

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A, HIDALGO, JR.

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

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CASE NO.: 54209

On Appeal from a Final Judgment of
Conviction entered by The Eighth Judicial
District Court

APPELLANT'S APPENDIX

Volume 17 of 25

(Pages 3154 - 3403)

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ALPHABETICAL INDEX OF APPELLANT'S APPENDIX

Document	Date Filed	Vol.	Page No.
Amended Indictment (Hidalgo Jr.)	05/01/08	5	00836-00838
Amended Judgment of Conviction (Jury Trial) (Hidalgo Jr.)	08/18/09	25	04665-04666
Amended Notice of Evidence in Support of Aggravating Circumstances (Espindola)	01/09/08	3	00530-00533
Amended Notice of Intent to Seek Death Penalty (Hidalgo Jr.)	06/18/08	5	00846-00849
CD: State's Exhibit 191 ¹	02/04/09	15	02749
CD: State's Exhibit 192A ²	02/04/09	15	02750
CD: State's Exhibit 192B ³	02/04/09	15	02751
CD: Defense Exhibit 1 ⁴	02/11/09	22	04142
Court's Exhibit 2: Transcript of fBird CD	02/05/09	15	02912-02929
Court's Exhibit 3: Transcript of Hawk CD	02/05/09	15	02930-02933
Court's Exhibit 4: Transcript of Disc Marked as Audio Enhancement, 050519-3516, Tracks 1 & 2, Track 2	02/05/09	15	02934-02938
Court's Exhibit 5: Transcript of Disc Marked as Audio Enhancement, 050519-3516, Tracks 1 & 2, Track 1	02/05/09	15	02939-02968
Criminal Complaint (Hidalgo III)	05/31/05	1	00001-00003
Criminal Complaint (Hidalgo Jr.)	02/07/08	3	00574-00575
Emergency Motion for Stay of District Court Proceedings (State)	02/20/08	4	00775-00778
Fourth Amended Information (Hidalgo III)	01/26/09	5	01011-01014
Guilty Plea Agreement (Espindola)	02/04/08	3	00549-00557
Indictment (Hidalgo Jr.)	02/13/08	4	00724-00727
Information (Hidalgo III)	06/20/05	1	00005-00008
Instructions to the Jury	02/17/09	24	04445-04499
Judgment of Conviction (Jury Trial) (Hidalgo Jr.)	07/10/09	25	04656-04657
Minutes (Preliminary Hearing)	06/13/05	1	00004
Minutes (Change of Plea)	02/04/08	3	00558
Minutes (All Pending Motions)	02/05/08	3	00559
Minutes (Trial by Jury)	02/06/08	3	00576

¹ This CD is a copy of the original. The copy was prepared by a Clark County employee at the Regional Justice Center in Las Vegas Nevada. Eight hard copies of the CD are being mailed to the Nevada Supreme Court.

² Id.

³ Id.

⁴ Id.

Document	Date Filed	Vol.	Page No.
Minutes (Sentencing)	02/12/08	3	00577
Minutes (All Pending Motions)	02/14/08	4	00728
Minutes (Arraignment)	02/20/08	4	00779
Minutes (Sentencing)	03/20/08	4	00787
Minutes (Sentencing)	03/25/08	4	00788
Minutes (Decision: Bail Amount)	04/01/08	4	00789
Minutes (All Pending Motions)	04/15/08	4	00799
Minutes (All Pending Motions)	04/17/08	5	00834-00835
Minutes (All Pending Motions)	05/01/08	5	00839-00840
Minutes (All Pending Motions)	06/17/08	5	00844-00845
Minutes (State's Request for Status Check on Motion to Consolidate)	11/20/08	5	00850
Minutes (All Pending Motions)	01/16/09	5	00916
Minutes (Calendar Call)	01/22/09	5	00973-00974
Minutes (Decision)	01/23/09	5	01009
Minutes (State's Request for Clarification)	01/26/09	5	01010
Minutes (Defendant's Motion for Own Recognizance Release for House Arrest)	02/24/09	24	04505
Minutes (Status Check re Sentencing)	06/02/09	24	04594
Minutes (Minute Order re Judgment of Conviction)	08/11/09	25	04664
Minutes (Sentencing)	10/07/09	25	04667
Motion for Judgment of Acquittal Or, In the Alternative, a New Trial (Hidalgo III and Hidalgo Jr.)	03/10/09	24	04506-04523
Motion in Limine to Exclude the Testimony of Valerie Fridland (State)	01/13/09	5	00905-00915
Motion to Conduct Videotaped Testimony of a Cooperating Witness (State)	04/09/08	4	00792-00798
Motion to Strike Notice of Intent to Seek Death Penalty (Hidalgo III and Espindola)	12/12/05	1	00026-00187
Motion to Strike the Amended Notice of Intent to Seek Death Penalty (Hidalgo Jr.)	1/09/09	5	00851-00904
Notice of Appeal (Hidalgo III and Hidalgo Jr.)	07/18/09	25	04658-04659
Notice of Intent to Seek Death Penalty (Hidalgo III)	07/06/05	1	00009-00013
Notice of Intent to Seek Death Penalty (Espindola)	07/06/05	1	00014-00018
Notice of Intent to Seek Death Penalty (Carroll)	07/06/05	1	00019-00023
Notice of Intent to Seek Death Penalty (Counts)	07/06/05	1	00024-00025
Notice of Intent to Seek Death Penalty (Hidalgo Jr.)	03/07/08	4	00784-00786

Document	Date Filed	Vol.	Page No.
Opposition to Defendant Luis Hidalgo, Jr.'s Motion for Judgment of Acquittal Or, In the Alternative, a New Trial (State)	03/17/09	24	04524-04536
Opposition to State's Motion to Conduct Videotaped Testimony of a Cooperating Witness (Hidalgo III)	04/16/08	5	00800-00833
Opposition to State of Nevada's Motion in Limine to Exclude Testimony of Valerie Fridland (Hidalgo III and Hidalgo Jr.)	01/20/09	5	00919-00972
Order Denying Defendants Motion for Judgment of Acquittal Or, In the Alternative, Motion for New Trial	08/04/09	25	04660-04663
Order Denying Defendants Motion to Strike Notice of Intent to Seek Death Penalty	10/03/06	1	00188-00192
Order Directing Answer	10/20/06	3	00514-00515
Order Dismissing Petition	04/09/08	4	00790-00791
Order Granting Motion for Stay	02/21/08	4	00780-00781
Order Granting the State's Motion to Consolidate C241394 and C212667	01/16/09	5	00917-00918
Order Withdrawing Opinion, Recalling Writ, and Directing Answer to Petition for Rehearing	02/21/08	4	00782-00783
Opinion	12/27/07	3	00516-00529
Petition for Writ of Mandamus Or, In The Alternative, Writ of Prohibition (Hidalgo III and Espindola)	10/16/06	2-3	00193-00513
Proposed Jury Instructions Not Used	02/12/09	24	04389-04436
Proposed Verdict Forms Not Used	02/17/09	24	04502-04504
Reply to State's Opposition to Motion for Judgment of Acquittal Or, In the Alternative, a New Trial (Hidalgo III and Hidalgo Jr.)	04/17/09	24	04537-04557
Sentencing Memorandum (Hidalgo III and Hidalgo Jr.)	06/19/09	24	04595-04623
State Petition for Rehearing	01/23/08	3	00534-00548
Supplemental Points and Authorities to Defendant, Luis A. Hidalgo, Jr.'s Motion for Judgment of Acquittal Or, In the Alternative, a New Trial (Hidalgo III and Hidalgo Jr.)	04/27/09	24	04558-04566
Transcript (Defendant, Luis Hidalgo III's Motion for Acquittal Or, In the Alternative, a New Trial; Defendant Luis Hidalgo, Jr.'s Motion for Judgment of Acquittal)	05/01/09	24	04567-04593
Transcript (Defendant's Motion to Amend Record)	01/11/11	25	04668-04672
Transcript (Defendant's Motion for Audibility Hearing and Transcript Approval)	02/05/08	3	00560-00573

Document	Date Filed	Vol.	Page No.
Transcript (Motions)	02/14/08	4	00729-00774
Transcript (Sentencing)	06/23/09	25	04624-04655
Transcript (Calendar Call)	01/22/09	5	00975-01008
Transcript (Grand Jury)	02/12/08	4	00578-00723
Transcript (Jury Trial Day 1: Jury Voir Dire)	01/27/09	6	01015-01172
Transcript (Jury Trial Day 2)	01/28/09	7-8	01173-01440
Transcript (Jury Trial Day 3)	01/29/09	9	01495-01738
Transcript (Jury Trial Day 4)	01/30/09	10-11	01739-02078
Transcript (Jury Trial Day 5)	02/02/09	12	02079-02304
Transcript (Jury Trial Day 6)	02/03/09	13	02305-02489
Transcript (Jury Trial Day 7)	02/04/09	14-15	02490-02748
Transcript (Jury Trial Day 8)	02/05/09	15	02752-02911
Transcript (Jury Trial Day 9)	02/06/09	16	02969-03153
Transcript (Jury Trial Day 10)	02/09/09	17-18	03154-03494
Transcript (Jury Trial Day 11)	02/10/09	19-20	03495-03811
Transcript (Jury Trial Day 12)	02/11/09	21-22	03812-04141
Transcript (Jury Trial Day 13)	02/12/09	23	04143-04385
Transcript (Jury Trial Day 13 (Excerpt))	02/12/09	23	04386-04388
Transcript (Jury Trial Day 14: Verdict)	02/17/09	24	04437-04444
Trial Memorandum (Hidalgo Jr.)	01/29/09	8	01441-01494
Verdict (Hidalgo Jr.)	02/17/09	24	04500-04501
Writ of Mandamus (Hidalgo III)	06/03/08	5	00841-00843

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STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO: C212667/C241394
)	DEPT NO: XXI
vs.)	
)	
LUIS ALONSO HIDALGO, aka)	
LUIS ALONSO HIDALGO, III, and)	Transcript of
LUIS ALONSO HIDALGO, JR.,)	Proceedings
)	
Defendants.)	

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 10

MONDAY, FEBRUARY 9, 2009

APPEARANCES:

FOR THE STATE:	MARC DiGIACOMO, ESQ. Chief Deputy District Attorney GIANCARLO PESCI, ESQ. Deputy District Attorney
FOR LUIS ALONSO HIDALGO, JR.:	DOMINIC P. GENTILE, ESQ. PAOLA M. ARMENI, ESQ.
FOR LUIS ALONSO HIDALGO, III:	JOHN L. ARRASCADA, ESQ. CHRISTOPHER ADAMS, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER
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I N D E X

WITNESSES FOR THE STATE:

ANABEL ESPINDOLA

Cross-Examination By Mr. Gentile (Continued)	4
Cross-Examination By Mr. Arrascada	162
Redirect Examination By Mr. Digiacomo	204
Recross Examination By Mr. Gentile	275

KENNETH ZANE SIMPSON

Direct Examination By Mr. Pesci	283
Cross-Examination By Mr. Gentile	293
Cross-Examination By Mr. Adams	294

JEFFREY SMINK

Cross-Examination By Mr. Gentile	313
Cross-Examination By Mr. Adams	317

JAMES KRYLO

Direct Examination By Mr. Pesci	323
Cross-Examination By Mr. Gentile	336

E X H I B I T S

STATE'S EXHIBITS ADMITTED:		PAGE
118, 119, and 120	Photographs	300
112 through 116, and 126 through 133	Photographs	301
200K	Saving Bond	310
200 A and B	Yellow Pad with Handwriting	312
DEFENDANT'S EXHIBITS ADMITTED:		PAGE
D1 and D2	Photographs	8
B	Envelope and Contents	67
E	Letter - Social Security numbers	157
AA	Nextel Phone Records	184

1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 9, 2008, 9:19 A.M.

2 P R O C E E D I N G S

3 (In the presence of the jury.)

4 THE COURT: All right. Court is now in session.
5 The record will reflect the presence of the State through the
6 deputy district attorneys, the presence of the defendants and
7 their counsel, the officers of the Court and the members of
8 the jury.

9 And, Ms. Espindola, will you please stand so the
10 Court -- the clerk, excuse me, can administer the oath to you.

11 ANABEL ESPINDOLA, STATE'S WITNESS, SWORN

12 THE CLERK: Please state your name.

13 THE WITNESS: Anabel Espindola.

14 THE CLERK: Please be seated.

15 MR. GENTILE: May we proceed?

16 THE COURT: Yes, you may. Thank you.

17 MR. GENTILE: Thank you.

18 CROSS-EXAMINATION

19 BY MR. GENTILE:

20 Q Ms. Espindola, when we left here on Friday, you
21 had just coordinated the photographs of Simone's with a
22 graphic of Simone's lounge. Do you recall that?

23 A Yes.

24 Q Okay. And you were in Simone's virtually every
25 day from '99 until May 19th of '05. Fair to say?

1 A Yes.

2 Q Okay. Now, with respect to the Palomino Club,
3 if I understood your testimony correctly, you started
4 involvement with the Palomino Club, you think, in '01 or
5 '02 or maybe even '03?

6 A When Dr. Stertzner went ahead and purchased the
7 club.

8 Q Right. And Stertzner had the club a year or
9 year and a half before Louie Hidalgo got it --

10 A I believe so.

11 Q -- right?

12 A Yes.

13 Q Okay. And Mr. Hidalgo got it toward the end of
14 '03?

15 A I believe so.

16 Q Okay. So if we take back a year and a half
17 from the end of '03, we can at least agree that in the year
18 2002 you started going to the Palomino?

19 A Yes.

20 Q All right. And again, that would be -- unless
21 you were not in town, unless you were not in Las Vegas, you
22 would be in the Palomino Club virtually every day as well,
23 unless you had the day off. Fair to say?

24 A Yes.

25 Q And there weren't a lot of days off?

1 A No.

2 Q All right. And so from 2002, 2003, 2004, and
3 all the way up to May of 2005, you were in the Palomino Club,
4 right?

5 A Yes.

6 Q And you got an idea -- you basically had been
7 through the entire building over a four-year period?

8 A Yes.

9 Q All right. Well, then I'm going to ask you to
10 do the same thing today with respect to the Palomino Club so
11 that these photographs might make some sense to the jury in
12 terms of where -- what they depict. Okay.

13 A Mm-hmm, yes.

14 Q So, if you will, please step down and I'm going
15 to start off with -- let's start off with D1, what's been
16 marked Exhibit D1 for identification. I don't want to publish
17 it until we get it in.

18 MR. DIGIACOMO: We don't object.

19 MR. GENTILE: You'll stipulate D1 and D2 in --

20 MR. DIGIACOMO: As long as she agrees that that's --
21 BY MR. GENTILE:

22 Q Well, here, take a look at these. You've
23 probably seen these very same things before, haven't you?

24 A Yes.

25 Q Okay. Does this fairly depict, D1 and D2,

1 fairly depict the Palomino Club as it existed in May of the
2 year 2005?

3 A (Indiscernible).

4 THE COURT RECORDER: I'm sorry, I'm not picking her
5 up.

6 THE COURT: We're going to -- okay. We've already
7 moved the microphone, so she may have to use the hand held
8 microphone again --

9 MR. GENTILE: That's fine.

10 THE COURT: -- like we did on Friday.

11 MR. GENTILE: If I knew where it was, I would get
12 it.

13 THE COURT: Jeff's getting it.

14 BY MR. GENTILE:

15 Q You don't dispute that this is the layout of
16 the club in May of '05?

17 A No.

18 Q Am I correct?

19 A Right.

20 Q You don't dispute that?

21 A No.

22 MR. GENTILE: Okay. I move them into evidence at
23 this time.

24 MR. DIGIACOMO: No objection.

25 THE COURT: Any objection? All right. D1 and D2

1 will be admitted.

2 (Defendant's Exhibit D1 and D2 admitted.)

3 BY MR. GENTILE:

4 Q Let's put D1 up here.

5 MR. GENTILE: Should we move these now or do you
6 want to wait until --

7 THE COURT: I think there's a marker on the back
8 already. So she can put the admitted sticker on later.

9 MR. GENTILE: Okay. There's a marker on the front,
10 but -- okay. That's fine.

11 BY MR. GENTILE:

12 Q All right. Take a look at that and let's start
13 with something simple. How many floors are there in the
14 Palomino Club?

15 A Two.

16 Q There's also a subbasement; am I right?

17 A I've never been in it.

18 Q But you know that it exists?

19 A I heard that it existed, yes.

20 Q Okay. Which of the two floors of the Palomino
21 is the D1? And to give you a hint, take a look at that.

22 A It would be downstairs. That's the main stage.

23 Q That's the main stage; am I correct?

24 A Yes.

25 MR. GENTILE: Let the record reflect that when I

1 said take a look at that, I was pointing to the lower half --
2 about the dead bang middle of D1.

3 THE COURT: All right. And she identified that as
4 the stage.

5 MR. GENTILE: And there's clearly a photographic --
6 and it says -- just so that the record can reflect what it was
7 that I pointed to, in the middle of that stage, it says 30
8 people, doesn't it?

9 A Yes.

10 BY MR. GENTILE:

11 Q And what does that signify as far as --

12 MR. DIGIACOMO: Judge, I apologize. I don't mean to
13 interrupt Mr. Gentile, but I see jurors trying to look around
14 you, so --

15 MR. GENTILE: I apologize. Yeah, if anybody needs
16 to --

17 MR. DIGIACOMO: -- they can't see what's going on
18 over here.

19 MR. GENTILE: I will step to the side as far as I
20 can. Do we have a laser?

21 THE COURT: We de.

22 MR. GENTILE: I know I have one too, but...

23 THE COURT: Jeff's getting it.

24 MR. GENTILE: Thank you. A laser will make it a lot
25 easier.

1 Thank you, Jeff.

2 BY MR. GENTILE:

3 Q Okay. It says 30 people in the middle of the
4 stage, right?

5 A Yes.

6 Q Okay. Now, here's what I'd like you to do.
7 Let me -- do you see where the laser's pointing now?

8 A Yes.

9 Q All right. What area is that?

10 A That would be the second floor.

11 Q Tell you what, before we go any further, let me
12 show you D2. This isn't a trick question, okay?

13 A As I said, I don't --

14 Q Exhibit D2, what does D2 look like?

15 A D2 is the second floor.

16 Q All right. And I have my laser pointing to
17 what is called the lipstick lounge; am I right?

18 A Yes.

19 Q Which is a circular room?

20 A Yes.

21 Q Describe it.

22 A It has the main stage and it has tables all the
23 way around on the end and chairs around the stage.

24 Q All right. And what was on the walls?

25 A At one time there was lips on the wall.

1 Q And in May of '05 it was mirrors?

2 A Yes.

3 Q Okay. So it's a sunken stage in the middle,
4 surrounded by a bar with chairs, surrounded by booths against
5 the wall and the perimeter walls are all mirrored; am I right?

6 A Yes, I don't remember a bar.

7 Q Did I say a bar?

8 A Yes.

9 Q I meant a sunken stage and sort of a table top
10 around that stage, right?

11 A Yes. Yes.

12 Q So I called it a bar but -- they put drinks on
13 that table top, don't they?

14 A Yes.

15 Q So calling it a bar isn't exactly a lie, is it?

16 A No.

17 Q Okay. Now, that area that I'm pointing to
18 right now that has vertical lines, what is that?

19 A Are those the stairs?

20 Q That area there that has vertical lines is an
21 illustration of stairs, isn't it?

22 A Okay.

23 Q Okay. All right. And then there's sort of a
24 vestibule?

25 A Yes.

1 Q All right. And then because it's the second
2 floor, there's stairs that get up to it; am I correct?

3 A Yes.

4 Q All right. Now, the stairs that I'm pointing
5 to here, those vertical lines, those are not accessible to the
6 public, are they?

7 A No.

8 Q I'm correct?

9 A Correct.

10 Q All right. The stairway to get upstairs is
11 this opening right here, which is two horizontal lines that's
12 about 12-inches from the left side of the exhibit and maybe --
13 maybe as much as 10 or 12-inches from the bottom; am I right?

14 A Yes.

15 Q All right. That's the stairway?

16 A Okay.

17 Q I tell you what I'd like you to do, let me give
18 you a marker here. I'm going to ask you that when you're not
19 using it to cover it because otherwise it's going to dry out.

20 A Yes, sir.

21 Q Okay. Would you mark where the stairway is
22 so -- that the public uses to get upstairs.

23 A Write "public stairway"?

24 Q How about that? That works for me. All right.

25 Now, other than the required fire escapes, that's

1 the only way for the public to get upstairs, isn't it?

2 A Correct.

3 Q Okay. And then this area here where we have
4 vertical lines, would you write in there "private stairway," I
5 guess, as compared to public.

6 A Write on the stairs?

7 Q Right. In fact, right one word on one and one
8 word on the other.

9 A (Complying).

10 Q All right. Now, this area here, that's sort of
11 a way of getting out of the lipstick lounge, am I correct, and
12 into -- what are those? Do you remember? Maybe bathrooms?

13 A Yes.

14 Q All right. Why don't we, if you will, write in
15 there that those are public bathrooms and draw a line to the
16 bathroom, please.

17 A Which would be here.

18 Q Well, what about this area here, does that look
19 like stalls to you, maybe?

20 A Oh, okay.

21 Q Okay. Now, let's go through the vestibule and
22 into this room. What is that room? So that the record
23 reflects what I'm pointing at, I'm pointing at --

24 A The bar.

25 Q -- an area that says ten people. What is that

1 area that says ten people?

2 A That would be the bar.

3 Q The bar. Okay. Would you write on the bar,

4 the word bar.

5 A (Complying.)

6 Q And this area here that says 12 people, what is

7 that?

8 A Stage.

9 Q Would you write stage, please.

10 A (Complying.)

11 Q And then it appears although there are little

12 squares all over this -- well, here before we go there, what

13 is this area that says eight people? Is that also a stage, a

14 corner stage in that room, or do you not recall?

15 A I don't recall. I haven't been there in almost

16 four years.

17 Q That's right. Now, with respect to this area

18 here where you see what appears to be little squares or round

19 figures, what is that area there? Do you know?

20 A Just an open area with tables.

21 Q Tables and chairs?

22 A Yes.

23 Q Okay. So that's a seating area?

24 A Yes.

25 Q All right. Why don't you just write right

1 across the seating area.

2 A (Complying.)

3 Q And then this area here, more vertical lines,
4 what is that?

5 A Stairs.

6 Q And is that an internal stairway, a private
7 stairway like this other one that we talked about?

8 A I don't remember that stairway.

9 Q You don't have any memory of that stairway?

10 A No.

11 Q Okay. Now, you see this area where it says 55
12 people total and then just above the number 55 there's an
13 opening?

14 A Yes.

15 Q What is that opening?

16 A That would be the opening to the VIP room.

17 Q Okay. Then why don't we write VIP entry, how
18 about that?

19 A (Complying.)

20 Q Now, if we go through that area, there's a
21 riser, am I correct, you step down a step or two?

22 A Yes.

23 Q Okay. And what is on the left once you step
24 down that step or two?

25 A Stage.

1 Q Where it says 14 people?
2 A It's a stage.
3 Q It's a stage. Would you write stage in there,
4 please.
5 A (Complying.)
6 Q And if you step down that same riser on the
7 entry into the VIP lounge or VIP area and you turn right,
8 what's in this area?
9 A A stage.
10 Q Would you write where the stage is, please.
11 A (Complying.)
12 Q Well --
13 A Well, it's more of a --
14 Q You notice the shape of it is round?
15 A It's like that couch thing.
16 Q It sounds like you weren't in that room much.
17 A No, I wasn't.
18 Q Okay.
19 A I was in the office the majority of the time.
20 Q We're getting there. Okay. Most of the time
21 you were in the office. Am I right?
22 A Correct.
23 Q And you testified that Louie, and I guess for
24 this record we're calling him Mr. H --
25 A Yes.

1 Q -- would -- you'd be in the office most of the
2 time and he'd be what you'd call on the floor?
3 A Correct.
4 Q All right. When you're talking about on -- let
5 me finish part of this. But when you're talking about on the
6 floor, you're talking about everywhere but the office?
7 A Correct.
8 Q Okay. So you're talking about the lipstick
9 lounge, you're talking about this barroom over here where
10 there may even be a stage in the corner, but you don't
11 remember, and you're talking about the VIP area?
12 A Correct.
13 Q And more, but we'll get to that.
14 Now, let's get back to this circular thing. Are you
15 saying it's a stage, but you weren't in there enough so you
16 don't remember it?
17 A I remember like a round couch area.
18 Q You don't remember where it was?
19 A I'm thinking it's right here.
20 Q Okay. Well, that's your memory. Now, behind
21 that do you see that little doorway there? Do you see that
22 space there that I'm pointing at?
23 A Yes.
24 Q Okay. Is that a doorway?
25 A I think so.

1 Q Do you remember what it leads to?

2 A No.

3 Q You notice a couple of stalls and sinks and

4 plumbing all along one wall with like two different rooms?

5 A You just pointed to it, yes.

6 Q All right. What do you think that is? What do

7 you remember it to be?

8 A Bathroom.

9 Q Right. Do you want to write that down there?

10 A (Complying.)

11 Q And what about down there, is that also a

12 bathroom or do you recall?

13 A I don't recall.

14 Q Okay. This area here, what is it? Do you

15 know?

16 A No.

17 Q Okay. Now, see that part, the last part on

18 this floor that I'm now making a sort of a rectangular

19 movement around and it's located on the top left quadrant of

20 this D2, see that?

21 A Yes.

22 Q All right. What is that?

23 A Louie's office, Mr. H's office.

24 Q Okay. Now, why don't you write each of the --

25 you see that there are walls and dividers there; am I correct?

1 A Yes.

2 Q All right. Why don't you write in each of
3 those spaces what you remember to be in those spaces. In
4 other words, you talked about a kitchenette, you talked about
5 a back room, you talked about an office. Why don't you write
6 those things in there. You talked about bathroom.

7 A Correct. (Complying.)

8 Entrance, this is -- like I said, I never had to
9 deal with a blueprint before so I don't know about all this.

10 Q All right.

11 A I could --

12 Q Let me see if I could help you out. See those
13 stairs?

14 A Yes.

15 Q How did you get upstairs when you wanted to go
16 to the office?

17 A I would take the staircase from the downstairs
18 hall.

19 Q Right. And so when you got up those stairs,
20 what would happen? What would you have to do?

21 A Turn right to go into Louie's office.

22 Q And?

23 A I'm thinking this is the entrance because as
24 soon as you open Mr. H's door, there's a step that goes down.

25 Q And then -- and if you turn right when you get

1 down that step, where are you going?

2 A Turn right, I would go directly to his desk.

3 Q Well, it all depends on how far, doesn't it?

4 A Well, yes.

5 Q Okay. So if you go into this room here, is
6 that what you're saying was the office?

7 A Yes.

8 Q How about you write office in there. In fact,
9 before you do that, draw the area that you think the desk goes
10 in, please.

11 A (Complying.)

12 I'm thinking the desk is here. Like I said, it's an
13 open space. I can tell you on pictures.

14 Q All right. And this area here, then, what is
15 this area?

16 A There was a closet in that room.

17 Q Right next to where you wrote entrance there's
18 a --

19 A There was a closet in that room.

20 Q How about this side? Was there a closet on
21 that side?

22 A As soon as you walk -- no, it was just a blank
23 wall. As soon as you walked in -- if I would walk in to the
24 left, it would be a closet.

25 Q To the left it would be a closet?

1 A I believe so.

2 Q All right. Why don't you write where the
3 closet is.

4 A So that would be this wall.

5 Q If that's where you remember the closet to be,
6 then write on that wall that there was a closet.

7 And then this area that you put that desk in, is
8 that the main office?

9 A Yes.

10 Q Okay. Would you write that in there, please.

11 A (Complying.)

12 Q And the area to the right of the entrance, you
13 turn left for the closet, what do you get when you turn right?

14 A A wall.

15 Q When you go past that wall and you make a
16 right, what do you get?

17 A You would walk into where the desk is and then
18 also a hallway for a staircase to go up to the private bath
19 and also the kitchenette.

20 Q Okay. Why don't you write where you think the
21 kitchenette is displayed on this.

22 A I'm thinking it is this.

23 Q Where is the bathroom that the safe goes in?

24 A I walk through the hallway, that's the
25 kitchenette. It would be here. So I don't know if I'm turned

1 around. I think according to this it would be here, that back
2 room.

3 Q Is that what you remember?

4 A As I said, I'm a visual person so if I saw a
5 picture, I could tell you exactly where everything was.

6 Q See this doorway over here?

7 A Uh-huh.

8 Q See the two rooms that it separates?

9 A Mm-hmm.

10 Q This part where my laser is right now, that's
11 the kitchenette and this is the back room, isn't it?

12 A Okay.

13 Q Well, you're saying okay. Is that the way you
14 remember it?

15 A I remember the entrance. I would go up and to
16 the right, so the kitchenette -- yes, the kitchenette would be
17 here. This would be the back room because it's a long room.

18 Q Okay. Now let's look at Exhibit D1. We'll go
19 back to it. Earlier you said your memory was that -- that --
20 I believe this area, you said it was upstairs.

21 A Yes.

22 Q Okay. Okay. Big mount still, but that's
23 upstairs?

24 A Yes, I think so.

25 Q Do you see that stairwell?

1 A Yes.

2 Q Excuse me. Do you see those vertical lines?

3 A Yes.

4 Q Okay. Is that the stairwell that you took to

5 go upstairs?

6 A I believe so.

7 Q All right. And if you compare it to D2, is

8 that the same stairwell?

9 A I believe it would be.

10 Q All right. So if I tell you that Exhibit D1 --

11 well, let's take it a little more accurately. If you were by

12 the bar -- you've already said that this is the bar and you've

13 already labeled the bar, correct?

14 A Correct.

15 Q All right. If you were by the bar, what was

16 immediately behind the bar?

17 A Immediately behind the bar was a VIP lounge.

18 Q Downstairs or upstairs?

19 A Upstairs.

20 Q Okay. If this is the bar downstairs --

21 A Oh.

22 Q -- what was immediately behind the bar in this

23 space that I'm pointing to, which is about midway on the upper

24 half of this --

25 A Lacy's Lounge.

1 Q Okay. What was between behind the bar and
2 Lacy's Lounge?

3 A It was the bar inside the Palomino and there
4 was another bar right behind it.

5 Q All right. Was there a room in between that
6 had things like beer coolers and plumbing and an ice machine
7 and things of that nature?

8 A Yes.

9 Q Okay. So I'm pointing at this room right here.
10 What room is that?

11 A That would be the rooms with the coolers.

12 Q Why don't you write that in there.

13 A (Complying.)

14 Q Now, does this appear to you to be doorways
15 where I'm pointing this laser right now?

16 A Yes.

17 Q Does this appear to you to be doorways?

18 A Yes.

19 Q Which is on the opposite -- by the way, the
20 first time I pointed to what would be, as I'm looking at it,
21 the left side of the bar, correct, as you're looking at it?

22 A Yes.

23 Q All right. And on the right side of the bar
24 there's also a doorway.

25 A Yes.

1 Q Am I correct? Where does this doorway lead?
2 A Lacy's Lounge.
3 Q All right. And so this thick black line here
4 that runs horizontally across the top half about midway, what
5 does that represent to you now that you've been oriented in
6 terms of what's on the other side of that bar?
7 A Lacy's Lounge.
8 Q Why don't you write that in.
9 A (Complying).
10 Q And how much of that side of that thick black
11 line does Lacy's Lounge make up?
12 A The whole line.
13 Q Okay. What's in this back area of Lacy's --
14 well, it can't be the back area until I show the front area.
15 See where I'm pointing almost at the very upper left
16 extremity, corner?
17 A Yes.
18 Q That's a doorway, isn't it?
19 A Yes.
20 Q Looks like a doorway to you?
21 A Yes.
22 Q All right. What is that?
23 A That would be the entrance to Lacy's Lounge.
24 Q The public entrance to Lacy's Lounge?
25 A Correct.

1 Q Okay. Why don't you write that there, entrance
2 to Lacy's.

3 A (Complying.)

4 Q This area here, these two rooms, as you walk
5 down the hallway to Lacy's, what are those two rooms?

6 A Bathrooms.

7 Q Okay. Would you write that in there, please.

8 A (Complying.)

9 Q Now, right in the middle of Lacy's Lounge, what
10 is that area? I'll give you a hint, it backs up to the
11 plumbing.

12 A The bar.

13 Q And then finally there's a -- some sort of a
14 structure, it looks like, over there. What is that structure?
15 Do you remember?

16 A It's -- if I remember correctly, I believe it
17 was like a booth for possibly a DJ.

18 Q DJ booth. Could you write that in there,
19 please.

20 A (Complying).

21 Q And when you go past that booth, what do you
22 enter?

23 A It's a room.

24 Q And what's along the walls of that room?

25 A It was booths.

1 Q Booths built in, right?

2 A Yes.

3 Q Okay. What was that room? What was it used

4 for?

5 A Part of Lacy's Lounge. There was a TV in

6 there.

7 Q TV. Okay. Now -- you want to call it a TV

8 room? Did it have a dance floor in it?

9 A Yes.

10 Q Where was the dance floor? Do you remember?

11 A By the television.

12 Q All right. It was used for dancing; am I

13 correct? All right. Just write in dance floor, please.

14 A (Complying.)

15 Q All right. Now, this area over here -- you see

16 the runway, and we've already -- did you write stage on there

17 yet? Why don't you write stage where the -- or at least

18 runway where the runway is -- was. And the -- what is the

19 runway attached to?

20 A It would be the locker room.

21 Q This area here or behind this wall?

22 A Behind the wall.

23 Q Right. What is this area that I'm pointing to?

24 A It's also part of the stage.

25 Q Right. So why don't you write stage in there.

1 A (Complying).
2 Q And then back here behind this thick black line
3 that runs vertically behind the stage, what is this entire
4 area back here?
5 A Locker room.
6 Q When you say locker room, what is the locker
7 room -- who uses the locker room?
8 A The dancers.
9 Q And what do they do back there as far as you
10 know?
11 A They change, they get ready, and there's
12 showers back there.
13 Q And you can walk right from the locker room on
14 to the stage; am I correct?
15 A Correct.
16 Q All right. So why don't you write -- how about
17 we call it dressing room. Can we call it dressing room?
18 A That's fine.
19 Q And the whole thing is a dressing room, right?
20 A Yes.
21 Q There are bathrooms back there?
22 A Yes.
23 Q Do they contain showers?
24 A Yes.
25 Q Okay. Why don't you write where those are.

1 A (Complying.)
2 I'm thinking that's here.
3 Q You're thinking it's right here?
4 A I hardly walked into the dressing room.
5 Q You didn't go back there much?
6 A No.
7 Q Okay. So you don't remember where that is?
8 A No.
9 Q All right. Now, let's talk about this area
10 right here. Do you remember what that is --
11 A It's another stage.
12 Q -- at that time?
13 A It was another stage.
14 Q It's another stage?
15 A It's another stage, another room.
16 Q Another room?
17 A Mm-hmm, yes.
18 Q Can you write stage where the stage is.
19 A It was a mobile stage and then there was
20 couches.
21 Q All right. Could you, to the best of your
22 memory, write where the stage was and then where the couch
23 area was.
24 A (Complying.)
25 It was couches, I believe, and there was a mobile

1 stage catercorner on the wall. There was a stage, I believe,
2 here.

3 Q Are you sure that it was on that floor and not
4 upstairs?

5 A They had a mobile stage.

6 Q So the last time you saw it, as far as you can
7 remember now, almost four years later, there was a mobile
8 stage there?

9 A Yes.

10 Q Okay. This area right here, which is at the
11 lower -- where the horizontal and vertical lines meet in the
12 lower left-hand quadrant, is that a doorway there?

13 A That's what it appears to be.

14 Q Okay. And what doorway would that be?

15 A If that's the corner room, then that would be a
16 doorway that would lead by the parking lot.

17 Q Would that be the main entrance to the Palomino
18 Club for the public?

19 A I would think so.

20 Q Well, let me -- well, you say you think so.
21 You see two doorways; am I correct?

22 A Yes.

23 Q You've got one in the lower left-hand corner
24 and you've got another one on the other side of that same
25 room.

1 A Yes.

2 Q So what does this room between those two
3 doorways represent?

4 A As soon as you walk into the Palomino Club, you
5 walk into an opening where you would pay the front cage.

6 Q Does that look like the area where the front
7 cage was?

8 A I --

9 Q Was there -- let me ask you this: Was there a
10 counter in the Palomino Club --

11 A Yes.

12 Q -- entry room where they sold like T-shirts and
13 hats and stuff like that?

14 A Yes.

15 Q Okay. So why don't you label where the counter
16 is and maybe that will get you thinking in terms of the rest
17 of the room.

18 A (Complying).

19 Q All right. If that's the counter, can you tell
20 us what else --

21 A So this is maybe --

22 Q -- is in this portion of the diagram.

23 A This would be the entrance.

24 Q When you say entrance, is that like a vestibule
25 again? It's --

1 A Yes.

2 Q Okay. So you walk into that area. When you
3 walk into that entrance area, you can't see anything in terms
4 of what's inside the club; am I correct?

5 A Correct.

6 Q All right. And where would the cage be, the
7 cashier's cage?

8 A There was two. There was the cage right here
9 behind the counter. There was also a cage on the opposite
10 side.

11 Q Okay. So which one was the one used most every
12 night?

13 A The one with the counter.

14 Q All right. So write in there where the cashier
15 was.

16 A (Complying.)

17 Q And where would the other one be?

18 A Excuse me?

19 Q The other cage, was it ever used?

20 A Occasionally.

21 Q Now, do you -- do you remember where the
22 bathrooms are located on the main floor of the Palomino?

23 A If -- they would be down the hallway before you
24 get to the entrance.

25 Q This stairway over here, is the stairway

1 upstairs like right --

2 A That would be the main stairway.

3 Q So that would correspond with what you wrote

4 down here about public stairway on D2?

5 A Yes.

6 Q Why don't you write public stairway.

7 A (Complying.)

8 Q Knowing where the public stairway is, where are

9 the bathrooms?

10 A Here.

11 Q Could you write it in there, please.

12 A (Complying.)

13 Q All right. Now, those bathrooms have between

14 them, it appears, some sort of a passageway with a doorway.

15 Do you remember that?

16 A Yes.

17 Q Okay. And what did that passageway lead to?

18 It looks like it leads to another --

19 A. Hallway.

20 Q -- hallway. All right.

21 Now, you've talked about offices on the main floor,

22 remember?

23 A Yes.

24 Q Okay. You've also testified that the office

25 that you used is on D2, if I understand, where you called it

1 the main office, correct?

2 A Yes, upstairs.

3 Q So that was upstairs.

4 A Yes.

5 Q And your standard procedure upon entering the

6 club -- would you enter it through the front door or would you

7 enter it through the rear of the building?

8 A Rear of the building.

9 Q Why don't we talk -- why don't you point out to

10 the ladies and gentlemen of the jury where the rear of the

11 building is and how you used to travel into this building

12 every day?

13 A The rear.

14 Q There are a few steps that lead from the ground

15 level up to a platform; am I correct?

16 A Yes.

17 Q All right. Do you see where those are?

18 A Here.

19 Q There. What's your memory?

20 A It was -- there was an office, a cage, an

21 opening for the back cab office.

22 Q Right. When the cab drivers came in, they had

23 to walk up steps to get paid, didn't they?

24 A Yes.

25 Q All right. Do you remember -- and that's the

1 same steps you walked up to get in, correct?

2 A Correct.

3 Q Okay. Now, could you tell us where those steps
4 are?

5 A I believe it's these right here.

6 Q Okay. Then why don't we call that rear
7 entrance.

8 Now, do you remember when you walk through -- if you
9 came up that entrance and you got onto this platform and you
10 walked down this hallway, you're basically walking past
11 dressing rooms on your left side, right?

12 A Yes.

13 Q Is that the way you came in?

14 A There's one hallway.

15 Q There's one hallway?

16 A There's two doors where you can come in through
17 the rear. You can come in where the cabs would go to get
18 payment or you could come in through -- it's a small room in
19 the very back where the cab drivers -- we used to put out
20 coffee for the cab drivers and there's also a door there.

21 Q When you would walk in, would you walk through
22 the bar to get to the stairway that you took to go upstairs?

23 A I walked behind the bar where -- the room where
24 the coolers were.

25 Q All right. So this represents another set of

1 stairs, then, am I correct, and there's two doors?

2 A Yes.

3 Q Now, which of the two doors -- what did you
4 just call this?

5 A Rear entrance.

6 Q Rear entrance. Is this also a rear entrance?

7 A Then that wouldn't be the rear entrance. I
8 don't remember going up that many stairs. It was a few steps
9 and I would walk straight across.

10 Q So you would walk through the room that had the
11 coolers in it?

12 A Yes.

13 Q So your path would be --

14 A Straight across.

15 Q That's your memory?

16 A Yes.

17 Q Okay. Okay. Why don't you do this, why don't
18 you draw a separated line, a series of dashes on here and --
19 tracking the way that you would enter the club every day.

20 A (Complying.)

21 This is the room with the coolers and that's the
22 main bar and I would -- here's the outside. I would come
23 through here.

24 Q All right. And then how would you get to the
25 stairs?

1 A Which stairs?

2 Q The ones that took you upstairs.

3 A I'm assuming, then, based on this layout, as I

4 said, I don't read blueprints, that that might be the rear

5 entrance at that point.

6 Q All right. But that's not what I'm talking

7 about. I'm talking about how did you get from the first floor

8 to the second? Did you use this stairway --

9 A That's the second floor?

10 Q This is the first floor.

11 A Oh, I'm confused.

12 Q And this is the stairway; am I correct, the

13 vertical lines, remember?

14 A Yes.

15 Q And you coordinated those vertical lines with

16 these vertical lines before, these meaning on D2, where it

17 says, private stairway.

18 A So I would walk through this door.

19 Q Continue the line.

20 A I would walk through that door.

21 Q That door and through what?

22 A The hallway.

23 Q Okay. That's your memory at this point?

24 A Yes.

25 Q All right. Now, on the first floor there are

1 three rooms that we haven't dealt with. Actually there are
2 one, two, three -- there are several rooms that we haven't
3 dealt one. There's one that's right behind that cage; am I
4 correct?

5 A The cashier's cage?

6 Q Right.

7 A Yes.

8 Q And who -- what was right behind the cashier's
9 cage? If you walk through the cashier's cage, there was a
10 doorway leading to something on this chart. What did it lead
11 to?

12 A If it's the secondary cashier's cage, then it
13 would lead directly into Arial's office.

14 Q Arial's office. Could you write Arial's office
15 there, please.

16 A (Complying.)

17 Q Okay. And if you walk out of Arial's office,
18 there were two ways you could go. You could go back toward
19 the bar or you could go in this direction apparently; am I
20 correct?

21 A Correct.

22 Q All right. What was next to Arial's office?

23 A That would have been Rudy's office.

24 Q Rudy's office.

25 A Yes.

1 Q Okay. And then -- wait. Before you write that
2 down, what was this larger room then?

3 A There was Arial's office. Right next to it was
4 Rudy's office, then there was a bathroom. There's a
5 hallway --

6 Q That's your memory?

7 A Yes.

8 Q Write Rudy's office and write where the
9 bathroom is.

10 A I'm thinking Rudy's office -- according to this
11 blueprint, I'm thinking it's here.

12 Q And so what is that room in between Arial's
13 office and Rudy's office? Do you recall?

14 A There is no room between them.

15 Q Okay.

16 A So -- and this would be Rudy's office? Rudy's
17 office was large.

18 Q Was there a small conference room between
19 Rudy's office and Arial's office?

20 A Yes, there was.

21 MR. GENTILE: All right. May I see those
22 photographs, please.

23 BY MR. GENTILE:

24 Q Now, what I'd like you to do is take
25 Exhibit 135 and write on the outside of this building what 135

1 represents. Just write X 135, like you did yesterday -- or
2 last Friday and point to what area it represents.

3 A That would be the front.

4 Q So you're sure that that's the front?

5 A Yes.

6 Q Okay.

7 A I think so.

8 Q Go ahead. Write it down.

9 A Just X 135.

10 Q Yes, that's the exhibit number; am I correct?

11 A Yes.

12 Q Okay. And here's No. 136, and if you can tell
13 us where 136 was taken, please write it in. By the way, it
14 may not be on that. It might be on this one.

15 A Yes.

16 Q Tell you what I'm going to do, I'm going to put
17 D2 below D1 now.

18 MR. GENTILE: May I use the second easel, please?

19 THE COURT: Okay.

20 (Pause in proceedings)

21 BY MR. GENTILE:

22 Q Okay. We're going to set D2 up on its own
23 easel. D1 is downstairs; D2 is upstairs?

24 A Yes.

25 Q Do you have your marker?

1 A Yes.

2 Q Have you already marked where D2 --

3 A Yes.

4 Q -- Exhibit 136 is? Okay. So that was in the

5 main office.

6 Exhibit 137. Okay. You've marked that.

7 Here's Exhibit 138. It's got a bank bag that says

8 Anabel on it, right?

9 A (Complying.)

10 Q Exhibit 139?

11 A (Complying.)

12 Q Exhibit 140?

13 A (Complying.)

14 Q Exhibit 141?

15 A (Complying.)

16 MR. GENTILE: By the way, Your Honor --

17 THE COURT: Yes.

18 MR. GENTILE: -- in between each time I give her an

19 exhibit number, for the record, the witness has been marking

20 on the diagram where that exhibit is on these diagrams.

21 THE COURT: Right. Thank you.

22 BY MR. GENTILE:

23 Q Okay. I'll show you Exhibit 142 and ask you

24 where that portrays -- what that portrays.

25 A It's the --

1 Q No, I don't mean what's in it. I mean, where
2 on Exhibit D1 or D2 is the document that's portrayed in that
3 photograph when it was photographed.

4 A When it was photographed?

5 Q Yes. Can you tell from what's around it?

6 A It says May 14th, check date would be May 20th,
7 so it would be in May.

8 Q No, I didn't say when. Did I --

9 A I'm sorry.

10 Q I must have misspoken. Where?

11 A Where?

12 Q Yes.

13 A It would be in the main office.

14 Q Then write that in.

15 A (Complying.)

16 Q Okay. I'm now showing you Exhibit 143. Could
17 you show us -- could you write on Exhibits D1 or D2 where
18 143 -- what 143 portrays in terms of where it's taken.

19 A (Complying.)

20 I believe this is where --

21 Q So you've written that in the area that you've
22 designated as Rudy's office; am I correct?

23 A I believe so.

24 Q No, am I correct that that's what you've
25 written?

1 A Yes. Yes.

2 Q Okay. Now, Exhibit 144 you said, I think,
3 maybe it wasn't you, is a box of printed material, right?

4 A Yes.

5 Q And what is the printed material?

6 A VIP cards.

7 Q All right. Now, you paid the bills, right, you
8 signed the checks to pay the bills for the club?

9 A Yes.

10 Q And included among those were printing bills?

11 A Yes.

12 Q To the best of your memory, how many thousands
13 of VIP cards did you have printed or tens of thousands?

14 A I would normally order them by 5,000.

15 Q All right. And how many times over a period of
16 the -- just under four years that you were there did you order
17 VIP cards?

18 A I couldn't venture a guess.

19 Q Would it be fair to say that there may have
20 been a hundred thousand of these cards out there?

21 A I don't think I ever printed that many.

22 Q No, I don't mean that. But I mean at 5,000 a
23 pop, did you order tens times?

24 A No.

25 Q Five times?

1 A It's possible, five.

2 Q All right. So 25,000 cards, am I right?

3 A Yes.

4 Q All right. Where was that taken?

5 A I don't -- I think this is the conference room

6 between Arial and Rudy's office.

7 Q Could you write that in there then, please?

8 A I'm not quite sure. Do you still want me to

9 write it?

10 Q No. If you're not sure where that was taken --

11 but what causes you to think that it was in that room? Was it

12 the chair, the upholstery on the chair?

13 A The table.

14 Q The table?

15 A Yes.

16 Q Okay. What about the chair? You didn't have

17 chairs like that in the main office; am I correct?

18 A Correct.

19 Q So then it wasn't in the main office?

20 A No.

21 Q It was somewhere downstairs?

22 A I believe so, yes.

23 Q Okay. And the table, does that look like the

24 table that was in the conference room?

25 A I think so.

1 Q All right. Rudy didn't have a table like that
2 in his office?
3 A No.
4 Q Rudy had a desk in his office?
5 A Correct.
6 Q Arial had several desks in her office?
7 A Three.
8 Q No table?
9 A No table, but there's also a table in the back
10 office where they used to serve coffee to the cab drivers.
11 Q All right. So you don't know where this was
12 taken?
13 A Yeah.
14 Q This might have been back there for the cab
15 drivers?
16 A Correct.
17 Q And there was a time when cab drivers were
18 given these cards to sell to their fares; am I correct?
19 A Correct.
20 Q When I say fares, I mean passengers.
21 Exhibit 216?
22 A (Complying).
23 Q Where did you write that, in the main office?
24 A Yes.
25 Q Okay. And Exhibit 217 -- no, I'm sorry. I

1 misspoke. Exhibit 207.

2 A (Complying.)

3 Q Did you write it down?

4 A Yes.

5 Q Great.

6 Let's go to 208, please. And when you're looking at

7 it, is that a hoody on the back chair, on the back of the

8 chair behind the desk?

9 A It looks like a sweat jacket.

10 Q A sweat jacket, a hooded sweat jacket?

11 A It appears to be.

12 Q Okay. Why don't you indicate where that photo

13 was taken.

14 A (Complying).

15 Q And Exhibit 205, take a look at that, please.

16 And while you have 205 in your hand, let me show you

17 Exhibit 211 as well. Hold on to 205 -- in fact, let me hold

18 it for you because you have too many things. What exhibit is

19 that, 211?

20 A Yes.

21 Q Write down where 211 is.

22 A (Complying).

23 Q Okay. Now, if you take 211 and 205, there

24 appears to be in both of them a photograph of what is either a

25 television or a monitor; am I correct?

1 A Correct.

2 Q All right. As a matter of fact, in 211, I
3 believe, there are two monitors; am I correct?

4 A Correct.

5 Q Okay. Now, were they monitors or were they
6 television sets?

7 A They were monitors.

8 Q And what -- what -- were they functional in May
9 of 2005?

10 A Yes.

11 Q Okay. And what did they portray on them when
12 they were functioning as monitors?

13 A The different rooms, the office downstairs, the
14 floor.

15 Q They were surveillance monitors?

16 A Yes.

17 Q Okay. And so there were cameras inside the
18 club that surveilled different areas of the club?

19 A Yes.

20 Q One of those areas was the cashier for sure?

21 A Yes.

22 Q And what are the other areas that were
23 monitored?

24 A Arial's office, Rudy's office, the front stage
25 downstairs, the upstairs floor and the back game room.

1 Q And the entryway as well, what you would call
2 down here -- excuse me, could you move back just a little?

3 A I apologize.

4 Q -- this area that you call the entrance --
5 there's no need to apologize. I just needed to get there.
6 That area called entrance, was that also monitored?

7 A Yes.

8 Q All right. And you -- let me see that just a
9 second. You see in Exhibit 205 that hooded sweatshirt --

10 A Yes.

11 Q -- that we talked about or -- I think you
12 called it that -- that's the chair that you normally sat in
13 when you were working in the office; am I correct?

14 A Right.

15 Q So you would sit behind the desk most of the
16 time?

17 A Correct.

18 Q And next to the monitor?

19 A Correct.

20 Q And the monitor would function during business
21 hours; am I correct?

22 A Correct.

23 Q All the time, unless it was down for some sort
24 of an electronic thing that happens?

25 A Correct.

1 Q Okay. Exhibit 212, please.

2 And Exhibit 213 -- actually, do you know what, I'm
3 going to give you 213 and 214. And do we have 206 up here
4 yet? 213, 214, 215, 206, get those all done.

5 A (Complying.)

6 Q Got those done.

7 A Yes.

8 Q All right. And then finally 209 and 210.

9 A (Complying.)

10 Q Okay. You can return to the stand.

11 Now, this building Exhibits D1 and D2 portrays is
12 about 22,000 square feet, correct?

13 A I have no idea what the square footage is at
14 the club.

15 Q You don't know what the square footage is?

16 MR. GENTILE: You want me to dismantle these? You
17 may never use them.

18 THE MARSHAL: I'll do it.

19 BY MR. GENTILE:

20 Q When you testified last week, you testified
21 that Deangelo Carroll did promotions, helped as a DJ and was
22 on the floor when shorthanded.

23 A Correct.

24 Q You said yes when Mr. DiGiacomo said a jack of
25 all trades.

1 A Yes.

2 Q You didn't say a jack of all trades.

3 A No.

4 Q Have you ever characterized this man as a jack
5 of all trades?

6 A No.

7 Q Have you ever heard him characterized as a jack
8 of all trades?

9 A No.

10 Q Never?

11 A Not before last week.

12 Q Not before last week?

13 A Friday.

14 Q Friday? Okay. And you're sure of that?

15 A Yes.

16 Q And you testified last week about a
17 conversation that you say occurred in your presence between
18 Louis Hidalgo, III, Little Lou and Mr. H --

19 A Yes.

20 Q -- after you received a phone call from
21 Deangelo Carroll.

22 A Yes.

23 Q And that phone call that you received from
24 Deangelo Carroll came to you in the afternoon of May the
25 19th of 2005?

1 A Yes.

2 Q And it was your testimony that in your presence
3 there was a statement made at that time about Mr. H never
4 being like Mr. Gilardi or Mr. Rizzolo?

5 A Yes.

6 Q All right. Now, your memory is that in the
7 year 2005, May of 2005, Mr. Gilardi was already under
8 indictment from the federal court; am I right?

9 A Yes.

10 Q And your memory is that in May of 2005
11 Mr. Rizzolo was already under indictment in the federal court?

12 A I didn't know that.

13 Q You knew that Mr. Rizzolo had an army of FBI
14 agents search his club in 2003; am I correct?

15 A I didn't follow up with the paper.

16 Q So you don't know?

17 A No.

18 Q So this controversy, the problems of
19 Mr. Rizzolo, were unknown to you in May of 2005; is that what
20 you're saying?

21 A What I'm saying is that I didn't keep up with
22 the newspaper.

23 Q Okay. Now, the question that I'm asking you,
24 though, is on May the 19th of 2005 were you aware that
25 Mr. Rizzolo had legal problems?

1 A Yes.

2 Q Okay. And so at the time that this statement
3 was made, you knew that?

4 A Yes.

5 Q If this statement was made; am I right?

6 A Yes.

7 Q You would agree, would you not, that not being
8 like Gilardi or Rizzolo was probably a good idea in May of
9 2005, wouldn't you?

10 A Personally, yes.

11 Q And you said that you remembered that
12 Mr. Gilardi owned a club named Cheetah's and a club named
13 Jaguar's and you thought that he owned another one; am I
14 right?

15 A Yes.

16 Q Okay. Mr. Gilardi owned a club in '05, it was
17 called Masters; do you recall that, later to be called
18 Leopard's Lounge?

19 A Yes.

20 Q Ring a bell?

21 A I recognize Leopard's Lounge.

22 Q So he had three clubs, right?

23 A Yes.

24 Q They were all in forfeiture by the federal
25 government; am I right?

1 A Yes.

2 Q And he was under federal indictment?

3 A Yes.

4 Q You would agree, would you not, that as of May

5 19, 2005, you had no reason to believe that Louis Hidalgo,

6 Jr., the man who is being called Mr. H, behaved like Gilardi

7 or Rizzolo; am I right?

8 A Correct.

9 Q You would have been shocked to learn that he

10 was anything like that; am I correct?

11 A Yes.

12 Q You had been with the man by that time -- I

13 have lost count --

14 A 15 years.

15 Q -- 15 years. You never saw him exhibit that

16 kind of conduct, correct?

17 A Correct.

18 Q There had been people who worked for -- you --

19 the Palomino club's a cash business, correct?

20 A Correct.

21 Q Was it the first time you were ever involved in

22 a cash business?

23 A Yes.

24 Q And you knew that anytime you're dealing in a

25 cash business there is an opportunity, at least, for the

1 people who work for you to steal from you?

2 A Yes.

3 Q One of the reasons that you have surveillance
4 cameras is to guard against that, correct?

5 A Yes.

6 Q One of the reasons that you have a surveillance
7 camera focused directly at the cage is so that you can watch
8 the hands of the person who's the cashier; am I right?

9 A Yes.

10 Q Have you ever heard the term that the only way
11 to stop a person from stealing is to put boxing gloves on?

12 A No.

13 Q And May the 19th of 2005, by that time you had
14 been involved with the club for at least a couple of years --

15 A Yes.

16 Q -- two or three? A year and a half that
17 Stertzner had it, correct?

18 A Yes.

19 Q A year and a half that Mr. H had it?

20 A Yes.

21 Q This was not the first time that information
22 came to your attention that people might be stealing from the
23 club, people who worked for the club, obviously; am I right?

24 A Yes.

25 Q Nobody that was ever suspected of stealing from

1 the club was ever hired, were they?

2 A No.

3 Q Nobody that was -- in fact, there were times
4 when people were suspected of stealing from the club that they
5 weren't even fired, they were given a corrective interview; am
6 I right?

7 A Yes.

8 Q You said that -- and it was an interesting way
9 that the question was asked, though, and so I'm going to try
10 to ask it the same way. You were asked by Mr. DiGiacomo if
11 Mr. H had access to them, that's the word that he used, access
12 to the personnel records. Do you remember that question being
13 asked of you that way?

14 A Yes.

15 Q Okay. It's true, is it not, that Louie Hidalgo
16 carried with him only two keys at that time?

17 A Yes, but --

18 Q Excuse me.

19 A -- the main key --

20 Q Hold on. The answer's yes?

21 A Yes.

22 Q All right. The employment records were kept
23 under lock and key; am I correct?

24 A Yes.

25 Q It was not unusual for Louie Hidalgo to have to

1 ask -- and only if you know, okay -- I want -- if you were
2 present when it happened, then I want you to answer. If you
3 were not, I do not want you to answer because that's hearsay
4 and I'm not going there. Okay.

5 A Yes.

6 Q It was not unusual for Louie Hidalgo to have to
7 ask Rudy or you or Arial to open something for him; am I
8 correct?

9 A Correct.

10 Q As a matter of fact, that included the safes,
11 did it not?

12 A Yes.

13 Q Mr. Hidalgo did not keep the combination to the
14 safes, did he?

15 A He knew them.

16 Q He knew them?

17 A Yes.

18 Q But he would ask someone else to open the safe
19 frequently; am I correct?

20 A Yes.

21 Q As a matter of fact, almost always; am I right?

22 A Yes.

23 Q And the same was true with respect to
24 retrieving records; am I right?

25 A Yes.

1 THE COURT: Do you know what, this might be a good
2 time to take our morning recess.

3 MR. GENTILE: Okay.

4 THE COURT: Ladies and gentlemen, we're just going
5 to take a quick ten-minute recess until 10:40, and once again,
6 you're reminded of the admonition that is still in effect not
7 to discuss the case or anything relating to the case with each
8 other or anyone else during the recess.

9 Note pads in your chairs, follow Jeff through the
10 double doors. We'll see you all back here at 10:40.

11 And, Ms. Espindola, don't discuss your testimony
12 during the recess.

13 THE WITNESS: Yes.

14 (Court recessed at 10:31 a.m. until 10:43 a.m.)

15 (Jury is not present)

16 THE CLERK: Quiet, please. We're on the record.

17 MR. PESCI: There's a couple of things. One, Jan
18 Steven Kelly is the handwriting --

19 THE COURT: Right.

20 MR. PESCI: -- expert. I believe the stipulation we
21 worked on over this weekend, so the State is not intending on
22 calling her unless the defense wants to tell us otherwise now.

23 MR. GENTILE: Yeah. We have no need for her
24 testimony.

25 MR. DIGIACOMO: The stipulation involves that she did

1 the comparison, it is Mr. H's handwriting, it is not
2 conclusive -- it's been conclusively determined it's not
3 Little Luis's handwriting.

4 THE COURT: And is that on that little thing that
5 says, we might be under surveillance? Right. I think he
6 acknowledged -- Mr. Gentile acknowledged it in court.

7 MR. DIGIACOMO: Little Luis's lawyer also wanted it
8 included in there that she conclusively determined that it's
9 not his, so --

10 THE COURT: That's fine.

11 MR. PESCI: So, for the record, we won't call that
12 witness. That's one less.

13 However, we have Fred Boyd outside waiting. He's the
14 fingerprint expert. He has to go, if he goes today, this
15 morning sometime, because he needs to take his wife to a
16 doctor's appointment. But we've asked defense if they want to
17 take him now or if they'll agree to take him in their case
18 tomorrow. It's up to them. But he's waiting outside. So I'm
19 not sure what --

20 THE COURT: Did you hear that, Mr. Gentile?

21 MR. GENTILE: Mr. Boyd. If you want to interrupt the
22 testimony --

23 MR. PESCI: We can have him come back tomorrow,
24 whatever
25 you --

1 MR. DIGIACOMO: It just might be in your case.

2 MR. ADAMS: Tomorrow, that's fine.

3 MR. DIGIACOMO: You don't care if it's in your case
4 tomorrow?

5 THE COURT: Yeah. I mean, I just explain to the jury
6 that you can just say, the State rests except for Fred Boyd,
7 who we're going to call, and then I explain to them it doesn't
8 matter the order of the witness, it's still a State witness
9 and because of his scheduling we're going to take him a little
10 bit out of order.

11 MR. PESCI: I'm going to tell him to take off and
12 then we'll call him back.

13 THE COURT: All right. So you want to get Ms.
14 Espindola.

15 And, Mr. Pesci --

16 MR. PESCI: Yes, ma'am.

17 THE COURT: -- would you get my bailiff if he's out
18 in the hall, please.

19 And, Ms. Espindola, just come on back up to the
20 witness stand and have a seat there, please.

21 MR. ADAMS: Judge, may I make our record now?

22 THE COURT: You know what, I'm hoping that we can
23 bring the jury in, because I really wanted to keep the breaks
24 exactly where I said I was going to keep them.

25 MR. ADAMS: All right. Well, may I ask one question

1 and then reserve the right to make the record?

2 THE COURT: Sure.

3 MR. ADAMS: What is the Court's rules about talking
4 with witnesses who are on the stand during the breaks and
5 overnight and the weekends and that type of matter? Because
6 my understanding in every court I've been in is you cannot
7 talk to them at all about the content of their testimony.

8 MR. DIGIACOMO: Absolutely not.

9 THE COURT: Yeah. Normally I don't have a rule
10 unless requested to do so --

11 MR. ADAMS: Okay.

12 THE COURT: -- by -- I mean, obviously the rule -- I
13 tell everybody that they can't talk to the other witnesses
14 about what the testimony was. But in terms of talking to the
15 lawyers, unless requested to do so, I don't admonish them.

16 Now, you did request that I do that, and I did
17 admonish her, I think.

18 MR. ADAMS: About not speaking with lawyers?

19 MR. DIGIACOMO: You did not.

20 THE COURT: I did not. Okay.

21 MR. DIGIACOMO: You did not admonish her about
22 speaking to the lawyers.

23 THE COURT: Okay. I forgot.

24 MR. DIGIACOMO: He made the request. I said,
25 absolutely not, and then you never admonished some of them.

1 MS. ARMENI: I thought you said just Chris Oram she
2 could obviously speak to.

3 THE COURT: I think that is what I said, right.

4 MR. DIGIACOMO: Well, that was related to when you
5 told her other witnesses, and I said, Mr. Oram is another
6 witness, and so can you make an exception for the other
7 witness. But certainly she's never been precluded to talking
8 to me.

9 THE COURT: All right. Let me just ask. Let me cut
10 to the chase. Did she talk with either you or Mr. Pesci over
11 the weekend?

12 MR. DIGIACOMO: Not over the weekend. She talked to
13 me on the break just now, the 10-minute break.

14 MR. PESCI: I got her a cup of water.

15 THE WITNESS: Yes.

16 MR. DIGIACOMO: But I actually substantively talked
17 to
18 her --

19 THE COURT: You talked substantively.

20 MR. DIGIACOMO: -- during the break.

21 THE COURT: And did she talk with Investigator
22 Falkner over the weekend or during any of the breaks?

23 MR. DIGIACOMO: I'm sure she talked to him during the
24 break, because he has custody of her.

25 THE COURT: Well, I mean, other than chitchat like to

1 and from.

2 MR. DIGIACOMO: I have no idea if he has had a
3 substantive conversation with her.

4 THE COURT: Okay. Investigator, have you had a
5 substantive conversation?

6 MR. FALKNER: No, Judge.

7 THE COURT: Just idle chitchat?

8 MR. FALKNER: Yes.

9 THE COURT: Okay. All right.

10 MR. ADAMS: Well, Judge, I would just ask that if
11 there's anything that has been helpful to her testimony or
12 prepping her that that would be Brady material, and we should
13 be able to get that from the government now.

14 THE COURT: Why don't you just ask her, did you talk
15 to the State on the breaks.

16 MR. GENTILE: I sure don't want to do that in front
17 of the jury.

18 THE COURT: Okay.

19 MR. GENTILE: Can I do it now?

20 THE COURT: Yeah.

21 MR. GENTILE: Ms. Espindola, did you talk to Mr.
22 DiGiacomo during the break?

23 THE WITNESS: Yes.

24 MR. GENTILE: What did you talk about?

25 THE WITNESS: We discussed the keys.

1 MR. GENTILE: What did you discuss?
2 THE WITNESS: He -- I went ahead and said that there
3 was additional keys inside Mr. Hidalgo's office.
4 THE COURT: Oh. The keys. I'm sorry. I thought she
5 said the case.
6 MR. GENTILE: Did he tell you that, or did you tell
7 him that?
8 THE WITNESS: I told him that.
9 MR. GENTILE: There were additional keys inside Mr.
10 Hidalgo's office --
11 THE WITNESS: Yes.
12 MR. GENTILE: -- that's all?
13 THE WITNESS: We also -- he asked me about Mr.
14 Leavitt.
15 MR. GENTILE: Mr. Leavitt?
16 THE WITNESS: Yes.
17 MR. GENTILE: And who is Mr. Leavitt?
18 THE WITNESS: It was a employee of Hidalgo's --
19 Simone's, I'm sorry. An employee of Simone's who was
20 extorting Mr. H.
21 MR. GENTILE: So somebody in addition to Mr. Moore?
22 THE WITNESS: That's his name, Tony Moore Leavitt.
23 MR. GENTILE: Okay.
24 THE COURT: All right. Can we bring the jury in now,
25 Mr. Gentile, Mr. Adams?

1 MR. GENTILE: Yeah. We're going to go after that, so

2 --

3 THE COURT: Okay. All right. Jeff, bring them in.

4 MR. PESCI: No. Judge, we don't have any questions
5 of her at this time.

6 (Pause in the proceedings)

7 (Jury entered at 10:50 a.m.)

8 THE COURT: All right. Court is now back in session,
9 and, Mr. Gentile, you may resume your cross-examination of Ms.
10 Espindola.

11 CROSS-EXAMINATION (Continued)

12 BY MR. GENTILE:

13 Q Yesterday -- or Friday you testified that
14 Deangelo Carroll did promotions, helped as a DJ, and on the
15 floor when shorthanded. I think I've asked you that already.

16 A Yes.

17 Q Now, he also was a doorman from time to time,
18 was he not?

19 A Yes.

20 Q And so at least when he was acting as a doorman
21 he performed the same job that Mr. Hadland performed --

22 A Yes.

23 Q -- correct? And so Mr. Carroll's contact with
24 cab drivers was the passing out of flyers; correct?

25 A Yes.

1 Q Was the passing out of VIP cards?
2 A Yes.
3 Q And also was handling cab drivers when they
4 would arrive at the Palomino with passengers from time to
5 time?
6 A Yes.
7 Q On the other hand, Mr. Hadland's was limited to
8 acting as a doorman when passengers would arrive?
9 A Yes.
10 Q Okay. Although as far as handing out VIP cards
11 is concerned, virtually all employees of the Palomino were
12 given VIP cards to hand out; fair to say?
13 A Yes.
14 Q And the purpose of handing out the VIP cards
15 was predominantly to hand them out to locals?
16 A Yes.
17 Q Because it stated clearly on the card that if
18 you arrived in a cab, it wasn't -- the card would not be
19 honored. Am I right?
20 A The card would be honored. The cab driver
21 would not get paid.
22 Q All right. But the card said, "Not valid if
23 arriving by cab," didn't it?
24 A It might have. I haven't seen a card in years.
25 Q Well, maybe we could cure that.

1 Show you what's marked Exhibit B for identification
2 and ask you to take a look at it, tell me if you recognize.
3 You've probably seen a copy of it before today; right?

4 A Yes.

5 Q Mr. DiGiacomo showed you a copy of that, or Mr.
6 Pesci did; right? Or Mr. Falkner?

7 A Of this?

8 Q Yes.

9 A No.

10 Q No?

11 A No.

12 Q Okay. Well, look at the outside of Exhibit --
13 what is it, B?

14 A B.

15 Q Okay. Is that your handwriting?

16 A Yes.

17 Q Okay. You created this, at least the envelope?

18 A Yes.

19 Q All right. And do you recognize what's in it?

20 A Yes.

21 Q Okay. Tell the ladies and gentlemen of the
22 jury in general what this envelope is and what it contains.

23 A It contains the nightly banks for the Palomino,
24 the receipts from the bars, the front cage, and what was paid
25 out on the back cab.

1 Q Right. And this is the kind of -- when you
2 talk about the paperwork at the Palomino that you worked on,
3 this is part of that paperwork; am I correct?
4 A Yes.
5 Q The other paperwork deals with accounts
6 payable, accounts receivable, getting money from credit card
7 companies, et cetera, et cetera; am I right?
8 A Yes.
9 Q Okay. Would you open --
10 MR. GENTILE: Well, I'd move this into evidence at
11 this time.
12 MR. DIGIACOMO: I don't have an objection.
13 THE COURT: All right. Exhibit B will be admitted.
14 (Defendant's Exhibit B admitted.)
15 BY MR. GENTILE:
16 Q Okay. We're not going to go through all of it.
17 Open it up and see if you find a VIP card in there.
18 THE COURT: And just for the record, B is the
19 envelope. B1 is the plastic bag --
20 MR. GENTILE: B1 is the plastic bag.
21 THE COURT: -- and contents.
22 MR. GENTILE: And we don't want to take anything out
23 of the plastic bag that we don't put back in it.
24 THE COURT: You can take it out, as long as we make
25 sure it goes back in.

1 BY MR. GENTILE:

2 Q Now, you're looking at something that appears
3 to you to be a VIP card?

4 A Yes.

5 Q Okay. Are there more than one?

6 A Yes.

7 Q Can I have one and you have one?

8 A Of course.

9 Q Could we share?

10 A Of course.

11 Q Okay. Take another one out. Let me have this
12 one. Well, actually, let me just use this.

13 Now, you agree that this is the VIP card that was
14 being used in '05?

15 A One of them.

16 Q One of them. There were many different -- the
17 artwork varied; am I correct?

18 A Yes.

19 Q But the content as far as the language on the
20 card, that pretty much stayed the same?

21 A No.

22 Q Okay. And how did it change?

23 A The other side of VIP cards do not have the
24 section for signature.

25 Q The signature of the customer?

1 A Correct.

2 Q Okay.

3 A The signature, phone, or date.

4 Q All right. I'm going to put this on the -- I

5 call this an Elmo, but I guess yours is called a Visual

6 Processing [inaudible].

7 And we're going to focus in on it, okay, and you can

8 look at it right there on your screen that's right next to

9 you. And we will not publish the sexy side. We'll just do

10 this side for now.

11 All right. Can you read it?

12 A Yes.

13 Q Does it have language in there that talks about

14 what happens if you arrive in a cab?

15 A Yes.

16 Q And what does it say?

17 A Pass not valid if arriving by taxicab.

18 Q All right. But in reality that was not the

19 practice, was it?

20 A Correct.

21 Q So if somebody arrived in a taxicab, if they

22 presented one of these cards, they would be let in free?

23 A Yes.

24 Q And the taxicab driver got stiffed -- excuse

25 me, did not get compensated for bringing the customer to the

1 bar?

2 A Correct.

3 Q Okay. And these cards were passed out -- they

4 were supposed to be passed out by employees of the club;

5 correct?

6 A Correct.

7 Q And they were supposed to be passed out to

8 locals; correct?

9 A Yes.

10 Q To encourage locals to come to the Palomino

11 Club; right?

12 A Yes.

13 Q And the reason that it was better for locals to

14 come is because locals at that time had to pay an entry; am I

15 right?

16 A Yes.

17 Q But the locals' entry was \$15; right?

18 A Yes.

19 Q And the club was trying to encourage non-taxi

20 traffic -- customer traffic?

21 A I don't know.

22 Q Let me rephrase it. Let me rephrase it. When

23 somebody arrived in a cab, either most of or all of the

24 admission fee wound up going to the cab driver?

25 A Correct.

1 Q If a -- if you could develop local customers by
2 getting them into the club free the first time, when they came
3 back, if they paid an admission the club kept all of it?

4 A Yes.

5 Q And so the purpose -- the primary purpose of
6 the VIP cards was for the creation of a customer base that
7 when they returned at least you'd make more per customer than
8 if you were doing tourists that were arriving in cabs?

9 A Yes.

10 Q But once these cards started getting into the
11 hands of employees you came to realize that they weren't
12 always given to locals; am I right?

13 A Yes.

14 Q And there came a point in time when these
15 cards, these VIP cards actually became a problem for the club;
16 correct?

17 A Yes.

18 Q And the reason they became a problem is because
19 people would arrive in a taxi and present one of these cards
20 at the door, and then the taxi driver would wind up in a
21 dispute with the club as to whether the taxi driver should be
22 paid or not?

23 A Yes.

24 Q And there was at least a degree of suspicion
25 that employees, not just one, but several, perhaps even many,

1 were actually selling these VIP cards to customers who arrived
2 in cabs after they arrived in cabs?

3 A Not as far as I know.

4 Q Would it be fair to say that there was a
5 suspicion that at least some employees would to it?

6 A Dancers. I remember them mentioning dancers.

7 Q Dancers selling the VIP card to somebody who
8 arrived in a cab?

9 A To their customers.

10 Q To their customers?

11 A To their customers.

12 Q So that they could get in next time free?

13 A Yes.

14 Q And these customers were not necessarily
15 locals, is what you're saying?

16 A Yes.

17 Q So the dancers found an additional way to make
18 money than to suck the money out of the pockets of the
19 customer; fair to say?

20 A Yes.

21 Q All right. And so it's your testimony that it
22 never came to your attention that any doorman was suspected of
23 selling these VIP cards to customers who arrived in cabs?

24 A The only doorman that was there at that time
25 was Mr. Hadland.

1 Q That doesn't answer my question. My question
2 was, it's your testimony that Deangelo Carroll was not
3 suspected of selling these cards?

4 A No.

5 Q That's not your testimony? Well, let me ask
6 you this. Would it be fair to say that unless somebody told
7 you about it, one of the employees told you about it, whether
8 someone was suspected or not you wouldn't know?

9 A Correct.

10 Q Okay. And you weren't the person who was in
11 charge of the guy at the front door?

12 A Correct.

13 Q Okay. And so there may have been many; it just
14 didn't come to your -- excuse me. There may have been several
15 or more that were under suspicion of doing this, but it did
16 not come to your attention?

17 A Yes.

18 Q Okay. Now, if I understood your direct
19 examination correctly, it's your testimony that you overheard
20 this discussion between Luis, III, and his father about
21 Gillardi and Rizzolo; am I right?

22 A Yes.

23 Q But you do not say that during that discussion
24 you heard anybody make any agreement to harm Mr. Hadland or
25 anybody else; am I right?

1 A Correct.

2 Q And your next -- the next event in terms of
3 anybody saying anything that comes to your attention is when
4 Mr. H tells you to go into the room behind the office to utter
5 the words to Deangelo Carroll "Go to Plan B"?

6 A Yes.

7 Q He didn't tell you to go back there and say,
8 hey, don't kill T.J. Hadland, he said, "Go to Plan B"?

9 A Yes.

10 Q All right. And it's your testimony that you
11 had never before heard the term "Go to Plan B" used around the
12 Palomino Club?

13 A That's correct.

14 Q And then you knew when you heard that and you
15 called Mr. Carroll that something bad was going to happen to
16 Mr. Hadland?

17 A Yes.

18 Q You didn't agree for anything bad to happen to
19 Mr. Hadland; am I right?

20 A No.

21 Q I'm not right?

22 A No, you're right.

23 Q Okay. You didn't plan to have anything bad
24 happen to Mr. Hadland, according to your testimony; am I
25 right?

1 A You're right.

2 Q Okay. You didn't know anything at all about
3 that. It was a feeling that you had; am I right?

4 A Yes.

5 Q And you came back into the office, where Mr.
6 Hidalgo, Mr. H, and PK Hadley were, and all you said to Mr. H
7 was, I called him and I told him to go to Plan B?

8 A Yes.

9 Q And so the first time that you learned that
10 anything bad happened to Mr. Hadland, according to your direct
11 examination, is when Deangelo Carroll shows up later that
12 night and says, it's done?

13 A Yes.

14 Q But he doesn't say "it's done" means we just
15 killed T.J. Hadland, does it?

16 A No.

17 Q Okay. But he does say that the guy that was
18 with him, that they were getting high and the guy went off and
19 did something stupid and killed T.J. Hadland; am I right?

20 A Not then.

21 Q He never said that that night?

22 A No.

23 Q What did Mr. Carroll appear like when he walked
24 into the office and calmly sat down and said, it's done? Did
25 he look like he always looked? Was there anything different

1 about him?

2 A No.

3 Q Okay. And this man, Luis Hidalgo, Mr. H., that
4 you had been with for so many years by that time, who had
5 never done anything like this before, when you walked back
6 into his office after making the phone call saying, "Go to
7 Plan B," and nothing more, you did not ask this man, what's
8 going on?

9 A He walked out of the office with PK.

10 Q And you felt -- you had this feeling, this
11 emotional response to this event, but it wasn't strong enough
12 to say, hey, Luis, I need to talk to you; am I right?

13 A Yes.

14 Q And then when Deangelo Carroll said what you
15 say he said, appearing normal, you did not make any inquiry
16 then --

17 A No.

18 Q -- as to what happened; right?

19 A Not until Deangelo leaves.

20 Q Okay. And when Deangelo leaves, you say --
21 after paying him \$5,000, you then say to Mr. H, what happened,
22 what happened, words to that effect?

23 A I asked him, what have you done.

24 Q I'm sorry?

25 A What have you done.

1 Q Okay. And you're saying that he did not
2 respond?
3 A No.
4 Q Am I correct?
5 A Correct.
6 Q Okay. Now, after Deangelo Carroll leaves the
7 office with the \$5,000 -- oh. Wait a minute. Hold on a
8 minute.
9 You know those monitors that are in that office --
10 A Yes.
11 Q -- that we talked about earlier?
12 A Yes.
13 Q You were sitting at the desk next to those
14 monitors; am I right?
15 A Yes.
16 Q Okay. When you paid this money -- when you put
17 the money on the desk, according to your testimony -- let me
18 rephrase that.
19 When Mr. Carroll comes into the office, you're
20 sitting behind the desk?
21 A Yes.
22 Q Where you usually sit?
23 A Yes.
24 Q Mr. Hidalgo, Mr. H, does not usually sit behind
25 the desk, he usually sits in front of the desk; am I correct?

1 A Correct.

2 Q There are two chairs in front of that desk; am
3 I correct?

4 A Yes.

5 Q Okay. And he usually sits in the one closest
6 to the wall away from the entrance?

7 A Yes.

8 Q Facing the entrance?

9 A Yes.

10 Q The one closest to the entrance is usually
11 empty if nobody's in there?

12 A Yes.

13 Q But if somebody's in there, that's where that
14 person would sit?

15 A Yes.

16 Q And but for a couch that was in that office and
17 a massage-type chair, one of those --

18 A There was two.

19 Q I'm sorry?

20 A Two massage chairs.

21 Q Two massage chairs. But for those, there was
22 no other furniture in that office; right?

23 A Correct.

24 Q When I say furniture, I mean sitting
25 arrangements. Am I right?

1 A Yes.

2 Q Okay. And so almost invariably if there was

3 only one person in the office besides you and Mr. H, they

4 would be sitting in that chair closest to the door --

5 A Yes.

6 Q -- the armchair; am I right?

7 A Yes.

8 Q All right. And so Mr. Carroll comes into the

9 office and, if I understand your testimony, he sits down in

10 that armchair.

11 A Yes.

12 Q You're sitting behind the desk, Mr. Hidalgo,

13 Mr. H is sitting in the chair that he usually occupies?

14 A Yes.

15 Q Okay. What happens according to you happens,

16 and then Deangelo Carroll leaves?

17 A Yes.

18 Q And you don't speak to Deangelo Carroll again

19 until Tuesday, May 23rd, 2005.

20 MR. DIGIACOMO: Objection. That's actually Monday.

21 THE WITNESS: Monday.

22 BY MR. GENTILE:

23 Q It was a trick question. Monday, May 23rd,

24 2005. Am I right?

25 A Correct.

1 Q All right. And that is at Simone's?
2 A Yes.
3 Q And that conversation is recorded?
4 A Yes.
5 Q Let's talk about some of the things on that
6 conversation. Mr. Carroll arrives at Simone's because you,
7 Anabel, summoned him there --
8 A Yes.
9 Q -- through Mark Wade -- Mark Wade?
10 A Yes.
11 Q You see him enter the front door, and you're in
12 your office when you see that; correct?
13 A Yes.
14 Q And you leave your office and point to the
15 hallway before he comes very far into the reception area;
16 correct?
17 A I don't leave my -- I don't believe I leave my
18 office, but I point him in the direction of Room 6.
19 Q Okay. And so he goes through the hallway down
20 to the end?
21 A Yes.
22 Q And we have that chart here so we know where
23 Room 6 is and we know where the entrance is.
24 A Yes.
25 Q And we know where your office is.

1 A Yes.

2 Q And we know where the reception desk is.

3 A Yes.

4 Q And at that point you speak with this person

5 who you have not spoken with since sometime around or shortly

6 after midnight, the early minutes, let's say, of May the 20th;

7 right?

8 A Correct.

9 Q Okay. Now, do you remember -- let me ask you

10 this. You assisted in the preparation of the State's

11 transcript of the recorded conversation; right?

12 A Yes.

13 Q And you listened to those recorded

14 conversations over and over and over again; right?

15 A Yes.

16 Q And before you changed your plea you actually

17 listened to them with Ms. Armeni --

18 A Yes.

19 Q -- and me --

20 A Yes.

21 Q -- and other attorneys in this case; am I

22 correct? Or at least --

23 A And my attorney.

24 Q And your -- Mr. Oram.

25 A Yes.

1 Q All right. So it's fair to say that you've
2 spent a lot of time listening to the tapes.

3 A Yes.

4 Q I believe Mr. DiGiacomo once characterized it
5 as you've listened to the tapes ad nauseam. Do you remember
6 him saying that?

7 A Yes.

8 Q Okay. Would it assist you -- I'm going to
9 question you about the tapes. Do you remember, without
10 refreshing your recollection with a transcript, what the tapes
11 say? And you've listened to them ad nauseam, but I don't want
12 to be unfair to you. You want a transcript?

13 A Yes, please.

14 MR. GENTILE: Okay. I'm not sure what the transcript
15 exhibit is, but I would like to use the State's transcript.
16 And let's start with the one from the 23rd.

17 THE COURT: Why don't you just hand those to Mr.
18 Gentile and he can decide what he wants to give her.

19 BY MR. GENTILE:

20 Q Ms. Espindola, this is -- I'm handing you what
21 has no sticker on it.

22 MR. GENTILE: Do we -- is there an exhibit number? I
23 would like the record to reflect what it is.

24 THE CLERK: All right. They're going to be 2.

25 MR. GENTILE: This is State's --

1 THE COURT: No. It's Court's Exhibit 2.

2 MR. GENTILE: Court's Exhibit 2. Which is not in
3 evidence.

4 THE COURT: Right. That's why it's not a State's
5 exhibit, it's a Court's exhibit.

6 BY MR. GENTILE:

7 Q This is not in evidence, but you can use it to
8 assist yourself. The jury's not going to get this, okay.

9 Yesterday -- I keep saying yesterday. Last Friday
10 there was a question asked of you, and I had a puzzled look on
11 my face because of the way you responded to it, and then you
12 noticed my puzzled look and you changed the person of the
13 pronoun that you had used in your answer. Remember? I think
14 your answer said, he said, and then you used the word "he"
15 when he really said "I."

16 A I remember saying it was first person.

17 Q First person. Okay. So you recognize that
18 pronouns are important in speech?

19 A Yes.

20 Q Okay. Now, when you look at this transcript of
21 the conversation on the 23rd I want you take a look at -- does
22 yours say the time on it? May I see yours for just a moment.
23 Yes, it does. I think it does. Yes.

24 Look at 6 minutes and 55 seconds. You see that?

25 A Yes.

1 Q At 6 minutes and 55 seconds, this is after Mr.
2 Carroll says that he needs money to pay these other guys to
3 keep them quiet, you say, "Where the fuck am I supposed to get
4 the fuckin' money?" You used the first person singular,
5 didn't you?

6 A Yes.

7 Q Look at 7 minutes and 25 seconds. At 7 minutes
8 and 25 seconds, this is after Mr. Carroll says that he doesn't
9 care if it's just a couple of hundred bucks that you give him,
10 you say, "Look, if I tell Louie that these motherfuckers are
11 asking for money and if not they're going to go to the cops,
12 Louie is gonna freak. I -- me -- my personal -- me personally
13 have about, uh, shit, how much do I have, maybe six bills?
14 I'll fuckin' give it to you." You used the first person
15 singular pronoun, didn't you?

16 A Yes.

17 Q At 9 minutes and 27 seconds you say to Mr.
18 Carroll, "All right, I'm gonna have to find an in-between
19 person to talk to you, somebody I can trust. It might be --
20 if a person calls, looks for you, she'll say it's Boo. I'm
21 Boo." You used the first person singular pronoun; am I right?

22 A Yes.

23 Q And Boo is a nickname that you have had; am I
24 right?

25 A Yes.

1 Q It was given to you by Mr. Turner, was it not?

2 A Yes.

3 Q So you're telling Mr. Carroll at that point in
4 time that you are going to continue maintain contact with him
5 but you're going to use an intermediary; correct?

6 A Yes.

7 Q Then look at 11:04, please. Are you there?

8 A Yes.

9 Q Mr. Carroll says to you, "So what about work?
10 I'm not supposed to come back to work?" And you said, "This
11 is what I need you to do"; am I right?

12 A Yes.

13 Q Used the first person singular pronoun. And
14 then he says, "I have to come back to work to make it look
15 like I'm still at work, 'cause if not, then they're going to
16 fuckin' suspect something if they're still watching us." He
17 says that to you; am I right?

18 A Yes.

19 Q All right. Now, this conversation took place
20 the day after you met with me at my office?

21 A Yes.

22 Q It took place two days after you met with Jerry
23 DePalma at his office; am I right?

24 A Yes.

25 Q And you did meet with Jerry DePalma at his

1 office, did you not?

2 A I met him.

3 Q That's all?

4 A That's all.

5 Q You didn't speak to him at all?

6 A I walked in with Mr. Hidalgo, and he introduced
7 himself, saying that he was going to go into -- he was merging
8 with your office. He asked Mr. Hidalgo if I knew what was --
9 the conversation was going to be about. Mr. Hidalgo said no.
10 And I was asked to leave, that I could not be present.

11 Q So the only person that you recall meeting,
12 then, on that day at his office was him, Jerry DePalma?

13 A Yes.

14 Q Nobody else?

15 A No.

16 Q Did you see anybody else there?

17 A I went back to the car.

18 Q Okay. And so if Mr. DePalma says that you met
19 with him for an hour and said things to him, he's lying?

20 A Yes.

21 Q Okay. And so if I were to go through each and
22 every thing that that might have entailed, you would say that
23 you didn't say those things; am I right?

24 A That's correct.

25 Q Okay. So anything that he might say, then,

1 would certainly be inconsistent with you never having talked
2 with him; am I right?

3 A As I said, the only thing he stated was that he
4 was going to be merging with your office.

5 Q And that was it?

6 A And we went ahead and he said I could not be
7 present in the conversation.

8 Q So it sounds like you maybe spent a minute with
9 him, two?

10 A Yes.

11 Q All right. In any case, two days after your
12 meeting Mr. DePalma and one day after your meeting with me --
13 let's look at -- we just said that -- about coming back to
14 work. Look at 11:17. You say, "Okay. I've been -- I've been
15 thinking." Deangelo says, "Right." And you say, "Your son is
16 still sick; right?" Actually that's not what this transcript
17 says, but -- this transcript says, "You son still sick;
18 right?" That's what the transcript says; right?

19 A Yes.

20 Q Okay. And then he says, "Yeah, we just took
21 him to the hospital today," and then there's a cough, and then
22 at
23 minutes and 31 seconds you say, "Listen, what I'm going to
24 tell you, I'm going to give you some money so you can maintain
25 yourself. I need you to go in tonight and see Ariel and tell

1 her --" and then there's -- it tails off; right?

2 A Yes.

3 Q You used the first person singular pronoun;

4 correct?

5 A Yes.

6 Q Okay. Look at 14:06. See that?

7 A Yes.

8 Q That's Deangelo speaking; right?

9 A Yes.

10 Q You're listening; right?

11 A Yes.

12 Q All right. And he says to you, "We were gonna

13 call it quits, and fuckin' KC got --" excuse me, I -- let me

14 start over. "We were gonna call it quits, and fucking KC

15 fucking got mad and I told you he went fucking stupid and

16 fuckin' shot the dude, not nothing we could fuckin' do about

17 it." You heard him say that?

18 A Yes.

19 Q You didn't say to him, you never told me that,

20 did you?

21 A No.

22 Q You did say, "You should have fuckin' turned

23 your ass around before this guy -- knowing that you had people

24 in the fuckin' car that could pinpoint you, that this

25 motherfucker had his wife, you should have motherfuckin'

1 turned around on the road. Don't give a fuck what KC said.
2 You know what, bad deal, turn around." You said that; right?
3 A Yes.
4 Q You say, "that this motherfucker had his wife."
5 You're talking about the woman that was at the beach with T.J.
6 Hadland, aren't you?
7 A Yes.
8 Q You told us that when Deangelo Carroll came
9 into the office on the 20th he didn't say anything other than,
10 it's done; right?
11 A Correct.
12 Q You told us that until this call, till this
13 wire, till this recorded conversation from the time that he
14 left the office until the time that you're talking to him on
15 this wire you never communicated with him.
16 A Correct.
17 Q You are not clairvoyant, are you?
18 A No.
19 Q Look at 19:41. Actually, go to 19:08. You
20 there?
21 A Yes.
22 Q You're talking to Deangelo Carroll, are you
23 not?
24 A Yes.
25 Q On the 20th, when he came back to get the

1 money, he didn't talk to you at all about what happened,
2 according to your testimony; right?

3 A Correct.

4 Q And you didn't talk to him at all in between;
5 right?

6 A Correct.

7 Q And at 19:08 you say, "All I'm tellin' you is
8 -- all I'm tellin' you is stick to your motherfucking story.
9 Stick to your fucking story, 'cause I'm telling you right now
10 it's a lot easier for me to --" me, me "-- to try to fucking
11 get an attorney to get you fuckin' out that it's gonna before
12 for everybody to go to fuckin' jail. I'm telling you once
13 that happens we can kiss every fuckin' goodbye, all of it,
14 your kids' salvation and everything else, it's all gonna
15 depend on you." You say that to him; right?

16 A Yes.

17 Q And he says to you, "Ms. Anabel, you already
18 know where I stand on this"; am I right?

19 A Yes.

20 Q But you're telling us that on May the 20th he
21 didn't tell you anything about this; right?

22 A Correct.

23 Q And on May the 23rd this is the first time
24 you're talking to him about it?

25 A Yes.

1 Q And if you listen to this conversation, he's
2 not telling you anything about where he stands on it; right?
3 A Correct.
4 Q Look at 20:03. You're talking to Deangelo;
5 correct?
6 A Yes.
7 Q And you say, "All right. Have your wife get in
8 contact with -- see if she can find any -- umm, 'cause I'm
9 gonna go ahead and talk to this guy, as well, and this
10 motherfucker, I'm tellin' you, he's fucking outrageous, he's
11 gonna want you -- I know he's gonna want you to go ahead and
12 rat the other guys out, and there ain't no fuckin' way. And
13 I'll tell you what everybody is gonna -- I'll tell you what,
14 everybody is gonna fuckin' die, we're all gonna be under the
15 fuckin' trigger." You're saying that to him; right?
16 A Yes.
17 Q We can agree you're not clairvoyant?
18 A Correct.
19 Q And you know that whoever this Mr. Outrageous
20 is wants Deangelo Carroll to rat out all the people that were
21 out there with him; right?
22 A That's what I said.
23 Q That's what you said. And your statement about
24 being under the fuckin' trigger was literally true as far as
25 you were concerned at that time; am I right?

1 A Yes.

2 Q Go to 21:04. It's you talking. You say, "For
3 the rest of his fuckin' life, what about it, what about
4 everything, because we will lose it all. And if I lose the
5 shop and I lose the club, I can't help you or your family."
6 You said that?

7 A Yes.

8 Q You used the first person singular pronoun;
9 correct?

10 A Correct.

11 Q And we know from last week that you are pronoun
12 sensitive, because you understood what the problem was with
13 what you had said and you said, well, he said it in the first
14 person.

15 A Yes.

16 Q Look at 22:58. This is after Deangelo tells
17 you that all he has in terms of a way to get in touch with KC
18 is a cell phone number. And we can agree that as of this
19 minute -- as of -- when I say this minute, I mean this minute
20 on the 23rd of May --

21 A Yes.

22 Q -- you, Anabel Espindola, you, second person
23 singular, had never met KC?

24 A Correct.

25 Q Okay. But you had seen KC on that surveillance

1 monitor, security monitor at the Palomino Club, did you not?

2 A No.

3 Q You say at 22:58, "Get to get somebody to buy a
4 prepaid phone. It cannot be you, cannot be any of your
5 goddamn fuckin' homies --" you used the word "homies"; right?

6 A Yes.

7 Q "Can't tell anyone," something missing, "Get a
8 fucking prepaid," something missing, "tonight when you go to
9 the fucking club two days ago. You were fucking held for
10 questioning and shit. I'll tell you right now I'm going to
11 tell Louie that you are done." Right? Did you say that?

12 A That's what it says, yes.

13 Q All right. And then you go on to say, "So we
14 keep our mouths shut." This is at 24:23. "So we -- we keep
15 our mouths shut, we get you a fuckin' -- your wife finds an
16 attorney, your wife, like I said, you need a motherfucking
17 prepaid phone so I can call you when I need to talk to you";
18 right?

19 A Yes.

20 Q All right. By the way, you know, I notice that
21 the language that you're using when you don't hear -- when you
22 don't know anybody's listening is a little different than
23 you've used in the courtroom. Can we agree to that?

24 A No.

25 Q Okay. 25:13. You tell Deangelo go to the club

1 that night at 4:00 o'clock and to tell Ariel basically that
2 he's going to resign; am I right?

3 A Yes.

4 Q And then at 29:11 -- you're probably going to
5 have to turn -- are you there?

6 A Yes.

7 Q You say, "I used my money last night in the
8 fucking -- for change money, so I got no change, fucking,"
9 something missing, "This is it, I have no more. I got like
10 \$11 to my name"; right?

11 A Yes.

12 Q Now, the next day when you were arrested you
13 had like \$2300 in your purse, didn't you?

14 A Yes.

15 Q Okay. And there was \$151,000 at the Palomino
16 Club, we know that, in cash; right?

17 A Yes.

18 Q Okay. And then at 31:02 you say to him, "I'm
19 giving you extra cash anyway," something missing. Then, "If
20 you need to get a hold of me, go through," then there's
21 something missing, and, "I know. But call Mark or I will --
22 call Mark in case. I will give Mark a number to find a way to
23 give to you which will be a prepaid number which actually I
24 can give to you now, and then every week figure out where to
25 go so I can give you at least blank dollars a week"; right?

1 A Yes.

2 Q You're using the first person singular. Now,
3 that was on the 23rd; correct?

4 A Yes.

5 Q Let's look at the 24th.

6 A I don't have a copy of the 24th.

7 Q We can probably cue it up. I'm handing you
8 Court's Exhibit 3. I assume that your memory -- independent
9 memory of the conversation on the 24th is no better than it is
10 with respect to the 23rd. Fair to say?

11 A Yes.

12 Q Look at 2:04. Let's start with that. Deangelo
13 says to you, "You know what I'm saying? I did everything you
14 guys asked me to do. You told me to take care of the guy, and
15 I took care of him." And you say, "Okay. Listen, listen,"
16 and he says, "I'm not --" and then you interrupt and say,
17 "Talk to the guy, not fucking take care of him. Goddamn it, I
18 fuckin' called you." If you listen to that part in between,
19 the part that's missing between "not fuckin' take care of him"
20 and "Goddamn it," in there you're saying, not fucking care of
21 him like kill the guy, aren't you? Or don't you remember?

22 A I don't remember.

23 Q And then he says, "Yeah. And when I talked to
24 you on the phone, Ms. Anabel, I said -- specifically said, I
25 said, if he's by himself do you still want me to do him in.

1 You said, yeah." And you respond to that, "I did not say
2 yeah." You didn't say, you didn't tell me that you were gonna
3 do him in, did you?

4 A No.

5 Q You said, "I did not say yeah," and you -- and
6 he said, "If he is with somebody -- you said, if he is with
7 somebody then just beat him up." And your response was, "I
8 said to go to Plan B, fuckin' Deangelo. And, Deangelo, you're
9 just minutes away. I told you no. I fuckin' told you no, and
10 I kept tryin' to fuckin' call you, but you turned off your
11 phone." That's what you said to him; right?

12 A Yes.

13 Q What'd you tell him no about? Did you tell
14 him, no, don't kill the guy? Did you tell him, no, don't beat
15 the guy up? I'll withdraw the question.

16 At 2:59 you say, "Shh," which was not a shush, but it
17 was -- that's all you could hear is the "Shh." We'll have to
18 figure out what the rest of the wording is. But then you say,
19 "I couldn't fucking reach you. As soon as you and I had
20 spoken, I knew where you fuckin' were. I fuckin' tried to
21 call you again, and I couldn't fuckin' reach you."

22 Well, now, let me ask you something. You told us
23 that the only thing that you knew was that Louie Hidalgo, Mr.
24 H, said for you to go into the back room -- Exhibit D2,
25 remember --

1 A Yes.

2 Q -- the back room and say -- call Deangelo and
3 say, go to Plan B.

4 A Correct.

5 Q He didn't tell you where Deangelo was. You
6 didn't tell us that he told you where Deangelo was.

7 A That's correct.

8 Q But you're telling Deangelo that you knew where
9 he was; am I right?

10 A Yes.

11 Q And that was true. You did know where he was.

12 A I based it on the conversation that Mr. H and
13 Little Louie had in the office earlier that day.

14 Q At 3:39 you say, "All I'm tellin' you is
15 denial, because I'm -- I'm fucking saying and I already said I
16 don't know shit, I don't know shit, fucking and I don't know a
17 motherfucking thing and that's how I got to fuckin' play it
18 and that's how I told everybody else to play it." You're
19 using the first person singular, are you not?

20 A Yes.

21 MR. GENTILE: Your Honor, I don't -- what time are
22 you planning on breaking, because --

23 THE COURT: About 12:15. I mean, we can break now.

24 MR. GENTILE: If you want to break now and come back
25 earlier, this is a good time for me to make my transition.

1 Otherwise I'm going to get interrupted. It's up to you.

2 THE COURT: All right. The jury won't know what to
3 do with themselves if they're not starving by lunchtime.

4 All right. We'll go ahead, ladies and gentlemen, and
5 take our break until 1:00 o'clock. Once again you're reminded
6 that during our lunch break you're not to discuss this case or
7 anything relating to the case with each other or with anyone
8 else. Don't read, watch, listen to any reports of or
9 commentaries on any subject matter relating to the case.
10 Don't do any independent research, don't visit locations at
11 issue, and please don't form or express an opinion on the
12 trial. Once again, note pads in your chairs and follow Jeff
13 through the double doors. We'll see you all back here at
14 1:00.

15 (Jury recessed at 11:46 a.m.)

16 MR. GENTILE: Can we get an instruction as to no
17 discussions?

18 MR. DIGIACOMO: No, Judge.

19 THE COURT: I mean --

20 MR. DIGIACOMO: I'm certainly entitled to ask her
21 questions for review.

22 THE COURT: I think she's entitled to talk to the
23 State. Obviously the State cannot coach her or tell her what
24 to -- what to answer to anything. And I also think we're --
25 we can ask her at the end of the break what the State told

1 her. And the State is also required, meaning the lawyers, as
2 officers of the court disclose what they discussed with Ms. --

3 MR. GENTILE: As long as we get disclosure.

4 THE COURT: -- Ms. Espindola. And I know
5 Investigator Falkner, if he has some discussion, will disclose
6 that to the Court, as well. So as long as there's disclosure,
7 I don't think that there's any prohibition on her speaking
8 with the attorneys or with the investigator.

9 MR. GENTILE: If there's disclosure, I guess we can't
10 gripe about it. But --

11 THE COURT: All right.

12 MR. GENTILE: But I want an opportunity outside the
13 presence of the jury before I commence cross-examination.

14 THE COURT: To ask her what did you talk about?

15 MR. GENTILE: Yes.

16 THE COURT: That's fine.

17 MR. GENTILE: Okay.

18 MR. ADAMS: Judge, is this a good time for me to make
19 our record?

20 THE COURT: No. I'm so sorry, Mr. Adams. I now have
21 to go get my driver's license renewed with my new glasses.
22 Because I --

23 MR. ADAMS: What time did you say back, then?

24 THE COURT: The 30-day grace period's expiring. I
25 don't want to have to take the test again. So --

1 MR. ADAMS: Did you say 1:00 o'clock?
2 THE COURT: Yes.
3 (Court recessed at 11:47 a.m., until 1:06 p.m.)
4 (Outside the presence of the jury.)
5 THE COURT: Are we ready?
6 MR. ADAMS: To make the record?
7 THE MARSHAL: Your Honor, your witness is in the back
8 room.
9 THE COURT: Oh, yeah. Go get her.
10 I thought we can make -- do everything later.
11 MR. ADAMS: Okay.
12 THE COURT: Do we need to do it now?
13 MR. ADAMS: No.
14 THE COURT: I mean, if you need to do it now -- I'd
15 just as soon --
16 MR. ADAMS: It can wait.
17 THE COURT: -- not have the jurors waiting. And I
18 had to run all the way to the DMV, get my new license, get my
19 picture taken, come back, and I did all of that.
20 MR. ADAMS: We all had a hard time focusing on our
21 job pulling for you at the DMV.
22 (Pause in the proceedings)
23 MR. GENTILE: Aren't we going to ask the witness
24 first about the --
25 THE COURT: Oh. I'm sorry. You're right. All

1 right.

2 MR. GENTILE: I mean, it's for the Court to probe
3 first.

4 THE COURT: All right. Ms. Espindola --

5 We're on the record; right?

6 -- did you speak with either of the Deputy District
7 Attorneys during our lunch break?

8 THE WITNESS: No. Well, Mr. DiGiacomo came into the
9 room where we were at because he was waiting for the bathroom
10 to open up, but we did not discuss the case at all.

11 THE COURT: Okay. And what about Investigator
12 Falkner or one of the other D.A. investigators?

13 THE WITNESS: No.

14 THE COURT: All right. Anyone want to follow up?

15 MR. PESCI: We did get her lunch, \$7, just so
16 everybody knows.

17 MR. DIGIACOMO: Yeah. And for the record,
18 Investigator Leone, just so the record's clear as to who the
19 investigators are, Falkner and Leone.

20 THE COURT: Oh. Thank you.

21 MR. GENTILE: We'll seek an instruction.

22 THE COURT: Huh?

23 MR. GENTILE: We'll seek a jury instruction.

24 THE MARSHAL: Judge, are we ready for the jury?

25 THE COURT: Yeah.

1 (Jury entered at 1:09 p.m.)

2 THE COURT: Court is now back in session. Record
3 will reflect presence of the State, the defendants, their
4 counsel, the officers of the court, and the members of the
5 jury.

6 And, Mr. Gentile, you may resume your
7 cross-examination.

8 MR. GENTILE: Thank you.

9 CROSS-EXAMINATION (Continued)

10 BY MR. GENTILE:

11 Q Ms. Espindola, we listened to events that took
12 place on the 23rd of May and the 24th of May when we finished
13 this morning.

14 A Yes.

15 Q And on the 24th of May, after that last of the
16 two recordings, you were arrested; am I correct?

17 A Yes.

18 Q Before you were arrested you were brought to
19 the Homicide offices, were you not?

20 A Yes.

21 Q And at the Homicide offices you were placed in
22 a room; correct?

23 A Yes.

24 Q And in that room you were joined by a couple of
25 detectives, were you not?

1 A Yes.

2 Q And you know that -- strike that.

3 You were asked questions by those detectives; am I

4 correct?

5 A Yes.

6 Q And in that room while the questioning was

7 going on you were being videotaped; am I right?

8 A Yes.

9 Q And you knew that the questions that were being

10 asked of you and the answers that you were making to those

11 questions were being permanently recorded; am I right?

12 A Yes.

13 Q And at the end of the interview you were

14 whispered to by one of the detectives; am I right?

15 A I believe so.

16 Q And the whispering was to let you know that you

17 had been recorded by Mr. Carroll; am I right?

18 A Yes.

19 Q And so what they were doing after you answered

20 questions for a while is they basically let you know, look, we

21 have you on tape --

22 A Yes.

23 Q -- correct?

24 A Yes.

25 Q At a point in time you ceased answering

1 questions?

2 A Yes.

3 Q And you were booked into the Clark County
4 Detention Center?

5 A Yes.

6 Q That was the 24th of May 2005?

7 A Yes.

8 Q You have been in the Clark County Detention
9 Center ever since; am I right?

10 A Yes.

11 Q Shortly after your being booked into the Clark
12 County Detention Center you were brought to Boulder City. Do
13 you remember that?

14 A Yes.

15 Q You were brought to Boulder City in leg irons,
16 waist chains, and handcuffs; correct?

17 A Yes.

18 Q In fact, every time that you're moved from one
19 place to another that's how you're moved; am I right?

20 A Without the leg shackles, yes.

21 Q Sometimes you do have leg shackles?

22 A I did when I used to go to Mosley's court.

23 Q And when you went to Boulder City you were a
24 defendant in this case?

25 A Yes.

1 Q Deangelo Carroll was a defendant in this case?
2 A Yes.
3 Q Kenneth Counts was a defendant in this case?
4 A Yes.
5 Q Luis Hidalgo, III, Little Louie, was a
6 defendant in this case?
7 A Yes.
8 Q Jayson Taoipu was a defendant, but he wasn't
9 there; am I right?
10 A Yes.
11 Q You remember that? And you sat in the
12 courtroom for something called a preliminary hearing. Do you
13 recall that?
14 A Yes.
15 Q And so at that preliminary hearing you got your
16 first glimpse of what the evidence was that the State was
17 going to introduce against you?
18 A Yes.
19 Q You would agree, would you not, that at that
20 time this man, Luis Hidalgo, Jr., Mr. H, was not a defendant
21 in this case?
22 A Correct.
23 Q And the evidence was introduced against you at
24 a preliminary hearing; am I right?
25 A Yes.

1 Q Mr. Rontae Zone testified at that preliminary
2 hearing?
3 A Yes.
4 Q Some police officers testified at that
5 preliminary hearing?
6 A Yes.
7 Q You were represented by counsel at that
8 hearing?
9 A Yes.
10 Q I don't see him here now. He was here earlier.
11 And at the end of that preliminary hearing the
12 Justice of the Peace in Boulder City found probable cause to
13 keep you in custody; am I correct?
14 A Yes.
15 Q And your lawyer moved for bail at that time.
16 Do you remember that?
17 A Yes.
18 Q And you were denied bail. The Justice of the
19 Peace said, no bail; right?
20 A Yes.
21 Q He didn't say a million dollars bail; right?
22 A Correct.
23 Q He didn't say a half a million dollars bail?
24 A No.
25 Q He didn't say \$5 million bail?

1 A No.

2 Q He said no bail.

3 A Correct.

4 Q Okay. You were, of course, hoping for bail at
5 that time?

6 A Yes.

7 Q And you were hoping that if you were given bail
8 Mr. H would post it; correct?

9 A Yes.

10 Q Okay. But it was denied to you. On July the
11 6th of the year 2005 it first came to your attention that the
12 State was going to seek the death penalty against you; am I
13 right?

14 A Yes.

15 Q And the prosecutors that were in Boulder City,
16 Mr. DiGiacomo; right?

17 A Yes.

18 Q And Mr. Pesci?

19 A Yes.

20 Q Okay. And the prosecutors who sought the death
21 penalty against you were Mr. DiGiacomo and Mr. Pesci?

22 A Yes.

23 Q And so from July the 6th of 2005 you were
24 facing the possibility that if you were convicted you might be
25 put to death?

1 A Yes.

2 Q Now, you were ably represented by Mr. Oram. We
3 can agree to that?

4 A Yes.

5 Q And Mr. Oram filed motions, am I right, with
6 the judge?

7 A Yes.

8 Q Okay. The judge that you were originally
9 assigned to was not Judge Adair --

10 A No.

11 Q -- Judge Mosley?

12 A Yes.

13 Q And your lawyer litigated lots of issues in
14 your behalf; am I right?

15 A Yes.

16 Q And there came a time when a second lawyer
17 started to represent you, and that was JoNell Thomas --

18 A Yes.

19 Q -- am I right? And Ms. Thomas and Mr. Oram,
20 there came a time when they asked Judge Mosley to throw out
21 the death penalty against you?

22 A Yes.

23 Q And he said no?

24 A Correct.

25 Q In so many words. I mean, he entered an order

1 saying that the motion was denied --

2 A Yes.

3 Q -- am I right? Okay. Now, just to make it
4 clear so that -- and I'm sure that -- there came a point in
5 time that when Judge Mosley denied your motion with respect to
6 the death penalty your lawyers sought the Supreme Court of
7 Nevada to intervene in your behalf; am I right?

8 A Yes.

9 Q And that motion in front of Judge Mosley, it
10 was sitting there a long time before he finally got around to
11 saying denied, wasn't it?

12 A Yes.

13 Q And every day that you sat in that jail waiting
14 for that order to be entered you knew that there was a
15 possibility that at the end of the road you'd stop breathing?

16 A It was a possibility.

17 Q And when your lawyers took the case to the
18 Supreme Court of Nevada the case sat there for a long time
19 before the Supreme Court ruled; am I correct?

20 A Yes.

21 Q And so the death penalty was hanging over your
22 head from the 6th of July of 2005 until the Supreme Court
23 ruled on it, and that was December the 27th of 2007; am I
24 right?

25 A Yes.

1 Q Now, during that period of time you were never
2 granted a bail; am I correct?

3 A Correct.

4 Q And so from July the 6th of '05 till December
5 27th of '07 is 29 months and 21 days. You agree with the
6 math?

7 A I would assume so, yes.

8 Q Okay. And so for 29 months and 21 days,
9 despite the best efforts of your lawyers, you were facing the
10 death penalty.

11 A Yes.

12 Q And then on the 27th of December of 2007 the
13 Supreme Court acted in your favor and removed it from the
14 case; am I correct?

15 A Yes.

16 Q And then your lawyers filed a motion for bail
17 in your behalf?

18 A Yes.

19 Q And you came before this Court on the 15th of
20 January of 2008. Do you recall that?

21 A Yes.

22 Q And when you came into this court on the 15th
23 of January 2008 you were hoping that a bail would be granted
24 for you; am I right?

25 A Yes.

1 Q And you were hoping that the bail would be
2 posted; am I correct?

3 A Yes.

4 Q And you were hoping that for the first time in
5 almost three years you would be able to not be in a jail cell?

6 A Yes.

7 Q And when you came into this court on the 15th
8 of January of 2008 you learned that the State the day before
9 had once again filed an amended notice of death -- seeking the
10 death penalty against you?

11 A Yes.

12 Q You didn't feel good about that, did you?

13 A I was just hoping that the bail would be
14 granted.

15 Q But you learned that the State had intentions
16 of reinstituting the death penalty?

17 A That's what was said in court, yes.

18 Q And you learned that the State had asked the
19 Supreme Court to reconsider its ruling; am I right?

20 A Yes.

21 Q And you knew that the Supreme Court would at
22 least consider the State's request to reconsider? You knew
23 that?

24 A Yes.

25 Q Okay. And when you returned to your --

1 By the way, on the 15th, although the Judge heard the
2 bail motion, the Judge didn't rule on the bail motion; am I
3 right?

4 A Correct.

5 Q And so you went back to your cell that day and
6 you called Mr. Hidalgo, Mr. H. Remember that?

7 A Yes.

8 Q And at that time you said to him that what the
9 prosecutors were saying in court about you was all --

10 MR. DIGIACOMO: Judge, I object. Can we approach?

11 THE COURT: Sure.

12 (Off-record bench conference)

13 THE COURT: All right, Mr. Gentile, go on.

14 BY MR. GENTILE:

15 Q And so what you said to -- on the phone is,
16 "They're all lies." Those were your words. Do you recall
17 that?

18 A I don't recall a specific conversation, no.

19 Q Do you recall telling.-- you know that the jail
20 calls are recorded; am I right?

21 A Yes.

22 Q You know that every call that you have had from
23 -- from the 24th of May 2005, every call that you made --
24 because you don't have a phone in your cell; right?

25 A No.

1 Q You can't get incoming calls; correct?

2 A Correct.

3 Q All right. You have to make outgoing calls.

4 And you know that every one of those calls has been recorded

5 --

6 A Yes.

7 Q -- unless a special arrangement was made for
8 you by the prosecution; am I correct?

9 A I know that every phone call is recorded, yes.

10 Q Okay. And at 3:15 p.m. on the 15th of January
11 2008 you made a phone call to Mr. H. Do you recall that?

12 A I made several phone calls to Mr. H. I
13 couldn't tell you exactly what was said.

14 Q And on that one you said to him that it was all
15 lies, what was being said in court about you was all lies?

16 A That's very possible.

17 Q And what you meant was what the prosecutor was
18 saying. Am I correct?

19 A It's very possible.

20 Q And on the 24th of January of 2008 you came to
21 learn that the Judge did set a bail for you; am I right?

22 A Yes.

23 Q You had been talking about the issue of bail
24 with Mr. H every day while you were waiting for it to be set.
25 Do you recall that?

1 A We discussed bail frequently, yes.

2 Q But that was about the same time that you
3 started talking to the prosecutor about making a deal in this
4 case; am I right?

5 A I was speaking to my attorney.

6 Q You were speaking to your attorney about the
7 possibility of making a deal in this case?

8 A Yes.

9 Q And you knew that the prosecutor was only going
10 to leave that deal on the table until you made bail, and if
11 you made bail, it was off the table?

12 A That was never discussed.

13 Q So that you don't know that?

14 A No.

15 Q Okay. On the 30th of January 2008 you would
16 agree that you had already been discussing the possibility of
17 making a deal with your attorney for several days?

18 A Yes.

19 Q Would you agree to that?

20 A Yes.

21 Q But you had not as yet made the deal; right?

22 A Correct.

23 Q Although you were close?

24 A I was discussing it with my attorney.

25 Q And on the 30th of January 2008 you told Luis

1 Hidalgo, Jr., that he had one week to get you out of jail?

2 A I don't recall the conversation.

3 Q Now, there came a point in time that you did
4 have a meeting with the -- with the District Attorneys?

5 A Yes.

6 Q And that was on a Saturday?

7 A Yes.

8 Q And you were actually visited by the bail
9 bondsman that day. Do you recall that?

10 A Yes.

11 Q But the visit came after you had made the deal?

12 A Yes.

13 Q And you didn't, of course, tell the bail
14 bondsman that you weren't going to need bail anymore?

15 A Correct.

16 Q All right. You did inquire, though, of Luis
17 Hidalgo, Jr., if he had paid your mother's medical insurance;
18 am I right?

19 A Yes. He came to visit me that night.

20 Q And in the course of while you -- before you
21 made your deal and in the course of all your waiting -- we'll
22 get to that in a second.

23 When you had this meeting with the District Attorney
24 -- by the time you had that meeting you had seen a transcript
25 of your own interview; am I right? The original one that the

1 police took before they arrested you?

2 A I don't remember seeing that transcript.

3 Q Okay. And you had certainly seen and listened
4 to the tapes over and over again. You saw that those were
5 transcribed.

6 A Yes.

7 Q You knew that --

8 MR. DIGIACOMO: I'm sorry. Just so the record can be
9 clear, which tapes are we talking about?

10 THE COURT: All right.

11 MR. GENTILE: The 23rd and 24th of May.

12 MR. DIGIACOMO: Okay.

13 BY MR. GENTILE:

14 Q You had worked with your lawyer with respect to
15 the testimony that had been given at the preliminary hearing.
16 He went over that with you?

17 A Yes.

18 Q Okay. And he went over all the police reports
19 with you?

20 A Yes.

21 Q Okay. And there were, as I said before,
22 meetings that took place not only between your lawyers and
23 you, but also between myself and Paola Armeni and your lawyer
24 and--

25 A Yes.

1 Q -- am I right?

2 A Yes.

3 Q All right. And there were -- and you knew that

4 a lot -- most, if not all, of the statements that had been

5 given by witnesses had been recorded somehow; am I right?

6 A Yes.

7 Q Okay. But when you met with the District

8 Attorneys and the District Attorneys' investigator and the

9 police officers on that Saturday, what you said to them was

10 not recorded, was it?

11 A No.

12 Q And that was at your request, was it not?

13 A I personally didn't request it, no.

14 Q So the District Attorney insisted upon it?

15 A No.

16 Q You don't know how that came about?

17 A No.

18 Q Am I right?

19 A Yes.

20 Q Okay. But it wasn't you that said that?

21 A I don't recall saying I didn't want to be

22 recorded. I would have -- if they wanted me to go ahead and

23 make a recorded statement, I would have.

24 Q All right. But you didn't, and you weren't

25 asked to. Is that what you're saying?

1 A I don't recall being asked.

2 Q And you have no idea why they didn't want to
3 record what you were saying that day; am I right?

4 A Correct.

5 Q But we can agree that that meeting took a
6 couple of hours?

7 A Yes.

8 Q Okay. Do you remember how long that meeting
9 took?

10 A No.

11 Q But at least a couple of hours?

12 A Yes.

13 Q So we can agree that it did not take place at
14 the jail?

15 A Correct.

16 Q Took place at the District Attorney's office?

17 A Yes.

18 Q And Mr. DiGiacomo was there; right?

19 A Yes.

20 Q And Mr. Pesci was there?

21 A Yes.

22 Q And Mr. Falkner, that fellow back there in the
23 blue shirt, he was there, wasn't he?

24 A I don't remember Mr. Falkner.

25 Q Do you remember Detective Kieger being there,

1 Teresa Kieger?

2 A Yes.

3 Q Okay. Do you remember another detective being
4 there?

5 A There was a male detective, yes. And my
6 attorney was also present.

7 Q And your -- yes, and your attorney was present.
8 And at the end of that meeting you signed your plea
9 agreement; am I right?

10 A Yes.

11 Q Now, that plea agreement was --

12 MR. GENTILE: Do we have it here?

13 MR. DIGIACOMO: It's marked as a State's exhibit at
14 some point.

15 THE COURT: Do you know which one it is?

16 MR. DIGIACOMO: It'd be pretty late in the 200s,
17 because we just marked it.

18 (Pause in the proceedings)

19 BY MR. GENTILE:

20 Q While she's -- while the clerk is looking for
21 that, your mother at that time in January of 2008 was ill; am
22 I right?

23 A She has been ill.

24 Q So I'm right that --

25 A Yes.

1 Q -- in January of 2008 she was ill?

2 A Yes.

3 THE COURT: That's the right one. 228.

4 MR. GENTILE: 228.

5 BY MR. GENTILE:

6 Q And while you signed that document -- you have
7 no quarrel that you signed that document on February the 2nd
8 of 2008?

9 A Correct.

10 Q It was in fact prepared in January, was it not?

11 A I don't know when it was prepared.

12 Q I want to refresh your recollection. I'll show
13 you Proposed Exhibit 228. Is that your signature?

14 A Yes, it is.

15 Q Do you see typed -- don't say what it is, but
16 do you see a date typed on there, a month?

17 A Yes.

18 Q Okay. You would agree that you did not sign
19 this document on January the 2nd of 2008, wouldn't you?

20 A I don't believe I did. I believe it was in
21 February.

22 Q Well, and one of the reasons you believe that
23 is because you know that when you signed this the bail had
24 already been set?

25 A I'm -- can you repeat the question? I don't

1 understand what you're saying.

2 Q Sure. You know that when you signed your
3 guilty plea agreement and your agreement to testify bail was
4 already set and it hadn't been posted yet?

5 A Yes.

6 Q And we can --

7 MR. GENTILE: Your Honor, could I ask the Court to
8 take judicial notice, and I have a copy of the order, that the
9 minute order was entered on January 24th of 2008.

10 MR. DIGIACOMO: I won't object to that. I believe
11 that's probably true.

12 THE COURT: All right. I don't have it in front of
13 me, but I'll trust your representation. That sounds about
14 right.

15 BY MR. GENTILE:

16 Q And so when Luis Hidalgo, Jr., Mr. H, came to
17 visit you that Saturday night after you had signed this
18 agreement, he told you that the bondsman was there and they
19 were ready to post bail, and you told him, wait until Tuesday;
20 am I right?

21 A Yes.

22 Q And on Tuesday you appeared in this court, this
23 courtroom?

24 A Yes.

25 Q And when you appeared in this courtroom you

1 entered a guilty plea; am I right?

2 A Yes.

3 Q And you entered a guilty plea to what's -- what
4 you heard referred to as a fictional charge. Do you remember
5 that?

6 A Your meaning of a fictional charge is?

7 Q Believe me, Ms. Espindola, I don't know what a
8 fictional charge means. Those were the words you heard.

9 MR. DIGIACOMO: Objection, Judge.

10 THE COURT: Sustained.

11 BY MR. GENTILE:

12 Q Am I right? You heard your charges that you
13 pled guilty to referred to as a fictional charge?

14 A I don't remember.

15 Q Okay. If I showed you a transcript of that
16 hearing, would it refresh your recollection?

17 A I -- please.

18 Q You were in the courtroom when you entered a
19 guilty plea?

20 A Yes.

21 Q Excuse me. I'm sorry. Do you remember your
22 plea being referred to as a fictional plea?

23 A I -- like I said, I don't remember.

24 Q When you hear the word "fiction," what's it
25 mean to you?

1 A Not true.

2 Q I want to show you page 3 of the transcript and
3 ask you to see if that refreshes your recollection.

4 MR. GENTILE: By the way, here's a -- Your Honor,
5 while she's reading it, this is a copy of the guilty plea.

6 THE COURT: Thank you. All right. That is January
7 [inaudible].

8 MR. GENTILE: Thank you.

9 BY MR. GENTILE:

10 Q Have you had an opportunity to read it?

11 A Yes.

12 Q Do you remember being there?

13 A Yes.

14 Q You remember it being referred to as a
15 fictional --

16 A Yes.

17 Q And so you entered a fictional plea of guilty
18 to charges that did not and could not carry the death penalty;
19 am I right?

20 A Correct.

21 Q The charges that you entered a plea to was
22 manslaughter; am I right?

23 A Voluntary manslaughter, yes.

24 Q And when you were asked what you did to have
25 committed that crime you did not say that you had entered into

1 an agreement to kill somebody, did you?

2 A No.

3 Q You did not say that you even knew that anybody
4 was going to be killed, did you?

5 A No.

6 Q What you said was five words. Remember what
7 those words were?

8 A No, I don't.

9 Q "I assisted all the coconspirators." Remember
10 saying that?

11 A Yes.

12 Q That's it. That's all you said about what you
13 did; right?

14 A Yes.

15 Q And in truth and in fact you didn't really care
16 what you were entering a plea to. What you cared about is
17 what the end result would be in terms of your freedom. That's
18 fair to say, isn't it?

19 A No.

20 Q You knew that if the State was successful, as
21 it turned out to be, to get death reinstated in this case,
22 you'd be facing the death penalty again, didn't you?

23 A I could be if I -- yes.

24 Q And you knew that you didn't want that again.
25 Fair to say?

1 A It's fair.

2 Q And your lawyer did a marvelous job in terms of
3 negotiating a deal for you. You would agree to that?

4 A I was --

5 Q You don't agree to it? Well, let me rephrase
6 the question. Your lawyer did a great job in negotiating a
7 deal for you, didn't he?

8 A Yes. But I was already going to testify in my
9 regular trial.

10 Q Right. But if you testified at your regular
11 trial and the jury didn't believe you, they may find you
12 guilty and you would be killed by injection.

13 A My attorney had told me I would probably be hit
14 with second degree murder.

15 Q Oh. So your attorney made a prediction; am I
16 right?

17 A He stated I may be hit with second degree. And
18 I was -- already had intention of testifying.

19 Q But you would be testifying as a defendant.

20 A I would be testifying as a defendant, true.

21 Q And you'd be testifying in a situation where
22 you might not be believed; true?

23 A I would be testifying the exact same way I
24 would have now.

25 Q I didn't ask you that, ma'am. Now do you want

1 to answer the question I asked.

2 A Would you mind repeating that, sir?

3 Q Not at all. You'd be testifying in a situation
4 where you were a defendant and might not be believed; correct?

5 A True.

6 Q And if you were not believed, you might be
7 convicted?

8 A True.

9 Q And you might be convicted of first degree
10 murder. Maybe your lawyer wasn't correct. Fair to say?

11 A Yes.

12 Q And if you had been convicted of first degree
13 murder, then a jury would have to decide what to do with you
14 in terms of a sentence; right?

15 A Yes.

16 Q And if they decided that you should face the
17 death penalty, then you would.

18 A Yes.

19 Q But that didn't happen. Because you made a
20 deal. Am I right?

21 A Yes.

22 Q And that deal -- Deangelo Carroll was already a
23 defendant at that time; am I correct?

24 A Yes.

25 Q And you still have to testify against him at

1 his trial, don't you?

2 A I believe so, yes.

3 Q All right. Mr. Taoipu had already entered his
4 plea and was given probation. You knew that?

5 A Yes.

6 Q So it wasn't him that the State wanted you to
7 help testify against; correct?

8 A Correct.

9 Q And at the time that you made your deal the
10 only other defendant in the case that hadn't gone to trial was
11 Luis Hidalgo, III; correct?

12 A Yes.

13 Q And you knew that it wasn't Luis Hidalgo, III,
14 that the State wanted your assistance with, did you not?

15 A Yes.

16 Q They wanted your assistance with Luis Hidalgo,
17 Jr., Mr. H, because he had not as yet been charged. Am I
18 right?

19 A Yes.

20 Q And I believe Mr. DiGiacomo covered on Friday
21 the fact that this deal that you had with the State, your -- I
22 want to refer to it, this -- this guilty plea agreement, when
23 you signed it you said that -- and I'm going to say it in the
24 first person as if I were you, "I understand that I am
25 eligible for probation for the offense to which I am pleading

1 guilty." You knew that instead of facing the death penalty
2 you might get probation?

3 A It was brought to my attention I could get
4 probation. It was also brought to my attention that I was
5 facing a maximum of eight to twenty years in prison.

6 Q Right. And by now you've got four of those
7 years already served, don't you?

8 A Yes.

9 Q And that would be a maximum sentence, eight to
10 twenty; am I correct?

11 A That's what I was told, yes.

12 Q Right. It could be probation?

13 A It was possible, yes.

14 Q It could be anything between probation and
15 eight to twenty?

16 A Yes.

17 Q Now, let's see. At the time you were how old?
18 How old were you last February? Well, let's start with this.
19 How old are you this February? We'll take one off.

20 A I was 36. I was 35 last year.

21 Q Okay. Figure you're going to live to be 70?

22 A Anything is possible.

23 Q Okay. If you were convicted of the death
24 penalty, chances of living to 70 weren't so good; fair to say?

25 A Correct.

1 Q You also understand that the State has agreed
2 to make no recommendation, to basically remain silent; am I
3 right?

4 A Yes.

5 Q So if the Judge decides to treat you in any way
6 that she does, whatever it may be, when it comes time for
7 sentencing your -- excuse me. Let me rephrase all of that.

8 How many times have you been in this courtroom in the
9 last -- not this one, a courtroom like this one in the last
10 almost four years that you've been investigated?

11 A Several times.

12 Q Several. More than 10?

13 A It's very possible.

14 Q And every time that you come into this
15 courtroom, except today, you're usually sitting where the
16 jurors are; am I right?

17 A Yes.

18 Q And you're usually sitting there with lots of
19 other people that have been escorted here from the Clark
20 County Detention Center?

21 A Yes.

22 Q And when you're sitting there with the lots of
23 other people that have been escorted here in waist chains and
24 leg irons and handcuffs, some of those people every time
25 you've been to court have been sentenced; am I right?

1 A Yes.

2 Q And so you have become familiar with the
3 sentencing process, have you not?

4 A Yes.

5 Q And you know that at the sentencing sometimes
6 the prosecutors will argue vigorously for the maximum that
7 somebody could face. Am I right?

8 A Yes.

9 Q And you know that if they're doing their job
10 right, the people that are representing the defendant will
11 argue vigorously for leniency. Am I right?

12 A Yes.

13 Q Only at your sentencing only your lawyer is
14 going to be able to argue to the Court as to what the sentence
15 ought to be; am I right?

16 A Yes.

17 Q This side of the room is going to be silent.

18 MR. DIGIACOMO: Well, objection to "silent."

19 BY MR. GENTILE:

20 Q In accordance -- we'll make -- we'll not argue
21 as to what your sentence ought to be. That's your deal.

22 A Yes.

23 MR. GENTILE: Now, will the record reflect that when
24 I said this side of the room --

25 THE COURT: You're referring to where the --

1 MR. GENTILE: Yeah. I'm referring to the
2 district --
3 THE COURT: -- the district attorney's.
4 MR. GENTILE: -- attorneys' side of the room.
5 THE COURT: It will reflect that.
6 MR. GENTILE: Thank you. We are video in here,
7 aren't we?
8 THE COURT: Yeah. But the official record is
9 just --
10 MR. GENTILE: But the official record won't see it.
11 THE COURT: -- the old fashion way --
12 MR. GENTILE: Right. I understand.
13 THE COURT: -- as to written transcript.
14 BY MR. GENTILE:
15 Q And so we can agree that even if you are
16 sentenced to prison, the sentence that you're facing is
17 nothing like what you would be facing if you were convicted of
18 murder. We can agree to that?
19 A Yes.
20 Q And when you entered your guilty plea -- strike
21 that. In this period of time that you have sat where these
22 jurors are sitting over and over again, it has come to your
23 attention that before a sentence takes place, there is an
24 investigation that's conducted by the probation department.
25 You know that, don't you?

1 A Yes.

2 Q Okay. And sometimes that investigation can
3 take several months. You're aware of that as well?

4 A Yes.

5 Q And you know that usually when someone enters a
6 guilty plea, their sentencing takes maybe 60 days, maybe 90
7 days before they actually have sentence imposed? You know
8 that?

9 A The majority of the people that I have seen
10 have been sentenced within 30.

11 Q Okay. But there are others that take longer.
12 You would agree with that?

13 A Yes.

14 Q But the majority were sentenced within 30 --

15 A Yes.

16 Q -- right? Okay.

17 And so on February the 4th of 2008, let's see,
18 that's a year and change ago, February 4, 2008, you said to
19 the Court, Your Honor, I want the presentence report that they
20 placed right now because I want this sentence to take place in
21 30 days; am I right?

22 A I believe so.

23 Q You believe so?

24 A My attorney would have made the request.

25 Q As a matter of fact, he didn't make that

1 request; am I right?

2 A I -- it's been a year, Mr. Gentile.

3 Q Right. And as a matter of fact, you haven't --
4 when were you first interviewed by the probation department?

5 A I haven't been.

6 Q You haven't been interviewed by the probation
7 department and you pled guilty a year ago?

8 A Yes.

9 Q And you could have been sentenced within 30
10 days?

11 A I was told I needed to testify.

12 Q Ah, so your deal with the State is that you
13 won't even be interviewed by the probation department until
14 you're done testifying in this case?

15 A They never stated that. I spoke to my attorney
16 and it was -- he said I needed to wait until I was -- I
17 testified.

18 Q And that's because you have to perform
19 according to your agreement; am I right?

20 A No.

21 Q Okay. That's because you expect that your
22 sentence will be more lenient if you wait until after you
23 testify; am I right?

24 A No.

25 Q That's because you're hoping to earn a

1 recommendation from the probation department that you get
2 probation?

3 A No.

4 Q That's because you're hoping that the
5 prosecutor will say something nice to the probation department
6 about how well you performed and maybe they'll recommend
7 probation?

8 A No.

9 Q Well, if none of those are true and you could
10 have been sentenced 30 days or 60 days after last February,
11 you waited a long time, haven't you?

12 A Yes.

13 Q And as a matter of fact, your original
14 sentencing date, status date was set for April the 15th of
15 last year, wasn't it?

16 A Yes.

17 Q And it has been postponed and postponed and
18 it's still postponed, correct?

19 A I came to court last year on August 15th and it
20 was pushed and I don't have a new date.

21 Q And according to your plea agreement, the
22 prosecutor can withdraw that agreement from you if you don't
23 perform in accordance with it, right?

24 A If that's what it says.

25 Q And what you're supposed to do to perform,

1 according to that agreement, is to tell the truth; am I right?

2 A Yes.

3 Q All right. Now, the things that you're talking
4 about are meetings that took place between yourself and Louis
5 Hidalgo, Jr.; am I correct?

6 A At the jail?

7 Q Out of the jail.

8 A He came to see me at the jail with you,
9 Mr. Gentile.

10 Q Yes, he did.

11 A So is that what we're discussing?

12 Q No, that's not what we're discussing.

13 A Okay.

14 Q He came to see you several times, as a matter
15 of fact, with me, and Mr. Oram and Ms. Armeni. Do you
16 remember that?

17 A Yes.

18 Q Okay. The first time was because he didn't
19 have any knowledge in terms of how to do the checks and all
20 the business stuff in these businesses. Do you remember that?

21 A Yes.

22 Q And then subsequently there have been at least
23 one or two other visits where there were -- part of a joint
24 defense agreement where he was helping you on the outside. Do
25 you recall that?

1 A He came because of the transfer from the
2 Palomino Club for the -- for defense.

3 Q Okay. Now, the prosecutor, as part of the
4 agreement, said that -- to you, that if -- once you testify
5 and were subject to cross-examination, the prosecutor would
6 move to get you out of jail. Do you recall that?

7 A They wanted to go ahead and -- my attorney
8 could put in a motion for house arrest.

9 Q Right. And the prosecutor wanted that to
10 happen last year and he sought to have a deposition taken; am
11 I right?

12 A Yes.

13 Q And had that deposition occurred, then your
14 lawyer could have moved the Court to have you released from
15 jail and put into house arrest at your house?

16 A I believe so.

17 Q Okay. But the deposition did not occur; am I
18 right?

19 A Correct.

20 Q This is the first time that you're testifying
21 subject to cross-examination, is it not?

22 A Yes.

23 Q Until now the only persons you have ever told
24 your story to are the prosecutors and the people who work for
25 them?

1 A And my attorney.

2 Q And your attorney. And you didn't tell it to
3 the prosecutors until January of 2008; fair to say?

4 A When I met them in their office.

5 Q But that's not the first time that you talked
6 about the events of May 19th with anybody; fair to say?

7 A I spoke to my attorney.

8 Q Right. And you talked to Jerome DePalma and
9 Don Dibble on Saturday, May the 21st, 2005?

10 A As I said, when I saw Mr. DePalma with Mr. H, I
11 walked in with Mr. H into the office. Mr. DePalma greeted us.
12 He expressed that you and him were going into business
13 together or merging. He went ahead and asked if -- he asked
14 Mr. H if I knew what was -- he was going to be discussing.
15 Mr. H said no, and I was asked to leave, that I could not be
16 present.

17 Q So you're denying that you talked to him about
18 the events of May 19?

19 A I did not discuss it with Mr. DePalma, no.

20 Q And you're denying that Don Dibble was there
21 that day?

22 A Don Dibble was at Mr. DePalma's office?

23 Q Yes.

24 A I never saw him, no.

25 Q Okay. On January the 31st, 2008, at 9:23 in

1 the morning -- actually not 9:23 in the morning -- yeah,
2 9:23:34 in the morning, you told -- now, you -- let's get this
3 straight. By that time, January 31st of last year, you
4 already had bail set, but you hadn't had it posted, correct?

5 A Correct.

6 Q You already had been talking to the district
7 attorney and his investigators and the policemen, the
8 detectives about making this deal, correct?

9 A I was speaking to my attorney.

10 Q Correct. Your attorney was talking to them and
11 he was telling you that he was talking to them?

12 A Yes.

13 Q They were trying to make something happen,
14 trying to make a plea bargain?

15 A My attorney came by to visit me for a week --
16 and we discussed it.

17 Q And at 9:23 a.m. and 34 seconds after that, you
18 told -- you called Mr. Hidalgo. Remember that?

19 A It's very possible.

20 Q And you told him that you felt that the bail
21 posting was dragging on intentionally. Do you recall saying
22 that?

23 A I remember telling him that it was taking a
24 long time.

25 Q And that's when you told him that you'd give

1 him a week, or don't you recall?

2 A Yes.

3 Q You do recall?

4 A Yes.

5 Q And as of that moment you hadn't signed this
6 deal yet; am I right?

7 A No.

8 Q I'm not right?

9 A No, you're correct.

10 Q I am right. Okay.

11 Now, let's go back to January of last year --
12 actually, let's go back a little further than that. Does the
13 name Christa McCullah mean anything to you?

14 A Yes.

15 Q Who's Christa McCullah?

16 A She was a former inmate. She's in the
17 courtroom now.

18 Q Okay. You met while you were in jail?

19 A Yes.

20 Q Does the name Claudia Hernandez mean anything
21 to you?

22 A Yes.

23 Q Where'd you meet her?

24 A At Clark County Detention Center.

25 Q Okay. Does the name Marilyn Fujii mean

1 anything to you?

2 A Yes.

3 Q Where'd you meet her?

4 A Also at the Clark County Detention Center.

5 Q Does the name Ovi Perez mean anything to you?

6 A Yes.

7 Q Where'd you meet her?

8 A Clark County Detention Center.

9 Q Okay. Does the name Jessica Barazza mean

10 anything to you?

11 A Yes.

12 Q Where'd you meet her?

13 A Clark County Detention Center.

14 Q Does the name Lacy Dupuis, and I don't know if

15 I'm saying that right --

16 A That's how she pronounces it.

17 Q Okay. Well, then I guess you know her --

18 A Yes.

19 Q -- if you know how she pronounces it.

20 A Clark County Detention Center.

21 Q Okay. Does the name Lisa Barksdale mean

22 anything to you?

23 A Yes.

24 Q Where'd you meet her?

25 A Clark County Detention Center.

1 Q Does the name Claudia -- oh, I said that
2 already. By the way, Claudia Hernandez, she's got a nickname,
3 right?
4 A Yes.
5 Q Flaca?
6 A Yes.
7 Q What's that mean?
8 A Skinny.
9 Q Skinny.
10 Does the name Geneva Del Campo mean anything to you?
11 A Yes.
12 Q Where'd you meet her?
13 A Clark County Detention Center.
14 Q How about the name Sarah Gayton?
15 A Yes.
16 Q Where'd you meet her?
17 A Clark County Detention Center.
18 Q How about Anna Herregon?
19 A Yes.
20 Q She's got a nickname too, doesn't she?
21 A Yes.
22 Q Guerra?
23 A Yes.
24 Q It means war, doesn't it?
25 A Guerra means white girl.

1 Q Means white girl?

2 A Well, light skinned.

3 Q Okay.

4 A Clark County Detention Center.

5 Q Clark -- all of them?

6 A Yes.

7 Q You met them all at the Clark County Detention

8 Center.

9 Did you ask any of them -- did you ask Louie, Mr. H,

10 to help any of them out?

11 A Yes.

12 Q Did you ask him to help out Christa McCullah?

13 A Yes.

14 Q Did you ask him to help out Ovi Perez?

15 A Yes.

16 Q Did you ask him to help out Claudia Hernandez?

17 A Yes.

18 Q Did you ask him to help out Marilyn Fujii?

19 A Yes.

20 Q Did you ask him to provide them -- let me take

21 them one at a time. Did you ask him to provide Christa

22 McCullah a place to stay when she got out of jail?

23 A Yes.

24 Q Did you ask him to provide a place to stay to

25 Ovi Perez when she got out of jail?

1 A I asked him to -- if -- she needed a place to
2 go, more so the use of my car --
3 Q The use of your --
4 A -- if he could release the keys to my car.
5 Q And what kind of car was that?
6 A It was a truck.
7 Q A white Ford truck?
8 A Yes.
9 Q Did you ask him to provide anything to Claudia
10 Hernandez when she got out of jail?
11 A I asked if he could take care of her baby while
12 she was in prison.
13 Q And did he take care of her baby while she was
14 in prison?
15 A Yes.
16 Q For how long?
17 A I believe it was five months.
18 Q Did you ask him to help Marilyn Fujii when she
19 got out of jail?
20 A No.
21 Q No?
22 A No.
23 Q Did you ask him to put money on the books for
24 her?
25 A No.

1 Q Okay. How about Jessica Barazza?
2 A Yes.
3 Q What'd you ask him to do for her?
4 A If he could go ahead and put money on her
5 books.
6 Q Did he do it?
7 A Yes.
8 Q Did you ask him to help out Lacy Dupuis?
9 A Yes.
10 Q What did you ask him to do for Lacy Dupuis?
11 A To also put money on her books..
12 Q How about Lisa Barksdale?
13 A The same.
14 Q You have to say it.
15 A To put money on her books.
16 Q Okay. Did you ask him to help out -- oh, we
17 already went through Claudia Hernandez. I don't know why I
18 had her on here twice.
19 There came a point -- how about Sarah Gayton? Did
20 you ask him to help her?
21 A Yes.
22 Q What did you ask him to do?
23 A To go ahead and help her while she was in
24 prison, to send a package.
25 Q Send a package?

1 A At the time the prisons -- you could allow to
2 buy like commissary and send a package.

3 Q Okay. And how about Anna Herregon?

4 A To put money --

5 Q Did you ask him to help her?

6 A -- on her books.

7 Q Put money on her books. And he did it all,
8 didn't he?

9 A Yes.

10 Q So he provided places to stay, he provided
11 transportation assistance, he provided support --

12 A Yes.

13 Q -- to these people; am I correct?

14 A Yes.

15 Q And there came a point in time -- well, let me
16 do one more thing here. Sheena Hofstad, name ring a bell?

17 A Yes.

18 Q She used to work at Simone's; am I correct?

19 A Yes.

20 Q She worked there for six months or so before
21 you got arrested?

22 A I think so, yes.

23 Q And she came to visit you at the Clark County
24 Detention Center after you were arrested?

25 A Yes.

1 Q And there was a point in time when you signed
2 off on a Power of Attorney giving her power of attorney for
3 you; am I right?

4 A Yes.

5 Q Okay. Now, there also came a point in time
6 when you received information that Sheena Hofstad -- and I'm
7 going to use the word "cheated," and I think we all know what
8 that means, okay -- maybe I shouldn't -- maybe I should make
9 the word -- well, let me take a step back.

10 You had a romantic physical relationship, sexual
11 relationship, committed relationship with Louis Hidalgo, Jr.
12 before you went to jail; am I right?

13 A Yes.

14 Q It was all of those things that I just said, is
15 it not?

16 A Yes.

17 Q Okay. And there came a point in time when you
18 believed that he was no longer being true to you; am I
19 correct?

20 A Yes.

21 Q And you confronted Sheena Hofstad with that; am
22 I right?

23 A No.

24 Q You received a letter that Sheena Hofstad and
25 Louis Hidalgo, Jr. were having an affair; did you not?

1 A Yes.

2 Q Okay. And you spoke to Sheena about that?

3 A No. I spoke to Mr. H about that.

4 Q You spoke to Mr. H about this?

5 A Yes.

6 Q So if Sheena says that you spoke to her about

7 it, she's not telling the truth?

8 A No, I spoke to Mr. H about it.

9 Q You never talked to her about it?

10 MR. PESCI: Judge, I apologize. Can we approach for

11 the minute?

12 THE COURT: Sure.

13 (Off-record bench conference)

14 THE COURT: All right. Mr. Gentile, please

15 continue.

16 MR. GENTILE: Thank you.

17 BY MR. GENTILE:

18 Q You were asked questions on direct examination

19 by Mr. DiGiacomo about Tony Moore, Tony Moore Leavitt.

20 A Yes.

21 Q And -- and Tony Moore was a man who worked for

22 Simone's; am I correct?

23 A Yes.

24 Q And sometime around May the 14th of 2004 Tony

25 Moore made a demand of Mr. Hidalgo; am I correct?

1 A Yes.

2 Q And you knew about that demand --

3 A Yes.

4 Q -- am I right? And that demand was for money?

5 A Yes.

6 Q And you said that when May of '05 came along

7 and Mr. Hidalgo said that he was going to call his lawyer, you

8 knew that he was talking about me?

9 A Yes.

10 Q And you knew that I was his lawyer from a year

11 before then, correct?

12 A Yes.

13 Q From this Tony Moore situation?

14 A Yes.

15 Q I was not your lawyer?

16 A No.

17 Q I was Mr. Hidalgo's lawyer, Mr. Louis Hidalgo,

18 Jr.?

19 A Yes.

20 Q But at that time you participated because of

21 your knowledge of the situation, having worked at Simone's,

22 you participated in what was done in response to the Tony

23 Moore situation; am I right?

24 A Louie called you, Mr. Gentile, and you

25 recommended that he make a police report, so Louie and I went

1 to the police department and he had me make a report.

2 Q And you're aware that I actually made
3 arrangements for the meeting for you to go to the police
4 department?

5 A I don't remember that.

6 Q You don't remember that? Okay.

7 And that was on May the 21st of 2004. Do you recall
8 that?

9 A Not exact dates, but the year sounds right.

10 Q Do you recall that it was a Detective Stout and
11 a Detective Herrin that you met with?

12 A No.

13 Q You would agree, would you not, that this
14 Mr. Moore, this Tony Moore, you also refer to him as Tony
15 Leavitt?

16 A Yes.

17 Q What is his real name?

18 A As far as I knew, it was Tony Moore Leavitt.

19 Q Okay.. You would agree that Mr. Moore Leavitt,
20 Tony Moore Leavitt, had been working for Simone's for a period
21 of time?

22 A Yes.

23 Q How long?

24 A For quite a while.

25 Q You would agree that Mr. Tony Moore Leavitt, to