OR
19 TWO?

20 A I WOULDN'T SAY THAT, NO.

21 Q THIS WOULD TAKE HOURS AND HOURS, MAYBE
22 EVEN DAYS AND DAYS; CORRECT?

23 A IT CAN, YES.

24 Q SO HOW MANY OF THESE TYPES OF CRIME SCENES
25 HAVE YOU ACTUALLY INVESTIGATED?

26 MS. SARIS: OBJECTION. VAGUE AS TO --

27 THE COURT: ALL RIGHT. SUSTAINED.

28 Q BY MR. JACKSON: HOW MANY CRIME SCENES

1 INVOLVING DOUBLE HOMICIDES; MULTIPLE SHELL CASINGS;
2 MULTIPLE KILLERS; EYEWITNESSES; BALLISTICS; FORENSICS;
3 FINGERPRINTS; VEHICLES AT THE SCENE; HOUSES; ALL THE
4 THINGS THAT YOU'VE TALKED ABOUT IN THIS PARTICULAR CASE;
5 AUTOPSY REPORTS; MEDICAL FINDINGS; HOW MANY CASES
6 INVOLVING ALL OF THAT WOULD YOU SAY YOU'VE INVESTIGATED
7 PRIOR TO COMING TO COURT TODAY?

8 MS. SARIS: OBJECTION. COMPOUND.

9 THE COURT: OVERRULED.

10 YOU CAN ANSWER.

11 THE WITNESS: I HAVEN'T GOT A SPECIFIC NUMBER. I
12 REALLY CAN'T -- I HAVEN'T GOT SPECIFIC NUMBERS ON THAT.

13 Q BY MR. JACKSON: LESS THAN TEN?

14 A NO, IT'S DEFINITELY FAR MORE THAN TEN.

15 Q HOW MUCH MORE?

16 A I WOULD SAY IN EXCESS OF 100.

17 Q NOWHERE NEAR 5,000, CORRECT, FOR THIS TYPE
18 OF CASE?

19 A FOR THIS TYPE OF CASE, YES.

20 Q DO YOU KNOW WHAT THE ASSOCIATION OF
21 FIREARMS AND TOOL MARKS EXAMINERS IS?

22 A YES. IT'S AN ORGANIZATION THAT YOU CAN
23 SIGN UP OR BELONG TO THAT IS SORT OF SEEN AS YOUR PEERS.
24 IT HELPS YOU WITH PEER REVIEWS. IT IS BASICALLY THE
25 ORGANIZATION THAT SETS THE STANDARDS FOR WHAT WE WANT TO
26 DO AS FIREARMS EXAMINERS.

27 Q ARE YOU A FULL MEMBER OR A PROVISIONAL?

28 A I'M A PROVISIONAL MEMBER.

1 Q AND WHAT DO YOU HAVE TO DO TO BECOME A
2 PROVISIONAL MEMBER?

3 A YOU HAVE TO FILL OUT AN APPLICATION. YOU
4 HAVE TO SEND IN YOUR CV. YOU HAVE TO GET LETTERS OF
5 RECOMMENDATION.

6 Q IN ORDER TO BE A FULL MEMBER, YOU HAVE TO
7 HAVE THREE YEARS OF FIELD EXPERIENCE; CORRECT?

8 A THAT IS MY UNDERSTANDING.

9 Q AND YOU HAVE TO BE SPONSORED OR
10 RECOMMENDED BY ANOTHER MEMBER OF A.F.T.E.; CORRECT?

11 A BY A.F.T.E.? YES --

12 Q ASSOCIATION OF FIREARMS AND TOOL MARK
13 EXAMINERS; IS THAT RIGHT?

14 A THAT'S CORRECT.

15 Q AND YOU ARE NOT, IN FACT, A FULL MEMBER?

16 A I'M ONLY A PROVISIONAL MEMBER, YES.

17 Q THE LAB YOU WORK FOR FORENSIC ANALYTICAL?

18 A YES.

19 Q DO YOU KNOW WHAT AN ASCLAD CERTIFICATION
20 IS?

21 A I KNOW WHAT AN ASCLAD CERTIFICATION IS.

22 Q CAN YOU EXPLAIN THAT TO US, PLEASE.

23 A IT IS ALSO A BODY THAT GOVERNS THE
24 STANDARDS THAT HAS TO BE ADHERED TO FOR LABORATORIES IN
25 THE U.S.

26 Q THAT IS KIND OF THE BENCHMARK STANDARD FOR
27 LABORATORIES HERE IN THE UNITED STATES; CORRECT?

28 A IT CAN BE DESCRIBED AS THAT, YES.

1 Q ALL OVER THE COUNTRY LABS SEEK THE
2 APPROVAL OF ASCLAD OR SEEK CERTIFICATION FROM ASCLAD TO
3 ESTABLISH THEIR BONAFIDES, IF YOU WILL; CORRECT?

4 A THEY TRY TO OBTAIN THAT QUALIFICATION,
5 YES.

6 Q FORENSIC ANALYTICAL, IS IT A MEMBER OF
7 ASCLAD?

8 A THE FIREARMS SECTION IS NOT.

9 Q WHEN YOU BEGAN YOUR INVESTIGATION OF THE
10 ACTUAL BALLISTICS IN THIS CASE, MR. SWANEPOEL, DID YOU
11 SEEK TO MATCH THE CASINGS TO ONE ANOTHER TO DETERMINE
12 WHETHER OR NOT THEY WERE FIRED FROM THE SAME FIREARM?

13 A YES. THAT'S TYPICALLY WHAT WE DO WHEN WE
14 DO A MICROSCOPICAL COMPARISON IS WE TRY AND MATCH THE
15 CARTRIDGE CASES TO DETERMINE IF WHETHER THEY WERE FIRED
16 FROM ONE OR TWO DIFFERENT FIREARMS.

17 Q AND I ASSUME -- I READ YOUR REPORT. IN
18 YOUR REPORT YOU INDICATED THAT YOU WERE ABLE TO MATCH
19 FOUR CASINGS ON YOUR OWN; CORRECT?

20 A YES.

21 Q ALL HAVING BEEN FIRED FROM A SINGLE
22 FIREARM; IS THAT CORRECT?

23 A YES, THAT'S CORRECT.

24 Q AND FOUR OTHER CASINGS AT THE SCENE ALL
25 HAVING BEEN FIRED FROM A SEPARATE FIREARM; CORRECT?

26 A THAT'S CORRECT.

27 Q DID YOU ALSO SEEK TO ANALYZE THE BULLETS,
28 THE FIRED BULLETS AT THE SCENE?

1 A YES, I DID.

2 Q I SAID "AT THE SCENE." THAT WAS A BAD
3 QUESTION. THAT WERE RECOVERED FROM THE SCENE?

4 A YES.

5 Q YOU DIDN'T DO YOUR ANALYSIS AT THE SCENE?

6 A NO.

7 Q AND WERE YOU ABLE TO MAKE AN
8 IDENTIFICATION OF THE BULLETS?

9 A NO, I WAS NOT.

10 Q AS A MATTER OF FACT, IN YOUR REPORT I
11 BELIEVE YOU INDICATED, IT CANNOT BE DETERMINED IF THE
12 FIRED BULLETS AND JACKETS MARKED 16, 17, 19, 24, 25, 27,
13 29 AND 30 -- AND I'M LOOKING ON PAGE 2.

14 A YES, I'M AWARE.

15 Q -- WERE OR WERE NOT FIRED FROM ONE
16 FIREARM. THAT WAS YOUR CONCLUSION; CORRECT?

17 A THAT IS MY CONCLUSION, YES.

18 Q AND, IN FACT, MANNY MUNOZ AND HIS PEER
19 REVIEWER ROBERT HAWKINS --

20 MS. SARIS: OBJECTION, YOUR HONOR. ASSUMES FACTS
21 NOT IN EVIDENCE.

22 THE COURT: ALL RIGHT. REPHRASE THE QUESTION,
23 PLEASE.

24 Q BY MR. JACKSON: ARE YOU AWARE OF MANNY
25 MUNOZ'S REPORT?

26 A YES, I AM.

27 Q DID YOU RELY ON HIS REPORT?

28 A YES, I AM.

1 Q ARE YOU AWARE THAT HIS REPORT -- BY THE
2 WAY, ARE YOU AWARE THAT MR. MUNOZ IS A FULL MEMBER OF THE
3 A.F.T.E.?

4 MS. SARIS: OBJECTION, YOUR HONOR. ASSUMES FACTS
5 NOT IN EVIDENCE. COUNSEL IS TESTIFYING.

6 THE COURT: OVERRULED.

7 Q BY MS. SARIS: ARE YOU AWARE OF WHETHER OR
8 NOT HE IS A FULL MEMBER OF A.F.T.E.?

9 A NO, I'M NOT.

10 Q ARE YOU AWARE OF WHETHER OR NOT THE LOS
11 ANGELES COUNTY CRIME LAB IS ASCLAD CERTIFIED?

12 A NO, I'M NOT.

13 Q WOULD IT SURPRISE YOU IF YOU WERE TO FIND
14 OUT THAT IT IS ASCLAD CERTIFIED?

15 A NO, IT WOULD NOT.

16 MS. SARIS: OBJECTION. RELEVANCE.

17 THE COURT: OVERRULED.

18 Q BY MR. JACKSON: YOU DON'T HAVE ANY
19 DISAGREEMENT WITH THAT?

20 A NO.

21 Q AND DID YOU FIND MR. MUNOZ'S REPORT TO BE
22 THOROUGH?

23 A I DID.

24 Q DID YOU FIND HIS REPORT AND NOTES TO BE
25 CONSISTENT WITH YOUR FINDINGS INSOFAR AS THE SHELL
26 CASINGS WERE CONCERNED?

27 A YES, I DID.

28 Q I HAVE A HABIT -- I KNOW PEOPLE IN

1 FIREARMS GET MAD WHEN I SAY THINGS LIKE "CLIP" AND "SHELL
2 CASING." EXPENDED CASING OR EXPENDED CARTRIDGE CASING.
3 AND BASED ON YOUR REVIEW OF MR. MUNOZ'S REPORT, ARE YOU
4 AWARE THAT HE WAS ACTUALLY ABLE TO MATCH THE BULLETS TO
5 ONE ANOTHER; CORRECT?

6 A I'M AWARE OF THAT.

7 Q THE SAME BULLETS THAT YOU WERE UNABLE TO
8 MATCH; CORRECT?

9 A THAT IS CORRECT.

10 Q IN FACT, YOU RELIED ON MR. MUNOZ'S
11 REPORT -- LET ME ASK YOU ANOTHER QUESTION BEFORE I GET
12 INTO THAT.

13 MR. MUNOZ WAS PEER REVIEWED AS WELL. ARE
14 YOU AWARE OF THAT?

15 A YES, I AM.

16 Q AND THAT WAS BY ANOTHER MEMBER OF THE
17 ASCLAD CERTIFIED LOS ANGELES COUNTY SHERIFF'S FIRE -- I'M
18 SORRY -- CRIME LAB; CORRECT?

19 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

20 THE COURT: ALL RIGHT.

21 MR. JACKSON: I'LL REPHRASE THE QUESTION, YOUR
22 HONOR.

23 THE COURT: WE'RE GOING TO HAVE TO RECESS AT THIS
24 POINT FOR A FEW MINUTES ANYWAY. SO THIS WOULD BE A GOOD
25 TIME TO TAKE A BREAK. LADIES AND GENTLEMEN, DON'T
26 DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY OPINIONS.
27 DON'T CONDUCT ANY DELIBERATIONS. WE WILL SEE YOU BACK
28 HERE IN ABOUT 15 MINUTES. THANK YOU.

1 MS. SARIS: YOUR HONOR, WOULD NOW BE A GOOD TIME
2 TO PUT A PERSONAL WAIVER ON THE RECORD REGARDING
3 MR. GOODWIN IF TERMS OF TIMING?

4 THE COURT: IF YOU WISH, THAT'S FINE.

5 YOU CAN STEP DOWN, SIR. WE WILL RESUME IN
6 15 MINUTES.

7 (PAUSE IN PROCEEDINGS.)

8 (THE FOLLOWING PROCEEDINGS WERE
9 HELD IN OPEN COURT OUTSIDE THE
10 PRESENCE OF THE JURY.)

11
12 THE COURT: ALL RIGHT. MY UNDERSTANDING IS --
13 AND WE ARE OUTSIDE THE PRESENCE OF THE JURY.

14 MS. SARIS: THANK YOU, YOUR HONOR.

15 THE COURT: GO AHEAD, MS. SARIS.

16 MS. SARIS: MR. SUMMERS AND I HAVE HAD AN
17 OPPORTUNITY TO CONSULT AT LENGTH WITH MR. GOODWIN. AND
18 HE HAS INDICATED AND EXPRESSED AT VARIOUS TIMES
19 THROUGHOUT THE COURSE OF THESE PROCEEDINGS TO US A DESIRE
20 TO TESTIFY.

21 AND WE HAVE PREVAILED UPON HIM AND HAD
22 LENGTHY DISCUSSIONS. AND IT IS OUR DETERMINATION AT THIS
23 POINT -- AND MR. GOODWIN IS IN AGREEMENT WITH US NOW --
24 THAT HE WILL NOT BE TAKING THE STAND IN HIS OWN DEFENSE.
25 AND I WOULD ASK THE COURT TO ALLOW HIM TO STATE THAT HE
26 UNDERSTANDS THIS AND THAT IS HIS CHOICE.

27 THE COURT: ALL RIGHT. MR. GOODWIN, DO YOU
28 UNDERSTAND THAT YOU HAVE A RIGHT TO TESTIFY IN THIS CASE

1 IF YOU CHOOSE TO?

2 THE DEFENDANT: YES, YOUR HONOR.

3 THE COURT: AND DO YOU UNDERSTAND THAT THAT RIGHT
4 BELONGS TO YOU ALONE?

5 THE DEFENDANT: YES, YOUR HONOR.

6 THE COURT: AFTER HAVING CONSULTED WITH YOUR
7 ATTORNEYS, DO YOU WISH TO TESTIFY IN THIS CASE?

8 THE DEFENDANT: NO, YOUR HONOR.

9 THE COURT: AND DO YOU AGREE TO GIVE UP YOUR
10 RIGHT TO TESTIFY IN THIS CASE?

11 THE DEFENDANT: YES, YOUR HONOR.

12 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT THAT?

13 THE DEFENDANT: NO. BASED ON THE ADVICE OF
14 COUNSEL, YOUR HONOR, I HAVE NO QUESTIONS AND I'M WILLING
15 TO GIVE IT UP.

16 THE COURT: OKAY. THANK YOU.

17 MS. SARIS: THANK YOU.

18 THE COURT: ANYTHING FURTHER FROM THE PEOPLE?

19 MR. JACKSON: NO, YOUR HONOR.

20 MR. DIXON: NO. THANK YOU.

21 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

22 MS. SARIS: NO. THANK YOU.

23 (PAUSE IN PROCEEDINGS.)

24 MS. SARIS: YOUR HONOR, THIS IS GERALD JANSEN.

25 THE COURT: WHAT IS THE LAST NAME?

26 MS. SARIS: JANSEN.

27 THE COURT: OKAY. 1:30 TOMORROW, SIR.

28 THE WITNESS: YES.

1 MS. SARIS: AND ERIC MILLER.

2 THE COURT: 1:30; IS THAT RIGHT, 1:30 YOU WANT?

3 MS. SARIS: YES.

4 THE COURT: 1:30 TOMORROW, SIR.

5 THE WITNESS: YES.

6 THE COURT: OKAY. THANK YOU.

7 MS. SARIS: GERALD.

8 THE COURT: MR. JANSEN, YOUR FIRST NAME?

9 THE WITNESS: GERALD.

10 MS. SARIS: GERALD, G-E-R-A-L-D.

11 THE CLERK: THANK YOU.

12 THE COURT: THANK YOU.

13

14 (BRIEF RECESS.)

15 (THE JURY ENTERED THE COURTROOM

16 AND THE FOLLOWING PROCEEDINGS WERE

17 HELD IN OPEN COURT.)

18

19 THE COURT: ALL RIGHT. RESUMING IN THE MICHAEL
20 GOODWIN MATTER. HE IS PRESENT WITH COUNSEL. THE PEOPLE
21 ARE REPRESENTED. THE JURORS AND ALTERNATES ARE PRESENT.
22 MR. SWANEPOEL IS STILL ON THE WITNESS STAND.

23 MR. JACKSON, YOU MAY CONTINUE YOUR
24 CROSS-EXAMINATION.

25 MR. JACKSON: THANK YOU, YOUR HONOR.

26 Q I THINK WHEN WE LEFT OFF, MR. SWANEPOEL, I
27 WAS ASKING ABOUT YOUR ANALYSIS OF THE ACTUAL BULLETS. WE
28 HAD TALKED ABOUT THE FACT THAT YOU WERE ABLE TO MAKE THE

1 CASINGS, BUT YOU WERE UNABLE TO MAKE THE BULLETS;
2 CORRECT?

3 A I WOULDN'T SAY I WAS UNABLE TO MAKE THE
4 BULLETS. I JUST WANTED MORE INFORMATION FROM THE BULLETS
5 BEFORE I MAKE A COMPARISON.

6 Q IN FACT, YOU DID NOT RENDER ANY
7 CONCLUSIONS ABOUT THE BULLETS; RIGHT?

8 A NO. I COULDN'T SEPARATE THEM INTO
9 DIFFERENT FIREARMS OR ONE FIREARM FOR THAT MATTER.

10 Q AND THAT'S CONSISTENT WITH YOUR QUOTE THAT
11 IT CANNOT BE DETERMINED IF THE BULLETS AND JACKETS WERE
12 OR WERE NOT FIRED FROM ONE FIREARM; IS THAT CORRECT?

13 A THAT'S CORRECT, SIR.

14 Q THEREFORE YOU RELIED ON MANNY MUNOZ'S
15 REPORT AND HIS FINDINGS IN ASSISTING YOU TO DETERMINE
16 YOUR CRIME SCENE RECONSTRUCTION; CORRECT?

17 A CORRECT.

18 Q ALL RIGHT. YOU INDICATED THAT -- WOULD
19 YOU AGREE WITH ME THAT THE NATURE OF THE BULLET
20 ANALYSIS -- IN OTHER WORDS, DETERMINING WHICH GUN FIRED
21 WHICH BULLET, IS AN INTEGRAL PART OF YOUR CRIME SCENE
22 RECONSTRUCTION?

23 A YES.

24 Q ALL RIGHT. AND DETERMINING WHICH CASING
25 CAME FROM WHICH PARTICULAR GUN WAS ALSO INTEGRAL IN YOUR
26 DETERMINATION OF THE CRIME SCENE RECONSTRUCTION; CORRECT?

27 A YES.

28 Q YOU INDICATED ON DIRECT EXAMINATION, IF

1 I'M NOT MISTAKEN THAT YOU BEGAN YOUR ANALYSIS OF HOW
2 THINGS WENT DOWN, IF YOU WILL, IN OTHER WORDS, WHAT
3 CASING WENT WITH WHAT BULLET AND WHERE SHOOTERS MIGHT
4 HAVE BEEN STANDING WHEN YOU DID YOUR WALK THROUGH ON
5 SEPTEMBER 14TH, 19 -- I'M SORRY -- 2006; CORRECT?

6 A CORRECT.

7 Q AND YOU UTILIZED AS A BIG PART OF THAT HOW
8 YOU DISSECT THE BULLETS -- OR HOW MANNY MUNOZ DISSECTED
9 THE BULLETS; CORRECT?

10 A CORRECT.

11 Q YET YOU DIDN'T RECEIVE MANNY MUNOZ'S
12 REPORT ABOUT HIS ANALYSIS OF THE BULLETS UNTIL AFTER
13 SEPTEMBER 25TH; CORRECT?

14 A WELL, YES, I DID RECEIVE MANNY MUNOZ'S.
15 BUT LIKE I SAID, I HAVE NEVER WRITTEN A FINAL REPORT, SO
16 AS FAR AS THAT I APOLOGIZE; I MIGHT HAVE MADE A MISTAKE
17 ABOUT THE DATES. BUT I DID USE MANNY MUNOZ'S REPORT IN
18 MY RECONSTRUCTION AND WHAT I'VE TESTIFIED TO TODAY AT
19 LEAST.

20 Q SO YOU DIDN'T BEGIN YOUR RECONSTRUCTION
21 ANALYSIS UNTIL AFTER YOU RECEIVED HIS REPORT OR BEFORE
22 YOU RECEIVED HIS REPORT?

23 A NO. THERE WERE CERTAIN ELEMENTS OF THE
24 RECONSTRUCTION THAT I WAS CONFIDENT IN DOING.

25 Q BEFORE YOU RECEIVED HIS REPORT?

26 A YES.

27 Q EVEN THOUGH AT THAT TIME, YOU WERE UNAWARE
28 OF WHICH BULLET WAS FIRED FROM WHICH GUN; CORRECT?

1 A YES.

2 Q OKAY. I WANT TO SORT OF JUMP RIGHT INTO
3 THIS IF I COULD CONCERNING DEFENSE YY. MS. SARIS ASKED
4 YOU SEVERAL QUESTIONS ABOUT THIS PARTICULAR EXHIBIT YY.
5 CAN YOU SEE THAT? THAT'S A PRETTY SEVERE ANGLE.

6 A I CAN SEE IT.

7 Q OKAY. AND BASED ON THE COLOR SCHEME, YOU
8 WERE ABLE TO ESTABLISH IN YOUR OPINION THAT CERTAIN OF
9 THE BALLISTICS GO TOGETHER, IF YOU WILL. IN OTHER WORDS,
10 ARE ASSOCIATED WITH ONE PARTICULAR GUN AND CERTAIN OTHER
11 BALLISTICS OF THE GREEN, FOR INSTANCE, IS ASSOCIATED WITH
12 A SEPARATE GUN; CORRECT?

13 A CORRECT.

14 Q AND BY ASSOCIATION A SEPARATE GUNMAN; IS
15 THAT RIGHT?

16 A YES.

17 Q OKAY. SO THE RED, IN YOUR OPINION,
18 REPRESENTS A PARTICULAR GUNMAN HOLDING A PARTICULAR
19 WEAPON; AND THE GREEN REPRESENTS ANOTHER GUNMAN HOLDING
20 ANOTHER WEAPON; CORRECT?

21 A IT CAN POTENTIALLY BOIL DOWN TO THAT, YES.

22 Q DO YOU AGREE WITH ME THAT -- WELL, LET ME
23 ASK IT THIS WAY, ISN'T IT TRUE THAT THE WAY THAT YOU
24 BEGAN YOUR ANALYSIS, ACCORDING TO YOUR DIRECT
25 EXAMINATION, IS BY ASSOCIATING CARTRIDGE CASE NO. 2 WITH
26 I BELIEVE YOU SAID IT WAS EITHER 29 OR 30 OF THE BULLETS
27 THAT WERE FOUND AT THE AUTOPSY OF TRUDY THOMPSON?

28 A THAT IS CORRECT, YES.

1 Q BY THE WAY, LET'S GO AHEAD AND CLEAR THAT
2 UP. WHICH ONE WAS IT? ARE YOU ASSOCIATING CARTRIDGE
3 CASE NO. 2 WITH BULLET THAT WAS RECOVERED FROM TRUDY
4 THOMPSON'S HEAD OR THE BULLET THAT WAS RECOVERED FROM HER
5 BLOUSE?

6 A I WOULD RATHER ASSOCIATE IT WITH THE ONE
7 RECOVERED FROM HER HEAD.

8 Q OKAY. CAN YOU TELL ME FORENSICALLY,
9 SCIENTIFICALLY WHAT MARKINGS ON THE BULLET NO. 30 THAT
10 WAS RECOVERED FROM HER HEAD AND WHAT MARKINGS ON
11 CARTRIDGE CASE NO. 2, COMBINE THEM THAT IN YOUR MIND
12 FORENSICALLY, THEY'RE ASSOCIATED WITH ONE ANOTHER?

13 A I CAN'T COMBINE THE FIRED BULLETS WITH THE
14 FIRED CARTRIDGE CASES BY COMPARING THE ONE TO THE OTHER.
15 WHAT I DID WAS ASSOCIATION AND THE PROCESS OF ELIMINATION
16 BASED ON MY RECONSTRUCTION AND THE EVIDENCE THAT I
17 REVIEWED.

18 Q OKAY. THEN LET ME ASK YOU THIS: CAN YOU
19 TELL ME FORENSICALLY FROM A SCIENTIFIC PROSPECTIVE
20 WHETHER OR NOT YOU CAN SHOW ME ANYTHING SCIENTIFICALLY
21 MARKINGS ON CASINGS -- CARTRIDGE CASE NO. 2 AND BULLET
22 NO. 25 -- I'M SORRY, MY MISTAKE -- CARTRIDGE CASES AND --
23 YES, CARTRIDGE CASE NO. 2 AND BULLET NO. 25.

24 IN OTHER WORDS, YOU SAID THROUGH THE
25 PROCESS OF ELIMINATION YOU CAN ESTABLISH IN YOUR MIND
26 THAT THOSE TWO ITEMS CANNOT GO TOGETHER. CAN YOU TELL ME
27 WHAT SCIENTIFIC EVIDENCE THAT YOU HAVE THAT THOSE ITEMS
28 DON'T GO TOGETHER?

1 A AGAIN, LIKE I SAID, I HAVE GOT -- WHAT
2 WE'VE DONE IS REVIEWED IT AND WE'VE DETERMINED THAT THE
3 FIRED BULLETS ARE FROM TWO DIFFERENT FIREARMS. WE'VE
4 GONE WITH THE FIRED CARTRIDGE CASES ARE TWO FIREARMS.
5 WHAT I'VE DONE ON THE BOTTOM IS ASSOCIATED FIRED
6 CARTRIDGE CASES AND FIRED BULLETS. AND BECAUSE OF THAT
7 ASSOCIATION, I DRAG IT THROUGH ALL OF THE SCENE. SO I
8 HAVEN'T COMPARED NO. 25 TO NO. 2 SCIENTIFICALLY OR
9 MICROSCOPICALLY TO TRY TO LINK IT THAT WAY.

10 Q SO THE SHORT ANSWER TO MY QUESTION,
11 MR. SWANEPOEL, IS YOU CANNOT SCIENTIFICALLY THROUGH THE
12 PROCESS OF ELIMINATION OR ANYTHING ELSE, SCIENTIFICALLY,
13 SHOW ME ANYTHING THAT IS OR ISN'T A MATCH BETWEEN, FOR
14 INSTANCE, MY EXAMPLE BULLET NO. 25 AT THE TOP OF THE
15 DIAGRAM AND CARTRIDGE CASE NO. 2 AT THE BOTTOM OF THE
16 DIAGRAM?

17 MS. SARIS: OBJECTION. VAGUE AS TO "SCIENTIFIC."

18 THE COURT: WAIT. WAIT. WAIT.

19 MS. SARIS: THE OBJECTION IS VAGUE AS TO
20 "SCIENTIFIC" VERSUS "MICROSCOPIC." IT'S JUST VAGUE.

21 THE COURT: SEE IF YOU CAN REPHRASE IT, PLEASE.

22 MR. JACKSON: SURE.

23 Q SO THE SHORT ANSWER TO MY QUESTION IS
24 THERE IS NO WAY TO PHYSICALLY DISASSOCIATE CARTRIDGE CASE
25 NO. 2 WITH FIRED BULLET NO. 25, PHYSICALLY?

26 MS. SARIS: SAME OBJECTION. VAGUE AS TO
27 "PHYSICALLY." REFERRING TO MICROSCOPICALLY?

28 THE COURT: OVERRULED.

1 DID WE GET AN ANSWER?

2 THE REPORTER: NO.

3 MR. JACKSON: THE ANSWER WAS "NO." HE SHOOK HIS
4 HEAD AND I HEARD HIM SAY "NO."

5 Q GO AHEAD AND ANSWER THE QUESTION. DO YOU
6 HAVE IT IN MIND?

7 A I CAN'T BRING THEM MICROSCOPICALLY
8 TOGETHER.

9 Q MICROSCOPICALLY CAN YOU BRING NO. 2 AND
10 NO. 30 TOGETHER?

11 A NO.

12 Q SO IF I'M HEARING YOU CORRECTLY,
13 MR. SWANEPOEL, YOUR ENTIRE RECONSTRUCTION OF THIS CRIME
14 SCENE IS PREDICATED ON THE ASSUMPTION THAT CARTRIDGE CASE
15 NO. 2 AND FIRED BULLET NUMBER -- I DON'T KNOW IF IT'S 29
16 OR 30, CARTRIDGE -- FIRED BULLET NO. 30 ON THE ASSUMPTION
17 THAT THOSE TWO ITEMS OF EVIDENCE GO TOGETHER; CORRECT?

18 A CORRECT.

19 Q IF THAT ASSUMPTION IS IN ANY WAY IN
20 ACCURATE, WHAT HAPPENS TO THE REST OF YOUR CRIME SCENE
21 RECONSTRUCTION?

22 A WELL, I'VE DONE MY RECONSTRUCTION AND I'VE
23 TRIED TO SWITCH AROUND THE DIFFERENT EXHIBITS. IN OTHER
24 WORDS, TO LINE UP THE RED CARTRIDGE CASES WITH THE GREEN
25 BULLETS AND I REALLY CAN'T SEE THAT IT FITS LOGICALLY OR
26 BY APPLYING MY KNOWLEDGE. SO IF SOMETHING ELSE DOESN'T
27 FIT, I CAN'T SEE IT.

28 Q OKAY. LET ME ASK YOU AGAIN. IF YOUR

1 ASSUMPTION IS INCORRECT THAT CARTRIDGE CASE NO. 2 AND
2 FIRED BULLET NO. 30 DO NOT GO TOGETHER, IF THAT
3 ASSUMPTION IS UNTRUE, IF IT'S INACCURATE, WHAT HAPPENS TO
4 THE REST OF YOUR CRIME SCENE RECONSTRUCTION?

5 A THEN THE REST OF THE CRIME SCENE
6 RECONSTRUCTION CAN POTENTIALLY BE WRONG.

7 Q IT'S INACCURATE AS WELL; CORRECT?

8 MS. SARIS: OBJECTION. MISSTATES THE TESTIMONY.
9 ARGUMENTATIVE.

10 THE COURT: SUSTAINED.

11 Q BY MR. JACKSON: WHAT IS THE GRADE,
12 TOPOGRAPHICALLY SPEAKING, FROM THE MIDDLE OF DIAGRAM
13 YY -- AND I'M GOING TO PUT MY FINGER ON WHAT WE WILL
14 AGREE IS THE MIDDLE OF THE DRIVEWAY. OKAY? SOMEWHERE
15 ABOVE NO. 11 DOWN TO APPROXIMATELY WHERE NO. 2 OR NO. 3
16 IS DOWN AT THE BOTTOM OF THE DRIVEWAY.

17 WHAT IS THE GRADE?

18 A IT IS A VERY STEEP GRADE.

19 Q WHAT SHAPE IS A CARTRIDGE CASE?

20 A IT'S ROUND -- OR CYLINDRICAL.

21 Q IF THE CARTRIDGE CASE, BASED ON YOUR
22 REVIEW OF THE CRIME SCENE -- AND YOU'VE BEEN THERE -- IF
23 A CARTRIDGE CASE WAS FIRED AT THE TOP OF THE CRIME SCENE,
24 THE MIDDLE OF THE DRIVEWAY, IF YOU WILL, LANDED ON THE
25 GROUND, ON THE PAVEMENT, IS IT POTENTIALLY -- IS THERE A
26 POTENTIAL, LET'S ASK IT THAT WAY, THAT THAT CARTRIDGE
27 CASE, BEING CYLINDRICAL IN NATURE, COULD ROLL TO THE
28 BOTTOM OF THE DRIVEWAY?

1 A THERE IS A POTENTIAL FOR THAT.

2 Q AS A MATTER OF FACT, IT'S QUITE LIKELY, IS
3 IT NOT?

4 A NO, IT'S UNLIKELY.

5 Q IT'S UNLIKELY THAT A CYLINDER WOULD ROLL
6 DOWN THE HILL?

7 A IN THIS CASE IT'S UNLIKELY. WE'RE DEALING
8 WITH A SMALL CYLINDER GOING OVER A VERY ROUGH SURFACE.
9 AND PLUS IF I ROLL A CYLINDER DOWN HILL, IT DOESN'T
10 NECESSARILY ROLL IN A STRAIGHT LINE; IT VEERS OFF TO ONE
11 SIDE OR THE OTHER SIDE.

12 Q AND IT CAN BOUNCE AND JUMP AND BE PULLED
13 BY GRAVITY; CORRECT?

14 A WELL, IT'S PULLED DOWN BY GRAVITY, YES.

15 Q ALL RIGHT. IF A CARTRIDGE CASE -- AND
16 WE'RE GOING TO JUST DO SOME REAL BASIC PHYSICS HERE. IF
17 A CARTRIDGE CASE WAS FIRED IN THE MIDDLE OF THE DRIVEWAY;
18 AND IT WOULD BE PULLED BY GRAVITY, WOULD YOU EXPECT IT TO
19 BE PULLED TOWARD THE LINCOLN CONTINENTAL OR TOWARD TRUDY
20 THOMPSON'S BODY?

21 A I WOULD SAY IF A CARTRIDGE CASE IS EJECTED
22 IN THE MIDDLE OF THE CRIME SCENE, IF IT'S GOING TO GO
23 ANYWHERE IT'S GOING TO GO DOWNHILL.

24 Q YOU INDICATED -- I JUST HAVE A FEW MORE
25 QUESTIONS FOR YOU.

26 YOU INDICATED THAT YOU ASSOCIATED -- I'M
27 GOING TO WEAR A HOLE IN THE CARPET. I JUST CAN'T SEE
28 THIS FAR. I APOLOGIZE.

1 YOU ASSOCIATED CARTRIDGE CASE 18 WITH
2 FIRED BULLET NO. 19; CORRECT?

3 A I SAID THAT IS POTENTIALLY ONE OF THE
4 ASSOCIATIONS THAT COULD BE MADE.

5 Q AND THAT'S POTENTIALLY INCORRECT AS WELL?

6 A NO, IT'S POTENTIALLY -- IT'S NOT
7 INCORRECT. I'M JUST SAYING THAT IF WE LOOK AT NO. 18 AND
8 19, IT CERTAINLY FITS IF I DRAW MY TRAJECTORY BACK WE CAN
9 GET A CARTRIDGE CASE IN THAT AREA. BUT WHAT HAPPENS IS
10 WE ARE ALWAYS DEALING WITH GREEN CARTRIDGE CASES LINKED
11 UP TO GREEN BULLETS. WE HAVEN'T GOT RED CARTRIDGE CASES
12 FITTING ANYWHERE IN THE TRAJECTORIES THAT WE FIND WITH
13 THE OPPOSITE.

14 Q WELL, NOT TO BEAT A DEAD HORSE, BUT ONCE
15 AGAIN, THERE IS NOTHING MICROSCOPICALLY THAT ASSOCIATES
16 CARTRIDGE CASE NO. 18 WITH BULLET NO. 19; CORRECT?

17 A NO, THERE IS NOTHING MICROSCOPICALLY.

18 Q ABSOLUTELY ZERO IF YOU LOOK AT THEM UNDER
19 A STERILE MICROSCOPE; CORRECT?

20 A UNLESS YOU HAVE THE FIREARM.

21 Q CORRECT. AND WE DON'T IN THIS CASE;
22 RIGHT?

23 A WE DON'T.

24 Q SO WITHOUT ADDING ANYTHING TO MY
25 HYPOTHETICAL, IN THIS CASE, PHYSICALLY SPEAKING, YOU
26 CANNOT MICROSCOPICALLY LINK NO. 18 TO NO. 19, CAN YOU?

27 A NO, NOT MICROSCOPICALLY.

28 Q OKAY. YOU'RE DOING THIS, ONCE AGAIN,

1 YOU'RE MAKING YOUR ASSOCIATION THAT THEY'RE BOTH GREEN
2 ONCE AGAIN BASED ON PROXIMITY; CORRECT?

3 A CORRECT. PROXIMITY, TRAJECTORY.

4 Q ALL RIGHT. DO YOU AGREE WITH ME -- AND I
5 THINK YOU DID A NICE DEMONSTRATION ON DIRECT EXAMINATION.
6 IF YOU HOLD A WEAPON STRAIGHT OUT IN FRONT OF YOU, THAT
7 YOU WOULD EXPECT A .9 MILLIMETER WEAPON TO EJECT ITS
8 CARTRIDGE CASE IN THE NORMAL SCENARIO TO THE RIGHT;
9 CORRECT?

10 A CORRECT.

11 Q NOW THERE ARE OBVIOUSLY SPECIALIZED
12 WEAPONS. IF I'M LEFT-HANDED I CAN HAVE A GUN MADE THAT
13 EJECTS TO THE LEFT; CORRECT?

14 A CORRECT.

15 Q BUT NORMALLY SPEAKING IT WOULD EJECT TO
16 THE RIGHT AND A LITTLE BIT BEHIND ME; IS THAT RIGHT?

17 A WELL, I WOULD JUST SAY TO THE RIGHT. AND
18 THEN AS TO FRONT AND BACK, I WOULD JUST MAKE A 45 DEGREE
19 (INAUDIBLE) THROUGH THE BARREL AND PLACE IT IN EITHER --
20 UNLESS WE KNOW WHAT FIREARM WAS USED. AND UNLESS WE
21 SPECIFICALLY FIRED, WE WOULDN'T BE ABLE TO SAY FRONT AND
22 BACK.

23 Q SO AS FAR AS YOUR OPINION IS CONCERNED, IF
24 I DO A 45-DEGREE ANGLE WITH MY ARMS LIKE THIS -- THIS IS
25 APPROXIMATELY 45 DEGREES. AND I MOVE LEFT AND RIGHT,
26 THAT'S A PRETTY WIDE ARC THAT THOSE SHELL CASINGS COULD
27 POTENTIALLY FALL INTO; CORRECT?

28 A CORRECT.

1 Q SO WOULD YOU AGREE WITH ME THAT THAT IS A
2 RELATIVELY UNSCIENTIFIC DETERMINATION OF WHERE A SHOOTER
3 IS STANDING BASED ON WHERE A CARTRIDGE CASE SIMPLY LAYS?

4 A WELL, IT IS DEFINITELY -- IT WIDENS THE
5 AREA THAT WE ARE LOOKING AT. BUT NOT ONCE HAVE I SAID
6 THAT THE SHOOTER SHOULD BE STANDING EXACTLY ON SPOT "X."
7 WE CAN'T DETERMINE THAT AND I HAVE SAID THAT BEFORE. WE
8 CAN'T DETERMINE WHERE THE SHOOTER EXACTLY WAS STANDING.
9 WE JUST DON'T HAVE ENOUGH INFORMATION.

10 Q OKAY. AND SO THERE IS SEVERAL FACTORS
11 THAT MAKE UP WHETHER OR NOT YOU CAN DETERMINE WHERE A
12 SHOOTER IS STANDING. AM I RIGHT?

13 A CORRECT.

14 Q FROM A SCIENTIFIC STANDPOINT ONE OF THE
15 DETERMINATIONS IS HOW IS THE SHOOTER HOLDING THE GUN;
16 CORRECT?

17 A THAT IS VERY IMPORTANT, YES.

18 Q AND BASED ON WHERE THE SHOOTER IS HOLDING
19 THE GUN, YOU WOULD WANT TO DETERMINE THE TRAJECTORY OF
20 THE OUTGOING BULLET AS WELL THE CASING THAT CAME FROM
21 THAT GUN; CORRECT?

22 A YOU CAN USE A COMBINATION OF THE TWO TO
23 DETERMINE A SPECIFIC AREA OR A SMALLER AREA. I DON'T
24 WANT TO SAY THAT I'M GOING TO PUT HIM TO SPOT "X," BUT I
25 CAN DEFINITELY NARROW IT DOWN TO A GENERAL AREA.

26 Q SO IN A SCIENTIFIC EXPERIMENT WHERE YOU
27 HAVE A TRAJECTORY AND YOU KNOW THE TRAJECTORY OF THE
28 BULLET AND YOU ALSO KNOW WHERE THE CASING IS FOUND, YOU

1 CAN DO A GENERAL SCHEME OF WHERE THAT THE SHOOTER IS
2 STANDING; CORRECT?

3 A CORRECT.

4 Q BUT THE ONE THING YOU HAVE TO HAVE IN
5 ORDER TO DEFINITELY MAKE THAT DETERMINATION IS THE GUN;
6 RIGHT?

7 A CORRECT.

8 Q AND YOU DON'T HAVE THE GUN IN THIS CASE;
9 RIGHT?

10 A CORRECT.

11 Q ALSO, ONE OF THE FACTORS MIGHT BE IF I
12 TWIST THE GUN AND INSTEAD OF SHOOTING LIKE, LET'S SAY
13 MILITARY STYLE, WHICH I'M SURE YOU'RE VERY FAMILIAR WITH,
14 OR POLICE STYLE, WHICH YOU'RE FAMILIAR WITH AND SHOOTING
15 WHAT SOMETIMES IN THE U.S. IS CALLED "GANGSTER STYLE,"
16 AND TURNING THE GUNS 90 DEGREES TO THE GROUND, THAT'S
17 GOING TO CHANGE THE TRAJECTORY OF THE EXPENDED CASING; IS
18 IT NOT?

19 A YES.

20 Q THE OTHER FACTOR IS THE TARGET. BULLET 19
21 WAS FOUND IN THE PASSENGER DOOR OF -- LET'S CALL THE
22 TARGET THE BROWN VAN; CORRECT?

23 A CORRECT.

24 Q THAT BROWN VAN IS ON WHAT? IT'S ON
25 WHEELS; RIGHT?

26 A CORRECT.

27 Q MEANING IT'S MOBILE. YES?

28 A YES.

1 Q SO THAT TAKES AWAY YET ANOTHER FACTOR IN
2 DETERMINING EXACTLY WHERE A SHOOTER WAS STANDING IN THIS
3 SCENARIO AS MS. SARIS POINTED OUT; CORRECT?

4 A WELL, IT CAN -- YES, IT CAN POTENTIALLY.
5 BUT, AGAIN, YOU HAVE TO LOOK AT WHERE ALL THE CARTRIDGE
6 CASES ARE WHEN YOU LOOK AT THE WHOLE CRIME SCENE IN
7 GENERAL. SO IT CERTAINLY CAN LIMIT YOU, YES.

8 Q NOW, WITH REGARD TO WHERE THE CARTRIDGE
9 CASES ARE FOUND, THERE IS A DIFFERENCE -- FOR INSTANCE,
10 YOUR ANALYSIS OF A CRIME SCENE RECONSTRUCTION MIGHT BE
11 VERY DIFFERENT IF A CRIME SCENE WAS ALL IN SAND, FOR
12 INSTANCE, AT THE BEACH. AND SHOOTERS ARE STANDING IN A
13 PARTICULAR PLACE. AND EVERY TIME A CARTRIDGE CASE IS
14 EJECTED, IT LANDS IN SOFT SAND; RIGHT? THAT WOULD BE
15 DIFFERENT THAN ON ASPHALT?

16 A YES.

17 Q OKAY. WHY?

18 A WELL, WHEN CARTRIDGE CASES BOUNCE ON
19 ASPHALT, THEY CAN BOUNCE ERRATICALLY. AND WHEN IT'S ON
20 SAND, THEY ARE NOT GOING TO BOUNCE AND ROLE AS
21 DRAMATICALLY AS YOU WOULD FIND IT ON ASPHALT.

22 Q AND THE ERRATIC AND DRAMATIC BOUNCING OF
23 CARTRIDGE CASES ON ASPHALT IS EXACERBATED IF THERE IS A
24 STEEP GRADE ON THAT ASPHALT; CORRECT?

25 A IT CAN BE POTENTIALLY, YES.

26 Q SO IT MAKES IT EVEN THAT MUCH MORE
27 DIFFICULT TO DO AN ACCURATE CRIME SCENE RECONSTRUCTION;
28 CORRECT?

1 A IT CAN MAKE IT VERY DIFFICULT. BUT HERE
2 WE HAVE IT ALL IN ONE. WE'VE GOT A STEEP GRADE. WE'VE
3 GOT ASPHALT. BUT YET AGAIN WE HAVEN'T GOT ALL THE
4 CARTRIDGE CASES ROLLING DOWN TO THE BOTTOM. ALL THE
5 CARTRIDGE CASES ARE WHERE WE EXPECT THEM TO HAVE BEEN.
6 SO IT CAN INFLUENCE. IT CAN INFLUENCE IF YOU HOLD A GUN
7 LIKE THIS (INDICATING). IT CAN INFLUENCE IF YOU TURN
8 YOUR HAND THE OTHER WAY AND LET THE EJECTION GO DOWN.

9 BUT WE DON'T SEE IT HERE. WE DON'T SEE
10 ALL THE CARTRIDGE CASES BOUNCING AND ROLLING ALL THE WAY
11 DOWN TO THE BOTTOM. WE'VE ONLY GOT ONE CARTRIDGE CASE ON
12 THE BOTTOM. IF THIS WAS SO DRAMATIC, ALL THE CARTRIDGE
13 CASES WOULD CONSISTENTLY ROLL DOWN TO THE BOTTOM.

14 Q WELL, THAT'S ASSUMING, IS IT NOT,
15 MR. SWANEPOEL, THAT THE TOP OF THE DRIVEWAY IS THE SAME
16 GRADE AS THE MIDDLE OF THE DRIVEWAY, ISN'T IT?

17 A WELL, THE TOP OF THE DRIVEWAY IS NOT THE
18 SAME, BUT THE MIDDLE IS DEFINITELY ON THE STEEPER PART OF
19 THE GRADE.

20 Q SO WHAT YOU JUST SAID IS ACTUALLY
21 FACTUALLY INACCURATE. YOU WOULDN'T EXPECT THE CARTRIDGE
22 CASES TO ALL ROLL DOWN AT THE BOTTOM IF SOME OF THEM WERE
23 FIRED AT THE TOP OF THE DRIVEWAY; CORRECT?

24 A WELL, THEN LET'S SAY, THEN, FOR INSTANCE,
25 ALL OF THE CARTRIDGE CASES FIRED FROM THE MIDDLE OF THE
26 SCENE WOULD ROLL DOWN TO THE BOTTOM, YES.

27 Q AND YOU CERTAINLY HAVE A CARTRIDGE CASE AT
28 THE BOTTOM OF THE DRIVEWAY; RIGHT?

1 A WE HAVE ONE CARTRIDGE CASE AT THE BOTTOM.

2 Q AND YOU ARE MISSING A CARTRIDGE CASE FROM
3 THE TOTALITY OF WHAT YOU FOUND TO BE THE FIRED BULLETS;
4 RIGHT?

5 A YES.

6 Q HAVE YOU EVER SEEN A CRIME SCENE WHERE A
7 CARTRIDGE CASE IS CAUGHT IN THE SHOOTER'S CLOTHING?

8 A YES, I HAVE.

9 Q IS THAT EXACERBATED BY BAGGIE CLOTHING?

10 A IT CAN POTENTIALLY BE, YES.

11 Q IN OTHER WORDS, IF A SHOOTER IS STANDING
12 WEARING TIGHT BIKER SHORTS, THAT MIGHT BE A DIFFERENT --
13 IT MIGHT BE DIFFERENT IN YOUR MIND THAN, FOR INSTANCE, A
14 SHOOTER WEARING A BAGGIE JOGGING SUIT AS FAR AS THE
15 LIKELIHOOD OF A CARTRIDGE CASE GETTING CAUGHT IN THE
16 CLOTHING; CORRECT?

17 A WELL, THE CLOTHING AND THE CARTRIDGE CASE
18 GETTING CAUGHT IN THE CLOTHING, I REALLY DON'T SEE IT ALL
19 THAT MUCH BECAUSE IF I FIRE A FIREARM, THE EJECTION IS
20 ALWAYS GOING TO BE AWAY FROM THE SHOOTER AND AWAY FROM
21 THE FIREARM. I AGREE THAT POTENTIALLY A CARTRIDGE CASE
22 CAN END UP IN THE CLOTHING OF THE SHOOTER. BUT, AGAIN, I
23 DON'T SEE ANY EVIDENCE OF THAT.

24 Q YOU DON'T SEE ANY EVIDENCE THAT IT DIDN'T
25 HAPPEN EITHER, DID YOU?

26 A NO.

27 Q ALL RIGHT. THE ONE THING THAT APPEARS
28 CLEAR, MR. SWANEPOEL, IS THAT THE SAME GUNMAN -- LET ME

1 ASK IT THIS WAY.

2 WOULD YOU AGREE BASED ON YOUR
3 RECONSTRUCTION THAT IN YOUR OPINION TRUDY THOMPSON
4 SUFFERED HER HEAD WOUND LAST? MEANING OF THE WOUNDS THAT
5 SHE SUFFERED, HER HEAD WOUND WAS THE LAST ONE THAT SHE
6 SUFFERED?

7 A YES.

8 Q WOULD YOU AGREE BASED ON YOUR REVIEW OF
9 ALL THE EVIDENCE AND YOUR OPINION, THAT MICKEY THOMPSON
10 SUFFERED HIS HEAD WOUND LAST?

11 A YES.

12 MS. SARIS: OBJECTION. VAGUE.

13 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

14 Q BY MR. JACKSON: DO YOU UNDERSTAND -- THAT
15 MAY HAVE BEEN A LITTLE VAGUE. AND I APOLOGIZE.

16 THE LAST WOUND THAT HE SUFFERED WAS A HEAD
17 WOUND?

18 A YES.

19 Q OKAY. DURING THE COURSE OF YOUR
20 RECONSTRUCTION, DID YOU CONSIDER POLICE REPORTS?

21 A I DID.

22 Q DID YOU CONSIDER WITNESS STATEMENTS?

23 A I CAN'T SPECIFICALLY REMEMBER THAT I
24 INCORPORATED ANY WITNESS STATEMENTS INTO MY --

25 Q WOULDN'T YOU THINK IT WOULD BE IMPORTANT
26 IF YOU WERE GOING TO TESTIFY AS AN EXPERT CRIME SCENE
27 RECONSTRUCTIONIST THAT YOU TAKE INTO CONSIDERATION
28 EYEWITNESS ACCOUNTS OF WHAT ACTUALLY HAPPENED AT THE

1 SCENE?

2 A NO. I WOULD ONLY TAKE INTO ACCOUNT
3 REPORTS THAT I SEE RELEVANT AS FAR AS WHAT I'M
4 RECONSTRUCTING. SO I WOULD DEFINITELY SEE USE OF THE
5 FIREARMS REPORTS; I WOULD DEFINITELY USE THE POST-MORTEM
6 REPORTS; I WOULD DEFINITELY USE REPORTS WHICH INDICATES
7 WHERE THE EVIDENCE WAS FOUND. BUT I DON'T NECESSARILY
8 GIVE MUCH WEIGHT TO WITNESS'S REPORTS.

9 Q WELL, MR. SWANEPOEL, LET ME GIVE YOU A
10 HYPOTHETICAL. LET'S SAY YOU WERE TRYING TO RECONSTRUCT A
11 CRIME SCENE -- AND YOU'RE TRYING TO DO THAT IN ORDER TO
12 GET TO THE TRUTH OF THE MATTER; CORRECT?

13 A CORRECT.

14 Q ALL RIGHT. LET'S SAY HYPOTHETICALLY
15 SPEAKING THAT YOU HAD A CRIME SCENE WITH CERTAIN CASINGS
16 AND CERTAIN BULLETS OUT AT THE CRIME SCENE. BUT YOU ALSO
17 HAD REPORTS OF THE FACT THAT THIS CRIME SCENE HAPPENED AT
18 A CHURCH; AND THERE WERE 45 PRIESTS AND NUNS WHO GAVE
19 STATEMENTS SAYING THAT AFTER ALL THESE SHOTS WERE FIRED,
20 THERE WERE 15 PEOPLE WITH BROOMS OUT AT THE SCENE
21 SWEEPING SHELL CASINGS AROUND, THAT WOULDN'T PLAY INTO
22 YOUR RECONSTRUCTION OF THE CRIME SCENE AT ALL?

23 MS. SARIS: OBJECTION. IMPROPER HYPOTHETICAL.
24 ARGUMENTATIVE.

25 THE COURT: SUSTAINED.

26 Q BY MR. JACKSON: WOULD YOU CONSIDER THE
27 FACT THAT WITNESSES MAY HAVE SOME INSIGHT AS TO WHAT
28 ACTUALLY HAPPENED AT THE CRIME SCENE THAT MAY ANSWER

1 CERTAIN QUESTIONS, IMPORTANT IN DETERMINING A CRIME SCENE
2 RECONSTRUCTION?

3 A YES, I CAN SEE HOW WITNESSES CAN HAVE AN
4 IMPORTANT FACTOR. EITHER SAYING -- BACKING UP WHAT
5 YOU'RE SAYING OR PROVING THE OTHER PART OR PROVING THE
6 OPPOSITE.

7 Q YET YOU DIDN'T REVIEW ANY WITNESS
8 STATEMENTS IN THIS CASE; CORRECT?

9 A NOT IN THIS CASE.

10 Q MS. SARIS DIDN'T ASK YOU TO REVIEW ANY
11 WITNESS STATEMENTS?

12 MS. SARIS: OBJECTION. CALLS FOR HEARSAY. WORK
13 PRODUCT.

14 THE COURT: SUSTAINED.

15 Q BY MS. SARIS: DID YOU, IN FACT, LOOK AT
16 ANY WITNESS STATEMENTS AT ALL?

17 A I JUST LOOKED AT A COUPLE OF REPORTS FROM
18 THE PRELIMINARY HEARING.

19 Q DID YOU HEAR -- DID YOU REVIEW ALLISON
20 TRIARSI'S WITNESS STATEMENT FROM THE PRELIMINARY HEARING?

21 A NO, I DID NOT.

22 Q BACK TO WHAT I JUST STARTED TO SAY JUST A
23 SECOND AGO, MR. SWANEPOEL.

24 YOU'VE ALREADY AGREED WITH ME THAT TRUDY
25 AND MICKEY THOMPSON BOTH SUFFERED THEIR HEAD WOUNDS
26 RESPECTIVELY AS THE LAST WOUNDS ON THEIR BODY IN YOUR
27 OPINION; CORRECT?

28 A YES, THAT'S IN MY OPINION IS WHEN THEY

1 WERE SHOT IN THE BACK OF THE HEAD AND THAT'S THE LAST
2 ONE, YES.

3 Q AND MICKEY THOMPSON WASN'T ACTUALLY SHOT
4 IN THE BACK OF THE HEAD. HE WAS SHOT MORE IN THE SIDE OF
5 THE HEAD BACK BEHIND HIS RIGHT EAR?

6 A YES, HE WAS SHOT BEHIND THE RIGHT EAR.

7 Q WOULD YOU ALSO AGREE WITH ME, BASED ON THE
8 FIRED BULLETS ALONE, THAT THE SAME GUNMAN THAT SHOT
9 THE -- THAT SHOT TRUDY THROUGH THE HEAD SHOT MICKEY
10 THOMPSON THROUGH THE HEAD?

11 A YES, I WOULD AGREE. BUT THAT'S BASED ON
12 MY REVIEW OF MANNY MUNOZ'S REPORT. I DIDN'T
13 MICROSCOPICALLY MATCH THOSE BULLETS.

14 Q BUT YOU'VE USED THOSE SAME REPORTS FOR
15 OTHER PARTS OF YOUR RECONSTRUCTION ANALYSIS; CORRECT?

16 A YES.

17 Q AND BASED ON THAT AND THE TOTALITY OF THE
18 CIRCUMSTANCES, BASED ON YOUR RECONSTRUCTION, YOU WOULD
19 AGREE THAT TRUDY THOMPSON WAS KILLED WITH A PARTICULAR
20 FIREARM. THAT SAME FIREARM WAS USED TO KILL MICKEY
21 THOMPSON -- OR HE SUFFERED THE HEAD WOUND FROM THAT SAME
22 FIREARM; CORRECT?

23 A I WOULD AGREE THAT MICKEY THOMPSON AND
24 TRUDY THOMPSON WERE SHOT WITH THE SAME FIREARM, YES.

25 Q DURING THE COURSE OF YOUR RECONSTRUCTION
26 ANALYSIS, MR. SWANEPOEL, WERE YOU ABLE TO COME UP WITH A
27 CONCLUSION OR AN OPINION AS TO WHETHER OR NOT TRUDY
28 THOMPSON WAS KILLED FIRST OR MICKEY THOMPSON WAS KILLED

1 FIRST?

2 A NO. I'VE CERTAINLY DISCUSSED VARIOUS
3 OPTIONS WITH ATTORNEY SARIS. BUT, AGAIN, I COULDN'T
4 CONCLUSIVELY SAY THAT MICKEY WAS SHOT FIRST AND DIED
5 WHILE TRUDY WAS SHOT SECOND OR THE OTHER WAY AROUND.

6 Q WOULD IT CHANGE YOUR OPINION IF YOU WERE
7 TOLD THAT AN EYEWITNESS WAS WATCHING AS TRUDY THOMPSON
8 WAS SHOT THROUGH THE HEAD AND WAS HEARING MICKEY THOMPSON
9 SCREAMING AT THAT TIME.

10 MS. SARIS: OBJECTION. OUT OF THIS WITNESS'S
11 EXPERTISE. HIS WAS BASED ON THE PHYSICAL EVIDENCE.

12 THE COURT: OVERRULED.

13 YOU CAN ANSWER.

14 Q BY MR. JACKSON: WOULD THAT CHANGE YOUR
15 OPINION?

16 A WOULD IT CHANGE MY OPINION?

17 Q ABSOLUTELY. AND LET ME REPHRASE THE
18 QUESTION.

19 WOULD IT CHANGE YOUR OPINION AT ALL IF YOU
20 WERE TOLD THAT AN EYEWITNESS AT THE SCENE WATCHED TRUDY
21 THOMPSON SUFFER THE HEAD SHOT TO THE BACK OF THE HEAD AND
22 AT THE SAME TIME HEARD MICKEY THOMPSON AT THE TOP OF THE
23 DRIVEWAY SCREAMING "PLEASE DON'T HURT MY WIFE."

24 MS. SARIS: OBJECTION, YOUR HONOR. THERE IS NO
25 OPINION TO CHANGE. LACK OF FOUNDATION.

26 THE COURT: OVERRULED.

27 YOU CAN ANSWER.

28 THE WITNESS: I DON'T KNOW THAT I MADE AN OPINION

1 ON --

2 Q BY MR. JACKSON: THAT'S NOT MY QUESTION.

3 A WELL, THEN I'M NOT UNDERSTANDING YOUR
4 QUESTION, SIR.

5 Q OKAY. YOU SAID THAT I'M NOT ABLE TO
6 DETERMINE WHO WAS SHOT FIRST, MICKEY THOMPSON OR TRUDY
7 THOMPSON BASED ON YOUR REVIEW OF WHAT -- THE LIMITED
8 STUFF THAT YOU REVIEWED. I'M ASKING YOU TO ASSUME FOR
9 PURPOSES OF MY HYPOTHETICAL THAT YOU ADD ONE FACTOR TO
10 THAT. AND THAT IS AN EYEWITNESS ACCOUNT WHO HEARD -- WHO
11 SAW TRUDY THOMPSON BEING SHOT IN THE HEAD AT THE SAME
12 TIME HEARING MICKEY THOMPSON SCREAMING "DON'T KILL MY
13 WIFE. PLEASE DON'T HURT MY WIFE."

14 WOULD THAT HELP YOU RENDER AN OPINION AS
15 TO WHO WAS SHOT FIRST IN THAT SCENARIO?

16 MS. SARIS: OBJECTION. IMPROPER HYPOTHETICAL.

17 THE COURT: OVERRULED.

18 MS. SARIS: MAY WE APPROACH, YOUR HONOR?

19 THE COURT: YOU CAN ANSWER.

20 THE WITNESS: IF I HAD SUCH AN EYEWITNESS REPORT,
21 IT CAN CERTAINLY INDICATE TO ME -- LIKE I SAID, I WOULD
22 MUCH RATHER WORK WITH WHAT EVIDENCE WE SEE ON THE CRIME
23 SCENE AND INTERPRETING THAT THEN GOING ON WHAT
24 EYEWITNESSES HAVE SAID.

25 MR. JACKSON: OKAY.

26 Q LET ME ASK YOU AGAIN. I'M NOT SURE YOU
27 ANSWERED THE QUESTION.

28 WOULD IT ASSIST YOU IN MAKING A

1 DETERMINATION IN RECONSTRUCTING THIS CRIME SCENE --

2 A IT CAN POTENTIALLY ASSIST ME, YES.

3 Q AND HOW WOULD THAT ASSIST YOU, HAVING THAT
4 EXTRA PIECE OF INFORMATION?

5 A WELL, IT CAN JUST LEAD ME TO ONE
6 CONCLUSION THAT TRUDY WAS SHOT BEFORE MICKEY.

7 Q THANK YOU.

8 MAY I HAVE JUST A MOMENT, YOUR HONOR.

9 THE COURT: YES.

10 (PAUSE IN PROCEEDINGS.)

11 MR. JACKSON: THAT'S ALL I HAVE FOR THIS WITNESS
12 AT THIS TIME.

13 THE COURT: REDIRECT?

14 MS. SARIS: THANK YOU.

15

16 REDIRECT EXAMINATION

17 BY MS. SARIS:

18 Q MR. SWANEPOEL, DID YOU HAVE SUCH A REPORT
19 INDICATING THAT A WITNESS SAID THIS?

20 A NO, I DID NOT.

21 Q DID I OR DID ANYONE ASK YOU AS PART OF
22 YOUR EXAMINATION TO TAKE INTO ACCOUNT ANY WITNESS
23 STATEMENT IN REGARD TO YOUR REVIEW OF THE PHYSICAL
24 EVIDENCE?

25 A NO.

26 Q DID MANNY MUNOZ OR ANY OF THOSE REPORTS
27 TAKE ANY EYEWITNESS ACCOUNTS AS FAR AS YOU WERE ABLE TO
28 SEE?

1 A NO.

2 Q THEY DID NOT?

3 A NO, NOT AS FAR AS I COULD SEE.

4 Q IF YOU HAD A REPORT FROM AN EYEWITNESS
5 INDICATING THAT THERE WAS A BURST OF GUNFIRE AND AN
6 INDIVIDUAL SCREAMING AND THEN SILENCE AND A SECOND BURST
7 OF GUNFIRE, WOULD THAT BE CONSISTENT WITH PERSON
8 SCREAMING BEING KILLED?

9 A YES. I'M SORRY. I'M NOT SURE THAT I'M
10 UNDERSTANDING THE QUESTION.

11 Q SURE. YOU HAVE A BURST OF GUNFIRE WITH
12 SOMEONE SCREAMING. THEN YOU HAVE A SILENCE. AND THEN
13 ANOTHER BURST OF GUNFIRE.

14 WOULD THAT BE CONSISTENT WITH THE
15 INDIVIDUAL WHO WAS SCREAMING BEING KILLED BY THE FIRST
16 VOLLEY OF GUNFIRE?

17 A IT CAN POTENTIALLY BE CONSISTENT, YES.

18 Q AND WERE YOU ASKED TO MAKE ANY
19 DETERMINATION ABOUT THAT IN YOUR REVIEW?

20 A NO.

21 Q WHAT WERE YOU ASKED TO DO IN TERMS OF YOUR
22 REVIEW IN TERMS OF CRIME SCENE RECONSTRUCTION; PHYSICAL
23 EVIDENCE; AND JUST PURE COMMON SENSE?

24 A I WAS ASKED TO RECONSTRUCT THE CRIME SCENE
25 TO THE BEST OF MY ABILITY TAKING INTO ACCOUNT ALL THE
26 REPORTS THAT I RECEIVED AND THEN MAKING LOGICAL
27 DEDUCTIONS AS FAR AS: DO WE HAVE EVIDENCE AT THE BOTTOM?
28 DO WE HAVE EVIDENCE SUPPORTING IT? DO WE HAVE EVIDENCE

1 CONTRADICTING THAT? AND THAT IS EXACTLY WHAT I HAVE
2 DONE. I'VE RECONSTRUCTED IT ON A MOST REASONABLE AND
3 LOGICAL WAY THAT I CAN DO FROM MY EXPERIENCE.

4 Q DID YOU HAVE SEMI-AUTOMATIC GUNS IN SOUTH
5 AFRICA?

6 A YES, WE DO.

7 Q SHOOT THE SAME BULLETS?

8 A THEY SHOOT .9 MILLIMETERS BULLETS.

9 Q THEY LOOK ALIKE IN AMERICA, THE SAME GUN,
10 SAME BULLET?

11 A THEY CAN, YES.

12 Q YOU WERE UNABLE TO DISTINGUISH THE GUNS.
13 DID THAT -- DID DWIGHT VAN HORN COME TO THE SAME
14 CONCLUSION YOU DID?

15 A YOU MEAN I WAS UNABLE TO DISTINGUISH THE
16 FIRED BULLETS?

17 Q THE FIRED BULLETS?

18 A YES. DWIGHT VAN HORN DID COME TO THE SAME
19 CONCLUSION.

20 Q SO HE WAS ALSO UNABLE TO SEPARATE THE
21 BULLETS?

22 A YES.

23 Q SO AS PART OF THIS RECONSTRUCTION, DID I
24 ASK YOU TO RELY ON MR. MUNOZ'S REPORT?

25 A YES.

26 Q DID I ASK YOU TO ACCEPT WHAT HE SAID AS
27 TRUE?

28 A NO, YOU DID NOT NECESSARILY ASK ME TO

1 ACCEPT THAT.

2 Q DID YOU ACCEPT IT?

3 A I DID ACCEPT IT.

4 Q DID YOU SEE ANYTHING IN YOUR INVESTIGATION
5 THAT WOULD LEAD YOU TO BELIEVE OTHERWISE?

6 A NO.

7 Q OKAY. HAVE YOU EVER BEEN SHOWN A CRIME
8 SCENE RECONSTRUCTION DONE BY MR. MUNOZ?

9 A NO.

10 Q HAVE YOU EVER BEEN SHOWN AN ALTERNATIVE
11 THEORY BY ANYONE FROM THE DISTRICT ATTORNEY'S OFFICE OR
12 THE PROSECUTION?

13 A NO.

14 MR. JACKSON: OBJECTION. THAT ASSUMES FACTS NOT
15 IN EVIDENCE.

16 THE COURT: SUSTAINED.

17 Q BY MS. SARIS: ARE YOU AWARE OF ANY
18 ALTERNATE THEORY OF CRIME RECONSTRUCTION BASED ON ANY OF
19 THE REPORTS THAT YOU REVIEWED?

20 MR. JACKSON: OBJECTION. RELEVANCE. ASSUMES
21 FACTS NOT IN EVIDENCE.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER THAT.

24 THE WITNESS: CAN YOU JUST ASK THE QUESTION
25 AGAIN.

26 MS. SARIS: SURE.

27 Q ARE YOU AWARE OF ANY OTHER CRIME SCENE
28 RECONSTRUCTION OTHER THAN THE ONE THAT YOU'VE DONE?

1 A NO.

2 Q LET ME ASK YOU JUST A COUPLE OF GENERAL
3 QUESTIONS. I'M REFERRING TO DEFENSE YY WITH A POINTER.

4 IF YOU WERE TO SEE A BULLET IN A POSITION
5 THAT THE BULLET IN NO. 27 WAS, WHICH WAS ORIGINATED
6 THROUGH THE WINDSHIELD OF THE VAN. AND YOU WERE TO COME
7 ON THAT CRIME SCENE FRESH. AND YOU SAW THE VAN IN THIS
8 POSITION AND THE BULLET IN THE TRIANGLE OF NO. 27, WHERE
9 WOULD YOU LOOK FOR A CASING?

10 A I WOULD LOOK THROUGH THE FRONT OF THE VAN,
11 SIMPLY BECAUSE THE BULLET TRAJECTORY TELLS ME THAT IT'S
12 GONE THROUGH THE WINDSHIELD AND EMITTED ITSELF IN THE
13 FRONT. SO I WOULD TRACE THAT TRAJECTORY BACK AND START
14 LOOKING FOR THAT CARTRIDGE.

15 Q LET ME GIVE YOU THE POINTER. TELL ME IF
16 THERE IS ANY CASING THAT CORRESPONDS TO WHERE YOU WOULD
17 LOOK LOGICALLY FOR THAT BULLET?

18 A WHERE I WOULD LOOK LOGICALLY, CARTRIDGE
19 NO. 8 WOULD CORRESPOND IN THE AREA OF WHERE I WOULD START
20 LOOKING.

21 Q AND YOU'VE SPOKEN ALREADY OF 19 AND 18?

22 A YES, I HAVE.

23 Q TELL US ABOUT 16 AND 17 SPECIFICALLY.

24 A WELL, AGAIN, IF I LOOK AT 16 AND 17 IT
25 TRAVELED THROUGH THE GARAGE DOOR. SO I WOULD AGAIN
26 FOLLOW THE TRAJECTORY BACK AT AN ANGLE. AND THOSE
27 CARTRIDGE CASES SHOW UP RIGHT IN THE AREA WHERE I WOULD
28 EXPECT TO FIND THEM.

1 Q AND WAS A LIVE BULLET, IS THAT MORE
2 CYLINDRICAL THAN A CARTRIDGE CASING?

3 A WELL, ALL THAT'S ADDED. THE DIFFERENCE IS
4 YOU'VE GOT AN UNFIRED BULLET ATTACHED TO THE FRONT.

5 Q SO IT'S HEAVIER?

6 A IT'S HEAVIER.

7 Q AND WAS THERE A LIVE BULLET -- NO. 10,
8 DOES THAT REPRESENT A LIVE BULLET?

9 A NO. 10 REPRESENTS A LIVE BULLET.

10 Q AND WAS THAT FOUND ALL THE WAY AT THE
11 BOTTOM OF THE DRIVEWAY OR SOMEWHERE IN THE MIDDLE OF THE
12 DRIVEWAY?

13 A IT WAS FOUND SOMEWHERE IN THE MIDDLE.

14 Q WHAT ARE THE ODDS STATISTICALLY OF CASINGS
15 AND FIRED BULLETS AND LIVE ROUNDS BEING COMPLETELY
16 DISTURBED AND YET FALLING IN A PLACE THAT WOULD MAKE
17 SENSE LOGICALLY?

18 MR. JACKSON: OBJECTION. FOUNDATION.

19 THE COURT: SUSTAINED.

20 Q BY MS. SARIS: DID YOU SEE ANY EVIDENCE AT
21 ALL -- WELL, LET ME ASK YOU. WE HAVE TALKED ABOUT A
22 DRAMATIC BOUNCE ON ASPHALT. IS THERE ANYTHING ABOUT WHAT
23 IS DEPICTED IN DEFENSE YY THAT IS ILLOGICAL THAT LEADS
24 YOU TO BELIEVE A BULLET OR CASING IS COMPLETELY OUT OF
25 THE PLACE BASED ON LOGIC?

26 MR. JACKSON: OBJECTION. CALLS FOR THE ULTIMATE
27 CONCLUSION. LACKS FOUNDATION.

28 THE COURT: SUSTAINED. SUSTAINED.

1 Q BY MS. SARIS: DID YOU SEE A CORRESPONDING
2 CASING FOR EVERY FIRED BULLET THAT WOULD EXPLAIN TO YOU
3 WHERE YOU EXPECTED A CASING TO BE?

4 A YES, I CAN ACCEPT FOR THE CASING THAT
5 WASN'T RECOVERED.

6 Q AND NO. 11 COULD ACCOUNT FOR WHAT NUMBER?

7 A NO. 11 COULD ONLY ACCOUNT FOR NO. 29.

8 Q DO CARTRIDGE CASES ROLL UPHILL?

9 A NO, THEY DON'T.

10 Q ARE 2 AND 30 THE ONLY TWO THAT YOU PUT
11 TOGETHER BY LOGIC IN TERMS OF YOUR ASSUMPTION? OR IS
12 THAT JUST WHERE YOU STARTED?

13 A THAT IS JUST WHERE I STARTED.

14 Q DO THE OTHER FIRED BULLETS AND CASINGS
15 MAKE ANY LOGICAL SENSE?

16 A YES, THEY DO. NO. 18 AND NO. 19 MAKE
17 SENSE. IF YOU REMEMBER THAT I EXPLAINED IF I DRAW MY
18 TRAJECTORY BACK, IT MAKES SENSE THAT I WOULD START
19 LOOKING IN THAT AREA AND FIND ONE.

20 Q LET ME ASK YOU ABOUT 18 SPECIFICALLY.
21 THAT LOOKS LIKE IT'S FOUND UP AGAINST THE EAST DRIVEWAY.

22 IS THAT YOUR UNDERSTANDING BASED ON THE
23 PHOTOGRAPH?

24 A CORRECT.

25 Q IS THERE A WALL THERE?

26 A THERE IS.

27 THE COURT: HOW MUCH MORE DO YOU HAVE?

28 MS. SARIS: NOT VERY MUCH.

1 Q IS THERE ANYTHING ABOUT THE CRIME SCENE
2 REVIEW THAT YOU'VE DONE THAT LED YOU TO BELIEVE CASINGS
3 ROLLED OR BOUNCED ALL THE WAY TO THE BOTTOM OF THE
4 DRIVEWAY?

5 A I COULDN'T FIND ANY INDICATION OF THAT.

6 Q THE ONE CASING THAT YOU FOUND AT THE
7 BOTTOM OF THE DRIVEWAY, DO YOU HAVE AN EXPLANATION FOR
8 THAT?

9 A IT IS CONSISTENT WITH TRUDY THOMPSON BEING
10 SHOT, YES.

11 Q ARE YOU STATING FOR US DEFINITELY THAT
12 THIS IS WHAT OCCURRED? OR ARE YOU GIVING US ONE
13 REASONABLE INTERPRETATION BASED ON THE REVIEW THAT YOU'VE
14 DONE?

15 A I WOULD SAY THIS IS A REASONABLE
16 INTERPRETATION BASED ON THE REVIEW THAT I'VE DONE.

17 MR. JACKSON: OBJECTION. MOVE TO STRIKE. THE
18 QUESTION OF REASONABLENESS IS FOR THE JURY TO DECIDE.

19 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

20 Q BY MS. SARIS: AND IN TERMS OF THE
21 GROUPING THAT WE'VE DISCUSSED, REGARDLESS OF WHERE THINGS
22 GET -- MAY HAVE BEEN KICKED OR MOVED, IS IT ALWAYS TRUE
23 IN DEFENSE TTT THAT THE ORANGE HAVE TO ALL BE ASSOCIATED
24 WITH ONE ANOTHER AND THE YELLOW HAVE TO ALL BE ASSOCIATED
25 WITH ONE ANOTHER?

26 A YES.

27 Q AND THAT IS BASED ON MICROSCOPIC
28 EXAMINATION?

1 A YES.

2 Q COULD MANNY MUNOZ HAVE MICROSCOPICALLY
3 COMPARED A FIRED BULLET WITH A CASING? OR IS IT SIMPLY
4 THAT CANNOT BE DONE WITHOUT A FIREARM?

5 A IT'S SOMETHING THAT SIMPLY CANNOT BE DONE
6 WITHOUT THE FIREARM.

7 Q SO IF WE HAVE TO GROUP TOGETHER THE ORANGE
8 AND THE YELLOW, DOES THAT MEAN THAT AS A GROUP WE HAVE TO
9 PUT THEM WITH EITHER THE RED OR THE GREEN?

10 A THAT'S CORRECT.

11 MS. SARIS: MAY I HAVE JUST A MOMENT, PLEASE.

12 (PAUSE IN PROCEEDINGS.)

13 Q BY MS. SARIS: WAS THERE A REASON THAT YOU
14 WOULD EVER NOT WANT TO TAKE INTO ACCOUNT WHAT AN
15 EYEWITNESS SAYS?

16 A IF I LOOK AT THE EVIDENCE AND IT DOESN'T
17 MAKE ANY SENSE TO ME, I WOULD NOT WANT TO TAKE IT. BUT
18 IF I HAVE -- LIKE IN THIS CASE -- SUFFICIENT EVIDENCE ON
19 THE CRIME SCENE, I WOULD RATHER DO MY RECONSTRUCTION ON
20 WHAT I SEE ON THE CRIME SCENE AND NOT USE THE EYEWITNESS.

21 Q CAN EYEWITNESSES BE INFLUENCED BY THINGS?

22 MR. JACKSON: OBJECTION. FOUNDATION.

23 THE COURT: SUSTAINED.

24 MR. JACKSON: CALLS FOR SPECULATION.

25 THE COURT: SUSTAINED.

26 Q BY MS. SARIS: DO YOU KNOW IF MEASUREMENTS
27 AND DIAGRAMS AND PHOTOGRAPHS ARE TAKEN OF PHYSICAL
28 EVIDENCE IN CASES EVEN WHEN THERE ARE EYEWITNESSES?

1 A YES, THEY ARE.

2 Q AND IN TERMS OF THE INVESTIGATIONS THAT
3 YOU'VE INDICATED THAT YOU HAVE BEEN A PART OF, WERE YOU
4 THE ONLY INVESTIGATOR IN THOSE CASES IN SOUTH AFRICA?

5 A NO, I WAS NOT.

6 Q AND IN TERMS OF YOUR ASSOCIATIONS WITH
7 AMERICAN SOCIETIES, SUCH AS FIREARMS, DO YOU HAVE TO BE
8 IN THE COUNTRY A CERTAIN NUMBER OF YEARS TO QUALIFY FOR
9 THAT?

10 A YOU HAVE TO BE A MEMBER FOR A CERTAIN
11 NUMBER OF YEARS. I DID NOT BECOME A MEMBER OF THE A.F.T.
12 ASSOCIATION UNTIL I CAME TO THE UNITED STATES.

13 Q OKAY. AND DID YOU -- YOU WERE QUALIFIED
14 IN COURTS IN SOUTH AFRICA TO TESTIFY?

15 A CORRECT.

16 Q AND, AGAIN, IF WE WERE TO SWITCH THE
17 ORANGE AND THE YELLOW AND MOVE THE YELLOW TO THE GREEN
18 AND THE ORANGE TO THE RED IN THE DIAGRAMS DEFENSE YY AND
19 DEFENSE TTT, WOULD THAT MAKE ANY SENSE IN LOGIC?

20 MR. JACKSON: OBJECTION. THAT'S AN ULTIMATE
21 CONCLUSION.

22 THE COURT: SUSTAINED.

23 Q BY MS. SARIS: WOULD THAT LINE UP IN TERMS
24 OF CONSISTENCY AND TRAJECTORY AND WHAT YOU REVIEWED AT
25 THE CRIME SCENE?

26 A I WOULD SAY THERE WOULD BE FAR MORE
27 INCONSISTENCIES WITH CHANGING THOSE CARTRIDGE CASES
28 AROUND TO THE DIFFERENT LOCATIONS.

1 MS. SARIS: THANK YOU. I HAVE NOTHING FURTHER.

2 THE COURT: ANYTHING ELSE?

3 MR. JACKSON: MAY I HAVE JUST ONE MOMENT?

4 (PAUSE IN PROCEEDINGS.)

5 MR. JACKSON: NO, YOUR HONOR. THAT'S ALL I HAVE.
6 THANK YOU.

7 THE COURT: ALL RIGHT. THANK YOU, SIR. YOU ARE
8 FREE TO GO.

9 THE WITNESS: THANK YOU VERY MUCH, YOUR HONOR.

10 THE COURT: AND WE WILL EXCUSE THE WITNESS AT
11 THIS TIME; RIGHT?

12 MS. SARIS: YES. IF I MAY JUST FOLLOW HIM OUT --
13 OR ARE WE GOING TO TAKE A BREAK?

14 THE COURT: WE'RE GOING TO BREAK.

15 THANK YOU, SIR.

16 THE WITNESS: THANK YOU, YOUR HONOR.

17 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
18 ARE GOING TO CALL IT A DAY. WE'RE GOING TO RESUME AT
19 10:00 A.M. TOMORROW MORNING. PLEASE REMEMBER THE
20 ADMONITIONS. DO NOT TALK ABOUT THIS CASE. DO NOT FORM
21 OR EXPRESS ANY OPINIONS. DO NOT CONDUCT ANY
22 DELIBERATIONS. DON'T TALK TO ANYBODY CONNECTED WITH THE
23 CASE. AND PLEASE DON'T READ OR LISTEN TO ANY ACCOUNTS IF
24 THE CASE IS REPORTED IN THE MEDIA. STAY AWAY FROM THE
25 LOCATIONS INVOLVED.

26 WE WILL SEE YOU AT 10:00 A.M. TOMORROW.

27

28 (THE FOLLOWING PROCEEDINGS WERE

1 HELD IN OPEN COURT OUTSIDE THE
2 PRESENCE OF THE JURY.)
3

4 THE COURT: ALL THE JURORS AND ALTERNATES HAVE
5 LEFT. WHAT ELSE DO WE NEED TO DISCUSS?

6 MR. DIXON: WELL, YOUR HONOR, I DON'T KNOW IF YOU
7 WOULD LIKE TO DO IT NOW OR TOMORROW MORNING. I KNEW THAT
8 KATHY PEZDEK IS GOING TO BE THE NEXT WITNESS OR ONE OF
9 THE NEXT COUPLE OF WITNESSES. AND I HAD A COUPLE OF
10 ISSUES ON A 402 THAT I WOULD LIKE TO PRESENT. IT
11 WOULDN'T TAKE TOO LONG. WE CAN DO IT NOW OR TOMORROW
12 MORNING, WHATEVER YOUR CHOICE.

13 THE COURT: WE CAN DO IT NOW.

14 MR. JACKSON: BEFORE WE START THAT, YOUR HONOR,
15 THERE IS A WITNESS THAT MR. DIXON BROUGHT UP TO THE
16 COURT, OFFICER ULOTH. WE HAD DISCUSSED AT SIDEBAR THE
17 POSSIBILITY OF ALLOWING MR. DIXON TO ASK A COUPLE OF
18 QUESTIONS THAT HE BELIEVED WOULD ULTIMATELY BECOME RIPE
19 WHEN AND IF MS. SARIS BROUGHT UP THE ISSUE OF WILMA
20 JOHNSON.

21 HE IS HERE AND HE IS GOING ON VACATION
22 TOMORROW. SO I WANT TO CHECK WITH HIM AND FIND OUT WHAT
23 HIS PLANS ARE, ET CETERA. AND I WOULD ALSO LIKE A CHANCE
24 TO MEET AND CONFER WITH MS. SARIS AND FIND OUT WHERE
25 SHE'S GOING WITH THAT PARTICULAR ISSUE, IF I NEED TO HAVE
26 HIM BROUGHT BACK OR NOT.

27 THE COURT: WHY DON'T WE TAKE A BREAK.

28 MR. JACKSON: I JUST NEED ABOUT THREE MINUTES.

1 THE COURT: WE WILL TAKE A BREAK AND RESUME IN A
2 FEW MINUTES.

3 (BRIEF RECESS.)

4 THE COURT: LET'S RESUME IN THE GOODWIN MATTER
5 OUTSIDE THE PRESENCE OF THE JURY.

6 WHAT DID WE NEED TO DISCUSS?

7 MR. DIXON: THANK YOU, YOUR HONOR. HOPEFULLY I
8 WILL JUST TAKE A MOMENT OR TWO OF YOUR TIME. KATHY
9 PEZDEK IS COMING TOMORROW. AND I JUST WANTED TO ALERT
10 THE COURT ON A COUPLE OF ISSUES I HAVE OBJECTIONS TO WITH
11 RESPECT TO A 402. I WILL GIVE YOU A COUPLE OF EXAMPLES,
12 ONE -- AND I WOULD OBJECT TO THIS LINE OF QUESTIONING IF
13 WE HAD IT TOMORROW.

14 JUST LAST YEAR IN JUDGE PASTOR'S COURT
15 KATHY PEZDEK WAS ASKED THE FOLLOWING QUESTION: "THERE
16 HAS BEEN A LOT OF MEDIA COVERAGE IN THE LAST FEW YEARS
17 INVOLVING MISIDENTIFICATION. IF YOU ARE FAMILIAR WITH
18 THOSE, WILL YOU TELL US WHAT MISIDENTIFICATION HAS TO DO
19 WITH AND HOW YOU PLAY A PART IN IT?

20 IN HER ANSWER SHE GOES ON TO TALK ABOUT
21 THE INNOCENCE PROJECT AND HOW DNA HAS PROVEN SOME PEOPLE
22 WERE MISIDENTIFIED OR INCORRECTLY CONVICTED. I THINK
23 THAT'S OUTSIDE OF HER EXPERTISE HERE. SHE DIDN'T
24 PARTICIPATE IN THE INNOCENCE PROJECT. SHE DOESN'T KNOW
25 ANYTHING ABOUT DNA. AND I WOULD OBJECT TO THAT LINE OF
26 QUESTIONING.

27 MS. SARIS: I SIMPLY DON'T UNDERSTAND HOW THIS IS
28 A 402, JUDGE. THERE ARE REPORTS THAT OBVIOUSLY SHE HAS

1 RELIED ON THAT SHE WILL TESTIFY TO. AS AN EXPERT
2 WITNESS, SHE'S A PSYCHOLOGIST AND THERE ARE PUBLISHED
3 ARTICLES AND REPORTS THAT I EXPECT SHE HAS RELIED ON. I
4 DON'T THINK THAT SHE IS SAY GOING TO TESTIFY THAT SHE WAS
5 A PART OF THE INNOCENCE PROJECT OR THAT SHE DID DNA
6 TESTING. I DON'T UNDERSTAND THE OBJECTION -- OR THE
7 QUESTION PENDING.

8 THE COURT: WELL, I MEAN YOU DON'T UNDERSTAND
9 ABOUT THE 402. I WOULD JUST INDICATE I'M FAMILIAR WITH
10 THE CASE LAW. I THINK IT'S THE MCDONALD CASE. I MEAN
11 THERE HAS TO BE SOME SHOWING HERE, NO. 1, THAT THIS IS AN
12 APPROPRIATE TOPIC FOR EYEWITNESS TESTIMONY. AND I'M
13 ASSUMING THAT THE PEOPLE AREN'T OBJECTING TO THE
14 SUBSTANCE OF THE TESTIMONY --

15 MR. DIXON: NO. NO.

16 THE COURT: -- BUT JUST A PORTION OF IT SINCE
17 THERE IS IDENTIFICATION EVIDENCE RECEIVED IN THIS TRIAL.

18 MR. DIXON: I'M FAMILIAR WITH THE MCDONALD CASE.
19 I HAVE CROSS-EXAMINED DR. PEZDEK IN THE PAST. AND IN
20 PREPARATION I'VE READ SOME OF HER TRANSCRIPTS. AND I
21 HAVE NO PROBLEM WITH HER TESTIFYING -- THAT WAS GOING TO
22 BE ONE OF MY AREAS HERE -- BUT THE FACTORS THAT SHE WILL
23 TESTIFY WITH RESPECT TO EYEWITNESS IDENTIFICATION. I
24 DON'T THINK SHE CAN COMMENT AND I WOULD OBJECT TO HER
25 COMMENTING ON THE SPECIFIC WITNESSES IN THIS CASE. I
26 THINK THAT'S INAPPROPRIATE.

27 THE COURT: RIGHT. NO, I AGREE WITH THAT. I
28 MEAN SHE CAN TESTIFY TO CERTAIN THINGS, BUT NOT OTHER

1 THINGS. SO I DON'T KNOW WHAT THE OFFER OF PROOF IS AND
2 IF IT'S GOING TO INCLUDE HER --

3 MS. SARIS: I DON'T KNOW HOW THIS --

4 THE COURT: -- EXPLANATION OF OTHER CASES.

5 MS. SARIS: I DON'T KNOW HOW THIS IS A 402. I'M
6 CONFUSED. I MEAN IF I ASK HER A QUESTION ABOUT A JOURNAL
7 OR AN ARTICLE THAT SHE'S RELIED ON, COUNSEL CAN OBJECT
8 THEN. I DON'T UNDERSTAND HOW WE'RE TRYING TO PRESCRIBE
9 IN ADVANCE -- OBVIOUSLY, SHE'S NOT ALLOWED TO TESTIFY TO
10 THE ULTIMATE CONCLUSION. TO THE EXTENT THAT THAT WAS IN
11 HER REPORT, I -- I WOULD NOT WANT TO BE IN A POSITION
12 WHERE SHE HAD AN OPINION AND DIDN'T SHARE THAT WITH THE
13 D.A. SO I REALLY DON'T UNDERSTAND THE BASIS OF THE 402.

14 THE COURT: OTHER THAN EXPLAINING THE THINGS THAT
15 SHE IS ALLOWED TO TESTIFY TO -- AND I'M THINKING ABOUT
16 THE JURY INSTRUCTION 2.92, I MEAN SHE CAN CERTAINLY
17 TESTIFY TO ALL OF THOSE THINGS. BUT WHAT ELSE ARE YOU
18 OFFERING IN TERMS OF HER TESTIMONY? BECAUSE IN ALL
19 HONESTY, THIS JURY IS GETTING TIRED OF SIDEBARS. AND TO
20 THE EXTENT THAT WE CAN ELIMINATE ANY FURTHER DISCUSSION
21 WHILE THEY ARE IN THE COURTROOM, I WOULD GREATLY
22 APPRECIATE IT. AND I THINK YOUR JURY WOULD GREATLY
23 APPRECIATE, TOO.

24 MR. DIXON: THAT'S WHY I'M DOING THIS, YOUR
25 HONOR.

26 MS. SARIS: ACTUALLY, IT SOUNDS TO ME LIKE WE'RE
27 ATTEMPTING TO LIMIT MY QUESTIONING OF AN EXPERT WITNESS
28 THAT THE CODE SECTION DOESN'T ALLOW IN ADVANCE TO LIMIT

1 IT. IF THERE IS A QUESTION THAT'S OBJECTIONABLE --
2 COUNSEL HAS HEARD TESTIMONY OF EYEWITNESSES I.D.'S
3 BEFORE. I'VE DONE THEM HUNDREDS OF TIMES. I'M SURE HE'S
4 HEARD THEM HUNDREDS OF TIMES.

5 THEY TESTIFY ABOUT THE FACTORS. THEY
6 TESTIFY ABOUT BEING A PSYCHOLOGIST. THEY TESTIFY ABOUT
7 ANY REVIEW OF SCIENTIFIC LITERATURE IN THE FIELD. AND I
8 CERTAINLY DON'T EXPECT HER TO STAND UP AND SAY TONI
9 STEVENS AND RON STEVENS ARE WRONG.

10 I DON'T UNDERSTAND -- THAT'S WHAT I'M -- I
11 UNDERSTAND THE COURT'S RELUCTANCE TO GO TO SIDEBAR, BUT
12 FRANKLY THIS IS INAPPROPRIATE. I MEAN UNTIL I ASK A
13 QUESTION, I DON'T UNDERSTAND HOW IT CAN BE POSSIBLY
14 PRESCRIBED. I KNOW THE LIMITATIONS OF AN EXPERT WITNESS.
15 SHE IS AN EXPERT WITNESS. I EXPECT HER TO QUALIFY.

16 THIS WASN'T ASKED OF -- NO ONE ASKED ME IN
17 ADVANCE WHAT MR. SWANEPOEL WAS GOING TO TESTIFY TO. AND
18 I CERTAINLY DIDN'T ASK THEM TO TELL ME IN ADVANCE WHAT
19 THE QUESTIONS TO MANNY MUNOZ ARE REY VERDUGO OR ANY OF
20 THOSE INDIVIDUALS ARE. SO I'M JUST CONFUSED ABOUT THE
21 402 ASPECT.

22 THE COURT: I DON'T KNOW WHAT IS CONFUSING. I
23 MEAN MR. DIXON IS READING, OBVIOUSLY, FROM ANOTHER CASE
24 WHERE SHE HAS REFERRED TO THE INNOCENCE PROJECT AND DNA
25 AND THINGS OF THAT NATURE.

26 MS. SARIS: AND I DON'T KNOW WHAT THE QUESTION
27 WAS; WHAT THE NATURE OF THAT TESTIMONY IS; OR WHETHER AN
28 OBJECTION WAS RAISED.

1 MR. DIXON: I WOULD BE HAPPY TO GIVE COUNSEL THE
2 TRANSCRIPT IF SHE WOULD LIKE. ALL I'VE DONE IN
3 PREPARATION IS READ A HALF A DOZEN OR MORE OF HER
4 TRANSCRIPTS. AND I SEE SOME THINGS THAT I HAVE A PROBLEM
5 WITH. I AGREE WITH THE COURT THAT MAYBE THE JURORS ARE
6 GETTING TIRED OF US GOING TO SIDEBAR. WE QUIT EARLY.
7 I'M TRYING TO USE THAT TIME PRODUCTIVELY. FOR EXAMPLE,
8 JUST LAST WEEK SHE WAS ASKED THIS QUESTION AND GAVE THIS
9 ANSWER, WHICH I WOULD HAVE AN OBJECTION TO. AND THAT'S
10 WHY I'M ASKING FOR THIS MOMENT WITH THE COURT ON A 402.

11 THE QUESTION WAS: "WHAT IS THE NEXT
12 FACTOR." AND SHE GOES ON AND SAYS: "THE NEXT FACTOR IS
13 EXPERIMENTAL EXPECTANCY EFFECT." AND THEN SHE GOES ON IN
14 THAT SAME ANSWER AND SAYS: "THIS IS ONE OF THE
15 RECOMMENDATIONS THAT CAME OUT OF THE PAST ATTORNEY
16 GENERAL -- U.S. ATTORNEY GENERAL JANET RENO'S
17 RECOMMENDATIONS FOR LINE-UPS."

18 WELL, I DON'T THINK SHE CAN TESTIFY TO
19 THAT. SHE CAN TELL US WHAT HER PSYCHOLOGICAL BACKGROUND
20 AND RESEARCH TELLS HER, THAT WHAT SHE'S DONE TELLS HER
21 ABOUT LINE-UPS. BUT SHE CAN'T TALK ABOUT SOME REPORT
22 THAT SHE DIDN'T PARTICIPATE IN THAT WAS WRITTEN YEARS AGO
23 BY JANET RENO.

24 MS. SARIS: OF COURSE SHE COULD. IF SHE RELIED
25 ON IT IN MAKING HER CONCLUSION. AND IF THE REPORT IS
26 BASED ON PSYCHOLOGISTS THAT HAVE CONTRIBUTED TO HELP
27 AVOID ERRORS IN EYEWITNESS IDENTIFICATION, A PROPER
28 QUESTION WOULD BE: AND IS THERE ANY WAY TO AVOID THIS

1 EXPERIMENTAL EFFECT? ARE LAW ENFORCEMENT AGENCIES -- HAS
2 THAT BEEN PUBLISHED IN ANY LITERATURE REGARDING LAW
3 ENFORCEMENT AGENCIES.

4 THERE ARE FACTORS OUT THERE THAT CAN BE
5 TAKEN INTO ACCOUNT AND WHETHER OR NOT THEY WERE FOLLOWED
6 IN THIS CASE TO AVOID THIS EXPERIMENTAL EXPECTANCY. IT'S
7 UP TO THE JURY TO DECIDE.

8 MR. DIXON: WELL, MY PROBLEM IS THAT SHE SHOULD
9 NOT BE ABLE TO TESTIFY ABOUT A U.S. ATTORNEY GENERAL'S
10 REPORT THAT IS A LAW ENFORCEMENT AGENCY, A LAW OFFICE.
11 SHE CAN TESTIFY ABOUT HER BACKGROUND IN EXPERIMENTAL
12 PSYCHOLOGY IF SHE'S DONE RESEARCH ON THAT. BUT GETTING
13 ON THE STAND AND GIVING THE STAMP OF APPROVAL THAT U.S.
14 ATTORNEY GENERAL JANET RENO I THINK IS INAPPROPRIATE.
15 THAT'S KIND OF ALL I HAD.

16 MS. SARIS: EXPERTS TESTIFY ALL THE TIME AS TO
17 EXPERIMENTS, JOURNAL ARTICLES, SCIENTIFIC EVIDENCE THAT
18 THEY DIDN'T PERSONALLY PARTICIPATE IN. AND THE CODE
19 SECTION ALLOWS FOR THAT. IF THERE IS AN OBJECTION AS TO
20 THE FOUNDATION, THAT'S SEPARATE. WHETHER SHE READ IT;
21 WHETHER SHE'S QUALIFIED TO INTERPRET IT, THAT'S ANOTHER
22 STORY.

23 THE COURT: WELL, BUT THIS IS THE VEHICLE TO
24 LITIGATE THOSE ISSUES, WHICH IT IS A 402 ISSUE WITH
25 RESPECT TO WHAT SHE IS GOING TO BE PERMITTED TO TESTIFY.
26 OTHER THAN THE OBVIOUS THAT THE EYEWITNESS IDENTIFICATION
27 TESTIMONY IN THIS CASE, OBVIOUSLY CAN BE CRITICIZED BY
28 NON-EXPERTS, I'M SURE. SO OTHER THAN THE OBVIOUS, AND

1 THE FACTORS IN 2.92, WHAT IS IT THAT YOU WANT TO OFFER
2 WITH RESPECT TO HER TESTIMONY? WHAT IS THE OFFER OF
3 PROOF OTHER THAN THE OBVIOUS?

4 MS. SARIS: THE OBVIOUS. I EXPECT TO ASK HER
5 ABOUT THE FACTORS; TO ASK HER IF THERE IS ANY WAY TO
6 AVOID THOSE FACTORS OR TO MAKE THEM BETTER. IF THERE
7 IS ANY WAY TO --

8 THE COURT: WHAT DO YOU MEAN TO AVOID AND MAKE
9 THEM BETTER?

10 MS. SARIS: FOR INSTANCE, IF YOU ARE PUTTING
11 TOGETHER A LINE-UP AND YOU WANT THAT LINE-UP TO BE FAIR
12 OR TO BE MORE ACCURATE OR TO HAVE A BETTER CHANCE OF
13 HAVING AN ACCURATE IDENTIFICATION, WHAT DO YOU DO?
14 WELL, YOU PICK PEOPLE THAT, YOU KNOW, ONE IS NOT HISPANIC
15 AND ONE IS WHITE AND ONE IS NOT SEVEN FOOT TWO AND ONE IS
16 IT NOT FOUR FOOT SIX.

17 WHERE DO YOU GET THAT? BASED ON THE
18 RESEARCH AND THE LITERATURE, THE EXPERIMENTS THAT WERE
19 CONDUCTED. THEY USUALLY TALK ABOUT EXPERIMENTS INVOLVING
20 COLLEGE STUDENTS. IS THERE ANY -- AND IT IS ACTUALLY
21 APPROPRIATE, HAD THOSE LAW ENFORCEMENT ADOPTED ANY OF
22 THOSE TECHNIQUES? ARE THEY INVOLVED IN ANY TRAINING
23 MANUALS? AND THEY ARE FOR QUITE A NUMBER OF LAW
24 ENFORCEMENT AGENCIES.

25 NOW THEY CAN CERTAINLY COUNTER THAT IN
26 1988, THAT MAY NOT HAVE BEEN -- ALTHOUGH THIS WAS 2001 --
27 THAT IT MAY NOT HAVE BEEN THE CASE. THAT'S
28 CROSS-EXAMINATION. SHE DOESN'T HAVE TO HAVE BEEN

1 PARTICIPATING IN THOSE EXPERIMENTS, BUT I INTEND TO ASK
2 HER ABOUT THE FACTORS.

3 COUNSEL HAS IN THIS CASE A VERY EXTENSIVE
4 REPORT FROM DR. PEZDEK. IT IS A REPORT UNLIKE ANY I'VE
5 EVER PROVIDED TO THE D.A. I DON'T USUALLY EVEN HAVE
6 REPORTS. DISTANCE. TIME THAT YOU'RE ABLE TO SEE AN
7 INDIVIDUAL. TIME BETWEEN WHEN YOU SEE AN INDIVIDUAL AND
8 WHEN YOU MAKE THE IDENTIFICATION. YOU KNOW, CONSISTENCY
9 OF YOUR STATEMENTS.

10 AND IN RELATION TO ALL THOSE FACTORS GOES
11 INTO IT THE EXPERIMENTS THAT SHE'S DONE; THE JOURNAL
12 ARTICLES THAT SHE'S RELIED ON.

13 THE COURT: BUT MR. DIXON REFERRED TO AN AREA
14 INVOLVING MISIDENTIFICATION CASES IN THE NEWS; DNA;
15 INNOCENCE PROJECT. HOW WOULD THAT HAVE ANY RELEVANCE TO
16 ANYTHING IN THIS CASE?

17 MS. SARIS: THERE IS A STUDY DONE THAT'S BASED ON
18 THE WORK OF THE INNOCENCE PROJECT. IT HAS NOTHING TO DO
19 WITH MEDIA COVERAGE. IT'S AN ACTUAL STUDY THAT WAS DONE
20 BASED ON THE CASES THAT WERE EVENTUALLY OVERTURNED BY
21 DNA.

22 THE NO. 1 FACTOR THAT LED TO THE WRONGFUL
23 CONVICTIONS WAS MISIDENTIFICATION BY EYEWITNESSES. AND I
24 EXPECT THAT SHE WOULD HAVE THE NUMBERS ON THAT. BUT
25 THAT'S NOT BASED ON THE CHANNEL 5 NEWS. THIS IS AN
26 ACTUAL JOURNAL, ARTICLE, OR STUDY OR REPORT THAT WAS DONE
27 THAT HELPS INFORM HER OPINION ABOUT EYEWITNESS
28 IDENTIFICATION.

1 I'LL BE VERY HONEST, DR. PEZDEK SAYS IN 80
2 PERCENT OF THE CASES THAT SHE REVIEWS, SHE FINDS NO
3 PROBLEM WITH EYEWITNESS IDENTIFICATION. SHE'S GOING TO
4 BE VERY OBVIOUS ABOUT THAT AND SHE'S GOING TO SAY THAT
5 SHE THINKS IT CAN BE ACCURATE. BUT WHEN CERTAIN FACTORS
6 ARE PRESENT, THEN CERTAIN THINGS OUGHT TO BE QUESTIONED.

7 MR. DIXON: WELL, AGAIN, BUT SHE CAN'T COMMENT ON
8 THE FACTS IN THIS CASE. AND I DON'T THINK -- TO EXTEND
9 THAT ONE JUST ONE LEVEL FURTHER, SINCE COUNSEL BROUGHT IT
10 UP, I THINK IT WOULD BE INAPPROPRIATE FOR HER TO LOOK AT
11 THE PHOTO LINE-UP HERE OR THE LIVE LINE-UP AND RENDER AN
12 OPINION AS TO WHETHER SHE THOUGHT IT WAS PUT TOGETHER
13 CORRECTLY OR INCORRECTLY.

14 MS. SARIS: SHE CAN CERTAINLY RENDER AN OPINION
15 AS TO WHETHER OR NOT IT'S BIASED OR WHETHER IT COMPORTS
16 WITH ANY OF THE FACTORS. SHE'S SEEN THESE AND SHE'S MADE
17 A REVIEW OF THESE. FOR INSTANCE, IS THIS LIKELY TO
18 ENSURE AN ACCURATE IDENTIFICATION IF YOU ARE LOOKING FOR
19 A 45-YEAR-OLD MAN IN 1988. WELL, I WOULD HAVE A PROBLEM
20 WITH THIS PICTURE BECAUSE THIS GENTLEMAN OBVIOUSLY WASN'T
21 OLD ENOUGH TO DRIVE A CAR IN 1988 OR THIS GENTLEMAN IS
22 OBVIOUSLY HISPANIC.

23 SO WHAT WINDS UP HAPPENING IS IN A GROUP
24 OF SIX, YOU'VE NARROWED IT NOW DOWN TO FIVE. YOU MAY
25 NARROW IT DOWN FOR HEIGHT. IT'S TOTALLY APPROPRIATE FOR
26 HER TO COMMENT ON THE SPECIFICS OF THE LINE-UP IN THIS
27 CASE. SHE CAN'T MAKE THE ULTIMATE CONCLUSION: WAS IT
28 FAIR? OR COULD IT LEAD TO AN ACCURATE -- DID IT LEAD TO

1 AN ACCURATE IDENTIFICATION. BUT SHE CERTAINLY CAN
2 COMMENT ON WHAT SHE SEES AS GOOD AND BAD ASPECTS OF IT.

3 MR. DIXON: I DISAGREE. I THINK THAT'S GOING TO
4 THE FACTS OF THIS CASE AND INVADING THE PROVINCE OF THE
5 JURY. SHE CAN TALK ABOUT THE FACTORS. AND SHE CAN TALK
6 ABOUT WHAT IDEALLY ONE WOULD DO TO MAKE A GOOD LINE-UP
7 AND A NOT SO HOT LINE-UP. BUT I DON'T THINK SHE CAN LOOK
8 AT THESE EXHIBITS AND RENDER AN OPINION ABOUT THE
9 EXHIBITS AND THE FAIRNESS OR LACK THEREOF OF THE PHOTO
10 SHOW-UPS.

11 THE COURT: WELL, I MEAN TO THE EXTENT THAT HER
12 TESTIMONY IS GOING TO BE HELPFUL, I TAKE SOMEWHAT LIMITED
13 VIEW OF WHAT SHE IS ABLE TO TESTIFY TO. I AGREE,
14 HOWEVER, I DON'T KNOW WHAT THE QUESTIONS THAT ARE GOING
15 TO BE POSED. AND I WILL HAVE TO MAKE RULINGS BASED ON
16 THE QUESTIONS. BUT, YOU KNOW, I WANT TO AVOID HAVING TO
17 GO TO THE SIDEBAR. AND IF THERE IS GOING TO BE A
18 SUGGESTION THAT SHE IS BRINGING IN EXTRANEOUS MATTER THAT
19 HAS NO BEARING ON ANY OF THE ISSUES IN THIS CASE, I AM
20 GOING TO CUT YOU OFF.

21 MS. SARIS: OKAY. NOW I'M CONFUSED. IF I BRING
22 UP THIS CASE, I'M GOING TO GET CUT OFF. IF I BRING UP
23 EXTRANEOUS ISSUES, I'M GOING TO --

24 THE COURT: I DIDN'T SAY IF YOU BRING UP THIS
25 CASE, YOU ARE GOING TO BE CUT OFF.

26 MS. SARIS: OKAY. SHE'S GOING TO GET INTO
27 FACTORS THAT HAVE TO DO WITH EYEWITNESS IDENTIFICATION.

28 THE COURT: AND SHE IS PERMITTED TO DO SO.

1 MS. SARIS: AND ONE OF THE WAYS THAT SHE COMES UP
2 WITH THESE FACTORS AND THAT HER FIELD COMES UP WITH THESE
3 FACTORS IS BASED ON STUDIES AND EXPERIMENTS THAT HAVE
4 BEEN DONE.

5 THE COURT: I'M AWARE OF THAT.

6 MS. SARIS: SO THAT I DO INTEND TO GET INTO.

7 THE COURT: TO SOME EXTENT, YOU WILL BE PERMITTED
8 TO GET INTO IT. BUT SHE IS NOT GOING TO BE PERMITTED TO
9 TALK ABOUT MATTERS THAT ARE GOING TO HAVE NO BEARING ON
10 ANY OF THE ISSUES IN THIS CASE. NOR IS IT PROPER FOR HER
11 TO PRESENT TO THE JURY INFORMATION BASICALLY OFFERED FOR
12 THE TRUTH WHEN IT'S OFFERED TO DEMONSTRATE WHAT HER
13 OPINION IS BASED ON.

14 SO I MEAN KEEPING IN MIND THE GENERAL
15 LIMITATIONS THAT APPLY TO ALL EXPERTS, IT APPEARS THAT
16 THE PEOPLE ARE GOING TO BE OBJECTING TO A LOT OF THE
17 QUESTIONS. AND AS LONG AS WE HAVE THE GROUND RULES SET
18 IN PLACE, THERE SHOULD BE NO PROBLEM.

19 MR. DIXON: AND JUST THE LAST MATTER AND COUNSEL
20 JUST BROUGHT THIS UP. SHE SAID THAT THE DOCTOR WILL
21 TESTIFY THAT IN 80 PERCENT OF THE CASES THAT SHE CONSULTS
22 WITH DEFENSE ATTORNEYS ON, SHE SAYS, WELL, THERE IS NO
23 NEED -- THEY'RE GOOD IDENTIFICATIONS OR THERE IS NO NEED
24 FOR ME TO PARTICIPATE.

25 I DON'T THINK SHE SHOULD BE ABLE TO
26 TESTIFY TO THAT ON THE STAND BECAUSE THAT IS REALLY A
27 BACK DOOR WAY OF SAYING, WELL, THIS MUST BE ONE OF THE 20
28 PERCENT THAT I DON'T THINK THE I.D. IS ANY GOOD. I THINK

1 THAT 80/20 PERCENT IS JUST IRRELEVANT. IF SHE'S
2 CONSULTED WITH LOTS OF LAWYERS OVER THE YEARS, THEN SHE'S
3 DONE THAT. AND WHAT HER INDIVIDUAL OPINION ABOUT ANY ONE
4 OF THOSE IDENTIFICATIONS GOOD OR BAD IS IRRELEVANT TO
5 THIS CASE.

6 THE COURT: WELL, I DON'T KNOW WHAT ELSE TO SAY.
7 I THINK WE ALL KNOW WHAT THE GROUND RULES ARE. I WOULD
8 OBSERVE, THIS IS NOT YOUR TYPICAL EYEWITNESS EXPERT CASE.

9 MS. SARIS: WELL, YOUR HONOR --

10 THE COURT: AND THERE HAS BEEN NO 402 ISSUE
11 PRESENTED TO THIS COURT ASKING THIS COURT TO EXCLUDE OR
12 TO LIMIT THIS TESTIMONY. SO WE START FROM THE PREMISE
13 THAT IT IS UP TO THE COURT WHETHER OR NOT THIS IS A
14 PROPER AREA FOR AN EXPERT. AND I HAVE INDICATED I THINK
15 IT IS TO THE EXTENT THAT HER TESTIMONY RELATES TO THE
16 GENERAL FACTORS ESPECIALLY THOSE SET FORTH IN THE JURY
17 INSTRUCTION 2.92.

18 BUT THIS IS A CIRCUMSTANTIAL EVIDENCE
19 CASE, NOT PRIMARILY AN EYEWITNESS IDENTIFICATION CASE.
20 AND SO TO SOME EXTENT, I THINK THE TESTIMONY SHOULD BE
21 LIMITED.

22 MS. SARIS: IF COUNSEL IS WILLING TO LIMIT THE
23 ARGUMENT. BUT SO FAR IN EVERY ARGUMENT THEY'VE MADE IT'S
24 MR. GOODWIN WAS OUTSIDE THAT HOUSE IN A STATION WAGON.
25 AND THAT'S FOREFRONT NO. 1. AND QUITE FRANKLY THEY DON'T
26 HAVE MUCH ELSE.

27 SO IT IS A HUGE PART OF THIS CASE. EVERY
28 OTHER THING THAT THEY DESCRIBED IS CAPABLE OF BEING

1 EXPLAINED IN DIFFERENT WAYS. SO THAT IS THE ENTIRETY
2 BASICALLY OF THEIR CASE. AND IF THE COURT IS WILLING TO
3 MAKE AN ASSESSMENT AND INFORM THE JURORS THAT YOU DOUBT
4 THE EYEWITNESSES, THEN WE DON'T NEED THIS EXPERT.

5 THE COURT: DID I SAY THAT?

6 MS. SARIS: WELL, I'M SAYING UNLESS THAT'S
7 FORTHCOMING THEN, OF COURSE, WE NEED THIS EXPERT TO
8 EXPLAIN THE PROBLEMS.

9 THE COURT: WELL, THAT'S FINE. THAT'S FAIR.

10 MS. SARIS: BUT IT IS A HUGE PART OF THE CASE.
11 AND TO DENY THAT IS NOT FAIR BASED ON THE ARGUMENTS THE
12 DISTRICT ATTORNEY HAVE MADE. THEY HAVE STARTED THEIR
13 ARGUMENT IN EVERY CASE, INCLUDING THE 1118; INCLUDING
14 EVERY PRETRIAL MOTION WITH MICHAEL GOODWIN WAS OUTSIDE IN
15 THAT STATION WAGON. AND TO THE EXTENT THAT THEY ARE
16 ALLOWED TO ARGUE THAT TO THE JURY, WE SHOULD BE ALLOWED
17 TO FULLY ATTACK IT.

18 THE COURT: BUT YOU STARTED OUT THIS DISCUSSION
19 BY SAYING THAT THIS IS NOT A PROPER AREA OF INQUIRY FOR
20 THE COURT OUTSIDE THE PRESENCE OF THE JURY IN A 402.

21 MS. SARIS: ONCE THE DETERMINATION HAS BEEN MADE
22 THAT I'M ALLOWED TO CALL AN EXPERT, I DON'T --

23 THE COURT: WELL, WE HAVEN'T GOTTEN THERE YET.
24 SO I ASSUME THIS IS ALL PART AND PARCEL OF THIS SAME
25 DISCUSSION THAT THE PEOPLE ARE NOT RENDERING ANY
26 OBJECTION TO YOU CALLING THE WITNESS.

27 MS. SARIS: I'VE HAD THE WITNESS ON MY LIST SINCE
28 DAY ONE, SO IT WOULD BE --

1 THE COURT: SO THE QUESTION IS A PROPER QUESTION
2 FOR THIS COURT TO CONSIDER OUTSIDE THE PRESENCE OF THE
3 JURY, THE EXTENT TO WHICH SHE WILL BE PERMITTED TO
4 TESTIFY. AND I DON'T KNOW THAT SHE IS GOING TO HAVE THE
5 SAME LEEWAY AS SHE WOULD IN ANOTHER CASE WHERE EYEWITNESS
6 TESTIMONY WAS THE ONLY EVIDENCE PRESENTED. I JUST DON'T
7 KNOW. I HAVEN'T EXPERIENCED THE JOY OF EYEWITNESS EXPERT
8 TESTIMONY. AT LEAST NOT IN THE RECENT PAST AND NOT WITH
9 THIS WITNESS. SO I DON'T KNOW WHAT IS FORTHCOMING,
10 BUT --

11 MS. SARIS: I WOULD URGE THE COURT TO ACCEPT THIS
12 CASE AS AN EYEWITNESS CASE TO THE EXTENT THAT THE
13 DISTRICT ATTORNEY IS MAKING THAT A BULK OF THEIR
14 ARGUMENT.

15 THE COURT: WELL, OBVIOUSLY, OTHERWISE WE
16 WOULDN'T BE HEARING FROM THIS WITNESS. BUT I'M SAYING
17 THAT THIS IS NOT YOUR TYPICAL EYEWITNESS CASE WHERE
18 MS. PEZDEK AND THOSE IN HER PROFESSION ARE ROUTINELY
19 CALLED. THIS IS SOMEWHAT OF AN UNUSUAL SITUATION, AT
20 LEAST AS FAR AS MY EXPERIENCE IS CONCERNED. BUT I DON'T
21 KNOW WHAT IS FORTHCOMING.

22 MS. SARIS: I DON'T KNOW THAT ANYTHING ABOUT THIS
23 CASE IS TYPICAL.

24 MR. DIXON: WELL, I MEAN I HAVE AND AS COUNSEL
25 SAID SHE APPARENTLY HAS TOO GENERALLY, EYEWITNESS
26 IDENTIFICATION EXPERTS ARE CALLED IN CASES WHERE
27 IDENTIFICATION IS THE, IF NOT THE SOLE -- I THINK THE
28 JURY INSTRUCTION EVEN TALKS ABOUT THAT -- THE SOLE

1 EVIDENCE AGAINST THE DEFENDANT. IT CERTAINLY BY IN LARGE
2 OUTWEIGHS ANY OTHER EVIDENCE. AND THAT'S THE REASON FOR
3 THE EXPERT TO ATTACK IT. HAVING SAID THAT, I UNDERSTAND
4 WHY COUNSEL IS CALLING HER. AND I'M FINE AND HAPPY TO
5 ASK A COUPLE QUESTIONS.

6 THE COURT: ALL RIGHT. WELL, NOW THAT WE HAVE
7 THAT SETTLED.

8 MS. SARIS: OFFICER ESTRADA, I GUESS I'M GOING TO
9 ASK THE COURT TO ISSUE THE BODY ATTACHMENT. I CHECKED MY
10 MESSAGES -- I WILL SAY MY CELL PHONE DOESN'T RING
11 THROUGH. BUT I HAVE RECEIVED SEVERAL MESSAGES TODAY. HE
12 WAS SERVED AT COMPTON STATION. I HAD A PHONE CALL WITH
13 HIM IN THE EVENING FROM MY HOME. AND I EVEN TRIED TO
14 WORK OUT HIS SCHEDULE BECAUSE HE ADVISED ME THAT FRIDAY
15 WAS BAD AND HE WAS SUPPOSED TO BE HERE ON MONDAY MORNING.
16 AND WE'VE LEFT SEVERAL MESSAGES FOR THE SUBPOENA CONTROL
17 AND FOR HIM.

18 THE COURT: ALL RIGHT. I'M GOING TO ISSUE A BODY
19 ATTACHMENT FOR DEPUTY ESTRADA. I'M GOING TO HOLD IT
20 UNTIL 9:00 A.M. TOMORROW MORNING. PLEASE LET HIM KNOW.

21 MS. SARIS: I WILL CONTINUE TO LET HIM KNOW. AND
22 WE DID PHONE THE CUSTODIAN OF RECORDS OVER THE LUNCH HOUR
23 AND AGAIN IN THE MORNING ADVISING HIM THAT WE WERE GOING
24 TO BE REQUESTING THIS. AND AFTER THAT WE HAVE OFFICER
25 JANSEN THAT THE COURT ORDERED BACK. AND WE ANTICIPATE,
26 UNLESS THERE IS SOME BREAK IN THE DAY TOMORROW, PROBABLY
27 RESTING. I MEAN UNLESS SOMETHING UNFORESEEABLE HAPPENS.
28 WE HAVE A COUPLE OF OFFICERS -- YOU KNOW, LOOSE END

1 OFFICERS LIKE OFFICER LAPORTE WHO TESTIFIED TODAY THAT
2 DON'T TAKE VERY LONG.

3 THE COURT: WELL, YOU INDICATED EARLIER THAT YOU
4 WANTED TO DISCUSS WHAT IT IS THAT YOU WOULD BE ALLOWED TO
5 GET INTO WITH RESPECT TO THE ISSUES THAT WERE RAISED
6 EARLIER AS TO SOME OF THE QUESTIONS REGARDING THE SAFE.

7 MS. SARIS: YES. WELL, NO. I MEAN WE ARE
8 INTENDING TO CALL OFFICER JANSEN. HE CAN EXPLAIN HIS
9 NOTES ANY WAY HE CHOOSES. REGARDING THE COMMENTS OF ERIC
10 MILLER, WE ARE I GUESS ASKING FOR GUIDANCE ON -- WE WANT
11 TO BE ABLE TO ATTACK THE LACK OF INVESTIGATION IN TERMS
12 OF INTO THIS ISSUE OF WHETHER OR NOT MR. THOMPSON BOUGHT
13 GOLD.

14 THERE IS LITTLE RELEVANCE TO -- OR
15 FOUNDATION TO ASK THE OFFICERS WHAT DID YOU DO TO
16 ASCERTAIN WHETHER OR NOT HE DID WITHOUT HEARING THAT THEY
17 HAD THIS INFORMATION. SO I WOULD LIKE ERIC MILLER TO
18 TESTIFY THAT HE TOLD POLICE OFFICERS ABOUT A CONVERSATION
19 WHEREIN MICKEY THOMPSON INDICATED HE HAD BEEN MADE A
20 MAJOR PURCHASE OF GOLD SO THAT AT LEAST WE HAVE THE
21 FOUNDATION FOR WHAT THESE OFFICERS DID NOT DO. NOT
22 OFFERED FOR THE TRUTH OF THE STATEMENT, BUT OFFERED TO
23 EXPLAIN WHY WE'RE ASKING THESE OFFICERS WHAT RECORDS DID
24 YOU GET FINANCIALLY OF MR. THOMPSON? WHAT DID YOU SEEK?

25 THERE IS NO -- THE JURY CAN'T UNDERSTAND
26 THE FAILURE OF THE INVESTIGATION IF THEY DON'T UNDERSTAND
27 THE CONTEXT OF THE QUESTIONING. AND I KNOW THE COURT HAS
28 SAID THAT THAT COMMENT ITSELF "I JUST BOUGHT A QUARTER

1 MILLION DOLLARS OF GOLD YESTERDAY" IS HEARSAY. BUT IN
2 TERMS OF ASKING MR. MILLER DID YOU TELL THE POLICE ABOUT
3 A CONVERSATION WHEREIN MICKEY MENTIONED HAVING PURCHASED
4 GOLD, THAT WOULD BE ASKED FOR THE PURPOSE OF SHOWING THAT
5 THE POLICE DID NOT INVESTIGATE THAT ANGLE.

6 THE COURT: SO WE GO BACK TO WHERE WE STARTED,
7 WHICH IS YOUR OFFERING THIS INFORMATION NOT FOR THE TRUTH
8 OF WHAT IS ASSERTED THAT HE, IN FACT, DID PURCHASE THIS
9 GOLD. BUT YOU'RE OFFERING IT AS CIRCUMSTANTIAL EVIDENCE
10 RELEVANT TO THE ISSUE OF THE FAILURE TO INVESTIGATE.

11 MS. SARIS: TO INVESTIGATE THAT SPECIFIC ISSUE,
12 YES.

13 THE COURT: OR TO INVESTIGATE THE CRIME WITH THE
14 BELIEF THAT IT MIGHT HAVE SOMETHING TO DO WITH A MOTIVE
15 OTHER THAN WHAT HAS BEEN PRESENTED.

16 MS. SARIS: IT'S A LITTLE BIT MORE SPECIFIC THAN
17 THAT IN THAT WHEN A PURCHASE OF GOLD IS MADE THERE ARE,
18 AS THE COURT HAS LEARNED IN THIS CASE, WAYS TO TRACE
19 THAT. THERE ARE A NUMBER OF STORES IN THE ORANGE COUNTY
20 AREA CERTAINLY THAT SOLD GOLD. THERE IS A FEDERAL
21 REGISTRY THAT'S REQUIRED WHEN A CERTAIN AMOUNT OF GOLD IS
22 PAID FOR.

23 SO THERE IS WAYS TO SPECIFICALLY CHECK
24 FINANCIAL RECORDS. IN OTHER WORDS, YOU'VE HEARD THE
25 AMOUNT A QUARTER OF A MILLION DOLLARS, CERTAINLY IT WOULD
26 BE RELEVANT TO LOOK TO MICKEY THOMPSON'S ASSETS TO SEE IF
27 THERE IS A -- AS THEY DID IN MICHAEL GOODWIN'S CASE.
28 THERE IS WAYS TO TRACE THIS SPECIFIC PURCHASE. AND --

1 THE COURT: OTHER THAN THE STATEMENT, IS THERE
2 ANY EVIDENCE TO SUPPORT THE ASSERTION THAT HE DID BUY
3 THIS GOLD?

4 MS. SARIS: THE STATEMENT OF THE OTHER WITNESSES
5 THAT SAID HE WAS GOING TO. THAT IS THE --

6 MR. DIXON: THAT'S AT LEAST DOUBLE OR TRIPLE
7 HEARSAY, YOUR HONOR.

8 MS. SARIS: WELL, IT'S AN OFFICER THAT NOT ONLY
9 HEARD FROM THREE WITNESSES THAT HE MIGHT PURCHASE GOLD,
10 BUT AN OFFICER WHO ALSO HEARD FROM A WITNESS THAT HE DID.
11 AND THEN AT THAT POINT I THINK THAT CERTAINLY COMPELS
12 A -- IN TERMS OF A RIGHTEOUS POLICE INVESTIGATION, SOME
13 INQUIRY INTO HIS FINANCIAL STATUS. THAT WAS NOT DONE.
14 AND THAT'S SOMETHING THAT I THINK THAT WE'RE ENTITLED TO
15 ASK BASED ON THE ASSERTION THAT NO VALUES WERE MISSING.

16 MR. DIXON: SO WHAT WE HAVE IS THAT ALLEGEDLY --
17 I MEAN IT'S TRIPLE HEARSAY. MICKEY THOMPSON TELLS
18 MR. SMITH WHO THEN TELLS DETECTIVES WHO COME IN HERE AND
19 SAY THAT. I MEAN THIS IS -- AND THE ONLY PERSON WE HAVE
20 IS THE DETECTIVE. WE UNFORTUNATELY TRAGICALLY DON'T HAVE
21 MICKEY THOMPSON. WE DON'T HAVE MR. SMITH. AND WE HAVE
22 THE DETECTIVE.

23 IT'S OFFERED FOR THE TRUTH OF THE MATTER.
24 IT'S OFFERED TO ARGUE THAT, AS SHE WILL ARGUE, THAT THE
25 TWO BIKE MEN ARE RIDING DOWN THE HILL WITH A BAG THAT
26 COMES FROM A GOLD COMPANY AND IT'S GOT GOLD IN IT. IT'S
27 OFFERED FOR THE TRUTH OF THE MATTER THAT MICKEY THOMPSON
28 HAD GOLD IN THE HOUSE AND THAT'S WHAT THEY'RE RIDING AWAY

1 WITH. AND THAT'S THE ONLY THING IT'S OFFERED FOR.

2 THE COURT IS ALLOWED AND I BELIEVE
3 MS. SARIS HAS ASKED QUESTIONS REGARDING OTHER FAILURES TO
4 INVESTIGATE, INCLUDING THE SAFE AND LOOKING AT THE SAFE.
5 AND SHE SHOWED EVEN A VIDEO OF THE SAFE TODAY. AND SHE
6 CAN ARGUE THAT. IT SEEMS TO ME THAT THAT MEETS HER NEEDS
7 TO ARGUE THAT THE ROBBERY MOTIVE HERE WAS NOT
8 INVESTIGATED. BUT SHE WANTS TO BE ABLE TO ARGUE THAT
9 THOSE KILLERS ON BIKES HAD A BAG OF GOLD OVER THEIR
10 SHOULDER AND THAT'S WHAT REALLY HAPPENED IN THIS CASE.

11 MS. SARIS: OBVIOUSLY IF THE COURT WERE NOT
12 ENTERING IT FOR TRUTH, I WOULDN'T BE ALLOWED TO MAKE THE
13 ARGUMENT THAT THERE WAS GOLD INSIDE. HOWEVER, EVEN AS IT
14 STANDS NOW, I CAN CERTAINLY ARGUE THAT THE KILLERS RODE
15 AWAY WITH BAGS INDICATIVE OF A ROBBERY.

16 WHAT THE FURTHER ARGUMENT WOULD BE
17 SIMPLY -- AS COUNSEL CAN'T ARGUE THAT MR. GOODWIN HAD A
18 SNIPER OUTSIDE THE WINDOW WHEN MICKEY THOMPSON WAS
19 YELLING ABOUT A SNIPER. THAT'S NOT FOR THE TRUTH. I'M
20 WELL AWARE OF THAT. THE ARGUMENT WOULD BE: DID THEY
21 LOOK IN HIS FINANCIALS? DID THEY LOOK TO SEE IF THERE
22 WAS THIS PURCHASE. THIS ISN'T ONE RANDOM INDIVIDUAL
23 TELLING THIS POLICE OFFICER. THEY HEARD THIS FROM FOUR
24 DIFFERENT SOURCES.

25 THE COURT: WELL, I THINK WE STARTED THIS
26 DISCUSSION WITH REFERENCE TO ONE WITNESS'S TESTIMONY,
27 THAT WAS MR. MILLER. AND THAT WAS THE ONLY WITNESS THAT
28 I WAS EVEN CONSIDERING BECAUSE HE MADE A STATEMENT THAT

1 HE HEARD THIS HIMSELF; IS THAT CORRECT?

2 MS. SARIS: THAT'S CORRECT. THE OTHER
3 INDIVIDUALS HEARD THE STATEMENT THEMSELVES, MY -- THE
4 QUESTION I HAVE IS, NO. 1, I WANTED TO GET IN ERIC
5 MILLER, OBVIOUSLY. BUT NO. 2 TO GET IN FROM THE OFFICER
6 WHO HE HEARD FROM OR THAT HE HEARD THIS EVIDENCE. THAT'S
7 THE RELEVANCE. IT'S NOT JUST ERIC MILLER, IT'S ALL THESE
8 OTHER INDIVIDUALS.

9 THE COURT: YOU KNOW, THIS IS THE THING THAT IS
10 TROUBLING BECAUSE OTHER THAN USING THIS INFORMATION FOR
11 THE TRUTH, I DON'T KNOW HOW ELSE IT CAN BE USED. IF YOU
12 WANT TO PRESENT THIS THE WAY YOU PRESENTED IT SO FAR AND
13 THAT IS THERE IS THERE WAS MONEY, CASH, THERE WAS
14 JEWELRY, I MEAN THIS WAS NOT -- THIS WAS NOT YOUR TYPICAL
15 FAMILY IN TERMS OF THE ASSETS THAT THIS FAMILY HAD. THIS
16 IS QUITE A WELL-TO-DO AREA. AND THERE WAS A LOT OF
17 TESTIMONY ABOUT THE NUMEROUS PIECES OF JEWELRY THAT WERE
18 FOUND.

19 MS. SARIS: BUT THOSE WERE LEFT BEHIND. AND OUR
20 POINT --

21 THE COURT: THAT WAS LEFT BEHIND AND THE CASH
22 THAT WAS FOUND AND LEFT BEHIND. THE FACT THAT THERE WERE
23 TWO SAFES. THE FACT THAT THERE WERE VALUABLES IN THE
24 HOME. I MEAN WE ALREADY HAVE EVIDENCE PRESENTED SO FAR
25 THAT THERE WAS A LOT THERE THAT COULD HAVE BEEN THE
26 TARGET OR THE SUBJECT OF A ROBBERY.

27 MS. SARIS: BUT THAT WOULD HAVE BEEN THE SUBJECT
28 OF A ROBBERY -- PARDON ME FOR INTERRUPTING -- FOR THE

1 LAST 12 YEARS. THIS WOULD HAVE BEEN THE SUBJECT OF A
2 ROBBERY IN MARCH OF 1988. AND ONE OF THE FACTORS THE
3 PEOPLE ARE POINTING TO IS WHO ELSE IN MARCH OF '88,
4 BECAUSE OF ALL THIS LAWSUIT, HAD THE MOTIVE TO COME INTO
5 MR. THOMPSON'S HOME BUT MR. GOODWIN.

6 WE'RE SAYING THAT IN MARCH OF '88 THERE
7 WAS ANOTHER HUGE EVENT THAT HAPPENED POTENTIALLY IN
8 MR. THOMPSON'S LIFE THAT SHOULD HAVE BEEN INVESTIGATED.

9 MR. DIXON: AND THAT EXACTLY MEETS THE POINT HERE
10 IS THAT EVEN IF ALL THAT IS TRUE AND IT'S OFFERED NOT FOR
11 THE TRUTH OF THE MATTER, BUT THERE IS A RUMOR OUT THERE,
12 THERE IS NO CONNECTION BETWEEN THAT AND THE KILLERS
13 BECAUSE WE DON'T KNOW WHO THEY ARE. I MEAN SHE IS JUST
14 GUESSING AT THIS. IT'S ALL JUST A SPECULATION. AND
15 MILLER'S TESTIMONY IS -- MILLER'S STATEMENT IS ACCORDING
16 TO HIM RECEIVED THE NIGHT BEFORE THE KILLING, SO WHEN DID
17 THIS --

18 THE COURT: WHAT IS THE STATEMENT EXACTLY?

19 MS. SARIS: THAT MICKEY THOMPSON HAD JUST TAKEN
20 POSSESSION OF A QUARTER MILLION DOLLARS WORTH OF GOLD.
21 THIS ENTIRE CASE IS BASED ON SPECULATION. THE DISTRICT
22 ATTORNEY DOESN'T KNOW WHO THE KILLERS ARE EITHER. SO THE
23 STATEMENT OF THE OTHER INDIVIDUALS WAS THAT MICKEY
24 THOMPSON WAS CONSIDERING BUYING IT. SO WE HAVE THE
25 TIMING AS RELEVANT. THE POINT -- THE NON-HEARSAY PURPOSE
26 IS YOU HAVE THIS INFORMATION THAT YOU NEED TO LOOK INTO,
27 IF ONLY FOR THE PURPOSE OF CROSSING IT OFF THE CHECKLIST.

28 THE COURT: WELL, THEN WHY CAN'T YOU ELICIT THE

1 INFORMATION IN A WAY THAT WOULD MEET YOUR NEEDS, WHICH
2 IS: DID MR. MILLER PROVIDE INFORMATION TO THE
3 INVESTIGATORS WHICH WAS NOT FOLLOWED UP.

4 MS. SARIS: BECAUSE IF THE COURT TAKES THAT OUT
5 OF CONTEXT, THEN ANY -- WHAT COULD MR. MILLER HAVE
6 PROVIDED? I MEAN THAT COULD BE ANYTHING FROM
7 MR. THOMPSON WAS HAVING AN AFFAIR TO MR. THOMPSON AND HIS
8 WIFE HAD A FIGHT TO ONE OF HIS NEIGHBORS WAS ARRESTED FOR
9 INDECENT EXPOSURE. WITHOUT SAYING THAT IT WAS
10 INFORMATION ABOUT A RECENT PURCHASE OF A SIGNIFICANT
11 VALUABLE ITEM.

12 THE COURT: WELL, WHY NOT REFER TO IT THAT WAY.

13 MS. SARIS: I WOULD LOVE TO REFER TO IT THAT WAY.
14 THAT'S WHY I'M ASKING THE COURT'S GUIDANCE AS TO THAT. I
15 WOULD BE HAPPY TO NOT BRING UP THE QUOTE OF THE STATEMENT
16 IF I COULD SAY TO OFFICER LAPORTE: DID YOU RECEIVE
17 INFORMATION FROM ERIC MILLER THAT MR. THOMPSON HAD JUST
18 COME INTO A VERY VALUABLE COMMODITY IN THE LAST SEVERAL
19 DAYS?

20 THE COURT: I DON'T HAVE A PROBLEM WITH THAT NOT
21 BEING OFFERED FOR THE TRUTH. BUT I THINK TO GO ANY
22 FURTHER IS --

23 MS. SARIS: THEN THE ONLY FURTHER I WOULD GO IS:
24 WHAT DID YOU DO AS A RESULT? WHAT DID YOU FOLLOW-UP ON?

25 THE COURT: I THINK THAT'S FAIR. BECAUSE WE'RE
26 DEALING WITH A STATEMENT THAT'S NOT BEING OFFERED FOR THE
27 TRUTH. BUT I'M ATTEMPTING TO SANITIZE IT SO THAT THERE
28 IS NO DANGER OF THIS JURY BEING MISLED. AND I FEEL

1 COMFORTABLE WITH THAT.

2 MS. SARIS: WOULD THE COURT PREFER I LAY A
3 FOUNDATION WITH MR. MILLER? BECAUSE I HAVE OFFICER
4 LAPORTE WHO HEARD THE INFORMATION.

5 THE COURT: I DON'T CARE.

6 MS. SARIS: OKAY.

7 THE COURT: I MEAN YOU CAN ASK MR. MILLER --
8 BECAUSE I KNOW YOU ARE GOING TO PRESENT MR. MILLER ON THE
9 ISSUE OF THE STUN GUN.

10 MS. SARIS: NO, I'M NOT.

11 THE COURT: OH, YOU ARE NOT?

12 MS. SARIS: BECAUSE THAT IS -- THAT TO ME IS
13 OFFERED FOR THE TRUTH, SO I UNDERSTAND THAT RULING.

14 THE COURT: BUT I WAS ALLOWING THAT. I WAS
15 ALLOWING THAT STATEMENT REGARDING THE STUN GUN.

16 MS. SARIS: I UNDERSTAND THAT. MY PROFFER FOR
17 MR. MILLER IS THAT HE HAD A CONVERSATION WITH THIS
18 OFFICER REGARDING A LARGE AND VALUABLE PURCHASE RECENTLY
19 MADE BY THE DETECTIVE -- BY MICKEY THOMPSON. YES. DID
20 YOU HAVE A CONVERSATION WITH THE DETECTIVE WHERE YOU
21 RELAYED THAT INFORMATION TO HIM? YES. THEN OFFICER
22 LAPORTE WOULD COME BACK, I RECEIVED THAT INFORMATION FROM
23 MR. MILLER. WHAT DID YOU DO?

24 THE COURT: I DON'T HAVE ANY PROBLEM WITH THAT.

25 MS. SARIS: THEY ARE BOTH DUE IN TOMORROW AT
26 1:30. I EXPECT THEIR WHOLE TESTIMONY TO LAST TEN
27 MINUTES.

28 THE COURT: SO WE'RE STAYING AWAY FROM THE STUN

1 GUN STATEMENT THEN WITH MR. MILLER?

2 MS. SARIS: YES. AND, IN FACT, HE DOESN'T -- AS
3 FAR AS MY CONVERSATION WITH HIM, I CAN'T SUBSTANTIATE
4 THAT.

5 THE COURT: OKAY.

6 MR. DIXON: I'M COMFORTABLE WITH THAT, YOUR
7 HONOR. MY ONLY -- AND MAYBE THIS IS A DISCUSSION THAT
8 SHOULD BE ADDRESSED MORE TOWARDS ARGUMENT. I'M JUST A
9 LITTLE WORRIED THAT WE ARE GOING TO ROLL THAT FINANCIAL
10 PURCHASE INTO GOLD THAT'S IN THE BAGS OF THE GUYS RIDING
11 OFF FROM THE CRIME SCENE WHEN WE GET TO ARGUMENT.

12 THE COURT: YOU KNOW, THERE IS ALREADY ENOUGH IN
13 THE RECORD WHERE SHE CAN MAKE THAT ARGUMENT JUST BASED ON
14 THESE -- WHATEVER THESE CANVAS BAGS. I MEAN I DON'T SEE
15 A DANGER HERE IN ELICITING THIS TYPE OF TESTIMONY KEEPING
16 IT LIMITED WITHOUT REFERENCE TO GOLD. I MEAN I'M JUST
17 AFRAID THAT THE JURY WILL MISCONSTRUE IT OR BE MISLED.
18 SO I THINK THAT THE WAY WE JUST AGREED TO HANDLE IT IS
19 APPROPRIATE.

20 MR. DIXON: FINE. THANK YOU.

21 MS. SARIS: AND QUITE FRANKLY I WOULD ARGUE THAT
22 THESE BAGS ARE THE KIND THAT GOLD IS DELIVERED IN BASED
23 ON WHAT WIBORG SAYS AND WHAT LANCE JOHNSON HAS ALREADY
24 SAID.

25 THE COURT: THAT'S PRETTY MUCH WHAT WE HAVE HEARD
26 SO FAR. ALL RIGHT. WE WILL RESUME AT 10:00 A.M. UNLESS
27 THERE IS SOMETHING ELSE WE NEED TO DISCUSS TOMORROW
28 MORNING. THANK YOU.

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(THE MATTER WAS CONTINUED TO WEDNESDAY,
DECEMBER 13, 2006 AT 10:00 A.M.)
(NEXT PAGE IS 8101.)

--000--

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237 (A) (2)

DECEMBER 13 AND 14, 2006

APPEARANCES :

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 22 OF 24
PAGES 8101 THRU 8275/8400
8401 THRU 8461/8700

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, DECEMBER 13, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEY, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ALL RIGHT. RESUMING ON THE GOODWIN
20 MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL. THE PEOPLE
21 ARE REPRESENTED. NO JURORS AND ALTERNATES ARE PRESENT.

22 DO WE NEED TO DISCUSS ANYTHING OUTSIDE OF
23 THE PRESENCE?

24 MS. SARIS: VERY BRIEFLY, YOUR HONOR. NUMBER 1,
25 WE WOULD BE ASKING THE COURT TO PAY FOR A COPY OF THE
26 ALLISON TRIARSI TRANSCRIPT FOR THE DEFENSE.

27 THE COURT: OKAY.

28 MS. SARIS: AND THE OTHER THING IS THAT

1 MR. ESTRADA HAS NOT CONTACTED US AFTER SEVERAL MESSAGES
2 WITH SUBPOENA CONTROL AND SO WE WOULD ASK THAT THE BODY
3 ATTACHMENT ISSUE --

4 THE COURT: DID YOU TALK TO THE WATCH COMMANDER?

5 MS. SARIS: THE WATCH COMMANDER?

6 THE COURT: WHO IS IN CHARGE OF THE STATION WHERE
7 HE IS ASSIGNED?

8 MS. SARIS: I DON'T BELIEVE WE DID.

9 THE COURT: OKAY. WHY DON'T YOU GIVE HIM A CALL
10 AND LET THEM KNOW THAT THE COURT IS GOING TO ISSUE A
11 WARRANT.

12 MS. SARIS: WE DID CALL SUBPOENA CONTROL AGAIN
13 THIS MORNING, BUT THAT'S SUBPOENA CONTROL.

14 THE COURT: I DON'T KNOW THAT SUBPOENA CONTROL
15 HAS --

16 MS. SARIS: THEY'RE THE PEOPLE THAT ACCEPT
17 SERVICE FOR THE ON-DUTY OFFICERS.

18 THE COURT: I UNDERSTAND THAT.

19 MS. SARIS: MAY I DO THAT NOW?

20 THE COURT: YES.

21 MS. SARIS: AND WE HAVE ONE THIS MORNING, WE'RE
22 ASKING THE COURT TO READ THE FINAL STIPULATION THAT WE
23 HAD ALL AGREED ON. AND THEN OUR OTHER WITNESSES ARE
24 ORDERED BACK FOR 1:30 AND WE ANTICIPATE THAT WILL BE IT.

25 THE COURT: STIPULATION NO. 18 IS THE ONE
26 INVOLVING LARRY HUNT?

27 MS. SARIS: YES. AND DID WE DESIGNATE FOR THE
28 COURT THE EXHIBIT?

1 THE COURT: T.

2 MS. SARIS: OKAY.

3

4 (THE JURY ENTERED THE COURTROOM
5 AND THE FOLLOWING PROCEEDINGS WERE
6 HELD IN OPEN COURT.)

8 THE COURT: THE RECORD SHOULD REFLECT THAT OUR
7
9 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

10 GOOD MORNING LADIES AND GENTLEMEN.

11 JUROR: MORNING.

12 THE COURT: AND WE'RE IN THE DEFENSE CASE.

13 MS. SARIS YOU MAY CALL YOUR NEXT WITNESS.

14 MS. SARIS: THANK YOU. THE DEFENSE CALLS
15 DR. KATHY PEZDEK.

16

17 KATHY PEZDEK,
18 CALLED BY THE DEFENSE AS A WITNESS, WAS
19 SWORN AND TESTIFIED AS FOLLOWS:

20

21 THE CLERK: MA'AM PLEASE RAISE YOUR RIGHT HAND.

22 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
23 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
24 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
25 TRUTH SO HELP YOU GOD.

26 THE WITNESS: YES I DO.

27 THE CLERK: THANK YOU. PLEASE BE SEATED. MA'AM,
28 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST

1 NAME FOR THE RECORD.

2 THE WITNESS: YES MY NAME IS DOCTOR KATHY,
3 K-A-T-H-Y, PEZDEK. P-E-Z-D-E-K.

4 THE CLERK: THANK YOU.

5 THE COURT: YOU MAY INQUIRE.

6 MS. SARIS: THANK YOU.

7
8 DIRECT EXAMINATION

9 BY MS. SARIS:

10 Q GOOD MORNING, DR. PEZDEK.

11 A GOOD MORNING.

12 Q WHAT IS IT THAT YOU DO FOR A LIVING?

13 A I A PROFESSOR OF PSYCHOLOGY AT CLAREMONT
14 UNIVERSITY.

15 Q AND WHAT EDUCATION TRAINING DO YOU HAVE TO
16 QUALIFY FOR THAT POSITION?

17 A OKAY. I RECEIVED A BACHELOR'S DEGREE FROM
18 THE UNIVERSITY OF VIRGINIA WITH A MAJOR IN PSYCHOLOGY AND
19 A MINOR IN MATH. I RECEIVED A MASTERS DEGREE FROM THE
20 UNIVERSITY OF MASSACHUSETTS AT AMHERST IN EXPERIMENTAL
21 PSYCHOLOGY; AND A PH.D. FROM THE UNIVERSITY OF
22 MASSACHUSETTS AT AMHERST IN EXPERIMENTAL PSYCHOLOGY ALSO.

23 Q DID YOU HAVE ANY OTHER PROFESSIONAL
24 RECOGNITIONS OTHER THAN YOUR DEGREES?

25 A WELL, I HAVE BEEN A FULL PROFESSOR, A
26 TEN-YEAR FULL PROFESSOR OVER AT CLAREMONT GRADUATE
27 UNIVERSITY. I HAVE A BEEN ON THE FACULTY THERE SINCE
28 1981. THAT FACULTY POSITION IS WHAT IS CALLED A PUBLISHED

1 OR PARISH-TYPE FACULTY POSITION. SO I AM PUBLISHING AND
2 MY WORK APPEARS IN JOURNALS.

3 I'VE RECEIVED GRANTS FOR MY RESEARCH, I'M
4 ON SEVERAL EDITORIAL BOARDS, I HAVE A BEEN THE EDITOR OF
5 A MAJOR JOURNAL, AND I'M NOW THE PRESIDENT OF GROUP
6 CALLED THE SOCIETY FOR APPLIED RESEARCH AND MEMORY
7 COGNITION.

8 Q SO YOU YOURSELF HAVE PUBLISHED BOOKS OR
9 ARTICLES IN THIS FIELD?

10 A I HAVE, YES. THAT'S A MAIN PART OF MY
11 WORK IS IT ACTUALLY DOING RESEARCH AND PUBLISHING
12 RESEARCH.

13 Q SO YOU ARE NOT A CLINICAL PSYCHIATRIST OR
14 PSYCHOLOGIST.

15 A I AM NOT. I HAVE NO TRAINING IN HOW TO
16 DO THERAPY OR COUNSELING, THAT'S NOT MY BACKGROUND,
17 THAT'S NOT WHAT I DO. I HAVE COME FROM THE OTHER HALF
18 OF THE FIELD OF PSYCHOLOGY.

19 I AM A RESEARCH PSYCHOLOGIST, I USE THE
20 SCIENTIFIC METHOD TO INVESTIGATE SPECIFIC ASPECTS OF
21 MEMORY. IN PARTICULAR, MY RESEARCH IS ON EYEWITNESS
22 MEMORY. BUT I DO RESEARCH STUDIES ON THAT TOPIC.

23 Q AND WHO APPOINTED YOU IN THIS CASE?

24 A I WAS APPOINTED BY THE COURT AT YOUR
25 REQUEST.

26 Q AND WHO PAYS YOU?

27 A THE COUNTY.

28 Q AND HOW MUCH ARE YOU MAKING FOR YOUR

1 CONSULTATION AND YOUR TESTIMONY TODAY?

2 A OKAY. MY COURT APPROVED RATE, AND THAT
3 HAS BEEN FOR SEVERAL YEARS, IS \$150 AN HOUR FOR
4 PREPARATION AND CONSULTATION AND A THOUSAND DOLLARS FOR
5 TESTIMONY.

6 Q AND DO YOU GET PAID FOR CONSULTATION
7 REGARDLESS OF WHETHER YOU HAVE TESTIFIED -- WHETHER OR
8 NOT YOU TESTIFY?

9 A YES.

10 Q HAVE YOU PREVIOUSLY QUALIFIED IN ANY COURT
11 AS A EXPERT WITNESS?

12 A YES, I HAVE.

13 Q IN WHAT COURTS?

14 A I'VE TESTIFIED AND QUALIFIED IN SUPERIOR
15 COURTS LIKE THIS THROUGHOUT THE STATE OF CALIFORNIA.
16 I'VE TESTIFIED AND BEEN RETAINED IN CASES AT THE STATE
17 LEVEL WORKING FOR THE STATE ATTORNEY GENERAL'S OFFICE,
18 AND I HAVE ACTUALLY TESTIFIED IN SEVERAL FEDERAL TRIALS
19 AS WELL.

20 Q YOU SAID FOR THE STATE ATTORNEY GENERAL'S
21 OFFICE. HAVE YOU BEEN HIRED BY THE PROSECUTION BASED TO
22 YOUR EXPERTISE?

23 A YES. WELL, YES. THE ATTORNEY GENERAL'S
24 OFFICE IS BASICALLY LIKE THE D.A.'S OFFICE BUT AT THE
25 STATE LEVEL. SO THEY ARE THE PROSECUTOR'S AT THE STATE
26 LEVEL AND I HAVE TESTIFIED IN A HANDFUL OF, MAYBE FIVE OR
27 SO CASES FOR THE STATE ATTORNEY GENERAL'S OFFICE.

28 Q WOULD YOU SAY THAT MOST OF THE -- IN TERMS

1 OF YOUR APPOINTMENTS AND THE PEOPLE THAT HIRE YOU, IS IT
2 MORE OFTEN DEFENSE THAN PROSECUTION?

3 A YES.

4 Q DO YOU EVER TURN DOWN CASES FROM THE
5 DEFENSE?

6 A REGULARLY, YES.

7 Q AND ON WHAT BASIS?

8 MR. DIXON: OBJECTION IRRELEVANT.

9 THE COURT: SUSTAINED.

10 Q BY MS. SARIS: LET ME ASK YOU THIS; HAVE
11 YOU EVER BEEN OFFERED APPOINTMENT AND OFFERED TO BE PAID
12 FOR TESTIFYING AND TURNED THAT DOWN?

13 MR. DIXON: SAME OBJECTION, YOUR HONOR.

14 THE COURT: OVERRULED, YOU CAN ANSWER THAT.

15 A YES. I TURN DOWN ABOUT 80 PERCENT OF THE
16 CASES FOR WHICH AN ATTORNEY CONTACTS ME AND --

17 MR. DIXON: THANK YOU. OBJECTION, THAT ANSWERS
18 THE QUESTION.

19 THE COURT: EVERYTHING AFTER YES WILL BE
20 STRICKEN.

21 Q BY MS. SARIS: AND IN THOSE CASES, LET ME
22 JUST ASK YOU THIS; IN GENERAL, YOUR EXPERTISE THAT YOU
23 QUALIFIED IN, CAN YOU TELL US A LITTLE BIT ABOUT THE
24 ABOUT THE FIELD THAT YOUR EXPERTISE IS IN TERMS OF THE
25 RESEARCH THAT YOU DO?

26 A YES. I QUALIFY AS AN EXPERT ON EYEWITNESS
27 MEMORY AND IDENTIFICATION. THIS IS A FIELD THAT INVOLVES
28 WHAT IS CALLED COGNITIVE PSYCHOLOGY. THAT'S

1 C-O-G-N-I-T-I-V-E, COGNITIVE PSYCHOLOGY. THIS IS
2 RESEARCH THAT'S BEEN CONDUCTED ON DIFFERENT ASPECTS OF
3 THE CONDITIONS UNDER WHICH EYEWITNESSES TEND TO BE
4 RELIABLE AND IDENTIFYING OF THE CONDITIONS UNDER WHICH
5 EYEWITNESSES TEND TO NOT BE RELIABLE.

6 SO WE'RE INTERESTED IN UNDER WHAT
7 CONDITIONS ARE EYEWITNESSES LIKELY TO BE VERY GOOD WHEN
8 THEY MAKE THEIR IDENTIFICATION AND WHAT CONDITIONS IS
9 THERE SOME DOUBT QUITE HONESTLY ABOUT THE RELIABILITY OF
10 THE IDENTIFICATIONS.

11 Q AND IN THIS CASE HAVE YOU REVIEWED ANY
12 MATERIAL SPECIFICALLY RELATED TO THIS CASE?

13 A I HAVE, YES.

14 Q AND CAN YOU JUST TELL US, NOT GOING INTO
15 CONTENT OF ANY OF IT, HAVE WHAT TYPES OF MATERIAL HAVE
16 YOU REVIEWED?

17 A YES. I REVIEWED SEVERAL POLICE REPORTS,
18 I REVIEWED THE TRANSCRIPT OF SEVERAL INTERVIEWS WITH THE
19 MAJOR EYEWITNESSES IN THE CASE, TRANSCRIPT OF TESTIMONY
20 FROM A PRIOR HEARING AS WELL.

21 Q SO WE'RE SPEAKING OF RON AND TONYIA
22 STEVENS?

23 A YES.

24 Q OKAY. HAVE YOU RELIED ON ANY PUBLISHED
25 ARTICLES OR SCIENTIFIC DATA IN TERMS OF ANY OPINIONS THAT
26 YOU MAY RENDER HERE TODAY TO ASSIST THIS JURY?

27 A YES, CERTAINLY YES.

28 Q CAN YOU SPEAK TO ANY OF THE MORE RECENT

1 ONES?

2 A YES. ONE OF THE STUDIES THAT HAS TO DO
3 WITH THE RELIABILITY OF THE EYEWITNESS IDENTIFICATION IS
4 A CURRENT STUDY THAT'S AN ONGOING STUDY ACTUALLY, LOOKING
5 AT THE HIGH RATES OF EYEWITNESS EVIDENCE IN CASES THAT
6 HAVE SINCE BEEN OVERTURNED BASED ON DNA EVIDENCE. SO
7 THESE ARE CASES WHERE INITIAL CONVICTIONS WERE --

8 MR. DIXON: OBJECTION IRRELEVANT, YOUR HONOR.
9 DNA, I THOUGHT WE DEALT WITH THIS.

10 THE COURT: ALL RIGHT SUSTAINED.

11 Q BY MS. SARIS: LET ME ASK YOU THIS. DO
12 YOU DO ANY RESEARCH, HAVE YOU EVER CONDUCTED RESEARCH ON
13 ACCURACY OF MEMORY OR EYEWITNESS IDENTIFICATION?

14 A YES.

15 Q AND WHAT TYPES OF -- HOW DOES THAT WORK?
16 HOW DOES ONE RESEARCH THIS?

17 A WELL, WHAT WE WOULD DO FOR EXAMPLE, A LOT
18 OF MY RESEARCH IS ON THE SUGGESTIBILITY OF MEMORY. SO
19 I'M INTERESTED IN IF AN EYEWITNESS SEES A PERPETRATOR FOR
20 A VERY BRIEF PERIOD OF TIME AND ONLY GENERALLY SEES WHAT
21 THAT PERSON LOOKS LIKE, CAN WE SHOW -- EXPOSE THEM TO SAY
22 A PHOTOGRAPHIC LINEUP AFTERWARDS THAT INCLUDES SOMEONE
23 WHO LOOKS LIKE THE PERPETRATOR BUT ISN'T IN FACT THE
24 ACTUAL PERPETRATOR. AND IF A WITNESS PICKS THAT PERSON
25 OUT, IF THEY ARE LATER SHOWN A LIVE LINEUP FOR EXAMPLE, I
26 LOOK AT THE PROBABILITY THAT ON THE LIVE LINEUP THE
27 WITNESS IS LIKELY TO IDENTIFY THE PERSON THEY SAW AT THE
28 PREVIOUS PHOTOGRAPHIC LINEUP, BUT IN FACT NEVER SAW THE

1 SCENE OF THE CRIME.

2 Q BUT NOW DO YOU DEAL WITH REAL WORLD CRIMES
3 IN THOSE EXPERIMENTS?

4 A NO. IT'S NOT POSSIBLE TO DO RESEARCH ON
5 REAL WORLD CRIMES, BUT THESE ARE SITUATIONS THAT WE SET
6 UP WHERE WITNESSES OBSERVED AN INDIVIDUAL AND THEN WE SET
7 UP A PHOTOGRAPHIC LINEUP AND A LIVE LINEUP. AND I'M
8 INTERESTED IN THE PROBABILITY OF THE PHOTOGRAPHIC LINEUP
9 CAN INFLUENCE WHAT HAPPENS AT A LINE UP, A SUBSEQUENT
10 LIVE LINEUP.

11 AND I'M ALSO INTERESTED IN THE EFFECT THAT
12 AN INTERVENING OPPORTUNITY TO SEE A PERSON WHO LOOKS LIKE
13 THE PERPETRATOR, WHAT EFFECT THAT CAN HAVE ON A
14 SUBSEQUENT IDENTIFICATION.

15 IN OTHER WORDS, JUST BECAUSE YOU SEE
16 SOMEONE AT ONE POINT IN TIME AND YOU IDENTIFY A
17 PARTICULAR INDIVIDUAL SOMETIME LATER, IT DOESN'T MEAN
18 THAT YOU HAVE A SNAPSHOT OF THAT INDIVIDUAL FROM THE
19 SCENE OF THE CRIME THAT YOU'RE IDENTIFYING AT A LIVE
20 LINEUP LET'S SAY. WHAT HAPPENS IN BETWEEN IS GOING TO
21 EFFECT YOUR MEMORY FOR THAT PERSON WHO YOU SAW AT THE
22 SCENE OF THE CRIME.

23 Q OKAY. SO LET ME ASK YOU THIS. THERE ARE
24 FACTORS THAT GO INTO ACCURACY OF IDENTIFICATION, IS THAT
25 WHAT YOU ARE --

26 A YES, THERE ARE.

27 Q AND DID I ASK YOU TO MAKE A LIST OF THOSE?

28 A YES, YOU DID.

1 Q STICKING WITH SOME OF THE RESEARCH THAT
2 YOU'VE DONE, HAVE YOU ACTUALLY DONE THESE TYPES OF
3 RESEARCH IN ALL OF THE FACTORS THAT YOU'RE GOING TO
4 DISCUSS TODAY?

5 A NO, I HAVE NOT.

6 Q HAVE YOU REVIEWED ARTICLES OR JOURNALS OF
7 OTHER INDIVIDUALS IN YOUR FIELD WHO HAVE?

8 A YES, I HAVE.

9 Q SO ALL OF THESE FACTORS HAVE BEEN TESTED
10 IN SOME WAY?

11 A YES. THESE ARE ALL FACTORS THAT HAVE BEEN
12 INVESTIGATED USING SCIENTIFIC RESEARCH. NO ONE
13 INDIVIDUAL CAN POSSIBLY DO RESEARCH ON ALL OF THESE
14 FACTORS, AND SO SOME OF THIS WORK THAT I'M RELYING ON IN
15 EXPRESSING MY OPINION TODAY IS WORK THAT I ACTUALLY DID
16 MYSELF AND HAVE PUBLISHED AND SO IT FORTH, SOME OF IT IS
17 WORK THAT'S BEEN DONE AND PUBLISHED BY OTHER PEOPLE.

18 Q AND WE TALKED ABOUT THE NON REAL WORLD
19 ASPECT OF IT. ARE THERE ANY STUDIES THAT HAVE TO DO WITH
20 THE REAL WORLD ASPECT OF ACCURACIES?

21 A YES.

22 Q WHAT ARE THOSE?

23 A WELL, IT'S THE STUDY THAT I STARTED TO
24 TALK ABOUT BEFORE. CASES WHERE KNOWN MISIDENTIFICATIONS
25 HAVE OCCURRED IN REAL WORLD, KNOWN MISIDENTIFICATIONS
26 HAVE OCCURRED IN REAL WORLD CASES. SO THERE ARE REAL
27 WORLD CASES WHERE PEOPLE HAVE BEEN CONVICTED AND THEN AT
28 SOME POINT LATER IT'S BEEN FOUND THAT THE --

1 MR. DIXON: OBJECTION THIS IS HEARSAY,
2 IRRELEVANT, IT WAS NOT INVOLVED IN THE DNA TESTING OR
3 RESEARCH ON THIS SUBJECT.

4 MS. SARIS: YOUR HONOR, IT GOES TO FOUNDATION.
5 MAY WE APPROACH?

6 THE COURT: OVERRULED. THE ANSWER CAN REMAIN.

7 Q BY MS. SARIS: I GUESS THE QUESTION IS,
8 WHEN YOU'RE IN A CLASSROOM YOU KNOW WHO DID IT BECAUSE
9 YOU SENT THE GUY IN FOR PART OF THE EXPERIMENT?

10 A YES.

11 Q AND SO IN THE REAL WORLD, HOW WOULD YOU
12 EVER KNOW THAT IDENTIFICATION IS A MISIDENTIFICATION IN
13 THESE THINGS?

14 A WELL, THAT'S THE CHALLENGE ACTUALLY. WE
15 USUALLY DON'T KNOW WHEN A MISIDENTIFICATION HAS OCCURRED
16 IN REAL WORLD CASES, WHICH IS WHY IT'S SO INFORMATIVE TO
17 US THAT WE HAVE THESE CASES IN WHICH THERE WERE, AND
18 THEY'VE BEEN TRACKING THESE CASES, THEY'RE ARE NOW ABOUT
19 MORE THAN 120 DIFFERENT CASES IN WHICH A GIVEN INDIVIDUAL
20 HAS BEEN CONVICTED IN A PARTICULAR CASE. AND THEN
21 SOMETIME LATER DNA EVIDENCE HAS BECOME AVAILABLE, AND
22 BASED ON THAT DNA EVIDENCE, THESE 120 SOME PEOPLE HAVE
23 BEEN EXONERATED. IN OTHER WORDS, THEY WERE -- IT WAS A
24 WRONGFUL CONVICTION. THEY SHOULDN'T ABOUT HAVE BEEN
25 CONVICTED.

26 PEOPLE IN MY FIELD ARE DOING RESEARCH TO
27 SAY, OF THESE 120 SOME CASES, WHAT KIND OF EVIDENCE
28 CONTRIBUTED TO THESE WRONGFUL CONVICTIONS? WHAT IS THIS

1 EVIDENCE THAT TENDS TO BE WRONG SO OFTEN?

2 AND THE ANSWER IS THAT IN MORE THAN 80
3 PERCENT OF THESE CASES, THE ORIGINAL CONVICTION TURNED ON
4 EYEWITNESS EVIDENCE. SO THESE ARE BY IN LARGE EYEWITNESS
5 IDENTIFICATION CASES, AND IT MAKES IT EVEN MORE
6 COMPELLING BECAUSE SINCE THE EXONERATING EVIDENCE WAS --

7 MR. DIXON: OBJECTION, THIS IS A NARRATIVE AT
8 THIS POINT.

9 THE COURT: ALL RIGHT SUSTAINED.

10 Q BY MS. SARIS: LET ME INTERRUPT AND ASK
11 THIS. SO ARE YOU HERE TO TELL THIS JURY WHETHER A
12 PARTICULAR WITNESS IS RIGHT OR WRONG?

13 A ABSOLUTELY NOT.

14 Q OKAY. ARE YOU HERE TO SAY WHETHER OR NOT
15 A WITNESS IS LYING?

16 A NO.

17 Q IN YOUR RESEARCH THAT YOU'VE DONE, HAVE
18 YOU EVER FOUND WELL INTENTIONED WITNESSES THAT MAKE
19 MISTAKES?

20 A YES, VERY OFTEN. IN FACT IN MOST OF THE
21 RESEARCH THAT I DO AND OTHER PEOPLE DO AND SO FORTH, WHEN
22 A WITNESS MAKES A MISTAKE, IT'S ALMOST ALWAYS AN HONEST
23 MISTAKE. IT IS A WELL INTENDED WITNESS THAT UNDER
24 CERTAIN CIRCUMSTANCES CAN NONETHELESS MAKE A MISTAKE. SO
25 I WOULD NEVER ASSUME THAT A JUROR -- THAT A WITNESS WHO
26 MADE A MISTAKE WAS MAKING A MISTAKE BECAUSE THEY WEREN'T
27 TRYING.

28 Q OKAY. LET ME ASK YOU THIS THEN. IF YOU

1 COULD BRIEFLY ANSWER THE QUESTION OF BASED ON YOUR
2 RESEARCH THAT YOU CONDUCTED AND THE ARTICLES THAT YOU
3 HAVE RELIED ON, HOW DOES MEMORY THEN IN THESE SITUATIONS
4 WORK?

5 A OKAY. JUST VERY VERY QUICKLY. IF IT'S --
6 ALL RIGHT I WOULD LIKE TO START BY TALKING HOW MEMORY
7 DOESN'T WORK, JUST A REAL QUICK EXAMPLE.

8 Q OKAY.

9 A IF I ASKED EVERYONE TO DESCRIBE A SECURITY
10 OFFICER WHO CHECKED THEM AS THEY WALKED THROUGH THE
11 MEDICAL DETECTOR COMING IN TO THE BUILDING THIS MORNING,
12 AND FOR ME THAT WAS TWO AND A HALF HOURS AGO WHEN I
13 WALKED IN TO THE BUILDING. IF MEMORY WORKED LIKE A VIDEO
14 CAMERA -- AND MANY PEOPLE THINK THAT MEMORY JUST WORKS
15 LIKE A CAMERA OR VIDEO CAMERA -- IF I ASKED YOU NOW TO
16 THINK BACK ON WHAT THAT SECURITY OFFICER LOOKED LIKE WHO
17 WAS THERE, THE FELLOW, LADY OR WOMAN AT THE METAL
18 DETECTOR, IF MEMORY WORKED LIKE A CAMERA YOU WOULD JUST
19 PLAY BACK THE TAPE IN YOUR HEAD TO THE PLACE WHERE YOU'RE
20 WALKING INTO THE BUILDING AND JUST READ OFF THE TAPE.
21 AND IF MEMORY WORKED LIKE A VIDEO CAMERA THEN EVERY TIME
22 YOU PLAYED THAT TAPE BACK, YOU WOULD JUST KEEP SEEING THE
23 SAME IMAGE, JUST PLAY IT BACK AND WATCH IT AGAIN AND
24 AGAIN.

25 BUT MEMORY DOES NOT WORK THAT WAY. MEMORY
26 IS NOT THAT PRECISE A PROCESS, AND OUR MEMORY
27 UNFORTUNATELY IS NOT THAT ACCURATE. WE DON'T JUST KEEP
28 PLAYING THE TAPE BACK AGAIN. OUR MEMORY IS IT NOT A

1 PERM-A-FREEZE SYSTEM. IT DOESN'T WORK LIKE A -- JUST
2 TAKING A PHOTOGRAPH IN THE HEAD. SOMETIMES PEOPLE TALK
3 ABOUT THEIR MEMORY USING THOSE WORDS. BUT IN FACT THAT'S
4 NOT HOW MEMORY WORKS.

5 Q OKAY. LET ME -- I ASKED YOU BEFORE IF I
6 ASKED TO YOU WRITE DOWN SOME FACTORS. DID YOU DO THAT?

7 A I HAVE A LIST, YES.

8 MS. SARIS: YOUR HONOR, MAY I HAVE APPROACH THE
9 WITNESS?

10 Q I HAVE A LIST OF 12 ITEMS I WOULD LIKE TO
11 MARK DEFENSE NEXT IN ORDER PLEASE.

12 THE COURT: 4 G.

13 Q BY MS. SARIS: DID YOU PREPARE ANY SORT OF
14 REPORT IN THIS CASE?

15 A YES.

16 Q AND ARE THE FACTORS THAT I'M ABOUT TO PUT
17 UP ON THE OVERHEAD, ARE THEY LISTED IN YOUR REPORT?

18 A YES, THAT'S MY REPORT THAT I SUBMITTED TO
19 YOU ON AUGUST 30TH. THEY ARE OF THE SAME FACTORS, YES.

20 Q AND WERE YOU ASKED TO LOOK AT -- IN THE
21 MATERIALS THAT YOU HAVE -- ANY REPORT OF ANY OTHER
22 EYEWITNESS IDENTIFICATION EITHER BY THE POLICE OR THE
23 DISTRICT ATTORNEY OR ANYONE ELSE?

24 A NO.

25 Q SO THE CONCLUSIONS AND OPINIONS YOU ARE
26 RELYING ON ARE BASED ON THE MATERIAL THAT YOU'VE LISTED?

27 A YES.

28 Q CAN YOU SEE THIS OR SHALL I FREEZE THIS

1 AND BRING THIS UP?

2 A NO, THAT'S FINE.

3 Q EXPOSURE TIME. WHAT DOES THAT MEAN?

4 A WHEN I'M TALKING ABOUT EXPOSURE TIME, I'M
5 TALKING ABOUT HOW LONG A PERIOD OF TIME AN EYEWITNESS HAD
6 TO LOOK AT THE FACE OF A PARTICULAR INDIVIDUAL. AND THIS
7 IS ESPECIALLY IMPORTANT IF AN EYEWITNESS IS LATER GOING
8 TO BE ASKED TO MAKE AN IDENTIFICATION, FOR EXAMPLE FROM A
9 PHOTOGRAPHIC LINEUP. IT'S IMPORTANT TO KNOW, YOU KNOW
10 PHOTOGRAPHIC LINE UPS WERE BASICALLY HEAD SHOTS OF
11 PEOPLE.

12 SO IF AN EYEWITNESS IS GOING TO BE ASKED
13 TO MAKE AN IDENTIFICATION OF A HEAD SHOT OF AN
14 INDIVIDUAL, IT'S IMPORTANT TO KNOW HOW MUCH TIME DID THE
15 EYEWITNESS HAVE TO ACTUALLY LOOK AT THE FACE OF THE
16 PARTICULAR INDIVIDUAL HE'S GOING TO BE ASKED TO IDENTIFY
17 LATER.

18 Q AND DON'T TAKE THIS THE WRONG WAY, SOME OF
19 THESE AREN'T ROCKET SCIENCE, THEY'RE JUST LOGIC, RIGHT?

20 A ABSOLUTELY. AND IN FACT, THE FIRST HALF
21 OF THE LIST I THINK IS JUST KIND OF STATEMENT OF FACTORS
22 THAT ARE RELATIVELY OBVIOUS IN TERMS OF CONDITIONS UNDER
23 WHICH MEMORY IS NOT RELIABLE.

24 Q AND HAVE YOU -- BUT THESE STILL WERE THE
25 PRODUCT OF THE RESEARCH STUDIES?

26 A YES.

27 Q WHAT IS MEANT BY DISTRACTION? WHO IS
28 BEING HE DISTRACTED IN THIS?

1 A SEVERAL RESEARCH STUDIES HAVE BEEN DONE TO
2 SHOW THAT WHEN WITNESSES HAVE TO SHARE THEIR TIME BETWEEN
3 LOOKING AT TWO INDIVIDUALS AND HAVE LESS TIME TO LOOK AT
4 EACH ONE, THEIR RELIABILITY OF THE THEIR MEMORY DROPS
5 OFF. SO WHEN I MENTIONED IN THE FIRST POINT, EXPOSURE
6 TIME, IF I COULD JUST ELABORATE FOR A SECOND.

7 WHEN A WITNESS LOOKS AT A PERSON FOR A
8 VERY BRIEFLY PERIOD OF TIME, LET'S SAY SOMEONE CAME TO
9 THE DOORWAY HERE AND STOOD IN FRONT OF THE US, WE LOOKED
10 AT THAT PERSON FOR FIVE SECONDS, AND THEN THEY TURNED AND
11 LEFT. IN A FIVE SECOND PERIOD OF TIME, WE COULD STILL
12 SEE SOME GENERAL INFORMATION ABOUT THAT INDIVIDUAL. AND
13 THAT GENERAL INFORMATION YOU KNOW, TENDS TO BE WHAT
14 PEOPLE REMEMBER. THEY WOULD REMEMBER THE GENDER OF THE
15 PERSON, THE RACE OF THE INDIVIDUAL, SOMETHING ABOUT THEIR
16 APPROXIMATE AGE, MAYBE THEIR SIZE, AND SO FORTH.

17 SO PEOPLE, YOU CAN STILL OF COURSE SEE
18 SOMEONE IF YOU LOOK AT THEM FOR A BRIEF PERIOD OF TIME,
19 BUT YOU ARE NOT GOING TO THE TO GET VERY MANY SPECIFIC
20 DETAILS OF THE PERSON. IF, NOW GOING TO POINT NUMBER 2,
21 -- YOUR QUESTION -- IF YOU HAVE A BRIEF PERIOD OF TIME
22 AND NOW YOU'RE NOT JUST LOOKING AT ONE PERSON BUT YOU'RE
23 SHARING YOUR TIME BETWEEN TWO INDIVIDUALS, YOU ARE GOING
24 TO BE LESS LIKELY TO LATER CORRECTLY IDENTIFY THAT
25 PERSON. MISIDENTIFICATIONS ARE MORE LIKELY UNDER THOSE
26 CIRCUMSTANCES.

27 Q OKAY. AND DISTANCE I THINK SPEAKS FOR
28 ITSELF. IS THAT JUST HOW FAR YOU ARE AWAY FROM THE

1 PERSON?

2 A YES.

3 Q WHAT DO YOU MEAN BY MOTIVATION TO
4 REMEMBER, IS IT IF A PERSON IS TRYING TO BE SINCERE?

5 A NO. WHAT I MEAN BY MOTIVATION TO REMEMBER
6 IS THE EXTENT TO WHICH YOU KNOW AT THE TIME THAT YOU LOOK
7 AT A PERSON THAT IT'S IMPORTANT TO REMEMBER WHAT THAT GUY
8 LOOKS LIKE. AND THIS IS KIND OF INTERESTING. IT RELATES
9 TO THIS ISSUE OF MEMORY AS A VIDEO CAMERA. AND LET ME
10 GIVE YOU AN EXAMPLE OF HOW THE RESEARCH IS DONE IN THIS
11 FIELD.

12 LET'S SAY AGAIN THIS HYPOTHETICAL PERSON
13 COMES INTO THE COURTROOM AND JUST COMES IN LOOKS AROUND
14 TURNS AND LEAVES, OKAY. AND LET'S SAY FOR HALF THE
15 PEOPLE, YOU ARE TOLD BEFORE THAT MAN COMES IN TO THE
16 COURTROOM THAT THERE IS A MAN WHO IS GOING TO COME INTO
17 THE COURTROOM, AND WHEN HE COMES INTO THE COURTROOM I
18 WANT YOU TO LOOK AT HIM REALLY CAREFULLY BECAUSE IT'S
19 GOING TO BE IMPORTANT FOR YOU TO IDENTIFY THAT PERSON
20 AFTERWARDS. SO YOU HAVE MOTIVATION TO REMEMBER THAT FACE
21 BEFORE YOU LOOK AT THE FACE.

22 SO THAT WHEN HE COMES IN, YOUR MOTIVATION
23 TO REMEMBER THE PERSON IS GOING TO RESULT IN YOU LOOKING
24 AT THAT PERSON IN A CERTAIN WAY SO YOU CAN REMEMBER WHAT
25 HE SEES AFTERWARDS.

26 ALL RIGHT. NOW LET'S SAY THE OTHER HALF
27 OF YOU, THAT GUY COMES IN TO THE ROOM, STAYS HERE FOR
28 FIVE OR TEN SECONDS, TURNS AND LEAVES. NOTHING IS DONE,

1 BUT LET'S SAY THE NEXT DAY, TOMORROW I COME IN AND I SAY
2 TO YOU "DO YOU REMEMBER AT THAT GUY WHO AROUND 10:35
3 YESTERDAY MORNING CAME IN FOR A FEW SECONDS TURNED AND
4 LEFT? FOR ONE MILLION DOLLARS I WANT YOU TO THINK REALLY
5 CAREFULLY ABOUT WHAT THAT GUY LOOKED LIKE, AND I WANT YOU
6 TO TELL ME EVERYTHING YOU CAN REMEMBER ABOUT WHAT THAT
7 GUY LOOKED LIKE". SO YOU'RE REALLY MOTIVATED I'M GOING
8 TO GIVE YOU A MILLION DOLLARS IF YOU CAN DESCRIBE HIM,
9 BUT I DON'T GIVE YOU THAT MOTIVATION UNTIL AFTER YOU'VE
10 SEEN HIM.

11 THERE IS NO DIFFERENCE BETWEEN THE GROUP
12 WHO GOT THE MOTIVATION AFTERWARDS AND THE GROUP WHO WAS
13 NEVER TOLD TO TRY TO LOOK AT THE PERSON.

14 Q WHO WHAT DO YOU MEAN THERE'S NO
15 DIFFERENCE? THERE IS NO DIFFERENCE IN THEIR ACTIONS?

16 A MISIDENTIFICATIONS -- THEY ARE -- THE
17 PEOPLE WHO ARE, THE NEXT DAY THAT IS, AFTER YOU SEE THE
18 GUY THEY'RE TOLD TO REALLY NOW, REALLY, REALLY TRY TO
19 REMEMBER THAT WHAT THAT GUY LOOKS LIKE IS NOT EFFECTIVE.
20 IT'S GOING TO BE A VERY HIGH RATE OF THE
21 MISIDENTIFICATION. SO GIVING SOMEONE A MOTIVATION TO
22 REMEMBER SOMETHING AFTER THE EVENT OCCURRED, DOES NOT
23 SHARPEN MEMORY OR IT DOESN'T GO -- YOU CAN'T GO BACK IN
24 THE VIDEOTAPE SO TO SPEAK AND SHARPEN UP YOUR IMAGE ON
25 YOUR VIDEOTAPE OR FILL IN THE DETAILS OR REALLY
26 CONCENTRATE ON IT NOW. IT'S TOO LATE. IF YOU DIDN'T
27 CONCENTRATE ON THE INFORMATION WHEN IT WENT IN TO YOUR
28 MEMORY IT'S NOT THERE. IT'S GARBAGE IN, GARBAGE OUT.

1 TELLING SOMEONE AFTERWARDS IT'S REALLY IMPORTANT FOR YOU
2 TO HAVE SEEN THAT PERSON IS NOT GOING TO CLARIFY THEIR
3 MEMORY.

4 Q WHEN YOU SAY PROFILE, DOES THAT ACCOUNT
5 NUMBER 5 FOR WHEN YOU SEE SOMEONE FACE ON OR ON THE SIDE?

6 A IT DOES, YES. AND AT LEAST ONE STUDY HAS
7 BEEN DONE THAT HAS REPORTED THAT WHEN WITNESSES OBSERVE
8 AN INDIVIDUAL FROM THEIR SIDE PROFILE, THEY'RE MORE
9 LIKELY TO MAKE AN IDENTIFICATION LATER THAN IF THEY LOOK
10 AT THE PERSON FRONT ON.

11 ENOUGH OF THE INFORMATION IN OUR FACE,
12 WHAT GIVES OUR FACE SOME DISTINCTION AND SO FORTH IS A
13 SYMMETRY OF THE FACE, THE EXTENT TO WHICH THE LEFT AND
14 THE RIGHT SIDE OF OUR FACE HAS SYMMETRIC OR ASYMMETRIC --
15 WHERE WE SMILE -- AND SO FORTH, AND WHEN PEOPLE LOOK AT
16 THE FACE FROM SIDE PROFILE, NONE OF THAT INFORMATION
17 ABOUT FACIAL SYMMETRY IS AVAILABLE.

18 Q SO LET ME BACK YOU UP. SO IS IT EASIER TO
19 MAKE AN IDENTIFICATION IF YOU SEE SOMEONE FACE ON VERSUS
20 A PROFILE?

21 A IF YOU'RE GOING TO HAVE TO IDENTIFY ME
22 FROM A STRAIGHT-ON PICTURE OF MY FACE LATER, YOU DO MUCH
23 BETTER IF YOU SAW A STRAIGHT ON PICTURE OF MY FACE
24 INITIALLY.

25 Q WHAT ABOUT -- YOU SAY DISGUISE, LET ME ASK
26 YOU, WOULD A PERSON WEARING A HAT CALL IT A DISGUISE, OR
27 ARE YOU TALKING ABOUT A MASK AND GLASSES AND A MUSTACHE?

28 A NO. I'M TALK TALKING ABOUT HATS AS WELL.

1 AND IN PARTICULAR, WHEN A WITNESS LOOKS AT A PERSON'S
2 FACE, IT'S HELPFUL IF THEY CAN SEE THE WHOLE FACE AND
3 HEAD. AND TO THE EXTENT THAT ANYTHING COVERS PART OF
4 THEIR FACE AND HEAD, PARTICULARLY IF IT'S IN THE UPPER
5 PART OF THE FACE, IT'S GOING TO LEAD TO A MORE LIKELY
6 MISIDENTIFICATION LATER.

7 SO IF A WITNESS LOOKS AT A PERSON AND
8 ANYTHING, LIKE ABOVE THEIR NOSE IS COVERED WITH
9 SUNGLASSES, A HAT OR ANYTHING, IT'S GOING TO LEAD TO A
10 MISIDENTIFICATION LATER. WHEN WE LOOK AT FACES WE TEND
11 TO CONCENTRATE ON THE UPPER PART THE FACE. SO THE
12 ABILITY TO SEE EYES OF COURSE, WHICH IS THE MOST SALIENT
13 FEATURE OF A FACE, AND THEN HAIR, HAIRLINE, FOREHEAD,
14 EYEBROWS AND SO FORTH, TO THE EXTENT THAT ANY OF THOSE
15 FEATURES ON THE UPPER PART THE FACE ARE COVERED, WHEN A
16 WITNESS OBSERVES A PERSON, IT MEANS THAT LATER IF THEY
17 SEE THAT PERSON WITHOUT THAT PART OF THEIR CASE FACE
18 COVERED, THERE IS A HIGH PROBABILITY OF A
19 MISIDENTIFICATION.

20 Q AND WHEN WE'RE TALKING ABOUT THE STUDIES
21 THAT YOU DO, WOULD IT BE ACCURATE TO SAY THAT SOMEONE
22 MIGHT WALK INTO A CLASSROOM FOR INSTANCE WITHOUT A HAT
23 AND WITH A HAT AND YOU MEASURE THEIR ACCURACIES?

24 A YES.

25 Q TIME DELAY. LET ME ASK YOU
26 HYPOTHETICALLY; DID YOU SPEAK TO US ABOUT A WITNESS WHO
27 IS NOT ASKED TO MAKE AN IDENTIFICATION FOR 13 YEARS AFTER
28 THEY --

1 MR. DIXON: OBJECTION YOUR HONOR. I THOUGHT WE
2 DISCUSSED THIS YESTERDAY WITH RESPECT TO --

3 THE COURT: YES. I DON'T KNOW WHERE WE'RE GOING,
4 BUT GO AHEAD AND --

5 MS. SARIS: IT IS A HYPOTHETICAL QUESTION.

6 THE COURT: GO AHEAD AND POSE IT AS A
7 HYPOTHETICAL.

8 MS. SARIS: I THOUGHT I DID. I'M SORRY.

9 Q HYPOTHETICALLY, LET'S TAKE A SITUATION
10 WHERE A WITNESS SEES AN INDIVIDUAL AND IS NOT ASKED TO
11 IDENTIFY THAT PERSON FOR 13 YEARS. IN THAT HYPOTHETICAL
12 EXAMPLE, WHAT ISSUES WOULD BE RELEVANT TO THAT
13 IDENTIFICATION?

14 A WELL, ALL THE ISSUES I'M TALKING ABOUT
15 TODAY WOULD BE RELEVANT, BUT THE TIME DELAY ALONE WOULD
16 RENDER SUCH AN IDENTIFICATION EXTREMELY DUBIOUS.

17 Q AND DOES IT CHANGE THE FARTHER ONE GETS
18 AWAY FROM THE POINT WHERE THEY SEE IT, WHEN THEY'RE ASKED
19 TO HAVE AN IDENTIFICATION -- ARE THERE ANY STUDIES THAT
20 TALK ABOUT THE LENGTH?

21 A YES. AND THERE ARE TWO STUDIES THAT I
22 THINK IT WOULD BE USEFUL FOR ME TO ELABORATE IF I COULD.
23 ONE OF THE THOSE WAS A CLASSIC STUDY THAT WAS DONE BY
24 SHEPHERD, S-H-E-P-H-E-R-D. SHEPHERD PUBLISHED --
25 CONDUCTED A STUDY IN WHICH HE HAD GROUPS OF PEOPLE FROM
26 THE COMMUNITY OF ABERDEEN, SCOTLAND COME TO A CLASSROOM
27 AT THE UNIVERSITY OF THE ABERDEEN, AND THEY WERE SITTING
28 THERE TO PARTICIPATE IN A STUDY, AND WHILE THEY WERE

1 WAITING TO BE IN THE STUDY, IN WALKED A PERSON FROM
2 OUTSIDE, CAME IN STOOD IN FRONT OF THEM FOR 45 SECONDS.

3 AND FOR THE 45 SECONDS HE SAID, "EXCUSE ME
4 EVERYONE, BUT A CAR WAS LEFT OUTSIDE WITH THEIR
5 HEADLIGHTS ON. HERE IS A DESCRIPTION THE CAR. DID ANY
6 OF YOU COME HERE IN THAT CAR? IF SO, YOU SHOULD TURN
7 YOUR HEADLIGHTS OFF." IN FACT, IT WAS A BOGUS KIND OF
8 SITUATION. IT WASN'T ANYBODY'S CAR. AND SO THAT PERSON
9 THEN SAID ALL RIGHT, WELL THANK YOU, AND LEFT THE ROOM.

10 BUT 45 SECONDS, RELAXED, FACE-TO-FACE
11 CONTACT, GOOD LIGHTING AND EVERYTHING. SHEPHERD WAS
12 INTERESTED IN UNDER THESE RELATIVELY IDEAL CIRCUMSTANCES,
13 WHERE PEOPLE HAVE A GOOD OPPORTUNITY TO SEE THIS PERSON'S
14 FACE AND SEE HIM WELL AND SO FORTH, WHAT HAPPENS TO
15 MEMORY IS A FUNCTION OF WHETHER YOU TEST PEOPLE. IN THIS
16 CASE, IT WAS ONE WEEK LATER, ONE MONTH LATER, THREE
17 MONTHS LATER, OR ELEVEN MONTHS LATER.

18 AND IN EACH SITUATION WHAT THEY WERE SHOWN
19 IS AN 11 PERSON -- A VIDEOTAPE OF AN 11 PERSON LIVE
20 LINEUP. OKAY. SO THEY'RE LOOKING A 11 PERSON LIVE
21 LINEUP. AND JUST TO SAY IT, REMEMBER IF YOU ARE A SHOWN
22 A TRUE/FALSE TEST AND YOU JUST KIND OF GUESS WHAT THE
23 RIGHT ANSWER IS, YOUR PROBABILITY OF THE BEING CORRECT IS
24 50 PERCENT. IT'S NOT ZERO, IT'S 50 PERCENT. SO IN AN 11
25 PERSON LINEUP, IF YOU JUST GUESS WHICH PERSON IT IS,
26 YOU'RE PROBABILITY OF BEING CORRECT IS ONE OVER ELEVEN,
27 WHICH IS, I'M SORRY I SAID THAT WRONG. IT'S NINE PERSON
28 LINEUP. IT'S NINE PERSON LINEUP. SO YOUR PROBABILITY IS

1 ONE OVER NINE, WHICH IS 11 PERCENT CHANCE OF BEING
2 CORRECT JUST BY GUESSING, OKAY?

3 LET ME GIVE YOU THE NUMBERS. THE PEOPLE
4 WHO BROUGHT BACK ONE WEEK LATER AND ASKED TO MAKE AN
5 IDENTIFICATION OF THIS INDIVIDUAL, 65 PERCENT OF THEM
6 IDENTIFIED THE RIGHT PERSON. THE PEOPLE WERE BROUGHT
7 BACK ONE MONTH LATER, 55 PERCENT IDENTIFIED OF THE
8 CORRECT INDIVIDUAL. THE PEOPLE WHO WERE BROUGHT BACK
9 THREE MONTHS LATER, ONLY 50 PERCENT IDENTIFIED THE
10 CORRECT INDIVIDUAL.

11 Q 50 OR 15?

12 A 50. AND THE PEOPLE WHO WERE BROUGHT BACK
13 11 MONTHS LATER, AFTER 11 MONTHS, ONLY 10 PERCENT OF THEM
14 COULD IDENTIFY THE CORRECT INDIVIDUAL. NOW 10 PERCENT IS
15 WHAT I SAID WAS THE CHANCE RATE OR THE GUESSING RATE. SO
16 THEY'RE DOING NO BETTER THAN IF THEY HAD NEVER SEEN THE
17 PERSON TO BEGIN WITH BUT WERE JUST KIND OF RANDOMLY
18 POINTING A FINGER AT A PERSON IN THE LINEUP.

19 SO THAT'S A STUDY IN WHICH THE WITNESSES
20 GOT A REALLY GOOD LOOK AT THE PERSON FOR 45 SECONDS.
21 FULL ON VIEW OF HIS FACE, NO HAT, NO DISGUISE, ANYTHING
22 AND THEN AFTER 45 SECONDS HE HAVE LEFT. AND AFTER 11
23 MONTHS, PEOPLE WHO WERE HIGHLY MOTIVATED TO DO THEIR BEST
24 AND PICK SOMEONE OUT OF A LINEUP, ONLY 10 PERCENT OF THEM
25 COULD IDENTIFY THE CORRECT INDIVIDUAL. THAT'S 11 MONTHS
26 LATER.

27 Q OKAY. SO 13 YEARS WOULD BE EVEN OBVIOUSLY
28 LONGER THAN 11 MONTHS?

1 A RIGHT, 13 YEARS, YOU KNOW IF THEY COULDN'T
2 DO IT AFTER 11 MONTHS, THEY COULDN'T DO IT AFTER A YEAR
3 OR TWO YEARS OR THREE YEARS. 13 YEARS IS JUST OFF THE
4 SCALE, AN EXTREMELY LONG TIME DELAY FOR IDENTIFYING A
5 PERSON YOU SAW ONE TIME VERY BRIEFLY.

6 Q OKAY. NOW ONE OF THE THINGS THAT I ASKED
7 YOU TO LOOK AT IN THIS CASE WAS PHOTOGRAPHS OF A LINEUP.

8 A YES.

9 Q DO YOU HAVE THE PHOTOGRAPHS THAT I SENT
10 YOU OF THE LINEUP IN THIS CASE?

11 A I DO.

12 MR. DIXON: OBJECTION, YOUR HONOR. I THOUGHT
13 WE -- OBJECTION IRRELEVANT. I THOUGHT WE HAD DISCUSSED
14 THIS YESTERDAY.

15 THE COURT: WELL, WE DID BUT I HAVEN'T HEARD
16 ANYTHING YET TO CONCERN ME. SO LET'S KEEP GOING.

17 MR. DIXON: OKAY.

18 MS. SARIS: MAY I APPROACH?

19 THE COURT: YES.

20 MS. SARIS: I HAVE THE PHOTOGRAPH, IT'S JUST
21 ANOTHER VIEW OF PEOPLE'S EXHIBIT THAT HAS BEEN PREVIOUSLY
22 IDENTIFIED, IT'S JUST A LITTLE CLEARER. MAY I MARK THAT
23 DEFENSE NEXT ORDER IN ORDER?

24 THE COURT: THAT WILL BE 4 H.

25 Q BY MS. SARIS: IN TERMS OF THE PHOTOGRAPH
26 OF A LIVE -- PEOPLE THAT ARE IN PERSON WITH NUMBERS ON
27 THEM -- CAN YOU SPEAK TO ANY ISSUES REGARDING WHETHER OR
28 NOT YOU NOTICE ANY FACTORS RELATING TO BIAS IN THIS

1 PHOTOGRAPH.

2 MR. DIXON: OBJECTION, YOUR HONOR.

3 THE COURT: ALL RIGHT LET'S GO TO THE SIDE BAR.

4 (PROCEEDINGS HELD AT SIDEBAR.)

5 MR. DIXON: MY OBJECTION IS THAT I THOUGHT IN MY
6 402 YESTERDAY, THE COURT RULED THAT SHE WOULD NOT BE
7 ALLOWED TO EXPRESS ANY OPINIONS IN THIS CASE. IF SHE IS,
8 THEN I GUESS I GET TO DO THAT TOO.

9 MS. SARIS: ACTUALLY. THERE WAS NO RULING ON THE
10 402. SHE IS NOT ALLOWED TO MAKE THE ULTIMATE ISSUE ABOUT
11 WHETHER THE STEVENSES WERE CORRECT. THIS IS ABOUT THE
12 LINEUP. ARE THERE ANY FACTORS ABOUT BIAS IN THIS LINE
13 UP.

14 THE COURT: WHAT IS YOUR OFFER OF PROOF?

15 MS. SARIS: THAT THERE ARE TWO PEOPLE WHO ARE
16 UNDER AGE, ONE PERSON WHO'S MEXICAN, ONE PERSON WHO IS
17 ABOUT 90, AND THAT THIS IS A BIASED LINE UP.

18 THE COURT: WHY DOES THE JURY NEED TO HEAR FROM
19 AN EXPERT ON THAT? ISN'T THAT OBVIOUS JUST FROM LOOKING
20 AT THE PHOTOGRAPH AND YOU'LL BE ABLE TO ARGUE IT?

21 MS. SARIS: THE REASON IS WHAT THAT WOULD DO IN
22 TERMS OF HOW THAT WOULD AFFECT AN IMPROPER
23 IDENTIFICATION. HOW THOSE FACTORS GO INTO IT, WHAT THAT
24 MEANS, THE FURTHER STEP. THERE IS NOTHING IN ANY CASE
25 LAW THAT SUGGESTS AN EXPERT CAN'T COMMENT ON SPECIFICS OF
26 A LINEUP AND HOW IT WAS PUT TOGETHER. SHE CAN'T COMMENT
27 ON THE ULTIMATE ISSUE OF WHETHER THE I.D. WAS ACCURATE.

28 THE COURT: THERE IS NOTHING THAT NEEDS FURTHER

1 CLARIFICATION. THE LINEUP WILL SPEAK FOR ITSELF. I
2 DON'T HAVE ANY PROBLEM WITH HER TALKING ABOUT THE
3 FACTORS. AND YOU WERE ON THE RIGHT PATH, BUT I DO WANT
4 TO STAY AWAY FROM HER OPINION AS TO THE EVIDENCE IN THIS
5 CASE AND THE PHOTOGRAPH OF THE LINEUP DOESN'T REQUIRE AN
6 EXPERT TO TESTIFY TO IT.

7 I MEAN THOSE THINGS ARE FAIRLY OBVIOUS TO
8 THE JURY. YOU CAN KEEP GOING, BUT JUST STAY AWAY FROM
9 THE ACTUAL LINEUP IN THIS CASE.

10 MS. SARIS: WELL, THIS HAS BEEN INTRODUCED INTO
11 EVIDENCE, SO I WOULD AT LEAST LIKE IT ON THE OVERHEAD AS
12 WE SPEAK. THE PEOPLE INTRODUCED IT INTO EVIDENCE. IT'S
13 THE SAME PHOTOGRAPH. SHE DOESN'T HAVE TO REFER TO THE
14 PHOTOGRAPH SPECIFICALLY, I DON'T SEE ANY OBJECTION TO
15 HAVING IT UP WHILE WE DISCUSS THE FACTORS.

16 THE COURT: OKAY. I DON'T HAVE ANY PROBLEM WITH
17 THAT.

18 MR. DIXON: OKAY, BUT WHEN WE LEAVE, BECAUSE I
19 KNOW THE COURT DOESN'T WANT TO REPEATEDLY COME UP HERE --

20 THE COURT: YES.

21 MR. DIXON: -- APPARENTLY IT'S OKAY TO USE
22 HYPOTHETICALS AS LONG AS THEY ARE -- MATCH THE FACTS OF
23 THIS CASE.

24 THE COURT: YES. I DON'T WANT TO GET INTO A
25 SITUATION WHERE THE EXPERT IS GIVING AN OPINION AS TO THE
26 ACCURACY OF THE IDENTIFICATION.

27 MS. SARIS: AND THIS -- AND I USED 13 YEARS
28 BECAUSE THAT'S -- I DIDN'T ASK OR ANY SPECIFICS ABOUT

1 ANYTHING.

2 THE COURT: RIGHT.

3 MS. SARIS: THIS WAS A TIME FRAME BECAUSE WE WERE
4 ON THE TIME ISSUE.

5 THE COURT: ALL RIGHT.

6 MR. DIXON: THAT JUST GIVES ME SOME GUIDANCE.
7 THANK YOU.

8 (SIDE BAR CONCLUDED.)

9 Q BY MS. SARIS: LET ME ASK YOU IN GENERAL
10 -- AND I'LL TAKE BACK DEFENSE 4 G -- BUT IN GENERAL IF
11 YOU COULD TELL ME -- OR IF YOU NEED TO REFER TO THAT FOR
12 ANY REASON -- WITHOUT REFERRING TO THIS SPECIFIC LINEUP,
13 LET ME ASK YOU WHAT FACTORS DETERMINE WHETHER A LINEUP IN
14 GENERAL IS BIASED OR NEUTRAL?

15 A OKAY. THERE IS A VERY SPECIFIC PROCEDURE.
16 AND I SHOULD SPECIFY WHAT THAT PROCEDURE IS FOR
17 DETERMINING WHETHER A LINEUP IS FAIR AND UNBIASED OR
18 WHETHER IT IS UNFAIR AND BIASED. AND THAT PROCEDURE IS
19 WELL SPECIFIED A NUMBER OF DIFFERENT PLACES. THE
20 PROCEDURE IS THAT AN INVESTIGATING OFFICER SHOULD GET THE
21 DESCRIPTION THAT WAS GIVEN OF THE INDIVIDUAL BY THE
22 EYEWITNESSES. SO YOU SHOULD GO BACK TO THE ORIGINAL
23 DESCRIPTION THAT WAS GIVEN BY THE EYEWITNESSES. AND THEN
24 THE LINEUP SHOULD BE CONSTRUCTED, WHETHER IT'S A
25 PHOTOGRAPHIC LINEUP OR A LIVE LINEUP, SHOULD BE CONDUCTED
26 SO THAT EVERYBODY IN THE LINE UP MATCHES THE DESCRIPTION
27 THAT WAS GIVEN BY THE EYEWITNESS.

28 SO IF THE EYEWITNESS IS DESCRIBING SOMEONE

1 OF A PARTICULAR AGE, EVERYBODY IN THE LINEUP SHOULD BE
2 THAT AGE. IF THE WITNESS IS DESCRIBING SOMEONE WHO HAS A
3 PARTICULAR HAIR COLOR AND TEXTURE, EVERYONE IN THE LINEUP
4 SHOULD HAVE THAT HAIR COLOR AND TEXTURE. IF THE WITNESS
5 IS DESCRIBING SOMEONE WHO HAS A PARTICULAR TYPE OF
6 COMPLEXION, EVERYONE IN THE LINEUP SHOULD HAVE THAT
7 PARTICULAR TYPE OF COMPLEXION, ET CETERA.

8 SO WHAT YOU SHOULD END UP IS A LINEUP THAT
9 INCLUDES ALL INDIVIDUALS WHO ALL MATCH THE DESCRIPTION
10 GIVEN BY THE EYEWITNESS. BECAUSE IF A WITNESS REMEMBERED
11 HAVING SEEN FOR EXAMPLE, A 20-YEAR-OLD TALL, THIN, WHITE
12 GUY WITH FRECKLES AND GOES TO A LINEUP IN WHICH SEVERAL
13 OF THE PEOPLE AREN'T TALL AND THIN, THEY CAN IMMEDIATELY
14 BE ELIMINATED; AND ONE PERSON DOESN'T LOOK WHITE, THAT
15 PERSON CAN BE ELIMINATED; AND IF THEY GET DOWN TO ONLY
16 ONE OR TWO PEOPLE IN THE LINEUP LOOK LIKE THEY HAVE
17 FRECKLES, WELL THEN ESSENTIALLY INSTEAD OF HAVING A
18 SIX-PERSON LINEUP, YOU WOULD FUNCTIONALLY HAVE A ONE OR
19 TWO PERSON LINEUP.

20 AND THAT'S PROBLEMATIC BECAUSE THEN WE GET
21 BACK TO THAT BUSINESS WITH THE TRUE/FALSE TEST. AND A
22 TRUE/FALSE TEST THERE ARE TWO OPTIONS. AND IF I'M A GOOD
23 GUESSER, I COULD HIT THE RIGHT ANSWER. IF I'M NOT, I
24 STILL HAVE A 50 PERCENT CHANCE OF BEING RIGHT.

25 WELL IF A LINEUP CAN BE DISTILLED DOWN TO
26 WHAT IS FUNCTIONALLY A ONE OR TWO PERSON LINEUP, THEN
27 IT'S NOT AT ALL SURPRISING IF AN EYEWITNESS PICKS SOMEONE
28 OUT OF THE LINEUP THAT IS THE INTENDED PERSON FOR THAT

1 WITNESS TO PICK OUT.

2 Q OKAY. LET ME COME BACK TO YOU TO GET
3 THESE FACTORS THAT I HAVE A TAKEN DOWN. SO THE LIST OF
4 FACTORS, DID I GIVE THAT BACK TO YOU?

5 A SORRY, YES.

6 Q THANK YOU. SO YOU'RE NOT MAKING A FINAL
7 CONCLUSION IN THIS CASE, YOU'RE GIVING US FACTORS THAT A
8 JURY COULD USE TO ASSIST IN DETERMINATION, IS THAT
9 CORRECT?

10 A MY UNDERSTANDING IS I'M NOT BEING ASKED TO
11 MAKE A FINAL DETERMINATION IN THIS CASE. I COULD, BUT MY
12 UNDERSTANDING IS YOU'RE NOT ASKING ME THAT.

13 Q OKAY. LET ME ASK YOU THIS, WOULD THE FACT
14 OF A PERSON SEEING SIX PICTURES OF AN INDIVIDUAL PRIOR TO
15 GOING TO SEE INDIVIDUALS IN A LIVE LINEUP AFFECT AN
16 ACCURACY IN ANY WAY?

17 A YES.

18 MR. DIXON: OBJECTION VAGUE.

19 MS. SARIS: I CAN REPHRASE.

20 Q DO YOU KNOW WHAT A PHOTO LINEUP IS?

21 A YES.

22 Q AND WHAT IS A PHOTO LINEUP?

23 A USUALLY SIX HEAD SHOTS OF INDIVIDUALS,
24 THEY'RE PRESENTED TO AN EYEWITNESS TO SEE IF THE
25 EYEWITNESS CAN OR CANNOT MAKE AN IDENTIFICATION.

26 Q AND WHAT FACTOR, IF ANY, WOULD IT PLAY FOR
27 EYEWITNESS TO SEE THAT BEFORE ATTENDING A LIVE LINEUP?

28 A WELL IT DOES HAVE AN EFFECT, AND THAT'S

1 THE RESEARCH I HAVE TALKED ABOUT EARLIER THAT I CONDUCTED
2 MYSELF WHERE I WANTED TO SEE WHAT EFFECT DOES VIEWING A
3 PHOTOGRAPHIC LINEUP HAVE ON A SUBSEQUENT LIVE LINEUP.
4 AND ESPECIALLY IN CASES WHERE THE PHOTOGRAPHIC LINEUP --
5 I'M SORRY START AGAIN.

6 A WITNESS LOOKS AT AN INDIVIDUAL AT THE
7 SCENE OF A CRIME LET'S SAY, OKAY. AND THEN SOME TIME
8 LATER, THEY LOOK AT A PHOTOGRAPHIC LINEUP. AND WHEN
9 THEY'RE LOOKING AT THE PHOTOGRAPHIC LINEUP, USUALLY WHAT
10 THEY'RE DOING IS LOOKING AT THE LINEUP TO SEE DOES ANYONE
11 IN THIS PHOTOGRAPHIC LINEUP LOOKS LIKE SOMEONE I CAN
12 REMEMBER FROM THE SCENE OF THE CRIME. THEY'RE LOOKING AT
13 THOSE FACES.

14 WELL, THE PROCESS OF LOOKING AT THOSE SIX
15 FACES IS MAKING THOSE SIX FACES FAMILIAR TO THE WITNESS
16 BECAUSE NOW THOSE FACES ARE ENTERING INTO THEIR MEMORY.
17 AND NOW IF THE PHOTOGRAPHIC LINEUP IS A LONG PERIOD OF
18 TIME AFTER THE WITNESS SAW THE PERSON TO BEGIN WITH,
19 AFTER THEY LEAVE OF THE PHOTOGRAPHIC LINEUP WHAT'S
20 FRESHER IN THEIR MEMORY IS THE GUYS WHO WERE AT THE
21 PHOTOGRAPHIC LINEUP, NOT THIS OTHER PERSON SEEN YEARS
22 PRIOR.

23 Q LET ME INTERRUPT YOU AT THAT POINT AND ASK
24 YOU, DOES IT MATTER IF YOU TAKE OF THE SAME SIX PEOPLE
25 THAT WERE PHOTOGRAPHED AND PUT THEM IN THE LIVE LINEUP?
26 WOULD THAT HELP?

27 A AFTER THAT YOU MEAN?

28 Q YES THE SAME SIX THAT WERE PHOTOGRAPHED,

1 YOU PUT THOSE PEOPLE IN A LIVE LINEUP?

2 A YES. YOU COULD DO THAT. WHAT SHOULD NOT
3 HAPPEN IS THAT AFTER A PHOTOGRAPHIC LINEUP, A WITNESS IS
4 SHOWN A LIVE LINEUP, AND ONLY ONE PERSON FROM THE
5 PHOTOGRAPHIC LINEUP IS THERE. THAT IS EXTREMELY
6 PROBLEMATIC. BECAUSE THEN A WITNESS IS MOST LIKELY
7 REMEMBERING FROM THE PHOTOGRAPHIC LINEUP WHAT THOSE GUYS
8 LOOKED LIKE AND THEN GOING TO THE LIVE LINEUP AND
9 IDENTIFYING FROM THE LIVE LINEUP THE ONE PERSON THAT THEY
10 CAN REMEMBER FROM THE PHOTOGRAPHIC LINEUP.

11 BECAUSE THAT REPEATED PERSON, THE
12 SUGGESTION IS, HEY THERE IS ONE GUY HERE THAT I HAVE SEEN
13 BEFORE. I KNOW I SAW HIM AT THE PHOTOGRAPHIC LINEUP,
14 THAT'S THE ONE PERSON WHO THEY'RE BRINGING FORWARD NOW TO
15 THE LIVE LINEUP, IT MUST BE HIM. AND THE TIMING OF ALL
16 THIS MATTERS TOO. BECAUSE IF THE PHOTOGRAPHIC LINEUP IS
17 VERY -- A SHORT PERIOD OF TIME BEFORE THE LIVE LINEUP,
18 THEN AT THE LIVE LINEUP WHAT IS GOING TO BE FRESHER IN
19 MEMORY IS THE GUYS WHO WERE JUST SEEN AT PHOTOGRAPHIC
20 LINEUP.

21 IF IT WAS YEARS PRIOR THAT THE WITNESS SAW
22 THE PARTICULAR PERSON, THAT MEMORY HAS DECLINED YEARS
23 AGO. WE ALREADY FOUND OUT AFTER 11 MONTHS WITNESSES
24 AREN'T GOING TO REMEMBER A FACE THAT AT THE SAW VERY
25 BRIEFLY. SO AFTER 11 MONTHS THAT FACE IS GONE. BUT AT
26 THE LIVE LINEUP, WHAT A WITNESS CAN BE DOING IS
27 IDENTIFYING THE ONE FACE THAT THEY REMEMBER, "HEY I JUST
28 SAW THAT PERSON A LITTLE WHILE AGO AT THE PHOTOGRAPHIC

1 LINEUP". AND THAT THEN IS THE PERSON THEY'RE
2 IDENTIFYING. AND THAT MAY NOT BE A CONSCIOUS PROCESS.
3 THE WITNESS -- I'M NOT IMPLYING THAT THE WITNESS DOES
4 THAT ON PURPOSE. IT'S JUST THAT AT THE LIVE LINEUP, THE
5 FAMILIAR FACE KIND OF JUMPS OUT AS THE ONE THAT MATCHES
6 THE PHOTOGRAPHIC LINEUP.

7 Q WHAT ABOUT -- WELL WHEN WE WERE TALKING
8 JUST EARLIER ABOUT YOUR NOT BEING ASKED FOR YOUR FINAL
9 CONCLUSION, THAT'S BECAUSE THE LAW LEAVES IT TO THE
10 JURORS. IS THAT YOUR UNDERSTANDING?

11 A YES.

12 Q WHAT ABOUT SUGGESTIVE INFLUENCE? WHAT DO
13 YOU MEAN SUGGESTIVE? WHEN? AND BY WHOM? AND HOW?

14 A OKAY. BY SUGGESTIVE INFLUENCES I MEAN
15 WHEN WE'RE TESTING MEMORY -- LET'S SAY A LIVE LINEUP. AT
16 A LIVE LINEUP WE WANT TO KNOW HOW WELL CAN MY WITNESS
17 IDENTIFY THE PERSON SEEN YEARS PRIOR AT THE SCENE OF THE
18 INCIDENT, OKAY. AND THAT'S WHAT WE REALLY WANT TO KNOW.
19 ANYTHING THAT HAPPENS BETWEEN WHEN A WITNESS OBSERVED THE
20 PERSON INITIALLY AND WHAT HAPPENS AT THE LIVE LINEUP
21 COULD SUGGESTIVELY INFLUENCE THEIR MEMORY. SO, FOR
22 EXAMPLE, IF WITHIN THIS WINDOW OF TIME A WITNESS SEES A
23 WANTED POSTER FOR A PERSON AND SEES A PARTICULAR PERSON'S
24 FACE DEPICTED IN A WANTED POSTER, THAT CAN SUGGESTIVELY
25 INFLUENCE THEIR MEMORY FOR WHAT THAT THIS GUY MIGHT HAVE
26 LOOKED LIKE. LET'S SAY THEY HAVE SEEN ON TELEVISION A
27 BROADCAST ABOUT THE PERSON. NOW INFORMATION ABOUT THAT
28 PERSON SEEN ON TELEVISION IS IN THEIR MEMORY.

1 THAT CAN SUGGESTIVELY INFLUENCE THEIR MEMORY. LET'S SAY
2 TWO WITNESS ARE TALKING TO EACH OTHER, CALLED WITNESS
3 CROSS TALK, THAT CAN INFLUENCE WITNESS'S MEMORY.

4 Q LET ME STOP YOU AT THAT POINT. DOES THAT
5 MEAN AT THE TIME OF THE LINE UP THEY'RE TALKING TO EACH
6 OTHER OR ANY TIME BETWEEN THE VIEWING AND THEN WHEN
7 THEY'RE BEING ASKED?

8 A ANY TIME BETWEEN THE INITIAL VIEWING AND
9 THE LINEUP. IF WITNESSES ARE TALKING TO EACH OTHER, THEY
10 CAN BEING AFFECTING EACH OTHER'S MEMORY.

11 Q AND IS THERE ANY PROCEDURE, IN TERMS OF
12 THE PROCEDURES YOU WERE DISCUSSING EARLIER, ABOUT
13 SEPARATING WITNESSES OR WHETHER IT'S BETTER TO KEEP THEM
14 TOGETHER OR KEEP THEM APART?

15 A WELL, CERTAINLY WITNESSES WHEN THEY'RE
16 SHOWN A PHOTOGRAPHIC LINEUP OR SHOWN A LIVE LINEUP,
17 SHOULD BE SHOWN THAT SEPARATELY. THEY SHOULD NOT BE
18 ALLOWED TO HEAR EACH OTHER'S RESPONSES OR TALK TO EACH
19 OTHER OR ANYTHING. SO CERTAINLY AT THAT POINT THEY
20 SHOULD BE SEPARATED.

21 BUT IF WE KNOW THAT DURING A LONG PERIOD
22 OF TIME WITNESSES ARE TALKING TO EACH OTHER, PARTICULARLY
23 IF ONE OF THEM HAS SEEN A SUSPECT ON TELEVISION AND IS
24 THEN TALKING TO THE OTHER ONE ABOUT WHAT THAT PERSON
25 MIGHT HAVE LOOKED LIKE, EVENTUALLY WE JUST HAVE THIS KIND
26 OF A MESS OF WHAT'S IN PEOPLE'S MEMORY THAT'S A MIXTURE
27 OF WHAT THEY INITIALLY SAW BUT PROBABLY FORGOT MOST OF.
28 AND NOW WHAT THEY'RE REMEMBERING FROM THE OTHER PERSON

1 AND WHAT THEY'RE REMEMBERING FROM TELEVISION AND WANTED
2 POSTERS SO FORTH. AND ONCE INFORMATION HAS BEEN
3 SUGGESTIVELY INFLUENCED, IT'S IMPOSSIBLE TO THEN KIND OF
4 CLEANSE IT AGAIN.

5 Q OKAY. WHAT ABOUT IF A PERSON IS TOLD
6 ABOUT YOU KNOW THAT THEY -- THAT AFTER THEIR LINEUP
7 THEY'RE TOLD, "OH THAT'S THE PERSON WE SUSPECTED". DOES
8 THAT INFLUENCE IT IN ANY WAY?

9 A VERY MUCH SO. IF A PERSON MAKES AN
10 IDENTIFICATION AND IS TOLD OR PICKS UP ANY KIND OF CUE OR
11 CLUE THAT HEY THEY PICKED THE RIGHT GUY, THAT
12 SYSTEMATICALLY INCREASES THAT WITNESSES CONFIDENCE IN
13 THEIR IDENTIFICATION LATER ON. SO WHEN I'M STUDYING A
14 CASE, ONE OF THE THINGS I LOOK AT IS WHAT HAPPENS TO A
15 WITNESS'S EXPRESSED CONFIDENCE OVER TIME. AND TYPICALLY
16 WITNESSES BECOME LESS CONFIDENT OVER TIME. THEY
17 INITIALLY SAY, "I THINK THAT'S THE GUY, I'M PRETTY SURE,"
18 AND THEN OVER TIME THEY START SAYING, "I DON'T KNOW." "I
19 CAN'T." "I HAVE NO CONFIDENCE AT ALL." "I'M UNSURE ABOUT
20 THIS." "IT'S BEEN SO LONG I CAN'T EVEN TELL." THAT'S WHAT
21 TYPICALLY HAPPENS IS THAT MEMORY DROPS OFF WITH THE
22 PASSAGE OF TIME AND CONFIDENCE DROPS OFF WITH THE PASSAGE
23 OF TIME. BUT ANY TIME I FIND IN A CASE THAT A WITNESS'S
24 CONFIDENCE IS INCREASING OVER TIME, THAT'S A RED FLAG
25 THAT SOMETHING ELSE IS HAPPENING IN THAT CASE.
26 AND IT CAN BE A NUMBER OF THINGS.

27 ONE OF THOSE IS IT THAT IT COULD BE OF THE
28 WITNESS HAS BEEN TOLD THAT THEY MADE A CORRECT

1 IDENTIFICATION. BECAUSE IF THE WITNESS PICKS SOMEONE AND
2 IS TOLD YOU PICKED THE RIGHT GUY, OR THAT'S WHO WE THINK
3 IT IS, OR ANYTHING LIKE THAT, THEN THE WITNESS
4 SYSTEMATICALLY BECOMES MORE CONFIDENT OVER TIME. AND
5 THIS CAN BE MANIPULATED -- HAS BEEN MANIPULATED IN
6 RESEARCH STUDIES. AND IT'S ALMOST LIKE CLOCKWORK. YOU
7 JUST TURN THE DIAL. YOU GIVE THE WITNESS A LOT OF
8 FEEDBACK THAT YES, YOU PICKED THE RIGHT PERSON, NEXT TIME
9 THEY TESTIFY, THEIR CONFIDENCE IS HIGHER AND THEN YOU
10 TELL THEM THEY HAVE PICK THE RIGHT PERSON, AGAIN THEIR
11 CONFIDENCE IS HIGHER.

12 Q SO ARE THERE ANY PROCEDURES FOR -- AND YOU
13 HAVE A VERY FANCY WAY -- EXPERIMENTER EXPECTANCY EFFECT.
14 IS THAT A FANCY WAY OF SAYING THE GUY WHO IS SHOWING YOU
15 THE LINEUP SHOULDN'T KNOW WHO YOU ARE LOOKING FOR?

16 A THAT'S ALL IT'S SAYING.

17 Q HAS THAT EVER BEEN ESTABLISHED AS A
18 PROCEDURE FOR ANY LAW ENFORCEMENT THAT YOU KNOW OF?

19 A YES U.S. ATTORNEY GENERAL --

20 MR. DIXON: OBJECTION YOUR HONOR, I DON'T THINK
21 WE NEED TO GO INTO WHAT JANET RENO DID SOME YEARS AGO.
22 THAT'S RELEVANT OR NOT.

23 THE COURT: SUSTAINED.

24 Q BY MS. SARIS: LET ME ASK THIS THEN THIS
25 WAY; WHY WOULD ANY AGENCY WANT TO IMPLEMENT THAT
26 SITUATION WHERE THE PERSON SHOWING THE WITNESS THE
27 INDIVIDUALS DOESN'T KNOW WHO IT IS?

28 A OKAY. THERE ARE THINGS THAT WE CAN ALL DO

1 TO ELICIT FROM INDIVIDUALS THE RESPONSE THAT WE WANT.
2 TEACHERS DO IT WITH THEIR STUDENTS, WE AS PARENTS DO IT
3 WITH OUR KIDS. THERE ARE WAYS OF GETTING THE RESPONSE
4 THAT YOU WANT BY ASKING QUESTIONS LIKE, "IT'S HIM ISN'T
5 IT," RATHER THAN, "DO YOU SEE THE INDIVIDUAL HERE." THE
6 DIFFERENT SUBTLE, AND NOT SO SUBTLE, WAYS YOU CAN GET THE
7 RESPONSE THAT YOU WANT. AND THE INVESTIGATING OFFICER
8 WHO IS ADMINISTERING -- OR THE OFFICER WHO IS
9 ADMINISTERING A PHOTOGRAPHIC LINEUP OR A LIVE LINEUP
10 SHOULD ABSOLUTELY NOT KNOW WHICH PERSON THE SUSPECT IS IN
11 THE LINE UP.

12 THE COURT:

13 Q WHAT IF IT IS A REAL HONEST INVESTIGATOR?

14 A WELL, THEN WE SHOULD HAVE NOTHING SHORT OF
15 A VIDEOTAPE OF EXACTLY WHAT TRANSPIRED DURING THE
16 IDENTIFICATION TO KNOW WHAT HAPPENED. ESPECIALLY IN
17 CASES WHERE, LET'S SAY HYPOTHETICALLY, A WITNESS GOES TO
18 A PHOTOGRAPHIC LINEUP AND IS KIND OF IFFY ABOUT WHAT
19 HAPPENED. "IT COULD LOOK LIKE HIM. " "IT COULD LOOK LIKE
20 HIM." "HE LOOKS KIND OF LIKE ONE OF THE THESE THREE
21 PEOPLE." "I CAN'T REALLY TELL." "YOU KNOW, I DON'T EVEN
22 REMEMBER." AND THEN SOMETIME LATER THAT MAY GET
23 TRANSLATED AS, HEY HE PICKED THE DEFENDANT.

24 IN A SITUATION LIKE THAT, WE NEED TO SEE A
25 VIDEOTAPE OF EXACTLY WHAT TRANSPIRED DURING THE
26 PHOTOGRAPHIC LINEUP TO KNOW EXACTLY WHAT SEQUENCE OF
27 EVENTS HAPPENED AND WERE THERE ANY LEADING QUESTIONS BY
28 THE OFFICER OR NOT. OR WAS A WITNESS ASKING

1 INAPPROPRIATE QUESTIONS OR NOT, AND DID THE WITNESS GET
2 ANY FEEDBACK OR WAS THERE ANY KIND OF LEADING THAT WENT
3 ON.

4 Q CAN THAT HAPPEN? THERE WAS -- I GUESS
5 WHAT I'M GETTING AT IS, COULD WE DO THAT SUBCONSCIOUSLY?

6 A MOST OF THE TIME I WOULD SAY IT IS
7 SUBCONSCIOUS. MOST OF THE TIME THAT LEADING INFORMATION
8 IS SUBCONSCIOUS, YES.

9 Q IS THERE, WHEN WE TALKED ABOUT THIS A
10 LITTLE BIT EARLIER, A RELATIONSHIP BETWEEN A PERSON'S
11 CONFIDENCE LEVEL AND THEIR ACCURACY? IN OTHER WORDS, IS
12 IT MORE LIKELY THAT THE PERSON WHO SAYS "I'M 100 PERCENT
13 SURE" IS RIGHT THAN A PERSON WHO SAYS "I DON'T KNOW."?

14 A THERE IS A VERY WEAK RELATIONSHIP BETWEEN
15 ACCURACY AND CONFIDENCE. THERE IS A MEASURE THAT
16 MEASURES THE DEGREE OF RELATIONSHIP BETWEEN TWO VARIABLES
17 CALLED A CORRELATION COEFFICIENT. AND TWO THINGS CAN BE
18 NEGATIVELY RELATED, THEY CAN BE POSITIVELY RELATED, OR
19 NOT AT ALL RELATED TO EACH OTHER. ACCURACY AND
20 CONFIDENCE HAVE A CORRELATION COEFFICIENT OF ABOUT .25,
21 WHICH IS PRETTY LOW. WHICH MEANS THAT SOME WITNESSES WHO
22 ARE REALLY CONFIDENT CAN STILL BE WRONG, AND SOME
23 WITNESSES WHO SAY "I DON'T KNOW. I THINK IT'S HIM, BUT
24 I'M NOT SURE", COULD ACTUALLY BE DEAD ON RIGHT.

25 Q AND YOU TALKED EARLIER, BUT IF YOU COULD
26 THEN STATE WHAT FACTORS COULD LEAD TO A FALSE CONFIDENCE.

27 A WELL, FALSE CONFIDENCE CAN RESULT FROM
28 GETTING FEEDBACK THAT THE GUY YOU HAVE PICKED MUST BE THE

1 RIGHT ONE, SO THAT CAN LEAD TO FALSE CONFIDENCE.

2 Q AND WHEN YOU SAY THE RIGHT ONE, IN WHOSE
3 MIND?

4 A THE RIGHT ONE IN THE OFFICERS MIND. IN
5 OTHER WORDS, YOU PICKED THE GUY WHO THE OFFICER THINKS
6 IS THE GUY.

7 Q OKAY. NOW WHAT ABOUT -- WE HAVE TALKED A
8 LITTLE BIT ABOUT NUMBER 12. I THINK BEFORE WE GOT TO
9 NUMBER 11. WHAT IS THE RELEVANCE OF AN INQUIRY
10 IDENTIFICATION? ESPECIALLY AFTER SAY A PHOTOGRAPHIC
11 LINEUP OR A LIVE LINEUP?

12 A WELL, AN INQUIRY IDENTIFICATION IS
13 REQUIRED FOR LEGAL REASONS. BUT FROM ANY KIND OF
14 SCIENTIFIC POINT OF VIEW, AN INQUIRY PHOTO IDENTIFICATION
15 IS ABSOLUTELY WORTHLESS, BECAUSE ORDINARILY A WITNESS IS
16 ASKED TO IDENTIFY SOMEONE AT COUNSEL TABLE, AND IS THERE
17 ONLY ONE PERSON AT COUNSEL TABLE WHO LOOKS ANYTHING LIKE
18 THE PERSON THAT THEY PICKED OUT BEFORE. SO IT'S NOT
19 SURPRISING THE WITNESS ALWAYS PICKS THE DEFENDANT OUT IN
20 COURT. BUT THAT SHOULDN'T BE TAKEN TO BE A TEST OF THEIR
21 MEMORY AT ALL.

22 Q DID YOU PERSONALLY TALK TO ANY WITNESSES
23 IN THIS CASE?

24 A I DID NOT. I CERTAINLY DID NOT, NO.

25 Q AND IS THERE A REASON?

26 A YES, THERE ARE A COUPLE OF REASONS. FIRST
27 OF ALL, I THINK WE MADE IT CLEAR THAT I AM NOT ALLOWED TO
28 TESTIFY ABOUT THE MEMORY OF ANY PARTICULAR WITNESS IN

1 THIS CASE OR IN ANY CASE. SO I COULD HAVE GONE AND GIVEN
2 THE WITNESSES BATTERIES OF MEMORY TESTS AND THEN
3 TESTIFIED ABOUT HOW GOOD OR BAD THEIR MEMORY IS AND SO
4 FORTH. BUT I'M NOT ALLOWED TO DO THAT. I'M CAPABLE OF
5 DOING THAT, AND UNDER SOME CONDITIONS I ACTUALLY DO THAT,
6 BUT I CAN'T TESTIFY ABOUT THAT FOR LEGAL REASONS I AM NOT
7 ALLOWED TO DO THAT.

8 SO I'M NOT AN INVESTIGATOR IN THIS CASE.
9 I'M NOT GOING OUT TO COLLECT FACTS BECAUSE I CANNOT
10 PRESENT NEW FACTS TO THIS JURY. THAT'S WAY OUTSIDE OF
11 THE SCOPE OF WHAT I'M ALLOWED TO DO. SO TALKING TO
12 WITNESSES AND DOING INDEPENDENT INVESTIGATION WOULD BE
13 IRRELEVANT BECAUSE I CAN'T PRESENT IT IN COURT ANYWAY.

14 ALSO BECAUSE OF FACTOR NUMBER 7 UP THERE,
15 TIME DELAY, WHEN I GOT INVOLVED IN THIS CASE IN 2006, IT
16 WAS LONG TIME AFTER THE OBSERVATION WAS ACTUALLY MADE BY
17 THE EYEWITNESS. AND WHAT PEOPLE MAY OR MAY NOT REMEMBER
18 TO TELL ME NOW, YOU KNOW, AT THAT POINT WHATEVER IT WAS,
19 15 YEARS OR SO AFTER OF THE INCIDENT, IS NOT NEARLY AS
20 IMPORTANT AS WHAT THEY ACTUALLY SAID IN THOSE INITIAL
21 INTERVIEWS.

22 Q IN THE STUDIES THAT YOU DO, ARE THESE
23 FACTORS, ALL OF THEM, ALWAYS PRESENT?

24 A WELL, NO NOT REALLY. NO. DEPENDING ON
25 UPON CASES, THE FACTS OF A CASE, THESE FACTORS MAY OR MAY
26 NOT BE RELEVANT.

27 Q IN THE REVIEW OF WHAT YOU HAVE LOOKED AT
28 NOW, HOW MANY OF THE 12 FACTORS HERE WOULD YOU SAY WOULD

1 BE RELEVANT TO THIS JURY?

2 A I THINK ALL OF THEM ARE.

3 Q THANK YOU. I HAVE NOTHING FURTHER.

4 THE COURT: CROSS-EXAMINATION.

5 MR. DIXON: THANK YOU, YOUR HONOR.

6

7

CROSS-EXAMINATION

8

BY MR. DIXON:

9

Q GOOD MORNING DR. PEZDEK.

10

A GOOD MORNING.

11

Q WE LAST MET IN DEPARTMENT 120 IN JULY 1987

12

IN FRONT OF, THE LATE UNFORTUNATELY, RONALD KAPAI. I

13

DON'T KNOW IF YOU RECALL THAT CASE, PEOPLE VERSUS FUDGE.

14

THAT WAS -- DO YOU RECALL THAT?

15

A I RECALL THE CASE, BUT YOUR MEMORY IS WAY

16

BETTER THAN MINE, AND NO I DID NOT REMEMBER ANY OF THOSE

17

DETAILS.

18

Q BASED ON WHAT YOU'VE BEEN TELLING US HERE

19

TODAY, IF I HYPOTHETICALLY -- WE WILL JUST SAY

20

HYPOTHETICALLY -- SAID, THAT WHEN YOU WALKED INTO THE

21

ROOM I RECOGNIZED YOU, DOES YOUR RESEARCH SAY THAT I'M

22

JUST SOME KIND OF NUT BALL?

23

A WELL, NO. BECAUSE IF YOU TALK ABOUT

24

MOTIVATION TO REMEMBER AND SO FORTH, THAT WAS A VERY

25

COMPLICATED CASE, I TESTIFIED IN FRONT OF YOU FOR A LONG

26

PERIOD OF TIME, YOU HAD A MOTIVATION TO REMEMBER MY FACE,

27

YOU KNEW I WAS COMING IN HERE TODAY, YOU KNEW WHO TO

28

EXPECT, SO IT IS NOT REALLY A MEMORY TEST. BUT YOU

1 APPARENTLY HAVE A VERY GOOD MEMORY, AND I COMMEND YOU ON
2 IT.

3 MR. DIXON: WELL I SHOULD TAKE ONE OF YOUR TESTS
4 HUH? YOU TOLD US THAT YOU ARE A DOCTOR, YOU ARE A PH.D.?

5 A A PH.D.

6 Q YOU ARE NOT A MEDICAL DOCTOR?

7 A THAT'S RIGHT.

8 Q AND THERE IS NOT A DEGREE IN EYEWITNESS
9 IDENTIFICATION?

10 A THERE IS NOT A DEGREE, NO IT'S IN
11 EXPERIMENTAL PSYCHOLOGY.

12 Q AND YOU'VE TOLD US THAT YOU WERE APPOINTED
13 BY THE SUPERIOR COURT HERE TO COME IN AND BE AN EXPERT
14 AND TESTIFY TRUTHFULLY AND IMPARTIALLY, CORRECT?

15 A YES.

16 Q DO YOU RECALL -- THIS WILL BE AN EASIER
17 TESTIMONY -- JUST LAST WEEK DECEMBER 6 TESTIFYING IN
18 JUDGE ROBERT PERRY'S COURT IN THE CRIMINAL COURTS
19 BUILDING?

20 A I DO REMEMBER THAT.

21 Q THE PROSECUTOR'S CRAIG HUM. DO YOU
22 REMEMBER HIS FACE?

23 A I DO.

24 Q AND I THINK MR. HUM -- THAT WAS A HOMICIDE
25 CASE TOO WASN'T IT?

26 A IT WAS.

27 Q AND MR. HUM ASKED YOU A COUPLE OF
28 QUESTIONS AS I MIGHT TODAY. AND AT ONE POINT I THINK YOU

1 ADMITTED TO HIM, OR HE ASKED YOU THAT OVER THE LAST TEN
2 YEARS YOU HAD CONSULTED WITH OVER 4000 DEFENSE ATTORNEYS
3 ON CRIMINAL CASES; IS THAT A CORRECT STATEMENT.

4 MS. SARIS: I'M GOING OBJECT TO THE FORM OF THE
5 QUESTION, THAT'S HEARSAY. IS HE ASKING SPECIFICALLY OR
6 REGARDING WHAT SHE TOLD MR. HUM?

7 THE COURT: SUSTAINED. REPHRASE.

8 Q BY MR. DIXON: HAVE YOU, IN FACT, -- WELL
9 NOW IT WOULD BE A COUPLE MORE MAYBE -- IN THE LAST TEN
10 YEARS CONSULTED WITH OVER 4000 CRIMINAL DEFENSE ATTORNEYS
11 ON CASES LIKE THIS?

12 A WELL, THAT WAS ANSWERING THE QUESTION, IT
13 WAS FREE TEN MINUTE CONVERSATIONS WITH PEOPLE ON THE
14 PHONE. AND YES, I WOULD THINK THAT IN TERMS OF THE
15 VOLUME OF PHONE CALLS THAT I GET WITH PEOPLE ASKING ME TO
16 TESTIFY IN CASES AND I TALK TO THEM TO THE PHONE FOR TEN
17 MINUTES. THAT'S WHAT WE'RE CALLING A CONSULTATION, IS A
18 FREE TEN MINUTE TALK TO THE PHONE AND SO FORTH, THAT THE
19 NUMBER IS PROBABLY THAT HIGH.

20 Q AND OUT OF THOSE CONSULTATIONS YOU GET
21 YOUR BUSINESS, AND SOME PERCENTAGE OF THOSE YOU CAN
22 CONTINUE YOU ON WITH; IS THAT CORRECT TO SAY?

23 A YES, THAT'S TRUE A VERY SMALL PERCENTAGE,
24 RIGHT.

25 Q AND SINCE WE LAST TALKED IN 1987 THE
26 NUMBER MUST BE MUCH HIGHER; IS THAT RIGHT?

27 MS. SARIS: OBJECTION VAGUE AS TO TIME.

28 THE COURT: SUSTAINED.

1 Q BY MR. DIXON: WELL, IF YOU WENT BACK
2 ALMOST 20 YEARS NOW FROM WHEN WE FIRST TALKED IN 1987,
3 I'M SURE THAT THE NUMBER OF CASES THAT YOU CONSULTED ON
4 IS MUCH HIGHER THAN THE 4000 NUMBER. WOULDN'T YOU AGREE?

5 MS. SARIS: OBJECTION, PERHAPS I'M
6 MISUNDERSTANDING. I THOUGHT THAT WAS LAST WEEK.

7 MR. DIXON: YOU'VE TALKED TO MORE PEOPLE THAN THE
8 4,000 OVER THE LAST 20 YEARS; WOULDN'T YOU AGREE?

9 THE COURT: OVERRULED.

10 A YES.

11 Q BY MR. DIXON: AN IN THAT SAME DISCUSSION
12 WITH CRAIG HUM, YOU TOLD HIM THAT OVER THE LAST TEN YEARS
13 YOU CONSULTED WITH -- OF THE DISTRICT ATTORNEY'S OFFICE
14 JUST ONCE.

15 MS. SARIS: SAME OBJECTION YOUR HONOR, AS TO WHAT
16 SHE MIGHT HAVE TOLD MR. HUM IN A DIFFERENT CASE.

17 THE COURT: SUSTAINED.

18 Q BY MR. DIXON: ISN'T IT TRUE THAT IN THE
19 PAST TEN YEARS YOU'VE ONLY CONSULTED WITH THE DISTRICT
20 ATTORNEY'S JUST ONCE?

21 MS. SARIS: AND OBJECTION VAGUE AS TO WHICH
22 D.A.S.

23 THE COURT: OVERRULED.

24 THE WITNESS: YES, I'VE ONLY BEEN CONTACTED ONE
25 TIME BY THE DISTRICT ATTORNEY'S OFFICE AND I DID TALK TO
26 THEM AND CONSULT AND WORK WITH THEM ON A CASE. I'VE
27 NEVER TURNED DOWN A CASE FOR THE PROSECUTION, BUT I'VE
28 ONLY BEEN APPROACHED BY THE PROSECUTION AND ASKED TO

1 TESTIFY ONE TIME.

2 Q OKAY. NOW DO YOU RECALL GETTING AN E-MAIL
3 FROM ALAN JACKSON, THE MAN I'M NOW STANDING BEHIND ASKING
4 TO DISCUSS THIS CASE WITH YOU?

5 A I'VE GOT A COPY THAT IN FRONT OF ME, YES.

6 MS. SARIS: YOUR HONOR, MAY BY APPROACH?

7 THE COURT: ALL RIGHT.

8 (PROCEEDINGS HELD AT SIDE BAR.)

9 THE COURT: WE'RE AT THE SIDE BAR.

10 MS. SARIS: I HAVE TWO OBJECTIONS, ONE IS TO
11 COUNSEL TESTIFYING. CRAIG HUM ISN'T HERE. THERE IS NO
12 PURPOSE FOR --

13 MR. DIXON: I'M NOT CONCERNED WITH CRAIG HUM.

14 MS. SARIS: WELL, LET ME MAKE A RECORD PLEASE.
15 THIS CONTINUED IMPEACHMENT IS IMPROPER IN THAT REGARD.
16 SECOND, THERE IS SPECIFIC EVIDENCE CODE SECTION SAYING
17 IT'S IMPROPER TO COMMENT ON THE INVOCATION OF A
18 PRIVILEGE. WE HAVE ASSERTED THE WORK PRODUCT PRIVILEGE
19 IN THE CONSULTATION WITH DOCTOR PEZDEK. MISS -- DR.
20 PEZDEK PROVIDED A THOROUGH REPORT TO THE DISTRICT
21 ATTORNEY. HE INQUIRED DURING HER CONSULTATION WHETHER HE
22 COULD DISCUSS IT WITH HER, I ADVISED HER THAT SHE WAS IN
23 A CONFIDENTIAL MATTER. THE EVIDENCE CODE, THE PENAL CODE
24 SECTION IS CLEAR THAT IF WE'RE ASSERTING A WORK PRODUCT
25 PRIVILEGE THEIR COMMENTING ON IT IN FRONT OF THE JURY IS
26 IT IMPROPER.

27 THE COURT: WELL, I DON'T KNOW WHAT'S IN THE
28 E-MAIL.

1 MR. DIXON: THE WORK PRODUCT PRIVILEGE IS JUST AS
2 CLEAR THAT THE WORK PRODUCT PRIVILEGE IS WAIVED WHEN THE
3 WITNESS IS DETERMINED TO BE A WITNESS ON THE DEFENSE
4 WITNESS LIST, AND WE HAD EVEN RECEIVED A REPORT FROM
5 MS. SARIS.

6 MS. SARIS SPECIFICALLY INSTRUCTED THIS
7 WITNESS NOT TO SPEAK WITH US, NOT TO CONSULT WITH US
8 OUTSIDE OF THE PRESENCE OF THE JURY. THAT SHE WOULD BE
9 MAKING NO STATEMENTS UNTIL SHE TESTIFIED, THAT IS
10 CERTAINLY SOMETHING THAT GOES TO BIAS AND CREDIBILITY.
11 AND WHETHER OR NOT SHE IS COMING HERE AS AN UNBIASED,
12 CREDIBLE WITNESS, THAT E-MAIL IS SITTING ON HER DESK, THE
13 COURT CAN LOOK AT IF SHE WANTS TO.

14 THE COURT: I WOULD.

15 MS. SARIS: I ASK THE COURT TO LOOK AT IT, BUT
16 THE WORK PRODUCT PRIVILEGE, BECAUSE I SHARED IN
17 DISCOVERY, HER REPORT WITH THE DISTRICT ATTORNEY AND PUT
18 HER ON THE WITNESS LIST -- COUNSEL AND I MADE THE
19 DECISION LAST NIGHT TO CALL -- OR ACTUALLY TWO DAYS AGO
20 -- TO CALL THIS WITNESS. WE HAVE NOT HAD A CONFRONTATION
21 ABOUT THE FACTS OF THE CASE UNTIL THIS MORNING. SHE WAS
22 A CONFIDENTIAL APPOINTMENT. HAD SHE BEEN A PRIVATELY
23 RETAINED EXPERT WITNESS, THE DISTRICT ATTORNEY WOULD NOT
24 HAVE BEEN ABLE TO CONTACT HER UNDER ANY CIRCUMSTANCES.
25 SHE WAS APPOINTED BY THE COURT UNDER A CONFIDENTIAL
26 APPOINTMENT.

27 THE COURT: BUT AT SOME POINT ONCE SHE'S
28 DESIGNATED A WITNESS, ARE YOU SAYING THAT THE PEOPLE ARE

1 NOT PERMITTED TO CONTACT WITNESSES THAT ARE ON THE
2 DEFENSE WITNESS LIST?

3 MS. SARIS: I'M NOT SAYING THAT, I'M SAYING THAT
4 WHEN SHE WAS DESIGNATED AS A WITNESS, SHE WAS STILL UNDER
5 A CONFIDENTIAL APPOINTMENT. SHE HAD NOT DISCUSSED WITH
6 ME YET THIS CASE. IN OTHER WORDS THIS E-MAIL WENT OUT
7 RIGHT WHEN I PUT HER ON THE LIST. WE TALKED ABOUT THE
8 CASE LAST NIGHT AND THIS MORNING. I HAD ADVISED HER IT
9 WAS INAPPROPRIATE TO TALK TO HIM WITHOUT TALKING TO US,
10 THAT SHE WAS UNDER A CONFIDENTIAL APPOINTMENT. TO TURN
11 THAT ON ITS HEAD AND MAKE IT SOUND LIKE SHE'S BIASED,
12 WHEN THIS COURT APPROVED THE CONFIDENTIALITY OF THE
13 APPOINTMENT, I WOULD ASK THAT AT LEAST WE TAKE THIS
14 TESTIMONY OUTSIDE OF THE PRESENCE OF THE JURY. THEY'RE
15 MAKING IT INTO SOMETHING IT'S NOT.

16 THE COURT: I THINK IT'S FAIR THOUGH TO COMMENT
17 ON THE WITNESSES RELUCTANCE OR REFUSAL TO TALK ABOUT WHAT
18 THEIR TESTIMONY IS GOING TO BE. I MEAN, I THINK THAT'S
19 FAIR GAME. WHETHER OR NOT YOU WANT TO CALL IT
20 ATTORNEY/CLIENT OR WORK PRODUCT PRIVILEGE, IT DOESN'T
21 SEEM TO BE MUCH OF A DISTINCTION.

22 MS. SARIS: THEY WERE GIVEN A REPORT, IT HAD ALL
23 OF THESE FACTORS IN IT.

24 THE COURT: RIGHT. BUT WHAT YOU'RE SAYING IS
25 THAT AT NO TIME CAN THE PROSECUTION ATTEMPT TO CONTACT
26 DEFENSE WITNESSES.

27 MS. SARIS: I'M NOT SAYING THAT AT ALL. BUT I'M
28 SAYING WHEN THEY ASSERT A WORK PRODUCT PRIVILEGE, THE

1 PROSECUTION CANNOT BRING IT UP BEFORE THE JURY ANYMORE
2 THAT YOU CAN COMMENT ON MY CLIENT'S RIGHT TO REMAIN
3 SILENT. THIS IS A EXERCISE AFFORDED TO US UNDER THE
4 PENAL CODE.

5 THE COURT: WELL, WE WOULDN'T BE EVEN DISCUSSING
6 THE FACT THAT THE PEOPLE ATTEMPTED TO CONTACT THE
7 DEFENDANT. I JUST DON'T SEE THE CORRELATION BETWEEN THE
8 DEFENDANT AND A DEFENSE WITNESS. ONCE SHE'S DEEMED A
9 DEFENSE WITNESS, I THINK IT'S FAIR TO INQUIRE AS TO
10 WHETHER OR NOT SHE WAS WILLING TO DISCUSS MATTERS BEFORE
11 HER TESTIMONY. I'M NOT FAMILIAR --

12 MS. SARIS: I DON'T KNOW WHETHER THAT THAT'S THE
13 BASIS OF THE QUESTION. THE QUESTION -- THE E-MAIL THAT
14 WAS SENT WAS, WOULD YOU BE WILLING TO MEET WITH ME, AND
15 SHE WAS UNDER THE IMPRESSION THIS WAS A CONFIDENTIAL
16 APPOINTMENT.

17 THE COURT: WELL, THEN SHE CAN STATE THAT.

18 MS. SARIS: WELL, HOW ARE WE GOING TO EXPLAIN
19 THAT TO A JURY. THAT MR. GOODWIN IS REPRESENTED BY A
20 PUBLIC DEFENDER, CAN'T AFFORD A PRIVATE COUNSEL AND
21 THEREFORE HAD TO ASK THE COURT FOR MONEY?

22 THE COURT: I THINK, EVEN IF SHE WERE PRIVATELY
23 RETAINED, AT THE POINT THAT YOU PUT HER ON THE WITNESS
24 LIST, SHE IS FAIR GAME. I THINK THE PEOPLE CAN CONTACT
25 ANY WITNESS ON THE WITNESS LIST.

26 MS. SARIS: I'M NOT SAYING THEY CAN'T. BUT TO
27 TURN HER RESPONSE, WHICH IS I HAVE A CONFIDENTIAL
28 APPOINTMENT, INTO SOME SORT OF BIAS, I THINK IS

1 INAPPROPRIATE IN FRONT OF A JURY.

2 MR. DIXON: BUT SHE CAN SAY SHE DIDN'T WANT TO
3 TALK TO US BECAUSE SHE THOUGHT IT WAS A CONFIDENTIAL
4 APPOINTMENT. AND THAT'S FINE. I'LL MOVE ON.

5 MS. SARIS: I THINK THE QUESTION ITSELF IS
6 IMPROPER AND ITS IMPLICATION IS IMPROPER.

7 THE COURT: OVERRULED.

8 (SIDE BAR CONCLUDED.)

9 MR. DIXON: THANK YOU.

10 Q SO DR. PEZDEK, YOU RECEIVED A AN E-MAIL
11 FROM ALAN JACKSON ASKING YOU TO MEET WITH HIM AND DISCUSS
12 THIS CASE?

13 A YES.

14 Q AND YOU DIDN'T WANT TO TALK TO HIM, OR YOU
15 CHOSE NOT TO; IS THAT CORRECT?

16 A NO, NOT AT ALL. I CAN READ MY RESPONSE
17 BACK TO MR. JACKSON I HAVE IT IN FRONT OF ME. I SAID,
18 "MR. JACKSON I HAVE SUBMITTED MY REPORT TO THE ATTORNEY
19 WHO IS REPRESENTING MR. GOODWIN. IT IS MY UNDERSTANDING
20 SHE HAS GIVEN YOU A COPY OF THAT REPORT. I WAS APPOINTED
21 ON A CONFIDENTIAL BASIS TO ASSIST THE DEFENSE AND HAVE
22 BEEN ADVISED BY THE DEFENSE COUNSEL THAT SHE IS ASSERTING
23 A CONFIDENTIAL PRIVILEGE AS TO OUR CONSULTATION. AS
24 SUCH, IT WOULD BE INAPPROPRIATE FOR ME TO DISCUSS THIS
25 MATTER WITH YOU OFF THE RECORD."

26 Q OKAY. I THINK YOU TOLD MS. SARIS THAT
27 BEFORE -- AT SOME POINT YOU REVIEWED SOME REPORTS IN THIS
28 CASE, CORRECT?

1 A YES.

2 Q AND AS A RESULT OF THAT YOU DECIDED THAT
3 THE FACTORS THAT WE HAVE UP BEFORE US RIGHT NOW WERE THE
4 RELEVANT FACTORS.

5 A THAT'S RIGHT.

6 Q IN FACT ONE OF HER LAST QUESTIONS TO YOU
7 ARE ALL THESE FACTORS HERE RELEVANT?

8 A RIGHT.

9 Q AND LET ME ASK, YOU TESTIFY A LOT ABOUT
10 THIS, CORRECT? THIS WHOLE AREA OF EYEWITNESS
11 IDENTIFICATION?

12 A THAT'S RIGHT.

13 Q IS IT BASICALLY YOUR CAREER NOW OR NOT?

14 A WELL, I'M A PROFESSOR. I HAVE A FULL
15 SALARY AS A PROFESSOR OF PSYCHOLOGY. I'M A TENURED
16 PROFESSION AND ASSOCIATE DEAN. I'VE GOT A JOB BASICALLY.
17 BUT DOVETAILED WITH THAT, I DO HAVE OPPORTUNITIES TO
18 TESTIFY IN COURT.

19 Q AND YOU ALSO DO SOME OTHER RESEARCH WITH
20 CHILDREN AND TV AND RADIO, AND THAT SHORT OF THING DON'T
21 YOU?

22 A WELL, I HAD A GRANT TO DO THAT I THINK
23 LIKE 15 YEARS AGO. ALL OF THAT WAS RELATED TO CHILDREN
24 AS EYEWITNESSES THOUGH, WHERE I WOULD PRESENT THEM
25 INFORMATION ON TELEVISION AND TEST THEIR MEMORY, BUT YES,
26 SOME OF MY RESEARCH HAS TO DO WITH CHILDREN AS
27 EYEWITNESSES, SOME ADULTS AS EYEWITNESSES. BUT THE MAJOR
28 -- THE BULK OF MY RESEARCH HAS BEEN ON EYEWITNESS ISSUES.

1 Q WELL DIDN'T SOME OF THOSE ARTICLES WITH
2 RESPECT TO CHILDREN IN THE MEDIA HAVE TO DO WITH RADIO?

3 A WELL, COMPARING WHAT PEOPLE CAN REMEMBER
4 FROM AUDITORILY PRESENTED INFORMATION IN CONTRAST TO
5 EYEWITNESS INFORMATION PRESENTED IN VIDEOS. SO THERE WAS
6 ALWAYS THAT COMPARISON IN THERE.

7 Q WELL LET'S GO TO THE FACTORS BECAUSE MY
8 CHART IS ISN'T AS GOOD AS THE ONE WE PUT UP EARLIER. BUT
9 AS YOU SAID EARLIER YOU TESTIFY OFTEN IN THIS AREA,
10 CORRECT?

11 A YES.

12 Q AND FROM TIME, YOU TALKED TALK ABOUT OTHER
13 FACTORS?

14 A THAT'S RIGHT.

15 Q AND I'VE PUT SOME OF THOSE UP ON THE
16 BOARD?

17 A YES.

18 Q AND ISN'T IT TRUE THAT YOU DIDN'T TALK
19 ABOUT THESE FACTORS, AND WE'RE GOING TO GO THROUGH THEM,
20 BECAUSE YOU DON'T THINK IT HELPS THE DEFENSE IN THIS
21 CASE; ISN'T THAT RIGHT?

22 A NO. BECAUSE I KNEW --

23 Q WELL LET'S TALK ABOUT IT.

24 MS. SARIS: OBJECTION YOUR HONOR, MAY SHE -- LET
25 HER ANSWER THE QUESTION?

26 MR. DIXON: CROSS RACIAL.

27 MR. SARIS: I'M SORRY YOUR HONOR, I BELIEVE THERE
28 IS A QUESTION PENDING.

1 THE COURT: YES, THE OBJECTION IS OVERRULED.

2 Q BY MR. DIXON: LET'S TALK ABOUT THE FIRST
3 ONE. I QUICKLY READ THE TRANSCRIPT FROM JUDGE PERRY'S
4 COURT LAST WEEK.

5 MS. SARIS: SAME OBJECTION YOUR HONOR. MAY
6 COUNSEL STOP TESTIFYING REGARDING ANOTHER CASE?

7 THE COURT: SUSTAINED.

8 Q BY MR. DIXON: CROSS RACIAL. ISN'T THAT
9 AN IMPORTANT FACTOR IN YOUR WORK FROM TIME TO TIME?
10 WOULDN'T YOU AGREE?

11 A IT IS YES. YES.

12 Q AND THAT APPLIES TO THE FOLLOWING
13 SITUATION WHERE THE PERSON WHO IS MAKING THE
14 IDENTIFICATION IS OF ONE RACE AND THE PERSON BEING
15 IDENTIFIED IS OF ANOTHER RACE?

16 A THAT'S TRUE.

17 Q CORRECT?

18 A YES.

19 Q AND IT IS YOUR OPINION THAT THAT ISN'T A
20 SUCH A GREAT SITUATION FOR MAKING AN IDENTIFICATION?

21 A I AGREE, YES.

22 Q AND THAT A MUCH BETTER, OR MORE FAVORABLE
23 SITUATION FOR MAKING AN IDENTIFICATION IS WHEN THE PERSON
24 MAKING THE IDENTIFICATION AND THE PERSON BEING IDENTIFIED
25 IS OF THE SAME RACE?

26 A YES, SAME RACE IDENTIFICATIONS TEND TO BE
27 MORE ACCURATE THAN CROSS RACIAL, IDENTIFICATIONS YES.

28 Q AND IN FACT YOU'VE WRITTEN AN ARTICLE

1 SOMETIME AGO IN 1983 ABOUT THIS, DIDN'T YOU?

2 A I HAVE. AND OTHER PEOPLE HAVE AS WELL.

3 Q WHAT WAS OF THE NAME OF YOUR ARTICLE?

4 A YOU'RE TESTING MY MEMORY AGAIN. I'D HAVE
5 TO LOOK. IT'S ON CROSS RACE IDENTIFICATION BASICALLY.

6 Q ISN'T THERE ONE ABOUT EYEWITNESS
7 IDENTIFICATION, THE ILLUSIVE THREATS OF MEMORY?

8 A THAT IS NOT THE RESEARCH STUDY THAT I DID.

9 Q DIDN'T YOU SAY IN THAT ARTICLE THAT
10 BASICALLY SAME RACE IDENTIFICATIONS ARE GENERALLY MUCH
11 MORE RELIABLE THAN CROSS RACIAL IDENTIFICATIONS?

12 A YES. JUST WHAT I HAVE A BEEN SAYING HERE,
13 YES.

14 Q AND SO IF YOU HAD A SITUATION WHERE IT'S A
15 SAME RACE IDENTIFICATION, USING YOUR TERMINOLOGY, YOU
16 WOULD THINK THAT MIGHT BE MUCH MORE RELIABLE THAN CROSS
17 RACIAL?

18 A THAT FACT -- YES BASED ON THAT ONE FACTOR.
19 THE SHEPHERD STUDY THAT I TALKED ABOUT WHERE PEOPLE WERE
20 TESTED 11 MONTHS LATER, ALL OF THOSE -- I SAID THAT WAS A
21 CASE WHERE RELATIVELY IDEAL CIRCUMSTANCES WERE HELD -- IN
22 THAT CASE EVERYONE, IT WAS THE SAME RACE IDENTIFICATION
23 CASE. ALL OF THE PEOPLE IN ABERDEEN SCOTLAND WERE WHITE,
24 AND THEY WERE LOOKING AT A MAN WHO WAS WHITE. AND
25 ALTHOUGH THEY WERE ACCURATE SHORTLY AFTERWARDS, AFTER 11
26 MONTHS, AS I SAID, THEY WERE JUST AS BAD AS CHANCE AT
27 DOING THAT. THAT WAS THE SAME RACE IDENTIFICATION STUDY.

28 Q BUT YOU DIDN'T TELL US ABOUT THAT IN

1 DIRECT EXAMINATION, THAT A SAME RACE IDENTIFICATION
2 WOULD BE MORE RELIABLE, DID YOU?

3 A WELL, I SAID THAT THAT STUDY WAS UNDER
4 RELATIVELY IDEAL CIRCUMSTANCES. THAT WAS ONE OF THE
5 FACTORS THAT MADE IT RELATIVELY IDEAL.

6 Q DID YOU MENTION CROSS RACIAL
7 IDENTIFICATION AS AN IMPORTANT FACTOR IN YOUR WORK DURING
8 DIRECT EXAMINATION?

9 A I DID NOT, NO.

10 Q AND THAT WOULD BE AN IMPORTANT FACTOR,
11 WOULDN'T IT?

12 A AS I'VE BEEN SAYING HERE, YES.

13 Q ON CROSS-EXAMINATION.

14 MS. SARIS: OBJECTION YOUR HONOR.

15 MR. DIXON: I'LL WITHDRAW AT THAT. LET'S TALK
16 ABOUT ANOTHER ONE.

17 Q STRESS. STRESS IS AN IMPORTANT FACTOR IN
18 YOUR WORK IN MAKING IDENTIFICATIONS; CORRECT?

19 A SOMETIMES IT IS.

20 Q WELL, ISN'T IT TRUE THAT MOST OF YOUR WORK
21 HAS TO DO WITH CRIMES?

22 A YES.

23 Q AND THAT YOUR THEORY IS THAT A PERSON WHO
24 IS TRYING TO MAKE AN IDENTIFICATION AND IS UNDER A GREAT
25 DEAL OF THREAT, THEREFORE IS UNDER STRESS, AND IT'S LESS
26 LIKELY THAT THAT PERSON WILL BE ABLE TO MAKE A CORRECT
27 IDENTIFICATION, ISN'T THAT BASICALLY YOUR THEORY?

28 A WELL, THAT'S THE EMPIRICAL FINDING, YES.

1 Q AND THERE IS A CURVE ABOUT IT, I REMEMBER
2 THIS EVEN FROM 20 YEARS AGO, IT'S YURKEY'S DOTS AND
3 CURVES?

4 A THAT'S RIGHT.

5 Q AND IT'S A BELL-SHAPED CURVE CORRECT?

6 A YES.

7 Q AND AT THE BELL KIND OF -- WELL IT'S A
8 BELL, AND AT ONE END IT'S TOTALLY NO STRESS LIKE IF YOU
9 ARE ASLEEP, RIGHT?

10 A RIGHT.

11 Q AND THE OTHER END OF THE BELL SHAPE, IT'S
12 IF YOU ARE UNDER EXTREMELY HIGH LIFE-THREATENING STRESS,
13 CORRECT?

14 A THAT'S RIGHT.

15 Q AND AT BOTH THOSE ENDS OF THE BELL, IN
16 YOUR OPINION, THE PERSON WOULD NOT BE ABLE TO MAKE A VERY
17 RELIABLE IDENTIFICATION RIGHT?

18 A WELL, MEMORY IS WORSE IN THE TAILS OF THE
19 STRESS DISTRIBUTION THAN TOWARDS THE MIDDLE.

20 Q IN THE MIDDLE, ACCORDING TO THIS CURVE, IS
21 WHERE A PERSON IS UNDER -- I THINK ACCORDING TO YOUR
22 TERMS, A MEDIUM STRESS. IN OTHER WORDS, THEY ARE AWAKE
23 THEY ARE WALKING AROUND, THEY'RE ENGAGED IN THEIR LIFE?

24 A THAT'S TRUE.

25 Q AND SO THAT WOULD BE ANOTHER ALMOST IDEAL
26 SITUATION FOR MAKING AN IDENTIFICATION, WOULD YOU AGREE?

27 A THAT'S TRUE. THAT'S ONE OF THE CONDITIONS
28 UNDER WHICH THIS ABERDEEN SCOTLAND STUDY EXISTED AS WELL

1 WHERE PEOPLE WERE NOT PARTICULARLY ANXIOUS, THEY WEREN'T
2 AT THE END OF A GUN, THEY WERE TOLD TO PAY ATTENTION, BUT
3 THEY WEREN'T UNDER A HIGH LEVEL OF STRESS SO THEIR MEMORY
4 SHOULD HAVE BEEN RELATIVELY IDEAL UNDER THOSE
5 CIRCUMSTANCE OF HIS.

6 Q SO IF A PERSON, WHO IS GOING TO MAKE
7 IDENTIFICATION IS WALKING ALONG, ALERT, AWAKE, MAYBE HAD
8 THEIR CUP OF COFFEE THAT MORNING, AND IS NOT IN LIFE
9 THREATENING STRESS THEY WOULD BE IN A VERY GOOD SITUATION
10 TO MAKE AN IDENTIFICATION, WOULDN'T YOU AGREE?

11 A WELL, FOR THAT PERSON THEIR MEMORY WOULD
12 BE BEST UNDER THAT CONDITION, YES.

13 Q IN AN EARLIER ANSWER YOU MENTIONED A
14 WEAPON, RIGHT?

15 A RIGHT.

16 Q AND THAT'S ALSO, I THINK MAYBE YOU WOULD
17 CHARACTERIZE THAT AS PART OF THE STRESS FACTOR, OR IS
18 THAT A SEPARATE FACTOR, WEAPON FOCUS?

19 A WELL, IT CAN BE PAY PARTICULAR TYPE OF
20 DISTRACTION ACTUALLY.

21 Q WELL, THEN IT KIND OF SLOPS OVER INTO
22 BOTH; IS THAT CORRECT?

23 A IT CAN, YES.

24 Q I MEAN. IF I'M A ROBBERY VICTIM AND A GUY
25 IS POINTING A GUN AT MY HEAD AND ASKING ME FOR MONEY,
26 THAT MIGHT HEIGHTEN MY STRESS, RIGHT?

27 A IT CERTAINLY WOULD, YES.

28 Q BECAUSE I WOULD BE WORRIED ABOUT WHETHER

1 OR NOT I WAS GOING TO LIVE OR NOT, CORRECT?

2 A RIGHT.

3 Q AND IT ALSO MIGHT BE A DISTRACTION. IN
4 OTHER WORDS, I MIGHT BE LOOKING AT THE GUN AND LOOKING AT
5 HIS FACE AND LOOKING AT THE GUN, BACK AND FORTH TO TRY TO
6 DECIDE; IS THIS GUY GOING TO PULL THE TRIGGER?

7 A THAT'S RIGHT.

8 Q SO THAT MIGHT BE A DISTRACTION?

9 A I AGREE.

10 Q AND ISN'T IT TRUE THAT IN MANY CASES WHERE
11 YOU TESTIFIED FOR THE DEFENSE, YOU TALK ABOUT WEAPON
12 FOCUS AS AN ELEMENT THAT WOULD LEAD TO AN UNRELIABLE
13 IDENTIFICATION?

14 A IF IT'S PRESENT, YES.

15 Q SO IF THERE IS NO STRESS, HIGH LEVEL OF
16 THREAT, AND NO WEAPON THERE FOR WEAPON FOCUS, WOULDN'T
17 THAT BE A MUCH BETTER SITUATION TO MAKE AN
18 IDENTIFICATION?

19 A I AGREE, THAT WOULD BE ADVANTAGEOUS.

20 Q YOU DIDN'T TELL US ABOUT THAT, DID YOU?

21 MS. SARIS: OBJECTION, YOUR HONOR. COUNSEL IS
22 TESTIFYING. ARGUMENTATIVE.

23 THE COURT: SUSTAINED.

24 Q BY MR. DIXON: DID YOU MENTION THAT DURING
25 YOUR DIRECT EXAMINATION?

26 MS. SARIS: SAME OBJECTION.

27 THE COURT: OVERRULED.

28 THE WITNESS: I DID NOT.

1 Q BY MR. DIXON: I THINK IN THE LIST THAT
2 THE DEFENSE PUT UP, YOU HAD DISTANCE THERE BUT NOT
3 LIGHTING?

4 A YES.

5 Q GENERALLY SPEAKING WHEN YOU TESTIFY ABOUT
6 THIS SORT OF THE THING DON'T YOU TALK ABOUT LIGHTING AND
7 DISTANCE TOGETHER AS ONE FACTOR?

8 A NOT NECESSARILY, NO.

9 Q DIDN'T YOU LAST WEEK?

10 A AT TIMES I DO BUT IT'S NOT ALL -- THOSE
11 TWO FACTORS DON'T ALWAYS WORK TOGETHER. SOMETIMES THEY
12 ARE PRESENTED AS SEPARATE FACTORS.

13 Q AND DO YOU PRESENT THEM AS SEPARATE
14 FACTORS WHEN ONE OF THE FACTORS LIKE LIGHTING MIGHT BE
15 FAVORABLE TO AN IDENTIFICATION BUT THE DISTANCE IN YOUR
16 IN YOUR OPINION WOULD BE NEGATIVE, SO YOU ONLY TALK ABOUT
17 THE DISTANCE, ISN'T THAT WHAT YOU DO?

18 MS. SARIS: SAME OBJECTION, YOUR HONOR.
19 ARGUMENTATIVE.

20 THE COURT: OVERRULED, YOU CAN ANSWER THAT.

21 THE WITNESS: NO. NO. SOMETIMES THOSE FACTORS
22 INTERACT TO EFFECT MEMORY AND SOMETIMES THEY HAVE AN
23 EFFECT SEPARATELY. SOMETIMES I TESTIFY WITH THEM
24 TOGETHER AND SOMETIME SEPARATELY EVEN IF I'M PRESENTING
25 BOTH OF THEM.

26 Q BY MR. DIXON: BUT YOU DIDN'T TALK ABOUT
27 LIGHTING TODAY DID YOU?

28 A THAT'S TRUE.

1 Q LET'S TALK ABOUT LIGHTING IF -- WELL,
2 YOU'VE BEEN TALKING ABOUT SOME STUDIES. SO LET ME, WITH
3 THE COURT'S PERMISSION, I GUESS WE WILL HEAR IT IF I'M
4 OKAY WITH THIS. LET ME TALK TO YOU ABOUT A HYPOTHETICAL,
5 OKAY?

6 A OKAY.

7 Q LET'S TRY TO KEEP THIS HYPOTHETICAL IN
8 MIND. A MAN AND A WOMAN, BROTHER AND SISTER, WORK IN A
9 DOWNTOWN AREA LIKE PASADENA. THEY ARE WALKING LONG THE
10 STREET AND THEY SEE AN AUTOMOBILE WITH TWO GUYS IN IT.
11 IT'S IN A RED ZONE SITTING IN FRONT OF A BANK. IT'S
12 NOON, A BRIGHT SUNNY DAY. AND ONE SAYS TO THE OTHER,
13 "BOY, IF THE CAR'S GOT IT'S ENGINE RUNNING, I WONDER IF
14 SOMETHING IS GOING WRONG HERE. WHAT'S THAT CAR DOING
15 THERE?" THEY WALK UP TO THE CAR, LOOK INSIDE, THERE'S A
16 DRIVER AND A PASSENGER TO MAKE AN IDENTIFICATION. THEY
17 SPENT ABOUT A MINUTE AS THEY WALK SLOWLY FROM THE BACK OF
18 THE CAR UP TO LOOK INSIDE THE CAR, AND AT THAT MOMENT THE
19 DRIVER TURNS AND FACES THEM DIRECTLY FACE ON.

20 NOW WE MIGHT ADD A LITTLE BIT TO THAT
21 HYPOTHETICAL IF WE GO ON, BUT IN THAT SITUATION, THE
22 LIGHTING WOULD BE PERFECT WOULDN'T IT? IT'S AS GOOD AS
23 IT GETS. IT'S NOON, IT IS A BRIGHT SUNNY DAY.

24 MS. SARIS: OBJECTION IMPROPER HYPOTHETICAL BASED
25 ON THE QUESTION.

26 THE COURT: LET'S GO TO SIDE BAR.

27 (PROCEEDINGS HELD AT SIDEBAR.)

28 MS. SARIS: THE OBJECTION TO THE HYPOTHETICAL IS

1 IF HE WANTS TO LIST ALL OF THOSE FACTORS AND HAVE HER
2 DISCUSS ALL OF THOSE FACTORS, I'M HAPPY WITH IT. BUT TO
3 GO THROUGH ALL THOSE FACTORS JUST TO ASK HER IF IT WAS
4 NOON AND SUNNY OUT IT SEEMS A LITTLE --

5 THE COURT: THIS IS THE PROBLEM I'M HAVING WITH
6 IT IS UNDER ORDINARY CIRCUMSTANCES I WOULDN'T ALLOW THAT
7 HYPOTHETICAL. BUT GIVEN THE STUDIES THAT SHE'S REFERRED
8 TO, AND IN PARTICULAR THE SHEPHERD STUDY, I THINK THIS IS
9 FAIR GAME.

10 MS. SARIS: I DON'T DISAGREE. THE PROBLEM IS YOU
11 LIST ALL THOSE FACTORS FOR THE SPECIFIC QUESTION, IS TELL
12 ME ABOUT THE LIGHTING, THAT'S NOT A FAIR QUESTION. IF
13 YOU'RE SAYING ALL THAT WOULD BE NEEDED FOR THAT
14 HYPOTHETICAL IS; IT'S NOON OUT, IT'S A BRIGHT, SUNNY DAY.
15 TO LIST THOSE FACTORS AND ONLY ASK ABOUT LIGHTING --

16 THE COURT: WELL I DON'T THINK WE'RE --

17 MS. SARIS: -- IS MISLEADING.

18 THE COURT: -- I DON'T THINK WE'RE AT THE POINT
19 WHERE WE'VE RECEIVED JUST ONE ANSWER. I MEAN, YOU'LL BE
20 PERMITTED TO REDIRECT, AND I THINK COUNSEL IS GOING TO
21 FOLLOW UP. I KNOW THE WITNESS WILL, IF HE DOESN'T.

22 MS. SARIS: BUT THE PROBLEM WITH THE HYPOTHETICAL
23 IS THE QUESTION POSED LIMITS HER ANSWER ONLY TO LIGHTING
24 AND THAT'S INAPPROPRIATE.

25 THE COURT: I DON'T THINK ANYTHING HAS BEEN
26 LIMITING HER ANSWER.

27 MS. SARIS: I HAVE ALSO HAVE A CONTINUED
28 OBJECTION TO COUNSEL BERATING THE WITNESS AND BASICALLY

1 SCREAMING AT HER AND NOT LETTING HER TESTIFY.

2 THE COURT: I HAVE SUSTAINED THE OBJECTIONS THAT
3 I THOUGHT WERE ARGUMENTATIVE, OVERRULED THE OBJECTIONS I
4 THOUGHT WEREN'T, AND I DON'T KNOW WHAT MORE I CAN DO.

5 MS. SARIS: THE COURT CAN ADMONISH COUNSEL TO ACT
6 PROFESSIONALLY.

7 THE COURT: WELL, I THINK FOR THE MOST PART ALL
8 COUNSEL HAVE BEEN JUST WONDERFUL.

9 (SIDE BAR CONCLUDED.)

10 THE COURT: PLEASE CONTINUE.

11 MR. DIXON: THANK YOU.

12 Q SO, AND PLEASE KEEP THE HYPOTHETICAL IN
13 MIND, I'LL TRY BECAUSE WE'RE GOING TALK ABOUT IT A LITTLE
14 BIT. SO IN THAT SITUATION AT LEAST WITH RESPECT TO
15 LIGHTING, IT WOULD APPEAR THAT THE LIGHTING WOULD BE
16 FAVORABLE FOR AN IDENTIFICATION; WOULDN'T YOU AGREE?

17 A THE WAY YOU DESCRIBED IT, YES.

18 Q AND IN TERMS OF SIDE-VIEW VERSUS FULL
19 FRONTAL VIEW, IN THE HYPOTHETICAL I GAVE TO YOU, AT SOME
20 POINT AS THE TWO WITNESSES WALKED UP TO THE PASSENGER
21 SIDE OF THE DOOR AND THE PASSENGER, OR EXCUSE ME, THE
22 DRIVER'S SIDE OF THE DOOR AND THE DRIVER LOOKED AT THE
23 WITNESSES, THERE WAS A TIME THERE -- AND WE CAN TALK
24 ABOUT THAT TIME IN A MOMENT -- BUT THERE WAS A TIME THERE
25 WHEN THEY SAW THE DRIVER FULL FACIAL, CORRECT?

26 A ACCORDING TO YOUR DESCRIPTION, YES.

27 Q AND THAT WOULD BE A FAVORABLE SITUATION
28 FOR TO MAKE AN IDENTIFICATION WOULDN'T YOU AGREE?

1 A YES.

2 Q NOW, YOU TALKED ALSO ABOUT EXPOSURE TIME
3 CORRECT?

4 A YES.

5 Q AND TELL ME IF I'M WRONG BUT IN -- HAVEN'T
6 YOU EXPRESSED THIS OPINION IN THE PAST THAT IT'S AN
7 UNFAVORABLE SITUATION FOR AN IDENTIFICATION AS A MATTER
8 OF A SECONDS VERSUS A LONGER PERIOD OF TIME. HAVE YOU
9 SAID THAT IN THE PAST?

10 A WELL, CLEARLY I'VE TALKED ABOUT A
11 CONTINUUM WHERE IT'S A CASE THAT UP TO SEVERAL MINUTES OR
12 SO, THE MORE TIME YOU HAVE, THE BETTER YOUR MEMORY IS.
13 THE LESS TIME YOU HAVE, THE LESS GOOD YOUR MEMORY IS. SO
14 THERE IS NOT AN ABSOLUTE CUTOFF THAT IT'S GOOD IF YOU
15 HAVE THIS MUCH TIME BUT IT'S BAD IF YOU DON'T HAVE THAT
16 MUCH TIME. IT'S A CONTINUUM. MEMORY GETS BETTER WITH
17 INCREASED EXPOSURE TIME.

18 Q SO IN THE HYPOTHETICAL THAT I GAVE YOU
19 ABOUT THE BANK AND THE CAR IN THE RED ZONE, IF THOSE TWO
20 PEOPLE, THE BROTHER AND SISTER, WALKED UP AND LOOKED AT
21 THE MEN IN THE CAR FOR UP TO A MINUTE, THAT WOULD BE
22 BETTER THAN A FEW SECONDS, WOULDN'T IT?

23 A CERTAINLY.

24 Q NOW THERE IS ANOTHER -- HERE WE GO. THE
25 NEXT ONE IS DEPTH OF PROCESSING. YOU'VE TESTIFIED TO
26 THAT AS A FACTOR IN THE PAST HAVEN'T YOU?

27 A I HAVE, YES.

28 Q AND WHAT THAT REALLY MEANS IS THAT, WELL

1 LET ME WITHDRAW THAT AND ASK YOU THIS; AT THE BEGINNING
2 OF YOUR TESTIMONY IN RESPONSE TO DEFENSE COUNSEL, YOU
3 SUGGESTED TO THE JURORS THAT WHEN THEY WALKED IN THIS
4 MORNING TO THE COURTHOUSE AND THEY WERE ALL WAND, AS WE
5 ARE ALL WAND EVERY MORNING TO COME IN HERE, THAT THE
6 SECURITY GUARD THAT DID THAT TO THEM, THEY PROBABLY
7 COULDN'T RECOGNIZE BECAUSE IT WASN'T IMPORTANT. ISN'T
8 THAT WHAT YOU SUGGESTED?

9 A NO, I WASN'T. I WAS JUST USING IT AS AN
10 EXAMPLE FOR A PERSON THAT WE ALL SAW WITHIN A BRIEF
11 PERIOD OF TIME AND SO FORTH THAT WE MAY OR MAY NOT BE
12 ABLE TO REMEMBER. BUT I WAS TALKING ABOUT HOW MEMORY
13 DOESN'T WORK LIKE A VIDEO CAMERA SO WE WOULDN'T PLAY THE
14 TAPE BACK.

15 Q BUT AT LEAST WE'D AGREE THAT YOU WOULD
16 THINK THAT FEW OF US WOULD BE ABLE TO RECOGNIZE THAT
17 PERSON ON A ONE GLANCE SITUATION, AS WE WALKED THROUGH
18 THEM OR WERE WANNED?

19 A I WOULD, YES.

20 Q ISN'T THAT VERY DIFFERENT THAN THE
21 SITUATION WITH DEPTH OF PROCESSING, AND LET ME ASK YOU,
22 DOESN'T THAT MEAN THAT WHEN I ATTEMPT -- OR THE TWO
23 PEOPLE IN MY HYPOTHETICAL -- ATTEMPT TO MAKE AN
24 IDENTIFICATION, THEY ARE DOING IT WITH AN IDEA THAT, YES
25 I WANT TO REMEMBER THIS PERSON'S FACE. THERE IS A REASON
26 I WANT TO KNOW WHY THIS PERSON IS IT PARKED IN FRONT OF
27 THE BANK IN A RED ZONE WITH THE ENGINE RUNNING? ISN'T
28 THAT WHAT IT MEANS?

1 A WELL, DEPTH OF PROCESSING IS A -- WHEN WE
2 LOOK AT ANY INFORMATION, BUT WE'LL TALK ABOUT FACES NOW,
3 IF WE LOOK AT A FACE, WE CAN PROCESS THAT FACE RELATIVELY
4 SUPERFICIALLY OR IN GREATER DEPTH. AND THE GREATER DEPTH
5 YOU PROCESS, THE MORE LIKELY YOU ARE TO REMEMBER IT. AT
6 A SUPERFICIAL LEVEL, YOU MIGHT BE JUST TRYING TO SCAN,
7 DOES THE PERSON LOOK LIKE SOMEONE WHO MIGHT BE SUSPICIOUS
8 OR SOMEONE THAT MIGHT BE UP TO NO GOOD, OR SOMETHING LIKE
9 THAT. SO IT DEPENDS -- I CAN'T TELL FROM YOUR
10 HYPOTHETICAL IF PEOPLE ARE LOOKING IN THE CAR, YOU SAY
11 THEY ARE STARING AT THE FACE BUT THEY ONLY GET A GLANCE
12 AT THE FULL FRONTAL CASE.

13 Q I DIDN'T SAY GLANCE, YOU'RE SAYING GLANCE.

14 A I THOUGHT YOU SAID TOWARDS THE END HE
15 TURNED HIS FACE, BUT NOT UNTIL THEN.

16 Q MAY I ASK ANOTHER QUESTION?

17 A OKAY.

18 Q DO YOU RECALL HEARING THIS QUESTION AND
19 SAYING THIS ANSWER IN AN EARLIER CASE THAT WAS -- I'LL
20 GIVE IT TO YOU.

21 MS. SARIS: OBJECTION YOUR HONOR, IMPROPER
22 FOUNDATION FOR IMPEACHMENT.

23 THE COURT: LET'S GO TO THE SIDE BAR.

24 MR. DIXON: WELL, I'LL TRY TO ASK ANOTHER
25 QUESTION BECAUSE I KNOW YOU DON'T WANT TO GO TO SIDE BAR.

26 Q DO YOU THINK THAT DEPTH OF PROCESSING HAS
27 TO DO WITH TRYING TO REMEMBER A FACE AND FIGURE OUT WHAT
28 KIND OF PERSON IS BEHIND THAT FACE?

1 A I THINK THAT'S WHAT I HAVE JUST SAID.

2 Q AND WOULDN'T YOU AGREE THAT, IF YOU'RE
3 TRYING TO MAKE A NUMBER OF DETERMINATIONS -- PERSONAL
4 JUDGMENTS ABOUT A PERSON, YOU'RE GOING TO REMEMBER THAT
5 FACE BETTER?

6 A THAT'S TRUE. I THINK THAT'S WHAT I'VE
7 SAID.

8 Q LIKE, FOR EXAMPLE, ONE OF THOSE JUDGMENTS
9 MIGHT BE, WHY IS THIS PERSON IN MY NEIGHBORHOOD?

10 A I NEED A MORE SPECIFIC QUESTION. THAT'S
11 TOO HYPOTHETICAL FOR ME.

12 Q WELL, YOU ANSWERED IT EARLIER IN ANOTHER
13 CASE THAT WAY. WOULD YOU LIKE ME TO READ YOU THE
14 QUESTION AND ANSWER?

15 A WELL, THERE WAS A CONTEXT FOR IT. I COULD
16 READ THE PAGE BEFORE AND THE PAGE AFTER.

17 Q WOULD THIS REFRESH YOUR RECOLLECTION?

18 A IT WOULD, YES.

19 Q MAY I APPROACH?

20 THE COURT: YES.

21 MR. DIXON: AND I'M SHOWING YOU FOR EVERYBODY'S
22 EDIFICATION, THIS IS PEOPLE VERSUS NEWBORN MCCLAY AND
23 HOLMES. BA 092268 IN FRONT OF THE HONORABLE J.D. SMITH.
24 IT'S PAGES -- WE WILL START WITH 3720 TO 3722.

25 MS. SARIS: MAY I SEE IT COUNSEL.

26 MR. DIXON: OF COURSE.

27 Q JUST SO -- I DO WANT YOU TO HAVE THE FULL
28 CONTEXT HERE, SO I'LL ASK YOU TO START READING HERE, AND

1 IS MIGHT TAKE A MOMENT OR TWO, BUT 3720 THE NEXT COUPLE
2 OF PAGES AS YOU CAN SEE IT'S HIGHLIGHTED, THOSE ARE MY
3 NOTES AND YOU CAN IGNORE THAT.

4 (PAUSE IN PROCEEDINGS.)

5 THE WITNESS: OKAY.

6 Q BY MR. DIXON: HAVE YOU HAD A CHANCE TO
7 REVIEW THAT?

8 A YES.

9 Q OKAY. SO IN FRONT OF THE HONORABLE J.D.
10 SMITH, YOU TOLD THAT COURT THAT WITH RESPECT TO DEPTH OF
11 PROCESSING, IT WOULD BE IMPORTANT TO TRY TO FIGURE OUT --
12 MAKE SOME KIND OF JUDGMENTS ABOUT THE PERSON BEHIND THE
13 FACE, CORRECT?

14 MS. SARIS: OBJECTION YOUR HONOR, IMPROPER
15 IMPEACHMENT. THAT'S WHAT SHE'S BEEN SAYING.

16 MR. DIXON: I'M JUST TRYING TO SET IT UP HERE
17 AGAIN.

18 THE COURT: OVERRULED.

19 THE WITNESS: THAT'S EXACTLY WHAT I'VE BEEN
20 SAYING HERE, YES.

21 Q BY MR. DIXON: AND WHEN ASKED FURTHER ON
22 THAT, DO YOU RECALL, AFTER REVIEWING THIS, HEARING THIS
23 QUESTION OR THESE QUESTIONS AND GIVING THESE ANSWERS?

24 MS. SARIS: SAME OBJECTION YOUR HONOR, IMPROPER
25 IMPEACHMENT. RELEVANCE OF A PRIOR TESTIMONY.

26 THE COURT: LET'S GO TO THE SIDE BAR.

27 MR. DIXON: WELL, I'LL TRY TO ASK A DIFFERENT
28 QUESTION.

1 THE COURT: OKAY. SO THAT WORKS, HUH?

2 MR. DIXON: I'M JUST TRYING TO COOPERATE HERE.
3 TIME IS PRECIOUS. I UNDERSTAND THAT.

4 THE COURT: THANK YOU.

5 Q BY MR. DIXON: SO IN MAKING ONE OF THOSE
6 PERSONAL JUDGMENTS ABOUT THE FACE THAT SOMEBODY IS GOING
7 TO LOOK AT, WOULD ONE OF THOSE PERSONAL JUDGMENTS OR
8 DECISIONS BE, TRYING TO FIGURE OUT WHY THIS PERSON IS IN
9 MY NEIGHBORHOOD?

10 A IT'S POSSIBLE, YES.

11 Q OR WHY THIS PERSON IS IN A CAR IN A RED
12 ZONE WITH THE ENGINE RUNNING?

13 A THAT'S -- AGAIN IT'S POSSIBLE.

14 Q WELL, DIDN'T YOU TESTIFY BEFORE THAT IT
15 WAS TRUE THAT THAT WOULD BE A REASON?

16 A I THINK I SAID IT'S POSSIBLE.

17 Q EARLIER YOU TOLD THE JURORS ON DIRECT
18 EXAMINATION THAT ONCE SOMEBODY HAS TRIED TO MAKE AN
19 IDENTIFICATION AND HAS SEEN THE PERSON AND THEN LATER HAS
20 IS MOTIVATED TO TRY TO RECALL THAT WITH MONEY OR OTHER
21 INCENTIVES, IT JUST DOESN'T WORK. ISN'T THAT KIND OF
22 WHAT YOU SAID, IT DOESN'T MAKE ANY DIFFERENCE?

23 A YEAH. IF THE MOTIVATION TO REMEMBER THAT
24 FACE DIDN'T KICK IN UNTIL AFTER THEY SAW THE FACE, IT'S
25 NOT GOING TO HAVE ANY EFFECT.

26 Q BUT WITH DEPTH OF PROCESS, AND WHAT WE
27 HAVE JUST BEEN TALKING ABOUT, THE MOTIVATION KICKS IN
28 BEFORE; WOULDN'T YOU AGREE?

1 A WELL, THERE ARE DIFFERENT ISSUES. THE
2 MOTIVATION TO REMEMBER BECAUSE THE PERSON THAT YOU
3 OBSERVED IN FRONT OF THE BANK, I MEAN IF YOU FOUND OUT
4 FIVE DAYS LATER THAT THE PERSON IN FRONT OF THE BANK MAY
5 HAVE BEEN RELATED TO A SHOOTING THAT OCCURRED A MILE
6 AWAY, THAT'S VERY COMPELLING. IF YOUR MOTIVATION TO LOOK
7 IN THE CAR IS: WHAT ARE THEY DOING WITH A CAR RUNNING AT
8 A RED CURB AND KIND OF LOOKED OVER TO SEE THAT, IS
9 SOMETHING SUSPICIOUS HERE, SHOULD I CALL THE COPS?
10 THAT'S A DIFFERENT THING. SO THE SCOPE OF MOTIVATION IS
11 VERY DIFFERENT AS TO HEY, WHAT IS GOING ON OVER THERE,
12 VERSUS WOW, I THINK I MAY HAVE SEEN THE PERSON WHO SHOT
13 THIS OTHER INDIVIDUAL.

14 Q OKAY, THEN I'LL ASK YOU THIS QUESTION; IN
15 MY HYPOTHETICAL, IS THE BROTHER AND SISTER -- ADULT
16 BROTHER AND SISTER WALK UP TO THE CAR WITH THE TWO GUYS
17 IN IT THAT'S IN THE RED ZONE PARKED IN FRONT OF THE BANK
18 WITH THE MOTOR RUNNING, THEY SAY TO ONE ANOTHER, "I
19 WONDER WHAT IS GOING ON HERE? WE BETTER GET A LOOK AT
20 THESE GUYS. MAYBE THEY'RE GOING TO ROB THE BANK." WOULD
21 THAT BE THE KIND OF MOTIVATION THAT WE'RE TALKING ABOUT
22 HERE THAT WOULD KICK IN THAT MEMORY BEFORE MAKING THE
23 IDENTIFICATION SO THAT WE WOULD RECALL IT BETTER?

24 A IF WE KNEW THAT THAT'S WHAT THEY SAID, I
25 WOULD AGREE WITH YOU. THEN WE SHOULD HAVE A VERY CAREFUL
26 DESCRIPTION OF THAT PERSON BY BOTH INDIVIDUALS WHO WENT
27 OVER TO SEE WHAT THE GUY LOOKED LIKE. THEY OUGHT TO BE
28 ABLE TO DESCRIBE HIM IN QUITE SPECIFIC DETAIL. AND IF

1 THAT OCCURRED I WOULD AGREE WITH YOU.

2 Q AND IN FACT DESCRIPTIONS -- I WROTE DOWN
3 FITS DESCRIPTION THERE IS AS OUR NEXT ONE. BUT IF THE
4 POLICE TALKED TO THESE PEOPLE LATER AND ASKED THEM WHAT
5 THE DRIVER LOOKS LIKE TO THE EXTENT THAT THEY ARE ABLE TO
6 PINPOINT THAT IDENTIFICATION, WOULDN'T YOU AGREE THE
7 BETTER THE IDENTIFICATION, OR THE MORE CONFIDENCE YOU
8 WOULD HAVE IN THE ACCURACY OF THAT IDENTIFICATION?

9 A I'M NOT SURE WHAT YOU ARE ASKING.

10 Q IN THE HYPOTHETICAL SOMETIME LATER, POLICE
11 ASK THEM TO DESCRIBE THE DRIVER AND THEY DO TO A T.
12 WOULDN'T THAT GIVE YOU GREATER CONFIDENCE IN THE BROTHER
13 AND SISTER'S ABILITY TO MAKE THE IDENTIFICATION, THE
14 CORRECT IDENTIFICATION.

15 MS. SARIS: OBJECTION VAGUE AS TO SOMETIME LATER.

16 THE COURT: SUSTAINED.

17 Q BY MR. DIXON: FIRST LET'S SAY A WEEK
18 LATER OR A MONTH LATER. I DON'T CARE. DON'T YOU AGREE
19 THAT THE ABILITY TO MAKE A ACCURATE AND DETAILED
20 DESCRIPTION LENDS CREDIBILITY TO THE SUBSEQUENT
21 IDENTIFICATION?

22 A IT DOES, BUT LET ME CLARIFY IT. WHEN
23 PEOPLE ARE ASKED TO DESCRIBE A PERSON, LIKE LET'S SAY YOU
24 HAVE BEEN LOOKING AT ME FOR A LONG TIME. IF I ASKED TO
25 YOU WRITE DOWN A LIST OF ADJECTIVES TO DESCRIBE ME, THE
26 AVERAGE NUMBER OF ADJECTIVES THAT PEOPLE WOULD GIVE WOULD
27 BE ABOUT BETWEEN SIX AND EIGHT. SO WHEN WE'RE ASKED TO
28 DESCRIBE A PERSON, ON AVERAGE WE CAN JUST GIVE SIX OR

1 EIGHT ADJECTIVES. WE'RE NOT GREAT AT DESCRIBING PEOPLE.
2 SO IF YOU SAY THAT THEY CAN GIVE A DETAILED DESCRIPTION
3 -- THAT THEY COULD GIVE MORE THAN SIX OR EIGHT ADJECTIVES
4 AND THOSE -- SOME NUMBER GREATER THAN SIX OR EIGHT
5 ADJECTIVES -- ACTUALLY MATCH THE PERSON, I WOULD AGREE
6 WITH YOU.

7 Q IN YOUR BUSINESS, OR IN THIS
8 IDENTIFICATION BUSINESS, ISN'T THERE SOMETHING CALLED
9 SALIENT DETAILS?

10 A WELL, THERE ALWAYS IS, YES.

11 Q AND FOR EXAMPLE, AND I KNOW THAT YOU'VE
12 TESTIFIED IN MANY CASES. HAVE YOU EVER TESTIFIED IN A
13 CASE WHERE A TATTOO HAS BECOME IMPORTANT IN
14 IDENTIFICATION?

15 A YES.

16 Q AND IF IT A UNUSUAL OR DISTINCTIVE TATTOO
17 THAT WOULD BE A SALIENT POINT, RIGHT?

18 A YES.

19 Q AND IF THE WITNESS RECALLED IT WITH SOME
20 DETAILS THAT WOULD LEND CREDIBILITY TO THE
21 IDENTIFICATION?

22 A I AGREE, YES.

23 Q IN OUR HYPOTHETICAL, IF THE BROTHER AND
24 SISTER LOOK AT THE DRIVER AND RECALL THAT HIS FACE IS
25 COVERED WITH BRIGHT FRECKLES, WOULDN'T THAT BE AN
26 IMPORTANT SALIENT DETAIL THAT WOULD GIVE YOU CONFIDENCE
27 IN THEIR LATER IDENTIFICATION?

28 A WELL, WHAT IS IMPORTANT IS ALWAYS IF THE

1 DETAIL THAT THE WITNESS IS DESCRIBING IS UNUSUAL, MEANING
2 IT DOESN'T OCCUR IN THE POPULATION AT LARGE. SO IF
3 SOMEONE DESCRIBED A TATTOO OF YOU KNOW, SOME VERY VERY
4 SPECIFIC THING, AND A PERPETRATOR WAS OBSERVED BY THE
5 EYEWITNESS AS HAVING THAT VERY SPECIFIC TATTOO, THEN THAT
6 IS SUGGESTIVE THAT THE -- IT MUST FIT -- THE DESCRIPTION
7 FITS THE PERSON. IT MUST BE THAT PERSON. IF WE'RE
8 TALKING ABOUT A CHARACTERISTIC LIKE FRECKLES, WELL, YOU
9 KNOW, A FAIR NUMBER OF PEOPLE HAVE FRECKLES. IF WE'RE
10 TALKING ABOUT SOMETHING THAT IS A LITTLE MORE UNUSUAL, IT
11 WOULD BE MORE.

12 BUT WHAT IS IMPORTANT IS HOW UNIQUE AND
13 HOW DISTINCTIVE IS THE THING THAT THE WITNESS IS ABLE TO
14 DESCRIBE. THE MORE DISTINCTIVE --

15 Q HOW ABOUT IF THE BROTHER AND SISTER WERE
16 ABLE TO DESCRIBE WITH SOME SPECIFICITY A SCAR THAT LOOKED
17 LIKE IT WAS THE RESULT OF A KNIFE CUT ON THE FACE? WOULD
18 THAT BE THE KIND OF DETAIL THAT MIGHT BE RECALLED?

19 A IF IT WAS A UNIQUE KIND OF A SCAR, I WOULD
20 AGREE.

21 Q SO WE WILL MOVE ONTO ANOTHER AREA HERE.
22 BUT WITH RESPECT TO THE HYPOTHETICAL THAT WE'VE GONE
23 THROUGH SO FAR, WOULDN'T YOU AGREE THAT THE BROTHER AND
24 SISTER'S SUBSEQUENT IDENTIFICATION WOULD BE MORE RELIABLE
25 WHERE THEY HAVE A MOTIVATION TO TRY TO REMEMBER WHO WAS
26 IN THE CAR BEFORE THEY WALKED UP TO IT, AS OPPOSED TO TWO
27 PEOPLE WHO JUST HAPPENED TO WALK BY THE CAR, WALK DOWN
28 THE STREET AND THEN SEE ANOTHER ROBBER RUN OUT OF THE

1 BANK AND GET AWAY, WHERE THEY DIDN'T REALLY PAY MUCH
2 ATTENTION TO THE PERSON IN THE CAR?

3 A SURE, I AGREE.

4 Q SO WHEN YOU HAVE A MOTIVATION AND A REASON
5 TO TRY TO WALK UP AND REMEMBER A FACE, THAT LEADS TO
6 RELIABLE IDENTIFICATIONS; WOULDN'T YOU AGREE WITH THAT?

7 A I AGREE, YES.

8 Q AND THAT WOULD BE VERY DIFFERENT THAN THE
9 SECURITY GUARD THAT WE ALL WENT BY THIS MORNING, RIGHT?

10 A WELL, IT'S NOT COMPARABLE BECAUSE THAT
11 LINE WAS REALLY LONG THIS MORNING WHEN I WENT THROUGH IT.
12 AND SO I WAS LOOKING AT THE GUY GETTING READY TO LOOK AT
13 THAT GUY FOR A LONG TIME. SO THAT'S A DIFFERENT
14 SITUATION COMPARED TO GLANCING AT SOMEONE IN A CAR.

15 Q YES. YOU ALSO ANSWERED SOME QUESTIONS ON
16 THIS COMPETENCE ISSUE, CORRECT?

17 A YES.

18 Q THAT, AND PLEASE CORRECT ME IF I'M WRONG,
19 BUT WHAT I HEARD YOU SAY, IT DOESN'T REALLY MATTER WHEN
20 SOMEBODY SAYS THEY'RE SURE NOR NOT, IT'S JUST ALMOST
21 IRRELEVANT?

22 A THAT'S RIGHT.

23 Q LET'S GO BACK TO, WE'RE PROBABLY WEARING
24 IT OUT, BUT MY HYPOTHETICAL, OKAY? AS I MENTIONED TO YOU
25 IN THE BEGINNING, THERE ARE TWO PEOPLE IN THE CAR, DRIVER
26 AND A PASSENGER.

27 A OKAY.

28 Q OKAY. THE DRIVER IS CAUCASIAN AND THE

1 PASSENGER IS ASIAN. AS THE BROTHER AND SISTER WALK UP TO
2 THEM, AS I MENTIONED, THE DRIVER TURNS AND LOOKS AT THE
3 FACE, FULL FRONTAL VIEW OF THE BROTHER AND THE SISTER,
4 BUT THE ASIAN PASSENGER WHO'S A LITTLE FARTHER AWAY
5 DOESN'T, OKAY?

6 A OKAY.

7 Q NOW, THERE IS A COUPLE OF FACTORS THERE
8 THAT WE CAN TALK ABOUT, AND WE WON'T COMPLETELY REVISIT
9 THE CROSS RACIAL, BUT IF THE BROTHER AND SISTER ARE
10 UNABLE TO SAY THEY COULD IDENTIFY THE ASIAN PASSENGER,
11 THAT WOULDN'T SURPRISE YOU, BECAUSE THAT'S A LESS
12 RELIABLE IDENTIFICATION SITUATION; WOULDN'T YOU AGREE?

13 A WELL, IT DEPENDS WHY THEY WERE SAYING IT.
14 THEY COULD BEING SAYING THAT BECAUSE THEY NEVER LOOKED AT
15 THAT PERSON, THEY HAVE NEVER EVEN SAW THE PERSON, YOU
16 KNOW, MAYBE THEY JUST SAW A SHADOW IN THE CAR, OR MAYBE
17 IT'S A CROSS RACE CASE. EITHER WAY.

18 Q BUT A CROSS RACE CASE, CAUCASIAN TO ASIAN,
19 WOULD FIT THAT CROSS RACIAL IDENTIFICATION SITUATION
20 WHICH IS LESS RELIABLE THAN THE SAME RACE IDENTIFICATION,
21 CORRECT?

22 A YES.

23 Q NOW, WE'LL JUST IDENTIFY THE SISTER RIGHT
24 NOW, BUT THE SISTER SAYS, "YOU KNOW, I'M 100 PERCENT SURE
25 WHEN MAKING AN IDENTIFICATION OF THE DRIVER BECAUSE I
26 REMEMBER THE FRECKLES OR I REMEMBER THE KNIFE SCAR OR
27 WHATEVER, BUT I'M NOT SURE ABOUT THE ASIAN PERSON WHO WAS
28 IN THE CAR. I BELIEVE HE'S A MALE, AN ASIAN, BUT I'M NOT

1 POSITIVE ABOUT THAT IDENTIFICATION. AND SO I JUST
2 DECLINE TO MAKE IT." ARE YOU TELLING US IN THAT
3 SITUATION WE SHOULD PAY NO ATTENTION TO HOW THIS WITNESS
4 HAS CHARACTERIZED THEIR IDENTIFICATION?

5 A WHICH? WHICH?

6 Q WELL, LET'S START WITH THE ASIAN ONE. THE
7 WITNESS SAYS, "I'M NOT 100 PERCENT SURE OF MAKING THE
8 IDENTIFICATION OF THE ASIAN WITNESS, SO I DECLINE TO
9 IDENTIFY THEM," ARE YOU SAYING WE SHOULD DISREGARD THAT?

10 A THIS IS GETTING -- I'VE GOT TO MAKE TOO
11 MANY ASSUMPTIONS, AND IT'S GETTING FAR FETCHED. BECAUSE
12 WHAT I WOULD DO IN A SITUATION IF IT WERE A REAL CASE. I
13 WOULD GO BACK AND LOOK AT, NOT WHAT THE WITNESS IS SAYING
14 THEN, BUT HER ABILITY TO DESCRIBE THE PERSON AND SO FORTH
15 TO -- IN HER INITIAL POLICE INTERVIEW WHEN SHE WAS ASKED
16 TO DESCRIBE THAT ASIAN MAN. AND I'VE LOOKED TO SEE
17 WHETHER OR NOT SHE SAID AT THAT POINT IN TIME THAT SHE
18 HAD EVEN LOOKED AT THAT ASIAN MAN. IF SHE SAID SHE
19 DIDN'T EVEN LOOK AT THAT ASIAN MAN, THEN THAT WOULD
20 EXPLAIN WHY SHE MIGHT NOT WANT TO SUBJECT HERSELF TO AN
21 IDENTIFICATION OF THAT PERSON, BECAUSE MUCH PRIOR SHE HAD
22 SAID I DIDN'T EVEN LOOK AT THAT GUY.

23 Q LET'S SAY SHE DID LOOK AT HIM AND IS JUST
24 NOT CONFIDENT ENOUGH IN HER IDENTIFICATION TO TRY TO MAKE
25 AN IDENTIFICATION.

26 A DID SHE LOOK AT THE LINEUP AND SAID I JUST
27 CAN'T FIND HIM?

28 Q EXACTLY, YES. LET'S TAKE THAT, YES. AND

1 ARE YOU TELLING US THAT WE SHOULD TOTALLY DISCOUNT HER
2 CHARACTERIZATION OF HER ABILITY TO IDENTIFY?

3 A NO, BUT IT MIGHT REFLECT OTHER
4 CIRCUMSTANCES IS MY POINT. LIKE, IF THIS IS MORE THAN
5 ONE YEAR AFTER SHE OBSERVED THE INDIVIDUAL, IT WOULD MAKE
6 SENSE THAT SHE WOULD SAY "I JUST CAN'T IDENTIFY THE
7 PERSON ANY MORE." SO IT'S NOT JUST ABOUT HER CONFIDENCE
8 BUT JUST THE FACT THAT HER MEMORY IS DECLINED TO THE
9 POINT NOW THAT SHE JUST DOESN'T FEEL LIKE SHE CAN MAKE AN
10 IDENTIFICATION. THAT COULD EXPLAIN THE POINT.

11 Q BUT YOU EARLIER HAD TOLD US THAT THE
12 CONFIDENCE LEVEL, OR LACK OF IT THERE, MAKES NO REAL
13 DIFFERENCE IN THE RELIABILITY OF IDENTIFICATION; ISN'T
14 THAT WHAT YOU'VE TOLD US?

15 A THAT'S RIGHT. BUT I WOULD NOT RELY ON HER
16 CONFIDENCE ONLY TO ASSESS WHAT HAPPENED. I WOULD LOOK
17 FOR OTHER CIRCUMSTANCES LIKE HOW LONG THE TIME HAS BEEN
18 SINCE SHE MADE AN IDENTIFICATION AND SO FORTH. I WOULD
19 NOT JUST RELY ON HER CONFIDENCE.

20 Q BUT WHEN A WITNESS, LOOKING AT TWO PEOPLE
21 AT THE SAME TIME TELLS YOU AS AN INVESTIGATOR OR
22 PSYCHOLOGIST, "I'M JUST NOT SURE ENOUGH ABOUT ONE TO MAKE
23 AN IDENTIFICATION, BUT I AM SURE ABOUT THE OTHER ONE",
24 ARE YOU TELLING US WE SHOULD JUST TOTALLY DISCOUNT THAT
25 COMPARISON?

26 A NO. I WOULD TAKE HER AT HER WORD THAT
27 BECAUSE OF THE VARIOUS CIRCUMSTANCES OPERATING FOR ONE OF
28 THOSE PEOPLE SHE CAN'T MAKE AN IDENTIFICATION.

1 Q BUT YOU WOULDN'T TAKE HER AT HER WORD FOR
2 THE IDENTIFICATION WHERE SHE SAYS I'M SURE OF THIS
3 IDENTIFICATION, WOULD YOU?

4 A NO, I WOULD. BUT I HAVE WOULDN'T RELY ON
5 HER EXPRESSION OF 100 PERCENT CONFIDENCE. IF LOOKING AT
6 THE WHITE GUY SHE PICKS SOMEONE OUT AND SAID "I'M 100
7 PERCENT CONFIDENT", BUT LOOKING AT THE ASIAN MAN SHE SAID
8 "I JUST CAN'T PICK SOMEONE OUT", I WOULD LOOK AT ALL OF
9 THE FACTORS THAT WERE OPERATING IN TERMS OF IDENTIFYING
10 THE ASIAN MAN AND THE WHITE MAN, BUT I WOULD NOT JUST
11 LISTEN TO HER 100 PERCENT CONFIDENCE.

12 Q BUT DOESN'T THE STATEMENT MADE BY THIS
13 WOMAN ABOUT THESE TWO MEN SHOW THAT SHE IS MAKING A REAL
14 EFFORT TO DISTINGUISH WHAT SHE CAN RECOGNIZE AND WHAT SHE
15 CAN'T? WHO SHE CAN IDENTIFY AND WHO SHE CAN'T? THAT SHE
16 IS SHOWING A LEVEL OF CONCERN AND CARE THAT WOULD HELP
17 YOU DETERMINE YOUR LEVEL OF RELIABILITY IN THAT
18 IDENTIFICATION.

19 A I ALWAYS ASSUME THAT WITNESSES ARE SHOWING
20 A LEVEL OF CONCERN, CARE, ATTENTION, BE CAREFUL, DON'T
21 MAKE A MISTAKE. I ALWAYS ASSUME THAT WITNESSES ARE
22 TRYING THEIR HARDEST. MY TESTIMONY IS ABOUT THE KIND OF
23 EYEWITNESS MISIDENTIFICATIONS THAT PEOPLE CAN MAKE EVEN
24 WHEN THEY'RE TRYING THEIR HARDEST.

25 Q AND YOU ASSUME THEY'RE TRYING THEIR
26 HARDEST BECAUSE THIS USUALLY DEALS, AT LEAST IN REAL
27 LIFE, WITH CRIMES, WITH SERIOUS MATTERS, CORRECT?

28 A WELL, I THINK THAT MOST PEOPLE ARE JUST

1 RELATIVELY AGREEABLE WHEN IT HAS TO DO WITH SERIOUS
2 MATTERS AND HELPING THE POLICE AND CONVICT GUILTY PEOPLE
3 AND SO FORTH. AND THAT'S IMPORTANT TO MOST CITIZENS I
4 THINK.

5 Q BUT THE RESEARCH THAT YOU DO IS WITH
6 STUDENTS, ISN'T IT?

7 A SOME IS, SOME ISN'T.

8 Q WELL, A LARGE PART IS WITH STUDENTS THAT
9 ARE EITHER AT YOUR COLLEGE OR OTHER COLLEGES THAT YOU PAY
10 A SMALL AMOUNT TO TO PARTICIPATE IN YOUR STUDIES,
11 CORRECT?

12 A NO, THAT'S NOT TRUE.

13 Q YOU DON'T PAY THEM?

14 A NO.

15 Q THEY JUST VOLUNTEER?

16 A YES.

17 Q AND THEY'RE GENERALLY STUDENTS, PSYCHOLOGY
18 STUDENTS?

19 A WELL, DEPENDS ON WHO THEY ARE. I TALKED
20 ABOUT RESEARCH THAT WAS DONE ON REAL VICTIMS OF REAL
21 CRIMES. I'VE TALKED ABOUT --

22 Q I'M TALKING ABOUT STUDENTS NOW. SO LET'S
23 TALK ABOUT STUDENTS. WHERE DO YOU GET THE STUDENTS TO DO
24 THE RESEARCH?

25 A IN WHAT STUDIES?

26 Q WELL, IN THE LAST THREE STUDIES THAT
27 YOU'VE USED WITH STUDENTS FOR RESEARCH?

28 A WHEN WE HAVE -- IT'S NOT ALWAYS THE CASE

1 THAT I USE STUDENTS IN MY RESEARCH. BUT WHEN I DO, I
2 USUALLY GO TO COMMUNITY COLLEGES IN OUR AREA. AT A
3 COMMUNITY COLLEGE IN SOUTHERN CALIFORNIA YOU GET A VERY
4 HETEROGENEOUS MIX OF STUDENTS OF DIFFERENT AGES AND SO
5 FORTH, AND TO GET INTO A JUNIOR COLLEGE YOU ONLY NEED A C
6 AVERAGE OR BETTER IN HIGH SCHOOL. SO WE'RE NOT LOOKING
7 AT SELECT NARROW BAND OF CITIZENS. WE'RE LOOKING AT
8 FAIRLY TYPICAL PEOPLE ACTUALLY. AND SO THOSE ARE THE
9 PEOPLE THAT I PARTICIPATING IN STUDIES.

10 MR. DIXON: COULD I HAVE MAY MOMENT PLEASE.

11 THE COURT: YES.

12 Q BY MR. DIXON: WELL, WOULDN'T YOU AGREE
13 THAT OFTEN THOSE STUDENTS IN YOUR STUDIES, THE ONES WHERE
14 YOU USE STUDENTS, DON'T HAVE THE SAME MOTIVATION TO MAKE
15 I.D.S, OR NOT, AS PEOPLE WHO ARE VICTIMS OF REAL CRIMES
16 OR WITNESSES IN REAL CRIMES WHERE THERE MAY BE LIFE AND
17 DEATH SITUATIONS?

18 A WELL, IT'S CERTAINLY -- THERE ARE
19 DIFFERENCES IN THOSE SITUATIONS, BUT IN BOTH SITUATIONS I
20 THINK WE HAVE PEOPLE WHO ARE TRYING TO DO THEIR BEST.
21 AND YOU KNOW, THEY MAY -- WHAT IS AMAZING IS EVEN WHEN WE
22 HAVE THESE PEOPLE WHO ARE TRYING TO DO THEIR BEST THEY
23 MAKE MISIDENTIFICATIONS UNDER CERTAIN CIRCUMSTANCES. NOT
24 ALL THE TIME, EYEWITNESS ARE NOT ALWAYS WRONG. AND OUR
25 SUBJECTS IN OUR EXPERIMENTS AREN'T ALWAYS WRONG. BUT
26 UNDER CERTAIN SITUATIONS THEY CERTAINLY ARE.

27 Q I'M NOT WRONG TODAY, YOU WERE IN JUDGE
28 KAPAI'S COURT IN 1987, RIGHT?

1 A THE EVIDENCE SUGGESTS THAT THAT'S TRUE.

2 Q LAST ONE, AND THEN WE WILL WRAP IT UP
3 BEFORE THE NOON HOUR.

4 CAPACITY TO MAKE AN IDENTIFICATION. I
5 HOPE MUCH I HAVE THAT TERMINOLOGY RIGHT. BUT BASICALLY
6 DOES THAT MEAN WHETHER THE PERSON WHO WAS MAKING THE
7 IDENTIFICATION WAS UNDER THE INFLUENCE OF ALCOHOL OR
8 DRUGS OR ANYTHING ELSE THAT WOULD INHIBIT THEIR ABILITY
9 TO FOCUS, TO PAY ATTENTION, AND PERCEIVE WHAT THEY'RE
10 TELLING THE POLICE THAT THEY LATER SAW?

11 A YES.

12 Q YOU DIDN'T TALK ABOUT THAT ONE EITHER IN
13 DIRECT?

14 A I DID NOT.

15 Q BUT YOU OFTEN DO IN CASES WHERE THERE
16 MIGHT BE SOME EVIDENCE THAT ONE OF THE WITNESSES HAD BEEN
17 DRINKING BEFORE MAKING AN IDENTIFICATION?

18 A THAT'S RIGHT.

19 Q AND IN THAT SITUATION, YOU WOULD SAY WELL
20 THAT WOULD LEAD TO A LESS RELIABLE IDENTIFICATION IF THEY
21 HAD TWO BEERS OR THREE BEERS BEFORE THE GUY RAN UP TO
22 THEM WITH A GUN AND TRIED TO ROB THEM?

23 A WELL, IF THERE ARE DRUGS OR ALCOHOL
24 INVOLVED BY EYEWITNESSES, THERE IS A HIGHER RATE OF
25 MISIDENTIFICATIONS.

26 Q WELL, IN MY HYPOTHETICAL LET'S ASSUME THE
27 BROTHER AND SISTER THAT WALK UP TO THE GUYS THAT ARE
28 HELPING THE BANK ROBBERY IN THE CAR ARE TEA TOTALLERS.

1 THEY DON'T DRINK. THEY DON'T TAKE DRUGS. WOULDN'T THAT
2 BE ANOTHER POSITIVE FACTOR THAT WOULD DEMONSTRATE THE
3 RELIABILITY OF THE THEIR IDENTIFICATION?

4 A WELL, YEAH. THEIR MEMORY WOULDN'T HAVE
5 BEEN IMPAIRED BY DRUGS OR ALCOHOL, IF THERE WERE NO DRUGS
6 OR ALCOHOL.

7 Q BUT DON'T YOU THINK IT WAS IMPORTANT TO
8 TELL THE JURY THESE OTHER FACTORS THAT MAY SUPPORT AN
9 IDENTIFICATION, FOR EXAMPLE THE ONE THAT I GAVE YOU IN MY
10 HYPOTHETICAL? ISN'T IT IMPORTANT TO KNOW ALL THESE
11 FACTORS, DOCTOR?

12 MS. SARIS: OBJECTION AS TO MISSTATES THE
13 TESTIMONY AS TO WHETHER IT WOULD SUPPORT.

14 THE COURT: SUSTAINED.

15 Q BY MR. DIXON: WOULDN'T YOU AGREE THAT
16 MANY OF THE FACTORS THAT I HAVE TALKED ABOUT WOULD
17 SUPPORT THE RELIABILITY OF THE IDENTIFICATION SITUATION
18 THAT I GAVE YOU IN THIS HYPOTHETICAL?

19 A I'M SORRY. ASK IT AGAIN. I'M NOT SURE
20 WHAT YOU'RE ASKING.

21 Q ALL RIGHT. WE TALKED ABOUT MY
22 HYPOTHETICAL?

23 A YES.

24 Q WOULDN'T YOU THAT AGREE THAT MOST, IF NOT
25 ALL, OF THE OTHER FACTORS THAT YOU HAVE TESTIFIED TO
26 ABOUT IN THE PAST, WOULD SUPPORT THE CONCEPT THAT THIS
27 IDENTIFICATION MIGHT BE MORE RELIABLE THAN NOT?

28 A WELL, THESE ARE THE KIND OF FACTORS THAT I

1 WAS REFERRING TO WHEN I SAID UNDER THE SHEPHERD STUDY
2 UNDER RELATIVELY IDEAL CIRCUMSTANCES, EYEWITNESS MEMORY
3 MAY BE PRETTY GOOD IMMEDIATELY AFTER THE EVENT. BUT
4 NONETHELESS IF YOU GO OUT 11 MONTHS, EVEN IF THERE WERE
5 IDEAL CIRCUMSTANCES, SAME RACE IDENTIFICATION, MODERATE
6 LEVELS OF STRESS, NO WEAPON FOCUS, ET CETERA, THAT WHOLE
7 LIST EVEN UNDER WHAT I WAS CALLING IDEAL CIRCUMSTANCES,
8 IF WE LOOK AT THE EFFECT OF TIME DELAY ALONE, THAT'S THE
9 ONLY FACTOR WE LOOK AT, IF WE ONLY LOOK AT TIME DELAY, TO
10 BE ABLE TO IDENTIFY A FACE OF A PERSON SEEN ONE TIME VERY
11 BRIEFLY BEYOND AN 11 MONTH PERIOD OF TIME IS JUST
12 EXTREMELY UNLIKELY. THERE IS A HIGH PROBABILITY OF A
13 MISIDENTIFICATION.

14 SO I THINK I WAS REFERRING TO THESE
15 FACTORS WHEN I SAID UNDER IDEAL CIRCUMSTANCES OF LIKE IN
16 THE SHEPHERD STUDY, IDENTIFICATION MIGHT BE PRETTY GOOD
17 RIGHT AFTERWARDS. IT'S NOT GOING TO BE AFTER 11 MONTHS.

18 Q REGARDLESS OF THE SITUATION -- JUST YOU
19 COULD MAKE A UNIVERSAL STATEMENT -- THAT REGARDLESS OF
20 THE SITUATION, IT'S NEVER GOING TO BE BETTER AFTER 11
21 MONTHS; IS THAT WHAT YOU'RE TELLING US?

22 A WAIT, WHAT IS NOT GOING TO BE BETTER?

23 Q YOU JUST SAID AFTER 11 MONTHS NOBODY CAN
24 REMEMBER ANYTHING.

25 MS. SARIS: OBJECTION. MISSTATES THE TESTIMONY.
26 ARGUMENTATIVE.

27 MR. DIXON: WELL, ISN'T THAT KIND OF WHAT YOU
28 JUST SAID, IS THAT WE CAN NEVER MAKE AN IDENTIFICATION OF

1 ANOTHER PERSON AFTER 11 MONTHS?

2 A NO. OF COURSE NOT. I CLEARLY SAID --

3 MR. DIXON: YOU RECOGNIZED --

4 MS. SARIS: OBJECTION YOUR HONOR.

5 THE COURT: SUSTAINED.

6 MR. DIXON: THANK YOU, NOTHING FURTHER.

7 REDIRECT EXAMINATION

8 Q BY MS. SARIS: DOCTOR PEZDEK, WOULD YOU
9 PLEASE ANSWER THE LAST QUESTION YOU WEREN'T ALLOWED TO
10 ANSWER?

11 A I CLEARLY SAID WHEN I'M TALKING ABOUT THE
12 PROBABILITY OF IDENTIFYING A PERSON SEEN ONE TIME VERY
13 BRIEFLY, THE PROBABILITY OF CORRECTLY IDENTIFYING THAT
14 PERSON AFTER 11 MONTHS IS ZERO.

15 Q OKAY. LET ME ASK YOU THIS. WITH THE
16 BROTHER AND SISTER HYPOTHETICAL, ASSUME THAT -- THE ONE
17 WHERE THE PASSENGER WAS ASIAN AND THE DRIVER WAS WHITE --
18 WHAT IF YOU LEARN LATER THAT THE BROTHER AND SISTER WERE
19 TOLD, "OH YOU KNOW WHAT, IT WAS A WHITE GUY AND A BLACK
20 GUY THAT COMMITTED THE BANK ROBBERY," AND THE BROTHER AND
21 SISTER CHANGED THEIR TESTIMONY, OR THEIR STORY TO THE
22 POLICE TO FIT THE POLICE DESCRIPTION, WHAT WOULD THAT SAY
23 OF THE RELIABILITY OF THEIR IDENTIFICATION?

24 A WELL, THAT WOULD BE A VERY GOOD EXAMPLE OF
25 WHAT I WAS TALKING ABOUT WITH SUGGESTIBILITY IS THAT
26 INFORMATION IS KIND OF SEEPED IN TO THEIR MEMORY FROM
27 OTHER SOURCES AND THEY'RE REMEMBERING NOT JUST WHAT THEY
28 SAW, BUT WHAT THEY SAW AS IT HAS BEEN INFLUENCED BY

1 HEARING OTHER CONVERSATIONS OR TALKING TO THE POLICE OR
2 WHATEVER. AND AGAIN, EVEN WELL INTENDED WITNESSES CAN BE
3 SUBJECTIVELY INFLUENCED BY OVERHEARING DESCRIPTIONS FOR
4 -- IN YOUR CASE -- OF THE RACE OF THAT SECOND PERSON.

5 Q WERE YOU ASKED TO IDENTIFY FACTORS IN THIS
6 CASE OR ALL EYEWITNESS IDENTIFICATIONS IN GENERAL?

7 A I BELIEVE IT WAS THIS CASE.

8 Q WAS THERE ANY CROSS RACIAL ISSUE IN THIS
9 CASE AS FAR AS YOU KNOW?

10 A THERE WAS NOT.

11 Q WEAPON FOCUS?

12 A NO.

13 Q DO STRESS AND WEAPON FOCUS HAVE TO DO WITH
14 DISTRACTION AS WELL?

15 A YES.

16 Q WAS THERE ANY ISSUE WITH THE WITNESSES
17 BEING DRUNK IN THE CASE OR ON DRUGS?

18 A NOT THAT I KNOW OF, NO.

19 Q AND YOU'RE PAID BY THE HOUR FOR
20 CONSULTATION?

21 A YES.

22 Q WERE YOU HAVE ASKED TO CONFINE YOUR
23 RESEARCH TO THIS PARTICULAR CASE AND THE TESTIMONY, THE
24 MATERIAL YOU WERE PROVIDED?

25 A IN THIS CASE, YES.

26 Q DID YOU SHARE THAT REPORT? LET ME ASK YOU
27 THIS; WAS IT MORE EXTENSIVE THAN WHAT YOU'RE TESTIFYING
28 ABOUT TODAY, YOUR REPORT? DID IT IN FACT HAVE YOUR

1 CONCLUSIONS.

2 A IT DID, YES.

3 Q DO YOU KNOW WHETHER THAT WAS SHARED WITH
4 THE D.A?

5 A I ASSUMED IT WAS. AND AS I WROTE IT I
6 ASSUMED IT WOULD BE SHARED WITH THE D.A.

7 Q I TOLD YOU I WOULD?

8 A YES.

9 Q AND YOU WROTE IT TO SHARE?

10 A YES.

11 Q THE REAL WORLD, YOU WERE TALKING ABOUT
12 COLLEGE KIDS AND STUDENTS, THE REAL WORLD EXAMPLE, HAS
13 THAT BEEN DONE?

14 A YES.

15 Q TELL ME ABOUT -- WHAT THE NUMBER 1 FACTOR
16 IN THE -- OR LET ME PUT IT THIS WAY, THE MOST PREVALENT
17 REASON FOR WRONGFUL CONVICTION IN THE INNOCENCE PROJECT,
18 THE DNA CASES THAT WERE OVERTURNED?

19 MR. DIXON: OBJECTION ASKED AND ANSWERED AND
20 BEYOND THE SCOPE OF CROSS.

21 THE COURT: SUSTAINED.

22 WE NEED TO RECESS. DO YOU HAVE MUCH MORE?

23 MS. SARIS: NO, I DON'T.

24 Q YOU WERE TALKING ABOUT THE DIFFERENCE
25 BETWEEN REAL WORLD AND COLLEGE STUDENTS. IN THAT REAL
26 WORLD CASE THAT WE WERE -- THE REAL WORLD STUDY THAT
27 WE'RE TALKING ABOUT, WAS THERE A MOTIVATION IN THOSE
28 CASES?

1 A VERY MUCH SO.

2 Q AND WAS THERE AN OPPORTUNITY IN TERMS OF
3 LIGHTING, DISTANCE AND ALL OF THAT. WERE THOSE FACTORS
4 TAKEN IN TO ACCOUNT?

5 A YES, THEY WERE.

6 Q WHAT ARE THE MAJORITY OF THOSE CASES --
7 HAVE TO DO WITH WHAT CRIME?

8 A RAPE.

9 Q AND THAT'S WHERE A PERSON CAN BE IN A
10 SITUATION WITH SOMEONE FOR QUITE A PERIOD OF TIME?

11 A WELL, ALMOST BY DEFINITION BECAUSE THESE
12 WERE RAPE CASES THE PERPETRATOR AND THE EYEWITNESS WERE
13 CLOSE TO EACH OTHER UP CLOSE AND PERSONAL, CLOSE TO EACH
14 OTHER FOR MORE THAN A BRIEF PERIOD OF TIME, AND
15 NONETHELESS THOSE EYEWITNESSES MADE MISIDENTIFICATIONS.

16 Q YOU WERE ASKED ABOUT TESTIFYING FOR THE
17 D.A. HAVE YOU EVER CONSULTED WITH THE ATTORNEY GENERAL?

18 A I HAVE, YES.

19 Q ARE THEY A PROSECUTORIAL OR DEFENSE
20 AGENCY?

21 A PROSECUTORIAL.

22 Q AND OF THE 4000 CASES THAT YOU TALK ABOUT,
23 THE FREE CONSULTATIONS THAT YOU GIVE ON THE PHONE, HOW
24 MANY DO YOU TELL THESE INDIVIDUALS, THE DEFENSE --

25 MR. DIXON: OBJECTION, IRRELEVANT.

26 THE COURT: SUSTAINED.

27 MS. SARIS: YOUR HONOR OF THE DOOR WAS OPENED.

28 THE COURT: ALL RIGHT. WE'RE GOING TO RECESS AT

1 THIS TIME LADIES AND GENTLEMEN. DON'T DISCUSS THE CASE,
2 DON'T FORM NOR EXPRESS ANY OPINIONS, DON'T CONDUCT ANY
3 DELIBERATIONS. WE WILL SEE YOU BACK HERE AT 1:30. THANK
4 YOU.

5 (WHEREUPON THE MORNING SESSION WAS CONCLUDED.)

6 AFTERNOON SESSION

7 THE COURT: ALL RIGHT. LET'S GOT ON THE RECORD
8 IN THE GOODWIN MATTER. HE'S PRESENT WITH COUNSEL, THE
9 PEOPLE ARE REPRESENTED, THE JURORS AND ALTERNATES ARE NOT
10 PRESENT.

11 MS. SARIS: TWO THINGS. SERGEANT ESTRADA PHONED
12 ME. APPARENTLY THERE WAS A MISCOMMUNICATION. I THOUGHT
13 WE HAD MADE AN ARRANGEMENT, HE INDICATED HE THOUGHT I WAS
14 GOING TO CALL HIM. SO HE WILL BE HERE. AND I'LL TAKE
15 RESPONSIBILITY IF HE SAYS THAT WAS THE SITUATION, SO NO
16 FURTHER ACTION IS NEEDED.

17 I DID HAVE TO PUT SOMETHING ON THE RECORD
18 THAT OCCURRED DURING THE LUNCH HOUR. TWO PEOPLE AS A
19 COUPLE, I ASSUME ARE RELATIVES OF ONE OF THE VICTIM'S
20 FAMILY. THE GENTLEMAN WHO WAS CLUTCHING A PICTURE OF
21 MICKEY AND TRUDY WITH A VERY LIGHT-HAIRED BLOND WOMAN.
22 THERE WAS A JUROR ON THE ELEVATOR WITH ME. I WAS
23 ESCORTING DR. PEZDEK DOWN TO THE THIRD FLOOR, SHE LEANED
24 OVER THE JUROR WITH QUITE A BIT OF VENOM AND SAID TO ME,
25 "DO YOU REALLY BELIEVE THE THINGS THAT YOU'RE SAYING IN
26 THERE, OR DO YOU REALLY BELIEVE THE THINGS THAT YOU SAID
27 IN THERE?"

28 THE JUROR I THOUGHT SAID SOMETHING, AND I

1 SAID, "MA'AM, THERE IS A JUROR ON THIS ELEVATOR," AND
2 LEFT IT. I HAVE A RECOLLECTION THAT THE JUROR MIGHT HAVE
3 SAID SOMETHING LIKE, "YES, OKAY", OR SOMETHING TO THAT
4 EXTENT. AND I DIDN'T HAVE ANY FURTHER WORDS WITH HER AND
5 WE GOT OUT OF THE ELEVATOR. BUT THIS WAS A JUROR, SHE
6 HAD A BADGE ON, AND THE WOMAN HAD TO LEAN OVER THE JUROR
7 IN ORDER TO YELL AT ME.

8 MR. DIXON: ONE OF OUR JURORS?

9 MS. SARIS: YES.

10 THE COURT: WHO WAS THIS WOMAN?

11 MS. SARIS: I DON'T SEE HER. SHE WAS HERE
12 EARLIER TODAY. PERHAPS WE CAN INQUIRE IF SOMEONE IN THE
13 AUDIENCE, SHE CLEARLY --

14 MR. DIXON: WELL, YOUR HONOR, WE WILL CERTAINLY
15 TRY TO FIND OUT WHO IT IS. AND I WOULD, IF THERE IS A
16 REQUEST, CERTAINLY JOIN IN THAT REQUEST, IN NOT ALLOWING
17 THAT PERSON INTO THE COURTROOM AGAIN. AND PERHAPS NOT
18 THE COURTHOUSE. THERE IS NO NEED TO JEOPARDIZE THIS
19 SITUATION. I DON'T THINK THAT PERSON SHOULD BE -- AND I
20 TAKE MS. SARIS AT HER WORD -- THAT PERSON SHOULD NOT BE
21 ALLOWED IN THE COURTHOUSE TO CAUSE THIS KIND OF SITUATION
22 AGAIN.

23 MS. SARIS: I'M JUST CONCERNED THAT SOMETHING
24 THAT STUPID COULD WASTE ALL THE EFFORT THAT WE'VE DONE.
25 I WOULD LIKE HER IDENTIFIED IF WE COULD FOR THE RECORD,
26 AND WE COULD ASK THE JUROR IF IT CHANGED HER OPINION OF
27 ANY SORT.

28 THE CLERK: THE JUROR IS ON THE PHONE, NUMBER 89,

1 AND SHE WAS GOING TO ASK ME IF SHE SHOULD TELL ME ABOUT
2 AN EXCHANGE ON THE TELEPHONE.

3 THE COURT: YES.

4 MS. SARIS: SHE'S UP HERE.

5 THE CLERK: SHE'S UP IN THE RIGHT CORNER.

6 MS. SARIS: ONE OF THE ALTERNATES.

7 THE COURT: ALL RIGHT. LET ME HAVE DR. PEZDEK
8 STEP OUTSIDE FOR A MOMENT. AND WE WILL BRING THE JUROR
9 IN.

10 MS. SARIS: JUST SO THE RECORD IS CLEAR, DR.
11 PEZDEK WITH WAS ME.

12 THE COURT: YES.

13 (WHEREUPON JUROR ENTERED COURTROOM.)

14 THE COURT: HI, COULD YOU TAKE A SEAT IN THE BOX?
15 I THINK YOU'RE ONE OF OUR ALTERNATES, RIGHT?

16 JUROR NO. 89: YES.

17 THE COURT: AND YOU ARE NUMBER 89, RIGHT?

18 JUROR NO. 89: YES.

19 THE COURT: AND YOU'RE SEATED IN, I HAVE HER AS
20 ALTERNATE NO. 2; IS THAT RIGHT?

21 THE CLERK: I BELIEVE I HAVE HER AT ALTERNATE
22 NO. 2, YES.

23 THE COURT: OKAY. YOU JUST CALLED THE CLERK, AND
24 AT THE SAME TIME I WAS HEARING A LITTLE BIT ABOUT
25 SOMETHING THAT HAPPENED EARLIER TODAY ON THE ELEVATOR.
26 AND JUST SO THE RECORD IS CLEAR, YOU JUST NOW, A FEW
27 MOMENTS AGO CALLED THE CLERK TO SEE IF YOU SHOULD TELL
28 HER WHAT HAPPENED, AND SO IT WAS PERFECT TIMING.

1 CAN YOU TELL ME WHAT YOU OBSERVED OR HEARD
2 AND THE WHOLE STORY FROM THE BEGINNING?

3 ALTERNATE NO. 2: OKAY. WE WERE RUSHING TO
4 LUNCH, SO I GOT ON. THERE WAS A LADY AND GENTLEMAN IN
5 FRONT OF ME, A DEFENSE ATTORNEY IN THE FAR CORNER AND A
6 WITNESS FROM THIS MORNING OPPOSITE THAT, AND SOMEONE ELSE
7 IN THE MIDDLE WITH A CART. AND WHEN THE DOORS WERE
8 CLOSING, THE WOMAN IN FRONT OF ME, WHICH I HAD NOT REALLY
9 PAID ATTENTION TO HER PRIOR, TURNED AND SAID TO HER, "YOU
10 REALLY DON'T BELIEVE WHAT YOU'RE SAYING IN THERE, DO
11 YOU?" AND SHE CUT HER OFF RIGHT AWAY AND SAID, "THERE IS
12 A JUROR ON THE ELEVATOR."

13 AT THE SAME TIME I WAS SAYING, "PLEASE."
14 SO SHE WOULD STOP. AND SHE HE DID STOP. BUT WHAT -- I
15 DON'T KNOW WHETHER THIS WAS INTENTIONAL OR NOT, BUT AFTER
16 THAT THE GENTLEMAN DID PASS TO HER A PICTURE. IT WENT
17 FROM HIS HAND TO HERS, BUT CLEARLY IT WAS A PICTURE OF
18 THE VICTIMS, YOU KNOW, AT AN EARLIER TIME SITTING NEXT TO
19 EACH OTHER, POSED NEXT TO EACH OTHER, PASSED THAT OVER IN
20 FRONT OF MY EYES TO HER.

21 THE COURT: TO THE WOMAN THAT SAID SOMETHING?

22 ALTERNATE NO. 2: YES. IT WAS IN CLEAR VIEW. HE
23 PASSED IT OVER.

24 THE COURT: I'M JUST TRYING TO FIGURE OUT WHO WAS
25 ON THE ELEVATOR. SO SOMEONE PASSED A PHOTOGRAPH, AND THE
26 SAME PERSON THAT PASSED THE PHOTOGRAPH WAS THE PERSON WHO
27 MADE THE COMMENT?

28 ALTERNATE NO. 2: NOT MADE THE COMMENT, BUT

1 PASSED IT TO THE PERSON THAT MADE THE COMMENT.

2 THE COURT: SO THE GENTLEMAN PASSED IT OVER TO
3 HER?

4 ALTERNATE NO. 2: HE PASSED IT OVER TO HER.

5 THE COURT: TO THE WOMAN THAT MADE THE COMMENT TO
6 MS. SARIS?

7 ALTERNATE NO. 2: RIGHT.

8 THE COURT: AND YOU HEARD THE COMMENT AND YOU SAW
9 THE PHOTOGRAPH.

10 ALTERNATE NO. 2: RIGHT.

11 THE COURT: WERE YOU THE ONLY JUROR ON THE
12 ELEVATOR AT THAT TIME, DO YOU KNOW?

13 ALTERNATE NO. 2: YES.

14 THE COURT: AND DO YOU RECALL WHAT THIS WOMAN
15 LOOKED LIKE OR ANYTHING? HAD YOU SEEN HER BEFORE HERE IN
16 THE COURTROOM?

17 ALTERNATE NO. 2: SHE IS NOT SOMEONE THAT COMES
18 ON A REGULAR BASIS. I DO BELIEVE THAT SHE MIGHT HAVE
19 BEEN SITTING HERE EARLIER. TALL WOMAN, BLOND HAIR.

20 THE COURT: AND BASED ON WHAT YOU HEARD, DO YOU
21 FEEL THAT YOU CAN CONTINUE TO LISTEN TO THIS CASE AND IF
22 CALLED UPON TO DELIBERATE, IF NECESSARY?

23 ALTERNATE NO. 2: YES.

24 THE COURT: AND DO YOU FEEL THAT YOU WERE SOMEHOW
25 INFLUENCED BY ANY OF THIS?

26 ALTERNATE NO. 2: NO.

27 THE COURT: ALL RIGHT. ANYBODY HAVE ANY FURTHER
28 QUESTIONS?

1 MS. SARIS: I WOULD JUST WOULD ASK IF MY
2 REACTION, OR ANYTHING I SAID WOULD LEAD YOU TO HAVE ANY
3 PREJUDICE OR DIFFERENCE ABOUT OUR -- THE DEFENSE
4 PRESENTATION IN ANY WAY?

5 ALTERNATE NO. 2: NO. I THINK THAT HER REACTION
6 WAS APPROPRIATE AND WELCOME BECAUSE SHE CUT IT OFF VERY
7 QUICKLY. AND THAT WAS PROBABLY WHAT ANYONE WOULD HAVE
8 DONE, SHOULD HAVE DONE, AS I WAS ATTEMPTING TO DO TOO.

9 THE COURT: DO YOU KNOW WHO THE GENTLEMAN WAS
10 THAT PASSED THE PHOTOGRAPH?

11 ALTERNATE NO. 2: NO, I THINK HE WAS -- HE MAY
12 HAVE BEEN IN A BLUE DRESS SHIRT.

13 THE COURT: WAS HE IN THE COURTROOM EARLIER, DO
14 YOU KNOW?

15 ALTERNATE NO. 2: HE MIGHT HAVE BEEN IN AND OUT
16 BECAUSE THERE WERE A COUPLE OF PEOPLE IN AND OUT TODAY.
17 TALL, BOTH WERE TALL.

18 THE COURT: ALL RIGHT. DID YOU SAY ANYTHING TO
19 ANY OF THE OTHER JURORS, OR ALTERNATES?

20 ALTERNATE NO. 2: NO, I JUST TOLD THEM I WAS
21 STEPPING OUT BUT EVERYTHING WAS COOL.

22 THE COURT: ALL RIGHT. ANY FURTHER FOLLOW-UP?

23 MR. DIXON: WELL, PERHAPS THE COURT COULD JUST
24 INQUIRE I THINK FOR BOTH SIDES WHETHER THIS WOULD
25 INFLUENCE OR BE HELD AGAINST EITHER SIDE. I MEAN I'M NOT
26 SURE, I DON'T KNOW WHO THIS PERSON WAS.

27 THE COURT: RIGHT. WE DON'T KNOW WHO THE PERSON
28 WAS. BUT MR. DIXON RAISES A GOOD POINT ABOUT WHETHER OR

1 NOT YOU FEEL THAT YOU WOULD HOLD IT AGAINST ONE SIDE OR
2 THE OTHER.

3 ALTERNATE NO. 2: NO, NO I WOULDN'T HOLD IT -- I
4 WOULDN'T WEIGH IT FOR EITHER WAY. IT'S WHAT IT WAS.

5 THE COURT: ALL RIGHT. FAIR ENOUGH. ANYTHING
6 FURTHER?

7 MS. SARIS: NO, THANK YOU.

8 ALTERNATE NO. 2: ARE THEY OKAY? ARE THEY OKAY?

9 THE COURT: WE WILL DISCUSS THAT AS FAR AS, I
10 JUST WANT TO KNOW IF THEY HAVE ANY MORE QUESTIONS OF YOU.

11 MR. JACKSON: YOUR HONOR, I WOULD SIMPLY ASK THE
12 COURT TO INQUIRE, I KNOW THAT THE JUROR IS VERY CONCERNED
13 AND THE COURT HAS CONSISTENTLY TAKEN GREAT PAINS, AS HAVE
14 BOTH THE DEFENSE COUNSEL AND THE PROSECUTION IN THIS
15 CASE, TO MAKE SURE THIS KIND OF THING DOESN'T HAPPEN. I
16 WANT TO MAKE SURE OF THE JUROR IS PERFECTLY COMFORTABLE
17 THAT NOBODY IN THIS COURTROOM HAD ANYTHING TO DO WITH
18 THAT. LIKE SHE SAID, IT IS WHAT IT IS, BUT I WANT TO
19 MAKE SURE THAT THE JUROR ISN'T GOING TO HOLD IT AGAINST
20 ONE SIDE OR THE OTHER IN ANY WAY, SHAPE, FORM OR FASHION.
21 OR IF THERE'S ANY CONCERNS ABOUT THAT.

22 THE COURT: DID YOU HAVE ANY CONCERNS ABOUT THAT
23 MA'AM?

24 ALTERNATE NO. 2: NO. I THINK WHAT I UNDERSTAND
25 NOW IS THAT THESE ARE CULMINATING. I'LL JUST BE VERY
26 CAREFUL NOT TO GET ON WITH ANYONE. I USUALLY AM. I
27 USUALLY NOTICE THAT, BUT THIS -- LIKE I SAID, THIS WAS
28 SOMEONE WHO DIDN'T LOOK FAMILIAR. IT'S NOT SOMEONE WHO

1 HAS BEEN HERE ON A REGULAR BASIS.

2 THE COURT: RIGHT.

3 ALTERNATE NO. 2: I USUALLY TRY TO AVOID JUST FOR
4 THE SAKE.

5 THE COURT: WELL, I APPRECIATE YOU BRINGING THAT
6 TO OUR ATTENTION. IF I CAN HAVE YOU, ARE WE CALLING FOR
7 THE REST OF THE JURORS?

8 THE CLERK: WHAT WOULD YOU LIKE DO? YOU WANT TO
9 HAVE THE REST OF THEM TO MEET AT THE BACK DOOR AND THEN
10 I'LL HAVE HER WAIT AT THE BACK DOOR?

11 THE COURT: YEAH, AND THEN WE CAN HAVE YOU MEET
12 THE REST OF THE JURORS AT THE BACK DOOR WHILE I TALK TO
13 THE LAWYERS. THANK YOU VERY MUCH.

14 (WHEREUPON THE JUROR LEFT THE COURTROOM.)

15 THE COURT: OBVIOUSLY THE COURT IS VERY
16 CONCERNED. I RECALL SEEING A WOMAN IN THE COURTROOM
17 EARLIER WITH BLOND HAIR, BUT I HAVE NO WAY OF KNOWING IF
18 THAT WAS THE SAME PERSON THAT --

19 MS. SARIS: IT WAS THE SAME PERSON. IT'S VERY
20 CLEAR, IT'S VERY WHITE-BLOND HAIR, AND IT'S VERY CLEAR
21 THAT THEY WERE A COUPLE OR THEY WERE AT LEAST TOGETHER IN
22 TERMS OF THEIR RELATIONSHIP. THEY CAME AND LEFT
23 TOGETHER. I SAW THEM TALKING TO THE FAMILY MEMBERS.
24 PERHAPS WE CAN HAVE THEM IDENTIFIED FOR THE RECORD.

25 MR. DIXON: WELL, IF YOU WOULD LIKE ME TO TAKE A
26 MOMENT, I WILL DO THAT AND IF WE CAN IDENTIFY THEM. I
27 WOULD LOVE TO.

28 THE COURT: YES.

1 (PAUSE IN PROCEEDINGS.)

2 THE COURT: WE'RE BACK ON THE RECORD.

3 MR. DIXON: THE BEST INFORMATION I HAVE YOUR
4 HONOR, IS THE WOMAN'S NAME IS LORI BERG AND THE MAN WITH
5 HER IS APPARENTLY HER HUSBAND, SO MR. AND MRS. BERG. MY
6 RECOMMENDATION WOULD BE IF THEY RETURN TO THE COURTROOM
7 PERHAPS THE COURT WOULD WANT TO HAVE A WORD WITH THEM.
8 THAT'S UP TO THE COURT, BUT I THINK THAT THEY SHOULD BE,
9 BASED ON THAT CONDUCT WITH A JUROR, NOT ALLOWED TO ATTEND
10 THIS TRIAL OR BE IN THIS COURTHOUSE. BECAUSE THAT
11 JEOPARDIZES THE WORK AND THE TIME THAT WE'VE ALL SPENT IN
12 TRYING THIS CASE. AND I JUST DON'T THINK IT'S WORTH THE
13 RISK. I THINK THAT EVERYONE THAT COMES HERE HAS TO ACT
14 ACCORDINGLY AND THEY CROSSED THAT LINE. THAT WOULD BE MY
15 RECOMMENDATION.

16 THE COURT: AND THE LAST NAME IS SPELLED?

17 MS. CAMPBELL: I'M NOT POSITIVE. SHE SAYS THE
18 LAST NAME IS RANGER, AND I KNEW HER BEFORE SHE WAS
19 MARRIED 20 YEARS AGO OR SOMETHING. WE DIDN'T INVITE
20 THEM, THEY JUST SHOWED UP.

21 THE COURT: AND FOR THE RECORD THAT'S MISS
22 CAMPBELL GIVING US THAT INFORMATION. THANK YOU.

23 ALL RIGHT, IF THEY RETURN I WILL CERTAINLY
24 HAVE A WORD WITH HER.

25 MR. DIXON: WELL, CERTAINLY I DON'T KNOW HOW THE
26 DEFENSE FEELS, BUT IT WOULD BE MY REQUEST THAT WE -- SO
27 WE DON'T JEOPARDIZE THIS TRIAL THAT THEY BE TOLD THAT
28 THEY ARE NOT ALLOWED TO RETURN TO THIS COURTHOUSE.

1 MS. SARIS: I'M NEVER GOING TO OBJECT EXCLUDING
2 PEOPLE WHO YELL AT ME IN ELEVATORS.

3 THE COURT: I JUST WANT TO BE SURE IF THEY DO
4 COME BACK, I KNOW WHO THEY ARE. SO WE WILL HANDLE IT IF
5 THEY DO COME BACK OR IF ANYONE HERE SEES THEM COME BACK,
6 MAYBE WE CAN BRING THAT TO THE BAILIFF'S OR CLERK'S
7 ATTENTION AND WE WILL HANDLE IT. IS THERE ANY NEED FOR
8 ANY FURTHER DISCUSSION REGARDING THIS SITUATION? IT
9 SOUNDS TO ME LIKE THE ALTERNATE DID EVERYTHING THAT I
10 WOULD EXPECT HER TO DO. AND I AM PLEASED THAT SHE DID,
11 AND I CERTAINLY TAKE HER AT HER WORD THAT THIS INCIDENT
12 IS IT NOT GOING TO AFFECT HER ABILITY TO BE FAIR.

13 MS. SARIS: AND I WILL SAY THAT I ALSO TOLD THE
14 D.A. I THINK SHE WOULD, SHE SEEMED LIKE SHE WAS ABOUT TO
15 SAY SOMETHING IF I DIDN'T. SO WE'RE FINE WITH THE
16 INQUIRY SO FAR.

17 THE COURT: ALL RIGHT. ANYTHING ELSE?

18 MR. DIXON: YES YOUR HONOR. THAT'S FINE. THANK
19 YOU.

20 THE COURT: ALL RIGHT, WHY DON'T WE HAVE
21 DR. PEZDEK STEP BACK IN AND THEN WE WILL BRING THE JURORS
22 IN.

23 (WHEREUPON THE JURY ENTERED THE COURTROOM.)

24 THE COURT: LET THE RECORD REFLECT ALL OF OUR
25 JURORS ARE ONCE AGAINST PRESENT, AND DR. PEZDEK IS STILL
26 ON THE WITNESS STAND.

27 YOU'VE BEEN PREVIOUSLY SWORN. YOU ARE
28 REMINDED YOU'RE STILL UNDER OATH. AND MS. SARIS, YOU MAY

1 CONTINUE YOUR REDIRECT.

2 MS. SARIS: THANK YOU. I DON'T HAVE MUCH
3 FURTHER.

4 Q DOCTOR PEZDEK, ARE THE ALL THE FACTORS
5 THAT YOU HAVE PUT UP THAT ARE NOW LISTED IN DEFENSE
6 EXHIBIT 4 G PRESENT IN EVERY SINGLE EYEWITNESS
7 IDENTIFICATION CASE?

8 A NO, NOT NECESSARILY.

9 Q AND THE FACTOR THAT THE DISTRICT ATTORNEY
10 LISTED, ARE THOSE PRESENT IN EVERY SINGLE CASE?

11 A THEY ARE NOT, NO.

12 Q DOES THE ABSENCE OF A FACTOR MEAN THAT, BY
13 DEFINITION AN EYEWITNESS IDENTIFICATION IS RELIABLE?

14 A NO.

15 Q WHAT DOES IT MEAN?

16 A WELL, JUST THAT THESE ARE FACTORS THAT THE
17 JURY SHOULD KEEP IN MIND IN REACHING THEIR CUMULATIVE
18 DECISION ABOUT WHETHER THE EYEWITNESS EVIDENCE IN THIS
19 CASE WAS RELIABLE OR NOT. SO NO FACTOR SHOULD BE LOOKED
20 AT IN ISOLATION, BUT RATHER TOGETHER WITH ALL THE OTHER
21 FACTORS TO DECIDE WHETHER THE EYEWITNESS EVIDENCE WAS
22 RELIABLE.

23 Q ARE THERE FACTORS WE HAVEN'T EVEN
24 DISCUSSED TODAY?

25 A YES.

26 Q AND YOU NARROWED TO THESE 12 BASED ON
27 WHAT?

28 A MY READING OF THE CASE AND MY SENSE THAT

1 THESE WERE THE MOST RELEVANT FACTORS.

2 Q IN YOUR ENTIRE HISTORY OF TESTIFYING AS AN
3 EXPERT, EITHER FOR THE DEFENSE OR THE PROSECUTION --

4 MR. DIXON: OBJECTION THAT ASSUMES FACT NOT IN
5 EVIDENCE.

6 THE COURT: SUSTAINED.

7 Q BY MS. SARIS: HAVE YOU EVER TESTIFIED FOR
8 THE PROSECUTION?

9 MR. DIXON: DOES THAT MEAN CRIMINAL CASE OR CIVIL
10 CASE WITH THE ATTORNEY GENERAL'S OFFICE?

11 THE COURT: ALL RIGHT. WELL, LETS START WITH THE
12 QUESTION. OVERRULED, YOU MAY ANSWER.

13 THE WITNESS: OKAY. I HAVE TESTIFIED FOR THE
14 STATE ATTORNEY GENERAL'S OFFICE. IS THAT WHAT YOU'RE
15 ASKING ABOUT?

16 Q BY MS. SARIS: WAS THE ATTORNEY GENERAL
17 PROSECUTING SOMEONE ON THE STATE LEVEL OR WERE THEY SUING
18 SOMEONE FOR MONEY?

19 A IT WAS A CIVIL CASE.

20 Q SO IN ANY OF YOUR TESTIMONY ARE THE
21 FACTORS THE SAME?

22 A NO, THEY'RE NOT.

23 Q OKAY. IS YOUR EXPERTISE THE SAME?

24 A YES.

25 Q IN ALL OF THE TESTIMONY THAT YOU HAVE
26 GIVEN IN ANY COURT ON A CRIMINAL MATTER -- LET'S NARROW
27 IT TO THAT -- WHAT IS THE LONGEST PERIOD OF DELAY THAT
28 YOU'VE BEEN ASKED TO COMMENT ON THAT THE POLICE HAVE

1 ENGAGED IN BETWEEN WHEN AN EYEWITNESS ALLEGEDLY SAW
2 SOMETHING VERSUS WHEN THEY MADE THEIR IDENTIFICATION?

3 MR. DIXON: OBJECTION IRRELEVANT, YOUR HONOR.

4 THE COURT: SUSTAINED.

5 MR. DIXON: THANK YOU.

6 Q BY MS. SARIS: IS A 13-YEAR DELAY UNUSUAL?

7 MR. DIXON: OBJECTION RELEVANCE.

8 THE COURT: SUSTAINED.

9 Q BY MS. SARIS: IN THE SCOTLAND EXAMPLE
10 THAT YOU DISCUSSED, WHAT STEPS DID THE RESEARCHERS TAKE
11 IN ORDER TO NARROW THE FOCUS JUST DOWN TO TIME OR DELAY?

12 A OKAY. THIS WAS A STUDY WHERE WITNESSES
13 WERE ASKED --

14 MR. DIXON: OBJECTION BEYOND THE SCOPE. I DON'T
15 THINK I ASKED ABOUT THE DETAILS OF THE SCOTLAND CASE.

16 THE COURT: OVERRULED. GO AHEAD.

17 THE WITNESS: THIS WAS A CASE IN WHICH THE PEOPLE
18 OBSERVED AN INDIVIDUAL UNDER GOOD LIGHTING, GOOD
19 DISTANCE, IT WAS ALL SAME RACE IDENTIFICATION. I'M JUST
20 DOING THIS FROM MEMORY NOW. THE PEOPLE WERE TOLD TO PAY
21 ATTENTION TO THE INDIVIDUAL, THEY GOT A FULL ON VIEW OF
22 THE INDIVIDUAL, NOT JUST A PROFILE. HE WAS NOT WEARING A
23 HAT OR ANY OTHER KIND OF DISGUISE. AND WHEN MEMORY WAS
24 TESTED EITHER ONE WEEK, ONE MONTH, THREE MONTHS, OR
25 ELEVEN MONTHS LATER, THE WITNESSES WERE PRESENTED A FAIR,
26 UNBIASED LINEUP AND THERE WERE NO SOURCES OF
27 SUGGESTIBILITY.

28 SO THOSE WERE THE RELATIVELY IDEAL

1 CIRCUMSTANCES. AND I MAY HAVE LEFT OUT SOME FACTORS, BUT
2 BASICALLY THOSE WERE -- AND THE PEOPLE HAD 45 SECONDS TO
3 LOOK AT THE INDIVIDUAL -- THE WITNESSES HAD 45 SECONDS
4 WITHOUT ANY KIND OF INTERRUPTION TO LOOK AT THIS PERSON.
5 SO THESE ARE WHAT I WAS CALLING THE RELATIVELY IDEAL
6 CIRCUMSTANCES FOR OBSERVATION AND TESTING EYEWITNESS
7 IDENTIFICATION. AND THEN THE ONLY VARIABLE THAT THEY
8 CHANGED WAS TIME DELAY OVER WHICH THE WITNESSES WERE
9 TESTED.

10 Q THANK YOU VERY MUCH FOR YOUR TESTIMONY.

11 THE COURT: ANYTHING FURTHER?

12 MR. DIXON: THANK YOU. NO YOUR HONOR, NOTHING
13 FURTHER.

14 THE COURT: ALL RIGHT. THANK YOU, MA'AM. THANKS
15 FOR COMING IN.

16 THE WITNESS: YOU'RE WELCOME.

17 MS. SARIS: YOUR HONOR, OUR NEXT WITNESS IS
18 OFFICER ESTRADA.

19 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

20 DO YOU STATE THAT THE TESTIMONY YOU MAY
21 GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE
22 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH SO
23 HELP YOU GOD?

24 THE WITNESS: I DO.

25 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
26 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
27 NAME FOR THE RECORD.

28 A RAFAEL ESTRADA, R-A-F-A-E-L E-S-T-R-A-D-A.

1 THE CLERK: THANK YOU.

2 THE COURT: YOU MAY INQUIRE.

3 MS. SARIS: THANK YOU.

4 Q IS IT SERGEANT ESTRADA?

5 A YES, MA'AM.

6 Q HOW ARE YOU CURRENTLY EMPLOYED?

7 A I AM A SERGEANT WITH THE LOS ANGELES
8 COUNTY SHERIFF'S DEPARTMENT, CURRENTLY ASSIGNED TO THE
9 SAN DIMAS SHERIFF'S STATION.

10 Q AND IN MARCH 16TH OF 1988 DID YOU RESPOND
11 TO THE MICKEY THOMPSON HOUSE FOR A DOUBLE HOMICIDE?

12 A YES, I DID.

13 Q WHAT WAS YOUR ASSIGNMENT OR DUTY ON THAT
14 DAY?

15 A AT THAT TIME I WAS A DEPUTY SHERIFF
16 ASSIGNED TO ROSEMEAD PATROL.

17 Q SO WE'VE HEARD ABOUT DETECTIVES THAT CAME
18 AND PATROL OFFICERS THAT RESPONDED TO THE RADIO CALL.
19 WHICH CATEGORY WOULD YOU HAVE BEEN?

20 A THE PATROL OFFICERS THAT RESPONDED TO THE
21 RADIO CALL.

22 Q WHEN YOU CAME UP -- DO YOU REMEMBER NOW
23 WHEN YOU CAME THERE WHAT DIRECTION YOU CAME FROM?

24 A I CAME FROM TEMPLE CITY TOWARDS BRADBURY.

25 Q AND WHERE DID IS TEMPLE CITY IN RELATION
26 TO BRADBURY?

27 A IT WOULD BE SOUTH AND WEST.

28 Q DO YOU REMEMBER WHAT STREET -- IS BRADBURY

1 A GATED COMMUNITY?

2 A YES.

3 Q DO YOU REMEMBER WHAT STREET YOU ENTERED
4 THE GATED COMMUNITY ON?

5 A I DON'T RECALL.

6 Q WHEN YOU ARRIVED WAS THE SCENE SECURED OR
7 WERE YOU ONE OF THE FIRST GROUP?

8 A I WAS ONE OF THE INITIAL RESPONDERS.

9 Q DID YOU HELP SECURE THE SCENE?

10 A I DIDN'T RESPOND TO THE SCENE.

11 Q I SEE, WHERE DID YOU RESPOND TO?

12 A IT WAS AN OUTER PERIMETER.

13 Q AND WHEN YOU SAY OUTER PERIMETER, CAN YOU
14 JUST BRIEFLY DEFINE THAT FOR US?

15 A IT'S THE AREA THAT'S SECURED, THE INNER
16 PERIMETER OF THE SCENE IS INITIAL, AND THEN THERE IS A
17 LARGER AREA THAT GETS SECURED AWAY FROM THE SCENE TO TRY
18 AND SET THE CONTAINMENT FOR ANY POSSIBLE SUSPECTS THAT
19 MAY STILL BE IN THE AREA.

20 Q SO IT'S GOING TO BE WIDER AND BROADER THEN
21 JUST THE CRIME SCENE?

22 A YES, MA'AM.

23 Q DID YOU HAVE OCCASION THAT MORNING TO
24 INTERVIEW A WOMAN BY THE NAME OF WILMA JOHNSON?

25 A NOT THAT MORNING.

26 Q WHEN WAS THAT?

27 A IT WAS LATER ON THAT EVENING.

28 Q OKAY. THAT SAME DAY?

1 A YES, MA'AM.

2 Q AND DID YOU PREPARE A REPORT IN CONNECTION
3 WITH THAT INTERVIEW?

4 A YES, I DID.

5 Q AND WAS THAT REPORT, AS FAR AS YOU KNEW,
6 SHARED WITH ANY OF THE OTHER DETECTIVES THAT DAY OR AT
7 ANY POINT?

8 A IT WAS SUBMITTED.

9 Q WOULD THAT HAVE BEEN NORMAL PROCEDURE?

10 A YES, MA'AM.

11 Q WHAT DID -- WELL LET ME ASK YOU THIS;
12 WHAT WAS OF THE NATURE OF MS. JOHNSON'S INFORMATION? HAD
13 SHE SEEN THE CRIME ITSELF?

14 A I DON'T RECALL IF SHE HAD SEEN IT.

15 Q WHAT WERE YOU INTERVIEWING HER TO FIND
16 OUT?

17 A I DON'T RECALL HOW THE INTERVIEW STARTED,
18 THE INITIAL CONTACT.

19 Q DO YOU REMEMBER THE NATURE OF THE
20 INTERVIEW, WHAT YOU WERE DISCUSSING?

21 A VAGUELY, I READ THE SUPPLEMENTAL REPORT
22 EARLIER.

23 Q DID THAT HELP REFRESH YOUR RECOLLECTION?

24 A YES.

25 Q WOULD YOU NEED IT NOW AT ALL TO HELP
26 REFRESH YOUR RECOLLECTION AS TO JUST THE TOPIC OF THE
27 INTERVIEW?

28 A PLEASE.

1 Q OKAY. MAY I APPROACH YOUR HONOR? AND I'M
2 SHOWING MARCH 7TH.

3 THE COURT: GOT IT.

4 Q BY MS. SARIS: FIRST OFF, LET ME ASK YOU
5 DO YOU RECOGNIZE THAT PIECE OF PAPER?

6 A YES, DO I.

7 Q AND HOW DO YOU RECOGNIZE IT?

8 A I RECOGNIZE IT BY THE PRINTING ON IT.
9 IT'S MY PRINTING. I SIGNED IT OFF AT THE BOTTOM.

10 Q AND YOU SIGNED IT WITH YOUR NAME,
11 R. ESTRADA?

12 A YES, MA'AM.

13 Q DOES THAT, TAKE A MOMENT TO GLANCE AT THAT
14 AND LET US KNOW IF THAT REFRESHES YOUR RECOLLECTION AS TO
15 THE NATURE OF THE INTERVIEW YOU HAD WITH MISS JOHNSON.

16 A YES.

17 Q AND WHAT WAS SHE TELLING YOU ABOUT IN
18 GENERAL?

19 A SHE WAS TELLING ME ABOUT TWO MALE BLACKS
20 THAT SHE HAD SEEN RIDING BICYCLES SOUTH ON WOODLYN LANE
21 EARLIER IN THE MORNING.

22 Q AND DID SHE TELL YOU WHETHER OR NOT THEY
23 CROSSED WOODLYN LANE?

24 A THEY WERE ON WOODLYN LANE AT
25 ROYAL OAKS DRIVE.

26 Q I'M SORRY, DID SHE TELL YOU WHETHER OR NOT
27 THEY CROSSED ROYAL OAKS?

28 A IF I CAN REFRESH MY MEMORY BY LOOKING AT

1 THE REPORT. I INDICATED THAT SHE NOTICED --

2 MR. JACKSON: OBJECTION.

3 THE COURT: SUSTAINED.

4 Q BY MS. SARIS: LET ME ASK YOU THIS. DO
5 YOU HAVE AN INDEPENDENT RECOLLECTION OF THIS EVENT
6 WITHOUT LOOK AT YOUR NOTES?

7 A NO.

8 Q OKAY. WOULD IT HAVE BEEN YOUR HABIT AND
9 CUSTOM AT THAT TIME TO TAKE NOTES AT THE SAME TIME THAT
10 YOU WERE INTERVIEWING THIS WITNESS OR IN CLOSE PROXIMITY
11 THERETO?

12 A YES.

13 Q AND DO THESE APPEAR TO YOU TO BE NOTES
14 THAT YOU TOOK THAT DAY?

15 A THEY ARE A SYNOPSIS OF MY INTERVIEW WITH
16 HER.

17 Q AND IS THAT YOUR HANDWRITING?

18 A YES, MA'AM.

19 Q AND WOULD THAT REFLECT WHAT SHE TOLD YOU
20 AT THAT TIME?

21 A YES, MA'AM.

22 Q COULD YOU PLEASE READ FOR US WHAT SHE TOLD
23 YOU REGARDING THE DIRECTION THE BICYCLISTS WENT?

24 MR. JACKSON: OBJECTION, CALLS FOR HEARSAY.
25 IMPROPER IMPEACHMENT. THERE IS NO FOUNDATION FROM
26 READING FROM THE REPORT.

27 THE COURT: OVERRULED. I ASSUME YOU'RE
28 PROCEEDING UNDER --

1 MS. SARIS: PAST RECOLLECTION RECORDED.

2 MR. JACKSON: AND YOUR HONOR, MY OBJECTION IS I
3 BELIEVE THIS FITS. IT'S NOT HIS RECOLLECTION THAT'S
4 BEING RECORDED.

5 THE COURT: OKAY. LET'S GO TO THE SIDE BAR.

6 (PROCEEDINGS HELD AT SIDE BAR.)

7 THE COURT: ALL RIGHT, WE'RE AT THE SIDE BAR.

8 MR. JACKSON: YOUR HONOR, MY OBJECTION IS SIMILAR
9 TO THE ONE THAT MR. DIXON LODGED YESTERDAY OR THE DAY
10 BEFORE.

11 I BELIEVE THAT THERE IS A MISCONCEPTION
12 ABOUT WHAT A PAST RECOLLECTION RECORDED IS. MY
13 UNDERSTANDING OF READING THE EVIDENCE CODE AND 12, I
14 THINK IT'S 1236 OR 1237 I CAN'T REMEMBER, 1237, IS THAT
15 THE WITNESS -- IF THE WITNESS IS DESCRIBING WHAT HE OR
16 SHE SAW AND WRITING IT DOWN AT THE TIME OR SPECIFICALLY
17 DICTATING IT AT THE TIME, IN OTHER WORDS, LET'S SAY THEY
18 ARE ILLITERATE AND THEY'RE LITERALLY TELLING A
19 STENOGRAPHER WHAT IS GOING ON IN THEIR MIND OR WHAT
20 THEY'RE WITNESSING OR SEEING, THEN THAT CAN BE USED WITH
21 THAT WITNESS TO ESTABLISH A PAST RECOLLECTION RECORDED.
22 I DON'T BELIEVE THAT THERE IS ANY LAW THAT ALLOWS FOR
23 POLICE REPORT TO BE READ IN WHERE THAT POLICE REPORT
24 SIMPLY REFLECTS A LATER INTERVIEW OF A WITNESS WHO IS
25 THEN GIVING THE OFFICER A PREVIOUS -- A SYNOPSIS OF A
26 PREVIOUS EYEWITNESS OR WHATEVER, JUST BECAUSE IT'S
27 RECORDED IN A POLICE REPORT.

28 THE COURT: WELL, I --

1 MR. JACKSON: I BELIEVE IF WILMA JOHNSON, I'M
2 SAYING IT INARTFULLY, BUT WHAT I MEAN IS IF WILMA JOHNSON
3 HAD WRITTEN DOWN ON A NOTE PAD, A STENO PAD, "HEY, I JUST
4 SAW TWO MALE BLACKS, THEY WERE CROSSING ROYAL OAKS AND I
5 SAW THEM GO THROUGH A FENCE," AND THEN WILMA JOHNSON
6 COULDN'T REMEMBER THAT, SHE COULD READ FROM HER NOTES AND
7 THAT WOULD BE A PAST RECOLLECTION RECORDED. BUT I DON'T
8 BELIEVE THAT HER LATER INTERVIEW WITH THE POLICE IS A
9 PROPER FOUNDATION FOR 1237.

10 THE COURT: WELL IT HAS TO BE A PRIOR, I MEAN IT
11 HAS TO FALL UNDER HEARSAY EXCEPTION. THE STATEMENT
12 ITSELF.

13 MS. SARIS: AND IT DOES. IT'S IN THE SYSTEM.

14 THE COURT: AND THAT'S WHAT I WAS WONDERING.
15 WHAT IS OF THE OFFER OF PROOF?

16 MS. SARIS: THE OFFER OF PROOF IS IF THIS OFFICER
17 HAD A RECOLLECTION HE COULD TESTIFY TO THE STATEMENT
18 UNDER HEARSAY EXCEPTIONS BECAUSE OF HIS --

19 THE COURT: BUT WHAT IS THE STATEMENT?

20 MS. SARIS: THE STATEMENT IS THAT SHE WENT
21 WESTBOUND TOWARDS MONROVIA.

22 MR. JACKSON: NOT SHE DID, THE BICYCLIST.

23 MS. SARIS: SHE SAW THE BICYCLIST.

24 THE COURT: SO THAT WOULD BE PRIOR INCONSISTENT
25 STATEMENT AND HE DOESN'T HAVE A RECOLLECTION OF IT. SO
26 THE OBJECTION IS HE CAN'T READ THAT STATEMENT FROM HIS
27 REPORT?

28 MR. JACKSON: MR. DIXON WAS MAKING AN ADDITIONAL

1 POINT THAT WILMA JOHNSON -- BASED ON THIS -- WILMA
2 JOHNSON HAS NOT EVEN LAID THE FOUNDATION THAT WHAT IS
3 APPEARING IN THE REPORT IS AN ACCURATE REFLECTION OF WHAT
4 SHE TOLD THE OFFICER. I JUST THINK THAT WE HAVE TOO MANY
5 VARIABLES COMING IN IF THE OFFICER SIMPLY DOESN'T
6 REMEMBER IT. AND LOOKING AT HIS REPORT DOESN'T REFRESH
7 HIS RECOLLECTION, WE'RE STUCK WITH HIS RECOLLECTION.
8 THAT'S THE BEST THAT CAN BE DONE.

9 THE COURT: I DON'T THINK SO. I THINK IF YOUR
10 OFFER OF PROOF IS THAT IT IS A PRIOR INCONSISTENT
11 STATEMENT AND THE DEFENSE LAYS THE FOUNDATION, UNDER 1237
12 FOR PAST RECOLLECTION RECORDED, I THINK HE DOES GET TO
13 READ IT. SO THE OBJECTION IS OVERRULED.

14 MR. DIXON: AND I JUST WANT TO ADD ONE MORE
15 THING.

16 THE COURT: GO AHEAD.

17 MR. DIXON: THERE IS ALSO A TRUSTWORTHY ELEMENT
18 OF THIS TOO -- PART OF THIS. AND THERE ARE OTHER NOTES
19 THAT WOULD REFLECT THAT THIS OFFICER TOLD ANOTHER OFFICER
20 THAT HE OR SHE ASSUMED THAT THEY, THAT THE BIKE HAD WENT
21 WESTBOUND. AND WE HAVE THOSE NOTES. AND THAT WOULD, I
22 THINK GO TO THE TRUSTWORTHINESS ISSUE HERE, WHETHER WILMA
23 JOHNSON ASSUMED OR WHETHER THIS OFFICER ASSUMED THAT THEY
24 WENT WESTBOUND INSTEAD OF EASTBOUND.

25 AND ANYWAY, I WOULD JUST MAKE THAT OFFER
26 OF PROOF THAT WE HAVE THE NOTES, AND I THINK IT ATTACKS
27 IT ON A TRUSTWORTHINESS BASIS AND WE'RE LOOKING BACK
28 QUITE A LONG WAYS HERE TO A SITUATION WHERE THIS OFFICER

1 DOES NOT HAVE A CURRENT RECOLLECTION.

2 THE COURT: BUT THAT'S THE WHOLE PURPOSE BEHIND
3 1237. IT'S EXACTLY FOR THIS TYPE OF SITUATION. AS LONG
4 AS OF THE OFFER OF PROOF IS THAT IT'S AN INCONSISTENT
5 STATEMENT, IT COMES IN AS AN INCONSISTENT STATEMENT AS
6 WELL AS PAST RECOLLECTION RECORDED. SO IT' TWO HEARSAY
7 EXCEPTIONS THAT WOULD APPLY.

8 MR. JACKSON: THEN TO CLEAR UP THE AT LAST POINT
9 THAT MR. DIXON WAS MAKING, THE OFFICER WILL VERIFY OR LAY
10 THE FOUNDATION FOR HIM SPEAKING WITH AN ADDITIONAL
11 DETECTIVE. HE WAS A PATROL OFFICER, HE THEN TALKED ON
12 THE VERY THE SAME DAY WITH A PATROL OFFICER WHO TOOK
13 SPECIFIC NOTES. THOSE NOTES, AND I JUST ASKED HIM OUT IN
14 THE HALLWAY, "IS THIS AN ACCURATE REFLECTION OF WHAT YOU
15 TOLD THAT OFFICER ABOUT YOUR CONVERSATION WITH WILMA", HE
16 SAID, "YES, IT IS." THOSE NOTES SAY SHE DID NOT SEE
17 WHICH WAY THEY WENT. SHE ASSUMED, AND THAT'S A BIG WORD
18 HERE, THAT THEY WENT WESTBOUND.

19 MS. SARIS: WE CAN CALL THAT OFFICER.

20 THE COURT: YOU CAN IMPEACH THIS WITNESS WITH
21 THAT STATEMENT.

22 MR. JACKSON: OKAY.

23 MS. SARIS: IF YOU HAVE THE PERSON MAKING THE
24 STATEMENT.

25 THE COURT: WELL, YOU CAN DO EITHER.

26 MR. DIXON: NO.

27 THE COURT: YOU DON'T HAVE TO CONFRONT THE PERSON
28 WITH A PRIOR INCONSISTENT STATEMENT, BUT YOU CAN IF YOU

1 CHOOSE TO. AND YOU DON'T HAVE TO IF YOU DON'T WANT TO AS
2 LONG AS THE WITNESS ISN'T EXCUSED.

3 MS. SARIS: BUT THEY DON'T HAVE A GOOD FAITH
4 BELIEF THAT THEY CAN GET THIS OFFICER TO TESTIFY IF THIS
5 WITNESS SAYS OTHERWISE.

6 MR. JACKSON: THAT'S NOT TRUE.

7 MS. SARIS: THEY'RE ASKING NOW TO TALK ABOUT --

8 THE COURT: TO IMPEACH HIS --

9 MS. SARIS: -- WITH SOMETHING HE TOLD YOU ABOUT
10 WHAT WAS TOLD TO HIM. IT'S ANOTHER --

11 THE COURT: IT WOULD ALSO, GIVEN THE OFFER OF
12 PROOF, IT WOULD ALSO BE A PRIOR INCONSISTENT STATEMENT OF
13 THIS OFFICER. AND THEY HAVE DON'T HAVE TO CONFRONT HIM
14 WITH THE STATEMENT, BUT I THINK IF THEY HAVE A WITNESS
15 THEY CAN BRING IT IN.

16 MS. SARIS: WHICH THEY DON'T IS MY UNDERSTANDING.

17 THE COURT: I THOUGHT, WHO IS THE OFFICER?

18 MR. JACKSON: HE'S ALREADY TALKED AND HE HAS
19 ALREADY TESTIFIED. AND WE APPROACHED THE COURT WITH THE
20 REQUEST, A SPECIFIC REQUEST ON THIS ISSUE, CAN WE BRING
21 THIS UP.

22 THE COURT: RIGHT.

23 MR. JACKSON: THE COURT SAID NO. AND NOW HE'S ON
24 VACATION.

25 THE COURT: OKAY. SO YOU HAVE A GOOD FAITH
26 BELIEF.

27 MR. JACKSON: THANK YOU.

28 (SIDE BAR CONCLUDED.)

1 Q BY MS. SARIS: SERGEANT, DO THE NOTES IN
2 FRONT YOU REFLECT WHAT WOULD BE A TRUE AND ACCURATE
3 REPRESENTATION OF WHAT THE WITNESS WOULD HAVE TOLD YOU
4 THAT DAY?

5 A YES, MA'AM.

6 Q WOULD YOU HAVE ANY REASON TO LIE OR CHANGE
7 YOUR STORY?

8 A I'M SORRY?

9 Q WOULD YOU HAVE ANY REASON TO LIE OR WRITE
10 DOWN SOMETHING OTHER THAN WHAT SHE SAID?

11 A NO, MA'AM.

12 Q WHAT DID SHE TELL YOU ABOUT THE DIRECTION
13 THE BICYCLIST TOOK?

14 A SHE NOTED THAT THE MALES, CROSSED ROYAL
15 OAKS DRIVE, THAT IS A SOUTHBOUND DIRECTION, AND ONE OF
16 THEM NEARLY FELL AS THEY HAVE CROSSED UNDER THE CURB ON
17 THE SOUTH SIDE OF ROYAL OAKS DRIVE.

18 Q AND WHAT ELSE DID SHE SAY?

19 A SHE SAID THAT BOTH MALES THEN WENT THROUGH
20 A FENCE OPENING LEADING TO THE BIKE TRAIL EAST/WEST
21 DIRECTION. AND THAT SHE LAST SAW THEM WESTBOUND ON THE
22 BIKE TRAIL IN THE DIRECTION OF MONROVIA.

23 Q AND WAS IT YOUR UNDERSTANDING WHEN YOU
24 SPOKE TO THIS WITNESS THAT SHE WAS RELATING TO YOU EVENTS
25 THAT HAD OCCURRED THAT SAME DAY?

26 A YES, MA'AM.

27 Q AND I'M SORRY, PERHAPS YOU STILL NEED
28 THIS. DID YOU ADVISE ANYONE SPECIFICALLY THAT YOU RECALL

1 ABOUT THIS WITNESS'S STATEMENT?

2 A ACCORDING TO MY REPORT, I CONTACTED A
3 SERGEANT AT HOMICIDE LATER.

4 Q AND WHAT WAS HIS NAME?

5 A OBERHOLTZ.

6 Q OLBERHOLTZER, IS THAT POSSIBLE?

7 A YES.

8 Q O-B-E-R-H-O-L-Z-E-R?

9 MR. JACKSON: T-Z-E-R.

10 MS. SARIS: T-Z-E-R. THANK YOU.

11 Q BY MS. SARIS: AND AT THE TIME, IF YOU
12 KNOW, OR BASED ON HAVING YOUR RECOLLECTION REFRESHED, WHO
13 WOULD HE HAVE BEEN IN THE SCHEME OF THINGS?

14 A ONE OF THE INVESTIGATORS IN CHARGE OF THE
15 CASE.

16 Q OKAY. AND YOU ALSO WOULD HAVE WRITTEN --
17 THE REPORT THAT YOU HAVE IN FRONT OF YOU -- THAT YOU
18 WOULD HAVE WRITTEN, WHAT WOULD YOU HAVE PHYSICALLY DONE
19 WITH THAT?

20 A WROTE IT AND SUBMIT IT TO ONE OF MY
21 SUPERVISORS FOR APPROVAL.

22 Q AND WHAT DO YOU MEAN BY APPROVAL?

23 A THEY READ IT FOR CONTENTS, GRAMMATICAL
24 ERRORS, AND ACCURACY, AND THEN THEY APPROVE THE REPORT.

25 Q AND ONCE IT'S APPROVED, WHAT HAPPENS TO
26 IT, IF YOU KNOW?

27 A IT GETS PROCESSED AND COPIES OF THE REPORT
28 ARE DISTRIBUTED DEPENDING ON WHO THAT REPORT IS ASSIGNED

1 TO.

2 Q DOES THAT STATEMENT SAY WHEN AND WHERE YOU
3 SPOKE TO MRS. JOHNSON?

4 A YES, MA'AM.

5 Q AND WHERE WAS THAT AND WHEN?

6 A IT WAS ON, ACCORDING TO THE REPORT, IT
7 SAYS ABOUT 6 P.M. ON THE 16TH OF 1987.

8 Q 16TH OF MARCH?

9 A YES, MA'AM.

10 THE COURT: WHAT YEAR?

11 THE WITNESS: IT SAYS 87.

12 Q BY MS. SARIS: AND IS THAT A TYPO?

13 A YES, MA'AM.

14 Q DO YOU RECALL THIS INCIDENT BEING MARCH
15 1988?

16 A YES, MA'AM I DO.

17 Q DID YOU HAVE ANY CONVERSATIONS THAT YOU
18 RECALL NOW AS YOU SIT HERE ARE WITH ANY OFFICERS
19 REGARDING THIS STATEMENT OF THIS WITNESS?

20 A NO, NOT THAT I CAN RECALL.

21 THE COURT: WOULD THIS SERVE AS YOUR OFFICIAL
22 REPORT, BECAUSE I NOTICE IT'S IN HANDWRITING, OR WOULD
23 YOU BE EXPECTED TO TYPE UP SOMETHING LATER?

24 THE WITNESS: NO, THIS IS THE OFFICIAL REPORT.

25 MS. SARIS: NOTHING FURTHER. THANK YOU.

26 THE COURT: CROSS-EXAMINATION.

27 MR. JACKSON: THANK YOU, YOUR HONOR.

28

CROSS-EXAMINATION

BY MR. JACKSON:

Q DO YOU REMEMBER SPEAKING WITH ANOTHER
DETECTIVE SPECIFICALLY ABOUT THIS INCIDENT AND RELATING
YOUR CONVERSATION WITH WILMA JOHNSON TO A DETECTIVE?

MS. SARIS: OBJECTION, VAGUE AS TO DETECTIVE.

MR. JACKSON: A DETECTIVE. A DETECTIVE.

MS. SARIS: ANY? I'M SORRY.

MR. JACKSON: ANY DETECTIVE.

THE COURT: ALL RIGHT. LET'S TRY IT AGAIN. TAKE
IT FROM THE TOP, PLEASE.

Q BY MR. JACKSON: DO YOU UNDERSTAND MY
QUESTION AT ALL? DID YOU RELATE THIS STORY TO ANY A
DETECTIVE?

A I MIGHT HAVE. I DON'T RECALL ANYONE
SPECIFICALLY.

Q OKAY. DO YOU KNOW WHO DETECTIVE ULOTH IS?

A HE WORKS HOMICIDE BUREAU.

Q DO YOU REMEMBER TALKING TO HIM THE DAY --
EITHER THE DAY OF YOUR INTERVIEW OR DAY AFTER?

A IT'S POSSIBLE.

Q OKAY. TAKE A LOOK -- WELL. LET ME ASK
YOU THIS; BEFORE I ASK YOU TO TAKE A LOOK AT NOTES, HOW
MANY YEARS HAVE YOU BEEN A POLICE OFFICER?

A 27 AND A HALF YEARS.

Q DURING THE COURSE OF YOUR 27 AND A HALF
YEARS, DO YOU KNOW IF IT'S NORMAL OPERATING PROCEDURE OR
STANDARD PROCEDURE WHEN A DETECTIVE OR A SERGEANT OR A

1 PATROL COP IS TAKING INTERVIEWS, EITHER OF OTHER OFFICERS
2 OR OF CIVILIANS, TO TAKE NOTES ABOUT THOSE CONVERSATIONS?

3 A YES.

4 Q IS IT THE NORMAL COURSE OF CONDUCT TO TAKE
5 THOSE NOTES AS ACCURATELY AS POSSIBLE?

6 A YES, IT IS.

7 Q AND YOU TAKE THE NOTES AS CLOSE IN TIME AS
8 POSSIBLE TO THE INTERVIEW THAT YOU'RE CONDUCTING?

9 A YES, SIR.

10 Q ALL RIGHT. TAKE A LOOK AT, AND COUNSEL,
11 YOU KNOW WHAT I'M REFERRING TO.

12 MS. SARIS: YEAH.

13 MR. JACKSON: OKAY.

14 Q TAKE A LOOK AT A COUPLE OF PAGES OF NOTES.
15 I THINK YOU'VE HAD AN OPPORTUNITY TO GLANCE AT THESE
16 BEFORE. TELL ME IF YOU RECOGNIZE THOSE HANDWRITTEN NOTES
17 AND ANYTHING, ESPECIALLY STARTING AT THE VERY TOP OF THE
18 FIRST PAGE, DO YOU RECOGNIZE THOSE AS BEING NOTES ABOUT
19 THE EVENT ABOUT WHICH YOU JUST TESTIFIED WITH MS. SARIS?

20 A YES.

21 Q OKAY. DO YOU REMEMBER BASED ON YOUR
22 REVIEW OF THOSE NOTES THAT YOU DID RELAY YOUR
23 CONVERSATION WITH WILMA JOHNSON TO YET ANOTHER OFFICER,
24 AN OFFICER ULOTH OR DETECTIVE ULOTH?

25 A YES.

26 Q OKAY. I WANT YOU TO TAKE A LOOK AT THE
27 SECOND PAGE. ACTUALLY, WHAT I'M ASKING TO DO SERGEANT,
28 IS GLANCE OVER THESE TWO PAGES -- OF THE FIRST AND SECOND

1 PAGE -- AND JUST TO YOURSELF -- AND TELL ME WHEN YOU'RE
2 FINISHED.

3 A YES.

4 Q OKAY. YOU'VE HAD AN OPPORTUNITY TO LOOK
5 AT THOSE TWO FIRST TWO PAGES?

6 A YES, I HAVE.

7 Q DOES THAT SET OF NOTES ACCURATELY REFLECT
8 THE CONVERSATION THAT YOU HAD WITH DETECTIVE ULOTH?

9 MS. SARIS: OBJECTION, CALLS FOR HEARSAY, LACK OF
10 FOUNDATION.

11 THE COURT: OVERRULED. YOU CAN ANSWER THAT.

12 THE WITNESS: YES.

13 Q BY MR. JACKSON: DOES IT ALSO ACCURATELY
14 REFLECT THE CONVERSATION THAT YOU HAD WITH WILMA JOHNSON?

15 A YES.

16 Q WERE YOU RELAYING WHAT YOU HAD HEARD FROM
17 WILMA JOHNSON TO DETECTIVE ULOTH?

18 A YES, I WAS.

19 Q AND ACCORDING TO YOUR MEMORY, DO YOU
20 RECALL WHAT YOU TOLD DETECTIVE -- LET ME REPHRASE THAT.
21 DO YOU RECALL WHAT WILMA JOHNSON TOLD YOU ABOUT THE
22 SPECIFIC DIRECTION THAT THE BICYCLISTS TOOK?

23 A YES, ACCORDING TO MY REPORT.

24 Q OKAY. ISN'T IT TRUE THAT YOU TOLD
25 DETECTIVE ULOTH THAT -- I DID IT AGAIN. LET ME REPHRASE
26 THAT. ISN'T IS TRUE THAT WILMA JOHNSON TOLD YOU THAT SHE
27 DIDN'T SEE THE BICYCLISTS AFTER THEY WENT THROUGH THE
28 FENCELINE BUT ASSUMED THEY WENT WESTBOUND?

1 A YES.

2 Q OKAY. THAT'S ALL I HAVE.

3 THE COURT: REDIRECT.

4 MS. SARIS: YES, THANK YOU.

5

6 REDIRECT EXAMINATION

7 BY MS. SARIS:

8 Q HOW DO YOU KNOW THESE ARE DETECTIVE
9 ULOTH'S NOTES?

10 A I DON'T.

11 Q DO YOU KNOW WHO DETECTIVE ULOTH IS?

12 A I COULDN'T RECOGNIZE HIM.

13 Q HAVE YOU EVER SEEN HIS HANDWRITING?

14 A NO.

15 Q WHAT WOULD BE MORE ACCURATE, WHAT
16 DETECTIVE ULOTH SAID WILMA JOHNSON TOLD YOU, OR WHAT YOU
17 WROTE WILMA JOHNSON TOLD YOU?

18 MR. JACKSON: OBJECTION. IT'S IRRELEVANT. WHAT
19 HIS OPINION IS OF DETECTIVE ULOTH. HE TESTIFIED TO WHAT
20 WILMA JOHNSON TOLD HIM.

21 THE COURT: ALL RIGHT. SUSTAINED.

22 Q BY MS. SARIS: LOOKING BACK AT THE
23 CONVERSATION, DID YOU WRITE ANYWHERE IN YOUR REPORT THAT
24 MS. JOHNSON'S ASSESSMENT OF THE DIRECTION OF THE
25 BICYCLIST WAS SOMETHING SHE ASSUMED OR SOMETHING SHE SAW?

26 A ACCORDING TO MY REPORTS, SHE SAID SHE LAST
27 SAW THEM WESTBOUND ON THE BIKE TRAIL IN THE DIRECTION OF
28 MONROVIA.

1 Q SHE HAD SHE LAST SAW THEM?

2 A YES, MA'AM.

3 Q DID YOU REFLECT ANYWHERE IN THERE THAT
4 THAT WAS AN ASSUMPTION ON HER PART, ANYWHERE IN YOUR
5 NOTES?

6 A NOT THAT I CAN SEE.

7 Q THANK YOU, NOTHING FURTHER.

8 THE COURT: RE CROSS.

9

10 RE CROSS-EXAMINATION

11 BY MR. JACKSON:

12 Q AS YOU SIT, HERE DO YOU HAVE AN
13 INDEPENDENT RECOLLECTION OF WHETHER OR NOT WILMA JOHNSON
14 TOLD YOU SHE ASSUMED THEY WENT WESTBOUND OR WHETHER SHE
15 ACTUALLY SAW THEM GO WESTBOUND?

16 A I DO NOT.

17 Q DO YOU REMEMBER BEING AT THE LOCATION,
18 SIR?

19 A YES.

20 Q DO YOU REMEMBER A -- LET ME JUST ASK IT
21 THIS WAY -- I KNOW I'M TAXING YOUR MEMORY, SERGEANT --
22 THAT'S WHY YOU GET PAID SO MUCH MONEY, RIGHT?

23 A YES.

24 Q MAY THE RECORD REFLECT THE WITNESS ROLLED
25 HIS EYES. I'M GOING FOR BORROW THIS REAL QUICK.

26 I WANT TO DRAW YOUR ATTENTION TO PEOPLE'S 49 AND
27 ASK YOU IF YOU RECOGNIZE ON PHOTOGRAPH C WHAT HAS BEEN
28 DESCRIBED A GRAPE STAKE FENCE? I DON'T KNOW WHY THEY

1 CALL IT THAT, BUT THEY CALL IT A GRAPE STAKE FENCE. DO
2 YOU REMEMBER THAT?

3 A VAGUELY.

4 Q DOES THAT VAGUELY REFRESH YOUR
5 RECOLLECTION AS TO THAT FENCE BEING THERE, THAT FENCE
6 LINE BEING THERE ON THE DAY OF YOUR INTERVIEW WITH WILMA
7 JOHNSON?

8 A YES.

9 Q BACK IN 1988?

10 A YES.

11 Q LOOKING AT PHOTOGRAPH D OR F OR E, CAN YOU
12 SEE DOWN TO THE BOTTOM OF THE BIKE PATH FROM ANY OF THESE
13 PHOTOGRAPHS, FROM WHERE THE PHOTOGRAPHER WAS STANDING?

14 MS. SARIS: OBJECTION BEYOND THE SCOPE,
15 RELEVANCE.

16 THE COURT: OVERRULED. YOU CAN ANSWER.

17 A I'M SORRY, CAN YOU--

18 Q BY MR. JACKSON: SURE. I'M JUST ASKING
19 YOU, IN THESE PHOTOGRAPHS CAN YOU SEE DOWN TO THE BIKE
20 PATH OR DOES OF THE FENCE OBSTRUCT YOUR VIEW?

21 MS. SARIS: OBJECTION, ARGUMENTATIVE.

22 THE COURT: OVERRULED. YOU GO YOU CAN ANSWER.

23 THE WITNESS: THERE IS NO OBSTRUCTION IF THE BIKE
24 PATH IS ON THE OTHER SIDE OF THE FENCE.

25 Q LET'S ASSUME THAT PHOTOGRAPH G, SHOWING
26 THE PATH DOWN AT THE BOTTOM OF THE PHOTOGRAPH, ASSUME FOR
27 PURPOSES OF OUR DISCUSSION THAT THAT'S THE PATH THAT
28 WE'RE TALKING ABOUT, AND AT THE TOP OF THE PHOTOGRAPH

1 THAT'S THE INSIDE OF THE GRAPE STAKE FENCE, NOW DOES THAT
2 GIVE YOU MORE PROSPECTIVE ABOUT PHOTOGRAPHS E F AND D?

3 A YES, IT DOES.

4 Q CAN YOU SEE DOWN TO THE BOTTOM THE BIKE
5 PATH FROM ANY OF THESE PHOTOGRAPHS?

6 A NO, SIR.

7 Q OKAY.

8 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

9 THE COURT: ANYTHING ELSE?

10 MS. SARIS: JUST BRIEFLY.

11

12 FURTHER REDIRECT EXAMINATION

13 BY MS. SARIS:

14 Q WOULD YOU HAVE RECOGNIZED AND BEEN ABLE TO
15 IDENTIFY THE LOCATIONS IN THIS PHOTOGRAPH IF WE HADN'T
16 TOLD YOU THAT WAS ROYAL OAKS AND THE BIKE PATH?

17 A NO, MA'AM.

18 MS. SARIS: THANK YOU, NOTHING FURTHER.

19 MR. JACKSON: THAT'S ALL I HAVE, YOUR HONOR.

20 THANK YOU.

21 THE COURT: THANK YOU, SIR FOR COMING IN.

22 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

23 MS. SARIS: WE HAVE THE NEXT WITNESS, THE

24 DISTRICT ATTORNEY HAS ASKED TO APPROACH.

25 THE COURT: ALL RIGHT WE'RE AT THE SIDE BAR.

26 (PROCEEDINGS HELD AT SIDE BAR.)

27 MR. JACKSON: YOUR HONOR, MR. DIXON AND I

28 INTENDED, BOTH OF US TALKED ABOUT IT, WE INTENDED TO

1 BRING THIS UP AFTER LUNCH, AND WE GOT SIDETRACKED WITH
2 THE STUPID PERSON WHO SPOKE IN THE ELEVATOR. AND I
3 APOLOGIZE.

4 MS. SARIS: DO YOU MEAN ME?

5 MR. JACKSON: NO.

6 MS. SARIS: THANK YOU FOR THAT, COUNSEL.

7 MR. JACKSON: MY UNDERSTANDING OF THE OFFER OF
8 PROOF FOR THE NEXT FEW WITNESSES, AND THE NEXT COUPLE OF
9 WITNESSES -- IS RICK MILLER IS EXPECTED TO TESTIFY THAT
10 MICKEY THOMPSON TOLD HIM THAT HE WAS INTENDING TO
11 PURCHASE SOMETHING OF SOME SIGNIFICANT VALUE OR SOMETHING
12 LIKE THAT, OR HE HAD JUST DONE THAT.

13 THEN THE OFFER OF PROOF IS FROM THAT,
14 MS. SARIS IF GOING TO ARGUE THAT THE OFFICERS WERE TOLD
15 THAT INFORMATION AND FAILED TO ACT ON IT, IF I'M CORRECT.
16 THAT WAS THE OFFER OF PROOF THAT WAS GIVEN YESTERDAY.
17 OUR OBJECTION TO MR. MILLER TESTIFYING IS IT'S VERY
18 OBVIOUS, AS I THOUGHT ABOUT IT OVERNIGHT, IT'S VERY
19 OBVIOUS THAT THE ONLY REASON FOR HIM TO TESTIFY IS FOR
20 THE TRUTH OF THE MATTER, NOT FOR THE EFFECT ON THE
21 LISTENER, THE LISTENER BEING THE OFFICER. IT DOESN'T
22 MATTER WHAT MICKEY THOMPSON TOLD RICK MILLER, IF
23 ANYTHING. ALL THE THAT MATTERS IS WHAT RICK MILLER TOLD
24 OFFICER JANSEN.

25 MS. SARIS: OFFICER LAPORTE.

26 MR. JACKSON: I'M SORRY, OFFICER LAPORTE. WE
27 WOULD OBJECT TO RICK MILLER TESTIFYING BECAUSE IT'S
28 ABSOLUTELY IRRELEVANT AND IT'S CUMULATIVE. THE ONLY

1 PERSON THAT NEEDS TO ESTABLISH THE RELEVANT EVIDENCE TO
2 ESTABLISH ANY DEFENSE OFFER OF PROOF IS OFFICER LAPORTE
3 TO SAY, "I RECEIVED CERTAIN INFORMATION FOR NON-HEARSAY
4 PURPOSE", TO ESTABLISH WHAT HE DID OR DIDN'T DO AS A
5 RESULT OF THAT. SO WE BELIEVE THAT RICK MILLER IS
6 COMPLETELY IRRELEVANT TO THESE PROCEEDINGS AND IS ONLY
7 GOING TO BE USED TO GET IN MICKEY THOMPSON'S STATEMENTS,
8 WHICH ARE HEARSAY, AND OFFERED FOR THEIR TRUTH, TO WIT,
9 HE PURCHASED SOMETHING OF SOME SIGNIFICANT VALUE.

10 THE COURT: MS. SARIS?

11 MS. SARIS: WELL THE COURT MADE THIS RULING
12 YESTERDAY. THAT'S WHY WE DRAGGED MR. MILLER BACK HERE
13 YET AGAIN. WHAT THIS PREVENTS IS IT LAYS A FOUNDATION.
14 IT PREVENTS THE DISTRICT ATTORNEY FROM SAYING WHERE IS
15 MR. MILLER, IF HE SAID THIS. WHICH WE ASK HIM WHAT HE
16 HEARD AND DID HE TELL THE POLICE. THAT'S IT. OTHERWISE,
17 WE'RE BEING TRUNCATED IN OUR EVIDENCE, AND IT'S
18 SUBJECTING OURSELVES TO AN ARGUMENT THAT WE DIDN'T BRING
19 IN A RELEVANT WITNESS THAT WOULD HAVE LAID THE FOUNDATION
20 FOR IT.

21 MR. JACKSON: WE WOULDN'T MAKE THAT ARGUMENT.
22 BECAUSE THAT WOULD BE AN IMPROPER ARGUMENT. IT'S NOT
23 BEING OFFERED FOR IT'S TRUTH, IT'S BEING OFFERED FOR WHAT
24 THE POLICE DID OR DIDN'T DO.

25 THE COURT: IF THE OBJECTION IS ON RELEVANCE
26 GROUNDS, I'M GOING TO OVERRULE THE OBJECTION.

27 MR. JACKSON: AND CUMULATIVE GROUNDS.

28 THE COURT: WELL, I DON'T KNOW WHAT OFFICER

1 LAPORTE IS GOING TO TESTIFY TO.

2 MR. DIXON: WELL, MAYBE WE SHOULD NAIL THAT DOWN
3 BECAUSE WE HAVE THIS WHOLE VALUABLE OBJECT THING. I
4 THINK THAT COUNSEL SHOULDN'T LEAD HIM INTO SAYING WHAT HE
5 HEARD, THAT MICKEY THOMPSON HAD JUST PURCHASED SOME --

6 MS. SARIS: I CAN GIVE YOU QUESTIONS IF THE COURT
7 WANTS. I WROTE IT DOWN.

8 THE COURT: NO. I ASSUME YOU'RE GOING TO FOLLOW
9 MY INSTRUCTIONS --

10 MS. SARIS: A VALUABLE ITEM?

11 THE COURT: YES.

12 MS. SARIS: APPROXIMATELY \$250,000, ITEM OF
13 VALUE.

14 MR. JACKSON: I GUESS WHAT I DON'T UNDERSTAND IS
15 HOW IS MICKEY THOMPSON'S STATEMENT TO RICK MILLER AT ALL
16 RELEVANT TO THESE PROCEEDINGS? LAPORTE WASN'T THERE.
17 LAPORTE DIDN'T HEAR IT. IT DOESN'T MATTER WHAT LAPORTE
18 DID OR DIDN'T DO BECAUSE OF IT. ALL THAT MATTERS IS WHAT
19 LAPORTE WAS TOLD BY RICK MILLER WHEN HE RECEIVED OF THE
20 INFORMATION. SO MAYBE RICK MILLER CAN TESTIFY IN A
21 DIFFERENT CIRCUMSTANCE WHERE MICKEY THOMPSON'S STATE OF
22 MIND WAS RELEVANT. BUT SINCE IT'S NOT, ALL THAT MATTERS
23 IS LAPORTE SAYING, "I RECEIVED INFORMATION AND I DIDN'T
24 ACT ON IT."

25 THE COURT: THAT WAS THE WHOLE ISSUE BEFORE THE
26 COURT, AND THE COURT ALREADY RULED.

27 MR. JACKSON: RIGHT. AND I HAVE NO PROBLEM WITH
28 THAT. BUT WHAT WE'RE DOING IS TAKING A STEP IN ADVANCE

1 OF THAT THAT'S COMPLETELY UNNECESSARY AND WE RUN THE RISK
2 OF MISLEADING OF THE JURORS INTO BELIEVING THE FACT THAT
3 MICKEY THOMPSON ACTUALLY BOUGHT SOMETHING OF VALUE, WHICH
4 THERE IS NO EVIDENCE OF.

5 THE COURT: IF YOU WANT ME TO ADMONISH THE JURY
6 THAT THIS IS NOT BEING OFFERED FOR THE TRUTH I WILL.

7 MR. JACKSON: ABSOLUTELY, AT THE VERY LEAST.

8 THE COURT: OKAY.

9 MR. DIXON: THANK YOU.

10 THE COURT: OKAY. JUST TO CLARIFY.

11 MS. SARIS: WHEN YOU SAID "THIS", YOU'RE GOING TO
12 SAY WHAT MICKEY THOMPSON TOLD MR. MILLER.

13 THE COURT: YES.

14 MS. SARIS: YOU'RE GOING TO DEFINE "THIS" SO THAT
15 THEY ARE NOT THINKING IT'S ALL OF MR. MILLER'S TESTIMONY,
16 BUT THE COMMENT.

17 THE COURT: THE STATEMENT.

18 MS. SARIS: THANK YOU.

19 (SIDE BAR CONCLUDED.)

20 THE COURT: ALL RIGHT, THE DEFENSE MAY CALL THEIR
21 NEXT WITNESS.

22 MS. SARIS: THANK YOU, YOUR HONOR. THE DEFENSE
23 CALLS ERIC MILLER.

24 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

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

1 THE WITNESS: YES I WILL.

2 THE CLERK: THANK YOU, PLEASE BE SEATED. SIR,
3 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
4 NAME NOR THE RECORD?

5 THE WITNESS: ERIC MILLER, E-R-I-C M-I-L-L-E-R.

6 THE CLERK: THANK YOU.

7 THE COURT: YOU MAY INQUIRE

8 MS. SARIS: THANK YOU.

9

10 DIRECT EXAMINATION

11 BY MS. SARIS:

12 Q GOOD AFTERNOON, MR. MILLER?

13 A GOOD AFTERNOON.

14 Q DID YOU KNOW MICKEY THOMPSON?

15 A YES.

16 Q IN 1988 WHERE DID YOU WORK?

17 A ANAHEIM STADIUM.

18 Q AND WHO DID YOU WORK FOR?

19 A MICKEY THOMPSON ENTERTAINMENT GROUP.

20 Q AND DID YOU KNOW MICKEY THOMPSON OUTSIDE

21 OF WORK? DID YOU SOCIALIZE WITH HIM OFTEN?

22 A I'M SORRY. SAY IT AGAIN.

23 Q DID YOU KNOW MICKEY THOMPSON OUTSIDE OF

24 WORK?

25 A YES.

26 Q THE EVENING -- WERE YOU AWARE THAT HE WAS

27 MURDERED ON MARCH 16TH OF 1988?

28 A YES.

1 Q WERE YOU AWARE SPECIFICALLY OF THE DATE?

2 A YES.

3 Q THE EVENING BEFORE, DID YOU HAVE OCCASION
4 TO BE IN A ROOM WITH -- IN YOUR OFFICE WITH MR. THOMPSON?

5 A HE WAS ONE OF THE INDIVIDUALS, YES.

6 Q AND WHO ELSE WAS IN THE ROOM?

7 A LEE HASLAM.

8 Q THAT'S H-A --

9 A H-A-S-L-A-M.

10 Q -- L-A-M LIKE MARY?

11 A UH-HUH.

12 Q IS THAT A YES?

13 A YES.

14 Q THANK YOU. AND DID YOU HAVE A
15 CONVERSATION -- WERE YOU PRIVY TO A CONVERSATION THAT
16 MR. THOMPSON HAD THAT EVENING OF MARCH 15TH, 1988?

17 A YES.

18 Q DID MR. THOMPSON TELL YOU THAT HE HAD
19 PURCHASED AND RECENTLY TAKEN POSSESSION OF A VALUABLE
20 ITEM WORTH APPROXIMATELY A QUARTER MILLION DOLLARS?

21 A NOT TAKEN POSSESSION, NO.

22 Q WHAT DID HE TELL YOU REGARDING THE
23 VALUABLE ITEM?

24 A HE WAS SPEAKING WITH LEE HASLAM REGARDING
25 INVESTMENTS. AND --

26 Q WITHOUT GETTING INTO THE EXACT NATURE OR
27 WORDS THAT HE USED, DID HE INDICATE THAT HE HAD MADE A
28 RECENT PURCHASE?

1 A NO.

2 Q WERE YOU INTERVIEWED BY THE POLICE IN THIS
3 CASE?

4 A YES.

5 Q AND WHEN WAS THAT, IF YOU RECALL, IN
6 RELATION TO THE CRIME?

7 A I DON'T RECALL THE DATE.

8 Q DID YOU TELL THEM AT THAT TIME THAT
9 MR. THOMPSON HAD TOLD YOU THE EVENING BEFORE HE WAS
10 KILLED THAT HE HAD TAKEN POSSESSION OF A VALUABLE ITEM
11 WORTH NEARLY A QUARTER MILLION DOLLARS?

12 A NOT TAKEN POSSESSION.

13 Q YOU DIDN'T TELL THEM THAT?

14 A NOT TAKEN POSSESSION, NO.

15 Q DID YOU TELL THEM THAT HE HAD PURCHASED AN
16 ITEM?

17 A I TOLD THEM THAT THERE WAS A CONVERSATION
18 REGARDING INVESTMENTS AND THAT WAS DIRECTED TO LEE
19 HASLAM. AND THEY WERE TALKING BACK AND FORTH ABOUT
20 INVESTMENTS.

21 Q SO YOU DID NOT TELL OFFICER LAPORTE THAT
22 MICKEY THOMPSON HAD TAKEN POSSESSION OF A VALUABLE ITEM
23 RECENTLY AS A RESULT OF THE CONVERSATION THAT YOU HAD
24 WITH HIM ON MARCH 15TH, 1988?

25 A I DON'T RECALL ANYTHING REGARDING TAKING
26 POSSESSION, NO.

27 Q DO YOU KNOW WHEN THE OFFICER INTERVIEWED
28 YOU, WAS HE TAKING ANY NOTES THAT YOU WERE AWARE OF?

1 A I DON'T RECALL HIM BEING WITH ME. IF I'M
2 NOT MISTAKEN IT MIGHT HAVE BEEN A PHONE INTERVIEW. SO I
3 DON'T KNOW IF THERE WERE ANY NOTES OR NOT.

4 Q HAVE YOU NOT EVER SEEN ANY NOTES
5 PURPORTING TO BE A MEMORANDUM OF THE CONVERSATION YOU HAD
6 WITH OFFICER LAPORTE?

7 A YOU SHOWED ME THOSE TWO DAYS AGO.

8 Q AND DID THEY ASSIST YOU IN YOUR
9 RECOLLECTION AT ALL OF THIS CONVERSATION?

10 A I READ THE NOTES, BUT NOT AS FAR AS THE
11 RECOLLECTION OF THE CONVERSATION. IT HAS BEEN 18 AND A
12 HALF YEARS.

13 Q DID YOU AT THE TIME IN -- WHEN YOU WERE
14 INTERVIEWED BY THE POLICE, DID YOU ATTEMPT TO TELL THEM
15 ABOUT THIS CONVERSATION IN GENERAL?

16 A YES.

17 Q AND WERE YOU BEING TRUTHFUL AT THAT TIME?

18 A TO THE BEST OF MY KNOWLEDGE, YES.

19 Q YOU DIDN'T HAVE ANY REASON TO LIE ABOUT
20 WHAT MICKEY THOMPSON HAD SAID, OR CHANGE ANY STORY, AT
21 THAT TIME?

22 A NO.

23 Q AND THE INTERVIEW THAT YOU HAD WITH THIS
24 GENTLEMAN, WAS IT YOUR UNDERSTANDING THIS WAS ABOUT THE
25 CRIME THAT HAD OCCURRED, THE MURDER OF MICKEY THOMPSON?
26 IT WASN'T AS AN UNRELATED TOPIC?

27 A YES.

28 MS. SARIS: NOTHING FURTHER AT THIS TIME, YOUR

1 HONOR.

2 THE COURT: CROSS.

3 MR. JACKSON: YOUR HONOR, WE HAVE NO QUESTIONS,
4 BUT WE WOULD ASK FOR THE COURT TO ADMONISH THE JURORS AS
5 TO THE NATURE OF THE TESTIMONY THAT'S JUST BEEN HEARD.

6 MS. SARIS: THAT MIGHT BE MORE RELEVANT AFTER THE
7 NEXT WITNESS.

8 THE COURT: YES, BUT I'LL DO IT IN A MOMENT.
9 THANK YOU, SIR.

10 THE WITNESS: THANK YOU.

11 MS. SARIS: AND YOUR HONOR, BASED ON THAT,
12 PERHAPS WE COULD -- WE HAVE VERY FEW WITNESSES LEFT --
13 TAKE OUR BREAK NOW SO WE CAN DISCUSS WITH OFFICER LAPORTE
14 YOUR PRIOR RULING.

15 THE COURT: SO YOU WANT TO TAKE A BREAK NOW, AND
16 THEN CALL THE REST OF YOUR WITNESSES?

17 MS. SARIS: YES.

18 THE COURT: ALL RIGHT. WE WILL TAKE A BREAK NOW.
19 PLEASE DON'T DISCUSS OR FORM OR EXPRESS ANY OPINIONS.
20 DON'T CONDUCT ANY DELIBERATIONS. WE WILL RESUME IN ABOUT
21 15 MINUTES. THANK YOU.

22 (BRIEF RECESS.)

23 THE COURT: I DIDN'T ADMONISH THE JURY BECAUSE
24 THERE REALLY WASN'T A STATEMENT.

25 MR. JACKSON: I'M SORRY?

26 THE COURT: I DIDN'T ADMONISH THEM BECAUSE I
27 DIDN'T HEAR A STATEMENT THAT WAS TO BE LIMITED.

28 MS. SARIS: AND MY CONCERN IS THAT NOW THIS

1 STATEMENT OF OFFICER LAPORTE IS IMPEACHMENT. AND I JUST
2 WANTED THE OPPORTUNITY TO SAY TO HIM "WE'RE GOING TO SAY
3 VALUABLE ITEM", BECAUSE I DIDN'T WANT HIM TO READ IT. SO
4 I GUESS WE SHOULD HAVE SOME AGREEMENT THAT HE IS ALLOWED
5 TO READ IT WITHOUT THAT WORD. BECAUSE IF HE READS IT
6 DIRECTLY, IT'S GOING TO BE -- AND I DIDN'T WANT TO BE
7 ACCUSED OF GOING AGAINST THE COURT ORDER BECAUSE THAT'S
8 EXACTLY WHAT HE WROTE IS -- "TAKEN POSSESSION OF SOME
9 GOLD".

10 MR. DIXON: I THINK THE VALUABLE ITEM SHOULD BE
11 THE CORRECT TERMINOLOGY. AND YOUR HONOR, I MIGHT --
12 WE'VE BEEN LITIGATING THIS WHOLE ISSUE BACK AND FORTH FOR
13 A COUPLE OF DAYS. BUT IT WAS, AND PLEASE CORRECT ME IF
14 I'M WRONG, BUT IT WAS MY RECOLLECTION THAT NO DOLLAR
15 AMOUNT WAS TO BE AFFIXED TO THIS. THIS IS WHY WE SAID
16 VALUABLE ITEM AND NOT SOME OTHER TERM OF WHAT IT WAS.
17 AND YET MS. SARIS SAID QUARTER MILLION DOLLARS. MY
18 RECOLLECTION IS THAT THAT WAS NOT PART OF THE COURT'S
19 RULING HERE.

20 MR. JACKSON: AND THAT'S MINE TOO, YOUR HONOR.

21 MS. SARIS: YOUR HONOR, WE WERE JUST AT SIDE BAR.
22 IF LORI NEEDS TO READ IT BACK, I OFFERED TO READ THE
23 QUESTION INTO THE RECORD, AND I SAID QUARTER MILLION
24 DOLLARS AT SIDE BAR.

25 MR. JACKSON: NO, COUNSEL DID NOT SAY THAT AT
26 SIDE BAR.

27 THE COURT: I WILL BE HONEST WITH YOU, I DON'T
28 RECALL DISCUSSING THE QUARTER MILLION DOLLARS PART OF THE

1 STATEMENT. I RECALL DISCUSSING THE STATEMENT ITSELF
2 HAVING TO DO WITH TAKING POSSESSION OF GOLD. SO IN ALL
3 HONESTY, I DON'T THINK WE REALLY DISCUSSED THE QUARTER
4 MILLION DOLLARS. BUT GIVEN NOW WHAT HAS HAPPENED, WE
5 DON'T HAVE A STATEMENT, COUNSEL IS IT GOING TO SEEK TO
6 IMPEACH THIS WITNESS WITH THE TESTIMONY OF OFFICER
7 LAPORTE. I DON'T KNOW WHAT OFFICER LAPORTE IS GOING TO
8 TESTIFY TO.

9 MS. SARIS: HE'S GOING TO TESTIFY, SO THE COURT
10 KNOWS, HE HAS NO SPECIFIC RECOLLECTION BUT THIS WOULD
11 HAVE BEEN HIS ACCURATE NOTES TAKEN AT THE TIME THAT HE
12 INTERVIEWED MR. MILLER. THE STATEMENT IN HIS NOTES ARE
13 -- AND IF IT WERE ANY OTHER WITNESS RELATING TO ANY OTHER
14 THING -- HE HAD TAKEN POSSESSION OF SOME GOLD THAT'S GOT
15 VALUE. INF -- MEANING INFORMANT -- THINKS AMOUNT
16 MENTIONED WAS ONE QUARTER MILLION DOLLARS WORTH.

17 NOW I CAN TELL HIM, I WAS GOING TO
18 ADMONISH HIM TO SAY A VALUABLE ITEM. I HONESTLY, IF
19 THERE WAS A CONVERSATION ABOUT NOT SAYING A QUARTER
20 MILLION DOLLARS, I CERTAINLY WASN'T PRIVY TO IT AND
21 DIDN'T HAVE AN UNDERSTANDING. AND THAT'S SOMEWHAT
22 RELEVANT, AND THAT'S PART THE STATEMENT, AND I WOULDN'T
23 ATTEMPT TO ELICIT THAT FROM OFFICER LAPORTE.

24 THE COURT: WHY DON'T WE LEAVE IT AT VALUABLE
25 ITEM BECAUSE THE REAL ISSUE IS WHETHER OR NOT THE
26 STATEMENT WAS THAT HE TOOK POSSESSION OF THE VALUABLE
27 ITEM. I MEAN THAT'S --

28 MS. SARIS: MAY I INQUIRE THEN AS TO WAS A DOLLAR

1 AMOUNT SPECIFIED, SO THAT I THEN FURTHER UP SAY "DID YOU
2 GO TO HIS RECORDS AND LOOK FOR THAT DOLLAR AMOUNT",
3 WITHOUT NAMING THAT DOLLAR AMOUNT?

4 THE COURT: YES.

5 MR. JACKSON: YOUR HONOR, THE COURT IS SAYING,
6 AND HAS SAID A COUPLE OF TIMES, THAT NO STATEMENT WAS
7 ELICITED FROM THIS WITNESS. THE WITNESS INDICATED UNDER
8 DIRECT EXAMINATION THAT HE HAD A CONVERSATION WITH MICKEY
9 THOMPSON AND THAT CONVERSATION INCLUDED MICKEY THOMPSON'S
10 INTEREST IN PURCHASING A VALUABLE ITEM. THAT IS A
11 STATEMENT, IT'S NOT OFFERED FOR IT'S TRUTH, AND THAT'S
12 WHAT I ASKED THE ADMONITION FOR.

13 THE COURT: THAT'S FINE. I WAS GOING TO WAIT
14 UNTIL --

15 MS. SARIS: WE HAVE NO OBJECTION.

16 MR. JACKSON: THE COURT CAN DO IT ANY TIME YOU
17 WANT. I DIDN'T KNOW WHAT THE MOST APPRECIATE TIME WAS,
18 AND I WANT THE JURORS AS I SEE THEM FURIOUSLY WRITING
19 DOWN MICKEY THOMPSON'S STATEMENTS THAT THEY WRITE
20 SOMEWHERE ON THERE THAT IS NOT OFFERED FOR THE TRUTH.

21 MS. SARIS: I JUST THOUGHT THE STATEMENT WOULD BE
22 MORE RELEVANT FROM OFFICER LAPORTE.

23 THE COURT: DO YOU WANT ME TO ADMONISH THEM
24 BEFORE OFFICER LAPORTE TESTIFIES OR CAN IT WAIT UNTIL
25 AFTER?

26 MR. JACKSON: IT'S TOTALLY UP TO THE COURT AS
27 LONG AS OF THE JURORS ARE TOLD SPECIFICALLY ANY
28 STATEMENTS THAT PURPORTEDLY CAME FROM MICKEY THOMPSON ARE

1 NOT OFFERED FOR THEIR TRUTH BUT FOR THE LIMITED PURPOSE
2 OF WHATEVER.

3 THE COURT: ALL RIGHT.

4 MR. JACKSON: AND REFERENCING MR. MILLER AND
5 OFFICER LAPORTE.

6 THE COURT: YES I'LL DO THAT AFTER OFFICER
7 LAPORTE TESTIFIES.

8 MR. JACKSON: OKAY. THANK YOU. THAT'S ALL I WAS
9 CONCERNED ABOUT.

10 MS. SARIS: AND I HAVE APPRECIATE THE COURT
11 TAKING A BREAK SO THAT WE CAN ADDRESS THIS WITH OFFICER
12 LAPORTE. AFTER THAT WE HAVE OFFICER JANSEN. AND I
13 BELIEVE WE'RE GOING TO ASK THE COURT TO READ IN THE
14 STIPULATION THAT IS LEFT UNREAD. AND REST SUBJECT TO THE
15 INTRODUCTION OF OUR EXHIBITS.

16 THE COURT: ALL RIGHT LET'S GO OFF THE RECORD AND
17 DISCUSS SCHEDULING.

18 (BRIEF RECESS.)

19 (THE JURY ENTERED THE COURTROOM.)

20 THE COURT: ALL OF OUR JURORS AND ALTERNATES
21 WITNESS IS PRESENT IN THE TRIAL MATTER, THE PARTIES ARE
22 PRESENT. YOU MAY CALL YOUR NEXT WITNESS.

23 MS. SARIS: THANK YOU. THE DEFENSE WOULD ASK TO
24 RECALL OFFICER RENE LAPORTE.

25 THE COURT: ALL RIGHT. SIR, YOU CAN RESUME THE
26 WITNESS STAND. YOU'VE BEEN PREVIOUSLY SWORN. YOU'RE
27 REMINDED YOU'RE STILL UNDER OATH.

28 THE WITNESS: YES, YOUR HONOR.

1 THE COURT: AND PLEASE TO STATE YOUR NAME AGAIN
2 FOR THE RECORD.

3 THE WITNESS: SURE. RENE LAPORTE.

4 THE COURT: THANK YOU. YOU MAY INQUIRE.

5
6 FURTHER DIRECT EXAMINATION

7 BY MS. SARIS:

8 Q GOOD AFTERNOON, MR. LAPORTE.

9 A GOOD AFTERNOON.

10 Q THANK YOU FOR COMING BACK.

11 YOU HAD PREVIOUSLY TOLD US ABOUT A
12 CONVERSATION THAT YOU HAD WHEN YOU INTERVIEWED A WITNESS
13 IN CONNECTION WITH THE MURDERS OF MICKEY AND TRUDY
14 THOMPSON IN THIS COURTROOM.

15 DO YOU REMEMBER THAT?

16 A SEVERAL WITNESSES I THINK.

17 Q YOU INTERVIEWED SEVERAL WITNESSES?

18 A THAT YOU ASKED ME ABOUT, YES.

19 Q DO YOU RECALL INTERVIEWING A MAN BY THE
20 NAME OF ERIC MILLER?

21 A YES.

22 Q AND DO YOU RECALL WHEN YOU INTERVIEWED HIM
23 IN CONNECTION WITH THE MURDERS THAT WE'RE HERE
24 DISCUSSING?

25 A AFTER REVIEWING MY NOTES, YES. IT WAS IN
26 MARCH -- 15TH, I BELIEVE -- 14TH --

27 Q COULD IT HAVE BEEN IN APRIL? WOULD YOU
28 LIKE TO SEE YOUR NOTES?

1 A YES, I WOULD LIKE TO SEE THEM.

2 Q LET ME ASK YOU A COUPLE OF QUESTIONS ABOUT
3 THE THREE PAPERS THAT I'M HANDING YOU.

4 MS. SARIS: COUNSEL, DO YOU KNOW WHAT I'M
5 REFERRING TO?

6 MR. JACKSON: I DON'T. LET ME TAKE A QUICK LOOK.
7 YES.

8 Q BY MS. SARIS: LET ME ASK YOU JUST ON A
9 FOUNDATIONAL LEVEL.

10 DO YOU RECOGNIZE THAT DOCUMENT, THAT PIECE
11 OF PAPER?

12 A YES, I DO.

13 Q AND HOW DO YOU RECOGNIZE IT?

14 A THESE ARE NOTES THAT I TOOK DURING THE
15 INVESTIGATION OF THE MICKEY THOMPSON MURDER -- MICKEY AND
16 TRUDY THOMPSON.

17 Q WHEN WOULD YOU HAVE WRITTEN THOSE NOTES IN
18 RELATION TO WHEN YOU SPOKE TO THE WITNESSES?

19 A WELL, THIS PARTICULAR ONE WAS WRITTEN --
20 THESE NOTES WERE WRITTEN THE DAY THAT I SPOKE WITH HIM.

21 Q AND WHAT DAY IS THAT IF YOU RECALL?

22 A THAT WOULD HAVE BEEN APRIL 14TH, 1988.

23 Q AND HOW DO YOU KNOW THAT THESE NOTES REFER
24 TO YOUR CONVERSATION WITH ERIC MILLER?

25 A THEY'RE IN MY HANDWRITING.

26 Q AND DOES THE NAME "ERIC MILLER" APPEAR?

27 A YES.

28 Q DO YOU RECALL -- OR DO THE NOTES HELP

1 REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT THIS
2 CONVERSATION WAS IN PERSON OR ON THE PHONE?

3 A THIS CONVERSATION WAS IN PERSON.

4 Q AND DID MR. MILLER, IN THIS CONVERSATION
5 WITH YOU OF APRIL 14TH 1988, DID HE RELATE TO YOU A
6 CONVERSATION THAT HE HAD WITH MICKEY THOMPSON THE NIGHT
7 BEFORE MICKEY THOMPSON WAS KILLED?

8 A YES.

9 Q AND WITHOUT TELLING ME EXACTLY THE WORDS
10 THAT WERE USED, COULD YOU TELL ME THE NATURE OF WHAT
11 MR. MILLER SAID REGARDING THE CONVERSATION THAT HE WAS
12 PRIVY TO FROM MICKEY THOMPSON?

13 THE COURT: LET ME JUST INTERRUPT FOR ONE SECOND.
14 LADIES AND GENTLEMEN, I JUST WANT YOU TO TAKE NOTE OF
15 FACT THAT THIS IS BEING OFFERED NOT FOR THE TRUTH OF WHAT
16 MR. THOMPSON MAY HAVE SAID TO MR. MILLER, BUT TO EXPLAIN
17 THE CONDUCT OF OFFICER LAPORTE.

18 GO AHEAD.

19 MS. SARIS: THANK YOU.

20 Q OFFICER -- YOU'RE RETIRED NOW -- DO YOU
21 PREFER OFFICER OR MR. LAPORTE?

22 A EITHER ONE COUNSELOR.

23 Q OKAY. LET ME REASK IT.

24 DID MR. MILLER RELATE TO YOU THE CONTENTS
25 OF A CONVERSATION THAT HE HAD WITH MICKEY THOMPSON THE
26 NIGHT BEFORE MICKEY THOMPSON WAS KILLED?

27 A YES.

28 Q AND EITHER FROM YOUR RECOLLECTION, OR FROM

1 A REVIEW OF YOUR NOTES, COULD YOU TELL US THE NATURE OF
2 THAT CONVERSATION?

3 A I'M GOING TO HAVE TO REVIEW MY NOTES,
4 BECAUSE I DON'T HAVE ANY INDEPENDENT RECOLLECTION OF THIS
5 PARTICULAR INTERVIEW.

6 Q WELL, LET ME ASK YOU THIS, SIR: ARE THOSE
7 NOTES THAT YOU'RE REVIEWING, WOULD THEY BE A TRUE AND
8 ACCURATE REFLECTION OF WHAT YOU RECALL WRITING DOWN WHEN
9 MR. MILLER WAS SPEAKING TO YOU?

10 A YES.

11 Q WOULD YOU HAVE ANY REASON TO HAVE THOSE
12 NOTES NOT REPRESENT THE TRUTH; ANY REASON TO LIE OR
13 FABRICATE THOSE NOTES?

14 A NONE WHATSOEVER.

15 Q AND WHEN YOU REVIEW THEM, THEY APPEAR TO
16 YOU TO BE ACCURATE AND TRUTHFUL?

17 A YES.

18 Q AND THEY ARE IN YOUR HANDWRITING?

19 A YES.

20 Q PLEASE REVIEW THOSE AND LET US KNOW THE
21 NATURE OF THE CONVERSATION. AFTER YOU'VE HAD A CHANCE TO
22 REVIEW THOSE NOTES, I'M GOING TO ASK YOU A SPECIFIC
23 QUESTION.

24 THE COURT: DID YOU FINISH REVIEWING YOUR NOTES?

25 THE WITNESS: YES, YOUR HONOR.

26 MS. SARIS: THANK YOU.

27 Q DID MR. MILLER TELL YOU THAT HE HEARD
28 MICKEY THOMPSON SAY HE HAD TAKEN POSSESSION OF A VALUABLE

1 ITEM AND NAMED TO YOU A SPECIFIC DOLLAR AMOUNT?

2 A YES.

3 Q DID HE ACTUALLY USE THE WORDS "TAKEN
4 POSSESSION"?

5 A YES.

6 Q NOW, ONCE YOU RECEIVED THIS INFORMATION --
7 YOU ARE READING FROM THE NOTES, SO WE CAN ASSUME YOU
8 WROTE THIS DOWN, IS THAT FAIR?

9 A YES.

10 Q THESE NOTES WERE TAKEN IN 1988?

11 A CORRECT.

12 Q WHEN YOU WROTE THOSE NOTES, WHAT DID YOU
13 DO WITH THEM? DID THEY BECOME PART OF ANY REPORT?

14 A THEY BECAME PART OF A REPORT THAT WAS
15 DICTATED AND EVENTUALLY TURNED OVER TO THE HANDLING
16 DEPUTIES AND BECAME A PART OF THIS INVESTIGATION.

17 Q AND WHEN YOU SAY "HANDLING DEPUTIES" TO
18 WHOM ARE YOU REFERRING?

19 A THAT WOULD BE DETECTIVE MARK GRIGGS AND
20 SERGEANT OLBERHOLTZER WHO INVESTIGATED THIS EARLY ON.

21 Q WHEN YOU SAY "MARK," COULD IT HAVE BEEN
22 MIKE GRIGGS?

23 A IF I SAID "MARK," I WAS INCORRECT. MIKE
24 GRIGGS. MICHAEL GRIGGS.

25 Q AND SPECIFICALLY WHAT WAS YOUR
26 UNDERSTANDING OF THEIR ROLE IN THIS CASE?

27 A THEY MANAGED THE INVESTIGATION.

28 Q AND DID YOU TURN OVER THE NOTES THAT YOU

1 HAVE ALLUDED TO TODAY TO THEM AND WAS IT MADE A PART OF
2 AN OFFICIAL REPORT?

3 A YES.

4 Q AS A RESULT OF WHAT WAS SAID TO YOU BY
5 MR. MILLER, DID YOU SEEK TO LOOK INTO MICKEY THOMPSON'S
6 FINANCIAL RECORDS TO SEE IF YOU COULD MATCH UP THE DOLLAR
7 AMOUNT THAT WAS SPECIFIED WITH ANY SORT OF DEPOSIT OR
8 OUTGOING NOTATION IN MICKEY THOMPSON'S FINANCIAL RECORDS?

9 A NO.

10 Q DID YOU SEEK TO LOOK AT MICKEY THOMPSON'S
11 FINANCIAL RECORDS AT ALL?

12 A NO. I WASN'T DIRECTED TO.

13 Q WHEN YOU SAY YOU WEREN'T DIRECTED TO, CAN
14 YOU TELL US WHAT THAT MEANS ABOUT YOUR ROLE IN THIS
15 INVESTIGATION?

16 A YEAH. AS I HAD TESTIFIED YESTERDAY, MY
17 PARTNER DETECTIVE RUSSELL ULOTH AND I WERE AN ASSISTING
18 UNIT. THERE WERE SEVERAL OTHER ASSISTING UNITS. AND OUR
19 ROLE WAS TO PROCEED AS DIRECTED BY THE HANDLING
20 DETECTIVES.

21 Q SO ONCE YOU TURNED THESE OVER, NO ONE
22 ASKED YOU TO THEN TAKE AN EXTRA STEP AND LOOK AT MICKEY
23 THOMPSON'S RECORDS?

24 A NO ONE ASKED ME TO DO THAT. THEY COULD
25 HAVE DIRECTED SOMEONE ELSE TO DO IT OR DONE IT
26 THEMSELVES. I DON'T KNOW WHAT HAPPENED AFTER THAT.

27 Q AND HAD YOU PROVIDED THEM, BASED ON THESE
28 NOTES, WITH A BASIS FOR THEM TO HAVE DONE THAT? IN OTHER

1 WORDS, A DOLLAR AMOUNT AND THE NATURE OF THIS
2 CONVERSATION?

3 A THIS WAS PROVIDED TO THEM, YES.

4 MS. SARIS: NOTHING FURTHER THANK YOU,
5 YOUR HONOR.

6 THE COURT: CROSS-EXAMINATION.

7 MR. JACKSON: YOUR HONOR -- MAY I HAVE JUST A
8 MOMENT YOUR HONOR. CAN I SEE THESE NOTES REAL QUICK?

9 THE WITNESS: SURE.

10 MR. JACKSON: THANKS.

11 MR. JACKSON: I JUST NEED ONE QUICK SECOND YOUR
12 HONOR.

13

14 CROSS-EXAMINATION

15 BY MR. JACKSON:

16 Q MY ONLY QUESTION TO YOU, DETECTIVE LAPORTE
17 OR MR. LAPORTE, WHATEVER THE PROPER ADDRESS IS, YOUR
18 NOTES ARE A PARAPHRASING OF YOUR CONVERSATION WITH --

19 A YES.

20 Q -- WITH MR. MILLER?

21 A YES.

22 Q OKAY THAT'S ALL I HAVE.

23 THE COURT: ANYTHING ELSE.

24 MS. SARIS: NO, THANK YOU.

25 THE COURT: THANK YOU, SIR.

26 THE WITNESS: YOU'RE WELCOME, YOUR HONOR.

27 THE COURT: YOU'RE EXCUSED.

28 THE WITNESS: THANK YOU.

1 MS. SARIS: YOUR HONOR, THE NEXT WITNESS IS
2 GERALD JANSEN.

3
4 GERALD JANSEN,
5 CALLED BY THE DEFENDANT AS A WITNESS, WAS
6 SWORN AND TESTIFIED AS FOLLOWS:

7
8 THE CLERK: SIR, PLEASE RAISE YOUR RIGHT HAND.

9 YOU DO SOLEMNLY STATE THAT THE TESTIMONY
10 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
11 SHALL BE THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE
12 TRUTH SO HELP YOU GOD.

13 THE WITNESS: I DO.

14 THE CLERK: THANK YOU. PLEASE BE SEATED. SIR,
15 WOULD YOU PLEASE STATE AND SPELL BOTH YOUR FIRST AND LAST
16 NAME FOR THE RECORD.

17 THE WITNESS: GERALD JANSEN. G-E-R-A-L-D.
18 J-A-N-S-E-N.

19 THE CLERK: THANK YOU.

20 THE COURT: YOU MAY INQUIRE.

21 MS. SARIS: THANK YOU.

22 ///

23 ///

24 ///

25 DIRECT EXAMINATION

26 BY MS. SARIS

27 Q MR. JANSEN, HOW ARE YOU CURRENTLY
28 EMPLOYED?

1 A I'M CURRENTLY EMPLOYED BY THE STATE OF
2 CALIFORNIA, DEPARTMENT OF CORRECTIONS.

3 Q AND AT ANY TIME IN 1988, WERE YOU A LOS
4 ANGELES COUNTY SHERIFF?

5 A YES, I WAS.

6 Q DID YOU RESPOND TO OR HAVE ANYTHING TO DO
7 WITH THE INVESTIGATION OF THE MURDERS OF MICKEY AND TRUDY
8 THOMPSON?

9 A YES, I DID.

10 Q WHO WAS YOUR PARTNER?

11 A RAY VERDUGO, SERGEANT.

12 Q DID YOU ACTUALLY GO TO THE CRIME SCENE THE
13 DAY THAT THIS HAPPENED?

14 A YES, I DID.

15 Q WHAT WERE YOUR DUTIES -- WELL, LET ME ASK
16 YOU IF YOU KNOW WHO WAS IN CHARGE OF THIS INVESTIGATION?

17 A INVESTIGATOR GRIGGS.

18 Q WHAT WERE YOUR DUTIES?

19 A INTERVIEW WITNESSES.

20 Q SPECIFICALLY THAT DAY, DO YOU RECALL WHAT
21 YOU DID AT THE SCENE?

22 A THE SCENE PROPER?

23 Q YES.

24 A I DON'T BELIEVE I DID ANYTHING.

25 Q WHAT IS YOUR RECOLLECTION OF WHAT YOU DID
26 THAT DAY, THE DAY OF THE MURDERS?

27 A INTERVIEWED SOME WITNESSES AND THEN WENT
28 TO ORANGE COUNTY.

1 Q SO WERE YOU IN CHARGE FOR ANY OF THE
2 ACTUAL CRIME SCENE EVIDENCE COLLECTION?

3 A NO.

4 Q WAS RAY VERDUGO?

5 A I DON'T BELIEVE SO.

6 Q WERE YOU IN CHARGE OF MAKING SURE THAT
7 CERTAIN ITEMS OF EVIDENCE WERE EITHER PHOTOGRAPHED OR
8 TESTED AT THE CRIME SCENE?

9 A WAS I IN CHARGE OF THAT?

10 Q YES.

11 A NO.

12 Q TO YOUR KNOWLEDGE WAS RAY VERDUGO?

13 A TO MY KNOWLEDGE, NO.

14 MR. JACKSON: I'M SORRY. I DIDN'T HEAR THAT
15 ANSWER.

16 THE WITNESS: NO.

17 MR. JACKSON: THANK YOU.

18 Q BY MS. SARIS: YOU SAID THAT YOU
19 INTERVIEWED WITNESSES AND THEN YOU WENT TO -- ACTUALLY
20 WHERE DID YOU GO?

21 A ORANGE COUNTY.

22 Q AND WHAT WAS IN ORANGE COUNTY?

23 A I WENT TO ANGEL STADIUM TO MICKEY
24 THOMPSON'S OFFICE.

25 Q DID YOU GO BY YOURSELF?

26 A NO.

27 Q WHO DID YOU GO WITH?

28 A RAY VERDUGO.

1 Q DID YOU INTERVIEW ANY WITNESSES AT THE
2 SCENE THAT MORNING?

3 A AT THE SCENE? NO.

4 Q IN THE NEIGHBORHOOD, ANY NEIGHBORS?

5 A IN THE NEIGHBORHOOD, YES.

6 Q WOULD YOU HAVE DONE THIS BY YOURSELF, OR
7 WOULD YOU HAVE DONE THIS WITH YOUR PARTNER?

8 A I BELIEVE I DID IT WITH MY PARTNER.

9 Q DID YOU KNOW AT THE CRIME SCENE, THAT THAT
10 WAS A HOUSE, AN INHABITED HOUSE? IN OTHER WORDS, DO YOU
11 KNOW WHERE THEY WERE KILLED?

12 A DID I KNOW WHERE THEY WAS KILLED?

13 Q MICKEY AND TRUDY THOMPSON, WERE THEY
14 KILLED AT THEIR HOME?

15 A I BELIEVE SO, YES.

16 Q DID YOU SEE A GARAGE AT THE CRIME
17 SCENE? WOULD YOU RECOGNIZE THE HOUSE IF YOU SAW IT
18 TODAY?

19 A PROBABLY NOT.

20 Q OKAY. DO YOU REMEMBER GOING INTO A
21 STRUCTURE, EITHER A GARAGE OR A HOME THAT DAY?

22 A NO, I DIDN'T. I MEAN, NO, I DON'T.

23 Q DO YOU REMEMBER WHETHER OR NOT YOU WOULD
24 HAVE SEEN ANY OF THE ITEMS OF EVIDENCE UP CLOSE AND
25 PERSONAL?

26 A I CAN'T REMEMBER.

27 Q DO YOU REMEMBER AT ALL WHETHER YOU HAVE
28 ANY RECOLLECTION OF A SAFE BEING IN THAT HOME?

1 A DO I REMEMBER A SAFE BEING IN THE HOME
2 FROM THAT DAY? NO.

3 Q FROM ANY OTHER DAY?

4 A I BELIEVE I WENT BACK ON A DIFFERENT DAY,
5 YES.

6 Q AND DO YOU BELIEVE THAT BASED ON REPORTS
7 THAT YOU'VE BEEN ABLE TO REVIEW SINCE BEING SUBPOENAED AS
8 A WITNESS?

9 A YES.

10 Q AND WERE THOSE REPORTS IN YOUR OWN
11 HANDWRITING?

12 A I BELIEVE SO, YES.

13 Q SPECIFICALLY, DO YOU RECALL GOING BACK TO
14 THE HOME ON APRIL 6 OF 1988?

15 A NO.

16 Q DID YOU MAKE ANY NOTES IN YOUR REPORT
17 ABOUT VISITING THE SCENE ON APRIL 6 OF 1988?

18 A I HAVEN'T SEEN A REPORT. I DON'T
19 REMEMBER.

20 Q HOW ABOUT YOUR OWN PERSONAL NOTES?

21 A THE NOTES YOU SHOWED ME, I DID, YES.

22 MS. SARIS: YOUR HONOR, MAY I APPROACH THE
23 WITNESS?

24 THE COURT: YES.

25 Q BY MS. SARIS: I HAVE A MULTI-PAGE
26 DOCUMENT THAT'S A XEROX OF STENO TYPE HANDWRITTEN NOTES.

27 HAVE YOU SEEN THIS PACKET BEFORE?

28 A YES.

1 Q AND DOES THAT APPEAR TO BE A XEROX COPY OF
2 A NOTEBOOK YOU WOULD HAVE WRITTEN IN?

3 A IT'S A XEROX COPY OF A NOTEBOOK, BUT IT
4 DOESN'T SEEM LIKE THE ONE I'VE WRITTEN IN.

5 Q WELL, DOES IT LOOK LIKE YOUR HANDWRITING?

6 A YES.

7 Q AND DO YOU RECOGNIZE YOUR HANDWRITING ON
8 THOSE NOTES?

9 A IT APPEARS TO BE MY HANDWRITING, YES.

10 Q WOULD IT HAVE BEEN YOUR HABIT AND PRACTICE
11 WHEN YOU WERE A LOS ANGELES COUNTY SHERIFF TO TAKE NOTES
12 IN A BOOK?

13 A YES.

14 Q AND WOULD THAT HAVE HAPPENED AT THE TIME
15 THAT YOU WERE CONDUCTING YOUR INVESTIGATION?

16 A YES.

17 Q I HAVE PUT A POST-IT ON A PARTICULAR NOTE
18 ON APRIL 6 OF 1988, DO YOU SEE THAT?

19 A YES, I DO.

20 Q DID YOU GO BACK -- AND IF YOU NEED TO FLIP
21 BACK A COUPLE OF PAGES TO CHECK THE DATE, THAT'S FINE.

22 DID YOU GO BACK TO THAT NEIGHBORHOOD ON
23 APRIL 6, 1988?

24 A IT LOOKS LIKE IT.

25 Q AND AT THAT TIME DID YOU INTERVIEW ONE OF
26 MR. THOMPSON'S NEIGHBORS BY THE NAME OF KENT HACKMAN,
27 H-A-C-K-M-A-N?

28 A OH, BOY. THAT COULD BE ON APRIL 6, YES.

1 Q OKAY.

2 A IT'S PRETTY DARK.

3 Q THE COPY IS DARK?

4 A YES.

5 Q OKAY. DOES THAT REFLECT -- YOUR NOTES
6 REFLECT THAT YOU WERE ACTUALLY IN THE BRADBURY AREA THAT
7 DAY?

8 A I BELIEVE SO.

9 Q AND AFTER YOU CONDUCTED YOUR INTERVIEW
10 WITH MR. HACKMAN, DID YOU IN FACT GO TO MICKEY THOMPSON'S
11 HOUSE?

12 A I BELIEVE SO.

13 Q DO YOUR NOTES SO INDICATE?

14 A IT SAYS "MICKEY THOMPSON'S HOUSE," YES.

15 Q NOW WHEN YOU SAY IT SAYS "MICKEY
16 THOMPSON'S HOUSE," LET ME JUST ASK YOU FOR PURPOSES OF
17 FOUNDATION, WOULD THOSE HAVE BEEN NOTES THAT YOU WOULD
18 HAVE TAKEN WHILE YOU WERE AT MICKEY THOMPSON'S HOUSE ON
19 APRIL 6 OF 1988?

20 A I GOT "M.T. APOSTROPHE S HOUSE," SO I'M
21 ASSUMING THAT HIS HOUSE, YES.

22 Q AND WOULD YOU HAVE ANY REASON TO GO TO
23 MICKEY THOMPSON'S HOUSE OTHER THAN THE INVESTIGATION OF
24 THIS CRIME? IN OTHER WORDS, DID YOU KNOW MICKEY THOMPSON
25 PRIOR TO THIS CRIME HAPPENING? WERE YOU A SOCIAL
26 VISITOR?

27 A NO, I WAS NOT.

28 Q OKAY. WHEN YOU WENT TO HIS HOME ON APRIL

1 6, DO YOU RECALL WHETHER OR NOT YOU SPECIFICALLY VIEWED
2 ANY SAFES IN THE PROPERTY?

3 A YES.

4 Q AND DID YOU?

5 A YES.

6 Q AND WHAT SAFES DID YOU REVIEW?

7 A IT SAYS HERE I REVIEWED --

8 MR. JACKSON: OBJECTION. NON-RESPONSIVE.

9 THE COURT: SUSTAINED.

10 Q BY MS. SARIS: DO YOU RECALL WHAT YOU
11 REVIEWED, OR DO YOU NEED TO READ YOUR NOTES?

12 A I NEED TO READ MY NOTES.

13 Q AND ARE THOSE NOTES AN ACCURATE REFLECTION
14 OF WHAT YOU DID AND SAW THAT DAY? LET ME ASK YOU THIS:
15 WOULD YOU HAVE ANY REASON TO LIE ABOUT WRITING YOUR NOTES
16 AT THE TIME THAT THIS OCCURRED?

17 A NO.

18 Q WOULD YOU HAVE ANY REASON TO FABRICATE
19 ANYTHING IN YOUR NOTES REGARDING THIS CRIME AT ALL?

20 A NO.

21 Q IS THERE ANY REASON FOR YOU TO BELIEVE
22 THAT'S NOT YOUR HANDWRITING?

23 A NO.

24 Q WOULD YOU PLEASE READ TO US WHAT IT IS YOU
25 SAW REGARDING THE SAFES AT MICKEY THOMPSON'S HOME THAT
26 DAY?

27 A I PUT "SAFE IN OFFICE OFF OF GARAGE". AND
28 "BOLT BAR BENT. FRESH MARKS ON THE LOCKING WHEEL. SAFE

1 EMPTY."

2 Q "BOLT BAR BENT; FRESH MARKS ON THE LOCKING
3 WHEEL; SAFE EMPTY"?

4 A RIGHT.

5 Q DID YOU SEE OR LOOK AT ANY OTHER SAFE IN
6 THE HOME THAT DAY?

7 A IN THE BEDROOM CLOSET.

8 Q AND, AGAIN, DO YOU HAVE A SPECIFIC
9 RECOLLECTION AS YOU SIT HERE NOW OF DOING THAT?

10 A NO.

11 Q COULD YOU READ FOR US WHAT IT SAYS
12 REGARDING WHAT YOU SAW OR NOTICED IN THE SAFE IN THE
13 BEDROOM CLOSET?

14 A TWO ENVELOPES OF MONEY; MISCELLANEOUS
15 PAPERS AND PICTURES; AND JEWELRY.

16 Q AND HOW -- IS THERE SOMETHING IN THERE
17 THAT INDICATES THAT WAS IN THE BEDROOM CLOSET?

18 A THAT'S WHAT IT SAYS.

19 Q WHAT DOES IT SAY?

20 A "SAFE, BEDROOM CLOSET."

21 Q IS THERE ANY INDICATION ON THOSE NOTES
22 THAT YOU WERE THERE AT THE CRIME SCENE WITH A LOCKSMITH?

23 A NO.

24 Q AS FAR AS YOU KNOW, PRIOR TO YOUR GOING TO
25 THE SCENE AND LOOKING AT THOSE SAFES ON APRIL 6 1988, DO
26 YOU HAVE ANY RECOLLECTION OF ANYONE PHOTOGRAPHING OR
27 DOING ANY TESTING ON THOSE SAFES?

28 A NO.

1 Q IF YOU HAD BEEN STANDING THERE WITH A
2 LOCKSMITH AND A LOCKSMITH WAS BREAKING INTO THE SAFE IN
3 FRONT OF YOU, WOULD YOU HAVE NOTED THAT IN YOUR NOTES?

4 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.

5 THE COURT: SUSTAINED.

6 Q BY MS. SARIS: LET ME ASK YOU: YOU NOTED
7 THE BOLT BAR WAS BENT. DO YOU KNOW WHAT A BOLT BAR IS?

8 A NO.

9 Q YOU NOTICED FRESH MARKS ON THE LOCKING
10 WHEEL. IS THAT WHAT YOU SAID?

11 A YES.

12 Q WHAT WOULD BE THE -- BASED ON YOUR
13 EXPERIENCE AS A DETECTIVE, WHY WOULD YOU WRITE SOMETHING
14 LIKE THAT DOWN IN A NOTEBOOK?

15 A SO THAT IF SOMEBODY SAYS WE DAMAGED IT
16 MORE THAN WE ACTUALLY DID TO OPEN IT, I COULD SAY HOW
17 MUCH WE DAMAGED IT.

18 Q DID YOU PERSONALLY OPEN IT THAT DAY?

19 A NO.

20 Q SO WHAT DO YOU MEAN BY -- WAS THAT TO
21 COVER YOURSELF FOR LIABILITY OR WAS THAT NOTING EVIDENCE
22 THAT YOU HAD SEEN AT THE SCENE?

23 A IT WAS NOTING WHAT WE DID WHILE WE WAS AT
24 THE SCENE.

25 Q I'M MISSING THE PART WHERE YOU DID
26 SOMETHING. WHERE DOES IT REFLECT WHAT YOU DID?

27 A WHAT THE LOCKSMITH DID WOULD BE MY
28 IMPRESSION HERE. IF THIS WAS DONE WHEN I GOT THERE, I

1 WOULDN'T HAVE TOUCHED IT.

2 Q WHAT DO YOU MEAN "IF THIS WAS DONE"?

3 A I WOULD THINK IF THE BOLT BAR WAS BENT AND
4 THERE WAS FRESH MARKS ON THE LOCKING WHEELS, I WOULDN'T
5 HAVE HAD IT OPENED. I WOULD HAVE CALLED SOMEBODY OUT TO
6 LOOK AT IT.

7 Q DID YOU NOTE IN ANY WAY THAT YOU WERE
8 THERE WITH A LOCKSMITH THAT DAY?

9 A NO.

10 Q DO YOU HAVE A RECOLLECTION OF THAT?

11 A I HAVE A RECOLLECTION I MET COLLEEN
12 CAMPBELL AND HER LOCKSMITH AND THERE WAS SOMEBODY ELSE
13 THERE. I DON'T REMEMBER IF IT WAS HER HUSBAND OR
14 SOMEBODY ELSE.

15 Q AND WHEN WAS THAT?

16 A WITH MY PARTNER. THAT DAY.

17 Q YOU RECALL IT THAT SPECIFIC DAY?

18 A YEAH.

19 Q OF APRIL 6?

20 A THAT'S THE ONLY TIME I REMEMBER BEING
21 THERE, YES.

22 Q DID YOU NOTE THAT WHEN YOU LOOKED AT THE
23 SAFE, YOU WOULD NOT BE ABLE TO NOTICE THIS DAMAGE. BUT A
24 LOCKSMITH POINTED OUT TO YOU THAT THE BOLT BAR WAS BENT
25 AND THERE WERE FRESH PRY MARKS?

26 A WOULD I NOTE THAT? NO, I DIDN'T NOTE
27 THAT.

28 Q WELL, IF YOU DIDN'T KNOW WHAT A BOLT BAR

1 WAS, HOW WOULD YOU KNOW TO WRITE IT DOWN IF YOU DIDN'T
2 KNOW WHAT IT MEANT?

3 A I HAVE NO IDEA.

4 Q WHAT WOULD BE THE PURPOSE OF INCLUDING --
5 WELL, WERE THESE NOTES MADE PART OF AN OFFICIAL
6 INVESTIGATION?

7 A A NOTEBOOK IS PART OF THE OFFICIAL
8 INVESTIGATION, YES.

9 Q AND WOULD THEY HAVE BEEN SHARED AS FAR AS
10 YOU KNOW WITH THE LEAD DETECTIVE, GRIGGS?

11 A THE NOTEBOOK WAS TURNED IN, YES.

12 Q AND IF DETECTIVE GRIGGS WERE TO RECEIVE
13 THIS NOTEBOOK THEN, WOULD IT BE CLEAR THAT YOU WERE
14 MAKING THESE OBSERVATIONS WITH A LOCKSMITH PRESENT?

15 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION
16 AS TO WHAT WOULD HAVE BEEN CLEAR TO SOMEONE ELSE.

17 THE COURT: SUSTAINED.

18 Q BY MS. SARIS: IS THERE ANY REFERENCE
19 ANYWHERE ELSE IN THE BOOK REGARDING A LOCKSMITH BEING
20 WITH YOU?

21 A NO.

22 Q IS IT POSSIBLE THAT A LOCKSMITH POINTED
23 OUT THIS DAMAGE TO YOU?

24 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION
25 AS TO WHAT THE WITNESS'S MEMORY IS, NOT WHAT HIS
26 SPECULATION IS.

27 THE COURT: SUSTAINED.

28 Q BY MS. SARIS: WOULD YOU HAVE -- WELL, YOU

1 ALREADY INDICATED YOU DON'T KNOW WHAT A BOLT BAR IS.

2 HOW WOULD YOU HAVE BEEN ABLE TO PRESERVE
3 THAT IN WRITING DO YOU THINK?

4 A I BELIEVE A BOLT BAR IS THE BAR THAT GOES
5 OVER AND DOES THE LOCKING. BUT I'M NOT POSITIVE. WHEN
6 YOU TWIST THE HANDLE, THE BAR THAT GOES OVER. BUT THAT'S
7 NOT -- I'M NOT A LOCKSMITH, SO I'M NOT SURE THAT'S WHAT
8 IT IS.

9 Q WAS THERE SECURITY AT THE MICKEY THOMPSON
10 HOME AFTER THE MURDER? DO YOU KNOW?

11 A NO. I WAS NEVER THERE.

12 Q I'M SORRY?

13 A I WASN'T THERE.

14 Q NO. I'M ASKING WAS THERE SECURITY? COULD
15 ANYONE HAVE WANDERED UP INTO THE DRIVEWAY OF THE HOUSE?

16 A I WASN'T THERE.

17 Q YOU WEREN'T THERE AT ALL?

18 A NOT AFTERWARDS UNTIL THIS ONE DAY.

19 Q WHEN YOU NOTICED THE CONTENTS OF THE SAFE
20 IN THE UPSTAIRS CLOSET, I NOTICED YOU SAID THERE WAS
21 MONEY. HOW WAS THAT MONEY IN THE SAFE IF YOU NOTED FOR
22 YOUR -- IN YOUR REPORT?

23 A IN AN ENVELOPE.

24 Q IN AN ENVELOPE? AND I THINK YOU ALSO SAID
25 THERE WAS JEWELRY IN THERE?

26 A YES.

27 Q DO YOU HAVE ANY NOTATION AT ALL OF ANYONE
28 COMING TO LOOK AT THAT SAFE OR MAKE ANY TESTING ON THAT

1 SAFE BEFORE YOU ARRIVED ON APRIL 6?

2 A I HAVE NO NOTATION, NO.

3 Q AND YOU HAVE BEEN ABLE TO LOOK AT YOUR
4 NOTES -- IN OTHER WORDS, I GAVE YOU THIS PACKET TO LOOK
5 AT IN ITS COMPLETION. I HANDED YOU THIS PACKET EARLIER
6 YESTERDAY OR THE DAY BEFORE?

7 A YES.

8 Q NOW, I'M NOT SPECIFICALLY LIMITING YOUR
9 ANSWER TO THAT DAY. BUT IS THERE ANYTHING AFTER OR
10 BEFORE THAT WOULD REFLECT THAT ANY OF THIS TESTING WAS
11 DONE TO YOUR KNOWLEDGE?

12 A TO MY KNOWLEDGE, NO.

13 Q WHO WAS THE LOCKSMITH?

14 A I DON'T KNOW.

15 Q YOU WOULD NOT NORMALLY LIST THE NAME OF
16 THE INDIVIDUAL OR THE COMPANY IN YOUR NOTES?

17 A I DIDN'T. I DON'T KNOW IF I WOULD HAVE.
18 I DIDN'T.

19 Q YOU WOULD HAVE NORMALLY?

20 A I SAID I DIDN'T.

21 Q DO YOU THINK YOU WOULD HAVE NORMALLY IS MY
22 QUESTION.

23 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.
24 IT'S IRRELEVANT.

25 THE COURT: SUSTAINED.

26 Q BY MS. SARIS: WOULD THE NAME OF THE
27 COMPANY BE RELEVANT TO ANY INQUIRY REGARDING THE DAMAGE
28 THAT YOU TALKED ABOUT?

1 A NOT NECESSARILY.

2 Q PRIOR TO YOUR TESTIMONY TODAY, DID YOU --
3 WERE YOU AWARE THAT THERE WAS GOING TO BE SOME
4 INDICATION -- SOME QUESTIONING REGARDING THE SAFE IN THIS
5 CASE?

6 A YES, YOU TOLD ME YESTERDAY.

7 Q DID ANYONE ELSE TELL YOU?

8 A NO, YOU DID.

9 Q PRIOR TO ME TELLING YOU YESTERDAY, WERE
10 YOU AWARE OF THAT AT ALL?

11 A NO.

12 Q HAVE YOU EVER MET THE TWO GENTLEMEN SEATED
13 TO MY LEFT, ALAN JACKSON OR PATRICK DIXON?

14 A YES.

15 Q AND WHEN WAS THAT?

16 A IN THE HALLWAY ABOUT 10, 20 MINUTES AGO.

17 Q SO YOU WEREN'T CONTACTED PRIOR DURING ANY
18 OF THE INVESTIGATION IN THIS CASE REGARDING THE SAFE OR
19 YOUR CONTACT WITH IT?

20 A NO.

21 Q WOULD YOU BE ABLE TO TELL BY LOOKING THE
22 SPECIFIC DAMAGE TO A SAFE IN YOUR EXPERIENCE?

23 A WOULD I --

24 MR. JACKSON: OBJECTION. IT'S VAGUE.

25 THE COURT: SUSTAINED.

26 Q BY MS. SARIS: IN 1988 FROM THE EXPERIENCE
27 THAT YOU HAD BASED ON BEING A DETECTIVE, WOULD YOU HAVE
28 BEEN ABLE TO TELL BASED ON LOOKING AT A SAFE WHETHER OR

1 NOT IT HAD BEEN MANIPULATED IN ANY WAY?

2 MR. JACKSON: OBJECTION. FOUNDATION.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER.

5 THE WITNESS: DEPENDS ON WHAT KIND OF DAMAGE WAS
6 DONE TO IT.

7 Q BY MS. SARIS: SO WAS THERE ANY TRAINING
8 THAT YOU RECEIVED ABOVE AND BEYOND, SAY, WHAT ANY OF US
9 COULD LOOK AT?

10 A WAS I EVER SENT TO SAFE CRACKING SCHOOL?
11 NO.

12 Q WAS THERE ANY, LIKE, ROBBERY/HOMICIDE
13 CLASS THAT MIGHT HAVE TALKED ABOUT WHAT TO LOOK FOR TO
14 DETERMINE WHETHER A SAFE HAD BEEN DAMAGED OR MANIPULATED?

15 A WELL, IF YOU ARE TALKING ABOUT SOMEBODY
16 KNOCKED A LOCK OFF OF A SAFE, I COULD SEE THAT, YES.

17 Q BUT MOST OF US COULD SEE THAT. I'M ASKING
18 ABOUT YOUR TRAINING AS A POLICE OFFICER, ANYTHING
19 SPECIFIC?

20 A NO, I NEVER SPENT TIME IN A SAFE CRACKING
21 SCHOOL.

22 Q DID YOU TAKE ANY PHOTOS OF THE SAFE THAT
23 DAY?

24 A NO.

25 Q YOU INDICATED THAT PART OF THIS NOTING OF
26 DAMAGE -- WOULD YOU AGREE THAT THIS -- THE REPORT THAT
27 YOU'VE WRITTEN NOTED DAMAGE TO A SAFE?

28 MR. JACKSON: OBJECTION. LEADING.

1 THE COURT: OVERRULED.

2 YOU CAN ANSWER.

3 THE WITNESS: WOULD I AGREE WHAT?

4 Q BY MS. SARIS: WITH THE CHARACTERIZATION
5 THAT YOUR NOTES NOTED DAMAGE TO THE SAFE?

6 A YES.

7 Q AND YOU SAID PART OF THAT -- OF THE
8 PURPOSE OF MEMORIALIZING THAT IS IN CASE THERE IS SOME
9 SORT OF LITIGATION OR IN CASE YOU GET IN TROUBLE FOR
10 DAMAGING IT?

11 A IN CASE SOMEBODY ASKS ME ABOUT IT LATER,
12 YES.

13 Q IN CASE SOMEONE ASKED YOU ABOUT THIS
14 LATER, HOW WOULD YOU KNOW WHETHER OR NOT A LOCKSMITH
15 POINTED OUT THESE DAMAGES TO YOU OR A LOCKSMITH CREATED
16 THIS DAMAGE BASED ON YOUR NOTES?

17 A HOW WOULD I KNOW?

18 Q YES.

19 A I DON'T KNOW. I DON'T REMEMBER.

20 Q I'M SORRY?

21 A I DON'T REMEMBER HOW I KNOW. I TOOK THESE
22 NOTES SEVERAL YEARS AGO. AND AT THE TIME I PROBABLY HAD
23 A REASON WHY I TOOK SUCH SKETCHY NOTES.

24 Q WOULD THERE BE A REASON TO INCLUDE LESS
25 INFORMATION IN NOTES VERSUS MORE INFORMATION?

26 MR. JACKSON: OBJECTION. THAT'S ARGUMENTATIVE.

27 THE COURT: SUSTAINED.

28 Q BY MS. SARIS: WHAT REASON COULD YOU MEAN?

1 I'M CONFUSED.

2 MR. JACKSON: OBJECTION. THE WITNESS DIDN'T --
3 MISSTATES THE TESTIMONY. THE WITNESS DIDN'T SAY HE HAD A
4 REASON.

5 THE COURT: ALL RIGHT. ASK ANOTHER QUESTION.

6 Q BY MS. SARIS: DID YOU HAVE A REASON FOR
7 TAKING SKETCHY NOTES IN THIS CASE?

8 A NO.

9 Q SO YOUR NOTES -- YOU WOULD HAVE ATTEMPTED
10 TO MAKE YOUR NOTES CLEAR AND UNDERSTANDABLE?

11 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.

12 THE COURT: OVERRULED.

13 YOU CAN ANSWER.

14 THE WITNESS: REPEAT THE QUESTION.

15 Q BY MS. SARIS: WOULD YOU HAVE ATTEMPTED TO
16 MAKE YOUR NOTES CLEAR AND UNDERSTANDABLE?

17 A WHEN?

18 Q WHEN YOU WERE WRITING THEM?

19 A I THOUGHT THEY WERE CLEAR.

20 Q YOU THINK THEY'RE CLEAR AS THEY SIT THERE
21 NOW?

22 MR. JACKSON: OBJECTION. ARGUMENTATIVE.

23 THE COURT: OVERRULED.

24 YOU CAN ANSWER.

25 THE WITNESS: WELL, THEY'RE CLEAR NOTES. IT'S
26 JUST WHEN I WAS IN HOMICIDE MANY YEARS AGO, I HAD A MUCH
27 BETTER MEMORY THAN I DO TODAY 18 YEARS LATER. AND WHEN
28 WE WORKED CASES 18 YEARS AGO, WE DIDN'T WRITE SPECIFIC

1 NOTES LIKE WE DO TODAY.

2 Q BY MS. SARIS: AND 18 YEARS LATER, EVEN
3 THOUGH YOUR NOTES REFER TO DAMAGE TO THE SAFE, YOU HAVE A
4 SPECIFIC RECOLLECTION OF A LOCKSMITH CREATING THAT DAMAGE
5 NOT POINTING IT OUT TO YOU?

6 A I SAID TO THE BEST OF MY RECOLLECTION,
7 YES.

8 MR. SUMMERS: YOUR HONOR, MAY I HAVE A MOMENT
9 WITH MS. SARIS? I'M SORRY TO INTERRUPT.

10 THE COURT: YES.

11 Q BY MS. SARIS: SO IS IT YOUR INDICATION
12 THEN THAT YOU MADE THE NOTES PRIOR TO THE LOCKSMITH
13 ACTING UPON THE SAFE?

14 A PRIOR TO IT?

15 Q YES, BEFORE.

16 A WHAT --

17 Q WHEN WOULD YOU HAVE MADE THESE NOTES
18 REGARDING THE CONDITION OF THE SAFE, BEFORE A LOCKSMITH
19 ACTED UPON IT OR AFTER?

20 A ACTED UPON WHAT?

21 Q THE SAFE. DID A LOCKSMITH ACT UPON THE
22 SAFE THAT DAY?

23 A WHAT DOES "ACT UPON A SAFE" MEAN?

24 Q TRY AND OPEN IT WITH FORCE?

25 A WELL, NO, IT WOULD BE AFTER HE ACTED UPON
26 IT, AS YOU PUT IT, AFTER HE OPENED THE SAFE.

27 Q SO MY QUESTION TO YOU IS: WHERE IN YOUR
28 NOTES DOES IT INDICATE THAT THIS DAMAGE THAT YOU NOTED IN

1 THE REPORT WAS CREATED BY A LOCKSMITH AS OPPOSED TO
2 POINTED OUT TO YOU BY A LOCKSMITH?

3 A IT'S NOT IN MY NOTES. I'M SAYING TO THE
4 BEST OF MY RECOLLECTION IT WAS AFTER HE HAD OPENED THE
5 SAFE, THAT'S THE WAY THE SAFE LOOKED.

6 Q HOW DID THE UPSTAIRS BEDROOM -- OR I'M
7 SORRY -- THE MASTER BEDROOM SAFE LOOK IN THE CLOSET?

8 A WELL, IT MUST NOT HAVE BEEN DAMAGED
9 BECAUSE I DIDN'T PUT ANY DAMAGES DOWN.

10 Q WELL, THEN HOW DID THE LOCKSMITH OPEN IT?

11 A AND THE SAFE WAS EMPTY WHEN IT WAS OPENED.
12 NO, THE ONE IN THE GARAGE WAS EMPTY AFTER IT WAS OPENED.

13 Q AND HOW DID THE LOCKSMITH GET INTO THE
14 SAFE IN THE BEDROOM CLOSET WITHOUT DAMAGING IT?

15 A I HAVE NO IDEA.

16 Q AND THAT SAFE WAS FULL?

17 A THAT'S THE ONE THAT HAD THE MONEY; THE
18 PAPER; AND THE JEWELRY, YES.

19 Q AND THE SAFE IN THE GARAGE THAT NOTED
20 DAMAGE WAS EMPTY?

21 A YES.

22 Q DID I SHOW YOU A PORTION OF A VIDEO
23 DEPICTING A SAFE?

24 A OH, YES, YOU DID.

25 Q DID YOU HAVE ANY RECOGNITION OF THAT
26 WHATSOEVER?

27 A NO, IT WAS RATHER SHORT.

28 Q WHEN YOU WERE AT THE CRIME SCENE, DO YOU

1 RECALL A VIDEO BEING MADE AT ALL?

2 A NO, I WASN'T AT THE CRIME SCENE THEN.

3 Q ARE YOU AWARE THAT A VIDEO WAS MADE AND
4 YOU KNOW YOU WEREN'T THERE OR YOU JUST DIDN'T SEE IT?

5 A NO, I WAS NOT EVEN AWARE THEY MADE A
6 VIDEO.

7 Q YOU WEREN'T AWARE OF IT?

8 A NO.

9 Q AS YOU SIT HERE NOW, DO YOU HAVE A
10 RECOLLECTION OF THE SAFE THAT WAS IN THE CLOSEST, THE
11 BEDROOM?

12 A DO I HAVE A RECOLLECTION OF THE SAFE?

13 Q OF EITHER OF THEM. WE'VE TALKED ABOUT THE
14 ONE IN THE GARAGE. DO YOU HAVE A SPECIFIC RECOLLECTION
15 OF THE ONE IN THE BEDROOM?

16 A NO.

17 Q AND, AGAIN, YOUR NOTES INDICATE ABSOLUTELY
18 NO DAMAGE TO THE ONE IN THE BEDROOM; IS THAT RIGHT?

19 A NO, MY NOTES DON'T MENTION ANYTHING ABOUT
20 IT, EXCEPT WHERE IT WAS AT.

21 Q AND THE FACT THAT IT HAD STUFF IN IT?

22 A RIGHT.

23 MS. SARIS: THANK YOU. NOTHING FURTHER.

24 THE COURT: CROSS.

25

26 CROSS-EXAMINATION

27 BY MR. JACKSON:

28 Q YOU WERE AT THE LOCATION AS FAR AS YOU

1 RECALL AT THE REQUEST OF COLLEEN CAMPBELL?

2 A YOU'RE TALKING ABOUT THE DAY WE OPENED THE
3 SAFE?

4 Q CORRECT.

5 A YES.

6 Q AND WERE YOU THERE BECAUSE COLLEEN
7 CAMPBELL HAD ASKED YOU TO ACCOMPANY HER WHILE SHE HAD A
8 LOCKSMITH BREAK INTO THE SAFES?

9 A YES.

10 Q WAS THAT IN ORDER TO NOTE WHAT WAS IN THE
11 SAFES?

12 A SHE WAS LOOKING FOR SOME KIND OF
13 PAPERWORK.

14 Q AND SHE ASKED YOU TO ACCOMPANY HER SO THAT
15 WHAT WAS IN THE SAFES COULD BE NOTED BY YOU; CORRECT?

16 A YES.

17 Q IF ANYTHING?

18 A RIGHT.

19 Q ARE YOU AWARE OF, FOR INSTANCE, SEARCH
20 WARRANTS; HOW SEARCH WARRANTS ARE CONDUCTED IN LOS
21 ANGELES COUNTY?

22 A YES.

23 Q ALL RIGHT. IS IT TRUE THAT CERTAIN TIMES
24 SEARCH WARRANTS CALL FOR A FORCED ENTRY INTO A HOME OR A
25 BUSINESS, SOMETHING LIKE THAT?

26 A YES.

27 Q ALL RIGHT. AND, FOR INSTANCE, YOU'VE SEEN
28 THOSE BIG GIANT BATTERING RAMS; SOMETIMES OFFICERS HAVE

1 TO BRING -- DETECTIVES HAVE TO BRING THE S.W.A.T. TEAM IN
2 TO KNOCK THE DOOR OFF THE HINGES SO THEY CAN GET IN;
3 CORRECT?

4 A CORRECT.

5 Q WHAT IS THE NORMAL PROCEDURE WHEN A DOOR
6 IS KNOCKED OFF THE HINGES AND THE FRAME IS BROKEN AND THE
7 DOOR IS LAYING DOWN IN THE MIDDLE OF THE FLOOR, WHAT IS
8 THE NORMAL PROCEDURE FOR DETECTIVES TO DO CONCERNING THE
9 DAMAGE THAT'S BEEN DONE DURING THE COURSE OF POLICE
10 CONDUCT?

11 A NOW OR 1988?

12 Q 1988.

13 A 1988. AS YOU LEAVE, YOU WRITE DOWN WHAT
14 THE DAMAGE WAS.

15 Q WHY IS THAT?

16 A SO THAT WHEN THEY FILE A CLAIM AGAINST THE
17 COUNTY, YOU CAN SAY WHAT YOU DID.

18 Q ABSOLUTELY. IF I FILE A CLAIM AND SAY,
19 HEY, MAN, THESE GUYS -- MY DOOR WAS FINE WHEN I GOT
20 THERE; THEY KNOCKED IT DOWN. AND, BY THE WAY, THEY ALSO
21 STOLE MY CAR.

22 A BROKE THE FRONT WINDOWS AND EVERYTHING
23 ELSE.

24 Q SO IT'S TO LIMIT CERTAIN LIABILITY OR AT
25 LEAST TO REMIND YOU OF WHAT DAMAGE HAD BEEN DONE; IS THAT
26 CORRECT?

27 A THAT'S CORRECT.

28 Q NOW IT IS YOUR MEMORY THAT THE LOCKSMITH

1 WAS ASKED TO BREAK INTO THE SAFES TO FORCE THE SAFES OPEN
2 SOMEHOW SUCH THAT THE SAFE COULD BE OPENED AND WHAT WAS
3 INSIDE OF IT COULD EITHER BE RETRIEVED OR REVIEWED BY
4 COLLEEN CAMPBELL, MICKEY THOMPSON'S SISTER?

5 A RIGHT.

6 Q WHAT IS YOUR RECOLLECTION ABOUT YOUR NOTES
7 CONCERNING THE BOLT BAR BENT AND THE FRESH MARKS ON THE
8 LOCKING WHEELS OR THE MARKS ON THE LOCKING WHEELS,
9 WHATEVER, CONCERNING WHAT THE LOCKSMITH DID? WHAT IS
10 YOUR BEST RECOLLECTION ABOUT WHAT HAPPENED?

11 A IT'S -- I THINK ALL I DID IS WROTE DOWN
12 WHAT HAPPENED WHEN I WAS DONE WITH IT.

13 Q ALL RIGHT. IN OTHER WORDS, WHATEVER
14 DAMAGE THE LOCKSMITH HAD DONE REQUIRED YOU TO JOT DOWN A
15 NOTE TO YOURSELF, THAT'S THE WAY THE SAFE LOOKED AFTER WE
16 GOT INTO IT?

17 A AFTER IT WAS OPENED; RIGHT.

18 Q ALL RIGHT. AND BY THE WAY, IS THIS -- AM
19 I COUNTING CORRECTLY APRIL 6, 1988 WOULD BE 20 OR 21
20 DAYS, SOMETHING LIKE THAT, AFTER THE HOMICIDES?

21 A CORRECT.

22 Q IF YOU HAD NOTICED THAT THERE WAS DAMAGE
23 TO THE SAFE WHEN YOU WALKED UP AND LOOKED AT IT BEFORE
24 YOU, COLLEEN CAMPBELL OR THE LOCKSMITH TOUCHED THE SAFE,
25 IF YOU HAD NOTICED DAMAGE TO THE SAFE AT THAT POINT, WHAT
26 WOULD YOU HAVE DONE?

27 MS. SARIS: OBJECTION. CALLS FOR SPECULATION.

28 THE COURT: SUSTAINED.

1 MR. JACKSON: THIS EXACT QUESTION WAS ASKED AND
2 THE ANSWER WAS ELICITED ON DIRECT EXAMINATION.

3 MS. SARIS: IT WAS OBJECTED TO.

4 THE COURT: SUSTAINED.

5 Q BY MR. JACKSON: WHAT WOULD BE NORMAL
6 PROCEDURE IF YOU HAD NOTICED SOMETHING EVIDENTIARY WISE
7 BEFORE YOU TOUCHED THE SAFE?

8 MS. SARIS: OBJECTION. LACK OF FOUNDATION.
9 CALLS FOR SPECULATION.

10 THE COURT: OVERRULED.

11 YOU CAN ANSWER.

12 THE WITNESS: WELL, NORMAL PROCEDURE WOULD HAVE
13 BEEN TO CALL SOMEBODY OUT TO INVESTIGATE IT PRIOR TO ME
14 HAVING IT OPENED. I MEAN --

15 Q BY MR. JACKSON: ALL RIGHT. AND YOU
16 DIDN'T DO THAT HERE?

17 A NO.

18 Q WHY NOT?

19 A BECAUSE THERE WAS NOTHING WRONG WITH IT TO
20 MY RECOLLECTION.

21 MR. JACKSON: OKAY. THAT'S ALL I HAVE, YOUR
22 HONOR. THANKS.

23 THE COURT: REDIRECT.

24 MS. SARIS: YES.

25
26 REDIRECT EXAMINATION

27 BY MS. SARIS:

28 Q DID YOUR NOTES INDICATE THE NAME COLLEEN

1 CAMPBELL AT ALL?

2 A NO.

3 Q LOCKSMITH?

4 A NO.

5 Q WHY WOULD MRS. CAMPBELL WANT A WITNESS TO
6 OPEN A SAFE THAT BELONGED TO HER OWN FAMILY MEMBER?

7 MR. JACKSON: OBJECTION. THAT CALLS FOR
8 SPECULATION. IT'S ARGUMENTATIVE. AND IT IS LEADING.

9 THE COURT: SUSTAINED.

10 Q BY MS. SARIS: DO YOU KNOW WHY MISS
11 CAMPBELL ASKED YOU TO BE THERE?

12 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.

13 THE COURT: SUSTAINED.

14 Q BY MS. SARIS: DID SHE TELL YOU?

15 MR. JACKSON: OBJECTION. CALLS FOR HEARSAY.

16 THE COURT: OVERRULED.

17 YOU CAN ANSWER THAT YES OR NO.

18 THE WITNESS: I DON'T REMEMBER.

19 THE COURT: OR "I DON'T REMEMBER."

20 Q BY MS. SARIS: SO YOU SAID YOU ACCOMPANIED
21 HER -- OR YOU WENT WITH HER TO THE SCENE?

22 A I MET HER AT THE SCENE, IF I REMEMBER
23 CORRECTLY.

24 Q SO SHE WAS STANDING THERE RIGHT THERE WHEN
25 THIS HAPPENED?

26 MR. JACKSON: OBJECTION. COUNSEL IS LEADING.

27 MS. SARIS: I'LL REPHRASE.

28 THE COURT: THANK YOU.

1 Q BY MS. SARIS: WAS SHE STANDING RIGHT
2 THERE WHEN IT HAPPENED?

3 A I DON'T REMEMBER.

4 Q WELL, WOULD YOU HAVE MADE A NOTE OF IT IF
5 SHE WAS WATCHING YOU?

6 A I DON'T REMEMBER. I JUST REMEMBER MEETING
7 HER AT THE SCENE.

8 Q AND IT'S YOUR RECOLLECTION THAT YOU HAD TO
9 BREAK INTO BOTH SAFES?

10 A TO THE BEST OF MY KNOWLEDGE, YES.

11 Q BUT THERE IS NO DAMAGE TO THE ONE IN THE
12 CLOSET?

13 A I DIDN'T NOTE ANY, NO.

14 Q WHAT IF THERE WAS DAMAGE THAT YOU WEREN'T
15 ABLE TO SEE BY LOOKING, WHAT WOULD YOU HAVE DONE?

16 MR. JACKSON: OBJECTION. CALLS FOR SPECULATION.

17 THE COURT: SUSTAINED.

18 Q BY MS. SARIS: WHEN YOU SAW THE SAFE, DID
19 YOU MAKE NOTE OR DO YOU RECALL -- WELL, LET ME ASK YOU
20 THIS: HAVE YOU EVER SEEN AN ITEM THAT HAS BEEN DUSTED
21 FOR FINGERPRINTS?

22 A YES.

23 Q WHAT DOES IT LOOK LIKE?

24 MR. JACKSON: OBJECTION. THIS IS BEYOND THE
25 SCOPE OF CROSS-EXAMINATION.

26 THE COURT: IT IS.

27 MS. SARIS: I CAN REOPEN YOUR HONOR.

28 THE COURT: IS THAT A REQUEST?

1 MS. SARIS: WITH THE COURT'S PERMISSION.

2 THE COURT: YES.

3 MR. JACKSON: I'M SORRY. THAT WAS -- WOW.

4 Q BY MS. SARIS: WHAT DOES IT LOOK LIKE? AN
5 ITEM THAT HAS BEEN DUSTED FOR PRINTS, HOW DO YOU KNOW
6 IT'S BEEN DUSTED? WHAT DOES IT LOOK LIKE?

7 A IT NORMALLY HAS FINGERPRINT DUST ON IT.

8 Q AND WHAT DOES THAT LOOK LIKE FOR THOSE OF
9 US WHO HAVEN'T SEEN IT?

10 A IT WOULD HAVE BLACK DUST ALL OVER IT.

11 Q AND DID YOU NOTE THE PRESENCE OF ANY BLACK
12 DUST ON THE SAFE?

13 A NO.

14 Q THANK YOU.

15 NOTHING FURTHER.

16 THE COURT: ANYTHING ELSE?

17 MR. JACKSON: NOTHING FURTHER, YOUR HONOR. THANK
18 YOU.

19 THE COURT: THANK YOU, SIR. YOU'RE EXCUSED.
20 THANKS FOR COMING IN.

21 MS. SARIS: YOUR HONOR, SUBJECT TO THE PRODUCTION
22 OF OUR EXHIBITS, THE DEFENSE RESTS. I'M SORRY. THERE IS
23 A STIPULATION THAT WE WOULD HAVE THE COURT READ, AND THEN
24 WE WOULD REST.

25 THE COURT: OKAY. LADIES AND GENTLEMEN, I'M
26 GOING TO READ TO YOU ONE MORE STIPULATION. AND YOU'LL
27 RECALL THAT THIS IS ANOTHER IN A SERIES OF OTHER
28 STIPULATIONS THAT I'VE ALREADY TOLD YOU ABOUT, THAT YOU

1 ARE TO DEEM THESE FACTS AS HAVING BEEN PROVED.

2 MS. SARIS: YOUR HONOR, I'M SORRY. MAY I PUT
3 SOMETHING ON THE OVER HEAD WHILE THE COURT READS?

4 THE COURT: SURE.

5 MS. SARIS: THANK YOU.

6 THE COURT: STIPULATION NO. 18: COUNSEL
7 STIPULATES THAT IF LARRY HUNT WERE CALLED AND SWORN TO
8 TESTIFY UNDER OATH IN THESE PROCEEDINGS, HE WOULD STATE
9 THE FOLLOWING: HE WAS OF THE OWNER AND OPERATOR OF LARRY
10 HUNT TOWING IN 1986. LARRY HUNT TOWING HAD A CONTRACT
11 WITH THE ORANGE COUNTY MARSHALS IN 1986 WHEREIN THEY
12 WOULD TOW VEHICLES THAT THE MARSHAL ORDERED TOWED AS A
13 RESULT OF SEIZURE OR OTHER COURT ACTIONS. THE RECEIPT
14 LABELED DEFENSE T WAS PREPARED IN THE REGULAR COURSE OF
15 BUSINESS AND REFLECTS THE INFORMATION "ORANGE COUNTY
16 MARSHAL IMPOUND" UNDER THE REPORTING AGENCY. DRIVERS
17 WERE REQUIRED TO LIST THE AGENCY REQUESTING THE TOW IN
18 THIS BOX ON THE RECEIPT TOGETHER WITH THE ADDRESS FROM
19 WHICH THE VEHICLE WAS TAKEN. THIS IS A TRUE AND CORRECT
20 COPY OF THE RECEIPT THAT WOULD HAVE BEEN PREPARED IN THE
21 ORDINARY COURSE OF BUSINESS.

22 AND THAT IS DEFENSE T ON THE OVERHEAD?

23 MS. SARIS: YES. THANK YOU.

24 THE COURT: SO STIPULATED.

25 MR. JACKSON: SO STIPULATED, YOUR HONOR.

26 MS. SARIS: SO STIPULATED.

27 THE COURT: ALL RIGHT.

28 MS. SARIS: AND YOUR HONOR, BASED ON THAT

1 STIPULATION, AND SUBJECT TO THE INTRODUCTION OF OUR
2 RECORDS, AND EXHIBITS, WE REST.

3 THE COURT: ALL RIGHT. BEFORE I EXCUSE YOU, I
4 NEED TO FIGURE OUT WHAT WE'RE DOING TOMORROW. SO INSTEAD
5 OF HAVING YOU GO DOWN THE HALL TO THE JURY ROOM, I'M
6 GOING TO ASK YOU ALL TO STEP INSIDE OF THE JURY ROOM
7 BEHIND YOU. JUST FOR A FEW MINUTES. WHILE I DISCUSS
8 MATTERS WITH COUNSEL AND I'LL BE ABLE TO LET YOU KNOW
9 WHAT WE'RE DOING TOMORROW.

10 MR. JACKSON: I NEED TO GET A COUPLE OF THINGS
11 OUT OF THE JURY ROOM FIRST.

12 THE COURT: OKAY. HOLD OFF A SECOND.

13 ALL RIGHT. LADIES AND GENTLEMEN I'LL ASK
14 YOU TO JUST STEP INSIDE OF THE REAL JURY ROOM JUST FOR A
15 MOMENT. PLEASE DON'T DISCUSS THIS CASE AT ALL.

16 (WHEREUPON THE JURORS LEFT THE COURTROOM.)

17 THE COURT: ALL RIGHT. THE JURORS AND ALTERNATE
18 HAVE LEFT OF THE COURTROOM. I JUST WANTED TO GET SOME
19 IDEA WHAT WE'RE GOING TO DO TOMORROW. ARE THE PEOPLE
20 PLANNING ON CALLING ANY REBUTTAL WITNESSES TOMORROW
21 MORNING?

22 MR. DIXON: NO, WE WILL HAVE NO FURTHER REBUTTAL.

23 MR. JACKSON: WE'RE NOT?

24 MS. SARIS: NO LOCKSMITH?

25 MR. JACKSON: NO, I'M KIDDING.

26 THE COURT: OKAY. I'LL TAKE THAT AS A "NO".

27 MR. JACKSON: NO, WE'RE NOT, YOUR HONOR.

28 THE COURT: I UNDERSTAND THAT WE'RE GOING TO GO

1 TO THE SCENE AT 1:30. AND COUNSEL NEEDS TO GO THERE
2 AHEAD OF TIME AND PERHAPS THE COURT DOES TOO. I KNOW
3 THAT I'M GOING TO BE ASKED TO READ SOME STIPULATIONS
4 TOMORROW; IS THAT RIGHT?

5 MS. SARIS: YES.

6 MR. JACKSON: YES, MA'AM.

7 THE COURT: ALL RIGHT. SO WE NEED TO MEET WITH
8 THE JURY PRESENT TOMORROW BEFORE WE GO TO THE CRIME
9 SCENE; IS THAT CORRECT.

10 MS. SARIS: YES.

11 THE COURT: AND MY SUGGESTION WAS EARLIER WHEN WE
12 SPOKE AT THE BENCH TO HAVE THE JURORS COME IN AT 11:30.

13 MS. SARIS: AND GIVING THAT FURTHER THOUGHT, I'M
14 THINKING 11:00 MIGHT BE BETTER TO GIVE US A FULL HOUR AT
15 THE CRIME SCENE TOGETHER, AND IT'S GOING TO TAKE US ABOUT
16 20 MINUTES TO GET THERE. SO IF WE CAN TALK TO THE JURORS
17 BETWEEN 11:00 AND 11:30 AND THEN WE CAN ALL TAKE OFF.

18 MR. DIXON HAS OFFERED TO PROVIDE LUNCH, AND WE CAN SET UP
19 THE CRIME SCENE.

20 THE COURT: OKAY.

21 MR. DIXON: WELL, I GUESS THAT ALL DEPENDS ON
22 WHEN YOU'RE GOING TO HAVE THE JURORS COME BACK FROM
23 LUNCH. IF THEY COME BACK AT 1:30 THEY'RE AREN'T GOING TO
24 BE THERE UNTIL 2:00.

25 THE COURT: THAT WAS THE PLAN.

26 MS. SARIS: THAT'S A GOOD PLAN.

27 THE COURT: THE PLAN IS TO LEAVE HERE AT 1:30.

28 MS. SARIS: THAT MAKES SENSE THEN. THEN WE DON'T

1 NEED THAT EXTRA HALF HOUR.

2 THE COURT: SO 11:30. I'LL THEY WILL THEM TODAY
3 THEY'RE GOING TO COME BACK BRIEFLY IN THE MORNING AND GET
4 FURTHER DIRECTION REGARDING OUR VISIT TO THE CRIME SCENE.
5 AND THEN AFTER THAT WE WILL CALL IT AT A DAY. WE WILL BE
6 DARK FRIDAY, AND MONDAY WE'LL BEGIN THE JURY INSTRUCTIONS
7 AND CLOSING ARGUMENTS, CORRECT?

8 MS. SARIS: YES. AND WE WERE GOING TO REQUEST
9 THAT THAT START EARLIER THAN 10:00 IF THE COURT CAN CLEAR
10 THE CALENDAR, WE WOULD BE READY TO GO EARLY SO THAT WE
11 CAN GET THEM ALL IN, IN ONE DAY.

12 THE COURT: OKAY.

13 MS. SARIS: MR. GOODWIN HAS ASKED ME, SINCE IT IS
14 ONLY AN A HALF HOUR APPEARANCE FOR HIM TOMORROW.

15 THE COURT: WE CAN DO THAT. LET ME JUST GET RID
16 OF THE JURORS FOR THE AFTERNOON, AND THEN WE CAN TALK.

17 THE COURT: ALL RIGHT. CAN SOMEONE KNOCK ON THE
18 DOOR?

19 THE BAILIFF: I'LL GET IT, YOUR HONOR.

20 (THE JURY ENTERED THE COURTROOM.)

21 THE COURT: ALL RIGHT. ONCE AGAIN, OUR JURORS
22 AND ALTERNATES ARE PRESENT. I JUST SPENT A COUPLE
23 MINUTES TALKING TO THE LAWYERS BECAUSE WE REACHED THAT
24 PART OF THE CASE WHICH IS VERY CLOSE TO THE END.
25 HOWEVER, TOMORROW, I'M GOING TO NEED YOU TO ALL COME IN
26 FOR A BRIEF PERIOD OF TIME TO THE COURTROOM.

27 SO I'M THINKING OF HAVING YOU COME IN AT
28 11:30. BETWEEN 11:30 AND 12:00 WE SHOULD WRAP UP ALL THE

1 MINOR DETAILS THAT NEED TO BE WRAPPED UP IN YOUR PRESENCE
2 IN OPEN COURT. AND THEN AT 1:30 TOMORROW AFTERNOON WE'RE
3 GOING TO ALL TAKE A RIDE TO SOME OF THE LOCATIONS THAT
4 HAVE BEEN MENTIONED IN THIS CASE. SO BASICALLY TOMORROW,
5 THE WAY I SEE IT NOW, WE'LL ONLY BE IN SESSION IN THE
6 COURTROOM TOMORROW MORNING BETWEEN 11:30 AND 12:00.

7 AT THAT TIME I WILL A GIVE YOU FURTHER
8 INSTRUCTIONS REGARDING OUR AFTERNOON TRIP. AND I DON'T
9 ANTICIPATE DOING ANYTHING MORE IN COURT TOMORROW
10 AFTERNOON, BUT WE WILL RETURN TO THE COURTHOUSE. WE'RE
11 GOING TO TRANSPORT YOU FROM HERE AT 1:30 TO THERE IN
12 BRADBURY, AND THEN BACK. BUT I DON'T THINK WE'RE GOING
13 TO DO ANYTHING MORE TOMORROW AFTERNOON IN THE COURTROOM.

14 DON'T HOLD ME TO BECAUSE ANYTHING IS
15 POSSIBLE, BUT THAT'S MY BEST GUESS. AS YOU KNOW, THE
16 COURT IS DARK, AND I BELIEVE ONE OF YOUR MEMBERS HAD A
17 PRIOR COMMITMENT ON FRIDAY. THE COURT IS PLANNING ON
18 STARTING WITH THE JURY INSTRUCTIONS AND CLOSING ARGUMENTS
19 EARLY MONDAY. AND THAT SHOULD BE OUR SCHEDULE.

20 YOU'VE ALL BEEN GIVEN CALENDARS I THINK,
21 SO YOU KNOW WHAT OUR SCHEDULE IS. NEXT WEEK IT'S A
22 FOUR-DAY WEEK, AND THEN YOU KNOW WHEN WE'RE DARK. AND
23 THEN WHEN WE ASSUME, IF NECESSARY, AT THE BEGINNING OF
24 JANUARY. I KNOW ONE OF THE JURORS HAS A PROBLEM FOR PART
25 OF JANUARY 2ND IF WE NEED TO COME BACK ON THAT DATE. BUT
26 I THINK WE'RE ALL AWARE OF THE SCHEDULE. SO THAT'S OUR
27 PLAN.

28 SO WE WILL CALL IT AT A DAY TODAY.

1 REMEMBER WE'LL JUST HAVE A BRIEF HEARING IN THE MORNING.
2 AND THEN THE REST OF THE AFTERNOON AFTER THE LUNCH HOUR
3 AND A HALF WE WILL GO TO THE CRIME SCENE. SO YOU CAN
4 DRESS COMFORTABLY. YOU'RE NOT GOING TO HAVE TO DO MUCH
5 HIKING. WE'RE GOING TO TRANSPORT YOU THERE, AND I
6 BELIEVE ONCE THERE YOU'LL BE SHOWN DIFFERENT LOCATIONS.
7 YOU'LL BE ESCORTED OFF OF, EITHER THE BUS OR THE VANS,
8 DEPENDING ON HOW WE TRANSPORT YOU. AND YOU'LL BE ABLE TO
9 LOOK AT CERTAIN THINGS, AND THEN WE WILL CALL IT AT A
10 DAY, BRING YOU BACK HERE. AND IN ALL LIKELIHOOD RECESS
11 UNTIL EARLY MONDAY MORNING. I'M THINKING OF GETTING
12 STARTED MONDAY MORNING AT 9:00 O'CLOCK INSTEAD OF 10:00
13 O'CLOCK. SO THAT'S OUR PLAN. AND WITH THAT, WE WILL
14 CALL IT A DAY.

15 PLEASE REMEMBER ALL OF THE ADMONITIONS. PLEASE
16 DO NOT DISCUSS THIS CASE. DON'T FORM OR EXPRESS ANY
17 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. DON'T TALK
18 TO ANYBODY CONNECTED WITH THIS CASE. STAY AWAY FROM THE
19 LOCATIONS THAT HAVE BEEN MENTIONED BY THE EVIDENCE. AND
20 DON'T READ OR LISTEN TO ANYTHING REPORTED IN THE MEDIA
21 ABOUT THIS CASE. HAVE A GOOD EVENING. TOMORROW 11:30
22 WE'LL RESUME, OKAY? SO HAVE A GOOD EVENING WE WILL SEE
23 YOU THEN.

24 THE COURT: ALL RIGHT ALL THE JURORS AND
25 ALTERNATES HAVE LEFT THE COURTROOM. I UNDERSTAND THAT WE
26 ARE JUST GOING TO RESUME WITH THE JURY AT 11:30. BUT IN
27 ALL HONESTY MS. SARIS, I THINK YOUR CLIENT NEEDS TO BE
28 HERE.

1 MS. SARIS: OKAY.

2 HE WAS REQUESTING -- BASED ON THE
3 TRANSPORTATION -- BUT THAT'S FINE THAT'S IF THAT WHAT THE
4 COURT THINKS.

5 THE COURT: WELL I MEAN, WE HAVEN'T COMPLETED
6 EVERYTHING IN FRONT OF THE JURY.

7 MS. SARIS: I UNDERSTAND. THAT'S FINE. I'M
8 TRYING TO FIND SOMETHING TO OFFER A STIPULATION.
9 APPARENTLY DR. PEZDEK LEFT WITH THE COPY THAT I HAD MADE
10 OF THE LINEUP. WHICH IS AN EXACT COPY OF ONE OF THE
11 PEOPLE'S EXHIBITS, AND IT WAS DEFENSE H, AND I WOULD
12 REQUEST FOR THE RECORD, I'M NOT GOING TO BE -- I WAS NOT
13 GOING TO BE OFFERING TO INTRODUCE IT BECAUSE IT'S ALREADY
14 INTO EVIDENCE.

15 MR. JACKSON: WE WILL STIPULATE THAT DEFENSE H
16 COULD BE --

17 THE CLERK: IT'S 4 H.

18 MR. JACKSON: -- DEFENSE 4 H, SORRY -- DEFENSE 4
19 H CAN BE WITHDRAWN. THERE IS NO OBJECTION BY THE PEOPLE.

20 MS. SARIS: THANK YOU VERY MUCH.

21 THE COURT: SO WE WILL RESUME TOMORROW MORNING.
22 LET ME HAVE COUNSEL HERE AT 11:00 IF NOT A LITTLE BIT
23 EARLIER.

24 MR. JACKSON: YES, YOUR HONOR.

25 THE COURT: AND WE CAN DISCUSS THE EXHIBITS. AND
26 I GUESS THE FIELD TRIP.

27 MR. JACKSON: WE'LL BE IN THE OFFICE BY 8:00,
28 8:15 LIKE NORMAL, SO WHATEVER THE COURT WANTS.

1 MR. DIXON: AND IF WE HAVE REBUTTAL, WE WILL GIVE
2 YOU A CALL AND WE WILL LET YOU KNOW ABOUT IT.

3 MS. SARIS: I DON'T KNOW IF THE COURT CAN DO THIS
4 OR NOT, BUT SEEING AS HOW MR. GOODWIN ONLY HAS TO BE HERE
5 FOR A BRIEF TIME PERHAPS WE CAN TALK ABOUT GETTING HIM
6 SOME TRANSPORTATION BACK TOMORROW.

7 THE COURT: WE CAN TALK ABOUT THAT TOMORROW. I
8 DON'T KNOW THAT. WE ARE GOING TO BE PRETTY SHORTHANDED,
9 GIVEN ALL THE SHERIFFS THAT ARE GOING TO BE COMING OUT TO
10 THE SCENE. BUT WE WILL DO WHAT WE CAN.

11 SO LET'S PLAN ON RESUMING AT LEAST BY
12 11:00 IF NOT A LITTLE BIT SOONER TO DISCUSS WHATEVER IT
13 IS WE NEED TO DISCUSS WITH RESPECT TO THE EXHIBITS AND
14 WHATEVER PROPOSED STIPULATIONS COUNSEL WANTS THE COURT TO
15 READ ONCE WE GO TO THE CRIME SCENE. SO WE'LL TALK ABOUT
16 ALL. ALSO JURY INSTRUCTIONS. LET'S GO OFF THE RECORD.

17
18 (THE MATTER WAS CONTINUED TO THURSDAY,
19 DECEMBER 14, 2006 AT 11:00 A.M.)
20 (NEXT PAGE IS 8401.)

21 --000--
22
23
24
25
26
27
28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 14, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: THE RECORD SHOULD REFLECT ALL OUR
20 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT IN THE TRIAL
21 MATTER. I BELIEVE WE LEFT OFF YESTERDAY WITH THE DEFENSE
22 RESTING SUBJECT TO THE ADMISSION OF THE DEFENSE EXHIBITS.

23 MS. SARIS: YES.

24 THE COURT: AND THE COURT IS ADMITTING AT THIS
25 TIME ALL OF THE DEFENSE EXHIBITS WITH THE EXCEPTION OF --
26 AND I'M GOING TO READ THEM TO YOU AND THEY ARE NOT IN ANY
27 ORDER NECESSARILY. BUT THESE ARE THE EXHIBITS YOU WILL
28 NOT HAVE CC, O, M, I, F, J, H, K, V, AS IN VICTOR, B AS

1 IN BOY, S, JJJ, HHH, III, OOO, 4-G, QQQ, PPP, LLL, RRR, A
2 AND U. THOSE EXHIBITS WILL NOT BE PRESENTED. THE REST
3 OF THE DEFENSE EXHIBITS ARE ADMITTED AT THIS TIME AND YOU
4 WILL HAVE THEM AVAILABLE DURING YOUR DELIBERATIONS.

5 BOTH SIDES HAVE RESTED; IS THAT CORRECT?

6 MS. SARIS: YES.

7 MR. DIXON: YES, YOUR HONOR.

8 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,
9 EVEN THOUGH WE KEPT YOU WAITING WE'RE STILL ON TRACK FOR
10 OUR JURY VIEW AT 1:30. I SEE REPRESENTATIVES FROM THE
11 SHERIFF'S DEPARTMENT.

12 THERE ARE SOME INSTRUCTIONS THAT I'M GOING
13 TO READ TO YOU AT THIS TIME. AND THESE PERTAIN TO THE
14 VIEW OF THE AREAS THAT WE ARE GOING TO AT 1:30. AND THEN
15 ONCE WE ARRIVE THERE, I WILL GIVE YOU SOME FURTHER
16 INFORMATION. BUT BASICALLY THESE ARE THE GROUND RULES.
17 ALL RIGHT.

18 (READING) AT 1:30, LADIES AND GENTLEMEN,
19 YOU WILL BOARD ONE OF TWO VANS TO BE
20 TRANSPORTED TO THE CRIME SCENE IN THIS
21 CASE AT 53 WOODLYN LANE IN BRADBURY AND
22 THE INTERSECTION OF WOODLYN LANE AND ROYAL
23 OAKS.

24 WHEN WE ARRIVE AT THE VIEWING AREAS, YOU
25 WILL BE ALLOWED TO GET OUT OF THE VANS AND
26 WALK THROUGH SPECIFIC AREAS SET APART BY
27 CONES AND TAPE. THERE WILL BE THREE
28 VIEWING AREAS ONE AT THE TOP OF THE

1 DRIVEWAY BY THE GARAGE. ONE AT THE BOTTOM
2 OF THE DRIVEWAY BY THE STREET. AND THE
3 LAST AT THE INTERSECTION OF WOODLYN LANE
4 AND ROYAL OAKS.

5 YOU WILL BE DRIVEN TO THE TOP OF THE
6 DRIVEWAY FIRST. THEN YOU WILL BE DRIVEN
7 DOWN TO THE BOTTOM. AND, LASTLY, YOU WILL
8 BE DRIVEN TO THE INTERSECTION OF WOODLYN
9 LANE AND ROYAL OAKS.

10 IT IS IMPERATIVE THAT YOU ALL GET THE SAME
11 VIEW. SO YOU WILL REMAIN IN A GROUP
12 TOGETHER AT ALL TIMES. YOU MUST WALK ONLY
13 IN THE DESIGNATED AREAS. THERE WILL BE
14 SHERIFF PERSONNEL TO GUIDE YOU AND COUNSEL
15 WILL HAVE SOME OF THE TRIAL EXHIBITS
16 DISPLAYED TO ORIENT YOU.

17 NO ONE IS ALLOWED TO SPEAK TO YOU WHILE
18 YOU ARE AT THE SCENE, EXCEPT THE DUALY
19 SWORN BAILIFFS. THEY WILL NOT BE POINTING
20 OUT ANY ITEMS OF EVIDENCE, BUT MERELY
21 SHOWING YOU WHERE TO WALK; TELLING YOU
22 WHEN TO BOARD AND EXIT THE VANS; AND
23 DIRECTING YOUR ATTENTION TO CERTAIN AREAS.
24 ONCE YOU HAVE HAD AMPLE TIME TO VIEW THE
25 SCENE AND THE EXHIBITS FROM THE DESIGNATED
26 VIEWING AREAS, YOU WILL BE DIRECTED BACK
27 INTO THE VANS AND TAKEN TO THE NEXT
28 LOCATION.

1 OUR PURPOSE IN TAKING YOU TO THE SCENE IS
2 TO GIVE YOU A VISUAL REFERENCE FOR THE
3 MATTERS THAT WE HAVE BEEN DISCUSSING IN
4 THIS TRIAL. YOU ARE NOT TO CONDUCT ANY
5 EXPERIMENTS WHILE AT THE SCENE. YOU MUST
6 NOT SPEAK TO ONE ANOTHER AT ALL WHILE YOU
7 ARE AT THE SCENE AND ARE TO FOLLOW ALL THE
8 ADMONITIONS AT ALL TIMES WHILE ON THE
9 BUSES.

10 AND AS A REMINDER THOSE ADMONITIONS ARE
11 THE SAME ONES I HAVE BEEN GIVING YOU EACH
12 TIME WE RECESS. YOU ARE NOT TO DISCUSS
13 THIS CASE. YOU ARE NOT TO FORM OR EXPRESS
14 ANY OPINIONS ON IT. YOU MUST NOT CONDUCT
15 ANY DELIBERATIONS UNTIL THE CASE IS
16 SUBMITTED TO YOU. AND YOU ARE NOT TO TALK
17 TO ANYONE ELSE ABOUT THE CASE.

18 WHILE YOU MAY NOTICE THE PRESENCE OF
19 CAMERAS OR REPORTERS, PLEASE UNDERSTAND
20 THAT THE MEDIA IS SPECIFICALLY PRECLUDED
21 FROM EVER PHOTOGRAPHING ANY JURORS.

22 WE EXPECT THE TOUR TO LAST APPROXIMATELY
23 45 MINUTES. AND THEN YOU WILL BE RETURNED
24 TO THIS COURTHOUSE AND WILL BE EXCUSED
25 UNTIL MONDAY MORNING AT 9:00 A.M. WHEN WE
26 WILL RECONVENE FOR JURY INSTRUCTIONS AND
27 CLOSING ARGUMENTS OF COUNSEL. (READING
28 CONCLUDED.)

1 ALL RIGHT. THAT TAKES CARE OF THAT. SO
2 BOTTOM LINE IS YOU CAN'T DELIBERATE WHILE YOU'RE OUT
3 THERE. YOU CAN'T TALK TO ANYBODY. AND WE CERTAINLY
4 DON'T WANT YOU WALKING OFF AWAY FROM OTHER JURORS AND
5 LOOKING AT THINGS BECAUSE IT'S CRITICAL THAT YOU ALL LOOK
6 AT THE SAME THINGS. AND THAT NONE OF YOU LOOK AT
7 ANYTHING ELSE THAT SOMEONE ELSE ON THE JURY WON'T BE
8 LOOKING AT.

9 SO THAT'S THE POINT OF ALL OF THIS AND
10 THESE RULES. YOU CAN TAKE YOUR NOTEBOOKS WITH YOU,
11 WHATEVER YOU WANT. YOU CAN LEAVE YOUR PERSONAL
12 BELONGINGS AND YOUR NOTEBOOKS HERE IF YOU WANT. YOU
13 DON'T HAVE TO RETURN TO THIS COURTROOM WHEN WE COME BACK
14 BECAUSE YOU WILL BE EXCUSED UNTIL MONDAY MORNING AT 9:00
15 A.M. BUT IF YOU WANT TO LEAVE ANYTHING HERE, WE WILL
16 KEEP IT SAFE FOR YOU UNTIL YOU RETURN. ALL RIGHT? AND I
17 GUESS THAT GIVES YOU A LITTLE BIT OVER AN HOUR TO EAT AND
18 THEN WE WILL MEET BACK HERE --

19 OR DOWNSTAIRS, GENTLEMEN?

20 THE BAILIFF: AT THE BACK DOOR REAR ENTRANCE TO
21 THE JUDGE'S PARKING LOT WOULD BE FINE, YOUR HONOR.

22 THE COURT: BUT THE JURORS HAVE TO KNOW WHERE TO
23 GO. SO IT WILL BE THEY COME IN THE FRONT DOOR OFF OF
24 WALNUT AND THEN THEY WALK DIRECTLY STRAIGHT TOWARDS THE
25 REAR GLASS DOORS WHICH FACE A PARKING LOT.

26 THE BAILIFF: UNLESS IT WOULD BE EASIER IF THEY
27 COME UP HERE. WE WILL ESCORT THEM DOWN.

28 THE COURT: I THINK -- YOU KNOW WHAT, JUST --

1 WHERE DO THEY ENTER? ON WALNUT OR --

2 THE BAILIFF: IN THE FRONT ON WALNUT.

3 THE COURT: ON WALNUT? SO WHERE WE'RE GOING TO
4 MEET AT 1:30 SHARP IS RIGHT INSIDE THE DOORS OFF OF
5 WALNUT IN THAT LOBBY AREA. TOWARDS THE BACK OF THAT AREA
6 YOU WILL SEE GLASS DOORS AND A PARKING LOT AND THAT'S
7 WHERE WE'RE GOING TO GO. THAT'S WHERE THE VANS ARE GOING
8 TO BE PARKED. SO IF YOU WILL JUST ALL ASSEMBLE AT 1:30
9 IN THE LOBBY AREA THERE BETWEEN THE FRONT WALNUT AND THE
10 BACK PARKING LOT, WE SHOULD BE ABLE TO FIND ALL OF YOU AT
11 THAT TIME.

12 REMEMBER ALL THE ADMONITIONS. HAVE A GOOD
13 LUNCH. WE WILL SEE YOU IN AN HOUR.

14 JUROR NO. 9.

15 JUROR NO. 9: IF WE TAKE OUR BOOKS, THEY SHOULD
16 BE RETURNED BEFORE WE GO HOME?

17 THE COURT: YES. WE WILL COLLECT THEM BEFORE
18 UNLESS YOU NEED TO COME BACK UP HERE TO GET YOUR
19 BELONGINGS.

20 JUROR NO. 9: OKAY?

21 JUROR NO. 7: SHOULD WE TAKE THEM NOW?

22 THE COURT: YOU CAN TAKE THEM NOW, IF YOU WANT.
23 OR WE CAN BRING THEM, IF YOU WANT. DO YOU WANT TO JUST
24 COLLECT THEM AND BRING THEM ALL?

25 THE BAILIFF: WE CAN DO THAT, YOUR HONOR.

26 THE COURT: WOULD THAT BE EASIER?

27 JUROR NO. 7: YES.

28 THE COURT: OKAY. WHY DON'T YOU JUST LEAVE YOUR

1 NOTEBOOKS, THEN, ON YOUR SEATS. WE WILL COLLECT THEM UP.
2 WE WILL BRING THEM OUT THERE IN A BOX AND THEN GIVE THEM
3 TO YOU WHEN YOU GET THERE.
4

5 (THE FOLLOWING PROCEEDINGS WERE
6 HELD IN OPEN COURT OUTSIDE THE
7 PRESENCE OF THE JURY.)
8

9 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
10 THAT ALL OUR JURORS AND ALTERNATES HAVE LEFT THE
11 COURTROOM. BEFORE WE RECESS, WE HAVE A NUMBER OF
12 SHERIFFS DEPUTIES HERE IN THE COURTROOM. AND LET ME ASK
13 SERGEANT WHEATCROFT. SPELL YOUR LAST NAME, SIR.

14 MR. WHEATCROFT: W-H-E-A-T-C-R-O-F-T.

15 THE COURT: THANK YOU. ARE THESE ALL THE
16 PERSONNEL THAT WILL BE GOING TO THE SCENE?

17 MR. WHEATCROFT: YES, YOUR HONOR. THEY'LL BE
18 ESCORTING THE STAFF AND THEY WILL BE UP ON THE SCENE
19 HELPING SECURE THE SCENE.

20 THE COURT: OKAY. I GUESS WE NEED TO SWEAR THEM
21 IN, DO WE NOT?

22 MS. SARIS: ARE WE DESIGNATING ALL OF THEM AS
23 BEING ABLE TO SPEAK TO THE JURY OR ONLY SPECIFIC ONES?

24 THE COURT: WELL, I'M ASSUMING THAT --

25 ARE THEY ALL GOING TO BE OUT THERE?

26 MR. WHEATCROFT: NORMALLY WHAT WE DO IS THE TWO
27 THAT WILL BE DRIVING THE VANS -- THE TWO UNIFORMED
28 DEPUTIES THAT WILL BE DOING THAT, WE'VE SWORN THOSE IN

1 BEFORE. AND THEN THEY ARE THE ONES THAT TAKE CHARGE OF
2 THE ACTUAL JURY AND COMMUNICATE WITH THE JURY.

3 THE COURT: SO NO ONE ELSE WILL HAVE ANY DIRECT
4 CONTACT WITH THE JURORS?

5 MR. WHEATCROFT: CORRECT, YOUR HONOR.

6 THE COURT: THEN THE TWO UNIFORMED DEPUTIES THAT
7 WILL BE --

8 THE CLERK: DO YOU AND EACH OF YOU SOLEMNLY SWEAR
9 THAT YOU WILL TAKE CHARGE OF THE JURORS AND ALTERNATE
10 JURORS AND KEEP THEM TOGETHER; THAT YOU WILL NOT SPEAK TO
11 THEM YOURSELF OR ALLOW ANYONE ELSE TO SPEAK TO THEM UPON
12 MATTERS CONNECTED WITH THE CASE EXCEPT ON ORDER OF THE
13 COURT, SO HELP YOU GOD.

14 DEPUTY HEMLER: I DO.

15 DEPUTY PARKS: I DO.

16 THE COURT: ALL RIGHT THEN.

17 MS. SARIS: I'M SORRY. CAN WE GET THEIR NAMES
18 FOR THE RECORD.

19 THE COURT: SURE.

20 CAN YOU STATE YOUR NAMES FOR THE RECORD,
21 PLEASE.

22 DEPUTY HEMLER: DEPUTY EDWARD HEMLER,
23 H-E-M-L-E-R.

24 DEPUTY PARKS: DEPUTY SHANE PARKS, P-A-R-K-S.

25 MS. SARIS: THANK YOU.

26 THE COURT: THANK YOU. SO WE WILL BE IN RECESS
27 UNTIL 1:30. COUNSEL ARE GOING OUT AT THIS TIME. I'M
28 GOING TO ASSUME -- LET'S GO OFF THE RECORD.

1 (DISCUSSION OFF THE RECORD.)

2 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
3 RECORD, THEN.

4 MR. JACKSON IS GOING TO TAKE A NUMBER OF
5 EXHIBITS THEN THAT HAVE BEEN AGREED TO TO THE LOCATION.
6 AND FOR THE RECORD AND TO MAINTAIN THE CHAIN OF CUSTODY,
7 MR. JACKSON, WHY DON'T YOU STATE WHICH EXHIBITS YOU ARE
8 TAKING.

9 MR. JACKSON: THE ONES THAT I INTEND TO TAKE --
10 AND I THINK MS. SARIS MAY HAVE AN OBJECTION OR
11 MR. SUMMERS MAY HAVE AN OBJECTION TO ONE OR TWO. SHE CAN
12 LODGE THAT. PEOPLE'S 48. PEOPLE'S 47. PEOPLE'S 55.
13 PEOPLE'S 41. PEOPLE'S 40. PEOPLE'S 62. PEOPLE'S 42.
14 PEOPLE'S 61. PEOPLE'S 52. PEOPLE'S 57. AND DEFENSE --

15 MS. SARIS: PEOPLE'S 53 WE'RE REQUESTING.

16 MR. JACKSON: SORRY. PEOPLE'S 53.

17 MS. SARIS: DEFENSE -- IS THAT 22?

18 MR. JACKSON: DEFENSE 22.

19 THE CLERK: THAT HAS TO BE ZZ.

20 MR. JACKSON: SORRY. ZZ.

21 MS. SARIS: YY. AND TTT.

22 THE COURT: SO STIPULATED?

23 MS. SARIS: YES. AND MR. JACKSON IS GOING TO
24 TAKE ALL OF THEM.

25 MR. JACKSON: STIPULATED BY THE PEOPLE, YOUR
26 HONOR.

27 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE WE
28 NEED TO DISCUSS ON THE RECORD?

1 MR. JACKSON: NO, YOUR HONOR.

2 MS. SARIS: NO.

3 THE COURT: OKAY. LET'S GO OFF THE RECORD.

4

5 (AT 12:00 P.M. A RECESS WAS TAKEN

6 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 14, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (SCENE VISIT)
10

11 THE COURT: ALL RIGHT. WE'RE AT THE WEST GATE
12 WITH ALL OF THE JURORS. AND COUNSEL ARE ALL HERE. JUROR
13 NO. 9 JUST ASKED A QUESTION.

14 CAN YOU REPEAT THAT QUESTION?

15 JUROR NO. 9: IS THE GATE AND THE GATE HOUSE AND
16 THE GATES IN THE SAME PROXIMITY, THE SAME ONES AS IT WAS
17 IN 1988?

18 THE COURT: DO YOU WANT TO STEP DOWN AND SEE HOW
19 WE CAN ANSWER THAT QUESTION?

20 (DISCUSSION OFF THE RECORD.)

21 THE COURT: ALL RIGHT. I JUST CONFERRED WITH
22 COUNSEL. I WAS TOLD THAT IT MAY BE A NEW GATE HOUSE AND
23 A NEW GATE, BUT THE LOCATIONS ARE STILL THE SAME.

24 JUROR NO. 9: THANK YOU, YOUR HONOR.

25 THE COURT: LET ME JUST TALK TO THE LAWYERS SO I
26 CAN GET THE ANSWER TO THAT QUESTION.

27 (DISCUSSION OFF THE RECORD.)

28 THE COURT: ALL RIGHT. WE ARE BACK ON THE RECORD

1 AT THE WEST GATE. AND ONE OF THE JURORS, JUROR NO. 7;
2 RIGHT?

3 JUROR NO. 7: YES, RIGHT.

4 THE COURT: ASKED A QUESTION. AND YOUR QUESTION
5 WAS YOU WANTED TO KNOW IF YOU COULD CROSS FROM THIS
6 STREET THAT WE ARE ON, WHICH IS -- WE ARE AT THE WEST
7 GATE ON ROYAL OAKS AND WOODLYN.

8 MR. JACKSON: CORRECT.

9 THE COURT: AND YOU WANT TO CROSS OVER --

10 JUROR NO. 7: JUST TO SEE THE GRADE DOWN TO THE
11 PATH WHERE THE GATE WAS, YES.

12 THE COURT: AND I THINK THE SHERIFFS ARE CLOSING
13 OFF THE STREET TO TRAFFIC. SO IT'S ALL YOURS.

14 JUROR NO. 7: THANK YOU.

15 (PAUSE IN PROCEEDINGS.)

16 THE COURT: ALL RIGHT. WE ARE STILL ASSEMBLED AT
17 THE WEST GATE. AND THE JURORS WERE LOOKING AT THE FENCE
18 ACROSS THE STREET.

19 AND JUROR NO. 1, YOU ASKED ME A
20 QUESTION --

21 JUROR NO. 1: I DID.

22 THE COURT: -- AS YOU WERE WALKING TOWARDS THAT
23 AREA. AND THEN APPARENTLY MS. SARIS WAS ASKED ANOTHER
24 QUESTION WHEN YOU WERE OVER AT THE GATE.

25 SO WHAT WAS YOUR FIRST QUESTION?

26 JUROR NO. 1: MY QUESTION WAS WHETHER OR NOT WE
27 WERE GOING TO BE ABLE TO STOP AND SEE WHERE THE STEVENS'
28 HOUSE WAS WHERE THE CAR WAS PARKED.

1 THE COURT: OKAY. AND DID YOU HAVE ANOTHER
2 QUESTION?

3 JUROR NO. 1: YES. I WANTED TO BE SURE WHEN
4 WE'RE LOOKING DOWN THERE, ARE WE LOOKING AT WHERE THE
5 GATE USED TO BE OR IS THAT THE BIKE TRAIL THAT WE WERE --
6 I'M NOT CLEAR.

7 THE COURT: LET ME TALK TO COUNSEL. HANG ON A
8 SECOND.

9
10 (PROCEEDINGS HELD AT SIDEBAR.)

11 THE COURT: WE ARE AT THE SIDEBAR AT THE WEST
12 GATE OUTSIDE THE PRESENCE OF THE JURORS. JUROR NO. 1 HAD
13 TWO QUESTIONS. HER FIRST QUESTION WAS WHETHER OR NOT WE
14 WERE GOING TO GO TO THE STEVENS' HOUSE.

15 HER SECOND QUESTION WAS EASIER. AND IT
16 HAD TO DO WITH WHERE THE GRAPE STAKE FENCE USED TO BE.
17 THE JURORS WERE ALLOWED TO CROSS THE STREET AND LOOK AT
18 THAT FENCE. AND I GUESS THE QUESTION WAS SHE WANTED TO
19 KNOW IS -- JUROR NO. 1 -- IF THAT WAS THE SAME AREA WHERE
20 THE BIKE PATH WAS.

21 AND, COUNSEL, ARE GOING TO STIPULATE?

22 MS. SARIS: WE'LL STIPULATE THAT THE FENCE THAT'S
23 THERE IS IN PLACE OF THE GRAPE STAKE FENCE. THE HILL AND
24 THE BIKE PATH ARE IN THE SAME LOCATION OR PROXIMITY.

25 MR. JACKSON: THE COURT SHOULD DIRECT THEIR
26 ATTENTION THAT THE BIKE PATH IN 1988 WAS THE PATH THAT'S
27 AT THE BOTTOM OF THE GRADE. IN OTHER WORDS, THE VALLEY
28 OR THE GULLY.

1 THE COURT: OKAY. AND WHAT ABOUT -- AND THE
2 GRAPE STAKE FENCE USED TO BE WHERE THE WHITE FENCE IS?

3 MR. JACKSON: YES. THE COURT COULD POINT OUT THE
4 WHITE FENCE AND SAY THIS FENCE HAS BEEN REPLACED. THAT
5 WAS THE POSITION OF THE GRAPE STAKE FENCE PREVIOUSLY.

6 THE COURT: ALL RIGHT. NOW THE SECOND QUESTION
7 WHICH WAS ACTUALLY THE FIRST QUESTION, THE STEVENS'
8 HOUSE.

9 MR. DIXON: THAT HAD BEEN OUR INITIAL REQUEST.
10 IT'S ACTUALLY RIGHT DOWN THE ROAD HERE.

11 MS. SARIS: AND WE'RE SAYING NO.

12 MR. JACKSON: AND SINCE THEY HAVE ASKED FOR THIS,
13 ALTHOUGH WE DID LITIGATE THIS AND WE REACHED WHAT I THINK
14 WAS A COMPROMISE TO ACCOMMODATE COUNSEL, SINCE THE JURORS
15 ARE SPECIFICALLY ASKING TO SEE THAT AND IT WAS A LOCATION
16 THAT WAS VERY HEAVILY TESTIFIED TO AND HAS BECOME HEAVILY
17 CONTESTED, OUR REQUEST WOULD BE JUST TO -- EVEN IF YOU
18 DON'T LET THEM OUT OF THE VAN TO STOP AT THE GARDI/MT.
19 OLIVE INTERSECTION.

20 MS. SARIS: THIS WAS TOTALLY AGAINST WHAT WE
21 AGREED TO. IT'S NOT THE SAME AS WHAT IT WAS. WE HAVE
22 HAD NO TESTIMONY THAT IT'S THE SAME AT ALL. THE
23 LOCATIONS THAT WE'VE SEEN FOR THE MOST PART HAVE BEEN
24 STIPULATED THAT THAT THEY WERE SIMILAR IN 1988. UNDER NO
25 CIRCUMSTANCES -- THE SHERIFFS ARE NOT READY FOR IT. WE
26 DIDN'T TELL THEM ABOUT IT. THIS IS NOT WHAT WE AGREED
27 TO. I WOULD JUST TELL HER NO.

28 MR. SUMMERS: IT'S ALSO ONE JUROR WHO IS ASKING

1 IN THE PRESENCE OF THE OTHER JURORS. ESSENTIALLY WHAT IS
2 GOING ON -- TAKING A REQUEST, IT BECOMES A FORM OF
3 DELIBERATIONS IN WHICH THEY'RE NOT SUPPOSED TO BE DOING
4 ABOUT WHAT IS IMPORTANT OR WHAT WE WANT TO SEE.

5 THE COURT: WELL, TELL ME HOW THE AREA HAS
6 CHANGED.

7 MS. SARIS: I THINK IT IS A DIFFERENT CORRAL.
8 I'VE MAINTAINED THAT FROM THE BEGINNING.

9 THE COURT: ALL RIGHT. WE ARE GOING TO HAVE
10 TO -- LET ME JUST SAY THIS, WE HAVE A NUMBER OF SHERIFFS
11 DEPUTIES OUT HERE WITH US. THIS IS COSTING QUITE A CHUNK
12 OF CHANGE. SO I DON'T WANT TO REPEAT THIS. AND MY
13 EXPECTATION IS IF THEY HAVE A QUESTION NOW -- OR IF ONE
14 OF THE JURORS HAS A QUESTION NOW, SHE IS GOING TO HAVE
15 THAT QUESTION LATER. AND WE ARE NOT GOING TO BE ABLE TO
16 EVEN ATTEMPT TO ANSWER THE QUESTION. I'M GOING TO ASK
17 THE DEPUTY OR THE SERGEANT TO TAKE ME DOWN THERE WITH YOU
18 GUYS AND WE CAN HASH IT OUT DOWN THERE. OKAY? IT'S JUST
19 DOWN THE STREET.

20 MS. SARIS: IT'S THREE QUARTERS OF A MILE AWAY.
21 IT'S COMPLETELY DIFFERENT THAN WHAT WE TALKED ABOUT.

22 THE COURT: LET'S GO DOWN THERE AND YOU GUYS CAN
23 STATE YOUR OBJECTIONS. LET ME TAKE A LOOK AT IT.

24 MS. SARIS: WE'RE BEING COMPLETELY BLIND SIDED BY
25 THIS. THIS IS NOT WHAT WE CAME OUT HERE FOR AND WE HAD
26 AN AGREEMENT.

27 THE COURT: COUNSEL, I AGREE WITH YOU 100
28 PERCENT. BUT WHEN A JUROR ASKS A QUESTION, IT'S MY

1 OBLIGATION TO SEE IF I CAN ANSWER IT. AND THAT'S WHAT
2 I'M GOING TO DO. I'M NOT SAYING I'M GOING TO LET THEM
3 SEE IT. I WANT TO SEE IT FIRST AND YOU CAN STATE YOUR
4 OBJECTIONS THEN.

5 MR. SUMMERS: THE JURORS WERE INSTRUCTED NOT TO
6 EVEN SPEAK, LET ALONE ASK QUESTIONS.

7 THE COURT: I UNDERSTAND THAT.

8 (PROCEEDINGS HELD AT SIDEBAR CONCLUDED.)
9

10 THE COURT: ALL RIGHT. THE ANSWER TO THE SECOND
11 QUESTION -- OR THE FIRST QUESTION, THE BIKE PATH IS AT
12 THE BOTTOM OF THE GRADE, BOTTOM OF THE HILL. THE GRAPE
13 STAKE FENCE USED TO BE WHERE THIS WHITE FENCE IS. AND
14 YOU ARE FREE TO GO TAKE A LOOK AT IT. AND YOU CAN LOOK
15 DOWN THE BIKE -- TO THE BIKE PATH IF YOU WISH.

16 THE OTHER QUESTION I'M STILL WORKING ON AN
17 ANSWER. SO I WILL GIVE YOU AN ANSWER IN A FEW MINUTES.
18 THANK YOU.

19 (PAUSE IN PROCEEDINGS.)

20 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
21 RECORD. I'M DOWN OUTSIDE THE STEVENS' HOUSE ON --

22 WHAT STREET IS THIS?

23 MR. JACKSON: THIS IS GARDI, YOUR HONOR.

24 MS. SARIS: AND MT. OLIVE.

25 THE COURT: AND MT. OLIVE WE'RE STANDING JUST
26 SOUTH OF THE --

27 WHAT DO YOU CALL THAT A WHITE FENCE?

28 MR. JACKSON: THE CORRAL.

1 MS. SARIS: CORRAL.

2 THE COURT: CORRAL. THANK YOU. THE JURORS ARE
3 NOT HERE. WHAT IS THE DEFENSE OBJECTION AS TO THIS VIEW?
4 THIS LOOKS THE SAME.

5 MS. SARIS: IT MIGHT LOOK THE SAME, BUT I RECALL
6 SPECIFICALLY MR. STEVENS TESTIFYING AT THE PRELIM THAT
7 THE FENCE WAS A DIFFERENT HEIGHT. I DON'T KNOW IF THE
8 COURT IS PLANNING ON HAVING THEM COME OUT OR JUST DRIVE
9 BY IT, BUT I THINK THIS IS TOTALLY INAPPROPRIATE. I
10 THINK IT'S GROUNDS FOR A MISTRIAL THAT THE JURORS WERE
11 EVEN SPEAKING DURING THE VIEW. WE WILL MOVE FOR A
12 MISTRIAL IF THE COURT IS CONSIDERING CHANGING THE
13 PARAMETERS OF THE VIEW IN THE MIDDLE OF THE VIEW.

14 THE COURT: ALL RIGHT. WELL, THE MOTION FOR
15 MISTRIAL IS DENIED. I'M GOING TO HAVE TO HAVE THE
16 JURORS -- IT DOES APPEAR TO ME THAT THIS IS THE EXACT
17 SAME CORRAL THAT WAS PRESENTED TO THE JURORS IN THE
18 EXHIBITS. THIS LOOKS THE EXACT SAME.

19 MR. SUMMERS: THOSE EXHIBITS WERE FROM YEARS
20 LATER NOT --

21 MS. SARIS: EXACTLY. THOSE EXHIBITS WERE TAKEN
22 FROM MR. JACKSON IN 2004.

23 THE COURT: CORRECT. WHICH MEANS THERE IS NO
24 PREJUDICE FOR THEM TO SEE THIS BECAUSE THEY HAVE SEEN THE
25 SAME EXHIBITS WITH THIS CORRAL.

26 MR. SUMMERS: THERE IS NO REASON TO --

27 THE COURT: THE TESTIMONY, THOUGH, WAS BASED ON
28 THE PHOTOGRAPH AND --

1 MR. JACKSON: CORRECT.

2 THE COURT: -- THE PHOTOGRAPHS WERE OF THIS VERY
3 FENCE. SO --

4 MS. SARIS: AND HE TESTIFIED, IF THE COURT
5 REMEMBERS, I DID A THING ABOUT HOW HIGH THE TOP STAKE WAS
6 AND IT HAD THREE SLATS ON IT AND IT WAS THIS HIGH AND HE
7 COULD SEE OVER IT. THEN I ASKED FOR A CONTINUANCE SO WE
8 CAN GET THE TRANSCRIPT OF THE PRELIMINARY HEARING BECAUSE
9 I'M CONVINCED HE SAID THE HEIGHT WAS DIFFERENT FOR SOME
10 REASON; WHETHER THE SLATS WERE DIFFERENT; WHETHER OR NOT
11 THE GROUND HAD SUNK.

12 I THINK THE COURT CAN SEE THERE IS NO
13 WOOD -- THE COLOR OF THE WOOD AT THE BOTTOM IS DIFFERENT.
14 BUT I HAVE A DISTINCT RECOLLECTION OF HIM SAYING THAT.
15 WE SPECIFICALLY DID NOT INTRODUCE OUR EXHIBIT OF THIS
16 FENCE BECAUSE WE THOUGHT THAT THEY WERE NOT COMING HERE.

17 AND WE CAME OUT HERE ABOUT FOUR MONTHS AGO
18 WITH OUR INVESTIGATORS AND WE TOOK SEVERAL PHOTOS OF
19 THIS. BUT WE DID NOT BRING THAT IN UP IN OUR CASE
20 BECAUSE BY THE TIME THE DEFENSE HAD PRESENTED ITS CASE,
21 WE HAD AN AGREEMENT THAT WE WERE NOT COMING OUT HERE AND
22 IT WAS NOT RELEVANT. AND NOW WE'RE BEING COMPLETELY
23 BLIND SIDED.

24 THE COURT: ALL RIGHT. I DON'T KNOW WHAT YOU ALL
25 DISCUSSED WHEN YOU WERE TRYING TO AGREE ON LOCATIONS.
26 BUT IN ALL HONESTY, THIS LOOKS THE SAME TO ME. AND THE
27 JURORS HAVE THE PHOTOS. THEY HAVE THE TESTIMONY. I
28 FRANKLY DON'T SEE THIS AS IRRELEVANT. IT'S PRETTY

1 RELEVANT AS FAR AS THE IDENTIFICATIONS.

2 MS. SARIS: LOTS OF ISSUES ARE RELEVANT TO A
3 TRIAL, BUT WE DON'T TAKE A VIEW OF THEM. AND WITH ALL
4 DUE RESPECT, THE COURT DID NOT SEE THIS FENCE IN 1988.

5 THE COURT: CORRECT.

6 MS. SARIS: SO TO SAY THAT IT LOOKS THE SAME --

7 THE COURT: WELL, I'M BASING THAT ON THE
8 TESTIMONY, THOUGH, OF MR. STEVENS. THIS APPEARS TO BE
9 THE EXACT SAME FENCE PRESENTED IN THE PHOTOS, WHICH HE
10 IDENTIFIED AS THE FENCE THAT WAS THERE IN 1988. I CAN
11 CAUTION THE JURORS THAT THE PHOTOGRAPHS THAT WE HAVE OF
12 THIS FENCE ARE FROM 200- -- WHAT YEAR? -4?

13 MS. SARIS: 4. I WOULD ASK THAT WE -- IF THE
14 COURT IS INSISTING ON THIS OVER OUR OBJECTION, THAT WE AT
15 LEAST JUST DRIVE BY AND NOT LET THEM OUT.

16 THE COURT: I'M NOT INSISTING ON ANYTHING. I
17 WANT TO ASSIST THE JURORS.

18 MR. DIXON: THE ONLY PROBLEM IS I THINK THAT WE
19 SHOULD STOP; THE JURORS SHOULD GET OUT AND LOOK. BECAUSE
20 IF THEY ARE REQUIRED TO SIT IN THE VANS, THEN ALL OF THEM
21 DON'T HAVE THE SAME VIEW. SOME ARE LOOKING OVER SOMEBODY
22 ELSE; SOME ARE FOUR PEOPLE REMOVED FROM --

23 THE COURT: JUST SO THE RECORD IS CLEAR, WHEN WE
24 WERE DRIVING BY THE LANCE JOHNSON HOUSE, I HAD THE VAN
25 STOP MOMENTARILY BECAUSE I WANTED TO BE SURE THAT THE
26 JURORS ON THE OTHER SIDE OF THE VAN COULD SEE. I WILL DO
27 THE SAME THING HERE.

28 MR. JACKSON: OKAY.

1 MR. DIXON: OKAY.

2 MS. SARIS: AND, AGAIN, I WOULD -- I JUST WANT TO
3 MAKE IT VERY CLEAR FOR THE RECORD, THE DEFENSE
4 SPECIFICALLY HAD EXHIBITS. WE SPENT MONEY AND TIME WITH
5 AN INVESTIGATOR TO COME OUT HERE. AND WE DID NOT
6 INTRODUCE THAT BECAUSE WE WERE TOLD THIS WAS NOT GOING TO
7 BE AN ISSUE.

8 SO THAT WOULD BE A BASIS OF OUR MISTRIAL
9 MOTION IF THE COURT ALLOWS THIS. ALSO, I THINK IT'S
10 INVITING THE JURORS TO CONDUCT EXPERIMENTS, WHICH IS
11 COMPLETELY IMPROPER. IN 99.9 PERCENT OF EYEWITNESS
12 IDENTIFICATION CASES, THE JURORS ARE NOT TAKEN TO THE
13 SCENE.

14 MR. SUMMERS: ALSO, IF THE JURORS ARE NOT
15 SUPPOSED TO COMMENT, NOW WE HAVE ONE JUROR IN FRONT OF
16 THE OTHER JURORS MAKING THIS REQUEST. ARE WE GOING TO
17 ASK THE OTHER JURORS IF THERE IS OTHER THINGS -- AS LONG
18 AS WE ARE OUT THERE, ARE OTHER THINGS THEY WANT TO SEE?

19 MS. SARIS: I THINK IT ALSO -- TO THE EXTENT OF
20 WHAT THE COURT THINKS IS IMPORTANT AND PROPER EVIDENCE IN
21 THIS CASE BY RELINQUISHING TO THE CONCERNS OF ONE JUROR.

22 THE COURT: OKAY. WE CAN DO ALL OF THIS LATER.
23 LET'S SEE IF WE CAN GET THE VANS WITH THE JURORS JUST TO
24 COME DOWN.

25 THE BAILIFF: DO YOU WANT THEM TO STAY IN AND NOT
26 STOP?

27 MR. DIXON: MAYBE ONE STOP ON BOTH SIDES OF THE
28 VAN.

1 MS. SARIS: WELL, WE WOULD ASK FOR THESE CARS TO
2 BE --

3 THE COURT: ONCE. I DON'T WANT THEM TO COME OUT
4 OF THE VAN.

5 (SCENE VISIT CONCLUDED.)

6
7 (THE FOLLOWING PROCEEDINGS WERE
8 HELD IN OPEN COURT OUTSIDE THE
9 PRESENCE OF THE JURY.)

10
11 THE COURT: ALL RIGHT. LET'S GO BACK ON THE
12 RECORD ON THE GOODWIN MATTER. MR. GOODWIN IS ACTUALLY
13 STILL HERE IN THE BUILDING. HE WAS SUPPOSED TO GO BACK
14 EARLIER AND IT NOT. SO I WANTED TO PUT SOME MATTERS ON
15 THE RECORD THAT WE NEEDED TO DISCUSS. WE HAVE NO JURORS
16 PRESENT. WE VIEWED THE LOCATIONS. THERE WAS AN
17 ADDITIONAL STOP. AND I WANTED MR. GOODWIN TO KNOW THAT.

18 SO IS THERE ANYTHING FURTHER THAT WE NEED
19 TO DISCUSS ABOUT THE VIEWING OF THE SCENES.

20 MS. SARIS: YOUR HONOR, I HAVE TALKED TO
21 MR. GOODWIN REGARDING WHAT WE BELIEVE TO BE IMPROPER
22 CONDUCT OF THE JURORS AT THE VIEW; AND THE UNILATERAL
23 DECISION TO MAKE A SECOND STOP BEYOND WHAT WE HAD AGREED
24 TO; AND THE ADMONITION BEING IGNORED; THE COURT'S FAILURE
25 TO ENFORCE THE ADMONITION AND ACTUALLY ACCEPTING THE
26 QUESTIONS OF THE JURORS.

27 OUR MOTION -- OR THE DENIAL OF THAT
28 MOTION. OUR OBJECTION THAT -- WE NOTED THE OBJECTION;

1 THAT, LORI, THE COURT REPORTER WAS PRESENT AT THE SCENE
2 AND NOTED THE OBJECTION. I DON'T KNOW WHAT ELSE TO SAY.
3 HE'S BEEN INFORMED.

4 THE COURT: ALL RIGHT. WELL, THE RECORD SHOULD
5 REFLECT WHAT HAPPENED. I THINK WE GOT MOST OF IT ON THE
6 RECORD, BUT IT WAS OUTSIDE OF MR. GOODWIN'S PRESENCE.

7 MS. SARIS: RIGHT. AND I JUST ALSO WANT TO STATE
8 THAT HE HAD WAIVED HIS PRESENCE BASED ON THE AGREEMENT
9 THAT WE HAD MADE. AND I DON'T BELIEVE THAT THEREFORE IS
10 A VALID WAIVER OF PARTS OF THE TRIAL THAT OCCURRED
11 OBVIOUSLY WITHOUT HIS PRESENCE BECAUSE WE WEREN'T GIVEN
12 AN OPPORTUNITY TO CONSULT WITH HIM BEFORE THE COURT TOOK
13 THE JURORS TO ANOTHER LOCATION.

14 THE COURT: I UNDERSTAND. JUST SO THE RECORD IS
15 CLEAR, AFTER WE -- WELL, AS WE WERE LEAVING THE LAST
16 STOP, WHICH WAS AT THE WEST GATE OF WOODLYN AND ROYAL
17 OAKS -- AND I AM GOING TO MARK AS AN EXHIBIT COURT'S
18 EXHIBIT 1 FOR TODAY. IT'S ONE PAGE THAT INCLUDES THE
19 STATEMENT READ BY THE COURT EARLIER TO THE JURORS.

20 AND THERE WERE THREE STATEMENTS THAT WERE
21 MADE BY THE COURT AT THE LOCATION THIS MORNING THERE AT
22 COUNSEL'S REQUEST. SO REFERENCING THE LAST WEST GATE
23 STOP WHICH IS ON COURT'S 1, I THINK THE JURORS WERE OUT
24 THERE FOR A FEW MINUTES. ONE OF THE JURORS ASKED TO
25 CROSS THE STREET -- HANG ON ONE SECOND.

26 (PAUSE IN PROCEEDINGS.)

27 THE COURT: ALL RIGHT. I THINK I LEFT OFF
28 TALKING ABOUT THERE WAS A QUESTION WHEN WE WERE AT THE

1 WEST GATE BY A JUROR WHO WANTED TO KNOW IF THEY COULD
2 CROSS THE STREET AND LOOK AT THE BIKE PATH BELOW WHERE
3 THE GRAPE STAKE FENCE USED TO BE. THERE WAS A DIFFERENT
4 FENCE THERE. AND WE ALLOWED THEM TO DO IT THAT.

5 WHEN THEY WERE COMING BACK AND BEFORE THE
6 JURORS GOT ON THE VAN, JUROR NO. 1 ASKED TWO QUESTIONS.
7 SHE WANTED TO KNOW IF WE WERE GOING NEXT TO THE STEVENS'
8 HOUSE. AND I THINK IT WAS SOMETHING ALONG THOSE LINES OR
9 WHEN ARE WE GOING? OR ARE WE GOING?

10 MS. SARIS: WHETHER.

11 THE COURT: WHETHER WE ARE GOING?

12 MS. SARIS: WHETHER.

13 THE COURT: WHETHER WE ARE GOING TO THE STEVENS'
14 HOUSE. AND THE OTHER QUESTION THAT SHE ASKED ESCAPES ME
15 NOW.

16 MS. SARIS: ARE WE SUPPOSED TO BE LOOKING AT THE
17 FENCE OR DOWN.

18 THE COURT: YES. AND SHE WAS THE ONE THAT
19 ACTUALLY ASKED THE QUESTION ABOUT THE BIKE PATH. SO SHE
20 ACTUALLY HAD TWO QUESTIONS; RIGHT?

21 MS. SARIS: YES. AND WE AGREED AND STIPULATED
22 THAT THEY CAN LOOK THROUGH THE FENCE DOWN AT THE BIKE
23 PATH.

24 THE COURT: RIGHT.

25 MS. SARIS: AND WE HAD A FURTHER STIPULATION THAT
26 THE COURT COULD TELL THE JURORS THE MAN HOLE AT 53
27 WOODLYN LANE AT THE TOP OF THE DRIVEWAY WAS NOT THERE IN
28 1988.

1 THE COURT: CORRECT. SO THE COURT CONFERRED WITH
2 COUNSEL, AND WE WENT DOWN TO THE LOCATION OF THE STEVENS'
3 HOME AT GARDI AND MT. OLIVE AND STOOD OUTSIDE ON THAT
4 CORNER. THERE APPEARED TO BE A CORRAL IN THE SAME
5 CONDITION THAT IT APPEARED IN THE PHOTOS AND THE
6 TESTIMONY OF MR. STEVENS.

7 THE COURT WAS OF THE OPINION THAT SINCE WE
8 WENT TO GREAT EXPENSE GOING OUT THERE WITH MANY SHERIFFS
9 DEPUTIES, WHICH ALSO INVOLVED A NUMBER OF SHERIFFS CARS
10 AND SPECIAL TRANSPORTATION FOR THE JURORS AT GREAT
11 EXPENSE, I WANTED TO AVOID THE SITUATION WHERE THE JURORS
12 WOULD START DELIBERATING AND THEN MAKE A REQUEST TO LOOK
13 AT THAT LOCATION. I'M AWARE OF THE FACT THAT WE DIDN'T
14 DISCUSS THIS AHEAD OF TIME.

15 MS. SARIS: WE DID MORE THAN NOT DISCUSS IT. WE
16 DISCUSSED IT AND DISAPPROVED OF IT. THAT WAS PART OF OUR
17 DISCUSSIONS IN COMING TO OUR AGREEMENT.

18 THE COURT: WELL, YOU MAY HAVE DISCUSSED IT. I
19 WASN'T A PART OF ANY OF THE DISCUSSIONS. SO I CERTAINLY
20 UNDERSTAND THAT IT WASN'T SOMETHING THAT WAS AGREED UPON.
21 I DON'T KNOW IF YOU WANT TO PUT SOMETHING ELSE ON THE
22 RECORD ABOUT THAT BECAUSE I WASN'T PRIVY TO THOSE
23 DISCUSSIONS.

24 MS. SARIS: WELL, THE INITIAL DISCUSSION COUNSEL
25 AND I HAD HAD DISCUSSED GOING TO THE STEVENS' HOME.
26 AFTER THE TESTIMONY, COUNSEL AND I HAD OBVIOUSLY A
27 DISAGREEMENT ABOUT WHETHER OR NOT WE HAD MADE AN
28 AGREEMENT PRIOR.

1 SO MR. DIXON AND MR. JACKSON AND I
2 CONFERRED IN THE JUROR ROOM. AND WE DECIDED NOT ONLY ON
3 THE FACT THAT WE WERE ONLY GOING TO WOODLYN LANE, WE
4 DECIDED ON AN EXACT ROUTE THAT WE WERE GOING TO FOLLOW;
5 AND SPECIFICALLY NOT TO GO TO THE STEVENS' HOME. THAT
6 WAS THE BASIS OF OUR AGREEMENT TO THE VIEW WITHOUT
7 OBJECTING. THAT WAS THE BASIS OF MR. GOODWIN WAIVING HIS
8 APPEARANCE. AND THAT WAS THE BASIS FOR OUR OBJECTION
9 WHEN THE COURT DECIDED TO ALLOW A JUROR TO DICTATE THE
10 VIEW PARAMETERS OUTSIDE OF OUR AGREEMENT.

11 MR. SUMMERS: AND MY RECOLLECTION IS THAT THE
12 COURT'S WORDS WERE THAT THE COURT WAS THIS CLOSE TO
13 DENYING OR CANCELLING THE PLANNED JURY VIEW IF THE
14 PARTIES COULD NOT AGREE. SO IT WAS SPECIFICALLY PUT ON
15 THE PARTIES TO AGREE TO WHAT THAT WOULD BE AND WHETHER
16 THERE WOULD BE BASICALLY A JURY VIEW.

17 MS. SARIS: AND AS I STATED OUT AT THE CRIME
18 SCENE ITSELF AND THE SCENE OF THE STEVENS' HOME, WE
19 SPECIFICALLY DID NOT CALL WITNESSES THAT WE HAD READY.
20 AND I'M HAPPY TO HAVE THOSE PHOTOGRAPHS OR EXHIBITS
21 MARKED AS AN EXHIBIT FOR THE PURPOSE OF OUR MOTION HERE.
22 THAT WE HAD, AT EXPENSE TO US, TAKEN TWO INVESTIGATORS
23 OUT TO THAT SCENE TO TAKE PHOTOGRAPHS BASED ON OUR
24 RECOLLECTION OF THE PRELIMINARY HEARING TESTIMONY THAT
25 THE CORRAL HAD CHANGED IN HEIGHT.

26 AND ALSO ON COUNSEL'S -- WHAT WE BELIEVE
27 AN EXHIBIT THAT THEY HAD THAT THEY CHOSE NOT TO PUT INTO
28 EVIDENCE IN ITS ENTIRETY, BUT ONE OF THE PHOTOGRAPHS

1 BECAME PART OF ANOTHER EXHIBIT WHERE THEY USED AN SUV
2 INSTEAD OF A CHEVY WAGON. AND WE SPECIFICALLY IN OUR
3 DEFENSE CASE CHOSE NOT TO CALL THOSE INDIVIDUALS BECAUSE
4 THAT WAS NOT GOING TO BE ONE OF THE PARAMETERS. AND WE
5 DECIDED TO RELY ON OUR EYEWITNESS EXPERT.

6 THE COURT: ALL RIGHT. I HAVE TO INDICATE THAT
7 HAD THIS BEEN PART OF THE PEOPLE'S REQUEST, I WOULD HAVE
8 GRANTED IT.

9 MR. JACKSON: I WOULD NOTE FOR THE RECORD, YOUR
10 HONOR, ONE OF THE THINGS THAT I HOPE ISN'T LOST IN THE
11 RECORD IS THAT WE FILED, WITH NOTICE TO COUNSEL, WE FILED
12 A SPECIFIC REQUEST FOR JURY VIEW. AND THE GARDI ADDRESS
13 WAS SOMETHING THAT WE WANTED TO BEGIN WITH. AND WHEN THE
14 COURT PUT IT UPON US -- AND AS ADULTS WE SHOULD AT LEAST
15 ATTEMPT TO AGREE, EVEN AS LITIGANTS AND ADVERSE PARTIES,
16 WE SHOULD ATTEMPT TO AGREE. AND MR. SUMMERS IS RIGHT, I
17 THINK THE COURT HAD SUFFERED SOME FRUSTRATION THAT WE
18 WERE NOT ABLE TO AGREE. MS. SARIS AND I HAD A VERY
19 SPECIFIC DISAGREEMENT ABOUT WHAT WAS PREVIOUSLY, OFF THE
20 RECORD, A MEETING OF THE MINDS OR LACK THEREOF, IT WAS
21 THE GARDI/MT. OLIVE INTERSECTION.

22 THE PEOPLE REQUESTED IT. WE LITIGATED IT.
23 WE KIND OF FOUGHT PRETTY HARD FOR IT. AND WHEN THE COURT
24 EXPRESSED A LEVEL OF FRUSTRATION, IT'S MORE IMPORTANT TO
25 MAINTAIN CIVILITY AND TRY TO ACCOMMODATE THE COURT SO
26 THAT WE COULD GET A JURY VIEW, WHICH WAS IMPORTANT,
27 RATHER THAN FIGHT FOR THAT ONE ISSUE.

28 BUT THEN THE -- AND BY THE WAY, I SHOULD

1 NOTE THAT A JURY VIEW IS NOT SOMETHING THAT IS THE
2 SUBJECT ONLY OF STIPULATIONS. IF ONE PARTY OR THE OTHER
3 REQUESTS IT, IT CAN OVER THE OBJECTION OF THE ADVERSE
4 PARTY. AS LONG AS IT IN ANY WAY SHAPE, FORM OR FASHION
5 FOR THE COURT'S DISCRETION AIDS OR ASSISTS IN THE JURORS'
6 DETERMINATION OF THE TRUE FACTS IN THE CASE.

7 THE GARDI ADDRESS IS A POINT OF GREAT
8 CONTENTION AS THE DEFENSE HAS MADE NOTE IN THEIR DEFENSE
9 CASE IN CHIEF AND COUNSEL'S OPENING STATEMENT. SO WE
10 DECIDED THAT IT WAS SOMETHING THAT WAS IMPORTANT TO US.
11 HOWEVER, ONCE EVEN POST THE AGREED-UPON ROUTE, ONE OF THE
12 JURORS BROUGHT IT UP. IT WASN'T THAT COUNSEL ON OUR
13 SIDE, MR. DIXON OR MYSELF, HAD EVER BROUGHT IT UP AT ALL.

14 IT WAS A JUROR WHO SAID, HEY, YOU KNOW
15 WHAT, THAT'S IMPORTANT ENOUGH TO ME TO INQUIRE OF. AND I
16 THINK THE COURT TOOK THE CORRECT STEP TO TRY TO ANSWER
17 THE JURORS' QUESTIONS GIVEN THE FACT THAT THIS WAS A
18 HIGHLY CONTESTED ISSUE IN THE CASE.

19 MS. SARIS: AND, YOUR HONOR, IF I MAY JUST SAY,
20 THIS MOTION WAS NEVER LITIGATED. THIS MOTION WAS FILED
21 AND THE COURT ASKED US TO AGREE. HAD THIS BEEN
22 LITIGATED, WE WOULD HAVE HAD AN OBJECTION TO THE ENTIRETY
23 OF THE VIEW.

24 THE COURT: LET'S PUT ON THE RECORD, THOUGH, WHAT
25 HAPPENED WHICH WAS THE PEOPLE DID EARLY ON FILE A MOTION.

26 MS. SARIS: THAT'S CORRECT.

27 THE COURT: AND I WAS TOLD BY YOU, MS. SARIS,
28 THAT YOU WERE IN AGREEMENT WITH THE VIEW OF THE SCENE.

1 AND THEN WE NEVER DISCUSSED IT AGAIN UNTIL ALMOST THE
2 CLOSE OF THE PEOPLE'S CASE. AT THAT POINT, I MADE THE
3 ASSUMPTION, ERRONEOUSLY, THAT YOU ALL HAD AGREED. AND
4 WHEN WE STARTED -- OR WHEN YOU ALL STARTED ARGUING ABOUT
5 THE VIEW, I HAD ALREADY SET IT UP WITH THE SHERIFF'S
6 DEPARTMENT AND IT WAS ALREADY PLANNED; WE ALREADY TOLD
7 THE JURORS ABOUT IT.

8 YES, MY LEVEL OF FRUSTRATION WAS GREAT.
9 AND YOU DESCRIBED IT ACCURATELY. AND I ASKED YOU TO
10 AGREE BECAUSE I WAS UNDER THE IMPRESSION THAT YOU DID
11 AGREE. BUT WE DIDN'T FULLY LITIGATE ALL THE SPECIFICS OF
12 IT. I THINK WE STARTED TO, AND WHEN I SAW THAT THERE WAS
13 NO AGREEMENT, I ASKED COUNSEL OR INSISTED THAT COUNSEL
14 TRY TO WORK THIS OUT, WHICH COUNSEL DID. AND I WAS VERY
15 APPRECIATIVE OF THAT.

16 BUT THE PROBLEM IS IS THIS IS AN IMPORTANT
17 LOCATION IN THIS TRIAL. AND MY FEELING IS IF A JUROR
18 THOUGHT ENOUGH TO ASK ABOUT IT, IT WOULD HAVE BEEN A
19 QUESTION THAT WOULD HAVE ARISEN DURING DELIBERATIONS.
20 AND I COULD NOT ACCOMMODATE THE JURORS AT A LATER DATE.
21 THERE IS JUST NO WAY THAT THE SHERIFF'S DEPARTMENT OR THE
22 COURT CAN SPEND THAT KIND OF MONEY TO DO ANOTHER VIEWING
23 OF THE SCENE.

24 SO I'M AWARE OF THE FACT THAT MR. GOODWIN
25 WAS NOT PRESENT AND THIS WAS THE TAKING OF TESTIMONY, IN
26 ESSENCE, IS WHAT IT WAS. IT WAS PART OF THE TRIAL.
27 HOWEVER, I THINK THAT GIVEN THE PHOTOGRAPHS AND THE
28 TESTIMONY THAT WE HAVE, WHILE IT CERTAINLY MAY HAVE BEEN

1 ERROR ON THE COURT'S PART BECAUSE MR. GOODWIN DIDN'T
2 WAIVE HIS PRESENCE FOR THAT PARTICULAR LOCATION, I
3 BELIEVE THAT THAT IS NOT PREJUDICIAL ERROR. AND IT'S ONE
4 THAT HAD THE PEOPLE RAISED AT THE BEGINNING IN THEIR
5 MOTION. AND HAD THERE BEEN NO AGREEMENT BY THE DEFENSE,
6 THE COURT WOULD HAVE GRANTED THAT REQUEST.

7 MS. SARIS: I JUST WANT TO MAKE TWO THINGS CLEAR,
8 ONE IS WE'RE NOT -- WE WERE NEVER ARGUING THAT THE
9 STEVENSES HAD AN ISSUE WITH THE ABILITY TO SEE. THIS IS
10 A BOGUS IDENTIFICATION. I THINK DR. PEZDEK MADE CLEAR
11 OUR POINT 13 YEARS LATER IS JUST RIDICULOUS. SO THE IDEA
12 THAT THE SCENE IS IMPORTANT, IS IT NOT. IT COULD HAVE
13 BEEN ANYWHERE.

14 THE FACT IS 13 YEARS LATER THEY WERE BEING
15 ASKED TO COME UP WITH IT. IT DOESN'T MATTER IF THEY WERE
16 TEN FEET AWAY FROM ONE ANOTHER OR IF IT WAS IN THE MIDDLE
17 OF MOUNT BALDY. THE SCENE ITSELF WAS NOT AN ISSUE.

18 SECOND, THE TAKING OF TESTIMONY IN
19 GENERAL, NOT JUST AT THE STEVENS' HOME WE HAVE A STRONG
20 OBJECTION TO IN THAT THE COURT -- AND WE AGREED THAT THE
21 ADMONISHMENT WAS GOING TO BE THAT THEY STAY SILENT. AND
22 THAT WAS ONE OF THE BASIS ON WHICH WE GOT THE WAIVER OF
23 MR. GOODWIN'S PRESENCE. THE COURT ALL BUT INVITED
24 QUESTIONS AND --

25 THE COURT: WAIT A MINUTE.

26 MR. DIXON: WE DISAGREE WITH THAT, YOUR HONOR.

27 MS. SARIS: LET ME -- LET ME -- LET ME --

28 THE COURT: WAIT. WAIT A MINUTE. THE COURT --

1 MS. SARIS: IN THE SENSE THAT THE COURT NEVER
2 STOPPED --

3 THE COURT: NO. WAIT A MINUTE. THE COURT NEVER
4 INVITED QUESTIONS. THE COURT TOOK GREAT PAINS TO KEEP
5 AWAY FROM THE JURORS; TO HANG AROUND WITH COUNSEL.

6 MS. SARIS: AND I DON'T MEAN TO IMPLY OFF THE
7 RECORD THE COURT SAID OR WHISPERED TO SOMEONE. BUT WHEN
8 THE FIRST QUESTION WAS ASKED, THE COURT DID NOT MAKE IT
9 VERY, VERY CLEAR, THIS IS INAPPROPRIATE. I'M NOT TAKING
10 QUESTIONS. THE DEFENDANT IS NOT HERE. WE'RE NOT DOING
11 THIS.

12 THE COURT CONVENED EVERYONE. GOT LORI ON
13 THE RECORD -- WHICH WAS APPROPRIATE ON THE ONE HAND
14 BECAUSE THE COMMENTS HAD BEEN MADE, BUT THERE WAS NO
15 STICKING TO THE SCRIPT, WHICH WAS: LISTEN. THIS IS
16 INAPPROPRIATE. WE'RE NOT HERE TO ASK FOR QUESTIONS. AND
17 THEN THE SECOND QUESTION CAME UP; THEN THE THIRD QUESTION
18 CAME UP. SO THE ENVIRONMENT -- AND I DID NOT MEAN TO
19 IMPLY THE COURT ASKED ANYONE ARE THERE QUESTIONS, BUT THE
20 ENVIRONMENT WAS INVITING OF QUESTIONS UNFORTUNATELY. AND
21 THAT WAS NOT THE BASIS FOR MR. GOODWIN'S WAIVER OF HIS
22 PRESENCE.

23 AND THE STATEMENT OF THE JUROR I THINK IS
24 VERY IMPORTANT. WHETHER WE'RE GOING TO SEE THE STEVENS'
25 HOME. SHE DID NOT SAY: I WANT TO SEE THE STEVENS' HOME.
26 CAN YOU TAKE ME TO THE STEVENS' HOME? ARE WE GOING TO
27 THE STEVENS' HOME NEXT?

28 WHICH WAS A RIDICULOUS QUESTION BECAUSE WE

1 HAD SAT THEM DOWN PRIOR TO LEAVING AND TOLD THEM WE'RE
2 GOING TO THREE LOCATIONS. WE ACTUALLY -- MY FIRST DRAFT
3 OF THE STIPULATION THAT THE COURT WAS GOING TO READ
4 DIDN'T INCLUDE THE LISTING OF THE THREE. AND THEY ADDED
5 THE LISTING OF THE THREE THAT WAS IN THE INITIAL
6 STATEMENT. SO --

7 MR. DIXON: YOUR HONOR, COULD I RESPOND BRIEFLY?

8 MS. SARIS: NO. I'M NOT FINISHED.

9 SO THEY WEREN'T LISTENING. SHE WAS NOT
10 LISTENING, IN OTHER WORDS. SO THE FACT THAT THIS JUROR
11 WASN'T LISTENING ISN'T STRONG ENOUGH EVIDENCE THAT WE
12 SHOULD HAVE CHANGED THE PARAMETERS EITHER FOR THIS VIEW
13 OR FOR MR. GOODWIN'S PRESENCE.

14 THE COURT: OKAY.

15 MR. DIXON: YOUR HONOR, I DISAGREE WITH THAT. IF
16 I COULD JUST MAKE A COUPLE OF COMMENTS. ONE, I DO NOT
17 BELIEVE THE JURORS DISOBEYED THE COURT'S STIPULATED
18 STATEMENT TO THEM PRIOR TO THE JURY VIEW. IT WAS THAT
19 THEY SHOULD NOT DELIBERATE OR DISCUSS THINGS BETWEEN OR
20 AMONG THEMSELVES. THE JURORS ARE USED TO AND OFTEN ASK
21 QUESTIONS OF THE COURT, OF THE CLERK AND OF THE BAILIFF.
22 THERE WAS NO DIRECT ADMONITION NOT TO DO THAT.

23 AND THEREFORE, I DON'T BELIEVE THERE WAS
24 ANY VIOLATION OF THE STIPULATION. I ALSO DON'T BELIEVE
25 THAT THERE WAS ANY TESTIMONY TAKEN. A JURY VIEW IS NOT
26 TESTIMONY. AND, IN FACT, THE COURT WENT TO GREAT PAINS
27 TO MAKE SURE THAT THERE WAS NO TESTIMONY. SO THEREFORE I
28 DON'T THINK MR. GOODWIN'S RIGHTS WERE VIOLATED.

1 AND LASTLY, A JURY VIEW -- ACCORDING TO
2 THE CASE LAW AND THE PENAL CODE -- IS WITHIN THE SOUND
3 DISCRETION OF THIS COURT. IF THERE HAD BEEN NO
4 AGREEMENT, THE COURT COULD HAVE STILL GRANTED OR DENIED
5 THE PEOPLE'S REQUEST. AND ONCE WE WERE THERE, I BELIEVE
6 IT WAS WITHIN THE COURT'S SOUND DISCRETION TO CONSIDER
7 AND DISCUSS AMONG COUNSEL THE JURORS' QUESTION. AND THEN
8 TO DECIDE WHETHER TO ACCOMMODATE THE JUROR OR NOT. AND I
9 SEE NOTHING WRONG WITH WHAT HAPPENED AT THE JURY VIEW.
10 AND I THINK IT WAS ALTOGETHER APPROPRIATE.

11 THE COURT: I AGREE WITH YOU THAT "TESTIMONY" WAS
12 THE WRONG WORD. WE RECEIVED EVIDENCE BY GOING TO THE
13 SCENE, ALL OF THESE LOCATIONS. SO TO THAT EXTENT, IF
14 MR. GOODWIN DIDN'T AGREE TO THAT, WE DID RECEIVE
15 EVIDENCE. AND IT SHOULD BE CLEAR, THE JURORS WERE NOT
16 PERMITTED TO GET OUT OF THE VANS. THEY WERE SIMPLY
17 DRIVEN BY THE STEVENS' HOME. THEY WENT WEST ON GARDI.

18 MR. JACKSON: GARDI.

19 THE COURT: AND TURNED AROUND AND CAME BACK GOING
20 EAST ON GARDI. THEY STAYED IN THE VANS. THE VANS WERE
21 ON THE CORNER, WHICH WAS DIRECTLY ACROSS FROM THE HOUSE.
22 I MEAN FIRST THEY WERE ON THE --

23 MR. JACKSON: NORTH SIDE.

24 MS. SARIS: NORTH SIDE.

25 THE COURT: AND THEN THEY WERE ON THE SOUTH SIDE.

26 MS. SARIS: AND THEY STOPPED FOR A PERIOD OF TIME
27 IN EACH LOCATION.

28 THE COURT: THEY DID STOP BECAUSE EARLIER IT WAS

1 BROUGHT TO MY ATTENTION THAT SOME OF THE PEOPLE ON THE
2 OTHER SIDE OF THE VAN WHEN WE WERE GOING BY LANCE
3 JOHNSON'S HOUSE PERHAPS DIDN'T HAVE AN OPPORTUNITY TO
4 LOOK OUT OF THE VAN. BECAUSE WHEN WE DROVE BY LANCE
5 JOHNSON'S HOUSE ONLY THE -- I GUESS THE PASSENGERS SEATED
6 ON THE NORTH SIDE OF THE VAN WOULD HAVE HAD THE ABILITY
7 TO SEE.

8 SO MY INTENT WAS TO BASICALLY MAKE THIS
9 LAST VIEW AS BRIEF AS POSSIBLE. AND I BELIEVE I DID. I
10 DON'T BELIEVE THAT THERE WAS ANY FURTHER EXPERIMENTATION
11 OR TAKING OF EVIDENCE AT THAT LOCATION. IT WAS SIMPLY A
12 DRIVE BY. WE STOPPED THE VANS. THEY WERE ABLE TO LOOK
13 OUT THE WINDOW.

14 AND, ESSENTIALLY, ALL I COULD SEE FROM MY
15 VANTAGE POINT WAS THE CORRAL, THE FENCING. AND THERE WAS
16 NOTHING ELSE THERE. THERE WERE NO CARS PARKED WHERE
17 MR. GOODWIN'S CAR -- OR WHERE THE WITNESS IDENTIFIED A
18 CAR IN WHICH MR. GOODWIN WAS SEATED. THERE WAS NO CAR
19 PARKED THERE.

20 SO TO THE EXTENT THAT THE COURT WENT
21 BEYOND THE SCOPE OF WHAT WAS AGREED TO, I CERTAINLY
22 ACKNOWLEDGE IT. BUT I WOULD HAVE DONE IT REGARDLESS. I
23 DO VIEW THIS AS AN IMPORTANT PART OF THE PEOPLE'S CASE.
24 IT MAY NOT BE AN IMPORTANT PART OF THE DEFENSE CASE GIVEN
25 DR. PEZDEK'S TESTIMONY AND IT MAY BE TOTALLY DISREGARDED,
26 THE IDENTIFICATION BY THE JURY. I DON'T KNOW.

27 BUT I SAW THE REQUEST BY A JUROR AS A
28 REASONABLE ONE. AND I SAW NO REASON WHY I COULDN'T

1 ACCOMMODATE THEM. AND AT THE TIME I FELT THAT WAS
2 APPROPRIATE. IN LOOKING AT COURT'S 1, THE STATEMENT THAT
3 I READ TO THE JURORS EARLIER, I DON'T SEE WHERE I
4 INDICATED OR ADMONISHED THEM THAT THEY COULDN'T ASK
5 QUESTIONS.

6 I KNOW THAT THERE IS A JURY INSTRUCTION
7 THAT INVITES JURORS TO ASK QUESTIONS. THIS COURT HAS
8 NEVER UTILIZED THAT INSTRUCTION, ALTHOUGH IT'S BEEN
9 RECOMMENDED. I DON'T THINK THERE IS ANYTHING
10 INAPPROPRIATE ABOUT JURORS ASKING QUESTIONS, BUT I NEVER
11 INVITE QUESTIONS.

12 AND THAT'S WHAT HAPPENED TODAY. QUESTIONS
13 WERE NOT INVITED, BUT THEY WEREN'T TOLD THAT THEY
14 COULDN'T ASK QUESTIONS. AND ONE OF THE JURORS DID ASK A
15 QUESTION. SO THE RECORD, I THINK, IS PRETTY CLEAR AS TO
16 WHAT HAPPENED TODAY. AND I APPRECIATE EVERYBODY COMING
17 BACK AND PUTTING IT ON THE RECORD.

18 I DID HAVE THE COURT REPORTER -- JUST
19 MOVING ON BECAUSE IT'S LATE AND I WANT TO GET DONE. WE
20 HAVE THE JURORS COMING IN MONDAY MORNING AT 9:00 O'CLOCK.
21 THE COURT REPORTER DID EARLIER TODAY READ BACK THE
22 PORTION OF THE PROCEEDINGS WHERE EXHIBIT BB AND BB-1 WERE
23 DISCUSSED AT THE SIDEBAR. THE REPORTER'S NOTES INDICATE
24 THAT THE JURY DID NOT HEAR --

25 MS. SARIS: THEN WE WITHDRAW THAT.

26 MR. JACKSON: THANK YOU.

27 THE COURT: -- THAT CD. SO BB AND BB-1 WILL NOT
28 BE ADMITTED INTO EVIDENCE. I DID PUT TOGETHER, BASED ON

1 WHAT WAS GIVEN TO ME BY THE PEOPLE, NOW A COMPLETE
2 PACKAGE I BELIEVE OF JURY INSTRUCTIONS. WE ARE NOT GOING
3 TO HAVE TIME TO DISCUSS THEM MONDAY MORNING. AND I WOULD
4 ASK FOR COUNSEL'S INDULGENCE TO TRY TO GET IT DONE TODAY.

5 MR. JACKSON: SURE.

6 MS. SARIS: WELL, WE CAN START WITH 2.06. 2.06,
7 WHICH IS THE MOTION TO SUPPRESS EVIDENCE. THIS IS
8 APPARENTLY BASED ON STEW LINKLETTER THAT OCCURRED FOUR
9 YEARS PRIOR TO THIS CRIME. THAT'S NOT -- THE INSTRUCTION
10 IS NOT BASED ON -- THE REMOTENESS OF THIS PARTICULAR
11 POTENTIAL THREAT TO STEW LINKLETTER THAT SOMEHOW MICHAEL
12 GOODWIN, WHETHER OR NOT HE HAD THE INTENT TO RIP MICKEY
13 THOMPSON OFF.

14 IF MICHAEL GOODWIN WERE SUCCESSFUL IN
15 THAT, THEORETICALLY, MICKEY THOMPSON WOULD BE BROKE; HE
16 WOULD BE RICH; AND MICKEY THOMPSON WOULD BE ALIVE; AND
17 NONE OF THIS WOULD HAVE HAPPENED. SO IT HAS TO BE THAT
18 HE INTENDED TO KILL MICKEY THOMPSON AND THAT'S WHAT HE
19 WAS SAYING, IF YOU TELL ANYONE THIS, I'LL KILL YOU.
20 OR HE ALREADY HAD KILLED SOMEONE.

21 THE EXAMPLES IN THE USE NOTES ARE WHERE
22 THE DEFENDANT REFUSES TO PARTICIPATE IN A LINE-UP. AND
23 SOME OF THE OTHER CASE LAW HAS TO DO WITH WHEN HE'S ASKED
24 FOR EVIDENCE OR ASKED TO TURN OVER SOMETHING AND HE
25 DOESN'T. BUT ALL OF THEM ARE POST-CRIME CONDUCT, NOT
26 PRE-CRIME CONDUCT.

27 IT'S A HORRIFICALLY DAMNING INSTRUCTION
28 SAYING THAT IF HE ATTEMPTED TO SUPPRESS EVIDENCE SUCH AS

1 THE INTIMIDATION OF A WITNESS OR CONCEALING EVIDENCE,
2 THAT CAN SHOW CONSCIOUSNESS OF GUILT. THE GUILT WOULD BE
3 FOR THE MURDER OF MICKEY THOMPSON, NOT THE ATTEMPTED
4 WILLINGNESS TO CHEAT HIM IN A CONTRACT FOUR YEARS PRIOR.

5 SO THIS INSTRUCTION DOES NOT LIE AND IT'S
6 VERY PREJUDICIAL. AND IT HAS NO BASIS FOR ANYTHING
7 MR. GOODWIN MIGHT HAVE DONE SUBSEQUENT TO THE CRIME.

8 THE COURT: ALL RIGHT. WHAT IS THE PEOPLE'S
9 POSITION ON THAT? I THINK NORMALLY THAT INSTRUCTION IS
10 UTILIZED IN SITUATIONS WHERE YOU HAVE CONDUCT SUBSEQUENT.
11 BUT --

12 MR. DIXON: YOUR HONOR, WE WILL PULL THAT.
13 THAT'S FINE. WE WILL ASK TO WITHDRAW IT.

14 THE COURT: ALL RIGHT.

15 THE COURT: SO 2.06 WILL NOT BE GIVEN. AND WHAT
16 ELSE DO YOU HAVE AN OBJECTION TO? I'M HAPPY TO MODIFY
17 THE FLIGHT INSTRUCTION ANY WAY YOU WANT.

18 MS. SARIS: THE FLIGHT INSTRUCTION UNDER PEOPLE
19 VERSUS HILL, THE DEFENDANT DOESN'T NEED TO TESTIFY. HE
20 JUST NEEDS TO OFFER AN EVIDENCE OF ALTERNATIVE REASON,
21 WHICH WE HAVE OFFERED OR WILL OFFER.

22 MR. DIXON: AND THAT IS?

23 MR. JACKSON: WE COULDN'T THINK OF IT. IF
24 COUNSEL COULD INFORM US AS TO WHAT EVIDENCE THAT THE
25 DEFENDANT WAS OFFSHORE DOING SOMETHING OTHER THAN
26 FLEEING. I JUST CAN'T THINK OF --

27 MS. SARIS: HIDING HIS MONEY FROM A BANKRUPTCY
28 ESTATE. GETTING OUT OF DODGE FOR THE PEOPLE THAT WERE

1 COMING AFTER HIS ASSETS. HE THINK WE MADE THAT PETTY
2 CLEAR.

3 MR. DIXON: THERE WAS NOTHING IN THE EVIDENCE --
4 AND IT COULD HAVE BEEN PRESENTED, OBVIOUSLY, BY THE
5 DEFENDANT'S TESTIMONY, BUT ALSO BY OTHER WITNESSES OR
6 EVIDENCE JUST SHOWING HIS STATE OF MIND AS TO WHY HE LEFT
7 THE COUNTRY AT THAT TIME.

8 MY RECOLLECTION OF THE RECORD IS THAT IT
9 IS SILENT ON THAT AS TO THE DEFENDANT'S STATE OF MIND.
10 AND IF THERE IS NO ALTERNATIVE TO THIS INSTRUCTION, I
11 DON'T THINK IT SHOULD BE MODIFIED. IF COUNSEL CAN POINT
12 TO EVIDENCE THAT SHOWS THE DEFENDANT'S STATE OF MIND THAT
13 SHOWS AN ALTERNATIVE REASON FOR HIM TO BE OUT OF THE
14 COUNTRY, FINE, BUT I DON'T RECALL IT.

15 MS. SARIS: IT A CIRCUMSTANTIAL EVIDENCE CASE.
16 SO YOU HAVE TO TAKE THE CIRCUMSTANCES, THE SAME ONES
17 THEY'RE REFERRING TO, AND ASK CAN WE BASE A DIFFERENT
18 ARGUMENT ON THAT. AND WE CERTAINLY CAN. I MEAN YOU CAN
19 CONVERT YOUR ASSETS TO GOLD BECAUSE YOU WANT TO PAY OFF A
20 HIT MAN WITHOUT A TRAIL, OR YOU CAN CONVERT YOUR ASSETS
21 TO GOLD BECAUSE YOU DON'T WANT THEM GOING INTO A
22 BANKRUPTCY ESTATE.

23 THAT IS CLEAR. THE TIMING OF THIS IS VERY
24 CLEAR. THE FACT THAT HE MAY HAVE LEFT THE COUNTRY HAS
25 BEEN VERY TANGENTIALLY PROVED. WE HAVE HIM IN FLORIDA IN
26 THE LATER MONTHS OF 1988. THE IMPLICATION IS THAT HE
27 THEN GOT ON HIS BOAT AND WENT TO THE BAHAMAS. BUT THERE
28 IS CERTAINLY TO CUSTOMS FORMS OR ANYTHING THAT WOULD

1 PROVE THAT HE WAS OUT OF THE COUNTRY AS OPPOSED TO
2 TRAVELING AROUND.

3 HE BOUGHT A BOAT. HE BOUGHT A BOAT THAT
4 WE HAVE FROM FRANK MAGEE THAT HE WAS TRYING TO HIDE FROM
5 THE PEOPLE WHO WERE REPOSSESSING IT. THAT WAS A
6 STIPULATION THAT WE MADE, THAT THEY SPENT THREE WEEKS.
7 SO HE'S FLEEING FROM HIS CREDITORS. AND I THINK THAT HAS
8 BEEN MADE VERY CLEAR.

9 MR. JACKSON: THE EVIDENCE THAT WE WOULD POINT TO
10 IN CONTRAVENTION OF THAT ARGUMENT, YOUR HONOR, IS KAREN
11 DRAGUTIN SPECIFICALLY HAD A DINNER CONVERSATION WITH THE
12 DEFENDANT WHEREIN THE DEFENDANT SAID MY ONLY WAY OUT OF
13 THE MESS IS FOR MICKEY THOMPSON TO DIE. AND THEY WILL
14 NEVER CATCH ME BECAUSE I'LL BE OUT OF THE COUNTRY SAILING
15 IN BERMUDA.

16 THAT IS SPECIFIC EVIDENCE -- NOT JUST
17 CIRCUMSTANTIAL EVIDENCE, BUT THAT'S DIRECT EVIDENCE
18 COMING FROM THE DEFENDANT HIMSELF SAYING WHAT HIS
19 INTENTION WAS WHEN HE LEFT THE COUNTRY. WE DON'T HAVE
20 CONCOMITANT EVIDENCE OR CONVERSE EVIDENCE THAT THE
21 DEFENDANT WAS DOING SOMETHING ELSE AND WE NEED THAT.

22 I THINK FOR THAT INSTRUCTION TO HAVE BEEN
23 MODIFIED, THE ONLY EVIDENCE IN FRONT OF THE JURY OTHER
24 THAN ARGUMENT -- AND COUNSEL CAN ARGUE ANY WAY SHE
25 WANTS -- BUT FOR THIS INSTRUCTION TO BE MODIFIED. I
26 THINK THERE HAS TO BE SPECIFIC EVIDENCE THAT HE WAS DOING
27 SOMETHING OTHER THAN FLEEING. AND THERE JUST ISN'T ANY.

28 MR. SUMMERS: THE SPECIFIC --

1 THE COURT: HANG ON. I'M GOING TO MODIFY IT.
2 I'M LOOKING AT THE USE NOTES. AND ACCORDING TO THE USE
3 NOTES, THE PEOPLE VERSUS HILL MODIFICATION WOULD BE
4 APPROPRIATE IN THIS CASE. WHETHER OR NOT THE DEFENDANT
5 TESTIFIED, THERE IS AN ARGUMENT HERE, A LEGITIMATE
6 ARGUMENT AS TO WHETHER OR NOT HE WAS FLEEING THE COUNTRY
7 BECAUSE OF A MURDER; WHETHER OR NOT HE WAS FLEEING
8 BECAUSE OF THE BANKRUPTCY, I DON'T KNOW. BUT THERE IS A
9 LEGITIMATE ARGUMENT HERE.

10 AND THE USE NOTE INDICATES THAT I SHOULD
11 MODIFY THIS INSTRUCTION. AND INSTEAD OF THE SECOND
12 SENTENCE, I SHOULD GIVE WHAT MS. SARIS PRESENTED WHICH IS
13 "WHETHER OR NOT EVIDENCE OF FLIGHT SHOWS A CONSCIOUSNESS
14 OF GUILT AND THE SIGNIFICANCE TO BE ATTACHED TO SUCH A
15 CIRCUMSTANCE ARE MATTERS FOR YOUR DETERMINATION." SO I
16 DON'T KNOW EXACTLY WHERE I SHOULD PUT THAT SENTENCE.

17 MS. SARIS: THAT IS IN LIEU OF THE LAST SENTENCE
18 THAT IS PREPRINTED IN THE INSTRUCTION.

19 MR. JACKSON: INSTEAD OF "THE WEIGHT TO WHICH
20 THIS CIRCUMSTANCE IS ENTITLED" THAT SHOULD BE DELETED AND
21 THAT SENTENCE SHOULD START WHETHER FLIGHT IS
22 CONSCIOUSNESS OF GUILT OR WHATEVER THAT LANGUAGE IS.

23 THE COURT: OKAY. THEN THAT'S WHAT I WILL DO.
24 WHAT ELSE?

25 MS. SARIS: AND IT ACTUALLY SAYS IN THE USE NOTE
26 TO BE SUBSTITUTED FOR THE PRESENT SENTENCE.

27 THE COURT: YES, IT DOES.

28 MS. SARIS: 2.11.5, WE WOULD ASK THAT -- JUST IN

1 THIS PARTICULAR CIRCUMSTANCE, THE SECOND PARAGRAPH IS
2 QUITE CONFUSING. THERE MAY BE -- REGARDING UNJOINED
3 PERPETRATORS. IT IMPLIES THAT THERE IS SOME -- I THINK
4 THE PEOPLE HAVE EVEN AGREED THAT THE KILLERS HAVE NEVER
5 BEEN CAUGHT. THE FIRST PARAGRAPH SAYS "MAY HAVE BEEN
6 INVOLVED IN" THAT WHICH IS NOT ON TRIAL. BUT THE
7 IMPLICATION IS THERE MAY BE REASONS WHY THAT PERSON IS
8 NOT HERE ON TRIAL.

9 IT SEEMS TO IMPLY THAT PERHAPS THERE
10 IS ANOTHER PROCEEDING THAT THEY DON'T KNOW ABOUT. AND I
11 DON'T KNOW THAT IT'S ALWAYS MISLEADING, BUT I THINK IN
12 THIS PARTICULAR CIRCUMSTANCE BECAUSE IT IS SO UNUSUAL, TO
13 HAVE IT IN A CASE WHERE THE HIRER IS ON TRIAL AND THE HIT
14 MEN HAVE NEVER BEEN CAUGHT, IN THIS PARTICULAR CASE IT
15 WOULD LEAD TO UNDUE CONFUSION.

16 THE COURT: I DON'T THINK SO. I THINK THERE IS
17 THERE HAS BEEN AMPLE TESTIMONY THAT THIS IS A CASE THAT
18 THE PEOPLE ARE RELYING ON THE THEORY THAT THE DEFENDANT
19 NOT BEING PRESENT. THIS CLEARLY IS THE KIND OF CASE
20 WHERE I DON'T WANT THESE JUROR SPECULATING AS TO WHAT
21 HAPPENED TO THE GUNMEN AND WHY THEY ARE NOT HERE. SO I
22 THINK IN AN ABUNDANCE OF CAUTION THIS INSTRUCTION IS NOT
23 ONLY WARRANTED, BUT IS NECESSARY BASED ON THESE FACTS.

24 MS. SARIS: 2.21.2, WE REQUESTED. THE COURT
25 SEEMS TO BE WILLING TO GIVE. THE WITNESS WILLFUL --

26 THE COURT: YES.

27 MS. SARIS: OKAY. THAT'S FINE. 2.24,
28 BELIEVABILITY, CHARACTER, HONESTY AND TRUTHFULNESS. THE

1 FIRST PARAGRAPH RELATES TO THE CHARACTER OF HONESTY AND
2 TRUTHFULNESS. THE SECOND PARAGRAPH REQUIRES SOMEONE
3 HAVING TESTIFIED ABOUT IT. WE BELIEVE KATHY WEESE FITS
4 INTO THE FIRST PARAGRAPH IN THAT SHE ADMITTED HERSELF
5 THAT IN CERTAIN CIRCUMSTANCES IF LYING GOT HER HER WAY,
6 SHE HAD NO PROBLEM ENGAGING IN SUCH BEHAVIOR.

7 THE COURT: ALL RIGHT. WELL, I THINK THIS SHOULD
8 BE GIVEN. I THINK THE FIRST SENTENCE IS APPROPRIATE.

9 IS THERE ANY FURTHER DISCUSSION ON THAT?

10 MR. DIXON: NO. THANK YOU, YOUR HONOR.

11 MS. SARIS: WE HAVE ALREADY MADE OUR OBJECTION TO
12 2.83. WE DON'T BELIEVE THEY ARE IN CONFLICT. THAT'S THE
13 EXPERT. WE WOULD JUST LODGE THAT FOR THE RECORD.

14 MR. DIXON: I'M SORRY. I DIDN'T GET THAT NUMBER.

15 MS. SARIS: 2.83, THE CONFLICT IN EXPERT
16 TESTIMONY. OUR EXPERT RELIED ON THEIR EXPERT, SO I DON'T
17 THINK THERE IS A CONFLICT.

18 THE COURT: YOU KNOW, MY RECOLLECTION OF THE
19 EVIDENCE IS THAT THERE WAS SOME DISAGREEMENT HERE. AND
20 SO TO THAT EXTENT THAT'S WHY I'M GIVING IT. GO AHEAD.

21 MS. SARIS: I'M SORRY. 2.91 AND 2.92. WE
22 BELIEVE THEIR RELEVANCE IS APPARENT. THIS IS AN
23 EYEWITNESS.

24 MR. DIXON: AND I WOULD OBJECT TO IT, YOUR HONOR.
25 AND POINT THE COURT FIRST 2.91 AND 2.92 GO HAND IN GLOVE.
26 AND THE USE NOTE WITH RESPECT TO 2.92, SAYS -- AND I'M
27 SURE THE COURT HAS IT IN FRONT OF YOU THERE -- THAT THIS
28 INSTRUCTION SHOULD BE GIVEN WHEN A REQUEST IN A CASE IN

1 WHICH IDENTIFICATION IS A CRUCIAL ISSUE. AND IN
2 ITALISIS, THEN THERE IS NO SUBSTANTIAL COOPERATIVE
3 EVIDENCE.

4 THIS CASE IS FULL OF THAT. THIS
5 INSTRUCTION AND THE PRECEDING INSTRUCTION WERE WRITTEN
6 FOR A SITUATION WHERE AS IT SAYS IN THE HEAD NOTE OF
7 2.91, THE CASE IS BASED -- OR THE EVIDENCE IS BASED
8 SOLELY ON EYEWITNESS IDENTIFICATION. WHERE THERE IS TWO
9 OR THREE PEOPLE WHO IDENTIFY SOMEONE IN A ROBBERY.
10 THAT'S WHAT MCDONALD AND WRIGHT WERE ALL ABOUT. HERE I
11 DON'T THINK IT APPLIES AT ALL.

12 DR. PEZDEK TESTIFIED LIKE ANY OTHER
13 EXPERT, DR. SCHEININ OR THE CRIME SCENE PEOPLE. AND I
14 DON'T THINK THAT IN THIS TYPE OF CASE SHE NEEDS TO BE
15 SUPPORTED BY SPECIFIC JURY INSTRUCTION. THE JURY
16 INSTRUCTIONS WERE NOT WRITTEN FOR THIS TYPE OF SITUATION.

17 THE COURT: LET ME JUST SAY THIS, I KNOW I DON'T
18 HAVE A SUA SPONTE DUTY TO GIVE THIS INSTRUCTION, BUT WHEN
19 THERE IS A REQUEST FOR IT, I TRULY FEEL IT WOULD BE
20 PREJUDICIAL ERROR TO NOT GIVE IT. AND THE REASON IS ONCE
21 DR. PEZDEK TOOK THE STAND, EYEWITNESS TESTIMONY BECAME
22 EXTREMELY RELEVANT IN THIS CASE AND CRUCIAL IN THIS CASE.
23 AND I'M NOT SUGGESTING THAT THERE IS NO CORROBORATIVE
24 EVIDENCE. BUT THERE IS NO OTHER EVIDENCE IN THE PEOPLE'S
25 CASE THAT WOULD PUT MR. GOODWIN EVEN CLOSE TO THE CRIME
26 SCENE.

27 MR. DIXON: WELL, THEN WE WOULD ASK FOR THE
28 OPPORTUNITY TO MODIFY --

1 THE COURT: YES.

2 MR. DIXON: -- THESE INSTRUCTIONS. BECAUSE THEY
3 SEEM TO SUGGEST THAT IF THEY DISBELIEVE THE EYEWITNESS
4 IDENTIFICATION, THEY SHOULD AUTOMATICALLY RETURN A
5 VERDICT OF NOT GUILTY. AND I DON'T THINK THAT'S THE
6 STATE OF THE EVIDENCE IN THIS CASE.

7 THE COURT: WELL, YOU CAN PROPOSE A MODIFICATION.
8 I'M HAPPY TO MODIFY EITHER ONE OF THESE.

9 MR. JACKSON: AND 2.92 JUST TO FOLLOW-UP ON WHAT
10 MR. DIXON SAYS -- THIS IS THE PROBLEM WITH IT, IT WOULD
11 HAVE TO BE MODIFIED SO HEAVILY THAT IT WOULDN'T EVEN
12 RESEMBLE WHAT IT SAYS HERE. IF THE COURT CONSIDERS THE
13 SECOND PARAGRAPH OF 2.91, QUOTE, IF AFTER CONSIDERING THE
14 CIRCUMSTANCES OF THE IDENTIFICATION AND ANY OTHER
15 EVIDENCE IN THIS CASE, YOU HAVE A REASONABLE DOUBT
16 WHETHER DEFENDANT WAS THE PERSON WHO COMMITTED THE CRIME,
17 YOU MUST GIVE HIM THE BENEFIT OF THE DOUBT AND FIND HIM
18 NOT GUILTY.

19 AND THERE IS GOING TO BE EVIDENCE BEYOND A
20 REASONABLE DOUBT THAT THE DEFENDANT DID NOT IN PARTICULAR
21 KILL OR PULL THE TRIGGER FOR MICKEY OR TRUDY THOMPSON,
22 THIS IS INCREDIBLY MISLEADING. AND I CAN SEE A JUROR OR
23 A LAYPERSON SITTING DOWN AND READING THIS, SAYING, WHY
24 THE HELL ARE WE HERE? THE PROSECUTION HAS NOT PROVED
25 THAT MR. GOODWIN IS THE ONE THAT COMMITTED THIS -- QUOTE,
26 UNQUOTE, COMMITTED THIS CRIME.

27 THE COURT: I'M HAPPY TO MODIFY IT. JUST GIVE ME
28 SOME LANGUAGE. I AGREE WITH YOU, IT COULD BE POTENTIALLY

1 MISLEADING.

2 MS. SARIS: WELL, WE OBJECT TO ANY MODIFICATION.
3 AND THIS IS BASICALLY THE ONLY EVIDENCE THAT THE PEOPLE
4 HAVE AND THEY'RE MAKING GREAT HAY OUT OF THE FACT THAT IT
5 WAS MR. GOODWIN BEHIND THE WHEEL OF THAT CAR. IF THE
6 COURT IS GOING TO GIVE AN AIDING AND ABETTING
7 INSTRUCTION, THEN THEIR ARGUMENT THAT THEY JUST MADE
8 FAILS.

9 THE CASE IS VERY CLEAR. ANY OTHER
10 EVIDENCE IN THIS CASE, THAT'S WHAT THAT IS FOR. IF THEY
11 ARE WILLING TO SAY THAT THE PERSON IN FRONT OF THE
12 STEVENS' HOME HAD NOTHING TO DO WITH THIS, THEN WE DON'T
13 NEED THIS INSTRUCTION. BUT THE MOMENT THEY SAY THAT'S
14 MR. GOODWIN, THEN THEY'RE IMPLYING THAT HE WAS CASING THE
15 JOINT; THAT HE HIRED THESE INDIVIDUALS; HE AIDED AND
16 ABETTED IN THE MURDER; AND EVERY ONE OF THE FACTORS
17 BECOMES IRRELEVANT. I DON'T THINK YOU CAN PART AND
18 PARCEL OUT.

19 THE COURT: I THINK IT CAN BE MODIFIED, I'LL BE
20 HONEST WITH YOU. IT'S NOT A VERY ARTFULLY WORDED
21 INSTRUCTION. THIS IS NOT -- STRIKE THAT -- AN EYEWITNESS
22 IDENTIFICATION CASE TO THE EXTENT THAT THE PEOPLE ARE
23 RELYING ON AN AIDING AND ABETTING AND CONSPIRACY THEORY
24 OF LIABILITY.

25 BUT THE FIRST SENTENCE I THINK IS NOT
26 MISLEADING. THE BURDEN IS ON THE PEOPLE TO PROVE BEYOND
27 A REASONABLE DOUBT. AND I'M JUST GOING TO LEAVE IT THAT
28 THE DEFENDANT IS THE PERSON WHO COMMITTED THE CRIME WITH

1 WHICH HE IS CHARGED. THAT SECOND SENTENCE, HOWEVER, I'M
2 HAPPY TO MODIFY.

3 MR. DIXON: WELL, THIS WOULD BE MY SUGGESTION,
4 YOUR HONOR, MODIFYING IT -- AND IT'S JUST OFF THE TOP OF
5 MY HEAD -- IS THAT IN 2.91, THAT IF THE COURT FEELS THAT
6 IT'S REQUIRED TO GIVE PARAGRAPH 1 AND TO STRIKE PARAGRAPH
7 2. AND THEN GOING TO 2.92 THAT THE FIRST SENTENCE READ
8 EYEWITNESS TESTIMONY HAS BEEN RECEIVED IN THIS TRIAL FOR
9 THE PURPOSE OF IDENTIFYING THE DEFENDANT.

10 THE COURT: RIGHT.

11 MR. DIXON: AND THEN GO ON WITH THE NEXT
12 SENTENCE.

13 MS. SARIS: ABSOLUTELY NOT. AS LONG AS THE COURT
14 IS GOING TO ALLOW THE DISTRICT ATTORNEY TO ARGUE THAT
15 THERE IS A CONNECTION BETWEEN THE PERSON IN FRONT OF THE
16 STEVENS' HOME AND THE KILLERS OF MICKEY THOMPSON, THEN
17 HE'S IDENTIFIED AS A PERPETRATOR OF THIS CRIME BY
18 DEFINITION.

19 AND IF THE COURT WANTS TO CONSIDER
20 MODIFYING 2.91 OVER OUR OBJECTION, THE COURT CAN SAY
21 SOMETHING TO IF AFTER THE CONSIDERATION OF THE
22 CIRCUMSTANCES OF THE IDENTIFICATION AND ANY OTHER
23 EVIDENCE IN THIS CASE, YOU HAVE A REASONABLE DOUBT
24 WHETHER DEFENDANT WAS THE PERSON SITTING OUTSIDE IN THAT
25 CAR AT THE STEVENS' HOME, YOU MUST GIVE HIM THE BENEFIT
26 OF THAT DOUBT AND FIND HIM NOT GUILTY.

27 THAT -- THAT I DON'T UNDERSTAND, BUT WE
28 WOULD AT LEAST CONSIDER SOMETHING LIKE THAT. BUT WHEN

1 YOU START MODIFYING CALJIC WHEN THEY APPLY IS WHEN WE
2 START GETTING INTO VERY DANGEROUS TERRITORY IN TERMS OF
3 ERROR.

4 AND THE EYEWITNESS IDENTIFICATION
5 GUARANTEED IS ONE OF THE TOP TWO, IF NOT ONE, ARGUMENT
6 THE DISTRICT ATTORNEY HAS. NO OTHER EVIDENCE LINKS
7 MICHAEL GOODWIN TO THIS CRIME. AND IN EVERY SINGLE
8 ARGUMENT THEY'VE MADE REGARDING EVERY OTHER MOTION IN
9 THIS CASE, THAT IS THE FIRST THING OUT OF THEIR MOUTHS,
10 HE'S THE ONE SITTING OUTSIDE THE STEVENSES' HOUSE.

11 IT IS A HUGE AND INTEGRAL PART OF THEIR
12 CASE. THEY CAN'T HAVE IT BOTH WAYS. IT COULD MAYBE NOT
13 BE HIM, LADIES AND GENTLEMEN, BUT YOU ARE GOING TO FIND
14 HIM GUILTY ANYWAY. THAT'S JUST NOT FAIR. I MEAN PICK A
15 DECISION. PICK A THEORY. STICK WITH IT. WE'RE
16 DEFENDING AGAINST THAT. AND 2.91 AND -92 ARE RELEVANT.

17 MR. DIXON: WELL --

18 MR. JACKSON: I'M A LITTLE FLABBERGASTED THAT
19 COUNSEL SAID PICK A THEORY AND STICK WITH IT. AND THE
20 FIRST THING OUT OF MY MOUTH EVERY TIME I ARGUE TO THE
21 JURY OR TO THIS COURT IS NOT THE DEFENDANT WAS SITTING
22 OUTSIDE THIS HOUSE. IT'S SOMETHING LIKE, "YOU DON'T KNOW
23 WHO YOU'RE FUCKING WITH. YOU'RE FUCKING DEAD." HE WAS
24 THE GUY WHO PROMISED TO KILL MICKEY. SO IN 40-ODD
25 WITNESSES OR 30-ODD WITNESSES, HOWEVER MANY, TWO OF THEM
26 HAVE TO DO WITH EYEWITNESS IDENTIFICATION.

27 AND I WOULD DIRECT THE COURT'S ATTENTION
28 AND COUNSEL'S ATTENTION TO THE FIRST -- I'M SORRY -- THE

1 SECOND PARAGRAPH OF 2.92. AND THIS IS WHAT I'M CONCERNED
2 WITH. THE OPPORTUNITY OF A WITNESS TO OBSERVE THE
3 ALLEGED CRIMINAL ACT AND THE PERPETRATOR OF THAT ACT.
4 THEY DIDN'T ALLEGE -- THEY DIDN'T OBSERVE THE, QUOTE,
5 CRIMINAL ACT THAT THEY WILL ATTACH. IT TAKES A -- THAT
6 THEY WILL ATTACH TO THE IDENTIFICATION.

7 IT TAKES A RELATIVELY NUANCED
8 SOPHISTICATED ARGUMENT TO REALIZE THAT PART OF THE
9 CRIMINAL ACT WAS THE SURVEILLANCE. AND PART OF THAT
10 SURVEILLANCE BECOMES THE LARGER, BROADER CONSPIRACY IN
11 THE AIDING AND ABETTING. SO THAT'S WHY -- I THINK THAT'S
12 WHY THIS INSTRUCTION IS NOT APPLICABLE TO CIRCUMSTANCES
13 LIKE THIS.

14 MS. SARIS: THE "CRIMINAL ACT" CAN BE CHANGED.

15 THE COURT: I'M SORRY?

16 MS. SARIS: THE WORDS "CRIMINAL ACT" CAN BE
17 CHANGED. THAT'S A BRACKETED PARAGRAPH.

18 THE COURT: MY FEELING IS, NO. 1, IF IT'S
19 REQUESTED AND THERE IS IDENTIFICATION EVIDENCE THAT'S A
20 SIGNIFICANT PART OF THE PEOPLE'S CASE, I HAVE TO GIVE
21 THESE INSTRUCTIONS. HOWEVER, THIS IS A VERY UNUSUAL
22 SITUATION WHERE THE DEFENDANT IS NOT CHARGED NECESSARILY
23 WITH COMMITTING THE ACTUAL ACT. HE'S NOT BEING CHARGED
24 AS A PRINCIPAL. THE PEOPLE'S THEORY IS CLEARLY AIDING
25 AND ABETTING AND CONSPIRACY.

26 TO THE EXTENT THAT 2.91 SUGGESTS THAT THE
27 CASE RISES OR FALLS ON THE IDENTIFICATION, IT IS
28 MISLEADING. AND TO THE EXTENT THAT 2.92 DOES, IT'S

1 MISLEADING. THE OPPORTUNITY OF THE WITNESS TO OBSERVE
2 THE ALLEGED CRIMINAL ACT AND THE PERPETRATOR OF THE ACT
3 HAS REALLY NOTHING TO DO WITH THE EVIDENCE IN THIS CASE.
4 I MEAN IT WOULD TAKE A PRETTY SOPHISTICATED JURY TO
5 UNDERSTAND WHAT IS MEANT BY THAT.

6 MR. JACKSON: RIGHT.

7 THE COURT: AND SO I'M HAPPY -- I'M GOING TO WORK
8 ON THIS OVER THE WEEKEND. AND WE ARE DARK TOMORROW. AND
9 I WILL SEE IF I CAN COME UP WITH ANYTHING. AND COUNSEL
10 IS WELCOME TO GIVE ME ANYTHING YOU COME UP WITH AND WE
11 WILL JUST HAVE TO FIGURE IT OUT BEFORE MONDAY.

12 MS. SARIS: THEN THERE IS ONLY TWO OTHER ISSUES.

13 MR. JACKSON: I'M SORRY. I DIDN'T MEAN TO
14 INTERRUPT, MS. SARIS.

15 MAYBE WE CAN AGREE THAT ALL OF US WOULD BE
16 HERE MAYBE AT 8:30.

17 THE COURT: I DON'T IF MR. GOODWIN WILL BE HERE
18 EXACTLY AT 8:30. BUT WE CAN AT LEAST CONVENE AND SEE
19 WHERE WE ARE.

20 MS. SARIS: ON THE 6.10.5 IS THE ONLY CONSPIRACY
21 INSTRUCTION THAT'S RELEVANT WHEN CONSPIRACY ISN'T
22 CHARGED. THIS IS AN AIDING AND ABETTING CASE. AND
23 SPECIFICALLY THE USE NOTES OF 6.10.5 SAY THAT THIS IS THE
24 INSTRUCTION TO GIVE WHEN CONSPIRACY IS NOT CHARGED.
25 6.11, 6.12 AND 6.14 ARE ONLY APPLICABLE WHEN THERE IS ONE
26 OF THREE THINGS. EITHER A PERSON WITH WHOM THERE IS AN
27 AGREEMENT THAT THERE HAS BEEN TESTIMONY ABOUT; TESTIMONY
28 REGARDING THE AGREEMENT; OR SOME SORT OF QUESTION OF

1 DERIVATIVE LIABILITY.

2 I.E., MICHAEL GOODWIN HIRED THESE PEOPLE
3 TO KILL MICKEY AND TRUDY, BUT LANCE JOHNSON WAS KILLED.
4 AND THEREFORE MICHAEL GOODWIN WOULD BE CHARGED WITH A
5 NATURAL AND PROBABLE CONSEQUENCES RESULTING THEREFROM.
6 THE AIDING AND ABETTING COVERS ALL THE THEORIES AGAINST
7 MR. GOODWIN. AND 6.10.5 IS THE ONLY CONSPIRACY THAT'S
8 RELEVANT. THE OTHER THREE -- OR NOT RELEVANT, WITHOUT
9 CONSPIRACY BEING CHARGED.

10 THE COURT: WELL, LET ME JUST SAY THIS, I VIEW
11 THIS CASE -- OBVIOUSLY, IT'S TOTALLY IRRELEVANT HOW I
12 VIEW THE CASE. BUT I MEAN I QUESTIONED EARLIER, I THINK,
13 OR YESTERDAY THE PEOPLE UTILIZING A CONSPIRACY THEORY.
14 TO ME, YOU KNOW, PERSONALLY IF I WERE IN THEIR SHOES,
15 WHICH I'M NOT, I AGREE THAT THE AIDING AND ABETTING
16 THEORY IS REALLY THE LEAST CONFUSING.

17 BUT THE PEOPLE CAN CHOOSE WHATEVER THEORY
18 THEY WANT TO PRESENT TO THE JURY. IT'S NOT IMPROPER.
19 IT'S SUPPORTED BY THE EVIDENCE. THERE IS AMPLE EVIDENCE
20 TO INDICATE THAT THIS WAS -- THESE MURDERS WERE THE
21 RESULT OF A CONSPIRACY. THERE IS AMPLE EVIDENCE.

22 MS. SARIS: AND I'M NOT DISAGREEING. THE CASE
23 LAW STATES, THOUGH, WHEN CONSPIRACY IS NOT CHARGED,
24 6.10.5 IS RELEVANT UNLESS THERE IS ANOTHER FACTOR AT
25 ISSUE, SUCH AS DERIVATIVE RESPONSIBILITY OR A
26 CO-CONSPIRATOR STATEMENT OR SOME ISSUE AS TO THE
27 AGREEMENT.

28 PROOF OF EXPRESS AGREEMENT NOT NECESSARY;

1 ACQUAINTANCE WITH ALL CO-CONSPIRATORS NOT NECESSARY; AND
2 JOINT RESPONSIBILITY ARE NOT APPROPRIATE WHEN CONSPIRACY
3 IS NOT CHARGED AS A COUNT. THE THEORY OF CONSPIRACY WHEN
4 AIDING AND ABETTING IS BEING RELIED ON IS CONTAINED IN
5 6.10.5.

6 MR. DIXON: I DISAGREE, YOUR HONOR.

7 MS. SARIS: A CASE THAT THE COURT CAN LOOK AT --
8 I MEAN IT IS A COMPLICATED ISSUE, BUT THERE IS TWO CASES.
9 ONE IS VILLA, V-I-L-L-A, AT 156 CAL. APP 2ND, 128. AND
10 THE OTHER IS BRIGHAM, B-R-I-G-H-A-M, AT 216 CAL. APP 3RD,
11 1039. AND IT'S NOT SAYING THAT IT'S INAPPROPRIATE, PER
12 SE, BUT IT'S SAYING WHEN THESE AREN'T AT ISSUE, THEN THE
13 CONCEPT OF CONSPIRACY IS COVERED.

14 IN OTHER WORDS, IN THOSE CASES THE ISSUE
15 WAS A CO-CONSPIRATOR STATEMENT; THE NATURE OF THE
16 AGREEMENT; OR WHAT I'M CALLING DERIVATIVE LIABILITY. I
17 MEAN, IN OTHER WORDS, IF THEIR THEORY -- AND THAT'S NOT
18 AT ISSUE -- IS MR. GOODWIN SENT PEOPLE TO KILL MICKEY AND
19 TRUDY. IT WASN'T THEY SENT PEOPLE TO STEAL MICKEY AND
20 TRUDY'S GOLD AND MICKEY AND TRUDY GOT KILLED.

21 IN OTHER WORDS, THAT WAS THE INTENT. SO
22 WHEN THERE IS NO NATURAL AND PROBABLE CONSEQUENCES
23 THEREOF THAT'S IN FURTHERANCE OF THAT, THEN THESE ARE
24 VERY CONFUSING TO A JURY WHEN CONSPIRACY IS NOT ACTUALLY
25 CHARGED.

26 THE COURT: I WILL BE HONEST WITH YOU, I THINK IT
27 MAY BE A LITTLE BIT MORE THAN THIS JURY CAN HANDLE IN
28 TERMS OF THE LEGAL THEORIES INVOLVED. BUT THIS IS NOT

1 FOR ME TO SECOND GUESS THE PEOPLE ON IT. I THINK THERE
2 IS AN EVIDENTIARY BASIS FOR IT. I DON'T KNOW OF ANY CASE
3 LAW THAT WOULD SUPPORT ME NOT GIVING IT. I'M HAPPY TO
4 LOOK AT WHATEVER CASES YOU WANT ME TO LOOK AT.

5 MS. SARIS: WELL, I CAN JUST GIVE THE COURT MY
6 COPY. AND WE CAN LOOK AT THEM MONDAY. AS I SAID, THEY
7 DON'T STATE IT'S INAPPROPRIATE, BUT THEY STATE WHEN IT'S
8 APPROPRIATE. AND NONE OF THE THREE CIRCUMSTANCES THAT
9 THESE CASES REFER TO HAVE IT.

10 THE COURT: I WILL LOOK AT IT. BUT I THINK IF
11 THE PEOPLE WANT TO ARGUE THIS THEORY, I HAVE TO GIVE THIS
12 INSTRUCTION.

13 MR. SUMMERS: YOUR HONOR, IF I MAY WITH THE
14 COURT'S INDULGENCE, JUST ASK THE COURT TO RETURN TO
15 2.11.5, WHICH IS THE UNJOINED PERPETRATORS OF THE SAME
16 CRIME INSTRUCTION. THE COURT INDICATED IT DID NOT WANT
17 THE JURORS SPECULATING ABOUT WHY OTHER PEOPLE MAY NOT BE
18 HERE BUT, IN FACT -- AND I THINK THE PEOPLE EVEN ELICITED
19 THIS TESTIMONY -- THE JURY KNOWS WHY ANYBODY ELSE IS NOT
20 BEFORE THEM. IT'S BECAUSE NO ONE HAS EVER BEEN
21 IDENTIFIED OR ARRESTED OR CHARGED WITH THIS OFFENSE.

22 IN FACT, THAT'S PART OF THE -- PART OF THE
23 DEFENSE POSITION IN THIS CASE. AND I THINK IT WAS
24 ELICITED BY THE DISTRICT ATTORNEYS IN TERMS OF WHY THEY
25 HADN'T DONE ANY DNA TESTING OR DONE ANYTHING WITH ITEMS
26 FROM THE SCENE.

27 SO THE COURT IS -- IN FACT, THERE IS TWO
28 OTHER PEOPLE THAT COULD BE IDENTIFIED AS BEING INVOLVED

1 IN THIS BESIDES MR. GOODWIN. THOSE TWO PEOPLE, THE JURY
2 HAS BEEN TOLD, THERE IS EVIDENCE, HAVE NEVER BEEN CAUGHT.

3 AND FOR THE JURY TO BE TOLD IN THIS
4 SITUATION NOT TO SPECULATE ABOUT REASONS WHY THEY MAY NOT
5 BE BEFORE THEM IS ACTUALLY CONTRARY TO THE EVIDENCE AND
6 CALLING FOR THEM TO SPECULATE, A, THAT THERE MAY BE OTHER
7 PEOPLE BESIDES THE ONES THAT THEY'VE HEARD ABOUT -- THE
8 EVIDENCE OF THE PARTIES WHO ARE INVOLVED IN THIS -- IN
9 THE MURDER AND THE ALLEGATIONS BY THE PEOPLE, IT'S
10 ACTUALLY CALLING FOR THEM TO SPECULATE ON THAT AS OPPOSED
11 TO -- AND GO CONTRARY TO THE EVIDENCE AS OPPOSED TO
12 PREVENTING THEM FROM SPECULATING.

13 SO I THINK IN THIS CASE, THAT INSTRUCTION
14 IS, ONE, CONFUSING AND MISLEADING TO THE JURORS IN HOW
15 THEY'RE TO CONSIDER THE EVIDENCE. THEY'VE HAD EVIDENCE
16 ABOUT UNJOINED PERPETRATORS. THEY'RE NOT HERE BECAUSE
17 THEY WEREN'T CAUGHT.

18 MR. JACKSON: MR. SUMMERS IS CLEARLY SMARTER THAN
19 I AM, SO MAYBE HIS MEMORY IS THAT MUCH BETTER. BUT I
20 DON'T REMEMBER EVER ASKING A QUESTION: WHERE ARE THE
21 OTHER TWO GUYS? WHERE ARE THE KILLERS?

22 MS. SARIS: MARK LILLIENFELD SAID WE'VE NEVER
23 CAUGHT THEM. WE'RE STILL LOOKING FOR THEM TO THIS DAY.

24 MR. JACKSON: NOT IN ANSWER TO ONE OF MY
25 QUESTIONS.

26 MS. SARIS: NO. IN ANSWER TO ONE OF MY
27 QUESTIONS.

28 MR. SUMMERS: THEN I WITHDRAW THAT THE DISTRICT

1 ATTORNEY SAID THAT. BUT I THINK IT HAS BEEN PART OF
2 THEIR ARGUMENT THAT NOBODY HAS EVER BEEN CAUGHT AND
3 THAT'S WHY WE WOULDN'T HAVE AN INTEREST IN THE DNA
4 RECOVERED AT THE SCENE. SO APART FROM WHOEVER ELICITED
5 IT, IT IS CLEAR AND HAS BEEN TESTIFIED TO THAT THOSE
6 PEOPLE HAVE NEVER BEEN IDENTIFIED OR CHARGED OR CAUGHT.

7 MS. SARIS: AND THIS INSTRUCTION IS SUPPOSED TO
8 CLEAR UP CONFUSION. AND IT WINDS UP CREATING CONFUSION
9 IN THIS CASE WHEN THERE IS NO SPECULATION -- THERE SHOULD
10 BE NO SPECULATION ABOUT WHERE THOSE INDIVIDUALS ARE
11 BECAUSE IT'S UNCONTROVERTED.

12 THE COURT: IF I DON'T GIVE THIS INSTRUCTION AND
13 THE JURY STARTS QUESTIONING WHY THE OTHER PEOPLE INVOLVED
14 HAVEN'T BEEN APPREHENDED AND WHY THEY ARE NOT HERE ON
15 TRIAL WITH MR. GOODWIN, THAT WOULD BE INAPPROPRIATE FOR
16 THEM TO DO SO.

17 WHILE THERE WAS REFERENCE TO AN
18 INVESTIGATION ONGOING AND DETECTIVE LILLIENFELD WANTING
19 TO FIND, ULTIMATELY, THE ANSWERS TO ALL THE QUESTIONS
20 THAT REMAIN UNANSWERED, I THINK THE JURY SHOULD BE TOLD
21 THAT THEY SHOULD NOT BE CAUGHT UP, SO TO SPEAK, ON THE
22 ISSUE OF WHERE ARE THE SHOOTERS AND WHY AREN'T THEY HERE.

23 MR. SUMMERS: YOUR HONOR, I'M SORRY TO INTERRUPT.
24 BUT THE INSTRUCTION SAYS DO NOT DISCUSS OR GIVE ANY
25 CONSIDERATION AS TO WHY THE OTHER PERSON IS NOT
26 PROSECUTED.

27 THE COURT: RIGHT.

28 MR. SUMMERS: THEY'VE BEEN -- THEY HAVE BEEN

1 INFORMED OF WHY THAT IS.

2 THE COURT: YOU KNOW, THE PROBLEM IS NOT ONLY DO
3 WE HAVE TWO POTENTIAL SUSPECTS OUT THERE THAT ARE THE
4 MURDERERS, THERE IS SOME SUGGESTION THAT THERE ARE OTHER
5 PEOPLE INVOLVED. AND I THINK IN AN ABUNDANCE OF CAUTION,
6 THIS INSTRUCTION IS APPROPRIATE.

7 MS. SARIS: THEN OUR OTHER OBJECTIONS ARE TO
8 8.81, LYING IN WAIT. AND AT THIS TIME, WE WOULD BE
9 MAKING A MOTION UNDER 1118 NOW THAT THE DEFENSE HAS
10 RESTED AS WELL, FOR THIS COURT TO TAKE THAT OUT OF THE
11 JURY'S HANDS IN THAT THERE IS NO EVIDENCE OF LYING IN
12 WAIT AVAILABLE TO THE JURY.

13 THE SPECIAL CIRCUMSTANCE OF MULTIPLE
14 MURDER, OBVIOUSLY, WE CAN'T ASK THE COURT TO TAKE AWAY.
15 BUT THIS PARTICULAR SPECIAL CIRCUMSTANCE -- AND THE COURT
16 DOES HAVE THE POWER TO FIND THAT NOT TRUE BEFORE IT GOES
17 TO THE JURY. THAT THERE HAS JUST BEEN NO EVIDENCE OF
18 LYING IN WAIT.

19 THE COURT: THERE IS NO EVIDENCE THAT THE MURDER
20 WAS COMMITTED BY MEANS OF LYING IN WAIT? I DON'T GET
21 THAT ARGUMENT.

22 MS. SARIS: NO ONE HEARD ANYTHING UNTIL THE
23 GUNSHOTS STARTED. SO WE DON'T WHAT HAPPENED PRIOR TO
24 THAT. I DON'T KNOW WHERE THE EVIDENCE OF ANY SORT OF AN
25 AMBUSH OR LYING IN WAIT WAS OTHER THAN -- THERE IS AN
26 ARGUMENT TO BE MADE, BUT --

27 THE COURT: WELL, YOU HAVE THE ORANGE PEELS AT
28 THE SIDE OF THE DRIVEWAY, WHICH WAS BEHIND A BUSH WHICH

1 WOULD HAVE PROVIDED COVER FOR THE SHOOTERS. I CAN'T
2 THINK OF A STRONGER LYING IN WAIT CASE, TO BE HONEST WITH
3 YOU, WITH RESPECT TO THE INVOLVEMENT OF THE SHOOTERS.

4 I MEAN THESE MURDERS WERE COMMITTED BY
5 MEANS OF LYING IN WAIT. THESE PEOPLE WERE GUNNED DOWN AS
6 THEY WERE LEAVING THEIR HOME GOING TO WORK. SOMEONE HAD
7 TO BE THERE AND THE PHYSICAL EVIDENCE SUPPORTS THAT. AND
8 IT REALLY APPEARS CLEAR TO ME AFTER VIEWING THE SCENE
9 TODAY, THESE MURDERS WERE PLANNED TO SUCH AN EXTENT THAT
10 I DON'T THINK THERE IS ANY QUESTION ABOUT LYING IN WAIT,
11 I'LL BE HONEST WITH YOU.

12 THE HOUSE ITSELF IS ALMOST A MILE UP THE
13 ROAD. THE ROADS ARE NARROW. ONE WOULD HAVE HAD TO PLAN
14 THIS. AND NOT TO BE OBSERVED BY THE NEIGHBORS, ONE WOULD
15 HAVE TO BE SECRETED BEHIND BUSHES. I JUST DON'T SEE THE
16 ARGUMENT. I WILL DENY THE 1118.1 ON THAT. I THINK THERE
17 IS AMPLE EVIDENCE THAT THIS IS A MURDER BY LYING IN WAIT
18 AS TO EACH VICTIM.

19 WHAT ELSE? ANYTHING ELSE?

20 MR. DIXON: NO, YOUR HONOR. WE WILL HAVE -- OR
21 AT LEAST A PROPOSED MODIFIED OF 2.91 OR 2.92 ON MONDAY.

22 THE COURT: AND LET ME ASK ONE MORE QUESTION
23 ABOUT THE INSTRUCTIONS, ARE THE PEOPLE ASKING ME TO GIVE
24 OR NOT ASKING ME TO GIVE ANYTHING ON SECOND DEGREE
25 MURDER? IS THAT THE PEOPLE'S REQUEST, YOU DON'T WANT
26 ANYTHING --

27 MR. DIXON: YES, YOUR HONOR. AND I SHOULD ADD --

28 MS. SARIS: I DON'T THINK IT'S UP TO THE PEOPLE

1 TO BE HONEST.

2 THE COURT: WELL, THE PEOPLE AND THE DEFENSE. I
3 WAS GOING TO ASK YOU, TOO.

4 MR. DIXON: AND I SHOULD ADD, WITH THE COURT'S
5 INDULGENCE, WE WILL CONSIDER THE CONSPIRACY INSTRUCTIONS.
6 AND IF WE DECIDE TO WITHDRAW THOSE, WOULD THAT BE SATISFY
7 ON MONDAY?

8 MS. SARIS: I'M SORRY.

9 THE COURT: IS ANYBODY ASKING FOR SECOND DEGREE?

10 MS. SARIS: NO. AND MR. GOODWIN SPECIFICALLY
11 DOES NOT WANT SECOND DEGREE. WE DON'T SEE IT SUPPORTED
12 BY ANY EVIDENCE. HE DIDN'T DO IT. OUR OTHER ISSUE --

13 THE COURT: BUT MY QUESTION WAS TO BOTH COUNSEL.

14 MS. SARIS: OH, I THOUGHT THEY SAID NO. I'M
15 SORRY.

16 MR. DIXON: NO. WE ARE NOT ASKING FOR SECOND.

17 MS. SARIS: I STILL BELIEVE -- AND I'M JUST
18 PUTTING THIS OUT THERE -- I KNOW THE LANGUAGE IS PRESENT
19 IN THE OTHER INSTRUCTIONS. IT'S STILL OUR BELIEF THAT
20 2.02 IS REQUIRED WHEN MENTAL STATE OF 3.31 AND 3.31.5 ARE
21 GIVEN. I JUST WANT TO STATE THAT FOR THE RECORD THAT'S
22 OUR BELIEF THAT IT'S INTENDED. I REALIZE THE LANGUAGE
23 APPEARS ELSEWHERE, BUT THAT'S OUR READ ON HOW THOSE
24 INSTRUCTIONS -- IF YOU'RE GOING TO GIVE INSTRUCTIONS ON
25 SPECIFIC MENTAL STATE AND CIRCUMSTANTIAL EVIDENCE
26 THEREOF, WE HAVE TO GIVE 2.02.

27 THE COURT: THE SPECIFIC INTENT THAT EXISTS IN
28 THIS CASE SEEMS TO ME TO EXIST WITH RESPECT TO THE

1 SPECIAL CIRCUMSTANCE OF LYING IN WAIT. AND TO THAT
2 EXTENT, I THINK I HAVE TO GIVE THE SPECIAL CIRCUMSTANCE
3 INSTRUCTION TELLING THEM HOW TO INTERPRET THE
4 CIRCUMSTANTIAL EVIDENCE.

5 BUT I DON'T BELIEVE THE REST OF THE CASE
6 RESTS SUBSTANTIALLY ON CIRCUMSTANTIAL EVIDENCE OF THE
7 MENTAL STATE. THAT JUST WASN'T --

8 MS. SARIS: I UNDERSTAND THAT. BUT OUR POSITION
9 IS IF IT'S -- ANYTHING IS RELIED ON WITH MENTAL STATE
10 2.02 IS REQUIRED. LIKE I SAID, WE CAN ARGUE IT BASED ON
11 EVERYTHING ELSE. IT'S IN THERE SEVERAL TIMES. WE JUST
12 WANT THE RECORD CLEAR THAT THAT'S --

13 THE COURT: WELL, YES, THE RECORD IS CLEAR THAT
14 YOU DID REQUEST THAT. AND THE COURT ISN'T GIVING IT.
15 IT'S GIVING THE ONE THAT'S COVERED IN THE SPECIAL
16 CIRCUMSTANCE INSTRUCTION.

17 MR. JACKSON: THERE IS A COUPLE OF QUESTIONS THAT
18 I'VE GOT BEFORE WE BREAK. AND I'M SORRY. 3.31 AND
19 3.31.5, WHICH DID THE COURT DECIDE IT WAS GIVING?

20 THE COURT: I WAS GOING TO GIVE BOTH.

21 MR. JACKSON: FINE.

22 THE COURT: I THINK THE SPECIAL CIRCUMSTANCE
23 REQUIRES SPECIFIC INTENT; AND THE MENTAL STATE OF MURDER.

24 MR. JACKSON: I JUST HAVE A COUPLE OF QUICK
25 QUESTIONS.

26 MS. SARIS: JUDGE, ARE WE GOING TO GIVE
27 MR. GOODWIN SPECIAL TRANSPORT BACK NOW? HE'S BEEN HERE
28 ALL DAY.

1 THE COURT: I'M SURE GOING TO TRY. I DON'T KNOW
2 IF ANYTHING IS AVAILABLE.

3 MS. SARIS: PERHAPS ONE OF THE SHERIFFS IS STILL
4 HANGING OUT AND IS ON THEIR WAY BACK DOWNTOWN.

5 THE BAILIFF: THERE IS NO WAY. I CAN'T EVEN GET
6 ANYBODY IN THE OFFICE.

7 MR. JACKSON: THE COURT DECIDED IN FAVOR OF
8 GIVING 17.02? THAT'S SEVERAL COUNTS DIFFERENT
9 OCCURRENCE.

10 THE COURT: YES, I THINK I HAVE TO.

11 MR. JACKSON: OKAY. AND THE LAST ONE -- NO,
12 THAT'S IT.

13 THE COURT: AND THEN 2.60 AND 2.61 IS
14 SPECIFICALLY BEING REQUESTED BY THE DEFENSE; CORRECT?

15 MS. SARIS: SORRY. I PUT MY BOOK -- 2.60 IS?

16 THE COURT: DEFENDANT NOT TESTIFYING.

17 MS. SARIS: YES.

18 THE COURT: AND RELY ON THE STATE OF THE
19 EVIDENCE.

20 MS. SARIS: YES.

21 THE COURT: AND THAT SHOULD COVER EVERYTHING. SO
22 WE WILL SEE YOU MONDAY. THANK YOU.

23 MS. SARIS: WE HAVE AN OBJECTION TO A PERCEIVED
24 PORTION OF THE DISTRICT ATTORNEY'S CLOSING ARGUMENT TO
25 THE EXTENT -- MR. JACKSON, YOU MAY WANT TO HEAR THIS --
26 OR NOT.

27 THE OPENING STATEMENT HAD A 15-MINUTE
28 BIOGRAPHY OF MICKEY THOMPSON THAT WE DIDN'T OBJECT TO,

1 PARTLY BECAUSE WE DIDN'T WANT TO INTERRUPT AND WE DIDN'T
2 KNOW IT WAS COMING. I THINK WE'VE ESTABLISHED, YOU KNOW,
3 THE GREAT AMERICAN HERO THING ENOUGH. THIS IS NOT
4 PENALTY PHASE. AND WE WOULD OBJECT TO ANYTHING THAT'S
5 NOT IN THE RECORD REGARDING GREAT AMERICAN HERO AND ALL
6 OF THE -- BASICALLY THE LITERALLY 15-MINUTE HOME MOVIE
7 THAT'S NOT REALLY RELEVANT BASED ON THE STATE OF THE
8 EVIDENCE.

9 MR. DIXON: WELL, YOUR HONOR, I DON'T THINK IT
10 WAS 15 MINUTES. I DO THINK WE WILL ONLY ARGUE IT TO THE
11 EXTENT IT IS IN THE RECORD. AND IT CAME OUT -- THAT
12 WHOLE SUBJECT CAME OUT QUITE A BIT IN THE DISCUSSION OF
13 THE BUSINESS FIGHT, FOR WANT OF A BETTER WORD, BETWEEN
14 THE DEFENDANT AND MICKEY THOMPSON, ESPECIALLY AT THE ROSE
15 BOWL, ANAHEIM STADIUM AND THE SAN DIEGO VENUES.

16 MS. SARIS: IT WENT A LITTLE FAR AND IT WAS
17 GETTING INTO VICTIM IMPACT. AND IT'S INAPPROPRIATE AND
18 IT'S PREJUDICIAL. AND IT'S APPEALING TO THE PASSION OF
19 THE JURY AND NOT JUST STATING THE EVIDENCE OF THE CASE.

20 THE COURT: WELL, I'M CERTAIN THAT THERE WILL BE
21 NUMEROUS OBJECTIONS DURING THE CLOSING ARGUMENTS.

22 MS. SARIS: I HOPE NOT. AND I DON'T INTEND TO.
23 I THINK THIS IS SOMETHING THE COURT CAN ADDRESS RIGHT
24 AWAY.

25 THE COURT: I DIDN'T HEAR VICTIM IMPACT TESTIMONY
26 IN THE OPENING STATEMENT. I DO RECALL THE PHOTOGRAPHS
27 AND A LITTLE BIT OF BACKGROUND AS TO WHAT MICKEY THOMPSON
28 DID. IF I HEAR ANYTHING THAT CROSSES THE LINE INTO

1 VICTIM IMPACT, I'M GOING TO SUSTAIN AN OBJECTION. IT'S
2 THAT SIMPLE. I DON'T WANT TO TELL THE PEOPLE WHAT THEY
3 CAN ARGUE OR --

4 MS. SARIS: AND I'M REALLY TRYING NOT TO OBJECT
5 TO THAT, BUT THAT WILL DRAW AN OBJECTION ALMOST
6 IMMEDIATELY.

7 MR. DIXON: WELL, YES, YOUR HONOR. BUT THE
8 HEROICS OF MICKEY THOMPSON IN HIS RACING CAREER IS WHAT
9 BUILT HIS BUSINESS AND MADE HIM AN ATTRACTIVE, AT ONE
10 TIME ANYWAY, PARTNER WITH THE DEFENDANT.

11 THE COURT: YES, I'M AWARE OF THAT. I MEAN TO
12 SOME EXTENT THAT'S RELEVANT EVIDENCE. BUT I WILL
13 CERTAINLY PAY CLOSE ATTENTION TO EVERYTHING THAT'S SAID
14 IN THAT AREA. BUT I WILL SEE EVERYBODY MONDAY MORNING.

15 MR. DIXON: THANK YOU.

16 MR. JACKSON: YOUR HONOR, THE LAST THING BECAUSE
17 I TOOK IT UPON -- IF LORI WILL INDULGE ME -- I TOOK IT
18 UPON MYSELF, THE RESPONSIBILITY OF THE EXHIBITS. CAN I
19 ADDRESS THESE? I'VE RETURNED THE FOLLOWING EXHIBITS TO
20 THE COURTROOM, PEOPLE'S 52, DEFENSE ZZ, DEFENSE YY,
21 PEOPLE'S 42, PEOPLE'S 48, DEFENSE TTT, PEOPLE'S 53,
22 PEOPLE'S 47, PEOPLE'S 62, PEOPLE'S 61, PEOPLE'S 55,
23 PEOPLE'S 40, PEOPLE'S 41 AND PEOPLE'S 57.

24 MS. SARIS: AND, YOUR HONOR, WE ARE AGAIN
25 REQUESTING THAT THE COURT AT LEAST CALL AND HAVE SOMEONE
26 DEAL WITH MR. GOODWIN. THIS IS -- HE HAS BEEN HERE ALL
27 DAY. IN DEFIANCE OF PREVIOUS COURT ORDERS, HE'S BEEN
28 SITTING AROUND WITHOUT MEDICATION.

1 THE COURT: ALL RIGHT. WE WILL GO OFF THE
2 RECORD.

3
4 (THE MATTER WAS CONTINUED TO MONDAY,
5 DECEMBER 18, 2006 AT 8:30 A.M.)
6 (NEXT PAGE IS 8701.)

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,
PLAINTIFF AND RESPONDENT,
VS.
01 - MICHAEL FRANK GOODWIN,
DEFENDANT AND APPELLANTS.

SUPERIOR COURT
NO. GA052683

ORIGINAL
JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A) (2)

DECEMBER 18, 19, 21, 2006, JANUARY 2, 3 AND 4, 2007

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 23 OF 24

LORI D. CASILLAS, CSR #9869

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9901 THRU 9904/10,200
10,201 THRU 10,208/10,500

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, DECEMBER 18, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)
18

19 THE COURT: ALL RIGHT LET'S GO ON THE RECORD IN
20 THE GOODWIN MATTER. MR. GOODWIN IS PRESENT WITH COUNSEL.
21 THE PEOPLE ARE REPRESENTED. WE'VE BEEN DISCUSSING
22 INFORMALLY THE JURY INSTRUCTIONS THIS MORNING. AND THE
23 COURT PUT TOGETHER A PACKAGE. COUNSEL HAS HAD AN
24 OPPORTUNITY TO REVIEW THE COURT'S PROPOSED INSTRUCTIONS.
25 THE PEOPLE REQUESTED A SPECIAL 2.92.

26 ANY OBJECTION TO THE PEOPLE'S REQUESTED
27 INSTRUCTIONS?

28 MS. SARIS: YES, THERE IS.

1 (PAUSE IN PROCEEDINGS.)

2 THE COURT: ALL RIGHT. I THINK WE'RE RESUMING
3 OUR DISCUSSION REGARDING THE JURY INSTRUCTIONS. AND WHAT
4 IS THE OBJECTION TO PEOPLE'S 2.92.

5 MS. SARIS: THE MODIFICATION OF "DEFENDANT" TO
6 "PERPETRATOR" OR "PERPETRATOR" TO "DEFENDANT," THEIR
7 POSITION IS THE PERSON OUTSIDE THE STEVENSES' HOME IS ONE
8 OF THE PERPETRATORS OF THE CRIME.

9 THE COURT: RIGHT.

10 MS. SARIS: SO CALLING IT THE "DEFENDANT" I THINK
11 IS NOT WHAT 2.91 OR 2.92 ENVISIONED. IT'S CHANGING THE
12 WORDING BECAUSE THE COURT JUST CROSSED IT OUT. OUR
13 POSITION IS OBVIOUSLY THAT IT SHOULD NOT BE MODIFIED
14 WHATSOEVER.

15 I THINK THAT IF WE WITH USE THE COURT'S
16 VERSION WHERE IT'S CROSSED OUT -- NOTING OUR OBJECTION TO
17 ALTERING THIS IN ANY WAY FOR THE RECORD -- IF WE ADD A
18 SECOND PARAGRAPH TO 2.91 AND USE THE WORD "PERPETRATOR,"
19 THE SECOND PARAGRAPH I WOULD SUGGEST FOR 2.91 IS "IF
20 AFTER CONSIDERING THE CIRCUMSTANCES OF THE IDENTIFICATION
21 AND ANY OTHER EVIDENCE IN THIS CASE, YOU HAVE A
22 REASONABLE DOUBT ABOUT THE IDENTITY OF THE PERSON OUTSIDE
23 THE STEVENSES' HOME, YOU MUST GIVE THE DEFENDANT THE
24 BENEFIT OF THAT DOUBT."

25 THAT'S THE NATURE OF THE EYEWITNESS
26 IDENTIFICATION TESTIMONY. TAKING IT OUT SIMPLY GETS
27 IT -- AND IT IS PART OF WHAT THEY'RE USING IN TRYING TO
28 CONVICT HIM OF THIS. SO TO TURN IT INTO THE "DEFENDANT"

1 IS INSTEAD OF THE "PERPETRATOR" AND TO TAKE OUT THAT HE'S
2 ALLOWED TO HAVE THE BENEFIT OF THE DOUBT TOTALLY VITIATES
3 THE POINT OF THE INSTRUCTION IN TERMS OF EYEWITNESS I.D.

4 THE COURT: WELL, THIS IS THE THING, I WAS
5 CONSIDERING THIS OVER THE WEEKEND AND CAME TO THE
6 CONCLUSION THAT 2.91 SHOULD NOT BE GIVEN. 2.92 SHOULD BE
7 MODIFIED THE WAY I MODIFIED IT. BECAUSE, FRANKLY, THIS
8 IS NOT AN EYEWITNESS IDENTIFICATION CASE. AND THE ONLY
9 RELEVANCE THAT EITHER OF THESE INSTRUCTIONS HAS IS WITH
10 RESPECT TO THE FACTORS THAT WERE DISCUSSED BY DR. PEZDEK.
11 AND THAT'S REFLECTED IN 2.19.

12 MS. SARIS: SO THE COURT CROSSED OUT EVERY TIME
13 IT SAID "PERPETRATOR OF THE CRIME," WAS THAT FAIRLY
14 CONSISTENT THROUGHOUT THE COURT'S MODIFICATION? IT DOES
15 NOT INCLUDE THE WORD "DEFENDANT"?

16 THE COURT: YES. DO YOU WANT TO SEE AGAIN?

17 MS. SARIS: PLEASE.

18 THE COURT: SURE.

19 (PAUSE IN PROCEEDINGS.)

20 MS. SARIS: THANK YOU. SO AS LONG AS OUR
21 OBJECTION IS NOTED FOR THE RECORD THAT IT SHOULDN'T BE
22 MODIFIED. WE PREFER THE COURT'S MODIFICATION.

23 THE COURT: ANYTHING FURTHER BY THE PEOPLE?

24 MR. DIXON: NO. THANK YOU. THAT'S SATISFACTORY,
25 YOUR HONOR.

26 THE COURT: OKAY.

27 MS. SARIS: I DON'T KNOW IF THE COURT HAD A
28 CHANCE TO READ BRIGHAM AND THE OTHER CASES WE CITED

1 REGARDING THE DIFFERENCE BETWEEN CONSPIRATOR AND AIDER
2 AND ABETTER. BUT WE WOULD STILL HAVE AN OBJECTION TO
3 EVERYTHING BEYOND 6.10.5.

4 THE COURT: OKAY. THAT WILL BE NOTED. ON 3.00 I
5 DID MAKE SOME MODIFICATIONS. I'M JUST GOING TO ASSUME
6 THAT COUNSEL HAS REVIEWED MY PACKAGE OF INSTRUCTIONS WITH
7 YOUR MODIFICATIONS AND THERE ARE NO FURTHER OBJECTIONS TO
8 ANY OF THEM; IS THAT CORRECT? OR --

9 MR. DIXON: NO. THAT'S CORRECT, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MS. SARIS: THE MODIFICATION TO 3.0 WE DIDN'T
12 NOTICE. I'M SORRY. I DIDN'T THINK THAT WAS ONE OF THE
13 ONES SUBJECT TO DISCUSSION. I'M SORRY.

14 THE COURT: IT WAS. SO IT'S 3.00 AND 3.01.

15 MS. SARIS: THAT'S FINE.

16 THE COURT: ALL RIGHT. THEN AS SOON AS OUR
17 JURORS COME DOWN, WE ARE GOING TO START WITH THE JURY
18 INSTRUCTIONS.

19 THE CLERK: THEY ARE ALL HERE.

20 THE COURT: THEY ARE ALL HERE?

21 THE CLERK: YES.

22 THE COURT: LET ME JUST SAY THIS, THE COURT IS
23 GOING TO READ THE JURY INSTRUCTIONS FIRST. THAT USUALLY
24 TAKES ABOUT 20, 30 MINUTES. TO THOSE THAT ARE SEATED IN
25 THE AUDIENCE NOW IS YOUR TIME TO LEAVE. DURING THE JURY
26 INSTRUCTIONS, I DON'T WANT ANYBODY GETTING UP AND WALKING
27 IN OR WALKING OUT. I DIDN'T HAVE A CHANCE TO GET THESE
28 COPIED. SO WE WILL JUST HAVE TO GO WITH THEM WITHOUT THE

1 OVERHEAD.

2 IS THERE ANY FURTHER DISCUSSION ON
3 ANYTHING BEFORE WE BRING THE JURORS DOWN?

4 MR. DIXON: NO.

5 MR. JACKSON: NO, YOUR HONOR, NOT FROM THE
6 PEOPLE.

7 MS. SARIS: NO, YOUR HONOR.

8
9 (THE JURY ENTERED THE COURTROOM

10 AND THE FOLLOWING PROCEEDINGS WERE
11 HELD IN OPEN COURT.)

12
13 THE COURT: ALL RIGHT. GOOD MORNING, LADIES AND
14 GENTLEMEN.

15 THE JURY: GOOD MORNING.

16 THE COURT: YOU KNOW, I THINK I AM GETTING BETTER
17 EACH DAY. I ONLY KEPT YOU WAITING, WHAT, TEN MINUTES
18 TODAY? ALL RIGHT.

19 WE ARE BACK IN THE GOODWIN MATTER. ALL
20 PARTIES ARE PRESENT. THE JURORS AND ALTERNATES ARE
21 PRESENT. THE COURT IS GOING TO READ SOME JURY
22 INSTRUCTIONS TO YOU THIS MORNING. THIS PACKAGE OF JURY
23 INSTRUCTIONS SHOULD TAKE ABOUT MAYBE 20 MINUTES OR SO.

24 AND THEN WHAT WE WILL DO THE REST OF THE
25 DAY IS HEAR FROM THE LAWYERS. AND THEY WILL PRESENT
26 THEIR CLOSING ARGUMENTS TO YOU. AND THEN AT THE
27 CONCLUSION OF THE CLOSING ARGUMENTS, I WILL READ TO YOU
28 SOME CONCLUDING INSTRUCTIONS, WHICH SHOULDN'T TAKE AS

1 LONG AS THE OPENING INSTRUCTIONS.

2 (READING) MEMBERS OF THE JURY:

3 YOU HAVE HEARD ALL THE EVIDENCE AND NOW IT
4 IS MY DUTY TO INSTRUCT YOU ON THE LAW THAT APPLIES TO
5 THIS CASE. THE LAW REQUIRES THAT I READ THE INSTRUCTIONS
6 TO YOU. YOU WILL HAVE THESE INSTRUCTIONS IN WRITTEN FORM
7 IN THE JURY ROOM TO REFER TO DURING YOUR DELIBERATIONS.

8 YOU MUST BASE YOUR DECISION ON THE FACTS
9 AND THE LAW.

10 YOU HAVE TWO DUTIES TO PERFORM. FIRST,
11 YOU MUST DETERMINE WHAT FACTS HAVE BEEN PROVED FROM THE
12 EVIDENCE RECEIVED IN THE TRIAL AND NOT FROM ANY OTHER
13 SOURCE. A "FACT" IS SOMETHING PROVED BY THE EVIDENCE OR
14 BY STIPULATION. A STIPULATION IS AN AGREEMENT BETWEEN
15 ATTORNEYS REGARDING THE FACTS.

16 SECOND, YOU MUST APPLY THE LAW THAT I
17 STATE TO YOU, TO THE FACTS, AS YOU DETERMINE THEM, AND IN
18 THIS WAY ARRIVE AT YOUR VERDICT AND ANY FINDING YOU ARE
19 INSTRUCTED TO INCLUDE IN YOUR VERDICT.

20 YOU MUST ACCEPT AND FOLLOW THE LAW AS I
21 STATE IT TO YOU, REGARDLESS OF WHETHER OR NOT YOU AGREE
22 WITH IT. IF ANYTHING CONCERNING THE LAW SAID BY THE
23 ATTORNEYS IN THEIR ARGUMENTS OR AT ANY OTHER TIME DURING
24 THE TRIAL CONFLICTS WITH MY INSTRUCTIONS ON THE LAW, YOU
25 MUST FOLLOW MY INSTRUCTIONS.

26 YOU MUST NOT BE INFLUENCED BY PITY FOR OR
27 PREJUDICE AGAINST THE DEFENDANT. YOU MUST NOT BE BIASED
28 AGAINST A DEFENDANT BECAUSE HE HAS BEEN ARRESTED FOR THIS

1 OFFENSE, CHARGED WITH A CRIME, OR BROUGHT TO TRIAL. NONE
2 OF THESE CIRCUMSTANCES IS EVIDENCE OF GUILT AND YOU MUST
3 NOT INFER OR ASSUME FROM ANY OR ALL OF THEM THAT HE IS
4 MORE LIKELY TO BE GUILTY THAN NOT GUILTY. YOU MUST NOT
5 BE INFLUENCED BY SENTIMENT, CONJECTURE, SYMPATHY,
6 PASSION, PREJUDICE, PUBLIC OPINION OR PUBLIC FEELING.
7 BOTH THE PEOPLE AND THE DEFENDANT HAVE A RIGHT TO EXPECT
8 THAT YOU WILL CONSCIENTIOUSLY CONSIDER AND WEIGH THE
9 EVIDENCE, APPLY THE LAW, AND REACH A JUST VERDICT
10 REGARDLESS OF THE CONSEQUENCES.

11 IF ANY RULE, DIRECTION OR IDEA IS REPEATED
12 OR STATED IN DIFFERENT WAYS IN THESE INSTRUCTIONS, NO
13 EMPHASIS IS INTENDED. AND YOU MUST NOT DRAW ANY
14 INFERENCE BECAUSE OF ITS REPETITION. DO NOT SINGLE OUT
15 ANY PARTICULAR SENTENCE OR ANY INDIVIDUAL POINT OR
16 INSTRUCTION AND IGNORE THE OTHERS. CONSIDER THE
17 INSTRUCTIONS AS A WHOLE AND EACH IN LIGHT OF ALL THE
18 OTHERS. THE ORDER IN WHICH INSTRUCTIONS ARE GIVEN HAS NO
19 SIGNIFICANCE AS TO THEIR RELATIVE IMPORTANCE.

20 STATEMENTS MADE BY THE ATTORNEYS DURING
21 THE TRIAL ARE NOT EVIDENCE SAID. HOWEVER, IF THE
22 ATTORNEYS HAVE STIPULATED OR AGREED TO A FACT, YOU MUST
23 REGARD THAT FACT AS PROVEN.

24 IF AN OBJECTION WAS SUSTAINED TO A
25 QUESTION, DO NOT GUESS WHAT THE ANSWER MIGHT HAVE BEEN.
26 DO NOT SPECULATE AS TO THE REASON FOR THE OBJECTION.

27 DO NOT ASSUME TO BE TRUE ANY INSINUATION
28 SUGGESTED BY A QUESTION ASKED A WITNESS. A QUESTION IS

1 NOT EVIDENCE AND MAY BE CONSIDERED ONLY AS IT HELPS YOU
2 TO UNDERSTAND THE ANSWER. DO NOT CONSIDER FOR ANY
3 PURPOSE ANY OFFER OF EVIDENCE THAT WAS REJECTED OR ANY
4 EVIDENCE THAT WAS STRICKEN BY THE COURT. TREAT IT AS
5 THOUGH YOU HAD NEVER HEARD OF IT.

6 YOU MUST DECIDE ALL QUESTIONS OF FACT IN
7 THIS CASE FROM THE EVIDENCE RECEIVED IN THIS TRIAL AND
8 NOT FROM ANY OTHER SOURCE.

9 YOU MUST NOT INDEPENDENTLY INVESTIGATE THE
10 FACTS OR THE LAW OR CONSIDER OR DISCUSS FACTS AS TO WHICH
11 THERE IS NO EVIDENCE. THIS MEANS, FOR EXAMPLE, THAT YOU
12 MUST NOT ON YOUR OWN VISIT THE SCENE, CONDUCT
13 EXPERIMENTS, OR CONSULT REFERENCE WORKS OR PERSONS FOR
14 ADDITIONAL INFORMATION.

15 YOU MUST NOT DISCUSS THIS CASE WITH ANY
16 OTHER PERSON INCLUDING, BUT NOT LIMITED TO SPOUSES,
17 SPIRITUAL LEADERS OR ADVISORS, THERAPISTS, EXCEPT A
18 FELLOW JUROR DURING DELIBERATIONS WHEN ALL 12 OF YOU ARE
19 TOGETHER IN THE JURY ROOM. AND THEN ONLY AFTER THE CASE
20 IS SUBMITTED TO YOU FOR YOUR DECISION AND ONLY WHEN ALL
21 12 JURORS ARE PRESENT IN THE JURY ROOM.

22 YOU HAVE BEEN GIVEN NOTEBOOKS AND PENCILS.
23 LEAVE THEM ON THE SEAT IN THE JURY ROOM WHEN YOU LEAVE
24 EACH DAY AND AT EACH RECESS. YOU WILL BE ABLE TO TAKE
25 THEM INTO THE JURY ROOM WHEN YOU DELIBERATE.

26 REMEMBER YOU ARE THE JUDGES OF THE
27 BELIEVABILITY OF WITNESSES.

28 NOTES ARE ONLY AN AID TO MEMORY AND SHOULD

1 NOT TAKE PRECEDENCE OVER RECOLLECTION. A JUROR WHO DOES
2 NOT TAKE NOTES SHOULD RELY ON HIS OR HER RECOLLECTION OF
3 THE EVIDENCE AND NOT BE INFLUENCED BY THE FACT THAT OTHER
4 JURORS DO TAKE NOTES. NOTES ARE FOR THE NOTETAKER'S OWN
5 PERSONAL USE IN REFRESHING HIS OR HER RECOLLECTION OF THE
6 EVIDENCE.

7 FINALLY, SHOULD ANY DISCREPANCY EXIST
8 BETWEEN A JUROR'S RECOLLECTION OF THE EVIDENCE AND A
9 JUROR'S NOTES OR BETWEEN ONE JUROR'S RECOLLECTION AND
10 THAT OF ANOTHER, YOU MAY REQUEST THAT THE REPORTER READ
11 BACK THE RELEVANT TESTIMONY WHICH MUST PREVAIL.

12 EVIDENCE CONSISTS OF THE TESTIMONY OF
13 WITNESSES, WRITINGS, MATERIAL OBJECTS, OR ANYTHING
14 PRESENTED TO THE SENSES AND OFFERED TO PROVE THE
15 EXISTENCE OR NON-EXISTENCE OF A FACT.

16 EVIDENCE IS EITHER DIRECT OR
17 CIRCUMSTANTIAL.

18 DIRECT EVIDENCE IS EVIDENCE THAT DIRECTLY
19 PROVES A FACT. IT IS EVIDENCE WHICH BY ITSELF IF FOUND
20 TO BE TRUE ESTABLISHES THAT FACT.

21 CIRCUMSTANTIAL EVIDENCE IS EVIDENCE THAT
22 IF FOUND TO BE TRUE, PROVES A FACT FROM WHICH AN
23 INFERENCE OF THE EXISTENCE OF ANOTHER FACT MAY BE DRAWN.

24 AN INFERENCE IS A DEDUCTION OF FACT THAT
25 MAY LOGICALLY AND REASONABLY BE DRAWN FROM ANOTHER FACT
26 OR GROUP OF FACTS ESTABLISHED BY THE EVIDENCE.

27 IT IS NOT NECESSARY THAT FACTS BE PROVED
28 BY DIRECT EVIDENCE. THEY MAY ALSO BE PROVED BY

1 CIRCUMSTANTIAL EVIDENCE OR BY A COMBINATION OF DIRECT AND
2 CIRCUMSTANTIAL EVIDENCE. BOTH DIRECT AND CIRCUMSTANTIAL
3 EVIDENCE ARE ACCEPTABLE AS A MEANS OF PROOF NEITHER IS
4 ENTITLED TO ANY GREATER WEIGHT THAN THE OTHER.

5 HOWEVER, A FINDING OF GUILT AS TO ANY
6 CRIME MAY NOT BE BASED ON CIRCUMSTANTIAL EVIDENCE UNLESS
7 THE PROVED CIRCUMSTANCES ARE NOT ONLY CONSISTENT WITH THE
8 THEORY THAT THE DEFENDANT IS GUILTY OF THE CRIME, BUT
9 CANNOT BE RECONCILED WITH ANY OTHER RATIONAL CONCLUSION.

10 FURTHER, EACH FACT WHICH IS ESSENTIAL TO
11 COMPLETE A SET OF CIRCUMSTANCES NECESSARY TO ESTABLISH
12 THE DEFENDANT'S GUILT MUST BE PROVED BEYOND A REASONABLE
13 DOUBT. IN OTHER WORDS, BEFORE AN INFERENCE ESSENTIAL TO
14 ESTABLISH GUILT MAY BE FOUND TO HAVE BEEN PROVED BEYOND A
15 REASONABLE DOUBT, EACH FACT OR CIRCUMSTANCE ON WHICH THE
16 INFERENCE NECESSARILY RESTS MUST BE PROVED BEYOND A
17 REASONABLE DOUBT.

18 ALSO, IF THE CIRCUMSTANTIAL EVIDENCE AS TO
19 ANY PARTICULAR COUNT PERMITS TWO REASONABLE
20 INTERPRETATIONS, ONE OF WHICH POINTS TO THE DEFENDANT'S
21 GUILT AND THE OTHER TO HIS INNOCENCE, YOU MUST ADOPT THAT
22 INTERPRETATION THAT POINTS TO THE DEFENDANT'S INNOCENCE
23 AND REJECT THAT INTERPRETATION THAT POINTS TO HIS GUILT.

24 IF ON THE OTHER HAND, ONE INTERPRETATION
25 OF THIS EVIDENCE APPEARS TO YOU TO BE REASONABLE AND THE
26 OTHER INTERPRETATION TO BE UNREASONABLE, YOU MUST ACCEPT
27 THE REASONABLE INTERPRETATION AND REJECT THE
28 UNREASONABLE.

1 THE SPECIFIC INTENT OR MENTAL STATE WITH
2 WHICH AN ACT IS DONE MAY BE SHOWN BY THE CIRCUMSTANCES
3 SURROUNDING THE COMMISSION OF THE ACT. HOWEVER, YOU MAY
4 NOT FIND THE DEFENDANT GUILTY OF THE CRIME CHARGED IN
5 COUNTS 1 OR 2 UNLESS THE PROVED CIRCUMSTANCES ARE NOT
6 ONLY, ONE, CONSISTENT WITH THE THEORY THAT THE DEFENDANT
7 HAD THE REQUIRED SPECIFIC INTENT OR MENTAL STATE BUT,
8 TWO, CANNOT BE RECONCILED WITH ANY OTHER RATIONAL
9 CONCLUSION.

10 ALSO, IF THE EVIDENCE AS TO ANY SPECIFIC
11 INTENT OR MENTAL STATE PERMITS TWO REASONABLE
12 INTERPRETATIONS, ONE OF WHICH POINTS TO THE EXISTENCE OF
13 THE SPECIFIC INTENT OR MENTAL STATE AND THE OTHER TO ITS
14 ABSENCE, YOU MUST ADOPT THAT INTERPRETATION WHICH POINTS
15 TO ITS ABSENCE. IF ON THE OTHER HAND, ONE INTERPRETATION
16 OF THE EVIDENCE AS TO THE SPECIFIC INTENT OR MENTAL STATE
17 APPEARS TO YOU TO BE REASONABLE AND THE OTHER
18 INTERPRETATION TO BE UNREASONABLE, YOU MUST ACCEPT THE
19 REASONABLE INTERPRETATION AND REJECT THE UNREASONABLE.

20 CERTAIN EVIDENCE WAS ADMITTED FOR A
21 LIMITED PURPOSE.

22 AT THE TIME THIS EVIDENCE WAS ADMITTED,
23 YOU WERE INSTRUCTED THAT IT COULD NOT BE CONSIDERED BY
24 YOU FOR ANY PURPOSE OTHER THAN THE LIMITED PURPOSE FOR
25 WHICH IT WAS ADMITTED.

26 DO NOT CONSIDER THIS EVIDENCE FOR ANY
27 PURPOSE EXCEPT THE LIMITED PURPOSE FOR WHICH IT WAS
28 ADMITTED.

1 NEITHER SIDE IS REQUIRED TO CALL AS
2 WITNESSES ALL PERSONS WHO MAY HAVE BEEN PRESENT AT ANY OF
3 THE EVENTS DISCLOSED BY THE EVIDENCE OR WHO MAY APPEAR TO
4 HAVE SOME KNOWLEDGE OF THESE EVENTS. NEITHER SIDE IS
5 REQUIRED TO PRODUCE ALL OBJECTS OR DOCUMENTS MENTIONED OR
6 SUGGESTED BY THE EVIDENCE.

7 THERE HAS BEEN EVIDENCE IN THIS CASE
8 INDICATING THAT A PERSON OTHER THAN THE DEFENDANT WAS OR
9 MAY HAVE BEEN INVOLVED IN THE CRIME FOR WHICH THE
10 DEFENDANT IS ON TRIAL.

11 THERE MAY BE MANY REASONS WHY THAT PERSON
12 IS NOT HERE ON TRIAL. THEREFORE DO NOT SPECULATE OR
13 GUESS AS TO WHY THE OTHER PERSON IS NOT BEING PROSECUTED
14 IN THIS TRIAL OR WHETHER HE HAS BEEN OR WILL BE
15 PROSECUTED.

16 YOUR SOLE DUTY IS TO DECIDE WHETHER THE
17 PEOPLE HAVE PROVED THE GUILT OF THE DEFENDANT ON TRIAL.

18 EVIDENCE THAT AT SOME OTHER TIME A WITNESS
19 MADE A STATEMENT OR STATEMENTS THAT ARE INCONSISTENT OR
20 CONSISTENT WITH HIS OR HER TESTIMONY IN THIS TRIAL, MAY
21 BE CONSIDERED BY YOU NOT ONLY FOR THE PURPOSE OF TESTING
22 THE CREDIBILITY OF THE WITNESS, BUT ALSO AS EVIDENCE OF
23 THE TRUTH OF THE FACTS AS STATED BY THE WITNESS ON THAT
24 FORMER OCCASION.

25 IF YOU DISBELIEVE A WITNESS'S TESTIMONY
26 THAT HE OR SHE NO LONGER REMEMBERS A CERTAIN EVENT THAT
27 TESTIMONY IS INCONSISTENT WITH A PRIOR STATEMENT OR
28 STATEMENTS BY HIM OR HER DESCRIBING THAT EVENT.

1 EVERY PERSON WHO TESTIFIES UNDER OATH OR
2 AFFIRMATION IS A WITNESS. YOU ARE THE SOLE JUDGES OF THE
3 BELIEVABILITY OF A WITNESS AND THE WEIGHT TO BE GIVEN THE
4 TESTIMONY OF EACH WITNESS.

5 IN DETERMINING THE BELIEVABILITY OF A
6 WITNESS YOU MAY CONSIDER ANYTHING THAT HAS A TENDENCY
7 REASONABLY TO PROVE OR DISPROVE THE TRUTHFULNESS OF THE
8 TESTIMONY OF THE WITNESS, INCLUDING BUT NOT LIMITED TO,
9 ANY OF THE FOLLOWING:

10 THE EXTENT OF THE OPPORTUNITY OR ABILITY
11 OF THE WITNESS TO SEE OR HEAR OR OTHERWISE BECOME AWARE
12 OF ANY MATTER ABOUT WHICH THE WITNESS TESTIFIED;

13 THE ABILITY OF THE WITNESS TO REMEMBER OR
14 TO COMMUNICATE ANY MATTER ABOUT WHICH THE WITNESS
15 TESTIFIED;

16 THE CHARACTER AND QUALITY OF THAT
17 TESTIMONY;

18 THE Demeanor AND MANNER OF THE WITNESS
19 WHILE TESTIFYING;

20 THE EXISTENCE OR NON-EXISTENCE OF A BIAS,
21 INTEREST OR OTHER MOTIVE;

22 THE EXISTENCE OR NON-EXISTENCE OF ANY FACT
23 TESTIFIED TO BY THE WITNESS;

24 THE ATTITUDE OF THE WITNESS TOWARD THIS
25 ACTION OR TOWARD THE GIVING OF TESTIMONY;

26 A STATEMENT PREVIOUSLY MADE BY THE WITNESS
27 THAT IS CONSISTENT OR INCONSISTENT WITH HIS OR HER
28 TESTIMONY;

1 THE CHARACTER OF THE WITNESS FOR HONESTY
2 OR TRUTHFULNESS OR THEIR OPPOSITES;

3 AN ADMISSION BY THE WITNESS OF
4 UNTRUTHFULNESS;

5 THE WITNESS'S PRIOR CONVICTION OF A
6 FELONY;

7 DISCREPANCIES IN A WITNESS'S TESTIMONY OR
8 BETWEEN A WITNESS'S TESTIMONY AND THAT OF OTHER
9 WITNESSES, IF THERE WERE ANY, DO NOT NECESSARILY MEAN
10 THAT A WITNESS SHOULD BE DISCREDITED. FAILURE OF
11 RECOLLECTION IS COMMON. INNOCENT MISRECOLLECTION IS NOT
12 UNCOMMON. TWO PERSONS WITNESSING AN INCIDENT OR A
13 TRANSACTION OFTEN WILL SEE --

14 LET ME READ THAT AGAIN.

15 TWO PERSONS WITNESSING AN INCIDENT OR A
16 TRANSACTION OFTEN WILL SEE OR HEAR IT DIFFERENTLY. YOU
17 SHOULD CONSIDER WHETHER A DISCREPANCY RELATES TO AN
18 IMPORTANT MATTER OR ONLY TO SOMETHING TRIVIAL.

19 YOU ARE NOT REQUIRED TO DECIDE ANY ISSUE
20 OF FACT IN ACCORDANCE WITH THE TESTIMONY OF A NUMBER OF
21 WITNESSES WHICH DOES NOT CONVINCE YOU AS AGAINST THE
22 TESTIMONY OF A LESSER NUMBER OR OTHER EVIDENCE WHICH YOU
23 FIND MORE CONVINCING. YOU MAY NOT DISREGARD THE
24 TESTIMONY OF A GREATER NUMBER OF WITNESSES MERELY FROM
25 CAPRICE, WHIM, OR PREJUDICE OR FROM A DESIRE TO FAVOR ONE
26 SIDE AGAINST THE OTHER. YOU MUST NOT DECIDE AN ISSUE BY
27 THE SIMPLE PROCESS OF COUNTING THE NUMBER OF WITNESSES
28 WHO HAVE TESTIFIED ON THE OPPOSING SIDES. THE FINAL TEST

1 IS NOT IN THE RELATIVE NUMBER OF WITNESSES, BUT IN THE
2 CONVINCING FORCE OF THE EVIDENCE.

3 THE FACT THAT A WITNESS HAS BEEN CONVICTED
4 OF A FELONY, IF THIS IS A FACT, MAY BE CONSIDERED BY YOU
5 ONLY FOR THE PURPOSE OF DETERMINING THE BELIEVABILITY OF
6 THAT WITNESS. THE FACT OF A CONVICTION DOES NOT
7 NECESSARILY DESTROY OR IMPAIR A WITNESS'S BELIEVABILITY.
8 IT IS ONE OF THE CIRCUMSTANCES THAT YOU MAY CONSIDER IN
9 WEIGHING THE TESTIMONY OF THAT WITNESS.

10 EVIDENCE OF THE CHARACTER OF A WITNESS FOR
11 HONESTY OR TRUTHFULNESS MAY BE CONSIDERED IN DETERMINING
12 HIS OR HER BELIEVABILITY.

13 YOU SHOULD GIVE THE UNCORROBORATED
14 TESTIMONY OF A SINGLE WITNESS WHATEVER WEIGHT YOU THINK
15 IT DESERVES. TESTIMONY CONCERNING ANY FACT BY ONE
16 WITNESS WHICH YOU BELIEVE WHOSE TESTIMONY ABOUT THAT FACT
17 DOES NOT REQUIRE CORROBORATION IS SUFFICIENT FOR THE
18 PROOF OF THAT FACT. YOU SHOULD CAREFULLY REVIEW ALL THE
19 EVIDENCE UPON WHICH THE PROOF OF THAT FACT DEPENDS.

20 MOTIVE IS NOT AN ELEMENT OF THE CRIME
21 CHARGED AND NEED NOT BE SHOWN. HOWEVER, YOU MAY CONSIDER
22 MOTIVE OR A LACK OF MOTIVE AS A CIRCUMSTANCE IN THIS
23 CASE. PRESENCE OF MOTIVE MAY TEND TO ESTABLISH THE
24 DEFENDANT IS GUILTY. ABSENCE OF MOTIVE MAY TEND TO SHOW
25 THE DEFENDANT IS NOT GUILTY.

26 THE FLIGHT OF A PERSON AFTER THE
27 COMMISSION OF A CRIME OR AFTER HE IS ACCUSED OF A CRIME
28 IS NOT SUFFICIENT IN ITSELF TO ESTABLISH HIS GUILT BUT IS

1 A FACT WHICH IF PROVED MAY BE CONSIDERED BY YOU IN THE
2 LIGHT OF ALL OTHER PROVED FACTS IN DECIDING WHETHER A
3 DEFENDANT IS GUILTY OR NOT GUILTY. WHETHER OR NOT
4 EVIDENCE OF FLIGHT SHOWS A CONSCIOUSNESS OF GUILT AND THE
5 SIGNIFICANCE TO BE ATTACHED TO SUCH A CIRCUMSTANCE ARE
6 MATTERS FOR YOUR DETERMINATION.

7 A DEFENDANT IN A CRIMINAL TRIAL HAS A
8 CONSTITUTIONAL RIGHT NOT TO BE COMPELLED TO TESTIFY. YOU
9 MUST NOT DRAW ANY INFERENCE FROM THE FACT THAT A
10 DEFENDANT DOES NOT TESTIFY. FURTHER, YOU MUST NEITHER
11 DISCUSS THIS MATTER NOR PERMIT IT TO ENTER INTO YOUR
12 DELIBERATIONS IN ANY WAY.

13 IN DECIDING WHETHER OR NOT TO TESTIFY THE
14 DEFENDANT MAY CHOOSE TO RELY ON THE STATE OF THE EVIDENCE
15 AND UPON THE FAILURE IF ANY OF THE PEOPLE TO PROVE BEYOND
16 A REASONABLE DOUBT EVERY ESSENTIAL ELEMENT OF THE CHARGE
17 AGAINST HIM. NO LACK OF TESTIMONY ON THE DEFENDANT'S
18 PART WILL MAKE UP FOR A FAILURE OF PROOF BY THE PEOPLE SO
19 AS TO SUPPORT A FINDING AGAINST HIM ON ANY ESSENTIAL
20 ELEMENT.

21 AN ADMISSION IS A STATEMENT MADE BY THE
22 DEFENDANT WHICH DOES NOT BY ITSELF ACKNOWLEDGE HIS GUILT
23 OF THE CRIMES FOR WHICH THE DEFENDANT IS ON TRIAL, BUT
24 FOR WHICH STATEMENT TENDS TO PROVE HIS GUILT WHEN
25 CONSIDERED WITH THE REST OF THE EVIDENCE.

26 YOU ARE THE SOLE JUDGES AS TO WHETHER THE
27 DEFENDANT MADE AN ADMISSION. AND IF SO, WHETHER THAT
28 STATEMENT IS TRUE IN WHOLE OR IN PART.

1 EVIDENCE OF AN ORAL ADMISSION OF THE
2 DEFENDANT NOT MADE IN COURT SHOULD BE VIEWED WITH
3 CAUTION.

4 EVIDENCE HAS BEEN RECEIVED FROM WHICH YOU
5 MAY FIND THAT AN ORAL STATEMENT OF INTENT, PLAN, MOTIVE
6 OR DESIGN WAS MADE BY THE DEFENDANT BEFORE THE OFFENSE
7 WITH WHICH HE IS CHARGED WAS COMMITTED.

8 IT IS FOR YOU TO DECIDE WHETHER THE
9 STATEMENT WAS MADE BY THE DEFENDANT.

10 EVIDENCE OF AN ORAL STATEMENT OUGHT TO BE
11 VIEWED WITH CAUTION.

12 NO PERSON MAY BE CONVICTED OF A CRIMINAL
13 OFFENSE UNLESS THERE IS SOME PROOF OF EACH ELEMENT OF THE
14 CRIME INDEPENDENT OF ANY CONFESSION OR ADMISSION MADE BY
15 HIM OUTSIDE OF THIS TRIAL.

16 THE IDENTITY OF THE PERSON WHO IS ALLEGED
17 TO HAVE COMMITTED A CRIME IS NOT AN ELEMENT OF THE CRIME
18 NOR IS THE DEGREE OF THE CRIME. THE IDENTITY OR DEGREE
19 OF THE CRIME MAY BE ESTABLISHED BY A CONFESSION OR
20 ADMISSION.

21 WITNESSES WHO HAVE SPECIAL KNOWLEDGE,
22 SKILL, EXPERIENCE, TRAINING OR EDUCATION IN A PARTICULAR
23 SUBJECT HAVE TESTIFIED TO CERTAIN OPINIONS. THIS TYPE OF
24 WITNESS IS REFERRED TO AS AN EXPERT WITNESS. IN
25 DETERMINING WHAT WEIGHT TO GIVE TO ANY OPINION EXPRESSED
26 BY AN EXPERT WITNESS, YOU SHOULD CONSIDER THE
27 QUALIFICATIONS AND BELIEVABILITY OF THE WITNESS, THE
28 FACTS, OR MATERIALS UPON WHICH EACH OPINION IS BASED, AND

1 THE REASONS FOR EACH OPINION.

2 AN OPINION IS ONLY AS GOOD AS THE FACTS
3 AND REASONS ON WHICH IT IS BASED. IF YOU FIND THAT ANY
4 FACT HAS NOT BEEN PROVED OR HAS BEEN DISPROVED, YOU MUST
5 CONSIDER THAT IN DETERMINING THE VALUE OF THE OPINION.
6 LIKEWISE, YOU MUST CONSIDER THE STRENGTHS AND WEAKNESSES
7 OF THE REASONS ON WHICH IT IS BASED.

8 YOU ARE NOT BOUND BY AN OPINION. GIVE
9 EACH OPINION THE WEIGHT YOU FIND IT DESERVES. YOU MAY
10 DISREGARD ANY OPINION IF YOU FIND IT TO BE UNREASONABLE.

11 IF DETERMINING THE WEIGHT TO BE GIVEN TO
12 AN OPINION EXPRESSED BY ANY WITNESS WHO DID NOT TESTIFY
13 AS AN EXPERT WITNESS, YOU SHOULD CONSIDER HIS OR HER
14 BELIEVABILITY, THE EXTENT OF HIS OR HER OPPORTUNITY TO
15 PERCEIVE THE MATTERS UPON WHICH HIS OR HER OPINION IS
16 BASED AND THE REASONS, IF ANY, GIVEN FOR IT. YOU ARE NOT
17 REQUIRED TO ACCEPT AN OPINION, BUT SHOULD GIVE IT THE
18 WEIGHT, IF ANY, TO WHICH YOU FIND IT ENTITLED.

19 IN EXAMINING AN EXPERT WITNESS, COUNSEL
20 MAY ASK A HYPOTHETICAL QUESTION. THIS IS A QUESTION IN
21 WHICH THE WITNESS IS ASKED TO ASSUME THE TRUTH OF A SET
22 OF FACTS AND TO GIVE AN OPINION BASED ON THAT ASSUMPTION.

23 IN PERMITTING THIS TYPE OF QUESTION, THE
24 COURT DOES NOT RULE AND DOES NOT NECESSARILY FIND THAT
25 ALL OF THE ASSUMED FACTS HAVE BEEN PROVED. IT ONLY
26 DETERMINES THAT THOSE ASSUMED FACTS ARE WITHIN THE
27 POSSIBLE RANGE OF EVIDENCE. IT IS FOR YOU TO DECIDE FROM
28 ALL THE EVIDENCE WHETHER OR NOT THE FACTS ASSUMED IN A

1 HYPOTHETICAL QUESTION HAVE BEEN PROVED.

2 IF YOU SHOULD DECIDE THAT ANY ASSUMPTION
3 IN A QUESTION HAS NOT BEEN PROVED, YOU ARE TO DETERMINE
4 THE EFFECT OF THAT FAILURE OF PROOF ON THE VALUE AND
5 WEIGHT OF THE EXPERT OPINION BASED ON THE ASSUMED FACTS.

6 IN RESOLVING ANY CONFLICT THAT MAY EXIST
7 IN THE TESTIMONY OF EXPERT WITNESSES, YOU SHOULD WEIGH
8 THE OPINION OF ONE EXPERT AGAINST THAT OF ANOTHER. IN
9 DOING SO, YOU SHOULD CONSIDER THE QUALIFICATIONS AND
10 BELIEVABILITY OF EACH WITNESS, THE REASONS FOR EACH
11 OPINION AND THE MATTER UPON WHICH IT IS BASED.

12 A DEFENDANT IN A CRIMINAL ACTION IS
13 PRESUMED TO BE INNOCENT UNTIL THE CONTRARY IS PROVED.
14 AND IN CASE OF A REASONABLE DOUBT WHETHER HIS GUILT IS
15 SATISFACTORILY SHOWN, HE IS ENTITLED TO A VERDICT OF NOT
16 GUILTY. THIS PRESUMPTION PLACES UPON THE PEOPLE THE
17 BURDEN OF PROVING HIM GUILTY BEYOND A REASONABLE DOUBT.

18 REASONABLE DOUBT IS DEFINED AS FOLLOWS:
19 IT IS NOT A MERE POSSIBLE DOUBT; BECAUSE EVERYTHING
20 RELATING TO HUMAN AFFAIRS IS OPEN TO SOME POSSIBLE OR
21 IMAGINARY DOUBT. IT IS THAT STATE OF THE CASE WHICH
22 AFTER THE ENTIRE COMPARISON AND CONSIDERATION OF ALL THE
23 EVIDENCE LEAVES THE MINDS OF THE JURORS IN THAT CONDITION
24 THAT THEY CANNOT SAY THEY FEEL AN ABIDING CONVICTION OF
25 THE TRUTH OF THE CHARGE.

26 EYEWITNESS TESTIMONY HAS BEEN RECEIVED IN
27 THIS TRIAL. IN DETERMINING THE WEIGHT TO BE GIVEN
28 EYEWITNESS IDENTIFICATION TESTIMONY, YOU SHOULD CONSIDER

1 THE BELIEVABILITY OF THE EYEWITNESS AS WELL AS OTHER
2 FACTORS WHICH BEAR UPON THE ACCURACY OF THE WITNESS'S
3 IDENTIFICATION OF THE DEFENDANT, INCLUDING BUT NOT
4 LIMITED TO, ANY OF THE FOLLOWING:

5 THE OPPORTUNITY OF THE WITNESS TO OBSERVE
6 THE ACT AND THE PERPETRATOR OF THE ACT;

7 THE STRESS, IF ANY, TO WHICH THE WITNESS
8 WAS SUBJECTED AT THE TIME OF THE OBSERVATION;

9 THE WITNESS'S ABILITY FOLLOWING THE
10 OBSERVATIONS TO PROVIDE A DESCRIPTION OF THE PERPETRATOR
11 OF THE ACT;

12 THE EXTENT TO WHICH THE DEFENDANT EITHER
13 FITS OR DOES NOT FIT THE DESCRIPTION OF THE PERPETRATOR
14 PREVIOUSLY GIVEN BY THE WITNESS;

15 THE CROSS RACIAL OR ETHNIC NATURE OF THE
16 IDENTIFICATION;

17 THE WITNESS'S CAPACITY TO MAKE AN
18 IDENTIFICATION;

19 EVIDENCE RELATING TO THE WITNESS'S ABILITY
20 TO IDENTIFY OTHER PERPETRATORS OF THE ACT;

21 WHETHER THE WITNESS WAS ABLE TO IDENTIFY
22 THE ALLEGED PERPETRATOR IN A PHOTOGRAPHIC OR PHYSICAL
23 LINE-UP;

24 THE PERIOD OF TIME BETWEEN THE ACT AND THE
25 WITNESS'S IDENTIFICATION;

26 WHETHER THE WITNESS HAD PRIOR CONTACTS
27 WITH THE PERPETRATOR;

28 THE EXTENT TO WHICH THE WITNESS IS EITHER

1 CERTAIN OR UNCERTAIN OF THE IDENTIFICATION;

2 WHETHER THE WITNESS'S IDENTIFICATION IS IN
3 FACT THE PRODUCT OF HIS OR HER OWN RECOLLECTION; AND ANY
4 OTHER EVIDENCE RELATING TO THE WITNESS'S ABILITY TO MAKE
5 AN IDENTIFICATION.

6 PERSONS WHO ARE INVOLVED IN COMMITTING A
7 CRIME ARE REFERRED TO AS PRINCIPALS IN THAT CRIME. EACH
8 PRINCIPAL REGARDLESS OF THE EXTENT OR MANNER OF
9 PARTICIPATION IS EQUALLY GUILTY. PRINCIPALS INCLUDE;

10 ONE, THOSE WHO DIRECTLY AND ACTIVELY
11 COMMIT THE ACT CONSTITUTING THE CRIME, OR

12 TWO, THOSE WHO AID AND ABET THE COMMISSION
13 OF THE CRIME.

14 A PERSON AIDS AND ABETS THE COMMISSION OF
15 A CRIME WHEN HE,

16 ONE, WITH KNOWLEDGE OF THE UNLAWFUL
17 PURPOSE OF THE PERPETRATOR, AND

18 TWO, WITH THE INTENT OR PURPOSE OF
19 COMMITTING OR ENCOURAGING OR FACILITATING THE COMMISSION
20 OF THE CRIME, AND

21 THREE, BY ACT OR ADVICE AIDS, PROMOTES,
22 ENCOURAGES OR INSTIGATES THE COMMISSION OF THE CRIME.

23 A PERSON WHO AIDS AND ABETS THE COMMISSION
24 OF A CRIME, NEED NOT BE PRESENT AT THE SCENE OF THE
25 CRIME.

26 MERE PRESENCE AT THE SCENE OF A CRIME
27 WHICH DOES NOT ITSELF ASSIST THE COMMISSION OF THE CRIME
28 DOES NOT AMOUNT TO AIDING AND ABETTING.

1 MERE KNOWLEDGE THAT A CRIME IS BEING
2 COMMITTED AND THE FAILURE TO PREVENT IT DOES NOT AMOUNT
3 TO AIDING AND ABETTING.

4 IN THE CRIMES CHARGED IN COUNTS 1 AND 2,
5 THERE MUST EXIST A UNION OR JOINT OPERATION OF ACT OR
6 CONDUCT AND A CERTAIN SPECIFIC INTENT IN THE MIND OF THE
7 PERPETRATOR. UNLESS THIS SPECIFIC INTENT EXISTS, THE
8 CRIME TO WHICH IT RELATES IS NOT COMMITTED.

9 THE SPECIFIC INTENT REQUIRED IS INCLUDED
10 IN THE DEFINITIONS OF THE CRIME SET FORTH ELSEWHERE IN
11 THESE INSTRUCTIONS.

12 IN THE CRIME CHARGED IN COUNTS 1 AND 2,
13 THERE MUST EXIST A UNION OR JOINT OPERATION OF ACT OR
14 CONDUCT AND A CERTAIN MENTAL STATE IN THE MIND OF THE
15 PERPETRATOR UNLESS THIS MENTAL STATE EXISTS, THE CRIME TO
16 WHICH IT RELATES IS NOT COMMITTED. IN THE CRIME OF
17 MURDER THE NECESSARY MENTAL STATE IS MALICE AFORETHOUGHT.

18 A CONSPIRACY IS AN AGREEMENT BETWEEN TWO
19 OR MORE PERSON WITH THE SPECIFIC INTENT TO AGREE TO
20 COMMIT THE CRIME OF MURDER, AND WITH THE FURTHER SPECIFIC
21 INTENT TO COMMIT THAT CRIME FOLLOWED BY AN OVERT ACT
22 COMMITTED IN THIS STATE BY ONE OR MORE OF THE PARTIES FOR
23 THE PURPOSE OF ACCOMPLISHING THE OBJECT OF THE AGREEMENT.
24 CONSPIRACY IS A CRIME, BUT IS NOT CHARGED AS SUCH IN THIS
25 CASE.

26 IN ORDER TO FIND A DEFENDANT TO BE A
27 MEMBER OF A CONSPIRACY IN ADDITION TO PROOF OF THE
28 UNLAWFUL AGREEMENT AND SPECIFIC INTENT, THERE MUST BE

1 PROOF OF THE COMMISSION OF AT LEAST ONE OVERT ACT. IT IS
2 NOT NECESSARY TO SUCH A FINDING AS TO ANY PARTICULAR
3 DEFENDANT THAT DEFENDANT PERSONALLY COMMITTED THE OVERT
4 ACT, IF HE WAS ONE OF THE CONSPIRATORS WHEN THE ALLEGED
5 OVERT ACT WAS COMMITTED.

6 THE TERM "OVERT ACT" MEANS ANY STEP TAKEN
7 OR ACT COMMITTED BY ONE OR MORE OF THE CONSPIRATORS WHICH
8 GOES BEYOND MERE PLANNING OR AGREEMENT TO COMMIT A CRIME
9 AND WHICH STEP OR ACT IS DONE IN FURTHERANCE OF THE
10 ACCOMPLISHMENT OF THE OBJECT OF THE CONSPIRACY.

11 TO BE AN "OVERT ACT" THE STEP TAKEN OR ACT
12 COMMITTED NEED NOT IN AND OF ITSELF CONSTITUTE THE CRIME
13 OR EVEN IN AN ATTEMPT TO COMMIT THE CRIME WHICH IS THE
14 ULTIMATE OBJECT OF THE CONSPIRACY. NOR IS IT REQUIRED
15 THAT THE STEP OR ACT IN AND OF ITSELF BE A CRIMINAL OR
16 UNLAWFUL ACT.

17 EACH MEMBER OF A CRIMINAL CONSPIRACY IS
18 LIABLE FOR EACH ACT AND BOUND BY EACH DECLARATION OF
19 EVERY OTHER MEMBER OF THE CONSPIRACY IF THAT ACT OR
20 DECLARATION IS IN FURTHERANCE OF THE OBJECT OF THE
21 CONSPIRACY.

22 THE ACT OF ONE CONSPIRATOR PURSUANT TO OR
23 IN FURTHERANCE OF THE COMMON DESIGN OF THE CONSPIRACY IS
24 THE ACT OF ALL CONSPIRATORS.

25 A MEMBER OF A CONSPIRACY IS NOT ONLY
26 GUILTY OF THE PARTICULAR CRIME THAT TO HIS KNOWLEDGE HIS
27 CONFEDERATES AGREED TO AND DID COMMIT, BUT ALSO LIABLE
28 FOR THE NATURAL AND PROBABLE CONSEQUENCES OF ANY CRIME OR

1 ACT OF A CO-CONSPIRATOR TO FURTHER THE OBJECT OF THE
2 CONSPIRACY, EVEN THOUGH THAT CRIME OR ACT WAS NOT
3 INTENDED AS PART OF THE AGREED-UPON OBJECTIVE AND EVEN
4 THOUGH HE WAS NOT PRESENT AT THE TIME OF THE COMMISSION
5 OF THAT CRIME OR ACT.

6 YOU MUST DETERMINE WHETHER THE DEFENDANT
7 IS GUILTY AS A MEMBER OF A CONSPIRACY TO COMMIT THE
8 ORIGINALLY AGREE UPON CRIMES, AND IF SO, WHETHER THE
9 CRIMES ALLEGED IN COUNTS 1 AND 2 WAS PERPETRATED BY A
10 CO-CONSPIRATOR IN FURTHERANCE OF THAT CONSPIRACY AND WAS
11 A NATURAL AND PROBABLE CONSEQUENCE OF THE AGREED UPON
12 CRIMINAL OBJECTIVE OF THAT CONSPIRACY.

13 IN DETERMINING WHETHER A CONSEQUENCE IS
14 NATURAL AND PROBABLE, YOU MUST APPLY AN OBJECTIVE
15 STANDARD BASED NOT ON WHAT THE DEFENDANT ACTUALLY
16 INTENDED, BUT ON WHAT A PERSON OF REASONABLE AND ORDINARY
17 PRUDENCE WOULD HAVE EXPECTED WOULD BE LIKELY TO OCCUR.
18 THE ISSUE IS TO BE DECIDED IN LIGHT OF ALL THE
19 CIRCUMSTANCES SURROUNDING THE INCIDENT. A "NATURAL
20 CONSEQUENCE" IS ONE WHICH IS WITHIN THE NORMAL RANGE OF
21 OUTCOMES THAT MAY BE REASONABLY EXPECTED TO OCCUR IF
22 NOTHING UNUSUAL HAS INTERVENED. "PROBABLE" MEANS LIKELY
23 TO HAPPEN.

24 THE FORMATION AND EXISTENCE OF A
25 CONSPIRACY MAY BE -- LET ME READ THAT AGAIN.

26 THE FORMATION AND EXISTENCE OF A
27 CONSPIRACY MAY BE INFERRED FROM ALL CIRCUMSTANCES TENDING
28 TO SHOW THE COMMON INTENT AND MAY BE PROVED IN THE SAME

1 WAY AS ANY OTHER FACT MAY BE PROVED, EITHER BY DIRECT
2 TESTIMONY OF THE FACT OR BY CIRCUMSTANTIAL EVIDENCE OR BY
3 BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE. IT IS NOT
4 NECESSARY TO SHOW A MEETING OF THE ALLEGED CONSPIRATORS
5 OR THE MAKING OF AN EXPRESS OR FORMAL AGREEMENT.

6 IT IS NOT A DEFENSE TO THE CRIME OF
7 CONSPIRACY THAT AN ALLEGED CONSPIRATOR DID NOT KNOW ALL
8 THE OTHER CONSPIRATORS. THE MEMBERS OF A CONSPIRACY MAY
9 BE WIDELY SEPARATED GEOGRAPHICALLY, AND YET MAY BE IN
10 AGREEMENT ON A CRIMINAL DESIGN AND MAY ACT IN CONCERT IN
11 PURSUIT OF THAT DESIGN. THE ADOPTION BY A PERSON OF THE
12 CRIMINAL DESIGN AND CRIMINAL INTENT ENTERTAINED IN COMMON
13 BY OTHERS AND OF ITS OBJECT AND PURPOSES IS ALL THAT IS
14 NECESSARY TO MAKE THAT PERSON A CO-CONSPIRATOR WHEN THE
15 REQUIRED ELEMENTS OF A CONSPIRACY ARE PRESENT.

16 HOMICIDE IS THE KILLING OF ONE HUMAN BEING
17 BY ANOTHER EITHER LAWFULLY OR UNLAWFULLY. HOMICIDE
18 INCLUDES MURDER.

19 THE DEFENDANT IS ACCUSED IN COUNTS 1 AND 2
20 OF HAVING COMMITTED THE CRIME OF MURDER, A VIOLATION OF
21 187 OF THE PENAL CODE.

22 EVERY PERSON WHO UNLAWFULLY KILLS A HUMAN
23 BEING WITH MALICE AFORETHOUGHT IS GUILTY OF THE CRIME OF
24 MURDER IN VIOLATION OF PENAL CODE SECTION 187.

25 A KILLING IS UNLAWFUL IF IT IS NOT
26 JUSTIFIABLE NOR EXCUSABLE.

27 IN ORDER TO PROVE THIS CRIME, EACH OF THE
28 FOLLOWING ELEMENTS MUST BE PROVED.

1 ONE, A HUMAN BEING WAS KILLED;
2 TWO, THE KILLING WAS UNLAWFUL; AND
3 THREE, THE KILLING WAS DONE WITH MALICE
4 AFORETHOUGHT.

5 "MALICE" MAY BE EITHER EXPRESS OR IMPLIED.
6 MALICE IS EXPRESS WHEN THERE IS MANIFESTED
7 AN INTENTION UNLAWFULLY TO KILL A HUMAN BEING.

8 WHEN IT IS SHOWN THAT A KILLING RESULTED
9 FROM INTENTIONAL DOING OF AN ACT WITH EXPRESS OR IMPLIED
10 MALICE, NO OTHER MENTAL STATE NEED BE SHOWN TO ESTABLISH
11 THE MENTAL STATE OF MALICE AFORETHOUGHT.

12 THE MENTAL STATE CONSTITUTING MALICE
13 AFORETHOUGHT DOES NOT NECESSARILY REQUIRE ANY ILL WILL OR
14 HATRED OF THE PERSON KILLED.

15 THE WORD "AFORETHOUGHT" DOES NOT IMPLY
16 DELIBERATION OR THE LAPSE OF CONSIDERABLE TIME. IT ONLY
17 MEANS THAT THE REQUIRED MENTAL STATE MUST PRECEDE RATHER
18 THAN FOLLOW THE ACT.

19 ALL MURDER WHICH IS PERPETRATED BY ANY
20 KIND OF WILLFUL, DELIBERATE AND PREMEDITATED KILLING WITH
21 EXPRESS MALICE AFORETHOUGHT IS MURDER OF THE FIRST
22 DEGREE.

23 THE WORD "WILLFUL" AS USED IN THIS
24 INSTRUCTION MEANS INTENTIONAL.

25 THE WORD "DELIBERATE" MEANS FORMED OR
26 ARRIVED AT OR DETERMINED UPON AS A RESULT OF CAREFUL
27 THOUGHT AND WEIGHING OF CONSIDERATIONS FOR AND AGAINST
28 THE PROPOSED COURSE OF ACTION. THE WORD "PREMEDITATED"

1 MEANS CONSIDERED BEFOREHAND.

2 IF YOU FIND THAT THE KILLING WAS PRECEDED
3 AND ACCOMPANIED BY CLEAR DELIBERATE INTENT ON THE PART OF
4 THE DEFENDANT TO KILL, WHICH WAS THE RESULT OF THE
5 DELIBERATION AND PREMEDITATION, SO THAT IT MUST HAVE BEEN
6 FORMED UPON PREEXISTING REFLECTION AND NOT UNDER A SUDDEN
7 HEAT OF PASSION OR OTHER CONDITION PRECLUDING THE IDEA OF
8 DELIBERATION, IT IS MURDER OF THE FIRST DEGREE.

9 THE LAW DOES NOT UNDERTAKE TO MEASURE IN
10 UNITS OF TIME THE LENGTH OF THE PERIOD DURING WHICH THE
11 THOUGHT MUST BE PONDERED BEFORE IT CAN RIPEN INTO AN
12 INTENT TO KILL WHICH IS TRULY DELIBERATE AND
13 PREMEDITATED. THE TIME WILL VARY WITH DIFFERENT
14 INDIVIDUALS AND UNDER VARYING CIRCUMSTANCES.

15 THE TRUE TEST IS NOT THE DURATION OF TIME,
16 BUT RATHER THE EXTENT OF THE REFLECTION. A COLD
17 CALCULATED JUDGMENT AND DECISION MAY BE ARRIVED IN A
18 SHORT PERIOD OF TIME, BUT A MERE UNCONSIDERED AND RASH
19 IMPULSE, EVEN THOUGH IT INCLUDES AN INTENT TO KILL, IS
20 NOT DELIBERATION AND PREMEDITATION AS WILL FIX AN
21 UNLAWFUL KILLING AS MURDER IN THE FIRST DEGREE.

22 TO CONSTITUTE A DELIBERATE AND
23 PREMEDITATED KILLING, THE SLAYER MUST WEIGH AND CONSIDER
24 THE QUESTION OF KILLING AND THE REASONS FOR AND AGAINST
25 SUCH A CHOICE AND, HAVING IN MIND THE CONSEQUENCES, HE
26 DECIDES TO AND DOES KILL.

27 MURDER WHICH IS IMMEDIATELY PRECEDED BY
28 LYING IN WAIT IS MURDER IN THE FIRST DEGREE.

1 THE TERM "LYING IN WAIT" IS DEFINED AS A
2 WAITING AND WATCHING FOR AN OPPORTUNE TIME TO ACT,
3 TOGETHER WITH A CONCEALMENT BY AMBUSH OR BY SOME OTHER
4 SECRET DESIGN TO TAKE THE PERSON BY SURPRISE EVEN THOUGH
5 THE VICTIM IS AWARE OF THE MURDER'S PRESENCE. THE LYING
6 IN WAIT NEED NOT CONTINUE FOR ANY PARTICULAR PERIOD OF
7 TIME PROVIDED THAT ITS DURATION IS SUCH AS TO SHOW A
8 STATE OF MIND EQUIVALENT TO PREMEDITATION OR
9 DELIBERATION.

10 THE WORD "PREMEDITATION" MEANS CONSIDERED
11 BEFOREHAND.

12 THE WORD "DELIBERATION" MEANS FORMED OR
13 ARRIVED AT OR DETERMINED UPON AS A RESULT OF CAREFUL
14 THOUGHT AND WEIGHING OF CONSIDERATIONS FOR AND AGAINST
15 THE PROPOSED COURSE OF ACTION.

16 IF YOU FIND THE DEFENDANT IN THIS CASE
17 GUILTY OF MURDER OF THE FIRST DEGREE, YOU MUST THEN
18 DETERMINE IF ONE OR MORE OF THE FOLLOWING SPECIAL
19 CIRCUMSTANCES: IS TRUE OR NOT TRUE: LYING IN WAIT AND
20 MULTIPLE MURDER.

21 THE PEOPLE HAVE THE BURDEN OF PROVING THE
22 TRUTH OF A SPECIAL CIRCUMSTANCE. IF YOU HAVE A
23 REASONABLE DOUBT AS TO WHETHER A SPECIAL CIRCUMSTANCE IS
24 TRUE, YOU MUST FIND IT TO BE NOT TRUE.

25 IF YOU FIND BEYOND A REASONABLE DOUBT THAT
26 THE DEFENDANT WAS A CO-CONSPIRATOR OR AN AIDER OR
27 ABETTER, BUT YOU ARE UNABLE TO DECIDE WHICH, THEN YOU
28 MUST ALSO FIND BEYOND A REASONABLE DOUBT THAT THE

1 DEFENDANT WITH INTENT TO KILL PARTICIPATED AS A
2 CO-CONSPIRATOR WITH OR AIDED AND ABETTED AN ACT OR IN
3 COMMISSION OF THE MURDER IN THE FIRST DEGREE TO FIND THE
4 SPECIAL CIRCUMSTANCE TO BE TRUE.

5 YOU HAVE MUST DECIDE SEPARATELY EACH
6 SPECIAL CIRCUMSTANCE ALLEGED IN THIS CASE. IF YOU CANNOT
7 AGREE AS TO ALL OF THE SPECIAL CIRCUMSTANCES, BUT CAN
8 AGREE AS TO ONE, YOU MUST MAKE YOUR FINDING AS TO THE ONE
9 UPON WHICH YOU DO AGREE.

10 IN ORDER TO FIND A SPECIAL CIRCUMSTANCE
11 ALLEGED IN THIS CASE TO BE TRUE OR UNTRUE, YOU MUST AGREE
12 UNANIMOUSLY.

13 YOU WILL STATE YOUR SPECIAL FINDING AS TO
14 WHETHER THE SPECIAL CIRCUMSTANCE IS OR IS NOT TRUE ON THE
15 FORM THAT WILL BE PROVIDED.

16 YOU ARE NOT PERMITTED TO FIND A SPECIAL
17 CIRCUMSTANCE ALLEGED IN THIS CASE TO BE TRUE BASED ON
18 CIRCUMSTANTIAL EVIDENCE UNLESS THE PROVED CIRCUMSTANCES
19 IS NOT ONLY CONSISTENT WITH THE THEORY THAT A SPECIAL
20 CIRCUMSTANCE IS TRUE BUT CANNOT BE RECONCILED WITH ANY
21 OTHER RATIONAL CONCLUSION.

22 FURTHER EACH FACT WHICH IS ESSENTIAL TO
23 COMPLETE A SET OF CIRCUMSTANCES NECESSARY TO ESTABLISH
24 THE TRUTH OF A SPECIAL CIRCUMSTANCE MUST BE PROVED BEYOND
25 A REASONABLE DOUBT.

26 IN OTHER WORDS, BEFORE AN INFERENCE
27 ESSENTIAL TO ESTABLISH SPECIAL CIRCUMSTANCE MAY BE FOUND
28 TO HAVE BEEN PROVED BEYOND A REASONABLE DOUBT, EACH FACT

1 OR CIRCUMSTANCE UPON WHICH THAT INFERENCE NECESSARILY
2 RESTS MUST BE PROVED BEYOND A REASONABLE DOUBT.

3 ALSO, IF THE CIRCUMSTANTIAL EVIDENCE IS
4 SUSCEPTIBLE OF TWO REASONABLE INTERPRETATIONS, ONE OF
5 WHICH POINTS TO THE TRUTH OF A SPECIAL CIRCUMSTANCE AND
6 THE OTHER TO ITS UNTRUTH, THE MUST ADOPT THE
7 INTERPRETATION WHICH POINTS TO ITS UNTRUTH AND REJECT THE
8 INTERPRETATION WHICH POINTS TO ITS TRUTH.

9 IF ON THE OTHER HAND, ONE INTERPRETATION
10 OF THAT EVIDENCE APPEARS TO YOU TO BE REASONABLE, AND THE
11 OTHER INTERPRETATION TO BE UNREASONABLE, YOU MUST ACCEPT
12 THE REASONABLE INTERPRETATION AND REJECT THE
13 UNREASONABLE.

14 IN YOUR DELIBERATIONS, THE SUBJECT OF
15 PENALTY OR PUNISHMENT IS NOT TO BE DISCUSSED OR
16 CONSIDERED BY YOU. THAT IS A MATTER WHICH MUST NOT IN
17 ANY WAY AFFECT YOUR VERDICT OR AFFECT YOUR FINDING AS TO
18 THE SPECIAL CIRCUMSTANCES ALLEGED IN THIS CASE.

19 TO FIND THAT THE SPECIAL CIRCUMSTANCE
20 REFERRED TO IN THESE INSTRUCTIONS AS MULTIPLE MURDER
21 CONVICTIONS IS TRUE, IT MUST BE PROVED:

22 THE DEFENDANT HAS IN THIS CASE BEEN
23 CONVICTED OF AT LEAST ONE CRIME OF MURDER OF THE FIRST
24 DEGREE AND ONE OR MORE CRIMES OF MURDER OF THE FIRST OR
25 SECOND DEGREE. TO FIND THAT THE SPECIAL CIRCUMSTANCE
26 REFERRED TO IN THESE INSTRUCTIONS AS MURDER WHILE LYING
27 IN WAIT IS TRUE, EACH OF THE FOLLOWING FACTS MUST BE
28 PROVED:

1 THE DEFENDANT INTENTIONALLY KILLED THE
2 VICTIM; AND

3 THE MURDER WAS COMMITTED WHILE THE
4 DEFENDANT WAS LYING IN WAIT;

5 THE TERM WHILE "LYING IN WAIT" WITHIN THE
6 MEANING OF THE LAW OF SPECIAL CIRCUMSTANCES IS DEFINED AS
7 A WAITING AND WATCHING FOR AN OPPORTUNE TIME TO ACT
8 TOGETHER WITH A CONCEALMENT BY AMBUSH OR BY SOME OTHER
9 SECRET DESIGN TO TAKE THE OTHER PERSON BY SURPRISE EVEN
10 THOUGH THE VICTIM IS AWARE OF THE MURDERER'S PRESENCE.
11 THE LYING IN WAIT NEED NOT CONTINUE FOR ANY PARTICULAR
12 PERIOD OF TIME PROVIDED THAT IT'S DURATION IS SUCH AS TO
13 SHOW A STATE OF MIND EQUIVALENT TO PREMEDITATION OR
14 DELIBERATION.

15 THUS FOR A KILLING TO BE PERPETRATED WHILE
16 LYING IN WAIT, BOTH THE CONCEALMENT AND WATCHFUL WAITING
17 AS WELL AS THE KILLING MUST OCCUR DURING THE SAME TIME
18 PERIOD OR IN AN UNINTERRUPTED ATTACK COMMENCING NO LATER
19 THAN THE MOMENT CONCEALMENT ENDS.

20 IF THERE IS A CLEAR INTERRUPTION
21 SEPARATING THE PERIOD OF LYING IN WAIT FROM THE PERIOD
22 DURING WHICH THE KILLING TAKES PLACE SO THAT THERE IS
23 NEITHER AN IMMEDIATE KILLING NOR A CONTINUOUS FLOW OF THE
24 UNINTERRUPTED LETHAL EVENTS, THE SPECIAL CIRCUMSTANCE IS
25 NOT PROVED.

26 A MERE CONCEALMENT OF PURPOSE IS NOT
27 SUFFICIENT TO MEET THE REQUIREMENTS OF CONCEALMENT SET
28 FORTH IN THIS SPECIAL CIRCUMSTANCE.

1 HOWEVER, WHEN A DEFENDANT INTENTIONALLY
2 MURDERS ANOTHER PERSON UNDER SPECIAL -- STRIKE THAT --
3 UNDER CIRCUMSTANCES WHICH INCLUDE A CONCEALMENT OF
4 PURPOSE A SUBSTANTIAL PERIOD OF WATCHING AND WAITING FOR
5 AN OPPORTUNE TIME TO ACT AND IMMEDIATELY THEREAFTER, A
6 SURPRISE ATTACK ON AN UNSUSPECTING VICTIM FROM A POSITION
7 OF ADVANTAGE, THE SPECIAL CIRCUMSTANCE OF MURDER WHILE
8 LYING IN WAIT HAS BEEN ESTABLISHED.

9 THE WORD "PREMEDITATION" MEANS CONSIDERED
10 BEFOREHAND.

11 THE WORD "DELIBERATION" MEANS FORMED OR
12 ARRIVED AT OR DETERMINED UPON AS A RESULT OF CAREFUL
13 THOUGHT AND WEIGHING OF CONSIDERATIONS FOR AND AGAINST
14 THE PROPOSED COURSE OF CONDUCT. (READING CONCLUDED.)

15 ALL RIGHT. THAT TOOK A LITTLE BIT LONGER
16 THAN I THOUGHT. I THINK WHAT I WOULD LIKE TO DO IS TAKE
17 A BRIEF BREAK AT THIS TIME. AND THEN WE ARE GOING TO GET
18 STARTED WITH THE CLOSING ARGUMENTS OF THE ATTORNEYS.
19 LET'S TAKE A 15-MINUTE RECESS AT THIS TIME.

20 LADIES AND GENTLEMEN, DON'T DISCUSS THE
21 CASE. DON'T FORM OR EXPRESS ANY OPINIONS. DON'T CONDUCT
22 ANY DELIBERATIONS. WE WILL SEE YOU BACK HERE IN 15
23 MINUTES. THANK YOU.

24 (BRIEF RECESS.)

25 THE COURT: ALL RIGHT. LET'S CALL FOR THE
26 JURORS.

27
28 (THE FOLLOWING PROCEEDINGS WERE

1 HELD IN OPEN COURT OUTSIDE THE
2 PRESENCE OF THE JURY.)
3

4 THE COURT: ALL OUR JURORS AND ALTERNATES ARE
5 ONCE AGAIN PRESENT. MR. GOODWIN IS PRESENT WITH HIS
6 COUNSEL. THE PEOPLE ARE REPRESENTED.

7 THE PEOPLE MAY PRESENT THEIR CLOSING
8 ARGUMENT.

9 MR. JACKSON: THANK YOU, YOUR HONOR.
10

11 **CLOSING ARGUMENT**

12 MR. JACKSON: THIS CASE IS ABOUT A MAN WHOSE EGO
13 WAS SO FRAGILE, WHOSE CHARACTER WAS SO SHALLOW THAT HE
14 COULD NOT AND HE WOULD NOT FACE DOWN A RIVAL FAIRLY AND
15 SQUARELY.

16 IN THE 1980'S MICHAEL GOODWIN WAS USED TO
17 BEATING EVERYBODY. BUT HE WAS BEING BEATEN SOUNDLY BY
18 MICKEY THOMPSON. IN THE 1980'S MICHAEL GOODWIN WAS USED
19 TO WINNING AT ALL COSTS. THE MILLIONAIRE; THE PROMOTER;
20 THE SUCCESSFUL AGENT. WINNING AT ALL COSTS, BUT HE
21 COULDN'T WIN AT ANY COST AGAINST MICKEY THOMPSON.

22 MAKE NO MISTAKE ABOUT IT, FOLKS, IN THE
23 1980'S MICHAEL GOODWIN WAS BEING FINANCIALLY,
24 PROFESSIONALLY, PERSONALLY CRIPPLED AND HUMILIATED. AND
25 HE WAS BEING CRIPPLED AND HUMILIATED BY MICKEY THOMPSON.
26 AND HE WASN'T USED TO IT.

27 THIS CASE IS ABOUT A MAN MICHAEL GOODWIN
28 WHOSE RAGE, ANGER, FRUSTRATION, CULMINATED INTO A PLAN.

1 AND THAT PLAN REACHED ITS ZENITH ON MARCH 16TH, 1988 WHEN
2 MICKEY THOMPSON AND TRUDY THOMPSON STOOD ON THEIR
3 DRIVEWAY AT 6:05 IN THE MORNING AND WERE SHOT TO DEATH.
4 MICKEY THOMPSON STOOD ON THE TOP OF THE DRIVEWAY AND
5 WATCHED IN HORROR AS THE LOVE OF HIS LIFE, TRUDY
6 THOMPSON, HAD A BULLET PUT THROUGH THE BACK OF HER HEAD.

7 HE THEN KNEW THAT HIS FATE WAS SEALED AS
8 THAT SAME GUNMAN MARCHED UP THE DRIVEWAY. AND YOU HAVE
9 SEEN THE DRIVEWAY. PUT A GUN TO THE SIDE OF HIS HEAD AND
10 SHOT HIM TO DEATH. THINK ABOUT IT. MICKEY THOMPSON WAS
11 EXECUTED ON MARCH 16TH, 1988, AT 6:05 IN THE MORNING, BUT
12 NOT BEFORE HE HAD TO WATCH HIS WIFE, HIS FAMILY, SUFFER
13 AND DIE. EXACTLY HOW MICHAEL FRANK GOODWIN SAID HE
14 WANTED IT TO HAPPEN. EXACTLY.

15 LADIES AND GENTLEMEN, MICHAEL GOODWIN IS
16 CHARGED IN THIS CASE WITH TWO COUNTS OF MURDER. MURDER
17 OF MICKEY THOMPSON. MURDER OF TRUDY THOMPSON. HE'S ALSO
18 CHARGED IN TWO SPECIAL CIRCUMSTANCES THAT WE'LL TALK
19 ABOUT IN JUST A SECOND, MULTIPLE MURDERS AND LYING IN
20 WAIT.

21 BEFORE WE CAN UNDERSTAND HOW THE PEOPLE
22 AND HOW THE EVIDENCE HAS PROVED THE DEFENDANT'S GUILT
23 BEYOND A REASONABLE DOUBT, WE SORT OF HAVE TO START ON
24 THE SAME PLAYING FIELD. WE HAVE TO UNDERSTAND HOW THE
25 LAW DEFINES THESE CRIMES. SO THE JUDGE JUST GAVE YOU A
26 PLETHORA OF JURY INSTRUCTIONS AND WENT THROUGH SOME
27 RATHER CONVOLUTED JURY INSTRUCTIONS AND SOME SIMPLE JURY
28 INSTRUCTIONS. BUT THERE WERE A LOT OF THEM AND IT'S A

1 LOT TO ABSORB.

2 SO I'M GOING TO TAKE IT UPON MYSELF FOR A
3 FEW MINUTES TO VISIT WITH YOU. THIS IS OUR CHANCE TO
4 KIND OF VISIT ABOUT WHAT THE JURY INSTRUCTIONS MEAN AND
5 HOW THE LAW DEFINES THESE CRIMES THAT YOU'RE BEING
6 CHARGED TO FIGURE OUT. AND HOW DO THE FACTS FIT INTO
7 THAT LAW. SO I'M GOING TO TAKE A FEW MINUTES AND TALK
8 ABOUT THAT LAW, IF YOU'LL BEAR WITH ME.

9 THE FIRST THING WE NEED TO TALK ABOUT, WE
10 ALL HAVE TO START ON THE SAME PAGE. WE HAVE TO TALK
11 ABOUT WHAT MURDER IS. MURDER IS DEFINED AS THE UNLAWFUL
12 KILLING OF A HUMAN BEING -- THAT'S CUT OFF JUST A LITTLE
13 BIT. I THINK THE PROJECTOR IS NOT SET RIGHT. IT DOESN'T
14 MATTER. MAYBE THE LAST LETTER WILL GET CUT OFF.

15 MURDER IS DEFINED AS THE KILLING OF A
16 HUMAN BEING WITH MALICE AFORETHOUGHT. THERE IS THREE
17 ELEMENTS OF THAT, RELATIVELY SIMPLE. THAT A HUMAN BEING
18 IS KILLED -- AND SOME OF THESE INSTRUCTIONS YOU MIGHT
19 THINK TO YOURSELF, YOU MIGHT STEP BACK AND SAY, WAIT A
20 MINUTE, THAT'S KIND OF STUPID. WHY ARE THEY INSTRUCTING
21 US ON THAT PARTICULAR POINT?

22 WELL, FOR ALL OF THE DOG AND CAT LOVERS
23 OUT THERE, THE LAW DOESN'T TAKE ANYTHING FOR GRANTED.
24 YOU CANNOT MURDER A CAT. YOU CAN'T MURDER A DOG. THE
25 LAW SAYS -- THE LEGISLATURE SAYS, YOU HAVE TO PROVE THAT
26 IT WAS A HUMAN BEING THAT WAS MURDERED.

27 THE SECOND PART IS THE KILLING WAS
28 UNLAWFUL. IN OTHER WORDS, IT WASN'T JUSTIFIABLE. I

1 WASN'T EXCUSABLE. AND LET ME PAUSE FOR JUST A SECOND
2 ABOUT THAT BECAUSE, AGAIN, I WANT TO MAKE SURE WE ALL
3 START OFF ON THE SAME PLAYING FIELD.

4 EVERYBODY IS THINKING TO THEMSELVES, WAIT
5 A MINUTE, I JUST HEARD THE JUDGE TALKING ABOUT HOMICIDE.
6 OF COURSE, IT'S ILLEGAL TO KILL A HUMAN BEING. EVERYBODY
7 KNOWS THAT HOMICIDE IS ILLEGAL; RIGHT?

8 YEAH, EVERYBODY IS SHAKING THEIR HEAD.
9 WELL, HOMICIDE ACTUALLY BY ITS DEFINITION IS NOT
10 NECESSARILY ILLEGAL. LET ME GIVE YOU AN EXAMPLE. A
11 HOMICIDE IS DEFINED AS THE KILLING OF A HUMAN BEING AT
12 THE HAND OF ANOTHER HUMAN BEING. OKAY? THE KILLING OF
13 ONE HUMAN BEING AT THE HAND OF ANOTHER HUMAN BEING.

14 LET'S SAY THAT YOU ARE LYING IN BED AT
15 NIGHT; YOU'VE GOT THE COVERS PULLED UP TO YOUR CHIN; IT'S
16 NICE AND CHILLY OUTSIDE; IT'S COMPLETELY DARK; IT'S 3:00
17 O'CLOCK IN THE MORNING; AND THE HAIRS ON THE BACK OF YOUR
18 NECK START TO PRICKLE JUST A LITTLE BIT. YOU THINK MAYBE
19 IT'S A DREAM. YOU THINK MAYBE IT'S NOT.

20 YOU OPEN YOUR EYES AND AT THE FOOT OF YOUR
21 BED STANDS A 6'3" FIGURE ALL CLAD IN BLACK, WIELDING A
22 KNIFE WITH A TEN-INCH BLADE ON IT. AND YOU CAN SEE THE
23 BLADE OF THAT KNIFE OFF THE GLINT OF THE MOON LIGHT. SO
24 YOU DO WHAT EVERY RED-BLOODED AMERICAN WOULD DO, YOU GRAB
25 THE NINE IRON THAT YOU KEEP BY YOUR BED.

26 AND YOU SWING WILDLY AT THIS PERSON AS
27 THEY JUMP AND ATTACK YOU. AND YOUR SWING IS ON TARGET
28 AND THAT PERSON DIES. WELL, THAT'S THE KILLING OF A

1 HUMAN BEING AT THE HAND OF ANOTHER; CORRECT? EVERYBODY
2 AGREES WITH THAT. BUT THAT'S NOT ILLEGAL. THAT IS
3 CONSIDERED A LAWFUL HOMICIDE.

4 IN THAT INSTANCE IT'S CALLED JUSTIFIABLE
5 HOMICIDE OR WHAT WE CALLED SELF-DEFENSE; RIGHT?

6 ANOTHER QUICK EXAMPLE, YOU'RE DRIVING DOWN
7 THE ROAD, 25 MILE AN HOUR SPEED LIMIT IS POSTED AND
8 YOU'RE GOING 24 MILES AN HOUR. YOU'VE GOT YOUR HANDS AT
9 THE 10:00 O'CLOCK AND 2:00 O'CLOCK POSITION JUST LIKE
10 YOUR DRIVER'S ED TEACHER TOLD YOU TO DO. AND WE'RE NOT
11 ON THE CELL PHONE EATING A TUNA FISH SANDWICH DRIVING
12 WITH OUR KNEE OR EITHER PUTTING LIPSTICK OR CHANGING THE
13 RADIO DIAL. NONE OF THAT STUFF, WHICH OF COURSE NONE OF
14 YOU GUYS WOULD EVER DO; CORRECT? ABSOLUTELY NOT.

15 SO WE'RE FOLLOWING ALL THE LAWS, BUT
16 HEAVEN FORBID, A CHILD RUNS OUT FROM BETWEEN TWO PARKED
17 CARS AND THE CHILD IS STRUCK. THE CHILD DIES. IS THAT A
18 HOMICIDE? OF COURSE, IT IS. IT'S THE KILLING OF A HUMAN
19 BEING AT THE HAND OF ANOTHER. BUT, AGAIN, IT'S NOT
20 UNLAWFUL. THAT'S CALLED EXCUSABLE HOMICIDE OR WHAT WE
21 CALL AN ACCIDENT.

22 AND IN A WORLD POPULATED WITH 6
23 BILLION-ODD PEOPLE, ACCIDENTS HAPPEN. SO THE LAW -- I
24 TELL YOU THAT TO INDICATE THAT THE LAW DOES GIVE SOME
25 CONSIDERATION TO THOSE THINGS. WE HAVE TO PROVE THAT THE
26 KILLING WAS UNLAWFUL TO MEET THE BURDEN TO PROVE MURDER.

27 IN THIS CASE, IS THERE ANY QUESTION THAT
28 MICKEY THOMPSON AND TRUDY THOMPSON WERE KILLED

1 UNLAWFULLY? OF COURSE NOT. IT WASN'T JUSTIFIED. IT
2 WASN'T EXCUSABLE. THEREFORE IT'S AN UNLAWFUL KILLING.

3 AND, FINALLY, THE LAST THING THAT IS CUT
4 OFF JUST A LITTLE BIT THERE AT THE BOTTOM IS THE LAW OF
5 MALICE AFORETHOUGHT. SO THERE HAS TO BE A HUMAN BEING
6 KILLED; IT HAS TO BE UNLAWFUL; AND THERE HAS TO BE MALICE
7 AFORETHOUGHT.

8 SO THAT BEGS THE NEXT QUESTION: WHAT IN
9 FACT IS MALICE AFORETHOUGHT? WHAT DOES THAT MEAN? IN
10 THIS CASE, I'M GOING TO TELL YOU RIGHT NOW, IT'S
11 EXTREMELY SIMPLE. MALICE AFORETHOUGHT CAN TAKE TWO FORMS
12 HERE IN CALIFORNIA -- IF I STAND HERE, AM I CUTTING --
13 CAN EVERYBODY SEE OVER MY HEAD? ALL RIGHT.

14 MALICE AFORETHOUGHT TAKES TWO FORMS HERE
15 IN CALIFORNIA. IT CAN BE EXPRESS MALICE OR IMPLIED
16 MALICE. THE ONLY ONE THAT MATTERS IN THIS CASE IS
17 EXPRESS MALICE. AND LET ME EXPLAIN VERY QUICKLY WHY.
18 MALICE SIMPLY MEANS -- OR EXPRESS MALICE SIMPLY MEANS
19 JUST TRANSLATE IT IN YOUR MIND, INTENT TO KILL.

20 IF WE CAN PROVE AN INTENT TO KILL, AN
21 INTENT TO TAKE THE LIFE OF ANOTHER HUMAN BEING, THAT'S
22 EXPRESS MALICE AND WE'VE PROVED THAT ELEMENT. OKAY?
23 THERE IS SOMETHING IN THE LAW CALLED IMPLIED MALICE, BUT
24 WE DON'T NEED TO WORRY ABOUT IT IN THIS CASE. WHY?

25 BECAUSE WHEN THE GUNMAN WALKED UP BEHIND
26 TRUDY AND PUT A BULLET THROUGH HER BRAIN, IS THERE ANY
27 QUESTION THAT THAT PERSON WAS INTENDING TO TAKE HER LIFE?
28 THE GUNMAN WASN'T INTENDING TO HARASS HER; OR SCARE HER;

1 OR INTIMIDATE HER; OR INJURE HER. HE WAS INTENDING TO
2 WHAT? KILL HER. NO QUESTION. THAT'S EXPRESS MALICE.

3 WHEN THAT SAME GUNMAN MARCHED UP THE
4 DRIVEWAY AND PUT A GUN TOWARD MICKEY THOMPSON'S HEAD AND
5 PULLED THE TRIGGER, IT WASN'T AN INTENT TO SCARE OR
6 HARASS OR INTIMIDATE OR INJURE. IT WAS AN INTENT TO
7 KILL. BOTH MICKEY'S LIFE AND TRUDY'S LIFE WERE TAKEN
8 FROM US, SPECIFICALLY WITH AN INTENTION TO KILL THEM.

9 EXPRESS MALICE AFORETHOUGHT IS THE ONLY
10 PART OF THE MALICE INSTRUCTION THAT YOU NEED TO WORRY
11 YOURSELF WITH. INDEED MS. SARIS ISN'T GOING TO I DON'T
12 BELIEVE SHE'LL EVEN STAND UP AND ARGUE THE POINT.
13 WHATEVER HAPPENED AT 53 WOODLYN LANE ON MARCH 16TH, 1988
14 WAS MURDER AND IT WAS MURDER IN THE FIRST DEGREE. AND
15 I'M GOING TO EXPLAIN THAT RIGHT NOW.

16 AGAIN, IN AN EFFORT TO KIND OF START OFF
17 GLOBALLY, THIS IS PROBABLY THE FIRST TIME THAT MOST OF
18 YOU FOLKS HAVE HEARD THE INSTRUCTIONS ABOUT HOMICIDE AND
19 MURDER I'M ASSUMING. YES. SO I'M NOT REITERATING
20 SOMETHING THAT YOU FOLKS ALL KNOW. TO START OFF ON THE
21 SAME PLAYING FIELD WITH KIND OF A CLEAN SLATE I WANT TO
22 TALK TO YOU ABOUT WHAT THE DIFFERENCE BETWEEN FIRST AND
23 SECOND DEGREE MURDER IS.

24 LET'S START OFF WITH IT THIS WAY -- AND
25 SOME PEOPLE ARE KIND OF SHOCKED BY THIS BECAUSE THEY
26 WATCH ENOUGH TV TO GET CONFUSED. EVERY MURDER IN
27 CALIFORNIA STARTS OFF AS A SECOND DEGREE MURDER. EVERY
28 MURDER STARTS OFF AS A SECOND DEGREE MURDER. THERE HAS

1 TO BE SOMETHING A LITTLE ABOVE AND BEYOND THE GARDEN
2 VARIETY MURDER, IF THERE IS SUCH A THING, TO MAKE IT
3 FIRST DEGREE. AND THERE IS THREE WAYS THAT WE GET THERE.
4 THREE DIFFERENT WAYS TO GET TO FIRST DEGREE MURDER.

5 IT CAN BE WILLFUL, DELIBERATE AND
6 PREMEDITATED. THE MURDER CAN BE DURING THE COURSE OF A
7 PARTICULAR FELONY, LIKE ROBBERY, FOR INSTANCE; OR A BANK
8 ROBBERY; OR ARSON. OR IT CAN BE BY SPECIFIC MEANS;
9 TORTURE MURDER; MURDER BY POISON; MURDER BY EXPLOSIVE
10 DEVICE; OR MURDER BY LYING IN WAIT.

11 LITERALLY, THE LEGISLATURE HAS GIVEN US A
12 LIST ON THAT THIRD POINT OF SPECIFIC MEANS. IN OTHER
13 WORDS, HOW DID YOU COMMIT THE MURDER? AND THERE IS A
14 LIST. AND IF IT FITS IN THAT LIST, THEN IT IS A FIRST
15 DEGREE MURDER. LYING IN WAIT IS ON THAT LIST.

16 YOU'RE NOT GOING TO NEED TO WORRY YOURSELF
17 WITH FELONY MURDER. YOU'RE NOT EVEN GOING TO GET AN
18 INSTRUCTION ABOUT THAT. THE JUDGE DIDN'T READ ANYTHING
19 IT AND I'M NOT GOING TO TALK ABOUT IT BECAUSE IT DOESN'T
20 APPLY. BUT WHAT DOES APPLY IS THE TWO WAYS THAT WE GET
21 TO FIRST DEGREE MURDER IN THIS PARTICULAR INSTANCE. AND
22 I'LL TELL YOU IN JUST A SECOND. YOU DON'T HAVE TO PICK
23 ONE OR THE OTHER. YOU DON'T HAVE TO AGREE AS A UNIT, AS
24 A JURY. YOU DON'T HAVE TO UNANIMOUSLY AGREE ON THE
25 THEORY OF HOW WE GET TO FIRST DEGREE MURDER AS LONG AS
26 YOU ALL BELIEVE THAT IT IS FIRST DEGREE MURDER.

27 LET ME TALK ABOUT WILLFUL, DELIBERATE AND
28 PREMEDITATED. PEOPLE THINK TO THEMSELVES WHEN THEY THINK

1 ABOUT WILLFUL, DELIBERATE AND PREMEDITATED CONDUCT, THEY
2 THINK TO THEMSELVES THIS ELABORATE SCHEME WHERE
3 BLUEPRINTS ARE LAID OUT.

4 YOU CAN PICTURE THOSE OLD BLACK AND WHITE
5 MOVIES WHERE A GUY IS PLANNING A BANK ROBBERY, FOR
6 INSTANCE. AND HE'S DOWN IN THE BASEMENT OF HIS HOUSE AND
7 THEY'VE GOT THAT ONE SINGLE DIMLY LIT BULB HANGING OVER
8 HIS HEAD AND HE'S GOT THESE SCHEMATICS OF A BANK ON THE
9 TABLE IN FRONT OF HIM. AND HE'S PLANNING AND FIGURING
10 OUT WHERE THE SECURITY GUARDS ARE; AND WHAT TIME THEY GET
11 OFF; AND CHANGES OF SHIFTS AND THINGS LIKE THAT.

12 AND YOU THINK, WELL, THAT MUST BE WILLFUL,
13 DELIBERATE AND PREMEDITATED CONDUCT, BECAUSE HE'S
14 THINKING IT OVER; IT'S INTENTIONAL; AND IT'S CONSIDERED
15 BEFOREHAND. OKAY.

16 AND WILLFUL, MEANS EXACTLY THAT.
17 INTENTIONAL. IT'S NOT AN ACCIDENT. DELIBERATE MEANS
18 THAT YOU THOUGHT IT OVER. AND PREMEDITATED MEANS IT WAS
19 CONSIDERED BEFOREHAND. AND WHEN YOU SAY THOUGHT IT OVER,
20 I MEAN WEIGHING AND BALANCING OF THE CONDUCT.

21 WELL, THAT EXAMPLE THAT I JUST GAVE YOU
22 IS, IN FACT, WILLFUL, DELIBERATE AND PREMEDITATED
23 CONDUCT. NO QUESTION ABOUT IT. THAT GUY IN HIS BASEMENT
24 WITH ALL OF THOSE SCHEMATICS IS ENGAGING IN THAT TYPE OF
25 CONDUCT. BUT THAT'S NOT WHAT IS REQUIRED BY THE LAW HERE
26 IN CALIFORNIA.

27 LET ME GIVE YOU AN EXAMPLE. EVERYBODY IN
28 THIS ROOM, EVERY SINGLE PERSON IN THIS ROOM, EVERYBODY ON

1 THIS JURY, EVERYBODY ENGAGED IN WILLFUL, DELIBERATE AND
2 PREMEDITATED CONDUCT THIS MORNING. ON YOUR WAY TO
3 WORK -- ON YOUR WAY TO COURT RATHER. YOU WISH YOU WERE
4 ON YOUR WAY TO WORK. NO SUCH LUCK.

5 LET ME EXPLAIN. ASSUMING EVERYBODY DROVE
6 HERE AND WE WERE ON A FREEWAY THAT, IN FACT, IS A PARKING
7 LOT THAT WE GENEROUSLY CALL FREEWAYS. AND YOU'RE DRIVING
8 ALONG IN THE NO. 1 LANE. OKAY? THE LANE CLOSEST TO THE
9 MEDIAN IN THE FAST LANE, WHICH I'M SURE EVERYBODY -- YOU
10 WOULDN'T BE A GOOD OLD FASHIONED CALIFORNIA DRIVER IF YOU
11 WEREN'T TRYING TO GET OVER TO THE FAST LANE.

12 SO EVERYBODY IS IN THE FAST LANE. YOU'RE
13 DRIVING ALONG, YOU'VE GOT YOUR HANDS ON THE STEERING
14 WHEEL AND YOU DECIDE TO LOOK UP AND SEE WHERE YOUR EXIT
15 IS. AND YOU SEE THAT THE EXIT OFF THE FREEWAY IS COMING
16 UP IN ABOUT A MILE. SO YOU DECIDE YOU ARE GOING TO
17 CHANGE LANES AND YOU SHIFT OVER FROM THE NO. 1 TO THE
18 NO. 2 LANE.

19 THINK ABOUT WHAT YOU DID. OKAY? YOU'VE
20 GOT YOUR HANDS ON THE STEERING WHEEL; RIGHT? EVERYBODY
21 HAS THEIR HANDS ON THE STEERING WHEEL. YOU DECIDE YOU'RE
22 GOING TO CHANGE LANES, SO YOU LOOK OVER YOUR RIGHT
23 SHOULDER TO MAKE SURE THERE IS NOT A BIG MACK TRUCK RIGHT
24 IN YOUR BLIND SPOT; RIGHT?

25 YOU LOOK AT YOUR SIDE-VIEW MIRROR; THEN
26 YOU LOOK AT YOUR CENTER LINE MIRROR. IF EVERYTHING IS
27 CLEAR, YOU TAKE YOUR LEFT HAND OFF THE WHEEL; YOU PUT
28 YOUR LEFT HAND ON THE TURN SIGNAL; YOU TURN THE TURN

1 SIGNAL ON. IF THE TRAFFIC IN THE RIGHT LANE IS SLOWER
2 THAN THE TRAFFIC YOU'RE IN, YOU TAKE YOUR FOOT OFF THE
3 GAS.

4 YOU BEGIN TO MOVE YOUR CAR FROM THE LEFT
5 TO THE RIGHT BY TURNING THE STEERING WHEEL, ONCE YOU'RE
6 SECURELY IN THAT SECOND LANE, YOU PUT YOUR FOOT BACK ON
7 THE GAS TO SPEED BACK UP TO TRAFFIC; TAKE YOUR LEFT HAND
8 OFF THE WHEEL; TURN THE TURN SIGNAL OFF; PUT YOUR LEFT
9 HAND BACK ON THE WHEEL; AND NOW YOU'RE DRIVING ALONG.
10 RIGHT? HOW MANY THINGS DID I JUST MENTION RIGHT THERE?
11 12? 15?

12 AND YOU DID IT (SNAP) THAT QUICK. IN AN
13 INSTANT. THERE IS NO TIME. THERE IS NO CLOCK. THERE IS
14 NO WATCH THAT HAS TO BE SET THAT ESTABLISHES WILLFUL,
15 DELIBERATE AND PREMEDITATED CONDUCT. BUT WHAT I HAVE
16 JUST DESCRIBED EVERYBODY IN THIS ROOM HAVING DONE, IS
17 WILLFUL, DELIBERATE AND PREMEDITATED. EVERYBODY AGREES.
18 IT WAS INTENTIONAL. WE CHANGED LANES INTENTIONALLY, NOT
19 ON ACCIDENT.

20 YOU THOUGHT IT OVER BEFOREHAND. YOU
21 WEIGHED AND BALANCED THE CONSEQUENCES. THE PROS AGAINST
22 THE CONS; RIGHT? IF THERE WAS A BIG TRUCK THERE, YOU
23 DON'T MOVE OVER. IF THERE IS NOT, YOU DO. AND YOU
24 THOUGHT IT OVER BEFOREHAND. IN OTHER WORDS, IT WASN'T AN
25 AFTERTHOUGHT. YOU DIDN'T ACCIDENTALLY ZOOM OVER INTO THE
26 RIGHT LANE AND THINK, HEY, I NEEDED TO BE HERE ANYWAY.
27 IT WAS A CONCERTED EFFORT; RIGHT?

28 I GIVE YOU THAT EXAMPLE TO SAY I DON'T

1 WANT YOU TO GET CAUGHT UP IN THE WILLFUL, DELIBERATE AND
2 PREMEDITATED JURY INSTRUCTION BECAUSE IT'S VERY SIMPLE.
3 WE DO IT EVERYDAY. IT'S NOT SOMETHING THAT BE AFRAID OF.
4 IT'S NOT SOMETHING TO BACK OFF OF.

5 AND WHEN CONSIDERING WHAT HAPPENED ON
6 MARCH 16TH, 1988, IS THERE ANY QUESTION NOW THAT YOU HAVE
7 A KIND OF A GLOBAL VIEW OF WHAT WILLFUL, DELIBERATE AND
8 PREMEDITATED CONDUCT IS THAT THESE MURDERS WERE WILLFUL,
9 THEY WERE DELIBERATE AND THEY WERE PREMEDITATED. THERE
10 WAS A PLAN IN PLACE, FOLKS.

11 THERE WAS A DANCE, IF YOU WILL. A VERY
12 DEADLY DANCE, BUT A CHOREOGRAPHED ACTION NONETHELESS THAT
13 WAS HAPPENING ON THE TARMAC, ON THE DRIVEWAY, AT 53
14 WOODLYN LANE. THOSE TWO KILLERS ACTED IN CONCERT WITH
15 ONE ANOTHER; ONE COVERING MICKEY THOMPSON; THE OTHER
16 MAKING SURE TRUDY DIDN'T GET ANYWHERE.

17 THAT FIRST KILLER MAKING SURE THAT TRUDY
18 WAS DEAD AND MICKEY WAS STILL ALIVE TO WATCH IT. THEN
19 AND ONLY THEN WALKING UP THE DRIVEWAY TO KILL MICKEY.

20 THIS WAS AN ORCHESTRATED, WELL
21 CHOREOGRAPHED, WELL COORDINATED, EXECUTION, AN
22 ASSASSINATION. IT WAS WILLFUL, DELIBERATE AND
23 PREMEDITATED. FIRST DEGREE MURDER. TWO COUNTS.

24 BUT THAT'S NOT THE ONLY WAY THAT YOU CAN
25 GET TO FIRST DEGREE MURDER. IF YOU CONSIDER HOW THE
26 KILLERS CONDUCTED THEMSELVES. THERE IS A SECOND THEORY
27 OF FIRST DEGREE MURDER THAT APPLIES IN THIS CASE. AND
28 THAT'S LYING IN WAIT.

1 YOU HEARD EVIDENCE -- AND WHEN WE FIRST
2 INTRODUCED YOU TO HER, ELIZABETH DEVINE, REMEMBER THE
3 LADY FROM CSI? YOU PROBABLY THOUGHT WHY ARE THEY TELLING
4 US ABOUT FRUIT? WHY DO WE CARE ABOUT ORANGE PEELS ON THE
5 GROUND? BECAUSE THOSE ORANGE PEELS TELL US SOMETHING --
6 TELL YOU SOMETHING THAT YOU MIGHT OTHERWISE NOT KNOW.

7 WHY TELL US ABOUT THE DIRT ON THE
8 PAVEMENT? WHO CARES IF THE PAVEMENT WAS DIRTY WITH A
9 COUPLE OF SHOE PRINTS? BECAUSE THOSE SHOE PRINTS, FOLKS,
10 TELL YOU ABOUT THE CONDUCT THAT WAS BEING ENGAGED IN AT
11 6:05 IN THE MORNING AND IN THE HOURS BEFORE THAT.

12 THOSE KILLERS -- YOU'VE BEEN TO THE CRIME
13 SCENE. YOU'VE SEEN IT. YOU SAW WHERE THEY WERE HIDING
14 RIGHT BEHIND THOSE HEDGES. YOU SAW WHERE THE FOOTSTEPS
15 WERE ON THE CRIME SCENE DIAGRAMS. IF THEY HADN'T BEEN IN
16 THE DIRT, HOW ARE THERE SHOES GOING TO MAKE THOSE STEPS?
17 HOW ARE THOSE SHOES GOING TO PLANT THAT EVIDENCE.

18 IF THEY WEREN'T WAITING, WHO PUT THAT
19 ORANGE PEEL THERE? THERE WERE ORANGE TREES RIGHT --
20 DWARF ORANGE TREES THAT ELIZABETH DEVINE TALKED ABOUT
21 RIGHT WHERE THE KILLERS WERE WAITING. HOW LONG HAD THEY
22 BEEN WAITING? TICK-TOCK. TICK-TOCK. HOW LONG? THEY
23 WERE WAITING TO AMBUSH MICKEY AND TRUDY. AND THEY WERE
24 PROFESSIONALS. THEY WERE WAITING AND WAITING AND
25 WAITING.

26 AND THEY WERE SO ICE COLD THAT THEY VERY
27 OBVIOUSLY PULLED A PIECE OF FRUIT FROM AN ADJACENT TREE
28 AND PEELED IT WITH A KNIFE. REMEMBER WHAT LIZ DEVINE

1 SAID, THIS WAS CUT BY SOMETHING SHARP, SOMETHING WITH AN
2 EDGE TO IT. IT WASN'T A CAT. IT WASN'T A BOB CAT OR A
3 DEER OR ANYTHING LIKE THAT. T WAS A HUMAN BEING CUTTING
4 THIS ORANGE OPEN.

5 ICE COLD WAITING AND WATCHING. AND WHAT
6 ELSE DOES THE EVIDENCE SUGGEST ABOUT LYING IN WAIT? HOW
7 WAS MICKEY ATTACKED? HOW WAS TRUDY ATTACKED. THE GARAGE
8 DOOR OPENS -- I MEAN THINK ABOUT IT. PUT YOURSELF IN
9 THAT POSITION. THE GARAGE DOOR OPENS; A CAR IS STARTED;
10 THE VAN IS BACKED OUT; THE GARAGE DOOR CLOSES; AND
11 NOTHING AT THAT POINT.

12 WE KNOW THAT THE GARAGE DOOR WAS CLOSED
13 WHEN THE SHOTS WERE FIRED -- THE FIRST SHOTS RANG OUT.
14 WHY? BECAUSE BULLET HOLES WENT THROUGH THEM. IT'S
15 PRETTY TOUGH TO TELL EXACTLY WHAT HAPPENED WITH
16 BALLISTICS. BUT ONE THING YOU CAN SAY FOR SURE, ONE
17 THING THAT EVERYBODY AGREED ON, SWANEPOEL, MANNY MUNOZ
18 AND EVEN DWIGHT VAN HORN -- WHOM YOU DIDN'T HEAR FROM,
19 BUT BOTH MEN TALKED ABOUT THEIR REVIEW OF HIS REPORT --
20 EVERYBODY AGREES. IT'S COMMON SENSE. ONE THING YOU CAN
21 TELL, THAT GARAGE DOOR WAS CLOSED OR CLOSING WHEN THOSE
22 FIRST SHOTS WERE FIRED.

23 WHY? BECAUSE THEY WERE WAITING. MICKEY
24 THOMPSON WASN'T ATTACKED UNTIL HE GOT ALL THE WAY AROUND
25 THE SIDE OF THE HOUSE AROUND TO THE EDGE WHERE THAT
26 GARAGE BEGINS TO MAKE ITS OPENING. YOU'VE ALL SEEN IT.
27 YOU KNOW WHAT I'M TALKING ABOUT; RIGHT? HE WASN'T
28 ATTACKED AT THE GARAGE DOOR -- THE HUMAN, NOT THE VEHICLE

1 GARAGE DOOR, IF YOU KNOW WHAT I MEAN. THE GARAGE DOOR ON
2 THE SIDE WHERE PEOPLE WALK THROUGH NOT CARS. HE WAS
3 ATTACKED IN FRONT, WATCHING, WAITING. AND HE WAS
4 ATTACKED FROM BEHIND.

5 IT'S IMPOSSIBLE TO SAY DEFINITELY, WHICH
6 SHOT CAME FIRST. BUT YOU FOLKS ARE PRETTY SMART. AS A
7 MATTER OF FACT, I'LL DO YOU ONE BETTER. IF THE AVERAGE
8 AGE ON THIS JURY IS, LET'S SAY, 40 YEARS, A FEW OLDER; A
9 FEW YOUNGER. THAT'S -- WHAT IS THAT? 12 TIMES 40, 480
10 YEARS. THE ACCOUNT IS LAUGHING. SO I STRUGGLE A LITTLE.
11 ALL RIGHT. IT'S NOT FAIR. 480 YEARS OF LIVING EXPENSE
12 EXPERIENCE AMONG YOU.

13 YOU FOLKS ARE SMARTER THAN ANYBODY AT OUR
14 SIDE OF THE TABLE. YOU'RE SMARTER THAN ANYBODY AT THE
15 DEFENSE SIDE OF THE TABLE. YOU'RE SMARTER -- YOU MAY NOT
16 BE SMARTER THAN THE JUDGE. ALL RIGHT.

17 BUT YOU FOLKS AS AN ENTITY ARE NOT TO
18 CHECK YOUR COMMON SENSE AT THE DOOR. YOU DON'T WALK
19 THROUGH THAT DELIBERATION ROOM AND ERASE YOUR MIND, ERASE
20 480 YEARS WORTH OF LIVING. YOU ARE ALLOWED -- YOU ARE
21 INSTRUCTED TO USE YOUR COMMON SENSE.

22 HOW WAS MICKEY ATTACKED? YOU SAW ONE
23 BULLET THAT WENT FROM BACK TO FRONT RIGHT THROUGH HIS
24 HIP. HE WASN'T SHOT IN THE BACK OF THE HEAD. HE WAS
25 ABSOLUTELY WOUNDED, WOUNDED ON PURPOSE FOR A REASON FROM
26 BEHIND WATCHING AND WAITING.

27 THEY COULDN'T KILL MICKEY FIRST BECAUSE
28 TRUDY HAD TO DIE. THIS IS LYING IN WAIT. IT REQUIRES

1 CONCEALMENT AND IT REQUIRES A SURPRISE ATTACK. AND I'LL
2 TALK ABOUT THAT SAME THEORY OR THAT SAME SET OF
3 CIRCUMSTANCES IN JUST A SECOND WHEN WE GET TO THE SPECIAL
4 CIRCUMSTANCE. BECAUSE YOU ARE GOING TO HEAR TWO THINGS
5 THAT SOUND VERY SIMILAR.

6 THE JUDGE TOLD YOU THAT LYING IN WAIT WAS
7 ACTUALLY A SPECIAL CIRCUMSTANCE IN THIS CASE AS WELL. I
8 WANT YOU FOLKS MENTALLY TO DIFFERENTIATE BETWEEN THOSE
9 TWO THINGS THAT I'M TALKING ABOUT. LYING IN WAIT IS A
10 THEORY THAT YOU FOLKS CAN USE TO DETERMINE THAT THIS WAS
11 FIRST DEGREE MURDER OR TWO COUNTS OF FIRST DEGREE MURDER
12 RATHER THAN SECOND DEGREE MURDER. OKAY?

13 IT'S ALSO IN AND OF ITSELF SEPARATE AND
14 APART FROM THAT THEORY. IT'S ALSO A SPECIAL
15 CIRCUMSTANCE. BUT I WANT TO PUT THAT ON THE BACK BURNER
16 FOR JUST A QUICK SECOND AND EXPLAIN ONE MORE THING ABOUT
17 FIRST DEGREE MURDER. IF I SPLIT THE JURY RIGHT DOWN THE
18 MIDDLE, HALF OF YOU CAN DECIDE I BELIEVE IT'S FIRST
19 DEGREE MURDER BECAUSE OF WILLFUL, DELIBERATE AND
20 PREMEDITATED CONDUCT. THE OTHER HALF CAN DECIDE I
21 BELIEVE IT'S FIRST DEGREE MURDER BECAUSE OF LYING IN
22 WAIT. THERE CAN BE SPORADIC DECISIONS AMONG YOU. IT
23 DOESN'T MATTER.

24 YOU DO NOT HAVE TO BE UNANIMOUS ABOUT THAT
25 THEORY. OKAY. I CAN'T STRESS THAT ENOUGH. YOU DO NOT
26 HAVE TO BE UNANIMOUS ABOUT THAT THEORY. THE VERDICT FORM
27 IS NEVER GOING TO ASK YOU WHY DO YOU THINK IT'S FIRST
28 DEGREE MURDER AS LONG AS EVERYBODY IS CONVINCED THAT IT

1 IS. THAT'S ALL THAT YOU NEED FOR UNANIMITY.

2 AND ONE OF THE LAST NOTES THAT I WANT TO
3 MAKE SURE THAT YOU UNDERSTAND ABOUT THE JURY INSTRUCTION
4 CONCERNING LYING IN WAIT IS IS THERE IS NO PARTICULAR
5 TIME PERIOD. THERE IS NO TICK-TOCK THAT WE HAVE TO PROVE
6 TO DETERMINE LYING IN WAIT. YOU CAN DECIDE THAT THEY
7 WERE LYING IN WAIT FOR SEVERAL HOURS OR SEVERAL MINUTES
8 OR SEVERAL SECONDS.

9 THERE IS NO CLOCK THAT MATTERS. AS LONG
10 AS YOU ESTABLISH -- AS LONG AS THAT YOU ARE COMFORTABLE
11 BASED ON THE EVIDENCE THAT THERE WAS CONCEALMENT AND THAT
12 THERE WAS A SURPRISE ATTACK. THAT'S ALL YOU NEED AND IT
13 BECOMES FIRST DEGREE MURDER.

14 THE SPECIAL CIRCUMSTANCES, I'M GOING TO
15 START WITH MULTIPLE MURDER SPECIAL CIRCUMSTANCE. THE
16 ONLY THING I NEED TO SAY ABOUT THIS AND I CAN BE
17 RELATIVELY SHORT-WINDED ABOUT THIS. WE KNOW THAT WE HAVE
18 TWO VICTIMS AT THE SCENE TRUDY AND MICKEY THOMPSON.

19 AS LONG AS YOU FIND THAT AT LEAST ONE OF
20 THOSE MURDERS IS OF THE FIRST DEGREE, THEN YOU JUST PUT A
21 MENTAL CHECK MARK BY THAT SPECIAL CIRCUMSTANCE. AS LONG
22 AS YOU DETERMINE THAT ONE OR THE OTHER OF THE MURDERS WAS
23 OF THE FIRST DEGREE, THIS SPECIAL CIRCUMSTANCE APPLIES.

24 IN THIS CASE, ONCE AGAIN, BOTH MURDERS
25 WERE OF THE FIRST DEGREE. SO THIS SPECIAL CIRCUMSTANCE
26 IS A GIMME. ONCE YOU DETERMINE THAT MICKEY AND TRUDY
27 THOMPSON WERE BOTH MURDERED AND THEY WERE MURDERED IN THE
28 FIRST DEGREE, THIS SPECIAL CIRCUMSTANCE ABSOLUTELY

1 APPLIES.

2 AND THEN HERE IS THE SECOND SPECIAL
3 CIRCUMSTANCE DEALING WITH LYING IN WAIT. NOW TAKE THAT
4 OFF THE BACK BURNER, THE SPECIAL CIRCUMSTANCE OFF THE
5 BACK BURNER AND LET'S TALK ABOUT THAT FOR JUST A SECOND.
6 EVERYTHING THAT I JUST DESCRIBED BEFOREHAND APPLIES, ALL
7 THAT SAME CONDUCT APPLIES.

8 YOU DON'T HAVE TO FIND ANYTHING DIFFERENT,
9 EXCEPT THIS ONE SMALL NUANCE. THE SPECIAL CIRCUMSTANCE
10 REQUIRES CONCEALMENT, WATCHFUL WAITING, AND A SURPRISE
11 ATTACK. AND THE ONLY DIFFERENCE YOU'LL SEE IN THE
12 LANGUAGE -- AND YOU CAN PUT THE TWO JURY INSTRUCTIONS
13 RIGHT NEXT TO ONE ANOTHER -- THE ONLY DIFFERENCE YOU'LL
14 SEE IN THE LANGUAGE IS THAT THE SPECIAL CIRCUMSTANCE
15 REQUIRES THAT YOU FIND THAT THE ATTACK WAS UNINTERRUPTED.

16 IN OTHER WORDS, THERE WASN'T A SIGNIFICANT
17 PERIOD OF INTERRUPTION BETWEEN THE LYING IN WAIT AND THE
18 ATTACK. AND, OF COURSE, THAT APPLIES IN THIS CASE. WHY?
19 BECAUSE WE KNOW MICKEY THOMPSON AND TRUDY THOMPSON WERE
20 ATTACKED IMMEDIATELY WHEN THEY CAME OUT OF THEIR HOUSE.
21 IMMEDIATELY. SO THIS SPECIAL CIRCUMSTANCE APPLIES AS
22 WELL.

23 I WANT TO SPEND A FEW MINUTES AND TALK
24 ABOUT THE CONCEPT OF AIDING AND ABETTING. I CONSIDER
25 MYSELF TO HAVE DONE WELL SO FAR. I HAVEN'T COUGHED IN
26 ANYBODY'S FACE. I'VE BEEN FIGHTING THIS FOR GOING ON
27 FOUR WEEKS NOW AND I APOLOGIZE. BUT I DO -- I'M KIND OF
28 A SLAVE TO WATER NOW.

1 AIDING AND ABETTING, SOME OF YOU MIGHT
2 HAVE WALKED INTO THE COURTROOM AT ONE POINT AND THOUGHT
3 TO YOURSELVES, WELL, I WONDER IF THEY'RE GOING TO PROVE
4 THAT MICHAEL GOODWIN WAS OUT AT THE CRIME SCENE. I
5 WONDER IF THEY'RE GOING TO PROVE THAT MICHAEL GOODWIN
6 ACTUALLY HELD A GUN AND FIRED A GUN. WE DON'T HAVE TO.

7 AIDING AND ABETTING IS PART OF THE LAW
8 THAT DEALS WITH PEOPLE ACTING IN CONCERT WITH ONE
9 ANOTHER. IT'S DEFINED AS FOLLOWS: AN AIDER AND ABETTER
10 IS SOMEONE WHO HAS KNOWLEDGE OF THE OTHER PEOPLE'S
11 UNLAWFUL INTENT OR UNLAWFUL PURPOSE AND THEY GIVE AID OR
12 ENCOURAGEMENT WITH THE INTENT TO FACILITATE THE ULTIMATE
13 CRIME.

14 MOST PEOPLE THINK OF AIDING AND ABETTING
15 LIKE THIS, LET'S USE BANK ROBBERY. POOR OLD BANK
16 ROBBERS, I PICK ON THEM IN THIS CASE A LOT. THE CLASSIC
17 BANK ROBBERY CASE, YOU GOT TWO GUYS THAT ARE GOING TO GO
18 AND KNOCK OVER THE FIRST FEDERAL OR WELLS FARGO OR
19 WHATEVER IT IS. ONE GUY WAITS IN THE CAR; THE OTHER GUY
20 GOES IN AND ROBS THE TELLER; COMES BACK OUT AND THEY
21 DRIVE AWAY.

22 THE GUY IN THE CAR COMES TO COURT AND
23 SAYS, WAIT A MINUTE, YOU GOT NOTHING TO ME. I DIDN'T GO
24 IN THE BANK. THAT WAS THAT IDIOT. HE'S THE ONE THAT
25 WENT IN THE BANK; HE HELD THE GUN; HE PASSED HER THE
26 NOTE; HE GOT THE MONEY; I WAS JUST WAITING IN THE CAR.
27 WELL, THE LAW SAYS TIME OUT EINSTEIN, NOT SO FAST.

28 UNDER THE LAW OF AIDING AND ABETTING, IF

1 YOU DO SOMETHING TO HELP FACILITATE THE CRIME, YOU'RE
2 JUST AS GUILTY AS THE PERSON WHO WAS THE DIRECT
3 PERPETRATOR. ALL RIGHT? AND THERE IS A COUPLE OF
4 PHRASES THAT I WANT TO MAKE SURE YOU GET COMFORTABLE
5 WITH.

6 ANY PERSON WHO IS INVOLVED IN A CRIME,
7 OKAY, ANY PERSON WHO IS INVOLVED IN THE COMMISSION OF A
8 CRIME IS CALLED A PRINCIPAL. THEY'RE ALL PRINCIPALS.
9 THEN WE SUBCATEGORIZE THEM. YOU'VE GOT THE DIRECT
10 PERPETRATOR; THE GUY WHO WALKED INTO THE BANK. AND THE
11 AIDER AND ABETTER, THE GUY WHO IS WAITING IN THE CAR.

12 WAS THE PERSON WHO WAS WAITING IN THE CAR,
13 WAS HE SHARING THE INTENT OF THE PERSON WHO WAS GOING IN
14 THE BANK? OF COURSE, HE IS. I MEAN HE HAD A JOB TO DO.
15 AS A MATTER OF FACT, I'LL GO ONE BETTER, IF THERE WAS A
16 THIRD PERSON WHO GAVE THE BANK PLANS TO THE TWO GUYS WHO
17 WENT AND ROBBED THE BANK, THAT GUY IS AN AIDER AND
18 ABETTER.

19 IF THERE WAS A FOURTH PERSON WHO HANDED
20 THE GUN TO THE GUY IN THE PASSENGER SEAT TO GO IN AND ROB
21 THE TELLER, THAT GUY IS AN AIDER AND ABETTER. THEY ARE
22 ALL PRINCIPALS. THE ONLY DIFFERENCE IS WHO IS THE DIRECT
23 PERPETRATOR AND WHO IS THE AIDER AND ABETTER.

24 LET ME USE AN EXAMPLE. SOMETHING THAT
25 WILL KIND OF DRIVE IT HOME, I THINK. I DON'T KNOW IF I
26 TOLD Y'ALL DURING VOIR DIRE THAT I'M ORIGINALLY FROM
27 TEXAS. AND IF YOU DIDN'T KNOW WHEN I JUST SAID Y'ALL YOU
28 CAN FIGURE IT OUT PRETTY QUICKLY.

1 AND THERE IS ACTUALLY A LAW IN TEXAS THAT
2 YOU HAVE TO BE A FOOTBALL FAN. I DON'T KNOW IF YOU KNEW
3 THAT. YOU HAVE TO, OTHERWISE THEY'LL RUN YOU OUT OF THE
4 STATE. AND I AM A BIG FOOTBALL FAN, SO I'M GOING TO
5 ENGAGE IN A LITTLE FOOTBALL STORY.

6 EVERYBODY REMEMBERS LAST YEAR'S SUPERBOWL;
7 RIGHT? YES? NO? YES? I SHOULD TAKE A TEST AND FIND
8 OUT IF ANYBODY KNOWS WHO PLAYED LAST YEAR. IT WAS THE
9 STEELERS AND THE SEA HAWKS, I BELIEVE. THE STEELERS
10 PLAYED THE SEA HAWKS IN LAST YEAR'S SUPERBOWL. AND BEN
11 ROTHLESBERGER -- ANYBODY EVER HEARD THAT NAME? THEY CALL
12 HIM BIG BEN. HE'S THE QUARTERBACK FOR THE STEELERS.
13 THIS YOUNG KID BIG AS A TREE, JUST A GIANT GUY WITH A
14 HUGE ROCKET ARM.

15 THIS GUY WAS TAKING THE STEELERS THE WHOLE
16 WAY LAST YEAR. THE QUARTERBACK, THE FIELD GENERAL AS
17 THEY CALL THEM IN FOOTBALL, ENDED UP MARCHING THE
18 STEELERS UP AND DOWN THE FIELD TO I THINK IT WAS A 21 TO
19 10 VICTORY ULTIMATELY OVER THE SEA HAWKS. AND BECAUSE
20 THEY WON THE SUPERBOWL, BEN ROTHLESBERGER AT A SUPERBOWL
21 RING. AND SO DID EVERY OTHER TEAMMATE. ALL THOSE GUYS
22 THAT SUITED UP AND PUT ON CLEATS AND PLAYED THAT GAME,
23 THEY ALL GOT SUPERBOWL RINGS; RIGHT? THEY WERE ALL
24 PRINCIPALS AND WE'LL CALL IT PRINCIPALS IN THE GAME.

25 BUT THERE IS ANOTHER GUY THAT YOU PROBABLY
26 HAVEN'T HEARD OF, A GUY NAMED KEN WHIZENHUN. ANYBODY
27 EVER HEARD THAT NAME? NO, OF COURSE, YOU HAVEN'T. KEN
28 WHIZENHUN WAS THE OFFENSIVE COORDINATOR FOR THE STEELERS.

1 KEN WHIZENHUN NEVER PUT ON A UNIFORM. HE NEVER LACED UP
2 A PAIR OF CLEATS. HE DIDN'T TAKE A SNAP. HE DIDN'T HAND
3 OFF THE FOOTBALL. HE DIDN'T THROW A PASS.

4 AS A MATTER OF FACT, FOLKS, KEN WHIZENHUN
5 NEVER EVEN WALKED ONTO THE PLAYING FIELD ON SUPERBOWL
6 SUNDAY. DIDN'T GO ON THE FIELD. AS A MATTER OF FACT, HE
7 PROBABLY DIDN'T TALK TO ANY OF THE PLAYERS THAT DAY. BUT
8 KEN WHIZENHUN GOT A SUPERBOWL RING. WHY? THE CONCEPT OF
9 AIDING AND ABETTING.

10 HE WAS THE PLANNER BEHIND THE GAME. HE
11 WAS THE PLANNER BEHIND THE ATTACK. HE DREW UP ALL THE
12 OFFENSIVE PLAYS. THERE WAS A DEFENSIVE COORDINATOR, THE
13 SAME THING. BUT KEN WHIZENHUN SITS UP IN A BOOTH 400
14 FEET UP IN THE AIR -- 200 FEET UP IN THE AIR. WAY UP
15 THERE, HOWEVER FAR IT IS. KEN WHIZENHUN IS THE
16 EQUIVALENT OF AN AIDER AND ABETTER. HE GOT A SUPERBOWL
17 RING BECAUSE HE'S PART OF THE TEAM. HE WAS THERE TO
18 FACILITATE THE ACT.

19 MICHAEL GOODWIN DOES NOT HAVE TO HAVE BEEN
20 AT THE CRIME SCENE. AS LONG AS YOU ARE CONVINCED THAT
21 MICHAEL GOODWIN IS RESPONSIBLE IN ANY WAY SHAPE, FORM OR
22 FASHION FOR THE MURDERS OF MICKEY THOMPSON AND TRUDY
23 THOMPSON, HE IS LIABLE FOR EVERYTHING THAT THE ACTUAL
24 KILLERS DID. EVERYBODY UNDERSTAND THAT?

25 THE CONCEPT OF AIDING AND ABETTING MEANS
26 THAT WE DO NOT HAVE TO PROVE THAT THAT MAN WENT TO THE
27 CRIME SCENE TO COMMIT THE CRIME. IN FACT, THE EVIDENCE
28 SUGGESTS HE DID NOT GO. HOWEVER, THE EVIDENCE SUGGESTS

1 HE PLANNED IT. HE PLANNED IT. HE WAS THERE THREE DAYS
2 BEFORE THE MURDERS.

3 HE WAS POSITIVELY IDENTIFIED BY TWO
4 INDEPENDENT WITNESSES THREE DAYS BEFORE THE MURDERS DOING
5 SURVEILLANCE RIGHT AT THE PERFECT SPOT FOR INGRESS AND
6 EGRESS IN AND OUT OF BRADBURY. REMEMBER THIS PHOTO? THE
7 EVIDENCE IS ABSOLUTELY CLEAR THAT THE KILLERS MADE THEIR
8 ESCAPE VIA THIS BIKE PATH. THEN THEY WENT SOUTHBOUND
9 TOWARD THE FREEWAY.

10 THAT BIKE PATH IS 148 FEET FROM THAT CURB
11 WHERE THE STEVENSES WERE. MICHAEL GOODWIN WAS IDENTIFIED
12 BY TWO INDEPENDENT WITNESSES. HE WAS THE PERSON SEATED
13 IN THAT CAR. AND ONE OF THE THINGS THAT I WANT TO BRING
14 UP IS I EXPECT MS. SARIS TO STAND UP, BASED ON THE
15 OPENING STATEMENT AND BASED ON THE CROSS-EXAMINATION AND
16 DEFENSE CASE IN CHIEF CALLING KATHY PEZDEK, I EXPECT THAT
17 SHE'S GOING TO STAND UP HERE AND SAY, WAIT A MINUTE, YOU
18 CAN'T BELIEVE THE STEVENSES IDENTIFICATION. MICHAEL
19 GOODWIN WAS NEVER OUT THERE. HE WAS NEVER AT THAT SCENE.

20 WELL, WHERE IS HIS ALIBI?

21 MS. SARIS: OBJECTION, YOUR HONOR. MAY WE
22 APPROACH?

23 THE COURT: OVERRULED.

24 MS. SARIS: I WOULD LIKE TO CITE GRIFFIN ERROR,
25 YOUR HONOR.

26 THE COURT: ALL RIGHT. WE ARE GOING TO KEEP
27 GOING AND WE WILL DISCUSS THAT LATER. THANK YOU.

28 MR. JACKSON: THANK YOU.

1 IF SOMEONE -- LET'S SEE IT'S TEN
2 MINUTES -- THAT'S SEVEN MINUTES UNTIL 11:00 ON DECEMBER
3 18TH, 2006. IF SOMEONE SAID, HEY, MR. JACKSON, YOU
4 COMMITTED A CRIME ON THAT DAY; OR YOU WERE AT SUCH AND
5 SUCH SPOT ON THAT DAY. I WOULD CALL EVERY SINGLE PERSON
6 IN THIS COURTROOM AND SUBPOENA THEM TO COURT TO SAY, NO,
7 AT SIX MINUTES UNTIL 11:00 ON DECEMBER 18, 2006, HE WAS
8 STANDING ON A SWATCH OF CARPET EIGHT FEET IN FRONT OF ME.

9 MICHAEL GOODWIN -- LET'S MAKE SOMETHING
10 VERY CLEAR HERE. THE JUDGE MAKES SURE THAT WE ALL PLAY
11 ON AN EVEN PLAYING FIELD. THE JUDGE MAKES SURE THAT THE
12 RULES ARE THE SAME FOR THE DEFENSE AS FOR THE
13 PROSECUTION. THE PROSECUTION GETS THEIR SUBPOENA POWER
14 FROM ONE SOURCE, THE COURT. THE DEFENSE GETS THEIR
15 SUBPOENA POWER FROM THE SAME SOURCE, THE COURT.

16 WE ALL HAVE THE SAME SUBPOENA POWER. THE
17 DEFENSE COULD HAVE CALLED ANY WITNESS THEY WANTED TO, ANY
18 WITNESS THEY WANTED TO TO PROVIDE AN ALIBI FOR
19 MR. GOODWIN. ONE OF THE MOST IMPORTANT DAYS OF HIS LIFE
20 WAS MARCH 16TH, 1988. HE FOUND OUT THAT MICKEY THOMPSON
21 AND TRUDY THOMPSON HAD BEEN KILLED. IF YOU BELIEVE THE
22 DEFENSE, HE FOUND OUT FOR THE FIRST TIME.

23 OF COURSE, THE EVIDENCE SUGGESTS THAT HE
24 FOUND OUT THAT HIS PLAN HAD WORKED. BUT EVEN ASSUMING
25 THAT THE DEFENSE IS RIGHT AND HE DIDN'T KNOW ANYTHING,
26 THEN WHY DIDN'T THEY CALL AN EMPLOYEE; A BUSINESS
27 PARTNER; SOMEBODY TO SAY, HEY, THAT WEEK BEFORE THE
28 MURDERS MIKE GOODWIN WAS WITH ME.

1 BUT YOU HEARD NOTHING FROM THAT. WHY?
2 BECAUSE MICHAEL GOODWIN DOESN'T HAVE AN ALIBI BECAUSE
3 MICHAEL GOODWIN WAS IN FRONT OF THE STEVENS' HOUSE THREE
4 DAYS BEFORE THE MURDERS.

5 THE NEXT THING I WANT TO TALK ABOUT IS
6 CONSPIRACY. BOTH AIDING AND ABETTING AND CONSPIRACY ARE
7 THEORIES OF LIABILITY. YOU ARE NOT GOING TO -- YOUR
8 VERDICT FORM IS NOT GOING TO SAY ANYTHING ABOUT AIDING
9 AND ABETTING. YOUR VERDICT FORM IS NOT GOING TO SAY
10 ANYTHING ABOUT CONSPIRACY. THESE ARE TWO INDEPENDENT
11 THEORIES OF LIABILITY.

12 REMEMBER WE HAVE THE TWO THEORIES OF FIRST
13 DEGREE MURDER? SAME THING. THESE ARE THEORIES OF
14 LIABILITY FOR THE DEFENDANT. AND I WANT TO TALK FOR JUST
15 A SECOND ABOUT WHAT CONSPIRACY IS. CONSPIRACY IS A
16 RELATIVELY SIMPLE CONCEPT. IT'S AN AGREEMENT. IT'S AN
17 AGREEMENT. YOU HAVE TO HAVE AN AGREEMENT ALONG WITH AN
18 OVERT ACT. AND HERE IN CALIFORNIA WE CALL IT AN OVERT
19 ACT. IT JUST MEANS SOME ACT THAT YOU CAN POINT TO IN
20 FURTHERANCE OF THE CRIME.

21 WHAT ARE THE OVERT ACTS? WELL, THE ACTUAL
22 PERPETRATION OF THE CRIME ARE OVERT ACTS HERE IN
23 CALIFORNIA. GOING TO THE CRIME SCENE; PULLING A GUN OUT;
24 SHOOTING TRUDY; SHOOTING MICKEY; TAKING BICYCLES; GETTING
25 ON BICYCLES; ESCAPING WITH BICYCLES. THOSE ARE ALL OVERT
26 ACTS OF THE CRIME. AND MICHAEL GOODWIN DOES NOT HAVE TO
27 TO HAVE COMMITTED ANY OF THEM. THE ACTUAL KILLERS COULD
28 BE RESPONSIBLE FOR THE OVERT ACTS AND YOU CAN STILL FIND

1 A THEORY OF CONSPIRACY.

2 WHY IS THE CONCEPT OF CONSPIRACY IMPORTANT
3 IN THIS CASE SINCE IT'S NOT CHARGED? IT'S IMPORTANT
4 BECAUSE EVERY SINGLE MEMBER OF A CRIMINAL CONSPIRACY,
5 WHETHER IT'S CHARGED OR NOT CHARGED, EVERY MEMBER IS
6 EQUALLY LIABLE FOR ALL OF THE CONDUCT OF EVERY OTHER
7 MEMBER.

8 WHAT DOES THAT MEAN CONCEPTUALLY. IT
9 MEANS THAT MICHAEL GOODWIN, IF YOU FIND THAT HE WAS A
10 CONSPIRATOR, IF YOU FIND THAT HE WAS RESPONSIBLE AND
11 THERE WAS SOME AGREEMENT TO KILL MICKEY THOMPSON AND
12 TRUDY THOMPSON, IT'S JUST AS IF MICHAEL GOODWIN HAD
13 PULLED THE GUN AND SHOT THAT WHITE HOT BULLET THROUGH
14 TRUDY'S HEAD AND SHOT THE OTHER BULLET THROUGH MICKEY'S
15 HEAD. THERE IS NO DISTINCTION LEGALLY. THAT'S WHY IT'S
16 IMPORTANT. AND THAT'S WHY IT APPLIES IN THIS CASE.

17 A COUPLE OF NOTES ON CONSPIRACY. THE
18 FORMATION IN EXISTENCE OF A CONSPIRACY CAN BE PROVED
19 THROUGH CIRCUMSTANTIAL EVIDENCE AND THE CIRCUMSTANCES
20 SURROUNDING THE TOTALITY OF THE EVIDENCE.

21 IN OTHER WORDS, YOU DON'T HAVE TO DISSECT
22 THIS CASE TO FIGURE OUT IF THERE IS A CONSPIRACY TO
23 COMMIT MURDER. YOU CAN LOOK AT THE TOTALITY OF THE
24 CIRCUMSTANCES. AS A MATTER OF FACT, THE JURY INSTRUCTION
25 TELLS YOU TO DO EXACTLY THAT. THESE TWO MEN, THE TWO
26 KILLERS WERE ACTING IN CONCERT WITH ONE ANOTHER.

27 IT WAS WELL TIMED, WELL COORDINATED AND
28 ALMOST PERFECTLY EXECUTED. THE KILLERS GOT AWAY. YOU

1 CAN INFER FROM THAT, YOU HAVE TO INFER FROM THAT THE ONLY
2 REASONABLE EXPLANATION IS THEY WERE WORKING TOGETHER.
3 THESE AREN'T TWO PEOPLE WHO HAPPENED UPON THE SAME HOUSE
4 AT THE SAME TIME AND JUST HAPPENED TO KILL MICKEY AND
5 TRUDY THOMPSON.

6 EVERYBODY AGREES THESE PEOPLE WERE
7 OBVIOUSLY WORKING TOGETHER. THERE WAS AN AGREEMENT
8 THERE. AND IF THE TOTALITY OF THE CIRCUMSTANCES SUGGEST
9 THAT MICHAEL GOODWIN IS RESPONSIBLE FOR THE KILLINGS OF
10 MICKEY AND TRUDY THOMPSON, THEN MICHAEL GOODWIN IS A
11 CONSPIRATOR ALONG WITH THE TWO ACTUAL KILLERS.

12 THE OTHER THING THAT YOU NEED TO NOTE, WE
13 DO NOT HAVE TO SHOW A FORMAL AGREEMENT. MS. SARIS I
14 EXPECT WILL STAND UP IN JUST A SECOND AND SAY, WELL, WAIT
15 A MINUTE, THEY DIDN'T SHOW THAT A MEETING TOOK PLACE.
16 THEY DIDN'T SHOW THAT MICHAEL GOODWIN MET THESE TWO GUYS
17 AT A DENNY'S AND LAID OUT A PLAN. WE DON'T HAVE TO SHOW
18 THAT. THAT IS NOT REQUIRED TO DETERMINE THAT A
19 CONSPIRACY LIES. IT'S NOT NECESSARY TO SHOW A FORMAL
20 MEETING OR AGREEMENT AMONG THE CONSPIRATORS.

21 AND, FINALLY, I EXPECT MS. SARIS ONE OF
22 THE THINGS SHE'S GOING TO SAY AND SHE SAID IN HER OPENING
23 STATEMENT IS THERE IS GOING TO BE NO EVIDENCE THAT
24 MICHAEL GOODWIN EVEN KNEW THE TWO KILLERS. CONSPIRACY
25 DOES NOT REQUIRE THAT. IT DOES NOT HAVE TO BE PROVED
26 THAT MICHAEL GOODWIN ACTUALLY KNEW OR EVEN EVER MET THE
27 TWO MEN THAT WERE IN AGREEMENT WITH HIM.

28 IF THAT WERE THE LAW -- I MEAN THINK ABOUT

1 IT, THE LAW IS REALLY A PRETTY LOGICAL BEAST, IF YOU
2 WILL. IF THAT WAS THE CASE, THEN ANY IDIOT WOULD SAY,
3 OKAY, WELL, I'LL MAKE THIS QUICK. I CAN GET OUT OF A
4 CONSPIRACY. I'LL JUST HAVE A THIRD-PARTY INTERMEDIARY DO
5 ALL THE WORK. I'LL MEET WITH SOME GUY WHO WILL HIRE A
6 COUPLE OF KILLERS. I CAN SAY I DON'T KNOW THE KILLERS
7 AND I'M OUT OF IT. I'M OUT SCOTT FREE.

8 THE LAW SAYS, NO, YOU'RE NOT. AS LONG AS
9 THE TOTALITY OF THE CIRCUMSTANCES PROVES THAT MICHAEL
10 GOODWIN WAS RESPONSIBLE FOR THE MURDERS OF MICKEY AND
11 TRUDY THOMPSON, WE DON'T HAVE TO SHOW THAT HE EVEN KNEW
12 THE KILLERS. AS LONG AS YOU AGREE AND ARE CONVINCED THAT
13 THIS WAS A CONCERTED ACT ON ALL PARTIES.

14 AND THE LAST THING I WANT TO LEAVE YOU
15 WITH AS FAR AS THIS THEORY OF LIABILITY IS CONCERNED IT
16 IS THE SAME AS THE FIRST DEGREE MURDER THEORIES. FIVE OF
17 YOU OVER ON THIS SIDE CAN DECIDE, YOU KNOW WHAT, THE
18 EVIDENCE IS CLEAR; HE WAS AN AIDER AND A BETTER IN THE
19 MURDER OF MICKEY AND TRUDY THOMPSON. THREE IN THE MIDDLE
20 CAN SAY, YOU KNOW WHAT, I'M ABSOLUTELY CONVINCED THERE
21 WAS A CONSPIRACY AND MICHAEL GOODWIN WAS PART OF IT.

22 WE DON'T HAVE TO KNOW WHO IS KILLERS ARE.
23 WE DON'T EVEN HAVE THE EVIDENCE OF THE FORMAL AGREEMENT.
24 BUT FROM THE TOTALITY OF THE WHOLE CASE, WE CAN
25 DETERMINE, WE'RE CONVINCED THAT HE'S RESPONSIBLE FOR THE
26 MURDERS AND IT WAS A CONSPIRACY. AND THEN THE FOLKS OVER
27 ON THIS SIDE CAN SAY, YOU KNOW WHAT, I THINK IT'S BOTH.
28 A CONSPIRACY AND AIDING AND ABETTING. THEY'RE NOT

1 MUTUALLY EXCLUSIVE. AND YOU DON'T HAVE TO AGREE.

2 THERE DOES NOT HAVE TO BE UNANIMITY AMONG
3 YOU WITH REGARD TO THE THEORY OF LIABILITY AS LONG AS
4 EVERYBODY IS CONVINCED THAT MICHAEL GOODWIN IS
5 RESPONSIBLE FOR THE MURDERS OF MICKEY AND TRUDY THOMPSON
6 AND THOSE MURDERS ARE OF THE FIRST DEGREE. THAT'S AS FAR
7 AS THE ANALYSIS NEEDS TO GO.

8 I WANT TO SAY JUST A COUPLE OF WORDS ABOUT
9 BEYOND A REASONABLE DOUBT. THAT'S THE INSTRUCTION THAT
10 PUTS UPON US THE BURDEN. AND I WILL TELL YOU RIGHT NOW,
11 MS. SARIS AND THE DEFENSE TEAM HAS NO BURDEN IN THIS
12 CASE. I CAN'T STRESS THAT ENOUGH. THE DEFENSE DOES NOT
13 BEAR A BURDEN IN THIS CASE.

14 YOU ARE PROBABLY THINKING, WELL, WHY ARE
15 YOU STRESSING THAT MR. JACKSON? I STRESS THAT, FOLKS,
16 BECAUSE I LOVE THIS SYSTEM. THIS IS MY SYSTEM. I'M A
17 CITIZEN JUST LIKE YOU ARE. AND THE SYSTEM OF JUSTICE
18 UNDER WHICH WE LIVE SAYS THAT THE PROSECUTION BEARS THE
19 ENTIRE BURDEN OF PROOF. AND THAT BURDEN IS TO PROVE THE
20 CRIMINAL CASE BEYOND A REASONABLE DOUBT, EVERY ELEMENT OF
21 IT. I ACCEPT THAT. I AM EMBRACE THAT. THE DEFENSE
22 DOESN'T HAVE TO PROVE ANYTHING.

23 BUT LET ME TELL YOU WHAT IT DOESN'T MEAN.
24 THOSE OLD MOVIES THAT YOU'VE SEEN WHERE THE GUYS WALKS IN
25 AND SAYS IT'S NOTHING. IT'S BEYOND A SHADOW OF A DOUBT.
26 THEY CAN'T PROVE THAT. IT'S BEYOND A SHADOW OF A DOUBT.
27 THERE IS NO SUCH THING. SOME HOLLYWOOD WRITER WROTE THAT
28 ONE TIME AND KIND OF MESSED WITH ALL PROSECUTORS IN ALL

1 PARTS OF THE LAND BECAUSE WE HAVE FIGHTING AGAINST THAT
2 EVER SINCE.

3 THERE IS NO SUCH THING AS BEYOND A SHADOW
4 OF A DOUBT. AS A MATTER OF FACT, THE LAW WILL TELL YOU
5 THAT OUR BURDEN IS NOT BEYOND ANY DOUBT; IT'S NOT BEYOND
6 ALL DOUBT; IT'S NOT BEYOND A POSSIBLE DOUBT; IT'S BEYOND
7 A REASONABLE DOUBT. AND THAT'S DEFINED AS AN ABIDING
8 CONVICTION.

9 SO THEN THE NEXT QUESTION IS: WHAT IS AN
10 ABIDING CONVICTION MEAN? IT MEANS THAT IF YOU MAKE A
11 DECISION AND THAT DECISION STAYS WITH YOU THE NEXT DAY
12 AND THE DAY AFTER THAT AND THE DAY AFTER THAT AND YOU
13 BELIEVE THAT'S THE RIGHT DECISION, THAT'S AN ABIDING
14 CONVICTION. THAT'S ALL IT MEANS. THIS IS NOT A TOUGH
15 CONCEPT. IT'S JUST WORDED ODDLY IN THE JURY INSTRUCTION.

16 BEYOND A REASONABLE DOUBT SIMPLY MEANS AN
17 ABIDING CONVICTION. SO ASK YOURSELVES BASED ON THE
18 TOTALITY OF THE CIRCUMSTANCES, DO YOU HAVE AN ABIDING
19 CONVICTION THAT MICHAEL GOODWIN IS RESPONSIBLE IN ANY WAY
20 FOR THE MURDERS OF MICKEY THOMPSON AND TRUDY THOMPSON?
21 IF SO, WE'VE PROVED THIS CASE TO YOU TO AN ABIDING
22 CONVICTION, BEYOND A REASONABLE DOUBT.

23 JUST BECAUSE MS. SARIS WILL STAND UP AND
24 TELL YOU A STORY, JUST BECAUSE SHE WILL TELL YOU A
25 DIFFERENT VERSION OF WHAT SHE THINKS YOU SHOULD BELIEVE,
26 THAT IN AND OF ITSELF DOES NOT RAISE A REASONABLE DOUBT.
27 ONE OF THE THINGS THAT THE COURT TOLD YOU IS THAT IF YOU
28 WERE GIVEN TWO INTERPRETATIONS OF THE FACTS, ONE OF WHICH

1 IS REASONABLE IN YOUR MIND AND ONE OF WHICH IS
2 UNREASONABLE, AS A MATTER OF LAW -- I'M NOT TELLING YOU
3 THIS, THE COURT IS TELLING YOU THIS, THE LEGISLATURE IS
4 TELLING YOU THIS. AS A MATTER OF LAW, YOU MUST REJECT
5 THE UNREASONABLE INTERPRETATION OF THE FACTS AND YOU MUST
6 ACCEPT THE REASONABLE INTERPRETATION. THAT'S THE LAW.

7 TWO STORIES DOES NOT RAISE A REASONABLE
8 DOUBT. AND BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE IS AN
9 ADEQUATE MEANS OF PROOF FOR ANY FACT. THE OTHER THING
10 THAT USED TO DRIVE ME NUTS -- I TOLD YOU THE BEYOND A
11 SHADOW OF A DOUBT DRIVES ME NUTS EVERY TIME I SEE IT IN A
12 MOVIE.

13 SO DOES -- THOSE OLD CAGNEY MOVIES WHERE
14 HE WALKS UP, YOU KNOW, LIKE -- IS MALTESE FALCON A CAGNEY
15 MOVIE? MAYBE NOT. MAYBE I'M GETTING THEM MIXED UP. BUT
16 YOU KNOW THAT TYPE OF MOVIE, THAT GENRE OF MOVIE WHERE
17 THEY WALK UP IN SOME NEW YORK ACCENT, YOU GOT NOTHING ON
18 ME, COPPER. IT'S ALL CIRCUMSTANTIAL. MAKES ME CRAZY.

19 IT SUGGESTS THAT THERE IS SOMETHING WRONG
20 WITH CIRCUMSTANTIAL EVIDENCE. AND ACCORDING TO THE LAW,
21 THERE IS NOTHING WRONG WITH CIRCUMSTANTIAL EVIDENCE. IN
22 FACT, CIRCUMSTANTIAL EVIDENCE -- AND THIS WILL BLOW SOME
23 PEOPLE'S MINDS -- CIRCUMSTANTIAL EVIDENCE AND DIRECT
24 EVIDENCE UNDER THE LAW ARE ENTITLED TO THE EXACT SAME
25 WEIGHT. AND EITHER ONE CAN BE USED TO PROVE ANY FACT IN
26 THE CASE.

27 THE FACT THAT THE CASE IS PROVED IN PART
28 BY CIRCUMSTANTIAL EVIDENCE IS NOTHING TO WORRY ABOUT,

1 NOTHING TO BE AFRAID OF. AS LONG AS YOU'RE CONVINCED
2 ONCE AGAIN -- AND I KNOW I'M GOING TO REPEAT MYSELF A
3 LITTLE BIT -- AS LONG AS YOU'RE CONVINCED THROUGH BOTH
4 CIRCUMSTANTIAL AND DIRECT EVIDENCE OR ONE OR THE OTHER
5 THAT MICHAEL GOODWIN IS RESPONSIBLE FOR THE DEATHS OF
6 MICKEY AND TRUDY THOMPSON, THAT'S ALL THAT'S REQUIRED.

7 I'M GOING TO SHIFT GEARS FOR JUST A SECOND
8 AND TALK ABOUT THE EVIDENCE. FOLKS, I'M NOT GOING TO GO
9 OVER IN GREAT DETAIL EVERY SINGLE THING YOU HEARD OVER
10 THE LAST SIX WEEKS. OTHERWISE WE'LL BE HERE FOR SIX
11 WEEKS. YOU ARE SMART FOLKS. YOU WERE CHOSEN FOR THIS
12 JURY BECAUSE YOU'RE SMART FOLKS. I EXPECTED THAT YOU
13 FOLKS WILL HAVE LISTENED TO THE EVIDENCE.

14 BUT I THINK A BROAD OVERVIEW OF WHAT YOU
15 HEARD OVER THE LAST FEW WEEKS AND DAYS IS IMPORTANT. SO
16 LET ME TOUCH ON THAT A LITTLE BIT. WHAT STARTED ALL OF
17 THIS? WHAT BEGAN THIS? YOU ALL KNOW WHAT IT WAS. I
18 TOLD YOU IN OPENING STATEMENT WHAT WE WOULD PROVE AND WE
19 PROVED EXACTLY THAT. IT WAS THE LAWSUIT. AND THAT
20 GIGANTIC 1986 JUDGMENT.

21 THE LAWSUIT THAT ENDED UP PUTTING THE
22 DEFENDANT IN PERSONAL BANKRUPTCY AND CORPORATE BANKRUPTCY
23 AND BASICALLY CRIPPLING HIS BUSINESS. THE LAWSUIT THAT
24 MICKEY THOMPSON WON. AND REMEMBER MIKE GOODWIN BROUGHT
25 THIS ON HIMSELF. ONE OF THE THINGS THAT THE JUDGE TOLD
26 YOU IS YOU CAN'T ALLOW PASSION OR PITY TO ENTER INTO YOUR
27 DELIBERATIONS. YOU CAN'T FEEL PITY FOR THE DEFENDANT.

28 YOU CERTAINLY CAN'T FEEL SORRY FOR HIM

1 BECAUSE HE HAD A JUDGMENT ENTERED AGAINST HIM. HE
2 BROUGHT THIS ON HIMSELF. HE TOLD STEWART LINKLETTER FROM
3 DAY ONE, I'M GOING TO CHEAT THAT GUY OUT OF EVERYTHING
4 HE'S GOT. I INTEND TO RIP HIM OFF. AND, BY THE WAY, IF
5 YOU OPEN YOUR MOUTH ABOUT THIS, KIDDO, I'LL HAVE YOU
6 KILLED OR I'LL KILL YOU TO STEWART LINKLETTER. THAT'S
7 HOW HE STARTED HIS GOOD FAITH DEALINGS WITH MICKEY
8 THOMPSON.

9 BUT HE DIDN'T REALIZE THAT HE HAD A TIGER
10 BY THE TAIL. HE DIDN'T REALIZE WHAT THE METAL THAT
11 MICKEY THOMPSON WAS MADE OF. MICKEY THOMPSON WASN'T
12 GOING TO LAY DOWN FOR ANYBODY. HE WAS AS TOUGH AS SHOE
13 LEATHER. AND HE GOT HIM BACK, BUT HE DID IT LEGALLY.

14 MICKEY THOMPSON GOT THIS \$793,069.40
15 JUDGMENT IN 1986. AND MICHAEL GOODWIN COULDN'T STAND IT.
16 EVEN IF HE HAD THE MONEY, HE WOULDN'T HAVE PAID IT.
17 ACCORDING TO THE ACCOUNTANT THERE MAY HAVE BEEN TIMES --
18 ACCORDING TO THE LAWYERS THERE MAY HAVE BEEN TIMES WHEN
19 HE WAS SOLVENT ENOUGH TO EVEN PAY IT OFF, BUT HE WOULDN'T
20 DO IT. WHY? BECAUSE OF PRIDE; BECAUSE OF PRINCIPAL;
21 BECAUSE OF EGO.

22 I'M NOT GOING TO LOSE TO THE LIKES OF SOME
23 COUNTRY BUMPKIN WHO PRESSES A GAS PEDAL REAL WELL. I'LL
24 BEAT HIM AT HIS OWN GAME. BUT HE COULDN'T AND IT DROVE
25 HIM NUTS.

26 MICHAEL GOODWIN SUFFERED LOSS AFTER LOSS
27 AFTER LOSS AFTER LOSS. THIS IS JUST PART OF WHAT HE
28 SUFFERED, WHAT WE'VE PROVED DURING THE COURSE OF THIS

1 CASE. HE LOST THE CIVIL LAWSUIT. HE LOST THE INSPORT
2 AGREEMENT. MS. SARIS MIGHT STAND UP AND SAY, WELL, THERE
3 IS NO PROOF THAT MICKEY THOMPSON GOT IT. WHO CARES WHO
4 GOT IT. ALL WE CARE ABOUT IS WHO LOST IT. MICHAEL
5 GOODWIN LOST IT.

6 IT ENDED UP BEFORE IT WAS ALL SAID AND
7 DONE IN JEFF COYNE'S POSSESSION. WHY? BECAUSE OF MICKEY
8 THOMPSON'S LAWSUIT. IT ALL COMES BACK TO MICKEY
9 THOMPSON. NO MATTER WHAT WAY THEY TRIED TO SKIN IT, IT
10 ALL COMES BACK TO MICKEY THOMPSON AND THAT JUDGMENT.

11 MICKEY THOMPSON WAS NOT GOING TO LET
12 MICHAEL GOODWIN WIGGLE OFF THE HOOK, EVER. HE LOST HIS
13 CAR; HE LOST THE ROSE BOWL EVENTS; THE ANAHEIM EVENTS.
14 THEN HE STARTED LOSING IN COURT MORE AND MORE AND MORE.
15 HE LOST THE BANKRUPTCY SUITS. HE LOST THE APPEALS.
16 SUPERIOR COURT APPEALS. I'M SORRY -- APPELLATE COURT
17 APPEALS. SUPREME COURT APPEALS. HE WAS EVEN LOSING HIS
18 DISCHARGE OF DEBT. ONE AFTER ANOTHER AFTER ANOTHER.

19 AND THIS IS A GUY WHO WAS USED TO WINNING
20 AT ALL COSTS. AND HE COULDN'T TAKE IT. HE WOULDN'T TAKE
21 IT. SO WHAT DID HE DO? HE STARTED MAKING PROMISES.
22 IT'S LABELED THREATS, BUT THESE WEREN'T THREATS. A
23 THREAT CAN BE EMPTY. I WANT YOU WHEN YOU GO THROUGH THIS
24 WHEN WE TALK ABOUT THESE FOR JUST A SECOND, I WANT YOU
25 NOT JUST TO THINK ABOUT THE WORDS THAT WERE USED. I WANT
26 YOU TO THINK ABOUT THE EMOTION THAT WAS BEHIND THE WORDS.
27 I WANT YOU TO THINK ABOUT THE SOUL AND THE EMOTION THAT
28 MICHAEL GOODWIN WAS FEELING WHEN HE WAS ISSUING THESE

1 PROMISES.

2 YOU HEARD FROM BILL WILSON. BILL WILSON
3 WHO WAS A FRIEND AT THE TIME OF MICKEY THOMPSON AND A
4 FRIEND OR AT LEAST A BUSINESS ACQUAINTANCE OF MICHAEL
5 GOODWIN. ABSOLUTELY NO AXE TO GRIND WHATSOEVER. NO SKIN
6 IN THE GAME WHATSOEVER. WHAT DID HE SAY MICHAEL GOODWIN
7 SAID, "FUCKING THOMPSON IS DESTROYING ME. I'M GOING TO
8 TAKE HIM OUT."

9 AND AS A THUMB TO THE NOSE OF THE SYSTEM,
10 "I'M TOO SMART. I'M TOO SMART. THEY'LL NEVER CATCH ME."
11 CAN YOU IMAGINE THE EGO ON THIS GUY. "THEY'LL NEVER
12 CATCH ME." YOU FOLKS YOU WILL NEVER CATCH ME.

13 HIS WIFE NINA, "I'M GOING TO TAKE THOMPSON
14 OUT. I'LL NEVER GET CAUGHT. I'LL NEVER GET CAUGHT. I'M
15 TOO SMART FOR THAT." KAREN DRAGUTIN, A WOMAN WHO HAD
16 NEVER EVEN MET MICHAEL GOODWIN, OUT TO DINNER WITH A GUY
17 NAMED FREDDIE FALGET. "THOMPSON HAS TO DIE FOR ME TO GET
18 OUT OF THIS. THOMPSON HAS TO DIE FOR ME TO GET OUT OF
19 THIS." NOT I'M GOING TO PAY HIM. NOT I'M A LITTLE BIT
20 PISSED OFF. NO. NO. NO. NO. HE HAS CRIPPLED ME. HE
21 HAS HUMILIATED ME. HE'S GOING TO DIE FOR ME TO GET OUT
22 OF THIS. PLAIN AND SIMPLE.

23 AND AT THAT SAME DINNER CONVERSATION WHAT
24 DID KAREN DRAGUTIN SAY THAT MIKE GOODWIN TALKED ABOUT?
25 KEEP IN MIND KAREN DRAGUTIN DOESN'T KNOW ANYBODY IN THIS
26 CASE. SHE DOESN'T KNOW ANYBODY. SHE HAS NOTHING TO GAIN
27 OR LOSE BY COMING IN HERE. HER MEMORY IS JUST THAT. A
28 MEMORY ABOUT A DINNER THAT STUCK OUT IN HER MIND.

1 GOODWIN TALKED ABOUT GETTING A BOAT AND
2 SAILING TO BURMUDA SO THEY COULDN'T TOUCH HIM. SAILING
3 TO BERMUDA. SOUND FAMILIAR? THE RIO DULCE RIVER
4 GUATEMALA? SOUTH AMERICA? PENN WELDON, A PERSON THAT
5 MICHAEL GOODWIN ACTUALLY HIRED FOR HIMSELF. DURING A
6 CONVERSATION "I GOT ROYALLY FUCKED BY THOMPSON."

7 THESE ARE HIS WORDS. THIS IS HOW HE'S
8 RECOUNTING A CIVIL LAWSUIT. DOES THIS SOUND LIKE SOMEONE
9 WHO IS SIMPLY PLAYING A CHESS MATCH FOR A CIVIL LAWSUIT,
10 A BUSINESS DEAL. THINK ABOUT THE EMOTION BEHIND THAT.
11 HE SITS DOWN WITH PENN WELDON, "I GOT ROYALLY FUCKED BY
12 MICKEY THOMPSON." WHAT WAS HE THINKING? WHAT WAS HE
13 THINKING?

14 AND I WANT TO GET EVEN WITH HIM. HOW
15 WOULD MIKE GOODWIN EVER GET EVEN WITH MICKEY THOMPSON?
16 HE HAVE COULDN'T BEAT HIM LEGALLY. WE KNOW THAT. HE
17 TRIED AND TRIED AND TRIED. HE RAN OUT OF OPPORTUNITIES.
18 WENT ALL THE WAY TO THE SUPREME COURT. HE COULDN'T BEAT
19 HIM LEGALLY. SO HOW HE IS GOING TO GET EVEN?

20 GREG KEAY, "BEFORE MICKEY THOMPSON GETS MY
21 MONEY, I'LL HAVE HIM WASTED. I'LL HAVE HIM WASTED." I
22 WON'T DIRTY MY HANDS WITH IT. I WON'T SULLY MY SHOES
23 WITH IT. "I WILL HAVE HIM WASTED." I'LL PAY FOR IT.
24 I'LL GET IT DONE.

25 BARRON WEHINGER. "IF I LOSE THE LAWSUIT,
26 I'LL KILL HIM. IF I LOSE THE LAWSUIT, I'LL KILL HIM."
27 DID HE LOSE THE LAWSUIT? BARRON WEHINGER SAID HE
28 OVERHEARD THE DISCUSSION BETWEEN MICHAEL GOODWIN AND TOM

1 VILLELLI WHERE TOM VILLELLI TALKED ABOUT THE PRICE AND
2 MIKE GOODWIN TALKED ABOUT THE PRICE OF HAVING MICKEY
3 THOMPSON KILLED. TOM VILLELLI MENTIONED THAT IT COULD BE
4 DONE FOR \$20,000. AND REMEMBER THERE IS A \$20,000 DEBIT
5 FROM A SOUTH WEST ACCOUNT THAT WAS NEVER ACCOUNTED FOR.
6 ALL RIGHT.

7 I WANT TO DIGRESS FOR JUST TWO SECONDS
8 REAL QUICK AND TALK ABOUT THAT. \$20,000 TO THIS DAY,
9 FOLKS, HAS NEVER BEEN ACCOUNTED FOR, NOT THROUGH A
10 FORENSIC ACCOUNTANT OR ANYBODY ELSE. NOW ON
11 CROSS-EXAMINATION, MR. SUMMERS STOOD UP AND HAD A EIGHT
12 AND A HALF BY ELEVEN PHOTOSTATIC COPY PIECE OF PAPER WITH
13 TWO CHECKS ON IT. ONE WAS AN \$11,000 CHECK, DO YOU
14 REMEMBER; AND ONE WAS A \$20,000 CHECK.

15 AND HE SAID, MS. STEPHENS, ISN'T IT TRUE
16 THAT THIS \$20,000 CHECK WAS USED TO PAY FOR THE YACHT.
17 SUGGESTING, IMPLYING THAT THAT \$20,000 WAS, IN FACT,
18 ACCOUNTED FOR. DID YOU SEE THE LOOK ON HIS FACE WHEN
19 MS. STEPHENS SAID, WELL, THIS IS FROM A DIFFERENT BANK.
20 IT'S NOT FROM SOUTH WEST BANK. AND THIS IS MADE OUT TO
21 DIANE GOODWIN NOT FRASER YACHTS. AND THIS IS MARCH 21ST
22 NOT MARCH 16TH. ONE HAS NOTHING TO DO WITH THE OTHER.
23 SMOKE AND MIRRORS.

24 THE FACT OF THE MATTER IS, THERE WAS A
25 \$20,000 DEBIT FROM A SOUTH WEST BANK ACCOUNT ON THE DATE
26 OF MARCH 16TH, 1988 THAT HAS NEVER BEEN ACCOUNTED FOR.

27 DALE NEWMAN, ON A BOAT IN MEXICO. "DON'T
28 WORRY, HONEY. I'LL TAKE CARE OF HIM." DALE NEWMAN

1 DIDN'T REMEMBER THE NAME; DIDN'T REMEMBER MIKE GOODWIN
2 MENTIONING A NAME, BUT HE SAID IT WAS THE GUY HE WAS IN A
3 LAWSUIT WITH. THAT'S ONLY ONE GUY. THAT'S MICKEY
4 THOMPSON. "I'LL TAKE CARE OF HIM, HONEY" TO HIS WIFE.

5 JOHN WILLIAMS, WHEN HIS CAR WAS TAKEN,
6 THINK ABOUT THE EMOTION BEHIND THE WORDS. "HE DOESN'T
7 KNOW WHO HE'S FUCKING WITH. MICKEY THOMPSON IS FUCKING
8 DEAD." HE SAID THIS TO A COP, FOLKS. TO A COP. IS THIS
9 SOMEONE WHO HAS CONTROL OVER HIS EMOTIONS? IS THIS
10 SOMEONE WHO IS THAT THOUGHTFUL THAT THESE ARE JUST WORDS?
11 OR WAS THAT A GUT REACTION TO THIS HUMILIATION? WAS THAT
12 SOMETHING THAT EMANATED FROM SO FAR INSIDE HIM, HE
13 COULDN'T HELP WHEN IT CAME OUT. "MICKEY THOMPSON DOESN'T
14 KNOW WHO HE'S FUCKING WITH. HE'S FUCKING DEAD."
15 THINK ABOUT THE EMOTION.

16 SCOTT HERNANDEZ, SORT OF SPEAKS FOR
17 ITSELF, DOESN'T IT? AND REMEMBER HOW SCOTT DESCRIBED
18 MIKE GOODWIN'S HAIR BACK THEN? THINK ABOUT DALE NEWMAN
19 STAYING IN MEXICO ON A BOAT. CONSTANTLY OUT IN THE SUN.
20 HAIR WAS SOMEWHAT SUN BLEACHED AND HIS HAIR WAS AT THE
21 TIME, ACCORDING TO SCOTT HERNANDEZ, WHO DOESN'T KNOW THE
22 STEVENSES OR ANYBODY ELSE IN THIS CASE HIS HAIR WAS
23 BLONDISH-REDDISH. THAT WILL COME BACK TO BE IMPORTANT IN
24 JUST A FEW MINUTES.

25 CHERYL SARANTIS, GOODWIN CONTINUALLY SPOKE
26 OF DESTROYING MICKEY THOMPSON. CONTINUALLY SPOKE OF IT.
27 WAS OBSESSED WITH IT AND HE COULDN'T DESTROY HIM FAIRLY.
28 HE COULDN'T DESCRIBE HIM IN A COURT OF LAW. HOW WAS HE

1 GOING TO DESTROY MICKEY THOMPSON?

2 AND KATHY WEESE, THIS IS DIRECTLY TO
3 MICKEY THOMPSON, "IT WILL COST ME 500 BUCKS AND A
4 MOTORCYCLE TO TAKE YOU OUT. AND I WILL HAVE YOU TAKEN
5 OUT. I WILL TAKE YOU OUT."

6 AND JOEL WEISSLER AGAIN -- AND PROBABLY OF
7 THE MOST OMINOUS STATEMENT MADE BY MICHAEL GOODWIN
8 THROUGH ALL THE DOZEN OF STATEMENTS OR I THINK THE DOZEN
9 STATEMENTS THAT WE'VE SHOWN YOU, PROBABLY THE MOST
10 OMINOUS STATEMENT, "I'M GOING TO HURT YOU. I'M GOING TO
11 HURT YOUR FAMILY." THAT BEARS REPEATING. STATEMENT MADE
12 DIRECTLY TO MICKEY THOMPSON. "I'M GOING TO HURT YOU.
13 I'M GOING TO HURT YOUR FAMILY." THINK ABOUT WHAT
14 HAPPENED ON MARCH 16TH AT 6:05 IN THE MORNING.

15 THE COURT TOLD YOU THAT THE PRESENCE OF
16 MOTIVE MAY TEND TO ESTABLISH THAT THE DEFENDANT IS
17 GUILTY. THAT'S SOMETHING, ALL OF THAT THAT I'VE JUST
18 TALKED ABOUT, IS SOMETHING THAT YOU MUST CONSIDER. YOU
19 MUST CONSIDER. PRESENCE OF MOTIVE. ESPECIALLY THIS KIND
20 OF MOTIVE, THIS DEEP GUTTURAL, SOULFUL MOTIVE TO WANT
21 SOMEONE DEAD. THAT'S SOMETHING THAT YOU SHOULD CONSIDER
22 IN DETERMINING WHETHER OR NOT THE DEFENDANT IS GUILTY.

23 WHAT HAPPENED AT 53 WOODLYN LANE WAS
24 NOTHING SHORT OF AN ASSASSINATION. NOTHING SHORT OF AN
25 EXECUTION. YOU'VE ALL BEEN TO THE CRIME SCENE. YOU KNOW
26 WHERE THE LOCATIONS ARE. THIS MAP MAKES A LOT MORE SENSE
27 NOW THAN IT DID WHEN I FIRST SHOWED IT TO YOU IN OPENING
28 STATEMENT. YOU KNOW WHERE THE TRIARSI RESIDENCE IS. YOU

1 KNOW WHERE THE THOMPSON RESIDENCE IS. YOU KNOW WHERE
2 MICKEY THOMPSON WAS AT THE TOP OF THE DRIVEWAY. YOU KNOW
3 WHERE TRUDY WAS FOUND LAYING IN A GUTTER AT THE BOTTOM OF
4 THE DRIVEWAY. AND YOU SAW THE GRADE OF THAT DRIVEWAY.
5 AND WHAT IT CONSISTED, THE ROLLING HILLS.

6 AND I THINK EVERYBODY WOULD AGREE, GOING
7 OUT TO THE CRIME SCENE WAS INCREDIBLY INSTRUCTIVE I'M
8 ASSUMING FOR EVERYBODY. IT SEEMED THAT EVERYBODY WAS
9 TAKING SPECIAL NOTE OF THE EXHIBITS AND HOW THEY COMPARED
10 TO THE ACTUAL CRIME SCENE. IT PROBABLY OPENED A LOT OF
11 EYES OUT THERE. YOU SAW THE TRIARSI HOUSE AND YOU SAW
12 WHAT HER VIEW WOULD HAVE BEEN FROM THE TOP OF THAT HOUSE.

13 AND THIS IS WHAT ALLISON SAID HER VIEW
14 WAS. BASICALLY SHE ACTUALLY SAID THAT DURING THE ACTUAL
15 CONFRONTATION, SHE WAS A LITTLE FURTHER TO THE RIGHT THAN
16 THIS CAMERA MAN IS. BUT YOU CAN SEE IN THIS VIEW THAT
17 MICKEY'S BODY AND TRUDY'S BODY ACTUALLY APPEAR. THEY
18 ACTUALLY EXIST AT THE TOP AND THE BOTTOM OF THE DRIVEWAY
19 RESPECTIVELY.

20 TRUDY LAY CRUMPLED AT THE BOTTOM OF THE
21 DRIVEWAY. AND YOU CAN SEE RIGHT UP ON THE TOP WHERE THE
22 BLOOD STAINS WOULD BE. AND I'LL GET TO THOSE IN JUST A
23 SECOND. MICKEY'S BODY LAY AT THE TOP OF THE DRIVEWAY,
24 BUT NOT IN THE BLOOD STAINS AND THAT'S IMPORTANT. MICKEY
25 THOMPSON WAS FURTHER BACK, FURTHER BACK AND TO THE WEST
26 OF THE BLOOD STAINS. THAT'S IMPORTANT. WHY? BECAUSE
27 ACCORDING TO SWANEPOEL, THE DEFENDANT'S CRIME SCENE
28 RECONSTRUCTION EXPERT, THE BLOOD STAINS, ACCORDING TO

1 HIM, WERE CLOSER TO MICKEY THOMPSON THAN THE GARAGE.
2 WHY?

3 BECAUSE THE DEFENSE DESPERATELY,
4 DESPERATELY WANTS YOU TO BELIEVE THAT MICKEY THOMPSON
5 COULD NOT SEE TRUDY THOMPSON WHEN SHE WAS KILLED. WHY?
6 BECAUSE THAT EVIDENCE ALONE SUGGESTS MICHAEL GOODWIN IS
7 GUILTY. THAT EVIDENCE ALONE SUGGESTS THE OMINOUS NATURE
8 OF HOW THEY WERE KILLED. IF MICKEY THOMPSON WAS FORCED
9 TO WATCH HIS WIFE DIE, THIS WAS A PERSONAL ATTACK. THE
10 MOST PERSONAL, THE MOST BRUTAL. AND IT PROVES THAT
11 MICHAEL GOODWIN IS PART OF IT. HE IS THE ONE WITH THE
12 MOTIVE.

13 NOW LOOK WITH YOUR OWN EYES AT WHERE THE
14 BLOOD STAINS WERE. MR. SWANEPOEL, OH, NO, THE BLOOD
15 STAINS WERE CLOSER TO MICKEY THOMPSON. THEY WEREN'T
16 CLOSE TO THE GARAGE. SEE THAT YELLOW HIGHLIGHT? THAT'S
17 THE GARAGE. THIS OVER HERE TO THE LEFT, THAT'S MICKEY
18 THOMPSON. LOOK AT THESE BLOOD STAINS. THE BLOOD STAINS
19 ARE THERE FOR YOU TO SEE. WE'VE GOT THEM IN EVIDENCE,
20 THAT PHOTOGRAPH IS THERE FOR YOU TO SEE. TAKE A LOOK
21 WITH YOUR OWN EYES.

22 THERE IS THE BLOOD STAIN THAT'S DRAINING
23 FROM MICKEY THOMPSON'S BODY AND LOOK WHERE THE OTHER
24 BLOOD IS IN THIS PHOTOGRAPH. OH, NO, IT'S CLOSE TO
25 MICKEY THOMPSON'S BODY, NOT CLOSE TO THE GARAGE. ARE YOU
26 KIDDING? WHAT WAS HE LOOKING AT? YOU GUYS WERE OUT
27 THERE. YOU FOLKS WERE OUT THERE. I SAW A LOT OF YOU
28 PAYING VERY CLOSE ATTENTION TO THAT ARK EMANATING AROUND

1 WHERE MICKEY THOMPSON WAS. IT'S UNEQUIVOCAL. IT'S
2 UNEQUIVOCAL, IRREFUTABLE THAT IF YOU ARE STANDING WHERE
3 MICKEY THOMPSON WAS BLEEDING, HE COULD SEE DIRECTLY
4 TOWARD TRUDY.

5 THE BEST EVIDENCE SAID IS RIGHT HERE
6 (INDICATING). I WANT YOU TO PAY SPECIAL NOTE TO THE
7 CAMERA MAN AT THE VERY END OF THIS TWENTY SECOND CLIP AS
8 HE RAISES HIS CAMERA UP. AND WHAT DO YOU SEE IN THE
9 DISTANCE OF THE BOTTOM OF THE DRIVEWAY.

10 (VIDEO PLAYED)

11 MR. JACKSON: THAT'S MICKEY'S BODY. THERE IS THE
12 BLOOD TRAIL EMANATING FROM HIS BODY. ALL THE WAY DOWN
13 AND HERE ARE THE BLOOD STAINS (INDICATING). LOOK AT THE
14 CAMERA MAN'S ARC. HE'S LITERALLY FOLLOWING THE BLOOD
15 STAINS AROUND IN A SEMI-CIRCLE. AND HE'S GETTING CLOSER
16 AND CLOSER AND CLOSER TO THE GARAGE AND THAT IS TRUDY
17 THOMPSON. EVERYBODY SEE IT? ANYBODY NEED TO SEE IT
18 AGAIN?

19 THERE IS NO QUESTION THAT MICKEY THOMPSON
20 WAS WATCHING AS TRUDY THOMPSON WAS BEING KILLED. THERE
21 IS SIMPLY NO QUESTION. ALLISON TRIARSI TOLD YOU A
22 CHILLING STORY OF A 14-YEAR-OLD GIRL WHO LOOKED OUT OF A
23 WINDOW AT HER HOUSE AND IT CHANGED HER LIFE FOREVER.

24 ALLISON TRIARSI TOLD YOU OF WATCHING THE
25 GUNMAN DOWN BY TRUDY. HOLDING A GUN BASICALLY TO HER
26 HEAD. SHE TOLD YOU A STORY OF WATCHING MICKEY AT THE TOP
27 OF THE DRIVEWAY. SHE DESCRIBED HIM AS AGITATED AND VERY
28 UPSET, MOVING BACK AND FORTH. HOW DID THOSE BLOOD STAINS

1 LOOK? MOVING BACK AND FORTH.

2 SHE TOLD YOU THAT MICKEY WAS TRYING TO GET
3 AROUND; TRYING TO GET TO TRUDY. AND THAT'S TRUE TO FORM
4 FOR MICKEY THOMPSON. SELFLESS TRYING TO GET TO HIS WIFE,
5 THE LOVE OF HIS LIFE TRUDY. WHILE TRUDY LAY OR KNEEL AT
6 THE BOTTOM OF THE DRIVEWAY -- AND REMEMBER ALLISON SAID
7 TRUDY THOMPSON WAS DOWN ON HER KNEES LOOKING UP AT THE
8 GUNMAN WITH HER HANDS OUTSTRETCHED PLEADING FOR HER LIFE.

9 MICKEY THOMPSON FOR HIS PART WAS AT THE
10 TOP OF THE DRIVEWAY SCREAMING "PLEASE, PLEASE DON'T HURT
11 MY WIFE. JUST DON'T HURT MY WIFE." ALLISON WATCHED AS
12 THAT GUNMAN POINTED THE GUN AT TRUDY'S HEAD AND FIRED A
13 BULLET THROUGH HER BRAIN. ICE COLD EXECUTION.

14 MICKEY THOMPSON NOW REALIZING THAT TRUDY
15 IS DEAD HAS TO WATCH IN WHAT HAS TO BE THE LONGEST THIRTY
16 SECONDS OF HIS LIFE. YOU WERE AT THE CRIME SCENE. YOU
17 KNOW FROM THE BALLISTICS EXPERTS THE SAME GUNMAN KILLED
18 MICKEY AS KILLED TRUDY OR VISA-VERSA. THAT GUNMAN THEN
19 WALKED UP THE DRIVEWAY MICKEY THOMPSON REALIZING HE'S
20 COMING FOR HIM. ICE COLD EXECUTION.

21 AND AS MICKEY STAND AT THE TOP OF THE
22 DRIVEWAY AND WATCH IN HORROR AS HIS WIFE LAY CRUMPLED IN
23 THE GUTTER, FOR GOD SAKE, THAT GUNMAN WALKED UP AND
24 POINTED A GUN AT HIS HEAD AND ENDED HIS LIFE.

25 ALLISON TRIARSI TOLD YOU THIS STORY, BUT
26 ALL OF THE PHYSICAL EVIDENCE CORROBORATES HER TESTIMONY.
27 ALL OF IT. THINK ABOUT THE BALLISTICS. ALLISON TRIARSI
28 SAID THERE WERE TWO GUNMAN. THE BALLISTICS PROVED THAT

1 THERE WERE, IN FACT, TWO GUNMAN. ALLISON TRIARSI TALKED
2 ABOUT MICKEY THOMPSON BEING AT THE TOP OF THE DRIVEWAY;
3 AGITATED; MOVING LEFT TO RIGHT; RIGHT TO LEFT. THE BLOOD
4 STAINS CORROBORATE THAT. ALLISON TRIARSI TOLD YOU THAT
5 SHE HEARD MICKEY SCREAMING THROUGHOUT THE INCIDENT,
6 "PLEASE, DON'T HURT MY WIFE. PLEASE, DON'T HURT MY WIFE.

7 THE JOHNSONS BOTH CORROBORATED ALLISON
8 TRIARSI'S TESTIMONY. SHE SAID THAT SHE SAW THE GUNMAN
9 POINT A GUN AT TRUDY'S HEAD. THE CORONER CORROBORATED
10 HER TESTIMONY. TRUDY WAS, IN FACT, SHOT THROUGH THE
11 HEAD. ALLISON SAID THAT SHE SAW MICKEY AT THE TOP OF THE
12 DRIVEWAY; TRUDY AT THE BOTTOM OF THE DRIVEWAY.

13 THE VIDEO THAT I JUST SHOWED YOU AS WELL
14 AS THE LOCATION OF THE BODIES, ALL THE PHOTOGRAPHS
15 INDEPENDENTLY, PHYSICALLY CORROBORATE ALLISON TRIARSI'S
16 TESTIMONY. ALLISON TRIARSI TOLD YOU EXACTLY WHAT SHE SAW
17 THAT DAY. AND WHAT SHE SAW WAS A BRUTAL EXECUTION WHERE
18 A MAN HAD TO WATCH HIS WIFE SUFFER AND BE TAKEN FROM HIM
19 JUST BEFORE HE WAS TAKEN.

20 THE GUNMAN THEN LEFT THROUGH THE ESCAPE
21 ROUTE DOWN THE BACK. YOU SAW WHICH WAY THEY WENT, DOWN
22 PAST THE JOHNSONS' HOUSE AND OUT. AND THIS IS A MAP OF
23 BASICALLY THEIR ESCAPE ROUTE. I SHOWED YOU THIS IN
24 OPENING STATEMENT BECAUSE I WANTED TO REFER TO IT BACK IN
25 CLOSING ARGUMENT. THE GUNMAN WENT DOWN THE BACK DRIVE
26 AND THEY WERE ALMOST HIT BY A CAR.

27 REMEMBER WILMA JOHNSON, SHE ALMOST HIT
28 THEM RIGHT THERE AT ROYAL OAKS WHERE THEY CAME OUT OF THE

1 GATE. THEY THEN WENT THROUGH THAT GRAPE STAKE FENCE,
2 THROUGH THAT SMALL OPENING IN THE FENCE AND WENT DOWN
3 ONTO THE BIKE PATH. WHAT A PERFECT, WHAT A PERFECT
4 ESCAPE ROUTE. WHO COULD FOLLOW YOU? EVEN IF THE POLICE
5 WERE ON YOUR TAIL, THEY COULDN'T GET THEIR SQUAD CARS
6 DOWN TO THE BIKE PATH. WHAT A PERFECT ESCAPE ROUTE.
7 STEALTHY, CLEAN, QUIET AND CAN FIT THROUGH THAT GRAPE
8 STAKE FENCE.

9 THE KILLERS THEN RODE WESTBOUND OVER TO
10 THE MOUTH OF THE BIKE PATH. AND ONCE AGAIN, I WOULD DRAW
11 YOUR ATTENTION TO WHERE CLAUDETTE FREIDINGER SAID THAT
12 SHE SAW THE TWO GUNMEN COMING DIRECTLY FROM THE BIKE
13 PATH, DIRECTLY FROM THIS COBBLE STONE DOWN PAST HER.
14 EVERYBODY CAN SEE WHAT IS JUST OFF THIS PICTURE. NOW
15 THAT YOU'VE BEEN TO THE CRIME SCENE, YOU KNOW THAT THERE
16 IS TWO FREEWAYS RIGHT THERE. OF COURSE, THEY WENT THAT
17 DIRECTION. THE PERFECT ESCAPE ROUTE.

18 NOW TO SAY THAT THIS WAS ANYTHING OTHER
19 THAN A PERFECTLY PLANNED, PERFECTLY ORCHESTRATED,
20 PERFECTLY CHOREOGRAPHED EXECUTION DOES VIOLENCE TO LOGIC,
21 FOLKS. OF COURSE, THIS WAS PERFECTLY PLANNED. AND WHY
22 IS THAT IMPORTANT? BECAUSE OF WHERE THE STEVENSES SAW
23 THE DEFENDANT.

24 IF YOU WERE GOING TO PLAN A CRIME IN
25 BRADBURY, FOLKS, YOU WOULD START RIGHT HERE (INDICATING).
26 THAT'S WHERE YOU GET IN. THAT'S WHERE YOU GET OUT.
27 THAT'S WHERE THE FREEWAY IS. IT'S NOT A COINCIDE THAT
28 MICHAEL GOODWIN WAS AT THAT MOUTH OF THE FREEWAY, AT THE

1 MOUTH OF THE BIKE PATH, AT THE MOUTH OF GARDI AND MT.
2 OLIVE. THAT'S NOT A COINCIDE.

3 NOW ONE OF THE THINGS THAT STRUCK ME --
4 AND, OF COURSE, RON AND TONI STEVENS TOLD YOU WHAT THEIR
5 MEMORY WAS ABOUT THE PERSON SEATED IN THE CAR. NEITHER
6 ONE OF THEM EQUIVOCATED, NOT EVEN A BIT. MICHAEL GOODWIN
7 IS THE MAN SEATED OUTSIDE OF THE STEVENS' HOUSE. MICHAEL
8 GOODWIN IS THE MAN SEATED IN THAT STATION WAGON WITH OUT
9 OF STATE PLATES, BY THE WAY.

10 ONE THING THAT I FOUND INTERESTING WAS
11 MS. SARIS ASKED DURING CROSS-EXAMINATION OF ALMOST EVERY
12 WITNESS IN THE CASE, ALMOST EVERY CIVILIAN WITNESS IN THE
13 CASE AT LEAST, WHETHER OR NOT THEY WERE TESTIFYING
14 BECAUSE OF A REWARD. ARE YOU TESTIFYING BECAUSE OF A
15 REWARD, A PROMISE OF MONEY? IS THAT WHAT YOU'RE DOING?
16 AND EVERY ONE OF THE WITNESSES SAID ONE OR TWO THINGS,
17 EITHER I'VE NEVER HEARD OF IT. I DON'T KNOW WHAT YOU'RE
18 TALKING ABOUT. OR I HAVE HEARD ABOUT IT, BUT I DON'T
19 KNOW ANYTHING ABOUT IT. AND I'M NOT INTERESTED. IT WAS
20 JUST A RED HERRING, JUST A WAY TO KIND OF PUT SOMETHING
21 IN YOUR MIND, MAYBE.

22 BUT I DO REMEMBER, IF MY MEMORY IS NOT
23 FAULTY, I DO REMEMBER ONE WITNESS IN THIS CASE TESTIFYING
24 FOR A REWARD. REMEMBER WHO SHE WAS? KATHY PEZDEK.
25 KATHY PEZDEK, THE INIMITABLE EYEWITNESS IDENTIFICATION
26 EXPERT, CAME INTO THIS COURTROOM AND TESTIFIED FOR A
27 THOUSAND DOLLAR REWARD. SHE SAID SHE WOULD BE HAPPY TO
28 TESTIFY, FOR A THOUSAND BUCKS.

1 AND WHAT DID SHE TELL YOU FOR THAT
2 THOUSAND DOLLARS? SHE TOLD YOU THAT AFTER 11 MONTHS --
3 IT'S HARD FOR ME TO EVEN SAY IT WITHOUT LAUGHING -- AFTER
4 11 MONTHS -- WHERE DID SHE GET 11 MONTHS? I MEAN JUST
5 RIGHT OUT OF THIN AIR. BUT AFTER 11 MONTHS, QUOTE, THE
6 PROBABILITY OF AN ACCURATE IDENTIFICATION IS ZERO. HER
7 WORDS, NOT -- I WROTE IT DOWN. I REALLY DID. THE
8 PROBABILITY OF MAKING AN ACCURATE IDENTIFICATION AFTER 11
9 MONTHS IS ZERO. THAT'S HER TESTIMONY.

10 THAT'S WHAT THIS PH.D. FOR A THOUSAND
11 BUCKS CAME INTO THIS COURTROOM AND SAID. ACCORDING TO
12 DR. PEZDEK -- I WAS REALLY UPSET BY THAT. BECAUSE
13 ACCORDING TO DR. PEZDEK IF MY LITTLE BROTHER IS OFF AT
14 COLLEGE, HE HAS BEEN FOR ABOUT THE LAST 18 MONTHS, HE'S
15 GOING TO COME HOME FOR CHRISTMAS, IT'S GOING TO MAKE
16 CHRISTMAS DINNER INCREDIBLY AWKWARD BECAUSE THE WHOLE
17 FAMILY IS GOING TO GO, "WHO THE HELL IS THAT GUY?" ARE
18 YOU KIDDING?

19 THE REASON YOU'RE LAUGHING IS BECAUSE IT'S
20 STUPID. IT DOESN'T MAKE ANY SENSE. WE ALL KNOW -- HOW
21 MANY FOLKS HAVE BEEN TO A CHRISTMAS PARTY AND THE BOSS
22 BRINGS HIS WIFE OR THE BOSS BRINGS HER HUSBAND. AND YOU
23 SEE THEM ACROSS THE ROOM AND YOU MAKE NOTE, HEY, I GOT TO
24 REMEMBER THAT PERSON. THAT'S THE BOSS'S WIFE OR HUSBAND.
25 BUT YOU DON'T SEE THEM AGAIN UNTIL THIS YEAR. YOU DON'T
26 WALK UP TO THE BOSS AND SAY, HEY, MAN, YOU GOT A NEW
27 WIFE? BECAUSE YOU DON'T REMEMBER THEM.

28 THIS IS INSANE. I CAN'T BELIEVE I'M

1 SPENDING TEN MINUTES TALKING ABOUT THIS. THAT WAS AMONG
2 THE MOST UNREALISTIC TESTIMONY I'VE EVER HEARD. AND SHE
3 GOT A THOUSAND BUCKS FOR SAYING THAT. IT'S RIDICULOUS.

4 NOW, MS. SARIS WILL STAND UP -- I
5 GUARANTEE SHE WILL STAND UP AND SAY, WELL, THAT'S NOT A
6 FAIR EXAMPLE, MR. JACKSON, GAVE ME AN EXAMPLE ABOUT HIS
7 LITTLE BROTHER, THAT'S SOMEONE HE KNOWS. THAT'S NOT A
8 GOOD EXAMPLE. WELL, WAIT A MINUTE. TIME OUT. HANG ON.
9 HANG ON. WHAT DID MS. STEVENS SAY? MRS. STEVENS SAID
10 THE REASON I KNOW HIM, THE REASON I'LL NEVER FORGET HIM,
11 IS BECAUSE HE LOOKS JUST LIKE SOMEONE I'VE KNOWN MY WHOLE
12 LIFE. SOMEONE I'VE KNOWN SINCE HIGH SCHOOL. HE LOOKS
13 EXACTLY LIKE SOMEONE I'VE KNOWN MY ENTIRE LIFE.

14 ISN'T THAT THE SAME THING? WHAT WERE HER
15 WORDS. SHE SAID I WILL NEVER FORGET HIS FACE. EVER.
16 ONE OF THE THINGS THAT MS. PEZDEK DIDN'T TELL YOU ABOUT
17 THAT HAD TO BE ELABORATED UPON BY MR. DIXON IN
18 CROSS-EXAMINATION, HE HAD TO BRING OUT THE FACT THAT
19 THERE IS SOMETHING CALLED "DEPTH OF PROCESSING." DEPTH
20 OF PROCESSING IS PROBABLY THE MOST IMPORTANT PART OF AN
21 EYEWITNESS IDENTIFICATION.

22 YET MS. PEZDEK SAT HERE IN THIS CHAIR AND
23 DIDN'T MENTION WORD ONE ABOUT IT TO YOU. NOT WORD ONE
24 UNDER DIRECT EXAMINATION. DO YOU THINK THERE WAS A
25 REASON WHY? AS A MATTER OF FACT, SHE EVEN WENT SO FAR AS
26 TO USE A CUTE LITTLE EXAMPLE, WELL, FOLKS, YOU KNOW WHEN
27 YOU WALK INTO THE COURTHOUSE THIS MORNING AND WENT YOU
28 THROUGH THE METAL DETECTOR AND THEY WANTED YOU, YOU

1 DIDN'T PAY ANY ATTENTION TO THAT GUY THAT WAS WANDING
2 YOU, DID YOU. YOU WENT THROUGH THE METAL DETECTOR AND
3 YOU PROBABLY CAN'T IDENTIFY THAT PERSON AFTER 11 MONTHS
4 BECAUSE NOBODY CAN IDENTIFY ANYBODY AFTER 11 MONTHS.

5 LET ME ASK YOU THIS, THOUGH, WHAT IF THAT
6 PERSON WANDING YOU INAPPROPRIATELY TOUCHED YOU? WHAT IF
7 HE INAPPROPRIATELY TOUCHED YOUR CHILD? DO YOU THINK YOU
8 MIGHT PAY ATTENTION? DO YOU THINK YOU MIGHT REMEMBER
9 THAT PERSON'S FACE. DO YOU THINK YOU MIGHT LOOK HIM IN
10 THE FACE FOR THE SPECIFIC PURPOSE, FOR THE SPECIFIC
11 REASON OF REMEMBERING WHAT HE LOOKED LIKE?

12 RON AND TONI STEVENS DIDN'T JUST STUMBLE
13 OUT OF THEIR HOUSE AND GLANCE UP AND SEE A CAR PARKED.
14 RON AND TONI STEVENS WALKED OVER TO THE DEFENDANT'S CAR
15 IN ORDER TO MAKE A SPECIFIC IDENTIFICATION. WHY? THEY
16 THOUGHT HE MIGHT BE A CHILD MOLESTER. THEY THOUGHT HE
17 MIGHT HAVE BEEN LOOKING AT THE SCHOOL DOWN THE STREET.
18 OH, MY GOODNESS, I'M GOING TO MAKE A NOTE OF WHO THAT
19 PERSON IS. THEY WENT SO FAR AS TO WRITE THE LICENSE
20 PLATE DOWN. THAT'S DEPTH OF PROCESSING. THEY WENT OVER
21 IN ORDER TO MAKE AN IDENTIFICATION.

22 DEPTH OF PROCESSING MEANS THAT YOU FILE
23 AWAY IN YOUR BRAIN WHAT A PERSON LOOKS LIKE. AND IT'S --
24 EVEN KATHY PEZDEK HAD TO ADMIT, YEP, IF THERE IS DEPTH OF
25 PROCESSING THAT TENDS TO MAKE FOR A FAVORABLE
26 IDENTIFICATION. THAT'S EXACTLY WHAT WE HAVE HERE.

27 AND WITHIN THREE DAYS, WITHIN THREE DAYS
28 OF MAKING THAT IDENTIFICATION, MICKEY THOMPSON AND TRUDY

1 THOMPSON ARE KILLED. AND THAT'S WHEN THEY THINK, OH, MY
2 GOD, THAT GUY THAT WE SAW, THE GUY THAT WE THOUGHT MIGHT
3 HAVE BEEN A CHILD MOLESTER, THE GUY WE CALLED THE POLICE,
4 ABOUT MAY HAVE BEEN INVOLVED IN THESE MURDERS. TONI
5 STEVENS' QUOTE, I WILL NEVER FORGET HIS FACE. EVER.

6 WAS IT A LONG TIME? OF COURSE, IT WAS.
7 IS THIS SOMETHING THEY'VE BEEN THINKING ABOUT FOR A LONG
8 TIME? ABSOLUTELY. KATHY PEZDEK CAME IN AND TOLD YOU
9 ABOUT ONE STUDY. AND KEEP IN MIND, SHE'S BEEN WORKING
10 FOR THE DEFENSE ATTORNEYS 4000 TIMES, 4000 TIMES -- I'VE
11 NEVER DONE ANYTHING 4000 TIMES. MY GOD. 4000 TIMES
12 SHE'S WORKED FOR DEFENSE ATTORNEYS. OVER 20 YEARS, OVER
13 20 YEARS AND SHE COMES UP WITH ONE STUDY THAT SHE DIDN'T
14 HAVE ANYTHING DO TO WITH BUT SHE READ ABOUT ONCE.

15 AND INVOLVING A BUNCH OF -- I DON'T WANT
16 TO INSULT ANYBODY. I WENT TO JUNIOR COLLEGE BEFORE I
17 WENT TO A FOUR-YEAR UNIVERSITY. I LOVED THAT. THAT'S
18 WHERE I LEARNED TO DRINK BEER. ARE YOU KIDDING? A BUNCH
19 OF WILD JUNIOR COLLEGE KIDS DRINKING BEER AND EATING COLD
20 PIZZA AND THAT'S HER STUDY. A BUNCH OF JC KIDS, AVERAGE
21 STUDENT, DRINKING BEER AND CHASING PIZZA AND CHASING
22 GIRLS AND CHASING GUYS, DOING WHATEVER THEY DO.

23 I TELL YOU WHEN I WAS IN JUNIOR COLLEGE, I
24 WOULD NOT HAVE WANTED TO BE THE SUBJECT OF A SCIENTIFIC
25 STUDY. AND THAT'S WHAT SHE PRESENTS YOU. 11 MONTHS,
26 ZERO PROBABILITY. THESE ARE MY NOTES ON MS. PEZDEK AND
27 THERE THEY GO (INDICATING).

28 MICHAEL GOODWIN PICKED PROBABLY THE BEST

1 ESCAPE VEHICLE ANYBODY COULD HAVE. DURING THE -- AND I
2 WON'T DRONE ON ABOUT THIS. DURING THE COURSE OF HIS
3 BANKRUPTCY, HE WAS PERSONALLY BANKRUPT; HE WAS
4 CORPORATELY BANKRUPT, YET HE GOES OUT AND BUYS A 57-FOOT
5 MOTOR SAILER THAT THE RICHEST OF THE RICH COULDN'T
6 AFFORD, \$400,000 IN 1988 MONEY. WHY? NOT BECAUSE HE WAS
7 LOOK NOTHING GET A TAN, FOLKS. THIS WAS EXACTLY THE BOAT
8 HE NEEDED TO GET OUT OF THE COUNTRY. WHY? BECAUSE HE
9 COULDN'T WIN FAIRLY. HE COULDN'T BEAT MICKEY THOMPSON ON
10 HIS OWN TERMS.

11 HE HAD A PLAN IN MIND. HE WAS GOING TO
12 HAVE HIM KILLED. HE WAS GOING TO HAVE HIM WASTED, AS HE
13 SAID. SO HE GETS THE YACHT. AND YOU THINK IT WAS A
14 COINCIDENCE THAT MICKEY THOMPSON AND TRUDY THOMPSON MET
15 THEIR FATE THE WEEK OF MARCH 16TH? IT WASN'T A
16 COINCIDENCE. LOOK AT WHEN THE BOAT WAS APPROVED. THE
17 BOAT LOAN WAS APPROVED SIX DAYS BEFORE THEY WERE KILLED.
18 THAT BOAT LOAN GOT APPROVED ON THE 10TH AND WITHIN SIX
19 DAYS MICKEY THOMPSON AND TRUDY THOMPSON WERE SHOT TO
20 DEATH.

21 THEN WITHIN TWO DAYS AFTER THAT, THE HOUSE
22 GOES INTO ESCROW. OH, MY GOODNESS, IT LOOKS LIKE THE
23 PLAN IS COMING TOGETHER. WITHIN WEEKS SOLD ALL OF DIANE
24 GOODWIN'S INTEREST IN WHITEHAWK. BUT DIANE GOODWIN'S
25 INTEREST IN WHITEHAWK WAS REALLY MICHAEL GOODWIN'S
26 INTEREST IN WHITEHAWK. HE HAD BEEN HIDING ASSETS IN HER
27 NAME OR ATTEMPTING TO HIDE ASSETS IN HER NAME AND HE
28 DUMPED THEM ALL. NOTWITHSTANDING THE FACT THAT THEY MAY

1 HAVE BEEN VERY LUCRATIVE.

2 WITHIN WEEKS OF THAT -- OR ACTUALLY WITHIN
3 DAYS OF THAT, HE DUMPS ALL OF HIS INVESTMENTS IN DESERT
4 INVESTORS. WHY IS THAT IMPORTANT? BECAUSE MICHAEL
5 GOODWIN WAS SPECIFICALLY TAKING ASSETS TURNING THEM INTO
6 CASH; TAKING CASH TURNING THAT INTO GOLD; AND TAKING
7 EVERYTHING AND MOVING IT OFFSHORE.

8 NOW WHY WOULD MICHAEL GOODWIN NEED TO GET
9 OUT OF THE COUNTRY SO QUICKLY? EITHER HE IS THE
10 UNLUCKIEST GUY ON THE FACE OF THE PLANET, FOLKS, OR HE
11 HAD PLANNED MICKEY THOMPSON'S MURDER AND WANTED TO GET
12 OUT.

13 \$500,000 IN GOLD AND CASH MOVED OFFSHORE.
14 A \$400,000 YACHT. THE LAST TIME ANYBODY SAW HIM WAS OUT
15 OF SOUTH CAROLINA AFTER HE HAD HAD THE BOAT
16 REFURBISHED -- OR NOT REFURBISHED BUT HAD IT STOCKED WITH
17 RADIO EQUIPMENT, ET CETERA, SOMEBODY WAVING TO HIM
18 OFFSHORE. SEE YOU LATER, MIKE. AND WHERE DOES HE GO?

19 AS YOU HEARD THERE WAS A STIPULATION. YOU
20 DIDN'T MEET FRANK MICHAEL MAGEE, BUT FRANK MICHAEL MAGEE
21 IS A BOAT SURVEYOR. FRANK MICHAEL MAGEE'S ONE JOB IN THE
22 WORLD BACK THEN WAS TO FIND PEOPLE'S BOATS.

23 THE SUGGESTION IN OPENING STATEMENT BY
24 MS. SARIS WAS, OH, WELL, MIKE GOODWIN WAS IN AND OUT OF
25 THE COUNTRY CONSTANTLY. HE WASN'T FLEEING. HE WAS JUST
26 DOWN SAILING, JUST HANGING OUT; HE WASN'T FLEEING.
27 FOLKS, THE ONLY REASON MICHAEL FRANK GOODWIN IS SITTING
28 IN THAT CHAIR RIGHT NOW, HE ONLY REASON HE'S BACK IN THIS

1 COUNTRY IS BECAUSE FRANK MICHAEL MAGEE REPOSSESSED HIS
2 HOME AND HIS TRANSPORTATION AND MICHAEL GOODWIN WAS LEFT
3 STANDING BAREFOOT ON SOME DOCK SOMEWHERE ON THE RIO DULCE
4 RIVER IN GUATEMALA WITH NO HOME AND NO TRANSPORTATION.

5 YOU HEARD EVIDENCE THAT HIS FAMILY LIVES
6 IN FLORIDA. OF COURSE, HE'S GOING TO COME BACK. WHAT DO
7 PEOPLE DO WHEN THEY'RE OUT OF OPTIONS? THEY COME RUNNING
8 HOME TO MOMMA. THAT'S WHY MICHAEL GOODWIN IS BACK IN
9 THIS COUNTRY. AND NOT OUT OF ALTRUISM.

10 ONE OF THINGS THAT THE COURT WILL TELL YOU
11 IS THAT THE ESCAPE OF A PERSON AFTER A CRIME IS SOMETHING
12 THAT YOU CAN CONSIDER. SOMETHING THAT YOU SHOULD
13 CONSIDER IN DETERMINING GUILT. AND I WANT TO SPEND JUST
14 A SECOND TALKING ABOUT WHAT I THINK MS. SARIS WILL TEND
15 SPEND A LOT OF SECONDS TALKING ABOUT AND THAT IS THIS
16 DEFENSE OF ROBBERY SHE TOLD YOU IN HER OPENING STATEMENT
17 WE'RE GOING TO SHOW YOU THAT WHAT HAPPENED ON THAT HILL
18 THAT DAY WAS A ROBBERY.

19 I SIMPLY ASK: WHERE DID IS THE EVIDENCE
20 OF THAT? WHERE IS THE EVIDENCE THAT THIS WAS A ROBBERY
21 NOT AN EXECUTION? THERE IS NO EVIDENCE OF A BREAK-IN.
22 THERE WAS NO EVIDENCE THAT THE SAFE WAS EVER TOUCHED.
23 MS. SARIS AND THE DEFENSE SHOWING YOU PICTURES OF THE
24 SAFE; AND SHOWING JACO SWANEPOEL PICTURES OF THE SAFE;
25 AND ASKING IF HE HAD SEEN VIDEOS OF THE SAFE. THAT'S ALL
26 A RED HERRING.

27 DO YOU KNOW WHAT A RED HERRING IS, BY THE
28 WAY? LET ME DIGRESS BECAUSE I DON'T WANT TO PUT

1 EVERYBODY TO SLEEP. THIS IS KIND OF A FUNNY STORY. A
2 RED HERRING -- ANYBODY KNOW WHERE THAT TERM COMES FROM?
3 BACK IN THE OLDEN DAYS -- EVERYBODY KNOWS WHAT FOX
4 HUNTING IS; RIGHT? FOX HUNTING, THE OLD ENGLISH, WAKE UP
5 ON DAWN AND GET ON A HORSE AND ALL YOUR DOGS TRY TO TREE
6 A FOX.

7 WELL, UNSPORTSMANLIKE HUNTERS WOULD GO OUT
8 THE NIGHT BEFORE THE FOX HUNT AND THEY WOULD HAVE THEIR
9 MAN SERVANT, BECAUSE THEY HAD MAN SERVANTS BACK THEN. I
10 DON'T KNOW WHATEVER HAPPENED TO THAT. THAT WOULD BE KIND
11 OF COOL. THEY HAD MAN SERVANTS GO OUT WITH A BASKET OF
12 FISH AND THEY WOULD THROW DOWN FISH ALONG WITH THEY
13 THOUGHT WAS GOING TO BE THE EXPECTED ROUTE OF THE FOX.

14 AND THEN THEY THE NEXT MORNING WOULD BRING
15 THEIR DOGS AROUND THE OTHER SIDE. WHY? BECAUSE THE FISH
16 WAS SO STRONG, IT WOULD KNOCK THE OPPONENT'S DOG'S SCENT
17 OFF. YOU COULDN'T TRACK THE FOX. WELL, GUESS WHAT KIND
18 OF FISH THEY USED? RED HERRINGS. ALL RIGHT. SO THAT'S
19 WHERE THAT COMES FROM.

20 THIS WAS A RED HERRING. THE SAFE WAS --
21 THE REFERENCES TO THE SAFE WAS AN ATTEMPT BY THE DEFENSE
22 TO KNOCK YOU OFF THE SCENT, A TRAIL THAT LEADS DIRECTLY
23 BACK TO MICHAEL GOODWIN. WHY? WHY WOULD THE DEFENSE
24 SPEND SO MUCH TIME TALKING ABOUT A ROBBERY? WHAT DO THEY
25 CARE? LET ME PUT IT TO YOU THIS WAY, BECAUSE THE DEFENSE
26 IS GOING TO FORMULATE THIS ARGUMENT AS FOLLOWS:
27 IF THIS WAS A ROBBERY, WHICH THEY DESPERATELY,
28 DESPERATELY WANT YOU TO THINK, IF THIS WAS A ROBBERY,

1 THEN MICHAEL GOODWIN ISN'T GUILTY. BECAUSE HE DIDN'T
2 HAVE THE MOTIVE TO ROB MICKEY THOMPSON. HE HAD THE
3 MOTIVE TO KILL MICKEY THOMPSON.

4 SO IF YOU BELIEVE THIS IS A ROBBERY, THEN
5 HE CAN'T BE GUILTY. BUT IF THERE IS NO EVIDENCE OF A
6 ROBBERY, FOLKS, AND THE EVIDENCE IS OF AN EXECUTION, VERY
7 CLEARLY MICHAEL GOODWIN IS GUILTY. THAT'S WHY THE
8 DEFENSE WANTS TO TAKE YOUR EYE OFF THE BALL.

9 LET ME SUGGEST THE FOLLOWING: THERE IS NO
10 EVIDENCE WHATSOEVER IN THIS RECORD THAT THE SAFE WAS EVER
11 TOUCHED, TAMPERED WITH, WHATEVER. AS A MATTER OF FACT,
12 THE PHOTOS OF THE SAFE ALL SHOW THAT THERE IS A SAFE
13 BEHIND ALMOST A CLOSED DOOR. SO WHAT DID THE ROBBERS DO?
14 LIKE THEY BREAK INTO THE SAFE WHILE MICKEY AND TRUDY ARE
15 UPSTAIRS, THEN THEY GRAB ALL THE LOOT, AND THEN THEY
16 CLOSE THE SAFE BACK UP AND RELOCK IT AND THEN SHUT THE
17 DOOR BACK IN FRONT OF IT. IT MAKES NO SENSE.

18 THE OTHER THING, THESE TWO KILLERS, THEY
19 WEREN'T EQUIPPED LIKE THIEVES. THEY WERE EQUIPPED LIKE A
20 ASSASSINS. NOW MS. SARIS WILL BRING UP THIS CANVAS BAG,
21 THIS LITTLE BAG THAT SANDRA JOHNSON AND LANCE JOHNSON
22 DESCRIBED. NOW THINK ABOUT THIS FOR A SECOND. THEY HAD
23 A LITTLE BAG, THEY HAD BICYCLES, AND THEY HAD GUNS. AND
24 THAT'S IT. AND MS. SARIS IS GOING ON SAY, WELL, OF
25 COURSE, THEY'RE ROBBERS; OF COURSE, THEY'RE THIEVES; THEY
26 HAD A BAG.

27 WELL, YOU HEARD THE DESCRIPTION OF THE
28 BAG. THE DESCRIPTION OF THE BAG WAS LIKE EIGHT INCHES

1 BY, WHAT, 12 OR 14 INCHES. IT WAS ABOUT THE SIZE OF MY
2 LEGAL PAD. HANG ON. THAT'S WHAT WE WILL DO. WE'RE
3 GOING TO GO UP TO A BIG MANSION, UP TO A HUGE HOUSE AND
4 WE'RE GOING TO LOOT THAT WHOLE PLACE, SOME RICH GUY, WITH
5 ALL KINDS OF STUFF IN THERE, ALL KINDS OF GOODIES, GOD
6 KNOWS WHAT HE'S GOT. TV'S, VCR'S, SILVERWARE AND ALL
7 KIND OF STUFF AND WE'RE GOING TO TAKE THIS (INDICATING).
8 I GOT THE BAG. YOU'VE GOT THE BIKE? I GOT THE BAG.
9 ARE YOU KIDDING? THAT'S THEIR EVIDENCE OF A ROBBERY.
10 THAT'S THEIR EVIDENCE OF A BURGLARY. THIS?

11 THE LAST THING YOU WOULD DO IF YOU WERE A
12 THIEF IS GO THIEVE SOMEONE ON A FRIGGIN BICYCLE. THERE
13 WAS NO EVIDENCE THAT THEY EVEN HAD THE LITTLE BASKETS ON
14 THE BICYCLE. I MEAN COME ON.

15 MICKEY THOMPSON NEVER SAID A WORD ABOUT
16 TAKE MY STUFF. WHAT WOULD YOU -- LET'S THINK ABOUT THIS
17 LOGICALLY. IF MICKEY THOMPSON WAS SCREAMING AND SOMEONE
18 WAS STANDING IN FRONT OF HIM WITH A GUN (INDICATING) --
19 SORRY, LORI -- SOMEONE WAS STANDING IN FRONT OF HIM WITH
20 A GUN, SAYING GIVE ME YOUR WATCH, GIVE ME YOUR WALLET,
21 BECAUSE OF COURSE THAT'S WHAT THIEVES DO, THEY TAKE
22 WATCHES AND WALLETS.

23 MICKEY THOMPSON WOULD HAVE SAID, NO, NO,
24 TAKE EVERYTHING YOU'VE GOT, TAKE EVERYTHING YOU WANT,
25 TAKE ANYTHING. I DON'T CARE, TAKE IT. IT'S YOURS. TAKE
26 MY WALLET. TAKE MY WATCH. I DON'T CARE. I DON'T NEED
27 IT. I DON'T WANT IT. JUST TAKE IT. JUST DON'T HURT US.
28 BUT WHAT WERE THE WORDS THAT MICKEY THOMPSON USED?

1 "PLEASE DON'T HURT MY WIFE." ECHOES OF MICHAEL GOODWIN.

2 THE TIME. LET'S THINK ABOUT THE TIME FOR
3 A SECOND. 6:05 IN THE MORNING. THESE THIEVES WOULD HAVE
4 BEEN THE STUPIDEST PEOPLE ON THE FACE OF THE PLANET, NOT
5 ONLY TO GO UP ON A BICYCLE, NOT ONLY WITH A LITTLE CRATE
6 AND BARREL BAG OR WHATEVER EQUIVALENT LITTLE SHOPPING BAG
7 THEY HAD WITH THEM, BUT THING UP AT 6:05.

8 HEY, CHARLIE, LET'S GO ROB A HOUSE. LET'S
9 GO BURGLARIZE A HOUSE. OKAY. LET'S GO AT THE VERY TIME
10 WHEN EVERYBODY IS HOME. I MEAN EVEN IF YOU ARE A
11 PARTIER, YOU'RE OUT UNTIL 2- OR 3:00 IN MORNING, YOU'RE
12 HOME AT 6:00. PEOPLE GET UP AND TAKE A SHOWER AND GET
13 READY FOR WORK AT 6:00. THAT'S THE ONE TIME OF DAY WHERE
14 EVERYBODY IS HOME, FOLKS.

15 BUT THESE THIEVES DECIDED TO GO ROB
16 SOMEONE OR BURGLARIZE A HOUSE AT 6:05 IN THE MORNING.
17 BURGLARIES TAKE PLACE AT 10:05 IN THE MORNING, FOLKS,
18 WHEN PEOPLE ARE WORKING; WHEN HOUSES ARE EMPTY. THE LAST
19 THING A ROBBER OR BURGLARY WANTS, THE LAST THING IS TO
20 RUN INTO THE RESIDENTS. BUT THESE IDIOTS ACCORDING TO
21 THE DEFENSE WENT UP AT 6:05.

22 AND THEN THE WAITING, THE WAITING AND THE
23 AND THE WAITING. LET'S ASSUME -- LET'S TAKE TO THIS TO
24 ITS LOGICAL EXTREME FOR JUST A SECOND. LET'S ASSUME THAT
25 MS. SARIS IS RIGHT AND THESE TWO BUMBLING IDIOTS, FRICK
26 AND FRACK, WALK INTO THE GARAGE AND THEY CRACK THE
27 SAFE -- BY THE WAY, THEY ARE TOO STUPID TO BRING A TRUCK;
28 THEY'RE TOO STUPID TO BRING A BAG; BUT THEY APPARENTLY

1 WENT TO THAT SAFE CRACKING SCHOOL THAT DETECTIVE JANSEN
2 JOKED ABOUT.

3 SO THEY CRACK THE SAFE AND THEY GET WHAT
4 THEY WANT AND THEY MAKE SURE THEY CLOSE THE SAFE BACK AND
5 LOCK IT AND DON'T DO ANY DAMAGE TO IT WHATSOEVER. DAMAGE
6 THAT EVEN A LOCKSMITH WOULD HAVE TO DO. BUT IRRESPECTIVE
7 OF THAT, THEY CLOSE THE SAFE; SHUT THE DOOR BACK IN FRONT
8 OF THE SAFE; AND THEN SNEAK OUT.

9 NOW AS THEY SNEAK OUT, WHAT DO THIEVES
10 WANT TO DO? WHAT IS THE FIRST GOAL OF BEING A THIEF? IT
11 DOESN'T MATTER IF YOU GET ANYTHING. YOU GOT TO GET AWAY;
12 RIGHT? FIRST THING -- I MEAN THE GOLDEN RULE OF BEING A
13 THIEF -- I'M NOT EVEN A THIEF AND I KNOW THAT. YOU GOT
14 TO GET AWAY OR IT DOES NO GOOD.

15 OKAY. SO NOW THESE THIEVES ARE OUTSIDE.
16 THEY'VE TAKEN WHAT THEY WANTED OUT OF THE GARAGE OR OUT
17 OF THAT SAFE THAT MS. SARIS SHOWED YOU PICTURES OF. NOW
18 MICKEY AND TRUDY THOMPSON COME DOWNSTAIRS. BUT THEY
19 DON'T RUN. NOW THE GARAGE OPENS. THEY DON'T RUN. NOW
20 THE VAN BACKS OUT. THEY DON'T GET AWAY. NOW MICKEY
21 THOMPSON STARTS TO WALK AROUND THE SIDE OF THE HOUSE.
22 THEY DON'T GO ANYWHERE. NOW THE GARAGE STARTS TO COME
23 BACK DOWN. THEY'RE STILL THERE.

24 IT MAKES NO SENSE. THIS WAS NOT AN
25 INTERRUPTED BURGLARY. IF THESE WERE THIEVES, THEY WOULD
26 HAVE BEEN LONG GONE IF THEY GOT WHAT THEY WANTED. IF
27 THEY GOT ANYTHING. EVEN IF THEY DIDN'T GET ANYTHING THE
28 LAST THING THEY WANT IS TO BE CAUGHT. WHEN THEY REALIZED

1 THE RESIDENTS ARE THERE, THEY GO AWAY. THIS WAS NOT A
2 BURGLARY.

3 AND PROBABLY THE MOST IMPORTANT POINT
4 ABOUT WHAT THIS WASN'T, IS THE FACT THAT VALUABLES ARE
5 THEFT ALL OVER THE PROPERTY. THE HOUSE WASN'T BROKEN
6 INTO. THE VAN WASN'T BROKEN INTO. TRUDY'S PURSE WAS
7 RIGHT THERE IN THE VAN, FOR GOD SAKE. MICKEY'S WALLET IS
8 FALLING OUT OF HIS POCKET ALMOST. OH, DON'T WORRY ABOUT
9 THAT. DON'T WORRY ABOUT THE WALLET, CHARLIE. WHO NEEDS
10 THAT. WE ARE JUST THIEVES. WHY WOULD WE TAKE SOMEONE'S
11 WALLET? WHY WOULD WE TAKE SOMEONE'S JEWELRY? LET'S
12 LEAVE ALL OF TRUDY'S JEWELRY ON HER BODY AS WELL.

13 THE BEST EVIDENCE THAT THIS WASN'T A
14 ROBBERY OR A BURGLARY IS BECAUSE NO ONE WAS ROBBED OR
15 BURGLARIZED. THE KILLERS WEREN'T INTERESTED IN JEWELRY.
16 THEY WERE PROS. THEY WENT UP THERE EQUIPPED LIKE
17 ASSASSINS. THEY WENT UP THERE EQUIPPED LIKE KILLERS.
18 AND THAT'S WHAT THEY DID. AND ANY SUGGESTION TO THE
19 CONTRARY REQUIRES SOME EVIDENCE.

20 NOW, I SUGGEST THE FOLLOWING, DETECTIVE
21 GRIGGS WAS ON THE STAND. HE NEVER SAID THIS WAS
22 CONSISTENT WITH A ROBBERY. VERDUGO, NOT CONSISTENT WITH
23 A ROBBERY. JANSEN NEVER SAID ANYTHING ABOUT THE EVIDENCE
24 SUGGESTING ROBBERY. LAPORTE NEVER SAID ANYTHING ABOUT
25 THE EVIDENCE SUGGESTING ROBBERY. ULOTH, ALL PEOPLE
26 CALLED BY THE DEFENSE NEVER SAID ANYTHING SUGGESTIVE OF A
27 ROBBERY.

28 EVEN JACO SWANEPOEL. JACO SWANEPOEL SAT

1 RIGHT HERE AND TOLD YOU THAT HE WAS HIRED BY THE DEFENSE
2 AS A CRIME SCENE RECONSTRUCTION EXPERT. A CRIME SCENE
3 RECONSTRUCTION EXPERT WORKING FOR MICHAEL GOODWIN.
4 WORKING FOR THE DEFENSE. EVEN HE DIDN'T SAY THE EVIDENCE
5 WAS SUGGESTIVE OF A ROBBERY.

6 NOW ONE THING THAT I THINK WE CAN ALL
7 AGREE ON IS THAT MS. SARIS IS NOT AFRAID OF ASKING
8 QUESTIONS. IF THERE IS A QUESTION OUT THERE THAT SHE
9 WANTS TO ASK SHE'S GOING TO ASK IT, SO WILL MR. SUMMERS.
10 THEY'RE GOOD LAWYERS. I CAN PROMISE YOU, YOU CAN BET THE
11 FARM ON THIS ONE, IF JACO SWANEPOEL'S OPINION WAS THIS
12 WAS A ROBBERY, YOU WOULD HAVE HEARD ABOUT IT.

13 SO WHO IS THE ONLY PERSON WITHIN THESE
14 FOUR WALLS THAT YOU'RE GOING TO HEAR FROM WHO IS GOING TO
15 SAY ANYTHING ABOUT A ROBBERY. WHO IS THAT PERSON? ELENA
16 SARIS. AND SHE IS NOT A WITNESS.

17 LADIES AND GENTLEMEN, ON MARCH 16TH, 1988,
18 THERE WAS A DIALOGUE THAT WAS GOING ON AT 6:00 O'CLOCK IN
19 THE MORNING. LET ME EXPLAIN THAT. THIS WAS A DIALOGUE
20 THAT HAD STARTED WEEKS EARLIER. WHEN MICHAEL GOODWIN HAD
21 SAID TO MICKEY THOMPSON, "I'M GOING TO HURT YOU. I'M
22 GOING TO HURT YOUR FAMILY. I'M GOING TO HURT YOU. I'M
23 GOING TO HURT YOUR FAMILY." ICE COLD LIKE A KILLER.
24 THINK ABOUT HOW MICKEY THOMPSON RESPONDED WHEN THOSE
25 KILLERS SHOWED UP AT 6:05 IN THE MORNING. "PLEASE DON'T
26 HURT MY WIFE." THOSE WORD FROM MICHAEL GOODWIN MUST HAVE
27 BEEN ECHOING THROUGH MICKEY THOMPSON'S MIND CONSTANTLY.
28 "I'M GOING TO HURT YOU. I'M GOING TO HURT YOUR FAMILY."

1 "NO. PLEASE DON'T HURT MY WIFE."

2 WHAT IS THE UNWRITTEN PART OF THAT
3 STATEMENT OR THE UNSPOKEN PART OF THAT STATEMENT? DO
4 WHAT YOU WANT TO ME, DO WHAT YOU NEED TO DO TO ME, I'M
5 ALREADY SHOT, I'M BLEEDING. I MAY BE DYING. DO WHAT YOU
6 WANT TO ME. BUT LEAVE MY FAMILY OUT OF THIS. DON'T HURT
7 TRUDY. DON'T HURT MY WIFE. ECHOING IN HIS MIND, "I'M
8 GOING TO HURT YOU. I'M GOING TO HURT YOUR FAMILY."

9 AND WHAT WAS THE RESPONSE OF THE KILLER'S?
10 TRUDY THOMPSON WAS EXECUTED. ONE SHOT THROUGH THE HEAD,
11 THIRTY SECONDS OR SO LATER, HOWEVER LONG IT TOOK THAT
12 KILLER TO GET UP THE STAIRS -- UP THE GRADE OF THE
13 DRIVEWAY, 30 OR SO SECONDS LATER, ONE MORE SHOT THROUGH
14 THE HEAD. THINK ABOUT IT. THINK ABOUT THE DIALOGUE THAT
15 WAS HAPPENING. "I'M GOING TO HURT YOU. I'M GOING TO
16 HURT YOUR FAMILY. PLEASE DON'T HURT MY FAMILY." BOOM.
17 BOOM.

18 WITH THAT DIALOGUE, MICHAEL GOODWIN
19 ESSENTIALLY SIGNED HIS NAME TO THIS CRIME. THIS WAS
20 MICHAEL GOODWIN'S PLAN FROM THE START. IT WAS EXECUTED
21 EXACTLY THE WAY HE WANTED. EXACTLY. TRUDY THOMPSON DIED
22 AND MICKEY THOMPSON HAD TO WATCH. THINK ABOUT WHAT WORDS
23 WERE ECHOING THROUGH MICKEY'S MIND. MIKE GOODWIN'S
24 PROMISE CAME TRUE.

25 LADIES AND GENTLEMEN, I WANT TO END BEFORE
26 I SIT DOWN KIND OF WITH THE BEGINNING. WE'VE BEEN
27 TOGETHER FOR A WHILE NOW, A PRETTY GOOD WHILE. AT THE
28 BEGINNING OF JURY SELECTION, MANY OF YOU FOLKS WALKED IN

HERE AND SAID TO YOURSELVES, OH, GOD, I GOT THAT JURY
SUBPOENA. WHY ME? I DON'T WANT TO BE HERE. I GOT
BETTER THINGS TO DO. WHY SHOULD I CARE? WHY SHOULD I
CARE ABOUT SOMETHING THAT HAPPENED 18 YEARS AGO? WHY
SHOULD I CARE? I GOT FAMILY TO BE WITH. I'VE GOT WORK.
I'VE GOT KIDS. SCHOOL. GOLF. MY MUSIC. I'VE GOT
THINGS. I'VE GOT LIFE TO LIVE. WHY SHOULD I CARE?

WELL, I'LL TELL YOU WHY YOU SHOULD CARE. WE LIVE IN A COMMUNITY THAT'S FOUNDED ON THE RULE OF LAW. VERY SIMPLY. WE ENJOY THAT RULE OF LAW DAILY. AND UNDER THAT RULE OF LAW, FOLKS, YOU PEOPLE, YOU FOLKS, ARE EMPOWERED WITH THE ULTIMATE RESPONSIBILITY. IT DOESN'T GET ANY BIGGER. IT DOESN'T GET ANY BROADER. YOU HAVE THE RESPONSIBILITY TO PROTECT THOSE WHO CANNOT PROTECT THEMSELVES; TO SEEK JUSTICE FOR THOSE WHO CANNOT SEEK JUSTICE FOR THEMSELVES. THAT'S YOUR DUTY, LIKE IT OR NOT.

ON MARCH 16TH, 1988, AT 6:00 O'CLOCK IN
THE MORNING, TRUDY THOMPSON COULDN'T PROTECT HERSELF.
MICKEY THOMPSON COULDN'T PROTECT TRUDY OR HIMSELF. IT'S
UP TO YOU. THEY DESERVE YOUR JUSTICE.

MICHAEL GOODWIN IS GUILTY OF THE CRIME OF
MURDER. HE'S RESPONSIBLE FOR MICKEY THOMPSON AND TRUDY
THOMPSON'S DEATH. IT'S UP TO YOU TO SEEK JUSTICE FOR
THEIR MEMORY. FIND HIM GUILTY.

THANK YOU.

THE COURT: THANK YOU, MR. JACKSON.

LADIES AND GENTLEMEN, WE WILL TAKE OUR

1 NOON RECESS AT THIS TIME. PLEASE REMEMBER ALL THE
2 ADMONITIONS. DO NOT DISCUSS THE CASE. DON'T FORM OR
3 EXPRESS ANY OPINIONS. DO NOT CONDUCT ANY DELIBERATIONS.
4 PLEASE DON'T TALK TO ANYBODY NOT CONNECTED WITH THIS
5 CASE -- STRIKE THAT -- CONNECTED WITH THIS CASE.

6 AND I GUESS TO BE SAFE, THERE ARE A LOT OF
7 PEOPLE HERE, I ASSUME A LOT OF PEOPLE WILL BE RIDING THE
8 ELEVATORS. SO MAKE IT A POINT IF YOU CAN TO STAY AWAY
9 FROM PEOPLE THAT MIGHT BE SPEAKING ABOUT THE CASE. AND I
10 WILL ASK ALL OF THOSE THAT ARE HERE TO PLEASE REFRAIN
11 FROM SPEAKING ABOUT THIS CASE IN THE PRESENCE OF JURORS.

12 THANK YOU. WE WILL SEE YOU AT 1:30.

13
14 (THE FOLLOWING PROCEEDINGS WERE
15 HELD IN OPEN COURT OUTSIDE THE
16 PRESENCE OF THE JURY.)

17
18 THE COURT: ALL RIGHT. LET'S RESUME BACK ON THE
19 RECORD IN THE GOODWIN MATTER.

20 AND, MS. SARIS, YOU HAVE LODGED AN
21 OBJECTION. ALL OF THE JURORS AND ALTERNATES HAVE LEFT.

22 MS. SARIS: YES. OUR OBJECTION WAS TO COUNSEL
23 COMMENTING ON THE DEFENDANT'S REFUSAL TO TESTIFY BY
24 IMPLICATION. IF MR. GOODWIN WERE TO PRESENT AN ALIBI,
25 THAT WOULD REQUIRE HIM TO TESTIFY. HE TRIED TO BACK
26 TRACK AFTER THE ILLEGAL COMMENT ON THE EVIDENCE, BUT THE
27 DAMAGE WAS DONE. WE WOULD LIKE TO CITE IT AS
28 PROSECUTORIAL MISCONDUCT. ASK THE COURT TO INSTRUCT THE

1 JURY THAT IT WAS MISCONDUCT; THAT MR. GOODWIN DOES NOT
2 HAVE TO TESTIFY AT ALL; DOES NOT HAVE TO PROVIDE AN
3 ALIBI.

4 AND WE WOULD ASK THE COURT TO ALSO BASED
5 ON HIS INCORRECT INSTRUCTION ON THE LAW REREAD THE
6 INSTRUCTION REGARDING THE PRESUMPTION OF THE BURDEN OF
7 PROOF. THE IMPLICATION WAS THAT MR. GOODWIN WAS
8 RESPONSIBLE AS IF THIS WERE SOMEHOW A CIVIL CASE. AND I
9 WOULD LIKE THE JURY SPECIFICALLY INSTRUCTED THAT THIS IS
10 NOT A CIVIL CASE. RESPONSIBILITY IS NOT THE ISSUE. IT
11 IS PROOF BEYOND A REASONABLE DOUBT AND ASK THE COURT TO
12 REREAD THAT INSTRUCTION.

13 THE COURT: ALL RIGHT. MR. JACKSON.

14 MR. JACKSON: YOUR HONOR, I WASN'T COMMENTING ON
15 THE DEFENDANT'S FAILURE TO TESTIFY. I VERY CLEARLY
16 COMMENTED ON THE DEFENSE FAILURE TO CALL REASONABLE
17 WITNESSES OR LOGICAL WITNESSES. THE DEFENDANT DOESN'T
18 HAVE TO TESTIFY WHERE HE WAS. AS I INDICATED IN MY
19 CLOSING ARGUMENT, HE COULD CALL WITNESSES TO TESTIFY
20 WHERE HE WAS. PEOPLE DO THAT ALL THE TIME. THAT DOESN'T
21 COME ANYWHERE CLOSE TO GRIFFIN ERROR.

22 AND WITH REGARD TO THE REASONABLE DOUBT
23 INSTRUCTION, THAT'S UP TO THE COURT. I DON'T MIND. IF
24 YOU WANT TO REREAD THE REASONABLE DOUBT INSTRUCTION, YOU
25 CAN DO THAT. I CERTAINLY DIDN'T MISSTATE THE LAW. AS A
26 MATTER OF FACT, I REITERATED IT QUITE CLEARLY AND
27 PROBABLY MORE EMPHATICALLY THAN THE COURT DID THROUGH
28 JUST THE PLAIN READING OF THE INSTRUCTIONS.

1 MS. SARIS: THE WORD "RESPONSIBLE," YOUR HONOR IS
2 A CIVIL TERM INDICATING A PREPONDERANCE OF THE EVIDENCE.
3 THAT'S NOT BEYOND A REASONABLE DOUBT.

4 THE COURT: YOU KNOW, I DIDN'T INTERPRET IT THAT
5 WAY BECAUSE THE CONTEXT OF THE ARGUMENT WAS HE WASN'T
6 THERE. HE WAS RESPONSIBLE AS AN AIDER AND ABETTER AND A
7 CO-CONSPIRATOR. AND THAT'S HOW I THINK THE JURY WOULD
8 INTERPRET THAT COMMENT. I'M HAPPY TO REREAD WHATEVER
9 INSTRUCTION --

10 MS. SARIS: I WOULD ASK THE COURT TO INSTRUCT
11 THEM SPECIFICALLY THAT THE "RESPONSIBILITY" IS A CIVIL
12 TERM. AND THAT THE BURDEN OF PROOF IN THIS CASE IS
13 CRIMINAL BEYOND A REASONABLE DOUBT. RESPONSIBILITY ONLY
14 PLAYS A PART IN A CIVIL HEARING.

15 THE COURT: WELL, AGAIN, I DON'T NECESSARILY
16 AGREE BECAUSE THE CONTEXT IN WHICH THAT STATEMENT WAS
17 MADE WAS WITH REFERENCE TO VARIOUS LIABILITY HERE. AND
18 THAT IS THE ESSENCE OF THE PROSECUTION'S CASE. I'M HAPPY
19 TO REREAD THE BURDEN OF PROOF INSTRUCTION.

20 WOULD YOU LIKE ME TO DO THAT AT 1:30?

21 MS. SARIS: YES, PLEASE.

22 THE COURT: ALL RIGHT. I WILL FIND THAT WHILE,
23 MR. JACKSON, YOU MAY FEEL IT'S QUITE CLEAR, THIS IS A
24 MURKY AREA WHEN WE GET TO AN ALLEGATION OF GRIFFIN ERROR.
25 I DON'T THINK THAT YOU CROSSED THE LINE AT ALL. BUT I
26 WOULDN'T CATEGORIZE IT AS BEING CLEAR.

27 BUT, YOU KNOW, IN ALL HONESTY, MS. SARIS,
28 I DON'T VIEW THE STATEMENT COMMENTING ON THE FAILURE TO

1 CALL LOGICAL WITNESSES TO TESTIFY AS TO MR. GOODWIN'S
2 WHEREABOUTS ON THE DAY -- AND I TOOK IT AS THE DAY OF THE
3 STEVENSES' OBSERVATION.

4 MR. JACKSON: THAT'S RIGHT.

5 THE COURT: SO IT WAS LIMITED. I DON'T VIEW THAT
6 AS GRIFFIN ERROR. ALTHOUGH I AGREE THERE IS A LOT OF
7 CASES THAT INDICATE THAT THAT IS A FINE LINE. I DON'T
8 THINK THE PEOPLE HAVE CROSSED THAT LINE. SO --

9 MS. SARIS: I JUST WANTED THE RECORD TO BE VERY
10 CLEAR THAT WE'RE CITING AS PROSECUTORIAL MISCONDUCT AND
11 ASKING FOR AN INSTRUCTION AND ASKING THE COURT TO INFORM
12 THE JURY THAT THIS WAS MISCONDUCT.

13 THE COURT: ALL RIGHT. AND THAT REQUEST IS
14 DENIED FOR THE REASON THAT I STATED. WE'LL BE IN RECESS
15 UNTIL 1:30.

16 MR. JACKSON: THANK YOU, YOUR HONOR.

17
18 (AT 12:00 P.M. A RECESS WAS TAKEN
19 UNTIL 1:30 P.M. OF THE SAME DAY.)

20 --000--
21
22
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA MONDAY, DECEMBER 18, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION
8

9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: ALL RIGHT. BACK ON THE RECORD.
14 MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE PEOPLE ARE
15 REPRESENTED.

16 IS THERE ANYTHING BEFORE WE BRING THE
17 JURORS IN?

18 MS. SARIS: TECHNICAL DIFFICULTY. HERE WE GO.
19

20 (THE JURY ENTERED THE COURTROOM
21 AND THE FOLLOWING PROCEEDINGS WERE
22 HELD IN OPEN COURT.)
23

24 THE COURT: THE RECORD SHOULD REFLECT ALL OFFER
25 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

26 THE DEFENSE, MS. SARIS, YOU MAY PRESENT
27 YOUR CLOSING ARGUMENT.

28 MS. SARIS: THANK YOU, YOUR HONOR.

CLOSING ARGUMENT

MS. SARIS: GOOD AFTERNOON.

ABOUT SEVEN WEEKS AGO WHEN THE DISTRICT ATTORNEY STOOD UP AND GAVE HIS OPENING STATEMENT, I WANTED TO JUMP OUT OF MY CHAIR AND I WANTED TO START SCREAMING, LADIES AND GENTLEMEN, HE'S TELLING YOU THE HOLLYWOOD VERSIONS OF EVENTS. LADIES AND GENTLEMEN, THIS ISN'T WHAT IS GOING TO BE GIVEN TO YOU IN THE EVIDENCE. BUT THE LAW DOESN'T LET ME DO THAT. SO I WAITED AND I TOOK NOTES. I TOOK NOTES ON WHAT HE PROMISED YOU.

BECAUSE THE DISTRICT ATTORNEY'S OPENING STATEMENT IS A PROMISE TO YOU. THAT'S WHAT THEY INTENDED TO PROVE TO YOU. AND I TOOK NOTES ON THAT. AND I GAVE YOU THE OPENING STATEMENT THAT I INTENDED TO GIVE YOU BECAUSE I KNEW THAT WHAT I TOLD YOU WAS GOING TO BE BORNE OUT BY THE EVIDENCE.

AND WHAT I WOULD LIKE TO SUGGEST TO YOU NOW IS THAT WHAT THE DISTRICT ATTORNEY DID IS WRITE THEIR CLOSING STATEMENT RIGHT AFTER THEY WROTE THEIR OPENING STATEMENT. BECAUSE NONE OF WHAT THEY SAID WAS BORNE OUT BY THE EVIDENCE IN THIS CASE. IT IS ALL THE HOLLYWOOD VERSION OF EVENTS.

AND IT IS PATENTLY UNFAIR FOR THEM TO GIVE YOU A MYTH AND THEN ASK YOU TO DETERMINE THE TRUTH. HOW CAN YOU DO THAT? HOW CAN YOU TELL SOMEONE A MYTH AND A VERSION BASED ON FOLKLORE AND THEN SAY TO 12 WELL-MEANING PEOPLE, TELL US THE TRUTH OF WHAT HAPPENED.

THE TRUTH OF WHAT HAPPENED IN THIS CASE,

1 WE DON'T KNOW. THE KILLERS OF MICKEY AND TRUDY THOMPSON
2 THAT HAVE NEVER BEEN IDENTIFIED. THEY'VE NEVER BEEN
3 CAUGHT. THEY'VE NEVER BEEN ARRESTED. WE DON'T KNOW WHAT
4 HAPPENED. WE HAVE NO IDEA. BUT THEY WANT YOU TO CONVICT
5 THIS MAN OF MURDER ANYWAY. WHY? BECAUSE SOMEONE HAS TO
6 PAY. BECAUSE IT IS A HORRIBLE CRIME.

7 AND I'LL TELL YOU I'VE BEEN DOING THIS A
8 WHILE, IT NEVER GETS EASIER. IT NEVER GETS EASIER TO
9 TALK TO JURORS ABOUT A BRUTAL TRAGIC MURDER NO MATTER HOW
10 MANY CASES YOU TRY; NO MATTER HOW MANY CASES A JUDGE
11 PRESIDES OVER; NO MATTER HOW MANY CASES YOU ALL SIT
12 THROUGH AS JURORS. THERE IS A RIP IN THE FABRIC OF
13 SOCIETY WHEN SOMEONE IS MURDERED. AND WHEN SOMEONE IS
14 MURDERED IN THIS PARTICULAR FASHION, COLD BLOODED AND
15 SENSELESS, THAT RIP SCREAMS OUT FOR JUSTICE; IT SCREAMS
16 OUT FOR SOMEONE TO DO SOMETHING ABOUT IT.

17 BUT JUSTICE IS NOT FOUND AT THE EXPENSE OF
18 YOUR OATH AND YOUR DUTY HERE. THIS IS NOT ABOUT CLOSING
19 A CASE THAT'S VERY OLD BECAUSE A HOLLYWOOD UNSOLVED
20 MYSTERY HAS OCCURRED. THERE IS A SACREDNESS TO WHAT
21 WE'RE ASKING YOU TO DO. WHEN YOU GO BEHIND THOSE DOORS,
22 YOU HAVE TO TAKE THIS DUTY SO SERIOUSLY. AND WE HAVE
23 SUCH FAITH THAT YOU WILL DO THAT. THINK ABOUT THIS.
24 YOUR OATH, YOUR DUTY IS WHAT PREVENTS THOUSANDS OF PEOPLE
25 ALL OVER THIS COUNTRY WHO ARE UNPOPULAR; WHO ARE UNLIKED
26 FROM BEING CONVICTED BASED ON PREJUDICE AND PASSION.

27 YOUR OATH SAYS, LOOK, YOU CAN STAND UP
28 HERE AND YOU CAN CALL THIS MAN A JERK; AND YOU CAN CALL

1 HIM AN EGOMANIAC; AND YOU CAN CALL HIM A BRAGGART; YOU
2 CAN SLAM YOUR HAND ON THIS TABLE, BUT PROVE WHAT YOU ARE
3 ALLEGING RATHER THAN AROUSE MY PASSION AND PREJUDICE
4 AGAINST THIS MAN. SHOW ME FACTS. WHAT HAVE YOU SAID?

5 BECAUSE I'LL TELL YOU ONE THING THEY
6 DIDN'T SHOW YOU, ANY OF THE ORIGINAL INVESTIGATING
7 OFFICERS. NOT ONE. CAN YOU EVEN IMAGINE IN A MURDER
8 TRIAL, THE DEFENSE HAD TO CALL THE INVESTIGATING
9 OFFICERS. THE DEFENSE. THEY DIDN'T WANT YOU TO HEAR
10 FROM THOSE OFFICERS.

11 THE BEDROCK, THE FOUNDATION OF THEIR CASE,
12 A LEGAL DISPUTE THAT WAS GOING FOR YEARS. A 13-YEAR
13 DELAYED IDENTIFICATION OF A PERSON THAT MAY OR MAY NOT
14 HAVE EVEN BEEN INVOLVED IN THIS CRIME; AND THE TESTIMONY
15 OF A 14-YEAR-OLD GIRL, CLEARLY TRAUMATIZED, OBVIOUSLY
16 VERY WELL MEANING, WHO IS TELLING YOU HER RECOLLECTION
17 BASED ON A DIARY OF HER NIGHTMARES WHOSE VERSION OF
18 EVENTS DOES NOT MATCH THE PHYSICAL EVIDENCE IN THIS CASE.
19 AND WHOSE MERE PRESENCE, PRESENCE AT THE CRIME SCENE IS
20 EVEN DISPUTED BY THE FIRST THREE RESPONDING OFFICERS THAT
21 WE CALLED.

22 NO ONE SAW A LITTLE GIRL HIDING WHERE SHE
23 SAID SHE WAS HIDING. NONE OF HER NIGHTMARES COMPORT WITH
24 THE PHYSICAL EVIDENCE THAT WE SAW AT THE SCENE. AND WHEN
25 YOU ADD COMMON SENSE AND LOGIC -- AND I WELCOME THAT YOU
26 DO THAT IN THIS CASE -- IT SIMPLY DOESN'T EVEN MAKE SENSE
27 WITH WHAT THE DISTRICT ATTORNEY IS TELLING YOU.

28 THIS WAS NOT A SITUATION -- KEEP THIS IN

1 MIND -- WHERE THE DISTRICT ATTORNEY CALLED ALL OF THE
2 WITNESSES AND ALL THE PARTICIPANTS AND SAID LET THE CARDS
3 FALL WHERE THEY MAY. THAT'S NOT WHAT HAPPENED. THEY
4 PRESENTED YOU A VERY NARROW, CAREFULLY TAILORED VERSION
5 OF EVENTS. THEY HAD A SCRIPT THAT THEY WERE FOLLOWING.
6 AND IF THE EVIDENCE DIDN'T FIT INTO IT, THEY IGNORED IT.
7 AND IF SOMEONE SAID SOMETHING AGAINST THAT SCRIPT, THEY
8 ATTACKED THEM PERSONALLY.

9 YOU'VE HEARD KATHY PEZDEK -- DR. PEZDEK
10 AND JACO SWANEPOEL ATTACKED PERSONALLY. DID YOU SEE THEM
11 PRESENT ANY ALTERNATIVE? DID WE HEAR FROM ANY EXPERT
12 FROM THE DISTRICT ATTORNEY WHO PUT ALL THE PIECES
13 TOGETHER WHO SAID, YES, I AM A PSYCHIATRIST OR A
14 PSYCHOLOGIST. I'VE BEEN STUDYING THIS FOR YEARS. YOU
15 CAN TRUST THIS IDENTIFICATION. NO.

16 THEY HAD THEIR SCRIPT AND FACTS BE DAMNED
17 IF THEY DIDN'T FIT IN THE SCRIPT, YOU WEREN'T GOING TO
18 HEAR ABOUT IT. AND WE HAD TO BRING THEM UP. WE WHO HAD
19 NO BURDEN. THEY WHO HAD TO PROVE THAT EVERY OTHER
20 ALTERNATIVE THAT IS REASONABLE DID NOT OCCUR. THEY
21 DIDN'T BRING THAT UP. WE HAD TO BRING IT UP.

22 THEY SAID THAT LANGUAGE IS CLEAR ON ITS
23 FACE, REPORTS THAT ARE CLEAR ON THEIR FACE OUGHT TO BE
24 TAKEN TO MEAN SOMETHING DIFFERENT. X DOES NOT MEAN X.
25 BELIEVE ME, I'VE BEEN IN A LOT OF TRIALS AND IF A
26 PROSECUTOR HAS A POLICE REPORT THAT SAYS WHAT THEY WANT,
27 TRUST ME, X MEANS X AND THEY WILL SHOUT IT FROM A
28 MOUNTAIN TOP.

1 BUT WHEN A POLICE REPORT IN THIS CASE SAYS
2 SOMETHING DIFFERENT, THEY WANT YOU TO IGNORE IT, THEY
3 WANT YOU TO LOOK ASIDE. IF THERE IS A HUGE GLARING
4 INCONSISTENCY IN WHAT THEY'RE OFFERING, THEY WANT YOU TO
5 OVERLOOK IT. IF SOMEONE IS WILLING TO SAY SOMETHING BAD
6 AGAINST THIS MAN, THEY'RE NOT GOING TO LOOK INTO THEIR
7 BACKGROUND. THEY'RE NOT GOING TO CONFRONT HIM WITH ANY
8 ISSUES OF CREDIBILITY. THEY'RE NOT GOING TO SEE IF THERE
9 IS ANY PAPERWORK TO BACK UP THEIR CLAIM. THEY'RE GOING
10 TO WRITE IT DOWN AND THAT'S IT. AND THEY'RE NOT GOING TO
11 TELL YOU WHEN THEY WRITE IT DOWN AND SHOW IT TO YOU THAT
12 THERE ARE ISSUES AROUND WHAT THESE PEOPLE ARE SAYING.

13 THERE IS NO EVIDENCE CONNECTING MICHAEL
14 GOODWIN TO THESE MURDERS BECAUSE MICHAEL GOODWIN WASN'T
15 INVOLVED IN THESE MURDERS. OVER HERE YOU HAVE THE
16 MURDERS. OVER HERE YOU HAVE THESE TWO MEN HAD A RIVALRY.
17 AND THE GAP IN BETWEEN IS WHERE THEY'RE ASKING TO PROVE
18 IT. THEY'RE ASKING YOU TO TAKE A BLIND LEAP OVER THAT
19 GAP.

20 AND WHAT ARE THEY OFFERING YOU TO MAKE
21 THAT LEAP EASIER? NOT EVIDENCE. THEY'RE OFFERING YOU A
22 CRIME SCENE SO HORRIFIC, SO HORRIFIC AND SO WRONG BASED
23 ON THE EVIDENCE THAT YOU'LL BE SO OUTRAGED THAT YOU WILL
24 MAKE THAT LEAP WITHOUT CONSIDERING THAT THAT GOES AGAINST
25 EVERYTHING THAT YOU SAID IN YOUR OATH AS JURORS.

26 THEY'RE TWO THINGS THAT THEY'VE TOLD YOU.
27 MICHAEL GOODWIN IS A BAD MAN WHO HATED MICKEY THOMPSON.
28 AND MICKEY THOMPSON WAS FORCED TO WATCH HIS WIFE DIE.

1 THE FACTS SIMPLY DON'T SUPPORT THAT. THIS IS NOT WHAT
2 PROOF BEYOND A REASONABLE DOUBT IN A MURDER TRIAL LOOKS
3 LIKE. THIS IS NOT IT. THEY HAVE NO KILLERS. NO PLAN.
4 NO MEETING. NO WEAPON. NO PHONE CALLS. NO PAY OUT.
5 NOTHING. AND THE ONLY PIECE OF PHYSICAL EVIDENCE THAT
6 THEY HAVE AT THE SCENE IS DNA THAT DOES NOT MATCH MICHAEL
7 GOODWIN. THAT'S EVIDENCE. THAT'S EVIDENCE. THAT'S NOT
8 A HOLLYWOOD SCRIPT.

9 HOLLYWOOD ASKS YOU TO SUSPEND YOUR
10 DISBELIEF. WHEN YOU GO TO THE THEATER AND YOU SEE A BAD
11 MAN SHOOTING AT TOM CRUISE WITH AN AUTOMATIC WEAPON AND
12 HE'S ABLE TO OUT RUN THEM, YOU SUSPEND YOUR DISBELIEF
13 BECAUSE YOU WANT HIM TO GET AWAY. YOU DON'T SIT THERE AND
14 SAY TO YOUR NEIGHBOR, OH, GOSH, I WONDER HOW HE OUT RUNS
15 AUTOMATIC FIRE. YOU JUST SIT THERE AND ARE ENTERTAINED.

16 BUT YOU ARE NOT MOVIE GOERS. YOU ARE
17 JURORS. YOU CAN'T ASK A JURY TO SUSPEND THEIR DISBELIEF.
18 YOU CAN'T ASK THEM TO LEAVE THEIR LOGIC AND COMMON SENSE
19 AT THE DOOR; IGNORE EVERY SINGLE INCONSISTENCY AND ACCEPT
20 ANY -- IGNORE WHAT YOU HEARD WITH YOUR OWN EARS. YOU CAN
21 IGNORE FOR THE NEXT TWO HOURS EVERYTHING I'M GOING TO
22 STAY, THAT'S FINE. JUST AS LONG AS YOU REMEMBER WHAT
23 CAME OUT OF HERE (INDICATING).

24 WHAT CAME OUT OF HERE WAS NOT WHAT THEY
25 JUST TOLD YOU. WE WILL SHOW YOU THAT. BUT YOU HAVE THE
26 ACTUAL EVIDENCE. YOU HAVE SAT HERE. IT IS AN INSULT TO
27 YOUR INTELLIGENCE. A WRITER ONE TIME DESCRIBED A TRIAL
28 THAT WENT COMPLETELY DIFFERENT THAN WHAT HE THOUGHT BY

1 SAYING IT'S LIKE WATCHING THE SUPRUDER FILM OF THE
2 KENNEDY ASSASSINATION AND HAVE SOMEONE SAY TO YOU, YEAH,
3 HERE IS THE PART JACK KENNEDY SHOOTS OSWALD. AND THEY'RE
4 WATCHING THE SAME THING. THAT'S WHAT IS GOING ON HERE.

5 THE EVIDENCE IN THIS CASE DOES NOT SUPPORT
6 THIS HOLLYWOOD MYTH. YOU CANNOT BELIEVE EVERY
7 INSINUATION JUST BECAUSE IT'S HORRIFIC; JUST BECAUSE IT
8 TUGS AT YOUR HEART STRINGS. THE JUDGE ACTUALLY HAS AN
9 INSTRUCTION THAT SHE READ TO YOU, SET ASIDE YOUR PASSION
10 AND YOUR PREJUDICE.

11 THE PERFORMANCE THIS MORNING, WHILE GOOD,
12 WAS APPEALING TO YOUR PASSION AND YOUR PREJUDICE. IT
13 WASN'T ABOUT EVIDENCE. WHAT KIND OF AN INVESTIGATION WAS
14 REALLY MADE IN THIS CASE? WHO DID WE PRESENT? WE
15 PRESENTED THE OFFICERS THAT WE HAD TO CALL THESE
16 OFFICERS. THE ONES WHO SAW EVIDENCE OF A ROBBERY, BUT
17 CHOSE TO IGNORE IT.

18 THE ONE WHO HEARD ABOUT EVIDENCE OF
19 VALUABLES MISSING FROM MICKEY THOMPSON, BUT CHOSE NOT TO
20 PURSUE IT. THE ONES WHO TOOK WITNESS STATEMENTS ABOUT
21 WHITE CANVAS BAGS. WHAT? I MADE THIS UP? TWO OF THEM
22 SAID THERE WERE WHITE CANVAS BAGS. YOU ALSO HEARD FROM
23 BOB WIBORG. WHAT ARE WHITE CANVAS BAGS OFTEN USED FOR?
24 GOLD. BANKS. WE WILL GET MORE INTO WHY THAT WOULD
25 APPROPRIATE BY HAVING JUST COME OUT OF AN EMPTY SAFE IN
26 THE GARAGE. THIS ISN'T ME BRINGING UP ROBBERY FOR THE
27 FIRST TIME. WE CALLED THE OFFICERS THAT THEY HAVE DIDN'T
28 WANT YOU TO HEAR FROM.

1 THE GARAGE SAFE WAS EMPTY. AND WHAT WAS
2 INTERESTING ABOUT WHAT WAS IN TRUDY THOMPSON'S PURSE?
3 JEWELRY AND MONEY IN AN ENVELOPE. I DON'T KNOW HOW MANY
4 OF YOU KNOW WOMEN THAT CARRY LARGE AMOUNTS OF CASH IN AN
5 ENVELOPE IN THEIR PURSE SEPARATE AND APART FROM THEIR
6 WALLET. I KNOW IF I DO, I'M COMING TO AND FROM A BANK.
7 I'M TAKING SOMETHING OUT OF A BOX OR SAFE. YOU DON'T
8 WALK AROUND WITH LARGE AMOUNTS OF MONEY IN AN ENVELOPE.

9 WHAT ARE THE GLARING INCONSISTENCIES THAT
10 YOU WOULD HAVE TO IGNORE JUST FOR THEIR THEORY? FORGET
11 EVERYTHING ELSE, JUST FOR THEIR THEORY. THIS WAS A
12 PLANNED, WELL THOUGHT OUT EXECUTION. BUT THEY HIRED
13 AFRICAN/AMERICAN MEN WHO STAND OUT LIKE SORE THUMBS IN
14 THIS NEIGHBORHOOD.

15 ISN'T IT INTERESTING THAT CLAUDETTE
16 FREIDINGER AND WILMA JOHNSON, LONG-TIME RESIDENTS, SAY
17 JUST THE MERE PRESENCE, THE PRESENCE OF AFRICAN/AMERICANS
18 IN THAT NEIGHBORHOOD IN 1988 WAS ENOUGH TO AROUSE
19 SUSPICION. AND THIS IS A WELL PLANNED, THOUGHT OUT
20 EXECUTION.

21 PERSONAL. IT WAS A PERSONAL CRIME THAT
22 SHOWED HATE. PERSONAL CRIMES THAT SHOW HATE ARE
23 FACE-TO-FACE KNIVES. A HIRED HIT IS NOT A PERSONAL CRIME
24 THAT SHOWS HATE. BUT THEY NEED THAT TO BE TRUE IN ORDER
25 TO HAVE ANYTHING TO DO WITH MICHAEL GOODWIN. THINK ABOUT
26 HOW LUDICROUS THAT ASSERTION IS. THIS WAS ORCHESTRATED,
27 THEY CLAIM, WHERE MICKEY THOMPSON WAS FORCED TO WATCH HIS
28 WIFE DIE.

1 THAT MEANS AT SOME POINT, ACCORDING TO
2 THEM, IN A PLACE WE DON'T KNOW, WITH PEOPLE WE HAVE NEVER
3 HEARD OF, WITH MONEY WE CAN'T FIND, AT A TIME WE'RE
4 UNSURE OF MICHAEL GOODWIN SITS DOWN WITH TWO KILLERS AND
5 ACTUALLY WORKS OUT A CONTRACT WHERE THEY'RE NOT ONLY
6 SUPPOSED TO KILL SOMEONE, BUT THEY HAVE TO DID IT IN A
7 PARTICULAR CHOREOGRAPHED WAY.

8 HOW DO YOU ENFORCE THAT CONTRACT? OH,
9 YEAH, BOSS, I DID IT. HOW DO YOU DO THAT? YOU DON'T
10 CONTRACT FOR SOMEBODY TO DO SOMETHING THAT WAY. THESE
11 ARE SUPPOSEDLY PROFESSIONAL HIT MEN. BUT THEY ARE
12 VIRTUOUS ENOUGH TO PASS UP EASY MONEY. YOU TAKE A FACT,
13 ANY FACT IN THIS CASE, THAT THEY ARE USING TO SHOW THIS
14 SUPPOSED HATE CRIME AND YOU CAN TURN IT.

15 WAIT A MINUTE. THERE IS JEWELRY AND MONEY
16 AT THE SCENE, THEREFORE IT WASN'T A ROBBERY. WELL, THERE
17 IS JEWELRY AND MONEY AT A SCENE AND YOU'RE TAKING MEN,
18 SUPPOSEDLY WHO HAVE BEEN HIRED FOR THEIR LACK OF MORALS
19 AND YOU'RE ASKING THEM TO BE VIRTUOUS HIT MEN AND TO NOT
20 PULL A \$20,000 NECKLACE OFF OF TRUDY THOMPSON'S NECK AS
21 THEY GO BY. THAT DOESN'T MAKE ANY SENSE TO NOT SCROUNGE
22 IN THE PURSE BECAUSE THEY'RE PROFESSIONAL HIT MEN.

23 WHY WAIT FOR THESE TWO INDIVIDUALS TO EXIT
24 THE GARAGE? YOU ALL WENT TO THE CRIME SCENE. IF YOU
25 LIVED AT THAT HOME AND I WAS COMING IN AS A STRANGER, WHY
26 WOULD I POSSIBLY LET YOU OUT OF THREE ENCLOSED WALLS?
27 WHY WOULD I WAIT FOR YOU TO COME OUT? IF THIS IS A
28 PLANNED PROFESSIONAL HIT, THAT GARAGE DOOR GOES UP, THE

1 SHOOTING STARTS. THE MINUTE THAT EITHER ONE OF THOSE
2 INDIVIDUALS GOT OUT OF THE GARAGE, THEY WERE AT A HUGE
3 ADVANTAGE IN ONE SENSE OVER ANYONE THAT WAS COMING AT
4 THEM BECAUSE THEY KNEW THE LAY OF THE LAND. THEY KNEW
5 THE LAY OF THE LAND.

6 YOU WOULDN'T WAIT FOR A GARAGE DOOR TO
7 OPEN, LET EVERYONE OUT, LET A WOMAN GET IN A CAR. AND
8 THESE KILLERS WERE PROFESSIONALS, YET BOTH OF THEM, BOTH
9 OF THEM SCREWED UP THEIR WEAPONS. BOTH OF THEM SHOWED
10 INEXPERIENCE WITH THEIR WEAPONS AND EJECTED A LIVE ROUND
11 AT THE CRIME SCENE, THESE PROFESSIONAL HIT MEN. THE
12 FACTS OF HOW WELL PLANNED THIS WAS LOOK THE SAME FOR A
13 ROBBERY AS THEY DO FOR AN EXECUTION.

14 AND THE JUDGE HAS ALREADY TOLD YOU IF THE
15 FACTS FIT A THEORY OF PROOF THAT POINTS TOWARDS THE
16 DEFENDANT'S INNOCENCE AND A THEORY THAT POINTS TOWARD HIS
17 GUILT, YOU MUST ACCEPT THE ONE THAT POINTS TOWARDS HIS
18 INNOCENCE. YOU MUST.

19 THE FIRST MYTH THAT I WANT TO TALK TO YOU
20 ABOUT CAME UP DURING THE DISTRICT ATTORNEY'S OPENING
21 STATEMENT. AND IF I SOUND UPSET ABOUT THIS, I AM A
22 LITTLE UPSET. I NEED YOU TO KNOW THAT. THIS IS -- I
23 GUESS IT JUST BOILS DOWN TO JUST AN UNFAIR, AN UNFAIR
24 RECOUNTING OF WHAT OCCURRED.

25 I'VE BEEN WAITING SEVEN WEEKS TO BE ABLE
26 TO TALK TO YOU, SEVEN WEEKS. AND DURING THAT TIME I HAVE
27 HEARD THE DISTRICT ATTORNEY GET UP AND MAKE HIS OPENING
28 STATEMENT AND I'VE KNOWN THAT THAT'S NOT WHAT THE

1 EVIDENCE WAS GOING TO SHOW. AND I HAD MICHAEL GOODWIN'S
2 FATE IN MY HANDS THIS WHOLE TIME. AND I'VE HEARD HIM
3 MAKE HIS JOKES AND I'VE HEARD HIM STAND UP. BUT LET ME
4 TELL YOU WHEN HE GOT UP WITH HIS OPENING STATEMENT, I WAS
5 TAKING NOTES BECAUSE THESE WERE PROMISES TO YOU.

6 AND ONE OF THE THINGS HE FIRST SAID THAT
7 MICKEY THOMPSON WAS SHOT TO INCAPACITATE HIM. YOU'RE NOT
8 GOING TO TAKE HIM DOWN WITH A SINGLE GUNSHOT WOUND TO THE
9 ABDOMEN. HE WAS DISABLED, BUT KEPT ALIVE. THAT'S WHAT
10 HE TOLD YOU.

11 NOW THAT HE FINDS OUT THAT THE SINGLE
12 GUNSHOT WOUND TO THE ABDOMEN WAS ACTUALLY THREE IN QUICK
13 SUCCESSION, ONE OF WHICH WAS FATAL; TWO OF WHICH WERE SO
14 CLOSE TOGETHER, THE CORONER COULDN'T EVEN DETERMINE WHAT
15 DAMAGE EACH ONE HAD CAUSED SEPARATELY.

16 NOW IT IS A GUNSHOT WOUND TO THE HIP. NOW
17 NO. 5 MUST HAVE BEEN THE ONE. WE HAVE TO CHANGE TO FIT
18 THE SCRIPT. THE CORONER TOLD YOU VERY SPECIFICALLY AND
19 THE BALLISTIC EXPERT, RIGHT THROUGH THE HAND, VERY
20 CONSISTENT WITH MICKEY THOMPSON PUTTING HIS HAND OVER HIS
21 STOMACH, LEANING FORWARD, TURNING AWAY WHILE BEING SHOT.

22 IF THAT'S A CONSISTENT THEORY, IF THAT'S
23 CONSISTENT WITH THE FACTS AND A REASONABLE
24 INTERPRETATION, MICKEY THOMPSON WASN'T SHOT AND WOUNDED
25 TO BE INCAPACITATED. HE WAS SHOT FOUR TIMES IN A ROW,
26 CENTER MASS. IT IS BRUTAL ENOUGH WITHOUT THE HOLLYWOOD
27 SPIN, BECAUSE WHAT HOLLYWOOD SPIN DID THE DISTRICT
28 ATTORNEY PUT ON, THE COUPE DE GRACE SHOT.

1 AND THEN THE KILLER WALKED UP TO MICKEY
2 THOMPSON; SCREWED A GUN IN HIS EAR; AND FIRED IN HIS
3 BRAIN. THIS WASN'T SAID ONE TIME IN THE HEAT OF
4 ARGUMENT. THIS WAS SAID TWICE BY THE DISTRICT ATTORNEY.
5 TWICE. NOW AM I MAKING A BIG DEAL BECAUSE IT WAS THE
6 BACK OF THE HEAD AND NOT THE EAR? AM I? IS THIS LINE
7 NOT RIGHT OUT OF PULP FICTION OR RIGHT OUT OF THE
8 SOPRANOS. IS THIS LINE INTENDED TO DO ANYTHING BUT
9 AROUSE YOUR SYMPATHY AND PREJUDICE?

10 DOES THIS HELP YOU UNDERSTAND HOW MICKEY
11 THOMPSON WAS KILLED? HE HAD THE CORONER'S REPORT. HE
12 KNEW. HE KNEW. BUT TWISTING A GUN IN THE EAR, THAT'S
13 PREJUDICE; THAT'S PASSION. THAT'S NOT EVIDENCE.

14 HE WAS SHOT FIVE TIMES IN QUICK
15 SUCCESSION. THE HAND WOUND WAS THROUGH AND THROUGH,
16 CLOSE ENOUGH SO THAT ALL FOUR -- RIGHT THERE -- IS
17 CONSISTENT WITH RAPID FIRE. IT SHOWS HE BENT DOWN. THE
18 TORSO WOUND WAS FATAL. THERE WERE ABSOLUTELY NO WOUNDS
19 TO HIS KNEES, HIS ARMS, OR HIS LEGS.

20 WHICH IS WHAT ANY LOGICAL PERSON WOULD
21 TELL YOU IS A WOUND TO INCAPACITATE. YOU DON'T SHOOT A
22 MAN FOUR TIMES IN THE TORSO TO INCAPACITATE HIM. THERE
23 WAS NO EFFORT TO INCAPACITATE HIM. THIS IS A MYTH. AND
24 IT WAS A MYTH THAT WAS CREATED IN 1997 WHEN THE HOLLYWOOD
25 CREW CAME OUT.

26 AND HOW DO WE KNOW? BECAUSE IN ORDER TO
27 SHOW YOU ANY PROOF OF THIS BLOOD THAT SUPPOSEDLY PROVES
28 THEIR MYTH, THEY HAD TO BLOW A PHOTOGRAPH UP ALMOST 300

1 PERCENT. WHY? BECAUSE NO ONE TOOK PICTURES OF THE
2 BLOOD. WHY? BECAUSE IT WASN'T A THEORY IN 1988. IT
3 WASN'T EVEN TALKED ABOUT IN 1988. IT WASN'T TALKED ABOUT
4 UNTIL LANCE JOHNSON AND THE NEIGHBORS CAME UP WITH THIS
5 IDEA THAT TRUDY WAS HELD UP BY THE HEAD AND MICKEY
6 THOMPSON WAS FORCED TO WATCH HIS WIFE DIE. IT IS A
7 GRUESOME, HORRIBLE, HORRIBLE STORY. BUT IT'S NOT BASED
8 ON THE EVIDENCE IN THIS CASE.

9 IF THE KILLERS HAD BEEN BETTER SHOTS,
10 QUITE FRANKLY, TRUDY THOMPSON WOULD HAVE BEEN SHOT IN THE
11 VAN. AND HAD SHE PROBABLY BEEN SHOT IN THE VAN IN THE
12 ARC AS IT WAS MAKING ITS WAY DOWN. BUT SHE WAS SHOT AT
13 TWICE IN THE VAN BEHIND THE PLANTER. YOU ALL SAW THAT.
14 I DON'T DESPERATELY NEED TO PROVE TO YOU THAT MICKEY
15 THOMPSON DIDN'T HAVE TO WATCH HIS WIFE DIE.

16 I JUST NEED TO SHOW YOU THAT NOT ONLY IS
17 THIS MYTH WRONG, IT'S INSIDIOUS. IT'S NOT SOMETHING THAT
18 YOU JUST MADE A MISTAKE ABOUT. THEY'RE TELLING YOU THIS
19 TO GET YOU SO RILED UP, THAT YOU SET YOUR OATH ASIDE.
20 YOU SAW THAT PLANTER. YOU WENT TO THE SCENE. IF EITHER
21 OF THE SHOTS AT THE VAN HAD KILLED MRS. THOMPSON THERE,
22 MICKEY THOMPSON COULDN'T HAVE SEEN. THE PLANTER IS OUT
23 OF VIEW.

24 MORE IMPORTANTLY WHAT DO WE KNOW FROM WHAT
25 ALL THE WITNESSES SAID? THINK ABOUT THIS. LANCE
26 JOHNSON -- NOT ALLISON TRIARSI AND WE WILL GET TO ALLISON
27 TRIARSI -- BUT LANCE JOHNSON ONE HOUR AFTER THE EVENT WAS
28 INTERVIEWED AS WAS HIS WIFE. WE HAD TO CALL THOSE POLICE

1 OFFICERS.

2 WHY DID RUBEN GRACIA, THE THIRD RESPONDER,
3 GET CALLED BY THE DISTRICT ATTORNEY INSTEAD OF THE FIRST
4 TWO? BECAUSE THE FIRST TWO TALKED TO MR. AND MRS.
5 JOHNSON. THE FIRST TWO WOULD HAVE ADDED A FACT TO THE
6 SCRIPT THAT CHANGED THEIR THEORY. WHAT DID MR. AND MRS.
7 JOHNSON SAY? I HEARD SIX TO EIGHT SHOTS. I HEARD
8 SCREAMING SIMULTANEOUSLY.

9 YOU CAN'T HAVE IT BOTH WAYS AS A DISTRICT
10 ATTORNEY, AS ANYONE WHEN YOU'RE TRYING TO CONVINCE
11 SOMEONE OF ANYTHING. MICKEY THOMPSON LOVED HIS WIFE. HE
12 WAS TOUGH AS SHOE LEATHER. HE WOULD HAVE GIVEN HIS LAST
13 BREATH FOR HER. THINK ABOUT THAT. WHAT DID LANCE
14 JOHNSON AND SANDRA JOHNSON HEAR AFTER SIX TO EIGHT
15 SECONDS? WHAT DID THEY HEAR? SILENCE.

16 THERE IS ONLY ONE REASON THAT MICKEY
17 THOMPSON WOULD BE SILENT IF SOMEONE WERE COMING AFTER HIS
18 WIFE, BECAUSE HE WAS DEAD. AND WE'RE GOING TO SHOW YOU
19 BASED ON THE TESTIMONY FROM THE BALLISTICS PEOPLE, HOW
20 THAT COULD HAVE HAPPENED. IF THERE IS SILENCE BEFORE THE
21 SECOND VOLLEY, THE SCREAMING HAD STOPPED. THIS IS THE
22 OTHER PART OF THE INCONSISTENCY, ALLISON'S STORY.

23 WELL, ALLISON'S STORY SAYS THAT MICKEY
24 THOMPSON WAS HELD AT BAY. I DON'T MEAN TO OFFEND ANYONE,
25 BUT HOW SILLY IS THIS? THIS IS A MAN WHO WOULD HAVE
26 GIVEN HIS LIFE FOR HIS WIFE, THAT IS UNCONTROVERTED. NO
27 ONE, NO ONE IS TAKING ANYTHING AWAY FROM THIS COUPLE BY
28 ARGUING THAT MICHAEL GOODWIN WAS NOT INVOLVED IN THIS

1 CRIME.

2 THIS MAN WHO WE HAVE HEARD OF WHO FOR A
3 LIVING -- THINK ABOUT THIS -- STRAPPED HIMSELF INTO A
4 ROCKET, THIS MAN WAS FEARLESS, IS GOING TO BE STOPPED
5 FROM HELPING HIS WIFE BECAUSE THERE IS A MAN POINTING A
6 GUN AT HIM WHO HAS SUPPOSEDLY ALREADY SHOT HIM. THAT IS
7 WHAT MAKES NO SENSE.

8 IF THERE WAS A MAN POINTING A GUN AT
9 MICKEY THOMPSON AND THAT MAN WAS STANDING BETWEEN TRUDY
10 THOMPSON AND HE, WE WOULD FIND EVIDENCE OF DAMAGE TO THAT
11 MAN AT THE CRIME SCENE. WE WOULD FIND EVIDENCE OF MICKEY
12 THOMPSON WALKING TO HELP HIS WIFE. HE COULDN'T GO
13 ANYWHERE BECAUSE HE HAD BEEN KILLED FIRST.

14 THE ORCHESTRATION OF THIS CRIME, IS IT
15 EVEN ARGUABLE BASED ON THE PHYSICAL EVIDENCE? IS IT EVEN
16 ARGUABLE? DO THEY EVEN HAVE A RIGHT TO POSIT AS A THEORY
17 THIS ORCHESTRATION? AND EVEN IF THEY DO, IS IT THE ONLY
18 WAY IT COULD HAVE HAPPENED? ABSOLUTELY NOT.
19 THE UNDERLYING FACT NEEDS TO BE PROVEN BEYOND A
20 REASONABLE DOUBT BEFORE YOU CAN TAKE MEANING FROM THAT IN
21 A CIRCUMSTANTIAL EVIDENCE CASE. IF YOU WANT TO ASCRIBE
22 SOME MEANING TO THIS CRIME AS A HATE CRIME AND THEREFORE
23 MICHAEL GOODWIN IS MORE LIKELY TO HAVE BEEN INVOLVED,
24 THEN YOU HAVE TO BE CONVINCED BEYOND A REASONABLE DOUBT
25 THAT NOT ONLY DID IT HAPPEN THIS WAY, BUT IT IS THE ONLY
26 WAY THAT IT COULD HAVE HAPPENED.

27 TRUDY WE KNOW WAS IN THE VAN. THE
28 CORONERS, EVERYONE, SAID IT WAS CONSISTENT WITH HER BEING

1 SHOT IN THAT WEIRD ANGLE THAT SHE WAS SHOT AT WITH THE
2 DOOR OPEN TO THE VAN AND HER SITTING DOWN. CLOTHES WERE
3 BUNCHED UP. THE WOUND WENT INTO HER LEFT HIP. IT CAME
4 OUT HER ARMPIT. SOMEONE STANDING AT HER DOOR. SHE GOES
5 DOWN. THE SHOT COMES THROUGH.

6 THE VAN WAS BACKING OUT OF THE GARAGE, WE
7 KNOW THAT. THIS IS THE GARAGE WHERE THE VAN USED TO BE.
8 WE'RE GOING TO GO THROUGH THIS TWICE. THIS IS MY LAME
9 ATTEMPT AT ANIMATION. BUT THIS IS WHAT WE KNOW FROM THE
10 CRIME SCENE. THIS IS THE CRIME SCENE. WE'VE BEEN ABLE
11 THROUGH JACO SWANEPOEL TO MATCH -- OR AT LEAST IN THEORY
12 IF NOT MICROSCOPICALLY -- THE CIRCLES WITH THE TRIANGLES
13 IN THIS CASE FOR EVERY BULLET, EXCEPT NO. 11, WHICH WE
14 BELIEVE WOUND UP BEING NO. 29, WHICH WAS IN THE CORONER'S
15 REPORT, THAT'S THE ONE IN HER SHIRT, HAVING GONE THROUGH
16 HER TORSO.

17 MANNY MUNOZ AND JACO SWANEPOEL BOTH SAID
18 THAT NINE MILLIMETER GUNS ARE EJECTED A LITTLE TO THE
19 RIGHT AND BACK. SO WE WOULD EXPECT FOR THE CASING OF
20 NO. 11, WE WOULD EXPECT THE SHOOTER TO BE SOMEWHERE
21 AROUND THAT AREA. SOMEWHERE AROUND THE CIRCLED AREA.

22 NOW IF TRUDY THOMPSON'S CAR -- FIRST OFF
23 WE HAVE LANCE JOHNSON'S ASSESSMENT OF SIX TO EIGHT SHOTS.
24 WE'VE TAKEN -- WE'VE GONE FROM WHERE THE BULLET CASINGS
25 ARE, WE'VE GONE A LITTLE BIT TO THE RIGHT, AND BACK. WE
26 HAVE ONE, TWO, THREE, FOUR RED SHOTS. FIVE WOULD BE THIS
27 PERSON IN THE GREEN CIRCLE SHOOTING AT TRUDY THOMPSON.
28 SIX THE ONE AT MICKEY THOMPSON'S HEAD. SILENCE.

1 SILENCE. A COUPLE OF SECOND PAUSE WHILE THE KILLERS CAME
2 DOWN, MORE SHOTS. TRUDY THOMPSON BACKS OUT OF THE VAN,
3 SHE WOULD BE IN THAT CIRCLE LONG ENOUGH FOR THE GREEN
4 LAST AND FINAL SHOT TO MAKE THE SILENCE.

5 THAT IS A REASONABLE INTERPRETATION OF THE
6 EVIDENCE BASED ON THE CRIME SCENE. IF THAT IS ONE
7 REASONABLE INTERPRETATION OF THE EVIDENCE, THAN THIS IDEA
8 THAT MICKEY THOMPSON WAS FORCED TO WATCH HIS WIFE DIE IS
9 LUDICROUS. SHE WAS SHOT AT AT EVERY LOCATION.

10 WHAT ELSE DO WE KNOW? THIS PLANNING IDEA.
11 THE DISTRICT ATTORNEY STOOD UP IN OPENING STATEMENT TO
12 YOU AND SAID PLANNING INDICATES IT'S AN EXECUTION.
13 REMEMBER EVERY BIT OF EVIDENCE OF PLANNING GOES TO THE
14 SAME WEIGHT TO PLANNING OF AN EXECUTION VERSUS PLANNING
15 OF A ROBBERY. THE KILLERS FOUND A HIDDEN BIKE PATH. A
16 HIDDEN BIKE PATH. THAT BIKE PATH IS LEVEL WITH THE
17 STREET FOR MILES. YOU SAW IT AS YOU WENT BY THE
18 STEVENSES' HOME.

19 THE COMPLEXITY OF BRADBURY, YOU WOULD HAVE
20 TO KNOW HOW TO GET IN AND HOW TO GET OUT. IT WAS A
21 PLANNED WELL THOUGHT OUT EXECUTION. SOMEONE KNEW WHERE
22 THEY WERE GOING. THAT'S ALL THAT THIS MEANS. THIS WAS
23 BRADBURY. IT'S A SQUARE. IT IS NOT A COMPLEX
24 NEIGHBORHOOD. THERE IS ONE STREET ON THE LEFT TO GET IN;
25 THERE IS ONE STREET ON THE RIGHT TO GET IN.

26 THIS IS NOT A HUGELY COMPLEX NEIGHBORHOOD.
27 AND WHERE IS THE BIKE PATH? VISIBLE FROM THE SKY EVEN.
28 NOW THE INTERESTING PART OF THE BIKE PATH -- AND YOU ALL

1 GOT OUT OF THE CAR AT THE WEST GATE AND YOU LOOKED DOWN
2 AT THAT BIKE PATH AND YOU SAW THE GULLY AND HOW HIDDEN IT
3 WAS. WELL, IF YOU WERE ABLE TO SEE FROM YOUR CAR, IT'S
4 ONLY HIDDEN IF YOU GO WEST.

5 IN OTHER WORDS, YOU CAME OUT OF THE GATE
6 AND YOU LOOKED DOWN THIS WAY (INDICATING). IF YOU GO
7 THAT -- TO THE RIGHT WHERE YOU GUYS WERE, WHICH WOULD BE
8 WESTBOUND BECAUSE YOU HAD YOUR BACKS NORTH, THEN THE BIKE
9 PATH STAYS IN THE GULLY. BUT IF YOU GO THE OTHER
10 DIRECTION, EVERYONE TOLD YOU THE BIKE PATH TAKES A LITTLE
11 JOG AND IT BECOMES PARALLEL TO A STREET LEVEL.

12 SO WE WILL TALK ABOUT WILMA JOHNSON'S
13 VERSION OF EVENTS. THAT GULLY IS HIDDEN, BUT ONLY IF YOU
14 GO WESTBOUND TOWARD MONROVIA. IF YOU GO EASTBOUND,
15 YOU'RE RIGHT UP NEXT TO THE CARS THAT ARE DRIVING ON
16 ROYAL OAKS.

17 NOW WAS THIS A ROBBERY? WE DON'T KNOW.
18 WE ARE NOT GOING TO STAND UP HERE AND TELL YOU I KNOW
19 WHAT HAPPENED, BECAUSE WE DON'T. WE DO KNOW THAT OF ALL
20 THE HOUSES IN THE GATED COMMUNITY, MICKEY THOMPSON'S
21 HOUSE WAS THE ONLY ONE THAT WAS ACCESSIBLE WITHOUT
22 GETTING INTO THE GATE. YOU CAN GET INTO FROM -- IT'S
23 ALMOST LIKE A CUL-DE-SAC WHERE THE GATE WAS, WHERE YOU
24 GUYS WERE AT THE BOTTOM.

25 WE DO KNOW THAT ONCE THE SHOOTING STARTED,
26 THERE WAS AN EFFORT TO KILL. THERE IS NO DENYING THAT.
27 BULLETS EVERYWHERE. SHOTS AT EVERYONE. HEAD WOUNDS. NO
28 WITNESSES WERE GOING TO BE LEFT REGARDLESS OF WHAT KIND

1 OF CRIME THIS WAS.

2 WHAT DO WE KNOW ABOUT BEFORE THE SHOOTING
3 STARTED? ALL WE KNOW IS THE GARAGE DOOR HAD TIME TO
4 CLOSE. WE SAW THE PICTURES. THIS ISN'T DISPUTED. THERE
5 WERE THREE BULLETS IN THE GARAGE DOOR. AND ACTUALLY ONE
6 THAT MAY NEVER HAVE COME OUT. THAT WAS 17-A, IF YOU
7 WONDERED ABOUT THAT. THAT WAS NEVER DUG OUT. THAT'S WHY
8 SOME OF THE BALLISTICS PEOPLE SAW NINE FIRED BULLETS AND
9 SOME SAW EIGHT. THEY NEVER DUG IT OUT OF THE DOOR.

10 WE ALSO KNOW THAT THE SIDE DOOR, THE WEST
11 DOOR, THE PERSON EXIT THAT COUNSEL TALKED ABOUT WAS
12 UNLOCKED, BUT CLOSED. SO YOU HAVE TO UNDERSTAND THE
13 THEORY IS THAT MICKEY THOMPSON LET HIS WIFE BACK THE VAN
14 OUT SPECIFICALLY SO HE COULD CLOSE THE GARAGE DOOR. WHY
15 NOT LOCK THAT GARAGE DOOR IF YOU'RE SO CONCERNED ABOUT
16 CLOSING -- THAT DOOR WAS UNLOCKED WHEN THE POLICE
17 ARRIVED.

18 WE ALSO KNOW THAT THERE WERE SHOE PRINTS
19 AT THE OTHER DOOR. NOW I DON'T IF YOU GOT A CHANCE TO
20 SEE -- WE WEREN'T ABLE TO TALK TO YOU WHEN YOU WERE AT
21 THE SCENE. THERE WERE EXHIBITS THAT WERE UP BY THIS
22 SIDE DOOR HERE. BUT YOU'RE LOOKING STRAIGHT UP AT THE
23 DRIVEWAY, THAT DOOR SURE LOOKS LIKE IT'S GOING TO GO
24 RIGHT INTO THE GARAGE. AND JACO TOLD YOU AS MUCH.

25 MOST PEOPLE WOULDN'T THINK THERE IS AN
26 ELEVATOR IN THE GARAGE AND THAT DOOR GOES TO THE MOTOR
27 BEHIND THE ELEVATOR. IT LOOKS LIKE IT GOES TO THE
28 GARAGE. AND THAT'S WHERE THE PLACARD THAT ELIZABETH

1 DEVINE PUT DOWN. SHE NOTICE A SHOE PRINT. A SHOE PRINT
2 THAT WAS DIFFERENT THAN THE ONES THAT WERE TRAVELING DOWN
3 THE DRIVEWAY.

4 THERE IS A COUPLE OF ITEMS OF THE LAW --
5 I'VE GONE OVER A FEW -- THAT I WANT TO TALK TO YOU ABOUT.
6 ONE CAME UP WHEN THE DISTRICT ATTORNEY WAS TALKING ABOUT
7 CONSPIRACY. CONSPIRACY STILL REQUIRES PROOF OF A
8 CONSPIRACY. IT'S NOT A SITUATION WHERE THEY CAN SAY,
9 WELL, SOMEBODY KILLED THEM AND AIDING AND ABETTING
10 REQUIRES PROOF OF AIDING AND ABETTING. THE INSTRUCTIONS,
11 ALL THEY DO IS DEFINE WHAT THESE THINGS ARE.

12 THEY CANNOT ALLEGE, WELL, MICKEY THOMPSON,
13 MICHAEL GOODWIN WANTED HIM DEAD AND OTHER MEN DID IT, SO
14 HE MUST HAVE CONSPIRED WITH THEM. THAT'S NOT WHAT THE
15 LAW ALLOWS. WHEN THE JUDGE READ THE INSTRUCTIONS, SHE
16 WAS JUST DEFINING THE TERMS. THEY STILL HAVE TO PROVE
17 EVERY ELEMENT BEYOND A REASONABLE DOUBT.

18 THE BURDEN OF PROOF IS THE SAME AS IF THEY
19 WERE ALLEGING MICHAEL GOODWIN PULLED THE TRIGGER. THEY
20 DON'T HAVE TO NAME THE PEOPLE THAT DID. BUT THEY SURE
21 HAVE TO PROVE TO YOU THAT THERE WAS THIS MEETING.

22 COUNSEL KEPT SAYING THIS MORNING, "THE
23 EVIDENCE SUGGESTS." NOW IT WAS IN CONTEXT, BUT YOU NEED
24 TO BE VERY CAREFUL ABOUT THIS. THE EVIDENCE SUGGESTS
25 MEANS NOTHING IN THE LAW. FROM THE DISTRICT ATTORNEY'S
26 POINT OF VIEW THAT'S A WORK STATEMENT OF THE LAW. THE
27 EVIDENCE NEEDS TO PROVE IT. THE ALLEGATION WAS IF MICKEY
28 THOMPSON WAS FORCED TO WATCH TRUDY THOMPSON DIE, THEN

1 MICHAEL GOODWIN IS GUILTY. THAT WAS ACTUALLY STATED.

2 WELL, THAT'S A HUGE LEAP AND WE WILL TALK
3 ABOUT HOW THAT'S A HUGE LEAP AT THE VERY END. BUT YOU
4 MIGHT ADD THAT IS ONE FACTOR THAT YOU CAN CONSIDER IF
5 IT'S PROVEN BEYOND A REASONABLE DOUBT. BUT IT CERTAINLY
6 DOESN'T LET YOU GET THE LEAP FROM THERE IS A MURDER OVER
7 HERE TO MICKEY THOMPSON AND MICHAEL GOODWIN WERE RIVALS
8 OVER HERE.

9 THE JUDGE REDD THE INSTRUCTIONS. YOU
10 WON'T FIND ANYTHING ABOUT WHAT THE EVIDENCE CAN SUGGEST
11 FROM THE DISTRICT ATTORNEY'S POINT OF VIEW. THE EVIDENCE
12 SUGGESTS THAT THIS IS AN ATTEMPT TO AROUSE YOUR PASSION
13 AND YOUR PREJUDICE, NOT TO PROVE THIS CASE.

14 THE BURDEN ON THE PROSECUTION, A DEFENDANT
15 IS PRESUMED INNOCENT ENTITLED TO A VERDICT OF NOT GUILTY
16 IN CASE OF A REASONABLE DOUBT. WE HAVE TALKED ABOUT
17 THIS. IT MUST LEAVE YOU WITH AN ABIDING CONVICTION. AND
18 I WROTE UP THERE PROTECTS JURORS. WHAT DOES THAT MEAN?
19 I'LL TELL YOU WHAT THAT MEANS. YOU'RE BEING CHARGED WITH
20 AN AWESOME RESPONSIBILITY. AND MAKE NO MISTAKE ABOUT IT, I
21 KNOW THAT WHAT I'M ASKING YOU TO DO IS NOT EASY.

22 I'M ASKING YOU TO RETURN A VERDICT, THE
23 ONLY VERDICT THAT IS JUST UNDER THE LAW. BUT I KNOW IT
24 IS AN AWESOME RESPONSIBILITY. ESPECIALLY IN A CASE WHERE
25 THE COURT IS FULL, THERE IS CAMERAS. PEOPLE HAVE BEEN
26 TALKING ABOUT THIS FOR YEARS. BUT THE LAW PROTECTS YOU.
27 THE LAW SAYS YOU HAVE TO BE CONVINCED BEYOND A REASONABLE
28 DOUBT. AND THEY HAVE THAT DUTY TO YOU.

1 AND IF THEY PRESENT MYTHS TO YOU, YOU
2 CANNOT RELY ON THAT TO GIVE YOU ENOUGH, TO SAY IN TEN
3 YEARS FROM NOW, YOU KNOW, I WAS SITTING ON THAT JURY AND
4 I MADE THE RIGHT DECISION. CIRCUMSTANTIAL EVIDENCE. THE
5 JUDGE READ IT. COUNSEL MENTIONED IT. A FINDING OF GUILT
6 AS TO ANY CRIME MAY NOT BE BASED ON CIRCUMSTANTIAL
7 EVIDENCE UNLESS IT IS NOT ONLY ONE, CONSISTENT WITH THE
8 THEORY THAT THE DEFENDANT IS GUILTY OF A CRIME, BUT TWO
9 CANNOT BE RECONCILED WITH ANY OTHER RATIONAL CONCLUSION.

10 IF THERE ARE TWO REASONABLE
11 INTERPRETATIONS -- AND NOTE THEY BOTH HAVE TO BE
12 REASONABLE -- IF THE CIRCUMSTANTIAL EVIDENCE PERMITS IT,
13 FOR INSTANCE, THE CRIME SCENE IS IT A CIRCUMSTANTIAL, IS
14 IT A REASONABLE INTERPRETATION THAT THE KILLERS SHOT AT
15 TRUDY AS SHE MADE THE ARC WITH THE VAN. AND WOULD HAVE
16 KILLED HER HAD THEY BEEN BETTER SHOTS WHEN THE VAN WAS
17 DOWN BELOW. IS THAT REASONABLE?

18 YOU MUST ADOPT THE INTERPRETATION THAT
19 POINTS TO THE DEFENDANT'S INNOCENCE AND REJECT THE
20 INTERPRETATION THAT POINTS TO HIS GUILT. YOU DON'T HAVE
21 A CHOICE. THE LAW SAYS THAT. SO IT'S LIKE PUTTING
22 EVIDENCE IN TWO PILES. THE FIRST PILE EVIDENCE -- NOW
23 MIND YOU IN BOTH OF THESE PILES THE EVIDENCE OF THE
24 UNDERLYING FACT HAS TO BE PROVEN BEYOND A REASONABLE
25 DOUBT. THEY CAN'T JUST ALLEGE SOMETHING.

26 SO THE ONE PILE IS EVIDENCE PROVEN BEYOND
27 A REASONABLE DOUBT; CAPABLE OF TWO INTERPRETATIONS. THE
28 OTHER PILE EVIDENCE PROVEN BEYOND A REASONABLE DOUBT

1 CAPABLE OF ONLY ONE INTERPRETATION. THE LAW SAYS YOU CAN
2 ONLY LOOK TO THE SECOND PILE. ONLY.

3 AND THEN YOU ASK YOURSELF IS THAT PILE
4 ENOUGH TO CONVINC ME BEYOND A REASONABLE DOUBT? BECAUSE
5 HONESTLY, THROUGH ALL THE WITNESSES WHO HAVE TESTIFIED,
6 FOR ALL THE TALKING THE LAWYERS HAVE DONE, IT ALL BOILS
7 DOWN TO ONE QUESTION. HAVE YOU BEEN PRESENTED EVIDENCE
8 SO STRONG AND SO COMPELLING THAT YOU CAN SAY THAT YOU ARE
9 CONVINCED BEYOND A REASONABLE DOUBT OF THE TRUTH OF THESE
10 CHARGES?

11 THE DEFENSE HAS NO BURDEN. WE WILL GET
12 INTO THIS ISSUE WITH MR. GOODWIN AND HIS ALIBI LATER.
13 BUT THE DEFENSE HAS NO BURDEN. WE DON'T HAVE TO PROVE TO
14 YOU IT WAS A ROBBERY TO ASK YOU TO ACQUIT MICHAEL
15 GOODWIN. WHAT ARE THE ALLEGATIONS? WHAT DO THEY BOIL
16 DOWN TO? THESE ARE BASICALLY IT. MICHAEL GOODWIN
17 LIQUIDATED HIS ASSETS. MICHAEL GOODWIN TOLD ANYONE WHO
18 WOULD SIT STILL FOR FIVE MINUTES THAT HE WANTED MICKEY
19 THOMPSON DEAD.

20 MICHAEL GOODWIN FLED THE CRIME. HE
21 TRANSFERRED ASSETS OVERSEAS. HE WAS THE GUY IN THE CAR
22 OUTSIDE THE STEVENSES' HOME. NOTHING OF VALUE WAS
23 MISSING FROM MICKEY THOMPSON. AND THE MARCH COURT DATE
24 WAS CRUCIAL.

25 FIRST OFF, HAS THE UNDERLYING FACTS OF
26 THAT EVIDENCE BEEN PROVEN? ASSETS LIQUIDATED. DIANE
27 GOODWIN BOUGHT GOLD. SHE WIRED MONEY TO AN OFFSHORE
28 ACCOUNT. SHE BOUGHT A YACHT AFTER A FOUR-MONTH SEARCH

1 WITH A BOAT BROKER. THIS IS LIKE BUYING A HOUSE. YOU
2 DON'T GO INTO A 7/11 AND PAY \$400,000 FOR A BOAT. YOU
3 GET A REAL ESTATE AGENT WHO IS CALLED A BOAT BROKER. AND
4 HE LOOKS FOR A HOUSE FOR YOU. AND YOU APPLY FOR A LOAN.

5 THIS IDEA THAT, WELL, MICHAEL GOODWIN WAS
6 ORCHESTRATING THIS AND KNEW EXACTLY THE DATES THAT ALL OF
7 THESE THINGS WOULD BE APPROVED AND THAT THEY WOULD FIND
8 THE RIGHT BOAT AND BANK WOULD APPROVE THEIR LOAN. THAT'S
9 LUDICROUS. THESE WERE TRACEABLE LEGITIMATE TRANSACTIONS.

10 WHY WERE THEY ABLE TO COME IN TO THIS
11 COURT AND TELL YOU ABOUT THEM? BECAUSE THEY ALWAYS USED
12 THEIR TRUE NAME AND THEY DEALT WITH REAL BANKS, THAT'S
13 WHY. THESE WERE REPUTABLE, LEGITIMATE BANKS. CAN THIS
14 EVIDENCE BE INTERPRETED ANOTHER WAY? THINK ABOUT THIS,
15 LET'S SAY THIS IS PROVEN. IS THERE ANY OTHER WAY TO
16 THINK WHY WOULD DIANE GOODWIN AND MAYBE WITH MICHAEL
17 GOODWIN COMMINGLING HER FUNDS, WHY WOULD SHE POSSIBLY
18 WANT TO DO THIS IF SHE HADN'T BEEN INVOLVED IN A MURDER?

19 WELL, WHAT ELSE WAS GOING ON? COULD IT BE
20 TO KEEP HER ASSETS OUT OF MICHAEL GOODWIN'S BANKRUPTCY.
21 COULD IT BE THAT MICHAEL GOODWIN WAS, IN FACT,
22 CONTROLLING DIANE GOODWIN'S ASSETS AND HE DIDN'T WANT
23 THAT MONEY TO GO IN THE BANKRUPTCY ESTATE. I'M GOING TO
24 DECLARE BANKRUPTCY. I'M GOING TO GIVE MY HOUSE TO MY
25 COUSIN FOR A BUCK SO IT DOESN'T GO INTO THE ESTATE AND I
26 STILL GET TO LIVE IN IT.

27 IS IT HONORABLE? NO. IS IT A REASONABLE
28 INTERPRETATION OF THE EVIDENCE? ABSOLUTELY. THIS WAS

1 DIANE'S MONEY. DIANE DIDN'T WANT THAT MONEY TO GO INTO
2 BANKRUPTCY. SO SHE HE PUT IT INTO GOLD AND SHE HID IT
3 FROM THE BANK. SHE HID IT FROM THE TRUSTEE. JEFF COYNE
4 COULDN'T FIND IT. THAT IS A CLEAR, RATIONALE
5 INTERPRETATION. AND IF THAT IS THE CASE, THEN IT HAS
6 NOTHING TO DO WITH THE MURDER OF MICKEY AND TRUDY
7 THOMPSON.

8 THE LAW SAYS YOU CANNOT CONSIDER THAT FACT
9 TOWARDS GUILT. WHAT ABOUT THIS IDEA THAT MICHAEL GOODWIN
10 FLED THE CRIME? HE WENT TO SOUTH CAROLINA FOR THREE
11 MONTHS. HE STAYED THERE FOR SIX WEEKS AND THEN HE WENT
12 TO FLORIDA ON A YACHT. HE HAD A PHONE IN HIS OWN NAME.
13 HE HAD ACCOUNTS AND CREDIT IN HIS OWN NAME. THERE WAS NO
14 PROOF OF FLIGHT BECAUSE MICHAEL GOODWIN NEVER FLED.
15 THE ONLY EVIDENCE IS THAT HE WAS OUT OF THE COUNTRY FOR
16 THREE MONTHS IN 1991 WHEN SOMEONE WAS TRYING TO REPOSSESS
17 HIS BOAT.

18 AND KAREN DRAGUTIN, THE ONLY THING
19 BURMUDA, BAHAMA AND SOUTH AMERICA HAVE IN COMMON IS THAT
20 THEY END IN AN "A." THAT'S IT. THEY'RE NO WHERE NEAR
21 ONE OTHER. MS. DRAGUTIN DIDN'T HAVE ANY SPECIAL
22 INFORMATION. MICHAEL GOODWIN WAS IN FLORIDA AND SOUTH
23 CAROLINA. HE SENT LETTERS ON A CALIFORNIA ADDRESS.
24 THE DISTRICT ATTORNEY SOLICITED THAT INFORMATION.

25 HE WENT TO A STORE IN ORANGE COUNTY. HE
26 NEVER HAD A WARRANT OUT FOR HIS ARREST. THIS ISN'T SOME
27 STRANGE LEGAL CONCEPT. WHEN SOMEONE SAYS FLIGHT AFTER
28 CRIME IT MEANS WHAT IT SAYS. YOU KILLED SOMEONE AND YOU

1 TRIED TO GET OUT OF DODGE SO THEY WOULDN'T FIND YOU.

2 OF COURSE, THEY FOUND HIM. HOW WERE THEY
3 ABLE TO GET ALL THESE TRANSACTIONS? NO ONE WAS LOOKING
4 FOR HIM. MICHAEL GRIGGS CAME IN AND SAID SO. I NEVER
5 EVER HAD A WARRANT OUT FOR HIM. I WAS NEVER LOOKING FOR
6 HIM. SO THE FACT THAT HE LEFT SOUTHERN CALIFORNIA,
7 THAT'S WHAT THEY'RE BASING THIS FLIGHT AFTER CRIME ON
8 THAT HE LEFT SOUTHERN CALIFORNIA. A BOAT THAT HE'S BEEN
9 BROKERING TO PURCHASE; A HOUSE THAT HE HAD HAD UP FOR
10 SALE. HE LEAVES SOUTHERN CALIFORNIA THREE MONTHS AFTER
11 THE MURDER.

12 THE POLICE ARE NEVER LOOKING FOR HIM HE'S
13 NEVER BEEN CHARGED WITH THIS CRIME. THIS IS NOT PROOF OF
14 FLIGHT. HOW ABOUT THE FACT THAT HE WAS THIS GUY IN THE
15 CAR? WELL, THE COURT SAYS, PER THE JURY INSTRUCTION, YOU
16 LOOK AT THEIR OPPORTUNITY TO OBSERVE; THEIR ABILITY TO
17 PROVIDE A DESCRIPTION.

18 DR. PEZDEK SAID THAT SHOULD BE SIX OR
19 EIGHT ADJECTIVES. THE EXTENT TO WHICH THE DEFENDANT FITS
20 THE DESCRIPTION. RED HEAD, STOCKY GUY. THE ABILITY TO
21 IDENTIFY A PERPETRATOR. WHO ELSE WAS IN THE CAR? WELL,
22 HOW ABOUT THE DELAY BETWEEN THE EVENT AND THE I.D.?

23 NOW MUCH HAY HAS BEEN MADE ABOUT THIS, OH,
24 THE DOCTOR IS SOME SORT OF DEFENSE WHORE BECAUSE SHE GOT
25 A THOUSAND DOLLARS. THIS IS ANOTHER LINE THAT I WANT I
26 TO REALLY CONSIDER. THIS WAS SAID THIS MORNING.
27 DR. PEZDEK HAS TAKEN OVER 4,000 CASES FROM DEFENSE
28 ATTORNEYS. THAT'S WHAT THE DISTRICT ATTORNEY TOLD YOU

1 THIS MORNING. THE EVIDENCE WAS THAT SHE WAS OFFERED
2 4,000 CASES. MOST OF THEM ARE TEN-MINUTE CONSULTATIONS
3 SHE DOES NOT ACCEPT. THAT'S A BIG DIFFERENCE BETWEEN SHE
4 HAS TAKEN \$4,000. SHE MAKES \$150 AN HOUR, SHE TOLD YOU A
5 THOUSAND DOLLARS FOR A DAY OF TESTIMONY. SHE DOESN'T
6 NEED TO TESTIFY TO GET PAID FOR HER CONSULTATION.

7 LET'S DO THIS, THOUGH, ASK YOURSELVES WAS
8 THIS A PRODUCT OF THE STEVENSES' OWN RECOLLECTION? WE
9 WILL GET TO THEM AS WELL. LET'S TAKE DR. PEZDEK. AND
10 SHE WANTS YOU TO LOOK AT THE BIAS OF A LINE-UP
11 PROCEDURES. SHE DIDN'T TELL YOU HOW TO CONCLUDE. SHE'S
12 POINTING OUT CERTAIN FACTORS THAT YOU SHOULD CONSIDER.
13 FACTORS THAT APPLY HERE NOT FACTORS THAT ARE EVERYWHERE.
14 ONLY FACTORS THAT APPLY HERE.

15 I DIDN'T HAVE HER ADDRESS WEAPON FOCUS,
16 BECAUSE THERE WAS NO WEAPON. DEPTH OF PERCEPTION, SAME
17 AS MOTIVATION. SHE TALKED ABOUT THAT. IS THIS SOMEBODY
18 INVOLVED IN SOMETHING IMPORTANT? INFLUENCE OF OTHERS.
19 WHETHER THE PERSON HAD A HAT ON AND SHE TALKED ABOUT THE
20 SCOTLAND STUDY. KEEP IN MIND THE SCOTLAND STUDY WAS
21 IDEAL CONDITIONS. THE PEOPLE THAT WERE STUDIED WERE TOLD
22 YOU'RE GOING TO BE ASKED TO IDENTIFY THIS PERSON. AND 11
23 MONTHS LATER IT WAS NO BETTER THAN CHANCE. THERE WAS A
24 13-YEAR DELAY BETWEEN WHEN THE STEVENSES SAW THIS
25 INDIVIDUAL AND WHEN THEY POINTED HIM OUT OF A LINE-UP.

26 MR. GOODWIN HAS BEEN ON THE NEWS; HAS BEEN
27 ON TELEVISION. THAT CAME OUT ALSO IN THE TESTIMONY. THE
28 DISTRICT ATTORNEY ASKED A HYPOTHETICAL. AND I JUST WANT

1 TO POINT OUT ONE IMPORTANT THING ABOUT THE HYPOTHETICAL.
2 IN HIS HYPOTHETICAL THERE WAS NO HAT OR DISGUISE, THE
3 INDIVIDUALS GOT A FRONT LOOK. MORE IMPORTANTLY THEY WERE
4 NEVER CAUGHT CHANGING THE STORY. THE BROTHER AND SISTER
5 THAT SAW THIS GUY OUTSIDE A BANK, NEVER CAUGHT CHANGING
6 THEIR STORY.

7 BUT I'LL TELL YOU WHAT, FOR THE PURPOSE OF
8 ARGUMENT, LET'S IGNORE DR. PEZDEK. YOU DON'T LIKE
9 SOMEONE THAT MIGHT BE PAID. FINE. LET'S TALK ABOUT THE
10 OTHER WITNESSES, WE'RE GOING THROUGH FACTORS AGAIN.

11 LET'S TALK ABOUT THE OTHER WITNESSES THAT
12 THE DISTRICT ATTORNEY CALLED. BOB UTSEY SPENT SIX WEEKS
13 WITH MICHAEL GOODWIN, SIX WEEKS. DALE NEWMAN SPENT A
14 WEEK WITH HIM. JOHN WILLIAMS SUPPOSEDLY HAD THIS
15 SCREAMING MATCH WITH HIM FOR A FULL HOUR. WHAT THEY DID
16 THEY ALL COME IN HERE AND SAY? I KNOW HIM BY NAME, BUT I
17 COULDN'T IDENTIFY HIM. SIX WEEKS, HE SPENT WITH THAT
18 MAN. AND WE'RE TO BELIEVE THAT THE STEVENSES AFTER A TEN
19 TO 15 TO 45 SECOND GLANCE WERE ABLE TO COME IN.

20 WHAT WAS THE MOST TELLING WITNESS
21 REGARDING THE IDENTIFICATION? KAREN STEPHENS. SHE NEVER
22 MET MICHAEL GOODWIN. BUT WHAT DID SHE DO WHEN SHE WAS
23 ASKED TO IDENTIFY HIM. OH, THAT'S HIM. I RECOGNIZE HIM
24 FROM TV. THE STEVENSES TOLD YOU THEY WERE FOLLOWING THIS
25 CASE ON THE NEWS. AND WHY WOULDN'T THEY? THEY LIVED
26 DOWN THE STREET FROM WHERE THIS FAMOUS MURDER HAD
27 OCCURRED. OF COURSE, THEY'VE SEEN HIM OVER THE YEARS.
28 THIS ISN'T AN IRON CLAD IDENTIFICATION.

1 I WANT TO SPEND A LITTLE TIME ON WHAT I'M
2 CALLING THE FINANCIAL MYTHS. COUNSEL PUT UP A SLIDE THIS
3 MORNING -- AND THIS IS WHERE THE OUTRAGE STARTED IN THE
4 OPENING STATEMENT. THERE WAS A SLIDE THIS MORNING THAT
5 JUST LISTED THE WORD "LOST" IN RED AND IT PROBABLY WENT
6 BY TOO FAST.

7 THE MYTH: MICKEY THOMPSON TOOK MICHAEL
8 GOODWIN'S MERCEDES, HIS PRIZED POSSESSION. THIS WAS THE
9 FINAL STRAW. IN FACT, A QUOTE IN THE OPENING STATEMENT
10 THIS WAS MICHAEL GOODWIN'S PRIZED POSSESSION. MICKEY
11 THOMPSON WENT AFTER IT AND HE GOT IT. THE PROBLEM IS
12 THAT'S JUST SIMPLY NOT TRUE.

13 THE REALITY IS MICKEY THOMPSON NEVER GOT
14 THE MERCEDES. EVER. IT WAS TOWED IN 1986 AND IT WAS OUT
15 OF THIS MAN'S POSSESSION FOR 30 DAYS. THE WRIT EXPIRED
16 IN DECEMBER OF '86 BY LAW. PERSONAL AND CORPORATE
17 BANKRUPTCY PROTECTS YOUR ASSETS FROM SEIZURE. THEY CAME
18 AFTER HIS MERCEDES. HE SAID I WANT TO BE PROTECTED IN
19 BANKRUPTCY AND THEY WEREN'T ABLE TO GET HIS MERCEDES.

20 IT WAS VOLUNTARILY TURNED OVER IN 1988
21 WHEN HE AND HIS WIFE GOT IN A \$400,000 YACHT AND DECIDED
22 TO CRUISE THE EASTERN SEABOARD. IT WAS PICKED UP -- WE
23 HAVE TESTIMONY FROM PHIL BARTINETTI WHO SAYS THIS; FROM
24 JEFF COYNE WHO SAYS THIS; FROM THE WRITS THAT YOU CAN
25 SEE, THE WRIT INSTRUCTIONS; FROM THE LAW THAT WAS
26 EXPLAINED TO YOU BY THE LAWYERS; FROM THE TOW RECEIPT
27 THAT THE DEFENSE PROVIDED; AND RELUCTANTLY FROM DELORES
28 CORDELL. THIS IS TESTIMONY. THIS IS EVIDENCE.

MICHAEL GOODWIN WAS UPSET. IT WAS THE FINAL STRAW BECAUSE MICKEY THOMPSON GOT HIS MERCEDES. MICKEY THOMPSON NEVER GOT HIS MERCEDES. THE DISTRICT ATTORNEY DIDN'T TELL YOU TAKE WHAT JOHN WILLIAMS SAYS AND LOOK AT IT WITH A GRAIN OF SALT BECAUSE HE IS COMPLETELY WRONG. THEY PUT THAT QUOTE UP ON THE PROJECTOR AND THEY SAID THAT PROVES HE HATED HIM. HE WANTED HIM FRICKING DEAD. JACKIE SOUTHERN TOLD YOU SHE PICKED IT UP WITH HER HUSBAND.

THE MYTH: MICKEY THOMPSON TOOK AWAY THE ROSE BOWL EVENT FROM MICHAEL GOODWIN. GOODWIN LOST A BIDDING WAR ON THE ROSE BOWL EVENT. THE DISTRICT ATTORNEY'S OPENING STATEMENT, MICHAEL GOODWIN HAD BEEN BIDDING ON AND SUCCESSFULLY GETTING THE ROSE BOWL EVENTS FOR TEN YEARS. 1987, MICHAEL GOODWIN FOUGHT FOR IT AND HE LOST.

MICHAEL GOODWIN HAD BID ON THE ROSE BOWL
EVENT AND GOTTEN IT TWO YEARS. TWO YEARS, NOT TEN. YOU
HAVE THE MINUTES OF THE 1987 PASADENA CITY COUNCIL
MEETING. THERE IS NO EVIDENCE THAT MICHAEL GOODWIN BID
ON THAT EVENT. MICKEY THOMPSON TOOK THAT EVENT. THIS
WAS NO PRIZE EVENT. \$2,000 A MINUTE FINE IF YOU GO OVER
10:00 P.M. AT A ROSE BOWL EVENT, \$2,000 A MINUTE. YOU
GOT TO DEAL WITH THE NEIGHBORS. YOU HAVE GOT TO DEAL
WITH THE NOISE ORDINANCE. MICHAEL GOODWIN HAD BEEN ON IT
FOR TWO YEARS. YOU HAVE THE MINUTES. HIS NAME IS
NOWHERE IN IT. THERE WAS NO BIDDING WAR.

TESTIMONY OF BILL WILSON TOLD YOU ABOUT

1 THAT EVENT; TESTIMONY OF GREG JACOBS TOLD YOU ABOUT THAT
2 EVEN. GREG JACOBS, HE CLAIMS THERE WAS A BIDDING WAR.
3 IT'S NOT REFLECTED IN THE MINUTES. HE ALSO MAKES ANOTHER
4 CLAIM THAT'S VERY INTERESTING ABOUT MICKEY THOMPSON AND
5 WHAT HAPPENED WHEN HE WON THE ROSE BOWL EVENT.

6 MICKEY THOMPSON GOT THE INSPORT AGREEMENT
7 FROM E.S.I. AND YOU KNOW MS. SARIS IS GOING TO STAND UP
8 AND SAY THAT MICKEY THOMPSON DIDN'T REALLY GET IT, BUT
9 MICHAEL GOODWIN DID LOSE IT. HE LOST IT. WELL, IT'S A
10 SANCTIONING AGREEMENT THAT MAKES RACES MEAN SOMETHING,
11 LIKE THE NFL IS DIFFERENT THAN 12 GUYS JUST GOING OUT ON
12 SATURDAY PLAYING FOOTBALL.

13 D.A.'S OPENING STATEMENT: MICHAEL GOODWIN
14 FOUGHT FOR IT. HE FOUGHT AGAINST MICKEY THOMPSON GETTING
15 IT AND HE LOST. THE REALITY, MICKEY THOMPSON NEVER GOT
16 IT. THE AGREEMENT WAS AUCTIONED IN 1987. DIANE GOODWIN
17 WON IT. DIANE GOODWIN PRESIDENT, OWNER OF S.X.I. WHO
18 WAS THE PRESIDENT MICHAEL GOODWIN. WAS IT A STRAW
19 COMPANY? WAS IT AN HONORABLE MOVE ON HIS PART? NO. BUT
20 HE WON IT AND HE KEPT IT. HE GOT HIS WIFE TO OUT BID
21 MICKEY THOMPSON. THAT'S WHAT THE EVIDENCE WAS.

22 THERE WAS -- ALL COYNE DID WAS REENFORCE
23 PAYMENTS ON IT. JEFF COYNE CAME IN AS THE BANKRUPTCY
24 TRUSTEE AND SAID HE NEVER GOT -- THINK ABOUT THIS IF
25 MICKEY THOMPSON HAD GOTTEN THE INSPORT AGREEMENT, HE
26 WOULD HAVE BEEN PAYING MONEY INTO E.S.I. WHICH WOULD
27 HAVE GONE INTO THE BANKRUPTCY TO PAY HIS CREDITORS.
28 MICKEY THOMPSON NEVER EVER PURCHASED AN ASSETS OF E.S.I.

1 AND THERE WAS ONLY ONE AUCTION AND MICKEY THOMPSON LOST
2 IT.

3 THE TESTIMONY OF JEFFREY COYNE, THE
4 BANKRUPTCY DOCKET THAT YOU HAVE IN EVIDENCE, IN EVIDENCE.
5 SO THEY STARTED TO BACK PEDAL AND THEY STARTED TO SAY,
6 WELL, I KNOW I PROMISED YOU IN THE OPENING STATEMENT THAT
7 I WOULD PROVE THAT MICKEY THOMPSON LOST THE AGREEMENT.
8 WHAT I REALLY MEANT WAS DIANE NEVER OWNED IT FREE AND
9 CLEAR.

10 AND WE HAD THAT WHOLE LONG DISCUSSION
11 ABOUT WHETHER YOU OWNED AN ASSET FREE AND CLEAR; WHETHER
12 YOU CAN LIVE IN A HOUSE THAT HAS A MORTGAGE ON IT. DIANE
13 OWNED THE ASSETS. SHE WAS MAKING PAYMENTS ON IT. COYNE
14 ENFORCED IT. IT WAS NEVER REPOSSESSED. MICKEY THOMPSON
15 WON EVERY SINGLE COURT BATTLE. HOW MANY TIMES HAVE WE
16 HEARD THAT? MIKE WAS BROUGHT TO HIS KNEES WITH THE
17 WEIGHT OF THE COURT SYSTEM. MICKEY THOMPSON WAS BEARING
18 DOWN ON HIM LEGALLY.

19 MICKEY THOMPSON WENT AFTER THE PROCEEDS OF
20 A COLOSSEUM EVENT, ONE WEEKEND EVENT \$500,000. HE WENT
21 AFTER IT. DELORES CORDELL TOLD YOU, WE TRIED TO GET IT.
22 WE TRIED TO USE THAT TO PAY OUR JUDGMENT. THAT WAS THE
23 QUOTE MICHAEL GOODWIN LOST EVERY SINGLE EVENT. MICKEY
24 THOMPSON PREVAILED. THE REALITY E.S.I. CLAIMED THAT
25 MONEY FOR THEIR ESTATE. E.S.I. DIANE GOODWIN'S COMPANY.

26 THERE WAS A PUBLISHED DECISION IN THE
27 BANKRUPTCY COURT. I DON'T KNOW IF YOU REMEMBER, DELORES
28 CORDELL SAID I COULDN'T RECALL. I HAD TO BRING MY

1 COMPUTER UP AND SHOW HER HER NAME WAS THE LAWYER IN A
2 DECISION THAT SHE LOST THAT WAS PUBLISHED. THOMPSON LOST
3 THAT. E.S.I. WON IT. E.S.I. WAS MICHAEL GOODWIN'S
4 COMPANY. AGAIN, NOT NECESSARILY AN HONORABLE ACT LETTING
5 YOUR WIFE CREATE STRAW COMPANIES AND TAKING THE MONEY,
6 BUT MICKEY THOMPSON WASN'T TAKING THESE ASSETS.

7 THE TESTIMONY OF JEFFREY COYNE; DELORES
8 CORDELL; THE PUBLISHED BANKRUPTCY OPINION, IT WAS WORTH
9 NEARLY HALF A MILLION DOLLARS. AND AGAIN, AFTER THE
10 DISTRICT ATTORNEY PROMISED TO TELL YOU THAT THEY WON AT
11 EVERY SINGLE PROCEEDING, HE BACK TRACKS. AND THEY SAID,
12 WELL, WE WERE ABLE TO TIE IT UP FOR A WHILE. THAT MEANS
13 YOU PAY LAWYERS TO FIGHT FOR IT AND YOU LOST IT.

14 MICHAEL GOODWIN WAS ACTING ON HIS OWN
15 WITHOUT LAWYERS. HE WAS DOING THINGS NO OTHER LITIGANT
16 WOULD CONSIDER. THE QUOTE WAS HE TOOK IT UPON HIMSELF TO
17 APPEAL. HE TOOK IT ALL THE WAY TO THE SUPREME COURT, AS
18 IF THAT WAS SO BIZARRE, AS IF MICHAEL GOODWIN WAS SOME
19 SORT OF LOOSE CANNON. THE REALITY, HE WAS REPRESENTED BY
20 COUNSEL AT EVERY STAGE OF THE PROCEEDING.

21 APPEALS ARE A MATTER OF COURSE IN CIVIL
22 LITIGATION. HOW DO WE KNOW THAT? PHIL BARTINETTI,
23 MICKEY THOMPSON'S OWN ATTORNEY. IS IT UNUSUAL TO APPEAL,
24 SIR? THE LAWSUIT WAS BITTER ON BOTH SIDES. BOTH SIDES
25 HAD LAWYERS. HE SAID, QUOTE, APPEALS HAPPEN ALL THE
26 TIME.

27 THE MYTH: MICHAEL GOODWIN WANTED TO CHEAT
28 MICKEY THOMPSON FROM DAY ONE. NOW THIS IS INTERESTING.

1 THIS IS STEW LINKLETTER SAYING THAT HE HAS A TIGER BY THE
2 TAIL AND THERE IS SOME COUNTRY BUMPKIN ASPECT TO WHAT HE
3 WAS TRYING TO DO, AGAIN, HOLLYWOOD VERSION OF EVENTS.

4 MICKEY THOMPSON -- YOU SAW PHIL
5 BARTINETTI, HE'S A BETTER LAWYER THAN I'LL EVER HOPE TO
6 BE. THIS IS A MAN WHO'S BEEN PRACTICING 37 YEARS, CLARK
7 AND TREVITHICK PUTTING TOGETHER MILLION DOLLAR CONTRACTS.
8 THAT'S WHAT HE DOES FOR A LIVING. MICKEY THOMPSON WAS NO
9 COUNTRY BUMPKIN. HE WAS REPRESENTED BY ONE OF THE BEST
10 FIRMS IN LOS ANGELES.

11 AND MICHAEL GOODWIN WAS SUPPOSEDLY OUT TO
12 STEAL HIS NAME AND HIS MONEY. WHAT DID WE ACTUALLY
13 LEARN? WHAT DID THE DISTRICT ATTORNEY PROMISE? MICKEY
14 THOMPSON COULD PUT PEOPLE IN SEATS. MICHAEL GOODWIN OUT
15 TO STEAL HIS NAME AND SCREW HIM OUT OF THE BUSINESS.
16 SKIMMING PROFITS IS THE PHRASE HE USED. THE REALITY BOTH
17 MEN WERE REPRESENTED BY ATTORNEYS AT EVERY STAGE OF THE
18 PROCEEDING.

19 MICHAEL GOODWIN WAS THE STADIUM INNOVATOR.
20 NOT TO TAKE ANYTHING AWAY FROM MICKEY THOMPSON. HE WAS
21 AN INCREDIBLE GENIUS WHEN IT CAME TO CARS AND TRUCKS AND
22 OFFROAD. BUT THIS MAN WAS PUTTING 70,000 PEOPLE IN
23 ANAHEIM STADIUM. THE STADIUM WAS NEW TO MICKEY THOMPSON.
24 THAT WAS ALL A NEW EVENT. MICHAEL GOODWIN DIDN'T NEED
25 HIS NAME. HOW DO WE KNOW THIS? WHEN THE TRANSFER OF
26 STOCK AGREEMENT CAME, MICHAEL GOODWIN GOT 70 PERCENT.
27 MICKEY THOMPSON GOT 30 PERCENT. WHEN THE SALARIES IN THE
28 CONTRACT CAME, MICHAEL GOODWIN \$300,000; MICKEY THOMPSON

1 50.

2 THE DISPUTE WAS NOT OVER SKIMMING PROFITS.
3 THE DISPUTE WAS WHO IS PAYING THE OVERHEAD AT THESE
4 EVENTS. YOU HAVE THE CONTRACT. THAT'S EVIDENCE. THAT'S
5 NOT THE HOLLYWOOD VERSION OF EVENTS. YOU HAVE THE
6 TESTIMONY OF PHIL BARTINETTI, THE GUY WHO DRAFTED THE
7 CONTRACT.

8 HE SAID YOU HAVE THE LAWSUIT ITSELF
9 ACTUALLY AND THE AGREEMENT FOR THE TRANSFER OF STOCK.
10 HE'S THE ONE THAT TRANSFERRED -- I MEAN HE'S THE ONE THAT
11 WORKED ON THE CONTRACT. HE'LL TELL YOU. THIS WAS NOT A
12 SITUATION WHERE MICHAEL GOODWIN WAS OUT TO STEAL ANYONE'S
13 NAME. HE NEEDED THE FAME OF MICKEY THOMPSON. IT WAS
14 GOING TO HELP PUT PEOPLE IN THE SEATS. BUT HIS COMPANY
15 WAS DOING FINE.

16 THE MYTH: MICHAEL GOODWIN MADE AN
17 APPLICATION TO HAVE HIS DEBT DISCHARGED AND THAT WAS
18 DENIED IN MARCH OF '88. MARCH OF '88 WAS CRUCIAL.
19 MICKEY THOMPSON WAS KILLED SPECIFICALLY BECAUSE OF THIS
20 VERY IMPORTANT COURT DATE. MICHAEL GOODWIN MADE A LAST
21 DITCH EFFORT TO SUSPEND JUDGMENT AND GET THE DISCHARGE OF
22 DEBT. SUPPOSED TO GO TO TRIAL MARCH 18 AND MICKEY
23 THOMPSON WAS KILLED. THAT'S WHAT HE TOLD YOU IN HIS
24 OPENING STATEMENT.

25 THE REALITY: THE COURT DATE OF MARCH 1988
26 WAS CONTINUED DUE TO SETTLEMENT NEGOTIATIONS BEFORE
27 MICKEY THOMPSON DIED. THE ATTORNEYS HAD BEEN WORKING FOR
28 WEEKS ON THE AGREEMENT, FOR WEEKS. THAT MEANS THE

1 ATTORNEYS WERE BILLING BOTH SIDES MICHAEL GOODWIN AND
2 MICKEY THOMPSON FOR WEEKS ON THIS STIPULATION.

3 MICHAEL GOODWIN VOLUNTARILY SIGNED THE
4 EXACT SAME AGREEMENT 13 DAYS LATER, 13 DAYS LATER THAT HE
5 SUPPOSEDLY KILLED A MAN OVER. WE HAVE THE TESTIMONY OF
6 DELORES CORDELL, THE NON-DISCHARGE AGREEMENT. WE HAVE
7 THE BILLING SLIPS OF DELORES CORDELL AND THE REQUEST FOR
8 A CONTINUANCE; STIPULATION FOR THE SETTLEMENT, DENIAL OF
9 DISCHARGE.

10 THIS IS THE AGREEMENT MICHAEL SIGNED.
11 THIS IS THE AGREEMENT THEY WANT YOU TO BELIEVE WAS WHAT
12 CAUSED MICKEY THOMPSON TO BE MURDERED IN MARCH OF '88.
13 IT WAS SIGNED 13 DAYS LATER. DELORES CORDELL BILLING
14 SLIP: STIPULATION TO CONTINUE TRIAL 3/15/88. SHE
15 DRAFTED SOMETHING TO SEND TO THE COURT TO SAY WE ARE
16 CLOSE. SHE READ IT TO YOU WHILE SHE WAS SITTING RIGHT
17 THERE, EVIDENCE FROM THAT CHAIR. WE WERE CLOSE TO A
18 SETTLEMENT. WE TOLD THE COURT WE DON'T WANT TO GO TO
19 TRIAL ON THE 18TH. SHE BILLED MICKEY THOMPSON FOR
20 DRAFTING THAT STIPULATION TO CONTINUE.

21 MICHAEL GOODWIN CLAIMED DESTITUTION AND
22 ASKED FOR A DISCHARGE OF DEBT. HE SAID I'M DEVASTATED,
23 THIS IS THE MYTH.

24 MICKEY THOMPSON FOUGHT FOR OTHER
25 CREDITORS. THIS WAS AMONG THE MOST BIZARRE CLAIMS. THE
26 QUOTE FROM THE DISTRICT ATTORNEY'S OPENING STATEMENT,
27 MICKEY THOMPSON HAD TWO OPTIONS. NO. 1, PAY ME WHAT YOU
28 OWE. NO. 2, PAY ME WHAT YOU OWE AND I'LL SHOW YOU'VE

1 ENGAGED IN FRAUD.

2 THAT'S JUST BIZARRE. MICKEY THOMPSON
3 NEVER NEGOTIATED FOR THE SETTLEMENT OF ANYTHING BUT HIS
4 OWN DEBT, WHICH MAKES PERFECT SENSE. WHY WOULD YOU? HE
5 HAD NO STANDING TO COVER ANY OTHER CREDITORS. AND WHEN
6 THE DISCHARGED AGREEMENT WAS EVENTUALLY SIGNED, IT WAS
7 JUST FOR MICKEY THOMPSON'S DEBT. IT HAD NOTHING TO DO
8 WITH THE OTHER CREDITORS. DELORES CORDELL, THE
9 NON-DISCHARGE AGREEMENT TELLS YOU THIS. JEFF COYNE TELLS
10 YOU THIS.

11 AND FINALLY -- WELL, THERE IS TWO THINGS.
12 THIS ONE, MICHAEL GOODWIN WAS DEVASTATED WHEN HE WAS NOT
13 ALLOWED TO POST A PERSONAL SURETY. OKAY. WE TALKED
14 ABOUT A PERSONAL SURETY. INTERESTINGLY WHEN PHIL
15 BARTINETTI DESCRIBED IT, IT WAS EXACTLY WHAT I TOLD YOU
16 IT WAS. IT'S YOU SAY I HAVE THIS DEBT; I KNOW I OWE YOU;
17 AND I WANT TO PUT THESE PEOPLE UP. I WANT OFF THEM SAY
18 IF HE LOSES THE APPEAL, HE'LL PAY.

19 MICKEY THOMPSON FOUGHT AGAINST IT AND HE
20 WON. THIS IS TRUE. THIS IS TRUE. AND WHAT HAPPENED IS
21 THAT MEANT THAT MICKEY THOMPSON WAS THEN ALLOWED TO GO
22 AFTER MICHAEL GOODWIN'S ASSETS FOR 30 DAYS UNTIL MICHAEL
23 GOODWIN DECLARED BANKRUPTCY AND STOPPED IT.

24 THE REALITY THOUGH, IF MICKEY THOMPSON HAD
25 ACCEPTED THE PERSONAL SURETY, HE WOULD HAVE BEEN PAID IN
26 FULL. J.G.A. WHITEHAWK WAS CONSIDERED TOO SPECULATIVE.
27 IT EVENTUALLY GENERATED OVER \$2 MILLION. SO, YES, MICKEY
28 THOMPSON DID WIN THIS. AND REJECTING THE SURETY ALLOWED

1 HIM TO GO AFTER MICHAEL GOODWIN'S ASSETS. THAT IS TRUE.
2 MICHAEL GOODWIN THEN TOOK STEPS TO DECLARE BANKRUPTCY.
3 MICKEY THOMPSON, THE LAWYERS TOLD YOU, WAS ABLE TO
4 COLLECT ABOUT \$2,000 AND SPENT \$200,000 DOING IT. PHIL
5 BARTINETTI TOLD US THIS; DELORES CORDELL; JEFF COYNE AND
6 KAREN STEPHENS. AGAIN, THIS IS TESTIMONY. THIS IS
7 EVIDENCE. THIS IS NOT PART OF A HOLLYWOOD FOLKLORE.

8 MICHAEL GOODWIN LOST ANAHEIM TO MICKEY
9 THOMPSON. D.A.'S OPENING STATEMENT. MICKEY THOMPSON GOT
10 AN EXCLUSIVE TO RACE ANAHEIM. THERE WERE NO EXCLUSIVE
11 CONTRACTS TO RACE ANAHEIM. MICHAEL GOODWIN LOST ANAHEIM
12 ALL BY HIMSELF. YES, THAT HAD BEEN HIS MONEY MAKER, YES,
13 FOR MANY YEARS. BUT WHAT DID THEY TELL YOU? HE WOULDN'T
14 COOPERATE. HE WOULDN'T SHARE DIRT. HE WAS MAKING
15 NEGATIVE ADS.

16 IT WASN'T A SITUATION WHERE MICKEY
17 THOMPSON STEPPED IN AND SAID I'M TAKING OVER ANAHEIM.
18 GREG SMITH SAID GET OUT OF HERE. I DON'T WANT YOU ANY
19 MORE. HE DECIDED NOT RENEW THE CONTRACT. NOT MICKEY
20 THOMPSON, GREG SMITH. THE TESTIMONY OF GREG SMITH; THE
21 LETTERS FROM ANAHEIM STADIUM. MICHAEL GOODWIN PUT IN A
22 BID WITHOUT EVEN BEING ASKED.

23 IT WASN'T LIKE HE WAS GOING UP HEAD TO
24 HEAD. NO ONE ASKED HIM FOR A BID. GREG SMITH SAID I'VE
25 HAD ENOUGH OF YOU. AND THERE WERE NO EXCLUSIVE CONTRACTS
26 AT ANAHIEM. AND WHAT DID HE TELL GREG SMITH, HE SAID
27 I'LL BE BACK.

28 FINALLY, MICKEY THOMPSON (SIC) WENT CRAZY

1 IN 1988 AND HE THREATENED TO KILL MICKEY THOMPSON -- I'M
2 SORRY -- MICHAEL GOODWIN WENT CRAZY; THREATENED TO KILL
3 MICKEY THOMPSON IN FRONT OF ORANGE COUNTY MARSHAL. HE
4 FLEW INTO A VIOLENT RAGE IN FEBRUARY OF 1988. MICKEY
5 THOMPSON DOESN'T KNOW WHO HE'S DEALING WITH. HE IS
6 FRICKEN DEAD. HE PUT THAT ON THE SCREEN TODAY. AND HE
7 PUT UNDERNEATH IT REALLY SMALL -- I DON'T KNOW IF YOU SAW
8 IT -- FEBRUARY OF 1988.

9 THIS IS WHEN JOHN WILLIAMS WAS SUPPOSEDLY
10 AT HIS HOME TOWING HIS MERCEDES WHEN HE WOULD BEEN IN
11 BANKRUPTCY. THE REALITY WAS JOHN WILLIAMS WAS THE SOURCE
12 OF QUOTE. THERE IS NO WAY HE COULD HAVE TOWED THAT CAR
13 IN 1988. THERE IS SIMPLY NO WAY. THE DISTRICT ATTORNEY
14 KNEW IT BECAUSE MICKEY THOMPSON'S PHIL BARTINETTI HAD
15 TOLD THEM SO.

16 HE KNOWS IT AS HE SITS HERE RIGHT NOW.
17 THIS COULD NOT HAVE OCCURRED IN FEBRUARY OF 1988. SIMPLY
18 COULD NOT HAVE HAPPENED. THEY QUOTE HIM ANYWAY. NO ONE
19 PUTS HIM UNDER ANY SCRUTINY BECAUSE HE'S WILLING TO SAY
20 SOMETHING BAD ABOUT MICHAEL GOODWIN. PHIL BARTINETTI
21 TELLS US; WE BROUGHT IN THE TOW RECEIPT; THE WRIT. THIS
22 IS THE TOW RECEIPT. THIS IS HIS HOME, ORANGE COUNTY
23 MARSHAL 1986.

24 YOUR HONOR, THIS WOULD BE A GOOD TIME FOR
25 A BREAK.

26 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
27 WILL TAKE OUR AFTERNOON RECESS AT THIS TIME. PLEASE
28 REMEMBER ALL THE ADMONITIONS. DON'T FORM OR EXPRESS ANY

1 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. WE WILL SEE
2 YOU BACK HERE IN 15 MINUTES. THANK YOU.

3 (BRIEF RECESS.)

4 THE COURT: THE RECORD SHOULD REFLECT ALL OUR
5 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

6 MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE PEOPLE ARE
7 REPRESENTED.

8 MS. SARIS, YOU MAY CONTINUE.

9 MS. SARIS: THANK YOU.

10 GOOD AFTERNOON, AGAIN. I WAS TOLD THAT
11 I'M TALKING TOO QUICKLY. ALL RIGHT. I DON'T HEAR IT. I
12 GUESS EVERYBODY AGREES. I'LL ACCEPT IT AS PROVEN.

13 I'M DONE WITH THE FINANCIAL MYTHS. SO
14 THAT WAS PROBABLY WHAT I CALL THE BORING PART. AND I'M
15 SORRY. AND I DID STRUGGLE A LOT WITH PUTTING THIS
16 TOGETHER BECAUSE ON THE ONE HAND I'M AFRAID THAT SOME OF
17 YOU WILL SAY, GOD, HOW DUMB DOES SHE THINK WE ARE? SHE'S
18 JUST STATING THE OBVIOUS.

19 BUT ON THE HAND, I SO DON'T WANT TO BE IN
20 A POSITION WHERE I'VE LEFT SOMETHING UNSAID, AS YOU CAN
21 IMAGINE. MANY OF US HAVE BEEN DEALING WITH THIS CASE FOR
22 SEVERAL YEARS. AND I KNOW I'VE HAD THE FATE OF MICHAEL
23 GOODWIN IN MY HANDS FOR SEVERAL YEARS. AND I WOULD
24 RATHER RISK STATING THE OBVIOUS TO YOU, THAN LEAVE
25 SOMETHING OUT. SO I APOLOGIZE IF DOES GET A LITTLE BIT
26 DULL. I'M TRYING TO GET SEVEN WEEKS INTO TWO HOURS.
27 I'LL SLOW DOWN.

28 I WANT TO GO OVER THE TESTIMONY OF THE

1 WITNESSES. ONE OF THE THINGS THAT I'VE DONE TO TRY AND
2 MAKE IT A LITTLE FASTER IS TAKEN OFF THE ANIMATION. I'M
3 VIOLATING THE FIRST RULE OF POWER POINT AND PUTTING ALL
4 THE WORDS UP ON THE SLIDE.

5 I'M DOING THAT FOR A REASON. NO. 1, SOME
6 PEOPLE I KNOW LIKE TO SEE AS THEY READ. AND, AGAIN, I
7 DON'T WANT TO BE IN A POSITION WHERE I LEAVE SOMETHING
8 OUT. I'M GOING TO TOUCH ON SOME OF THE WITNESSES -- ON
9 ALL OF THE WITNESSES VERY QUICKLY. AND BY ME TOUCHING ON
10 THEM AND BY ME DISCUSSING THEM, IT'S NOT WHERE I'M SAYING
11 EVERYTHING THEY'VE SAID IS WRONG. IT'S THIS BIG
12 CONSPIRACY AGAINST MICHAEL GOODWIN.

13 WHAT I'M SAYING IS IF YOU ARE GOING TO
14 CONVICT A MAN OF MURDER, IT BETTER BE BASED ON THE TRUTH.
15 IT BETTER BE BASED ON FACTS THAT ARE COMPELLING AND NOT A
16 MYTH. THAT'S WHAT I'M TELLING YOU. SO WHEN I TELL YOU
17 THAT THERE WERE SOME FINANCIAL THINGS THAT WENT WRONG,
18 IT'S NOT WHAT THEY'RE CREATING IT TO BE. YES, THERE WAS
19 A LAWSUIT. MICHAEL GOODWIN LOST. HE DID. THAT WAS IT.
20 HE LOST THE LAWSUIT.

21 HE NEVER PAID THE MONEY. THE PAYMENT, THE
22 JUDGMENT, IT'S OUTSTANDING TO THIS DAY. HE GAINED NOT
23 ONE PENNY BY MICKEY THOMPSON'S DEATH. NOT ONE. AND HE
24 SIGNED THE AGREEMENT THAT THEY WERE NEGOTIATING PRIOR TO
25 HIS DEATH.

26 SO WERE THERE SOME ISSUES IN THE FINANCIAL
27 THAT BEAR DISCUSSION? YES. WERE THERE SOME WITNESSES
28 THAT CAME IN HERE AND TOLD THE TRUTH? ABSOLUTELY. BY ME

1 MENTIONING THEM, I'M NOT CALLING EVERYONE A LIAR. I'M
2 JUST ASKING YOU TO LOOK AT CERTAIN FACTORS BECAUSE THIS
3 IS A CASE THAT'S FULL OF REASONABLE DOUBT. THIS IS NOT
4 WHAT PROOF BEYOND A REASONABLE DOUBT IN A MURDER TRIAL
5 LOOKS LIKE. IT SIMPLY IS NOT.

6 BILL WILSON WAS THE FIRST PERSON TO COME
7 IN. NOW I MAY BE BEING A LITTLE HARD ON BILL WILSON, BUT
8 HE PERSONIFIED THIS IDEA OF THE SCRIPT PERFECTLY. HE
9 ACTUALLY SAID "I LEFT OUT A LINE." HE WAS TELLING US THE
10 STORY AND HE LEFT OUT THE LINE OF THE THREAT.

11 NOW COULD IT BE THAT HE'S NERVOUS, YES.
12 BUT YOU HEARD HIM TESTIFY ABOUT THIS BEFORE. HE WAS THE
13 MANAGER OF THE ROSE BOWL. AND HE WAS TELLING YOU IN A
14 WAY TO TRY TO MAKE HIS ROLE, AGAIN, A LITTLE BIT MORE
15 IMPORTANT. I DON'T KNOW WHAT THAT IS IN HUMAN NATURE
16 THAT WE ALL WANT TO BE JUST A LITTLE BIT BIGGER PART OF
17 THE STORY.

18 HE ACTUALLY TOLD YOU THAT HE WAS THE ONE
19 THAT SUGGESTED THE MERGER. THAT'S A SILLY POINT TO PICK
20 IT, BUT HE DIDN'T. IT HAD ALREADY BEEN GOING FOR A
21 COUPLE OF YEARS. IN FACT, IT WAS ALMOST TOTALLY
22 DISBANDED BY THE TIME BILL WILSON CAME IN THE PICTURE.
23 AND HE TOLD YOU ABOUT THIS CONVERSATION. AND TO HIS
24 CREDIT, HE IS ONE OF THE FEW WITNESSES THAT CAME FORWARD
25 BEFORE THIS MILLION DOLLAR REWARD CAME ABOUT.

26 THINK ABOUT THAT. NOT A SINGLE WITNESS IN
27 THIS CASE WANTS THE REWARD, CARES ANYTHING ABOUT IT. NOT
28 ONE. NOT AT ALL. SO IF I BRING IT UP, IT'S BECAUSE I

1 WANT TO EXPLORE: WHAT IS YOUR MOTIVATION FOR TESTIFYING?
2 THE JUDGE ACTUALLY READ YOU AN INSTRUCTION WHERE WE'RE
3 ALLOWED TO ASK. BUT WHAT DOES BILL WILSON DO? HE SAYS
4 HE HAS THIS DINNER PARTY. HE ORIGINALLY TELLS US IT'S
5 AROUND THE TIME THAT HE BOUGHT HIS HOUSE. BUT NOW HE
6 SAYS IT'S THREE YEARS LATER, A LITTLE CLOSER TO THE
7 MURDER; A LITTLE CLOSER IN TIME TO MAKE IT RELEVANT.

8 AND WHAT WAS ACTUALLY SAID? I'M GOING TO
9 TAKE HIM OUT OR TAKE HIM DOWN. IN HINDSIGHT A MURDER
10 THREAT. IF HE HAD COME FORWARD EARLIER, WE WOULD HAVE
11 HAD THE EXACT DATE OF THE CONVERSATION MEMORIALIZED, BUT
12 WE DON'T. BUT EVERYTHING IS ABOUT TWO YEARS OFF WITH
13 HIM. I SUGGESTED THE MERGER. THE MERGER HAD ALREADY
14 BEEN DONE.

15 BUT HE ALSO TOLD US ABOUT THE ROSE BOWL
16 BECAUSE HE USED TO BE MANAGER OF THE ROSE BOWL PRIOR TO
17 BEING AT JACK MURPHY STADIUM. IT IS A HARD SELL FOR
18 PROMOTERS. NO ONE LIKES TO DO EVENTS THERE.

19 KAREN DRAGUTIN SAID THAT MICHAEL GOODWIN
20 WAS UPSET ABOUT LAWYERS. NOW THINK ABOUT THIS, HE'S
21 HAVING A LOUD CONVERSATION IN A RESTAURANT WHERE HE'S
22 SUPPOSEDLY MAKES THESE LOUD COMMENTS. ALL OF THESE
23 THINGS THAT SHE HEARS ARE SAID OPENLY AND IN PUBLIC.
24 THIS ISN'T LIKE I OVERHEARD SOMEONE PLANNING A MURDER.
25 SHE WENT OUT ON A BLIND DATE WITH SOME GUY. SHE SAYS THE
26 CASE ON THE TELEVISION. WE HAVE NO EVIDENCE OF ANY
27 CONTACT WITH THE POLICE PRIOR TO THAT. SO GOES OUT ON A
28 BLIND DATE. I WENT OUT WITH THAT GUY. I REMEMBER HIM

1 THREATENING SOMEONE BACK THEN.

2 STEW LINKLETTER PROBABLY GAVE US ONE OF
3 THE MOST TELLING LINES OF THIS WHOLE TRIAL. THIS IS A
4 MAN WHO WORKED WITH MICHAEL GOODWIN. YEAH, WHAT DID YOU
5 THINK WHEN MICHAEL GOODWIN THREATENED TO KILL YOU?
6 THAT'S WHAT THE DISTRICT ATTORNEY ASKED HOPING THAT HE
7 WOULD SAY, OH, MY GOD, I WAS TERRIFIED OUT OF MY WITS.
8 HE SAID, THAT'S MIKE GOODWIN. THAT'S LOUD, BRASH MIKE
9 GOODWIN.

10 WHAT HE WAS SUPPOSED TO COME IN TO SAY WAS
11 THAT MICHAEL GOODWIN HAD SOME TIGER BY THE TAIL AND WAS
12 TRYING FOR CHEAT MICKEY THOMPSON. BUT, AGAIN, WE TALKED
13 ABOUT THAT IN THE MYTH. YOU HAVE THE CONTRACTS. THE
14 EVIDENCE SUGGESTS OTHERWISE.

15 BOB UTSEY TELLS YOU THAT IN JUNE OF 1988
16 MICHAEL GOODWIN WAS IN SOUTH CAROLINA USING THE ALIAS
17 MICHAEL GOODWIN TO AVOID DETECTION. HE WASN'T FLEEING
18 ANYWHERE. HE HAD SUPPLIES ORDERED. HE HAD LETTERS FROM
19 CALIFORNIA. HE HAD A PHONE LINE. THERE WAS SOME URGENCY
20 IN AUGUST OF '88. NOW AGAIN WHAT EVIDENCE DO WE HAVE OF
21 URGENCY? WELL, WE HAVE TWO. ONE, HURRICANE SEASON.

22 MAYBE MORE IMPORTANTLY DELORES CORDELL
23 TOLD YOU, THEY'RE COMING AFTER THE BOAT. THEY ARE COMING
24 AFTER THE BOAT IN AUGUST OF 1988. WHY? MICHAEL GOODWIN
25 HAD SIGNED THE DISCHARGE AGREEMENT. THAT GAVE THE
26 BANKRUPTCY -- THE LAWYERS, THAT GAVE THEM THE RIGHT TO
27 COME AFTER HIS PROPERTY AGAIN.

28 SO HE WAS TAKING THE BOAT AWAY SO THAT

1 THEY WOULDN'T COME AFTER IT BECAUSE THEY KNEW WHERE HE
2 WAS. HOW DID THEY KNOW WHERE HE WAS? BECAUSE HE HAD
3 PHONE LINES. HE WAS ORDERING SUPPLIES. HE HAD AN
4 ACCOUNT. HE WAS USING HIS OWN NAME. THIS ISN'T A MAN ON
5 THE RUN FROM THE LAW.

6 WE DON'T KNOW WHERE HE WAS FROM 1988,
7 ACCORDING TO THE D.A., UNTIL 1991. NO ONE WAS LOOKING
8 FOR HIM. THEY KNOW THAT FOR THREE WEEKS IN 1991 HE
9 WAS -- IT TOOK MIKE MAGEE -- WE HAVE THE STIPULATION --
10 IT TOOK HIM THREE WEEKS TO FIND MICHAEL GOODWIN ON A BOAT
11 IN THE BAHAMAS, THREE TO FOUR WEEKS, IS ALL HE SAID.

12 THIS ISN'T A MAN WHO WAS ON THE RUN. THIS
13 IS ONE MONTH IN 1991. WHAT BOB UTSEY TELLS US IS THAT
14 MICHAEL GOODWIN WAS USING -- EVERYTHING WAS ON THE UP AND
15 UP. DIANE GOODWIN, HER NAME, PHONE LINES. PENN WELDON
16 IS THE FORMER POLICE OFFICERS. WHAT WERE THERE TWO OR
17 THREE FORMER POLICE OFFICERS THAT MICHAEL GOODWIN WAS
18 SPOUTING OFF TO, A MAN WHO WAS PLANNING THIS CRIME; A MAN
19 WHO WAS REALLY INTENDING TO KILL SOMEONE, HE'S GOING TO
20 SIT DOWN WITH -- I THINK BILL WILSON IS A FORMER POLICE
21 OFFICER; PENN WELDON; JOHN WILLIAMS, THAT'S THREE.

22 HE SAYS HE JUST GOT ROYALLY IN A LAWSUIT.
23 THAT PUTS IN 1985. HE IS IN TRIAL. THAT MEANS 1985. SO
24 THREE YEARS PRIOR TO MICKEY THOMPSON BEING KILLED ALL
25 THESE BAD THINGS THAT HE'S SAYING ABOUT A VERY HEATED
26 DISPUTE. THERE IS NO - -NO DISPUTE AT ALL ABOUT THE FACT
27 THAT THIS WAS BITTER LITIGATION. ALL OF THAT IN
28 HINDSIGHT BECOMES MURDER THREATS. AND, AGAIN, WE'RE

1 TALKING ABOUT A CONVERSATION IN A RESTAURANT IN FRONT OF
2 PENN WELDON AND HIS WIFE. I WROTE UP HERE, IT'S NOT UP
3 SOME OVERHEARD WHISPER IN THE BACK OF SOME POOL HALL.
4 HE'S IN A RESTAURANT YELLING ABOUT LAWYERS.

5 GREG KEAY WHO IS NOW AGAIN ON THE DISTRICT
6 ATTORNEY'S SLIDE MAKING ONE OF THESE HORRIBLE COMMENTS
7 ABOUT MICKEY THOMPSON IS OUT TO GET MY MONEY. THAT'S THE
8 SCRIPT. MICKEY THOMPSON IS OUT TO GET MY MONEY. BEFORE
9 IT HAPPENS, I'LL HAVE HIM WASTED. THAT'S NOT WHAT HE
10 SAID IN COURT. WHEN HE WAS FIRST INTERVIEWED, WHEN HE
11 WAS FIRST INTERVIEWED, THAT PARTNER OF MY MINE IS RUBBING
12 ME THE WRONG WAY. HE'S NOT GOING TO BE RUBBING ME MUCH
13 LONGER.

14 DO YOU SEE HOW EVERYTHING JUST SORT OF
15 SUBTLE CHANGES. MARK LILLIENFELD INTERVIEWED HIM. THAT
16 PARTNER OF ME IS RUBBING ME THE WRONG WAY. A LOT
17 DIFFERENT THAN BEFORE HE SEES A DIME, I'LL HAVE HIM
18 WASTED. BEFORE HE SEES A DIME, I'LL HAVE HIM WASTED IS
19 PART OF THE SCRIPT. THAT PARTNER OF ME IS RUBBING ME THE
20 WRONG WAY IS A MAN YELLING ABOUT A BANKRUPTCY. YOU HAVE
21 CAN'T GO BACK AND REWRITE HISTORY.

22 DAVE JACOBS, AGAIN, THIS IS VERY
23 INTERESTING. THIS IS THE MAN WHO RAN THE ROSE BOWL. HE
24 TELLS YOU THAT MICHAEL GOODWIN BID ON THE '87 EVENT, YET
25 THERE IS NO EVIDENCE OF IT. AND THE OTHER THING THAT HE
26 TOLD YOU THAT I SAID TO KEEP NOTED IS THAT MICKEY
27 THOMPSON HAD TEARS IN HIS EYES. DO YOU RECALL THAT?
28 MICKEY THOMPSON HAD TEARS IN HIS EYES WHEN HE WON THE

1 EVENT IN 1987.

2 THE ODD PART OF THAT MICKEY THOMPSON HAD
3 ALREADY RACED AN EVENT AT THE ROSE BOWL. IF YOU LOOK AT
4 HIS TESTIMONY, THIS WAS HIS SECOND RACE. IT WAS HIS
5 SECOND EVENT. THERE WAS NO REASON FOR HIM TO BE
6 OVERJOYED AT MICHAEL GOODWIN'S EXPENSE. HE HAD JUST RUN
7 A RACE IN MAY OF '86. THIS MAKES NO SENSE. BUT IT'S
8 PART OF THE SCRIPT. MICHAEL GOODWIN LOST TO MICKEY
9 THOMPSON. HE LOST THE ROSE BOWL.

10 MICKEY THOMPSON WAS SO PROUD AND HE HAD
11 TEARS IN HIS EYES. AND MICHAEL GOODWIN WAS MAD IN THE
12 HALLWAY. NOT IN THE MINUTES WHATSOEVER. THERE IS NO
13 EVIDENCE OF THIS. AND IT WOULD BE JUST BIZARRE FOR A
14 BUSINESSMAN WHO IS COMING IN WITH A LOW BID TO BE IN THE
15 HALLWAY OF A CITY COUNCIL MEETING CRYING WITH JOY WHEN HE
16 HAD SERIOUSLY JUST RUN AN EVENT SIX MONTHS PRIOR AT THE
17 SAME LOCATION.

18 AND PHIL BARTINETTI TELLS US A LOT OF
19 THINGS. THE MAIN PART WAS THEY WERE NEVER ABLE TO FIND
20 ANY OF MICHAEL GOODWIN'S ASSETS. THEY WEREN'T ABLE TO
21 GET IT. LAWYERS WERE INVOLVED AT ALL STAGES. HERE IS
22 PART OF THE SCRIPT THAT PHIL BARTINETTI FILLS IN FOR US.
23 DO YOU RECALL THE INTERSECTION BETWEEN THE DISTRICT
24 ATTORNEY AND PHIL BARTINETTI?

25 HE SAID THIS IS AN AGREEMENT FOR THE
26 TRANSFER OF STOCK, THE DISTRICT ATTORNEY SAID LET'S CALL
27 IT A PARTNERSHIP AGREEMENT. AND PHIL BARTINETTI SAID,
28 WELL, NO, THAT'S NOT REALLY WHAT IT IS. IT IS A TRANSFER

1 OF STOCK. NO, LET'S CALL IT A PARTNERSHIP AGREEMENT.
2 THAT WENT BACK AND FORTH FOR LIKE FOUR TIMES. BECAUSE
3 PARTNERSHIP AGREEMENT WAS IN THE SCRIPT. TRANSFER OF
4 STOCK THAT'S TOO CONFUSING.

5 IF THESE MEN ARE PARTNERS, THEN WHEN IT
6 ALL GOES TO HELL, THERE IS A LOT MORE OF A MOTIVE. IF
7 THEY HAD AN AGREEMENT TO TRANSFER STOCK, MICHAEL
8 GOODWIN'S COMPANY WORTH MORE THAN TWICE MICKEY THOMPSON'S
9 COMPANY, IT'S BETTER TO CALL IT A PARTNERSHIP AGREEMENT,
10 THAT WAY WE CAN SAY WHEN THINGS WENT WRONG, IT GOT WORSE.

11 MICKEY THOMPSON LOST \$380,000 OUT OF
12 POCKET. HE HAD PUT UP THE OVERHEAD FOR THE RACES.
13 THAT'S WHAT PHIL BARTINETTI TELLS US. THIS WASN'T
14 SKIMMING. AND HE TELLS US THAT MICHAEL GOODWIN WAS
15 WORRIED ABOUT THEM COMING AFTER HIS BOAT. WHICH EXPLAINS
16 WHY HE TRANSFERRED SOME OF DIANE'S ASSETS. WHY HE TOOK
17 THE BOAT AWAY. WHY HE HAD SOME URGENCY TO SALE AWAY FROM
18 BOB UTSEY.

19 HE ALSO TOLD US -- HE ACTUALLY ADMITTED
20 MICHAEL GOODWIN HAD LONG SUCCESS IN STADIUM RACING.
21 MICKEY THOMPSON HAD NOT YET PROVEN HIMSELF IN STADIUM
22 RACING. THE CONTRACT THAT YOU SEE, IT'S CLEAR ON ITS
23 FACE. YOU HAVE THAT. THAT'S EVIDENCE. YOU CAN'T GO
24 BACK AND CHANGE THAT. THAT'S IN THE RECORD. YOU HAVE
25 THAT.

26 BARRON WEHINGER, AGAIN, WILLING TO ADD
27 MORE TO THIS SCRIPT. AND WHAT DOES HE ADD? LOOK AT THE
28 PEOPLE THAT HAVE ADDED THINGS TO THE SCRIPT. WHEN THEY

1 ARE FIRST INTERVIEWED BY THE POLICE, BARRON WEHINGER'S
2 FIRST STATEMENT, "I'LL TAKE CARE OF HIM. I'LL TAKE CARE
3 OF HIM. THAT BECOMES "I'LL KILL HIM." AND THEN WHAT
4 DOES HE ADD? HE ADDS A HIT MAN AND MONEY. WHY? BECAUSE
5 THAT'S WHAT THE TELEVISION HAS BEEN SAYING ALL THESE
6 YEARS.

7 1984 IS THE HEIGHT OF THE LITIGATION.
8 MICHAEL GOODWIN SAID TO HIM -- AND THIS WAS HIS FIRST
9 INTERVIEW WITH THE POLICE AND TELL ME WHAT YOU TRUST
10 MORE, A MAN'S FIRST INTERVIEW WITH THE POLICE OR WHEN HE
11 COMES INTO COURT WITH ALL THE CAMERAS RUNNING AND
12 EVERYONE TALKING ABOUT A HIT MAN; AND HE ADDS JUST
13 COINCIDENTALLY ENOUGH A HIT MAN AND MONEY.

14 AND HE SAID, WELL, I DIDN'T TELL THE TRUTH
15 AT FIRST BECAUSE I WOULD EMBARRASS MY MOM. HE HADN'T
16 TALKED TO HIS STEPFATHER IN 12 YEARS. THE MAN THAT HE
17 WAS CLAIMING WAS COMING INTO THIS BIDDING WAR, WITH THIS
18 IDEA THAT \$20,000, WHICH IS THE EXACT AMOUNT THAT'S
19 SUPPOSEDLY MISSING, NEVER MENTIONED IN HIS ORIGINAL
20 STATEMENT. NOT ONCE.

21 DALE NEWMAN. DON'T WORRY, HONEY. I'LL
22 TAKE CARE OF IT. NOTHING BAD WILL HAPPEN. HOW IS THIS
23 POSSIBLY A MURDER THREAT? HOW MUCH DO YOU HAVE TO
24 MANIPULATE THE FACTS AND WARP REALITY TO HAVE A HUSBAND
25 WHO IS CONSOLING HIS WIFE AT THE HEIGHT OF A LEGAL
26 DISPUTE A MURDER THREAT? WHAT HE DOES TELL US IS THAT
27 MICHAEL GOODWIN WAS ON A BOAT A LOT. HE WAS A SCUBA
28 DIVER. HE WAS A SAILER. THAT'S WHAT HE DID.

1 GREG SMITH TELLS US THAT MIKE GOODWIN
2 SCREWED UP HIS OWN CONTRACT. AND HE DID. HE WOULDN'T
3 COOPERATE WITH OTHERS. HE WANTED TO BE THE ONLY FISH IN
4 THE POND. AND WHAT DID HE SAY, YOU'LL BE SORRY, I'LL BE
5 BACK. YOU'LL BE SORRY, I'LL BE BACK.

6 AND WHAT HAPPENED? MICKEY THOMPSON GOT A
7 ONE-YEAR CONTRACT. AND THE FIRST YEAR LESS THAN 40,000
8 PEOPLE IN THE SEATS AND AN ACCIDENT. WOULD MICHAEL
9 GOODWIN HAD BEEN ABLE TO COME BACK? WOULD HE HAVE BEEN
10 ACCEPTED WITH OPEN ARM AS THE PRODIGAL SON, A MAN THAT
11 COULD PUT 70,000 PEOPLE IN THE SEATS. WOULD THEY HAVE
12 GOTTEN OVER HIS ARROGANCE? WOULD THEY HAVE GOTTEN OVER
13 HIS BAD PUBLICITY? WOULD THEY HAVE GOTTEN OVER THE FACT
14 THAT HE DIDN'T REPLACE THE SOD AS WELL AS HE SHOULD HAVE
15 IF HE'S GOING TO PUT TWICE THE NUMBER OF THE PEOPLE IN
16 THE STANDS? HE SAYS, I'LL BE BACK.

17 DELORES CORDELL TELLS US THE WRIT FOR THE
18 MERCEDES WAS IN JUNE OF 1986. SHE ALSO TELLS US ABOUT
19 THE WRIT FOR THE COLOSSEUM PROCEEDINGS CHANGING THE
20 SCRIPT A LITTLE BIT BECAUSE THE DISTRICT ATTORNEY HAD
21 PROMISED TO SHOW MICKEY THOMPSON HAD WON IT. DELORES
22 SAYS, WELL, WE TIED UP FOR A WHILE.

23 SHE TALKS ABOUT THE PERSONAL SURETY BEING
24 REJECTED. AND, AGAIN, MICKEY THOMPSON DID WIN THIS
25 ARGUMENT, BUT HE WOUND UP LOSING TWO AND A HALF MILLION
26 DOLLARS. HE ALSO SAID THEY WENT AFTER MICHAEL GOODWIN'S
27 OWN PERSONAL STOCK IN E.S.I. THIS IS WHERE THE
28 ALLEGATION OF A STRAW COMPANY WAS CREATED.

1 WHAT MICHAEL GOODWIN DID WAS DECLARE
2 CORPORATE BANKRUPTCY. THEN THEY TRIED TO COME AFTER HIS
3 STOCK, SO HE GOT PROTECTION OF PERSONAL BANKRUPTCY SO
4 THEY COULDN'T EVEN COME AND TAKE HIS STOCK AWAY.
5 IT COMPLETELY STOPPED US FROM LEVYING ON ANY ASSETS. THE
6 ENTIRE JUDGMENT TOOK LESS THAN \$4,000 OUT OF MICHAEL
7 GOODWIN'S POCKET.

8 DELORES CORDELL ALSO SAID THAT MICKEY
9 THOMPSON WON THE INSPORT AGREEMENT. IT NEVER HAPPENED.
10 JEFFREY COYNE HAD TO COME IN AND CORRECT HER. WE HAD TO
11 SHOW HER THE BANKRUPTCY DOCKET. THERE NEVER WAS A SECOND
12 AUCTION. ONE AUCTION 1986. E.S.I. WON IT. E.S.I. OWNER
13 DIANE GOODWIN; PRESIDENT MICHAEL GOODWIN.

14 THIS IS THE OTHER INTERESTING THING ABOUT
15 DELORES'S TESTIMONY. SHE SAID WHEN MR. SUMMERS ASKED HER
16 FOR A DOCUMENT, WELL, YOU KNOW, THERE WERE 80 BOXES.
17 WELL, I'M SORRY, BUT IF NOT NOW, WHEN? IF YOU'RE NOT
18 GOING TO GO THROUGH THOSE 80 BOXES AND BRING IN DOCUMENTS
19 TO PROVE YOUR POINT, WHAT ARE YOU SAVING THE 80 BOXES
20 FOR. THIS IS WHERE THE EVIDENCE SHOULD COME.

21 EVERY SINGLE DOCUMENT IN THIS CASE CAME
22 FROM THE DEFENSE. THINK ABOUT THAT. WE'RE THE ONES THAT
23 BROUGHT IN THE DOCUMENTS. MR. SUMMERS -- AND YOU SAW HIM
24 BECAUSE HE WAS RUNNING THROUGH BOXES TO FIND THEM, IS THE
25 ONE THAT BROUGHT IN THESE DOCUMENTS. THIS ISN'T PROOF
26 BEYOND A REASONABLE DOUBT. YOU DON'T COME INTO A
27 COURTROOM AND POINT FINGERS AT SOMEONE AND NOT HAVE ANY
28 FACTUAL DOCUMENTS TO BACK ANY OF YOUR CLAIMS UP.

1 THE BILLING STATEMENT. THERE WAS
2 ABSOLUTELY NO SIGNIFICANCE TO THIS MARCH DATE. THE CASE
3 HAD BEEN CONTINUED. YOU HAVE THAT IN THE EVIDENCE.
4 THAT'S THE BILLING STATEMENT. WE SAW IT EARLIER. MARCH
5 15TH, '88, SHE BILLED MICKEY THOMPSON FOR IT. SHE KNEW
6 IT WAS GOING TO HAPPEN.

7 SHE SAYS NOW -- SHE TELLS US THAT MICKEY
8 THOMPSON ONLY NEGOTIATED FOR HIS OWN DEBT. AND THERE
9 WERE LAWYERS WORKING ON BOTH SIDES FOR MONTHS ON THIS
10 AGREEMENT. THE SCRIPT IS WE DIDN'T HAVE FAITH IN THE
11 SETTLEMENT. THAT'S THE NEW VERSION, WELL, YEAH, THERE
12 WAS A NON-DISCHARGE AGREEMENT. YES, WE HAD APPLICATION
13 TO THE COURT AND SIGNED THESE PLEADINGS UNDER PENALTY OF
14 PERJURY ASKING FOR A CONTINUANCE. YES, WE WROTE IN THESE
15 PROCEEDINGS AND PLEADINGS. WE WERE ON THE VERGE OF A
16 SETTLEMENT, BUT NOW THAT MICKEY THOMPSON IS DEAD AND WE
17 WANT TO USE THIS AS SOME EVIDENCE, WE DIDN'T REALLY HAVE
18 FAITH.

19 WELL, THEY HAD ENOUGH FAITH TO BILL 200
20 SOME DOLLARS AN HOUR FOR THE MONTHS THAT THEY WERE
21 WORKING ON IT. AND, AGAIN, IT IS THE EXACT SAME
22 SETTLEMENT MICHAEL GOODWIN SIGNED 13 DAYS AFTER MICKEY
23 THOMPSON WAS MURDERED.

24 JEFF COYNE TOLD YOU ABOUT THE INSPORT
25 AGREEMENT. THERE WAS NO SECOND AUCTION. THE DISTRICT
26 ATTORNEY WROTE THIS PART OF THE SCRIPT WITHOUT EVEN
27 CHECKING. MICKEY THOMPSON NEVER GOT INSPORT. THEY
28 DIDN'T TELL YOU IN THEIR OPENING STATEMENT, OH, THERE IS

1 AN ISSUE ABOUT THIS. THEY TELL YOU MICKEY THOMPSON WON
2 INSPORT. THAT'S WHAT THEY SAID TO YOU. THEY PROMISED TO
3 PROVE CERTAIN THINGS. THEY DID NOT PROVE THEM. THE BACK
4 PEDALED. THEY SAID, WELL, SHE DIDN'T OWN IT FREE AND
5 CLEAR.

6 AND THEN THEY SUGGESTED, WELL, WOULD
7 MICKEY THOMPSON HAVE WANTED IT IF IT WAS EVER
8 REPOSSESSED? THAT'S A LOT DIFFERENT THAN MICKEY THOMPSON
9 TOOK IT AWAY FROM MICHAEL GOODWIN AND THAT'S THE MOTIVE
10 FOR WHY HE KILLED HIM.

11 HE ALSO MADE A THREAT, LIGHTEN UP OR
12 THINGS WILL GET BAD. IF YOU SCREW UP MY LIFE, I'LL SCREW
13 UP YOURS. WHAT DID HE TELL US? MICHAEL GOODWIN WAS
14 LOUD, INTIMIDATING AND CONFRONTATIONAL. HOW MANY PEOPLE
15 DID WE HEAR MICHAEL GOODWIN MOUTHED OFF TO THAT WALKED
16 INTO THIS COURTROOM ALIVE AND WELL. THAT'S THE WAY HE
17 IS.

18 HEATED WORDS IN A BANKRUPTCY IN RETROSPECT
19 ARE NOW BEING USED AS MURDER THREATS. MUCH OF WHAT I SAW
20 WAS FOR THE PURPOSE OF NOT PAYING CREDITORS. THAT'S WHAT
21 JEFFREY COYNE TOLD YOU. IF IT'S FOR THE PURPOSE OF NOT
22 PAYING CREDITORS, THEN IT'S IN THIS PILE OVER HERE AND
23 YOU CAN'T USE IT AS EVIDENCE OF THE MURDER.

24 MICKEY THOMPSON NEVER BOUGHT AN ASSET FROM
25 E.S.I. THAT WAS THE INSPORT. AND THE MERCEDES WAS TURNED
26 OVER TO THE BANK BY DIANE GOODWIN ON JANUARY 20TH, 1988,
27 TURNED OVER THROUGH JACKIE SOUTHERN WHO RAN THE STORAGE
28 FACILITY. MY HUSBAND AND I; WE DROVE UP; WE GOT THE

1 KEYS; WE STORED IT; IT GOT SOLD AT AUCTION.

2 YOU DON'T NEED A MERCEDES WHEN YOU'RE ON A
3 \$400,000 BOAT CRUISING THE EASTERN SEABOARD. THIS WAS
4 VOLUNTARILY TURNED OVER. THE POLICE CAME AND TORE IT
5 APART. JACKIE SOUTHERN TOLD YOU THAT. WHAT THAT MEANS
6 IS THAT THEY KNEW THAT JOHN WILLIAMS WAS LYING. THEY
7 KNEW. AND THEY PRESENTED HIM TO YOU AS IF IT WAS
8 COMPELLING EVIDENCE OF A MURDER THREAT IN FEBRUARY OF
9 1988. THEY KNEW THIS.

10 THE POLICE TORE THIS CAR APART. JOHN
11 WILLIAMS IS JUST SIMPLY DELUSIONAL. I FEEL LIKE HE'S ONE
12 OF THOSE KIDS THAT PUTS HIS FINGERS IN HIS EAR WHEN YOU
13 TRY TO TELL HIM SOMETHING. WE GAVE HIM THE DOCUMENTS.
14 WE SHOWED HIM. THE DISTRICT ATTORNEY'S WITNESSES
15 PROVIDED YOU EVIDENCE THAT HE WAS LYING. MICHAEL GOODWIN
16 WAS IN BANKRUPTCY MIDDLE OF '86; ALL OF '87; MOST OF '88.

17 YOU CANNOT TAKE A PERSON'S PROPERTY WHEN
18 THEY ARE IN BANKRUPTCY. PHIL BARTINETTI TOLD YOU SO.
19 THE LAW SAYS SO. ORANGE COUNTY MARSHAL. HE WASN'T A
20 U.S. MARSHAL. EVEN IF BY SOME OBSCURE FACT JEFF COYNE
21 WANTED TO TAKE HIS CAR AND THERE WAS GOING TO BE SOME
22 CONFRONTATION, JOHN WILLIAMS WOULDN'T BE THE ONE TO DO
23 IT. HE'S A STATE ORANGE COUNTY MARSHAL.

24 THIS HAPPENED IN ALL AUGUST OF 1986. HE
25 COULD HAVE TOWED THE MERCEDES IN 1988. HE SIMPLY COULD
26 NOT HAVE. THAT'S PROBABLY ONE OF THE MOST COMPELLING
27 STATEMENTS THE DISTRICT ATTORNEY PUT ON THAT OVERHEAD IN
28 THE OPENING STATEMENT, THAT'S PROBABLY THE ONE YOU

1 REMEMBER. I KNOW IT WAS QUOTED EXTENSIVELY, THE LITTLE
2 Bleeps IN THE PRESS. HE'S FREAKING DEAD. HE DOESN'T
3 KNOW WHO HE'S FREAKING DEALING WITH. FEBRUARY OF 1988.
4 HE KNEW BEFORE HE TOLD YOU THAT THAT WAS NOT TRUE.

5 HE HAD TO KNOW ALL OF THE DOCUMENTS, ALL
6 OF THE EVIDENCE SAYS THAT. THE OTHER THING MICHAEL
7 GOODWIN WAS SUPPOSEDLY GOING TO GO INTO THIS TIRADE WITH
8 JOHN WILLIAMS AND NEVER SAY TO HIM, I'M IN BANKRUPTCY,
9 BUDDY. YOU CAN'T DO THIS. DOES THAT SOUND LIKE MICHAEL
10 GOODWIN? THE SHY, RETIRING TYPE TO NOT TELL A MAN WHO IS
11 ABOUT TO TAKE HIS CAR I'M IN BANKRUPTCY.

12 THE SCRIPT OF THE D.A. IS WE NEED THIS
13 REALLY BAD STATEMENT COMING FROM MICHAEL GOODWIN AND WE
14 NEED IT CLOSE IN TIME TO THE MURDER. AND WE'RE GOING TO
15 IGNORE THE FACTS. AND WE'RE GOING TO IGNORE THE
16 DOCUMENTS, LIKE WE DO WITH EVERYTHING THAT DOESN'T FIT
17 OUR SCRIPT BECAUSE WE'RE GOING TO TAKE ALL OUR MIGHT AND
18 WE ARE GOING TO SHOVE THAT SQUARE PEG IN A ROUND HOLE.

19 AND IT DOESN'T MATTER WHAT THE EVIDENCE
20 SAYS, BECAUSE WE'VE GOT OUR SCRIPT AND IT'S HERE AND IT'S
21 WRITTEN AND I DON'T CARE WHAT ANYONE SAYS. IT IS A
22 SCRIPT THAT WAS WRITTEN BEFORE THIS TRIAL STARTED. NEVER
23 EVER, EVER WERE ANY OF THE WITNESSES WILLING TO SAY
24 ANYTHING BAD ABOUT MICHAEL GOODWIN CONFRONTED WITH ANY
25 DISCREPANCY. NOT ONCE.

26 NOW THEY MIGHT SAY, WELL, THE TIMING IS
27 OFF, BUT YOU CAN BELIEVE THE QUOTE. HE NEVER CALLS THE
28 POLICE. HE CALLS THE PERSON OFFERING THE REWARD, BUT

1 HE'S NOT INTERESTED IN THE REWARD.

2 LARRY HUNT TOWING, WE BRING IN THE
3 RECEIPT; WE BRING IN THE WRIT; WE BRING IT IN. NO
4 RECORDS TO BACK UP ANY OF HIS CLAIMS. THE SCRIPT, WE
5 WILL PUT THE QUOTE IN THE OPENING. WE WON'T TELL THEM
6 THE GUY IS PROBABLY LYING BECAUSE THIS IS A GOOD ONE; AND
7 IT'S RIGHT CLOSE TO THE MURDER; AND IT FITS OUR SCRIPT
8 PERFECT.

9 A WITNESS WHO IS WILLFULLY FALSE IN ONE
10 MATERIAL PART OF HIS TESTIMONY IS TO BE DISTRUSTED IN
11 OTHERS. YOU CAN'T OFFER THIS MAN UP AS PROOF OF A THREAT
12 WHEN YOU KNOW HE'S BEEN CAUGHT IN A HUGE LIE. YOU SIMPLY
13 CAN'T DO IT. THIS ISN'T A SITUATION WHERE SOMEONE IS
14 MAKING AN HONEST MISTAKE. AND THEY'RE SHOWN A RECEIPT
15 AND THEY SAY, YOU KNOW WHAT, I REMEMBERED IT WRONG.
16 YOU'RE RIGHT. HE'S DENYING THAT THIS WAS 1986. IN OTHER
17 WORDS, HE'S LYING TO US. IT COULD NOT HAVE BEEN JANUARY
18 OR FEBRUARY OF 1988. IT SIMPLY COULD NOT HAVE BEEN.

19 WE HAVE THE OTHER WITNESSES THAT I
20 REFERRED TO AT THE START AS ANIMOSITY WITNESSES; PEOPLE
21 THAT WORK FOR MICHAEL GOODWIN; PEOPLE THAT OVERHEARD
22 EITHER MICKEY THOMPSON OR MICHAEL GOODWIN SAY ANYTHING.
23 SCOTT HERNANDEZ WAS SUPPOSEDLY SO UPSET THAT HE LEFT
24 WORK, BUT HE CAME BACK THE NEXT DAY AND THE DAY AFTER
25 THAT AND THE DAY AFTER THAT. THIS IS A MAN WHO YELLED
26 WHEN HIS REFRIGERATOR WAS NOT STOCKED WITH SODA. AND
27 SUPPOSEDLY THE THREAT HE HEARD WAS I'LL KILL THAT MOTHER
28 BLEEP. HE HAS NO IDEA WHO HE WAS TALKING TO.

1 CHERYL SARANTIS WE HEARD AGAIN THIS
2 MORNING THAT HE WANT TO DESTROY HIM. BUT I PLAYED YOU
3 THE TAPE OF HER TRANSCRIPT INTERVIEW. WHAT DID SHE SAY?
4 WELL, NO, HE NEVER SAID THE WORD "DESTROY." I JUST
5 ASSUMED THAT.

6 MR. WEISSLER COMES WITH A FIVE-MINUTE
7 CONVERSATION WITH MICHAEL GOODWIN. HE HAD A FIVE-MINUTE
8 CONVERSATION WITH MICHAEL GOODWIN IN 1984, THEN STAYS IN
9 A ROOM WITH HIM FOR AN HOUR. YEARS LATER HE RECOGNIZES
10 HIS VOICE THROUGH TWO PHONE LINES. NO RECORD AT ALL.
11 THEY GOT MICHAEL GOODWIN'S PHONE RECORDS. DON'T YOU
12 THINK IF THEY HAD ONE CALL TO MICKEY THOMPSON, ONE CALL
13 IN THE THREE-YEAR PERIOD OR FIVE-YEAR PERIOD OR WHATEVER
14 MARK LILLIENFELD SAID HE HAD HIS RECORDS, THEY WOULD SHOW
15 IT TO YOU, JUST TO PROVE THE WHO MEN WERE TALKING. NOT
16 ONE RECORD OF A CALL BETWEEN THESE INDIVIDUALS.

17 AND MOST OF THE PEOPLE THAT HEARD BAD
18 THINGS MICHAEL GOODWIN WAS ON THE PHONES TO HIS LAWYERS.
19 THESE MEN WERE NOT SOCIAL BUDDIES IN 1984/85 AND '86.
20 THEY WERE IN A BITTER LAWSUIT AND THEY WERE PAYING THEIR
21 LAWYERS A LOT OF MONEY. AND ONE OF THE THINGS YOU PAY
22 YOUR LAWYERS FOR, SO YOU DON'T HAVE TO TALK TO THE GUY.
23 NOT ONE RECORD OF A SINGLE PHONE CALL BETWEEN THESE TWO
24 MEN. THE ONLY OTHER WITNESS WHO SAYS IT IS KATHY WEESE.

25 AND HE WAITS FOR THE TRIAL TO START BEFORE
26 HE CALLS THE DISTRICT ATTORNEY'S OFFICE. NOW THINK ABOUT
27 THIS, IN 1991 HE GOES TO THE POLICE STATION; GOES TO THE
28 POLICE STATION WITH HIS UNCLE, TRUDY THOMPSON'S BROTHER,

1 SPECIFICALLY TO TALK ABOUT THIS CASE. HE WON'T SAY IT'S
2 TO COMPLAIN ABOUT HOW EVERYTHING IS GOING, BUT IT'S
3 SPECIFICALLY TO TALK ABOUT THIS CASE.

4 THREE YEARS AFTER THE HOMICIDE; HE KNOWS
5 IT'S UNSOLVED. SUPPOSEDLY HE HAS THIS IMPORTANT
6 INFORMATION I HEARD THE MAN MAKE A THREAT, NOT JUST TO
7 MICKEY THOMPSON BUT HIS FAMILY. AND NOW WE KNOW THAT
8 THAT'S RELATED TO THE CRIME BECAUSE MICKEY THOMPSON'S
9 FAMILY WAS HURT. 1991 HE SAYS NOTHING. HIS EXCUSE FOR
10 SAYING NOTHING NOW, I DIDN'T THINK IT WAS THAT IMPORTANT.

11 YOU OVERHEARD A DEATH THREAT TO A MAN
12 WHOSE MURDER YOU'RE COMING INTO THE POLICE TO TALK ABOUT
13 AND YOU DIDN'T THINK IT WAS THAT IMPORTANT. IT WASN'T
14 THAT IMPORTANT UNTIL GREG KEAY, WHO WAS SUPPOSED TO MAKE
15 A STATEMENT ABOUT NOT GETTING A PENNY CHANGED HIS
16 TESTIMONY.

17 AND THEN WE HAVE KATHY WEESE. SHE'S A
18 FELON AND ESCAPEE FROM PRISON. SHE NEEDS A NEW NAME, SHE
19 MAKES ONE UP. HORN; ENGLIS; WOLOVER; POLUMBO; JOHNSON;
20 DOWNS; BROOKOVER. I EVEN LEARNED A FEW FOR THE FIRST
21 TIME. SHE NEEDS A NEW DATE OF BIRTH, SHE MAKES ONE UP.
22 SHE NEEDS A SOCIAL SECURITY NUMBER, SHE MAKES ONE UP.
23 SHE NEEDS A STORY TO GET OUT OF JAIL, SHE MAKES ONE UP.

24 SHE HATES MICHAEL GOODWIN. SHE TOLD YOU
25 SO. HE HAD HER ARRESTED. BECAUSE OF HIM THEY FOUND OUT
26 SHE WAS A FELON. BECAUSE OF HIM SHE HAD TO GO BACK TO
27 JAIL. SHE NEVER MENTIONS \$500 AND A MOTORCYCLE IN HER
28 FIRST INTERVIEW. THINK ABOUT THIS LINE, AGAIN, RIGHT OUT

1 OF THE SOPRANOS FOR \$500 AND A MOTORCYCLE I CAN HAVE YOU
2 TAKEN CARE OF. WHY I OUGHT A. NEVER MENTIONED. SAID TO
3 MARK LILLIENFELD, TAKE THE LUNCH HOUR; GO THROUGH THE
4 TRANSCRIPT. WAS THIS EVER MENTIONED? 1997 INTERVIEW.
5 THEIR RESPONSE WAS, WELL, DIDN'T YOU MENTION IT IN 2001?

6 WAIT A MINUTE. YOU WERE SPOKEN TO IN '97.
7 YOU DIDN'T MENTION IT. THE FACT THAT YOU STARTED TO SAY
8 IS LATER, DOES NOT REHABILITATE THE FACT THAT YOU JUST
9 MADE IT UP. YOU MAKE IT UP WHEN YOU HAVE AN AUDIENCE.
10 YOU MAKE IT UP TO MATCH THE CRIME WHEN YOU HAVE AN
11 AUDIENCE. WHEN SHE'S TALKED ABOUT THE FACTS OF

12 THE CASE, SHE DOESN'T KNOW IT IS A HIT AT THIS POINT.
13 WHEN SHE'S FIRST TALKING, SHE DOESN'T KNOW IT IS A HIT.
14 SO SHE SAYS, YEAH, HE HATED HIM. SHOWED A PICTURE OF
15 STUN GUN. DID MICHAEL EVER OWN ONE OF THOSE? YEAH,
16 YEAH, HE OWNED ONE OF THOSE. SHE DIDN'T COME UP WITH
17 STUN GUN ON HER OWN. SHE DOESN'T COME UP WITH THIS UNTIL
18 SHE FINDS OUT IT IS A HIT.

19 CHANGES HER STORY TO MAKE IT PART OF THE
20 PLAN. IF SHE HAD BEEN FACING WORSE CHARGES, IT GETS
21 WORSE WITH EACH TELLING. SHE IS WILLING TO LIE WHENEVER
22 IT SUITS HER. SHE NEVER, EVER CONTACTS THE POLICE. SHE
23 GOT HALF, HALF THE SENTENCE SHE COULD HAVE GOTTEN AS A
24 RESULT OF HELPING OUT MARK LILLIENFELD WHO SAID, I'LL DO
25 ANYTHING I CAN TO HELP YOU. SHE COMES UP WITH A STUN
26 GUN. SHE COMES UP WITH A STATION WAGON, ALL THINGS THEY
27 ASK HER ABOUT.

28 I POSIT THAT IF SHE WAS FACING WORSE

1 CHARGES, SHE WOULD HAVE SAID THAT MICHAEL GOODWIN HAD
2 10-SPEED BIKES IN HIS GARAGE. WHATEVER SHE KNOWS SHE
3 OFFERS UP.

4 NOW WE HAVE RON STEVENS, THE SCRIPT OF RON
5 STEVENS STORY IS THAT HE SEES THE MAN FACE ON FOR NEARLY
6 A MINUTE. HE DESCRIBES IN PERFECT DETAIL. AND HE PICKS
7 HIM RIGHT OUT OF A PHOTO LINE-UP. THE REALITY, I SHOWED
8 YOU THE AUDIO TAPE, YOU HAVE IT, IT IS A CD ROM. IT'S IN
9 YOUR EVIDENCE THAT YOU CAN REVIEW WITH THE TRANSCRIPT.

10 HE SAYS IN HIS FIRST INTERVIEW I REALLY
11 ONLY SAW THE GUY FROM THE SIDE. AND THEN HE PICKS OUT
12 NO. 1, NO. 3, NO. 5. THIS ISN'T A PHOTOSPREAD WHERE ONLY
13 ONE PERSON HAS THE POCK MARKS THAT HE DESCRIBED AND HE
14 STILL HAS TROUBLE. RED HAIRED STOCKY GUY WITH A CAP ON.
15 AND IT'S 13 YEARS LATER AND HE TELLS YOU HE'S FOLLOWING
16 THE STORY IN THE NEWS.

17 AND NOW WE'RE TO BE UPSET THAT MICHAEL
18 GOODWIN DOESN'T OFFER AN ALIBI. LET ME ASK YOU THIS,
19 WHAT DAY DID RON STEVENS SAY HE SAW MIKE GOODWIN OUTSIDE
20 HIS HOUSE? WHAT TIME? HE DIDN'T TELL US. OKAY. OH, IT
21 COULD HAVE BEEN THREE DAYS. IT COULD HAVE BEEN FIVE
22 DAYS. IT COULD HAVE BEEN SEVEN DAYS. IT WAS CLOSE. IT
23 WAS NEAR. ABOUT. HOW DO YOU COME UP WITH AN ALIBI IF
24 SOMEONE DOESN'T TELL YOU WHEN AND WHERE YOU WERE SUPPOSED
25 TO HAVE BEEN SEEN DOING SOMETHING. HE NEVER NARROWED IT
26 DOWN. HE'S COME UP WITH THREE OR FOUR OPTIONS. IT COULD
27 HAVE BEEN WEDNESDAY. IT COULD HAVE BEEN MONDAY. I'M NOT
28 SURE.

1 HE NEVER CALLS THE POLICE. NO RECORD AT
2 ALL. WE HAVE A RECORD OF SOMEONE CALLING IN TO SAY THE
3 GUY LOOKS LIKE BRYANT GUMBLE AND WE DON'T HAVE A RECORD
4 OF A GUY THAT SAYS I SAW A GUY CASING THE JOINT OUTSIDE
5 MY HOUSE. WE DON'T HAVE A RECORD BECAUSE IT DIDN'T
6 HAPPEN. HE DID NOT COME FORWARD UNTIL 2001.

7 AND IF YOU WANT THE PASSENGER TO BE BLACK
8 BECAUSE THAT FITS THE CRIME, THEN GUESS WHAT, I'LL TELL
9 YOU HE WAS. HE ADMITTED AS MUCH. WHEN I SAID TO HIM
10 DIDN'T YOU ORIGINALLY DESCRIBE THIS GUY AS WHITE, BUT
11 WHEN MARK LILLIENFELD ASKED YOU, YOU SAID, OH, IT COULD
12 HAVE BEEN A BLACK MAN.

13 A WITNESS'S WILLINGNESS TO CHANGE THEIR
14 STORY IS A HUGE RED FLAG THAT THEY'RE BEING INFLUENCED
15 ABOUT THE PERSON THAT THEY PICKED OUT OF A LINE-UP. BUT
16 HE DOES TELL US AND HIS WIFE TELLS US, THEY ARE ARIZONA
17 PLATES. AND WHY IS THAT SIGNIFICANT? BECAUSE MARK
18 LILLIENFELD TOLD US IN 1988 THERE WAS A SUSPECT THAT WAS
19 SEEN WITH ARIZONA PLATES. HE DOESN'T TRACE IT BACK.

20 PROBABLY THE MOST RELIABLE OF WHAT HE SAYS
21 MARK LILLIENFELD DOESN'T EVEN LOOK AT THAT PLATE. TONYIA
22 STEVENS IS PROOF THAT PEOPLE WILL CHANGE THEIR WHOLE
23 STORY TO MAKE THEMSELVES A PART OF THIS CASE. THERE WAS
24 NO -- NOTHING EQUIVOCAL ABOUT HER FIRST STATEMENT TO THE
25 POLICE. CLEAR RECOLLECTION OF LILLIENFELD SHE COULD NOT
26 RECALL IF THE CAR WAS OCCUPIED.

27 SHE COULDN'T EVEN TELL IF THERE WAS
28 SOMEONE IN IT. ONE PARAGRAPH STATEMENT. SHE DIDN'T SAY,

1 OH, THE FIRST TIME I SAW HIM, I THOUGHT THIS. OR THE
2 SECOND TIME I SAW -- ANYTHING. ONE PARAGRAPH STATEMENT
3 FROM DETECTIVE LILLIENFELD. I COULD NOT RECALL IF THE
4 CAR WAS OCCUPIED. SHE WAS NOT EVEN INVITED TO VIEW THE
5 PHOTO LINE-UP. WHY? BECAUSE SHE SAID I CAN'T RECALL IF
6 THE CAR IS OCCUPIED.

7 THEN SHE SEES MIKE GOODWIN ON TV. SHE
8 TELLS HER HUSBAND YOU'LL PICK HIM OUT. HE WAS THE GUY ON
9 THE TV. NOW WITH TONYIA STEVENS, IT'S VERY INTERESTING.
10 THIS GUY, ACCORDING TO TONYIA, WAS PARKED ON THE CORRECT
11 SIDE OF THE STREET. SO -- WELL, I LIVE NEAR A GRADE
12 SCHOOL AND HE COULD HAVE BEEN TRYING TO KIDNAP A PERSON.
13 SO DOES THAT MEAN SHE STOPPED AND LOOKED AT EVERY SINGLE
14 INDIVIDUAL IN THE LAST 13 YEARS THAT WAS PARKED ACROSS
15 HER STREET AND STILL SITTING IN THE CAR.

16 AT LEAST RON STEVENS, THE GUY WAS MAYBE
17 PARKED THE WRONG WAY. TONYIA STEVENS, HER RECOLLECTION
18 IS IT WAS PARKED CORRECTLY. WHY LOOK AT HIM? THE MURDER
19 HADN'T HAPPENED YET. YOU CAN'T SEE THE THOMPSON HOME
20 FROM THE STEVENSES' HOME EVEN WITH BINOCULARS. WHY IS
21 THIS IMPORTANT? WELL, THEY ARE CASING THE JOINT. THE
22 GUY IS CASING THE BIKE PATH. CASING THE ROUTE. IT MAKES
23 NO SENSE FOR THIS PERSON IN FRONT OF THE STEVENSES' HOME
24 TO EVEN HAVE BEEN INVOLVED IN THIS CRIME.

25 THERE IS ONE WAY INTO BRADBURY, A STREET
26 ON THE LEFT; A STREET ON THE RIGHT. YOU DON'T NEED
27 BINOCULARS. YOU DON'T NEED TO CASE THE JOINT.
28 MT. OLIVE IS A FREEWAY EXIT. YOU GO UP MT. OLIVE, YOU

1 COME DOWN MT. OLIVE. WHAT ARE YOU CASING? WHAT DO YOU
2 NEED BINOCULARS TO SEE? IT'S THE MAIN ROAD TO THE
3 FREEWAY. THE BIKE PATH IS VISIBLE THERE. YOU DON'T NEED
4 BINOCULARS. THE BIKE PATH NEARLY GOES RIGHT BY THEIR
5 HOUSE. THIS IS THEIR HOUSE. THAT IS MT. OLIVE
6 (INDICATING).

7 ALLISON TRIARSI, HER SCRIPT IS THAT SHE'S
8 NOW SEEN THE WHOLE THING AND MICKEY THOMPSON WAS HELD AT
9 BAY. WE TALKED ABOUT THE INCONSISTENCY OF THE IDEA THAT
10 MICKEY THOMPSON WOULD ALLOW HIMSELF TO BE HELD AT BAY
11 SIMPLY BECAUSE A MAN IS POINTING A GUN ESPECIALLY AFTER
12 HE'S ALREADY BEEN SHOT. HER FIRST INTERVIEW WITH MARK
13 LILLIENFELD 1997. SHE NEVER SAW TRUDY THOMPSON SHOT.
14 SHE ALSO SAID THE SHOOTERS COULD BE WHITE AND THAT HER
15 MOTHER INFLUENCED MOST OF THE THINGS THAT SHE SAID.

16 HER MOM -- THINK ABOUT THIS ACCORDING TO
17 HER VIEW NOW. AND I BELIEVE THAT SHE IS 100 PERCENT
18 SINCERE IN WHAT SHE'S SAYING. AND I BELIEVE SHE'S 100
19 PERCENT TRAUMATIZED BY WHAT SHE SAW. BUT THINK ABOUT THE
20 LOGIC OF THIS, PARENTS HERE, 14-YEAR-OLD DAUGHTER IS IN
21 THE SHOWER. YOU ARE HEAR GUNSHOTS. SHE TOLD DETECTIVE
22 LILLIENFELD MY MOM PUT ME DOWN IN THE BATHROOM FLOOR,
23 WHICH WOULD MAKE SENSE.

24 SHE TOLD US THAT HER MOTHER TOOK HER
25 OUTSIDE TO THE PICTURE WINDOW THAT FACES WHERE THE
26 GUNSHOTS ARE. WHO RUNS TOWARDS THE GUNSHOT WITH YOUR
27 14-YEAR-OLD DAUGHTER AND PUTS HER IN A WINDOW POTENTIALLY
28 IN FULL VIEW OF THE PEOPLE LOOKING. THIS IS A FALSE

1 CREATED MEMORY THAT SHE HAS BASED ON HER MOTHER TELLING
2 HER WHAT SHE SAW; BASED ON LANCE JOHNSON; BASED ON
3 TELEVISION. SHE COULD NOT HAVE SEEN IT. SHE THOUGHT SHE
4 SAW THINGS THAT SHE RELATED ON THE STAND THAT WERE NOT
5 EVEN IN HER VIEW. THINK ABOUT THAT. SHE TOLD US THE VAN
6 HAD ITS DOORS OPEN. YOU SAW THE PICTURE. THIS IS AN
7 INTERESTING PICTURE FOR TWO REASONS, NO. 1, YOU CAN'T SEE
8 THE VAN. IT'S SOMEWHERE IN THERE BEHIND THE PLANTER.
9 YOU CAN'T SEE IT FROM HER VIEW.

10 NO. 2, THIS ISN'T HER VIEW. SHE TOLD YOU
11 THIS WASN'T THE WINDOW I WAS LOOKING OUT OF. WHY WAS
12 THIS PICTURE TAKEN THAT MORNING? COULD THIS BE THE ONLY
13 PLACE IN THE TRIARSI HOUSE THAT YOU COULD HAVE SEEN BOTH
14 BODIES?

15 AND BY THE WAY, MY RECOLLECTION IS THAT
16 TRIARSI SAID SHE WAS TO THE LEFT OF THIS. THIS WOULD
17 HAVE BEEN TO THE RIGHT OF HER VIEW. SHE WOULD HAVE BEEN
18 TO THE LEFT OF THIS PHOTOGRAPH LOOKING DOWN. SHE SAID
19 WHEN YOU POINTED UP AT THE HOUSE IN THAT ONE PICTURE, I'M
20 OVER TO THE RIGHT. THIS PHOTOGRAPH ISN'T EVEN HER VIEW.

21 WE DIDN'T HEAR FROM HER PARENTS. SHE SAYS
22 THE POLICE FOUND HER HIDING AT THE SCENE. AND THAT'S A
23 TRUE MEMORY. SHE BELIEVES THAT. SHE HONESTLY BELIEVES
24 THAT SHE WAS HIDING THERE. YOU HEARD FROM ALL THE FIRST
25 RESPONDING OFFICERS, NO ONE, NO ONE SAW A CHILD AT THE
26 SCENE.

27 IF YOUR MEMORY GETS BETTER WITH TIME,
28 WHICH IS WHAT SHE TOLD US, DR. PEZDEK TOLD YOU THAT'S A

1 RED FLAG. IT'S A RED FLAG. IT'S NOT A TRUE MEMORY.
2 YOUR MEMORY DOESN'T GET BETTER WITH TIME. MEMORY GETS
3 INFLUENCED WITH TIME. SHE DOES BELIEVE THAT SHE SAW
4 THESE THINGS AND THEY NEED FOR HER TO BE RIGHT IN ORDER
5 TO SUPPORT THIS THEORY THAT MICKEY THOMPSON WAS FORCED TO
6 WATCH. AGAIN, A THEORY WHOSE ONLY PURPOSE IN THIS TRIAL
7 IS TO INFLAME YOUR PREJUDICE AND PASSION BECAUSE IT'S NOT
8 SUPPORTED BY THE PHYSICAL EVIDENCE.

9 WE TALKED ABOUT THIS EARLIER. THAT MICKEY
10 THOMPSON WOULD BE HELD -- I MEAN LITERALLY SHE SAID THEY
11 WERE DOING THIS DANCE. THAT HE WOULD TRY TO GO ONE WAY
12 AND THE PERSON WOULD POINT THE GUN. AND HE WOULD TRY AND
13 GO THE OTHER WAY AND THE PERSON WOULD POINT THE GUN.
14 THAT MAKES NO SENSE IN CONSIDERATION WITH ANYTHING THAT
15 YOU EVER HAVE BEEN TOLD ABOUT MICKEY THOMPSON.

16 SHE WAS NEVER ASKED BY THE POLICE TO GO TO
17 THE CRIME SCENE AND DESCRIBE IT. THIS IS INTERESTING.
18 COUNSEL ASKED JACO SWANEPOEL, WELL, DO YOU TAKE INTO
19 CONSIDERATION THE EYEWITNESS? NOW WHEN I ASKED MUNOZ, HE
20 SAID, NO, I DON'T. THAT'S NOT WHY I'M HERE. I'M DOING A
21 SCIENTIFIC REVIEW.

22 THE DISTRICT ATTORNEY WANTS YOU TO BELIEVE
23 SOMETHING ELSE HAPPENED. WHAT IS THEIR ALTERNATIVE VIEW?
24 NO ONE TOOK ALLISON OUT TO THE SCENE EXCEPT THE
25 TELEVISION CREWS. NO DISTRICT ATTORNEY. NO
26 INVESTIGATOR. NO GRAPHIC ARTIST. NO DIAGRAM PERSON. NO
27 ONE EVER SAID SHOW ME WHAT YOU SAW, I'LL PUT IT ON A MAP.

28 THEY COMPARTMENTALIZED EVERYONE IN THEIR

1 CASE. EVERYONE IN THEIR CASE IS COMPARTMENTALIZED TO NOT
2 TALK TO EACH SO THAT IT FITS THE SCRIPT. BECAUSE IF THEY
3 START PUTTING THEM TOGETHER, THERE IS ALL THESE
4 INCONSISTENCIES. HOW DO YOU PROSECUTE A CASE -- HOW DO
5 YOU INVESTIGATE A CASE AND NOT SAY TO ALLISON TRIARSI,
6 SHOW ME YOUR VIEW THAT MORNING. GO DOWN TO WHERE YOU SAW
7 MICKEY AND I'LL STAND IN YOUR WINDOW.

8 NOW, YES, FOLIAGE CAN CHANGE. BUT DON'T
9 YOU WANT SOME IDEA. NO ONE HAS EVER TAKEN HER TO THE
10 CRIME SCENE. HER TESTIMONY IS BASED ON HER JOURNALS.
11 SHE TOLD YOU THIS. THEY ARE NOT JOURNALS OF HER
12 THOUGHTS. THEY'RE NOT A DAILY DIARY KEPT BY TEENAGERS.
13 THIS IS A JOURNAL OF HER NIGHTMARES. IN HER NIGHTMARES
14 SHE SEES THE BODY OF MICKEY THOMPSON. SHE NEVER SAW THE
15 BODY OF MICKEY THOMPSON. SHE NEVER SAW IT, BUT IT'S IN
16 HER NIGHTMARES BECAUSE SHE KNOWS THAT THAT'S WHAT
17 HAPPENED. AND IT'S PROBABLY A VERY VIVID MEMORY.
18 INFLUENCED BY STORIES OVER THE YEARS. INFLUENCED BY HER
19 MOTHER OVER THE YEARS.

20 WE ALSO HEARD FROM LANCE JOHNSON. FIRST
21 THING HE SAYS, IS THIS A ROBBERY? THE FIRST THING HE
22 ASKS THE COPS. AND HE TELLS THEM ABOUT THE BAGS. HE
23 TELLS THEM ABOUT THE WHITE CANVAS BAGS HE SAW ON THEIR
24 BACK. NOW THE SCRIPT SAYS MICKEY THOMPSON HAS TO BE
25 YELLING BECAUSE HE WAS WATCHING SOMEONE GO AFTER HIS
26 WIFE.

27 BUT IN REALITY WHEN HE IS FIRST
28 INTERVIEWED ONE HOUR LATER, ONE HOUR LATER, HE SAYS

1 YELLING, SCREAMING SAME TIME, THEN SILENCE, A BURST OF
2 GUNFIRE, MICKEY THOMPSON SCREAMING, "PLEASE DON'T HURT MY
3 WIFE" AND THEN SILENCE. WHAT WOULD MAKE MICKEY THOMPSON
4 STOP SCREAMING? JUST A BULLET. BECAUSE FROM EVERYTHING
5 THAT YOU'VE HEARD NOTHING ELSE IS GOING TO STOP HIM FROM
6 TRYING TO HELP HIS WIFE. THE ONLY, THE ONLY WAY FOR
7 THERE TO BE SILENCE IS IF MICKEY THOMPSON WAS KILLED
8 FIRST.

9 HE SHOT AT MEN PEDALING BY HIS HOUSE. HE
10 TOLD THE TELEVISION WHAT HE THOUGHT HAPPENED. AND HE
11 ACTUALLY SAID TO THIS DAY, TO THIS DAY THAT IS WHAT HE
12 THINKS THAT TRUDY THOMPSON'S HEAD WAS HELD UP AND MICKEY
13 THOMPSON WAS FORCED TO WATCH. HE BELIEVES THAT. AND
14 THEN HE THROWS IN THIS, WELL, THEY MUST HAVE HAD THE GUNS
15 IN THEIR BAGS. WASN'T IT INTERESTING THAT HE TOLD THE
16 POLICE HE COULDN'T SEE INSIDE. HE TOLD THE POLICE THERE
17 WAS NOTHING STICKING OUT.

18 WHY IS A WITNESS IN THIS CASE ADVOCATING
19 THEIR POSITION? HAS HE HEARD THAT WE ARE SAYING, YOU
20 KNOW WHAT, THIS COULD HAVE BEEN A ROBBERY. THEY HAVEN'T
21 PROVED THAT IT WASN'T. SO HE COMES UP WITH, WELL, THEY
22 HAVE HAD THIS IN THEIR BAGS. HE NEVER TOLD THE POLICE
23 THAT. HE SAYS TO THE POLICE THEY HAD WHITE CANVAS BAGS
24 ON THEIR BACK. WAS THIS A ROBBERY? HE KNOWS NOW ABOUT
25 OUR ROBBERY CLAIM AND HE'S TRYING TO REWRITE HISTORY,
26 TRYING TO HELP.

27 HE CLAIMS THAT GOODWIN THREATENED A FAMILY
28 MEMBER IN 1996, "YOU'LL GET YOURS, BITCH." AND THEN THE

1 D.A. SAID ARE YOU SURE HE DIDN'T "TOO," ARE YOU SURE HE
2 DID SAY "YOU, TOO"? HE'S MORE THAN HAPPY TO SAY SURE
3 THAT'S WHAT IT COULD HAVE BEEN. INTERESTINGLY, THOUGH,
4 HE DOESN'T REPORT THIS UNTIL MARK LILLIENFELD COMES WITH
5 A TELEVISION CREW FROM AMERICA'S MOST WANTED. WE NEVER
6 HEAR IT FROM MARK LILLIENFELD. WE CERTAINLY NEVER HEAR
7 IT FROM THE PERSON THAT SUPPOSEDLY THE THREAT WAS
8 DIRECTED TO. THE COMMENT "YOU WILL GET YOURS. YOU'LL
9 GET YOURS" REWRITTEN IN HISTORY.

10 HE CLAIMS TO HAVE WALKED ON THE SCENE. WE
11 KNOW THE POLICE OFFICERS DIDN'T LET ANY NEIGHBOR WALK ON
12 THE SCENE. HIS FIRST VERSION BEFORE THE SCRIPT WAS THAT
13 THE SCREAMS AND THE GUNFIRE CAME AT THE SAME TIME, THEN
14 SILENCE, THEN MORE SHOTS. SANDRA JOHNSON, SAME THING,
15 VOLLEY, SCREAMING, SILENCE, VOLLEY. AND THEN SHE ADDS
16 THE BAGS MIGHT HAVE BEEN DARK. WELL, WHY? MAYBE IT IS
17 JUST SHE CAN'T REMEMBER.

18 MAYBE NOW WE'VE SUGGESTED, BASED ON BOB
19 WIBORG'S TESTIMONY, THAT WHITE CANVAS BAGS ARE WHAT BANKS
20 USED, WHAT GOLD IS BOUGHT IN. SHE TOLD THE FIRST POLICE
21 OFFICER WHITE CANVAS BAGS, SHOPPING BAG SIZE. THE
22 DISTRICT ATTORNEY MADE A POINT OF BRINGING IN A TINY
23 LITTLE BAG. DID HE CALL ULOTH? DID HE CALL RODRIGUEZ?
24 DID HE CALL ANYBODY THAT SPOKE TO THESE PEOPLE THAT
25 MORNING? NO. BECAUSE THAT DIDN'T FIT THEIR SCRIPT AND
26 THEY DIDN'T WANT YOU TO HEAR ABOUT IT.

27 WILMA JOHNSON, WHAT DID SHE TELL US RIGHT
28 AWAY. IT WAS VERY UNUSUAL TO SEE AFRICAN/AMERICAN MEN IN

1 THAT NEIGHBORHOOD. THIS WELL PLANNED HIRED HIT. THE
2 CYCLISTS WENT WESTBOUND TOWARDS MONROVIA. THAT'S WHAT
3 SHE TOLD US. THE SCRIPT IS WE NEED THEM GOING PAST THE
4 STEVENSES' HOUSE. NOW SHE SAYS SHE DOESN'T RECALL. SO
5 WE CALLED OFFICER ESTRADA. HE SAYS, YEAH, I VERY CLEARLY
6 WROTE IN MY NOTES, SHE TOLD ME THEY WENT WESTBOUND
7 TOWARDS MONROVIA.

8 OFFICER ESTRADA COMES IN, RELUCTANTLY. HE
9 READS HIS REPORT TO US BECAUSE IT DOESN'T COMPORT WITH
10 THE D.A. SCRIPT, HE DOES NOT WANT TO GO AGAINST IT. THEN
11 HE AGREES WITH EVERYTHING THE D.A. ASKED. WELL, AREN'T
12 THESE ULOTH'S NOTES? DIDN'T YOU TELL ULOTH THAT YOU JUST
13 ASSUMED THAT? HE SAYS, YEAH. WELL, DOES THIS LOOK LIKE
14 ULOTH'S NOTES? DO YOU KNOW HOW HE WRITES? HE SAYS NO.
15 WELL, ISN'T THIS A PICTURE OF THE HOUSE? HE SAID, YEAH.

16 THEY SAID WOULD YOU HAVE RECOGNIZED THAT?
17 HE SAYS NO. HE'S JUST GOING TO AGREE WITH WHATEVER THE
18 D.A. SAYS. NOTES CLEAR ON THEIR FACE X MEANS X. WILMA
19 JOHNSON TOLD ME WESTBOUND. WHY IS THAT RELEVANT? YOU
20 GUYS WERE THERE. YOU LOOKED. YOU SAW. YOU WENT DOWN TO
21 THE GULLY. IF YOU LOOK TO YOUR RIGHT, THAT BIKE PATH WAS
22 HIDDEN. IF YOU GO TO YOUR LEFT, IT JOGS UP AND BECOMES
23 STREET LEVEL.

24 NOTES TAKEN AT THE TIME NOW WANT TO BE
25 REWRITTEN. CLAUDETTE FREIDINGER CYCLISTS WERE BARRELING
26 THROUGH THE INTERSECTION. BARRELING THROUGH THE
27 INTERSECTION. THAT'S THE INTERSECTION. IT'S DEPICTED.
28 BARRELING THROUGH THE INTERSECTION. GOING VERY FAST. IF

1 YOU ARE BARRELING THROUGH THE INTERSECTION, YOU DIDN'T
2 JUST TURN RIGHT ON THIS BIKE PATH. SHE'S AT THIS
3 INTERSECTION DOWN HERE ON THIS DIAGRAM, IT'S UP ON THE
4 BOARD.

5 PEOPLE'S 52, THAT'S THE INTERSECTION.
6 THOSE BICYCLIST WOULD HAVE HAD ABOUT 20 FEET TO TURN
7 RIGHT IF THEY WERE ON THE BIKE PATH WHEN SHE SAW THEM.
8 THEY WEREN'T BARRELING THROUGH THE INTERSECTION IF THOSE
9 WERE THE ONES THAT WERE INVOLVED IN THIS CRIME. AND HOW
10 DO WE KNOW THEY WEREN'T? BECAUSE SHE TOLD DETECTIVE
11 LILLIENFELD, SHE DIDN'T SEE THEM UNTIL 7:00. MY SON HAD
12 TO BE TO WORK AT 7:00. WELL, SHE SAID IT COULD HAVE BEEN
13 6:00.

14 OKAY. IF YOUR SON HAS TO BE TO WORK AT
15 6:00 IN GLENDALE, BY THE TIME YOU GET BACK TO BRADBURY,
16 YOU'RE NOT GOING TO SEE KILLERS LEAVING A SCENE AT 6:05.
17 NO MATTER HOW EARLY IT IS IN THE MORNING, YOU CAN'T GET
18 TO GLENDALE IN FIVE MINUTES. SHE PROBABLY JUST SAW BLACK
19 CYCLISTS THAT HAD NOTHING TO DO WITH THIS CASE. BUT THEY
20 WANT HER. WHY? BECAUSE IF SHE'S RIGHT, THE BICYCLIST
21 WENT BY THE STEVENSES' HOME AND THAT GIVES RELEVANCE TO
22 THE STEVENSES.

23 BUT THE BIKE ROUTE MAKES NO SENSE. AGAIN,
24 VERDUGO SAYS WE RETRACED THE ROUTE. WELL, THEY DIDN'T
25 RETRACE THE ROUTE THAT WAS WRITTEN ON THEIR REPORT.
26 BECAUSE THEIR REPORT THAT MORNING SAID WESTBOUND. THEY
27 HAVE TO GO BY THE STEVENSES' HOME. THEY WANT TO TAKE --
28 THEY WANT TO TAKE CLAUDETTE FREIDINGER BECAUSE WILMA PUTS

1 THEM IN THE OTHER DIRECTION AND THEY WOULD HAVE BEEN
2 STREET BOUND. SO THEY GET CLAUDETTE IN FOR THAT ROUTE
3 AND THEY MAKE THE STEVENSES' HOUSE MORE SIGNIFICANT.

4 WE WERE TOLD IN THE SCRIPT THAT THIS BIKE
5 PATH IS VERY DIFFICULT TO FIND. IT IS SUPPOSEDLY IF YOU
6 ARE AT THE WEST GATE OF THE THOMPSONS' HOME. BUT IF
7 YOU'RE AT THE CORNER OF ROYAL OAKS AND MT. OLIVE, IT'S
8 RIGHT THERE. IT'S THE DIRT PART OF PEOPLE'S 52. THAT'S
9 NOT TOUGH TO FIND. IT GETS TOUGH TO FIND AS YOU GO
10 WESTBOUND.

11 IT BECOMES LEVEL WITH THE STREET. YOU
12 DON'T NEED A GATE. THIS ISN'T SOME HIDDEN SECRET THING.
13 IT MAKES NO LOGICAL SENSE THAT WHOEVER COMMITTED THIS
14 CRIME WOULD GO IN THE DIRECTION THAT THEY CLAIM. THE
15 LOOP THAT THEY WANT YOU TO BELIEVE THESE KILLERS TOOK IN
16 ORDER TO MAKE THE STEVENSES' OBSERVATION RELEVANT, NOW
17 THINK ABOUT THIS, EVERYTHING THAT YOU'RE ABOUT TO SEE
18 MAKES THE STEVENSES' OBSERVATION RELEVANT. BECAUSE THE
19 STEVENSES ARE ONLY RELEVANT IF THE BIKE PATH THAT THEY
20 USED WORKS.

21 WATCH THIS. THIS IS THE HOUSE OF MICKEY
22 THOMPSON. THEY WANT YOU TO SAY THE BICYCLISTS WENT DOWN
23 WOODLYN TO ROYAL OAKS, EXACTLY WHAT? THE DIRECTION WHERE
24 THE POLICE OFFICERS ARE COMING. THE DIRECTION WHERE ALL
25 OF THE RESPONDING OFFICERS COME JUST SO THAT THEY COULD
26 DO WHAT? GET BACK ON THE BIKE PATH AND GO EAST SO THEY
27 COULD GO SOUTH ON MT. OLIVE TO GET TO THE FREEWAY.
28 WELL, IF YOU ARE COMMITTING A CRIME AND LOOKING FOR THE

1 BEST ESCAPE ROUTE ON THIS ROUTE, WOULDN'T IT BE USER TO
2 JUST GO DOWN MT. OLIVE TO THE FREEWAY? WHY WOULD YOU GO
3 IN A BIG LOOP HEADING THE SAME WAY AS WHERE THE POLICE
4 OFFICER IS COMING JUST TO COME BACK DOWN MT. OLIVE
5 BECAUSE THIS WE NEED TO MAKE THE STEVENSES RELEVANT.
6 THIS JUST HAS THEM GOING DOWN THE HILL TOO FAST FOR
7 ANYONE TO SEE. THEY STILL PAST THE STEVENSES' HOUSE, BUT
8 IT DOESN'T FIT WITH EVERYTHING ELSE.

9 RUBEN GRACIA COMES UP THE BACK DRIVEWAY.
10 ONE OF THE FIRST RESPONDERS. ONE OF THOSE LITTLE POLICE
11 CARS COMING UP ROYAL OAKS. WHAT DOES HE SAY? I WALKED
12 UP THE BACK DRIVEWAY. I DIDN'T SEE ANY EVIDENCE. WHY
13 DIDN'T HE SEE AN ORANGE PEEL YET? BECAUSE THE
14 FIREFIGHTER HADN'T EATEN IT YET, THAT'S WHY. THE
15 FIREFIGHTER WITH THEIR SHARP KNIVES. THE SAME ONE WHO
16 LEFT THOSE LATEX GLOVES AT 9:30 IN THE MORNING.

17 WHEN RUBEN GRACIA WAS THERE, THERE WAS NO
18 EVIDENCE ON THE BACK PATH. HE DIDN'T SEE GLOVES. HE
19 DIDN'T SEE ORANGE PEELS. BECAUSE THEY HADN'T BEEN LEFT
20 THERE YET. HE IS THE FIRST RESPONDING OFFICER. HE SEES
21 NOTHING ON THAT BACK DRIVEWAY. HE SECURES THE SCENE. HE
22 DOES NOT SEE A GIRL HIDING. AND HE TELLS YOU NOTHING WAS
23 TOUCHED.

24 THEY WANT YOU TO BELIEVE ALL THESE CASINGS
25 WERE KICKED AROUND. YOU CAN'T RELY ON ANY OF THE
26 BALLISTIC TESTIMONY. HE TELLS YOU HE WAS A PROFESSIONAL.
27 HE WENT TO THE ACADEMY. HE KNEW HOW TO SECURE A SCENE.
28 HE PUT UP YELLOW TAPE. I WOULDN'T LET NEIGHBORHOODS WALK

1 AROUND. NOTHING WAS TOUCHED. REY VERDUGO DID NOT HAVE
2 THE CRIME SCENE AS HIS RESPONSIBILITY. OFFICER JANSEN
3 TOLD YOU HE WAS DISPATCHED TO M.T.E.G. TO TALK TO
4 EMPLOYEES.

5 WHY WAS REY VERDUGO BROUGHT IN AND NO
6 OTHER INVESTIGATING OFFICERS AT THE CRIME SCENE? CRIME
7 SCENE WAS NOT HIS JOB. WHY? BECAUSE HE DIDN'T TALK TO
8 ANY WITNESSES. HE DIDN'T HAVE ANYTHING TO OFFER THAT
9 COULD POSSIBLY IMPEACH ONE OF THEIR WITNESSES THAT COULD
10 TELL US THAT PERHAPS THIS SCRIPT IS NOT BASED IN REALITY.

11 HE DOESN'T ORDER ANY TESTS OR ANY PHOTO OF
12 THE EVIDENCE. AND PER OFFICER JANSEN, HIS PARTNER -- AND
13 KEEP THIS IN MIND, OFFICER JANSEN WHO ANSWERED MY
14 QUESTIONS MONO-SYLLABICALLY AND DID NOT WANT TO BE HERE,
15 THE ONLY SENTENCE THAT HE GOT OUT WAS THAT WE DIDN'T HAVE
16 ANYTHING TO WITH THE CRIME SCENE. WE DIDN'T GO INSIDE.
17 WE WERE DISPATCHED TO TALK TO ANAHEIM TO THE EMPLOYEES.
18 THIS IS THE MAN WHO IS COMING IN AND TELLING YOU NOTHING
19 OF VALUE WAS TAKEN. THERE WAS NOTHING WRONG WITH THE
20 SAFES. HOW WOULD HE POSSIBLY KNOW? HE NEVER
21 INVESTIGATED A ROBBERY. HE WAS NEVER ASKED TO
22 RECONSTRUCT THE CRIME SCENE.

23 THEY'RE GOING TO TELL YOU THAT JACO
24 SWANEPOEL IS WRONG. WHERE IS THEIR ALTERNATIVE? WHERE
25 IS THEIR EXPERT WHO IS WILLING TO SAY OTHERWISE? THEY
26 NEVER ASKED OFFICER VERDUGO THIS. NO PICTURES OF BLOOD
27 IN FRONT OF MICKEY THOMPSON BECAUSE IT WASN'T A THEORY IN
28 1988. NO PICTURES OF THE SAFE. HE WASN'T EVEN SURE IF

1 THERE WAS ONE THAT DAY. HE WATCHED THE VIDEO AND HE TOLD
2 US WHAT HE SAW.

3 WHAT DOES THIS SAFE SHOW? WHAT DOES THE
4 VIDEO SHOW? IT SHOWS THE SAFE IS CLOSED. WAS THERE ANY
5 EVIDENCE THAT WOULD SUGGEST THAT SAFE WAS LOCKED? DID
6 THEY PROVE TO YOU THAT SAFE WAS LOCKED? THE SAFE IS
7 CLOSED. MOST SAFES CLOSE AUTOMATICALLY. THEY'VE GOT THE
8 HINGE. WHEN YOU'RE DONE, YOU CLOSE IT. THAT DOESN'T
9 MEAN IT'S LOCKED, NO ONE SAID IT WAS LOCKED. HE DIDN'T
10 EVEN LOOK AT IT.

11 BUT AGAIN IT'S SAFE TO CALL HIM. HE CAN
12 IMPOSE WHATEVER HE WANTS ON THE SCENE NOW. AND HE DID
13 THAT. AND HOW DO WE KNOW THAT? BECAUSE HE'S REWRITING
14 HISTORY ABOUT ALL THE THINGS THAT WE DON'T HAVE PICTURES
15 OF, BUT THEY WANT YOU TO TAKE INTO ACCOUNT.

16 NOW, OH, GOSH, THERE IS A DEFENSE LAWYER
17 HARPING ON PICTURES; FINGER PRINTS; SOMETHING. I'M
18 SAYING IF YOU'RE TELLING ME, IF YOU ARE TELLING ME THAT
19 YOU HAVE PROVEN THIS CASE WITH COMPELLING EVIDENCE BEYOND
20 A REASONABLE DOUBT. IF THEY'RE SAYING TO YOU, THIS IS
21 THE ONLY, ONLY EXPLANATION THAT THIS WAS AN ORCHESTRATED,
22 CHOREOGRAPHED HIT, THEN, YEAH, YOU BETTER START SHOWING
23 US HOW THOSE ORANGE PEELS WERE RELATED TO THESE KILLERS
24 AND NOT THE FIREMAN; EVEN THOUGH THEY WERE FOUND RIGHT
25 NEXT TO THE FIREMEN'S GLOVES.

26 TELL US ABOUT THIS PURSE AND THE MONEY.
27 WE HAD TO GET OFFICER GRIGGS IN HERE TO TELL US WHAT?
28 THE MONEY AND THE PURSE WAS IN THE ENVELOPE. WHY IS THAT

1 SIGNIFICANT? BECAUSE THAT'S HOW MICKEY THOMPSON AND
2 TRUDY THOMPSON KEPT ITEMS IN THEIR SAFE, MONEY IN AN
3 ENVELOPE. THE JEWELRY AT THE CRIME SCENE, THAT PICTURE,
4 THAT WASN'T TAKEN OFF OF TRUDY THOMPSON'S BODY AND WASHED
5 OFF AND POSED.

6 OFFICER VERDUGO HE JUST CAME UP WITH THAT.
7 HE LOOKED AT A PICTURE AND HE COMES UP WITH THAT. YOU
8 HAVE THE PROPERTY REPORT OF WHAT WAS ON MS. THOMPSON. IT
9 WAS A SQUARE 10. IT WASN'T A GOLD CIRCLE. HE'S JUST
10 LOOKING AT THE PICTURE AND COMING UP WITH THINGS.
11 THEY WOULDN'T HAVE TAKEN JEWELRY OFF OF A BODY. THAT
12 BELONGS TO THE CORONERS. THAT'S THE CORONER'S
13 RESPONSIBILITY.

14 WE CALLED OFFICER RODRIGUEZ, THE ONE WHO
15 SIGNED FOR IT. WHY IS THE JEWELRY SIGNIFICANT? IT'S THE
16 SAME CONTENTS AS WHAT IS IN THE UPSTAIRS SAFE. JEWELRY,
17 MONEY IN AN ENVELOPE. IT WAS IN TRUDY THOMPSON'S PURSE.
18 LIZ DEVINE MADE A SKETCH OF THE CRIME SCENE. SHE DREW
19 WHERE THE BLOOD WAS. WE DON'T NEED TO BLOW UP A
20 PHOTOGRAPH 300 TIMES. IT'S THERE. IS IT AROUND HIM AND
21 CLOSE? YES.

22 BUT WHAT IS RELEVANT ABOUT LIZ DEVINE?
23 WHAT DOES SHE SHOW US? THERE IS THE PICTURE. YOU CAN
24 SEE WHERE IT IS. YES, IT'S IN A CIRCLE. AND IF YOU LOOK
25 AT THE VIDEO, THE CAMERAMAN STEPS BACK TAKES IT. IT DOES
26 GO OUT IN A SEMI-CIRCLE. TOTALLY CONSISTENT WITH MICKEY
27 THOMPSON STAGGERING AND FALLING. THERE IS NO
28 DIRECTIONALITY TO THE BLOOD STAINS.

1 THEY DIDN'T CALL A SINGLE BLOOD SPATTER
2 EXPERT IN HERE TO TELL YOU THAT THEY SAY, OH, YES, THESE
3 BLOOD STAINS SHOW A PERSON WAS MOVING. THESE BLOOD
4 STAINS SHOW DIRECTION. THEY'RE PUDDLES OF BLOOD. HE
5 LIFTS HIS HAND OFF AND HE BLEEDS.

6 SHE WAS NEVER ASKED TO GO TO THE CRIME
7 SCENE IN 17 YEARS. THINK ABOUT THIS. YOU GOT A NEW
8 INVESTIGATOR IN '92. YOU HAD GOT A NEW INVESTIGATOR IN
9 '97. NO ONE BOTHERS TO TAKE THE ORIGINAL CRIME SCENE
10 PERSON. THE NIGHT BEFORE HER TESTIMONY SHE GOES TO THE
11 CRIME SCENE, THE NIGHT BEFORE.

12 THIS WHOLE SCRIPT ABOUT MICKEY THOMPSON
13 BEING FORCED TO WATCH CAME UP WITHOUT SOMEONE EVEN
14 CONSULTING HER. SHE'S THE CRIMINALIST. SHOE PRINTS SHOW
15 THE RED GUNMAN WENT HALFWAY DOWN THE DRIVEWAY. EXACTLY
16 WHAT JACO SWANEPOEL SAID. THEY MATCH PERFECTLY. BIKERS
17 LEFT -- BIKES WERE LEFT IN THE DIRT. YOU DON'T HAVE TO
18 HAVE EATEN AN ORANGE TO HAVE STOOD IN THE DIRT. YOU PUT
19 YOUR BIKES IN THE DIRT.

20 BOTH SHOOTERS SHOT AT BOTH MEN. NO. 8 IS
21 THE CASING WHERE THE ARROW IS WHERE YOU WOULD EXPECT
22 SOMEONE TO BE STANDING. LIZ DEVINE, THAT'S EXACTLY WHERE
23 THE SHOE PRINTS ARE. THAT MATCH WHAT? ALL THE RED
24 CASINGS THAT WERE FOUND BY MICKEY THOMPSON'S BODY. THE
25 SHOE PRINT -- THE BALLISTICS CORROBORATE BOTH PEOPLE
26 SHOOTING AT BOTH VICTIMS. BRUTAL? SENSELESS? HORRIBLE?
27 YES.

28 CHOREOGRAPHED DEADLY DANCE OF DEATH? NO.

1 NO. THAT'S NOT WHAT THE EVIDENCE SUGGESTS. WE ALSO SHOW
2 SHOE PRINTS OF AN INDIVIDUAL TRYING TO GET INTO THE
3 GARAGE. THERE WAS A SECOND SET OF SHOE PRINTS THAT DID
4 NOT MATCH MICKEY THOMPSON'S TENNIS SHOES BY THE DOOR OF
5 THE GARAGE. SHE TOOK NOTE OF IT. THE ORANGE PEEL.
6 SCRIPT. IT SHOWS THE BRUTAL KILLERS LAY IN WAIT.

7 THE REALITY, THEY WERE FOUND NEAR THE
8 GLOVES, FIREMAN CARRY THOSE KNIVES. HAVE THEY PROVEN TO
9 YOU BEYOND A REASONABLE DOUBT THE UNDERLYING FACT THAT
10 THE KILLERS ATE THOSE ORANGES AND NOT THE FIREFIGHTERS?
11 NO. IS THAT CAPABLE OF TWO INTERPRETATIONS? YES. NOT
12 EVIDENCE OF LYING IN WAIT. NEVER PHOTOGRAPHED. NOT SEEN
13 UNTIL 9:30. SOMEONE AT THE CRIME SCENE KNEW.

14 THIS IS WHERE THE FIRST RESPONDERS WALKED
15 AT 6:00 A.M. NO ONE SAW IT. THESE ARE THE LATEX GLOVES,
16 WHICH ARE GOING TO BECOME SIGNIFICANT WHEN WE TALK ABOUT
17 MS. ARTHUR. BECAUSE WHAT DID SHE DO? SHE FINGERPRINTED
18 LATEX GLOVES. IT TOOK HER THREE DAYS. DO YOU REMEMBER
19 THIS TESTIMONY?

20 SHE HAD TO DUST SOMETHING ON IT. IT'S
21 LIKE A SUPER GLUE. SHE WAITED THREE DAYS FOR THEM TO
22 DEVELOP. WHY? SHE KNEW SHE HAD A PRINT. THE DISTRICT
23 ATTORNEY MADE GREAT HAY OF THE FACT THAT, WAIT A MINUTE,
24 WHY WOULD WE POSSIBLY TEST FOR DNA AT THE CRIME SCENE?
25 WHY WOULD WE DO THAT? WE DIDN'T HAVE A SUSPECT TO
26 COMPARE IT TO. THEY TESTED THE FINGERPRINT. THEY WERE
27 ALL EXCITED AS A MATTER OF FACT. THEY GOT A FULL I THINK
28 SHE SAID 16-POINT PRINT FROM THIS LATEX GLOVE.

1 AND WHAT DID THEY DO WITH IT? THEY
2 ENTERED INTO A DATABASE. WHY? BECAUSE IN 1988
3 THEY WERE INVESTIGATING THIS CRIME. IN 1988 THEY WERE
4 INVESTIGATING THIS CRIME. THEY ENTERED A FINGERPRINT.
5 THEY HAD NO IDEA WHERE IT CAME FROM INTO A DATABASE
6 BECAUSE THEY WERE INVESTIGATING THIS CRIME.

7 YOU DO NOT NEED A SUSPECT TO MAKE FORENSIC
8 EVIDENCE SIGNIFICANT. WE HAVE DATABASES NOW. SHE
9 GENERATED A REPORT ABOUT THE HAIR. MARK LILLIENFELD
10 NEVER LOOKED AT IT. WHY? IN 1988 WE WERE INVESTIGATING
11 A CRIME. IN 1997 WE WERE COLLECTING EVIDENCE AGAINST
12 MICHAEL GOODWIN. 1988 WE'RE INVESTIGATING A CRIME; WE
13 TAKE THE FORENSICS; WE PUT IT A DATABASE; WE SEE WHAT WE
14 CAN DO.

15 1997, WE HAVE FORENSICS. LISTEN, MICHAEL
16 GOODWIN WASN'T AT THE CRIME SCENE. I DON'T CARE ABOUT
17 IT. I'M NOT INVESTIGATING THIS CRIME. I'M ONLY LOOKING
18 FOR EVIDENCE. I'M GOING TO FLY TO THREE DIFFERENT STATES
19 AND INTERVIEW A WOMAN WHO HAD A BLIND DATE WITH MICHAEL
20 GOODWIN'S FRIEND. BUT I'M NOT GOING TO TEST THE HAIR
21 THAT WAS FOUND ON THE MASKING TAPE OF THE STUN GUN. THE
22 STUN GUN THAT AT ONE POINT THEY THOUGHT THE KILLER
23 BROUGHT WITH THEM TO THE SCENE. A STUN GUN THAT THEY ARE
24 TELLING YOU NOW THAT KATHY WEESE SAYS MICHAEL GOODWIN MAY
25 HAVE OWNED.

26 RANDY GARELL SAYS I MAY HAVE SOLD ONE TO
27 YOU. THEY THOUGHT IT WAS RELEVANT. WHEN YOU PUT TAPE ON
28 A DEVICE, YOU DON'T SEND THAT OUT FOR WORK. CHANCES ARE

1 THAT HAIR IS YOURS. THAT HAIR WAS FOUND ON THE TAPE
2 BETWEEN THE STUN GUN ON THE MASKING TAPE. THAT BELONGED
3 TO THE PERSON WHO OWNED IT.

4 THEY WEREN'T TESTING THAT. THEY WERE
5 FLYING ALL OVER THE COUNTRY LOOKING FOR ANYONE WHO EVER
6 SPOKE TO, SAW, WORKED FOR, MET MICHAEL GOODWIN AND SAYING
7 DID YOU OWN ONE OF THESE?

8 LINDA ARTHUR TOOK PICTURES OF EVERYTHING.
9 THIS IS JUST SOMETHING I THREW IN. VERY INTERESTING THAT
10 THEY WERE TELLING YOU THAT THE WIND BLEW THESE CASINGS
11 AROUND. THE WIND SCREWS WITH OUR BALLISTIC EVIDENCE.
12 WELL, WE HAVE AN EMPTY BAG ON A TABLE THAT WAS
13 PHOTOGRAPHED. THE WIND WASN'T BLOWING THINGS AROUND THAT
14 MORNING. IF AN EMPTY BAG DIDN'T GET BLOWN OFF THE TABLE,
15 CASINGS DIDN'T GET BLOWN AROUND THAT CRIME SCENE.

16 LIZ DEVINE TOLD US ABOUT CODIS DATABASE.
17 THE SCRIPT IS WHY TEST FOR DNA? WE DON'T HAVE ANYONE TO
18 COMPARE IT TO. THE REALITY IS THEY COULD HAVE SENT IT AT
19 ANY POINT, AT ANY POINT, NOT JUST THE HAIR; THE
20 FINGERNAILS; WHOLE UNITS, WHOLE UNITS OF POLICE AGENCIES
21 ARE DEVOTED TO COLD HITS.

22 THINK ABOUT THIS. YOU ARE A BRAND NEW
23 POLICE OFFICER OR YOU'RE BRAND NEW TO DETECTIVES. IT'S
24 1992, 1995, 1997. YOU'RE ASSIGNED TO THE UNSOLVED CASE
25 OF THE MURDERS OF MICKEY AND TRUDY THOMPSON. WHAT IS THE
26 FIRST THING YOU DO. ALL RIGHT. MAYBE NOT IN '95. IN
27 '97, '99, IS THERE ANY ITEMS OF EVIDENCE WE CAN TEST? IS
28 THERE ANY FORENSICS? CAN WE GO LOOK AT IT? CAN WE GO

1 SEE?

2 WOW, IN LOOKING AT THE CRIME SCENE, THERE
3 WERE BROKEN FINGERNAILS. DID ANYBODY TEST THOSE FOR DNA?
4 YOU CAN'T TELL FROM LOOKING AT FINGERNAILS IF THEY WERE
5 BROKEN FROM CONTACT WITH THE GROUND OR BROKEN FROM
6 CONTACT WITH AN ASSAILANT. WOULDN'T THAT BE THE FIRST
7 THING YOU WOULD DO IF YOU WERE INVESTIGATING THIS CRIME?
8 YOU WOULD GO LOOK AND TEST EVIDENCE.

9 BUT IN 1992, '95, '97, '99, THEY WEREN'T
10 INVESTIGATING THIS CRIME. TRUDY THOMPSON'S NAILS HAD NO
11 WAY TO COME BACK TO MICHAEL GOODWIN, SO THEY DIDN'T CARE.
12 THEY NEVER TESTED IT. IT'S ONLY IMPORTANT IF YOU'RE
13 TRYING -- IF YOU ARE NOT TRYING TO JUST DO THINGS THAT
14 WILL FIND EVIDENCE AGAINST MICHAEL.

15 EVERY ITEM OF EVIDENCE AT A CRIME SCENE IS
16 PHOTOGRAPHED AND MEASURED. EVERY ITEM OF EVIDENCE. WHY?
17 BECAUSE IT'S RELEVANT. WHY? BECAUSE IT'S IMPORTANT.
18 HOW MANY TIMES DO YOU THINK DISTRICT ATTORNEYS ALL OVER
19 THIS COUNTRY HAVE STOOD UP AND SAID, LADIES AND
20 GENTLEMEN, I WILL TELL YOU WHERE THAT KILLER IS STANDING
21 BECAUSE OF THE TRAJECTORY OF THIS BULLET AND WHERE THE
22 CASING IS FOUND.

23 HOW MANY TIMES? BUT IN THIS CASE, IGNORE
24 IT. IGNORE IT BECAUSE IT DOESN'T FIT OUR SCRIPT. EVERY
25 ITEM OF EVIDENCE IS MEASURED AND PHOTOGRAPHED EVEN WHEN
26 THERE ARE EYEWITNESS TESTIMONY AVAILABLE BECAUSE
27 FORENSICS DON'T LIE. FORENSIC EVIDENCE DOESN'T GET
28 INFLUENCED BY THEIR MOTHER. DOESN'T GET INFLUENCED BY A

1 HOLLYWOOD SCRIPT. YOU PHOTOGRAPH IT. YOU SAY WHERE YOU
2 FOUND IT. YOU DRAW CONCLUSIONS SCIENTIFICALLY FROM THAT.
3 THE CRIMINALISTS WERE NEVER ASKED TO GENERATE A CRIME
4 SCENE OR A RECONSTRUCTION.

5 THEY WERE NEVER SPOKEN TO BY THE
6 INVESTIGATORS. THEY WERE NEVER ASKED TO RETEST ANY OF
7 THE EVIDENCE WITH NEW TECHNOLOGY. NOT ONCE. BECAUSE
8 THEY WEREN'T INVESTIGATING A CASE ALL THOSE YEARS. THEY
9 WERE SIMPLY LOOKING FOR EVIDENCE AGAINST MICHAEL GOODWIN.
10 THIS IS THE STUN GUN. YOU SEE THE TAPE ON IT. THIS
11 ISN'T SOME EXCITING REPAIR THAT YOU PAY SOMEONE MONEY TO
12 GO AND DO.

13 IF YOU PUT THE TAPE ON IT, CHANCES ARE
14 IT'S YOUR HAIR. THIS IS THE FINGERNAIL KIT, UNOPENED.
15 UNOPENED UNTIL WHAT? WHAT DID MARK LILLIENFELD TELL YOU.
16 UNTIL WE DEMANDED THAT IT BE OPENED AND TESTED. THINK
17 ABOUT THAT. HOW MANY TIMES DOES A DEFENSE HAVE TO
18 PROVIDE DOCUMENTS TO TALK ABOUT FINANCIAL AFFAIRS? HAVE
19 TO PROVIDE THE TESTIMONY OF THE INVESTIGATING OFFICERS TO
20 A JURY? HAVE TO BE THE ONE TO CALL THOSE POLICE OFFICERS
21 KICKING AND SCREAMING INTO COURT TO TALK TO THE JURY
22 ABOUT WHAT HAPPENED? AND HAVE TO TEST THE PHYSICAL
23 EVIDENCE.

24 THERE IS A CODIS DATABASE. IF WE HAD
25 GOTTEN A HIT OFF OF THIS, WE COULD HAVE ENTERED IT INTO A
26 DATABASE. WE COULD HAVE FOUND SOMETHING OUT. THE FACT
27 THAT IT WOUND UP GENERATING A PROFILE THAT BELONGED TO A
28 WOMAN THAT PROBABLY HAD NOTHING TO DO WITH THIS CASE WAS

1 SOMETHING YOU COULDN'T HAVE KNOWN UNTIL YOU TESTED IT.
2 THEY DIDN'T EVEN KNOW THAT THE HAIR DIDN'T HAVE A ROOT ON
3 IT BECAUSE THEY NEVER LOOKED.

4 RANDY GARELL COMES IN TO TELL US THAT HE
5 MAY OR MAY NOT HAVE CARRIED A STUN GUN. THEY WERE
6 AVAILABLE IN GAS STATIONS. HE WAS INTERVIEWED SEVERAL
7 TIMES BY MARK LILLIENFELD. WHY NOT JUST TEST THE
8 EVIDENCE. THE IMPLICATION IS MICHAEL GOODWIN KNEW RANDY
9 GARELL, THEREFORE HE MUST HAVE BOUGHT A STUN GUN. IT'S
10 AN INSINUATION, BUT IT'S NOT EVIDENCE.

11 WELL, MICHAEL GOODWIN WENT IN AND ASKED
12 ABOUT STUN GUNS. WELL, ISN'T THAT CONSISTENT WITH WHAT
13 WE HAVE BEEN DOING FOR THE LAST SEVERAL YEARS? IF STUN
14 GUNS WERE TRACEABLE, WE WOULD HAVE TRACED THOSE, TOO.
15 AND WE WOULD HAVE HAD TO BECAUSE THE DISTRICT ATTORNEY
16 WOULDN'T HAVE. THE INVESTIGATORS WOULDN'T HAVE. WE
17 WOULD HAVE HAD TO HAVE DONE THIS.

18 MICHAEL GOODWIN WALKS INTO THIS STORE IN
19 ORANGE COUNTY, CALIFORNIA WITHOUT A DISGUISE. THERE IS
20 NO WARRANT OUT FOR HIS ARREST. AND NO ONE IS LOOKING FOR
21 HIM. AND HE ASKS QUESTIONS ABOUT THIS CASE. WE'VE ALSO
22 HEARD FROM BOB WIBORG, WHO TOLD US THAT GOLD WAS AN
23 INVESTMENT IN 1988. HE WAS A LITTLE RELUCTANT TO TELL US
24 WHEN THE STOCK MARKET CRASHED. BUT GOLD WAS AN
25 INVESTMENT.

26 DIANE GOODWIN BOUGHT IT IN HER TRUE NAME.
27 SHE HAD A CASHIER'S CHECK WHICH WAS TRACEABLE. TRACEABLE
28 AND LEGITIMATE. THIS IS SOMEONE WHO IS SUPPOSEDLY HIDING

1 ALL OF THEIR ASSETS. GOLD COMES IN WHITE CLOTH BAGS FROM
2 BANKS OR OTHER DEALERS. \$250,000, ABOUT 589 COINS. WE
3 WORKED IT OUT AT \$414 AN OUNCE. DIANE'S ASSETS, SHE
4 WANTED THEM OUT OF THE BANKRUPTCY. SHE CONVERTED THEM TO
5 GOLD. AGAIN, WE'RE NOT HERE TO DECIDE WHETHER IT'S
6 HONORABLE, JUST WHETHER IT'S POSSIBLE. IF IT'S POSSIBLE,
7 IT'S NOT EVIDENCE OF THE MURDER.

8 WHAT WAS NOT INVESTIGATED? MANNY MUNOZ
9 DOES BALLISTIC TESTS, LAB WORK. HE FINDS EVIDENCE OF TWO
10 GUNS THAT WERE FIRED. HE IS NEVER SHOWN PHOTOS OF THE
11 CRIME SCENE. COMPARTMENTALIZED. YOU SIT IN A LAB, SIR.
12 AND HE SEEMED VERY COMPETENT. CAN YOU IMAGINE IF HE WENT
13 TO SOUTH AFRICA TO TESTIFY? WHAT KIND OF IMPEACHMENT YOU
14 WOULD GET. WELL, SIR, YOU'RE NOT SOUTH AFRICAN; WE CAN'T
15 TRUST YOU. HE LEARNED HERE. JACO SWANEPOEL LEARNED IN
16 SOUTH AFRICA. HE'S COMPETENT.

17 HE SAYS TWO GUNS ARE FIRED. HE'S NEVER
18 SHOWN ANY AUTOPSY PHOTOS. NEVER WENT TO THE CRIME SCENE.
19 NEVER SAW A VIDEO OF THE SCENE. NEVER ASKED TO DO ANY
20 KIND OF RECONSTRUCTION. JACO SWANEPOEL, DWIGHT VAN HORN
21 AGREED. THEY COULDN'T MAKE THE DISTINCTION. JACO
22 SWANEPOEL ACCEPTED MANNY MUNOZ'S VERSION. HE SAID YOU'RE
23 RIGHT. I TRUST YOU. YOU SOUND LIKE YOU KNOW WHAT YOU'RE
24 DOING. I'M GOING TO ACCEPT YOUR VERSIONS OF EVENTS IN
25 MAKING MY CRIME SCENE RECONSTRUCTION.

26 THE DISTRICT ATTORNEY STOOD UP AND SAID
27 THIS IS WRONG; YOU DON'T KNOW THIS; YOU CAN'T DO THIS.
28 BUT THEY NEVER PRESENTED AN ALTERNATE EXPERT. THEY NEVER

1 PRESENTED ANYONE TO TELL YOU THIS WAS WRONG. I DON'T
2 KNOW IF YOU NOTICED, MANNY MUNOZ SAT THROUGH JACO
3 SWANEPOEL'S TESTIMONY. DON'T YOU THINK IF HE DISAGREED,
4 HE WOULD HAVE BEEN UP THERE TALKING TO YOU ABOUT IT. HE
5 WAS SITTING RIGHT THERE (INDICATING).

6 HE WENT ONE STEP FURTHER THAN VAN HORN AND
7 SWANEPOEL. AND SWANEPOEL SAID, OKAY, I ACCEPT THIS IN
8 MAKING MY RECONSTRUCTION. BUT THEY DIDN'T ASK HIM TO DO
9 THOSE THINGS BECAUSE AGAIN IT'S EASIER IF WE
10 COMPARTMENTALIZE. IF WE COMPARTMENTALIZE IT, WE CAN SELL
11 YOU ON THIS HORRIBLE, HORRIBLE TORTURE THEORY. HORRIBLE
12 IDEA THAT MICKEY THOMPSON WAS FORCED TO WATCH.

13 IF WE PUT EVERYONE TOGETHER WE MIGHT
14 SHOW THAT -- ONE OF THEM MIGHT SAY TO THE OTHER, HEY,
15 THAT DOESN'T WORK. LOOK, WE HAVE THIS PICTURE HERE AND
16 THAT TRAJECTORY HERE, THAT MIGHT NOT WORK. THEY DIDN'T
17 DO THAT.

18 THE CORONER TELLS US THAT SHE GAVE THE
19 REPORT TO THE SHERIFF AND THE D.A. AND, AGAIN, I'M GOING
20 TO HARP ON THIS. SAME IDEA. THAT MEANS THE DISTRICT
21 ATTORNEY KNEW. THE DISTRICT ATTORNEY KNEW BEFORE THEY
22 STOOD UP AND TOLD YOU THAT MICKEY THOMPSON HAD A GUN
23 SCREWED IN HIS EAR AND A BULLET FIRED IN HIS BRAIN.

24 THIS ISN'T ABOUT DRAMATICS. THIS ISN'T
25 ABOUT WHACKING A PODIUM TO GET YOU AFRAID. I JUMPED,
26 YEAH. THAT'S NOT HARD. THIS ISN'T THE FACTS OF THE
27 CASE. THEY PROMISED YOU THEY WERE GOING TO SHOW YOU
28 THAT. THEY MENTIONED THIS RIGHT OUT OF PULP FICTION. HE

1 WAS SHOT IN THE HEAD. ISN'T THAT BAD ENOUGH? ISN'T THAT
2 HORRIFIC ENOUGH? ISN'T THAT CRUEL ENOUGH? MICKEY
3 THOMPSON HAD NO CHANCE TO DEFEND HIMSELF FROM THAT WOUND.
4 THAT WAS HORRIBLE. THERE IS NO REASON TO MAKE IT WORSE
5 OTHER THAN TO INFLAME YOUR PASSION SO THAT YOU'LL DO YOUR
6 DUTY A LITTLE LESS WELL. YOU'LL TAKE YOUR OATH A LITTLE
7 LESS SERIOUSLY.

8 THERE IS NO SOOT OR STIPPLING. THE
9 CLOTHES AND THE HAIR ARE STILL AVAILABLE FOR TESTING IF
10 THEY WANTED TO PROVE THAT SOMEONE WALKED UP LIKE THEY
11 CLAIM AFTER MICKEY THOMPSON HAD FALLEN AND 30 SECONDS
12 LATER AND HELD A GUN THAT CLOSE, THEY COULD HAVE TESTED
13 IT. THE TORSO WOUND WAS FATAL. THIS IS WHAT SHE SAID.
14 THE SCRIPT WAS THAT IT WAS AN ATTEMPT TO INCAPACITATE
15 HIM.

16 THE REALITY FROM THE CORONER, THAT'S NOT
17 WHAT REALLY HAPPENED. WE KNOW HE WAS SHOT IN THE HEAD
18 WHILE LYING DOWN. COUNSEL IMPLIED JUST THIS MORNING THAT
19 HE MIGHT BE STANDING UP. BUT WHERE WAS THE BULLET FOUND?
20 THE BULLET WAS FOUND RIGHT UNDERNEATH HIS HEAD. THE
21 OTHER BULLETS WERE FOUND IN THE GARAGE. THAT'S THE ONLY
22 WOUND THAT COULD HAVE COME WAS THE BULLET FOUND BENEATH
23 HIS HEAD.

24 THERE IS A CLUSTER OF WOUNDS SO CLOSE
25 TOGETHER -- CAN YOU IMAGINE TRYING TO TAKE AIM AT AN
26 INDIVIDUAL FIRST ONCE AND THEN WAITING; AND THEN ANOTHER
27 TIME AND THEN WAITING; THEN A THIRD TIME AND STILL GET
28 THE WOUNDS THAT CLOSE. THIS IS OBVIOUSLY RAPID FIRE

1 BOOM, BOOM, BOOM, BOOM, BOOM. NOT AN ATTEMPT TO
2 INCAPACITATE. WHEN WE SHOWED HER THE TRAJECTORY AND SAID
3 IS THIS CONSISTENT WITH SOMEONE DOING THIS, SHE SAID YES.
4 AGAIN, IS IT A REASONABLE INTERPRETATION? YES.

5 DOES IT GO AGAINST THEIR IDEA OF
6 INCAPACITATION AND THIS WHOLE DANCE OF DEATH? YES. DOES
7 THE LAW REQUIRE THEN THAT YOU REJECT THE DANCE OF DEATH
8 AND ACCEPT THAT THIS WAS JUST A STRAIGHT OUT SENSELESS,
9 BRUTAL KILLING? YES. THE HIP WOUND IS CONSISTENT WITH
10 BEING SHOT WHILE TURNED AWAY. THERE IS NO EVIDENCE TO
11 SUGGEST THAT IT DIDN'T COME AT THE SAME TIME.

12 AND IF YOU LOOK AT THE CORONER'S REPORTS,
13 YOU CAN SEE HOW ALL OF THE WOUNDS -- ALL OF THE BULLETS
14 WOULD HAVE COME AT ONE TIME AND THAT IS EXACTLY WHAT
15 WOULD HAVE HAPPENED IF SOMEONE TURNED AWAY WHILE THE
16 FIRST TWO WERE COMING. THE FIRST ONE CLEAN; THE SECOND
17 ONE THROUGH THE HAND; THE THIRD ONE TURNING.

18 WE ALSO KNOW ABOUT TRUDY THOMPSON'S WOUND
19 IN THE TORSO CONSISTENT WITH HER SITTING DOWN. BUT JACO
20 SWANEPOEL AND COMMON SENSE AND LOGIC TELL YOU, THE ONLY
21 WAY TO GET THAT KIND OF A WOUND IS IF THE CAR DOOR IS ALL
22 THE WAY OPEN. BECAUSE OTHERWISE YOU HAVE TO COME DOWN AT
23 THE WRONG ANGLE AND THIS ONE CAME UP. THERE WAS NO
24 SCRAPING ON HER KNEES.

25 AGAIN, THIS WAS A DISTRICT ATTORNEY'S
26 ARGUMENT DURING OPENING STATEMENTS, SHE CRAWLED ON HER
27 KNEES TO GET AWAY. SHE RAN AWAY. SHE HAD BEEN SHOT.
28 SHE ACTUALLY PROBABLY, ACCORDING TO THE EVIDENCE AT THE

1 CRIME SCENE, MAYBE EVEN PUT UP QUITE A FIGHT. BUT THE
2 IDEA OF CRAWLING ON HER KNEES INVOKES CERTAIN SYMBOL IN
3 YOUR MIND. AND IT'S WRONG AND IT'S AN ATTEMPT TO INFLAME
4 YOUR PASSION AGAIN.

5 THERE IS ABSOLUTELY NO EVIDENCE. THERE
6 WAS EVIDENCE OF A STUN GUN NEAR THE FINGERNAIL. COULD
7 SHE HAVE CONFRONTED HER ATTACKER? WE KNOW THE
8 FINGERNAILS BROKE. WE KNOW THERE WAS CERTAINLY ENOUGH
9 SUGGESTION THAT A COMPETENT INVESTIGATOR WOULD HAVE
10 TESTED THEM.

11 TRUDY FELL WHERE SHE WAS SHOT. THERE WAS
12 A CASING NEARBY. A BULLET FRAGMENT NO. 30 WAS THE SAME.
13 THE GLASS WOUNDS COULD HAVE COME FROM EITHER THE
14 WINDSHIELD SHOT OR THE SIDE SHOT. AND SHE WAS WEARING A
15 PENDANT. THESE WERE NOT THE RESPONSIBILITY OF THE
16 CORONER, THE THINGS THAT WERE IN THE VAN. THE ONLY
17 RESPONSIBILITY OF THE CORONER WAS WHAT WAS ON HER AND
18 THAT WAS THE SQUARE TEN.

19 BRIEFLY GETTING BACK TO FINANCES. KAREN
20 STEPHENS SAID THAT ALL LEGITIMATE ACTIONS -- WHAT SHE DID
21 AS AN EXPERT, SHE ADDED THE DEPOSITS; SHE SUBTRACTED THE
22 WITHDRAWALS. THAT'S WHAT SHE DID AND IT ALL ADDED UP.

23 AND THIS \$20,000 THAT BARRON WEHINGER IS
24 COMING UP WITH. THEY SAID MR. SUMMERS LOOKED SURPRISED.
25 WE PROVIDED THE DOCUMENT. WE SHOWED HER THE DOCUMENT.
26 THERE WAS NO SURPRISE. THINK ABOUT THE ALTERNATIVE
27 EXPLANATION TO THIS \$20,000. KAREN STEPHENS KNOWS. SHE
28 KNOWS. SHE REVIEWED THE EVIDENCE. THAT BOAT DEPOSIT

1 \$31,000; 20,000; PLUS \$11,000. PERSONAL CHECK NOT
2 ACCEPTED. WE NEEDED A CASHIER'S CHECK. DIANE GOODWIN.
3 HOW DO YOU GET A CASHIER'S CHECK FROM ANOTHER BANK THAT
4 YOU DON'T BANK AT? WE SHOWED HER THE SOUTH WEST BANK
5 STATEMENT. THE DISTRICT ATTORNEY DIDN'T BRING THAT IN.
6 KAREN STEPHENS DIDN'T BRING THAT IN. YOU DON'T HAVE THAT
7 IN EVIDENCE. WE SHOWED IT TO HER. SHE REVIEWED IT. SHE
8 KNEW WHERE IT WENT.

9 HOW DO YOU GET A CASHIER'S CHECK AT A BANK
10 THAT'S NOT YOURS. WHAT DID SHE SAY? YOU TAKE CASH.
11 CASH. SHE KNEW THE DEPOSIT WAS \$31,000. SO DIANE
12 GOODWIN TAKES \$20,000 CASH SHE GOES TO A BANK AND SHE
13 GETS A CASHIER'S CHECK. THAT'S THE EVIDENCE. HIT MAN
14 DON'T TAKE CASH. THAT'S RIDICULOUS. IF \$20,000 WERE
15 WITHDRAWN AND IT WAS IN CASH, OKAY, MAYBE WE CAN HAVE A
16 DISCUSSION NOW.

17 \$20,000 WENT INTO A CASHIER'S CHECK. SHE
18 HAD TO HAVE WALKED INTO A BANK WITH THAT CASH. IF SHE
19 WAS USING THAT TO PAY A HIT MAN, WHY IS SHE WALKING INTO
20 THE BANK WITH IT? THAT'S RIDICULOUS. YOU HAVE A BOAT
21 DEPOSIT, \$31,000. INNOCENT EXPLANATION FOR A PIECE OF
22 EVIDENCE, VERSUS AN EXPLANATION THAT GOES TO GUILT, YOU
23 HAVE TO ACCEPT THE INNOCENT EXPLANATION, ESPECIALLY WHEN
24 THE DISTRICT ATTORNEY OFFERS YOU NO PROOF AND THROWS THAT
25 OUT THERE.

26 TOM SUMMERS HAD A SURPRISED LOOK ON HIS
27 FACE? SAY WHAT YOU WANT. HE KNOWS HOW TO READ. HE'S
28 THE ONE THAT HANDED HER THE DOCUMENT. THERE WAS NO LOOK

1 OF SURPRISE. IT WAS A \$20,000 TRANSACTION. WELL, IT
2 WASN'T DATED.

3 SHE HAD A PERSONAL CHECK. THEY DID NOT
4 TAKE THE PERSONAL CHECK. SHE HAD THE CASHIER'S CHECK.
5 AND KAREN STEPHENS KNOWS IT. AND IF YOU READ HER
6 TESTIMONY BACK, IF YOU NEED IT, WE'RE THE ONE THAT
7 PROVIDED HER WITH THAT DOCUMENT TO LOOK AT. THIS IS NOT
8 A MISSING \$20,000. SHE'S TRYING TO REWRITE HISTORY WITH
9 THE IDEA THAT MR. GOODWIN LIQUIDATED HIS ASSETS; HIS
10 HOUSE WAS SOLD. HE LIQUIDATED HIS HOUSE. EVERYBODY
11 SELLS THEIR HOUSE FOR CASH. ESCROW DIDN'T CLOSE UNTIL
12 AUGUST OF '88.

13 WHITEHAWK WAS A NORMAL DISTRIBUTION. YOU
14 HEARD THIS MORNING DIANE GOODWIN SOLD HER INTEREST IN
15 WHITEHAWK. NO, SHE DIDN'T. NO, SHE DIDN'T. IT FINANCED
16 THEIR ABILITY TO HAVE THAT BOAT. YOU'LL SEE THE CHECKS
17 AT THE BOTTOM IN THE LITTLE MEMO LINE IT SAYS
18 "DISTRIBUTION." THIS WAS AN INVESTMENT THAT WAS PAYING
19 OFF. SHE DIDN'T SELL HER PRINCIPAL IN THIS. THERE IS
20 ABSOLUTELY NO EVIDENCE OF THAT. YOU HAVE A CHECK. IT
21 SAYS "DISTRIBUTION."

22 DELORES CORDELL TOLD YOU WHEN THIS WAS
23 POSED AS A SURETY SHE KNEW, SHE KNEW THAT'S HOW THIS WAS
24 SUPPOSED TO BE SET UP. THIS WAS THE INVESTMENT. IT WAS
25 THE WAY IT WAS SET UP. DELORES CORDELL TOLD YOU AS MUCH.
26 THE GOLD, AGAIN, BOUGHT WITH A CASHIER'S CHECK. HAD IT
27 BEEN BOUGHT WITH CASH, WE WOULD BE HEARING, OH, THEY
28 TURNED CASH INTO GOLD. CASH YOU HAVE TO REGISTER, BUT A

1 CASHIER'S CHECK IS TRACEABLE. AGAIN, YOU CAN'T BE
2 INCONSISTENT IN YOUR ARGUMENT AND THEN ASK A JURY TO FIND
3 GUILT BEYOND A REASONABLE DOUBT.

4 THE REASON THEY KNOW ABOUT THE GOLD IS
5 BECAUSE DIANE GOODWIN USED HER TRUE NAME AND USED A
6 LEGITIMATE BANK WITH A CASHIER'S CHECK. THIS IS NOT
7 EVIDENCE OF TRYING TO HIDE FROM A MURDER CHARGE. SHE
8 ALSO HAD BANK ACCOUNTS IN FLORIDA SET UP IN HER TRUE NAME

9 DIANE GOODWIN HIRED A BOAT BROKER. THIS
10 WASN'T SOME SORT OF ILLEGITIMATE TRANSACTION, LIKE A REAL
11 ESTATE AGENT. SHE LOOKED AT 7000 MICHAEL GOODWIN CHECKS.
12 HOW MANY MICKEY THOMPSON CHECKS? HOW MANY FINANCIALS DID
13 YOU DO? NONE. DID YOU LOOK AT MICKEY THOMPSON'S PHONE
14 RECORDS OF ANY OF THE INVESTIGATORS? NO. WHO WAS HE
15 TALKING TO? WAS HE DEALING WITH ANY PEOPLE THAT WEREN'T
16 QUITE ABOVE BOARD? ANY FINANCIAL IRREGULARITIES? WE
17 DON'T KNOW. WE DIDN'T LOOK. NO ONE WAS INVESTIGATING
18 THIS CASE. THEY WERE ONLY LOOKING FOR EVIDENCE AGAINST
19 MICHAEL GOODWIN.

20 SHE KNOWS ABOUT THE WIRE TRANSFERS. WHY?
21 LEGITIMATE BANKS. LEGITIMATE BANKS, ALL TRANSACTIONS IN
22 HER TRUE NAME; ALL IN AN EFFORT TO AVOID HER HUSBAND'S
23 CREDITORS. HE PUT MONEY IN DIANE'S NAME; HE OPENED THE
24 OFFSHORE ACCOUNTS WITH HER. AND THE MOST INTERESTING
25 THING ABOUT HER TESTIMONY IN TERMS OF THE IDENTIFICATION,
26 SHE'S NEVER MET HIM. SHE POINTED AT HIM ACROSS THE ROOM.
27 YEAH, THAT'S HIM. I KNOW HIM FROM THE TV. SAME TV
28 AVAILABLE TO THE STEVENSES.

1 OFFICER RODRIGUEZ, WE HAD TO CALL THE
2 FIRST RESPONDER. WE'VE GONE THROUGH THIS AND I'LL GO
3 THROUGH THIS QUICKLY. THEY DIDN'T WANT TO CALL HIM
4 BECAUSE HE WOULD HAVE GONE AGAINST THE SCRIPT, NOT ONLY
5 IN DEALING WITH LANCE JOHNSON, BUT IN NOT SEEING ALLISON
6 TRIARSI, AND IN HAVING A DIFFERENT VERSION OF WHAT THAT
7 JEWELRY WAS IN THE CAR THAN REY VERDUGO. A SQUARE 10,
8 NOT A CIRCLE 1.

9 MARK TAYLOR WAS THE DNA EXPERT. WHY DID
10 WE CALL HIM? TO TELL YOU THAT IN THE 1990'S DNA WAS
11 AVAILABLE. THERE IS UNCONTROVERTED TESTIMONY. THEY
12 DIDN'T CALL ANYONE IN TO REFUTE THAT CLAIM. COLD HITS
13 HAPPEN EVERY DAY. THIS IS CORROBORATED BY THE
14 FINGERPRINT EVIDENCE IN 1988 WHEN THEY WERE INVESTIGATING
15 THE CASE.

16 YOU CAN'T TELL ON A HAIR IF IT HAS A ROOT
17 UNLESS YOU LOOK AT IT. MARK LILLIENFELD DIDN'T EVEN KNOW
18 THERE WAS A HAIR. THE STUN GUN COULD HAVE BEEN TESTED.
19 INSTEAD OF FLYING ALL OVER THE COUNTRY AGAIN TO TALK TO
20 ANYONE MICHAEL GOODWIN EVER MET WE COULD HAVE BEEN DOING
21 WORK ON THE PHYSICAL EVIDENCE IF WE WERE ACTUALLY TRYING
22 TO INVESTIGATE THIS CASE.

23 FINGERNAILS ARE ALWAYS CAPABLE OF A
24 PROFILE. THE EVIDENCE AT THE SCENE SHOW THAT THEY SHOULD
25 HAVE BEEN TESTED, BUT THEY WEREN'T BECAUSE MICHAEL
26 GOODWIN WASN'T AT THE CRIME SCENE. WE HAD TO CALL IN
27 MICHAEL GRIGGS. WE HAD TO CALL IN BOTH INVESTIGATING
28 OFFICERS. DOESN'T REMEMBER GOING IN THE HOUSE OR THE

1 GARAGE, BUT HE DID SEE FRESH DIGGING AT THE HOUSE
2 INDICATING THAT SOMETHING WAS BEING PUT IN.

3 WELL, DID YOU TALK TO THOSE WORKERS? THEY
4 MIGHT HAVE AN INTIMATE IDEA OF THE THOMPSONS' SCHEDULE.
5 THEY MIGHT KNOW ABOUT THIS CLAIM THAT THE THOMPSONS HAD
6 JUST BOUGHT SOMETHING VERY VALUABLE RECENTLY, TAKEN
7 POSSESSION. DID YOU TALK TO THEM? NO. DID YOU DO A
8 BACKGROUND CHECK ON THEM? NO. NO PHONE RECORDS.
9 NOTHING. NO FINANCIAL REPORTS. NO TESTS ON THE SAFE.
10 DIDN'T EVEN TAKE A PICTURE OF THE SAFE. DIDN'T EVEN GET
11 THERE.

12 NO PICTURES OF THE PURSE OR THE MONEY.
13 BUT HE DID NOTE IT WAS IN AN ENVELOPE. JUST LIKE THE ONE
14 IN THE UPSTAIRS SAFE. JEWELRY IN THE CAR. IT WASN'T
15 POSED FROM THE BODY. HE TOLD YOU THAT WOULD HAVE BEEN
16 TOTALLY AGAINST PROCEDURE. THEY DIDN'T DO THAT. HE
17 NEVER SOUGHT TO ARREST MICHAEL GOODWIN. HE TOLD YOU THAT
18 OUTRIGHT. FIRST INVESTIGATING OFFICER ON THE CASE UNTIL
19 1992.

20 NEVER TRIED TO ARREST HIM. NEVER GOT A
21 WARRANT. NO ONE WAS RUNNING. NO ONE WAS FLEEING A
22 CRIME. THEY WEREN'T LOOKING FOR HIM. HE KEPT THREE
23 COPIES OF EVERY CLUE SHEET. AND ALL THESE PEOPLE WHO
24 SAID THEY CAME FORWARD; ALL THESE PEOPLE WHO SAID THEY
25 CAME FORWARD, NOT A CLUE. NOT FROM THE STEVENSES OR
26 ANYONE WHO CLAIMED I CAME FORWARD BEFORE THIS WAS IN THE
27 NEWS.

28 MARK LILLIENFELD ASSIGNED THIS IN 1995.

1 SPOKE TO ALLISON TRIARSI; NEVER TOLD HIM THAT TRUDY WAS
2 SHOT. I'LL GO THROUGH THEM QUICKLY. SHE ONE TIME
3 THOUGHT THAT THE SHOOTERS WERE WHITE. THIS IS THE PERSON
4 THEY ARE RELYING UPON TO TELL ABOUT THIS DANCE OF DEATH.

5 WEESE, WEHINGER, THE STORY GETS WORSE WITH
6 EACH TELLING. NEVER CONFRONT JOHN WILLIAMS WITH THIS
7 ISSUE. NEVER. NOT ONCE. BECAUSE IF YOU ARE WILLING TO
8 SAY SOMETHING BAD ABOUT MICHAEL GOODWIN, WE'RE NOT GOING
9 TO CONFRONT YOU OR CALL YOU A LIAR. YOU JUST COME ON IN,
10 SAY IT. NO WARRANTS, HE TOLD YOU, NOT EVER FOR
11 MR. GOODWIN.

12 EVER GOES TO THE CRIME SCENE WITH THE
13 INITIAL INVESTIGATORS. NEVER GOES WITH THE WITNESSES.
14 WHY? NEVER READS THE LAB REPORTS. NEVER EVEN READS THE
15 LAB REPORTS. OKAY. IT'S ONE THING YOU DON'T GO DOWN TO
16 THE SHERIFFS LOCKER AND DIG THROUGH BOXES LOOKING FOR
17 BLOODY CLOTHES. FINE. YOU DON'T READ THE LAB REPORTS?

18 YOU DON'T OPEN UP THE FILE AND SAY: IS
19 THERE ANYTHING WORTH TESTING HERE? NOT IF YOU'RE NOT
20 INVESTIGATING THE CASE. HE DIDN'T KNOW THERE WAS A HAIR.
21 HE WAS RUNNING ALL OVER THE COUNTRY. KATHY WEESE IN
22 GEORGIA. TO A BLIND DATE FROM 20 YEARS AGO.

23 HE'S NOT INTERESTED IN THE EVIDENCE. HE'S
24 NOT INTERESTED IN THE INVESTIGATION. HE'S ONLY
25 INTERESTED IN EVIDENCE COLLECTED AGAINST MICHAEL GOODWIN,
26 THE HAIR. ARIZONA PLATE, HAS IT ON THE REPORT, CLEAR AS
27 DAY. IT'S GOT A LICENSE NUMBER. DOES HE RUN IT? NO.

28 DIFFERENT SUSPECT. HE SAYS, WELL, I

1 CALLED ARIZONA. CAN YOU IMAGINE THAT CONVERSATION? HE
2 SAYS I RAN DOWN EVERY LICENSE PLATE. HE CALLED ARIZONA
3 AND HE SAID: DID MICHAEL GOODWIN EVER HAVE A CAR IN
4 ARIZONA? THAT'S WHAT HE DID. HE DOESN'T RUN AN
5 ARIZONA -- THAT'S AN ODD ENOUGH FACT. YOU GOT A SUSPECT
6 IN THE FILE THAT ANOTHER COP LOOKED AT IN 1988. YOU
7 DON'T EVEN TRACE IT?

8 YOU BELIEVED WHAT THE STEVENSES SAID. YOU
9 GOT A PLATE. DIDN'T EVEN LOOK AT IT? HE SPOKE TO THEM.
10 HE WROTE DOWN THEIR REPORT. HE DOESN'T ASK HER TO COME
11 TO THE PHOTO LINE-UP. SHE DOESN'T TELL HIM ANYTHING
12 ABOUT FIRST PASS, SECOND PASS.

13 AND THEN HE PUTS THE AGE OF THE PEOPLE IN
14 THE LIVE LINE-UP SIGNIFICANTLY REDUCING THE NUMBER OF
15 CHOICES AND MAKING SURE THAT MICHAEL GOODWIN WAS THE ONLY
16 PERSON THAT WAS IN THE PHOTO LINE-UP THAT WAS ASKED TO
17 ATTEND THE LIVE LINE-UP. HE SPOKE TO CLAUDETTE. SHE
18 SAID HER SON WAS AT WORK. HE NEVER TRIED TO GO TO
19 GLENDALE AND SEE IF IT WAS POSSIBLE TO GET BACK.

20 HE TAKES THEM TO THE COMPOSITE ARTIST --
21 THIS WAS THE OTHER THING, HE TAKES A COMPOSITE ARTIST TO
22 GO SEE CLAUDETTE FREIDINGER, LANCE JOHNSON, WILMA
23 JOHNSON. BUT HE NEVER SHOWS THEM SUSPECTS THROUGH THE
24 YEARS OF AFRICAN/AMERICAN MEN WHO HAVE BEEN LOOKED AT IN
25 THIS CRIME. HE NEVER TAKES THESE PICTURES TO THEM. HOW
26 BIZARRE IS THAT? HE TAKES MICHAEL GOODWIN'S PHOTO TO THE
27 STEVENSES TEN YEARS LATER -- 13 YEARS LATER.

28 HE DOESN'T SHOW ANY OF THE -- HE TAKES A

1 COMPOSITE ARTIST, BUT HE DOESN'T SHOW THEM ANY
2 PHOTOGRAPHS OF ANYONE ELSE. WE SPOKE TO GREG KEAY. HE'S
3 THE ONE THAT GOT THE STATEMENT ABOUT RUBBING ME THE WRONG
4 WAY. ALL OF THE STORIES FROM THESE PEOPLE GET WORSE EACH
5 TIME.

6 WHAT DOES TELL YOU? WHAT DOES HE TELL YOU
7 HE DID FOR THE LAST HOWEVER MANY YEARS OF THE CASE? HE
8 GOT HELP FROM THE DEA. HE GOT HELP FROM CUSTOMS; THE
9 FBI; THE SECRET SERVICE; ATF. THEY CONDUCTED WIRE TAPS;
10 SURVEILLANCE; WIRE TAPS; SURVEILLANCE; ATF.

11 17 YEARS AND THEY COME IN HERE WITH A
12 THEORY FOR YOU AND THEY RETELL THAT THEORY AND THEY
13 RETELL IT LOUDLY AND THEY RETELL IT WITH A DANCE OF DEATH
14 AND RETELL IT WITH DRAMA AND A PERFORMANCE WORTHY OF
15 TELEVISION.

16 17 YEARS, DO YOU THINK YOU WOULD HAVE -- I
17 DON'T KNOW -- A HINT ABOUT A MEETING WITH THE KILLER; A
18 PIECE OF PAPER; A FINANCIAL TRANSACTION; A PHONE RECORD.
19 YES, IT'S TRUE THEY DON'T HAVE TO PROVE THAT MICHAEL
20 GOODWIN SAT DOWN WITH DON AND DAN KILLER AT DENNY'S AT
21 10:00 A.M. ON A TUESDAY. BUT THEY SURE HAVE TO PROVE
22 THAT HE WAS SOME HOW INVOLVED IN THIS CRIME. ALL OF
23 THIS, ALL OF THIS AND ALL THEY COME INTO YOU WITH IS A
24 14-YEAR-OLD GIRL; A MOTIVE; RON AND TONYIA STEVENS 13
25 YEARS LATER. ALL OF THIS.

26 ERIC MILLER DID NOT WANT TO BE HERE.
27 MICKEY THOMPSON TOLD HIM HE HAD TAKEN SOMETHING OF VALUE.
28 MAYBE HE SAYS I HAD A PHONE INTERVIEW WITH THE POLICE. I

1 MIGHT HAVE TOLD HIM. HE REALLY DOESN'T REMEMBER THIS?
2 YOU TALK TO YOUR FRIEND THE NIGHT BEFORE HE DIES, DOES
3 NOT WANT TO BE THE ONE TO GO AGAINST THE DISTRICT
4 ATTORNEY'S THEORY; DOES NOT WANT TO BE THE ONE TO TELL
5 YOU THAT HE GAVE INFORMATION, GAVE INFORMATION THAT WAS
6 NEVER FOLLOWED UP ON.

7 MR. JACKSON: YOUR HONOR, I HAVE TO OBJECT AT
8 THIS POINT. I APOLOGIZE FOR THE INTERRUPTION.

9 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN,,
10 LET ME JUST REMIND YOU THAT WHAT THE ATTORNEYS SAY IS NOT
11 EVIDENCE. AND YOU SHOULD BE GUIDED SOLELY BY THE
12 EVIDENCE THAT YOU HEARD IN THIS CASE.

13 THE OBJECTION IS OVERRULED.

14 MS. SARIS: THANK YOU.

15 THE ISSUE IS WHAT DID THE OFFICERS DO WITH
16 THIS INFORMATION? WHAT DID OFFICER LAPORTE TELL YOU?
17 FIRST OFF HE TELLS YOU THAT HE SPOKE TO MILLER IN PERSON.
18 HE REMEMBERS THAT. IT'S ON HIS NOTES. HE DOESN'T
19 REMEMBER IT EXACTLY, BUT THANK GOD HE WROTE NOTES. CLEAR
20 EVIDENCE. CLEAR ON ITS FACE. BELIEVE WHAT IT SAYS. HE
21 WROTE IT IN A REPORT, GAVE THE REPORT TO THOSE IN CHARGE
22 AND IT WAS NEVER FOLLOWED UP ON. I GAVE A REPORT.

23 HOW DID CAN THEY SAY, HOW CAN THEY STAND
24 UP HERE AND SAY TO YOU NOTHING WAS TAKEN IF THEY DIDN'T
25 FOLLOW UP ON EVEN THE MOST BASIC OF CLUES. HOW DO THEY
26 DO THAT? OFFICER JANSEN WAS LIKE PULLING TEETH TO GET
27 HIM TO TALK. HIS REPORT IS CLEAR. HIS REPORT HE READ IT
28 TO YOU. SAFE IN THE GARAGE; BOLT BAR BENT; FRESH MARKS

1 ON LOCKING WHEEL, SAFE EMPTY.

2 AGAIN, THERE IS NO ONE TO SUGGEST ANYWHERE
3 THAT THE SAFE WAS RELOCKED. THE SAFE WAS JUST CLOSED.
4 THE SAFE IN THE MASTER BEDROOM, MONEY IN ENVELOPES,
5 JEWELRY, MISCELLANEOUS PAPERS AND PICTURES. THAT'S WHAT
6 HIS NOTES SAY. NOW HE'S REWRITING HISTORY. A LOCKSMITH
7 DID IT. LET'S JUST THINK ABOUT IT IN TERMS OF LOGIC.
8 YOU ARE A POLICE OFFICER. YOU'RE WRITING A NOTE THAT YOU
9 KNOW IS GOING TO BE INCLUDED IN A REPORT ON AN UNSOLVED
10 CASE.

11 AND YOU WRITE IN THAT REPORT THAT THERE IS
12 DAMAGE TO THE SAFE. BUT YOU DON'T WRITE IN THE REPORT
13 THAT A LOCKSMITH DID IT. AND THEN 18 YEARS LATER WHEN
14 YOU HAVE NO RECOLLECTION OF ANYTHING, YOU COME UP AND SAY
15 A LOCKSMITH DID IT. WHY WOULD WE NEED TO WORRY IF THEY
16 WERE THE POLICE OFFICERS BREAKING INTO THE SAFE ABOUT
17 LIABILITY? SUPPOSEDLY THE FAMILY HE SAID WAS STANDING
18 RIGHT THERE.

19 NOTHING IN THE REPORT, NOTHING IN THE
20 REPORT. AND HE IS OUT THERE. HE TOLD YOU THE PAGE
21 BEFORE, HE HAD AN INTERVIEW WITH A NEIGHBOR. DOES HE
22 TAKE THE FAMILY ALONG FOR THAT? WHY WOULD THEY NEED --
23 WHY WOULD THE FAMILY NEED THE POLICE OFFICER THERE TO
24 WITNESS THIS IF THIS WAS LEGITIMATE, IF THIS HAPPENED.
25 IF THE INVESTIGATION WAS CLOSED. WHY WOULD YOU AS A
26 FAMILY MEMBER -- YOU HAVE A RIGHT TO GET IN YOUR OWN
27 SAFE.

28 THERE WAS NO FAMILY MEMBER. THERE WAS NO

1 LOCKSMITH. HE'S REWRITING HISTORY BECAUSE HE NOW KNOWS
2 THIS IS THE CLAIM THAT WE'RE MAKING. THERE IS NO MENTION
3 OF A LOCKSMITH IN THAT NOTE. NO MENTION OF A FAMILY
4 MEMBER BEING THERE. HE WRITES THE REPORT. THE REPORT
5 NEVER MENTIONS IT. HE SAYS HE NEVER MET THE DISTRICT
6 ATTORNEY BEFORE. THINK ABOUT THIS, IN TERMS OF THE STORY
7 YOU'RE BEING TOLD.

8 IF YOU WERE LOOKING THROUGH THE REPORTS IN
9 THIS CASE AND YOU SAW THAT, HOW WOULD YOU KNOW THERE WAS
10 A LOCKSMITH? HOW WOULD YOU KNOW THERE WAS A FAMILY
11 MEMBER THERE? HE TOLD YOU IT'S NOT THERE. HOW DO YOU AS
12 A DISTRICT ATTORNEY PRESENT THIS TO A JURY WITHOUT
13 CHECKING WITH THE MAN WHO WROTE THE REPORT ABOUT MARKS
14 BEING ON THE LOCKING WHEEL?

15 DO YOU JUST ASSUME BECAUSE IT'S 19 DAYS
16 LATER? YOU JUST ASSUME THAT HE MUST HAVE GONE IN THERE
17 WITH A LOCKSMITH. AND HOW CAN YOU SAY IT'S NO ROBBERY IF
18 YOU NEVER LOOKED. THIS IS AN ONGOING INVESTIGATION. AND
19 WHY NOTE DAMAGE TO A SAFE IF YOU CAUSED IT YOURSELF? IF
20 YOU'RE THE ONE WHO DID IT, WHY ARE YOU PUTTING THAT IN A
21 POLICE REPORT? ISN'T THERE SOME CLAIM FORM YOU CAN PUT
22 WITH THE CITY? WHY ARE YOU PUTTING THAT IN THE POLICE
23 REPORT, IF YOU CAUSED THAT DAMAGE ITSELF.

24 THE SAFE WAS EMPTY. THE UPSTAIRS SAFE
25 STILL HAD VALUABLES. THE UPSTAIRS NO DAMAGE. NO DAMAGE
26 TO THE UPSTAIRS SAFE. HOW DID THEY GET TO THE UPSTAIRS
27 SAFE TO SEE THE VALUABLES IN WITHOUT CAUSING DAMAGE? IF
28 THEY CAUSED DAMAGE, HOW COME THEY DIDN'T WRITE THAT IN

1 THE REPORT.

2 MONEY IN ENVELOPE, JEWELRY, JUST LIKE IN
3 TRUDY'S PURSE. WHAT WAS IN THE GARAGE SAFE THAT MORNING?
4 WE DON'T KNOW. I DON'T KNOW. I'M NOT THE ONLY ONE
5 JUMPING UP AND DOWN TALKING ABOUT ROBBERY. I'M ASKING
6 YOU, HAS IT BEEN PROVEN TO YOU IT WAS NOT A ROBBERY? I
7 DIDN'T WRITE OFFICER JANSEN'S REPORT IN 1988. I'M NOT
8 THE ONLY PERSON IN THESE FOUR WALLS THAT MENTIONED IT.
9 IT WAS IN HIS REPORT IN 1988.

10 AM I HAVE NOT ALLOWED TO TELL YOU THAT?
11 AM I NOT ALLOWED TO ASK YOU? LADIES AND GENTLEMEN, IF
12 THEY'RE SAYING THIS WAS A DEADLY DANCE OF DEATH
13 ORCHESTRATED AS A EXECUTION SHOULDN'T THEY EXPLAIN THAT
14 TO YOU. SHOULDN'T THEY PRESENT OFFICER JANSEN TO YOU TO
15 EXPLAIN THAT.

16 HE'S VERDUGO'S PARTNER AND HE TOLD YOU
17 THEY WEREN'T RESPONSIBLE FOR THE CRIME SCENE. THEY WERE
18 INTERVIEWING NEIGHBORS AND THEN THEY WENT TO ANAHEIM.
19 VERDUGO SAID I WENT IN THE HOUSE AND NOTHING WAS MISSING,
20 SPEAKING WITH AUTHORITY AS IF IT WAS HIS JOB THAT MORNING
21 IT WASN'T. HE HAD NOTHING TO DO WITH IT. HE SAYS WE
22 DIDN'T EVEN GET IN THE HOUSE THAT DAY. REFERRING TO HIM
23 AND VERDUGO. BOLT BAR BENT, FRESH MARKS ON THE LOCKING
24 WHEEL. ALL WE KNOW IS THE SAFE WAS CLOSED. NO TESTS.
25 NO PICTURES. THE PROSECUTION'S BURDEN. IF YOU ARE PAY
26 LOCKSMITH, EVEN 20 YEARS LATER, YOU'RE GOING TO REMEMBER
27 IF YOU WERE THE ONE WHO BROKE INTO MICKEY THOMPSON'S
28 HOME. YOU WANT TO TALK ABOUT EVIDENCE THAT WASN'T

1 PRESENTED? FINE. WHERE IS THAT LOCKSMITH IF THIS
2 HAPPENED. WHERE IS THE PERSON THAT WAS STANDING WITH
3 OFFICER VERDUGO WHEN THIS HAPPENED?

4 NOW GRANTED THEY DON'T HAVE TO CALL
5 EVERYONE. BUT COME ON, THEY'VE GOT TO PROVE THIS TO YOU
6 BEYOND A REASONABLE DOUBT. THEY'RE REWRITING HISTORY
7 BECAUSE IT DOESN'T FIT THE SCRIPT. A REPORT THAT IS
8 CLEAR ON ITS FACE X MEANS X DOESN'T FIT THE SCRIPT.

9 THE KILLERS DIDN'T BRING BAGS WITH THEM.
10 THEY TOOK THEM OUT OF THE SAFE. THEY DIDN'T HAVE TO
11 WORRY ABOUT HOW BIG THE BAGS WERE OR NOT. ON A BIKE,
12 SURE, YOU'VE GOT A BIKE PATH. IT'S HIDDEN IN THE GULLY.
13 DON'T WAKE ANYBODY UP WITH THE NOISE AT 6:00 IN THE
14 MORNING.

15 THE BURDEN IS NOT THE PROSECUTION. EVERY
16 PIECE OF EVIDENCE THEY WANT YOU TO RELY ON IN A
17 CIRCUMSTANTIAL CASE MUST PROVEN BEYOND A REASONABLE
18 DOUBT. EVERY SINGLE PIECE. LOCKSMITH AND THE SAFE
19 WASN'T MANIPULATED, MUST BE PROVEN BEYOND A REASONABLE
20 DOUBT. EVIDENCE ON THE REPORT, SAFE TAMPERED, CLEARLY.

21 JACO SWANEPOEL AGREED WITH VAN HORN.
22 BASED HIS FINDINGS ON MUNOZ REPORT. AND THE BEST THE
23 D.A. COULD DO TO IMPEACH HIM WAS, WELL, YOU DIDN'T STUDY
24 IN AMERICA, DID YOU? THAT WAS OFFENSIVE. HE'S BASING
25 HIS CONCLUSION ON YOUR OWN EXPERT'S REPORT. HE SAID I
26 TRUSTED YOUR GUY. I TOOK YOUR GUY'S WORD. AND I AM NOW
27 RECREATING THIS CRIME SCENE.

28 IS THERE AN ALTERNATE THEORY? DID THEY

1 PRESENT AN ALTERNATE EXPERT? NO. THEY COMPARTMENTALIZED
2 ALL THE EXPERTS BECAUSE WE CAN'T DEBUNK THE SCRIPT.
3 EVIDENCE MAKE SENSE. THIS IS NOT A CHAOS. THIS IS A
4 CRIME SCENE THAT IS EASILY DISCERNABLE. WHAT ARE THE
5 ODDS THAT EVERY SINGLE ONE OF THE CASINGS WAS KICKED IN A
6 PLACE THAT MAKES PERFECT SENSE?

7 IN THE PICTURES AND YOU HAVE IT IN THE
8 DEFENSE DIAGRAM. YOU CAN SEE WHERE THE EVIDENCE WAS.
9 YOU WENT TO THE CRIME SCENE. THERE ARE LANDINGS. THERE
10 ARE CRACKS IN THAT DRIVEWAY. THIS WASN'T A SITUATION
11 WHERE ALL THE CASINGS WERE FOUND AT THE BOTTOM OF THE
12 DRIVEWAY HAVING ROLLED DOWN THE HILL AND WE ARE STANDING
13 UP SAYING, OH, THE SHOOTERS WERE ONLY AT THE BOTTOM OF
14 THE HILL.

15 THE CASINGS LANDED AT DIFFERENT LOCATIONS
16 AND YOU HAD THE PHOTOGRAPHS OF THOSE. EYEWITNESSES ARE
17 PART OF THE SCIENTIFIC REVIEW. JACO SWANEPOEL WASN'T
18 HIRED TO SAY WAS THIS A ROBBERY? JACO SWANEPOEL WASN'T
19 HIRED TO SAY TELL ME ABOUT THE EYEWITNESSES. HE CAME IN
20 AND HE TOLD YOU HIS CONCLUSIONS BASED ON SCIENCE, JUST
21 LIKE MUNOZ DID. ONLY THEY ONLY LET MUNOZ SEE A LITTLE
22 PART OF IT.

23 WE HAVE LET JACO SEE EVERYTHING,
24 EVERYTHING. CORONER'S REPORTS, VIDEOS, EVERYTHING. THEY
25 HAVE THEIR ONE PERSON WHO SEES THIS. THEIR ONE PERSON
26 WOULD SEE THIS. THEIR ONE PERSON WHO SEES THIS. AND
27 THEN WE CAN GET UP AND WE CAN TELL YOU ANYTHING WE WANT
28 BECAUSE THEY NEVER PUT THEM TOGETHER.

1 ESPECIALLY YOU DON'T LOOK AT AN EYEWITNESS
2 WHEN THE EYEWITNESS IS INACCURATE. AND NO ALTERNATE
3 THEORY IS EVER OFFERED. THIS ISN'T JUST, OH, WE LOOKED
4 AT NO. 2 AND 30 AND THEY LOOKED GOOD. THE DISTRICT
5 ATTORNEY'S WITNESS JUST HE PICKED TWO AND THEY MATCHED
6 AND THEY WENT THROUGH IT. FOUR CASINGS TO ONE GUN FOUR
7 CASINGS TO THE OTHER. ALL FOUR HAVE TO GO TO THE SAME
8 GUN. WE WENT THROUGH IT. ALL FOUR. YOU CAN'T PICK AND
9 CHOOSE. 2 AND 30 ARE TOGETHER, THAT MEANS ALL THE
10 GREENS; ALL THE REDS.

11 IF TRUDY THOMPSON WERE SHOT WHILE SHE
12 WAS IN THE VAN, AS IT WAS COMING OUT OF THE DRIVEWAY THAT
13 MEANS THAT THE SHOOTER, THE GREEN SHOOTER WAS RIGHT NEXT
14 TO MICKEY THOMPSON AND WOULD HAVE BEEN ABLE TO SILENCE
15 THE SCREAMS THAT MORNING BEFORE THE SILENCE AND THE
16 SECOND VOLLEY.

17 THE SILENCE THAT BOTH LANCE AND SANDRA
18 DESCRIBE. AND, AGAIN, MUNOZ WAS IN THE AUDIENCE. IF HE
19 HAD A BEEF WITH WHAT JACO SAID, YOU WOULD HAVE HEARD FROM
20 HIM. THEY HAD A RIGHT TO CALL HIM AFTERWARD. WE TALKED
21 BEFORE THE FINANCIAL MYTH IN THIS CASE. THE GLARING
22 INCONSISTENCIES IN THEIR THEORY. THE FACT THAT
23 MR. THOMPSON WAS MOST LIKELY SHOT FIRST BASED ON THE
24 CRIME SCENE RECONSTRUCTION AND THE EVIDENCE OF A
25 ROBBERY..

26 THIS IS NOT WHAT PROOF BEYOND A REASONABLE
27 DOUBT IN A MURDER TRIAL LOOKS LIKE. THIS WAS NOT AN
28 INVESTIGATION AFTER 1988. IT WAS A 17-YEAR HUNT FOR

1 EVIDENCE AGAINST MICHAEL GOODWIN. AND THIS IS ALL THAT
2 THEY HAVE? THEY HAVE PROMISES IN THEIR OPENING STATEMENT
3 THAT WERE NOT KEPT. THEY HAVE STATEMENTS THAT WERE MADE
4 TO YOU THAT WERE PURPOSELY MADE WORSE TO INFLAME YOU.

5 THEY HAVE NO EVIDENCE WHATSOEVER THAT GETS
6 YOU BETWEEN THE LINK. MICKEY THOMPSON WAS MURDERED.
7 MICKEY THOMPSON AND MICHAEL GOODWIN DIDN'T GET ALONG.
8 GLARING GAP RIGHT HERE IN THE MIDDLE. 17 YEARS OF
9 INVESTIGATION. NOTHING.

10 THE ALLEGATIONS AGAINST THEM, ASSETS WERE
11 LIQUIDATED. CAN WE PUT IT IN A DIFFERENT PILE? YES, WE
12 CAN. WHAT WAS PROVEN BEYOND A REASONABLE DOUBT?
13 UNDERLYING FACT, WAS IT PROVEN BEYOND A REASONABLE DOUBT?
14 WHICH PILE CAN IT GO INTO? CAN IT ONLY LEAD TO THE
15 INTERPRETATION OF GUILT? WE MUST SET ASIDE EVERYTHING
16 THAT'S NOT PROVEN AND EVERYTHING THAT COULD POSSIBLY BE
17 EXPLAINED RATIONALLY ELSEWHERE.

18 WHAT DOES THAT LEAVE US WITH? ASSETS
19 LIQUIDATED. DIANE COULD HAVE BEEN MOVING THOSE TO AVOID
20 MICHAEL GOODWIN'S CREDITORS. MICHAEL GOODWIN TOLD ANYONE
21 WHO WOULD SIT STILL FOR FIVE MINUTES THAT HE WANTED
22 MICKEY THOMPSON DEAD. OKAY. WE'RE GOING TO PUT A HASH
23 MARK THROUGH THIS.

24 MICHAEL GOODWIN SAID SOME REALLY BAD
25 THINGS. INTERESTING NONE OF THEM WERE DEATH THREATS
26 UNTIL HINDSIGHT CAME IN. THINK ABOUT IT. DALE NEWMAN,
27 "HONEY, DON'T WORRY. THINGS ARE GOING TO BE OKAY"
28 BECOMES A DEATH THREAT.

1 WE WILL PUT A DASH LINE. YES. MICHAEL
2 GOODWIN, MICKEY THOMPSON, BITTER LEGAL DISPUTE. WE HAVE
3 NEVER DENIED THAT. MURDER OVER HERE, THAT RIVALRY OVER
4 HERE. IS IT PARTWAY PROVED? YES. MURDER? MURDER
5 THREATS? I'M GOING TO TAKE CARE OF HIM. HE'S RUBBING ME
6 THE WRONG WAY.

7 MICHAEL GOODWIN FLED THE CRIME? WAS THERE
8 EVER SOMEBODY OUT LOOKING FOR HIM? DID HE EVER NOT USE
9 HIS TRUE NAME? WAS THERE EVER A WARRANT? NO. MICHAEL
10 GOODWIN WENT TO FLORIDA, THAT'S ALL THE EVIDENCE. THIS
11 IDEA THAT HE WENT TO BURMUDA, BAHAMAS, SOUTH AMERICA.

12 1991, FOR THREE WEEKS WHEN HE WAS TRYING
13 TO KEEP THE BOAT AWAY FROM HIS CREDITORS, 1991 FOR THREE
14 WEEKS. TRANSFERRED ASSETS OVERSEAS. AGAIN, CAN WE SAY
15 IT'S TRYING TO KEEP IT AWAY FROM HIS CREDITORS? THEN WE
16 TAKE IT OUT OF THE MURDER EQUATION. HE WAS THE GUY IN
17 THE CAR, REALLY. BOB UTSEY SPENT SIX WEEKS WITH THIS MAN
18 AND REFUSED TO IDENTIFY HIM 17 YEARS LATER.

19 DALE NEWMAN SPENT A WHOLE WEEK. CHANCES
20 OF MISIDENTIFYING SOMEONE AFTER 11 MONTHS. MICHAEL
21 GOODWIN WAS NOT THE MAN IN THE CAR. AND THE MAN IN THE
22 CAR MAY WELL NOT HAVE ANYTHING TO DO WITH THE CRIME.
23 PROVEN BEYOND A REASONABLE DOUBT BEFORE YOU CAN EVEN COME
24 CLOSE TO ASKING IS IT RELEVANT TO THIS MURDER CHARGE.

25 NOTHING OF VALUE WAS MISSING. REALLY?
26 WHAT INVESTIGATION WAS DONE THAT PROVES THAT TO YOU.
27 NONE. THE CRIME SCENE WAS ORCHESTRATED. WE'VE SHOWN YOU
28 THAT THAT'S NOT TRUE. CERTAINLY IT'S OPEN TO ANOTHER

1 INTERPRETATION. AND MARCH WAS A CRUCIAL COURT DATE. IT
2 WAS A CONTINUED COURT DATE. DATE CONTINUED BEFORE MICKEY
3 THOMPSON DIED, A DATE TO DISTINGUISH AND DECIDE ABOUT THE
4 DISCHARGE AGREEMENT THAT WAS SIGNED AFTER MICKEY THOMPSON
5 DIED. IT WAS NOTHING.

6 THIS IS NOT WHAT PROOF BEYOND A REASONABLE
7 DOUBT IN A MURDER TRIAL LOOKS LIKE. I'M ABOUT TO SIT
8 DOWN. I KNOW MR. DIXON IS EXCITED TO TALK TO YOU BEFORE
9 THE END OF THE DAY. ALL RIGHT. HE MIGHT NOT BE EXCITED,
10 BUT HE HAS TO. I'VE TRIED TO MAKE SLIDES AGAINST THE
11 POWER POINT BIBLE THAT HAD A LOT OF WRITING ON THEM,
12 BECAUSE THE LAST THING THAT I WANTED TO DO WAS TO SIT
13 DOWN THERE, AFTER WAITING THIS LONG TO GET AN OPPORTUNITY
14 TO TALK TO YOU AND LEFT SOMETHING OUT.

15 I'M NOT GOING TO GET AN OPPORTUNITY TO
16 TALK AGAIN AFTER MR. DIXON TALKS. MANY OF YOU MIGHT
17 WELCOME THAT. IF WE GOT TO GO AFTER EACH OTHER, WE WOULD
18 BE HERE UNTIL 2007. SO I NEED TO RELY ON YOU FOR
19 SOMETHING, I NEED TO RELY ON YOU THAT YOU WOULD TAKE WHAT
20 HE SAYS WHEN YOU GO IN THE JURY ROOM AND THINK HOW I
21 WOULD HAVE COUNTERED IT. THINK ABOUT WHAT I SAID AND HOW
22 IT WOULD HAVE COUNTERED IT.

23 HE MIGHT TELL YOU THAT IT WASN'T A
24 HOLLYWOOD VERSION OF EVENTS. THEY DON'T HAVE TO CALL
25 EVERY SINGLE WITNESS TO THIS CASE. THEY ARE NOT
26 REQUIRED. HE'LL TELL YOU THAT HE DID MEET HIS BURDEN.
27 HE'LL TELL YOU THAT WE HAVEN'T PROVEN ROBBERY, WHICH WE
28 HAVEN'T NOR DO WE HAVE TO NOR CAN WE. BECAUSE WE'RE IN

1 THE SAME BOAT AS THE D.A. AND YOU WE DON'T KNOW WHAT
2 HAPPENED THAT MORNING. THAT'S THE PROBLEM WITH THIS
3 CASE.

4 I WANT TO LEAVE YOU WITH A COUPLE OF
5 THOUGHTS. NO. 1, THIS IS A HYPOTHETICAL. OKAY? IT
6 DIDN'T HAPPEN. REMEMBER YOU WERE AT THE THOMPSON HOME.
7 WHAT IF THAT HOUSE TEN YEARS FROM NOW IS GETTING TORN
8 DOWN. SOMETHING IS HAPPENING. SOMEONE IS MOVING.
9 THEY'RE REBUILDING. ONE OF THE WORKERS NOTICES THERE IS
10 A VIDEO SYSTEM AT THE THOMPSON HOME AND THERE IS A
11 CAMERA. AND THAT CAMERA WOULD HAVE RECORDED WHAT
12 OCCURRED THAT MORNING.

13 LET'S SAY, YOU ALL VOTE TO CONVICT MICHAEL
14 GOODWIN OF THIS CRIME. TEN YEARS LATER YOU FIND OUT
15 ABOUT THAT VIDEO. SOMEONE SAYS WOW WE DIDN'T KNOW ABOUT
16 IT. OBVIOUSLY, IT'S NOT TRUE. IT DIDN'T HAPPEN. BUT GO
17 WITH ME HERE. YOU COME BACK TO THE PASADENA COURT, YOU
18 ARE SUMMONED. THE CLERK SAYS HERE IS THE VIDEO. YOU SAY
19 TO YOURSELVES. I DON'T NEED TO SEE IT. THANK YOU. I
20 DON'T NEED TO LOOK AT IT. BECAUSE I COULDN'T HAVE VOTED
21 TO CONVICT UNLESS I WAS SURE OF WHAT HAPPENED THAT
22 MORNING, UNLESS I WAS CONVINCED BEYOND A REASONABLE
23 DOUBT.

24 THE REALITY IS YOU WOULD WANT TO LOOK AT
25 THAT VIDEO BECAUSE YOU DON'T KNOW WHAT HAPPENED THAT
26 MORNING. AND IF YOU DID LOOK AT THE VIDEO AND YOU SAW
27 PEOPLE WITH BAGS COMING OUT OF THE GARAGE AND MICKEY
28 THOMPSON CONFRONTING THEM, WOULD YOU HONESTLY FALL OVER

1 IN YOUR CHAIRS LIKE ALIENS HAD JUST LANDED AND/OR WOULD
2 YOU SAY TO YOURSELF, WAIT A MINUTE, THAT'S WHY THERE WERE
3 CANVAS BAGS THAT MORNING. THAT'S WHY THERE WAS MONEY IN
4 AN ENVELOPE AND THE JEWELRY LIKE THE CONTENTS OF THE
5 OTHER SAFE.

6 THAT'S WHY THAT WHOLE ORCHESTRATION STUFF
7 DIDN'T MAKE SENSE. THAT'S WHY THE SAFE LOOKED DAMAGED.
8 THAT'S WHY THERE IS NO EVIDENCE CONNECTING MICHAEL
9 GOODWIN TO THE CRIME AFTER 17 YEARS. OBVIOUSLY, THERE IS
10 NO VIDEO. BUT THINK ABOUT THE LEVEL OF AN ABIDING
11 CONVICTION THAT YOU WOULD NEED. THIS PROTECTS YOU. THIS
12 MAKES IT SO THAT TEN YEARS FROM NOW YOU CAN SAY TO
13 YOURSELF, I DON'T NEED -- I DON'T NEED TO SEE IT BECAUSE
14 I KNOW.

15 YOU CANNOT BE IN THAT POSITION RIGHT NOW
16 THEY HAVEN'T GIVEN YOU THE TOOLS THAT YOU NEED TO BE IN
17 THAT POSITION. I'M ASKING YOU TO RETURN THE ONLY VERDICT
18 THAT IS JUST UNDER THE LAW. THEY HAVEN'T GIVEN YOU THESE
19 TOOLS. THIS IS NOT A SIGN OF DISRESPECT TO THE FAMILY.
20 THIS IS NOT A SIGN OF LACK OF ACKNOWLEDGEMENT OF THE
21 HORROR OF THIS CRIME.

22 THIS IS SAYING I TOOK MY OATH SERIOUSLY.
23 I'M GOING TO DO MY DUTY SERIOUSLY, REGARDLESS OF WHETHER
24 YOU LIKE THIS MAN; REGARDLESS OF WHETHER THEY TOLD YOU
25 FOR THE LAST SEVEN WEEKS WHAT A JERK HE IS. THE LAW
26 PROTECTS THE UNPOPULAR. THE LAW PROTECTS PEOPLE WHEN THE
27 DISTRICT ATTORNEY DOES NOT PRESENT ENOUGH EVIDENCE TO
28 CONVINCE YOU BEYOND A REASONABLE DOUBT.

1 THIS IS NOT WHAT PROOF BEYOND A REASONABLE
2 DOUBT IN A MURDER CASE LOOKS LIKE. WE'RE PUTTING FAITH
3 IN YOU TO DO RIGHT BY MR. GOODWIN. WE ARE. AND WE'RE
4 ASKING YOU TO DO JUST. YOU PUT YOUR FAITH IN THE
5 DISTRICT ATTORNEY TO GIVE YOU THE TOOLS TO DO THAT. THEY
6 HAVEN'T BEEN ABLE TO DO THAT FOR YOU. THEY HAVEN'T GIVEN
7 YOU THOSE TOOLS.

8 LET'S SAY YOU THINK THIS IS A HIT. THINK
9 ABOUT THIS. LET'S SAY YOU REALLY BELIEVE THIS WAS A
10 PROFESSIONAL HIT. HAVE THEY HONESTLY PROVEN MICHAEL
11 GOODWIN DID IT? WHAT HAVE THEY OFFERED YOU? DO YOU KNOW
12 ABOUT ANY OTHER OF MICKEY THOMPSON'S RIVALS? DO YOU KNOW
13 ABOUT ANY OTHER BUSINESS COMPETITOR? IS THAT SPECULATION
14 REALLY? OR HAVE THEY CLOSED ALL THE DOORS?

15 BECAUSE REASONABLE DOUBT IS LIKE ONE OF
16 THOSE DOORS TO A ROOM AND YOU'RE IN THE DARK AND IT'S
17 TINY BIT OPEN, JUST A TINY BIT AND THERE IS A LITTLE BIT
18 OF LIGHT PEEKING THROUGH. AND HUMAN NATURE IS TO WANT TO
19 GO OVER AND FLING THAT DOOR OPEN AND SEE WHAT IS BEHIND
20 THE DOOR.

21 AND THE DISTRICT ATTORNEY'S JOB IS TO SLAM
22 THOSE DOORS SHUT; TO MAKE SURE THERE IS NO LIGHT PEEKING
23 THROUGH. IT HASN'T HAPPENED HERE. IT'S NOT BECAUSE
24 THEY'RE BAD LAWYERS. IT'S NOT BECAUSE THEY ARE BAD
25 PEOPLE. IT'S BECAUSE THERE IS NO EVIDENCE, NO EVIDENCE
26 AT ALL. THERE IS A THEORY. IT IS A POWERFUL THEORY AND
27 IT HAS BEEN TOLD TO YOU WITH DRAMA AND PASSION. BUT IT
28 IS A THEORY NONETHELESS.

1 THIS IS NOT WHAT PROOF BEYOND A REASONABLE
2 DOUBT IN A MURDER TRIAL LOOKS LIKE. I'M ABOUT TO SIT
3 DOWN AND PUT THE FATE OF THIS MAN THAT I'VE HAD IN MY
4 HANDS FOR YEARS IN YOUR HANDS. I'M ASKING YOU TO DO
5 RIGHT BY HIM. THE LAW ALLOWS ONE VERDICT IN THIS CASE.
6 AND I'M TRUSTING YOU WITH HIM. THE LAW TRUSTS YOU WITH
7 HIM. I'M TRUSTING THAT YOU'LL FOLLOW YOUR OATH. I'M
8 TRUSTING THAT YOU WON'T BE GUIDED BY PASSION OR
9 PREJUDICE. I'M ASKING YOU TO RETURN A VERDICT OF NOT
10 GUILTY ON ALL COUNTS.

11 THE COURT: THANK YOU, MS. SARIS.

12 HOW MUCH DO THE PEOPLE HAVE IN TERMS OF
13 CLOSING?

14 MR. DIXON: MAYBE WE SHOULD APPROACH SIDEBAR.

15
16 (SIDEBAR PROCEEDINGS WERE HELD AS FOLLOWS:)

17 THE COURT: ALL RIGHT. WE'RE ON THE RECORD AT
18 THE SIDEBAR.

19 MR. DIXON: YOUR HONOR, IT'S 4:30. I GUESS MY
20 QUESTION TO THE COURT IS HOW LONG ARE YOU GOING TO KEEP
21 THE JURY HERE? I MEAN --

22 THE COURT: WELL, YOU TELL ME.

23 MR. DIXON: ALL COUNSEL TOLD US -- I MEAN ALL
24 COUNSEL KNEW THE SCHEDULE HERE TODAY AND WE'RE CLEARLY
25 GETTING JAMMED. I MEAN, YOU KNOW, I CAN -- I KNOW THE
26 COURT WOULD LIKE TO FINISH THIS.

27 THE COURT: YOU TELL ME. HOW MUCH DO YOU HAVE?

28 MR. DIXON: PROBABLY 45 MINUTES.

1 THE COURT: OKAY. THEN WE'RE GOING TO RECESS AT
2 THIS TIME.

3 MR. DIXON: I MEAN I JUST -- I CAN TRY TO DO IT.

4 THE COURT: DO YOU WANT TO START?

5 MR. DIXON: MAYBE HALF HOUR.

6 MR. JACKSON: YOU SHOULDN'T GET JAMMED LIKE THAT.

7 MS. SARIS: I DIDN'T JAM HIM. I WENT SLOWER.

8 MR. JACKSON: NO. NO. I'M NOT MAKING
9 ACCUSATIONS. I'M SAYING THE CLOCK IS JAMMING HIM.

10 MR. DIXON: HOW LATE DO YOU WANT TO STAY?

11 THE COURT: I DIDN'T WANT TO STAY PAST 5:00
12 O'CLOCK, IN ALL HONESTY. AND IF YOU WANT TO START AND
13 STAY A FEW MINUTES.

14 MR. DIXON: 5:10 OR 5:15. I'M NOT GOING TO
15 MISLEAD YOU AND SAY THAT I KNOW I CAN DO THIS IN HALF AN
16 HOUR --

17 THE COURT: I'M NOT RUSHING YOU.

18 MR. DIXON: I'LL TRY TO COMPLY WITH THE COURT'S
19 REQUEST, BUT --

20 THE COURT: I DON'T KNOW IF WE CAN STAY THAT
21 LATE. IS THAT YOUR PREFERENCE EVERYONE?

22 MS. SARIS: YES, DEFINITELY OUR PREFERENCE.

23 THE COURT: IS THAT YOUR PREFERENCE?

24 MR. DIXON: WELL, I THINK IT'S THE COURT'S
25 PREFERENCE, TOO. AND I WOULD LIKE TO DO IT. AND, OF
26 COURSE, WE DON'T KNOW WHAT THE JURORS THINK, I MEAN, WHAT
27 OBLIGATIONS THEY HAVE.

28 THE COURT: RIGHT. THAT'S WHAT I'M GOING TO ASK

1 ABOUT.

2 WELL, LET ME START WITH THE MOST IMPORTANT
3 PERSON.

4 LET'S GO OFF THE RECORD.

5 (PROCEEDINGS HELD AT SIDEBAR CONCLUDED.)

6
7 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, I
8 JUST TALKED TO COUNSEL AT THE SIDEBAR. AND I THINK IT'S
9 BEEN A LONG DAY. SO WHY DON'T WE TAKE OUR EVENING RECESS
10 AT THIS TIME. AND WE WILL RESUME FIRST THING TOMORROW
11 MORNING AT 9:00 A.M. I'M CERTAIN THAT SOMETIME TOMORROW
12 MORNING YOU WILL GET THIS CASE AND YOU WILL BE ABLE TO
13 START DELIBERATING ON IT. BUT WE JUST CAN'T -- WE'RE NOT
14 GOING TO BE ABLE TO FINISH EVERYTHING TONIGHT.

15 SO REMEMBER ALL OF THE ADMONITIONS.
16 PLEASE DON'T DISCUSS THE CASE. DON'T FORM OR EXPRESS ANY
17 OPINIONS. DON'T CONDUCT ANY DELIBERATIONS. AND PLEASE
18 BE CAREFUL TO NOT WATCH ANYTHING ON TV OR READ ANYTHING
19 IN THE NEWSPAPER. I KNOW THERE IS MEDIA PRESENT. SO I
20 DON'T KNOW IF THERE IS ANYTHING THAT'S GOING TO BE IN THE
21 PUBLIC VIEW, SO TO SPEAK, BETWEEN NOW AND 9:00 A.M.

22 SO TO THE EXTENT THAT YOU CAN AVOID
23 LOOKING AT THINGS OR READING THINGS OR LISTENING TO THE
24 THINGS, I WOULD APPRECIATE IT. DON'T YOU HAVE SHOPPING
25 TO DO TONIGHT OR SOMETHING? OKAY. SO WE WILL TAKE OUR
26 RECESS UNTIL 9:00 A.M. TOMORROW MORNING.

27 HAVE A GOOD EVENING.

28

1 (THE MATTER WAS CONTINUED TO TUESDAY,
2 DECEMBER 19, 2006 AT 9:00 A.M.)
3 (NEXT PAGE IS 9001.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, DECEMBER 19, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

20 THE JURY: MORNING.

21 THE COURT: LET THE RECORD REFLECT THAT ALL OUR
22 JURORS AND ALTERNATES ARE PRESENT. MR. GOODWIN IS
23 PRESENT WITH COUNSEL. THE PEOPLE ARE REPRESENTED.

24 AND WE ARE RESUMING THIS MORNING WITH THE
25 PEOPLE'S CLOSING ARGUMENT.

26 MR. DIXON: THANK YOU, YOUR HONOR.

27 ///

28 ///

1 **CLOSING ARGUMENT** MR. DIXON: GOOD MORNING, LADIES AND
2 GENTLEMEN.

3 THE JURY: MORNING.

4 MR. DIXON: I THINK WE CAN ALL BE THANKFUL WE
5 DIDN'T HAVE TO DO THIS LAST NIGHT. BUT I PROMISE YOU I
6 WILL NOT TAKE ADVANTAGE OF THAT AND GO ON AND ON AND ON
7 THIS MORNING ABOUT WHAT IT WAS LAST NIGHT.

8 YOU HEARD ALL THE EVIDENCE HERE. AND I
9 THINK BASED ON THE EVIDENCE, YOU KNOW THAT TRUDY AND
10 MICKEY THOMPSON WERE BRUTALLY KILLED, BRUTALLY EXECUTED
11 ON MARCH 16TH OF 1988. IT WAS AN ASSASSINATION. IT WAS
12 A HIT. IT WAS A LYING IN WAIT MURDER.

13 AND IT WAS DONE BY THAT MAN, THAT MAN
14 ARRANGED IT. AND YOU KNOW THAT. THE TRUTH IS YOU HEARD
15 ALL THE EVIDENCE AND YOU KNOW THAT FROM THE EVIDENCE.
16 BECAUSE HIS WORDS THROUGH THE WITNESSES THAT HAVE COME
17 INTO THIS COURTROOM AND HAVE TOLD YOU THAT.

18 NOW MS. SARIS SPENT QUITE A BIT OF TIME
19 YESTERDAY CRITICIZING EACH AND EVERY ONE OF THEM, TELLING
20 YOU THAT THEY WERE DELUSIONAL; THAT THEY WERE LIARS.
21 THAT'S FOR YOU TO JUDGE. BUT WHEN YOU THINK BACK -- AND
22 WE'RE GOING TO TALK ABOUT THAT A LITTLE BIT THIS
23 MORNING -- YOU THINK BACK OF THE WITNESSES AND WHAT THEY
24 SAID ON THE STAND.

25 I THINK THAT YOU WILL AGREE THAT THE
26 EVIDENCE AND THE TRUTH HERE IS THIS MAN HATED MICKEY
27 THOMPSON SO MUCH BECAUSE OF THE LAWSUIT; BECAUSE OF THE
28 BUSINESS BATTLES; THAT THE ONLY WAY HE COULD WIN WAS TO

1 KILL HIM. AND HE TOLD PEOPLE HE WOULD DO THAT. DO YOU
2 REMEMBER THE FIRST WITNESS ON THE STAND. I THINK HE WAS,
3 I THINK I ASKED HIM THE QUESTION. BILL WILSON THE FORMER
4 PASADENA POLICE COMMANDER; MANAGER OF THE ROSE BOWL. AND
5 AT THE TIME HE TESTIFIED, I BELIEVE HE JUST RETIRED FROM
6 RUNNING THE SAN DIEGO STADIUM. HAD DEALINGS WITH BOTH
7 THE DEFENDANT AND WITH MICKEY THOMPSON.

8 HE WAS APPARENTLY AT LEAST BUSINESS
9 ACQUAINTANCES, IF NOT FRIENDS WITH THE DEFENDANT. HAD
10 HIM OVER TO HIS HOUSE. AND IN THE MIDDLE OF GETTING
11 READY FOR DINNER, THIS OUTBURST. A DISCUSSION OF THE
12 LAWSUIT WITH MICKEY THOMPSON, AND THE DEFENDANT SAYS,
13 "I'M GOING TO TAKE HIM OUT. I'M GOING TO TAKE HIM OUT."
14 BILL WILSON IS A FORMER POLICEMAN. AND HE CONFRONTS HIM
15 ON IT AND THE DEFENDANT SAYS, "I'M TOO SMART. THEY'LL
16 NEVER CATCH ME." WE WILL TALK ABOUT THAT AGAIN.

17 NOW THIS IS A GUY BILL WILSON WHO HAS NO
18 AXE TO GRIND AT THE TIME. AND YET WHEN HE COMES ON THE
19 STAND AND THE DEFENSE TALKS TO YOU ABOUT HIM -- AND IF
20 YOU THINK BACK TO THE TIME OF HIS TESTIMONY, HE WAS
21 CONFRONTED WITH DOCUMENTS, MORTGAGE DOCUMENTS BECAUSE
22 BILL WILSON SAID, WELL, THIS HAPPENED WHEN I WANTED TO
23 SHOW THE DEFENDANT MY HOUSE. WE GOT A NEW HOUSE. AND
24 THE HOUSE WAS BUILT AT A CERTAIN TIME. AND MS. SARIS WAS
25 ARGUING, WELL, IT COULDN'T HAVE HAPPENED WHEN YOU SAID IT
26 HAPPENED.

27 AND BILL WILSON VERY CALMLY FROM THE STAND
28 TOLD YOU, WELL, YEAH, WE BOUGHT THE HOUSE IN '84 AND THEN

1 WE SPENT A COUPLE OF YEARS REMODELING IT. HOW MANY OF US
2 HAVE BOUGHT A HOUSE, AND THE HUSBAND OR WIFE ISN'T QUITE
3 HAPPY WITH IT. AND WE WANT TO REMODEL IT OR DO THE
4 KITCHEN AND WHATEVER. AND THEN I HAD THEM OVER.

5 HE TOLD YOU THIS HAPPENED IN JANUARY OF
6 '88. AND IT MAKES PERFECT SENSE. BUT YET HE IS
7 ATTACKED. AND BARON WEHINGER HE CAME IN HERE AND HE TOLD
8 YOU ABOUT A CONVERSATION THAT HE HEARD BETWEEN HIS
9 STEPFATHER AND THE DEFENDANT. AND HOW THE DEFENDANT SAID
10 "IF I LOSE THIS LAWSUIT, I'M GOING TO HAVE HIM KILLED."
11 AND THEN A DISCUSSION ABOUT HIT MEN.

12 WELL, THE STEPFATHER SAID, WELL, I KNOW WE
13 COULD GET HIM FOR \$50,000. AND THE DEFENDANT SAID, NO, I
14 CAN DO IT FOR 20. AND HE IS ATTACKED. HE IS A LIAR.
15 EACH ONE OF THESE PEOPLE, ACCORDING TO THE DEFENSE, IS
16 LYING TO YOU. YOU KNOW, WE HEARD ABOUT THE
17 HOLLYWOODIZATION OF THIS CASE. I HAVE -- AND WE LISTENED
18 TO MS. SARIS TALK FOR QUITE A WHILE YESTERDAY. MAYBE YOU
19 KNOW WHAT THAT MEANS. I HAVE NO CLUE WHAT THAT MEANS.

20 BUT IT DOES SOUND SUSPICIOUS WHEN SOMEONE
21 SAYS EVERYONE IS LYING. EVERYTHING THAT EVERYONE SAYS IS
22 A LIE. THEY ARE ALL OUT TO GET ME. IT'S JUST NOT THE
23 CASE NOT IN REAL LIFE. JOHN WILLIAMS. SHE WENT ON AND
24 ON. AND I THINK SHE SAID THAT JOHN WILLIAMS WAS
25 DELUSIONAL.

26 PLEASE AS WE TALK THIS MORNING I'M GOING
27 TO ASK YOU A NUMBER OF TIMES TO THINK BACK AND REMEMBER
28 WITNESSES AND HOW THEY TESTIFIED ON THE STAND. JOHN

1 WILLIAMS IS AN ELECTED OFFICIAL IN ORANGE COUNTY, A LONG
2 TIME PUBLIC SERVANT. AT THE TIME OF THE REPOSSESSION OF
3 THE CAR, HE WAS A DEPUTY MARSHAL IN ORANGE COUNTY. AND
4 I'M SURE YOU RECALL HIS TESTIMONY ABOUT THE POLICIES THAT
5 THEY FOLLOWED AND HOW THEY REPOSSESSED THESE CARS. THAT
6 WAS A LONG TIME AGO.

7 I DON'T THINK ANYONE IN THIS COURTROOM
8 WOULD ARGUE WITH IT, HIS DATES WERE PROBABLY OFF BY A
9 YEAR OR SO. BUT WHEN HE TALKED ABOUT WHAT HE SAW AND HOW
10 HE DESCRIBED HIS CONFRONTATION WITH MIKE GOODWIN OVER
11 THIS CAR IS SOMETHING I THINK IF YOU THINK ABOUT NO ONE
12 WOULD FORGET HOW HE DESCRIBED LOOKING FOR THE CAR UP IN
13 THE HILLS OF LAGUNA; SEEING THE CAR; PUTTING THE YELLOW
14 TAG ON IT; GOING TO THE FRONT DOOR.

15 HE EVEN REMEMBERED THAT HE THOUGHT IT WAS
16 A SO-CALLED CELEBRITY CASE BECAUSE HE KNEW MICKEY
17 THOMPSON AND THAT NAME WAS IN THE PAPERWORK THAT HE HAD
18 FROM THE LAWYERS TO GET THIS CAR. AND THIS, AT LEAST IN
19 WORDS, VIOLENT CONFRONTATION WITH THE DEFENDANT WHERE
20 MICKEY THOMPSON IS DEAD. HE'S "F"ING DEAD FOR DOING THIS
21 TO ME. IS THAT SOMETHING THAT SOMEONE WOULD MAKE UP?

22 YOU SAW THIS MAN ON THE STAND. YOU'LL
23 HAVE TO MAKE THAT JUDGMENT. BUT I WOULD SUBMIT TO YOU
24 THAT WHAT HE TOLD YOU AND HOW THIS WENT DOWN AND WHAT
25 MIKE GOODWIN SAID ABOUT MICKEY THOMPSON IS ABSOLUTELY
26 TRUE.

27 KATHY WEESE IS ANOTHER PERSON THAT I WOULD
28 ASK YOU TO THINK BACK ABOUT HER TESTIMONY ON THE STAND.

1 YOU KNOW, A LADY WHO HAD BEEN THROUGH SOME TOUGH TIMES,
2 SOME REAL TOUGH TIMES. AND I THINK IF YOU THINK BACK TO
3 IT, SHE'S GOT HER LIFE BACK IN ORDER AND SHE'S DOING
4 OKAY. BUT THOSE ARE THE KIND OF THINGS THAT YOU'LL HAVE
5 TO THINK ABOUT AND EVALUATE HER TESTIMONY. BUT SHE TOLD
6 YOU ABOUT THE STATEMENTS THE DEFENDANT MADE ABOUT MICKEY
7 THOMPSON. AND HOW HE WAS GOING TO FOR \$500 AND A
8 MOTORCYCLE, TAKE HIM OUT. IS SHE DELUSIONAL? EVERYONE
9 IS DELUSIONAL IN THE HOLLYWOODIZATION OF THIS.

10 AND I THINK A STATEMENT THAT WE'RE GOING
11 TO TALK ABOUT A LITTLE LATER ON, TOO, JOEL WEISSLER'S
12 STATEMENTS ABOUT OVERHEARING AT TWO DIFFERENT TIMES, ONE
13 OVER THE PHONE AND ANOTHER WHILE HE WAS IN THE ROOM, WHAT
14 THE CONVERSATION BETWEEN MICKEY THOMPSON AND THE
15 DEFENDANT WAS.

16 THIS -- AS MR. JACKSON SAID -- DIALOGUE
17 THAT TRAGICALLY CAME TO BE TRUE. THE DEFENDANT SAYING "I
18 WILL HURT YOU. AND I WILL HURT YOUR FAMILY." AND MICKEY
19 THOMPSON, "NO. YOU LEAVE MY FAMILY ALONE. LEAVE MY
20 FAMILY ALONE." THINK TO WHEN THIS MURDER ACTUALLY
21 HAPPENED, THAT SAME CONVERSATION THAT SAME DIALOGUE IS
22 REALLY CONTINUING AS MICKEY THOMPSON REALIZES WHAT THE
23 DEFENDANT HAS DONE.

24 NOW IN SOME WAYS, I THINK THAT THIS IS A
25 PRETTY -- WELL, IT'S BEEN A LONG AND COMPLEX CASE. AND I
26 THINK WE STARTED JURY SELECTION IN AUGUST 6 IS WHEN WE
27 FIRST STARTED -- NOT -- MAYBE NONE OF YOU WERE HERE THEN.
28 BUT WE FIRST STARTED IT THEN. LOTS OF WITNESSES.

1 DISCUSSION OF LAWSUITS; BANKRUPTCY. I THINK ANY TIME
2 THAT JEFF COYNE TESTIFIES IT'S GOT TO BE SOMEWHAT
3 COMPLEX. ALL HE DID IS REMIND ME ABOUT A VERY TOUGH
4 BANKRUPTCY CLASS I HAD BEEN AT. SO ON ONE HAND IT IS A
5 COMPLICATED CASE, COMPLEX.

6 BUT I WOULD SUGGEST TO YOU THAT ON ANOTHER
7 LEVEL THIS IS A VERY SIMPLE CASE. AND YOU'RE PROBABLY
8 GOING: WHAT? NO. BUT IT IS, IT IS A VERY SIMPLE CASE.
9 AT THE BEGINNING OF THIS CASE, IN THE OPENING STATEMENTS
10 THE DEFENSE TOLD YOU I'M GOING TO PROVE THIS IS A
11 ROBBERY. THIS IS A ROBBERY GONE BAD. AND IN SO MANY
12 WORDS, A LOT MORE WORDS, SHE SAID THAT YESTERDAY. WELL,
13 IT COULD HAVE BEEN. IF IT COULD HAVE BEEN A ROBBERY,
14 THEN MY GUY IS NOT GUILTY.

15 WELL, IF THAT'S THE CHOICE THAT YOU HAVE,
16 WE'RE GOING TO TALK ABOUT THAT. I WOULD AGREE IF ALL OF
17 YOU DECIDE THAT THIS WAS SOME KIND OF ROBBERY -- AND THAT
18 REALLY IS NOT QUITE THE RIGHT TERMINOLOGY AND I'LL
19 MENTION THAT IN A MOMENT. BUT IF THIS IS REALLY A
20 ROBBERY, IT'S NOT AN EXECUTION. IT'S NOT A HIT. YOU
21 KNOW, HE DIDN'T DO THAT. HE DIDN'T ROB THESE PEOPLE.

22 BUT THERE IS REALLY AN IMPORTANT CONCEPT
23 HERE AS WE TALK ABOUT THIS. AND THAT IS, WHAT IS
24 REASONABLE AND WHAT IS UNREASONABLE? WHAT IS EVIDENCE
25 AND WHAT IS SPECULATION? WHEN YOU HEAR SOMEONE SAY,
26 WELL, YOU KNOW, IT COULD HAVE BEEN. IT COULD HAVE BEEN A
27 ROBBERY. THERE COULD HAVE BEEN A VIDEO CAMERA THERE.
28 THEY ARE ASKING YOU -- MS. SARIS IS ASKING YOU TO

1 SPECULATE AS TO WHAT MIGHT HAVE BEEN. AS TO SOME
2 EVIDENCE THAT DOESN'T EXIST. COULD HAVE BEEN.

3 THE JUDGE HAS TOLD YOU IN HER OPENING JURY
4 INSTRUCTIONS, I THINK PRETTY CLOSE TO THE BEGINNING, THAT
5 THIS DECISION, YOUR VERDICT, HAS TO BE BASED ON EVIDENCE.
6 THAT'S WHAT WE'RE GOING TO TALK ABOUT, EVIDENCE. NOT
7 COULD HAVE BEEN, MIGHT HAVE BEEN. WHAT IF. AND THAT
8 THESE INFERENCES HAVE TO -- IT HAS TO BE REASONABLE. DID
9 THIS REASONABLY HAPPEN.

10 SO ON ONE HAND, IS THIS JUST A ROBBERY
11 GONE BAD? OR WAS IT A HIT? WAS IT A CONTRACT HIT? WAS
12 IT AN EXECUTION? AN ASSASSINATION WITH A VERY DETAILED
13 PLAN? BECAUSE IF THAT'S WHAT IT IS, AND LADIES AND
14 GENTLEMEN, I SUGGEST TO YOU THAT THE EVIDENCE SHOWS
15 THAT'S THE TRUTH, THAT'S WHAT IT IS.

16 THE EVIDENCE THAT YOU HAVE HEARD IN THIS
17 COURTROOM POINTS TO ONLY ONE PERSON WHO HATED MICKEY
18 THOMPSON SO MUCH THAT HE WANTED TO END HIS LIFE. AND
19 MAKE SURE THAT MICKEY THOMPSON SAW THE PERSON HE LOVED
20 THE MOST DIE IN FRONT OF HIM BEFORE HE DIED. AND THAT IS
21 MIKE GOODWIN. AND THAT'S I THINK THE CHOICE THAT YOU
22 HAVE HERE.

23 MR. JACKSON TALKED TO YOU AT GREAT LENGTH
24 ABOUT THE EVIDENCE THAT SUPPORTS THAT CASE, THAT THIS
25 DEFENDANT WAS BEHIND THESE MURDERS. SO MS. SARIS SAYS,
26 WELL, IT COULD HAVE BEEN, IT COULD HAVE BEEN A ROBBERY.
27 WELL, LET'S TALK JUST TERMINOLOGY FOR A MOMENT. SHE IS A
28 LAWYER. SHE'S A VERY GOOD LAWYER. SHE KNOWS THE

1 DIFFERENCE BETWEEN ROBBERY AND BURGLARY.

2 ROBBERY IS THE TAKING OF PERSONAL PROPERTY
3 BY THE USE OF FORCE OR FEAR. IT'S KIND OF IF YOU'RE
4 WALKING DOWN THE STREET, IT'S LATE AT NIGHT AFTER YOU'VE
5 JUST GOT OUT OF THE MOVIE THEATER AND SOME THUG COMES UP
6 WITH A GUN AND SAYS GIVE ME YOUR WALLET; GIVE ME YOUR
7 WATCH. THAT'S A ROBBERY. AND YOU HAND IT OVER TO THEM.

8 WHAT SHE'S REALLY TALKING ABOUT HERE IS A
9 BURGLARY. A BURGLARY IS THE ENTERING OF A DWELLING
10 HOUSE -- WHICH WOULD HAVE BEEN IN THIS SITUATION -- WITH
11 THE INTENT TO COMMIT A FELONY INSIDE, A THEFT. TO COMMIT
12 A CRIME INSIDE, TO STEAL. WE ALL KNOW THAT. I MEAN SO
13 MANY PEOPLE SWITCH THOSE WORDS AND SAY, WELL, MY HOUSE
14 WAS ROBBED. WELL, HOUSES DON'T GET ROBBED. THEY GET
15 BURGLARIZED. AND PEOPLE LOSE VALUABLES INSIDE. AND IT
16 IS A BAD CRIME AND WE GET UPSET ABOUT IT. THAT'S WHAT
17 SHE'S REALLY TALKING ABOUT HERE. AND THAT'S WHAT I'M
18 GOING TO TALK ABOUT HERE FOR A MOMENT.

19 THERE IS TWO IMPORTANT THINGS HERE. IF
20 SOMEBODY IS GOING TO BURGLARIZE YOUR HOUSE, THEY DON'T
21 WANT TO SEE YOU. THEY DON'T WANT TO CONFRONT THE
22 VICTIMS. THEY WANT TO SNEAK IN IN THE MIDDLE OF THE DAY
23 AND TAKE YOUR TV OR TAKE YOUR STEREO SYSTEM OR TAKE YOUR
24 JEWELRY. AND THEY DON'T DO THAT AT 6:00 A.M. IN THE
25 MORNING AS MR. JACKSON SAID.

26 AND I DON'T KNOW WHAT THE STATISTICS ARE.
27 I'M SURE THERE IS STATISTICS ON THIS. 10:00 A.M. SOUNDS
28 LIKE A PRETTY GOOD TIME. WHY? BECAUSE PEOPLE GO TO

1 WORK. PEOPLE IF THEY LEAVE THE HOUSE, THEY'RE PROBABLY
2 GONE. AND AT 6:00 A.M. THEY'RE THERE. THERE IS A REASON
3 THAT THESE MEN THAT MIKE GOODWIN SENT TO MICKEY
4 THOMPSON'S HOUSE WERE THERE AT 6:00 A.M. BECAUSE
5 EVERYBODY IS HOME AT 6:00 A.M.

6 AND BECAUSE OF HIS BUSINESS RELATIONSHIP
7 WITH MICKEY THOMPSON, HE MUST HAVE KNOWN WHAT THEIR HABIT
8 AND CUSTOM WAS. THEY WERE EARLY RISERS. THEY GOT TO
9 WORK EARLY. EVEN LANCE JOHNSON TOLD YOU THAT THE NIGHT
10 BEFORE HE GOT A CALL FROM MICKEY THOMPSON. YOU MIGHT
11 RECALL THIS. AND HE FELT REAL BAD THAT HE DIDN'T CALL
12 HIM BACK BECAUSE MICKEY THOMPSON WANTED TO TALK TO HIM.
13 BUT IT WAS 10:00 O'CLOCK AND HE KNEW THAT MICKEY THOMPSON
14 WENT TO BED EARLY BECAUSE HE GOT UP AND HE LEFT SO EARLY.

15 IF SOMEBODY COMES TO YOUR HOUSE WITH GUNS
16 AT 6:00 IN THE MORNING, IT'S NOT TO BURGLARIZE YOUR
17 HOUSE. IT'S TO CONFRONT YOU. IT'S TO KILL YOU.
18 BURGLARS DON'T WANT TO SEE YOU. THEY WANT TO GET IN THE
19 HOUSE; GET THE GOODS AND LEAVE. SO THEY CAN SELL THEM;
20 SO THEN THEY CAN FENCE THEM; SO THEY CAN GET RID OF THEM.
21 THAT'S WHAT THEY WANT TO DO.

22 THERE WAS A REASON THAT THESE MEN WERE
23 WAITING OUTSIDE AT 6:00 A.M. IT WAS TO CONFRONT AND KILL
24 AND ASSASSINATE MICKEY AND TRUDY THOMPSON. THEY WEREN'T
25 WORRIED ABOUT BEING CAUGHT. THESE WERE PROS. THESE WERE
26 COLD, CALCULATED PROS.

27 REMEMBER LANCE JOHNSON FIRST YELLED AT
28 THEM. AND YOU SAW LANCE JOHNSON ON THE STAND AND WE WILL

1 TALK ABOUT THAT A LITTLE BIT MORE BECAUSE I REALLY WOULD
2 LIKE YOU TO THINK BACK TO HOW THESE PEOPLE TESTIFIED ON
3 THE STAND.

4 HE YELLED AT THESE PEOPLE "STOP. STOP."
5 AND THEN LANCE JOHNSON PULLED HIS 357 MAGNUM, WHICH IS
6 ONE BIG GUN AND TOOK A SHOT AT THEM. AND NOTHING
7 HAPPENED. THEY DIDN'T EVEN LOOK IN LANCE JOHNSON'S
8 DIRECTION, THEY JUST KEPT PEDALING AND GOING FASTER.
9 THESE WEREN'T BURGLARS. THESE WERE ASSASSINS.

10 HERE IS SOMETHING THAT'S SO OBVIOUS IN
11 THIS, WELL, WAS IT A ROBBERY OR A BURGLARY GONE BAD
12 VERSUS A HIT, AN ASSASSINATION. IN THIS DISCUSSION
13 BURGLARS OR EVEN ROBBERS TAKE STUFF. THEY WANT STUFF.
14 THEY WANT WHAT YOU HAVE. NOTHING WAS TAKEN. YOU'VE
15 HEARD THAT OVER AND OVER AGAIN. YOU DON'T NEED ME TO
16 TELL YOU THAT. NOTHING AT ALL WAS TAKEN.

17 AND WE ARE JUST GOING TO PUT UP QUICKLY
18 THE CORONER'S RECEIPT THAT WAS PART OF TRUDY THOMPSON'S
19 AUTOPSY REPORT SHOWING ALL THE JEWELRY SHE HAD ON HERE,
20 WHICH WAS LAYING THERE IN FRONT OF THESE MEN. THEY
21 DIDN'T PICK IT UP. MICKEY THOMPSON HAS A WALLET WITH I
22 THINK THEY SAID 3- OR \$400 IN IT. IT'S IN THE RECORD.
23 YOU WILL KNOW.

24 THERE WAS AN ENVELOPE WITH \$4,000 ABOUT IN
25 THE VAN RIGHT NEXT TO WHERE TRUDY WAS FIRST CONFRONTED.
26 NOT TAKEN. ROBBERS, BURGLARS WANT STUFF. THEY WANT TO
27 RIDE AWAY WITH THE LOOT. THAT'S WHY THEY'RE THERE. IT
28 JUST MAKES SENSE. IT'S SO SIMPLE.

1 AND YET MS. SARIS SAYS, WELL, IT COULD
2 HAVE BEEN, MIGHT HAVE BEEN. THERE IS NO EVIDENCE OF
3 THAT. IF THERE WAS SOMETHING TAKEN, IT WOULD BE
4 DIFFERENT. AND THAT BRINGS US BACK TO SOMETHING I WANT
5 TO SPEND A LITTLE TIME ON. THE SAFE. DETECTIVE JANSEN
6 I'M SURE -- HERE WE HAVE AND YOU'LL HAVE THIS IN THE JURY
7 ROOM. IT'S, OH, ABOUT THE THIRD OR FOURTH PAGE FROM THE
8 END OF THE CORONER'S DOCUMENTS WITH RESPECT TO TRUDY
9 THOMPSON.

10 YOU CAN JUST LOOK AT IT THERE. ALL THE
11 PROPERTY. INCLUDING WHAT YOU'VE HEARD SO MUCH ABOUT,
12 THERE IS A NO. 10 THAT WAS IN GOLD AROUND HER NECK THAT I
13 THINK YOU CAN ASSUME MICKEY THOMPSON GAVE HER.

14 WELL, THE SAFE. WE HAD DETECTIVE JANSEN
15 COME IN HERE. NOW I BELIEVE IT'S IMPORTANT FOR YOU TO
16 REMEMBER HOW THIS HAPPENED. DETECTIVE JANSEN IS JUST --
17 I THINK HE WAS THE LAST WITNESS FOR THE DEFENSE. THIS IS
18 THE BIG FINALE, LADIES AND GENTLEMEN, FROM THE DEFENSE.
19 THIS IS IT. THIS IS WHAT THEY'RE GOING TO SHOW YOU IS
20 WHAT SHE TOLD YOU IN THE OPENING STATEMENT.

21 THIS WAS A ROBBERY GONE BAD -- OR REALLY A
22 BURGLARY GONE BAD -- BECAUSE HERE THE SAFE WITNESS. NOW
23 I DIDN'T GET TO SEE HER BECAUSE SHE WAS STANDING RIGHT
24 BEHIND ME, BUT I COULD HEAR HER AND YOU COULD ALL SEE
25 HER. AND I WOULD LIKE YOU TO THINK BACK TO DETECTIVE
26 JANSEN AND WHAT HE TESTIFIED TO. HE WASN'T VERY, VERY
27 VERBAL. I WOULD SAY. HE DIDN'T REALLY WANT TO TALK A
28 LOT. BUT HE WAS ASKED, WELL, HOW ABOUT THESE NOTES? IT

1 SAYS YOU WENT TO THE THOMPSON RESIDENCE ON APRIL 6 OF
2 1988. AND WE ALL KNOW MARCH 16TH WAS THE DAY OF THESE
3 TRAGIC MURDERS.

4 SO THIS IS THREE WEEKS LATER. AND IT SAYS
5 THERE IS FRESH PRY MARKS ON THE SAFE AND A BROKEN BAR.
6 AND HE SAYS THAT. AND THIS IS THE BIG ENDING, THIS IS
7 THE PUNCH, LOOK, LADIES AND GENTLEMEN, THE POLICE DIDN'T
8 EVEN LOOK, THE SAFE WAS BROKEN INTO. NO, THAT'S NOT HOW
9 IT HAPPENED.

10 BECAUSE AS MS. SARIS GINGERLY ASKED A
11 COUPLE MORE QUESTIONS, IT BECAME CLEAR EXACTLY WHAT THE
12 TRUTH WAS HERE. THAT THE DETECTIVE WHO HADN'T REALLY
13 BEEN TO THE CRIME SCENE MUCH BEFORE WAS CALLED OUT, WAS
14 ASSIGNED, BECAUSE COLLENE CAMPBELL, MICKEY THOMPSON'S
15 SISTER, AND PROBABLY OBVIOUSLY INVOLVED IN, YOU KNOW, THE
16 ESTATE OR HER BROTHER'S PERSONAL EFFECTS AFTER THIS
17 TRAGEDY, CAME TO THE HOUSE. AND SHE WAS GATHERING
18 TOGETHER PAPERS AND VALUABLES. THAT'S UNFORTUNATELY WHAT
19 FAMILY MEMBERS HAVE TO DO AFTER A TRAGEDY LIKE THIS,
20 WHETHER IT'S NATURAL OR OTHERWISE.

21 AND IF YOU'VE BEEN THROUGH THAT, ANY OF
22 YOU WHO HAVE BEEN THROUGH THAT KNOW. AND SHE COMES TO
23 THE HOUSE, BUT COLLENE CAMPBELL, ACCORDING TO THE
24 DETECTIVE, IS ASKED TO COME ALONG. DOES THAT JUST MAKE
25 SENSE HERE? I MEAN THIS IS MILE ARGUMENT. AND I'M JUST
26 GOING TO SUGGEST THIS TO YOU. YES, IT MAKES SENSE. SHE
27 KNOWS THIS WAS A CRIME SCENE AND SHE DOESN'T WANT TO
28 DISTURB ANYTHING. I THINK THE DETECTIVE SAID THAT.

1 SO SHE WANTS THE DETECTIVE OUT THERE WITH
2 HER WHEN SHE GOES AND LOOKS AT THESE SAFES. AND THEY
3 BRING A LOCKSMITH. COLLENE CAMPBELL HAS A LOCKSMITH
4 THERE. AND SO AS MS. SARIS IS ASKING THESE QUESTIONS,
5 WELL, HOW DID THIS HAPPEN? WELL, IT BECOMES CLEAR THAT
6 THE LOCKSMITH PUT THE PRY MARKS ON IT AND BROKE THE BAR
7 TO OPEN THE SAFE SO COLLENE CAMPBELL COULD GET IN AND GET
8 THE PAPERS.

9 AND HE TOLD YOU THAT THE SAFE WAS LOCKED
10 AND IT WAS JUST FINE BEFORE THEY GOT THERE. BUT HE WROTE
11 THIS STUFF DOWN BECAUSE HE WANTED TO MAKE SURE NOBODY
12 BLAMED HIM FOR DOING IT. YOU KNOW, THAT JUST -- PEOPLE
13 ARE LITIGIOUS. AND I GUESS THE SHERIFF'S DEPARTMENT
14 WORRIES ABOUT THAT.

15 AND SO THE MAN THAT MS. SARIS CALLS TO THE
16 STAND, DETECTIVE JANSEN, FOR THIS BIG FINISH, THE SAFE IS
17 BROKEN INTO, IT TURNS OUT, NO, IT WASN'T BROKEN INTO. IT
18 WAS LOCKED. AND IT WAS IN THAT CONDITION. BUT
19 APPARENTLY EVER SINCE THE CRIME, YOU SAW AT VARIOUS TIMES
20 DURING THE TRIAL, THEY TOOK -- LIKE IN THE VIDEO THEY
21 TOOK A PICTURE OF IT. IT WAS LOCKED. THERE IS NOTHING
22 WRONG WITH THE SAFE. AND YET SHE WANTS UP TO BELIEVE
23 THAT IT HAD BEEN BROKEN INTO AND THE SHERIFF'S DEPARTMENT
24 NEVER KNEW A THING ABOUT IT. NOT TRUE.

25 COLLENE CAMPBELL CAME THERE WITH A
26 LOCKSMITH AND THAT'S WHAT CAUSED THE DAMAGE. AND THERE
27 GOES THE BIG FINISH. SO THAT'S WHY MS. SARIS, AS SHE'S
28 UP HERE YESTERDAY GOES, WELL, IT COULD HAVE BEEN. IT

1 COULD HAVE BEEN A BURGLARY OR ROBBERY GONE BAD. THEY
2 COULD HAVE GOT IT. THERE IS NO EVIDENCE TO IT.

3 THE EVIDENCE WOULD SUGGEST FROM DETECTIVE
4 JANSEN, THERE WAS NOTHING WRONG WITH THE SAFE. IT WAS IN
5 PERFECT CONDITION UNTIL THEY WENT OUT AND OPENED IT UP.
6 AND DETECTIVE JANSEN'S NOTEBOOK REFLECTED WHAT HAPPENED
7 WHEN HE WAS THERE.

8 NOW, SHE ALSO SAID, WELL, MAYBE THERE IS
9 SOMETHING ELSE. MAYBE THERE IS SOMETHING BIGGER AND
10 BETTER IN THE HOUSE. MAYBE THAT'S WHY THESE PEOPLE WENT
11 THERE. YOU KNOW, COULD HAVE; MIGHT HAVE BEEN. THAT'S
12 NOT EVIDENCE, LADIES AND GENTLEMEN. IT'S NOT EVIDENCE AT
13 ALL.

14 BUT LOOK AT WHAT HAPPENED? IF THERE IS
15 SOME BIG DEAL IN THE HOUSE, AND THESE BURGLARIES WHO
16 CONFRONT THAT THESE PEOPLE AT 6:00 IN THE MORNING WANTED,
17 ARE THEY GOING TO KILL THESE VICTIMS FIRST BEFORE THEY
18 GET IT? NO. THAT DOESN'T MAKE ANY SENSE. MR. JACKSON
19 TALKED ABOUT THIS AND IT'S ABSOLUTELY TRUE. YOU ARE ALL
20 HERE BECAUSE YOU HAVE A LOT OF LIFE EXPERIENCE AND COMMON
21 SENSE. THAT'S NOT HOW THINGS HAPPEN, IF SOMEBODY WANTS
22 SOMETHING IN THE HOUSE, THEY POINT GUNS AT PEOPLE; HERD
23 THEM INTO THE HOUSE AND INTERROGATE THEM AND GET WHATEVER
24 THEY CAN GET.

25 THEY DON'T SHOOT THEM SO THAT ALL THE
26 NEIGHBORHOOD CAN HEAR IT. SO THAT THERE IS A YELLING AND
27 SCREAMING CONFRONTATION IN THE NEIGHBORHOOD. SO THAT
28 PEOPLE CALL THE POLICE, WHICH IS EXACTLY WHAT HAPPENED

1 HERE. THEY DON'T DO THAT IF THEY'RE BURGLARS. THEY
2 DON'T HAVE THOSE KIND OF CONFRONTATIONS. THIS WAS AN
3 ABSOLUTE HIT. BURGLARS OR ROBBERS WANT TO GET THE LOOT
4 AND GET OUT OF THERE. NOTHING WAS TAKEN. NOTHING
5 WHATSOEVER.

6 MICKEY THOMPSON'S LAST WORDS EVEN TELL YOU
7 THAT WHAT MS. SARIS IS TRYING TO SELL YOU HERE JUST ISN'T
8 SO. "PLEASE DON'T HURT MY WIFE." SCREAMING. "PLEASE
9 DON'T HURT MY WIFE." NOT, HEY, WHAT DO YOU GUYS WANT?
10 YOU KNOW, HERE IS MY WALLET. HERE IS MY WATCH. ANYTHING
11 YOU WANT. YOU WANT MONEY. WE GOT MONEY IN THE CAR.
12 ANYTHING YOU WANT. JUST LEAVE US ALONE. HERE TAKE IT.
13 TAKE THE MONEY. I MEAN THAT'S WHAT ANY OF US WOULD DO.
14 TAKE THE MONEY. JUST LET US ALONE. THAT'S NOT WHAT WAS
15 SAID HERE. YOU KNOW THIS DID NOT HAPPEN. THERE IS NO
16 ROBBERY. THERE IS NO BURGLARY HERE.

17 NOW WHAT HAPPENED HERE WAS A WELL PLANNED
18 OUT EXECUTION. IT WAS A HIT. AND I'M SURE YOU HAVE
19 NOTICED BY NOW, I DON'T REALLY HAVE THE HIGH TECH
20 EQUIPMENT HERE. THIS IS MY EXHIBIT FOR YOU. IT'S AN
21 ORANGE. BECAUSE THE ORANGE PEEELS HERE ARE PRETTY
22 IMPORTANT.

23 NOW I DO HAVE TO MENTION THAT I WAS KIND
24 OF AS A THROW-AWAY LINE, I WAS REALLY SURPRISED. THE
25 FIREMAN ATE IT. THAT'S WHAT SHE SAID, THE FIREMAN ATE
26 IT. I MEAN THAT'S ALMOST LIKE, WELL, TEACHER THE DOG ATE
27 MY HOMEWORK. I MEAN IT JUST THAT'S RIDICULOUS.

28 WE HAVE PAID PARAMEDICS AND FIREMAN WHO GO

1 TO A DOUBLE HOMICIDE CRIME SCENE. WHEN THEY'RE COMING UP
2 THEY THINK THAT THEY MAYBE CALLED ON TO SAVE LIVES -- IT
3 ALMOST DISAPPEARED ON ME -- TO SAVE LIVES; TO HELP
4 PEOPLE; TO REACH DOWN WITH ALL THEIR TRAINING AND
5 KNOWLEDGE AND SAVE LIVES.

6 AND INSTEAD MS. SARIS HAS US BELIEVE,
7 WELL, HEY, PARAMEDIC JONES, GIVE ME A SECOND HERE. I GOT
8 TO PEEL MY ORANGE AND EAT IT AND LITTER THE CRIME SCENE.
9 LADIES AND GENTLEMEN, THAT DOESN'T HAPPEN. THAT JUST
10 DOESN'T HAPPEN. THAT'S RIGHT THERE WITH THE DOG ATE MY
11 HOMEWORK. NO. WHAT THIS ORANGE TELLS US, WHAT THE
12 ORANGE PEELS TELL US IS THIS WAS A LYING IN WAIT
13 HOMICIDE. THIS WAS COLD, CALCULATED AND PLANNED.

14 THESE GUYS GOT THERE EARLY AND WAITED.
15 THEY KNEW WHEN THE THOMPSONS HABIT AND CUSTOM WAS TO
16 LEAVE THEIR HOUSE. THEY WERE COLD, CALCULATING PEOPLE.
17 GOT THERE. YOU REMEMBER WHERE THE ORANGE PEELS -- WELL,
18 YOU WERE OUT THERE -- OFF TO THE SIDE NEAR THE DRIVEWAY
19 BEHIND THE GARAGE SORT OF. AND THEY SAT THERE. SOME GUY
20 PICKED THIS OFF ONE OF THOSE MINIATURE ORANGE TREES THAT
21 MS. DEVINE TOLD YOU WAS THERE. AND WAITED AND CHECKED
22 HIS WATCH AND WAITED FOR THEM TO COME OUT.

23 COLD, CALCULATING KILLERS. THEY WERE
24 PLANNING ON EXECUTING AN INNOCENT HUSBAND AND WIFE. AND
25 THEY SAT THERE AND PEELED AND ATE AN ORANGE. WHERE THOSE
26 ORANGE PEELS WERE FOUND IS ABSOLUTELY CONSISTENT WITH
27 TAKING MICKEY THOMPSON BY SURPRISE. YOU WERE OUT THERE
28 AT THE CRIME SCENE, YOU COULD SEE APPROXIMATELY WHERE

1 THESE WERE; WHERE THE GARAGE IS; AND REMEMBER GUNSHOT
2 WOUND NO. 5 TO MICKEY THOMPSON.

3 BECAUSE I STOOD HERE WITH DR. SCHEININ,
4 THE CORONER, AND SET MYSELF -- I THINK SHE WAS THE VICTIM
5 AND I WAS THE SHOOTER -- AND I WAS BEHIND HER AND TO THE
6 RIGHT. BEHIND HER AND TO THE RIGHT. AND THAT'S WHERE
7 THE FIRST SHOT CAME. MICKEY THOMPSON WAS CONFRONTED;
8 SHOT; SHOT AGAIN; AND THEN HELD AT BAY.

9 AND MICKEY THOMPSON WAS ONE TOUGH GUY, BUT
10 HE'S NOT ABLE TO RUN THROUGH BULLETS TO SAVE HIS WIFE.
11 BUT HE WAS YELLING "DON'T HURT MY WIFE. DON'T HURT MY
12 WIFE." AND THE SAME MAN THAT EVENTUALLY COMES BACK AND
13 KILLS MICKEY THOMPSON SHOOTS TRUDY IN THE HEAD. THAT'S
14 HOW THIS HAPPENED.

15 AS I SAID, THIS WAS A WELL THOUGHT OUT
16 PLAN. THIS WAS NOT A BURGLARY OR ROBBERY. WELL THOUGHT
17 OUT. BURGLARS WANT TO BE ABLE TO TAKE STUFF AWAY WITH
18 THEM; SELL IT; FENCE IT. YOU COULD JUST IMAGINE THESE
19 GUYS GETTING UP TO THE THOMPSON HOUSE AND FINDING, WHAT,
20 I DON'T KNOW THE BIG TV SET, THE NEW TV SET, I DON'T KNOW
21 THE NEW STEREO SET, WHATEVER.

22 AND ONE GUY IS CARRYING IT OUT OF THE
23 GARAGE OR WHATEVER AND HE'S HOLDING IT THERE AND HE LOOKS
24 TO JOE. AND HE SAYS, JOE, ALL RIGHT WHERE DO WE PUT IT?
25 AND LARRY SAYS TO HIM, WELL, DID YOU BRING THE TRUCK?
26 NO. DID YOU BRING THE TRUCK? I MEAN HOW ARE THEY GOING
27 TO CARRY THIS STUFF OUT? THEY HAD NO WAY. THESE GUYS
28 WERE TEN SPEED BIKES AND THEY WERE NEW. IT SHOWS A PLAN.

1 THESE PEOPLE KNEW EXACTLY HOW TO GET IN
2 AND HOW TO GET OUT OF BRADBURY WITH THE LEAST AMOUNT OF
3 DISTURBANCE. THEY COULDN'T CARRY ANYTHING OTHER THAN
4 JEWELRY OR A WALLET OR MONEY OUT OF THERE. AND YET,
5 LADIES AND GENTLEMEN, AS WE TALKED ABOUT, THEY LEFT IT
6 THERE. THEY WEREN'T THERE TO TAKE ANYTHING.

7 NO COULD HAVE BEEN MIGHT HAVE BEEN,
8 MS. SARIS. I DON'T THINK SO. THESE MEN WERE THERE TO
9 KILL THEM. THEY WEREN'T THERE TO STEAL ANYTHING. THEY
10 DIDN'T BACK UP A PICKUP TRUCK TO TAKE THE RADIO AND THE
11 STEREO AND THE WHATEVER. IT JUST DIDN'T HAPPEN. IT
12 WASN'T TRUE. THAT'S NOT EVIDENCE HERE. NO. THESE BIKES
13 WERE SET UP SO THAT THEY COULD GET UP THERE QUIETLY. AND
14 MORE IMPORTANTLY SO THEY COULD LEAVE.

15 THIS IS A -- YOU SAW IT YOU WERE OUT
16 THERE -- QUITE A DOWNHILL GRADE FROM THE MICKEY THOMPSON
17 HOUSE ALL THE WAY DOWN TO THAT GATE WHERE WE STOPPED.
18 YOU DON'T EVEN HAVE TO PEDAL. YOU DON'T EVEN HAVE TO
19 MAKE THE BIKES CLICK. YOU JUST GLIDE DOWN THERE. AND I
20 THINK IT WAS REY VERDUGO SAID YOU GET A PRETTY GOOD
21 INCLINE. BUT YOU WERE THERE, YOU KNOW. YOU'RE GOING TO
22 MOVE. YOU'RE GOING TO MOVE.

23 AND THEN WHAT HAPPENS? THIS WAS REALLY I
24 THINK IF YOU THINK ABOUT IT PLANNED THOUGHT OUT. THEY
25 GET DOWN TO THAT GATE THAT WE WERE AT AND THE FENCE HAD
26 CHANGED. AND YOU ARE GOING TO HAVE ALL THIS BACK THERE.
27 A BUNCH OF CHARTS. AND I THINK THEY'LL LET YOU LOOK AT
28 THEM FOR THE MOST PART.

1 BUT HERE IS PEOPLE'S -- I THINK THAT SAYS
2 49. THIS IS HOW THAT WHITE FENCE THAT YOU SAW WHEN YOU
3 WERE OUT THERE LOOKED BACK THEN. SOMEBODY HAD TO BE OUT
4 THERE AND PLAN AND CHECKED THIS OUT TO KNOW THAT SMALL
5 GAP IN THE GRAPE STAKE FENCE WAS THERE. SO YOU COULD
6 ZOOM DOWN THAT HILL WOODLYN LANE AND DISAPPEAR THERE INTO
7 THAT BIKE PATH. WHICH IS BELOW STREET LEVEL AND NO ONE
8 WOULD KNOW WHICH WAY YOU'RE GOING UNTIL YOU COME OUT AT
9 THE OTHER END AT THE STEVENSES' HOUSE.

10 THAT WAS A STEALTH WAY TO GET OUT OF
11 THERE, NOT TO CARRY AWAY LOTS OF LOOT, TV, STEREO,
12 WHATEVER. NO, YOU COULDN'T DO THAT. AND THEY DIDN'T
13 TAKE ANYTHING ELSE. THE ONLY REASON TO BE THERE WAS TO
14 KILL THE THOMPSONS.

15 AGAIN, THIS CHOICE THE DEFENSE HAS SET UP
16 FOR YOU, WELL, IT COULD HAVE BEEN A ROBBERY. THE ROBBERY
17 IS NOT GUILTY. IF IT IS A HIT, IF IT'S AN EXECUTION,
18 LADIES AND GENTLEMEN, THE ONLY EVIDENCE YOU HAVE HEARD IN
19 THIS TRIAL OF A MAN WHO HATED MICKEY THOMPSON THAT MUCH
20 WAS THE DEFENDANT. SO THIS PLAN, THIS SCHEME WAS
21 DETAILED, TOOK PLANNING AND THAT'S WHY MIKE GOODWIN WAS
22 THERE. THAT'S WHY HE WAS THERE A FEW DAYS BEFORE AND
23 THAT'S WHY THE STEVENSES TOLD YOU THAT.

24 NOW I'M GOING TO SPEND SOME TIME ON THIS
25 BECAUSE WE HEARD FROM DR. PEZDEK AND HE ALSO HEARD FROM
26 THIS OTHER EXPERT MR. SWANEPOEL. AND YOU KNOW WHAT IS
27 INTERESTING, I'LL JUST TALK ABOUT THAT FOR A MOMENT.
28 MR. SWANEPOEL, YOU KNOW, YESTERDAY IN THE OPENING

1 STATEMENT MS. SARIS TOLD YOU, WELL, IN THE OPENING
2 STATEMENT I'M GOING TO PROVE TO YOU, THIS WAS A ROBBERY,
3 A ROBBERY GONE BAD.

4 YESTERDAY, IT COULD HAVE BEEN A ROBBERY.
5 SO IF IT COULD HAVE BEEN A ROBBERY, MY GUY IS NOT GUILTY.
6 SHE IS THE ONLY PERSON WHO SAID THAT IN THIS WHOLE TRIAL.
7 SHE IS THE ONLY ONE. AND WHAT WE SAY -- THE JUDGE TOLD
8 YOU, WHAT I'M SAYING NOW; WHAT SHE SAID; WHAT MR. JACKSON
9 SAID, THIS ISN'T EVIDENCE. EVIDENCE CAME FROM THE STAND
10 AND THE OTHER DOCUMENTS. NO ONE IN THIS TRIAL HAS SAID
11 THERE IS NO EVIDENCE THAT THIS IS A ROBBERY.

12 SHE EVEN HIRED THIS MR. SWANEPOEL TO COME
13 IN HERE AND TALK TO YOU, NEVER ASKED HIM THAT QUESTION.
14 HE NEVER SAID THAT. HER OWN CRIME SCENE
15 RECONSTRUCTIONIST DIDN'T RECONSTRUCT IT INTO BEING A
16 ROBBERY. DIDN'T HAPPEN. THERE IS NO EVIDENCE. SHE IS
17 THE ONLY ONE WHO HAS PRESENTED THIS -- FORGIVE ME --
18 BIZARRE THEORY.

19 AND THEN WE HAD DR. PEZDEK. NOW
20 DR. PEZDEK IS TELLING YOU KIND OF NO ONE CAN RECOGNIZE
21 ANYONE. I'M SURE MR. JACKSON IS GOING TO RECOGNIZE HIS
22 BROTHER AT THE HOLIDAYS, BUT OTHER THAN THAT, NOBODY CAN.
23 BUT THE QUESTION IS WHEN YOU LISTEN TO HER AGAIN YOU NEED
24 TO USE YOUR COMMON SENSE. SHE IS AN EXPERT. WAS SHE
25 FAIR? WAS SHE IMPARTIAL?

26 HERE IS A PERSON WHO HAS CONSULTED OVER
27 THE LAST TEN YEARS OR SO WITH 4000 -- NOW THESE WEREN'T
28 CASES, BUT THEY WERE CONSULTATIONS, SOME QUICK, MAYBE NOT

1 SOME QUITE SO QUICK. SOME THAT RESULTED IN TESTIFYING.
2 BUT 4000 TIMES. ONCE WITH THE DISTRICT ATTORNEY'S
3 OFFICE. BUT OKAY. THAT'S ALL RIGHT.

4 SHE COMES IN HERE AND SHE IS GOING TO TELL
5 YOU ABOUT FACTORS. FACTORS THAT HER READING AND RESEARCH
6 SHOW ARE RELEVANT TO EYEWITNESS IDENTIFICATION.
7 SHOULDN'T SHE TELL YOU ALL THE FACTORS? SHE TESTIFIED ON
8 THE STAND THAT, WELL, I'M TELLING YOU ABOUT THE RELEVANT
9 FACTORS HERE BECAUSE I READ THE REPORTS.

10 WHAT SHE WANTED TO TELL YOU ABOUT BECAUSE
11 SHE WAS WORKING WITH THE DEFENSE WAS ONLY ABOUT THE
12 FACTORS THAT SHE THOUGHT HURT THE IDENTIFICATION. NOW I
13 THINK IT WAS PRETTY CLEAR FROM MY QUESTIONS OF HER -- AND
14 I HOPE I DIDN'T OFFEND ANYONE -- THAT I WANTED TO BRING
15 OUT THAT THERE ARE MANY, MANY FACTORS THAT THESE PEOPLE
16 CONSIDER. AND SHE DIDN'T TELL YOU ABOUT THE ONES THAT
17 WOULD SUPPORT THIS IDENTIFICATION. BECAUSE SHE DIDN'T --
18 THAT WASN'T HER JOB UP THERE.

19 SO LET'S JUST REMIND OURSELVES OF SOME OF
20 THESE BECAUSE I PROMISE YOU IN THE RIGHT CASE SHE WOULD
21 TALK ABOUT THIS STUFF. AND ALL THE ONES -- THE FACTORS
22 THAT I'M NOW GOING TO DISCUSS I SUGGEST TO YOU DO SUPPORT
23 THE STEVENSES. YOU KNOW THE STEVENSES -- YOU SAW THEM ON
24 THE STAND. AGAIN, THIS IS ONE OF THE TIMES WHERE I'M
25 GOING TO ASK YOU TO THINK BACK TO HOW THEY TESTIFIED, RON
26 AND TONI STEVENS, AND WHAT THEY DID AND WHY THEY DID IT.

27 NO. 1 FACTOR THAT I TALKED TO DR. PEZDEK
28 ABOUT WAS STRESS AND WEAPONS FOCUS. AND THEY HAVE THESE

1 STUDIES THAT SAY, WELL, IF YOU ARE UNDER LIFE THREATENING
2 STRESS YOU AREN'T GOING TO REMEMBER STUFF. WELL, THAT
3 MIGHT BE TRUE OR MIGHT NOT BE TRUE. BUT THAT'S WHAT
4 DR. PEZDEK BELIEVES. AND IF YOU'RE IN A LIFE THREATENING
5 ROBBERY AND YOU HAVE A GUN POINTED IN YOUR FACE, THAT'S
6 GOING TO UP THE STRESS. AND THAT SOUNDS REASONABLE. AND
7 YOU MIGHT BE LOOKING AT THE GUN AND THE PERSON'S FACE.
8 OKAY. THAT MIGHT BE REASONABLE, TOO.

9 BUT WHEN SHE TESTIFIED ON DIRECT
10 EXAMINATION AS THIS FAIR AND IMPARTIAL PERSON WHO IS
11 TRYING TO HELP YOU SORT OUT THIS IDEA, SHE DIDN'T TELL
12 YOU ABOUT THAT. IS SHE REALLY FAIR AND IMPARTIAL?
13 BECAUSE THERE WAS NO STRESS. THERE WAS NO WEAPONS.
14 THERE WERE NO WEAPONS IN THIS SITUATION THAT THE
15 STEVENSES WERE INVOLVED WITH. IT DOESN'T APPLY.

16 IN FACT, I ASKED HER THOSE QUESTIONS IN A
17 REGULAR KIND OF SITUATION WE'RE IN NOW, NOT SO STRESSFUL,
18 AT LEAST HOPEFULLY NOT FOR YOU. THIS IS THE BEST
19 CIRCUMSTANCES TO MAKE AN IDENTIFICATION.

20 AND BRIEFLY THE CROSS RACIAL. IF THIS WAS
21 A ROBBERY BETWEEN PEOPLE OF DIFFERENT RACIAL BACKGROUND
22 OR ETHNIC BACKGROUNDS WITH A WEAPON, SHE WOULD BE TELLING
23 YOU YOU CAN'T BELIEVE THE VICTIM IN THIS CASE BECAUSE
24 THEY WERE UNDER HIGH STRESS; THEY WERE LOOKING AT A
25 WEAPON; AND THEY WERE LOOKING AT ANOTHER PERSON OF A
26 DIFFERENT RACIAL BACKGROUND. AND THE STUDIES JUST SHOW
27 YOU CAN'T BELIEVE THAT STUFF. BUT BECAUSE THAT WASN'T
28 PRESENT HERE, SHE DIDN'T TELL YOU. IS SHE FAIR AND

1 IMPARTIAL?

2 YOU KNOW, THE DESCRIPTIONS -- YOU CAN
3 THINK BACK, PLEASE DO, TO RON AND TONI STEVENS. I
4 REMEMBER THEIR DESCRIPTIONS AS BEING PRETTY GOOD. YOU
5 KNOW AGE WISE AND HAIR AND POCK MARKED FACE. THE MAN
6 THEY SAW IN THE DRIVER'S SEAT OF THAT CAR HAD A POCK
7 MARKED FACE, RUDDY COMPLEX I BELIEVE THAT'S WHAT THEY
8 SAID. PLEASE CHECK YOUR NOTES. THAT KIND OF SPECIFICITY
9 OF DESCRIPTION IN IDENTIFICATION IS IMPORTANT.

10 AND YET I DON'T THINK SHE REALLY TALKED
11 ABOUT IT. AND THE OBVIOUS -- HERE IS A COUPLE OF OBVIOUS
12 ONES AND WE'LL MOVE ON IN A MOMENT. THE CAPACITY TO MAKE
13 AN I.D. YOU KNOW, PEOPLE -- SOMETIMES PEOPLE COMING OUT
14 OF THAT MOVIE THEATER OR PROBABLY MORE CORRECTLY A CAR OR
15 HAVING DINNER AND A FEW DRINKS, THEY MIGHT BE UNDER THE
16 INFLUENCE OF ALCOHOL A LITTLE BIT. AND THAT WOULD BE A
17 FACTOR THAT SHE WOULD CONSIDER.

18 OBVIOUSLY RON AND TONI STEVENS WEREN'T
19 DRINKING AT 11:00 IN THE MORNING, BUT SHE DIDN'T MENTION
20 THAT EITHER. SHE DIDN'T MENTION THAT EITHER. BUT HERE
21 IS -- AND MR. JACKSON TALKED ABOUT THIS A LITTLE BIT.
22 HERE IS THE MOST IMPORTANT THING. AND FOR MY QUESTIONS,
23 YOU KNOW, SHE HAS TESTIFIED TO THIS IN THE PAST. AND I
24 THINK THIS FACTOR REALLY APPLIES. IT HAS THIS KIND OF
25 SCIENTIFIC SOUNDING NAME DEPTH OF PROCESS.

26 WHAT IT REALLY MEANS IS DR. PEZDEK ON MY
27 QUESTIONING TOLD YOU, IF YOU HAVE A REASON TO WALK UP TO
28 A PERSON AND MAKE TRY TO MAKE A JUDGMENT OF THAT PERSON,

1 TRY TO DECIDE WHAT THEY'RE DOING, YOU ARE GOING TO
2 REMEMBER THAT BETTER. REMEMBER WE TALKED ABOUT THE IDEA
3 OF TRYING TO REMEMBER THE SECURITY GUARD WHO YOU PASSED
4 BY THIS MORNING AND/OR TWO DAYS ARGUE AGO OR A WEEK AGO.

5 THERE IS NO REASON TO TRY TO REMEMBER HIM.
6 BUT AS SHE TOLD YOU AND SHE TESTIFIED IN THE PAST, IF YOU
7 HAVE A REASON TO TRY TO UNDERSTAND WHY IS THAT PERSON
8 THERE AND WHAT ARE THEY DOING, YOU'RE GOING TO REMEMBER
9 THAT. THERE IS SOME DESCRIPTION. IT'S A FACTOR. THERE
10 IS I ASSUME STUDIES DEPTH OF PROCESSING.

11 THINK BACK TO WHAT RON AND TONI STEVENS
12 TOLD YOU THAT MORNING. SHE CAME HOME, DROVE HOME AND SHE
13 SAW THIS CAR, THIS UNUSUAL CAR. AND I THINK SHE SAID ON
14 THE WRONG SIDE OF THE STREET. AND THERE IS AN ELEMENTARY
15 SCHOOL -- YOU WERE OUT THERE -- AN ELEMENTARY SCHOOL
16 THERE, TOO. AND THIS WAS THE MID '80S, LATE '80S.

17 I DON'T KNOW. SOME OF YOU WEREN'T AROUND
18 THEN. BUT SOME OF YOU WERE. AND THIS IS JUST ARGUMENT,
19 BUT I'LL ASK YOU TO THINK BACK -- I MEAN I THINK AT THE
20 TIME THERE WAS A LOT OF CONCERN ABOUT KIDS BEING
21 ABDUCTED. THERE WERE EVEN CHILDREN'S PICTURES PUT ON
22 MILK CARTONS AND THAT TYPE OF THING. IT WAS A HOT TOPIC.

23 SO TONI STEVENS GOES HOME; SEES THIS CAR.
24 AND IT'S IN THE -- I THINK SHE SAID IT'S ON THE WRONG
25 SIDE OF THE STREET. AND THEY'RE LOOKING AT A SCHOOL.
26 THERE IS AN ELEMENTARY SCHOOL A BLOCK OR TWO AWAY. AND
27 SHE IS CONCERNED ABOUT IT. AND HER HUSBAND COMES HOME
28 AND THEY TALK AND THEY THINK, WELL, WHAT ARE THESE GUYS

1 PEDOPHILES? ARE THEY GOING TO KIDNAP A KID? THEY HAD A
2 REASON TO GO AND LOOK AT THESE PEOPLE.

3 AND MIKE GOODWIN WAS THE MAN WHO WAS IN
4 THE DRIVER'S SEAT AND HE WAS CLOSEST TO THEM. AND THAT'S
5 WHO THEY WALKED UP TO. AND THEY TOOK THEIR TIME AND IT
6 WAS BROAD DAYLIGHT. THEY WALKED UP TO HIM; THEY LOOKED
7 IN THE CAR; AND HE LOOKED AT THEM FULL FACE ON.
8 ACCORDING TO DR. PEZDEK, ONE OF THE BEST WAYS TO LOOK AT
9 A PERSON AND REMEMBER THEM.

10 THIS WAS DIFFERENT THAN A NIGHTTIME
11 ROBBERY WHERE YOU HAD A DRINK OR TWO AND SOMEBODY IS
12 STICKING A GUN IN YOUR FACE. AND YOU TRY TO MAKE AN
13 IDENTIFICATION IN TWO OR THREE SECONDS. THEY WALKED UP;
14 THEY TOLD YOU, I THINK, THAT THEY TOOK A MINUTE OR MORE
15 TO WALK UP AND LOOK. THERE WAS A REASON FOR THEM TO
16 LOOK. THERE WAS A REASON FOR THEM TO REMEMBER THIS.

17 AND TONI STEVENS SAID YOU KNOW THIS GUY
18 LOOKED JUST LIKE A GUY I WENT TO HIGH SCHOOL WITH. SHE
19 REMEMBERED THIS. BUT THERE ARE A LOT OF THINGS THAT
20 BECAUSE OF HER JOB SHE DOESN'T CONSIDER, AND YOU CAN, TO
21 CORROBORATE; TO KNOW THAT MIKE GOODWIN WAS THE MAN THERE;
22 THAT MIKE GOODWIN WAS THE PERSON WHO SET THIS UP.

23 THE MOTIVE AND WE HAVE TALKED ABOUT THAT.
24 AND I WON'T TAKE YOUR TIME ON THAT MUCH LONGER, BUT YOU
25 HEARD THE LAWSUIT AND THE BUSINESS DEALS, THE WHOLE
26 THING, AND THE HATRED THAT HE EXPRESSED TO HIM. AND HIS
27 EFFORTS TO GET OUT OF HERE, TO GET OUT OF DODGE. NOW
28 IT'S NOT QUITE LIKE THE GUY WHO BURGLARIZES YOUR HOUSE

1 AND THEN IS WORRIED ABOUT GETTING CAUGHT AND SO HE HAVE
2 DRIVES TO LAS VEGAS.

3 MIKE GOODWIN I THINK SOMEBODY SAID
4 YESTERDAY WAS A MILLIONAIRE. I MEAN HE HAS A LIFE-STYLE.
5 HE DOESN'T JUST CATCH A BUS OUT OF TOWN. NO. HE BUYS A
6 \$400,000 -- AND THIS IS BACK THEN, 1986 -- A \$400,000
7 OCEAN GOING YACHT. LIQUIDATES HIS HOME AND OTHER
8 INVESTMENTS FOR GOLD; SENDS IT OFF TO OFFSHORE BANK
9 ACCOUNTS SO HE CAN MAINTAIN HIS LIFE-STYLE AND
10 DISAPPEARS.

11 AND, LADIES AND GENTLEMEN, THAT'S WHAT
12 HAPPENED. WE NEXT HEAR OF HIM IN 1991 ACCORDING TO THE
13 STIPULATION. HE DISAPPEARED UNTIL THEY REPOSSESSED THE
14 BOAT IN GUATEMALA. HE WAS OUT OF HERE. NOW SOMEBODY --
15 MS. SARIS I THINK SUGGESTED YESTERDAY, WELL, MAYBE HE
16 WENT ON A CRUISE OF THE EASTERN SEABOARD. WELL,
17 GUATEMALA IS WAY DOWN IN THE CARIBBEAN. WELL, MIGHT HAVE
18 BEEN; COULD HAVE BEEN, I THINK SHE SUGGESTED THAT.

19 LOOK AT THE FACTS HERE AND THE TIMING OF
20 THIS. HE GOT OUT OF HERE AS QUICKLY AS HE COULD IN LIGHT
21 OF THE FACT THAT HE WANTED TO MAINTAIN HIS LIFE-STYLE AND
22 HE WAS BUYING A BOAT SO HE COULD DISAPPEAR. AND THAT'S
23 EXACTLY WHAT HE DID. HE DISAPPEARED.

24 YOU HAVE IN EVIDENCE PICTURES OF THIS
25 THING. THIS IS A HUGE OCEAN GOING YACHT. I SUGGEST TO
26 YOU THAT THAT THING COULD GO ANYWHERE. AND THERE ARE
27 THOUSANDS OF ISLANDS IN THE CARIBBEAN.

28 WELL, MS. SARIS TELLS YOU, WELL, WHO

1 BOUGHT THE BOAT? DIANE BOUGHT THE BOAT. WELL, WE HAVE
2 HEARD FROM KAREN STEPHENS THAT THIS WAS ALL COMMINGLED.
3 AND OH, YEAH, DIANE BOUGHT THE GOLD. WELL, THE GUY FROM
4 GOLD 'N COINS SAID HE DEALT WITH MIKE NOT DIANE. IT'S
5 MIKE WHO IS GETTING OUT OF DODGE. AND HE'S TAKING HIS
6 WIFE WITH HIM.

7 LADIES AND GENTLEMEN, I'LL REMIND YOU THIS
8 IS MY ARGUMENT. IT'S ARGUMENT. BUT I WOULD LIKE YOU TO
9 THINK BACK AND CONSIDER THE EVIDENCE THAT YOU HAVE HEARD
10 ABOUT THE LAST MOMENTS OF MICKEY THOMPSON'S LIFE. HE'S
11 BEEN SHOT TWO TO THREE TIMES. ONE IS FATAL, NOT
12 IMMEDIATELY FATAL. AND HE'S STANDING AT THE TOP OF THAT
13 DRIVEWAY AND HE'S YELLING "DON'T HURT MY WIFE. PLEASE
14 DON'T HURT MY WIFE."

15 AS SHE'S BEEN SHOT; COMES OUT OF THE VAN.
16 AND YOU WERE THERE. YOU KNOW YOU CAN SEE HER. HE CAN
17 SEE HER FROM THE BOTTOM OF THE DRIVEWAY. IF HE COULDN'T
18 SEE HER, HE WOULDN'T BE YELLING. IF THIS WAS THE COULD
19 HAVE BEEN ROBBERY OR BURGLARY AND SHE WAS STILL UPSTAIRS,
20 OR TOTALLY OUT OF SIGHT, WHAT IS A GUY LIKE MICKEY
21 THOMPSON GOING TO DO? HE'S NEVER GOING TO SAY "DON'T
22 HURT MY WIFE." HE'S NOT GOING TO WANT TO CALL ATTENTION
23 TO HIS WIFE.

24 BUT THAT WASN'T THE SITUATION. HE COULD
25 SEE HER. HE KNEW SHE WAS IN TROUBLE. AND HE KNEW WHAT
26 WAS HAPPENING. AND HE SAID, "PLEASE DON'T HURT MY WIFE.
27 DON'T HURT MY WIFE."

28 AND THAT CALLS BACK THE DIALOGUE THAT

1 MR. JACKSON TALKED ABOUT. THIS DIALOGUE STARTED WEEKS,
2 MAYBE MONTHS, REALLY EVEN YEARS BEFORE. AND, AGAIN, THIS
3 IS ARGUMENT, BUT I'M ASKING YOU TO THINK ABOUT WHAT
4 HAPPENED IN ALL THE EVIDENCE.

5 MICKEY THOMPSON MIGHT HAVE BEEN RECALLING
6 IT CAME BACK TO HIM. WE KNOW IT HAPPENED. THE
7 CONVERSATION THAT JOEL WEISSLER OVERHEARD WHERE MIKE
8 GOODWIN SAYS "I'M GOING TO HURT YOU. AND I'M GOING TO
9 HURT YOUR FAMILY." IT'S HIS FAMILY. IT'S HIS WIFE.
10 IT'S TRUDY. WE ALL KNOW FROM ALL THIS EVIDENCE HOW MUCH
11 HE ADORED HER.

12 AND MICKEY THOMPSON'S RESPONSE IN THAT
13 CALL IS "YOU LEAVE MY FAMILY ALONE. WELL, ON MARCH 16TH,
14 1988, JUST AFTER 6:00 O'CLOCK IN THE MORNING, HE GOT THE
15 ANSWER. IT WAS AS IF MIKE GOODWIN HAD RESPONDED TO
16 "LEAVE MY FAMILY ALONE." BECAUSE THERE IS A GUNMAN ABOUT
17 TO SHOOT TRUDY IN THE HEAD AND HE'S YELLING "LEAVE MY
18 WIFE ALONE. DON'T HURT MY WIFE."

19 AND THEN THE GUNSHOT FIRES AND TRUDY IS
20 DEAD. AND THAT SAME MAN, WE KNOW FROM THE BALLISTICS,
21 THAT SAME MAN THAT KILLED TRUDY WALKS THAT LONG
22 DRIVEWAY -- YOU WERE THERE -- THAT LONG STEEP DRIVEWAY --
23 YOU CAN'T RUN THAT -- WALKS THAT LONG DRIVEWAY UP THE
24 HILL. MICKEY CLUTCHING HIMSELF, BLEEDING ON THE GROUND,
25 MAYBE EVEN COLLAPSING AT THAT POINT. MICKEY THOMPSON
26 KNOWS THAT THAT MAN IS WALKING UP TO KILL HIM, TOO, AND
27 HE IS HELPLESS TO DO ANYTHING ABOUT IT.

28 HERE IS A GUY WHO AT ONE TIME WAS THE

1 FASTEST RACE CAR DRIVER IN THE WORLD AND HE IS HELPLESS.
2 HE WAS HELPLESS TO SAVE HIS WIFE. AND HE'S HELPLESS TO
3 DO ANYTHING TO STOP THE MAN WHO IS WALKING UP TO SHOOT
4 HIM. AND HE KNOWS, I SUGGEST TO YOU FROM ALL THE
5 EVIDENCE, HE KNOWS THAT MIKE GOODWIN IS THE MAN THAT SENT
6 THEM THERE.

7 BECAUSE THAT'S EXACTLY WHAT MIKE GOODWIN
8 WANTED TO DO. HE WANTED TO RENDER MICKEY THOMPSON
9 HELPLESS. MIKE GOODWIN COULD NOT BEAT HIM IN BUSINESS.
10 HE LOST TO HIM IN EVERY COURTROOM THEY WALKED INTO JUST
11 ABOUT. MIKE GOODWIN WAS GOING TO WIN. IT WAS THE ONLY
12 WAY HE COULD. I SUGGEST TO YOU THAT'S THE LAST THOUGHT
13 FOR MICKEY THOMPSON FROM ALL THE EVIDENCE HERE. BECAUSE
14 WE KNOW IT'S TRUE FROM THE EVIDENCE. HE TOLD BILL WILSON
15 "I'M GOING TO TAKE HIM OUT. I'M GOING TO TAKE HIM OUT.
16 AND I'M TOO SMART. THEY WILL NEVER CATCH ME."

17 NOT QUITE TRUE. NO. YOU HEARD ALL THE
18 EVIDENCE. IT'S UP TO YOU. I SUGGEST FROM ALL THE
19 EVIDENCE HERE, IT'S TIME FOR JUSTICE. HE'S NOT THAT
20 SMART. MIKE GOODWIN IS GUILTY OF THESE CRIMES. HE'S
21 GUILTY OF THESE MURDERS. AND I WOULD ASK YOU TO RETURN
22 THAT VERDICT.

23 THANK YOU.

24 THE COURT: THANK YOU, MR. DIXON.

25 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, I
26 HAVE A FEW MORE JURY INSTRUCTIONS TO READ TO YOU AT THIS
27 TIME.

28 (READING) A DEFENDANT IN A CRIMINAL ACTION

1 IS PRESUMED TO BE INNOCENT UNTIL THE CONTRARY IS PROVED.
2 AND IN CASE OF A REASONABLE DOUBT WHETHER HIS GUILT IS
3 SATISFACTORILY SHOWN, HE IS ENTITLED TO A VERDICT OF NOT
4 GUILTY. THIS PRESUMPTION PLACES UPON THE PEOPLE THE
5 BURDEN OF PROVING HIM GUILTY BEYOND A REASONABLE DOUBT.

6 REASONABLE DOUBT IS DEFINED AS FOLLOWS:
7 IT IS NOT A MERE POSSIBLE DOUBT BECAUSE EVERYTHING
8 RELATING TO HUMAN AFFAIRS IS OPEN TO SOME POSSIBLE OR
9 IMAGINARY DOUBT. IT IS THAT STATE OF THE CASE WHICH
10 AFTER THE ENTIRE COMPARISON AND CONSIDERATION OF ALL THE
11 EVIDENCE LEAVES THE MINDS OF THE JURORS IN THAT CONDITION
12 THAT THEY CANNOT SAY THEY FEEL AN ABIDING CONVICTION OF
13 THE TRUTH OF THE CHARGE.

14 EACH COUNT CHARGES A DISTINCT CRIME. YOU
15 MUST DECIDE EACH COUNT SEPARATELY. THE DEFENDANT MAY BE
16 FOUND GUILTY OR NOT GUILTY OF EITHER OR BOTH OF THE
17 CRIMES CHARGED IN COUNTS 1 AND 2. YOUR FINDINGS AS TO
18 EACH COUNT MUST BE STATED IN A SEPARATE VERDICT.

19 I HAVE NOT INTENDED BY ANYTHING I HAVE
20 SAID OR DONE OR BY ANY QUESTIONS THAT I MAY HAVE ASKED OR
21 BY ANY RULING I MAY HAVE MADE TO INTIMATE OR SUGGEST WHAT
22 YOU SHOULD FIND TO BE THE FACTS OR THAT I BELIEVE OR
23 DISBELIEVE ANY WITNESS.

24 IF ANYTHING I HAVE DONE OR SAID HAS SEEMED
25 TO SO INDICATE, YOU WILL DISREGARD IT AND FORM YOUR OWN
26 CONCLUSION.

27 THE PURPOSE OF THE COURT'S INSTRUCTIONS IS
28 TO PROVIDE YOU WITH THE APPLICABLE LAW SO THAT YOU MAY

1 ARRIVE AT A JUST AND LAWFUL VERDICT. WHETHER SOME
2 INSTRUCTIONS APPLY WILL DEPEND UPON WHAT YOU FIND TO BE
3 THE FACTS. DISREGARD ANY INSTRUCTION WHICH APPLIES TO
4 FACTS DETERMINED BY YOU NOT TO EXIST. DO NOT CONCLUDE
5 THAT BECAUSE AN INSTRUCTION HAS BEEN GIVEN, I AM
6 EXPRESSING AN OPINION AS TO THE FACTS.

7 THE PEOPLE AND THE DEFENDANT ARE ENTITLED
8 TO THE INDIVIDUAL OPINION OF EACH JUROR.

9 EACH OF YOU MUST CONSIDER THE EVIDENCE FOR
10 THE PURPOSE OF REACHING A VERDICT IF YOU CAN DO SO. EACH
11 OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT SHOULD DO
12 SO ONLY AFTER DISCUSSING THE EVIDENCE AND INSTRUCTIONS
13 WITH THE OTHER JURORS.

14 DO NOT HESITATE TO CHANGE AN OPINION IF
15 YOU ARE CONVINCED IT IS WRONG. HOWEVER, DO NOT DECIDE
16 ANY QUESTION IN A PARTICULAR WAY BECAUSE A MAJORITY OF
17 THE JURORS OR ANY OF THEM FAVOR THAT DECISION.

18 DO NOT DECIDE ANY ISSUE IN THIS CASE BY
19 THE FLIP OF A COIN OR BY ANY OTHER CHANCE DETERMINATION.

20 THE ATTITUDE AND CONDUCT OF JURORS AT ALL
21 TIMES ARE VERY IMPORTANT. IT IS RARELY HELPFUL FOR A
22 JUROR AT THE BEGINNING OF DELIBERATIONS TO EXPRESS AN
23 EMPHATIC OPINION ON THE CASE OR TO ANNOUNCE A
24 DETERMINATION TO STAND FOR A CERTAIN VERDICT. WHEN ONE
25 DOES THAT AT THE OUTSET A SENSE OF PRIDE MAY BE AROUSED
26 AND ONE MAY HESITATE TO CHANGE A POSITION EVEN IF SHOWN
27 IT IS WRONG. REMEMBER THAT YOU ARE NOT PARTISANS OR
28 ADVOCATES IN THIS MATTER. YOU ARE IMPARTIAL JUDGES OF

1 THE FACTS.

2 IN YOUR DELIBERATIONS DO NOT DISCUSS OR
3 CONSIDER THE SUBJECT OF PENALTY OR PUNISHMENT THAT
4 SUBJECT MUST NOT IN ANY WAY AFFECT YOUR VERDICT.

5 DURING DELIBERATIONS ANY QUESTION OR
6 REQUEST YOU MAY HAVE SHOULD BE ADDRESSED TO THE COURT ON
7 A FORM THAT WILL BE PROVIDED.

8 IF THERE IS ANY DISAGREEMENT AS TO THE
9 ACTUAL TESTIMONY YOU HAVE THE RIGHT IF YOU CHOOSE TO
10 REQUEST A READBACK BY THE REPORTER. YOU MAY REQUEST A
11 PARTIAL TO TOTAL READBACK, BUT ANY READBACK SHOULD BE A
12 FAIR PRESENTATION OF THAT EVIDENCE. IF A READBACK OF
13 TESTIMONY IS REQUESTED THE REPORTER WILL DELETE
14 OBJECTIONS. RULINGS AND SIDEBAR CONFERENCES SO THAT YOU
15 WILL HEAR ONLY THE EVIDENCE THAT WAS ACTUALLY PRESENTED.

16 PLEASE UNDERSTAND THAT COUNSEL MUST FIRST
17 BE CONTACTED. AND IT MAY TAKE TIME TO PROVIDE A RESPONSE
18 OR READBACK. CONTINUE DELIBERATING UNTIL YOU ARE CALLED
19 BACK INTO THIS COURTROOM.

20 THE INSTRUCTIONS WHICH I AM NOW GIVING TO
21 YOU WILL BE MADE AVAILABLE IN WRITTEN FORM FOR YOUR
22 DELIBERATIONS. THEY MUST NOT BE DEFACED IN ANY WAY.

23 YOU WILL FIND THAT THE INSTRUCTIONS MAY BE
24 TYPED, PRINTED OR HANDWRITTEN. PORTIONS MAY HAVE BEEN
25 ADDED OR DELETED. YOU MUST DISREGARD ANY DELETED PART OF
26 AN INSTRUCTION AND NOT SPECULATE AS TO WHAT IT WAS OR AS
27 TO THE REASON FOR ITS DELETION. YOU ARE NOT TO BE
28 CONCERNED ABOUT THE REASONS FOR ANY MODIFICATION.

1 EVERY PART OF THE TEXT OF AN INSTRUCTION
2 WHETHER TYPED, PRINTED OR HANDWRITTEN IS OF EQUAL
3 IMPORTANCE. YOU ARE TO BE GOVERNED ONLY BY THE
4 INSTRUCTION IN ITS FINAL WORDING.

5 DO NOT DISCLOSE TO ANYONE OUTSIDE THE
6 JURY, NOT EVEN TO ME OR ANY MEMBER OF MY STAFF EITHER
7 ORALLY OR IN WRITING HOW YOU MAY BE DIVIDED NUMERICALLY
8 IN YOUR BALLOTING AS TO ANY ISSUE UNLESS I SPECIFICALLY
9 DIRECT OTHERWISE.

10 YOU WILL BE PERMITTED TO SEPARATE AT THE
11 NOON AND EVENING RECESSES. YOU ARE TO RETURN FOLLOWING
12 THE RECESSES AND ON THE NEXT SUCCEEDING COURT DATE.
13 DURING PERIODS OF RECESS, YOU MUST NOT DISCUSS WITH
14 ANYONE ANY SUBJECT CONNECTED WITH THIS TRIAL AND YOU MUST
15 NOT DELIBERATE FURTHER UPON THE CASE UNTIL ALL 12 OF YOU
16 ARE TOGETHER AND REASSEMBLED IN THE JURY ROOM. AT THAT
17 TIME YOU SHALL NOTIFY THE CLERK OR THE BAILIFF THAT THE
18 JURY IS REASSEMBLED AND THEN CONTINUE YOUR DELIBERATIONS.

19 AS FOR THE ALTERNATE JURORS, YOU ARE STILL
20 BOUND BY THE ADMONITION THAT YOU ARE NOT TO CONVERSE
21 AMONG YOURSELVES OR WITH ANYONE ELSE ON ANY SUBJECT
22 CONNECTED WITH THIS TRIAL OR TO FORM OR EXPRESS ANY
23 OPINION ON IT UNTIL THE CASE IS SUBMITTED TO YOU WHICH
24 MEANS UNTIL SUCH TIME AS YOU ARE SUBSTITUTED IN FOR ONE
25 OF THE 12 JURORS NOW DELIBERATING ON THE CASE.

26 THIS ALSO MEANS THAT YOU ARE NOT TO DECIDE
27 HOW YOU WOULD VOTE IF YOU WERE DELIBERATING WITH THE
28 OTHER JURORS.

1 YOU SHALL NOW RETIRE AND SELECT ONE OF
2 YOUR NUMBER TO ACT AS FOREPERSON. HE OR SHE WILL RESIDE
3 OVER YOUR DELIBERATIONS. IN ORDER TO REACH VERDICTS, ALL
4 12 JURORS MUST AGREE TO THE DECISION AND TO ANY FINDING
5 YOU HAVE BEEN INSTRUCTED TO INCLUDE IN YOUR VERDICT. AS
6 SOON AS YOU HAVE AGREED UPON A VERDICT SO THAT WHEN
7 POLLED EACH MAY STATE TRUTHFULLY THAT THE VERDICTS
8 EXPRESS HIS OR HER VOTE, HAVE THEM DATED AND SIGNED BY
9 YOUR FOREPERSON AND THEN RETURN WITH THEM TO THIS
10 COURTROOM. RETURN ANY UNSIGNED VERDICT FORMS. (READING
11 CONCLUDED.)

12 PLEASE SWEAR THE BAILIFF.

13 THE CLERK: YOU DO SOLEMNLY STATE THAT YOU WILL
14 TAKE CHARGE OF THE JURY AND KEEP THEM TOGETHER, THAT YOU
15 WILL NOT SPEAK TO THEM YOURSELF NOR ALLOW ANYONE ELSE TO
16 SPEAK TO THEM UPON ANY SUBJECT CONNECTED WITH THIS CASE,
17 EXCEPT BY ORDER OF THE COURT, AND WHEN THEY HAVE AGREED
18 UPON A VERDICT, YOU WILL RETURN THEM INTO THIS COURT, AND
19 FURTHER, YOU WILL TAKE CHARGE OF THE ALTERNATE JURORS AND
20 KEEP THEM APART FROM THE JURY WHILE THEY ARE DELIBERATING
21 ON THE CAUSE, UNTIL OTHERWISE INSTRUCTED BY THE COURT, SO
22 HELP YOU GOD.

23 THE BAILIFF: I WILL.

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THE
25 12 JURORS PLEASE TAKE YOUR BELONGINGS, YOUR NOTEBOOKS AND
26 STEP INSIDE THE JURY ROOM. THE ALTERNATES PLEASE LEAVE
27 YOUR NOTEBOOKS ON YOUR SEATS; STEP OUT IN THE HALLWAY AND
28 THE CLERK WILL BE WITH YOU SHORTLY. THANK YOU.

1 THE ALTERNATES STEP OUT IN THE BACK
2 HALLWAY.

3
4 (WHEREUPON JURY DELIBERATIONS COMMENCED.)

5 (THE FOLLOWING PROCEEDINGS WERE
6 HELD IN OPEN COURT OUTSIDE THE
7 PRESENCE OF THE JURY.)
8

9 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
10 THAT ALL OUR JURORS AND ALTERNATES ARE NO LONGER PRESENT
11 IN THE COURTROOM. THE JURORS ARE IN THE JURY ROOM. THE
12 ALTERNATES HAVE LEFT. I AM GOING TO ASK THE CLERK TO ASK
13 THE ALTERNATES IF THEY WANT TO BE ON CALL.

14 MS. SARIS: MEANING LEAVE THE BUILDING?

15 THE COURT: MEANING LEAVE. IF WE HAVE A WAY OF
16 GETTING IN TOUCH WITH THEM AND THEY CAN BE HERE WITHIN 30
17 TO 60 MINUTES.

18 SO DOES ANYONE HAVE A PROBLEM WITH THAT?

19 MR. DIXON: NO, YOUR HONOR.

20 MR. JACKSON: NO.

21 THE COURT: ALL RIGHT.

22 MS. SARIS: SORT OF.

23 THE COURT: I'M SORRY?

24 MS. SARIS: I GUESS I WOULD WANT IT ON THE RECORD
25 WITH THEM HERE THAT THEY WERE ADMONISHED ABOUT THAT. I
26 DON'T WANT TO BE IN A SITUATION WHERE THEY'RE ON CALL AND
27 WE CALL THEM AND THEY DON'T SHOW AND WE DON'T HAVE ANY --
28 AND WE DON'T KNOW WHAT --

1 THE COURT: OKAY. THE CLERK CAN INQUIRE AS TO
2 WHICH ONES WANT TO BE ON CALL AND THEN WE CAN HAVE THEM
3 STEP IN THE COURTROOM BEFORE THEY ARE EXCUSED.

4 MS. SARIS: OKAY. AND MAYBE JUST A FURTHER
5 ADMONISHMENT REGARDING WHAT THEY DO WHILE THEY'RE ON
6 CALL.

7 THE COURT: OKAY. AND COUNSEL, DO YOU WANT TO
8 STIPULATE THAT THE JURORS BE DEEMED TO HAVE BEEN PROPERLY
9 ADMONISHED AT THE END OF THE DAY AND AT ALL BREAKS?

10 MS. SARIS: YES.

11 MR. JACKSON: YES.

12 MR. DIXON: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. THE COURT ALSO HAS LOOKED
14 AT THE VERDICTS FORMS. I WILL ASK COUNSEL TO REVIEW THE
15 VERDICT FORMS.

16 MS. SARIS: WE HAVE.

17 MR. DIXON: WE HAVE, YOUR HONOR. THEY'RE
18 SATISFACTORY.

19 THE COURT: YOU ALREADY HAVE?

20 MS. SARIS: THEY'RE FINE.

21 THE COURT: AND JUST SO THE RECORD IS CLEAR, BOTH
22 SIDES HAVE REQUESTED THAT THE COURT NOT INSTRUCT ON
23 SECOND DEGREE MURDER; IS THAT CORRECT?

24 MR. DIXON: CORRECT, YOUR HONOR.

25 MR. JACKSON: CORRECT.

26 MS. SARIS: THAT'S CORRECT.

27 THE COURT: ALL RIGHT. WE WILL STAND IN RECESS
28 UNTIL WE HEAR FROM THE JURORS.

1 MR. DIXON: YOUR HONOR, COULD WE -- ARE WE GOING
2 TO DISCUSS READBACKS? WE WOULD BE HAPPY TO STIPULATE
3 THAT THE COURT REPORTER DO THE READBACKS.

4 THE COURT: YES. I DON'T KNOW IF THE DEFENSE IS
5 WILLING TO.

6 MS. SARIS: WE ARE NOT.

7 THE COURT: OKAY. SO I ASSUME THE FIRST TIME WE
8 HEAR FROM THEM AND IF THERE IS ANY REQUESTED READBACK, WE
9 WILL HAVE TO ASSEMBLE.

10 MS. SARIS: AND HOW LONG SHOULD WE BE ON -- WHAT
11 SORT OF CALL? 30 MINUTES?

12 THE COURT: FIVE MINUTES.

13 MS. SARIS: FIVE MINUTES? OKAY.

14 THE COURT: HOW LONG DOES IT TAKE YOU TO GET FROM
15 DOWNSTAIRS TO UPSTAIRS.

16 MS. SARIS: ABOUT SEVEN MINUTES WITH THESE
17 ELEVATORS. YES.

18 THE COURT: SEVEN MINUTES? OKAY.

19 MR. SUMMERS: YOUR HONOR, ALSO AS TO THE
20 EXHIBITS, YESTERDAY PURSUANT TO OUR DISCUSSION I TOOK
21 DEFENSE N FOR IDENTIFICATION; REDACTED IT TO REFLECT A
22 CERTIFICATION PAGE; A FACE PAGE AND PAGE WITH THE BILLING
23 SLIP. AND DEFENSE P, Q AND R WERE THE NEWSPAPER. AND I
24 REDACTED THOSE TO REFLECT FOR ADMISSION JUST THE
25 HEADLINES, IF THE PEOPLE WANT TO REVIEW THOSE.

26 MR. JACKSON: I'LL TAKE A QUICK GLANCE AT THEM.
27 I TRUST MR. SUMMERS.

28 THE ONLY OTHER THING I WOULD ASK IS GIVEN

1 THE FACT THAT THE FAMILY MEMBERS, THE VICTIM'S FAMILY
2 MEMBERS LIVE PRETTY FAR AWAY. I WOULD INQUIRE OF THE
3 COURT AS TO HOW LONG YOU EXPECT IF THERE WERE TO BE A
4 VERDICT, HOW LONG YOU EXPECT TO GIVE TO US GET FAMILY
5 ASSEMBLED, ET CETERA.

6 THE COURT: AS MUCH TIME AS POSSIBLE.

7 MR. JACKSON: OKAY.

8 THE COURT: I WILL CERTAINLY TRY TO GIVE YOU AS
9 MUCH TIME AS POSSIBLE.

10 IS THERE ANYTHING ELSE?

11 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

12 MS. SARIS: NOTHING THAT NEEDS TO BE TO THE
13 RECORD. BUT IF WE COULD DISCUSS SOMETHING OFF THE
14 RECORD.

15 THE COURT: OKAY.

16 (PAUSE IN PROCEEDINGS.)

17 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, WE
18 ARE -- LET'S GO BACK ON THE RECORD -- WE ARE WITH THE
19 ALTERNATES. WE HAVE ALTERNATES 1 THROUGH 6 PRESENT IN
20 COURT. AND THE CLERK HAS ADVISED ME THAT YOU ALL WISH TO
21 BE PLACED ON CALL. WELL, LET ME ASK, IS THAT WHAT YOU
22 WANT, EACH OF YOU WANT TO BE PLACED ON CALL? AND YOU ALL
23 INDICATING TO ME IN THE AFFIRMATIVE. YOU WILL ALL BE,
24 WHAT, WITHIN 30 MINUTES OR, SO YOU'LL BE ABLE TO COME TO
25 THE COURTROOM WHEN SUMMONED. AND DO YOU UNDERSTAND?

26 MR. JACKSON: THERE IS A QUESTION, YOUR HONOR.

27 THE COURT: QUESTION FROM ALTERNATE 2.

28 ALTERNATE JUROR NO. 2: I THINK I WOULD RATHER

1 TALK -- LET ME TALK TO MY OFFICE FIRST TO MAKE SURE OF
2 EVERYTHING.

3 THE COURT: ALL RIGHT. THE ONLY THING I WANT TO
4 TELL YOU IS, NO. 1, YOU ARE STILL SUPPOSED TO COMPLY WITH
5 THE COURT'S ADMONITION. SO EVEN THOUGH WE ARE GOING TO
6 LET THOSE OF YOU THAT WANT TO BE PLACED ON CALL TO HOME
7 OR TO WORK, IT'S IMPORTANT THAT YOU UNDERSTAND THAT YOU
8 ARE STILL AN ALTERNATE IN THIS CASE. YOU MAY BE NEEDED.
9 AND YOU ARE NOT TO CONDUCT ANY DELIBERATIONS WHILE YOU
10 ARE GONE. YOU ARE NOT TO DISCUSS THE CASE WITH ANYONE.
11 YOU ARE NOT TO FORM OR EXPRESS ANY OPINION ON THE CASE.
12 AND COMPLY WITH ALL OF THE ADMONITIONS THAT HAVE BEEN
13 GIVEN BY THE COURT.

14 JUROR NO. 1, DO YOU UNDERSTAND?

15 ALTERNATE JUROR NO. 1: YES.

16 THE COURT: AND YOU AGREE?

17 ALTERNATE JUROR NO. 1: YES.

18 THE COURT: AND NO. 2, IF YOU GO ON CALL, DO YOU
19 UNDERSTAND AND AGREE?

20 ALTERNATE JUROR NO. 2: YES.

21 THE COURT: 3?

22 ALTERNATE JUROR NO. 3: I UNDERSTAND. IF THERE
23 IS A QUESTION FROM THE JURY, ARE WE GOING TO BE CALLED TO
24 COME AND LISTEN TO THE QUESTION?

25 THE COURT: MY PRACTICE WOULD BE, YES, WE WOULD
26 CALL YOU BACK IN. SO IT COULD BE THAT YOU WILL BE COMING
27 BACK OFTEN.

28 ALTERNATE JUROR NO. 3: IF THEY HAVE A QUESTION

1 TO READBACK TESTIMONY OR --

2 THE COURT: YES.

3 ALTERNATE JUROR NO. 3: OKAY.

4 THE COURT: SO DO YOU AGREE TO THAT, SIR?

5 ALTERNATE JUROR NO. 3: YES.

6 THE COURT: NO. 4?

7 ALTERNATE JUROR NO. 4: YES.

8 THE COURT: NO. 5?

9 ALTERNATE JUROR NO. 5: YES.

10 THE COURT: SIX?

11 ALTERNATE JUROR NO. 6: YES.

12 THE COURT: DO EITHER COUNSEL WANT ME TO INQUIRE
13 FURTHER?

14 MS. SARIS: NO. THANK YOU.

15 MR. DIXON: NO.

16 MR. JACKSON: NO, YOUR HONOR.

17 THE COURT: I'M GOING TO EXCUSE ALL OF YOU,
18 EXCEPT NO. 4, WHY DON'T YOU REMAIN FOR A MINUTE. AND I
19 THINK THE CLERK WILL --

20 DID YOU GET ALL THEIR INFORMATION ALREADY?

21 THE CLERK: YES.

22 THE COURT: SO THOSE OF YOU THAT WANT TO BE ON
23 CALL, THEN YOU ARE ON CALL. LEAVE YOUR NOTEBOOKS. AND
24 WE WILL GET IN TOUCH WITH YOU WHEN WE NEED YOU.

25 ALTERNATE NO. 2, IF YOU WANT TO THINK
26 ABOUT IT AND LET US KNOW, YOU CAN GO BACK DOWN TO THE
27 JURY ROOM AND JUST LET US KNOW WHAT YOU DECIDE.

28 ALTERNATE JUROR NO. 2: OKAY.

1 ALTERNATE JUROR NO. 5: THANK YOU, YOUR HONOR.

2 (PAUSE IN PROCEEDINGS.)

3 THE COURT: ALL RIGHT. ALTERNATE NO. 4, ASKED
4 YOU TO REMAIN BECAUSE SOMETHING HAS BEEN BROUGHT TO MY
5 ATTENTION THAT IS OF CONCERN. I HAD DISCUSSED WITH YOU
6 VERY EARLY ON A SITUATION INVOLVING NOTES AND YOUR USE OF
7 NOTES.

8 DO YOU RECALL THAT DISCUSSION?

9 ALTERNATE JUROR NO. 4: YES.

10 THE COURT: YOU INQUIRED WHETHER OR NOT YOU COULD
11 TAKE YOUR NOTES HOME.

12 ALTERNATE JUROR NO. 4: YES. AND I -- AND I
13 HAVEN'T. THEY'RE IN MY NOTEBOOK.

14 THE COURT: OKAY. THERE HAS BEEN INFORMATION
15 PROVIDED TO ME THAT LEADS ME TO BELIEVE YOU MAY HAVE
16 TAKEN SOME NOTES HOME. WHETHER YOU HAVE DONE SO
17 INTENTIONALLY OR UNINTENTIONALLY, I DON'T KNOW. BUT I'M
18 VERY CONCERNED ABOUT THAT.

19 ALTERNATE JUROR NO. 4: BUT I BROUGHT THEM BACK.

20 THE COURT: SO YOU TOOK YOUR NOTES HOME?

21 ALTERNATE JUROR NO. 4: AND BROUGHT THEM BACK.

22 THE COURT: WELL, BECAUSE YOUR NOTES WERE IN A
23 NOTEBOOK?

24 ALTERNATE JUROR NO. 4: YES.

25 THE COURT: SO HOW DID YOU -- WHAT, DID YOU TAKE
26 THE PAPER OUT OF THE NOTEBOOK AND TAKE THE PAPER HOME?

27 ALTERNATE JUROR NO. 4: YES.

28 THE COURT: AND YOU LEFT YOUR NOTEBOOK HERE?

1 ALTERNATE JUROR NO. 4: YES.

2 THE COURT: DO YOU RECALL THAT BEING SOMETHING
3 THAT WE TALKED ABOUT AND I TOLD YOU YOU COULD NOT DO IT?

4 ALTERNATE JUROR NO. 4: NO. I RECALL YOU TALKING
5 ABOUT LEAVING THE NOTES HERE AT THE END AND THAT THEY
6 WOULD BE DESTROYED AFTERWARD.

7 THE COURT: OKAY. HAVE YOU BEEN TAKING YOUR
8 NOTES HOME EVERY DAY?

9 ALTERNATE JUROR NO. 4: NO. NOT EVERY DAY, NO.

10 THE COURT: HOW MANY TIMES DID YOU TAKE YOUR
11 NOTES?

12 ALTERNATE JUROR NO. 4: JUST ONCE SO I COULD
13 STUDY THEM A LITTLE MORE.

14 THE COURT: DID YOU DO ANYTHING ELSE WITH THOSE
15 NOTES?

16 ALTERNATE JUROR NO. 4: NO.

17 THE COURT: DID YOU COPY THEM?

18 ALTERNATE JUROR NO. 4: NO.

19 THE COURT: ARE YOU STORING ANY INFORMATION?

20 ALTERNATE JUROR NO. 4: WELL, I'M REMEMBERING IT.

21 THE COURT: MY INFORMATION IS THAT YOU MADE
22 INQUIRIES OF SOME THE JURORS' FIRST NAMES.

23 ALTERNATE JUROR NO. 4: THE JURORS' FIRST NAMES?

24 THE COURT: YES.

25 ALTERNATE JUROR NO. 4: NO, I DON'T -- YOU MEAN
26 ALL THE JURORS?

27 THE COURT: YES.

28 ALTERNATE JUROR NO. 4: YES. WELL, YES, OF

1 COURSE, I'VE BEEN WITH THEM FOR A MONTH AND A HALF. AND
2 I THOUGHT IT WAS ONLY CIVIL. SOMEBODY FIRST ASKED ME
3 WHAT MY NAME WAS AND I SAID "105."

4 THE COURT: WELL, THIS IS MY PROBLEM. I
5 UNDERSTAND YOU ARE A WRITER.

6 ALTERNATE JUROR NO. 4: YES.

7 THE COURT: I'M CONCERNED THAT YOU ARE GOING TO
8 TAKE INFORMATION FROM THIS CASE SPECIFICALLY WITH RESPECT
9 TO THE NOTES THAT WE'VE BEEN DISCUSSING. AND MY CONCERN
10 IS THAT YOU HAVE BEEN TAKING THOSE NOTES AND YOU ARE
11 WRITING A BOOK OR AN ARTICLE ABOUT THEM.

12 ALTERNATE JUROR NO. 4: MY QUESTION IS: IS THAT
13 ILLEGAL?

14 THE COURT: QUITE FRANKLY IT'S IN VIOLATION OF MY
15 ORDER. WHETHER OR NOT IT'S ILLEGAL, WE WILL HAVE TO
16 DECIDE.

17 ALTERNATE JUROR NO. 4: YOU DIDN'T SAY
18 SPECIFICALLY THAT, THAT ONE COULDN'T USE IT, USE
19 INFORMATION GAINED HERE TO WRITE SOMETHING.

20 THE COURT: DO YOU UNDERSTAND THAT YOU ARE NOT
21 PERMITTED LEGALLY TO?

22 ALTERNATE JUROR NO. 4: FOR THREE MONTHS; RIGHT?

23 THE COURT: YES, THAT'S CORRECT.

24 ALTERNATE JUROR NO. 4: YES.

25 THE COURT: DO YOU HAVE YOUR NOTES WITH YOU HERE
26 TODAY?

27 ALTERNATE JUROR NO. 4: THEY ARE IN THE NOTEBOOK.

28 THE COURT: ALL OF THE NOTES?

1 ALTERNATE JUROR NO. 4: WELL, THE LAST PAGE I
2 HAVE, I HAVE CHRISTMAS NOTES, ERRANDS TO DO, AND THINGS
3 LIKE THAT WRITTEN ON IT.

4 THE COURT: I GUESS WHAT MY QUESTION IS: ARE ALL
5 OF YOUR NOTES IN YOUR NOTEBOOK RIGHT NOW?

6 ALTERNATE JUROR NO. 4: YES.

7 THE COURT: OKAY. COUNSEL, DO YOU WANT TO
8 STIPULATE TO EXCUSE THE JUROR?

9 MR. DIXON: YES, YOUR HONOR.

10 MS. SARIS: YES.

11 MR. JACKSON: YES.

12 THE COURT: ALL RIGHT. I'M GOING TO EXCUSE YOU
13 AT THIS TIME. YOU WILL BE DISCHARGED FROM FURTHER
14 SERVICE ON THIS CASE. I AM CONCERNED THAT YOU MAY HAVE
15 VIOLATED MY ORDER. AND I'M NOT CERTAIN WHAT, IF
16 ANYTHING, WILL BE DONE TO REMEDY THAT SITUATION. BUT WE
17 WILL POSTPONE THAT DECISION AND HEARING UNTIL ANOTHER DAY
18 WHEN THE CASE HAS CONCLUDED. SO --

19 ALTERNATE JUROR NO. 4: I DON'T UNDERSTAND
20 WHAT -- I MEAN I HAVE COMPLIED WITH WHAT YOU SAID AND I
21 DON'T UNDERSTAND WHAT WOULD BE THE OBJECTION.

22 THE COURT: WELL, THE COURT HAS INFORMATION THAT
23 YOU TOOK YOUR NOTES HOME. AND IF YOU DID THAT, WHICH YOU
24 AGREED YOU DID THAT --

25 ALTERNATE JUROR NO. 4: I DON'T THINK THAT THAT
26 WAS EVER MENTIONED THAT WAS NOT POSSIBLE TO DO.

27 THE COURT: WELL, I HAVE REASON TO BELIEVE IT WAS
28 MENTIONED. SO RIGHT NOW, I DON'T HAVE THE TIME NOR IS IT

1 PROPER FOR US TO TAKE THIS ANY FURTHER. I'M GOING TO
2 EXCUSE YOU AT THIS TIME. I AM GOING TO ORDER YOU BACK IN
3 JANUARY, PERHAPS JANUARY 17TH, 8:30 IN THE MORNING FOR AN
4 ORDER TO SHOW CAUSE.

5 IN THE MEANTIME I WILL REVISIT THIS ISSUE;
6 CHECK THE COURT REPORTER'S NOTES; AND JUST BE SURE BEFORE
7 I DO ANYTHING ELSE. AND WE WILL GET IN TOUCH WITH YOU IF
8 WE ARE GOING TO TAKE THAT MATTER OFF CALENDAR. IF WE ARE
9 GOING TO PROCEED WITH THAT OSC, YOU WILL BE ORDERED BACK
10 JANUARY 17TH, 8:30 IN THE MORNING THIS DEPARTMENT.

11 DO YOU UNDERSTAND AND AGREE?

12 ALTERNATE JUROR NO. 4: AT THAT TIME I WOULD ALSO
13 BE INTERESTED IN HEARING WHAT THE LEGAL OBJECTION IS --

14 THE COURT: YES.

15 ALTERNATE JUROR NO. 4: -- TO THIS.

16 THE COURT: YES. AND THAT'S WHY BOTH OF US ARE
17 GOING TO HAVE A LOT OF TIME TO PREPARE THAT, IF
18 NECESSARY. SO I'M GOING TO DO SOME RESEARCH AND REVISIT
19 OUR EARLIER DISCUSSIONS. AND YOU CAN DO THE SAME THING.
20 AND WE WILL TALK AGAIN ON JANUARY 17TH UNLESS YOU HEAR
21 FROM ME.

22 ALTERNATE JUROR NO. 4: AT WHAT TIME?

23 THE COURT: I'M SORRY?

24 ALTERNATE JUROR NO. 4: AT WHAT TIME?

25 THE COURT: 8:30.

26 ALTERNATE JUROR NO. 4: 8:30. OKAY.

27 THE COURT: ALL RIGHT. THANK YOU. YOU ARE
28 EXCUSED.

1 ALTERNATE JUROR NO. 4: ALL RIGHT.

2 (JUROR IS EXCUSED.)

3 THE COURT: ALL RIGHT. AND LET'S JUST PUT IT ON
4 THE RECORD THAT ALTERNATE NO. 4 APPEARS TO HAVE CLEARLY
5 VIOLATED THE COURT'S ORDER AND ADMONITIONS AT THE VERY
6 LEAST.

7 SO ALL COUNSEL AND MR. GOODWIN ARE
8 AGREEING THAT SHE CAN BE EXCUSED; CORRECT?

9 MR. DIXON: YES.

10 MR. JACKSON: YES, YOUR HONOR.

11 MS. SARIS: YES.

12 THE COURT: MR. GOODWIN?

13 THE DEFENDANT: YES.

14 MS. SARIS: THANK YOU.

15 THE COURT: ALL RIGHT. WE WILL BE IN RECESS.

16

17 (THE MATTER WAS CONTINUED TO WEDNESDAY,
18 DECEMBER 20, 2006 AT 9:00 A.M.)

19 (THE NEXT PAGE IS 9301.)

20 --000--

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 21, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: ALL RIGHT. RESUMING IN THE MICHAEL
20 GOODWIN MATTER. HE IS PRESENT WITH HIS COUNSEL. THE
21 PEOPLE ARE REPRESENTED.

22 YESTERDAY AFTERNOON -- I DON'T RECALL THE
23 EXACT TIME --

24 THE CLERK: I'LL TELL YOU RIGHT NOW, AT 3:40.

25 THE COURT: AT 3:40 WE RECEIVED A REQUEST FROM
26 THE JURY TO HEAR A NUMBER OF WITNESS'S TESTIMONY REREAD.
27 WE ASSEMBLED COUNSEL THIS MORNING AND MR. GOODWIN. THE
28 COURT REPORTER HAS PREPARED THE READBACK FOR THE FIRST

1 WITNESS. AND THE JURY WAS SEEKING THE TESTIMONY OF KATHY
2 WEESE. SPECIFICALLY THEY WANTED HER TESTIMONY REGARDING
3 THE STUN GUN AND AN OLD STATION WAGON WITH OUT OF STATE
4 PLATES AND THE COMPLETE CROSS-EXAMINATION.

5 AND THEY INDICATED THEY WOULD LIKE TO HEAR
6 THAT FIRST. AND THEN THEY WENT ON IN THAT SAME NOTE TO
7 MAKE OTHER REQUESTS, NOT PARTICULARLY RELEVANT RIGHT NOW
8 SINCE WE'RE ONLY PREPARED TO PROCEED WITH THE WEESE
9 READBACK. AND I ASKED THE COURT REPORTER TO PREPARE A
10 TRANSCRIPT OF THE READBACK SO COUNSEL COULD VIEW IT.

11 AND IS THERE ANYTHING WE NEED TO PUT ON
12 THE RECORD AT THIS TIME?

13 MR. DIXON: NOT SPECIFICALLY WITH THE TRANSCRIPT,
14 YOUR HONOR. I THINK THAT'S SATISFACTORY. MY COMMENT IS
15 DIRECTED TO KATHY WEESE, BUT KIND OF AN OVERALL COMMENT
16 FROM A SENSE OF FAIRNESS. I MAY BE WRONG ABOUT THIS AND
17 THE COURT MAY DISAGREE, BUT MY SENSE IS THAT THERE SHOULD
18 BE A FAIRNESS IN THE READBACK.

19 FOR EXAMPLE, WITH KATHY WEESE THEY ASKED
20 FOR TESTIMONY ABOUT A STUN GUN AND A STATION WAGON. THEY
21 SHOULD GET THE DIRECT AND THE CROSS ABOUT THAT, IF ANY,
22 AS FOR ALL THE CROSS OR ALL THE DIRECT, THEY SHOULD GET
23 IT ON BOTH SIDES. AND I THINK THAT SENSE APPLIES TO A
24 LOT OF THIS.

25 AND I'LL JUST PRESENT THAT TO THE COURT.
26 I THINK IT COULD BE ONE SIDE OR UNFAIR TO EITHER SIDE
27 DEPENDING ON THIS REQUEST. IF THEY ONLY ASK FOR DEFENSE
28 OR ONLY ASK FOR PROSECUTION DIRECT OR CROSS-EXAMINATION,

1 I THINK THAT MIGHT CAUSE A SENSE OF OR A LACK OF
2 FAIRNESS.

3 AND MY REQUEST WOULD BE IF THEY ASK FOR
4 SPECIFIC PARTS OF A WITNESS'S TESTIMONY, THEY GET THE
5 CROSS AND THE DIRECT RELATING TO THAT SUBJECT. IF THEY
6 ASK FOR EITHER ALL THE DIRECT OR ALL THE CROSS
7 EXCLUSIVELY FOR ONE WITNESS, THEY GET THE WHOLE THING ON
8 ALL WITNESSES. AND THAT'S JUST MY THOUGHT. SOMETIMES IN
9 THE PAST JUDGES FEEL THAT'S APPROPRIATE. AND SOMETIMES
10 THEY DON'T.

11 THE COURT: ALL RIGHT. MS. SARIS?

12 MS. SARIS: I THINK SOMETIMES IT'S VERY HARD TO
13 PARSE IT OUT. AND IN THIS CASE IT SEEMS PRETTY EASY IN
14 THIS PARTICULAR WITNESS. SO OBVIOUSLY WE DON'T HAVE A
15 PROBLEM WITH IT.

16 THE COURT: WITH --

17 MS. SARIS: THE WAY THE TRANSCRIPT IS PREPARED
18 AND READING EXACTLY WHAT THE QUESTION ASKED. WHEN IT'S
19 SO SPECIFIC IN THIS CASE AS FOR TWO PARTICULAR VICTIMS.
20 IF IT IS A THEME, THEN IT GETS DIFFICULT. BUT IF IT IS
21 -- ITEMS HERE ARE SPECIFIED, THEN IT BECOMES SOMEWHAT
22 MORE -- IT BECOMES EASIER.

23 THE COURT: WELL, I KNOW THAT THEY WERE
24 INSTRUCTED AND I'M JUST TRYING TO DRUM UP THE
25 INSTRUCTION. BUT MY RECOLLECTION IS THAT I DID TELL THEM
26 THAT WHATEVER THEY REQUEST FOR READBACK THAT IT BE A FAIR
27 REPRESENTATION OF THE TESTIMONY THAT WAS ACTUALLY
28 PRESENTED. I THINK ALSO IN THAT JURY INSTRUCTION, THERE

1 MIGHT HAVE BEEN SOME FURTHER DIRECTION AS TO TRYING TO
2 NARROW DOWN THE REQUEST. LET ME JUST TAKE A LOOK REAL
3 QUICK.

4 (PAUSE IN PROCEEDINGS.)

5 THE COURT: ALL RIGHT. BEFORE WE GET TO THAT --
6 I'M JUST LOOKING AT 17.3 OF CALJIC. AND I DID TELL THEM
7 THEY COULD REQUEST A PARTIAL OR FULL READBACK. IN
8 ADDITION IN 17.43, IT DOES TELL THEM THAT ANY READBACK
9 SHOULD BE A FAIR PRESENTATION OF THE EVIDENCE. SO I TEND
10 TO AGREE WITH MR. DIXON'S ASSESSMENT THAT IT WOULD BE
11 FAIR TO READ IT ALL.

12 BUT GIVEN THE INSTRUCTION, I THINK THEY
13 BASICALLY NARROWED DOWN INTENTIONALLY THE EXACT AREA THAT
14 THEY WANTED TO LISTEN TO. AND I THINK I WOULD BE
15 OVERSTEPPING MY AUTHORITY AT THIS POINT IF I FORCED
16 SOMETHING ELSE ON THEM SINCE THEY WERE SO SPECIFIC. SO I
17 THINK WE ARE READY TO DO THE REREAD.

18 AND THEY JUST BUZZED. WHAT DID THEY --

19 THE CLERK: THEY JUST WANTED TO KNOW BECAUSE I
20 HAD TOLD THEM EARLIER THAT IT WOULD BE 11:00 O'CLOCK.
21 THEY DIDN'T WANT TO GET STARTED ON SOMETHING UNTIL
22 THIS --

23 THE COURT: AND WE DID CALL FOR THE ALTERNATES,
24 BUT OUR ALTERNATE NO. 6.

25 THE CLERK: ALTERNATE NO. 6 IS ACTUALLY ON CALL.
26 AND I DID NOT KNOW THAT EARLIER OR I WOULD HAVE CALLED
27 BECAUSE I TOLD HER SHE HAD A HALF HOUR TO COME IN.

28 THE COURT: AND WE DID NOT CONTACT HER TO COME

1 IN?

2 MS. SARIS: WE WOULD OFFER THE STIPULATION TO
3 EXCUSE HER. WE HAD PREVIOUSLY DISCUSSED THAT SHE WAS
4 SLEEPING DURING THE MAJORITY OF THE TRIAL.

5 MR. DIXON: WELL --

6 MS. SARIS: NOT MAJORITY, I'LL SAY OFTEN.

7 THE COURT: I DON'T KNOW IF IT WAS THE MAJORITY
8 OF THE TRIAL.

9 MS. SARIS: EVERY TIME I LOOKED.

10 THE COURT: SHE HAD HER HEAD DOWN, LET'S PUT IT
11 THAT WAY. I COULDN'T TELL FROM HERE IF SHE WAS SLEEPING
12 OR NOT. BUT YOU OBVIOUSLY ARE A LOT CLOSER TO HER THAN I
13 AM. SHE HAD HER HEAD DOWN QUITE A BIT. BUT I COULDN'T
14 TELL FROM WHERE I WAS SEATED IF SHE WAS ASLEEP.

15 MR. DIXON: WELL, YOUR HONOR, I HAVE NO KNOWLEDGE
16 OF THAT BECAUSE FROM WHERE I'M SITTING, SHE WOULD BE IN A
17 POSITION WHERE I COULD NOT SEE HER. IF THE COURT FEELS
18 THAT SHE NEEDS TO BE HERE FOR THE READBACK, THEN I GUESS
19 WE COULD STIPULATE WITH THAT. THOUGH, WE WOULD ONLY HAVE
20 FOUR ALTERNATES, WE'RE GOING THROUGH A WEEK OFF, AND
21 MAYBE LONG DELIBERATIONS. THAT'S MY ONLY CONCERN. BUT
22 I'M NOT ASKING TO HOLD UP THE READBACK. IF YOU FEEL THAT
23 SHE MUST BE HERE FOR THE READ BACK, THEN I'LL BE HAPPY TO
24 STIPULATE.

25 MS. SARIS: I'LL SAY OTHER THAN I'VE HEARD FROM
26 SEVERAL OF THE PRESS THAT THEY NOTICED HER SLEEPING QUITE
27 A BIT.

28 THE COURT: WELL, IF THAT'S THE CASE AND THE

1 PARTIES ARE GOING TO STIPULATE, I HATE TO LOSE HER, BUT
2 I'LL ACCEPT THAT STIPULATION.

3 MR. DIXON: OKAY.

4 THE COURT: AND I FEEL TERRIBLE BECAUSE SHE'S NOT
5 HERE.

6 MS. SARIS: I MEAN WE WOULD BE WILLING TO WAIT.
7 BUT TRUTHFULLY, IF SHE WAS ABOUT TO BE SUBSTITUTED IN, I
8 WOULD BE MAKING A MOTION TO EXCUSE HER.

9 THE COURT: WELL, THAT'S A DIFFERENT STORY.

10 MS. SARIS: RIGHT. THAT'S -- I JUST WANTED TO
11 LET THE COURT KNOW THAT.

12 THE COURT: OKAY. WELL --

13 MR. DIXON: I DON'T WANT TO HOLD UP THE PROCESS.

14 THE COURT: ALL RIGHT. SO YOU WILL STIPULATE?

15 MR. DIXON: YES.

16 THE COURT: ALL RIGHT. AND WE WILL EXCUSE HER.
17 AND I'LL ASK THE CLERK TO LET HER KNOW. AND THANK HER
18 VERY MUCH FOR HER SERVICE. AND IT WAS OUR MISTAKE, SO WE
19 TAKE RESPONSIBILITY FOR THAT. ALL RIGHT. ANYTHING ELSE
20 BEFORE I BRING THE JURORS IN? I'M TOLD THAT THE READBACK
21 SHOULD TAKE, I WOULD SAY, AT LEAST 30 MINUTES.

22 RIGHT, LORI?

23 THE REPORTER: YES.

24 THE COURT: SO ANYTHING BEFORE WE BRING THEM IN?

25 MS. SARIS: NO. THANK YOU.

26 THE COURT: OKAY.

27 MR. DIXON: WHAT JUROR WAS THAT?

28 MS. SARIS: ALTERNATE NO. 6.

1 THE CLERK: ALTERNATE NUMBER SIX.

2 THE COURT: ALL RIGHT.

3 THE CLERK: THE ALTERNATES ARE COMING DOWN TO THE
4 DOOR RIGHT NOW. AND AS SOON AS I SEE THEM AT THE DOOR,
5 I'LL BRING --

6 THE COURT: OKAY.

7
8 (THE JURY ENTERED THE COURTROOM
9 AND THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT.)

11
12 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
13 THE RECORD SHOULD REFLECT THAT ALL OUR JURORS AND
14 ALTERNATES ARE ONCE AGAIN PRESENT IN THE TRIAL MATTER.
15 THE PARTIES ARE PRESENT.

16 I RECEIVED YOUR NOTE YESTERDAY REQUESTING
17 READBACK. AND THE PORTION OF READBACK THAT WAS REQUESTED
18 THAT WILL BE READ TO YOU THIS MORNING IS THE FOLLOWING:
19 IT WAS REQUESTED THAT THE COURT REPORTER READ BACK KATHY
20 WEESE'S TESTIMONY REGARDING THE STUN GUN AND OLD STATION
21 WAGON WITH THE OUT OF STATE PLATES. AND THE COMPLETE
22 CROSS-EXAMINATION OF KATHY WEESE.

23 THERE WERE ADDITIONAL REQUESTS MADE. I
24 BELIEVE THAT WE'RE GOING TO HAVE MORE READBACK THIS
25 AFTERNOON ACCORDING TO THE COURT REPORTER. BUT FOR NOW
26 WE WILL JUST PROCEED WITH THE TESTIMONY REQUESTED OF
27 KATHY WEESE.

28 LET ME JUST TELL YOU THE GROUND RULES FOR

1 READBACK. YOU ARE ALL TO LISTEN TO THE READBACK AND NOT
2 DELIBERATE DURING THE READBACK, THAT IS DON'T TALK TO
3 EACH OTHER ABOUT THE CASE. AND DON'T ASK ANY QUESTIONS
4 OF THE COURT REPORTER. IF YOU WANT A PORTION OF THE
5 TESTIMONY READ AGAIN, I'M GOING TO BE HERE -- ALTHOUGH
6 I'M NOT ALWAYS HERE -- BUT I'M GOING TO BE HERE FOR THIS
7 THIS MORNING, SO LET ME KNOW IF YOU WANT SOMETHING READ
8 AGAIN. AND WE WILL TRY TO ACCOMMODATE YOU.

9 BUT OTHER THAN THAT, PLEASE DON'T DISCUSS
10 ANYTHING HAVING TO DO WITH THE TESTIMONY OR THE CASE
11 ITSELF. OKAY? AND WE WILL ASK THE COURT REPORTER TO
12 TAKE THE WITNESS STAND, SO YOU ALL CAN HEAR HER READBACK
13 OF THE TESTIMONY OF MISS WEESE.

14 (RECORD READ.)

15 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
16 THAT WE HAVE HEARD THE TESTIMONY READBACK FROM THE COURT
17 REPORTER.

18 LADIES AND GENTLEMEN, YOU CAN RESUME YOUR
19 DELIBERATIONS IN THE JURY ROOM AND THE ALTERNATES BACK TO
20 THE JURY ASSEMBLY ROOM. THANK YOU.

21
22 (WHEREUPON JURY DELIBERATIONS CONTINUED.)

23 (THE FOLLOWING PROCEEDINGS WERE
24 HELD IN OPEN COURT OUTSIDE THE
25 PRESENCE OF THE JURY.)

26
27 THE COURT: ALL RIGHT. ALL THE JURORS HAVE LEFT.
28 I ASSUME WE WILL HAVE THE READBACK SO WE WILL RESUME AT

1 1:30. THEY WILL PROBABLY DELIBERATE FOR ANOTHER 15
2 MINUTES.

3 THE CLERK: THEY JUST WANTED TO KNOW BASICALLY
4 WERE THEY GOING TO HEAR IT AFTER LUNCH. ONE OF THE
5 ALTERNATES SHOULD BE BACK AT 1:30, BUT HE'S COMING BACK
6 FROM FAR, SO HE MIGHT BE A COUPLE MINUTES LATER. BUT HE
7 SAID NO LATER THAN 1:45.

8 THE COURT: OKAY. LET'S REASSEMBLE ABOUT 1:30.
9 AND THAT SHOULD BE ALL THE TESTIMONY OF RON AND TONYIA
10 STEVENS AND THAT'S WHAT WAS REQUESTED. ALL RIGHT.

11 MR. DIXON: YOUR HONOR, MR. JACKSON WILL BE WITH
12 YOU THIS AFTERNOON.

13 THE COURT: OKAY. THANK YOU. WE'LL BE IN
14 RECESS.

15 MS. SARIS: YES. I WILL HAVE SPECIAL COURT
16 ORDERS FOR MEDICAL NEXT WEEK.

17 THE COURT: NEXT WEEK?

18 MS. SARIS: FOR HIM FOR NEXT WEEK.

19 THE COURT: BUT YOU WILL GIVE IT TO ME TODAY?

20 MS. SARIS: YES.

21

22 (AT 12:00 P.M. A RECESS WAS TAKEN

23 UNTIL 1:30 P.M. OF THE SAME DAY.)

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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, DECEMBER 21, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 APPEARANCES: (AS HERETOFORE MENTIONED.)
6 REPORTER: LORI D. CASILLAS, CSR NO. 9869
7 TIME: P.M. SESSION

8
9 (THE FOLLOWING PROCEEDINGS WERE
10 HELD IN OPEN COURT OUTSIDE THE
11 PRESENCE OF THE JURY.)
12

13 THE COURT: LET'S GO ON THE RECORD IN THE GOODWIN
14 MATTER. MR. GOODWIN IS HERE WITH COUNSEL. THE PEOPLE
15 ARE REPRESENTED. WE HAVE RON STEVENS' TESTIMONY READY TO
16 BE READ BACK. AND THAT'S GOING TO LAST ABOUT AN HOUR.

17 IS THAT RIGHT, LORI?

18 THE REPORTER: YES.

19 THE COURT: SO IS THERE ANYTHING BEFORE WE BRING
20 THE JURORS AND ALTERNATES IN?

21 MS. SARIS: NO, YOUR HONOR.
22

23 (THE JURY ENTERED THE COURTROOM
24 AND THE FOLLOWING PROCEEDINGS WERE
25 HELD IN OPEN COURT.)
26

27 THE COURT: THE RECORD SHOULD REFLECT THAT OUR
28 JURORS AND ALTERNATES ARE ONCE AGAIN PRESENT.

1 THE COURT REPORTER HAS PREPARED THE
2 TESTIMONY OF RON STEVENS TO BE READ AT THIS TIME. AND
3 I'M TOLD THAT THE TIME ESTIMATE ON THAT IS ABOUT AN HOUR.
4 SO WE WILL HEAR THAT AT THIS TIME. AND THAT'S THE ENTIRE
5 TESTIMONY OF MR. STEVENS AS REQUESTED BY THE JURY.

6 (RECORD READ.)

7 THE COURT: THE RECORD SHOULD REFLECT WE'VE JUST
8 HEARD ALL OF MR. STEVENS' TESTIMONY AND THAT BRINGS US TO
9 THE END OF THE DAY AND THE END OF THE YEAR. SO WE'RE
10 GOING TO RESUME TUESDAY MORNING, JANUARY 2ND, 9:00 A.M.
11 AND WE SHOULD HAVE SOME MORE READBACK FOR YOU AT THAT
12 TIME. THE COURT REPORTER WILL HAVE PLENTY OF TIME TO
13 PREPARE ALL OF THAT FOR YOU.

14 UNTIL THEN, PLEASE REMEMBER ALL THE
15 ADMONITIONS. DON'T DISCUSS THE CASE. DON'T FORM OR
16 EXPRESS ANY OPINIONS. DON'T CONDUCT ANY DELIBERATIONS.
17 PLEASE DON'T READ OR LISTEN TO ANYTHING ABOUT THIS CASE
18 REPORTED IN THE MEDIA. DON'T GO BY THE AREAS THAT WERE
19 MENTIONED IN THE TESTIMONY. AND TRY TO HAVE A GOOD
20 HOLIDAY AND A SAFE AND HAPPY NEW YEAR.

21 WE WILL SEE YOU ON THE 2ND OF JANUARY,
22 TUESDAY MORNING 9:00 A.M. THANK YOU.

23
24 (THE FOLLOWING PROCEEDINGS WERE
25 HELD IN OPEN COURT OUTSIDE THE
26 PRESENCE OF THE JURY.)
27

28 THE COURT: ANYTHING BEFORE WE RECESS?

1 MR. JACKSON: NOT FROM THE PEOPLE, YOUR HONOR.
2 MS. SARIS: NO.
3 THE COURT: OKAY. WE'LL BE IN RECESS.
4
5 (THE MATTER WAS CONTINUED TO TUESDAY,
6 JANUARY 2, 2007 AT 9:00 A.M.)
7 (THE NEXT PAGE IS 9601.)
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1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA TUESDAY, JANUARY 2, 2006
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 (THE JURY ENTERED THE COURTROOM
16 AND THE FOLLOWING PROCEEDINGS WERE
17 HELD IN OPEN COURT.)
18

19 THE COURT: ALL RIGHT. LET'S GO ON THE RECORD IN
20 THE MICHAEL GOODWIN MATTER. MR. GOODWIN IS HERE WITH HIS
21 COUNSEL. THE PEOPLE ARE REPRESENTED. OUR JURORS SHOULD
22 ALL BE DOWN IN THE JURY ROOM BY NOW. I SHOULD SAY OUR
23 JURORS AND ALTERNATES. AND I KNOW THE COURT REPORTER HAS
24 PREPARED THE REST OF THE READBACK THAT WAS REQUESTED
25 BEFORE THE HOLIDAY RECESS.

26 I'M TOLD THAT THE TIME ESTIMATE FOR THE
27 READBACK IS A COUPLE OF HOURS.

28 IS THAT RIGHT, LORI? OFF THE RECORD.

1 (DISCUSSION OFF THE RECORD.)

2 THE COURT: BACK ON THE RECORD. YES. SHE
3 INDICATES THAT'S WHAT IT WILL TAKE. SOMEBODY SAID
4 SOMETHING ABOUT NOON. AND I DO RECALL WE WERE RECESSING
5 AT NOON TODAY. I DON'T RECALL WHY. WHICH --

6 MR. DIXON: I THINK THE JUROR HAD SOME KIND
7 APPOINTMENT.

8 MR. JACKSON: THAT'S RIGHT.

9 THE COURT: BUT WHICH JUROR WAS THAT?

10 THE CLERK: I WANT TO SAY SHE'S NO. 4 OR 5. SHE
11 COULD BE 6. SHE'S THE YOUNG JUROR.

12 THE COURT: YES. THE SAME ONE THAT'S LEAVING
13 FRIDAY; RIGHT?

14 THE CLERK: YES.

15 THE COURT: AND WE HAVE OUR FOREPERSON IN THE
16 HALLWAY. DO YOU WANT TO SEE --

17 THE CLERK: YES.

18 (BRIEF RECESS.)

19 THE COURT: I AM TOLD THAT THE JURY AND THE
20 ALTERNATES ARE, IN FACT, ALL ASSEMBLED AND READY TO GO.
21 AND THE COURT REPORTER IS READY TO READ THE TESTIMONY
22 REQUESTED. I GUESS STARTING WITH TONYIA STEVENS'
23 COMPLETE TESTIMONY. AND LET'S SEE, THEN THEY REQUESTED
24 THE READBACK OF --

25 MS. SARIS: KAREN --

26 THE COURT: KAREN STEPHENS-KINGDON. AND I
27 THOUGHT THEY NARROWED IT DOWN.

28 MS. SARIS: CROSS-EXAMINATION ONLY.

1 THE COURT: OH, CROSS-EXAMINATION. OKAY. AND
2 COMPLETE CROSS-EXAMINATION. YES, I SEE IT HERE. AND
3 COMPLETE CROSS-EXAMINATION. KATHY WEESE, RON STEVENS,
4 TONYIA STEVENS FIRST, THEN KAREN STEPHENS-KINGDON,
5 OFFICER LAPORTE, JANSEN.

6 MS. SARIS: MILLER AND --

7 THE COURT: YES, MILLER AND --

8 MR. DIXON: YOUR HONOR --

9 THE COURT: AND THEN -- HOLD ON -- AND THEN
10 COMPLETE TESTIMONY OF GERALD JANSEN. OKAY. YES?

11 MR. DIXON: YOUR HONOR, I WON'T BELABOR THE POINT
12 I TRIED TO MAKE LAST WEEK WITH RESPECT TO KIND OF A SENSE
13 OF FAIRNESS IN DIRECT AND CROSS, HAVING SAID THAT I KNOW
14 THE COURT RECALLS MY COMMENTS. I WON'T REPEAT THEM NOW.
15 I WOULD NOTE THAT IN THE NOTE THAT THE JURORS SENT TO US,
16 THEY SAID ANY TESTIMONY REGARDING THE \$20,000 FROM KAREN
17 STEPHENS UNACCOUNTED FOR IN THE ACCOUNT. SO I THINK THAT
18 DOES INVOLVE SOME DIRECT EXAMINATION ALSO.

19 MS. SARIS: IT'S REDIRECT, I BELIEVE. AND IF IT
20 GOES TOWARDS THE END, YOU'LL GET TO CROSS, REDIRECT, AND
21 RECROSS. AND THAT WILL COVER THE WHOLE \$20,000.

22 MR. SUMMERS: IT WASN'T BROUGHT UP UNTIL
23 REDIRECT.

24 THE COURT: ALL RIGHT. SO THE RECORD IS CLEAR,
25 THEN, THE \$20,000 DOESN'T COME UP IN THE DIRECT
26 EXAMINATION.

27 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE
28 BEFORE WE BRING THE JURORS AND ALTERNATES DOWN TO START

1 LISTENING TO THE READBACK?

2 MS. SARIS: NO. THANK YOU.

3 MR. JACKSON: NO, YOUR HONOR.

4
5 (PAUSE IN PROCEEDINGS.)

6 (THE JURY ENTERED THE COURTROOM

7 AND THE FOLLOWING PROCEEDINGS WERE

8 HELD IN OPEN COURT.)

9
10 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.
11 THE RECORD SHOULD REFLECT ALL OUR JURORS AND ALTERNATES
12 ARE ONCE AGAIN PRESENT. WELCOME BACK. I HOPE YOU HAD A
13 GOOD HOLIDAY.

14 WE ARE ASSEMBLED THIS MORNING TO CONTINUE
15 THE READBACK AS REQUESTED PRIOR TO THE BREAK. I'M TOLD
16 THAT THE COURT REPORTER THIS MORNING HAS THE COMPLETE
17 TESTIMONY -- LET ME SEE HERE, TONYIA STEVENS, AND
18 COMPLETE -- AM I READING THIS RIGHT? YES. AND THEN THE
19 CROSS-EXAMINATION OF KAREN STEPHENS-KINGDON; MILLER;
20 LAPORTE; AND THEN THE COMPLETE TESTIMONY OF GERALD
21 JANSEN.

22 SO THE COURT REPORTER WILL START IN THAT
23 ORDER WITH TONYIA STEVENS AND GO FROM THERE. I'M TOLD
24 THAT THIS IS GOING TO TAKE A COUPLE OF HOURS. AND THE
25 GROUND RULES ARE THE SAME. I WAS ALSO REMINDED THIS
26 MORNING THAT WE'RE RECESSING WITH YOU ALL AT NOON TODAY.
27 AND THEN RESUMING FIRST THING TOMORROW MORNING 9:00 A.M.

28 SO LET ME GO AHEAD AND REMIND YOU OF THE

1 GROUND RULES DURING THE READBACK THAT THERE SHOULD BE NO
2 DISCUSSION OF THE CASE; NO DELIBERATIONS WHILE THE COURT
3 REPORTER IS READING BACK THIS TESTIMONY. YOU SHOULD NOT
4 DIRECT ANY QUESTIONS TO THE COURT REPORTER OR THE
5 LAWYERS.

6 AND IF YOU WANT SOMETHING READ AGAIN, YOU
7 MAY ASK THE COURT REPORTER TO READ IT AGAIN. BUT THAT'S
8 PRETTY MUCH THE EXTENT TO WHICH YOU CAN COMMUNICATE WITH
9 THE COURT REPORTER. IT'S JUST TO ASK FOR SOMETHING ELSE.

10 ALSO, YOU CAN TAKE YOUR BREAK WHENEVER THE
11 COURT REPORTER NEEDS TO COME UP FOR AIR. AND YOU ARE
12 REMINDED OF ALL THE ADMONITIONS IN THIS CASE AT YOUR
13 BREAK AND AT YOUR RECESS. I MAY OR MAY NOT BE PRESENT
14 DURING PART OR ALL OF THIS READBACK.

15 SO LET ME GO AHEAD AND REMIND YOU OF ALL
16 OF THESE ADMONITIONS AGAIN. YOU ARE NOT TO DISCUSS THIS
17 CASE. YOU ARE NOT TO FORM OR EXPRESS ANY OPINIONS ON
18 THIS CASE. YOU ARE NOT TO CONDUCT ANY DELIBERATIONS
19 UNLESS YOU ARE ALL ASSEMBLED IN THE JURY ROOM. YOU ARE
20 NOT TO READ OR LISTEN TO ANY REPORTS OF THIS CASE IN THE
21 MEDIA. YOU ARE NOT TO TALK TO ANYBODY CONNECTED WITH
22 THIS CASE OR ANYONE ELSE ABOUT THIS CASE. STAY AWAY FROM
23 THE LOCATIONS INVOLVED.

24 AND WE WILL NOW GET STARTED WITH THE
25 READBACK OF TONYIA STEVENS.

26 (RECORD READ.)

27
28 (THE FOLLOWING PROCEEDINGS WERE

1 HELD IN OPEN COURT OUTSIDE THE
2 PRESENCE OF THE JURY.)

3
4 THE COURT: LET'S GO BACK ON THE RECORD IN THE
5 MICHAEL GOODWIN MATTER. HE'S PRESENT WITH COUNSEL. THE
6 PEOPLE ARE REPRESENTED. THE JURORS AND ALTERNATES ARE
7 NOT PRESENT. WE WILL CALL FOR THEM RIGHT NOW TO CONTINUE
8 THE READBACK.

9 I'M TOLD THAT THE COURT REPORTER HAS ABOUT
10 TEN MORE PAGES OF KAREN KINGDON'S TESTIMONY THAT WASN'T
11 READ AND THEN THE REST OF THE WITNESSES WILL BE READBACK.

12
13 (THE JURY ENTERED THE COURTROOM
14 AND THE FOLLOWING PROCEEDINGS WERE
15 HELD IN OPEN COURT.)

16
17 THE COURT: ALL RIGHT. ALL OF THE JURORS AND
18 ALTERNATES ARE ONCE AGAIN PRESENT. THE COURT REPORTER
19 WILL CONTINUE WITH THE READBACK. AFTER THE READBACK, YOU
20 MAY RETIRE TO THE JURY DELIBERATION ROOM IF IT'S BEFORE
21 NOON. IF NOT, I GUESS WE WILL SEE YOU TOMORROW MORNING
22 AT 9:00 A.M. AND REMEMBER ALL THE ADMONITIONS. THANK
23 YOU.

24 (RECORD READ.)

25
26 (THE FOLLOWING PROCEEDINGS WERE
27 HELD IN OPEN COURT OUTSIDE THE
28 PRESENCE OF THE JURY.)

1 THE COURT: ALL RIGHT. BACK ON THE RECORD IN THE
2 GOODWIN MATTER. WE JUST INTERRUPTED THE READBACK OF THE
3 TESTIMONY OF MR. MILLER, ERIC MILLER BECAUSE THE CLERK
4 INFORMED ME THAT THE D.A. MR. JACKSON NOTIFIED THE CLERK
5 THAT YOU WANTED THE COURT TO ADDRESS AN ISSUE.

6 MR. JACKSON: YOUR HONOR, IT'S THE ADMONITION.
7 THIS WAS -- I BELIEVE THE COURT ADMONISHED THE JURORS
8 THAT THIS WAS NOT OFFERED FOR THE TRUTH OF THE MATTER
9 ASSERTED, BUT RATHER FOR THE LIMITED PURPOSE OF
10 ESTABLISHING WHAT OR WHETHER THE POLICE TOOK ANY CONDUCT
11 OR TOOK ANY ACTION BASED ON THEIR INFORMATION.

12 MY CONCERN IS THE FOLLOWING: MS. SARIS IN
13 HER CLOSING ARGUMENT PUT THE QUOTE OF ERIC MILLER ON HER
14 POWER POINT AND ARGUED IT, IN MY OPINION, OSTENSIBLY FOR
15 THE TRUTH OF THE MATTER ASSERTED, NOT WITHSTANDING THE
16 ADMONITION, THE ARGUMENT WAS SUCH THAT, HEY, LOOK -- AND
17 IT WAS SORT OF GLOSSED OVER -- BUT, HEY, LOOK, MICKEY
18 THOMPSON WAS IN POSSESSION OF A QUARTER MILLION DOLLARS
19 WORTH OF SOMETHING; AND THE SAFE WAS BROKEN INTO, ET
20 CETERA, ET CETERA.

21 THE JURORS NEED TO BE INFORMED
22 SPECIFICALLY AND WITH NO EQUIVOCATION, VERY CLEARLY THAT
23 THIS EVIDENCE IS NOT IN EVIDENCE TO ESTABLISH THAT MICKEY
24 THOMPSON OWNED OR POSSESSED ANYTHING OF VALUE QUARTER
25 MILLION DOLLARS OR OTHERWISE. BUT RATHER FOR THE VERY
26 LIMITED PURPOSE OF DETERMINING WHETHER OR NOT OR WHAT
27 ACTION THE POLICE TOOK SUBSEQUENT TO LEARNING THIS
28 INFORMATION.

1 I THINK IT WOULD BE MISLEADING TO THE
2 JURORS AS LAY PEOPLE TO HEAR THIS TESTIMONY WITHOUT A
3 VERY, VERY SPECIFIC ADMONITION TO THAT EFFECT.

4 THE COURT: LET ME INQUIRE OF THE COURT REPORTER.

5 (DISCUSSION OFF THE RECORD.)

6 MR. JACKSON: THE COURT BASICALLY TOOK THE
7 ADMONITION TO THE END OF THAT SECTION OF TESTIMONY. SO I
8 THINK JANSEN -- I'M SORRY -- MILLER AND LAPORTE TESTIFIED
9 THEN YOU ADMONISHED THE JURORS NONE OF THAT WAS FOR THE
10 TRUTH OF THE MATTER ASSERTED.

11 MS. SARIS: BECAUSE MR. MILLER DIDN'T REMEMBER
12 ANYTHING, THE COURT WAITED FOR MR. LAPORTE TO BRING IT
13 UP. WE HAVE A HUGE OBJECTION TO COUNSEL INTERRUPTING
14 READBACK. THEY WERE WILLING TO WAIVE THEIR PRESENCE.
15 THIS IS NOT THE FORUM TO RELITIGATE AN ISSUE THAT WAS
16 LITIGATED. THIS IS READBACK.

17 THE COURT: THAT'S WATER UNDER THE BRIDGE. THE
18 JURY IS --

19 MS. SARIS: I WOULD ASK THE COURT TO SAY THAT IT
20 WAS COMPLETELY INAPPROPRIATE AND ADMONISH THE JURY THAT
21 WHAT THE DISTRICT ATTORNEY DID WAS INAPPROPRIATE AND HE
22 IS NOT ALLOWED TO INTERRUPT READBACK. IF LORI WERE IN
23 THE JURY ROOM, WHAT WOULD HE HAVE DONE? BARGED IN? I
24 WOULD LIKE MR. MILLER'S TESTIMONY STARTED OVER AND THE
25 ADMONITION COMING IN LAPORTE. I DON'T KNOW WHY IT WASN'T
26 INCLUDED. COUNSEL HAS KNOWN THIS IS GOING TO BE READBACK
27 FOR THE BETTER PART OF 20 DAYS NOW.

28 THE COURT: LET ME ASK THE COURT REPORTER, DO YOU

1 HAVE THAT ADMONITION SOMEWHERE THAT YOU CAN --

2 (DISCUSSION OFF THE RECORD.)

3 MS. SARIS: IT'S IN LAPORTE. I DON'T KNOW IF
4 IT'S AT THE END.

5 MR. JACKSON: NO, I DON'T KNOW WHERE IT IS. WE
6 WOULD ASK FOR THE ADDITIONAL ADMONITION GIVEN THE GRAVITY
7 OF I THINK WHAT COUNSEL ARGUED IN HER CLOSING ARGUMENT.
8 AND WHAT THIS TESTIMONY IS SUGGESTED TO BE. AND
9 CERTAINLY COUNSEL TRIED TO I THINK GET THROUGH THE BACK
10 DOOR WHAT SHE COULDN'T GET THROUGH THE FRONT.

11 SO WITHOUT IT BEING OFFERED FOR THE TRUTH
12 OF THE MATTER ASSERTED THAT SHE WANTED TO USE IT SIMPLY
13 TO FIND OUT WHAT LAPORTE AND/OR JANSEN AND/OR GRIGGS OR
14 ANYBODY ELSE DID WITH RESPECT TO THIS INFORMATION, BUT
15 DIDN'T ARGUE IT THAT WAY IN CLOSING ARGUMENT. SO I THINK
16 AN ADDITIONAL ADMONITION WOULD GUIDE THE JURORS AS TO
17 WHAT THE PROPER USE OF THE EVIDENCE IS.

18 MS. SARIS: IT'S INAPPROPRIATE. COUNSEL HAD A
19 CHANCE TO ARGUE THAT.

20 MR. JACKSON: I'M ARGUING IT NOW.

21 MS. SARIS: MY CLOSING IS OVER. IT'S DONE. IF
22 COUNSEL WANTS TO LET ME REOPEN, THE QUOTE WAS "TAKEN
23 POSSESSION," WHICH WAS A DIRECT QUOTE BY LAPORTE. AND I
24 ARGUED THAT THEY DID NOT FOLLOW UP AS I WAS ALLOWED TO
25 ARGUE. COUNSEL MADE AN OBJECTION. IT WAS OVERRULED AND
26 WE MOVED ON. YOU CANNOT ADD THINGS TO THE RECORD DURING
27 READBACK.

28 THE COURT: I'M GOING TO ASK THE COURT REPORTER

1 TO FIND THE ADMONITION AT THIS TIME. AND I'M JUST
2 LOOKING AT MILLER'S TESTIMONY. I'M NOT GOING TO HAVE THE
3 ADMONITION READ DURING THE TESTIMONY, BUT I WOULD LIKE TO
4 HEAR WHAT THE ADMONITION WAS EXACTLY. AND I WOULD LIKE
5 TO TAKE A LOOK AT LAPORTE'S TESTIMONY BEFORE IT'S READ.
6 AND I ASSUME THAT'S NEXT UP.

7 SO LET'S GO OFF THE RECORD.

8 (DISCUSSION OFF THE RECORD.)

9 THE COURT: ALL RIGHT. BACK ON THE RECORD.

10 I WAS JUST LOOKING AT THE TESTIMONY THAT'S
11 GOING TO BE READ BACK OF MR. LAPORTE. AND I NOTE THAT
12 SHORTLY AFTER THE DIRECT TESTIMONY BEGAN, THE COURT
13 INTERRUPTED THE TESTIMONY WHEN THE REQUEST WAS POSED TO
14 THE WITNESS. AND I'M READING FROM LINE 21, PAGE 153 "AND
15 WITHOUT TELLING ME EXACTLY THE WORDS THAT WERE USED,
16 COULD YOU TELL ME THE NATURE OF WHAT MR. MILLER SAID
17 REGARDING THE CONVERSATION HE WAS PRIVY TO FROM MICKEY
18 THOMPSON AT THAT POINT?"

19 SINCE THAT WAS CALLING FOR THE STATEMENT
20 THAT THE DEFENSE WANTED TO PRESENT, THE COURT INTERRUPTED
21 AND INSTRUCTED THE JURY THAT "THIS IS BEING OFFERED NOT
22 FOR THE TRUTH OF WHAT MR. THOMPSON MAY HAVE SAID TO
23 MR. MILLER, BUT TO EXPLAIN THE CONDUCT OF OFFICER
24 LAPORTE."

25 I'LL SPECIFICALLY ASK THE COURT REPORTER
26 TO READ THAT WHILE READING THE TESTIMONY OF MR. LAPORTE.

27 MS. SARIS: WE HAVE AN OBJECTION, YOUR HONOR.
28 THE COURT WASN'T HERE. MR. JACKSON STOOD UP; WENT OVER

1 TO THE CLERK; INTERRUPTED THE TESTIMONY. I WOULD ASK
2 THAT WE START OVER AGAIN. THIS IS PURE GAMESMANSHIP.
3 THESE WERE PREPARED IN TRANSCRIPT FORM, WHICH THEY WERE
4 AVAILABLE TO US FOR VIEWING. IF COUNSEL HAD AN
5 OBJECTION, THAT'S --

6 MR. DIXON: THAT'S NOT --

7 THE COURT: LET'S BRING THE JURY OUT.

8 MS. SARIS: I'M ASKING THOUGH THAT WE --

9 THE COURT: WHERE DID YOU LEAVE OFF?

10 (DISCUSSION OFF THE RECORD.)

11 THE COURT: ALL RIGHT. WE'RE GOING TO HAVE THE
12 COURT REPORTER CONTINUE ON. AND I'M GOING TO ADMONISH
13 THE JURY.

14 MS. SARIS: YOU'RE GOING TO ADMONISH THE JURY
15 HOW?

16 THE COURT: THAT THEY'RE NOT TO DRAW ANY
17 INFERENCE.

18 MS. SARIS: YOU'RE RE-ADMONISHING THEM WHAT IS ON
19 THE RECORD? OR YOU ARE ASKING THE COURT REPORTER TO READ
20 WHAT IS ALREADY ON THE RECORD?

21 THE COURT: I'M GOING TO ADVISE THE JURORS THAT
22 WE'RE GOING TO PICK UP WHERE THEY LEFT OFF; THAT THEY
23 AREN'T TO DRAW ANY INFERENCE FROM THIS BRIEF LITTLE
24 RECESS.

25 MS. SARIS: THE COURT WASN'T HERE TO SEE WHAT
26 HAPPENED. AND I WANT THE RECORD CLEAR THAT YOU WERE OUT
27 OF THE ROOM.

28 THE COURT: YES, I WAS.

1
2 (THE FOLLOWING PROCEEDINGS WERE
3 HELD IN OPEN COURT OUTSIDE THE
4 PRESENCE OF THE JURY.)
5

6 THE COURT: ALL RIGHT. RESUMING ON THE RECORD
7 WITH THE JURORS AND ALTERNATES IN THE GOODWIN MATTER.

8 LADIES AND GENTLEMEN, I HAD TO INTERRUPT
9 THE READBACK FOR A MOMENT. WE WILL HAVE THE COURT
10 REPORTER CONTINUE WITH THAT READBACK. AND PLEASE DON'T
11 DRAW ANY INFERENCE FROM THE FACT THAT THE COURT
12 INTERRUPTED THE READBACK IN YOUR DELIBERATIONS. SO I
13 WILL ASK COURT REPORTER TO RESUME. I BELIEVE SHE IS
14 READING THE TESTIMONY OF MR. MILLER.

15 (RECORD READ.)

16 THE COURT: THE RECORD SHOULD REFLECT THAT THE
17 COURT REPORTER HAS COMPLETED THE READBACK.

18 LADIES AND GENTLEMEN, WE WILL TAKE OUR
19 RECESS FOR THE DAY. AND WE WILL SEE YOU TOMORROW MORNING
20 AT 9:00 A.M. PLEASE REMEMBER ALL THE ADMONITIONS. THANK
21 YOU.
22

23 (THE MATTER WAS CONTINUED TO WEDNESDAY,
24 JANUARY 3, 2006 AT 9:00 A.M.)

25 (THE NEXT PAGE IS 9901.)

26 --000--
27
28

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA WEDNESDAY, JANUARY 3, 2007
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS, DEPUTY PUBLIC DEFENDER;
11 PATRICK DIXON AND ALAN JACKSON (NOT PRESENT),
12 DEPUTY DISTRICT ATTORNEYS, ALSO PRESENT, ROBERT
13 KNOWLES, DEPUTY DISTRICT ATTORNEY, REPRESENTING
14 THE PEOPLE OF THE STATE OF CALIFORNIA.

15
16 (THE JURY ENTERED THE COURTROOM
17 AND THE FOLLOWING PROCEEDINGS WERE
18 HELD IN OPEN COURT.)
19

20 THE COURT: LET'S GO ON THE RECORD ON THE MICHAEL
21 GOODWIN MATTER. HE'S NOT PRESENT. COUNSEL IS HERE ON
22 HIS BEHALF. THE PEOPLE ARE REPRESENTED.

23 GIVE ME A D.A. MR. KNOWLES, CAN YOU STAND
24 IN?

25 MR. KNOWLES: YES.

26 THE CLERK: DO YOU WANT ME TO GET ALAN ON THE
27 PHONE?

28 THE COURT: CAN YOU STAND IN JUST FOR A MOMENT?

1 MR. KNOWLES: YES.

2 THE COURT: AND THE JURY FOREPERSON SUBMITTED A
3 REQUEST FOR PERMISSION TO UTILIZE THE JURY INSTRUCTIONS
4 DURING THE LUNCH HOUR. MR. JACKSON WAS CONTACTED BY THE
5 CLERK BY PHONE. HE IS OBJECTING TO THE FOREPERSON DOING
6 ANYTHING WITH THE JURY INSTRUCTIONS OUTSIDE OF THE
7 PRESENCE OF THE OTHER 11 JURORS.

8 MS. SARIS, YOU ALSO ARE OBJECTING TO THAT.
9 HOWEVER, NEITHER COUNSEL HAS ANY OBJECTION TO PROVIDING
10 11 COPIES OF JURY INSTRUCTIONS. HOWEVER, FOR PURPOSES OF
11 THIS QUESTION, I THINK I'M SIMPLY GOING TO TELL THE
12 FOREPERSON BY WRITING ON THE QUESTION THE ANSWER TO THE
13 QUESTION IS, NO, HE CANNOT DO THAT. AND THEN IF THEY
14 WANT TO FOLLOW-UP WITH A REQUEST FOR FURTHER COPIES, I
15 CAN CERTAINLY THEN DEAL WITH THAT ISSUE.

16 IS THAT AGREEABLE?

17 MS. SARIS: THAT'S AGREEABLE. OUR SUGGESTION IS
18 TO OFFER THE COPIES, BUT I UNDERSTAND.

19 THE COURT: OKAY.

20 MR. KNOWLES: IS THAT WHY HE WANTED TO TAKE THE
21 INSTRUCTIONS, TO MAKE COPIES?

22 MS. SARIS: NO. HE WANTS TO MAKE NOTES AND --

23 THE COURT: HE WANTS TO MAKE NOTES ON THE --
24 WELL, LET ME GO AHEAD AND PUT ON THE RECORD WHAT THE NOTE
25 IS AND IT READS AS FOLLOWS: "IN ORDER TO EXPEDITE THE
26 DELIBERATIONS, WOULD IT BE POSSIBLE FOR ME, THE
27 FOREPERSON, TO EITHER TAKE THE JUDGE'S INSTRUCTIONS TO
28 THE JURY ROOM OR REMAIN IN THE DELIBERATION ROOM DURING

1 LUNCH AND USE POST-IT NOTES TO MARK THE PAGES WITH
2 RELEVANT INSTRUCTIONS? I FEEL THAT WE WILL HAVE TO REFER
3 TO THEM OFTEN AND THIS WOULD STREAM LINE THE PROCESS. I
4 WOULD NOT DISCUSS THEM WITH OTHER JURORS OR ALLOW ANYONE
5 ELSE TO READ THEM OR MY NOTES. IT TAKES VALUABLE TIME TO
6 FIND SPECIFIC PASSAGES AMONGST THE VOLUMES. THANK YOU."

7 MS. SARIS: DOES IT SEEMS TO THE COURT AT ALL OR
8 IS THIS JUST MY READING THAT HE DOESN'T BELIEVE HE IS
9 ALLOWED TO SHOW THESE TO THE OTHER JURORS? I MEAN I'VE
10 NEVER BEEN IN A SITUATION WHERE EACH JUROR DIDN'T HAVE
11 THEIR OWN COPY. AND I'M WONDERING IF HE HAS SOME
12 MISUNDERSTANDING BEING THE FOREPERSON THAT HE'S GOT SOME
13 PROPRIETY INTEREST IN THE PACKET AND THEY HAVE TO REFER
14 TO HIM OR SOMETHING. WHEN HE SAYS I WOULDN'T ALLOW
15 ANYONE ELSE TO --

16 THE COURT: HOW ABOUT -- AND WE WILL PROBABLY
17 HAVE TO GET MR. JACKSON ON THE PHONE.

18 THE COURT: LET'S GO OFF THE RECORD.

19 (DISCUSSION OFF THE RECORD.)

20 THE COURT: ALL RIGHT. SO LET'S GO BACK ON THE
21 RECORD.

22 MR. JACKSON IS ON THE PHONE WITH THE
23 CLERK. MR. KNOWLES IS HERE. MS. SARIS IS HERE. I THINK
24 WE HAVE AN AGREEMENT THAT THE COURT CAN ANSWER THE
25 QUESTION NO, BUT THE FOREPERSON CAN CERTAINLY PUT POST-IT
26 NOTES ON THE JURY INSTRUCTIONS DURING DELIBERATIONS.

27 MS. SARIS: I WOULD SAY ANY JUROR CAN PUT POST-IT
28 NOTES ON IT.

1 THE COURT: OKAY. ANY JUROR CAN PUT POST-IT
2 NOTES ON IT.

3 THE CLERK: THERE YOU GO.

4 THE COURT: OKAY. SO EVERYBODY SEEMS TO BE IN
5 AGREEMENT.

6 THE CLERK: ALAN JUST WANTS TO INDICATE THAT HE
7 IS COOL WITH THEM KNOWING THAT ALL JURORS ARE ENTITLED TO
8 THE INSTRUCTIONS NOT JUST THE FOREPERSON, SO THAT'S FINE
9 WITH HIM.

10 THE COURT: ALL RIGHT. AND THEN DO WE NEED TO
11 BRING MR. GOODWIN OUT?

12 MS. SARIS: NO. I'M GOING TO GO SEE HIM. DARRIN
13 IS GOING TO ARRANGE IT. I'LL JUST GO TALK TO HIM
14 DOWNSTAIRS. BECAUSE THE JUROR IS NOT GOING TO BE PRESENT
15 IN THE COURTROOM AND HE'S WAIVED THAT APPEARANCE ALREADY.

16 THE COURT: SO I WILL ANSWER THE QUESTION.

17 OFF THE RECORD.

18 (PAUSE IN PROCEEDINGS.)

19 THE COURT: BACK ON THE RECORD. THE ANSWER I
20 WROTE IS "NO. BUT ANY JUROR CAN PLACE POST-IT NOTES ON
21 THE JURY INSTRUCTIONS WHEN ALL 12 JURORS ARE PRESENT."

22 MS. SARIS: EXCELLENT.

23
24 (WHEREUPON JURY DELIBERATION CONTINUED.)

25 (THE MATTER WAS CONTINUED TO THURSDAY,
26 JANUARY 4, 2006 AT 9:00 A.M.)

27 (NEXT PAGE IS 10,201.)

28 --000--

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, JANUARY 4, 2007
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION

7
8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.

14
15 (THE FOLLOWING PROCEEDINGS WERE
16 HELD IN OPEN COURT OUTSIDE THE
17 PRESENCE OF THE JURY.)

18
19 THE COURT: IS THERE ANYTHING WE NEED TO PUT ON
20 THE RECORD BEFORE WE BRING MR. GOODWIN OUT?

21 MR. DIXON: NO, YOUR HONOR.

22 MR. JACKSON: NO, YOUR HONOR. THANK YOU.

23 MS. SARIS: NO.

24 THE COURT: DOES ANYBODY HAVE ANY PROBLEM WITH
25 CALCRIM AS THE CONCLUDING INSTRUCTION AS OPPOSED TO
26 CALJIC 1760? IT'S BASICALLY THE SAME, IT'S JUST A LITTLE
27 BIT SHORTER.

28 MR. JACKSON: NO.

1 MS. SARIS: WE VOTE FOR THE SHORTER.

2
3 (THE JURY ENTERED THE COURTROOM
4 AND THE FOLLOWING PROCEEDINGS WERE
5 HELD IN OPEN COURT.)
6

7 THE COURT: THE RECORD SHOULD REFLECT THAT
8 MR. GOODWIN IS PRESENT WITH HIS COUNSEL. THE PEOPLE ARE
9 REPRESENTED. ALL OUR JURORS AND ALTERNATES ARE PRESENT
10 THIS MORNING. I UNDERSTAND THAT THE JURY HAS REACHED A
11 VERDICT. AND THE FOREPERSON IS JUROR NO. 7.

12 IS THAT CORRECT?

13 JUROR NO. 7: YES, YOUR HONOR.

14 THE COURT: AND IS IT CORRECT THAT THE JURY HAS
15 REACHED A VERDICT?

16 JUROR NO. 7: YES, YOUR HONOR.

17 THE COURT: IN THAT ENVELOPE, DO YOU HAVE ALL OF
18 THE VERDICT FORMS?

19 JUROR NO. 7: YES, YOUR HONOR.

20 THE COURT: OKAY. YOU MAY HAND THE VERDICT FORMS
21 TO THE BAILIFF.

22 JUROR NO. 7: YES, YOUR HONOR.

23 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, THE
24 COURT WILL NOW READ THE VERDICT.

25 THE PEOPLE VERSUS MICHAEL GOODWIN.

26 WE, THE JURY IN THE ABOVE-ENTITLED ACTION,
27 FIND THE DEFENDANT, MICHAEL GOODWIN, GUILTY OF THE CRIME
28 OF FIRST DEGREE MURDER, A FELONY, IN VIOLATION OF PENAL

1 CODE SECTION 187 (A), VICTIM MARION "MICKEY" THOMPSON, A
2 HUMAN BEING, AS CHARGED IN COUNT 2 OF THE INFORMATION.

3 WE, FURTHER FIND THE ALLEGATION THAT THE
4 MURDER WAS COMMITTED INTENTIONALLY BY MEANS OF LYING IN
5 WAIT, PURSUANT TO PENAL CODE SECTION 190.2 (A) (15) TO BE
6 TRUE.

7 WE, FURTHER FIND THE DEFENDANT HAS BEEN
8 CONVICTED OF MULTIPLE MURDER PURSUANT TO PENAL CODE
9 SECTION 190.2 (A) (3) TO BE TRUE.

10 DATED THIS 4TH DAY OF JANUARY, 2007.
11 JUROR NO. 7, FOREPERSON.

12 WE, THE JURY IN THE ABOVE-ENTITLED ACTION,
13 FIND THE DEFENDANT, MICHAEL GOODWIN, GUILTY OF THE CRIME
14 OF FIRST DEGREE MURDER, A FELONY, IN VIOLATION OF PENAL
15 CODE SECTION 187 (A), THE VICTIM GERTRUDE "TRUDY"
16 THOMPSON, A HUMAN BEING, AS CHARGED IN COUNT 1 OF THE
17 INFORMATION.

18 WE, FURTHER FIND THE ALLEGATION THAT THE
19 MURDER WAS COMMITTED INTENTIONALLY BY MEANS OF LYING IN
20 WAIT, PURSUANT TO PENAL CODE SECTION 190.2 (A) (15) TO BE
21 TRUE.

22 WE, FURTHER FIND THE DEFENDANT HAS BEEN
23 CONVICTED OF MULTIPLE MURDER PURSUANT TO PENAL CODE
24 SECTION 190.2 (A) (3) TO BE TRUE.

25 DATED THIS 4TH DAY OF JANUARY, 2007.
26 JUROR NO. 7, FOREPERSON.

27 THE CLERK: MEMBERS OF THE JURY, ARE THESE YOUR
28 TRUE AND CORRECT VERDICTS SAY SO SAY YOU ONE, SO SAY YOU

1 ALL?

2 JURORS: YES.

3 THE CLERK: ALL ANSWERED IN THE AFFIRMATIVE.

4 THE COURT: I ASSUME YOU WANT THE JURORS POLLED?

5 MS. SARIS: YES.

6 THE CLERK: MEMBERS OF THE JURY, I'M GOING TO ASK
7 IF THESE ARE YOUR TRUE AND CORRECT VERDICTS.

8 JUROR NO. 1?

9 JUROR NO. 1: YES, MA'AM.

10 THE CLERK: NO. 2?

11 JUROR NO. 2: YES.

12 THE CLERK: 3?

13 JUROR NO. 3: YES.

14 THE CLERK: 4?

15 JUROR NO. 4: YES.

16 THE CLERK: 5?

17 JUROR NO. 5: YES.

18 THE CLERK: 6?

19 JUROR NO. 6: YES.

20 THE CLERK: 7?

21 JUROR NO. 7: YES.

22 THE CLERK: 8?

23 JUROR NO. 8: YES.

24 THE CLERK: 9?

25 JUROR NO. 9: YES

26 THE CLERK: 10?

27 JUROR NO. 10: YES

28 THE CLERK: 11?

1 JUROR NO 11: YES.

2 THE CLERK: 12?

3 JUROR NO. 12: YES.

4 THE CLERK: THEY'VE ALL ANSWERED IN THE
5 AFFIRMATIVE.

6 THE COURT: AND I WILL ASK CLERK TO PLEASE RECORD
7 THE VERDICTS.

8 AND, COUNSEL, DO YOU WAIVE READING OF THE
9 VERDICTS AS RECORDED?

10 MS. SARIS: YES.

11 MR. JACKSON: YES, YOUR HONOR.

12 MR. DIXON: YES.

13 THE COURT: LADIES AND GENTLEMEN, THIS CONCLUDES
14 YOUR SERVICE ON THIS CASE. AND I HAVE A FINAL JURY
15 INSTRUCTION THAT I AM REQUIRED TO READ TO YOU. THIS JURY
16 INSTRUCTION, THOUGH, DOESN'T COME CLOSE TO EXPRESSING MY
17 GRATITUDE. SO KEEP THAT IN MIND, PLEASE.

18 (READING) YOU HAVE NOW COMPLETED YOUR JURY
19 SERVICE IN THIS CASE. ON BEHALF OF ALL THE JUDGES OF THE
20 COURT, PLEASE ACCEPT MY THANKS FOR YOUR TIME AND EFFORT.
21 NOW THAT THE CASE IS OVER, YOU MAY CHOOSE WHETHER OR NOT
22 TO DISCUSS THE CASE AND YOUR DELIBERATIONS WITH ANYONE.

23 I REMIND YOU THAT UNDER CALIFORNIA LAW,
24 YOU MUST WAIT AT LEAST 90 DAYS BEFORE NEGOTIATING OR
25 AGREEING TO ACCEPT ANY PAYMENT FOR INFORMATION ABOUT THE
26 CASE. LET ME TELL YOU ABOUT SOME RULES THE LAW PUTS IN
27 PLACE FOR YOUR CONVENIENCE AND PROTECTION.

28 THE LAWYERS IN THIS CASE, THE DEFENDANT,

1 OR THEIR REPRESENTATIVES MAY NOW TALK TO YOU ABOUT THE
2 CASE, INCLUDING YOUR DELIBERATIONS OR VERDICT.
3 THOSE DISCUSSIONS MUST OCCUR AT A REASONABLE TIME AND
4 PLACE AND WITH YOUR CONSENT. PLEASE IMMEDIATELY REPORT
5 TO THE COURT ANY UNREASONABLE CONTACT MADE WITHOUT YOUR
6 CONSENT BY THE LAWYERS IN THIS CASE OR THEIR
7 REPRESENTATIVES. A LAWYER OR REPRESENTATIVE WHO VIOLATES
8 THESE RULES VIOLATES A COURT ORDER AND MAY BE FINED.

9 AT THIS TIME, I ORDER THAT THE COURT'S
10 RECORD OF PERSONAL JUROR IDENTIFYING INFORMATION,
11 INCLUDING NAME, ADDRESSES, AND TELEPHONE NUMBERS BE
12 SEALED UNTIL FURTHER ORDER OF THIS COURT. IF IN THE
13 FUTURE THE COURT IS ASKED TO DECIDE WHETHER THIS
14 INFORMATION WILL BE RELEASED, NOTICE WILL BE SENT TO ANY
15 JUROR WHOSE INFORMATION IS INVOLVED.

16 YOU MAY OPPOSE THE RELEASE OF THIS
17 INFORMATION AND ASK THAT ANY HEARING ON THE RELEASE BE
18 CLOSED TO THE PUBLIC. THE COURT WILL DECIDE WHETHER AND
19 UNDER WHAT CONDITIONS ANY INFORMATION MAY BE DISCLOSED.
20 (READING CONCLUDED.)

21 AGAIN, THANK YOU FOR YOUR SERVICE. AND
22 AGAIN, MY THANKS. THIS WAS A LENGTHY CASE AND A VERY
23 INVOLVED CASE. AND I KNOW THAT YOU ALL WORKED TIRELESSLY
24 AT TRYING TO FULFILL YOUR OBLIGATIONS AS JURORS. I
25 GREATLY APPRECIATE YOUR SERVICE. HOPEFULLY WE WON'T SEE
26 YOU FOR ANOTHER YEAR, MAYBE TWO, IF YOU'RE LUCKY.

27 BUT YOU ARE NOW EXCUSED. I'M GOING TO LET
28 YOU GO OUT THE BACK HERE AND THE CLERK WILL BE WITH YOU

1 SHORTLY. I'M ABSOLUTELY CERTAIN THAT THERE WILL BE SOME
2 PEOPLE THAT WANT TO TALK TO YOU. BUT YOU'LL GET FURTHER
3 INFORMATION IN THE HALL AT THIS TIME.

4 SO MAKE SURE YOU HAVE ALL OF YOUR PERSONAL
5 BELONGINGS AND AT THIS TIME, LADIES AND GENTLEMEN, YOU
6 ARE EXCUSED.

7 (THE JURY LEFT THE COURTROOM.)

8 THE COURT: ALL RIGHT. THE RECORD SHOULD REFLECT
9 THAT ALL OUR JURORS AND ALTERNATES HAVE NOW LEFT THE
10 COURTROOM.

11 MS. SARIS, WHAT WOULD YOU LIKE TO DO
12 REGARDING SENTENCING?

13 MS. SARIS: WE WOULD LIKE TO SCHEDULE A MOTION
14 FOR NEW TRIAL, YOUR HONOR, AND BE HEARD AS TO THE MOTION
15 THAT WE PREVIOUSLY FILED FOR THE DUE PROCESS VIOLATION OF
16 FAILURE TO PROVIDE MR. GOODWIN WITH A SPEEDY TRIAL.

17 THE COURT: WHAT DATE WOULD YOU LIKE?

18 MS. SARIS: HOW DOES THE COURT FEEL ABOUT GOING
19 INTO MARCH?

20 THE COURT: THAT'S FINE.

21 MS. SARIS: MARCH 6.

22 MR. DIXON: COULD WE HAVE JUST A MOMENT, PLEASE,
23 YOUR HONOR?

24 THE COURT: SURE.

25 MR. DIXON: YOUR HONOR, COULD WE -- WE HAVE
26 ANOTHER TRIAL THAT'S JUST ABOUT TO START ON THAT DATE.
27 CAN WE MAKE IT JUST HAVE A WEEK EARLIER, THAT'S ALL. I
28 UNDERSTAND THE EFFORT THAT MAY BE --

1 MS. SARIS: THE 1ST?

2 MR. DIXON: BUT IF WE CAN JUST --

3 MR. JACKSON: FINE.

4 MR. DIXON: THAT WOULD BE MUCH BETTER. THANK YOU
5 VERY MUCH.

6 THE COURT: ALL RIGHT. I WILL SET THE MATTER
7 THEN FOR 50
8 MARCH 1ST.

9 IS THAT AGREEABLE, MR. GOODWIN?

10 THE DEFENDANT: YES, YOUR HONOR.

11 THE COURT: COUNSEL JOIN?

12 MS. SARIS: YES.

13 THE COURT: WE DON'T NEED ANY FURTHER PROBATION
14 REPORT. AND IS THERE ANYTHING ELSE AT THIS TIME?

15 MR. JACKSON: NOT FROM THE PEOPLE, YOUR HONOR.
16 THANK YOU.

17 THE COURT: THANK YOU.

18

19 (THE MATTER WAS CONTINUED TO THURSDAY,
20 MARCH 1, 2007 AT 8:30 A.M.)

21 (NEXT PAGE IS 10,501.)

22 --000--

23

24

25

26

27

28

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF AND RESPONDENT,)
)
VS.)
)
01 - MICHAEL FRANK GOODWIN,)
)
DEFENDANT AND APPELLANTS.)

SUPERIOR COURT
NO. GA052683

ORIGINAL

JUN 01 2007

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE TERI SCHWARTZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

REDACTED = PURSUANT TO 237(A) (2)

MARCH 1, 2007

APPEARANCES:

FOR PLAINTIFF AND
RESPONDENT:

EDMUND G. BROWN, JR.
ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013

FOR DEFENDANTS AND
APPELLANTS:

IN PROPRIA PERSONA

VOLUME 24 OF 24
PAGES 10,501 THRU 10,579

LORI D. CASILLAS, CSR #9869

1 CASE NUMBER: GA052683
2 CASE NAME: PEOPLE VS. MICHAEL FRANK GOODWIN
3 PASADENA, CALIFORNIA THURSDAY, MARCH 1, 2007
4 DEPARTMENT NE "E" HON. TERI SCHWARTZ, JUDGE
5 REPORTER: LORI D. CASILLAS, CSR NO. 9869
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT MICHAEL FRANK GOODWIN, PRESENT WITH
10 COUNSEL, ELENA SARIS AND THOMAS SUMMERS, DEPUTY
11 PUBLIC DEFENDERS; PATRICK DIXON AND ALAN JACKSON,
12 DEPUTY DISTRICT ATTORNEYS, REPRESENTING THE PEOPLE
13 OF THE STATE OF CALIFORNIA.
14

15 THE COURT: LET'S CALL THE MATTER OF THE PEOPLE
16 VERSUS MICHAEL GOODWIN. MR. GOODWIN IS PRESENT WITH HIS
17 COUNSEL. THE PEOPLE ARE REPRESENTED.

18 LET ME HAVE ALL COUNSEL PLEASE STATE YOUR
19 APPEARANCES.

20 MS. SARIS: ELENA SARIS, DEPUTY PUBLIC DEFENDER
21 ON BEHALF OF MR. GOODWIN?

22 MR. SUMMERS: THOMAS SUMMER, DEPUTY PUBLIC
23 DEFENDER ALSO ON BEHALF OF MR. GOODWIN.

24 MR. DIXON: PAT DIXON, DEPUTY DISTRICT ATTORNEY.

25 MR. JACKSON: ALAN JACKSON, DEPUTY DISTRICT
26 ATTORNEY.

27 THE COURT: THE MATTER IS HERE TODAY FOR MOTIONS
28 AND SENTENCING. I HAVE REVIEWED THE MOTIONS THAT WERE

1 FILED BY THE DEFENSE. AND I HAVE REVIEWED THE RESPONSES
2 FILED BY THE PEOPLE AND THEN THE REPLY BY MS. SARIS THIS
3 MORNING.

4 MS. SARIS.

5 MS. SARIS: YOUR HONOR, I THINK IT'S LOGICALLY
6 BEST TO TAKE THE MOTION IN ORDER OF THE DUE PROCESS
7 VIOLATION FIRST UNLESS THE COURT HAS SOME DISAGREEMENT.

8 THE COURT: THAT'S FINE.

9 MS. SARIS: I WAS GOING TO GO TO THE PODIUM.
10 DOES THE COURT HAVE A PREFERENCE?

11 THE COURT: WHATEVER YOU ARE COMFORTABLE DOING.

12 MS. SARIS: BASICALLY IN JUNE OF I BELIEVE IT WAS
13 JANUARY OF 2006 BY NOW WE SUBMITTED PAPERS TO THE COURT
14 ASKING THE COURT TO CONSIDER THE 16-YEAR DELAY IN THIS
15 CASE. AND ASKING THE COURT TO FIND THAT THE DELAY HAS
16 CAUSED IRREPARABLE DAMAGE TO MR. GOODWIN'S ABILITY TO
17 DEFEND HIMSELF IN THESE CHARGES.

18 WHILE IT WAS SOMEWHAT UNUSUAL FOR US TO
19 ASK THE COURT TO WAIT UNTIL AFTER THE TRIAL, THE TAKING
20 OF TESTIMONY, IT IS CALLED FOR IN CALIFORNIA CASE LAW
21 THAT THAT IS ALLOWED. AND WE ASK THE COURT THEN TO TREAT
22 THIS TRIAL AS AN EVIDENTIARY HEARING ON THAT MOTION.

23 THE TRIAL NOW HAVING BEEN SUBMITTED AND
24 THE COURT HAVING HAD THE OPPORTUNITY TO HEAR THE
25 TESTIMONY IN THAT CASE, THE COURT IS NOW IN A POSITION TO
26 EVALUATE OUR CLAIMS THAT THE TESTIMONY THAT WAS MISSING
27 CAUSED MR. GOODWIN TO HAVE THE INABILITY TO DEFEND
28 HIMSELF.

1 I FILED THE REPLY THIS MORNING TO OUR
2 DISAGREEMENT WITH THE DISTRICT ATTORNEY'S READING OF THE
3 CASE LAW IN THIS MATTER. BASICALLY THE SUPREME COURT HAS
4 NOT DECIDED WHETHER OR NOT THE DELAY HAS TO BE
5 INTENTIONAL.

6 PROPOSITION 8 DID NOT ABROGATE THE
7 DISMISSAL AS A REMEDY. THIS IS NOT A JUDICIALLY CREATED
8 REMEDY WE'RE SEEKING. IT IS CONSTITUTIONALLY BASED
9 DENIAL OF DUE PROCESS RIGHTS. ESSENTIALLY IT BECAME
10 EVIDENT AT TRIAL THAT MOST OF THE GOVERNMENTAL DOCUMENTS
11 HAD BEEN DESTROYED. MOST OF THE BUSINESS RECORDS HAD
12 BEEN DESTROYED. THE PHONE RECORDS HAD BEEN DESTROYED.
13 DIARIES HAD BEEN DESTROYED. CREDIT CARD RECEIPTS HAD
14 BEEN DESTROYED. BUSINESS RECORDS RELATING TO SEVERAL OF
15 THE TRANSACTIONS DISCUSSED HAD BEEN DESTROYED. WITNESSES
16 HAVE DIED, RELEVANT WITNESSES.

17 ONE THAT COMES TO MIND IMMEDIATELY IS TOM
18 VILLELLI. MR. VILLELLI WAS THE STEPFATHER OF BARRON
19 WEHINGER, W-E-H-I-N-G-E-R. FOR THE FIRST TIME EVER IN
20 THIS TRIAL, BARRON WEHINGER RELATED A CONVERSATION
21 BETWEEN MR. GOODWIN AND HIS STEPFATHER TOM VILLELLI.
22 THAT HAD NEVER BEEN MADE AT ANY PRETRIAL STATEMENT, AT
23 ANY INTERVIEW, AT ANY POINT IN TIME. THAT WAS MADE IN
24 APPROXIMATELY NOVEMBER OR DECEMBER OF 2006.

25 AT THAT TIME, MR. VILLELLI WAS VERY ILL.
26 HE WOUND UP DYING ON JANUARY 23RD. WE WERE UNABLE TO
27 CALL HIM TO COME TO THIS TRIAL TO REFUTE THE CLAIM THAT
28 WAS RAISED FOR THE FIRST TIME SINCE HE HAD PASSED. THE

1 HOUSEKEEPER, SABLE REEVES, DIED MANY YEARS AGO.

2 THE BOAT BROKER, WILLIAM REDFIELD, DIED
3 MANY YEARS AGO. BANKERS HAVE DIED AS WERE LISTED IN THE
4 MOVING PAPERS. AND ESSENTIALLY IF A DEFENDANT IS
5 PRESUMED INNOCENT, THEN A COURT HAS TO PRESUME THAT THIS
6 TESTIMONY WOULD BE FAVORABLE TO THE DEFENSE.

7 WHEN THE STEVENSES CAME FORWARD AND
8 TESTIFIED IN THIS CASE, THEY SAID THAT NO FEWER THAN SIX
9 TIMES THEY HAD TRIED TO GET THE POLICE TO LISTEN TO THEIR
10 STORY. THEY ALSO WROTE DOWN THE LICENSE PLATE NUMBER OF
11 THAT VEHICLE.

12 THE CASE OF PEOPLE VERSUS HILL, WHICH WAS
13 CITED IN OUR REPLY IS NEARLY ON POINT, WHERE A WITNESS
14 IDENTIFIED THE DEFENDANT, BUT WAS UNABLE TO RECALL ANY OF
15 THE SPECIFICS REGARDING THE IDENTIFICATION. AND THUS NOT
16 SUBJECTED TO ANY REASONABLE FORM OF CROSS-EXAMINATION.

17 THE DISTRICT ATTORNEY IN THAT CASE OR THE
18 GOVERNMENT ARGUED, WELL, THAT TESTIMONY, THAT MEMORY,
19 COULD HAVE BEEN JUST AS DETRIMENTAL TO THE DEFENSE. AND
20 THE COURT SAID YOU CAN'T ASSUME THAT BECAUSE THE
21 DEFENDANT IS PRESUMED INNOCENT.

22 TIME OF AFTER TIME IN THIS TRIAL, THE ONLY
23 THING A WITNESS REMEMBERED WAS AN INCRIMINATING STATEMENT
24 MADE BY MR. GOODWIN. THEY HAD ABSOLUTELY NO MEMORY OF
25 THE SURROUNDING CIRCUMSTANCES, SO THAT WE WERE NOT ABLE
26 TO EFFECTIVELY CROSS-EXAMINE THEM REGARDING WHEN IT
27 OCCURRED; WHAT THE CIRCUMSTANCES WERE BECAUSE THEIR
28 MEMORIES HAVE FADED.

1 THE HILL CASE SPECIFICALLY STATED THAT
2 WE -- THAT YOU, THE JUDGE, ARE ALLOWED TO ASSUME THAT
3 THIS TESTIMONY COULD HAVE BEEN FAVORABLE TO MR. GOODWIN.
4 MR. GOODWIN WOULD HAVE WELCOMED THE OPPORTUNITY FOR RON
5 STEVENS TO WALK INTO THE COURTROOM WITH THAT LICENSE
6 PLATE NUMBER. IT'S OUR OPINION IT WOULD HAVE COME BACK
7 TO SOMEONE RELATED TO JOEY HUNTER. WE WOULD HAVE BEEN
8 THRILLED WITH THAT.

9 THE FACT THAT NOT ONLY DID THE PROSECUTION
10 WAIT SO LONG AS TO NOT BRING THIS EVIDENCE FORWARD, SO WE
11 COULD NOT GO BACK AND GET THESE DESTROYED DOCUMENTS;
12 THEY ABSOLUTELY IGNORED THE STEVENSES AT SIX DIFFERENT
13 OPPORTUNITIES.

14 THE DISTRICT ATTORNEY'S MOTION MENTIONS
15 GAIL HUNTER, WHICH IS SORT OF ODD BECAUSE BAIL HUNTER DID
16 NOT TESTIFY. I WILL POINT OUT THAT GOODWIN OPENLY LIVED
17 WITH GAIL HUNTER IN ASPEN IN 1993 USING HIS TRUE NAME.
18 SHE DID NOT COME FORWARD AS STATED BY THE DISTRICT
19 ATTORNEY. THEY WENT AND FOUND HER BASED ON LEARNING THAT
20 MR. GOODWIN HAD HAD A RELATIONSHIP WITH HER IN 1999.

21 ALL OF THE THINGS THAT THEY BROUGHT UP IN
22 THIS CASE WOULD HAVE BEEN AVAILABLE TO THE DISTRICT
23 ATTORNEY BY 1990 AT THE LATEST IF THEY HAD CHOSEN, THE
24 POLICE, THE SHERIFF'S DEPARTMENT, TO INVESTIGATE THE
25 CASE. THEY CHOSE NOT TO. THAT'S A DECISION. THAT'S NOT
26 A LEGITIMATE POLICE PURPOSE.

27 IN OUR MOVING PAPERS WE'VE LISTED
28 SUBSTANTIAL EVIDENCE THAT WAS MISSING, SUBSTANTIAL

1 WITNESSES THAT WE HAVE LOST. WE THEREFORE HAVE MET OUR
2 BURDEN OF ACTUAL PREJUDICE IN THE CASE. AND THE BURDEN
3 NOW SHIFTS TO THE DISTRICT ATTORNEY TO JUSTIFY: WHY DID
4 YOU TAKE SO LONG?

5 SOME JUSTIFICATION HAS BEEN FOUND IN OTHER
6 COURTS IN OTHER CASES AS POINTED OUT IN THE DISTRICT
7 ATTORNEY'S MOVING PAPERS. IN KATLIN, SCIENTIFIC
8 TECHNOLOGY NEEDED TO ADVANCE IN ORDER FOR THEM TO FIND A
9 TEST THAT WOULD RECOGNIZE A POISON THAT THEY WERE
10 CLAIMING WAS USED. NO SUCH SCIENTIFIC BREAK THROUGH WAS
11 NEEDED IN THIS CASE.

12 IN SOME OF THE OTHER CASES CITED, LOW
13 LEVEL, LOW TOTEM POLE PLAYERS ON A DRUG CONSPIRACY RING
14 WERE ARRESTED. THEY WERE NOT BROUGHT TO TRIAL BECAUSE
15 THE PROSECUTION, THE DISTRICT ATTORNEY'S, AND THE
16 SHERIFFS WANTED TO FOLLOW THEM FURTHER AND GET TO THE
17 DRUG KINGPIN.

18 AGAIN, NOT RELEVANT TO THE CIRCUMSTANCES
19 HERE. THERE IS ABSOLUTELY NOTHING THAT WAS PRESENTED IN
20 THIS TRIAL THAT COULD NOT HAVE BEEN PRESENTED WITH
21 DILIGENT POLICE WORK IN 1990, 1991, 1992 OR 1993. HAD
22 THIS BEEN PRESENTED THEN, MR. GOODWIN WOULD HAVE AN
23 OPPORTUNITY TO DEFEND HIMSELF. THESE WITNESSES WOULD
24 HAVE BEEN ALIVE; THEIR MEMORIES WOULD HAVE BEEN SHARPER;
25 HIS PERSONAL RECORDS WOULD NOT HAVE BEEN DESTROYED.

26 ONE ISSUE, IT'S OUR CONTENTION THAT MICKEY
27 THOMPSON BOUGHT GOLD PRIOR TO HIM DYING. HE'S TOLD THAT
28 TO SEVERAL PEOPLE WHETHER OR NOT THE COURT BELIEVES THAT;

1 WHETHER OR NOT THE SHERIFF'S DEPARTMENT BELIEVES THAT,
2 THAT WAS TOLD TO SEVERAL INDIVIDUALS.

3 IF ONE PURCHASES MORE THAN \$10,000 WORTH
4 OF GOLD, WAS THE LAW IN 1988, THERE IS A FEDERAL
5 REGISTRY. THAT WAS DESTROYED IN 1995. WE'RE UNABLE TO
6 PROVE THAT. WE DID GET THE PROBATE RECORDS. NO GOLD
7 COINS WENT THROUGH THE PROBATE. THOSE WERE GOVERNMENT
8 RECORDS THAT WERE COURT RECORDS THAT ARE STILL ON FILE.
9 WE MOVED HEAVEN AND EARTH TO GET SOME OF THE BANKRUPTCY
10 RECORDS, BUT ALL OF THE FORMAL DOCUMENTS KEPT BY BANKS,
11 PHONE COMPANIES AND GOVERNMENTAL AGENCIES ARE GONE.
12 THEY'RE PURGED AS A MATTER OF COURSE.

13 EVEN THOUGH MR. GOODWIN RETAINED A
14 CRIMINAL DEFENSE ATTORNEY AFTER THESE MURDERS, EVEN
15 THOUGH HE KNEW HE WAS A SUSPECT, HE CANNOT BE EXPECTED AD
16 INFANTUM (SIC) TO CARE FOR THE HEALTH AND WELFARE OF
17 EVERY SINGLE WITNESS THAT COULD HAVE BEEN INVOLVED.
18 PRESERVE EVERY SINGLE DOCUMENT, EVEN THOSE DOCUMENTS THAT
19 ARE NOT UNDER HIS CONTROL.

20 THE PROSECUTION HAD THE ABSOLUTE
21 RESPONSIBILITY TO BRING HIM TO TRIAL IN A TIMELY FASHION
22 SO THAT HIS RIGHT TO DEFEND HIMSELF WAS NOT IMPAIRED.
23 THEY DID NOT DO THAT. THEY NOW HAVE THE BURDEN OF
24 SHOWING THIS COURT WHY THEY DID NOT DO THAT.

25 AND IN THEIR RESPONSE PAPERS, THEY CLAIM
26 THERE WERE A LOT OF INVESTIGATORS ON THIS CASE AND IT WAS
27 A LOT OF PAPERS AND IT TOOK US A LONG TIME. YET THERE IS
28 NO AFFIDAVIT FROM AN INVESTIGATOR. THERE IS NO TESTIMONY

1 FROM ANY SHERIFFS OR SERGEANT OR DEPARTMENT HEAD OR
2 LIEUTENANT. THERE IS NOTHING BETWEEN 1990 AND '92; '92
3 AND '95; '96 AND '97; IN THE TESTIMONY TO SUGGEST THAT
4 THIS WAS REALLY AN ONGOING INVESTIGATION.

5 IT WAS MERELY A SITUATION WHERE WHEN
6 OFFICERS HAD NOTHING TO DO, THEY LOOKED AT IT AS A COLD
7 CASE AND THEY PICKED IT UP EVERY NOW AND AGAIN. AN
8 EXCUSE DOES NOT EQUAL JUSTIFICATION FOR THIS DELAY.
9 THE COURT, THE LAW, THE SUPREME COURT HAS SAID YOU NEED
10 TO JUSTIFY THIS DELAY. AND WE'RE GOING TO THEN ASK THE
11 JUDGE AT THE TRIAL COURT LEVEL TO BALANCE THAT
12 JUSTIFICATION VERSUS THIS PREJUDICE.

13 THERE IS NO JUSTIFICATION HERE. THEY HAVE
14 NOT OFFERED ONE ITEM IN THEIR MOVING PAPERS INDICATING
15 WHY THIS CASE TOOK 16 YEARS TO COME TO TRIAL. AND EVEN
16 IF WE TAKE IT BACK TO ORANGE COUNTY, IT'S STILL 14 YEARS
17 TO BE BROUGHT WHERE MR. GOODWIN WAS INCARCERATED.

18 ONCE THEY OFFER A JUSTIFICATION, THE COURT
19 HAS TO WEIGH IT. THERE IS NO JUSTIFICATION THAT THEY
20 COULD OFFER THAT WOULD OUTWEIGH THE ACTUAL PREJUDICE THAT
21 MR. GOODWIN HAS SUFFERED IN HIS ABILITY TO DEFEND HIMSELF
22 ON THESE CHARGES BASED ON THEIR DELAY.

23 THE ONLY REMEDY AVAILABLE TO THE COURT IS
24 DISMISSAL. AND WE'RE ASKING THE COURT TO DISREGARD THE
25 VERDICT OF THE JURY AND DISMISS THE CHARGES BASED ON A
26 CONSTITUTIONAL, CALIFORNIA CONSTITUTIONAL AND A UNITED
27 STATES CONSTITUTIONAL VIOLATION OF HIS DUE PROCESS
28 RIGHTS.

1 THANK YOU.

2 THE COURT: THANK YOU.

3 THE COURT: MR. DIXON.

4 MR. DIXON: GOOD MORNING, YOUR HONOR. I KNOW THE
5 COURT HAS READ OUR MOVING PAPERS. AND I WILL NOT AT THIS
6 TIME REPEAT ALL THE LAW THAT'S IN THERE. IT'S OUR
7 POSITION -- AND I THINK IT'S SUPPORTED BY OUR
8 PAPERWORK -- THAT THE DEFENSE HAS TO PROVE THAT THIS WAS
9 AN INTENTIONAL PLOY CALCULATED TO GAIN AN ADVANTAGE IN
10 THIS CASE. I THINK THAT THE LAW IS VERY CLEAR ON THAT.
11 BUT, AGAIN, THAT'S ALL IN OUR PAPERWORK.

12 SO WHAT I WOULD REALLY LIKE TO TALK ABOUT
13 JUST FOR A MOMENT IS WHAT COUNSEL SAID AND THEN KIND OF
14 CUT TO THE CHASE. SHE SAID THAT HE'S BEEN PREJUDICED BY
15 THIS. HE WAS ON NOTICE THE DAY OF THE MURDER. HE HAD A
16 CRIMINAL LAWYER. HE WAS INTERVIEWED SHORTLY AFTER THE
17 MURDERS. HE KNEW HE WAS A SUSPECT. HE KNEW IMMEDIATELY.

18 AND THE PREJUDICE THAT COUNSEL IS TALKING
19 ABOUT IS NOT PREJUDICE, IT'S SPECULATION. JUST A COUPLE
20 EXAMPLES THAT SHE MENTIONED BARRON WEHINGER'S
21 STEPFATHER -- WELL, ACTUALLY, I UNDERSTAND THAT HE WAS
22 ALIVE DURING THE TRIAL, SICK BUT ALIVE.

23 WHAT HE WOULD HAVE SAID ABOUT THIS IS
24 TOTAL SPECULATION, WHETHER HE WOULD HAVE IMPEACHED BARRON
25 WEHINGER OR NOT, IT'S TOTAL SPECULATION. WE DON'T KNOW.
26 OR THE LICENSE PLATE THAT THE STEVENSES SAW, WHAT THAT
27 NUMBER WOULD HAVE COME BACK TO, SHE'S GUESSING. AND WE
28 WOULD BE GUESSING, TOO. IT'S TOTAL SPECULATION.

IN THE MOVING PAPERS WE FILED, WE TOOK A CHANCE AND MADE THIS FISH ANALOGY. AND I DON'T KNOW IF THAT CAME TO THE POINT THAT THE COURT ACTUALLY UNDERSTOOD WHAT WE'RE TRYING TO SAY. BUT WHAT I'M SAYING IS WHEN SHE SAYS, WELL, THE STEVENSES LICENSE PLATE NUMBER MIGHT HAVE COME BACK TO SOMEBODY ELSE. SHE'S FISHING. SHE'S HOPING IT WOULD. IT'S SPECULATION. SHE CANNOT SAY THAT, YES, THERE WAS DOCUMENTED PROOF THAT WOULD HAVE HELPED US. THAT'S THE FISH. AND WE LOST IT BECAUSE OF THIS DELAY. THERE IS NO PREJUDICE HERE.

THERE IS JUST NONE AT ALL. IT'S ALL SPECULATION. AND THE DEFENDANT WAS ON NOTICE AS TO ALL OF THIS. I ALSO FOUND IN HER MOVING PAPERS AND HER STATEMENT HERE NOW, I GUESS IT'S SOMEWHAT SURPRISING TO ME THAT SHE CLAIMS THAT THE LOS ANGELES SHERIFF'S DEPARTMENT WAS NEGLIGENT IN THIS. AS THE COURT NOTED AND THE BASIS FOR THIS HEARING AND ONE OF THE REASONS WE DIDN'T FILE DECLARATIONS IS BECAUSE THE TRIAL AND I ASSUME THE PRELIMINARY HEARING IS REALLY THE EVIDENTIARY HEARING FOR THIS MOTION.

THE COURT HAS HEARD FROM THE INVESTIGATORS IN THIS CASE, NOT ONLY IN THE TRIAL BUT AT THE PRELIMINARY HEARING. AND ONE OF THE THEMES IN THE DEFENSE CASE WAS THAT THEY FOCUSED ON MICHAEL GOODWIN, THAT THEY HAMMERED HIM, THEY CHASED AFTER HIM, THEY WERE RELENTLESS, THEY WERE OVERBEARING, THEY NEVER LET UP. THAT'S HARDLY NEGLIGENCE.

AS I SAID, MAYBE I THINK WE PUT THE CART

1 BEFORE THE HORSE. AND LET ME CUT TO THE CHASE. THE
2 COURT IS GOING TO DECIDE WHAT THE LAW IS HERE. AND I
3 ASSUME OTHER COURTS WILL REVIEW IT. AND, AGAIN, IT IS
4 OUR POSITION AND I THINK SUBSTANTIATED BY THE CALIFORNIA
5 SUPREME COURT THAT THE DEFENSE HAS TO SHOW AN INTENTIONAL
6 PLOY HERE FOR THIS MOTION TO BE AT ALL SUCCESSFUL.

7 BUT JUST FOR THE SAKE OF DISCUSSION
8 WITHOUT CONCEDING IT, LET'S SAY SHE'S RIGHT ABOUT
9 NEGLIGENCE. AS SHE SAID THROUGHOUT THESE HEARINGS AND
10 TRIALS, THESE DETECTIVES WERE OVERBEARING, FOLLOWED
11 GOODWIN, WERE AFTER GOODWIN. THAT'S NOT NEGLIGENCE.
12 THAT'S NOT NEGLIGENCE AT ALL.

13 WHAT -- THE STARTING POINT IN THIS
14 ANALYSIS IS REALLY IN MY VIEW THE STATUTE OF THE
15 LIMITATION AND THERE IS NONE FOR MURDER. AND THE REASON
16 THERE IS NONE FOR MURDER IS A VERY GOOD POLICY REASON.
17 BECAUSE MURDER IS THE MOST SERIOUS MOST DISTURBING CRIME
18 IN OUR SOCIETY.

19 AND THE POLICY IS THAT WHEN A MURDER
20 HAPPENS, EVEN IF IT'S NOT SOLVED THAT DAY OR THAT YEAR,
21 SOCIETY WANTS TO FIND THE KILLERS AND BRING THE KILLERS
22 TO JUSTICE. THAT'S WHY THERE IS NO STATUTE OF
23 LIMITATIONS FOR MURDER. AND THAT'S WHY THE LOS ANGELES
24 SHERIFF'S DEPARTMENT CONTINUED TO DILIGENTLY, NOT
25 NEGLIGENTLY, DILIGENTLY PURSUE THIS CASE.

26 THE COURT HEARD OF THE EARLY INVESTIGATORS
27 AND THEN HOW DETECTIVE MARK LILLIENFELD TOOK OVER IN THE
28 MID '90S AND REINTERVIEWED EVERYONE. AND COVERED EVERY

1 POSSIBLE PIECE OF EVIDENCE UNTIL IT CAME TO A POINT WHERE
2 HE CAME UP WITH NEW EVIDENCE.

3 AND THAT NEW EVIDENCE WAS GAIL HUNTER AND
4 THE STEVENSES. NOW NO ONE COMPLAINS THAT IN THESE COLD
5 CASES WE LOOK AT WITH DNA THAT SOME HOW THE POLICE OR LAW
6 ENFORCEMENT WAS NEGLIGENT IN NOT DISCOVERING DNA EARLIER
7 OR NOT USING IT IN CRIMINAL INVESTIGATIONS OR THAT THEY
8 DIDN'T PUT SOMEBODY'S DNA INFORMATION INTO THE CODIS
9 SYSTEM EARLIER.

10 WELL, THIS ISN'T A DNA CASE. BUT THIS IS
11 A CASE OF HARD POLICE WORK. AND WHEN DETECTIVE
12 LILLIENFELD FOUND THOSE TWO ADDITIONAL WITNESSES, AND
13 GAIL HUNTER, THAT'S WHEN THE CASE WAS FILED. IT WAS
14 FILED IN ORANGE COUNTY, BUT IT WAS FILED. AND IF YOU DO
15 A TIME LINE FROM THAT POINT ON, THIS CASE MOVED QUICKLY
16 UNTIL THE DEFENSE CONTINUED TO ASK FOR CONTINUANCES. BUT
17 IT MOVED QUICKLY IN ORANGE COUNTY. IT WENT TO A
18 PRELIMINARY HEARING.

19 IT WAS ONLY DISMISSED THERE ONLY SOLELY
20 FOR VENUE, FOR JURISDICTIONAL REASONS. AND THE COURT OF
21 APPEAL IN THAT DECISION DIRECTED THE LOS ANGELES
22 SHERIFF'S DEPARTMENT TO BRING THE CASE TO THE LOS ANGELES
23 DISTRICT ATTORNEY'S OFFICE FOR FILING. AND IF NOT THERE,
24 THE ATTORNEY GENERAL'S OFFICE.

25 WITHIN THE TIME FRAME SET BY THE ORANGE
26 COUNTY COURT OF APPEAL, WE FILED THIS CASE AND IT MOVED
27 TO TRIAL. I JUST DON'T SEE THAT -- EVEN USING HER
28 STANDARD THERE IS ANY NEGLIGENCE HERE. IT'S DILIGENT

1 HARD WORKING POLICE WORK THAT BROUGHT THIS CASE TO THE
2 COURT TO THIS JURY AND TO THE VERDICT AND NOW TO THE
3 POINT WE ARE HERE.

4 AND SHE SAID THAT ALL THE TIME THAT
5 LILLIENFELD WAS FOCUSED ON HER GUY. HOW CAN IT BE
6 NEGLIGENCE? OUR POSITION IS THAT THERE IS NO DUE PROCESS
7 VIOLATION HERE. THERE IS A REASON FOR THE STATUTE OF
8 LIMITATIONS BEING NO STATUTE OF LIMITATIONS FOR MURDER
9 AND THAT THIS MOTION SHOULD BE DENIED.

10 THANK YOU.

11 THE COURT: THANK YOU.

12 MS. SARIS: BRIEFLY MAY I? I WOULD HOPE THAT THE
13 COURT WOULDN'T MAKE THE SAME MISTAKE THAT THE DISTRICT
14 ATTORNEY MADE IN TERMS OF OUR ARGUMENT AT TRIAL. THE
15 CONTENTION THAT THIS DEPARTMENT FOCUSED ON GOODWIN TO THE
16 EXCLUSION OF ALL OTHER SUSPECTS WAS NOT A CONTENTION THAT
17 THEY WERE RELENTLESS AND WERE TRIED AND TRUE IN THEIR
18 DEVELOPMENT OF THIS CASE. IT WAS THAT THEY HAD BLINDERS
19 ON FOR THE WORK THAT THEY DID DO. NOT THAT THEY WERE
20 OVERBEARING AND RELENTLESS ON MR. GOODWIN.

21 DNA IS A SCIENTIFIC BREAK THROUGH. NO
22 SUCH BREAK THROUGH WAS NEEDED IN THIS CASE. DETECTIVE
23 LILLIENFELD, BY HIS OWN TESTIMONY IN COURT, WAS NOT EVEN
24 ASSIGNED TO THIS CASE UNTIL 1997. SO WHAT IS THE
25 JUSTIFICATION FOR THE NINE YEARS PRIOR?

26 DETECTIVE LILLIENFELD CONTACTED GAIL
27 HUNTER, AGAIN, NOT A WITNESS IN THIS TRIAL, IN 1999.
28 DETECTIVE YARBOROUGH NOTED AN INTERVIEW WITH HER IN 1993.

1 WHY DID THEY WAIT SIX YEARS. HOW DID THEY JUSTIFY THE
2 NINE YEARS BEFORE DETECTIVE LILLIENFELD EVEN GOT ON THIS
3 CASE? THERE IS ABSOLUTELY NO JUSTIFICATION, NONE
4 WHATSOEVER. NO NEW LEAD THAT WAS DEVELOPED WAS DEVELOPED
5 AS A RESULT OF NEEDING THE PASSAGE OF TIME.

6 IT WAS SIMPLY IF I CHOOSE NOT TO TALK TO
7 THIS WITNESS WHO IS AVAILABLE WITH A GOOD MEMORY IN 1988
8 UNTIL 2001, THAT DOESN'T COUNT AS NEW EVIDENCE, THAT
9 COUNTS AS NEGLIGENCE. THAT COUNTS AS A DECISION ON THE
10 PART OF THE SHERIFF'S DEPARTMENT TO PUT THIS CASE ON THE
11 BACK BURNER UNTIL THEY DECIDED THEY HAD THE MANPOWER; OR
12 THE POLITICAL CLIMATE; OR THE RIGHT DISTRICT ATTORNEY. I
13 DON'T KNOW. ALL I KNOW IS IT WAS ON THE BACK BURNER.
14 THAT'S A CHOICE THEY MADE. AND THAT IS NOT A LEGITIMATE
15 POLICE PURPOSE IN TERMS OF THE CASE LAW FOR THE DELAY.
16 AND IT DOES NOT JUSTIFY ANY BALANCING TEST WHERE
17 MR. GOODWIN'S DUE PROCESS RIGHTS ARE ON THE OTHER SIDE OF
18 THAT SCALE.

19 SUBMITTED.

20 THE COURT: THERE ARE A NUMBER OF ISSUES THAT THE
21 COURT HAS COME ACROSS WHERE THE PARTIES DISAGREE. AND I
22 WANT TO TOUCH ON A COUPLE OF THEM. THE LEGAL STANDING IS
23 NOT AS STATED BY THE PEOPLE, I DON'T BELIEVE. THERE IS
24 CERTAINLY AUTHORITY FOR THE PROPOSITION. BUT I DON'T
25 BELIEVE THAT THE DEFENSE HAS TO SHOW INTENTIONAL DELAY IN
26 ORDER TO TAKE ADVANTAGE OF A SITUATION OR AS A PLOY.

27 I THINK IN LOOKING AT ALL OF THE CASES
28 THAT WERE CITED AND TRYING TO DEDUCE WHAT THE STANDARD

1 REALLY IS, THE BEST I COULD COME UP WITH -- THAT IS THE
2 LEGAL STANDARD, THE BEST I COULD COME UP WITH IS THAT TO
3 PREVAIL ON DUE PROCESS GROUNDS WHICH IS WHAT THIS ISSUE
4 IS ABOUT IS THAT THE DEFENSE HAS TO SHOW SOME ACTUAL
5 PREJUDICE BY THE DELAY.

6 ONCE THE DEFENDANT SHOWS SOME ACTUAL
7 PREJUDICE, I THINK AT THAT POINT AND I THINK WE AGREE
8 HERE THE BURDEN SHIFTS AND THE COURT HAS TO FIND THAT
9 THERE WAS NO LEGITIMATE REASON FOR THE DELAY.
10 OBVIOUSLY, THE EASIEST QUESTION TO ANSWER IS THE SECOND
11 QUESTION, WHICH IS WHETHER OR NOT THERE WAS LEGITIMATE
12 REASON FOR THE DELAY.

13 THERE APPEARS TO ME TO BE AMPLE REASON WHY
14 THIS CASE TOOK SO LONG TO RESULT IN AN ARREST OF
15 MR. GOODWIN. AND WE'RE TALKING ABOUT THE DELAY BETWEEN
16 THE ARREST -- STRIKE THAT -- THE DATE OF THE CRIME AND
17 THE ARREST OF THE SUSPECT. SO I DON'T KNOW THE EXACT
18 DATE THAT MR. GOODWIN WAS ARRESTED, BUT I KNOW THE ORANGE
19 COUNTY CASE RESULTED IN AN OPINION IN APRIL OF 2004. I'M
20 ASSUMING IT WAS SOMETIME IN, WHAT, 2001?

21 MS. SARIS: 12/13/01.

22 MR. DIXON: CORRECT, YOUR HONOR, WE WOULD AGREE.

23 THE COURT: ALL RIGHT. THEN STARTING WITH AN
24 ARREST DATE OF 12/13/01, I'M GOING TO ANSWER THE SECOND
25 QUESTION FIRST. WAS THERE A LEGITIMATE REASON FOR THE
26 DELAY UNTIL 12/13/01? AND SIMPLY BASED ON THE EVIDENCE
27 THAT I HEARD AT THIS TRIAL, THERE WERE NEW WITNESSES THAT
28 CAME FORWARD IN 2001. IT APPEARS THAT ALTHOUGH THE

1 STEVENSES, RON AND TONYIA STEVENS MADE AN IDENTIFICATION
2 IN 2001 AND ALTHOUGH THEY ATTEMPTED TO CONTACT LAW
3 ENFORCEMENT BEFORE, THE FACT OF THE MATTER IS THAT THE
4 IDENTIFICATION WAS NOT MADE UNTIL 2001.

5 THE INFORMATION THAT WAS PROVIDED BY GAIL
6 HUNTER, WHICH I RECALL FROM THE PRELIMINARY HEARING, WAS
7 A STATEMENT BY MR. GOODWIN WHERE HE AT THE VERY LEAST
8 SUGGESTED THAT HE WAS RESPONSIBLE FOR THE MURDERS. AND,
9 OF COURSE, THAT WASN'T PRESENTED AT THE TRIAL. BUT IT
10 WAS PRESENTED AT THE PRELIMINARY HEARING.

11 AND I DID HEAR TESTIMONY ABOUT THAT
12 STATEMENT AND THAT STATEMENT WAS I THINK THE RESULT OF,
13 FROM WHAT I RECALL, SOME TELEVISION SHOWS THAT
14 MISS HUNTER HAD SAID THAT SHE HAD SEEN OF MR. GOODWIN. I
15 I'M NOT SAYING THAT MISS HUNTER'S TESTIMONY AT THE
16 PRELIMINARY HEARING IS DETERMINATIVE ON THIS MOTION, NOR
17 AM I ASSUMING THAT SHE'S CREDIBLE. BECAUSE AT THIS POINT
18 SHE DIDN'T TESTIFY AT THE TRIAL.

19 BUT I DO KNOW THAT THE HISTORY OF THIS
20 CASE WAS SUCH THAT THE SHERIFF'S DEPARTMENT OBVIOUSLY
21 PRESENTED THIS CASE FOR FILING, I ASSUME FIRST TO THE
22 ORANGE COUNTY D.A. I DON'T KNOW WHAT TRANSPIRED PRIOR TO
23 THAT. I KNOW I HEARD THAT THE CASE MAY HAVE BEEN
24 PRESENTED EARLIER TO THE LOS ANGELES D.A.

25 BUT WHEN THE NEW INFORMATION WAS OBTAINED
26 IN 2001, OF THE IDENTIFICATIONS AND THE STATEMENTS FROM
27 MISS HUNTER, THE SHERIFF'S DEPARTMENT DID NOT DELAY
28 PRESENTING THIS CASE FOR FILING BECAUSE IT APPEARS THAT

1 THE ORANGE COUNTY CASE WAS FILED SHORTLY AFTER -- WAS IT
2 AFTER THE ARREST OR WAS IT FILED PRIOR?

3 MS. SARIS: PRIOR, A WEEK PRIOR I BELIEVE. I'M
4 SORRY. WAS THAT A QUESTION?

5 THE COURT: YES. THAT WAS A QUESTION. WAS IT
6 FILED FOR WARRANT OR WAS HE ARRESTED FIRST AND THEN THE
7 CASE WAS FILED?

8 MS. SARIS: HE WAS ARRESTED ON A WARRANT THAT WAS
9 ISSUED ON DECEMBER 7TH.

10 THE COURT: SO THE CASE WAS BASICALLY PRESENTED
11 TO THE COURT FOR ISSUANCE OF A WARRANT AND WAS FILED
12 DECEMBER 7TH. SO A WEEK LATER THE DEFENDANT WAS
13 ARRESTED. FROM WHAT I RECALL THAT'S A COUPLE OF MONTHS
14 AFTER ALL OF THIS NEW INFORMATION WAS PRESENTED. I THINK
15 THE LINE-UP -- WHEN WAS THE LINE-UP?

16 MS. SARIS: AUGUST.

17 MR. JACKSON: AUGUST.

18 MR. DIXON: YES.

19 THE COURT: OF 2002. SO IN ANSWERING THE SECOND
20 QUESTION FIRST: WAS THERE A LEGITIMATE REASON FOR THIS
21 LATE ARREST? THE ANSWER IS, YES, THERE WAS A LEGITIMATE
22 REASON. THERE WERE AMPLE REASONS FOR THE DELAY. AND I
23 THINK THAT, IN AND OF ITSELF, IS DISPOSITIVE, I WILL BE
24 HONEST WITH YOU. I THINK THAT THE COURT DOESN'T HAVE TO
25 EVEN ADDRESS THE FIRST QUESTION.

26 BUT FOR PURPOSES OF THIS RECORD, LET ME GO
27 AHEAD AND ATTEMPT TO AT LEAST CLARIFY WHAT I THINK THE
28 STANDARD IS. I DON'T KNOW THAT THERE IS ANY AUTHORITY

1 FOR THE PROPOSITION THAT THE COURT HAS TO ASSUME THAT
2 EVERY WITNESS THAT WAS UNAVAILABLE FOR THE TRIAL WOULD
3 HAVE PRESENTED TESTIMONY FAVORABLE TO THE ACCUSED.

4 I THINK THAT'S ANOTHER LEGAL ISSUE WHERE
5 WE DISAGREE. I DON'T THINK THAT IS NECESSARILY THE
6 STANDARD. IS THERE ACTUAL AUTHORITY ON POINT FOR THAT?
7 BECAUSE I DID NOT SEE THAT.

8 MS. SARIS: HILL IS THE CLOSEST, YOUR HONOR. AND
9 THE PRESUMPTION OF INNOCENCE.

10 THE COURT: WELL, THE PRESUMPTION OF INNOCENCE,
11 OBVIOUSLY, IS SOMETHING THAT THE COURT IS MINDFUL OF.
12 BUT WHEN WE ARE TALKING ABOUT WHETHER OR NOT THE EVIDENCE
13 THAT WAS LOST WOULD HAVE BEEN BENEFICIAL TO THE
14 DEFENDANT, I THINK IT IS A LEAP. IT IS A TREMENDOUS
15 LEAP. I DON'T KNOW THAT ANY OF THE EVIDENCE THAT WAS NOT
16 PRESENTED BECAUSE OF THE DELAY WOULD HAVE BEEN BENEFICIAL
17 TO THE DEFENDANT. BUT WHAT I CAN SAY IS THAT THE
18 EVIDENCE THAT WAS PRESENTED AT THE TRIAL BY THE
19 PROSECUTION WAS CERTAINLY HINDERED BY THE DELAY.

20 THIS CASE WAS AGGRESSIVELY DEFENDED. THE
21 WITNESSES WERE AGGRESSIVELY CROSS-EXAMINED. AND I THINK,
22 MS. SARIS, YOU DID AN EXCELLENT JOB IN PRESENTING TO THE
23 JURY THAT HEARD THIS CASE THE PROBLEMS INHERENT IN A LOT
24 OF THE TESTIMONY PRESENTED BY THE PEOPLE.

25 AND THOSE PROBLEMS WERE IN LARGE PART DUE
26 TO A LACK OF RECOLLECTION; A LACK OF PHYSICAL EVIDENCE
27 THAT MAY HAVE EXISTED IN THIS CASE. SO THE BOTTOM LINE I
28 THINK IT'S FAIR TO SAY THE DELAY DID NOT JUST

1 PREJUDICE -- POTENTIALLY PREJUDICE THE DEFENSE. THE
2 DELAY PREJUDICED I THINK BOTH SIDES IN THIS CASE. AND
3 THAT'S UNFORTUNATE. BUT I'M NOT GOING TO ASSUME THAT
4 EVERY WITNESS THAT WASN'T CALLED WOULD HAVE TESTIFIED
5 FAVORABLY TO MR. GOODWIN -- OR FOR MR. GOODWIN.

6 HOWEVER, EVEN ASSUMING THAT IS THE CASE,
7 EVEN ASSUMING THAT I AGREE WITH THE DEFENSE THAT ALL OF
8 THE INFORMATION THAT WAS NOT PRESENTED BECAUSE OF THE
9 DELAY WOULD HAVE BEEN FAVORABLE TO MR. GOODWIN, IF I MAKE
10 THAT ASSUMPTION, I THEN GET TO THAT SECOND QUESTION: WAS
11 THERE A LEGITIMATE REASON FOR THE DELAY? WHEREBY THE
12 ANSWER IS YES.

13 SO NO MATTER HOW I LOOK AT IT, GIVEN THE
14 LEGAL STANDARD THAT I BELIEVE APPLIES ON THIS CASE, I
15 HAVE MADE INQUIRY INTO WHETHER OR NOT THERE WAS
16 PREJUDICE. I AGREE THERE WAS PREJUDICE, BUT THERE WAS A
17 LEGITIMATE REASON FOR THE DELAY.

18 I DO NOTE THAT I'M WELL AWARE OF THE
19 OPINION THAT WAS ISSUED IN THIS CASE BY THE COURT OF
20 APPEAL ON A 995, I BELIEVE IT WAS, FROM THE ORANGE COUNTY
21 RULING DENYING THE 995 FOR LACK OF VENUE. AND I DO NOTE
22 THAT IN THAT OPINION THE APPELLATE COURT DID POINT OUT
23 THIS NEW EVIDENCE THAT WAS PRESENTED OR WAS DISCOVERED.

24 AND I ALSO NOTE THAT THE APPELLATE COURT
25 PRACTICALLY BEGGED LOS ANGELES TO TAKE ANOTHER LOOK AT
26 THIS CASE. I RECALL WHEN I FIRST READ THAT OPINION,
27 ALTHOUGH IT WASN'T A PUBLISHED OPINION BECAUSE SHORTLY
28 THEREAFTER I THINK THE CASE WAS PRESENTED TO THIS COURT

1 FOR WARRANT.

2 SO TO SAY THAT THERE WAS DELAY WITHOUT ANY
3 LEGITIMATE REASON, I THINK IS UNFAIR. I THINK THERE WAS
4 A LEGITIMATE REASON. I THINK THERE WAS ONGOING
5 INVESTIGATION. I KNOW THAT DETECTIVE LILLIENFELD TOOK
6 OVER THE CASE AND PURSUED THE CASE. AND I CAN'T FAULT
7 ANYONE FOR THE FACT THAT IT TOOK SO LONG TO ACTUALLY GET
8 ENOUGH EVIDENCE TO FILE THE CASE. AND AT THE BEHEST OF
9 THE COURT OF APPEAL THAT'S WHAT THE L.A. COUNTY DISTRICT
10 ATTORNEY DID.

11 SO GIVEN ALL OF THAT, I DO NOT BELIEVE
12 THAT THERE HAS BEEN ANYTHING THAT RISES TO THE LEVEL OF
13 DUE PROCESS VIOLATION HERE. I AGREE THERE IS NO STATUTE
14 OF LIMITATIONS AND THEREFORE THERE IS NO TECHNICAL
15 STATUTORY VIOLATION OF MR. GOODWIN'S RIGHT TO A SPEEDY
16 TRIAL, THAT'S WHY THE ANALYSIS IS ONE OF DUE PROCESS.
17 BUT FROM WHAT I CAN GLEAN FROM THE CASES THAT HAVE BEEN
18 CITED, THE DUE PROCESS VIOLATION HAS NOT BEEN
19 ESTABLISHED. THERE WAS NO DUE PROCESS VIOLATION IN THE
20 DELAY. AND THE MOTION TO DISMISS FOR DUE PROCESS
21 VIOLATION IS DENIED.

22 MS. SARIS: MAY I MAKE ONE CLARIFICATION FOR THE
23 RECORD?

24 THE COURT: SURE.

25 MS. SARIS: TO THE EXTENT THAT WE IMPLICATED THE
26 VIOLATION OF MR. GOODWIN'S RIGHTS UNDER THE FIFTH AND
27 SIXTH AMENDMENT BY ASSERTING THE INABILITY TO
28 CROSS-EXAMINE, THAT IS UNDER BOTH FEDERAL AND STATE

1 CONSTITUTIONAL GROUNDS.

2 THE COURT: YES. THANK YOU.

3 DO YOU WANT TO ADDRESS THE ISSUES THAT
4 WERE RAISED IN YOUR MOTION FOR NEW TRIAL?

5 MS. SARIS: PLEASE. YOUR HONOR, I THINK THE
6 FIRST PART OF THE MOTION FOR A NEW TRIAL THAT NEEDS TO BE
7 ADDRESSED IS THE JUROR DECLARATION. IT'S LONG-STANDING
8 CASE LAW UNDER SULLIVAN, THIS IS A TURN OF THE CENTURY
9 CASE THAT THE COURT HAS A RIGHT TO TAKE TESTIMONY BY
10 AFFIDAVIT.

11 IT'S UP TO THIS COURT TO DECIDE WHETHER
12 THE DECLARATION INFORMS THE ISSUE AT HAND OR WHETHER THE
13 DECLARATION STATES A PROVENCE OF THE JURY. IT'S CLEAR
14 WITHOUT THIS DECLARATION, THE MOTION STANDS ALONE. EVEN
15 IF THE COURT FINDS THE JUROR DECLARATION WHOLLY
16 INADMISSIBLE, THE MOTION STANDS ALONE AND HAS MERIT ON
17 ITS FACE. I ONLY WANT TO BRIEFLY TOUCH ON SOME OF THE
18 ISSUES THAT WE'VE RAISED. IT'S A VERY EXTENSIVE MOTION.
19 I MADE EVERY EFFORT TO GET IT TO THE COURT WITH AS MUCH
20 NOTICE AS POSSIBLE.

21 ONE OF THE ISSUES THAT WAS BROUGHT UP IN
22 THE DISTRICT ATTORNEY'S MOVING PAPERS WAS A PARTIAL
23 TRANSCRIPT THAT WAS ATTACHED TO THEIR PAPERWORK.
24 AND IT CAME FROM A PRETRIAL HEARING WHERE THE COURT
25 DENIED US THE OPPORTUNITY TO PRESENT EVIDENCE OF OTHER
26 SUSPECTS.

27 AND ONE OF THE MORE TELLING COMMENTS THAT
28 THE COURT MADE IN DENYING US THAT RIGHT WAS THE, QUOTE,

1 THAT EVEN THOUGH WE HAD PRESENTED TO THE COURT AN
2 INDIVIDUAL WHO WAS SEEN NEAR THE AREA AND WHO HAD
3 CONFESSED, WE HAD A, QUOTE, MISSING LINK AND WE WERE NOT
4 ABLE TO CONNECT THAT PERSON TO THIS CRIME. IT'S OUR
5 CONTENTION THAT THE ENTIRE TRIAL AGAINST MICHAEL GOODWIN
6 HAD A MISSING LINK, THE LINK BETWEEN HIM AND THE MURDERS
7 OF THE THOMPSONS.

8 IN A PURELY CIRCUMSTANTIAL EVIDENCE CASE,
9 JUSTICE DEMANDED THAT THE JURORS WERE ALLOWED TO HEAR
10 EVERY SINGLE CIRCUMSTANCE OR AT LEAST THE RELEVANT
11 CIRCUMSTANCES. WHAT HAPPENED WAS THEY WOUND UP WITH AN
12 ARTIFICIAL SENSE OF SURETY ABOUT WHAT HAD OCCURRED
13 BECAUSE THEY WERE ONLY TOLD ONE PORTION OF THE STORY.

14 ONE EXAMPLE OF HOW IT WAS SKEWED IN FAVOR
15 OF THE PROSECUTION IS THE THEORY THAT MICKEY WAS FORCED
16 TO WATCH TRUDY DIE. NO ONE SAW THIS CRIME IN ITS
17 ENTIRETY. THIS WAS AN ABSOLUTE PURE THEORY THAT WAS
18 CREATED BY THE DISTRICT ATTORNEY'S OFFICE. THEY TRIED TO
19 INTRODUCE EVIDENCE OF ITS EXISTENCE, BUT IT WAS IN THE
20 END SIMPLY A THEORY.

21 THERE WAS NOT GOING TO BE AN INDIVIDUAL
22 WHO WAS GOING TO COME FORWARD AND SAY, YOU KNOW, I WORK
23 OUT WITH MR. GOODWIN AT THE GYM. AND WHEN HE SOLICITED
24 ME TO COMMIT THIS MURDER, HE SAID HE WANTED TO MAKE SURE
25 MICKEY THOMPSON SUFFERED. THAT DIDN'T HAPPEN, SO THERE
26 WAS NO CONNECTION BETWEEN THAT THEORY -- WHICH WAS
27 INCREDIBLY PREJUDICIAL -- AND MR. GOODWIN SPECIFICALLY,
28 OTHER THAN MR. GOODWIN HATED THIS MAN AND GUESS WHAT HE

1 WANTED HIM TO DIE.

2 THAT WAS A THEORY. THE COURT ALLOWED THE
3 DISTRICT ATTORNEY'S OFFICE TO SPEND DAYS ON THAT THEORY.
4 TENS OF WITNESSES ON THAT THEORY. AND IT WAS, IN FACT,
5 JUST A THEORY. WHEN THE DEFENSE ATTEMPTED TO TELL THE
6 JURY ABOUT OTHER SUSPECTS, INCLUDING A CONVICTED KILLER
7 WHO HAD RECENTLY PURCHASED TWO 10-SPEED BICYCLES; DRUG
8 DEALERS WHO MICKEY THOMPSON HAD TESTIFIED AGAINST PRIOR
9 TO HIS MURDER; AND A LOCAL DRUG DEALER WHO HAD, IN FACT,
10 CONFESSED HIS INVOLVEMENT IN THE CRIME, THE COURT SAID
11 THIS WOULD CONFUSE THE JURORS AND IT WOULD BE AN UNDUE
12 CONSUMPTION OF TIME.

13 THE TIME WAS CONSUMED BASED ON ONLY THE
14 PEOPLE'S THEORY UNFORTUNATELY. AND WE WERE NEVER GIVEN
15 THE OPPORTUNITY TO GIVE THIS JURY THE WHOLE FACTS OF THE
16 CASE. THROUGHOUT THE ENTIRE TRIAL, NOT ONE SHRED OF
17 EVIDENCE WAS OFFERED TO SUPPORT A CONSPIRACY CHARGE.
18 AGAIN, NO ONE CAME FORWARD AND SAID MR. GOODWIN HAD
19 SOLICITED THEM. THERE WERE NONE OF THE ACCESSORIES ONE
20 WOULD EXPECT IN A CONSPIRACY CASE, AS WE TALKED ABOUT IN
21 THE TRIAL. AND YET THE INSTRUCTION WAS GIVEN.

22 AND NOT ONLY WAS THE INSTRUCTION GIVEN,
23 WHICH UNDER CERTAIN CIRCUMSTANCES IN THE CASE LAW A
24 CONSPIRACY INSTRUCTION CAN BE GIVEN ABSENT THE CHARGE OF
25 CONSPIRACY. BUT A CONSPIRACY INSTRUCTION CAN'T BE GIVEN
26 ABSENT EVIDENCE OF CONSPIRACY. AND THERE WAS NO EVIDENCE
27 OF CONSPIRACY. THERE IS A SET OF CONSPIRACY
28 INSTRUCTIONS. FOR SOME REASON ONLY A PORTION OF THOSE

1 INSTRUCTIONS WERE GIVEN TO THE COURT -- WERE GIVEN TO THE
2 JUROR.

3 AND UNFORTUNATELY THE PORTION THAT WAS
4 GIVEN TO THE JURORS ALLOWED THEM TO SKIP THE MISSING
5 LINK. ALLOWED THEM -- WHEN I ASKED THEM -- WHEN I SAT IN
6 FRONT OF THEM IN CLOSING ARGUMENT AND SAID WE HAVE ON
7 THIS SIDE OF THE ROOM A MURDER AND THIS SIDE OF THE ROOM
8 SOMEONE WHO MIGHT HAVE HAD MOTIVE, THERE IS THIS BIG GAP
9 IN THE MIDDLE, THE CONSPIRACY INSTRUCTIONS AS THEY WERE
10 GIVEN FILLED IN THE GAP WITH INNUENDO; FILLED IN THE GAP
11 WITH INFERENCE. IT ABSOLUTELY VITIATED THE BURDEN OF
12 PROOF; THE PRESUMPTION OF INNOCENCE.

13 IT VITIATED MR. GOODWIN'S CONSTITUTIONAL
14 RIGHTS TO BE FOUND GUILTY BEYOND A REASONABLE DOUBT. AND
15 IT LET HIM BE FOUND GUILTY BASED ON AN INFERENCE. AND
16 THE JURY IN BEING INSTRUCTED THAT WAY, REGARDLESS OF
17 THEIR DECLARATION, WHEN MR. SUMMERS AND I ARGUED AGAINST
18 THE INSTRUCTION, THAT'S EXACTLY WHAT WE WERE ARGUING
19 ABOUT. THAT THIS WAS GOING TO CHANGE THE BURDEN OF
20 PROOF.

21 YOU HAVE NO EVIDENCE OF A CONSPIRACY, YET
22 YOU INSTRUCT THE JURORS ON THE CONSPIRACY. THE ENTIRE
23 CASE, THE DEFENSE THAT WE HAD PRESENTED, WAS THAT THERE
24 WAS THIS MISSING LINK. AND RIGHT IN THE JURY INSTRUCTION
25 IT SAYS, BY THE WAY, YOU DON'T NEED THAT MISSING LINK.
26 WE WILL INFER IT FOR YOU.

27 AS TO THE WILKINSON, THE CLAIM THAT WE HAD
28 INVITED ERROR BY NOT ASKING FOR A LIMITING INSTRUCTION,

1 WE ABSOLUTELY -- AND THE RECORD IS CLEAR -- ASKED FOR A
2 LIMITING INSTRUCTION. WE REJECTED THE COURT'S LIMITING
3 INSTRUCTION, WHICH WAS NOT FROM CALCRIM OR CALJIC, BUT
4 WAS A JUDICIALLY CREATED INSTRUCTION THAT IN OUR OPINION
5 TOOK THE CREDIBILITY CALL AWAY FROM THE JURORS AND TOLD
6 THE JURORS THEY HAD TO USE THIS EVIDENCE IN A SPECIFIC
7 WAY FOR A SPECIFIC PURPOSE WITHOUT REALLY LETTING THEM BE
8 THE JUDGE OF WHETHER OR NOT THE STATEMENT WAS CREDIBLE TO
9 BEGIN WITH.

10 IN TERMS OF THE HEARSAY ISSUES THAT WE
11 RAISED IN OUR MOTION, IT WOULD APPEAR THAT EVERY TIME THE
12 DEFENSE ATTEMPTED TO USE HEARSAY, WE DID NOT TRUST THE
13 JURY TO USE IT IN THE APPROPRIATE MANNER. EVERY TIME THE
14 PROSECUTION ATTEMPTED TO USE HEARSAY, WE TRUSTED THE
15 JURORS TO USE IT IN THE APPROPRIATE MANNER.

16 THERE WAS ABSOLUTELY NO BASIS IN THE LAW
17 FOR REDACTING THE STATEMENT THAT ERIC MILLER MADE TO
18 OFFICER LAPORTE. AND THE REDACTION WOUND UP VITIATING
19 THE ENTIRE POWERFUL NATURE OF THE ROBBERY EVIDENCE THAT
20 WE WERE TRYING TO PRESENT ONCE WE WERE PRECLUDED FROM
21 PRESENTING THIRD-PARTY CULPABILITY EVIDENCE.

22 THE COURT: LET ME JUST STOP YOU FOR A SECOND,
23 BECAUSE YOU ARE TOUCHING ON A NUMBER OF ISSUES. AND I
24 JUST WANT THE RECORD TO BE CLEAR ON A COUPLE OF
25 SITUATIONS. THE OFFER OF PROOF AS TO MR. MILLER WAS
26 PRESENTED TO THE COURT AS BEING RELEVANT ON THE ISSUE OF
27 THE FAILURE OF THE LOS ANGELES COUNTY SHERIFF'S
28 DEPARTMENT TO CONDUCT AN ADEQUATE INVESTIGATION.

1 SO THE OFFER OF THAT STATEMENT OF
2 MR. THOMPSON, WHEREBY I THINK THE WITNESS WOULD HAVE SAID
3 THAT MR. THOMPSON SAID THAT HE HAD EITHER RECENTLY TAKEN
4 POSSESSION OF THE GOLD OR WAS ABOUT TO TAKE POSSESSION OF
5 THE GOLD, YOU WERE NOT PRESENTING THAT STATEMENT TO THE
6 COURT, I THOUGHT, FOR THE TRUTH OF HIM TAKING POSSESSION
7 OF THE GOLD.

8 MS. SARIS: AND WE ARE AGREEING, SO I --

9 THE COURT: OKAY. BUT THAT'S THE WAY YOUR
10 ARGUMENT HAS BEEN PROGRESSING. IN OTHER WORDS, THE
11 STATEMENT WAS HEARSAY BECAUSE WHAT YOU WANTED TO ARGUE
12 WAS THAT HE TOOK POSSESSION OF THE GOLD.

13 MS. SARIS: WHAT I WANTED TO ARGUE WAS THAT
14 POLICE FAILED TO INVESTIGATE THAT THERE WAS A SMALL
15 ITEM OF VALUE -- SMALL -- IN OTHER WORDS, NOT ONLY WAS --
16 WE WERE NOT -- WE WERE PRECLUDED FROM MAKING THE ARGUMENT
17 THAT IT WAS THE TRUTH OF THE MATTER PRESENTED.

18 BUT OUR POINT WAS, WHEN WE SAY THE POLICE
19 OFFICERS FAILED TO INVESTIGATE THIS CRIME AND YOU HAD
20 BICYCLISTS WHO HAD TAKEN AWAY FROM THE SCENE OR AT LEAST
21 MADE THEIR ESCAPE WITH WHITE CANVAS BAGS ON THEIR BACKS.
22 YOU HAD BOB WIBORG, A WITNESS IN THE CASE, UNRELATED,
23 TESTIFY THAT THAT'S HOW GOLD IS DELIVERED.

24 YOU HAD OFFICER VERDUGO ALLOWED TO TESTIFY
25 NO ITEMS OF VALUE WERE TAKEN FROM THE HOME. AND THEN FOR
26 THE DISTRICT ATTORNEY TO STAND UP AND SAY, WELL, YOU
27 KNOW, BACK UP THE BIKE, WE'RE GOING TO GET AN ENGINE OR A
28 VCR OR SOMETHING, IMPLYING THAT THERE WAS NEVER

1 INDICATION THAT AN ITEM, A SMALL ITEM COULD HAVE BEEN
2 REMOVED FROM THE HOME.

3 SO IT WASN'T FOR THE TRUTH THAT HE HAD
4 BOUGHT GOLD. IT WAS FOR THE FACT THAT THEY ACTUALLY HAD
5 INFORMATION THAT IT COULD HAVE BEEN SOMETHING IN THOSE
6 BAGS. THAT IT WOULD HAVE BEEN A LOGICAL CONCLUSION THAT
7 SOMETHING SMALL ENOUGH OF VALUE SIGNIFICANT ENOUGH TO
8 LEAVE A WALLET, TO LEAVE THE JEWELRY, BECAUSE THAT WAS
9 THE DISTRICT ATTORNEY'S ARGUMENT, THERE IS NO SUCH THING
10 THAT WOULD BE SO IMPORTANT TO STEAL AND SO COMPACT TO
11 STEAL THAT ONE WOULD LEAVE THIS INCREDIBLY EXPENSIVE
12 JEWELRY AND ALL OF THIS CASH BEHIND.

13 THEIR FAILURE TO INVESTIGATE JUST THAT
14 EXACT ITEM WAS WHAT WE WERE SAYING. AND THE REDACTION OF
15 THAT STATEMENT MADE THE DISTRICT ATTORNEY -- MADE
16 AVAILABLE FOR THE DISTRICT ATTORNEY TO STAND UP AND SAY,
17 WELL, THIS IS LUDICROUS. WHAT COULD THEY HAVE POSSIBLY
18 TAKEN THAT THEY WOULD HAVE LEFT BEHIND THESE ITEMS?

19 THE COURT: EXCEPT THE ARGUMENT THAT WAS
20 PRESENTED TO THE COURT WAS THAT YOU WANTED TO BRING THIS
21 STATEMENT IN, THIS HEARSAY STATEMENT OF MR. THOMPSON,
22 BASICALLY TO SHOW THAT THE POLICE HAD INFORMATION THAT
23 THEY DIDN'T FOLLOW-UP ON; RIGHT?

24 MS. SARIS: INFORMATION REGARDING A ROBBERY THAT
25 THEY DIDN'T FOLLOW-UP ON.

26 THE COURT: THAT THERE WAS INFORMATION THAT
27 MR. THOMPSON WAS GOING TO TAKE POSSESSION OF SOMETHING OF
28 VALUE AND THEREFORE --

1 MS. SARIS: HAD JUST TAKEN POSSESSION WAS THE
2 STATEMENT.

3 THE COURT: -- OR JUST TAKEN. AND THEREFORE WITH
4 THAT INFORMATION THEY DID NOTHING. AND THAT WAS YOUR
5 THEORY OF ADMISSABILITY REGARDING THAT STATEMENT.

6 MS. SARIS: THAT'S CORRECT. AND THAT CONTINUES
7 TO BE.

8 THE COURT: AND THAT'S WHY WHEN YOU SAY THAT THE
9 COURT REDACTED IT FOR NO REASON, THE COURT REDACTED IT
10 BECAUSE OF WHAT YOUR OFFER WAS, THAT IT DIDN'T MATTER
11 WHETHER IT WAS \$250,000 WORTH OF GOLD OR ANY OTHER ITEM
12 OF VALUE. THE POINT OF THE STATEMENT AS PRESENTED BY THE
13 DEFENSE WAS THAT IT WAS TO SHOW THE POLICE HAD
14 INFORMATION OF SOMETHING OF VALUE BEING IN THE POSSESSION
15 OF MR. THOMPSON AND NOTHING WAS DONE WITH THAT
16 INFORMATION. SO --

17 MS. SARIS: I THINK WE WERE CLEAR --

18 THE COURT: SO TO SUGGEST THAT THE COURT REDACTED
19 THAT STATEMENT FOR NO GOOD REASON IS I THINK UNFAIR.
20 BECAUSE THE COURT REDACTED THE STATEMENT BECAUSE I KNEW
21 EXACTLY WHERE THAT ARGUMENT WAS GOING TO LEAD. AND WHAT
22 YOU ARE ARGUING THIS MORNING BEARS THAT OUT.

23 YOUR WHOLE ARGUMENT IS THAT THERE WAS
24 \$250,000 WORTH OF GOLD SITTING SOMEWHERE ON THE PREMISES
25 OF THE THOMPSONS. AND MY UNDERSTANDING OF THE HEARSAY
26 RULE IS THAT WOULD HAVE BEEN HEARSAY BY MR. THOMPSON.

27 MS. SARIS: AND THAT'S A MISUNDERSTANDING OF OUR
28 ARGUMENT. AND I APOLOGIZE IF I DIDN'T MAKE THAT CLEARER.

1 AND I DID NOT ACCUSE THE COURT OF REDACTING IT WITHOUT
2 GOOD REASON -- TO THE EXTENT THAT I ACCUSED THE COURT --
3 I SUGGESTED THAT THE COURT REDACTED IT WITHOUT AUTHORITY.
4 NOT WITHOUT GOOD REASON. I UNDERSTAND THE COURT'S
5 PURPOSE.

6 THE PROBLEM IS THAT THERE IS NO AUTHORITY
7 FOR THE REDACTION OF THE STATEMENT. EITHER IT COMES IN
8 FOR THE PURPOSE THAT IT IS COMING IN FOR OR IT DOESN'T
9 COME IN. AND THE POINT OF IT BEING GOLD IS NOT FOR THE
10 TRUTH, IT'S FOR THE FACT OF -- IT'S THE SAME ARGUMENT
11 THAT WE GOT INTO WITH MARK LILLIENFELD TESTIFYING ABOUT
12 NOT TRACKING DOWN A LICENSE PLATE THAT CAME FROM AN
13 ARIZONA REGISTERED CAR.

14 I CAN SAY, LOOK, THAT WAS FOOLISH, BUT
15 UNTIL I TELL THE BACKGROUND, NO JUROR IS GOING TO KNOW
16 HOW FOOLISH THAT WAS. JOEY HUNTER, A MAN WHO CONFESSED
17 TO THE CRIME WAS UNDER SURVEILLANCE FOR THREE DAYS AFTER
18 HIS CONFESSION. ONE OF THE HOUSES HE WENT TO HAD A CAR
19 PARKED IN THE DRIVEWAY EVERY DAY WITH ARIZONA PLATES.

20 THE POLICE WROTE ARIZONA PLATES DOWN.
21 FAST FORWARD 2001, THE STEVENSES SEE A CAR WITH ARIZONA
22 PLATES. I WAS ABLE TO TELL THE JURORS, WELL, THAT WAS
23 PRETTY DUMB. HE HAD THIS ARIZONA PLATE. HE SHOULD HAVE
24 LOOKED INTO IT. THE JURORS WEREN'T ABLE TO UNDERSTAND
25 THE IMPACT OF THAT BECAUSE I WASN'T ALLOWED TO MENTION
26 JOEY HUNTER.

27 I WAS TELLING THE JURORS, LOOK, THIS COULD
28 HAVE BEEN A ROBBERY. THE JURORS WEREN'T ABLE TO ASSESS

1 THE IMPACT OF THAT BECAUSE THERE WAS NOTHING THAT
2 LOGICALLY, ACCORDING TO THEM BASED ON THE EVIDENCE, COULD
3 HAVE FIT IN WHITE CANVAS BAGS THAT WOULD HAVE MADE IT
4 OKAY TO RUN AWAY FROM THAT SCENE; STILL CALL IT A
5 ROBBERY; AND LEAVE JEWELRY BEHIND. THAT IS THE ISSUE.

6 AND THE DISTRICT ATTORNEYS EXPLOITED THAT
7 IN THEIR CLOSING ARGUMENT BY SAYING IT WAS COMPLETELY
8 RIDICULOUS ON OUR PART TO SAY IT WAS A ROBBERY BECAUSE
9 THEY HAD BIKES AND THEREFORE THEY COULDN'T STEAL THE VCR
10 AND A RACE CAR OR SOMETHING.

11 AND TO REDACT THE STATEMENT ABSOLUTELY
12 VITIATED THE RELEVANCE AND THE IMPACT OF THEIR FAILURE TO
13 INVESTIGATE THE ROBBERY. IT'S NOT JUST SIMPLY, YOU
14 DIDN'T INVESTIGATE IT. IT'S YOU STOOD BEFORE THESE
15 PEOPLE, THESE 12 JURORS, AND YOU SAID, REY VERDUGO, THAT
16 THERE WAS NOTHING OF VALUE MISSING. YOU HAD EVIDENCE OF
17 SOMETHING OF VALUE, SOMETHING SO VALUABLE THAT IT WOULD
18 HAVE CAUSED KILLERS TO LEAVE BEHIND JEWELRY AND CASH AND
19 YOU DIDN'T FOLLOW UP ON THAT.

20 THAT IS A MUCH MORE EGREGIOUS VIOLATION
21 THAN, OH, YOU KNOW, YOU DIDN'T GO THROUGH EVERY ONE OF
22 MICKEY THOMPSON'S FINANCIAL STATEMENTS AND DECIDE WHETHER
23 OR NOT HE HAD CASH LYING IN THE GARAGE. THIS WAS AN
24 ABSOLUTE STATEMENT THAT THEY SHOULD HAVE FOLLOWED UP ON
25 THAT WAS RELEVANT TO THE ROBBERY AND THAT LOGICALLY WOULD
26 HAVE EXPLAINED ONE OF THE DISTRICT ATTORNEY'S POINTS THAT
27 IT HAD TO BE A HIT BECAUSE THEY WERE ON BICYCLES.

28 THE COURT: AND, AGAIN, I WILL JUST REITERATE, I

1 THINK YOU GOT THAT MILEAGE OUT OF THAT STATEMENT FOR THAT
2 EXACT PURPOSE AND PRESENTED THAT ARGUMENT.

3 ONE MORE THING I WANT TO TOUCH ON BEFORE
4 YOU GO TOO FAR INTO THAT ARGUMENT AND THEN I FORGET ABOUT
5 IT. SO LET ME -- SINCE YOU BROUGHT UP MR. HUNTER, LET'S
6 TALK ABOUT MR. HUNTER. WHEN THE COURT HEARD THE
7 THIRD-PARTY CULPABILITY MOTION, I WAS GIVEN ABOUT THREE
8 DIFFERENT SCENARIOS HERE. NONE OF WHICH WERE ROBBERY.
9 OKAY? SO LET'S BE CLEAR ON THAT.

10 MS. SARIS: AND I MAKE THAT VERY CLEAR. WHEN THE
11 COURT FORECLOSED US FROM ARGUING OTHER SUSPECTS, WE WERE
12 VERY MUCH PUT ON THE DEFENSIVE. AND I'M NOT SUGGESTING
13 THAT THESE INDIVIDUALS THAT KILLED MICKEY THOMPSON THAT
14 WE BELIEVE ARE OTHER SUSPECTS DID NOT KNOW ABOUT THAT
15 GOLD. I WOULD NOT SUGGEST THAT. THAT WELL MAY HAVE BEEN
16 THEIR ONLY INTENT. ONE OF THEM WAS FACING DOUBLE
17 HOMICIDE CHARGES AND HAD PROMISED SOMEONE IF HE TOOK THE
18 RAP, HE WOULD PAY HIM OVER \$100,000.

19 SO WE DID MAKE SOME INDICATION IN OUR
20 MOVING PAPERS THAT THERE WAS THIS TAPED CONVERSATION
21 WHERE JOEY HUNTER TOLD HIS COUSIN OR HIS SISTER -- HIS
22 COUSIN, DON'T WORRY ABOUT IT. I'M GOING TO DO A FEW
23 YEARS AND GET A LITTLE BIT OF CASH.

24 AND THEN PERSON WE WERE SAYING HAD
25 RECENTLY HIRED TWO AFRICAN/AMERICAN MEN TO COMMIT TWO
26 CONTRACT MURDERS WITHIN WEEKS OF THE MURDER, THE
27 GENTLEMAN WHO HAD JUST BOUGHT THE TWO BRAND NEW BICYCLES
28 WAS ACTUALLY ON A TAPED CONVERSATION THE POLICE WERE

1 LISTENING TO SAYING, I DON'T HAVE TO WORRY ABOUT IT. I'M
2 GOING TO PAY SOME LACKEY TO DO MY TIME FOR ME.

3 SO ROBBERY VERY WELL COULD HAVE BEEN THE
4 MOTIVE, BUT THE COURT IS CORRECT, WE DID NOT BRING THAT
5 UP IN OUR THIRD-PARTY MOTION.

6 THE COURT: BUT THE COURT'S RULING UNDER 352 WAS
7 BASED UPON AN ANALYSIS OF THE BALANCING OF THE PROBATIVE
8 VALUE VERSUS THE PREJUDICIAL EFFECT; CONFUSION OF THE
9 ISSUES; UNDUE CONSUMPTION OF TIME. SO I WANT THE RECORD
10 TO BE CLEAR, THE COURT DID NOT SIMPLY SAY THAT THE
11 EVIDENCE WAS RELEVANT, BUT IT WOULD TAKE TOO LONG TO
12 PRESENT. THAT WASN'T THE ANALYSIS.

13 MS. SARIS: I AGREE. THE COURT SAID I BELIEVE
14 JURY CONFUSION -- ACCORDING TO THE QUOTE THAT WAS QUOTED
15 BY THE DISTRICT ATTORNEY -- AND I KNOW THAT'S ONLY
16 PARTIAL -- BUT IT WAS CONFUSION OF THE ISSUES AND UNDUE
17 CONSUMPTION OF TIME. IT WASN'T A MATTER OF THE COURT
18 SAYING THIS IS RELEVANT AND --

19 THE COURT: AND A LACK OF RELEVANCE. A LACK OF
20 PROBATIVE VALUE. YOU LEAVE THAT OUT AND IT MAKES IT
21 SOUND LIKE THE ONLY THING I WAS CONCERNED ABOUT WAS THE
22 UNDUE CONSUMPTION OF TIME. I WILL BE HONEST WITH YOU,
23 WITH RESPECT TO JOEY HUNTER, THE PROBLEM THAT I SEE WITH
24 THAT THIRD-PARTY CULPABILITY EVIDENCE IS THAT THE
25 PRESENCE OF JOEY HUNTER, EVEN ASSUMING HE WAS PRESENT AS
26 A LOOK-OUT, DOES NOT NECESSARILY MEAN THAT MR. GOODWIN
27 WAS NOT RESPONSIBLE FOR THESE CRIMES.

28 AND I THINK THERE IS A KEY DISTINCTION

1 BETWEEN THE THIRD-PARTY CULPABILITY CASES THAT WERE CITED
2 IN YOUR MOVING PAPERS AND THIS CASE. NO ONE SUGGESTS
3 THAT MR. GOODWIN WAS AT THE SCENE ON A BICYCLE. NO ONE
4 SUGGESTS THAT MR. GOODWIN WAS PRESENT AT ALL DURING THE
5 COMMISSION OF THESE MURDERS. THE FACT THAT JOEY HUNTER
6 MAY OR MAY NOT HAVE BEEN ACTING AS A LOOK-OUT FOR THE
7 SHOOTERS, DOESN'T MEAN THAT THERE IS A REASONABLE DOUBT
8 THAT MR. GOODWIN WAS INVOLVED.

9 MS. SARIS: I THINK I UNDERSTAND WHAT THE COURT
10 IS SAYING ON PAPER. I THINK IF THE COURT HAD ALLOWED US
11 TO PRESENT IT, WE CERTAINLY COULD HAVE MADE SOME
12 CONNECTION TO DEAN KENNEDY. AND WE COULD HAVE MADE SOME
13 CONNECTION THAT MR. GOODWIN AND MR. HUNTER WOULD HAVE
14 NEVER CROSSED PATHS. AND I WOULD BE VERY, VERY CONFIDENT
15 TO GO TO THE JURY WITH THE UNDERSTANDING THAT JOEY HUNTER
16 WAS A LOOK-OUT AND MICHAEL GOODWIN HAD NOTHING TO DO WITH
17 IT AND LET THE DISTRICT ATTORNEY ATTEMPT TO MAKE THAT
18 CONNECTION, WHICH IS OUR RIGHT.

19 THE COURT: AND WHAT I'M SAYING IS -- AND THERE
20 WAS A PORTION OF THE TRANSCRIPT CITED IN THE MOTIONS BY
21 THE PEOPLE. SO WHEN I READ THAT, I RECALL THAT I DIDN'T
22 FORECLOSE THAT -- I MEAN IF YOU HAD EVIDENCE THAT SOMEONE
23 SAW JOEY HUNTER AT THE SCENE, I DON'T THINK YOU ARE
24 PRECLUDED FROM PRESENTING THAT EVIDENCE. BUT THAT'S JUST
25 BASED ON WHAT I'M READING IN THE TRANSCRIPT. I DON'T
26 ACTUALLY RECALL --

27 MS. SARIS: MY RECOLLECTION WAS I WAS NOT ALLOWED
28 TO USE THE WORDS "JOEY HUNTER" AT ALL.

1 THE COURT: WELL, THERE WAS NO OFFER OF PROOF
2 THAT YOU HAD HIM AT THE SCENE. I MEAN THERE WAS NOTHING
3 TO CONNECT JOEY HUNTER TO THE SCENE OF THESE MURDERS.

4 MS. SARIS: THERE WAS NOTHING TO CONNECT MICHAEL
5 GOODWIN TO THE SCENE OF THESE MURDERS. THAT DIDN'T
6 PREVENT THE DISTRICT ATTORNEY FROM GOING ON DAYS WITH THE
7 THEORY THAT HE WAS INVOLVED IN THE CRIME.

8 THE COURT: RIGHT. BUT THE POINT IS THAT YOU ARE
9 CITING CASES THAT SUGGEST THAT THE DEFENDANT HAD AN
10 ABSOLUTE RIGHT TO PRESENT THIS DEFENSE. AND WHAT I'M
11 SAYING -- AND YOUR THEORY IS BECAUSE IT WOULD TEND TO
12 RAISE A REASONABLE DOUBT OF HIS GUILT.

13 WHAT I'M SAYING IS THERE ARE NO CASES
14 SIMILAR TO THIS ONE THAT WERE CITED WHEREBY THE
15 DEFENDANT'S INVOLVEMENT IN THE MURDERS WAS BASED ON A
16 VICARIOUS LIABILITY TYPE OF THEORY WHERE THE DEFENDANT
17 WAS NOT PRESENT. CLEARLY THE DEFENDANT WAS NOT PRESENT.
18 WE DON'T KNOW WHERE THE DEFENDANT WAS.

19 MS. SARIS: I CAN'T FIND A SINGLE CASE EVER, EVER
20 CHARGING AN INDIVIDUAL LIKE THE SITUATION THAT THEY'VE
21 DONE HERE.

22 THE COURT: RIGHT. BUT THIRD-PARTY CULPABILITY
23 HAS TO BE ADMISSIBLE. IT HAS TO BE PROBATIVE. AND TO BE
24 PROBATIVE, IT HAS TO RAISE A REASONABLE DOUBT OF THE
25 DEFENDANT'S GUILT OR IT HAS TO AT LEAST PRESENT
26 SUFFICIENT EVIDENCE THAT COULD RAISE A REASONABLE DOUBT
27 OF THE DEFENDANT'S GUILT. THERE IS NO REASONABLE DOUBT
28 HERE --

1 MS. SARIS: A LOCAL DRUG DEALER WHO HAD
2 ABSOLUTELY NO CONNECTION TO MICHAEL GOODWIN.

3 THE COURT: THERE WAS NO TESTIMONY OF ANYTHING IN
4 YOUR OFFER OF PROOF OR YOUR MOVING PAPERS ON THE
5 THIRD-PARTY CULPABILITY THAT PUT MR. HUNTER EITHER AS A
6 POSSIBLE SUSPECT, OR A DISCONNECT BETWEEN HUNTER AND
7 GOODWIN.

8 IN OTHER WORDS, THERE IS NO DISCONNECT
9 BETWEEN HUNTER AND GOODWIN. NONE OF THAT. YOU HAD
10 EVIDENCE THAT SOMEBODY SAW MR. HUNTER WITH A BICYCLE
11 HITCHING A RIDE OR LOOKING TO HITCHHIKE --

12 MS. SARIS: FRANTICALLY WAVING HIS ARMS SHORTLY
13 AFTER THE CRIME WITHIN A COUPLE MILES OF THE MURDER SCENE
14 AND A CONFESSION.

15 THE COURT: RIGHT. THAT'S IT. WELL, I DON'T
16 KNOW ABOUT THE CONFESSION, SO I THINK THAT'S SOMEWHAT
17 MISLEADING.

18 MS. SARIS: WELL, HE TOLD HIS COUSIN I WAS
19 INVOLVED IN THE MURDERS.

20 THE COURT: THAT'S NOT WHAT I HEARD.

21 MS. SARIS: WELL, THAT WOULD HAVE BEEN A
22 CREDIBILITY CALL IF WE COULD HAVE GOT MISS ROBINSON. WE
23 WERE PRECLUDED FROM CALLING HER. AND, AGAIN, IF THE
24 COURT HAD ALLOWED US TO CALL HER, I WOULD HAVE WELCOMED
25 THE DISTRICT ATTORNEY SAYING, YEAH, THEY KNOW JOEY HUNTER
26 BECAUSE MICHAEL GOODWIN HIRED HIM. IT'S LUDICROUS. IT
27 WOULDN'T HAVE STOOD WATER. AND WE DON'T HAVE TO DISPROVE
28 EVERY OTHER THEORY IN ORDER TO BRING IN THIRD-PARTY

1 CULPABILITY.

2 THE COURT: BUT THE PRESENCE OF JOEY HUNTER
3 DOESN'T RAISE ANY DOUBT AND IT DOESN'T ADD ANYTHING TO
4 THIS CASE. IT'S NOT RELEVANT BECAUSE THERE IS NOTHING TO
5 SUGGEST EVEN ASSUMING HE WERE PRESENT THAT WOULD
6 POTENTIALLY EXONERATE MR. GOODWIN.

7 MS. SARIS: IF THE JURORS COULD FIND OUT THAT A
8 LOCAL DRUG DEALER --

9 THE COURT: OKAY. FORGET -- THAT'S WHERE YOUR
10 ARGUMENT FAILS. BECAUSE EVEN ASSUMING THE JOEY HUNTER
11 EVIDENCE WAS PRESENTED AND I ALLOWED IT, TO TAKE THAT TO
12 THE NEXT STEP AND THE NEXT STEP TO BRING IN LARRY COWELL,
13 DEAN KENNEDY --

14 MS. SARIS: LET'S JUST TAKE JOEY HUNTER FOR WHO
15 HE WAS --

16 THE COURT: WELL, NO, YOU'RE TALKING ABOUT HIS
17 CONNECTION WITH DRUG DEALERS.

18 MS. SARIS: NO. HE, ALL BY HIMSELF, HAD A RECORD
19 FOR SELLING DRUGS.

20 THE COURT: THAT'S NOT WHAT THE OFFER WAS. THE
21 OFFER WAS BASICALLY YOUR SCENARIO, WHICH I PUT IN THE
22 FLOW CHART, WAS JOEY HUNTER WAS SOMEHOW CONNECTED TO DEAN
23 KENNEDY; WHO WAS CONNECTED TO LARRY COWELL. LARRY COWELL
24 WAS RESPONSIBLE FOR THE MURDER OF SCOTT CAMPBELL.
25 THEREFORE YOU ASSERTED THAT THERE WAS A MOTIVE TO KILL
26 MR. THOMPSON BECAUSE OF HIS INVOLVEMENT IN THE CASE
27 AGAINST COWELL.

28 AND ALL OF THAT DEPENDS ON A SHOWING THAT

1 THERE IS SOME EVIDENCE TO SUGGEST THAT. THERE WAS NONE.
2 ALL YOU PRESENTED TO THIS COURT WAS THE FACT THAT THERE
3 WERE TWO OTHER MURDERS COMMITTED THAT WERE DRUG RELATED
4 AND SOMEHOW INVOLVED LARRY COWELL AND DEAN KENNEDY.

5 MS. SARIS: WHERE TWO BLACK MEN WERE THE
6 SHOOTERS.

7 THE COURT: YES, CORRECT.

8 MS. SARIS: AND ONE OF THEM DROVE A RED VOLVO
9 THAT WAS SEEN IN THE NEIGHBORHOOD OF THE MICKEY THOMPSON
10 MURDER.

11 THE COURT: KEEP GOING. I'M NOT GOING TO GET
12 INTO IT WITH YOU.

13 MS. SARIS: WELL, I WOULD ASK THE COURT TO POINT
14 OUT THAT IN MY MOVING PAPERS ON THE THIRD-PARTY
15 CULPABILITY, I ASKED FOR THESE THEORIES OF EVIDENCE TO BE
16 INTRODUCED INDIVIDUALLY AS WELL AS CONNECTED.

17 THE COURT: BUT THEY ALL RELATE BACK TO THE
18 MURDER TRIAL OF SCOTT -- THE SCOTT CAMPBELL MURDER TRIAL.

19 MS. SARIS: THAT'S WHERE WE DISAGREE, NOT
20 NECESSARILY. JOEY HUNTER COULD HAVE BEEN INVOLVED WITH
21 DEAN KENNEDY; OR HE COULD HAVE DONE IT ON HIS OWN HAVING
22 LEARNED ABOUT GOLD. WE DON'T KNOW. JUST LIKE THE
23 DISTRICT ATTORNEY HAS NO IDEA HOW THIS CASE WENT DOWN.

24 THE QUALITY OF THE EVIDENCE THAT WAS
25 ALLOWED TO BE PRESENTED BY THE DISTRICT ATTORNEY; AND THE
26 SCRUTINY OF THE EVIDENCE THAT WAS OFFERED BY THE DEFENSE,
27 THERE IS THIS HUGE SCHASM. IT JUST SIMPLY WAS NOT FAIR.

28 JOEY HUNTER, IF A JURY FOUND OUT SEPARATE

1 AND APART FROM DEAN KENNEDY; SEPARATE AND APART FROM
2 SCOTT CAMPBELL, JURORS ON THIS CASE HEAR LOCAL DRUG
3 DEALER NEAR THE SCENE; CONFESSED TO THE CRIME; ON A
4 BICYCLE; PLUS SOME INDICATION THAT THERE MIGHT HAVE BEEN
5 A ROBBERY, ALL OF A SUDDEN, THIS IS NO LONGER A HIT.

6 ALL OF A SUDDEN, THIS IS, HEY, YOU KNOW,
7 JOEY IS A LOCAL DRUG DEALER. HE KNOWS THE AREA VERY
8 WELL. ONE OF THE THINGS THAT -- YOU KNOW, THE POINT OF
9 TAKING THE JURORS TO THE SCENE WAS TO SHOW HOW REMOTE IT
10 IS AND HOW SOMEONE WOULD HAVE NEEDED TO KNOW WHERE IT
11 WAS. HERE WE HAVE A LOCAL PETTY CRIMINAL WHO HAS
12 CONFESSED INVOLVEMENT.

13 I WOULD CHALLENGE THE DISTRICT ATTORNEY TO
14 CONNECT THAT TO MICHAEL GOODWIN.

15 THE COURT: WELL, WE OBVIOUSLY HAVE A
16 DISAGREEMENT. I MEAN THE COURT CAN SPEND PROBABLY THE
17 REST OF THE DAY ARGUING WITH YOU ABOUT THE SIGNIFICANCE
18 OF THE EVIDENCE THAT YOU SOUGHT TO PRESENT.

19 THE BOTTOM LINE IS I DO UNDERSTAND THE
20 NATURE OF YOUR ARGUMENT. I DO UNDERSTAND THE LEGAL
21 AUTHORITY THAT THE COURT IS BOUND BY. AND I TAKE ISSUE
22 WITH A NUMBER OF THE FACTUAL ASSERTIONS THAT HAVE BEEN
23 MADE. AND I THINK THE RECORD REALLY WILL SPEAK FOR
24 ITSELF.

25 BUT THE BOTTOM LINE IS, THERE WAS ZERO OF
26 EVIDENCE THAT JOEY HUNTER CONFESSED TO THESE KILLINGS.
27 AND THERE WAS ZERO EVIDENCE THAT WOULD POTENTIALLY RAISE
28 A REASONABLE DOUBT AS TO THE INVOLVEMENT OF MR. GOODWIN.

1 THE EVIDENCE THAT WAS PRESENTED BY THE PROSECUTION WAS
2 RELEVANT. THE EVIDENCE THAT WAS OFFERED BY THE DEFENSE
3 NEEDED TO BE RELEVANT BEFORE THE COURT COULD CONSIDER IT.

4 AND JUST SO THE RECORD IS CLEAR THE 352
5 ANALYSIS WAS UNDERTAKEN BY THE COURT. AND THE COURT
6 FOUND A LACK OF RELEVANCE. IN ADDITION TO UNDUE
7 CONSUMPTION OF TIME AND THE CONFUSION OF THE ISSUES. SO
8 LET'S MOVE ON.

9 MS. SARIS: OKAY. WE'VE ALREADY DISCUSSED --
10 OBVIOUSLY, WE'VE TALKED ABOUT THE THIRD-PARTY CULPABILITY
11 ISSUE.

12 THE CONSPIRACY INSTRUCTION. THE HEARSAY
13 STATEMENTS THAT WERE MADE. THERE WERE SEVERAL POINTS IN
14 THIS CASE BOTH IN PRETRIAL AND AFTERWARDS DURING THE
15 TRIAL WHERE THE COURT INDICATED SOMETHING TO THE EFFECT
16 OF, WELL, IT WOULD BE A GOOD IDEA FOR THE DISTRICT
17 ATTORNEY TO DO THIS; OR, YOU KNOW, THE DISTRICT
18 ATTORNEYS, THEY'RE PUSHING THE ENVELOPE WITH THIS VOIR
19 DIRE.

20 THEY WERE VERY, AS I'M SAYING, CLOSE
21 CALLS. THE COURT, I BELIEVE, EVEN COUNSELED THE DISTRICT
22 ATTORNEYS DURING THE MOTION FOR RECUSAL. THAT PERHAPS
23 THEY SHOULD CHECK WITH THEIR OFFICE BECAUSE IT SEEMED
24 THAT IT WOULD BE INAPPROPRIATE FOR THEM TO CONTINUE
25 PROSECUTING MR. GOODWIN HAVING READ SOME OF HIS INTIMATE
26 LETTERS.

27 AND I'LL STATE VERY CLEARLY FOR THE RECORD
28 THAT THAT WAS DEFINITELY ONE OF THE CONSIDERATIONS WE HAD

1 WHEN DECIDING WHETHER OR NOT MR. GOODWIN WOULD TESTIFY.
2 THE COURT FOUND ITS OWN ERROR IN THE JURY VIEW. THE
3 DEFENSE RELIED ON TRIAL STRATEGY. FOR THE DISTRICT
4 ATTORNEY IN THEIR MOVING PAPERS TO SAY WE COULD HAVE
5 ASKED TO REOPEN AND CALL THE WITNESSES, WE WERE NEVER
6 GOING TO GET THE OPPORTUNITY BACK TO ADDRESS THE JURORS
7 PRIOR TO THEM GOING TO THE SCENE.

8 THAT IS A TRUISM THAT NO ONE CAN DISAGREE
9 WITH. THEY HAD DONE IT. WE WERE ADAMANT WHEN WE WERE AT
10 THE JURY SCENE, DON'T CHANGE THE PARAMETERS OF THE VIEW.
11 MR. GOODWIN ASSERTS HIS RIGHT TO BE PRESENT. WE WERE
12 OVERRULED BY THE COURT. THE BRINGING -- MR. GOODWIN
13 WOUND UP SPENDING THE DAY IN THE PASADENA COURT. HE WAS
14 NOT BROUGHT TO THE SCENE. WE CAME BACK TO THIS COURT.
15 THE COURT FOUND ITS OWN ERROR TO BE HARMLESS.

16 MY POINT IN BRINGING ALL OF THOSE ISSUES
17 UP IS WHILE INDIVIDUALLY -- IN OUR OPINION ANY ONE OF
18 THEM COULD BE THE BASIS FOR THE GRANTING OF A NEW TRIAL.
19 COLLECTIVELY AND CUMULATIVELY THEY SERVE TO DENY
20 MR. GOODWIN HIS RIGHT TO A FAIR TRIAL.

21 ONE CAN'T LOOK BACK AT ALL OF THE RULINGS
22 IN THIS CASE COLLECTIVELY AND NOT SAY THAT MR. GOODWIN
23 WAS DENIED THE OPPORTUNITY TO SHOW THIS JUROR IN A PURELY
24 CIRCUMSTANTIAL EVIDENCE CASE ALL OF THE CIRCUMSTANCES
25 THAT WERE HAPPENING TO BE FREE OF CHARACTER ASSASSINATION
26 THAT OCCURRED IN THIS CASE BY THE ALLOWANCE OF THE
27 EVIDENCE OF HIS BAD CHARACTER, THE ALLOWANCE OF THE
28 EVIDENCE OF MICKEY THOMPSON'S GOOD CHARACTER, WITHOUT THE

1 ABILITY TO SOMEHOW BRING UP ANY OF HIS PAST OR ANYONE
2 ELSE WHO MAY HAVE BEEN INTENDING TO DO HIM HARM.

3 THE EFFECT OF THE CONSPIRACY INSTRUCTION
4 AND HOW IT WAS ARGUED CANNOT BE OVERSTATED. AND THE
5 GAPPING HOLE BETWEEN THE MOTIVE EVIDENCE AND THE ACTUAL
6 KILLERS BEING FILLED IN BY INNUENDO, IT LEAVES THIS
7 VERDICT IN A STATE WHERE NOT ONLY THE COURTS, BUT SOCIETY
8 CAN'T HAVE FAITH IN THIS VERDICT.

9 THIS VERDICT IS GOING TO REMAIN ONE THAT
10 IS BASED ON INNUENDO; PARTIAL EVIDENCE; CHARACTER
11 ASSASSINATION; AND NOT ON TRUTH BEYOND A REASONABLE
12 DOUBT. A JUROR -- SOME JURY -- A JURY -- A NEW JURY
13 NEEDS TO HEAR EVIDENCE IN THIS CASE.

14 IF THE COURT FOUND THAT WE WERE REMISS IN
15 OUR ARGUMENTS FOR JOEY HUNTER, FINE, BLAME IT ON US. BUT
16 ANOTHER JURY NEEDS THE OPPORTUNITY TO UNDERSTAND WHAT WAS
17 GOING ON AT THIS TIME. ANOTHER JURY NEEDS TO HEAR THIS
18 CASE WHEN OUR TRIAL STRATEGY DID NOT DEPEND ON AN
19 AGREEMENT THAT WE MADE IN THIS COURTROOM THAT WAS
20 SUBSEQUENTLY VIOLATED.

21 ANOTHER JURY NEEDS TO HEAR EVIDENCE WHERE
22 HEARSAY STATEMENTS WERE NOT MISUSED TO SHOW THE VICTIM'S
23 FEAR OF MR. GOODWIN. ANOTHER JURY NEEDS TO BE ABLE TO
24 HEAR EVIDENCE THAT MR. GOODWIN HAS TO BE CONVICTED OF
25 THIS CRIME AND NOT FOR SOME UNCHARGED CONSPIRACY FOR
26 WHICH THERE WAS NO EVIDENCE.

27 PENAL CODE 1181, THE CODE THAT ALLOWS THIS
28 COURT TO GRANT A NEW TRIAL BASED ON THE FACTORS THAT WE

1 LISTED WAS CREATED IN CASES WHERE THERE IS A LACK OF
2 FAITH FOR A REASON IN A VERDICT OF A JURY. THERE IS NO
3 CASE MORE APPROPRIATE FOR THE GRANTING A NEW TRIAL THAN
4 THIS CASE BASED ON THE CUMULATIVE EFFECT OF ALL OF THE
5 RULINGS THAT HAPPENED. AND WE WOULD ASK THE COURT TO,
6 UNDER PENAL CODE SECTION 1181, THROW OUT THE VERDICT AND
7 GRANT MR. GOODWIN A NEW TRIAL.

8 THE COURT: THANK YOU.

9 PEOPLE?

10 MR. JACKSON: YOUR HONOR, I DON'T EXPECT TO BE
11 ALL THAT LONG.

12 I DO FEEL IT'S INCUMBENT UPON ME TO BEGIN
13 BY ADDRESSING THE ISSUE OF THE MATTHEWS' DECLARATION
14 MS. SARIS ALLUDED TO RELATIVELY BRIEFLY. I THINK IT
15 DESERVES MORE THAN JUST A BRIEF GLOSS OVER.

16 AS A MATTER OF PROCEDURE, MS. SARIS
17 ATTACHED TO HER MOVING PAPERS A DECLARATION BY JUROR --
18 THE JUROR WHO WAS THE FOREPERSON OF THIS PARTICULAR JURY.
19 I THINK THIS IS BEST EXPRESSED IN THE WORDS OF JUSTICE
20 MOSK -- I CAN'T SAY IT AS WELL AS HE CAN -- IN BALLARD
21 VERSUS URIBE JUSTICE MOSK SAID "I MUST EXPRESS MY
22 APPREHENSION AT THE INCIPIENT TREND THAT OF LOSING
23 PARTIES ATTEMPTING TO IMPEACH VERDICTS."

24 AND HE GOES ON TO EXPLAIN THAT THE
25 SUBJECTIVE CONCERNS OR THE SUBJECTIVE IDEAS THAT WENT ON
26 INSIDE THE DELIBERATION ROOM IS PATENTLY OFF LIMITS.
27 IT'S OFF LIMITS TO US. IT'S OFF LIMITS TO THE DEFENSE.
28 QUITE FRANKLY, IT'S OFF LIMITS TO THE COURT ABSENT A

1 FINDING THAT THOSE PARTICULAR DELIBERATIVE PROCESSES,
2 THOSE MENTAL PROCESSES, SOMEHOW RISE TO THE LEVEL OF
3 MISCONDUCT.

4 STATEMENTS -- ANY STATEMENT OR EVENT THAT
5 HAPPENS OR TAKES PLACE WITHIN THE SANCTITY OF THAT ROOM
6 TO MY RIGHT, CANNOT BE THE SUBJECT OF ANY MOTION FOR NEW
7 TRIAL. NO EVIDENCE WHATSOEVER, EVEN IF THERE WERE SOME
8 SUBJECTIVE -- OR RATHER SOME OBJECTIVE EVIDENCE PRESENTED
9 TO THE COURT OF JUROR MISCONDUCT, THE EFFECT THAT THAT
10 MISCONDUCT HAS ON THE JURORS' DELIBERATIVE PROCESS IS
11 STILL NOT ADMISSIBLE.

12 THIS COMES TO US FROM EVIDENCE CODE
13 SECTION 1150. AND IT IS JEALOUSLY GUARDED AGAINST. IT'S
14 SIMPLY -- THAT'S A RULE THAT CAN'T BE BENT. AND I
15 BELIEVE IN MS. SARIS'S HER MOVING PAPERS AND IN HER
16 ATTEMPT TO IMPEACH THESE VERDICTS OR THIS VERDICT DID
17 EXACTLY THAT.

18 I'M NOT ACCUSING HER OF DELIBERATELY
19 UNDERMINING EVIDENCE CODE SECTION 1150. BUT I BELIEVE
20 SHE WAS UNAWARE OF IT. I'LL AT LEAST GIVE HER THAT MUCH,
21 THAT SHE DIDN'T REALIZE HOW FAR SHE COULD GO WITH IT --
22 THE DEFENSE DIDN'T REALIZE HOW FAR THEY COULD GO. WHAT
23 THEY DID WAS IMPROPER. I WOULD ASK THE COURT RIGHT OF
24 OFF THE BAT TO STRIKE THE ENTIRETY OF THE SUBJECTIVE
25 NATURE OF MR. MATTHEWS' DECLARATION.

26 GETTING TO THE SUM AND SUBSTANCE OF
27 MS. SARIS'S ARGUMENTS. THE COURT IN DIRECTING MS. SARIS
28 TO CERTAIN CONCERNS, I THINK HAS TAKEN THE WORDS TO A

1 LARGE EXTENT OUT MY MOUTH. I WILL ADDRESS CERTAIN OF THE
2 ISSUES AND LEAVE OTHERS TO MY MOVING PAPERS.

3 FIRST AND FOREMOST, I THINK THE
4 THIRD-PARTY CULPABILITY ARGUMENTS THAT MS. SARIS MAKES
5 ARE INTERESTING ON A COUPLE OF LEVELS. NO. 1, I THINK
6 THE COURT ALLUDED TO THIS WHEN THE COURT ASKED MS. SARIS,
7 WELL, EXPLAIN WHY WHEN YOU BROUGHT UP MR. HUNTER THE
8 FIRST TIME AND ASKED FOR THE ADMISSION OF THAT EVIDENCE,
9 WHY DIDN'T YOU MENTION A ROBBERY?

10 AND THE DEFENSE'S EXPLANATION IS, WELL,
11 THAT WAS JUST A DIFFERENT THEORY. THAT WAS A DIFFERENT
12 STORY THAT WE WERE TELLING. AND I FIND IT CURIOUS THAT
13 THE DEFENSE WOULD SIMPLY CHANGE GEARS. APPARENTLY NOT
14 INTERESTED IN WHAT THE TRUTH IS, BUT MORE INTERESTED IN
15 WHAT THE DRAMA IS THAT THEY CAN ATTACH TO A PARTICULAR
16 STORY.

17 IF MR. HUNTER WAS SUPPOSED TO BE A
18 NE'ER-DO-WELL WHO WAS SOMEHOW CONNECTED WITH MR. KENNEDY;
19 WHO WAS CONNECTED IN SOME WAY, SHAPE, FORM OR FASHION TO
20 MR. COWELL; WHO HAD THROUGH ANOTHER CONNECTION HIRED KIT
21 PAEPULE; AND KIT PAEPULE'S BUDDY JOHN YOUNG ALL CONSPIRED
22 TOGETHER TO CREATE THE EFFECT OF MARCH 16 OF 1988 AND
23 THAT WOULD BE THE EXECUTION-STYLE MURDERS OF MICKEY AND
24 TRUDY THOMPSON, THEN THAT'S THE STORY.

25 TO NOW COME BACK AND SAY, WELL, WAIT A
26 MINUTE, I WANT TO CHANGE THAT STORY OR MODIFY THAT STORY.
27 MAYBE IT IS THAT JOEY HUNTER WASN'T PART OF KIT PAEPULE
28 AND JOHN YOUNG AND DEAN KENNEDY AND LARRY COWELL'S

1 ORGANIZATION. MAYBE HE WAS LOOKING FOR A BUNCH OF GOLD.
2 AND MAYBE HE WAS NOW A DRUG DEALER AND GOING UP ON THE
3 HILL TO SEE IF HE COULD SCORE A DRUG DEAL.

4 IT SMACKS OF UNTRUTHFULNESS. AND I DON'T
5 MEAN MS. SARIS IS BEING UNTRUTHFUL. I MEAN THE STORIES
6 ARE SIMPLY UNTRUTHFUL. THERE IS NO SYSTEMATIC APPROACH
7 TO GET TO THE TRUTH OF THE MATTER. AND THAT'S WHAT IS
8 SUPPOSED TO HAPPEN UNDER THAT SEAL AND IN THIS COURTROOM.
9 THIS IS A TRUTH SEEKING ENDEAVOR AT ALL COSTS.

10 TO SAY THAT THE DEFENSE WAS NOT ALLOWED TO
11 PROMOTE THE CULPABILITY OF JOEY HUNTER BECAUSE THERE WAS
12 NO CONNECTION BETWEEN JOEY HUNTER AND MICKEY THOMPSON,
13 BUT WE WERE ALLOWED TO PROMOTE THE CULPABILITY OF MICHAEL
14 GOODWIN ALTHOUGH THERE WAS NO CONNECTION BETWEEN MICKEY
15 THOMPSON AND MICHAEL GOODWIN. THAT'S JUST RIDICULOUS.
16 THE DEFENSE WAS IN THE SAME COURTROOM WE'VE BEEN IN.
17 MICKEY THOMPSON AND MICHAEL GOODWIN WERE BUSINESS
18 PARTNERS. THEY WERE IN LITIGATION TOGETHER. THEY HAD
19 LAWSUITS AGAINST EACH OTHER. THREATS. I'LL KILL MICKEY
20 THOMPSON. PRETTY GOOD CONNECTION.

21 THE METHOD OF DEATH -- AND, BY THE WAY, I
22 SHOULD ADDRESS THIS. MS. SARIS HAS SAID IN BOTH HER
23 MOVING PAPERS AND ORAL ARGUMENTS TODAY -- AND I EXPECT
24 THAT SHE MAY SAY IT AGAIN IN OTHER VENUES -- THAT THERE
25 WAS ABSOLUTELY NOTHING TO SUPPORT THE THEORY THAT MICKEY
26 THOMPSON WAS FORCED TO WATCH TRUDY THOMPSON DIE. AND
27 PART OF THAT SHE KIND OF SUBPLANTS THAT ARGUMENT BY
28 SAYING THAT THE JUROR'S DECLARATION SUPPORTS THAT.

1 OBVIOUSLY, THAT'S PURELY SUBJECTIVE.
2 THAT'S EXACTLY WHAT THE COURT'S AND JUSTICE MOSK HAS SAID
3 WE CAN'T DO. THAT ASIDE. I DON'T THINK THE DEFENSE WAS
4 MISSING WHEN ALLISON TRIARSI TESTIFIED. TO SAY THAT
5 NOBODY WITNESSED THIS CRIME FROM BEGINNING TO END DOES
6 VIOLENCE TO THE FACTS IN THIS CASE.

7 DID SHE WITNESS THE FIRST SHOT BEING
8 FIRED? NO, SHE DIDN'T. BUT SHE WITNESSED MICKEY
9 THOMPSON AND TRUDY THOMPSON BOTH ALIVE STANDING OR
10 CRAWLING IN THE DRIVEWAY VARIOUSLY. SHE TESTIFIED BEFORE
11 THIS PANEL OF 12, BEFORE THIS PANEL OF 16, THAT SHE
12 WATCHED AS TRUDY THOMPSON HAD A BULLET PUT IN THE BACK OF
13 HER HEAD; SHE WATCHED AS MICKEY THOMPSON WAS TRYING TO
14 GET TO TRUDY.

15 THEN THE SAME GUNMAN, ACCORDING TO THE
16 BALLISTICS, WALKS UP THE DRIVEWAY AND KILLS MICKEY. SO
17 TO SAY THAT THERE IS NO EVIDENCE AND IT'S MERELY A THEORY
18 THAT MICKEY WAS FORCED TO WATCH TRUDY DIE IS ABSOLUTELY
19 FACTUALLY INACCURATE.

20 THIS COURT -- AS THE COURT INTIMATED IN
21 HER DISCUSSIONS WITH MS. SARIS, HAS ALREADY LITIGATED
22 AD NAUSEAM HER THIRD-PARTY CULPABILITY ISSUE. I DON'T
23 BELIEVE THAT MS. SARIS HAS BROUGHT UP ANY NEW OR
24 HERETOFORE UNARGUED POINTS CONCERNING THE THIRD-PARTY
25 CULPABILITY. I WOULD SIMPLY FINISH THIS PORTION OF THE
26 ARGUMENT BY DIRECTING THE COURT TO THE COURT'S OWN WORDS.
27 AND YOU MAY NOT HAVE YOUR OWN TRANSCRIPT SITTING IN FRONT
28 OF YOU. AND MS. SARIS TALKED ABOUT THE VERBIAGE OF -- I

1 DON'T WANT TO TAKE UP TOO MUCH OF THE JURORS' TIME.

2 OBVIOUSLY, THAT WAS NOT YOUR RULING. YOUR
3 WORDS WERE I AM NOT FINDING A CONNECTION. IF THE COURT
4 TURNS TO PAGE 1, AS A MATTER OF FACT, OF THE ATTACHMENT
5 EXHIBIT A IN OUR MOVING PAPERS. THE COURT'S WORDS,
6 QUOTE, WHATEVER RELEVANCE THE INFORMATION REGARDING JOEY
7 HUNTER MIGHT HAVE, AT THIS TIME I CAN'T SAY THAT
8 RELEVANCE OUTWEIGHS THE UNDUE CONSUMPTION OF TIME.
9 THAT'S WHERE MS. SARIS STOPPED.

10 THE COURT WENT ON TO SAY ON LINE 26, I'M
11 NOT FINDING THAT CONNECTION WHICH I WOULD LIKE TO SEE.
12 CLEARLY THE COURT UNDERTOOK THE 352 ANALYSIS PROPERLY.
13 CLEARLY THE COURT IS NOW, AGAIN, UNDERTAKING THE 352
14 ANALYSIS PROPERLY. THERE IS SIMPLY NO CONNECTION BETWEEN
15 JOEY HUNTER AND ANY OF THE OTHER FOLKS THAT SHE ARGUED IN
16 HER THIRD-PARTY CULPABILITY ARGUMENT. AND TO NOW SWITCH
17 THAT ARGUMENT AND TO SAY, WELL, YOU SHOULD HAVE KIND OF
18 ASSUMED THAT IT WAS BOTH A POSSIBLE HIT INVOLVING THESE
19 OTHER FOLKS OR A ROBBERY, THAT'S AN ASSUMPTION THAT THE
20 COURT COULD NOT AND SHOULD NOT HAVE MADE.

21 CONCERNING THIS CONSPIRACY ARGUMENT. THAT
22 DOESN'T TAKE A WHOLE LOT OF DISCUSSION. THERE WAS AMPLE
23 EVIDENCE TO SUGGEST A CONSPIRACY IN THIS CASE. THERE WAS
24 AMPLE EVIDENCE TO SUGGEST THE CALJIC CONCERNING THAT LAW
25 WERE PROPERLY GIVEN TO THE JURY. AND IT SOUNDS LIKE THE
26 DEFENSE SIMPLY DOESN'T LIKE THE LAW IN THIS AREA. AND
27 THAT'S FINE IF YOU WANT TO WRITE YOUR CONGRESSMAN. BUT
28 THAT DOESN'T MEAN THAT THE INSTRUCTIONS SHOULDN'T BE

1 GIVEN.

2 WITH REGARD TO THE JURY VIEW MS. SARIS
3 STATES IN HER ORAL ARGUMENT, THE DEFENDANT ASSERTED HIS
4 RIGHT TO BE PRESENT AND THAT RIGHT WAS NOT UPHELD. THAT
5 ARGUMENT CAN BE DISPOSED OF WITH A QUICK SENTENCE. THE
6 DEFENDANT HAS NO RIGHT TO BE AT A JURY VIEW.

7 THE COURT MAY NOT HAVE HAD -- AND WE,
8 QUITE FRANKLY, IT'S INCUMBENT UPON ME. AND I TAKE THE
9 RESPONSIBILITY. I DIDN'T HAVE THE LAW AT MY FINGERTIPS
10 THAT AFTERNOON WHEN WE GOT BACK. NOW THAT I'VE
11 RESEARCHED IT, IT'S VERY, VERY CLEAR THAT NO SUCH RIGHT
12 EXISTS. THE COURT DID NOT EVEN NEED TO TAKE A WAIVER IN
13 ORDER FOR THE JURY VIEW TO HAVE BEEN PROPER. IF THE
14 DEFENDANT OBJECTED TO IT, THE COURT COULD HAVE DONE IT
15 AND SHOULD HAVE DONE IT OVER THE DEFENDANT'S OBJECTION.

16 WITH REGARD TO THE WILKINSON TESTIMONY, I
17 WOULD DIRECT THE COURT BACK TO WHAT THE COURT'S OWN WORDS
18 WERE WITH REGARD TO MS. SARIS'S REQUEST FOR A LIMITING
19 INSTRUCTION FOR THAT STATEMENT.

20 THE COURT, QUOTE, ALL RIGHT. I'M NOT
21 GOING TO SAY ANYTHING THEN. AND I STAND READY, WILLING
22 AND ABLE TO DO SO WHEREVER REQUESTED. THAT QUOTE WAS IN
23 DIRECTION RESPONSE TO MS. SARIS SAYING I DON'T WANT THE
24 LIMITING INSTRUCTION.

25 MS. SARIS WENT ON TO SAY, QUOTE -- OR HAD
26 PREVIOUSLY SAID, QUOTE, OUR REQUEST IS THAT THE
27 ADMONITION BE OFFERED. THAT IT'S OFFERED NOT FOR THE
28 TRUTH OF THE STATEMENT, BUT FOR THE STATE OF MIND OF THE

1 DECLARANT. AND IF THAT'S NOT THE ADMONITION, THEN WE'RE
2 NOT REQUESTING ONE.

3 FOR THE DEFENSE TO COME BACK AND ARGUE
4 ABOUT IT NOW IS IMPROPERLY. THEY ASKED FOR SOMETHING.
5 THEY GOT EXACTLY WHAT THEY ASKED FOR. THE COURT WAS
6 WILLING TO ADMONISH THE JURORS TO LIMIT THE INSTRUCTION.

7 AND, AGAIN, TO RELY ON ANY DECLARATION --
8 ANY IMPROPER DECLARATION WOULD NOT BE APPROPRIATE IN
9 THESE CIRCUMSTANCES.

10 FINALLY, THE LAST THING I WANT TO SPEAK
11 ABOUT IS WHAT YOU AND MS. SARIS DISCUSSED DURING ORAL
12 ARGUMENT JUST A SECOND AGO AND THAT'S REGARDING THE ITEM
13 OF VALUE OR THE GOLD COINS THAT SHE SAID SHE DID NOT HAVE
14 A RIGHT TO PRESENT. THE COURT IS EXACTLY RIGHT. AND I
15 THINK YOU SAID IT BEST COLLOQUIALLY WHEN YOU SAID,
16 MS. SARIS, YOU GOT THE MILEAGE OUT OF THAT ARGUMENT THAT
17 YOU WANTED.

18 I REMEMBER STANDING HERE AND ARGUING THAT
19 MICKEY -- ANYTHING THAT CAME OUT OF MICKEY THOMPSON'S
20 MOUTH WAS HEARSAY, IF IT WAS OFFERED FOR THE TRUTH OF THE
21 MATTER ASSERTED. THE DEFENSE TOOK A POSITION. ALL
22 RIGHT. FINE. THEN WE'RE NOT OFFERING FOR THE TRUTH OF
23 THE MATTER ASSERTED, BUT TO SHOW THE INCOMPETENCE, IF YOU
24 WILL, OF THE SHERIFF'S DEPARTMENT.

25 AND I ALSO SAT RIGHT THERE AND WATCHED AS
26 MS. SARIS IN HER CLOSING ARGUMENT WITH A POWER POINT
27 PRESENTATION TOLD THE JURORS, LADIES AND GENTLEMEN,
28 MICKEY THOMPSON HAD AN ITEM OF VALUE. I DIDN'T OBJECT AT

1 THE TIME. AND I'M NOT NECESSARILY OBJECTING NOW. BUT
2 THE FACT OF THE MATTER IS MS. SARIS WENT A STEP BEYOND
3 WHAT THE ACTUAL COURT HOLDING WAS OR COURT RULING WAS ON
4 THAT ISSUE AND SHE ARGUED IT FOR THE TRUTH OF THE MATTER
5 ASSERTED.

6 SHE CERTAINLY GOT THE MILEAGE OUT OF IT
7 THAT IF ALL SHE WAS TRYING TO DO IS ESTABLISH THAT THE
8 INVESTIGATORS DIDN'T FOLLOW-UP ON THE ROBBERY. THERE IS
9 NOTHING TO SAY THAT ANYTHING MORE NEEDED TO BE ADDED TO
10 THAT STATEMENT; THAT THERE WERE ANY INAPPROPRIATE
11 REDACTIONS. IF THE POINT IS SOMETHING OF VALUE WAS TAKEN
12 AND THE POLICE DIDN'T DO ANYTHING ABOUT IT, SHE WAS ABLE
13 TO THAT, THE COURT DIDN'T PRECLUDE THAT. I'M NOT QUITE
14 SURE QUITE FRANKLY BASED ON HER MOVING PAPERS WHAT
15 MS. SARIS'S ARGUMENT IS CONCERNING THE GOLD COINS.

16 THE LAST POINT I WOULD LIKE TO MAKE IS
17 CONCERNING THE GRIFFIN ERROR.

18 I'VE ATTACHED THE ACTUAL TRANSCRIPT OF THE
19 PROPOSED GRIFFIN ERROR THAT MS. SARIS CITES. AND SHE DID
20 NOT ATTACH ANY DECLARATION. AND I DON'T KNOW -- I'M
21 SORRY -- ANY TRANSCRIPT. AND I DON'T KNOW THAT SHE
22 CONSULTED ONE PREVIOUSLY. I TOOK SIGNIFICANT ISSUE WITH
23 THE ARGUMENT THAT MS. SARIS PROFFERED TO THE COURT
24 INDICATING THAT I STOOD HERE AND TOLD THE JURORS THAT IF
25 I WERE ACCUSED OF A CRIME, I WOULD TELL THEM TEN YEARS
26 DOWN THE ROAD WHERE I WAS AND WHAT I WAS DOING. AND THAT
27 IS PATENTLY NOT WHAT I SAID.

28 EVERYTHING THAT I ARGUED HAS BEEN IN THE

1 CONFINES OF ADMISSIBLE PROPER CLOSING ARGUMENT. I DIDN'T
2 EVEN APPROACH GRIFFIN ERROR. AND THE CASES THAT I CITED
3 AND I THINK MORE IMPORTANTLY THE TRANSCRIPT THAT I'VE
4 ASKED THE COURT TO TAKE A LOOK AT UNDER EXHIBIT A
5 ESTABLISHES THAT CLEARLY.

6 BASED ON THE ARGUMENTS THAT MS. SARIS HAS
7 PRESENTED AT THIS POINT, I BELIEVE THE COURT IS CORRECT
8 ABOUT THE THIRD-PARTY CULPABILITY ISSUE; AS FAR AS THE
9 GOLD COINS ISSUE AS WELL; AND JURY VIEW SIMPLY DOESN'T
10 STAND UP TO LEGAL SCRUTINY.

11 THERE IS NOTHING IN ANY OF THESE MOVING
12 PAPERS TO SUBSTANTIATE OR JUSTIFY THE COURT OVERTURNING A
13 JURORS' LEGAL -- OR A JURY'S LEGAL VERDICT. THE VERDICT
14 SHOULD STAND AS IT IS. AND I'LL SUBMIT.

15 THE COURT: LET ME JUST ASK YOU A COUPLE OF
16 QUESTIONS REAL QUICK.

17 MR. JACKSON: SURE.

18 THE COURT: YOU INDICATED THAT THE DEFENDANT DOES
19 NOT HAVE THE RIGHT TO BE PRESENT DURING THE JURY VIEW.

20 MR. JACKSON: THAT'S CORRECT.

21 THE COURT: I TOOK THE POSITION THAT HE DID.

22 MR. JACKSON: THAT'S FINE.

23 MS. SARIS: AND THAT'S WHAT CASE LAW STATES
24 UNLESS THERE IS ANOTHER --

25 THE COURT: AND THAT'S WHAT I THOUGHT.

26 MS. SARIS: I HAVE A CITE. IF THERE IS A CITE,
27 WE WOULD LIKE IT. WE HAVE A CITE SAYING IT IS.

28 THE COURT: I'M OPERATING UNDER THE ASSUMPTION

THAT HE HAD A RIGHT TO BE PRESENT AND THAT HE WAIVED THAT
RIGHT. HOWEVER, THE COURT DID DEVIATE FROM THE JURY
VIEW. SO I THINK WE ARE ALL IN AGREEMENT AS TO WHAT
HAPPENED. THE ONE DISAGREEMENT THOUGH IS THE LEGAL
AUTHORITY. SO I DON'T HAVE AUTHORITY THAT SAYS HE HAVE
DOESN'T HAVE A RIGHT.

IF I DID, I PROBABLY WOULD HAVE CITED IT AT THE TIME, BUT I DIDN'T. SO I'M ASSUMING HE HAD A RIGHT. AND I'M JUST BASICALLY GOING TO STAND BY MY EARLIER RULING THAT HE WAIVED HIS RIGHT TO A JURY VIEW. DID NOT WAIVE HIS RIGHT TO THE EXTENSION OF THAT VIEW TO DRIVE BY THE STEVENSES' HOME. BUT THAT THAT IN AND OF ITSELF WAS APPROPRIATE FOR THE COURT TO DO AT THE TIME. AND IN ANY EVENT, ASSUMING THAT I VIOLATED HIS RIGHT TO BE PRESENT FOR THAT PORTION OF THE VIEW, THERE WAS REALLY NO PREJUDICE THERE.

MR. JACKSON: YOUR HONOR, I WOULD FOLLOW UP ON THAT SINCE THE COURT HAS POSED THE QUESTION. WHERE I GET THAT IS FROM A COMBINATION OF READING TWO CASES GARRISON AND COOPER. PEOPLE VERSUS -- LANE GARRISON AND COOPER, BUT BASICALLY IN THE GARRISON CASE IT'S A 1989 CASE FOUND AT 47 CAL. 3RD, THE PINPOINT CITE IS PAGE 783, QUOTE, THE DEFENDANT'S ABSENCE EVEN WITHOUT A WAIVER MAY BE DECLARED NONPREJUDICIAL IN SITUATIONS WHERE HIS PRESENCE DOES NOT BEAR A, QUOTE, REASONABLY SUBSTANTIAL RELATION TO THE FULLNESS OF HIS OPPORTUNITY TO DEFEND AGAINST THE CHARGE, END QUOTE.

THE GARRISON COURT WAS QUOTING THE BOYD

1 COURT. THE CALIFORNIA SUPREME COURT THEN WENT ON TO
2 EXPLAIN WHAT IS A REASONABLY SUBSTANTIAL RELATION TO THE
3 FULLNESS OF HIS OPPORTUNITY TO DEFEND? A JURY VIEW IS
4 NOT A SITUATION WHERE THE PRESENCE BEARS A REASONABLY
5 SUBSTANTIAL RELATION TO THE FULLNESS OF THE DEFENDANT'S
6 OPPORTUNITY TO DEFEND AGAINST THE CHARGE.

7 SO READING THOSE TWO CASES TOGETHER, IF
8 THE COURT SAYS, THIS AIN'T REASONABLY RELATED TO THE
9 FULLNESS OF YOUR OPPORTUNITY AND A JURY VIEW IS NOT
10 REASONABLY RELATED, THEN TAKING THOSE TWO TOGETHER THAT'S
11 WHERE I GLEAN MY VIEW OF THE CALIFORNIA CASE LAW THAT HE
12 SIMPLY DOESN'T HAVE A RIGHT.

13 AND EVEN HAD HE OBJECTED, WHICH IN THIS
14 CASE HE DIDN'T, BUT EVEN HAD HE, I BELIEVE THE COURT
15 WOULD HAVE BEEN WELL WITHIN ITS RIGHTS TO DENY THE
16 OBJECTION OR OVERRULE THE OBJECTION AND ALLOW THE JURY
17 VIEW.

18 AND I SHOULD STATE ALSO THAT FOR THE
19 RECORD AND SO EVERYBODY IS CLEAR, AS THE COURT KNOWS THE
20 COURT WAS OUT THERE, THE JURORS WERE ALLOWED TO SIMPLY
21 DRIVE BY AND LOOK OUT A VAN WINDOW AT A LOCATION WHICH WE
22 HAD SUBSTANTIALLY DOCUMENTED IN PHOTOGRAPHIC EVIDENCE.
23 THEY DIDN'T GET MUCH MORE THAN AN UP-CLOSE VIEW OF THE
24 SAME THINGS THAT THEY HAD IN PHOTOGRAPHS.

25 I DON'T BELIEVE EVEN IF THE COURT TAKES
26 THE POSITION THAT HE HAD A RIGHT, YET HE WAIVED IT,
27 CERTAINLY THEY COULDN'T SHOW ANY PREJUDICE BY THAT
28 PARTICULAR PART OF THE JURY VIEW. AND I'LL SUBMIT.

1 THE COURT: ONE MORE THING, THOUGH. THE REQUEST
2 TO STRIKE THE JUROR DECLARATION.

3 MR. JACKSON: YES, MA'AM.

4 THE COURT: JUST SO THE RECORD IS CLEAR I'M GOING
5 TO DENY THAT REQUEST. I UNDERSTAND THE ARGUMENT. I TEND
6 TO AGREE THAT THE DECLARATION PROBABLY A PORTION OF IT
7 GOT INTO WHAT IS PROHIBITED BY 1150 OF THE EVIDENCE CODE.
8 BUT JUST SO THE RECORD IS CLEAR, I'M CONSIDERING THAT
9 DECLARATION AND ACCEPTING IT AT FACE VALUE. AND I JUST
10 WANT TO MAKE THAT CLEAR.

11 MS. SARIS: I JUST HAVE A FEW BRIEF POINTS. THE
12 CITE IS PEOPLE VERSUS GARCIA 36 CAL. 4TH, 777. THE
13 DEFENDANT AND HIS OR HER COUNSEL HAS A RIGHT TO BE
14 PRESENT DURING A JURY VIEW. THE CASES THAT COUNSEL CITED
15 HAVE TO DO WITH PREJUDICE OF WHETHER HE'S NOT THERE. BUT
16 HE ABSOLUTELY HAS THE RIGHT UNDER CALIFORNIA LAW TO BE
17 PRESENT.

18 HE COULD NOT ASSERT HIS RIGHT THAT DAY AT
19 THE SCENE, OBVIOUSLY, BECAUSE HE WAS BACK IN A HOLDING
20 CELL IN PASADENA HAVING WAIVED THE RIGHT UNDER -- AND I
21 DON'T MEAN THIS IN A BAD BY WAY -- BUT UNDER FALSE
22 PRETENSES WHEN WE WERE TOLD THAT THE JURY VIEW WAS ONLY
23 GOING TO INCLUDE THE THOMPSON HOME.

24 I FIND IT INTERESTING TO NOTE THAT COUNSEL
25 SAID THERE WAS NO PREJUDICE BECAUSE, QUOTE, WE HAD
26 SUBSTANTIALLY DOCUMENTED THROUGH PICTURES THE STEVENSES'
27 HOME. THAT WAS EXACTLY OUR POINT. THE DEFENSE DID NOT
28 SUBSTANTIALLY DOCUMENT IT THROUGH THE PICTURES THAT WE

1 HAD AND THE RELEVANT INVESTIGATORS WHO HAD TAKEN
2 MEASUREMENTS OF THE STEVENSES' HOME BECAUSE WE WERE TOLD
3 WE WEREN'T GOING. AND THEN WE HAD RESTED. SO WE WERE
4 PRECLUDED THAT OPPORTUNITY THAT WAS MADE AVAILABLE TO THE
5 PEOPLE.

6 I WAS NOT UNAWARE OF THE EVIDENCE CODE. I
7 ASSUME THAT THE COURT IS AWARE OF THE EVIDENCE CODE IN
8 TERMS OF THE JUROR'S DECLARATION. RATHER THAN WRITING IT
9 FOR HIM, I ASKED HIM TO SUBMIT IT IN ITS ENTIRETY AND
10 FIGURED THE COURT COULD STRIKE THE PORTIONS THAT WERE
11 OFFENSIVE UNDER THE EVIDENCE CODE.

12 AS TO THE THEORY OF ALLISON TRIARSI
13 POSSIBLY BEING A WITNESS TO WHAT THE THEORY OF MICKEY
14 BEING FORCED TO WATCH. EVEN IF WE FIND THAT -- OR THE
15 EVIDENCE SUGGESTS THAT ONE WAS KILLED FIRST, IT IS STILL
16 A THEORY INTO THE MIND SET OF AN INDIVIDUAL. AND THAT'S
17 A THEORY. AND THAT'S ALL IT WAS.

18 AND THE THEORY THAT JOEY HUNTER WAS
19 INVOLVED WAS A THEORY. AND WE WERE IN A POSITION IN THIS
20 COURT WHERE ONLY ONE THEORY WAS ABLE TO BE PROMULGATED.
21 THAT'S OUR POSITION.

22 AND WE'VE ALREADY DISCUSSED THE JURY
23 INSTRUCTION. THE COURT DIDN'T GIVE ME THE CHOICE OF THE
24 CALJIC OR NOTHING. THE COURT GAVE ME THE CHOICE OF A
25 PINPOINT INSTRUCTION THAT YOU WROTE OR NOTHING. SO WE
26 WOULD HAVE GLADLY ACCEPTED THE CALJIC INSTRUCTION.

27 THE AMPLE EVIDENCE TO SUGGEST THAT THE
28 CONSPIRACY THEORY WAS PRESENT, THE ONLY EVIDENCE TO

1 SUGGEST A CONSPIRACY IS THAT THEY BELIEVE MICHAEL WANTED
2 HIM DEAD AND MICHAEL DIDN'T KILL HIM. THAT'S NOT
3 EVIDENCE OF A CONSPIRACY. THAT'S A MISSING LINK THAT HAS
4 PROBLEMS WITH PROOF.

5 AND UNFORTUNATELY, THE WAY THAT THIS WAS
6 INSTRUCTED IN OUR VIEW, THIS JURY WAS LEFT WITH A VERDICT
7 THAT WAS, IN FACT, NOT ONLY WRONG, BUT OF A VERDICT THAT
8 CANNOT WITHSTAND LEGAL SCRUTINY. AND UNDER PENAL CODE
9 SECTION 1181, THE COURT SHOULD ALLOW US AN OPPORTUNITY TO
10 PRESENT THIS TO A NEW JURY.

11 THE COURT: ALL RIGHT. IS THE MATTER SUBMITTED?

12 MS. SARIS: SUBMITTED.

13 MR. JACKSON: YES, YOUR HONOR.

14 THE COURT: WELL, THE COURT IS GOING TO STAND BY,
15 OBVIOUSLY, IT'S PREVIOUS RULINGS IN THIS MATTER. AND I
16 THINK THE RECORD SPEAKS FOR ITSELF. I THINK THAT THIS
17 WAS A PRETTY HARD-FOUGHT CASE BY BOTH SIDES. AND I AGREE
18 WITH MS. SARIS TO THE EXTENT THAT THIS WAS A
19 CIRCUMSTANTIAL EVIDENCE CASE WITH NOTHING -- NO DIRECT
20 EVIDENCE TO CONNECT MR. GOODWIN, BUT THE CIRCUMSTANTIAL
21 EVIDENCE WAS OVERWHELMING.

22 THE COURT HAS TO CONSIDER THE TOTALITY OF
23 THE EVIDENCE THAT WAS PRESENTED BEFORE THIS JURY AND
24 INDEPENDENTLY WEIGH THE EVIDENCE ON THE ISSUE OF WHETHER
25 OR NOT THERE IS SUFFICIENT EVIDENCE TO SUPPORT THE
26 VERDICT. I AM GUIDED BY THE PRESUMPTION IN FAVOR OF THE
27 CORRECTNESS OF THE VERDICT, NOTWITHSTANDING THE
28 DECLARATION OF THE JURY FOREPERSON.

1 BUT I HAVE TO SAY THAT THE WEIGHT OF THIS
2 EVIDENCE WAS OVERWHELMING; THAT THE STATEMENTS OF
3 MR. GOODWIN DIRECTLY INCRIMINATED HIM IN THE COMMISSION
4 OF THESE MURDERS. HE MADE NUMEROUS STATEMENTS TO
5 NUMEROUS WITNESSES OVER A LENGTHY PERIOD OF TIME. THE
6 VITRIOLIC NATURE OF THE LITIGATION THAT HAD PRECEDED THE
7 KILLINGS WAS UNPARALLELED. I THINK ONE OF THE LAWYERS
8 WHO TESTIFIED SAID IN 25, 30 YEARS OF LITIGATION THIS WAS
9 THE MOST HEATED.

10 I'M NOT SAYING THIS WAS A PERFECT TRIAL.
11 I'M SURE THAT A COURT OF APPEAL IS GOING TO LOOK AT THIS
12 AND PERHAPS FIND THAT THERE WERE SOME ERRORS. BUT I
13 CAN'T SAY -- EVEN ASSUMING THAT MR. GOODWIN WAS DEPRIVED
14 OF A FAIR TRIAL, I CAN'T SAY THAT THIS VERDICT OF THE
15 JURY IS IMPROPER. I CAN'T SAY THAT IT'S NOT WORTHY OF
16 RESPECT.

17 I THINK IT'S THE APPROPRIATE VERDICT BASED
18 ON THE EVIDENCE. AND FOR ALL OF THE REASONS THAT WERE
19 CITED IN SUPPORT OF THE MOTION FOR NEW TRIAL, THE COURT
20 WILL DENY THE MOTION AND STAND BY THE RECORD THAT WAS
21 MADE DURING THE COURSE OF THE TRIAL AS WELL AS THIS
22 MORNING.

23 WE ARE ALREADY INTO THE NOON HOUR. AND I
24 DON'T KNOW HOW MUCH MORE OR HOW MUCH LONGER WE'RE GOING
25 TO BE PROCEEDING. BUT --

26 MS. SARIS: YOUR HONOR, I DIDN'T FILE ANY
27 SENTENCING MEMORANDUM. OBVIOUSLY, OUR POSITION IS CLEAR
28 WITH THE COURT'S DENIAL, WE'RE ASKING FOR CONCURRENT

1 TERMS. AND THAT'S REALLY OUR ONLY POSITION. I THINK
2 THERE IS NO DISAGREEMENT AMONG THE CASE LAW. IT'S
3 COMPLETELY UP TO THE DISCRETION OF THE COURT. AND WE
4 WOULD SUBMIT ON THAT. MR. GOODWIN WILL ONLY SPEAK IF
5 OTHERS SPEAK.

6 MR. DIXON: YOUR HONOR, THERE WAS JUST ONE PERSON
7 HERE, COLLENE CAMPBELL, TO MAKE A VICTIM IMPACT
8 STATEMENT. I UNDERSTAND IT'S AROUND 15 MINUTES OR SO IN
9 LENGTH. I'LL JUST INFORM THE COURT OF THAT.

10 THE COURT: WELL, WE'VE BEEN GOING SINCE 10:30.

11 (DISCUSSION OFF THE RECORD.)

12 THE COURT: I'M HAPPY TO HEAR FROM MRS. CAMPBELL
13 IF SHE WISHES TO STEP FORWARD.

14 MR. DIXON: YES. THANK YOU, YOUR HONOR. YOUR
15 HONOR, IS IT ALL RIGHT IF MRS. CAMPBELL SPEAKS FROM THE
16 PODIUM?

17 THE COURT: SURE. GOOD MORNING, MRS. CAMPBELL.
18 JUST STATE YOUR NAME AGAIN FOR THE RECORD, PLEASE.

19 THE WITNESS: MY NAME IS COLLENE CAMPBELL.
20 C-O-L-L-E-N-E. CAMPBELL, C-A-M-P-B-E-L-L.

21 THE COURT: THANK YOU.

22 THE WITNESS: I REALLY DON'T WANT TO BE HEARD.

23 THE COURT: OKAY. BUT I'M HAPPY TO HEAR FROM
24 YOU.

25 THE WITNESS: I KNOW EVERYBODY WOULD LIKE ME TO
26 JUST GO AWAY.

27 THE COURT: WHATEVER YOU WANT TO SAY, THIS IS THE
28 TIME. THANK YOU.

1 THE WITNESS: THANK YOU.

2 MICKEY THOMPSON IS MY BIG BROTHER. AND
3 TRUDY MY SISTER BY MARRIAGE. SHE WAS MY BEST FRIEND BY
4 CHOICE. AND I GUESS IT'S PRETTY OBVIOUS THAT TODAY JUST
5 TRYING TO GIVE YOU A LITTLE TINY GLIMPSE OF THE IMPACT OF
6 MICKEY AND TRUDY'S TRAGIC MURDERS IS ONE OF THE TOUGHEST
7 THINGS I'VE EVER TRIED TO DO.

8 PLEASE BEAR WITH ME. THE DAMAGE CAUSED BY
9 THIS KILLER IS LONG, COMPLICATED, VERY PAINFUL AND
10 DIFFICULT FOR ME TO PORTRAY. BUT I'M GOING TO DO MY
11 BEST. A LOT OF PEOPLE ARE COUNTING ON ME.

12 ON BEHALF OF MICKEY AND TRUDY'S FAMILY,
13 AND THEIR MANY FRIENDS, SOME OF THEM ARE HERE TODAY, AND
14 AFTER WAITING 19 YEARS FOR JUSTICE WE THANK THE COURT FOR
15 THE OPPORTUNITY TO BE HEARD FOR THE VERY FIRST TIME
16 REGARDING THE MASSIVE IMPACT SUFFERED BY THE LOSS OF
17 MICKEY AND TRUDY.

18 WE ALSO THANK THE COURT FOR PRESIDING OVER
19 THE TRIAL, ENSURING PROPER PROCEDURE FOR THE LAW AND FOR
20 JUSTICE. I KNOW IT WAS DIFFICULT.

21 BUT SINCE THE BEGINNING OF TIME GOOD
22 PEOPLE HAVE BEEN FORCED TO FIGHT EVIL IN ORDER TO PROTECT
23 THEIR FAMILIES. HOWEVER, PURSUING JUSTICE, WHILE ALSO
24 ENDURING THE GRIEF OF MURDER, IS FAR MORE DIFFICULT AND
25 DEVASTATING THAN MOST PEOPLE COULD POSSIBLY IMAGINE.

26 THERE IS NO DOUBT THAT OUR FAMILY HAS BEEN
27 SUBJECTED TO EVIL AT ITS WORST BY THIS NOW CONVICTED
28 KILLER. THE CRUEL MURDERS OF THESE TWO DEEPLY LOVED

1 PEOPLE, MICKEY AND TRUDY, HAS REQUIRED TREMENDOUS
2 DEDICATION BY HONORABLE AND HARD WORKING PEOPLE TO BRING
3 FORTH JUSTICE AT A GREAT COST TO MANY.

4 I WANTED TO GIVE YOU AN IDEA, THIS PHOTO
5 WAS SHOWN A LOT HERE IN THE COURTROOM. I BROUGHT THAT
6 JUST TO GIVE YOU AN IDEA OF WHAT AN IMPACT A MURDER HAS.
7 THAT PICTURE OF MICKEY AND TRUDY AND THE DOG PUNKY WAS SO
8 MUCH FUN TO TAKE THAT DAY. WE WERE AT THEIR HOUSE AND WE
9 WERE ALL LAUGHING. AND I KEPT TELLING MICKEY AND TRUDY,
10 I DON'T WANT YOU TO SMILE, I JUST WANT YOU TO MAKE PUNKY
11 SMILE.

12 SO EVERYBODY IS LAUGHING THEIR HEADS OFF
13 AND WE'RE GETTING THIS PICTURE. AND I ALWAYS THOUGHT IT
14 WAS REALLY A CUTE PICTURE AND I LOVED IT SO MUCH. BUT
15 AFTER THE MURDERS, I HAVE A REAL HARD TIME LOOKING AT IT.
16 NOT BECAUSE OF LOOKING AT MICKEY AND TRUDY AND PUNKY, BUT
17 JUST A COUPLE OF YARDS AWAY IS WHERE MICKEY'S AND TRUDY'S
18 BODIES WERE LAYING WITH ALL THE BLOOD RUNNING DOWN THE
19 DRIVEWAY.

20 SO I LOOK AT THIS PICTURE AND ALL THE
21 PRETTY FLOWERS AND ALL THE LOVE AND I KEEP THINK OF WHAT
22 WAS ACTUALLY IN THE DRIVEWAY.

23 WHEN YOU ARE REALLY TORN TO PIECES IT'S
24 NOT EASY TO ENDURE THE FALSE ALLEGATIONS AND
25 MANIPULATIONS OF THE FACTS, THE ENDLESS ARGUMENTS, AND
26 THE COURTROOM ADDICTS THAT HAVE BECOME STANDARD PROCEDURE
27 IN THIS CASE.

28 THE LACK OF RESPECT FOR TRUTH; THE DIGNITY

1 OF THE VICTIM AND THE FAMILY IS DESPICABLE AND HAS BEEN
2 DESPICABLE. THE FACT THAT THERE WERE ATTEMPTS TO EXCLUDE
3 THE MURDERED VICTIMS NEXT OF KIN FROM THE COURTROOM, ME,
4 WITHOUT CAUSE IS CONTEMPTIBLE, DISGRACEFUL, AND A SOURCE
5 OF MORE PAIN AND EXPENSE FOR THE VICTIMS AND CERTAINLY
6 FOR THE TAXPAYERS.

7 AMONG THE MANY OTHER CRIMES THIS
8 INDIVIDUAL HAS COMMITTED, HE ARRANGED TO HAVE THESE TWO
9 WONDERFUL AND INCREDIBLY LOVED AND GIVING PEOPLE
10 EXECUTED. YES, ELIMINATED FROM THE WORLD IN THE MOST
11 GRUESOME, CRUEL AND COWARDLY MANNER.

12 MICHAEL GOODWIN IS A COWARD AND A BULLY
13 WHO HIRED AND ARRANGED FOR SHOOTERS TO KILL MICKEY AND
14 TRUDY ALL FOR HIS SELF-INDULGENCE, GREED AND TO
15 ACCOMPLISH THE DESIRED SINFUL PLAN.

16 THE LOSS AND THE IMPACT CAUSED BY MICKEY
17 AND TRUDY'S MURDER WERE NOT ONLY FELT BY OUR IMMEDIATE
18 FAMILY, BUT ALSO BY MANY SPECIAL FRIENDS, THOUSANDS FROM
19 AROUND THE GLOBE. THEY ARE ALL VERY SADDENED AND STILL
20 SADDENED.

21 MICKEY WAS AN INCREDIBLE MAN WHO
22 CONTRIBUTED GREATLY TO THE SAFETY OF MILLIONS ALL OVER
23 THE WORLD. HE WAS AN AUTO RACING INNOVATOR FAR AHEAD OF
24 HIS TIME. AND AS SUCH WAS INSTRUMENTAL IN THE
25 DEVELOPMENT OF SAFETY EQUIPMENT FOR AUTOMOBILES; AND
26 HELPED DEVELOP RELIABLE AND SAFE TIRES FOR OUR VEHICLES
27 ON THE HIGHWAY, OFFROAD AND ON THE RACE TRACK. HIS
28 ACCOMPLISHMENTS ARE GREAT AND LEGENDARY.

1 MICKEY WAS A COURAGEOUS MAN. HE DIDN'T
2 ASK SOMEONE TO DRIVE HIS HOME BUILT SPEED RECORD CAR.
3 INSTEAD HE STRAPPED HIMSELF INTO THE CHALLENGER ONE. AND
4 HE ALONE DROVE THAT CAR ACROSS THE BONNEVILLE, UTAH SALT
5 FLATS AT A WORLD BREAKING SPEED OF 406 MILES AN HOUR.
6 YES, MICKEY WAS A TRUE MAN, AN ICON, AND HE'S MISSED
7 BEYOND WHAT ANY WORDS COULD DESCRIBE.

8 I HAVE RECEIVED CALLS FROM ALL OVER THE
9 WORLD BY THOSE DISTRESSED AND IMPACTED BY THE MURDERS.
10 MICKEY BUILT BUSINESSES AND HELPED PEOPLE LESS FORTUNATE
11 THAN HIMSELF TO BETTER THEIR LIVES THROUGH MANY COMMUNITY
12 OUTREACH PROGRAMS AND ACTIVITIES. HE PROVIDED RACERS THE
13 OPPORTUNITY TO DISPLAY THEIR INNOVATIONS IN FRONT OF
14 MILLIONS OF RACING FANS AND INTERNATIONAL AUTOMOTIVE
15 DEVELOPERS. HIS MURDER DAMAGED THE PROGRESS AND
16 DEVELOPMENT OF AUTOMOTIVE SAFETY EQUIPMENT.

17 MICKEY GAVE TREMENDOUS OF HIMSELF. HE
18 HELPED THE BLIND CHILDREN AT THE BRAILLE INSTITUTE. HE
19 WORKED HARD IN THE "JUST SAY NO" SCHOOL DRUG PROGRAMS AND
20 IN THE FIGHT AGAINST DRUGS. HE VOLUNTEERED HIS TIME TO
21 THE YOUNG PEOPLE IN THE BLIGHTED AREAS TO HELP TEACH THEM
22 A PROFESSION. AND HE GAVE MANY SCHOLARSHIPS.

23 THE CALIFORNIA LEGISLATURE HONORED MICKEY
24 WITH A SENATE RESOLUTION FOR HIS ENORMOUS CONTRIBUTIONS
25 TO YOUTH AND SOCIETY. THAT KILLER SITTING HERE BEFORE US
26 NOT ONLY DEVASTATED THE LIVES OF MICKEY AND TRUDY'S
27 FAMILY AND FRIENDS, HE ALSO IMPACTED AND ENDED WONDERFUL
28 GIFTS OF HUMANITY GIVEN BY MICKEY THOMPSON.

1 MICKEY A PERSON OF GREAT INTEGRITY,
2 COMPASSION AND SENSITIVITY. AND THE ONE MANY TURNED TO
3 AS HE WAS ALWAYS READY TO HELP AND HAD A HELPING HAND.

4 WHEN HE WAS RACING IN THE BAJA 500 FOR THE
5 THOUSAND MILE OFFROAD RACES, HE FREQUENTLY WOULD NOT JUST
6 SIMPLY RACE PAST A COMPETITOR WHO WAS BROKEN DOWN, HE
7 JUST HAD TO STOP. HE WOULD STOP RIGHT IN THE MIDDLE OF
8 HIS RACE TO TRY TO HELP HIS OPPONENT. YES, HE WOULD HELP
9 ANOTHER COMPETITOR. THAT WAS MICKEY.

10 IF YOU DON'T BELIEVE ME, JUST ASK IRON MAN
11 IVAN STEWART HERE, HE SAW IT. I BELIEVE OUR
12 GRANDDAUGHTER DESCRIBED MICKEY BEST. SHE WAS ONLY SIX
13 YEARS OLD AND AFTER RETURNING FROM SCHOOL FOLLOWING THE
14 LIFE CHANGING MURDERS OF MICKEY AND TRUDY, ONE DAY SHE
15 SAID TO ME, MOM, WHY DIDN'T YOU TELL US -- OR TELL ME
16 UNCLE MICKEY WAS FAMOUS? WHY DIDN'T HE TELL US? I SAID
17 TO HER, UNCLE MICKEY JUST WANTED TO BE YOUR UNCLE, WHICH
18 WAS FAR MORE IMPORTANT TO HIM THAN BEING FAMOUS TO
19 OTHERS. HE NEVER TRIED TO BE ANYONE BY HIMSELF.

20 MORE THAN 55 YEARS AGO, MICKEY WAS THE
21 BEST MAN AT OUR WEDDING. AND JUST RECENTLY HIS BROTHER,
22 MY HUSBAND, GARY, SAID THROUGH HIS TEARS, YOU KNOW WHAT,
23 COLLENE, MICKEY IS STILL MY BEST MAN AND HE ALWAYS WILL
24 BE. HE WAS MY FRIEND, MY MENTOR AND MY INSPIRATION AND I
25 MISS HIM TERRIBLY.

26 AND WHY DID SWEET TRUDY, THE WONDERFUL
27 WOMAN HAVE TO DIE? IT WAS BECAUSE EVERYONE KNEW MICKEY
28 TODAY LOVED HER SO MUCH. AND THIS EVIL KILLER KNEW THAT

1 HURTING TRUDY IN FRONT OF MICKEY WOULD BRING MICKEY THE
2 ULTIMATE PAIN DURING HIS LAST SECONDS ON THIS EARTH.

3 WITH FIVE BULLETS IN HIS BODY MICKEY WAS
4 STILL ATTEMPTING TO SAVE TRUDY'S LIFE AS THEY WERE EACH
5 GIVEN THE FATAL SHOT TO THEIR HEADS. WE'LL BE FOREVER
6 FORCED TO RELIVE THOSE EXCRUCIATING, AGONIZING, HIGHLY
7 EMOTIONAL MOMENTS FOR MICKEY AND TRUDY.

8 BUT IT WAS NO SURPRISE TO ANY OF US WHO
9 KNEW MICKEY, MICKEY WAS A HERO. EVEN AS HE WAS DYING AND
10 HIS MAGNIFICENT COURAGE TO PROTECT HIS WIFE IS ONLY ONE
11 OF THE WONDERFUL CHARACTERISTICS THAT EXPANDS A
12 TREMENDOUS LOSS AND IMPACT OF HIS DEATH, SOMEBODY THAT WE
13 LOOKED UP TO SO MUCH AND WE NEEDED IN OUR LIFE.

14 NOT ONLY IS THIS CONVICTED KILLER
15 RESPONSIBLE FOR THE BRUTAL AND HEARTLESS MURDERS OF
16 MICKEY AND TRUDY, BUT HE HAS CONTINUED HIS EFFORT TO TRY
17 AND DAMAGE THE ONLY THING THEY COULD LEAVE HERE OF
18 THEMSELVES HERE ON EARTH, THEIR EXCELLENT REPUTATION.
19 WE'RE GRATEFUL THIS CONVICTED LIAR AND KILLER DID NOT
20 SUCCEED IN HIS DESPICABLE ATTEMPT TO ASSASSINATE THEIR
21 FINAL CHARACTER ALONG WITH THE ASSASSINATION OF THEIR
22 BODIES, BUT HE'S STILL TRYING.

23 WE WILL FOREVER AGONIZE AND BE TORMENTED
24 BY THE FACT THAT WE CAN NO LONGER BE WITH TRUDY AND
25 MICKEY. AS A LOVING FAMILY, WE COULD NEVER AGAIN ENJOY
26 OUR TRIPS TO THE COLORADO RIVER TO GO BOATING; WATER
27 SKIING; AND HAVE WONDERFUL FAMILY OUTINGS. WE MISS THE
28 TRIPS TO ARROWHEAD AT WHAT WAS ONCE OUR FANTASTIC AND

1 ENJOYABLE HOLIDAYS TOGETHER.

2 ALL THE PAIN SUFFERED BY SO MANY HAS BEEN
3 CAUSED BY THIS EGOCENTRIC CONVICTED LIAR, DRUNK DRIVER
4 AND MURDERER MICHAEL FRANK GOODWIN. THE JURY WAS NOT
5 ABLE TO LEARN THAT GOODWIN HAD SPENT TIME IN A FEDERAL
6 PRISON, BECAUSE HE WAS ALSO CONVICTED OF A DOZEN FELONIES
7 FOR LYING, DEFRAUDING BANKS AND BUSINESSES FOR HIS OWN
8 PERSONAL GAIN.

9 ONE OF THE REASONS HE HAD TRUDY AND MICKEY
10 MURDERED WAS BECAUSE MICKEY CAUGHT HIM STEALING MONEY
11 FROM THE BUSINESS. THE COURT ORDERED GOODWIN TO PAY BACK
12 THE STOLEN MONEY, BUT AS YOU MIGHT GUESS, HE GOT BY BY
13 NEVER PAYING BACK ONE SINGLE CENT BECAUSE HE REFUSES TO
14 FOLLOW THE LAW.

15 ON THE MORNING MICKEY AND TRUDY WERE
16 MURDERED, THEY WERE PLANNING TO GO TO THE HOSPITAL TO
17 VISIT OUR DAUGHTER SHELLY, MICKEY'S ONLY NIECE SHELLY.
18 SHE WAS IN DANGEROUS PREMATURE LABOR. AND WHILE LAYING
19 IN HER HOSPITAL BED WAITING FOR AUNT TRUDY AND UNCLE
20 MICKEY TO ARRIVE, SHELLY WAS WATCHING THE EARLY MORNING
21 NEWS WHEN SHE LEARNED THE HORRIBLE TRUTH THAT HER AUNT
22 TRUDY AND UNCLE MICKEY WOULD NOT BE ARRIVING AT THE
23 HOSPITAL. INSTEAD SHE SAW THEIR BLOOD AND THEIR LIFELESS
24 BODIES IN THE DRIVEWAY OF THEIR HOME THAT SHE KNEW SO
25 WELL.

26 THAT HORRIFYING VISION WILL REMAIN WITH
27 SHELLY FOREVER. HER SON, OUR GRANDSON, WAS BORN TWO AND
28 A HALF MONTHS LATER AND NAMED AFTER HIS UNCLE MICKEY.

1 THAT YOUNG MAN NOW ATTENDING COLLEGE SAT HERE IN THIS
2 COURTROOM WHEN THE GUILTY VERDICT WAS READ, HIS ONLY
3 WORDS WERE, "THANK YOU, DEAR GOD." HIS ENTIRE LIFE HAS
4 BEEN IMPACTED.

5 MICKEY'S AND MY MOTHER, GENEVA THOMPSON,
6 WHO WAS LEGALLY BLIND, HER HUSBAND, OUR DAD, A RETIRED
7 POLICE CAPTAIN MARION THOMPSON HAD DROWNED 20 YEARS
8 BEFORE.

9 ON MARCH 16TH, 1988, THE DAY OF THE
10 MURDER, I WAS FORCED TO TELL OUR MOM THAT HER ONLY SON
11 MICKEY AND HIS WONDERFUL WIFE TRUDY HAD BEEN MURDERED AND
12 HER SON WOULD NEVER AGAIN BE ABLE TO WALK THROUGH THE
13 DOOR AND HUG OUR TINY MOTHER LIKE HE ALWAYS DID, AND ASK
14 HER "HOW IS MY SWEETHEART DOING TODAY?"

15 THE MURDERS CAUSED OUR MOM TO HAVE A HEART
16 ATTACK THAT VERY DAY AND WE THOUGHT WE HAD LOST HER, TOO.
17 SHE LIVED ANOTHER EIGHT YEARS. AND AS SHE BRAVELY
18 CONTINUED TO FEEL HER WAY AROUND, THERE WAS NEVER A
19 SINGLE DAY THAT SHE DIDN'T ASK ABOUT THE STATUS OF HER
20 SON AND DAUGHTER-IN-LAW'S MURDER CASE.

21 EVEN ON HER DEATH BED, MY LAST
22 CONVERSATION WITH MY MOM WAS, AS THE TEARS ROLLED FROM
23 HER SIGHTLESS EYES, SHE PRAYED THAT THE EVIL PERSON WHO
24 KILLED HER SON WOULD BE BROUGHT TO JUSTICE. SHE ASKED
25 THAT I WEAR A MEANINGFUL PIECE OF JEWELRY AS A SYMBOL
26 THAT SHE AND OUR DAD WOULD BE WATCHING AND WAITING IN
27 HEAVEN FOR JUSTICE. SHE ASKED THAT I CONTINUE TO WEAR
28 THAT NECKLACE AS A SYMBOL OF HER LOVE AND LOYALTY UNTIL

1 THIS DAY OF RECEIVING JUSTICE FOR HER SON AND HIS WIFE'S
2 MURDER.

3 THAT EVIL PERSON SITTING RIGHT THERE IN
4 THIS COURTROOM CAUSED ALL OF THIS PAIN AND TOOK MICKEY
5 AWAY. THAT'S DANNY AND LYNDI'S DADDY. SADLY HE DENIED
6 THE CHANCE TO RICO AND TRAVIS A WONDERFUL AND FUN-LOVING
7 GRANDFATHER THAT WOULD HAVE TAUGHT THEM SO MUCH AND THEY
8 WOULD HAVE LOVED SO MUCH.

9 HE MURDERED OUR DAUGHTER'S UNCLE AND OUR
10 GRANDCHILDREN'S GREAT UNCLE. HE MURDERED MY MOTHER'S SON
11 AND GARY'S AND MY BROTHER. HE SAVAGELY KILLED MY DARLING
12 SISTER-IN-LAW TRUDY AND HE HAS NEVER CARED OR REGRETTED
13 ONE OUNCE OF WHAT HE'S DONE, THE DEVASTATION HE HAS
14 CAUSED.

15 TRUDY'S MOM AND HER SISTER AND BROTHER,
16 HER NIECES AND NEPHEWS HAVE ALL BEEN DEVASTATED. YET
17 THAT SINFUL KILLER HAS NO REMORSE AS HE CONTINUES TO LIE
18 UNTIL HE DIES PROBABLY. AFTER HE CAUSED THE BRUTAL
19 MURDERS, THAT INDIVIDUAL LEFT THE COUNTRY AND WENT INTO
20 HIDING ON HIS NEWLY EQUIPPED \$400,000 YACHT TO GO PLAY
21 AND HAVE A GOOD TIME, ALL THE WHILE KNOWING HE WAS
22 LEAVING THE VICTIM'S FAMILY IN DISARRAY AND IN MISERY.

23 HIS OUT OF THE COUNTRY ENJOYMENT CONTINUED
24 FOR YEARS BEFORE HE HID THE YACHT FROM THE LEGAL OWNERS.
25 BUT IT WAS FOUND AND REPOSSESSED. SHORTLY AFTER THAT HE
26 SPENT TIME IN A FEDERAL PRISON.

27 DURING THE PAST 19 YEARS, WHICH IS AN
28 AWFULLY LONG TIME, IN FACT THAT 6,920 NIGHTS WE'VE

1 AGONIZED OVER THE HEARTLESS AND CRUEL MURDERS OF MICKEY
2 AND TRUDY. EVERY MORNING, EVERY NIGHT, DURING EVERY DAY
3 OUR FAMILY AND THEIR MANY FRIENDS SITTING RIGHT THERE
4 SUFFER FROM THE CALLUS MURDERS.

5 IT IS AGONIZING TO WATCH THIS RUTHLESS
6 CONVICTED KILLER CONTINUE TO MAKE AN EFFORT TO DAMAGE THE
7 REPUTATION AND INTEGRITY OF THE HARD-WORKING INVESTIGATOR
8 ON THIS CASE; THE VERY PROFESSIONAL PROSECUTORS; ALONG
9 WITH OUR ENTIRE FAMILY.

10 EVEN FURTHER EXPOSING THE LACK OF SHAME,
11 THIS CONVICTED LIAR AND ASSASSIN HAS THE DISRESPECT AND
12 THE AUDACITY TO PORTRAY A BELIEF IN GOD IN THE SAME
13 BREATH WITH HIS CONTINUED DISGRACEFUL FALSE ALLEGATIONS.
14 BUT I GUESS THAT IS WHAT MOST KILLERS DO.

15 THE PAIN AND THE IMPACT CAUSED BY THIS
16 INDIVIDUAL IS VERY FAR REACHING. I THANK GOD FOR THE 40
17 HONORABLE AND BRAVE PROSECUTION WITNESSES, SEVERAL
18 TESTIFIED EVEN THOUGH GOODWIN HAD MADE DEATH THREATS TO
19 THEM. THESE WITNESSES STILL HAD THE COURAGE AND THE
20 INTEGRITY TO COME FORWARD AND TELL THE TRUTH.

21 HOWEVER, IT WAS TREACHEROUS FOR THOSE
22 FAMILIES AND THE IMPACT ON THEM IS GREAT ALSO. WE THANK
23 THE JURY FOR THEIR COMMITMENT TO WORK DILIGENTLY AND
24 COURAGEOUSLY WHILE SEEKING AND FINDING THE TRUTH.

25 WE ARE GRATEFUL TO THE LEAD INVESTIGATOR
26 LOS ANGELES COUNTY DEPUTY SHERIFF MARK LILLIENFELD FOR
27 HIS MANY YEARS OF SELFLESS COURAGE, DUTY AND COMMITMENT
28 TO BRING JUSTICE IN THE FACE OF GREAT INEQUITIES AND

1 FALSE ALLEGATIONS.

2 IT IS SAD THAT AN INVESTIGATOR ASSIGNED TO
3 BRING JUSTICE IS Demeaned BY A LIAR AND A KILLER, OUR LAW
4 ENFORCEMENT. AND I AM CERTAIN THE IMPACT OF THIS CASE
5 HAS BEEN LIFE ALTERING FOR THIS COURAGEOUS HOMICIDE
6 INVESTIGATOR THAT REFUSED TO GIVE UP AND WALK AWAY FROM
7 THE ASSASSINATION ATTEMPTS OF HIS CHARACTER.

8 WE APPRECIATE THE PROSECUTORS, DEPUTY
9 DISTRICT ATTORNEY PAT DIXON AND ALAN JACKSON FOR THEIR
10 PROFESSIONALISM AND ABILITY TO BRING FORTH THE TRUTH AND
11 LAY OUT THE FACTS FOR THIS JURY TO CONSIDER.

12 YOUR HONOR, WE THANK THE COURT FOR
13 ALLOWING US TO EXPRESS BEFORE SENTENCING A VERY TINY
14 PORTION OF THE LIFE ALTERING IMPACT THAT WAS CAUSED BY
15 THIS NOW CONVICTED INDIVIDUAL. AND WE'RE GRATEFUL THAT
16 EVIL CANNOT ERASE ALL WONDERFUL MEMORIES. WE THANK GOD
17 FOR GIVING US THE HONOR TO HAVE MICKEY AND TRUDY IN OUR
18 LIVES. THEY WERE TRULY A GIFT FROM OUR LORD THAT WE WILL
19 CHERISH FOREVER.

20 MICKEY AND TRUDY WOULD NOT WANT THEIR
21 LIVES HERE ON EARTH DEFINED BY MURDER AND THE ACTS OF
22 THIS EVIL KILLER, BUT RATHER BY THEIR INCREDIBLE LOVE FOR
23 ONE ANOTHER, THEIR FAMILY AND THEIR FRIENDS. PLUS ALL
24 THEIR GOOD ENDEAVORS AND THEIR WELL DOCUMENTED
25 ACCOMPLISHMENTS. I'M SORRY. THAT'S WHAT THEY WOULD WANT
26 TO BE REMEMBERED BY. MICKEY AND TRUDY'S FAMILY AND
27 FRIENDS HAVE SUFFERED A DEEP WOUND AND WE KNOW WE WILL
28 NEVER HEAL. AND THE PAIN WILL BE FELT FOR GENERATIONS.

1 BUT LET IT ALSO BE KNOWN, WE'RE PROUD THAT
2 ALONG WITH LAW ENFORCEMENT WE WERE NOT INTIMIDATED OR DID
3 NOT DESERT OUR FIGHT TO BRING JUSTICE. WE WERE NOT
4 FEARFUL. A WONDERFUL THING ABOUT THIS HORRIBLE CRIME, WE
5 BELIEVE MICKEY AND TRUDY ARE WAITING FOR US IN HEAVEN
6 WHERE EVIL WILL NOT BE ALLOWED TO ENTER.

7 YOUR HONOR, MICHAEL FRANK GOODWIN HAS BEEN
8 CONVICTED OF DOUBLE HOMICIDE, THE MURDERS OF BOTH MICKEY
9 AND TRUDY. ADMITTEDLY MANY OF US BELIEVE THAT HE DOES
10 NOT DESERVE THE CARE THAT OUR SOCIETY WILL PROVIDE HIM IN
11 PRISON. YES, A JURY UNANIMOUSLY CONVICTED MICHAEL
12 GOODWIN OF DOUBLE HOMICIDE FOR THE ADDITIONAL CRIME AND
13 THE ADDITIONAL CRIME OF LYING IN WAIT, THAT'S KILLING TWO
14 PEOPLE WITH THE ADDED CONVICTION OF SPECIAL
15 CIRCUMSTANCES.

16 BOTH MICKEY AND TRUDY'S LIFE WERE
17 EXTREMELY IMPORTANT. AND MICHAEL FRANK GOODWIN IS NOT
18 ENTITLED TO A WHOLESALE DEAL OF TWO MURDERS FOR THE PRICE
19 OF ONE. YOUR HONOR, WE RESPECTFULLY REQUEST THAT YOU
20 SENTENCE THIS CRUEL CONVICTED KILLER TO TWO CONSECUTIVE
21 LIFE SENTENCES WITHOUT EVER RECEIVING PAROLE.

22 THANK YOU VERY MUCH.

23 THE COURT: THANK YOU, MRS. CAMPBELL. AND LET ME
24 JUST SAY THAT YOUR BROTHER AND SISTER-IN-LAW ARE QUITE
25 LUCKY TO HAVE A SISTER LIKE YOU. SO THANK YOU.

26 THE WITNESS: THEY TREATED ME WELL. THANK YOU.

27 THE COURT: MR. DIXON, MR. JACKSON, IS THERE
28 ANYONE ELSE THAT WISHES TO BE HEARD?

1 MR. JACKSON: THERE IS NO ONE ELSE THAT NEEDS TO
2 ADDRESS THE COURT AT THIS JUNCTURE. I WOULD SIMPLY TAKE
3 THIS OPPORTUNITY, IF IT'S OKAY WITH THE COURT, TO LET THE
4 COURT KNOW WHAT OUR POSITION IS CONCERNING THE
5 SENTENCING.

6 AS THE COURT KNOWS, THERE IS MANDATORY
7 SENTENCING SCHEMES THAT CONTROL WHAT THE COURT DOES. AND
8 MR. GOODWIN IS, IN FACT, AS MRS. CAMPBELL JUST SAID NOW A
9 CONVICTED KILLER FOR DOUBLE HOMICIDE, TWO SPECIAL
10 CIRCUMSTANCES. I THINK MANDATORILY HE IS ENTITLED TO
11 NOTHING LESS THAN LIFE WITHOUT THE POSSIBILITY OF PAROLE.

12 HOWEVER, CALIFORNIA CASE LAW, GIVEN THE
13 CIRCUMSTANCES OF THIS CASE, DOES ENTITLE OR IMBUE IN THE
14 COURT THE DISCRETION TO MAKE THOSE SENTENCES CONSECUTIVE.
15 WE WOULD ASK BASED ON THE GRUESOME NATURE OF THE CRIMES,
16 BASED ON THE FACT THAT MICKEY AND TRUDY THOMPSON WERE
17 ATTACKED AND MURDERED SEPARATELY, THAT THE FACTS SUPPORT
18 THE IDEA THAT MICKEY THOMPSON WAS FORCED TO WATCH TRUDY
19 THOMPSON DIE, THAT IN FACT THAT WOULD BE THE APPROPRIATE
20 SENTENCE.

21 MR. GOODWIN SHOULD BE SENTENCED TO
22 CONSECUTIVE LIFE WITHOUT THE POSSIBILITY OF PAROLE TERMS.
23 AND WE WILL SUBMIT.

24 THE COURT: THANK YOU.

25 MS. SARIS.

26 MS. SARIS: YOUR HONOR, I WOULD LIKE TO STATE FOR
27 THE RECORD FIRST THAT MR. GOODWIN HAD ASKED ME NOT TO
28 FILE A MEMORANDUM IN RESPONSE TO THE DISTRICT ATTORNEY'S

1 POSITION OF AUTHORITY. AGAIN, OUR -- I THINK NO ONE
2 DISAGREES ON THE LAW. IT'S UP TO THE COURT'S DISCRETION.
3 WE'RE ASKING FOR A CONCURRENT SENTENCE.

4 MR. GOODWIN WOULD LIKE TO ADDRESS THE
5 COURT.

6 THE COURT: ALL RIGHT.

7 MS. SARIS: WOULD YOU LIKE HIM TO STAND?

8 THE COURT: NO, HE CAN REMAIN SEATED.

9 THE DEFENDANT: YOUR HONOR, AND EVERYONE ELSE IN
10 THE COURT, MICKEY AND TRUDY, IT WAS A TRAGEDY THAT THEY
11 WERE KILLED. THE WORLD LOST SOMEBODY THAT WAS A GREAT
12 INVENTOR. AND THAT WAS ONE OF MANY TRAGEDIES THAT HAS
13 BEFALLEN MRS. CAMPBELL AND HER HUSBAND OVER THE LAST -- I
14 BELIEVE THE FIRST ONE OCCURRED IN 1976 WHEN HER SON SCOTT
15 CAMPBELL KILLED A DRUG DEALER IN HER HOME. SIX YEARS
16 LATER SCOTT WAS KILLED IN A DRUG DEAL; THROWN OUT OF AN
17 AIRPLANE. IT'S GOT TO BE TERRIBLE --

18 MR. JACKSON: YOUR HONOR --

19 MR. DIXON: YOUR HONOR, COULD THE DEFENDANT
20 PLEASE ADDRESS THE COURT AND NOT --

21 THE COURT: YES.

22 THE DEFENDANT: OH, OKAY. PARDON ME.

23 MR. JACKSON: AND, YOUR HONOR, I WOULD ADD TO
24 THAT -- I DON'T MEAN TO INTERRUPT. BUT I WOULD ADD TO
25 THAT THAT THE APPROPRIATE ALLOCUTION WOULD BE TO ADDRESS
26 TWO THINGS: ASK FOR MERCY FROM THE COURT; AND EXPRESS
27 ANY MITIGATING CIRCUMSTANCES THAT HE BELIEVES EXIST. IF,
28 IN FACT, MR. GOODWIN INTENDS TO GET INTO A DISCUSSION OF

1 EITHER THE FACTS OF THIS CASE OR THE VICTIMS' FAMILY,
2 THAT WOULD BE COMPLETELY INAPPROPRIATE.

3 THE COURT: I AGREE.

4 THE DEFENDANT: I HAVE ABOUT THREE OR FOUR
5 MINUTES. YOU STOP ME IF I'M --

6 AND THEN INTERESTINGLY ABOUT SIX YEARS
7 LATER MICKEY AND TRUDY GOT KILLED, TRAGICALLY AS WELL AS
8 INTERESTINGLY. ALL I'M SAYING IS THAT I HAVE CONDOLENCES
9 FOR MRS. CAMPBELL AND HER FAMILY. I CAN'T APOLOGIZE
10 BECAUSE I'M NOT GUILTY OF THE CRIME. I WAS CONVICTED OF
11 BEING GUILTY, BUT THAT IS DIFFERENT THAN BEING GUILTY.
12 AND TRULY ONLY MYSELF AND WHOEVER REALLY DID IT WILL EVER
13 KNOW WHO DID THIS CRIME. NOBODY ELSE COULD KNOW BUT
14 MYSELF AND WHOEVER IS REALLY GUILTY. AND THIS WILL BE,
15 I'M AFRAID, A NEVER-ENDING STORY BECAUSE WE PLAN ON
16 APPEALS ALL THE WAY THROUGH.

17 AND HOPEFULLY THE TRUTH SOME TIME WILL
18 COME OUT. I BELIEVE WE CAN GET THE EXPOSURE OF WITNESSES
19 THAT WERE BRIBED; THREATENED BY THE POLICE OUT OF THE WAY
20 THAT YOU DON'T KNOW ABOUT AND THAT COULDN'T COME UP IN
21 THE TRIAL; THAT THE TRUTH CAN COME OUT AND YOU'LL FIND
22 OUT THAT I WAS NOT GUILTY.

23 AND HOPEFULLY WE WILL ALSO FIND THE TRUE
24 KILLERS. THE FACTS OF THE CASE WERE MISCAST. AND I
25 WOULD LIKE TO ASK FOR MERCY OF THE COURT. BUT I BELIEVE
26 THAT WHATEVER IT IS, IF I WAS GUILTY I DESERVE WHATEVER
27 YOU'RE GOING TO GIVE ME. AND I BELIEVE YOUR HONOR CAN
28 ONLY LOOK AT ME AS IF I AM GUILTY.

1 SO MY HOPE FOR RELIEF ON THIS WILL BE THAT
2 THE APPEAL PROCESS BRINGS JUSTICE. THERE IS TOO MUCH
3 POLITICS INVOLVED AT THIS LEVEL; TOO MANY FALSE
4 STATEMENTS MADE; MISLEADING STATEMENTS BY THE
5 PROSECUTORS, BOTH OF THEM. BUT WE ARE HERE. IT WAS A
6 TRAGEDY FOR MICKEY AND TRUDY TO BE KILLED. I AGAIN OFFER
7 MY CONDOLENCES.

8 AND I JUST WANT TO CLOSE BY SAYING THAT AS
9 DANA PARSON, THE WRITER FOR THE L.A. TIMES SAID SO WELL
10 IN HIS ARTICLE, AFTER 18 YEARS AND SO MUCH LOST EVIDENCE;
11 SO MANY WITNESSES THAT ARE NO LONGER AVAILABLE, WILL WE
12 EVER FIND THE TRUTH?

13 LIKE I SAY, THIS MAY BE A NEVER-ENDING
14 STORY BECAUSE I WON'T LET IT GO UNTIL THE DAY I DIE, SO I
15 CAN PROVE THAT NOT ONLY I AM NOT A KILLER, BUT MANY OF
16 THE OTHER ALLEGATIONS THAT MRS. CAMPBELL PERHAPS BELIEVES
17 AND MADE AGAINST ME AT THE STAND ARE NOT TRUE.

18 AND I WANT TO -- AND FINALLY SAY THAT -- I
19 ALSO WANT TO SAY I'M NOT MAD AT ANYONE. I EMPATHIZE
20 TERRIBLY WITH THE JURY. I DON'T KNOW HOW THEY COULD
21 DECIDE WHO WAS TELLING THE TRUTH AND WHO WASN'T. AND I
22 JUST WILL PRAY FOR THE RIGHT THING TO HAPPEN IN THE LONG
23 RUN.

24 THE COURT: THANK YOU.

25 MS. SARIS: YOUR HONOR, BASED ON THE PREVIOUS
26 ORAL ARGUMENTS, WE WILL SUBMIT.

27 THE COURT: COUNSEL, DO YOU WAIVE ARRAIGNMENT FOR
28 JUDGMENT; NO LEGAL CAUSE?

1 MS. SARIS: TIME IS WAIVED; NO LEGAL CAUSE.
2 ACTUAL CREDIT 1904.

3 YOUR HONOR, THERE IS ONE REQUEST THAT WE
4 HAVE. THE COURT HAS HEARD THROUGHOUT THE PROCEEDINGS IN
5 THIS CASE REGARDING MR. GOODWIN'S MEDICAL IMPAIRMENTS. I
6 HAVE A STACK OF HIS MEDICAL RECORDS THAT I'VE ORDERED AND
7 HAVE IN MY POSSESSION. I DID NOT WANT TO FILE THIS WITH
8 THE COURT BECAUSE I BELIEVE THERE ARE HIPAA CONCERNS AND
9 PRIVACY CONCERNS.

10 HOWEVER, IF THE COURT DOUBTS THAT FOR ANY
11 REASON, I HAVE THEM AND AM WILLING TO SHARE THEM WITH THE
12 COURT. I'M REQUESTING THAT THE COURT RECOMMEND A MEDICAL
13 FACILITY OR A PRISON THAT IS EQUIPPED TO DEAL WITH
14 SOMEONE OF MR. GOODWIN'S NOT ONLY AGE, BUT BASED ON THE
15 HEARINGS THAT WE'VE HAD THROUGHOUT, I THINK THE COURT
16 AGREES THAT HE IS A -- HAS SIGNIFICANT MEDICAL ISSUES.
17 AND I WOULD ASK THE COURT TO MAKE THAT RECOMMENDATION IN
18 ANY PRISON SENTENCE.

19 THE COURT: ALL RIGHT. THE COURT HAS BEFORE IT
20 THE PROBATION REPORT DATED 10/28/04. AND I HAVE REVIEWED
21 ALL OF THE MATERIAL THAT WAS SUBMITTED TO ME.

22 LET ME JUST INQUIRE IF THERE IS A REQUEST
23 FOR RESTITUTION?

24 MR. JACKSON: YOUR HONOR, IF THERE IS ANY
25 RESTITUTION REQUEST, I WILL INQUIRE OF THE FAMILY AND
26 SUBMIT SOMETHING TO THE COURT POST-SENTENCING AND ASK FOR
27 A HEARING -- AN APPROPRIATE HEARING TIME. I'LL DO THAT
28 FORTHWITH. BUT AT THIS POINT, I DON'T HAVE ANY

1 INFORMATION TO THAT EFFECT.

2 THE COURT: ALL RIGHT. THE MATTER STANDING
3 SUBMITTED, MR. GOODWIN, THERE MAY BE A LOT OF UNANSWERED
4 QUESTIONS IN THIS CASE, BUT THE JURY ANSWERED ONE
5 QUESTION, AS YOU KNOW. AND THE JURY RENDERED VERDICTS IN
6 THIS CASE FINDING YOU GUILTY BEYOND A REASONABLE DOUBT OF
7 THE MURDERS OF MICKEY AND TRUDY THOMPSON. IT IS
8 INCUMBENT UPON ME TO IMPOSE THE FOLLOWING SENTENCE: MY
9 INDICATION IS THAT IT WILL BE A CONSECUTIVE SENTENCE.

10 DOES EITHER SIDE WISH TO BE HEARD FURTHER?

11 MS. SARIS: NO. WE'RE REQUESTING A FORTHWITH
12 COMMITMENT.

13 MR. JACKSON: SUBMITTED.

14 THE COURT: THEN IT IS THE JUDGMENT AND SENTENCE
15 OF THIS COURT, MR. GOODWIN, THAT FOR THE CRIME CHARGED IN
16 COUNT 1 OF THE INFORMATION OF FIRST DEGREE MURDER OF
17 TRUDY THOMPSON, THE SENTENCE REQUIRED BY LAW WILL BE
18 IMPOSED; AND THAT IS LIFE WITHOUT PAROLE BY VIRTUE OF THE
19 CONVICTION OF THE FIRST DEGREE MURDER WITH THE SPECIAL
20 CIRCUMSTANCES.

21 AS TO COUNT 2, FOR THE MURDER OF MICKEY
22 THOMPSON, THE COURT WILL LIKEWISE IMPOSE THE SENTENCE
23 PRESCRIBED BY LAW, WHICH IS LIFE WITHOUT PAROLE BECAUSE
24 OF THE SPECIAL CIRCUMSTANCES.

25 THE COURT WILL FIND THAT BECAUSE OF THE
26 WAY THESE CRIMES WERE CARRIED OUT; THE PREMEDITATION; THE
27 DELIBERATION; THE SEPARATE ACTS COMMITTED ON TWO HELPLESS
28 INDIVIDUALS, THE COURT HAS DISCRETION IN THE MATTER BUT

1 CAN THINK OF NOTHING MORE THAN A CONSECUTIVE SENTENCE --
2 OR NOTHING LESS THAN A CONSECUTIVE SENTENCE IN THIS
3 MATTER.

4 THE COURT DOES NOT BELIEVE THAT CUNNINGHAM
5 PRECLUDES SUCH A SENTENCE. THERE WERE TWO SEPARATE
6 VICTIMS. THERE WERE FINDINGS MADE BY THE JURY. AND
7 BASED ON THOSE FINDINGS, THE SENTENCES WILL BE
8 CONSECUTIVE. THE TOTAL SENTENCE IS LIFE WITHOUT PAROLE
9 PLUS LIFE WITHOUT PAROLE.

10 IN ADDITION, THE COURT WILL GRANT 1904 --
11 YOU SAID? -- CREDITS. AND SINCE THIS CASE OCCURRED IN
12 1988, HE'S ENTITLED TO CONDUCT CREDITS, IS HE NOT?

13 MR. JACKSON: I BELIEVE SO, YOUR HONOR. I
14 BELIEVE IN 1988 THE PENAL CODE DOES ALLOW FOR THAT.

15 THE COURT: 952 IS WHAT I COME UP WITH. IS THE
16 DEFENSE ASKING FOR ANYTHING ELSE?

17 MS. SARIS: IS THAT CONDUCT CREDIT AT HALF? THAT
18 SEEMS CORRECT. NO.

19 THE COURT: THE COURT WILL LIKEWISE IMPOSE A \$100
20 RESTITUTION FINE. AND THE COURT WILL ORDER RESTITUTION
21 TO THE FAMILY, IF ANY. I'M ASSUMING THAT THERE ARE
22 BURIAL COSTS.

23 MR. JACKSON: I'M ASSUMING SO, YOUR HONOR.

24 THE COURT: AND ALTHOUGH I HAVE THE DISCRETION TO
25 ORDER UP TO \$10,000 IN A RESTITUTION FINE, MY HOPE IS
26 THAT MRS. CAMPBELL AND HER FAMILY GET REIMBURSED FOR
27 THEIR EXPENSES. SO THEREFORE THE \$100 RESTITUTION FINE
28 IS THE AMOUNT I HAVE CHOSEN. THERE IS A \$20 SECURITY

1 FINE. AND I WILL ORDER SPECIMENS AND SAMPLES FOR DNA
2 ANALYSIS, WHICH IS REQUIRED. WILLFUL FAILURE TO PROVIDE
3 THOSE SAMPLES AND SPECIMENS CAN BE TREATED AS A SEPARATE
4 CRIME. THERE IS NO SEPARATE RESTITUTION FINE BECAUSE OF
5 THE -- OR RATHER THE PAROLE REVOCATION FINE BECAUSE OF
6 THE DATE OF THESE OFFENSES.

7 AND, MR. GOODWIN, YOU HAVE A RIGHT TO FILE
8 A NOTICE OF APPEAL. THAT NOTICE MUST BE FILED IN THIS
9 COURT WITHIN 60 DAYS OF TODAY'S DATE. IF YOU CANNOT
10 AFFORD TO HIRE A LAWYER TO REPRESENT YOU ON APPEAL, THE
11 COURT OF APPEAL WILL APPOINT A LAWYER FOR YOU FREE OF
12 CHARGE. TRANSCRIPTS WILL LIKEWISE BE PROVIDED. IT'S
13 INCUMBENT UPON YOU TO STAY IN TOUCH WITH THE COURT OF
14 APPEAL AND LET THEM KNOW WHERE YOU ARE HOUSED SO THAT
15 THEY CAN COMMUNICATE WITH YOU.

16 MS. SARIS, DOES YOUR CLIENT HAVE ANY
17 FURTHER QUESTIONS ABOUT HIS APPEAL RIGHTS?

18 MS. SARIS: NO, YOUR HONOR. WE INTEND TO FILE
19 THOSE PAPERS THIS AFTERNOON AND REQUEST COUNSEL BE
20 APPOINTED. THANK YOU.

21 THE COURT: ALL RIGHT. THIS WILL BE A FORTHWITH
22 SENTENCE. I ASSUME MR. GOODWIN WILL WAIVE HIS PRESENCE
23 IF THERE IS ANY REQUEST FOR RESTITUTION AND ALLOW COUNSEL
24 TO HANDLE IT ON HIS BEHALF?

25 THE DEFENDANT: YES.

26 THE COURT: IS THAT AGREEABLE, MR. GOODWIN?

27 THE DEFENDANT: YES, YOUR HONOR.

28 MS. SARIS: AND I JOIN.

1 THE COURT: AND THE COURT WILL RECOMMEND A
2 FACILITY WHERE MR. GOODWIN CAN BE ATTENDED TO FOR HIS
3 MEDICAL ISSUES.

4 MS. SARIS: THANK YOU.

5 THE COURT: ANYTHING ELSE?

6 MR. DIXON: NO. THANK YOU, YOUR HONOR.

7 MS. SARIS: I'LL GIVE YOU THE EXACT LANGUAGE THAT
8 THE COURT NEEDS IN THE MINUTES FOR THE MEDICAL.

9 THE COURT: ALL RIGHT. THANK YOU.

10 MR. JACKSON: THANK YOU, YOUR HONOR.

11 MR. DIXON: THANK YOU, YOUR HONOR.

12
13 (PROCEEDINGS WERE CONCLUDED.)
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