

1 solicitations to commit murder also, weren't you?

2 A Yes.

3 Q And we've just spoken. You've known Little Lou

4 for a while?

5 A Yes.

6 Q You've known Little Lou since he was how old?

7 A Maybe 8.

8 Q Maybe 8. Since he was a boy?

9 A Yes.

10 Q And you spoke about you've called Little Lou

11 Luisito and also Mijo?

12 A Yes.

13 Q And he would call you, I believe, is it

14 Snuggles or something to that nature?

15 A Yes.

16 Q Was it Snuggles?

17 A Yes.

18 Q Again, a term of affection or endearment?

19 A Yes.

20 Q The types of terms you don't tell to people

21 unless you know one another, right?

22 A Correct.

23 Q And you've been around Little Lou since he was

24 8, so you've seen him when he's happy?

25 A Yes.

1 Q You've seen him when he's sad?
2 A Yes.
3 Q You've seen him when he's upset?
4 A Yes.
5 Q You've seen him when he's glad or happy, right?
6 A Yes.
7 Q You've also -- you know when he's serious?
8 A Yes.
9 Q And you know when he's being stupid?
10 A Most of the time, yes.
11 Q And your reaction when you heard Little Lou
12 talk about the rat poison on the wire, your reaction was to
13 look at him and say, in essence, That is stupid because I
14 already paid, right?
15 A Yes.
16 Q And the next day on the 24th there was no
17 discussion by Little Lou of Deangelo, Why didn't you use the
18 rat poison and kill these guys, was there?
19 A No.
20 Q There was no discussion the next day about,
21 Don't send them off on a bus, we've got to kill them, was
22 there?
23 A No.
24 Q There was no discussion ever again about rat
25 poisoning, was there?

1 A No.

2 MR. ARRASCADA: May I have the Court's indulgence?

3 THE COURT: Mm-hmm. Maybe we should take a break.

4 Let's just take a really, really quick like five, seven-minute
5 break.

6 And once again, you're reminded of the admonition
7 not to discuss anything relating to the case. Note pads in
8 your chairs, follow Jeff through the double doors.

9 (Court recessed at 3:39 p.m. until 3:48 p.m.)

10 (In the presence of the jury.)

11 THE COURT: State, Mr. DiGiacomo, come on up here.

12 (Off-record bench conference)

13 THE COURT: All right. Court is now back in session
14 and, Mr. Arrascada, you may resume your cross-examination.

15 MR. ARRASCADA: Thank you, Judge.

16 Ma'am, I have no further question.

17 THE WITNESS: Thank you.

18 THE COURT: All right. Thank you.

19 Mr. DiGiacomo, redirect?

20 MR. DIGIACOMO: Yes, Judge.

21 REDIRECT EXAMINATION

22 BY MR. DIGIACOMO:

23 Q He talked to you about a couple of things. We
24 talked specifically about to come back down. Do you remember
25 those questions about plan B?

1 A Yes.

2 Q Come back. What do you specifically recall

3 Louis Hidalgo, Mr. H, saying to you when you were back in a

4 kitchenette sometime in the evening of the 19th?

5 A Go to the back room, call Deangelo, tell him to

6 go to plan B, to come back.

7 Q Okay. So he says go to plan B and to come

8 back?

9 A Yes.

10 Q Okay. Was it your understanding that those

11 were two different concepts or the same concept?

12 A Two different concepts.

13 Q Okay. And that's what you testified to at the

14 grand jury, correct?

15 A Yes.

16 MR. ARRASCADA: Judge, that's leading.

17 THE COURT: Overruled.

18 BY MR. DIGIACOMO:

19 Q Now, Mr. Arrascada showed you a whole bunch of

20 questions about \$1,400. Do you remember that?

21 A Yes.

22 MR. DIGIACOMO: Page 94, Counsel.

23 BY MR. DIGIACOMO:

24 Q Looking at page 94, first line, 20, \$1,400 is

25 on line 20, correct?

1 A Yes.

2 Q And \$1,400 is then in line 1. I don't know how

3 line 1 is --

4 THE COURT: Is this her Friday testimony --

5 MR. DIGIACOMO: Correct.

6 THE COURT: -- or grand jury? Friday, okay.

7 BY MR. DIGIACOMO:

8 Q It's -- \$1,400 is line 1, correct?

9 A Yes.

10 Q And you'd agree -- or would you agree with me

11 that both those times it was me using the term 1,400, not you?

12 A Correct.

13 Q Now let's turn to page 95. Line 4 on page 95,

14 I ask: How much money do you recall that you gave them?

15 What was your answer?

16 A \$600.

17 Q And I said: The jury's heard testimony about

18 Deangelo leaving with \$1,400. Do you know where the other

19 \$800 came from?

20 What was your answer?

21 A No.

22 Q Okay. Now, did you testify to this jury that

23 you gave \$1,400 to Deangelo Carroll on the 23rd?

24 A No.

25 Q Okay. It was my mistake in the question,

1 correct?

2 A Yes.

3 MR. ARRASCADA: Objection. Now he's testifying.

4 THE COURT: Yeah. That's sustained.

5 MR. ARRASCADA: Sustained and stricken.

6 THE COURT: All right.

7 BY MR. DIGIACOMO:

8 Q You'd agree with me that it was my -- I said

9 \$1,400 --

10 MR. ARRASCADA: Now he's leading, Your Honor.

11 THE COURT: Well, it's also asked and answered.

12 THE WITNESS: Yes.

13 MR. ARRASCADA: Asked and answered.

14 BY MR. DIGIACOMO:

15 Q Now, just a moment ago Mr. Arrascada asked you

16 a question about when you heard Little Lou saying to use the

17 rat poisoning that you said, That's stupid because I already

18 paid him. Now, do you remember ever making that statement on

19 that wire?

20 A Not in those words, no.

21 Q Okay. You'd agree with me you never made that

22 statement, correct?

23 A Correct.

24 Q Do you remember what the response --

25 MR. GENTILE: Objection. Leading.

1 BY MR. DIGIACOMO:

2 Q Do you remember what the --

3 THE COURT: Do you remember. That's fine.

4 BY MR. DIGIACOMO:

5 Q Do you remember what the response was when you
6 said basically, That's stupid? Do you remember what Louis --
7 Little Louis' response was at that point?

8 A No.

9 MR. DIGIACOMO: Do you have the transcript, Judge,
10 from the 23rd? It's Court's Exhibit 2, I believe.

11 BY MR. DIGIACOMO:

12 Q 25:53 of that, when Little Lou says, Tanquerae
13 used in the poison, what's your response?

14 A Rat's poison's not going to do it. I'm telling
15 you right now.

16 Q And what's Little Lou's response to that at
17 26:03?

18 A You know what the fuck you got to do.

19 Q You know what the fuck you got to do is what
20 Little Lou responded?

21 A Yes.

22 Q Let's talk about some other things in this
23 particular transcript. Mr. Gentile went over a lot of you
24 saying the word I and I, I, and I. Do you remember that?

25 A Yes.

1 Q Let's go through some of what else you said.
2 6:55, you reference Louie?
3 A Yes.
4 Q And Louie is who?
5 A Mr. H.
6 Q And what do you say?
7 A Louie is panicking.
8 Q Okay. After you talk about Louie panicking,
9 you tell Deangelo Carroll something. At 8:03, if you could go
10 and read the last line before it says dot, dot, dot at 8:03.
11 A We don't want to get -- excuse me. I'm not
12 wearing my glasses.
13 We don't want to get it -- we don't want it to get
14 to that point, I'm telling you, because if we have to get to
15 that point, you and Louie are going to have to stick together.
16 Q You and Louie are going to have to stick
17 together, right?
18 A Yes.
19 Q What did you mean by that?
20 MR. GENTILE: Objection.
21 THE WITNESS: That --
22 MR. GENTILE: What she means by it? The words speak
23 for themselves, Your Honor.
24 THE COURT: Overruled.
25 BY MR. DIGIACOMO:

1 Q What was the meaning of your words when you
2 said, I'm telling you, because if we get to that point, you
3 and Louie are going to have to stick together? What did you
4 mean by that?

5 A That it was between him and Louie, that Louie's
6 the one that sent me in to speak to him.

7 Q Okay. What was your understanding as to who
8 gave the order to Mr. Carroll the evening before?

9 A It was Mr. H.

10 Q If we could go through a few more of these.
11 When you reference the term, 8:44, What we really wanted
12 from -- to be beat up than anything else, who's we?

13 A I was speaking regarding Mr. H.

14 Q When you talked about someone to go see a
15 lawyer, who did you say went to go see the lawyer?

16 A Louie, Mr. H.

17 Q Okay. And seeking a lawyer for not only
18 himself but who else? Do you remember that part?

19 A No.

20 Q Oh, when you got arrested on the 24th, where
21 did your phone go?

22 A It stayed in the car with Mr. H.

23 Q With Louie, correct?

24 A Yes.

25 Q Okay. And you got arrested at 6:00 o'clock on

1 the 24th? Does that sound about right?

2 A Yes.

3 Q So from -- the 24th, from 6:00 o'clock on, you

4 didn't have access to your phone?

5 A Not at all.

6 Q To this day --

7 MR. ARRASCADA: Your Honor, he is leading.

8 THE WITNESS: To this day.

9 MR. ARRASCADA: It is redirect.

10 THE WITNESS: I was incarcerated.

11 THE COURT: Mr. DiGiacomo, don't lead.

12 BY MR. DIGIACOMO:

13 Q There were a number of questions asked about

14 your plea agreement and there was a number of questions --

15 MR. DIGIACOMO: You had her plea agreement, didn't

16 you?

17 BY MR. DIGIACOMO:

18 Q There was a number of questions that were asked

19 to you about your plea agreement and there was a long

20 discussion about fictitious. Do you remember?

21 A Yes.

22 MR. GENTILE: Fictional.

23 BY MR. DIGIACOMO:

24 Q Fictional, fictitious, do you remember all

25 that?

1 A Yes.

2 Q Okay. And has anyone shown you a transcript of
3 that proceeding?

4 A No.

5 MR. GENTILE: Objection. I showed it to her --

6 THE WITNESS: Well, he showed --

7 MR. GENTILE: -- she read it from the stand.

8 THE COURT: Yeah. That's sustained.

9 THE WITNESS: Yeah. That would be the same one.

10 BY MR. DIGIACOMO:

11 Q And this is the plea agreement that you
12 entered -- or this is the plea transcript, right? After
13 reading that, that looks like the plea transcript, right?

14 A Yes.

15 Q Right?

16 A Yes. That was the portion I read earlier with
17 Mr. --

18 Q And the person -- the Court -- I'm sorry.
19 Who's the first person that uses the term, And this is a
20 fictional plea?

21 A The Court.

22 Q Okay. And Mr. Oram says, It is a fictional
23 plea, correct?

24 A Yes.

25 Q Okay. Now, you're not a lawyer, are you?

1 A No.

2 Q Do you know what the legal definition of a
3 fictional plea is?

4 A No.

5 Q Okay. You were present though when the Court
6 made the next statement to you, correct?

7 A Yes.

8 Q Go ahead and read what the Court said.

9 MR. GENTILE: Objection. Hearsay. It's not in
10 evidence either.

11 MR. DIGIACOMO: This is being offered for her state
12 of mind because they crossed her on, hey, it's a fictional
13 plea, and it wouldn't --

14 THE COURT: Let me see what --

15 MR. DIGIACOMO: They're saying you didn't do --

16 THE COURT: -- what I said.

17 MR. DIGIACOMO: Bottom of the page.

18 MR. GENTILE: How do I cross-examine the Court?

19 THE COURT: Well, what's -- I mean, you guys can
20 approach, but I'm not sure what -- it's not being offered for
21 hearsay purposes.

22 (Off-record bench conference)

23 BY MR. DIGIACOMO:

24 Q So after Mr. Oram --

25 MR. GENTILE: The objection is noted. I move for a

1 mistrial.

2 THE COURT: Mr. Gentile, that is overruled. Thank
3 you.

4 MR. ARRASCADA: We join that motion.

5 THE COURT: All right. Thank you.

6 BY MR. DIGIACOMO:

7 Q Mr. Oram indicates it's a fictional plea and
8 then after that the Court says to you: All right. I'm going
9 to have her plea, and the reason you're pleading fictionally
10 is that obviously a lesser charge than the original charge
11 that the State would be proceeding against you; is that
12 correct?

13 And what is your answer?

14 A Yes, Your Honor.

15 Q And then the Court canvasses you about
16 discussions with Mr. Oram, correct?

17 A Yes.

18 THE COURT: I don't know that we need to go into the
19 rest of the plea canvass and all of that.

20 MR. DIGIACOMO: We do as to what she admitted she
21 did, Judge. That's what I'm getting to.

22 THE COURT: All right. Anything that goes directly
23 to what her factual admissions or statements were as part of
24 the plea, I think, is the subject of redirect. Anything
25 beyond that in the plea canvass, I don't think was covered on

1 cross-examine --

2 MR. GENTILE: I already read that into the record on

3 cross-examination. Those were the five words --

4 MR. DIGIACOMO: You left part of it out.

5 THE COURT: And on cross-examination it wasn't

6 brought up so that's not --

7 MR. GENTILE: Yes, it was, Judge.

8 THE COURT: No, no. I'm saying anything other than

9 what she stated as to the factual basis of her plea was not

10 raised or brought up on cross-examination so you can't go --

11 MR. GENTILE: Yes, it was, Judge.

12 MR. DIGIACOMO: Yes, it was. He did.

13 MR. GENTILE: She didn't say anything. She said

14 five words. Those were the five words --

15 MR. DIGIACOMO: He crossed her on it.

16 MR. GENTILE: -- that I brought up.

17 MR. DIGIACOMO: Well, there's a little bit more than

18 that.

19 MR. GENTILE: I helped the coconspirators.

20 MR. DIGIACOMO: There's a little bit more than that.

21 THE COURT: All right. If there's something more

22 than that in the record -- ask her the question and then let

23 me rule on the objection.

24 MR. DIGIACOMO: Okay.

25 BY MR. DIGIACOMO:

1 Q Then the Court asked you what you did, correct?
2 A Yes.
3 Q All right. And then on line 12 you made a
4 statement that we've all heard about, I assisted all the
5 coconspirators, correct?
6 A Yes.
7 Q And then the Court asks you a question,
8 correct?
9 A Yes.
10 Q About what you did?
11 A Yes.
12 Q And you answered her, correct?
13 A Yes.
14 Q And the question asked was: So you conspired
15 in aiding and abetting the following individuals: Kenneth
16 Counts, Louis Hidalgo, Jayson Taoipu and Deangelo Carroll; is
17 that correct?
18 And what is your answer?
19 A Yes.
20 MR. GENTILE: Move to strike. Objection. That's
21 definitely offered for the purpose that I objected to.
22 THE COURT: I don't think it's offered for that
23 purpose so it's overruled.
24 MR. GENTILE: Okay. Can we have a limiting
25 instruction to the jury --

1 MR. ADAMS: Yes, ma'am.

2 MR. GENTILE: -- that it does not spill over to this
3 case?

4 THE COURT: All right.

5 MR. DIGIACOMO: What?

6 MR. GENTILE: May I approach?

7 THE COURT: I'll see counsel over --

8 (Off-record bench conference)

9 THE COURT: Ladies and gentlemen, I need to give you
10 a limiting instruction as to what this evidence can be
11 considered for. You are instructed that the fact that Anabel
12 Espindola entered a plea of guilty and that plea was accepted
13 by the Court is not evidence against either of the defendants
14 in this case.

15 Additionally, it does not indicate the Court's
16 opinion as to the guilt or innocence of these defendants or as
17 to the credibility of this particular witness.

18 All right. Mr. DiGiacomo, you may proceed.

19 BY MR. DIGIACOMO:

20 Q Without telling us specifically, did the Court
21 then ask you a number of other questions regarding what you're
22 admitting to as the facts of the case to which you answered in
23 the affirmative?

24 A Yes.

25 MR. ADAMS: Judge, I'm sorry. Before that question

1 is tendered and Mr. Arrascada's objection, I just need to make
2 sure we note our objection to the instruction and address it
3 at the appropriate time, at break, to be able to make our full
4 record at the break. I don't want to waive anything.

5 THE COURT: All right. That's fine. You're not
6 waiving your objection. Your objection is noted.

7 MR. GENTILE: And I have an objection to the form of
8 the question that he just put to the witness because he talks
9 about facts and all the Court dealt with was legal
10 conclusions.

11 THE COURT: All right.

12 MR. DIGIACOMO: I would love to read the words, but
13 I can't.

14 THE COURT: Mr. DiGiacomo, rephrase your question.

15 BY MR. DIGIACOMO:

16 Q She asked you if you were admitting certain
17 things, correct?

18 A Yes.

19 Q And you answered in the affirmative that I'm
20 admitting these things?

21 A Yes.

22 Q Now, is it your understanding of what you
23 admitted to a crime?

24 A Yes.

25 Q And was that crime voluntary manslaughter or a

1 crime somewhat higher than voluntary manslaughter?

2 MR. GENTILE: Objection. It's voluntary --

3 THE WITNESS: Higher.

4 MR. GENTILE: -- manslaughter. It says so in the
5 pleading.

6 MR. DIGIACOMO: That's the definition of fictional,
7 Judge. That's my point.

8 MR. ADAMS: Judge, he can't editorialize in front of
9 the jury --

10 THE COURT: Right. Well, also, her opinion as to
11 what the elements of different crimes are is not relevant, so
12 that's sustained.

13 MR. GENTILE: Objections -- did the Court rule on
14 the objection?

15 THE COURT: It's sustained.

16 MR. GENTILE: Thank you.

17 THE COURT: I'm sorry. I said "sustained," but I
18 may have said --

19 MR. ARRASCADA: And I'd ask it to be stricken and
20 ask that Mr. DiGiacomo's editorializing be stricken.

21 THE COURT: Well, there was no answer to strike.

22 MR. ARRASCADA: How about his editorialization that
23 he's done now four times that we've had to object?

24 THE COURT: All right. Go on, Mr. DiGiacomo.
25 Please don't engage in commentary.

1 MR. DIGIACOMO: Thank you, Judge.

2 BY MR. DIGIACOMO:

3 Q You indicated that you talked to your attorney
4 about what crime you'd likely be convicted if you had
5 testified to this information, correct?

6 A Yes.

7 Q And what is it that you told this jury your
8 lawyer told you you'd have been convicted of?

9 MR. GENTILE: Objection. Hearsay.

10 MR. DIGIACOMO: They brought it out on
11 cross-examination.

12 THE COURT: Wait. Say your question again.

13 MR. DIGIACOMO: I asked her what her lawyer told her
14 she'd been convicted of had she testified to this information
15 in her own trial.

16 MR. GENTILE: Objection. Hearsay.

17 THE COURT: It already came out on
18 cross-examination.

19 MR. DIGIACOMO: Thank you. So may she answer?

20 THE COURT: Yeah. I mean -- oh, I think it's asked
21 and answered. She already answered it on cross.

22 MR. DIGIACOMO: She didn't answer it for me, so...

23 MR. GENTILE: That's cumulative. It's been
24 answered.

25 THE COURT: Right. She's already answered that

1 question.

2 MR. DIGIACOMO: Okay.

3 THE COURT: It came out on cross-examination.

4 BY MR. DIGIACOMO:

5 Q Let me ask you this: What is your
6 understanding of the difference between second degree murder
7 and voluntary manslaughter with use of a deadly weapon? Do
8 you know?

9 MR. ARRASCADA: Objection.

10 MR. GENTILE: Objection.

11 THE COURT: Yeah. Sustained. I think the
12 relevancy, what you can get into is the punishment that she
13 may have been facing as opposed to the punishment that she's
14 facing based on her plea which Mr. Gentile covered in great
15 detail, but we did not get into what she could be looking at
16 with the second degree.

17 BY MR. DIGIACOMO:

18 Q Do you remember Mr. Gentile asking you a whole
19 lot of questions about the death penalty?

20 A Yes.

21 Q And your concerns about the death penalty?

22 A Yes.

23 Q Had you ever discussed that fact with your
24 lawyer?

25 A No.

1 Q Okay. You never discussed with your lawyer the
2 likelihood of you ever getting the death penalty in this case?
3 A At the beginning, yes.
4 Q Okay. And did you have a real concern that you
5 were someday going to get executed?
6 A No.
7 Q Okay. Mr. Gentile asked you a number of
8 questions about your obligation to be truthful in the
9 beginning, correct?
10 A Yes.
11 Q Okay. And that's your understanding, correct?
12 A Yes.
13 Q And he suggested to you that you should have
14 done sentencing before now, correct?
15 MR. GENTILE: Objection.
16 A Yes.
17 MR. GENTILE: I didn't say suggest anything. I
18 asked questions and she made answers.
19 MR. DIGIACOMO: I'll rephrase.
20 THE COURT: All right.
21 MR. ARRASCADA: And he's leading, Your Honor.
22 THE COURT: He's going to rephrase --
23 MR. ARRASCADA: It's redirect.
24 THE COURT: -- and he's going to ask it in a less
25 leading way.

1 BY MR. DIGIACOMO:

2 Q Could you have asked for sentencing prior to
3 today?

4 A Yes.

5 Q Okay. Why didn't you?

6 A I elected to wait.

7 Q Okay. Who makes the determination as to
8 whether or not you're being truthful?

9 MR. GENTILE: Objection. May we approach?

10 THE COURT: Yeah.

11 (Off-record bench conference)

12 BY MR. DIGIACOMO:

13 Q Mr. Gentile --

14 MR. GENTILE: Yes.

15 BY MR. DIGIACOMO:

16 Q Mr. Gentile asked you a number of questions
17 regarding the proffer and how -- I shouldn't use the term
18 proffer because -- after 33 months or something like that, you
19 and I finally got to talk, right?

20 A Yes.

21 Q Prior to that time period, had you and I ever
22 met before?

23 A No.

24 Q Prior to that time period, how many times had
25 you met with Mr. Gentile?

1 A A few.

2 Q Okay. When you say a few, are we talking

3 three, five, ten, 20?

4 A He came to the jail between three and five

5 times. I don't remember how many exactly.

6 Q How many times did you talk to Ms. Armeni?

7 A I remember her coming two or three.

8 Q And how many times did you talk to Mr. Oram?

9 A Several over --

10 Q Lots?

11 A Several over the last few years.

12 Q And how many of those meetings were recorded?

13 A None as far as I can recall.

14 Q Now, when you first met me on February 2nd, I

15 guess is the date that everyone's been talking about, does

16 that sound about right to you?

17 A Yes.

18 Q 2008?

19 A Yes.

20 Q You were a charged defendant, correct?

21 A Yes.

22 Q You had your lawyer with you?

23 A Yes.

24 Q And there was some legal discussions unrelated

25 to you, right?

1 A Yes.

2 Q And then eventually you talked to us?

3 A Yes.

4 Q And then based upon what you told us, your
5 lawyer and I talked some more?

6 A Yes.

7 Q After you signed the plea agreement and you
8 entered a plea of guilty, you went to the grand jury?

9 A Yes.

10 Q And you told your story in front of the grand
11 jury, correct?

12 A Yes.

13 Q And after that time, you became aware the State
14 made a motion for taped deposition?

15 A Yes.

16 Q That deposition never took place?

17 A No.

18 Q But had that deposition taken place, your
19 understanding would have been these people get to
20 cross-examine you?

21 A Yes.

22 Q Okay. And --

23 MR. ARRASCADA: Judge, we're going to have to object
24 again to the leading. It's redirect.

25 MR. DIGIACOMO: It's just foundation.

1 THE COURT: Yeah. I mean, try not to lead.
2 MR. ARRASCADA: It's getting beyond foundation.
3 THE COURT: Well, I know --
4 MR. ARRASCADA: I sat here for a long time.
5 THE COURT: -- I mean, this is kind of basic, but
6 when you get to --
7 MR. DIGIACOMO: Thank you.
8 THE COURT: Try to be open ended, Mr. DiGiacomo.
9 MR. DIGIACOMO: Thank you.
10 BY MR. DIGIACOMO:
11 Q What is your understanding as to why that
12 didn't happen?
13 MR. GENTILE: Objection. Hearsay.
14 MR. DIGIACOMO: What was her state of mind?
15 MR. GENTILE: Her state of mind is not relevant on
16 this.
17 THE COURT: That's sustained.
18 BY MR. DIGIACOMO:
19 Q There was a number of questions asked to you
20 about making statements to Mr. Hidalgo about Mr. H having a
21 week or something to post your bail, correct?
22 A Yes.
23 Q At the time you entered a plea, your case was
24 set to start when? Do you recall?
25 A Immediate.

1 Q Right?

2 A Yes.

3 Q Right before your trial date?

4 A Yes.

5 Q Less than a week --

6 A Yes.

7 Q -- that you're talking to Mr. H about?

8 A Yes.

9 Q After you gave your proffer and you said you

10 met with Mr. H and at that point he offered to bail you out

11 and you told him not to, why didn't you let him?

12 A When we had been on the phone he had told me

13 that he was struggling financially. He also told me that that

14 same evening, and I could have allowed him to bail me out, but

15 I thought that the money could be best used to pay the bills.

16 Q And you had already signed the plea agreement?

17 A Yes.

18 Q So you decided not to let him bail you out and

19 then turn around and testify -- and then testify against him?

20 A Yes.

21 Q Do you remember on cross-examination

22 Mr. Gentile asked you questions about Mr. H only carried two

23 keys?

24 A Correct.

25 Q Do you remember those questions?

1 A Yes.

2 Q And you tried to answer a little bit farther
3 and he cut you off. Do you remember what you wanted to say?

4 A Yes.

5 Q What is it that you wanted to say about those
6 two keys?

7 A There -- Louie had a key to enter the club. He
8 also had a key for his office. Inside his office is a cigar
9 box that had keys to everything in the club.

10 Q And from your interactions with Mr. H, did he
11 know how to use those keys on a variety of things?

12 A Yes, the keys were numbered and there was a
13 sheet with the number and the stipulation of what the key
14 belonged to.

15 Q And there's been a number of questions asked to
16 you as well about plan B and Mr. H's statement to you of plan
17 B and what the meaning of plan B was. Do you remember that?

18 A Yes.

19 Q Did there ever come a point in time when you
20 had a conversation with Mr. H about the meaning of plan B?

21 A No.

22 Q Okay. Did there ever come a point in time when
23 you were in the Palomino Club when Mr. H did anything really
24 about the plan B?

25 A Yes.

1 Q Describe that for the ladies and gentlemen of
2 the jury.
3 A It was --
4 MR. GENTILE: Can we have a foundation?
5 THE COURT: I was waiting.
6 MR. GENTILE: You were waiting. I know.
7 THE COURT: I almost said it myself.
8 BY MR. DIGIACOMO:
9 Q Let me ask this --
10 MR. GENTILE: I should be a -- when did this --
11 BY MR. DIGIACOMO:
12 Q Was it before or after May 19th?
13 A It was after.
14 Q Okay. And obviously it must have been before
15 you were arrested on May 24th?
16 A Yes.
17 Q How many times do you remember being back at
18 the Palomino Club after May 19th?
19 A Once.
20 Q Okay. And can you tell us whether or not that
21 was Friday night, Saturday night, Sunday night?
22 A Friday night.
23 Q Okay. And this conversation that you're
24 referencing, that occurred on Friday night?
25 A Yes.

1 Q Okay. Can you recall where in the Palomino
2 Club this conversation occurred?

3 A Rudy's office.

4 Q And that's -- we've seen on the diagram, Rudy
5 Viarta?

6 A Yes.

7 Q Okay. And what is it -- or what happened as it
8 relates to plan B at that point in time at the Palomino Club?

9 A I am sitting behind Rudy's desk. Louie has a
10 piece of paper and he is writing something to the effect of
11 what plan B means and it has something to do with taxi cabs.

12 Q Okay.

13 A He asked me to place the paper inside the desk
14 drawer.

15 Q Which desk drawer?

16 A Rudy's desk drawer. It would be the bottom
17 drawer.

18 Q So plan B had something to do with taxi cabs at
19 that point?

20 A That's what he said.

21 Q Was it usual for Mr. H to write memos in this
22 fashion?

23 A No.

24 Q And then what was supposed to happen to this
25 memo?

1 A He just wanted it placed in the drawer in case
2 he got questioned later.

3 Q There was questions asked to you about you
4 saying, I lied on January 15th of 2008. Do you remember those
5 questions? Do you remember after the bail hearing they asked
6 you questions --

7 THE COURT: The prosecutor lied.

8 BY MR. DIGIACOMO:

9 Q -- talking to Mr. H and telling Mr. H that,
10 I -- everything I said was a lie?

11 A Yes.

12 Q Do you remember those questions?

13 A Yes.

14 Q Now, prior to January 15th, you and I never
15 talked before, correct?

16 A Correct.

17 Q And on January 15th there was a bail argument,
18 correct?

19 A Yes..

20 Q During the course of that bail argument, I
21 argued certain inferences from the evidence, correct?

22 A Correct.

23 MR. GENTILE: Objection to the leading.

24 BY MR. DIGIACOMO:

25 Q Did you --

1 MR. ARRASCADA: And he is testifying.
2 THE COURT: That's sustained.
3 MR. DIGIACOMO: All right. Let me rephrase that.
4 BY MR. DIGIACOMO:
5 Q Did you agree with what I argued to the Court
6 on January 15th of 2008?
7 A To certain things, I would have said no.
8 MR. ARRASCADA: Objection. Irrelevance, Your Honor.
9 MR. DIGIACOMO: Well, it was --
10 THE COURT: Well, overruled. She can answer that.
11 BY MR. DIGIACOMO:
12 Q What?
13 A To certain things I would have said no.
14 Q And as you sit here today, do you still dispute
15 the certain things that I said on January 15th?
16 A Yes.
17 Q Okay. Lastly, I think Mr. -- it was
18 Mr. Gentile that asked you questions about Gilardi and Rizzolo
19 and Mr. H isn't like Gilardi and Rizzolo. Do you remember
20 those questions?
21 A Yes.
22 Q Okay. And then there's a lot of questions
23 about what Gilardi and Rizzolo were in trouble for. Do you
24 remember those questions?
25 A Yes.

1 Q Gilardi, do you remember what he got in trouble
2 for?
3 A Yes.
4 Q What did he get in trouble for?
5 A He was paying -- it had to do with city council
6 to go ahead and I believe -- trying to pay somebody in the
7 city council so they could pass like a licensing, something to
8 that effect.
9 Q Something related to him giving
10 inappropriate --
11 A Funds.
12 Q -- funds to somebody who had the ability to
13 pass certain ordinances affecting --
14 MR. ARRASCADA: Judge, objection. He's leading --
15 THE WITNESS: Yes.
16 MR. ARRASCADA: -- and testifying.
17 THE WITNESS: Yes.
18 MR. DIGIACOMO: I'm just clarifying what she said
19 just.
20 THE COURT: All right.
21 MR. GENTILE: He's supposed to take on oath to do
22 that, Your Honor.
23 THE COURT: Mr. Gentile.
24 Mr. DiGiacomo, ask your next question.
25 BY MR. DIGIACOMO:

1 Q Now, you were also asked questions about Tony
2 Moore Leavitt, correct?

3 A Yes.

4 Q And the nature of the fact that he was
5 extorting Mr. H?

6 A Yes.

7 Q Do you know what the basis of his extortion
8 was?

9 A Yes.

10 Q What was it?

11 MR. GENTILE: Objection. Hearsay.

12 MR. DIGIACOMO: Let me rephrase.

13 THE COURT: All right. Thank you.

14 BY MR. DIGIACOMO:

15 Q Did you become aware -- or let me rephrase
16 this. Without telling us what Tony Moore's assertion was,
17 were you aware of certain conduct which was the basis of that
18 extortion?

19 MR. GENTILE: Objection. Can we approach?

20 THE COURT: Yes. Do you know what? Ladies and
21 gentlemen, let's go take another -- let's take a 12-minute
22 break this time because we're also going to let everyone look
23 at the jury questions and then once Mr. DiGiacomo finishes
24 redirect, I'll be asking the jury questions of the witness.

25 So remember the admonishment is still in place.

1 Note pads in your chairs. Jeff is in the rear, so I'm sure by
2 now you've memorized the location of the double doors. And
3 we'll see you all back here in 12 minutes.

4 (Jury recessed at 4:29 p.m.)

5 MR. GENTILE: Can we have the witness off the stand
6 for this?

7 THE COURT: And I'll go ahead and let the
8 investigator take Ms. Espindola into the back. Can you guys
9 give me two minutes. Here are -- all right. Just so -- while
10 I'm -- these are the questions that I basically thought were
11 okay. I'm not sure if she can answer all of them. These are
12 the questions that -- actually, I mixed them up. There's one
13 or two in there that I think those were the legal questions
14 that she can't answer. So I'll be right back.

15 (Court recessed at 4:30 p.m. until 4:34 p.m.)

16 (Outside the presence of the jury.)

17 THE COURT: [Inaudible].

18 MR. GENTILE: Well, only in a foundational sense.
19 Let me -- let me have these, if I may.

20 (Pause in the proceedings)

21 MR. GENTILE: These two call for speculation. These
22 two call for -- both of them. They're both from the same
23 person, but they're both going to ask for a speculative
24 answer.

25 THE COURT: Right. This is speculation.

1 MR. GENTILE: Yeah.

2 THE COURT: And this would be speculation, too, the
3 one -- unless she knows. But she already said he didn't say
4 anything else.

5 These are fine. Does anyone care if I ask about the
6 video deposition?

7 MR. PESCI: Huh-uh.

8 MR. GENTILE: The Court ruled that it wasn't
9 permitted under the state of the law.

10 MR. PESCI: The State's position on these two is that
11 they don't necessarily call for speculation. She could
12 possibly answer it.

13 MR. GENTILE: It's opinion.

14 MR. PESCI: So they should ask her -- well, her
15 opinion is extremely relevant in this case.

16 THE COURT: Well, she can say, was she aware of any
17 -- did she personally witness any --

18 MR. PESCI: Did she have direct knowledge.

19 THE COURT: -- direct -- any problems between
20 Deangelo and T.J.

21 MR. PESCI: Okay.

22 THE COURT: And then she can say, did Mr. H explain
23 to her why she was the one -- or did she -- you know, not to
24 speculate. So I'll ask them and give her a don't guess or
25 speculate instruction.

1 MR. GENTILE: Yeah. If you ask them, I think--
2 THE COURT: Okay. I mean, I'll just tell her--
3 MR. GENTILE: -- more likely to --
4 THE COURT: -- don't guess or don't --
5 MR. ARRASCADA: This one goes into our motion for a
6 mistrial, Your Honor, the whole issue on -- we didn't go into
7 that area on the plea bargain -- ask her about that.
8 MR. ADAMS: John, the court recorder doesn't --
9 THE COURT: You need to step back, because --
10 MR. ARRASCADA: I'm sorry. Judge, we did not ask
11 about that, and now it's going into --
12 MR. GENTILE: We'd better identify the question on
13 the record.
14 THE COURT: All right. The question is -- a juror
15 wanted to know from Ms. Espindola -- Ms. -- it's a long day --
16 Espindola, "You testified," quote, "'I assisted all the
17 coconspirators,'" end quote. The juror wants to know, "How
18 did you assist Deangelo Carroll, Rontae Zone, Kenneth Counts,
19 Jayson Taoipu, and Luis Hidalgo, III?"
20 And that was opened by Mr. Gentile on his
21 cross-examination which preceded the cross-examination from
22 Mr. Arrascada when he said, "And all you said was five words,
23 'I assisted all the coconspirators.'"
24 So that does not go to your ground for mistrial,
25 because this came --

1 MR. ARRASCADA: Yes, it does.

2 THE COURT: Well, wait a minute. This came out from
3 Mr. Gentile's questioning, not from Mr. DiGiacomo's
4 questioning. This is directly based on Mr. Gentile's
5 question.

6 MR. ADAMS: No, no. Because Mr. Gentile did not list
7 the name of all these people. Mr. DiGiacomo read the laundry
8 list of those names in his question.

9 And, Judge, I've been dying to make my record all
10 day.

11 THE COURT: And you can. And one other thing I would
12 just add is, although Mr. Gentile did not list the laundry
13 list of coconspirators, he spent quite some time saying, and
14 this person was at the prelim and this person was at the
15 prelim, to point out that Mr. Hidalgo, Jr., was the only
16 person that had not been charged in connection with this case.
17 So whether or not -- yes, I agree you're saying it came out
18 contemporaneous with that with Mr. DiGiacomo. It was
19 abundantly clear, and as I just said, Mr. Gentile spent a lot
20 of time pointing out that all of these other people had been
21 charged in this case, not Rontae Zone, but everybody else, and
22 that his client was the only one who hadn't been charged. The
23 obvious import of that is that she had to rat out Mr. Hidalgo,
24 Jr., because that's the only person left that the State
25 wanted. And that was where I think Mr. Gentile was going with

1 his questioning.

2 So you may say, yes, it's based on Mr. DiGiacomo's
3 questioning. I think there's plenty in the record based just
4 on Mr. Gentile's questioning to justify -- or why a juror
5 would want to know this.

6 MR. GENTILE: And to make it -- excuse me, gentlemen.
7 To make the record clear, Mr. Gentile does not object to the
8 Court asking, as quite candidly, with all due respect,
9 probably should have been done at the canvassing instead of
10 just a summary, did you do this, but, in any case, I have no
11 objection to your asking her that question.

12 MR. ADAMS: Judge, here's the -- here's the problem.
13 We -- and I need to give a little background, because we've
14 come up to the bench a lot and it's not all been on the
15 record. There was a question by Mr. DiGiacomo on redirect
16 where he listed all the people that Ms. Espindola conspired
17 with. And she said she conspired within her plea agreement,
18 and he listed Louie Hidalgo, III. We all scampered up to the
19 bench and objected. I believe that it's saying -- pointing out
20 and telling that the Court has approved and agrees that she
21 conspired with Louie Hidalgo, III.

22 The Court offered and did ultimately issue a curative
23 instruction. We indicated that we believe that curative
24 instruction was inadequate and that we have been prejudiced
25 and intentionally prejudiced now for the second time. And I

1 do need to go back and make the record on Friday. The second
2 time intentionally, calculatedly -- or with calculation trying
3 to sabotage us and trying to goad us into a mistrial. They
4 did it the second time. The Court tried to cure it, and now,
5 when we were up there after we argued, we've gotten notes from
6 the jurors, and this juror, after the Court said, disregard
7 all this, we've got a note from the juror going right to the
8 instruction and -- that the Court said to disregard. Our
9 position is --

10 THE COURT: Well, no, I didn't say to disregard. I
11 mean, the instruction is what's on the record, number one.

12 MR. GENTILE: Correct.

13 THE COURT: Number two, okay, you objected to the
14 whole thing but didn't add anything to the curative
15 instruction, because everyone --

16 MR. ADAMS: No. Because our position is it's
17 inadequate to cure the prejudice --

18 THE COURT: With any instruction.

19 MR. ADAMS: -- that was elicited by the prosecution.

20 THE COURT: I just want it clear on the record that
21 both sides -- Mr. Gentile agreed with the Court's curative
22 instruction and both defendants' attorneys were able to add to
23 the instruction, and you didn't offer any addition to that.

24 MR. ADAMS: Correct, Judge. But I did say at the
25 bench in no way to waive our mistrial motion that we are--

1 THE COURT: No. And you didn't. I'm just saying
2 there was nothing else you wanted me to say that I did not
3 say.

4 MR. ADAMS: That's right. Because we don't believe
5 that it can be cured.

6 THE COURT: Right. Okay.

7 MR. ADAMS: And I believe this note suggests it was
8 not cured.

9 THE COURT: Okay. I just want to add something. In
10 the questioning of, well, you agreed you conspired with this
11 person and that person, Rontae Zone was not one of those
12 people. So the fact that the juror put "Rontae Zone" in
13 harkens back to what Mr. Gentile asked where he was bringing
14 up Rontae Zone. Because the State never brought up Rontae
15 Zone. So I don't think you can say, well, this is based
16 solely on the State's questioning when, you know, the State
17 doesn't want to bring Rontae Zone in as a coconspirator
18 because that weakens their position. That's just --

19 MR. GENTILE: Plus the Court is going to be asked to
20 give an instruction to the jury that Mr. Zone can be
21 considered by them as an accomplice, because that is a jury
22 question. Which would mean that he would be a conspirator.

23 THE COURT: Right.

24 MR. GENTILE: So I have no objection to this
25 question.

1 THE COURT: My only point is Rontae Zone's name was
2 not mentioned by the State as a coconspirator. So the fact
3 that they're suggesting that he's a coconspirator I think is
4 more indicative of them listening to Mr. Gentile's
5 cross-examination when he went through that whole thing about
6 Rontae Zone was in the car or something. I don't remember
7 exactly. It's been a long day.

8 MR. DIGIACOMO: For the record, I never referenced
9 Luis Hidalgo, III. I was never allowed to get that far,
10 because I wasn't allowed to ask my next question, which is the
11 III and Junior, which is what we made clear -- what you
12 canvassed her about. We never got that far. I just said,
13 Luis Hidalgo. Then I got the objection. You told me to ask
14 general questions and not ask specifics, so I never clarified
15 which coconspirators she was talking about.

16 MR. ADAMS: Certainly at that point one Luis Hidalgo
17 was under arrest and one was not. And that record's clear.

18 Judge, on Friday they asked in their direct
19 examination about Anabel Espindola facing the death penalty,
20 and they asked her, so were the other defendants there that
21 day, Mr. Counts, Mr. Hidalgo -- we -- III. We approached and
22 at that point did not move for a mistrial, but indicated at
23 the bench that they are trying, it appears -- because they're
24 seasoned prosecutors, that's not accidental, they're
25 experienced prosecutors, it's not neglectful, it's intentional

1 action to get improper evidence, improper suggestion in front
2 of this jury. I can only suspect they're doing that to goad
3 us into moving for a mistrial.

4 We placed them on notice Friday at the bench that
5 we're at that point that they keep trying to inject improper
6 material in front of this jury. We think Rontae Zone would
7 hit a home run for us, quite candidly. I guess the jury will
8 ultimately decide that. We think they don't like Rontae
9 Zone's testimony and would like another crack at us. I think
10 they're intentionally putting improper material in front of
11 the jury. And we wanted to place them on notice first thing
12 this morning. Now it's been compounded with this redirect
13 examination. We're in a real position where we've been
14 prejudiced now twice in two days with their direct questions
15 and redirect questions of Anabel Espindola. And I think it
16 strikes to the heart of our right to have a fair trial.

17 THE COURT: So you're suggesting that I --

18 MR. ADAMS: I'm suggesting that it's appropriate for
19 the Court to consider --

20 THE COURT: Well, wait.

21 MR. ADAMS: -- a mistrial based on this redirect
22 examination question, with prejudice. I'm not requesting a
23 mistrial without prejudice, but with prejudice a mistrial.

24 MR. DIGIACOMO: And the basis, the legal basis, I
25 heard absolutely none.

1 MR. ADAMS: The legal basis is they --
2 MR. DIGIACOMO: Excuse me. You made your record.
3 Now it's my turn to make mine, Mr. Adams.
4 There is not a --
5 MR. ADAMS: Judge, is he allowed to address me --
6 THE COURT: All right.
7 MR. ADAMS: -- like that, in a haunting way? I feel
8 threatened.
9 THE COURT: Okay. Okay. Do I need to put your
10 relative sizes on the record since this isn't going to be a
11 visual record?
12 MR. DIGIACOMO: That might --
13 THE COURT: If it were -- if it were being recorded,
14 I wouldn't need to state the obvious. But since the Supreme
15 Court may be --
16 MR. ADAMS: I do not request that, Your Honor.
17 THE COURT: -- may be relying on the written
18 transcript. Something suggests to me that you don't feel
19 threatened. Is that it, Mr. Adams?
20 MR. ADAMS: Very threatened. So threatened, in fact,
21 that I had to do kickboxing this morning on him with a DVD.
22 THE COURT: All right.
23 MR. GENTILE: Having lived with him for three weeks,
24 he's quite a meek individual, I must say.
25 MR. DIGIACOMO: Can I make a record here?

1 THE COURT: You may.

2 MR. DIGIACOMO: Let's talk about two things. One,
3 the redirect examination of Anabel Espindola is 100 percent
4 appropriate. They can't find a single case whatsoever to say
5 -- particularly when they said, the only thing you're going to
6 do is assisting the coconspirators. Well, she keeps
7 admitting, I counselled, I encouraged, I procured, I
8 conspired, and she lists out all the coconspirators,
9 everything that she says she did is admissible. Heck, it
10 probably would have been admissible on direct testimony, but
11 certainly after the cross-examination when they said, the only
12 thing you did was that you assisted, no, that's not true. The
13 fact that there may have been some legal conclusions in there
14 does not somehow preclude her from testifying to the
15 underlying facts that she admitted that she committed in order
16 for her to be guilty of the crime which was charged and then
17 the fictional plea, which I've heard it been used a lot. The
18 Court's the one who used it, Mr. Oram used it, which means
19 there's no basis for provocation in this case. If she was
20 guilty, she's guilty of murder, she got a reduced charge, one.

21 Two, as it relates to the death penalty, one, first
22 of all, after today's cross-examination where Mr. Gentile told
23 this jury that the Supreme Court reinstituted the death
24 penalty during his cross-examination of Anabel Espindola, he
25 specifically did that. And at some point the Court needs to

1 give some sort of instruction to this jury that neither
2 defendant is currently facing the death penalty, because you
3 don't want some juror back there -- the State certainly
4 doesn't want some juror back there thinking, oh, my God, if I
5 convict this person of first I may have to deal with death,
6 because they're not a death-qualified jury. So that's one I'd
7 make that request.

8 Two, we were fully aware from discussions --

9 THE COURT: You'll get the blanket instruction the
10 matter of sentencing is strictly up to the Court.

11 MR. DIGIACOMO: I understand that. But I don't want
12 them thinking that you may give them the death penalty.
13 Because no -- this jury has no idea, one.

14 Two, the State is more than willing to say neither
15 Mr. Hidalgo or Mr. Hidalgo, III, Junior or III are currently
16 facing a notice of intent to seek the death penalty. I'm
17 certainly going to bring that out from Anabel at the end of
18 this case, that Mr. H currently isn't facing one. We can
19 raise that issue.

20 MR. ARRASCADA: Hearsay.

21 MR. GENTILE: It's hearsay.

22 MR. ADAMS: Objection.

23 MR. DIGIACOMO: Fine. I'll have the Court take
24 notice that neither one of them are facing it.

25 MR. ADAMS: Objection. Relevance.

1 MR. GENTILE: I think you could -- well --
2 MR. DIGIACOMO: They went into --
3 THE COURT: I mean, the problem is Mr. Adams and Mr.
4 Gentile have totally different opinions about whether the
5 death penalty issue should come in. Mr. Gentile wants it to
6 come in. Mr. Adams doesn't want it to come in.
7 MR. ADAMS: Here's why, Judge.
8 THE COURT: I mean, yeah, I mean --
9 MR. ADAMS: I think we're prejudiced by their
10 reference to it Friday. We didn't move for a mistrial at that
11 time. We asked for a curative instruction, which the Court
12 granted.
13 THE COURT: All right.
14 MR. ADAMS: Here's why. They're saying they viewed
15 Louie Hidalgo, III, as being among the worst of the worst when
16 they bring that in in front of the jury. It's not
17 appropriate.
18 THE COURT: Yeah. I mean, I thought of that, too,
19 and I recognized that. But then I also thought, you know
20 what, they file the notice of death and death qualify juries
21 all the time in obviously death cases where you're still
22 dealing with the guilt phase. And we don't have any caselaw
23 at all saying that just the fact that they filed a notice of
24 death is so prejudicial that it prejudices the jury at the
25 guilt phase. And that's essentially what you're saying. And

1 I thought of that initially, and I thought, yeah, it's so
2 prejudicial because they're saying he's the worst of the
3 worst, but I don't know of any caselaw that -- I mean, they
4 could have gone forward with this as a death case.

5 MR. ADAMS: Then we would have a death -- then we
6 would have a different jury --

7 THE COURT: We would have a --

8 MR. ADAMS: -- and we'd be in a different posture.

9 THE COURT: Well, no. We would have a different
10 jury. But all I'm saying is for the guilt phase I don't know
11 that there's any additional prejudice, because that is what
12 you're saying in the guilt phase on a capital case, which this
13 could have been. So --

14 MR. ADAMS: Judge, really what it equates to is that
15 we have been tried with Ms. Espindola previously and it was a
16 hung jury. And we're back for retrial and she got a deal.
17 They're commenting -- they're commenting on something that was
18 inappropriate as it relates to Mr. Hidalgo, III. If he
19 testifies, maybe they can go into that for his bias. But it's
20 completely appropriate to cross her on that. It has no
21 relevance for them to sleaze in this stuff in their direct
22 examination as it relates to Mr. Hidalgo.

23 THE COURT: Well, how does that not cure it if the
24 Court says, the State voluntarily withdrew their notice of
25 death penalty against both of these defendants and is

1 currently not seeking the death penalty against either one of
2 them and that was a voluntary action taken by the State?

3 MR. ADAMS: I believe --

4 THE COURT: Which to me gives it more import.

5 MR. ADAMS: I object to that. I believe --

6 THE COURT: Okay. You don't want that. I'm just --

7 MR. ADAMS: It points a finger at Luis Hidalgo, III,
8 as being someone who they deemed as among the worst of the
9 worst at some point.

10 THE COURT: Well, I mean, here's the -- no, but
11 here's the thing, is you say it looks like he's the worst of
12 the worst, and they've already brought out Anabel Espindola
13 had a notice of death but now she's got a -- but now, my God,
14 she's so horrible they filed a death penalty against her and
15 now they're going to stand silent while the Court can give her
16 probation if it wants to do that. So to say that she -- that
17 by filing it it's the worst of the worst to me -- I mean, to
18 me the way to cure it is to say they voluntarily withdrew it.
19 That means they don't think they're the worst of the worst.
20 If you don't want me to do that, I won't. But, I mean, it
21 cuts both ways. Just --

22 MR. ADAMS: I agree, and I'm afraid of the way it
23 cuts toward us.

24 THE COURT: I mean, obviously -- I mean, to me,
25 though -- to me, if anything, it makes it look like they're

1 filing this frivolously --

2 MR. ADAMS: Well --

3 THE COURT: -- when they want to seek the death
4 penalty against someone but, wow, when she flips, which to me,
5 you know, a lot of people might say that makes her a worse
6 person. When she flips, now they're saying, well, we're going
7 to -- the State isn't going to take a posture as to whether or
8 not this woman gets probation or not.

9 MR. ADAMS: They also said in --

10 THE COURT: Now, they may have a sense of what I
11 might do, but also they may have no sense of what I might do.

12 MR. ADAMS: Right.

13 THE COURT: And they're not taking a position. So
14 that's my view, that --

15 MR. DIGIACOMO: And if this jury heard the question
16 of Mr. Gentile, obviously it wasn't a death case back on Mr.
17 H. He's going to [inaudible] as it became -- the death
18 penalty came back, clearly implying that there's now a current
19 notice of intent to seek death against Little Lou, and that is
20 not a proper inference for this jury to make. So there has to
21 be some instruction. I can either do it through a witness, or
22 the Court can give the instruction, but there has to be some
23 instruction to this jury that neither one of these defendants
24 faces the death penalty.

25 MR. ADAMS: Actually, Mr. Gentile said, Your Honor,

1 as it relates to Ms. Espindola the death penalty came back.
2 He didn't lump in -- like the State had done in direct exam,
3 he didn't lump in Louie Hidalgo, III, into that.

4 MR. DIGIACOMO: He --

5 MR. ADAMS: -- confusion on that point.

6 MR. PESCI: He said, the State refiled -- are you
7 aware that the State refiled the notice of intent and it was
8 not qualified to any specific defendant.

9 THE COURT: Yeah. But I think the inference was it's
10 a separate notice of intent as to each person, and he was
11 going to her motivation that she was afraid she would be
12 executed. She doesn't care whether anybody else gets
13 executed, according to the inferences he's creating. So I
14 took that as a notice of intent as to her.

15 MR. DIGIACOMO: But what he said then is, and if you
16 hadn't pled it like the Supreme Court did and reinstituted the
17 death penalty in this case, you'd be facing the death penalty.
18 That's exactly what he said.

19 THE COURT: Yeah, but they don't know that that --
20 they don't know that that means the death penalty, because
21 obviously the issues are different as to each defendant.

22 So, Mr. Gentile, do you want an -- I think it's
23 appropriate to give an instruction, the State has voluntarily
24 withdrawn seeking the death penalty. But you guys can think
25 about it. You don't have to decide today --

1 THE COURT: Okay.

2 MR. DIGIACOMO: -- with a number of other exhibits.

3 THE COURT: And do you know what exhibit number that
4 would have been?

5 THE CLERK: 229.

6 MR. DIGIACOMO: Well, 229's before --

7 THE COURT: 229 is, I believe, the copy of the note.

8 MR. DIGIACOMO: The original note itself is in one
9 of those bags stacked up right there behind the clerk. It's
10 in a bag with a lot of other exhibits.

11 THE COURT: You don't happen to know the --

12 MR. DIGIACOMO: Off the top of my head, I don't.

13 THE COURT: -- proposed number of that exhibit?

14 MR. DIGIACOMO: The one she's holding right now,
15 though.

16 THE COURT: It's the one you're holding right now.

17 MR. GENTILE: It's going to take a few minutes to
18 get -- to work this out, Your Honor.

19 THE COURT: Do we -- maybe this would be then a good
20 time for our afternoon recess.

21 MR. GENTILE: Well, I don't know. That's up to you.

22 THE COURT: Well, we're going to have to take one
23 soon anyway. Is ten minutes sufficient? Is that sufficient
24 for everyone on the jury? Okay. Ten minutes.

25 Remember the admonishment, don't talk about the case

1 or do anything else relating to the case. Note pads in your
2 chairs. Follow Jeff through the double doors. We'll see you
3 back here at 2:26.

4 (Court recessed at 2:17 p.m. until 2:26 p.m.)

5 MR. ADAMS: Would this be a good time to make a
6 record, Judge.

7 MR. DIGIACOMO: Schmink's going to put it in, but if
8 you want to open it, I don't care.

9 THE COURT: Can you just stipulate to open it in
10 open court and just open it right now?

11 MR. DIGIACOMO: It's been opened like 12 times
12 already.

13 MR. GENTILE: Yeah, I mean, I'm not going to
14 complain about a chain or anything like that.

15 THE COURT: Right. I mean -- it's clear on the
16 record it's being opened in open court, so there's no problem
17 with opening it. Nobody has to agree to it. It's being
18 opened.

19 (Off-record colloquy)

20 THE COURT: Okay. Let's get this show on the road.

21 THE MARSHAL: Jury's coming in.

22 (Jury entering at 2:30 p.m.)

23 THE COURT: All right. Court is now back in
24 session.

25 Mr. Gentile, you may resume your cross-examination.

1 BY MR. GENTILE:

2 Q Yesterday Mr. DiGiacomo showed you, I believe,
3 a copy of proposed Exhibit 229. We are now going to -- I said
4 yesterday. I meant Friday.

5 MR. GENTILE: We are now, Your Honor, going to
6 stipulate -- both sides are going to stipulate to the
7 introduction of State's Proposed Exhibit 200I.

8 THE COURT: All right.

9 MR. DIGIACOMO: That's correct, Judge, and I believe
10 there's an additional stipulation that Mr. H wrote the writing
11 on I and that Louis Hidalgo definitely did not write the
12 writing on I, if that's correct.

13 THE COURT: All right. So --

14 MR. ADAMS: Louis Hidalgo, III.

15 MR. DIGIACOMO: Louis Hidalgo, III did not.

16 THE COURT: In other words, the stipulation is it's
17 stipulated between both sides that Louis Hidalgo, Jr., wrote
18 what's on that paper and that Louis Hidalgo, III has been
19 definitively eliminated as the author or the writer of that;
20 is that correct?

21 MR. DIGIACOMO: That's correct, Judge.

22 THE COURT: All right. And then can we just also
23 agree to admit 229, which is the photo copy?

24 MR. GENTILE: I don't think we need it --

25 THE COURT: All right. Well --

1 MR. GENTILE: -- do we?
2 THE COURT: -- it's up to the State.
3 MR. DIGIACOMO: I don't care one way or the other.
4 Now we have the original.
5 THE COURT: All right.
6 BY MR. GENTILE:
7 Q You have on the screen in front of you a piece
8 of paper. It's actually a piece of a piece of paper; am I
9 right?
10 A Yes.
11 Q And you took a look at the handwriting on here,
12 I believe last Friday, and you recognized it as being that of
13 Louis Hidalgo, Jr.'s; am I right?
14 A Yes.
15 Q But you said that you had never seen this note
16 before; am I correct?
17 A I don't recall seeing the note prior to Friday.
18 Q Okay. I'm going to turn it over.
19 A Yes.
20 Q The other side has some printing on it. Do you
21 recognize that printing?
22 A Green Leaf Auto.
23 Q Well, no, I know you recognize the name. Do
24 you recognize the printing? Do you recognize this piece of
25 paper?

1 A No.

2 Q You have, in fact, used paper, this very same
3 paper, have you not? I don't mean this piece of paper, but
4 paper from the same pad.

5 A From the -- Green Leaf goes ahead and drops off
6 memo pads at the body shop.

7 Q They drop off memo pads all the time, right?

8 A Yes.

9 Q Green Leaf is somebody you do business with, if
10 I understand you correctly.

11 A Yes.

12 MR. GENTILE: Could I have this marked next in
13 order, please, defense next in order.

14 BY MR. GENTILE:

15 Q I want to show you what's --

16 MR. GENTILE: No, this is not 231. This is --
17 defense next in order, please. I'm sorry. I just want to
18 make sure we get it right the first time.

19 (Off-record colloquy)

20 THE COURT: Whatever defense's next letter is.

21 MR. GENTILE: I think D1 and D2 are probably my
22 last.

23 THE COURT: So then it's E. Just mark it E and then
24 fill it out later.

25 MR. GENTILE: May I approach?

1 THE COURT: You may.

2 BY MR. GENTILE:

3 Q I want to show you what's Proposed Exhibit E,
4 Defendant's Proposed Exhibit E, and I want to ask you if you
5 recognize the handwriting on this piece of paper.

6 A Yes.

7 Q Whose handwriting is that?

8 A Mine.

9 MR. GENTILE: I move it into evidence for the first
10 time.

11 THE COURT: Any objection?

12 MR. DIGIACOMO: Foundation as to when she wrote it.

13 THE COURT: All right.

14 BY MR. GENTILE:

15 Q When did you write this?

16 A I have no idea.

17 Q Who did you give it to?

18 A It could have been written for payroll. It
19 looks like Social Security numbers.

20 Q It is Social Security numbers, but who did you
21 give it to?

22 A I don't know. Like I said, I don't remember
23 the paper.

24 Q Ms. Espindola, when you went with Louis
25 Hidalgo, Jr. to see Mr. DePalma on the 21st of May, 2005, you

1 had this paper pad with you. Do you recall that?

2 A No.

3 Q Do you recall that the only two people that you

4 talked about in terms of what was at issue at that time was

5 Timothy Hadland and Deangelo Carroll? Do you recall that?

6 A Yes.

7 Q And the only two names on this piece of paper

8 are the names of Timothy Hadland and Deangelo Carroll and

9 their Social Security numbers; am I correct?

10 A Yes.

11 MR. GENTILE: Move it into evidence at this time.

12 THE COURT: Any objection?

13 MR. DIGIACOMO: No, objection.

14 THE COURT: All right. That will be admitted,

15 Exhibit E.

16 (Defendant's Exhibit E admitted.)

17 BY MR. GENTILE:

18 Q Now, that is your handwriting?

19 A Yes.

20 Q That is their names?

21 A Yes.

22 Q Their -- the only names on this piece of paper?

23 A Yes.

24 Q And it's their Social Security numbers?

25 A I would assume so, yes.

1 Q But you don't remember why you wrote it down or
2 who you gave it to?

3 A No.

4 Q And you're saying that you do not recall having
5 this pad of paper with you when you and Mr. Hidalgo went to
6 visit Jerry DePalma; am I right?

7 A Correct. The pad could have been in the
8 vehicle.

9 Q And you don't remember having this pad of paper
10 with you when you and Mr. Hidalgo, Jr. went to visit me?

11 A No.

12 Q You have no idea why you wrote this down?

13 A Louie could have asked me to write it --

14 Q Oh, it's Louie asked you to write it --

15 A -- to go ahead --

16 Q -- is that it?

17 A It's very possible.

18 Q You don't remember why you wrote it down is
19 what you're saying or who you gave it to?

20 A No.

21 Q That is what you're saying?

22 A Correct.

23 Q Do you recall Mr. Hidalgo having note paper
24 with him when he went to visit his lawyer?

25 A No.

1 Q You don't recall one way or the other is what
2 you're telling us; am I right?

3 A Correct.

4 Q Okay. You don't know whether he had note paper
5 with him when he went to see DePalma on Saturday?

6 A No, I don't.

7 Q And you don't know if he had note paper with
8 him when he came to see me on Sunday?

9 A I don't recall.

10 (Pause in proceedings)

11 Q Now, you heard me read off to you earlier a
12 list of women's names that you met while you were in the Clark
13 County Detention Center.

14 A Yes.

15 Q I think there were probably ten names or so --

16 A Yes.

17 Q -- am I right? Okay.

18 And you were in the detention center with each one
19 of them?

20 A Yes.

21 Q Do you recall telling one of them in the spring
22 of 2007 about the facts of your case?

23 A No.

24 Q Do you recall saying that they were only
25 supposed to fuck them up and they went too far?

1 A No.

2 Q Do you recall saying that Deangelo Carroll was
3 one of the guys who met -- who went to meet the guy that was
4 camping?

5 A No.

6 Q Do you recall saying that you were the one who
7 contacted Deangelo Carroll because you were mad at the guy
8 that got killed?

9 A No.

10 Q Do you recall saying that you don't know why
11 but Deangelo Carroll had his own issues with the guy?

12 A No.

13 Q Do you recall saying that you told Deangelo
14 Carroll to fuck him up and it turned out that they killed him?

15 A No.

16 Q Do you recall saying that Deangelo Carroll
17 called you afterwards and said TJ died and you said, What the
18 fuck did you guys do?

19 A No.

20 Q You didn't say it to any of those people --

21 A No.

22 Q -- am I correct?

23 A Correct.

24 Q That's your testimony?

25 A That's my testimony.

1 MR. GENTILE: I don't have anything further.
2 THE COURT: Thank you. Mr. Arrascada.
3 MR. ARRASCADA: Thank you, Your Honor.
4 MR. GENTILE: Oh, wait. There is one more question.
5 THE COURT: All right.
6 MR. GENTILE: I almost forgot.
7 BY MR. GENTILE:
8 Q Do you know a man by the name of William
9 Freeberg?
10 A The name does not sound familiar.
11 Q Do you know a corrections officer by the name
12 of -- a former corrections officer by the name of Bill
13 Freeberg?
14 A The name doesn't sound familiar.
15 Q Did you ever send any -- did you ever have a
16 corrections officer that you communicated through e-mail and
17 had him communicate for you by e-mail to other people?
18 A Mr. -- I know who you're talking about. He was
19 friends with Ovi Perez, a fellow inmate, and he asked me to
20 give her his e-mail address. That was all.
21 Q This is Mr. Freeberg?
22 A I believe so.
23 MR. GENTILE: Nothing further.
24 THE COURT: All right. Mr. Arrascada.
25 MR. ARRASCADA: Thank you, Your Honor. Your Honor,

1 I'm going to hazard to plug the --

2 THE COURT: All right.

3 CROSS-EXAMINATION

4 BY MR. ARRASCADA:

5 Q Good afternoon, Ms. Espindola.

6 A Good afternoon.

7 Q We have never met before, have we?

8 A No.

9 Q I want to talk to you first about the monies
10 that were paid to Deangelo Carroll, okay?

11 A That's fine.

12 Q At the club on May 19th you retrieved \$5,000 to
13 pay Deangelo Carroll, correct?

14 A I retrieved \$5,000 that Mr. Hidalgo asked me to
15 get from the safe and I placed it on the table or on the desk.

16 Q So you got the money from the safe?

17 A Yes.

18 Q And you placed it on the desk?

19 A Yes.

20 Q So you retrieved \$5,000 to pay Deangelo

21 Carroll?

22 A I went to the safe per Luis' instructions, got
23 \$5,000 and put it on the desk.

24 Q When that occurred Little Louis was not there,
25 was he?

1 A No.

2 Q When that occurred, it wasn't said, This is
3 Little Louis' problem, make him get the money, was it?

4 A No.

5 Q When that occurred, you didn't say to Deangelo
6 Carroll, You're looking at the wrong people, go get the money
7 from Little Louis, did you?

8 A No.

9 Q Now, so Little Louis did not pay the money that
10 night?

11 A No.

12 Q And then on the -- May 23rd, you paid money to
13 Deangelo Carroll, correct?

14 A Yes.

15 Q And that was \$1,400, correct?

16 A I gave Mr. Carroll \$600.

17 Q When you left Room 6 to go get money, you went
18 and got -- obtained \$1,400 from Mr. H; is that right?

19 A No.

20 Q Do you recall testifying on Friday?

21 A Yes, I recall testifying on Friday.

22 Q Do you recall when you testified on Friday you
23 were asked the question --

24 MR. DIGIACOMO: Can we have a page, Counsel?

25 MR. ARRASCADA: Page 94, line 20.

1 MR. DIGIACOMO: How about a copy of it because we
2 don't have one with us.

3 MR. ARRASCADA: That's my only copy, Judge.

4 THE COURT: Why don't you just let --

5 MR. GENTILE: Your Honor, I can let them have mine.

6 THE COURT: All right. Thank you, Mr. Gentile.

7 MR. GENTILE: Always willing to help the State.

8 THE COURT: That's what I've heard about you.

9 MR. DIGIACOMO: Page 20.

10 MR. ARRASCADA: Page 94, line 20.

11 BY MR. ARRASCADA:

12 Q You were asked the question by the prosecutor,
13 Mr. DiGiacomo: The \$1,400 that Deangelo walks out with, did
14 you have that in your purse already?

15 You answered no, right?

16 A Correct.

17 Q And then he asked: Where was that? Why did
18 that \$1,400 get put in your purse, I guess is my question.

19 You said, I had talked to Louie, correct?

20 A I remember talking to Louie, yes.

21 Q And then he said: Where did you get the \$1,400
22 from?

23 And you said, from Louie, right?

24 A I gave Mr. Carroll \$600.

25 Q Ma'am, when you were asked the question, under

1 oath, by Mr. DiGiacomo --

2 MR. DIGIACOMO: I'm sorry, Counsel. That's not on
3 my page 94. Did I -- did you -- did I get the wrong page from
4 you?

5 MR. GENTILE: I wonder if I gave you the right
6 transcript.

7 MR. DIGIACOMO: Well, it says February 6th, 2009,
8 Anabel Espindola's testimony.

9 BY MR. ARRASCADA:

10 Q Ma'am, you were asked the question by
11 Mr. DiGiacomo: Where did you get the \$1,400 from?

12 And you said, From Louie, right?

13 A I remember Mr. DiGiacomo asked me about \$600,
14 how much I had paid out, and it was 6. I said 6.

15 Q You were asked before that: Where did you get
16 the \$1,400 from?

17 And you said, From Louie, correct?

18 A I don't recall. I remember it was 600.

19 Q Then referring you to the \$1,400, you told
20 Mr. DiGiacomo you obtained \$1,400 from Lou, correct?

21 A I obtained \$600.

22 MR. ARRASCADA: May I approach, Your Honor?

23 THE COURT: Yeah.

24 BY MR. ARRASCADA:

25 Q Ma'am, I'm showing you a copy of the transcript

1 from your testimony, right here. Let's just go through it
2 together.

3 You were asked by Mr. DiGiacomo: Where'd you get
4 the \$1,400 from, correct?

5 A Correct.

6 Q Answer, that's you: From Louie, correct?

7 A Yes, that's what it says.

8 Q Okay. That's -- well, no, that's what you
9 testified to, isn't it?

10 A Yes.

11 Q That's what you rose your hand up and said, I
12 swear to tell the truth, and that's what you said, isn't it?

13 A He asked and --

14 Q Ma'am, I asked --

15 A Yes.

16 Q -- that's what you did. You swore --

17 A Yes.

18 Q And you told the truth then, didn't you?

19 A I misspoke on the \$1,400. It was 6.

20 Q Did you pocket \$800?

21 A No, sir.

22 Q But we also know this: Little Lou then paid
23 Deangelo Carroll the money, correct?

24 A Correct.

25 Q We know you didn't say, Hey, Little Lou -- you

1 know, It's your turn to pay a little bit here for what you
2 did, you've got to pay the money. You never said that, did
3 you?

4 A No.

5 Q And to your knowledge, you don't know. Little
6 Lou did not pay any money, did he?

7 A I never saw Little Louis exchange any money.

8 Q Let's talk about the plan regarding May 19,
9 2005, okay?

10 A Yes.

11 Q We've already talked about payment. Little Lou
12 did not pay any money, did he?

13 A I did not see him.

14 Q Well, you know he did not pay any money on the
15 19th, correct?

16 A Correct.

17 Q And to the best of your knowledge, he did not
18 pay any money on the 23rd, correct?

19 A. To my knowledge, no.

20 Q Okay. Now we'll talk about the plan, okay?

21 A Yes.

22 Q On May 19, 2005, we know that T.J. Hadland was
23 killed, correct?

24 A Yes.

25 Q And the members of that plan to kill him,

1 you'll agree Deangelo Carroll, right --
2 MR. DIGIACOMO: I'm going to object.
3 MR. ARRASCADA: Let me rephrase that. Let me
4 rephrase that.
5 MR. DIGIACOMO: That is beyond the scope of --
6 BY MR. ARRASCADA:
7 Q You know -- you know that in that car out at
8 Lake Mead was a man named Kenneth Counts?
9 A I know now, yes.
10 Q Jayson Taoipu?
11 A Yes.
12 Q Rontae Zone?
13 A Yes.
14 Q Deangelo Carroll?
15 A Yes.
16 Q Now, that day you were called by Deangelo
17 Carroll regarding Timothy Hadland, correct?
18 A Yes.
19 Q And that was at roughly 4:58 in the afternoon;
20 is that right?
21 A It was in the afternoon, yes.
22 Q Around 5:00 o'clock in the afternoon?
23 A It was in the evening. It was late afternoon.
24 Q Would you agree that that phone call was the
25 first time you had spoken to Deangelo Carroll on May 19?

1 A Yes.

2 Q And you had told these folks that you relayed
3 this information regarding Timothy Hadland to Mr. H, Louis
4 Hidalgo, correct?

5 A Yes.

6 Q And Little Lou is how we're going to call Louis
7 Hidalgo, III, correct?

8 A Yes.

9 Q And it's your testimony that Little Lou became
10 upset; is that right?

11 A Yes.

12 Q Now, you've already testified you had
13 information at that time in your knowledge that this Gilardi
14 was under -- was in all kinds of legal trouble, correct?

15 A Yes.

16 Q Criminal problems, correct?

17 A Yes.

18 Q And Rizzolo -- Rizzolo was in the same
19 predicament, wasn't he?

20 A Yes.

21 Q So you knew that as a general manager of a club
22 you don't want to be like Rizzolo or Gilardi, would you?

23 A I personally wouldn't, no.

24 Q As a general manager of a strip club, right?

25 A Yes.

1 Q Matter of fact, to be like Gilardi or Rizzolo,
2 that would be stupid, wouldn't it?

3 A On a personal basis, yes.

4 Q And when Little Lou brought up information --
5 oh, and that's because the license to have a strip club,
6 that's a privilege. It's a privileged license, correct?

7 A Yes.

8 Q And it can be yanked at any time if you abuse
9 the privileges, right?

10 A As far as I know, yes.

11 Q Well, you were the general manager at the club
12 for several years, correct?

13 A For approximately a year and a half.

14 Q And when you -- you claim you heard Little Lou
15 talk about Gilardi and Rizzolo, you've already said to you
16 that would be stupid to want to be like that, right?

17 A Correct.

18 Q And you heard Mr. H, you testify -- you heard
19 him raise his voice and said, Mind your own business, right?

20 A Yes.

21 Q A father telling his son, Mind your own
22 business?

23 A Yes.

24 Q And when that happened, Little Lou left the
25 room?

1 A Yes. There was more bantering, but, yes.
2 Q And you already had testified on Friday when
3 Little Lou left the room you didn't see him again that night.
4 A Correct.
5 Q And you were with Mr. H from Simone's all the
6 way to the club through the night?
7 A Correct.
8 Q And you didn't hear Mr. H speak to Little Lou?
9 A Correct.
10 Q And you did not hear Little Lou speak to his
11 father?
12 A Not that evening, no.
13 Q And Little Lou -- Little Lou did not speak to
14 you?
15 A No.
16 Q You never saw them together again that night?
17 A No.
18 Q And when Little Lou left, there was no
19 agreement that was reached between he and his father or you
20 and Little Lou, was there?
21 A No.
22 Q There was no agreement that T.J. Hadland was
23 going to be spoken to that Little Lou entered into, was there?
24 A No.
25 Q There was no agreement that Little Lou entered

1 into to threaten T.J. Hadland, was there?

2 A No.

3 Q There was no agreement that Little Lou entered
4 into to kill T.J. Hadland, was there?

5 A No.

6 Q Little Lou didn't enter into any agreement, did
7 he?

8 A I didn't hear him, no.

9 Q One of the plans that's been spoken about is
10 plan B, right?

11 A Yes.

12 Q And you testified on Friday that you had no
13 idea what plan B meant.

14 A Correct.

15 Q Now, you've also testified at the grand jury.
16 A Yes.

17 Q And you testified at the grand jury regarding
18 plan B?

19 A Yes.

20 Q And when you testified in front of the jury
21 regarding plan B, you did not tell them, This is -- I don't
22 know anything about plan B, like you told these folks, right?

23 A I was told by Louie to make a phone call and
24 say, Go to plan B. I had never heard that statement prior to
25 it.

1 Q And that's what you're telling these folks,
2 correct?

3 A Yes.

4 Q But you knew what plan B was?

5 A No.

6 Q Okay. So when you testified in front of the
7 grand jury and said, I told Deangelo to go to plan B, exactly
8 what Louie told me, period, to come back, that isn't having
9 knowledge of what plan B is?

10 A No.

11 MR. DIGIACOMO: Objection. First of all, page,
12 Counsel?

13 MR. ARRASCADA: Page 103, line 3.

14 THE WITNESS: When we were in the kitchenette,
15 Mr. Hidalgo had asked me to make a phone call --

16 MR. GENTILE: Your Honor, I have an objection.
17 There's no question pending.

18 THE COURT: Right. That's sustained.

19 MR. GENTILE: Move to strike.

20 THE COURT: All right. That will be stricken.

21 BY MR. ARRASCADA:

22 Q You told the grand jury last year that plan B
23 meant to come back, correct?

24 A No, that's taken out of content.

25 MR. ARRASCADA: May I approach?

1 THE COURT: That's fine.

2 BY MR. ARRASCADA:

3 Q You were asked the question: If you were going
4 to contact him, Deangelo Carroll, what were you going to tell
5 him?

6 Answer -- these are your words --

7 A Yes.

8 Q -- to go to plan B, exactly what Louie told me
9 to do, period, to come back.

10 A Correct.

11 Q Which means --

12 A Mr. H told me to tell Deangelo to go to plan B,
13 to come back, so --

14 Q So now you're telling these people it's not
15 that you did not know what plan B meant, you knew all along it
16 meant come back; is that right?

17 A No. I told Deangelo Carroll exactly what Louie
18 told me. Whether plan B meant something else and come back
19 are two different statements.

20 Q Well, you told the grand jury --

21 A He told me to make -- told me to tell him to go
22 to plan B.

23 Q And you told the grand jury it meant to come
24 back?

25 A It says -- may I see the statement again,

1 please?

2 Q Sure.

3 A It says --

4 Q Line 3 and 4.

5 A Right, to go to plan B, exactly what Louie told
6 me, to come back. It's --

7 Q So you knew --

8 A -- it's two separate statements.

9 Q Right. To come back, though, was for them to
10 return to the club, right?

11 A Or -- yes.

12 Q So you did know what plan B was?

13 A No.

14 Q You wouldn't lie to a grand jury, would you?

15 A No.

16 Q Let's talk about your participation with the
17 business, okay?

18 A Yes.

19 Q You were the general manager of Simone's?

20 A Yes, business administrator. I ran the shop.

21 Q You ran Simone's Autoplaza?

22 A Yes.

23 Q You did all the paperwork at Simone's
24 Autoplaza?

25 A Yes.

1 Q You dealt with the customers at Simone's
2 Autoplaza?

3 A Yes.

4 Q You dealt with the insurance companies at
5 Simone's Autoplaza?

6 A Yes.

7 Q And you did everything basically but turn the
8 wrenches on the car -- right, on the cars?

9 A Yes.

10 Q Okay. And regarding the club, the Palomino
11 Club, you were the general manager?

12 A Yes.

13 Q And there you did the books?

14 A Yes.

15 Q You oversaw the people in the office?

16 A Yes.

17 Q You made sure people were doing their jobs
18 correctly?

19 A The office personnel.

20 Q Higher management, correct?

21 A Yes.

22 Q Now, you described -- you told these folks that
23 Little Lou was a manager; is that correct?

24 A That's the title he was given, yes.

25 Q But actually how you characterized it in the

1 past was that Little Lou was given the title as a manager; is
2 that right?

3 A Yes.

4 Q And what Little Lou did at the club, though,
5 was order liquor?

6 A Yes.

7 Q He did not make any important business
8 decisions, did he?

9 A No.

10 Q He was not a part of the important business
11 decisions, was he?

12 A No.

13 Q That was you and Mr. H?

14 A Yes.

15 Q He cleaned the dressing rooms or got them in
16 order when the club opened?

17 A He opened the club.

18 Q Which included cleaning up or making sure the
19 dressing rooms were okay, right?

20 A I never knew him to clean the dressing rooms.

21 Q He made the popcorn?

22 A Yes, I know he did that.

23 Q Turned on the TV --

24 A Yes.

25 Q -- or TVs? And let the dancers in around

1 5:00 o'clock, right?

2 A Yes.

3 Q And he was very reliable about letting the
4 dancers in at 5:00 o'clock, correct?

5 A Yes.

6 Q And that's why on May 24th, you were very
7 worried when he wasn't there letting in the dancers, correct?

8 A Correct.

9 Q Now, one thing also -- Little Lou, during the
10 night as the bars were -- as -- there were different areas
11 with cashier -- money being transacted, correct?

12 A Correct.

13 Q And it was common that Little Lou would call
14 you from the floor, either chirp you or call your cell, if he
15 needed money brought down or needed money to be put into a
16 safe at the bar; is that right?

17 A Yes.

18 Q And Little Lou would chirp you if there was
19 money needed at the front door; is that right?

20 A Yes, him or Arial.

21 Q But that wouldn't be unusual during the night
22 for Little Lou to chirp you or call you to bring down some
23 money?

24 A I very rarely ever took money down to either
25 the bars or the cage at all.

1 Q Little Lou would call you to get it ready and
2 he'd come up and pick it up?

3 A Yes.

4 Q So he's letting you know, We need more money
5 for one of the --

6 A Yes.

7 Q That was normal, right?

8 A Yes.

9 Q You did the payroll for the club, the Palomino?

10 A Yes.

11 Q Rontae Zone was never on that payroll, was he?

12 A No.

13 Q Jayson Taoipu was never on that payroll, was
14 he?

15 A No.

16 Q And Dean -- Kenneth Counts was never on that
17 payroll, was he?

18 A No.

19 Q I want to talk about your participation in
20 phone calls on May 19, okay?

21 A Yes.

22 Q You had a cell phone for -- that was -- you had
23 a cell phone, correct?

24 A Yes.

25 Q And that cell phone also had the Nextel chirp

1 capabilities?

2 A Yes.

3 Q And the last four digits of your cell phone
4 were 9646?

5 A Yes.

6 Q And your cell phone chirp from Nextel was
7 star -- could you refresh me? Star what? Do you recall?

8 A I have no idea. All the Nextels had names so
9 we would chirp by name.

10 Q Is star 40, correct, or do you not know?

11 A I don't recall.

12 Q But that would be the number? 9646 would also
13 be star whatever; is that right, right?

14 A Phone number.

15 Q And your cell phone that had that, it was
16 important for you to keep it by your side?

17 A Yes.

18 Q Because that was how people reached you?

19 A Yes.

20 Q And you would keep that cell phone, 9646, with
21 you at Simone's?

22 A I would leave it on my desk, yes.

23 Q And you would have the club's phones forwarded
24 to your cell phone for during the day before it opened?

25 A No.

1 Q And your cell phone, you would keep that by
2 your side because you may get called during the night at the
3 club to be told more money's needed downstairs?
4 A Are we still at Simone's or have we've moved ---
5 Q No, we're at the club now.
6 A -- back to the club?
7 Q We've moved to the club.
8 A Okay. Can you repeat the question?
9 Q Yes. You would keep your cell phone by you
10 because, as the general manager, people may need to talk to
11 you about the management of the club or that night?
12 A The phone was normally on the desk or it was
13 behind me being charged.
14 Q And you worked at that desk all night,
15 typically?
16 A Typically.
17 Q And Mr. H had his own cell phone also?
18 A Correct.
19 Q And you testified there were times that he
20 would go down to the club while you stayed up and worked?
21 A Go onto the floor of the club, yes.
22 Q And your cell phone, though, that would stay
23 with you at the desk?
24 A Or behind me.
25 Q Okay. So it would stay in the office?

1 A Normally.

2 Q Now, regarding the phone calls you participated
3 in on the 19th, when the police asked you the -- May 24th when
4 you were arrested, you gave a statement?

5 A Okay.

6 Q Well --

7 A Yes, I made a statement.

8 Q And when you made that -- and when the police
9 were speaking to you about Deangelo Carroll, you told them, I
10 do not speak to him much; is that right?

11 A Correct.

12 Q And when you testified in front of the grand
13 jury, you told them that you called Deangelo Carroll two times
14 that night.

15 A Yes.

16 Q And when you testified here on Friday, you told
17 these folks that you spoke -- you called Deangelo Carroll two
18 times.

19 A Yes.

20 Q And he also called you that night?

21 A Yes, I tried to chirp him and he called me.

22 Q Would that be included in your two times?

23 A I don't recall.

24 Q Did you know Deangelo Carroll's cell phone
25 number?

1 A No. Oh, excuse me. The water went down the
2 wrong way. I'm sorry.

3 MR. DIGIACOMO: Can we get her a glass of water?

4 THE WITNESS: I have some.

5 THE COURT: Are you all right?

6 THE WITNESS: I'm sorry. Okay.

7 BY MR. ARRASCADA:

8 Q Do you recall that the last four numbers in
9 Deangelo Carroll's cell phone were 5322?

10 A No.

11 Q Do you recall that Deangelo Carroll's home
12 phone ended in the last four digits 0842?

13 A No.

14 MR. ARRASCADA: Your Honor, I'd like to have this
15 marked as next in order.

16 THE COURT: That's fine.

17 MR. ARRASCADA: I believe the State does not oppose
18 the admission of this record.

19 MR. DIGIACOMO: I think I know what it is.

20 MR. ARRASCADA: I'll show you --

21 THE COURT: Yeah.

22 MR. DIGIACOMO: I'm pretty sure I know what it is,
23 but --

24 THE COURT: Next in order, which is F. All right.
25 This is Defense Proposed F. And then just show that to

1 Mr. DiGiacomo.

2 MR. ARRASCADA: Yes, Your Honor.

3 Your Honor, once again, I don't believe the State

4 opposes the admission --

5 MR. DIGIACOMO: Oh, no. No objection.

6 THE COURT: No objection to its admission?

7 MR. ARRASCADA: We ask --

8 THE COURT: All right. F will be admitted.

9 (Defendant's Exhibit AA admitted.)

10 BY MR. ARRASCADA:

11 Q Ma'am, I'm showing you what's been marked as

12 Defense Exhibit F, which is a phone record from Nextel

13 Communications, okay?

14 A Okay.

15 Q And this is regarding your number

16 (702)604-9646, correct?

17 A Yes.

18 Q Okay. Ma'am, just so we're clear with the

19 jury, your phone number on this phone record -- your phone

20 number at that time was (702)604-9646?

21 A Yes.

22 Q And these are your phone records from May 19

23 and May 20th; is that accurate?

24 A Yes.

25 Q And I want to draw your attention down to the

1 bottom of the page, okay? And that states that you received
2 an inbound call from the phone number 643-0842 at 4:58; is
3 that right, the very last entry on the bottom of the page?

4 A Yes.

5 Q And you do -- I'm sorry, just so I'm clear, you
6 don't recall that Deangelo Carroll's home phone ended in the
7 last number 0842; is that right?

8 A No.

9 Q Okay. But whoever 0842 is, you received a
10 phone call from them at 4:58, 5:00 o'clock that night; is that
11 correct?

12 A Yes.

13 Q And then you received another phone call on
14 May 19th at 5:27 from that same 0842 number, correct?

15 A That's what it shows, yes.

16 Q Okay. And then right up above it, again, the
17 0842 number, correct?

18 A Yes.

19 Q And again above that, the 0842 number; is that
20 right?

21 A Yes.

22 Q And that last 0842 call was at about 6:15 or
23 20:15; is that accurate -- I'm sorry, that would be 8:15.
24 Military time, 20:15 would be 8:15 in the evening?

25 A That's what it shows, yes.

1 Q So all these calls you received or called out
2 to the number 0842 were made on your cell phone?

3 A Yes.

4 Q Again, ma'am, if you could see my finger, on
5 May 20th, that's the day after this all occurred; is that
6 right?

7 A Yes.

8 Q You also had a phone call between the 0842
9 number; is that right, right where my finger is? Oh, you
10 can't see my finger. I'm sorry. Right here, 14:53, inbound
11 call from 643-0842; is that right?

12 A Yes.

13 Q And it's been your testimony to these folks on
14 this jury you did not speak to Deangelo Carroll again -- or
15 let me rephrase that -- the last -- between May 19th when he
16 came and you gave him the money --

17 A Yes.

18 Q -- and May 23rd on the wire, you did not speak
19 to Deangelo Carroll?

20 A Correct.

21 Q Ma'am, are you aware that the phone number
22 (702)808-1719 is Kenneth Counts' phone number?

23 A No.

24 Q Do you agree that on May 19, 2005, at 11:12 and
25 11:10, you -- your cell phone, 9646, spoke with the number

1 (702)808-1719?

2 A That's what it shows, yes.

3 MR. ARRASCADA: May I have this marked next in
4 order?

5 THE COURT: Okay. That would be G.

6 MR. GENTILE: Your Honor, if I may approach. Can we
7 approach?

8 THE COURT: Of course.

9 (Off-record bench conference)

10 THE COURT: Ladies and gentlemen, to keep the record
11 clear, the exhibits introduced by Mr. Hidalgo, Jr., will be
12 letter -- single letter exhibits. The exhibits introduced by
13 Mr. Hidalgo, III, will be double letter exhibits.

14 So, Ms. Husted, in a moment, the last exhibit that
15 was shown to you will now be remarked as Exhibit double A
16 instead of Exhibit F. Right, the phone records that were just
17 previously up we referred to as Exhibit F, that is being
18 changed to exhibit double A.

19 MR. ARRASCADA: I'm sorry. This is now double A?

20 THE COURT: It is 2A -- AA.

21 MR. ARRASCADA: I'm returning to the clerk --

22 THE COURT: All right. And she will mark it Exhibit
23 AA. All right.

24 And the next proposed defense exhibit was actually
25 admitted by the State; is that right?

1 MR. ARRASCADA: Yes, Your Honor.

2 THE COURT: And that -- then we'll just use the one

3 State's exhibit because we already --

4 MR. DIGIACOMO: The last page of State's 190.

5 THE COURT: All right. So for the record now, we're

6 looking at, in a moment, the last page of State's Exhibit 190.

7 BY MR. ARRASCADA:

8 Q Ma'am, the Nextel functions, you could call

9 someone by their cell phone number?

10 A Yes.

11 Q And speak to them as a cell phone conversation?

12 A Yes.

13 Q Or you could do it -- it would be done with

14 what they call chirping; is that right?

15 A Yes.

16 Q What chirping is is that you're connecting

17 directly to that other phone?

18 A Correct.

19 Q And then you're using it as a walkie-talkie?.

20 A Yes.

21 Q So you're talking to them, the person gets the

22 message, they talk back, and you get the message?

23 A Yes.

24 Q And that's what's called, I believe, direct

25 connect?

1 A Yes.

2 Q Now -- and your phone number is -- ends with
3 9646, right?

4 A Yes.

5 Q And do you recall that to chirp Deangelo
6 Carroll was a star 34?

7 A No.

8 Q I'm showing you what's been marked previously
9 and admitted as State's 190. It's been color coded by the
10 police for us, by the detectives in this case, okay?

11 A Okay.

12 Q And up at the top it says A-n-a for Ana or
13 Anabel; is that correct?

14 A Yes.

15 Q And it's color coded orange and it has your
16 number (702)604-9646. That was your number?

17 A Yes.

18 Q And they've color coded it for us and they
19 checked that star 34 was Deangelo Carroll, okay?

20 A Okay.

21 Q And they color coded it as yellow. And you've
22 already testified to these folks that you only recall chirping
23 or calling Deangelo Carroll twice on May 19th; is that right?

24 A Correct.

25 Q And what we have here under the color codes of

1 yellow for Deangelo Carroll are three chirps; is that right?
2 A Yes.
3 Q Now, also you can be chirped; is that right?
4 A Yes.
5 Q And you remember you were the color code of
6 orange?
7 A Yes.
8 Q Deangelo was the color code of yellow?
9 A Okay.
10 Q Can you count how many times you were chirped
11 on May 19th by Deangelo Carroll?
12 A Deangelo Carroll was yellow?
13 Q He's the yellow guy, so all the way down 5322,
14 that's Deangelo Carroll's phone. Okay?
15 A Okay.
16 Q And do you recall that in the color coding you
17 are the orange?
18 A Yes.
19 Q And we have here that 5322, Deangelo Carroll's
20 phone, chirped you at 10:42; is that right?
21 A Yes, that's what it shows.
22 Q It shows that. Chirped you at 10:45:25, right?
23 A Yes.
24 Q That's two chirps.
25 He chirped you at 11:08; is that right?

1 A Yes.

2 Q You're orange. That's three?

3 A Yes.

4 Q Go up again, chirped you now at 11:37:41; is
5 that right?

6 A Yes.

7 Q So that's four chirps to you, correct?

8 A Yes.

9 Q And then on May -- you told these folks that
10 you did not communicate with Deangelo Carroll after he came in
11 and got the money from you, right?

12 A Correct.

13 Q Okay. So on -- and that was the late midnight
14 hours of May 19th?

15 A Yes.

16 Q And so right up here we now have another chirp,
17 May 20th, at 8:56 -- I'm sorry, May 20th at 12:10:45 in the
18 afternoon; is that right?

19 A Yes.

20 Q And then another one at 2:53 on the afternoon
21 of the 20th?

22 A Yes.

23 Q And another one at 4:54 on the afternoon of the
24 20th?

25 A Yes.

1 Q So between May 19th and 11:00 o'clock that
2 night, there was one, two, three, four chirps that Deangelo
3 Carroll made to you, right?

4 A Yes, that's what it shows.

5 Q And we already looked at that there were three
6 times that you chirped to him?

7 A Yes.

8 Q And there were phone calls to a number 0842.
9 There were about five of those; isn't that right?

10 A I don't recall.

11 Q You recall talking about that?

12 A We can put it back up and count it.

13 Q But you don't recall that 0842 was Deangelo
14 Carroll's home number, though, right?

15 A No.

16 Q And we have four more calls on May the 20th or
17 chirps from Deangelo Carroll to you; is that correct?

18 A To my phone.

19 Q Just so I'm clear, what you told the police the
20 day you were arrested is you don't speak to Deangelo Carroll
21 much.

22 A Correct.

23 Q And that you told these folks and the grand
24 jury that there was only two calls between you and Deangelo
25 Carroll.

1 A That I spoke to him.

2 Q You testified there was only two calls between
3 you and Deangelo Carroll, correct?

4 A That I spoke to him.

5 Q Significant in that is while these calls are
6 occurring and -- one of those calls is when you mention, Go to
7 plan B?

8 A Correct.

9 Q And that's when you told Deangelo Carroll, Go
10 to plan B and come back, come back to the club, right?

11 A Come back.

12 Q To the club?

13 A I recall saying, Come back.

14 Q So now you recall --

15 A -- go to plan B.

16 Q -- you told him to come back when you told him
17 to go to plan B?

18 A Go to plan B, correct.

19 Q Come back. And coming back would be to the
20 club?

21 A Yes.

22 Q While this was going on, you never called
23 Little Lou and said, I called the whole thing off, I told him
24 to come back, did you?

25 A No.

1 Q You never called Little Lou and said, Louis, I
2 think something bad's going to happen to Hadland and I told
3 Deangelo to get back, did you?

4 A No.

5 Q You never called Little Louis regarding all of
6 these chirps from Deangelo to say, Little Lou, what's going on
7 here, did you?

8 A No.

9 Q You never called Little Lou and said, I'm
10 calling up -- Hadland's called me from his home -- I'm sorry,
11 Deangelo Carroll's called me from his home five times, what is
12 going on here? You didn't do that with Little Lou, did you?

13 A No.

14 Q Little Lou did not participate in all these
15 phone calls that you had from your phone with Deangelo
16 Carroll, did he?

17 A No.

18 Q Whether it be the chirps or the actual phone
19 calls?

20 A No.

21 Q I want to talk to you about the wires now,
22 okay?

23 A Yes.

24 Q On May 23rd -- well, you've already testified
25 that you -- when you entered your plea to the fictitious crime

1 that you said, I assisted the coconspirators; is that right?

2 A Yes.

3 Q So what you're telling the judge is, I'm not a
4 coconspirator, correct?

5 A Correct.

6 Q Now, when Deangelo Carroll arrived that day,
7 you sent him to Room 6?

8 A Yes.

9 Q And Room 6 is a room that any of you would use
10 when someone -- when you were feeling tired or sick or just
11 wanted to lay down and rest?

12 A Prior to Little Louis living there.

13 Q You told the police, when you gave your
14 statement, that Room 6 is a room that any of you used when
15 you're tired or sick?

16 A Yes.

17 Q And Little Lou owned his own home or was buying
18 his own condo?

19 A Little Louis had a house that he was renting
20 out.

21 Q And when you sent DC, Deangelo Carroll, to Room
22 6, you followed him right there?

23 A On the 23rd?

24 Q Yes.

25 A No.

1 Q You sent him there, you followed him there?
2 A I followed him after.
3 Q And when you entered that room -- I want to
4 talk about your actions that day on the 23rd -- you checked
5 Deangelo Carroll for a wire?
6 A No. I asked him if he was wearing a wire. He
7 lifted his shirt and said no.
8 Q So you asked him if he was wearing a wire?
9 A Yes.
10 Q And he raised his shirt and said no?
11 A Correct.
12 Q I think on the transcript -- or on the wire
13 recording it says something like, I ain't fucking wired; is
14 that right?
15 A I believe so.
16 Q Now, you've gone over in great depth with
17 Mr. Gentile your comments on the wire --
18 A Yes.
19 Q -- using the first person pronoun I?
20 A Yes.
21 Q Now, one of the things on that wire is you
22 discussed multiple times about getting lawyers for Deangelo
23 Carroll, right?
24 A Yes.
25 Q You told him that you and H had gone --

1 Mr. Hidalgo, had gone to meet with a lawyer --
2 A Yes.
3 Q -- Mr. DePalma and then Mr. Gentile a day
4 later?
5 A I never mentioned that, but, yes. I never
6 mentioned names.
7 Q But you had told him that Deangelo Carroll --
8 that the two of you had met a lawyer?
9 A Yes.
10 Q And you told Deangelo Carroll that he should
11 start finding a lawyer or have his wife find a lawyer?
12 A Yes.
13 Q Never once in that discussion did you say, We
14 have a lawyer also for Little Lou, did you?
15 A No.
16 Q Never once in that discussion did you look up
17 and say, Little Lou, you better get yourself a lawyer also,
18 did you?
19 A No.
20 Q Never once did you say, Don't worry, Deangelo,
21 we're all lawyered up, including Little Lou, did you?
22 A No.
23 Q So there was no thought at that time at all to
24 get Little Lou a lawyer?
25 A No.

1 Q And when you're having those discussions with
2 Deangelo Carroll on the wire, you know, about the flyers,
3 because you talk about them, right?

4 A Yes.

5 Q And you knew about the kids that were with him,
6 witnesses, correct?

7 A When Deangelo spoke about it, yes.

8 Q And one thing Little Lou did was he asked, Was
9 Ludicrous with you? Do you recall that?

10 A I recall reading that on the transcript, yes.

11 Q And Ludicrous (phonetic) was a -- who, a friend
12 of Deangelo's or a friend of the clubs?

13 A I have no idea.

14 Q Okay. But it was Little Lou asking questions
15 about, Who were you with, right?

16 A Yes.

17 Q Not questions about you dropped a bunch of
18 flyers when you did this, right?

19 A Right.

20 Q So based on our discussions, we do know this:
21 Little Lou did not enter into any agreements regarding T.J.
22 Hadland, did he?

23 MR. DIGIACOMO: Objection.

24 MR. ARRASCADA: She's already testified to it, Your
25 Honor.

1 MR. DIGIACOMO: No, she didn't witness any. He
2 needs to rephrase the question appropriately.
3 BY MR. ARRASCADA:
4 Q To your knowledge --
5 THE COURT: Yeah, to your knowledge.
6 BY MR. ARRASCADA:
7 Q -- Little Lou did not enter into any agreements
8 regarding hurting T.J. Hadland?
9 A To my knowledge, no.
10 Q Regarding speaking to T.J. Hadland?
11 A To my knowledge, no.
12 Q He did not enter into agreements regarding
13 killing T.J. Hadland?
14 A No.
15 Q And you were with Mr. Hidalgo from the time
16 you -- up to Simone's in the afternoon through the 19th?
17 A On what day?
18 Q On the 19th.
19 A Yes, I was with Louie, or Mr. H.
20 Q Mr. H.
21 A I apologize for that. I've called him Louie
22 for the better part of 18 years. I'm sorry.
23 Q Okay. I appreciate that. We just need to
24 distinguish better, okay?
25 A I understand. I apologize.

1 Q Because actually Little Lou you called
2 Luisito --
3 A Yes.
4 Q -- which is Spanish for Little Lou; is that
5 right?
6 A Yes.
7 Q And you would also call him Mijo?
8 A Yes.
9 Q And what Mijo is is Spanish for me -- my,
10 Mijito, right?
11 A Yes, it's an endearment.
12 Q It's an endearment, my little one?
13 A Yes, my little one.
14 Q Little Lou was your little one?
15 A Yes. I also called Mr. H Mijo.
16 Q And based on what you claim you heard at
17 Simone's on the afternoon of the 19th, you would agree that
18 Little Lou didn't do anything to encourage his dad to do
19 something to T.J. Hadland, right?
20 A They had the argument on the 19th.
21 Q All they had was an argument.
22 A Yes, and they both got irate and it upset
23 Louie, Mr. H.
24 Q And Little Lou was told, Mind your own
25 business?

1 A Yes.

2 Q And they never spoke again --

3 A Not as far --

4 Q -- to your knowledge?

5 A -- as I know.

6 Q To your knowledge?

7 A To my knowledge.

8 Q And you testified that when Deangelo Carroll

9 came up to the room -- came up to the office at the Palomino,

10 he said, It is done -- or, It's done, right?

11 A Yes.

12 Q And you said that you looked at some point

13 after that at Mr. Hidalgo and said, What have you done?

14 A Yes.

15 Q You didn't look at him and say, My God, what

16 has Little Louie done, did you?

17 A No.

18 Q You did not look at him and say, I can't

19 believe you let Little Louie do this or get you to do this,

20 did you?

21 A No.

22 Q You did not say, Why'd you let Little Louie get

23 you to do this, did you?

24 A No.

25 Q Now, you were originally charged with the

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

1 your knowledge, was not a member of a gang, was he?

2 A No.

3 Q Am I right?

4 A Correct.

5 Q You would agree that this Mr. Tony Moore

6 Leavitt, to your knowledge, had never killed anybody; am I

7 right?

8 A Correct.

9 Q Okay. You would agree that he did not threaten

10 to kill Mr. Hidalgo; am I right?

11 A Correct.

12 Q He didn't threaten to kill you?

13 A No.

14 Q He didn't threaten to kill Louis?

15 A No.

16 Q Louis, III?

17 A No.

18 Q Correct?

19 A Correct.

20 MR. GENTILE: Let me have a minute. Where is the

21 exhibit that's the hand -- do we have the original?

22 THE COURT: I believe we do. Mr. DiGiacomo, did we

23 admit the original of the handwritten note?

24 MR. DIGIACOMO: Mr. Schmink (phonetic) is outside.

25 It's in the courtroom, but it's in a sealed bag --

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

1 your knowledge, was not a member of a gang, was he?

2 A No.

3 Q Am I right?

4 A Correct.

5 Q You would agree that this Mr. Tony Moore

6 Leavitt, to your knowledge, had never killed anybody; am I

7 right?

8 A Correct.

9 Q Okay. You would agree that he did not threaten

10 to kill Mr. Hidalgo; am I right?

11 A Correct.

12 Q He didn't threaten to kill you?

13 A No.

14 Q He didn't threaten to kill Louis?

15 A No.

16 Q Louis, III?

17 A No.

18 Q Correct?

19 A Correct.

20 MR. GENTILE: Let me have a minute. Where is the

21 exhibit that's the hand -- do we have the original?

22 THE COURT: I believe we do. Mr. DiGiacomo, did we

23 admit the original of the handwritten note?

24 MR. DIGIACOMO: Mr. Schmink (phonetic) is outside.

25 It's in the courtroom, but it's in a sealed bag --

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS A. HIDALGO, III

Appellant,

v.

STATE OF NEVADA,

Respondent.

Electronically Filed
Feb 04 2011 08:41 a.m.
Tracie K. Lindeman
Docket No. 54272

Direct Appeal from a Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Judge
District Court Case No. C212667/C241394

APPELLANT LUIS A. HIDALGO, III'S APPENDIX

VOLUME VI

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CLARK COUNTY, NEVADA

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CLERK OF COURT

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
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FOR LUIS ALONSO HIDALGO, III:	JOHN L. ARRASCADA, ESQ. CHRISTOPHER ADAMS, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER
TRANSCRIBED BY: KARReporting and Transcription Services

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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.